UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS
SECOND SESSION

VOLUME 118—PART 13

MAY 4, 1972 TO MAY 11, 1972

(PAGES 15777 TO 17204)

GENERAL SERVICES ADMINISTRATION
LAW LIBRARY
CENTRAL OFFICE

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1972

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Congressional Record
United States of America
PROCEEDINGS AND DEBATES OF THE 92^{d} CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Thursday, May 4, 1972*

The House met at 12 o'clock noon.

Bishop George B. White, Apostolic Faith Holiness Church, Washington, D.C., offered the following prayer:

Enter ye it at the strait gate: for wide is the gate, and broad is the way, that leadeth to destruction, and many there be which go in thereat: Because strait is the gate, and narrow is the way, which leadeth unto life, and few there be that find it.—Matthew 7: 13–14.

May we pray.

O Lord, our Lord, how excellent is Thy name in all the earth, that Thou has blest me to stand here in the House of Representatives of our great country, to invoke Your blessing on this great body of people.

O Lord, let us understand Thee better.

The heavens declare the glory of God, and the firmament showeth Thy handiwork.

Keep back Thy servant also from presumptuous sins: Let them not have dominion over me, then shall I be upright, and I shall be innocent from the great transgression.

Let the words of my mouth, and the meditation of my heart, be acceptable in Thy sight, O Lord, my strength, and my Redeemer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 9019. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Jicarilla Apache Tribe in Indian Claims Commission docket numbered 22–A, and for other purposes; and

H.R. 13753. An act to provide equitable wage adjustments for certain prevailing rate employees of the Government.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 8083. An act to amend title 5, United States Code, to provide a career program for, and greater flexibility in management of, air traffic controllers, and for other purposes; and

H.R. 9545. An act to amend the Revised Organic Act of the Virgin Islands to provide that the Legislature of the Virgin Islands shall prescribe the minimum age for membership in the legislature.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 855. An act to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes;

S. 1140. An act to authorize the sale of certain lands of the Southern Ute Indian Tribe, and for other purposes; and

S. 3380. An act to permit immediate retirement of certain Federal employees.

The message also announced that Mr. HATFIELD was appointed as a conferee on the bill (H.R. 14582) entitled "An act making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes" in lieu of Mr. INOUYE, excused.

RESIGNATION AS MEMBER OF THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation as a Member of the House of Representatives:

WASHINGTON, D.C.,
April 19, 1972.

Hon. CARL ALBERT,
House of Representatives,
Washington, D.C.

MY DEAR MR. SPEAKER: On May 9, 1972, I will be inaugurated as Governor of the State of Louisiana and therefore hereby tender my resignation as a Member of the United States House of Representatives effective at 12 noon, central daylight time on May 9, 1972.

Please accept my sincere gratitude for your many courtesies and my best wishes for your continued success as Speaker of the House. You and my colleagues will always have a special place in my memories as I embark on a new career in service to the people of Louisiana. It has been a distinct honor and privilege which I shall always cherish to have been a Member of this distinguished body.

Warmest personal regards and highest esteem,

Sincerely yours,
EDWIN EDWARDS.

HARASSMENT OF SOVIET JEWS

(Mr. FRENZEL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FRENZEL. Mr. Speaker, in the city of St. Paul, a part of the metropolitan area which includes my district, there is a Soviet cultural exhibit. Cultural exchanges are desirable for they provide an excellent means for understanding between peoples of different interests, languages, and backgrounds.

But ironically, the Russian cultural exhibit, featuring the work of artists and intellectuals, is being held at the exact time when the Government of Russia is increasing its persecution of Jewish scholars and intellectuals because they have refused to renounce their culture.

I am informed that a young Jewish teacher, Leonid Yoffe, has just been conscripted into the Soviet Army. His friends believe he was drafted because he was a teacher. Another young Soviet Jew, David Markish, in his early twenties, is another young scholar who is being drafted. David's wife was allowed to leave Russia, but he was not. Mrs. Markish is now in Minneapolis and took her place in the orderly candlelight walk demonstration held last Wednesday night, April 26, to protest the increased harassment of Soviet Jews.

Another young scholar, Victor Yahout, was thrown out of school and asked to join the army. When he declined, he was allegedly threatened with commitment to a mental hospital. His whereabouts are unknown today.

All of these bits and pieces of information go only to prove facts that are already painfully obvious; that the Government of the U.S.S.R. shamefully persecutes and harasses Soviet Jews and the persecution is increasing. Unfortunately, none of us can dictate Soviet policy. All of us should do our best to bring these depressing facts to world attention.

TENTATIVE SCHEDULE FOR THE APPROPRIATION BILLS

(Mr. MAHON asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include extraneous matter.)

Mr. MAHON. Mr. Speaker, in late January the President sent to Congress his budget for fiscal year 1973 which begins on July 1 next.

The Committee on Appropriations has been hard at work in hearings on the various appropriation bills.

We are today announcing a reporting schedule which if followed will enable the House to complete action on all the regular appropriation bills for 1973 prior to July 1, the beginning of the new fiscal year.

I shall insert in the body of the Record of today, at a later point in the proceedings, appropriate information as to the tentative scheduling of these bills.

I should say that we have conferred with the leadership of the House and with the appropriate chairmen of the various committees with regard to the matter. Of course, we do hope that the related authorization bills which have not been cleared will be cleared as soon as possible.

In order that all the regular annual appropriation bills might be cleared through the House by the 1st of July we will probably be asking for rules waiving points of order in the event a related authorization bill has not cleared.

APPOINTMENT OF CONFEREES ON H.R. 8140, TO PROMOTE SAFETY OF PORTS, HARBORS, WATERFRONT AREAS, AND NAVIGABLE WATERS OF THE UNITED STATES

Mr. GARMATZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8140) to promote the safety of ports, harbors, waterfront areas, and navigable waters of the United States, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Maryland? The Chair hears none, and appoints the following conferees: Messrs. Garmatz, Clark, Lennon, Pelly, and Keith.

PERSONAL ANNOUNCEMENT

Mr. DULSKI. Mr. Speaker, I missed four rollcalls this week due to illness. Had I been present, I would have voted "yea" on rollcalls Nos. 130, 131, 132, and 133.

CONGRESSMEN STRATTON AND O'NEILL CALL FOR IMMEDIATE ACTION TO ADOPT THE 1971 SOCIAL SECURITY AMENDMENTS AND TO BOOST BASIC BENEFITS BY 20 PERCENT

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, it has been almost a year now since this House enacted H.R. 1, which included a lot of very important increases in the social security program, including a 5-percent increase across the board in basic benefits.

That program is still stalled over in the other body, however, because of the controversy surrounding the welfare reform question. I think too much time has gone by already, and I believe we ought to act now, without any further delay, to adopt the social security amendments which we passed last year, along with the addition of the 20-percent increase in basic benefits recommended in February by the chairman of the Committee on Ways and Means, the gentleman from Arkansas (Mr. Mills).

Accordingly, the distinguished majority whip of the House, the gentleman from Massachusetts (Mr. O'Neill) and I have joined today in introducing legislation which would separate these social security improvements from the welfare program, would add onto the social security portion of H.R. 1 the 20-percent increase recommended by Mr. Mills of Arkansas, and would enact this legislation now without waiting any longer for a resolution of all the controversy surrounding the welfare reform program.

Only in this way, Mr. Speaker, will those older Americans who are in a position to take advantage of these improved benefits passed by the House last June still be around to enjoy them when they are finally enacted into law.

Speaking for the distinguished majority whip and myself, we invite Members on both sides of the aisle to join with us in cosponsoring this new, realistic social security bill, and pushing it through to enactment.

RE-REFERRAL OF H.R. 9807, AMENDING DISTRICT OF COLUMBIA CODE

Mr. MONTGOMERY. Mr. Speaker, by the direction of the Chairman of the Committee on Armed Services, I ask unanimous consent that the Committee on Armed Services be discharged from the further consideration of the bill (H.R. 9807) to amend section 39–704, District of Columbia Code relating to the jurisdiction of courts-martial of the militia of the District of Columbia, and that the bill be re-referred to the Committee on the District of Columbia.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

SUPPLEMENTAL APPROPRIATION FOR SPECIAL PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS, 1972

Mr. MAHON. Mr. Speaker, pursuant to the order of the House of April 19 last, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1174) making an appropriation for special payments to international financial institutions for the fiscal year 1972, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 2 hours, the time to be equally divided and controlled by the gentleman from Ohio (Mr. Bow) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 1174) with Mr. Abernethy in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the first reading of the joint resolution was dispensed with.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Texas (Mr. Mahon) will be recognized for 1 hour and the gentleman from Ohio (Mr. Bow) will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, a few weeks ago after considerable negotiating by the U.S. Government with other countries of the world in connection with our fiscal position in the world, it was determined by the administration that the dollar should be devalued by 8.57 percent in relation to gold.

This legislation authorizing the devaluation of the dollar recommended by the President passed the Senate by a vote of 86 to 1.

When the measure was considered by the House there was extensive debate and the House, on a rollcall vote, approved the devaluation of the dollar by a vote of 342 to 43. That was on March 21 of this year.

The President signed the bill into law on March 31, 1972—Public Law 92–268.

Under that law, the price of gold has been increased from $35 per fine troy ounce to $38 per fine troy ounce. That is, the new par value of the dollar of $1 is equal to one thirty-eighth of a fine troy ounce of gold. This in turn required certain adjustments in various international institutions including the International Monetary Fund, the World Bank, and others, this requirement stemming from the various articles of agreement of the institutions of which we are members.

As a result of our contribution to these various funds and institutions which are referred to in the report—and, of course, the report is available to Members, having been filed sometime ago—and the related articles of agreement, it has been determined that the amount required to adjust our contributions upward, in view of the devalued dollar, is about $1.6 billion.

The measure now before us therefore provides for an appropriation of not to exceed $1.6 billion for the purpose of squaring our accounts in these various international funds.

This appropriation could have been placed in the supplemental appropriation bill which passed the House and passed the Senate some time ago and which is now in conference, but it was decided that early action was imperative and that preferably it should be handled in a separate appropriation measure.

I know of no alternative available to the House at this time other than to provide these funds.

That, briefly, is the situation. The report has been available for several days. It contains the details. Of course, I should add here that the matter was rather fully debated in March when the authorization bill was before the House.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I am pleased to yield to the distinguished gentleman from Iowa.

Mr. GROSS. Mr. Chairman, I thank the gentleman for yielding.

Would the distinguished chairman of the Committee on Appropriations tell me why there are no departmental reports to be found in the report accompanying this legislation?

Mr. MAHON. We had a request from the President for the funds to be provided. This is based on the budget estimate, submitted by the President on April 4. It is House Document No. 92-276.

Mr. GROSS. Well, does not the House of Representatives often get requests for legislation from the President and do not most of the reports carry the position of the various departments, in this case the Treasury and the Bureau of the Budget?

Mr. MAHON. That is true on legislative bills as a general proposition, as I understand it, but the same procedure is not followed on requests for appropriations because it is not necessary. The President himself has asked for the funds.

Mr. GROSS. The Committee on Appropriations holds hearings on all other legislation. Why was this an exception?

Mr. MAHON. This is not in the form of an exception insofar as departmental reports are concerned. This is the way we handle both regular appropriation bills and special joint resolutions which provide for appropriations as in this case.

Mr. GROSS. If the gentleman will yield further, let me ask the gentleman this question: Where are the hearings on this legislation?

Mr. MAHON. There were no formal hearings on this matter. There were numerous conferences, but hearings were held on the authorization, and the matter was extensively considered in the House and in the other body. At this point, it is more or less a procedural matter—a mandatory matter.

If I may, I should like to call attention to Public Law 268 of the 92d Congress. Section 3 of that act provides:

> SEC. 3. The Secretary of the Treasury is authorized and directed to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of such institutions. There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.

Ample precedent exists for providing that our Government and other governments put up the necesasry funds in the event the currency of a member nation is devalued. The currency of our Nation was devalued. It is at this point a matter more or less of the arithmetic of supplying what we agreed to do. We were presented with detailed statements showing what funds were required, and they are in the report on the pending measure.

Mr. GROSS. The gentleman from Texas is no stranger to the House of Representatives and the Congress of the United States, and he well knows that no act of one Congress is binding upon another; that the Congress can act as it sees fit. It could reject this bill today, and I hope that it does. So I do not quite understand the logic of the gentleman's reasoning in attempting to say that there were no hearings on this $1.6 billion bill with respect to what this would do to the huge Federal and debt deficit of the country, no report from the Treasury Department, and no position on the part of the Bureau of the Budget. I am amazed that the legislation is here in that fashion.

Mr. MAHON. We, of course, have a letter from the Director of the Office of Management and Budget, George Shultz, requesting that the funds be made available. And of course from the President also. This appropriation automatically follows the authorization, which was approved by the House by a very heavy vote, as the gentleman knows, and as I see it we have no acceptable alternative at this point.

Mr. BOW. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Ohio.

Mr. BOW. I should like to point out to the gentleman from Iowa that we have the hearings before the Committee on Banking and Currency which were held March 1, 2, 3, and 6 of this year. They are very extensive hearings, and they were made available to the members of the Appropriations Committee. So the testimony before that committee was considered, and the House passed on the measure by a very large vote.

So we do have the very recent testimony of the Department, and among those witnesses were Arthur Burns, the Secretary of the Treasury, and Secretary Volcker. The gentleman, I am sure, must have read these, because he reads all the hearings and the reports. Early in March they had these hearings, and then the bill was before the House on March 31. So there is a complete record as to the reason for the measure before this body, and the questions which the gentleman has asked are pretty well answered in those hearings before the Banking and Currency Committee.

Mr. GROSS. Mr. Chairman, will the gentleman from Texas yield so that I may respond to the gentleman?

Mr. MAHON. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, that was rather an odd answer, I will say to my friend, the gentleman from Ohio.

Mr. BOW. It was not an answer. It was an observation.

Mr. GROSS. In this instance I will have to say it was a strange answer. No hearings were held by the Appropriations Committee although that committee has been holding hearings almost every day since the first of the year on all other kinds of legislation that require financing. Today that committee relies on the hearings of another committee. I must say that this is amazing.

Mr. BOW. I know the gentleman realizes the questions have been very carefully studied for the full and complete disclosure of the net effect. Then the full Appropriations Committee did meet and consider this resolution at length.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, in my opinion we exercised the other subject thoroughly, and I would like simply to inquire two points of information. In the opinion of the chairman of the Committee on Appropriations, would it not be necessary if we take this action today, as committed as we may be by the legislative action and authorization previously taken, that we might very well be called upon to do the same thing for restoration of the so-called true dollar value for the United Nations and maybe even the "Overseas Private Investment Corporation"—OPIC—in addition to these world banks and international monetary funds?

Mr. MAHON. I do not know what the Congress might do by way of legislation involving these subjects. Of course, it would depend on what the Congress might determine should be done, but certainly in the area covered by this legislation—the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank—for these we have no alternatives.

As to what might be done with respect to other agencies or international organizations, or commitments of this country, I am not advised as to what proposal may be submitted to the Congress or what proposal may be considered by the appropriate committees of the Congress in the future.

Mr. HALL. I appreciate the gentleman's answer. May I say "Heaven forbid" such a thing would accrue, but I am afraid we are establishing a precedent by that action specifically written into Public Law 92-268—and, by the way, I was among 43 who opposed it—that we might establish a call on our Treasury for making up this 8.57 percent default as it develops in the call price for gold. So, I hope the gentleman's statement is true and that we will not act errantly again in authorizing such a thing, because these birds always come home to roost, and I think I am borrowing an expression from the gentleman from Texas himself.

Mr. Chairman, I have another question if the gentleman will yield further.

Mr. MAHON. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Chairman, I understand in the gentleman's opening remarks he said he felt we had no other alternative except to appropriate these funds in compliance with the authorization of Public Law 92-268. Would it not be possible in view of the statement in the gentleman's own report, in paragraph 2, page 5, dealing with the question of callable capital, and that it is only a remote or contingent liability, for us to not actually appropriate at this time that $663 million involved therein, but simply recognize the obligation and be on call for it by the action of any future day in this Congress if the World Bank and the others that are involved in that specific amount should call for it, or any future Congress and thus allow them to work their will, I repeat, recognizing that the legislative authority is already present?

I have seen appropriations for emergencies, or "on call," go through here within 48 hours. Certainly that would not upset the world monetary exchange or funding of these projects by World Bank.

I am just asking the question. Would it not be possible to withhold this $663 million from actual appropriation, which will take the money out of circulation and in effect put it in escrow and on call of these agencies which we have legislated for, and instead to save that money for working capital in the U.S. Treasury at this time of deficit?

Mr. MAHON. Well, my understanding is that under Public Law 92–268 we are required to take the action which is proposed in this resolution.

Mr. HALL. If the gentleman will read, on page 2 of the report, the basic legislation explanation of Public Law 92–268, all it does is authorize the commitment. I do not believe, on careful research, that we must make this callable money, which is only a contingency, anyway, immediately available. We could just stand behind it with the good faith and credit of our Government. I would strongly urge that we consider an amendment at the appropriate time to that effect; and I thank the gentleman for yielding.

Mr. MAHON. I thank the gentleman for his comment. Let me again read a part of section 3 of Public Law 92–268:

> The Secretary of the Treasury is authorized and directed to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of such institutions.

So, as I understand it and as I see it, we are bound by these articles of agreement to which our country has subscribed as a member.

Mr. HALL. The gentleman does understand that my proposal would be to recognize that with the full faith and credit of the United States, as we indeed already have, because that is the law of the land now. Public Law 92–268 is the law of the land.

Mr. MAHON. Yes.

Mr. HALL. But as the gentleman's own report says further, and as all of us understood at the time we debated the other legislation, which became the law of the land, the callable capital is a highly contingent liability. It has never been called in the past. And it is highly unlikely that these subscriptions will be called in the future, considering the size of already existing callable capital and reserves which the international banks have built up.

So let us just recognize that obligation and stand behind it with the full faith and credit of the U.S. Treasury, contingent funds and everything else, but not actually appropriate the money and take it out of circulation and put it on the shelf in escrow, for that extra $663 million which probably will not be called anyway. We can use that in our cash flow daily balance in the Treasury.

Mr. MAHON. I believe my friend from Missouri would agree that of course much of this is in the nature of a bookkeeping transaction. The callable capital may never be expended. What we are doing is complying with our commitment. But it is expected that this money will not be expended. It will not show as funds expended during the fiscal year. We hope that these funds will not be expended in the future—at any time in the future.

Mr. HALL. I think the gentleman argues extremely well for my point. We recognize the commitment, but why commit it if we stand behind it, and take it out of the cash flow? I have heard the gentleman say 100 times, if I have heard him say it once, that it is these bookkeeping accounts and these authorizations that come home to roost and are strapping our Treasury.

Here is an opportunity to withhold $663 million, the greater part of a billion dollars, and to keep it in our cash flow and routine turnover in our Treasury. It is that much less we would have to borrow and pay interest on, rather than placing the whole $1.6 billion in escrow.

I believe it is a logical and feasible solution, and I urge the gentleman to give it consideration.

Mr. MAHON. I thank the gentleman for his contribution.

Mr. Chairman, I have no further requests for time.

Under leave to extend my remarks, so that this Record will be more complete, I am including the full text of the report of the committee—House Report 92–1016—which accompanied the pending joint resolution:

The Committee on Appropriations, to whom was referred House Joint Resolution 1174, making a supplemental appropriation for special payments to international financial institutions, fiscal year 1972, and for other purposes, report the same to the House without amendment and with the recommendation that the joint resolution be passed.

THE PURPOSE OF THE JOINT RESOLUTION

The joint resolution would appropriate such sums as may be necessary—*but not to exceed $1,600,000,000*—to enable the Secretary of the Treasury to carry out the provisions of Section 3 of the Par Value Modification Act, Public Law 92–268, approved March 31, 1972. That law authorizes and directs the Secretary to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund and the four international development lending institutions—namely, the International Bank for Reconstruction and Development (World Bank), the Inter-American Development Bank, the International Development Association, and the Asian Development Bank.

The supplemental appropriation request from the President is contained in H. Doc. 92–276, of April 4. The accompanying resolution follows the President's recommendation for appropriation of "such amounts as may be necessary" but in addition, the Committee has added a ceiling on the amount. As explained below, the precise amounts involved will depend on exact dollar holdings as of the time of formal notification of par value modification. The latest available estimate is $1.594 billion, accounting for the statement in H. Doc. 92–276 that the total needed is not expected to be more than $1.6 billion. This latter figure is the ceiling in the joint resolution.

THE BASIC LEGISLATION

Public Law 92–268 reads as follows:

"Section 1. This Act may be cited as the 'Par Value Modification Act.'

"Sec. 2. The Secretary of the Treasury is hereby authorized and directed to take the steps necessary to establish a new par value of the dollar of $1 equals one thirty-eighth of a fine troy ounce of gold. When established such par value shall be the legal standard for defining the relationship of the dollar to gold for the purpose of issuing gold certificates pursuant to section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b).

"Sec. 3. The Secretary of the Treasury is authorized and directed to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of such institutions. There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.

"Sec. 4. The increase in the value of the gold held by the United States (including the gold held as security for gold certificates) resulting from the change in the par value of the dollar authorized by section 2 of this Act shall be covered into the Treasury as a miscellaneous receipt."

The legislation was passed in the Senate March 1, 1972, by a vote of 86 to 1, and in the House March 21, 1972 by a vote of 342 to 43.

As will be noted, Section 2 directs the Secretary to take the steps necessary to establish a new par value of the dollar of one dollar equals one thirty-eighth of a fine troy ounce of gold, thus changing the value from $35 an ounce to $38 an ounce.

The maintenance of value obligation directed by Section 3 stems from a provision in the agreements governing each of these international financial institutions providing that each member country that devalues its currency must maintain the value of its contributions as measured by a common yardstick—in this case, gold. The Committee is advised that these provisions have been applied routinely to all other countries devaluing their currencies and there has been no instance in which these obligations have not been fully discharged.

The dollar is to be devalued in terms of gold by 8.57 percent, and thus the dollar holdings of the international financial institutions will have to be increased by 8.57 percent. The purpose is to assure that the contributions of all members are maintained in value in relation to each other despite changes in exchange rates. This provision has worked in favor of the United States by assuring that other countries that have devalued in the past have not diminished the value of their contributions. The Committee understands that all other countries have fulfilled their maintenance of value obligations. Thus, the burden-sharing principle has not been diminished by currency devaluations. The maintenance of value provision also assures that the U.S. share in the assets and voting rights in these institutions is not impaired by our devaluation.

This proposed appropriation of $1.6 billion is the final legislative step necessary to carry out the United States part of the agreement reached at the Smithsonian Institution last December on a series of interrelated measures designed to help resolve balance of payments problems, to restore more settled conditions in the foreign exchange markets, and to provide a framework from which longer-term reform of the international monetary system can evolve. The Smithsonian Agreement included an overall weighted average realignment of approximately 12 percent in the currencies of other industrial countries, excluding Canada, and as a part of this realignment, an agreement that the United States would devalue the dollar.

The realignment and devaluation actions rest on the proposition that they should have the effect of making American products more attractive in foreign markets and at home. The devaluation should expand export opportunities for American industrial and agricultural products and create more jobs for American workers in factories, on farms and in export supporting businesses. The Executive Branch indicates that it will take a few years for the effects to be fully felt, but over time the increased competitiveness of our economy, if combined with action to combat inflation and restore domestic economic growth, should, it is felt, lead to increased sales abroad.

THE BASIS FOR THE $1.6 BILLION—IN SUMMARY

As previously noted, $1.594 billion is the latest estimate from the Executive Branch of the total appropriation availability needed to acomplish the purpose of Public Law 92-268. Although there is necessarily some uncertainty as to the *precise* total amount of the obligations until the change in the par value is notified, on the basis of present estimates the Committee has rounded the appropriation to "not to exceed $1.6 billion." This is the same total that was before the House when it acted on the authorization bill last month.

There are three different kinds of obligations to which maintenance of value applies. They result from: (1) participation in the International Monetary Fund, (2) the callable capital of the international development banks, and (3) paid-in capital subscriptions to these institutions, as follows:

Institution	Budget impact	Estimate of amount (millions)
1. Exchange of assets with the International Monetary Fund.	None	$525
2. Callable capital with respect to World Bank, Inter-American Development Bank, and Asian Development Bank (contingent liability).	None expected	663
3. Paid-in with respect to World Bank, International Development Association, Inter-American Development Bank, and Asian Development Bank.	None until fiscal year 1974 and thereafter.	406
Subtotal		1,594
Roundup		6
Total ("not to exceed")		1,600

THE BASIS FOR THE $1.6 BILLION—IN MORE DETAIL

In further explanation by way of more detail, the following is based upon a statement supplied by the Treasury Department:

"International Monetary Fund

"Our financial relationships with the International Monetary Fund will result in a $50 million net increase in our assets. First, because the dollar portion of $5,025 million of our Fund subscription is denominated in dollars of a fixed weight and fineness of gold, this subscription will increase in current dollar value by 8.57 percent, or $431 million. Against the increased value of this asset, the United States will incur an equal liability derived from the requirement of maintenance of value of the dollar portion of our subscription in terms of gold. This will result in an exchange of assets, which will involve issuance by the Treasury Department of a letter of credit to the Fund in the amount of $431 million.

"There will also be an 8.57 percent increase, equal to $144 million, in the United States gold tranche of $1,675 million in the International Monetary Fund. Because this asset represents gold paid to the Fund. Because this asset represents gold paid to the Fund in partial fulfillment of U.S. subscription obligations, there is no offsetting maintenance of value obligation. However, the increase in value of this asset will be partially offset by the requirement that we maintain the value in terms of gold of a United States drawing from the Fund of $1,015 million, resulting in an increased obligation of $94 million. A letter of credit will be issued to the Fund in this amount as part of the normal process of issuing such letters of credit in connection with U.S. drawings.

"Thus, in the Fund, as a result of the change in the par value of the dollar, the total increase in assets equals $575 million and the increase in liabilities amounts to $525 million. The $525 million in letters of credit that are to be issued to the Fund will not result in budgetary expenditures even when drawn upon, since transactions with the Fund represent exchanges of assets that are outside the budget under existing concepts. However, in order to issue these letters of credit an appropriation of approximately $525 million is needed. The amount of the appropriation can only be approximate since the exact amount of the Fund's holdings of dollars will vary by small amounts from day to day and the exact amount of the letters of credit to be issued to the Fund can only be determined as of the day when the United States par value is formally modified.

"Callable Capital

"In the World Bank, the Inter-American Development Bank (IDB) and the Asian Development Bank (ADB), our subscription of callable or 'guarantee' capital is denominated in dollars of a fixed weight and fineness, and the change in the par value of the dollar means a increase of 8.57 percent in our callable capital obligation. The U.S. callable capital in the World Bank is $5,715 million, in the IDB it is $1,370 million, and in the ADB it is $100 million. The total increase in the current dollar amount of these callable capital subscriptions, plus those authorized by Congress but not yet subscribed amounts to $663 million.

"This callable capital is a highly contingent liability. It has never been called in the past and it is highly unlikely that these subscriptions will be called in the future considering the size of already existing callable capital and the reserves which the international banks have built up. Therefore, no budgetary impact is anticipated. Nevertheless, funds must be available to meet these obligations if they are ever called, and an appropriation of $663 million is thus required.

"Paid-In Subscriptions

"There is a substantial maintenance of value obligation with respect to the paid-in subscriptions to the development lending institutions—the multilateral banks mentioned above, plus, the International Development Association. This amounts to an estimated $406 million on paid-in subscriptions, both those previously authorized and appropriated and those recently authorized but not yet appropriated; maintenance of value to be made, of course, only when and to the extent appropriations are enacted. The maintenance of value paid-in capital obligation in the World Bank is $51 million; in the Inter-American Development Bank $224 million; in the Asian Development Bank $9 million; and in the International Development Association $122 million. Only these obligations are expected to result eventually in budgetary outlays. The total obligation can only be definitely determined on the basis of dollar holdings as of the day on which the par value is changed and is therefore subject to some adjustment. In particular, the IDB is studying the appropriate application of maintenance of value to the pending subscription of $1 billion to the Fund for Special Operations.

"The maintenance of value obligation on the paid-in subscriptions will be paid in the form of letters of credit. However, the letters of credit would be drawn down only after a period of several years as the development lending institutions need the funds for disbursements. No disbursements of these funds, and therefore no budgetary impact, is anticipated in fiscal year 1972 or 1973. It is expected that drawdowns of somewhat less than $350 million would be fairly evenly spread over fiscal years 1974–1976. Subsequently, the remaining draw-downs are expected in the fiscal years 1977 to 1986 as certain dollar loans of the World Bank and the IDB mature.

"Increases in Assets

"Offsetting these increases in liabilities resulting from maintenance of value are increases in certain of our international reserve assets.

"With respect to liquid assets, there is an increase of $828 million in the value of United States gold holdings; an increase of $155 million in United States holdings of Special Drawing Rights; an increase of $144 million in the United States gold tranche in the International Monetary Fund; and, finally, an increase of $27 million in the value of United States foreign exchange holdings.[1] These increments in value total about $1.1 billion.

"The increment in value of gold will result in a direct cash inflow into the Treasury of $828 million as gold certificates equivalent to the increase in gold value are issued to Federal Reserve banks. However, under the unified budget accounting concepts, this increment in value will not be considered a budgetary receipt.

"Budgetary impact

"The $525 million in letters of credit to be issued to the International Monetary Fund will not result in budgetary expenditures even when drawn upon since transactions with the Fund represent exchanges of assets that are outside the budget.

"The callable capital has never been called in the past and it is highly unlikely that it will be called in the future. It represents a remote contingent liability and is without budgetary or cash impact until it is actually called.

"The maintenance of value on the $406 million of paid-in subscriptions will have eventual budgetary impact. However, this amount will be paid in the form of letters of credit and these letters of credit will have a cash impact only as they are drawn down.

"No disbursements on these letters of credit, and therefore no budgetary impact, is anticipated in the fiscal years 1972 or 1973. It is expected that drawdowns of somewhat less than $350 million would be fairly evenly spread over fiscal years 1974–1976. Subsequently, the remaining drawdowns are expected in the fiscal years 1977 to 1986, as certain dollar loans of the World Bank and the IDB mature.

---

[1] In addition to these adjustments in assets and liabilities, net losses on certain operational foreign exchange accounts, including both so-called swaps and foreign currency borrowing, maintained by the Exchange Stabilization Fund and the Federal Reserve will be absorbed by those institutions. These losses are presently estimated at about $145 million for the ESF and under $200 million for the Federal Reserve. These losses do not require appropriations.

"Overall impact

"The overall effect of both maintenance of value and the increases in the value of assets will be as follows:

"In terms of its effects on Treasury cash, to increase our resources, through the write-up of our gold holdings.

"In terms of budgetary *expenditures*, a probable rough balance between savings on interest expense (as a result of the added cash resources of the Treasury) and the additional paid-in capital subscription to the international development institutions.

"In terms of our over-all asset and liability position, an approximate offset between added contingent and deferred liabilities and the increased value of our gold and capital subscriptions.

"Reason for Indefinite Appropriation

"The appropriation request does not contain a specific sum for the total amount of maintenance of value. It is difficult to state a specific sum since the maintenance of value obligation changes depending upon the amount of dollars which the international institutions have on hand at a particular time. In the International Monetary Fund there are drawings of dollars and repayment of dollars and in the other institutions dollars are continuously being drawn down. However, it is expected that maintenance of value will amount to no more than $1.6 billion."

Mr. BOW. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, it is hard to believe this legislation is brought here today for serious consideration because we are not going to do anything for the citizens of this country whose dollars were equally devalued and shrunk by the action that was taken the other day.

A group was in my office yesterday in behalf of securing the release of $107 million that have been impounded or reserved by the administration for several months. Their dollars, the $107 million, are affected by the 8.57 percent devaluation just as much as the dollars in the International Monetary Fund and the World Bank and every other international lending institution.

But you who are sponsoring this legislation have no legislation today nor will you have tomorrow to take care of the shortfall that these people are suffering as well as every citizen of this country. There is an 8½-percent shortfall in every one of their dollars, too.

By the act of increasing the price of gold from $35 to $38 an ounce you who voted for it devalued every citizen's dollars in this country by 8.5 percent. And yet the only people you are going to give consideration to today, tomorrow or for the rest of this session of Congress are the international lending institutions.

Some of those so-called banks make 50-year loans with a 10-year grace period. The borrowers pay nothing on the principal or any interest whatever for 10 years. The borrowers make a small payment in the second 10 years and perhaps 1 or 2 or 3 percent for the next 30 years. Of course, the loans will never be paid, but that is another story. On some of these so-called loans there is a 1-percent carrying charge throughout the 40- or 50-year period, and no other interest charge. Yet you are going to bail these people out by sinking another $1.6 billion into these international lending institutions.

I just cannot believe you are serious in bringing a bill like this before the House that so baldly discriminates against the citizens of this country.

Mr. MAHON. Will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman.

Mr. MAHON. Of course, there were no official articles of agreement covering the devaluation of the dollar in this country. The $107 million which has been impounded by the Government that was appropriated for the REA program, is worth less not because of the devaluation provisions in the legislation we passed but as a result of inflation, contributed to greatly by the fact that the Federal Government has been spending far beyond the revenues in hand or in sight.

Inflation has devalued the dollar in this country. There is no doubt about it. I know of no way, though, to help our people in this respect except for everybody to use restraint and discretion in managing our affairs.

We have agreed solemnly with other nations of the world that if our dollar is devalued, our contribution to these international institutions—whether good or bad—will be met. This is a commitment of the Government. We have agreed, in case of devaluation, to make up the difference just as other countries have when they devalued their currency. It is not a very happy thing. In fact, it is a very disquieting and discomforting thing.

I just hope that we do not have to devalue the dollar again. But if this country does not do a better job in managing our fiscal and economic affairs, I am sure the gentleman from Iowa will agree that we could be faced with this problem again.

Mr. GROSS. Does not the Constitution of the United States say that the Congress shall provide for the coinage of money and the regulation thereof, and does not the gentleman think implicit in that is the obligation and responsibility on the part of the Congress to protect the integrity of the people's money of this country?

Mr. MAHON. I could not agree with the gentleman more.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. MAHON. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. GROSS. I thank the gentleman. The gentleman's answer is, "Yes, of course" it is the obligation and responsibility of the Congress of the United States, but we are not doing it, are we? Congress is perfectly willing to devalue our citizens' dollars by 8.5 percent but then provide for the expenditure of $1.6 billion to restore the value of American dollars dished out abroad in order to save international lending institutions. This is sad. It is more than sad. It is tragic, and an outrage.

Mr. BOW. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I recognize the fact that this is a very controversial and difficult bill or resolution to bring to the floor of the House.

However, Mr. Chairman, I believe that we have an obligation to the House and to the country to do this. I had hoped that we would not have to do it.

If, over the years, we had been more frugal and had followed some of the advice of the distinguished chairman of this committee and the gentleman from Iowa and others, including myself, we would not have found ourselves in the position of having to meet this crisis.

But, I might say to you that I feel we are under an obligation to appropriate this fund.

As our report shows, there is not going to be a great effect on the budget. In a way, it will have an effect on the budget on 1973, 1974, and 1975, but what we must consider—and I think this is important—is that the Congress of the United States did by its own actions enter into the International Monetary Fund, into the International Bank for Construction, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank.

This was done by acts of Congress in which the Congress of the United States having control, as the gentleman from Iowa has suggested, did enact the law.

Now, all those laws that were enacted—and I say this goes back to 1945 in most instances, up to the Asian Bank Act in 1966—all were enacted by the Congress and signed by the President and became public law.

In each one of them there is a provision that whenever the par value of a country's currency is reduced, then that country shall pay into the Fund additional funds.

In other words, if other countries that are members of the Fund devalue, they are required to pay into the Fund, and we are committed by acts of Congress to pay into the Fund.

Now, may I suggest that it is nothing new for countries to have to pay in because of devaluation. I would like to call your attention to the fact that a number of countries, throughout the world, who are members of these organizations, have already, because of devaluation, paid in their share. And they did it immediately, as the law provides, in some 200 occasions.

Let me point out some of them. Afganistan. They did not pay in 8.5 percent; they paid in 125 percent. There are a large number of these countries, countries who cannot well afford to have to make such payments. In one instance one country, Brazil, for instance, paid 28,000 percent back into this Fund.

As I say, some 200 countries have made payments into this Fund.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. BOW. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I would like to agree with the gentleman from Ohio, the distinguished ranking member of the Committee on Appropriations, that we have an obligation arising out of the devaluation that we have previously approved. I would like to ask the gentleman from Ohio, out of his great experience and knowledge in this field, whether there are any other obligations that will have to be met by reason of the devaluation in the same sense that this bill obligates us?

Mr. BOW. There may be. That same question came up, and the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON) replied, as I shall have to reply, that he did not know of any. I think there may have been one that I know about which may have been in the supplemental, but I am not sure. But as I say, I cannot answer the gentleman's question completely.

Mr. CONABLE. To the best of the gentleman's knowledge, though, the problem has arisen only in the area of multilateral assistance?

Mr. BOW. The multilateral banks are the ones that we find, and they are all that I know about, because of the laws passed by the Congress in 1945, 1959, and in 1966, where we agreed that whenever the par value of a member's currency is reduced, or the foreign exchange rate on any of a member's currency has depreciated, then they make the payment, and it does not say that they can delay it, but that if we are called upon we shall when that event takes place.

Now, the Congress on March 31 did devaluate, which automatically brings into effect the provisions of these former laws requiring us to make these contributions.

Mr. CONABLE. I want to pay particular tribute to the knowledge the gentleman has in this field, and the vast experience that he has developed in his long years of service to the Congress, and to express some confidence that if there were other bills of this sort likely to come up in the immediate future that he would know of them.

Mr. BOW. I would hope that I would.

Mr. CONABLE. I know that the gentleman has been a very diligent member of the Committee on Appropriations, and therefore I would assume that this is the only time we will be called upon to meet this kind of an obligation.

Mr. BOW. This kind of an obligation. And I am also advised by the Treasury and others that I have confidence in that possibly none of this fund actually will be used, except possibly in 1973, 1974, and 1975, will ever be called for out of the Treasury, so that there will not be a great impact upon the funds.

I have indicated my strong support for this House resolution relating to the President's urgent request for this $1.6 million. This is to maintain in terms of gold the holdings of U.S. dollars in various international financial institutions of which the United States is a member.

This action is necessary as the final legislative step in an action previously authorized by this House. Now the House has made it necessary for us to bring this bill to you by their action.

Let me point this out, if I may, and if I may have the attention of the gentleman from Florida who I am sure is interested in these matters, and the gentleman from Indiana, who have worked so hard on this over the years.

This House by its action on March 21 by a vote of 342 to 43 enacted the devaluation clause which automatically put into effect the laws I have referred to passed earlier by Congresses in 1945, 1959, and 1966 which require us to make up these deficits.

This is the reason we are here today. I am sure the gentleman from Texas and the gentleman from Ohio wish we were not here. But we have an obligation to fulfill the responsibilities of the House of Representatives and of the Congress of the United States and of our country where they have made a definite commitment—and we have to do it.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. BOW. I yield to the gentleman.

Mr. GROSS. I wonder how many of those 343 Members who voted for that——

Mr. BOW. That is 342 Members.

Mr. GROSS. Well then, 342.

Mr. BOW. I do not want you to increase the vote by one more.

Mr. GROSS. I wonder how many of those 342 Members who voted understood at that time that they were going to be confronted with a situation like this?

Mr. BOW. I am quite sure that in the debate at that time the question was raised that we were going to have to bring in a bill to take care of the multilateral programs.

Mr. GROSS. If the gentleman will read the debate this subject was given the "once over very lightly" treatment.

Mr. BOW. I am surprised, the gentleman from Iowa being here on the floor at the time—I am surprised that anything of that kind could have been gone over very lightly.

In this connection, I think there are some basic considerations which the Members of the House should keep in mind in considering this request.

In the first place, we are being asked to do nothing more than to follow through on the obligations that we have assumed in the laws of the past which I have referred to.

There are good and sound reasons behind this that I have referred to. The laws that were passed in the past. They are designed to assure that the contributions of all members are maintained. I say all members. They have made their contributions.

This is just the first devaluation. But some of them, many times in large percentages have already paid theirs in. I think it is very important that we keep our share.

Another thing we must remember is that we have certain voting rights in this multilateral organization. In order to maintain our voting rights to help keep a tight rein, if we do not pay in, if we lose some of those voting rights in these organizations—I might point out in passing there have been over 200 cases where other nations have devalued or paid in.

Now it has been indicated and this is a rough one to look at—an appropriation of $1.6 million is required.

I think it should be considered also that the net budgetary effect is far less than that figure indicates—and this is important. In addition to this, the figure does not reflect the fact that there is a subsantial increase in assets.

Now, if I may have your attention on this increase, I think it is something you should consider. I particularly note with respect to the budgetary impact of this appropriations request, the increase in the dollar value of our gold—of our gold holdings as a result of the devaluation of the dollar. This involves a direct writeup of some $828 million.

In other words, there is an increase in our value of gold because of deflation in the amount of $828 million against gold certificates which may be issued by the Federal Reserve Bank. Under the unified budgetary accounting concept this increase in value is not considered a budgetary item. However, it represents a significant cash gain, and it will reduce the Treasury's borrowing needs with a consequent savings on interest cost, and savings will approximate ultimately the budgetary outlays which may occur.

In addition, there is, as I have said, no budgetary expenditure, because under our Treasury practices, transactions of the IMF are treated as exchange of assets. Furthermore, our drawing rights in the IMF are increased by $575 million, resulting in a net increase of our assets there of $50 million.

Mr. Chairman, I have tried to outline why, in my opinion, the House has a responsibility here—because of previous laws passed, because the law provides we shall pay in these funds, because the House, as recently as March 31, devaluated, and it is my opinion that we would be doing an irresponsible thing, we would be defeating the purposes for which Congress has acted in the past, if we did not approve this appropriation.

Mr. Chairman, I wish to express my strong support for the special House joint resolution relating to the President's urgent request for an appropriation of approximately $1.6 billion to maintain the value, in terms of gold, of the holdings of U.S. dollars in the various international financial institutions of which the United States is a member.

This action is necessary as the final legislative step in the devaluation of the dollar—an action previously authorized by this House on March 21 by a vote of 342 to 43.

In this connection, I think there are some basic considerations which the Members of this House should keep in mind when considering this request.

In the first place, we are being asked to do nothing more than follow through on obligations which we have assumed in the past. When we adopted the respective articles of agreement of the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank, we adopted the respective maintenance of value provisions contained in each of these agreements. In general, these provisions require that when any member country devalues its currency, that country must pay an additional amount of its own currency to maintain the value, in terms of gold, of its contributions to the institution.

There are good, sound reasons behind these provisions. They are designed to assure that the contributions of all members are maintained in value in relation to each other despite changes in exchange rates. In the past, these provisions have worked in favor of the United States by assuring that other countries who have devalued have not diminished the value of their contributions. This prevents the underlying principle of burden-sharing from being diminished by changes in exchanges rates. It also assures, now that we have agreed to devalue, that our share in the assets and voting rights in these institutions will not be impaired.

Since this is the first time the dollar has been devalued, this is obviously the first time the United States has been called upon to fulfill its obligation to maintain the dollar value of its contributions to these institutions. By no means, however, is this the first time that these respective maintenance of value obligations have come into play. There have, in the past, been over 200 official exchange rate changes in the International Monetary Fund. In each case, the country concerned has fulfilled its maintenance of value obligations in the international financial institutions to which they belonged. More importantly, most countries, especially the large industrial countries, have fulfilled these obligations promptly.

Mr. Chairman, I do not think it is necessary for me to belabor the point at this time that the actions taken by President Nixon on August 15 reflected, to a great extent, the need to define anew the position of the United States in a substantially changing world economic order. We have been, and will continue to be, engaged in difficult monetary negotiations with our trading partners throughout the world. The outcome of these negotiations will have a direct bearing on the future of this country as a viable and respected world competitor. At a time when we are doing all we can to encourage and insist that the other leading nations of the world live up to their obligations and undertake fair and even-handed practices in their international relationships, I think the importance of the United States fulfilling its own obligation, such as these now under consideration, speaks for itself.

Mr. Chairman, in considering the mechanics of our maintenance of value obligations, the numbers involved may be somewhat misleading unless considered in context.

Roughly $1.6 billion in appropriations is required, but the net budgetary effect is far less than that figure indicates. In addition, this figure does not reflect the fact that there are substantial increases in assets to offset the appropriations requested.

Of particular note, with respect to the budgetary impact of this appropriations request, is the increase in the dollar value of our gold holdings as a result of the devaluation of the dollar. This involves a direct writeup of some $828 million, against which gold certificates may be issued to the Federal Reserve banks. Under unified budgetary accounting concepts, this increase in value is not considered a budgetary receipt. However, it represents a significant gain in that it will reduce the Treasury's borrowing needs, with consequent savings on interest costs and these savings will approximate the ultimate budgetary outlays that will occur under this appropriation.

We are concerned with three different kinds of maintenance of value obligations. These obligations result: First, from our participation in the International Monetary Fund; second, from U.S. subscriptions in the callable capital of the international development banks; and third, from the U.S. subscriptions in the paid-in capital of these institutions.

Our obligation to maintain the value of the dollar portion of our International Monetary Fund subscription requires the issuance of letters of credit to the Fund totaling approximately $525 million. In order to issue these letters of credit, an appropriation is needed.

However, this action does not result in any budgetary expenditure, because under our budget practices transactions with the IMF are treated as exchanges of assets. Furthermore, our drawing rights at the IMF are increased by $575 million, resulting in a net increase in our assets of $50 million.

The maintenance of value liabilities arising from the total amount of our callable capital subscriptions in the World Bank, the Inter-American Development Bank, and the Asian Development Bank total to $663 million.

Callable capital, however, is a highly contingent liability, which serves as security for private market borrowings by these institutions. The subscriptions have never been called in the past and it is highly unlikely that they ever will be. Nevertheless, we must formally commit on these obligations, however, contingent, and this requires appropriations of approximately $663 million.

The only maintenance of value obligations which are even expected to result in actual budgetary outlays are those deriving from our paid-in capital subscriptions to the international development banks. This amount will amount to an estimated $406 million on our paid-in subscriptions.

I want to emphasize, however, that while these increases in our paid-in subscriptions will have a direct budgetary impact, no such impact is anticipated in fiscal years 1972 or 1973. In fact, budgetary outlays on these accounts will not begin until fiscal year 1974, and then will spread out over a 10-year period.

We can see, therefore, Mr. Chairman, that out of an appropriations request of approximately $1.6 billion, only a little over $400 million will actually involve any direct budgetary outlays and these will be spread out over a 10-year period beginning in fiscal year 1974.

I repeat, therefore, Mr. Chairman, that I believe the numbers involved in this appropriations request, and their significance, may be misleading if not put in their proper perspective.

In conclusion, Mr. Chairman, let us not forget the true nature of the business we are engaged in here today. This appropriations request, and the Par Value Modification Act which prompted it, carry out a major part of the U.S. contribution to the first multilaterally negotiated realinement of the world's major currencies. The Smithsonian agreement was hammered out in hard and arduous bargaining. It was designed, in large part, to help resolve certain balance-of-payments problems and to restore stability to foreign exchange markets. It will make American products more attractive in foreign markets and at home expanding job opportunities for American workers and farmers. It will take a few years for the full impact of the realinement to become effective, but over time the increased competitiveness of our economy, if combined with action to combat inflation and stimulate domestic economic growth, will lead to increased sales at home and abroad.

Perhaps more importantly, the Smithsonian agreement provides a framework from which longer term reform of the international monetary system will evolve. A difficult task has been accomplished; an even more difficult task lies ahead. In the interim, the bargain we struck was a fair one. Let us live up to it, in all its aspects, in a manner befiting our role as the leading nation in the world.

U.S. MAINTENANCE OF VALUE OBLIGATIONS

On February 29, 1972, Secretary Connally transmitted to Congress a draft bill to: First, authorize and direct the Secretary of the Treasury to take the steps necessary to establish a new par value of the dollar of $1 equals one thirty-eighth of a fine troy ounce of gold; Second, authorize and direct the Secretary of the Treasury to maintain the value in terms of gold of the holdings of the U.S. dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association and the Asia Development Bank to the extent provided for and required by the articles of agreement of these institutions; Third, authorize the appropriation, to remain available until expended, of such amounts as may be necessary to satisfy these maintenance of value obligations; and Fourth, direct that the increase in the value of the gold held by the United States resulting from the change in the par value of the dollar be covered into the Treasury as a miscellaneous receipt.

This bill carries out the U.S. part of the agreement reached at the Smithsonian Institution on a series of interrelated measures designed to help resolve balance-of-payments problems, to restore more settled conditions in the foreign exchange markets, and to provide a framework from which longer-term reform of the international monetary system could evolve. The Smithsonian Agreement included an overall weighted average realinement of approximately 12 percent in the currencies of other industrial countries, excluding Canada, and as a part of this realinement, an agreement by the United States to propose to Congress a devaluation of the dollar. The realinement should have the effect of making American products more attractive in foreign markets and at home. It should expand export opportunities for American industrial and agricultural products and create more jobs for American workers in factories, on farms and in export supporting businesses. It will take a few years for the

effects to be fully felt, but over time the increased competitiveness of our economy, if combined with action to combat inflation and restore domestic economic growth, will lead to increased sales abroad.

This bill, submitted by the administration, passed the Senate on March 1, 1972, by a vote of 38 to 1, and the House on March 21, by a vote of 342 to 43. The President signed the Par Value Modification Act (Public Law 92–268) on March 31, 1972. See annex A.

The maintenance of value obligation which Congress has directed the Secretary of the Treasury to fulfill stems from a provision in the agreements governing each of these institutions providing that each member country that devalues its currency must maintain the value of its contributions as measured by a common yardstick, in this case gold. See annex B. Thus, a country that devalues by 10 percent must add another 10 percent of its currency to the institutions' holdings of its currency. The dollar is to be devalued in terms of gold by 8.57 percent, and thus the dollar holdings of the international financial institutions will have to be increased by 8.57 percent.

The purpose of this requirement is to assure that the contributions of all members are maintained in value in relation to each other despite changes in exchange rates. This provision has worked in favor of the United States by assuring that other countries that have devalued in the past have not diminished the value of their contributions. Thus, the burden-sharing principle is not diminished by currency devaluations. The maintenance-of-value provision also assures that our share in the assets and voting rights in these institutions is not impaired by our devaluation.

All other countries have fulfilled their maintenance-of-value obligations. In total, there have been over 200 par value modifications in the International Monetary Fund and in each case the country concerned has fulfilled its maintenance-of-value obligations in the international financial institutions. See annex C. Moreover, most countries, especially the large industrial countries, have fulfilled these obligations promptly. For example, France devalued in 1957, 1958, and 1969. In the first instance, maintenance of value was made on the date of devaluation; in the second, 2 days after, and, in the third, 3 days after. In the case of the United Kingdom's devaluation in 1967, maintenance of value was made 33 days after and in the case of Canada in 1962, 28 days after.

There are three different kinds of obligations to which maintenance of value applies. These obligations result from: First, participation in the International Monetary Fund; second, the callable capital of the international development banks; and, third, paid-in capital subscriptions to these institutions. See annex D.

INTERNATIONAL MONETARY FUND

Our financial relationships with the International Monetary Fund will result in a $50 million net increase in our assets. First, because the dollar portion of $5,025 million of our Fund subscription is denominated in dollars of a fixed weight and fineness of gold, this subscription will increase in current dollar value by 8.57 percent or $431 million. Against the increased value of this asset, the United States will incur an equal liability derived from the requirement of maintenance of value of the dollar portion of our subscripton in terms of gold. This will result in an exchange of assets, which will involve Treasury issuance of a letter of credit to the Fund in the amount of $431 million.

There will also be an 8.57 percent increase, equal to $144 million, in the United States gold tranche of $1,675 million in the International Monetary Fund. Because this asset represents gold paid to the Fund in partial fulfillment of U.S. subscription obligations, there is no offsetting maintenance of value obligation. However, the increase in value of this asset will be partially offset by the requirement that we maintain the value in terms of gold of a U.S. drawing from the Fund of $1,105 million, resulting in an increased obligation of $94 million. A letter of credit would be issued to the Fund in this amount as part of the normal process of issuing such letters of credit in connection with U.S. drawings.

Thus, in the Fund, as a result of the change in the par value of the dollar, the total increase in assets equals $575 million and the increase in liabilities amounts to $525 million. The $525 million in letters of credit that are to be issued to the Fund will not result in budgetary expenditures even when drawn upon, since transactions with the Fund represent exchanges of assets that are outside the budget. However, in order to issue these letters of credit an appropriation of approximately $525 million will be requested. The amount of appropriation to be requested can only be approximate since the exact amount of the Fund's holdings of dollars will vary by small amounts from day to day and the exact amount of the letters of credit to be issued to the Fund can only be determined as of the day when the U.S. par value is formally modified.

CALLABLE CAPITAL

In the World Bank, the Inter-American Development Bank, IDB, and the Asian Development Bank, ADB, our subscription of callable or "guarantee" capital is denominated in dollars of a fixed weight and fineness, and the change in the par value of the dollar will mean an increase of 8.57 percent in our callable capital obligation. The callable capital in the World Bank is $5,715 million, in the IDB it is $1,370 million, and in the ADB it is $100 million. The total increase in the current dollar amount of these callable capital subscriptions, plus those authorized by Congress but not yet subscribed, amounts to $663 million.

This callable capital is a highly contingent liability. It has never been called in the past and it is highly unlikely that these subscriptions will be called in the future, considering the size of already existing callable capital and the reserves which the international banks have built up. Therefore, no budgetary impact is anticipated. Nevertheless, funds must be available to meet these obligations if they are ever called, and an appropriation of $663 million will be requested.

PAID-IN SUBSCRIPTIONS

There is a substantial maintenance of value obligation with respect to the paid-in subscriptions to the development lending institutions—the multilateral banks mentioned above, plus the International Development Association. This will amount to an estimated $406 million on paid-in subscriptions, both those previously authorized and appropriated and those recently authorized but not yet appropriated; maintenance of value to be made, of course, only when and to the extent appropriations are enacted. The maintenance of value paid-in capital obligation in the World Bank is $51 million; in the Inter-American Development Bank $224 million; in the Asian Development Bank $9 million; and in the International Development Association $122 million. Only these obligations are expected to result eventually in budgetary outlays. The total obligation can only be definitely determined on the basis of dollar holdings as of the day on which the par value is changed and is therefore subject to some adjustment. In particular, the IDB is studying the appropriate application of maintenance of value to the pending subscription of $1 billion to the Fund for Special Operations.

The maintenance-of-value obligation on the paid-in subscriptions would be paid in the form of letters of credit, and an appropriation of $406 million will be sought as the basis for issuing these letters of credit. However, the letters of credit would be drawn down only after a period of several years as the development lending institutions need the funds for disbursements. No disbursements of these funds, and therefore no budgetary impact, is anticipated in fiscal years 1972 or 1973. It is expected that drawdowns of somewhat less than $350 million would be fairly evenly spread over fiscal years 1974–1976. Subsequently, the remaining drawdowns are expected in the fiscal years 1977 to 1986 as certain dollar loans of the World Bank and the IDB mature.

INCREASES IN ASSETS

Offsetting these increases in liabilities resulting from maintenance of value are increases in certain of our international reserve assets.

With respect to liquid assets, there is an increase of $828 million in the value of U.S. gold holdings; an increase of $155 million in U.S. holdings of special drawing rights; an increase of $144 million in the U.S. gold tranche in the International Monetary Fund; and, finally, an increase of $27 million in the value of U.S. foreign exchange holdings.[1] These increments in value total $1.1 billion.

The increment in value of gold will result in a direct cash inflow into the Treasury of $828 million as gold certificates equivalent to the increase in gold value are issued to Federal Reserve banks. However, under unified budgetary accounting concepts, this increment in value will not be considered a budgetary receipt.

---

[1] In addition to these adjustments in assets and liabilities, net losses on certain operational foreign exchange accounts, including both so-called swaps and foreign currency borrowing, maintained by the Exchange Stabilization Fund and the Federal Reserve will be absorbed by those institutions. These losses are presently estimated at about $145 million for the ESF and under $200 million for the Federal Reserve. These losses do not require appropriations.

BUDGETARY IMPACT

The $525 million in letters of credit that are to be issued to the Fund will not result in budgetary expenditures even when drawn upon since transactions with the Fund represent exchanges of assets that are outside the budget.

The callable capital has never been called in the past and it is highly unlikely that it will be called in the future. It represents a remote contingent liability and is without budgetary or cash impact until it is actually called.

The maintenance of value on the $406 million of paid-in subscriptions will have eventual budgetary impact. However, this amount will be paid in the form of letters of credit and these letters of credit will have a cash impact only as they are drawn down.

No disbursements on these letters of credit, and therefore no budget impact, is anticipated in the fiscal years 1972 or 1973. It is expected that drawdown of somewhat less than $300 million will be fairly evenly spread over fiscal years 1974–76. Subsequently, the remaining drawdowns are expected in the fiscal years 1977 to 1986, as certain dollar loans of the World Bank and the IDB mature.

OVERALL IMPACT

The overall effect of both maintenance of value and the increases in the value of assets will be as follows:

In terms of its effects on Treasury cash, to increase our resources, through the writeup of our gold holdings.

In terms of budgetary expenditures, a probable rough balance between savings on interest expense—as a result of the added cash resources of the Treasury—and the additional paid-in capital subscription to the international development institutions.

In terms of our overall asset and liability position, an approximate offset between added contingent and deferred liabilities and the increased value of our gold and capital subscriptions.

REASON FOR INDEFINITE APPROPRIATION

The appropriation request does not contain a specific sum for the total amount of maintenance of value. It is difficult to state a specific sum since the maintenance of value obligation changes depending upon the amount of dollars which the international institutions have on hand at a particular time. In the International Monetary Fund there are drawings of dollars and repayment of dollars and in the other institutions dollars are continuously being drawn down. However, it is expected that maintenance of value will amount to no more than $1.6 billion.

Mr. Chairman, I submit additional material:

Annex A

Public Law 92-268, 92d Congress, S. 3160, March 31, 1972

An act to provide for a modification in the par value of the dollar, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. This Act may be cited as the "Par Value Modification Act".

Sec. 2. The Secretary of the Treasury is hereby authorized and directed to take the steps necessary to establish a new par value of the dollar of $1 equals one thirty-eighth of a fine troy ounce of gold. When established such par value shall be the legal standard for defining the relationship of the dollar to gold for the purpose of issuing gold certificates pursuant to section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b).

Sec. 3. The Secretary of the Treasury is authorized and directed to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of such institutions. There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.

Sec. 4. The increase in the value of the gold held by the United States (including the gold held as security for gold certificates) resulting from the change in the par value of the dollar authorized by section 2 of this Act shall be covered into the Treasury as a miscellaneous receipt.

Approved March 31, 1972.

Annex B

INTERNATIONAL MONETARY FUND—ARTICLE IV

Section 8. Maintenance of gold value of the Fund's assets

(*a*) The gold value of the Fund's assets shall be maintained notwithstanding changes in the par or foreign exchange value of the currency of any member.

(*b*) Whenever (i) the par value of a member's currency is reduced, or (ii) the foreign exchange value of a member's currency has, in the opinion of the Fund, depreciated to a significant extent within that member's territories, the member shall pay to the Fund within a reasonable time an amount of its own currency equal to the reduction in the gold value of its currency held by the Fund.

(*c*) Whenever the par value of a member's currency is increased, the Fund shall return to such member within a reasonable time an amount in its currency equal to the increase in the gold value of its currency held by the Fund.

(*d*) The provisions of this Section shall apply to a uniform proportionate change in the par values of the currencies of all members unless at the time when such a change is made the Fund decides otherwise by an eighty-five percent majority of the total voting power.

Act of July 31, 1945, P.L. 171, 59 Stat. 512, as amended.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT—ARTICLE II

Section 9, Maintenance of value certain currency holdings of the Bank

(a) Whenever (i) the par value of a member's currency is reduced, or (ii) the foreign exchange value of a member's currency has, in the opinion of the Bank, depreciated to a significant extent within that member's territories, the member shall pay to the Bank within a reasonable time an additional amount of its own currency sufficient to maintain the value, as of the time of initial subscription, of the amount of currency of such member which is held by the Bank and derived from currency originally paid in to the Bank by the member under Article II, Section 7(i), from currency referred to in Article IV, Section 2(b), or from any additional currency furnished under the provisions of the present paragraph, and which has not been repurchased by the member for gold or for the currency of any member which is acceptable to the Bank.

(b) Whenever the par value of a member's currency is increased, the Bank shall return to such member within a reasonable time an amount of that member's currency equal to the increase in the value of the amount of such currency described in (a) above.

(c) The provisions of the preceding paragraphs may be waived by the Bank when a uniform proportionate change in the par values of the currencies of all its members is made by the International Monetary Fund.

Act of July 31, 1945, P.L. 171, 59 Stat. 512, as amended.

INTER-AMERICAN DEVELOPMENT BANK—ARTICLE V

Section 3. Maintenance of value of the currency holdings of the Bank

(a) Whenever the par value in the International Monetary Fund of a member's currency is reduced or the foreign exchange value of a member's currency has, in the opinion of the Bank, depreciated to a significant extent, the member shall pay to the Bank within a reasonable time an additional amount of its own currency sufficient to maintain the value of all the currency of the member held by the Bank in its ordinary capital resources, or in the resources of the Fund, excepting currency derived from borrowings by the Bank. The standard of value for this purpose shall be the United States dollar of the weight and fineness in effect on January 1, 1959.

(b) Whenever the par value in the International Monetary Fund of a member's currency is increased or the foreign exchange value of such member's currency has, in the opinion of the Bank, appreciated to a significant extent, the Bank shall return to such member within a reasonable time an amount of that member's currency equal to the increase in the value of the amount of such currency which is held by the Bank in its ordinary capital resources or in the resources of the Fund, excepting currency derived from borrowings by the Bank. The standard of value for this purpose shall be the same as that established in the preceding paragraph.

(c) The provisions of this section may be waived by the Bank when a uniform proportionate change in the par value of the currencies of all the Bank's members is made by the International Monetary Fund.

Act of August 7, 1959, P.L. 86–147, 73 Stat. 299, as amended.

INTERNATIONAL DEVELOPMENT ASSOCIATION—ARTICLE IV

Section 2. Maintenance of value of currency holdings

(a) Whenever the par value of a member's currency is reduced or the foreign exchange value of a member's currency has, in the opinion of the Association, depreciated to a significant extent with that member's territories, the member shall pay to the Association within a reasonable time an additional amount of its own current sufficient to maintain the value, as of the time of subscription, of the amount of the currency of such member paid into the Association by the member under Article II, Section 2(d), and currency furnished under the provisions of the present paragraph, whether or not such currency is held in the form of notes accepted pursuant to Article II, Section 2(e), provided, however, that the foregoing shall apply only so long as and to the extent that such currency shall to have been initially disbursed or exchanged for the currency of another member.

(b) Whenever the par value of a member's currency is increased or the foreign exchange value of a member's currency has, in the opinion of the Association, appreciated to a significant extent within that member's territories, the Association shall return to such member within a reasonable time an amount of that member's currency equal to the increase in the value of the amount of such currency to which the provisions of paragraph (a) of this Section are applicable.

(c) The provisions of the preceding paragraphs may be waived by the Association when a uniform proportionate change in the part value of the currencies of all its members is made by the International Monetary Fund.

(d) Amounts furnished under the provisions of paragraph (a) of this Section to maintain the value of any currency shall be convertible and usable to the same extent as such currency.

Act of June 30, 1960, P.L. 86–565, 74 Stat. 293, as amended.

ASIAN DEVELOPMENT BANK—CHAPTER V

Article 25. Maintenance of value of the currency holdings of the bank

1. Whenever (a) the par value in the International Monetary Fund of the currency of a member is reduced in terms of the dollar defined in Article 4 of this Agreement, or (b) in the opinion of the Bank, after consultation with the International Monetary Fund, the foreign exchange value of a member's currency has depreciated to a significant extent, that member shall pay to the Bank within a reasonable time an additional amount of its currency required to maintain the value of all such currency held by the Bank, excepting (a) currency derived by the Bank from its borrowings, and (b) unless otherwise provided in the agreement establishing such Funds, Special Funds resources accepted by the Bank under paragraph 1(ii) of Article 19.

2. Whenever (a) the par value in the International Monetary Fund of the currency of a member is increased in terms of the said dollar, or (b) in the opinion of the Bank, after consultation with the International Monetary Fund, the foreign exchange value of a member's currency has appreciated to a significant extent, the Bank shall pay to that member within a reasonable time an amount of that currency required to adjust the value of all such currency held by the Bank excepting (a) currency derived by the Bank from its borrowings, and (b) unless otherwise provided in the agreement establishing such Funds, Special Funds, resources accepted by the Bank under a paragraph 1(ii) of Article 19.

3. The Bank may waive the provisions of this Article when a uniform proportionate change in the par value of the currencies of all its members takes place.

Act of March 16, 1966, P.L. 89–369, 80 Stat. 73.

ANNEX C, INTERNATIONAL MONETARY FUND, 201 DEVALUATIONS[1] REQUIRING ADDED NATIONAL CURRENCY CONTRIBUTIONS, INVOLVING 64 OUT OF 120 MEMBER COUNTRIES (DECEMBER 1916 THROUGH NOVEMBER 1971)

Countries	Number of instances	Aggregate percentage increase in national currency contributions due to devaluations[2]
Group of Ten:		
Belgium	1	14.1
Canada	[3] 38	.3
France	7	366.3
Netherlands	[4] 5	26.2
United Kingdom	2	67.9
Others:		
Afghanistan	1	125.0
Argentina	5	2,122.2
Australia	1	43.9
Bolivia	4	18,691.7
Brazil	11	28,278.4
Cameroon	1	12.5
Central African Republic	1	12.5
Ceylon	1	25.0
Chad	1	12.5
Chile	19	39,287.1
Colombia	6	957.2
Congo, People's Republic	1	12.5
Costa Rica	1	18.0
Cyprus	1	16.7
Dahomey	1	12.5
Denmark	2	56.3
Ecuador	3	85.2
Egypt	1	43.9
Ethiopia	1	.6
Finland	2	82.6
Gabon	1	12.5
Ghana	1	185.7
Guyana	1	16.7
Iceland	6	1,256.3
India	2	126.7
Indonesia	6	3,540.4
Iran	1	134.9
Iraq	1	43.9
Ireland	1	16.7
Israal	3	133.3
Ivory Coast	1	12.5
Jamaica	2	133.3
Korea	2	410.0
Luxembourg	1	14.1
Malagasy	1	12.5
Malawi	2	133.3
Mali	2	125.0
Mauritania	1	12.5
Mexico	2	157.5
Nepal	1	32.9
New Zealand	2	148.3
Nicaragua	1	40.0
Niger	1	12.5
Norway	1	43.9
Pakistan	1	43.9
Paraguay	7	3,977.7
Peru	[5] 16	312.5
Philippines	1	95.0
Sierra Leone	1	16.7
South Africa	1	43.9
Spain	1	16.7
Trinidad and Tobago	1	16.7
Tunisia	1	25.0
Turkey	2	435.7
Upper Volta	1	12.5
Venezuela	1	33.9
Vietnam	1	128.6
Yugoslavia	4	2,900.0
Zaire	1	233.3

---

[1] Include both formal changes in parity and changes in foreign exchange value determined by IMF.

[2] Percentage figures have been determined after eliminating effects which in a few cases would have been produced by introduction of a new monetary unit, exchanged for the old on the basis of 1 per 100 or 1 per 1,000, without change in the effective exchange rate. Figures in this column are comparable to the proposed 8.57 percent increase in contributions for the United States.

[3] Of which 36 instances involved valuing IMF holdings and transactions at market rates during periods of floating.

[4] Of which 4 instances involved valuing IMF holdings and transactions at market rates during periods of floating.

[5] Of which 14 instances involved valuing IMF holdings and transactions at market rates during periods of floating.

Source: International Monetary Fund.

ANNEX D

U.S. maintenance of value obligations

[In millions of dollars]

INTERNATIONAL MONETARY FUND

Additional letters of credit will be issued in the following amounts representing the 8.57% increase in:	
(a) amount of U.S. dollar subscription (¾ of quota)	431
(b) outstanding drawings by U.S.	94
Total	525

INTERNATIONAL DEVELOPMENT LENDING INSTITUTIONS

Callable:	
IBRD	509
IDB	146
ADB	9
Total	663
To be paid in:	
IBRD	51
IDA	122
IDB	224
ADB	9
Total	406
Grand total	1,069

Mr. RANDALL. Mr. Chairman, after listening to some of the comments, I quickly reached the conclusion that I could not support House Joint Resolution 1174.

I was impressed by the comments of the gentleman from Texas (Mr. GONZALEZ), who said there had been a doubt in his mind whether or not the 8-percent devaluation was good for this Nation and the implied promise that the devaluation would produce 500,000 jobs did not materialize. I noted that he said the price of gold had been speculated up to a point where yesterday it was $50.60 an ounce. If the figure is correct, then his conclusion was equally accurate when he predicted that when the London and Swiss bankers get through with the United States we will find that we have lost money a lot quicker with these bankers than we were spending it in Vietnam.

Quite a point has been made as to how much emphasis was placed on the cost or necessity for an appropriation of $1.6 billion at the time we debated the devaluation authorization bill back on March 21 of this year. Perhaps the strong vote of 342 to 43 can now be explained, because there was little or no reference at that time to the necessity for an appropriation of the size that is being asked for today. Bear in mind this $1.6 billion may be only the first installment, because it refers to an appropriation for special payments to international financial institutions for the fiscal year 1972, the end of which on June 30, is not too far away.

The chairman of our Appropriations Committee said on the floor today that the matter was very clearly explained on page 9 of the report of the Committee on Banking and Currency. He is right on that point so far as the International Monetary Fund is concerned, although the gentleman from Texas (Mr. GONZALEZ) is quite correct when he says there is not much emphasis in the debate on the authorization bill, and the Committee on Banking and Currency preferred to be rather quiet or remain rather silent about the necessity for an appropriation such as is being asked for today.

Now I suppose there is an obligation to maintain the value of gold holdings of the U.S. dollars by the International Monetary Fund but we should stop there. Why is the International Bank for Reconstruction and Development included? I note also included is the Inter-American Development Bank, but listen to this. They have the IDA in there, or the International Development Association, and for good measure add the Asian Development Bank. If we are required to maintain our dollar in the International Monetary Fund then surely we should not go to the lengths of House Joint Resolution 1174 to support all these other agencies which so freely dispense U.S. dollars all over the world. If we are really and truly in as serious shape as we are told in the area of adverse balance of payments and trade deficits then surely the time has come if not to suspend then to slow down such operations as IDA, the Inter-American Development Bank, and the Asian Development Bank.

Mr. Chairman, we were not told about all of this at the time of the devaluation authorization. Perhaps I should say we were not told all about it, but only just a little about it. If this resolution is not approved, another one can be brought out of the Appropriations Committee reduced in amount and omitting the support for such agencies as IDA, the Inter-American Development Bank, and the Asian Development Bank. Or would such a modified resolution so sorely disappoint the international bankers that we dare not follow such a course?

Mr. RARICK. Mr. Chairman, the legislation to appropriate for supplemental payments to international financial institutions certainly proves there can be nothing to give away that is not first taken away.

We now learn that our people are being charged $1,600,000,000 because their President and this Congress devalued their money by 8.57 percent. Again, the internationalists and our foreign friends who love us for all our charity and gifts are intended to be the recipients of this latest take away from the American people.

Why do the people who create all the wealth always end up owing all the debt?

Why do all the bankers who create all the debt always end up owning all the wealth?

It can well be said that this is another tax against our people, a tax for wanting to help—the desire to upgrade other nations by the use of our own foreign aid money.

I say to my fellow colleague from Iowa (Mr. Gross) that I think I speak with confidence when I say that my people in Louisiana not only want nothing to do with the international banker featherbedding of this bill, but also that they have long grown disillusioned at the entire foreign aid fiasco. The idea that we continue to bankrupt our people and our country to help nonappreciative foreigners has grown threadbare.

The people are looking beyond the ribbons and window dressings, the fancy rhetoric and the nonending promises, and they do not like what they see. Bankruptcy is a disaster to any individual, but the contemplation of what bankruptcy would be to a country like ours is an indescribable horror.

I do not understand how a President of the United States could ever have been induced to make such recommendations in the first place, nor do I understand how any Member who is concerned with his country and the representation of the wants and needs of his people could vote for such a bill.

I represent Americans and my duty is to them, not to international banks nor foreign interests. I plan to vote no.

Mr. BOW. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1972, namely:

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

SPECIAL PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS

For payments by the Secretary of the Treasury to maintain the value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank, to the extent provided in the articles of agreement of such institutions, as authorized by section 3 of the Par Value Modification Act (Public Law 92–268), such amounts as may be necessary (but not to exceed $1,600,000,000), to remain available until expended.

AMENDMENT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rousselot: Page 2, line 14, strike out "$1,600,000,000" and insert in lieu thereof "$1,194,000,000".

Mr. ROUSSELOT. Mr. Chairman, I offer this particular amendment to basically followup on what is stated in the report itself as to the basis of what is actually needed. On page 5 of the report on the legislation before us; that is, "Supplemental Appropriation for Special Payments to International Financial Institutions," the following statement is made:

> The maintenance of value obligation on the paid-in subscriptions will be paid in the form of letters of credit. However, the letters of credit would be drawn down only after a period of several years as the development lending institutions need the funds for disbursements.

The next part of the text I think is the most important part, and it relates to the amendment I have offered:

> No disbursements of these funds, and therefore no budgetary impact, is anticipated in fiscal year 1972 or 1973. It is expected that draw-downs of somewhat less than $350 million would be fairly evenly spread over fiscal years 1974–1976. Subsequently, the remaining draw-downs are expected in the fiscal years 1977 to 1986 as certain dollar loans of the World Bank and the IDB mature.

Mr. Chairman, on most and on the overwhelming number of domestic programs in this country we demand that the various agencies involved come back to the Congress for appropriated dollars each year, even though there are long-range authorization programs. Why should it be any different for the international banks and organizations?

As my good friend, the gentleman from Ohio (Mr. Bow) has said many times on this floor, that the Appropriations Committee is very responsive to obligations that we have made. But why should the international funds be any different from our regular domestic programs?

I think it is true, as the gentleman from Ohio (Mr. Bow) has said, that the Appropriations Committee is responsive. Then why should these funds not have to come back to the Congress every year just as anybody else does? Why are they any different?

Mr. BOW. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. In just a minute I will yield, but I have one more point I wish to make, and then I will be glad to yield to the gentleman from Ohio since I have mentioned his name.

More important, we have a constitutional responsibility to appropriate money as it is needed. We are going, some say, $50 billion into debt this year. Why should we place any more obligations on the Treasury than we are already doing, and especially for the international funds that are being used against our best interests all over this world?

I say we should accept our constitutional responsibility and start acting as a good Congress that has the backbone to only obligate only what is needed instead of just yielding every time an international agency comes up here and says, "Give us long-range authority." Let us put our foot down now. The Members have all read the polls that are going on all over this country. Our taxpayers are sick and tired of being put upon constantly to pay taxes and throw their money all over this world, through these international funds that are doing it.

Let us stand up to our constitutional responsibility and say, no, we are not going to back up on our obligations, but as an appropriation body, we intend to review them every year.

Now do not say to me that this amendment is going to gut the bill. It is not going to gut it, and it is not a vote that calls for us to back up on our responsibilities.

Mr. BOW. Mr. Chairman, the gentleman said he would yield to me.

Mr. ROUSSELOT. If you will be kind enough to wait just a minute. I will yield to the gentleman from Ohio.

Let us cut back where we can cut back, because the committee report says so on page 5. They are not going to obligate this $406 million for another 2 or 3 or 4 years. Why not cut it back? That is all my amendment does.

Mr. Chairman, I yield now to my friend, the gentleman from Ohio (Mr. Bow).

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Rousselot was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, I yield to my friend, the gentleman from Ohio (Mr. Bow).

Mr. BOW. Mr. Chairman, I am delighted the gentleman has yielded to me and has taken the time to do it. I will say to the gentleman from California the reason it must be done at this time is because the Congresses in the past have enacted laws which say it will be done. I am referring now to the act of 1959, the statute, Public Law 171 of 1945, and the same law on the International Bank of August 7, 1959, and June 30, 1960, and again in 1966, wherein the Congress has committed itself to these organizations, that upon revelation it will make these contributions.

Mr. ROUSSELOT. Mr. Chairman, to my good friend, the gentleman from Ohio (Mr. Bow) I will say that is exactly what I am saying. We are not backing up on our obligations. On the basis of the report itself, which is before the Members, it says on page 5 they do not need the amount of money I am amending out of this bill for another 2 or 3 or 4 years.

I have many times supported the gentleman from Ohio when he has come before us as the ranking minority member of the Appropriations Committee and said, let us make sure the agencies, especially the domestic agencies come back to the Congress for appropriations each year. We have never held up the bills. Let us make sure the international banks and associations have to do the same thing. Why should we treat the international agencies differently?

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I am glad to yield to my friend from Iowa.

Mr. GROSS. I should like to ask some of these people who are relying upon the law that was ill-advisedly and improvidently enacted what they are going to do when they come to that day—and it is on the way—when they cannot carry out these commitments? What then will they say to the people of this country? What then will they say?

Mr. ROUSSELOT. The gentleman from Iowa makes an excellent point. All we are saying by this amendment is that we reserve this right to review the appropriation each year. We are not "gutting" the whole thing, but only taking out $407 million, which the report itself admits is not needed now for 2 or 3 years.

I urge support of the amendment.

Mr. BOW. Mr. Chairman, I rise in opposition to the amendment.

This is a rather unusual position for me to be in, in opposition to an amendment which seeks to cut, but I do not believe we can cut on this, because we have, as I have tried to point out, given the solemn word of this Congress. It is not just the vote of March 21, but down over the years in respect to these international organizations.

I hold these laws in my hand. They say "We will," on devaluation. And we have insisted that other nations do the same.

Where would we be if other nations at time of devaluation, took the position the gentleman suggests we take, and held back?

I have before me a complete list of those who have had devaluation, some of them not only once but a number of times, and a list of the amounts they paid into these funds because of devaluation, to bring their gold to the right amount. I have mentioned that for some of them it is 20, 30, or 40 times. For some of them it is as much as 39,000 percent. This is 8.5 percent.

I think I shall put this list in the RECORD. It shows the countries that have kept their pledge, kept their word.

Are we here today going to say to Afghanistan, Bolivia, Cameroon, Ceylon, Chad, Chile, Colombia and on down the line, "Although you have kept your word and your bargain the Congress of the United States, although committed by acts of Congress to make these payments, is going to renege." That is exactly what the consideration would be if this amendment were adopted.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. BOW. I yield to the gentleman from Iowa.

Mr. GROSS. The gentleman just mentioned Bolivia and so on down the line of other countries. How many of those countries have confiscated American investments?

Mr. BOW. The gentleman can phrase questions of that kind. I can tell him there are a number on here that have.

If the gentleman feels that way about it, I suggest he offer a bill to repeal the laws which put us into these organizations. Repeal them, if you will; but so long as we have them let us keep the word of this country. Let us not do anything to let the world think the United States reneges on its commitments.

If the gentleman will go out and write a bill, and put it in the hopper, to repeal this, then he can make the speeches about how they are making these confiscations.

Mr. GROSS. Will the gentleman support that kind of a bill?

Mr. BOW. If I am around here when it comes to the floor, I can say to the gentleman I will.

Mr. GROSS. On the business of spending billions around the world through the years I have not seen very much support from many Members of Congress for a reduction much less an end to those handouts.

Mr. BOW. I will say to the gentleman I do not know what particular bill he is talking about that he is offering to repeal. I have heard him many times get up and complain, but as long as we have an obligation of our country—and it is an obligation to pay it now and it probably will never go out of the Treasury, but it is an obligation which we have—then I say to you I think it would be a great mistake, with the problems we have in the world today, if this Congress goes on record as reneging on our previous commitments made by the Congress. Again I say, if you want to repeal it, go ahead.

Mr. ROUSSELOT. Will the gentleman yield?

Mr. BOW. Yes. I yield to the gentleman.

Mr. ROUSSELOT. I know that the gentleman does not want to imply that by the passage of this amendment that we would be reneging on our commitment, because even the report says that the amount that is to be amended out will not be used for 2, 3 or 4 years.

Mr. BOW. The gentleman still has not gotten into the record——

Mr. ROUSSELOT. But what is important is that the amount to be reduced is not needed.

Mr. BOW. Just one minute. I do not yield any further to the gentleman.

Mr. ROUSSELOT. Fine.

Mr. BOW. Because I have said it time and time again here on the floor today. Under the laws previously passed by this Congress we are today making up our commitment. It says here that we shall do it. You are talking about 2 or 3 or 4 years from now. This would be reneging on the position of our country under the laws that have been passed. The gentleman may examine them here.

Mr. ROUSSELOT. I have examined them. I am very familiar with them. But I am also familiar with this report.

Mr. BOW. Just one minute. If the gentleman is familiar with the laws and obligations of our country——

Mr. ROUSSELOT. I am.

Mr. BOW. I cannot understand under any circumstances why the gentleman would offer this amendment, then, which would be to the discredit of our Nation in keeping its word and obligation to other nations.

Mr. ROUSSELOT. Because, as I said before, the report which you have helped issue, which you have participated in writing, says that you do not need these letters of credit for 2 or 3 or 4 years.

Mr. BOW. No. It does not say that.

Mr. ROUSSELOT. Yes, it does. On page 5.

Mr. BOW. No.

Mr. ROUSSELOT. On page 5.

Mr. BOW. No. It does not say that. Go ahead and read it.

Mr. ROUSSELOT. I just read it. I am very familiar with the text.

Mr. BOW. It says that it will not become a budget obligation until——

Mr. ROUSSELOT. It says in 1974, 1975, 1978.

Mr. BOW. The gentleman says that the report says we do not need it.

Mr. ROUSSELOT. That is right. The letters of credit.

Mr. BOW. What does the report say? "No disbursement of these funds and therefore no budgetary impact is anticipated," but to meet our commitments under the laws previously passed it is our responsibility to make funds available at this time.

Mr. ROUSSELOT. I appreciate the gentleman reading that portion of his report that I have already read, because I think it substantiates my point.

Mr. BOW. But the gentleman is not reading it properly.

Mr. ROUSSELOT. I believe I am. Therefore I urge support of this amendment on the basis of what he has just said.

Mr. BOW. And the gentleman has done it on my time.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the Congress enacted into law a bill which provides for the taking of actions to maintain the value of our dollar in these international institutions. The approximate amount required for that purpose is $1.6 billion. This bill provides that appropriation.

Now, it is true that the bulk of this $1.6 billion is not estimated to be expended and be a charge against the Government from the standpoint of expenditure. The bulk of it is not expected to be actually expended. None of it is expected to show up as an expenditure at an early date. We make no distinction here between so-called callable capital and paid-up subscriptions.

The gentleman is seeking to strike out $406 million which is a part of the $1.6 billion. He has undertaken to strike it out on the ground that it will not be expended at an early date. The point is, however, that the authority to obligate the necessary amounts must be immediate. We appropriate the funds in order that the authority may be immediately available.

We appropriate funds every year for programs in which the funds are not actually expected to be spent for several years, that is, not actually paid out of of the Treasury. But we grant the authority to enter into the commitment, the obligation to spend at a later date. That is the situation as to the $406 million.

But, they have to be appropriated in accordance with the procedures of Congress and the requirements of the commitments which we make.

So, I see no point at all in striking this amount out of this resolution which the amendment offered by the gentleman from California would do by striking the figure $1.6 billion and inserting $1.194 billion and, therefore, we would have reneged to the extent of $406 million in meeting our commitments to these international funds.

No; the $406 million will not be spent immediately. But it has to be provided for and that is the reason it is contained in this resolution in order that we may fully meet our commitments under the agreements which we have made with the other countries of the world.

So, I would urge that we go ahead and follow through on our commitments which we have made when we devalued the dollar and when we passed the devaluation legislation and have this matter behind us

It is not that the $406 million is expected to be an immediate charge and increase the deficit. The $406 million will, it is estimated, increase our deficit over a period of years if we continue to have deficits, but we do have to meet this obligation and we do have to fulfill the agreements we have made with the other nations.

Mr. Chairman, I trust that this amendment will be voted down.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MAHON. Yes, I yield to the gentleman from California.

Mr. ROUSSELOT. I am sure the distinguished chairman of the committee, with whom I find myself in agreement on most issues, very much supports the report which the committee caused to have printed. It states on page 5 as follows:

> No disbursements of these funds, and therefore no budgetary impact, is anticipated in fiscal year 1972 or 1973.

And, I am sure the gentleman from Texas will agree that the Appropriations Committee is always very responsible in appropriating funds as they are needed. Since his own report says that this total is really not needed now, why since these appropriations are international funds why not trim according to need? We are very much concerned about spreading ourselves too thinly around the world. Why not make it clear by reducing this amount, as the amendment which I have offered proposes to do. Then when it is needed I know that the chairman will come back and ask for that appropriation when it is needed just as any domestic agency has to do.

Why should we treat these international agencies any differently than we treat our own domestic programs?

Mr. MAHON. The gentleman makes a good point with respect to page 5 of the report. However, the gentleman is discussing two different things. There is a difference between obligation and expenditures.

Mr. ROUSSELOT. I understand that.

Mr. MAHON. What is proposed by the committee is that $1.6 billion for obligation authority purposes be provided.

Mr. ROUSSELOT. In letters of credit. That is what we are talking about. This only relates to letters of credit and that is exactly the issue to which my amendment is directed.

Mr. MAHON. Yes; but the obligation will be in the form of letters of credit. However, you have to have the authority to obligate even though the funds will not necessarily be expended in fiscal years 1972 and 1973.

Mr. ROUSSELOT. That is my point.

Mr. MAHON. When we provide the funds, we provide the authority to obligate. That is required in this instance, under our international agreements.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. MAHON was allowed to proceed for 1 additional minute.)

Mr. MAHON. The point is that it is not expected that the $1.2 billion which the gentleman would leave in the bill would be expended The $406 million for paid-in capital is expected to be spent, but not before 1974, and even then it is estimated to be spent over a period of years.

What the pending resolution does is to enable the Government to live up to our obligation in these multilateral programs. Not that the Government expects to spend all the funds, but the obligational authority must be provided if we are to meet our commitments.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, a question or two have occurred to me in connection with this bill that I hope either the gentleman from Texas or the gentleman from Ohio can answer.

Can the gentleman from Texas tell me what the Treasury has fixed as the par value of the dollar, whether it has so notified the International Monetary Fund, and if so when the International Monetary Fund was notified?

Mr. MAHON. If the gentleman will yield, the par value would be based upon the increase in the price of gold from $35 an ounce to $38 an ounce. Section 2 of the authorization legislation deals with that question. But I would assume that no notification would be made until after the appropriation is made and this Government has taken action to fulfill its commitments. This resolution when enacted would provide the basis for that. That is the best answer I can give to the question.

Mr. GROSS. Yes; the gentleman is I am sure exactly right, that the Treasury, even though gold was revalued, and the dollar devalued, has not formally notified the International Monetary Fund of the par value of the dollar. It has been waiting for this bill to be passed, evidence in my opinion of the fact that the Department is not so sure that Congress may one day wake up and break the shackles that bind us to improvident agreements around the world that are draining the very lifeblood out of this Nation.

Now tell me this, if you will, please: What kind of a contribution does this make to the 60 to 70 billion American dollars that are now floating around the world, and no one seems to know how to get them out of circulation?

What is the answer to this one? You are here about to vote $1.6 billion to be shipped out of this country. Now you tell me whether this will make a contribution to the already staggering $60 to $70 billion that no one knows how to handle? The foreigners do not want all those dollars and we have no way of getting them back that I know of.

No answer to this question?

Well, let me say this to you in answer to the remarks of the gentleman from Ohio about our obligations. Let me say to the gentleman from Ohio that my first obligation in the Congress of the United States is to the people whom I have the honor to represent. When you devalued the dollar you took 8.5 percent out of every dollar I have, and you took that from every constituent in the Third District of Iowa. I stand here today in defense of the people of my district, as well as the State of Iowa, and I hope somebody will speak up for those in Oklahoma and Texas. They are being had here today, and you know it, to the tune of $1.6 billion.

Now you go ahead and vote this business, but I am not going back to the Third District of Iowa and try to tell them, with or without an agreement, that I picked their pockets for 8.5 percent of their dollars the other day, and I am not going to vote to pick their pockets here today for another $1.6 billion to take care of these international lending agencies.

You can do this, and if you do I hope you are collared with it in the campaign this fall.

Mr. HALL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as the colloquy in general debate would show, I had the full intention of offering a similar amendment. In fact, I have in my hand one prepared last evening which would strike line 14 and insert in lieu thereof the words "may be necessary but not to exceed $937 million." This is indeed a coincidence, but in view of the gentleman from California's amendment and known expertise, I shall withhold.

This amendment would be a reduction in keeping with the committee report on page 5 of the entire $633 million to the World Bank, and others of that which was not expected to be called. The amendment before us would reduce the appropriation by $407 million.

All the words and the loud oratory to the contrary notwithstanding, the question here is not keeping full faith and credit—not bowing to the legislating and authorizing act—not reneging on an obligation or an expenditure—but maintaining the cash-flow in the U.S. Treasury without usurious interest which we are paying to the tune of over $24 billion a year on the public debt at this time, until such time as it is truly needed. This amendment would with full faith and credit of the United States recognize the obligation of Public Law 92–268 as quoted, and it would recognize the necessity of supporting our commitments as made by the Congress and the executive branch, and I can full well understand why we need to do this, in keeping with the actions of other nations and to protect our own monetary exchange.

I am not approaching this from destruction of that point of view at all, but I simply believe it is not necessary at this time to appropriate funds for admittedly extremely unlikely callable capital portions of the authorization.

As the committee, by its diligent effort has noted in its report, this callable capital is a highly contingent liability. It has never been called in the past and it is highly unlikely that this "subscription" or underwriting will be called in the future.

Why take an unneeded $407 million out of our daily cash flow? Why borrow money to meet unneeded commitments? Why pay interest on it when on call in the future we may act immediately, and our Committee on Appropriations can and does act often on call to meet our obligations, which we have already recognized?

Considering the size of the already existing callable capital and the reserves which the international banks have built up, I think we can do no less.

If the need should arise, I repeat, the Congress could be called upon within 48 hours and could appropriate the necessary funds and deposit it in any of the international monetary funds as needed.

Until that time, the funds could and should remain in circulation, they could remain in our Treasury's cash flow. We would then be required to borrow that much less. The annual deficit this year would be that much less, and it would be of great benefit to our national economy, and would head off that much more inflation.

Now, Mr. Chairman, I am addressing myself to the real security of the faith and credit of the United States of America. It has been told to me that these international monetary funds would have to demand the cash or expenditure, if we did not make the appropriation.

Well, pish tosh. I can think of a time rapidly approaching indeed, as the man who has that extremely youthful picture in a magazine that we have seen only recently, has said himself—and I refer to the distinguished gentleman from Texas in a recent issue of Human Events:

> The United States government is headed toward fiscal disaster.
>
> The United States government is headed toward the fiscal shoals.
>
> No government, not even the richest on earth, can continue to overspend, or undertax, by multibillions of dollars nearly every year and still not eventually plunge itself into financial disaster.

What I am trying to do is save the solvency, good faith, and credit of the United States and those who foot the bill—not the alleged credit of international lending agencies who would not exist without us in the first place.

Ladies and gentlemen of the Congress and of this committee in particular, that time of fiscal calamity is closer than you think. How many of you are hedging at this time in your personal economy and investments in order to avoid those "fiscal shoals," and another great depression effects which some of us are old enough to recall from the late twenties and early thirties?

I say what we need today is to secure the faith and credit by not overappropriating at this time. This amendment will do the job and I think it should be accepted.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

(Mr. HALL, at the request of Mr. GROSS was granted permission to proceed for 1 minute.)

Mr. GROSS. Mr. Chairman, will the gentleman yield to me to ask a question?

Mr. HALL. I yield to my friend the gentleman from Iowa.

Mr. GROSS. What information do the sponsors of this legislation have with respect to another devaluation next year? Reports are being circulated that within another year there will be another devaluation of the dollar. Did the hearings before the Appropriations Committee develop any information on that subject?

Mr. BOW. None at all.

Mr. GROSS. So we have no information on that subject. No one bothered to find out whether another devaluation was in the offing?

Mr. MAHON. Mr. Chairman, will the gentleman from Missouri yield to me?

Mr. HALL. I yield to the gentleman from Texas.

Mr. MAHON. The gentleman knows that the Committee on Appropriations did not devalue the dollar. The gentleman knows that the Congress did not initiate devaluation of the dollar. The gentleman knows that the dollar was devalued as a result of agreements entered into by the administration and then the Congress was called upon to take action ratifying the devaluation of the dollar, which Congress did in March. This is not the fault of the Committee on Appropriations or the fault of the Congress. As to whether further action may have to be taken toward devaluing the dollar more than it has already been devalued, I do not see how anyone can say at this time.

But I say this, that if we continue to have to borrow as we have this year, $40 billion or so, in order to pay our bills——

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(On request of Mr. MAHON, and by unanimous consent, Mr. HALL was allowed to proceed for 5 additional minutes.)

Mr. HALL. Mr. Chairman, I yield to the gentleman from Texas.

Mr. MAHON. If we continue to overspend and undertax, or at least fail to raise the necessary revenue, of course, I would think there could possibly be a devaluation of the dollar in the future. But we have no way of looking into a crystal ball to determine that. But the Congress can have considerable influence on the question by restraining its spending tendency and by trying harder to live within our revenues.

We cannot balance the budget next year, but we can reverse the trend, possibly, though the projections of the administration are, I feel sure, that the budget deficit for next year may be much higher than originally projected last January.

We are in a very critical fiscal situation, and I regret very much that we were required to bring in this legislation providing the $1.6 billion.

I will say this, that the $1.2 billion which the gentleman from California would leave in the bill is not estimated by the administration to be expended. It is intended only to support our position in accord with the commitments. According to the argument of the gentleman offering the amendment, there is less need for the $1.2 billion he leaves in the bill than the $406 million that he would take out. I am sorry there is apparently some misunderstanding with regard to the matter.

Mr. HALL. I will simply say that in the gentleman's own report there is a quotation on page 2 from Public Law 92–628, the second section, of which the first sentence reads—

> SEC. 2. The Secretary of the Treasury is hereby authorized and directed to take the steps necessary to establish a new par value of the dollar of $1 equals one thirty-eighth of a fine troy ounce of gold.

This is now signed into law as an Act and is the law of the land. As I remember, the gentleman's Committee on Appropriations brought that proposal on the floor.

Mr. MAHON. If the gentleman will yield, that was a measure reported by the Committee on Banking and Currency.

Mr. HALL. I stand corrected. It was the Committee on Banking and Currency, and the other gentleman from Texas brought it on the floor. I am sorry if I misspoke.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. HALL. I yield to the gentleman from Iowa.

Mr. GROSS. I wonder if the gentleman from Missouri has a crystal ball that is equal to that of the gentleman from Texas. The gentleman from Texas has said that the $1 billion is not going to be expended. Why, then, not give them a slip of paper saying that if sometime in the future they think they need a billion dollars to let us know and we will give it consideration? If they do not need the $1.6 billion, what are you here for with this kind of legislation?

The gentleman from Texas also speaks of restraints. That is exactly what the amendment offered by the gentleman from California purports to do. It provides some restraints on the outflow of $1,600,000,000. He wants to cut it to about $1.1 billion. That is the fiscal restraint he is asking for.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. HALL. I will be glad to yield once more to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, it is true that the billion-plus will not be expended this year and we hope it will never be expended, but it has to be provided in order to meet our commitments to these international funds. The $406 million which the gentleman wants to strike out would, it is estimated, eventually be expended. We can complain about it and regret it, but I do not see how we can do other than meet our commitments.

Mr. HALL. Mr. Chairman, I think we have argued the question of mandate and whether we shall or will do this or that, but those are not the ultimate or timely questions. The question is: When? And the point has been adequately made that under this amendment we recognize the obligation and that we will stand behind it with the good faith and credit of the government until it is needed or called. And the report itself says it is only a "highly contingent liability."

As I said in my opening statement, in support of the amendment offered by the gentleman from California (Mr. Rousselot) my amendment would have reserved the entire $663 million. His strikes only the $407 million. It is a good step in the right direction, toward not increasing our deficit this year.

The distinguished gentleman from the Committee on Banking and Currency knows this is a good place to start. Again I say I think the amendment should be accepted.

Mr. GONZALEZ. Mr. Chairman, I rise only because, first, mention was made two Texans were involved. I want to point out that this Texan was one of those who argued against and voted against the bill that the Committee on Banking and Currency brought out and which this House adopted, as well as the Senate, in effect putting the imprimatur of congressional approval on what the President, in effect, had done on August 14 last year, and this is formally recognizing 8 percent devaluation.

I pointed out at that time, if anybody cares to look at the debate, the reasons why I was impelled to vote no. It was not an easy vote. I happen to be the chairman of the Subcommittee on International Finance, and it looked very unseemly for me to take that position, but I felt there was a clear mandate to be responsible and recognize the full implication of the act we were being asked to pass in giving congressional approval to something that had already been accomplished through Executive fiat.

I pointed out at that time that inevitably we would have to come in with this legislation in order to make up the 8 percent, not only in the proportional amount of the increase of our obligated contribution to these funds, but also the other funds the country finds itself obligated to.

This was the reason I challenged the spokesmen who advocated approval of the 8-percent devaluation when they pictured it as being beneficial, as being good for the Nation, as being something that would produce 500,000 jobs. I said this was not so, and I thought it would be best if the Congress recognized the full implications.

There is no question that at this time what we have done, wittingly or unwittingly, is to play into the hands of the gold speculators of the London and Zurich markets. There is no question about it. It looks as if we will continue to do that.

It is for this reason I have been attempting to get approval of the committee chairman so that the subcommittee can look into this question in a leisurely way and thereby discharge the congressional responsibility, so we do not have to wait and sit here until events catch up with us, until we have no alternatives but to rubberstamp executive actions. I am awaiting that approval from the committee chairman. I hope we can look into the matter, because I think there is a congressional responsibility to evolve and shape policy, because the country is in a bad position. It is not in a good position.

The price of gold has been speculated further just the day before yesterday, to $50 an ounce. It seems to me that inevitably we will have to go through the same motions again, and maybe a great deal quicker than I hope will be the case.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Iowa.

Mr. GROSS. I am glad the gentleman mentioned the almost steady increase in the price of gold. Yesterday it went to $50.60 an ounce. The price of United States gold is $35 an ounce. There is a question that will in the end demand another devaluation of the dollar in the not too distant future unless we do something to correct this situation and take drastic measures now.

Mr. GONZALEZ. The gentleman is right. We can lose the national interest a lot quicker at the money changers' tables in London and Zurich than we can in Vietnam. I want to point that out.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Louisiana.

Mr. PASSMAN. What I am going to say certainly is in the foreign aid area.

I had an anonymous call from someone downtown who said:

> I am connected with the Peace Corps. The budget requested $77 million, and we are going to try to get the committee to raise it to $88 million, so if you cut it $10 million we will still have the full amount of the budget.

I want to put that in the Record so that if they try to pull that there will be something to refer to.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Missouri.

Mr. RANDALL. Of course the gentleman was present and on the floor at the time of the authorization on devaluation was considered. Does the gentleman recall whether there was any lengthy discussion at that time for the necessity of an appropriation bill of the size we have here today?

Mr. GONZALEZ. I mentioned that.

Mr. RANDALL. There was not much, if any, talk about an appropriation bill at the time of the authorization?

Mr. GONZALEZ. No.

Mr. RANDALL. Everyone was sort of silent, sort of silent, on appropriations at that time?

Mr. GONZALEZ. There was not much emphasis on anything but passing out the bill. That is the reason why I took the position I took both in the committee and on the House floor.

Mr. RANDALL. What the gentleman is saying is that they wanted to hurry up and get the devaluation approved and say as little as possible about the cost.

Mr. GONZALEZ. That is correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Rousselot).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 21, noes 35.

Mr. ROUSSELOT. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

I wonder if some member of the Banking and Currency Committee can advise the House if we have ever been able to ascertain the kinds of trade agreements that have been promised our Government in exchange for the devaluation. I pointed out during the debate I felt we should support that legislation because as a matter of de facto Executive order it had actually been put into force. But part of the bargain was that we were to have strong trade agreements to correct our balance-of-trade and our balance-of-payments deficit. I have never yet been able to see the agreements we were supposed to have reached. The report did not contain them.

I understand there has been a little of trade agreement in the field of citrus fruits and some soybeans. If there has been more of a concrete nature I believe the American people are entitled to know what are the trade agreements.

I think that the American people are entitled to know what are the trade agreements. Will somebody comment on that?

Mr. GONZALEZ. Will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Texas.

Mr. GONZALEZ. I want to thank my distinguished colleague from Texas. He will recall during the debate on the authorization bill on the devaluation that he had raised this question and that I had joined with him in stating that there was in effect no written evidence of any agreement whatsoever. It was just some implications that agreements were being reached or had been promised, but in effect there were none. It was one of the significant reasons why I was constrained to vote and work against the devaluation.

Mr. HANNA. Will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. HANNA. Let me point out to the gentleman that although there is a very close relationship between trade and monetary matters, there is an entirely different set of operating factors in both of these fields. It is true that we have been extended promises of trade concessions in terms of making these new arrangements. I would bring to the gentleman's attention that the same promises have been made in terms of our moving toward a new international monetary situation with the rest of the countries, but based on my recent conversation with people abroad, I can assure the gentleman that we are not going to get the trade agreements as he would like them defined until we have disposed of the matter before us.

We are looking for some expansion of American product lines in GATT and some more enforcement of GATT. I may say that to develop and to protect the kind of trade we want in Europe it is as important to improve the enforcement of existing GATT agreements as it is to expand GATT. It is up to our executive department to bring that pressure. I do not think the Congress can do it.

Mr. PICKLE. I was not asking that the Congress do it, but I was asking that the Executive show us in black and white what the agreements are. Would the gentleman not say that the bargain for the devaluation was that we would get better trade agreements? We devalued because in effect the Executive did that. We ought to have these trade agreements, and the Executive ought to present them to the Congress and we ought to be able to see them.

Mr. HANNA. I can say to the gentleman, the executive department has not obtained them yet, from the countries involved in these agreements. The trade concessions which they are expected to furnish have not yet been furnished.

Mr. PICKLE. Then, most of us are really just whistling in the dark when we vote on these matters in the hope that we are doing the right thing, because we have to assume that sooner or later they will be given to us.

Mr. HANNA. I would say to the gentleman there is a good deal of good faith in it, but as far as the matter that we are voting on here is concerned there is no option available to this Congress. We have an obligation and we have to meet it in toto. We and other participating countries around the world pledged both credit and cash to these multilateral banking institutions. We demanded that they be prepared to maintain the value of their original commitment and of course pledged we would do likewise. As the gentleman from Ohio (Mr. Bow) has pointed out many, indeed, most of these participating countries have had to honor their commitment to maintain the values of their currency in both cash and credit. We are at last facing in this legislation the same unhappy task. It does no good to argue this matter, as the gentleman's amendment suggested in a piecemeal fashion by the normal appropriation patterns as cash is required. Our promise is to pass appropriation legislation sufficient to cover the total credit and cash obligation regardless of when or if it is required as on actual treasury expenditure.

Trade implications are important and may be even vital but they must be pursued independently of the matter here before us.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

I believe that the House is ready to vote on this measure, and I think a bit of clarification before we vote would be helpful. The issues were fully discussed in March when the dollar devaluation bill was before the House. In the House the measure was approved by a vote of 342 to 43 and it was approved in the Senate by a vote of 86 to 1. The decisive action was taken then which lays the predicate for the action which is required today.

The gentleman from California has just pointed out that we are obligated and that this Government is obligated, although not individual Members of Congress, to provide the $1.6 billion which this bill provides for.

Some reference was made to the fact that it was not known an appropriation would be required and that the authorization bill out of the Banking and Currency Committee would be not only an authorization but an appropriation. Of course, that is not correct.

With respect to the $406 million which the gentleman from California sought to strike from the bill, I would like to read from the report of the Committee on Banking and Currency on the devaluation bill, known as the Par Value Modification Act with respect to the $406 million which we discussed striking out from the bill. This is from page 10 of House Report 92-912 of March 13:

> The maintenance of value obligation on the paid-in subscriptions would be paid in the form of letters of credit, and an appropriation of $406 million will be sought as the basis for issuing these letters of credit.

So, everyone was on notice that an appropriation would have to be provided in order to validate the authorizing legislation which we passed in March.

Further, in other sections of the same report, on page 10, it makes reference to another portion of the funds involved here—the $663 million relating to callable capital. It reads:

> Nevertheless, funds must be available to meet these obligations if they are ever called, and an appropriation of $663 million will be requested.

Further, in reference to the amount for the International Monetary Fund, the necessity for an appropriation was further stated in the same report, as follows:

> However, in order to issue these letters of credit an appropriation of approximately $525 million will be requested.

What we are doing in this appropriation measure is just carrying out the law which Congress approved in March and Congress approved the law as a result of actions taken by the Executive initiating the devaluation of the dollar.

So, I hope this, to some extent, clears the atmosphere and that the Committee may rise and that in the circumstances we will approve this joint resolution.

Mr. GROSS. Mr. Chairman, will the gentleman yield to me before he moves that the Committee rise?

Mr. MAHON. Yes, I yield to the gentleman from Iowa.

Mr. GROSS. The gentleman comes before the House—and it is appreciated by the gentleman from Iowa and I am sure many others—and forewarns us of financial troubles to come under certain circumstances.

The gentleman from Missouri mentioned it a while ago and complimented the gentleman from Texas.

I do not recall, however, that the gentleman from Texas took the floor during debate on dollar devaluation to say, "If you vote for this revaluation of gold and devaluation of the dollar you are asking for a $1.6 billion punch in the nose."

I do not recall that he took the floor with any such warning.

I am going to run a little research on the RECORD of the debate on that bill and hope the gentleman will be on the floor Monday because I am going to report on what I find that warned of this business to come today.

Mr. MAHON. I will say that I do not recall just what the floor debate will show on that point, but the printed report of the Committee on Banking and Currency is very, very clear that this appropriation action would be required of the Congress.

It is well known that I consistently warn the House of the dangers of overspending, pointing out that over a period of years Congress has been dramatically reducing revenues and sharply increasing spending. All Members were certainly aware of the more obvious consequences of the measure ratifying the devaluation of the dollar which passed the House last March by an overwhelming vote. I earlier quoted, as the record will show, from the report of the Banking and Currency Committee as to the appropriation action which would be required. Moreover, the act of last March itself says:

> There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I am opposed to this bill which would appropriate $1.6 billion to maintain the gold value of U.S. dollar holdings in various international institutions.

When the legislation providing for the modification in the par value of the dollar came to the floor for a vote I opposed that action because it was not in the best economic interest of the United States. This devaluation of the dollar which amounted to an increase in the price of gold by over 8 percent did not strike at the more fundamental problems underlying our economic difficulties. Indeed, alterations in the monetary system will not solve our balance-of-payments problems without effective domestic economic performance. As long as the economy does not recover sufficiently and continues to perform unsatisfactorily, we will not have world economic stability and will have continued assaults upon the value of the dollar.

In August of last year the Treasury predicted that a tide of dollars would flow back into this country as a result of the new economic policy. Thus far, however, we have not seen any concrete results from these lofty predictions. Indeed, the dollar was under attack in virtually every major capital of the world when the world monetary markets closed in March.

The prediction of the administration that the unemployment figures would drop has yet to be seen. This has resulted in a loss of confidence in the new economic policy among Americans as well as speculators overseas.

Moreover, the administration's trade-monetary package is incomplete. Thus far, very little in the way of successful trade agreements—other than the wheat and citrus arrangement—with the Common Market—have been completed. As a result of this hesitation, the balance of trade will not be affected as much by devaluation as it should be.

In other words, the problems which initiated the new economic policy last August are still with us. Our trade deficit is extremely high and continues to escalate, the economic situation at home is far from satisfactory and the people have lost confidence in the administration's policies.

Mr. Chairman, we are now asked to spend $1.6 billion of the taxpayers' hard-earned money to support the devaluation of the U.S. dollar. I do not believe that this policy will work. The modification of the par value of the dollar and the funds we are being asked to provide today to support this maneuver, is only a stopgap measure which does nothing to avoid future crises.

I, therefore, ask my colleagues to join with me in voting against this measure. Until the administration gets our domestic economy moving again and our foreign friends open their doors to U.S. imports, we will not see our economic posture improved.

Mr. MAHON. Mr. Chairman, I move that the Committee do now rise and report the joint resolution back to the House with the recommendation that the joint resolution do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ABERNETHY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 1174) making an appropriation for special payments to international financial institutions for the fiscal year 1972, and for other purposes, had directed him to report the joint resolution back to the House with the recommendation that the joint resolution do pass.

The SPEAKER. Without objection, the previous question is ordered on the joint resolution.

There was no objection.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

Mr. MAHON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 291, nays 62, not voting 79, as follows:

[Roll No. 136]

YEAS—291

Abourezk
Adams
Addabbo
Alexander
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Arends
Ashley
Aspin
Aspinall
Badillo
Barrett
Begich
Bell
Bergland
Betts
Bingham
Blackburn
Blatnik
Boggs
Boland
Bolling
Bow
Brademas
Brasco
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Byrnes, Wis.
Cabell
Carey, N.Y.
Carlson
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clark
Clausen, Don H.
Clawson, Del
Collier
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Dellums
Dennis
Derwinski
Devine
Dingell
Donohue
Dow
Downing
Drinan
Dulski
du Font
Dwyer
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Esch
Fascell
Findley
Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Garmatz
Giaimo
Gibbons
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Gubser
Halpern
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hathaway
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hull
Jacobs
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, N.C.
Karth
Kastenmeier
Keating
Keith
Kluczynski
Koch
Kuykendall
Kyl
Landrum
Latta
Leggett
Lent
Lloyd
Long, Md.
McClory
McCollister
McCulloch
McDade
McEwen
McFall
McKay
McKevitt
McMillan
Mahon
Mailliard
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Melcher
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills, Ark.
Minish
Mink
Minshall
Mitchell
Mizell
Mollohan
Monagan
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Obey
O'Hara
O'Neill
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Podell
Poff
Powell
Preyer, N.C.
Price, Ill.
Pucinski
Purcell
Quie
Railsback
Rangel
Rees
Reid
Reuss
Rhodes
Riegle
Robinson, Va.
Robison, N.Y.
Roe
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roybal
Ruppe
Ryan
St Germain
Sandman
Sarbanes
Saylor
Schneebeli
Schwengel
Scott
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sisk
Skubitz
Smith, Iowa
Smith, N.Y.
Snyder
Staggers
Stanton, J. William
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stratton
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Wampler
Ware
Whalley
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wolff
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Zablocki
Zion
Zwach

NAYS—62

Abbitt
Abernethy
Anderson, Calif.
Archer
Baker
Baring
Bennett
Bevill
Biaggi
Brinkley
Burleson, Tex.
Byron
Carter
Cleveland
Collins, Ill.
Colmer
Crane
Daniel, Va.
Denholm
Dent
Dorn
Duncan
Frey
Fuqua
Gaydos
Goldwater
Gonzalez
Goodling
Gross
Grover
Hagan
Haley
Hall
Hammerschmidt
Hastings
Hays
Hungate
Hunt
Hutchinson
Ichord
Jones, Tenn.
Kemp
King
Landgrebe
Link
McClure
Mills, Md.
Montgomery
Nix
O'Konski
Passman
Quillen
Randall
Rarick
Rousselot
Ruth
Satterfield
Scherle
Schmitz
Spence
Waggonner
Young, Fla.

NOT VOTING—79

Abzug
Annunzio
Ashbrook
Belcher
Biester
Blanton
Bray
Byrne, Pa.
Caffery
Camp
Carney
Celler
Chisholm
Clay
Collins, Tex.
Curlin
de la Garza
Dickinson
Diggs
Dowdy
Eckhardt
Edmondson
Edwards, La.
Eshleman
Evans, Colo.
Evins, Tenn.
Fish
Fountain
Fulton
Galifianakis
Gallagher
Gettys
Griffiths
Gude
Hébert
Henderson
Jarman
Jones, Ala.
Kazen
Kee
Kyros
Lennon
Long, La.
Lujan
McCloskey
McCormack
McDonald, Mich.
McKinney
Macdonald, Mass.
Madden
Meeds
Metcalfe
Patman
Poage
Price, Tex.
Pryor, Ark.
Roberts
Rodino
Rogers
Roy
Runnels
Scheuer
Sikes
Slack
Smith, Calif.
Springer
Stanton, James V.
Stephens
Stokes
Stubblefield
Stuckey
Terry
Thompson, Ga.
Waldie
Whalen
White
Wilson, Charles H.
Wright
Young, Tex.

So the joint resolution was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Annunzio for, with Mr. Hébert against.

Mr. Celler for, with Mr. Runnels against.

Until further notice:

Mr. Rogers with Mr. Belcher.

Mr. Rodino with Mr. McDonald of Michigan.

Mr. Evins of Tennessee with Mr. Price of Texas.

Mr. Byrne of Pennsylvania with Mr. Springer.

Mr. Henderson with Mr. Eshleman.

Mr. Sikes with Mr. Gude.

Mr. Charles H. Wilson with Mr. Biester.

Mr. Roberts with Mr. McKinney.

Mr. Fulton with Mr. Lujan.

Mr. Gettys with Mr. Smith of California.

Mr. Carney with Mr. Dickinson.

Mr. Jones of Alabama with Mr. Bray.

Mr. Kyros with Mr. Terry.

Mr. Lennon with Mr. Whalen.

Mr. Macdonald of Massachusetts with Mr. McCloskey.

Mr. Blanton with Mr. Ashbrook.
Mr. James V. Stanton with Mr. Camp.
Mr. Meeds with Mr. Collins of Texas.
Mr. Fountain with Mr. Thompson of Georgia.
Mr. Wright with Mr. Fish.
Mr. Young of Texas with Mr. Long of Louisiana.
Mr. Waldie with Mr. Scheuer.
Mr. Stubblefield with Mr. Curlin.
Mrs. Abzug with Mr. Diggs.
Mr. Caffery with Mrs. Griffiths.
Mr. Roy with Mr. Clay.
Mr. McCormack with Mr. Stokes.
Mr. Eckhardt with Mr. Patman.
Mrs. Chisholm with Mr. Gallagher.
Mr. de la Garza with Mr. Metcalfe.
Mr. Stephens with Mr. White.
Mr. Stuckey with Mr. Kazen.
Mr. Slack with Mr. Madden.
Mr. Jarman with Mr. Edmondson.
Mr. Evans of Colorado with Mr. Pryor of Arkansas.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the joint resolution just passed.

The **SPEAKER.** Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include extraneous material and certain tables on the joint resolution just passed and that all Members speaking on the joint resolution be permitted to revise and extend their remarks and to include extraneous matter.

The **SPEAKER.** Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 9212, AMENDMENTS TO THE FEDERAL COAL MINE HEALTH AND SAFETY ACT

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 9212, the so-called black lung bill.

The **SPEAKER.** Is there objection to the request of the gentleman from Kentucky?

There was no objection.

CONFERENCE REPORT (H. REPT No. 92-1048)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 8, 30, 32, 33, 41, 48, and 49.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 6, 7, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 36, 37, 38, 42, 44, 45, and 47, and agree to the same.

Amendment number 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(5) In the case of the dependent parent or parents of a miner whose death is due to pneumoconiosis, or of a miner who is receiving benefits under this part at the time of his death, or of a miner who was totally disabled by pneumoconiosis at the time of death, and who is not survived at the time of his death by a widow or a child, or in the case of the dependent surviving brother(s) or sister(s) of such a miner who is not survived at the time of his death by a widow, child, or parent, benefits shall be paid under this part to such parent(s), or to such brother(s), or sister(s), at the rate specified in paragraph (3) (as if such parent(s) or such brother(s) or sister(s), were the children of such miner). In determining for purposes of this paragraph whether a claimant bears the relationship as the miner's parent, brother, or sister, the Secretary shall apply legal standards consistent with those applicable to relationship determination under Title II of the Social Security Act. No benefits to a sister or brother shall be payable under this paragraph for any month beginning with the month in which he or she receives support from his or her spouse, or marries. Benefits shall be payable under this paragraph to a brother only if he is

"(1) (A) under eighteen years of ago, or

"(B) under a disability as defined in section 223(d) of the Social Security Act which began before the age specified in section 202(d) (1) (B) (ii) of such Act, or in the case of a student, before he ceased to be a student, or

"(C) a student as defined in section 402 (g); or

"(2) who is, at the time of the miner's death, disabled as determined in accordance with section 223(d) of the Social Security Act, during such disability. Any benefit under this paragraph for a month prior to the month in which a claim for such benefit is filed shall be reduced to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such claim, the Secretary has certified for payment for such prior months. As used in this paragraph, 'dependent' means that during the one year period prior to and ending with such miner's death, such parent, brother, or sister was living in the miner's household, and was, during such period, totally dependent on the miner for support. Proof of such support shall be filed by such claimant within two years after the month in which this amendment is enacted, or within two years after the miner's death, whichever is the later. Any such proof which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof within such period. The determination of what constitutes 'living in the miner's household', 'totally dependent upon the miner for support,' and 'good cause,' shall for purposes of this paragraph be made in accordance with regulations of the Secretary. Benefit payments under this paragraph to a parent, brother, or sister, shall be reduced by the amount by which such payments would be reduced on account of excess earnings of such parent, brother, or sister, respectively, under section 203(b)-(1) of the Social Security Act, as if the benefit under this paragraph were a benefit under section 202 of such Act."

And the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement with the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

On page 4, line 14, of the Senate engrossed amendments strike out "child" and insert ", child".

And the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement with the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

On page 7, line 1, of the Senate engrossed amendments, strike out "(3)" and insert "(C)".

And the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement with the amendment of the Senate numbered 34, and agree to the same with amendments, as follows:

On page 9 of the Senate engrossed amendments, beginning with line 21, strike out all through line 4 on page 10.

On page 10 of the Senate engrossed amendments, strike out line 5 and insert:

"SEC. 4. (a) Section 402(f) of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows:".

On page 10, line 17, of the Senate engrossed amendments, strike out "(c)" and insert "(b)".

On page 11, line 1, of the Senate engrossed amendments, strike out "(d)" and insert "(c)".

On page 12, line 6, of the Senate engrossed amendments, strike out "(e)" and insert "(d)".

On page 12, line 14, of the Senate engrossed amendments, strike out "(f)" and insert "(e)".

On page 12, line 19, of the Senate engrossed amendments, strike out "(g)" and insert "(f)".

On page 13, line 7, of the Senate engrossed amendments, strike out "(h)" and insert "(g)".

On page 7, line 18, of the House engrossed bill, strike "4" and insert in lieu thereof "5".

And the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement with the amendment of the Senate numbered 35, and agree to the same with amendments, as follows:

On page 7, line 20, of the House engrossed bill, strike out " "1971" " and insert "December 31, 1971". In lieu of the matter proposed to be inserted by such amendment insert "June 30, 1973",.

And the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment and—

On page 8, line 4, of the House engrossed bill, delete " 'nine'." and insert in lieu thereof "twelve",.

And the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with amendments as follows:

On page 13, line 19, of the Senate engrossed amendments, strike out "(4)" and insert in lieu thereof "(5)".

On page 14, line 3, of the Senate engrossed amendments, strike out "fourth" and insert in lieu thereof "sixth".

And the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement with the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

On page 16 of the Senate engrossed amendments, strike lines 4 and 5 and insert in lieu thereof "pneumoconiosis. No person shall cause or attempt to cause an operator".

And the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows:

On page 18, line 12, of the Senate engrossed amendments strike the period and insert in lieu thereof a colon and the following: "*Provided*, That for the purpose of determining the applicability of the presumption established by section 411 (c) (4) to claims filed under Part C of this title, no period of employment after June 30, 1971, shall be considered in determining whether a miner was employed at least fifteen years in one or more underground mines."

And the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement with the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

On page 19, line 8, of the Senate engrossed amendments, strike out "7" and insert "6".

And the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement with the amendment of the Senate numbered 51, and agree to the same with amendments, as follows:

On page 19, line 21, of the Senate engrossed amendments, strike out "8" and insert "7".

On page 20, line 7, of the Senate engrossed amendments, strike out "January" and insert "July."

And the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement with the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

On page 21, line 22, of the Senate engrossed amendments, strike out "9" and insert "8".

And the Senate agree to the same.

Carl D. Perkins,
John H. Dent,
Roman C. Pucinski,
Phillip Burton,
Joseph M. Gaydos,
Managers on the Part of the House.
Harrison A. Williams,
Jennings Randolph,
Clairborne Pell,
Gaylord Nelson,
Thomas F. Eagleton,
Adlai E. Stevenson III,
Harold E. Hughes,
Jacob K. Javits,
Richard S. Schweiker,
Bob Packwood,
Robert Taft, Jr.,
Robert T. Stafford,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The following Senate amendments made technical, clerical, clarifying or conforming changes: 1, 3, 4, 6, 7, 9, 10, 11, 12 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 31, 33. 38, 41, 47, 48, and 49.

With respect to these amendments (1) the House either recedes or recedes with amendments which are technical, clerical, clarifying, or conforming in nature; or (2) the Senate recedes in order to conform to other action agreed upon by the committee of conference.

Amendment No. 2: Both the House bill and the Senate amendments provided benefits for orphaned children of miners who died from pneumoconiosis or who were receiving benefits at the time of death.

The Senate amendment added orphaned children of miners who were totally disabled by pneumoconiosis, permitted such children to take benefits where the miner's widow survives him and then dies, and limited the child's entitlement to benefits in such cases to months in which the widow's entitlement is not established. The House recedes.

The Senate amendment permitted dependent parents of a deceased eligible miner to succeed to such miner's benefits if there is no surviving widow or child. If there is no surviving dependent parent, surviving dependent brothers and sisters may succeed to such miner's benefits. Under the Senate amendment, dependent parents, brothers or sisters must have received at least one half of their support from the miner for at least one year prior to his death. The House bill contained no such provision.

The House receded with an amendment that provided that in order to qualify for benefits, parents, brothers and sisters must have been wholly dependent on the miner and must have resided in the miner's household for one year prior to the miner's death. The amendment provided further that in the case of a surviving brother, he would not receive benefits after the age of 18, or if a student, after age 22, unless the surviving brother became disabled before the age of 18 or was disabled at the time of the miner's death. In the case of a surviving sister or brother, the amendment provided that no benefits would be paid to her or him if he or she married or received support from his or her spouse.

The House amendment also removed language in the Senate version specifically requiring the Secretary to apply the relevant State or District of Columbia interstate succession law in determining whether a claimant is a parent, brother, or sister of a miner. The conferees concluded that the Social Security Administration generally refers to such intestacy laws in making such determinations.

Amendment No. 8: The Senate amendment permitted dependent children to file claims for augmented benefits in their own right where necessary. The House bill did not contain such a provision. The Senate recedes. The conferees concluded that the objective of the Senate amendment could be achieved through regulations issued by the Secretary of Health, Education, and Welfare.

Amendment No. 27: Both the House bill and the Senate amendments limited the time for filing by a child. The House bill limited such time to six months after the death of the surviving parent or December 31, 1972, whichever is later. The Senate amendment extended the date certain to December 31, 1973. The House recedes.

Amendment No. 30: The Senate amendments made the provisions of section 1 of the bill retroactive to December 30, 1969, except as otherwise provided therein. The House bill contained no such provision. The Senate recedes.

Amendment No. 32: The House bill required the elimination of the practice of offsetting social security disability insurance benefits of certain miners where the claimant also receives black lung benefits. The Senate amendments limited such offsetting to 100 percent of former earnings. The Senate recedes.

Amendment No. 34: The Senate amendments:

(1) altered the definition of "pneumoconiosis" to include the sequelae of the disease. The Senate recedes. The conferees understand that in the administration of the program benefits are now provided for total disability due to the sequelae of pneumoconiosis, such as cor pulmonalae.

(2) altered the definition of "total disability" to provide that a miner is totally disabled when pneumoconiosis prevents him from engaging in gainful employment requiring skills comparable to his regular work in a mine. The House bill contained no such provision. The House recedes.

Questions were raised during the conference regarding the Senate language on total disability and whether it expanded the definition so as to include any miner who could no longer perform work in the coal mines. The House receded on the understanding that under the Senate language it is not intended that a miner be found to be totally disabled if he is in fact engaging in substantial work involving skills and abilities closely comparable to those of any mine employment in which he previously engaged with some regularity and over a substantial period of time, or if it is clearly demonstrated that he is capable of performing such work and such work is available to him in the immediate area of his residence.

Once a claimant qualifies as totally disabled, any money he earns at gainful employment will be subject to the excess earnings test in section 412(b) of this Act.

(3) Added to the benefit criteria of section 411(a) to permit payment of benefits where a miner was totally disabled by pneumoconiosis at the time of his death. The House bill contained no such provision. The House recedes.

(4) Added a new paragraph (4) to section 411(c) which established a rebuttable presumption of pneumoconiosis where a miner was employed fifteen or more years in a mine, where a chest roentgenogram is interpreted as negative but where such miner has or had a totally disabling respiratory or pulmonary impairment. The Secretary may rebut such presumption by establishing the absence of pneumoconiosis or by establishing that such impairment did not arise out of, or in connection with, employment in a coal mine. A miner who was in whole or in part employed in other than an underground mine may establish this presumption if his employment were substantially similar to conditions in an underground mine.

The House bill did not contain such a provision.

The House recedes. See Amendment No. 46 concerning the application of these provisions under Part C.

(5) Required final regulations with respect to implementation of amendments to tilte IV to be promulgated by the Secretary of HEW by the end of the fourth month after enactment. The House bill contained no such provision. The House recedes.

(6) Required compensation laws on the Secretary of Labor's list to have standards for determining death or total disability due to pneumoconiosis which are substantially similar to those in section 402(f) and others under part B. The House bill contained no such provision. The House recedes.

(7) Contained a provision prohibiting the denial of a claim solely on the basis of the results of a chest roentegenogram and also required the consideration of all relevant evidence, including tests, history and affidavits, in establishing the validity of a claim.

The House bill also contained a provision prohibiting the denial of a claim solely on the basis of a chest roentgenogram, but did not contain the other provisions. The House recedes.

Amendments No. 35, 36, and 37: The House bill extended full Federal financial responsibility under part B for two years, while the Senate amendments extended such responsibility for one year. The conferees agreed to extend full Federal financial responsibility for new claims for eighteen months. Temporary financial responsibility of the Federal government has been shifted from the year 1972, as provided in existing law, to the six-month period beginning July 1, 1973, and ending December 31, 1973.

Amendment No. 39: The House bill extended the termination date of part C for two years. The Senate amendment made the program permanent. The Senate recedes with an amendment terminating responsibility for new claims under part C of the program as of December 30, 1981, or an extension of five years beyond existing law. For claims filed on or before December 30, 1981, responsibility under part C will continue beyond that date.

Amendment No. 40: The Senate amendments required that final regulations under part C to implement any amendments thereunder be promulgated and published no later than the end of the fourth month following enactment. The House bill contained no such provision. The Senate recedes with an amendment requiring publication no later than the end of the sixth month following enactment.

Amendment No. 42: The Senate amendments authorized the construction, purchase, and operation of clinical facilities for the analysis, examination, and research related treatment of miner's occupational respiratory and pulmonary impairments. The new section required research to be initiated within the National Institute of Occupational Safety and Health to devise tests to measure, detect and treat miner's respiratory and pulmonary impairments. Appropriations for clinical facilities were authorized at $10 million for each of the three fiscal years 1973, 1974, and 1975, and such sums as are necessary for research. The House bill contained no such provision. The House recedes.

Amendment No. 43: The Senate amendments added a new section 428 to title IV which prohibits discrimination by an operator against any miner employed by him solely by reason of the fact that such miner has pneumoconiosis or other respiratory or pulmonary impairment. Investigation, hearing and enforcement procedures by the Secretary of the Interior, were included. The section also contained a provision requiring compensation of hearing examiners at a rate not less than GS–16.

The House recedes with an amendment which omits the reference to other respiratory or pulmonary impairments.

The conferees note the appropriate jurisdictional concerns of the Post Office and Civil Service Committees of both Houses in this matter, and reluctantly adopted the provision only out of a desire to avert an imminent personnel crisis arising from the existing disparity in the compensation of hearing examiners at the Department of Interior and other Federal agencies. This provision will eliminate the disparity.

Amendment No. 44: The Senate amendments added a new section 429 to authorize appropriations in such sums as are necessary to enable the Secretary of Labor to carry out his responsibilities under title IV. The House bill contained no such provision. The House recedes.

Amendment No. 45: The Senate amendments included an amendment to section 422 (a) which requires employers to provide medical benefits to employees under part C. It also required State compensation laws to include such a requirement in order to qualify as adequate under part C. The House bill contained no comparable provisions. The House recedes.

Amendment No. 46: The Senate amendments added a new section 430 to apply all appropriate amendments in part B to part C. The House bill contained no such provision. The House recedes with an amendment which provides that with respect to the rebuttable presumption of section 411(c) (4), such presumption shall only apply for purposes of part C, where the fifteen years employment in a coal mine occurred entirely before July 1, 1971.

The conferees further agree that the elimination of the social security disability insurance offset provision shall not apply to part C.

The conferees note specifically that the provision relating to the prohibition against the denial of a claim solely on the basis of the results of a chest roentgenogram, among other amendments made to part B, applies to part C.

Amendment No. 50: The Senate amendments required the Secretary of HEW to inform claimants under title IV of the changes in the law made by the Black Lung Benefits Act of 1972 and to advise them that their claims will be reviewed. The House bill contained no such provision. The House recedes.

Amendment No. 51: The Senate amendments added a new provision to part B under which the Secretary of Labor is to pay benefits and process claims during the period from July 1, 1973 to December 31, 1973, utilizing the procedures of Section 19 of the Longshoremen's and Harbor Worker's Compensation Act. In processing such claims, potentially liable operators are to be notified and allowed to participate. Operators will be bound under part C on any claim determined under this section. The House bill contained no such provision. The House recedes. It is noted that Section 21 of the Longshoremen's and Harbor Worker's Compensation Act provides for judicial review of awards rendered pursuant to Section 19 of the Act.

Amendment No. 52: The Senate amendments added a limitation on claims filed under part C where eligibility of such claims is based on the rebuttable presumption of section 411 (c) (4). A living miner must in such cases file within three years after last exposed employment and in the case of a deceased miner such claims must be filed within fifteen years after last exposed employment in a coal mine. The House bill contained no such provision. The House recedes.

Carl D. Perkins,
John H. Dent,
Roman C. Pucinski,
Phillip Burton,
Joseph M. Gaydos,
Managers on the Part of the House.
Harrison A. Williams,
Jennings Randolph,
Claiborne Pell,
Gaylord Nelson,
Thomas F. Eagleton,
Adlai E. Stevenson III,
Harold E. Hughes,
Jacob K. Javits,
Richard S. Schweiker,
Bob Packwood,
Robert Taft, Jr.,
Robert T. Stafford,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE REPORT ON H.R. 14146, LAND AND WATER RESOURCES OF THE NATION'S COASTAL ZONE, UNTIL MIDNIGHT FRIDAY

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight Friday, May 5, to file a certain report on the bill H.R. 14146, to establish a national policy on the Nation's coastal zone.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GERALD R. FORD. Mr. Speaker, I have requested this time for the purpose of asking the distinguished majority leader the program for the rest of the week, if any, and the schedule for next week.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Louisiana.

Mr. BOGGS. Mr. Speaker, in response to my friend, the distinguished minority leader, we have completed the program for this week.

It is my intention to ask to go over until Monday when the House adjourns today.

The program for next week is as follows:

Monday is District day and there are two bills scheduled for consideration.

H.R. 9769, medical records studies and research; and

H.R. 14718, public mass transit bus companies.

For Tuesday there will be for the consideration of the House, House Joint Resolution 55, Seabees Monument; and

H.R. 4383, Federal Advisory Committee Standards Act, under an open rule with 1 hour of debate.

For Wednesday and the balance of the week—and we hope to conclude on Thursday—H.R. 7130, the fair labor standards amendments, subject to a rule being granted. We expect to get that rule, hopefully, on Tuesday.

Of course, conference reports may be brought up at any time and any further program will be announced later.

Mr. GERALD R. FORD. I thank the distinguished majority leader.

ADJOURNMENT TO MONDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

ADEQUATE TELEVISION TIME FOR CANDIDATES

(Mr. O'NEILL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. O'NEILL. Mr. Speaker, primaries and polls show confusion about candidates and misunderstanding and disappointment about the political process.

Just because of these factors the 1972 presidential election undoubtedly is the most important in many years in which the public should be given adequate opportunity to understand the issues of the presidential race. This requires at least adequate television time for all ultimate candidates to present their case.

With obvious inequality of resources, what matters most in the coming election is that each party or candidate shall have enough facility to present its television case regardless of whether opponents have more. Furthermore, with the danger of splinter parties proliferating here, with catastrophic results as they did in the democracies of Europe, every effort should be made to preserve in this election the two-party system under which we have prospered.

The bill here presented attempts to meet these needs. It has been reviewed by the Legislative Drafting Service of the Houses. It follows the unanimous recommendations of the most thorough study ever made of the U.S. political use of electronic campaigning. That study—a copy of which entitled "Voters' Time" I am inserting in the RECORD—has been made under a grant from the Twentieth Century Fund of New York City.

The participants in the study, a distinguished, nonpartisan group whose recommendations are unanimous, are particularly informed about the use of television and radio in political campaigns. They include, most importantly, Dean Burch now Chairman of the Federal Communications Commission and one-time head of the Republican National Committee. Other members are Newton Minow Chairman of the Federal Communications Commission in the Kennedy administration, Robert Price, first deputy to Mayor John Lindsay of New York, Alexander Heard, chancellor of Vanderbilt University; the acknowledged outstanding student of political contributions, and Thomas Corcoran who participated in the campaigns of President Franklin Roosevelt in the era of radio before television.

In substance this bill provides that the voters themselves, through congressional appropriations, shall purchase—purchase arrangement discussed below—from the television and radio companies prime simultaneous time on television and radio for the candidate of each political party on the ballot in 39 States whose combined electoral votes are sufficient to elect a President, according to the following categories:

Category I—Any political party whose presidential candidacy finished first or second in popular votes in at least two of the three most recent presidential elections.

Category II—Any political party—other than a category I party—whose presidential candidacy received at least one-eighth of the popular votes cast in the most recent presidential election.

Category III—Any political party on the 1972 ballot other than a category I or a category II party.

The time—Called voters' time because it was paid for by appropriations and not asked for free from the networks—would be allocated in periods within such categories as follows:

Each such period shall be a half-hour period and shall be within the 35-day period ending on the day preceding the presidential election and within the hours of 7 p.m. to 11 p.m., local time.

Each qualifying presidential candidacy of a category I political party shall receive six one-half-hour periods of voters' time.

Each qualifying presidential candidacy of a category II political party shall receive two one-half-hour periods of voters' time.

Each qualifying presidential candidacy of a category III political party shall receive two one-half-hour periods of voters' time.

No more than one one-half-hour period of voters' time shall be allocated to the same presidential candidacy within any 5-day period.

No limits are put upon the use of this time except that it must be used, as is desperately needed today, for rational discussion of issues rather than emotional spots—a condition required because the time is provided for by the public purse which is paying to become informed and not by the political parties themselves. Nor does the bill prohibit in any way the use of additional time purchased by private or party funds.

The purchase of the time through the Controller General of the United States is provided for in this bill as follows:

FINANCING OF VOTER'S TIME

"(e) (1) Licensees of broadcast stations (other than non-commercial educational broadcast stations, as defined in section 397(7) of this Act) and CATV systems may charge the United States for voters' time used by any qualifying Presidential candidacy entitled thereto under this section. Such charge may not exceed the lesser of (A) the lowest unit charge of the broadcast station or CATV system for the same class and amount of time for the same period; or (B) 50 percent of the lowest published rate of the station or system applicable to a commercial advertiser for such time. Licensees of non-commercial educational broadcast stations may charge the United States with the direct costs incurred in providing voters' time. No additional charges shall be made by broadcast station licensees or CATV systems for the provision of voters' time. (Funds to be provided by an appropriations supplement to the attached bill). No matter how a broadcasting company carries its accounting the compensation herein provided will cost the broadcaster nothing out of pocket and is designed to show him a profit.

The key to the value of voters' time so purchased and allocated is twofold:

First. The time provided is to be prime time—7 p.m. to 11 p.m. local time.

Second. Programs on such time are to be carried at the same time on all important communications networks—as was the case for instance with the Kennedy-Nixon debates or with the recent televised depictions of the President's trip to China—as for that matter all broadcasts of the President in his Presidential capacity may be expected to be so simultaneously carried so there will be no available competition to "turn off to" at such time.

Voters' time is therefore and hereinafter referred to as "simultaneous time."

This bill will therefore accomplish three important things: First, it provides "significant" presidential and vice presidential candidates a guaranteed basic access to the immensely influential broadcast media.

Regardless of his success in attracting news coverage or his ability to buy time, an important candidate will be assured of meaningful exposure to the voters. To achieve this goal, the bill provides that candidates be given time on all television stations, radio stations, and CATV systems simultaneously. A candidate's appearance would be broadcast over every television and radio facility in the United States, including network outlets, independent and noncommercial stations, and CATV systems at the same time in each community. Candidates of the two major parties would receive six one-half-hour segments of this time; candidates of smaller parties would receive lesser periods of time.

Any presidential candidate supported by a meaningful segment of the population would have access to every television and radio household. His potential audience will be every American home. During the broadcast periods devoted to the candidates, any television and radio set turned on anywhere in a given time zone would bring a potential President or Vice President to his constituency, without competition from standard programing. Together, Americans could make judgments about the men who would lead them.

The simultaneous carriage of a presidential candidate's appearance is appropriate in view of the seriousness of the presidential race. Moreover, in recent years politicians and media experts have noted that when Democratic candidates appear on the screen, Democratic voters watch, while Republicans switch to an entertainment program on another channel; when Republicans appear, the Democrats switch channels. Many voters, whatever their affiliation, switch to another channel when any candidate appears because they assume they will be uninterested in what follows. Simultaneous carriage, however, will increase the voter's exposure to new views and new positions he might otherwise unconsciously avoid. In 1960, for example, when Kennedy and Nixon debated on all three networks and many independent stations simultaneously, the average audience was estimated at 71 million. The direct and regular confrontation with the candidates will give voters a sense of direct participation in presidential policies which most will welcome.

Second, the bill will provide basic media access with none of the financial pressure on a candidate ordinarily associated with the purchase of large amounts of broadcast time. The candidate's exposure will be paid for by the Federal Government, not the candidate or his supporters. Since this time was for the public's benefit, the public should bear the cost. At the same time, the broadcast licensee who utilizes a public resource has at the very least an obligation not to profit from the candidate's exposure. Thus, broadcasters and cable operators would be paid for the time at a rate not to exceed 50 percent of their commercial rate card. The cost of this basic access is estimated to be about $4 to $5 million for presidential and vice-presidential candidates every 4 years. This is less than the cost to send a postcard to everyone who voted in the 1968 election.

Third, the bill does much to insure that television and radio will be used to promote public understanding of important campaign issues. The time given candidates is "voters' time" because it belongs not to the candidates, the parties or the broadcasters, but to the public. So that the public time will not be wasted with flashy films or candidate-produced variety shows, the bill requires that its use substantially involve the live appearance of the candidates and that formats be utilized which will promote rational political discussion, illuminate campaign issues, and give the audience insight into the abilities and personal qualities of the candidates.

Voters' time will not enable a candidate to engage in a mass media charade, but instead will provide the public with a more accurate view of his qualifications for office. The provision of simultaneous access to all of the broadcast media for important presidential and vice presidential candidates without a corresponding financial burden and in a format intended to encourage rational discussion of important issues will bring the democratic election process up-to-date with the electronic era.

The description of the bill and of the operations of its carefully and thoughtfully drafted provisions is inadequate to convey the supreme importance of the bill and the urgent need of its passage to preserve the integrity of the electoral process in a nationwide presidential election. In the opinion of the sponsors of this bill, no law enacted by or presented to the Congress in recent years is likely to have a greater influence on the future of democracy in this country.

The advent of electronic communications making possible mass appeals to the voters has brought for good or ill revolutionary effects on the operation of the electoral process particularly in nationwide elections akin to the effects of the advent of gun powder in the 12th century and of the atomic bomb in the 20th century on the waging of war. Telecommunication has not only enormously increased the costs of nationwide campaigning but unregulated, threatens to degrade the electoral process, distort the issues, deny equal opportunity to the candidates and to make the results dependent not on the issues and the merits of the candidates but the size of their purse. Television and radio can have a clout and an impact of the electorate unmatched by the aggregate impact of any other available means.

The assurance of free and fair time at a minimum cost to the government to all qualified presidential candidates for rational discussion and debate as provided by this bill, preserves and safeguards the integrity of our democratic electoral process. It not only goes far to curb the abuse and inequitable use of telecommunication in Presidential elections, but gives promise of making telecommunication an aid and not a threat to the future of our democracy. It will protect the democratic electoral process from falling prey to the awesome power of the purse.

If this Congress performs only this one service to the continuation of democratic government, it will have justified itself in history.

ALLEY CAT BAND

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BUCHANAN. Mr. Speaker, those in attendance at this morning's session of the annual meeting of the President's Committee on Employment of the Handicapped had a very special treat which made me extremely proud. They heard a program played by the Alley Cat Band. The Alley Cat Band from Birmingham, Ala., Adult Extension Workshop of Workshops, Inc., is made up of trainable mentally retarded people from my Birmingham area. They played a wonderful program this morning.

I am extremely proud of their performance and what they are proving concerning the ability of handicapped people to perform in our society.

Mr. Speaker, I include at this point in the RECORD a copy of the material included in the President's Committee program this morning concerning the Alley Cat Band, together with a list of its members.

The program follows:

THE ALLEY CAT BAND

The Alley Cat Band was founded as an experiment with the trainable mentally retarded. It was the outgrowth of a desire to provide a socially stimulating activity that all who wanted could participate in and at the same time disprove a concept that certain categories of the trainable mentally retarded could not be trained mentally. To the best of our knowledge, this is the first Band of its kind in the Country.

The Band was organized in April, 1967 with Retarded Children Association performance homemade instruments for a single Aid for in May of the same year. The Band was a success and was well received and did so much for the Band members and parents that it was continued.

Since that time, as the members developed in ability, more sophisticated instruments were added as replacements for some of the homemade percussions. As the clients in the Adult Extension Center change, the structure of the membership also changes. Seventeen of the original members are still in the Band. The majority of the band members are still the trainable retardates, but now all handicaps are represented from all departments of the Workshop.

One highlight of the Band's performances has been a trip to Charleston, South Carolina to play in the Charleston Municipal Auditorium for the Trident Club of Charleston.

The success of the Band has been made possible through the cooperation and interest of the parents, its Director, Mrs. Margaret Williams, and her Assistants, Mrs. Miriam Weinstein and Miss Dianne Richardson.

The Band is an activity of the Workshops, Incorporated, Birmingham, Alabama, a facility for the rehabilitation, training and employment of the physically, mentally and emotionally handicapped.

ALLEY CAT BAND

Maestro: Bobby Strong.

Fiddles (tubs): Pat Baker, Sid Thomas.

Banjos (rub boards): Rickey Parker, Billy Pierce, Norman Staab.

Strings (ironing board): Judy Hunnicutt, Joy Loerch.

Bass fiddle: Ernestine Holtsford.

Tambourine: Marvin Coplon.

Tone bells: Kathy Lay.

Organists: Beverly Ivey, Jessie Holt.

Kazoos: Juanita Lewis, Pam Wilson.

Vocalists: Juanita Lewis, Pam Wilson, Teresa Glasscock, Norman Staab.

Drums: Freddie Watson, Kenneth Vickers.

Bongos: James Doyle, Kathy Lay, Judy Weinstein.

Claves: Lee Davis, Marvin Coplon, Pam Wilson, Juanita Lewis.

SOVIET MISSILE SUB IN CUBA

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, the Defense Department has just announced that a Soviet missile carrying submarine, conventionally powered, is now visiting Nipe Bay in Cuba. This is not the first time a missile carrying submarine has called at a Cuban port but up until today, the Soviet submarines have not carried strategic missiles. The G–II class submarine now in Cuba carries three missiles which can be launched while submerged and which can carry nuclear weapons for a distance of 650 miles.

The fact that the Soviet Union is upping the ante in its continuing penetration of the Caribbean area is especially disturbing since it comes on the eve of the President's trip to Moscow. Since the 1962 Cuban missile crisis the American people have felt safer because they have believed there were no offensive strategic weapons systems in Cuba. This notion was reenforced following the secrecy cloaked crisis of 1970 over the possible construction of a strategically significant Soviet submarine base in Cuba. Following that crisis the Foreign Affairs Committee, the Congress, and the American people were reassured that there was "understanding" between the United States and the Soviet Union over the introduction of offensive strategic weapons into Cuba.

Mr. Speaker, In the light of today's announcement I believe the President owes Congress and the American people a fuller explanation of what such "understanding" means, if anything.

TAX RELIEF FOR THE VICTIMS OF CRIME AND FOR CRIME PREVENTION

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEPPER. Mr. Speaker, today Congressman LESTER L. WOLFF and I are introducing a bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for theft losses sustained by individuals, for amounts paid to protect against theft, and for medical expenses caused by criminal conduct.

Under present tax law, theft losses

are deductible only to the extent that the loss from each theft exceeds $100. H.R. 14805 would permit the taxpayer to aggregate and deduct theft losses of more than $100 a year if these losses are reported to the police. This provision is designed to assist low- and middle-income taxpayers who are repeatedly victims of crime but who do not have valuables of significant worth so that the financial loss incurred in any single incident would be valued in excess of $100. Studies have shown that the highest rate of crime victimization occurs in the lower income groups. Under this bill, theft losses in excess of $100 a theft would, of course, continue to be deductible.

H.R. 14805 also provides for a deduction of amounts paid during the taxable year for locks, burglar alarms or other warning devices, or similar items for protection against theft, to the extent such amounts do not exceed $300—$150 in the case of a married couple filing separate returns.

There is an old maxim "to prevent a theft is easier than to catch a thief." Most crimes occur where police patrols are not located; namely, indoors. Burglary is America's most common crime. Nationally, some 2.2 million residential and business burglaries occur a year. The deduction allowed by this proposal will provide an incentive to homeowners to equip homes with protective burglar alarms, warning devices and locks which will help reduce the number of burglaries in homes.

Although it has been said that no lock will stop a thief determined to get into your home, it is also true that the more difficult you make their efforts to enter, the less likely they are to try. Good quality locks should be installed on all entrance doors and windows. The cheapest kinds of locks can be released by inserting a piece of celluloid or other thin material between the edge of the door and the jamb. A low quality chain lock will give way easily to the force of a man's body applied against the door. The typical fastener on a sash window can be easily opened with a knife. It behooves all of us to take the necessary steps to replace these devices which are an open invitation to even the most unskilled burglar.

Mortise locks, cylinder locks, and vertical bolt locks for doors and key locks for windows are the kinds of devices we should install. Even the professional thief who is skilled at jimmying and picking a lock would probably move on to another easier target if these quality devices are used, unless the stakes were extremely high. These devices should certainly be proof against the unskilled novice.

More sophisticated protection is provided by burglar alarm devices or systems. These would certainly be worth the investment if your possessions are valuable. As in the case of locks, these devices vary in quality and type. The simplest detect an intruder trying to enter a home through a door or window and sound an alarm. Others feature motion detectors of various types which use electric eyes, laser beams and the like and give warning even before a burglar attempts to enter a home. This bill will enable the taxpayer who has paid several hundred dollars for such a system, perhaps in lieu of a television set or a vacation, to deduct up to $300 of its cost in computing his income tax.

No deduction will be allowed under this bill for any amounts paid for weapons or for hiring of protective personnel, such as detective agencies and professional guards. Unless you know exactly what you are doing, weapons used for defense can be wrested away and used against you. Also, we are all keenly aware of the numerous tragic accidents which have occurred in homes where members of families and friends have been killed or injured because weapons are available. The thrust of this bill is primarily aimed at low and middle-income homeowners who would be unable financially to hire professional protective personnel.

To further assist low- and middle-income taxpayers the deductions permitted by this bill will be available whether the taxpayer itemizes deductions or uses the standard deduction. The standard deduction has been increased for 1972 and subsequent years to 15 percent of adjusted gross income with a ceiling of $2,000. As a result the number of taxpayers using the standard deduction is expected to increase.

Finally, H.R. 14805 provides that the full cost of medical expenses resulting from a criminal assault be allowed as a deduction. This provision would also allow a deduction for funeral expenses if the criminal assault should cause the death of the victim.

Under present tax law medical and dental expenses are deductible only to the extent they exceed 3 percent of the taxpayer's adjusted gross income. Funeral expenses may not be deducted at all.

The medical costs to the innocent victim of violent crime can be staggering. This financial burden plus the mental anguish and physical pain suffered by the individual can be truly unbearable. Simple compassion dictates that we at least take steps to remedy that part of the suffering we can. So often the victims of criminal violence are those who are without resources and insurance. Even when the victim has insurance it is often insufficient to cover full medical costs.

Too often the victim of crime is overlooked or forgotten. It is ironic that our society has shown more concern for the criminals than to their victims. The only recourse the victim has is to sue the criminal for his medical expenses. This procedure is usually futile because most criminals do not have the financial resources required to compensate a victim. This bill provides a meaningful method of alleviating the burden of the innocent victim of crime. To prevent abuse, this provision is applicable only if the medical expenses attributable to crime are verified by records of the law enforcement agencies involved.

We are suddenly hearing rosy statistics about the decline in crime and certainly this is welcome news. But what has really happened is that crime is increasing at a lower rate. For example, crime rose by 6 percent in 1971 which is the lowest annual rise in 6 years. Violent crimes as a group, however, were up 9 percent in 1971. Murder, forcible rape, and robbery were up 10 percent, and aggravated assault increased 8 percent. Burglary showed an overall increase of 8 percent, but was up 11 percent in the suburbs and 10 percent in rural areas. These statistics are not likely to induce complacency.

On every side we have seen the quality of our lives downgraded by crime. Everyone of us has changed his regular habits because of the fear of crime. Examples of crime's impact are everywhere. Exact change is required on public transportation and at some gas stations. Cab drivers refuse to enter certain neighborhoods. Merchants admit customers from behind locked doors. Churches must lock their doors even during Sunday morning services and have had to reschedule or cancel activities formerly held at night. Employees hasten home after the workday ends and are afraid to go downtown at night. The list could go on. Hopefully, in the near future we will see this situation turn around.

In the meantime, the very least we can do is to provide financial relief for those of us who become crime's victims or who are making earnest efforts toward crime prevention. We believe that enactment of this bill would go a long way in accomplishing this objective.

THE CRATERING OF INDOCHINA

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. RYAN) is recognized for 60 minutes.

Mr. RYAN. Mr. Speaker, the ravaging of Southeast Asia by American war planes, whose indiscriminate bombing is causing the needless slaughter of thousands of innocent civilians, has brought a new edge to the immorality of the war in Indochina.

Yet, while the killing continues, while the devastation goes on, this House still attempts to close its eyes to its responsibilities to the Constitution and the American people.

Just outside this very Chamber, congressional staff members, and concerned citizens are peacefully demonstrating their steadfast opposition to this tragic war. Likewise, in community after community across this Nation, millions of Americans are engaged in nonviolent demonstrations with one purpose in mind: To end the war and to end it now.

The House must heed their voices.

On April 20 the House Democratic caucus adopted a resolution calling for the prompt setting of a date to terminate all U.S. involvement in and over Indochina, and directing the House Foreign Affairs Committee to prepare and report within 30 days legislation designed to accomplish this objective. Yet the days pass, the war drags on. Another day is one too much. Another death is one too many. I beseech the members of the House Foreign Affairs Committee to abide by the resolution of the caucus and to bring to the floor immediately legislation which would finally give peace a chance.

No Member of the House can be unaware of the staggering costs of our Nation's involvement in Southeast Asia. To date, several hundred thousand human beings have died and countless more have suffered as a result of the hostilities in Indochina. We count our dead and wounded in the hundreds and thousands; we count our dollar outlays in the billions.

The Indochinese countryside has been ravaged. The countries of the area are now pitted with an estimated 26 million bomb and shell craters. Millions of acres of fertile land have been defoliated with herbicides and anticrop agents.

From a comfortable distance of 30,000 feet, saturation bombing has led to countless deaths, millions of refugees, and has left some portions of Southeast Asia as barren as the surface of the moon.

Indeed, a bloodbath has not been prevented—it has been created.

The self-determination of the South Vietnamese people has not been promoted, rather they have been subjected to a corrupt military dictatorship that wants war.

Think of the toll of the war upon our belief in ourselves and our fellow Americans.

Think of the opportunities lost for our Nation.

We cannot let this policy continue. If as the Representatives of the American people we do not put all our energies to the task of bringing peace, surely this House must ask itself if it is equipped to lead—for certainly no group of leaders, no Congress, no nation has the right to lead the world to a trough of slaughter and then make it drink.

At this point in the RECORD I include an article from the May 1972 Scientific American by Arthur Westing and E. W. Pfeiffer regarding the bombing of Indochina:

THE CRATERING OF INDOCHINA

(By Arthur H. Westing and E. W. Pfeiffer)

The unprecedented use of herbicides on a massive scale as an instrument of war in Vietnam has prompted several studies of the probable long-term effects of these chemical agents on the land of Indochina. Much less attention has been paid to the effects of the tearing up of the land by bombing and shelling. Yet the released tonnage statistics alone suggest that these effects must be sizable. In the seven-year period from 1965 to 1971 the area of Indochina, a region slightly larger than Texas, was bombarded by a tonnage of munitions amounting to approximately twice the total used by the U.S. in all the theaters of World War II.

During three tours of war zones of Indochina to assess damage done to the environment by herbicides, we became increasingly conscious of the ubiquitous scarring of the landscape by bomb and shell craters. From the air some areas in Vietnam looked like photographs of the moon. How would this cratering of the land affect life and the ecology in Indochina when its people attempted to pick up normal living after the war? It seemed that the physical alteration of the terrain by bombing might have created long-range problems fully as serious as those produced by the defoliation campaign (which had attacked more than five million acres of forest and cropland in Vietnam). In order to initiate investigation of the crater problems, the two of us went to Vietnam for a preliminary study in behalf of the Scientists' Institute for Public Information in August, 1971. From the U.S. Department of Defense we collected the limited information that was available to the public about the expenditures of munitions in Indochina. Then in the field we surveyed bombed areas on the ground and from the air (in helicopters) and interviewed many people, including farmers, lumbermen and other persons who had observed various effects of the bombing on the land, the economy and various occupations.

In the seven years between 1965 and 1971 the U.S. military forces exploded 26 billion pounds (13 million tons) of munitions in Indochina, half from the air and half from weapons on the ground. This staggering weight of ordnance amounts to the energy of 450 Hiroshima nuclear bombs. For the area and people of Indochina as a whole it represents an average of 142 pounds of explosive per acre of land and 584 pounds per person. It means that over the seven-year period the average rate of detonation was 118 pounds per second. These average figures, however, give no indication of the actual concentration; most of the bombardment was concentrated in time (within the years from 1967 on) and in area. Of the 26 billion pounds, 21 billion were exploded within South Vietnam, one billion in North Vietnam and 2.6 billion in southern Laos. The bombardment in South Vietnam represented an overall average of 497 pounds per acre and 1,215 pounds per person; the major part, however, was focused on two regions; the five northern provinces and the region around Saigon.

Craters pock every area of South Vietnam: forests, swamps, fields, paddings, roadsides. Certain areas, notably zones "free fire," or "specified strike," zones, show severe cratering. We personally observed large areas that had been subject to intensive transformation of the landscape in Tay Ninh, Long Khanh, Gia Dinh, Hua Nghia and Binh Duong provinces around Saigon and Quang Ngai, Quang Tin and Quang Nam provinces of the northern part of the country. And of course the concentration of craters is particularly marked in areas such as the demilitarized zone (DMZ) between North Vietnam and South Vietnam and the supply trails in southern Laos.

We were able to visit on foot an area in the Mekong Delta that had been until recently a free-fire zone. The area was near the hamlet of Hoi Son about 30 miles south of My Tho. Farmers were being resettled there on their previously fought-over land because senior officials considered the region fairly secure. (The degree of security became evident during our stay when U.S. aircraft were observed rocketing and strafing only a few miles away.) Several families that had left the area a decade earlier because of fighting were interviewed, and they took us to three craters that they said had been made in 1967. The craters had probably been produced by 500-pound bombs dropped by fighter-bombers. Each crater was about 30 feet in diameter, filled with water, and at the time of our visit was about five feet deep in the center. The entire immediate area had been a rice paddy, but during the years when no cultivation had occurred, the rice had been replaced by a very tall reed, genus *Phragmites*, which surrounded the crater at a distance of 10 to 20 feet. Growing from the rim of the craters and into the reeds was a species of relatively short grass, *Brachiaria*, and a taller grass, *Scirpus*. The farmers were growing seed and rice near the craters and were plowing under the reeds and grasses in preparation for planting rice. It was obvious that they could not use the cratered areas for rice cultivation because the water was much to deep. The only apparent solution was to bring in soil from elsewhere, but this was obviously not practical.

We also observed at close hand many craters on the flat terrace lands northwest of Saigon that had previously suported an evergreen hardwood forest. In this area the craters generally contain no water during the dry season, so that their natural history is considerably different from the history of the craters of the Delta region that are permanently filled with water. The craters were very numerous in this area; there was at least one every 100 feet. Each crater was 20 to 40 feet across and five to 20 feet deep. There were many generations of craters from different air strikes. The most recent ones were bare of vegeation but contained some rainwater. (We observed these craters in the wet season.) In the older craters a few sprigs of grass, probably *Imperata*, were sprouting in the center. As the craters age grass grows radially, eventually covering the bottom to meet vines trailing down from the peripheral vegetation. There is some filling of old craters with soil washed down from the sides, but this is limited because old craters almost completely covered with grass were still five to 10 feet deep. They thus became permanent features of the landscape.

From the data available to us on the quantity of munitions expended we calculated tentative estimates of the total area affected by cratering and other damage to the land. For these estimates we had to make some very free and general assumptions. For example, we assume that about half (by weight) of the total amount of munitions employed in Indochina consisted of bombs, shells and other missiles that would produce craters. We assume further that on the average each of the crater-producing missiles was equivalent to a 500-pound bomb and formed a crater 30 feet in diameter and 15 feet deep, displacing 131 cubic yards of earth. (A large proportion of the cratering has been produced by B–52 bomber raids; each of these big planes typically carries 108 500-pound bombs.) We also estimate that the fragments from each crater-producing missile were spread over an area of 1.25 acres.

On the basis of these assumptions (some of which are supported by actual measurements) we estimate that the number of craters produced in Indochina by the bombardments from 1965 to 1971 totaled some 26 million, covering a total area of 423,000 acres and representing a total displacement of about 3.4 billion cubic yards of earth. The area of missile-fragment spread totals 23.6 million acres, if we disregard overlap. Again we note that South Vietnam has borne the brunt of this damage. In the period mentioned (through 1971) South Vietnam is estimated to have received about 21 million craters, covering all together about 345,000 acres, and to have had millions of acres contaminated by missile fragments, even allowing for overlap. The total area of the country is 42.8 million acres.

Let us now examine some specific effects, for the present and for the future, of this massive application of "landscape management" by high explosives. There is evidence from previous wars that the effects will be long-lasting. A decade after the end of World War II the craters of heavily shelled areas on Okinawa were still barren of vegetation and reddened by rusting shell fragments. On Eniwetok craters were clearly in evidence two decades after the war. Four decades after World War I vegetation in the Negev desert of Israel outlined the craters from that war, and even in France's Verdun area many of the World War I craters are still clearly visible and in some cases to this day are devoid of vegetation.

To begin with, we can see that the displacement and scattering of soil and subsoil from the craters in Indochina have given rise to harmful physical consequences. (Over the seven years the displacement of soil by bombardment in Indochina proceeded at a rate of nearly 1,000 cubic yards of soil per minute.) In hilly terrain the tearing up of the soil promotes erosion. In Indochina, where some of the soil is vulnerable to laterization (hardening to a bricklike state), the removal of vegetation and humus may make the area in and around craters permanently barren. At the least it has resulted in colonization of cratered regions by weedy, worthless grasses and shrubs. Furthermore, the deep craters have made many areas almost impassable for travel.

Many of the craters, particularly in the Delta and coastal regions, have penetrated the water table and remain filled with water during much or all of the year. They have thereby probably become breeding grounds for mosquitoes, greatly increasing the hazards of malaria and dengue fever for the population. Reports by military authorities indeed confirm that "malaria has been causing increasing concern in Vietnam" and has spread to previously unafflicted areas.

The impact of cratering on agriculture has been substantial. Farmers in South Vietnam, notably in the Mekong Delta, have been reluctant or unable to attempt to reclaim rice paddies or other farmlands that have been pocked by craters. One of the important deterrents is the presence of unexploded munitions buried in the ground. A number of farmers have been killed by the detonation of such shells or bombs by their plows. Moreover, the ubiquitous missile fragments in the ground cut the hooves of the water buffaloes used as draft animals, causing infection and death of the animals. The unexploded bombs and shells lying about in the soil of Indochina are known to number several hundred thousand. Bombing has also disrupted rice-growing in Indochina by breaking up many of the intricate irrigation systems, and in some areas near the seacoast it has opened the land to encroachment by salt water.

The timber industry of South Vietnam, potentially one of the most important elements in the region's predominantly agricultural economy, has been particularly hard hit by the bombing. It has catastrophically slashed the values of the once prime timberlands northwest and northeast of Saigon, for example. The heavy shelling and bombing have damaged the trees in three ways: outright destruction, riddling of the timber by missile fragments and subsequent weakening of the trees through infection by wood-rotting fungi.

The forests have been bombarded by ordnance so intensively that the trees are filled with metal shards; one mill-owner told us that four out of five logs he receives have metal in them. Although the sawmill operators make laborious efforts to chop out the pieces of metal, they are only partly successful, with the result that they have a high rate of destruction of their saw blades by still embedded metal. In trees left standing the missile-fragment wounds provide ready entry for fungal rot. In some tree species the rot progresses so rapidly that if they are not harvested immediately after the metal attack they soon become almost worthless. Apparently the main South Vietnamese timber trees lose about 50 percent of their value in two or three years from this cause. Rubber trees are particularly susceptible to the fungal rot initiated by missile-fragment wounds; they become so weakened that they are felled by any high wind. A French official of a rubber plantation told us he had lost 80 percent of his trees within two years after a bombardment of his plantation.

Loggers in the battle zones of South Vietnam find that the damaging of timber by munitions is causing them a loss of more than 30 percent in the price received for the logs (although the severance tax remains the same). In addition the profusion of craters impedes the hauling of their logs to the mill. Often they must cut the logs to a short length (instead of the desirable 90 feet that is possible under normal circumstances) to allow sufficient maneuverability to skid them around the craters. During a survey in a high-flying helicopter of a mountain forest near Da Nang we saw many craters on the mountainside and along the ridges with severe accompanying erosion; they had been produced by a single B–52 raid about a year and a half earlier. We also observed another significant type of damage: large areas of the forest had been burned out, apparently by incendiary attacks with napalm, white phosphorus and flares.

Bombardment and defoliation are by no means the only methods used by the U.S. military in its struggle with vegetation in Indochina. Beginning in the mid-1960's a vast program of systematic forest bulldozing has been developed. The employment of massed tractors organized into companies for extensive forest clearing had apparently replaced the use of herbicides to deny forest cover and sanctuary to the other side. The effectiveness of the tractors, called Rome plows, is in some ways clearly superior to that of chemicals and is probably more destructive to the environment. When we visited a land-clearing operation in August, 1971, we watched about 30 such plows (20-ton Caterpillar tractors fitted with massive 11-foot-wide, 2.5-ton plow blades and with 14 tons of armor plate) scrape clean the remaining few areas of the Boi Loi Woods northwest of Saigon. We learned that in the 26 days prior to our visit the company had cleared 6,037 acres. Four other companies were also in operation and these five units had cleared a total of 750,000 acres as of August, 1971. We visited an area that had been plowed several years previously and it had regrown to cogon grass (*Imperata*), making further successional stages to the original hardwood forest very unlikely.

A study by U.S. agents has determined that about 10 percent of the agricultural land of South Vietnam has had to be abandoned because of the destruction wrought by bombardment and other weapons used in this war. It has been a war against the land as much as against armies. Indeed, it appears that one of the main strategies of our military effort has been to disrupt and destroy the social and economic fabric of rural, agricultural Vietnam in order to drive the peasant population into areas under central control and to deprive the guerrilla enemy of a power base.

Only about 5 to 8 percent of the U.S. bombing missions in Indochina have been directed at tactical military targets, that is, in direct support of troops. The rest of the bombing missions are described as "harassing" or "interdiction" attacks. They are also referred to as strategic bombing missions. Whereas the targets of strategic bombing in World War II were the factories, port cities. railroads and so forth of the enemy, in the Indochina war the strategic targets are the land and forests of Indochina because they give cover and sanctuary to the other side. It is important to note here that whereas factories, ports and other man-made sources of production can be rapidly rebuilt, as demonstrated in Europe and Japan, it is doubtful that many of the forests and lands of Indochina can be rehabilitated in the foreseeable future.

From 1966 on the B–52's carried out incessant attacks on a schedule of almost daily missions. From an altitude of 30,000 feet, where they are usually unheard and unseen from the ground, they have been sowing systematic destruction. A typical B–52 mission, comprising seven planes on the average, delivers 756 500-pound bombs in a pattern that saturates an area about half a mile wide and three miles long, that is, nearly 1,000 acres. Thus on a schedule of four or five missions per day of seven sorties each, such as was followed during 1971, the B–52's alone were creating about 100,000 new craters each month. Unfortunately the release of air-war data is now severely restricted.

The cumulative impact of the munitions attack on the land has to be seen to be grasped fully. Reports by military observers speak of the landscape's being "torn as if by an angry giant," and of areas of the green delta land's being pulverized into a "gray porridge." Our brief survey has only suggested some of the grim consequences for the present and future life of the inhabitants of Indochina. Still to be assessed are the effects of the persisting bombardment on the people's habitations, on the animal life and general ecology of the region. The damage caused by the large-scale disorganization of the environment may be felt for centuries.

Meanwhile the steady bombardment and shattering of the land, shielded from the Western world's view and concern by the whole Pacific Ocean and the supposed "winding down" of the war, goes on with no end in sight.

Senator Gaylord Nelson of Wisconsin has introduced in the Senate a bill to provide for a study by the National Academy of Sciences "to assess the extent of the damage done to the environment of South Vietnam, Laos and Cambodia as the result of the operations of the Armed Forces of the United States . . . and to consider plans for effectively rectifying such damage."

Senator Nelson declared:

"There is nothing in the history of warfare to compare with [what we have done in Indochina]. A 'scorched earth' policy has been a tactic of warfare throughout history, but never before has a land been so massively altered and multilated that vast areas can never be used again or even inhabited by man or animal. . . . These programs should be halted immediately before further permanent damage is done to the landscape.

"Our program of defoliation, carpet bombing with B–52's and bulldozing . . . did not protect our soldiers or defeat the enemy, and it has done far greater damage to our ally than to the enemy.

"The cold, hard and cruel irony of it all is that South Vietnam would have been better off losing to Hanoi than winning with us. Now she faces the worst of all possible worlds with much of her land destroyed and her chances of independent survival after we leave in grave doubt at best."

POLISH CONSTITUTION DAY

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, perhaps the most singularly important fact about the Constitution of 1791 was that it provided the instrument through which Poland hoped to raise herself from humiliation to a condition of independence and security. By instituting much needed reforms, this Constitution, despite its defects, did as Lord observed:

> Afford the possibility of a new, sound, and progressive national life.

And, in the end, he concluded:

> This heroic breach with the past, this abjuration of the ancient sins, this renunciation of the idolized "golden liberty" throws an immortal gleam over the last dark years of the Republic.

Mr. Speaker, this week marks the 181st anniversary of the Polish Constitution. Last August I was in Poland and I know the spirit of this Constitution still lives after 181 years. It will live as long as men strive for liberty anywhere in the world.

At this point I think it is appropriate to include a historical background study of the Constitution prepared by Joseph G. Whelan of the Library of Congress, Foreign Affairs Division. The study follows:

THE POLISH CONSTITUTION OF 1791: A BRIEF HISTORICAL BACKGROUND STUDY

EUROPE IN 1791

Factors influencing the Polish Constitutional Movement

Some major external factors which contributed to the trend toward orderly and stable constitutional government in Poland were the death of Frederick the Great of Prussia, the French Revolution of 1789, and the Turkish war.

In 1786, Frederick the Great of Prussia who shared with Russia and Austria in the first partition of Poland died. As a result of his death, the alliance between Prussia and Russia was loosened; and Prussia, effecting a change in policy, concluded an alliance with England and Holland against Russia. At the same time Russia encouraged the Poles to adopt pro-Russian policy and to forsake their alliance with Russia. Moreover, Poland was given temporary security by the distraction from Europe of Russia and Austria by virtue of their war against Turkey. Thus, with Russia and Austria preoccupied in other quarters and a friendly disposed Prussia on its western border, both of Poland's flanks, heretofore exceedingly vulnerable, were momentarily secure. Because of this fortuitous set of circumstances, the Poles were able to press on with long expected constitutional reforms virtually unmolested.[1]

Moreover, the French Revolution of 1789 had in an ideological way an appreciable effect upon the Polish trend toward constitutional reform. The French Declaration of the Rights of Man and many other ideological conceptions that underlay the Revolution had taken root in the minds of many Poles, some of whom were anxious to see the same principles put into effect in Poland. The Polish Constitution was by and large, however, just an adaptation of English and French constitutional principles and practice—and whether consciously or not, the American Constitution as well—to the realities of Polish life. Be that as it may, the Polish Constitution was in the end, as Robert Howard Lord wrote, a "happy blend of liberalism and conservatism." [2]

THE CONSTITUTION OF 1791

Steps leading to its adoption

In 1788, the so-called Four Years Diet convened under the leadership of Stanislaw Malachowski, Hugo Kollantaj, and Ignacy Potocki. Once assembled, the Diet, among other things, set out to reform the constitution along more modern lines. A commission was formed for this purpose on September 7, 1789. However, procrastination, a notable characteristic of the Polish Diet, resulted in a three years delay before action was finally taken, and, according to Lord, these Polish leaders only at the eleventh hour nerved themselves to put through—by revolutionary means, as if in desperation—a great and sweeping act of reform.[3]

Unfortunately, the Polish leaders did not fully capitalize upon the opportunity given them by the Russian engagement in the East.

One of the fundamental causes for the delay in effecting constitutional reform was the great diversity of principles and interests within the Diet itself, and only after three years of heated political argument, prolonged debates in the Diet, and a deluge of propaganda advancing one point a view or another did the reforms become a reality. Among the contesting forces in the Diet were the *szlachta*, the military land-owning class, which jealously guarded its inherited privileges. This group held the view that Poland's difficulty lay in excessive despotism and not anarchy, and many in this faction advocated their "aristocratic republicanism" to such an extent as to favor complete suppression of the King. There was also a group which favored the English system of government, and another favoring the French. Finally, there were those who being more extreme reformers advocated the principles of the French radical revolutionaries; that is to say, emphasis upon "equality," denunciation of the *szlachta*, and the demand for political and economic freedom for the townsmen and peasantry.[4]

Delay in drafting the new constitution was thus in many respects unavoidable. But, as Lord observed:

"The wonder is rather that they at last adopted a plan of constitutional reform which contained so happy a blend of liberalism and conservatism, which ran so contrary to many of their instincts and prejudices, and which contained so many things of a kind which it is not easy or popular for statesmen to propose. Adherents as they were of "the French principles," they still refused to apply them in blind doctrinaire fashion. Aristocrats, they demanded heavy sacrifices from their own class, while championing, as far as was prudent, the interests of the other classes. Republicans by inheritance and education, they made the central point in their program the establishment of a strong royal power. In an age marked by its passion for 'freedom' and hatred of 'despots,' they undertook a reform quite opposite in character to the one then proceeding in France—a monarchial revolution. To a nation extraordinarily attached to its 'liberties,' they preached 'national existence first, and liberties afterwards.' " [5]

The tempo of the movement toward constitutional reform was increased by the conclusion of the Convention of Reichenbach in September 1790. As a consequence of this Congress with Prussia, Austria agreed to withdraw from the Turkish war on the basis of *status quo ante bellum*. Russia was then alone in its war against the Turks. With Russia thus deserted by its ally, Poland was compelled to face the possibility of a Russian withdrawal from the war. In such a case, Russia's hand would be free in Eastern Europe, an eventuality which quite conceivably was contrary to Polish best interests.

In the new Polish Diet of November 1790 which was made up of an equal number of old and new members the reactionaries, or Opposition, were reduced to a small minority. Finally, in December the so-called Patriot leaders were reconciled with the King. The way was prepared, therefore, for the reformers to press more rapidly their plans. Regular secret meetings were held in the early part of 1791 in which the King, Stanislas Augustus, Piattoli, Potocki, Malachowski, and others worked out the draft plan for the new constitution. Stanislas drew up the working paper for preliminary discussions using the English system as a model. When the King presented his draft to his "fellow conspirators", the proposed changes were so radical that he remarked, somewhat apologetically, "these were only the dreams of a good citizen." [6] The reformers, however, enthusiastically acclaimed the draft as an excellent consttiution, which they believed could be easily adopted.

Events developing abroad made speed the most important consideration. The Russo-Turkish war was coming to a close, and one this issue was resolved Russia would again have a free hand in Eastern Europe. Significantly, this factor greatly accelerated the movement toward constitutional reform, because the Patriots were determined to have a stable and well organized government when that turn of events came about.[7]

Knowing that regular proceedings of the Diet would require years to pass the constitution, the Patriots decided to push adoption through in a most extraordinary way. Toward the end of April 1791 the stage was set. The support of a majority of the Diet appeared to be assured. The public mind seemed to be in a receptive mood, and most important, since the intention of the reformers was divulged to Bulgakov, the Russian Minister at Warsaw, immediate action was necessary.

On May 2, 1791, the Diet reconvened after its Easter recess. Steps were taken to make sure supporters of the scheme were present. And although Bulgakov had dispatched word of the impending coup to the Opposition members, only a few had returned. On the evening of May 2, a meeting was held at Radziwill Palace where the new constitution was read and loudly acclaimed. Of the events taking place the next day, Lord wrote:

"Early on the morning of the 3rd the streets of the capital and the approaches to the castle were crowded with expectant and agitated throngs. The galleries of the hall of the Diet were packed, and the session began amid tense excitement. First on the order of the day came a report from the Deputation of Foreign Interests. In its name the eloquent Matuszewicz read a number of dispatches from the envoys at Vienna, Paris, Dresden, the Hague, and St. Petersburg, showing various ominous developments in the general situation of Europe, the menacing designs of Russia, and the danger of a new partition unless before the end of the Eastern war Poland had given herself a strong government. The effect was all that could have been hoped for. After some moments of silence, the Marshal Potocki called upon the King to suggest the means of saving the country. Stanislas produced the draft of the new constitution, which was read aloud. Cries of *"zgoda! zgoda!"* (agreed! agreed!) resounded from all sides. But here the handful of reactionaries broke out into wild obstruction. For hours there were storms of eloquence and also tragi-comic scenes—as, for instance, when one republican fanatic raised his young son in his arms and threatened to stab him on the spot, in order that he might not live to see the despotism which this constitution was preparing for Poland. At last a happy interposition of the King saved the situation; the question was put, and with hardly a dozen dissenting voices, amid tumultuous enthusiasm, the great project was passed *en bloc*. Rising on his throne Stanislas at once took the oath to the new constitution, and then King, senators, deputies, and people went in joyful procession to the nearby Church of St. John, to sing the Te Deum. That night all Warsaw illuminated and celebrated. Thus ended the bloodless "revolution" of the Third of May, the one altogether glorious and splendid day in the life of Stanislas Augustus, the last great day of radiant joy and hope that Old Poland was to know." [8]

Opinion at home and abroad

The Constitution of 1791 was enthusiastically acclaimed by the Poles. For weeks after the May 3 proclamation expressions of approval and gratitude flowed in from the provinces. Celebrations were held throughout the cities and towns, each trying to outdo Warsaw. All Poland, wrote Lord, "seemed intoxicated with joy." [9]

Nor were the tributes abroad any less enthusiastic. Edmund Burke, the English statesman, declared that Stanislas was worthy to be immortalized by Reynolds, for he "had achieved a great work." [10] And, again he wrote, "Humanity must rejoice and glory when it considers the change in Poland." [11] Writing in his Reflections on the Revolution in France, Burke later expressed the view that the Polish constitution "contained seeds of continuous improvement, being built on the same principles which make our British constitution so excellent." [12] Commenting

---

Footnotes at end of article.

upon the Polish Constitution Baron d'Escare wrote:

"In France, to gain liberty, they began with anarchy; in Poland, the nation was given liberty and independence, the respect for the law, for person and property was assured, and all this without violence, without murder solely through the virtue of the courage of the nation, which, realizing her misfortune and her error, knew how to heal her wounds." [13]

In America, George Washington, the first President of the newly formed Republic of the United States, wrote to David Humphreys in Philadelphia two months after the May Third Constitution was proclaimed:

"Poland, by the public papers, appears to have made large and unexpected strides toward liberty, which, if true, reflects great honor on the present King, who seems to have been the principal promoter of the business." [14]

Finally, the Cambridge History of Poland in a recent evaluation of the Polish Constitution concluded:

"Posterity . . . joins with the best contemporary opinion in deeming the Constitution of the Third of May one of the greatest achievements in Polish history." [15]

Provisions of the Constitution

Fundamentally, the Constitution of 1791 was an attempt to do away with the medieval and outmoded system of government in Poland and replace it with a modern constitutional monarchy and parliamentary type of government somewhat akin to the system existing in England. The Constitution discarded those aspects of the old system which contributed to the constitutional and political weakness of Poland. The Liberum Veto, a device by which a single dissenting vote in the Diet was sufficient to prevent passage of legislation, was abolished. The procedure determining succession to the throne was made more stable, and the power of the executive, heretofore restricted, was increased.

In an analysis of the provision of the Constitution, Lord wrote:

"The succession was assured to the Elector of Saxony and to his male heirs, or in case he should leave no sons, to his daughter (proclaimed "the Infanta of Poland") and her heirs. The prerogatives of the monarch were largely extended. The executive power was lodged in his hands, to be exercised through a council of ministers (the *Straz*), resembling a modern cabinet. If the principle of ministerial responsibility was not clearly asserted, it was approximated by the provisions that every act of the King must be countersigned by a minister, and that ministers were not only criminally but also politically responsible to the Diet, since they might be removed at any time by a two-thirds vote of that body. The administration was to be carried on through four Commissions (Army, Finance, Police, and Education), acting under the direction of the King and Council, but elected by and responsible to the Diet (a rather unfortunate concession to the old fear of despotism). As regards the legislative power, the chief innovations were these: that the Chamber of Deputies, as the direct representative of the nation, was given a decided preponderance over the Senate, which was confined to the advisory and moderating role proper to an appointive Upper House; and, secondly, that the Lower Chamber, which had hitherto been essentially a federal congress of ambassadors from the various provinces, received an entirely new character through the declaration that each deputy was the representative of the whole country and was thus—by implication—not to be bound by imperative mandates from his local constituents. While a thoroughgoing social and economic reform would have been at that moment quite impracticable, the constitution went as far in that direction as was prudent; and it held up a program, an ideal for the future. The economic barriers between nobles and bourgeoisie were broken down; the townsmen recovered their judicial autonomy, and received a number of political rights, especially that of admission to many of the higher offices and magistracies (such as the four great administrative commissions). Above all, the gates to the Diet were once more opened—after two centuries—to the deputies of the Polish cities, although this representation, unfortunately, was still confined within modest limits. Finally, the peasantry, so long left without any recourse against the arbitrary will of their masters, were now taken under the protection of the law." [16]

DESTRUCTION OF THE MAY THIRD CONSTITUTION

Russia intervenes

An important concept in Russian foreign policy was to have a weak Poland on its western border. Thus, it is not surprising that Catherine the Great, ruler of Imperial Russia, looked upon constitutional developments in Poland with great misgivings. Relieved of war with the Turks, the Russian sovereign, who regarded the Polish reformers as "the Jacobins of Warsaw" and looked upon the Constitution of 1791 as producing "disorders analogous to those of France", set out, as she said, "to fight the enemy in Poland and in so doing I shall not the less occupy myself with the affairs of France." [17]

Ostensibly to destroy the Polish Constitution of 1791 but in reality to annex part of Poland for herself, to present Prussia with another part, and to reduce the remainder to a vassal state, Catherine ordered her Russian armies to invade Poland on April 8, 1792. Entering Poland with the Russian forces were three Polish magnates, Felix Potocki, Severin Rzewuski, and Xavier Branicki, who, having conspired with the Russian Empress to destroy the new constitution which they opposed and re-establish the old constitutional system by force, set up a Confederation, that is another government, at Targowica on May 14, 1792.

Deserted by the Prussians who in violation of their promises to the Poles refused to render them aid, Poland was left to fend for itself against the invading Russian armies. Efforts by the Polish Army under Prince Joseph Poniatowski and Thaddeus Kosciuszko failed to halt the Russian columns, although it won three pitched battles. After three months of fighting, the war finally came to an end in a Polish defeat. The King was forced by circumstances to abandon the Constitution to which he had sworn allegiance. Forthwith the Constitution was abolished as a "dangerous novelty" [18] by the men of Targowica who eventually extended their Confederation over all Poland. Through this Confederation, Catherine of Russia ruled the conquered Poles.[19] Finally, on September 23, 1793, Poland was partitioned for a second time. Reduced to one third its original dimensions, with a population of approximately 3,500,000, Poland lost all its eastern provinces to Russia, while Prussia received the greater part of what was termed Great Poland.

Thus came an end to the Polish Constitution of May 3, 1791.

FOOTNOTES

[1] Encyclopaedia Britannica: A Survey of Universal Knowledge, Chicago, Encyclopaedia Britannica, Inc., 1951, v. 18, p. 139.

[2] Lord, Robert Howard. The Second Partition of Poland: A Study in Diplomatic History. Cambridge, Harvard University Press, 1915, p. 194.

[3] *Ibid.*, p. 192.

[4] *Ibid.*, p. 193.

[5] *Ibid.*, p. 194.

[6] *Ibid.*, p. 196.

[7] Reddaway, W. F., *and others, ed.* The Cambridge History of Poland. London, Cambridge University Press, 1941, v. II, p. 13.

[8] Lord. *Op. cit.*, p. 198–199.

[9] *Ibid.*, p. 199.

[10] Cambridge History of Poland. p. 135.

[11] *In* Zielinski, Anthony J. Poland in the World of Democracy. St. Louis, 1918. p. 203.

[12] Cambridge History of Poland. p. 135.

[13] *In* Zielinski. *Op. cit.*, p. 170.

[14] Washington to David Humphreys, July 20, 1791. Writings of Washington. *Ed.* John C. Fitzpatrick, Washington, Govt. Print. Off., 1939, v. 31. p. 320–321.

[15] Cambridge History of Poland. p. 147.

[16] Lord. *Op. cit.*, p. 200–201.

[17] Eversley, Lord. The Partitions of Poland. London, T. Fisher Unwin, Ltd., 1915. p. 107.

[18] Encyclopaedia Britannica, p. 139.

[19] Cambridge History of Poland, p. 151.

STATE-LOCAL TAXATION, AN OVERVIEW

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 30 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, as a result of the Serrano decision in California, the property tax—our oldest revenue raising instrument—has come under increasing public scrutiny and criticism, much of it, I might add, fully merited. However, most of the attention involved in this new reappraisal of the tax has centered on the incidence or equity side of the question. While I would certainly not deny that these are very important considerations in evaluating any tax system, I think it should also be remembered that there is a second, equally important area of concern; namely, the economic impact of a tax and the effect it has on economic growth, resource allocation, and capital formation.

I have recently had the pleasure of reading an article by one of the Nation's leading experts in public finance, Prof. C. Lowell Harriss, of Columbia University, which cogently focuses on this often neglected aspect of the property tax. I think it provides a much needed additional perspective to the current debate on the property tax and would commend it to my colleagues for their consideration.

Mr. Speaker, in addition Professor Harriss' article deals with the broader matter of incentives for capital formation and the effect that overly heavy taxation of business income may have on that crucial component of economic growth. In this time in which we are hearing so much about tax reform and the need to eliminate so-called loopholes and windfalls to business, I think Professor Harriss' article provides a much needed antidote to some of the current reckless rhetoric emanating from the other side of the aisle:

STATE-LOCAL TAXATION

(By C. Lowell Harriss*)

By what criteria does one judge a tax system? Three may serve: revenue adequacy, equity in distribution of the costs of government, and "efficiency" in the sense of conformity with (or least obstruction to) economic and social progress. Each of these, however, has many aspects. Just think of the meanings of "equity" as applied to taxation. Or the host of elements which combine to make up "progress" and the countless ways

---

Footnotes at end of article.

in which taxes influence producers and consumers (beyond the obvious extraction of dollars).

Additional complications arise from the fact that each of 50 states has devised its own tax system, and Congress has developed a 51st for the District of Columbia. Within the states, around 70,000 local governments impose taxes in variety beyond any possibility of examination here.

So I shall be selective. Doing so enables me to touch a bit on each of the criteria—revenue adequacy, equity and efficiency.

"ENOUGH" REVENUE? PERHAPS

You might almost jump in startled disbelief if I were to say "State-local tax systems will yield adequate revenue." Such would be too sweeping. But the facts are more than impressive.

State-local tax systems now yield revenue on a scale which only a few years ago would have seemed beyond belief—five times as much as 20 years ago, with annual rates of expansion of about 9 per cent. New accounts highlight "gaps" and "shortfalls" and "unmet needs." But what is news can give an erroneous impression of more typical cases. A more comprehensive overview is now possible.

Dr. Elsie Watters of the Tax Foundation will soon present new projections of state-local expenditures and revenues. She has made her preliminary figures available, subject to revision.[1] In summary, they leave no doubt that *existing* state-local tax systems (plus federal grants *already* on the books and various charges and other nontax sources) will finance expenditure growth at a rapid rate. On assumptions which seem to me reasonable, revenues will "rise enough to meet foreseeable needs"—by a definition of the term which is more generous than strict. This concept of need allows an "improvement" factor equal to that of the 1960s.

State-local tax systems now have more automatic upward elasticity than is often recognized. If property value increases were reflected more promptly in assessments, the revenue responses would be even prompter and larger. In three years through 1970 *per capita* state-local taxes rose by nearly $100 to $427. Making rough allowance for tax changes voted in 1971, I see Dr. Watters' 1975 projection as over $600 *per person* ($3,000 for a family of 5) in 1975.

The state-local tax systems now on the statute books will finance a rising level of performance of functions including improvement of quality (after allowing for inflation). Adequate? A few comments later.

These conclusions apply to the country as a whole. Exceptions will exist, and some will stand out. Some large cities, for one reason or another, will depart from the general average. The amounts can present difficult strains in individual cases.

But for state-local government as a whole the actions of recent years in adding new taxes, and in raising the rates of old ones, plus the increase in federal aids (over 10 per cent a year projected to 1975 without new programs), assure revenue increases which can pay for the existing quality of state-local services supplied to a rising population and also permit continuing improvement.

These projections, let me emphasize, build *cumulatively* upon more than two decades of high rates of expansion of state-local taxes and spending. Year after year annual growth rates—*without* federal grants—have been nearly 10 per cent. This rate is much above the rate of rise in personal income or in federal spending (or revenues) or in corporate earnings or in gross private domestic investment.

State-local government (excluding federal aid) has been *the* growth sector of economy. Taking into account the $25 billion increase (1972 fiscal year over 1950) in federal grants, one finds even greater evidence of the expansion of state-local spending.

In other words, and in addition to high federal taxes which finance growing grants in aid, the American people have already subjected themselves to state-local taxes at levels far higher than ever before. Some states and communities, of course, impose much heavier taxes than others. By the standards of say, the top quarter in providing services and taxing to pay for them, some are much below.

Unquestionably, many advocates of greater spending will find the growth rates of the projections "inadequate." Present taxes, and even higher ones, can never meet "desires"—and, as seen by some persons, "needs"—for more government spending.

PROPERTY TAXATION: MORE PROGRESS, LESS POVERTY, GREATER EQUITY

The largest revenue producer deserves more citizen and business attention—and in much of the country more intensive use. It has faults galore. As it exists in practice one place or another it can be justly criticized by every criterion relevant for judging a tax. Yet property taxation can be made into one which by every criterion is a good tax—and by some seems to me to be the best of all taxes for a large fraction of local expenditures.

Property taxation will be with us, as a major element of the economy, for as long as we can see. But gross inequities exist because of poor assessment. High rates on buildings impair economic progress. Low rates on land discourage best use. Increases in value created by society which seem to me the most equitable basis for financing (local) government are taxed only slightly. The opportunities, and therefore the challenges, for improvement are huge. They ought to get the best efforts of which we are able.

The general outlines of reform seem to me clear. Much agreement will be found, some disagreement—and a lot of opposition. As I have studied property taxation over the years, here and abroad, I have become increasingly convinced that feasible improvements offer tremendous hope for bettering our communities, our businesses, our homes, our whole economy—while distributing the costs of government more equitably.

Better Administration.—Some of what needs to be done should be obvious—improve administration. One can pick almost any adjective of opprobium, and it would properly apply to property tax administration in more than one community. The defects *can* be reduced. They should be. The methods have been formulated. Many have been tried, and tried with considerable success, in more than one place.

One would hope that civic organizations, business and professional associations, and other groups seeking to advance the public interest would give active support to property tax reform. The recommendations made years ago by the Advisory Commission on Intergovernmental Relations provide a solid basis. The Federation of Tax Administrators and the International Association of Assessing Officers among professional organizations have continuing interest and exert leadership for improving administration. Within some states and localities there have been constructive effort, as well as obscurantist opposition. State governments have a potential role of major importance. But the lags are distressingly long and numerous.

Hardship Relief and Exemption.—Another area of property tax improvement is, in the words of the Advisory Commission on Intergovernmental Relations, removal of the "equity stingers." Relief can be granted to older persons and families of low income without undue cost. The issue of the erosion of the property tax base through exemptions calls for effort in much of the country.

Rational Recognition of Economic Reality: Site Values as the Base for More Revenue.—A more fundamental reform rests upon a basic economic principle. In an inherent economic sense "the" property tax is two basically different levies. One rests upon land as the product of nature and society. The second is the tax on buildings, machinery and other manmade property.

Reform of the property tax offers an opportunity for a change which *can* be achieved and which will alter the incentive system so that men will then modify their private behavior in ways more conducive to community well being.[2]

The basic idea is old—but largely untried: Reduce tax rates on buildings and machinery, substantially, and boost the rates on land values. The use of land values to finance local government offers attractive opportunities. High and rising land prices could provide more funds than they yet do for much needed services of local government.

In many localities the property tax now exceeds $220 a year per capita—over $1,100 for a family of five. At such levels it exerts powerful effects, not merely the taking of money but also the influencing of investment and land use. Nonrevenue results are substantial.

The tax on buildings (and on machinery, inventory, and other tangible personal property) can have the most undesirable nonrevenue effects. The quality and quantity of improvements including housing, suffer. The tax on land, however, can be one of the best to get funds for local government. In fact, the tax on land value can be the most nearly painless way to raise large revenues—and to raise them equitably—while exerting desirable nonrevenue results.

Urbanization—Costs of Space and Land Prices.—The quality of life for the tens of millions who live in cities suffers because funds are not adequate for the facilities which governments are expected to provide. Yet, people pay "heavily" for living and working space in the city. Their demand for room sends land prices up and up. And most of the increasing amounts which urban residents pay for the use of city land go primarily to private owners. The issue is not whether the user must pay but how much will go to government, how much to the owner of land at purchase or by annual rental.

The congestion in cities which multiplies the need for governmental services also creates a potential source of funds for meeting some of the costs (1) without making the user of land as such the worse off and (2) without endangering the supply of land. Moreover, the tax which brings about this result can also exert pressure to put land to better use.

Land—Location—as a Product of Nature and of Society.—Urban land as a productive resource resembles labor and capital in some respects but differs crucially in others. The similarities include the fact that parcels of land, especially the desirability of location, vary greatly, as do human skills and machines. An outstanding difference is the way they come into existence. Labor and capital are manmade. The quantity and quality of training, the vigor of human endeavor, the amount of machinery and structures—all these depend in part upon what individuals expect to get in compensation and the payments they actually do receive. To get such productive capacity, society must pay. Moreover, attempts of society to take back through taxes what customers have paid for the services of capital and labor will affect the future supply.

Not so, land. Nature created it in the physical sense—and society has created much of the demand which makes some location highly desirable. The amount of land in existence will depend scarcely at all upon the amount paid to use it. The payment, how-

---

Footnotes at end of article.

ever, does make a difference in what becomes available for active use, and the particular use to be made of a parcel, its allocation among alternative uses.

Because parcels of land, especially in their characteristics as space and location, do differ immensely, something to help allocate use efficiently is of utmost importance. Payments for use of land do perform a function of outstanding significance—allocation—but not, as for man-made productive capacity, also the function of inducing the creation of the productive resource.

Except, and this exception is important: costs borne by private developers, and even more so the costs incurred by the community, do affect the desirability of locations. Around large American cities from $15,000 to $20,000 of government spending on streets, schools, water and sewage, and othe facilities is often needed for each new dwelling. As such facilities are built, as population grows and incomes rise, land prices go up. The National (Douglas) Commission on Urban Problems estimated that in the 10 years to 1966 (and despite rising tax and interest rates), land prices rose by over $5,000 per family. Even a modest fraction of the $250,000 million if used for financing local government would have permitted a welcome reduction of burden on buildings.

Criticisms of property taxation as seriously regressive fail to recognize that the tax on land is "capitalized"; prior owners have, in effect, paid the tax in perpetuity; present owners or users do not bear the burden whatever they may believe. Moreover, a part of the tax on buildings and machinery is a general tax on capital. The owners of capital cannot, in fact, shift all of this tax to users (consumers or tenants) or to owners of land. The results are more complex than can be examined here. But the analysis casts much doubt upon the regressivity conclusion. Certainly, owners of large amounts of property will often bear large amounts of the tax. And low income and wealth groups owning little or no property will bear little or none of the property tax as it falls upon suppliers of capital.

Land cannot move. Its quantity—space in its basic nature—is fixed. Tax it heavily, and it will not move to some other place, or decide to take a vacation, or leave the inventory of productive resources by going out of existence. Tax land lightly, and the favorable tax situation will not create more space on the surface of the earth. Rarely will the amount of space or surface in an area be subject to more than a little change by actions under the control of man. The value of location does depend in part upon what is done, especially by society, to make the area attractive. Prices of land, often "high," result to a considerable extent from investments by the general body of taxpayers. A heavy tax on land will not reduce the supply of space. And it can recapture, to pay some of the costs of local government, much of the annual rental value or worth of what the public itself has created.

Private Ownership of Land.—Does the ethos which ties equity (economic justice) to rewards based on accomplishment lead to justification for large rewards because of ownership of land? Differences, perhaps big ones, in payments for human services or for the use of capital can rest on what the recipient has done, his accomplishments as valued by consumers in the market. But the owner of urban, and suburban, land has difficulty showing any comparable justification.

The "moral" justification for reward related to creativity gets a bit thin and tenuous when related to many of the increments in land prices. The owner's contribution to production may have been nil or slightly positive in getting land into better use from time to time. But he may have kept it in a use much below the true potential worth to the community. Compared with labor and capital, land offers much greater possibilities of enhancement of private wealth without regard to the productive contribution of the person benefiting. The owner, however, does have incentive to allocate and to direct use into better rather than poorer alternatives. The scarcer the land and the greater the price it can command, then the more important for the community that it be used well. Private ownership presumably tends to bring about this result.

Urban sprawl is familiar. A drive in or around a large, or not so large, city leaves no doubt that failures to make best use of land do occur. They are most likely to result when the owner is free from great pressure to search out the best opportunity and then to exploit it. If he is ignorant of the possibilities, he will not get land into best use. Or he may be well enough supplied with income to be able to indulge his preferences for some suboptimal use. Out-of-pocket costs (after taking account of income tax deductibility) may be relatively small. Perhaps he may delay change in land use because sale of his land would bring a heavy tax on capital gain.

Property Tax Effects on Structures.—The supply of buildings presents a striking contrast to land. Heavy taxes on buildings produce several nonrevenue results. These taxes help to account for some of the deplorable features of our cities. There is merit in reducing the tax rate on structures.

The property tax on buildings hits well-constructed, high-quality, structures far more heavily per unit of floor space or cubic contents than it does slums and "junk." The element of property taxation which falls on buildings creates an incentive against upgrading of quality, especially in those parts of older cities with most urgent needs but also with high tax rates. Such unintended and undesirable discouraging of private effort to raise quality does not come from the tax on land.

When his tax bill goes up because an owner has constructed a better building, he does not get correspondingly more or better government services. But his investment will usually have produced advantages for others around. As compared with the old, deteriorated, property on which tax was low, the new, high-quality building will bring the general public positive "neighborhood benefits."

Would not wise public policy encourage better structures? Without deliberate design, the present tax favors buildings which produce bad neighborhood effects. The owner of dilapidated structures—residential, commercial, industrial—will be freer from economic pressure to replace with something better if his tax goes down because the building gets worse. Any individual or business wishing to shift to use of a higher quality structure must also pay more toward the costs of government—$1 more of taxes for each $3 (or even $2) of annual payment for the better facilities themselves.

Cities which urgently need to replace obsolete buildings must now rely heavily on a tax which creates a bias against replacement.

Taxes and Maintenance.—The quality of space within buildings available for work and living will depend greatly upon the *maintenance* of the stock of older buildings. Undermaintenance forms one way by which an owner can reduce his net investment in a building. His actions in letting a building run down will affect others, the larger neighborhood. Deterioration of a minority of buildings can hurt a considerable area. Good maintenance can be combined with spending for improvements which have "spillover" benefits for the whole neighborhood.

Though often overshadowed by income tax and other considerations, property taxation has some influence on maintenance, adverse influence. The tax reduces the net return from the structures and thus the attractiveness of putting more dollars into such properties. Dollars paid to the local treasury are not available to finance maintenance. And with or without good reason, the owner may fear that a "repair and maintenance" job having visible results will bring an assessment increase.

Effect on Price—Building and Land.—The property tax on buildings adds to the cost of supplying them and to the price which must be charged.[3] The tax on buildings, but not the tax on land, deprives the consumer of more real benefit than the dollars paid to government. For example, within considerable limits, the cost per cubic foot of construction declines as the size of the house, apartment, office, or other unit increases. The tax on structures, however, creates pressure for building smaller units, with less of what we really want in living room and amenities per unit of labor materials used in construction. By indirectly altering the type of construction, the tax on buildings thus deprives the occupant of potential benefits for which government treasuries get no dollars.

The tax on land, however, makes for a lower price. If tax is increased, the amount remaining for the owner drops. The price a buyer will pay goes down. Government taxes more. The user pays no less for each year's use, but government through taxes preempts more.

In this way property taxes on land are "capitalized." They reduce the price which a buyer will pay. Thereafter, the user (buyer) of the land turns over, in effect, a part of the yield or produce to government. But the person who has purchased after the tax became effective does not suffer from it. The owner of land at the time "paid" the tax increase in perpetuity. In practice, what he fails to get may be only a portion of what would be a rise due to social change. Land prices will vary inversely with taxes, other things being the same. But higher land taxes may provide better services of local government and permit lower taxes on buildings and by encouraging construction raise demand for land. The actual decline in land prices may over a period of time be less than originally expected—or in some cases not actually develop at all.

Other Undesirable Effects of High Taxes on Improvements.—High tax rates on buildings (and little reliance on land value) will reinforce incentives for creating "islands" of relatively low tax rates. A few localities in the metropolitan area will have tax resources which are above average in relation to service obligations. With lower tax rates they can have above average quality of services, attracting still more investment.

Some communities use zoning power to exclude types of property associated with high governmental expense—the high-density housing which requires heavy school costs. Other parts of the metropolitan area, however, must pay higher taxes; elements of a vicious circle gain strength.

"Lower" taxes on buildings in the fringes encourage dispersal and the development "far out" of activities (including housing) which "ought not" to be so distant. Each increase in tax rate near the center will reduce the value of the property and the tax base. Many buildings in the older section will have deteriorated but yet have some "useful" life and a potential of prolonged decline before replacement. Owners of land with obsolete buildings delay replacement, in part because the speculative holdings of the land can involve little out-of-pocket tax costs. The tax base tends to go down, aggravating the need for higher tax rates. Businesses become vulnerable to competition from outlying neighborhoods.

People who wish to escape the urban center must leapfrog over the "islands." Such land

---

Footnotes at end of article.

use imposes higher costs than if population were spread more in accord with factors free from the influence of tax on buildings. The disadvantages take the form of (1) costs in time and money of traveling greater distances from home to work; (2) higher expense of supplying water, sewer, and utility services over the far larger area; and (3) reduction in economic and social benefits with concentration of population facilities.

Basic Reform.—A change in the economic framework would permit raising the same amount of revenue but with significantly different, and better, nonrevenue results.

Progress will come from redesigning property taxation, not to reduce total revenue yield (for needs of local treasuries seem too great). The change would recognize and build upon the essential difference between land and buildings (as well as tangible personal property). Both the legal (constitutional) and the administrative conditions would differ widely from one state to another—and among localities within each state. In effect, the tax rate on buildings and other improvements would go down and the rate on land would go up. Perhaps a 1 to 3 rate relation would be a reasonable goal, but even bigger differentials would seem to me desirable if quality of administration would permit. Substantial cuts in burdens on structures could be financed by higher taxes on land—with large benefits to the community.

BUSINESS TAXES

State-local use of "business" taxes is overshadowed by federal income and payroll taxation. The temptations to tax "business" are understandably attractive. Where revenue pressures are great, lawmakers may be inclined to tax people indirectly through business, rather than directly through consumption and income taxes.

People, Not Things, Bear the Burden of Taxation.—Taxes are paid by people. One may speak of taxes falling on business, corporations, cigarettes, property, inheritances, income, or some other tax base. Yet it is not things, but people, who are deprived. Failure to recognize this fundamental lies at the base of much avoidable error in making tax policy.

Hidden Versus Evident Burdens.—In some cases it is much easier than in others to judge which individuals will be affected by a tax—and by how much.[4] In choosing to use hidden taxes, those which "conceal" the costs of government from the persons who pay, society sacrifices one instrument for helping to make better, rather than poorer, decisions on government spending. True, something can be said in favor of arrangements which free us from worry about taxes. Yet is there not more to be said for the principle of selecting taxes which are sufficiently evident to the taxpayer to enable, or force, him to relate them to the expenditures of government? Another, and perhaps more serious, indictment of indirect taxation is that one form consists of heavy burdens on businesses whose operations suffer as a result.

Justice in the Distribution of Tax Burdens.—Taxes, whether borne directly or indirectly, will be not only *heavy* but also *unequal*. Some people must pay much more than others. Being heavy, unequal, and the result of the use of government's power of coercion, taxes should be generally *fair, just, equitable.* Notions of what is fair in taxation differ considerably and always lack precision.

Two conclusions, however, seem clear: (1) Taxes on business income are *inequitable* by *any* reasonable standard, but on this score they compare moderately well with taxes on consumption and property (wealth). (2) One basis for condemning American taxes on business as they actually exist is that these levies run counter to reasonable standards of fairness. The public, however, seems sufficiently misguided to support the continuation of these taxes whose real burdens fall in ways which hardly conform to ideas of justice.

Role of Business.—Businesses are the organizations upon which Americans rely for most of what is produced. Although valuable results come from the efforts of teachers, judges, military personnel, and other employees of government—as well as from the efforts of those who work for private universities, hospitals, and other organizations not seeking profit—most real income consists of what people accomplish through business firms. Employment expansion depends overwhelmingly on business.

Business is the public's major agency for organizing labor and capital to produce—and to produce more, rather than less, efficiently. Businesses are *groups of people* seeking to benefit themselves by serving others. It is this service, whether in producing and distributing *things* or in rendering *services directly*, which the public wants. The process of meeting the desires of consumers can be more or less *efficient* in terms of inputs per unit of output. A market economy relies primarily upon *competition* in markets to induce efficiency—and to stimulate growth. For it is in business organizations that we find not only the source of more of the old, but also most of the venturesomeness which leads to the innovations that contribute much to rising living standards.

The public interest calls for each business: (1) To turn out products or services which are wanted more than something else, as reflected in freely made consumer decisions expressed in the market, or through government agencies. Part of this task of business is to anticipate, identifying wants which can be satisfied by new types of goods and services. (2) To produce by methods which economize on labor, materials, capital, and other "inputs" according to their relative scarcity and productivity.

The total accomplishment of people working as business organizations will depend upon many things: the training, inherent ability, and acquired skill of workers; their willingness to exert effort; the amount of capital—in the physical sense of buildings, equipment, and inventory, and also in the financial sense of money, without which transactions as we know them would rarely be possible; the degree of competition; present and expected demand; the state of technology and speed of scientific advance; the competence of management; and other things. Among the "other things" are some for which government is responsible—the system of law and order is one, and the tax structure another.

Taxes are *obstacles* in the sense that they take from the taxpayer without directly giving him an equivalent. Do taxes on business firms help the community to get the output most desired? Such taxes do not improve the process by which consumers indicate the relative importance of their many desires. Nor do taxes on business income help managers learn about the relative scarcities and productivities of inputs. But taxes *do* affect the alternatives which a business manager must consider the incentives open to him when acting for the company. One incentive is to reduce taxes. In adopting methods which cut the tax bill, however, a business does not economize on the "input" of government or reduce in any perceptible way government's use of resources. Nor in selecting a tax-saving alternative does the firm increase its operating efficiency in the sense of using fewer real inputs per unit of output.

A business, in fact, may wisely adopt methods which are "second-best" as regards the use of resources. The tax factor makes some methods financially the best when in a more real sense they are inferior. Taxes thus give rise to an element of conflict between private and public interest. They induce the manager to redirect the firm's activities, away from what is fundamentally most efficient. Taxes lead to results which are less than optimal when judged on the basis of economic productivity and the allocation of resources.

Productive capacity is not allocated to the uses, and in the proportions, which are fundamentally best. Too much investment goes into forms with less burdensome tax consequences; too little then goes where taxes will be high. The economy loses some real income. The loss is a burden—but one which is largely concealed, which cannot be measured. As taxes on business operations have gone up, the effects of distortions have certainly increased.

Looking ahead, I am convinced that our economy "needs"—expects—more capital than is likely to be available. Federal tax policy bears upon this problem more than state-local taxation. Nevertheless, the state (or locality) which wants to benefit itself (its people) most should refrain from business taxation to the extent practically possible. In the competition for capital, taxes do make a difference, albeit one which can be overshadowed by other forces.

A business must have equity capital, and supplying it costs something. The stockholder sacrifices the opportunity to use his wealth in some other way—lending or buying power. Such sacrifice is an economic cost. Although income tax law and traditional accounting do not recognize this cost as a deductible expense of doing business, consumers will not get equity capital to work *for* them—and employees will not get equity capital to work *with*—unless the people who can provide ownership capital expect to receive total net benefits which will equal those obtainable elsewhere.

In other words, suppliers of capital, whether in debt or equity (ownership) form, expect to be rewarded. What counts are the rewards *after tax*. A "normal" after-tax return on equity capital is an *essential economic cost*. The net after-tax yield which a supplier of equity capital will insist upon, in expectation, will be as high a yield (conceived broadly as a total net benefit, including growth in value perhaps as a share in economic growth) as he could obtain from any alternative use of his funds.

Expansion calls for new capital, and in the modern world mere survival often requires growth. To get new capital, the business must offer attractions which are equal to those otherwise available to the suppliers of funds. Where can the company, in turn, get funds to compensate the persons supplying capital? It must look to customers for dollars. The lower its taxes, the better its competitive position in offering adequate after-tax yields and in attracting customers.

Space limits prevent more discussion of the many aspects of state-local taxation of business. Two topics which would warrant considerable discussion are (1) taxation of interstate business and (2) various tax incentives. And each industry group will have its own state-local, as well as federal, tax concerns.

PERSONAL INCOME TAXES

State—and local—use of personal income taxes has risen markedly. With the recent entry of Illinois, Ohio, Pennsylvania and other "holdouts," and with rate increases in state after state, total yields will go up even more than in the past (relative to national income). An element of upward revenue elasticity will now play a greater role in financing expenditure increases without going to legislatures for action needed to boost taxpayer obligations. Of course, the elasticity differs considerably from one state to another and does not approximate that of the federal tax.

Among states the weight of the tax (relative to personal income or when compared with federal adjusted gross income) varies widely. At the high end are, among others, Alaska, Delaware, Hawaii, New York, Oregon and Wisconsin. To identify those which are low might find disbelief on the part of

---

Footnotes at end of article.

readers living in such states. Clearly, however, several states using personal income taxes do so with moderation compared with others.

The tendency to pattern state taxes on federal—"conforming"—has simplified compliance for taxpayers and administration for governments. Some states, however, have sought to utilize a broader base, much closer to AGI as reported for federal tax purposes. A major objective is greater revenue per percentage point of rate imposed.

Space limits preclude further discussion of the present and possible future use of personal income taxation at the state level—and the use of earnings or personal income taxes at the local level.

The heavy reliance of the federal government on income taxation does, it seems to me, lend force to the arguments that this base is not so overwhelmingly the best for state-local use as academic writings tend to assume. The issues call for discussion which is not possible here—except to say that in fact defects of income taxation as it exists in practice destroy some of the theoretical luster of more intensive use.

CONSUMPTION TAXES

States have come to rely very heavily upon consumption taxes.[5] More and more local governments also tax retails sales and several specific products and services.

Much criticism of general sales and other consumption taxes rests upon their regressivity. The more valid basis for condemnation seems to me to be the burdening of the lowest income groups. Is this not, really, the chief reason why men of goodwill oppose regressivity? I believe that it is. Therefore, I welcome the moves of 8 states to eliminate the burdens of retail sales taxes by tax credits for the lowest income groups. Above what is thus in effect a personal or low-income exemption, the tax as it applies will be, year in and year out, roughly proportional with consumption and almost with income through a range of income which includes most Americans. Consumption taxes do not burden saving, but they do reach spending out of income which escapes (full) income taxation as well as spending out of capital. The exemption of new saving, i.e., income which is not used for consumption, gives some albeit small, encouragement to captial formation. Looking to the future needs of our economy for capital, I see reason to applaud such an offset to the general anticapital bias of our tax system.

Another point is to note the extension of coverage from durable goods to a wider range of services. This trend has much in equity and economic efficiency to commend it.

Finally, but less welcome, too many of the "retail" sales taxes still apply, too broadly, to producer goods. As the tax rates move upward, so do the economic disadvantages of what is in effect a double tax. The tax applies to producer goods and then to the value of what they produce.

GROWTH OF SPENDING

State-local taxation will depend so heavily on the growth of spending that some explicit discussion belongs here.

Wants Exceed Economic Capacities.—*Scarcity*, this is what economics is about. Not enough to go around. Governments, like families and businesses, face this basic reality. But "claimants" on funds of government seem to hope to overlook it, i.e., too often advocates of spending programs underestimate the persistence of scarcity. Almost anything which can be done by using money could probably be done by government in this country. But *not everything*. Does not the source of much current disappointment lie in failure to recognize the distinction between the "somethings" that *are* possible and the "many things added on each other" that are *not* possible?

Marvels of science and of economic organization which we take for granted do serve us well. But to anyone tempted by the vision of "plenty for all" or that old assertion, "the problems of production have been solved so that inadequacies result from maldistribution," to anyone so attracted, the economist must say, "Don't hold your breath." Wants exceed our ability to satisfy them. Thus we have problems of economizing. So will our grandchildren.

Not long ago we heard of *affluence*. The achieved levels of living of most Americans do vastly exceed anything ever realized, any time, any place, except by a small minority. Obviously, however, many wants which we feel today are not all satisfied.

Some of the shortfall applies to goals through government—security in a restless world or on the streets nearby, education, decent provision for all the needy. Some shortfalls are of things which we feel that we ought to get from the results of our work; the income we earn ought to buy more in the market place.

A sizable chunk of the disappointment with what we can get in our private buying power results from the *tax bill* needed to pay for (1) schools and defense and other governmental services plus (2) transfer payments for welfare and Social Security. *Per capita* taxes, including those more or less hidden, have risen (1971 dollars) from under $1,000 in 1961 to around $1,500 in 1971. *This rise of $2,500 for a family of five must certainly help to explain some current lack of satisfaction.* Do we sense improvements in the governmental sector worth this cost?

Aspirations and expectations have risen. For some of us they seem to have gone up more rapidly than our ability and willingness to work, to save, and to raise efficiency in production.

The ballot box has not yet become an Aladdin's lamp. Electoral campaigns spawn promises. They raise expectations. Voting, a rather easy hour's "work," decides elections. But elections do not teach children mathematics, make two blades of grass grow where one grew before, or fill the winter's potholes. "Urban Edens" will not emerge easily or quickly.

The scarcity which underlies life must inevitably affect what we can do through government. In producing goods and services, the political process is no substitute for working. Nevertheless, political oratory—and extravagant talk is not limited to election time—may give the impression that through government "we" can get something for nothing. Congressional opponents of revenue sharing see realities which governors and mayors are hoping to escape.

Hope for Benefits Obtained Cheaply.—Some of the public, however, *can* get benefits paid for largely, or entirely, by others. Here there is a real possibility—but for a minority. This dream, however, has come, both subtly and blatantly, to influence general attitudes toward the use of government. This hope has effects on the financial relations among governments which now haunt the corridors of every legislative body, from small school boards to Congress.

The Santa Claus hope does exert a pervasive influence on the debates about local and state need for dollars. The members of a small group, of a locality or even an entire state, can try to escape the full force of economic scarcity by putting costs on others. The advocate may believe that his goals are the praiseworthy desire to get funds for eminently desirable purposes or persons.

But just as "pure hearts do not make pure air," generosity and compassion do not pay the bills. They do not do the work that creates real income. Is it not human, however, to feel impatient with the constraints of scarcity? "Instant solutions," however, have solved rather little, despite costs which are at times heavy. The typical response to disappointment seems to be to ask for more dollars. To get them, advocates fill the air with more strident insistence that things are wrong, and in crisis proportions. And, of course, someone else ought to be able to meet the cost.

Governmental Boundaries in an Open Economy.—Some disappointment in using state and local governments as instruments for meeting needs arises because intuitively we expect the units to which we attribute the designation "government" to have more *economic reality* than in fact is the case. Wide differences in levels of production (per capita) and of living have been due chiefly to factors other than the differences in things which state governments do. As a result, state lawmakers in imposing taxes have been limited in their ability to "latch on" to valuable differences in services which are provided by state governments. (A few states do finance themselves in part from differences created by *nature*, e.g., severance taxes on natural resources.) Income and wealth are mobile. When a state government does not actively contribute to the creation of income, then taxing the process of income generation has only limited potential unless others are generally doing so.

Much the same may be said of local governments. As areas or regions, the differing relative economic strengths of localities have resulted to limited extent only from government services.

With heavy reliance on local government to provide education and other services, America has developed different levels of local expenditures. Some inequalities became disturbing, then unsatisfactory, then even obnoxious. And they would have become more striking if local governments had been fully autonomous. Terms such as "imbalance" and "mismatch" convey some of the recognition that economic and political (governmental) areas do not coincide.

Political boundaries in an essentially open economy have had only limited economic effect. The results of this separation of economic development from political influence have been immensely valuable as compared with what would probably have resulted if Americans had been freerer to use political power to bolster "protectionist" and other restrictive economic practices in state and local areas. But the general economic benefits of rising income have not been expressed so fully in governmental services in some areas as many people have hoped.

Capital "Shortage."—A feeling that this country is amply able to supply new capital facilities seems to have crept into much thinking. Compared with "needs," present and future, conditions are less satisfactory. Americans in recent years have saved on the average (net) around 6 per cent of their after-tax income. These amounts along with corporation earnings kept in the business are too low to satisfy prevailing and developing aspirations.

Some of the strains and difficulties that state and local governments are seeking to deal with reflect the "low" level of saving relative to the "high" level of aspirations for capital goods. State and local governments need funds to finance capital improvements. To get the dollars necessary from the limited supply of funds available in capital markets, governments must compete with others—with electric and other utilities, the housing market, and industrial needs. The amounts, however, will not be adequate to meet the expectations of Americans.

Any *one* individual program (housing, hospitals, schools, utilities, environmental betterment), or any *one* community or state, can hope to escape the limitations set by the supply of new savings. Getting outside assistance offers the possibility. *But not the government sector as a whole!* "Rearranging priorities" can be highly praised. It will not, however, increase total availability.

Population Changes.—Today's stresses and strains in government finance owe much to population changes. Since World War II

Footnotes at end of article.

our population has grown by more than the total of Italy plus Scandinavia.

Imagine what public finances would have been over the last 20 years if school population had not risen by around 25 million!

Children are expensive. Just when family finances are heavily strained, families are expected to pay taxes for a governmentally provided function, schooling, which is expensive. And it is one which most parents hope to have performed on a rising level. Each child is young only once. *His* or *her* chance for good schooling cannot be paid for out of his, the family's, or the country's income a decade later. How natural for parents to press for better schools now!

School outlays (including nongovernmental) have soared. From around 3.4 per cent of Gross National Product in 1950, they more than doubled—to 7.1 per cent—by 1970. This financing represents an enormous achievement. With the lower level of births of recent years, "solution," though unattainable in an ideal sense, ought to be approximated more closely.

Aging also proves expensive. A generation badly hurt by the Great Depression included a large number who had not provided adequately for their retirement. Inflation, of course, has magnified the dollar need.

Movement from country to city reduced the ability of the family to provide for older persons in the form natural through most of history—life on the farm supported by some contribution of effort. Earlier retirement, some quite involuntarily, reduced the productive capacity of persons who would continue to consume. Their ability to pay taxes has often been slight. Traditional arrangements would not support the larger numbers in the newer conditions, including inflation. "Government" was to be given key responsibility. Today, much of the largest means, of course, is Social Security (Old-Age and Survivors' Insurance). The financing is by federally imposed taxes. But in fact all levels of government are affected by this rapidly rising use of taxpaying capacity. A significant fraction of our taxpaying capacity goes to pay benefits to persons retired. The employer's portion we can think of as either adding to the prices we pay or reducing income; in either case, the taxes paid are not available for schools or policing or airports or eliminating governmental sources of pollution. Per capita over all our population (not per employee), the *payroll* taxes in 1972 will be around $250 (including Medicare) compared with $70 in 1961. A basic economic fact recurs: Resources (taxpaying ability) used for one purpose cannot be used for another. Higher burdens portend more trouble for state-local ability to tax.

Mobility influences government finances. The nation-wide total of state-local spending in this land of diversity will depend upon *where* the people live. Each year many move. High service levels will *attract "users"*; high tax levels will *deter taxpayers*. How much in each case? No good measures are available; the amounts must vary significantly from place to place and time to time. But the basic tendencies will be clear. Competition among communities and states will exert restraining influences—against higher spending and heavier taxes.[6]

Freedom and Spearheads of Progress.—The amount for which people will pay in taxes will depend more than a little upon the benefits they expect to get. Grudgingly, reluctantly, often with vigorous dissent and objection, voters *will* tax themselves and their children. If the issue is one of paying for services in distant communities or across the nation, will not the enthusiasm be somewhat less?

Does it not stand to reason that the amount of tax money spent, and the quality of services financed, will be greater when the people paying do so for themselves than when their taxes are spread over a whole state or a whole nation of which the particular group is a small percentage? The correct answer to this question is probably nearer to "yes" than to "no." Compared with a uniform average over a large area, more points of progress, more cases of pressing ahead, of initiative and payment for better services, are likely to develop when communities (and states) are able to use their own economic resources for themselves and their children.

Let no one romanticize the virtues of local government. (Nor the federal accomplishment.) Things in many communities are less than ideal as regards public services relative to ability to pay (or poor relative to the amounts actually paid). Voters may be misguided. Many of us would like our neighbors—and people elsewhere in state and nation—to spend differently. But are the things which are financed through state capitols or Washington better per dollar spent than those from local outlays? Sometimes yes, sometimes no. Nothing approaching "proof" can be cited to resolve doubts beyond question.

Where things are *best*, however, local freedom and decision will probably be playing a part. The *best* Getting voters to submit themselves to taxes is no easy matter, but result must count in the long run. Not everything that someone of goodwill believes to be desirable—not even every added outlay for schools or hospitals—"ought" to be approved in a world of scarcity. Nevertheless, decisions reflecting local choices will lead to examples of good quality which are not to be expected of a more centralized regime with its pressure for uniformity of results.[7]

Welfare Costs.—A big, and unpleasant, surprise of recent government finance has been the growth of welfare costs. The post-World War II growth of personal income (after full allowance for price-level changes) has been widely diffused. Despite the increase in population, one would have expected a drop in the need for welfare aid. The fact that outlays have multiplied testifies, among other things, to the low levels of aid traditionally provided in much of the country. Hopefully, we ought soon to be within sight of "solution" in the sense that legitimate needs would be satisfied without growing outlays. Yet optimism gets little foundation in the record. Five points deserve comment.

(1) The "tax" of 100 per cent (or nearly that much) on welfare recipients' earnings above some point defies rational economics. To have *created* an *obstacle* to what is obviously so desirable—incentive for the needy to try to contribute to support for self and family—scarely testifies to "our" foresight. To have continued such stupidity is even less easily condoned. Awareness of the need for reform leads to hope for better rules.

(2) Equally silly, and inexcusably inhumane, is the incentive for family break-up. Fathers are pushed out of the home. In the 1930s there may have been good reason to design a program specifically for mothers having no support from an "inhouse" father. Yet we still suffer from a monstrously deforming incubus. Once again, recognition of need seems likely to lead to new rules which will reduce the pressure on fathers to separrate from mother and children.

(3) Federal farm programs have done a good deal to shift the residence of the poor—and into areas of more costly welfare aid. Who gave much thought to what would happen to welfare budgets in northern cities as governmental farm programs forced land out of use and encouraged mechanization? Hopefully, what lies ahead in the further displacement of human beings will be less in numbers. The strain on the finances of state-local governments will probably not be accentuated on a scale anything like that due to displacement of humans over the last 20 years.

(4) An underlying economic fact complicates "solutions" of welfare problems. Many people are not very productive. By and large, the American economy pays workers about what their output is worth. Of course, each of us could cite exceptions; some people do get more than the value of what they produce, some less. In general, however, the cost to the employer (fringes included) will be about the worth of what employees produce as reflected in what consumers are able and willing to pay.

Anyone looking at his paycheck, however, sees that as a worker he does not get all that the employer (or the consumer) incurs in cost. Taxes take a chunk. And there are other deductions. For persons who do not produce "much"—because of low skills or poor motivation, inadequacy of tools and other cooperating capital, instability and irregularity of employment, poor management—the net cash will not finance a "comfortable" living. A person's production minus taxes and other deductions may be little over what is needed for a humane standard of living. If he has others to support, a tragically large shortfall may remain.

Our instincts press us to try to finance a level of aid which in terms of the long-run health of the economy will permit conditions for children that are conducive to more nearly satisfactory development of their potential. The nearer we do so, however, the more we encounter a disturbing result: The aid may then approximate as much as many persons can get, and keep after tax, by working. In some cases, e.g., where several members of a family group are dependent, the relief aid may exceed the worth of the output of the head even when he (or she) is working at his (or her) best. When one takes account of the costs of travel and other matters associated with holding a job, and the trouble in getting back on welfare if one leaves, then inherently unwelcome elements must frustrate policy actions; the economic reality of low productivity conflicts with human needs.

No quick "solution" is in sight. But over a not-so-very-long run, helpful progress on the productivity aspect can come from a combination of such factors as more and better training, larger amounts of capital per worker, better management, higher total demand for labor, child care facilities, improved health. (One general economic benefit from Medicaid ought to be better health for some of the working population.)

(5) "Man is the source of many of his own worst difficulties." This sad truth helps to account for another part of the welfare problem. Federal and state minimum wage laws condemn persons of low skills to unemployment and penury. The laws dictate that many persons of low productivity cannot be employed. (Union pressure for higher wages exerts similar forces, but government is not so clearly responsible for the employment-hampering results.) The structure of the economy is not permitted to adjust and adapt to employ productively one kind of labor which is relatively plentiful. Entrepreneurs who might create employment opportunities are in fact forbidden by law from doing so.[8]

Measuring Results Relative to Costs.—Obviously, much of the frustrating uncertainty and complexity of government spending and taxes would melt away if results could be measured. Comparison of benefits with direct and indirect costs of taxes would then show the courses of wisdom. Unfortunately, no hope of large and quick progress can be justified. Inherently, some things we seek through government spending defy measurement.

The large element of personal services in the provision of governmental output involves a type of expense which raises more, apparently, than can be offset by improvements in productivity. Unionization of state-local employees adds to the upward pressure of costs. Assertions that productivity in government does not improve probably oversimplify. Nevertheless, the opportunities for the substitution of capital for labor, and

---

Footnotes at end of article.

for the utilization of facilities which embody advancing technology, do seem to be lower than in many parts of the economy. But we can keep an open eye for ways to take advantage of the improvements which someone succeeds in making available.

When campaigning for election, a state or local political leader will deplore the inadequacy of the accomplishments of the group in power, He will promise more. But to actually deliver more, he must have more to deliver. And the public must deliver more to him—in taxes—for him to spend. Here are elements of *crisis*—disappointment fostered by the political process. The real crisis reflects, more than we wish to admit, a failure to make explicit what is true in government as in the market place—not everything is worth its cost. Truly responsive government, however, must be built upon this reality, *not* upon "desires," "needs," or "requirements" separated from the costs. The alternative which *must* be sacrificed to pay for results must be put into the balance. And taxes have effects, adverse effects, which call for more inquiry.

To improve government, with all its vast significance for life, we need better means of relating benefits and costs. Can we not do more to improve the "controls" on the growth of spending? As higher taxes and larger federal grants shift more of the economy to the state-local sector, what are the results? Is the state-local sector, on the whole, the one that is most productive and most efficient and most humane? Though many exceptions will be found to any generalization, I suggest that there is a presumption against such a shift.

CONCERN FOR THE ECONOMIC BASE

As already mentioned, *mobility of capital* has become a concern affecting governments. The base of economic life has become less tied to specific locations than in the past. In an economy consisting largely of agriculture and extraction (mining and forestry), natural conditions go far to determine basic locations of production. Then, following the choices made for them, satellite and related servicing activities settle nearby.

Manufacturing, however, has an element of freedom. Its growth has reduced the force of land characteristics in determining location. The beginning of this emancipation was not in our generation, not by any means. But since World War II, much of the *growing* elements of the American economy, much of the element of dynamism, has consisted of enterprises which can hope to do about as well in any one of several locations.

Differences in the "packages" of taxes and governmental services can influence decisions about where to locate initially and where to expand or contract. Whatever the magnitude of state-local taxes as a cost element, government officials act with this sort of competition in mind. Concern for their economic base affects what localities and states do. Here lies a reason which is frequently cited for broader-area financing of government, i.e., for taxes which apply over a large area so that localities (or states) cannot compete on a basis of tax differences.

Time limits prevent adequate development of my general conclusions. Competition in government, as I noted earlier, has merits as well as limitations. Transfers, redistributive spending and taxes, must generally apply over broad areas. This function belongs predominantly to the national government, not to states and localities.

CONCLUDING COMMENTS

State-local tax systems differ so much that I hesitate to venture "conclusions." Compared with federal taxes, the better of existing state-local systems rank high, it seems to me, as *regards marginal amounts of tax*. In comparing greater use of state-local taxes with federal (as for financing larger grants), the potentials of state-local sources as they could be developed lead to a considerably more favorable picture than is usually painted. In any case, however, the need for improvement of state-local tax systems deserves intelligent, objective and sustained support.

FOOTNOTES

[*] Views expressed are the author's and not necessarily those of any organization with which he is associated. Assistance from the John C. Lincoln Institute of the University of Hartford is acknowledged with thanks. These remarks represent a modification of a paper Professor Harriss gave at the last Tax Executives Institute Conference in San Francisco.

[1] Dr. Watters, Director of State-Local Research of the Tax Foundation, Inc., presented preliminary projections at the September 1971, conference of the National Tax Association. More recent revisions will be published in 1972.

[2] This section draws heavily upon material I have presented on other occasions. Fuller analyses of some points appear in C. Lowell Harriss and W. J. Shultz, *American Public Finance*, 8th ed. (1965); *The American Economy*, 6th ed. (1968). In *Property Tax Reform: More Progress, Less Poverty*, Paul L. Morrison lecture at De Pauw University, I deal more fully with the basic rationale. "Property Taxation: Modernizing the Basic Structure," *The Bond Buyer*, June 1, 1971, sumarizes the major points. Equity aspects are the subject of "Equity of Heavier Reliance on Land Taxation (Location Value) and Less on Improvements," in *Tax Policy*, Tax Institute of America, Sept.-Dec. 1970. The Tax Foundation, Inc., has scheduled publication of a revision of my Government Finance Brief, *Property Taxation: Economic Aspects*, for 1972.

[3] The extent to which the tax falls on consumption rather than on suppliers of capital cannot be determined clearly. In cities with property tax rates on true value which are above the general average new capital will not enter unless investors believe that users of the new structures will pay.

[4] Debates over tax shifting continue with enough vigor to demonstrate that doubt about the eventual resting place of some business taxes remains.

[5] Inheritance, estate and gift taxes might well receive more attention than has recently been the case. When Congress gets to reexamination of federal taxation of transfers at death, states will probably wish to revise their death taxes.

[6] Comments about such competition come from people who are dissatisfied with this condition of American public life. (The movement of people in response to welfare aid presents a problem which needs to be distinguished from those for service, such as education.) Is it not bad, critics seem to ask, that people can be free to move in response to service levels and tax costs? One suspects impatience with freedom. Do we not wish, really, to see many others better off than they are able and willing to pay for freely? If so, cannot "we" force everyone to support a higher level of taxes and spending? The "correct" answers are not so simple as may be implied. One suggestion, however, does deserve thought: Perhaps real progress can get some aid from the search for communities with a spending-taxing balance which reflects choice among alternative opportunities. Making government more responsive to the demands of the people, by the very nature of the process of choice, will reveal that probable benefits are not always worth tax costs to everyone. The ability to move either a business operation or a family constitutes one source of freedom; some people benefit from the opportunity to choose a more attractive set of conditions.

[7] The person who is strongly egalitarian may dispute the conclusion. Or he may believe that an average level of X is to be preferred to one of X plus Δ X as some cases are quite a good deal better than the general run. Matters of magnitude and degree must, of course, be considered. But is there not convincing reason to support local opportunity to get significantly above the average? Moves to make education (almost) entirely a state responsibility, with more financing from Washington, would likely hamper the development of more of the best.

[8] The problems of federal, state, and local finance which result to some extent from teen-age (and other) unemployment, and from property and welfare costs—these problems are exacerbated by minimum wage laws. No overnight but over time, man by modifying statutes could undo some of the damage that he now does to his fellowmen (and women). This conclusion would receive widespread agreement among professional economists. Jobs would be created as entrepreneurs saw profit potentials.

Lest a valid point of importance be caricatured, and then rejected in a form which is not intended, the true position ought to be stated. Not *all* results of minimum wage laws are bad. Not *all* teen-age unemployment results from minimum wage laws. General relaxation of state and federal laws would not at once double the jobs available. But some difficult problems of public finance *are* made worse by laws which could be modified and humanized. The problems will be accentuated if the minima are pushed higher.

PETER RODINO—AN OUTSTANDING URBAN CONGRESSMAN

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. MINISH) is recognized for 10 minutes.

Mr. MINISH. Mr. Speaker, for the past 10 years it has been my honor to represent the fine residents of the central and west wards of Newark and of the city of East Orange in the Congress. It is a source of profound regret to me that the redistricting plan ordered by the court transfer these constituents to the 10th congressional district represented by the Honorable PETER W. RODINO. I shall always treasure my association with, and retain my interest and pride in, the people of Newark and East Orange.

As residents of the 10th Congressional District, my friends in Newark and East Orange will have as their Congressman one of the senior Members of the House whose 24 years of service have been marked with numerous achievements in the public interest. A lifelong resident of Newark, PETE RODINO has been a truly urban Congressman with an intimate awareness of the massive problems that confront the cities throughout our Nation. New Jersey and the Nation have been fortunate that Congressman RODINO, with his ability, compassion and dedication, has been in a position of leadership in the enactment of legislation dealing with urban social problems. Foremost among these are the crime and drug problems that engulf our major cities and are directly related. It is an established fact that over 50 percent of all major crimes are committed by drug addicted or drug depenent persons in an effort to support their habit. Moreover, it was recently indicated that over 30 percent of all individuals who are committed to Federal penal institutions suffer from drug addiction, or are convicted of drug-related crimes.

As ranking Democratic member of the

Judiciary Committee, which is responsible for hanling legislation for the prevention of crime and the control of drug abuse, Mr. Rodino has been instrumental in the formulation of the programs enacted in recent years to coordinate and strengthen the fight against these evils.

In declaring his own personal war on drug abuse, Peter Rodino has demonstrated his deep dedication to promoting the interest of his constituents in the 10th Congressional District of New Jersey. For example, he was the first Member of Congress to introduce legislation to cut off foreign aid to those countries which fail to cooperate with the United States in stemming the flow of hard drugs to this country. He also proposed legislation to provide financial assistance to countries which eliminate opium production or otherwise cooperate with our efforts to curb the international traffic in narcotics. It was certainly a great tribute to the Congressman when his international narcotics control program was signed into law in February of this year.

He has also played a primary role in convincing our NATO allies of the need for immediate and effective action to eliminate the plague of heroin addiction. As the U.S. Representative to the Biannual meetings of NATO's North Atlantic Assembly, and as the Chairman of the last meeting of the Assembly's Scientific Committee, he has repeatedly urged that domestic efforts to control drug abuse cannot succeed unless the problem is also attacked on an international plane.

Furthermore, during his 24 years in Congress, our colleague has consistently sponsored and supported legislation to reduce crime in our streets. His committee has passed the Law Enforcement Assistance Act of 1965 and the Omnibus Crime Control Acts of 1968 and 1970. In fact, the Congressman was one of the authors of the Omnibus Crime Control and Safe Streets Act of 1968, which greatly expanded the Federal role in crime control programs. Under this act, New Jersey has been the recipient of substantial grants to improve and upgrade law enforcement at the local level. In addition to his earnest concern for the problems confronting law enforcement officers, Congressman Rodino has continuously endeavored to safeguard the constitutional rights of the accused. He is currently engaged with the question of our correctional systems and rehabilitation procedures with the aim of equipping ex-offenders to become productive, self-supporting members of society for their own benefit and for the good of the community. Extensive hearings on this subject of so great importance to all citizens are being held by his committee.

His membership on the Judiciary Committee, particularly as chairman of its Subcommittee on Immigration and Naturalization, has involved Congressman Rodino in international problems dealing with refugees, narcotics, exchange visitors, and related matters. He has been senior adviser to the U.S. delegation at meetings of the Intergovernmental Committee for European Migration and, as previously noted, is a delegate to the NATO North Atlantic Assembly and Vice Chairman of its Scientific and Technical Committee.

Beginning with his notable World War II military record, Congressman Rodino has dedicated his adult life to public service. He has adopted as his personal credo the motto of UNICO, the National Italian-American organization in which he has been most active, "Service Above Self." His legislative accomplishments attest to his sensitivity, foresight and courage in dealing with the divisive and complex issues of the past quarters of a century. The people of the 10th Congressional District of New Jersey have reason for pride in and gratitude to their distinguished Representative in the Congress. In Peter Rodino his constituents have a strong and effective voice in the Congress, a champion of their inteersts, a Representative with a national and international reputation.

AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. Rodino) is recognized 10 minutes.

Mr. RODINO. Mr. Speaker, on Monday, May 8, I will introduce a comprehensive immigration bill which will be cosponsored by Mr. Celler, Mr. Eilberg, Mr. Flowers, Mr. Dennis, Mr. Hogan, Mr. Mayne, and Mr. McKevitt. This bill is designed to protect American labor and the American economy.

This proposal is the product of extensive hearings held in Washington, D.C., and throughout the United States, on the illegal alien problem.

These hearings, begun in May 1971 and concluded in Washington on March 24, 1972, were directed at the impact illegal aliens have on employment, labor conditions, welfare, public assistance and the administration and enforcement of the Immigration and Nationality Act. During the course of the hearings the committee heard 186 witnesses from government, labor organizations, as well as private citizens.

It was concluded that if legislation is enacted to remove the incentive from illegal aliens to work in the United States and of employers to hire such persons, we will eliminate this multifaceted problem. Most employers who have hired illegal aliens do not conspire to violate the law and most aliens are basically law-abiding, but the economies in many countries force people to leave and seek jobs in other areas. The pull factors of the United States—jobs, high standard of living, welfare programs, and so on, cannot be denied.

With no effective law specifically prohibiting the employment of illegal aliens, employers will continue to hire them because such persons, by virtue of their illegal stay in the United States, must work harder, longer, and often for less pay. The consequence of such work compromises labor conditions, depresses wage rates, and deprives Americans of jobs. Whatever sympathy one might have for the underprivileged aliens in their desire to improve their economic position, this Government cannot condone employment when it is to the detriment of American citizens and other persons who are lawfully in the United States. We must have an orderly system of admissions and we cannot permit aliens to violate the system and derive benefits from their illegal acts while bona fide immigrants and nonimmigrants are denied early admission and otherwise disadvantaged.

The major thrust of this bill, to be introduced Monday, is to put a prospective employer on notice that it is unlawful to employ aliens illegally in the United States or aliens who have no permission to take employment. This proposed sanction provision is in three steps: First, a citation can be issued against an employer of illegal aliens by the Immigration and Naturalization Service; second, if the employer thereafter persists in employing illegal aliens, he would be subject to an administrative fine; and third, further violation would result in a criminal penalty with a $1,000 fine and/or 1-year imprisonment.

I repeat now that it is the objective of this bill to remove the incentive from employers to hire illegal aliens and the incentive from aliens to come to the United States illegally and take jobs. It is not the purpose of the bill to put employers in prison, nor to deny aliens lawfully in the United States gainful employment, nor to put illegal aliens in prison.

It is not the purpose of the bill to harass employers or aliens with the prospect of involved legal procedures.

Other amendments which this bill provides are designed to eliminate certain abuses of the Immigration and Nationality Act and others are designed to correct certain deficiencies in that law. These provisions are discussed in the following section-by-section analysis.

The Subcommittee on Immigration and Nationality meticulously conducted hearings to insure that all sides of the issues surrounding illegal aliens were discussed and understood. The members of the subcommittee do not favor a shotgun approach which would initially impose criminal penalties against employers without the assurance that employers would have a reasonable opportunity to know whether their employees were in the United States legally or illegally. Furthermore, the subcommittee desires to protect those persons legally among us who may seem foreign from being deprived of employment opportunities. At the same time, the chronic offender—the employer who unreasonably uses indentured labor and the smuggler, should be subject to a sufficient penalty to deter them from future illegal action.

This bill has been given much thought. Some provisions have been taken from an administration-sponsored bill, while other provisions developed entirely from the hearings.

This bill will be given early consideration by the Judiciary Committee and I trust will have widespread support when it comes to the floor.

A section-by-section analysis and the text of the bill follows:

SECTION-BY-SECTION ANALYSIS OF PROPOSED ILLEGAL ALIEN LEGISLATION

Section 1.—Redefines the term "entry" to provide that a person who obtains permanent residence by an adjustment of status will be considered as having made an entry for the purposes of the immigration laws. This would place such a person in parity of status with one who enters through a port of entry and would subject such persons to the same consequences, time limitations and benefits.

Sections 2 and 3.—Revises the student nonimmigrant category in the following manner: (a) grants the Secretary of Health, Education and Welfare the authority to determine which schools are bona fide and established institutions; (b) specifically designates the following institutions as being eligible to accept foreign students: colleges, universities, seminaries, conservatories, academic high schools and elementary schools; (c) clarifies and expands the power of the Attorney General to withdraw the authority of a school to accept foreign students.

Section 4.—Redefines the temporary worker nonimmigrant category (H–2's) to eliminate the requirement that the jobs which these workers are coming to fill must be temporary in nature.

Creates a new nonimmigrant category—"student-helper"—one who is coming to reside temporarily in a private household of an American citizen or permanent resident alien family.

Section 5.—Redefines the term "lawfully admitted for permanent residence" to require that a permanent resident maintain his residence or principal dwelling place in the United States.

Section 6.—Defines the term "student-helper" as an alien under 24 years of age who is coming to reside temporarily in a private household of a U.S. citizen or permanent resident alien family. Provides that such alien shall not enter into an employment relationship with the members of such household nor accept employment while in the United States.

Section 7.—Restores to the Attorney General the discretionary authority to waive innocent defects in visas presented by entering aliens and enables the Attorney General to grant relief where an entry is defective for technical reasons.

Section 8. Expressly provides that temporary workers (H–2's) shall be subject to the labor certification requirement (presently this requirement is imposed only by regulation). Revises the exemption from the labor certification requirement for natives of the Western Hemisphere by providing that the parents of citizens and permanent residents shall be exempt only if the child is 21-years of age or older.

Section 9. Provides that deportable aliens who are permitted to depart voluntarily from the U.S. shall be excludable for a period of one year unless permission to reapply is obtained from the Attorney General.

Section 10. Eliminates various ambiguities that have resulted from contrasting administrative and judicial interpretations of section 241, relating to the waiver of deportability for misrepresentations in connection with entry. Provides that deportability can be waived for a person who entered through fraud only if he is not deportable on an additional ground other than those based on misrepresentation itself. Makes waiver of deportation discretionary. Specifies that relief under section 241 is available only to those who enter as immigrants, thereby making such benefits unavailable to those who enter surreptitiously or on a false claim to U.S. citizenship, or to nonimmigrants. Specifies that an alien whose deportability is waived shall be considered a permanent resident.

Section 11. Revises section 244 relating to suspension of deportation. Provides that the Attorney General's order granting suspension shall be effective *unless* either body of Congress passes a negative resolution.

Section 12. Restricts the prohibition on adjustment of status to aliens born in contiguous countries or adjacent islands. (This prohibition presently extends to the entire Western Hemisphere.) Prohibits adjustment to any alien who has accepted unauthorized employment or who has otherwise violated the terms of his admission or parole.

Section 13. Authorizes the Attorney General to rescind permanent residence if an alien does not maintain his residence or principal dwelling place in the United States after his admission for permanent residence. The provisions of this section shall become effective two years after the date of enactment of this Act.

Section 14.—Deletes the proviso in section 274 which provides that normal employment processes shall not be deemed to constitute harboring.

Establishes a three step procedure for the imposition of sanctions against employers who knowingly hire aliens who are in the U.S. in violation of law or are in an immigration status in which employment is not authorized: (1) for a first violation, the Attorney General is authorized to serve a citation on the employer informing him of such apparent violation; (2) if such employer commits a subsequent violation after receiving a citation, the Attorney General is authorized to impose a fine of $500 for each alien (each day constituting a separate violation); (3) following the imposition of such a fine, if an employer commits an additional violation he shall be subject to a fine of $1,000 and/or 1 year imprisonment for each violation.

Provision is made for the forfeiture of vehicles used in transporting illegal aliens.

Section 15.—Amends 18 U.S.C. 1546 to include border crossing and alien registration cards in the forgery and counterfeiting penalty statute.

Section 16.—Makes technical and conforming amendments.

H.R. ——

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, section 101(a)(13) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)) is amended to read as follows:

"(1) The term 'entry' means any coming of an alien into the United States, from a foreign port or place or from an outlying possession, whether voluntarily or otherwise, except that an alien having a lawful permanent residence in the United States shall not be regarded as making an entry into the United States for the purposes of the immigration laws if the alien proves to the satisfaction of the Attorney General that his departure to a foreign port or place or to an outlying possession was not intended or reasonably to be expected by him or his presence in a foreign port or place or in an outlying possession was not voluntary: *Provided,* That no person whose departure from the United States was occasioned by deportation proceedings, extradition, or other legal process shall be held to be entitled to such exception: *Provided further,* That any person whose status is or has been adjusted in the United States to that of an alien lawfully admitted for permanent residence shall be regarded as having made an entry as defined in this paragraph as of the effective date of such lawful permanent residence as specified in the order of the Attorney General."

SEC. 2. Section 101(a)(15)(B) of such Act (8 U.S.C. 1101(a)(15)(B)) is amended to read as follows:

"(B) an alien (other than one coming for the purpose of study pursuant to the provisions of subparagraph (F) of this section or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure;"

SEC. 3. Section 101(a)(15)(F) of such Act (8 U.S.C. 1101(a)(15)(F)) is amended to read as follows:

"(F) (i) an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study at a college, university, seminary, conservatory, academic high school, or elementary school which has accepted him for attendance, and (ii) an alien spouse and minor children of any such alien if accompanying him or following to join him: *Provided,* That the Attorney General has authorized the school to accept nonimmigrant students for attendance. The Attorney General may grant a school authorization to accept nonimmigrant students for attendance only if the Secretary of Health, Education and Welfare has determined that the school is a bona fide and established college, university, seminary, conservatory, academic high school or elementary school and it has agreed to report to the Attorney General information concerning the attendance of such nonimmigrant student. If the school fails to make reports promptly or knowingly accepts nonimmigrant students who are not scholastically qualified or lack financial ability to pursue a full course of study, or if the Secretary of Health, Education and Welfare determines that the school is not a bona fide and established college, university, seminary, conservatory, academic high school or elementary school, the Attorney General shall withdraw the authorization granted pursuant to this subparagraph."

SEC. 4. Section 101(a)(15)(H) of such Act (8 U.S.C. 1101(a)(15)(H)) is amended to read as follows:

"(H) an alien having a residence in a foreign country which he has no intention of abandoning (i) who is of distinguished merit and ability and who is coming temporarily to the United States to perfom temporary service of an exceptional nature requiring such merit and ability; or (ii) who is coming temporarily to the United States to perform other services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country; or (iii) who is coming temporarily to the United States as a trainee; or (iv) who is coming temporarily to the United States to reside as a member of a private household and who has entered into a valid 'student-helper' arrangement;"

SEC. 5. Section 101(a)(20) of such Act (8 U.S.C. 101(a)(20)) is amended to read as follows:

"(20) The term 'lawfully admitted for permanent residence' means the status of an immigrant who has been lawfully accorded the privilege of residing permanently in the United States in accordance with the immigration laws and, following his admission into the United States as a permanent resident, thereafter maintains his residence in the United States, such status not having changed."

SEC. 6. Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding the following new subparagraph (41) to read as follows:

"(41) the term 'student-helper' means an alien under 24 years of age coming solely to reside temporarily in the private household of a United States citizen or permanent resident family: *Provided,* That such alien (1) has not entered into an employment relationship with any member of such household and (2) has agreed not to accept employment while in the United States."

Sec. 7. Section 21 of such Act (8 U.S.C. 1181) is amended to read as follows:

"Sec. 211(a) Except as provided in subsection (b) or (c) no immigrant shall be admitted into the United States unless at the time of application for admission he (1) has a valid unexpired immigrant visa or was born subsequent to the issuance of such visa to the accompanying parent, and (2) presents a valid unexpired passport or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General."

"(b) Notwithstanding the provisions of section 212(a)(20) of this Act in such cases or in such classes of cases and under such conditions as may be by regulations prescribed, returning resident immigrants, defined in section 101(a)(27)(B), who are otherwise admissible may be readmitted to the United States by the Attorney General in his discretion without being required to obtain a passport, immigrant visa, reentry permit or other documentation."

"(c) The Attorney General may in his discretion admit to the United States any immigrant inadmissible solely because he was not entitled to the visa classification exempting him from the numerical limitation on visa issuance or the preference classification specified in the immigrant visa presented at the time of application for admission, or because he was not charged to the proper foreign state or dependent area in such visa, if the Attorney General is satisfied that such inadmissibility was not known to and could not have been ascertained by the exercise of reasonable diligency by such immigrant prior to the departure of the vessel or aircraft from the last port outside the United States and outside foreign contiguous territory prior to the application of the immigrant for admission. The ground of inadmissibility specified in section 212(a)(14) shall not be applicable to any alien whose case is within the provisions of this subsection."

Sec. 8. Section 212(a)(14) of such Act (8 U.S.C. 1182(a)(14)) is amended to read as follows:

"(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified to the Secretary of State and to the Attorney General that (A) there are not sufficient workers in the United States who are able, willing, qualified, and available at the time of application for a visa and admission to the United States and at the place to which the alien is destined to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to nonimmigrants defined in section 101(a)(15)(H)(ii), to special immigrants defined in section 101(a)(27)(A) (other than the spouse or child of a United States citizens of an alien lawfully admitted to the United States for permanent residence, and the parent of a United States citizen or an alien lawfully admitted to the United States for permanent residence who is at least twenty-one years of age), to preference immigrant aliens described in section 203(a)(3) and (6) and to nonpreference immigrant aliens described in section 203(a)(8);"

Sec. 9. Section 212(a)(16) of such Act (8 U.S.C. 1182(a)(16)) is amended to read as follows:

"(16) Aliens who have been excluded from admission and deported or who are permitted to depart voluntarily from the United States at their own expense under the provisions of sections 242(b) or 244(e) of this Act and who seek admission within one year from the date of such deportation or voluntary departure unless prior to their reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their reapplying for admission;"

Sec. 10. Subsections (c) and (f) of section 241 of such Act (8 U.S.C. 1251) are amended to read as follows:

"(c) An alien shall be deported as having procured a visa or other documentation by fraud within the meaning of paragraph (19) of section 212(a), and to be in the United States in violation of this Act within the meaning of subsection (a)(2) of this section, if (1) hereafter he or she obtains any entry into the United States with an immigrant visa or other documentation procured on the basis of a marriage entered into less than two years prior to such entry of the alien and which, within two years subsequent to any entry of the alien into the United States, shall be judicially annulled or terminated, unless such alien shall establish to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws; (2) it appears to the satisfaction of the Attorney General that he or she has failed or refused to fulfill his or her marital agreement which in the opinion of the Attorney General was hereafter made for the purpose of procuring his or her entry as an immigrant; or (3) he or she obtains a nonimmigrant visa under section 101(a)(15)(K) and subsequently obtains adjustment to permanent resident status on the basis of a marriage to a United States citizen which, within two years subsequent to the marriage, shall be judicially annulled or terminated, unless such alien shall establish to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws."

"(f) In the discretion of the Attorney General, the provisions of this section relating to the deportation of aliens within the United States on the ground that they were excludable at the time of any entry or admission as aliens who have sought to procure, or have procured visas or other documentation, or entry or admission into the United States by fraud or misrepresentation may be waived for an alien who was admitted or was granted adjustment of status as an immigrant or who reentered following a temporary absence after such admission or adjustment, who was otherwise admissible at the time of the fraudulent entry or adjustment, and who is the spouse, parent or child of a United States citizen or of an alien lawfully admitted for permanent residence. An alien granted a waiver under this subsection with regard to an initial entry or adjustment of status as an immigrant shall be regarded as lawfully admitted for permanent residence as of the date of the waiver. For the purposes of this section, an alien shall be deemed to have been "otherwise admissible" where no other grounds of inadmissibility existed at the time of the fraudulent entry or adjustment except (1) ineligibility for the special immigrant, immediate relative or preference immigrant status accorded him, (2) improper chargeability to a foreign state or dependent area for the purposes of numerical limitation set forth in section 202, (3) lack of a certification under section 212(a)(14), or (4) lack of a valid passport."

Sec. 11. Section 244(c) of such Act (8 U.S.C. 1254) is amended to read as follows:

"(c)(1) Upon application by any alien who is found by the Attorney General to meet the requirements of subsection (a) of this section, the Attorney General may in his discretion suspend deportation of such alien. If the deportation of any alien is suspended under the provisions of this subsection, a complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such suspension. Such reports shall be submitted on the first day of each calendar month in which Congress is in session.

"(2) If during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the suspension of such deportation, the Attorney General shall thereupon deport such alien or authorize the alien's voluntary departure at his own expense under the order of deportation in the manner provided by law. If, within the time above specified, neither the Senate nor the House of Representatives shall pass such resolution, the Attorney General shall cancel deportation proceedings."

Sec. 12. Section 245 of such Act (8 U.S.C. 1255) is amended to read as follows:

"Sec. 245 (a) The status of an alien who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is approved.

"(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference or nonpreference visas authorized to be issued under section 203(a) within the class to which the alien is chargeable, or the number of visas authorized to be issued pursuant to the provisions of section 21(e) of the Act of October 3, 1965, for the fiscal year then current.

"(c) The provisions of this section shall not be applicable to (1) an alien crewman; (2) any alien who has accepted unauthorized employment or who has in any way violated the terms of his admission or parole; or (3) any alien who is a native of any country contiguous to the United States or any adjacent island named in section 101(b)(5), except an ailen who is an immediate relative defined in section 201(b), or who is the child of parents neither of whom was born in such country or adjacent island.

Sec. 13. (a) Section 246 of such Act (8 U.S.C. 1256) is amended by substituting the following new language to read as follows:

"Sec. 246. If an alien who has been lawfully admitted for permanent residence does not in fact establish and maintain his residence in the United States following such admission, the Attorney General shall rescind the action taken granting such alien the status of an alien lawfully admitted for permanent residence, under such regulations as he may prescribe."

(b) The provisions of subsection (a) of this section shall become effective two years after the date of the enactment of this Act.

(c) The title preceding section 246 (8 U.S.C. 1256) is amended to read as follows:

"RECISSION OF PERMANENT RESIDENT"

Sec. 14. Section 274 of such Act (8 U.S.C. 1324) is amended by deleting the proviso in paragraph 4 of subsection (a) and by redesignating subsection (b) as subsection (e) and adding new subsections (b), (c) and (d) to read as follows:

"(b)(1) Any employer or any person acting as an agent for such an employer or any person who for a fee refers an alien for employment by such an employer, who knowingly employs or refers for employment any alien who is in the United States in violation of law or in an immigration status in which such employment is not authorized shall be subject to a civil penalty assessed by the Attorney General in the manner prescribed herein.

"(2) If, on evidence or information he deems persuasive, the Attorney General concludes that an employer, agent or referrer has violated the provisions of paragraph (1), the Attorney General shall serve a citation on the employer, agent or referrer informing him of such apparent violation.

"(3) If the Attorney General finds that any employer, agent, or referrer, who has received a citation under paragraph (1), knowingly employs or refers for employment any alien who is in the United States in violation of law or in an immigration status in which such employment is not authorized after the service of such citation, the Attorney General shall assess a penalty of not more than $500 for each such alien. Each day during which such violation or violations continue shall constitute a separate offense with respect to each alien. In determining the amount of the penalty, the Attorney General shall consider such factors as he may prescribe by regulation.

"(4) A civil penalty shall be assessed by the Attorney General only after the person charged with a violation under paragraph (3) has been given an opportunity for a hearing and the Attorney General has determined that a violation did occur, and the amount of the penalty which is warranted. The hearing shall be of record and conducted before an immigration officer designated by the Attorney General, individually or by regulation. The proceedings shall be conducted in accordance with such regulations as the Attorney General shall prescribe and the procedure so prescribed shall be the sole and exclusive procedure for determining the assessment of a civil penalty under this subsection.

"(5) If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount assessed in any appropriate district court of the United States. In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(c) Any employer or person who has committed an act cognizable under subsection (b)(3) and has been assessed a civil penalty which has become final, and thereafter knowingly employs or refers for employment any alien who is in the United States in violation of law or in an immigration status in which such employment is not authorized shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $1,000 for each day of such violation or by imprisonment not exceeding one year, or both,

"(d)(1) Any vessel, vehicle, or aircraft which has been or is being used in violation of this section, shall be seized and forfeited: *Provided*, That no vessel, vehicle, or aircraft used by any person as a common carrier in the transaction of business as such common carrier shall be forfeited under the provisions of this section unless it shall appear that (A) in the case of a railway car or engine, the owner, or (B) in the case of any other such vessel, vehicle, or aircraft, the owner or the master of such vessel or the owner or conductor, driver, pilot, or other person in charge of such vehicle or aircraft was at the time of the alleged illegal act a consenting party or privy thereto: *Provided further*, That no vessel, vehicle, or aircraft shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed, or omitted by any person other than such owner while such vessel, vehicle, or aircraft was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any State.

"(2) All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of vessels and vehicles for violation of the customs laws; the disposition of such vessels and vehicles or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as applicable and not inconsistent with the provisions hereof: *Provided*, That such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels and vehicles under the customs laws shall be performed with respect to seizures and forfeitures of vessels, vehicles, and aircraft under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General."

Sec. 15. The first paragraph of section 1546 of title 18 of the United States Code is amended to read as follows:

"Whoever, knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, or document, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or"

OPPOSITION TO THE TRANS-ALASKA PIPELINE MOUNTS

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, 2 days ago 12 midwestern and eastern Republican Senators, lead by assistant minority leader Robert Griffin of Michigan, sent a letter to President Nixon asking for further hearings on the trans-Alaska pipeline and forcefully noting the economic and environmental advantages of a trans-Canadian oil pipeline as an alternative to the Alaska line.

Yesterday, the Christian Science Monitor in an editorial called for further hearings and noted the potential advantages of a Canadian oil pipeline.

Today, the Washington Post in an editorial opposed the Alaska line and also noted the potential advantages of a Canadian pipeline.

Recently, the New York Times also opposed the Alaska pipeline in an editorial and noted the advantages of a Canadian alternative.

Over 100 Members of the House and over 20 Senators have called for further public hearings on the final impact statement on the trans-Alaska pipeline, released in March.

Every analysis of the Alaska and Canadian pipelines I have seen that has not been done by the oil industry or the Interior Department has concluded that a Canadian oil pipeline is economically and environmentally superior to the proposed trans-Alaska line.

Every environmental organization concerned with the Alaska pipeline issue would prefer a Canadian pipeline over a trans-Alaska pipeline for environmental reasons.

The Canadian Government itself has vigorously opposed the trans-Alaska pipeline because of the danger that tanker traffic associated with it would pose to Canada's west coast. Repeatedly, Canadian ministers and officials have expressed the government's preference for a trans-Canadian oil and gas line and have even agreed to supply the United States with additional quantities of oil during the period of construction.

I do not know how much more evidence it will take to convince the administration that it should at least postpone a decision on the Alaska pipeline so that a Canadian oil pipeline can be more fully explored. But I do know that if the administration does go ahead and approve the Alaska pipeline, it will be a political decision, one made for the best interests of the consortium of seven oil companies in Alaska and not for the best interests of the United States.

I would like to include in the Record today the text of the Christian Science Monitor and the Washington Post editorials on the pipeline:

[From the Christian Science Monitor, May 2, 1972]

Of People and Pipelines

May 4 marks the end of the 30-day period following publication of the Interior Department's nine-volume report on the proposed trans-Alaska pipeline. At that point, Secretary of Interior Rogers Morton can grant Alyeska Pipeline Service Company the right to go ahead with the disputed project—subject, of course, to court approval.

Presumably the 30-day period was intended to allow a time for public appraisal and debate over contents of the voluminous report. Unfortunately, there has been no such debate. And for a very practical reason. No public hearings have been called, despite repeated requests from conservationists and congressmen. And only seven copies have been made available without cost to the public in six cities across the entire "lower 48" states. Groups, libraries, or interested individuals wishing their own complete sets must buy them, by mail, at $42.50 a set.

Clearly the department has not tried to encourage hearings or informed debate. On March 20 Undersecretary William Pecora stated that "a public hearing would be a circus" and would "interfere with a more thoughtful and rational analysis of this complex document." Apart from being a slap in the face of the democratic process, this statement raises the question of how much "thoughtful and rational analysis" the Interior Department has itself given to the study.

We refer to the number of environmental dangers which the first six volumes spell out, contrary to Interior Department efforts in the past to brush such issues aside; and to discrepancies in the final three volumes, devoted to economic and defense questions.

Among the environmental questions raised in the "almost certain" occurrence of "one or more large earthquakes" in the pipeline route between Prudhoe Bay and Valdez, which could "damage—even rupture—the proposed pipeline." Also, the failure of efforts to prove that tundra torn up by construction can be revegetated; the threatened loss of caribou, grizzly bears, birds, and other wildlife from loss of habitat, spilling of toxic substances on forage, and disrupted migration patterns; and possible catastrophic salmon fishery losses from oil spillage and siltation of rivers.

Questions also arise regarding an alternate and less ecologically hurtful route through Canada, particularly since the study finds that a gas pipeline through Canada would be an "essential element" of the proposed pipeline project. Backers of the trans-Alaska route have objected that this might take another two years, extending U.S. fuel oil shortages. But Canada has pledged to supply enough oil to meet American needs for that length of time, if the oil pipeline were built through its territory.

Dozens of other significant questions can and should be raised, to which the department should be answerable. But without public hearings, who can put the questions? And who can be held responsible for answering them?

Far from being a "circus," public hearings are the very essence of the democratic process. And that is a treasure that outweighs all the oil in Alaska.

[From the Washington Post, May 4, 1972]

THE ALASKA PIPELINE: NOT NOW

Sometime in May, as things look now, Secretary of the Interior Morton will announce his decision on the Alaskan pipeline. This project, designed to carry oil from the rich fields on Alaska's Northern Slope to year-round ports on that state's southern coast, has been more thoroughly studied than any other pipeline ever proposed. Yet some questions, key ones in our judgment, remain unanswered and on the record before him the Secretary should refuse to grant the permit for the pipeline's construction.

The argument that has been made against this project is almost solely an environmental one. The line would run from Prudhoe Bay to Valdez, through miles of uninhabited tundra and mountain ranges and across rivers and streams, in an area essentially untouched by man.

That its construction would change this area, one of the last remaining large pieces of wilderness under the American flag, cannot be denied. That its mere existence after the construction crews have departed would change things is unquestioned. How much the change would be is open to debate and the new, elaborate environmental impact statement prepared by the Department of the Interior might have triggered that debate except for the statement's great length and inaccessibility even to the groups most concerned. Nevertheless, that statement makes it clear that the change, even held to the minimum now technically possible, would be substantial and, if a major error such as a pipeline break occurred, could be monumental.

That, in itself, is sufficient reason to give the Secretary pause before granting this permit to build this pipeline in this place at this time. It might not be sufficient reason to refuse to grant that permit if the country was in desperate need of the oil and if there were no alternatives. But the country, in our judgment, is not that desperate and there is an alternative. The current application for the permit and the record accompanying it simply do not make out a case to the contrary.

The basic argument for building the pipeline now, as we understand it, is to reduce American dependence on foreign oil in the years ahead, a dependence that is constantly increasing and that has obvious economic and foreign policy implications. The extent of that reduction in dependence is in dispute largely because estimates of how much oil the nation will need a decade hence differ. But using the figures most favorable to this pipeline, its construction would reduce the amount of oil the United States would have to have in 1980 from the Eastern Hemisphere from 10 times as much as it gets now to 6 times as much. That difference, it seems to us, is not sufficient to justify an all-out effort to bring in the Northern Slope oil regardless of the environmental costs involved.

Even if it were, the fact that there is an alternative ought to be given more serious consideration by American officials than it has been so far. The Canadian government is greatly interested in building a gas pipeline from that same area in the far north through the Mackenzie Valley into the center of the continent. It is also greatly interested, if the comments made here last month by the Canadian Minister of Energy, Mines and Resources are any indication, in having the two pipeline projects joined into one. The objections to this, so far as we can tell, are that a pipeline across Canada would cost more and take longer to build. But it would pose substantially fewer risks to the environment in that a Canadian line would avoid, rather than cut through major earthquake zones and eliminate the necessity for shipping the oil in tankers down the continent's West Coast. The inherent risks of an oil pipeline in an earthquake zone and a tanker going through the West Coast fishing areas are obvious.

If we are right in our judgment about the degree of dependence on foreign nations involved in oil needs, the time advantages of building across Alaska are irrelevant. But even if we are wrong, another factor enters in. It has been widely reported that some of the oil companies which own large parts of the Northern Slope field are negotiating to sell that oil to Japan once the pipeline is built. If that is true, the whole dependence argument seems to us to have been wiped out as a fraud.

Putting all these things together, it is clear that Secretary Morton ought to reject the pipeline application. At the least, he has an obligation to explore fully the feasibility of the Canadian route and then to report fully to the American public on his findings. Too much of the fragile nature of Alaska's wilderness and of the waters of Canada's west coast is at stake to do otherwise. Time is not of the essence in this situation; correctness of judgment is, for the damage once done by the construction of a pipeline across that vast area can never be undone.

SELF-HELP—HANDS IN THE TILL

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, everyone wants our country to grow and prosper, and everyone especially wants an equitable distribution of the fruits of our Nation's prosperity. We all know that members of minority groups are all too aften poor, all too often unemployed or underemployed, all too seldom active participants in the business and commercial enterprise that is the lifeblood of our Nation.

Knowing all this, we could not help but welcome the vigorous efforts of President Johnson, who launched an attack on poverty, believing that it could be eradicated, that the poor could be uplifted through a combination of help and self help. It was an unparalleled dream, a worthy dream, and one that is still attainable. Among the lesser noticed of the efforts spawned by President Johnson's war on poverty was a vigorous drive by Howard Samuels, who was administrator of the Small Business Administration. This young, personable and successful man determined to use his agency as a catalyst to bring more members of minority groups into business enterprises. In a very short while, Samuels achieved remarkable success. The Small Business Administration was made vastly more responsive to the needs of minority group entrepreneurs, and a new day was at hand.

When President Nixon assumed office, Samuels left the SBA and went back to his native New York. His successor was Hilary Sandoval. The President had expressed his aim to bring minority members into business enterprise, and Sandoval took that as his mandate.

Unfortunately, Sandoval was not of the same caliber as his predecessor. He was also gullible. One of his first mistakes was to hire as his special assistant one Albert Fuente, who immediately took advantage of his position to conduct shakedown of aspiring Mexican Americans who wanted help from the Small Business Administration. Fuentes is now serving a 5-year sentence for his crimes, along with an accomplice by the name of Eddie Montez.

But in early 1970, Sandoval did not have any way of knowing how swift and deep were the waters he was in, did not know how really eager people could be to take advantage of him, his good nature, and his agency. So, when a prominent California Republican named Benjamin Fernandez came to him with a scheme to promote minority business enterprise, Sandoval was receptive, and eager to help. After all, he had a mandate and intended to carry it out. Also, there was the matter of helping fellow Republicans to the public trough, after a very long drought.

Fernandez had the idea of creating a private group of Mexican Americans who would have as their function the encouragement of business enterprise among Mexican Americans and other Spanish-speaking citizens. The organization would help businessmen package SBA loan applications, help set up management programs, and generally lend a hand to Mexican Americans who wanted to get in business, or do better at it. Although all this sounded very much like the job that SBA itself was supposed to be doing, and which Samuels, the previous administrator, successfully had devoted himself to making the agency do, Sandoval liked the idea.

Fernandez was expert enough. He had his own company, Research, Inc., which did market surveys and performed other services for companies and institutions in California. He was also ambitious, and intended, he said, to get Mexican-Americans not just into business, but into banking institutions as well. The idea was to encourage minority groups to form organizing committees to apply for bank charters and savings and loan charters. It was a business he knew something about, for Research, Inc., had occasionally performed surveys of one kind or another for financial institutions.

So it was that not long after Sandoval became SBA Administrator, Fernandez formed the National Economic Development Association, usually called NEDA. Sandoval quickly approved an SBA grant to Fernandez' group for $605,360. NEDA took out a corporate charter in the District of Columbia on June 8, 1970, and opened its first office and national headquarters in Los Angeles on July 1.

Since that initial grant from SBA, NEDA has received additional grants of $899,671 and $449,872 plus additional cash from the Department of Commerce. With all of this money, NEDA opened a string of branch offices from Los Angeles to Connecticut, from Puerto Rico to San Antonio and a number of points in between. Altogether the group has some 18 offices.

One of the initial branch offices to open happened to be in San Antonio, and it is an office which from the beginning has been unusually active.

As soon as NEDA was in business, Fernandez went around the country to proclaim his message that a new organization was in town, and Mexican-Americans who wanted business help should call on him and his group. When Fernandez came to San Antonio in late 1970 however, I received a disquieting report. It seems that a San Antonio businessman approached Fernandez for some advice, which was only natural since Fernandez had just finished a speech about how advice giving in behalf of NEDA was his principal occupation. Fernandez, I was told, listened to the man and then asked whether he was asking for advice from the president of NEDA or from a professional consultant. The message was clear: Fernandez expected to be paid for whatever advice he gave, NEDA notwithstanding.

At about this same time, a San Antonio group was encouraged by NEDA to organize a committee to apply for a savings and loan association charter. Two of the six organizers were associated with NEDA: one was Cipriano Guerra, who ran the San Antonio office of NEDA, and the other was Dr. Richard Delgado, who was a member of NEDA's national board of directors.

One of the essential parts of any financial institution charter application happens to be an economic survey, for bank supervising agencies must have some substantial way of measuring the likely success of the proposed venture. The San Antonio group hired none other than Research, Inc., to do its study, and the economist who did the job was none other than Benjamin Fernandez. For this work, according to documents at the Federal Home Loan Bank Board, the San Antonio group paid $13,500. In short, Fernandez used NEDA to encourage the San Antonio group to organize, and then offered them a complete package of economic and legal services to complete the necessary documents.

This technique apparently was a habit with Fernandez. He saw nothing wrong with using his NEDA position, the facilities and resources of NEDA, and the contacts developed by the organization—all thanks to very large Government grants—to establish bank organizing groups, and then charge those same groups $10,000 or more for his personal services. Chances are excellent that without his NEDA position, Fernandez would have never come into contact with many of the groups he obtained contracts from. Clearly, his helping hand was aimed very much at helping himself. Fernandez' helping hand was reaching across the counter and into the till of the people he claimed to be helping, thanks to NEDA.

Not long after the San Antonio savings and loan group organized, another NEDA group came into being in San Antonio. So closely together did these events take place, they might have even occurred at the same time. In any event, this second NEDA group in San Antonio aimed to apply for a national bank charter. Once again, the NEDA San Antonio office chief, Cipriano Guerra, was among the organizers, and in fact was to become one of the largest stockholders in the proposed bank. NEDA national board member Delgado was also among the bank organizers and likewise scheduled to become a stockholder, if the group received a charter. I should point out here that when a national bank charter is granted, the initial stockholders almost immediately receive an immense increment in the value of their investment, often doubling the value of their holdings overnight. For Delgado and Guerra, the NEDA connection stood to pay off very well indeed, if the charter application succeeded.

Like the parallel savings and loan group, the bank group also turned to Research, Inc., to carry out the requisite economic surveys. For this job, Research, Inc., received a payment of $5,000 in November 1970 and was to be paid a like amount on submission of the charter application. Altogether, then, within 6 months of the opening of the NEDA venture, Fernandez had earned $23,500 in San Antonio alone in fees paid to his research company by NEDA organizing groups.

It was clear that the bank group, which proposed to form the Plaza National Bank of San Antonio, was very much dependent on Fernandez and NEDA. At an initial meeting with the Comptroller's staff in Dallas on December 29, 1970, Fernandez was introduced as the group's economist. But exactly 6 months later at a Comptroller's hearing, Fernandez claimed that he had not prepared the Plaza group's economic survey. This was odd, in light of the fact that he had prepared what was probably an almost identical study for the savings and loan group, and especially since he had received $10,000 for the services of his company to the Plaza group. Somehow between December and July, Fernandez chose to transform himself from a professional economist to an interested citizen, one who had no stake in the bank application other than a paternal interest. His interest was real enough, but it was financial, not paternal.

Why Fernandez chose to thus transform himself, I cannot say. It is possible that since he had sold his Research, Inc., interests in March 1971, he somehow thought his role really had changed. However, that would be to overlook the fact that he had been paid for a complete package of services in late 1970 and early 1971, and that whether he personally prepared the survey in question or not, it was clearly done under his direction and he had received a handsome amount of money for his troubles.

Whatever his reasons, Fernandez in July 1971 tried to present himself to the Comptroller's office as simply an interested citizen, the national president of NEDA, a man who knew about banking matters, and who wanted the charter application to be approved. Fernandez claimed at the hearing to have appeared at some 300 such occasions, but this claim of expertise was somewhat deflated when he admitted that he had been present at fewer than five—and probably this meant only one or two—national bank charter hearings. Fernandez does seem to have a capacity for gross exaggeration. He also claimed at the hearing that NEDA was about to open a vast new string of offices, though to my knowledge the organization has not grown substantially since that time. But then Fernandez boasts today that he is raising a million dollars toward the reelection campaign of the President.

Fernandez claimed that he and NEDA had been responsible for some 18 financial institution charter applications. In light of his tendency to boastings, this might not be true at all. If we take the figures Fernandez claimed and if the pattern of his operations holds true throughout, it is possible that Fernandez collected something like $10,000 from each of 18 bank organizing groups—or $180,000. In the two cases I have described, Fernandez made plenty of money for his efforts in behalf of NEDA, using NEDA to set up groups, and then collecting $23,500 from them for the professional services of his research outfit. In a third case, the same pattern appears to have taken place, and I would not be at all surprised to find that Fernandez also got substantial money from this group.

Following the first year of NEDA operations, Fernandez appeared confident of the future. But sometime late last year or early this year, Fernandez was bounced out of the NEDA presidency and even off its board of directors.

It may be that NEDA feared that Fernandez was getting too greedy, or that his gross improprieties would someday besmirch the organization. Whatever the case, he now no longer holds as much as a directorship on the NEDA board, though his benefactor, Hilary Sandoval, is on the board. Dr. Delgado also remains on the board, and Cipriano Guerra and the rest of the Fernandez team are still pretty much in place.

It is possible that Fernandez did not commit any crimes. Possibly not. Yet it is plain that he did not hesitate to take advantage of his position for his private gain, and did not hesitate to make it clear that he intended to be very well paid for whatever efforts he made toward helping his fellow Mexican Americans, even though, thanks to NEDA, his efforts were already being paid for. Such avarice, such blatant misuse of position is morally reprehensible and ought to be condemned, for actions of this kind can only undermine and damage the integrity of the best of organizations. Whatever good NEDA may have done, and whatever good it may do in the future, can only be damaged by the moral blindness and self-aggrandizement of men like Fernandez. There can be no excusing such behavior as I have described, there can be no explaining it away.

I believe that if NEDA is going to be able to do its job, the agencies that finance its operations must demand that it operate free of self-seeking by its employees. They must be dedicated to helping others, not merely enriching themselves. I have accordingly asked each of the executive agencies concerned to look into this matter and take whatever corrective action is necessary to assure that in the future NEDA will not be the plaything of men like Fernandez. I am also asking the appropriate committees of the House to look into this matter, and join me in insisting that steps be taken to clean the NEDA house, and see that no longer will the helping hands be in the till or at the trough, but stretched out to assist those who have been asking for help, and who desperately need it.

GENERATING POWER FROM EARTH'S INTERNAL HEAT: A HOPEFUL FACTOR IN AMERICA'S ENERGY CRISIS

The SPEAKER. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 10 minutes.

Mr. MATSUNAGA. Mr. Speaker, the Committee on Interior and Insular Affairs is currently holding timely hearings on the energy crisis which the United States and the world are facing.

The demand for energy in America continues to grow at an increasing rate. The demand for electrical power alone increased from 95 billion kilowatt hours (kw.-hr.) 30 years ago to 1,212 billion kw.-hr. in 1967, and is predicted to reach 4,700 billion kw.-hr. in the year 2000. This explosive increase in demand requires that all possible practical sources of energy be developed.

That is why I am introducing today legislation to further the research, exploration, and development of our geothermal resources. Scientists involved in the energy field have estimated that geothermal energy—the energy from the interior heat of the earth—could provide as much as a fifth of our Nation's electrical power capability.

Of course, geological constraints limit the areas where geothermal resources can become an important energy source. But the potential for the Western States, including Hawaii, will likely be significant. In many cases, geothermal power generation will prove to be the most efficient method. Unlike nuclear powerplants it can be economically feasible on a small scale. It is virtually nonpollutant. In sum, this is a resource that must be developed.

Congress has made a beginning, with its enactment of the Geothermal Steam Act of 1970; Federal lands with a potential for geothermal energy may now be developed properly.

What is needed now is an expanded research and development program, on a scale not economically feasible for private or academic interests to undertake without assistance. That is what is contained in the measure I introduce today.

The bill proposes a 5-year program directed toward the achievement of the following goals:

First, to assess the geothermal energy resources of the public domain;

Second, to establish a reliable body of knowledge of the principles that determine the occurrence and characteristics of geothermal reservoirs;

Third, to develop reliable guides to exploration for such reservoirs;

Fourth, to help develop the technology of power generation; and

Fifth, to help develop the technology of byproduct recovery, largely fresh water and mineral products.

My bill would establish an immediate revolving fund of $20 million and an amount not to exceed $5 million in each succeeding year. The total amount in the fund could never exceed the original $20 million. Federal loans could be made to cover up to 75 percent of the cost involved in the exploration of ground steam or hot steams. The legislation would allow the loans to be made for exploration on both private and public lands.

The research program established under the bill's provisions would serve as the cutting edge in the development of this long-neglected resource. Ten million dollars are authorized for this purpose over the 5-year life of the program. The focus of the research efforts would be a Geothermal Research Institute, which would serve as a clearinghouse for relevant data and a source of data development itself. Because of the ideal geological conditions resulting from the volcanic origin of the Hawaiian Islands, Hawaii would provide the perfect setting for such an institute, and my bill so provides.

The full development of the potential of geothermal energy sources could substantially supplement America's energy supplies, and conserve invaluable, nonrenewable resources, while protecting environmental quality. I am hopeful for timely congressional approval of this important legislation.

At this point I include the text of my bill, as well as a recent article from the Honolulu Star-Bulletin relating to geothermal resources in Hawaii:

[From the Honolulu Advertiser, Feb. 17, 1972]

EARTH'S HEAT ADVOCATED AS SOURCE OF POWER

EL CENTRO, CALIF.—The interior heat of the earth—our planet's primordial energy—could soon be providing a fifth of the United States' total electrical power capacity, it was reported yesterday.

The heat is available in enormous, practically untapped and inexhaustible underground pools of hot water and steam.

Advocates have estimated that a geyser steam field in California's Sonoma County could generate 5 million kilowatts of electricity, and that all other known fields in the Western states could produce 75 million kilowatts.

These rosy views of the potential of geothermal electric power were given at the opening session of a national conference sponsored by the Geothermal Resources Council, a new organization formed to encourage exploration and development of this relatively undeveloped energy source.

Richard G. Bowen, an Oregon geologist, is chairman of the three-day conference. He said in an interview that what had been considered potential geothermal resources were now proving to be facts.

"United States geothermal capacity is somewhere between 30 and 100 million kilowatts," Bowen said.

H.R. 14801

A bill to promote the exploration and development of geothermal resources through cooperation between the Federal Government and private enterprise.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress finds and declares that geothermal resources are vital natural resources which should be explored and developed to their fullest potential to supplement the Nation's energy supplies and conserve nonrenewable resources and environmental quality.

SEC. 2. As used in this Act—

(1) The term "geothermal resources" means (A) all products of geothermal processes, embracing indigenous steam, hot water, and hot brines; (B) steam and other gases, hot water, and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (C) heat or other associated energy found in geothermal formations; and (D) any byproduct derived from them;

(2) The term "byproduct" means any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with geothermal steam and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(3) The term "person" means an individual, partnership, corporation, or other legal entity;

(4) The term "Secretary" means the Secretary of the Interior.

TITLE I—GEOTHERMAL RESOURCES RESEARCH PROGRAM

SEC. 101. (a) For the purpose of evaluating and developing the potential of geothermal resources as a source of power, the Secretary is directed to establish a Federal geothermal resources research program of the seventies.

(b) The geothermal resources research program will be a five-year program designed to—

(1) establish a reliable body of knowledge of the principles that govern occurrences and characteristics of geothermal resources;

(2) develop reliable guides for identification of and exploration for specific reservoirs of geothermal resources;

(3) conduct regional surveys, using geologic, geophysical, geochemical, and drilling techniques, that will lead to identification of potential reservoirs of geothermal resources in the United States and its territories, possessions, and the District of Columbia and Puerto Rico with emphasis on assessment of geothermal resources of all federally owned lands; and

(4) develop the basic knowledge of geothermal resource systems necessary for consideration of byproduct recovery, including that of fresh water, gases, and minerals.

(c) (1) As part of the program established under subsection (b), the Secretary shall establish in Hawaii a United States Geothermal Research Institute (hereinafter in this subsection referred to as the "Institute") to accumulate and computerize all available geothermal information, both domestic and foreign, and to encourage the free exchange of all developed geothermal information for the general welfare of the fledgling industry.

(2) The Institute shall be a clearinghouse of all geothermal energy related data and shall acquire and develop cost-engineering and trade-off studies, and conduct actual developments and tests for new technologies as they become available to the Institute.

SEC. 102. There is authorized to be appropriated for the purposes of this title the sum of $10 million to be spent over the five-year life of the program.

TITLE II—GEOTHERMAL RESOURCE DEVELOPMENT LOAN PROGRAM

SEC. 201. (a) The Secretary is authorized to enter into contracts with persons who are engaged in the business of developing power from geothermal resources to—

(1) conduct exploration on private lands or on federally owned lands to which rights have been obtained in order to determine the character and economic potential of specific reservoirs of geothermal resources;

(2) develop the technology of power generation from geothermal resources, including construction and operation of demonstration or pilot plants;

(3) develop the technology of byproduct recovery, including that of mineral products such as calcium chloride, lithium, and borates; gaseous products such as carbon dioxide and ammonia; and fresh water; and

(4) develop a disposal system for waste products from geothermal resources such as brines and condensates, in a manner compatible with environmental preservation.

(b) The Secretary shall file a written report on the progress of this program with the President, the Congress, and the Environmental Protection Agency at the end of each fiscal year.

SEC. 202. (a) Contracts issued under section 201 shall provide for Federal loans of up to 75 per centum of the cost of the project, to be repaid in the event the Secretary determines that the results of the project have a commercial value.

(b) If the Secretary determines that the results of the project have a commercial value he shall establish a reasonable schedule for repayment of an amount not to exceed (1) the full amount of the loan plus 6 per centum interest compounded annually or (2) 75 per centum of the commercial value of the results of the project, whichever is smaller.

(c) The contract may include such terms and conditions as the Secretary deems necessary to protect the interests of the United States and the environment.

SEC. 203. The Secretary is directed to establish a revolving loan fund from which loans will be made and into which loan repayments will be deposited.

SEC. 204. There is authorized to be appropriated in the first fiscal year after enactment of this Act $20 million and in each subsequent year an amount not exceeding $5 million provided that in no event the revolving fund shall exceed $20 million.

SETTING THE RECORD STRAIGHT ON THE TRANS-ALASKA PIPELINE

The SPEAKER. Under a previous order of the House, the gentleman from Alaska (Mr. BEGICH) is recognized for 10 minutes.

Mr. BEGICH. Mr. Speaker, in the CONGRESSIONAL RECORD of April 27, 1972, my distinguished colleague, the gentleman from Wisconsin (Mr. ASPIN), charged that the Department of the Interior and Secretary Rogers Morton had made the recent environmental impact statement on the trans-Alaska pipeline "virtually invisible." As any of us who have held the massive nine-volume impact statement know, it is anything but invisible. But the impression fostered by the allegation was that the Department had consciously conspired to prevent public scrutiny of the statement, that the statement had been "virtually hidden from public scrutiny," and that the Department's "treatment of the public has been shabby."

With all due respect for my able colleague, I must assert that such statements simply do not correspond with the facts. I ask unanimous consent to have reproduced hereafter the comments and allegations of the gentleman from Wisconsin (Mr. ASPIN) as they were printed in the CONGRESSIONAL RECORD for April 27, 1972, on pages 14602 and 14603. And to demonstrate that the statements made therein are inaccurate and misleading, I ask that a brief statement from the Department of the Interior be included following the remarks of the gentleman from Wisconsin. I am hopeful that this will be of great interest to my colleagues who are seeking complete knowledge on this matter.

The statements follow:

THE ALASKA PIPELINE ENVIRONMENTAL IMPACT STATEMENT IS VERY SCARCE

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, I am very concerned that the environmental impact statement on the proposed trans-Alaska pipeline has been virtually hidden from public scrutiny. I am sure that many of my colleagues will be interested in knowing that only seven copies of this important impact statement are available for public inspection in the lower-48 States. In fact, there is not one impact statement publicly available for 3,000 miles. There is not one impact statement publicly available in New York, Chicago, Milwaukee, or Detroit. In fact, there is not one copy available between Washington, D.C. and San Francisco.

Not only that, but the Interior Department is charging $42.50 for the 9-volume environmental and economic study of the Alaska pipeline and its alternatives. And, even if you are willing and rich enough to be able to afford the $42.50 price tag, it may take almost 1 month to obtain a copy of the impact statement.

For instance, in one case, it took the lawyers for the three environmental groups who are suing to prevent construction of the Alaska pipeline, 28 days to obtain several copies of the impact statement. On March 24, these lawyers asked for the copies, but were told they were out of print and would not be available for another 2 weeks. Three weeks later, on April 14, they were told that the impact statements were still not ready. They finally received part of their order on April 21. Thus, it took these lawyers—who have been integrally involved in the Alaska pipeline issue for over a year and a half—almost a month to get hold of these copies, which they wanted to distribute to others for comment. It is quite relevant to note that Secretary of the Interior Rogers Morton stated when the impact statement was released that a decision might be made at the end of a 45-day period, which means that these lawyers spent almost two-thirds of that period futilely searching for some copies of the 3,550-page impact statement.

Saying that Interior's treatment of the public has been shabby in this case is being kind to the Department. First, Interior refuses to hold public hearings on the basis that hearings would constitute "a circus," in the words of Under Secretary William Pecora. Then the Interior Department announces that it is selling the impact statement for a mere $42.50, and delays the distribution of these copies for as long as 1 month in some cases. And, to top it all off, the Department only provides seven publicly available copies for over 200 million people.

If there were a conscious conspiracy to prevent public scrutiny of the impact statement, it couldn't be accomplished much more effectively than this.

It is also important to note that the Council on Environmental Quality, to whom all comments on the impact statement are submitted, has so far received only five or six comments from private individuals on the Alaska pipeline impact statement. This is an unusually low number. I am just waiting for the Interior Department to say: "Aha, this shows that the public is satisfied with the impact statement." The real reason, of course, for the lack of public comment is that the Department has made the impact statement virtually invisible.

I believe very strongly that if the Interior Department is truly concerned with allowing the public a fair opportunity to comment on this vitally important environmental impact statement, it will agree to postpone its decision on the Alaska pipeline for at least 2 more months. In the interim it should, of course, make the impact statements much more available for public inspection and should also assure that those willing and able to buy the impact statement are able to get them much more quickly than is presently the case.

FACT SHEET—DEPARTMENT OF THE INTERIOR

1. The Final Environmental Impact Statement on the Trans-Alaska Pipeline as proposed was the most lengthy and detailed impact statement ever prepared. Consisting of 6 volumes and 3 supplemental volumes, it totals over 3,800 pages. The statement was the result of approximately 175 man years of work during the past year. It is the most thorough and lengthy impact statement ever published.

2. Congressman Aspin received a complete set of the 9-volume statement. Over two dozen complete sets of the 9-volume statement were distributed to certain members of the House and Senate.

3. March 20, 1972, was the date on which the Department of the Interior released the final environmental impact statement on the proposed pipeline. On that date, in accordance with the provisions of the National Environmental Policy Act, 10 copies were delivered to the Council on Environmental Quality.

4. On the same date, 102 copies of the 9-volume statement were made available to the press.

5. Ten copies of the entire statement were given on March 20, 1972, by the Department of the Interior to the lawyers for the three environmental groups who are suing the Department concerning the pipeline. These lawyers were given preferential treatment.

6. Congressman Aspin did not mention that the lawyers were given 10 free copies on March 20, 1972. But Congressman Aspin claims that the lawyers spent almost a month "futilely searching for some copies of the 3,500 page impact statement." While leading one to believe the lawyers could not get copies, Congressman Aspin failed to mention that the lawyers had been given ten free copies on the first day of issue.

The Department of the Interior did not sell the statement. The statement was sold by the National Technical Information Service of the U.S. Department of Commerce and by the Government Printing Office. The cost for all nine volumes (3,800 pages) was $42.50. The Department of the Interior sold no copies.

8. Congressman Aspin alleges that only seven copies of the statement are available for public inspection in the lower 48 States. Of the 2,460 copies printed, 585 were for De-

pository Libraries, 265 were for sale by the National Technical Information Service, and another 1,000 were for sale by the Government Printing Office. And in addition, copies were sent free to several environmental and public interest groups. Also, copies were provided to the media and to elected officials, all of which are public.

9. There were three printings of the 9-volume document. The first printing (March 20, 1972) provided 625 copies for special distribution such as the Council on Environmental Quality, the press, conservation groups, other government agencies and officials, Alaskan offices, and the Congress. Of that 625, 174 complete sets and 172 copies of Volume I went to the National Technical Information Service for public sale. The second printing (April 7) provided 225 complete sets to the National Technical Information Service for public sale. The third printing (April 17) provided 585 complete sets for Government Printing Office distribution to its depository library system and 1,000 complete sets for GPO sales stock.

HO HUM—ANOTHER MONTH, ANOTHER TRADE DEFICIT

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, it is that time again, another month, another deficit; another quarter, an even bigger deficit; another year. Well, it is obvious that we are in for yet another record trade deficit. It is utterly incredible to me the way people around this town become hardended so quickly to crisis situations that within a short period they almost seem immune, almost totally impeturbable. When these huge gapping trade deficits first started to make their regular appearance some months ago, it was front page news, speeches were made, promises were given. Then as the months went by, apparently impressed with the Nation's ability to live with defeat as far as foreign trade is concerned, the administration and the agencies with responsibility in this area settled back to their routine of business and government as usual. The men with the soothing voices, the statisticians on the administration's payroll with an ability to use figures to justify anything and everything to explain away figures have completely taken over, it would appear. We are constantly being told with each month's deficit, in essence, to sit back and relax, there is no cause for alarm; things will be turning around 'ere long.

Mr. Speaker, I rise today to serve notice that, at least as far as one Member of this body is concerned, the pablum is wearing a little bit too thin. My constituents are beginning to gag on it, to judge from my mail. They want something more solid in response to these figures than calming reassurance. They want action now. They are tired of being told "wait until next month, the figures will show a great improvement." They are tired of hearing each month that month's trade deficit figure is a "temporary aberration." They are tired of hearing each month one statistician after another blame the whole thing on the east or west coast dock strikes.

As a matter of fact, I am so sick of hearing these deficit figures explained away month after month by men who should know better as the result of a dock strike that I am convinced that, if the dock strike never had occurred, the administration's spokesmen would have had to invent it. It is a pretty sorry state of affairs when the best explanation that money can buy from the collective economic talents of this administration is the lame excuse that somehow or other last year's whopping trade deficit and the monthly deficits for the past half year are all somehow the results of a dock strike. While the dock strike certainly had some serious repercussions on our economy and certainly lasted a number of months—that no one can deny—the administration would have us believe that everything that has gone wrong with our balance of trade for the past year and it would appear for this year is somehow related to this one occurrence. When anyone attempts to pin down these official spokesmen, they get vague and say they are not quite sure what the connection is and how it is all related. If I accomplish nothing else here today, at least I hope I am in part responsible for the administration burying this excuse when they announce next month's trade deficit which, just as sure as I am standing here today, will be announced.

Sarcasm to one side, it is high time that people in this city got down to brass tacks and began to confront the real continuing contributing factors behind this country's consistently poor trade performance. It is time that they began to tackle the rising flood of imports. A $1.5 billion surplus of imports over exports for the first 3 months of 1972 is a frightening harbinger in the spring of what we can expect come December. Those administration spokesmen who take comfort in the fact that the monthly trade deficit for March, $484.3 million, is down slightly from February's record high, ignore at their own peril—and the Nation's peril—that last month's trade deficit was still the third highest in the history of the Nation. The quarterly trade deficit is in fact the highest in the Nation's history.

This Nation just cannot continue to withstand this kind of imbalance of imports over exports. If our negotiators cannot come up with concrete evidence that our trading partners have agreed to dismantle their numerous trade barriers against our exports or if our other negotiators fail to come up with voluntary agreements with our foreign trading partners to restrict their flooding of our markets with their imports, then this Congress has no alternative but to exercise its responsibility and legislate new trade legislation. Time is running out on our administrators. One would not have to be a long time observer of the Washington scene to detect a mood in this House that Congress must act and begin hearings soon on trade. The chairman of the Ways and Means Committee has said as much and we all know any administration ignores his few, well chosen words at its own peril.

Should any Member here feel that I am taking up too much time discussing these figures, let me share with them the background against which I am speaking. In a report just furnished to Congress by the Secretary of Labor under Public Law 92-224, the act which extended unemployment compensation for a further number of weeks, the Secretary indicates that "Massachusetts' exhaustion rate for regular benefits was higher than the rate for all States participating in the temporary compensation program." The Secretary goes on to say:

> Massachusetts' experience under the temporary compensation program reflects the employment and unemployment conditions that have been prevailing in the State during the past few years. The decrease in nonagricultural employment was entirely in manufacturing with a 12% decline. Manufacturing, the largest industry in the State which accounted for 31% of nonagricultural employment in 1969, was down to 28% in 1971. Both durable and nondurable goods manufacturing declined.

If these statistics do not shake you, perhaps these will. Average annual total unemployment increased from 97,000 in 1969 to 135,300 in 1971, an increase of 90 percent. That is not one Congressman's imagination, this is the Secretary of Labor talking. To quote further from the good Secretary:

> Approximately 24% of both temporary compensation claimants and regular claimants were attached to the durable goods manufacturing industry, where employment decreased 13% from 1969 to 1971. For the nondurable goods sector of manufacturing where the employment decrease was 10%, the proportion was also 24% of temporary compensation claimants and of regular claimants. The Secretary ends his discussion of Massachusetts on this sobering note, "The extended benefit program in Massachusetts under which benefits became payable at the initial October 11, 1970 date, is still in operation, with a 13-week insured unemployment rate of 7.65%, 126% above the average rates for the corresponding periods in the prior two years.

So, in other words, the manufacturing sector of Massachusetts' economy is in serious trouble. Those of us in Massachusetts know the industries hardest hit have been the leather goods, textiles, and consumer electronics industries—just the industries that have been hardest hit by the rising flood of imports. This is no coincidence. This is very much at the root of our problems in Massachusetts and as a Congressman from Massachusetts, I would be doing less than my job if I did not demand something better from those in charge of our economy than stale explanations and the promise of more trade deficits to come.

Mr. Speaker, this very afternoon this House is considering a bill at the request of the administration to appropriate $1.6 billion to maintain the gold value of U.S. dollar holdings in various international financial institutions. This bill is referred to and correctly so as the dollar devaluation measure, because the expense is directly attributable to the decision of this country to devalue the dollar not too long ago. My point is this, and I do not want to belabor it, that even though in the end I will vote for this measure as a necessary evil in part and parcel of the bitter pill we swallowed when we accepted the need to devalue—the point I want to make today is that this amount of money is but a small part of the price we are paying and we can expect to pay as a nation for the continued erosion of this Nation's balance of trade. The fact is that at various periods already our foreign exchange experts have had to come to the dollar's rescue more than once. The pressure for further devaluation is there, make no mistake about it. If we do not want to see continued decline of the dollar in the world currency markets and additional expenses of this sort on top of an already staggering budget deficit, then it is time we took immediate steps to confront the problem directly.

MINIMUM WAGE

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 10 minutes.

Mr. FUQUA. Mr. Speaker, minimum wage legislation will soon be a topic for House discussion and decision. As cosponsor of a substitute minimum wage bill, H.R. 14104, I am particularly interested that the provisions of such bill are fully understood. The thrust of the substitute bill is focused in two major areas, namely, the granting of reasonable increases in the minimum wage scale, and secondly, the provision for a "youth differential" minimum wage. Today, I want to emphasize the need for such a youth differential wage and explain the differences in approach made by the committee bill and the substitute.

Is there a need for a youth differential wage? Perhaps the best answer to that question is still another question; namely, is there a need to encourage the hiring of youths? It is common knowledge that unemployment and the state of the Nation's economy has been a vital topic throughout the Nation this past year. Although the Nation's unemployment has hovered between 5.7 percent to 6 percent, youth unemployment has ballooned to unbelievably high levels. For youths generally, unemployment is at an 18.8-percent level and in the inner cities the unemployment rate—largely for minority youths—zooms to between 20 and 30 percent. This high rate is also attributable in part to the large number of youths entering the job market. It is obvious, therefore, that unemployment among youths is an immediate problem that demands our immediate attention.

THE COMMITTEE BILL, H.R. 7130—IGNORES THE YOUTH PROBLEM

The committee bill has no youth provision—it has only a limited student exemption which provides that a full-time student irrespective of age can work for not more than 20 hours a week at 85 percent of the applicable minimum wage but not less than $1.60 an hour. However, the bill lists over 20 industries or occupations in which students cannot be employed. In those in which they can be employed, an employer must receive a prior certification from the Secretary of Labor. Under current law, requiring comparable certification in 1971, there were approximately 5,000 certifications issued.

To sum up the defects of the committee bill: First, it ignores the high unemployment of youths and provides that only students can receive a differential rate. Thus, the children of the affluent or middle class have special provisions that enable them to get jobs at reduced rates but ghetto youth or high school dropouts get no consideration whatsoever; Second, even the employment of students is drastically inhibited by the requirement for prior certification—more redtape to discourage employers—and the long list of industries from which they are excluded from working. In practical effect then, the committee provision on students is rhetorical rubbish designed to indicate a modicum of concern for student employment. In reality it is a studied unconcern even for the employment of students.

YOUTH PROVISION UNDER THE SUBSTITUTE BILL (H.R. 14104)

Our substitute provides that youths under 18 may be employed at 80 percent of the applicable minimum wage or not less than $1.60 an hour, whichever is greater. Witnesses at hearings on this bill testified that at least a 20 percent differential is needed to be meaningful. Second, the rate takes into account the increases to be promulgated in the regular minmium wage which will go to either $1.80 or $2 shortly after passage.

More importantly, however, is that our bill requires no prior certification and does not restrict the industries in which they can get jobs—except for those industries restricted under existing child labor laws.

Finally, our bill gives the Secretary of Labor authorization to issue regulations that will insure that the hiring of youths at the youth rate will not displace regular full-time employees. We have voted to give the youth of America the right to vote and participate in the American political scene and I believe it is time to give the youth of America a piece of the employment action.

The youth provision in the substitute bill will help to give the youth of America a fair share of available employment. I urge Members to show their concern for the high unemployment among youth by supporting our substitute bill, H.R. 14104.

EIGHTY-SIX DAYS, AND STILL NO WORD FROM PRESIDENT NIXON ON TAX REFORM

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

Mr. REUSS. Mr. Speaker, it has now been 86 days since House Ways and Means Committee Chairman WILBUR MILLS wrote President Nixon asking that the President forward to Congress the tax reform proposals he promised last September. The President has still not responded to Chairman MILLS' February 7 letter.

Last weekend, however, the President went down to Floresville, Tex., for a gala affair at the ranch of Treasury Secretary John Connally. From all reports, the Texas oil, business, ranching, and industrial establishment was abundantly represented.

The President had a good deal to say about Vietnam, busing, tax reform, and the work ethic. From all accounts, the President's remarks were well received by his immediate audience. I submit the full text of these remarks, including the President's thoughts on tax reform, in the RECORD:

REMARKS OF THE PRESIDENT AND SECRETARY OF THE TREASURY JOHN CONNALLY

Secretary CONNALLY. My friends, may I have your attention for a moment, please. Please go ahead with eating your food, if you wish, but time is running, and while we have you all here, there are a few things that I would like to say for myself and for Nellie.

First, I think I have known most of you, or all of you, long enough to where you will completely and fully understand when I say how perfectly delighted Nellie and I are to have you on this ranch. Under this roof are many—not all; I can't say all, because I think we have a few members of the press here—but many of the dearest friends that we have in this world. (Laughter)

I am always an optimistic fellow, and at times a little vain, perhaps, and I wouldn't want our distinguished guest to leave you assuming I had assembled under one roof 40' by 60' all the friends I had. But in all seriousness, everybody by the name of Connally, or married into or kin to the family, so far as I am concerned, is grateful to all of you for so much.

Years ago I said to many of you, as I traveled about this State, that I hope that no occasion ever presented itself where I had a microphone and the opportunity to do so, when I did not express our profound thanks for the kindness, for the generosity, for the thoughtfulness, for the support and, above all, for the confidence which all of you have so clearly shown over the years, and I am grateful for that.

But if I am grateful for the occasion for those reasons, think how doubly pleased we are that on this particular evening we have the great and rare privilege of hosting the President and the First Lady of the United States.

You rose, you applauded, you manifested your confidence and your support and your feeling about the President and his lovely wife, but before we go further, let me impose upon your time just a moment or two to say to you that I have been privileged to serve in the Cabinet of President Nixon for a number of months. During those months, I have had an opportunity to see him in moments of satisfaction, in moments of serenity, in troubled moments, and moments of decision, and I must say to you that I respect the office of the President of the United States, but I want to go much further than that and say to all of you, my dear friends, that I respect this particular President of the United States for the manner in which he conducts himself, and the First Lady for the pride and dignity which she so obviously has in maintaining the role that is so unique in American society and culture and political life, and to the President, who is a scholar in the affairs of this Nation and the foreign affairs of this country, who is as disciplined a man as I have ever known, mentally and physically. He is trim and slender and boyish looking. You wouldn't think he was older than I, would you? (Applause)

But part of it, at least, is because he is physically disciplined; but more importantly, he is mentally disciplined. He understands the role of the President of the United States. He understands the role that this Nation plays among the nations of the world in conducting the foreign affairs, the foreign policy of this country. He disciplines his time among the many duties he has as head of government, head of State, and head of party, and he allocates to each of those great responsibilities the time which he feels he can devote to them without sacrificing the more responsible task that the President of the United States has.

Above all else, I think he studies the difficulties that he has. He has the ability and the intelligence to perceive those problems. He has the tenacity and perseverance to seek a solution to them; but above all else, he has the courage to do what he believes to be right in the interest of this Nation.

At this point, Nellie, would you join me here, and we are going to ask all our friends to join us in a toast to the President of the United States and Mrs. Nixon.

You know, I don't know how the press is going to handle this gathering, but I am going to find out, and I trust their judgment, but you know, it is a social occasion, I suppose, by any standard, and it was designed to be such, but I always try to put myself in the position of other people, on an occasion of this kind, and Nellie and I are grateful that we were hosts and got to sit at this head table, if this is a head table, and we got to sit with President and Mrs. Nixon, the former Mayor of Dallas and his lovely wife, Mr. and Mrs. J. Eric Jonsson, and the former Mayor of San Antonio and his lovely wife, Mr. and Mrs. W. W. McAllister, and if you think this is just a party of "ex's", you couldn't be more wrong.

I never learned much in politics, but I always learned that you had to fish with live bait, and we are not without some in this gathering this evening. But be that as it may, I try to put myself in other people's positions.

We have been here, we sat, we had occasion to talk with Mrs. Nixon and the President. We heard him early this afternoon on the ride talk about some problems of this country, and some of his ideas about those problems that range all the way from foreign affairs, the war in Vietnam, the forthcoming trip to Russia, ITT and busing, and a few other things in between. I think I know something about those views, but those of you sitting at these other tables have not been privileged to talk to them in that light or in that vein to discuss these matters, and it has been my privilege to have the opportunity to do that.

Frankly, I guess it is just an old political instinct of mine that when you have a fellow kind of at your mercy, you never let him get away without trying to prevail on him if you can, and during dinner I did mention to the President that I thought this particular gathering would be profoundly interested in some of his views about some of the problems that the country has and that this world has, and if you would be, I think we can prevail on him to frankly respond to some of your questions if you would like. (Applause.)

Mr. President, they talk about the ivory towers of the White House, but I assure you that they are not so high nor the walls so thick that the call of applause cannot permeate them, and I know that a man with a political instinct such as you have is always willing to respond to such acceptance. Need I say more?

Ladies and gentlemen, for what remarks he would like to make, and what questions he would like to respond to, the President of the United States.

Will you please be seated for just a moment, because before I turn the microphone over to him, I again want to ask your indulgence to afford me another great privilege.

I know what a wonderful woman can do to a man's life. No one knows that better than I, unless it is Richard Nixon. So I want the rare privilege—because hopefully not, but perhaps the only time I will ever have the opportunity on this ranch and on this soil that Nellie and I love so much—to present to you a marvelous woman, a lovely lady, a real First Lady of America, Mrs. Richard Nixon.

The PRESIDENT. Well, I want to say first of all that we are most grateful for the welcome that you have given us to Texas, and speaking in a very personal sense, I, of course, rather than saying Mr. Secretary, would like to say to John and Nellie Connally that we are particularly happy that we have had a chance to visit this ranch, to tell a lot of old friends, and also to make some new friends, as well.

As I listened to John Connally, and as I listened to some of the things he had to say about me and my age, and as I thought back of some of those dope stories suggesting that he was no longer a potential candidate for anything, I began to wonder. (Laughter.)

I would like to return the compliment, not simply because it is a case of when one man scratches your back, you scratch his in return—and, of course, it is much more pleasant when it is a lady—but nevertheless, what ever the case might be, I would like to say a word about the appointment that I made of John Connally as Secretary of the Treasury; how it was greeted with such surprise in many quarters, applause from some, a wonder among others, and criticism, of course from many that you would expect.

Generally speaking, the line was, well, what does John Connally know about being Secretary of the Treasury? They recognized he was a fine lawyer, they recognized he was a very successful political leader in Texas, they recognized he had been a great Governor of this State, but what in the world did he know about being Secretary of the Treasury. And the country has found out.

All that I can say is this: When I named him to this position, I named him to the position because I had had the privilege of knowing him as a man through many years, and particularly well during the years I have been President. And based on the—and it is hard to realize it has been 18 months almost now that he has been in this position—based on those 18 months, I can say that John Connally, who has been a Governor and now a Cabinet Officer, and was a former Secretary of the Navy, is, in my view, a man who has demonstrated that he is capable of holding any job in the United States that he would like to pursue. (Applause.)

I am just glad he is not seeking the Democratic nomination. (Laughter.)

If I could just add to that by saying that we remember the new economic policy of August 15; we remember the United States at long last standing up for its position in international monetary affairs, in trade matters and the rest, and the leadership that the Secretary of the Treasury provided. We remember his leadership in the fight on inflation, in all of the other areas, but I also recall those times when clearly out of his special capacity as Secretary of the Treasury, his capacity of the head of the Cost of Living Council, as an advisor, as a friend, as a counsellor in all areas, I remember how much he has contributed to this Administration.

And to all those, I would add one final thing. Certainly his greatest contribution was bringing Nellie Connally to Washington, D.C. She has been a scintillating star on the Washington scene. Don't get the idea that that is bad, necessarily, but I can assure you that in our Cabinet Family and among those who have known her, be they Democrats or Republicans, they have all been as warmly affectionate toward her as the people of this State are, and we are so happy that here with their friends, we can share this special evening with you.

Because I know you have had a very splendid dinner tonight, and because I know this has probably never happened on this ranch before—well, at least if it has happened, it has never been done by one who held the office that I hold—I think that all of you would like to join me in raising our glasses to John and Nellie Connally.

Now, with that, let me just say a word with regard to what John has suggested. It did occur to him as we were sitting here that so many of our guests don't have the opportunity to talk with the one who happens to be the guest of honor as those who are at only the one table at which we are seated. It doesn't mean that there are many pearls of wisdom that are passed out here that you are missing, but I would say it does mean simply that perhaps on an occasion like this, since this is a party of close friends, and since this whole great State is covered, that I know that both Pat and I would have liked to have sat at every table and talked to each one of you.

So for the next few minutes, if you like, in a totally non-partisan, not political way, if you would like to just rather imagine that we were sitting in your living room, and you were chatting and asking questions, I will try to answer them.

I can assure you, if I don't know the answers, John will.

So with that, in that very informal way, we will be glad to take any of your questions that you have for a few minutes, and we will not keep you too long, unless the questions take too long.

Q. Mr. President, do you anticipate any developments in Vietnam other than those courageous statements we heard on the television the other night, that you might tell us here?

The PRESIDENT. I would respond by saying that the evaluation of the situation in Vietnam today is the same that I gave then.

As General Abrams reported then, and as he has updated his report as of today, the South Vietnamese on the ground are resisting very bravely a massive Communist North Vietnamese invasion of South Vietnam. That invasion will continue. The offensive will continue in its intensity, and we can expect over the next four to five weeks that there will be some battles lost for the South Vietnamese and some will be won, but it is his professional judgment—General Abrams' professional judgment—that the South Vietnamese will be able to hold and deny to the North Vietnamese their goal, which, of course, is to impose on the people of South Vietnam a Communist government.

Now to keep it all in perspective, let us understand that when we hear about this town or that one that is under attack, we must remember that as of this time, the North Vietnamese have utterly failed in their ability to rally the South Vietnamese people to their cause.

We also must remember that despite their moving in on certain territory and in certain towns, that over 90 percent of the people of South Vietnam are still under the government of South Vietnam, and not under control of the Communists.

So keeping it in perspective, while we can expect, and should expect, as is always the case in a war of any kind, and particularly a war of this type—we can expect some days when the news may be a South Vietnamese setback, and other days when it will be otherwise. It is the professional view of the man on the spot, best able to judge, that the South Vietnamese will be able to hold, provided—and this comes to what we do—provided the United States continues to furnish the air and naval support that we have been furnishing to stop this invasion.

Now, without repeating what I said last Wednesday night, but simply to underline it, I would like to make just two or three points quickly, frankly to this group of friends here in Texas.

Questions have been raised about the decision that I have made, which is to the effect that as long as the North Vietnamese were conducting an invasion, an offensive, in South Vietnam, and were killing South Vietnamese and Americans in South Vietnam, that I would, as Commander-in-Chief of our Armed Forces, order air and naval attacks on military targets in North Vietnam.

I realize that decision has caused considerable controversy in this country. I understand why that would be the case. There are many people who believe that the United States has done enough in South Vietnam; that what we should do is to find a way to get out as quickly as we can, and let whatever the consequences are flow from that, which would mean, of course, a Communist take-over.

Let me tell you the reasons why I feel that it is vitally important that the United States continue to use its air and naval power against targets in North Vietnam, as well as in South Vietnam, to prevent a Communist takeover and a Communist victory over the people of South Vietnam.

First because there are 69,000 Americans still in Vietnam—that will be reduced to 49,000 by the first of July—and I, as Commander-in-Chief have a responsibility to see to it that their lives are adequately protected, and I, of course, will meet that responsibility.

Second, because as we consider the situation in Vietnam, we must remember that if the North Vietnamese were to take over in South Vietnam, as a result of our stopping our support in the air and on the sea—we have no ground support whatever, there are no American ground forces in action in South Vietnam and none will be—but when we consider that situation, if there were such a take-over, we must consider the consequences.

There is first the consequence to the people of South Vietnam. We look back to what happened historically in 1954, when the North Vietnamese took over in North Vietnam, the Catholic Bishop of Danang estimated that at least 500,000 people in North Vietnam who had opposed the Communist take-over in the North were either murdered or starved to death in slave labor camps.

I saw something of that when Mrs. Nixon and I were in there in 1956, when we visited refugee camps where over a million North Vietnamese fled from the Community tyranny to come to the South. If at this particular point, the Communist were to take over in South Vietnam, you can imagine what would happen to the hundreds of thousands of South Vietnamese who sided with their own government and with the United States against the Communists. It would be a blood bath that would stain the hands of the United States for time immemorial.

That is bad enough. I know there are some who say we have done enough; they say what happen to the South Vietnamese at this particular time is something that should not be our concern. We have sacrificed enough for them. So let's put it in terms of the United States alone, and then we really see why the only decision that any man in the position of President of the United States can make is to authorize the necessary air and naval strikes that will prevent a Communist take-over.

In the event that one country like North Vietnam, massively assisted with the most modern technical weapons by two Communist superpowers—in the event that that country is able to invade another country and conquer it, you can see how that pattern would be repeated in other countries throughout the world—in the Mideast, in Europe, and in others as well.

If, on the other hand, that kind of aggression is stopped in Vietnam, and fails there, then it will be discouraged in other parts of the world. Putting it quite directly then, what is on the line in Vietnam is not just peace for Vietnam, but peace in the Mideast, peace in Europe, and peace not just for the five or six or seven years immediately ahead of us, but possibly for a long time in the future.

As I put it last Wednesday night, I want, and all America wants, to end the war in Vietnam. I want, and all Americans want, to bring our men home from Vietnam. But I want, and I believe all Americans want, to bring our men home and to end this war in a way that the younger brothers and the sons of the men who have fought and died in Vietnam won't be fighting in another Vietnam five or ten years from now. That is what this is all about.

Q. May we raise our glasses and pay tribute to the courage of the President of the United States.

The President. I am most grateful for that toast. Incidentally, I hope the champagne holds out for the evening.

But I do want to say that in the final analysis, what is really on the line here, of course, is the position of the United States of America as the strongest free world power, as a constructive force for peace in the world.

Let us imagine for a moment what the world would be like if the United States were not respected in the world. What would the world be like if friends of the United States throughout the non-Communist world lost confidence in the United States? It would be a world that would be much less safe. It would be a world that would be much more dangerous, not only in terms of war, but in terms of the denial of freedom, because we talk about the United States of America and all of our faults, let us remember that in this country we have never used our power to break the peace, only to restore it or keep it, and we have never used our power to destroy freedom, only to defend it.

Now, I think that is a precious asset for the world. I also feel one other thing, and I will close this rather long answer on this point: John Connally has referred to the office of the President of the United States. Earlier this evening I talked to President Johnson on the telephone. We are of different parties. We both served in this office. While I had my political differences with him, and he with me, I am sure he would agree that each of us in his way tries to leave that office with as much respect and with as much strength in the world as he possibly can—that is his responsibility—and to do it the best way that he possibly can.

Let me say in this respect that I have noted that when we have traveled abroad to 18 countries, particularly even when we went to the People's Republic of China, the office of President—not the man, but the office of President—of the United States is respected in every country we visited. I think we will find that same respect in Moscow. But if the United States at this time leaves Vietnam and allows a Communist takeover, the office of President of the United States will lose respect and I am not going to let that happen.

Q. Mr. President, may I ask you about strategic targets in North Vietnam? I have been told for years by the pilots that there are dams up there that would be very much defeating to the North Vietnamese, who have defied what you have tried to prove in the way of peace. Is this true or false? Has this crossed your mind?

The President. The question is with regard to the targets in North Vietnam, and particularly with regard to the dams and dikes, which many of the pilots believe would be very effective strategic targets.

I would say on that score that we have, as you know, authorized strikes, and we have made them over the past four weeks, since the Communist offensive began, in the Hanoi-Haiphong area.

I have also indicated, as this offensive continues, if it does continue, that we will continue to make strikes on military targets throughout North Vietnam.

Now, the problem that is raised with regard to dams or dikes is that, while it is a strategic target, and indirectly a military target, it would result in an enormous number of civilian casualties. That is something that we want to avoid. It is also something we believe is not needed.

Just let me say that as far as the targets in North Vietnam are concerned, that we are prepared to use our military and naval strength against military targets throughout North Vietnam, and we believe that the North Vietnamese are taking a very great risk if they continue their offensive in the South.

I will just leave it there, and they can make their own choice.

In other words, I believe that we can limit our strikes to military targets without going to targets that involve civilian casualties. That is what we have done, and we can do that in the future, and do the job.

Q. Mr. President, turn to domestic America. You know there are great misgivings in the press now about how America feels about itself, and where we are going to. I don't think there is anyone better equipped to tell us how you feel about where America is going; not today, but for its future and about its own confidence in itself, and I would like to hear your remarks.

The President. The question relates to domestic America, the feeling that many Americans have that possibly we, in America, are losing confidence in ourselves. The question asks me to evaluate how I see the mood of America, and how I understand it, and what the future for American is in terms of confidence in itself.

That, of course, would allow a rather extended reply. Let me see if I can get at the heart of it. First, let me relate it to the last question.

I know there are those who say that the trouble with America's confidence, most of it, is due to the fact that we are involved in Vietnam, and that once the war in Vietnam is over that then the trouble on the campuses will go away, the division in the country, the polarization and all the rest. That is just nonsense.

Let me say the American people do not want war. We did not start this war. Let me say also that when I see people carrying signs saying "Stop the War," I am tempted to say "Tell it to Hanoi; they are the ones who have started the war, not the United States of America."

Nevertheless, while peace is our goal, and peace will be achieved—not just peace in our time, but we hope peace that will live for a generation or longer—that is why we went to Peking. That is why we are going to Moscow. That is why we are trying to end the war responsibly, in a way that would discourage those who would start war, rather than encourage them.

Let us well understand, if the United States, as a great nation, fails in Vietnam as we come to the end of this long road, and as we see the end, and as we know that it is not necessary to fail, I can think of nothing that would destroy the confidence of the American people more than that. So I would begin with that proposition by answering it on the negative side.

Now, turning to the domestic issue, what about the attitude of America toward itself? We often hear it said that we, in this country, are so divided about race issues, we are divided between labor and management, rich and poor, environmentalists, those who are against doing anything about the environment, and so forth and so on, that it is a rather hopeless future.

I would simply raise this one question in that respect. If you sit in Washington, if you limit yourself to the group that we in Washington generally talk to, and this is no reflection on them, because we all tend to be sort of victims of intellectual incest there, what happens is that you get the impression that everything is wrong with America; that the majority of the people of this country have lost faith in themselves, faith in their country; they no longer have the will to work, the will to defend the country, the will to build a great nation.

That is a point of view. That point of view tends to be fed—and I say this, incidentally, not in anger, and perhaps more in sorrow—it tends to be fed by the tendency of some in the media—not all, but some in the media—constantly to emphasize a negative; I am speaking now more of the national media, rather than those who are out across the great, heartland of America—but the tendency to emphasize those negatives and to create in the minds of the American people the impression that this country, just before its 200th birthday, has reached the point where it has lost its sense of destiny; the American people no longer have the will to greatness which they once had.

I can only say that as I travel through America I find a different story. Let me point it out to you in a different way. I was talking to an Ambassador recently from a country in Europe who had just been accredited to this country. This was several months ago. This Ambassador told me that he had lived in Washington for a while, and then he had taken a trip out through the country. He said, "Mr. President, as I traveled through the country"—he had been to Illinois; he had been to California; he had also been to Texas; as a matter of fact, to Florida and Georgia and back to Washington, and he said, "I go out into the country and I see a different America than I see in Washington, D.C." I believe that the heart of America is still strong. I believe that the character of America is still strong. But I think now is the time when we must stand up against the trend toward permissiveness, the trend toward weakness, the trend toward something for nothing, and if we do that, this country is going to regain its self-confidence.

I believe that is what is going to happen.

Q. Mr. President, I would like to ask you this question: Mr. Moncrief spoke my sentiments, and I think 99 percent of the people in Texas are in favor of what you are doing in Vietnam, but why is it in the East you get the newspapers and students and Members of the Congress and the Senate are complaining about what you are doing, but they never mention what the Communists, the North Vietnamese, are doing by invading South Vietnam, and they are killing thousands of people. They seem to think that is right, and what we are doing is wrong. Why don't they ever mention that?

The PRESIDENT. I think that would be a very excellent editorial for somebody to write. (Applause)

Let me, in all fairness, say this: I do not question the patriotism of any critics of this war. Reasonable and honest and decent Americans can disagree about whether we should have gotten into Vietnam. They can disagree about how the war should be conducted, disagree about who is at fault now, and so forth, but let's look at the record as it is at the present time.

Since I have come into office we have withdrawn half a million men from Vietnam. We have offered everything that could be offered except impose a Communist government on the people of South Vietnam, and their answer has been massive invasion of South Vietnam by the North.

Now, under these circumstances, instead of the critics criticizing brave Americans flying dangerous air missions, hitting military targets in North Vietnam and military targets only, instead of criticizing them trying to prevent a Communist takeover, I think they should direct a little criticism to the Communists who are trying to keep this war going. That is what they ought to be doing.

Q. What are the possibilities of trade with China and Russia, as you now see it?

The PRESIDENT. Looking at both of these countries, we must realize—and I know that there are many here who have traveled certainly to Russia, and to other Communist countries, although very few perhaps have been to China, at least in recent years—and looking at both of these countries realistically, as far as China is concerned, while we have now opened the door for a new relationship insofar as trade is involved, realistically, the amount of trade that the United States will have with the People's Republic of China will be considerably limited over a period of time.

The Japanese, for example, have found that out. They, of course, are much closer to Mainland China, and they have been trying to trade with them over a period of years, and yet they find that the amount of trade that they are able to have with the People's Republic of China is, frankly, much less than they expected when they began to open trade up.

We should not expect too much in the short range. We could expect a considerable amount further down the road.

Now, with the Soviet Union, this, of course, will be a major subject that will be discussed at the Summit meeting. There will be considerable opportunities for trade with the Soviet Union.

The Secretary of Agriculture, Mr. Butz, was there discussing the possibility of trade insofar as agricultural products are concerned—the selling of some of our grain to the Soviet Union.

We have also had discussions between the Secretary of Commerce, Mr. Stans, and Mr. Peterson; now the new Secretary of Commerce is discussing this with the Russian delegation, and we expect more trade opportunities to develop with the Soviet Union.

Realistically, however, we must recognize that where you have a Communist country dealing with a capitalist country, or non-Communist country, the possibilities of trade are seriously limited because of an inability to have a method for financing it.

I know I have heard some American businessmen say wouldn't it be great if we could just sell just a few consumer items to 800 million Chinese. That is fine, but what are they going to sell us, and how are we going to finance it?

That is a problem, to a lesser extent, with the Soviet Union, but also a problem with them.

I would say then that these new relationships we have developed are developing with the People's Republic of China and with the Soviet Union, will certainly lead to more trade in the years ahead—trade in non-strategic items of course, so long as those countries are engaged in supporting activities such as those in Vietnam.

Q. Mr. President, leave it to John. He will work it out. (Laughter)

Q. Mr. President, one thing that is bothering me is what is the basis for the criticism of our bombing Haiphong and Hanoi? Were the United States in war, do you not think they would immediately bomb Washington and San Francisco and New York, and isn't the quickest way to stop this war to stop the supplies that are going into South Vietnam from their friends?

The PRESIDENT. The United States has shown restraint such as a great power has never shown in history in its handling of the war in Vietnam. At the present time, however now that we have gone the extra mile in offering a peace settlement and peace terms, a cease fire, an exchange of prisoners of war—and Mr. Ross Perot can tell you about some of the things we have gone through there and the barbarism with which our prisoners of war are treated. We have offered a total withdrawal of all our forces within six months. President Thieu has offered to resign a month before new elections that would be internationally supervised in which the Communists would participate in the election and the supervisory body.

Having offered all of that, and then faced with this invasion, certainly the least the United States can do—and that is all I have ordered—is to use our air and sea power to hit military targets in North Vietnam. This is what we have done and that is what we are going to continue to do until they stop their invasion of South Vietnam.

Q. Mr. President, most of us who have observed the moves that you have made in raising the price of gold and expecting the rest of the world to let their currency float, are pleased. At least the ones who I know.

The greatness of the country is built on the willingness of its people to work. The success of this country is built on that. When Japan can settle a strike in two days, a shipping strike, and we take six months, why can't we do this a little more efficiently and quickly. When we take people away from their jobs and do not have them produce, we are losing the productive value of these people, and if we don't do this, will we not face a further devaluation in the ensuing months ahead?

The PRESIDENT. I think most of you could hear the question. It relates to what I think is the totally correct policy of the Secretary of the Treasury in which we sought a new alignment of currency, we raised the price of gold, and as a result we improved the competitive position of American products in world markets.

But when we come to the fundamental point—and this is the one you are getting at—it is very simply this: Unless the United States is prepared to build a wall around itself, we have to compete with other nations in the world. Now in order to compete with other nations in the world, we who pay by far the highest wages in the world, have to be more productive than other people in the world, and that means that we can't afford work stoppages that are too long.

The strike that you refer to, the Longshoremen's strike, was one that certainly was not defendable and had enormously negative affects on the economy of this country.

We also, in that connection, if we are going to be competitive, have to have a tax structure which will encourage new investments in capital rather than discouraging it, and we also have to have, if I may boldly suggest it, a recognition of the need to respect what I call the work ethic in this country.

Now, briefly, on all three points. With regard to strikes of the Longshoremen, railroads, transportation generally, the Congress of the United States has had before it for the past two years a bill that would require, in effect compulsory arbitration of such disputes and bring them to a halt, and the Congress has not acted.

I think this, of course, is a major failure on the part of the Congress, and it is time that we had Congressmen and Senators—incidentally, this is not partisan—Democrats or Republicans, that have the courage to go down to Washington and vote for legislation in the public interest that will stop these transportation tie-ups that we had on the docks and other places, and I think we should get them.

Second, with regard to the competitive position of American products in the world, there has been a lot of talk lately about the need for tax reform, and a great deal of criticism of so-called tax loopholes. I am not going to go into that in any detail, when I have the major expert on tax reform right here in front of me. And it is no accident he is on my right, incidentally, in this respect.

But I simply want to say this: One of the loopholes is supposed to be depreciation. Another loophole is supposed to be depletion. Now all of you here in this State know my own position on depletion and depreciation, and you also know that this Administration has been subjected to considerable criticism on the ground that we are for big business and we are for rich oil men and against people.

I will tell you what we are for. What we are for is for more jobs for America and for American industry to be able to compete abroad. Do you know where the most efficient steel plant in the world is? It is not in the United States. It is in Japan. Do you know where some of the most efficient new kinds of chemical plants in the world are? We have some very good ones in the United States, but the best new ones may be in Germany.

How did this happen? It didn't happen because our American businessmen are less imaginative, our scientists and engineers less capable. I believe we have the best in the world. But in both Japan and Germany, after they had gone through the devastation of World War II, they adopted a tax policy in terms of the depreciation that encouraged investment in new plants and equipment and research on a basis unheard of in any noncapitalist country in the world.

As far as I am concerned, that is why I strongly favor not only the present depreciation rate, but going even further than that, so we can get our plants and equipment more effective. That is why, in terms of depletion, rather than moving in the direction of reducing depletion allowance, let us look at the fact that all the evidence now shows that we are going to have a major energy crisis in this country in the 80's. To avoid that energy crisis we have to provide incentive rather than disincentive for people to go out and explore for oil. That is why you have depletion, and the people have got to understand it.

Now, if I can just spend a moment on the last point, the work ethic. First, let us well understand that there are millions of fine Americans who work hard, are proud of their work and they have made this country, they built this country and they are going to build it bigger in the future.

But let us also understand that there has developed—and this goes back to the earlier question which I could not answer too precisely because it is difficult to answer in an effective way a question so profound in its implication—but in recent years there has grown up the idea more and more and more of something for nothing; the idea that where a job is concerned that we will take those jobs only if they happen to be jobs that we consider as the term is used, not menial.

Let me ask any of you who have traveled to Los Angeles, to Miami, to New York and so forth, Denver, Dallas, any place, pick up your papers, look at the Help Wanted ads, and you will find thousands of Help Wanted ads in those particular papers, and yet you will find unemployment, and in the City of New York alone, a million on the welfare rolls.

Now this is not always true. It may not even be true in a majority of cases, but it is sometimes true, and very simply, it is that in case after case, an individual who is able to work refuses to work because the job is not one that he feels is up to his capability. He feels that it is too menial a job.

Well, I just have grown up in a different time. I say that no job is menial if it provides bread on the table and shelter for a family. Rather than for a man to have to go on public welfare, he ought to take the job.

It is that spirit that we need revived in this country, and we have to revive it not only down among those who might potentially be on welfare rolls, but up and down our whole society, because let us be quite honest in our own self-evaluation: The tendency, too often, in modern education, in some of our great colleges and great universities, is to downplay the necessity for excellence, for pride in work and all these other great values that have made this country what it is.

I just want to say on that point, I have great confidence in the future as far as America's competitive position is concerned, but let us make no mistake about it: Simply letting the dollar float, having realignments of currency, erecting temporary barriers, 10 or 15 percent surcharges or less, isn't going to do the trick. The United States will be able to compete in the world only when the United States and the people of this country are competitive in every sense of the word. We can do it, but we have to tighten our belts if we are going to meet that task.

Secretary CONNALLY. Ladies and gentlemen, the President has been going for about an hour. Let's see if we can take one more question, and we won't count this: Mr. President, the people here from Dallas, Corpus Christi, Houston, Austin, and in very recent months, I suppose, perhaps, the most emotional, most critical issue in those cities has been the question of busing. Do you have any comments on it?

The PRESIDENT. My views on the merits of busing have been expressed on many occasions. I will repeat them only briefly, and then talk about the remedy briefly.

The reason that I am against busing for the purpose of achieving racial balance in our schools is that it leads to inferior education. Let's look at the situation with regard to what the whole busing controversy is about, and there are many lawyers here tonight, and all of you are, of course, familiar with the famous, landmark case of Brown versus the Board of Education in 1954.

The very title of that case tells us something. Brown versus the Board of Education, which provided that the dual school system had to be eliminated, was about education, and correctly, in the opinion of observers at that time, and I was one of them, and certainly most observers now, a system that legally sets up a dual school system and divides people according to race is one that could lead and would inevitably lead to inferior education. So Brown versus the Board of Education dealt with that problem.

That problem has been moved on very effectively, particularly during this Administration, to the great credit of those particularly in Southern States, where some of the dual school systems had to be removed. We now find that the South has gone really further than the North insofar as meeting the goal of getting rid of a dual school system.

Let's look at busing. Where busing comes in, in attempting to deal with the problem, a Board of Education or a court orders that school children be bused across town away from their neighborhood schools in order to create some artificial racial balance.

If you read the decisions, they never use the term "racial balance", but there are over 23 that we already have identified where that is exactly what the court was ordering.

Now, why do I believe this is wrong? Because in my view, when you bus children, particularly young children, away from their neighborhood school, into an unfamiliar neighborhood, whether they are black or white, it leads to inferior education. It also has some other disadvantages. It divides communities; it creates hostility among people that didn't exist before. I think that for that reason, we have got to find more effective ways to have equality of educational opportunity for all Americans than to use busing.

So that is why I have come up with these remedies: First, a moratorium on any new busing orders for a year. We have asked the Congress to act on that.

Second, I have ordered the Attorney General of the United States to intervene in those cases where the courts have gone beyond what the Supreme Court presently has laid down as the requirement insofar as eliminating the dual school system is concerned.

And then third, we have asked for the enactment of the Equal Educational Opportunity Act, under which we would upgrade education in inferior schools; but we would specifically provide that busing would not be required at all for children in the sixth grade and below, and then for any other cases above that, would be used not as the first resort, but only as a last resort, and then only temporarily.

It also provides, incidentally, when this Act is passed, that in those States that have had imposed upon them busing orders that went beyond what the new legislation would require, those cases could be reopened.

Now, where do you stand? At the present time, the Congress has had this request for legislation for over two months. It has not acted. The prospects for its acting do not appear hopeful at the present time. In my view, before the Congress goes home for its election recess, the Congress owes it to the American people to act, because unless it does act, it means that tens of thousands of students in scores of communities across this country are going to be subjected to busing orders that will provide inferior education for them, and that should be avoided. So I believe that the Congress should act to deal with the problem. If the Congress does not act, and refuses to face up to the problem, then the only resort that we have left is to proceed with the constitutional amendment.

So under these circumstances, I realize that the position that I have taken is subject to honest criticism, honest debate by people who have considered the subject just as I have tried to consider it, with the interest of better education as well as eliminating the dual school system, and providing equality of education for all concerned.

But I smply conclude my answer to this question by saying that in this country if you were to provide for—I am talking now about the most extreme advocates of busing—if you were to provide for busing students in the major metropolitan centers like New York, Chicago, Detroit and Los Angeles, in plans that go further than even the most liberal plans have ever provided, it would still leave the great majority of black children in inferior schools in central cities who would never get the benefit of a so-called better education.

So I say that the better answer is to upgrade the education for those children who would otherwise be a lost generation, but let's do not impair the education for all other children as a result of busing orders. That is the way I think we should approach it.

Q. Mr. President, your days and nights are very long, and we are very grateful for your services. As a newspaperman, I would like to exercise my prerogative and say thank you, Mr. President.

COST-OF-LIVING COUNCIL

The SPEAKER. Under a previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 5 minutes.

Mr. BLACKBURN. Mr. Speaker, yesterday the AFL–CIO announced its opposition to the Cost-of-Living Council's ruling that all small businesses—those businesses with less than 60 employees—would be exempt from wage-and-price regulations.

The AFL–CIO's position has always been extremely curious in that they urge strict control of all business operations, but demand that wage increases not be regulated in any form.

AFL–CIO spokesmen stated that the action of the Cost-of-Living Council was aimed at hurting the poor. However, prices charged by smaller firms are not expected to increase since large firms within the industries tend to exert price discipline over smaller companies. Furthermore, small businesses will have to exercise restraint for fear of losing much of their market to large companies if they inordinately raise prices. It is well known that direct controls on small businesses have created significant administrative difficulties and that these small businesses have a very insignificant impact with regard to inflation.

Specifically, I would like to point out that the members of the AFL–CIO seem to be completely out of step with the thinking of the other members of the labor community. On March 24, 1972, the representatives of the United Auto Workers and the International Brotherhood of Teamsters issued the following statement with regard to small business exemptions:

> We support the principle of the recommendation of the Public Members concerning the possible exemption from wage controls of small business units. We feel, however, that this recommendation does not go far enough in the de-control of sectors of our economy which have not been, or are not now contributing to our present economic situation.
>
> Specifically, we feel that an exemption of employers of 100 employees or less will not jeopardize the current stabilization effort.

Thus in the above statement other spokesmen for organized labor express a sharp difference with Mr. Meany and his AFL–CIO. I am positive that the auto workers and teamsters are just as concerned with regard to controlling inflation and the plight of the poor as are the members of the AFL–CIO. So we must ask, Mr. Speaker, why has Mr. Meany decided to attack this move by the Cost-of-Living Council?

I am not privileged to know Mr. Meany's motivations. Previously, however, I have made the observation that 1972 is divisible by four and this may explain the constant stream of otherwise unexplainable inconsistencies emanating from the AFL–CIO.

THE DANGERS OF TOBACCO SMOKE TO NONSMOKERS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, several months ago the Surgeon General of the United States reported something that many of us nonsmokers have known, or at least suspected, for a long time: that breathing somebody else's tobacco smoke, particularly in a confined area, is annoying and irritating, often causing bleary eyes, cough, headache, or runny nose. The Surgeon General has now reported, on the basis of a substantial amount of medical information, that tobacco smoke is indeed hazardous to the health of a nonsmoker. This raises a question, Mr. Speaker, as to how the health and rights of the nonsmoker can be protected.

An organization which has been in the forefront of the fight to establish and protect the rights of nonsmokers is Action on Smoking and Health, 2000 H Street NW., Washington, D.C. Almost 2 years before the Surgeon General issued his report, this organization filed a petition with the FAA to require nonsmoking sections on all airlines. The FAA has tentatively approved that petition, but final issuance of the rule is still pending. Nevertheless, many airlines, under prodding by ASH and others, are now providing nonsmoking sections. Recently the ICC ruled that interstate buses must restrict smoking to the rear 20 percent of the bus. When that ruling was held up by the Commission, ASH jumped into the fray and the ICC again issued the rule. Unfortunately, the rule has not yet become effective, since the motor bus owners are fighting it in the courts. Action on Smoking and Health has also persuaded the Department of Health, Education, and Welfare to recognize for the first time anywhere in Government that nonsmoking employees have a right to breathe air unpolluted by cigarette smoke, and to ban smoking in certain areas and provide separate nonsmoking sections in others.

As one of the early sponsors of Action on Smoking and Health, I am proud of this organization and the work it and others are doing to protect the rights of nonsmokers. In view of the tremendous amount of interest in the portion of the Suregon Generals' report describing the health hazards of tobacco smoke to nonsmokers, I include a copy of that section in the Record:

Public Exposure to Air Pollution From Tobacco Smoke

The purpose of this chapter is to summarize the present state of evidence concerning the effects of exposure to an atmosphere containing either tobacco smoke or its constituents. Since the identification of cigarette smoking as a serious health hazard to the smoker was based on clinical and epidemiological observations that nonsmokers have much lower mortality and morbidity rates from a number of conditions, it is obvious that cigarette smoking is normally a greater hazard to the smoker than is the typical level of exposure to air pollutants produced by the smoking of cigarettes which many nonsmokers experience. This would be consistent with the voluminous data which show a dose-response relationship between the level of exposure to smoke and the magnitude of its effect.

The research so far reported on the nature and effects of exposure to smoke-pollutants in the atmosphere has not been as extensive and well-controlled as that done on the health effects of smoking on the smoker himself. Knowledge on this subject can be separated into four major areas of concern:

1. The extent to which the components of cigarette smoke contaminate the atmosphere and are absorbed by the nonsmoker.
2. The effects of low levels of carbon monoxide on human health.
3. Allergic, adverse, and irritative reactions to cigarette smoke among nonsmokers.
4. The known harmful effects of the passive inhalation of cigarette smoke in animals.

THE EXTENT TO WHICH THE COMPONENTS OF CIGARETTE SMOKE CONTAMINATE THE ATMOSPHERE AND ARE ABSORBED BY THE NONSMOKER

Theoretical models of this contamination have been constructed. Owens and Rossano (44) have noted that most popular cigarettes release into the atmopshere approximately 70 mg. of dry particulate matter (about 60 mg. in the sidestream and slightly over 20 mg. in the mainstream, about one-half of the latter being absorbed by the smoker and one-half expelled into the ambient air) and 23 mg. carbon monoxide per cigarette. This material adds to the cleaning problem of the air of any enclosed space and contributes to residual odors. In a recent study of particulate matter filtration in domestic premises (35), the authors observed that the smoking of one cigar completely overcame the effect of an electrostatic filtration device for one hour.

Atmospheric pollutants caused by smoking are derived from two major sources: mainstream and sidestream smoke. Mainstream smoke emerges from the tobacco product through the mouthpiece during puffing, whereas sidestream smoke comes from the burning cone and from the mouth piece during puff intermissions (60). The tobacco smoke released into the atmosphere consists of all the sidestream smoke as well as that part of the mainstream smoke which has been either held in the smoker's mouth or taken into his lungs and then expelled.

The actual amount of material to which individuals are exposed in the presence of smokers depends upon the amount of smoke produced, the depth of inhalation on the part of the smoker, the ventilation available for the removal or dispersion of the smoke, and the proximity of the individual to the smoker. The length of time of exposure to those pollutants is extremely important in determining how much is absorbed into the body. The pattern of smoking influences the amount produced by altering the content of the exhaled smoke. As shown by Dalhamn, et al. (10, 11) mouth absorption removes approximately 60 percent of the water-soluble volatile components (e.g., acetaldehyde), 20 percent of the nonwater-soluble volatile components (e.g., isoprene), 16 percent of the particulate matter, and only three percent of the carbon monoxide. Thus, the smoker who does not inhale "filters" a portion of the smoke components in his mouth before expelling them into the ambient air. On the other hand, the lungs retain from 86 to 99 percent of the volatile and particulate substances and approximately 54 percent of the carbon monoxide inhaled. Hence, the inhaling smoker "filters" the mainstream smoke rather effectively before expelling it into the ambient air, A factor which has apparently not been investigated is the difference in the smokers' "filtration" of mainstream smoke when the smoke is exhaled through the nose instead of the mouth.

Thus, the nonsmoker breathes smoke-containing air composed of sidestream smoke and mainstream smoke exhaled by smokers. The inhaling smoker receives nearly the full amount of mainstream smoke as well as a portion of sidestream smoke and smoke exhaled by himself and other smokers. The smoker who does not inhale receives those compounds which are absorbed from the mainstream smoke in this mouth, as well as absorbing the sidestream smoke and the smoke exhaled by himself and other smokers contained in the air he breathes.

Since pipe and cigar smokers less commonly inhale than do cigarette smokers, their contribution to the substances in the air breathed in exposure to smoke pollutants consists of a composite of sidestream smoke and relatively unfiltered mainstream smoke which has been held in the mouth and then expelled.

The actual effluents in the mainstream and sidestream cigarette smoke have been considered by Pascasio, et al. (45) and Scassellati Sforzolini and colleagues (50, 51). These authors stated that "tar" and nicotine levels in sidestream smoke may be significantly higher than those of mainstream smoke and may be harmful to the nonsmoker. Actual volume measurements were not reported, however.

Actual measurements of the contamination due to cigarette smoking have been carried out by a number of research groups. A recent, well-controlled study by Harke (24) involved the smoking of 42 cigarettes in 16 to 18 minutes using German blend cigarettes of 85 mm. length, 18 mm. filter, and smoked to a 25 mm. butt length in a room with a volume of 57 cubic meters (approximately the eqiuvalent of a room with a 10-foot ceiling and dimensions of 12 by 14 feet). The author observed that in the absence of ventilation the atmosphere contained up to 50 p.p.m. carbon monoxide and .57 mg./m.^{3} nicotine.

With substantial ventilation, these levels fell significantly (to approximately 10 p.p.m. carbon monoxide and .10 mg./m.^{3} nicotine). He also found that cigar smoke (9 cigars of Clear Sumatra tobacco smoked in 30 to 35 minutes produced similar amounts of contamination while pipe smoke (3 grams of Navy type medium cut tobacco smoked as eight pipefuls in 35 to 40 minutes) produced much less. Other authors have made similar measurements. Galuskinova (20) found that 3,4-benzpyrene levels in a smoky restaurant were from 2.82 to 14.4 mg./100 m.^{3} as compared to outside atmospheric levels to 0.28 to 0.46 mg./100 m.^{3}, although burning of food particles may have contributed to the presence of 3,4-benzpyrene in this setting. Kotin and Falk (33) have shown that sidestream cigarette smoke condensate may contain more than three times as much benzo(a) pyrene as mainstream smoke. Srch (55) observed that the smoking of 10 cigarettes to a 5 mm. butt length in an enclosed car of 2.09 m.^{3} volume produced carbon monoxide levels up to 90 p.p.m. Lawther and Commins (34), working with a ventilated chamber, found levels of up to 20 p.p.m. of carbon monoxide after seven cigarettes were smoked in one hour; however, peaks of up to 90 p.p.m. were recorded at the seat next to the smoker. Coburn, et al. (9) recorded levels of 20 p.p.m. of carbon monoxide in a small conference room after 10 cigarettes were "burned." Harmsen and Effenberger (25) reported up to 80 p.p.m. of carbon monoxide in an enclosed 98 m.^{3} room (approximately the equivalent of a room with a 10-foot ceiling and dimensions of 18 by 20 feet) in which 62 cigarettes had been smoked in two hours.

Another set of contaminants probably present in a tobacco smoke-polluted atmosphere are the oxides of nitrogen. These, specifically NO and NO$_2$, have been shown to be present in tobacco smoke although the type most likely to be present in the atmosphere is NO$_2$. No measurements have been reported of the amount of NO$_2$ in smoke-filled rooms. The importance of obtaining and evaluating this information is stressed by the results of Freeman and Haydon and their colleagues (17, 18, 19, 27, 28) and of Blair, et al. (5) who observed bronchial and pulmonary parenchymal lesions in rodents continuously exposed to low levels of NO$_2$.

Other experimenters have measured carboxyhemoglobin (COHb) levels in nonsmokers exposed to cigarette smoke pollutants. Srch (55) observed that the COHb level in two nonsmokers rose from 2 to 5 percent (that of smokers from 5 to 10 percent) when seated in the cigarette-smoke contaminated car mentioned above (exposure to 90 p.p.m.). Harke (24) reported that when seven nonsmokers were exposed for approximately 90 minutes to a "smoked" room containing 30 p.p.m. of CO there was a rise in COHb from a mean of 0.9 percent to 2.0 percent. In 11 smokers subjected to the same conditions, COHb rose from a mean of 3.3 percent to 7.5 percent. With improved ventilation of the experimental room, the COHb level decreased significantly.

The CO exposures and COHb levels reported above closely approximate the results obtained following experimental chamber exposure of humans to various levels of CO. The uptake of CO by the person depends on, among other parameters: CO concentration, previous COHb level, the level of activity, and the person's state of health. Equilibrium between CO concentration in the lung and in the blood requires over 12 hours exposure. However, as may be noted in table 1, reproduced from Stewart, et al. (56) and derived from measures of COHb in young sedentary males who were not smoking, over half of the equilibrium COHb level is reached within three to four hours of the onset of exposure. The equilibrium value associated with 100 p.p.m. is approximately 14 to 15 percent COHb. Exposure to 100 p.p.m. in the nonsmoker can lead to 3.0 percent of COHb within 60 minutes and 6.0 percent in two hours (16). Of equal significance is that COHb has a half-life of at least three to four hours in the body. As shown in table 1, the COHb level fell only to 2.7 percent in the two hours following cessation of exposure to 50 p.p.m. from the end exposure level of 3.7 percent. This lengthy half-life extends the period of effect of exposure to CO and provides for a buildup of COHb concentration from fresh exposures.

TABLE 1.—PERCENT OF COHb DURING AND FOLLOWING EXPOSURE TO 50 P.P.M. OF CO

Time during exposure	Mean	Range	Number of subjects
Preexposure	0.7	0.4–1.5	11
30 minutes	1.3	1.3	3
1 hour	2.1	1.9–2.7	11
3 hours	3.8	3.6–4.2	10
6 hours	5.1	4.9–5.5	5
8 hours	5.9	5.4–6.2	5
12 hours	7.0	6.5–7.9	3
15½ hours	7.6	7.2–8.2	3
22 hours	8.5	8.1–8.7	3
24 hours	7.9	7.6–8.2	3
Time without exposure after 1 hour of exposure:			
30 minutes	1.8	1.8	3
1 hour	1.7	1.6–1.8	3
2 hours	1.5	1.4–1.5	3
5 hours	1.1	1.0–1.1	2
Time without exposure after 3 hours of exposure:			
30 minutes	3.7	3.4–3.9	3
1 hour	3.3	2.7–3.8	3
2 hours	2.7	2.3–3.0	3
Time without exposure after 8 hours of exposure:			
30 minutes	5.6	5.1–5.9	
1 hour	5.1	4.8–5.4	3
1¾ hours	4.0		
11 hours	1.5	1.4–1.7	3
Time without exposure after 24 hours of exposure:			
30 minutes	7.5	7.2–7.8	3
1 hour	6.7	6.4–7.1	3
2 hours	5.8	5.6–6.2	3

Source: Stewart, et al. (56).

THE EFFECTS OF LOW LEVELS OF CARBON MONOXIDE ON HUMAN HEALTH

The data on the effect of low levels of carbon monoxide on human psychological and physiological function have been summarized in two recent publications (8, 58).

There is presently much discussion as to the physiologic and psychophysiologic effects of exposure to levels of CO approximating 50 to 100 p.p.m. Beard and Grandstaff (4) observed that exposure to 50 p.p.m. of CO for from 27 to 90 minutes altered auditory discrimination, visual acuity, and the ability to distinguish relative brightness. McFarland (40) observed that COHb levels of 4 to 5 percent caused visual threshold impairment. Ray and Rockwell (48), reporting on a study of the driving ability of three subjects under varying CO exposure, observed that the presence of 10 percent COHb was associated with increased response time for taillight discrimination and increased variance in distance estimation. Schulte (52) observed that increased errors in cognitive and choice discrimination tests were manifest at levels of COHb also was 3 percent. Chevalier, et al. (7) have also observed that levels of 4 percent COHb in nonsmokers are associated with an increase in oxygen debt formation with exercise similar to that seen in smokers.

On the other hand, other investigators utilizing complex psychomotor tasks in men and monkeys have observed no decrement in function upon exposures to CO at 50 to 250 p.p.m. (2, 3, 23, 41, 56).

Animals exposed to low levels of CO (50 to 100 p.p.m.) continuously for weeks have shown varying degrees of cardiac and cerebral damage similar to that produced by hypoxia (21, 47, 57).

Finally, the possible effects of exposure to 50–100 p.p.m. CO on patients with coronary heart disease (CHD) were investigated by Ayres, et al. (1) who observed a decrease in arterial and mixed venous oxygen tensions with COHb saturations of 5 percent. Certain patients with CHD developed altered lactate and pyruvate metabolism with COHb levels of 5 to 10 percent suggesting myocardial hypoxia.

The evidence concerning the effect of low levels of carbon monoxide has recently been reviewed and evaluated by the National Air Quality Criteria Committee of the National Air Pollution Control Administration (58). The following is taken from the published conclusions of the Advisory Committee (also see table 2):

TABLE 2.—EFFECTS OF CARBON MONOXIDE

Environmental conditions	Effects	Comment
58 mg./m.^{3} (50 p.p.m.) for 90 minutes	Impairment of time-interval discrimination in nonsmokers	Blood COHb levels not available, but anticipated to be about 2.5 percent. Similar blood COHb levels expected from exposure to 10 to 17 mg./m.^{3} (10 to 15 p.p.m.) for 8 or more hours.
115 mg./m.^{3} (100 p.p.m.) intermittently through a facial mask	Impairment in performance of some psychomotor tests at a COHb level of 5 percent.	Similar results may have been observed at lower COHb levels, but blood measurements were not accurate.
High concentrations of CO were administered for 30 to 120 seconds, and then 10 minutes was allowed for washout of alveolar CO before blood COHb was measured.	Exposure sufficient to produce blood COHb levels above 5 percent has been shown to place a physiologic stress on patients with heart disease.	Data rely on COHb levels produced rapidly after short exposure to high levels of CO; this is not necessarily comparable to exposure over a longer time period or under equilibrium conditions.

Source: Adapted from U.S. Public Health Service, Air Quality Criteria for Carbon Monoxide. Washington, D.C., U.S. Department of Health, Education, and Welfare (58).

"Experimental exposure of nonsmokers to 58 mg/m^3 (50 ppm) for 90 minutes has been associated with impairment in time-interval discrimination. . . . This exposure will produce an increase of about 2 percent COHb in the blood. This same increase in blood COHb will occur with continuous exposure to 12 to 17 mg/m^3 (10 to 15 ppm) for 8 or more hours. . . .

"Experimental exposure to CO concentrations sufficient to produce blood COHb levels of about 5 percent (a level producible by exposure to about 35 mg/m^3 for 8 or more hours) has provided in some instances evidence of impaired performance on certain other psychomotor tests, and an impairment in visual discrimination. . . .

"Experimental exposure to CO concentrations sufficient to produce blood COHb levels above 5 percent (a level producible by exposure to 35 mg/m^3 or more for 8 or more hours) has provided evidence of physiologic stress in patients with heart disease. . . ."

The levels of carbon monoxide found to be present in "smoked" rooms (20 to 80 ppm) are similar to the levels (30 to 50 ppm) which the Advisory Committee has concluded are associated with adverse health effects:

"An exposure of 8 or more hours to a carbon monoxide concentration of 12 to 17 mg/m^3 (10 to 15 ppm) will produce a blood carboxyhemoglobin level of 2.0 to 2.5 percent in nonsmokers. This level of blood carboxyhemoglobin has been associated with adverse health effects as manifested by impaired time interval discrimination. Evidence also indicates that an exposure of 8 or more hours to a CO concentration of 35 mg/m^3 (30 ppm) will produce blood carboxyhemoglobin levels of about 5 percent in nonsmokers. Adverse health effects as manifested by impaired performance on certain other psychomotor tests have been associated with this blood carboxyhemoglobin level, and above this level there is evidence of physiologic stress in patients with heart disease."

These levels of CO are also similar to that set as the time-weighted occupational Threshold Limit Value of 50 p.p.m. for a 40 hour week (five 8-hour days) which has been in effect in the United States for the past several years (13). A further reduction in this limit to 25 p.p.m. is now under consideration. These levels of CO exceed those recently set by the Environmental Protection Agency as the national primary and secondary ambient air quality standards for CO (14). These standards are:

(a) 10 milligrams per cubic meter (9 p.p.m.)—maximum 8-hour concentration not to be exceeded more than once per year.

(b) 40 milligrams per cubic meter (35 p.p.m.)—maximum 1-hour concentration not to be exceeded more than once per year.

ALLERGIC AND IRRITATIVE REACTIONS TO CIGARETTE SMOKE AMONG NONSMOKERS

(A more detailed discussion of this subject is presented in the Allergy chapter of this report.)

Several investigators have reported on the discomfort and symptoms experienced by both allergic and nonallergic individuals upon exposure to tobacco smoke. Johansson and Ronge (31, 32) in 1965 and 1966 have observed that the acute irritation experienced by nonsmokers in the presence of tobacco smoke is maximal in warm, dry air and that nonsmokers experience more nasal irritation than ocular irritation as compared with smokers exposed to similar amounts of smoke in the atmosphere. Speer (54) studied the reactions of 441 nonsmokers divided into two groups, one composed of individuals with a history of allergic reactions and the other of individuals without such a history.

The allergic group underwent skin testing for the presence of sensitivity to Tobacco extract while the "nonallergic" group was determined solely by questionnaire concerning subjective allergic responses. Approximately 70 percent of both groups experienced eye irritation while other symptoms differed in their frequency from group to group (nasal symptoms: allergic 67 percent, "nonallergic" 29 percent; headache: allergic 46 percent, "nonallergic" 31 percent; cough: allergic 46 percent, "nonallergic" 52 percent; and wheezing: allergic 22 percent, "nonallergic" 4 percent). Thus, a significant proportion of nonsmoking individuals report discomfort and respiratory symptoms on exposure to tobacco smoke.

Other authors have attempted to separate out those patients who may have specific allergies to smoke. Zussman (61) found that in a random series of 200 atopic patients 16 percent were clinically sensitive to tobacco smoke, and that a majority of these were aided by desensitization therapy. In an earlier study, Pipes (46) observed that 13 percent of 229 patients with respiratory allergy showed positive skin tests to tobacco smoke. Savel (49) has recently reported on eight nonsmokers observed to be clinically hypersensitive to tobacco smoke. After *in vitro* incubation of their lymphocytes with cigarette smoke, increased incorporation of tritiated thymidine was recorded; similar exposure of the lymphocytes of those not sensitive resulted in depression of tritiated thymidine uptake.

Luquette, et al. (39) have recently reported on the immediate effects of exposure to cigarette smoke in school-age children. They observed that heart rate and blood pressure rose with such exposure, although questions remain about the adequacy of their controls and the manner in which the experimental situation may have excited the subjects. Finally, Cameron, et al. (6) observed that acute respiratory illnesses were more frequent among children from homes in which the parents smoked than among children of nonsmoking parents. The meaning of these results is uncertain since smoking by the children was not considered and the level of exposure to cigarette smoke in their homes was not measured. Shy, et al. (53) in a study of second grade Chattanooga school children failed to demonstrate a relationship between parental smoking habits and the respiratory illness rates of their children.

THE KNOWN HARMFUL EFFECTS OF THE PASSIVE INHALATION OF CIGARETTE SMOKE IN ANIMALS

A number of investigators have studied the effects of the passive inhalation of high concentrations of cigarette smoke on the pulmony parenchyma and tracheobronchial tree of animals. The results of these investigations are listed in detail in the recent report to Congress, "The Health Consequences of Smoking," (59) in table 9 of the Bronchopulmonary chapter, and table 16 of the Cancer chapter.

The pathologic changes observed in the respiratory tract of the animals included parenchymal disruption, bronchitis, tracheobronchial epithelial dysplasia and metaplasia, and pulmonary adenomatous tumor formation. Leuchtenberger, et al. (36) exposed 151 mice to the smoke of from 25 to 1,526 cigarettes over a period of 1 to 23 months and observed that 20 percent of the animals developed severe bronchitis with atypism.

Working with 30 control rabbits exposed to up to 20 cigarettes per day for two to five years, Holland, et al. (30) observed increased focal and generalized hyperplasia of the bronchial epithelium and generalized emphysema in the exposed rabbits. Hernandez, et al. (29) observed significantly more pulmonary parenchymal disruption in adult greyhound dogs exposed to cigarette smoke 10 times per week for approximately one year than in nonexposed control animals.

Lorenz, et al. (38) observed no increase in respiratory tract tumor formation above that seen in controls in 97 Strain A mice exposed to cigarette smoke for up to 693 hours. Essenberg (15), however, exposed Strain A mice to cigarette smoke for 12 hours a day for up to one year and observed significantly more papillary adenocarcinomas in the exposed than in the control group. An increased percentage of hybrid mice were found by Mühlbock (42) to have alveolar carcinomas among the experimental group exposed to smoke for two hours a day for up to 684 days when compared with a nonexposed group. Similarly, Guerin (22) observed that 5.1 percent of rats exposed to cigarette smoke for 45 minutes a day for two to six months showed pulmonary tumors compared to 2.4 percent of the control mice.

Leuchtenberger, et al. (37), working with 400 female CF mice, observed only a slight increase in the presence of pulmonary adenomatous tumors among those exposed to cigarette smoke compared with those in the control group. The authors commented that the presence of tumors showed an age relationship independent of smoking exposure. Otto (43) found that 11 percent of a group of albino mice exposed to 12 cigarettes a day for up to 24 months showed pulmonary adenomas as compared with five percent of the control non-exposed group. Dontewill and Wiebecke (12) found that increasing the exposure of golden hamsters to up to four cigarettes a day for up to two years was associated with an increasing percentage of animals showing desquamative metaplasia and bronchial papillary metaplasia. Harris and Negroni (26) exposed 200 C57BL mice to cigarette smoke for 20 minutes a day every other day for life and found eight adenocarcinomas as compared to none in the control group.

Because the damage observed in these experiments was seen after prolonged exposure to high concentrations of cigarette smoke, and because the comparability of animal exposure to smoke with that of human exposure in smoke-filled rooms is unknown, it is presently impossible to be certain from animal experimentation about the extent of the damage that may occur during long-term intermittent exposure to lower concentrations.

SUMMARY

1. An atmosphere contaminated with tobacco smoke can contribute to the discomfort of many individuals.

2. The level of carbon monoxide attained in experiments using rooms filled with tobacco smoke has been shown to equal, and at times to exceed, the legal limits for maximum air pollution permitted for ambient air quality in several localities and can also exceed the occupational Threshold Limit Value for a normal work period presently in effect for the United States as a whole. The presence of such levels indicates that the effect of exposure to carbon monoxide may on occasion, depending upon the length of exposure, be sufficient to be harmful to the health of an exposed person. This would be particularly significant for people who are already suffering from chronic bronchopulmonary disease and coronary heart disease.

3. Other components of tobacco smoke, such as particulate matter and the oxides of nitrogen, have been shown in various concentrations to adversely affect animal pulmonary and cardiac structure and function. The extent of the contributions of these substances to illness in humans exposed to the concentrations present in an atmosphere contaminated with tobacco smoke is not presently known.

PUBLIC EXPOSURE TO AIR POLLUTION FROM TOBACCO SMOKE REFERENCES

1. Ayres, S. M., Giannelli, S., Jr., Mueller, H. Myocardial and systemic responses to carboxyhemoglobin. Annals of the New York Academy of Sciences 174(1): 268–293, October 5, 1970.

2. Back, K. C. Effects of carbon monoxide on the performance of monkeys. IN: Proceedings of the 5th Annual Conference on Atmospheric Contamination in Confined

Spaces, September 16–18, 1969. Aerospace Medical Research Laboratory, Aerospace Medical Division, December 1969. pp. 41–51.

3. Back, K. C., Dominguez, A. M. Psychopharmacology of carbon monoxide under ambient and altitude conditions. IN: Proceedings of the 4th Annual Conference on Atmospheric Contamination in Confined Spaces, September 10–12, 1968. Aerospace Medical Research Laboratories, Aerospace Medical Division, December 1968. pp. 81–92.

4. Beard, R. R., Grandstaff, N. Carbon monoxide exposure and cerebral function, Annals of the New York Academy of Sciences 174(1): 385–395, October 5, 1970.

5. Blair, W. H., Henry, M. C., Ehrlich, R. Chronic toxicity of nitrogen dioxide. II. Effect on histopathology of lung tissue. Archives of Environmental Health 18(2): 186–192, February 1969.

6. Cameron, P., Kostin, J. S., Zaks, J. M., Wolfe, J. H., Tighe, G., Oselett, B., Stocker, R., Winton, J. The health of smokers' and nonsmokers' children. Journal of Allergy 43(6): 336–341, June 1969.

7. Chevalier, R. B., Krumholz, R. A., Ross, J. C. Reaction of nonsmokers to carbon monoxide inhalation. Cardiopulmonary responses at rest and during exercise. Journal of the American Medical Association 198(10): 1061–1064, December 5, 1966.

8. Coburn, R. F., (Editor). Biological Effects of Carbon Monoxide. Annals of the New York Academy of Sciences 174 (Article 1), October 5, 1970. 430 pp.

9. Coburn, R. F., Forster R. E. Kane, P. B. Considerations of the physiological variables that determine the blood carboxyhemoglobin concentration in man. Journal of Clinical Investigation 44(11): 1899–1910, November 1965.

10. Dalhamn, T., Edfors, M.-L., Rylander, R. Mouth absorption of various compounds in cigarette smoke. Archives of Environmental Health 16(6): 831–835, June 1968.

11. Dalhamn, T., Edfors, M.-L., Rylander, R. Retention of cigarette smoke components in human lungs. Archives of Environmental Health 17(5): 746–748, November 1968.

12. Dontenwill, W., Wiebecke, B. Tracheal and pulmonary alterations following the inhalation of cigarette smoke by the golden hamster. IN: Severi, L. (Editor). Lung Tumors in Animals. Perugia, Italy, Division of Cancer Research, University of Perugia, June 1966. pp. 519–526.

13. DuBois, A. B. Establishment of "threshold" CO exposure levels. Annals of the New York Academy of Sciences 174(1): 425–428, October 5, 1970.

14. Environmental Protection Agency. National primary and secondary ambient air quality standards. Federal Register 36(84): 8186–8201, April 30, 1971.

15. Essenberg, J. M. Cigarette smoke and the incidence of primary neoplasm of the lung in the albino mouse. Science 116: 561–562, November 21, 1952.

16. Forbes, W. H. Carbon monoxide uptake via the lungs. Annals of the New York Academy of Science 174(1): 72–75, October 5, 1970.

17. Freeman, G., Crane, S. C., Stephens, R. J., Furiosi, N. J. Pathogenesis of the nitrogen dioxide-induced lesion in the rat lung: A review and presentation of new observations American Review of Respiratory Diseases 98(3): 429–443, September 1968.

18. Freeman, G., Haydon, G. B. Emphysema after low-level exposure to No_2. Archives of Environmental Health 8(1): 125–128, January 1964.

19. Freeman, G., Stephens, R. J., Crane, S. C., Furiosi, N. J. Lesion of the lung in rats continuously exposed to two parts per million of nitrogen dioxide Archives of Environmental Health 17(2): 181–192, August 1968.

20. Galuskinova, V. 3,4-Benzpyrene determination in the smoky atmosphere of social meeting rooms and restaurants. A contribution to the problem of the noxiousness of so-called passive smoking. Neoplasma 11(5): 465–468, 1964.

21. Goldsmith, J. R., Landaw, S. A. Carbon monoxide and human health. Science 162 (3860): 1352–1359, December 20, 1968.

22. Guerin, M. Tumeurs pulmonares et cancer buccal chez le rat soumis a l'inhalation de fumee de cigarette. (Pulmonary tumors and oral cancers in rats subjected to inhalation of cigarette smoke.) Bulletin de l'Association Francaise pour l'Etude du Cancer 46(2): 295–309, 1959.

23. Hanks, T. G. Human performance of a psychomotor test as a function of exposure to carbon monoxide. Annals of the New York Academy of Sciences 174(1): 421–424, October 5, 1970.

24. Harke, H.-P. Zum Problem des "Passiv-Rauchens." (The problem of "passive smoking.") Münchener Medizinische Wochenschrift 112(51): 2328-2334, 1970.

25. Harmsen, H., Effenberger, E. Tabakrauch in Verkchrsmitteln, Wohn-und Arbeitsräumen. (Tobacco smoke in transportation vehicles, living and working rooms.) Archiv für Hygiene und Bakteriologie 141(5): 383–400, 1957.

26. Harris, R. J. C., Negroni, G. Production of lung carcinomas in C57BL mice exposed to a cigarette smoke and air mixture. British Medical Journal 4(5580): 637–641, December 16, 1967.

27. Haydon, G. B., Davidson, J. T., Lillington, G. A., Wasserman, K. Nitrogen dioxide-induced emphysema in rabbits. American Review of Respiratory Diseases 95(5): 797–805, May 1967.

28. Haydon, G. B., Freeman, G., Furiosi, N. J. Covert pathogenesis of NO_2 induced emphysema in the rat, Archives of Environmental Health 11(6): 776–783, December 1965.

29. Hernandez, J. A., Anderson, A. E., Jr., Holmes, W. L. Foraker, A. G. Pulmonary parenchymal defects in dogs following prolonged cigarette smoke exposure. American Review of Respiratory Diseases 93(1): 78–83, January 1966.

30. Holland, R. H., Kozlowski, E. J., Booker, L. The effect of cigarette smoke on the respiratory system of the rabbit. A final report. Cancer 16(5): 612–615, May 1963.

31. Johansson, C. R., Ronge, H. Klimatinverkan pa lukt och irritationseffekt av tobaksrök. Preliminärt meddelande. (Climatic influence on smell and irritation effects from tobacco smoke. Preliminary report.) Nordisk Hygienisk Tidskrift 47: 33–39, 1966.

32. Johansson, C. R., Ronge, H. Akuta irritationseffekter av tobakrsrök I rumsluft. (Acute irritation effects of tobacco smoke in the room atmosphere.) Nordisk Hygienisk Tidskrift 46: 45–50, 1965.

33. Kotin, P., Falk, H. L. The role and action of environmental agents in the pathogenesis of lung cancer. II. Cigarette smoke. Cancer 13(2): 250–262, March–April 1960.

34. Lawther, P. J., Commins, B. T. Cigarette smoking and exposure to carbon monoxide. Annals of the New York Academy of Sciences 174(1): 135–147, October 5, 1970.

35. Lefcoe, N. M., Inculet, I. I. Particulates in domestic premises. I. Ambient levels and central air filtration. Archives of Environmental Health 22(2): 230–238, February 1971.

36. Leuchtenberger, C., Leuchtenberger, R., Zebrun, W., Shaffer, P. A. A correlated histological, cytological, and cytochemical study of the tracheobronchial tree and lungs of mice exposed to cigarette smoke. II. Varying responses of major bronchi to cigarette smoke, absence of bronchogenic carcinoma after prolonged exposure, and disappearance of bronchial lesions after cessation of exposure. Cancer 13(4): 721–732, July-August 1960.

37. Leuchtenberger, R., Leuchtenberger, C., Zebrun, W., Shaffer, P. A correlated histological, cytological, and cytochemical study of the tracheobronchial tree and lungs of mice exposed to cigarette smoke. III. Unaltered incidence of grossly visible adenomatous lung tumors in female CF_1 mice after prolonged exposure to cigarette smoke. Cancer 13(5): 956–958, September–October 1960.

38. Lorenz, E., Stewart, H. L. Daniel, J. H. Nelson, C. V. The effects of breathing tobacco smoke on Strain A mice. Cancer Research 3(2): 123, 1943.

39. Luquette, A. J., Landiss, C. W., Merki, D. J. Some immediate effects of a smoking environment on children of elementary school age. Journal of School Health 40(10): 533–536, December 1970.

40. McFarland, R. A. The effects of exposure to small quantities of carbon monoxide on vision. Annals of the New York Academy of Sciences 174(1): 301–312, October 5, 1970.

41. Mikulka, P., O'Donnell, R., Heinig, P., Theodore, J. The effect of carbon monoxide on human performance. Annals of the New York Academy of Sciences 174(1): 409–420, October 5, 1970.

42. Mühlbock, O. Carcinogene Werking van Sigarettenrook bij Muizen. (Carcinogenic action of cigarette smoke in mice.) Nederlands Tijdschrift voor Geneeskunde 99(31): 2276–2278, July 30, 1955.

43. Otto, H. Experimentelle Untersuchungen an Mäusen mit passiver Zigarettenrauchbeatmung. (Experimental investigations on mice through passive inhalation of cigarette smoke.) Frankfurter Zeitschrift für Pathologie 73: 10–23, 1963.

44. Owens, D. F., Rossano, A. T. Design procedures to control cigarette smoke and other air pollutants. Paper presented at ASHRAE Semi-annual Meeting, Chicago, January 27–30, 1969. 10 pp.

45. Pascasio, F., Scassellati Sforzolini, G., Savino, A., Conti, R. Catrame e nicotina nella porzione aspirata e nella porzione ambientale del fumo di vari tipi di sigarette. (Tar and nicotine content both in inhaled smoke and in smoke dispersed in room-air by various cigarette brands.) Annali della Sanita Pubblica 27(5): 971–978, September-October 1966.

46. Pipes, D. M. Allergy to tobacco smoke. Annals of Allergy 28(3): 277–282, July–August 1945.

47. Preziosi, T. J., Lindenberg, R., Levy D., Christenson, M. An experimental investigation in animals of the functional and morphologic effects of single and repeated exposures to high and low concentrations of carbon monoxide. Annals of the New York Academy of Sciences 174(1): 369–384, October 5, 1970.

48. Ray, A. M., Rockwell, T. H. An exploratory study of automobile driving performance under the influence of low levels of carboxyhemoglobin. Annals of the New York Academy of Sciences 174(1): 396–408, October 5, 1970.

49. Savel, H. Clinical hypersensitivity to cigarette smoke. Archives of Environmental Health 21(2): 146–148, August 1970.

50. Scassellati Sforzolini, G., Saldi, G. Ulteriori ricerche sugli idrocarburi policiclici del fumo di sigaretta. Confronto tra il fumo aspirata e quello raccolto nell aria ambiente. (Further research on the polycyclic hydrocarbons of cigarette smoke. Comparison of smoke inhaled and that taken from the ambient atmosphere.) Bollettino della Societa Italiana di Biologia Sperimentale 37: 769–771, 1961.

51. Scassellati Sforzolini, G., Savino, A. Valutazione di un indice rapido di contaminazione ambientale da fumo di sigaretta, in relazione alla composizione della fase gassosa del fumo. (Evaluation of a rapid index of environmental pollution by cigarette smoke in relation to the composition of the gas phase of the smoke.) Rivista Italiana D'Igiene 28(1–2): 43–55, January-April 1968.

52. Schulte, J. H. Effects of mild carbon monoxide intoxication. Archives of Environmental Health 7(5): 524–530, November 1963.

53. Shy, C. M., Creason, J. P., Pearlman, M. E., McClain, K. E., Benson, F. B., Young, M. M. The Chattanooga school children study: Effects of community exposure to nitrogen dioxide. II. Incidence of acute respiratory illness. Journal of the Air Pollution Control Association 29(9): 582–588, September 1970.

54. Speer, F. Tobacco and the nonsmoker. A study of subjective symptoms. Archives of Environmental Health 16(3): 443–446, March 1968.

55. Srch, M. Uber die Bedeutung des Kohlenoxyds beim Zigarettenrauchen im Personenkraft-wageninneren. (The significance of carbon monoxide in cigarette smoke in passenger car interiors.) Deutsche Zeitschrift fur die Gesamte Gerichtliche Medizin 60(3): 80–89, 1967.

56. Stewart, R. D., Peterson, J. E., Baretta, E. D., Bachand, R. T., Hosko, M. J., Herrmann, A. A. Experimental human exposure to carbon monoxide. Archives of Environmental Health 21(2): 154–164, August 1970.

57. Stupfel, M., Bouley, G. Physiological and biochemical effects on rats and mice exposed to small concentrations of carbon monoxides for long periods. Annals of the New York Academy of Sciences 174(1): 342–368, October 5, 1970.

58. U.S. Public Health Service. Air Quality Criteria for Carbon Monoxide. Washington, U.S. Department of Health, Education, and Welfare, Public Health Service, National Air Pollution Control Administration Publication No. AP–62, March 1970.

59. U.S. Public Health Service. The Health Consequences of Smoking. A Report of the Surgeon General: 1971. Washington, U.S. Department of Health, Education, and Welfare, DHEW Publication No. (HSM) 71–7513, 1971. 458 pp.

60. Wynder, E. L., Hoffman, D. Tobacco and Tobacco Smoke. Studies in Experimental Carcinogenesis. New York, Academic Press, 1967. 730 pp.

61. Zussman, B. M. Tobacco sensitivity in the allergic patient. Annals of Allergy 28(8): 371–377, August 1970.

QUESTIONNAIRE

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, this week I am sending to my constituents a questionnaire requesting their position on some of the major issues now under consideration. With the thought that it might interest our colleagues, I am submitting for printing in the RECORD the entire text of the questionnaire. It follows:

CONGRESSMAN EDWARD I. KOCH ASKS FOR YOUR OPINION: QUESTIONNAIRE, MAY 1972

(NOTE.—Provision is made for two respondents to answer "yes" or "no.")

I send you a newsletter three times a year to tell you of my efforts as your Congressman. Now it is your turn to let me know your position on some of the major issues under consideration.

The questions are posed as concisely as possible. I realize that some of the issues are complex and cannot be answered satisfactorily by a "yes" or "no" answer. Unfortunately, these limitations must be accepted when one is trying to poll over a quarter of a million people on a number of topics. Please understand that this questionnaire is only one mode of constituent expression—I continually welcome your letters, your visits at my traveling office, and your comments when we meet at the subway.

ECONOMY

1. Do you favor increasing the minimum wage to $2.00 an hour and extending its coverage to all workers, including employees in small retail shops, farm workers, and domestics?

2. Do you favor a federal "value added tax" (a national sales tax) as a means of financing elementary and secondary education, instead of local revenue sources like the property tax?

3. Do you believe the government should provide 200,000 more public service jobs (currently the Emergency Employment Act of 1971 is providing 140,000 such jobs at a cost of $1 billion)?

4. Would you favor the government's guaranteeing a job to everyone seeking work and being an employer of "last resort" when jobs are not available from private enterprise?

EDUCATION

5. Assuming that it is Constitutional, would you favor a system of federal tax credits for parents with children in non-public schools?

6. Do you favor a Constitutional Amendment or legislative measure prohibiting the use of busing by the courts or localities to desegregate public schools?

7. Would you favor the establishment of bilingual programs in all of the City's public schools having a substantial number of Spanish speaking students?

MISCELLANEOUS

8. Would you favor setting aside lanes on some major avenues in New York City for use by bicycles?

9. (a) Do you now ride a bike to work?

(b) Would you ride a bike to work in good weather if exclusive bike lanes and parking facilities were provided?

10. Would you favor the operation of heroin maintenance pilot projects on a limited and temporary basis in order to determine the feasibility of establishing heroin maintenance programs for adult addicts?

11. Do you believe the Civil Rights Act's protections (in employment, housing, etc.) should be extended to homosexuals?

12. Do you believe in the concept of "scatter site" housing—i.e. building government subsidized low income housing in middle income areas?

VIETNAM

(Choose one alternative)

Do you favor—

(1) The immediate withdrawal of all U.S. combat forces, the complete cessation of U.S. air support, and termination of weapons supply?

(2) The immediate withdrawal of all U.S. combat forces and the complete cessation of U.S. air support, but continued furnishing of weapons for use by the South Vietnamese?

(3) The immediate withdrawal of all U.S. combat forces, but continued air support and furnishing of weapons for use by the South Vietnamese?

(4) The President's policy of "Vietnamization" aided by U.S. air support and bombing?

(5) Increased U.S. military activities in North and South Vietnam with the objective of a military victory?

The following are five bills I have authored that touch upon issues of current interest. Do you approve?

H.R. 850, as amended, establishing a uniform tax rate so that individuals, regardless of whether they are married or single, would pay the same graduated tax on their taxable income (after deductions).

H.R. 854, as amended, requiring federal agencies to inform persons of files maintained on them and allow them to inspect their files for errors; the bill also establishes a board to which one could appeal for the removal of erroneous and irrelevant material.

H.R. 12417 offering draft resisters "conditional amnesty"—amnesty in return for two years of civilian service comparable to that now required of conscientious objectors.

H.R. 13362 providing $400 million annually in federal assistance in meeting the expenses of operating public transportation (subways, buses, and commuter railroads).

H.R. 14549 decriminalizing the personal use and possession of marihuana and allowing the transfer (at no profit) of reasonable amounts of marihuana when incident to private use. The sale of marihuana for profit and smoking it in public would continue to be subject to criminal penalties.

A QUESTION FOR WOMEN

During the last five years have you ever been discriminated against because of your sex in the following categories (if yes, check):

Employment:
  hiring
  salary level
  promotion
  maternity leave
  fringe benefits (health insurance, pension plan, etc.).
Obtaining a loan.
Obtaining a credit card.
Renting an apartment.
Renting a car.
Excessive telephone deposits.
Admission to graduate school.
Obtaining financial aid for graduate study.

Your recommendations on how I can improve the job I am doing:

AN ACT TO ENHANCE THE ENVIRONMENT AND TO CREATE AND PRESERVE ECONOMIC OPPORTUNITY

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, I have introduced a bill, H.R. 14670, to enhance the environment and to create and preserve economic opportunity in disadvantaged areas. The purpose of this bill is to correct the harmful effects upon the economy of disadvantaged areas that come about when, as a result of the implementation of our environmental control legislation, a vital industry or business must close its doors because it cannot comply for lack of funds.

There are many examples of these harmful effects, Mr. Speaker. I shall give just one of them here. The Special Subcommittee on Economic Development Programs of the Public Works Committee heard testimony concerning Winslow, Ariz., a community of about 3,200 population with but one industry, a sawmill. A traveler on his way to the Grand Canyon from Phoenix led a complaint to the effect that the plant was burning in violation of State air pollution standards.

As a result, the mill will have to be closed down putting 232 people, many who are representatives of various minority groups, out of work. No other employment is available. This matter is now in the courts.

As my good friend from Arizona (Mr. STEIGER) has pointed out to the subcommittee, as a matter of priority it is more important that we retain the fiscal soundness of the town. To emphasize this, the lumber mills in Arizona employ more than 40,000 people—about 2 percent of the population of the State. The jobs of all these people are threatened unless we do something to help them.

Our very real concern for the environment must, I believe, be tempered with our concern for the human beings who are entitled to enjoy the environment.

The quality of life has been the concern of Congress and serves as one of the bases of our statutes protecting the environment. In turn, that quality of life in our times is dependent upon the economic well-being of those who live in the environment, indeed, are part of it and contribute not merely to its detriment but to its improvement as well.

If we want to create new jobs or even hold our own by keeping Mr. STEIGER's constituents working and earning money and paying taxes, we must address ourselves to this environmental problem. If a court order enjoins burning, or discharge of waste, by a vital industry in a depressed area we must, I feel, supply the means by which the burning can be ameliorated to conform to State or Federal standards, and the means by which the waste can be purified in accordance with our pollution laws. In that way we can protect the environment and save the people dependent on the industry.

I recognize that there are many who believe that our environmental standards lack some wisdom—nevertheless they exist and are being enforced. Perhaps as we gain more experience and are able to observe more closely the balance between man and his environment, they will be changed. In the meantime, reason dictates that we should not destroy the economic lives of our people while we protect the ecology of which they are a part. I don't believe it would be unrealistic to protect both our national and human resources.

My bill would solve the problem by giving a depressed area those beneficial enterprises which it needs for the development of its economy, employment, and well-being, and at the same time protect our environment.

This would be done by providing for low-interest, long-term loans to be made to such enterprises to permit them to construct needed environmental protection facilities, or to modify their manufacturing processes, without a severe impact upon the company's near-term balance sheet. It provides for up to 30-year loans at not to exceed 3-percent interest to be used for the express purpose of aiding these enterprises in the construction of their pollution control facilities or the modification of their methods of operation so that their business may be preserved for the benefit of the community that so sorely needs it while conforming to environmental protection requirements. The loans would be administered under the authority of the Secretary of Commerce through the Economic Development Administration.

The problem that would be resolved by my bill is a very serious one. It cannot be ignored nor do I feel it is necessary to give in to it. A simple and, I believe, relatively inexpensive solution is readily available as set forth in my bill. I urge the Members of this body to give this matter their fullest support.

TENTATIVE SCHEDULE FOR THE APPROPRIATION BILLS

(Mr. MAHON asked and was given permission to extend his remarks at this point in the RECORD and to insert certain tables and include extraneous matter.)

Mr. MAHON. Mr. Speaker, as I indicated in my earlier remarks today during the 1-minute period, and under leave granted, I include for the information of Members of the House and others the tentative schedule for reporting and floor consideration of the appropriation bills at this session. A brief explanatory statement accompanying the schedule is also included.

(The schedule and statement follow:)

COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES—TENTATIVE SCHEDULE FOR REPORTING AND FLOOR CONSIDERATION OF APPROPRIATIONS BILLS

Bill	Report in full committee	Floor consideration [1]
Urgent Supplemental, 1972	Thursday, Mar. 9	Tuesday, Mar. 14.
Legislative	Monday, Mar. 20	Thursday, Mar. 23.
Second Supplemental, 1972	Monday, Apr. 24	Wednesday, Apr. 26.
State-Justice-Commerce-Judiciary	Monday, May 15	Week of May 15.
HUD-Space-Science-Veterans	Friday, May 19	Week of May 22.
Transportation	Monday May 22	Do.
District of Columbia	Wednesday, May 31	Week of June 5.
Labor-HEW	Monday, June 5	Do.
Interior	Thursday, June 8	Week of June 12.
Military Construction	Monday, June 12	Do.
Public Works-AEC	Thursday, June 15	Week of June 19.
Agriculture-Environmental and Consumer Protection	do	Do.
Foreign Assistance	Monday, June 19	Do.
Defense	Thursday, June 22	Week of June 26.
Treasury-Postal Service-General Government	do	Do.

[1] Exact floor dates to be worked out in cooperation with House leadership.

STATEMENT BY GEORGE MAHON OF TEXAS ON THE REPORTING SCHEDULE FOR THE APPROPRIATION BILLS

Working in cooperation with the House leadership over a period of weeks, we have now developed a tentative schedule for processing the appropriation bills of the session which—if adhered to—will see all the regular bills for fiscal 1973 sent to the other body by June 30.

It lays the basis for timely dispatch of the important appropriations business.

The schedule shapes up this way:

1. Legislative Bill (March)
2. Second Supplemental (April)
3. Three bills in last half of May
4. Nine bills in June

It is something of a rugged schedule but insofar as the status of the work of the Committee on Appropriations is concerned, we can, I believe, meet it. A number of our hearings began in early February; we have had as many as 11 subcommittees holding hearings on a single day. A heavy hearings schedule continues.

Because so much of the budget for education programs is subject to authorization action, plus the expectation that we can secure timely enactment of the Labor-HEW bill, we are not scheduling a separate education appropriation bill this year. Timely action on the authorizations and the following Labor-HEW bill should afford the educational community generally definite information about the approved Federal funding levels well in advance of the coming school year.

Orderly achievement of the appropriations bills schedule requires timely consideration of the related authorization bills. The House has already processed some of the annual authorizations for fiscal 1973 and a number of the legislative committees are busy with consideration of additional ones. Insofar as reasonably possible, we have scheduled several major bills—for example, Defense, Military Construction, Public Works–AEC, Foreign Assistance—late in the priority reporting order, allowing maximum time for processing the several authorizations on which those appropriation bills significantly depend.

Of course, expeditious disposition of the appropriation bills will require the active cooperation of both bodies. The Senate Committee on Appropriations has been holding hearings on several of the bills and I feel confident can duplicate its remarkable performance of last year in moving the House-passed bills to the Senate floor and on to conference. I would hope that a very substantial number of the appropriation bills will be signed into law by the beginning of the new fiscal year on July 1 next.

In conclusion, with a projected Federal funds deficit of $36.2 billion in the coming year, on top of a Federal funds deficit of $44.7 billion for the current fiscal year, as reestimated in January, which follow a Federal funds deficit of about $30 billion last year ($110,000,000,000 for the 3 years!), it is clear to me that the situation demands that we make every effort to proceed with restraint and caution and hold the authorizations and appropriations as low as reasonably possible.

There will be many opportunities to practice fiscal prudence. Processing the budget is the work of many hands. The new budget (obligational) authority requests for FY 1973 total about $270,898,000,000 of which *about $185.3 billion is subject to congressional action at this session;* appropriations for debt interest, social security and other so-called permanent appropriations do not require annual congressional action. And of the $185.3 billion of new budget authority subject to action in this session, some *$47.5 billion is for going programs first subject to annual authorization action* through a number of legislative committees. Another *$10 billion involves new legislative proposals* which will be before the legislative committees and the House.

EMERGENCY LABOR DISPUTES

(Mr. SCHWENGEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SCHWENGEL. Mr. Speaker, labor strikes in transportation industries have engendered much discussion and debate over the past several months. The need for effective machinery to deal with such strikes seems necessary. It is my strong feeling that we, the Congress, must act to protect individuals from costly and disastrous disputes.

The time is ripe for a nonpartisan appraisal of the situation, the problems and issues involved. Recently, Thomas A. Woodley, a third-year student at the Georgetown University Law Center and senior editor of the Georgetown Law Review, wrote a comprehensive paper on "Emergency Labor Disputes and the Public Interest: The Proposals for Legislative Reform." This paper covers in detail the major proposals for reform, a discussion of the weaknesses of the present law, and suggestions for future action. Mr. Woodley has written an excellent and very informative paper and I commend it to my colleagues for their study of this subject.

The paper follows:

EMERGENCY LABOR DISPUTES AND THE PUBLIC INTEREST: THE PROPOSALS FOR LEGISLATIVE REFORM

(By Thomas A. Woodley)

INTRODUCTION

"Because I have come to the conclusion that both the common law of a State and a statute of the United States declare the right of industrial combatants to push their struggle to the limits of justification of self-interest, I do not wish to be understood as attaching any constitutional or moral sanction to that right. All rights are derived from the purposes of the society in which they exist; above all rights rises duty to the community. The conditions developed in industry may be such that those engaged in it cannot continue their struggle without danger to the community. But it is not for judges to determine whether such conditions exist, nor is it their function to set the limits of permissible contest and to declare the duties which the new situation demands. This is the function of the legislature which, while limiting individual and group rights of aggression and defense, may substitute processes of justice for the more primitive method of trial by combat." [1]

Although the above quote of former Justice Brandeis was not addressed specifically to the problem of national emergency strikes, it does articulate the duty of the legislature to strike the necessary and appropriate balance between the right of the "industrial combatants" to struggle for their own self-interests and the right of the community to ensure social harmony and economic progress. Unfortunately, the existing statutory framework for dealing with emergency labor disputes has clearly failed to accomplish its intended purpose of protecting the public interest in the free flow of goods and services while at the same time preserving the traditional institution of private collective bargaining. Indeed, the strikes with the most serious repercussions have occured after the exhaustion of present statutory procedures. The continuing crescendo of criticism has inspired the recent submission of several legislative proposals, which recommend a variety of methods for permanently resolving national emergency disputes. This article will outline the dispute-settlement procedures presently available under the Taft-Hartley and Railway Labor Acts, evaluate the major legislative proposals introduced in the 92nd Congress, and analyze the different procedures that could be included in corrective legislation that would safeguard the public interest whenever an emergency labor dispute imperils the national health and safety.

THE WEAKNESS OF EXISTING LAW

Government intervention in collective bargaining disputes between management and labor is engendered by the need to protect the public interest from the deleterious effects of a protracted lockout or strike. The manner and extent of this intervention in emergency disputes involving the transportation industries are governed by the Labor Management Relations Act [2] and the Railway Labor Act.[3] Both Acts contain specific emergency dispute procedures [4] intended to provide government assistance to the parties in their mutual pursuit of a peaceful solution without resort to the strike or lockout. However, it is the failure of these existing procedures either to encourage effective collective bargaining or to prevent strikes and lockouts that has stimulated the present movement toward statutory reform.

The Labor Management Relations (Taft-Hartley) Act

The emergency disputes provisions of the Taft-Hartley Act,[5] cover all labor disputes in industries affecting commerce except the railroad and airline industries. The occasion for federal intervention under title II of the Act is limited to strikes or lockouts that, in the opinion of the President, "imperil the national health or safety".[6] The extent of federal intervention is limited to: (1) a report by a Board of Inquiry concerning the issues involved in the dispute, but with no power to make recommendations or findings concerning the merits of those issues;[7] (2) an 80-day injunction against a strike or lockout during which the parties are required to continue bargaining;[8] (3) a "last offer" vote shortly before the injunction expires.[9] The terminal point of federal intervention—in the absence of settlement of the dispute by collective bargaining during the injunction period—is the submission of the matter to Congress for appropriate legislative action.[10]

These emergency dispute provisions of the Taft-Hartley Act have been invoked by the President on 30 separate occasions.[11] More than one-third (11 of 30) of these occasions involved the longshore and offshore maritime industry. Furthermore, all 11 maritime disputes were among the 25 disputes settled only after a strike, and eight of the nine instances where a strike or lockout occurred after the 80-day injunction period also involved the maritime industry.[12] Although these statistics do not reveal the entire story, it is possible to draw two fairly broad conclusions: (1) the maritime industry has been the prime target of the emergency dispute provisions of the Taft-Hartley Act, and (2) the procedures available under the Act have been inadequate devices for resolving labor disputes without crippling work stoppages that seriously disrupt the economy. In order to understand the proposals for amending the emergency disputes sections of the Taft-Hartley Labor Act, it is first necessary to examine some of the constructive criticisms of these provisions.

While the general performance and impact of the national emergency procedures are difficult to measure, the effects of the law are more easily evaluated. Perhaps the most widespread objections to the existing procedures of the Taft-Hartley and Railway Labor Acts are that they serve only to postpone settlement by the parties themselves and that the major steps outlined in both Acts fail to offer the parties any effective assistance or exert any pressure on the parties to resolve their differences.[13]

The second objection is actually the cause of the first. Past experience in collective bargaining reveals that labor and management representatives compromise their positions only when confronted with a rigid deadline. However, in the transportation industries, the carriers and the unions realize that (1) it is almost a certainty that a major strike deadline will be postponed by the invocation of the emergency procedures; and (2) once these procedures have been exhausted, their relative positions will not have changed appreciably. Therefore, the parties can safely, and sometimes intentionally, delay voluntary settlement until the real deadline approaches [14]—the end of the 80-day injunction [15] or the 60-day status quo period.[16]

Unfortunately, neither of the present Acts permit the exertion of pressure on the disputants during the 80- or 60-day hiatus, or provide for additional remedies that could be used after the expiration of the "freeze" periods. In addition, the officials entrusted with the administration of existing procedures have been applied uniformly to the varying problems of different industries. It is this absence of alternative courses of action and the lack of flexibility, perhaps more than the other weaknesses, which have rendered present statutory procedures ineffective and inappropriate.

Once the President has decided a "national emergency" exists under the Taft-Hartley Act, the course of government action is predictable. The Board of Inquiry appointed by the President is restricted in its activities, both by the time limitations of the President's Executive order and by the statute itself. Due to the necessity of obtaining the injunction quickly, the Board of Inquiry is often given only a few days to carry out its fact-finding and reporting duties.[17] Moreover, the board is specifically prohibited from making public recommendations for settlement,[18] and because of the time limitations they are unable to actively engage in mediation and conciliation. The haste with which a Board of Inquiry is required to act and the restriction of its duties to a fact-finding role preclude the board from making any constructive contribution to the settlement of a dispute. Since the only job assigned to a Board of Inquiry is to discover the causes and circumstances of the emergency dispute and to file a report including "a statement of the facts [and] each party's statement of its position," [19] it is understandable that one commentator has remarked that any "average high school student" could accomplish a board's task with a tape recorder and a typewriter.[20]

Though other deficiencies in the emergency procedures have been noted,[21] it can be generally stated that title II of the Taft-Hartley Act presents a negative, rather than a positive, approach to the settlement of labor disputes. Since the course of government action is predictable, both procedurally and substantively, the representatives of labor and management are inclined to adopt a more inflexible posture at the bargaining table than they would if the mode and extent of government intervention was uncertain. In fact, the longshore and offshore maritime industries currently rely on the fact that the Taft-Hartley procedures will be invoked either before or after the commencement of a strike. Consequently, both sides have been reluctant to conduct serious negotiations concerning a new collective bargaining agreement until the emergency procedures have been invoked. They are fully aware that the date set for a strike does not constitute the final deadline by which they must agree or suffer a long-term shutdown.

Based upon these constructive criticisms of the Taft-Hartley emergency procedures and the disconcerting experiences in the maritime industry, few today would disagree with the following comment:

"[T]he Emergency Labor Disputes provisions do not work in theory or in practice. They do not permit free collective bargaining nor do they resolve labor conflicts. They do not serve the needs of the nation, the general consumer or the disputing parties. A better method of coping with our labor problems is urgently needed." [22]

The Railway Labor Act

The handling of emergency labor disputes under the Railway Labor Act has suffered from many of the same limitations that have impaired the successful application of the Taft-Hartley provisions. To avoid work stoppages during the formation of new agreements in the railroad and airline industries, the step-by-step procedure available under section 10 of the Railway Labor Act [23] contemplates direct negotiations, government mediation,[24] voluntary arbitration, a 60-day status quo period, and the Presidential appointment of an Emergency Board. Although section 10 was initially acclaimed as a significant improvement over earlier railway statutes,[25] the general consensus among

---

Footnotes at end of article.

members of emergency boards[26] and labor authorities[27] today is that the peacekeeping mechanisms have not been effective.

Since the enactment of the Railway Labor Act in 1926, the emergency provisions have been invoked on over 180 occasions.[28] A number of the railroad and airline strikes have occurred after the procedures were exhausted, but the great majority of these stoppages were relatively local and short-lived and did not result in national emergencies.[29] In the last decade, however, Congress has been called upon to enact eight separate laws to prevent or end threatened or actual rail strikes that outlasted the emergency procedures of the Railway Labor Act.[30]

The legislative action in 1963 marked the first time under the Act, that Congress imposed a statutory settlement in a rail dispute.[31] Three of the eight ad hoc laws were passed in 1967 prohibiting six shopcraft unions from striking most of the Nation's major rail lines,[32] and three more Federal laws were enacted in 1970, two of them again involving the shopcraft unions.[33] The eighth piece of legislation was approved in 1971, halting a two-day nationwide strike precipitated by a walkout of more than 10,000 railway signalmen.[34] In the airline strike of 1966, an ad hoc bill passed the Senate but settlement was achieved before the House completed action.[35] In all these major transportation labor crises, congressional assistance was required after the statutory procedures for dealing with the formation of new contracts had been exhausted. The recent resort to stopgap measures is sombre testimony to the inability of the Railway Labor Act and the emergency boards created thereunder to resolve disputes in the railroad and airline industries.

Contrary to the present dissatisfaction with the Act, early experience was generally favorable[36] and both parties almost invariably accepted the recommendations of the emergency boards as the basis for dispute settlement. However, as the airline and railroad industries began to feel the impact of technological change, the discussions at collective bargaining sessions shifted from wages and fringe benefits to the preservation of jobs for diesel firemen, flight engineers, and other workers similarly situated. While monetary issues retained their level of importance, manpower utilization and job security became almost insurmountable obstacles to agreement.[37] Besides declining employment opportunities,[38] the railroad industry has been plagued by an anachronous system of work rules, grievance procedures, and multiple unionism which has further complicated efforts to negotiate contract renewals.[39] As a result, public opinion and a sense of moral obligation, envisioned at the Act's conception as a strong force for settlement,[40] have failed to inspire settlement of issues that polarize the positions of labor and management. Thus, the parties, unable to resolve their differences in direct negotiations, have come to depend upon section 10 of the Act and the creation of an Emergency Board to delay a work stoppage.[41] The habitual reliance upon the appointment of emergency boards has not only eliminated the "good faith" and spontaneity in collective bargaining,[42] but also has unveiled the inherent weaknesses of the boards themselves.

Although the emergency boards established by the President under section 10 appear to have some power and authority not possessed by Taft-Hartley boards, it is apparent that the former suffers from many of the same restrictions that impair the effectiveness of the latter. Once the board has been deluged with "an avalanche of printed exhibits,"[43] time limitations prevent a serious attempt to resolve the issues. Since the boards' recommendations constitute only advice, they are often rejected by one or both of the parties,[44] and in many cases serve only as a floor for future bargaining.[45] In some cases where the boards' findings have been mutually acceptable, the union representatives have been unable to secure ratification by the membership.[46]

The inability of the emergency procedures of the Railway Labor Act to encourage private collective bargaining and to "insure to the public continuity and efficiency of interstate transportation service"[47] has increased the public demand for more effective government control and inspired the submission of several proposals for statutory reform.

EFFORTS TO AMEND THE LAW

The obvious failure of the emergency dispute provisions of both the Taft-Hartley and Railway Labor Act in the past two decades has underlined the importance of finding a suitable alternative to existing procedures.[48] This failure is due in large part to the inherent difficulty in drafting appropriate legislation to deal adequately with critical work stoppages. While there is general agreement over the need to increase the prestige and effectiveness of government participation through mediation, conflicts of interest and opinion among concerned parties—labor, management, Congress, the Administration, and the public—arise over which postmediation procedures should be adopted. Each of these groups has different philosophic and economic standards by which it measures the manner and extent of government intervention in labor disputes. Thus far, it has been the political influence of labor and management which has effectively prevented the submission[49] and promulgation[50] of legislative proposals to amend title II of the Taft-Hartley Act, and, to a lesser degree, section 10 of the Railway Labor Act. Today, however, it is necessary to afford recognition to the role and importance of a third force—the public—which has a "right to an uninterrupted supply of essential goods and services."[51]

Although it is generally conceded that the process of free collective bargaining should be maintained and encouraged, the adverse effects of labor disputes that seriously disrupt the flow of necessary goods and services justifies the conclusion that such disputes must be avoided. Indeed, some labor observers have even questioned the viability of lockouts and strikes as a legitimate means of self-help in a highly mobile and complex society which is so dependent upon its transportation systems.[52] Since work stoppages in the transportation industries cause irreparable loss to the disputants[53] and a severe deprivation to the nation[54], members of Congress have devoted special attention toward modifying the Government's methods of handling such disputes.

Over the years, a number of legislative proposals have been offered to change the present procedures for dealing with national emergency labor disputes.[55] The suggestions have been varied and innovative, and all have received at least marginal support. The spectrum of proposals has ranged from the creation of an industrial peace commission[56] and increasing the authority of the Emergency Boards,[57] to selective strikes,[58] compulsory arbitration,[59] seizure[60] and an "arsenal of weapons" approach which would embody a variety of these procedures in one statute.[61] Unfortunately, consideration of these proposals has traditionally been limited to an academic discussion of their advantages and disadvantages, followed by procrastination and complacency. It was only after the recurrent rail crises[62] and other major strikes of 1970, that mounting public concern compelled Congress to focus its attention on permanent dispute-settlement legislation.

The first formal, specific administration proposal in several years was introduced in the 91st Congress in February 1970 by President Nixon,[63] but hearings were not held on this or other proposals, and essentially the same bill was submitted in the 92nd Congress in early February 1971.[64] Several other legislative proposals making new options available for resolving emergency disputes have been forwarded to the Senate Subcommittee on Labor and Public Welfare which commenced hearings on June 15, 1971. The House Commerce Committee, Subcommittee on Transportation and Aeronautics concluded hearings on the bills referred to it, after twelve days of testimony beginning July 27, and ending September 30, 1971.[65]

Despite the different procedures, coverage and jurisdictional standards of the bills, they all attempt to balance partial achievement of two inconsistent objectives: first, the preservation of free collective bargaining and the restoration of the incentive to reach private settlements without resorting to Congress; second, the protection of the health and safety of the nation against damaging work stoppages through effective government intervention. The purpose of this article is to examine the provisions of the major proposals which seek to, "end national emergency disputes in our transportation industries in a manner which is fair to labor, fair to management and fair to the American public."[66]

THE ADMINISTRATION'S PROPOSAL—S. 560

The Nixon Administration's proposal[67] to deal with emergency labor disputes in the transportation industry has the underlying purpose of encouraging private collective bargaining with a minimum of government intervention. The bill would repeal section 10 of the Railway Labor Act, which presently governs railroad and airline disputes, and make all transportation industries, including the maritime, longshore, and trucking industries,[68] subject to the national emergency provisions of the Taft-Hartley Act. Under the proposal, the Taft-Hartley Act would be amended to provide three alternative procedures to those currently available following the initial 80-day injunction period: (1) extension of the "cooling off" period for up to 30 days; (2) appointment of a special board of three impartial persons to determine under what conditions partial operation of the affected industry is feasible; and (3) appointment of a panel to select and make binding the most reasonable final offer submitted by a party to the dispute. The addition of these new options reveals the adoption of an "arsenal of weapons" or "choice of procedures" approach.[69]

The arsenal of weapons approach

The "arsenal of weapons" approach stems from the need to preserve the flexibility which ad hoc legislation provides while eliminating the undesirable side effects of Congressional intervention. Under existing law, the President is forced to rely upon inflexible procedures that are insufficient in number and inadequate in effect. The presence of several procedures would enable the President to select the most appropriate procedure to deal with the varying circumstances of a labor dispute in each transportation industry.

The "arsenal of weapons" approach is based on the sound premise that collective bargaining by the parties directly involved in the dispute will be encouraged if they are both uncertain as to which procedure may be invoked and are unwilling to risk the application of one or all of the procedures as a substitute for a negotiated agreement.[70] The mere existence of a choice of procedures available to the executive branch would, of itself, constitute a strong influence in persuading labor and management to resolve their differences without resorting to prolonged strikes.[71]

Opponents of the "arsenal of weapons" approach contend that it would create in the executive branch that kind of authority which is susceptible to abuse. It cannot be shown however, that the exercise of Presi-

---

Footnotes at end of article.

dential discretion within this new framework would result in greater unfairness than does the automatic application of the rigid procedures available under present law. Any statutory proposal that affords an executive or judicial officer a wide degree of authority is vulnerable to the inadvertant or malicious use of power. Nevertheless, it is generally agreed that the common criticism of "abuse of discretion" does not outweigh the obvious advantage of a piece of legislation that permits the President to invoke flexible and unpredictable procedures to resolve an emergency labor dispute.

The value of the "arsenal of weapons" approach as a whole, however, depends primarily on the utility of the individual weapons that comprise the arsenal. Therefore, it is necessary to examine separately each procedure contained in the various legislative proposals.

The procedures: A thirty-day extension of the "cooling-off" period

Under the first option, at the end of the initial 80-day injunction the President could order the parties to refrain from making any changes, except by agreement, in the terms and conditions of employment for an additional period of not more than thirty days. During this time the parties would be directed to continue bargaining and the Board of Inquiry previously appointed would continue to mediate the dispute.

According to the President's message this choice might be used chiefly where the dispute was "very close to settlement.[72] If the parties are close to agreement, however, they would probably agree to an extension of the status quo period.[73] On the other hand, if the parties are far apart, it is unlikely that an additional thirty-day period would effect an agreement.[74] In addition, if this procedure is chosen and fails to produce a settlement of the dispute, the only other course of action available to the President is ad hoc legislation which most of the legislative proposals are designed to avoid. The limitation of the President's choice to only one of the prescribed alternatives is one of the major weaknesses of the Administration's bill. Senator Packwood recognized this fundamental defect, and introduced essentially the same bill with the provisions that the President could invoke each or every option in any sequence he deems appropriate.[75]

In sum, the designation of this option as an exclusive procedure is objectionable, in the words of the ABA Special Committee on National Strikes in the Transportation Industries, "on the grounds that the extension of the cooling-off period is likely to be unnecessary, or, if used, to be ineffective." [76]

The procedures: Partial operation

The second option, partial operation, would permit the President to appoint a special board of three impartial members to determine "[w]hether and under what conditions a partial strike or lockout . . . in an entire industry or substantial part thereof could take place without imperiling the national health or safety," and whether such a partial strike or lockout would "appear to be sufficient in economic impact to encourage each of the parties to make continuing efforts to resolve the dispute." The special board would have 30 days in which to hold hearings and make its determination. If it found that a partial strike could be permitted without violating the standards indicated above, it could issue an order "specifying the extent and conditions of partial operation that must be maintained." Its authority is limited, however, by a proviso that "in no event, shall the order of the Board place a greater economic burden on any party than that which a total cessation of operations would impose." If the board issued such an order, the parties would be required to carry on the partial operation without strike or lockout for a period not to exceed 180 days.

The rationale supporting the partial operation procedure is that a minimal amount of government intervention can insure the continued operation of essential portions of a struck industry, thus leaving the economic pressures of a shutdown in the major portion of the industry as an incentive to bargain collectively. Proponents of partial operation describe it as an acceptable accommodation between the right to strike or lockout and the public's right to receive essential goods and services.[77] In addition, partial operation is characterized by some as a purely procedural step which enables the parties to establish the substantive terms of a labor agreement without the threat of an imposed settlement.[78]

In theory, the partial strike or lockout is appealing, but the practical difficulties of implementing this procedure seem insurmountable. The initial problem is the vagueness of the criteria which guide the Special Board in their unenviable task. The Special Board must first, decide that a partial strike or lockout "could take place without imperiling the national health or safety;" second, determine the conditions and extent of the partial operation sufficient to induce the parties to resolve the dispute; and third, issue an order specifying the conditions and extent of the partial operation provided the order does not place a "greater economic burden on any party" than that which a total strike or lockout would impose. The difficulty of defining a national emergency dispute inheres in every legislative proposal; [79] however, the Administration's bill further complicates the problem by requiring the Special Board to differentiate between essential and nonessential transportation services.[80] Furthermore, the emphasis on economic burden betrays an ignorance of the underlying causes of labor disputes, and overlooks the organizational burden on the unions that would have some of its members working while others were on strike.

It would also seem virtually impossible for a Board to assemble and consider all of the necessary economic and business data and make an informed decision whether partial operation was a greater economic burden than a total shutdown, all within the thirty-day period within which the Board must issue its order.[81] Application of the above criteria involves extensive and complex inquiry into market considerations, competition, and other economic consequences of partial operation on the employer, the union and the public. The Board is required to make its determination within thirty days and hold a hearing in relation thereto. Even with the assistance of experts and consultants provided for by the Administration's proposal, it would be difficult to arrive at an intelligent decision within the thirty days provided. The result of a Board's determination would either be a rejection of the partial operation procedure because of insufficient time to study the situation or a decision to employ the procedure without adequate consideration of the intricate problems involved.

The implementation of partial operation also raises questions concerning administration, enforcement and fairness. Although S. 560 included partial operation as a solution to transportation strikes. President Nixon, in February 1971, criticized partial operation in the railroad industry impractical and unfair.[82] The President rejected "partial operation" in favor of "selective operation". It is unclear whether S. 560 encompasses both types of operations under the general heading "partial operation." [83] This confusion in terminology and interpretation as to the scope of the bill would further complicate its administration and enforcement.

In addition, partial operation has been criticized by management and labor as burdensome and unfair. Representatives of railroads and other carriers complain that partial operation would be a costly and unfair burden because it would require a staff almost as large as if the operation were running at full capacity.[84] Labor, on the other hand, contends that partial operation would result in inequality because some workers would be receiving full wages while others receive only strike benefits.[85]

The ABA has noted that partial operation would have a detrimental effect on the process of collective bargaining, because the parties "will spend thirty days arguing the merits, demerits and procedures for partial operation while they could be bargaining." [86] Beside the problem of impracticability, the partial operation alternative is subject to the same defect as the 30-day extension alternative; there is no possibility of resorting to another procedure if the Special Board should reject partial operation as not being feasible. Consequently, the President would be forced to seek Congressional assistance to settle the emergency labor dispute.

The procedures: Final offer selection

The third option, final offer selection, would authorize the President to direct each party to submit two alternative final offers to the Secretary of Labor within three days. Each offer would have to "constitute a complete collective bargaining agreement and resolve all the issues" involved in the dispute. The Secretary of Labor would transmit such offers to all other parties and they would be required to bargain for five days, during which time the Secretary of Labor may act as mediator.

If no settlement was achieved during this five-day period, a three-member panel would be appointed within the next two days by them or by the President if they could not agree upon a panel. The panel would then hold hearings and, within thirty days, select one of the final offers which would be then "deemed to represent the contract between the parties."

During the panel's consideration of the final offers the parties are not permitted to change the terms and conditions of employment except by agreement. The panel is not allowed to mediate a settlement or communicate with third parties concerning recommendations for resolving the labor dispute.

The panel would have to select one of the final offers in exactly the form submitted. The bill provides that "The panel shall not compromise or alter the final offer that it selects. Selection of a final offer shall be based on the content of the final offer and no consideration shall be given to, nor shall any evidence be received concerning, the collective bargaining in this dispute including offers of settlement not contained in the final offers."

In making its decision, the panel would be permitted to consider the following factors: (1) past collective bargaining and contracts between the parties; (2) comparisons of wages, hours, and conditions of employment peculiar to that industry, and industries in general, (3) "security and tenure of employment with regard for the effect of technological changes on manning practices or on the utilization of particular occupations"; and (4) "the public interest and any other factors normally considered in the determination of wages, hours, and conditions of employment." The final offer thus selected would be the labor agreement between the parties. The panel's determination would be final and binding unless found to be "arbitrary or capricious" by the reviewing court.

The theory behind this option is that it would bring the parties closer together in submitting their final offers and would probably result in agreement during the five-day bargaining period after such offers are submitted. As the President explained in his message to Congress:

Footnotes at end of article.

"Rather than pulling apart, the disputants would be encouraged to come together. Neither could afford to remain in an intransigent or extreme position. In short, while the present prospect of government arbitration tends to widen the gap between bargaining positions and thus invite intervention, the possibility of final offer selection would work to narrow that gap and make the need for intervention less likely." [87]

Final offer selection is a relatively novel concept [87a] designed to promote the voluntary bargaining process while ultimately providing for a conclusive settlement without a crippling work stoppage. Under Secretary of Labor Silberman has explained that the availability of this option would stimulate serious bargaining at an early stage to insure a negotiated settlement and avoid the risk of having the other party's offer selected.[88] He has also pointed out that the procedure would "reward compromise and concession and . . . penalize intransigence," and provide an impartial authority to accept the responsibility for the solution—the "so-called face-saving situation." [89]

According to its advocates, final offer selection differs materially from compulsory arbitration where the contract is shaped by the exercise of discretion vested in the arbitrators. In final offer selection, however, the panel would choose the most reasonable contract that has been submitted by one of the parties. Further, the traditional form of arbitration, according to this point of view,[90] encourages extreme positions in the expectation that the arbitrator will "split the difference," [91] whereas final offer selection encourages the parties to narrow the gap between bargaining demands and offers in order to gain the endorsement of the panel.

While the final offer selection alternative is technically different from compulsory arbitration, several labor experts have noted that this innovative procedure still entails government intervention and the acceptance of a "selected", rather than "imposed", agreement under compulsion of law.[92] Moreover, since this procedure fails to weigh the economic strengths of the parties, the weaker party will be tempted to delay bargaining in the hope of receiving a more favorable settlement from the three-man panel.

Perhaps the most cogent criticism of final offer selection is that it is inflexible and unfair. It is difficult to imagine the government forcing a settlement that is fair when it is limited to accepting one party's terms in toto.[93] In any labor dispute, two opposing final offers will probably show one party submitting a more reasonable offer on issue A, and the other party submitting a more reasonable offer on issue B. In this situation the panel would be required to weigh the importance of each issue and the reasonableness of each offer; and the end result will certainly not be the most reasonable or acceptable [94] settlement.[95] Indeed, if the parties adopt a gambling posture and offer several objectionable and arbitrary terms of settlement, the entire procedure would be discredited.[96] Experience reveals that the party which believes it has made an offer which will probably be selected may be inclined to insert additional minor advantages which it could not obtain through negotiators or arbitration.[97] The neutral panel would be left with the choice of either selecting the offer preferred on major issues, or declining to make a selection thereby permitting a crippling work stoppage.

In the opinion of several labor observers [98] and the ABA Committee,[99] there are certain types of issues, particularly involving working rules, technological change, and manpower utilization, which do not readily lend themselves to the final offer selection process. In these cases and others, the traditional arbitration procedure would be better suited to balance the positions and resolve the disputes. In addition, normal arbitration permits not only the selection of segments of the rival offers in the hopes of putting together a reasonable package, but also enables the arbiters to recognize the need for protecting the public interest. Final offer selection, on the other hand, limits the scope of the neutral panel's vision to the expressed terms of the parties' offers, and these terms of settlement may not reflect the interest of the public.

The ABA Special Committee correctly labelled final offer selection as the only "viable alternative" contained in S. 560 but conditioned the Association's endorsement of the procedure on the adoption of the following useful amendment: (1) deletion of the "last offer ballot" provision currently in effect under the Taft-Hartley Act because it will conflict with the final offer selection procedure: [100] and (2) extension of the time allotted for the parties to bargain on the basis of their final offers.[101] These two modifications would greatly improve the opportunity for a bargained settlement after the invocation of final offer selection—the only procedure in the Administration's bill that is likely to be used.

Despite the shortcomings of the final offer selection alternative, it does deserve inclusion in a choice of procedures approach that contains other useable alternatives. In S. 560, however, final offer selection is the only real option available to the President, since the 30-day extension and partial operation are not likely to be individually effective in settling an emergency labor dispute. Therefore, the Administration's bill, in its present form, does not contain the necessary attributes of a true choice of procedures or arsenal of weapons approach, since it: (1) fails to provide the President with flexible, useable procedures to apply to the changing circumstances of an emergency labor dispute in the various transportation industries, and (2) fails to create the required degree of apprehension and uncertainty in the minds of the parties that stimulates serious collective bargaining and the private settlement of a dispute.

RECOMMENDATIONS OF THE AMERICAN BAR ASSOCIATION

In response to the widespread concern about the impact of major transportation stoppages on the public interest, the American Bar Association, in 1966, established a Special Committee on National Strikes in the Transportation Industries to examine the existing dispute-settling procedures and to make appropriate recommendations. After hearing the testimony of representatives from labor, management, and the public sector, and after extensive discussions with leaders from the executive and legislative branches of government, the Committee members made a two-part recommendation: first, the creation of individual, tripartite industry commissions to study each industry's bargaining practices, to suggest improved methods of bargaining in order to avoid emergency strikes, and to recommend new procedures for handling work stoppages in these industries; second, the amendment of section 10 of the Railway Labor Act to make the bargaining process more effective and to provide the President with a "choice of procedures" to deal with an actual or threatened stoppage likely to result in an emergency situation.

The Committee considered all modes of transportation, but decided that only the maritime (longshore and offshore), airline and railroad industries should be covered by any amended legislation. The maritime industry would be subject to the Railway Labor Act only with respect to post-impasse procedures and would otherwise be governed by the Taft-Hartley Act. The Committee did acknowledge that recent changes in the bargaining structure of the trucking industry could eventually lead to a breakdown in collective bargaining and to serious harm to the public interest, but concluded that the history of labor relations and negotiations in this industry did not necessitate its coverage under the recommended legislation. In later deliberations and at the urging of the Board of Governors of the ABA, the Committee reversed its earlier decision and, included the trucking industry in its report and recommendations.

The legislative proposal of the ABA Committee authorizes the President to appoint a Presidential Emergency Mediation Board upon a recommendation from the National Mediation Board that a dispute between a carrier and its employees should "threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service." [102] During its 60-day life, the Emergency Board has two functions: first, to hold hearings to investigate the facts of the dispute and "attempt to adjust the dispute through mediation and conciliation;" and second, to recommend to the President, immediately prior to the expiration of the 60-day status quo period, that he choose one of the four available procedures to settle the dispute. The four procedures, as outlined in the Committee's Report [103] are: (1) discharge the Emergency Board and refrain from any further government intervention; (2) direct the Board to make public its recommendations as to the terms for settlement of the dispute; (3) appoint a Presidential Arbitration Board to resolve the dispute by the issuance of a final award binding upon the parties to the controversy; or (4) create an Executive Receivership under Presidential direction by operating the company or companies involved in the dispute while the parties continue their bargaining.

The Special Committee's recommendations were approved by the House of Delegates of the American Bar Association at the annual meeting of the ABA in St. Louis, August 12, 1970.

Industry Commissions

The ABA Special Committee recommended that Congress authorize the President to establish for each industry a commission consisting of an equal number of management and labor representatives, as well as nonvoting representatives from the public sector who would serve in an advisory capacity. The commissions would be charged with the dual responsibility of (1) "developing for the industry an agreed plan for eliminating or minimizing the danger of strikes or lockouts which impair the national security or threaten serious injury to the health, safety or welfare of a large segment of the public;" [104] and (2) "recommending changes in any part of the Railway Labor Act or Title II of the Labor-Management Relations Act designed to make collective bargaining more effective in the industry concerned." [105] The commissions would submit their final report and recommendations to the President and Congress within eight months of their appointment.

In making this recommendation the Committee expressed its preference for initially relying on the parties to develop improved bargaining and strike-prevention mechanisms. The commissions would provide the affected parties with the opportunity to establish permanent procedures which would obviate the invocation of the emergency dispute provisions. Even if the commission's efforts were unsuccessful, their report would offer a sound basis for any legislative action. Furthermore, the tripartite composition of the commissions would combine the knowledge and experience of the particular industry's representatives with the detached objectivity of the public members to facilitate well-reasoned agreements that conform to the public interest. In this respect, the Com-

---

Footnotes at end of article.

mittee's Industry Commissions are clearly superior to the appointment of a seven-member National Special Industries Commission suggested in the Administration's bill. The latter proposal would place the total responsibility for devising peace-keeping procedures for all industries on a single government commission. Experience reveals that general reports and broad recommendations from government-appointed bodies fail to provide the panacea for labor problems and seldom receive the support and cooperation of the collective bargaining parties. The ABA Committee anticipated these problems and explicitly provided for labor and management representation on each industry commission to elicit "creative ideas from the industry itself in settling procedures" [104] that will eliminate or minimize the danger of work stoppages which impair the national security or threaten serious injury to the health or welfare of a large segment of the public.

Legislative recommendations

In general, the Committee attempted to increase the effectiveness of the Government's role as a mediator by establishing a newly structured Presidential Emergency Mediation Board. The proposal specifically withdraws the power of the Emergency Board to make recommendations for the terms and conditions of a settlement to avoid distracting the Board from its primary function of encouraging collective bargaining. The statutory life of the Board is extended from 30 to 60 days to permit more time for assisting the parties in their efforts to reach an agreement. If the dispute has not been settled at the end of the 60-day period, the Emergency Board is required to recommend to the President one of four possible courses of action.

Public recommendation for settlement

The first available procedure allows the President to direct the publication of the Emergency Board's recommendations for settlement of the dispute. After the recommendations have been revealed, there would be an additional 30-day status quo period in which public opinon would hopefully persuade the parties to resolve their differences. If no agreement is reached by the end of the 30-day period the disputants would be free to resort to the strike or the lockout.

The "public recommendations for settlement" alternative is similar to the present procedures under section 10 of the Railway Labor Act. If experience is a guide,[107] the President is not likely to adopt this ineffective course of action, since he is expressly forbidden from choosing any other procedures. The chairman of the ABA Special Committee has defended the "one shot, and only one shot" approach on the grounds that it eliminates the situation where a party will refuse to settle because it knows that a "finality" procedure will later be invoked.[108] On the contrary, if more than one procedure could be used, the parties would be encouraged to settle, rather than risk the selection of a more distasteful procedure. Restricting the President to only one choice places an undue burden on him to pick the "right" procedure, knowing that if the selected procedure fails Congress would again be summoned to resolve the labor controversy.

Presidential Arbitration Board

The second procedure contained in the Committee's legislative recommendations is the creation of a Presidential Arbitration Board empowered to conduct hearings and issue a final and binding award resolving the dispute. Before electing either this procedure or the executive receivership alternative, however, the President would be required to make the additional finding that the failure of the parties to settle the controversy "may impair the national security or seriously endanger the health, safety or welfare of a large segment of the public sufficiently to warrant curtailment of the freedom to strike or lockout and the imposition of a peaceful method of settling the dispute." [109] If the President determines that the particular dispute passes this more stringent, jurisdictional test,[110] the parties would be given five days to appoint members to the Board; otherwise, the President would designate the impartial members. During the 60 days in which the Board is in session or after it has rendered its decision, the parties are free to change any of the issues involved in the dispute or the settlement terms so long as the modification is mutually agreeable. In arriving at its award, the Arbitration Board must consider the following factors: (1) the public interest, including its interest in the continuation of the particular transportation services; (2) comparison of wages, hours and conditions of employment of other employees doing comparable work, giving consideration to factors peculiar to the industry involved; (3) comparison throughout the nation of wages, hours and conditions of employment; (4) security and tenure of employment with due regard for the effect of technological changes on the manning practices or the utilization of particular occupations; (5) other factors normally considered in the determination of wages, hours and conditions of employment in the industry.

Of the numerous methods for final settlement of labor conflicts, undoubtedly "compulsory arbitration" has received the most vitriolic criticism.[111] Labor,[112] and to a lesser extent management,[113] are philosophically opposed to a settlement prescribed by a third party because it negates the right of the parties to freely determine the terms and conditions of employment through the collective bargaining process. In a particular labor dispute, however, compulsory arbitration will be rejected only by the combatant considered to be the stronger, that party generally preferring economic warfare to outside interference.[114] The objection that the weaker party will purposely avoid "good faith" bargaining and rely upon the decision of an arbitration panel to "split the difference" [115] is not a valid criticism of compulsory arbitration when the procedure is only one of many, because the parties can never be sure that compulsory arbitration will be selected by the President. Indeed, by adopting an intransigent position, the weaker party may be confronted with the recommendation that the President take no further action or that the terms of settlement be publicized.

In a true emergency situation, the interests of the public in the free flow of essential goods and services outweighs the interest of the public and the parties in minimizing government involvement in private industry and the traditional collective bargaining process. Compulsory arbitration would not require the total acceptance or rejection of one party's final offer, but would consider the positions of all parties—labor, management, and the public [116]—and determine the most fair and reasonable terms of settlement. The ABA's recommendation and other legislative proposals [117] have included compulsory arbitration in their "arsenal of weapons" primarily because it, more than any other procedure, explicitly recognizes the importance of protecting the public's interest in settling crippling work stoppages in the transportation industries.

Executive receivership

The third alternative procedure recommended by the ABA Committee is that the President "[c]reate an executive receivership of the carrier, or carriers, involved in the dispute for a period, and under such conditions as the President deems to be in the public interest . . ." [118] The government receiver would be empowered to adjust the terms and conditions of employment during the seizure period "by some fair procedure; provided however, that such changes affect wages only, and provided further that such adjustments represent the minimum necessary to provide equitable compensation for employees working during the period of the seizure." [119] The Committee further recommended that all union security and checkoff arrangements would be suspended during the receivership period.

The carrier or carriers involved would be entitled to sue the government for just compensation or to accept the Government's operation of the business for its account after the deduction of the costs of the receivership incurred by the government. If the carrier chooses to sue for just compensation, it would receive 75 percent of the Government's last offer of compensation, pending final disposition of the litigation. Strikes and other concerted activities interfering with the operation of the carrier subject to the receivership would be unlawful under the Committee's recommendation.

Similar to compulsory arbitration, government seizure and operation of a private company as a method of settling emergency work stoppages has been denounced by management as being one-sided [120] and violative of the fundamental principles of free enterprise.[121] Some labor experts even question the constitutionality of legislation that authorizes government seizure, but since the Supreme Court's decision in *Youngstown Sheet & Tube Co. v. Sawyer*,[122] it is generally accepted that Congress has the "constitutional authority to make laws necessary to carry out the powers vested by the Constitution." [123] In fact, several states currently have statutory provisions for seizure whenever a labor dispute threatens a serious disruption of an industry.[124] Other critics of seizure argue that government operation is no guarantee against strikes,[125] and the heavy administrative burden and lengthy legal proceedings [126] which are likely to result outweigh any benefits which may be derived from a government takeover. Finally, opponents of seizure discredit the widespread belief that this procedure will sufficiently induce the disputing parties to immediately terminate the strike or lockout.[127]

The ABA Committee's proposal cannot be categorized as the typical seizure approach because it attempts to strike a balance between management and labor by penalizing the union with suspension of compulsory union membership and payroll deduction for initiation fees and union dues.[128] Moreover, it attempts to lessen the burden by placing explicit limitations upon the changes that may be made by the government receiver.

Executive receivership has the advantage of allowing the parties to determine the terms of agreement rather than imposing a settlement through mandatory arbitration.[129] In addition, the Committee's recommendation grants the government a wide area of discretion to permit maximum flexibility for specifying the most appropriate conditions for government operation.

Similar to compulsory arbitration, the executive receivership procedure recognizes that the public interest in terminating emergency work stoppages in the transportation industry outweighs the disputants' interests in freedom of action. It should be emphasized, however, that the Committee's recommendation require that a higher standard be met—that such interruption will impair the national security, or seriously endanger the health or welfare of a large segment of the public [130]—before the President may select the executive receivership alternative. The higher standard reflects the sound policy that the seizure procedure should only be elected in those rare cases where the seriousness of a transportation work stoppage justifies immediate government operation of the carrier or industry.

With relief available through the courts, the ABA Committee's recommendation pro-

---

Footnotes at end of article.

vides a method for fair and just compensation to the owners for the use of their property during the executive receivership period.[131] In addition, if the President is empowered to take complete possession of a carrier, it would undoubtedly increase the incentive of the parties, especially the carriers, to settle their differences through bargaining.[132] Nevertheless, Congressional representatives criticize seizure as "too drastic a remedy,"[133] and labor experts describe the procedures as "having the outward appearance of executive dictatorship."[134] Combining this general disapproval with the outspoken opposition of labor[135] and management, it is apparent that the recent legislative proposals introduced in Congress which provide for a seizure procedure[136] have almost no chance of being passed into law. Although executive receivership has some advantages and was included in the ABA Committee's recommendation to "balance"[137] the choice of procedures, it should not be retained in a bill at the cost of substantially reducing the likelihood of enactment.

Procedures: No further action

The fourth and final alternative that the Presidential Emergency Mediation Board can recommend to the President is that no further action be taken, leaving the parties "to stew in their own juices."[138] During an emergency transportation strike, it does not seem likely that this option would be chosen, however, it may be appropriate in those situations where a work stoppage does not seriously threaten the health, or welfare of the public or where the mediation procedures and public influence have brought the parties close to an amicable settlement. Finally, the possibility that the government can terminate its intervention in a labor dispute, will deter the parties from awaiting predictable emergency procedures to run their course before conducting serious negotiations. Thus, the parties will be induced to bargain in good faith and the government's role as a mediator in transportation disputes acquires increased flexibility and effectiveness.

THE JAVITS BILL S. 594

Procedures

On February 4, 1971, Senator Jacob Javits (R., N.Y.) introduced his legislative proposal, S. 594, which he described as a "broader" and "more flexible" approach than the Administration's bill.[139] S. 594 would bring the railroad and airline industries under an amended version of sections 206–210 of the Taft-Hartley Act, and repeal Section 10 of the Railway Labor Act. The bill would broaden the coverage of the existing Taft-Hartley emergency provisions to encompass regional labor disputes "in an industry affecting commerce [which] may, if permitted to occur or to continue, imperil the health or safety of the Nation or a substantial part of its population or territory. . . ."

The Javits proposal would authorize the President to appoint a Board of Inquiry to make recommendations for resolving an emergency labor dispute. After receiving the report and recommendation of the Board and before obtaining an 80-day injunction, the President could direct the parties to maintain the status quo for not more than 30 days and to continue to bargain collectively without changing the conditions of employment or resorting to a strike or lockout. The 80-day injunction would be granted only by a three-judge district court and appeal would be taken directly to the Supreme Court, rather than to a federal court of appeals. Upon the expiration of 60 days of the 80-day injunction period, the President may direct the National Labor Relations Board to take a secret ballot of employees on the employer's final offer for settlement. In addition, if the labor dispute has not been settled prior to the end of the 60-day period, the President may issue an executive order "prescribing the procedures to be followed by the parties thereafter and any other actions which he determines to be necessary or appropriate to protect the health and safety of the Nation or that substantial part of the population or territory," threatened by the dispute. The executive order would be in effect for the "shortest period of time consistent with the emergency and a resolution of the dispute," and would be required to: (1) provide for the maintenance or resumption of operations and services essential to the national or regional health and safety, (2) encourage resolution of the dispute through collective bargaining, (3) encourage and preserve future collective bargaining within the industry affected, and (4), to the extent consistent with meeting the emergency, avoid undue interference with the rights of the parties to the dispute. Either House of Congress could veto the President's order within 15 days.

Some of the procedures available to the President under S. 594, according to Senator Javits, would be "fact-finding, extension of the status quo, seizure and partial operation, mediation to finality, arbitration, and the 'final offer selection' procedure of the administration's bills."[140] In the event that the President decides to seize and operate an industry or any part of an industry, the bill requires that "such enterprise shall be operated by the United States for the account of the employer." The employer would have the right to waive all claims to the proceeds of the government operation and to receive in lieu "just, fair, and reasonable compensation" for the period of the seizure. The President would determine the amount of compensation, but if the amount is not acceptable to the employer, he would be immediately entitled to 75 percent of the government's offer and could sue the United States in the Court of Claims or a district court to recover any further sums that were fair and reasonable.[141]

Analysis

Of the various proposals considered in this paper, the Javits bill is certainly the broadest in terms of coverage and choice of procedures. The jurisdiction of the bill would extend to "a threatened or actual strike or lockout or other labor dispute in an industry affecting commerce" which may imperil the "health or safety of . . . a substantial part of [the Nation's] population or territory." If this language were given a flexible construction by the President or the courts, it could permit unlimited government intervention in such disputes as transportation and hospital strikes in large cities.[142] Several labor observers have criticized this increase in federal power as unnecessary and undesirable.[143] The application of emergency procedures to regional disputes is a laudable objective, but the Javits proposal could be interpreted to include local disputes within its jurisdictional boundaries. Moreover, S. 594 would also cover labor conflicts outside the transportation industry. If emergency dispute procedures should only be invoked in those situations where the breakdown of the collective bargaining process has seriously impaired the public's interest in the free flow of goods and services, then the Javits proposal seems to authorize an unwarranted expansion of government control.

The Javits bill does not specify a series of alternative methods of dispute settlement, but rather gives the President a general power to issue an executive order prescribing the procedures he deems "necessary or appropriate" for the protection of the public health or safety. Consequently, the emergency procedures available to the President run the gamut from fact-finding and mediation to compulsory arbitration and seizure. This approach permits maximum flexibility with the concomitant danger that the President may abuse his unbridled discretion and choose a procedure alien to a democratic system or inappropriate for the occasion.

Besides the four general criteria mentioned earlier, the Javits proposal fails to offer any precise guidelines to follow during an emergency labor dispute. Seizure is the only procedure outlined in the bill, but this alternative is more ambiguous and one-sided than the executive receivership provisions recommended by the ABA Special Committee. In general, S. 594 deserves little Congressional attention because it is an overly broad and unstructured approach that is not the best legislative proposal for encouraging collective bargaining and protecting the public's interest in emergency labor disputes.

H.R. 9088—THE SELECTIVE STRIKE

Representative James Harvey (R., Mich.) has introduced a bill, H.R. 9088,[144] which would amend section 10 of the Railway Labor Act and provide more effective means for protecting the public interest in emergency labor disputes involving the railroad and airline industries. The bill provides for a 60-day cooling-off period if the National Mediation Board determines that a dispute between a carrier and its employees should "threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service." During the status quo period, the President is authorized to create a board to investigate the facts of the dispute and make substantive recommendations for settlement. If no agreement is reached by the end of the 60-day period, and the dispute still constitutes a substantial threat to interstate commerce, the President may choose any or all of the following three alternatives: (1) an additional 30-day cooling-off period; (2) a limited selective strike by employees; and (3) final offer selection. The President is allowed to invoke these procedures in any sequence he deems appropriate, except that he must proceed first under the selective strike provision "unless he finds that the national health or safety would thereby be immediately imperiled."

Two of the procedures included in the Harvey bill, the 30-day extension of the cooling-off period and final offer selection, are essentially the same procedures contained in the Administration's bill, and the advantages and disadvantages of these alternatives have already been discussed. The provision permitting employees to be selectively strike certain carriers, however, is a relatively novel approach[145] that warrants careful consideration.

In H.R. 9088, a selective strike by railroad employees is permitted against not more than two carriers operating in any one of the eastern, western, or southeastern regions, only if the aggregate revenue ton miles transported by the struck carriers of that region does not exceed 20 percent of the total revenue ton miles transported by all the carriers of that region during the preceding year. The revenue ton mile limitation is not applicable where only one carrier is struck. If the President determines: (1) that the struck services or transportation can not be provided by other rail, truck, water, or air transportation; and (2) that the termination of such services or transportation would "immediately imperil the national health or safety, then he may direct the carrier(s) and employees to maintain the necessary transportation services. In addition, if the President elects to proceed under the 30-day extension provision or final offer selection while selective strikes are in progress those strikes would be immediately terminated. The Harvey bill also prohibits any carrier from locking out employees after the President has invoked the selective strike procedure.

By including the selective strike alternative in H.R. 9088, Representative Harvey has recognized "the basic right to strike on the part of any individual—the right to refuse

---

Footnotes at end of article.

to work under any conditions under which he does not want to work."[146] Nevertheless, the bill circumscribes the selective strike option with appropriate safeguards to insure that the shutdown of transportation does not result in a situation which the public refuses to countenance. H.R. 9088 limits selective strikes in three ways: (1) it limits the strike to no more than two carriers in one region, and no more than 20 percent of the nation's railroads would be affected at any one time; (2) it permits the president to require that certain essential goods be transported; and (3) it enables the President to employ other procedures thereby ending the selective strikes when conditions demand it.[147]

The selective strike, or selective operation, should be distinguished from the partial operation procedure that is contained in S. 560.[148] In general, selective strike means a total shutdown of a few companies and the complete operation of others. Partial operation, on the other hand, requires the continued operation of a part of some or all companies in a struck industry in order to maintain certain transportation services. Proponents of the selective strike mechanism emphasize that selective operation does not present the major administrative problems of partial operation because it is easier to decide which companies will be totally shut down than it is to determine which parts of all companies will be operated.[149] As mentioned earlier, President Nixon recommended selective operation as a better approach for the railroad industry because it was considered more feasible and because partial operation would place a heavier economic burden on the carriers than a total cessation of operations. Though selective operation may seem unfair to the struck railroads, certain carriers have made agreements to insure them against the possibility of being selected for a strike while other carriers continue to operate.[150] In addition, employer groups can decrease the economic harm incurred by an employer member by agreeing to reduce operations during the selective strike, but not below certain levels yet to be established during a selective strike, and by doing a portion of their business on behalf of the struck employer.

The selective strike has evolved from the governmental policy of refusing to allow nationwide railway stoppages. Senator Williams has pointed out that regular Congressional intervention in nationwide strikes, in effect, deprived the railway unions of a credible right to strike.[151] The Harvey proposal, by authorizing selective strikes, would restore the economic pressure necessary to produce a private settlement. Further, the selective strike procedure will help narrow the industry-wide scope of the dispute to more manageable proportions by simply reducing the number of carriers and employees involved.[152] The United States Court of Appeals for the District of Columbia has already upheld the selective strike as a legitimate economic weapon under the Railway Labor Act where the objective of the striking union is to preserve or to continue the national handling of an issue and to obtain a national agreement.[153] Tentative approval of the selective strike by one federal court of appeals is not sufficient to stimulate private settlement since carriers are currently permitted to retaliate with a nationwide lockout thereby creating a general railroad stoppage. H.R. 9088 would prevent a national emergency by making it unlawful for any carrier to lock out its employees or diminish its services after the President has elected to proceed under the selective strike provisions.

Despite the criticisms of the railroad carriers,[154] it is apparent that the selective strike procedure would be a valuable and useable weapon in the "arsenal of weapons" approach of H.R. 9088. Moreover, the bill permits the application of one or all of the recommended procedures, which is a definite improvement over the Administration's bill that enables the President to choose only one alternative. The coverage of H.R. 9088, however, is limited to labor disputes in the railroad and airline industry, which leaves the other transportation industries, particularly the maritime industry, subject to the inadequate emergency procedures of the Taft-Hartley Act. Mr. Harvey corrected this incompleteness of coverage by later introducing H.R. 12702[155] which would also amend Sections 206–210 of the Taft-Hartley Act to permit the invocation of three similar emergency procedures: (1) 30-day extension of the cooling-off period; (2) partial operation;[156] and (3) final offer selection. In the final analysis, H.R. 12702 provides the requisite degree of flexibility, balance and uncertainty of action that is essential to any effective legislative proposal for resolving national emergency disputes in all the major transportation industries.

THE ESTABLISHMENT OF A COURT OF LABOR-MANAGEMENT RELATIONS

During the past few years, a number of legislative proposals have been made to establish statutory courts with jurisdiction to resolve labor-management disputes. In general, the proposals can be divided into two categories: first, legislation which would abolish the National Labor Relations Board and replace it with a 15-judge labor court having exclusive jurisdiction over all "unfair labor practices" under the Taft-Hartley Act;[157] second, legislation which would create a labor court having limited jurisdiction over disputes that result in work stoppages adversely affecting the public interest.[158] Several bills that fall into the first category were introduced in the 90th[159] and 91st[160] Congress, but are not discussed in this analysis because they do not deal with emergency strike situations per se and were not reintroduced in the 82nd Congress. In the latter category, however, two 1971 bills, H.R 2373 and S. 1934 deserve examination since they would repeal section 206–210 of the Taft-Hartley Act and establish a court empowered to render a final and binding judgment only in national emergency labor disputes.

H.R. 2373, introduced by Mr. Rhodes (R., Ariz.) on January 26, 1971, directs the President to appoint five judges who would constitute a court to be called the United States Court of Labor-Management Relations. This labor court would have jurisdiction "only over labor disputes in industries substantially affecting commerce that have resulted in or threaten to result in a strike, lockout, or other concerted work stoppage which adversely affects, or if permitted to occur or to continue, would adversely affect the general welfare, health or safety of the nation." The court's jurisdiction could be invoked (1) upon application of the Attorney General, on behalf of the President, only after all other procedures for enjoining the work stoppage under the Taft-Hartley Act or Railway Labor Act have been exhausted, or (2) upon application of any party to the labor dispute, regardless of the availability of alternative procedures for settling the dispute.

After the court assumes jurisdiction over the case, the court may, pending a final settlement, "enjoin such strike, lockout, or other concerted work stoppage, or other continuance thereof, and make such other orders, including orders affecting rates of pay and working conditions, as may be necessary or appropriate." The court's order would be in effect for 80 days and during this time collective bargaining between the parties would continue the supervision of the Court, or appointed special masters. If the parties failed to settle their differences at the end of the 80-day period, the court would permit the parties to present all facts and arguments in support of their positions, and make a final determination of all issues in the case. The courts would have the power to settle "among other things, rates of pay, hours and conditions of work, and any other matters proper and necessary to a determination of the dispute or controversy." While formulating its decision, the bill would require the court to "consider, as a primary factor, the national and public interest involved in a fair and just settlement which will promote, to the greatest extent possible, fair, equitable, and workable industrial relations between the parties in the future."

Under S. 1934, introduced by Senator Brock (D., Tenn.) on May 24, 1971, the President is directed to appoint a panel to nominate 3 candidates for each vacancy on a 7-member Management-Labor Commission. The President would then designate one of the candidates to fill each position on the Commission for a term of 14 years. The bill requires the panel and the President to take appropriate action to insure that "the interests of consumers are adequately represented on the membership of the Commission, as well as the interests of management and labor."

S. 1934 defines a national emergency strike or lockout as one which "affects an entire industry, or a substantial part thereof engaged in [interstate or foreign commerce]" which would "if permitted to continue, imperil the national health or safety." If a national emergency work stoppage is likely, the Commission would make its "conciliation, mediation, and arbitration services" available to the disputants, but only if they agree to use these services. If a national emergency work stoppage is "threatened, or in effect" the Commission would assume jurisdiction upon the direction of the President. The Commission would, within an 80-day period, investigate the dispute and issue an order prescribing "the terms and conditions of employment to be in effect, and the period during which they shall be in effect."

When the Commission has issued an order resolving a dispute it would be divested of its jurisdiction over the matter, and thereafter a newly established labor court would be vested with jurisdiction "to hear, determine, and render judgment with respect to all questions of law or fact arising under the order." The Labor-Management court proposed in S. 1934 would consist of five judges serving 10 year terms of office. The decisions of this court would be final unless they were held to be arbitrary or capricious by the Supreme Court.

The establishment of a United States Labor-Management Relations Court is generally viewed as a more sophisticated form of compulsory arbitration.[161] Consequently, any proposals to create a permanent judicial body empowered to settle emergency labor disputes by imposing contract terms is opposed by representatives of management and labor on the grounds that it would greatly weaken the collective bargaining process,[162] and unduly curtail the free development of economic policy.[163] Several labor commentators have argued that the existence of a labor court would reduce the willingness to compromise,[164] since both parties will be "making a case" for judges who would merely "split the difference" between two divergent positions.[165] Finally, opponents of the judicial resolution of labor conflicts contend that such a proposal would impair the confidence in the entire legal system because it would require the combination and confusion of two functions—mediation and adjudication—resulting in substantial injury to both functions.[166]

In support of his bill, H.R. 2373, Representative Rhodes (R., Ariz.) testified at the House Subcommittee Hearings on Settlement of Labor-Management Disputes in Transportation that the proposed labor court would encourage good faith bargaining because the parties would seek to avoid the in-

---

Footnotes at end of article.

vocation of the court's jurisdiction and a compulsory settlement of the dispute.

Mr. Rhodes further stated that a judicial solution to a labor dispute adequately protects the consumer from the economic consequences of crippling work stoppages, "as well as inflationary settlements."[167] According to Mr. Rhodes, H.R. 2373 would "by creating the possibility of a final, impartial judgement about the merits of labor and management positions in a particular controversy, encourage realistic bargaining based on facts about productivity increases and industry profits rather than irresponsible and self-serving demagoguery."[168]

Perhaps the most articulate proponent of the establishment of a labor court to resolve emergency labor disputes is Samuel I. Rosenman, a former New York Supreme Court Justice and adviser to President Roosevelt. In a 1967 article appearing in the *Washington D.C. Sunday Star*,[169] Mr. Rosenman stated the need for some form of final compulsory decision and outlined the major advantages of a judicial resolution of labor conflicts: (1) labor and management would have more confidence in a U.S. judge than an ad hoc board of appointed arbitrators; (2) a court could not be accused of being partial to one side or the other; (3) a permanent court has more time to collect the necessary information on the dispute than a temporary panel of arbitrators; (4) the judicial determination would be more easily enforced than an arbitration award; (5) the court would arrive at a fair and reasonable determination of the issues, and "the contention that the presiding judge will ask what the best offer on each side is and merely split the difference constitutes a libel on our judicial tradition."[170]

The creation of a labor-management court with limited jurisdiction to resolve emergency labor disputes seems appealing, even though it carries the onus of a government-imposed settlement and the concomitant opposition of labor and management. Since almost every legislative proposal provides for some final and binding method of settlement, the recalcitrance of labor and management is not controlling. However, both H.R. 2373 and S. 1934 fail to provide the requisite degree of uncertainty that is conducive to effective collective bargaining. Under these proposals, the invocation of the court's jurisdiction in a national emergency is automatic, and the weaker party in the bargaining relationship would be confronted with the irresistible temptation to delay serious negotiations in the hope of receiving a court-made contract containing more favorable terms. This situation would soon produce a crowded court docket, with the proportionate decrease in serious collective bargaining sessions.

Experience under present law demonstrates the need for adopting a flexible legislative proposal that makes the future course of government action unpredictable.[171] Only when the President has a balanced choice of procedures available to deal with a particular labor dispute, are both parties induced to bargain in good faith rather than risk the invocation of a distasteful procedure. Unfortunately, the establishment of a labor-management court is not the panacea for settling emergency disputes or the most effective proposal for preserving and strengthening the institution of collective bargaining.

SUMMARY ANALYSIS

The foregoing review of some of the proposals to amend the present laws for dealing with emergency labor disputes has necessarily been limited in scope and has omitted several previously suggested approaches which include the application of the antitrust laws to labor organizations;[172] a ban on multiemployer association bargaining;[173] a restoration of the effectiveness of Emergency Boards and Boards of Inquiry;[174] an indefinite extension of the injunction period;[175] the "non-stoppage" statutory strike;[176] the substitution of private for public controls;[177] the inclusion of the railroad and airline industries under the Taft-Hartley Act;[178] and the maintenance of the status quo.[179] Similar to the other legislative proposals already discussed, all of these suggested methods for resolving national work stoppages have their advantages and disadvantages, but their lack of recent popular support obviates a detailed consideration of each approach. The plethora of recommended procedures for settling crippling labor disputes illustrates the simple fact that there is no single magic formula for industrial peace and stability.

The best solution to the problem of free collective bargaining versus the national interest is for labor and management to voluntarily develop a more cooperative and responsible posture toward each other and the general public. The first step the parties could adopt toward this end is to make agreements for arbitration of new contract terms enforceable under Section 301 of the Taft-Hartley Act. To assist in the task of developing procedures to prevent a strike crisis, Congress should enact a legislative proposal that provides for the Industries Commissions recommended by the ABA Special Committee.[180] These tripartite commissions would be created for each of the transportation industries with an equal number of representatives from labor, management, and the public sector. The commissions would be charged with the responsibility of "developing for the industry an agreed plan for eliminating or minimizing the danger"[181] of national strikes and lockouts. The creation of these joint, consultative institutions is consistent with the national labor policy of preserving and strengthening the private collective bargaining process without government interference. Should these commissions fail in their difficult task of establishing effective means for avoiding critical work stoppages, the interests of the public require new legislation that permits effective government intervention to settle emergency labor disputes in the transportation industries.

In drafting a legislative proposal for handling emergency disputes, the most difficult problem is delineating a jurisdictional standard which must be met before the dispute-settlement procedures can be invoked. For too long, the debate among labor experts over whether or not an emergency strike situation really exists has turned on the unfortunate wording of the Taft-Hartley Act which allows government intervention only in work stoppages that are "national emergencies" that "imperil the national health or safety."[182] Read literally, this comparatively strict standard would only authorize government action in those rare labor conflicts that promise cataclysmic results. Of course, this vague language has been interpreted to permit government action in "serious" labor disputes that are neither trivial nor catastrophic in their impact on the public interest.[183] Nevertheless, it seems that where a work stoppage threatens "substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service,"[184] the government is justified in intervening to protect the "public", rather than the "national", interest. This lesser standard recognizes the fact that regional disputes[185] in the transportation industries can have a sufficiently deleterious effect on a substantial part of the population to warrant the implementation of special procedures to end work stoppage.

If a strike law is to stimulate serious collective bargaining, it must create apprehension and uncertainty in the minds of the negotiators; if a strike law is to provide the President with maximum flexibility, it must contain a reasonable range of procedures for dealing with various labor disputes; if a strike law is to be fair and equitable to all concerned parties—labor, management, and the public—it must provide for a balanced approach that adequately safeguards the public interest. To accomplish these goals, the most appropriate and popular proposal has been the "arsenal of weapons" approach. From the previous discussion, it is clear that each and every suggested measure for controlling emergency disputes is attacked on several grounds: for granting the President too much power or not enough; for being too ambiguous or too precise; for favoring one party over the other. To be more specific, labor opposes the injunction, management disdains seizure, and both parties usually criticize compulsory arbitration. Undoubtedly, some of the procedures deserve a higher grade on the comparative scale of advantages and disadvantages; selective strike-operation may be more feasible than partial operation, final offer selection may be more acceptable than compulsory arbitration and executive receivership may be more equitable than seizure. In any event, the need for immediate legislation certainly outweighs the desire for fruitless debate over which procedures are the least offensive to labor and management, especially when all forms of government intervention are offensive to one or both parties. The mere existence of Presidential power to invoke several specific procedures that are unpalatable to labor and management would induce the negotiators to undertake genuine collective bargaining and to refrain from frequently resorting to the strike or lockout. If a work stoppage does result, however, the President could choose the most appropriate measure for ending the dispute subject to a Congressional veto. Labor experts generally agree that: (1) most, if not all, of the proposed measures for handling emergency disputes have serious flaws; (2) any government intervention should preserve and strengthen the collective bargaining process; (3) the public should be protected from crippling work stoppages that result from the breakdown of collective bargaining. The "arsenal of weapons" approach not only encourages genuine collective bargaining and safeguards the public interest, but it also combines the weaknesses of the various procedures to demonstrate that, indeed, the "whole may be greater than the sum of [all] its parts.[186]

CONCLUSION

In sum, there is no dirth of legislative proposals to amend the ineffective emergency provisions of the Taft-Hartley and Railway Labor Acts. The problem is how to induce Congress to adopt one or the other of these bills, considering the obstacles of the offsetting political influence of labor and management. If the members of Congress could successfully resist the persuasive power of these interest groups and acknowledge the fact that the choice of dispute-settling procedures is limited to imperfect and uncertain remedies, conceivably new legislation could be enacted before the nation is plagued by an epidemic of crippling work stoppages in the transportation industries. For any attempt to draft a panacean piece of legislation that satisfies everyone and specifies exactly to what degree a union may strike, or precisely when management may lockout, is an exercise in legislative futility. In fact, it may be that some day the public will no longer condone the strike and lockout as legitimate weapons of economic warfare in the settlement of disputes over the terms and conditions of employment. Until that new day dawns, the present assignment is to effect the most reasonable balance between three contending rights: that of the individual to work only under terms and conditions of employment that are acceptable to him; that of management to conduct its

---

Footnotes at end of article.

business affairs in an efficient and profitable manner; and that of the public to be protected from serious economic and social disruptions due to conflicts between the first two rights.[187]

FOOTNOTES

[1] Mr. Justice Brandeis, dissenting in *Duplex Co.* v. *Deering,* 254 U.S. 443, 488 (1921).

[2] Railway Labor Act, ch. 347, 44 Stat. 577–87 (1926), *as amended,* 49 Stat. 1189 (1936), 45 U.S.C. §§ 151–63, 181–88 (1971) [hereinafter cited as RLA]. The Railway Labor Act controls only the railroad and airline industries.

[3] Labor Management Relations Act, 61 Stat. 136, (1947), 29 U.S.C. § 141 (1971) [hereinafter cited as LMRA]. The Taft-Hartley Act controls all industries engaged in interstate commerce that are not regulated by the Railway Labor Act.

[4] RLA § 10, 45 U.S.C. § 160 (1971); LMRA §§ 206–10, 29 U.S.C. §§ 176–80 (1971). *See* Appendix B for the full text of RLA § 10. *See* Appendix C for the full text of LMRA §§ 206–10.

[5] Emergency disputes arising within the Taft-Hartley Act are governed by §§ 206–10 of title II. LMRA §§ 206–10, 29 U.S.C. §§ 176–80 (1971). When a "threatened or actual strike or lockout" in an industry engaged in interstate commerce, which "if permitted to occur or to continue, [will] imperil the *national* health or safety," the President may appoint a Board of Inquiry. *Id.* § 206, 29 U.S.C. 176 (emphasis added). The task of the Board of Inquiry is to make a written report to the President on the facts of the dispute and the positions of the parties; it is specifically proscribed from making any recommendations for settlement. *Id.* The President may then seek to enjoin the strike or lockout for 60 days. *Id.* § 208, 29 U.S.C. § 178. During the injunctive period, the parties are to continue their collective bargaining efforts with the aid of the Federal Mediation and Conciliation Service. *Id.* §§ 202–204, 29 U.S.C. §§ 172–74. If the parties fail to reach agreement after 60 days, the original Board of Inquiry is recalled to prepare a new report on the positions of the respective parties, and this report is made public. If no settlement has been reached within 15 days after the report has been released, the employees involved are given the opportunity to vote on the employer's last offer. *Id.* § 209(b), 29 U.S.C. § 179(b). Regardless of the outcome of this election, the Attorney General must move to discharge the injunction on its eightieth day. *Id.* § 210, 29 U.S.C. § 180. The only statutory procedure remaining at this point is the presentation of a report by the President to Congress. *Id.*

[6] LMRA § 206, 29 U.S.C. § 176 (1971).

[7] *Id.*

[8] LMRA §208–09, 29 U.S.C. §§ 178–80 (1971).

[9] LMRA § 209(b), 29 U.S.C. § 179(b) (1971).

[10] LMRA § 210, 29 U.S.C. § 180 (1971).

[11] Statistical data on 29 of the 30 occasions when Taft-Hartley strike procedures were invoked appears in Appendix D. This data covers the period 1947–1968. The only other case where the emergency procedures were invoked was the injunction obtained on October 6, 1971 to prohibit for 80 days the strike of the ILWU which began on July 1, 1971. The West Coast longshoreman strike had continued for 100 days before the resumption of work on October 9, 1971. The injunction was dismissed effective December 25, 1971, and the parties agreed to extend the no-strike period until January 17, 1972, when the strike was resumed. Congress passed a joint resolution to end the strike on February 9, 1972. S. J. Res. 197 (H. J. Res. 1025). Reported in Senate, February 8, 1972; Labor and Public Welfare Rept. 92–605. Passed Senate February 8, 1972. Passed House February 9, 1972. The resolution provided for the appointment of an arbitration board to make a determination of all the issues in the dispute. The resolution prohibited the parties from engaging in any strike or lockout pending the board's determination which would be effective for not less than 18 months. The resolution became moot, however, when the parties arrived at a tentative agreement on February 8, 1972, and the longshoremen returned to work after a total of 134 days on strike.

[12] *See* note 11 *supra* and Appendix D.

[13] *See, e.g., American Enterprises Institute for Public Policy, Research with National Emergency Strikes* (1969); D. Cullen, *National Emergency Strikes* (1968); H. Northrup, *Compulsory Arbitration and Government Intervention in Labor Disputes,* 207–11 (1966); H. Wellington, *Labor and the Legal Process* (1968).

[14] *See* F. Pierson, "An Evaluation of the National Emergency Provisions," *Emergency Disputes and National Policy,* 138–41 (1955).

[15] LMRA §§ 209–11, 29 U.S.C. §§ 179–80 (1971).

[16] RLA § 10, 45 U.S.C. § 160 (1971).

[17] *E.g.* In the longshoreman's strike of 1968, the Board of Inquiry was appointed by the President on the evening of September 30, 1968. Exec. Order No. 11431, 3 C.F.R. 138 (Supp. 1968). After conferring for only 2 and ½ hours the following morning, the board submitted its report to the President who obtained an injunction at 7:00 p.m. that same day. United States v. International Longshoreman's Ass'n, 58 CCH Lab. Cas. ¶12,987, at 22,644 (S.D.N.Y. 1968). In over 90 percent of the cases the boards of inquiry have made their initial report within approximately one day of their appointments and that in 15 out of 26 cases such reports were submitted within a period of from one to five days. *Federal Legislation to End Strikes: A Documentary History, House Committee on Labor and Public Welfare,* 90th Congress, 1st Sess., Pt. 2, 575 (1967).

[18] LMRA § 206, 29 U.S.C. § 176 (1971).

[19] *Id.*

[20] Sloane, "Presidential Boards of Inquiry in National Emergency Disputes," 18 *Lab. L. J.* 665, 666, (1967).

[21] (1) The Act does not begin to operate until a national emergency is threatened or has already arisen, and does not provide preventive measures; (2) the Act provides only a flexible definition of a national emergency with no clear specification of when the Act may be used; (3) the required final-offer vote diverts the disputants' attention from the bargaining table to the ballot box at the critical time; (4) the alternatives it provides are too severe—the President can only choose to invoke it or not; (5) in prolonging a conflict the injunction permits the positions of the disputants to become "frozen"—the issues assume symbolic proportions and gain increasing emotional complexity due to propaganda poured out as each side seeks greater support; (6) the final offer has been invariably rejected, so management tends to keep further concessions in reserve; and (7) in the emotionally charged atmosphere of a national emergency, Congress cannot deal with the issues in a calm, reasonable, and nonpartisan manner. *See generally* Sandberg, "Emergency Labor Disputes and the National Interest," 16 *Lab. L. J.* 359, 360 (1965); J. Seidman, "National Emergency Strike Legislation," *Symposium on Labor Relations Law* 479 (1961).

[22] Sandberg, "Emergency Labor Disputes and the National Interest," 16 *Lab. L. J.* 359, 360 (1965).

[23] Under section 10, the National Mediation Board is required to notify the President whenever a labor dispute involving an airline or railroad "threaten[s] substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service[s]." RLA § 10, 45 U.S.C. § 160 (1971). The President may then appoint an Emergency Board to investigate the dispute and submit its findings to him within 30 days. For this period and an additional 30 days, both parties are prohibited from making any changes in wages and working conditions without bilateral agreement. Once the 60-day "freeze" period has elapsed, the parties are free to resort to self-help measures. Unlike the Taft-Hartley Board of Inquiry, the Emergency Board may, and often does, make recommendations for settlement of the dispute.

[24] The National Mediation Board is the agency charged with the duty of assisting the parties in contract renegotiations in the railroad and airline industries.

[25] For a comparison of the provisions contained in the various railroad labor laws, see Appendix E. For a discussion of the weaknesses of earlier statutes, see Wisehart, "Transportation Strike Control Legislation: A Congressional Challenge," 66 *Mich. L. Rev.* 1697, 1699–1706 (1968).

[26] *See e.g.,* Emergency Board Nos. 161–63, *Report to the President* 4–8 (1964); Emergency Board No. 160, *Report to the President* 16–17 (1964).

"This dispute is now over 3½ years old. There has been an unfortunate tendency in this industry to postpone real collective bargaining until the final hour."

Emergency Board No. 54 (1963).

"As the case developed it became apparent that no real bargaining had actually taken place between the parties before their appearance before the Board. We believe this is generally the case in proceedings before Emergency Boards . . . . In transportation cases, experience shows that the parties begin to negotiate only after an Emergency Board has been appointed, and only after a report has been submitted to the President."

Emergency Board No. 169 (1967).

"Our first comment concerns the apparent absence of anything more than perfunctory bargaining between the parties prior to the creation of this Board . . . It seems to us . . . that the parties have assumed from the start that this dispute would eventually be brought to a Presidential Emergency Board . . . Indeed, we suspect that in some minds, at least, the assumption has gone further and that even the procedures of this Board have been considered merely a barrier to be cleared before the real test comes and it is discovered whether, as an alternative to a nationwide railroad stoppage, Congress will intervene and provide machinery for a final settlement. Any system of labor law and labor relations which induces the parties in an essential industry to operate on such assumptions is failing to serve the public interest, and calls for serious study and review." Emergency Board No. 176 (1969).

[27] H. Wellington, *Labor and the Legal Process,* 277–81 (1968). W. Curtin, "Transportation Strikes and the Public Interest: The Recommendations of the ABA Special Committee," 58 Geo. L. J. 243 (1969). M. Cimini, "Government Intervention in Railroad Disputes," 94 *Monthly Lab. Rev.* 27 (1971).

[28] 33 of the emergency boards have involved the airline industry, with the remainder affecting railroads and associated carriers. The two most recent boards were appointed by President Nixon on March 31, 1972, in a threatened strike by the AFL–CIO United Transportation Union against the Penn Central Railroad and in a nationwide wage and work rules dispute involving the AFL–CIO Sheet Metal Workers International Association. *Washington Post,* April 1, 1972, A2, Col. 4.

[29] Emergency disputes in the railroad industry occurring during and immediately after World War II were handled by 51 special emergency boards set up by the National Railway Labor Panel which was established in 1942 and continued to function until 1947.

[30] See note *31–34 infa* and accompanying text.

[31] Public Law 88–108, approved August 28, 1963, (77 Stat. 132). This law marked the first

time since 1916 that Congress imposed an ad hoc legislative settlement in a rail dispute. The law created a seven-member arbitration board to make a binding decision on two issues: (1) the use of firemen on diesel locomotives, and (2) the size of road and yard crews.

For further background and a fuller chronology of the firemen manning dispute, see Library of Congress, Legislative Reference Service; *The Railway Firemen Manning Dispute: History and Issues*, 1959–1970. Joseph F. Fulton. July 31, 1970, HE 1001, U.S. Cl., 70–192 E.

[32] (1) Public Law 90–10, approved April 12, 1967 (81 Stat. 12). This law delayed for 20 days a nationwide rail strike by six shopcraft unions against most of the nation's major lines, accounting for over 95 percent of total rail mileage in the United States. The issue in dispute was wages, and the unions rejected the recommendations of Emergency Board No. 169.

(2) Public Law 90–13 approved May 2, 1967 (81 Stat. 13). This law delayed for an additional 47 days, a threatened nationwide strike by the same six shopcraft unions.

(3) Public Law 90–54 approved July 17, 1967 (81 Stat. 122). This law ended two days of sporadic work stoppages by the six shopcraft unions involved in the impasse which precipitated the enactment of Public Laws 90–10 and 90–13. This work stoppage was the first nationwide rail strike since 1946. Public Law 90–54 authorized the final disposition of the dispute by a five-member Special Board which issued a binding determination that became effective October 16, 1967.

[33] Public Law 91–203, approved March 4, 1970. This law prohibited a strike or lockout for 37 days. The dispute, involving wages and work rules, already had caused a one-day strike on January 30, 1970 by four shopcraft unions against Union Pacific Railroad. On the same day, the Class I rail carriers announced a national lockout, and the United States District Court for the District of Columbia issued a temporary restraining order which enjoined both the nationwide lockout and the strike against Union Pacific.

(2) Public Law 91–226, approved April 9, 1970. This law provided a settlement for the labor dispute that occasioned Public Law 91–023. It established the memorandum of understanding, dated December 4, 1969, as the contract between the disputants, but the membership of the sheet metal workers union refused to ratify it, thereby preventing the contract from going into effect.

(3) Public Law 91–541, approved December 10, 1970. This law ended a one-day nationwide walkout of 400,000 rail employees on December 10, 1970, the third nationwide strike since the close of World War II. It prohibited a strike or lockout until March 1, 1971 in a dispute involving wages and work rules between Class I carriers and four rail unions. The law provided a 5 percent pay increase retroactive to January 1, 1970, and an 8.5 percent increase retroactive to November 1, 1970. Three out of the four unions settled with the carriers in February 1971, but the United Transportation Union did not settle until after a selective strike of 10 railroads beginning in July and ending August 3, 1971.

[34] Public Law 92–17, approved May 18, 1971. This law halted a two-day nationwide strike caused by a walkout of 10,000 railway signalmen. It also prohibited a strike or lockout until October 1, 1971 and granted a pay increase of 13.5 percent (5 percent retroactive to January 1, 1970 and 8.5 percent retroactive to November 1, 1970).

[35] S.J. Res. 186, 89th Cong., 2d Sess. (1966). Before the dispute was settled, however, more than 70 American cities were deprived of trunkline air service for 43 days, and 230 cities lost approximately 70 percent of such service during that period. *See* Hearings on H.R. J. Res. 186. Before the House Comm. on Interstate and Foreign Commerce, 89th Cong., 2d Sess., at 167 (1967).

It is estimated that the strike caused over 135,000 employees to lose earnings, grounded millions of would-be passengers, *See* Statement by Everett M. Goulard, Vice-President, Industrial Relations, Pan American World Airways, on behalf of American Airlines, Eastern Air Lines, National Airlines, Pan American World Airways, and Trans World Airlines, before the *Special Comm. on National Strikes in the Transportation Industries of the American Bar Association*. May 5, 1967, at 18.

The strike cost the airline industry 82 million dollars in net income. *See Civil Aeronautics Board, Study of the Financial Impact on the Airline Industry of the IAM Strike* 2 (1967).

The strike also violated the presidential wage guideline, thus contributing to a series of inflationary settlements. *See* W. Curtin, "National Emergency Disputes Legislation: Its Need and Its Prospects in the Transportation Industries," 55 *Geo. L.J.* 786, 790 (1967).

[36] In the period 1926–1934, arbitration was used in 538 disputes, but only 10 emergency boards were appointed. In the 1934–1964 period only 270 cases (including airline disputes) were handled by arbitration boards. However, one commentator has noted that the decrease in the use of arbitration can be attributed to the rise in the number of emergency boards authorized during the same period. Shils, "Industrial Unrest in the Nation's Rail Industry," 15 *Lab. L.J.* 96 (1964).

Another labor expert has observed that the limited number of nationwide work stoppages in the earlier days of the Railway Labor Act was due primarily to the public's refusal to tolerate the massive cessation of transportation services. M. Cimini, "Emergency Boards in the Airline Industry," 1936–69. *Monthly Lab Rev.* 63 (1970).

"Also, the strike figures . . . do not reveal that, in several of the major rail disputes of the past twenty-five years, strikes were stopped or averted only when strong measures were taken after the Act's machinery had failed. In 1943, President Roosevelt seized the railroads and personally arbitrated a dispute that two boards had failed to settle. In 1946, President Truman seized the railroads and a strike still occurred, with settlement reached only as the President was asking Congress for authority to draft the strikers, to strip them of their seniority rights, and to permit the government to set the workers' wages and retain the companies' profits during the period of seizure. In 1948 and again in 1950, both seizure and injunctions were used to head off rail strikes and, in the winter of 1950–1951, the trainmen's union was twice fined for violating one of these injunctions." D. Cullen, *National Emergency Strikes* 73–74 (1968).

[37] See Curtin, *supra* note *27* at 794; Wisehart, *supra* note *25* at 1720–21.

[38] Railroad employment has been declining steadily during the post-World War II era. From a total of 1,557,000 in 1947, employment has dropped every year, except for the years of the Korean conflict, to a 1970 total of 626,000. *U.S. Department of Labor, Bureau of Labor Statistics*. Technological change and competition from alternate modes of transportation have caused the decline in employment.

[39] *See* Shils, "Union Fragmentation, A Major Cause of Transportation Labor Crisis," 25 *Ind. and Lab. Rel. Rev.* 32 (1971).

[40] *See* Hearings on H.R. 7180, Before the House Comm. on Interstate and Foreign Commerce, 69th Cong., 1st Sess. 21 (1926); Hearings on S. 2306 Before the Senate Comm. on Interstate and Foreign Commerce, 69th Cong., 1st Sess. 37 (1926). *See* also H. Metz and M. Jacobstein, *A National Labor Policy* 140 (1947).

[41] H. Wellington, *supra* note *27* at 277–81; In a recent report, the National Mediation Board criticized the "lack of sufficient and proper direct negotiations between the parties prior to invoking mediation." 35 *NMB Ann. Rep.* 24 (1969). The Board also observed that in some instances the services of the NMB have been requested after "the parties have only met in brief session without a real effort to resolve the dispute." *Id.* at 24–25.

One Emergency Board was moved to remark: . . . we suspect that in some minds, at least . . . even the procedures of this Board have been considered merely a barrier to be cleared before the real test comes and it is discovered whether, as an alternative to a nationwide railroad stoppage, Congress will intervene and provide a machinery for final settlement. Any system of labor law and labor relations which induces the parties in an essential industry to operate on such assumptions is failing to serve the public interest, and calls for serious study and review." Emergency Board No. 176, at 5.

[42] *See* Shils, "Industrial Unrest in the Nation's Airline Industry," 15 *Lab. L.J.* 143, 171 (1964). Many commentators have complained that management offers less and labor demands more than they are willing to accept because they know that an emergency board will probably split the difference.

[43] B. Aaron, "Observations on the United States Experience", 14 *Lab. L.J.* 747 (1963). One observer has remarked that outside commitments by the board members do not permit a full and active mediation process. Kaufman, "The Railroad Labor Dispute: A Marathon of Maneuver and Improvisation," 18 *Ind. and Lab. Rel. Rev.* 196, 204 (1965).

[44] See Aaron, *supra* note *43* at 747. The pattern of "automatic rejection" is undoubtedly the principal reason why the emergency board procedure has not had its intended effect in recent years. See 17 *NMB Ann. Rep.* 32 (1951); Wisehart *supra* note *25* at 1707. The typical pattern has been for labor unions to reject board recommendations, "using them instead only as a basis," for securing further wage and rule concessions in a final settlement, usually made under Executive auspices. 17 *NMB Ann. Rep.* 33 (1951). See also L. Lecht, *Experience Under Railway Labor Legislation* 15 (1955).

[45] A. Harper II, "Major Disputes Under the Railway Labor Act," *Journal of Air Law and Commerce* 12 (1969).

[46] *See* discussion of Public Law 91–226 *supra* note *33*.

[47] H.R. Rep. No. 328, 69th Cong., 1st Sess. 1 (1926).

[48] Despite the general Consensus of opinion that title II of the Taft-Hartley Act and section 10 of the Railway Labor Act have not been effective, some representatives of labor and management favor the maintenance of present procedures.

A representative of the National Association of Manufacturers has stated: "Therefore, a major recommendation is that the emergency dispute provisions of Taft-Hartley, Title II, having worked well, should be left as is." Hearings on H.R. 3595, H.R. 3596, H.R. 2357, H.R. 5347, H.R. 8385, H.R. 9088, H.R. 9989, H.J. Res. 364 (and all identical bills) Relating to Settlement of Emergency Labor-Management Disputes Affecting the Transportation Industry, Before the Subcomm. on Transportation and Aeronautics of the House Comm. on Interstate and Foreign Commerce, 92nd Congress, 1st Sess., pt. 2, at 545 (1971) [hereinafter cited as *1971 Hearings*].

[49] In 1966, President Johnson repeatedly pledged to ask the 89th Congress to consider measures that "without improperly invading state and local authority, will enable [the government] to deal effectively with strikes that may cause irreparable damage to the national interest." Economic Report of the President, transmitted to the Congress January 1966. 89th Cong., 2d Sess., House Doc. No. 348. Washington, U.S. Govt. Print. Off., 1966, p. 17.

On July 20, 1966, the President made the following statement at a press conference in response to a question concerning strike legislation:

"I must frankly say to you that up to this point we have been unsuccessful in getting legislation that the Secretary of Labor and the other members of my Cabinet felt acceptable and that we felt would have any chance of passage in the Congress.

"We are still searching for an answer. We would like to find a solution that could be embraced by the Administration, management, labor, and the Congress. But up to this point we have been quite unsuccessful."

The inability of the Johnson administration to produce a recommendation attests to the intractibility of the problem and the lack of agreement between labor and management.

[50] On March 2, 1972, the Subcommittee on Transportation and Aeronautics of the House Committee on Interstate and Foreign Commerce voted 6-to-5 to terminate further consideration, during the 1st Session of 92nd Congress, of legislation aimed at preventing railroad and airline strikes. Representative James Harvey (R. Mich.,) observed that "[t]his was a very political vote in a political year." *Washington Post*, March 3, 1972, at A3, col. 6.

[51] Sandberg, "Emergency Labor Disputes and the National Interest," 16 *Lab. L.J.* 359 (1965).

[52] Statement of John J. Rhodes, Representative in Congress from the state of Arizona, *1971 Hearings* at 242.

"First of all, I think we must begin to reconsider carefully the very concept of the strike and lockout as a legitimate economic weapon under contemporary conditions. A strike is actually nothing more than a declaration of economic warfare by workers against a particular industry. It occurs as a result of judgments made by both labor and management that each possesses the economic power to force its will on the other. Both realize that sooner or later bargaining will be resumed, and a settlement reached: each seeks however, the most favorable conditions for the resumption of negotiation and the most favorable possible settlement. Now from the perspective of the objective merits of a particular labor dispute, there was always an irrational element to the use of strikes as a means of settling labor disputes. The position of both labor and management is tarnished by self-interest, and neither is really in a position to determine in a just manner appropriate terms of settlement. There was a time when such considerations did not seem so important. When the strike gained prominence as an economic weapon in the 19th century industrywide bargaining was unknown, and the effects of individual labor crisis limited. Obviously these conditions no longer obtain, and the question is whether we can any longer afford the high social costs of strikes and work stoppages in industries which operate on a national basis."

[53] In a study prepared by the United States Department of Labor, "Impact of Longshore Strikes on the National Economy," (January 1970), the following findings were made concerning three major strikes (1962–1963, 1965, and 1968–1969):

"The most visible impact of a longshore strike is on the oceangoing fleet and its workers. The Maritime Administration estimates that failure to sail cost U.S. merchant seamen about $21 million in potential wages, most of which cannot be made up since there are no means, such as overtime, to recover lost earnings. There have been estimates that it costs around $6,000–$7,000 per day to operate a vessel, even when it is tied up by a strike. At the peak of the 1969 strike, 650 vessels including 185 U.S. ships were tied up in ports—the direct costs to the U.S. vessels were thus over $1 million a day. Some of the costs can be made up when the strike ended by higher revenue from greater ship utilization—cargo already waiting in the ports for ships and faster turn-around times as a result of cargo consolidations. Again, the extent of this makeup depends on how near to capacity the ports and shipping-related companies operate under normal conditions."

[54] In the same Department of Labor study cited in note *53 supra*, the following findings were made:

"Our estimate of average daily net loss in the U.S. trade balance attributable to the strike are about $9–10 million per day in the 1962–63 and 1965 strikes and roughly $3–5 million per day in the 1968–69 strike. The range of the estimated average daily loss in the 1968–69 strike is fairly large because the strike ended in different ports on various dates between February 15 and April 13, 1969. The estimates of the total net loss in the U.S. trade balance are: approximately $350 million in 1962–63; about $450–500 million in 1965; and roughly $250–300 million in 1968–69. None of the total net losses appears large in comparison with total U.S. foreign trade—$41 billion in 1963: $49 billion in 1965, and $70 billion in 1969. The U.S. favorable trade balance was $5.2 billion in 1962, $7.9 billion in 1964 and $1.4 billion in 1968 (includes military assistance grant-aid shipments) . . .

"Although the national economic impact of a prolonged strike appears to have been minimal, the strikes have severe or even disastrous impacts on some small immediate port neighborhoods and businesses, and on many individuals. The halt in port activity adversely affected small truckers, importers and exporters whose livelihood depends on a steady flow of merchandise, small retail establishments featuring imported products, and many of the port-supporting groups such as restaurants, bars, and so forth. The extent that the strike may have affected physical health or national safety (security) is difficult to determine. However, the impact on the movement of Department of Defense cargo has been minimal and requests for special treatment based on health or security needs were normally honored."

The following excerpts are taken from the President's Message of February 2, 1972 concerning legislation for settlement of the West Coast Dock Strike. Senate Comm. on Labor and Public Welfare 92nd Con., 2d Sess., Rept. 92–605 accompanying S.J. Res. 197 (Feb. 8, 1972) at 3–4.

"It is estimated that American exports would have been $600 million higher during this 100-day period except for the work stoppage.

"The strike was particularly hard on our farmers, who have been exporting the product of one cropland acre out of four. During the June-September period, farm exports from the West Coast dropped from $288 million in the same period in 1970 to $73 million in 1971.

"Wheat farmers suffered the worst calamities of all, as their sales to major Far Eastern markets fell off drastically. Japan, for instance, purchases over 50 percent of her wheat from the United States. Since April, we have lost sales to Japan of at least 25 million bushels of wheat valued at $40 million. Ominously, the day after the strike was resumed last month, the Japanese purchased 8.7 million bushels of wheat for a spring delivery, but only 1.6 million bushels were bought from the United States.

"Our merchant fleet also sustained heavy losses, as did exporters of vegetables, rice, cotton, and livestock, and wood products, and numerous related industries."

The following excerpts are taken from the testimony of Secretary of Transportation John A. Volpe. *Id.*

"The loses in port service industries alone which are directly involved in the dispute are estimated to be about 8 million dollars a week. The loss to the shipping industry is estimated at 3 million dollars a week, and the loss to the inland transportation companies, 5 million dollars per week. Greater losses will appear in the wholesale and retail trade sectors—29 million dollars per week—and in the industrial sectors of the economy—some 46 million dollars per week. . . .

"The peak employment impact, not including agriculture, would be as follows: shipping, five thousand people out of work; port services: 18,000 people out of work; inland transportation: 10,000 people out of work; trade: 7,000 people out of work; and industry: 148,000 people out of work."

[55] Several bills were introduced in both Houses of the 89th Congress. *E.g.* S. 2891 and S. 361 (creating a labor Court); S. 2797 (providing for seizure of struck companies); S. 10 (including unions under anti-trust laws); S. 3587 (providing compulsory arbitration in essential industries); H.R. 333 (proposal to prohibit joint bargaining).

[56] Hazard, "Strikes and People, A Proposal," *Atlantic*, Dec. 1966, at 16.

[57] Wisehart, *supra* note *25* at 1719–22.

[58] McClamont, "The Semi-Strike," 15 *Ind. Lab. Rel. Rev.* 191 (1962).

[59] Wisehart, *supra* note *25* at 1714–18.

[60] Cox, "Seizure in Emergency Disputes," in *Industrial Relations Research Association, Emergency Disputes and National Policy* 224 (I. Bernstein, H. Enarson, R. Fleming eds. 1955).

[61] Wirtz, the "Choice-of-Procedures" Approach to National Emergency Disputes, in *Industrial Relations Research Association, supra* note *60* at 149.

[62] *See* note *33 supra* and accompanying text.

[63] 3526 and H.R. 16226, 91st Cong., 2nd Sess., 1970.

[64] S. 560 and H.R. 3596, 92nd Cong., 1st Sss., introduced by Sen. Griffin (R. Mich.) and Rep. Staggers (D. W.Va.) respectively.

[65] *1971 Hearings*. No hearings have been held by either Senate or House Judiciary Committee on the proposal for a U.S. Court of Labor-Management Relations.

[66] President Nixon's Statement Before Congress, On Emergency Dispute-Settlement Legislation at 5 (mimeograph) February 27, 1970.

[67] S. 560, sponsored by Messrs. Griffin, Dole, referred February 3, 1971 to Senate Committee on Labor and Public Welfare. H.R. 3596, sponsored by Messrs. Staggers and Springer, referred February 4, 1971 to House Committee on Interstate and Foreign Commerce. Identical bills H.R. 901, H.R. 3639, H.R. 4116, H.R. 5377.

[68] The proposal is only applicable to the transportation industries: railroads, airlines, maritime, longshore, and trucking.

[69] See W. Wirtz, "The Choice-of-Procedures Approach to National Emergency Disputes", in *Emergency Disputes and National Policy* 1949–65 (1955). Technically, any of the legislative proposals that include more than one procedure can be labelled an "arsenal of weapons" approach.

[70] *See American Bar Association Special Committee on National Strikes in the Transportation Industries,* "Final Report" (Resolutions Adopted by Board of Governors, Spring 1971), Mimeograph, at 4.

The rationale behind the arsenal of weapons approach has been stated to be that "while no single weapon may produce a perfect balance of pressure on the parties, the threat that anyone of several weapons might be applied would prove sufficient to frighten both sides into honest bargaining." Cullen, "The Taft-Hartley Act in National Emergency Disputes," 6 *Ind. and Lab. Rel. Rev.* 15, 25 (1953). See also, H. Northrup, *Strike Controls in Essential Industries,* (New York; National Industrial Conference Board, 1951) at 34.

[71] Editorial, *The Washington Evening Star,* November 6, 1959.

[72] 117 *Congressional Record* s875 (daily ed. February 4, 1971.)

Supporters of this option have also pointed to other situations in which the 30-day extension could be used: (1) to delay a work stoppage while Congress considered the matter (2) to avoid hardship if the expiration of the initial 80-day period fell on a date that caused problems. Silberman, "National Emergency Disputes—The Consideration Behind A Legislative Proposal." 4 *Georgia L. Rev.* 673,686 (1970).

[73] See *ABA Report supra* note *70* at 7. See also *1971 Hearings*, Statement of E. L. McCulloch, Vice President and National Legislative Representative, Brotherhood of Locomotive Engineers, at 687; and Statement of Gerald C. Smetana on Behalf of the American Retail Federation, at 388.

[74] *Id.*

[75] S. 3232. See Appendix *A*.

See 118 *Cong. Record*. S. 2482 (daily ed. February 24, 1972). Senator Packwood's bill was attached as an amendment to the Joint Resolution dealing with the recent West Coast dock strike. (S. 197) passed February 8, 1972; *see note 11 supra*. However, the Senate by a vote of 42–39, agreed to lay Senator Packwood's proposal on the table.

[76] *ABA Report, supra* note *70* at 7–8.

[77] Statement of Senator Griffin, 117 *Congressional Record* S752 (daily ed., February 3, 1971.)

[78] *See* Silberman *supra* note *72* at 687.

[79] *See* Levin, "National Emergency Disputes Under Taft-Hartley: A Legal Definition," 22 *Lab. L.J.* 29, 42 (1971).

[80] *See* Cullen, *supra* note *13* at 119.

[81] See *ABA Report, supra* note *70* at 9–10, for a criticism of the inadequate time period and the probable lack of expertise of the members of the board. *See 1971 Hearings* at 381.

[82] Mr. Nixon said that partial operation was not feasible:

". . . It requires a complex and costly administrative structure to operate it—to make the decisions about which goods are to move, when and how. Further, the effective and safe operation of even a small percentage of each individual railroad's business requires a disproportionately large employee force. For example, the Secretary of Transportation advises me that a nationwide partial operation allowing for the movement of only 15 percent of normal railroad traffic would require a 30 percent operating level of the Nation's railroads. The economic burden of this type of partial strike would fall in disproportionate measure on the carriers." House Document No. 48, 92nd Cong., 1st Sess., February 17, 1971, at 5.

[83] See *ABA Reports supra* note *70*, n. 11 at 8.

"Partial operation, as understood by the Committee, is one part of a company operating while another is subject to the work stoppage; while "selective operation" is the total shutdown of some companies and the complete operation of others." *Id.*

[84] *1971 Hearings* at 423; Secretary Volpe has also acknowledged the burden partial operation would place on the carriers. *1971 Hearings* at 250. See also Cullen, *supra* note *13* at 119.

[85] See Cullen *supra* note *13* at 119.

[86] *ABA Report supra* note 70 at 10.

[87] 116 *Congressional Record* S 2545 (daily ed., February 27, 1970).

[87a] The final offer selection approach was first considered in a different context in 1966. *See* Stevens, "Is Compulsory Arbitration Compatible With Bargaining?" 5 *Industrial Relations*, 45, 49–50 (1960). The final offer selection procedure is included, in various forms, in other proposals before the 92nd Congress: the Javits bill (S. 594); the Harvey bill (H.R. 9088 and S. 2655); the Jarman bill (H.R. 9989 and 2060).

[88] Silberman *supra* note *72* at 688. Professor Cullen has reasoned that:

"If labor and management knew that . . . an arbitrator would be required to choose the deadline position of one party or the other, this prospect should greatly reduce the danger of sham bargaining that has always plagued the idea of compulsory arbitration." Cullen, *supra* note *13* at 130.

[89] Silberman, *supra* note 72 at 688–89.

[90] *See 1971 Hearings* at 216–17.

[91] Charles Killingsworth, a noted labor relations scholar with many years of arbitration experience, takes exception to the assumption that arbitration is a process for "splitting the difference":

"That is a highly simplistic view of the arbitration process which would not be supported, I think, by most parties who have actually had experience with contract arbitration in recent years. All of the arbitrators that I know would consider it grossly dishonest and irresponsible merely to "split the difference: regardless of the merits of the case. At the risk of being accused of grinding an ax, I will testify that we have developed a professionalism in arbitration in the past 25 years that has made the 'split the difference' approach a rarity, at least among experienced and competent arbitrators." Killingsworth, "Emergency Disputes and Public Policy," 94 *Monthly Lab. Rev.* 44 (1971).

[92] B. Aaron, "National Emergency Disputes: Some Current Proposals," 22 *Labor L.J.* 461, 471–72 (1971). *See also 1971 Hearings* at 579.

[93] Editorial, The *Washington Post*, March 3, 1971.

[94] Benjamin Aaron questions the effect of final offer section procedure on the process of ratification of contracts required under many union constitutions. Aaron *supra* note *92*.

[95] Editorial, The *Washington Post*, March 3, 1971.

[96] *Id.* The following excerpt was taken from the Statement of Gerald C. Smetana on Behalf of the American Retail Federation *1971 Hearings* at 389.

"(a) The Administration's proposal establishes no parameters governing what matters could and could not be included in a final offer. Therefore, for example, a union might make an offer which in every other regard was fair and reasonable, but included a provision requiring that three of its members be seated as nonvoting members of the board of directors of the company with which it was bargaining. If, in this example, the company's offer were less fair and reasonable, then presumably the union's final offer would be selected and would become the contract between the parties. Such a result is not consistent with what the union could obtain at the bargaining table. A failing in the Administration's proposal is to limit matters which become subject to final offer selection to mandatory subjects of collective bargaining."

On March 14, 1972, Glen Hofer, Executive Vice-President of the National Federation of Grain Cooperatives, appeared before the Senate Subcommittee on Labor which is conducting hearings on Emergency Dispute Legislation. Hofer recommended two changes in the Packwood bill, which has the same remedies as the Administration bill, with a 15- rather than 30-day cooling off period and the right to use all of the options and not just one. The witness proposed that it be amended to provide that the parties in the last-offer selection process should be directed to identify issues in disagreement and that the selection panel "should be free to choose, without modification, the most reasonable final position on each unresolved issue from each of the final proposals," rather than take one entire proposal or the other.

[97] *See* Rehmus, "Railway Labor Act modifications: helpful or harmful?" 25 *Ind. and Lab. Rel.* Rev. 92–93 (1971).

[98] *Id.*

"The author is familiar with three public sector negotiations where this device [final offer selection] was tried. In two cases the device failed; the parties remained poles apart, and the neutrals refused to select any of the offers because all were deemed unreasonable. The experience in these three cases suggests the circumstances where this device might or might not prove useful. In a dispute in New York State where it proved effective, the sole issue was salaries. Dollar differences are almost infinitely divisible, and the logic of final-offer arbitration pushed the parties' offers to a very small difference. In the Massachusetts and Michigan cases where the device failed, major issues involving working rules were at stake. Such issues by their nature are not readily susceptible to compromise. Cases of this kind, typical of the difficult problems of manpower displacement in transportation, require delicate neutral adjustment between valid but conflicting positions. Final-offer arbitration does not permit this process to operate where it is most needed."

[99] *ARA Report supra* note *70* at 11.

[100] *Id.* at 5.

The ABA Special Committee noted:

"The 'last offer ballot' requires employers to draft a final offer, while the union(s) are not required to do so, for a vote by the employees. The Committee believes that this early requirement for an employer 'last offer' will be detrimental to the statutory processes and bargaining, particularly if the "final offer selection' procedure is ultimately utilized." *Id.*

[101] *Id.* at 11

The ABA Special Committee recommended that:

"A series of increasing pressures for agreement should be generated by providing that after the President invokes the final offer selection procedure, the parties shall exchange their 'final positions'; they then will be granted seven days in which to bargain with regard to their 'final positions' and to prepare and submit to the Secretary of Labor their 'final offers' if they cannot agree; after the final offers are exchanged, another bargaining period of seven days should be provided, with the mediatory assistance of the Secretary of Labor or his representative. Then, if the parties still cannot agree, the final offers are to be submitted to the final offer selector panel." *Id.*

[102] *ABA Report* § B. (1) (a)

[103] *See 1971 Hearings*, Statement of Jerre S. Williams, Professor of Law, University of Texas Law School, on Behalf of American Bar Association, at 611–12.

[104] ABA Report § A (2) (a).

[105] *Id.* § A (2) (b).

[106] *1971 Hearings* at 606.

[107] The influence of public opinion has proved to be an unpersuasive force. *See supra* note *40* and accompanying text.

[108] W. Curtin, "Transportation Strikes and the Public Interest: The Recommendations of the ABA's Special Committee," 58 *Geo. L.J.* 243 (1969).

[109] *ABA Report* § B (1) (d)

[110] *1971 Hearigs* at 617.

[111] *See* H. Northup *supra* note *13* at 207; Wallet, "Emergency Stoppages in the Private Sector," *Lab. L.J.* 321 (1971).

One author has criticized imposed settlements as too rational.

"Labor relations is . . . concerned with the hopes and fears, ambitions and frustrations, of human beings in society . . . [E]mployees join unions for many reasons: to gain some control over their conditions of work, to overcome the feeling that they are entirely at the mercy of an all-powerful employer, to punish their employer for real or fancied wrongs, to vindicate their declining socioeconomic status in a changing society, or simply to express frustration with the tensions of modern industrial society . . . To none of these factors is arbitration responsive. Arbitration is a remote and arid, if rational, process. But what alone will satisfy is the sense of participation in a drama, and perhaps even the cathartic experience of a strike . . . I would strongly suggest that we must for psychological reasons continue to play the frustrating game of conflict . . ." Arthurs, "The Arbital Process," paper presented to the Int'l Symposium on Public Employment Relations, New York City, May 1971. *See also*, W. Harlan, "An Answer to 'National Emergency' Transportation Strikes", 58 *ABA J.*26 (1972).

[112] Organized Labor appears to be virtually unanimously opposed to compulsory arbitration or any mandatory settlement procedure.

See e.q., 1971 Hearings, Statement of Andrew J. Biemiller, Legislative Director, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO); Accompanied by Thomas E. Harris, Associate General Counsel.

"We are opposed to compulsory arbitration because we believe that collective bargaining can and should be preserved and restored to full effectiveness in the railroad industry. That means that the right to strike must be preserved and restored, for collective bargaining cannot operate with full effectiveness unless the right to strike exists as a possible last resort. It is the contemplation of this ultimate test of economic strength or, sometimes, the test itself, that induces the parties to reach agreement. Some measure of collective bargaining is possible even where the strike is forbidden and the final resort is to compulsory arbitration or to Congress, but any impairment of the right to strike likewise impairs the effectiveness of collective bargaining. One party or the other is likely to calculate that compulsory arbitration will work to its advantage, and that means no real collective bargaining." *1971 Hearings* at 659.

During hearings before the House Commerce Committee, however, one of the rail brotherhoods proposed authorizing the President to invoke compulsory arbitration in any rail impasse which threatened the national health and safety, but such arbitration award would be binding only until the disputant parties made their own agreement.

Further, the arbitration option could be used only after seizure of the rail carriers by the Federal Government for the duration of the dispute. *1971 Hearings,* Statement of C. L. Dennis, President, Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees.

[113] See 1971 Hearings. Statement of Lyle H. Fisher, Member, Industrial Relations Committee, National Association of Manufacturers; Accompanied by J. P. Matturo, Director, Labor-Management Relations, and Randolph M. Hale, Washington Representative, Industrial Relations.

"First, it is our belief that compulsory arbitration and free collective bargaining are incompatible bedfellows. In situations where a union and employer know that compulsory arbitration lies at the end of the road, history dictates that they will devote their energies to "making a case" for arbitration rather than bargaining seriously under the normal pressures to make decisions which otherwise would not be made.

"Second, the fond belief that compulsory arbitration will limit or eliminate strikes and other concerted union pressures is not borne out by the experienec of other countries as well as our own and several of our States.

"Third, compulsory arbitration puts the power of determining labor costs and conditions on the shoulders of third parties who usually have little or no familiarity with the industry and its employees, and no responsibility for the practical impact of the employment conditions imposed. I think that point was made well in the discussions earlier this morning." *1971 Hearings* at 536–37. But see *1971 Hearings,* Statement of John P. Hiltz, Jr., Chairman, National Railway Labor Conference.

At the hearings, Mr. Hiltz, representing the Conference whose membership comprises almost all of the Nation's Class I rail carriers, made the following statement in support of compulsory arbitration.

"It is undisputed that arbitration will not be the best method for resolving all disputes; however, if it will be the best method for resolving some disputes, we feel that it should be included in the arsenal of weapons. Except for the final offer selection—a weapon which I will next discuss—arbitration is the only concept in any of the pending legislation which furnishes a procedure for settling the dispute with finality. We believe that both the final offer selection and compulsory arbitration should be included in the arsenal and that each be used in the type of dispute to which each is particularly adapted." *1971 Hearings* at 428.

A survey of 500 business executives conducted in 1970 for *Fortune* magazine by Daniel Yankelovitvh, Inc. showed a division of opinion within management ranks. In reply to the survey question, "In the event of a deadlock during bargaining, do you approve or disapprove of compulsory arbitration?" 45 percent of the respondents approved, 42 disapproved, and 14 percent were not sure. However, when asked for their opinion about a specific proposal embodying mandatory settlement—President Nixon's strike-settlement recommendations for the rail and other transportation industries, introduced early in 1970—80 percent of the surveyed executives approved of the President's plan while only 12 percent disapproved and 7 percent were not sure or did not answer. Fortune, July 1970, p. 72–73.

[114] *See* Wisehardt *supra* note 25.

[115] *See* note 91 *supra* and accompanying text.

[116] *1971 Hearings*, Statement of Jerre S. Williams on Behalf of the American Bar Association.

"I have complete understanding of and sympathy with the viewpoints of management and labor in their desire not to have restrictive legislation designed to eliminate the threat of national emergency labor disputes. That such restrictive legislation interferes with the processes of free collective bargaining is clear.

"There is, however, a third party in these disputes who must be heard. The third party is, of course, the public. There are certain work stoppages in our society that we simply cannot ask the public to tolerate. The cost to free collective bargaining of legislation to control such disputes is less of a serious national cost than is the economic and social cost to the public of allowing such emergency disputes to take place.

"It was the unanimous view of the neutral member on the Committee that such general restrictive legislation in the true emergency situation is justified and that as long as the definition of what constitutes an emergency dispute is kept narrow enough, the interference with the processes of free collective bargaining in our society do not threaten the destruction of those free processes in industry generally." *Id.* at 614.

[117] See Appendix *A*.

See e.g., H.R. 9989, introduced by Mr. Jarman, July 21, 1971. The bill amends the Railway Labor Act and provides:

"(1) Upon the failure of the National Mediation Board to successfully resolve *any* dispute by mediation, it must notify the Secretaries of Labor, Commerce, and Transportation who are directed to appoint an ad hoc Transportation Labor Panel which shall recommend one of the procedures outlined immediately below in (2) to be used in the further handling of the dispute.

"(2) The Secretaries may either accept or reject the recommendation but, if the latter, they must recommend one of the procedures themselves:

"(a) take no further action;

"(b) appoint a neutral board to make nonbinding settlement recommendations;

"(c) refer to final and binding arbitration; or

"(d) submit to a 'final offer selection' procedure."

See also H.R. 2357, introduced by Mr. Pickle, January 26, 1971. The bill provides for the establishment of a special board with authority to make a "final and binding", and a "just and reasonable" determination of the matters in dispute. The bill further provides that the board may consider:

(1) "The public interest in the development and maintenance of a safe, adequate, economical, and efficient transportation system"; and

(2) "The public interest in price stability and prevention of inflation."

[118] *ABA Report* § B(1) (c) (iii)

[120] "Seizure is frequently advocated by unions for an obvious reason: the history of governmental seizure as a means of settling labor disputes indicates that after seizure the workers have usually been given some or all of the benefits which they could not get from their employer. When the strike emergency has ended and the business is returned to private management, management in effect has been required to accept a settlement it would not otherwise have accepted." Wisehart *supra* note *25*, at 1713.

[121] It is interesting to note that Senator Taft, chairman of the Labor Committee, informed the Senate that his colleagues had considered a grant of seizure power and rejected it in favor of reliance upon Title II. 93 *Cong. Rec.*, 3834–36 (1947); *see* 2 *NLRB Legislative History of the Labor-Management Relations Act* 1145, 1519, 1626 (1948).

For a history of labor and management resistance to seizure, see J. Blackman, *Presidential Seizure in Labor Disputes* 23–73 (1967).

In a foreword to this book, Professor John T. Dunlop of Harvard University notes that "there have been 71 instances of presidential seizure and temporary operation of industrial property . . . over the past hundred years. Transportation facilities have been seized in 21 cases and military suppliers in 32 other cases. Sixty seizures were made under legislation expressly authorizing its use mostly under maritime legislation and 11 cases, including the 1952 steel seizure, relied on the general and other powers of the president. Some seizures were in wartime, others in reconversion periods, and still others in times of peace. There is a great diversity and variety in the experience with presidential seizure.

Id. at vii. *See also* Cox, *Seizure in Emergency Disputes and National Policy* 227 (1955); *See 1971 Hearings*. Statement of Stuart G. Tipton, President, Air Transport Association of America; Accompanied by Everett M. Goulard, Counsel, Airline Industrial Conference, and Vice-President, Industrial Relations, Pan American Airways. Mr. Tipton summarized management's opposition to seizure in the following way:

"The use of seizure as a method of securing settlements again weakens management's position without any corresponding pressures upon the unions to settle. Seizure by the government of a private transportation system is, of course, a drastic measure. Anticipating such a governmental step, management might well be prepared to act irresponsibly in granting demands which would then have to be paid by the users. Seizure can also form the basis for unending litigation between the employer and the government as to the extent of injury by reason of seizure. Furthermore, the risk of ultimate or even immediate socialization is present, such as resulted a few years ago after a New York City bus strike. Before the strike buses were privately owned and operated, but during the strike they were seized and never returned to private operations." *Id.* at 327.

[122] 343 U.S. 579 (1952).

[123] *Id.* at 583. On June 2, 1952, the United States Supreme Court, in *Youngstown Sheet & Tool Co.* v. *Sawyer*, held that although "There are two statutes which do authorize the President to take both personal and real property under certain conditions," the President's seizure order "was not rooted in either of the statutes," and that Congress, not the President, has the "exclusive constitutional authority to make laws necessary to carry out powers vested by the Constitution. . . ." In declaring the seizure unconstitutional, the Court stated:

"The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good and bad times. It would do no good to recall the historical events, the fears of power and the hopes for freedom that lay behind their choice. Such a review would but confirm our holding that this seizure order cannot stand." *Id.* at 583.

[124] Hawaii has provisions for strike ban and seizure whenever a labor dispute threatens to disrupt the stevedoring industry. Hawaii Laws 1951, act 209, § 4181–01–4181.12.

Massachusetts has a similar provision empowering the governor to resort to seizure in the event of a transit strike. Mass. Acts 1947, ch. 544, § 19a; amended by Mass. Acts 1962, ch. 307.

Statutes in North Dakota and Virginia, provide for seizure in coal industry disputes. N.D. Code Ann., § 37–01–06, (1960); Va. Code, § 45–145 to 45–157, (1950).

[125] It is argued, if government "either inadvertently or through political favoritism were to establish terms and conditions quite satisfactory to the union, the union could prevent the restoration of the property to its private owners and managers by the simple expedient of refusing to reach agreement." Chamberlain, "The Problem of Strikes," *Proceedings of New York University Thirteenth Annual Conference on Labor* 435 (1960).

[126] Opponents point out that it would require long and costly proceedings to determine "just compensation," during which time the owners would be deprived of funds necessary for plant upkeep and rehabilitation, working capital, servicing of debt, and other essential purposes.

The following dialogue took place at the *1971 Hearings*, between Representative Harvey and Jerre Williams, Representative of the ABA:

"Mr. Harvey. You stated to my colleague from Michigan that management itself particularly opposes seizure as an alternative. We are on the committee and we are aware of that. We are mindful, if I am not mistaken, that every seizure case in the history of the United States has resulted in a law suit. If my recollection is correct, every single case has wound up in the courts and some have taken 10 and 15 years and longer before reaching a final settlement. How can the ABA come in and make a recommendation to us like that to solve these disputes? I have trouble, and I am a member of the association, understanding the value of the recommendation.

"Mr. Williams. Again I speak personally, but I think it may be almost speaking for the other neutral members of the committee as well. Let me say this: If the parties want to tie us up in litigation in court for 15 years after a seizure, that is too bad and I am sorry the courts are tied up. But the settlement of the dispute to protect the public interest is the most important thing. This was our thinking on the committee.

"That is the No. 1 issue. If the parties want to waste time in court fussing around after it is over that is all right because the public is not hurt by it to any significant extent. That is the critical thing." *1971 Hearings* at 630.

[127] ". . . The willingness of those who have created labor-dispute emergencies to pursue their economic goals to the bitter end, to turn their economic weapons against the president in an effort to obtain his aid against their opponents, and to interfere deliberately with presidential measures to maintain uninterrupted production under terms consistent with the nation's emergency policies, has been a characteristic of the majority of federal seizure operations." Blackman, *supra* note *121* at 23.

[128] *See,* Curtin *supra* note *27* at 202.

Suspension of union security and/or automatic dues checkoff forces the union to collect directly from the individual. This would have a direct effect on the union's pocketbook and its control over members. It is difficult to understand how the comtemporaneous "seizure" of the union could provide any more positive pressure on the union to settle than this provision, coupled with the provision against interference with the receiver's operation of the business. *But see,* Reilly, "The ABA Report: A Sword of Damocles Overhanging the Transportation Industry," 58 *Geo. L.J.* 273. (1969).

Committee member Reilly dissented from this recommendation on the ground that if carriers are to be placed in receivership, unions representing the employees of such carriers should also be placed in receivership for a coterminous period in order to insure equality of treatment.

In 1952, Rep. Howard W. Smith (D., Va.) introduced H.R. 7647, a bill which would have authorized the federal judiciary to appoint receivers for *both* the union and the struck companies in the event that the dispute lasted beyond the 80-day injunction period of Taft-Hartley. The House Armed Services Committee held hearings on the bill, but no final action was taken.

[129] Early in 1967, Sen. Javits introduced S. 1456, a revision of a similar bill he had introduced in the 89th Congress. In introducing the legislation, Sen. Javits stated that it is: ". . . premised on the belief that whatever solution is adopted must serve to encourage the parties to find their own solution through free collective bargaining rather than discourage the collective bargaining process. This is why I believe limited seizure, rather than compulsory arbitration, is the best answer. Seizure leaves the parties free to settle the dispute on their own terms and encourages them to do so, since seizure itself is distasteful to both sides. Compulsory arbitration, on the other hand, encourages the parties not to compromise, in the hope that an award will be somewhere between the last offers by the parties." 113 *Congressional Record* S4680 (daily ed., April 6, 1967).

[130] *ABA Report* § B (1) (d)

[131] In his appeal to Congress for legislation enabling seizure of the steel industry, President Truman succinctly articulated that the requirements and benefits of such a law, ". . . if properly drafted, can achieve the objectives of assuring steel production, treating both parties fairly, and encouraging collective bargaining. The key requirement of such a law, if it is to accomplish these ends, is to provide for fair and just compensation to the owners for the use of their property during a seizure, and fair and just compensation for the work of the employees.

"In order to be fair, the law must provide for a method of determining just compensation for the owners and the workers during the period of Government operation. This can be done by the establishment of special boards to work out specific proposals for the purpose, within the general framework of the Government's stabilization policies. In this way, the legislation can assure continued steel production, and fair treatment for both parties during Government operation." 98 *Congressional Record* 6929 (June 10, 1952).

[132] "Seizure should not, of course, be regarded as a means of determining the issues in dispute between management and the union. Those issues will have to be settled by the parties through their own collective bargaining. Legislation providing for Government operation will not prevent collective bargaining. As a matter of fact, the type of legislation I have described will undoubtedly increase the incentives for the parties to settle their differences through bargaining. The companies will face the possibility of receiving something less than their normal profits as just compensation. And the workers will face the prospect of getting less than they think they are entitled to." *Id.*

"The expectation," writes Professor Neil W. Chamberlain, "is that both parties would be less than satisfied with the government's performance—the unions because they would be given less than they wanted and management because it stood to lose profits and perhaps even incur losses. Hence, the parties would be driven to agreement as the only means of ridding themselves of the government albatross around their joint necks."

N. Chamberlain, "The Problem of Strikes." *Proceedings of New York University Thirteenth Annual Conference on Labor* (New York: Matthew Bender, 1060) p. 435.

[133] *See 1971 Hearings.* Statement of Hon. James Harvey, A Representative in Congress from the State of Michigan at 147.

[134] Aaron, *supra* note *92* at *473.*

[135] One writer believes seizure would seriously interfere with the rights of the affected employees. Seizure woulld "compel employees to continue working under unsatisfactory conditions; in this respect they would, in effect, simply continue for an indefinite period injunctions already in effect. The rights of employees of the seized enterprise under workman's compensation, unemployment insurance, and other social legislation would be jeopardized." Aaron, *supra* note *92* at *473.*

[136] See Appendix A, *infra.*

E.g. S. 594, H.R. 2357.

H.R. 2357, introduced by Mr. Pickle, and referred to the House Committee on Interstate and Foreign Commerce, provides for seizure: (1) Management of carriers is continued by Secretary of Commerce; (2) All corporate activities continue as in the normal course of business; and (3) Working conditions remain the same unless the President imposed the Emgy Bd recommendations.

[137] See *1971 Hearings,* Statement of Jerre S. Williams, Professor of Law, University of Texas Law School, on behalf of ABA.

"So that we have had the two management representatives opposing the Executive receivership, the two labor representatives opposing the presidential arbitration board, and, very frankly, the public members thinking we probably have gotten a pretty good balance." *Id.* at 627.

[138] Aaron, *supra* note *92* at *463.*

[139] 117 *Congressional Record* S8370 (daily ed., February 4, 1971.)

[140] *Id.*

[141] S. 594 is very similar to an earlier bill, S. 1456, introduced by Senator Javits in 1967. S. 1456 authorized the President to "ascertain the amount of just, fair, and reasonable compensation to be paid as rental for the appropriation . . ." and gives the employer the right to sue the United States to recover such further sums—if any—as the court may determine necessary to constitute just, fair, and reasonable compensation.

[142] Aaron *supra* note *92* at *463.*

[143] *Id.*

[144] H.R. 9088 referred June 14, 1971 to House Committee on Interstate and Foreign Commerce. Identical bills include H.R. 9089, H.R. 9571, H.R. 9820, H.R. 10433, H.R. 10491, H.R. 10781, H.R. 11242, and S. 2655 (referred October 5, 1971 to Senate Committee on Labor and Public Welfare). H.R. 9088 is a modification of an earlier proposal, H.R. 8385. Representative Harvey, on October 18, 1971, introduced a revision of H.R. 9088. The revised bill, H.R. 11281, permits regulated and limited selective strikes, prior to the 60-day cooling off period, if negotiations with Federal mediation have

failed to produce an agreement. On January 27, 1972, Mr. Harvey introduced H.R. 12702 which essentially combines H.R. 11281, (applicable to railroads and airlines) and amendments to Sections 206–210 of the Taft-Hartley Act (containing procedures similar to the Administration's bill i.e., (1) 30–day extension of cooling-off period; (2) partial operation; and (3) final offer selection). See Appendix A, *infra*. Mr. Harvey made the following statement concerning H.R. 12702:

"Briefly, this proposal maintains the legal divisions that already exist in labor legislation in the transportation industry by amending both the Railway Labor Act and the Taft-Hartley National Labor Relations Act of 1947. The significant difference between this bill and the several others that have previously been introduced is that each of the laws is amended separately, in a different title of the new legislaiton." 118 *Cong. Rec.*, H1 (daily ed., January 27, 1972).

[145] The legislative proposal submitted by Representative Harley Staggers (D., W. Va.), H.R. 3595, is the only other bill which expressly authorizes a selective strike in the railroad industry after the emergency dispute procedures of the Railway Labor Act have failed to produce a settlement. Since H.R. 3595 only recommends the addition of this procedure, and since it is not considered a serious contender due to its pro-union imbalance, it does not warrant extensive treatment in the text.

The selective strike procedure of the Staggers bill differs from that of the Harvey bill in the following ways: (1) it permits a strike of all carriers, subject to limitations of partial operation; (2) it defines a selective strike as one that involves no more than three carriers in any one railroad region and not more than 40 percent of the revenue ton miles transported in that region; (3) it authorizes the Secretary of Transportation to direct the maintenance of essential transportation during a selective strike; and (4) it makes it unlawful for any carrier at *any time* to lockout employees.

It is unclear whether the Administration's bill, S. 560, would permit selective operation. See notes *82–84 supra* and accompanying text. Presumably, selective operation would fall within the Presidents authority under the Javits bill, S. 594.

[146] *1971 Hearings* at 147.

[147] *Id.* at 314–15.

[148] It is unclear whether the Administration's bill, S. 560, would permit selective operation. *See notes 82–84 supra* and accompanying text.

[149] *See* note *82 supra* and accompanying text.

[150] *See* United Transportation Union v. Burlington Northern, Inc. 325 F. Supp. 1125 (D.D.C., March 8, 1971); Delaware and Hudson Ry. Co. v. United Transportation Union, 76 L.R.R.M. 2900 (D.C. Cir., March 31, 1971).

[151] 117 *Congressional Record* S1386 (daily ed. February 17, 1971).

[152] Congressman Adams (D., Wash.) describes negotiations in the railroad industry in the following way: ". . . when one multiplies the number of people, the unions and the carriers involved in any particular dispute, this multiplies the number of problems which must be solved all at once. In the particular dispute before us one set of unions has one set of problems with one set of railroads and another set of unions has another set of problems with another set of railroads, and the more one builds up one big package the more it becomes apparent that one cannot break that down into small enough pieces so that one can settle it . . ." 117 Congressional Record H210 (daily ed., January 26, 1971).

[153] Delaware and Hudson Ry. Co. v. United Transportation Union, 76 L.R.R.M. 2900 (D.C. Cir., March 31, 1971), *reversing*, Delaware and Hudson Ry. Co. v. United Transportation Union, (D.D.C., March 10, 1971), 76 L.R.R.M. 2898. One U.S. District Court has also ruled that selective strikes are legal; *see* United Transportation Union v. Burlington Northern, Inc. 325 F. Supp. 1125 (D.D.C., March 8, 1971). (involves a dispute between the UTU and the carriers over the "fireman manning" issue). For a comprehensive treatment of the legality of the selective strike, see Newborn, "The Validity of the Selective Strike Under the Railway Labor Act," 60 *Geo L.J.* 583 (1972).

[154] *1971 Hearings* at 327.

[155] See Appendix A *infra*.

[156] Mr. Harvey made the following statement concerning Title II of H.R. 12702, and his replacement of partial operation for selective strike:

"Title II of this bill amends the Taft-Hartley Act in essentially the same fashion. If, after the 80-day injunction, the parties have not reached an accord, the President would have three alternative courses of action—final offer selection, an additional 30-day cooling-off period, and the imposition of partial operations—which would be used until a settlement is reached. We have replaced the selective strike option of title I with partial operations because of the nature of the industries regulated by Taft-Hartley. While a working definition of a selective strike, with limits and public safeguards, can be made for the railroad industry, similar attempts in the other transportation fields would result in confusion and invite disaster. As in title I, the amendments to the Taft-Hartley Act would also guarantee a solution by providing finality and guarding against future destructive strikes." 118 *Congressional Record* H 1 (daily ed., January 27, 1972).

[157] Proponents of such legislation argue that the "NLRB has fallen into nearly total disrepute; it has become little more than a prounion, policymaking apologist for organized labor. It ought to be dissolved altogether, and its judicial functions put in the hands of judges." James J. Kilpatrick, "Congression Treads a Legislative Graveyard," *The Washington Evening Star*, November 7, 1967.

[158] Two such bills were introduced in the 90th Congress; S. 176, introduced by the then Senator Smathers (D., Fla.), and a nearly identical bill, H.R. 11471, introduced by Rep. Clark MacGregor (R., Minn.).

[159] See the following bills, all introduced in 1967: S. 1353, introduced by Sen. Robert R. Griffin (R., Mich.); H.R. 8640, by Rep. O. C. Fisher (D., Tex.); and H.R. 9695, by Rep. Albert W. Watson (R., S.C.). See also S. 103 by Sen. Griffin and H.R. 453 by Rep. Fisher, introduced in 1969.

[160] *See* S. 103, introduced by Senator Griffin (R., Mich.); H.R. 453 introduced by O. C. Fisher (D., Tex.).

[161] *See* note *109–117 supra* and accompanying text.

[162] *See* Statement of Henry Weiss, General Counsel of the Air Line Pilot's Association, before the Senate Subcommittee on Improvements in Judicial Machinery, October 17, 1967. Testifying in opposition to S. 176, Weiss remarked that "[t]he very existence of a permanent judicial body to determine disputes will discourage the substantive and procedural innovation and experimentation which sometimes leads to strikes, but more often results in imaginative and constructive solutions to difficult problems." *Id.* at 37.

"The plain fact is that it is difficult to develop or continue constructive private collective bargaining relationships where the true locus of power is outside the relationship. In such cases, both parties are under constant pressure to 'make a record'—to shape their entire strategy and policy with an eye on the outside agency which may finally settle the dispute. Neither party thus is forced to face up to reality and the necessity of solving the actual problems at hand." *Id.* at 36–37.

Similar testimony in opposition to S. 176 was heard from representatives of the Allied Pilots Association and the Railway Labor Executives' Association. Mr. Martin Seham, General Counsel to the Allied Pilots Association, stated:

"You will undoubtedly hear other labor representatives object strongly to S. 176 and any other measure which substitutes the coercion of government decision making for the free play of collective bargaining, and we, would, in general, subscribe to those views. Indeed we would assume that there would be general agreement even among carrier representatives that the underlying philosophy of our government must be that decision making is to be left in the hands of private groups as long as possible." Statement of Martin C. Seham before the Senate Subcommittee on Improvements in Judicial Machinery, October 17, 1967, at 1–2.

[163] *See* Statement of Henry Weiss before the Senate Subcommittee on Improvements in Judicial Machinery, October 17, 1967.

Testifying in opposition to S. 176, Mr. Henry Weiss, General Counsel of the Air Line Pilots Association, told the Subcommittee that:

"Compulsory adjudication or arbitration of contract terms is generally distasteful to both American labor and American management. Long range ramifications, such as price and dividend controls, are not acceptable to the public or compatible with our economic system." *Id* at 40.

Mr. Leser P. Schoene, testifying against S. 176 on behalf of the Railway Labor Executives' Association, stated:

". . . To invest any governmental institution with the power to determine the wages and conditions of employment under which some people must work for others is less justifiable than to determine the terms on which people must buy and sell. Any system under which this kind of power is exercised by government is totalitarian." Summary of statement of Lester P. Schoene before the Senate Subcommittee on Improvements in Judicial Machinery, October 17, 1967, at 2.

[164] In his testimony at the Senate Subcommittee hearings on S. 176, Archibald Cox stated:

"In any difficult labor negotiations the parties' willingness to compromise hinges largely on the absence of acceptable alternatives. If there is any other recourse—if there is a way to buy time or evade responsibility for making a concession—there is great pressure to choose the alternative. This would be true of any provision for the final and binding settlement of any labor dispute.

"Under S. 176 the tendency would be greater both because of the judicial quality which the bill apparently intends to impart to the judgments of the proposed court and because of the breadth of its proposed jurisdictional standards. This inference is confirmed by the provision for a full-time chief judge and four associate judges. Because it is to be a continuing body and also because it is to be a court of law, the tribunal would inevitably establish a uniform pattern of decisions; indeed, any obvious lack of uniformity would quickly destroy it. No employer nor union supposing itself to be within the court's jurisdiction would agree to any settlement upon the terms less favorable than the court impose; it would simply refuse to agree with the opposing party and take the case to the court for an award. Or, if the parties did agree to what would be the inevitable judgment, the agreement would not be the result of their own negotiations" 113 *Congressional Record* S15453 (daily ed., October 27, 1967).

[165] One commentator has written:

"When the parties to a labor dispute know that the government will intervene to impose a settlement the effect must be an inhibition of genuine give-and-take bargaining. The union will ask for more than it is willing to accept and the employer will offer less than it is willing to concede—both parties naturally assuming that the only settlement which can come from government is one which "splits the difference."

"It can never be emphasized too much that the best government can do is split the difference. There is no such thing as an objectively "right" or "just" wage—at least there is none known to mortal man. Consequently, all a government agency has to guide it are the demands and offers of the parties to the dispute. At best, the government agency will split right down the middle; at worst it will favor one or the other party, usually because of political considerations. In either case, the result of negotiations conducted in the shadow of government power will always be a standoff, and that of course means the end of collective bargaining." Sylvester Petro, "The Government and National-Emergency Strikes," *Committee on Public Affairs*, 3 (June, 1961).

[166] Archibald Cox has described the difficult role of a labor court in the following way:

"Although a few unusually skilled individuals can combine the roles of mediator and arbitrator or mediator and fact finder on special occasions, the processes of mediation and conciliation, on the one hand, and judicial adjudication, on the other hand, cannot be mixed over any substantial period without substantial injury to both. The approach of the mediator is necessarily different from that of judge. The mediator is seeking to suggest *some* basis for agreement. He is particularly concerned with finding the points at which compromise is most likely. He must seek to appraise relative power of the parties rather than find an objectively fair and equitable decision. What he does as mediator and especially what he learns as mediator may rise to plague him as judge. Conversely, either his own or the parties' knowledge of the precedent and other limitations which will circumscribe him as judge will impair his effectiveness as a mediator." 113 *Congressional Record* S15453 (daily ed., October 27, 1967).

The confusion, Cox warns, "will rub off upon the entire judicial process," ultimately impairing its image in the eyes of the public.

[167] *1971 Hearings*, Statement of Hon. John J. Rhodes, Representative from the state of Arizona, at 244.

[168] *Id.*

[169] "My thesis, boldly and broadly stated, is that with equality now reached by labor unions in nearly every industry, and insured for the future by our many labor laws, their right to strike should be curtailed when it is in conflict with the public interest, and that *some form of final compulsory decision must be formed.*" Samuel I. Rosenman, "Labor Courts as Way to Handle Strikes," *The Washington, D.C. Sunday Star*, July 16, 1967, §B, col. 1, at 2. See also 113 *Cong. Rec.* S15017 (daily ed., October 19, 1967).

[170] *Id.*

[171] *See* notes 42–44 *supra* and accompanying text.

[172] *See* R. Givens, "Dealing with National Emergency Disputes," 34 *Temple L. Q.* 17 (1960): M. Denbo, "Labor Exemption—An Anti-View," 20 *Fed. Bar. J.* 30 (1960); J. McDowell, "Labor and Antitrust: Collective Bargaining or Restraint of Trade?" 20 *Fed. Bar J.* 18 (1960). See S. 10 introduced by Senator McClellan in the 89th Congress, which would have subjected unions to antitrust laws.

[173] Today, it has been said, labor unions have "virtually a monopoly of the workers in whole industries or regions and [are] able to draw upon and obtain support from affiliated unions." J. Morse, "The Third Seat at the Bargaining Table: A Management Point of View," 14 *Labor Law Journal* 9, 12 (1963).

"Consequently, labor now has the muscle to impose terms and conditions of employment which appear to be inconsistent with our national welfare," and, when these terms are not met in basic industries, "the effects are likely to be so far-reaching as to produce a national emergency." B. Patch, "Industry-Wide Bargaining and Industry-Wide Strikes," 1 *Editorial Research Reports*, 259, 265 (1953) *See generally, Multiemployer Association Bargaining and its Impact on the Collective Bargaining Process*, Report of the General Subcommittee on the Labor of the House Committee on Education and Labor, 88th Cong., 2d Sess. (Comm. Print 1965), 41–42.

[174] *See* Wisehart *supra* note *25* at 1719. *See also* A. Marshall, "New Perspectives on National Emergency Disputes," 18 *Lab. L.J.* 451, 552–56 (1967); A. Sloane, "Presidential Boards of Inquiry in National Emergency Disputes: An Assessment After 20 Years of Performance," 18 *Lab. L.J.* 665 (1967).

[175] *See* "Proposals to Deal with National Emergency Strikes", *American Enterprise Institute* 72–73 (1969). *See also* T. Iserman, *Changes to Make in Taft-Hartley* 139 (1953).

[176] *See* C. Sandberg, "Emergency Labor Disputes and the National Interest," 16 *Lab. L.J.* 359, 365 (1965).

"A unique approach to the resolution of labor disputes is the statutory strike. In this plan, when labor disputes remain unsettled, the workers do not strike and the plant does not close or stop production. During the statutory strike, while all operations continue as usual, economic penalties are imposed which stimulate the financial losses of a strike or lockout. Both profits and wages are withheld, thus providing powerful economic pressure for the efficient resolution of labor problems. Statutory strikes have the important advantages of serving the public interest in continued production and of permitting collective bargaining." *Id.* at 365. Marceau and Musgrave, "Strikes in Essential Industries: A Way Out," *Harvard Business Review*, 286–292 (1949); Goble, "The Non-Stoppage Strike," 12 *Current Economic Comment* 3 (1950); McCalmont "The Semi-Strike," 15 *Ind. and Lab. Rel. Rev.* 191 (1962).

[177] See A. Marshall, "New Perspectives on National Emergency Disputes," 18 *Lab. L. J.* 459 (1967); Cushman, "Voluntary Arbitration of New Contract Terms," 16 *Lab. L. J.* 765 (1965); W. Feldman, "Another Approach to Strikes: Inducements to Voluntary Arbitration," 33 *Geo. Wash. L. Rev.* 457–66 (1964). See *1971 Hearings* Statement of Lyle L. Fisher, on Behalf of the National Association of Manufacturers.

"In a few instances labor leaders and management themselves have decided to forego the use of strikes or lockouts (economic force) as the terminal point of collective bargaining disputes. As a substitute terminal point, the parties themselves have agreed in advance that if their impending collective bargaining should produce an impasse on certain issues, such issues would be submitted for final and binding decision by a panel of arbitrators voluntarily established and named by the parties for that purpose. Thus through the process of collective bargaining, the parties themselves have protected the employees, the companies, the union, and the public generally against the damages caused by strikes or lockouts." *Id.* at 549.

[178] *See* Statement by Theodore W. Kheel on Emergency Disputes Legislation Before Senate Subcommittee on Labor, March 14, 1972. Mr. Kheel advocated the amendment of the RLA to model its procedure after the Taft-Hartley Act instead of wasting "time on ingenious but unworkable devices that substitute compulsion for collective bargaining." *See* Wisehart *supra* note *25* at 1712.

[179] *See 1971 Hearings* Statement of Lyle H. Fisher on Behalf of the National Association of Manufacturers:

"The need is not for new measures or an arsenal of measures to deal with national emergency disputes. The real need is for a thorough examination of these concentrations of labor power, examination of their roots and consequences and the establishment of a legislative framework which will create a proper relationship of bargaining strength among employees, their employers, and unions and, as aforementioned, at a power level which our economy can tolerate so as to enable and foster meaningful and free collective bargaining.

"Pending such investigation and legislative formulation, we believe the national interest will be served by a program wherein the national emergency provisions of the Taft-Hartley Act would remain unchanged. Where used, they have generally worked out." *Id.* at 540. *See* Wisehart *supra* note *25* at 1710.

[180] *See* note *104–106 supra* and accompanying text.

[181] *ABA* Report § A(2)(a).

[182] *See* H. Crossland, "Public Interest Labor Disputes: An Economic and Legal Analysis Beyond the Pale of Title II of the Taft-Hartley Act," 12 *Wayne L. Rev.* 780, 793 (1966).

The author describes the Taft-Hartley definition as flexible and elastic; since in 1948 alone the President found seven occasions where a national emergency existed. *Id.* at 793. The author listed four economic criteria which have been used to warrant the invocation of the Taft-Hartley emergency procedures: (1) The impacts of the dispute must be national rather than purely local; (2) The product or service must be essential in the sense that its use cannot be dispensed with or postponed without quickly and seriously impairing the safety or health of the nation; (3) The dispute must embrace all or a substantial part of the industry; and (4) The emergency must be imminent or actual, rather than an ultimate prospect if the stoppage were to last an indefinitely long period. *Id.* at 794.

For a comprehensive discussion of the problems involved in defining an emergency labor dispute, see J. Jones, "Toward a Definition of 'National Emergency Dispute,'" 1971 *Wisc. L. Rev.* 700.

[183] *See* Cullen *supra* note *13* at 125.

[184] RLA Section 10, 29 U.S.C. § 160.

[185] When Senator Packwood introduced his bill, S. 3232 (*See* note *75 supra*) he emphasized the need for applying emergency procedures to regional disputes:

"Nevertheless, the language of the Taft-Hartley Act still presents a barrier to relief of severe economic hardship when bargaining or local governmental efforts cannot suffice, merely because the direct impact of the emergency is geographically limited. . . . Even when direct ties cannot be shown, infliction of serious harm on any substantial part of the Nation is the concern and ultimately the loss, of all. While the first resort is, and will remain, action by communities, by State and by local governments, there will continue to be cases where only the Federal Government, with the overarching power and control, can achieve the needed results. Too often we have had to watch the havoc caused by regional transportation disputes that were beyond the reach of effective governmental action. Now that we are giving the Federal Government the tools, we must allow them to be used." 118 *Cong. Rec.* S1441 (daily ed., February 8, 1972).

[186] Cullen *supra* note *13* at 108.

[187] *See 1971 Hearings,* Statement of Hon. James Harvey, A Representative in Congress from the State of Michigan at 155.

APPENDIX A—COMPARISON OF MAJOR PROVISIONS OF LEGISLATIVE PROPOSALS INTRODUCED IN 92D CONGRESS FOR RESOLVING EMERGENCY LABOR DISPUTES

S. 560 AND H.R. 3596 (IDENTICAL H.R. BILLS 901, 3639, 4116, AND 5377)

Coverage

Transportation industries.

Standard to invoke provisions

Threatened or actual strike or lockout affecting an entire industry or a substantial part thereof . . . [engaged in interstate or foreign commerce] will, if permitted to occur or continue, imperil the national health or safety.

Provisions

Repeals emergency disputes, procedures of RLA, and brings disputes involving railroads and airlines under emergency provisions of LMRA.

Permits 1, but only one, of 3 new options following 80-day cooling-off period:

(1) 30-day extension of cooling-off period; (2) strike with partial operation up to 180 days; (3) final offer selection.

Miscellaneous

Administration proposal first introduced in 1970.

Identical bills in 91st Congress

S. 3526, H.R. 16226, H.R. 16272, H.R. 16273.

S. 832 AND H.R. 3595 (IDENTICAL H.R. BILLS 3985, 4620, 4996, 5870)

Coverage

Railroad Industry. Coverage of airlines open to question.

Standard to invoke provisions

Threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service.

Provisions

Amends Section 10 of RLA; Permits national strikes, selective strikes with partial operation; no restrictions on length of strike.

Miscellaneous

Supported by railroad unions and AFL–CIO.

Identical bills in 91st Congress

H.R. 19922.

S. 1093

Coverage

Railroad Industry.

Standard to invoke provisions

Same standard as S. 832 above.

Provisions

Amends Section 10 of RLA to permit individual rail carrier to revise or abolish work rules affecting operating employees, without collective bargaining if (1) cost savings shared equally by carrier and operating employees; and (2) any reduction in operating employees is accomplished by attrition.

Prohibits lockouts, strikes or work slowdowns because of dispute subject to provisions of this bill.

Miscellaneous

Identical bills in 91st Congress

S. 2060 AND H.R. 9989

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

If a dispute between a carrier and its or their employee is not adjusted under . . . [Amended provisions of Railway Labor Act]

Provisions

Upon failure of NMB to resolve dispute, Adhoc Transportation Panel shall recommend 1 of these: (1) take no further action; (2) appoint neutral board to make non-binding recommendations; (3) final and binding arbitration; (4) final-offer selection. Also includes several revisions of RLA not directly related to dispute settlement.

Miscellaneous

Proposal of Air Transpotration Ass'n; Ass'n of American Railroads; and Nat'l Railway Labor Conference.

S. 594

Coverage

Any industry affecting commerce.

Standard to invoke provisions

Threatened or actual strike or lockout which imperils the health or safety of the Nation, or a substantial part of the population or territory thereof.

Provisions

Abolishes emergency provisions of RLA and brings railroads and airlines under emergency provisions of LMRA. Permits several options to President such as fact-finding, partial operation, mediation to finality, arbitration, final offer selection, additional injunctive relief. Permits emergency boards to make recommendations.

Miscellaneous

This proposal is a "choice of procedures" approach in its broadest meaning.

Identical bills in 91st Congress

S. 1088 AND H.R. 2373 (IDENTICAL H.R. BILLS 2489, 5712, 6066)

Coverage

Industries substantially affecting commerce.

Standard to invoke provisions

Adverse effect on the nation's general welfare, health or safety.

Provisions

Provides for compulsory arbitration of national emergency disputes through establishment of a U.S. Court of Labor-Relations.

Miscellaneous

Identical bills in 91st Congress

H.R. 15956, H.R. 16632.

S. 1934

Coverage

Any industry affecting commerce.

Standard to invoke provisions

Affects an entire industry or substantial part thereof [engaged in interstate or foreign commerce] . . ., will, if permitted to continue, imperil the national health or safety.

Provisions

Repeals emergency provisions of LMRA and RLA. Provides for conciliation, mediation, and compulsory arbitration of national emergency labor disputes through establishment of seven member Management-Labor Com'n and Management-Labor Court Suspends NLRB proceedings in disputes over which Com'n has jurisdiction.

Miscellaneous

Modeled after Australian industrial relations system.

Identical bills in 91st Congress

H.R. 9245.

H.R. 2357

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

NMB reports to President if dispute threatens substantially to interrupt interstate or foreign commerce to a degree such as to deprive any section of the country of essential transportation service; but if President determines dispute immediately imperils the national defense health or safety he may bypass Emergency Brd. and cooling-off period and proceed under provisions listed below.

Provisions

Permits (1) Special Board-binding arbitration; (2) seizure of concerned carriers; (3) ad hoc Congressional remedy.

Miscellaneous

This "arsenal-of-weapons" approach is intended to create uncertainty and motivate good-faith bargaining, as in other "arsenal of weapons" approaches.

APPENDIX A—COMPARISON OF MAJOR PROVISIONS OF LEGISLATIVE PROPOSALS INTRODUCED IN 92ND CONGRESS FOR RESOLVING EMERGENCY LABOR DISPUTES—Continued

Identical bills in 91st Congress

H.R. 5347

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

Same standard as S. 832 above.

Provisions

Amendments to Section 10 of RLA. Provides for NMB to take secret ballot on carriers' last offer; strikes permitted with partial operation. President may direct carriers to transport any goods or personnel if necessary to protect the health, welfare, safety or public interest of the Nation.

Miscellaneous

S. 2583

Coverage

Any industry affecting Commerce.

Standard to invoke provisions

Imperil the health and safety of the Nation or a major portion thereof.

Provisions

Extends dispute settlement provisions of LMRA to strikes and lockouts under the above standard.

Miscellaneous

Present law applies if dispute will imperil the "national health or safety" of the Nation or a major region thereof.

S. 2959

Coverage

Industries affecting commerce, including rail and air.

Standard to invoke provisions

Imperils the health or safety of the Nation or a substantial part of its population or territory, or which deprive any section of the country of essential transportation services.

Provisions

Repeals emergency provisions of RLA. Brings railroads and airlines under Taft-Hartley emergency provisions. Such procedures are amended so that upon receiving the report from a board of inquiry, the Secretary of Labor has these new options at his disposal and 1 or more may be utilized:

(1) A cooling-off period not to exceed 30 days, (2) partial operation, provided that it not place a greater economic burden on any party than would total shutdown, (3) final offer selection, (4) an 80-day cooling-off period.

Miscellaneous

Permits employers to unilaterally make work rule changes, provided cost savings are shared with employees and any resultant reduction in work force is accomplished by attrition.

S. 2060 AND H.R. 9989

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

If a dispute between a carrier and its or their employee is not adjusted under . . . [Amended provisions of Railway Labor Act]

Identical bills in 91st Congress

H.R. 8446.

S. 2655 AND H.R. 9088 (ID. H.R. BILLS 9089, 9571, 9820, 10433, 10491, 10781, AND 11242

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

Threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service.

Provisions

Permits 3 new options: (1) selective strike, with partial operation; (2) 30-day cooling-off period; (3) final-offer selection. Selective strike option is to be chosen first unless President finds that the national health and safety would be immediately imperiled.

Miscellaneous

Has 73 sponsors from both parties. H.R. 9088 modifies earlier proposal H.R. 8385. Precedence given to selective strike apparently intended to appeal to union to obtain labor's consent to final offer selection procedure. A later version of H.R. 9088, H.R. 11281, adds provisions permitting and defining selective strikes after negotiations and federal mediation have failed, but before the 60-day cooling-off period under RLA procedures.

S. 3232

Coverage

Transportation industries.

Standard to invoke provisions

Threatened or actual strike or lockout affecting an entire industry or a substantial part thereof [engaged in interstate or foreign commerce] . . . will, if permitted to occur or to continue imperil the national health or safety or, when the strike or lockout is in [(1) railroads, (2) airlines, (3) maritime, (4) longshore, and (5) trucking industries] . . . imperil the health or safety of a substantial sector of the Nation.

Provisions

Repeals emergency disputes procedures of RLA, and brings disputes involving railroads and airlines under emergency provisions of LMRA. Permits President 3 new procedures:

(1) 15-day extension of "cooling-off period"; (2) strike with partial operation up to 180-days; (3) final offer selection. President may invoke any or all procedures upon the termination of previous procedure selected. However, once final offer selection is invoked, no other procedures can be selected.

Miscellaneous

Similar to Administration's bill (S. 560, H.R. 3596) except that (1) S. 3232 permits use of emergency dispute procedures in regional, as well as national transportation emergencies; and (2) S. 3232 permits President to make more than one procedure.

S. 3243

Coverage

Railroads and airlines.

Standard to invoke provisions

Disputes that imperil national health or safety; disputes that deprive any section of the country of essential transportation service.

Provisions

(1) Retains existing emergency provisions of RLA. Permits selective strikes within certain limits in any dispute. (2) Any settlement won by selective strike must be offered to those not struck. (3) President has option to seize where dispute imperils national health or safety or will deprive any section of country of essential transportation service to an extent beyond selective strike limits.

Miscellaneous

H.R. 2357

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

NMB reports to President if dispute threatens substantially to interrupt interstate or foreign commerce to a degree such as to deprive any section of the country of essential transportation service; but if President determines dispute immediately imperils the national defense health or safety he may bypass Emergency Brd. and cooling-off period and proceed under provisions listed below.

APPENDIX A—COMPARISON OF MAJOR PROVISIONS OF LEGISLATIVE PROPOSALS INTRODUCED IN 92ND CONGRESS FOR RESOLVING EMERGENCY LABOR DISPUTES—Continued

Provisions

Upon failure of NMB to resolve dispute, Adhoc Transportation Panel shall recommend 1 of these: (1) take no further action; (2) appoint neutral board to make non-binding recommendations; (3) final and binding arbitration; (4) final-offer selection. Also includes several revisions of RLA not directly related to dispute settlement.

Miscellaneous

Proposal of Air Transportation Ass'n; Ass'n of American Railroads; and Nat'l Railway Labor Conference.

Identical bills in 91st Congress

H.R. 5347

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

Same standard as S. 832 above.

Provisions

Amendments to Section 10 of RLA. Provides for NMB to take secret ballot on carriers' last offer; strikes permitted with partial operation. President may direct carriers to transport any goods or personnel if necessary to protect the health, welfare, safety or public interest of the Nation.

Miscellaneous

S. 2369

Coverage

Industries covered by Taft-Hartley Act.

Standard to invoke provisions

Imperils national health or safety.

Provisions

Provides that injunction issued under sec. 208 of Taft-Hartley be dissolved only upon the settlement of the dispute.

Provisions

Permits (1) Special Board-binding arbitration; (2) seizure of concerned carriers; (3) ad hoc Congressional remedy.

Miscellaneous

This "arsenal-of-weapons" approach is intended to create uncertainty and motivate good-faith bargaining, as in other "arsenal of weapons" approaches.

Identical bills in 91st Congress

H.R. 8446.

S. 2655 AND H.R. 9038 (IDENTICAL H.R. BILLS 9089, 9571, 9820, 10433, 10491, 10781, AND 11242)

Coverage

Railroad and Airline Industries.

Standard to invoke provisions

Threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service.

Provisions

Permits 3 new options: (1) selective strike, with partial operation; (2) 30-day cooling-off period; (3) final-offer selection. Selective strike option is to be chosen first unless President finds that the national health and safety would be immediately imperiled.

Miscellaneous

Has 73 sponsors from both parties. H.R. 9088 modifies earlier proposal H.R. 8385. Precedence given to selective strike apparently intended to appeal to unions to obtain labor's consent to final offer selection procedure. A later version of H.R. 9088, H.R. 11281, adds provisions permitting and defining selective strikes after negotiations and federal mediation have failed, but before the 60-day cooling-off period under RLA procedures.

S. 2583

Coverage

Industries covered by Taft-Hartley Act.

Standard to invoke provisions

Imperils health or safety of Nation or a major region thereof.

Provisions

Extends present dispute settlement provisions of Taft-Hartley to strikes and lockouts that imperil health or safety of a major region of the country.

H.R. 12702

Coverage

Industries subject to RLA and Taft-Hartley Act.

Standard to invoke provisions

Title I of bill: Disputes that imperil national health or safety; disputes that deprive any section of the country of essential transportation service.

Title II of bill: Disputes that imperil national health or safety or a substantial part of its population or territory, or deprive any section of the country of essential transportation services.

Provisions

Title I of this bill amends RLA and contains identical provisions of H.R. 11281, above. Title II of this bill amends Sections 206–210 of Taft-Hartley Act and authorizes President to appoint Board of Inquiry to investigate and report on dispute.

Emergency Procedures: (1) 30-day extension of cooling-off period; (2) partial operation; and (3) final offer selection.

Miscellaneous

This bill is one of several introduced by Mr. Harvey, (R. Mich.). H.R. 12702 is essentially a combination of H.R. 11281 (which amends the RLA) and amendments of the Taft-Hartley Act which provide for emergency procedures similar to the Administration's bill, S. 560.

H.R. 11281

Coverage

Railroads and airlines.

Standard to invoke provisions

Disputes that imperil national health or safety; disputes that deprive any section of the country of essential transportation service.

Provisions

Selective strikes: When RLA mediation efforts fail, employees may strike selectively, but President may require partial operation to extent that services cannot be provided by other means, and their termination would imperil national health or safety. Any agreement won by selective strike must be offered to those not struck.

Emergency procedures: If dispute threatens to deprive any section of country of essential transportation service, President may invoke emergency proceedings, terminating all strikes for 60 days. At end of 60-day period, President would have following options to be used in any sequence: (a) an additional cooling-off period of not more than 30 days, (b) a selective strike subject to the limitations specified in the bill, (c) final offer selection.

Miscellaneous

This bill is one of several introduced by Mr. Harvey (R. Mich.). H.R. 11281 is a later version of H.R. 9088, and adds provisions permitting and defining selective strikes after negotiations and Federal mediation have failed but before the 60-day cooling-off period under RLA procedures.

ABA PROPOSAL

Coverage

Transportation industries.

Standard to invoke provisions

Dual standard procedure 1) RLA standard as initial jurisdictional test before invoking procedure—i.e. thereafter substantially to interrupt interstate commerce to such a degree as to deprive any section of the country of essential transportation service; 2) LMRA standard as more stringent test before invoking any procedure severely curtailing right to strike or lockout—i.e. threatened or actual strike or lockout affecting an entire industry or a substantial part thereof . . . will, if permitted to occur or continue, imperil the national health or safety. . . .

Provisions

RLA implementing statute leaves LMRA emergency procedures in effect for all other industries. After 60-day status quo period, President chooses 1 of 4 new options:

(1) meditation board make public recommendations for settlement;

(2) binding arbitration;

(3) executive receivership to operate industry;

(4) no further action.

Creates industry commissions comprised of labor and management representatives with the authority to implement its own changes in its bargaining procedures within 8 month period before the above emergency dispute provisions would apply to that industry.

Miscellaneous

Approved by ABA House of Delegates, August 1970.

APPENDIX B

RAILWAY LABOR ACT, SECTION 10

SEC. 16. If a dispute between a carrier and its employees be not adjusted under the foregoing provisions of this chapter and should, in the judgment of the Mediation Board, threaten substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service, the Mediation Board shall notify the President, who may thereupon, in his discretion, create a board to investigate and report respecting such dispute. Such board shall be composed of such number of persons as to the President may seem desirable: *Provided, however,* That no member appointed shall be pecuniarily or otherwise interested in any organization of employees or any carrier. The compensation of the members of any such board shall be fined by the President. Such board shall be created separately in each instance and it shall investigate promptly the facts as to the dispute and make a report thereon to the President within thirty days from the date of its creation.

There is hereby authorized to be appropriated such sums as may be necessary for the expenses of such board, including the compensation and the necessary traveling expenses and expenses actually incurred for subsistence, of the members of the board. All expenditures of the board shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman.

After the creation of such board and for thirty days after such board has made its report to the President, no change, except by agreement, shall be made by the parties to the controversy in the conditions out of which the dispute arose. [May 20, 1926, c. 347, § 10, 44 Stat. 586; June 21, 1934, c. 691, § 7, 48 Stat. 1197; 45 U.S. Code, Sec. 160.]

APPENDIX C

LABOR MANAGEMENT RELATIONS ACT, 1947, AS AMENDED BY PUBLIC LAW 86-257, 1959

NATIONAL EMERGENCIES

Sec. 206. Whenever in the opinion of the President of the United States, a threatened or actual strike or lockout affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil the national health or safety, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its position but shall not contain any recommendations. The President shall file a copy of such report with the Service and shall make its contents available to the public.

Sec. 207. (a) A board of inquiry shall be composed of a chairman and such other members as the President shall determine, and shall have power to sit and act in any place within the United States and to conduct such hearings whether in public or in private, as it may deem necessary or proper, to ascertain the facts with respect to the causes and circumstances of the dispute.

(b) Members of a board of inquiry shall receive compensation at the rate of $50 for each day actually spent by them in the work of the board, together with necessary travel and subsistence expenses.

(c) For the purpose of any hearing or inquiry conducted by any board appointed under this title, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C. 19, title 15, secs. 49 and 50, as amended), are hereby made applicable to the powers and duties of such board.

Sec. 208. (a) Upon receiving a report from a board of inquiry, the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lockout or the continuing thereof, and if the court finds that such threatened or actual strike or lockout—

(i) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce; and

(ii) if permitted to occur or to continue will imperil the national health or safety, it shall have jurisdiction to enjoin any such strike or lockout, or the continuing thereof, and to make such other orders as may be appropriate.

(b) In any case, the provisions of the Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," shall not be applicable.

(c) The order or orders of the court shall be subject to review by the appropriate circuit court of appeals and by the Supreme Court upon writ of certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 29, secs. 346 and 347).

Sec. 209. (a) Whenever a district court has issued an order under section 208 enjoining acts or practices which imperil or threaten to imperil the national health or safety, it shall be the duty of the parties to the labor dispute giving rise to such order to make every effort to adjust and settle their differences, with the assistance of the Service created by this Act. Neither party shall be under any duty to accept, in whole or in part, any proposal of settlement made by the Service.

(b) Upon the issuance of such order, the President shall reconvene the board of inquiry which has previously reported with respect to the dispute. At the end of a 60-day period (unless the dispute has been settled by that time), the board of inquiry shall report to the President the current position of the parties and the efforts which have been made for settlement and shall include a statement by each party of its position and a statement of the employer's "last offer" of settlement. The President shall make such report available to the public. The National Labor Relations Board, within the succeeding 15 days, shall take a secret ballot of the employees of each employer involved in the dispute on the question of whether they wish to accept the final offer of settlement made by their employer as stated by him and shall certify the results thereof to the Attorney General within 5 days thereafter.

Sec. 210. Upon the certification of the results of such ballot or upon a settlement being reached, whichever happens sooner, the Attorney General shall move the court to discharge the injunction, which motion shall then be granted and the injunction discharged. When such motion is granted, the President shall submit to the Congress a full and comprehensive report of the proceedings, including the findings of the board of inquiry and the ballot taken by the National Labor Relations Board, together with such recommendations as he may see fit to make for consideration and appropriate action.

Labor Management Relations Act, 1947 (61 Stat. 136), as amended by the Labor-Management Reporting and Disclosure Act, 1959 (73 Stat. 519), 29 U.S.C. 141–88, Title II.

APPENDIX D

TABLE 1.—STRIKES AND SETTLEMENTS IN NATIONAL EMERGENCY DISPUTES, 1947–68

Strikes and settlements	Number of disputes	Number of workers [1]
Total	29	2,076,100
Settlements without strike	5	344,800
Settlements after strike	24	1,731,300
Within 80-day injunction period	13	1,316,600
After 80-day injunction:		
Without strike	3	15,700
After strike	[2] 7	316,000
No injunction issued	1	83,000
Strike occurred	24	1,731,300
Before 80-day injunction	16	1,332,300
After 80-day injunction	[2] 2	73,000
Before and after 80-day injunction	5	243,000
No injunction issued	1	83,000

[1] The number of workers refers to those in the bargaining unit or to those directly involved in the strike.

[2] 1 stoppage involved 6 maritime unions and the International Longshoremen's and Warehousemen's Union on the Atlantic, Gulf, and Pacific Coasts, and the Great Lakes. Settlements were reached for the Atlantic and Gulf Coasts and the Great Lakes during or immediately after the injunction period. The ILWU and several maritime unions struck on the Pacific Coast after the injunction had expired

TABLE 2.—NATIONAL EMERGENCY DISPUTES BY INDUSTRY, 1947–68

Industry	Number of disputes	Number of strikes [1]	Vote on employer's final offer: Number	Accepted	Rejected
Total	29	24	15	0	12
Stevedoring	7	7	5	0	5
Aircraft-aerospace	5	4	[2] 2	0	1
Atomic energy	4	2	3	0	3
Bituminous coal mining	3	2			
Maritime	3	3	[3] 3	0	1
Nonferrous smelting	2	2	1	0	1
Meatpacking	1	1			
Fabricated metals	1	1			
Basic steel	1	1	1	0	1
Shipbuilding	1	1			
Telephones	1	0			

[1] Stoppages halted by an injunction and resumed after the injunction expired are counted as 1 strike.

[2] In 1 situation, vote was held, but results were not officially announced.

[3] In 1 election, the ballot was boycotted by 1 union and not completed by the other unions before the injunction was dissolved. In the 2d election, ballots were mailed, but the results were not certified because settlement was reached before the end of the voting period.

APPENDIX D

HIGHLIGHTS OF NATIONAL EMERGENCY DISPUTES, 1947–68

Industry and date of dispute[1]	Number of workers involved[2]	Strike status: Approximate calendar duration (days)	Strike status: In progress before injunction	Strike status: Halted by injunction	Settlement reached: Without injunction	Settlement reached: With injunction: Within 80-day cooling-off period	Settlement reached: With injunction: After 80-day cooling-off period: Without strike	Settlement reached: With injunction: After 80-day cooling-off period: After strike	Last offer ballot
Bituminous coal mining:									
Mar. 15–Apr. 12, 1948	320,000	41	X	(3)		X			None.
June 19–24, 1948		No strike			X				Do.
Sept. 19, 1949–Mar. 5, 1950	337,000	116	X	(4)		X			Do.
Meatpacking: Mar. 15–June 5, 1948	83,000	82	No injunction		X				Do.
Atomic energy:									
Mar. 5–June 15, 1948		No strike					X		Rejected.
July 6–Nov. 7, 1954	4,500	4	[5] X	[5] X			X		Do.
July 6–Aug. 18, 1954		No strike			X				None.
May 10–Aug. 5, 1957	1,500	6	X	X			X		Rejected.
Basic steel: July 15, 1959–Jan. 28, 1960	519,000	116	X	X		[6] X			Rejected.[7]
Nonferrous smelting:									
Aug. 27–Nov. 5, 1951	40,000	12	X	X		X			Do.[8]
Sept. 30, 1966–Feb. 3, 1967	2,000	83	X	X		X			None.
Fabricated metal products: Aug, 29, 1952–Feb. 20, 1953	1,600	106	X	X		X			Do.
Aircraft-aerospace:									
Apr. 2–Aug. 12, 1962	8,800	76	X	X		X			Do.
Nov. 28, 1962–Jan, 27. 1963	20,000	2	[9] X	[9] X		X			Do.
Jan. 23–May 10, 1963		No strike					X		(10).
Oct. 17–Dec. 11. 1966	6,100	2	X	X		X			None.
Apr. 15–July 3, 1967	2,400	1	X	X		X			Rejected.
Shipbuilding: Nov. 4, 1966–July 18, 1967	9,700	130	X	X			[11] X		(11).
Maritime:									
June 3–Nov. 25, 1948	[12] 28,000	95				(13)	(14)	[15] X	(16).
June 16–Sept 21, 1961[17]	2,700	32	X	[18] X		[19] X		(19)	Rejected.[20]
Mar. 16–July 16, 1962[21]	5,000	27	X	X		X			(22).
Stevedoring:									
Aug. 17–Nov. 28, 1948	45,000	18						X	Rejected.
Oct. 1, 1953–Dec. 31, 1954	30,000	34	X	X				X	None.
Nov. 16, 1956–Feb. 22, 1957	60,000	20	X	X				X	Rejected.[23]
Oct.–Dec. 26, 1959	52,000	8	X	X		X			Do
Oct. 1, 1962–Jan. 26, 1963	50,000	39	X	X				X	Do.
Sept. 30, 1964–Mar. 13, 1965	53,000	62	X	X				X	None.
Sept. 30, 1968–Feb. 25, 1969	[24] 50,000	70	X	X				X	Rejected.
Telephones: May 18–June 4, 1948		No strike			X				

---

[1] Defined as from the beginning of a strike or the appointment of a Board of Inquiry to date of settlement.

[2] Refers to those in a bargaining unit or to those directly involved in the strike.

[3] Strikers returned to work about 3 weeks after a temporary restraining order was issued.

[4] Injunction issued. In contempt proceedings, the union was found not guilty of ordering continuation of the strike.

[5] Strike halted voluntarily before injunction was issued.

[6] 1 large and a number of minor producers reached agreement after the injunction was dissolved.

[7] Rejected by employees of 4 small companies.

[8] 1 major producer settled before the injunction was issued, and the other major producers settled within the injunction period. The last offer ballot was held in plants of 8 companies.

[9] Strike halted, on request of mediators, before injunction was issued.

[10] NLRB election held, but results not officially announced.

[11] Some issues were settled before and during the injunction period. Parties agreed to (1) submit unresolved issues to Board of Inquiry, (2) extend no-strike period beyond injunction period, and (3) request NLRB supervised last-offer before reactivating strike. Settlement, reached after injunction period without strike, ratified in NLRB ballot.

[12] Dispute involved the ILWU on the Pacific Coast and 6 maritime unions on the Atlantic, Gulf, and Pacific Coasts, and the Great Lakes. A strike occurred only on the Pacific Coast after the injunction was dissolved.

[13] On the Atlantic and Gulf Coasts.

[14] On the Great Lakes after the injunction was dissolved.

[15] On the Pacific Coast.

[16] Ballot was boycotted by the ILWU and not completed for off-shore union before the injunction was dissolved.

[17] Involved 7 maritime unions on the Atlantic, Gulf, and Pacific Coasts.

[18] Settlements with a number of the unions were concluded before the injunction was issued.

[19] 6 of the 7 unions had settled before the expiration of the injunction period; 1, on the Pacific Coast, settled later after a strike.

[20] By 1 union.

[21] Involved 3 divisions of 1 union on the Pacific Coast and Hawaii.

[22] Ballot mailed but results not certified because settlement was reached before end of voting period.

[23] Last offer rejected in West Gulf Coast Ports.

[24] Most ports had settled by March 1969. Still on strike at this time were Boston, Jacksonville, Fla., Baton Rouge, La., and West Gulf Coast Ports.

Source: U.S. Department of Labor. Bureau of Labor Statistics. "National Emergency Disputes, Labor Management Relations (Taft-Hartley) Act 1947–68." Washington, D.C., 1969. BLS Bulletin No. 1633.

APPENDIX E.—COMPARISON OF RAILROAD LABOR LAWS

	Act of 1888	Erdman Act (1898)	Newlands Act (1913)	Transportation Act (1920)	Railway Labor Act (1926 as amended in 1934)
Provisions outlawing blacklisting, yellow-dog contracts, and antiunion discrimination	No	No[1]	No	No	Yes.
Enforceable duty to bargain	No	No	No	No[2]	Yes.
Noninterference with choice of bargaining representative	No	No	No	No	Yes.
Designation of bargaining representative	No	No	No	No	Yes.
Determination of bargaining unit	Np	No	No	No	Yes.
Mediation	No	Yes	Yes	No[3]	Yes.
Compulsory factfinding	Yes	No	No	Yes	Yes.
Status quo periods	No	Limited	No	No	Yes.
Enforcement of bargaining agreements: grievance arbitration	No	No	No	Nonenforceable determinations.	Yes.
Arbitration of terms of new contracts	Voluntary	Voluntary	Voluntary	do	Voluntary.

---

[1] Provisions outlawing blacklists and yellow-dog contracts were held unconstitutional in Adair v. United States, 208 U.S. 161 (1908).

[2] See Pennsylvania R.R. v. United States Railroad Labor Board, 261 U.S. 72 (1923).

[3] The Board of Mediation and Conciliation established under the Newlands Act was still in existence.

Source: A. Wisehart, "Transportation Strike Control Legislation: A Congressional Challenge," 66 Mich. L. Rev. 1967, 1702, n. 29 (1968).

MAINTENANCE OF FEDERAL-AID HIGHWAYS

(Mr. HEINZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HEINZ. Mr. Speaker, one of the major costs to local communities, counties, and States comes from the maintenance of roads. Although the construction of roads is an age-old process, we in this automobile-oriented Nation still have much to learn in the way of constructing roads suited to the varying climatic conditions, topography, and terrain, in this vast Nation.

As a Member of Congress who represents part of the Pittsburgh area—sometimes known as the pothole capital of America—I am today introducing legislation to provide for a 2-year, $20 million demonstration project in maintaining Federal-aid highways, other than interstate, by the most feasible and economical methods.

I want to make it clear at the outset that this is a project to aid States in reorganizing their methods of road maintenance and construction so that they can economize on their road costs. What the project can accomplish is to provide communication between Federal authorities who have the know-how with respect to roads and State commissions which have the manpower.

To strengthen my case on the need for this legislation, I point to the recent suggestion of the National Academy of Engineers which stated that instead of continuing a losing race to eliminate traffic jams, the Nation must find ways to build urban transportation systems that will create more livable cities. By the start of the 21st century transportation will require about one-fourth of the Nation's badly strained sources of energy.

We have begun to move in the direction of developing alternate modes of transportation, and I support giving more attention to mass transit systems. However, since highways are the backbone of the Nation's transportation system they need to be constantly improved. Our highways carry about 90 percent of the people and more than 20 percent of the freight that moves between cities and an even higher percentage of that which moves inside cities. And despite the increasing Federal interest in railroads and other transportation systems, we will continue to rely heavily on our highways for the near future.

Many highway defects pose an undesirable potential threat or hazard to the unwary motorist. Pavement deficiencies, including slippery surfaces, potholes, pavement dropoffs, low shoulders, poor drainage and trapped water, blind intersections, and improper pavement marking are problems that are shared by every State in the United States today.

Testifying before a House subcommittee last month, representatives of those concerned with building highways detailed both what they think the country needs to spend and what they think the Federal Government ought to do about it. The needs, as they see them, were summed up by James O. Granum, an officer of the Highway Users Federation for Safety and Mobility, this way:

> The grand total 20-year (1970–1990) needs cost for all 3.9 million miles of roads and streets of the nation is about $600 billion to cover improvements required to meet conservatively estimated traffic growth and physical deterioration to 1990, as well as catch up with a large backlog of currently poor and unsafe facilities. $260 billion is needed just for that existing backlog alone . . . The costs would buy, at 1969 prices, all those things essential to develop, from what we have now, into modern and safe highways, roads and streets, consistent with traffic needs and other factors. But no maintenance or administrative cost are included. While these estimates are understandably on the high side they give some indication of the potential scale of the problem we face.

Last year the Federal Government spent $4.5 billion on highway improvements and $107 million on traffic and highway safety, but none of it was used for the maintenance of roads or to provide information to the States on how to best maintain their roads.

The lack of proper repair of our Nation's deteriorating and neglected highway system is costing our States millions of dollars each year and consequently destroying their tax base.

The Pennsylvania Statistical Abstract reports that in 1969 alone non-Federal governmental units spent a total of $4,496,149,000, which breaks down as follows:

Amount and type of road

County and township	$1,391,828,000
State	23,806,000
Municipalities	1,136,019,000
State	15,677,000
State	1,928,819,000

At a time when the Federal Government is assisting the States in completing the Interstate System and other major highways, the proper maintenance of primary and secondary roads has not received the attention it deserves.

After a careful study of the problems of road maintenance and consultation with various highway officials and engineers, I have come to the conclusion that often pavements deteriorate because maintenance crews do not recognize the beginning signs of pavement stress soon enough. And in many cases, when it is discovered the State highway departments do not know the proper procedure for road repair because most suffer from a lack of properly trained personnel.

If this trend in highway maintenance continues, the States may very well be seeking Federal funds for the reconstruction of the roads that they failed to properly maintain.

At the present time there are an estimated 200,000 miles of obsolete primary highways in the United States, and thousands of miles more that are on the verge of becoming obsolete, causing hazardous driving conditions for the over 108 million registered vehicles in the United States.

It seems to me that the States need some guidance in the field of road maintenance. The bill I introduce today will provide the type of guidance the States need at a minimum cost to the taxpayers. It seems to me that the only solution to this growing problem is for the Federal Government to go to the field and find out just what needs to be done for the benefit of Federal, State, and local governments.

This legislation would create 10 project demonstration sites across the country for the purpose of demonstrating different maintenance techniques for all the States. The sites selected will be determined by choosing those States that will provide various classes of highways, types of pavements, bases, and subbases, and those with different terrain, topography, and climatic conditions. One county will be selected in each of the 10 States chosen for this project. The roads used for the demonstration will be limited to 50 lane miles of Federal-aid roads in each State excluding the Interstate System. It is estimated that such a project would cost at least $20,000 per lane mile.

Standards for the project will be set by the Secretary of Transportation, which will include but not be limited to the periodic inspections by the Secretary, test control sites for comparisons, and appropriate recordkeeping requirements.

This demonstration project will provide to the States the most recent information on the best and most economically feasible techniques for maintaining our Nation's highways.

It occurs to me that if we can afford to spend so much money on highway construction, we should at least see to it that our State highway departments get the best possible information on road maintenance. It is this type of demonstration project that can best provide data on the problems and solutions for road maintenance. It is the only course the Federal Government can afford to take. Once the program is complete, the States must be self-sufficient enough to maintain their own roads.

With almost 272,000 deaths caused by accidents on our Nation's highways in the past 5 years, there should be no further proof required to show that our highway safety must be improved and we begin by improving construction and maintenance.

SUCCESS STORY OF THE NATIONAL PUBLIC RADIO NETWORK

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASPINALL. Mr. Speaker, I wish to call to the attention of our colleagues the success story of the National Public Radio Network.

May 3 marked the first anniversary of the National Public Radio network, the first and only noncommercial national radio network broadcasting over 130 stations serving 42 States, the territory of Puerto Rico, and the District of Columbia.

The creators of this noncommercial network were convinced that radio can act as more than the simple "companion" it has been in the past. In the 1 year that the network has existed, NPR has demonstrated how radio can be used in a totally unique and distinctive manner to provide the public with meaningful, varied, and informative programing. It has proven itself time and time again to be a valuable news and information source.

A truly unique public service provided by National Public Radio has been its live coverage of almost 100 hours of hearings held by the U.S. Senate and the House of Representatives.

Before NPR was officially on the air, it was broadcasting live the Senate Foreign Relations Committee hearings on Vietnam, and continued with such hearings as the Senate hearings on China, nutrition, amnesty, and drugs; and the House freedom of information hearings, the Black Caucus hearings, and most recently, the House Committee on Interior and Insular Affairs hearings on the American energy crisis. These hearings, covered by Jeff Rosenberg, were intended to inform the Congress and the public of the dimensions of the energy crisis and the alternatives to further crisis over the next 15 years.

NPR extended its live coverage of

hearings to include hearings held by various Government organizations, including the FCC fairness doctrine hearings. Robert Lewis Shayon, columnist for the Saturday Review, wrote in the April 20, 1972, issue:

> The public interest, some recent appeals court decisions have held, is not fully served unless partisan voices have a right to initiate controversy on the air in their own words, pictures, styles, and accents. That is what the Fairness Doctrine panel discussions were all about, and, predictably, they were carried only by National Public Radio. It was a monumental service.

Financed by the Corporation for Public Broadcasting, established by the Congress in 1967 to promote the development of noncommercial radio and television, NPR began broadcasting 1 year ago today with the premier of "All Things Considered."

"All Things Considered" is National Public Radio's 90-minute weeknight public affairs and news program. It does more than report the news headlines; its indepth approach to news gathering makes it a valuable supplement to the accounts in the morning paper or the noon headline news.

As one radio columnist commented shortly after its premier:

> The program is recommended for the working newsmen, for the broadcast journalism student, and for persons with news interest enough to subscribe to Time, Newsweek and U.S. News and World Report.

Another critic comments:

> "All Things Considered" tries to give a balanced presentation through interviews and comment by specialists in the field, and has some of the best investigative reporting on radio today.

NPR balances the presentations on "All Things Considered" with a unique concept in broadcasting: a two-way network. Not only does the network supply the stations with "All Things Considered" and the rest of its programing, but the stations in turn submit reports for broadcast on "All Things Considered," thereby providing the rest of the country an accurate picture of how the world looks to people in, for example, Ames, Iowa, or Seattle, Wash.

Reports from member stations are supplemented with such national news sources as the Christian Science Monitor, Associated Press and Reuters News Service; and reports from such international sources as the Canadian Broadcasting Corp., the British Broadcasting Corp., Radio Nederland, and Agence France Presse.

The program segments aired on "All Things Considered" have included exclusive reports on the members of the first delegation to the United Nations from the People's Republic of China, the Minuteman ICBM missile system, consumerism and the environment, America's prison system, and health insurance.

The network has provided such special broadcasts as live coverage of all the President's addresses to the Nation, live coverage of the United Nations debate on admission of the People's Republic of China, the annual meeting of the American Association for the Advancement of Science in Philadelphia, live coverage of the last two annual draft lotteries, and speeches by members of the President's Cabinet. Comprehensive coverage of the flights of Apollo 15 and 16 has also been an important part of NPR programing.

Lecture series from the Institute of World Affairs at the University of Wisconsin-Milwaukee, the Ford Hall Forum in Boston, concerts, recitals, and programs from Europe and Canada, have been part of NPR's first year of programs; regular programs broadcast by the network in addition to "All Things Considered" include live broadcasts of more than 60 of the "National Press Club Luncheons" here in Washington, and "Firing Line," William F. Buckley's award-winning interview program featuring discussions ranging from the conflict in Northern Ireland to black economic power here in the United States.

"To All Concerned" has been another NPR public affairs program, featuring exchanges of opinion between experts in the Washington studios and the studios of local member stations on such issues and community concerns as garbage collection, year-round schooling, traffic safety, and civil defense. Produced in cooperation with the National Association of Counties, this program has helped listeners familiarize themselves with the issues and solutions to problems confronting them and other communities around the country.

NPR also offers more than 200 noncommercial stations around the country extensive programs from its scheduled tape service, making available such programs as concerts, lectures, interviews with public figures, radio dramas, and duplicates of programs already broadcast over the NPR network.

Since its first day of broadcast, NPR has opened regional offices in San Francisco and Atlanta, and a bureau in New York City. The number of stations broadcasting NPR programs has grown from 90 to 130.

In a joint experiment with the National Aeronautics and Space Administration, NPR has been broadcasting "All Things Considered" via the ATS-1 communications satellite to member station KUAC-FM in College, Alaska.

With an inventive spirit, combined with the philosophy of its conception, and with its unique approach to broadcasting and networking, NPR has shown that the radio medium can be transformed into a superior public servant.

As NPR President Donald Quayle has said:

> National Public Radio's commitment is to provide excellence and diversity to noncommercial radio broadcasting, nationwide. Two years ago there was not one national organization charged with the responsibility for production, acquisition and distribution of high-quality radio programming for this country's public radio stations—now there is.

The pioneering exhibited the last year by the National Public Radio network has required flexibility and excellence. And with the precedents that NPR has already established, this noncommercial network is fulfilling its obligations to the public with ingenuity and enthusiasm.

THE FOOD LABELING INFORMATION ACT OF 1972

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, today, I am introducing a bill which would provide American consumers with the most comprehensive and up-to-date information about the food they are buying. The Food Labeling Information Act of 1972 would provide consumers with information about nutrition, quality, ingredients, perishability, potential hazards, unit pricing, and name of manufacturer.

Recent experiments in improved food labeling by a number of consumer oriented food firms have made the terms "nutritional labeling," "percentage ingredient labeling," unit pricing" and "open dating," important parts of food shoppers' vocabulary. The innovations have had salutary effects for consumers and merchants alike. From the buyers' point of view, the advantages are clear—more information on ingredients, nutrition, price and so forth means a greater capacity to select the most nutritious, least expensive food. From the sellers' point of view, the information has enabled some companies to cut pricing errors, reduce spoilage and waste, and create a new competition based on quality and service, rather than just price.

Despite these advantages, the practice of expanding consumer information is not universal. This is most unfortunate because, above all, the consumers have a right to know what they are buying. The lack of knowledge was emphasized recently before a Senate Committee investigating this subject when Robert Choate, consumer advocate known for his attacks on nutritionless breakfast foods, disclosed that in some instances, consumers are paying as much as 3,000 percent of the manufacturer's cost for vitamin fortification and that many products on the market are composed chiefly of water.

Several weeks ago, the Food and Drug Administration announced plans to institute, on a wide scale, a nutritional labeling campaign. Its decision follows the success of a number of experiments in this area. While the FDA's action is commendable, the proposed program would not be mandatory, but would be open to firms on a voluntary basis only. The FDA has already ruled that it lacks the legal authority to require nutritional labeling by food companies.

The legislation I am introducing today, Mr. Speaker, would overturn that FDA opinion and establish a clear legislative mandate requiring nutritional labeling and other information programs. Under this legislation, consumers would have the right to know:

First, nutritional value. What good is food if it serves no nutritional value? Too often consumers are led to believe that they are buying nutritious foods when, in fact, they are not. As thousands of Americans are malnourished or undernourished, nutritional labeling is one of the most urgently needed consumer programs. Further, as many manufacturers claim their products have such desirable effects as "body-building," "energy-packed," et cetera, nutritional labeling would require them to establish their claim convincingly. Specifically, my bill would require the listing of the vitamins, minerals, calories, fats, and carbohydrates contained in the food. Combined with conscientious meal planning by the consumer, this information would enable millions of Americans to improve their diet immediately.

Second, quality. The present system of grading food is haphazard and confusing. Sometimes a consumer buys a grade A product, only to learn that it is actually second quality. To remedy this, my proposal would establish a uniform system of grading foods from "A to E" and "substandard." Products already graded by the Department of Agriculture would be exempt.

Third, percentage of every ingredient. Consumers should know exactly what is in the food they buy and the percentage of each ingredient. Some people must avoid certain additives or ingredients, others need this information to balance their diets, and, of course, everyone wants to know what they are paying for and eating. This bill would require not only the listing of every ingredient, but a disclosure of what percentage each ingredient comprises of the total. Thus, when manufacturers try to peddle a product composed mainly of water or sugar, consumers would know it. Also, with greater knowledge about ingredients, certain producers might find it harder to charge inflated food prices.

Fourth, effects of aging on products which can spoil and a "pull date." A complex code system has been devised which appears on can lids and elsewhere to reveal the freshness of products. But consumers find the numbers confusing and of little help. Even retailers have trouble decoding the system and, as a result, many food products spoil unnecessarily. My proposal would require "perishability information" disclosing the effects of aging and the risk of spoilage, and a "pull date" after which the product could not be sold. Experience has shown that this information would save consumers and merchants money in the buying and marketing food.

Fifth, harmful effects of ingredients. Many persons cannot eat certain food additives and ingredients for allergic, dietetic, or other health reasons. Others may wish to avoid foods with known side effects. Presently, there is no affirmative obligation on the producer to warn the consumer about harmful effects. However, the burden should be on the manufacturer to release information on known harmful effects. My proposal would provide just that.

Sixth, unit price. When food products are sold in packages of various shapes and sizes, consumers find it difficult to pinpoint the best bargains. Unit pricing, however, successfully enables consumers to select the most economically priced and sized products. My proposal would require that the unit price appear conspicuously along with the total retail price of the food item.

Seventh, identity of the manufacturer. Last November, I introduced legislation—H.R. 11583—to require the name of the manufacturer to appear on all can labels. This legislation was proposed after I learned that products made by the Bon Vivant Co., which had been improperly prepared and which contained a deadly botulism infection, were sold under various brand names and consumers had no way to associate the final product with Bon Vivant. Identifying the manufacturer would protect the consumers by enabling them to avoid products known to be contaminated. In the Food Labeling Information Act, I have improved that legislation by requiring a code to identify the site of the plant where the product was made. This would facilitate recall of tainted foods and offer even greater protection for the consumer. Incidentally, my original proposal, which was cosponsored by 35 Members of the House, had been endorsed by Consumer Union, the nonprofit consumer watchdog association. The text of their letter on this subject appears below.

Many of the concepts embodied in the bill I am introducing today have long been sought by concerned consumer organizations. For example, last December, the Community Nutrition Institute of Washington, D.C., and the Center for Consumer Affairs of the University of Wisconsin, held a conference on food labeling and concluded their deliberations by endorsing open dating, unit pricing, nutrient labeling and ingredient labeling. The text of their policy statement appears below.

Further, the Consumer Alliance of Palo Alto, Calif., has promulgated the "Declaration of Consumer Rights," which includes many rights embodied in my legislation. The text of the declaration also appears hereafter.

In the early sixties, President John Kennedy set as a goal the recognition of the "consumer's right to know." Despite notable efforts in the past years to expand shopper information, consumers still do not know much about what they are buying. With food buyers properly concerned about the quality and cost of food, there is an urgent need to insure that complete information is readily available to the consumer when he is in his grocery store. The Food Labeling Information Act would provide consumers with the essential information they have a right to, and without which they cannot make sensible choices in providing their family with the most wholesome and nutritious meals for the least possible cost.

The articles follow:

CONSUMERS UNION,
December 29, 1971.

MR. ARNOLD P. LUTZKER,
Legislative Assistant, care of Representative Jonathan Bingham, Congress of the United States, House of Representatives, Washington, D.C.

DEAR MR. LUTZKER: Colston Warne, our president, asked me to respond to your inquiry about Consumers Union's views on H.R. 11583, amending the Fair Packaging and Labeling Act. It is my pleasure to do so.

Consumers Union has long taken the position that, as a matter of principle, buyers should be able to identify the manufacturer of products. We recently expressed ourselves on this matter in a communication to the Federal Trade Commission, which was and I believe still is considering the making public of the registration numbers of manufacturers of textile products so that the public may identify the manufacturers. Copies of the correspondence are enclosed.

In line with this position, we would favor a requirement such as that proposed in H.R. 11583.

As to the effects of such a proposal on pricing and competition, Consumers Union is not an authority on such matters. We have of course, observed the phenomenon of both low-priced and high-priced house brands and private-label brands in the course of testing foods and other products. There is no predictable relationship between price and quality, we have found.

It is fairly evident that the consumer, confronted with a national brand soup and a private-label soup revealed to have been packed by the brand-name manufacturer, could not be sure the two were identical in quality.

As I am sure you are aware, the Borden case beore the FTC and later the Supreme Court explored the question of price and marketing of a private label product to greater depth than any other public investigation. Brought under the Robinson-Patman Act, the Borden case involved alleged price discrimination in the wholesaling of Borden's canned evaporated milk. Borden argued that its brand name lent added value and therefore real superiority to the very same milk sold under a supermarket label. (FTC was arguing that by offering the milk at different prices to private label sellers and brand name sellers, Borden's was engaging in price discrimination.)

If we can assist further, please feel free to write again.

Sincerely,

ROBERT J. KLEIN,
Economics Editor.

CONSUMER POLICY STATEMENT ON FOOD LABELING

We, the undersigned consumers, having met and deliberated with other representatives of consumers, with representatives of the food industry, of government, and academia in a national seminar on a consumer policy on food labeling, and having been designated as a drafting committee, unite in this consumer policy statement.

We believe that consumers have a right to all information which enables them to choose the best marketplace value among food products.

We believe that consumers need more specific information about food products—quantity, type, and proportions of ingredients, quality, nutrient value, wholesomeness, and relative price—to protect their economic interest and safeguard their health.

We assert, further, that the public has a right to participate in decisions relating to standards, procedures, and rules used to determine and deliver this information to consumers and that prior to the adoption of any standard procedure or rule, consumers have a right to review the proposed determination in public hearings.

To protect these public rights, we propose:

First, to develop and support a comprehensive national food marketing program, encompassing advertising, which will achieve nutrient labeling, percentage ingredient labeling, open dating, grading and unit pricing of consumer-purchased food products.

Second, to seek establishment of an independent national commission with a majority of consumer representatives to review: (1) shelf-life standards for food products, (2) standards for preparing, packaging, storing, transporting, displaying, and advertising food products, (3) rules for unit pricing and rules for percentage ingredient and nutrient labeling, (4) food grade terminology.

Third, to form, as an outgrowth of this National Seminar, a National Ad Hoc Committee on Food Labeling with a majority of consumer members, but including representatives of the food industry, to advance the following proposals:

OPEN DATING

We assert that the public has a right to know the age and quality conditions of purchased food products. All food products after some length of time lose both appeal and nutritional value.

We believe consumers have a right to know the date food products are prepared, the date they are first offered for sale, and/or the last date on which the purchaser can reasonably expect that the quality of the products has not deteriorated.

All dates used on food packages should be actual calendar dates (example, 12-10-71 or December 10, 1971). It should be clearly indicated on the package what the date represents. For example: packed on 12-10-71; or not to be sold after 12-10-71; or for best quality use before 12-10-71.

All dates used on food packages should be clear and conspicuous and uniform in style of presentation.

Federal standards should be set to determine the length of time packaged food products can be legally offered for sale.

Federal standards should be set for preparing, packing, grading, storing, transporting, displaying, and advertising food products when such conditions significantly relate to maintaining food quality, including nutritional quality.

Legislation should provide for adequate enforcement of food product standards with suitable penalties against manufacturers, processors, wholesalers, retailers and other handlers for violations of any federal food standards.

Codes now used by the food products industry to conceal the dating of food products and formulas should be immediately disclosed to the consuming public.

UNIT PRICING

We assert that the public has a right to know the unit price of competing items offered for sale in the marketplace.

We believe that standard units of weights and measures are essential to a competitive market system and that competitive pricing is now threatened by the use of multiple-size, non-standard packages; package sizes now used frequently disguise rather than disclose weights and volumes.

Market surveys show that price comparisons of many packaged products are almost impossible without unit prices. The inability of consumers to compare food product prices increases family food costs unnecessarily, contributes to inflated living costs, and erodes the price mechanism in a competitive market. Knowledge of quality is not enough to make value judgments. Knowledge of unit price is equally necessary.

In recent years efforts have been made by supermarkets, state legislatures, and municipal governments to provide unit price information in various ways. Still, most consumers lack that information about packaged food products.

We believe that the need for standardized unit pricing practices is now undeniable, and that, because of the national scope of the problem, federal legislation is the most effective solution, though private, state and local efforts should not be discouraged.

We believe that federal legislation should require unit pricing of packaged food products at the immediate point of consumer selection and in advertisements which specify prices of such products. This legislation should establish that:

1. "Unit pricing" should be used as the term to identify the practice of pricing by units of weight and volume.

2. The unit-price information should be clearly, uniformly, and conspicuously displayed.

We believe that federal regulatory agencies should then establish:

1. Rules for unit price label information, for standard units of measure for product categories, and for locating unit price labels with the purpose of maximizing the usefulness of unit pricing for American consumers.

2. Provisions for exemptions of retail units and product categories, as minimally necessary, for implementation dates and for enforcement procedures and penalties for violations.

NUTRIENT LABELING

We assert that the public has a right to know nutrient values of food products offered for sale.

We believe that the statement of nutrient value should appear on the labels of packaged food products and should appear in displays of non-packaged food products.

We believe that nutrient information for food products should include nutrient composition, calories, and the serving basis for these claims.

We resolve that:

1. Nutrient information should be stated in easily understood units as a portion of the Recommended Daily Dietary Allowance serving size should be defined by both weight and measure.

2. Manufacturers and processors should be responsible for product analysis and for the accuracy of nutrient claims on the label.

3. Analysis of protein, carbohydrate, and fat proportions should be stated in the form of units. The nutritional worth should be stated in RDA's (recommended dietary allowance) for not less than eight nutrient categories, including: Vitamin A, riboflavin, thiamin, niacin, Vitamin C, calcium, and iron and protein. Protein claims should be adjusted to reflect relative quality. Calories per serving should be shown.

4. Nutrient information about all food products should be clearly, uniformly, and conspicuously displayed for consumers.

We further call for a joint statement of policy on nutrient labeling and advertising by the Food & Drug Administration, the Federal Trade Commission, the U.S. Department of Agriculture, and any other appropriate regulatory agency to be published by July 1, 1972, and a longer-range statement by appropriate regulatory agencies to be published by January 1, 1973.

INGREDIENT LABELING

We assert that the public has a right to know the ingredients of all packaged food products offered or advertised for sale to American consumers, whether or not a Standard or Identity has been set.

We resolve that the following actions should be taken, including any necessary enabling legislation, for the Food & Drug Administration, the Federal Trade Commission, the U.S. Department of Agriculture, and any other appropriate regulatory agency to require that:

1. The labels of all food products, including those for which a Standard of Identity has been set, list the common or usual names of all ingredients, including food additives, and their function. Where deemed helpful to consumers, it is urgent that product labels should list ingredients by percentage to aid consumers in assessing economic value and food quality.

2. Food ingredients to be identified in terms of their source, such as "wheat protein-hydrolysate" (rather than just "protein hydrolysate"), "potato starch" (rather than just "starch"), and "peanut oil" (rather than just "vegetable oil.").

3. We call for immediate revision and standardization of the presently complex and deceitful terminology used by the food industry and the Department of Agriculture in the grading of fruits, vegetables, eggs, dairy and similar products.

RECOMMENDATION

We recommend that the National Ad Hoc Committee on Food Labeling and Advertising meet in conference during the next six months to consider in detail the steps necessary to carry out the proposals presented above.

We recommend, further, that prior to that Conference, a task force be composed to prepare specific recommendations for action by the food industry, the professional community, the regulatory agencies, the legislative branches of government, and by consumers themselves and that these recommendations be reported to the Conference for action.

Submitted by: Rodney Leonard, Erna Carmichael, Albin Larson, Jan Rathe, Irene Malbin, Pat Young, Robert Choate, Jan Skakowsky, Edna Johnson, Mary Gullberg, Helen Nelson, Jennifer Gans, Roy Kiesling, Jr.

Lee Richardson, Vice-Chairman; Currin Shields, Chairman.

DECLARATION OF CONSUMER RIGHTS

Before the consumer buys any product he has a right to the following information:

1. The name and complete mailing address of the actual maker of the product.

2. A name and model number, clearly and permanently visible, that absolutely identify the product.

The same product will always be sold under the same name, and identical model numbers will be placed only on identical products.

3. A list of all ingredients of the product, in order of percentage contained, with the percentages stated.

4. A warning of known harmful effects of any ingredient.

5. Complete instructions for normal use of the product, and a statement of what it can actually and demonstrably do for its buyer.

6. Warnings of hazards of normal use, and of any hidden hazards of abnormal use.

7. A statement, in plain English, of the date of manufacture or packaging.

8. A statement of the expected life of the product, including shelf life, and a warning of conditions of use or storage that shorten its life.

9. Notice of the other models or formulas of the same product by the same maker, so that the full range of choice is disclosed.

10. An explanation in layman's terms of the working principles of the product.

11. All specifications and procedures necessary for adjustment and repair by a normally skilled repairman.

12. A list of parts, with current retail prices and an address from which they can be obtained by mail.

13. A clear notice on the package if the product cannot be used except in conjunction with some other product.

14. In the case of products sold by weight or volume, a statement of the unit price.

Furthermore, he has a right to demand that every product is designed to impose the minimum burden on the environment from its manufacture to its disposal.

THE ROLE OF BUSINESS—DOING WELL OR DOING GOOD

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FASCELL. Mr. Speaker, throughout the hemisphere, U.S. businesses are increasingly being forced to adjust to rapidly changing political and economic conditions and outlooks. While this is neither an easy nor perhaps pleasant task, it is a necessary one.

On April 13, one of this country's most distinguished international businessmen, Rodman C. Rockefeller, addressed himself to the need for business to undertake a critical reassessment of its own role both in our own society and abroad in a speech entitled, "The Role of Business—Doing Well or Doing Good."

In his speech honoring the 25th anniversary of the International Basic Economy Corporation, Mr. Rockefeller draws upon the experiences of his own company to develop new concepts of ways in which business can be responsive not only to individual corporate needs but also to the general purposes of the society of which it is an integral part.

Because of the cogency and timeliness of Mr. Rockefeller's remarks, I hope they will receive wide attention both in the Congress and throughout the American business community.

Text of the speech follows:

The Role of Business—Doing Well or Doing Good

(An address by Rodman C. Rockefeller)

Good evening and welcome. Thank you for joining us tonight to help celebrate the 25th anniversary of an idea. At the time, the idea was novel. Among other things, it encompassed a thesis that great business opportunities existed in areas that had largely been by-passed by private enterprise because they were thought to be more properly within the province of governmental action or of philanthropic support. These areas were principally developmental in nature because they dealt with the problem of supplying people with such basic human needs as adequate shelter and food.

Historically, businessmen have felt it more prudent to operate within existing proven markets than to create new ones. IBEC took a somewhat different approach. It was IBEC's idea that these perceived human needs could be converted into markets in a businesslike, profitable way. IBEC further believed that, by so doing, it could help hasten internal economic development, contribute materially to national progress, and by participating in this process at an early stage, assure itself of the support of the communities where it operated. This was to be done by introducing ideas, techniques or technologies already proven in more developed economies. This was considered by many a radical departure because its stated motivation was non-traditional, an overt recognition of the benefits possible to all participants in the experiment, employees, suppliers, customers and the economy at large.

The experiment was launched with great enthusiasm, and the results watched with anxiety. Would it take root? Would it find the kind of support that was necessary if it was to prosper and grow?

The experience of the past 25 years supplies its own answer. From a handful of operations in two countries, Venezuela and Brazil, we have become [illegible] established in 33 nations where we do business through more than 140 subsidiaries and affiliated companies with a combined staff of nearly 12,000 persons.

The idea of a quarter of a century has become a very solid reality. Our success is tangible, our idea has been accepted. There is no question that I view such an achievement as an occasion for extending congratulations to the many who have made it possible. On the other hand, I also must confess to a certain degree of concern. The very words "solid reality" can too easily conjure up the image of an enterprise that is satisfied with itself, pleased that it has been vindicated in the pursuit of what many once considered an impractical ideal. It is almost as though certain questions were asked 25 years ago to which we can now triumphantly say that we have the answers.

Perhaps we have found one answer, or part of it. Perhaps we have explored an approach, or mapped a part of it. But times are changing and conditions of doing business are altering so rapidly that we cannot afford to delude ourselves into thinking we have a set of all-encompassing answers. Besides, in the process of getting where we are today, we have raised a number of fundamental questions that have a direct bearing on the future welfare of IBEC and on the nature of the relationship between business and society generally.

In order to answer these questions in a satisfactory manner, I think it would be helpful to review what we have learned. What conclusions, if any, can we draw from IBEC's experience?

First of all that in order to survive and to flourish as a business, it is necessary to do the traditional things a businessman has always done. A professional manager has the obligation to run the enterprise under his supervision at a profit. Otherwise, his business will not survive. We have no trouble understanding this.

We businessmen, however, have had less training and experience in understanding how to deal practically with an equally important constraint. We are often less successful in adjusting our corporate goals in such a way that they unmistakably reflect and further the priorities and policies of the societies in which we operate. Yet, this is just as important, for the success of an enterprise also depends upon the support of the community in which it operates. If this support is withdrawn, the business will just as surely decline as if it had been subjected to bad management practices. Furthermore, if a deterioration of support turns into active hostility, the business could be legislated out of existence.

Within our ranks there are still those who would prefer to conduct business as totally inwardly oriented, as though it consisted only of production schedules, marketing forecasts, and financial planning. This orientation is essential to the successful conduct of business. But it is only part of the equation for total success. An external orientation and the world's attitude toward the business are also vital. Here is the area where many of us find ourselves on unsure ground.

I think very often we are unsure because we are reluctant to face up to the fact that business is an integral part of the political economy of the country. We are more comfortable with what I believe to be the outworn triangulation of power, with the three points of the triangle being government, business, and labor, each with its own separate interests and preoccupations, and each with its special contribution to make. But are the interests of business so different from those of labor, or of government? Does government make one kind of contribution to society, labor a second, and business a third?

I think not. At least, my experience as a businessman leads me to the conclusion that, in the case of business, things are not so neatly compartmentalized. Time and again, I have seen the extent of our company's impact upon a community and even upon a large sector of national life within a country. Time and again, the impact has been social as well as economic. By social impact, I mean that levels of education, shelter, health, and nutritional intake have been improved either directly or indirectly as the result of the success of our business venture.

Here are two supporting examples. One of our earliest concerns in Venezuela was to improve retail food marketing there. Our aims were to reduce prices, and to encourage local entrepreneurs to expand domestic supplies so that there would be less reliance on expensive imported items. That apparently altruistic motive led to the creation of what is today one of our most successful business ventures. Together with Venezuelan partners, we established a high-volume, low margin, cash-and-carry supermarket business that is known today as CADA. Like the idea of IBEC itself, no one had ever tried it in Venezuela.

Today, our stores are a familiar sight throughout the country, and the concept of one-stop, self-service shopping, entirely unknown 20 years ago, is now a familiar and accepted pattern for millions of families, who are served by five chains including our own.

It is an interesting comment that, while we helped to lower food prices substantially, we did not smother competition. Our presence seemed to provide many small store owners with fresh stimulus and they represent today a growing and healthy competition. While we helped to lower food prices, we also helped to greatly increase food volume, so that variety, quality and profitability throughout the industry have increased many fold. I am proud to say that the President of CADA and our Venezuelan partner, Sr. Jorge Blohm, is with us this evening.

Another founding venture was the association in Brazil with Sementes Agroceres S.A., a firm that was attempting to improve the country's all-important corn crop by introducing newer and better strains of hybrid seed. Traditionally, Brazilian farmers reserved some of their own seed to plant next year's crop, and so it was difficult for them to accept the idea of paying for something they had always been able to get for "nothing". Not only did Agroceres have genetic and production problems to deal with, it had to convince farmers that the new hybrid produced such a vastly superior crop that it was, in the long run, in their best interests to purchase it. Ultimately, the company succeeded. It is today the fourth largest hybrid corn seed company in the world, and the largest outside the United States. It is one of the most profitable ventures in its industry. I am equally proud to introduce our partner, Sr. Antonio Secundino, President and founder of Agroceres.

In the process of achieving all this, Sementes Agroceres established a number of production farms throughout Brazil, one of them in the town of Patos de Minas, a municipality in the interior. At that time—in 1948—Patos de Minas was a predominantly agriculture community of about 10,000 people, most of them tending either small plots of their own, or finding employment with the larger landowners. Their livelihood often was one of little more than subsistence. There was little education and the people had little hope of offering anything to their children because the agriculture they depended upon was so underdeveloped that only a little more than five per cent of the land was cultivated.

Patos de Minas has changed in the more than twenty years that Sementes Agroceres has operated there, during most of that time as the dominant business presence in the community. The area of land under cultivation doubled within the first ten years, and then nearly doubled again by 1970. The number of farmers using hybrid seed increased steadily until, today, it is estimated that more than 90 per cent of the farmers of the area use it.

In 1950, there was very little to distinguish Patos de Minas from hundreds of similar agricultural communities throughout Brazil. Today, it is known as the corn capital of the country, and the town has become one of the important rural trade centers in the interior.

Both of these examples illustrate the point that business activity can dramatically change patterns of life, and that trying to limit the role of business to an agent that exchanges certain goods and services for money is simply unrealistic.

I do not mean to imply that CADA and Sementes Agroceres were solely responsible for the changes that occurred.

Certainly, there were many forces at work to bring about that change. But just as certainly, both CADA and Sementes Agroceres were powerful and effective engines in helping to create it. Each recognized its role as one of the forces of the community that could aid in furthering a common objective. But each performed that function in a businesslike way by seeing a need and converting that need into a profitable and growing market.

Both companies were, in other words, as successful in their external orientation as they were in their internal orientation. As a result, both companies are integral parts of the total economies of their communities. They serve as clear-cut examples of how private enterprise can act as an economic and social force in society, exerting an influence that is far broader than 19th century economists would have us believe.

If this broader role is the reality of corporate impact—and I firmly believe that it is—then it would seem that business, and particularly corporations, are obligated to conduct themselves as responsible, independent political bodies, and not merely as extensions of the desires of their owners.

Until comparatively recently, the creation of wealth was considered to be the only legitimate business of business. Business responded very well to this challenge. In fact, in this country, it has created so much wealth that ironically it has created its own crisis of credibility from, among others, affluent critics.

A recent editorial in a leading newspaper outlined the dimensions of a part of this crisis when it commented on a loss of public confidence in the probity of business.

Referring to a number of unfortunate business practices that have been uncovered within the past few years, it speculated whether or not, and I quote, "a new rot has infected the American political-economic system."

It went on to lay the blame for this state of affairs on two developments. The first is the general prosperity. "Long periods of boom," the editorial stated, "seem to undermine business and public morality." The second is the "growing inter-mixture of government with business and labor"—in other words, a misuse on the part of business of its responsibilities as an independent force within society.

It is a cliche to observe that the United States is the wealthiest nation in the world. But behind that cliche, lies the fact that this widespread prosperity has come about principally because of the efforts of private enterprise. It is business that has been largely responsible for the new leisure, the higher standards of education, the new freedom to re-examine human and national priorities. These were luxuries we could not afford at an earlier time. Too many things of a material nature had to be accomplished first. But now we can afford them, and it is truly ironical that it is largely business that has given us the freedom to examine our total life and environment, only to find much of it unsatisfactory.

So it seems that the outstanding success business had enjoyed in doing the thing it was traditionally supposed to do—that is, to create wealth—has brought about the groundswell of criticism that takes the view that the cost of producing all these material benefits may be too high, and that business is to blame for a whole host of serious problems.

Even as the proper role of business is being questioned in the United States, so is it being questioned abroad. U.S. corporations that operate overseas are coming under increasing attack as dominating national markets and unduly influencing economic development.

Once again, a major reason is that business, in some ways, has been too successful in discharging its original function. North American corporate activity in the Southern half of our hemisphere is an example. Since 1950, U.S. private enterprise has invested more than $8 billion in this vast and growing area. In addition to this infusion of capital, technical assistance and managerial development programs have helped to train thousands of workers and managers. Partly as a result of this, prosperity and confidence in national leadership have grown. So, by creating wealth, foreign business has helped to expedite the social, economic, and national independence which today is so evident. Business, U.S., European and national, is largely responsible for the new national assertions of perceived self-interest that are evident throughout the hemisphere.

Under these circumstances, what is a business to do? It seems a cruel state of affairs that business is being penalized both here and abroad, merely for doing the job it was supposed to do in the first place. What has gone wrong, and what can we do to set it right again?

First of all, it might be profitable to ask ourselves what this independent political entity known as private enterprise can contribute to society. What exactly are its strengths.

First of all, business has a well-determined purpose—the creation of wealth—not for itself alone, but for the society in which it operates. The amount of this wealth is directly measurable through the profit and loss statement and the balance sheet of the corporation. At the same time, it is indirectly measurable, in a more qualitative way, by noting the economic health of the communities in which the business is to be found.

Secondly, business is both a consumer and a producer. In its function as a producer, it is one of the most truly creative forces in society, and today we need all the producers we can find. It is truly creative because it produces considerably more than products and services. As the experience of Patos de Minas so eloquently points up, it is a prime innovator, one of the vigorous motors of change in our society, capable, I might add, of acting as a force for both good and bad.

Finally, one of the chief strengths of a business is a beautifully articulated way of measuring its own performance and imposing discipline upon itself. This is the double-entry bookkeeping system invented in the Middle Ages and first described by the Italian monk, Luca Pacioli. However, this process of measurement records only the internal aspects of performance. It tells an observer if the company is doing well. One cannot judge, by studying the ledger, if the company is doing good. It describes only the internal part of the equation I mentioned earlier.

I, too, am of the opinion that business should act for the common good, and I happen to think that it usually does. But I am disturbed by the fact that, all too frequently critics do not stop to think that unless business does well, it can do nothing at all. I also sympathize with those who are caught in the middle of this debate. On the one hand, there are those who warn us against a broader involvement, who tell us that the only proper role of a businessman is to do well. On the other, there are highly articulate demands that we concentrate only upon doing good. It is a difficult dilemma.

The root of the dilemma, it seems to me, can be traced to the original definition of the function of business. The job description was too narrow and, as a matter of fact, this narrow definition never represented reality. It is time to broaden it. As businessmen, we have spent too long measuring our success by adding up accounts. In the process, we have overlooked a major area of accountability. We have not sufficiently appreciated the importance of measuring external accountability as we have the internal side of our business ledger.

Corporations, like all institutions, rise and fall depending upon their contact with relevance. They must, of course, understand their markets. They must understand the aspirations of the society that gives them life. And they must understand that the social contract that gave corporations the power they enjoy today has changed, and that it will never be as it once seeemd to be.

At the same time, businessmen cannot allow themselves to be stampeded by these new pressures into abandoning the discipline that is a corporation's greatest strength. It remains fundamental that nothing can be accomplished without satisfactory operating and financial results. Is this enlarged responsibility too broad for businessmen to handle? Or are the systems of measuring results too narrow?

I recognize that businessmen are more action-oriented than they are philosophically inclined. I recognize that it might be burdensome for line management, charged as it is with the responsibility for day-to-day operations, to have to try to measure social impact as well as to monitor financial and operating results.

However, every corporation has a board of directors whose function is to evaluate the overall performance of the enterprise. The board acts as agent for the corporation's constituencies, including the shareholders of the company. Within a corporation, it has the best perspective to establish the kind of relevancy that will, in the long run, be best for the owners of the enterprise, for the many who depend upon it for their livelihood, for all those whose lives are affected by it, and for the continuing health and vigor of the corporation itself.

How well do most boards discharge this function? According to a study on boardroom management published by McKinsey and Company in 1969, not very well. It concluded, "U.S. boards of directors in general are ineffective." It went on to say that "The fundamental cause of board ineffectiveness appears to be the failure of boards to define their role adequately, and a parallel failure to design the board's structure, composition, and practices to enable the board to fulfill its role." The study concluded that "the concept of the board of directors requires rethinking in most companies."

IBEC is fortunate in its board of directors. It is composed of individuals who perform an active role in evaluating corporate priorities. Yet we too must rethink the role of our board in these times of change. The board has the unique charge for continuing objective survey, and I shall shortly recommend that survey be formally extended to include our outside orientation. We hope to form a Committee on Accountability to be made up of IBEC board members who will undertake the task of monitoring even more closely the nature and quality of our external impact, and who will attempt to assess the larger social influence of our operations to make certain they remain relevant to the needs of society. We, of course, do not yet have the tools to measure with financial accuracy how our businesses' external results progress. This weakness or lack is being attacked by many thoughtful people, as it is more clearly needed. However, the Committee on Accountability hopes to discover a way to perform this useful measurement.

This, I think, is entirely in keeping with the principles that led to the formation of IBEC 25 years ago, and represents further proof that we have not stopped asking questions of ourselves, that we are not satisfied with any one set of answers.

I think also that this action is representative of something much larger. It is a recognition that in times like these, times of rapid and unsettling change, the solution of current problems requires the best of all of us. They demand a fresh commitment to a posture that combines enlightened self interest with a public morality. The newspaper editorial I quoted earlier called for reforms to do away with the corruption it noted. "Such reforms," it stated, "cannot be achieved unless leaders in politics and within business, press, education, and community groups are determined to insist upon and themselves practice high standards of ethical conduct in this massive, organizational society." In other words, we can no longer pursue narrow preoccupations in isolation from the concerns of the world around us.

On the other hand, to attack and to accuse solves nothing. Confrontation usually breeds more confrontation. Those who criticize the private enterprise system would do well to look realistically at its positive accomplishments and to speculate upon its enormous potential for beneficial change. Private enterprise has been more responsible for the progress of society over the past fifty years than any other force I can think of. Furthermore, I believe it has proved itself to be so effective because of its unique ability to measure its performance and to impose discipline upon itself.

We all tend, at times, to be overwhelmed by the magnitude and sheer number of our problems. It seems that a solution in one area precipitates a crisis in another, until we have no idea of how well we are doing, uncertain as to whether or not we are making any real headway. We need some way of knowing more precisely where our successes lie and where we have failed.

This is precisely the sort of yardstick business can provide. The ability to do this well is the greatest strength of the private enterprise system. Beset as we are by uncertainty, we must not lose sight of the fact that business has been perhaps the most essential ingredient of human, social, and economic development, and that by doing well, externally as well as internally, it can do tremendous good wherever it operates.

REPRESENTATIVE TALCOTT INTRODUCES LEGISLATION TO AUTHORIZE THE RECOMPUTATION OF RETIRED PAY FOR MILITARY PERSONNEL

(Mr. TALCOTT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. TALCOTT. Mr. Speaker, on April 26, 1972, I introduced H.R. 14643, to authorize the recomputation of retired pay for military personnel. This bill, when enacted, will allow those who retired prior to January 1, 1971, the privilege of recomputing their retired pay at age 60 if they have less than 25 years service and at age 55 with more than 25 years of service.

Mr. Speaker, my bill is intended to partially rectify a long-standing inequity and to partially reinstate an agreement, once broken by our Government, with our retired military personnel. I urge the committee to schedule hearings on this proposal at the earliest opportunity. At this point in the Record, I insert the text of my bill:

H.R. 14643

A bill to authorize equalization of the retired or retainer pay of certain members and former members of the uniformed services

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniformed Services Retired and Retainer Pay Equalization Act".

Sec. 2. (a) Notwithstanding any other provision of law, a member or former member of a uniformed service who is entitled to retired or retainer pay computed under the rates of basic pay in effect after September 30, 1949, and before January 1, 1971, is entitled to have that pay recomputed under the rates of basic pay in effect on January 1, 1971, as follows:

(1) Such a member or former member who is entitled to retired pay for physical disability under title IV of the Career Compensation Act of 1949 (63 Stat. 816–825), as amended, or chapter 61 of title 10, United States Code, and whose disability was finally determined to be—

(A) of a permanent nature; and

(B) at least 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of that determination;

is entitled to have that pay recomputed, on the effective date of this section.

(2) Such a member or former member, other than one covered by clause (1) of this subsection, is entitled to have his retired or retainer pay recomputed, as follows:

(A) If he has 25 or more years of service, he is entitled to have that pay recomputed—

(i) on the first day of the month in which he becomes 55 years of age; or

(ii) on the effective date of this section, if he is at least 55 years of age.

(B) If he has less than 25 years of service, he is entitled to have that pay recomputed—

(i) on the first day of the month in which he becomes 60 years of age; or

(ii) on the effective date of this section, if he is at least 60 years of age.

(b) A member or former member of a uniformed service—

(1) who was retired for physical disability;

(2) who is entitled to retired pay computed by "method" (a) of section 511 of the Career Compensation Act of 1949 (63 Stat. 829); and

(3) who, under section 411 of that Act (63 Stat. 823) did qualify for disability retired pay and his disability was finally determined to be at least 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of determination;

is entitled, on the effective date of this section, to have that pay recomputed in accordance with section 402(d) of that Act (63 Stat. 818), using the rates of basic pay which became effective on January 1, 1971, or continue to receive the retired pay to which he was entitled, whichever pay is greater.

(c) A member or former member of a uniformed service who—

(1) is entitled to retired pay computed by "method" (a) of section 511 of the Career Compensation Act of 1949 (63 Stat. 829);

(2) was retired for physical disability; and

(3) under section 411 of that Act (63 Stat. 823)—

(A) did not qualify for disability retired pay; or

(B) did qualify for that pay, but his disability was finally determined to be less than 30 percent under the standard schedule of rating disabilities in use by the Veterans' Administration at the time of that determination;

is entitled to have that pay recomputed by "method" (b) of section 511 of that Act (63 Stat. 829), using the rates of basic pay in effect on January 1, 1971, under the same conditions as those set forth in clauses (A) and (B) of subsection (a)(2) of this section, or continue to receive the retired pay to which he was entitled, whichever pay is greater.

(d) A member or former member of a uniformed service who—

(1) was retired other than for physical disability; and

(2) is entitled to retired pay computed by "method" (a) of section 511 of the Career Compensation Act of 1949 (63 Stat. 829);

is entitled to have that pay recomputed by "method" (b) of that section using the rates of basic pay that became effective on January 1, 1971, under the same conditions as those set forth in clauses (A) and (B) of subsection (a)(2) of this section, or continue to receive the retired pay to which he was entitled, whichever pay is greater.

(e) A member or former member of a uniformed service whose retired or retainer pay is recomputed under this section is entitled to have that pay increased by any applicable adjustments in that pay under section 1401a of title 10, United States Code, which occur after January 1, 1971.

(f) In this section, except with respect to a member retired under chapter 67 (relating to retired pay for non-regular service) of this title, "years of service" means the years a member or former member of a uniformed service is using, or would be entitled to use, as a multiplier in recomputing his retired pay under this section. With respect to a member retired under chapter 67 of this title, "years of service" means the years computed under section 1332 of this title.

(g) A member or a former member of a uniformed service is not entitled to recomputation of his retired pay under this section while his name is carried on the temporary disability retired list.

Sec. 3. An officer who is entitled to receive pay and allowances under—

(1) the Act of March 23, 1946, chapter 112 (60 Stat. 59);

(2) the Act of June 26, 1948, chapter 677 (62 Stat. 1052); or

(3) the Act of September 18, 1950, chapter 952 (64 Stat. A224),

shall be entitled to an increase in the basic pay to which he is currently entitled so that the total amount of his pay and allowances shall be equal to the retired pay to which an officer with over 30 years of service who had served as Chairman of the Joint Chiefs of Staff would be entitled under the rates of basic pay in effect on January 1, 1971.

Sec. 4. The enactment of this Act does not reduce the monthly retired or retainer pay to which a member or former member of a uniformed service was entitled on the effective date of this Act.

Sec. 5. This Act becomes effective on July 1, 1972.

RUSSIAN DESTROYER OFF COAST OF CUBA

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, today a shocking announcement was made by Mr. Friedheim, Deputy Assistant Secretary of Defense for Public Affairs, who today acknowledged that a diesel powered ballistic missile submarine, reportedly with the capability of a 650-mile reach, along with a Russian destroyer and a new tender, are making a port call at Nipe Bay on the north coast of Cuba. The destroyer has been in Cuba's waters since March of this year and the tender is training with Soviet cadets aboard.

It has been apparent now for some time that the Russians have been building up a very formidable military establishment in Cuba which poses as a threat to the security of the United States, and today's announcement is a new and appalling escalation of Soviet military incursion in the Western Hemisphere. This is a clear violation of the agreement between Russia and the United States that Russia would put no nuclear weapons in Cuba. This recent development is simply the culmination of Russia's attempt to establish greater and greater military, naval, and now nuclear forces in Cuba. Our Government must demand that Russia discontinue this aggressive policy which threatens our very security and is in violation of her agreement with us and in violation of the Monroe Doctrine. Such offensive tactics by Russia, in conjunction with the Castro government, must be immediately brought to a halt.

RABBI IRVING LEHRMAN

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on February 6 the Honorable Charles H. Silver delivered an address of appreciation in honor of Rabbi Irving Lehrman, spiritual leader of the Temple Emanu-El and national president of the Synagogue Council of America.

Most fitting was this eloquent tribute by Mr. Silver to Rabbi Lehrman, who is of a long line of Rabbis, a great scholar, a man of rare eloquence, and of deep dedication, not only to the cause of Israel but to the cause of humanity. Rabbi Lehrman is a man who stands tall above most men. He has long held up a great light of spiritual leadership, not only for those of his faith but of all faiths and the glow of the light he has cast has not only warned but illuminated innumerable minds and hearts. I deem it a great honor, therefore, Mr. Speaker to be able to offer to my colleagues and to my fellow countrymen this deserved tribute to Rabbi Lehrman and I ask that Mr. Silver's remarks appear in the RECORD immediately following my own:

RABBI LEHRMAN TRIBUTE

(Remarks by the Honorable Charles H. Silver at a dinner held at Temple Emanu-El, Miami Beach on February 6, 1972)

Most honored guests . . . and all of you—dear friends and neighbors—who have gathered to honor this great man of God.

In these days, so full of turmoil, so empty of trust, we seek—more and more—for the eternal truth—returning to the Torah—searching for God.

The synagogue is the force which has held us together as a people. It is the magic ingredient which preserved our Fathers through all the fearful horror of endless wandering, anguish and rejection.

The synagogue has been the cornerstone of our ethical and moral way of life through a long tormented history. From its altar flows the rich stream of our ancient tradition, our ethics, our philosophy, the words of fire that make ours a religion of law and of literature—and of love.

In this House of God burns the eternal light of Israel. Within its walls can be heard the thundering voice of wisdom. At this altar, we seek to guard the conscience of humanity.

And the keeper of the flame is a noble, warm and genuine human being, one truly inspired in his devoted service to God and man.

In all of my experience—in education, religion and social welfare—I have never encountered anyone who walked more firmly in the flame of his faith than the towering spiritual leader and dynamic guiding force of Temple Emanu-El.

For Rabbi Irving Lehrman is not only a scholar and teacher, but truly a practical visionary . . . devoted to the tradition and destiny of Israel, but dedicated to the wider service of all mankind.

In his duties as minister for more than a quarter of a century—he is never too busy to bring comfort and understanding to those who falter . . . to those who mourned . . . to those who needed the help he could give.

And he always gives generously of his own personality, strength and perception. He always has a solution. He always has time.

Through the darkest hours of Jewish suffering, during the tragic plight of our people, in the outrage and nightmare of Hitler, his voice was the voice of hope, his leadership was a beacon breaking through the blackest clouds.

And when the skies became brighter, he hailed a star of promise in the promised land and worked for the birth of the Republic of Israel as a member of the family of nations.

With a pure conscience and a proud but humble heart, he has been the warm and shining lesson of brotherhood for every being of every race and creed—rejecting and rebuking bigotry in any form.

The years go by and we often neglect those to whom we owe the most. We are all fortunate that this great spirit—who is a legend of his lifetime—can be recognized and honored during the vigorous days of his life while many of his most vital years lie ahead.

Rabbi Lehrman has taught us the meaning of religion in its most positive and active sense—the real meaning—the message and mission of the faith we follow.

He has taught us that we have a permanent obligation to concern ourselves with the welfare of others. Otherwise, the pages of our Holy Book are meaningless—our House of God becomes an empty shell—for He will not live in it.

Religion may begin in the church or temple, but it does not end there. It flourishes in the hearts of men of good will. It crosses the borders that separate us in small things. It brings us together to grapple with the larger goals of humanity—to rise nearer—to reach closer—to the Mind of God.

The faith reflected in the synagogue gives us the strength, the unity and courage to survive anguish and oppression—to endure all things, to resist all things, to overcome all things.

It spurs us to split again the sea of slavery and cross the seven oceans, settling on alien soil, making the barren desert bloom, mingling in many lands to enrich the culture, advance the science and increase the learning of all mankind for all time.

This is the eternal secret of the Jew's eternity—and it is the message that Rabbi Lehrman preaches so wisely—so movingly and so magnificently—from this pulpit.

Such wisdom—and such eloquence—are not gotten easily or in a single day. They must be harvested through a lifetime, fed by a mind passionately devoted to the quest for truth—by a heart ripe in the understanding of his fellow man.

Such a man respects himself as being made in the image of God. He carries a spark of that Divine Spirit deep within. He tackles his appointed task with skill and understanding, with loyalty and devotion to duty.

Such a man is Rabbi Irving Lehrman.

He has held high the sanctity of his calling with a dignity and dedicated responsibility that brings new greatness to the name of Rabbi.

Fearless and foremost in the fight for human rights, he is firm in his conviction that men who were created equal by God deserve equal treatment from other men.

He has done as much as any man to stir the conscience of the world on behalf of the homeless, the hopeless and the oppressed.

There is a magic about his very presence. It rises from the depths of his being . . . a hidden place where you know that truth and honor dwell.

Combining warmth and humanity with sincerity and strength, his words burn into the hearts of his hearers. They echo in many corners of the world, far beyond the walls of Temple Emanu-El.

There is no branch of community service, no broadening of opportunities for youth, no contribution to the social progress of our times and our people that have not known the benefit . . . yes, the blessing . . . of his energies, his wisdom and his spirit.

My dear friend and Rabbi, as I join your uncounted thousands of friends and admirers in this outpouring of friendship and appreciation, I fondly hope and firmly believe that you stand on the threshold of an even more brilliant career as a Jewish leader and Statesman.

RAVES ARE UNANIMOUS FOR SOUTHEASTERN'S "OF MICE AND MEN"

(Mr. ALBERT (at the request of Mr. DENHOLM) was granted permission to extend his remarks and include extraneous material in the body of the RECORD.)

Mr. ALBERT. Mr. Speaker, on Friday, April 28, Southeastern State College of Durant, Okla., presented John Steinbeck's "Of Mice and Men" at the Kennedy Center, as part of the American College Theater Festival, which brought together 10 of the Nation's best college theater productions. Southeastern's performance was superb and fully deserved the rave reviews it received from all three Washington daily newspapers.

Richard L. Coe, drama critic of the Washington Post, called the play an almost definitive production and "one of the series' major achievements." He wrote:

> If rankings were given, Southeastern would be pretty much at the top.

Louise Lague, writing in the Washington Daily News, pronounced it "a perfect production in several ways." David Richards of the Evening Star termed it "a heartfelt revival," and called Frank Wade's Lennie "so astonishingly right that I cannot envision it better played by a professional actor anywhere." "Charles Warthen also registered firmly as George," he continued, "and with few exceptions the supporting cast handled the understated idiom of the field hands nicely."

Mr. Speaker, at no time in history has Southeastern been better represented nor deserved more national recognition. I am extremely proud of the entire group and am grateful for a memorable evening. I am pleased to share with my colleagues the remarkable notices they earned:

[From the Washington Post, Apr. 29, 1972]

IN PERSPECTIVE: A DEFINITION "OF MICE AND MEN"

(By Richard L. Coe)

If rankings were given in the American College Theater Festival (they aren't) Southeastern Oklahoma State College would be pretty much at the top. Its production yesterday of Steinbeck's "Of Mice and Men" could almost be called definitive.

For this there were several reasons. The play itself remains an exceptionally substantial work, near the end of the naturalism period and an early voice in the compassionate school. One doubts that it seemed to have this firm definition in the Forties, but thirty years later it has the best qualities of both.

Today hulking, childlike Lennie would be called "retarded," but "nuts" was what his fellows in the Oklahoma bunkhouse called him. His relationship with understanding George would be seen today by some as a plea for gay liberation. But to his realistic setting Steinbeck brought the eyes and ears of a poet and from today's perspective he was perscient.

This is a story of very simple men living in loneliness on the vast ranches. Steinbeck views them as men, not as case histories, and gives to each of his ten characters an individual dignity. In his direction, David B. Cook emphasizes this and at the matinee hushes and responses showed complete audience involvement. (There were some young patrons who laughed at images of violence and one felt oddly sorry for them.)

Working in the American milieu, the players were far more secure than festival visitors appearing in adopted styles. One relished their ease in the script and settings, fine lumber walls strategically hammered into the right feel by designer Bill Groom and his crew.

Finally there were two exceptional performances of George and Lennie by Charles Warthen and Frank Wade. I question whether the originals could have been better. Warthen exhibited a wonderfully under stated style, in use of his hands, quiet speech, subtlest shadings of thought across his face. A huge fellow, Wade made crystal-clear Lennie's sad, wrenching innocence. Janie Freeman and Mike Dawson were outstanding in this skilled, admirable production.

College Theater Festival—"Mice and Men" Comes Out Cool

(By Louise Lague)

"Of Mice and Men," the offering of Southeastern Oklahoma State College in the American College Theater Festival was a perfect production in several ways. Not only was it well done, but it was an ideal choice of play.

Because John Steinbeck's play is set in a California ranch, nobody had to learn any French or English accents and take the risk of botching it up. The Oklahomans looked right at home in earthy roles and the sentiments expressed were basic enough for college students to work with effectively.

The plot concerns George, an itinerant ranch hand, and his not-too-bright friend Lennie who travels with him. The two travel a lot because Lennie always gets in trouble for liking to touch soft things. He doesn't know his own strength and usually ends up killing them.

At the Salinas River valley ranch where the play takes place, the soft thing Lennie chooses to touch and kill is the boss' daughter-in-law.

Charles Warthen, did a fine job as George, to the point where it was almost impossible to believe he wasn't really George. The same was true of Frank Wade as Lennie, but his was the greater acting victory. Who could believe that that six-foot-nine giant of a man acting as a child, so afraid to even touch a beautiful collie for fear of a scolding from George, is in real life Dr. Frank Wade a professor of biology at Southeastern who had never been in a play before?

Other fine performances were put in by Don Hill, who played a marvelous stooped and aged Candy. Janie Freeman as the murder victim and John Waggoner as Carlson, who was just swaggering and tough enough to shoot a dog in the head.

Traditionally, the players in the American College Theater Festival are very good or they wouldn't be there in the first place. But the selection of the right play for the right cast is both very difficult and key in the success of the show. In this case, director David B. Cook hit the nail right on the head.

[From the Washington Post, May 1, 1972]

Festival: Good Averages

(By Richard L. Coe)

With its audiences joining on stage for a final frenzied Charleston, "The Boy Friend" ended the American College Theater Festival Saturday night. Under Hank Diers' direction, with lively choreography by Paul Avery, the University of Miami's production was spirited in every way and audiences gave both performances rousing welcomes.

Miami's was the first production in four years to present an "artist in residence" and the idea was profitable. She was TV's Denise Lor, a favorite in the big summer theaters for star roles in "Annie Get Your Gun," "Gypsy" and "Funny Girl." Her strong professionalism proved catching, her nicely comic Mme. Dubonnet, headmistress of the French girls' school, becoming a mettlesome foil for Jack Metzger's fine Percival. Playing an older, stuffy type, the young actor benefitted immensely from having Miss Lor to play opposite. Her assurance bolstered all the leads appreciably and in this case, certainly, the "artist in residence" notion was an excellent one.

A further virtue of the production was its staging and dancing, creating an ensemble feel for both principals and chorus. While it can't be said that Marsha Sayet and Peter Heuchling have the voices for musical comedy careers, their playing of Polly and Tony had charm. As always with "The Boy Friend," the Maisie and Bobby, Pamela Talus and Dean Paulin, scored and deservedly. The staging also shifted the "Never Too Late" number to Lord Brockhurst, a role Bucketts Lowery hammed happily and in the tango number Jerry DiChiara and Kim Tuttle were fine.

Since the musical comedy stage actually offers more jobs than straight drama for young people, Miami was wholly justified in choosing that genre and, at that, a work offering many small opportunities. The Sandy Wilson musical is filled with the bounce of youth and not since Julie Andrews' introduction in it have I seen it so zestfully and effectively performed. To Miss Lor, Messrs. Diers and Avery and all hands, congratulations.

My admiration for Southeastern Oklahoma State College's "Of Mice and Men" appeared only in the early Saturday editions and for the record it should be noted as one of the series' major achievements.

With direction by David B. Cook in excellent sets by Bill Groom, the cast was powerfully headed by Charles Warthen and Frank Wade. I doubt the originals could have been a bit better. Their George and Lenny achieved a splendid relationship, Warthen being an actor who made small character choices count.

The Polish group excepted, Oklahoma's group stood at the top of the Festival's dramatic work along with the vastly larger University of Minnesota school.

Thus, the two-week series ended on two contrasting high points. The winnowing of productions from the regional festivals by the American Theater Association may seem quitoxic to those unaware of the complexities of college theater seasons, but the complexities must be understood before passing judgments.

At all events, one can look back on at least five rewarding performances out of 12, not an average to be scorned. One hopes that American Oil Company will continue to support these regional and Washington salutes to our creative American young. They could hardly invest in a worthier venture. These young are our theater's future.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Brooks, for the period from May 9 through May 14, on account of official absence to attend committee meetings of North Atlantic Assembly in Brussels, Belgium, as U.S. delegate.

Mr. Gude (at the request of Mr. Gerald R. Ford), from May 1 through May 8, 1972, on account of official business.

Mr. Biester (at the request of Mr. Gerald R. Ford), from May 1 through May 8, 1972, on account of official business.

Mr. Kee (at the request of Mr. O'Neill), for today, on account of illness in the immediate family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. McKevitt) to revise and extend their remarks and include extraneous material:)

Mr. Kemp, for 10 minutes, today.

Mr. Anderson of Illinois, for 30 minutes, today.

Mr. Blackburn, for 5 minutes, today.

(The following Members (at the request of Mr. Denholm) to revise and extend their remarks and include extraneous material:)

Mr. Minish, for 10 minutes, today.

Mr. Rodino, for 10 minutes, today.

Mr. Aspin, for 10 minutes, today.

Mr. Gonzalez, for 10 minutes, today.

Mr. Matsunaga, for 10 minutes, today.

Mr. Begich, for 5 minutes today.

Mr. Burke of Massachusetts, for 10 minutes, today.

Mr. Fuqua, for 10 minutes, today.

Mr. Reuss, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Mahon and to include extraneous matter and tables.

(The following Members (at the request of Mr. McKevitt) and to include extraneous material:)

Mr. Talcott.

Mrs. Heckler of Massachusetts.

Mr. Riegle.

Mr. Schmitz in four instances.

Mr. Kemp in two instances.

Mr. Wyman in two instances.

Mr. Archer in two instances.

Mr. Quillen in two instances.

Mr. Scott.

Mr. Hosmer in two instances.

Mr. Shoup.

Mr. Zwach.

Mr. McClure.

Mr. Kuykendall.

Mr. Mallary.

(The following Members (at the request of Mr. Denholm) and to include extraneous material:)

Mr. Addabbo.

Mr. Albert.

Mr. Wolff in three instances.

Mr. Moorhead.

Mr. Culver in five instances.

Mr. Drinan.

Mr. Gonzalez in three instances.

Mr. Rarick in five instances.

Mr. Rogers in five instances.

Mr. Pucinski in 16 instances.

Mr. Waldie in six instances.

Mr. Roush.

Mr. Hungate in two instances.
Mr. Delaney.
Mr. Kastenmeier in three instances.
Mr. Hanna in three instances.
Mr. St Germain.
Mr. Aspin in 10 instances.
Mr. Mitchell.
Mr. Corman in six instances.
Mr. Griffin in two instances.
Mr. Dulski in six instances.
Mr. Carey of New York.
Mr. Stuckey in two instances.
Mr. Dorn in two instances.
Mr. Kluczynski.
Mr. Murphy of Illinois in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1140. An act to authorize the sale of certain lands of the Southern Ute Indian Tribe, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 3380. An act to permit immediate retirement of certain Federal employees; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 9019. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Jicarilla Apache Tribe in Indian Claims Commission docket No. 22-A, and for other purposes; and

H.R. 13753. An act to provide equitable wage adjustments for certain prevailing rate employees of the Government.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 641. An act for the relief of Luis Guerrero-Guadalupe Guerrero-Chavez, and Alfredo Guerrero-Chavez;

S. 1089. An act for the relief of Robert Rexroat;

S. 1675. An act for the relief of Antonio Plameras;

S. 1923. An act for the relief of Harold Donald Koza;

S. 2676. An act to amend the Public Health Service Act to provide for the control of sickle cell anemia;

S.J. Res. 173. Joint resolution to provide for the appointment of A. Leon Higginbotham, Jr., as citizen regent of the Board of Regents of the Smithsonian Institution;

S.J. Res. 174. Joint resolution to provide for the appointment of John Paul Austin as citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 175. Joint resolution to provide for the appointment of Robert Francis Goheen as citizen regent of the Board of Regents of the Smithsonian Institution.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 34 minutes p.m.), under its previous order, the House adjourned until Monday, May 8, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1933. A communication from the President of the United States, transmitting an amendment to the request for appropriations transmitted in the budget for fiscal year 1973 for the Department of Transportation (H. Doc. No. 92-289); to the Committee on Appropriations and ordered to be printed.

1934. A letter from the Assistant Administrator, Agency for International Development, Department of State, transmitting the semiannual report of the Agency on architectural and engineering fees in excess of $25,000, covering the period ended June 30, 1971, pursuant to section 102 of the Foreign Assistance and Related Programs Appropriation Act; to the Committee on Appropriations.

1935. A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting the semiannual report on the strategic and critical materials stockpiling program for the period ended December 31, 1971, pursuant to section 4 of the Strategic and Critical Materials Stock Piling Act; to the Committee on Armed Services.

1936. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report for the third quarter of fiscal year 1972 on the total amount of assistance-related funds obligated in, for, or on behalf of Cambodia (Khmer Republic), pursuant to section 655 of the Foreign Assistance Act of 1971; to the Committee on Foreign Affairs.

1937. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to authorize the appropriation for the contribution by the United States for the support of the International Agency for Research on Cancer; to the Committee on Foreign Affairs.

1938. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

1939. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the cases of certain aliens under the authority contained in section 13 (b) of the act of September 11, 1957, pursuant to section 13(c) of the act; to the Committee on the Judiciary.

1940. A letter from the Chairman, U.S. Civil Service Commission, transmitting a report of the sums credited to the civil service retirement and disability fund under 5 U.S.C. 8348(g) (1) and (2) for fiscal year 1971; to the Committee on Post Office and Civil Service.

Received From the Comptroller General

1941. A letter from the Comptroller General of the United States, transmitting a report on the examination of the financial statements of the Panama Canal Company for fiscal years 1970 and 1971, and on the examination of the financial statements of the Canal Zone Government for the same period; to the Committee on Government Operations and ordered to be printed with illustrations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MORGAN: Committee on Foreign Affairs. H.R. 14149. A bill authorizing continuing appropriations for Peace Corps, and for other purposes; with amendments (Rept. No. 92-1046). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAYS: Committee on Foreign Affairs. H.R. 14734. A bill to authorize appropriations for the Department of State and for the U.S. Information Agency (Rept. No. 92-1047). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of conference. Conference report on H.R. 9212 with amendment (Rept. No. 92-1048). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ANDREWS of Alabama:

H.R. 14778. A bill to amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. BINGHAM:

H.R. 14779. A bill to amend the Federal Trade Commission Act in order to improve its consumer protection activities; to the Committee on Interstate and Foreign Commerce.

H.R. 14780. A bill to amend the Fair Packaging and Labeling Act to reveal the manufacturing source of products, to provide for a uniform system of quality grades for food products to provide for a system of labeling of food products to disclose the ingredients thereof and the percentage of ingredients, to provide for a system of national standards for nutritional labeling of food products, to provide for a system of labeling of perishable and semiperishable foods, to provide for a system of unit pricing and to provide for a system of labeling of food products to disclose harmful effects thereof; to the Committee on Interstate and Foreign Commerce.

By Mr. COUGHLIN:

H.R. 14781. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. CULVER:

H.R. 14782. A bill to provide an immediate and effective response to the needs of older Americans for suitable housing and related services; to the Committee on Banking and Currency.

H.R. 14783. A bill to provide certain new transportation services to elderly persons, to authorize studies and demonstration projects for the improvement of transportation services to the elderly, and for other purposes; to the Committee on Banking and Currency.

H.R. 14784. A bill to authorize the establishment of an older worker community service program; to the Committee on Education and Labor.

H.R. 14785. A bill to provide financial assistance for the construction and operation of senior citizens' community centers, and for other purposes; to the Committee on Education and Labor.

By Mr. GIBBONS:

H.R. 14786. A bill to amend the Communications Act of 1934 to provide that renewal licenses for the operation of a broadcasting station may be issued for a term of 5 years and to establish certain standards for the consideration of applications for renewal of broadcasting licenses; to the Committee on Interstate and Foreign Commerce.

By Mrs. GRASSO:

H.R. 14787. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to stimulate and encourage industrial and commercial development in the United States by assisting and facilitating the development by small business concerns of new products and industrial innovations and inventions; to the Committee on Banking and Currency.

By Mr. HAYS:

H.R. 14788. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mrs. HECKLER of Massachusetts:

H.R. 14789. A bill to strengthen and expand the Headstart program, with priority to the economically disadvantaged, to amend the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Education and Labor.

By Mrs. HECKLER of Massachusetts (for herself, Mr. Bevill, Mr. Edwards of Alabama, Mr. Fraser, Mrs. Dwyer, Mr. Kuykendall, Mr. St Germain, Mr. Brademas, and Mr. Zion):

H.R. 14790. A bill establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date; to the Committee on Interstate and Foreign Commerce.

By Mrs. HECKLER of Massachusetts:

H.R. 14791. A bill to amend title II of the Social Security Act to provide that any individual may qualify for disability insurance benefits and the disability freeze if he has 20 quarters of coverage (and meets the other conditions of eligibility therefor), regardless of when such quarters were earned; to the Committee on Ways and Means.

By Mr. HEINZ:

H.R. 14792. A bill to create a demonstration project for the maintenance of safe Federal-aid highways, other than interstate, by the most feasible economical methods; to the Committee on Public Works.

By Mr. KLUCZYNSKI:

H.R. 14793. A bill to provide that a Federal building being constructed in the District of Columbia shall be named the "J. Edgar Hoover FBI Building"; to the Committee on Public Works.

By Mr. McCORMACK:

H.R. 14794. A bill to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes; to the Committee on Education and Labor.

H.R. 14795. A bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes; to the Committee on House Administration.

H.R. 14796. A bill to increase the contribution of the Federal Government to the costs of employees' health benefits insurance; to the Committee on Post Office and Civil Service.

H.R. 14797. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 14798. A bill to amend subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. McMILLAN:

H.R. 14799. A bill to amend the Internal Revenue Code of 1954 to exempt certain agricultural aircraft from the aircraft use tax, to provide for the refund of the gasoline tax to the agricultural aircraft operator with the consent of the farmer, and for other purposes; to the Committee on Ways and Means.

By Mr. MALLARY:

H.R. 14800. A bill to amend the Occupational Safety and Health Act of 1970; to the Committee on Education and Labor.

By Mr. MATSUNAGA:

H.R. 14801. A bill to promote the exploration and development of geothermal resources through cooperation between the Federal Government and private enterprise; to the Committee on Interior and Insular Affairs.

By Mr. MINSHALL:

H.R. 14802. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. OBEY (for himself, Mr. Abourezk, Mrs. Abzug, Mr. Collins of Illinois, Mr. Drinan, Mr. Fraser, Mr. Halpern, Mrs. Hansen of Washington, Mr. Link, Mr. Mitchell, Mr. Steiger of Wisconsin, Mr. Waldie, and Mr. Zablocki):

H.R. 14803. A bill to repeal the act terminating Federal supervision over the property and members of the Menominee Indian Tribe of Wisconsin; to reinstitute the Menominee Indian Tribe of Wisconsin as a federally recognized, soverign Indian tribe; and to restore to the Menominee Tribe of Wisconsin those Federal services furnished to American Indians because of their status as American Indians; to the Committee on Interior and Insular Affairs.

By Mr. O'NEILL:

H.R. 14804. A bill to provide certain amounts of broadcast time for candidates for President and Vice President of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. PEPPER (for himself and Mr. Wolff):

H.R. 14805. A bill to amend the Internal Revenue Code of 1954 to allow a deduction in computing gross income for theft losses sustained by individuals, for certain amounts paid to protect against theft, for medical expenses caused by criminal conduct, and for funeral expenses of victims of crime; to the Committee on Ways and Means.

By Mr. REES:

H.R. 14806. A bill to amend the Export Administration Act of 1969 in order to promote freedom of emigration; to the Committee on Banking and Currency.

By Mr. SCHNEEBELI:

H.R. 14807. A bill to allow individuals a limited carryback of capital losses sustained upon the sale of securities received in certain taxable exchanges; to the Committee on Ways and Means.

By Mr. STRATTON (for himself and Mr. O'Neill):

H.R. 14808. A bill to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, and for other purposes; to the Committee on Ways and Means.

By Mr. THOMSON of Wisconsin (for himself, Mr. Fraser, Mr. Frenzel, Mr. Karth, Mr. Obey, Mr. Quie, and Mr. Steiger of Wisconsin):

H.R. 14809. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Saint Croix River, Minn. and Wis., as a component of the national wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

By Mr. BURKE of Massachusetts:

H.J. Res. 1188. Joint resolution to authorize the President to issue a proclamation designating the week of October 15, 1972, through October 21, 1972, as "National Indian Week"; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.J. Res. 1189. Joint resolution declaring the policy of the United States with respect to the termination of hostilities in Indochina; to the Committee on Foreign Affairs.

By Mr. SHOUP:

H. Res. 966. Resolution expressing the sense of the House of Representatives that the full amount appropriated for the rural electrification program for fiscal 1972 should be made available by the administration to carry out that program; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COUGHLIN:

H.R. 14810. A bill for the relief of Bruce A. Feldman, lieutenant commander, Marine Corps, U.S. Navy Reserve; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 14811. A bill for the relief of Alfred Luna; to the Committee on the Judiciary.

By Mr. GREEN of Pennsylvania:

H.R. 14812. A bill for the relief of Margaret A. Wunderle; to the Committee on the Judiciary.

By Mr. HUNGATE:

H.R. 14813. A bill for the relief of Henry D. Espy, James A. Espy, Naomi A. Espy, Jean E. Logan, and Theodore R. Espy; to the Committee on the Judiciary.

By Mr. GREEN of Pennsylvania:

H. Con. Res. 602. Concurrent resolution expressing the sense of Congress in the case of Margaret A. Wunderle; to the Committee on the Judiciary.

SENATE—*Thursday, May 4, 1972*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Reverend Dr. Karl B. Justus, executive director, Military Chaplains Association of the United States, Washington, D.C., offered the following prayer:

Almighty and Eternal God, whose compassion extends to all men without favor, as these distinguished Senators convene today may each place his mind, his heart, and hands, in the hands of the Galilean who calmed the troubled sea.

Confronted at home as we are with domestic problems, continuing division and distrust, protest and oft-unreasoned dissent; still faced with a raging conflict afar from which we seek to disengage, but with dignity, justice, honor, and self-respect; wilt Thou, O Lord, grant us wisdom and courage for this day and age.

Bless President Nixon. Give him vision, fortitude, and faith, ever remembering that "God is our refuge and strength, a very present help in trouble."

In this year when men of dreams and desires tread the political hustings, may there be dialog as well as debate, with truth and integrity, mindful that regardless of party differences, first, last, and always, our loyalties must be to America and its heritage of faith and freedom under God, even as this was true of J. Edgar Hoover, that stalwart warrior of law and order, who is being laid to rest at this hour. May peace attend his way.

Bless, O Lord, our prisoners of war and their suffering families; hasten their safe return. With equal haste, bring reason, love, and understanding to the minds of men and nations that we may achieve a peace that is just and lasting.

God bless America, land that we love. In Thy holy name, we pray. Amen.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, May 3, 1972, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

BLACK LUNG BENEFITS ACT OF 1972—CONFERENCE REPORT SUBMITTED DURING ADJOURNMENT

Under authority of the Senate of May 3, 1972, Mr. RANDOLPH on May 3, 1972, during the adjournment of the Senate, submitted a report of the committee of conference on the disagreeing votes of the two Houses of the amendments of the Senate to the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes (Rept. No. 92–780).

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on May 1, 1972, the President had approved and signed the bills (S. 978) authorizing the conveyance of certain lands to the University of Utah, and for other purposes; and (S. 1989) to amend title 39, United States Code, to provide for the renewal of certain star route contracts; and the joint resolution (S.J. Res. 117) asking the President of the United States to declare the fourth Saturday of September 1972 "National Hunting and Fishing Day."

EXECUTIVE MESSAGE REFERRED

As in executive session, the President pro tempore laid before the Senate a message from the President of the United States submitting the nomination of Maj. Gen. John D. Lavelle to be placed on the retired list in the grade of lieutenant general, which was referred to the Committee on Armed Services.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

INDIANS OF THE PUEBLO OF COCHITI

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 743, S. 538.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 538, to declare that certain federally owned lands are held by the United States in trust for the Indians of the Pueblo of Cochiti.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in and to the following described federally owned lands, together with all improvements thereon, situated in Sandoval County, New Mexico, which were acquired for school purposes, and which have been determined to be excess to the needs of the Federal Government, are hereby declared to be held by the United States in trust for the Pueblo of Cochiti, subject to all valid existing rights-of-way of record:

That parcel of land in section 19, township 16 north, range 6 east, New Mexico principal meridian, described as beginning at the northeast corner, whence the southwest corner of the church bears south 72 degrees 35 minutes east, 420.6 feet distant; thence north 66 degrees 13 minutes west, 480 feet to the northwest corner; thence south 23 degrees 47 minutes west, 300 feet to the southwest corner; thence south 66 degrees 13 minutes east, 480 feet to the southeast corner; thence north 23 degrees 47 minutes east, 300 feet to the northeast corner, the place of beginning; containing 3.308 acres, more or less.

SEC. 2. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of any lands and improvements placed in a trust status under the authority of this Act should or should not be set off against any claim against the United States determined by the Commission.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–775), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The bill provides that all right, title, and interests of the United States in 3.308 acres, more or less, of federally owned land, acquired for school purposes, together with improvements thereon, will be held in trust by the United States for the Pueblo of Cochiti, subject to existing rights-of-way.

EXPLANATION

This property was acquired by the United States from the Pueblo through condemnation action for a consideration of $150 and was used as a Government-supported school for the Cochiti Indians until the mid-1960's. The land and improvements were then permitted to the school board of the Bernalillo Public Schools for the purpose of operating a public school and providing housing for teachers. This permit was terminated upon completion of the construction of a new public school to serve the educational needs of the Cochiti Pueblo children.

When the new school was completed, the Cochiti site became excess to the needs of the Bureau of Indian Affairs for school or other purposes. After this, the facilities were used for community purposes such as the Pueblo Governor's office, council office, library, and Headstart classrooms.

The subject property is located within the village of Cochiti and is adjacent to tribal land, most of which is assigned to individual members of the pueblo for homesites.

The land, together with the improvements, now have an estimated value of $31,000. The existing buildings are old and will require a considerable outlay for maintenance.

With the title held in trust for the Cochiti Pueblo, the pueblo will be justified in expending tribal funds to maintain and repair the buildings, and at the same time the Federal Government will be relieved of the responsibility for maintenance and upkeep.

Although the Cochiti Pueblo has no formal land consolidation program, it has a policy long established of acquiring parcels within the boundaries of the reservation through land exchanges in order to consolidate its use areas.

COST

No additional expenditure of Federal funds will result from the enactment of S. 538.

VETERANS MEDICAL CARE ACT OF 1971—MESSAGE FROM THE HOUSE

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 10880.

The PRESIDENT pro tempore laid before the Senate the bill (H.R. 10880) to amend title 38 of the United States Code to provide improved medical care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent for the immediate consideration of the bill.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which was read twice by its title.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all after the enacting clause be stricken and that the text of S. 2354, as amended and reported by the Committee on Veterans' Affairs, and now on the calendar, be substituted in lieu thereof.

The PRESIDENT pro tempore. Without objection, it is so ordered.

VETERANS HEALTH CARE EXPANSION ACT OF 1972: REFORM AND MODERNIZATION OF VA MEDICAL PROGRAM

Mr. CRANSTON. Mr. President, on behalf of the Committee on Veterans' Affairs, I thank the leadership on both sides for bringing up for consideration so promptly the provisions of S. 2354 which I reported from the Committee on Veterans' Affairs on Tuesday, May 2—No. 776. We have asked that the text of the reported bill be inserted in H.R. 10880, the House-passed counterpart measure which is being held at the desk.

At the outset, I want to express my special appreciation to the chairman of the Veterans' Affairs Committeee (Mr. HARTKE) for his cooperation and his contributions to this highly important legislation, and I thank him for asking me to manage this bill on the floor today. We have also had outstanding assistance from the ranking minority committee member (Mr. THURMOND) as well as the ranking minority member of the Subcommittee on Health and Hospitals (Mr. HANSEN), which I am privileged to chair, and the ranking majority member of the subcommittee (Mr. RANDOLPH).

Mr. President, the Subcommittee on Health and Hospitals held comprehensive oversight hearings on VA medical care and on S. 2354 and related bills during the spring and summer of 1971. On March 28, the Committee on Veterans' Affairs unanimously ordered S. 2354 favorably reported with amendments I had proposed and which were unanimously adopted in subcommittee on February 16. At full committee, the amendments were consolidated into a committee substitute amendment.

I am extremely proud of the fact that all actions of the Health and Hospitals Subcommittee and of the full committee on veterans' health legislation to date has been unanimous, as was the action of the Senate a week ago in adopting the provisions of my bill—S. 2219—the VA Health Manpower Training Act of 1972.

Together these bills—S. 2354 and S. 2219—are a culmination of a legislative program that first began to take shape in my mind during extensive oversight hearings I chaired of the Subcommittee on Veterans' Affairs of the Labor and Public Welfare Committee in the 91st Congress, conducting a 6-months' investigation—between November 1969 and April 1970—into the quality of medical care for veterans wounded in Vietnam.

Two years ago, in speeches to the American Legion, the Veterans of Foreign Wars, and the Disabled American Veterans, I outlined the need for new legislative directions for the VA Department of Medicine and Surgery as follows:

> I believe several principles should guide the VA medical program in producing first quality care for our veterans.
>
> First, the VA system must be viewed as part of a larger pattern of community medical care if it is to prosper as a modern, high quality health system. Now, I am not suggesting diluting the VA system or its distinctive veterans orientation. But the VA cannot share in innovations and new techniques if it is not involved in planning the health activities of the communities where its facilities are located.
>
> Time and again, our hearings have shown the VA health care crisis to be symptomatic of a massive nationwide medical care crisis. The VA's problems cannot be resolved in isolation. In virtually every community, there are shortages of doctors, nurses, allied health professionals, medical equipment, physical facilities, and outpatient care.
>
> Thus, I will introduce legislation to build upon the present VA relationship with regional medical programs and other community health planning efforts. The bill would require that both the VA and the Department of Defense be represented on the national and area-wide regional medical program advisory councils. I am also asking that they be represented on the state advisory groups of comprehensive health planning agencies and community mental health centers. This should increase coordination and promote an interchange of ideas to improve the VA's and the community's capacity to deliver quality medical care.
>
> I will also introduce, with some modifications, an administration proposal to permit VA hospitals to participate more actively in regional medical programs. It will also authorize the VA to receive direct grants for multi-program projects, and to enter into subcontracts with regional medical grantees for coordinated improvements in VA programs on heart, cancer or stroke.
>
> Another principle of which I am convinced is that the VA system should be more fully responsive to the medical needs of all veterans and their families. The system is dedicated to them. If there is a lessening demand for hospital beds as the VA contends—although restrictive admission policies could very well be the cause of reduced inpatient levels—then we must change eligibility requirements if we don't want to dangerously weaken the whole system. I plan to introduce a number of bills to meet this crisis.
>
> One is a 'Family Bill' to provide full VA medical and hospital care for the dependents of totally and permanently disabled living veterans, as well as survivors receiving disability and indemnity compensation. Caring for the dependents of sick or deceased service-connected veterans surely should be a vital purpose of the VA.
>
> Existing personnel capacities, especially at VA hospitals affiliated with medical schools, appear adequate for this job. And broadening the variety of cases to include children and women should help the VA recruit higher calibre medical personnel.
>
> This 'Family' bill will also enable the VA to treat a veteran's family where that is necessary for the veteran's total care and rehabilitation. Two examples will illustrate my intention.
>
> Eminent psychiatrists have pointed out that most patients with psychological disturbances cannot be properly treated apart from their family situation. But the law doesn't permit family treatment and so it is often bootlegged. I maintain that when the veteran's total care requires that his family be treated with him, he should be entitled to such total care for his condition through his family.
>
> Similarly, total care of a physically disabled veteran may require that his family be fully oriented on the philosophy of his rehabilitation program. The VA should be able to bring key family members to the hospital for this orientation, as is done now on a limited basis at the blind centers, with non-appropriated funds.
>
> This "family" bill also would provide specific authority for the VA to stress home care programs for any hospitalized veteran. Although a start has been made by the VA in home kidney dialysis, much more needs to be done, especially in the psychiatric field. Most medical experts agree that institutional care is the least desirable. Alternatives should be fully explored.
>
> "Home care", employing mobile teams to train families and conduct post-hospital follow-up, can in many cases provide more compassionate, more effective and far more economical care.
>
> In line with the idea of total care, I am considering another bill to amend present restrictions on care for a non-service-connected condition unrelated to the condition for which a veteran was hospitalized. Clearly, a physician cannot ethically assume responsibility for only a portion of his patient's health, and we should stop asking doctors to walk this impossible line. Instead, we should authorize necessary medical care for any illness of a hospitalized veteran.
>
> Along these same lines, I am exploring expanding pre-hospital outpatient care for non-service-connected conditions to include reasonably necessary care to prevent hospitalization, as well as to prepare for it.
>
> Another bill . . . would insert into VA law a full definition of rehabilitative services.
>
> It would stress the right of a severely disabled veteran to a comprehensive program aimed at restoring him to his family and community as a productive, self-respecting, and self-sustaining member of our society. The VA is hampered by many difficulties in this area, and new legal definitions will not resolve all of them. But at least the goal

would be clearly and authoritatively established. Moreover, I plan other steps to implement it, such as fighting for necessary appropriations for staffing spinal cord injury units.

Another bill I plan to introduce would establish nursing home care as a clear part of hospital care, thereby permitting veterans to apply for direct admission to a VA nursing home without prior VA hospitalization. This bill would also raise the present statutory minimum of 4,000 VA nursing home beds to 6,000. There is an unmet demand for VA nursing home beds by World War I veterans which will expand as our World War II veterans grow older. We should consider converting hospital beds not being fully utilized into VA nursing home beds. Community nursing homes are already greatly in demand among the aging non-veteran.

Another bill I will . . . offer would deal with psychiatric disturbances, alcoholism and drug abuse among Vietnam veterans. These problems may prove to be enormous in the years ahead. I propose expanding the present presumption of service-connection for mental conditions, which now applies only to an active psychosis occurring within two years of discharge, to include any psychosis, neurosis or character disorder or chronic alcoholism or drug abuse problem arising within three years of separation. That would make outpatient treatment available to men whose problems were accelerated or aggravated, if not caused, by their service. Outpatient care is often the most appropriate for low-grade emotion disturbances and drug abuse. Vietnam veterans seem especially likely to suffer from these problems.

Also being developed is a bill to provide the VA with new responsibilities to train and employ more doctors, nurses, and allied health professionals, especially so-called physicians assistants. It would also revise personnel authorities to enable the VA to compete more effectively for scarce health professionals. The VA must be able to enlarge its training program if it is ever going to make up its personnel shortages. The VA should perhaps be authorized to pay special salary differentials for posts they are having difficulty filling. And the VA should be able to peg general salaries geographically to an index community hospital.

Such a personnel system bill would also require that every VA facility reach a comparable staff-to-patient ratio with an index community hospital within three years. The present disparities are shocking: 1.5 for the VA general hospital, 2.7 for the average community hospital, and 3.5 to 4.0 for the university hospital; and that means inadequate care, inadequate attention, and inadequate time for the veterans in those hopsitals.

Mr. President, it has taken us a full 2 years to develop this legislation and bring it to the Senate floor because the major focus of our efforts in 1969, 1970 and the first half of 1971 of necessity was budgetary—specifically with reference to the fiscal years 1971 and 1972 VA medical and hospital program budget requests. Our 1970 and 1971 oversight investigations culminated each year in detailed and comprehensive budgetary findings and recommendations for increased appropriations which I presented to the appropriate Appropriations Committee subcommittee chaired by the distinguished Senator from Rhode Island (Mr. PASTORE) who has been and is a great friend of all veterans.

The result of these efforts was a VA medical and hospital program total appropriation increase of $367.1 million over a 2-year period above the amounts requested in the President's original budget requests. This increase, coupled with the request for fiscal year 1973, which I find relatively sufficient under existing enabling legislation, will have resulted in increases in VA hospital staffs by approximately 20,000 new doctors, dentists, nurses, technicians, and allied health workers by 1973—over a 2½ year period. This is true even though approximately 30 percent of the total appropriation increase was either not spent at all or not spent for the purposes intended by the Congress—improving the VA hospital and medical program.

Thus, Mr. President, the message has finally gotten to the administration after our two successful congressional efforts in 1970 and 1971, and we find the fiscal year 1973 budget also contains far more reasonable allocations for replacement and repair of equipment, purchase of supplies, and medical and prosthetic research, as well as a substantial expansion of the construction and remodeling budget—far more realistic than the budget requests originally submitted for fiscal 1971 or 1972.

Our oversight hearings over an 18-month period produced extensive information regarding not only funding inadequacies in the operation of D.M. & S. but also programmatic shortcomings derived largely from restrictive statutory provisions in title 38 of the United States Code. The prescription to overcome these difficulties was initially set forth in S. 2354, which I introduced last July 27. This bill was in part a companion measure to H.R. 37 and its successor bill H.R. 10880, now passed by the House. It also incorporated, with some relatively minor revisions almost all the administration proposals included in S. 1924—the administration bill—and the committee substitute under consideration today incorporates several other minor VA proposals submitted subsequently.

The basic theme for our hearings on this legislation and the philosophy underlying S. 2354 and the committee substitute were summed up in my opening statement at the morning session of the August 4, 1971, hearings as follows:

> Thus, as we open these hearings and begin to consider the comprehensive legislative proposals before us, it is our task to reevaluate and rethink basic VA hospital . . . enabling legislation, and to revise and reform it as necessary to enable this enormous, largest single hospital and medical program in this country to move forward to provide quality care to all eligible veterans and, in appropriate cases, their eligible dependents. Thus, we are entering a second phase in the work we seek to accomplish in regard to veterans [medical] care.

As a result of the hearings on August 4, 1971, and the earlier ones I have cited, the committee found that the potential increase in the need for treatment for drug addiction and the aging of the World War II veteran population, with a concomitant onset of medical complications to those veterans, promises increasing demands on the Veterans' Administration hospital and medical system in terms of staff and facilities. Moreover, the rapid technological advances occurring continually in the medical community create an added obligation on the Veterans' Administration which, though leading in many of these areas, must keep its staff informed and its equipment up to date, as new techniques and treatment processes are developed.

Mr. President, the committee substitute is therefore intended to provide D.M. & S. with the full legislative authority needed to meet this increasing demand with application of up-to-date medical care and technology, to attract and retain high-quality staff able and motivated to provide total health care to the veteran, and in certain instances, members of his family, and to function in closer relationship to health care institutions and personnel in the surrounding community, a purpose shared by S. 219, passed a week ago.

Mr. President, the Veterans Health Care Expansion Act of 1972 is designed to launch the Veterans' Administration on the most comprehensive series of medical reforms in its 42-year history. This far-ranging measure calls for expenditures over 5 years of $900 million—$167 million of it in fiscal 1973. A comparison with the provisions of the House-passed bill and the administration proposal—S. 1924—is set forth in a chart in the committee report—No. 776—which I include in the RECORD at this point:

COMPARATIVE COST ESTIMATES FOR FIRST FULL FISCAL YEAR

[In millions of dollars]

S. 2354 provision		Comparable S. 1924 provision		Comparable H.R. 10880 provision	
Section	Cost	Section	Cost	Section	Cost
TITLE I					
101(a), contract care	Included in 102(3)	None		None	
101(b), family	No estimate	do		do	
101(b), direct admission to VA nursing home	do	do		do	
101(c), home health	do	do		do	
102(1), peacetime	6.9	do		do	
102(2), In-hospital for non-s/c	No estimate	do		do	
102(3), dependents	16.9	do		101(b)	16.9.
103(a), outpatient care "obviates."	6.7	102	6.7	102	6.7.
103(a), outpatient care, 50 percent disabled	77.2	None		None	
103(a), outpatient care, dependents	8.7	do		102	6 (House report).

COMPARATIVE COST ESTIMATES FOR FIRST FULL FISCAL YEAR—Continued

[In millions of dollars]

S. 2354 provision		Comparable S. 1924 provision		Comparable H.R. 10880 provision	
Section	Cost	Section	Cost	Section	Cost
TITLE I					
103(a), Outpatient care, peacetime	4.78	do.		None	
103(b), annual report, new eligibility	No estimate	do.		do.	
104(a), military to comm. n/h	do.	do.		do.	
104(b), NH standards	do.	do.		do.	
104(d), to comm. n/h after VA exam for s/c	No cost	Recommended in VA Mar. 28 report	No cost	do.	
105, earthquake loss	No estimate	None		do.	
106(a) and (b), reimbursable emergency care	No cost	do.		105	No cost.
107, extend authority for grants, Philippines veterans' hospital	2.1	do.		None	
108, sickle cell screening	2.3	do.		do.	
108, research	3.0	do.		do.	
Title I, subtotal	128.58		6.7		29.6.
TITLE II					
201, index hospitals	No estimate	None		None	
202, new ACMD's	.080	202	.080	203	0.080.
203-205, physicians' assistants under title 38	No estimate	None		None	
206(1), upgrade officers	.087	203	.057	203	0.087.
206(1), physicians' assistants pay grade	No estimate	None		None	
206(2), nurse, LPN & NA premium pay	22.5	204	18.3	204	18.3.
206(2), apply to physicians' assistants	No estimate	None		None	
206(2), pay to meet competition	13	do.		do.	
207, physicians' assistant to title 38	No cost	do.		do.	
208, technical	do.			206	
209(1), longer temporary appointments	do.	205	No cost	207	No cost.
209(2), central administration	do.	Draft bill		H.R. 10879	Do.
209(3), physicians' assistants GI bill	No estimate	None		None	
210, malpractice	No cost	206	No cost	208	Do.
211, technical	do.	207	do.	201	Do.
Title II, subtotal	35.667		18.437		18.467.
TITLE III					
301(a), bed minimum	No estimate	None		None	
301(b), earthquake resistant structure	do.	do.		do.	
302(1), land jurisdiction	No cost	Draft bill	No cost	H.R. 481	No cost.
302(2), lease waiver	do.	301	do.	301	Do.
302(3), technical					
303(1), clarify sharing	No cost	302(a)(1)	No cost	302	Do.
303(2) and (3), sharng excess beds	do.	302(a)(2)	do.	None	
Title III, subtotal					
TITLE IV					
401, extend authority for VARO Philippines (fiscal year 1974)	.975	None		None	
402, phone installation	0.003	401	.003	401	0.003.
403(a)(2), (3) and (b) VA State home, grant percent increase	2.7	Draft bill	2.7	None	
Title IV, subtotal	3.678		2.703		0.003.
Grand total	167.925		27.840		48.070.

Mr. President, I would like to describe in more detail the basic provisions of the committee substitute:

New emphasis is to be placed upon treating the patient as part of a family unit, not as an isolated individual removed from any family or social setting. This is particularly essential for patients undergoing psychiatric treatment, but, in addition, total care of a physically disabled veteran also may require that his family be fully oriented on the philosophy, goals and achievements of his rehabilitation program. The bill thus authorizes bringing key family members to VA hospitals for such orientation.

It also stresses "home health care programs" under which mobile teams will train families to care for patients so they can be released from the hospital sooner and removed from the debilitation and stagnation of institutional life. This could in many cases provide more compassionate, more effective and far more economical care.

An estimated 330,000 veterans with 50 percent or more service-connected disabilities are, for the first time, made eligible for VA outpatient care and medicines for all their non-service-connected ailments regardless of their financial status or a future need for hospitalization. At present, only those with 100-percent service-connected disabilities are provided such total care. Annual cost of this expanded program is $77.2 million.

Some 150,000 "peace-time veterans" who are suffering from non-service-connected disabilities and are unable to afford private care will, for the first time, be eligible for VA hospital, nursing home and certain outpatient care under regular VA eligibility requirements. These are veterans whose service ended prior to April 6, 1971, and those who served between November 12, 1918, and December 6, 1941, or between January 1, 1947, and June 27, 1950. The VA estimates the annual cost at $6.9 million.

Also for the first time, 282,000 veterans' dependents not covered by medicare, medicaid or military medical benefits programs will become eligible for VA medical care. They are the wives and children of veterans with total and permanent service-connected disabilities, and the widows and orphans of veterans who died from service-connected disabilities. The annual cost is estimated to be $16.9 million.

Both these groups—totaling 432,000 new VA health care beneficiaries and all veterans presently eligible for VA hospital care, will also for the first time be eligible for outpatient care if such treatment would "obviate" the need for hospitalization. The estimated annual cost of this expanded program is $20.18 million. Presently, outpatient care for veterans with non-service-connected disabilities—except for 100-percent service-connected disabled veterans—is available only if they cannot afford hospital care—this is unchanged by the bill—and only then when necessary to prepare for or followup on a hospitalization.

The committee substitute directs that all black veterans in VA hospitals and domiciliaries, and those receiving outpatient care or undergoing physical examinations, are to be voluntarily screened for sickle cell anemia. The VA estimates the first year cost of the identification and counseling program at $2.3 million, for a total 5-year cost of $10.5 million. Veterans' spouses are to be included upon request. In fiscal year 1971, more than 123,000 black veterans were admitted to VA hospitals.

The committee substitute also directs the VA to make sure that every black veteran receiving any kind of VA benefit receive as soon as possible full information regarding the nature and inheritance of sickle cell anemia and where to go for screening examinations and treatment.

The VA is to carry out a 3-year sickle cell anemia research and research training program at a total cost of $12 million, the annual authorization to be $3 million in fiscal 1973 and to increase $1 million each of the next 2 years.

These sickle cell anemia provisions are virtually identical to those I proposed in the Senate-passed S. 2676, the National Sickle Cell Anemia Act, which the House has deleted from that bill.

To meet the needs of an aging veterans population, the bill permits veterans and eligible dependents to enter a VA nursing home without immediately prior hospitalization, and raises the present statutory minimum of 4,000 VA nursing home beds to 8,000 by fiscal 1974. It also calls for conversion of unused VA hospital beds to VA nursing beds and permits veterans at VA expense to enter community nursing homes without first going into a VA hospital if such action is certified necessary for their service-connected disabilities by a VA physician, or to enter directly from military hospitals.

The VA is given 3 years to raise the staff-to-patient ratio in "every VA facility" so such facilities will be comparable on a service-by-service basis with other medical facilities in the community. The present ratio is 1.5–1 in the average VA general hospital compared with a 2.7–1 ratio for the average community hospital and up to 4–1 at a university hospital.

A survey conducted in 1971 shows some of the wide variations that exist in staffing intensity between VA hospitals and community hospitals. The VA hospitals used in the survey ranged in size from 188 beds to 1,565 and contained 5,339 operating beds. The gross staffing ratios in VA hospitals ranged from 1.19 to 2.49 employees per operating bed. The overall ratio for the nine VA hospitals surveyed was 1.70 employees per operating bed. Since outpatient staffing could not accurately be separated from inpatient staffing in several of the hospitals, all statistics were included in the total.

The community hospitals ranged in size from 130 beds to 1,063. The eight community hospitals surveyed contained 3,678 operating beds. The gross staffing ratios in community hospitals ranged from 2.08 to 4.33 employees per operating bed. The overall ratio for the eight community hospitals was 3.23 employees per operating bed.

Overall, the community hospitals were staffed almost 2 to 1 over VA hospitals. The overall occupancy rate of the VA hospitals surveyed was 89 percent compared to 85 percent for the community hospitals. Percentagewise the VA utilizes almost three times as many volunteer and other nonpaid productive workers as the community hospitals. This amounted to 6½ percent of the paid VA hospital combined staffs as compared to 2½ percent of the paid community hospital combined staffs. When the unpaid personnel are added to the paid staff, the overall VA ratio rises from 1.70 to 1.81.

The community hospital ratio rises from 3.23 to 3.31.

A survey of nursing service statistics illustrates that community hospitals are staffed for nursing personnel on the average about twice as well numerically as VA hospitals. The cumulative averages showed VA hospitals have one nursing employee to every 1.8 beds while community hospitals in the survey have one nursing employee to every 1.0 bed. It is important to note that staffing of nursery, labor and delivery rooms in community hospitals was not included in these figures because VA hospitals do not have these services.

Moreover, the study showed that community hospitals have approximately twice as many registered nurses per bed able to indicate how much extra time should be added to community hospitals which, unlike the VA, do not maintain special duty nurses on their staffs.

The following charts show the three basic tours that all hospitals use. The statistics gathered show the average VA hospital nursing unit was 33 beds and the average community hospital nursing unit was 30 beds. For the total Nursing Service, personnel were assigned as follows:

ALL NURSING PERSONNEL

[In percent]

	Day tour	Evening tour	Night tour
VA	64	20	16
Community	57	26	17

This chart and the survey data show that the day tour was staffed almost 50 percent better per nursing unit in community hospitals than VA Hospitals. The evening tour in community hospitals was staffed twice as well as the VA hospitals, and the night tour was staffed a little less than twice as well in the community hospitals.

In terms of numbers of nursing personnel, for the night shift the VA hospitals surveyed had an average 2.9 nursing personnel per unit in the hospitals surveyed for 7-day coverage. The community hospitals averaged 5.2 nursing personnel per unit.

Regarding the evening shift, the community hospitals used more of their staffs than did the VA hospitals—26 percent versus 20 percent. By contrast, the VA staffed its day shift with a higher proportion of available staff than community hospitals—64 percent versus 57 percent. The night shift is about the same—VA 16 percent versus community 17 percent.

The following chart shows registered nurses by shift; the percentages assigned to the three shifts are in the same approximate proportion as for all nursing personnel.

REGISTERED NURSES

[In percent]

	Day tour,	Evening tour	Night tour
VA	67	19	14
Community	58	24	18

The survey also showed that community hospitals are staffed nearly three times as well in X-ray units as VA hospitals. This is in part attributable to the fact that community hospitals tend to use scheduled staff at night and on weekends rather than to use callback.

I think this study and the figures I have cited quite clearly demonstrate the types of startling staffing disparities that exist today between VA and community hospitals.

The committee substitute authorizes the VA to pay higher salaries to doctors, nurses, and other health workers to attract them to remote areas or to meet competition in high-cost areas. The VA estimates $13 million would be expended to carry out this important purpose.

The VA is also directed to revitalize its medical personnel system by providing greater opportunities for upward mobility for lower paid workers, especially to arrange in-service education and training for licensed vocational nurses and nursing assistants. This is an extremely important feature to end the rather high turnover rate of VA lower paid health workers which is counterproductive in terms of career development and disrupts the quality and continuity of patient care.

The committee substitute also mandates the VA to seek out all returning servicemen and recent veterans who served as military medics and corpsmen and to advise them of new, expanded opportunities to use their military experience as VA physicians' and dentists' assistants. The committee substitute directs the VA to launch a major program to hire 300 former military medical corpsmen a year and train them as physician's assistants. To facilitate the training of these new paramedics in the VA, the substitute amendment provides that they be eligible for full-time GI bill benefits, just as medical interns and residents are now, while they receive on-job training in the VA.

The committee substitute authorizes short-term use of excess VA hospital beds—limited to those clearly not needed for VA patients—to meet community medical needs.

It also provides that, for the first time, all VA nursing personnel will receive extra pay for overtime, Sunday, holiday, nighttime, and on-call duty.

The committee substitute directs the VA to take steps to assure that all VA hospitals, domiciliaries, and other medical facilities are resistant to earthquakes and other natural disasters. The administration is instructed to—

> Prescribe construction standards on a State or regional basis—based on a survey of pertinent State and local ordinances, building costs, and climactic and seismic conditions.

Mr. President, the tragic consequences of a number of natural disasters within recent years has pointed to the need for stricter safety standards in the construction and maintenance of VA facilities. I refer to the disastrous loss of lives due to earthquake damage at San Fernando, Calif., closely followed by a tornado at Fayetteville, N.C., a year ago. Also, a number of veterans lost personal effects at both places and at VA facilities at Gulfport and Biloxi, Miss., struck by Hurricane Camille.

The committee substitute authorizes reimbursement for such property losses retroactive to January 1, 1971, whereas reimbursement under present law is limited to property destroyed by fire.

Mr. President, these provisions of S. 2354, as reported, are described more fully in the committee report, and I ask unanimous consent that appropriate excerpts from that report be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TREATING THE VETERAN AS PART OF A FAMILY UNIT

Broadening the treatment of the veteran to include a veteran's family when necessary to the care and treatment of the veteran, as is proposed in the Committee substitute, will fulfill the basic need—particularly in psychiatry—of treating the patient as part of a family unit, not as an isolated individual removed from any family or social setting. Similarly, total care of a physically disabled veteran may require that his family be fully oriented on the philosophy, goals, and achievements of his rehabilitation program. The VA should be able to bring key family members to the hospital for such an orientation, as is done now on a limited basis with nonappropriated funds at some VA blind centers.

These family provisions also would provide specific authority for the VA to stress home health care programs for any hospitalized veteran, or dependent made eligible under the Committee substitute. Although a start has been made by the VA in home kidney dialysis and care of the spinal cord injured at home, much more needs to be done, especially in the psychiatric field. Most medical experts agree that institutional care is the least desirable. All feasible alternatives should be fully explored under the provisions in the Committee substitute.

Home health care—employing mobile teams to train families and conduct post-hospital followup—can in many cases provide more compassionate, more effective, and far more economical care.

COMPARABILITY OF TREATMENT FOR PEACETIME VETERANS

The Committee substitute expands eligibility for hospital (including full nursing home) and certain outpatient care to include so-called peace-time veterans. Providing comparability in the eligibility of peace-time and war-time veterans for hospital, nursing home, and domiciliary care is the logical extension of the amendment enacted in 1970 in Public Law 91–500, section 4, authorizing such care to both peace-time and war-time veterans 65 years of age or older for non-service-connected disabilities regardless of ability to defray necessary expenses of hospital care. Under the committee substitute, new eligibility is provided for approximately 150,000 peace-time veterans—generally those whose service ended prior to April 6, 1917, those who served between November 12, 1918 and December 6, 1941, and those who served between January 1, 1947, and June 27, 1950—at an annual cost estimated by the VA as $6.9 million.

HOSPITAL CARE AND MEDICAL SERVICES FOR DEPENDENTS AND SURVIVORS OF TOTALLY DISABLED VETERANS

The Committee substitute authorizes, for the first time, provision of hospital care and certain medical (outpatient) services in VA medical facilities for the wife and children of a veteran with a total and permanent service-connected disability and the widow and children of a veteran who died from a service-connected disability, as long as the provision of such care does not interfere with the furnishing of hospital and domiciliary care to eligible veterans. Eligibility for hospital care under the Committee substitute includes eligibility for nursing home care in both VA directly-run and community nursing homes. Authority to contract for hospital care for such eligible dependents and survivors also is added.

The Committee has expanded eligibility for hospital and medical care to these dependents and survivors because it has found that these persons very often cannot obtain or are not eligible for present health insurance programs, either because they are excluded as a result of the living veteran's 100 percent disability (for whose medical needs the VA now provides totally) or because they cannot afford premiums for such insurance.

This new eligibility would extend hospital, domiciliary and nursing home care benefits to approximately 282,000 persons not presently entitled to other Federal health benefits, such as under Medicare, Medicaid and Military Medical Benefits programs: 56,100 wives and 78,000 children of veterans with total and permanent service-connected disabilities (total—134,100) and 57,600 widows and 91,000 surviving children of veterans who died of service-connected disabilities (total—148,600). The annual cost of this new eligibility is estimated by the VA to be $16.9 million.

EXPANSION OF OUTPATIENT MEDICAL SERVICES

Under present law, outpatient and ambulatory care for non-service-connected disabilities of veterans may be provided only on a pre-hospital or post-hospital care basis or to any war veteran with a total and permanent service-connected disability. The Committee substitute adds eligibility for outpatient care to be provided to any veteran (as well as the wife and children of any veteran with a total and permanent service-connected disability and the wife and children of any veteran who died from a service-connected disability) "when reasonably necessary . . . to obviate the need of . . . hospital admission". It also authorizes such outpatient care for any veteran with a service-connected disability rated as 50% or more disabling. The Committee believes strongly that any expansion of ambulatory care provided by the VA must focus substantially on the veteran seriously disabled by service-connected conditions.

Under the new "necessary to obviate" hospital care standard, a veteran with a non-service-connected disability or eligible dependent or survivor would still be required, pursuant to present section 622 of title 38, to complete an oath of inability to defray the necessary expenses of the hospital care which would be obviated.

The Committee substitute would increase those eligible for VA outpatient care by approximately 762,000 persons by including 150,000 peace-time veterans, 282,000 wives, widows and children, and 330,000 additional veterans with 50% or more service-connected disabilities. The annual cost for the total expansion of eligibility is estimated to be approximately $97.38 million—$6.7 million for war veterans; $4.78 million for peace-time veterans; $8.7 million for wives, widows and children; and $77.2 million for the 50 to 90% service-connected.

Finally, the Committee substitute somewhat expands the scope of VA outpatient care provided to a veteran with a total and permanent service-connected disability. Presently, the VA interprets title 38 to authorize it to contract for such outpatient services for such a veteran. However, its authority is unclear to approve reimbursement for such 100 percent service-connected disabled veteran's care provided to meet an emergency through non-VA resources.

The Committee substitute places in statutory form the basic provisions of the current VA regulation (VAR 6080) setting forth the criteria under which the expenses of medical care and treatment furnished in a medical emergency in non-VA facilities(and not authorized by the VA prior to the date the care and treatment was furnished) may be paid on behalf of a veteran who receives such care and treatment for a service connected condition, or in order to be able to pursue a program of vocational rehabilitation under chapter 31 of title 38. As indicated above, it would also broaden the scope of current practice under the regulation to include reimbursement to veterans with 100 percent service-connected disabilities who are furnished emergency care and treatment for non-service-connected disabilities.

VAR 6050.4 now provides that admission of any eligible veteran to a non-VA medical facility at VA expense must be authorized in advance. It also provides, however, that when the admission is based upon an emergency the advance approval requirement will be determined to have been met if an application therefor is presented to the VA within 72 hours after the date of admission and is approved. If this does not occur, the veteran-patient cannot receive reimbursement for his private hospital care unless he received such care in a medical emergency for a service-connected disability, within the criteria set forth in VAR 6080, discussed above.

The new provision in the Committee substitute (section 628) will make clear that reimbursement of private medical expenses may be authorized, without the necessity for an application therefor to be furnished to the VA within 72 hours of admission, for veterans treated (1) for a service-connected condition, or for a non-service-connected condition if they have a 100 percent service-connected disability, and (2) in a medical emergency under situations where VA or other Federal facilities were not feasibly available, or an attempt to use them would have not been reasonable, sound, wise, or practical. The effect of this is that with respect to the service-connected disability (or for the non-service-connected disability of a 100 percent service-connected disabled veteran) of any eligible veteran there will be only one rule (rather than two as presently in VARs 6080 and 6050.4) and the 72-hour requirement will be eliminated. The Committee expects that DM&S will revise and simplify its regulations accordingly if this provision is enacted.

EXPANSION OF NURSING HOME CARE

The Committee substitute permits veterans (and eligible dependents and survivors) to apply for direct admission to a VA nursing home without prior VA hospitalization and authorizes the direct transfer of a veteran from a military medical facility to either a Veterans Administration or a community nursing home. Direct admission to community nursing homes would also be authorized for veterans found by a VA physician after examination to require nursing care.

In addition, the Committee substitute raises the present statutory minimum of 4,000 VA nursing home beds to 8,000 by fiscal year 1974. There is presently an unmet demand for VA nursing home beds by World War I veterans which will expand as our World War II veterans grow older. The Committee believes that hospital beds not being fully utilized should be converted to VA nursing home beds, and the Committee substitute so provides. Quality community nursing homes are already greatly in demand among the aging population of nonveterans.

IMPROVED AND EXPANDED DM&S PERSONNEL SYSTEM

Health Care Personnel Training. The Committee substitute revises Department of Medicine and Surgery personnel authorities to enable the VA to compete more effectively for scare health professionals. The VA must be able to enlarge its training program if it is going to make up its personnel shortages. The Committee substitute and provisions in S. 2219 as reported from Committee (No. 92–726) and passed by the Senate unanimously on April 27, 1972, provide for substantial expansions of health care manpower training programs at VA hospitals.

Salary Differentials. The Committee substitute also authorizes the VA to pay special salary differentials for posts that are difficult to fill, and to peg general salaries geographically an to index community hospital.

Staff-to-Patient Ratio. The Committee substitute would also require that every VA facility within 3 years reach a comparable staff-to-patient ratio in its services with comparable index services (or a general average) in a community hospital. The present disparities in staffing must be eliminated: 1.5 for the VA general hospital as compared with 2.7 for the average community hospital and 3.5 to 4.0 for the university hospital.

The Committee substitute directs the Veterans Administration to designate for every service in each hospital a comparable service in a hospital or hospitals in its geographic area, having an optimum staff-to-patient ratio in such service, to serve as an index for establishing adequate staff-to-patient ratios in the VA service.

Available information fully documents the wide disparity between staff-to-patient ratios in VA facilities and those at comparable community facilities. In general, community hospitals are numerically staffed higher than VA hospitals by almost two to one.

The Committee recognizes fully that there are variations in the patient population composition between VA facilities and community hospitals and that there are different demands for services provided from the two populations. These variations account for some of the staff-to-patient ratios cited above. However, the Committee believes that there are ample instances of clinical services and units which are fully comparable and that the above statistics cannot be properly accounted for merely by reciting the differences between VA and community hospitals.

The Committee would expect the index or composite index unit to be chosen on the basis of the most applicable comparable services. In some instances, there may not be a comparable community unit, as in the case of highly specialized and advanced programs such as spinal cord injury units. In these instances, the Committee expects the Veterans Administration to choose a comparable unit of high quality on a nationwide basis.

Nursing Personnel Differential and Premium pay.—The Committee substitute authorizes the payment of overtime pay, shift differentials, and premium pay for holidays and Sundays for all VA nursing personnel (including licensed vocational (practical) nurses and nursing assistants) and physicians' and dentists' assistants generally comparable to those now available to employees under the General Schedule and Wage Board Systems. For a detailed discussion of the provisions and the extent to which they differ from other Federal pay provisions, reference should be made to the section-by-section analysis. This authority is designed to enable the Veterans' Administration to provide benefits to nursing and supporting staff comparable to benefits offered in community hospitals and in other Federal hospitals under the Civil Service General Schedule.

The provisions with respect to overtime pay in the Committee substitute include a definition that overtime payment does not begin until at least 15 extra minutes are worked. The Committee wishes to make clear that this provision must not be construed as authorizing a standard extension of tours by 15 minutes. For example, where allowance is not made in the scheduling of regular eight-hour work tours for overlapping in order to brief incoming nursing personnel, overtime should be paid if an overlap is required on a regular basis. In addition, the first 14 minutes worked shall count toward the computation of overtime pay when the total overtime for that tour is of fifteen or more minutes duration.

Included among these pay provisions is reimbursement to the nurse for time scheduled "on call." Such time will be reimbursed at the rate of ten percent of the basic overtime rate for each hour officially scheduled "on call." The Committee understands that the abuse of "on call" duty has occurred with some frequency in VA facilities located in smaller communities and in the case of staff assigned to operating rooms and intensive care units. Personnel in these situations may be subjected to extraordinary impositions on their private time by repeated assignment to be "on call." Permanent records of "on call" assignments are not presently maintained inasmuch as under present law this is not compensable duty.

The requirement that the VA pay nurses "officially scheduled to be on call outside . . . regular duty hours" at ten percent of the basic overtime rate will result both in the maintenance of written records and in a review of the "on call" assignment by administrators responsible for the control of funds. Thus, at a relatively low cost, the Committee would expect that abuses will be abolished or, at least, minimized.

DM&S Personnel Grades, Pay Schedules and Benefits.—The Committee substitute revises the schedules of grades and pay scales for VA Department of Medicine and Surgery officers, physicians, dentists, and nurses generally along lines recommended by the administration. Basically, the amendment reflects current practice under the two recent Federal pay increases. In addition, the Director of Nursing is upgraded to a level comparable to Medical Director grade (in the Section 4103 Schedule)—the grade assigned Directors of DM&S Services, such as Psychiatry, for example. The Committee feels the wide scope of the responsibilities of the Director of Nursing fully warrant the change in grade level for this position. The Directors of the Chaplain, Pharmacy and Dietetic Services are also upgraded from GS 15 to GS 16 equivalencies, a new Nurse Schedule grade is established—Director grade—comparable to the Chief Grade in the Physician and Dentist schedule, and the present statutory prohibition on persons eligible to hold Director grade positions is restricted to the Physician and Dentist Schedule so as to permit assignment of a nurse to the new Director grade in large hospitals, all of which changes were recommended by the Veterans Administration.

The Committee substitute also establishes a new position, Director of Optometry, at the same level as the new Directors of Chaplain, Pharmacy and Dietetic Services positions, in order to provide nationwide coordination of optometric services and improve overall vision care services in DM&S.

The new grade and pay schedules included in the original S. 2354 covering allied professional and health technician personnel have been dropped partly because of the enormous progress made in the last four years in upgrading the advancement opportunities for such personnel, particularly nursing assistants and licensed vocational nurses, and because the coordinated job evaluation and grading plan for Federal salaried occupations currently under study by the study group established pursuant to the Job Evaluation Policy Act of 1970 (P.L. 92–216) may produce data enabling the Civil Service Commission to make the grade levels of these positions more compatible with the duties required and responsibilities assigned individuals in these classifications.

However, because of the highly innovative nature of training and employment for the new positions of physicians' assistant and dentists' assistant in the Veterans Administration DM&S, because of the lack generally of comparable positions in the community with which grades and salaries could be compared, and because the Committee wanted to afford DM&S maximum flexibility in launching a major paramedical employment and OJT effort, particularly for former servicemen with military M.O.S.'s, these new types of personnel are placed directly within the title 38 personnel system. Within the flexibility of the title 38 system, the Committee believes there is maximum opportunity to adjust the varying roles and responsibilities developed for these new members of the health care team to the appropriate grade and pay levels, using the Nurse Schedule.

The Committee urges that DM&S greatly expand its programs for the training of physicians' and dentists' assistants, presently in operation at about 20 VA hospitals. The Committee believes that the DM&S has the capacity to train, graduate and employ approximately 300 such paramedics annually within a year after a major program is undertaken. To provide extra assistance with the support of former medics and corpsmen undertaking such training in VA hospitals (largely OJT), the Committee substitute provides that generally such training programs are to be considered full-time institutional programs for GI bill purposes, such as a physician's internship or residency is now. The Committee expects that the formal trainee period for such a position, pursuant to section 4114 of title 38, would not be prolonged so that such persons could enter employment as expeditiously as possible under the Nurse Schedule as physicians' or dentists' assistants pursuant to new sections 4105(a)(8), 4107(d) and 4107(g).

The Committee substitute also directs DM&S to provide for maximum opportunities for lateral mobility and career advancement for all its health care personnel, with particular emphasis upon continuing education and arrangements for obtaining academic credit for such on-job or in-job training. There is a particularly great need to open up career advancement and upgrade education opportunities for nursing assistants to be trained and advance to L.V.N.s, for L.V.N.s to move on to the increased responsibilities of the Registered Nurse, and for R.N.'s to be given special training to assume independent patient care responsibilities as nurse practitioners and physicians' and dentists' assistants. The VA, which employs the great majority of all Federal nursing personnel, should set an example, for emulation in the community at large, of an integrated and open nursing personnel service. A beginning to movement in this direction is provided by the Committee substitute's application of the same differential and premium pay rates to all levels of nursing personnel.

The Committee is aware of some valuable pilot programs underway in DM&S, particularly in conjunction with community colleges (the VA cited its program at the Little Rock, Arkansas, VA hospital at the hearings) for upgrading of the various levels of nursing personnel. It believes that such continuing education programs should be a regular part of the education and training of nurses, as well as health professionals and technicians and all health care personnel, at every VA hospital. In this way, it is hoped, the relatively high turnover rate particularly at the lower paying grades can be reduced.

The Committee is aware, as cited earlier with approval, of a long overdue increase in the average grade level to which L.V.N.'s and nursing assistants have been assigned in the past four years in DM&S. In the Committee's view, this achievement is the result of a belated recognition of the skills and responsibilities of these valuable members of the health care team and not of an alteration of qualifying requirements. The following table shows that between December, 1967 and December, 1971 the numbers of NAs and LPNs (and LVNs) at GS 5 and 6 increased from 2,240 to 9,444.

4-YEAR GRADE LEVEL COMPARISON—NURSING ASSISTANTS AND LICENSED PRACTICAL NURSES

	Dec. 31, 1967			Dec. 31, 1970			June 30, 1971			Dec. 31, 1971			Net 4-year change
	NA	LPN	Total	NA	LPN	Total	NA	LPN	Total	NA	LPN	Total	
GS-7								7	7		7	7	+7
GS-6	18		18	414	616	1,030	718	873	1,591	769	944	1,713	+1,695
GS-5	1,240	1,000	2,240	4,123	2,018	6,141	6,783	2,387	9,170	7,066	2,378	9,444	+7,204
GS-4	8,822	2,021	10,843	11,303	1,397	12,700	12,277	1,200	13,477	11,996	1,213	13,209	+2,366
GS-3	13,404	634	14,038	7,791	297	8,088	4,865	454	5,319	4,512	585	5,097	−8,941
GS-2	2,496		2,496	1,043		1,043	1,074		1,074	1,214		1,214	−1,282
GS-1				3		3	71		71	33		33	+33
Total	25,980	3,655	29,635	24,677	4,328	29,005	25,788	4,921	30,709	25,590	5,127	30,717	+1,082

SCREENING AND TREATMENT FOR SICKLE CELL ANEMIA

The Committee substitute (incorporating Senate-passed provisions dropped by the House with the agrement of the Senate from S. 2676, the proposed "National Sickle Cell Anemia Act") authorizes the Veterans Administration to provide screening examinations for sickle cell trait or anemia to any veteran who is receiving care or medical services under VA auspices or an examination to determine eligibility for VA benefits. The Committee substitute specifies that all such veterans in the process of receiving such care, services, or eligibility examinations shall be furnished full information regarding the nature and inheritance of sickle cell trait and anemia and the availability to them on request of screening examinations. Approximately 16.6 percent (123,357) of veterans hospitalized in fiscal year 1971 (approximately 1,000,000) in VA hospitals were black.

The Committee substitute next authorizes the Veterans Administration, if it finds that the veteran has the sickle cell trait or anemia, to provide for counseling, if the veteran so requests, as well as any necessary hospital care and outpatient services for a disability arising from such trait or anemia. Such screening examination and counseling would also be provided, if requested, to the veteran's spouse, and the veteran would be given a complete explanation of his eligibility for VA hospital care and outpatient services.

The Committee believes that this new program in the Veterans Administration will enable a great many veterans and their spouses who would not otherwise do so to receive sickle cell screening examinations, counseling and treatment.

It is the committee's understanding that the Veterans' Administration has interpreted provisions in chapter 17 of title 38 authorizing the provision of care and services as creating an eligibility entitlement on the part of specified veterans and not as a discretionary authority.

The Committee substitute directs the Veterans' Administration to provide each veteran receiving VA benefits, as soon as possible, full information regarding the nature and inheritance of sickle cell trait and anemia and where he may receive screening examinations and treatment for trait or the disease. The Committee contemplates that such information would be disseminated along with regular VA mailings of benefit payments and other communications—such as GI bill checks, pension and compensation checks, home loan applications. NSLI and SGLI insurance premium notices—as well as be included in the basic VA benefits brochure and the material presented to each servicemen upon his discharge.

The Committee substitute also requires the Veterans' Administration to take full advantage of the research and research training opportunities available based on the screening examinations and treatments provided. In order to carry out such research, the appropriation of $3 million, $4 million, and $5 million is authorized in fiscal years 1973, 1974, and 1975, respectively. The Committee contemplates that these funds should enable the VA to extend multi-hospital cooperative studies to twenty-five of its hospitals and clinical information retrieval to all 166 VA hospitals.

The Committee notes that the Veterans' Administration is already engaged in a cooperative study in about twelve VA hospitals, each with about 1500 admissions of black patients. This study will evaluate the increased risks of complicating diseases associated with sickle cell trait. Conditions being studied include pulmonary embolism, myocardial infarction, vascular complications of diabetes, pyelonephritis, and post-operative complications. In addition, the VA has approximately 35 individual research projects underway to study the genetic defects and pathologic mechanisms involved in sickling.

With the appropriations authorized by the Committee substitute the VA would also establish in the first year a single laboratory devoted to work in genetic modification, a highly technical and expensive, but most promising, area of basic research needed to follow up on the very recent scientific breakthrough suggesting that there may be a way to correct the abnormality in the hemoglobin molecule in persons with sickle cell anemia or trait.

The Committee substitute requires that participation by any person in any sickle cell program (including research) will be wholly voluntary and not prerequisite to eligibility for any VA service, assistance, or benefit, and directs that all information in patient records collected in connection with the program be held confidential except when the patient requests release in writing or when statistical data is compiled in a nonidentifying manner.

The Committee substitute also directs the Administrator to submit to the President for transmittal to the Congress annually on or before April 1 or each year a comprehensive report (including suggestions for any additional proposed legislation) on the administration and funding of these programs.

MINIMUM AVERAGE DAILY PATIENT CENSUS

In view of experience in fiscal year 1972, when the Office of Management and Budget imposed an arbitrary ceiling of 79,000 on the average daily patient census (ADPC) in VA hospitals to which the Congress responded by mandating in the FY 1972 Appropriation Act the maintenance of a minimum of 85,500 ADPC and 97,500 operating beds, the committee substitute includes a provision requiring the DM & S to maintain in VA hospitals for fiscal year 1973 an ADPC of 84,000 (a more reasonable figure in view of the history set forth in the following chart) and an annual average of 97,500 operating beds. The Committee was reluctant to take this step and did so only because it feared the imposition of another arbitrary ADPC maximum by the Office of Management and Budget.

The following chart shows the average daily patient census and number of operating beds cumulatively by month for fiscal year 1971 and the first eight months of fiscal year 1972.

VA HOSPITAL CARE OPERATING BEDS AND AVERAGE DAILY PATIENT CENSUS

	Operating beds		Average daily census	
	Month	Cumulative fiscal year	Month	Cumulative fiscal year
Fiscal year 1971:				
1970:				
June	102,354		83,308	85,547
July	100,692	101,523	83,019	83,019
August	100,638	101,228	83,471	83,262
September	100,699	101,096	83,985	83,498
October	100,689	101,014	84,624	83,784
November	100,632	100,949	84,710	83,966
December	100,402	100,871	82,473	83,715
1971:				
January	96,899	100,375	86,928	84,179
February	96,649	99,961	87,667	84,583
March	96,649	99,629	86,226	84,776
April	96,692	99,362	83,467	84,651
May	96,645	99,386	81,584	84,367
June	96,685	99,178	79,865	84,002
Fiscal year 1972:				
1971:				
July	95,857	96,271	78,760	78,760
August	95,707	96,083	79,477	79,118
September	95,596	95,961	79,567	79,266
October	96,728	96,115	79,992	79,454
November	96,950	96,254	80,932	79,748
December	97,136	96,380	79,111	79,638
1972:				
January	96,990	96,456	83,162	80.146
February	95,982	96,403	83,662	80,564
March	96,073	96,370	82,890	80,826

STRUCTURAL SAFETY OF VA MEDICAL FACILITIES

The tragic consequences of a number of natural disasters within recent years has pointed to the need for stricter safety standards in the construction and maintenance of Veterans Administration facilities. There were the tragic losses of lives due to earthquake damage at San Fernando, Calif., closely followed by a severe tornado at Fayetteville, N.C., a year ago. In addition, considerable numbers of veterans lost personal effects at VA facilities at Gulfport and Biloxi, Miss., as a result of damage caused by Hurricane Camille. The Committee substitute provides that the Administrator shall prescribe construction standards on a State or regional basis for each VA facility, such standards to be based on a survey of pertinent State and local ordinances, building codes, climatic and seismic conditions, and other factors, with the purpose of assuring that all hospitals, domiciliaries, and other medical facilities of the Veterans Administration will be fire, earthquake and other natural disaster resistant. Through such measures, the Committee hopes that future such tragedies can be prevented.

COST ESTIMATES PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510, 91st Congress), the Committee estimates that expenditures incurred in the fiscal year ending June 30, 1972, would be insignificant in view of the very short period that would likely be remaining in such fiscal year by the time the provisions of the bill would take effect. The Committee estimates the following costs for carrying out the provisions of the Committee substitute in fiscal years 1973 through 1977:

[In millions]

Section and description	Fiscal year— 1973	1974	1975	1976	1977
TITLE I					
101(a), contract care	(1)				
101(b), family	(2)				
101(b), direct admission to VA nursing home	(2)				
101(c), home health	(2)				
102(1), peacetime	6.9	7.2	7.5	7.9	8.2
102(2), in-hospital for non-s/c	(2)				
102(3), dependents	16.9	17.7	18.6	19.5	20.5
103(a), outpatient care "obviates"	6.7	7.0	7.7	8.1	8.5
103(a), outpatient care, 50 percent disabled	77.2	78.6	79.4	80.2	80.2
103(a), outpatient care, dependents	8.7	9.1	9.5	10.0	10.5
103(a), outpatient care, peacetime	4.78	5.02	5.27	5.53	5.86
103(b), annual report, new eligibility	(2)				
104(a), military to comm n/h	(2)				
104(b), NH standards	(2)				
104(d), to comm. n/h after VA exam for s/c	(3)				
105, earthquake loss	(2)				
106 (a) and (b), reimbursable emergency care	(3)				
107, extend authority for grants, Philippines veterans hospital	2.1	2.1	2.1	2.1	2.1
108, sickle cell screening	2.3	2.3	2.3	2.3	1.3
108, research	3.0	4.0	5.0		
Title I, subtotal	128.58	133.02	137.37	135.63	137.16
TITLE II					
201, index hospital	(2)				
202, new ACMD's	.080	.084	.089	.094	.099
203-205, physicians' assistants under title 38	(2)				
206(1), upgrade officers	.087	.091	.094	.099	1.03
206(1), physicians' assistant pay grade	(2)				
206(2), Nurse, LPN and NA premium pay	22.5	24.8	27.1	29.5	31.9
206(2), apply to physicians' assistants	(2)				
206(2), pay to meet competition	13.0	13.7	14.5	15.2	16.1
207, physicians' assistant to title 38	(2)				
208, technical	(3)				
209(1), longer, temporary appointments	(3)				
209(2), central administration	(3)				
209(3), physicians' assistants GI bill	(2)				
210, malpractice	(3)				
211, technical	(3)				
Title II, subtotal	35.667	38.675	41.783	44.893	49.129
TITLE III					
301(a), bed minimum	(2)				
301(b), earthquake resistant structure	(2)				
302(1), land jurisdiction	(3)				
302(2), lease waiver	(3)				
302(3), technical					
303(1), clarify sharing	(3)				
303 (2) and (3), (a) sharing excess beds	(3)				
Title III, subtotal					
TITLE IV					
401, extend authority for VARO Philippines	(3)	.975	.975	.975	.975
402, phone installation	.003	.003	.003	.0035	.0038
402(a)(2), (3) and (b) VA State home grant, percent increase	2.7	2.7	2.7	2.7	2.7
Title IV, subtotal	2.703	3.678	3.678	3.6785	3.6788
Grand total	166.950	175.373	182.831	184.2015	189.9678

[1] Included in sec. 102(3).
[2] No estimate.
[3] No cost.

SECTION-BY-SECTION ANALYSIS OF COMMITTEE SUBSTITUTE

Section 1 establishes the title of the proposed Act as "The Veterans Health Care Expansion Act of 1972."

TITLE I—HOSPITAL, DOMICILIARY AND MEDICAL CARE BENEFITS

Section 101:—Subsection (a) amends clause (C) of present section 601(4) of title 38, regarding the Administrator's contract authority for providing hospital care, along the lines recommended in the administration bill (section 101 of S. 1924) to delete the qualification that contract care for persons suffering from service-connected disabilities or disabilities for which they were discharged or released from the service be provided "only in emergency cases." Deletion of this language confirms existing practice. The clause also adds a new subclause (iv) to clause (C) authorizing contract hospital care, where appropriate VA and other Federal facilities are not available, for the wife and child of a veteran with a total and permanent service-connected disability and the widow and child of a veteran who died as a result of a service-connected disability. This contract authority is concurrent with the authority provided the VA to provide hospital care in its own facilities to such persons, in new subsection (d), added to present section 610 of title 38 by section 102 (3) of the Committee substitute.

Subsection (b) of section 101 amends paragraph (5) of present section 601 of title 38, to reflect the expanded eligibility for hospital care provided for in subsection (a) and section 102(3) of the Committee substitute. In addition, a new clause (B) is added in paragraph (5) in order to include within the definition of "hospital care" the provision of mental health services, counseling, training, and necessary transportation and subsistence expenses for the members of the immediate family of VA patients when such services and expenses are necessary or appropriate to treat and rehabilitate the VA patient effectively. Finally, a new clause (D) is added to make nursing home care an inherent part of hospital care, thereby authorizing direct admission to VA directly-run nursing homes for all section 610 (as amended by section 102(3) of the Committee substitute) beneficiaries. The effect of this new clause and the new section 610(e) is to authorize direct admission to VA directly-run nursing homes, eliminating the requirement that admission to such nursing homes must be made only for patients hospitalized in VA facilities. This new subsection would not authorize such direct admission to community nursing homes. (See section 104 of the Committee substitute for amendments to community nursing home authority.)

Subsection (c) of Section 101 amends paragraph (6) of present section 601 of title 38, defining "medical services" (ambulatory outpatient care), to provide specific authority for the provision of home health care services.

Section 102 makes a series of amendments to present section 610 of title 38, which specifies eligibility for hospital and domiciliary care.

Clause (1) amends present clause (1)(B) of subsection (a) so that any veteran, peace-time or war-time, would be eligible for hospital care for a non-service-connected disability if he is unable to defray the necessary hospital expenses, rather than only war veterans as at present. This provision would provide new eligibility for approximately 150,000 peace-time veterans (generally those whose service ended prior to April 6, 1917, those who served between November 12, 1918 and December 6, 1941, and those who served between January 1, 1947 and June 27, 1950) at an annual cost which the VA estimates as $6.9 million.

Clause (2) replaces the present subsection (c), regarding the provision of medical services to hospitalized veterans for non-service-connected disabilities for which they were not hospitalized. The revised subsection eliminates the requirements that the Administrator make a determination in each such instance that the treatment of the non-service-connected disability would be in the veteran's interest, would not prolong his hospitalization, and would not interfere with the furnishing of hospital services to other veterans. These conditions are needlessly restrictive on professional medical judgment or redundant of such judgment. The revised subsection premises the provision of such medical services only upon the willingness of the veteran and a finding that such services are reasonably necessary to preserve his or her health.

Clause (3) adds new subsections (d) and (e) to present section 610 of title 38, as follows:

New Subsection (d) provides for the furnishing of hospital care, in accordance with regulations prescribed by the Administrator, to the wife and child of a veteran with a total and permanent service-connected disability and the widow and child of a veteran who died from a service-connected disability, as long as the provision of such care does not interfere with the furnishing of hospital and domiciliary care to eligible veterans. This eligibility for hospital care under this new subsection would, by virtue of the new subsection (e) also added to the present section 610, include eligibility for nursing home care in both VA directly-run nursing homes and (under present section 620 of title 38) community nursing homes. (A companion authority to contract for hospital care for such persons is added to present section 601(4) (C) by section 101(a) of the Committee substitute.)

This new eligibility would extend hospital and nursing home care benefits to approximately 282,000 persons not presently entitled to other Federal health benefits, such as under Medicare, Medicaid and Military Medical Benefits programs (56,100 wives and 78,000 children of veterans with total and permanent service-connected disabilities (total: 134,100) and 57,600 widows and 91,000 surviving children of veterans who died of service-connected disabilities (total: 148,000). The annual cost of this new eligibility is estimated by the VA to be $16.9 million. An identical eligibility is included in H.R. 10880.

New Subsection (e) provides that in no event may nursing home care under chapter 17 of title 38 (as a part of "hospital care" in section 601(5) as amended by 101(b) of the Print) be provided in other than VA directly-run nursing homes except insofar as community nursing home under contract is expressly authorized under present section 620.

Section 103:—Subsection (a) amends present section 612 of title 38 by revising present subsection (f), regarding the provision of medical services for the non-service-connected disabilities of certain veterans. Presently, such out-patient and ambulatory care for non-service-connected disabilities may be provided only on a pre-hospital or post-hospital care basis or to any war veteran with a total and permanent service-connected disability. The revised subsection (f) includes for the first time the language "on an outpatient or ambulatory basis" and makes the provision applicable to service-connected as well as non-service-connected disabilities (thus, a veteran contending his condition was service-connected and did not then require hospitalization could be provided outpatient care if his condition met the "obviate" criterion described in (2) below, without waiting for adjudication of his service-connection claim). The revised subsection also makes the following changes with respect to this authority: (1) makes clear that such services may be furnished "by fee or contract," as well as in VA directly-run medical facilities; (2) authorizes (along lines proposed in the administration bill—section 102 of S. 1924) outpatient care to such veterans when necessary to obviate the need of . . . hospital admission"; (3) authorizes such outpatient care for any veteran, peace-time or war-time, with a 50% or more rated service-connected disability; and (4) authorizes such outpatient care for any person eligible for hospital care, which, under the hospital care eligibility provisions in the revised subsection 610, newly authorizes outpatient care under the terms of revised subsection (f) for peace-time veterans, the wives and children of veterans with total and permanent service-connected disabilities and the widows and children of veterans who died from service-connected disabilities.

Under the new "necessary to obviate" hospital care standard, a veteran with a non-service-connected disability would still be required to complete an oath of inability to defray the necessary expenses of hospital care, pursuant to present section 622 of title 38. According to the VA original report on S. 2354, this provision, which is also included in H.R. 10880, would entail no additional expenditures. The House report, however, provides a VA estimate of $6.7 million.

This revised subsection (f) would increase those eligible for VA outpatient care by approximately 846,000 persons by including 150,000 peace-time veterans. 282,000 wives, widows and children, and 330,000 additional veterans with 50% or more service-connected disabilities. The annual cost for this expansion of eligibility is estimated to be approximately $90.68 million ($4.78 million for peace-time veterans; $8.7 million for wives, widows and children; and $77.2 million for the 50 to 90% service-connected veterans.)

Subsection (b) of section 103 directs the Administrator to submit to Congress, not later than 60 days after the Act's enactment and one year later, a report on the VA's administrative and fiscal experience (to that date) with the new eligibility created in revised present sections 601 (home health care, treating the veteran through his family, and contracts for care for eligible wives, widows and children), 610 (hospital care for peace-time veterans, eligible wives, widows and children, and for conditions arising during hospitalization; direct admission to VA nursing homes for the above new eligible beneficiaries and all eligible veterans), 612(f) (outpatient care where necessary to obviate the need of hospitalization for all those newly eligible under revised section 610 and for veterans with 50 to 90 percent service-connected disabilities, and 628 (reimbursement for non-VA care provided veterans in emergencies in connection with service-connected disabilities).

Section 104:—Subsection (a) amends subsection (a) of present section 620 of title 38, regarding transfer of VA hospital patients to community nursing homes, so as to authorize direct admission (without immediately prior VA hospitalization as is now required) to community nursing homes at VA expense of servicemen from military hospitals if the Service Secretary concerned determines and the Administrator agrees that the serviceman has received maximum hospital benefits and requires nursing home care. A comparable provision is included in H.R. 10880. The VA estimates no material cost increase as a result of this provision.

Subsection (b) of section 104 is purely technical in order to achieve consistency of drafting style.

Subsection (c) of section 104 amends subsection (b) of present section 620 of title 38, requiring VA standards to be established for community nursing homes to which eligible veterans are transferred, by adding a new sentence to require the Administrator to consult the heads of other interested Federal agencies (H.E.W., H.U.D., D.O.D. and so forth) in setting such standards (H.E.W. is undertaking a comprehensive review of nursing home conditions under Medicaid); and to make copies of VA inspection reports available to such agencies and appropriate state and local agencies (this is done only sporadically now).

Subsection (d) of section 104 adds a new subsection (d) to present section 620 of title 38 to authorize direct admission of a veteran to community nursing homes at VA expense of veterans requiring nursing home care for service-connected disabilities after the need for such care is determined by a physician (employed by the VA or performing under contract or free arrangement) based upon an examination of the veteran by such physician. A comparable provision was supported by the VA in its March 28, 1972, report on the Committee substitute, except that the VA provision would have excluded (apparently inadvertently) application of this new procedure in Hawaii and Alaska where the VA does not maintain medical facilities or employ physicians. The revised provision also makes clear that in such states as well as in geographical areas where no VA physician employee is stationed, the examination and determination may be conducted on behalf of the VA by a physician under a contract or free arrangement. The VA estimates that this provision would not result in any additional cost.

Section 105:—Subsection (a) amends present section 626 of title 38, regarding VA reimbursement for VA patients due to fire loss, so as to cover certain personal property loss by earthquake or other natural disaster (flood, windstorm). The VA has produced no cost estimate for this provision, which section 501 of the committee substitute makes retroactive to January 1, 1971, in order to cover the San Fernando, California, earthquake and the Fayetteville, North Carolina, windstorm, both of which occurred in February, 1971, and occasioned considerable patient property loss.

Subsection (b) of section 105 amends the catchline for present section 626 to reflect the revision contained in subsection (a).

Section 106:—Subsection (a) amends present subchapter III (Miscellaneous Provisions) of chapter 17 of title 38 by adding a new § 628 to codify a VA regulation providing for reimbursement of the reasonable value of hospital care and medical services provided to veterans entitled to VA medical care for service-connected disabilities in an emergency when VA facilities were not readily available. A comparable provision was included in H.R. 10880 (section 105). No additional cost should be occasioned by this provision.

The Committee substitute also includes in the reimbursement provisions of the new section authority for reimbursement (without prior authorization) for emergency care provided for any disability (whether or not it could be demonstrated to be service-connected) of a veteran with a 100 percent permanent and total service-connected disability. Under present law, such veterans are entitled to full VA medical care, in- and out-patient, for any disability, either directly in a VA facility or by fee or contract. However, it is not clear that the VA would interpret its contract authority (which itself is not crystal clear in present law—the Committee substitute makes it explicit) to permit reimbursement after expenditures had been made in an emergency situation where no VA hospital or clinic is accessible. And the enactment of section 628, without inclusion of authority to make such reimbursement, might be interpreted to rule out such an expansive interpretation.

The amendment would close this small gap in coverage for the 100% service-connected disabled (it is retroactive to January 1, 1971, to cover any meritorious claims arising since the start of the 92nd Congress). It is not contemplated that appreciable additional expense would be entailed since such so severely disabled veterans tend to remain accessible to VA hospitals for treatment.

Subsection (b) of the new section makes clear the Administrator's authority to make payment directly to the provider of the services rather than to the veteran treated. A comparable provision was not included in the House bill.

Subsection (b) of section 106 amends the table of sections at the beginning of chapter 17 of title 38 to reflect the revisions and additions in sections 105 and 106 of the Committee substitute.

Section 107:—Subsection (a): Clause (1) amends sections 631 and 632 of title 38, regarding grants to and agreement with the Philippines, by striking out these sections and inserting in lieu thereof new sections 631 and 632. The VA estimates the first year cost as $2.1 million and the same for each of the next five fiscal years.

New section 631 authorizes the President to assist the Republic of the Philippines in providing medical care and treatment for Commonwealth Army veterans and certain new Philippine Scouts for service-connected disabilities and for non-service-connected disabilities under certain conditions.

New section 632:—Subsection (a) provides that the President, with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into a contract with the Veterans Memorial Hospital, with approval of the appropriate department of the Government of the Republic of the Philippines, covering the period beginning on July 1, 1972, and ending on June 30, 1978, under which the United States—

(1) will pay for hospital care in the Republic of the Philippines, or for medical services which shall be provided either in VA facilities, (or by contract or otherwise) in

accordance with the conditions and limitations applicable generally to beneficiaries under present section 612 of title 38, for Commonwealth Army veterans the Administrator determines to need such hospital care or medical services for service-connected disabilities;

(2) will pay for hospital care at the Veterans Memorial Hospital for Commonwealth Army veterans if the Administrator determines need such care for non-service-connected disabilities if they are unable to defray the expenses of necessary hospital care;

(3) will pay for necessary hospital care at the Veterans Memorial Hospital for new Philippines Scouts for service-connected disabilities, and for non-service-connected disabilities if such veterans enlisted before July 4, 1946, and qualify as veterans unable to defray the expense of necessary hospital care;

(4) will pay for medical services for new Philippine Scouts the Administrator determines are needed for service-connected disabilities as authorized for Commonwealth Army veterans in clause (1) of the new subsection;

(5) may provide for the payment of travel expenses pursuant to present section 111 of title 38 for Commonwealth Army veterans in connection with hospital care or medical services furnished them;

(6) may provide that payments for hospital care and medical services provided to Commonwealth Army veterans or to U.S. veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the VA to the Veterans Memorial Hospital at valuations therefor as determined by the Administrator. The Administrator also is authorized to furnish, through the revolving supply fund, pursuant to present section 5011 of title 38, such medicines, medical supplies, and equipment as necessary for this purpose and to use therefor, as applicable, appropriations available for such payments;

(7) may provide for payments for such hospital care at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

(8) may stop payments under any such contract upon reasonable notice as stipulated by the contract if the Republic of the Philippines and the Veterans Memorial Hospital fail to maintain such hospital in a well-equipped and effective operating condition, as determined by the Administrator.

Subsection (b) of the new section provides that the total payments under this modified agreement shall not exceed $2 million for any one fiscal year during such period.

Subsection (c) of the new section provides that available beds, equipment, and other facilities at the Veterans Memorial Hospital can be made available at the discretion of the Republic of the Philippines for other persons subject to (1) priority of admission and retention in the hospital of Commonwealth Army veterans needing hospital care for service-connected disabilities, and (2) the use of available facilities on a contract basis for hospital care or medical services for persons eligible therefor from the VA.

Subsection (d) of the new section provides for an authorization of appropriations each fiscal year during the six years beginning July 1, 1972, and ending June 30, 1978, of (1) $50,000 for VA grants to the Veterans Memorial Hospital for the purpose of education and training of health service personnel at the hospital and (2) $50,000 for VA assistance to the Republic of the Philippines in replacing and upgrading equipment and rehabilitating the hospital physical plant under terms and conditions prescribed by the Administrator.

Subsection (b) of section 107 amends the table of sections at the beginning of chapter 17 of title 38 to reflect changes made in present sections 631 and 632 of title 38 by subsections (a)(2) and (3) and (b).

Subsection (c) of section 107 provides that nothing in this section shall be deemed to affect in any manner any right, cause, obligation, contract (specifically including that contract executed April 25, 1967, between the Government of the Philippines and the Government of the United States resulting from Public Law 89–612, which shall remain in force and effect until modified or superseded by an agreement executed under authority of this Act), authorization of appropriation, grant, function, power, or duty vested by law or otherwise under the provisions of section 612 of title 38, in effect, on the day before the date of enactment of this section.

Section 108:—Section (a) adds to chapter 17 of title 38 a new subchapter VI, "Sickle Cell Anemia". This provision (with one technical change) is identical to provisions in section 5 of S. 2676, the proposed "National Sickle Cell Anemia Act", which passed the Senate on December 8, 1972. This section was deleted from the version as it passed the House (incorporating the text of H.R. 13592) on March 22, 1972, and this deletion was agreed to by the Senate on April 17, 1972, in returning the bill to the House with an amendment. Comparable language is under consideration in the House Veterans' Affairs Committee in H.R. 11971.

Section 651 in the new subchapter:—Subsection (a) authorizes the Administrator of Veterans' Affairs to offer all veterans receiving hospital or domiciliary care or medical services, and those receiving benefit eligibility examinations, screening examinations to detect those persons with the sickle cell trait or with sickle cell anemia; to provide such veterans with full information concerning the nature and inheritance of the disease as well as the availability to them of such screening examinations; and to provide such examinations to veterans upon their request. The VA estimates the first year cost as $2.3 million with a five year cost of $10.5 million.

Subsection (b) of the new section authorizes the Administrator to provide counseling, hospital care and/or medical services for those veterans identified by Veterans' Administration programs to be in need of such care and to provide, upon request, screening and counseling to such veterans' spouses.

Subsection (c) of the new section directs the Administrator to ensure that all veterans benefits recipients receive full information as soon as possible regarding sickle cell trait or anemia and where they may receive screening and treatment for such trait or disease.

Section 652 in the new Subchapter directs the Administrator to carry out a sickle cell anemia research and research training program for which $3 million, $4 million, and $5 million are authorized for appropriation for the fiscal years 1973, 1974, and 1975, respectively.

Section 653 in the new Subchapter:—Subsection (a) specifies that any person who participates in any of the sickle cell anemia programs under the new subchapter (including the research program by cross reference in new section 652) shall do so only on a voluntary basis, and that such participation shall not be a condition for receiving service or assistance from programs to which the participant may otherwise be entitled under title 38.

Subsection (b) of the new section directs the Administrator to ensure the confidentiality of all information and patient records obtained from sickle cell anemia programs conducted under the new subchapter.

Section 654 in the new Subchapter:—Subsection (a) directs the Administrator to submit a report to the Congress and the President by April of each year fully describing the administration (including expenditures under) of the new subchapter.

Subsection (b) of the new section directs the Administrator to include in the report recommendations for any additional legislation concerning the new subchapter.

Subsection (b) of section 108 amends chapter 17 of title 38 to list the titles of sections added.

TITLE II—AMENDMENTS TO CHAPTER 73 OF TITLE 38, UNITED STATES CODE, RELATING TO THE DEPARTMENT OF MEDICINE AND SURGERY

Section 201 amends present section 4101 of title 38, regarding functions of the Department of Medicine and Surgery (DM&S), by adding new subsections (c) and (d).

New subsection (c) directs the Administrator to study and implement studies for new and improved methods of providing care, including reassignment of duties among health personnel, establishing new positions (such as physicians' assistants), stressing programs of continuing education (with arrangements for academic credit), providing maximum upward and lateral mobility, and using electronic and automated devices. The Administrator is also directed to conduct a major recruitment, training and employment program for veterans with medical MOS's to become physicians' assistants, advising all such veterans who served during the Vietnam era and servicemen about to be discharged of the training and employment opportunities available in and supported by the VA and benefits to which they are entitled under the GI bill—chapters 31, 34 and 35 of title 38.

New subsection (d) directs the Administrator to establish for every VA hospital an optimum index hospital(s) in the area for staff-to-patient ratios for each VA hospital service (such as surgery) and to achieve the index ratio for each such service within three years of enactment of the proposed Act. An annual report is required not more than 60 days after the close of each fiscal year showing the established index ratios for each VA hospital service and the extent of progress toward achieving these ratios.

Section 202 amends present section 4103 (a) of title 38, which specifies the personnel in the Office of the Chief Medical Director, to make changes included in the administration bill (section 202 of S. 1924) and H.R. 10880 (Section 202): providing in paragraph (4) of the present subsection authority for appointment of two additional (six authorized now) Assistant Chief Medical Directors (ACMD's) (VA estimated cost $80,000 per year) not more than two of whom may be lay administrators (the administration proposal, due to a technical error, used the words "at least"), and in paragraph (7) of the present subsection, upgrading the Chief Pharmacist and Chief Dietician to Directors of Services. H.R. 10880 added a "Chief Optometrist," a new position under the Chief Medical Director, which in the Committee substitute is changed to "Director of Optometry" in order to create comparability among these three health professions. (Under the new Section 4103 Schedule in section 206 of the Committee substitute, all three positions would be compensated at the same level—$29,678 minimum of $37,590 maximum).

Section 203 amends clause (1) of present section 4104, authorizing appointment of additional health professional personnel, to include physicians' and dentists' assistants in that clause specifically.

Section 204 amends present section 4105 of title 38, specifying qualifications of appointees to include appropriate references to physicians' and dentists' assistants in subsections (a) and (b) of that section. The Administrator is charged with setting the qualifications and experience for these new positions.

Section 205 adds at the end of present section 4106 of title 38, regarding period of appointments and promotions, a new subsection (f) including by reference physicians' and dentists' assistants under the provisions of that section.

Section 206:—Clause 1 revises subsections (a) and (b) of present section 4107 of title

38, establishing title 38 DM&S grades and pay scales (for DM&S officers; physicians, dentists, and nurses), along the lines in the administration bill (section 203 of S. 1924) and H.R. 10880 (section 203). Basically, the amendment reflects current practice under the two recent Federal pay increases. In addition, the Director of Nursing is upgraded to the level of Medical Director grade (G.S. 17)—same as Directors of DM&S Services (such as Psychiatry); the Directors of the Chaplain, Pharmacy and Dietetic Services are upgraded from the equivalent of G.S. 15 to 16; and a new Nurse Schedule grade is established—Director grade—comparable to the Chief Grade in the Physician and Dentist schedule, all recommended by the VA (at an annual cost estimate of $57,000). Establishment of the Director grade is intended to recognize the difficult managerial and professional responsibilities inherent in the position of Chief Nurse in the very largest and most complex VA hospitals, and in the position of the top program officials in the headquarters Nursing Service in the Department of Medicine and Surgery. Such responsibilities inherent in other chief nurse and managerial nurse positions can be similarly recognized as appropriate, by use of existing grades in the Nurse Schedule.

The newly created position of Director of Optometry is paid on the same level as the Directors of the Pharmacy and Dietetic Services; and the prohibition in subsection (b) (2) of the present section 4107 on persons who are eligible to hold the director grade (directors of VA hospitals, domiciliaries, centers, or independent outpatient clinics) is made applicable only to the Physician and Dentist Schedule so as to carry out the purpose of the new Director grade in the Nurse Schedule—for the Chief Nurse in large hospitals—as recommended by the administration.

Clause 2 of section 206 adds at the end of present section 4107 of title 38, regarding grades and pay scales, five new subsections as follows:

New subsection (d) provides for compensation of physicians' and dentists' assistants by use of the Nurse Schedule, thereby establishing a minimum starting salary of $8,153 (Junior grade).

New subsection (e) specifically applies to title 38 salaries the limitations—salaries in excess of $36,000 limited to $36,000 until pay for level V of the Executive Schedule is raised—of 5 U.S.C. 5308. A comparable provision is included in the administration bill (section 203(b) of S. 1924) and H.R. 10880 (section 203(2)).

New subsection (f) establishes overtime and premium pay benefits for VA nurses (made applicable to VA L.P.N.'s and N.A.'s by paragraph (9) of the new subsection) generally comparable to those now available to General Schedule and Wage Board employees. Similar provisions are included in the administration bill (section 204 of S. 1924) and H.R. 10880 (section 204), which have identical provisions on this score. Variations are noted in the description that follows:

Paragraph (1) of the new subsection establishes the basic eligibility for specified pay in addition to basic compensation.

Paragraph (2) of the new subsection (Night Duty):—10% of the employee's basic rate added for each hour between 6 p.m. and 6 a.m. except that if at least four hours of a tour (generally 8 hours of work per full tour) fall within those hours of the night tour (for example a 3:30 p.m. to 12 midnight tour), all hours of that tour would be paid at the extra 10% rate. This four-hour rule is now applicable to wage board, but not G.S. employees, so that making this available to L.P.N.'s and N.A.'s would entail an improvement in benefits now available to them under the G.S. The VA's estimate of additional cost is $8.768 million for the night shift differential for R.N.'s in the Committee substitute. (It should be noted that the administration proposal seems to exclude the night nurse working overtime from the additional 10%—i.e., 150% instead of 160% by use of the language "for each hour of service not exceeding eight hours," whereas the provision in the Committee substitute would clearly provide for 160%, as do present G.S. authorities.)

Paragraph (3) of the new subsection (Sunday Duty):—25% of the employee's basic rate added for each hour worked on a tour any part of which falls between midnight Saturday and midnight Sunday. The administration proposal, apparently this time following G.S. precedent, would clearly preclude 175% for Sunday overtime, whereas the Committee substitute provison would allow it by deleting "which is not overtime work" and the same eight-hour tour limitation discussed in new paragraph (2), above. The VA estimate of the annual cost of this provision in the Committee substitute is $4.284 million.

Paragraph (4) of the new section (Holiday Duty):—100% of the employee's basic rate added for each hour worked on a Federally-declared holiday. For overtime work on a holiday, in conjunction with paragraph (7), the full 100% additional would be paid, rather than only 50% additional for holiday overtime, which is the incongruous and inequitable effect—reducing pay when the nurse goes on overtime on a holiday—proposed by the administration and paid under the G.S. A provision has been added to specify that a nurse required to perform any work on a holiday shall receive at least two hours double pay (now provided in 5 U.S.C. 5546(c) for G.S. employees). The VA estimate of the annual cost of this provision in the Committee substitute is $2.966 million.

Paragraph (5) of the new section (Overtime Duty):—150% of the employee's basic rate used for computation for each hour in excess of eight per day or forty per administrative workweek but the basic rate cannot be above the minimum rate of Intermediate grade in the Nurse Schedule (equivalent of G.S. 11—although G.S. 10, Step 1, is the limiting salary base under the General Schedule); overtime does not begin until at least 15 minutes is worked; compensatory time off is not permitted as it is under the G.S. system; and any new work on a non-work day or call-back shall be a minimum of time-and-a-half for two hours. This whole provision is identical to the administration proposal, with a VA annual cost estimate of $2.323 million.

Paragraph (6) of the new subsection specifies the basis for computing the basic hourly rate (dividing annual salary by 2080). This is identical to the administration bill.

Paragraph (7) of the new subsection makes clear that the additional pay provisions of new paragraphs (2) through (5) are to be applied independently and consecutively, except that holiday overtime and holiday non-overtime work are both paid the same (200%). There is no comparable administration provision.

Paragraph (8) of the new subsection (On Call):—10% of the employee's basic overtime rate (150% of the employee's basic rate not to exceed Intermediate grade, Step 1) added for each hour officially scheduled on call. There is no comparable provision in the administration bill or G.S. now, although serious consideration has been given to it. A survey of available data on large city hospital pay practices for on-call time indicates the proposed provision in the Committee substitute is in step with private practices in this area. The VA estimate of annual cost is $2.069 million.

Paragraph (9) of the new subsection makes the premium pay and over time provisions applicable to L.P.N.'s and N.A.'s on the theory that workers working side-by-side and often performing almost the same tasks should receive the same differential pay. There is no comparable provision in the administration bill. This would constitute a change in premium and differential pay from present G.S. rates for L.P.N.'s and N.A.'s in the following respects: (1) applicability of the four-hour rule for night shifts; (2) paying overtime during Sundays at 175%; (3) paying overtime for holidays at 200%; (4) prohibiting compensatory time off; (5) applying the 15 minute pre-overtime rule, and (6) providing for on-call pay.

Paragraph (10) of the new subsection provides that additional pay under this new subsection will not count as basic compensation for lump-sum leave payments, severance pay, and other benefits relating to basic compensation. There is an identical provision in the administration bill as a paragraph (7) in a new subsection (d) to be added to present section 4107.

New subsection (g) of the new section entitles physicians' and dentists assistants to the additional pay provided for nursing personnel in paragraphs (2) through (8). No cost estimate was provided by the VA.

New subsection (h) of the new section directs the Administrator to raise pay to the maximum permissible levels for VA health care professionals when needed to recruit a scarce specialty due to high-paying competition or the remoteness of the VA facility. There is similar Government-wide authority reposing in the Civil Service Commission. This could be of very substantial assistance in recruitment. The VA estimate of annual cost is $13 million.

Section 207 amends present section 4108 of title 38, regarding the setting of hours and conditions of work for physicians, dentists and nurses, to add physicians and dentists' assistants under the title 38 DM&S personnel system.

Section 208 amends present section 4109 of title 38, regarding retirement rights, to update the statutory reference in view of the codification of title 5, United States Code. This provision is in H.R. 10880 (section 206).

Section 209:—Clause 1 amends present section 4114(a) of title 38, regarding temporary, full-time appointments of health personnel, to raise the time limit of such appointments from 90 days to one year for health personnel generally (except trainees), just as it is for physicians, dentists, and nurses. This provision is included in the administration bill (section 205 of S. 1924) and H.R. 10880 (section 207) and would entail no significant increase in expenditures.

Clause (2) of section 209 amends present section 4114(b) of title 38, regarding residency and internship appointments, by adding a new paragraph (2) providing for central administration of internships and residencies. in a form virtually identical to that which was first introduced by Senator Cranston (S. 2623) and passed by the Senate as a part of S. 9634, both 91st Congress. This provision was proposed by the administration and passed the House in H.R. 10879, with a VA estimate of no additional cost.

Clause (3) of section 209 adds a new subsection (c) to present section 4114 to title 38 to require that full-time training programs for veterans to be physicians' and dentists' assistants be treated as a full-time institutional program $175 per month for a single veteran), the same as are internship and residency training programs (by virtue of an administrative ruling) under chapter 31, 34 or 35 for purposes of GI bill benefits. Measurement of such training program as less than full-time under the GI bill would be permissible only when the combined classroom (and other formal instruction) and OJT portions of the training program totalled less than 30 hours per week (a figure drawn from present 1684(a)(5) in chapter 34 of title 38 regarding measurement of OJT full-time programs under the GI bill). This provision is designed to make physicians' assistant training more attractive to veterans with medical

MOS's. No cost estimate has been provided by the VA, but it is unlikely to be appreciable.

Section 210 amends present section 4116 of title 38, regarding defense of certain malpractice and negligence suits against the U.S. arising out of actions of certain VA health care personnel and were included in the administration bill (section 206 of S. 1924) and in H.R. 10880 (section 208) at no additional estimated cost, to clarify and extend this protection to cases where Federal Tort claims action would not lie but actions could still be brought against the VA employee personally for actions arising in the exercise of his duties; to authorize the Administrator to provide insurance for these purposes; and to add specification of physician's and dentists' assistants. Virtually identical provisions were added to the Public Health Service Act by PL 91-623 in 1970 and were included.

Section 211 amends present section 4117 of title 38, authorizing contracts for scarce medical specialist services, to clarify that the authority extends to "any group or individual capable of furnishing" the necessary services. This provision is included in the administration bill (section 207 of S. 1924) and H.R. 10880 (section 209), with a VA estimate of no additional cost. Reference to physicians' and dentists' assistants is added to the Committee substitute.

TITLE III—AMENDMENTS TO CHAPTER 81 OF TITLE 38, UNITED STATES CODE—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

Section 301:—Subsection (a) amends present section 5001 of title 38, regarding hospital and domiciliary functions, in three respects:

Clause (1) in the subsection amends paragraph (2) to require the Administrator to maintain an annual average of 97,500 operating beds and an average daily patient census (ADPC) of 84,000 in fiscal year 1973. A similar provision (for an ADPC of 85,500) is included in the VA appropriation for FY 1972.

Clause (2) in the subsection amends paragraph (3) to raise the nursing home care beds authorization from the present minimum (4,000) to a maximum of 8,000 by FY 1974 (6,000 presently in operation) to be maintained thereafter.

Clause (3) in the subsection amends paragraph (3) of the present subsection to encourage the conversion of hospital beds to nursing home care beds when not being adequately used for hospitalization and found to be structurally secure; and continue to count the converted bed in the hospital care bed maximum (125,000).

Subsection (b) of section 301 revises subsection (b) of the present section 5001 of title 38, requiring fireproof construction of VA hospitals and domiciliaries, to require the Administrator to make fire, earthquake, and other disaster resistance studies, to ensure that all new construction and new acquisitions must meet new safety standards he is directed to prescribe; and to provide for the appointment of an intra-agency Advisory Committee on Structural Safety in VA Facilities.

Section 302 amends present chapter 81 (Acquisition and Operation of Hospital and Domiciliary Facilities) of title 38, as follows:

Clause (1) of section 302 adds to chapter 81 of title 38 a new section 5007 (Partial Relinquishment of legislative jurisdiction), which authorizes the Administrator to cede concurrent jurisdiction over VA lands and interests to the State where located. This provision is based on the administration bill (H.R. 481) which passed the House, but would not permit, as that bill would, total relinquishment of jurisdiction to a State. Rather, the Committee substitute permits only the ceding of concurrent jurisdiction, as did P.L. 91-45 ceding concurrent jurisdiction over the Fort Harrison, Montana, VA Center real property, thereby maintaining a clear and continuing Federal control over VA land and buildings situated thereon. The VA estimates that this provision would entail no additional cost.

Clause (2) of Section 302 amends present chapter 81 by inserting at the end of subsection (c) of present section 5018 of title 38, regarding leasing for up to three years of lands or buildings under VA control, a new sentence exempting such leases from 5 U.S.C. 41, which requires advertising for leases above $500, and from provisions of 40 U.S.C. 303b which bar lease provisions calling for property maintenance as part of the consideration for the rental. These provisions are included in the administration bill (section 301 of S. 1924) and H.R. 10880 (section 301). An additional sentence is added in the Committee substitute, as in H.R. 10880, to require the Administrator, prior to execution of such a lease, to give appropriate public notice in local newspapers of his intention to execute such a lease.

Clause (3) of Section 302 amends the table of sections at the beginning of present chapter 81 by inserting reference to the new section 5007 added by clause (1) of section 302 of the Committee substitute.

Section 303:—Subsection (a): Clause (1) amends present section 5053(a) of title 38, authorizing arrangements for the sharing of specialized medical resources between VA and community hospital facilities, by making clear that these arrangements may also be made with "medical schools or clinics". This provision is included in the administration bill (section 302(a)(1) of S. 1924) and H.R 10880 (section 302), and would, along with the other two clauses added, entail no additional cost, according to the VA estimate.

Clauses (2), (3) and (4) of subsection (a) amends present section 5053(a) by adding a new paragraph (3) to authorize arrangements with community medical facilities for them to use VA hospital beds, with supporting services, which have been justified on the basis of veterans' care, but which are not utilized to their maximum effective capacity. The effect of this amendment is similar to a provision in the administration bill (section 302(a)(2) of S. 1924) which added a new section 5053A (Use of excess hospital beds). However, the provision in the Committee substitute is very much more restrictively drawn than the administration provision in five respects: (1) it limits sharing of VA beds to those originally justified for the care of veterans hereby prohibits using such sharing as a justification for adding beds; (2) it makes contracts or agreements for such arrangements subject to present subsection (b) of present section 5053, as recommended in the October 20, 1971, report on S 1924 from the Comptroller General, which requires that there be reciprocal reimbursement based on the full cost of services and supplies provided with normal depreciation and amortization costs of equipment and credit amounts so received by the VA, to its (medical care) appropriation; (3) it adds three additional restrictions described below under Clause (3).

Clause (6) of section 303 adds a new subsection (d) to present section 5053 of title 38 to prohibit the Administrator (1) from entering into any excess bed contract or agreement (or renewal thereof) unless, 30 days in advance of execution, he provides a copy of the proposed contract or agreement to both Veterans' Affairs Committees in Congress; (2) from entering into any such agreement for more than a year at a time; and (3) from renewing any such agreement (or making a new one with the same institution) until after it has submitted to both Congressional Committees a full report (including the effect on eligible veterans' treatment) of the prior sharing arrangement with such facility. The limitations in this new subsection with respect to a one-year limitation on such arrangements and with respect to renewals of such arrangements are not intended and should not be construed to call for, or in any way authorize any interruption in the continuity of care of particular patients covered by such arrangements.

TITLE IV—MISCELLANEOUS AMENDMENTS TO TITLE 38, UNITED STATES CODE

Section 401 amends subsection (b) of section 230 of title 38, regarding VA central and regional offices, to extend the termination date of the Administrator's authority to maintain a regional office in the Republic of the Philippines from July 3, 1974, to June 30, 1978. The VA estimates the first year cost (FY 1974) as $975,000 and the same for each of the next four fiscal years.

Section 402:—Subsection (a) amends present section 234 of title 38, regarding telephone services for medical officers, to permit installation in private residences for official use of a telephone for nonmedical directors of VA centers, hospitals, and independent clinics and domiciliaries; presently, such installation may be made only for physician directors. This provision is included in the administration bill (section 401 of S. 1924 and H.R. 10880 (section 401), and the VA estimate of annual cost is $3,000.

Subsections (b) and (c) of section 402 amend the table of sections at the beginning of present chapter 3 and the catchline at the beginning of present section 234 of title 38 to change the catchline of section 234 to reflect the amendment made in subsection (a)(1) of section 401 of the Committee substitute.

Section 403 amends a number of sections of title 38—section 644(b), authorizing appropriations for VA grants to states for remodeling and altering state veterans homes; sections 5035(a)(1), (b)(1), and (d), all regarding VA grants to states for construction of state home facilities providing nursing care to war veterans; and section 5036, regarding recapture of the VA-assisted portion of such homes which cease to be operated principally for the care of veterans—to raise from 50 percent to 65 percent the permissible VA share of the cost of the proposed state home project. This provision is contained in an administration legislative request transmitted to Congress on February 15, 1972, and $2.7 million is included in the President's budget to permit the VA to pick up the extra 15% of the project costs.

TITLE V—EFFECTIVE DATES

Section 501 makes all provisions of the proposed Act effective on the first of the month following enactment except for sections 105 (reinbursement for loss of personal effects in natural disaster) and 106 (reimbursement for certain emergency medical expenses), which are made retroactive to January 1, 1971, and section 205 (pay and grade schedules and new premium and overtime pay), the provisions of which become effective beginning with the first pay period following 30 days after enactment.

Mr. CRANSTON. Mr. President, there were a number of provisions in S. 2354 as I introduced it which were not included in the committee substitute under consideration today. For the record, I would like to explain briefly the reason for our deletion of these provisions.

The original provisions in section 103 of S. 2354 would have authorized virtually full outpatient care for the non-service-connected disability of any veteran unable to pay who had any service-connected disability, for wives, widows, and children made eligible for hospital care under the committee substitute, and for the non-service-connected disability of any other veteran who needed prompt medical attention—except for minor first aid or dispensary services. This provision was deleted as prohibitively costly in view of the VA annual estimated cost of $1.7 billion.

Also, the provision in the original S. 2354—section 206(3)—to grant civil service retirement credits to VA physicians for time spent in residencies and internships, similar to the way such time is counted for military service retirement, was dropped in committee as probably not of significant assistance to recruitment. And a provision in the original bill—section 206(f)—to add up to 20 percent of base salary for physicians performing administrative duties was dropped as unnecessary and possibly inequitable.

In addition, Mr. President, a provision which was included in H.R. 10880 as it passed the House—section 205—would have severely restricted the ability of VA hospital staffs to establish effective continuing relationships with the staff of an affiliated medical school or other health care manpower training institution.

This House provision prescribes the circumstances under which physicians, dentists, or nurses may perform professional services other than those performed as full-time employees of the Veterans' Administration and prohibits payments for such services. Many of these restrictions are in effect currently as a result of VA regulations similar to the provisions of the House section.

The subcommittee did not include this provision in the committee substitute after having received very impressive comments in opposition from representatives of medical schools and from the Veterans' Administration. The VA agency report on H.R. 10880 states:

> This section would place into law the existing administrative prohibition against outside professional activities of physicians, dentists, and nurses employed on a full-time basis in the Department of Medicine and Surgery. Specifically, such employees would be barred from: (1) assuming responsibility for the medical care of anyone other than a patient being treated under laws administered by the Veterans Administration, except where such individuals, upon request and with the approval of the Chief Medical Director, performs professional services for communities or medical practice groups to meet medical needs which would otherwise not be available (such service to be limited to 180 days unless extended by the Chief Medical Director for a second period not to exceed 180 days); (2) teaching or providing consultative services at any affiliated institution where such teaching or consultation would conflict with his duties within the Department of Medicine and Surgery; (3) accepting payment for professional services rendered under medicare and medicaid; and (4) accepting travel pay or per diem from any source which would be in addition to or supplement allowances authorized him by chapter 73 of title 38 or under provisions of title 5.
>
> In addition, this section would also prohibit such full-time employees from requesting or permitting any individual or organization to pay his malpractice insurance premiums or his medical, dental, or other professional association dues or membership fees for him, and from performing professional services for the purpose of generating money for any fund or account maintained for the benefit of an affiliated institution or such individual's account. Where such a fund or account is already established, the affiliated institution is required to report on a quarterly basis to the Administrator and to the Comptroller General of the United States with respect to such fund or account, and in no event is such an individual permitted to receive any cash from such fund or account on or after the effective date of this prohibition.
>
> The procedures which would be instituted by this section of the bill are similar in purpose to those which were instituted by VA Circular 00–70–22, dated June 3, 1970.
>
> In view of that administrative action, we do not believe that the enactment of this section of the bill is necessary. . . .

Mr. President, the Association of American Medical Colleges strongly objected to these provisions as creating an element of inflexibility in an area which should be able to adjust quickly to medical needs. It was the opinion of the AAMC that the purposes of the basic House provision were adequately served by existing VA regulations.

In addition, comments were received from several professionals holding joint appointments in VA hospitals and in medical schools, in which examples of situations which might arise should these regulations be enacted are described.

Mr. President, I ask unanimous consent that communications received by my staff from the Association of American Medical Colleges and from other individuals on this matter be inserted in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

ASSOCIATION OF
AMERICAN MEDICAL COLLEGES,
Washington, D.C., January 21, 1972.

Mr. JONATHAN R. STEINBERG,
Committee on Labor and Public Welfare,
New Senate Office Building, Washington, D.C.

DEAR JON: This is to reply to your December 15 letter asking for the Association's views on section 205 of H.R. 10880 as passed by the House.

Section 205 of H.R. 10880 as passed by the House would expand present law on personnel administration in the Department of Medicine and Surgery of the Veterans Administration by setting forth in statutory language a series of limitations on outside activities of full-time VA physicians, dentists and nurses. The report on H.R. 10880 from the House Committee on Veterans' Affairs, which you were good enough to send me, points out that the limitations "are now generally contained in administrative regulations."

I have reviewed the legislation with members of the Association staff and with a number of medical schools which have affiliation agreements with VA facilities. On the basis of these reviews, I must recommend against enactment of the legislative restrictions contained in section 205 of H.R. 10880.

My recommendation against enactment in statutory form of the proposed restrictions is based on a number of reasons. Perhaps foremost among the reasons is an awareness of the variety of educational techniques currently being explored by the nation's medical schools, the vast differences among various techniques, and the speed with which the techniques are altered as experience is gained and new opportunities are sensed. Certainly another important reason is the essential need—in connection with VA medical personnel retention and career advancement—for broad opportunities for the VA-employed medical school faculty member to participate in the entire range of activities normally underway in an academic health center. Finally, a third reason is that presently effective administrative regulations against certain outside activities guard against clearly undesirable arrangements and practices.

I recognize the need for, and support completely, appropriate actions by the Veterans' Administration to forestall any abuse of VA medical facilities and to preserve the capability of VA medical personnel to perform the primary function of the Department of Medicine and Surgery in providing complete medical and hospital service for the medical care and treatment of veterans. I do believe, however, that the VA is adequately protected on both these fronts through existing regulations and statutory declarations. The enactment of further statutory restrictions on outside activities of VA medical personnel, as proposed in section 205 of HR 10880, could place unintended hurdles in the way of American medical education and of the career development of VA medical personnel.

I could not help but note, in reviewing the provisions of the House-passed legislation, the omission of language similar to section 205 from two other VA medical care bills pending before the Senate Committee on Veterans' Affairs. Neither an Administration-supported measure, S. 1924, nor Senator Cranston's own measure, S. 2354, contains such restrictive language. This fact, together with other considerations, leads the Association to favor these legislative proposals over HR 10880. As the Association pointed out in August 4 testimony before the Subcommittee on Health and Hospitals, it can comment generally on any of these proposals only to the extent to which they deal with medical education. The Association is encouraged by the steps proposed to be taken in these bills to increase the mutual, education-patient care benefits of the VA-medical school relationship.

For the opportunity to comment on section 205 of HR 10880, I am deeply grateful. I and the staff of the Association stand ready to provide any further assistance that you may request.

With best regards,

JOHN A. D. COOPER, M.D.

UNIVERSITY OF CALIFORNIA, SAN
FRANCISCO MEDICAL CENTER,
SCHOOL OF MEDICINE, OFFICE OF
THE DEAN
January 25, 1972.

Chancellor PHILIP R. LEE:

The following is in response to the inquiry of Jon Steinberg regarding Section 205 of H.R. 10880, pages 12, 13, and 14:

Subparagraphs a, 1, 2, 3, and 4, pose no problems. They are currently in effect under the provisions of VA Administrative Circular 00–70–22 dated June 3, 1970, a copy of which is attached.

Subparagraphs 5 and 6 will seriously impair existing Medical School-VA relationships and should be categorically opposed.

For example, the School of Medicine's malpractice policy now covers all faculty members for any legal action arising as a result of his performance of assigned duties as a faculty member. Part of the responsibility of VA paid full-time faculty members is to make attending rounds on various services at UC and SFGH. Such faculty members would be extremely loathe to make attending rounds in the absence of such insurance coverage against malpractice under the University policy. The provisions of Subparagraph 5 would prohibit this.

Although not currently the practice in our School, many schools provide, as a fringe benefit, payment of dues in professional societies. Subparagraph 5 would prohibit this.

Subparagraph 6 is also highly objectionable. Currently, in the School of Medicine, when VA physicians make attending rounds at UC or SFGH billable services are billed in the name of the department chairman and are collected by the Professional Services Fund of that department. Subparagraph 6 might, depending on how it is interpreted, prohibit this. This provision would be especially destructive to VA-Medical School relationships in many schools.

CHARLES T. CARMAN, M.D.,
Associate Dean, Chief of Staff,
VAH, Fort Riley.

STANFORD UNIVERSITY
MEDICAL CENTER,
Stanford, Calif., February 4, 1972.

Mr. JONATHAN R. STEINBERG,
Counsel, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR JON: First of all, regarding Section 205, Para. 4108 of H.R. 10880, my impression is that some substantially important items have been mixed in with some rather petty ones. Secondly, my opinions that follow should be judged within the framework of my strong advocacy of a "true" full-time system, whether it applies to the University or to the Veterans Administration. Thirdly, it is my global impression that the legislation represented by 4108 is generally unduly restrictive and appears to be based on an overreaction to individual abuses of privileges as it regards such petty restrictions, as exemplified by Paras. 4 and 5 in Section a, and by lack of foresight as it applies to 1 and 6.

Para. 2 concerning teaching and consultation at any affiliated institution seems reasonable but will be obsolete when we evolve an effectively operational total medical system. Insofar as Para. 3 is concerned, I do not have enough reference information to answer knowledgeably.

Although I hardly think that Para. 4 and 5 are worthy of any further discussion, let me give you hypothetical situations in which they are unduly restrictive. As to Para. 4, a full-time Veterans Administration employee, who also has an appointment on the faculty of our University travels to a meeting with two of his professorial colleagues on the University payroll who are being paid for such travel by the University. For purposes of overall efficiency, they choose to stay at a specific hotel in which the cost of rooms would bring the daily bill $3.00 above the per diem of the professor who is a full-time physician employee of the Veterans Administration. The University would be very glad to pay that additional $3.00 cost. Para. 4 would prevent him from accepting it. Another example somewhat similar might be a full-time Veterans Administration physician with a faculty appointment on official Veterans Administration leave to give a paper within his authorized per diem, but only $300.00 exists in the Veterans Administration kitty for that purpose. The trip costs $400.00 and it is in the interests of the University, as well as to the prestige of the Veterans Administration that this professor be at the meeting. The University has $100.00 in funds which it is delighted to add to cover the costs of the trip. Why should the man be prevented from utilizing such funds?

Para. 5—specifically the second clause—is, in my opinion, patently over-restrictive and without, I think, adequate rationale.

In regard to Paras. 1 and 6, the ethic is clear insofar as prohibition of personal acceptance of payment for the services rendered is concerned. They would be rightfully tabu under the Section 4104 compensation schedules. However, as it relates to Para. 1, it seems to me that having to go to the Chief Medical Director is having to go too high in the heirarchy for permission. Who is better equipped to know what the unmet medical needs of a community are than those immediately present where the unmet need is occurring? In order to be more reactive to rapidly fluctuating situations (both in the on and off direction) the local Veterans Administration Hospital Director's approval would seem sufficient. To carry Para. 1 to its natural absurdity, let's assume a catastrophe such as the relatively recent Los Angeles earthquake, but one in which the communications to the Chief Medical Director were destroyed for 36 hours, would not under Para. 1 professional personnel have to sit on their hands pending the request and approval of the Chief Medical Director?

Now to Para. 6. It is my opinion that service is a spinoff of all clinical teaching and where a legitimate bill can be rendered, it should be. Funds so gathered might well be used to further enhance teaching.

In summary, then, 4108 is, in my opinion, undoubtedly too restrictive. If the Veterans Administration Hospitals are to provide leadership for systematization of the main stream of medicine and eventually become the major element in the Hospital bulwark of a national health service system, then the Veterans Administration Medical Department must more flexibly relate to the community than would be permitted by 4108. More immediately, Paras. 1 and 6 would have profound and obvious adverse effects on the ability of the full-time Veterans Administration staff to perform adequately as faculty members at this time in the development of our health services, given the current patterns of funding of health care, education and research. Paras. 4 and 5 would have more of an annoying fruit fly in the fruit bowl effect.

I hope this information is of use to Senator Cranston and you in the preparation of legislation on this matter.

Sincerely,

THOMAS A. GONDA, M.D.,
Director.

UNIVERSITY OF CALIFORNIA,
Los Angeles, Calif., January 7, 1972.

Mr. JONATHAN STEINBERG,
Office of Senator Cranston, Federal Building, 11000 Wilshire Boulevard, Los Angeles, Calif.

DEAR JON: Many thanks for your inquiry of December 15, 1971, regarding Section 205 of H.R. 10880. I am sorry to be so late with this reply. I have been engulfed by a flood of problems.

In my view the central problem in this Section 205 is the prohibition against paying physicians from medical school funds. While I understand some of the difficulties which may have given rise to this portion of the bill, I can assure you that such a blanket interdiction would simply make it far more difficult for many schools of medicine, including UCLA, to fortify and enhance their joint efforts with the Veterans Administration to provide excellent patient care in V.A. Hospitals. The whole intention of the "Dean's Committee" relationships since General Bradley initiated his critical reformation is optimal cooperation between the schools of medicine and the Veterans Administration. This relationship would be imperiled by this proposed legislation.

With best wishes,

Sincerely,

SHERMAN M. MELLINKOFF, M.D.

Mr. CRANSTON. I believe these comments indicate the possible difficulties which could arise affecting the relationships between VA hospitals and their affiliated medical schools, should the House provision be enacted. The relationships between VA hospitals and outstanding medical centers have been of mutual benefit to both parties in their pursuit of improved medical techniques and have been of particular benefit to the veteran patient who in such instances receives medical care from the highly skilled professionals who are attracted to the VA hospital which has a medical school affiliation.

Mr. President, the care of the veteran must be the primary criterion on which any legislation is based. I have grave doubts that including these provisions in the law would meet this criterion, and am fearful such an action would have the opposite effect. For that reason, I recommended against inclusion of this language in the committee substitute.

Mr. President, during committee consideration of S. 2354 I proposed one amendment which was not unanimously agreed to, although most members of the committee approved of it. This amendment was based upon the legislation proposed by the Civil Service Commission on June 8, 1971, to permit, during a major reduction in force in a department or agency, the optional retirement on reduced annuity of a Federal employee with at least 25 years of service, or, after becoming 50 years of age, with at least 20 years of service.

The generic bill to carry out the administration's recommendation is still pending before the House and Senate Post Office and Civil Service Committee—H.R. 9303 and section 1 of S. 3380.

Under my proposed amendment, the policy recommended by the administration would have been applied to the VA in a very limited set of circumstances; that is, only when a VA medical facility or an organizational segment thereof is being closed or relocated as a result of damage due to a natural disaster or of the failure of such hospital to comply with fire, earthquake and other natural disaster resistant construction standards prescribed by the Administrator.

Such a provision would be of great assistance not only to VA employees who are being "bumped" as a result of RIF's brought about by such closings or relocations but would be of real assistance to communities—especially smaller ones—where such closings occur. A side benefit would be enhancing the VA's future effectiveness by helping to retain younger employees, since RIF's have the effect of separating the younger employees first.

The basic benefit of such an amendment would be to permit those being affected by the RIF to, in accordance with appropriate seniority, take the jobs of those who elect early retirement under the new procedure. Presently, an employee who is not otherwise eligible for optional retirement but who is at least 50 years old and with at least 20 years service—or with 25 years service regardless of age—may retire on reduced annuity if he is involuntarily separated, as when he is reached by a RIF. However, such an employee at a station not directly affected by the RIF is not eligible to retire even if he wishes to do so; extension of retirement eligibility to this latter employee would permit the retention of another employee at a station affected by a RIF who wishes to continue work.

Mr. President, this provision would have been of great benefit in California where 2,432 beds at three VA hospitals have been eliminated and where hundreds of employees were offered the unsatisfactory option of transfers to VA facilities great distances from their present homes due to the evacuations necessitated by the closing of certain VA facilities found to be unsafe in the event of earthquake. Approximately 45 employees who would not or could not accept such transfers were separated as of April 15. At my request, the VA has agreed to place these individuals on a special hiring priority list at the three nearby VA hospitals to be notified and hired as soon as there is an appropriate vacancy by retirement or otherwise.

I deeply regret that this amendment was not able to be agreed to even though it was acceptable to the chairman and ranking minority member of the Post Office and Civil Service Committee. Because of my concern that our subcommittee and the full committee act in a unanimous, bipartisan manner on veterans health and other legislation, I decided not to press this amendment to a vote in committee or to bring it to the floor for a vote, which would inevitably have delayed the prompt consideration this bill is receiving today.

Although this amendment would have been of particular benefit to California at this time, it should be understood that it also might very well have been of assistance in other areas where it is quite possible other VA hospitals in other earthquake-prone zones may have to be evacuated because they do not comply with applicable earthquake resistance standards.

One last item: it has been called to the committee's attention that there may be a need for improvement in the uniform allowance for VA health care workers. At this time, however, we do not have sufficient information available to form a judgment on this issue. Therefore, I am requesting the VA Department of Medicine and Surgery to make a full study of the adequacy of present uniform allowances—with specific reference, among other things, to the allowances provided in community hospitals and the armed services and public health service medical programs—and communicate the results of such a study to the subcommittee as soon as possible in a manner designed to permit us to reach a judgment on this question and the need for any implementing legislation.

Mr. President, this bill is cosponsored by the following Senators in addition to myself: the distinguished chairman of the Committee on Veterans' Affairs, the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. THURMOND), who is our ranking minority member, the Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Iowa (Mr. HUGHES), the Senator from Vermont (Mr. STAFFORD), who all are members of the Committee on Veterans' Affairs; as well as the Senator from New Jersey (Mr. CASE), the Senators from Minnesota (Mr. HUMPHREY and Mr. MONDALE), and the Senator from Rhode Island (Mr. PELL). I wish to thank them all for their support and efforts on behalf of this important piece of veterans health legislation.

Mr. President, before closing, I want to express my personal appreciation to the Senate staff who worked so hard to bring this bill from introduction, through hearings and subcommittee and full committee consideration, to the floor for passage today. Most particularly, I am indebted to the tireless and dedicated efforts of Jon Steinberg, my counsel, Louise Ringwalt, research analyst, and Mary Jane McConnell and Terri Morgan, to Guy McMichael, general counsel of the Veterans' Affairs Committee, and Edward McGinnis, minority staff director, and Tyler Craig, minority professional staff member, on the committee, to Hugh Evans of the Legislative Counsel's office, and to the printing clerk who has worked such long hours on this bill and prior bills, Harold Carter.

Also, I want to thank the General Counsel's office of the Veterans' Administration for the always excellent quality of its technical assistance throughout our preparation and consideration of this legislation: particularly Al Bronaugh, Associate General Counsel, Bob Coy, Assistant General Counsel, and Charlie Johnston, Deputy Assistant General Counsel.

Mr. President, I want also to express my appreciation to my good friend from Texas (Mr. TEAGUE), chairman of the Veterans' Affairs Committee in the other body. We have worked together closely on veterans affairs for the last 3 years. His committee staff, most effectively lead by Oliver Meadows, and mine have already conferred extensively on this measure and the differences between the House and Senate versions. We have already taken into consideration the results of those consultations in many places in the committee substitute, and I believe the basic thrusts of much of the Senate bill will be acceptable to the other body. Mr. President, in closing, I urge my colleagues to adopt this measure unanimously so that we may get on with the job of working out the differences between the House and Senate versions of H.R. 10880. Then, it will be our task to insure that we obtain the necessary appropriations in order to fund the additional expenditures which will inevitably be entailed by the expansion of eligibility and statutory authorities included in H.R. 10880 as it is finally agreed to, and to secure appropriations under the authorization for appropriations we agree to for S. 2219, the VA Health Care Expansion Act of 1972, passed by the Senate a week ago.

Mr. BOGGS. Mr. President, it is my pleasure to say a few words in support of S. 2354, the Veterans' Health Care Expansion Act of 1972, which has just been reported by the Veterans' Affairs Committee. I congratulate the distinguished chairman of that committee, Mr. HARTKE, and the distinguished chairman of the Health and Hospitals Subcommittee, Mr. CRANSTON, and the other members for their fine work on this legislation.

S. 2354 would strengthen and expand the VA health care system in a number of significant ways. It would, for example, permit VA hospitals to provide care for the wives and dependents of totally and permanently disabled service-connected veterans and also the widows and children of veterans who die from service-connected disabilities. These benefits will help to lighten the burden of these families who have sacrificed so much for their country.

In addition, S. 2354 would make significant improvements in the VA health personnel system, including new pay schedules for physicians, dentists, nurses, and officers of the VA Department of Medicine and Surgery, as well as overtime pay and shift differentials for all nursing personnel. I am particularly pleased that new emphasis will be placed on recruiting and training veterans with medical skills to become physicians' assistants at VA hospitals.

S. 2354 would also authorize the direct admission of veterans to nursing homes without prior hospitalization at a VA hospital, and it would establish a comprehensive sickle cell anemia screening and counseling program. These, as well as the other provisions of this bill, are of the greatest importance to the veterans of Delaware, with whom I have discussed them. I support them and urge my colleagues to give prompt and favorable consideration to this legislation.

The PRESIDENT pro tempore. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 10880) was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2354 be indefinitely postponed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 10880 be printed as passed and that the Secretary of the Senate be authorized to make any technical corrections that may be needed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF FEDERAL WATER POLLUTION CONTROL ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 746, S. 3572.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 3572, to extend and amend sections 5(n) and 8(d) of the Federal Water Pollution Control Act, as amended

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BEALL. Mr. President, I strongly support the enactment of the continuing resolution, which extends the authorization at the $2 billion level for the water pollution legislation to the end of this fiscal year, June 30. I am particularly pleased that the resolution includes $200 million in discretionary funds for regional advanced waste treatment projects.

This resolution is critical if the efforts of both Houses of Congress to win the battle against water pollution, are going to succeed. It is vital if we, in the Congress, do not want to be the cause of delay in permitting State and local governments to move ahead with construction of needed waste treatment facilities.

I had the honor and pleasure of serving on the Public Works Committee during most of the time that the committee was considering S. 2770. This is landmark legislation and I certainly hope that the conferees will reach early agreement on a final measure so that new directions and additional resources will be available for a massive effort to clean up the Nation's waters.

During the committee deliberations, I offered an amendment that was adopted and incorporated in section 205(D) of the Senate bill that is of utmost importance and urgency to the Nation's Capital region. This amendment provides the Director of the Environmental Protection Agency with discretionary sums of up to $200 million for projects utilizing advanced waste treatment methods on a regional basis for areas with especially severe water pollution control problems.

This discretionary authority is a must if the Nation's Capital area waste treatment plant at Blue Plains is not to be delayed. The Blue Plains facility serves the District of Columbia and the surrounding suburban Virginia and Maryland communities. The Blue Plains facility is a very advanced water treatment plant which the Federal Government required through the Potomac Enforcement Conference. All of the respective jurisdictions involved in the District of Columbia area are fully committed to paying their share, but the cost of the Blue Plains facility requires substantial Federal funding. At the 70 percent matching level which was approved in S. 2770, the Blue Plains facility required $97 million in fiscal 1972 and over $77 million in fiscal 1973. This level of funding far exceeds the amount that would be available to the participating States under the regular population-based allocations. The adoption of my amendment would have enabled the completion of Blue Plains on schedule.

Administrator Ruckelshaus, in a letter assured me—and his assurance appears in the Senate committee report—that with such discretionary funds, the full Federal share would be made available to keep the Blue Plains project on time. It is generally felt, because of the complexities and differences in the House and Senate water pollution measures, that the conference will take some time. I am, therefore, delighted that the continuing resolution includes the authority to provide the funds necessary for the Blue Plains facility.

Mr. President, Blue Plains is not just another treatment facility. The Federal Government has mandated for this facility especially high standards of treatment so that, when completed, the plant will employ the most advanced technology available. Similarly, this area is not just another area in the country. This is the Nation's Capital area. This area should and must be a national model from the pollution standpoint. The Blue Plains facility receives special Federal usage. Such Federal complexes, as NIH, the White House, and Congress itself, contribute to the need for the Blue Plains facility. In fact, it has been estimated that Federal installations account for about 15 percent of the total daily flow into Blue Plains.

Also, the Potomac is not just an average river in the country. Just as Washington is referred to as the "Federal City, the Potomac has been referred to as "Our Nation's River."

In 4 years, many visitors from foreign countries will be coming here to join in the celebration of our 200th birthday. While the completion of the Blue Plains project may not assure that our visitors will see the same river that our forefathers saw, we must move in that direction and at the very least remove the stigma of it being a body of water that is so contaminated that it is unsafe even to wade or swim in.

In recognition of the special responsibilities to the Nation's Capital area and in recognition of the critical nature of the problems, I strongly support the enactment of the continuing resolution. I urge early and favorable House action on this resolution.

I ask unanimous consent that an excellent editorial from the May 1 Washington Post in support of the Senate action be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Free Blue Plains

Some time ago we noted with dismay that the $359-million Blue Plains sewage treatment project has become a victim of congressional hassling over new national water pollution control legislation. In essence, the District cannot let any new contracts for Blue Plains until EPA provides about $62 million in long-promised federal aid. In a reversal of the usual federal-funding problem, the money has already been appropriated but authority to spend it is hung up in the Senate-House conference over the controversial Muskie and Blatnik clean-water bills. While the conferees fence over such issues as national goals for 1985, the Blue Plains project, which would relieve Potomac pollution by 1975, has already been delayed three months.

The Senate Public Works Committee, at the urgings of Senators Beall, Mathias and Eagleton, has just taken an overdue initiative to make the essential funds for Blue Plains available at once. Last week the committee approved a resolution authorizing EPA to make water pollution control grants nationwide through June 30, using the funds already appropriated. Included in that resolution were special provisions enabling EPA to allocate up to $200 million for regional projects using advanced waste methods in metropolitan areas with severe pollution problems. This language, of course, is longhand for "Blue Plains."

The Blue Plains project, ambitious and technologically advanced in itself, is perhaps most important as the crucial first priority on a long agenda of pollution control actions which area governments will have to undertake in the next few years. The project has the administration's full support and regional backing as nearly unanimous as any venture in this area ever enjoys. We trust the Senate will approve the Public Works Committee's resolution. We urge the House to recognize as well that while other prickly pollution issues are being thrashed out, this project should be freed and funded right now.

In most cases, and particularly for advance ticket purchases, there ought to be certain conditions under which the personal check (and the credit card, for that matter) are still welcome. Let's hope the National gives it a try.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. The third sentence of section 5(n) of the Water Pollution Control Act, as amended (33 U.S.C. 1151 et seq.), is amended by striking out "$300,000,000 for the period commencing November 1, 1971, and ending April 30, 1972," and inserting in lieu thereof "$41,000,000 for the period commencing November 1, 1971, and ending June 30, 1972,".

Sec. 2. The second sentence of section 8 (d) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1158(d)), is amended by striking out "$1,650,000,000 for the period ending April 30, 1972," and inserting in lieu thereof "$2,000,000,000 for the fiscal year ending June 30, 1972, of which not to exceed $167,000,000 may be allocated for the fiscal year ending June 30, 1972, to assist in the construction of projects utilizing advanced treatment methods for the treatment of wastes on a regional scale for areas with especially severe water pollution control problems."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 92–777) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE OF LEGISLATION

Authorizations contained in sections 5(n) and 8(d) of the Federal Water Pollution Control Act, as amended earlier this year, expire on April 30, 1972. Both the Senate and the House of Representatives have passed S. 2770, which would extend these authorizations, but it is unlikely that final action on any conference report on the differences between the two Houses can be taken until later in June. In order to allow Congress to complete action on a major revision of the water pollution control legislation and fully authorize the funds already appropriated for fiscal 1972, conditional on subsequent authorization, this bill would extend authorizations for sections 5(n) and 8(d) through the fiscal year at the appropriated level.

Funds authorized for research, investigations, training and information under section 5 of the Federal Water Pollution Control Act would be increased by $11 million, from $30 million for the period ending April 30 to $41 million, the sum appropriated for fiscal year 1972 for the period ending June 30, 1972. This is in addition to the sum authorized for salaries and related expenses under section 5(n) for fiscal year 1972.

Construction grants under section 8 would be authorized at the appropriated level of $2 billion for the full fisacl year, and additional of $350 million to the previously authorized sum.

The committee wishes to clarify that all funds authorized for purposes of section 8 for fiscal year 1972 are available, at the option of each State, for grants to municipalities which have initiated construction of projects during the fiscal year ending June 30, 1972, without Federal financial assistance, or with a lesser amount of such assistance than that for which a project was eligible, if such projects are certified by such State as entitled to priority over other eligible projects and otherwise meet the requirements of the act.

The committee understands that some communities have initiated construction of projects during fiscal year 1972 without Federal grant funds. To the extent that these projects have been certified by the States, otherwise meet the requirements of the act, and approved by the Administrator of EPA, there is no reason why funds authorized for fiscal year 1972 should be withheld from such projects. The committee trusts that any contrary interpretation of the law by the Environmental Protection Agency is now laid to rest.

In addition, the committee recognizes that several projects across the country impose especially heavy financial burdens because of the severity of the pollution problems to which they respond, the costliness of advanced waste treatment technologies they must employ, and the regional scope of the service they must provide. These projects cannot be adequately funded under the usual allocation formula. For this reason the amendment provides an amount of flexibility in allocating up to $167 million of fiscal year 1972 construction grant funds so that the construction of these very necessary projects can proceed. A similar provision is contained in S. 2770, but this authority is necessary now in connection with the full authorization of fiscal year 1972 funds.

The prime example of projects expected to be expeditiously funded under this new authority is the Blue Plains project for the Washington, D.C., area. According to the Environmental Protection Agency, the Federal fund needs for such projects are as follows:

	Millions
Blue Plains, D.C	$62.0
Niagara Falls, N.Y	55.0
St. Louis, Mo	11.0
Kansas City, Mo	21.0
Seattle, Wash	9.5
Honolulu	8.5
Total	167.0

These figures are based on maximum funding permissible in each case under existing legislation. The amounts shown will not necessarily cover the Federal needs for the entire project, but will be sufficient to permit portions of the project to go under contract in order to meet established schedules.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order the distinguished Senator from Mississippi (Mr. STENNIS) is now recognized for 15 minutes.

ENVIRONMENTAL LAW SUITS AND THE POWER CRISIS

Mr. STENNIS. Mr. President, in my capacity as chairman of the Public Works Subcommittee of the Senate Approriations Committee, I have been holding hearings for the past several weeks. In succession, I have heard the statements of the Federal agencies responsible for carrying out the public works programs of our Nation, and have had an opportunity to interrogate them at length.

A clear pattern emerges, Mr. President, which concerns me very deeply. The pattern encompasses the full spectrum of public works, but let me begin by relating it to the matter of electric power.

In the week of April 17, there appeared before the subcommittee the heads of the three Federal agencies most directly involved in electric power matters: the Federal Power Commission, the Tennessee Valley Authority, and the Atomic Energy Commission.

Chairman John N. Nassikas of the Federal Power Commission discussed a comprehensive study carried out by the Commission over a 6-year period. It is called "The 1970 National Power Survey" because the figures used are current as of that date, but it is very recently completed, having been released on April 15. Among other findings, the study concludes that this Nation's demand for electric power will quadruple by 1990. In the 1970's it will double, and in the 1980's the doubled figure will double again, so it will be quadrupled.

The report of the National Power Survey is summaried very well in an article by James L. Rowe in the Washington Post of April 16, 1972. An excellent discussion of the report is contained in an article by Stephen M. Aug in the Washington Star of April 16, 1972. I ask unanimous consent that both of these articles be printed in the RECORD at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STENNIS. Let me quote from Mr. Aug's article in the Star:

> The Federal Power Commission today forecast "recurrent and spreading power shortages," and placed much of the blame for delays in construction of badly needed electric generating plants on lawsuits by environmental and other public groups.
>
> "Despite increasing efforts of public agencies and the industry itself to protect the environment," the FPC said in a 460-page report, "today more than ever before the construction of new power facilities is being challenged on environmental grounds."

And—again quoting in part:

> The FPC warned that there is a balance necessary between the nation's energy resources and environmental protection needs. "The nation cannot move overnight to correct all the environmental wrongs of the past or to implement all the environmental needs of the future." It would bankrupt itself if it were to attempt to do so . . .
>
> It contended "the danger of serious imbalances, especially at this early formative stage of the nation's environmental crusade, is that when the costs begin to be counted and the true magnitude of the national needs begins to be appreciated, the public may be shocked into backing off from the undertaking, leaving some of the most important tasks undone."

Chairman Nassikas made a very fine statement before the subcommittee. I will quote briefly from parts of the summary of that statement. He said:

> For the first time in our peacetime history the energy situation approaches a condition of national crisis. Several factors contribute to the threatening situation. The demand for energy in this country continues to grow at a relentless pace. Our domestic proven reserves of gas and oil are being depleted faster than they are being replaced by new discoveries. The search for new hydrocarbon reserves is becoming more difficult and costly. The resolution of environmental issues has slowed the development of energy resources such as off-shore oil and gas, as well as the siting of new power plants and high voltage electric transmission lines. Scheduled additions of nuclear power plants have been delayed by environmental review procedures, related factors and technical problems. As a result, our power reserve margins have been reduced below adequate levels to assure reliable power supply in all regions of the country.

He also told us of the delays caused by environmental organizations' suits against the Atomic Energy Commission, intervening in the AEC's licensing procedures. This problem was also discussed by Dr. Schlesinger, Chairman of the Atomic Energy Commission, before the subcommittee later in the week.

Mr. Nassikas also pointed out that water discharge permits issued by the Environmental Protection Agency and the Corps of Engineers have been halted by court injunction in an environmental suit, and the permit system is presently at a halt. This affects thousands of businesses nationwide, including electric powerplants, which must have cooling water to function. He pointed out that power transmission lines in New York have been halted by an environmental suit, and that in connection with this case the court has directed that his own office, the Federal Power Commission, must prepare an environmental impact statement, under the National Environmental Policy Act, before the Commission can rule on such cases.

The Chairman of the Board of the Tennessee Valley Authority, Mr. A. J. Wagner, agrees that a power crisis is at hand. In his statement to the subcommittee, he said:

> The ability of the Nation's electric generating capacity to meet demands is a matter of general concern these days. There may well be serious power shortages over the next several summer and winter peak load seasons, particularly if significant amounts of nuclear generating capacity scheduled for commercial operation in the next few years is delayed through failure to receive operating licenses from the AEC in time to meet growing power demands.
>
> During the remainder of this year TVA expects to meet the power demands of its system with adequate margins. Attainment of adequate margins for the next and the following winters depends, of course, upon our having available to us the capacity of new generating units by the time needed.

Plainly, the situation in the power field is thoroughly out of hand, and in a turmoil. Here the Nation is faced with a power crisis, and almost certain brownouts or blackouts, and our hands are tied by confrontations in the courts.

In the Washington Post of April 16 there appeared a very fine article called "Ecology" by Peter F. Drucker, who is professor of social sciences at the Claremont Graduate School in California, and professor of management at New York University. The article is excerpted from the January issue of Harpers magazine. I will quote from the article and ask unanimous consent that it be inserted in the RECORD in its entirety at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. STENNIS. Professor Drucker said:

> The environmental crusade may well become the great cause of the Seventies—and not one moment too soon.
>
> Yet the crusade is in real danger of run-

> ning off the tracks, much like its immediate predecessor, the so-called war on poverty. Paradoxically, the most fervent environmentalists may be among the chief wreckers. Many are confused about the cause of our crisis and the ways in which we might resolve it. They ignore the difficult decisions that must be made; they splinter the resources available for attacking environmental problems. Indeed, some of our leading crusaders seem almost perversely determined to sabotage their cause—and our future.

Further along in the article, he said:

> Closely related to the fallacy that "profit" can pay the environmental bill is the belief that we can solve the environmental crisis by reducing industrial output. In the highly developed affluent countries of the world, it is true that we may be about to de-emphasize the "production-orientation" of the past few hundred years. Indeed, the "growth sectors" of the developed economies are increasingly education, leisure activities, or health care rather than goods. But paradoxical as it may sound, the environmental crisis will force us to return to an emphasis on both growth and industrial output—at least for the next decade.

In connection with the suits involving electric power, he said that these actions by environmental groups have "ensured that other ecological tasks cannot be done effectively for the next 5 or 10 years."

At the conclusion of the article he said:

> What we now need is a coherent, long-range program of action, and education of the public and our lawmakers about the steps necessary to carry it out. We must recognize—and we need the help of environmentalists in this task—that we can't do everything at once; that painful choices have to be made, as soon as possible, about what we should tackle first; and that every decision is going to involve high risks and costs, in money and in human lives.
>
> * * * * *
>
> To succeed, the environmental crusade needs support from all major groups in our society, and the mobilization of all our resources, material and intellectual, for years of hard, slow, and often discouraging effort. Otherwise it will not only fail; it will, in the process, splinter domestic and international societies into warring factions.

I must say, Mr. President, that while the electric power situation is in a disastrous state of disruption and confrontation, the testimony of the other Federal agencies before the subcommittee shows that the same influences are at work in all the fields of public works.

Witness after witness testified as to delays in projects caused by environmental suits—projects halted in the middle of construction at tremendous cost to the Government—benefits of projects foregone while construction costs amount—communities denied the projects they want because outsiders object—all at great cost.

I call the attention of Senators to the testimony we have already taken. It will be printed in due course, and I hope that it will be followed by each member of the Senate and their staffs. These are alarming conditions involving shortages, increased costs, and slowdowns in construction. We are going to reap a whirlwind of adverse results if something is not done.

In one valley where a project was halted, a flood occurred, and the damages could have been largely alleviated if the project had been completed. Let me say that anyone who has seen a real flood has seen an ecological nightmare. The stark devastation has to be seen to be comprehended. The ecological damage is such that even a generation or two cannot overcome it. I remember the 1927 flood in my State, and the countryside still shows some of its effects.

Projects of all kinds attract the attention of the environmental groups and their lawyers. I dare say that if you tried to build the Statue of Liberty today, you would have an environmental lawsuit on your hands.

In my own region of the country we have massive support among the people for the Tennessee-Tombigbee Waterway, as a project which offers tremendous economic promise for our region. After very lengthy environmental studies, contruction was to begin last year, following a groundbreaking ceremony by the President last May. It has been halted by a court suit being handled by the lawyers of the environmental defense fund, of Long Island, N.Y. The cost of this delay to the Government and the people will run into millions. The bond posted by the plaintiff in this case was $1.

I am a little encouraged by the decision of the Supreme Court on April 17 that will deny such intervention by those who live at an abstract distance and are not personally affected by a project. I am afraid, however, that every public works effort, be it highway or flood control structure, always has at least a few local opponents, in keeping with the democratic processes, and that the environmental organizations will file suits in the names of those citizens, so that the practical effects of the Supreme Court ruling will not be great.

I believe in conservation of natural resources, and in protecting the environment. I also believe in economic development. In fact, it is essential for our society to survive. As Professor Drucker pointed out so well in his article, we must have economic progress in order to achieve our environmental goals.

What I oppose completely is the ability of almost any group, whatever its size, or its name, or its purposes, to file a suit against any Federal project, however worthy, and be able to halt it temporarily, at no risk to the group and at great cost to the Government and to the people who live in the area and need the project. I think this creates in our governmental processes an excessive opportunity for irresponsible actions. The Government can be greatly damaged. I believe that it is time that the courts require a proper bond in these cases—one that represents the size of the possible people of the area, resulting from project delay.

In conclusion, I repeat, Mr. President, that I am deeply concerned. Our public works program is slowly being ground to a halt, and we are facing a crisis in electrical power. The crisis is with us. It can be solved, but not if environmental extremism is allowed to have unlicensed freedom to call a halt to every effort toward the solution. This will halt the economic progress we need so badly in order to pay the back debts that are owed for having abused the environment in the past. It will cause traumatic divisions among our people. Finally it will result in a backlash discredit of the realistic and systematic efforts that must be undertaken toward environmental repairs—to clean up our land, air, and water.

This is a problem that Congress must face. It will not go away. It is so serious that it cannot wait too long for solution. A balanced program must be evolved by the Congress must take the lead. As a Member of the Senate, I stand ready to make such contribution as I can.

Mr. President, I call the attention of the Senate to these facts already being developed by our subcommittee and by is happening and then concentrating a united effort we will find a solution that will take care of the environmental problems.

EXHIBIT 1

[From the Washington Post, Apr. 16, 1972]

POWER NEEDS BY 1990 SEEN QUADRUPLED

(By James L. Rowe, Jr.)

The Federal Power Commission predicted yesterday that the nation's demand for electric power will quadruple by 1990. The growth will be accompanied by substantially rising consumer costs and depends upon the successful introduction of nuclear power plants, the FPC said.

The predictions came in a mammoth six-year study known as "The 1970 National Power Survey" because the figures are current up to that year.

The commission said the electric industry faces "manifold problems" in meeting the nation's electric power needs by 1990, but said none of them is "unique or unmanageable."

Among the obstacles are the industry must overcome are:

Rising $400 billion over the next two decades to build the necessary generating capacity.

Assuring that generating plants—fossile-fueled or nuclear—meet increasingly rigorous environmental protection standards.

Developing more reliable interconnections between generating sources to prevent major power failures.

Increasing markedly the amount of money spent on research and development.

At the end of 1970, the report says, the nation had installed a generating capacity of 340,000 megawatts. By the end of 1980, the commission estimates that capacity will have to grow to 665,000 megawatts and to 1,260,000 megawatts by 1990.

The commission estimates that nuclear-powered plants, which accounted for only 2 per cent of electricity generated by thermal power in 1970, will account for 53 per cent of heat-generated electricity in 1990.

Coal, which supplied 54 per cent of the thermal power generation in 1970, is expected to slip to 30 per cent in 1990. The natural gas share, which was 29 per cent in 1970, is expected to slip to 8 per cent over the next two decades, and residual fuel oil from 15 per cent to 8 per cent.

Hydroelectric power, which provided 16 per cent of the total generating capacity in 1970, is expected to slip to 12 per cent by 1990 while thermal power increases from 84 per cent to 88 per cent.

Costs to the consumer are expected to rise substantially, however. Between 1926 and 1968, the average cost per kilowatt-hour declined from 2.7 cents to 1.53 cents—though total electric bills climbed as the nation began to consume increasingly large amounts of electricity.

The FPC projected, however, that cost per kilowatt-hour will now begin to rise as fuel costs, transmission and distribution costs, and increasingly expensive plant investment outpace whatever efficiencies the industry can produce.

Measured in 1968 dollars, the cost per kilowatt-hour will be 1.83 cents. Injecting a yearly inflationary factor of 3 per cent (the rate at which prices climbed between 1962 and 1970), the cost per kilowatt-hour would be 3.51 cents.

A major obstacle the industry must overcome in providing needed generating capacity, the commission said, is the environmental question.

Already, the report said, "Some vitally needed power projects have been delayed or blocked on this account while the growth in demand for electricity has continued unabated. Something has to yield in such a situation, and what has been yielding has been the margin of assurance of electrical service."

The commission report said, "Contradictory public attitudes about electric power are on a collision course . . . Today more than ever before the construction of new power facilities is being challenged on environmental grounds."

FPC Chairman Nassikas, at a news conference to announce the report, said he was concerned because court decisions "have had a substantial impact on the ability of the industry to install facilities with appropriate margins" of reserve capacity.

He said the commission is now requiring the industry to plan ahead at least 10 years so that environmental considerations can be met.

Although the total demand for electric power is expected to rise rapidly in the next 20 years, the report expects little change in the composition of that demand.

Industrial use, which accounted for 40 per cent of output in 1970, will grow to 41 per cent. Residential use is expected to fall slightly from 25 per cent to 24 per cent, while commercial use is expected to rise from 18 per cent to 20 per cent.

However, the commission predicted the number of all-electric homes" will rise from 4.2 million units in 1970 to 24 million in 1990. Simultaneously, the all-electric home consumption is expected to rise from 20,000 kilowatt-hours per year in 1970 to 33,000 kilowatt-hours in 1990.

"In summary," the report said, "the health of the electrical industry is today basically sound, although it is menaced in some areas of the country by current and increasing delays in new capacity additions."

[From the Washington Star, Apr. 16, 1972]

FPC Places Blame—Power Crisis, Suits Linked

(By Stephen M. Aug)

The Federal Power Commission today forecast "recurrent and spreading power shortages," and placed much of the blame for delays in construction of badly needed electric generating plants on lawsuits by environmental and other public groups.

"Despite increasing efforts of public agencies and the industry itself to protect the environment," the FPC said in a 460-page report, "today more than ever before the construction of new power facilities is being challenged on environmental grounds.

"Some vitally needed power projects have been delayed or blocked on this account, while the growth in demand for electricity has continued unabated. Something has to yield in such a situation, and what has been yielding has been the margin of assurance of electrical service."

The commission recalled that voltage reductions and a few localized blackouts have occurred in several major urban areas during recent years and "the end is not yet in sight in certain critical areas," although generating reserves improved last year and will continue to improve "if current construction projects can be completed on schedule."

At the same time the commission, in its "National Power Survey"—the work of six years—said the cost of meeting anticipated growth and environmental concerns is going to raise the price of electricity.

The five-member agency, however, rejected the so-called "no growth" school. "Aside from those few who, heedless of the implications and oblivious to the impracticality of trying to put an industrialized society to pasture take a 'who needs it, let's go back to nature' attitude toward electricity, no one these days questions the importance of this highly adaptable form of energy," the report said.

"Deterioration of the quality of electrical service would of itself and through its economic repercussions degrade our national life. That is the crux of the power issue facing the nation today. . . . In a very real sense electric power is the lifeblood of a modern nation."

The FPC, which regulates transmission of electricity and natural gas across state lines and licenses hydroelectric projects, issued its power survey as a long-range guide to planning for electric power needs through 1990.

The commission said that while many call for curtailment of power growth "in the interests of environmental protection, the best judgment of those whose business it is to study demand trends is that the nation's electrical requirements will very nearly quadruple between 1970 and 1990." An FPC official said the prediction comes from the electric power industry, several advisory committees composed of industry officials and the commission's own staff.

The report said that even if Americans "were willing to cut corners in their use of electricity in the home, which remains to be demonstrated, this of itself would not fundamentally alter the national demand outlook." A 10 percent reduction in today's household consumption would be required to reduce by 2.5 percent today's total consumption, the report said.

ECOLOGY EFFECT NOTED

It contended that further measures needed to upgrade the nation's environment "are creating substantial new requirements for electricity." These include recycling scrap paper and wastes; sewage treatment plants, and prospects for electric rapid transit in large cities to reduce auto congestion and air pollution.

At the same time, the FPC pointed out that the electric power industry's operations interact with all the principal elements of the environment "that are troubling the nation today: air quality, water quality, land use and resource consumption." It concluded that "the best efforts can only reduce, not eliminate, the environmental impact of needed electric supply."

The FPC warned that there is a balance necessary between the nation's energy resources and environmental protection needs. "The nation cannot move overnight to correct all the environmental wrongs of the past or to implement all the environmental needs of the future." It would bankrupt itself if it were to attempt to do so. . . ."

"SERIOUS IMBALANCES"

It contended "the danger of serious imbalances, especially at this early formative stage of the nation's environmental crusade, is that when the costs begin to be counted and the true magnitude of the national needs begins to be appreciated, the public may be stocked into backing off from the undertaking, leaving some of the most important tasks undone.

"It would be tragic in the extreme if the heavy emphasis currently being placed on the environmental aspects of electric power should have this effect, or if, by failing to maintain a proper balance between environmental values and vital community energy needs, the end result is to diminish, rather than improve, the over-all quality of the human environment."

The FPC said "the common sense of the average citizen as much as any other factor may be the key."

In considering the costs of electricity, it noted that by 1970 the price of electricity began to reverse after a 25-year period of declining prices.

$1,158 BILL IN 1990

It said the average actual costs of 1.54 cents per kilowatt-hour in 1968 will increase to about 1.83 cents by 1990 measured in terms of the 1968 dollar. Allowing for only a 3 percent annual rate of inflation annually, this cost would balloon to 3.51 cents.

At the same time, the commission predicted that the average all-electric home, where 20,000 kilowatt-hours of electric power are consumed today, will consume about 33,000 hours by 1990. On this basis, the consumer with an all-electric home who paid about $308 as an annual electric bill in 1968, will be paying about $1,158 a year by 1990, assuming a 3 percent annual rate of inflation (in the Consumer Price Index).

Prominent among the influences causing this increase, the FPC said, are added costs for environmental protection and "enhancement features" (such as underground wiring and other esthetic matters), higher costs of borrowing and sharply increasing competition for available fossil fuels, gas, oil, coal—that can meet increasingly stringent environmental regulations.

NUCLEAR ROLE

The commission made clear that in its plans much of the electricity needs for 1990 will be met by nuclear plants. It predicted that while coal now supplies 54 percent of fuel for use in generating electric power by 1990 nuclear power would supply 53 percent. The sharpest declines would be in use of natural gas—29 percent at present to 8 percent in 1990, and residual fuel oil, 15 percent now to 9 percent in 1990.

Again, however, the FPC pointed to long delays in construction of nuclear plants. At a briefing for reporters last year, FPC Chairman John N. Nassikas pointed out that two recent court decisions—one of them last year involving the Calvert Cliffs plant on Chesapeake Bay—"have a substantial adverse impact upon the development of needed generating facilities."

Nassikas urged that the Atomic Energy Commission be authorized to grant interim licenses to nuclear power plants so they may be placed into operation while studies continue on their effects on the environment. If a study concludes that environmental dangers outweigh the advantages of the plant, then the facility would be shut down.

CONCERN ON FINANCING

The commission also expressed concern over the ability of the electric power industry to obtain financing to meet needs for new facilities. The FPC said that between 1970 and 1990 the industry will need between $400 billion and $500 billion, of which $240 billion to $300 billion will have to be obtained from investors in the open market in competition with other investments.

At the same time, it warned that while electric utilities are no longer a favorite with investors. The reasons are that they have had to raise huge sums of money in recent years at high interest rates and they face larger financial needs in the future, problems the industry has had with respect to adequate supplies of power and uncertainty of investors over the problems of environmental impact.

The FPC said, too, that the attractiveness of the industry's securities to investors depends on public utility regulation—especially as it affects profits. In the recent period of high interest rates and sharply rising costs investors "have been understandably concerned" over the fact that utility regulating agencies have not been quick to grant rate increases.

"It is a paradox of regulation," the commission said, "that significant delays in permitting higher costs to be reflected in higher rates may ultimately result in higher costs of capital and higher rates. It is therefore important that state and local regulators as well as this commission exercise diligence in minimizing regulatory lag."

The commission listed what it termed six "major imperatives" of the national power situation:

". . . for the American people to recognize that the problems facing the power industry today are of a critical nature and that it is the nation's and their well-being as individuals, not merely that of the industry, which is at risk."

The need to distinguish between short-range problems and long-range objectives. "Too often . . . those who oppose the construction of new generating or transmission lines blur together two quite separate considerations—(1) the specific effects the particular installation will have on its environs, and (2) the potential environmental impact of building a large number of equivalent units . . ." The FPC said a result is that urgently needed power facilities often are delayed by issues that belong in the realm of long-range policy making—especially utilities that today have inadequate reserve generating capacity or inadequate ties with other systems.

The need for improved site selection procedures. Procedures followed in the past for selecting power plant sites and related transmission lines "are inadequate." The commission urged establishment of state or regional power plant siting authorities, and requirement of utilities to make ample advance disclosure of their plans.

Need for a national energy policy. The public, government and industry must determine the nation's power needs after weighing both economic and environmental factors in balance.

Need for intensified research and development. This includes development of fast breeder reactors—these would vastly increase the nation's nuclear fuel. Achievement of economically practical undergrounding of high voltage lines; further research on the environment to reinforce present knowledge on the extent of the effects and biological consequences of industrial operations on air and water quality.

Financial imperatives. The rate of return achieved on utility common stocks has been on a gradual downward trend since 1967. If allowed to continue, a downward trend utility financial performance would create increasing difficulties for utilities both in attracting equity (stock) investment and in raising capital—and this at a time when their capital requirements promise to be larger than ever before.

[Exhibit 2]

[From the Washington Post, Apr. 16, 1972]

Ecology: "Environmentalists May Be Among the Chief Wreckers"

(By Peter F. Drucker)

(Note.—Drucker is professor of social sciences at the Claremont Graduate School, Claremont, Calif., and professor of management at New York University. This article is excerpted from the January, 1972, issue of Harper's magazine by special permission.)

Everybody today is "for the environment." Laws and agencies designed to protect it multiply at all levels of government. Big corporations take full-color ads to explain how they're cleaning up, or at least trying to. Even you as a private citizen probably make some conscientious effort to curb pollution. At the same time, we have learned enough about the problem to make some progress toward restoring a balance between man and nature. The environmental crusade may well become the great cause of the Seventies—and not one moment too soon.

Yet the crusade is in real danger of running off the tracks, much like its immediate predecessor, the so-called war on poverty. Paradoxically, the most fervent environmentalists may be among the chief wreckers. Many are confused about the cause of our crisis and the ways in which we might resolve it. They ignore the difficult decisions that must be made; they splinter the resources available for attacking environmental problems. Indeed, some of our leading crusaders seem almost perversely determined to sabotage their cause—and our future.

Consider, for example, the wide-spread illusion that a clean environment can be obtained by reducing or even abolishing our dependence on "technology." The growing pollution crisis does indeed raise fundamental questions about technology—its direction, uses and future. But the relationship between technology and the environment is hardly as simple as much anti-technological rhetoric would have us believe.

The invention that has probably had the greatest environmental impact in the past 25 years, for instance, is that seemingly insignificant gadget, the wire-screen window. The wire screen, rather than DDT or antibiotics, detonated the "population explosion" in underdeveloped countries, where only a few decades ago as many as four out of five children died of such insect-borne diseases as "summer diarrhea" or malaria before their 5th birthday. Would even the most ardent environmentalist outlaw the screen window and expose those babies again to the flies?

The truth is that most environmental problems require technological solutions—dozens of them. To control our biggest water pollutant, human wastes, we will have to draw on all sciences and technologies from biochemistry to thermodynamics. Similarly, we need the most advanced technology for adequate treatment of the effluents that mining and manufacturing spew into the world's waters. It will take even more new technology to repair the damage caused by the third major source of water pollution in this country—the activities of farmers and loggers.

Even the hope of genuine disarmament—and the arms race may be our worst and most dangerous pollutant—rests largely on complex technologies of remote inspection and surveillance. Environmental control, in other words, requires technology at a level at least as high as the technology whose misuse it is designed to correct. The sewage-treatment plants that are urgently needed all over the world will be designed, built, and kept running not by purity of heart, ballads, or Earth Days but by crew-cut engineers working in very large organizations, whether businesses, research labs, or government agencies.

WHO WILL PAY?

The second and equally dangerous delusion abroad today is the common belief that the cost of cleaning the environment can be paid for out of "business profits." After taxes, the profits of all American businesses in a good year come to $60 billion or $70 billion. And mining and manufacturing—the most polluting industries—account for less than half of this. But at the lowest estimate, the cleanup bill, even for just the most urgent jobs, will be three or four times as large as all business profit.

Consider the most efficient and most profitable electric-power company in the country (and probably in the world): the American Electric Power Co., which operates a number of large power companies including the government's own TVA. Yet cleaning up American Electric Power's plants to the point where they no longer befoul air and water will require, for many years to come, an annual outlay close to, if not exceeding, the company's present annual profit of $100 million. The added expense caused by giving up strip mining of coal or by reclaiming strip-mined land might double the company's fuel bill, its single largest operating cost. No one can even guess what it would cost—if and when it can be done technologically—to put power transmission lines underground. It might well be a good deal more than power companies have ever earned.

We face an environmental crisis because for too long we have disregarded genuine costs. Now we must raise the costs, in a hurry, to where they should have been all along. The expense must be borne, eventually, by the great mass of the people as consumers and producers. The only choice we have is which of the cost will be borne by the consumer in the form of higher prices, and which by the taxpayer in the form of higher taxes.

It may be possible to convert part of this economic burden into economic opportunity, though not without hard work and, again, new technology. Many industrial or human wastes might be transformed into valuable products. The heat produced in generating electricity might be used in greenhouses and fish farming, or to punch "heat holes" into the layer of cold air over such places as Los Angeles, creating an updraft to draw off the smog. But these are long-range projects. The increased costs are here and now.

REDUCING OUTPUT

Closely related to the fallacy that "profit" can pay the environmental bill is the belief that we can solve the environmental crisis by reducing industrial output. In the highly developed affluent countries of the world, it is true that we may be about to de-emphasize the "production-orientation" of the past few hundred years. Indeed, the "growth sectors" of the developed economies are increasingly education, leisure activities, or health care rather than goods. But paradoxical as it may sound, the environmental crisis will force us to return to an emphasis on both growth and industrial output—at least for the next decade.

There are three reasons for this, each adequate in itself.

1. Practically every environmental task demands huge amounts of electrical energy, way beyond anything now available. Sewage treatment is just one example; the difference between the traditional and wholly inadequate methods and a modern treatment plant that gets rid of human and industrial wastes and produces reasonably clear water is primarily electric power, and vast supplies of it. This poses a difficult dilemma. Power plants are themselves polluters. And one of their major pollution hazards, thermal pollution, is something we do not yet know how to handle.

Had we better postpone any serious attack on other environmental tasks until we have solved the pollution problems of electric-power generation? It would be a quixotic decision, but at least it would be a deliberate one. What is simply dishonest is the present hypocrisy that maintains we are serious about these other problems—industrial wastes, for instance, or sewage or pesticides—while we refuse to build the power plants we need to resolve them.

I happen to be a member in good standing of the Sierra Club, and I share its concern for the environment. But the Sierra Club's opposition to any new power plant today—and the opposition of other groups to new power plants in other parts of the country—has, in the first place, ensured that other ecological tasks cannot be done effectively for the next five or ten years. Secondly, it has made certain that the internal-combustion engine is going to remain our mainstay in transportation for a long time to come. An electrical automobile or electrified mass transportation—the only feasible alternatives—would require an even more rapid increase in electrical power than any now projected. And thirdly it may well a few years hence cause power shortages along the Atlantic Coast, which would mean unheated homes in winter, as well as widespread industrial shutdowns and unemployment. This would almost certainly start a "backlash" against the whole environmental crusade.

2. No matter how desirable a de-emphasis on production might be, the next decade is the wrong time for it in all the developed countries and especially in the United States. The next decade will bring a surge in employment-seekers and in the formation of young families—both the inevitable result of the baby boom of the late Forties and early Fifties. Young adults need jobs; and unless there is a rapid expansion of jobs in production there will be massive unemployment, especially of low-skilled blacks and other minority group members. In addition to jobs, young families need goods—from housing and furniture to shoes for the baby. Even if the individual family's standard of consumption goes down quite a bit, total demand—barring only a severe depression—will go up sharply. If this is resisted in the name of ecology, environment will become a dirty word in the political vocabulary.

3. If there is no expansion of output equal to the additional cost of cleaning up the environment, the cost burden will—indeed, must—be met by cutting the funds available for education, health care, or the inner city, thus depriving the poor. It would be nice if the resources we need could come out of defense spending. But of the 6 or 7 per cent of our national income that now goes for defense, a large part is cost of past wars, that is, veterans' pensions and disability benefits (which, incidentally, most other countries do not include in their defense budgets—a fact critics of "American militarism" often ignore). Even if we could—or should—cut defense spending, the "peace dividend" is going to be 1 or 2 per cent of national income, at best.

But the total national outlay for education (7 to 8 per cent), health care (another 7 to 8 per cent), and the inner city and other poverty areas (almost 5 per cent) comes to a fifth of total national income today. Unless we raise output and productivity fast enough to offset the added environmental cost, the voters will look to this sector for money. Indeed, in their rejection of school budgets across the nation and in their desperate attempts to cut welfare costs, voters have already begun to do so. That the shift of resources is likely to be accomplished in large part through inflation—essentially at the expense of the lower-income groups—will hardly make the environmental cause more popular with the poor.

The only way to avoid these evils is to expand the economy, probably at a rate of growth on the order of 4 per cent a year for the next decade, a higher rate than we have been able to sustain in this country in the postwar years. This undoubtedly entails very great environmental risks. But the alternative is likely to mean no environmental action at all, and a rapid public turn—by no means confined to the "hard hats"—against all environmental concern whatever.

MAKING VIRTUE PAY

The final delusion is that the proper way to bring about a clean environment is through punitive legislation. We do need prohibitions and laws forbidding actions that endanger and degrade the environment. But more than that, we need incentives to preserve and improve it.

Punitive laws succeed only if the malefactors are few and the unlawful act is comparatively rare. Whenever the law attempts to prevent or control something everybody is doing, it degenerates into a huge but futile machine of informers, spies, bribe givers, and bribe takers. Today every one of us—in the underdeveloped countries almost as much as in the developed ones—is a polluter. Punitive laws and regulations can force automobile manufacturers to put emission controls into new cars, but they will never be able to force 100 million motorists to maintain this equipment. Yet this is going to be the central task if we are to stop automotive pollution.

What we should do is make it to everyone's advantage to reach environmental goals. And since the roots of the environmental crisis are so largely in economic activity, the incentives will have to be largely economic ones as well. Automobile owners who voluntarily maintain in working order the emission controls of their cars might, for instance, pay a much lower automobile registration fee, while those whose cars fall below accepted standards might pay a much higher fee. And if they were offered a sizable tax incentive, the automobile companies would put all their best energies to work to produce safer and emission-free cars, rather than fight delaying actions against punitive legislation.

Despite all the rhetoric on the campuses, we know by now that "capitalism" has nothing to do with the ecological crisis, which is fully as severe in the Communist countries. The bathing beaches for 50 miles around Stockholm have become completely unusable, not because of the wicked Swedish capitalists but because of the raw, untreated sewage from Communist Leningrad that drifts across the narrow Baltic. Moscow, even though it still has few automobiles, has as bad an air-pollution problem as Los Angeles—and has done less about it so far.

We should also know that "greed" has little to do with the environmental crisis. The two main causes are population pressures, especially the pressures of large metropolitan populations, and the desire—a highly commendable one—to bring a decent living at the lowest possible cost to the largest possible number of people.

The environmental crisis is the result of success—success in cutting down the mortality of infants (which has given us the population explosion), success in raising farm output sufficiently to prevent mass famine (which has given us contamination by insecticides, pesticides, and chemical fertilizers), success in getting people out of the noisome tenements of the nineteenth-century city and into the greenery and privacy of the single-family home in the suburbs (which has given us urban sprawl and traffic jams). The environmental crisis, in other words, is very largely the result of doing too much of the right sort of thing.

To overcome the problems success always creates, one has to build on it. The first step entails a willingness to take the risks involved in making decisions about complicated and perilous dilemmas:

What is the best "trade-off" between a cleaner environment and unemployment?

How can we prevent the environmental crusade from becoming a war of the rich against the poor, a new and particularly vicious "white racist imperialism"?

What can we do to harmonize the worldwide needs of the environment with the political and economic needs of other countries, and to keep American leadership from becoming American aggression?

How can we strike the least agonizing balance of risks between environmental damage and mass starvation of poor children, or between environmental damage and large-scale epidemics.

AN ENVIRONMENTAL CRIME?

More than 20 years ago, three young chemical engineers came to seek my advice. They were working for one of the big chemical companies, and its managers had told them to figure out what kind of new plants to put into West Virginia, where poverty was rampant. The three young men had drawn up a long-range plan for systematic job creation, but it included one project about which their top management was very dubious—a ferroalloy plant to be located in the very poorest area where almost everybody was unemployed. It would create 1,500 jobs in a dying small town of 12,000 people and another 800 jobs for unemployed coal miners—clean, healthy, safe jobs, since the new diggings would be strip mines.

But the plant would have to use an already obsolete high-cost process, the only one for which raw materials were locally available. It would therefore be marginal in both costs and product quality. Also the process was a singularly dirty one, and putting in the best available pollution controls would make it even less economical. Yet it was the only plant that could possibly be put in the neediest area. What did I think?

I said, "Forget it—which was, of course, not what the three young men wanted to hear and not the advice they followed.

This, as some readers have undoubtedly recognized, is the perhistory what has become a notorious "environmental crime," the Union Carbide plant in Marietta, Ohio. When first opened in 1951 the plant was an "environmental pioneer." Its scrubbers captured three-quarters of the particles spewed out by the smelting furnaces; the standard at the time was half of that or less. Its smokestacks suppressed more fly ash than those of any other power plant then built, and so on.

But within 10 years the plant had become an unbearable polluter to Vienna, W. Va., the small town across the river whose unemployment it was built to relieve. And for the last five years the town and Union Carbide fought like wildcats. In the end Union Carbide lost. But while finally accepting federal and state orders to clean up an extremely dirty process, it also announced that it would have to lay off half the 1,500 men working in the plant—and that's half the people employed in Vienna. The switch to cleaner coal (not to mention the abandonment of strip mining) would also put an end to the 800 or so coal-mining jobs in the poverty hollows of the back country.

There are scores of Viennas around the nation, where marginal plants are kept running precisely because they are the main or only employer in a depressed or decaying area. Should an uneconomical plant shut down, dumping its workers on the welfare rolls? Should the plant be subsidized (which would clearly open the way for everybody to put his hand in the public till)? Should environmental standards be disregarded or their application postponed in "hardship" cases?

If concern for the environment comes to be seen as an attack on the likelihood of workers, public sympathy and political support for it is likely to vanish. It is not too fanciful to anticipate, only a few years hence, the New (if aging) Left, the concerned kids on the campus, and the ministers in a protest march against "ecology" and in support of "the victims of bourgeois environmentalism."

WHERE TO START

Cleaning up the environment requires determined, sustained effort with clear targets and deadlines. It requires, above all, concentration of effort. Up to now we have had almost complete diffusion. We have tried to do a little bit of everything—and tried to do it in the headlines—when what we ought to do first is draw up a list of priorities in their proper order.

First on such a list belong a few small but clearly definable and highly visible tasks that can be done fairly fast without tying up important resources. Removing the hazard of lead poisoning in old slum tenements might be such an action priority. What to do is well known: burn off the old paint. A substantial number of underemployed black adolescents could be easily recruited to do it.

Once visible successes have been achieved, the real task of priority-setting begins. Then one asks: (1) what are the biggest problems that we know how to solve, and (2) what are the really big ones that we don't know how to solve yet. Clean air should probably head the first list. It's a worldwide problem, and getting worse. We don't know all the answers, but we do have the technological competence to handle most of the problems of foul air today. Within 10 years we should have real results to show for our efforts.

Within 10 years, too, we should get major results in cleaning up the water around big industrial cities and we should have slowed (if not stopped) the massive pollution of the oceans, especially in the waters near our coastal cities.

As for research priorities, I suggest that the first is to develop birth-control methods that are cheaper, more effective, and more acceptable to people of all cultures than anything we now have. Secondly, we need to learn how to produce electric energy without thermal pollution. A third priority is to devise ways of raising crops for a rapidly growing world population without at the same time doing irreversible ecological damage through pesticides, herbicides, and chemical fertilizers.

Until we get the answers, I think we had better keep on building power plants and growing food with the help of fertilizers and such insect-controlling chemicals as we now have. The risks are now well known, thanks to the environmentalists. If they had not created a widespread public awareness of the ecological crisis, we wouldn't stand a chance. But such awareness by itself is not enough. Flaming manifestos and prophecies of doom are no longer much help and a search for scapegoats can only make matters worse.

What we now need is a coherent, long-range program of action, and education of the public and our lawmakers about the steps necessary to carry it out. We must recognize—and we need the help of environmentalists in this task—that we can't do anything at once; that painful choices have to be made, as soon as possible, about what we should tackle first; and that every decision is going to involve high risks and costs, in money and in human lives

Any course we adopt will involve a good deal of experimentation—and that means there will be some failures. Any course also will demand sacrifices, often from those least able to bear them: the poor, the unskilled, and the underdeveloped countries. To succeed, the environmental crusade needs support from all major groups in our society, and the mobilization of all our resources, material and intellectual, for years of hard, slow, and often discouraging effort. Otherwise it will not only fail; it will, in the process, splinter domestic and international societies into warring factions.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills in which in requests the concurrence of the Senate:

H.R. 13089. An act to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes;

H.R. 13591. An act to amend the Public Health Service Act to designate the National Institute of Arthritis and Metabolic Diseases as the National Institute of Arthritis, Metabolism, and Digestive Diseases, and for other purposes:

H.R. 14015. An act to amend section 8c(2), section 8c(7)(C), and section 8c(19) of the Agricultural Marketing Agreement Act of 1937, as amended; and

H.R. 14655. An act to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to issue temporary operating licenses for nuclear power reactors under certain circumstances, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions:

S. 641. An act for the relief of Luis Guerrero-Guadalupe Guerrero-Chavez, and Alfredo Guerrero-Chavez;

S. 1089. An act for the relief of Robert Rexroat;

S. 1675. An act for the relief of Antonio Plameras;

S. 1923. An act for the relief of Harold Donald Koza;

S. 2676. An act to amend the Public Health Service Act to provide for the control of sickle cell anemia;

S.J. Res. 173. A joint resolution to provide for the appointment of A. Leon Higginbotham, Junior, as citizen regent of the Board of Regents of the Smithsonian Institution;

S.J. Res. 174. A joint resolution to provide for the appointment of John Paul Austin as citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 175. A joint resolution to provide for the appointment of Robert Francis Goheen as citizen regent of the Board of Regents of the Smithsonian Institution.

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 13089. An act to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes; and

H.R. 14015. An act to amend section 8c(2), section 8c(6), section 8c(7)(C), and section 8c(19) of the Agricultural Marketing Agreement Act of 1937, as amended; to the Committee on Agriculture and Forestry.

H.R. 14655. An act to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to issue temporary operating licenses for nuclear power reactors under certain circumstances, and for other purposes; to the Joint Committee on Atomic Energy.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, the Chair recognizes the Senator from New York for 15 minutes.

THE SALT TALKS

Mr. BUCKLEY. Mr. President, I am deeply disturbed by an article in the May 3 edition of the Washington Post outlining the reported terms of a U.S. offer for the framework of an agreement to limit strategic arms.

I ask unanimous consent that the article may be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUCKLEY. Mr. President, on the surface the terms appear to have the effect of freezing the Soviet Union in a position of permanent significant superiority in the capacity of their intercontinental and submarine-launched ballistic missiles. At the same time, these terms would appear to be establishing what could prove to be a purely illusory parity in our respective anti-ballistic-missile defenses.

The facts, as I understand them, are as follows: At the present time, the Soviet Union has in its ICBM's and SLBM's more than five times as much payload capacity as the United States possesses in the same categories of weapons. The payload capacity or "throw weight" of ballistic missiles is the best available measure of the potential destructive capacity of these weapons. The reason for this is that for a given sophistication of warhead technology, the "throw weight" available to a given missile sets the upper bound on the number of warheads that it may launch.

By all accounts, it is widely acknowledged that the United States currently enjoys a lead in warhead design technology. Thus while the aggregate "throw weight" of our ICBM and SLBM forces is less than one-fifth that now possessed by the Soviet Union, the United States has an approximate parity with the Soviet Union in terms of the number of warheads deployed in these weapons today.

The most recently published information suggests that the United States and the Soviet Union each have approximately 2,500 warheads deployed in their existing ICBM and SLBM forces. However, if the Soviet Union should achieve the level of warhead design sophistication that the United States already possesses on a production line basis for its Minuteman III and Poseidon missile programs, the Soviet Union could take full advantage of its enormous "throw weight" advantage.

Even though the Soviet Union is behind us in warhead design, elementary prudence as well as the available facts would require us to assume, in considering any agreement of the immense importance as the one now being negotiated in Helsinki, that technological parity will soon be achieved. We must assume that the Russians are sustaining a significant effort to enable them to take the fullest possible advantage of their "throw weight" superiority. In his 1969 testimony before the House Committee on Foreign Affairs, Dr. J. S. Foster, Jr., Director of Defense Research and Engineering for the Department of Defense, said:

> The guidance and control system employed in the SS–9 (multiple re-entry vehicle) tests has capabilities much greater than that required to implement MRV. The things we do know about this mechanism are completely compatible with MIRV (multiple independent targetable re-entry vehicles), even though they do not prove a MIRV capability.

This and other available evidence suggests that the Soviet Union is working to improve its technology to the point where the U.S.S.R. will be able to compete with the United States in warhead design technology with a yield-accuracy combination which will give it the capability to destroy hardened military targets, such as our Minuteman silos, as well as our cities.

It should be noted that the reported terms would allow each side to modernize its strategic arsenal. Therefore, any improvement in warhead design achieved by the Soviets subsequent to any agreement would be available for installation in their existing missiles. Thus the effect of the SALT agreement terms reported by the Washington Post would be to grant to the Soviet Union a permanent 5-to-1 advantage in potential deliverability of such warheads by ICBM and SLBM systems.

With respect to the suggested limitation on the deployment of anti-ballistic missile defenses to 100, we must keep in mind that the limitations proposed on ABM systems may be impossible to police in the absence of a right to onsite inspection—a right which the Russians have consistently refused to allow in the past and one which is not mentioned in the Washington Post story as a condition precedent to the agreement. The reason why onsite inspection must be an essential to an agreement placing a limitation on the deployment of ABM's is that the Soviet Union possesses an air defense system which a number of military analysts believe could be upgraded to an ABM role without positive detection throughout normal means of surveillance.

Since the early 1960's, the Soviet Union has deployed a very high altitude surface-to-air missile, the SA–5 "Griffon." This missile has been deployed in large numbers—over 1,000 reloadable launchers—in every sector of the Soviet Union. Originally, the SA–5 was believed to have been developed as an interceptor designed to cope with the proposed U.S. B–70 bomber, a bomber which would attack at very high altitudes. However, the B–70 bomber program was killed before the SA–5 system was initially deployed. The question then arises as to why the Soviet Union should have proceeded nevertheless with the deployment of a multibillion dollar defensive system against a nonexistent high altitude bomber threat, and why, 10 years later, it is still investing millions of dollars annually in the maintenance of the system, especially when one recalls that the United States does not conduct B–52 operations at high altitudes. The question also arises as to why the Soviet Union should maintain an unusual degree of secrecy with respect to this system. The SA–5, for example, is the only missile in the Russian arsenal which has never been displayed at a May Day parade.

It appears that the engineering characteristics of the SA–5 are such that it could be effective against ICBM reentry vehicles at high altitudes if it were tied into modern radar installations. Because the proposed agreement appears only to discuss explicit ABM systems, and provides no inspection mechanism to insure that the SA–5 system will not be upgraded to an ABM capability and connected to a modern mobile radar system, the terms described in the Washington Post would appear to possess a fatal weakness.

Mr. President, I hope that the fears which I have expressed have no foundation in fact. I hope that the article which has given rise to them proves to be inaccurate in some of its most important implications. Because if it does describe with reasonable accuracy the terms of the proposed agreement, and if that agreement is designed to establish permanent reciprocal limitations on our respective ICBM, SLBM, and ABM systems at the levels indicated, then we will be placing ourselves in a position which will assure the Soviet Union of an overwhelming superiority in the weapons of terror. Because we must assume that the Soviet Union will exploit to the fullest any advantage which they are granted, and we must also assume both on the basis of prudence and of past experience that the Soviets will violate the explicit terms of any agreement to the extent that they can do so without our detection.

I have other reservations about the wisdom and the morality of placing any limit on our ability to develop and deploy systems designed to protect our own citizens from the threat of nuclear destruction, but in this view I may well be in a minority. I cannot help but believe, however, that every one of my colleagues is as interested as I am, not just in achieving a meaningful agreement which will have the effect of bringing deployment of strategic weapons under some measure of control, but in insuring that any such agreement be absolutely repicrocal and also in making absolutely sure that any agreement entered into will not have the effect of providing the Russians with a permanent and overwhelming advantage in their strategic capabilities. I therefore urge all of my colleagues to follow the SALT negotiations with the most critical care.

I yield back the balance of my time.

Exhibit 1

U.S. Proposes Missile Freeze, Limit of Two ABM Installations

(By Marilyn Berger)

The United States is presenting to the Soviet Union a proposal for a strategic arms limitation treaty that would freeze at existing levels the number of landbased and submarine-based offensive missiles and provide for two anti-ballistic missile installations in each country.

The new proposal was worked out following what the White House called "confidential exchanges" between President Nixon and Soviet Communist Party Chief Leonid L. Brezhnev.

A White House announcement Monday evening of "a major advance" toward an agreement indicated that the terms of this new proposal had already been discussed in some detail with Soviet officials. It is therefore expected that its terms will be acceptable to Moscow.

The chief U.S. SALT negotiator, Gerard C. Smith, was carrying instruction to present this proposal when he returned to Helsinki yesterday from Washington. The White House expressed confidence Monday evening that Smith's counterpart, Vladimir S. Semyonov would also be receiving new instructions from the Soviet government.

A spokesman for the U.S. Arms Control and Disarmament Agency here said the next SALT meeting could take place as early as Wednesday afternoon, Helsinki time. Normally, meetings have been held twice a week, on Tuesdays and Thursdays.

It was learned that the major points of the American proposal are as follows:

Two anti-ballistic missile installations for each country with 100 launchers at each site. One installation would protect an intercontinental ballistic missile complex and the other would be deployed around what is known as the National Command Authority, Moscow and Washington. The proposal thus provides for "symmetry," which the Soviets have been demanding.

The Soviet Union has an ABM installation around Moscow but none around a missile site. The United States has none around Washington but is building an ABM complex around a minuteman site at Grand Forks, N.D.

A freeze on land-based intercontinental ballistic missiles built or under construction when the agreement is signed. According to the Defense Department's posture statement in February, the United States had 1,054 landbased intercontinental ballistic missile launchers and the Soviet Union was expected to have 1,550.

The U.S. proposal also calls for a limit on the large Soviet ICBMs—the SS–9s, and another version of a super intercontinental missile. The Soviet Union now has 288 SS–9s and has built 25 additional silos for equally large or larger missiles. The limit would freeze the number of these large missiles at 313.

A freeze on submarine-based offensive missiles at present levels, including those already built or under construction. The United States has had 41 missile subs in its fleet for several years. The Soviets have 25 operational subs with 17 more under construction for a total of 42.

A provision for some freedom for each country to change the mix of its land and sea-based missiles. The proposal suggests a complicated formula, but essentially it would allow each country to retire some launchers and replace them with others, even must, however, remain within the overall limit on the number of launchers. A small missile could not be exchanged for a super-missile, however.

The proposal would allow for modernization of the arsenals of both countries.

At the time of signature, the proposed agreement would ratify Soviet superiority in the number of missile launchers but not in the number of warheads. According to the Defense Department's posture statement, by mid-1972 the Soviet Union was expected to have 2,500 individual warheads compared with 5,700 for the United States.

The agreement would allow the Soviets to close the warhead gap but would not allow the United States to close launcher gap.

The United States is now bolstering its warhead arsenal by adding MIRV's (multiple independently targeted reentry vehicles) to existing Minutemen and submarine launchers. The United States plans to fit multiple warheads on 550 of its 1,000 Minutemen. So far, it has completed work on 150 of these. The Polaris missile can carry 10 to 14 warheads, and each U.S. missile-firing submarine can carry 16 launchers.

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut (Mr. WEICKER) is recognized for not to exceed 10 minutes.

AMTRAK PRESIDENT ROGER LEWIS SHOULD RESIGN

Mr. WEICKER. Mr. President, at the outset of my comments, I ask unanimous consent that during the course of my remarks I may have 10 different exhibits included in the Record at the point at which I indicate. Rather than make the request on 10 different occasions, I make the request now, and will so indicate.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. WEICKER. Mr. President, just prior to my arrival on the Senate floor I sent a letter to Roger Lewis, president of the National Railroad Passenger Corp.—Amtrak—requesting his resignation from that office—exhibit 1.

I should like to read the contents of the letter into the Record at this time:

> Dear Roger: For the reasons set forth in the accompanying statement, I feel the cause of rail passenger service in the United States would best be served by your stepping aside as President of Amtrak.
>
> Candidly, I believe that once appointed to Amtrak your devotions should have been to the national policy embodied in the creation of that organization rather than to any individual or agency within or without the government
>
> Hopscotching is a tiring activity leaving the participant exhausted and ineffective.
>
> That is not what our exhausted ineffective national rail situation needs.
>
> Sincerely,
>
> Lowell P. Weicker, Jr.,
> *U.S. Senator.*

Simultaneously I have requested of Senator Vance Hartke that the Commerce Committee's Subcommittee on Surface Transportation hold hearings immediately to determine from Mr. Lewis, administration officials and directors of Amtrak the reasons for the questionable behavior of Mr. Lewis as hereinafter set forth.

Roger Lewis by his own words and actions has established that he is either grossly incompetent or beholden to interests other than the American railroad passenger.

Either or both of these conditions are unacceptable when set against just normal criteria of business acumen and public trust, never minding how much more is demanded in times of financial and national crisis.

THE PARTICULARS

Shortly after Amtrak commenced operations on May 1, 1971, I was in communication with their officials to inquire as to the adequacy of the initial funding. I was assured that funding was adequate. My own investigations revealed otherwise and so on June 10, 1971, I introduced legislation calling for additional funding for Amtrak in the amount of $90 million, said moneys to be used for capital needs.

I introduce that second item as exhibit 2.

Amtrak's response to S-2038 on June 15, 1971—exhibit 3—was incredibly tepid for a corporation that only 4 months later, on October 18, 1971, would request $170 million to stay in operation. Prior to the Senate Commerce Committee hearings of October 26, 1971, I again met with Amtrak officials in order to draw them out on what the real financial requirements of Amtrak were. Their reticent, "don't rock the boat" response resulted in the following testimony that I gave before Senator Hartke's subcommittee on October 26, 1971. (Exhibit 4.)

On November 18, 1971, I introduced amendment No. 705 which legislatively expressed my previous testimony. Specifically it called for $150 million for loan guarantees and $100 million for direct funding to be added to the Amtrak bill.

What is the series of events that one finds most incredible?

On January 28, 1972, a letter from Gerald Morgan, a vice president of Amtrak, to the Chairman of the Commerce Committee officially rebuffed the concept of additional funding. (Exhibit 5.)

On March 20, 1972, the ICC wrote Senator Magnuson supporting the concept of additional funding. (Exhibit 6.)

On April 20, 1972, Roger Lewis, president of Amtrak wrote Senator Clifford Case of the Senate Appropriations Committee clearly supporting the need for additional funding. (Exhibits 7 and 8.)

On April 21, 1972, the Senate Commerce Committee issued its report in support of the additional funding. (Exhibit 9.)

On April 29, 1972, the bill with the added money passed the Senate by a vote of 73 to 7.

On May 2, 1972, the following interview appeared in the Wall Street Journal. (Exhibit 10.)

I read in part from the article:

> The sharply higher funding proposed for Amtrak by the Senate couldn't be "sensibly" used before fiscal 1974, Roger Lewis, chairman and president, said.

I shall go back to Mr. Lewis's comments on this article after I finish my remarks.

Now, for whose benefit was that statement made? Either Mr. Lewis is a fool or he is fronting for someone in the administration or the private railroad industry. Certainly his were not the words of an able business executive or the responses of a man who is captain of the ship.

The other day, I had occasion to attend the first year anniversary ceremonies of Amtrak. We were taken through the recently refurbished "Broadway Limited". Mr. Lewis pointed with pride to the new paint and upholstery. Mr. President, Congress did not intend to hire an interior decorator when it voted to bring Amtrak into being. Neither did Congress intend to continue the miserable unbroken record of deficits and wretched service put together by private enterprise.

Congress intended that there be top-notch intercity rail service that pays for itself.

All Mr. Lewis has done has been to ask for operating deficit subsidies, dress up the decadence of his equipment and, at somebody's order, have Amtrak "make a dive."

When the new paint peels, the upholstery wears thin, and the full page ads are recycled paper—what then? Under the Lewis "modus operandi," nothing.

Now, I do not know who is in this charade with Roger Lewis, but I am sure the subcommittee can find out. The Congress of the United States has made a decent rail service commitment to the people of this country. It did so because private enterprise dropped the ball. Heaven help anyone of either party who for philosophical or financial reasons is trying to derail that commitment.

Mr. President, as appears in my remarks, a letter bearing today's date has been sent to Chairman Magnuson by Vice President Gerald D. Morgan of Amtrak, which I submit as exhibit 11.

The letter shows evidence of the usual malaise which apparently presidents of Amtrak and politicians suffer from. The letter states, with reference to the article in the Wall Street Journal, that to the extent that anything reported in the Wall Street Journal article is inconsistent with the letter, that article is erroneous.

The letter states:

> Mr. Lewis' position on this additional $150 million in capital funds was set forth in a letter of April 20, 1972, to Senator Robert Byrd and to Senator Clifford Case, as well as in a letter of April 28, 1972, from myself to Senator Robert Byrd.

In which letter he supports the additional funding.

He states further:

> Mr. Lewis' position and Amtrak's position with respect to the added $150 million in guaranteed loan authority, as well as with respect to the method adopted by the Senate for financing our operating deficits, has not changed.
>
> To the extent that anything reported in the Wall Street Journal article is inconsistent with the foregoing, that article is erroneous.

I do not think that article is erroneous. I have been working for more than a year, almost 2 years, with the officials of Amtrak, to get them to come out and state what the actual cost is going to be to the American public of constructing, not rehabilitating but constructing, decent intercity rail service in this Nation, and each time I have gone out there and tried to get the necessary capital funding, they take the attitude, "Well, let's not rock the boat here; let's just go along with covering our operating deficits."

There is no way, if you run the same trains over the same rights-of-way in the same way, that you are going to end up with anything other than the same deficits, and it is not the position of the Senate nor the Congress of this Nation to have a national rail policy that is one of continuing subsidies. If, in fact, we are to break that cycle, it is necessary that investments be made in the capital area and the research and development area. This is agreed to by everyone that I have spoken with in Amtrak, and it has surfaced in the letters that Mr. Lewis and his officers have written in response to certain congressional inquiries.

But then along comes Mr. Lewis' comment, at a time when this bill is about to go to conference, that additional funding is not needed.

The rail situation in this country today is a desperate situation, and it needs men who are willing to stand up, tell the truth, and fight for what is needed. These qualities are obviously missing in Mr. Lewis, and I would hope his resignation will be tendered immediately.

I yield back the remainder of my time.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., May 4, 1972.

ROGER LEWIS,
President, National Railroad Passenger Corporation, Washington, D.C.

DEAR ROGER: For the reasons set forth in the accompanying statement, I feel the cause of rail passenger service in the United States would best be served by your stepping aside as President of Amtrak.

Candidly, I believe that once appointed to Amtrak your devotions should have been to the national policy embodied in the creation of that organization rather than to any individual or agency within or without the government.

Hopscotching is a tiring activity leaving the participant exhausted and ineffective.

That is not what our exhausted ineffective national rail situation needs.

Sincerely,
LOWELL P. WEICKER, JR.,
U.S. Senator.

EXHIBIT 2

STATEMENT BY SENATOR LOWELL P. WEICKER, JR., JUNE 10, 1971

Mr. President, from the actions of the Congress, the appearance has been given the American public that a brighter day lies ahead for rail transportation in the United States. Certainly the machinery exists to realize such a day. However, miserly funding for both urban mass transportation and intercity rail transportation holds back the dawn.

Today I will confine my comments to the situation at Amtrak, although what is said here is equally applicable to urban mass transportation. When Amtrak came into being, few people realized that the American public was to get yesterday's trains painted in today's political rhetoric. Now we need rhetoric to make Congress and the Administration aware of the appalling deficiencies in rail transportation, but rhetoric isn't going to move one human being from Boston to New York, Seattle to Chicago, Washington to Atlanta or Dallas to Los Angeles. New equipment will. Amtrak exists, but it cannot create. Existing is running the same equipment over the same roadbeds in the same time. The result can only be the same as that which drove us to create Amtrak in the first place—the slow atrophication and death of railroad passenger service.

Creating is operating high-speed trains in heavily-populated corridors, trains which will compete directly with the airlines and highways giving the United States a triple transportation capability. The new trains should be run like jet liners, not like steam locomotives. They should have the services of modern travel such as meals, central baggage handling, automated reservation systems. A "bubble-gum-and-bailing-wire" mentality is not what the Nation expects in the execution of its new ideas.

I am today introducing legislation to get Amtrak in the business of futuristic railroading rather than contemporary pacifying. The bill is simple. It authorizes a $90 million payment to Amtrak specifically for the purchase of high-speed trains which can utilize today's roadbeds. Based on current cost estimates, this amount will purchase 30 trains capable of carrying 240 passengers each.

The need and the opportunity for this kind of train is startlingly obvious.

Today, approximately 40% of all domestic air flights are under 350 miles.

Today, there are 2928 flights per day of less than 350 miles operating in the densely populated corridors centered on Atlanta, Chicago, Dallas, Los Angeles and New York alone.

Today, underutilized railroad stations exist in the centers of our major cities while overcrowded airports are often up to an hour from the cities they serve.

Today, air and highway traffic congestion are such that it is often faster to ride a conventional train—let alone a high-speed train—between cities, than it is to fly.

Today land costs and public opposition are increasingly limiting our ability to expand airports and highways, while existing rails sit idle.

Today the cost of a one way plane ticket from New York to Washington is $27 plus bus or taxi fares to and from the airports. Conventional train service costs $13 and eliminates the need for supplemental transportation.

Today airlines lose far more on short routes than on any other portion of their business.

Today the Metroliner between New York and Washington and the Turbo train between Boston and New York operate at 60–65% of capacity—far above conventional trains and even above planes operating along the same routes.

The need, then, for high-speed rail service is here, but the high-speed trains aren't.

Last year we launched an idea—Amtrak.

Today I propose that we launch a train—a train which will attract passengers because it is comfortable, fast, and economical, a train which will reduce highway and airway congestion, and will provide an important first step toward a truly balanced national transportation system.

Thirty high-speed trains running on routes of 200–350 miles can make 90 one-way trips per day. Assuming a capacity of 240 passengers, and a load factor of only 50%, this means 10,800 passengers per day and 3,942,000 per year. At an average fare of $20 per trip, this would mean revenues of $79 million a year for Amtrak—well covering the cost of operating such a service.

These trains can use today's roadbeds—a fact not to gloss over. It is estimated that the cost of straightening the track between Boston and New York *alone* would be $1 billion. With the technology already developed these are largely eliminated.

In 1970 we set up Amtrak with a one-time appropriation of $40 million and loan guarantees of up to $100 million—this for a railroad passenger system which was losing $200,000,000 annually. It was said at the time by the proponents of Amtrak that such initial financing could only constitute a holding operation.

I now propose to move rather than hold with an additional authorization and appropriation of $90 million—seemingly a large amount until it is put into perspective. During the coming year we will be asked to spend $3 *billion* for interstate highways and an additional $1 billion for primary, secondary and urban highways. Traffic and Highway Safety programs alone will cost $185 million; Highway Beautification will come to $66.3 million, and research and administration for the highway program will add $93 million more. The Interstate Commerce Commission, which only *regulates* the railroads, will receive $27 million.

Most important, I am proposing a one-shot capital grant, while these other programs will continue indefinitely, spending many billions far into the future.

Also, in calling for a capital grant for Amtrak, I am stating my firm opposition to endless operating subsidies for passenger service—a fate to which the corporation is now predestined. By providing new equipment and allowing Amtrak to provide the kind of service needed to attract public support, we give them the tools to do the job they were created to do—to run a modern, efficient rail passenger network—at a profit.

In effect, what happened on May 1 of this year was that the American people became the board of directors of Amtrak. They do not expect the kind of tired thinking and whining for subsidies that emptied the tracks of American railroads. They expect us to make America move by writing, not repeating the book.

EXHIBIT 3

U.S. SENATE,
July 26, 1971.

HON. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: Thank you very much for the copy of S–2038 to be cited as High Speed Rail Passenger Equipment Act of 1971.

There is urgent need to provide ways and means for modernizing passenger cars, for procuring new cars and propulsion equipment, improving trackage, refurbishing existing terminals, constructing new modern terminals, etc. The Bill (S–2038) authorizes $90,000,000 in grants for the procurement of new equipment, and by so doing constructively attacks part of the total problem.

It would enable the Corporation to make a substantial start in the purchase of new propulsion equipment and new passenger cars. Broadening the Bill to authorize the use of the funds, or additional funds, for the rehabilitation of terminals and of existing equipment (including trackage) that warrant rehabilitation would be desirable. Whether the total amount authorized should be in the form of grants or of loans or loan guarantees is a question of policy for the Committee to decide. When Amtrak's marketing studies are completed, they will indicate the extent to which increases in ridership can be reasonably expected from new equipment and improvements in trackage. Additional funds will undoubtedly be necessary for these purposes, but in what amounts and over what time span it is difficult to predict now.

Respectfully,
GERALD D. MORGAN,
Vice President, Government Affairs.

EXHIBIT 4

TESTIMONY OF SENATOR LOWELL WEICKER, JR., BEFORE U.S. SENATE COMMERCE COMMITTEE, OCTOBER 26, 1971

Mr. Chairman, Members of this distinguished Committee: Thank you for the opportunity to appear before you on this vital matter of rail transportation in the United States. Thank you also, Mr. Chairman, for the tremendous foresight which you have brought to this subject in the past.

I think this hearing should either mark the beginning or the end of rail passenger service in our nation. Certainly, it would be a foolish and derelict Congress to accept the present policies of Congress and the instant dollar request of the Department of Transportation relative to Amtrak.

Along this line there are three propositions I would lay before your committee this morning:

First, I think it is past time that the Department of Transportation abandon its Capital bill tactics and level with the American people as to what Amtrak will cost if rail service in the United States is not only to survive but improve. Because the way I read it, if present D.O.T. inch by inch policies continue, the public will be stuck with a $310 million tab and *no* rail service.

I use the terms "Capital bill tactics" and "inch by inch policies" not in an attempt to disparage the true abilities of Secretary Volpe and his fine people but because it is my belief that their fears that Congress and the American people are not ready to pay for effective rail transportation have caused them to deliberately understate the cost of providing such service.

Thirdly, I am requesting of your committee, Mr. Chairman, that Amtrak be authorized not $170 million in additional funding but $270 million in additional funding and

$150 million in additional loan guarantee authority. In the alternative, I suggest your committee cease all federal support now thus practically ending all inter-city rail passenger service. I will detail the specifics for this request later in my statement, but generally speaking it is born of my recollection that when Amtrak was created the American people were led to believe that a brighter day lay ahead for rail transportation not that the only change was to be a change of name on the debt.

FINANCIAL

Let's take a brief look at the financial guts of Amtrak.

How was it financed?

First there was the $40 million grant authorized in the Rail Passenger Service Act of 1970—that was gone by mid-July.

Second, there was $65.7 million from the railroads as the first installment on a three year payment of $197 million allowing them to drop passenger service.

And that is all there is.

On November 1, Amtrak goes into the red, estimating it will lose $276 million by July 1, 1973. [Add to that $147 million for maintenance and minimal capital improvements and we come to a total debt of $423 million over the next 20 months.]

The bill before you today authorizes a $170 million appropriation through June, 1973. To raise the rest Amtrak must spend the remaining $143 in railroad entry fees plus $100 million in authorized guaranteed loans.

In other words, on July 1, 1973, Amtrak will have exactly zero dollars, will owe $100 million and will not have the equipment or the facilities to break out of its circle of deficits. At that point in time Congress will take on the role of making up the difference as an annual exercise. It is that possibility that I speak against. Alternatively, there is an opportunity that I would like to speak for.

The crux of this matter is adequate funding for capital improvements and research and development. With minimal exception Amtrak has no realistic plans in these areas. In fact, the $100 million loan guarantee fund originally contemplated as a source for capital improvements will be used for operating expenses. Gentlemen if we run the same cars, some locomotives over the same roadbeds with the same attendant baggage handling, food service, scheduling ticket service we will end up with the same deficit.

I would therefore suggest to your committee the possibility of avoiding the timidity exhibited by our colleagues in the executive branch of government by taking the following two steps.

First, adding $150 million to the guaranteed loan fund and restricting the resulting $250 million to capital improvements and research and development.

Secondly, recognizing that a revolutionary undertaking such as Amtrak is going to have extraordinary start-up costs and that the loan guarantee fund should not be used for operating expenses and grant a total of $270 million in direct funding to Amtrak.

Mr. Chairman there is no cheap way to create decent rail transportation in the United States. Especially when rails are still in the box of yesteryear with the highway lobby, rail corporations and rail unions sitting on the lid.

I have called for a two-year program with a potential cost of $420 million. In that same period approximately $10 billion will be spent on highways and $4 billion on airports.

Mr. Chairman, effective rail transportation is no longer the concern of the Chicago and New York commuter. It is an idea whose time has come for all Americans. The American traveller can't move, he is being slaughtered on the highways.

The America of homes and open space is being decimated by concrete. We are choked by pollution. So it is in the name of mobility, safety, conservation and the environment that the cause for the rails is now argued. The price tag is cheap today—out of sight tomorrow.

On June 10th of this year I put into the hopper S. 2038 calling for $90 million to Amtrak specifically for capital improvements. I understand D.O.T. officials said the funds requested were unnecessary, not needed. Today 4 months later they ask for $170 million.

I would hope this great committee would act the truth today rather than hear about it in 1973.

Exhibit 5

National Railroad Passenger Corp.,
Washington, D.C., January 28, 1972.

Hon. Warren G. Magnuson,
Chairman, Senate Committee on Commerce,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This is in response to your request for comments on Amendments to S. 2760 numbers 696 and 705.

The two amendments take differing approaches to the problem of expanding the funding for the operation and development of the national intercity rail transportation system by the National Railroad Passenger Corporation (Amtrak), but both would provide a considerable increase in the amounts to be made directly or indirectly available.

As the Committee knows, Amtrak has developed a program for meeting the operating deficits and providing for a realistic equipment improvement program for the immediate period before us. This program, which calls for the authorization and appropriation of $170 million, has been designed to meet our best expectation of Amtrak's needs until June 30, 1973, when the corporation by law and by contract enters into a different phase in its development. Prior to that date Amtrak must necessarily devise and bring before the Congress a detailed program for proceeding with its mission as set forth in the Rail Passenger Service Act of 1970. The current period, then, is a time of planning, continual improvement of operations, and action on those activities we have already identified as promising an immediate return in terms of ridership, revenues, and cost reduction.

While we would welcome obligational authority permitting us to order additional equipment and facilities for future delivery, our present program, which is incorporated in S. 2760, contains the actual funding support we have determined that Amtrak needs for the present.

Respectfully,

Gerald D. Morgan,
Vice President, Government Affairs.

Exhibit 6

Interstate Commerce Commission,
Washington, D.C., March 20, 1972.

Hon. Warren G. Magnuson,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

Dear Chairman Magnuson: This supplements my letters to you dated December 17, 1971, and January 25, 1972, concerning bills which propose to amend the Rail Passenger Service Act of 1970. The bills are S. 2760, the proposed amendments thereto, S. 2875 and S. 2938.

In our report to the President and the Congress on Amtrak, dated October 30, 1971, we reported that immediate attention should be given to reviewing the future financial needs of Amtrak. Because of its poor financial condition, supplemental financing is necessary in order for Amtrak to meet its objectives and to provide quality service. It will take a number of years to rebuild and renew the necessary rolling and plant equipment for rail passenger service. More importantly, it will take money. It is apparent that at least in the initial years, Federal funds will have to be provided for that purpose and also to meet operating expenses. On this basis, we support the provisions of S. 2760 and amendment No. 705, which provide additional funds.

We also support the provisions of amendment No. 705 which would amend section 602 of the act so as to increase the loan guarantee ceiling while at the same time expanding the types of expenditures for which guarantees can be made. In F.D. 26902, National Railroad Passenger Corp., Notes, the Commission approved issuance of $100 million in notes by Amtrak which are guaranteed by the Secretary of Transportation pursuant to section 602 of the act. Since that time, the financial condition of Amtrak has worsened and the funds that were acquired through the loan guarantee provisions have been exhausted.

The credit agreement under which Amtrak obtained the $100 million loan points up a need for clarification of a provision of section 602 of that act. At pages 9 and 10 of the credit agreement, it is provided that the aggregate unpaid principal amount shall at no time exceed $87 million, until such time as section 602 is amended to give assurance that the $100 million limitation in section 602 will not be interpreted as a limitation upon the combined total of principal and interest, rather than as a limitation upon principal alone. Therefore, section 602 of the act should be amended to show whether or not the $100 million guarantee limit covers principal, or principal and interest.

The credit agreement also provides that only $45 million can be drawn down unless section 602 of the act is amended by April 15, 1972, to provide the Secretary of Transportation with authority to issue notes or other obligations to the Secretary of the Treasury in order to discharge his responsibilities under guarantees issued pursuant to that section. If section 602 is not amended, the creditor will not release funds in excess of that figure and can, at its option, demand payment of the loan principal and interest. Our information is that Amtrak has exhausted the $45 million received in guarantees. Therefore, to make additional funds available and to preclude demand payment by the creditor of the total outstanding loan, we recommend that section 602 of the act be amended to provide the Secretary of Transportation with the necessary authority to issue notes and other obligations to the Secretary of the Treasury for the purposes mentioned above.

As to the provisions of amendment No. 696 which provide for loans and loan guarantees to Amtrak and to regional planning agencies for the development, improvement, and construction of rights-of-way, terminals and vehicles for use in urban corridors, we repeat our position that Amtrak needs and should receive additional funds; however, we cannot unqualifiedly endorse these provisions for two reasons. First, they do not provide for a coordinated national plan formulated and overseen by the Secretary of Transportation. This could be overcome by inserting a provision giving preeminence to a master Federal plan.

Second, they accord special treatment to urban corridors. During hearings on the National Rail Passenger Service Act, we opposed a regional approach in favor of a strong national network. We can support an urban corridor concept only if it can be demonstrated that special treatment for urban corridors will increase operating revenues which can be used to improve the entire Amtrak system.

S. 2875 and amendment No. 1014 to S.2760 would prohibit Amtrak from terminating or modifying the right to free or reduced rate transportation granted by a railroad to an employee upon retirement prior to the time the railroad's service was assumed by Amtrak. S. 2938 would have the effect of freezing any pass privileges extended to railroad employees as of the date of the enactment of the Amtrak Act. The term "employee" means any railroad or terminal company employee, retiree, or dependents of either.

Section 1(7) of part I of the Interstate Commerce Act authorizes, but does not require, the giving of free or reduced rate transportation to railroad employees and their families. Also included are "furloughed, pensioned, super-annuated, or disabled employees and their families."

Historically, the railroads have granted free or reduced rate transportation to active and retired employees and to their families, subject to the rules of the individual carriers. In recent years, the railroads have substantially reduced these privileges so that just prior to Amtrak's incorporation, most employees received free transportation for themselves and families over the lines of the employing company only. Reduced rates were available on other railroads.

The bills would require Amtrak to honor prior free or reduced rate commitments made by the railroads and would increase the financial burden of Amtrak. We have already concluded that Amtrak is in serious financial condition, and we do not favor imposing upon it the added costs which would result from enactment of these bills. If the Congress, however, determines that it is advisable to legislate the continuation of the pass privilege for railroad employees, it should consider also whether Amtrak rather than the railroads should be required to bear the cost.

Sincerely yours,

GEORGE M. STAFFORD, *Chairman.*

EXHIBIT 7

U.S. SENATE,
Washington, D.C., April 19, 1972.

Mr. ROGER LEWIS,
Chairman and President, National Railroad Passenger Corporation, Washington, D.C.

DEAR MR. LEWIS: As you may know, the Transportation Appropriations Subcommittee, of which I am the ranking member, this week marked up its portion of the second supplemental which contains a two-year appropriation for Amtrak.

While the Administration is asking $170 million for the two years, I believe $270 million is a more realistic figure and I intend to offer an amendment, in the full Appropriations Committee, providing this amount.

The $270 million appears to be in line with the authorization figure the Commerce Committee soon will recommend to the Senate.

To help me prepare for the full Appropriations Committee mark-up, I would appreciate being advised as follows:

1. Can Amtrak use the additional $100 million? If so, how would the money be used?

2. What effect would an additional $100 million have on Amtrak's loan guarantee authority and, therefore, on its capital improvement program? What *new* equipment or systems would be procured as a result?

3. Already, I understand, Amtrak has used about $45 million of its loan authority for operations and maintenance. Provide examples where this is the case.

4. Do you not agree that the loan authority and railroad payments should be used for capital improvement? In the circumstances, how would this affect Amtrak's financial picture and/or operating capability in fiscal 1972 and 1973 if Congress provides only $170 million in appropriations?

5 What was Amtrak's appropriation request of the Department of Transportation and/or the Office of Management and Budget for fiscal 1972 and 1973?

6. What are the corporation's prospects for eventually operating without Federal subsidy?

7. What are the terms as to interest rate and time of the loans Amtrak has made? How does it intend to repay them?

8. What steps is Amtrak taking to assure that its passengers' full needs will be considered and that they will be treated with thoughtfulness and courtesy on the telephone, in the terminals and on the trains?

Sincerely,

CLIFFORD P. CASE,
U.S. Senator.

EXHIBIT 8

NATIONAL RAILROAD PASSENGER CORP.,
Washington, D.C., April 20, 1972.

Hon. CLIFFORD P. CASE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CASE: This is in reply to your letter of April 19, 1972, in which you asked us a number of questions regarding our funding.

Our answer to your question #5 is in many respects necessary to the answer of the other questions. When Amtrak started out its operations, it had a $40 million grant from Congress, $100 million in guaranteed loan authority, and an entitlement to monthly capital payments from the railroads in the amount of about $5.5 million per month for 36 months. We regarded the grant as money to be used for pre-incorporation start-up, and operating purposes, and the loan authority and capital payments from the railroads to be used only for capital purposes. Accordingly, when we were running out of the $40 million grant, we immediately urged the Department of Transportation to ask the Office of Management and Budget to clear a request to Congress for an authorization of an appropriation of about $260 million to finance our expected deficits for fiscal year 1972 and fiscal year 1973. We expected the loan authority and the railroad capital payments to remain available exclusively for financing our capital program projected in the amount of $340 million which extended over five fiscal years. The Department accordingly requested the OMB for such clearance.

The OMB took a different view. They pointed out that the route structure was going to have a complete review in 1973, and for this reason we should not be planning a capital program beyond June 30, 1973, since it might have to undergo drastic revisions as a result of Congress' actions on the route structure after that date. Our capital program through June 30, 1973, amounted to $147.5 million. The OMB added up all of our cash requirements, both operating and capital, through June 30, 1973, which came to $410.7 million, and then they added up all of our cash resources—namely the $100 million in guaranteed loan authority, the $143.3 million in capital payments from the railroads through June 30, 1973, and concluded that through June 30, 1973, all we needed in addition was $160 million plus $10 million for interest payments on the guaranteed loan. We were in complete agreement with this method of funding our programs through the so-called experimental period.

The Senate Commerce Committee reported a bill on April 19, 1972, which in essence goes back to the philosophy of our original request to the DOT asking $260 million in appropriations for operating purposes (plus the $10 million for interest on our guaranteed loan), and treating the guaranteed loan authority and the capital payments from the railroads as available only for capital purposes.

Now returning to your question #1: Amtrak will be required in any event to spend for operating purposes through June 30, 1973 (together with interest on the outstanding guaranteed loan), about $270 million. The Commerce Committee bill by authorizing an appropriation of this amount in effect provides for these expenditures to be made entirely from appropriations. Under the bill as it passed the House, authorizing an appropriation of $170 million, however, some of these operating expenditures will have to come from the guaranteed loan and some from the railroad capital payments. The effect of the $100 million additional authorization is to free-up a combination of the guaranteed loan and the railroad capital payments in the aggregate amount of $100 million, which otherwise would have to have been used for operating purposes, and make such funds available for capital expenditures.

In answer to your question #2: An addition of $100 million or $150 million to the guaranteed loan authority [$150 million additional is provided in the Commerce Committee bill] would make additional funds available to Amtrak for capital purposes. Amtrak would have greater flexibility in making longer-term commitments for equipment and facilities. It could also work out arrangements with the railroads for some improvements in the rights of way. As to what new equipment or facilities would be procured, we have been investigating the capability under differing conditions and the costs of operating and maintaining the TurboTrain. We have also been investigating the British APT as well as the French Turbine Powered train, and, longer range, air cushion and linear induction propelled vehicles. We have not as yet come to a decision on equipment for the United States rail passenger system of the future.

Answering your question #3: The $45 million that has been available to Amtrak out of the $100 million guaranteed loan has been used to pay the railroads' operating bills, as well as to purchase some cars, refurbish equipment and to make partial payments on the purchase of used locomotives from the railroads

Answering your question #4: It was Amtrak's original purpose to use the loan authority and the railroad capital payments for capital improvements. If the loan authority, the railroad capital payments, and the appropriations by Congress, can be used for either operating or capital purposes, Amtrak could operate through June 30, 1973, and at the same time carry out its two-year capital program of $147.5 million. If the railroad capital payments and the guaranteed loan authority are restricted solely to capital improvements, however, and only $170 million is appropriated for operating expenses, Amtrak would not be able to operate until June 30, 1973.

In answer to your question #6: The answer to this question depends upon how extensive a route structure Congress wants Amtrak to operate after June 30, 1973. We have services which make money on a cash, above-the-rails, basis today. We have other services that have the potential for making money. There are others which in our judgment may never make money.

In answer to your question #7: The interest rate on our guaranteed loan is at the Federal Funds Rate adjusted weekly (presently at 4¾%), plus ½%, and plus an additional ⅜% for the guarantee by the FRA. Our guaranteed loan runs until December 31, 1973. At that time we will have to ask for an extension or attempt to refund it, unless funds are available to repay it before that date.

In answer to your question #8: Amtrak has contracted with Continental Airlines to conduct a course for all the Penn Central's service personnel to teach them how to exhibit thoughtfulness and courtesy at all times when they are dealing with passengers. When Continental has finished with the Penn Central employees, it will be extended to the employees of other railroads.

Amtrak has already taken over the ticketing and reservations function in Chicago. Plans are presently underway to take over all ticket offices and associated functions elsewhere. This will place all persons manning these functions under the direct management of our Service Department which is solely committed to providing courteous, efficient and cost-effective services to our passengers.

As a continuing check on the performance of all our service personnel, an evaluation program is used to evaluate, note inadequacies and indicate corrective action required to bring these services to the required levels. Formats for these evaluations are included as Attachments #1, #2, and #3. The corrective action indicated to be necessary is directed by our regional and local managements.

I have only this to add. Both the Senate and House authorization bills authorize an annual appropriation of $2,000,000 to enable Amtrak to operate the international services. If Congress desires these services, an additional $2,000,000 will be required.

I hope the above is responsive to your questions.

Kindest regards,

Sincerely,

ROGER LEWIS,
President.

EXHIBIT 9

FEDERAL GRANTS

Section 9 amends section 601 of the act to increase the direct Federal funding of Amtrak by $270 million from the initial $40 million to a total of $310 million. This is $100 million more than the additional amount requested by Amtrak and the Department of Transportation.

There has been general agreement outside of Amtrak and the Department of Transportation that Amtrak is grossly underfunded. Both agencies now agree, as they have requested an additional $170 million. However, the Committee's evaluation of Amtrak's financial projections indicates that the $170 million will allow Amtrak to continue operating not longer than July 1973 while making only minimal capital improvements. By that date Amtrak will likely be completely without funds; will owe $100 million; and will not have the modern equipment and facilities needed either to improve its financial results or to provide the quality of passenger service necessary to attract substantial numbers of people and thus make a real contribution to the total transportation picture.

The additional $270 million in direct aid which the Committee is recommending should enable Amtrak to decisively surmount its start-up and transition expenses to, hereafter, devote the full amount of the loan guarantee proceeds to capital improvements.

In view of the many years of deterioration of the Nation's rail passenger system, rebuilding and modernizing it will be expensive. However, compared to what has been and will continue to be spent on highways and air facilities, it should prove to be a tremendous bargain. During the next 2 years alone, approximately $10 billion will be spent on highways and $4 billion will be spent on airports and airways.

Section 601 is further amended to provide for development and operation of international rail services between the United States and the following international points: Montreal and Vancouver, Canada and Neuvo Laredo, Mexico. The Committee believes that these additional services will provide important benefits for Amtrak's tourist and vacation traffic, will encourage more foreign tourists to visit the United States, and will further good relations with our neighbors to the north and south.

GUARANTEES OF LOANS

Section 10 amends section 602 of the act to increase the loan guarantee authority from $100 to $250 million, and to include the technical changes suggested by Amtrak and the Department of Transportation to make the loan guarantee authority fully effective. The Committee believes that it is imperative for Amtrak to have sufficient resources to make basic improvements in its services. While an additional $150 million in borrowing power will not enable major rebuilding of tracks and roadbeds, it should enable Amtrak to make substantial improvements in equipment, terminals, and reservation procedures, which together with judicious, if limited, track improvements could improve service and thereby patronage.

After enactment of this act no loans made under this section can be applied to operating expenses since the increased loan guarantee authority in the bill is specifically limited to expenditures for capital improvements. However, under subsection 10(b) of the bill the new subsections 602 (b), (c), (d), (e), and (f) apply to guarantees made prior to this act. But section 602(a) would apply prospectively so as to avoid any question about the effectiveness of the Federal guarantee of loans which were made previously for purposes other than capital expenditures.

The section also clarifies that any guarantee by the Secretary extends to both principal and interest and constitute general obligations of the United States backed by the full faith and credit of the Government of the United States.

EXHIBIT 10

[From the Wall Street Journal, May 2, 1972]

AMTRAK SEES NO NEED FOR SENATE-VOTED RISE IN FUND UNTIL FISCAL '74

WASHINGTON.—The sharply higher funding proposed for Amtrak by the Senate couldn't be "sensibly" used before fiscal—1974, Roger Lewis, chairman and president, said.

Mr. Lewis, speaking to newsmen after the first-birthday ceremony of the National Railroad Passenger Corp., said the $400 million the Senate has voted—on top of an Amtrak request for $170 million—might be needed "down the road." But through fiscal 1973, which ends June 30 of that year, the $170 million would be all that Amtrak could "sensibly commit," Mr. Lewis said.

In the meantime, he said, Amtrak needs to determine its future equipment needs for each of its passenger routes. The law that created Amtrak gives the semi-public corporation the power, as of July 1, 1973, to drop whatever routes it then considers too marginal.

During the ceremony at Washington's Union Station, Mr. Lewis said Amtrak plans to spend $100 million this year to acquire new locomotives and passenger cars. So far, it has allocated about $10 million to purchase and upgrade used locomotives and cars, Mr. Lewis said after the ceremony that the "major part" of the $100 million will pay for new cars.

An Amtrak spokesman said the corporation is considering a number of proposals for high-speed trains, including ideas from France, England and United Aircraft Corp. in the U.S. In addition, it is considering purchasing more Metroliner-type cars; the current Metroliners in use between New York and Washington were built by Budd Co., which has dropped out of the railroad car business. He also suggested that new conventional equipment such as sleeping cars might eventually be required for long-distance trains.

The new cars would replace the oldest Amtrak equipment, a spokesman said. The first full refurbished train will go into service today as the Broadway Limited between New York and Chicago, joining at Harrisburg, Pa. Five more renovated trains will begin service for the summer season, starting in June, Amtrak said.

These trains are the Super Chief, between Chicago and Los Angeles; the City of San Francisco, between Chicago and San Francisco; the Coast Daylight-Starlight, on the Seattle-Los Angeles route; the Silver Meteor, between New York and Miami, and the Merchants Limited, between New York and Boston.

Mr. Lewis said "additional millions" will be used in the coming year to build new stations and improve existing ones, improve track and rights-of-way and begin a research and development program. An Amtrak report for its first year of operation said the corporation has begun an effort to upgrade about 100 of its 370 stations, including modernizing facilities for some.

Commenting on Amtrak's on-time performance, the subject of some criticism, Mr. Lewis said Amtrak trains ran on time 81% of the time in the first quarter of this year, up from 74% in the final 1971 quarter. The corporation report noted that the on-time performance for long-haul trains rose from 45% at the start of the year to above 75% at mid-March.

Although Mr. Lewis' comments after the Amtrak ceremony stressed Amtrak's inability to use more than $170 million addition funds through fiscal 1973 for covering its operating deficit and buying equipment, there were reports last year that Amtrak had unsuccessfully sought administration approval of a $260 million budget request. Those reports were confirmed in a letter written last week by Mr. Lewis to Sen. Robert C. Byrd (D., W.Va.), chairman of the Senate Transportation subcommittee, an Appropriations Committee unit.

The Lewis letter, in response to the subcommittee's query, said that the $270 million in direct grants in a bill approved last week by the Senate Commerce Committee would authorize basically what Amtrak had sought last year. Its $260 million request was trimmed to $170 million by President Nixon's Office of Management and Budget.

The Senate Commerce Committee also approved a provision that would authorize the Transportation Department to guarantee repayment of an additional $150 million in private loans to Amtrak, financing the Senate sponsors hope will be spent on modern trains and terminals. On the Senate floor, another $50 million in federal loans and $100 million in loan guarantees to improve tracks and roadbeds of 15 heavily traveled intercity corridors was added.

EXHIBIT 11

MAY 4, 1972.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Roger Lewis asked me to respond to your inquiry of May 3, 1972, regarding the confusion generated by a news article in the Wall Street Journal of May 2.

(1) Under the bill (H.R. 11417) as it passed the House, all of our resources are available for use either for operating purposes or for capital purposes, and consequently our two-year estimated deficit of $270 million can be financed by an appropriation of only $170 million, and our two-year capital program of $147.5 million can still be carried out in full.

(2) Under the bill as it passed the Senate, the guaranteed loans can only be used for capital purposes, and so it was necessary to add $100 million to the amount to be appropriated in order to enable Amtrak to meet its estimated deficit for the two fiscal years.

(3) Under both bills, Amtrak will have available for operating purposes $270 million. It does not have any more funds for that purpose under the Senate bill than it does under the House bill.

(4) The Senate bill, however, also adds $150 million to the guaranteed loan authority, and limits the use of proceeds from such loans to capital purposes.

(5) Mr. Lewis' position on this additional $150 million in capital funds was set forth in a letter of April 20, 1972, to Senator Robert Byrd and to Senator Clifford Case, as well as in a letter of April 28, 1972, from myself to

Senator Robert Byrd. Copies of these letters are enclosed herewith.

(6) Mr. Lewis' position and Amtrak's position with respect to the added $150 million in guaranteed loan authority, as well as with respect to the method adopted by the Senate for financing our operating deficits, has not changed.

(7) To the extent that anything reported in the Wall Street Journal article is inconsistent with the foregoing, that article is erroneous.

Mr. Lewis is out of the city at the present time, and that is the reason he asked me to respond to your inquiry for him. He has personally approved this letter.

Respectfully,

GERALD D. MORGAN,
Vice President, Government Affairs.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. STEVENSON). Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

Mr. WEICKER. Mr. President, I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. JAVITS made on the introduction of S. 3576 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

CONFERENCE REPORT ON BLACK LUNG BILL—TIME LIMITATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at such time as the black lung conference report is called up, there be a time limitation thereon of 1 hour to be equally divided between the distinguished senior Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it is hoped that the conference report can be called up fairly early this afternoon. There may be a rollcall vote thereon, or there may not be.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SPONG.) Without objection, it is so ordered.

EXTENSION OF PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. TOWER. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended for 10 minutes with the usual 3-minute rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON STRATEGIC AND CRITICAL MATERIALS STOCKPILE

A letter from the Director of the Office of Emergency Preparedness transmitting, pursuant to law, a report on the strategic and critical materials stockpiling program for the period July 1 to December 31, 1971 (with accompanying report); to the Committee on Armed Services.

PROPOSED LEGISLATION PROVIDING FOR CONTRIBUTIONS TO THE INTERNATIONAL AGENCY FOR RESEARCH ON CANCER

A letter from the Assistant Secretary of State submitting proposed legislation providing for payments by the United States of annual contributions to the International Agency for Research on Cancer (with accompanying papers) to the Committee on Foreign Relations.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States submitting, pursuant to law, a report entitled "Examiner of Financial Statements fiscal years 1971 and 1970 Panama Canal Company and Canal Zone Government (with accompanying report); to the Committee on Government Operations.

FINANCE REPORT OF THE NATIONAL SAFETY COUNCIL

A letter from the president of the National Safety Council transmitting, pursuant to law, a report on the audit of the financial transactions of the National Safety Council for the year 1971 (with accompanying report); to the Committee on the Judiciary.

ORDERS OF THE IMMIGRATION AND NATURALIZATION SERVICE

Three letters from the Commissioner of Immigration and Naturalization transmitting, pursuant to law, copies of orders entered concerning certain persons (with accompanying papers); to the Committee on the Judiciary.

REPORT OF THE CIVIL SERVICE COMMISSION

A letter from the chairman of the Civil Service Commission submitting a financial report (with accompanying paper); to the Committee on Post Office and Civil Service.

REPORT OF THE ENVIRONMENTAL PROTECTION AGENCY

A letter from the Administrator of Environmental Protection submitting, pursuant to law, a report on the national requirements and costs of water pollution control (with accompanying report); to the Committee on Public Works.

ENROLLED BILL SIGNED

The enrolled bill (H.R. 11589) to authorize the foreign sale of certain passenger vessels was signed today, May 4, 1972, by the President pro tempore.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. JAVITS (for himself and Mr. BUCKLEY):

S. 3576. A bill to amend title 44 of the United States Code to designate the Daniel Reed Library at the State University College of Fredonia, in Fredonia, N.Y., as a depository library. Referred to the Committee on Rules and Administration.

By Mr. BIBLE:

S. 3577. A bill for the relief of Daisy Santa Maria Alonso; and

S. 3578. A bill for the relief of Angel C. Alonso. Referred to the Committee on the Judiciary.

By Mr. BIBLE (for himself and Mr. CANNON):

S. 3579. A bill to amend title 18 of the United States Code to permit certain mailings of newspapers carrying advertisements of State sponsored lotteries and of lotteries legal under applicable State law. Referred to the Committee on the Judiciary.

By Mr. HARTKE:

S. 3580. A bill to provide that the historic property known as the Congressional Cemetery may be acquired, protected, and administered by the Secretary of the Interior as part of the park system of the National Capital, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS (for himself and Mr. BUCKLEY):

S. 3576. A bill to amend title 44 of the United States Code to designate the Daniel Reed Library at the State University College of Fredonia, in Fredonia, N.Y., as a depository library. Referred to the Committee on Rules and Administration.

Mr. JAVITS. Mr. President, on behalf of my colleague from New York (Mr. BUCKLEY) and myself, I introduce for appropriate reference a bill to designate the Daniel Reed Library at the State University, College of Fredonia in Fredonia, N.Y. as a depository library.

Daniel Reed served as a Representative from the 43d Congressional District, which is now the 38th District, for 40 years and became chairman of the House Ways and Means Committee which made the first major revision in the income tax laws in 50 years. Dan Reed served his district, his State, and his country long and well, and this would be a fitting tribute to that service.

I knew him well; I served with him. He was a very noble gentleman and richly deserves the fine memorial which will be represented by the Daniel Reed Library.

The Daniel Reed Library has been designated as a center for governmental studies with the purpose of providing resources and a facility for the study of governmental institutions and public affairs including legislative, administrative, and judicial organization and processes; intergovernmental relations; formulation of public policy; and taxing and expenditures of Federal, State, and local governments with particular attention to the western New York area.

Its major objectives are to facilitate academic research on Federal, State, and local governments, to provide public officials in the western New York area with needed information for the teaching and training of students interested in pursuing careers in local, State, and National government service, and to provide sources and assistance to local citizens working on governmental matters.

Fredonia is located approximately 30 miles from the county seat in Mayville and 35 miles from Chautauqua Institution, and renowned cultural and educational center. These two areas, as well as the city of Jamestown, Chautauqua County's largest city, involve a distance of approximately 40 miles.

A companion bill H.R. 13661 has been introduced in the House by Representative HASTINGS, who now represents the 38th District.

Mr. President, I ask unanimous consent to have the text of the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The Congress finds—

(1) that the Daniel Reed Library at the State University College at Fredonia in Fredonia, New York, has been designated as a Center for Governmental Studies with the purpose of providing resources and a facility for the study of governmental institutions and public affairs including legislative, administrative, and judicial organization and processes, intergovernmental relations, formulation of public policy, and taxing and expenditures of Federal, State, and local governments with particular attention to the western New York area; and

(2) that the major objectives of the Daniel Reed Library are to facilitate academic research on Federal, State, and local governments, to provide public officials in the western New York area with needed information for the teaching and training of students interested in pursuing careers in local, State, and national government service, and to provide sources and assistance to local citizens working on governmental matters; and

(3) that Daniel Reed served as a Congressman from the Forty-third Congressional District, now the Thirty-eighth, for forty years and rose to head the key House Ways and Means Committee, and as its chairman was credited with writing the first major revision of the Federal tax laws in fifty years, and further, he was an untiring defender of the American way of life and was one of the Nation's leaders during the administrations of Presidents Roosevelt, Truman, and Eisenhower.

(b) It is, therefore, the purpose of this Act to provide for the designation of the Daniel Reed Library as a depository library.

SEC. 2. Chapter 19 of title 44, United States Code, is amended by adding at the end thereof the following new section:

"§ 1915. Daniel Reed Library designated as a depository library.

"Notwithstanding any other provisions of this chapter, the Daniel Reed Library at the State University College at Fredonia in Fredonia, New York, is designated as a depository library for the purpose of this chapter.".

SEC. 3. The chapter analysis of such chapter 19 is amended by inserting immediately below the item relating to section 1914 the following:

"1915. Daniel Reed Library designated as a depository library.".

By Mr. BIBLE (for himself and Mr. CANNON):

S. 3579. A bill to amend title 18 of the United States Code to permit certain mailings of newspapers carrying advertisements of State-sponsored lotteries and of lotteries legal under applicable State law. Referred to the Committee on the Judiciary.

Mr. BIBLE. Mr. President, on behalf of myself and my colleague Senator CANNON, I introduce for appropriate reference a bill to amend title 18 of the United States Code to permit certain mailings of newspapers carrying advertisements of State-sponsored lotteries and of lotteries legal under State law.

Among other things, section 1302 of title 18 makes it a criminal offense to deposit in the mail or to send or deliver by mail any newspaper or publication of any kind containing any advertisement of a lottery or other gaming activity. It makes no difference that the lottery or other gaming enterprise is entirely lawful in the State where it is conducted. Nor does it make any difference that the reference to a lottery or other game of chance in a particular publication occupies only a small part or is merely incidental to the overall purpose of that publication. If the material is viewable as a gaming advertisement, it is barred from the postal system, and violations of the law are punishable by heavy penalties.

We have a situation today in which not only my State of Nevada but more and more of our States are turning to legalized gaming enterprises in an effort to generate revenues to pay the increasing cost of essential public services. The passage of the New Hampshire Sweepstakes in 1963 precipitated widespread interest in legalized gambling. Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania—and recently Connecticut—have established State-conducted or State-sponsored lotteries. New York has legalized off-track parimutuel betting. And many other States appear to be looking with increasing interest at legalizing lotteries, off-track betting, and other forms of gaming.

The existing prohibition against the mailing of gaming advertisements makes the task of promoting and disseminating information concerning these enterprises unnecessarily difficult. Newspapers carrying advertising for legal gaming enterprises may not send their papers through the mail. The larger papers that print more than one edition can delete such matter from the papers they mail, but the law is particularly hard on smaller newspapers that are unable to run extra editions and must rely on the mail to serve rural and outlying areas. The gaming enterprise may be entirely lawful where the newspaper does business, but it may not be advertised in papers intended for the mails.

Mr. President, I think the time is ripe for a reevaluation of this aspect of the Federal criminal code. The public revenues generated by lawful gaming enterprises are needed to meet the increasing cost of essential public services. In view of the broadened interest in legalized gambling, I think we must take a new look at those of our laws that make it a crime to use the mails to advertise legitimate and lawful gaming enterprises.

The bill I am introducing today would amend the present law to permit the mailing of newspapers and similar publications containing gaming advertisements so long as the gaming enterprise involved is legal under the applicable law of a State, the Commonwealth of Puerto Rico, the District of Columbia, or any territory or possession of the United States.

By Mr. HARTKE:

S. 3580. A bill to provide that the historic property known as the Congressional Cemetery may be acquired, protected, and administered by the Secretary of the Interior as part of the park system of the National Capital, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HARTKE. Mr. President, today I introduce legislation which would provide that the historic property known as the Congressional Cemetery be acquired, protected, and administered by the Secretary of the Interior as part of the parks system of the National Capital.

The Congressional Cemetery is now owned by Christ Church, Washington Parish. This historic property is listed on the National Register of Historic Places. Although it is eligible for assistance under the grants-in-aid program authorized by the National Historic Preservation Act of 1966 (80 Stat. 915), I am informed that the funding level of the grants-in-aid program is far below the total of matching funds available. I am further informed that the District of Columbia Liaison Officer for Historic Preservation believes that the combination of numerous high-priority projects and limited grant funds makes it unlikely that funds can be provided for the rehabilitation of the Congressional Cemetery within the next few years.

In January of this year, Mrs. C. R. Bundy, of New Castle, Ind., wrote to me and described her shock at the reported condition of the Congressional Cemetery. In her letter she included an article which cited the fact that both neglect and vandalism are ruining the Washington burial place of many famous Americans.

Mr. President, I ask unanimous consent that this newspaper article be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Neglect and Vandalism Ruining Washington Burial Place of Many Famous Americans

(By Jack Kelley)

The country's oldest national cemetery is becoming a forgotten monument to neglect and vandalism.

Historic family vaults, their doors torn off, are littered with beer cans, whiskey bottles and decaying leaves. Along its unkempt pathways, headstones tilt uncertainly in clutching tangles of high grass and weeds.

The small gray chapel, built in 1902, is no longer used. Some of its stained-glass windows are boarded over, others riddled by rocks.

Yet Congressional Cemetery in Washington, D.C., is the resting place of no less than 56 senators and 75 members of the House of Representatives. Three Presidents—John Quincy Adams, William Henry Harrison and Zachary Taylor—were buried there until their bodies were removed to other sites.

And the names of "march king" John Philip Sousa, civil war photographer Matthew Brady, and the children of Vice-President John C. Calhoun appear among its fading sandstone markers.

When Congressional Cemetery was opened in 1807, it was intended primarily for members of Congress. Five years later a citizens group bought the land and donated it to the then-prosperous Christ Church and in the next century and a half, hundreds of soldiers and thousands of ordinary citizens were buried there as well.

But over the decades, the face of Washington changed and Christ Church changed with it.

"The neighborhood is no longer very rich and we don't have much money," admitted Rev. David Dunning, the current pastor.

"The cemetery requires a tremendous amount of care but the income from it is quite low.

"It would be best if the government or a city agency took it over, because it should have better care and we are not able to do it."

Cemetery superintendent Fritz Lehmann told The Enquirer: "I'm continually fighting an uphill battle against weeds, the high grass and the steady deterioration of the tombs, vaults and family plots.

"Many of the historical artifacts have been pilfered over the years by thieves. We used to have a night watchman," he said, but now a German shepherd chases nocturnal prowlers.

The cemetery is located in the middle of a high crime area.

"It would cost $150,000 to work this place back into shape and $50,000 a year to maintain it properly," Lehmann said. "Even a simple job like straightening and repairing the gravestones could keep a stonemason busy for over a year."

Lehmann said he sees little hope of financial help from the government, however. "Although Congressional Cemetery is listed on the National Register of Historic Sites, it is not eligible for federal aid because it is not classified as a historic landmark," he explained.

"I can think of so many things I'd like to do here—if only I had the money."

Mr. HARTKE. Mr. President, in response to Mrs. Bundy's letter, I wrote to the Department of the Interior to inquire about the status of the Congressional Cemetery. I ask unanimous consent that the response of Ernest Allen Connally, Associate Director of the National Parks Service be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Department of the Interior,
Washington, D.C., March 3, 1972.
Hon. Vance Hartke,
U.S. Senate,
Washington, D.C.

Dear Senator Hartke: Thank you for your letter of January 26 to Mr. Nick L. Laird, Office of Congressional Liaison, concerning the Congressional Cemetery in Washington, D.C.

The Congressional Cemetery is owned by Christ Church, Washington Parish. This historic property is listed on the National Register of Historic Places and, consequently, could become eligible for assistance under the grants-in-aid program authorized by the National Historic Preservation Act of 1966 (80 Stat. 915), as amended, which is described in the enclosed folder, "The National Register of Historic Places," and the fact sheet on the grants-in-aid program.

However, the funding level of the grants-in-aid program is far below the total of matching funds available from the States, and we have been informed by the District of Columbia Liaison Officer for historic preservation that the combination of numerous high-priority projects and limited grants funds makes it unlikely that funds could be provided for the rehabilitation of the Congressional Cemetery within the next few years.

The "Budget of the United States for Fiscal Year 1973," under "Preservation of Historic Property, National Park Service," page 586, requests $6,205,000 for the grants-in-aid program. This is an increase of $225,000 over the program's 1972 appropriation of $5,980,000.

We appreciate your interest in the programs of the National Park Service.

Sincerely yours,
Ernest Allen Connally,
Associate Director.

Mr. HARTKE. Mr. President, Congressional Cemetery is the resting place of no less than 56 Senators and 75 Members of the House of Representatives, three Presidents—John Quincy Adams, William Henry Harrison, and Zachary Taylor—were buried there until their bodies were moved to other sites. Such eminent Americans as John Philip Sousa, Matthew Brady, and the children of Vice President John C. Calhoun, were buried in the cemetery. Now another famous American has joined the list of those buried in Congressional Cemetery—J. Edgar Hoover.

Mr. President, I believe that the condition of Congressional Cemetery is a national disgrace. Because it is apparent that grant funds under the National Historic Preservation Act will not be available for use in improving the conditions at the cemetery, I am today offering legislation which would authorize the Secretary of the Interior to acquire the cemetery property by donation or with donated funds for administration as a park of the park system of the National Capital.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 32

At the request of Mr. Kennedy, the Senator from Missouri (Mr. Eagleton), the Senator from Michigan (Mr. Hart), and the Senator from Rhode Island (Mr. Pell) were added as cosponsors of S. 32, the Conversion Research, Education, and Assistance Act of 1971.

S. 855

At his own request, Mr. Griffin was added as a cosponsor of S. 855, a bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement.

S. 3449

At the request of Mr. Robert C. Byrd for Mr. Jackson, the Senator from Tennessee (Mr. Brock) was added as a cosponsor of S. 3449, a bill to authorize and direct the Water Resources Council to coordinate a national program to insure the safety of dams and other water storage and control structures, to provide technical support to State programs for the licensing and inspection of such structures, to encourage adequate State safety laws and methods of implementation thereof.

S. 3487

At the request of Mr. Tunney, the Senator from Michigan (Mr. Hart), the Senator from Minnesota (Mr. Humphrey), the Senator from South Dakota (Mr. McGovern), and the Senator from Maine (Mr. Muskie) were added as cosponsors of S. 3487, a bill to amend the Public Health Service Act to provide for research into the chronic effects of microwave radiation.

S. 3568

At the request of Mr. Roth, the Senator from Texas (Mr. Tower) was added as a cosponsor of S. 3568, a bill to designate the Federal Bureau of Investigation building now under construction in Washington, D.C., as the "J. Edgar Hoover Federal Building."

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 271

At the request of Mr. Tower, the Senator from Wyoming (Mr. Hansen) was added as a cosponsor of Senate Resolution 271, expressing the sense of the Senate that the full amount appropriated for the rural electrification program for fiscal 1972 should be made available by the administration to carry out that program.

FAIR LABOR STANDARDS AMENDMENT OF 1972—AMENDMENT

AMENDMENT NO. 1177

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.

Mr. BENTSEN. Mr. President, on March 9, 1972, I introduced S. 3318, a bill to subject the Federal, State, and local governments to the provisions of the Age Discrimination in Employment Act of 1967. At that time, I noted mounting evidence that government employees are being discriminated against on the basis of their age.

The present age discrimination law empowers the Secretary of Labor to move against age discrimination practices in the private sector, but it specifically exempts employees of Federal, State and local governments. In my view, that exemption is unsupportable.

In the recent debate on the EEOC amendment, the Senate overwhelmingly approved including Federal, State, and local employees under the provisions of title VII of the Civil Rights Act. The committee report said, on page 9:

> The Committee believes that employees of State and local governments are entitled to the same benefits and protections in equal employment as the employees in the private sector of the economy.

Moreover, the committee included Federal employees in the bill, with their rights being protected by the Civil Service Commission.

I believe that the principles underlying these provisions in the EEOC bill are directly applicable to the Age Discrimination in Employment Act.

We know that older workers have suffered severe losses in employment during the past 2 or 3 years. From January 1969 to September 1971, unemployment for persons 45 and older jumped 77 percent. Many of these people find themselves in a no-man's land—too young to retire and too old to hire. Moreover, the average duration of unemployment for the older worker has increased by 72 percent over the same period. The harsh truth is that we have developed the idea that a man and woman over 45 is no longer a good employment risk, and the Nation is paying a heavy price for failing to maximize employment opportunities for older workers.

In his March 23 message on older Americans, President Nixon recognized the problem and endorsed the fundamental concepts underlying my bill when he said:

> I will soon propose to the Congress that this act (The Age Discrimination in Employment Act) be broadened to include what is perhaps the fastest growing area of employment in our economy—the State and local governments.

The President also indicated that he would send a directive on age discrimination to the heads of all Federal departments and agencies. Unfortunately, such directives have not done the job in the past; Federal employees should be specifically included in the law.

Mr. President, I am submitting my bill S. 3318, with amendments as an amendment to S. 1861, the Fair Labor Standards Amendment of 1972. Both measures are concerned with the legal rights and the well-being of millions of American workers. Both should receive overwhelming bipartisan support.

I am pleased to have as my cosponsors the Senator from New Jersey (Mr. WILLIAMS), chairman of the Senate Labor and Public Welfare Committee, the Senator from Missouri (Mr. EAGLETON), chairman of the Senate Subcommittee on Aging, and the Senator from New York (Mr. JAVITS), the ranking minority member of the Senate Labor and Public Welfare Committee.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1177

At the appropriate place in the bill insert the following new section:

NONDISCRIMINATION ON ACCOUNT OF AGE IN GOVERNMENT EMPLOYMENT

SEC. —. (a) (1) The second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, but such term does not include the United States, or a corporation wholly owned by the Government of the United States."

(2) Section 11(c) of such Act is amended by striking out "or any agency of a State or political subdivision of a State,".

(b) (1) The Age Discrimination in Employment Act of 1967 is amended by redesignating section 15 and 16, and all references thereto, as section 16 and section 17, respectively.

(2) The Age Discrimination Act in Employment of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies (other than the General Accountng Office) as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, of the Government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without back pay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency, or unit; and

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions which shall include a provision that an employee or applicant for employment shall be notified of any final action taken or any complaint of discrimination field by him thereunder. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Within 30 days of receipt of notice of final action taken by a department, agency or unit referred to in subsection (a) of this section, or by the Civil Service Commission upon an appeal from a decision or order of such department, agency or unit on a complaint of discrimination brought pursuant to subsection (a) of this section, or Executive Order 11141 or any succeeding Executive orders, or after 180 days from the filing of the initial charge with the department, agency or unit or with the Civil Service Commission on appeal from a decision or order of such department, agency, or unit until such time as final action may be taken by a department, agency, or unit, an employee or applicant for employment, if aggrieved by the final disposition of his complaint, or by the failure to take final action on his complaint, may file a civil action in any court of competent jurisdiction against the head of the department, agency, or unit, as appropriate, for such legal or equitable relief as will effectuate the purpose of this section.

"(d) Nothing contained in this section shall relieve any government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law."

Redesignate section 12 as section 13.

VOTER REGISTRATION ACT OF 1972—AMENDMENT

AMENDMENT NO. 1178

(Ordered to be printed and referred to the Committee on Post Office and Civil Service.)

EQUAL ENFORCEMENT OF THE VOTING RIGHTS ACT

Mr. GAMBRELL. Mr. President, I am introducing today an amendment to the voter registration bill which would amend section 5 of the Voting Rights Act of 1965 to provide for equal application nationwide. If an effort is made to revive a voter registration bill this year, it should embody my amendment.

Under section 5 of the Voting Rights Act, seven States must either submit any new or proposed changes in voting qualifications or procedures to the Attorney General for prior approval or seek a declaratory judgment from the District Court of the District of Columbia that the proposed change would not have the effect of denying the right to vote because of race. My amendment would eliminate that discriminatory requirement of prior approval, and would authorize the Attorney General to seek to enjoin the enforcement of any change in voting law or procedure in any State of the Nation through an action in the U.S. district court of the jurisdiction involved.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1178

SEC.—Section 5 of the Voting Rights Act of 1965 (79 Stat. 439; 42 U.S.C. 1973c is amended to read as follows:

"SEC. 5. (a) Whenever the Attorney General has reason to believe that a State or political subdivision has enacted or is seeking to administer any voting qualification or prerequisite to voting, or standard, practice or procedure with respect to voting which has the purpose or effect of denying or abridging the right to vote on account of race or color, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order or a preliminary or permanent injunction, or such other order as he deems appropriate.

"(b) An action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall be to the Supreme Court."

FOREIGN RELATIONS AUTHORIZATIONS ACT—AMENDMENT

AMENDMENT NO. 1179

Mr. TUNNEY submitted an amendment intended to be proposed by him to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENTS NOS. 820 AND 825

At the request of Mr. Ribicoff, the Senator from South Dakota (Mr. McGovern) was added as a cosponsor of amendment No. 820 and amendment No. 825, intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

AMENDMENT NO. 895

At the request of Mr. Pearson, the Senator from Massachusetts (Mr. Brooke) was added as a cosponsor of amendment No. 895, intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

AMENDMENTS NOS. 1030 THROUGH 1040

At the request of Mr. Tunney, the Senator from Maine (Mr. Muskie) was added as a cosponsor of amendments Nos. 1030 through 1040, intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

ANNOUNCEMENT OF OPEN HEARINGS BEFORE SUBCOMMITTEE ON MINERALS, MATERIALS, AND FUELS ON S. 2556

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Washington (Mr. Jackson), I ask unanimous consent that there be printed in the Record an announcement with respect to open hearings scheduled on S. 2556 before the Subcommittee on Minerals, Materials, and Fuels.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR JACKSON

I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Subcommittee on Minerals, Materials, and Fuels at 10 a.m. on Friday, May 12, in room 3110, New Senate Office Building, on the following bill: S. 2556, to establish a municipal mine demonstration plant.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished chairman of the Committee on the Judiciary (Mr. Eastland) I ask unanimous consent to have printed in the Record a statement concerning certain nominations, including a notice as to hearings thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

The following nominations have been referred to and are now pending before the Committee on the Judiciary:

John T. Elfvin, of New York, to be U.S. Attorney, Western District of New York, for the term of 4 years, vice H. Kenneth Schroeder, Jr., resigned.

Douglas M. Gonzales, of Louisiana, to be U.S. Attorney, Middle District of Louisiana, for the term of 4 years, vice the new position created by Public Law 92-208, approved December 18, 1971.

Everett R. Langford, of Oregon, to be U.S. Marshal, District of Oregon, for the term of 4 years, vice Farley E. Morgan, deceased.

William C. Smitherman, of Arizona, to be U.S. Attorney, District of Arizona, for the term of 4 years, Vice Richard K. Burke, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, May 11, 1972, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ANNOUNCEMENT OF CONTINUATION OF HEARINGS ON THE PROPERTY TAX

Mr. JORDAN of Idaho. Mr. President, at the request of the Senator from Florida (Mr. Gurney), I ask unanimous consent that a statement relating to the continuation of hearings on the property tax be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR GURNEY

On behalf of the Senator from Maine (Mr. Muskie), chairman of the Subcommittee on Intergovernmental Relations, Committee on Government Operations, I wish to announce that on May 9 the subcommittee will continue hearings on the property tax system.

The hearings will be held in room 3302 of the New Senate Office Building, at 10 a.m.

Anyone wishing to file a statement with respect to the property tax should contact the chief clerk of the subcommittee, Mrs. Lucinda T. Dennis, at 225-4718.

ANNOUNCEMENT OF OPEN HEARINGS BEFORE SUBCOMMITTEE ON MINERALS, MATERIALS, AND FUELS ON S. 2801

Mr. ROBERT C. BYRD. Mr. President, at the request of the Senator from Washington (Mr. Jackson), I ask unanimous consent to have printed in the Record an announcement with respect to open hearings scheduled on S. 2801 before the Subcommittee on Minerals, Materials, and Fuels.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR JACKSON

I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Subcommittee on Minerals, Materials and Fuels at 10 a.m. on Friday, June 2, in room 3110, New Senate Office Building on the following bill: S. 2801, a bill to provide the Secretary of the Interior with authority to promote the conservation and orderly development of the hard mineral resources of the deep seabed, pending adoption of an international regime therefor.

ADDITIONAL STATEMENTS

SURGEON GENERAL'S REPORT ON SMOKING AND HEALTH

Mr. COOK. Mr. President, since the Surgeon General's report on smoking and health was issued in 1964, the entire tobacco industry has been subjected to an unfair amount of criticism consisting of innuendoes and half-truths. Much of the public, I am afraid, believes that those associated with the tobacco industry do not care about the health of their fellow countrymen.

Although the tobacco industry does not start from the biased, preconceived premise that cigarette smoking is directly related to disease, it has spent large sums of funds in health-related research on tobacco.

In 1971, the Tobacco Institute allocated $5 million for cancer and health research. The breakdown is $2.6 million for the council for tobacco research grants, $2 million for the American Medical Association Educational and Research Foundation and $400,000 for Washington University, St. Louis—the total Washington University grant is for $2 million over a 5-year period. In my own State, the University of Kentucky is spending $2.5 million on tobacco and health research. This program is funded through an increase in the State cigarette tax which went into effect in 1970. By comparison, it should be noted that the American Cancer Society allocated a total of only $1.3 million for research in 1971.

Recently I received a summary report from the College of Agriculture at the University of Kentucky on tobacco and health research. As Dean Charles E. Barnhart has stated, the University of Kentucky "is making a maximum effort in tobacco and health research under present funding levels."

I ask unanimous consent that the letter from Dean Barnhart and the "Summary Report of Tobacco Research, University of Kentucky, College of Agriculture" be printed in the Record.

There being no objection, the report was ordered to be printed in the Record, as follows:

A SUMMARY REPORT: TOBACCO AND HEALTH RESEARCH IN THE COLLEGE OF AGRICULTURE

UNIVERSITY OF KENTUCKY,
Lexington, Ky., March 30, 1972.

GENTLEMEN: The College of Agriculture at the University of Kentucky has had a major research effort on tobacco for over fifty years. Historically, the program objective was to put in the hands of farmers cultural techniques, including varieties and field practices that would yield a satisfactory income and a useful crop. The objective today is the same, however, the meaning "useful crop" must be extended to include a chemical composition of the tobacco leaf that will yield a "least harmful" smoke.

When the Report on Smoking & Health was made to the Surgeon General in January 1964, our College was actively engaged in health-related research on tobacco. The research on the control of alkaloids (nicotine) by genetic means has been underway for some 30 years. Other studies relating to the chemical composition of the leaf to quality (useful) tobacco were a part of the ongoing program.

With the announcement of the report to the Surgeon General and the indictment that cigarette smoking was a causative factor, the College immediately reviewed its research effort, assessed its competency and proposed a program. As stated above, in part, the immediate objective was to attain the knowledge necessary to produce burley tobacco that would yield smoke with a least health hazard.

Support for the program was made by funds appropriated by the Congress to the United States Department of Agriculture, Agricultural Research Service, earmarked for use at Kentucky for health-related tobacco research. The College of Agriculture has played a major role in the Tobacco & Health research and will participate with maximum efforts as long as the problem exists. At the present time, our College has 29 faculty in 4 academic departments (Appendix A) engaged in tobacco research.

The College of Agriculture faculty has written over 105 research reports for publication in scientific journals (Appendix B). Their work has been presented before academic societies throughout the United States. The value of such contributions can only be truly assessed over time. However, it must be clearly stated that the publication and presentation of scientific work in national meetings is the vehicle of scientific communication. Through such contributions, complex problems as is the relationship of cigarette smoking to human health, can be properly assessed by all scientists.

We are pleased with the progress our faculty is making in tobacco-health research. Some of the major accomplishments may be identified as follows:

1. Over 105 research publications: as stated, publication of scholarly work represents the major communication vehicle.

2. Tobacco varieties with 10-fold reduction in nicotine: This work encompassing some 30 years' effort, was recently published and the varieties released to other researchers. Nicotine levels in standard varieties can now be reduced through genetic means from 3.50% to 0.30%. Should Public Health research indicate such a need, varieties produced through research at the Kentucky Agricultural Experiment Station will be available (Drs. Collins, Legg and Mr. Litton).

3. Breeding lines (research varieties) with lower levels of phenols and sterols: These chemical constituents in tobacco leaf were identified as health-related suspect compounds during the early work. These large organic molecules are precursors of polycyclic aromatic hydrocarbons and are formed during the pyrolysis (smoking) of tobacco. Bioassay researchers in the Biomedical area have not yet identified their true causal relationship in carcinogenesis (Drs. Anderson, Sheen, Collins, and Davis).

4. Fertilizer effects on chemistry: Much effort has gone into research in this important area. The influence of nitrogen on alkaloid levels and related nitrogenous compounds has been elucidated. [The new poundage program will be extremely valuable, since the use of excess nitrogen to obtain maximum yield levels is not the primary goal of farmers under the new program]. (Dr. Sims, Dr. Bush, Mr. Atkinson and Mr. Hamilton.)

5. Physiology of Sterols, Phenols and Alkaloids: When the report to the Surgeon General was made, we identified the need for basic research in plant physiology as most critical. Through the federal support, we hired Drs. Grunwald, Sheen, Bush and Davis to carry the main effort. Work in this basic area is progressing rapidly today.

6. Effects of microorganisms in stored tobacco: Over 30,000 microbial isolates from tobacco have been made that represent more than 70 genera of fungi. The rigorous search for mycotoxins that may contribute harmful chemicals or off-taste are being investigated (Dr. Yang).

7. The Reference Cigarette: During the early days of Tobacco & Health research, investigators were using cigarettes purchased through commercial channels. Because of product variation, research information varied and no cross reference between scientists could be made. We developed (with major help from the tobacco industry) the Reference Cigarette that is controlled and standardized. The Reference Cigarette is made available to all cooperating laboratories. The Reference Cigarette allows cross checking (control) between laboratories. A major contribution. (Drs. Stokes, Burdick & Mr. Atkinson).

8. Production of Experimental Cigarettes: Research cigarettes requested by faculty can be made to precise specification by our laboratory. This capability permits extreme flexibility, since the needs of scientists for specific experiments are satisfied. Over one million cigarettes have been made. (Mr. Atkinson).

9. Condensate Production: All segments of the program are supplied condensates (smoke solids) upon request. We feel our condensate production program is a major cooperative input to the medical program by the College of Agriculture. (Mr. Atkinson).

10. Nicotine Series Cigarette: Through our efforts in alkaloid (nicotine) research, varieties with low levels have made possible the nicotine research cigarettes. (Drs. Collins, Legg and Mr. Litton).

11. Numerous research samples of tobacco leaf. Any questionable insecticide, chemical weed control, sucker control or fertility level will require leaf samples. We will make every attempt to cooperate by supplying samples. (Staff).

Our College Program is fully interrelated internally (Appendix C) and is cooperating with other segments of the Tobacco & Health Institute Program. We feel our major areas of responsibility for the tobacco-health research are as follows:

1. Plant Sciences Studies.

A. Genetic control of leaf composition:

(1) Evaluation of genetically determined chemical variability in tobacco.

(2) Determine pattern of inheritance of selected leaf components.

(3) Develop breeding lines with altered quantities of leaf components.

B. Physiology and biochemistry of leaf and product composition:

(1) Identification of biologically active components.

(2) Biosynthesis of biologically active leaf components.

(3) Physiological requirements for leaf components.

C. Growth modifiers:

(1) Chemical residues of pesticides and growth regulators.

(2) Effect of growth modifiers on leaf and product composition.

(3) Degradation production of growth modifiers.

D. Effects of senescence and post harvest biology on leaf composition.

E. Cultural and environmental effects on leaf and products composition:

(1) Effects of plants nutrition and soil fertility.

(2) Effects of physical, chemical and biological properties of soils.

(3) Effects of selected management techniques.

I feel our College is making a maximum effort in Tobacco & Health research under present funding levels. Should you want to discuss any topic further, or feel the need for personal communication, we will come to your office at your convenience.

Very truly yours,

CHARLES E. BARNHART,
Dean and Director.

APPENDIX A: FACULTY ENGAGED IN TOBACCO RESEARCH, COLLEGE OF AGRICULTURE

Agricultural Economics Department: Bradford, Garnett L., Hourigan, Wilson W., and Shuffett, D. Milton.

Agricultural Engineering Department: Abrams, C. Frank, Bunn, Joe M., Casada, James H.,* Duncan, George A., Henson, Wiley H.,* Morrison, John,* and Yoder, Elmon E.*

Agronomy Department: Atkinson, W. O., Bortner, Charles E.,* Burton, Harold R., Bush, Lowell P., Collins, Glenn B., Davis, D. Layton, Grunwald, Claus H., Hamilton, J. L.,* Kasperbauer, M. J.,* Legg, Paul D.,* Litton, Chris C.,* Lowe, R. H.,* Massie, Ira E., Sheen, S. J., Sims, J. L., and Smiley, J. H.

Plant Pathology Department: Hendrix, J. W., Pirone, Thomas P., and Yang, C. Y.

APPENDIX B: UNIVERSITY OF KENTUCKY COLLEGE OF AGRICULTURE TOBACCO-HEALTH RELATED RESEARCH PUBLICATIONS

Persistence of diphenamid in tobacco field soils. G. E. Jones, H. D. Dubey and J. F. Freeman. Weeds, Vol. 12, pp. 313–315, 1964.

Formic acid activation in plants. I. Purification, properties and distribution of formyltetrahydrofolate synthetase in plants. A. J. Hiatt. Plant Physiology, 40:184–188. 1965.

Formic acid activation in plants. II. Activation of formyltetrahydrofolate synthetase by magnesium, potassium and other univalent cations. A. J. Hiatt, Plant Physiology, 40:189–193. 1965.

Biological detection of phytochrome in callus tissue of *Nicotiana tabacum* L. M. J. Kasperbauer and A. J. Hiatt. Nature, 211:744–745. 1966.

Flowering of three types of *Nicotiana tabacum* L. under controlled environments. M. J. Kasperbauer and A. J. Hiatt. Tobacco Science, 10:107–108. 1966.

Interaction of photoperiod and temperature on flowering of Burley tobacco (*Nicotiana tabacum* L.) M. J. Kasperbauer. Tobacco Science, 10:119–120. 1966.

Photoreversible control of leaf shape and chlorophyll content in *Nicotiana tabacum* L. M. J. Kasperbauer and A. J. Hiatt. Tobacco Science. 10:29–32. 1966.

Relationship of oxalic acid to translocation and utilization of calcium in *Nicotiana tabacum* L. D. M. Brumagen and A. J. Hiatt, Plant and Soil, 24:239–249. 1966.

An automated procedure for the determination of reducing substances (polyphenols) other than sugars found in tobacco. J. R Todd, R. A. Andersen, L. J. Wells, and G. Moegling. Technicon Symposium "Automation in Analytical Chemistry," p. 137–139. New York. 1967.

Automated Kjeldahl procedure for determining nitrogen in burley tobacco. J. R. Todd and J. H. Byars. Technicon Symposium, "Automation in Analytical Chemistry," pp. 137–144. New York. 1967.

Determination of oven moisture in tobacco. C. E. Bortner and C. L. Ogg. Journal of the Association of Official Analytical Chemists, 49:525–528. 1966.

An evaluation of hail damage on dark-fired tobacco. L. Link and A. M. Wallace. Tobacco Science, 11:159–162. 1967.

Identification of tobacco haploids by stomatal size. R. A. Flowers, G. W. Stokes and J. H. Smiley. Tobacco Science, 11:72–77. 1967.

Nitrogenous and phenolic compounds of nicotiana plants. I. Field and greenhouse grown plants. T. C. Tso, R. P. Sorokin, M. E. Engelhaupt, R. A. Andersen, C. E. Bortner, J. F. Chaplin, J. D. Miles, B. C. Nichols, L.

---

*USDA—ARS, In-House.

Shaw and O. E. Street. Tobacco Science, 11: 133–36. 1967.

Photometrically assayable phytochrome *in vivo* in callus tissue cultured from *Nicotiana tabacum*. M. J. Kasperbauer and R. A. Reinert. Physiologia Plantarum. 20:977–981. 1967.

Rapid method for determination of nitrate in plant and soil extracts. R. H. Lowe and J. L. Hamilton. Journal of Agricultural and Food Chemistry, 15:359–361. 1967.

Thermal decomposition of tobacco I. Thermogravimetric analysis. H. R. Burton and D. Burdick. Tobacco Science, 11:180–185. 1967.

Composition of cigarette smoke from high- and low-nitrate burley tobacco. J. F. Benner, J. R. Burton and D. Burdick. Tobacco, 166: 22–25. 1968.

DNA synthesis in two species of *Nicotiana* and their hybrid. G. B. Collins. Journal of Heredity, 59:13–17. 1968.

Dark-germination of reciprocal hybrid seed from light-requiring and -indifferent *Nicotiana tabacum*. M. J. Kasperbauer. Physiologia Plantarum 21:1308–1311. 1968.

Determination of anthracene and pyrene in cigarette smoke by gas chromatography. A. Zane, Tobacco Science, 12:54. 1968.

Determination of phenanthrene in cigarette smoke by gas chromatography. A. Zane. Tobacco Science, 12:77. 1968.

Effects of ammonium nitrate and the growth of burley tobacco plants on soil pH. R. B. Reneau, J. L. Ragland and W. O. Atkinson. Tobacco Science, 12:50–53. 1968.

Estimation of total tobacco plant phenols by their bonding to polyvinylpyrrolidone. R. A. Andersen and J. R. Todd. Tobacco Science, 12:107–111. 1968.

Germination of tobacco seed, inconsistency of light sensitivity. M. J. Kasperbauer. Tobacco Science, 12:20–22. 1968.

Heterochromatin in microscope nuclei of hybrids between *Nicotiana tabacum* and *N. stophora*. G. T. Webster and D. U. Gerstel. Journal of Heredity, 59:43–47. 1968.

Occurrence of blue mold on tobacco in Kentucky in 1967. J. H. Smiley, R. A. Flowers and R. A. Chapman. Plant Disease Reporter, 52:204. 1968.

Occurrence of brown spot on tobacco in Kentucky in 1966. J. H. Smiley, R. A. Flowers and Charles Y. Yang. Plant Disease Reporter, 52:71. 1968.

Optimum conditions for bonding of plant phenols to insoluble polyvinylpyrrolidone. R. A. Andersen and J. A. Sowers. Phytochemistry, 7:293–301. 1968.

Relationship of temperature to the development of calcium deficiency symptoms in *Nicotiana tabaum*. S. Y. Chang, R. H. Lowe and A. J. Hiatt. Agronomy Journal, 60:435–436. 1968.

Separation of some polynuclear aromatic hydrocarbons by gas-solid chromatography on graphitized carbon black. A. Zane. Journal of Chromatography, 38:130. 1968.

Somatic chromosomal irregularities in *Nicotiana plumbaginifolia* Viv. G. B. Collins. Crop Science, 8:91–93. 1968.

Sterol variation in flue-cured tobacco varieties. A. L. S. Cheng, James F. Chaplin and T. C. Tso. Tobacco, 166:33–34. 1968.

A survey of chemical constituents in cultivars of *Nicotiana tabacum* from different geographical areas. S. J. Sheen, J. Calvert and G. W. Stokes. Tobacco Science, 12:81–85. 1968.

Tobacco diseases in Kentucky in 1967. J. H. Smiley and R. A. Flowers. Plant Disease Reporter, 54:58. 1968.

Variation in selfed progeny of doubled haploid stocks of *Nicotiana tabacum* L. P. D. Legg and G. B. Collins. Crop Science, 60:620–621. 1968.

Analysis of free phytosterols by gas chromatography using liquid phase OV–101. C. Grunwald. Journal of Chromatography, 44:173–176. 1969.

Changes in content of sterols, alkaloids and phenols in flue-cured tobacco during conditions favoring infestation by molds. C. J. Keller, L. P. Bush and C. Grunwald. Agricultural and Food Chemistry, 17:331–334. 1969.

Cytogenetics of a burley tobacco breeding line derived from a cross with *Nicotiana longiflora* Cav. G. B. Collins and P. D. Legg. Canadian Journal of Genetics and Cytology, 11:382–388. 1969.

The distribution of polyphenols, chlorogenic acid oxidase and peroxidase in different plant parts of tobacco, *Nicotiana tabacum* L. S. J. Sheen. Phytochemistry, 8:1839–1847. 1969.

Effects of nitrogen fertilization on polyphenol content and oxidase activities in tobacco seedlings. S. J. Sheen, J. Calvert and G. R. Rebagay. Crop Science, 9(5):547–550. 1969.

Effects of storage method on content of chlorogenic acid and rutin in tobacco. C. J. Keller and M. J. Kasperbauer. Journal of Agricultural and Food Chemistry. 17:327–330. 1969.

Gas chromatographic separation of tobacco alkaloids. W. W. Weeks, D. L. Davis and L. P. Bush. Journal of Chromatography, 43:506–509. 1969.

Influence of certain cations on activity of succinyl CoA synthetase from tobacco. L. P. Bush. Plant Physiology, 44:347–350. 1969.

Inheritance of percent total alkaloads in *Nicotiana tabacum* L.—Populations derived from crosses of low alkaloid lines with burley and flue-cured varieties. Paul D. Legg, James E. Chaplin and Glenn B. Collins. Journal of Heredity, 60:213–217. 1969.

Nitrogen composition of burley tobacco. I. The influence of irrigation on the response of burley tobacco to nitrogen fertilization. W. O. Atkinson, J. L. Ragland, J. L. Sims, and B. J. Bloomfield. Tobacco Science, 13:123–126. 1969.

Photo- and thermo-control of pretransplant floral induction in burley tobacco. M. J. Kasperbauer. Agronomy Journal, 61:898–902. 1969.

Plant phenols and polyphenoloxidase in *Nicotiana tabacum* during greenhouse growth, field growth and air-curing. R. A. Andersen, R. H. Lowe, and T. H. Vaughn. Phytochemistry, 8:2139–2148. 1969.

Quantitative gas chromatographic assay for caffeic acid moieties in tobacco. R. A. Andersen and G. Moegling. Analytical Biochemistry, 27:397–408. 1969.

Quantitative variation in polyphenol content in the green and air-cured leaves of tobacco. (*Nicotiana tabacum* L.) S. J. Sheen and J. Calvert. Tobacco Science. 13:10–12. 1969.

Regional tests with contact and systemic tobacco sucker control agents. II. Burley tobacco, G. L. Steffens, D. W. Spaulding, W. O. Atkinson, C. E. Bortner, L. A. Link, B. C. Nichols, H. F. Ross, Heinz Seltmann and Luther Shaw. Tobacco Science XIII:117–120. 1969.

Registration of Kentucky 14 tobacco. C. C. Litton, G. B. Collins and P. D. Legg. Crop Science, 9:658–681. 1969. (See Plant Pathology also)

Studies on polyphenol content, activities and isozymes of polyphenol oxidase and peroxidase during air-curing in three tobacco types. S. J. Sheen and J. Calvert. Plant Physiology, 44:199–204. 1969.

Succinyl CoA synthetase of tobacco. L. P. Bush. Physiologia Plantarum, 22:1097–1104. 1969.

Temperature-yield profiles of tobacco and tobacco constituents I. Borate-treated and untreated tobacco. J. F. Benner, H. R. Burton and D. Burdick. Beitrage zur Tabak forschung. Band 6, Heft 2:74–79. 1969.

Temperature-yield profiles of tobacco and tobacco constituents II. Yields of phenol and cresols from untreated and borate-treated cellulose and lignin. J. F. Benner, H. R. Burton and D. Burdick. Beitrage zur Tabak forschung. **Band 5, Heft 3. 1969.**

Thermal decomposition of tobacco II. Thermogravimetric and differential thermal analyses of pigments from tobacco leaf and smoke condensate. D. Burdick and H. R. Burton. Tobacco Science. 13:16–18. 1969.

Thermal decomposition of tobacco III. A classification of chemically-treated tobacco using thermogravimetric analysis. H. R. Burton, J. F. Benner, and D. Burdick. Tobacco Science, 13:134. 1969.

Thermal decomposition of tobacco IV. Apparent correlations between thermogravimetric data and certain constituents in smoke from chemically treated tobaccos. D. Burdick, J. F. Benner and H. R. Burton. Tobacco Science, 13:138–141. 1969.

Aliphatic secondary amines and volatile nitrogenous bases of burley tobacco. L. P. Bush, J. L. Sims and W. O. Atkinson. Canadian Journal of Plant Science, 50:289–294. 1970.

Alkaloid and nitrate nitrogen concentration of two isogenic strains of burley tobacco. J. L. Sims, L. P. Bush and W. O. Atkinson. Agricultural and Food Chemistry, 18:381–384. 1970.

Analysis of indole acid derivatives by gas chromatography using liquid phase OV–101. C. Grunwald and R. G. Lockard. Journal of Chromatography. 52:491–493. 1970.

Brown pigment in tobacco leaf during air-curing. R. A. Andersen, T. H. Vaughn and R. H. Lowe. Agricultural and Food Chemistry, 18:940–942. 1970.

Changes of alkaloid composition during curing in three isogenic burley tobaccos and their F_1 hybrids. B. I. Townes and S. J. Sheen. Beitrage zur Tobakforschung. 1970.

Comparative quantities of polyphenols and oxidases in *Nicotiana* species. S. J. Sheen. Tobacco Science, 14:16–19. 1970.

Cytophotometric determination of DNA content in *Nicotiana* megachromosomes. G. B. Collins, P. D. Legg and M. K. Anderson. Canadian Journal of Genetics and Cytology, 12:769–778. 1970.

Distribution of total 3-B-hydroxysterols in burley tobaccos. D. L. Davis, P. D. Legg and G. B. Collins. Crop Science, 10:545–547, 1970.

Effect of photoperiod and end-of-day light quality on alkaloids and phenolic compounds of tobacco. T. C. Tso, M. J. Kasperbauer and T. P. Sorokin. Plant Physiology, 45:330–333. 1970.

Effects of end-of-day and far-red radiation on free sugars, organic acids, and amino acids of tobacco. M. J. Kasperbauer, T. C. Tso and T. P. Sorokin. Phytochemistry, 9:2091–2095. 1970.

Electrophoretic patterns of soluble proteins in tobacco leaf during curing. S. J. Sheen and B. I. Townes. Beitrage zur Tobakforschung. 1970.

Heterosis and combining ability in diallel crosses of burley tobacco. *Nicotiana tabacum* L. P. D. Legg, G. B. Collins and C. C. Litton. Crop Science, 10:705–707. 1970.

Influence of sublethal, foliar applications of 2,4–D on burley tobacco yield and composition. W. O. Atkinson and M. J. Kasperbauer. Agronomy Journal, 62:421–424. 1970.

On the localization and tissue differences of peroxidases in *Nicotiana tabacum* and its progenitor species. S. J. Sheen and G. R. Rebagay. Botanioal Gazette. 1970.

Peroxidases in the genus *Nicotiana*. S. J. Sheen. Theoretical and Applied Genetics, 40: 18–25. 1970.

Photo- and thermo-control of flowering in tobacco (*Nicotiana tabacum* L.). M. J. Kasperbauer. Agronomy Journal, 62:825–827. 1970.

Plant phenols in flue-cured tobaccos fertilized at different rates. R. A. Andersen, J. F. Chaplin, R. E. Burrin and Z. T. Ford. Agronomy Journal, 62:415–417. 1970.

Polyphenol content, polyphenoloxidase and peroxidase activity in certain *Nicotiana* species, varieties and interspecific hybrids. S. J. Sheen. Theoretical and Applied Genetics, 40:45–49. 1970.

Quantitative analysis of free phytosterols by gas chromatography using stationary phase OV–101. C. Grunwald. Analytical Biochemistry, 34:16–34. 1970.

Rapid electron capture determination of caffeic acid and quercetin moieties in plants. R. A. Andersen and T. H. Vaughn. Journal of Chromatography, 52:385–392. 1970.

Registration of Ky 165 tobacco. C. C. Litton, G. B. Collins, P. D. Legg and G. A. Everette. Crop Science, 10:210. 1970.

Registration of LA Burley 21 tobacco germplasm. P. D. Legg, G. B. Collins and C. C. Litton. Crop Science, 10:212. 1970.

Sterol distribution in intracellular organelles isolated from tobacco leaves. C. Grunwald. Plant Physiology, 45:663–666. 1970.

Volatile nitrogenous bases and aliphatic secondary amines of burley tobacco. L. P. Bush, J. L. Sims and W. O. Atkinson. Canadian Journal of Plant Science, 50:289–294. 1970.

Cholesterol in cigarette smoke condensate. C. Grunwald, D. L. Davis and L. P. Bush. Agricultural and Food Chemistry, 19:138–139. 1971.

The colorimetric determination of chlorogenic acid and rutin content in tobacco leaf. S. J. Sheen. Tobacco Science, 15:116–120. 1971.

Effect of free sterol, steryl ester and steryl glycoside on membrane permeability. C. Grunwald. Plant Physiology, 48:653–655. 1971.

Effect of three management systems on yield, value and chemical composition of burley tobacco. J. H. Smiley, W. O. Atkinson and A. M. Wallace. Tobacco Science, 15:88–90. 1971.

Effects of near-ultraviolet radiation and temperature on soluble phenols in *Nicotiana tabacum*. R. A. Andersen and M. J. Kasperbauer. Phytochemistry, 10:1229–1232. 1971.

Gas chromatographic determination of phenylalanine ammonia-lyase in two varieties of *Nicotiana tabacum*. T. H. Vaughn and R. A. Andersen. Biochimica et Biophysica Acta, 244:437–440. 1971.

Genetic parameters in burley populations of *Nicotiana tabacum*. L. I. Ky 10 x Burley 21. P. D. Legg and G. B. Collins. Crop Science, 11:365–367. 1971.

Genetic parameters in burley populations of *Nicotiana tabacum* L. II. Virginia B–29 x Ky 12. P. D. Legg and G. B. Collins. Tobacco Science, 15:94–96. 1971.

The influence of nitrogen fertilization, plant population and irrigation on yield and value of burley tobacco and returns above added costs. W. O. Atkinson, G. B. Byers and J. E. Fuqua. Tobacco Science, 15:7–10. 1971.

The influence of nitrogen nutrition and suckering practice on content and distribution of mineral elements in burley tobacco. J. L. Sims and W. O. Atkinson. Agronomy Journal, 63:775–778. 1971.

Inheritance of per cent total alkaloids in *Nicotiana tabacum* L. II. Genetic effects of two loci in Burley 21 x LA Burley 21 populations. P. D. Legg and G. B. Collins. Canadian Journal of Genetics and Cytology, 13:287–291. 1971.

Inheritance of resistance to black shank in *Nicotiana tabacum* L. G. B. Collins, P. D. Legg, C. C. Litton and M. J. Kasperbauer. Canadian Journal of Genetics and Cytology, 13:422–428. 1971.

Laboratory methods for estimating plant available nitrogen in soil. J. A. Ryan, J. L. Sims and D. E. Peaslee. Agronomy Journal, 63:48–51. 1971.

Locus Homology and two species of *Nicotiana*. G. B. Collins, P. D. Legg, C. C. Litton and G. W. Stokes. Journal of Heredity, 62:288–290. 1971.

Nitrogen composition of burley tobacco. II. Influence of nitrogen fertilization, suckering practice, and harvest date on yield, value and distribution of dry matter among plant parts. W. O. Atkinson and J. L. Sims. Tobacco Science, 15:63–66. 1971.

Nitrogen composition of burley tobacco. III. Effect of nitrogen nutrition, suckering practice, and harvest date on concentration and distribution of nitrogenous constituents. J. L. Sims and W. O. Atkinson. Tobacco Science, 15:68–71. 1971.

Regional tests with contact and systemic tobacco sucker control agents. II. Fire cured tobacco. H. C. Smith, L. A. Link, G. L. Steffens and W. O. Atkinson. Tobacco Science, 15:91–93. 1971.

Registration of Ky 171 tobacco. C. C. Litton, G. B. Collins, P. D. Legg and G. A. Everette. Crop Science, 11:603–604. 1971.

Registration of L8 burley tobacco germplasm. G. B. Collins, P. D. Legg, C. C. Litton, and J. H. Smiley, Crop Science, 11:606–607. 1971.

Spectral distribution of light in a tobacco canopy and effects of end-of-day light quality on growth and development. M. J. Kasperbauer. Plant Physiology, 47:775–778. 1971.

Sterol content and distribution in two *Nicotiana* species and their spontaneous-tumoring hybrid. Amber L. S. Cheng, M. J. Kasperbauer and L. G. Rice. Phytochemistry, 10:1481–1486. 1971.

Variation in sterols, alkaloids, and polyphenols of two *Nicotiana* varieties under different nitrogen fertilization and drying process. C. Grunwald, L. P. Bush, and C. Keller. Agricultural and Food Chemistry, 19:216–221. 1971.

Appendix C: College of Agriculture Tobacco Program—Health Related*

Kentucky's total annual tobacco production ($300 million) accounts for over 35 percent of the annual total cash farm income which is shared by approximately 240 thousand farm families. Tobacco allotments represent a large proportion of total agricultural and land values (thus tax base) in many counties. Tobacco manufacturing employs around 20 thousand people and provides approximately $100 million in annual wages. Cigarette manufacturing, alone, accounts for over 10 percent of all value added to Kentucky's total annual income. Numerous other statistics can be cited which graphically illustrate the economic stake of Kentucky in the total tobacco industry.

The extent to which smoking or other use of tobacco constitutes a health hazard is yet to be established through controlled biomedical studies. Should significant relationships be established, there remains the complex challenge of either eliminating or offsetting damaging effects of smoking by innovations in tobacco production or manufacturing technology.

Agricultural research is an indispensable part of an integrated tobacco and health program. Agricultural research has shown that composition of tobacco can be modified by genetic, cultural, or post-harvest physiology techniques. Additional knowledge of the ultimate contribution of specific leaf constitutents to suspect health-related compounds must be gained for an objective approach to the health problem. Also, essential to the total program is the manufacturing of representative products from research samples. This important role is necessary to carry the aforementioned research to completion.

Generally, the College of Agriculture tobacco program as it relates to the health problem has two major objectives. The first is to study factors affecting the chemical and physical variability of tobacco and the second is to develop practical ways to eliminate those chemical and physical factors which are health related and/or less desirable. At present several studies are under way in the College of Agriculture that are yielding information useful for the interpretation of health related aspects of tobacco. Additional studies are needed to strengthen existing programs and new proposals that respond to program deficiencies are being developed. The process of development and reevaluation will be continuous. As we proceed, we encourage constructive critique in order that college program maintain relevance and objectivity. Our desire is to examine all research opportunities in an effort to acquire the knowledge needed to yield a more useful tobacco leaf.

The major research areas of the college tobacco program and problems related to health aspects have been identified as follows:

I. *Genetic Control of Leaf Composition:* Genetic control of nicotine in tobacco has been well defined and it is reasonable to assume that other compounds also are controlled genetically. Prior to extensive investigations in this area, a survey of the tobacco genotypes is needed to provide proper starting materials. A priority list of compounds to be studied should be based on their contribution to tobacco composition and usefulness. Once the desirable genotypes have been identified, standard genetic and breeding techniques along with the best production methodology available would be imposed for varietal development.

II. *Cultural environment and plant development:* The environment under which a tobacco plant is grown and the stage of development of the plant when harvested greatly influence the chemical composition of the leaf. Investigations are needed to isolate the effects of environmental factors on suspect health related chemical constituents. According to information presently available, the most important chemical constituents are the nitrogen fractions including alkaloids, the carbohydrate fractions, the lipid fractions including sterols and the polyphenol fractions including flavonoids. Some of the critical cultural factors include physical properties of the soil, nutrition, soil water, pesticides, herbicides and plant growth modifiers.

Soils differ widely in their basic physical, chemical, biological and mineralogical properties. Growth response of tobacco to fertilizer and available soil water varies widely among soil types. Investigations are needed to identify and characterize the soil factors which influence leaf composition. The chemistry and the biological activity of the resulting smoke must be considered in these studies.

Water has a very significant influence on the growth and chemical composition of tobacco leaf. However, little information is available concerning the influence of the main effects or interaction of the physiological stage of plant development and soil moisture on chemical composition and biological activity of tobacco smoke.

Considerable research has been conducted to determine those fertilization practices that produce maximum leaf yields of tobacco. Only fragmentary data exists that indicate the influence of fertilizer on the composition and biological activity of tobacco smoke.

Nutrient element accumulation by various tobacco varieties differs markedly and nutrition, especially nitrogen, has a pronounced influence on chemical composition of leaf and the resulting smoke. Investigations are needed in the area of nitrogen metabolism, especially in the low alkaloid lines. Also, investigations are needed to characterize varietal differences with respect to uptake and metabolism of nutrient elements and the influence of physiological age of the plant in these processes.

Tobacco is attacked by various plant pathogens and insects while being grown and during processing. Most tobacco is treated with various chemicals (insecticides, fungicides, etc.) to control these pests. The pests may affect leaf composition directly, and the treatments used for their control may leave toxic chemical residues in the processed tobacco and in the smoke. Information is needed on the influence of pests and the treatments used to control them on leaf and smoke composition.

---

*A summary statement prepared by the College of Agriculture Tobacco Task Force.

The effect of herbicides and growth modifiers on leaf composition and the biological activity of smoke must be understood. Studies should be made of the effects of interactions between stages of development and chemical application on chemical composition of the leaf and biological activity of the smoke.

III. *Post harvest physiology:* Many biological, chemical and physical changes occur in tobacco leaf during the post harvest curing period. The specific changes that occur in many compounds have not been identified. Also, it remains to be determined which of these changes are desirable or undesirable with respect to tobacco usefulness. In order to determine the influence of many of the treatments discussed in Section II, Cultural Environment, reproducible curing techniques should be used. Factors critical to the post harvest physiological processes include stage of physiological development at harvest, temperature, humidity, air flow. light and duration of cure.

IV. *The contribution of specific tobacco leaf constituents to suspect health-related compounds in tobacco smoke*. The identification of leaf constituents and the influence or control by genetic or cultural means of a leaf constituent has been the cornerstone of agricultural research. It is now essential that knowledge of the ultimate contribution of specific leaf components to suspect health-related compounds in smoke be acquired. Production of experimental tobaccos having specifically labeled leaf components so that future identification of the compound or fragment thereof in smoke or animal cells is possible, requires fundamental plant physiological techniques. Metabolic pathway and labeling studies leading to the creation of research samples containing such identifiable compounds should be initiated as soon as possible. Effective bioassay system are required to supply information to all research participants so that they can progress objectively. The utilization of such information by agricultural scientists would result in most rapid progress towards the ultimate objective, more useful tobaccos.

V. *Manufactured products:* For the results from any or all the above programs to be meaningful in the resolution of the tobacco and health problem, evaluations must be made in the health context. The chemical composition and physical properties of the leaf, and the chemical composition and biological activity of the smoke must be considered as the final evaluation in most, if not all the studies. As a means of accomplishing this and also establishing a uniform base of comparison between programs, it is suggested that a standard method of handling and evaluation representative samples from the different programs be developed. Such standard procedure is especially needed in smoke composition and biological activity evaluations. To be truly meaningful, these evaluations need to be conducted using smoke from carefully manufactured cigarettes.

In view of the necessity of having to manufacture cigarettes to examine the chemical constituents of smoke and the biological activity, preliminary studies are required to establish the required sample size. Cigarettes manufactured from experimental tobaccos often have physical differences which partially obscure the differences between the tobaccos being considered. We must immediately establish the minimum sample size which will give valid comparisons of the smoke from different tobaccos.

Studies with cigarettes made from chemically modified tobaccos also will be helpful. For example, if the role of steroids as precursors of polynuclear aromatic hydrocarbons is being considered, it would be reasonable to examine the smoke from cigarettes made from tobacco to which steroids have been added. This type of study will be an invaluable guide to the plant scientists in the assignment of research priorities. The extent of transfer of pesticides and other known toxic substances, such as aflatoxins, into cigarette smoke can also be studied in this manner.

In summary, it is recognized that numerous disciplines must have input into the total knowledge required for resolution of the health related problems of tobacco. The College of Agriculture is prepared to direct attention to the acquisition of knowledge that will lead to the development and production of most useful tobacco leaf. Additionally, socio-economic studies related to such new production practices that may evolve are necessary to fully understand and anticipate the effects of changes in the tobacco agricultural program. The College of Agriculture will continually review and amend its tobacco program to keep it oriented to the problems and maintain relevancy and objectivity.

CONTRIBUTIONS OF SPACE PROGRAM TO EVERYDAY LIFE

Mr. TOWER. Mr. President, over the past few years, I have addressed myself on numerous occasions to contributions that the space program has made toward improving everyday life in America. Hundreds have been cited in the Record by those of us who are interested in a continuing healthy space program. In the April 19, 1972, Dallas Times Herald, still another contribution that is daily helping to save the lives of many Americans was commented on. I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Radio-Telemetry: NASA Heart Instrument Helps Patient In Dallas

(By Bill Case)

Tiny radio transmitters developed for NASA to monitor the heart rate of astronauts in deep space by telemetry are saving the lives of heart attack victims recovering at Baylor University Medical Center.

Each patient in the center's new eight-bed Intermediate Coronary Care Unit in Jonsson Hospital has been given one of the little radio stations to carry in the pocket of his hospital gown or taped to his chest.

Designed for the space program, the instrument is powered by batteries. There are no wires connected to the body. Two small electronics taped to the chest pick up the heart rate and rhythm and transmit it back to a "readout" center in the heart of the ICC unit, according to Boone Powell, executive director of the medical center.

"A registered nurse constantly watches the signals, scopes, dials and digital display information which the transmitter radios back, as the patient moves about either in his room, the lavoratory or hall," Powell said.

"The central read-out receiving station is equipped with alarms, so if the heart rate becomes too slow, too fast or irregular, it immediately starts an automatic recording of the patient's electrocardiogram and alerts the nurse so he is forewarned of any difficulties and can take immediate corrective measures."

The heart monitoring radio network now in use was made possible by a gift of $30,000 from the Ola Mae and Travis E. Wallace Fund of the Dallas Community Chest Trust Fund.

The equipment was built by and purchased from the same firm that makes electronic transmitters for astronauts, Powell pointed out.

The little transmitters are used on heart patients who have recovered sufficiently to be moved from the acute Coronary Care Unit into adjacent private rooms in the new department.

The nurses assigned to the central "readout" radio receiving station spend full time monitoring the unit. Other nursing chores are carried out by nurses assigned to give medications, maintain close personal contact with patients and perform routine duties.

"In the intermediate care unit the patient receives the same monitoring while he is showing definite signs of recovery," David Hitt, assistant administrative director pointed out. "Most are able to get up and move about a little. Also, transferring them from the acute CCU unit frees a bed for another patient who needs the very intensive care required to help him through the critical period immediately following an attack."

The heart telemetry radio system is one of the first and largest to go into regular usage in a major U.S. hospital.

Dr. John Hyland, director of the cardiology department at Baylor, said of the unit's operation:

"This is an important advance in the treatment of heart patients. We are very grateful to Mr. and Mrs. Wallace for establishing the fund from which the equipment was purchased."

THE GENOCIDE CONVENTION AND AMERICAN POW'S

Mr. PROXMIRE. Mr. President, one of the arguments raised by critics of the Genocide Convention has been that American prisoners of war, presently held captive in North Vietnam, could be accused of genocide on trumped up charges. With the recent Communist offensive, this fear has been heightened.

Unfortunately this possibility already exists. Whether or not the United States ratifies the Genocide Treaty will have little effect on the North Vietnamese. The harsh facts reveal that Hanoi refuses to recognize the Geneva Convention of 1954, and refuses to abide by the fundamental conditions for the treatment of POW's, established by the International Red Cross. If today North Vietnam were to manufacture totally false charges against captured American soldiers there is little we could do. Since Hanoi honors no international declaration for the rights of prisoners, the Communists can do as they please. Our ratification of the Genocide Treaty cannot alter this.

What ratification will accomplish is the reinstatement of the United States to its place of world leadership in the area of human rights. After 24 years of neglecting this humanitarian document it is high time that we take immediate action. Although we cannot check the irresponsibility of Hanoi, we can help preserve a larger world community built upon the foundation of peace and brotherhood.

Even as the North Vietnamese invade the South, the United States must show the courage to protect the lives of minority groups throughout the world. Therefore I urge Senators to move swiftly to ratify the treaty for the prevention and punishment of genocide.

NATIONAL GUARD TECHNICIANS RETIREMENT

Mr. JAVITS. Mr. President, I am very much pleased that the Senate passed the National Guard technicians retirement bill, S. 855, yesterday, May 3. The total of over 3,000 National Guardsmen, and their families, in the State of New York, are rejoicing. They have been faithful and justly deserve the equality this measure provides. I have always felt that the National Guard technicians deserved full retirement benefits for the period prior to their being accepted and declared civil service employees—in 1968.

Yesterday, the Senate made this promise a reality and rectified the injustice. I hope the House of Representatives will do likewise.

THE SCHOOL BUSING CRISIS

Mr. GAMBRELL. Mr. President, it has been 2 months since the Senate passed S. 659, the Higher Education bill, but the conferees have apparently not been able to resolve the differences in the House and Senate versions of that bill relating to forced school busing.

It has been 6 weeks since the President preempted "prime time" television to offer his busing moratorium proposal.

All of that official "sound and fury" about busing apparently signifies nothing. Nothing has happened. Thousands of schoolchildren were forced to board school buses this morning to be carried to schools outside their own communities. Plans for the 1972–73 school year are now being made, without the remotest idea of what forced busing, if any is to be required. Of course, those children who were forced to ride school buses today would receive no relief under the President's busing moratorium proposal anyway, even if it were moving promptly through the legislative process.

A solution to the busing crisis is going to require leadership from the White House as I stated last September. Senate leadership has publicly stated its intention to "waffle" on the issue. I have called on the President on five separate occasions during the current school year, to act decisively on the busing issue. On one of those occasions the President could have exerted his influnece and resolved the crisis, if that really was his objective. When the Senate was considering the Griffin amendment, a flat prohibition on busing, his support should have caused it to be adopted rather than permitting it to fail by one vote.

I again call on the President to "act" rather than "talk;" to put the power and prestige of his office behind an effort to end the forced busing of schoolchildren.

It is tragic that a school year is about to end which has seen normal educational processes disrupted for thousands of schoolchildren because of forced busing. It is a tragedy that our court system is forced to stagger under a load which the President and the Congress refuse to bear.

I call on the President to lead us to a solution to this problem before another school year begins, and I warn him and the Senate that the beginning of the next school year will coincide with our national elections. If the current leadership in Washington will not respond to the people, the people will elect new leaders with a determination to respond to popular will.

Most of the schoolchildren who are already being forced to ride school buses are located in the South, where desegregation has largely been accomplished.

Under these circumstances, it is a cause of deep suspicion that the President's busing moratorium proposal would not apply to busing which is already occurring in the South, but would apply to other sections of the country where segregation continues.

I expressed my dismay to the President in a telegram last Thursday. I ask unanimous consent that the telegram be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

Hon. RICHARD NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Thousands of parents and supporters of public education throughout the country have assembled in Washington today to protest the wasteful, disruptive, discriminatory and asinine practice of school busing now provided by Federal Court and Federal agency rulings. Among these is a fine delegation from Georgia communities where busing has been required even though desegregation has been accomplished without forced busing.

HEW reported in January that school desegregation is far greater in the South than in other sections of the country:

1. While 43.9% of black students in the South are in majority white schools, only 27.8% of black students in the North and West attend majority white schools and only 30.5% attend majority white schools in Border States.

2. While only 32.2% of black students in the South are in schools of 80–100% minority student population, 57.1% of black students in the North and West and 60.9% in the Border States attend such schools.

3. While only 9.2% of black students in the South attend all-minority schools, the figure is 11.9% in the North and West, and 24.2% in the Border States.

Secretary Richardson proclaimed this to be "solid performance" by the Administration in eliminating discrimination. In spite of these statistics demonstrating how far ahead of the rest of the country the South is in desegregating its schools, of the 212 student assignment cases brought by the Justice Department which were part of its trial court caseload on 12/21/71, all but 6 cases were in the South.

Of almost 550 school systems against which HEW has initiated administrative enforcement proceedings, all but 9 such actions are against school systems in the South.

All of the more than 200 school districts in which Federal financial assistance has been terminated under Title VI of the Civil Rights Act of 1964 are in the South.

In spite of the statistics, desegregation enforcement outside the South has largely been left to actions brought by private citizens which have disclosed pupil placement discrimination in Detroit, Denver, San Francisco and other communities.

In the face of obvious discrimination in school desegregation enforcement practices, and with school desegregation so far behind in other parts of the country, why do you exclude southern school districts already required to bus school children from the application of your busing moratorium proposal?

HEW's statistics clearly establish that "dual schools" are more prevalent in the North, West and Border States than the South. HEW and the Department of Justice are turning their heads to avoid seeing segregation outside the South.

Now that you have a "solid performance" record, you have asked for a busing moratorium to block any new busing. I don't want any new busing either, but if busing is wrong, the students who need immediate relief are those forced to ride buses today. Those students are primarily in the South, the section of the country which has far outdistanced the rest of the country in school desegregation.

I have introduced a bill which I hope will be adopted as a substitute for your busing moratorium. My bill would end all forced busing until steps are taken to achieve a uniform national desegregation policy throughout the United States.

Let the rest of the country catch up with the South. Stop the use of the people of the South as guinea pigs in social experiments by intolerant and insensitive bureaucrats. Southerners will join in supporting programs of equal educational opportunity when racial desegregation is uniformly applied throughout the country.

DAVID H. GAMBRELL,
U.S. Senate.

MANDATORY OIL IMPORT PROGRAM

Mr. TOWER. Mr. President, during recent weeks, some Senators, two of whom are Democratic presidential candidates, called for the abolition or a drastic revision of the manatory oil import program. It is interesting to note that one such statement claimed that the oil import program produces an "enormous critical fuel shortage," while simultaneously calling for an immediate freeze on any development of the east coast continental shelf—development which would surely help in alleviating such "critical shortage." On April 21, 1972, in a letter to the Washington Post, Senator PROXMIRE alleged that the oil import program costs the consumer a minimum of $5 billion per year, and that it has failed to protect our national security. One of the authorities he cited was the Cabinet Task Force on Oil Import Control. This allegation of extra consumer cost occasioned by the import program was echoed in statements by the Senator from Maine (Mr. MUSKIE) and the Senator from South Dakota (Mr. McGOVERN).

As virtually everyone knows now, we are facing an energy crisis. In the past, an abundance of energy at reasonable prices has enabled us to attain the world's highest standard of living. Without such energy, we have no hope of attaining our major national goals of inployment, improving the environment, reducing the rate of inflation, and maintaining our national security. The recent shortage of coal in Great Britain illustrates what can happen when an essential source of energy is denied a nation. It is important to note that in this country oil and gas supply approximately 75 percent of our energy needs.

We desperately need some real solutions to the energy problem and we need them now. I have proposed solutions in the form of exploration incentives and deregulation of natural gas. There may be other solutions and I hope they will be presented. It is unfortunate, however, that we are being confronted by those who traditionally do not present a very balanced picture of the cost and benefits of the oil import program. They constantly state that total consumer costs average a minimum of $5 billion per year, or an average of $100 per family, or as expressed by one Senator, an average of $200 for a family living in Massachusetts. Since they did not cite any other authority, I must assume that they are citing the figures published in the report issued by the Cabinet Task Force on Oil Import, tables A–1 and A–2.

It might be interesting for Senators to know that the accuracy of these figures is subject to grave question and, in fact, the figures were denounced last October by Prof. James W. McKie, the chief economist for the task force report. In a letter from Professor McKie to Gen. George A. Lincoln, Director, Office of Emergency Preparedness, he states:

> Though the Report of the Task Force clearly stated (paragraph 205) that any critique of oil import policy has to consider *both* the costs *and* any offsetting benefits, public discussion of the policy has often concentrated on the costs without giving equal attention to the benefits. . . . The Task Force did not recommend abolition of import controls. Some critics have spoken as if all these consumer costs would be "saved" under an optimum policy. But, of course, adoption of the Task Force recommendations, even under the relatively favorable circumstances then envisioned, would have done no such thing. It would have saved consumers very little if wellhead prices of crude had fallen by 10 percent—the forecast result of the tariff recommended by the majority.

Professor McKie closed by saying that in his opinion extrapolation to the future of the simple "cost" calculations expressed in tables A–1 and A–2 of the task force report would be a misleading oversimplification of the economic impact of the oil import control program—the present quota system or its alternatives. He added that present information and our prophetic capabilities are not good enough to enable us to get anywhere close to an accurate and complete calculation of cost. In view of the foregoing, it s simply not accurate to cite the above-mentioned figure as "extra consumer costs" of the import program.

Now let us examine some of the benefits of the mandatory oil import program.

First, a great deal of natural gas is discovered in the search for oil. It is estimated that 25 percent of our natural gas production comes in association with domestic oil and gas production. This represents a saving to the consumer of approximately $1.7 billion, assuming that such gas, in the absence of domestic production, would have had to be imported at a 65 cent per million cubic feet greater than that of domestic gas.

Second, it is important to note that during the years 1959–70, the years in which the program was in existence and for which we now have the necessary data, the reserves of natural gas increased at an average annual rate of 19 trillion feet of natural gas. For oil, the comparable figure was 3.3 billion barrels. Furthermore, this has enabled us to steadily increase domestic production of both oil and gas. Unfortunately, the energy crisis which we now face is caused by the fact that this rate is now being exceeded by production. We now use more gas than we find.

In addition to the above, there are further reasons which justify the existence of an oil import program.

A large increase in imports would damage the U.S. international trade balance at a time when this Nation is working hard to improve that balance.

Second, any substantial increase in the importation of oil and gas would have to come from the Eastern Hemisphere—a less than reliable source. Since 1948, in fact, there have been at least 10 disruptions in the movement of oil from these sources. Presently, the east coast is more than 95-percent dependent on imports of residual fuel oil and is approximately 50 percent dependent on imported oil. With such oil-producing States as Texas and Louisiana producing at their maximum, the east coast could be in serious trouble in case of a long interruption of oil imports.

The price we pay for imported oil will increase also. Much of the cause for this increase can be attributed to the unified bargaining stance of the Organization of Petroleum Exporting Countries. The OPEC is composed of countries accounting for more than 90 percent of the world's exported crude oil. Formed in 1960, this organization has grown in membership, power and bargaining experience until it is now quite formidable. The Teheran agreement concluded last year calls for an immediate price increase plus future graduated increases until 1975. These increases meant an immediate increase in imported crude oil in the United States from $2 to $2.20 a barrel. The next increase effective next January 1, will bring the price to $3.10 a barrel at U.S. ports and additional increases are provided up to $3.22 a barrel by 1975. The Teheran agreement expires in 1975, but we can assume that the OPEC will be hard bargainers, particularly since our dependence upon imported oil is becoming so great. The OPEC member nations are moving to take over partial ownership in oil company assets located within their borders with the expressed ultimate aim of participation up to 51-percent ownership.

The OPEC has been quick to threaten sanctions in various forms upon purchasers who are slow to abide by OPEC edicts. We could easily see a doubling in the per barrel cost of imported oil even before 1985.

Third, heavy reliance on imported oil involves risk to national security and freedom of action in international affairs.

Finally, the import program insures the continuation of competition in the domestic petroleum industry. In the absence of oil quotas, only the large international companies could survive.

THE PAY BOARD FAILS AGAIN

Mr. PROXMIRE. Mr. President, as Congress well knows, the Joint Economic Committee has under continuing review the operations of wage and price controls of the administration. The most recent hearings, covering testimony from administration, congressional, and public witnesses, reveals a dismal picture of ineptitude, inequity, and ineffectiveness.

We heard from the president of the National Association of Manufacturers, who thinks the program is fine, except that maybe price increases will not be granted fast enough. I ask unanimous consent to have printed in the RECORD a statement which the committee received from Capt. John J. O'Donnell, president of the Air Line Pilots Association. It is another instance of documentary proof of the distrust of and delay and noncooperation by the Pay Board. Here is a case of a powerful union which is at its wit's end just trying to find out what it is supposed to do. Let me quote just one paragraph:

> Even in a matter that directly concerns this Association, the Pay Board examiner's study of the Braniff-ALPA stewardess contract, little was done to keep us informed. We were not notified which contract was to be examined, nor were we told how and where the examination would take place. Although the examiner has agreed to consider letters detailing our position, this appears more an individual concession than a codified Pay Board operation. We believe a firm policy of notification and revision procedures should be established.

Just how can we expect that such an inept operation will work?

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY CAPT. JOHN J. O'DONNELL

I am Captain John P. O'Donnell, president of the Air Line Pilots Association. In that capacity I represent the professional interests of 46,000 pilots and flight attendants flying for the nation's airlines.

In the past months since the establishment of the Pay Board we at the Air Line Pilots Association have been attempting to obtain from it certain information that would assist us with our negotiations and administration. We have approached the Pay Board, and asked its assistance in a spirit of cooperaton, and been met with distrust, delays and non-cooperation. We are well aware of the severe work load the Pay Board has in accomplishing its tasks, but we also feel that much of this could be alleviated if its efforts at cooperation were increased.

For it is a fact that the Air Line Pilots Association is being repeatedly kept in the dark by the Pay Board in matters of greatest interest to our members and to the public at large. Whether inadvertently or as a matter of policy, the Pay Board has succeeded in keeping the most rudimentary wage computation guidelines hidden. On countless occasions our Association has attempted to obtain specific guidelines from the Pay Board to let our negotiators know where the board stands. Through delays, hesitation and inaction, however, the Pay Board has made it impossible for us to learn details of its decision orders or even its own computation methodology.

Let me be more specific:

We have asked the Pay Board on numerous occasions for firm, general guidelines for wage and fringe-benefit computation. We have asked for firm definitions on includable and excludable fringe benefits. Yet, in each instance we are answered with evasion and delay, if we are answered at all.

We have asked the Pay Board for copies of its decision orders—basic documents that we need to avoid misunderstanding and confusion in the future by examining the decisions of the past. We have asked the Pay Board for specifics, such as instances where exceptions to guidelines were granted, and why they were granted. Yet the Pay Board has seemingly invoked blanket refusal to divulge anything but the most basic and unuseful information. We have been told that the release of any more information than the name of the company, percentage in pay increase and number of employees affected is prevented by fear of releasing trade secrets. We do not see how this decision of the Pay Board can fall under these provisions, and in fact believe the Freedom of Information Act requires that more specifics be given out. We are not asking for trade secrets, but simply a greater information base from which we may proceed. Rather than the blanket restrictions invoked by the Pay Board, we feel that a more enlightened policy is needed.

After months of requests from ALPA and other interested organizations, the Pay Board finally published partial guidelines for wage computation in the *Federal Register*, a process that we have been told will continue in coming weeks. Until this time, we have been forced to make our assumptions as to Pay Board guidelines from nonspecific data or incomplete summaries in Pay Board news releases. When we ask for specifics, we get delays and generalities, or we are ignored. We can only assume that the Pay Board is attempting to withhold these guidelines from us and the public.

Even in a matter that directly concerns this Association, the Pay Board examiner's study of the Braniff-ALPA stewardess contract, little was done to keep us informed. We were not notified which contract was to be examined, nor were we told how and where the examination would take place. Although the examiner has agreed to consider letters detailing our position, this appears more an individual concession than a codified Pay Board operation. We believe a firm policy of notification and revision procedures should be established.

In short, Mr. Chairman, the Air Line Pilots Association is most anxious to cooperate with the Pay Board, but we have been unable to do so to the fullest extent because of delays, inaction and a seeming reluctance by the board to have anything to do with us. We are forced into a position of guessing, surmising and trying to predict the Pay Board's actions and decisions, rather than having concrete guidelines to work from. This results in duplication of effort, wasted energy and a definite sense that something is amiss. We feel that it would be in the best interests of all concerned if the Pay Board were encouraged to seek newer roads of cooperation. We believe that the Pay Board should take the time and effort to decide, spell out and inform the interested parties and the general public of its intentions. We need to know what wage computation methods should be used, what exceptions to policy have been granted and what specific guidelines to use.

We would encourage this Committee to use its influence to hasten the advancement of this vital information.

AMERICAN-ISRAEL PUBLIC AFFAIRS COMMITTEE HONORS I. L. KENEN

Mr. JAVITS. Mr. President, a man of gentle mien and deep conscience, I. L. Kenen—"Si" to so many of us here in Washington—was recently honored for his 30th year in the service of the community at a dinner of the American-Israel Public Affairs Committee, AIPAC. Typical of Si Kenen's character is the fact that those speaking reflected on Si's career as a newspaperman, a pioneer Zionist, secretary of the Rescue Commission of the American Jewish Conference during World War II, consultant to the delegation of Israel to the United Nations in 1948, and now as executive vice chairman of AIPAC and editor of the Near East Report; Si Kenen, in his remarks, spoke of the tasks ahead.

The dinner was chaired by Irving Kane of Cleveland, chairman of AIPAC, and heard greetings from President Nixon conveyed in remarks by Mrs. Rita Hauser, former U.S. Representative to the U.N. Commission on Human Rights, an address by His Excellency Abba Eban, the distinguished Foreign Minister of Israel, and an eloquent response by Si Kenen.

I ask unanimous consent that the speeches be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

REMARKS OF MRS. RITA HAUSER, FORMER U.S. REPRESENTATIVE TO THE UN COMMISSION ON HUMAN RIGHTS

It is my pleasure to come before you again this evening on this very happy event in celebration of Si Kenen's anniversary and to bring to you, with very deep pleasure, the greetings of President Nixon. The honor is particularly mine to extend the President's deepest respect and honor to Foreign Minister Abba Eban and to convey his very warm affection for Prime Minister Golda Meir, whom he particularly asked me to refer to this evening. She is a woman of whom he is very proud and whom he holds in the highest esteem.

In talking to the President about the dinner this evening, he indicated to me that of the many accomplishments in his nearly four years in office of which he is proud, nothing stands out more in his mind than his ability to work toward a cease-fire in the Middle East, one which is holding and which has brought a measure of peace and tranquility to a troubled area of the world. He wishes you all to know of his abiding commitment to maintain that cease-fire and that peace and to do all that is necessary to continue it as long as is humanly possible.

The President asked me also to convey to you his deep understanding of the many other issues—humanitarian issues—that concern all of you as Jews and to express to you his strong sympathy, his deep emotions and his understanding of all the things that bring you here together this evening. The pleasure again is mine to convey those greetings and to tell you how much I share them and, if I may, to say that another good friend of both the President and myself who is sitting on the dais shares them with me, your own Max Fisher. Thank you very much.

ADDRESS OF HON. ABBA EBAN, FOREIGN MINISTER OF ISRAEL

This is the first time in my life that I have ever made a speech to hundreds of people at four o'clock in the morning. You owe me your indulgence just as I owe you an explanation for my presence here tonight.

The explanation is simple. I told Si Kenen some months ago that it was high time, after 30 years, for him to undergo the ordeal by eulogy which is one of the occupational hazards of public life. In order to sustain his courage, I said that I would come here if it were humanly possible. As you have just heard, it is both inhuman and impossible for me to be here tonight. But Israel does not obey the laws of possibility, and, therefore, the members of its government must be obedient to its traditions of revolt.

You have all heard what the difficulty has been. When I left Israel this morning, the anniversary flags were still aloft on public buildings and on private homes. The 24th birthday had been celebrated without respite or mercy for 24 hours and the nation was grateful to be going back to work. Whatever Israelis think worth doing they do with great intensity, and celebration is no exception to this rule.

Our citizens have every right to be exhausted today. We have elected the victor in the Bible competition. We have selected the best Israeli song for the 25th year. We shall now begin a violent public argument about whether it really is the best song. We have watched a parachute exercise at sea. All the parachutes opened and nobody, as far as we know, was left in the sea. The Israeli television went on all night. Our people has again proved its invincible power of endurance by listening to more ministerial rhetoric than any people deserves to have inflicted on it in so short a time.

I have tried to distill these impressions into some explanation of the national mood. Israel is aware of its dangers but it is more confident than before of its ability to surmount them. The mood is not exuberant. It is steady and tranquil. There is no better way of renewing the national confidence than to recall what Israel has built, accumulated, suffered, apprehended, achieved and overcome in the first quarter century of its independence. Now, it is not easy to live all this experience, to sleep only for four hours and to come to Washington.

Although Israel's responsibilities and sacrifices have been its own, there is one other nation above all others that is entitled to watch Israel's growth with a sense of intimate pride. That nation is America.

What brings me here tonight—beyond all personal fidelity—is an urgent inner need to proclaim that America and Israel have done great deeds together in these 24 years and are determined to go on doing them together in the next 24 years, and beyond.

Not that anybody needs an excuse for coming to Washington. As we in Israel read your newspapers and listen to your radio in 1972, we get the impression that the whole American people consists of those who are already in Washington and those who are doing their damndest to get here by the end of the year.

One thing is sure. Those who get here and those who do not will be hearing from the American Israel Public Affairs Committee and from its living spirit, Si Kenen, about the interests and values that bring America and Israel together in pursuit of common ends.

Si Kenen is as good an example as any of what is involved in the idea of coming to Washington.

In 1951, I suggested to him that he might come here for a few months to give advice on how to keep American leaders informed about Israeli realities and hopes. He has been here on this temporary basis for 21 years, and he is now seriously considering the idea of unpacking his suitcases.

In two decades of work, the American Israel Public Affairs Committee—and for most of that time the *Near East Report*—has been involved in the task of interpreting the motives and principles that inspire one of the most unusual partnerships in international life—the partnership has grown by accumulation and tradition year by year. The partnership between the United States and Israel has, in the last year or two, attained the highest peak of mutual confidence and understanding that it has ever known.

I remember how it all began—and those memories are linked with the saga of our guest of honor.

Israel in the early fifties had won its major battle for physical survival and international recognition. But everything about it still seemed fragile and unresolved. It didn't have a single month of tranquillity. Death and havoc were always leaping at its throat from across the inflamed borders. Its economy was hard-pressed and its productivity was meager. The industrial and technological infrastructure could scarcely be seen at all by the naked eye. Arms in the Middle East were primitive and cheap in comparison with the immensely sophisticated and complex equipment of today, but in the relative scales of those times they were no less crucial. The acquisition of arms was a heavy burden. Nor were they easy to acquire. Israel's adversaries were violent in their hate, and Israel's friends were full of advice about how Israel might show good will by becoming a little smaller than it already was so that its neighbors might become a little larger than they already were.

Now, this small embattled community had been 650,000 in number in May 1948. At the end of 1951, at was 1,300,000. It had taken on its slender shoulders the full burden of the misery, the weakness, the grief, the shattered hopes that the war and the Jewish Holocaust had left behind. It might well have collapsed under the weight of that burden.

The plain fact was that Israel had undertaken more than it could rationally hope to carry alone. It needed a helping hand. The kind of help it needed could only be attained if the American-Israel relationship went beyond the formal links between governments so as to involve the American people through its elected representatives in a dialogue of action and understanding. The main testing ground then was Israel's hard-pressed economy. It was there that the issue would be decided, for survival or collapse.

I recall how the representatives of the American people in the administration and the Congress, in non-partisan unity, responded to the challenge. In September 1951, grants amounting to some $70 million were approved for the absorption of Israel's immigrants. Does it sound small in the terms of today? Well, it loomed very large in the dimensions of those times. It was more than the whole of Israel's annual export earnings. It was a higher proportion of Israel's total foreign currency budget than has been constituted by any external aid at any time. And beyond the immediate relief of burden there was the consoling indication of solidarity and the implicit promise, that has since been kept, of continuing responsibility for the duration and in the measure of the need.

Since then, the friendship of the United States for Israel has become one of the traditional values which the United States Congress and the administrations and the American people have sustained on a national scale. It is a partnership to which both your great historic parties have borne witness in word and deed. I remember how the two sponsors of the first Israel aid bill in the Senate were Senators Paul Douglas and the late Senator Robert Taft, who, I was told, never agreed on anything else. Israel, therefore, is a unifying sentiment in American life, just as respect for American ideals and interests unites all sane Israelis in solid devotion and realistic understanding.

This friendship has witnessed a great fluorescence in recent years—especially since 1967. Nobody in Israel has allowed the memory to fade of the special peril and solitude of those summer weeks. We were in danger and our flame was burning low. Then and thereafter, Israel's quest for peace and security was to engage us in constant counsel with the United States. Certain principles were to evolve which have stood the test of many volatile changes and which are the bedrock on which our current understanding continues to be built—first, the principle that there can be no withdrawal to the old vulnerability. There must be progress to a negotiated peace; and a negotiated peace includes negotiations on secure, recognized and, therefore, new boundaries.

It is Israel's national consensus that there is an element of territorial compromise for peace. But there is an insistence on such changes of the previous lines as are necessary for security and for the prevention of a new war. The old armistice lines never gave us a single week or day of peaceful life. We are resolved and determined never to return to them. The task of statesmanship in the Middle East, as elsewhere, is not to reproduce but to correct the situations out of which the flames of war erupted. The concept of territorial revision in the transition towards a peace is a part of the norms, the civilities and the traditions of international life.

In 1971, the world celebrated the victory of statesmanship in Europe, 26 years after the Second World War. The heritage and legacy of that war were eliminated by valid agreements which now await their ratification. The directing principle of those agreements was not to reproduce the old neuralgic points of inflammation. The peacemakers in Europe didn't come along and say, now let us put Danzig back where it was—in the Polish Corridor. And then let us push in Czechoslovakia hundreds of thousands of those who fled from it in order that by their return they should explode it from within. They said, let us build a new and rational structure of relationships in which there shall be correction of those specific neuralgic points of inflammation out of which the war erupted.

Does anybody not know what were these specific neuralgic points of eruption out of which the fighting burst forth in the Middle East so often and for so long?

It is not a territorial appetite. It is an appetite for peace which impels us to insist on precise craftsmanship in the construction of a new security and territorial structure for coexistence in the Middle East—therefore, the principle of no return without peace, and within peace to reconstruct a stable, rational territorial compromise. This is an essential principle of Israeli policy. The support by the United States of the principle of negotiation has, therefore, been of crucial importance.

The second principle is the maintenance of the balance of power. The balance of power is the only valid formula for maintaining stability in areas of tension. Wherever the equilibrium collapses, violence bursts forth. In the last two years, the doctrine of maintaining the balance of power has in the administration of American policy had spectacular and lavish effects, accompanied by the indispensable and economic aid without which the principle of preserving the balance and opening Israel's access to arms would not have had full, practical efficacy.

The third principle of American policy that comes to expression in all authoritative statements of it is that peace is primarily the sovereign responsibility of the Middle Eastern governments, that it cannot be manufactured, imported or imposed from outside. The peace settlement would be no good if it had to be imposed, but I am convinced on Israel's behalf that it cannot be imposed at all. There is, therefore, both realism and wisdom in the constant reiteration by your nation's leaders of the principle of primary responsibility on the sovereign states of the region to build their peace, and on the unfeasibility and inacceptability of the principle of an imposed solution.

No withdrawal without peace, maintenance of the balance of power, no imposition of a solution. So long as these principles remain intact, I believe that our dialogue will have an underlying harmony whatever are the other vicissitudes that affect it, for it is no secret that we are not always at one on everything.

But our two governments discuss our problems frankly and intimately. And I think that our American friends will all agree that one of Israel's policies is that we always show tolerance and understanding of the views of those who agree with us. Even where there is diversity we take our stand on the principle that if there is to be an international system of coexistence there must be separation between relations and ideas. By this I mean that it must be possible for nations of similar values to maintain their close relationship even in a situation of occasional or marginal dissent.

These, then, are some of the reflections that flooded in Israel's mind as we went for the 24th time to the celebration of our nation's birth.

What can we say of the past year as we take leave of it? It neither fulfilled our highest hopes nor confirmed our worst apprehensions. It did not fulfill our highest hope, for our highest hope was of a year of negotiation.

Let us understand what that word means. Negotiation is the reticent exchange of concrete pragmatic proposals. Negotiation is not the public exchange of polemical and rhetorical declaration. Negotiation has inherent in it the concept of compromise. To say that you will negotiate if you will get in advance 100 per cent of your total claim is to deny the spirit and the meaning of the word and of the idea.

Some weeks ago, an opportunity for such concrete negotiation appeared both for Israel and for Egypt—an opportunity that would illustrate their real desire for progress towards peace. This was the elaboration of an idea for working out a special agreement for the opening of the Suez Canal, the disengagement of forces. Israel responded and its response stands valid. I am convinced that if Egypt were to respond in parallel spirit, the total effect would be to stimulate, to accelebrate and to inspire the pursuit and progress towards a general peace.

The last year also did have some stabilizing effects. The ceasefire has held firm. The balance of power has been preserved. We discern a decline in radicalism. There is, as I have said, the opening of a negotiating opportunity and there is a new pattern of constant and intense human interchange across the open bridges and open frontiers of the Jordan. This was not our total aspiration. But in this imperfect world we should not underestimate these results.

I am glad to report that we in our region have lost our first place in the hierarchy of international tensions. In the past few years, there have been other places in which it has been much harder to contain violence. And death and famine stalk many streets and many lands. Israel, in that comparison, presents the spectacle of a nation which illustrates its capacity for growth even in conditions of neighboring siege.

What does all of this mean for the future and for the 25th year? Where does it lead? No discussion of the prospect can elude some understanding of time as one of the dimensions of international conciliation, not time by itself, passive and inert, but time in connection and in union with a constant and vigilant pursuit of peace.

Our neighbors for the past five years quite naturally and normally explored the possibility of getting what they want namely, the return of territory without peace. This is an understandable intuition, for peace imposes on them the heavy burden of revolutionary change in their ideas, their concepts, their slogans, their attitudes, and their passions. It is natural for them to exhaust all prospects of obtaining their desire without the heavy price.

If there is hope for the 25th year and beyond, it is precisely because five years is a period in which empirical experience must have its effects. Surely all the alternatives have been tried. All the options of external solutions have been exhausted. What is it that has not been tried? Special assemblies, regular assemblies, security councils, four

power meetings, Dr. Jarring's mission, two power consultations with the hope in Arab states of single power inducements or pressures. All of this has been tried. What is the total result? Not a thing has changed. Nothing has moved.

I refuse to believe that nowhere in the Arab world are there people saying to themselves that if their hope for an external imported solution has not been effected in the past five years, why should it be effected in the five years to come? And if this dream isn't realized for ten years, what assurance is there of its validity?

It may well be that the options are becoming narrow, that there are, in fact, only three options: war, the indefinite maintenance of the status quo, or the unfreezing of it by negotiation.

War would be unrewarding, so we are convinced, to any of our neighbors. The maintenance of the status quo is possible. It is complex; it is not intolerable. It is not intolerable enough to create an international dynamic to bring about a forceful change without negotiation, but it is nobody's ideal. Therefore, if they want neither war nor the indefinite maintenance of the status quo then negotiation appears as the only valid alternative.

In the final resort men give effect to the rationality that serves their central interests. What I mean to say is that Israel and the United States have much dialogue to conduct together in the future.

And, therefore, all of you, including our guest of honor, should not think that we have met here in any valedictory spirit. We have come to pay tribute to the way in which this dialogue has been conducted in the past.

The salient qualities which Si Kenen has applied to that dialogue are humility and reticence—but, together with these, a great conviction of the underlying rectitude of his cause and, above all, a devotion to humane ideals. Like all men worth knowing and speaking to, he is fundamentally a romantic. By this I mean that he understands that beyond all dry rationality there is a visionary domain in human and international life to which men eventually appeal.

There are schools of thought on international history which say that a nation's interests are what dictate its action and that, since a nation's interests are well defined, then all argument and persuasion is useless.

Now, this theory is plausible, but fundamentally it is, of course, utter nonsense because a nation's interests is not a unified, monistic or static idea. A nation can construct various models of what its interests are. Its sentiment and emotions sometimes tell it what model to prefer. It is possible in dry analysis to construct a model of American interest based on close cooperation with Israel. It is possible, I suppose, to construct a temporary model. Each of them is coherent from its own premises. It is the national values and sentiment which dictate which of those models should be preferred—a vision of American interests which includes the support of an independent Israel, or a vision that excludes it.

I hope, then, that Si Kenen will agree that, with all the obstacles and hardships, he has been a partner and an architect of a very great drama. The central issue was to bring the Jewish people back to its roots, back to its origins, back to its inheritance, back to its autonomous and independent personality, back to itself—not only back to all of those—but also forward to a new celebration of Jewish vitality and resistance.

We hope then that this Committee, under this leadership, will help to persuade both governments to maintain their steadfast counsel, as flexible and as patient as is necessary for the inevitable and ultimate logic of peace to prevail.

This then, Si, in addition to our praises, is Israel's message to you. As we look back on these years, I hope that the memories will bring you a sense of serenity and fulfillment.

I have followed you all the time, sometimes more closely than you know, in your triumphs and in your sorrows and in your invariable displays of recuperative powers. I hope that you agree that, with all the difficulties, it has been an age worth living because it has seen the Jewish people, after fearful grief, rise to a new peak of creative nobility. This revolution in our people's life is the work of many hands. It has become everyone's possession, and the memory of it will never fade.

And so, a small cross-section of your friends are assembled here and they bring you the tribute of their affection and respect. Our unanimous decision is that after this testimonial dinner you settle down for another thirty years and get down to some serious work.

All I can promise is that I will come to your next testimonial dinner if it is humanly possible.

TEXT OF I. L. KENEN'S RESPONSE

It has been reported by some people that this dinner may mark the end of my service. I want to point out to you that this is not the end of my 30th year. It is the beginning of my 30th year. I should also like to point out that my current term of office has another year to go. But ever since the night that my dear friend, Ephraim Evron, called to say that Mr. Eban might come to our dinner, I have lived a solid year in the last five weeks. Perhaps then it is my 30th year in office.

I should also say that I can think of no more felicitous way to climax or to end a career than to have the gracious commendation of a dear colleague, Abba Eban. On the other hand, I can think of no more drastic way to terminate a career than to attempt to follow Mr. Eban on a public platform. Fortunately, I have no need to debate with him on any issue. I agree with everything that he said.

I would like to say a few words about the American Jewish community, which I have attempted to serve these many years and which helped to create Israel and to sustain her.

My generation of American Jews went through a nightmare in the 1930s and 1940s when we were frustrated in our appeals for international action to open Palestine's doors in order to save Jews from Hitlerism.

I then served as Secretary of the Rescue Commission of the American Jewish Conference in 1943. I know how little we were able to do. We came out of that traumatic experience resolved to do all that we could do to rescue and rehabilitate the survivors and, above all, to establish a sovereignty which could always keep its doors open for those in flight, which could defend its borders and which could restore a shattered people to status and dignity.

We have traveled a long way in these 30 years to win American support. We need to go back in memory to measure the distance. And if I go back in memory tonight, it is not to emphasize the differences that divided America and Israel in those early years, but to suggest that we have indeed come a long way to the high point today in American-Israel friendship.

It has never been the purpose of the American Israel Public Affairs Committee to exacerbate differences between America and Israel. On the contrary, our mission has always been to unite our two countries. Nevertheless, I think it is important to go back into memory to measure the distance that we have traveled.

Thirty years ago our Government did not favor the establishment of a Jewish state, and when American Jews convened in the American Jewish Conference in New York in 1943 Washington then tried to block the adoption of the historic resolution calling for the restoration of the Jewish Commonwealth.

Nevertheless, with that resolution in hand, adopted by a tremendous vote, the American Jewish Conference and the American Zionist Council set out to win American opinion.

We carried that resolution to the national political conventions in 1944, to the U.S. Congress and to the San Francisco UN Charter Conference in 1945. In 1946, the White House came out for partition. Our UN delegation voted for it in the General Assembly in 1947. But, you will remember, that was not the last word.

There were powerful forces arrayed against us, in and out of Government—what I call the petro-diplomatic complex—a coalition of oil lobbyists and missionaries—the prospectors for oil and souls—diplomats and educators with economic, cultural and theological interests in the Arab world. They warned that we would suffer anti-Semitism if Israel were established. We still hear that threat. Just a few months ago, the ex-American diplomat who leads pro-Arab forces in Washington declared: "They have got to give up the idea of a State in Palestine, so they will not find themselves hated by the world." In 1948 they campaigned for the reversal of partition. To our dismay they persuaded our Government to withdraw its support and to propose a UN Trusteeship for Palestine—an action which was the nadir in U.S. policy toward Israel.

That deplorable reversal evoked stormy protest. Most notably, it brought forth the first major UN address by our distinguished friend, the Foreign Minister of Israel. No one who was at the United Nations on May 1, 1948 will ever forget the devastating polemic with which Mr. Eban shattered the pretense of this astonishing maneuver.

And I, too, was astonished because I shall tell you now, publicly, I shall confess to you as a reflection of my own capacity to judge men, that a few months earlier I told Mr. Sharett that I could not accept Mr. Eban as a substitute for Mr. Sharett on a radio program because I did not think that Mr. Eban was an effective speaker. I suspect that he heard what I had said and it probably irked him and he sat down and he worked and he studied, and within weeks, on May 1, he burst forth at the United Nations—a tremendous one-man army for the Jewish people. Well, that speech was the first of many Eban speeches which electrified the United Nations in the ensuing 24 years.

Now I recall that trusteeship fiasco here tonight, not merely because of the Eban speech but because it has always seemed to me, as I look back, that the trusteeship concept—the protectorate concept—is a ghost that never ceases to haunt us.

Those who opposed the Jewish state would still like to treat Israel as a UN ward—a wayward ward to be sure—never to be conceded full sovereignty, always to be supervised and circumscribed by some UN instrument. Think of the host of alphabetical agencies—UNSCOP, PCC, PPC, UNTSO, UNEF, UNMAC and UNRWA. To this day, as if it were still unfinished business, there are those at the UN who would like to retain the Palestine question—that's what they used to call it up until 1967—on the agenda. They regard the UN as an overall trustee, which may interject itself between Israel and the Arab states and which can be counted on to censure Israel and to shield the Arabs from direct negotiations with her. It is this same postulate of Great Power "overlordship" or "trusteeship" which underlies the attitude of great powers like Russia and France, who presume that it is within their competence to dictate the terms of an Arab-Israel political settlement.

I left the Israel delegation and came to

Washington on January 1, 1951 because, as Mr. Eban has recalled, Israel needed economic aid to help her resettle the huge influx of refugees who had entered the country in her first three years.

Now, the Administration at that time was reluctant to take the initiative to grant economic aid to Israel because it feared Arab reaction. As a result it was necessary to lobby with Congress, and American Jewish friends of Israel swiftly assumed that responsibility.

I began as the Washington representative of the American Zionist Council but we soon organized what is now the American Israel Public Affairs Committee because political work of this character could not be financed by tax-exempt organizations. For years we had difficulty in winning the necessary support—up until the six-day war.

Over the years, our Committee has been led by distinguished and deeply committed American Jews. Our first chairman was Louis Lipsky, a world Zionist leader who was regarded as the Parliamentarian in American Jewish life.

Rabbi Philip S. Bernstein, our present Honorary Chairman, played a major role in helping the remnants of the holocaust to survival, rehabilitation and resettlement in Israel.

And Irving Kane, our present chairman, who, as a former President of the Council of Jewish Federations and Welfare Funds and Chairman of the National Jewish Community Relations Advisory Committee, has strengthened and deepened AIPAC's roots throughout the United States. Tonight, I find that he has a new virtue. He is a fiction writer and humorist.

The opposition fought aid to Israel, warning that Arabs would retaliate against American institutions, American interests and individuals and that the Middle East would explode into World War III. That myth continues to be a constant companion down to this day. Last year, we were told again that if Israel were to get Phantom jets, the Near East would explode and, of course, as you all know, events have repudiated this thesis, which has always been used to oppose American aid to Israel.

Back in 1951, overcoming pressures and threats, we did win economic aid from Congress for Israel in that first year. And from that early experience we learned a fact of life in Washington which has necessitated our continuing effort over the years.

Nothing ever came easily for Israel in Washington. On every issue—economic aid, military credits—there had to be a campaign for support. Our Government seemed always to be immobilized by the fear that assistance to Israel would not only be resented by the Arab states but would be exploited by the Soviet Union in furtherance of its Cold War objectives.

Since that is the record, I find it bizarre indeed that our critics should make the claim that Israel has used the Cold War in order to extort U.S. aid. On the contrary, the record shows that Israel was always the victim of the Cold War—that the Soviet Union exacerbated the Arab-Israel conflict in order to pour massive aid into the Arab states, while our own Government held back, preoccupied with Arab reaction.

Recall, for example, that our Government rejected Israel's application for military aid in 1952, again in 1954, when the United States was fashioning the Baghdad Pact and sending arms to Iraq, and again in 1955, when the Russians made their deal with Egypt and the United States detoured Israel to others.

It was not until 1962 that the United States first provided Israel with sophisticated weapons. But Israel has never received grant military aid. It is only in recent years that the Administration has approved large-scale military credits for Israel. And it was only last year that Congress once again took the initiative, as it did in 1951, to include Israel in the foreign aid supporting assistance program.

But aid was only one of the many issues that we have debated in Washington. There has been a multitude of issues over the years: the debate over commitments and guarantees—the debate over the Palestinian Arab refugees, the use of water, Jordan's occupation of Jerusalem, the treatment of the Jews in Arab countries and in the Soviet Union, the Arab boycott and the Common Market, American military aid to the Arab states, the closing of the Suez Canal and the Straits of Tiran.

And over the years, as we pleaded Israel's cause here in Washington, we had to do battle with many propaganda sophistries, which were predicated on double standards of dubious morality and motivated by a guilt complex.

Israel, we were often told, owed reparations to the Arabs because the winner of a war must pay compensation to the loser. That's what the United States has always had to do. Arabs may reclaim territory, even though they gained, used and lost it in wars of aggression. We must not expect the Arabs to negotiate with Israel lest they lose face. The Israelis, apparently, have a different kind of face for they were often told to turn the other cheek and to roll with the punches. Reprisals must be condemned—never mind the provocation. Israelis don't need as many weapons as the Arabs because their skill helps to maintain the balance. We don't hear that argument much any more today but always, in the past, when I used to hear it, as if it were a reflex reaction it would evoke memories of the 35 young college students who died in the Arab ambush at Kvar Etzion early in 1948 because they had nothing but stones for ammunition.

Arab nationalism was hailed as progressive, Jewish nationalism was decried as regressive. Jewish philanthropy and support for Israel were impugned; no one, however, questioned the failure of the oil-rich Arab countries to take care of the Arab refugees who were displaced by the Arab war.

And always it was argued that we had favored Israel and that we needed a more impartial, a more even-handed policy.

Our so-called pressures here were always greatly exaggerated. The Arabs have always complained that we outnumbered and outpressured them. But bear in mind that there are 18 Arab governments and one Israel. Arab diplomats in Washington outnumber Israel's diplomatic representatives. Combined with their many pro-Arab friends and allies, they are able to overwhelm Washington, socially and diplomatically.

In addition, diplomats who are stationed abroad are required to report on the views of the governments to which they are accredited, and the volume of reports reflecting Arab views far outweighs those that reflect Israel's position.

And, of course, as we all know the Arab states do have a decisive propaganda advantage in the United Nations, and the anti-Israel resolutions adopted and processed through U.N. machinery are spread all around the world without effective challenge.

But here in Washington we have always had a strong ally in the Congress. It is to the Congress of the United States that we have submitted our cause to counter and rectify the propaganda imbalance. It is to the Congress of the United States that we owe so much appreciation.

When the six-day war ended in 1967, we appealed to our Government to remember the lessons of 1957. We made three major proposal: 1) to prevent a renewal of the war, strengthen Israel; 2) to promote peace, urge the Arabs and Israelis to negotiate directly, and 3) no withdrawals without a negotiated peace.

For their part, the Russians and Arabs were demanding Israel's total withdrawal and were attempting to impose a settlement. We appealed to the Administration for planes for Israel; we opposed any moves by the Great Powers to impose a settlement from without; we pressed for the principle that the parties to the war must be the parties to the peace, that there must be direct negotiations. I should recall that at the first Policy Conference of the American Israel Public Affairs Committee in 1960, our first plank was direct negotiations.

Our proposals were supported in impressive demonstrations on Capitol Hill where Congress reflected the opinion of the American people, and these strong demonstrations encouraged the Administration to strengthen Israel on the military and diplomatic fronts. I would never suggest that it was because Congress took this position that the Administration finally responded affirmatively to Israel's appeal. I do suggest that Congress created a climate of opinion and acceptance which made it possible for the Administration to go forward with these programs which have contributed so impressively to Israel's strength in the last few years. For it has become clear that the interests of Israel and the United States have converged in the Middle East; these countries are now allied in purpose and conviction.

Little by little, the issues which have divided the United States and Israel have been resolved by events. Support for Israel has grown over the years—not diminished—as more and more Americans have come to recognize that Israel is a significant situation of strength in the Middle East, able to defend and to advance the concepts of freedom and equality, sincerely allied with the highest interests and ideals of the American people.

The bitter experiences of the thirties, the immoral neutrality, the callous indifference, the collapse of international self-respect, the degradation of mankind—all this cruelly tested our faith in the perfectibility of man. But despite that brutal testimony, I have never abandoned the religious hope that the world can become a better place, that man is spiritually endowed and experience-equipped with the capacity to make the right decisions providing he has access to the truth. It is our task to offer the truth as best as we can. I have a profound respect for the democratic process. And because of that conviction, I have found fulfillment in a service which presupposes that man is endowed with a sense of purpose, a mind to make moral judgments and a will to carry them out.

It is no coincidence that the two democracies, Israel and America, have been drawn closer together. We were able to tell Israel's story to the American people because this is a free and open society, where people are free to speak out and to appeal to their government. In countries where the governments are sensitive to public opinion, where there are parliaments and legislatures—Israel has gained strength. Israel's cause has not prospered in closed societies. We have used the democratic process, exercising the obligation of good citizenship, to advance the cause of democracy on the international scene.

But our task is far from finished. There are still dangers ahead. On the military front, the Russians are ominously close to Israel's borders while the escapist trend toward disengagement in our own country is so sadly reminiscent of the terrible isolationism of the thirties. I came to Washington in 1933 and interviewed the isolationist Senators who fashioned the policy which made it easier for Europe's warmongers in 1939. The process of disengagement takes us further and further away from the front lines of responsibility. In addition to that, our country faces an ominous energy crisis and has not done enough to meet this issue; the

Arab states have learned to use their oil wealth to blackmail the West.

It will take a long, long time for Arabs to accept co-existence with Israelis and to rid themselves of a legacy of prejudice inherited from the Czars, the Commissars and the Fuhrers.

The story of Israel's past and the promise of Israel's future must be told and retold in every generation. The American Jewish community, which has done so much in the past, continues to bear a major responsibility to do what it can—everything that it can—to ensure Israel's survival and to win a genuine peace in the Middle East. Our tasks are far from ended.

THE GRAVEL CASE

Mr. BAYH. Mr. President, the Senate has taken an active interest in the court proceedings against the distinguished Senator from Alaska (Mr. GRAVEL). In view of the significance of his case, I invite the attention of the Senate to a noteworthy article, authored by Senator GRAVEL, and published in the New York Law Journal of March 31, 1972.

The thorough discussion of the issues involved in the Gravel case, as well as the history to date, provides very interesting reading. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL PRIVILEGE: THE CASE OF SENATOR GRAVEL

(By MIKE GRAVEL)

The issue which the Supreme Court is about to decide in the matter involving my actions in releasing the Pentagon Papers is one of congressional privilege. Specifically, it is the privilege conferred upon members of Congress in the "speech-and-debate clause" of the constitution, which provides: "For any Speech or Debate in either House, they (the members) shall not be questioned in any other place."

The speech-and-debate clause was one of the few provisions of the constitution on which nearly all who helped write it agreed. The notion that legislators should be immune from prosecution for their acts and speeches grew from the times when English kings sought to prosecute members of Parliament for acts and speeches the kings didn't like.

The clause protects the legislative branch from a vengeful Executive and a hostile Judiciary.

The purpose of that privilege is not to protect members of Congress from prosecution for their own benefit, but to support the rights of the people by enabling their representatives to execute the functions of their offices without fear of prosecution.

It insures that legislators are free to represent the interests of their constituents without fear that they later will be called to task in the courts for that representation.

Thus, the speech-and-debate clause is an important part of the doctrine of separation of powers.

The privilege was placed in the constitution for reasons of common sense. The framers knew, from their own experience, that without such safeguards, the independence of the legislators and of the legislative branch itself, would suffer.

It is the same sort of common-sense thinking which gives a lawyer privilege for his conversations with his client, a doctor with his patients, and a clergyman with his parishoner. Not to provide such privilege would be to destroy or abridge basic rights and freedoms.

When I publicly released the "Pentagon Papers" during a June 29–30 midnight meeting of the Senate Subcommittee on Buildings and Grounds, I did so because I believed the people have a right and a need to know the truth about our involvement in Southeast Asia. I am convinced that my constitutional duty required that I fully inform myself, my colleagues and the people.

After I had done so, the Executive Branch of the government, through the Internal Security Division of the Justice Department, had a federal court convene a federal grand jury in Boston, allegedly to investigate the possible violation of the following federal statutes:

1. Retention of public property or records with intent to convert (18 U.S.C. 641).
2. Gathering and transmitting national defense information (18 U.S.C. 793).
3. Concealment or removal of public records (18 U.S.C. 2071).
4. Conspiracy to commit such offense and to defraud the United States (18 U.S.C. 371).

Shortly afterward, a member of my personal staff, Dr. Leonard Rodberg, was subpoenaed to testify before the Boston grand jury. Because of my concern that the real reason behind the grand jury investigation—or one such reason—was to investigate what I had done in my official capacity as a United States Senator in securing and releasing the "Pentagon Papers," and in publishing the committee transcript, I ordered my attorneys to appear in Boston and to object to any intrusion or investigation by the Executive or Judicial branches into the legitimate legislative activities of the Senate.

Unfortunately, my fears were more than well-founded and my attorneys were forced to seek intervention to quash the subpoena served upon Dr. Rodberg. In the brief supporting the motion to intervene, my attorneys made the following points:

1. The Internal Security Division did not dispute the affidavit of Dr. Rodberg that the purpose of the inquiry was to investigate my actions as a United States Senator and the official actions of my aides.
2. The speech-and-debate clause of the constitution (Article I, section 6) prohibits a grand jury from inquiring into the official acts of a member of Congress or the official acts of his aides.
3. My actions in acquiring and releasing the "Pentagon Papers" and in publishing the committee record were taken in the course of my duties as a United States Senator and, therefore, are totally immune from Executive or Judicial inquiry.

In its response, the Internal Security Division took a number of unusual positions. First, they argued that a grand jury proceeding was a criminal, not a civil, proceeding and therefore, no right of intervention existed. Next, the government argued that no suit existed in which to intervene even if the Federal Rules of Civil Procedure did apply. Third, the government responded that a party other than the one under subpoena had no standing to complain of any injury. Fourth, the government said that I should be content to rely upon Dr. Rodberg to assert and protect my constitutional rights.

After the intervention question was briefed and argued, Judge W. Arthur Garrity granted my motion on the grounds that whatever constitutional privilege I might have must be asserted by me and that Dr. Rodberg's testimony could violate my privilege unless I were permitted to object.

Surely, that decision is correct; otherwise, every member of Congress would be at the mercy of his aides to assert or not the privilege of the member.

Once a party to the case, I instructed my attorneys to file a motion for specification prohibiting the grand jury from asking Dr. Rodberg any question covered by the speech-and-debate clause. Alternatively, my attorneys filed a motion to quash Dr. Roberg's subpoena. In the brif filed in support of these motions, we reminded Judge Garrity that every decided case has held that a member of Congress is immune from questioning for all official acts and that the speech-and-debate clause must also protect my aides. Otherwise, the clause is a sham and would offer no real protection.

We also pointed out that the Supreme Court in *Barr* v. *Matteo* (360 U.S. 564, 1959) and *Howard* v. *Lyons* (360 U.S. 563, 1959), created a common law immunity that permitted low ranking members of the Executive Branch to publish material important to the public, just as I had done, with full immunity. If functions of the Executive are so protected without explicit constitutional authority, why then, is not a member of Congress, who has a direct constitutional responsibility to inform himself, his colleagues and his constituents?

We also reminded the court of the striking parallels between this case and the famous English case of Sir John Elliot, which gave birth to the English Bill of Rights, a forerunner of our own speech-and-debate clause. When Charles I was at first criticized and eventually denied funding from Parliament to continue fighting a needless war overseas, he struck back at his critics by prosecuting Sir John Elliot and others for "seditious" speeches in Parliament (3 How. St. Tr. 294, 332). The result was the greatest constitutional crisis in English history, until in 1668, "after a long and bitter struggle Parliament finally laid to rest the ghost of Charles I."

We also pointed out that the grand jury investigation would jeopardize the doctrine of separation of powers in three ways. First, it would seriously inhibit legislators and their aides in the vigorous performance of their duties; second, it violates the right of the Congress to free speech; and third, it constitutes an illegitimate intrusion by the Executive into the Senate's prerogatives in foreign affairs.

What I am involved with is a direct and classic confrontation between supposedly co-equal branches of the federal government. That is precisely the situation covered by the speech-and-debate clause and it is the kind of situation that gave birth to the clause.

The Internal Security Division responded to my brief by taking a series of extreme positions. First, they asserted that somehow Dr. Rodberg was not my employee; second, that the clause does not apply to anyone other than a member of Congress; third, that no immunity exists for a member to resist a grand jury subpoena; fourth, that to quash the subpoena would violate the doctrine of separation of powers by interfering in Executive proceedings; fifth, the Internal Security Division claimed that a court could determine whether a Senate committee meeting was timely, authorized or germane; and sixth, that the publication of the subcommittee record was not covered by whatever protection might exist under the speech-and-debate clause.

On Oct. 4, 1971, Judge Garrity issued his ruling. He found that the purpose of the subpoena to Dr. Rodberg was to question him about my actions in acquiring and releasing the "Pentagon Papers" and in publishing the subcommittee record.

Judge Garrity also held that:

1. A federal court could not go behind the assertion of a member that a particular person is an employee;
2. The speech-and-debate clause privilege against inquiry applied to grand jury proceedings;
3. The clause covers personal aides as well as members;
4. The clause does not cover my part in publishing the committee record but it does cover all legislative acts and antecedent conduct intimately related to legislative acts,

including preparation for and holding committee hearings;

5. No one may be questioned in a federal court about my activity that is protected by the speech-and-debate clause;

6. A federal court cannot inquire into the timeliness, validity or germaneness of a committee meeting.

My attorneys asked Judge Garrity to reconsider that portion of his ruling holding that my part in the publication of the committee transcript was not protected by the speech-and-debate clause. In support of my motion for reconsideration, we asserted that the role my aides and I took in the publication and distribution of the official public record of my subcommittee was protected legislative conduct under the speech-and-debate clause.

First, we showed that such publication is part of my informing function, which, in turn, is part of my responsibility under the clause. We also showed that similar publication is generally done by the members with respect to the business before Congress and is related to the due functioning of the legislative process.

It should go without saying that the publication of speeches, committee reports or transcripts is necessary for a member of Congress to inform and carry on a dialogue with his constituents. Few people have access to the *Congressional Record*, and fewer still to the original transcripts of committee hearings. Nor can the press be depended upon solely to report the views of congressmen to their constituents. The press gives at best a summary, perhaps overlaid with editorial comment. There is no substitute for the dissemination of the original.

While Judge Garrity was considering our motion and briefs, the Justice Department issued new subpoenas to Dr. Rodberg and to Howard Webber, editor of the *M. I T. Press* for the purpose of inquiring into matters either barred by the court's order or under active reconsideration.

When we brought these matters to Judge Garrity's attention, he issued another stay of the challenged subpoenas. Although he later denied my motion for reconsideration, he continued the stay for ten days because of the obvious importance of the issues and the substantial arguments in favor of my position.

I instructed my attorneys to seek an emergency hearing in the U.S. Court of Appeals for a further stay pending appeal. On Oct. 29, 1971, the same day my attorneys sought and obtained the emergency hearing, the U.S. Court of Appeals for the First Circuit issued a stay barring all grand jury inquiry into the "Pentagon Papers" in whatever form until the court could hear and decide the case. The Court of Appeals ordered an expedited schedule for the filing of briefs and arguments.

In our brief we urged the appellate court to hold that my activities and the activities of my personal aides in releasing the subcommittee transcript for publication were protected legislative activities that could not be investigated by a federal grand jury. In essence, our position was that the Executive could not use the compulsory process of a grand jury to question anyone about my activities that are covered by the speech-and-debate clause, and that the informing function of a member of Congress is part of his duties under that clause.

For its part, the government argued that the speech-and-debate clause does not apply to grand jury proceedings. In the view of the Internal Security Division, the remedy for a member is to seek to quash any indictment that a grand jury might report.

While this case was before the First Circuit, the Internal Security Division again attempted to enforce subpoenas to secure information prohibited by the court's stay. In this case a subpoena was served upon the Boston bank of *Beacon Press* and the Unitarian Universalist Association seeking copies of all checks relating to the "Pentagon Papers" or myself. Again my attorneys objected and after an unusual evidentiary hearing in the Court of Appeals the subpoenas were withdrawn and a further protective order was issued banning the use of subpoenas to secure evidence until the case was decided.

On Jan. 8, 1972, the Court of Appeals issued its decision in which it held that whatever I did in arranging for the subcommittee meeting and conducting the meeting were protected.

The court also held that I could not be questioned about my sources of information. As for Dr. Rodberg, the court held that he could not be questioned about anything I could not be questioned about. Although rejecting my position that the publication of the subcommittee transcript was protected from inquiry by the speech-and-debate clause, the court held that Dr. Rodberg and I may have a common law immunity, which for purposes of this case, prohibited any questioning of us. However, the court held that anyone else who dealt, with me or my aides could be questioned about how I obtained the "Pentagon Papers" (or any other information) and my dealings with others to arrange for the publication of the subcommittee transcript unless the questioning related to my motives in holding the subcommittee meeting.

Thus, although the court protected my aides and me, it left open those who had dealt directly with me. Under this formula the Internal Security Division could achieve indirectly the precise results that the clause directly prohibits.

Put another way, the court held that the speech-and-debate clause protected me from grand jury questioning about my official legislative activities, but did not protect the activity itself from being a subject for inquiry.

It is worth noting that at least since *Watson v. Walter* (L. R. 4 Q. B. 73, 1868), the settled law in England is that the parliamentary privilege protects a member who publishes a speech in Parliament for the information of his constituents and that the privilege applies derivatively to the publisher because, as the court said in the Walters case, "such publication . . . is essential to the working of our parliamentary system, and to the welfare of the nation." There is no reason in history or policy why the privileges of elected representatives in the United States should not be equal to those held by their counterparts in England.

Because of this fundamental disagreement with the decision of the Court of Appeals, I ordered my attorneys to seek a stay from the Supreme Court. The appropriate papers were filed with Mr. Justice Brennan and he issued the stay. He also ordered that my attorneys submit a petition for writ of certiorari by Feb. 10, 1972, if he wished the stay to continue.

My attorneys filed a petition raising the following question for review:

1. Does the constitutional responsibility of a United States Senator to inform his constituents and colleagues about the workings of government require that his actions in publishing an official, public record of the subcommittee of which he is chairman, containing documentary information critical of executive conduct in foreign affairs, be accorded protection as legislative activity under the speech or debate clause?

2. May a federal grand jury at the request of the executive branch inquire into and investigate the legislative activities of a senator by utilizing compulsory process to interrogate persons with whom a senator dealt and to secure documents, about his planning and executing a Senate subcommittee hearing and publishing the official record of that hearing?

3. May an otherwise impermissible inquiry be allowed because the legislative activity in question was carried out in a manner deemed by a federal court to be irregular and contrary to the court's notions of germaneness and of the proper way for the Senate to internally allocate its functions?

The solicitor general also filed a petition for a writ of certiorari seeking Supreme Court review of the following question:

1. Whether article 1, section 6, of the constitution providing that ". . . for any Speech or Debate in either House," "the Senators and Representatives . . . shall not be questioned in any other Place" bars a grand jury from questioning aides of members of Congress and other persons about matters that may touch on activities of a member of Congress which are protected "Speech or Debate."

2. Whether an aide of a member of Congress has a common law privilege not to testify before a grand jury concerning private republication of material which his senator-employer had introduced into the record of a Senate subcommittee.

It is clear to me from the solicitor general's brief that he feels the speech-and-debate clause should be read narrowly to the point that it only covers members of Congress engaged in "mainline" legislative activities such as voting and speaking.

On Feb. 22, 1972, the Supreme Court granted writs of certiorari in both cases. Within the next three months we may have answers to the perplexing issues raised in my case.

REPORTING OF THE USIA

Mr. THURMOND. Mr. President, there has been much discussion about the activities of the USIA and its role in our Government and in promoting our foreign policy. There is much confusion about the activities of the USIA and its real function.

Part of this confusion I believe stems from the consistent misrepresentation of the agency by certain elements of the press. There has been a consistent campaign to distort the effectiveness of its work in the minds of the people of the United States.

A good example of this misrepresentation can be found in a recent series of communications between the group known as Accuracy in Media—AIM—and the editor and publisher of the Washington Post. AIM is a nonpartisan, public interest group which strives to maintain high standards of journalism by pointing out examples of nonobjective reporting. Unlike many political groups AIM has no ax to grind and represents no pressure group. Its sole purpose is to remind journalists of the high standards of their profession by analyzing the case histories of certain problems.

One of AIM's most recent case histories has to do with an article in the Washington Post which completely distorted the mission of the USIA and questioned its effectiveness. The Post article was not based on a factual presentation or even upon the reporting of expert testimony on USIA's role, but quoted extensively from unnamed sources which apparently reflected the bias of the writer of the article rather than any objective analysis of the situation.

What is shocking, however, is that when the bias of the article was carefully pointed out and exposed, the Washington Post refused even to consider the criticisms and judgments and completely ignored its own errors of fact. Mr. President, I have three letters which comprise the correspondence: Two from Mr. Abraham Kalish, the head of AIM, and the reply which was made more than 3 months after the letter was written. Mr. President, I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JANUARY 11, 1972.

Mrs. KATHARINE GRAHAM,
Publisher, the Washington Post,
Washington, D.C.

DEAR MRS. GRAHAM: AIM has examined with some care an article entitled "Tarnished USIA," which was published on the front page of the Washington Post on January 2, 1972. In view of the fact that you personally have made it clear that you believe in accurate and objective news reporting, we wish to call your attention to the way in which this article by Stanley Karnow deviates from the standards that you have established for news stories in The Washington Post.

We find that about 25 per cent of the article is devoted to the expression of opinion, but the article is presented as news, not as an interpretive report. Mr. Karnow may say that the opinions he reported are not his own, but those of various people with whom he talked. This is *superficially* true. Very few of those individuals whose opinions are cited by Mr. Karnow are identified. Thus it is not possible for anyone to check to see whether or not those people have been accurately quoted. What is striking about this group of unidentified sources is that there is no effort to show that more than one opinion on the same subject may exist. It seems most unlikely that in a large organization such as USIA there should be only one opinion on any subject. It must be possible to find officers who would take a different position from those reported on by Mr. Karnow. But apart from a few top officials, the views of these individuals are ignored.

What Mr. Karnow has clearly done is to select the views of anonymous informants that harmonized with the view he wanted to present to his readers. Thus we find statements such as this:

Many agency officials see most of Herschensohn's output as evidence that the USIA is in the propaganda rather than information business.

Many USIA officials are deeply disturbed by Shakespeare's anti-Communist militancy.

Many USIA officials of all ages are also troubled by Shakespeare's refusal to permit the agency to show the seamier side of American life.

Many USIA officials in Washington are persuaded that the agency needs a serious overhaul.

It is not clear what Mr. Karnow means by "many," but since he could not have interviewed more than a tiny fraction of the 10,000 employees of USIA, it seems probable that he could have found an equal number of USIA officials who might have expressed contrary views. Mr. Karnow chose to discuss the "many" who held the negative views he described. He ignored the "many" who take a more favorable view of USIA.

By this one-sided selection, Mr. Karnow has, we may conclude, presented his own opinions in the guise of reporting what other people believe. A recent book which discusses bias in news reporting states:

"When a political news service is free to select only the opinion it chooses, it might very well, and usually does, put predominantly the opinion of which it approves into its stories." (Edith Efron, "The News Twisters," p. 25)

It is clear, it is not, that Mr. Karnow had the choice of including in his story opinion of USIA favorable to the agency and its director, opinion unfavorable to the agency and its director, or both? We note that at least 75 per cent of the space devoted to describing opinions in the Karnow article deals with opinions that are negative and critical. Moreover, with respect to specific issues, the opinions are almost invariably all one sided. For example, nearly two inches are devoted to favorable opinion of Shakespeare's personnel policies, with no negative views described. On nearly everything else, only negative views are expressed, with no favorable opinions cited.

Let me give you a very specific example of Mr. Karnow's selectivity. He devotes two inches to a description of a single negative reaction of a USIA film on the Fourth of July. We have looked into this and have found that there have also been some very favorable reactions to the film in question. Mr. Karnow would have created an entirely different impression had he chosen to quote the following favorable opinion from the U.K.:

"The razzle-dazzle treatment was entertaining and pleasing and therefore of great interest to TV and theatrical distributors. London Independent TV station transmitted film on afternoon of July 5. After the 15-minute program the host-announcer commented: 'wasn't that a good program?' Post is of the opinion that film was an excellent one."

The film in question bombed in Sierra Leone but it was liked in London. Mr. Karnow chose to tell only the Sierra Leone reaction and ignores the reaction of the larger and more important post. By what standard is that accurate reporting?

We do not question the right of the editors of the Washington Post to publish editorials and interpretive reports in which they express their dislike of Mr. Shakespeare and his policies. However, we do believe that the readers of the Post are entitled to have these opinions properly labeled. We do not believe that the editors measure up to your high standards of objectivity and fairness when they employ the techniques used in the Karnow article to put across editorial opinions disguised as news.

Permit me also to point out a few specific inaccuracies in Mr. Karnow's story.

1. Mr. Karnow states: "Yet all its activities apparently have failed to give the USIA real influence in the formulation and conduct of American policy." *Comment:* It is the assigned function of USIA to inform and communicate, not to formulate and conduct American policy.

2. Mr. Karnow says that the USIA has been excluded from a seat on the National Security Council and that "this was not the case in previous administrations."

Comment: According to John W. Henderson, author of the book, "The United States Information Agency," it was not until 1955 that the director of USIA was invited to attend meetings of the NSC, where he sat in the second row, not at the table, and participated in the discussion only when called upon.

3. Mr. Karnow says that in the fall of 1970, Shakespeare "instructed the Voice of America to assail Soviet 'deception' for placing missiles along the Suez while denying that this was being done."

Comment: This is a strange comment for a paper that has published top secret and secret-sensitive American documents because it believed that the public had a right to know facts which high public officials wished to conceal for diplomatic or security reasons. The Post has, of course, assailed both the U.S. and Soviet Governments for "deception." Are we to interpret Mr. Karnow's statement to mean that the Voice of America should have been a party to concealing Soviet deception with respect to the missile emplacements along the Suez? Assuming that it is correct that Mr. Rogers criticized the Voice for broadcasing the truth about the emplacements, who was true to the Post's high standards of giving the people the facts and let the chips fall where they may, Mr. Rogers or Mr. Shakespeare?

4. "Vietnam! Vietnam!" . . . tries to justify the U.S. commitment to Vietnam while subtly implying that Presidents Kennedy and Johnson and the Democratic Party were responsible for the involvement in the war."

Comment: Are we supposed to infer from this that Presidents Kennedy and Johnson were *not* responsible for the involvement in the war? USIA informs us that there was no subtle implication at all. It quite frankly showed Presidents Kennedy and Johnson making public commitments to the people of Vietnam to support them in efforts to remain free from Communist control.

5. Mr. Karnow says that Mr. Shakespeare is said to be "hooked on the idea that all refugees in the world are victims of communism."

Comment: Is there any evidence that Mr. Karnow checked this allegation out with Mr. Shakespeare? His spokesmen say that it is simply false.

6. Mr. Karnow speaks of "Shakespeare's refusal to permit the agency to show the seamier side of American life."

Comment: This is refuted in the very next paragraph which states that the VOA covers the news, including the seamier side, with "professional competence."

7. Mr. Karnow states that Shakespeare "lectured" Willy Brandt and other West German officials on the dangers of their trying to improve relations with the communists.

Comment: USIA informs us that Mr. Shakespeare did on one occasion have a frank discussion with West German officials about American reaction to Ostpolitik, but Willy Brandt was not present at that meeting. They deny that Mr. Shakespeare ever lectured Mr. Brandt about anything.

8. Mr. Karnow says that USIA went into Germany and Japan immediately after World War II.

Comment: A little difficult, since USIA was not created until 1953.

9. Mr. Karnow quotes with apparent approval the opinion of a USIA official who believes that it is a mistake to assume that foreign minds can be manipulated, "that we can really influence foreign opinion."

Comment: A few paragraphs later, without recognizing any contradiction of the above statement, Mr. Karnow writes: "In West Germany, according to Washington Post Correspondent John Goshko, 'you cannot find a responsible official, journalist or academician who does not credit the agency with assisting the country to become a democratic state." One can only wonder about the accuracy of Mr. Karnow's quotation of the USIA official; is it possible that the agency really has on its payroll an official who is as naive as this statement would suggest? Surely Mr. Karnow, an experienced journalist, is aware of what has been done in this area.

We are sorry to trouble you personally with such a long letter. However, as you know AIM has never received a very sympathetic hearing from the editors of *The Post.* We know from our contacts with you that you will read what we have to say, and we believe that you will recognize the validity of the above criticisms. If you are so disposed, we gladly give you permission to print this letter in full as a corrective to the inaccuracies and distortion in Mr. Karnow's article.

Sincerely yours,

ABRAHAM H. KALISH,
Executive Secretary.

THE WASHINGTON POST,
Washington, D.C., April 11, 1972.
Mr. ABRAHAM H. KALISH,
Accuracy In Media, Inc.,
Washington, D.C.

DEAR MR. KALISH: I have your April 10 letter to Mrs. Graham.

As usual, your complaint is concerned with disputing the judgment of our reporters and editors and a demand that we substitute that of your patrons. I can understand your desire to do this. All advocates of a particular point of view desire this. But, of course, we depend on the professional judgment of our reporters and editors rather than the wishes of parties to a political or ideological dispute.

Where there are errors of fact we are concerned. I do not see any of substance that warrants the massive approach you make. As a matter of fact, some of your statements seem to ignore certain rather clear facts. Your first complaint referring to Mr. Herchensohn, for example, seems to ignore the discharge of the gentleman and the reason given for it. On Page 2 you quote what appears to be an official cable with official cablese ("Post is of the opinion that film was an excellent one"), again, wishing to substitute your special sources for Mr. Karnow's who has been dealing with this for 20 years both here and abroad.

As you know, Mr. Kalish, the Post is always open to honest criticism. You have taken very large amounts of our time pursuing publicity for your patrons' point of view without dealing with significant errors. We remain open to valid criticism.

Sincerely,

BEN H. BAGDIKIAN.

ACCURACY IN MEDIA, INC.,
Washington, D.C., April 16, 1972.
Mrs. KATHARINE GRAHAM,
Publisher, the Washington Post, Washington, D.C.

DEAR MRS. GRAHAM: We have received a letter from Mr. Ben Bagdikian dated April 11, 1972 which purports to be a reply to our letter to you of January 11, 1972 on the Karnow article on the USIA, published on January 2 in the Post.

The AIM letter of January 11 raised serious questions about the techniques used by Mr. Karnow to present a one-sided view of USIA through the use of selective quotes from unidentified sources. We noted the frequency with which Mr. Karnow cited anonymous spokesmen, a policy which the Post is on record as condemning. We also cited the emphasis he placed on a single critical appraisal of a USIA film, overlooking favorable appraisals of the same film. We questioned whether this technique of one-sided selectivity measured up to the journalistic standards that should be expected of the most important newspaper in the Nation's capital.

We find no effort in Mr. Bagdikian's letter to discuss this very important question. He dismisses our carefully documented criticism with statement that we are simply disputing the judgment of the Post reporter and editors and demanding that the Post "substitute that of (our) patrons." We made no such "demand." In the first place, AIM has no patrons. We are not a commercial organization that sells services. We are a public interest organization dedicated to the rather difficult task of improving standards of accuracy in journalism. We did not demand that anyone's judgment be substituted for that of your editors. We merely pointed out that in the case in question, the judgment of the editors appeared to have fallen far short of the standards that we know you want the Post to adhere to. I understand that this has been conceded by Mr. Ben Bradlee.

I am at a complete loss to understand Mr. Bagdikian's strange treatment of our criticism of Mr. Karnow's one-sided reporting on the reception of one USIA film. Mr. Bagdikian notes that we quoted an official cable which pointed out that this film was well received in London. Mr. Karnow had noted that it had not been well received in Sierra Leone. We suggested that a fair appraisal of the film might have given some weight to the London reaction. Mr. Bagdikian accuses us of "wishing to substitute (our) special sources for Mr. Karnow's." We have no special sources. We asked the public information office of USIA to tell us whether or not the Sierra Leone reaction was typical. That office supplied us with verbatim quotes of reactions from a number of countries, one of which was from London. We believe that Mr. Karnow would have been given access to this information had he sought it. He only needed to ask. That he either failed to do, or having done so, he failed to make use of the material available to him.

What is even stranger, Mr. Bagdikian says: "Your first complaint referring to Mr. Herschensohn, for example, seems to ignore the discharge of the gentleman and the reason given for it." Please note the following:

1. Our January 11, 1972 letter nowhere mentions Mr. Bruce Herschensohn.

2. Mr. Herschensohn, according to all reports we have seen, resigned voluntarily from USIA in the first week of April, 1972, and was not discharged as Mr. Bagdikian seems to believe.

3. How or why we could or should have mentioned Mr. Herschensohn's April resignation in a letter written in January is a mystery Mr. Bagdikian will have to resolve for us.

The AIM letter of January 11, outlined eight specific inaccuracies in the Karnow article, some of them quite serious and all reflecting a carelessness that ought not to be defended by a conscientious editor. Mr. Bagdikian states: "Where there are errors of fact we are concerned." However, he shows not the least concern about the eight errors we cited, neither conceding that they were errors nor disputing them. He says he sees none "of substance." I submit that when Karnow accuses Shakespeare of not permitting USIA to "show the seamier side of American life" when that is not the case is an error of considerable substance. I submit that when Karnow implies that USIA *wrongly* suggests that Presidents Kennedy and Johnson and the Democratic Party were responsible for our involvement in Vietnam that is an error of substance. I submit that when Karnow says that Shakespeare "lectured" Willy Brandt when that is false is an error of substance.

We at AIM are disturbed by the fact that the Post, after considering our carefully, documented letter for three months, could not produce a more substantive comment than that offered by Mr. Bagdikian. This belies Mr. Bagdikian's statement that "the Post is always open to honest criticism." Our criticism of the Karnow article was honest and well documented. It deserves an honest and serious reply, and unless the charges of error can be refuted, those errors should be corrected in the pages of the Post.

However, we shall take Mr. Bagdikian's reply as the best that the editors of the Post are capable of producing. We shall circulate to our supporters and others our original criticism, Mr. Bagdikian's reply, and this letter to you.

Sincerely yours,

ABRAHAM H. KALISH,
Executive Secretary.

AVOIDING MONEY IN THE BANK

Mr. PROXMIRE. Mr. President, editorial writers have a way of translating governmental gobbledygook into easily understood English. Such was the case when the Sheboygan, Wis., Press editorialized about the now famous memorandum of Adm. Elmo Zumwalt to Adm. I. C. Kidd. The Z-gram ordered available money to be spent before the end of the fiscal year so that the Navy would have no trouble with Congress in getting more money to spend in the next fiscal year.

The Sheboygan Press put the point across with punch in the last paragraph of its editorial:

> Taxpayers will wonder about the wisdom of "avoiding shortfall" or as civilians would say "avoiding money in the bank."

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

OUTLAY TARGETS

"Outlay Targets." That is the phrase Adm. Elmo Zumwalt used in a memorandum to Adm. I. C. Kidd. Adm. Zumwalt is chief of naval operations and Adm. Kidd is chief of the naval material command, the purchasing agent for the navy.

The Zumwalt memorandum includes many unfamiliar and technical phrases. Yet we think the first paragraph of it is worth publishing here and worthy of the 30 seconds or so that it will take to read it.

"Fiscal year 1972 outlay targets promulgated by reference A as part of the Presidents' budget for fiscal year 1973 are over $400 million above target in the earlier fiscal year 1972 budget for the OPN, SCN, PAMN, and MILCON appropriations. Difficulty of achieving these targets during the remaining months of fiscal year 1972 fully appreciated but importance of avoiding shortfall in meeting newly established fiscal year 1972 targets to avoid resultant adverse effects on anticipated fiscal year 1973 outlay ceilings dictated need for top management attention. Anticipate any shortfall in fiscal year 1972 outlay target could be translated into program loss under fiscal year 1973 outlay ceiling."

That is a portion of the memorandum read during a hearing of the Subcommittee on Priorities and Economy in Government. It was read into the record by Sen. William Proxmire who conducted the hearings.

The hearings were rather lengthy and far ranging, touching on several aspects of military procurement. However, if any point was clearly made it was made by that Zumwalt memorandum. After all the trappings and jargon are stripped away, it says, "Hurry, spend the money before July 1st or we will lose it, and our appropriation next year might suffer."

Admiral Kidd testified at the hearing, and being the loyal naval officer he denied that such a meaning could be read into the Zumwalt directive. He explained that unless that authorized purchases were made before the end of the year on June 30th the funds would no longer be available to make the purchases authorized by Congress. But, he insisted that the accelerated purchasing program would be an economy move because prices are always rising.

Those considerations would carry more weight, were it not for Adm. Zumwalt's fear of "avoiding short fall" (money not spent) so that the "outlay ceilings" for 1973 will not be adversely affected.

The chief of naval operations clearly is saying that Congress just would not understand a situation in which a military organization had excess funds. He seems to believe that appropriation committees would be deaf to explanations that appropriated funds were not spent because reliable contractors could not be found or that favorable contracts could not be negotiated for all those initiated Navy projects.

Taxpayers will wonder about the wisdom

of "avoiding shortfall" or as civilians would say "avoiding money in the bank."

REAL PROPERTY TAXES

Mr. PERCY. Mr. President, the subject of real property taxes is attracting increasing attention and concern throughout the country. The needs of localities are so great and property taxes are getting so high that many have said we are going to have almost a property taxpayers revolt on our hands.

This controversy has been brought to the attention of Congress by the Intergovernmental Relations Subcommittee of the Senate Government Operations Committee that has just opened a set of hearings this morning on the subject of property taxes. I was privileged to be the leadoff witness in these hearings, and I ask unanimous consent that my statement given to the Intergovernmental Relations Subcommittee be printed in the Record at this point because of its possible interest to Senators, various State officials, and others dealing with this important area.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Americans are understandably "fed up" with taxes. Despite the fact that in the five full years I have been in the Senate I have participated in passage of two major reductions of personal income taxes, it is all too apparent to many Americans that the combined burden of Federal, State income and sales taxes, and local property taxes, is increasing, while the purchasing power of their dollars continues to erode.

At the same time they are paying more, Americans feel government is providing less and less. Spending by Federal, State, and local governments as a share of total Gross National Product has increased from 13.3 percent in 1950 to 22.2 percent in 1971. In spite of this vast expenditure, amounting to $233.1 billion in 1971, there is a wide-spread feeling throughout this country that government at all levels is failing to deal effectively with the problems of our poor, our environment, and the declining quality of life both in urban and rural America.

Government owes it to the people to do a much better job with the tax dollars it collects. Congress must do a better job of setting priorities and allocating resources. We members of the Government Operations Committee have a special responsibility to oversee Federal spending and programs—and to assure that the Federal Government is structured to operate effectively and efficiently.

Our record, frankly, is not good. The President submitted, and I introduced a year and one month ago, the President's four major executive reorganization measures. I believe that these structural reforms could vastly improve Federal Government effectiveness, but we in the Senate have not completed hearings on even one of these bills. We owe it to the people and to our own sense of responsibility to move promptly on these bills.

Federal, State and local governments are facing unprecedented revenue needs at the same time that taxpayers are said to be in revolt. It seems to me that Congress faces two closely related tax reform responsibilities. First, we must re-examine the Federal tax code in order to simplify it, to make it more equitable by closing loopholes, and to increase revenues. At the same time we must examine local financing, especially the local property tax.

Thus, I believe these hearings will fulfill a very important purpose. For too long we in the Federal Government have turned aside constituent complaints about unfair and excessive property taxes, considering them to be a local matter. We must now face the issue directly. Local governments are more and more urgently pleading for help from the Federal government. We have a right to ask them to re-examine their own revenue-raising methods. Before considering any new national tax designed to relieve local tax burdens—which would merely shift taxes from one form of wealth to another—we must ask the States to reform their own basic taxing methods.

Thus, I propose a combined program that would:

Encourage local property tax reform; provide property tax relief for needy elderly citizens; reform Federal tax laws by closing loopholes and by a more effective "minimum tax" provision.

PROPERTY TAX REFORM

Real property taxes supply the bulk of local government revenues. Of total tax revenues of $38.8 billion in 1970, local governments obtained $32.9 billion from property taxes, compared to only $7 billion in 1950. State governments had $57.5 billion of revenues from their own sources in 1970, of which $1 billion was supplied by property taxes.

Thus it is clear that the localities have a very heavy dependence on the property tax. Even though it is under intense public criticism for its many faults, the conclusion is obvious that the property tax cannot be scrapped. But it must be reformed. Though some States still maintain taxes on personal property, such taxes are undesirable because they are difficult to administer. The focus of reform should be the real property tax.

Reform will be difficult. Misconceptions about the property tax abound. We hear that it is an "obsolete" taxation method that has "outlived its usefulness," that it is "regressive," that it is illegal and even unconstitutional.

We should debunk such senseless and demagogic political rhetoric. In actual fact, the property tax is still a sound and essential mode of taxing wealth. Studies have shown that ownership of property is more highly concentrated than income. By taxing accumulations of wealth in the form of property—and increases in wealth that take the form of increased property values rather than cash incomes—we can plug a major gap that income taxation leaves open, and we can take a big step toward making the entire tax structure more equitable.

If it is reformed, the real property tax can be a fair, efficient, and progressive tax. What is needed is competent, objective and uniform application of the tax in order to broaden the base, establish a progressive rate structure and eliminate inequities. By reforming the administration of the tax and broadening the base, hopefully we can lower taxes for many homeowners.

The need for reform is demonstrated by such entrenched practices as:

Gross underassessment of large mineral, commercial and industrial properties;

Unnecessary and unfair exemptions for certain groups;

Indiscriminate creation of special taxing districts in which all property is free from tax, or taxed at very low rates;

Federal or State government property, including government land or buildings, which is leased to private commercial and industrial users, but which is not taxable by local jurisdictions;

Property owned by local jurisdictions which is leased for industrial and commercial use but is tax-free because still owned by the jurisdiction;

Exemptions for classes of homeowners regardless of the income or assets of such persons;

Administration of the tax by unprofessional, part-time assessors;

Fragmentation of States into hundreds of taxing jurisdictions.

It is therefore important to understand that the real property tax, if properly administered, has not lost its value. It has fallen into disrepute because it has been so badly, unfairly, and frequently corruptly managed.

A major criticism of the property tax is that it is regressive. A flat rate tax that applies to all properties assessed at a certain percentage of value, or at full value, will indeed produce regressive taxes that will bear more harshly on the poor than on the rich.

But the regressive features of the property tax can be eliminated in a number of ways.

First, the burden of the tax on elderly and low-income homeowners can be eased by providing rebates, which I will discuss later. The system can also be made more progressive by establishing different classes of property to which different rates will apply. For example, homes, farms, commercial, and industrial property can bear different rates.

The question of property tax progressiveness has received very little study, and is another issue this committee should consider. For example, the appropriate method of taxing farmland is a major problem in many states. Most of us would agree that farmers should not be taxed at the rates that are often indicated by the accelerating values of their properties. Various types of relief for farmers can be devised. Farmland can be classified in a low tax bracket. Or, the taxes farmers owe above a minimum level could be levied only when the farmer actually sells the land. In other words, farmland would continue to be assessed at its fair market value, and the farmer would pay a certain portion of the applicable tax, but the "excessive" element of the tax would remain uncollected until the farmer actually realized the cash value of the property at time of sale.

The property tax is neither illegal nor unconstitutional. The landmark decision of the California Supreme Court in *Serrano* v. *Priest* did not, as is widely thought, hold against the property tax itself. It simply said that a State cannot use any method of education funding that results in different amounts of money spent for children in different localities.

The *Serrano* decision, and others in Texas and Minnesota, is forcing many States to re-examine their property tax systems as the basis for financing education.

The local property tax is the primary source of funds for public education. It provides 52 percent of the $42 billion we spend annually on education. Only 41 percent comes from the states and only 7 percent from the federal government.

This heavy reliance on property taxes has resulted in wide variations in school support and the educational inequities inherent in such variations. Thus, the quality of a child's education can largely be a function of the taxable wealth of his community.

The impact of this system can be illustrated by examples such as the following:

According to the National Educational Finance Project, a study of 215 standard metropolitan statistical areas showed the revenue capacities of local governments ranged from $343 per capita to less than $100 per capita.

The same study showed that a wealthy district in Indiana annually provides $2,100 per child while the poorest provides only $580; in Virginia the ratio is $1,150 to $500; in California $1,300 to $650; in Louisiana $1,100 to $450; and in Michigan $1,300 to $650.

My own state of Illinois offers similar comparisons. The state's wealthiest high school district had an assessed valuation per pupil of $257,818, in 1969; the poorest a valuation of $27,984. The wealthy district spent $1,761 per pupil; the poor district, $607.

Average assessed valuation per pupil for the state's 10 wealthiest high school and elementary districts are almost the same—slightly more than $170,000. At the other end of the scale the state's 10 poorest elementary districts had a 1969 average assessed valuation of $8,221, and the 10 poorest high school districts averaged $35,117 per pupil.

The only means available for a poor school district to achieve some measure of equity in its educational spending is to tax its property owners at a very high rate.

The property tax as the major means of financing education must be reformed if we are to provide equal educational opportunity for every child and treat all taxpayers fairly.

SOME PROBLEMS OF PROPERTY TAXATION IN ILLINOIS

Illinois shares with most other States serious problems both of structure and administration that demand corrective action.

Though the State has jurisdiction over property taxation within its boundaries, property tax administration is divided among hundreds upon hundreds of local tax units. The result is that the tax base is so fragmented that property taxes cannot be applied to best economic advantage, and many, if not most, tax jurisdictions are unable to provide a reasonable level of services at a reasonable tax rate. According to the Advisory Committee on Intergovernmental Relations, Illinois has 1,424 property tax districts.

The resulting "balkanization" of taxing jurisdictions leads to many problems, very serious disparities among taxing districts; adverse effects on land use and planning, and multiple opportunities for abuse of the tax itself.

In Cook County citizen action programs and the press have revealed examples of abuse and documented some of the worst features of the County's property tax system. It is exposed as arbitrary, intensely personal and political, closed, and unfair. Certain major properties have been assessed far below their fair market values and below that of comparable properties owned by less politically influential owners.

In Cook County, for example, the land at five major racetracks, Arlington, Maywood, Hawthorne, Sportsmens and Washington, is underassessed by an estimated $22.3 million. At Arlington alone the land is assessed at an outrageously low 3.7 percent of market value.

Though State law requires assessment at full market or sales value, this is never done in practice. Throughout Illinois, assessment ratios are a matter of local determination, though a State effort is made to equalize tax assessments between counties. Cook County lists several classes of property, each with a different rate. For example, commercial and industrial property is assessed at 45–55 percent of market value, and residential property at 20–25 percent. These categories were arbitrarily established by the county, however, and there is no assurance that properties falling within these classes are actually assessed even at those rates.

Illinois Governor Richard Ogilvie has recognized the seriousness of this problem in Illinois by appointing a State official to review property tax problems in major counties. I very much support this review, which I hope will lead to a major state program that will come to grips with the problems of property taxation in Illinois.

CITIZEN ACTION

Many of the faults of the property tax as it is now implemented stem from lack of public knowledge, or ability even to find out, about local property taxing systems. Thus the single most important tool for improvement is "full disclosure." When a taxpayer receives a property tax bill higher than last year's, he should know why. The information he needs to determine whether his property is overassessed, or whether he is paying more than his fair share in order to compensate for someone else's exemptions, should be readily available to him. If it is not, the taxpayer should and can demand establishment in his local taxing jurisdiction of a quick, easy procedure for taxpayer information and appeals, and State governments should spur creation of such systems.

Thus, taxpayers themselves must and can be the policemen of the local tax system. They can and should demand access to the records and the procedures by which they are taxed.

The ability of citizen action groups to fight and beat City Hall has been demonstrated in Cook County. Citizens groups like Citizen Action Program and Businessmen for the Public Interest are forcing changes in what was a closed and virtually impregnable system. I very much hope that this Subcommittee will be able to hear from progressive groups like these from my own State, either in field hearings or in additional hearings in Washington

AID TO THE ELDERLY LINKED WITH PROPERTY TAX REFORM

One of the most troubling problems I have experienced in my own work as a member of the Senate Select Committee on the Aging is the tragic effect of high property taxes which force elderly people out of their homes frequently into inferior, inhospitable, even dangerous housing situations.

Property taxes have skyrocketed, but the incomes of elderly people have remained fixed, or have risen only modestly. Their taxes are essentially being used to educate someone else's children.

State assistance is urgently needed to blunt the burden of high property taxes upon elderly property holders. Such programs have been adopted in Wisconsin, Minnesota, California, Vermont, Kansas and other states; they should be encouraged in all the States.

I propose Federal grants to the States to encourage creation of such programs. The Governor of Illinois has proposed such a program, estimated to cost $16 million annually. Under the Governor's proposal, if the property tax bill of an elderly person (age 65 or over) exceeds 8 percent of his income, that person then becomes eligible for relief in the form of a grant from the State. Maximum grants are limited to $300. Over an income of $3000, the maximum grant drops by $5 per each additional $200 of income. For example, if an elderly property owner has an income of $3000 and his property tax exceeded 8 percent of his income, the State would pay the excess up to $300. If the property owner has an income of $3200, the maximum state payment would be $295. An elderly household with income over $14,800 would not be eligible.

The program proposed for Illinois also includes renters. The State has calculated that 25 percent of one year's rent applies to property taxes. Hence, seniors would be eligible for rebates on 25 percent of their rents.

The Illinois proposal is not a tax forgiveness scheme. The assessment is made, and the tax is levied, as usual. The elderly citizen then applies for a rebate from the State for the excess amount of tax.

The mechanism might be improved by permitting elderly citizens to calculate the amount of the State property tax rebate and deduct that amount from their local property tax bill. The State could then reimburse the local taxing unit for the amount of the tax rebate.

Governor Ogilvie's proposal could reach an estimated 185,000 out of 660,000 senior Illinois households. The amounts used in the formula proposed for Illinois may not be adequate to meet the needs of other States, but the formula itself seems workable and fair. Perhaps the Illinois proposal itself should be expanded to provide greater coverage of needy elderly homeowners. I would, however, leave determination of the appropriate formula to study and investigation by this Subcommittee and the Special Committee on Aging.

In addition, I would urge this Subcommittee to consider extending the proposal to other low-income property owners who need relief from property taxes.

States should also consider permitting a poor householder to defer property taxes by accepting a tax lien on his property. The individual's tax bill would be paid to the local government from a State fund, which would be reimbursed either at time of sale of the property or by the taxpayer's estate at death.

STATE PROPERTY TAX REFORM

In order for states to be eligible for Federal payments, they must, over a period of time, reform their property tax systems.

1. *States must establish uniform systems of assessment that would help assure an equalized property tax burden on all communities in the state, establish progressive rate structures and provide equal education funding.*

This means abandonment of the exceptionally fragmented property tax administration that now exists. The Advisory Commission on Intergovernmental Relations lists 14,496 property tax districts in the United States. The result in many states is a system that encourages such abuses as:

Competition among communities for high value industrial or commercial enterprises, often through promises of property tax relief;

Badly planned urban development, which discourages setting aside of land for parks and other community related non-taxable facilities;

Gross disparities in revenues; for example, communities with almost no commercial or industrial property tax bases (and thus high taxes on homeowners) adjacent to communities with a wealthy base (and low taxes);

Tax boundaries drawn especially to allow industrial or commercial properties to escape taxation.

Uniform state assessment would be a major step toward providing a broader, more equitable tax base that could result in additional revenues.

But State assessment would not solve the problem of the balkanization of taxing jurisdictions of varying degrees of wealth, each levying different tax rates in order to derive revenues.

Levying property taxes on a State basis would be a way to overcome the problem of balkanized local tax jurisdictions. But this answer raises extremely serious problems of local autonomy and local government control. States could only with great difficulty require local communities to share their tax bases. Minneapolis has created a compact with neighboring counties by which increases in assessed valuation of the tax jurisdictions in the region will be shared among them by a proportional formula. This is an extremely valuable initiative that I suggest be studied by this Subcommittee.

Moreover, I suggest the Subcommittee consider the problem of fragmented taxing jurisdictions with great care in order to propose workable solutions to be implemented by the States.

2. *States must define the property tax base so that the tax is enforceable and relatively easily administered.*

A major fault of some States' property taxes has been that they attempt to tax property, such as personal property, on which it is difficult if not impossible to assign a realistic value. Another problem has been that states require that the basis for assessment be market or fair sales value. This is the theory, but not the practice. Instead, individual jurisdictions and assessors often develop their own standards of assessment, which are variable within jurisdictions according to the whim of the assessor, or they create locally-determined formulas allowing for perhaps illogical variations between classes of property. This Subcommittee could provide a valuable service by suggesting standard definitions of property tax base and standard rules for assessment of different classes of property.

3. *States must seek to broaden the tax base by establishing a minimum number of clearly defined exemptions.*

As property taxes have risen, so has a nation-wide trend toward adding exemptions. Such exemptions further erode the property tax base. For example, Illinois in 1970 enacted a homestead exemption of $1500 for each property held by an elderly citizen. The exemption was a response to an urgent need, but was not the best response. The better course would have been to retain assessments and taxpayer payments, but to provide the subsidy directly from revenues so that it would be visible. The National Commission on Urban Problems said that such exemptions "result in increased expense for taxpayers to whom the burden is shifted, progressively weaken the property tax system, and complicate administration . . . Sounder policy would involve open regular subsidies for socially defensible purposes, requiring appropriation and expenditure action."

Proliferating exemptions is one of the worst problems of property taxation. For example, in Illinois we do not even know how much property is exempt. Exemptions are relatively easy to obtain. Reapplication at intervals is not necessary. There is no compilation of the total amount of exempted property, and thus no knowledge of the cost, or validity of exemptions.

4. *States must reform administrative machinery.*

All assessments should be made annually by a highly trained, professional team of assessors employed by the State and using modern data processing techniques. Separate Federal grants should be available for development of such professional services.

5. *State and local tax jurisdictions must regularly publish assessment and other data.*

States must regularly publish current information on assessment/market ratios, exemptions from tax, and should notify taxpayers of processes of reassessment and the application of tax rates.

6. *States must establish regular machinery for taxpayer appeals, and for the collection and disbursement of revenues.*

A full disclosure policy must be backed by a ready system for easy appeal by taxpayers. Collection of property taxes should be improved. Monthly tax escrow payments to banks or savings and loan institutions should not be held by them, but should be turned over to the taxing authority.

This practice would save many communities from borrowing from the same institutions to meet their expenses until the financial institutions make their annual payments of tax funds held in escrow. It would end the practice whereby the financial institutions collect escrow money from mortgagees and hold it without paying interest, while at the same time lending at interest to municipalities. The result would be to save millions in interest costs on tax anticipation warrants.

FEDERAL PROGRAMS

To complement State tax reform efforts the Federal Government should take the following steps:

1. Establish a center for State tax assessment programs which would include training programs for assessors, and creation of model state assessment and appeals programs.

2. The Census Bureau should extend its current assessment/sales ratio studies to properties worth more than $300,000, so that such properties, which can provide substantial tax revenues, are more fairly assessed.

3. The Internal Revenue Service should establish a regular system of spot-checks on the veracity of the breakdowns between land and building valuations. There reportedly is a wide-spread practice of overallocating value from land to improvements because the amount of depreciation a reporting taxpayer can deduct from taxable income is thereby increased.

4. Present disparate Federal appraisal functions should be coordinated within the Census Bureau. The Federal government now makes appraisals in connection with mortgage insurance programs, urban and rural housing programs, rate checking in regulated industries, defense procurement, acquisition of national parks and highways, settling damage claims, and checking IRS returns. This appraisal information, which extends into all the States and many communities, could be helpful to State assessment agencies if made available through a central computerized retrieval system in the Census Bureau.

TREASURY STUDY OF SITE-VALUE TAXATION

The Treasury should begin a study of the practicality and effect of site-value taxation. Reputable analysts for years have contended that prevailing state systems of property taxation, which typically undervalue land and overvalue improvements, discourage property improvement, encourage holding of unimproved or vacant urban lots (including slum housing) and encourage urban sprawl by making it cheap for speculators to hold blocks of vacant suburban land pending future sale at optimal prices.

FEDERAL PAYMENTS IN LIEU OF TAXES

The Federal Government owns, according to the 1970 Report of the Public Law Land Review Commission, 33.3 percent of the national land area, which is under the control or administration of at least 28 different Federal agencies. The Federal Government should begin to make payments to the States and localities in which such land is held. Presently a number of Federal payments are made to communities or jurisdictions to compensate for tax-reducing effects of large Federal land holdings. These payments are not nearly adequate. The Public Land Law Review Commission strongly recommended that Federal payments in lieu of taxes be made, though permitting a public benefits discount of at least 10 percent in order to give recognition to the intangible public benefits that some public lands provide.

FEDERAL TAX REFORM

It would be inappropriate to demand reforms of local property taxes without asking for reform of the Federal income tax.

Over the years the Federal tax code has been amended to provide special tax treatment for many types of economic activity. These tax subsidies are estimated by the Treasury to cost the United States $35.8 billion in lost tax revenues in fiscal year 1971, compared with total Federal tax receipts of $188.4 billion the same year. This figure does not include the effect of the Revenue Act of 1971, which increased the annual cost of tax subsidies substantially.

It is projected that the revenue needs of the Federal, State and local governments will require new Federal taxes. Rather than consider imposing a new type of Federal income tax such as a value-added tax, or before raising present income tax rates, we must now take a hard look at the structure of the Federal tax code, including tax subsidies.

A first step is to know what the annual cost of such tax subsidies is. Senator Javits of New York and I offered an amendment to the 1971 Revenue Act to require an accounting of the cost of tax subsidies to be submitted each year with the budget. The Administration opposed the amendment, as did some Senators who were afraid what such public disclosure might show, but the Senate passed it nonetheless. The Provision was deleted in conference, but the Treasury agreed that it will annually submit such a report.

Federal income tax reform is certainly needed. But I deplore the facility with which some politicians distort this issue. What appears to one man as an outrageous give-away for a special group or economic interest, appears to another as a justifiable, necessary subsidy to encourage an important element of public economic or social policy.

A number of existing so-called "loopholes" have been singled out for reform. Prominent among them are percentage depletion allowances for companies in extractive industries and taxation of capital gains at death. Many other loopholes can be cited as examples. To a significant extent the actual revenue-raising effects of such tax reform measures have been exaggerated, according to Treasury tax analysts.

Thus it is appropriate to distinguish reform for purposes of equity, and reform for purposes of raising additional tax revenue. Tax equity has become critically important as average citizens more and more come to resent those who are able to reduce their taxes often by significant amounts. Closing undesirable loopholes will, in many cases, increase revenue only marginally. But the more important purpose, ensuring that the burden of taxes falls equitably and fairly on everyone, will be achieved.

A major question of equity that has received a great deal of attention in the press each year is the number of people of wealth who pay no tax at all. A preliminary Treasury report for 1970 shows that 22 people with incomes over $500,000, and 3,314 people with incomes over $30,000 paid no tax at all.

The Tax Reform Act of 1969 attempted to deal with this problem by enacting a minimum tax provision requiring that all preference income (for example, long-term capital gains) over $30,000 be taxed at a rate of 10 percent. Specifically, it provides that tax on regular income be deducted from preference income, and that the 10 percent tax be applied to remaining preference income. It was estimated at the time that this provision would generate an additional $635 million in taxes. Consideration should now be given to tightening this provision. The $30,000 exclusion could be eliminated. The provision permitting the tax on regular income to be deducted from preference income could be eliminated. Bracketed rates could be established to provide for higher taxation of higher preference incomes. I now have legislation to accomplish these changes under study.

CONCLUSION

Mr Chairman, these proposals for property tax reform raise a number of very complex problems. I can only suggest answers to these questions. It is my hope that this Subcommittee, which initiates today the first Congressional examination of local property taxation, give these issues the attention they require through thorough hearings, and staff and consultant studies.

By providing a Congressional forum for the study of problems of property taxation the Subcommittee is providing a focus for an increasingly intense national discussion.

The property tax is under increasing attack from all elements as costs of public services increase. Relief for certain types of property owners, particularly the elderly, is necessary. Reforming the property tax can, in my view, do a great deal to reduce inequitably high rates for many people, and raise them for those who are unfairly exempted or under-assessed.

The problem with the property tax is not the tax itself but in the way it is administered. If Congress is to respond to popular dissatisfaction and increasing local needs for funds, then the Congress should expect the States and localities to begin putting their own taxing system in order. These proposals, I submit, are a start in that direction.

ADDITIONAL DEATHS OF ALABAMIANS IN VIETNAM WAR

Mr. ALLEN. Mr. President, I have placed in the Record, the names of 1,150 Alabama servicemen who were listed as casualties of the Vietnam war through December 31, 1971. In the period of January 1 through March 31, 1972, the Department of Defense has notified four more Alabama families of the death of loved ones in the conflict in Vietnam, bringing the total number of casualties to 1,154.

I wish to place the names of these heroic Alabamians in the permanent archives of the Nation, paying tribute to them, on behalf of the people of Alabama, for their heroism and patriotism. May the time not be distant when there will be no occasion for more of these tragic lists.

I ask unanimous consent to have printed in the Record the names of the next of kin of these four Alabamians.

There being no objection, the list was ordered to be printed in the Record, as follows:

List of Casualties Incurred by U.S. Military Personnel From the State of Alabama in Connection With the Conflict in Vietnam, January 1, 1972, Through March 31, 1972

ARMY

SP4 Neil W. Jones, husband of Mrs. Regina J. Jones, Route 14, Box 304, Cullman, 35055.

SP4 Don H. Ware, son of Mrs. Margaret H. Whitehead, P.O. Box 399, Trussville, 35173.

1LT James C. Williamson, son of Mr. and Mrs. Shelton M. Williamson, Route 1, Box 439, Anniston, 36201.

AIR FORCE

Amn Bruce D. Jones, son of Mr. and Mrs. Richard Jones, 302 Reynolds Avenue, Evergreen, 36401.

WHALES AND MEN

Mr. BROOKE. Mr. President, on April 23, 1972, Dr. Robert M. White, Administrator of the National Oceanic and Atmospheric Administration and a fellow Bay Stater by birth, delivered the inaugural lecture at the New Bedford Whaling Museum's new theater. It was entitled "Whales and Men," and I was most pleased, upon reading it, to discover his keen awareness of the urgent necessity for action to save the world's whales—the noblest of ocean mammals. I believe his lecture is well worth the attention of Senators, I ask unanimous consent that it be printed in the Record.

There being no objection, the lecture was ordered to be printed in the Record, as follows:

Whales and Men

As a New Englander, I am grateful that you have invited me to participate in the inauguration of your fine new auditorium. It is a milestone in this institution's history, and the city's, and I am honored to be a part of the occasion.

Nineteen hundred seventy-two marks the first year in more than 300 that the shout "Thar she blows!" will not be heard from the deck or crows-nest of a United States whaling ship. All U.S. whaling ceased officially on December 31, 1971—and thus ended one of the most colorful and exciting eras in our oceanic annals, times of glory and times of shame.

It is not only fitting, but important, that this noble mammal, and the men who pursued him, achieve the security of a niche in history. The blue whale is the largest mammal, past or present, ever to live on earth. In comparatively recent years, one of the largest blue whales taken was 89 feet long and 43½ feet around. It weighed 150 tons. The tongue alone weighed three tons. My personal awe of whales and my fascination with them goes back, as it must for many of you, to Moby Dick. It is, of course, regularly reinforced by periodic visits to the Smithsonian Natural History Museum in Washington where the full-scale model of the blue whale dwarfs all else in the museum.

Whales appear in our literature from virtually the earliest of times. That whales were not fish, but mammals, was recognized by Aristotle as early as 350 B.C. There is evidence that long before the Pilgrims landed on Massachusetts' shores, whaling had extended to the waters off what was to be the United States; records predating 1676 established that men were hunting whales off the colony of New Plymouth.

It was inevitable that New Bedford should become a major whaling port. Acushnet Harbor was, and is, ideal for a fishing industry's home port. By 1751, a small whaling operation was underway from New Bedford. By 1763 a viable fishery for Right Whales was in being off New England. Incidentally, I was interested to learn that the name Right Whales for the species came into being because New Bedford whalers found it the most profitable one to catch and called it the Right Whale. For many years, this whale—a heavy producer of oil and whalebone, was the mainstay of the New England whaling industry.

To complement the growing whaling of the 1760's, the New Bedford waterfront developed rapidly with boat-builders, suppliers, agents, and others. It took the American Revolution to slow it down; it was simply too dangerous for a colonial whaler to be caught by the British. After the war, the crippled port of New Bedford looked again to the Sea and the whale to help restore its vitality. Whales, in fact, accounted for New Bedford's comeback; not until after the War of 1812 and until New Bedford ships were ranging worldwide for whales did the city enjoy a return to prosperity. In the interim, however, a certain amount of history was made: For example, the vessel *Rebecca* became the first American whaling ship to double Cape Horn, sailing September 28, 1791, and returning February 23, 1793, with a full cargo of sperm oil.

In the 1800's—the golden age of old-time whaling—New Bedford men and other New Englanders with pioneer spirit, and the courage and endurance to undertake the rigors of life at sea, sailed their ships in search of the whale oil which in those days provided light and fuel. In New Bedford alone in 1857, no fewer than 329 ships worth more than $12 million, employed no fewer than ten thousand men.

Whaling had become so identified with the functioning of New Bedford, that Melville in Moby Dick could write, "In New Bedford, fathers, they say give whales for dowers to their daughters, and portion off their nieces for a few porpoises apiece. You must go to New Bedford to see a brilliant wedding; for they say, they have reservoirs of oil in every house and every night recklessly burn their lengths in spermaceti candles."

But advancing technology is noted for ending many a legend of bravery and glamour and a new product called petroleum, which appeared at the turn of the century, foreshadowed the death knell of whaling in the United States. Development of this new fuel, and rising production costs, brought a decline even more rapid than the rise of whaling. By 1906, only 46 whaling vessels survived in the entire Nation. The last whaler sailed out of New Bedford in 1927. And now there are none anywhere in the United States.

But as one era ends, a new one begins. Many of the world's whale herds are threatened with extinction. The era before us must be one of restoration of these herds. Why do we find ourselves in this desperate predicament? Our New Bedford whalers of the 1800's would have been struck dumb could they have witnessed the efficiency of modern-day factory ships operated by the Soviets and the Japanese. This efficiency, combined with the intensive whaling for 150 years, has been more than our whale populations could stand. As we have grown to appreciate the obligation that man has to preserve and protect the earth and its ecosystems which sustain all of us, the tragedy of the whale strikes home. These magnificent beasts are part of the fabric of our world and their disappearance will diminish us all. It is expressed best in Genesis where it is said: "And God created Great Whales." We in the United States have an obligation to provide the spur that will lead to the protection of our remaining whales, that they may return to their past abundance.

We cannot say that the depletion of our whales is something which has crept up on us and taken us by surprise. As early as 1925, the League of Nations appointed a committee to study whale exploitation in the fear that the rarer species might become extinct. Ten years later, a Convention on the Regulation of Whaling came into being. The Whaling Treaty Act of 1936 implemented the Convention's provisions, protecting four severely depleted species of Right Whales and prohibiting the capture of female with calves.

The Convention was suspended during World War II, but it was renegotiated in 1946, the principal change being the establishment of an international commission, a permanent organization to regulate whaling. The Convention also established a form of international quotas. But the quota system adopted was biological nonsense. The method of establishing quotas did not distinguish between the various species of whales, their abundance, their migratory habits, their life cycles. They were all regarded merely as so many potential barrels of oil. It was as if we regulated the taking of birds in terms of a quota on the poundage of feathers, and not on the variety or abundance of species. It was as if the bald eagle could be equated to 32 sparrows!

Although the International Whaling Commission, established to provide for international conservation of whales, has done much fine work, some whales are now threatened with extinction. History will clearly judge the International Whaling Commission on the fate of the whales, and unless significant changes are made, history will judge it a failure. We urge the IWC to do more. We do not intend to relax until we have achieved, through every means available to our Government, a suitable international arrangement for the protection and conservation of whales.

How badly off are we? Badly enough. Sufficiently badly to indicate that lack of action may doom many of the species. I do not believe, as some fear, that already there are too few whales of certain species to permit them to find each other and reproduce, and that they will simply disappear forever.

Our scientists believe that, given a reasonable chance, the whales—even our most depleted stocks—will survive.

The best estimates available to us indicate a global population of about 100,000 fin and 120,000 sei whales, more than 150,000 sperm whales. These species are in the best condition, some of them depleted but not threatened with extinction. However, the situation with other species is desperate, perhaps as few as 6,000 blue whales remain—the species which is in the worst condition. That we can hope to restore whale herds by conservation practices is demonstrated by what has happened to the Grey Whales in the eastern North Pacific. These marvelous beasts which make their annual migration down the California Coast in sight of land once seemed doomed. The herd size has now been stabilized, and actually increased moderately in the past 20 years, although this year's count has revealed an unexplained decrease.

The growing tragedy of endangered species in general has been recognized. The Congress provided certain tools for dealing with such problems in its passage of the Endangered Species Act of 1969. In November, 1970, the Secretary of the Interior declared eight species—including those not recognized as being endangered by the International Whaling Commission—the fin, sei, and sperm—to be endangered species. This prohibited the importation of whale products into the United States as of December 2, 1971.

U.S. whaling is governed by licenses issued by the Department of Commerce. The Secretary of Commerce, in whose Department the National Oceanic and Atmospheric Administration is located, thereupon ordered the cessation of U.S. whaling by denying the issuance of further commercial licenses. This terminated commercial whaling in this country as of December 31, 1971. Announcing the action, Secretary Maurice H. Stans said that "while the Commerce Department is vitally concerned with the health of all U.S. business, it is also firmly committed to sound conservation practices." This policy is being carried forward by our new Secretary, Peter G. Peterson.

Our Congress has acted. Resolutions have been passed requesting the Secretary of State to call for a global 10-year moratorium on whaling. Other bills under consideration by Congress will also help. One is the Marine Mammals Protection Act which would prohibit the taking or importing of marine mammals. The second is the Administration's new and stronger Endangered Species Bill. The new Endangered Species Act provides the authority which will protect species before rather than after the fact of endangerment. This new legislation would empower regulatory action by the Government on species which are likely to become endangered within the foreseeable future.

But let us square with the facts—cessation of the last whaler in the U.S. and preventing of whale products is a valiant gesture, but a feeble tool, for protecting the whales. The simple fact is that whales are caught by other nations, and our actions affect them not at all. Although the United States has taken the lead in conservation initiatives, we must face the fact that we alone cannot save the world's whales. And so we must seek now ways to achieve our goals. What we need and what your Government is forcefully advancing is a more effective international management scheme which would involve whaling and non-whaling nations alike. Here the administrative and scientific capabilities of the International Whaling Commission must be strengthened. But more importantly, it must move decisively to enact a much improved management program adequate to insure survival of the world's whales. We in the United States must step up our scientific studies also to assist in this program to provide for a rational foundation for the conservation not only of whales but of all marine mammals. We in NOAA will expand our marine mammal scientific program to provide the required information.

Regulations must be supported by enforcement through international inspection systems covering all the world's whaling fleets. We will work to insure that our proposed conservation efforts will receive meaningful support in the International Whaling Commission. We are, however, prepared to enlist the assistance of other organizations and take the world's case for whale protection to other forums. For example, the landmark United Nations Conference on Problems of the Human Environment, to be held in June in Stockholm, will consider the issue of whales. We intend to pursue the topic vigorously there.

Whatever the mechanism, the challenge is clear and present, and in it lies something more than perhaps our last chance to save the whales. In this challenge lies the opportunity for the great nations of the world to demonstrate that they can—and will—work effectively and unselfishly together for a cause common and vital to all.

We admire the hardy men who preceded us here; who went down to the sea in ships, many for two or three years, many never to return, in search of the whale. They are part of our folklore; they are very much in the American tradition. In the early and mid-1800's, when there was no reason to believe the sea would ever lack a bountiful supply of whales, there was no reason for concern about their preservation. I am convinced that our New England forbears, who lived so close to Nature for so long, and who lived in harmony with her—within the limits of their understanding—would be the first today to recognize and champion the coming of the new era of conservation.

We must, in fact, conserve or suffer the consequences. Although it is not a popular thing to say, conservation must begin at home. The concept is not an easy one to accept in the face of the difficulties which today beset New England's fisheries and with the spectacle of foreign fleets gobbling up valuable—and perishable—stocks almost under our noses.

For more than 300 years, men from New England have fished the rich banks off New England for their livelihoods. During these centuries the fishing grounds, although located in international waters, were used almost exclusively by American fishermen. In the early 1960's, huge fleets from the USSR and other nations moved in, bringing modern technology, mass fishing, depletion and hardship. Haddock, cod, herring, the hakes, mackerel and other species have been, and continue to be, heavily exploited. This audience knows the impact better than all others. You suffer double jeopardy. You bear the brunt of the economic hardship that accompanies both bad conservation practices as well as the remedies of drastic quotas necessary to give hope of restoration of resources on which you depend. I speak of the yellowtail flounder, one of the mainstays of New Bedford's fleet today. In recent years this species has declined alarmingly, with the hardships more than evident.

You are faced with a Hobson's choice—some of you think unfairly—to suffer the immediate hardship of quota regulations and to work with us to restore the resource on which the community depends, or suffer in the long run the catastrophe which will result from unregulated take and permanent destruction of the resource. You have a right to expect the support of your Government to assist you in these difficult times. You have the right to expect your Government to represent you and your interests forcefully in international negotiations, and you have the right to expect your Government to insist upon enforcement by all, of such agreements as are arrived at. I will be the first to admit that we have not always been successful. But it is not because we have not tried. And I pledge that we will not cease to exert our every effort.

We face a dilemma. It is a fact that fisheries on the high seas beyond 12 miles are in international waters. Under present law, they are common property and are subject to exploitation by anybody and everybody. The only mechanism we now have to regulate the take is through the International Commission for the Northwest Atlantic Fisheries. It has not served our national interests adequately, but it is all we have. We are striving in that forum to push for adequate regulations. We seek to move toward national quotas as a means, at the present time, of insuring adequate fish for our fishermen. We have made a start with herring. More species must be brought under quotas soon.

This kind of regulation may save the stocks but not necessarily American fishermen, for those nations whose recent efforts have depleted the stocks still will be able to take a major share. In our view, the problem will not approach solution until the coastal nation has a much greater degree of control over coastal fishery stocks, and a preferential share of the yield of those stocks. We have expressed our views vigorously in support of coastal Nation control of coastal stocks at the most recent preparatory meeting for the United Nations Law of the Sea Conference to be held in Geneva in 1973. NOAA and its National Marine Fisheries Service are deeply involved in planning for the conference, and we are determined to seek a U.S. position which will bring an end to the systematic overexploitation of resources on which our people depend.

We are also deeply concerned about environmental deterioration and its effects upon the living things of the sea. The practice of dumping polluted materials in the ocean has had serious consequences. Clams, bay scallops, and oysters, limited essentially to coastal waters, are especially vulnerable and deserve the best protection we can offer them. Even more important is the continuing decline of water quality in our estuarine and coastal environments, and its effect upon their capacity to produce the things we need. Man has physically damaged these environments through thoughtless dredging, filling and bulkheading, thus removing vital nursery areas. I wish every developer along the United States coastline could be made somehow to realize that two-thirds of all our coastal species spend at least part of their lives in our bays and estuaries.

Nevertheless, there are hopeful signs. Officialdom, at least, is becoming painfully aware of the fact that the coastal zone has a multiplicity of use, and one of the most important is as a habitat for valuable commercial fisheries and a source of recreation. It is becoming quite clear that coastal zone management mechanisms must be found and put into practice to properly balance the uses to which we put this vital area.

When NOAA was created in October, 1970, President Nixon charged us with a major environmental mission. Chief among our tasks are the exploration and description of the oceans, their basins, and their life forms and resources, achieving a better understanding of their processes, and supporting the technological advances necessary to effective and protective use of the seas.

Our marine resources—poorly understood, managed hardly at all, threatened on all sides—are among our most priceless assets. We intend that what has happened to the whale shall not be repeated with other species if it lies within our power to prevent it.

Thank you.

WOMEN IN LEGAL EDUCATION

Mr. BAYH. Mr. President, I ask unanimous consent to have printed in the Record a memorandum entitled "Women in Legal Education," prepared by the Association of American Law Schools.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

Women in Legal Education

Based on information provided by input forms received from law teachers in connection with preparation of the 1971–72 edition of the *Law Teachers Directory*, 200 out of 4,800 members of law school faculties in the United States have identified themselves as women. Since not all women faculty members chose to indicate their sex, absolutely accurate figures are not available. However, 200 women law teachers represent a little over 4% of the total faculty in law schools. This represents, proportionately, a 100% increase in the number of women on faculties since 1968.

These figures include librarians, but such inclusion is particularly appropriate in the law school world, where approximately 50% of the librarians have tenure and faculty status and participate in the formulation of educational policy decisions within their individual law schools. Also, it is not uncommon for law librarians to have important teaching functions, particularly in legal bibliography and research technique.

There has also been a significant increase in the number of women law students in the last few years. For example, in 1969, out of a total law student population of approximately 72,000, there were about 5,000 women. In 1970, although the law student population nation-wide increased about 20%, to approximately 86,000 students, the number of women enrolled increased almost 50% over the previous year, to a total of about 7,300. And, in 1971, the number of women students increased to a little more than 9,100 out of a total student body of approximately 97,000. Furthermore, it is important to note that, while the total number of women students continues to increase at a rate greater than the overall increase in the law student population, the increase of women in the first year class is greater than the overall increase of women students generally. Thus, in 1970, the first year class numbered approximately 36,600, of which almost 3,800 were women, while the first class in 1971 had almost 4,500 women out of a total of approximately 37,500 law students.

THE RUSSO-GERMAN TREATY—A TIME FOR REFLECTION

Mr. BELLMON. Mr. President, on this day, May 4, 1972, the German Bundestag had scheduled a crucial vote on the subject of ratification of the Russo-German nonaggression pact.

The very strong and vocal opposition to the ratification of this treaty expressed over the past months, and particularly in the past week, almost caused the fall of the West German Government of Willy Brandt and has erupted into the most severe political crisis in post war Germany.

The narrow margin of 249–247 that Mr. Brandt managed to achieve in the April 27, 1972, vote of no-confidence, places in dire jeopardy the credibility of the Brandt government and undermines the confidence of its allies in that regime.

It now appears that the West German political crisis has resulted in a decision by Chancellor Brandt and the Christian Democratic Union to postpone the scheduled ratification vote and to attempt to reach a meeting of the minds of this key issue.

I applaud this new development and trust that all parties concerned will reflect upon the basic principals of the Russo-German Treaties and the Russian record of abrogating treaties and agreements in the past.

I hope the West German leadership will reflect upon the dual role the U.S.S.R. is presently playing; that of implying peaceful goals in the Russo-German treaty and at the same time maintaining the east European prison, aggressively extending their naval might in the Mediterranean and Indian Oceans and financing the invasions of South Vietnam, Cambodia, and Laos

I hope the West German leadership will reflect upon the Russian record in the United Nations where their performance as champions of peace is difficult to identify.

I would hope the West German leaders would reflect upon the long suffering imprisoned East European population whose plight is totally ignored in the treaty.

I would further ask them to understand and reflect upon the U.S. military commitment in Western Europe, a commitment that has gone on since the end of World War II—27 years—a commitment that cannot continue for the sake of supporting treaties that by thier definition call for a reduction in that commitment.

Finally I would hope that the West German leaders will address themselves to the principal of a true nonaggression pact that would incorporate practical, and meaningful expressions of a desire for peace.

I firmly believe that unless the Russo-German nonaggression pact incorporates concrete provisions, that are a true expression of a desire for peace and not implied promises, any hope of achieving a meaningful peace-agreement with the U.S.S.R. is shear illusion

GOVERNMENT'S BRIEF IN UNITED STATES AGAINST GRAVEL

Mr. ERVIN. Mr. President, on Tuesday, April 11, 1972, I placed in the CONGRESSIONAL RECORD the brief submitted by the Senate in the Supreme Court case of United States against Gravel. The brief appears at pages 12098–12102. On April 11, the Senator from Alaska (Mr. GRAVEL) placed in the RECORD the text of the brief he has submitted to the court. That brief appears at pages 12674–12728 To complete the RECORD, so that Senators and the American people will have available the positions of all the parties in the controversy, I ask unanimous consent that the brief prepared by the Department of Justice be printed in the RECORD.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

[In the Supreme Court of the United States, October Term, 1971]

No. 71–1017, MIKE GRAVEL, UNITED STATES SENATOR, PETITIONER, v. UNITED STATES OF AMERICA; No. 71–1026, UNITED STATES OF AMERICA, PETITIONER, v. MIKE GRAVEL, UNITED STATES SENATOR

(On writs of certiorari to the United States Court of Appeals for the First Circuit)

BRIEF FOR THE UNITED STATES

Opinions below

Neither the original opinion of the court of appeals (Appendix A, Pet. No. 71–1026)[1] nor its opinion on rehearing (Pet. App. B) is yet reported. The Memorandum of Decision and Protective Order of the district court (Pet. App. D) is reported at 332F. Supp. 930.

Jurisdiction

The judgment of the court of appeals was entered on January 7, 1972. The petition for a writ of certiorari in No. 71–1017 was filed on February 9, 1972, and the petition in No. 71–1026 was filed on February 10, 1972; both were granted on February 22, 1972. The jurisdiction of this Court rests upon 28 U.S.C. 1254 (1).

Questions presented

1. Whether the Speech or Debate Clause of the Constitution (Art. I, Sec. 6) bars a grand jury from questioning aides of members of Congress and other persons about matters that may touch on activities of a member that are protected "Speech or Debate."

2. Whether the Clause bars a grand jury from questioning Congressional aides and other persons about private republication of material that a Congressman had introduced into the record of a hearing before a Congressional committee.

3. Whether Congressional aides have a common law privilege to refuse to testify before a grand jury about such republication.

Constitutional provision involved

Article I, Section 6 of the United States Constitution provides:

> The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

Statement

Late in the evening of June 29, 1971, Senator Mike Gravel of Alaska convened a public hearing of the Subcommittee on Buildings and Grounds of the Senate Public Works Committee and read aloud extensive portions of a classified study prepared by the Department of Defense, popularly called the Pentagon Papers,[2] which he had "unauthorizedly" (Pet. App. A, p. 18) obtained. At the close of the hearing, he placed the entire study, comprising some 7,000 pages of material in 47 volumes and bearing an overall defense security classification of TOP SECRET, SENSITIVE, in the public subcommittee record.

Earlier that day, Dr. Leonard S. Rodberg, a physicist and resident fellow at the Institute for Policy Studies in Washington, D.C., had been engaged as a staff member by Senator Gravel; he assisted the Senator in preparing for and conducting the subcommittee hearing. Thereafter, Dr. Rodberg assisted Senator Gravel in negotiating with several publishing firms for private republication of the study. An agreement was ultimately concluded with Beacon Press, of Boston, to publish a four-volume work entitled "The Senator Gravel Edition of the Pentagon Papers: the Defense Department History of Decision Making on Vietnam".

On August 27, 1971, a federal grand jury sitting in Boston, Massachusetts,[2a] subpoenaed Dr. Rodberg to appear as a witness. Dr. Rodberg moved to quash the subpoena, and Senator Gravel was allowed to intervene in support of the motion. Senator Gravel argued that Dr. Rodberg, as his legislative aide, was protected by the Speech or Debate Clause from any inquiry regarding the meeting of the subcommittee and efforts by Rodberg, on behalf of the Senator, to publish the study.

The district court denied the motions to quash. It ruled, however, that Senator Gravel's privilege under the Speech or Debate Clause limited the subjects about which the grand jury could question Dr. Rodberg. The court held that "the Speech or Debate Clause prohibits inquiry into things done by Dr.

Footnotes at end of article.

Rodberg as the Senator's agent or assistant which would have been legislative acts, and therefore privileged, if performed by the Senator personally" (Pet., App. D, p. 51). The court further ruled that the arrangement for private republication of the study by Beacon Press was not within the Senator's privilege and therefore that Dr. Rodberg could not refuse to testify before the grand jury concerning that matter. The court entered the following order (Pet. App. D at 52):

(1) No witness before the grand jury currently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor about things done by the Senator in preparation for and intimately related to said meeting.

(2) Dr. Leonard S. Rodberg may not be questioned about his own actions on June 29, 1971 after having been engaged as a member of Senator Gravel's personal staff to the extent that they were taken at the Senator's direction either at a meeting of the Subcommittee on Public Buildings and Grounds or in preparation for and intimately related to said meeting.

While the district court proceedings were pending, a grand jury subpoena was served on Howard Webber, Editor of the Massachusetts Institute of Technology Press, with which ultimately unsuccessful negotiations for republication had been carried on. The district court issued a supplemental order staying both subpoenas. After notices of appeal had been filed, the court of appeals granted Senator Gravel's motion for a stay pending appeal and halted the grand jury's inquiry until further order.

Both sides appealed and the court of appeals affirmed the district court's order with modifications (Pet. App. A, pp. 31, 36–37).

The court of appeals rejected the government's argument that questioning before a grand jury about—as opposed to civil or criminal liability for—legislative conduct was not within the protection afforded to Speech or Debate.[3] The court reasoned that, even when there is no danger of criminal prosecution or civil liability, a legislator might be intimidated and harassed by questioning and could be hindered in performing his legislative responsibilities (*id.*, pp. 22–23).

The court next ruled that under the Speech or Debate Clause a grand jury could not inquire into a Congressman's antecedent conduct in obtaining information for use in a Congressional proceeding. The court stated: "allowing a grand jury to question a senator about his sources would chill both the vigor with which legislators seek facts, and the willingness of potential sources to supply them" (*id.*, p. 24). The court held, however, that the Clause does not cover private republication after the legislative speech (*id.*, pp. 24–28). But it ruled that a legislator causing such republication "may be protected from liability by a common law privilege" (*id.*, p. 28) akin to that of an executive official, citing *Barr* v. *Matteo*, 360 U.S. 564. The court then held, however, that this privilege means that a legislator "may not be questioned at all as to republication" (*ibid.*).

The court then turned to the questions whether, and to what extent, the Speech or Debate Clause and common law privilege protect persons other than members of Congress. Viewing "personal aides in whom he reposes total confidence" as "indispensable" to a Congressman, the court held that legislative aides are afforded the same protection as a Congressman himself with respect to events related to their responsibilities during their period of employment (Pet. App. A, p. 29). On the other hand, a legislative aide "is not protected from inquiry as to events unconnected with intervenor at the time of occurrence" (*ibid.*).

Finally, the court considered the claim of privilege by third parties dealing with a Congressman or his aides. Relying upon its interpretation of *United States* v. *Johnson*, 383 U.S. 169, the court held that "any person who dealt with a legislator with respect to speech or debate cannot be inquired of if the object is to attack the legislator's motives in speaking" (Pet. App. A, p. 29). On the other hand, the court ruled that such third parties could be questioned "as to their own conduct regarding the Pentagon Papers including their dealing with intervenor or his aides" (*id.*, p. 30).

The court entered the following order (as modified in its decision on petition for rehearing):

(1) No witness before the grand jury recently investigating the release of the Pentagon Papers may be questioned about Senator Mike Gravel's conduct at a meeting of the Subcommittee on Public Buildings and Grounds on June 29, 1971, nor, if the questions are directed to the motives or purposes behind the Senator's conduct at that meeting, about any communications with him or with his aides regarding the activities of the Senator or his aides during the period of their employment, in preparation for and related to said meeting.

(2) Dr. Leonard S. Rodberg may not be questioned about his own actions "in the broadest sense, including observations and communications, oral or written, by or to him, or coming to his attention" while being interviewed for, or after having been engaged as a member of Senator Gravel's personal staff to the extent that they were in the course of his employment. [Pet. App. C, pp. 36–37.] [4]

Summary of argument

I

Article I, Section 6 of the Constitution provides that "Senators and Representatives * * * for any Speech or Debate in either House * * * shall not be questioned in any other place." This language is precise in protecting only members of Congress themselve and its limited scope cannot be attributed to inadvertence or a failure to foresee the modern roles of legislative aides, since the framers knew that there would be employees of the Houses of Congress who might have been protected and were aware that the privilege against arrest, contained in the same clause, had been extended to servants and family members at an earlier time in England.

The privilege of freedom of speech of the English Parliament extended only to members of Parliament. The Parliamentary privilege against arrest, which had earlier reached servants and family members, had been sharply cut back to protect only members of Parliament by 1769, and the language of Article I, Section 6 represented an attempt to avoid the abuses that had arisen from the extended privilege. *Thomas Jefferson's Manual of Parliamentary Practice* of 1801 explained: "It was probably from this view of the encroaching character of privilege that the framers of our Constitution * * * have only privileged Senators and Representatives themselves * * *."

This Court's decisions strongly support the position that the Speech or Debate Clause does not reach those who are not actually members of Congress. In *Kilbourn* v. *Thompson*, 103 U.S. 168, and *Powell* v. *McCormack*, 395 U.S. 486, the Court held that members were exempt from suit under the Clause but that employees were not so protected. In *Dombrowski* v. *Eastland*, 387 U.S. 82, the Court similarly found a member of Congress, the chairman of a subcommittee, not subject to a civil action, while holding that the action against an employee, the counsel to the subcommittee, could proceed to trial. Since the chairman and the counsel obviously had a close working relationship, it was inevitable that at trial questions relating to the Senator's conduct would be asked, yet the Court did not suggest any limits to the kinds of questions that might be asked. In all three of these cases, and particularly in *Dombrowski* v. *Eastland*, the possible reasons for extending the protection of the Clause were essentially the same as those advanced by Senator Gravel in this case, and in all three they were rejected as insufficient to support an extension.

An analysis of the reasons behind the Clause, the degree of immunity necessary for legislative aides, and the strong social interest in full grand jury inquiry into criminal activity confirm the wisdom of this Court's decisions. The main function of the Clause is to protect members from liability arising from speech and debate, and inquiry of aides and private persons does not affect that. Nor does it interefere substantially with the member's work. Although it may conceivably result in some "embarrassment," that is not a sufficient basis for immunity, particularly since members are constantly subject to such embarrassment from private inquiry and criticism. Unlike the member himself, who is responsible to an electorate and can be disciplined by a House of Congress, the aide is subject to neither of these restraints on improper action.

The privilege asserted by Senator Gravel would reach a large number of assistants to members of Congress and might be subject to abuse. It could be asserted in many circumstances in which any interest in protecting the legislative process would be exceedingly remote. We believe that legislative aides do enjoy an immunity from civil liability coextensive with that of officials of the executive branch, cf. *Barr* v. *Matteo*, 360 U.S. 564. This immunity has been considered sufficient to ensure the proper performance of public responsibilities, and we perceive no basis for granting legislative aides a broader immunity from criminal liability and inquiry. *A fortiori*, no such immunity should be extended to third persons who happen to be dealing with a Congressman or his aides.

II

1. The Speech or Debate Clause protects only "Speech or Debate in either House" and does not provide any immunity for private republication of such speech or bedate. The purpose of the Clause is to insure members' freedom of debate. The large number of issues Congress must now consider and the complexity of the problems it faces means that the members must place considerable reliance in performing their legislative functions upon information and discussion in committee reports and, insofar as it records things actually said in either House, upon the Congressional Record. It is presumably for this reason that the Speech or Debate Clause covers these two categories of Congressional documents.

The private republication of the Pentagon Papers was not a part of or necessary to "Speech or Debate in either House" and has no valid relationship to the functioning of Congress in the area of Speech or Debate. It was not intended to aid the members of Congress in performing their legislative duties but to make available to the public information which, as the court of appeals characterized it (Pet. App. 18), came into Senator Gravel's hands "unauthorizedly" but which he believed the general public should see.

The Speech or Debate Clause should not be extended to cover the distribution of protected Speech or Debate through private republication which a member has undertaken without official approval. The Clause does not cover all acts customarily done by a congressman but only those that are a part of Speech or Debate. *United States* v. *Johnson*, 383 U.S. 169, 172.

2. The English parliamentary privilege, on which the Speech or Debate Clause was based, did not cover republication. From the

---

Footnotes at end of article.

first case which so held in 1698 until the middle of the 19th century, the privilege did not cover republication of Parliamentary speeches. It was only as a result of an 1840 statute that a privilege was created for the publication of papers pursuant to an order of a House of Parliament. The American authorities, although they are few, similarly reject any privilege for republication of protected Speech or Debate.

3. The court of appeals also ruled that legislative aides have an immunity from testifying before a grand jury about republication by analogy to the absolute immunity executive officers have for torts committed in the performance of their official duties. Cf. *Barr* v. *Matteo,* 360 U.S. 564. The latter immunity, however, is solely from liability for damages or perhaps from injunctive relief. It rests upon the policy consideration that, without such immunity, government officials might be deterred by the threat of damage suits from vigorously performing their duties. Legislative aides are unlikely to be similarly deterred because of the possibility that they may have to testify before a grand jury. We know of no case immunizing executive officials from having to appear before a grand jury, and there is no reason why legislative aides should have a greater privilege. Legislative aides, like everyone else, should perform the duty of all citizens to testify before a grand jury about any matter of which they have knowledge.

4. Even if the Speech or debate Clause or legislative immunity permits a legislative aide to avoid testifying before a grand jury about republication of protected Speech or Debate, that immunity does not extend to third persons whose only possible connection with the legislative process was that they were negotiating for or handling the republication. Those persons were not performing essential aspects of the legislative process on behalf of "Senators or Representatives," so that making the immunity of the latter effective requires that it be extended to the former. Nor is a member of Congress "being questioned" about his "Speech or Debate" when third persons are questioned about their dealings with him or his aide.

Argument

I—The speech or debate clause does not limit a grand jury's inquiry of congressional aides or third parties

The precise question whether a Senator may invoke the Speech or Debate Clause to foreclose grand jury inquiry of legislative aides, or of third parties who have dealt with the Senator or his aides, has never been decided by this Court; but the language of the Clause, the pre-Constitutional history of parliamentary privilege, the intent of the framers revealed in contemporaneous documents, this Court's decisions with respect to the protection afforded Congressional employees, and a sensitive assessment of the proper needs of members of Congress balanced against society's interest in ascertaining and punishing criminal activity, all indicate that a Senator's immunity from grand jury questioning about activities that may constitute "Speech or Debate" does not extend to persons other than himself.

This does not mean that legislative aides are without the protection of any privilege; we believe that in their legislative work they should enjoy an official immunity as broad as that of responsible executive officials (see *Wheeldin* v. *Wheeler*, 373 U.S. 647; cf. *Barr* v. *Mateo,* 360 U.S. 564). This privilege would protect against liability for civil damages arising from their performance of their duties for a legislator. But the protection afforded members of Congress with respect to speech and debate against criminal liability and inquiry concerning criminal guilt is an extraordinary one not shared by other government officials, except perhaps the President himself; its extension to aides is not required to enable members themselves or their aides properly to perform their duties; and such an extension to bar grand jury inquiry into possible criminal activity would constitute an unwarranted interference with the vital functioning of the grand jury, "a great historic instrument of lay inquiry into criminal wrongdoing" which has long held a central place in "the federal constitutional system" (*United States* v. *Johnson,* 319 U.S. 503, 512, 513) and which "'has a right to every man's evidence'" (*Piemonte* v. *United States,* 367 U.S. 556, 559, n. 2).

A. *The Language of the Clause.* Article I, Section 6 of the Constitution provides:

> The Senators and Representatives * * * shall in all Cases, except Treason, Felony, and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective House, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

Though there may be room for argument as to what activities are covered by the phrase "Speech or Debate in either House," the Clause is linguistically precise as to the persons who enjoy its protection: only "The Senators and Representatives." Nonetheless, it is argued that the business of Congress has become much more complex, requiring, as it did not in 1787, professional assistants to members of Congress, and that the limited language should not preclude extension to those who assist the members in their duties. Even if this argument had force, it would not support the extension of the Clause by the court below to bar inquiry of private third parties. There was as much chance in the late eighteenth century as there is now that a grand jury investigation of possible criminal activity by private persons might include inquiry that would touch peripherally on the "motives or purposes behind the Senator's conduct" (See order of court of appeals, p. 7 *supra*). Had the framers wished to foreclose questioning of anyone about matters touching on a member's speech or debate, they would presumably have chosen language quite different from "The Senators and Representatives * * * shall not be questioned in any other Place." [5]

Nor, with respect to legislative aides, can the limited scope of the constitutional language be explained away by reference to changed legislative practices. Certainly it was contemplated in 1787 that the Houses of Congress would have paid employees—as the Houses of Parliament and the colonial legislatures had for many years—and it was foreseeable that legal actions or inquiries directed at these employees might reflect on the activities of the members. Thus there was a class of persons then for whom the rationale for protection was markedly similar to that advanced now for legislative aides; yet the language was narrowly drawn to reach only Senators and Representatives.

Moreover, as is reflected more fully in the history summarized in the following sections, the framers were aware of arguments that the privilege against harassment through arrest could be made more fully effective if it extended to family members and servants; yet the Clause quite clearly does not give them a privilege from arrest. Thus, the Clause's limitation to Senators and Representatives can not be attributed simply to a lack of foresight concerning the modern roles of legislative aides. The framers made a deliberate choice not to extend the privileges against arrest and guarding speech and debate to cover every individual to whom the underlying rationales might conceivably reach. They recognized that extraordinary privileges carry some social cost, and they declined to extend the coverage of the Clause beyond Senators and Representatives, for whom direct protection was most essential.

B. *Pre-Constitutional History.* The historical development of the English parliamentary privilege for speech and debate (see generally *United States* v. *Johnson,* 383 U.S. 169, and the brief for the United States in that case (No. 25, October Term 1965, pp. 19–24)) sheds little direct light on its possible applicability to legislative aides, but the history of the cognate privilege from arrest strongly reinforces our view that the framers of our Constitution deliberately decided not to extend either privilege further than to the members themselves.

The privilege of freedom of speech within Parliament developed as an aspect of the "long struggle for parliamentary supremacy" (*United States* v. *Johnson,* 383 U.S. 169, 178) vis-a-vis the Crown. It was asserted in response to the fear, derived from painful historical precedent, that speeches made in Parliament would be the basis for summary imprisonment or other persecution of a member who offended the King, and for royal intervention into the proceeding of Parliament. A crucial aspect of the privilege was the exclusion of strangers from Parliamentary debates, since strangers might report the words of a member to the King. "So long, therefore, as the Commons were obliged to protect themselves against the rough hand of the prerogative, they strictly enforced the exclusion of strangers." (1 May, *The Constitutional History of England* 1760–1860 (1912 ed.) 327–385). Since the privilage related peculiary to the protection of members against royal punishment for words that displeased the Crown, there was little or no occasion on which the privilege of freedom of speech might have been asserted on behalf of nonmembers; and that privilege was not claimed on their behalf.[6]

In contrast to the parliamentary privilege of speech, the cognate privilege against arrest did clearly apply to certain nonmembers at some stages of its history, but underwent considerable contraction before the Constitution of this country was adopted, and as indicated above, the language of the Clause in our Constitution respecting both freedom from arrest and freedom of debate represents a deliberate choice for a limited rather than expansive privilege.

The privilege against arrest was first noted in the statues of 5 Henry IV (1403), which provided that members of Parliament and their servants were immune from arrest during the time Parliament was sitting, and shortly before and after.[7] As the power of Commons grew, however, the scope of this privilege widened. Immunity was extended beyond members and their servants to their family and estates. These extensions led to such abuses that "[p]rivilege thus became a menace to the rights of the individual, who was deprived in this fashion of his ordinary common law remedy" Wittke *op. cit., supra,* 41.

For example, in the name of privilege, members of Commons and their servants were declared to be outside the reach of the common law courts during the time that Parliament was sitting. This led to the sale of "protections" issued under the seal of particular members, providing in effect that named persons were servants of the member and should be free from arrest, imprisonment and molestation during the term of Parliament.[8] Additionally, using the privilege of its members from civil arrest or molestation, Commons successfully asserted the power to punish trespass on the estates of members, theft of their goods or those of their servants and the arrest of their servants.[9]

After the Restoration, efforts were made to eliminate these abuses. Thus, by 1700, legal actions against members of Parliament and their servants could be brought at almost any time when Parliament was not in session (12 and 13 William III, c. 3). In 1769 the statute of 10 George III, c. 50, removed from servants the protections that they had theretofore en-

---

Footnotes at end of article.

joyed. That law provided that anyone could commence or prosecute an action or suit against any member of Parliament, his family, or his servants; that a member was not immune from service of process; and that in no way could an action be stayed, dismissed, or delayed on the basis of a claim of Parliamentary membership. The sole exception thereto was provided in Sec. 2:

> [T]hat nothing in this Act shall extend to subject the person * * * *of any of the [members]* * * * to be arrested or imprisoned *upon* any such suit or proceedings. [Emphasis added.] [10]

This provision was enacted eighteen years before our Constitution was adopted, and the framers presumably were aware of the contraction of the privilege against arrest that it represented.

We do not suggest that this pre-Constitutional English history [11] is, by itself, dispositive of the issue of the applicability of our Speech or Debate Clause to legislative aides. But, when read in light of the constitutional language and contemporaneous statements, it leaves no doubt that the framers did not inadvertently refer only to Senators and Representatives. They consciously rejected creating a privilege on behalf of other persons whom legislators from time to time might wish to bring within the ambit of their own protection.

C. *The Intent of the Framers.* Since Article I, Section 6 of the Constitution was approved at the Constitutional Convention without discussion (5 *Debates On The Adoption of the Federal Constitution* (Elliot ed. 1845) 378, 406; *United States* v. *Johnson, supra,* 383 U.S. at 177), its precise boundaries are not marked out by any explicit legislative history. Reference to relatively contemporaneous materials, however, confirms the conclusion drawn from the language itself and the pre-Constitutional development of Parliamentary privilege that a conscious choice was made not to extend the Clause to persons other than the members of Congress themselves.

The framers' awareness of the value of uninhibited legislative speech is evidenced by their approval of the Clause,[12] but they were also cognizant of the abuse of parliamentary privilege and they feared legislative excess. Madison cautioned that "[t]he legislative department is everywhere extending the sphere of its activity and drawing all power into its impetuous vortex." *The Federalist* No. 48 (Bourne ed. 1914) 339. He argued that specific barriers should be erected against abuse of power by Congress (*id.* 338–343). In a similar vein, Jefferson wrote to Madison in 1789 that "[t]he tyranny of the legislatures is the most formidable dread at present and will be for long years." *Tenney* v. *Brandhove,* 341 U.S. 367, 375 n. 4; See also *United States* v. *Brown,* 381 U.S. 437, 443, 444.

That the limitation, in Art. I Sec. 6, of the freedom from arrest and freedom of speech or debate to "Senators and Representatives" was deliberate in perhaps most clearly indicated in *Thomas Jefferson's Manual of Parliamentary Practice* of 1801. After tracing the growth of English parliamentary privilege "for centuries with a firm and never-yielding pace," he observed (Sec. III):

> It was probably from this view of the encroaching character of privilege that the framers of our Constitution, in their care to provide that the laws shall bind equally on all, and especially that those who make them shall not exempt themselves from their operation, *have only privileged "Senators and Representatives" themselves* from the single act of "arrest in all cases except treason, felony, and breach of the peace, during their attendance at the session of their respective Houses, and in going to and returning from the same and *from being questioned in any other place for any speech or debate in either House.*" [Emphasis added; S. Doc. No. 1, 90th Cong., 1st Sess., pp. 383–384.]

D. *Judicial Decisions On The Meaning of the Speech and Debate Clause.*[13] The precise questions presented by this case are novel, but this Court has considered the Speech or Debate Clause in other contexts and its decisions strongly support the interpretation of the Clause we urge. It is useful in approaching the relatively few decisions of this Court which have involved the Clause to have firmly in mind the central thrust of Senator Gravel's position. It is that if aides do not enjoy a privilege coextensive with that of the members for whom they work, inquiry directed at an aide may serve as a way of questioning the member's conduct and embarrassing him, and as a way of impairing the member's performance of his duties through harassment and possible inhibition of the aide. The crucial point of this discussion is that these same contentions were equally applicable to the related problems with which this Court has dealt, and they have been implicitly rejected as insufficient to sustain extension of the coverage of the Clause to persons other than Senators and Representatives.

In two suits brought to correct erroneous Congressional action in which members of Congress were joined with employees of Congress as defendants, this Court has, while dismissing the suits as to the Congressmen, sustained jurisdiction over the employees and decided the cases on the merits adversely to the Congressional position.

The first of these cases, *Kilbourn* v. *Thompson,* 103 U.S. 169, was this Court's original opportunity to consider the Speech or Debate Clause, There, a committee of the House had been investigating certain real estate activities and subpoenaed the plaintiff Kilbourn to testify; he refused. The House then ordered him jailed for contempt. After being released on a writ of habeas corpus, Kilbourn filed suit against the committee members and the sergeant-at-arms for false imprisonment. This Court held that although the Speech or Debate Clause protected the House committee members, the sergeant-at-arms could be held liable. In support of that decision, the Court cited language from *Stockdale* v. *Hansard,* 9 Ad. & E. 1, 114, 112 Eng. Rep. 1112, 1156 (1839) (see *infra* at p. 48), refusing to extend the parliamentary privilege of freedom of speech to non-members; and this Court observed (103 U.S. at 202):

> "Taking this to be a sound statement of the legal effect of the [English] Bill of Rights and of the parliamentary law of England, it may be reasonably inferred that the framers of the Constitution meant the same thing by the use of language borrowed from that source."

In *Powell* v. *McCormack,* 395 U.S. 486, decided nearly 90 years after *Kilbourn,* this Court, again without dissent on the point, reached the same conclusion that the Clause does not protect Congressional employees.[14] Congressman Powell brought suit against five members of the House, the Speaker, the Clerk and the Doorkeeper seeking an injunction to restrain them from executing a resolution to deprive him of his House seat. While the Court found that the legislators were protected from suit under the Clause, it held that the legislative employees were amenable to judicial action (395 U.S. at 504):

> "The Court first articulated in *Kilbourn* and followed in *Dombrowski* v. *Eastland* the doctrine that, although an action against a Congressman may be barred by the Speech or Debate Clause, legislative employees who participated in the unconstitutional activity are responsible for their acts.[15]"

In stating the reasons for this difference in treatment, the Court said (395 U.S. 505–506):

> The purpose of the protection afforded legislators is not to forestall judicial review of legislative action but to insure that legislators are not distracted from or hindered in the performance of their legislative tasks by being called into court to defend their actions. A legislator is no more or no less hindered or distracted by litigation against a legislative employee calling into question the employee's affirmative action than he would be by a lawsuit questioning the employee's failure to act. * * * Freedom of legislative activity and the purposes of the Speech or Debate Clause are fully protected if legislators are relieved of the burden of defending themselves. In *Kilbourn* and *Dombrowski* we thus dismissed the action against members of Congress but did not regard the Speech or Debate Clause as a bar to reviewing the merits of the challenged congressional action since congressional employees were also sued. * * *

In *Dombrowski* v. *Eastland,* 387 U.S. 82, decided two years prior to *Powell,* this Court also distinguished the immunity of members of Congress from the possible immunity of those who assist them. That case involved a civil action against the chairman and counsel of the Internal Security Subcommittee of the Judiciary Committee of the Senate who, plaintiffs claimed, had conspired with state officials to seize property and records of petitioners in violation of the Fourth Amendment. The Court, *per curiam,* affirmed the dismissal of the suit against the Senator because the "record does not contain evidence of his involvement in any activity that could result in liability," since "[i]t is the purpose and office of the doctrine of legislative immunity, having its roots as it does in the Speech and Debate Clause of the Constitution * * * that legislators engaged 'in the sphere of legitimate legislative activity' * * * should be protected not only from the consequences of litigation's results but also from the burden of defending themselves." (387 U.S. at 84–85). Nevertheless, the Court held that, as to Mr. Sourwine, counsel for the subcommittee, there was a sufficient factual dispute to warrant a trial, stating:

> This Court has held, however, that this doctrine [of legislative immunity] is less absolute, although applicable, when applied to officers or employees of a legislative body, rather than to legislators themselves. * * * [387 U.S. at 85].

Although the Court did not say explicitly that the activities of the subcommittee chairman or counsel were within the precise scope of Speech or Debate, the statement that the doctrine of "legislative immunity," which has "its roots * * * in the Speech or Debate Clause," was applicable, though less absolutely, to legislative employees might be taken to imply that the Clause does cover employees.[16] Any possible doctrinal implications of this kind were put to rest by the subsequent and more extensive opinion in *Powell,* which rejects the assertion that the protections of the Clause reach employees.[17]

What *Dombrowski* v. *Eastland* held, however, remains of great significance for this case. That the subcommittee chairman and the chief counsel to the subcommittee had a close working relationship is revealed by the record in that case and is a matter of common knowledge. Given the undisputed facts in that case (see Statement in Brief for Respondents in *Dombrowski*), it could not be doubted that if the action against Mr. Sourwine for damages and injunctive relief proceeded to trial, not only was it possible that actions authorized by Senator Eastland might be subject to scrutiny, it was virtually inevitable that Mr. Sourwine's contacts with the Senator would become a part of the record. Yet this Court did not, as a consequence, immunize Mr. Sourwine from liability or from describing his own activities nor did it suggest or even intimate that some areas of relevant questioning might be foreclosed because they might touch on the con-

---

Footnotes at end of article.

duct and motives of Senator Eastland. That Senator Gravel should not be able to protect. Dr. Rodberg and private third parties from grand jury inquiry into possible violations of the criminal law follows a *fortiori* from the Court's refusal to protect against inquiry in the context of a civil suit.

Although this Court has never passed specifically on the relevance of the Clause to inquiry of private persons who have dealings with a member of Congress, it follows that if the Clause cannot be aserted on behalf of employees it is also not applicable to private persons. In *United States* v. *Johnson*, 337 F. 2d 180, the Fourth Circuit reached just this conclusion. Although it held that a Congressman could not be convicted of a conspiracy involving the making of a speech on the floor of the House, the challenge of Johnson's non-member co-defendants to the conspiracy charge was rejected since "none of the privileges of Article 1, section 6 pertain to the defendants who are not members of Congress * * *" (337 F. 2d at 192).[18]

E. *The Degree of Immunity Needed for Effective Functioning of the Legislative Process.* A careful assessment of the reasons behind the Speech or Debate Clause, the competing social interest in full grand jury inquiry into criminal activity, and the degree of immunity necessary for legislative aides and employees to function effectively confirm the wisdom of this Court's holdings in *Kilbourn, Powell* and *Dombrowski* v. *Eastland* and demonstrate the unwarranted expansiveness of the positions urged by Senator Gravel and adopted by the court below in this case.

The history of the parliamentary privilege of freedom of speech shows that the primary purpose it served was to protect against Crown actions, such as summary imprisonment, directed at offending speakers, and there can be little doubt that the main function of the provision that "Senators and Representatives * * * for any Speech or Debate in either House * * * shall not be questioned in any other Place" is to immunize legislators from civil and criminal liability for activities within the scope of the Clause. But the Clause does more than guard against substantive liability. It is designed "to insure that legislators are not distracted from or hindered in the performance of their legislative tasks by being called into court to defend their actions" (*Powell* v. *McCormack,* 395 at 505), and it protects them "not only from the consequences of litigation's results but also from the burden of defending themselves" (*Dombrowski* v. *Eastland,* 387 U.S. at 82). It is also possible that the Clause has the effect of reducing the chance that a member of Congress may be embarassed by inquiry into his activities, although he is, of course, subject to similar embarassment as a consequence of private inquiry and criticism.

Simply to enumerate the protections of the Speech or Debate privilege is to suggest how attenuated are the arguments for coverage of persons other than members of Congress. The member himself is obviously not directly affected by the possible liability of aides or private persons. At the most it could be said that liability might make it more difficult for the member to hire and keep effective aides, but that is far removed from the degree of interference caused if the member himself is subject to liability. Similarly, inquiry of aides and private persons does not divert the member from his duties, though the required expenditure of time by an aide may involve a minimal interference with the operations of his office. It is true that embarrassment may conceivably be caused by questions that reveal the "motives or purposes" behind a member's conduct, but that hardly seems a sufficient justification for an absolute bar to such questions, particularly before a grand jury, where the proceedings are secret. In short, the privilege for members themselves is much more crucial for a fearless and independent legislature than any conceivable privilege extended to nonmembers.

We reiterate that the Speech or Debate Clause creates an extraordinary privilege for members of Congress; its protection against criminal liability and inquiry is not shared by executive officials or judges.[19] One reason this expansive protection is tolerable is because members of Congress are subject to special kinds of scrutiny. They are responsible to their constituents and subject to continuing criticism, and they may be voted out of office if their official actions are found wanting. Moreover, they are subject to the discipline of their own Houses. "Each House may * * * punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member." (U.S. Const., Art. I, § 5). That aides of individual members are not directly responsible to an electorate and very probably are not subject to Congressional discipline are powerful reasons for not extending to them the unique immunity from criminal liability and inquiry of the Speech or Debate Clause.

This conclusion is further buttressed by a consideration of some of the circumstances in which the position of Senator Gravel and the court below could bar effective grand jury investigation. It could easily prevent discovery of the criminal guilt of private third parties when neither the member nor his aide is even suspected of wrongdoing. Suppose the aide of a Senator opposing legislation is offered forged papers, which the aide is told are genuine, that appear to establish a damaging relationship between some Senators supporting the legislation and companies that would benefit from its passage. After the aide has obtained the papers, the Senator makes use of them in a speech against the legislation. Subsequently, the possibility of a forgery comes to light. The holding of the court below would permit the Senator to immunize his aide from answering grand jury questions about any contacts with the producer of the forged papers, since these occurred in the course of the aide's employment.[20] Such a result would produce a gross distortion of the Speech or Debate Clause.

Suppose, instead, the aide learns that the papers are forged but is bribed to conceal this knowledge from the Senator. Again, since the Senator is interested in the papers and their receipt relates to the aide's legislative duties, the holding of the court below would immunize the aide from inquiry and liability, at least if the Senator sought such immunization. Yet, to put in the hands of a single Senator the possible criminal liability of an aide performing clearly corrupt and unauthorized acts seems far removed from the constitutional clause.[21]

Nor would the situation be fundamentally different if the Senator himself had conspired with his aide and a private person to produce the forged papers. His own privilege of freedom from criminal liability and inquiry is sufficient to protect the proper functioning of the legislative process; it should not be extended to all those caught up in the criminal enterprise. See *United States* v. *Johnson,* 337 F. 2d 180, 192 (C.A. 4), affirmed on another issue, 383 U.S. 169.

Senator Gravel's argument does not involve merely a modest extension of the Clause to a relatively few individuals. Many Senators and Congressmen have very sizeable staffs in which a substantial number of aides are doing work arguably related to speech or debate. It would be extraordinarily difficult to differentiate persons on committee staffs who work closely with particular members, and may even function like personal aides in some contexts, from those who are formally part of a member's staff. Neither the court below nor Senator Gravel attempts to draw distinctions based upon the peculiar position of trust a particular aide may occupy or upon the special importance to the legislative process of a particular kind of work related to speech or debate. We, too, doubt the viability of any line based on such distinctions; but for us that merely reinforces the soundness of the principle that only members themselves enjoy the unique protections of the Speech or Debate Clause.

Moreover, the sweeping privilege here asserted might be abused by members to protect those not closely related to their functioning. That possibility is suggested not only by the English history regarding the Parliamentary privilege against arrest, but also by the fact in this case that Senator Gravel hired Dr. Rodberg on the day he made public the Pentagon Papers.

We believe that legislative aides enjoy a substantial immunity from damage suits, but we find no persuasive reason why it is required for the effective performance of Congress that those attached to members be extended an immunity that is unparalleled in the coordinate branches. This Court early held that judicial officers are immune from actions for civil damages caused by their judicial acts, *Bradley* v. *Fisher,* 13 Wall. 335, and more recently has ruled that officals of the executive branch of government are likewise absolutely immune from civil damage claims for "action * * * taken * * * within the outer perimeter of [the] line of duty," *Barr* v. *Matteo, supra,* 360 U.S. 564, 575. It has never been suggested, however, that executive officials or judicial officers need be wholly free from criminal liability or from responding to grand jury inquiries about all matters relating to their employment. We agree with this Court's suggestion, *Wheeldin* v. *Wheeler,* 373 U.S. 647, 650, 651, that legislative aides may enjoy an immunity from damage suits like that of executive officials. That immunity has been deemed a sufficient protection for the exercise of the duties of executive and judicial officers and we perceive no special justification for granting a special immunity against grand jury inquiry and criminal liability to legislative aides (see discussion, *infra,* pp. 51–54).

Thus a consideration of the possible need for immunity indicates—what the language and history of the Clause and its judicial interpretation show—that legislative aides and private persons are not, and should not be, protected by the Clause from legitimate grand jury inquiry into possible criminal acts.

II—The Speech or Debate Clause Does Not Cover Private Republication of Protected Speech or Debate

The Speech or Debate Clause protects only "Speech or Debate in either House." It does not provide any immunity for private republication of such Speech or Debate. The Clause in terms does not extend beyond the making of a speech or the engaging in debate by a member within the confines of the Houses of Congress themselves; it provides only that *members* cannot be questioned elsewhere "for" any Speech or Debate in either House. There is nothing in the Clause that supports Senator Gravel's contention that the Clause also protects the private republication by nongovernment agencies of a member's Speech or Debate, and the court of appeals correctly rejected it.

That private republication is beyond the scope of the Speech or Debate Clause is shown by the following considerations: (1) Such immunity is unnecessary to the proper performance of the duties of members of Congress. (2) the English parliamentary privilege, from which the Speech or Debate Clause was drawn, does not cover republication. (3) The American authorities similarly have not so extended the Clause. (4) Any legislative privilege which may exist for con-

---

Footnotes at end of article.

gressional aides protects them only against tort liability and perhaps against injunctive relief; it does not immunize them from either criminal prosecution or testifying before a grand jury. (5) Finally, any possible privilege that congressional aides might have against giving grand jury testimony with respect to private republication of protected Speech or Debate does not extend to third persons who participate in the republication, such as the representatives of the publishing firms with whom Senator Gravel or his aides negotiated for republication.

A. *Republication is Not Protected "Speech or Debate" Under the Clause.* The purpose of the Speech or Debate Clause, as developed in Point I above, is to give the members of Congress sufficient protection against liability for or questioning about certain of their legislative actions to insure that the threat or possibility thereof will not impede or inhibit them in the performance of their official duties. The Clause protects the members "for what they do or say in legislative proceedings," since "the legislature must be free to speak and act without fear of criminal and civil liability" (*Tenney* v. *Brandhove,* 341 U.S. 367, 372, 375). The immunity, however, does not cover everything done by a member in the performance of his legislative function; it covers only "Speech or Debate in either House." As the court of appeals recognized in this case (Pet. App. 23), the Clause "is intended to ensure freedom of debate"; cf. *United States* v. *Johnson,* 383 U.S. 169, 180–182.

Adequate debate on and informed consideration of pending legislation, as well as proper oversight of existing statutes, requires an informed legislature. The volume of business that Congress now transacts—involving a vast number of different subjects and increasingly complex and difficult problems—makes it impossible for each member to acquire personal knowledge of every aspect of every pending issue. Individual members necessarily must therefore rely to a great extent upon the hearings and reports of the committees which handle Congressional business in its early stages, and upon the debates on the floors of Congress.

Keeping the members of Congress informed about what happens in committees and on the floor thus is necessary to effective "Speech or Debate." It is presumably for this reason that, as the court of appeals noted (Pet. App. 22), the Clause has been interpreted as covering not only legislative speech and debate, but also the contents of committee reports "addressed to Congress." Presumably, the Clause also would cover the contents of the Congressional Record, at least insofar as it records things actually said in either House. See *McGovern* v. *Martz,* 182 F. Supp. 343, 347 (D. D.C.). It is appropriate that the Clause cover these two categories of Congressional publications because they are the means Congress has selected for informing its membership about its business.

But the private republication of the Pentagon Papers by the Beacon Press, pursuant to arrangements involving Senator Gravel and Dr. Rodberg, was not a part of or necessary to "Speech or Debate in either House." It involved no supplying to the members of Congress of information that they needed in performing their legislative duties. The contents did not relate to any pending Congressional business. The material was neither the product of a Congressional hearing, nor something supplied to Congress to be considered in connection with pending legislative business.

To the contrary, it was highly classified material which had been prepared by the Department of Defense for the executive branch of the government and which, as the court of appeals characterized it (Pet. App. 18), came into Senator Gravel's hands "unauthorizedly." Even its initial publication at the late evening hearing of Senator Gravel's subcommittee could hardly be said to have had any demonstrable relationship to the need of members of Congress for information related to pending legislative matters. Indeed, copies of the study had previously been supplied to the Congress under conditions that would give the membership access to the material while at the same time protecting its security classification.[22]

But, however one may characterize the propriety of Senator Gravel's initial publication of this material, the subsequent private republication cannot be viewed as having any valid relationship to the functioning of the Congress in the area of speech or debate. The republication by the Beacon Press, for general sale to the public, was not a part of and had no connection with any Congressional speech or debate, either on the floor of Congress or in committee. See *Hentoff* v. *Ichord,* 318 F. Supp. 1175, 1180–1181 (D. D.C.). It was intended not to aid the members of Congress in performing their legislative duties, but to make available to the public information which had come into Senator Gravel's hands and which he believed the general public should see.

The Chairman of the Senate Public Works Committee, to whom Senator Gravel, as chairman of the subcommittee, was responsible, apparently recognized that the republication was not necessary or appropriate to the proper performance of any legislative function, since he refused to authorize it.[22a]

Indeed, Senator Gravel makes no attempt to show that the republication of the Pentagon Papers had any meaningful relationship to the proper performance of the Speech or Debate function of Congress. Rather, his argument is that members of Congress have a duty to inform "the electorate about acts committed by the Executive and, specifically, with respect to Executive conduct in foreign relations" (Pet. No. 71–1017, p. 7); that the republication was a proper step in the performance of that duty; and that the Speech or Debate Clause broadly covers all aspects of this Congressional "informing function" (*id.,* p. 8).

The claim is a sweeping one. Senator Gravel does not argue that the material he was seeking to distribute through the republication was designed primarily to inform his own constituents or to tell them about his own actions. Instead, he asserts a right to "inform [the] electorate" generally about "Executive conduct in foreign relations." Indeed, Senator Gravel invites this Court to extend the Speech or Debate Clause to all things "generally done" by legislators (Pet. No. 71–1017, p. 7.)

But, as the court of appeals pointed out: "Our courts have expanded the privilege beyond the act of debating within Congress a proposal before it only when necessary to prevent indirect impairment of such deliberation" (Pet. App. 26). For example, it may be part of a Congressman's contemporary role to intercede with executive agencies on behalf of constituents; yet this Court has stated:

> No argument is made, nor do we think that it could be successfully contended, that the Speech or Debate Clause reaches conduct, such as was involved in the attempt to influence the Department of Justice, that is in no wise related to the due functioning of the legislative process. * * *
>
> [*United States* v. *Johnson,* 383 U.S. 169, 172] [23]

In contrasting intercession with executive agencies with "the due functioning of the legislative process," the Court—consistent with all prior interpretations of the Clause—was limiting its operation to conduct reasonably related to the law-making function of Congress.

Similarly, the fact that Congressmen customarily communicate with their constituents should not place such communication beyond scrutiny. It is not so closely related to "the due functioning of the legislative process" as to warrant constitutional immunity from "question[ing] * * * in any other Place."

Moreover, the republication here involved was not directed to Senator Gravel's constituents, but to the public generally. It was not authorized by either the chairman of the full Committee or by the Senate itself. Where the House or Senate approves republication of Committee reports or documents, as it sometimes does (cf. *e.g., Hentoff* v. *Ichord,* 318 F. Supp. 1175 (D.D.C.)), that approval at least reflects the view of the Chamber that it is an appropriate part of the legislative process to make further distribution of the material. The situation is quite different, however, when an individual member himself arranges for republication.

The provision of adequate information to the public could be adequately assured by giving legislative aides immunity from tort liability for republication of protected Speech or Debate—although such a privilege has not been generally recognized (see *infra,* pp. 49–51).

B. *The English Parliamentary Privilege, on Which the Speech or Debate Clause is Based, did not Cover Republication.*

As this Court has noted (*Tenney* v. *Brandhove,* 341 U.S. 367, 372–375; *United States* v. *Johnson,* 383 U.S. 169, 177–179), the Speech or Debate Clause was derived from and parallels the English Bill of Rights of 1689 (1 Wm. & Mary, Sess. 2, c. 2), which itself "was the culmination of a long struggle for parliamentary supremacy" (*Johnson, supra,* 383 U.S. at 178; see Point I, *supra*). Here again, in determining the scope of the Clause, it is appropriate to consider that history and the British decisions interpreting the comparable immunity, which the Bill of Rights gave for "Freedom of Speech, and Debates or Proceedings in Parliament." That history and those cases indicate, as the court of appeals held, that the members' privilege of speech did not cover "privately published reproductions of their parliamentary speeches" (Pet. App. 26).

Commons' claim of the privilege of freedom of speech arose as a response to claims of the Crown that such speech violated royal prerogative (See Brief for the United States, *United States* v. *Johnson,* No. 25, October Term 1965, pp. 19–24). In this context Commons sought privacy of debate, not publicity. We have already noted the Commons' assertion of the right to exclude strangers (who might be spies for the King) from debates (*supra,* p. 17–18). In 1628 and again in 1640 the clerk was forbidden to make notes of speeches or to "suffer copies to go forth of any argument or speech whatsoever"; and in 1641 Commons ordered "That no Member shall either give a copy, or publish in print anything that he shall speak here, without leave of the House" (May, *Parliamentary Practice,* (16th ed., 1957) 55). Repeated orders of the House forbidding publication of debates have never been rescinded, although they have fallen into disuse, and, since 1909, there has been an official report of debates (*ibid.*).

It is thus hardly surprising that the privilege of freedom of debate has never been thought by English courts to include republication. The first case dealing with republication was *Rex* v. *Williams,* 2 Show. K.B. 471, 89 Eng. Rep. 1048, decided in 1688. In that case the Speaker of the House of Commons was criminally prosecuted and fined 10,000 pounds for publishing a libel. His defense was that the publication was done in his official capacity and pursuant to order of the House. The court rejected this defense, ruling that an order of the House could not "justify the scandalous, infamous, flagitious libel."

Footnotes at end of article.

In *Rex* v. *Lord Abingdon*, decided in 1795, 1 Esp. N.P. Cas. 228, a member of the House of Lords was criminally prosecuted for privately republishing a libelous speech he had delivered on the floor of the House. His defense was that he had a right to print and publish what he had a right to deliver; the court ruled that his privilege to deliver the speech did not extend to private republication for his personal purposes. The result in *Abingdon* was foreshadowed by the earlier decision in *Williams*, since if even official republication directed by the House was not privileged, *a fortiori* private personal republication was not protected.

Thus, at the time the Constitution was drafted, the law in England was that any parliamentary privilege covering speech and debate on the floor did not extend to republication.

Senator Gravel argues (Pet. No. 1017, 15), however, that the "underpinning" of these and other early decisions "has been repudiated" and "their holding has not survived," and that at least since *Wason* v. *Walter*, L.R. 4 Q.B. 73 (1868), "the settled law in England is that the Parliamentary privilege protects a member who publishes a speech 'for the information of his constituents,' and that the privilege applies derivatively to the publisher." Although certain republications of Parliamentary debate are now privileged, that was the result not of any judicial decision repudiating the earlier cases but of (1) a statute and (2) a recognition of a newspaper's privilege fairly and accurately to report parliamentary proceedings.

The statute was the Parliamentary Papers Act of 1840, 3 and 4 Vict. c. 9.[24] It was the reaction of Parliament to the decision three years before in *Stockdale* v. *Hansard*, 9 Ad. & E. 1, 112 Eng. Rep. 1112 (K.B.), which had unequivocally denied a privilege for republication. In that case a publisher sued the public printer for damages based on a defamatory statement contained in a committee report on English prisons that the House of Commons had ordered printed. In an historic opinion that has been described as the final decision rejecting the claim of Parliament to a broad privilege for republication,[25] the court permitted recovery. It stated:

> For speeches made in Parliament * * * that member enjoys complete impunity * * *. But if the calumnious or inflammatory speeches should be reported and published, the law will attach responsibility on the publisher. So, if the Speaker, by authority of the House, order an illegal Act, though that authority shall exempt him from question, his order shall no more justify the person who executed it than King Charles' warrant for levying ship-money could justify his revenue officer. [9 Ad. & E. at 114, 112 Eng. Rep. at 1156.]

In *Wason* v. *Walter*, L.R. at 4 Q.B. 73 (1868), which Senator Gravel views as having "repudiated" the earlier decisions, the court held that an action for libel could not be grounded upon a newspaper's republication of a defamatory speech made on the floor. The ground of decision, however, was not that the Parliamentary privilege extended to republication, but that the republication was privileged by analogy to the rule protecting a newspaper's fair and accurate reporting of court proceedings. Indeed, the court in *Wason* pointed out that *Stockdale* had correctly rejected the claim that Parliamentary privilege covered republication. It stated (L.R. 4 Q.B. at 86–87):

> From the doctrines involved in this defence, namely, that the House of Commons could by their order authorize the violation of private rights, and, by declaring the power thus exercised to be a matter of privilege, preclude a court of law from inquiring into the existence of the privilege—doctrines which would have placed the rights and liberties of the subject at the mercy of a single branch of the legislature—Lord Denman and his colleagues, in a series of masterly judgments which will secure to the judges who pronounced them admiration and reverence so long as the law of England and a regard for the rights and liberties of the subject shall endure, vindicated at once the majesty of the law and the rights which it is the purpose of the law to uphold.
>
> To the decision of this Court in that memorable case we give our unhesitating and unqualified adhesion. But the decision in that case has no application to the present. The position, that an order of the House of Commons cannot render lawful that which is contrary to law, still less than a resolution of the House can supersede the jurisdiction of a court of law by clothing an unwarranted exercise of power with the garb of privilege, can have no application where the question is, not whether the act complained of, being unlawful at law, is rendered lawful by the order of the House or protected by the assertion of its privilege, but whether it is, independently of such order or assertion of privilege, in itself privileged and lawful.

C. *The American Authorities Indicate That the Clause Does Not Cover Republication.*

The American authorities, though they are scant, are in accord with the British decisions that the legislative privilege for speech and debate does not extend to republication. Thomas Jefferson recognized that the Speech or Debate Clause applies only "to things done in the House in a Parliamentary course. * * * For [a Member] is not to have a privilege *contra morem parliamentarium* to exceed the bounds and limits of his place and duty" (Jefferson, *Manual of Parliamentary Practice*, in S. Doc. No. 1, 90th Cong., 1st Sess., p. 388).

In his Commentaries on the Constitution Justice Story noted that the Speech or Debate Clause was intended to provide the same privilege that Parliament had, and that

> This privilege is strictly confined to things done in the course of parliamentary proceedings, and does not cover things done beyond the place (a) and limits of duty. Therefore, although a speech delivered in the House of Commons is privileged, and the member cannot be questioned respecting it elsewhere, yet, if he publishes his speech, and it contains libelous matter, he is liable to an action and prosecution therefor * * * [Story, Commentaries, pp. 630–631].

McGovern v. *Martz*, 182 F. Supp. 343 (D.D.C.), involved claims for libel based, among other things, upon private printing and circulation of excerpts from the Congressional Record. The court held that although an absolute privilege covers material in the Record, there is only a qualified privilege for republication of the Record. It stated (p. 347):

> But what of *re*publication? Should an absolute privilege exist to bar suits for defamation resulting from a Congressman's circulation of reprints or copies of the Congressional Record to non-Congressmen? The reason for the rule—complete and uninhibited discussion among [legislators] is not here served. Accordingly, the absolute privilege to inform a fellow legislator (either by way of speech on the floor or writings inserted in the Record) becomes a qualified privilege for the republication of the information.

See, also, *Long* v. *Ansell*, 69 F. 2d 386, 389 (C.A. D.C.), affirmed, 293 U.S. 76 (libel action based on printing and distributing copies of the Congressional Record containing reports of an allegedly libelous speech made on the floor of the Senate; "While the published articles were in part reproductions of the speech, the offense consists not in what was said in the Senate, but in the publication and circularizing of the libelous documents"); *Hentoff* v. *Ichord*, 318 F. Supp. 1175, 1180–1181 (D. D.C.) (the "further printing and public distribution [of a committee report] is not necessary to give effect to the freedom of Congressmen to speak and debate on and off the floor. The Speech or Debate Clause does not necessarily bar an action to enjoin the Public Printer from printing a committee report for public distribution").[26]

D. *Any Legislative Privilege That Congressional Aides Have Immunizes Them Only From Tort Liability and Perhaps Injunctive Relief, but not from Testifying Before a Grand Jury.*

The court of appeals ruled (Pet. App. 28) that, by analogy to the absolute immunity executive officers have for torts committed in the performance of their official duties (*Barr* v. *Matteo*, 360 U.S. 564), a member of Congress "may not be questioned at all as to republication," and that his aides enjoy a similar immunity.[27]

The conclusion the court drew from the analogy is unsound. *Barr* v. *Matteo* dealt solely with the tort liability of government officers, and the policy reasons upon which that immunity rests do not justify extending it to grand jury testimony. To the contrary, such an extension of the doctrines of official or legislative immunity would be inconsistent with the well-recognized "duty" of "[e]very citizen," including members of Congress and their aides, "of giving testimony to aid in the enforcement of the law" (*Piemonte* v. *United States*, 367 U.S. 556, 559, n. 2). To our knowledge, the doctrine never has been applied to bar a grand jury from questioning government officers. Its sole office has been to confer immunity from tort or (perhaps) from injunctive liability.

Suppose, for example, that a grand jury had been investigating the terminal leave payments to which the libel in *Barr* v. *Matteo* related, to determine whether they constituted a crime. Although Mr. Barr, the Acting Director of the government agency involved, was not civilly liable for the libelous press release he issued, he surely could not refuse to testify before the grand jury about the incident. The reason lies in the purpose of the immunity from tort liability recognized in *Barr*.

The immunity involved in *Barr* v. *Matteo*—and in the many similar decisions that preceded and have followed it—provides "a defense by officers of government to civil damages suits for defamation and kindred torts" (360 U.S. at 569; *id.*, p. 565). Its rationale is that it is "important that officials of government should be free to exercise their duties unembarrassed by the fear of damage suits in respect of acts done in the course of those duties—suits which would consume time and energies which would otherwise be devoted to governmental service and the threat of which might appreciably inhibit the fearless, vigorous, and effective administration of policies of government" (p 571). See, also, *Gregoire* v. *Biddle*, 177 F. 2d 579, 581 (C.A. 2), certiorari denied, 339 U.S. 949.

There is no comparable policy justification for giving Congressional aides immunity from testifying before a grand jury It is neither necessary nor desirable in order to encourage them to perform their duties properly. The possibility of being summoned by a grand jury, unlike the threat of personal tort liability, is unlikely to deter a legislative aide from performing his tasks vigorously and unhesitatingly. Nor is it likely that legislative aides would be called before grand juries with such frequency that it would impose unjustified demands upon their time; the situation would be different, however, if damage suits were permitted against government officers for alleged torts committed as part of their duties. Finally, the public interest in obtaining grand jury testimony of all persons who have knowledge of matters that the grand jury is investigating, whatever their official position, which

---

Footnotes at end of article.

supports the claim here, is weightier than the private interest of persons seeking financial redress for torts that government officers allegedly committed against them.

Although this Court has long recognized the immunity of members of the judicial and executive branches of the government from tort liability for official acts (*Bradley* v. *Fischer, supra,* 13 Wall. 335 (judge); *Spalding* v. *Vilas,* 161 U.S. 483 (Postmaster General)), we know of no case in which the immunity has been extended to excuse them from testifying before a grand jury. There is no reason why a different rule should be created for employees of the legislative branches, for whom this Court only recently suggested there may be a similar immunity from tort and injunctive liability (see *Wheeldin* v. *Wheeler, supra,* 373 U.S. 647; *Dombrowski* v. *Eastland, supra,* 387 U.S. 82).

In sum, there is no sound reason to create an immunity apart from the Speech or Debate Clause that would permit employees of the legislative branch to avoid the normal duty of all citizens to testify before the grand jury about any matter of which they have knowledge.

E. *Any Possible Privilege That Legislative Aides Might Have not to Give Grand Jury Testimony About Republication of Protected Speech or Debate Does not Extend to Third Persons who Participate in Such Republication.*

Even if, contrary to our submission, either the Speech or Debate Clause or a legislative immunity permits legislative aides to avoid testifying before a grand jury about republication of protected speech or debate, the immunity does not extend to third persons whose only possible connection with the legislative process is that they were negotiating for or handling the republication.

The language of the Clause, no matter how broadly it is construed, cannot fairly be read to cover such third persons. Those persons are not performing essential aspects of the legislative process on behalf of "Senators or Representatives," so that making the immunity of the latter effective requires that it be extended to the former. Neither Mr. Webber, the editor of the Massachusetts Institute of Technology Press with whom Senator Gravel or Dr. Rodberg had unsuccessful negotiations, nor officials of the Beacon Press, which ultimately handled the republication, were performing or effectuating the performance of any legislative function in their negotiations for the republication. Rather they were merely carrying on the private business of their own publishing organizations. Their activities were neither Congressional "Speech or Debate," nor a part of the legislative process.

Nor can it be said that Senator Gravel is "being questioned" when third persons are questioned about their dealings with him or his aide. The questioning that the Clause prohibits is questioning of the Senator or Representative, not questioning of other persons about their dealings with him.

The extension of immunity to such third persons is not necessary to make the Speech or Debate Clause privilege effective. It is far fetched to suggest that a member of Congress is likely to be deterred from doing his job properly because of the possibility that some third person with whom he has contact may be questioned by a grand jury about the matter.

If, as the court of appeals held in the *Johnson* case, 337 F. 2d 180 (C.A. 4), third persons may be criminally prosecuted for their dealing with a Congressman involving the performance of his legislative function, *a fortiori* they may be required to testify before a grand jury about such dealings.

Conclusion

The judgment of the court of appeals should be affirmed insofar as it permits inquiry of Dr. Rodberg, and of private persons who have dealt with Senator Gravel or his aides. The judgment should be reversed insofar as it restricts the questions that may be asked of Dr. Rodberg and other witnesses.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.
ROBERT C. MARDIAN,
Assistant Attorney General.
JEROME M. FEIT,
ALLAN A. TUTTLE,
Assistants to the Solicitor General.
ROBERT L. KEUCH,
WILLIAM M. PIATT,
Attorneys.

April 1972.

FOOTNOTES

[1] The references in this brief to "Pet. App." are to the petition in No. 71–1026.

[2] The facts and procedural history of this case are set out in the opinion of the court of appeals (Pet. App. A, pp. 18–19) and the opinion of the district court (Pet. App. D, pp. 38–39, 41–42).

[2a] The grand jury was investigating the following possible crimes: the retention of public property or records with intent to convert (18 U.S.C. 641), the gathering and transmitting of national defense information (18 U.S.C. 793), the concealment or removal of public records or documents (18 U.S.C. 2071), and conspiracy to commit such offenses and to defraud the United States (18 U.S.C. 371) (Pet App. A, p 19).

[3] Initially the court held that Senator Gravel as an intervenor could properly appeal from the refusal to quash the subpoenas directed to Rodberg and Webber, on the ground that he would have no other method of testing the validity of the subpoenas and that compliance with the subpoenas would irreparably injure him (Pet. App. A, pp. 19–20).

[4] Mr. Justice Brennan granted on January 24, 1972, a stay sought by Senator Gravel, thus leaving in effect the following order entered by the court of appeals on November 29, 1971:

"It is ordered that the grand jury may pursue its inquiry into crimes relating to the so-called Pentagon Papers, provided that neither Senator Mike Gravel nor any member of his staff or of the staff of the Subcommittee on Buildings and Grounds shall be subpoenaed to testify, and no witness shall be questioned concerning the acquisition, use, publication, or republication of the Pentagon Papers by Senator Mike Gravel or by any member of the staff as above defined, until further order of this court. The restraining order entered October 29, 1971 shall remain in full force in all other aspects until further order of this court."

[5] The language of the English Bill of Rights of 1689, 1 Wm. & Mary Sess. 2, c. 2, which this Court has recognized several times as an important source for the Speech or Debate Clause (*see, e.g., Kilbourn* v. *Thompson,* 103 U.S. 168, 202; *Tenney* v. *Brandhove,* 341 U.S. 367, 372; *United States* v. *Johnson,* 383 U.S. 169, 177–178) is much less precise about the persons to whom it reaches: "That the Freedom of Speech, and Debates or Proceedings in Parliament ought not to be impeached or questioned in any Court or Place out of Parliament." Similarly, Article V of the Articles of Confederation, an obvious possible model for the writers of the Constitution, is much less specific. It provides:

"Freedom of speech and debate in Congress shall not be impeached or questioned in any court, or place out of Congress, and the members of Congress shall be protected in their persons from arrest and imprisonments, during the time of their going to and from, and attendance on Congress, except for treason, felony, and breach of the peace."

Most of the colonies enacted specific legislation extending the related privilege of freedom from arrest to servants. Clarke, *Parliamentary Privilege in The American Colonies,* 113. Given the availability of the more general and open-ended language concerning speech and debate of the English Bill of Rights and the Articles of Confederation, and the specific colonial coverage of certain nonmembers in the related privilege against arrest, the precise words of the present Clause can hardly be assigned to caprice or inattentive draftsmanship.

[6] The case of Thomas Haxey (1397) has sometimes been cited as an early assertion of the privilege of freedom of speech, and Haxey may not have been a voting member of Parliament but a representative of the clergy attending Parliament, see Wittke. *The History of English Parliamentary Privilege,* 26 Ohio State Univ. Bull., No. 2, p. 24 (1921). Haxey was charged with treason and convicted for introducing a bill in the House of Commons criticizing expenditures of the royal household. With the accession of Henry IV, Haxey successfully petitioned the King in Parliament to reverse the judgment as being against the law and custom of Parliament. Several commentators have rejected the idea that the petition represented a claim of parliamentary privilege. J. E. Neale in *The Commons' Privilege of Free Speech in Parliament* (Tudor Studies, 1924) 259, in "lay[ing] the ghost of Haxey's case, which has troubled us too long," observed:

"In the first place privilege of free speech covers members alone * * * . Moreover, privilege was never a plea against a charge of treason; and in reality the petition in favour of Haxey was either grounded upon the irregularity of the trial * * * or it was grounded upon the contention that the offence was not treason."

See also Taswell-Langmead, *English Constitutional History* (11th ed., Plucknett, 1960), 175. In any event, even if, contrary to this interpretation, Haxey's case does have some bearing on the Parliamentary privilege of freedom of speech, it seems apparent that, whatever his precise formal status, by introducing the bill he functioned much like a member of Commons; and his case has little relevance for those who do not propose legislation, vote, or debate, but instead assist legislators in the performance of their duties.

[7] See Barrington, *Observation on The More Ancient Statutes* (4th ed. 1775) 375.

As in our Constitution, "treason, felony and surety [breach] of the peace" have always been exceptions to the immunity, May, *Parliamentary Practice* (16th ed. 1957) 68. Generally the immunity was limited to immunity from civil arrest, *Williamson* v. *United States,* 207 U.S. 425.

[8] Thus Wittke, *op. cit., supra,* 41 n. 75 observes: "One writer on this period came to the following conclusion: 'It has to be admitted that for no purpose was parliamentary privilege more valued than for escaping from payment of lawful debts' A. S. Turberville, *The House of Lords in the Reign of William III,* 77 (Oxford Historical and Literary Studies, 1913)."

[9] See Wittke, *op. cit., supra,* 41–43: Taswell-Langmead, *English Constitutional History* (11 ed. Plucknett, 1960) 321–322, 580–582.

[10] The nature of the problem and the solution afforded by this statute have been notèd by an eminent commentator: "Members and their servants had formerly enjoyed immunity from the distress of their goods, and from all civil suits during the periods of privilege. Such monstrous privileges had been flagitiously abused; and few passages in Parliamentary history are more discreditable than the frivolous pretexts under which protections were claimed by members of both Houses, and their servants." 1 May, *The Constitutional History of England* (1912), 358. The same commentator has written:

"By the 10th Geo. III, c. 50, a very important limitation of the freedom of arrest was effected. Down to that time the servants of members had been entitled to all the privileges of their masters [with certain minimal limitations] but by the 3rd section of the 10th Geo. III., the privilege of members to be free from arrest upon all suits, authorized by the Act, was expressly reserved; while no such reservation was introduced in reference to their servants. And thus, without any distinct abrogation of the privilege, it was, in fact, put an end to, as executions were not to be stayed in their favor, and their freedom from arrest was not reserved." May, *Treatise On The Law, Privileges, Proceedings, And Usage of Parliament* (7th ed. 1873) 130.

[11] The American Colonial experience in large measure tracked the English background including the protection of servants from arrest. See generally, Clarke, *Parliamentary Privilege in The American Colonies* (1943). This protection was cut back after the federal constitution was adopted until today only Virginia maintains the privilege on behalf of servants. See Va. Code (1950), § 30–4 to § 30–8. For a collection of the relevant state Constitutional provisions see *Tenney* v. *Brandhove,* 341 U.S. 367, 374–376.

[12] James Wilson stated the purpose of the speech or debate privilege as follows: "In order to enable and encourage a representative of the public to discharge his public trust with firmness and success, it is indispensably necessary, that he should enjoy the fullest liberty of speech, and that he should be protected from the resentment of every one, however powerful, to whom the exercise of that liberty may occasion offence." II Works of James Wilson (Andrews ed. 1896) 38, quoted in *Tenney* v. *Brandhove,* 341 U.S. 367, 373.

[13] The American case law on the constitutional immunity from arrest does not advance the inquiry because the clause has been involved in little litigation. This is in large measure due to the inherent limitations in the wording of the clause. From the earliest assertions of the privilege, "treason, felony and breach of the peace" were exceptions (see Note 7, *supra*). Essentially the immunity has been merely one from civil arrest (*Williamson* v. *United States,* 207 U.S. 425). And even in civil case a Congressman may be served with process (*Long* v. *Ansell,* 293 U.S. 76). While civil arrest was common in England and in America at the time of the adoption of the Constitution, it is no longer so. Thus, as the court observed in *Long* v. *Ansell,* 69 F. 2d 386, 388 (C.A. D.C.):

> That which at the time of the adoption of the Constitution was of substantial benefit to a Member of Congress has been reduced almost to a nullity.

[14] Mr. Justice Stewart, dissenting, considered the case moot. 395 U.S. at 559.

[15] In *Tenney* v. *Brandhove,* 341 U.S. 367, 378, in which state legislators were held not liable under a federal civil rights statute, the Court had affirmed the vitality of *Kilbourn.*

For a recent lower court case following *Kilbourn* and *Powell,* see *Stamler* v. *Willis,* 415 F. 2d 1365, in which the Court of Appeals for the Seventh Circuit reversed the dismissal of an action for injunctive and declaratory relief challenging the House Un-American Activities Committee, and remanded to permit the joinder of "appropriate [non-Member] agents of the House Committee" (415 F. 2d at 1368) so that effective relief might be granted if plaintiffs succeeded on the merits. See also *Hentoff* v. *Ichord,* 318 F. Supp. 1175 (D. D.C.).

United States Servicemen's Fund v. *Eastland,* Civil No. 1474–70 (D. D.C., decided October 21, 1971) in which the court, in an injunctive action, declined to order a subcommittee's counsel to answer certain questions posed by plaintiff seeking pretrial discovery, is not inconsistent with the basic principle of *Kilbourn* and *Powell,* or the position of the government in this case. The court did refer to a Senate resolution authorizing counsel to testify only as to matters of public record, declaring that there was no authority for the vulnerability to suit requires this Court to afford complete satisfaction of plaintiff's discovery requests when such discovery is specifically barred by a Senate resolution" (slip op. 4). But the court did not explicitly rest on the Speech or Debate Clause; it did not hold that Congress can immunize employees from all inquiry in civil suits, much less than one member of Congress can immunize his own employee from all inquiry in a criminal investigation.

[16] Respondents in *Dombrowski,* in a brief signed by the Solicitor General (No. 118, Oct. Term, 1966), had suggested such coverage, *Doe* v. *McMillan,* No. 71–1027, C.A. D.C., decided January 20, 1972, petition for certiorari pending, No. 71–6356, does apparently adopt such a construction of the Clause (see slip, op. 17–19). Since the decision in *Doe* turns substantially on the court's finding that the non-members were, in contrast to the situation in *Kilbourn,* "acting pursuant to valid legislative authorization" (slip. op. at 17), it is unclear what view the court would have taken had their acts been wrongful. In any event, the case involves a civil suit and the result is fully consistent with the interpretation of the Clause urged here, not only because the challenged acts of publishing and distributing the report of a House Committee on the District of Columbia school system was proper, but also because the officials sued were protected by an official immunity independent of the Speech or Debate Clause (see slip, op. 20–25).

[17] We, of course, agree with the opinion in *Dombrowski* v. *Eastland* that legislative employees do enjoy immunity, but one that is less absolute than that of legislators. Nor do we question that the presence of the Speech or Debate Clause is relevant to the determination whether legislative employees are privileged; it was also relevant to the determination of immunity of state legislators under the federal civil rights statute in *Tenney* v. *Brandhove,* 341 U.S. 367. Our submission is that the Clause itself does not confer immunity on employees.

[18] This court, in reviewing the decision, explicitly indicated that it was not passing on this third-party issue. *United States* v. *Johnson,* 383 U.S. 169, 172–173, n. 3.

[19] The privilege of executive officers not to give evidence which would jeopardize national security (*United States* v. *Reynolds,* 345 U.S. 1) or diplomatic relations (*cf. Totten* v. *United States,* 92 U.S. 105) is strictly "limited by its underlying purpose" (*Halpern* v. *United States,* 258 F. 2d 36, 44 (C.A. 2)). No executive official is exempt from subpoena. See *e.g., Marbury* v. *Madison,* 1 Cranch 137, 143–144; *United States v. Burr,* 25 Fed. Cas. 30, 34; *United States* v. *Smith,* 27 Fed. Cas. 1192; *Thompson* v. *German Valley R. Co.,* 22 N.J. Eq. 111, 113 (State Governor). If after appearing the executive official asserts the privilege, the court must weigh the claim of privilege against the need for the evidence, and assure itself that the claim is made in good faith (*United States* v. *Reynolds, supra,* 345 U.S. at 7–11). No court has recognized for executive officers a privilege such as that claimed by the Senator's aides, to refuse to answer any questions at all concerning their official duties.

[20] The court below does not make it clear whether the aide enjoys protection of the Speech or Debate Clause simply because of his status or only because his Senator has intervened on his behalf.

[21] It is no answer to say that the innocent Senator will have no reason to protect guilty third parties or aides. He may well not wish it to be established that he used forged papers, even innocently, and he might also fear that any branding of his aide as a criminal may reflect unfavorably on him.

[22] The conditions under which the material was supplied to Congress are stated in an affidavit of J. Fred Buzhardt, General Counsel of the Department of Defense and the attachments thereto. The affidavit was filed in the cases of *Moss* v. *Laird,* and *Fisher* v. *Department of Defense,* D.D.C., Civil Actions No. 1254–71 and 1865–71, and is reprinted in the appendix to this brief.

[22a] Transcript of Proceeding, September 10, 1971 (Dr. Rodberg's Motion to Quash Grand Jury Subpena), p. 52.

[23] The Court could not have been referring to corrupt or improperly motivated intercessions only, since, if intercessions are Speech or Debate, they would be protected, whether they are innocent or corrupt, *United States* v. *Johnson, supra.*

[24] Under this statute, all criminal and civil proceedings against persons for publication of papers printed by order of a house of Parliament were stayed upon the filing of an affidavit reciting such order. See *Wittke, op. cit., supra,* 155.

[25] May, *Parliamentary Practice* (16th ed., 1957) 58.

[26] *Methodist Foundation for Social Action* v. *Eastland,* 141 F. Supp. 731 (D.D.C.), upon which Senator Gravel relies (Pet. No. 1017, pp. 14, 16), involved an attempt to enjoin the printing as a Senate document of a subcommittee document whose printing the Senate had authorized. The court ruled (p. 731) that "nothing authorizes anyone to prevent Congress from publishing any statement"; it decided nothing on whether the Speech or Debate Clause covers republication.

[27] Although the court's ruling on legislative privilege in terms covered only Senator Gravel, the extension of such immunity by implication to his aide seems the only basis for the court's prohibition against questioning Dr. Rodberg about the republication of the Pentagon Papers, in view of the court's holding that the Speech or Debate Clause does not cover republication.

NATIONAL SENIOR CITIZENS MONTH—A TIME FOR ACTION

Mr. BROOKE. Mr. President, May is a joyous month for most Americans. Warm weather, with blossoming trees and flowers, lure us all from our onerous cares. May is a youthful month filled with youthful pleasures. Yet for some 20 million of our citizens, May offers no bright promise of better times. These 20 million Americans are over 65 years of age, and they have learned, in their retirement years, that they lack a fair share of the abundance which they produced through their own years of toil. Ironically, May is their month—Senior Citizens Month. But under our present system the observance mocks its basic promise.

One quarter of the elderly Americans are presently living in poverty, yet most were not poor until they became old. And unfortunately the older they grow the poorer they grow.

When we add to their poverty the problems of ill health, isolation, and inadequate housing and services, our elderly suffer, indeed, from our neglect.

But their attitude of quiet suffering is a thing of the past. We are entering a new era in which "senior power" is becoming a reality. Three thousand four hundred strong, the delegates to the White House Conference on Aging condemned the status quo and provided a full and compelling agenda for change. These delegates, and millions more of the elderly throughout the Nation, are determined that the report of the Conference will not gather dust on our shelves or serve solely as a basis for more empty rhetoric. The Conference—and the 20 million older Americans which it represents—rightly demand an end to our long neglect. Older citizens demand action. The time for it is now. For senior citizens have no time to wait.

Last year the House passed H.R. 1, the Social Security Amendments of 1971. This bill was a beginning, a base from which to work. The Senate Finance Committee has been revising it for many months, and through its efforts we can be certain that some social security legislation will pass the Congress this year.

As a member of the Special Committee on Aging, I have explored for some time the problems and prospects of security, health, housing, and service for our elderly. In the context of the compelling report of the White House Conference on Aging, I considered what could and should be done in this session of Congress. I have developed a list of musts that I will strive to enact into law.

First, I believe that our elderly cannot endure a rise in social security benefits of less than 20 percent, and I am a cosponsor of Senator CHURCH's amendment No. 999 to provide such an across-the-board increase. This amendment would raise the monthly benefits for the typical retired couple from $222 to $269. The income of the average retired single person would be raised from $133 to $162.

The 15-percent increase in benefits approved in 1970, and the subsequent 10-percent increase effective in March of 1971, have almost been negated by inflation. A 20-percent increase in benefits now is a must if we are going to provide any real economic gains for older Americans. The prospects for enactment of such a substantial raise have been improved by the fact that the chairman of the House Ways and Means Committee, Representative WILBUR MILLS, concurs in the need for the 20-percent across-the-board benefits increase and in the inadequacy of the 5-percent increase now contained in H.R. 1.

But across-the-board increases do not always benefit those who need help the most: The people at the bottom of the scale. For this reason I was particularly heartened by the Senate Finance Committee's adoption of the special minimum cash benefit schedule, which provides a minimum benefit of $10 per year for each year of covered employment in excess of 10 years. Some 40,000 additional people who had worked in covered employment at low wages for many years, will benefit immediately. For those who had so worked for 30 years, this new special minimum will provide a payment of $200 a month for an individual and $300 a couple. Many who have toiled all their lives only to find themselves living in poverty in their retirement will, under this provision, be accorded the security they deserve.

But this is only a first step. We must lift every older American, as well as every blind and disabled American, out of poverty once and for all. In H.R. 1, the House has moved to replace the existing "adult" assistance programs for the elderly, blind, and disabled—OAA, AB, and APTD—with a new Federal income floor of $130 a month for an individual and $195 for a couple, with the new, unified program to be administered by the Social Security Administration. At present the average OAA monthly payments vary significantly among the States, ranging from a low of $50 in Mississippi to a high of $168 in New Hampshire, with a nationwide average of $78. I am pleased to note that Massachusetts is on the high end of the OAA payment spectrum with average monthly payments of $130. In addition, our Commonwealth is one of seven States—Alaska, Idaho, Illinois, Massachusetts, Nebraska, North Dakota, and Washington—which guarantees a monthly income of at least $180 for an individual receiving social security benefits.

The Finance Committee's action on the guaranteed minimum income parallels these State programs to a large extent. On April 5 the committee announced its approval of provisions which would assure most aged, blind, or disabled welfare recipients a combined monthly income from social security and welfare of at least $180 for an individual and $245 for a couple.

At the same time, the provisions approved by the Finance Committee provide those aged, blind, and disabled with no other source of income a monthly payment of only $130 a month for individuals and $195 a month for couples. This minimum level of assistance leaves some 2.4 million aged, blind, and disabled persons, who receive no social security or other income, below the poverty level of $1,852 and $2,328 for aged individuals and couples, respectively.

Overall these provisions would lift from poverty 4 million aged, blind and disabled persons who receive social security or have other sources of income. This would be accomplished by disregarding each month the first $50 of social security or other income. The disregard, added to the minimum, would insure that those aged, blind, and disabled recipients with some social security or other income would receive a minimum monthly income of $180 and $245 for individuals and couples respectively. Annually this would mean incomes for individuals of $2,160, and for couples of $2,960, which in both instances exceeds the poverty level. Further disregarding of $50 of earned income, plus one-half of any earnings above $50, also approved by the committee, will significantly aid those who work part time.

The Finance Committee's approach would result in payments to the aged, blind, and disabled of $5.7 billion in 1973—an increase of $3.5 billion over existing law—and would approximately double the number of aged, blind, and disabled welfare recipients from the present 3 million to 6 million.

Mr. President, while I welcome the committee's significant steps to remove 4 million Americans from poverty, I am concerned about the 2.4 million aged, blind, and disabled persons who will remain entrapped in poverty. They must be helped. If the Senate were to adopt a guaranteed minimum income of $160 for individuals and $200 for couples, for those who have received neither social security or other sources of income, we would succeed in lifting all the aged, blind, and disabled above the poverty line. Under such a provision they would receive annual incomes of $1,920 for individuals and $2,400 for couples. Federal payment of this minimum is contained in Senator CHURCH's amendment No. 998 to H.R. 1, which was introduced prior to the committee's action on the guaranteed income levels, and which I have also cosponsored. The 1971 White House Conference on Aging endorsed the federalization of such minimum payments, and their administration by the Social Security Office. I concur with this recommendation, and it, too, has my support.

Even if the Senate should support these proposals—a minimum monthly floor guaranteeing all aged, blind, and disabled individuals incomes above the poverty level; and the social security and other income set asides approved by the Finance Committee—we shall still fall short of the goal of the 1971 Conference on Aging. The Conference urged a minimum income of $4,500 for an elderly couple, which is equal to the intermediate budget prepared by the Bureau of Labor Statistics. While it seems unlikely that we shall reach this goal during this session of Congress, we must not slack in our efforts. We cannot be satisfied with merely lifting the elderly out of poverty. We must strive to provide a level of security in which all can live in dignity.

Third, we must boost the retirement test above the $2,000 level contained in H.R. 1 to at least $2,400 this year and next, and $3,000 beginning in 1974. I am pleased to cosponsor Senator PERCY's amendment to this effect. I believe such a phased increase, with a study of the feasibility of eliminating the earnings limitation altogether, is the most practical approach towards reaching the goal recommended by the Conference on Aging.

I am also pleased that the House of Representatives eliminated altogether the dollar-for-dollar reduction, which now begins at $2,880, and provided instead a flat 50 percent benefit reduction across the board for earnings above $2,000. Our elderly must have alternatives to full retirement, and we should not discourage those who wish and are able to work.

Regrettably few Americans in the 65 plus age category presently are working. Only 15.3 percent of the elderly have jobs, and those are usually part-time and low-paying positions. Yet all older Americans want a meaningful role in society, and they have valuable talents and the time to contribute richly to the welfare of their fellow citizens. We must seek significant ways to utilize the services of our elderly citizens. We cannot afford to waste their considerable talents. The Administration on Aging programs provide a start, but there is much more that needs to be done and I shall continue to do all I can to provide our elderly citizens with wider opportunities for continuing service.

Fourth, we must go forward, not backward, in expanding the coverage of medicare, which now pays only 43 percent of the elderly's health care expenses.

H.R. 1, as approved by the House, offers some improvements in the medicare program. It includes the automatic enrollment of eligible individuals in part B—the supplementary medical insurance program. At the present time, while 96 percent of those eligible enroll, 4 percent somehow fail to take advantage of this vital coverage.

While we move to merge part A—hospital insurance—and part B in regard to enrollment, I believe the time has also come to eliminate the part B premium altogether and finance the program entirely through general revenues. This is part of the administration's overall health strategy, and provisions to eliminate this premium are contained in Senator WILLIAMS' amendment No 1103, of which I am pleased to be a cosponsor. When medicare began 6 years ago, the part B premium was $3. It is now $5.60 and scheduled to go to $5.80 on July 1. This 94-percent increase in premiums has inflicted severe hardships on impoverished older Americans. By eliminating the premium payments, each older American will have an additional $69.20 a year—at the July 1 premium rate—to spend on the other necessities of life. The cost to the Government of $1.5 billion can be justified by the immediate impact on millions of older Americans' incomes.

The House, in H.R. 1, sought to increase the part B deductible from $50 to $60. I am hopeful the Committee on Finance will delete this provision. Due to the soaring cost of medical care, aged beneficiaries are spending almost as much out of pocket today for health care as they did prior to medicare, for the 20-percent coinsurance they must pay is being paid on substantially higher charges today than those of 1965.

I believe that we must not only roll back this increase in the part B deductible, but begin gradually to eliminate it. I am pleased to co-sponsor Senator PELL's amendment, No. 1093, which would provide a gradual phaseout with a complete end to the deductible by January 1, 1975.

The Finance Committee has already rejected the increase in the hospital copayment as proposed in H.R. 1. The House-passed copayment of $8.50 a day from the 31st to 60th days of hospitalization would have cost a seriously ill patient who was hospitalized for 60 days or more an additional $255. Yet such seriously ill elderly patients are the ones who could least afford this. But while I welcome the committee's deletion of this copayment increase, I am concerned that the committee rejected the commendable House-passed increase in the number of lifetime reserve days from 60 to 120. While the committee correctly points out that such an increase would affect very few beneficiaries, I would suggest that these seriously ill beneficiaries are the ones that suffer the most severe financial burdens in their protracted illnesses. This increase in lifetime reserves must be re-included in H.R. 1 by the Senate.

It is not enough that we relieve medicare beneficiaries from the excessive burdens of premiums, deductibles, and coinsurance. We must also expand the coverage of medicare and simplify medicare procedures for the provision of care needed.

Out-of-hospital prescription drugs with a minimal or no copayment must be a top priority in our consideration of H.R. 1. I am hopeful the Finance Committee will act to include such a provision in the bill. "Miracle" drugs can provide no miracles if patients cannot afford them.

We should also review carefully the inadequacy of medicare coverage in the areas of foot care, eye examinations, eye refractions, eye glasses, hearing aids, dental care, and false teeth, and seek to broaden medicare's coverage in these areas.

I commend the committee for removing in part the restrictions on the coverage of treatment of beneficiaries by speech therapists and clinical psychologists, by eliminating the current provision that such services must be rendered only in a physician-directed clinic or outpatient hospital. However, the services would still have to be provided in an organized setting under a plan of care or treatment established by a physician. I am not convinced that such supervision is necessary. I also regret that this minimal change was not accompanied by a realistic upward adjustment in the $250 annual limitation on out-patient treatment of mental illnesses. The mental health needs of elderly citizens cannot adequately be met within this limit.

The inadequacy of medicare coverage for rehabilitation services must be further corrected as well, and I believe Senator STEVENSON's amendment, No. 955, of which I am a cosponsor, is an essential remedy to these current medicare deficiencies. This amendment would provide coverage under medicare of up to 100 visits to an authorized posthospital rehabilitation facility. Services to be covered under part A would include: Physical and occupational therapy; speech pathology and audiology; medical social services; and services related to the use of prosthetic and orthotic devices. This amendment would benefit the 100,000 older Americans who are released from hospitals and extended care facilities cured, but not rehabilitated.

Some of the most vexing problems of the elderly stem from the requirements for extended care and home health services. The elderly have been plagued by retroactive denials of eligibility for such services. We must include in H.R. 1 provisions for prospective determinations of eligibility for extended care and home health services. At the same time we must eliminate the 3-day in-patient hospital stay requirement for medicare coverage of extended care services, while expanding the number of posthospital home health visits from 100 to 200. Senator PELL's amendments Nos. 1093 and 1097, propose such revisions of current law, and I am pleased to cosponsor his proposals.

However, such revisions to title XVIII will not provide the answer to the unavailability of suitable extended care facilities. Clearly, as the White House Conference on Aging suggests, the elderly as well as all Americans need a comprehensive new health strategy which provides access to quality health care for all Americans. Our medical "nonsystem" need to be overhauled and redirected as we develop a new financing method that insures each and every American the right to good health.

Mr. President, I have touched on some of the musts for meeting the health care needs of the elderly. But better health care and minimum benefit payments alone, welcome as they may be, are only part of the answer to the needs of elderly Americans.

As a member of the Committee on Banking, Housing, and Urban Development, housing for all Americans has been among my top priorities. An amendment which I introduced and which was passed in 1969 provided some relief for the elderly in public housing by insuring that no tenant over 65 would be required to pay more than 25 percent of his or her adjusted gross income for rent. This provided considerable relief to elderly tenants with small fixed incomes, and the Housing and Urban Development Act of 1972, which passed the Senate on March 2, contains an expansion of the Brooke amendment to federally subsidized private housing projects as well. It is my hope that House will concur in this proposal so that the rent ceiling will extend to the elderly—indeed to all tenants—of federally assisted housing.

But only one-third of our Nation's elderly are tenants. Two-thirds of our older citizens own their own homes, and their greatest burden of home-ownership is the property tax. The burden is so great that many elderly Americans are forced to sell their lifelong homes and leave the communities where their roots have grown so deep.

Last year the Senate passed an amendment which would have provided relief for elderly homeowners. This year, Senators PEARSON and EAGLETON have introduced a similar amendment of which I am pleased to be a cosponsor. This amendment No. 895 would allow persons 65 years of age and older a tax credit up to $300 per year for property taxes paid on their residence. For the one-third of the olderly who are tenants rather than homeowners, there would be a tax credit equal to 25 percent of the annual rent, not to exceed $300. In both instances the tax credit would be reduced dollar for dollar of adjusted gross income in excess of $3,250 for an individual and $6,500 for a couple filing jointly. This amendment is essential to insure that elderly homeowners will not be forced to sell their homes, and to provide those who are tenants some economic relief or a chance to move into more suitable housing. I am confident the Senate will again adopt this essential amendment and I am hopeful that this year the House will accept it.

Mr. President, my remarks have focused on the needs of the elderly as I understand them. My suggestions have been directed to what the Social Security Amendments of 1971, H.R. 1, should contain if those needs are to be met.

But H.R. 1 as presently constituted is not a bill solely for those over 65. It contains important provisions relating to title V of the Social Security Act—grants to States for maternal and child welfare—and a total revision of title IV—grants to States for aid to families with needy children. The welfare reform provisions as passed by the House are a modification of President Nixon's family assistance program, first proposed in August of 1969.

At the time the FAP program was initially unveiled, I welcomed its concepts, for I recognize the failure of our current welfare system. However, the family assistance program as passed by the House is unacceptable; it fails to protect the rights and benefits of present welfare recipients and of future participants in FAP. The Committee on Finance has approved an even more regressive and degrading workfare system. Under this system any welfare recipient who does not have children under the age of 6 actually living in the home, would be required to accept domestic or public service employment at the unbelievably low rate of $1.20 per hour.

The Senate is deeply divided on the welfare issue, and a lengthy public debate is certain to ensue. However, our elderly cannot endure a further delay in the enactment of H.R. 1. And welfare families, present and future, cannot and should not endure the diminution of their rights and benefits that could result from either the House-passed welfare reform or the workfare plan adopted by the Finance Committee.

Therefore, I suggest that the Senate abandon the welfare reform provisions of H.R. 1, and proceed promptly with the other essential provisions of this measure.

It is with some reluctance that I suggest an abandonment of welfare reform this session. But I would prefer no change in the present system to changes which are reforms in name only.

Our Nation's elderly, some 4.7 million of whom now live in poverty, deserve our closest attention during Senior Citizens Month and during every month of the year. Their needs compel not only a revision of our laws, but a rethinking of our society's attitudes as well.

Our youth-oriented culture has too long ignored the plight of its 20 million elderly citizens. We must measure up, fully and promptly, to the needs and expectations of those who have served us far better than we have served them.

WASHINGTON POST FAVORS THE GRIEVANCE PROCEDURES

Mr. BAYH. Mr. President, I invite attention to an excellent editorial published in yesterday's Washington Post which offered a carefully considered analysis of the present debate surrounding the Foreign Service's personnel system and grievance procedures.

As the editorial puts it:

> Unfortunately, the temper within the Foreign Service has become sufficiently distrustful and bitter that administrative reorganization by the State Department alone cannot cure it. . . . Both the American Foreign Service Association and the American Federation of Government Employees, the two chief organizations representing these employees, support the legislation now before the Senate. It is high time for Congress to enact it.

The editorial also endorsed the amendment which I intend to offer to that legislation. Since the debate on my amendment has been postponed until next week, I hope that all Senators will take the opportunity to review the favorable comments of the editorial before debate begins. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A GRIEVANCE LAW FOR DIPLOMATS

The Foreign Service continues to be Washington's most troubled bureaucracy, and its troubles are now being brought, once again, to the floor of the Senate. The immediate issue is legislation to establish a new and independent grievance procedure for Foreign Service officers and the other employees of the foreign relations agencies. The Department of State strongly opposes this legislation, arguing, with considerable justice, that it has already corrected the worst abuses of the recent past. Unfortunately, the temper within the Foreign Service has become sufficiently distrustful and bitter that administrative reorganization by the State Department alone cannot cure it. What the Department has given, some of its employees fear, the Department can take away. These employees are entitled to legislation guaranteeing that the Department will apply its rules fairly, and will provide a right of appeal to an impartial referee. Both the American Foreign Service Association and the American Federation of Government Employees, the two chief organizations representing these employees, support the legislation now before the Senate. It is high time for Congress to enact it.

Grievances mainly involve, as one might expect, promotions and firings. These matters can be handled fairly smoothly in a corps of stable size and rank. But the State Department has been cut back about 20 per cent over the past five years, resulting in many firings of officers well into middle age, too old to change careers easily but to young for pensions. Mr. Macomber, the deputy secretary of state for management, has put a stop to the wholesale purges of people in mid-career. But the White House apparently believes that too many officers are clustered in the upper ranks of the Foreign Service, suggesting that there will be few promotions in coming years. The cuts in both positions and promotions has exacerbated all the familiar questions of fair play. The Foreign Service, like most other American institutions, is divided over questions of the proper limits to dissent. And those questions have a special edge in an organization whose business involves political analysis. What one man considers creativity may seem insubordination to another, and personnel disputes often revolve around precisely that distinction.

The Department, under Mr. Macomber, has made a series of important improvements in the personnel system recently. A grievance panel has been set up under a professional arbitrator. Mr. Simkin, former head of the Federal Mediation and Conciliation Service. Employees are now given access to their personnel files. The old up-or-out firing system, which works well in the military services but badly in diplomacy, has been suspended. The Department says that it is prepared, in principle, to support grievance legislation.

But it argues that the bill before the Senate is much too broad. The bill's supporters, in contrast, say that it is limited to issues of due process, and would only require the Department to follow its own rules. The senators sponsoring the bill can perhaps make their intentions on this point explicit in the floor debate. The next question is who shall be the judge. The present bill suggests a three-seat panel, with one seat filled by the person bringing the complaint, one by the Department, and one by agreement or failing agreement by the Court of Appeals here. In this instance, Senator Bayh's amendment seems preferable. He proposes filling all three seats with professional arbitrators.

The malaise in the Department goes a great deal deeper than the personnel rules. The Department is, in fact, going through one of its periodic bad times, and bad times for the Department are bad times for the men and women who have committed their careers to it. Many of their traditional responsibilities have been carried off to Dr. Kissinger's office at the White House, or to the Treasury. The Vietnam war has churned up all of the basic questions of foreign policy, and the organizations that deal with it. But the Department and its sister agencies have an unusual proportion of first rate people, highly trained and highly specialized. They are not dispensable to this country's central purposes. At a time when policy disputes are profound and vehement, grievance legislation can reassure these valuable people that their own superiors will deal with them equitably in their personal careers.

THE CANADIAN OIL PIPELINE

Mr. BELLMON. Mr. President, the Washington Evening Star of May 3 reported that a dozen Republican Senators from the Midwest and East have challenged the proposed Alaskan oil pipeline and are calling for the construction of a trans-Canadian pipeline in the interest of lower costs, the environment, and national security.

I am pleased to note that these Senators, who have in the past taken a noncommital and often negative attitude toward the Nation's energy crisis, despite the fact that they came from heavily populated areas, are now taking an active interest in this matter.

Unfortunately, their proposal is plagued with the same kind of ill-conceived logic that they apply to opposition to offshore drilling, deep water port facilities, and realistic energy pricing policies.

The fact remains that a trans-Canadian pipeline would be three times as long, twice as costly and by the simple distances involved, more environmentally damaging than the Alaskan pipeline.

Further, the Canadian line would undoubtedly be under the control of the Canadian Government and would most likely operate as a common carrier for Canadian crude. This would effectively imperil U.S. operational control and subject the line to United States-Canadian diplomatic fluctuations.

In the face of a mounting domestic petroleum shortage, sharply rising costs of imported oil, and ever-increasing dependency on foreign reserves, the need to encourage expanded domestic exploration and production is imperative. We must get on with the task of constructing the Alaskan oil pipeline so that this critically needed source of energy may become available to U.S. consumers.

In addition, Congress, it is hoped with the active support of these same 12 consumer-State Senators, should provide needed incentives to the energy industry so that the Nation's basic energy needs can be safely and economically met from secure sources under the control of this Nation.

Mr. President, I ask unanimous consent that the Evening Star article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOP SENATORS ASK REROUTING OF OIL PIPELINE

A dozen Republican senators from the Midwest and East have challenged the proposed Alaskan oil pipeline, calling for serious consideration of a cross-Canada route to the U.S. Midwest.

Led by Asst. Senate GOP Leader Robert Griffin of Michigan, they echoed arguments made earlier by many Democrats that a Canadian line would be cheaper, less costly to maintain and operate, more secure from earthquakes, less potentially harmful to the environment and safer from a national-security viewpoint.

ONE MILLION MIDDLE-AGED AND OLDER WORKERS UNEMPLOYED

Mr. CHURCH. Mr. President, joblessness continues to remain at an unacceptably high level for persons 45 and older.

More than 1 million individuals in this age bracket are now unemployed, nearly 75 percent higher than in January 1969.

And once he loses his job, the older worker is likely to be without employment for a substantial period of time. Today 466,000 have been searching unsuccessfully for work for 15 weeks or longer, more than three times as great as in January 1969. During this same period their very long term unemployment—27 weeks or longer—has jumped by an alarming 362 percent, from 48,000 to 222,000.

In my own State of Idaho, older workers and their families have also felt the harsh effects of the economic slowdown during the past 3 years.

Persons 45 and older, for example, account for almost 40 percent of the total insured unemployment in Idaho.

However, action has been initiated in Idaho on a number of key fronts to create a more favorable climate for the employment of mature workers.

One outstanding example is the retirement jobs program which has helped to place older persons in gainful and satisfying employment. Under the skillful direction of Mrs. Agatha Pallister, this program now renders valuable supportive services for nearly 700 registrants.

For many older persons these jobs have provided more than just a means of earning income. In numerous cases, the employment has provided a most rewarding and fulfilling experience.

Additionally, April was proclaimed as a special emphasis month to encourage the employment of individuals 45 and older. Recently a joint statement to carry out this policy was issued by Wil Overgaard, deputy director of the Idaho Office on Aging, and George N. Stoops, executive director of the Governor's Committee on Employment of the Handicapped and Older Worker.

These efforts, it seems to me, provide a useful course of action for other States to follow in stimulating job opportunities for middle-aged and older persons.

A recent article in the Idaho Statesman describes these activities in greater detail.

Mr. President, I commend this article to Members of the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STATISTICS, PERSONAL VIEWS BOLSTER APRIL

(By Carrie Ewing)

April is special emphasis month to appeal to employers to hire the older worker, ages 45 and up.

The joint announcement was issued by the Idaho Office on Aging, with Wil Overgaard as deputy director, and the Governor's Committee on Employment of the Handicapped and Older Worker, George N. Stoops, executive director.

Of the 30,090 unemployed insured workers seeking employment in Idaho during the first quarter of 1972, 11,537 are in the 45 and older age bracket, according to Department of Employment reports.

During that period, the total number of insured unemployed persons in Idaho increased by less than two per cent over the corresponding period of 1971. But the over-45 worker in the same category for the same period increased by 14 per cent.

Hidden in these statistics is the fact that one out of every 3.3 persons 65 or older had an income of $3,000 or less for 1971.

Overgaard called attention to a startling fact that accounts for some of the unemployment among older workers.

"One farm worker was required to produce enough food for 11 persons 30 years ago. Today, with mechanization and improved techniques, one person produces enough to feed 45 persons," he said.

Using the adjectives skilled, competent, dependable energetic and dedicated, the two directors offer "living proof" for their opinions.

They gleaned the examples from Retirement Jobs of Idaho, Inc. and the Governor's committee. Retirement Jobs was a dream, then a reality for Mrs. Agatha Pallister, a retired worker who decided to do something about her leisure and that of other retirees.

Serving many years in employment offices in Utah, Mrs. Pallister moved to Boise on her retirement. As leisure time weighed so heavily upon her she conceived the nonprofit employment agency for older workers. From a humble beginning in a small trailer in February of 1970, to offices in the Immanuel Methodist Church, to more adequate quarters at 3314 Americana Terrace, she now is able to render service to nearly 700 registrants.

A representative also is stationed at 706 East First, Meridian, to serve the Treasure Valley area. Retirement Jobs is an entity of Model Cities and the Idaho Office on Aging.

Proving the case for the older worker is George Gilbert, who, after 48 years of following the culinary arts, adheres to the philosophy of "once a chef, always a chef." He just "couldn't resign" himself to doing nothing.

Gilbert, Overland Road, Route 2, Meridian, rebelled at being cooped up during the bad weather this winter when "I couldn't get out and work on my place."

Though pushing 71 years, Gilbert went to Retirement Jobs of Idaho, Inc. to inquire of employment possibilities.

Sir Richard's, a new business, had just opened at Nampa.

"I've been there for nearly three months now, working from nine to 11 hours a day and love it," Gilbert said. As chef he is in charge of the kitchen. "On Sundays we prepare 150–160 pounds baron of beef."

Five days of work each week at Sir Richard's doesn't seem to be enough for Gilbert. He cooks dinners once a week for two Masonic lodges on his "off work" days.

His chief experience includes 21 years at clubs in Reno. He was working as chef for one of Albertson's delicatessens in Reno and was transferred to the chef position at Albertson's Sixteenth and State delicatessen in Boise.

"I like to work," Gilbert said. "Restaurant work is hard work, but I want to keep on working as long as my health holds out. We will have the work organized on my job soon, then I can put in shorter hours. I don't want to quit work abruptly. That makes too much time on my hands."

Mrs. Elizabeth Krutzfeldt, 420 North Pacific, though officially a retired practical nurse, finds it impossible to retire, because "My patients keep recommending me to someone else who needs home care, and I go. I have a feeling for my patients. I like to be good to them."

So it is, when one case terminates, Mrs. Krutzfeldt is faced with another as a result of satisfied customers spreading the word. She is happy to "work on call." She maintains the home and gardens and raises flowers to keep busy during off-duty intervals.

She is another older worker who found placement originally with Retirement Jobs of Idaho, Inc.

Acclaimed by George Stoops of the Governor's committee as a "shining example" of the energetic older worker is George H. Hill, 3621 Patricia Lane.

Hill retired last August from a building maintenance position with KTVB Channel 7, "after trying to reitre for four years." But complete retirement was not for Hill. He presently is occupied changing and installing new locking units in federal government buildings.

Hill said he is willing to accept part-time employment, and will not refuse a full-time occupation. However, he prefers the part-time setup, for, at 69, he would like "to kick around a bit—work and have fun, too, Can't just sit down and do nothing."

An ardent skier since he was 10, Hill said he has slowed down now, going about four times a season.

"My wife skied until five years ago. We both belong to two bowling leagues."

In the 1950s, Hill managed the Bogus Basin Ski area for four years. He served nine years on the Volunteer Ski Patrol, which eventually became connected with the Pacific Northwest Ski Association. Through this association Hill was acclaimed Ski Patrolman of the Year for the 1960–61 season.

"I also have been a member of the Avalanche Patrol Special Unit, where we trained in outdoor survival. This unit developed into the Mountain Rescue Unit," he recalled.

Not only has Hill been active, though retired, Mrs. Hill, a licensed practical nurse from 1950–1967 at St. Luke's Hospital, also portrayed the willing older worker by being subject for four years to call after her retirement "until back trouble caused me to quit."

Leaving the hubbub of San Francisco after 30 years as a secretarial worker, Miss Avice Annett, 1713 Resseguie, returned to Boise in 1969.

"I have to keep going at something," she said. "I'm too lively to sit around. I'm happy to work at something to supplement my retirement income."

She is a resident representative on a part-time basis with the staff of the Citizen Participation Department of Model Cities. Her task is to contact fellow residents in the Model Neighborhood to determine the needs of the citizens and to learn what programs they desire.

"I like this work," she said. "I like the contact with the people. It's better than sitting at a desk doing office work."

PRESIDENT NIXON'S POSITION ON VIETNAM

Mr. THURMOND. Mr. President, I invite the attention of Senators to an editorial entitled, "Nixon Blockbuster," published in the New York Daily News of April 28, 1972.

It is a perceptive and concise view of the President's position on the Vietnam war which he broadcast to the Nation 2 days earlier. While the editorial points out that President Nixon is taking a firm stand on aerial bombardments in response to open invasion, it reiterates the success of Vietnamization.

The editorial makes its most astute analysis in describing Hanoi's goal of victory through American public opinion. The editorialist correctly rejected this theory and called upon all Americans to unite behind the President in bringing this war to a conclusion with honor.

Mr. President, I ask unanimous consent that the editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

NIXON BLOCKBUSTER

We can't think of a better word than the sometimes overworked "blockbuster" to describe President Richard M. Nixon's Wednesday night speech to the nation and the world.

The President confounded all who thought he sent Henry A. Kissinger to Moscow last week to beg the Kremlin on bended knee to call off its North Vietnam running dogs in return for a U.S. promise to stop bombing up north.

On the contrary, Mr. Nixon assured one and all that the bombing will go right on, with no military targets exempted, until the North Vietnamese Reds in Hanoi pull their troops back across the demilitarized zone.

So well are the South Vietnamese coming along in taking over their own defense that our troop pullout program is to be uninterrupted, with 20,000 more men coming home in the next 60 days.

We are returning to the Paris peace talks, said the President, but only because we expect concrete results and prompt results; we're done with taking guff and bombast.

Hanoi's last remaining hope of victory, as Mr. Nixon sees matters, lies in winning this war inside the United States with the help of doves, defeatists, dupes, dopes and plain traitors. He cannot picture most Americans buying these worthies' line of goods. Neither can we. Neither, we surmise, can you.

How, then, about all patriotic and freedom-loving Americans uniting behind the President as regards the Vietnam war and for the duration of that war?

TRIBUTE TO HENRY REGNERY

Mr. THURMOND. Mr. President, some time ago, nearly 200 writers and teachers identified with conservatism in American politics gathered in Chicago to honor my good friend Henry Regnery.

Mr. Regnery is the founder and chairman of the board at the publishing house which bears his name. His contribution to the literary world was unique when he began his publishing operations 25 years ago. At that time, many publishing companies were eager to publish the works and philosophies of liberal writers. No one was anxious to make available to the public the works of conservatives.

Mr. Regnery set out to change all of this, and for nearly two decades, until Arlington House and the Conservative Book Club joined ranks, Henry and Devin Adair Garrity in New York were the only two such conservative publishers.

Mr. President, this man has done much to keep conservative views available for the public. He is richly deserving of the honors given to him by his colleagues. I am sorry that I could not have been there.

The highly regarded columnist James J. Kilpatrick was there, and he wrote of the event in a column entitled "Henry Regnery, Keeper of Conservative Store." The column appeared in the Washington Evening Star of April 20. I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

HENRY REGNERY, KEEPER OF CONSERVATIVE STORE

(By James J. Kilpatrick)

CHICAGO.—Nearly 200 American writers and teachers, all of them identified with the conservative cause, gathered here in Chicago the other night to honor a benefactor and to renew old bonds. Liberals, of course, have such occasions also; they are indispensable to the keeping of any faith; and they remind us anew of the importance of ritual in the survival of civilized man.

Our own modest consistory was summoned to pay homage to Henry Regnery, founder and chairman of the board of the publishing house that bears his name. Henry is a diminutive fellow, maybe 5-feet-6, slender as a snap bean, but he stands pencil straight and his placid face belies a stubbornness within. He is 60 years old, but in the past 25 years he has not gained a pound or added a wrinkle.

These were the 25 years we recognized last week—the quarter century since Henry, at 35, plunged into the perilous waters of the book publishing business. He set out in Chicago, of all places, to publish books by conservatives, of all people; and for nearly two decades, until Arlington House and the Conservative Book Club came along, Henry and Devin Adair Garrity in New York were the only two such lunatics in the land. Bless them, O Lord!

You have to be a professional writer, perhaps to understand that invocation fully. The act of writing, in itself, is among the most agonizing occupations ever contrived by man; but to write futilely—to write and not get published—is to know the tortures of the damned. It is like the tree that falls in the desert: Does anyone hear? Without a publisher, a writer is an unstrung fiddle; other instruments are playing. He is mute.

Henry Regnery made it his mission to string us up. He challenged the orchestrated liberalism of the whole book publishing world—not merely the houses themselves, but also the book reviewers, the periodicals, the critics who can make or break a title in the market. Then, as now, the media were dominated by intellectuals hostile to conservative thought. Henry took on the whole crew.

Thus, when it was highly fashionable to praise the Chinese Communists, those agrarian reformers, he published Freda Utley's "The China Story," one of the most powerful anti-Communist works of our time. When progressive education was all the rage, he sought out Mortimer Smith, and thereby introduced in the groves of academe a cool voice of common sense. He breached the very citadels of the Eastern Establishment with Bill Buckley's "God and Man at Yale." In 1957, when liberals ruled the Southern roost, he sought a conservative in Richmond and let the young cock crow.

Most significantly, he discovered in Mecosta, Mich., up in the burnt-woods country, a ruddy little Scot whose pedantic image concealed a quick and lively passion. This was Russell Kirk, teacher and philosopher. His seminal work "The Conservative Mind," remains after nearly 20 years the one best starting point for an understanding of contemporary conservative thought.

What did Henry glean from his labors? Personal satisfaction, little more. Relatively speaking, he rarely made a dime. In the whole of the 25 years, only a handful of his titles, by the most generous accounting, ever ranked as best-sellers. But he had a wonderful time.

So the clan gathered to pay him honor, and as such ritual proceedings go, this one went very nicely. The preliminary speakers rambled on too long, but Bill Buckley, as principal orator of the evening, was exactly right. He recalled Whittaker Chambers' vivid description of the typical tiny shop on a side street of a great city. Here no customer is ever seen. A curious visitor, wondering what the shop conceals, finds him at a dimly lit desk in the rear an old man who lovingly offers a few bolts of handcrafted cloth—fabric not meant to sell, but merely to endure. So, too, Henry, keeper of the conservative store.

Every faith must have its Henry. The liberals have theirs, and I would pay them homage also. Someone has to keep the tablets, if only to preserve the possibility of enduring truth against the casual destruction of the passing hour.

MAY 4, 1970

Mr. KENNEDY. Mr. President, I invite the attention of Senators to an article in the New York Times today which has a simple headline, a headline entitled "May 4, 1970."

The statement by the author of the article is more than enough to demand the attention of Senators. It does not need any additional comments from me to emphasize the continuing questions of justice that the events at Kent State have raised.

Four young Americans were killed that day, and our system of justice has remained blind to their deaths.

Almost 9 months ago, I asked the Justice Department for the investigative file on the Kent State incident. As chairman of the Subcommittee on Administrative Practice and Procedures, I asked for those reports as the first step in assuring congressional oversight of the Justice Department decision not to conduct a grand jury investigation.

I ask unanimous consent that the article written by Arthur S. Krause, father of Allison Krause, who was one of the four students killed that day, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

MAY 4, 1970

(By Arthur S. Krause)

PITTSBURGH.—In the afternoon of May 4, 1970, my wife and I learned, through telephone calls and radio newscasts, that our daughter Allison had been killed in Kent State University. Several hours later we arrived at the hospital in Ravenna, Ohio, to witness a scene of military activity in the town which recalled for me similar scenes from the last months of the war in France and Germany.

Two policemen informed us that guardsmen had been killed on the campus and the local newspaper carried glaring headlines to this effect. The atmosphere pervading Ravenna and the hospital was indeed comparable to that which one would find in the aftermath of a firefight between G.I.'s and the enemy. It was not until a C.B.S. employe came up to us and insisted the police and Ohio National Guard were lying about the dead guardsmen that I sensed the future.

"The demonstration was over," he said, "when they suddenly opened fire and killed the students." At that moment I knew the great whitewash had begun.

A few weeks later I spoke to John Ehrlichman at the Key Biscayne White House and he assured me I was mistaken. The conduct of the Ohio Guardsmen would be fully investigated and, he said, there would be "no whitewash." I responded by telling him I would only believe it when the President and his Justice Department demonstrated the sincerity of his assurances.

Six months after the tragedy, the state of Ohio made the Administration's snow job that much easier by demanding and dutifully receiving, total exoneration of the National Guard's role in the killings, and condemnation of the university, faculty and students. This childishly prejudicial finding was solemnly rendered by a Portage County grand jury.

Within twenty-four hours of my daughter's murder I knew justice would not only be delayed, it would be denied as long as this Administration remained in office. With this thought in mind I appealed to then Attorney General Mitchell not to allow the Portage County grand jury to become an obscene travesty of justice. I am still waiting for the Justice Department to act.

It is almost two years now since Allison and her fellow students Sandra Scheuer, Bill Schroeder and Jeff Miller were shot to death during a fusillade which violated both Federal and state laws. The Government has amply demonstrated its contempt for those laws when enforcement would not be politically advantageous.

ARE FOOD PRICES OUT OF LINE?

Mr. HANSEN. Mr. President, recently one of the questions raised most often with regard to the activities of the Price Commission and the sources of the President's Economic Stabilization program is whether food prices are out of line. The administration and the Price Commission have addressed themselves to this question, and I am hopeful that the people of the Nation have an opportunity to become more knowledgeable of the costs of producing food products and moving them to the marketplace.

In an effort to see that the American public is properly educated concerning these complicated marketing processes, I invite the attention of the Senate to a statement published in the Western Livestock Reporter of February 24.

Mr. George Wurnig tells the price-cost story well stating.

> In 1951, I got $48 per cwt for my calves and bought a new tractor for $2,150. In 1971 I got $44 per cwt and bought a comparable sized tractor for $5,700. In 1971, I paid our hired man five times more than in 1951.

These are facts of life. They should be recognized by the American consumer.

Mr. M. J. Hankins, representing the Stanton County Livestock Feeders Association of Stanton, Nebr., testified before the Price Commission recently calling attention to the farm to consumer price spread which is a major factor in the increase in beef prices. The farm-to-consumer price spread is the difference between what the farmer receives and what the consumer pays.

Mr. Hankins points out that during the past 20 years retail price spread on beef has skyrocketed. As an example, farm-to-retail price spread for market basket foods increased 2.5 percent from January to February this year and accounted for four-fifths of the increase in retail prices. Retail spread for beef took a very sharp jump of 24.3 percent over the last year. This increase is totally unrelated to what is paid to the farmer and rancher. It is strictly increase in the cost of moving the production from the farm to the consumer.

It is important for the American people to recognize the fact that the prices being received for cattle by the rancher and farmer in 1972 for the first time have reached the price which was being paid to the rancher for the same produce in 1951, over 20 years ago. Mr. President, I ask unanimous consent that Mr. Hankins' statement be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Testimonial Presented Before the National Price Commission by M. J. Hankins, Representing the Stanton County Livestock Feeders Association, Stanton, Nebr.

Farms to consumer price spread is the biggest problem of the cattle industry, as well as for all agriculture. This is the difference between what the farmer receives and the consumer pays. It is that part of the consumers dollar that the farmer, rancher and livestock feeder does not receive. Consumers should be equally concerned.

Over the past twenty years retail price spread on beef has skyrocketed at times out of all proportion to such costs as labor, transportation, taxes and equipment. As an example farm to retail price spread for market basket foods increased 2.5 percent from January to February this year and accounted for four fifths of the increase in retail prices. Retail spread for beef took the very sharp jump of 24.3 percent over last year.

BEEF PRICES ROLLED BACK

We very well remember the fall of 1970 when $100 per head was taken off of our cattle over and above the year before, with no significant change in supply, consumer demand or cut in the price of beef to the housewife. There was no trouble experienced at that time in selling our beef just as fast as it could be cut up at near steady prices. This roll-back amounted to about $300 million, annual basis, on the three million cattle fed in Nebraska—six times our state income tax. The national figure would have been 2½ billion dollars on 25 million cattle. We also remember the $6 per hundred rollback in the summer of 1969, and the $3 rollback in the spring of 1966 under similar conditions. It will take several years of good prices to earn back all of the money lost on these bad markets.

CONSUMERS LIKE OUR PRODUCT

About the most insignificant problem over the last twenty years has been to get people to eat our high quality grain fed beef. We were producing such a wholesome, nutritious, appetizing, and satisfying product that the demand was consistently gratifying. All during this time, when consumption increased nearly 300 percent, our good consumers gladly ate all the beef we could produce plus a generous helping of imported beef and paid a good price for it. However, during much of this time we were selling our cattle at fire sale prices. We did not get our fair share of the housewife's beef dollar. At no time during this period did we have a surplus of beef. It did not pile up. We did not have to export any of it.

PRICE SPREAD DISASTROUS TO FARMERS AND RANCHERS

Since, us farmers and livestock men are the original producers we feel the full force and effect of price spread. We have no one else to pass it back to. Therefore, we find that price spread is the most basic cause of the farm problem. About 40 percent of the farmers were forced off the land during the past ten years because of disgracefully low prices; the direct result of exorbitant price spreads. This all happened during the greatest period of prosperity in American history. The average farm family income is only 75 percent as high as for city families and half of this income is from non-farm sources.

In 1969, according to USDA figures, the average farmer made only 1.1 percent on his net capitol investment. The small farmer with gross sales of under $10,000 made only .8 of one percent and the large farmers with gross sales of over $20,000 made only .9 of one percent. This shows that, contrary to popular belief, the nations largest farmers are doing just as poorly as the nations smaller farmers. During this same year of 1969 food retailers made a net return of 23.6 percent. Farmers and ranchers have been donating the use of most of their capital investment in order to stay in business and in addition to that they are earning over half of their income from other sources.

RURAL COMMUNITIES SUFFER THE CONSEQUENCES

As a result of all of this, rural community life has been sadly disrupted. Vacant buildings are common place up and down mainstreets in small country towns. Abandoned farmsteads dot the country side. Many others are in a depleted condition and about to be vacated. Most of the potential young farmers have left the land resulting in the average age of farmers being near, at or past retirement age. The time has come to be concerned about just who is going to keep on producing our food supply.

If the farmer could have his fair share of the consumers dollar the exodus to the city would soon stop and even reverse. Many young people would be glad to return and takeover the home farm if they had some assurance of a chance to make a reasonable income from the land. If the farmer were getting his fair share he would not need to be subsidized and he would not need bureaucratic help with rural development. All he needs is a fair price at the market place relative to retail prices.

A fair price or parity formula for the farmer should be based on retail price less a reasonable cost for processing and distribution.

It is about time we demand the same efficiency in processing and distribution that we have on the farm.

PRICE CONTROL WOULD MEAN SHORTAGES AND RATIONING

We are very firmly opposed to price fixing for livestock at the farm or for meat at the retail level. As in OPA days price fixing would result in shortages, rationing, black markets, racketeering, shady under-the-table deals and very serious disruption of our entire livestock industry. When livestock was under price control meat production was forced back so much that the big labor unions threatened to strike unless they could have meat. Regulations were immediately suspended, cattle prices jumped $10 per hundred in one day, production started rolling again and we have had an ever-increasing supply of meat ever since.

"The cost of the original product is the least important factor in setting the price to the consumer." This is a quote from a big chain store executive and another good argument against controlling farm prices.

The big increase in price spread started about twenty years ago and coincides with the chain store explosion. It is now common knowledge that the chain stores are the real "fat cats" of the food industry.

We think the Government should do a much better job of serving as a referee at the market place to help keep our markets free and openingly competitive. The anti-trust laws should be enforced and unfair marketing practices eliminated.

THE CONSUMER'S BEEF DOLLAR—HOW IT IS DIVIDED BY THE BEEF INDUSTRY

Example—1,100-pound choice steer dressing 63 percent yields a 693-pound carcass of beef—491.3 pounds less trimming waste.

The rancher receives $270.20. (700 pounds feeder steer at $38.60. This for all expenses of raising the steer.)

The feeder receives $98.27. (This for 400 pounds of grain with high grain rations. About five months time required in the feed-lot.)

The packer receives $37.34. (491.3 pounds at 7.6 cents. This includes slaughtering and preparing the carcass for the retailer.)

The retailer receives $163.11. (491.3 pounds at 33.2 cents—up 24.3 percent from last year. This covers such items as cutting and wrapping and displaying for self-service.)

The consumer pays $568.92. (491.3 pounds retail cuts at an average price of 115.8 cents.)

(Above information based on figures from USDA—Supplement to Marketing and Transportation Situation—February 1972. Also USDA Kansas City feeder cattle data.)

TRUTH IN SAVINGS

Mr. HARTKE. Mr. President, in this age of "consumerism" one area which has received little attention is the billions of dollars which Americans place into savings institutions each year.

Few depositors understand just what the savings institution does with their money and just how their deposited money earns interest. A glance at today's newspaper will indicate that many savings institutions advertise their earnings rates as a means of attracting consumer deposits. Unfortunately, the information disclosed in these advertisements can be misleading to the extent that it is inadequate. For instance, to state that a deposit earns interest at the rate of 5 percent per year, tells the depositor very little. How often is that interest credited and compounded? What specific method is there that the earnings rate computed by the savings institution is accurate in light of the institution's own earnings computation method?

Mr. President, what this means is that the average consumer depositor has inadequate information at his disposal with which to make a reasoned choice among a variety of savings alternatives. The 5-percent interest rate advertised by one savings institution is not necessarily the same 5-percent earnings rate which is advertised by another institution. This difference is caused by differences in methods of compounding and crediting as well as differences in the methods of computing earnings rates.

To provide the consumer with adequate information, I introduced S. 1848, the Truth in Savings Act, during the last session. While this legislation does not tell a savings institution what earnings practices it should follow, it does provide the consumer with enough information to make an informed choice among savings institutions and their various savings plans.

Mr. President, I ask unanimous consent that an article on the truth-in-savings concept, written by Richard L. D. Morse and William R. Fasse, of the Department of Family Economics of Kansas State University be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Truth in Savings [1]

(By Richard L. D. Morse and William R. Fasse, Department of Family Economics, Kansas State University, Manhattan)

WHAT'S IN A NAME

Savings and credit are inseparable. Truth in Lending now has its counterpart in a proposed *Truth in Savings Act*. The word "Truth" alarms some savings institutions who seem to feel that they are accused of being untruthful. This is not the intent of the proponents. Perhaps a better title might be "The Consumer Savings Disclosure Act".

The "Truth" title is used because historically its use derives from the Truth in Securities Act which established the Securities and Exchange Commission. In 1967 the Consumer Credit Protection Act passed. When Senator Paul Douglas originally introduced it in 1960 it was named the Consumer Credit Labeling Act. However it has always been popularly known as "Truth in Lending". Likewise the Fair Packaging and Labeling Act is known as Truth in Packaging. Actually they all share the same rationale as the Textile Fibre Identification Act. All require the standardization of terms to effect more efficient and accurate communication.

PREMISE

The premise of this discourse is that consumers have certain rights, needs and responsibilities which if met will enable them to perform better their rôle in a free enterprise economy—These rights, needs and responsibilities are delineated with respect to savings:

The rights of consumers, the right to safety, to be informed, to choose and to be heard, were first stated by President Kennedy March 15, 1962, and have been repeated in the original or revised form by Presidents Johnson and Nixon and by the U.S. Chamber of Commerce. Specifically the right of the consumer to be *supplied the information needed to make informed choices* is the right addressed by all these so called "Truth" or "Disclosure" acts.

With respect to savings, the question is: Does the American consumer have sufficient information to make informed choices among savings institutions and their various savings plans?

The need of consumers as busy people with a multitude of decisions to make on a wide range of subjects are for reliable, meaningful information. Standardized terminology for communication about the various opportunities is essential for efficient comparative shopping.

With respect to savings, the question is: Are savings terms standardized so that they have clear, precise and universally comparable meanings?

The responsibilities of the consumers are many, but they are of particular importance in the areas of savings and credit because a legal contract is involved. It is crucial that both parties know the terms of the contract and exercise the responsibility of holding the other party to the terms of the contract. Each should know whether the terms are being met.

With respect to savings, the question is: Are the terms of the savings contract sufficiently described so that the two parties can check the performance of each other?

If the national policy is to obtain maximum benefits from a free competitive economy, then consumers must have the opportunity to be routinely informed so they can act efficiently and accurately and can exercise their responsibilities. But what is the situation today? How do present practices measure up against such standards?

THE SITUATION

Deficiencies on the part of government, savings institutions and consumers are evidenced by the following illustrations. They are not presented as representative of the style of operation of any class of savings institution, but to demonstrate the existence of certain problems and practices.

1. Savings terms are not standardized. Even the time period of a year is not precisely defined, so that tables currently in use by institutions for figuring interest are on a 360 day, 365 day or 366 day basis for specified annual rates. Quarterly compounding in some situations may mean compounding at the rate of one-fourth the nominal annual rate, but in other situations at a rate which reflects the actual number of days in a quarter relative to the number of days in a year. In the latter case the applied quarterly rate varies from quarter to quarter. Furthermore, two savings institutions using the same annual rate and compounding daily on a 365 day basis may quote different interest factors for a specific number of days. For example, the published factor table of one bank gives 4.41059518 as the factor for 274 days while another quotes 4.40919 for the same 274 days—and both based on daily compounding, 5.75% and a 365 day year. This may sound like "nit-picking". However, small fractional differences for a multi-billion dollar industry may be very significant.

The prevailing lack of standardization is not surprising in view of the disposition of the regulatory authorities not to define the significant terms. Cited below are excerpts from two letters from the Office of the General Counsel of the Federal Deposit Insurance Corporation:

"However, this Corporation has not attempted to define by regulation the myriad terms which may be employed in bank advertising. Such an effort would only serve to further complicate what has already become a complex area of regulation." (April 30, 1971 letter.)

"You are advised that this Corporation's regulations permit banks subject to its regulatory jurisdiction to compound interest on any basis they desire. The regulations do not attempt to define terms such as "compounded daily" or "credited quarterly," etc. However, they do prohibit advertisements which are inaccurate or misleading, or which misrepresent a bank's deposit contracts." (Portion of April 16, 1971 letter to Dr. Morse.)

2. *Information level is uneven*. The amount of information supplied consumers, albeit not necessarily in a standardized terminology, varies from fairly complete to minimal. It is not uncommon for the passbook to contain a statement that the account is subject to the provisions of the laws of the state or of the regulatory authority. This merely tells the consumer what the consumer already suspected, namely, that the savings institution intends to operate within the law. (Bonus Certificate). Less typical is the passbook or savings instrument that gives some detail. An example is the Special Term Savings Account

---

Footnotes at end of article.

Passbook of the New York Bank for Savings. (Feb. 19 letter).

3. Vital information is lacking. Miss Jackie Pinson, as a graduate student in Family Economics, undertook an extensive survey of the savings plans. She discovered that the officers at the savings institutions frequently were unable to fully describe their own plans in a manner which would permit her to compare one plan with another. Furthermore, she discovered that it was possible for two institutions which would appear to be comparable, that is pay the same annual rate and use the same compound period, could vary as much as 171% in the amount of earnings paid on a six-months savings program which she had developed. The difference resulted from variations in methods used in computing the balance to which the rate was applied. This involved such details as to whether the bank computed earnings by applying the rate to the savings balance derived by use of first-in-first-out, last-in-first-out, average daily balance or other method. Such differences in methods might seem to be petty, but quite obviously they can be extremely significant to the consumer. Yet, such information is not routinely fully disclosed.

An illustration of what this gap in information can cost a consumer is revealed by an experience of Mr. William Fasse, then a graduate student in Family Economics. He had an account which paid interest every six months. And in the fall of 1969, when he was buying a car, he wondered whether he should withdraw savings or increase the amount of the car loan. His passbook revealed no useful information for him to assess his options, so he inquired at the savings and loan office. He was informed that the interest earned to date would be paid on the account if a $5 balance were left in the account. So he withdrew $906.82 for use toward the purchase of the car. At the end of the year he did receive interest, a grand sum total of 12¢ which is interest for ½ year at 5% on the $5 balance. The cost of this misunderstanding was $22.65 which is what Mr. Fasse would have earned had he not withdrawn these funds. He does not believe the institution deliberately misinformed him. He believes they were merely ignorant of their own procedures. Furthermore, his contract gave him no information which would have helped him protect his own interests.

4. Advertisements could be more informative. Mrs. Diana Osbaldiston surveyed advertisements of savings and loans institutions and banks from across the nation. She discovered that the quality and amount of information supplied did not vary directly with the size of the advertisement. By her standards 12% of the small ads were completely informaitve, and 22% of the super ads (one-half to two full pages) gave almost none. Thus one can not claim that the lack of information in advertisements is necessarily a function of the size of the ad.

5. The accuracy of the accounts is seldom checked. The consumer is not routinely supplied the information that would be needed to check the accuracy of the account, so that no matter how mathematically skilled the consumer is, it is impossible to check the accounts. This is particularly true on accounts that have any activity. It is less true for accounts that remain with the principal untouched and merely accumulate earnings.

In the fall of 1971 the Department of Family Economics, K.S.U. conducted a statewide "telenetwork" class of mostly graduate students. As one of the assignments the students were asked to verify, to their satisfaction, the earnings paid on their savings accounts. Of the 82 students completing the assignments 61% indicated that they could not verify or were unsatisfied with their attempts to verify the earnings paid. Most of those able to verify their earnings had accounts with no activity. The students were also asked if all the necessary information was supplied to enable them to verify their earnings. Of those completing the assignment 85% said no.

Morse discovered the value of checking the accuracy of earnings paid on his own accounts. He had opened two identical $500 accounts with the same institution, each paying the same rate of interest, etc. At the end of the first year one paid $18.96 and the other $22.04. Had these not been identical accounts such differences probably would have gone unnoticed. The differences are attributable to error which was acknowledged by the savings institution and both accounts were subsequently credited with $22.04. This error of over 10% may not have been noticed had Morse not been thinking then in terms of the need for savings information disclosure in order to check the accuracy of his accounts.

The responsibility of the consumer to check the accuracy of his accounts became all the more important in light of subsequent correspondence with the Federal Deposit Insurance Corporation. The Chief of the Regulations and Opinions Unit wrote Dr. Morse October 18, 1971

"Since limitations on personnel preclude us from doing more than making a spot check on individual accounts from time to time, we must rely heavily on a bank's customers to call irregularities in their accounts to our attention".

A POSITIVE PLAN

The prevailing situation of savings disclosure, as indicated, is inadequate. The cases presented demonstrate the need for full disclosure of savings terms. A positive plan for a standardized form of disclosure is presented, raising first the question of when does the consumer need such information, and then, the question of what information is needed at those points in time. Finally, there remains the question of how to accomplish the plan.

WHEN TO DISCLOSE SAVINGS INFORMATION

There are three critical points in the savings transaction when the consumer must have full information in order to act intelligently and responsibly:

1. At the time the consumer is shopping for a savings institution in which to place his funds so he can select the one which best meets his needs and thereby fulfill his responsibility of rewarding that savings institution which serves him best.

2. During the life of the contract so the consumer can exercise his responsibility of taking advantage of opportunities in the market as they arrive.

3. When earnings are paid in order to fulfill his responsibility to verify his account. What needs to be disclosed.[2]

There are basically four items that need to be regularly disclosed in standardized terms to the savings consumer.

1. Period—The "t" term in the equation $I = Prt$. The time unit for compounding—quarterly monthly, daily . . .

2. Periodic Percentage Rate (PPR)[3] The "r" term in the equation: $I = Prt$ — the rate which is actually applied in figuring earnings for the period.

(From the PPR are derived the APR and APY).

3. Annual Percentage Rate (APR)—The "annualized" expression of the "periodic percentage rate". APR = PPR x number of periods in a year.

4. Annual Percentage Yield (APY)—A percentage expression of the dollars of earnings over a year's time per $100 of initial deposit resulting from applying the PPR at the end of each period to the initial deposit plus previous earnings.

5. Balance—and how it was computed—The amount to which the PPR is applied—LIFO, FIFO, low balance, daily balance, etc.

The above are basic but by no means all of the information needed by a savings consumer. Information about grace days, minimum periods, minimum balances and dates on which earnings are paid, etc. are also very necessary and would need to be disclosed to the customer.

These points are given more definitive treatment in the discussion which follows on how full disclosure might be implemented.

HOW TO IMPLEMENT FULL DISCLOSURE

Basically there are three avenues for implementing full disclosure: (1) industry self-discipline, (2) regulation and (3) legislation. Each will be discussed.

Industry self-discipline. Historically, industry self-discipline rarely works. Either the industry lacks the clout needed to police the mavericks within the industry, or an industry which does have power to control its members is in violation of the prerequisites of free enterprise. Furthermore, peculiar to this industry is the added pressure resulting from the national policy of placing ceilings on the nominal rate of earnings. Since savings institutions are prohibited from competing on rates, they compete on gifts, gimmicks and services, and also by making disclosures intended to give an institution the appearance of giving the consumer a distinctive advantage. Semi-annual and quarterly compounding have been replaced by daily, hourly or even continuous compounding. Several years ago the yield rate was so over-advertised, because of these pressures, that Regulation Q was introduced to bring order out of this chaotic and idiotic competitive battle of semantics. [Dr. Morse has documented the full sequence of his part in the promulgation of Regulation Q.] Although many would wish that reforms could be accomplished by voluntary action, those who view this as a realistic approach to reform overlook the history of self-regulation.

Regulation. Most, if not all, savings institutions are under the supervision of a Federal regulatory authority and a lesser number under State regulatory authority. The Federal regulatory agencies can and often do synchronize and coordinate the issuance of regulations. For example, when the Federal Reserve Board issued Regulation Q to limit the prominence of the yield rate to that of the nominal rate, and it was simultaneously issued by the FDIC, FSLI, FHLB State regulated financial institutions, State institutions were not necessarily covered by these Federal regulations. Thus the regulatory route for implementing an industry-wide plan depends on the full cooperation of all Federal and State agencies.

There is no evidence that any regulatory agency other than the FDIC has considered the adoption of regulations in this area. Failure of any one regulatory agency to cooperate may place the regulated institutions at a relative competitive disadvantage.

Chairman Frank Willie of the FDIC last September 15, 1971 wrote Senator John Sparkman, Chairman of the Committee on Banking, Housing & Urban Affairs that the FDIC ". . . favors the full and accurate disclosure to depositors of the applicable rates of interest and of the other terms and conditions governing their deposits". Furthermore, he expresses his belief ". . . that the Corporation's Board of Directors, the Board of Governors of the Federal Reserve System, and the Federal Home Loan Bank Board presently have statutory authority sufficiently broad to enable them to adopt any regulations necessary to accomplish the bill's (S. 1848) objectives with respect to banks and savings and loan associations." No action by the regulators has taken place since the letter was written. Either the FDIC found it could not draft adequate regulations or it could not gain the cooperation of the other Federal regulatory agencies, let alone the many State agencies.

Thus the regulatory route would seem to

Footnotes at end of article.

have gone by default. *Legislation*. The legislative route has the advantage of establishing standards which are comprehensive, treating all alike, and applicable throughout the nation. Legislation was introduced simultaneously May 12, 1971 in the Senate by Senator Vance Hartke (S. 1848) and in the House by Representative Bill Roy (H.R. 8365). It has gained 26 co-sponsors in the House. The Vermont legislature has considered a comparable bill (S. 157). And the Kansas Bankers Association has suggested revisions to clarify and strengthen these bills. The heart of the proposed legislation as revised lies in the definition of terms and the disclosure requirements which are:

DEFINITIONS

Earnings means any amount accruing to or for the account of any individual as compensation for the use of funds constituting an individual savings deposit. Such term includes dividends and interest on any individual savings deposit, but does not include any thing of value received by any individual upon initial placement of, or upon adding to, funds in an individual savings deposit;

Earnings payable, when used with respect to a certain date or period of time, means the date on which or the period of time after which an absolute right to earnings exists, regardless of whether the earnings are actually paid;

Period is the basic time unit used for purposes of computing earnings. If the period is less than one day, it shall be disclosed in accordance with provisions of the next subsection.

Periodic percentage rate is the rate applied each period to the principal amount for that period to determine the amount of earnings for that period and may be referred to as the PPR. If the period is less than one day, for purposes of disclosure, the period shall be construed to be either one day or the actual time interval after which earnings are payable, whichever is less, and the rate to be disclosed in lieu of the true periodic percentage rate shall be the factor used to determine the amount of earnings for a one day period.

Annual percentage rate is the periodic percentage rate multiplied by the number of periods in a calendar year of 365 days for all years including leap year, and may be referred to as the APR.

Annual percentage yield expresses the amount of earnings which accrue in one year to a principal amount of $100 as the result of the successive applications of the periodic percentage rate at the end of each period to the sum of the principal amount plus any earnings theretofore credited and not withdrawn during that year, and may be referred to as the APY.

GENERAL REQUIREMENTS OF DISCLOSURE

(1) Each savings institution shall make available in writing to any individual upon request, and at the time he initially places funds in an individual savings deposit in such savings institution the following information with respect to individual savings deposits:

(a) The annual percentage rate;

(b) The minimum length of time a deposit must remain on deposit so that earnings are payable at that percentage rate;

(c) the annual percentage yield;

(d) the periodic percentage rate and the method used to determine the balance to which this rate will be applied;

(e) the number of times each year earnings are compounded;

(f) the dates on which earnings are payable;

(g) any charges initially or periodically made against any deposits;

(h) any terms or conditions which increase or reduce the rate of earnings payable as disclosed under items (a) or (c); and

(i) any restrictions and the amount or method of determining the amount of penalties or charges imposed on the use of funds in any deposit.

(2) Each savings institution shall disclose annually and at the time any earnings report is made to an individual in person, or by mailing to his last known address, with respect to his individual savings deposit—

(a) the amount of earnings paid;

(b) the annual percentage rate;

(c) the periodic percentage rate;

(d) the principal balance to which the periodic percentage rate was applied and the method by which that balance was determined;

(e) any charges made against the account during the period covered for purposes of computing the payment of earnings or making the report;

(f) Any other terms or conditions which increased or reduced the earnings payable under conditions as disclosed under items (a) or (c) of subsection (1).

(3) The Board may by regulation, authorize or publish tables of periodic factors which reflect compounding, and such other information as it determines to be necessary or appropriate in order to facilitate the individual's ability to verify the computation of earnings payable on any individual savings deposit.

(4) Not less than ten days before a savings institution adopts any change with respect to any item of information required to be disclosed under this section, that institution shall notify each individual depositor of each such change, unless such change is directed by regulatory authority.

SUMMARY AND OBSERVATIONS

Truth in Savings is an effort to provide full disclosure of savings terms and practices. This would enable consumers to exercise their responsibilities more effectively and efficiently; namely, to police the market, to make informed choices, and to validate the accuracy of their accounts. This is a conservative measure. It is within the tradition of free enterprise economics which requires that consumers be fully informed.

It should be observed, however, that the supplying of all the information needed for the consumer to be informed to cope with today's finances may reveal so great a complexity that consumers may demand simplification. The problem is not with full disclosure but what it will reveal This observation is based on what has happened under the full disclosure provisions of Truth in Lending. It has revealed such complexity in the various open-end credit plans that the public is demanding simplification.

What form simplification should take with respect to savings would be the subject of another paper. But an example of simplification might be to specify a method of figuring the balance to which the periodic rate is applied. A case can be made for limiting the method to the use of daily balances. By 1972 computer technology has made this entirely feasible for most businesses. And even those using pencil and paper methods of computation would find the daily rate and balance method feasible. Financial institutions would undoubtedly print up tables of the daily factors for the appropriate annual rate. Thus consumers could recalculate the earnings for each day-interval of activity. Furthermore, if these daily rates and balances were also used in credit, then the school teachers, creditors and others would have a common terminology, common methodology and common approach to money contracts. There would be a direct and logical relationship between the amount of principal involved and the earnings paid on savings or finance charge for credit.

This suggestion of daily rates and balances is neither offered as a threat to obtain full disclosure nor of a promise of what lies ahead after full disclosure. However, it is worthy of serious consideration by those persons who wish to simplify life, education and business routines—and yet not curb unduly the freedom of choice in matters which are truly more significant than hassling over FIFO, LIFO, days of grace and other details.

FOOTNOTES

[1] This paper does not necessarily advocate any particular legislation such as H.R. 8847 or S. 1848. It is an exposition of the needs which these bills allegedly meet, but which could also possibly be met by regulation or industry self-discipline.

[2] These points are given more definitive treatment in the latter part of this paper.

[3] The PPR concept was first proposed by Dr. Morse in 1963 as Chairman of the Consumer Credit and Economic Welfare Committee of the Consumer Advisory Council. It was not incorporated in Truth in Lending until the 90th Congress (S. 5).

THE VIETNAM WAR

Mr. THURMOND. Mr. President, the recent invasion of South Vietnam by the Communist forces from the north reveals for all the world to see the exact nature of this conflict. It is not a civil war; it is not insurgent action; it is not low-key guerrilla warfare. On the contrary, it is open, naked, aggressive invasion. No other name can be applied to this massive maneuver which involves 12 of the 13 known combat divisions of the North Vietnam Army.

This invasion is an open and direct challenge to President Nixon's Vietnamization program. The Communists obviously hope to overrun their neighbor in the south before the Vietnamization program develops to the point where such an undertaking would be impossible.

President Nixon has no choice but to order support for the ARVN forces by American air and naval units.

Mr. President, it is gratifying to me to read two well-known columnists who accurately place this war in a proper perspective. Mr. Smith Hempstone in his column entitled "Heading Toward a Moment of Truth in Vietnam" correctly states that peace is very much to be desired, but not at any price.

Mr. Hempstone very appropriately recalls the words of Lord John Russell, uttered 119 years ago:

> If peace cannot be maintained with honor, it is no longer peace.

Mr. David Lawrence, the highly regarded editor of U.S. News & World Report, also wrote a column entitled "Bombing Beginning To Sink In." In his column, Mr. Lawrence voices the hope that is felt by all of us that President Nixon will be able to find a way to an honorable peace.

Mr. Lawrence expresses hope that such a way might be opened during President Nixon's upcoming visit to the Soviet Union. He says:

> The Soviets are friends and allies of the North Vietnamese and have helped them immeasurably while the United States has been assisting the South Vietnamese. Thus, the United States and the Soviet Union, working together, ought to be able to develop a plan for terminating the war which would be reassuring to the peoples of Asia and end the conflict in Indochina that has cost so many lives and resulted in so much destruction.

Mr. President, I ask unanimous consent that these two columns, published in the Washington Evening Star of April 19, be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Evening Star, Washington, D.C., Apr. 19, 1972]

Heading Toward a Moment of Truth in Vietnam

(By Smith Hempstone)

In a number of ways, it may be just as well that the North Vietnamese launched their massive, multi-pronged invasion, now about to enter its fourth week, of South Vietnam.

With some 12 of its 13 mainforce divisions locked in combat on South Vietnamese soil, it becomes a trifle difficult for Hanoi to cling to the hoary fiction that the conflict is essentially a civil war between freedom-loving, anti-imperialist South Vietnamese and a puppet, neo-fascist regime in Saigon.

The war is revealed finally and conclusively for what it in fact has been since the early 1960s: A war of naked, coldly calculated aggression waged by North Vietnam, with the support of the Soviet Union and Communist China, against South Vietnam, supported by the United States.

Not that this will deter Sen. George McGovern. Nor will it change the attitude of the Doomsday Gang, whose bag is denigration of their country and exaltation of its enemies. They have, after all, demonstrated an infinite capacity to believe whatever they wish against any and all evidence to the contrary: To hear them tell it, the murder of thousands of South Vietnamese civilians in Hue during the Tet offensive of 1968 was no more than a true expression of the popular will in which a few (no doubt unpleasant) people happened to lose their lives. Nothing to compare to My Lai; Oh, my no!

In the end, of course, the war will be neither won nor lost on the American presidential campaign trail, in Ivy League faculty clubs or in the newspaper columns of the mea culpa pamphleteers. It will be won or lost in the paddies of the Mekong Delta, in the mist-wreathed mountains of the Central Highlands and in the twisting streets of Hue and Saigon and of a hundred nameless villages. And it will be won or lost by the only people who can win or lose it, the people of South Vietnam. American air power and (where it can be brought into play) sea power can have an effect on the outcome, but they cannot determine it.

The track record of the ARVN (South Vietnamese) troops admittedly is mixed. They have not done well in Cambodia, and rather less than that in Laos. But on their own soil, in defense of hearth and home and family (as was the case during the 1968 Tet and is so now), they have when well led, given a good account of themselves.

And so perhaps it is just as well that the decisive campaign of the war—and who can doubt that this is it?—should come, not in Cambodia or Laos, but literally in their own backyards. And in this respect it is perhaps worth noting that the pitiful flow of refugees is not toward those areas "liberated" by the North Vietnamese but toward government-controlled sanctuaries—and no Asian peasant lightly abandons his land. That is known as voting with your feet.

Thirdly, the invasion is to be welcomed because it casts the cold light of reality upon the euphoria engendered by President Nixon's visit to Peking and his forthcoming trip to Moscow. The exchange of musk oxen and pandas is well and good but it does not alter the fact that the men in charge in Peking, Moscow, Hanoi and most other Communist capitals are a bloody bunch of cutthroats dedicated to the ultimate destruction of democracy everywhere and of the United States in particular.

And finally, that the North Vietnamese should be willing to sacrifice so much blood and treasure with the obvious intent of resurrecting the war as an issue in American politics and procuring the defeat of Richard Nixon in November can be taken as a measure of the effectiveness of the President's policy. Hanoi apparently is convinced that it has no hope of winning the war if Nixon is re-elected and that, at least to this observer, is a rather good reason why he should be.

Nobody in his right mind wants this (or any other) war to continue. But there are worse things than war, things like enslavement and betrayal and self-deception and cowardice. So the lines are drawn and the battle is joined. The distinction between aggressors and defenders is clear.

Peace is very much to be desired, but not at any price. Not the false peace of the Neville Chamberlains and the George McGoverns which contains within it the seeds of later and greater conflicts. Not the peace which is a euphemism for surrender.

Indeed, one could do worse than to recall the words of Lord John Russell, uttered 119 years ago: "If peace cannot be maintained with honor, it is no longer peace." That still holds true today. Which is one reason Mr. Nixon launched the B52s against Hanoi and Haiphong.

[From the Evening Star, Washington, D.C., Apr. 19, 1972]

Bombing Beginning To Sink In

(By David Lawrence)

Despite the appearance of critical attitudes in Congress, there are signs that the readiness of the United States to bomb North Vietnam in retaliation for the massive invasion of South Vietnam has had an impressive effect throughout the world. If this kind of sturdiness characterizes American policy, Hanoi has no hope of forcing a military victory and a takeover of the territory to the south.

Most important of all, it would be interesting to know what the real reaction has been in both Peking and Moscow. The experts there now know that they aren't going to get a settlement in Vietnam which amounts to a virtual surrender by the United States.

The only alternative is an arrangement along the lines of the original Geneva accords of 1954, which provide for a cessation of hostilities under international supervision. Agreement then could be reached to assure the right of nations to establish their own form of government and be free from outside intervention.

President Nixon's refusal to be swayed by threats or by the pressures of political groups in Congress—particularly in an election year—has been noted abroad by many who will foresee the kind of support which the Nixon policy will receive from the American people.

The public doesn't like wars, but a vast number of voters would be ashamed of an abject withdrawal. The administration has made up its mind that there be no such thing and that, despite all the criticism, American air power will be used as long as the North Vietnamese continue such massive offensives as they have recently undertaken against South Vietnam.

Secretary of Defense Melvin R. Laird, in the latest statement of the American position, said to the Senate Foreign Relations Committee that the suggestion about talks with North Vietnam being resumed at Paris while the Communists are invading South Vietnam is "the height of irresponsibility."

The secretary declared, however, that if North Vietnam's divisions are withdrawn behind the demilitarized zone, then negotiations would be a "viable alternative." He added that while the violations continue any idea of further negotiations at this time is futile.

But it is apparent from the way the Soviets are beginning to take an interest in the whole problem that conferences already have begun with Moscow on the subject. The State Department has said that "nations which supply offensive equipment to the North Vietnamese and enable them to mount an invasion of South Vietnam share responsibility" for the intensified fighting.

The Soviet Union published a protest note that four of its ships in Haiphong harbor had been hit by "U.S. ordnance," and called it a "criminal act." The State Department promptly replied, making these assertions:

1. Every effort had been made by American planes to strike only military targets;

2. If any damage to international shipping in the Haiphong area was produced by bombings by U.S. aircraft, it was "inadvertent and regrettable;"

3. Damage to international shipping "could well be the result of antiaircraft fire or misfirings from the North Vietnamese side."

So already there are questions being discussed between the Soviet Union and the United States and these could readily go into other subjects as well. It would not be surprising if private talks were carried on directly with the Russians in the hope of securing some formula which would bring an early cease-fire and the chance to negotiate with out the pressures of "massive offensives" in the south or "bombing raids" in the north.

There is undoubtedly a desire now to reach a settlement of the war, and the Soviet Union has a great opportunity to cooperate with the United States informally in achieving the peace agreement that the conference at Paris has been unable to accomplish.

The Soviets are friends and allies of the North Vietnamese and have helped them immeasurably while the United States has been assisting the South Vietnamese. Thus, the United States and the Soviet Union, working together, ought to be able to develop a plan for terminating the war which would be reassuring to the peoples of Asia and end the conflict in Indochina that has cost so many lives and resulted in so much destruction.

FEDERAL BENEFITS FOR ILLINOIS

Mr. STEVENSON. Mr. President, in recent months I have examined carefully the extent of Federal assistance available to communities in Illinois under many of the programs enacted by Congress, and I have found that my State is receiving a disproportionately low share of funds under virtually all of these programs.

I recently cited Illinois experience under the various grant programs of the Law Enforcement Assistance Administration as an example of the way the people of Illinois are being shortchanged in the allocation of Federal funds. I pointed out that among the 50 States, Illinois ranks near the bottom in its per capita share of LEAA funds.

On May 3, my senior colleague from Illinois (Mr. Percy) undertook to "set the record straight" by offering his analysis of LEAA expenditures in Illinois. I welcome his interest in this matter. This is not a partisan matter, Mr. President. My colleague and I share a responsibility to see to it that our State receives its fair share of Federal benefits.

I am not satisfied that Illinois is in fact receiving its fair share of Federal assistance under LEAA or under a number of other Federal programs.

My analysis of Illinois' share of LEAA funds is based on figures supplied by the Treasury Department, the Executive Office of the President, and LEAA.

Federal grants may be awarded to a State before the actual funds are transferred from the U.S. Treasury to the State or local treasury. This fact is reflected in the publication by different Federal agencies of reports of Federal expenditures calculated at various stages of the grant process. No matter which set of figures is used, however, Illinois consistently ranks near the bottom in per capita Federal law enforcement assistance.

One source of information on grants is the Department of the Treasury's annual report to Congress entitled "Federal Aid to States, Fiscal Year 1971." I ask unanimous consent that the relevant figures from this report together with per capita calculations be included in the RECORD at this point. These calculations show that Illinois ranks 41 among the 50 States and the District of Columbia in per capita LEAA expenditures. This figure includes only those funds physically transferred to the State—some $8.5 million to Illinois in fiscal year 1971.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

I. GRANTS FOR LAW ENFORCEMENT ASSISTANCE PER CAPITA BY STATE

Rank and State	Total grants	Population, 1970	Grants per capita
1 District of Columbia	$2,606,085	756,510	$3.44
2 Delaware	1,480,135	548,104	2.70
3 Vermont	1,033,949	444,330	2.33
4 Arizona	3,903,443	1,770,900	2.20
5 Montana	1,369,104	694,409	1.97
6 Idaho	1,365,056	712,567	1.92
7 Wyoming	624,346	332,416	1.88
8 New Hampshire	1,356,218	737,681	1.84
9 Kansas	3,875,078	2,246,578	1.72
10 Colorado	3,779,040	2,207,259	1.71
11 South Carolina	4,297,497	2,590,516	1.66
12 New Mexico	1,670,389	1,016,000	1.64
13 Nevada	789,600	488,738	1.62
14 Iowa	4,310,378	2,824,376	1.53
15 Rhode Island	1,436,166	946,725	1.52
16 Kentucky	4,763,332	3,218,706	1.48
17 Alaska	434,500	300,382	1.45
18 Maine	1,404,587	992,048	1.42
19 North Dakota	862,610	617,761	1.40
20 Louisiana	4,760,506	3,641,306	1.31
21 Missouri	5,727,630	4,676,501	1.22
22 Hawaii	886,332	768,561	1.15
23 Oregon	2,400,271	2,091,385	1.147
24 Utah	1,212,012	1,059,273	1.14
25 Arkansas	2,177,183	1,923,295	1.13
26 Ohio	11,826,213	10,652,017	1.11
27 Michigan	9,685,642	8,875,083	1.09
28 Maryland	3,982,467	3,922,399	1.02
29 Indiana	5,116,797	5,193,669	.99
30 North Carolina	4,793,408	5,082,059	.94
31 Nebraska	1,386,856	1,483,493	.94
32 Connecticut	2,828,086	3,031,709	.932
33 Oklahoma	2,407,556	2,599,229	.926
34 Mississippi	2,013,600	2,216,912	.91
35 Massachusetts	5,119,214	5,689,170	.90
36 New Jersey	6,394,742	7,168,164	.89
37 West Virginia	1,461,739	1,744,237	.838
38 Florida	5,671,076	6,789,443	.835
39 Pennsylvania	9,696,481	11,793,909	.82
40 New York	14,753,461	18,236,967	.81
41 Illinois	8,501,981	11,113,976	.764
42 Texas	8,545,052	11,196,730	.763
43 Alabama	2,627,340	3,444,165	.762
44 Minnesota	2,768,503	3,804,971	.73
45 South Dakota	463,461	665,507	.70
46 Wisconsin	3,030,214	4,417,731	.69
47 Georgia	3,032,257	4,589,575	.66
48 Tennessee	2,540,628	3,923,687	.65
49 California	11,490,144	19,953,134	.58
50 Washington	1,794,285	3,409,169	.53
51 Virginia	2,331,755	4,648,494	.50

Source: From "Federal Aid to States," fiscal year 1971, Department of the Treasury.

Mr. STEVENSON. Mr. President, "Federal Outlays, 1971," is another widely used compilation of Federal grant expenditures. It is published for the Executive Office of the President by the Office of Economic Opportunity. For fiscal year 1971, it shows LEAA grants to Illinois totaling $22,057,998—considerably more than the $8.5 million in cash outlays reported by the Treasury Department. Using these more comprehensive figures Illinois still ranks 40 on a per capita basis. I ask unanimous consent that the relevant sections of Federal Outlays, 1971 and per capita calculations based on these figures be included at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

II. GRANTS FOR LAW ENFORCEMENT ASSISTANCE PER CAPITA BY STATE

Rank and State	Total grants	Population, 1970	Grants per capita
1 District of Columbia	$14,701,031	756,510	$19.43
2 Alaska	1,200,856	300,382	4.00
3 Delaware	1,824,047	548,104	3.33
4 Idaho	2,097,807	712,567	2.94
5 Nevada	1,424,485	488,738	2.91
6 Arizona	4,881,931	1,770,900	2.76
7 Arkansas	5,259,205	1,923,295	2.73
8 Hawaii	2,084,399	768,561	2.71
9 Wyoming	884,533	332,416	2.66
10 Montana	1,793,494	694,409	2.58
11 South Dakota	1,711,918	665,507	2.572
12 South Carolina	5,852,198	2,590,516	2.570
13 Vermont	1,109,659	444,330	2.50
14 Maryland	9,490,417	3,922,399	2.42
15 Utah	2,542,142	1,059,273	2.40
16 Kentucky	7,607,975	3,218,706	2.36
17 North Dakota	1,451,061	617,761	2.348
18 Kansas	5,274,343	2,246,578	2.347
19 Maine	2,312,825	992,048	2.33
20 California	45,331,710	19,953,134	2.27
21 Massachusetts	12,879,896	5,689,170	2.26
22 Michigan	19,819,629	8,875,083	2.23
23 Louisiana	8,083,864	3,641,306	2.220
24 Colorado	4,897,673	2,207,259	2.218
25 Rhode Island	2,099,360	946,725	2.21
26 Nebraska	3,256,290	1,483,493	2.19
27 Minnesota	8,204,286	3,804,971	2.16
28 New Hampshire	1,563,958	737,681	2.12
29 Missouri	9,863,952	4,676,501	2.11
30 Georgia	9,568,175	4,589,575	2.08
31 Mississippi	4,607,842	2,216,912	2.08
32 New York	37,758,316	18,236,967	2.07
33 West Virginia	3,565,855	1,744,237	2.044
34 Oklahoma	5,312,297	2,599,229	2.043
35 Texas	1,451,061	11,196,730	2.035
36 Pennsylvania	23,635,986	11,793,909	2.004
37 Iowa	5,647,568	2,824,376	1.999
38 Virginia	9,258,379	4,648,494	1.991
39 North Carolina	10,114,360	5,082,059	1.990
40 Illinois	22,057,998	11,113,976	1.98
41 Indiana	10,206,633	5,193,669	1.97
42 Ohio	20,931,387	10,652,017	1.97
43 New Jersey	14,065,905	7,168,164	1.962
44 Tennessee	7,677,519	3,923,687	1.956
45 Wisconsin	8,143,993	4,417,731	1.84
46 New Mexico	1,549,040	1,016,000	1.52
47 Washington	3,985,319	3,409,169	1.17
48 Florida	4,764,821	6,789,443	.70
49 Oregon	1,359,367	2,091,385	.65
50 Alabama	2,132,872	3,444,165	.62
51 Connecticut	1,212,701	3,031,709	.40

Source: From "Federal Outlays in Summary", fiscal year 1971, Office of Economic Opportunity, for the Executive Office of the President.

Mr. STEVENSON. Mr. President, I asked Mr. Jerris Leonard, Administrator of LEAA, to provide me with a detailed breakdown of LEAA funds to Illinois for fiscal year 1971 and their relationship to nationwide funding totals. His report, which I received on February 11, 1972, shows why Illinois ranks so poorly in its per capita share of these funds.

There are five major program areas which comprise a State's total LEAA funding. One of these, part C discretionary funds, accounted for 14.5 percent of the total LEAA budget in fiscal year 1971. Yet, according to Mr. Leonard, Illinois received only $1.7 million out of a nationwide total of $70 million in part C discretionary funds, as compared to California's $8.4 million and New York's $2.4 million. Since a large proportion of other LEAA grant programs are funded on the basis of population, the distribution of discretionary funds is the singlemost important factor in Illinois' low per capita ranking.

In response to my recent statement that Illinois has been receiving a disproportionately low share of LEAA funds, we are told that Illinois has been near the top of the list of States receiving LEAA funding. The figures reported by the Treasury Department and the Executive Office of the President, however, show that on a per capita basis Illinois ranks near the bottom of the list of States. Although no comparable data is published by LEAA, there is every indication that if such figures were made available, the results would be the same.

We are told that in fiscal year 1971 Chicago and Cook County received 53 percent of the LEAA money granted to Illinois units of local government, but the fact remains that of the total funds granted to the State of Illinois by LEAA, Chicago and Cook County received only 31.4 percent. I quote from Mr. Jerris Leonard's letter to me of February 11, 1972:

> Our review of FY 1972 LEAA funding in Cook County reveals that of $24,534,478 awarded to Illinois by LEAA in planning and action funds, 31.4 percent or $7,711,284 was awarded to Cook County.

Cook County has 49.4 percent of the State's population, 67 percent of all serious crime, and 81 percent of all violent crime. Yet according to the figures provided to me by LEAA, for fiscal year 1971 Cook County received only 31.4 percent of the State's share of Federal law enforcement assistance funds.

We are told that the city of Chicago has not spent $1.7 million granted to it for a new area IV headquarters. I am advised by Police Superintendent James B. Conlisk, however, that the city has completed the plans and specifications with community participation, acquired 60 percent of the required land, relocated many of the former residents, and already let some demolition contracts. These actions have been supported by the local financial share of the area IV project, which is a prerequisite for spending the $1.7 million grant from LEAA.

We are told that the city of Chicago has not been spending the limited funds it has received, and has returned a $23,000 advance on a $115,000 intelligence microfilm grant. In fact, Superintendent Conlisk informs me that the money was returned, because the city felt that the use of these funds would be inconsistent with its application for an interface computer system. The city's application for a grant for this purpose was filed last September 14, but LEAA has still not acted upon it. Superintendent Conlisk has advised me that since 1969 LEAA has rejected 12 of Cook County's applications for grants totaling

$2,384,947 and the Illinois Law Enforcement Commission has rejected parts of some 60 grant applications amounting to $7,098,803.

Finally, the statement that Illinois, which already ranks near the bottom in per capita funding, stands to suffer further losses as a result of the redirection of certain discretionary funds has been described as inaccurate. The facts are these:

Based on the information supplied to me by LEAA, the only program area in which Illinois has received more than its proportionate share of funds was a relatively small discretionary section called part E corrections funds. In fiscal year 1971, Illinois received $1,914,000 out of a national total of $22,500,000 under this program. Because LEAA's 1972 budget included $48 million for part E funds, the Illinois Law Enforcement Commission included a request for $8.6 million under this program in its 1972 comprehensive plan submitted last November to LEAA. LEAA then announced that it would redirect $20 million of the $48 million part E funds to its special program for impact cities, none of which are in Illinois. ILEC was informed that as a result of this decision, it would have to delete the entire $8.6 million from its 1972 plan. As Mr. Allen H. Andrews, executive director of ILEC informed me in a letter received on March 30, 1972:

> We are now revising our 1972 comprehensive plan to reflect the loss of $8.6 million of Part E discretionary funds diverted by LEAA from corrections programing to the Impact Cities program.

I welcome the reported assurances of Mr. Leonard and Mr. Kleindienst that Illinois will receive its fair share of these funds. But the fact remains that a program which provided Illinois with about $2 million in fiscal year 1971, now is not even included in the State's fiscal year 1972 plan. What is more, the total amount to be granted by LEAA from part E corrections funds in fiscal year 1972 has been reduced from $48 to $28 million, and Illinois, even if it receives its fair share of the reduced amount, stands to lose urgently needed funds which are being diverted to other programs in other States.

As I have indicated, my interest in LEAA funding is part of a broader inquiry into how Illinois fares with regard to all Federal expenditures. In defense spending, in educational funding, in agricultural services—in fact in almost every area of Federal activity—Illinois ranks so consistently low that when the figures supplied by the Executive Office of the President are compared State by State, Illinois ranks 48th among the 50 States and the District of Columbia in all per capita Federal expenditures. It is incredible, but it is true—and I invite anyone who doubts it to make his own calculations.

We ranked 48th and received only $725 per capita in fiscal year 1971, while New York ranked 7th and received $1,308 per capita; California 14th with $1,175 per capita; and Texas 19th with $1,090 per capita. Something is wrong. And it is clearly time to do something about it.

MINORITY INVOLVEMENT, ACCOMPLISHMENT, AND OPPORTUNITIES

Mr. GRIFFIN. Mr. President, at the request of the Senator from Kansas (Mr. DOLE), I ask unanimous consent to have printed in the RECORD a statement by him entitled "Minority Involvement, Accomplishment, and Opportunities," and an insertion in correction therewith.

There being no objection, the statement and insertion were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DOLE

MINORITY INVOLVEMENT, ACCOMPLISHMENT, AND OPPORTUNITIES

Programs aiding minorities and the poor have been greatly expanded in the past several years under the Nixon administration. In addition, minority individuals in increasingly greater numbers are being placed in key decisionmaking positions in the administration both in Washington and in Federal agency offices throughout the Nation.

These encouraging developments deserve to be told on a wide basis because they represent some of the most positive steps ever taken in Government to assure that the Government policies and programs are formulated and administered with the necessary understanding of the needs and special problems of the poor, disadvantaged and minorities.

The increased numbers of minority individuals in top level Federal service positions and the outstanding records of accomplishment they have established also bear exceptional testimony to the wisdom of the administration's efforts to actively encourage their hiring and placement. For above all, they have contributed to better government by their efforts.

President Nixon, early in his administration, stated a commitment to increase minority representation at high levels of government and to make government more responsive and responsible to the people. These two commitments have been pursued vigorously; they have been complementary and mutually reinforcing; and success in each has contributed to success in the other.

The Kansas City area has been extremely fortunate in the benefits it has gained from increased numbers of minority policy makers. Top-caliber individuals have been placed throughout the offices of many Federal agencies there, and their achievements have been hailed throughout the community. The success these individuals have had in their positions speaks for itself, but there is now an effort in Kansas City to bring their stories to the public and especially to local minority groups.

KPRS, a black owned and operated radio station, has begun broadcasting bi-weekly interviews with minority individuals holding high ranking offices in the Federal Government. These officials discuss the operations of their offices with special emphasis on available Federal assistance for minorities and the effect current Federal efforts are having in areas of specific local concern. The main thrust of this informative programming is to reach poor and socially disadvantaged citizens with word of assistance and efforts tailored to their problems, needs and requirements.

The success of this program is told in an article from the April 7 edition of the Call, entitled, "Black Officials Use Airwaves to Explain Regional Program," and I believe that my colleagues would find this story informative and encouraging.

BLACK OFFICIALS USE AIRWAVES TO EXPLAIN REGIONAL PROGRAM

Black federal officials in the Kansas City region have gone to the airwaves to inform the public of federal programs available to local communities.

In what may be a first for the Kansas City area and the nation, some 20 black federal officials have begun a series of weekly interviews on a local radio station.

The major thrust of the program is to reach the poor and socially disadvantaged citizen with information regarding available federal programs and the effect current federal efforts are having in specific communities.

The program, which began February 6, is being coordinated by the regional office of Economic Opportunity at the request of radio station KPRS of Kansas City, Mo.

In an effort to increase the station's public service programming, KPRS officials said they noticed the increase of blacks in key, decision-making positions in the regional federal agencies since July, 1970, and determined that the black minority communities would benefit by hearing about the federal efforts from these officials.

The station, the city's only black-owned and operated broadcast media, asked Samuel J. Cornelius, regional OEO director and the highest-ranking black federal official in the region, if he would assist in coordinating this program.

To date, the Kansas City community has heard interviews with: John Dupree, Title 1 ESEA program officer, HEW; Elmo Turner, St. Louis area director, HUD; P. A. Townsend, legal counsel, HUD; Robert Whitehead, personnel officer, OEO; Kenton Williams, assistant regional director, office of Child Development, HEW; James Gohlston, Manpower Administrator's representative, DOL; Robert Colins, regional director of Equal Employment Opportunity, GSA; Robert Watson, General counsel, OEO; Melvin Harrington, district director, SBA St. Louis, Lloyd Claiborne, regional director, Food and Drug Administration, HEW.

Cornelius was interviewed in a special 30-minute taped program earlier this year.

Each of the above interviews were 25-30 minutes and are being broadcasted each Sunday and Thursday over KPRS.

Future plans include a five-member panel of regional black federal executives to be interviewed "live" on the program and they will answer questions from the black, Mexican-American and other minority groups.

Also planned is a second series of taped interviews of 10 additional black federal officials in the region—which includes Missouri, Iowa, Nebraska and Kansas beginning May 4.

THE IMPACTED AREAS PROGRAM

Mr. SPONG. Mr President, once again the administration is seeking to emasculate the impacted areas program, Public Law 874. Once again, the administration has sought to accomplish its purpose, not through the authorization process, but through the appropriation process.

The situation reminds me of a worn-out tune. The recommendations are all too familiar and they sound too much the same.

Under Public Law 874, assistance for school districts with large numbers of children whose parents either live and/or work on Federal property has been available for more than 20 years. The theory behind the assistance is that the Government impacts an area with children when it locates a facility there, and at the same time imposes a burden upon the area because it takes property which would otherwise be taxed from the tax base of the area. And, as we all know, the property tax is the basis for financing a large percentage of public education in our Nation.

Under existing law, there is assistance for two types of children: those whose parents both live and work on Federal property—"A" pupils—and those whose parents only work on Federal property—"B" pupils. Under the original authorizing legislation, districts are to be reimbursed for "A" pupils at twice the rate they are reimbursed for "B" pupils.

As a number of times in the past, the administration has sought to modify the program. It is, I believe, significant that in 1970 the administration recommended a similar change in the authorization process, only to have it rejected by the Congress. Failing in that tactic, the same administration now seeks to accomplish its objective by slipping in the back door and modifying the program in the appropriations process. This time the administration would provide funding only for military dependents and Indian children whose parents work or reside on Federal property and for a few hardship cases. I believe that approach is wrong. I believe any major change in the program should be made in the authorization process, where Congress can directly work its will.

I also believe that it is wrong to reduce the program at this time. We all know that revisions in school finance, particularly in its relationship to the property tax, are likely in the near future. Consequently, it seems rather ill-timed to make far-reaching funding changes in a program related to property tax matters when the problem could be more appropriately handled in the more comprehensive consideration of financing proposals, which will likely take place shortly.

As I noted before, the impacted areas program has been in existence for more than 20 years. A number of school districts have come to depend heavily on it. These districts have seen a consistent reduction in their funds in recent years. They have sought to adjust accordingly. But, many would be hard-pressed on short notice if the administration proposal were adopted.

Furthermore, I have always felt that the Federal Government, either consciously or subconsciously, has sought to terminate the entire impacted areas program because of its lack of control over it. Impact aid is formula aid: it goes to the school districts according to the number of children with parents who live and/or work on Federal property. When the local school districts receive the aid, they include it as part of their general operating expenses and use it for whatever purpose they feel will be beneficial to their school districts. The school districts receiving the aid are among the most progressive in our Nation. In a large number of cases they have used the money well. But they have used it according to the priorities they recognize, not according to some priority devised by a nameless social planner in the Department of Health, Education, and Welfare. For those who believe that local school district personnel are often in a better position to know the needs of their schools than some bureaucrat in Washington—and I include myself among those who believe this—it is obvious why local school superintendents approve of the program and why officials in the Federal bureaucracy oppose it.

I disapprove of the proposed modifications in the program. I am particularly opposed to changing a formula, already authorized by Congress, in the appropriations process, without legislative hearings as are conducted in the authorizations process.

Furthermore, I would suggest that Senators review the cuts which have been proposed. In many cases, the reductions can only be termed drastic. The entire program would be reduced by $177 million. My State of Virginia would receive in fiscal 1973, $12 million less than in fiscal 1972. In one school district the allotment of funds would drop from $1 million in fiscal 1972 to $396,000 in fiscal 1973. In several other cases, the loss would be between $200,000 and $300,000.

With all the problems our school districts are facing and all the difficulties which districts have experienced with other programs, I do not believe this is the time to maim this program. I am so advising the Senate Appropriations Committee.

Mr. President, I ask unanimous consent to have printed in the RECORD a table prepared by the Office of Education indicating the 1972 appropriation available to various school districts in Virginia under the impact program and estimating the amount those districts would receive in fiscal 1973 under the proposed modification.

I would also add that I have similar figures for other States and would be pleased to make them available to interested Senators.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SAFA SURVEY REPORT

Congressional district, school district name	1972 appropriation	Hardship 1973
Virginia (001):		
Mathews County school board	$20,515	$2,913
Northampton County public schools	13,523	15,250
Gloucester County school board	76,806	5,997
First Corp School District of York County	59,669	25,478
Williamsburg James City County school board	103,201	55,692
City of Newport News school board	1,321,639	1,059,359
Town of Cape Charles school board	3,002	2,399
School Board of the City of Virginia Beach	2,646,767	2,510,092
County School Board of Accomack County	56,745	23,819
County of York School Board	1,020,879	869,975
City school board of Hampton	1,648,045	1,354,438
Congressional district total (11)	6,970,791	5,925,412
Virginia (002):		
Portsmouth City school board	1,017,559	396,186
School board of the city of Norfolk	3,155,616	2,677,094
Saltville school board	3,377	342
Congressional district total (3)	4,176,552	3,073,622
Virginia (003):		
County school board of Chesterfield County	$190,051	$73,170
School board of the city of Richmond	457,298	111,013
Henrico County public schools	169,750	43,525
Congressional district total (3)	817,099	227,708
Virginia (004):		
County school board of Prince George County	619,879	598,231
School board of Suffolk City	20,390	3,427
City of Petersburg school board	135,725	85,851
County school board of Dinwiddie County	59,544	28,455
School board of Nansemond County	152,793	24,503
City of Hopewell school board	101,575	65,802
City school board of Colonial Heights	98,573	53,292
School board of city of Chesapeake	809,685	382,304
School board of Isle of Wight County	18,763	2,056
Congressional district total (9)	2,016,927	1,243,911
Virginia (005):		
Carroll County school board	32,445	4,454
Galax City public schools	3,002	0
Congressional district total (2)	35,457	4,454
Virginia (006):		
County school board of Floyd County	24,268	342
County of Montgomery school board	149,110	10,795
City of Radford school board	50,651	7,882
School board of Craig County	13,275	4,969
Roanoke City public schools	110,220	29,247
County of Roanoke school board	103,359	22,619
Congressional district total (6)	450,883	75,854
Virginia (007):		
Charlottesville public school	21,766	18,506
County school board of Clarke	20,515	1,884
County school board of Warren County	17,084	11,309
Congressional district total (3)	59,365	31,699
Virginia (008):		
King and Queen County public schools	6,254	171
Richmond County school board	6,254	0
County school board of Charles City	15,261	3,084
County school board of New Kent	15,136	1,713
Town of Colonial Beach school board	20,640	4,590
County board school of Prince William County	1,433,159	912,327
County school board of Spotsylvania County	53,164	8,396
Fredericksburg City schools	53,463	12,509
School of Westermoreland County	21,265	342
Fauquier County school board	126,995	54,493
Caroline County school board	38,066	16,278
Stafford County school board	240,803	95,237
School board of King George County	115,638	54,793
County of Loudoun school board	264,195	29,131
Congressional district total (14)	2,410,293	1,193,064
Virginia (009):		
Bristol City school board	14,510	5,826
County School Board of Wythe	40,279	3,427
Giles County school board	34,525	4,112
Bland County public school board	8,256	0
County school board of Pulaski County	142,230	5,997
Washington County school board	32,273	5,826
Town of Abingdon school board	4,128	1,884
Congressional district total (7)	276,201	27,072
Virginia (010):		
City of Fairfax school board	339,367	204,847
County school board of Fairfax County	11,501,877	7,119,378
County school board of Arlington County	1,884,846	875,308
City of Alexandria school board	1,132,286	563,029
City of Falls Church school board	140,374	51,971
Congressional district total (5)	15,058,750	8,814,526
State total (63)	32,272,318	20,617,324

SAFA SURVEY REPORT—Continued

Congressional district, school district name	1972 appropriation	Hardship 1973
Washington (001):		
Shoreline school district No. 412	$56,318	$30,011
Bainbridge Island school district No. 303	29,776	7,238
Seattle school district No. 1	384,741	204,432
Lake Washington school district No. 414	52,558	35,660
Congressional district total (4)	523,393	277,341
Washington (002):		
Oak Harbor school district No. 201	886,124	824,794
Mukilteo school district No. 6	40,470	41,663
Issaquah school district No. 411	20,233	8,650
Edmonds school district No. 15	85,056	55,000
Mount Baker school district No. 507	20,477	12,533
Lakewood school district No. 306	2,190	1,765
Jefferson County school district No. 48	9,491	3,530
Skyromish school district No. 404	9,628	6,118

GUARANTEED JOBS

Mr. HARTKE. Mr. President, for the past 3 years the economy has been the subject of more than academic importance. Growing inflation and increasing unemployment have affected millions of Americans. Fortunately, the measures proposed by the Nixon administration to fight these major problems have been inadequate and ineffective.

President Nixon has twice vetoed bills that would have created tens of thousands of public service jobs. Yet it is public service employment which offers the only hope for solving the crisis in our labor market and holding down rampant inflation.

On February 16 of this year, I introduced the Full Employment Act of 1972 (S. 3179). The bill is designed to create more than 2 million public service jobs on State, local, and Federal levels. President Nixon has derided this approach as creating "WPA-type jobs," but such criticism is misdirected.

The WPA was not a program which provided make-work jobs for lazy people. It was a highly effective weapon alleviating the misery of the depression by putting 2 to 3½ million jobless workers in socially and economically productive effort. They provided honest work and the results of that work were thousands of useful projects—projects which benefit our society today.

Airports, playgrounds, golf courses, tennis courts, sewers, sidewalks, libraries—all of these were WPA projects. Sixty-seven thousand miles of urban streets and 572,000 miles of rural roads were built by WPA workers. They built or improved 8,000 parks and 12,800 playgrounds; erected 5,900 schools and renovated 31,000 others; and they built or improved more than 1,000 libraries. WPA crews built or modernized more than 1,500 sewage treatment plants. Unemployed miners on the WPA rolls in West Virginia, Ohio, Pennsylvania, and Kentucky sealed thousands of abandoned coal mines. Other conservation projects included the reseeding of depleted oyster beds and the planting of 177 million trees.

Mr. President, the list of unfinished business on the agenda for the 1970's is even greater than the list of the 1930's. We need recreation facilities; we need to improve mass transit; we need uplift the quality of education; we need to save our environment.

Mr. President, with unemployment hovering around the 6-percent level, we cannot wait for the inevitable failure of phase II to solve inflation and unemployment. The man out of work with a family to support needs a job now. What is so tragic is that there is work to be done but no national commitment to see that it is done. The Full Employment Act of 1972 guarantees a job to every person able and willing to work and it guarantees to the Nation both full employment and a stable economy. The cost of my program is far less than the ultimate cost of the unemployed as lazy and shiftless and it is far less than the ultimate cost to our society in welfare expenditures, unemployment insurance, and human hopes unfulfilled.

Mr. President, I ask unanimous consent that two articles describing the work of the WPA be printed in the RECORD following my remarks, and I ask Senators to remember that our needs are just as great today as they were in the 1930's.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

IT WASN'T ALL LEAF RAKING—WHY NOT ANOTHER WPA?

(By Cabell Phillips)

In his State of the Union message the President spoke up in favor of "an effective work incentive and an effective work requirement" as a means for reshaping an overburdened and outmoded welfare system. He didn't elaborate. But the implication was that he meant more job training and more hustle by the trainees in a climate of expanding economic opportunity.

But that he is dead set against government being the interim employer for people on welfare had already been made abundantly clear. When he vetoed the $9.5-billion manpower and employment bill last December, which did make modest provisions for creating "jobs in the public sector," he gave as his reason that it would, in effect, bring down upon us, "another WPA." "WPA-type jobs," he said then, "are not the answer for those who have them, for government which is less efficient as a result, or for the taxpayers who must foot the bill." Shades of Herbert Hoover and the Liberty League!

Meanwhile, unemployment nationwide has inched up to six percent of the labor force and welfare rolls are at their highest in history, and still rising. Of the 4.6 million workers now out of work, over a million have been in this fix for 15 weeks or longer and presumably are now on or headed for public welfare. And there, as things now look, they will have to sit and chew their nails "until something turns up."

Mr. Nixon's off-hand indictment of the WPA experience reflects either a gap in his information or an addiction to stereotypes in his thinking. In this he is not alone. To most people under forty the WPA (it stands for Works Progress Administration) is something they came across in a textbook. And to many—maybe most—of those over forty it evokes a cluttered mental montage of Harry Hopkins, "boondoggles," political corruption, and a lazy bum leaning on his shovel while drawing government pay.

In reality, the WPA (along with such kindred agencies as the National Youth Administration and the Civilian Conservation Corps) was a highly effective weapon in damping down the social and economic holocaust of the Great Depression. It did not "cure" the depression—it took a world war to do that—but it profoundly eased the depression's cruel impact upon millions of families and it helped greatly, maybe decisively, to stabilize a severely shaken social structure. Ten to twelve million jobless men—that was the score in 1932–1935—with their families sunk for a year or more to varying depths of suffering and hopelessness can shake a social structure pretty severely. Then, as now, there were marches, demonstrations and bloody confrontations with the cops.

The Hoover Administration had refused as a matter of principle and morality to do anything directly to alleviate unemployment and its attendant destitution. Early in the tempestuous "hundred days" of the New Deal, President Roosevelt set up the Federal Emergency Relief Administration, and in the next year and a half funneled nearly a billion dollars out to the states (it wasn't called revenue-sharing then), most of it to be used simply as a dole to feed the hungry and house the homeless.

Hopkins argued, and the President in time agreed, that the dole was a dead-end. It was destructive of human dignity and enterprise and yielded no returns to the state. The way to fight unemployment, he said, was with jobs where a man (or woman) could earn his keep in the time-honored way by honest toil. The formula was work relief instead of direct relief.

The WPA was launched early in 1935, its bureaucratic fingers reaching into every city and county in the nation. By the end of 1940 it had spent over $10 billion, 80 percent of it in wages scaled approximately at prevailing rates: they averaged out to between $50 and $60 a month. (Believe it or not, that was, just barely, a "living wage.") These wages went to an average of 2.2 million otherwise jobless persons during each of those years, reaching a peak of 3.5 million late in 1938. Altogether, some 8 million individuals—equivalent to one-fifth of the nation's labor force—worked on WPA projects at some time or other between 1935 and the end of 1940.

What kind of work?

Most of the thousands of projects were devised locally. They covered just about every field of human endeavor and public need; roads, streets and sewers; parks, playgrounds and levees for flood control; repair and building of schools, jails and libraries. WPA white-collar workers taught thousands of illiterates to read and write, manned hundreds of public health centers and home nursing services, refurbished invaluable land- and tax-records from ancient courthouse basements, organized symphony orchestras and theatrical companies of at least passable professional caliber, wrote and published the incomparable American Guide Series in some thirty-odd volumes. Et cetera.

Let it be said that they also sometimes raked nonexistent leaves, built roads to nowhere, exhaustively researched the history of the safety pin and otherwise gave substance to the term, "boondoggle." And sure enough, politics reared its ugly head here and there in their midst. Reporter Thomas L. Stokes won a Pulitzer in 1939 for his expose of how the Democrats "bought" an election in Kentucky "with WPA money."

That is what seems so easy to remember about WPA. But one's catalogue should also include such durable monuments as New York's LaGuardia Airport and Jones Beach, which got their starts as WPA projects—as did Chicago's handsome lakefront park, St. Louis's impressive riverfront development, and the municipal recreation center in San Francisco's Acquatic Park. There are thousands of lesser monuments scattered across the land whose inscriptions have faded. No one ever claimed for WPA that it was the most efficient method of performing public works. Even so, the material return on the investment was substantial: things that urgently needed doing were done.

But WPA's big payoff was in the salvage

of human values; in preserving the work skills, the pride and the initiative of millions whose faith in the democratic process had worn dangerously thin. And that is the heart of the dilemma facing President Nixon today. His problem is not greatly different from Roosevelt's Billions of dollars are going down the welfare drain with scarcely visible returns, either in material or human terms. At the same time that people who can, and for the most part want to, work are swelling the relief rolls by thousands each week, local governments are curtailing essential services because they are too broke to hire the people to carry them on.

Skills, morale and faith in the democratic verifies are going down the drain, too. "Made work," as WPA jobs used to be called, is not the optimum solution to such a wastage. But name a better substitute until that happy day of "a full-employment economy" comes along.

[From the Wall Street Journal, Apr. 18, 1972]

WAS THE WPA REALLY SO AWFUL?

(By Paul Lancaster)

NEW YORK.—Through a program that gives local governments money to add workers, Washington is moving gingerly into the business of combating unemployment directly by creating jobs. But proposals for broader job programs, including public works, still trip up on a ghost from the 1930s, the WPA.

Implicit in warnings against "another WPA"—the initials stand for Works Progress Administration—is the notion that when a government program is motivated by the desire to make work, the participants won't make anything useful. But a glance around this city, where an army of WPA workers labored in the Depression, shows that's not necessarily the case.

The businessman arriving in town at LaGuardia Airport is making use of a major WPA project. So is the visitor arriving at Newark Airport, which the WPA expanded and modernized. The Wall Street executive who takes a cab from midtown Manhattan to his office travels down the East River drive, another undertaking in which the WPA had a hand.

Sports-minded New Yorkers enjoy golf courses and tennis courts built by workers employed by the WPA and earlier New Deal job programs. Residents who frequent Central Park have such workers to thank for the playgrounds around the edge of the park, the delightful little zoo, the bridle path, the red brick boathouse where they rent rowboats—even the concrete benches. Besides these visible reminders of federal "make-work" programs, there is much that is less obvious now but that kept the city from falling apart during the Depression, such as new sewers and sidewalks and repairs to museums, libraries and other public buildings.

DESPERATE WORKERS

Today's unemployment rate of under 6% looks insignificant by the standards of the '30s, when as many as a quarter of all workers were jobless. Nevetheless, a susbtantial number of the five million Americans now classed as unemployed are growing just about as desperate as their Depression counterparts—perhaps more so in some cases because they see so much affluence around them.

Many have been out of work for long stretches and seemingly have little prospect of landing a job in industry soon even if the pace of business continues to pick up. Their ranks include unskilled urban blacks as well as highly trained engineers and technicians displaced by defense and aerospace cutbacks. For some of the hard-core unemployed, public employment may offer the only hope.

So far, Washington's efforts to create public jobs have been sharply limited. The bill enacted last summer to expand local government payrolls by providing federal funds for the hiring of new teachers' aides, policemen. and the like creates only 150,000 jobs all told, and critics say many of these aren't going to the people who need them most. Before accepting this relatively modest program, President Nixon twice vetoed bills that would have created many more jobs. One veto message assailed "WPA-type jobs."

It's not hard to find grounds for criticizing the WPA. Some of the $10 billion that agency cost the federal government between its launching in 1935 and the closing of its books in 1943 went for such questionable items as the wages of local politicians' household help. In a number of instances WPA funds financed the construction of facilities that wound up in private hands. There were also frequent complaints that the Democrats used WPA jobs to buy support in elections.

Nor is there any denying the waste and inefficiency that gave rise to the term "boondoggle." A final government report on WPA activities conceded that some of the agency's airport and dam construction had proved "ill-advised" and "overdone." The same report notes that the WPA built 2,309,000 public privies, raising the question of whether privy building might not have been overdone, too.

The cartoons depicting WPA workers leaning on their shovels had a basis in fact. Indeed, in 1938 a crew of WPA ditch-diggers here in New York walked off the job because the foreman wouldn't let them lean on shovels. The men had been in the habit of working in pairs, one with a pick and one with a shovel. When the pick man was working, the shovel man rested, and vice versa. The foreman ordered each man to use pick and shovel interchangeably to speed the work. The workers called the order "inhuman" and struck before eventually complying.

Given the immense scale of its operations, however, perhaps the remarkable thing is that the WPA managed as well as it did. At one time or another, 8.5 million Americans were on its payroll, earning an average of $54 a month. And the list of their accomplishments is impressive.

WPA workers built 67,000 miles of urban streets and built or improved 572,00 miles of rural roads. They built or improved 8,000 parks and 12,000 playgrounds. They erected 5,900 schools and renovated 31,000 others, and they built or improved more than 1,000 libraries.

Some of their efforts at least moderated the environmental problems that concern Americans so much today. WPA crews built or modernized more than 1,500 sewage treatment plants. Unemployed miners on the WPA rolls in West Virginia, Ohio, Pennsylvania and Kentucky sealed thousands of abandoned coal mines, thereby reducing the stream pollution caused by acid drainage from the mines. Other conservation projects included the reseeding of depleted oyster beds and the planting of 177 million trees.

No section of the country failed to benefit. Jersey City got a 22,000-seat stadium, and Whitley County, Ind., got a new cemetery. Los Angeles got golf courses and swimming pools, and Cumberland, Ky., got a new city hall. Chicago got help with its lakefront park, and Oregon got a ski lodge atop Mount Hood.

Construction accounted for the bulk of WPA employment, but the agency showed considerable imagination in putting jobless professionals and white-collar types to work in fields where they could use their talents. Laid-off teachers set up adult education programs. WPA clerical workers helped streamline record-keeping in municipal tax offices.

Best remembered are the projects in creative fields. WPA writers turned out the celebrated series of state guidebooks still prized as reference works today. WPA artists covered the walls of public buildings with 2,500 murals. Many of the murals have long since disappeared, but some of the painters employed by the art project went on to fame—Jackson Pollock and Willem De Kooning, to mention a couple.

The programs for writers and artists, as well as others for musicians and actors, were directed from Washington, but most of the WPA's construction and maintenance projects resulted from proposals made by local governments. A town said it needed a park. If the WPA approved, it issued tools and a tool shed from its supply section, and the jobless went to work.

THE NEEDS OF TODAY

Some cities' needs are as great today as they were in the '30s. Just as a starter, much of the work the WPA did needs to be redone; the parks it built are a mess and the public buildings it constructed or refurbished have become shabby. A major urban rehabilitation effort would be one way to employ many of the unskilled jobless profitably.

Finding jobs for the idle engineers and technicians might require imagination of the sort the WPA displayed in putting unemployed professionals to work. But men ingenious enough to build moon rockets could surely make a contribution somewhere. One likely possibility is in helping cities cope with the rising tide of waste through recycling programs and other means.

Today's conditions are not the same as those of the depths of the depression, of course, and there are questions as to whether the money for a major job-creating effort is available. A proposal by Rep. Henry Reuss, a Wisconsin Democrat, to create 500,000 public service jobs over two years carries a price tag of $6 billion, compared with $2.25 billion over the same span for the current program. But the achievements of the WPA, coupled with the glaring needs of the cities today, do suggest that money spent to make jobs would yield the nation at least some return in the form of concrete benefits. And aside from such tangible benefits, a larger public jobs program could hope to lift the spirit of some of those who have come to feel that society has no useful role for them to play.

POSTELECTION CAMPAIGN CONTRIBUTION DISCLOSURE

Mr. BAYH. Mr. President, on April 25, there appeared in the CONGRESSIONAL RECORD a series of stories from the Dayton, Ohio, Journal Herald raising questions concerning the source of campaign funds received after my reelection to the Senate in 1968 and used to retire the deficit of that campaign. Although the law does not require disclosure of the sources of campaign funds received after an election, I ask unanimous consent to insert in the RECORD a list of post-election contributors and the amount each contributed. Earlier, in 1968, a list of contributors and the amounts contributed through election day was filed, in accordance with the legal requirements, with the county clerk of Huntington County, Ind.

In addition, although it is not required by law, it is my practice to place in the CONGRESSIONAL RECORD each year a personal financial disclosure listing all sources of income and outstanding obligations. My personal financial disclosure for calendar year 1969 appeared in the CONGRESSIONAL RECORD of August 7, 1970, and my personal financial disclosure for calendar year 1970 appeared in the CONGRESSIONAL RECORD of September 20, 1971. My disclosure for calendar year 1971 will again be inserted in the RECORD this year.

I believe my constituents have a right to know the sources of my personal income and my obligations. I have consistently supported campaign finance disclosure and legislation to require public disclosure of the personal finances of Members of the House of Representatives and of the Senate. On May 17, 1971, I introduced a bill, S. 1885, which would require such disclosures and which I hope will become law.

Mr. President, the list of contributors and the amounts contributed which I ask unanimous consent to have inserted in the RECORD today, discloses that 1,757 individuals contributed $152,441.28. The largest contribution was $5,000, the smallest contribution was $1, and the average contribution was $86.76. In addition, $24,950.50 was received in conjunction with a gala on June 28, 1969, from the proceeds of cash sales of programs in the amount of $5,817; ticket sales at the door, $9,270; book sales, $625.50; campaign memorabilia sales, $1,135; and contributions placed in containers passed among the guests in the amount of $4,103. The total contributions are $177,381.78, including the cash receipts from the June 28 gala listed above.

I would like to apologize to some of my Republican friends who contributed to me in 1968 if the publication of this list causes them any embarrassment. I hope they will agree with me that it is essential that the questions raised by the Dayton Journal Herald concerning the sources of post-election contributions be answered.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

List of contributors and amount contributed

[In dollars]

Russell G. D. Abell, Jeffersonville, Ind.: June 28, 1969	10
Mr. and Mrs. Sam Abels, Indianapolis, Ind.: Dec. 6, 1969	100
Action Committee for Rural Electrification, Washington, D.C.: Feb. 7, 1969	500
Lehman Adams, Jr., Indianapolis, Ind.: Feb. 1, 1969	100
AFGE Political Fund, Washington, D.C.: Feb. 9, 1969	100
Adriano A. Agana, M.D., Gary, Ind.: Dec. 6, 1969	100
Mary Aikens, Osgood, Ind.: June 28, 1969	100
Forrest Aldridge, Deputy, Ind.: June 28, 1969	20
David Alexander, Clinton, Ind.: June 28, 1969	20
Cornelius O. Alig, Jr., Indianapolis, Ind.:	
June 28, 1969	200
Dec. 6, 1969	100
Mr. and Mrs. Wade Allbritten, Spencer, Ind.: June 28, 1969	20
J. Chester Allen, South Bend, Ind.: June 28, 1969	10
E. W. Allen, Richmond, Ind: February 1, 1969	50
Fred Allen, South Bend, Ind.: June 28, 1969	25
Jerome Allis, Jasper, Ind.: June 28, 1969	20
George Allison: November 6, 1968	37
Mrs. Alvin E. Almonrode, Saratoga, Ind.: June 28, 1969	10
Carl Altman, Seelyville, Ind.: June 28, 1969	10
Frank Amidei, North Judson, Ind.: June 28, 1969	10
Frank Anderson, Salem, Ind.: June 28, 1969	20
Kenneth L. Anderson, Indianapolis, Ind.: February 1, 1969	50
Wayne S. Anderson, Linden, Ind.: December 6, 1969	100
Nick Angel, Munster, Ind.: June 28, 1969	100
Herman E. Antle, Lebanon, Ind.: June 28, 1969	10
Ed Applegate, Bloomington, Ind.: June 28, 1969	20
John M. Armington, Columbus, Ind.: Feb. 1, 1969	100
Lewis S. Armstrong, Elkhart, Ind.: June 28, 1969	100
Mr. & Mrs. Russell Arndt, LaCrosse, Ind.:	
Jan. 3, 1969	30
June 28, 1969	20
Mrs. Maxine Arnett, Greenfield, Ind.: Feb. 1, 1969	10
Clifford D. Arnold, LaPorte, Ind: June 28, 1969	10
E. G. Arnold, DuBois, Ind.:	
Jan. 3, 1969	10
June 28, 1969	10
Howard Arnold, Portage, Ind.: June 28, 1969	10
Opal Atkinson, Orleans, Ind.: June 28, 1969	10
Delmar Auer, Columbia City, Ind.: June 28, 1969	10
Marcus Aurelius: Jan. 3, 1969	100
Hal R. Austin, Indianapolis, Ind.: Dec. 1, 1969	50
John Ax, Linton, Ind.: Jan. 3, 1969	100
Rene C. Aybar, Terre Haute, Ind.:	
Feb. 7, 1969	200
June 28, 1969	100
A. H. Bacci: Feb. 1, 1969	10
Robert L. Bach, Indianapolis, Ind.:	
June 28, 1969	50
Dec. 6, 1968	50
Joseph Bachman, Lanesville, Ind.: June 28, 1969	20
Mr. and Mrs. Herbert Backer, Indianapolis, Ind.:	
Jan. 3, 1969	10
Dec. 6, 1969	100
Allan Baer, South Bend, Ind.: June 28, 1969	10
Frederick K. Baer South Bend, Ind.: Feb. 1, 1969	25
Edward J. Bair, Bloomington, Ind.: Feb. 7, 1969	20
Richard R. Baird, Clarksville, Ind.: June 28, 1969	15
Jim Baize, Indianapolis, Ind:	
Jan. 3, 1969	500
June 28, 1969	40
Mrs. Charles W. Baker, Indianapolis, Ind.: June 28, 1969	10
Harold Baker, Seymour, Ind: June 28, 1969	20
Leroy Baker, Bloomington, Ind: June 28, 1969	25
Mrs. Robert Baker, Bloomington, Ind:	
Jan. 3, 1969	15
June 28, 1969	10
Ralph Balbreath, Winamac, Ind.: June 28, 1969	10
Ideal Baldoni, South Bend, Ind.: June 28, 1969	50
Margaret Ball, Rockville, Ind.: June 28, 1969	10
Philip Ball, M.D., Muncie, Ind.: April 1969	25
Anita Bando, Portage, Ind.: June 28, 1969	10
E. J. Bannon, Lafayette, Ind:	
Jan. 3, 1969	500
June 28, 1969	100
John A. Bardon, Plainfield, Ind.: June 28, 1969	5
Betty L. Baney, Fort Wayne, Ind.: June 28, 1969	2
Robert O. Barkley, Jr., South Bend, Ind.: Feb. 1, 1969	100
Maxine and Harold Barnett, Crawfordsville, Ind.: June 28, 1969	5
Dean L. Barnhart, Indianapolis, Ind.: Jan. 3, 1969	20
Hugh A. Barnhart, Rochester, Ind.:	
Feb. 1, 1969	25
June 28, 1969	10
John S. Barns, Gosport, Ind.: Feb. 1, 1969	10
Leslie J. Barron, Franklin, Ind.: June 28, 1969	10
Mrs. C. B. Barthold, Jeffersonville, Ind.: June 28, 1969	10
Frank Barton, Washington, D.C.: Feb. 9, 1969	50
Rev. James Barton, Liberty, Ind.:	
Feb. 1, 1969	10
June 28, 1969	10
Hon. John J. Barton, Indianapolis, Ind.: June 28, 1969	100
Abe Baruff, Elwood, Ind.: June 28, 1969	10
Gloria Basendale, Plainfield, Ind.: June 28, 1969	5
Jim Bass, Washington, D.C.: Feb. 9, 1969	50
Ross Bass, Washington, D.C.: Feb. 9, 1969	250
Weston Bassett, Kokomo, Ind.: June 28, 1969	100
Howard Batman, Terre Haute, Ind.:	
Jan. 3, 1969	500
July 7, 1969	500
Joe Baudino, Washington, D.C.: Feb. 9, 1969	50
Howard Baumgartner, Berne, Ind.: Feb. 1, 1969	25
Mr. and Mrs. Bernard Bayh, Spencer, Ind.: June 28, 1969	20
George Beamer, South Bend, Ind.: June 28, 1969	5
William Beard, Greensburg, Ind.: June 28, 1969	10
John Beasley, Muncie, Ind.: Apr. 1969	25
Mr. and Mrs. Richard Beavens, Indianapolis, Ind.; June 28, 1969	200
Addison M. Beavers, Boonville, Ind.: June 28, 1969	10
L. D. Bechtol, M.D., Noblesville, Ind.: Feb. 1, 1969	25
Frank Beck, Jan. 3, 1969	25
Marie Beck, Mount Summit, Ind.: June 28, 1969	10
Sigmund, J. Beck, Indianapolis, Ind.:	
Feb. 1, 1969	50
June 28, 1969	100
Dec. 6, 1969	100
Herman D. Becker, Terre Haute, Ind.: Jan. 3, 1969	250
Leathel Beckham, Whitestown, Ind.: June 28, 1969	10
Berle Beckner, Bringhurst, Ind.: June 28, 1969	20
Geno Bedino, West Terre Haute, Ind.: June 28, 1969	50
Wayne Bedwell, Dugger, Ind.: Feb. 1, 1969	100
Stephen C. Beeler, Indianapolis, Ind.: Feb. 1, 1969	25
Ralph Behymer, Lebanon, Ind.: June 28, 1969	25
J. F. Beldon, Seymour, Ind.: June 28, 1969	5
Ed Bell, Indianapolis, Ind.: June 28, 1969	30
R. A. Bender, Ft. Wayne, Ind.: January 3, 1969	30
Robert R. Bennett, Terre Haute, Ind.: June 28, 1969	25
Sydney L. Berger, Evansville, Ind.: February 1, 1969	25
Esther Bergman: June 7, 1969	10
Mrs. Helen Berkshire, Indianapolis, Ind.: June 28, 1969	10
Arthur Berlin, Corydon, Ind.: June 28, 1969	25
Mr. and Mrs. Dave Berman, Indianapolis, Ind.: December 6, 1969	100
Phillip Berman, Allentown, Pa.: February 1, 1969	100
L. Cosby Bernard, Jr., Hammond, Ind.: December 6, 1969	100
Robert F. Berns, Rochester, Ind.: June 28, 1969	100
Harold Bernstein, February 1, 1969	250
Robert Berry, Washington, D.C.: February 9, 1969	100
Idola Best, Nappannee, Ind.: June 28, 1969	10
Leonard J. Betley, Indianapolis, Ind.:	
February 1, 1969	50
June 28, 1969	10

Lucille Betson, Dana, Ind.: June 28, 1969	10
Richard S. Bibler, Ft. Wayne, Ind.:	
February 1, 1969	250
June 28, 1969	200
Vincent Bisesi, Martinsville, Ind.: June 28, 1969	10
Mrs. Omer C. Bixel, Plymouth, Ind.: June 28, 1969	25
Joe Blackburn, Greenwood, Ind.: June 28, 1969	10
C. M. Blair, January 3, 1969	75
Carroll Blanchor, Plainfield, Ind.: February 1, 1969	250
Stanley Blemke, South Bend, Ind.: January 3, 1969	30
Edward Block, Indianapolis, Ind.: December 6, 1969	200
Phillips D. Block, Jr., Pittsburgh, Pa.: Feb. 9, 1969	200
Mr. and Mrs. M. J. Bloomgarden, Indianapolis, Ind.: Dec. 6, 1969	100
Jerry Blue, Flora, Ind.: June 28, 1969	20
Sam Blue, Martinsville, Ind.: Jan. 3, 1969	30
Morris B. Blumberg, Terre Haute, Ind.:	
Jan. 3, 1969	30
June 28, 1969	200
A. A. Bocknowski, Crown Point, Ind.: June 28, 1969	10
Richard Bodiker , Sr., Veedersburg, Ind.:	
June 28, 1969	10
Jan. 3, 1969	
Sept. 4, 1969	
Joseph Bolt, Indianapolis, Ind.: June 28, 1969	50
A. Dewey Bond, Washington, D.C.: Feb. 9, 1969	50
Norman Bonewitz, Huntington, Ind.: Jan. 3, 1969	10
William A. Booher, Logansport, Ind.: June 28, 1969	20
Max L. Boone, Sullivan, Ind.: June 28, 1969	10
Mrs. Eleanor Borshoff, Indianapolis, Ind.: June 28, 1969	10
Al Bostock, Jeffersonville, Ind.:	
Feb. 7, 1969	100
June 28, 1969	20
Canby Bottorff, Charlestown, Ind.: June 28, 1969	10
Robert Bottorff, Jeffersonville, Ind.: June 28, 1969	10
John O. Bowers, Gary, Ind.:	
Jan. 3, 1969	50
June 28, 1969	100
Dec. 6, 1969	100
Felson Bowman, Indianapolis, Ind.: June 28, 1969	100
Joseph W. Bowman, Rockville, Ind.: June 28, 1969	10
George M. Bowser, Warsaw, Ind.: June 28, 1969	50
Mrs. Russell Bowser, Michigan City, Ind.: June 28, 1969	5
Otis Bracher, Boonville, Ind.: June 28, 1969	5
M. H. Brackman, Rockport, Ind.: June 28, 1969	25
T. Brooks Brademas, South Bend, Ind.: Jan. 3, 1969	500
Hon. John Brademas, Washington, D.C.: June 28, 1969	25
Wayne Bradley, Washington, D.C.: Feb. 9, 1969	50
John I. Bradshaw, Jr., Indianapolis, Ind.:	
Jan. 3, 1969	5
Dec. 6, 1969	100
William J. Braid, Greensburg, Ind.: June 28, 1969	10
Allen Brandt: Feb. 1, 1969	50
Paul Branson, Indianapolis, Ind.: June 28, 1969	10
Mr. and Mrs. William Brattain: June 28, 1969	20
Charles A. Boggs, Veedersburg, Ind.:	
June 28, 1969	10
Jan. 3, 1969	20
Sept. 4, 1969	10
Leo Braun, Loogootee, Ind.: June 28, 1969	10
Adeline Brengle: Jan. 3, 1969	25
W. A. Brennan, Jr., Indianapolis, Ind:	
Jan. 3, 1969	250
Dec. 6, 1969	500
Elliott H. Brenner, Lafayette, Ind.: Feb. 1, 1969	25
Geraldine Brewer, Monticello, Ind.: June 28, 1969	5
Dale G. Brickner, Bloomington, Ind.: June 28, 1969	25
Dick Brickson, Indianapolis, Ind.: June 28, 1969	10
Cylde Bridge, Monticello, Ind.: June 28, 1969	25
Warner Brock, Jeffersonville, Ind.: June 28, 1969	10
Bernard Broeker, Bethlehem, Penn.: Feb. 12, 1969	100
Mace Broide, Washington, D.C.: Feb. 2, 1969	50
Richard F. Bronnenberg, Muncie, Ind.: Apr. 1969	25
James E. Brooks, Fort Wayne, Ind.: Jan. 3, 1969	25
Robert F. Brooks, Fort Wayne, Ind.: Jan. 3, 1969	250
Rufus R. Brooks, Indianapolis, Ind.: June 28, 1969	5
David Brower, Jan. 3, 1969	10
Harry C. Brown, June 28, 1969	10
Irving Brown, South Bend, Ind.: Feb. 1, 1969	100
James C. Brown, Bedford, Ind.: June 28, 1969	10
John Brown, Bringhurst, Ind.: June 28, 1969	20
Phillip W. Brown, Shelbyville, Ind.: June 28, 1969	10
Ralph Brown, Washington, D.C.: Feb. 2, 1969	50
William Brown, Indianapolis, Ind.: June 28, 1969	30
Maxine Broydon, Monticello, Ind.: June 28, 1969	10
Glen Broyles, Plainfield, Ind.: June 28, 1969	20
Brumbach & Lamb: Feb. 1, 1969	10
Carl H. Brummett, Nashville, Ind.: June 28, 1969	10
W. Brunton, Scottsburg, Ind.:	
June 28, 1969	10
Aug. 1, 1969	25
Mr. and Mrs. Karol Bryan, Portland, Ind.: June 28, 1969	10
John B. Buckley, Elkhart, Ind.: Feb. 1, 1969	100
Mr. and Mrs. Richard Bump, Muncie, Ind.: Apr. 1969	10
Dick Bunch: Feb. 1, 1969	25
Edward Burch, Loogootee, Ind.: June 28, 1969	5
H. Ross Burch, Bedford, Ind.: June 28, 1969	10
James E. Burch, Loogootee, Ind.: June 28, 1969	300
Sheron Burch, Bedford, Ind.: June 28, 1969	10
Howard L. Burcham, Vallonia, Ind.: June 28, 1969	25
Lawrence and Margaret Burgmeier, North Vernon, Ind.:	
Feb. 1, 1969	50
June 28, 1969	50
Ethel Burk, North Vernon, Ind.: Jan. 3, 1969	20
Charles P. Burke, Bedford, Ind.: June 28, 1969	25
Judge Ernie S. Burke, Indianapolis, Ind.: Feb. 1, 1969	50
Mr. and Mrs. Robert Burke, Monticello, Ind.: June 28, 1969	50
Wayne F. Burke, Indianapolis, Ind.: June 28, 1969	50
Marvin L. Burkett, Ladoga, Ind.:	
June 28, 1969	150
Dec. 6, 1969	100
Mr. and Mrs. Jack Burkhalter, Delphi, Ind.: June 28, 1969	20
James Burks, Indianapolis, Ind.: Jan. 3, 1969	30
J. K. Burns, Gosport, Ind.: June 28, 1969	20
John S. Burns, New York, N. Y.: February 7, 1969	10
John Burrough, Lucerne, Ind.:	
February 12, 1969	50
November 17, 1969	100
Bryce Burton, Rochester, Ind.: June 28, 1969	100
Judy Burton, Rochester, Ind.: June 28, 1969	100
Milton Burton, Mishawaka, Ind.:	
February 1, 1969	25
June 28, 1969	10
December 6, 1969	15
John Buscher, Washington, D.C.: February 9, 1969	50
Mr. and Mrs. Warren Buser, Roachdale, Ind.:	
January 3, 1969	30
June 28, 1969	10
Mrs. John Bush, Washington, D.C.: February 9, 1969	50
Ralph Bush: February 1, 1969	100
Abie Bushing: February 1, 1969	10
Ted Bushman: February 1, 1969	100
Brown and Hahn Butler, Indianapolis, Ind.: June 28, 1969	50
Gary Lee Butler, Lawrenceburg, Ind.: June 28, 1969	40
Jean Butler, Falling Waters, W. Va.: February 1, 1969	100
Patrick H. Butler, Indianapolis, Ind.: December 6, 1969	100
Philip Butler, Auburn, Ind.: December 6, 1969	100
Don W. Buttrey, Indianapolis, Ind.: December 6, 1969	100
William C. Byers, Fort Wayne, Ind.: June 28, 1969	10
Donald Byrdsong, Indianapolis, Ind.: June 28, 1969	100
Robert Byrdsong, Indianapolis, Ind.: June 28, 1969	2
John A. Cabell, Corydon, Ind.: June 28, 1969	20
Mr. and Mrs. Bruce D. Cabell, W. Lafayette, Ind.: June 28, 1969	10
Douglas E. Cain, Charlestown, Ind.: June 28, 1969	10
Lewis S. Caldwell, Bentonville, Ind.: June 28, 1969	10
Marge Caley, Uniondale, Ind.: June 28, 1969	10
Thomas H. Calhan, New Ross, Ind.: Feb. 1, 1969	20
Bernice Calhoun, North Vernon, Ind.: June 28, 1969	5
Charles W. Cameron, Kokomo, Ind.: Feb. 1, 1969	20
Georgia Campbell, Veedersburg, Ind.: June 28, 1969	37
Malcolm Campbell, Sullivan, Ind.: June 28, 1969	25
Robert Campbell, Lebanon, Ind.: June 28, 1969	20
Forrest R. Camplin, Wilkinson, Ind.: June 28, 1969	10
G. L. Canfield, Carmel, Ind.: Feb. 1, 1969	250
Mr. and Mrs. Floyd Cantrell, New Castle, Ind.: Feb. 7, 1969	30
Mortimer Caplin, Washington, D.C.: Feb. 9, 1969	50
Ernest M. Carbon, Cincinnati, Ohio: Jan. 3, 1969	50
Mr. and Mrs. Thomas Carey, Muncie, Ind.: Apr. 1969	10
Evelyn J. Carlile, Crawfordsville, Ind.: June 28, 1969	5
Ernest Carmichael, Marietta, Ga.: Jan. 3, 1969	500
Ralph Carmichael, Bedford, Ind.: June 28, 1969	50
Mr. and Mrs. Don L. Carnall, Bluffton, Ind.: Feb. 1, 1969	25
Joseph Carney, Jr., Anderson, Ind.: Feb. 1, 1969	50
Cliff Carter, Washington, D.C.: Feb. 9, 1969	500
Mary L. Caudell, Fortville, Ind.: June 28, 1969	20

List of contributors and amount—Continued

[In dollars]

Ruth Cavanaugh, Valparaiso, Ind.: June 28, 1969	10
James A. Caywood: Feb. 9, 1969	100
Virgil Cesinger, Terre Haute, Ind.: June 28, 1969	10
Mrs. Frances E. Chambers, Coatesville, Ind.: June 28, 1969	10
Raymond Channaberry, Jeffersonville, Ind.: June 28, 1969	10
John Chapman: Feb. 9, 1969	500
Willard H. Chester, Elkhart, Ind.:	
Feb. 1, 1969	50
June 28, 1969	25
Austin B. Childress, Spencer, Ind.: June 28, 1969	20
Mrs. Russell Chowning, Shelburn, Ind.: June 28, 1969	10
Alexander Christie, Washington, D.C.: Feb. 9, 1969	50
Jeannette Church, Greenwood, Ind.: June 28, 1969	10
Blair Clark, Washington, D.C.: Feb. 9, 1969	100
Don Clark, Nashville, Ind.: June 28, 1969	10
Donald Clark, Bloomington, Ind.: Feb. 1, 1969	30
Mrs. Johnie Clarks, Indianapolis, Ind.: June 28, 1969	10
Dave Clem, Bringhurst, Ind.: June 28, 1969	40
Melberta, Clerget, Chalmers, Ind.: June 28, 1969	10
Mr. and Mrs. Edward E. Clifton, Crawfordsville, Ind.:	
Feb. 1, 1969	10
June 28, 1969	10
Fred Cline, Indianapolis, Ind.: Dec. 6, 1969	100
Jack N. Cochran, Sullivan, Ind.: Feb. 1, 1969	250
Kenneth Cochran, Flat Rock, Ind.: Feb. 1, 1969	20
John A. Cody, New Albany, Ind.: Feb. 7, 1969	50
R. E. Coffey, South Bend, Ind.: Feb. 1, 1969	100
Alvin Cohen, Indianapolis, Ind.: December 6, 1969	25
Mr. and Mrs. Arthur Cohen, Indianapolis, Ind.: December 6, 1969	100
Jere Cohen, Bloomington, Ind.: June 28, 1969	10
Merrill K. Cohen, Indianapolis, Ind.: February 7, 1969	100
Albert H. Cole, Peru, Ind.: December 6, 1969	25
Clarence Cole, January 3, 1969	5
Sara and Eugene Cole, Indianapolis, Ind.: June 28, 1969	20
Charles Cole, South Bend, Ind.: February 1, 1969	250
James O. Cole, Peru, Ind.: February 1, 1969	75
Martin D. Cole, Indianapolis, Ind.: June 28, 1969	10
Mr. Ray Colglazier, Salem, Ind.: June 28, 1969	60
Earl Collins, Indianapolis, Ind.: June 28, 1969	10
Henry Collins, Muncie, Ind.: June 28, 1969	25
April 4, 1969	5
Ralph W. Collins, Portage, Ind.:	
June 28, 1969	5
February 1, 1969	25
Gertrude B. Combs, Frankfort, Ind.: June 28, 1969	10
Paul Comstock, Washington, D.C.: February 9, 1969	50
C. Thomas Cone, Greenfield, Ind.: June 28, 1969	100
Richard Congleton, Washington, D.C.: February 9, 1969	100
William J. Conlin, Jeffersonville, Ind.: June 28, 1969	10
Mr. and Mrs. Franklin Connelly, Cincinnati, Ohio: June 28, 1969	50
Daniel G. Conner, Jeffersonville, Ind.: June 28, 1969	10
W. W. Conover, Terre Haute, Ind.: June 28, 1969	10
Lex Consert, Washington, D.C.: Feb. 9, 1969	50
Mrs. David Cook, Indianapolis, Ind.:	
Feb. 1, 1969	25
December 6, 1969	100
June 28, 1969	25
Honorable Paul Cooley, Muncie, Ind:	
June 28, 1969	100
February 1, 1969	200
Seymour Cooper, Shoals, Ind.: June 28, 1969	1
J. P. Coplen, Logansport, Ind.: June 28, 1969	100
Jim Corcoran, Washington, D.C.: Feb. 9, 1969	100
Tom Corcoran, Washington, D.C.: Feb. 9, 1969	250
Jesse Core: Jan. 3, 1969	75
Keith Cornelison, Terre Haute, Ind.: June 28, 1969	10
Don J. Corriden, Indianapolis, Ind.: Feb. 1, 1969	100
Thomas A. Cortese, M.D., Indianapolis, Ind.: June 28, 1969	100
Dale B. Cos, Indianapolis, Ind.: June 28, 1969	20
J. L. Costin, Crown Point, Ind.: June 28, 1969	100
Frank Cotter, Washington, D.C.: Feb. 9, 1969	50
Claudia Cotton, Berne, Ind.: Jan. 3, 1969	15
Dr. J. Harry Cotton, Crawfordsville, Ind.: June 28, 1969	20
James C. Courtney, Indianapolis, Ind.: June 28, 1969	110
B. C. Cox, Plainfield, Ind.: June 28, 1969	5
Raymond Crain, Flora, Ind.: June 28, 1969	20
Daniel E. Crammer, Jeffersonville, Ind.: June 28, 1969	10
Roberta D. Crane, West Lebanon, Ind.: June 28, 1969	10
Daniel E. Crammer, Jeffersonville, Ind.: June 28, 1969	10
Chester W. Crates, Monroeville, Ind.: June 28, 1969	25
Jim Crawford, Indianapolis, Ind.: June 28, 1969	10
Albert E. Crayden, Ramsey, Ind.: June 28, 1969	15
Louise Crim, Shoals, Ind.: June 28, 1969	10
W. C. Crimmins, Van Buren, Ind.: Feb. 1, 1969	200
Charles L. Crist, Clay City, Ind.: June 28, 1969	10
Wayne A. Crockett, M.D., Terre Haute, Ind.: June 28, 1969	25
Robert P. Cronin, Indianapolis, Ind.:	
Dec. 6, 1969	100
June 28, 1969	100
Kenneth Crosby, Washington, D.C.: Feb. 9, 1969	50
T. S. Cross, Freetown, Ind.: June 28, 1969	10
Jane Crowder, Jan. 3, 1969	5
Christina Crowe, Orleans, Ind.: June 28, 1969	10
Eugene Crowe, Bedford, Ind.:	
June 28, 1969	100
Feb. 1, 1969	500
Dec. 6, 1969	150
Henry Crown, Chicago, Ill.: Feb. 18, 1969	1,000
Dr. and Mrs. R. H. Cullop, Pine Village, Ind.: June 28, 1969	50
Curtis Culver, Terre Haute, Ind.:	
Jan. 3, 1969	30
June 28, 1969	25
Mr. and Mrs. John F. Cummings, Rockville, Ind.:	
June 28, 1969	50
Dec. 6, 1969	100
Mr. and Mrs. Ray Cummings, Rockville, Ind.: June 28, 1969	50
Gordon Cunningham: June 28, 1969	10
James Cunningham, Indianapolis, Ind.: June 28, 1969	100
Mr. Clarence Curley, St. Mary of the Woods, Ind.: June 28, 1969	25
Thomas A. Curley, W. Terre Haute, Ind.: June 28, 1969	25
John A. Curry, Terre Haute, Ind.: June 28, 1969	25
Anna Mae Dages, Montgomery, Ind.: June 28, 1969	20
John P. Daley, LaPorte, Ind.: June 28, 1969	10
Jack R. Dalton, Indianapolis, Ind.: June 28, 1969	200
R. E. Daley, Gary, Ind.: June 28, 1969	100
Albert R. Danner, Jeffersonville, Ind.: June 28, 1969	10
Mrs. Rose Marie Darling, Guilford, Ind.: June 28, 1969	5
Benner E. Davenport, Indianapolis, Ind.: June 28, 1969	25
Mrs. Dale Davenport, Morgantown, Ind.: June 28, 1969	10
Mrs. Dick Davenport, Morgantown, Ind.: June 28, 1969	10
Mr. David A. David, Indianapolis, Ind.:	
June 28, 1969	100
Dec. 6, 1969	100
S. Spencer Davids, Washington, D.C.: Feb. 9, 1969	100
Mr. and Mrs. Fred Davidson, Indianapolis, Ind.: Dec. 6, 1969	100
Mr. and Mrs. Herbert Davidson, Indianapolis, Ind.: Dec. 6, 1969	100
Ida Davidson, Marion, Ind.: June 28, 1969	10
Richard Davidson, Crawfordsville, Ind.: June 28, 1969	10
Alice Davis, Indianapolis, Ind.: June 28, 1969	75
Barry Davis: Feb. 1, 1969	10
David R. Davis, Indianapolis, Ind.: Dec. 6, 1969	100
Fred Davis, Washington, D.C.: Feb. 9, 1969	100
Mr. and Mrs. Marshall Davis, Sr., New Castle, Ind.:	
Feb. 1, 1969	500
June 28, 1969	100
Henry F. DeBoest, Indianapolis, Ind.: Feb. 1, 1969	50
Rex DeHaven, Huntington, Ind.: June 28, 1969	20
Lemuel DeWeese III, West Lafayette, Ind.: June 28, 1969	10
Charles DeVault, West Point, Ind.: February 1, 1969	25
James DeVault, Jr., Romney, Ind.: February 1, 1969	100
Paul J. DeVault, Indianapolis, Ind.: February 6, 1969	200
W. A. Deahl, South Bend, Ind.: June 28, 1969	50
Mrs. Doris Deatline, Indianapolis, Ind.: June 28, 1969	10
Sanford Deckard, Shaols, Ind.: June 28, 1969	10
Bernice Deck: January 3, 1969	30
Leston Deckard, Morgantown, Ind.: June 28, 1969	10
Dale Decker, Bluffton, Ind.: June 28, 1969	10
Richard Elliott Deer, Indianapolis, Ind.: January 3, 1969	30
Richard Elliott Deer, Indianapolis, Ind.: June 28, 1969	10
Walter DeLisle, Vincennes, Ind.: February 1, 1969	100
Robert Stewart, chairman, Delaware County Democratic Central Committee, Muncie, Ind.: February 1, 1969	1,150
Richard Del, Washington, D.C.: February 9, 1969	800
Albert Deluse, Indianapolis, Ind.: January 3, 1969	30
Dem. for Good Government, Aurora, Ind.: June 28, 1969	10
Democratic Women's Club of Allen County, Fort Wayne, Ind.: June 28, 1969	20

Robert Denninger: January 3, 1969	100
John Derksen, Sr., South Bend, Ind.: June 28, 1969	10
T. P. Derlock, Washington, D.C.: February 9, 1969	50
Claude DeSautels, Washington, D.C.: February 9, 1969	50
Jesse J. Dewell, Seymour, Ind.: June 28, 1969	10
Martina DiPlatti, Lawrenceburg, Ind.: June 28, 1969	10
John S. Diaz, Portage, Ind.:	
Jan. 3, 1969	10
June 28, 1969	10
Allen Dibble, W. Lafayette, Ind.: Feb. 1, 1969	50
Thelma Dickerson, Crawsfordville, Ind.: June 28, 1969	20
T. E. Dill, Francisco, Ind.: Feb. 1, 1969	25
Mr. John J. Dillon, Indianapolis, Ind.: June 28, 1969	100
Frank Diluzzo, Los Angeles, Calif.: June 7, 1969	25
Mr. and Mrs. George Dolby, Huntington, Ind.: June 28, 1969	10
Mr. Ben Domont, Indianapolis, Ind.:	
Feb. 7, 1969	200
Dec. 6, 1969	100
Keith Donaldson, Freetown, Ind.: June 28, 1969	10
Clarence Doninger, Indianapolis, Ind.: June 28, 1969	10
Jiggs Donohue, Washington, D.C.: Feb. 9, 1969	50
James F. Donovan, Feb. 1, 1969	100
Joseph P. Donovan, Warsaw, Ind.:	
Feb. 9, 1969	10
June 28, 1969	25
Mr. Reuben Dooley, Rockville, Ind.: June 28, 1969	20
John Doran, Cincinnati, Ohio: Jan. 3, 1969	30
Lawrence Dorrell, Greenwood, Ind.: June 28, 1969	10
Bonnie Dorsey, Frankfort, Ind.: June 28, 1969	10
Thomas C. Dorste, Indianapolis, Ind.:	
June 28, 1969	25
Dec. 6, 1969	100
Mr. and Mrs. James Dosey, Fort Wayne, Ind.: Dec. 6, 1969	100
Mr. Cleon Doty, Greenwood, Ind.:	
Feb. 1, 1969	25
June 28, 1969	10
John Douglas, Washington, D.C.: Feb. 9, 1969	100
Rex Douglas, Markle, Ind.: June 28, 1969	10
Edna Dow, Shelbyville, Ind.: June 28, 1969	10
Vera Downs: Jan. 3, 1969	5
Charles Drake, Fairbanks: June 28, 1969	20
Merle Drake, Decatur, Ind.: June 28, 1969	10
William T. Duboc, Muncie, Ind.: Feb. 1, 1969	100
Henry A. Dudley, Washington, D.C.: Feb. 9, 1969	50
Robert Duncan, Rensselaer City, Ind.: June 28, 1969	10
Robert V. Duncan: Feb. 1, 1969	50
Ray E. Dunn, Gary, Ind.:	
Feb. 1, 1969	250
June 28, 1969	200
Dec. 6, 1969	100
Stephen Dunn, Washington, D.C.: Feb. 9, 1969	50
Mr. Frank Durham, Greencastle, Ind.: Feb. 7, 1969	100
Larry Durocher: Feb. 1, 1969	100
Lawrence Dux, Jeffersonville, Ind.: June 28, 1969	10
Oscar Dystel, Rye, N.Y.: Jan. 3, 1969	30
Fay Eads, Hammond, Ind.: Feb. 1, 1969	100
David Easlick, Indianapolis, Ind.: June 28, 1969	100
H. R. Ebehard, Goshen, Ind.: June 28, 1969	5
James E. Eckman, Anderson, Ind.: June 28, 1969	50
Richard Eckrich, Fort Wayne, Ind.: Feb. 7, 1969	50
Al Edelson, Washington, D.C.: Feb. 9, 1969	50
T. K. Edenfield, Atlanta, Ga.: Feb. 1, 1969	10
Samson Eder, South Bend, Ind.: Feb. 1, 1969	100
Willard F. Edmonson, Clayton, Ind.:	
Jan. 3, 1969	10
June 28, 1969	10
Paul Pete Edwards, Bedford, Ind.: June 28, 1969	10
Mr. and Mrs. Charles Efroymson, Indianapolis, Ind.:	
Feb. 1, 1969	150
Dec. 6, 1969	100
C. R. Eger, South Bend, Ind.: June 28, 1969	10
Charles Eichhorn, Uniondale, Ind.: June 28, 1969	10
Fred Eichhorn, Jan. 3, 1969	25
Von Eichhorn, Uniondale, Ind.: June 28, 1969	10
Harry Einstandig, Indianapolis, Ind.: Dec. 6, 1969	100
Dr. and Mrs. Jack Eisaman, Bluffton, Ind.: June 28, 1969	10
Bob Ellett, Franklin, Ind.: June 28, 1969	10
Mrs. Forrest Elliot, Portland, Ind.: June 28, 1969	25
Mr. Hubert Ellis Hazelton, Ind.: June 28, 1969	10
Edward Ellison, Bedford, Ind.: June 28, 1969	50
Mr. R. E. Ellison, Muncie, Ind.: June 28, 1969	10
Elmer Enyeart, Huntington, Ind.: June 28, 1969	10
Charles Epler, Rensselaer, Ind.: June 28, 1969	25
Joseph Erdelac, Portage, Ind.: June 28, 1969	10
Judy Erwin, Loogootee, Ind.: June 28, 1969	10
Robert M. Estes, Apr. 17, 1969	50
Beulah Evans, Evansville, Ind.: June 28, 1969	20
Samuel Ewing, Washington, D.C.: Feb. 9, 1969	200
Michael Faikel, Portage, Ind.: June 28, 1969	10
Virginia Fairchild, Uniondale, Ind.: June 28, 1969	10
Mr. and Mrs. Frederick Falender, Indianapolis, Ind.: Dec. 6, 1969	100
Don Fedder: Feb. 1, 1969	10
Henry Fein, South Bend, Ind.: June 28, 1969	10
J. Ralph Fenstermaker, Indianapolis, Ind.: Feb. 1, 1969	25
Mr. and Mrs. Dan Fenwane, Portage, Ind.: June 28, 1969	20
Frank Fenwick, Goodland, Ind.:	
Feb. 1, 1969	100
June 28, 1969	25
Marvel Fenwick, Goodland, Ind.: June 28, 1969	25
Thomas Ferguson, Washington, D.C.: June 7, 1969	500
Dr. Sam Ferrara, Peru, Ind.: June 28, 1969	10
V. Thomas Fettig, Seymour, Ind.: June 28, 1969	200
Mrs. Albert Fields, Bedford, Ind.: June 28, 1969	25
Ronald E. Filler, Auburn, Ind.: June 28, 1969	10
Milton J. Fineberg, Indianapolis, Ind.: June 28, 1969	500
Mrs. Sonia Fink, Indianapolis, Ind.: Dec. 6, 1969	50
Charles and Evelyn Fisher, Winamac, Ind. 46996: June 28, 1969	20
Earl Fisher, Chandler, Ind.: June 28, 1969	25
Jess Fisher, Washington, D.C.: Feb. 9, 1969	50
Roscoe Fisher, Monticello, Ind.: Feb. 1, 1969	25
Mr. and Mrs. Walter Fisher, Muncie, Ind.:	
April, 1969	10
June 28, 1969	10
Sam Fishman, Louisville, Ky.: Jan. 3, 1969	100
Floyd Fithian, Lafayette, Ind.: June 28, 1969	20
F. A. Fitzpatrick: Jan. 3, 1969	100
Otis Fitzwater, Indianapolis, Ind.: June 28, 1969	500
John Fleck, Indianapolis, Ind.:	
Feb. 1, 1969	100
Feb. 9, 1969	50
Mr. Thomas Fleming, Martinsville, Ind.: June 28, 1969	25
Charles Flora, Delphi, Ind.: June 28, 1969	10
Elinor Flora, Flora, 46929: June 28, 1969	10
Raymond Flora, Elwood, Ind.: June 28, 1969	50
Frank Flowers, Washington, D.C.: Feb. 9, 1969	500
Frank P. Flynn, Jr., Lafayette, Ind.: Feb. 1, 1969	500
Martin Flynn, Washington, D.C.: Feb. 9, 1969	100
Robert Foist, Columbus, Ind.: June 28, 1969	10
Robert D. Foist, Columbus, Ind.: June 28, 1969	20
Ed Foley, Washington, D.C.: Feb. 9, 1969	250
Horace A. Foncannon, Jr., Vincennes, Ind.: June 28, 1969	10
Jack G. Ford, Michigan City, Ind.: June 28, 1969	10
Mr. Jesse Ford, Roachdale, Ind.: June 28, 1969	5
Robert D. Miller, Waterloo, Ind.: June 28, 1969	10
Betty Lou Foreman, Indianapolis, Ind.: June 28, 1969	10
Raymond G. Forkner, Rushville, Ind.: June 28, 1969	25
William L. Fortune, Indianapolis, Ind.: June 28, 1969	10
William Fortin, Plymouth, Ind.: June 28, 1969	10
F. W. Fortuna, Beech Grove, Ind.: June 28, 1969	10
Kenneth Foster, Indianapolis, Ind.: June 28, 1969	25
David J. Fox, Indianapolis, Ind.: Feb. 1, 1969	50
John L. Fox, Indianapolis, Ind.: June 28, 1969	20
Sm. F. Fox, Indianapolis, Ind.: June 28, 1969	50
Lipot Frankovitz, Indianapolis, Ind.: Dec. 6, 1969	50
Arthur Franza, Fort Lauderdale, Fla.: Feb. 1, 1969	250
James Frazier: Jan. 3, 1969	10
Victor and Ruby Frazier, Elwood, Ind.: June 28, 1969	40
William Fredenberger: Jan. 3, 1969	100
John P. Frederick, Kokomo, Ind.:, Feb. 1, 1969	25
L. I. Freeland, Fowler, Ind.: June 28, 1969	15
James O. Freese, Franklin, Ind.: June 28, 1969	50
Mr. and Mrs. Eugene Freidman, Indianapolis, Ind.: Dec. 6, 1969	100
Hans T. French, Indianapolis, Ind.:	
Feb. 1, 1969	250
June 7, 1969	200
Otto Frenzel, Indianapolis, Ind.: Dec. 6, 1969	300
Arthur Fruechtenicht, Fort Wayne, Ind.: Aug. 14, 1969	50
Bernard W. Freund, Muncie, Ind.: April 1969	5

List of contributors and amount—Continued

[In dollars]

Merril B. Frick, Wawaka, Ind.: Feb. 1, 1969	50
Florence Frierson, Indianapolis, Ind.: June 28, 1969	20
Fred Frisch, Indianapolis, Ind.: Dec. 6, 1969	100
Ken Fryar, Michigan City, Ind.: June 28, 1969	25
Ralph F. Fuchs, Bloomington, Ind.: June 28, 1969	10
Jeanne Funcheon: April 17, 1969	50
James W. Funk, Vincennes, Ind.: Feb. 1, 1969	25
Mr. and Mrs. Albert M. Gable, Plainfield, Ind.: June 28, 1969	10
George F. Gable, Ft. Wayne, Ind.: June 28, 1969	25
Helen B. Gable, Colfax, Ind.: June 28, 1969	10
Richard L. Gable, Colfax, Ind.: June 28, 1969	10
Victor Gainbaiani, Blanford, Ind.: June 28, 1969	10
Truman Gaines, Valparaiso, Ind.: June 28, 1969	50
John J. Galbreath, Winamac, Ind.: June 28, 1969	25
James Galliger, Clinton, Ind.: June 28, 1969	100
Russell Gallahan, Peru, Ind.: Dec. 6, 1969	100
Mr. Victor Gallivan, Bluffton, Ind.: June 28, 1969	100
Thomas A. Gallmeyer, Ft. Wayne, Ind.: Jan. 3, 1969	100
Gilbert W. Gambill, Jr., Terre Haute, Ind.: Feb. 7, 1969	25
Jack Gambrell, Vincennes, Ind.: Jan. 3, 1969	50
C. Robert Gamrath, Kokomo, Ind.: June 28, 1969	25
Harry D. Gamrath, Kokomo, Ind.: June 28, 1969	25
Richard H. Gamrath, Kokomo, Ind.: June 28, 1969	25
Thelma M. Gamrath, Kokomo, Ind.: June 28, 1969	25
Dr. and Mrs. Max Ganz, Marion, Ind.: Dec. 6, 1969	100
Ernest Garlock, Freetown, Ind.: June 28, 1969	10
Dr. William Garner, New Albany, Ind.: Jan. 3, 1969	50
Albert Garnitz, South Bend, Ind.: Jan. 3, 1969	100
Wendell S. Garrett, Indianapolis, Ind.: Jan. 3, 1969	25
R. F. Garrettson, Jr., Michigan City, Ind.: June 28, 1969	50
Tommy Gee, Peru, Ind.: June 28, 1969	25
Stephen and Caroline Gentry, Crawfordsville, Ind.: June 28, 1969	5
Lyle and Nancy Gerber, Marion, Ind.: June 28, 1969	10
Richard P. Gerhard, Kokomo, Ind.: June 28, 1969	10
Steve Gersack, Gary, Ind.: June 28, 1969	100
Mr. and Mrs. Joe Gerson, Ft. Wayne, Ind.:	
Jan. 3, 1969	200
June 14, 1969	200
William Eugene Gervasio, Indianapolis, Ind.: Jan. 3, 1969	100
Honorable Elton H. Geshwiler, Beech Grove, Ind.: June 28, 1969	100
John G. Gettinger, Sullivan, Ind.: Feb. 7, 1969	100
Bernie Gewirz, Washington, D.C.: Feb. 9, 1969	50
Joe Giacoletto, Clinton, Ind.: June 28, 1969	50
Robert R. Giacoletti, Dana Ind.: June 28, 1969	50
Gibson County Democratic Committee, Oakland City, Ind.: June 28, 1969	50
Dan Gibson, Plymouth, Ind.: June 28, 1969	25
Leroy Gierhart, Bryant, Ind.: June 28, 1969	5
John Gigeric, Indianapolis, Ind.: June 28, 1969	25
Milton Gilbert, Teanech, N.J.: Dec. 7, 1968	5,000
Paul Gilbert, South Bend, Ind.: Jan. 3, 1969	300
Harold Gilliand, Waveland, Ind.: June 28, 1969	20
Harry Gilman, Feb. 1, 1969	50
G. V. Ginger, Indianapolis, Ind.:	
June 28, 1969	50
Jan. 3, 1969	100
William P. Givens, Muncie, Ind.: Jan. 3, 1969	100
Joseph Gizzinders, Jan. 3, 1969	30
Zelma Gladden, Scottsburg, Ind.: June 28, 1969	10
Anna Glaska, Indianapolis, Ind.: Jan. 3, 1969	15
Charles O. Glaub, Plymouth, Ind.: June 28, 1969	25
Kenneth P. Glaescher, Mt. Summit, Ind.: June 28, 1969	25
Gene and Marilyn Glick, Indianapolis, Ind.:	
December 6, 1969	100
January 3, 1969	500
June 28, 1969	100
David Glicksman, South Bend, Ind.: June 28, 1969	15
Lennis Goad, Boonville, Ind.: June 28, 1969	10
Ed Goble, Batesville, Ind.: January 3, 1969	24
Willie R. Goble, Columbia City, Ind.: June 28, 1969	60
Dr. Carl W. Godzeski, Indianapolis, Ind.: June 28, 1969	10
Mr. and Mrs. William Goen, Salem, Ind.:	
January 3, 1969	500
June 28, 1969	50
Sam and Irene Goldberg, Indianapolis, Ind.: June 28, 1969	50
Rose and Victor Goldberg, Indianapolis, Ind.:	
June 28, 1969	25
December 6, 1969	100
Mr. and Mrs. Hy Goldenberg, Huntington, Ind.: Jan. 3, 1969	20
Larry Goldenburg, Huntington, Ind.: Feb. 7, 1969	20
Bog Good, Shelbyville, Ind.: June 28, 1969	10
Dr. E. Goodman, Charlestown, Ind.:	
Jan. 3, 1969	30
June 28, 1969	100
Francis Gotter, Indianapolis, Ind.: Jan. 3, 1969	50
John Goreman, Chesterton, Ind.: June 28, 1969	10
Mr. and Mrs. Gorski, LaCrosse, Ind.: June 28, 1969	20
Mr. Jules Gradison, Indianapolis, Ind.: Dec. 12, 1969	100
Florence A. Grady, Indianapolis, Ind.: Dec. 6, 1969	100
Gene Graebe, Shelbyville, Ind.: June 28, 1969	50
Hilbert or Alberta Graman, St. Meinrad, Ind.: June 28, 1969	10
Clarence Gramelspacher, Jasper, Ind.: Jan. 3, 1969	25
Gene Gramelspacher, Jasper, Ind.: June 28, 1969	20
Robert E. Gramelspacher, Jasper, Ind.: June 28, 1969	25
Mr. and Mrs. Garland Graves, Bloomfield, Ind.: June 28, 1969	10
Don Gray, Kempton, Ind.: June 28, 1969	20
George J. Gray, Washington, D.C.: Feb. 9, 1969	100
James Gray: Jan. 3, 1969	50
Mary and Theresa Gray, Indianapolis, Ind.: June 28, 1969	10
Virgil Greathouse, Columbus, Ind.: June 28, 1969	10
Ralph D. Green, Vincennes, Ind.: Jan. 3, 1969	50
Fred Gregory, Bloomington, Ind.: June 28, 1969	20
Charles Grier: Jan. 3, 1969	30
Mary Jane Griepenstroh, Lamar, Ind.: June 28, 1969	20
John S. Griffin, Indianapolis, Ind.: June 28, 1969	10
Albert Grisard, Washington, D.C.: Feb. 9, 1969	100
Frank F. Groach, Michigan City, Ind.:	
Jan. 3, 1969	10
June 28, 1969	10
Charles and Helen Groet, De Motte, Ind.: June 28, 1969	30
William Grogan, Guilford, Ind.: June 28, 1969	10
Wanda and Dr. James Gross, Lebanon, Ind.: June 28, 1969	20
Andrew Grube, Butler, Ind.: June 28, 1969	10
John Guerri, Clinton, Ind.: June 28, 1969	25
Jerome Gulan, Washington, D.C.: Jan. 3, 1969	30
Martha M. Griffin: June 28, 1969	50
Doris Gutzwiller, Batesville, Ind.: June 28, 1969	10
William R. Gutzwiller, Batesville, Ind.: June 28, 1969	20
John and Gloria Day, Indianapolis: June 28, 1969	5
C. Earl Habegger, Berne, Ind.: Jan. 3. 1969	30
Arnold Habig, Jasper, Ind.:	
Jan. 3, 1969	500
June 28, 1969	100
December 1969	100
Robert Haak, Bloomington, Ind.: June 28, 1969	25
John B. Habig, Jasper, Ind.: June 28, 1969	25
Thomas L. Habig, Jasper, Ind.: June 28, 1969	25
Jud B. Haggerty, Indianapolis, Ind.: Feb. 1, 1969	100
Mr. Jack Hahn, Indianapolis, Ind.: Feb. 1, 1969	25
Sam Haines, Washington, D.C.: Feb. 9, 1969	500
Charles Halsenray: Jan. 3, 1969	30
Vera M. Hall, Danville, Ind.:	
Jan. 3, 1969	10
June 28, 1969	10
Wilbur D. Hall, Orleans, Ind.: June 28, 1969	20
Keith Halliday, Washington, D.C.: Feb. 9, 1969	50
Harrison, Halterman, Rochester, Ind.: June 28, 1969	10
Rose Hamer, Rensselaer, Ind.: June 28, 1969	25
A. W. Hamilton, Indianapolis, Ind.: Dec. 6, 1969	25
Karl Hammerle, Liberty, Ind.: Feb. 1, 1969	15
David and Terilo Hammond, Rockport, Ind.: June 28, 1969	20
Irvin Hammond, Jeffersonville, Ind.: June 28, 1969	10
Robert Hammond, Jeffersonville, Ind.: June 28, 1969	10
Leroy Hanby, Connersville, Ind.: Feb. 1, 1969	10
H. T. Hancock, Beech Grove, Ind.: June 28, 1969	10
Lee Ann Hankins, Connersville, Ind.: June 28, 1969	5
Michael J. Hankins, Connersville, Ind.: June 28, 1969	25
Thomas & Melissa Hanley, Indianapolis, Ind.: June 28, 1969	20
K. H. Hannan: Jan. 3, 1969	50
Clelland Hanner, Rockville, Ind.: Jan. 3, 1969	30
Charles W. Harbison, Spencer, Ind.: June 28, 1969	10

H. Wilbur Hardacre, Anderson, Ind.: June 28, 1969	25
Ann & Helen Hardiman, Fowler, Ind.: June 28, 1969	10
Timothy S. Harlan, Markleville, Ind.: June 28, 1969	10
Robert and Jill Harper, Valparaiso, Ind.: June 28, 1969	20
Kenneth Harrington, Gary, Ind.: Feb. 9, 1969	100
Earl Harris, Indianapolis, Ind.: Dec. 6, 1969	100
Thomas Harris, Portage, Ind.: June 28, 1969	10
Arthur Hartman: Jan. 3, 1969	5
Frank Hartman, Bainbridge, Ind.: June 28, 1969	10
Lineler Hartman, Bainbridge, Ind.: June 28, 1969	10
Mr. and Mrs. Lloyd Hartman, Indianapolis, Ind.:	
Feb. 1, 1969	50
June 28, 1969	25
Feb. 9, 1969	100
William B. Harvey, Bloomington, Ind.: Jan. 3, 1969	25
Mark Haselman, Martinsville, Ind.: Feb. 1, 1969	250
Ed. Hasneir, Indianapolis, Ind.:	
Feb. 1, 1969	300
June 28, 1969	20
Gerald Hasler, Fairland, Ind.: June 28, 1969	10
Bill Hasse, Munster, Ind.: Jan. 3, 1969	1,000
Leo Hatch, Portage, Ind.: June 28, 1969	25
Richard Haugh, Delphi, Ind.: June 28, 1969	10
William & Betty Hauser, Coal City, Ind.: June 28, 1969	20
Ricci Hawlee (Nancy), Greenwood, Ind.: Jan. 3, 1969	500
William & Lois Hawhee, Evanston, Ind.: June 28, 1969	5
Mrs. Lucille Hawkins, Shoals, Ind.: June 28, 1969	10
Bob Haynes, Converse, Ind.: June 28, 1969	10
Eileen and Paul Hathaway, Chesterton, Ind.: June 28, 1969	20
Mrs. Louis Heck (Mary), West Terre Haute, Ind.: June 28, 1969	10
Mrs. Ira Heges, Monon, Indiana: June 28, 1969	20
Flora Hedglin, Pleasant Lake, Ind.: June 28, 1969	3
John Heeter, Indianapolis, Ind.: January 3, 1969	20
Wayne Heffley, Auburn, Ind.: June 28, 1969	10
L. D. Hegg, Covington, Ind.: February 7, 1969	100
Richard A. Heidbrider, Indianapolis, Ind.: December 6, 1969	100
Jesse Heiges: February 1, 1969	50
Robert B. Heiney, Washington, D.C.: February 9, 1969	100
Heller, Seymour, Ind.: June 28, 1969	10
Phil Helmig, Washington, D.C.: February 9, 1969	100
Eugene L. Henderson, Indianapolis, Ind.: June 28, 1969	100
Mrs. Jane R. Henderson, Indianapolis, Ind.:	
February 1, 1969	50
June 28, 1969	100
December 6, 1969	100
Bill Hendren, Bloomfield, Ind.: January 3, 1969	100
Charles Hendrickson, Flora, Ind.: June 28, 1969	20
Charles H. Henry, Fort Wayne, Ind.:	
December 6, 1969	100
January 1, 1969	50
Ed Henry, Shoals, Ind.: June 28, 1969	10
Herman R. Henry, Franklin, Ind.:	
Feb. 1, 1969	300
June 28, 1969	10
Stanley Herman, Indianapolis, Ind.:	
Oct. 30, 1969	100
December 6, 1969	100
Ben Hertz, Muncie, Ind.: December 6, 1969	200
Harold Hertz, Madison: June 28, 1969	10
Don Hester, Indianapolis, Ind.: Dec. 6, 1969	100
Helen Heyob, Jan. 3, 1969	10
James & Casper Hickam, Freedom, Ind.: June 28, 1969	20
Leo Hickman, Bloomington, Ind.: June 28, 1969	20
Mr. & Mrs. Joe Hicks, Noblesville, Ind.: June 28, 1969	20
David Higginbotham, Feb. 1, 1969	50
James Higgenbothom, Owensville, Ind.: Feb. 1, 1969	50
Mr. and Mrs. Hilda Higgins, Bluffton, Ind.: June 28, 1969	20
Marlaw Higgins, June 28, 1969	10
Robert E. Highfield, Indianapolis, Ind.: Feb. 1, 1969	50
C. Howard Hill, Feb. 1, 1969	20
Chloral Hilderbrand, Dale, Ind.:	
Feb. 1, 1969	50
June 28, 1969	25
Mr. & Mrs. Joe Hilger, Columbus, Ind.: June 28, 1969	15
Daria Hill, Indianapolis, Ind.: June 28, 1969	10
John W. Hillenbrand, Batesville, Ind.: Jan. 3, 1969	100
John W. Hillenbrand III, Batesville, Ind.: July 7, 1969	1,000
William J. Hillis, Clinton, Ind.: June 28, 1969	25
Mr. & Mrs. Wayne Hillyer, Williamsport, Ind.: June 28, 1969	20
Charles S. Hyneman, Bloomington, Ind.: Feb. 1, 1969	25
Louis Himmelhauer, Lanesville, Ind.: June 28, 1969	10
Mrs. Phyllis Himmelhaver, Lanesville Ind.: June 28, 1969	10
Robert V. Hinshaw, Indianapolis, Ind.: June 28, 1969	100
Byron Hinton: Feb. 9, 1969	50
Paul Hirsch, Indianapolis, Ind.: June 28, 1969	25
Chester & Fraun Hite, Huntington, Ind.: June 28, 1969	3
Claude Hobbs, Jr., Washington, D.C.: February 9, 1969	50
Leo H. Hochesang, Huntingburg, Ind.: June 28, 1969	25
James Hoeffel, Fort Wayne, Ind.: June 28, 1969	10
Hoffman, Mopper & Solomon, Ft. Wayne, Ind.: Feb. 1, 1969	50
Mrs. Phyllis Hoke, Tipton, Ind.: June 28, 1969	10
Byron P. Hollett, Indianapolis, Ind.:	
Jan. 3, 1969	30
Dec. 6, 1969	100
George Holley, Fair Oaks, Ind.: Jan. 3, 1969	30
Charles E. Hollingworth, Russiaville, Ind.: June 28, 1969	10
James R. Hollis: Feb. 1, 1969	5
Mr. & Mrs. Samuel H. Hollon, Oakland City, Ind.: June 28, 1969	10
Susan Holstine, Salem, Ind.: June 28, 1969	20
Olin R. Holt, Kokomo, Ind.: Feb. 1, 1969	100
Glen Homan: Jan. 3, 1969	30
Carl L. Hooker, Bluffton, Ind.: June 28, 1969	10
Evelyn Hooker, Bluffton, Ind.: June 28, 1969	10
Helen Hoskins, Muncie, Ind.: June 28, 1969	1
John M. House, Terre Haute, Ind.: Sept. 4, 1969	200
Paul D. Houston, Boonville, Ind.: June 28, 1969	30
Gale Howard, Elkhart, Ind.: June 28, 1969	10
Mr. and Mrs. Douglas Howenstine, Huntington, Ind: Feb. 1, 1969	300
Mr. and Mrs. H. Byron Hubbard, Evansville, Ind.: Jan. 3, 1969	30
I. E. Huckleberry, Salem, Ind.: June 28, 1969	20
Phon Hudkins:	
Feb. 9, 1969	30
Jan. 3, 1969	50
Tom Huff, Plymouth, Ind.: June 28, 1969	20
Raymond Huffer, Cutler, Ind.: June 28, 1969	20
Laura Huges, Lebanon, Ind.: June 28, 1969	20
Sam Hughes, Danville, Ind.: June 28, 1969	10
Zelpha Hughes, Danville, Ind.: June 28, 1969	10
Mr. and Mrs. Oscar F. Hugs, Salem, Ind.: June 28, 1969	50
Anton and Mary Hulman, Terre Haute, Ind.: Jan. 3, 1969	500
Paul A. Hultin, South Bend, Ind.: June 28, 1969	25
Leon Humbert, Greensburg, Ind.: Feb. 7, 1969	25
Mr. and Mrs. Paul Hunckler, Huntington, Ind.: June 28, 1969	200
Gilbert Hundley, Indianapolis, Ind.: Dec. 6, 1969	100
Marshall Hunt, Monrovia, Ind.: June 28, 1969	10
James W. Hunter, Indianapolis, Ind.: June 28, 1969	10
George A. Hurd, Riegelsville, Pa.: Jan. 3, 1969	10
Frank J. Hurley, Indianapolis, Ind.: June 28, 1969	25
Mr. and Mrs. Walter Hurst, Alexander, Ind.:	
Jan. 3, 1969	30
June 28, 1969	40
Dorothy Huston, Jan. 3, 1969	100
Walter Hutcheson, Greencastle, June 28, 1969	5
LaVonne Hyatt, Indianapolis, Ind.: June 28, 1969	5
Herman Johnson, Frankfort, Ind.: June 28, 1969	100
Lee V. Johnson, New Goshen, Ind.: February 1, 1969	20
Loren Johnson, Mount Vernon, Ind.: June 28, 1969	100
Myron Johnson, Delphi, Ind.: June 28, 1969	10
O. K. Johnson, Poland, Ind.: June 28, 1969	10
Warren Johnson, Morocco, Ind.: January 3, 1969	10
Willie B. Johnson, Poland, Ind.: June 28, 1969	10
J. R. Johnstone: January 3, 1969	50
Ivan Jones, Cloverdale, Ind.: June 28 1969	10
James C. Jones, Pine Village, Ind.: June 28, 1969	20
James J. Jones, Logansport, Ind.:	
January 3, 1969	30
June 28, 1969	100
Jesse Jones, Washington, D.C.: February 9, 1969	50
Lloyd Jones, Seymour, Ind.:	
January 3, 1969	130
June 28, 1969	50
June 28, 1969	250
Alfred Jordan, Francesville, Ind.: June 28, 1969	15
George L. Judy, Bryant, Ind.: June 28, 1969	5
Nathan Kalikow, New York, N.Y.:	
December 8, 1969	2,500
August 10, 1969	2,500
Mr. & Mrs. Jack Kammins, Indianapolis, Ind.: December 6, 1969	100
Keith Kane: February 1, 1969	25
Mr. & Mrs. Leonard Kaplow, Indianapolis, Ind.: December 6, 1969	100
Harry Karlin, South Bend, Ind.: June 28, 1969	10
Don Katz, Indianapolis, Ind.: December 6, 1969	50
Mr. & Mrs. Irwin Katz, Indianapolis, Ind.: December 6, 1969	100

List of contributors and amount—Continued

[In dollars]

Mr. & Mrs. Morris Katz, Indianapolis, Ind.:	
June 28, 1969	100
December 6, 1969	200
Leroy Kaufman, Monterey, Ind.: June 28, 1969	10
Mr. & Mrs. Orian Karns, Coal City, Ind.: June 28, 1969	20
Ernest G. Ingels, Kokomo, Ind.: February 1	50
Roger R. Isch, Uniondale, Ind.: June 28	10
Vicki Iverson, Rantoul, Ill.: June 28	10
Frederick G. Jacks, Washington, D.C.: February 9	100
Helen P. Jackson, Bryant, Ind.: January 3	30
Mary M. Jackson, Shelbyville, Ind.: June 28	10
Matthew E. Jackson, Delphi, Ind.: June 28	20
James R. Jacob, Terre Haute, Ind.: June 28	25
Andrew Jacobs, Sr., Indianapolis, Ind.: June 28	25
Max Jackson, Indianapolis, Ind.: June 28	100
Clifton James, Jeffersonville, Ind.: June 28	40
Eleanor P. Jamison, Sullivan, Ind.: June 28	50
Michael Jankovich, Gary, Ind: June 28	25
Jasper County Democrats, Rensellaer, Ind.: February 1	100
Paul Jasper, Indianapolis, Ind.:	
January 1, 1969	500
January 3, 1969	250
December 6, 1969	100
August 1, 1969	100
Claude Jenkins, Richmond, Ind.: February 1	50
James and Eva Marie Jensen, Muncie, Ind.: June 28	10
Michael Joelson, Indianapolis, Ind.: December 6	100
A. S. Johnson: January 3	50
Alvin Johnson, Bloomington, Ind.: June 28	10
Dennis Johnson, Bloomington, Ind.: June 28	10
Felton M. Johnson, Washington, D.C. February 9	50
George F. Johnson, Terre Haute, Ind.: June 28	200
Harry J. Johnson, Batesville, Ind.: June 28	10
A. Creighton Karsteter, Aurora, Ind.: June 28, 1969	10
Tony Kazlauskis, Gary, Ind.: June 28, 1969	25
Russell T. Keith, Peru, Ind.:	
January 3, 1969	10
June 28, 1969	10
Russell and Barbara Kelham, Garrett, Ind.: June 28, 1969	20
Ona M. Kell, Fort Wayne, Ind.: June 28, 1969	10
George Kelley, Noblesville, Ind.: June 28, 1969	20
Dan Kelly, Salem Ind.: June 28, 1969	20
Kathryn Kelley: January 3, 1969	10
Elizabeth Kelley: January 3, 1969	100
John G. Kelly, Fairbanks, Ind.: June 28, 1969	200
John Kelly, Washington, D.C.: February 9, 1969	50
Kathryn Kelly, Fort Wayne, Ind.:	
January 3, 1969	10
June 28, 1969	10
Richard Kelly, Terre Haute, Ind.: June 28, 1969	100
Mr. and Mrs. Sylvester Kelly, Logansport, Ind.: June 28, 1969	25
William R. Kelly, Terre Haute, Ind.: June 28, 1969	100
Joe R. Kelsey, Whiteland, Ind.: June 28, 1969	20
Leonard Kemenyas, Annapolis, Md.: January 3, 1969	500
Juanita Kendall, Portage, Ind.: June 28, 1969	100
William Kenefick, Michigan City, Ind.: June 28, 1969	100
Don Kennedy, Martinsville, Ind.: June 28, 1969	10
Ted R. Kennedy, Columbus, Ind.: February 1, 1969	100
Peter Kenney, Washington, D.C.: February 9, 1969	100
Robert Kenny: January 3, 1969	100
James T. Kent:	
January 3, 1969	10
June 28, 1969	10
Kenneth C. Kent, Evansville, Ind.: June 28, 1969	100
Mrs. Bernice Kern, Washington, D.C.: Feb. 2, 1969	100
Kenneth Kern, Indianapolis, Ind.: June 28, 1969	20
David Kerr, Valparaiso, Ind.: June 28, 1969	10
William G. Kerr: Feb. 1, 1969	100
Mehilo Keseley, Lake County, Ind.: June 28, 1969	10
John Kessler, Valparaiso, Ind.: June 28, 1969	60
Sheldon A. Key, Indianapolis, Ind.: June 28, 1969	50
William Kibble, Valparaiso, Ind.: June 28, 1969	50
Joe Kigin, Washington, D.C.: Feb. 9, 1969	50
Mr. & Mrs. David L. Kiley, Marion, Ind.:	
June 28, 1969	100
Jan. 3, 1969	100
Aug. 4, 1969	10
Philip J. Kiley, Marion, Ind.:	
Feb. 1, 1969	100
June 28, 1969	25
Robert P. Kiley, Jr., Marion, Ind.: June 28, 1969	10
Charles R. Kilgour, Marion, Ind.: Jan. 3, 1969	30
Curtis Kimmell, Vincennes, Ind.: Sept. 4, 1969	100
Joseph W. Kimmell, Vincennes, Ind.: June 28, 1969	25
Vern Kimmell, Vincennes, Ind.: June 28, 1969	100
Eva Scott King: Jan. 3, 1969	10
Marjorie M. King, Muncie, Ind.:	
Feb. 1, 1969	150
June 28, 1969	5
Jack Kinkel: Feb. 1, 1969	100
Robert Kinkel, Terre Haute, Ind.: June 28, 1969	25
Harry Kinney, Indianapolis, Ind.: June 28, 1969	10
Robert P. Kinney, Ft. Wayne, Ind.: Feb. 7, 1969	100
J. W. Kirchhofer: Feb. 1, 1969	10
Tim Kirchhofer, Berne, Ind.: Feb. 1, 1969	30
Mr. & Mrs. Myron Kirsh, Indianapolis, Ind.:	
Feb. 7, 1969	10
Dec. 6, 1969	50
Marshall F. Kizer, Plymouth, Ind.: Jan. 3, 1969	30
Mr. & Mrs. Jason Klain, Marion, Ind.:	
Dec. 6, 1969	100
Feb. 1, 1969	100
Miss Marie D. Kleinkoff, Lakefield, Ind.: Jan. 3, 1969	5
Barabara Klinch, Logansport, Ind.: June 28, 1969	10
Alan Klineman, Indianapolis, Ind.: June 28, 1969	100
Frank Klinkose, Jr., Indianapolis, Ind.: June 28, 1969	10
Margie C. Knable, New Albany, Ind.: Feb. 1, 1969	5
Della Knight, Anderson, Ind.: June 28, 1969	10
Hobert & Margaret Knoy, Freedom, Ind.: June 28, 1969	50
Bill Koch, Santa Claus, Ind.: June 28, 1969	500
Robert M. Koch, Washington, D.C.: Feb. 9, 1969	50
Paul W. Koester, Fort Wayne, Ind.: Feb. 1, 1960	20
Kenneth Kofmehl, Lafayette, Ind.: Feb. 1, 1969	25
Marion Komenich, Gary, Ind.: June 28, 1969	100
Kenny Koppelman, Kirklin, Ind: June 28, 1969	10
Joseph T. Krause, Lafayette, Ind.: June 28, 1969	4
Robert Kreutzer, Peru, Ind: June 28, 1969	10
Max Kritzar, Nashville, Ind.: June 28, 1969	10
Nick Krockta, Gary, Ind.: June 28, 1969	100
Mr. & Mrs. Abe Kroot, Indianapolis, Ind.: Dec. 6, 1969	100
Mr. & Mrs. Samuel Kroot, Indianapolis, Ind.: Dec. 6, 1969	100
O. A. Kruep, Jasper, Ind.: June 28, 1969	10
John Krupa, East Chicago, Ind.: June 28, 1969	100
Phillip Krupp, Boston, Mass.: Jan. 3, 1969	500
Dr. Joseph Kuc, W. Lafayette, Ind.: June 28, 1969	20
George A. Kuhn, Jr., Indianapolis, Ind.:	
June 28, 1969	100
Jan. 3, 1969	30
Maurice R. Kuper, Jasper, Ind.: June 28, 1969	25
George Kurtz, New Haven, Ind.: June 28, 1969	10
George Lane, Jeffersonville, Ind.: February 1, 1969	200
John M. LaRosa, Indianapolis, Ind.: February 1, 1969	25
Joseph LaRosa, Gary, Ind.: June 28, 1969	10
S. E. Lauther, Indianapolis, Ind.: June 28, 1969	100
Gerald Crum, Uniondale, Ind.: June 28, 1969	20
Walter H. C. Laves, Bloomington, Ind.: June 28, 1969	25
Marion Lachner, Otis, Ind.: June 28, 1969	10
William Lackey, Brookville, Ind.: June 28, 1969	50
Aurelia L. Lafferty, Indianapolis, Ind.: June 28, 1969	10
Juanita Lafollett, February 3, 1969	30
Lt. Col. Richard LaGrange, February 1, 1969	25
James H. Lahey, South Bend, Ind.: June 28, 1969	10
Donald and Mary Ellen Lamberson, Michigantown, Ind.: June 28, 1969	10
Mrs. D. C. Lamott, Pershing, Ind.: June 28, 1969	10
George Lane, February 1, 1969	200
Paul Lane, Butler, Ind.: June 28, 1969	10
George and Mary Ann Langwell, Spencer, Ind.: June 28, 1969	20
James T. Lanhan, Seymour, Ind.: June 28, 1969	20
Randolph Lanning, Logansport, Ind.:	
January 1, 1969	10
June 28, 1969	20
A. A. Lare, Richmond, Ind.: June 28, 1969	5
Marty Larner, Indianapolis, Ind.: June 12, 1969	100
Mary Lasker, New York, N.Y.: February 1, 1969	500
Harry Lathan, Indianapolis, Ind.:	
June 28, 1969	50
Dec. 6, 1969	100
R. R. Laube, Jasper, Ind.: June 28, 1969	25

Mr. and Mrs. Edgar Lauther, Indianapolis, Ind.: Dec. 6, 1969	100
William Lawler, Anderson, Ind.: June 28, 1969	25
Walter Lawmaster, Nappanee, Ind.: June 28, 1969	25
Johnnie Lawson, Portage, Ind.: June 28, 1969	14
John E. Leahy, Indianapolis, Ind.: June 28, 1969	20
Norbert Lecher, Oxford, Ind.: June 28, 1969	10
Mary Leddy: Jan. 3, 1969	15
Mrs. Jules Lederer: Feb. 1, 1969	100
Fred Lee, Washington, D.C.: Feb. 9, 1969	50
Robert Lee, Jr., Middlebury, Ind.: June 28, 1969	25
Louis Leffel, Indianapolis, Ind.: Feb. 1, 1969	100
Janice Lehman: Jan. 3, 1969	5
Elliott Lehner, Indianapolis, Ind.: Dec. 6, 1969	100
Gilbert D. Lemmon, Connersville, Ind.: June 28, 1969	10
Ralph J. Lentz, Loogootee, Ind.: June 28, 1969	5
John Leonard, Cicero, Ind.: June 28, 1969	10
LaRue Leonard, Arcadia, Ind.: June 28, 1969	50
Maleen Leonard, Washington, D.C.: Feb. 9, 1969	100
Nathan Lerman, South Bend, Ind.:	
June 28, 1969	25
Dec. 6, 1969	100
Jane Lesh, Uniondale, Ind.: June 28, 1969	10
John E. Lesow, Indianapolis, Ind.: Feb. 1, 1969	100
Homer Lester: Jan. 3, 1969	25
Jack Leuthart, Clark County, Ind.: June 28, 1969	10
Dr. Manuel I. Leve, Indianapolis, Ind.:	
Feb. 1, 1969	200
Dec. 6, 1969	100
June 28, 1969	25
Lewis Leventhall, Indianapolis, Ind.: Dec. 6, 1969	100
Leon Levi, Indianapolis, Ind.:	
Jan. 3, 1969	30
June 28, 1969	25
Arnold Levin, Washington, D.C.: Feb. 9, 1969	100
Francis Levien, New York, N.Y.: Feb. 1, 1969	1,000
Jerome S. Leviton, Indianapolis, Ind.: Feb. 1, 1969	25
Ed. Lewis, Greenwood, Ind.: June 28, 1969	100
Jack W. Lewis, Centerville, Ind.: Feb. 1, 1969	25
Richard Lewman, Dana, Ind.: June 28, 1969	20
Mr. & Mrs. Walter Lichtenstein, Indianapolis, Ind.: June 28, 1969	20
Herb Liebenson, Washington, D.C.: Feb. 2, 1969	100
Mr. & Mrs. Albert Lieberman, Indianapolis, Ind.: Dec. 6, 1969	100
Walter F. Liebig, Michigan City, Mich.: June 28, 1969	25
Ray Liming: Jan. 3, 1969	20
Mrs. Sue Lindeman, Indianapolis, Ind.: June 28, 1969	10
Carl Lindley, Shoals, Ind.: June 28, 1969	10
Robert Ling, Geneva, Ind.: June 28, 1969	10
Dianne Linn, Decatur, Ind.: June 28, 1969	10
Harold Lusk, Munster, Ind.: June 28, 1969	100
Jo Anne & Richard Luther, Clay City, Ind.: June 28, 1969	20
Richard Luttrell, Greenwood, Ind.: June 28, 1969	20
Mr. John K. Lutz, Indianapolis, Ind.: Feb. 1, 1969	10
Mrs. John Lipp, Frankfort, Ind.: June 28, 1969	10
Linda Lipp, Frankfort, Ind.: June 28, 1969	10
Allan Kippman, Valparaiso, Ind.: June 28, 1969	20
Leo Lippman, Indianapolis, Ind.:	
Jan. 3, 1969	500
Dec. 6, 1969	1,000
W. R. Lutz, Cincinnati, Ohio: Feb. 1, 1969	10
Charles Lipsen, Washington, D.C.: Jan. 1, 1969	30
Jerry Lux, Shelbyville, Ind., June 28, 1969	50
Dr. Leonard Liss, South Bend, Ind., Dec. 6, 1969	50
J. G. Liste, Lafayette, Ind.:	
Jan. 3, 1969	30
June 28, 1969	25
Aurelia D. Little, Indianapolis, Ind., June 28, 1969	10
C. David Little, Frankfort, Ind., June 28, 1969	25
William T. Little, Indianapolis, Ind., Feb. 13, 1969	50
Glenn H. Lyon, Greencastle, Ind., Jan. 3, 1969	30
Mrs. Elmer Lyons, Greenwood, Ind., June 28, 1969	10
Lloyd Lyons, Indianapolis, Ind., June 28, 1969	25
Allan Lippman, Valparaiso, Ind., June 28, 1969	20
Norman and Marie Little, Walton, Ind., June 28, 1969	20
Mary Livelsberger, Jan. 3, 1969	10
Nettie Lock, Jan. 3, 1969	15
Lawrence Loesch, Columbus, Ind., June 28, 1969	20
B. E. Logan, Feb. 1, 1969	100
Joseph M. Long, Flat Rock, Ind., June 28, 1969	10
Robert Long, Jan. 1, 1969	10
Robert and Barbara Long, Spencer, Ind., June 28, 1969	20
Warren Longmiller, Loogootee, Ind., June 28, 1969	10
Katie Loucheim, Washington, D.C., Jan. 3, 1969	100
Leo Louis, Gary, Ind., Feb. 1, 1969	50
Herschel Loveless, Washington, D.C., Feb. 9, 1969	50
Bob Lucas, Gary, Ind.:	
Jan. 3, 1969	500
June 28, 1969	100
Dec. 6, 1969	100
H. C. Lumb, Indianapolis, Ind., Feb. 9, 1969	100
Charles Luna, Washington, D.C., Feb. 9 1969	200
William L. Lurvey, Indianapolis, Ind., Feb. 1, 1969	150
Elizabeth McAfee: Jan. 3, 1969	15
Laura and David McAfee, Bluffton, Ind.: June 28, 1969	10
Mr. and Mrs. David H. McCain, La-Porte, Ind.: Feb. 1, 1969	15
Richard McCain, Bringhurst, Ind.: June 28, 1969	20
Gene McCann, Lawrenceburg, Ind.: June 28, 1969	25
J. Harold McCameron, Shoals, Ind.: June 28, 1969	10
Myron E. McCammack, Coatesville, Ind.: June 28, 1969	10
Floyd and Lois McCarter, Patricksburg, Ind.: June 28, 1969	25
Frank McCarthy, Washington, Ind.: Feb. 9, 1969	50
Frank McClain, Scottsburg, Ind.: June 28, 1969	10
Sam McClain, Marion, Ind.: June 28, 1969	50
James McClarnon, Indianapolis, Ind.: June 28, 1969	20
Harold R. McClary, Boonville, Ind.: June 28, 1969	10
Frederick J. McClellan, Muncie, Ind.: Jan. 3, 1969	30
Ira McClurg, LaFontaine, Ind.: June 28, 1969	10
K. E. McConnaughay, Lafayette, Ind.: Feb. 1, 1969	500
Dick McConnell: Jan. 3, 1969	10
Max McConochy, Portland, Ind.: Jan. 3, 1969	5
Thomas McCool, Lawrenceburg,, Ind.: June 28, 1969	25
George McCorkle, Greenfield, Ind.: June 28, 1969	10
Lottie McCorkle, Willow Branch, Ind.: June 28, 1969	10
C. James McCormack, Vincennes, Ind.:	
Jan. 3, 1969	500
June 28, 1969	800
Ernest McCormick: Feb. 1, 1969	10
Earl C. McCraig, Indianapolis, Ind: June 28, 1969	25
Dr. and Mrs. James McCrory, Berne, Ind.: June 28, 1969	25
Frank McCullough, Washington, D.C.: Feb. 9, 1969	50
Laren McDaniel, Elwood, Ind.: June 28, 1969	10
Edward McDermott, Washington, D.C.: Feb. 1, 1969	25
Howard McFaddin, Rockville, Ind: June 28, 1969	25
Robert McFarling, Indianapolis, Ind.: June 28, 1969	100
Miss Hope McGehee, Indianapolis, Ind.: June 28, 1969	17.28
James McGinley, Lebanon, Ind.: June 28, 1969	20
Paul M. McGinley, Lebanon, Ind.: Feb. 1, 1969	100
Rosemary McGinley, Lebanon, Ind.: Feb. 1, 1969	100
William K. McGowan, Indianapolis, Ind.: Dec. 6, 1969	100
William F. McInerny, South Bend, Ind.: Jan. 3, 1969	10
Gerald McKain, Austin, Ind.: June 28, 1969	10
Harold G. McKee, Shelbyville, Ind.: Jan. 3, 1969	30
Frank McKinney, Sr., Indianapolis, Ind.:	
Jan. 3, 1969	500
June 28, 1969	200
Frank McKinney, Jr., Indianapolis, Ind.: Dec. 6, 1969	100
Melvin McKinney, Indianapolis, Ind.: June 28, 1969	10
H. Roll McLaughlin, Carmel, Ind.:	
Jan. 3, 1969	500
Dec. 6, 1969	100
Tom and Evelyn McNeal, Indianapolis, Ind.: June 28, 1969	100
William T. McPike, Washington, D.C.: Feb. 9, 1969	50
Herbert McQuinley, Connersville, Ind.: June 28, 1969	20
Shorty McRae: June 28, 1969	10
Bea McShay, Indianapolis, Ind.: June 28, 1969	10
Jerome J. McTague, West Lafayette, Ind.: Jan. 3, 1969	500
Vinton Mack, Lebanon, Ind: June 28, 1969	5
Wendell P. Macklin, Decatur, Ind.:	
Feb. 1, 1969	25
June 28, 1969	10
Fred L. Madorin, Indianapolis, Ind.: June 28, 1969	10
Paul Maggard, Austin, Ind.: June 28, 1969	10
Robert E. Magley, Wabash, Ind.: Feb. 1, 1969	100
Richard Maguire, Washington, D.C.: Feb. 9, 1969	500
Robert Maheu, Las Vegas, Nev.: Feb. 1, 1969	1,000
Frank Maidenberg, Marion, Ind.: Dec. 6, 1969	100
Mr. and Mrs. Milton Maidenberg, Marion, Ind.:	
Feb. 9, 1969	250
Dec. 6, 1969	100

List of contributors and amount—Continued

[In dollars]

Charlie Mains, Indianapolis, Ind.:	
Feb. 1, 1969	50
June 28, 1969	50
G. B. Mallory, Indianapolis, Ind.: June 28, 1969	50
J. C. Malone: Jan. 3, 1969	50
Helen Mangle, Indianapolis, Ind.: June 28 1969	10
Irving H. Mann, Crown Point, Ind.: June 28, 1969	25
Roe Mantooth, North Salem, Ind.: June 28, 1969	10
Robert B. Manuel, Columbus, Ind.: June 28, 1969	40
Joe Marrietta, Jr.; Blanford, Ind.: June 29, 1969	10
Daniel A. Markley, Montpelier, Ind.: June 28, 1969	10
Mrs. Inez Markley, Bluffton, Ind.: June 28, 1969	50
Mr. and Mrs. Louis Marks, Indianapolis, Ind.: Feb. 1, 1969	15
Robert A. Markwalter, Aurora, Ind.: June 28, 1969	10
Michael P. Marra, Jeffersonville, Ind.: June 28, 1969	200
Don Marsh, Muncie, Ind.: Feb. 1, 1969	200
Estel V. Marsh, Muncie, Ind.:	
June 28, 1969	200
Dec. 6, 1969	100
Clarence Martens, Rochester, Ind.: June 28, 1969	10
Doreatha Martin: Jan. 3, 1969	10
Floyd Martin, Guilford, Ind.: June 28, 1969	10
Herbert W. Martin, Indianapolis, Ind.: June 28, 1969	20
Mrs. L. J. Martin, Goshen, Ind.: June 28, 1969	10
Lloyd Martin, Wakarusa, Ind.: June 28, 1969	10
Warren W. Martin, Jr., Jeffersonville, Ind.: June 28, 1969	10
Judge Clifford H. Maschmeyer, Jeffersonville, Ind.: June 28, 1969	10
Catherine and Maurice Mason, Hebron, Ind.: June 28, 1969	20
Paul L. Mason, Crawfordsville, Ind.: Jan. 1, 1969	30
Mr. and Mrs. Vernon Matherly, Fountain City, Ind.: Feb. 1, 1969	50
Nile Matlock, Greenfield, Ind.: June 28, 1969	25
James Mattis, Speedway, Ind.: June 28, 1969	25
Mrs. Verle Maxwell, Martinsville, Ind.: June 28, 1969	10
Mr. and Mrs. Cliff Meadows, New Whiteland, Ind.: June 28, 1969	10
Earl W. Medsker, Sullivan, Ind.: June 28, 1969	10
Richard Meek, Indianapolis, Ind.: June 28, 1969	5
Mr. and Mrs. Herbert Melrose, Indianapolis, Ind.: Dec. 6, 1969	100
Robert Meltzer, Shelbyville, Ind.: June 28, 1969	10
Victor Meny, Haubstadt, Ind.: June 28, 1969	25
Sam Mercantini, South Bend, Ind.: June 28, 1969	50
Charles Mercer, Spencer, Ind.: June 28, 1969	10
Charles Meredith, Noblesville, Ind.: June 28, 1969	10
Larry Merthan, Washington, D.C.: Feb. 9, 1969	100
Shan Mesker, Merom, Ind.: June 28, 1969	10
Donald R. Metz, Wabash, Ind.:	
June 28, 1969	10
Jan. 3, 1969	10
Mrs. Forest Meyer, Chesterton, Ind.: June 28, 1969	10
Milton Michael, Columbus, Ind.: June 6, 1969	10
Robert S. Michael, Greencastle, Ind.: June 28, 1969	10
C. D. Michaelson, New York, N.Y.: January 3, 1969	30
Emerson Midyett, San Francisco, Calif.: February 1, 1969	2, 500
Morgan L. Miers, Greensburg, Ind.: June 28, 1969	20
Abe J. Miller, Indianapolis, Ind.: June 6, 1969	100
Don H. Miller, Marion, Ind.: February 1, 1969	50
Garland Miller, Muncie, Ind.: April 1969	10
Goldie Miller, Elwood, Ind.: June 28, 1969	60
Harry O. Miller, Loogotee, Ind.: June 1969	10
J. E. Miller, Jan. 3, 1969	5
Mrs. Jay Miller, Portland, Ind.: June 28, 1969	10
Kenneth Miller, Attica, Ind.: June 28, 1969	50
Mary Miller, Greensburg, Ind.: June 28, 1969	20
Mary H. Miller, Edgewood, Ind.: June 28, 1969	20
Merle Miller, Indianapolis, Ind.: June 28, 1969	100
Thomas J. Miller, Scottsburg, Ind.: Feb. 1, 1969	25
Lloyd Milliken, Jan. 3, 1969	30
Howard B. Minier, Fort Wayne, Ind.: June 28, 1969	10
Bob Minnick, Indianapolis, Ind.:	
Feb. 1, 1969	20
June 28, 1969	40
Ernest C. Mirich, M.D., Merrillville, Ind.:	
June 28, 1969	100
Dec. 6, 1969	50
Marvin Mitchell, Michigan City, Ind.: December 6, 1969	100
Hon. J. Robert Mitten, Wabash, Ind.: June 28, 1969	10
Samuel P. Moise, Gary, Ind.: June 28, 1969	100
Ralph A. Montagano, Elkhart, Ind.: February 1, 1969	25
Forrest Montgomery, Logansport, Ind.: June 28, 1969	1
Orel J. Montgomery, Holton, Ind.: June 28, 1969	10
Aquilla Moore, Columbus, Ind.: June 28, 1968	10
Carlos Moore, Washington, D.C.: January 3, 1969	500
Dr. Gene D. Moore, Terre Haute, Ind.: June 28, 1969	100
Richard K. Morgan, Indianapolis, Ind.: June 28, 1969	20
Callie L. Morris, Franklin, Ind.: June 28, 1969	5
Frank T. Morris, Jr., Logansport, Ind.: June 28, 1969	10
J. Anthony Moran, Washington, D.C.: February 9, 1969	200
Robert Morris, Greencastle. Ind.: June 28, 1969	200
Virgil Morris, Terre Haute, Ind.:	
June 28, 1969	250
February 1, 1969	250
Frances J. Morrow, Bedford, Ind.: June 28, 1969	10
Robert M. Morse, LaPorte, Ind.: June 28, 1969	10
Ward C. Mosbaugh, Arcadia, Ind.: June 28, 1969	20
Mr. & Mrs. Richard Moser, Berne, Ind.:	
January 3, 1969	30
January 3, 1969	500
Thomas A. Moynahan, II, Indianapolis, Ind.:	
January 3, 1969	500
December 6, 1969	100
Andrew G. Mufer, Jr., Winamac, Ind.: June 28, 1969	10
Robert Mullins: January 3, 1969:	30
W. R. Munger: January 3, 1969	30
Bill Murphy, Washington, D.C: February 9, 1969	100
Marcia Murphy, Danville, Ind.: June 28, 1969	10
Mr. & Mrs. James Murray, Bluffton, Ind.: June 28, 1969	15
Mr. & Mrs. Howard Myers, Bluffton, Ind.: June 28, 1969	50
Mary C. Myers, Decatur, Ind.: June 28, 1969	50
Clyde Nachand: June 28, 1969	10
Mrs. Tibor F. Nagey, Indianapolis, Ind.: February 1, 1969	50
Mr. & Mrs. Morris Nahmias, Indianapolis, Ind.: December 6, 1969	100
Richard O'Connor, New Albany, Ind.: Feb. 1, 1969	10
Robert O' Connor, South Bend, Ind.: June 28, 1969	25
Thomas J. O'Connor, Brookville, Ind.: June 28, 1969	50
Fred O'Hair, Greencastle, Ind.: Feb. 1, 1969	100
Edward J. Ohleyer, Indianapolis, Ind.: June 28, 1969	10
Robert Oliver, Washington, D.C.: Feb. 9, 1969	100
Bob Ollinger, Indianapolis, Ind.: Dec. 6, 1969	100
Harold O'Neal, Orleans, Ind: July 28, 1969	10
Robert A. O'Neal, Indianapolis, Ind.: June 28, 1969	25
David P. Ober, Indianapolis, Ind.: June 28, 1969	10
Gloria Oberting, Lawrenceburg, Ind.: June 28, 1969	10
Kurt Oehme, Indianapolis, Ind.: June 28, 1969	20
Edward J. Ohleyer, Indianapolis, Ind.: June 28, 1969	10
Alfred Oppenheimer, South Bend, Ind.: June 28, 1969	5
Orbinson-Rudy-O'Connor: Feb. 1, 1969	10
C. L. Orr, Liberty, Ind.: Feb. 1, 1969	25
Wm. A. Orr, Warsaw, Ind.: June 28, 1969	10
Paul Osborn, Poneto, Ind.: Feb. 1, 1969	100
William O. Osborn, Culver, Ind.:	
Jan. 3, 1969	30
June 28, 1969	25
Mayor & Mrs. Paul Osborne, New Castle, Ind.:	
June 28, 1969	50
Feb. 1, 1969	100
Dennie, Ott, Lanesville, Ind.: June 28, 1969	10
Dorothy Ott, Lanesville, Ind.: June 28, 1969	10
Louis Ott, Lanesville, Ind.: June 28, 1969	10
Louise Ott, Lanesville, Ind.: June 28, 1969	10
Caleb J. Otten, Logansport, Ind.: Jan. 3, 1969	30
Joseph Ottenstein, Washington, D.C.: Feb. 1, 1969	500
Clinton W. Naugle, Salem, Ind.: June 28, 1969	10
Mrs. Celia Nealson, Portage, Ind.: June 28, 1969	150
Dr. B. Nedelkoff, New Albany, Ind.:	
Jan. 3, 1969	30
June 28, 1969	100
Russell H. Nehrig, Gary, Ind.: Feb. 1, 1969	100
Richard H. Nelson, Indianapolis, Ind.: June 28, 1969	100
Wendell Nelson, Culver, Ind.: June 28, 1969	10
George Nentrup, Columbus, Ind.: June 28, 1969	20
Mary Nemyer, Parker, Ind.: Feb. 1, 1969	20
Ivan Nestingen, Washington, D.C.: Feb. 9, 1969	50
W. E. Neumeyer, Washington, D.C.: Feb. 9, 1969	100
Frank Newkirk, Salem, Ind.:	
Jan. 3, 1969	500
June 28, 1969	20

Don Newman, Jan. 3, 1969	25
Newton Co. Demo. Central Comm., Kentland, Ind.: June 28, 1969	100
Dr. John Nicosia, East Chicago, Ind.: Jan. 3, 1969	500
Allan H. Nierman, Brownstown, Ind.: June 28, 1969	10
J. H. Nixon, Wabash, Ind.:	
Jan. 3, 1969	30
Dec. 1, 1969	50
Gary Nordheimer, Washington, D.C.: Feb. 9, 1969	100
Arthur C. Nordoff, Jasper, Ind.: June 28, 1969	10
Jerry Novosad, Greenwood, Ind.: Feb. 1, 1969	10
R. G. Nunn, Terre Haute, Ind.: Feb. 1, 1969	50
Thomas Nurnberger, Indianapolis, Ind.: Dec. 6, 1969	100
Frank L. O'Bannon, Corydon, Ind.:	
Jan. 3, 1969	30
June 28, 1969	25
Robert P. O'Bannon, Corydon, Ind.: June 28, 1969	50
Francis O'Brien, Bedford, Ind.: June 28, 1969	10
Patrick J. O'Connor, Washington, D.C.: Feb. 9, 1969	250
Everett Oxley, Birdseye, Ind.: June 28, 1969	30
Maurice Paddock, Greenwood, Ind.: June 28, 1969	10
Arthur Palmer, Huntington, Ind.: Feb. 1, 1969	100
Anthony Palmers, Elkhart, Ind.: June 28, 1969	10
Louie Palumbo, Fort Wayne, Ind.: Dec. 6, 1969	100
Dr. Milan Panic, Pasadena, Calif.: Feb. 9, 1969	2,500
A. J. Panke, Indianapolis, Ind.: June 28, 1969	100
Peter Pappas, Indianapolis, Ind.: June 28, 1969	100
Archie and Clara Paris, Franklin, Ind.: June 28, 1969	10
John M. Paris, M.D., New Albany, Ind.: June 28, 1969	100
Mr. and Mrs. Dan L. Parker, Sullivan, Ind.: Dec. 6, 1969	100
Virgil and Vangie Parker, Columbus, Ind.: June 28, 1969	10
William Parks, Upland, Ind.: Jan. 3, 1969	25
W. H. Parr, Lebanon, Ind.:	
Dec. 6, 1969	100
Jan. 3, 1969	30
June 28, 1969	200
Mr. and Mrs. Ray H. Parry, Michigan City, Ind.: Feb. 1, 1969	10
Henry Paskin, South Bend, Ind.: June 28, 1969	10
Carl Patterson, Loogootee, Ind.: Jan. 3, 1969	300
Helen and Robert Patterson, Speedway, Ind.: Feb. 1, 1969	10
James J. Paterson, Crawfordsville, Ind.: June 28, 1969	20
Robert Paterson, Beech Grove, Ind.: June 28, 1969	25
Tim Patterson, Corydon, Ind.: June 28, 1969	10
Letcher G. Patton, Charlestown, Ind.: June 28, 1969	25
Norman S. Paul, Washington, D.C.: Feb. 9, 1969	50
Edwin and Mildred Pavese, Elwood, Ind.: June 28, 1969	20
Jessie I. Pavey, South Bend, Ind.: Feb. 9, 1969	50
Michele Payne, Jeffersonville, Ind.: June 28, 1969	10
Ruth Payne, Jan. 1, 1969	5
Louis Pearlman, Jr., Lafayette, Ind:	
Feb. 1, 1969	25
Feb. 1, 1969	25
June 28, 1969	10
John W. Pelgen, Kokomo, Ind.: June 28, 1969	10
James W. Pendland, Indianapolis, Ind.: June 28, 1969	20
Grace Pennington, Fort Wayne, Ind.: June 28, 1969	5
Edward Pequignot, Jan. 3, 1969	15
Richard Perk, Indianapolis, Ind.: Dec. 6, 1969	100
Chloe Perkins, Bloomfield, Ind.: June 28, 1969	5
John D. Phelan, Carmel, Ind.: June 28, 1969	25
Lowell T. and Ida Ruth Phillips, Tennyson, Ind.: June 28, 1969	20
Richard Phillips, Sullivan, Ind.: June 28, 1969	10
G. Pichart, Camden, Ind.: June 28, 1969	20
J. V. Pickart, Camden, Ind.: June 28, 1969	10
William Pickart, Camden, Ind.: June 28, 1969	10
Fremont O. Pickett, Shoals, Ind.: June 28, 1969	10
Winston Pickett, Feb. 1, 1969	50
Emmett Pierce, Indianapolis, Ind.: June 28, 1969	20
Stanley Piet, Gary, Ind.: June 28, 1969	100
Rosemary Piety, Rantoul, Ill.: June 28, 1969	10
Rev. Leo. A. Piguet, W. Lafayette, Ind.: Feb. 6, 1969	20
Ed Pinkerton, Crawfordsville, Ind.: June 28, 1969	5
Louis Piser, South Bend, Ind.: Feb. 7, 1969	50
Mendel Piser, South Bend, Ind.: June 28, 1969	25
Irvin Platt, Morgantown, Ind.: June 28, 1969	10
Florine Pointer & Thomas, Jeffersonville, Ind.: June 28, 1969	20
William E. Poe, Martinsville, Ind.: June 28, 1969	10
Ralph Pond, Bluffton, Ind.: June 28, 1969	100
Norman Popello, Clinton, Ind.: June 28, 1969	25
Mr. and Mrs. James E. Posey, Fort Wayne, Ind.: Feb. 1, 1969	25
Arthur D. Pratt, Jr., Indianapolis, Ind.: Feb. 1, 1969	10
H. P. Pratt, Shoals, Ind.: June 28, 1969	5
Sylvia Pressler, Ashley, Ind.: June 28, 1969	5
E. S. Preston, Washington, D.C.: Feb. 9, 1969	50
Stanley Prexbindowski, Roanoke, Ind.: June 28, 1969	10
Charles Price, Muncie, Ind.: June 28, 1969	25
Mrs. Floyd Primmer, Frankfort, Ind.: June 28, 1969	10
M. Mendel Prisen, South Bend, Ind.: June 28, 1969	25
Mr. and Mrs. John Pritchard, Madison, Ind.: June 28, 1969	100
Rebecca Proper, Greenfield, Ind.: June 28, 1969	10
Malcolm D. Prough, Shipshewana, Ind.: June 28, 1969	5
John E. Pruitt, Indianapolis, Ind.: June 28, 1969	50
Leslie O., Pruitt, Gary, Ind.: June 28, 1969	100
John Pugsley: Jan. 3, 1969	75
Mrs. Julia Pulliam, Indianapolis, Ind.: June 28, 1969	10
Elizabeth Querman, Westfield, Ind.: June 28, 1969	20
Joe Quixley, Indianapolis, Ind.: June 28, 1969	10
J. H. Rademacher, Washington, D.C.: Feb. 9, 1969	100
Roy Rainey, Indianapolis: June 1969	20
Charles P. Rady, Roachdale: Feb. 1, 1969	10
Samuel Raitzen, South Bend, Ind.:	
June 28, 1969	50
Dec. 6, 1969	100
Dr. Thomas A. Randall, Logansport: June 6, 1969	100
Mariano Randazzo, South Bend: June 6, 1969	25
Randolph County Democratic Central Committee, Winchester: Feb. 1, 1969	170
Bernard Rapport, Waco, Texas: Jan. 3, 1969	30
George Ranney, Washington, D.C.: Feb. 9, 1969	100
E. F. Ratliff, Indianapolis: Feb. 9, 1969	50
Dr. Milton Ratner, Chicago, Ill.:	
Feb. 1, 1969	2,500
Sept. 5, 1969	2,500
Frank E. Ratts, Bloomington: Feb. 1, 1969	500
Malcolm D. Raugh, Shipshewana: June 1969	5
Marion Rawlins, Moores Hill: June 1969	40
M. Lorraine Ray, Chesterton, Ind.:	
Feb. 1, 1969	100
June 1969	25
Richard Ream, Michigan City: Feb. 1, 1969	50
Dr. Robert Reardon, Anderson: Feb. 1, 1969	100
Betty Rector, Boonville: June 1969	10
Dick Redeu, Michigan City: Feb. 1, 1969	50
Luclaire Reed: Jan. 3, 1969	4
Sam Regenstreif, Connersville, Ind.: Feb. 1, 1969	1,000
James R. Regester, Bloomington	
Feb. 1, 1969	100
June 6, 1969	100
Dec. 6, 1969	100
Jack Reich, Indianapolis: June 1969	200
Ken Reiff, Bryant: June 1969	10
Alma Reisner, Greenwood: June 1969	10
Mike Rendaci, Clinton: June 1969	100
Willis A. Repp, Columbus: June 1969	50
Charles V. Retherford, Jr., Muncie:	
April 1969	10
June 1969	20
Dr. Warren F. Ricchetti, W. Lafayette: Feb. 1, 1969	100
Mrs. Wilma G. Rice, Helmsburg: June 1969	5
Maynard Rich, Berne: June 28, 1969	25
Henry Richardson, Indianapolis: Feb. 1, 1969	25
Jimmie D. Richardson, Milan: June 1969	10
Rary Richardson, Martinsville: June 1969	13
Harry Richey, Churubusco: June 1969	2
David F. Richmond, Muncie: Feb. 9, 1969	10
C. E. Riehl, Griffith: June 1969	10
Elmo H. Riggen, Dana: June 1969	10
Robert K. Riggins, Advance: June 28, 1969	10
Marjorie Riggs: Jan. 3, 1969	10
William J. Riley, Munster: Feb. 1, 1969	250
Howard L. Ring, Anderson: Jan. 1969	10
George A. Rinker, Lafayette: June 3, 1969	30
Ripley Co. Dem. Women's Club, Osgood: June 1969	100
Robert G. Risk, DDS, Indianapolis: Dec. 6, 1969	100
Esther M. Roach, Crawfordsville: June 1969	10
Russell Robbins, Richmond: Feb. 1, 1969	50
Wayne H. Robbins, Bedford: June 1969	10
Mrs. Arthur S. Roberts, Shelbyville:	
Feb. 1, 1969	100
June 1969	55
Louis N. Roberts, Fort Wayne: Jan. 3, 1969	10
Warren Roberts, Nashville: June 1969	10
Wilson Roberts, Paoli: June 1969	10
Albert Robinson, Nashville: June 1969	10
Edward N. Robinson, Elkhart: June 1969	10

List of contributors and amount—Continued

[In dollars]

Mrs. K. L. Robinson, New Point: June 1969	15
Leonard Robinson, Bloomington: June 1969	10
Lucille Robinson, New Point: June 1969	10
B. I. Robison, Lebanon: June 1969	10
Wilbur Roby, Anderson:	
Jan. 3, 1969	50
June 1969	50
John Rochford: Jan. 3, 1969	100
Robert K. Rodebaugh, South Bend: Feb. 1, 1969	30
Mr. and Mrs. Edwin Rodenbeck, Bluffton: June 1969	10
William Roe, Indianapolis: Jan. 3, 1969	500
David Rogers, Bloomington: June 28, 1969	100
Donald A. Roger, Bloomington:	
Feb. 1, 1969	50
June 1969	25
Shirley Roland, Cornesville: June 28, 1969	10
Raymond B. Rolfe, Greensburg: June 1969	15
Mr. and Mrs. Paul Roll, Fredericksburg: June 1969	20
Gordon W. Ron, Jeffersonville: June 28, 1969	20
L. L. Rooksby, DDS, Portage: June 1969	25
Chapman Root, Daytona Beach, Fla.: Jan. 3, 1969	500
Irwin R. Rose, Indianapolis:	
Jan. 1, 1969	25
Dec. 6, 1969	100
Oscar Rose, Midwest City, Okla.: Jan. 3, 1969	25
Mr. and Mrs. Robert Rose, Indianapolis: Dec. 6, 1969	100
Stanley Rosenstein, South Bend: June 28, 1969	10
Dick Rosenthall, Washington, D.C.: Feb. 1, 1969	200
Mrs. William Rosenthal, Indianapolis: Dec. 6, 1969	150
Harvey S. Ross, Lawrenceburg: June 1969	10
Mrs. Lorel Ross, Brownsville: June 1969	10
Virginia E. Ross, Brownsville: June 28, 1969	10
Vern Rossman, Indianapolis: June 1969	10
Mr. and Mrs. Maurel Rothbaum, Indianapolis:	
June 1969	10
Dec. 6, 1969	100
Joseph Rothberg, Indianapolis: Dec. 6, 1969	100
Sol Rothberg, Fort Wayne:	
Dec. 6, 1969	100
Feb. 9, 1969	100
Mr. and Mrs. John Roy, Elkhart: June 1969	10
Mrs. Esther M. Rubin, Speedway: June 1969	25
Mr. Burton B. Ruby, Michigan City: Feb. 1, 1969	250
W. R. Rucker, MD, Madison: June 1969	10
John Rudy, Washington, D.C.: Feb. 9, 1969	50
Louis J. Ruehaup, Noblesville, Ind.: June 1969	20
Hobart Runyan, Clinton: June 1969	10
Juanita Ruskton, Monrovia: June 1969	10
Mr. and Mrs. Daniel Russ, Fort Wayne:	
Jan. 3, 1969	30
June 28, 1969	100
Terrance F. Russell, Dana: June 6, 1969	10
Henry R. Sackett, Gary: June 28, 1969	100
Art Sacks, Indianapolis: December 6, 1969	100
Aileen Salee, Indianapolis: June 1969	20
Steven L. Salmon, Indianapolis: December 6, 1969	100
Carl and Dave Salomon, Fort Wayne: February 1, 1969	5
Glenn Sample, Indianapolis: June 28, 1969	25
Howard W. Sams, Indianapolis: December 6, 1969	100
Kenneth Samuels, January 3, 1969	100
Leo O. Sanders, Orleans: June 1969	10
Thomas M. Scanlon, Indianapolis:	
June 1969	100
December 6, 1969	100
Mrs. Carl Sartorius, Elkhart: June 1969	5
Addie B. Sarver, Indianapolis: June 1969	10
Thomas L. Satula, Elkhart: June 1969	1
Mr. and Mrs. Burley Scales, Boonville: June 1969	20
Mae Scales, Boonville: June 1969	10
Eugene Scamahorn, Lebanon: June 1969	25
Flossie Scanlon, Indianapolis: June 1969	10
Deanna C. Schaefer, Dayton, Ohio: June 1969	5
Frank E. Schaefer, Ft. Wayne: June 1969	5
M. G. Schaefer, Indianapolis: June 1969	25
Sam S. Schabet, Indianapolis:	
January 3, 1969	30
June 1969	25
December 6, 1969	100
Jerome Schaller, Washington, D.C.: February 9, 1969	50
Eric Schamborn, Bristol: June 1969	50
George Scharffenberger, Los Angeles, Calif.: June 1969	1,000
Benno M. Scheidler, Attica: June 19, 1969	100
Thelma Scheirley, Sunman: June 19, 1969	20
H. Richard Schell, MD, Bloomington: February 1, 1969	25
Joe Schembre, Kokomo: June 1969	25
Donald M. Schewe, Indianapolis: January 3, 1969	10
Ed Schier: January 3, 1969	5
William L. Schloss, Indianapolis: December 6, 1969	100
John Schlotterbeck, Richmond: June 28, 1969	25
Paul R. Schnaitter, Madison: June 1969	25
Ronald R. Schneider, Jasper: February 1, 1969	50
Marie Scholla, Indianapolis: June 1969	10
Robert M. Schram, Peru: June 1969	100
Henry P. Schrenker, Anderson: January 3, 1969	100
Chester E. Schrier, Darlington: June 1969	10
Ed Schrier, Brownsburg: January 3, 1969	5
Merrill Schrougham, Morgantown: June 1969	10
Mr. and Mrs. Gabriel Schuchman, Indianapolis: December 6, 1969	100
Mr. and Mrs. H. O. Schuchman, Indianapolis: December 6, 1969	100
Maurice Schultz, Oaktown: June 28, 1969	20
Phil J. Schwanz, Fort Wayne: June 1969	200
Amos B. Schwartz, Geneva: June 1969	5
Mrs. Howard Schwartz, Craigville: June 1969	10
Robert F. Schwartz, Michigan City: February 1, 1969	50
Martin Schwartz, Washington, D.C.: February 9, 1969	100
Elizabeth Schwier: January 1, 1969	10
S. W. Sclambery, South Bend: June 1969	10
Willard Scobee, Greencastle: June 1969	20
Marie Scollard, Indianapolis: June 1969	10
Corney Scott, Monrovia: June 1969	10
George Scott, Kokomo: June 1969	20
Jack Scott, Clinton: June 1969	25
Leon Scott, Muncie:	
Jan. 3, 1969	20
June 1969	10
Robert S. Scott, Terre Haute: Feb. 1, 1969	100
Alvin Seal, Washington, Ind.:	
Jan. 3, 1969	10
June 1969	25
Carl Seet, Indianapolis: June 1969	100
Harold Seitz, Columbus: June 1969	10
Mr. and Mrs. Verl Selch, Monrovia: June 1969	10
Robert B. Selund, Jr., Highland: June 1969	10
Robert B. Selund, Jr., Hihgland: June 1969	10
Leslie Selvey, Farmland: June 1969	20
Mr. & Mrs. Alphonse C. Sermersheim, Jasper:	
Feb. 1, 1969	100
June 1969	25
Dr. N. H. Sevier, Sullivan: June 1969	10
Kenneth Shanna, Roachdale: June 1969	5
Mr. and Mrs. Joseph Shape, Huntington: June 1969	10
Lester G. Shapiro, Washington, D.C.: Feb. 9, 1969	100
Mr. & Mrs. Donald M. Sharpe, Terre Haute:	
June 1969	10
Feb. 7, 1969	25
Frederick C. Shaw, Indianapolis: June 1969	20
Betty Sheek, Franklin: June 1969	10
W. S. Sheilds, Mishawaka: June 1969	50
Mrs. Harold L. Shepard, LaPorte: June 1969	10
Garland E. Shepherd, Farmersburg: Feb. 1, 1969	10
N. H. Sheray, Ft. Wayne:	
June 1969	200
Aug. 14, 1969	200
Glenn Sherill, Montezuma:	
June 1969	10
Rose Sherill, Montezuma:	
June 1969	10
H. C. Sherland, Bremen:	
June 1969	25
W. S. Shields, South Bend:	
June 28, 1969	50
Oscar Shively, Muncie:	
Feb. 1, 1969	200
June 1969	200
Samuel M. Shobert, Mishawaka:	
June 1969	100
Sidney Shoeffler:	
Feb. 1, 1969	50
Mary Louise Shoffner, Bargersville:	
June 1969	10
Henry M. Shook, Auburn:	
June 1969	10
Mrs. Cleo Shriner, Indianapolis:	
June 1969	5
Charlie Schuee, Greencastle:	
June 28, 1969	20
Mr. Ross Sickler, Monticello:	
June 28, 1969	10
June 28, 1969	10
Herman Siegel, South Bend:	
Jan. 3, 1969	30
June 1969	25
Mrs. E. M. Sikkema, Covington:	
June 28, 1969	10
Mrs. E. M. Siklema, Covington:	
June 1969	10
Eleanor Silotto, Dana:	
June 1969	10
Irving E. Silver, Indianapolis:	
June 1969	10
Joe Simkin, Indianapolis:	
Dec. 6, 1969	100
Herbert Simon, Indianapolis:	
Dec. 6, 1969	100
Mr. and Mrs. Mel Simon, Indianapolis:	
Dec. 6, 1969	300
Robert P. Sinclair, Napanee:	
Keith Sink, Bringhurst:	
June 28, 1969	20

Richard Sixby, Monticello, Ind.: June 28, 1969	10
Harry F. Smiddy, Jr., Hammond, Ind.: June 28, 1969	10
Arval M. Smiley, Fowler, Ind.: June 28, 1969	25
Dale Smiley, Rushville, Ind.: June 28, 1969	10
Judge Alban Smith, LaPorte, Ind.: June 28, 1969	10
Austin Smith, Austin, Ind.: June 28, 1969	10
Mrs. Avery Smith, Loogootee, Ind.: June 28, 1969	10
Charles Smith, Washington, D.C.: January 3, 1969	500
Darrell F. Smith, Lebanon, Ind.: June 28, 1969	25
Margie Smith, Lebanon, Ind.: June 28, 1969	25
Donald Smith, Terre Haute, Ind.: January 3, 1969	500
George W. Smith, Albany, Ind.: June 28, 1969	10
Herb Smith, Delphi, Ind.: June 28, 1969	10
Hubert H. Smith, Howe, Ind.: January 3, 1969	30
Irving J. Smith, South Bend, Ind.: June 28, 1969	100
James R. Smith, Gosport, Ind.: June 28, 1969	20
John Martin Smith, Auburn, Ind.: June 28, 1969	10
Kern Smith, Washington, D.C.: February 9, 1969	50
Mr. and Mrs. Maurice Smith, Huntington, Ind.:	
January 3, 1969	50
June 28, 1969	10
Mont Smith, Nashville, Ind.: June 28, 1969	10
Russell Smith, Indianapolis, Ind.: June 28, 1969	20
Vivian B. Smith, Waynestown, Ind.: June 28, 1969	10
Walter Smith, Columbus, Ind.: June 28, 1969	10
Wilburn Smith, Indianapolis, Ind.: June 28, 1969	10
Mr. and Mrs. Sam Smulyan, Indianapolis, Ind.:	
Dec. 6, 1969	200
June 28, 1969	100
Art Snider, Royal Center, Ind.: June 28, 1969	20
Maurice Snider, Corydon, Ind.: June 28, 1969	100
David Snyder, Indianapolis, Ind.:	
Feb. 1, 1969	100
June 28, 1969	25
Paul Snyder, Nashville, Ind.: June 28, 1969	10
Sand Snyder, Indianapolis, Ind.: June 28, 1969	25
H. R. Solbrig, South Bend, Ind.: June 28, 1969	10
William Sollars: Jan. 3, 1969	10
Alex Somerville, Indianapolis, Ind.: Dec. 6, 1969	100
Phillip C. Sorenson, Columbus, Ind.: June 28, 1969	25
Marcia Souder, New Castle, Ind.: June 28, 1969	10
Harry Spanagel, Lawrenceburg, Ind.: June 28, 1969	10
Eugene Sparks, Seymour, Ind.: June 28, 1969	5
Frances M. Sparks, Marion, Ind.: June 28, 1969	5
Ron Spencer, Greenfield, Ind.: June 28, 1969	10
Spencer Co. Dem. Women Club, Gentryville, Ind.: June 28, 1969	20
V. N. Spencer, Scipio, Ind.: Feb. 1, 1969	10
Miklos Sperling:	
Feb. 1, 1969	500
June 28, 1969	500
Dec. 6, 1969	1,000
Aug Spitznagel, Indianapolis, Ind.: June 28, 1969	20
Gus and Marie Spitznagel, Carmel, Ind.: June 28, 1969	20
Bernice Spradling, Union City, Ind.:	
Jan. 3, 1969	15
June 28, 1969	25
Earl Sprague, Hartsville, Ind.: June 28, 1969	20
Guy W. Spring, Indianapolis, Ind.: June 28, 1969	25
William Spurgeon, Muncie, Ind.: June 28, 1969	100
Wiley Spurgeon, Muncie, Ind.: Feb. 9, 1969	100
Joe Stacy, Lawrenceburg, Ind.: June 28, 1969	10
Gordon St. Angelo, Indianapolis, Ind.: Jan. 3, 1969	500
Marvin and Helen Stantz, Clayton, Ind.: June 28, 1969	10
David L. Staples, Gary, Ind.: June 28, 1969	50
Mildred Staples, Greensburg, Ind.: June 28, 1969	10
Robert Staton, Carmel, Ind.: June 28, 1969	50
Carl Steed: Jan. 3, 1969	10
Allen Steere, Fort Wayne, Ind.: June 28, 1969	100
Andrew Steffin, Indianapolis, Ind.:	
Jan. 3, 1969	500
June 28, 1969	200
Dec. 6, 1969	100
Richard Stein, Indianapolis, Ind.: June 28, 1969	20
Mr. and Mrs. Sidney Stein, Indianapolis, Ind.:	
Dec. 6, 1969	500
Aug. 6, 1969	1,000
George Steinbrenner, Lorain, Ohio: Jan. 20, 1969	500
Ralph Stemler, Jeffersonville, Ind.: June 28, 1969	90
Dick Stephenson: Jan. 3, 1969	10
N. W. Steury, Decatur, Ind.: June 28, 1969	35
George Stevens, Plymouth, Ind.:	
Jan. 3, 1969	30
Dec. 6, 1969	100
June 28, 1969	500
Bob and Alta Stewart, Rensselaer, Ind.: June 28, 1969	10
Robert Stewart, Daleville, Ind.: Jan. 3, 1969	200
Estil Stidham, Blocher, Ind.: June 28, 1969	10
Wayne Stidham, Richmond, Ind.: June 28, 1969	25
John Stierwalt: Feb. 1, 1969	300
Charles E. Stimming, Indianapolis, Ind.: June 28, 1969	500
Nelson Stitt, Washington, D.C.: Feb. 9, 1969	50
George Stocksdale, Huntington, Ind.: June 28, 1969	10
Mr. and Mrs. Harold Stolkin, Indianapolis, Ind.: Dec. 6, 1969	100
John Stoner, Bloomington, Ind.: Jan. 3, 1969	15
J. S. Stradler, Washington, D.C.: Feb. 9, 1969	1,000
Donald Strange, Loogootee, Ind.: June 28, 1969	10
Frank Strange, Loogootee, Ind.: June 28, 1969	10
James A. Strayhorn, Indianapolis, Ind.: June 28, 1969	2
Mr. and Mrs. Alonzo Stratton, Indianapolis, Ind.: June 28, 1969	25
Howard Stroud, Indianapolis, Ind.: June 28, 1969	20
Virginia Studer: Jan. 3, 1969	20
Forest Stump: Jan. 3, 1969	100
Harold Stump, Auburn, Ind.: June 28, 1969	10
Lucyellen Stump, Lebanon, Ind.: June 28, 1969	10
Mrs. Brian Sullivan, Indianapolis, Ind.: June 28, 1969	20
W. Harold Sullivan, Fort Wayne, Ind.: June 28, 1969	5
Albert Summers, Indianapolis, Ind.: June 28, 1969	50
Joseph Summers, Martinsville, Ind.: June 28, 1969	10
William Summers, Gosport, Ind.: June 28, 1969	10
Kenneth Sumpter, Franklin, Ind.: June 28, 1969	5
Cecil Sutton, Rensselaer, Ind.: June 28, 1969	25
Jeanette Surina, Greenwood, Ind.:	
June 28, 1969	100
Feb. 9, 1969	100
Dec. 6, 1969	100
William Swagger, Fremont, Ind.: Jan. 3, 1969	500
Sam Swan: Jan. 3, 1969	30
Don Sweeney, Berne, Ind.: Feb. 1, 1969	10
Ralph Sylvester: June 28, 1969	25
Eugene V. Talkington, Madison, Ind.: June 28	10
Abe Taylor, West Lafayette, Ind.: June 28	25
Richard Taylor, Washington, D.C.: Feb. 9, 1969	50
Thomas T. Taylor, New Whiteland, Ind.: June 28, 1969	10
W. H. Taylor, Ft. Wayne, Ind.: Jan. 3, 1969	30
Dale K. Teaford, Greencastle, Ind.:	
June 28, 1969	100
Jan. 3, 1969	30
Elmer & Mary M. Tekulve, Columbus, Ind.: June 28, 1969	20
Karl Tellman, Betholomew, Ind.: June 28, 1969	25
Frank Templeton, Monticello, Ind.: June 28, 1969	100
Louis Tenofsky, South Bend, Ind.: Feb. 1, 1969	10
Millard Thickstun, Nashville, Ind.: June 28, 1969	10
John E. Thomas, Sr., Michigan City, Ind.: June 28, 1969	10
Mrs. Virginia Thomas, Portage, Ind: June 28, 1969	10
Clark Thompson, Washington, D.C.: Feb. 9, 1969	50
Clifford S. Thompson, Clinton. Ind: June 28, 1969	25
Donald Thompson, Columbus, Ind.: June 28, 1969	50
Hubert Thompson, Lebanon, Ind.: June 28, 1969	10
J. Ralph Thompson, Seymour, Ind.: Feb. 1, 1969	50
Jim Thompson, Seymour, Ind.: Feb. 1, 1969	50
O. W. Thompson, Columbus, Ind.: June 28, 1969	25
Roy H. Thompson, Worthington, Ind.: June 28, 1969	25
Wayne Thompson, Decker, Ind.: June 28, 1969	100
Hugh Thornburg, Indianapolis, Ind.: Jan. 3, 1969	30
James Thornton, New Albany, Ind.: Feb. 1, 1969	200
Ted Throckmorton: June 28, 1969	20
Herbert E. Thyen, Jasper, Ind.: June 28, 1969	25
Newton E. Tichenor, Greensburg, Ind.: June 28, 1969	10
Charles R. Tiede, Wabash, Ind.: June 28, 1969	10
Robert Till: Jan. 3, 1969	2
Robert A. Tillett, Osceola, Ind.:	
Jan. 3, 1969	30
June 28, 1969	25
Ronald S. Timmons, Indianapolis, Ind.: June 28, 1969	10
J. E. Timothy, Earl Park, Ind.: June 28, 1969	40
Mrs. Gerald C. Todd, Tipton, Ind.: Feb. 1, 1969	25
Joe & Marie Torline, Madison, Ind.: June 28, 1969	25

List of contributors and amount—Continued

[In dollars]

Mrs. Wilson Tow, Speedway, Ind.: June 28, 1969	20
Wayne Townsend, Upland, Ind.: Jan. 3, 1969	30
Donald Travis, Plymouth, Ind.: June 28, 1969	25
Los L. Tremper, Connersville, Ind.: June 28, 1969	25
William D. Tremper, Jr., Connersville, Ind.: June 28, 1969	50
Violet Treste, Mooresville, Ind.: June 28, 1969	10
R. S. Tribbe, Washington, D.C.: Feb. 9, 1969	50
John W. F. Trout, Jr., New Castle, Ind.: June 28, 1969	10
Mr. and Mrs. Alvah Troyer, LaFontaine, Ind.:	
Jan. 3, 1969	30
June 28, 1969	20
Michael Truchan, Lake Del Carlie, Ind.: June 28, 1969	100
Mr. & Mrs. Fred Tuchman, Indianapolis, Ind.: June 28, 1969	100
Tilmer Tucker: Jan. 3, 1969	25
Margaret Tucker, Spencer, Ind.: Feb. 1, 1969	10
Maurice Tucker, South Bend, Ind.:	
Jan. 3, 1969	50
June 28, 1969	50
Dec. 6, 1969	100
Ralph Tucker, Terre Haute, Ind.: June 28, 1969	50
Hazel R. Tudor, Stilesville, Ind.: June 28, 1969	10
Thomas C. Tumbove, Indianapolis, Ind.: June 28, 1969	25
Andy Tumen, Marshall, Ill.: June 28, 1969	50
J. J. Tuohy, Indianapolis, Ind.: June 28, 1969	25
Bill Turner, Logansport, Ind.: Feb. 1, 1969	100
Charles Turner, Monrovia, Ind.: June 28, 1969	10
Mrs. W. J. Ullrich, Aurora, Ind.:	
Jan. 3, 1969	10
June 28, 1969	10
District #30, U.S. Steelworkers, Political Action Fund, Indianapolis, Ind.:	
Dec. 30, 1968	1,000
June 4, 1969	500
Bennett Utterback, Bargersville, Ind.: June 28, 1969	10
Mr. & Mrs. Earl M. Utterback, Kokomo, Ind.: June 28, 1969	25
Edgar Utterback, Bargersville, Ind.: June 28, 1969	10
Richard J. VanMele, South Bend, Ind.: June 28, 1969	10
Bethany R. Van Riper, Noblesville, Ind.: June 28, 1969	10
B. F. PanderPoel, Jan. 3, 1969	150
James Van Winkle: Feb. 1, 1969	25
David P. Varble, Clark County, Ind.: June 28, 1969	10
Velma Vaughn: Jan. 3, 1969	30
Temple Vaught: Feb. 1, 1969	5
Alda M. Vellutini, Crown Point, Ind.: Jan. 3, 1969	30
Charles O. Verilly, Washington, D.C.: Feb. 9, 1969	200
Daniel T. Veza, Indianapolis, Ind.: June 28, 1969	25
William Vinovich, Gary, Ind.: June 28, 1969	10
Bill Vissing, Jr., Jeffersonville, Ind.: June 28, 1969	20
Arthur M. Vivian, Richmond, Ind.: Feb. 9, 1969	50
Jerry Vogel, South Bend, Ind.: June 28, 1969	10
L. Marshall Vogler, Hope, Ind.: June 28, 1969	20
L. Voight, Indianapolis, Ind.: June 28, 1969	10
Leo Voisard, Muncie, Ind.: Jan. 3, 1969	30
Robert Volger: Jan. 3, 1969	30
Robert Vollmer, Loogootee, Ind.: June 28, 1969	10
Clarence Voltzman, Fulda, Ind.: June 28, 1969	10
Edward Volz, Connersville, Ind.: June 2, 1969	20
Henry N. Voss, Milan, Ind.: June 28, 1969	10
Dale Wainscott, Indianapolis, Ind.: June 28, 1969	40
Walter Walb, Fort Wayne, Ind.: June 28, 1969	100
Marie P. Walcott, Shelbyville, Ind.: June 28, 1969	10
Dorothy Walker, Indianapolis, Ind.: June 28, 1969	10
Meredith G. Walker, Kirklin, Ind.: Feb. 1, 1969	10
W. Henry Walker, East Chicago, Ind.: Feb. 1, 1969	500
Mr. W. T. Walker, Anderson, Ind.: June 28, 1969	10
Jim Wall, Winchester, Ind.: June 28, 1969	50
Lucielle Wall, Newcastle, Ind.: June 28, 1969	10
Mr. and Mrs. Eldo Wallace, Earl Park, Ind.: June 28, 1969	10
Leon H. Wallace, Bloomington, Ind.:	
Jan. 3, 1969	50
June 28, 1969	25
Mr. and Mrs. James Wallace, Covington, Ind.: Feb. 1, 1969	50
Robert Wallace, Portland, Ind.: June 28, 1969	10
Lawrence R. Walsh, Muncie, Ind.:	
April 1969	5
June 28, 1969	10
Herbert Walters, Nashville, Tenn.: Jan. 3, 1969	100
Joe Walters, Washington, D.C.: Feb. 9, 1969	250
Lloyd Wampler, Plymouth, Ind.: June 28, 1969	50
Luke Ware, Richmond, Ind.: June 28, 1969	5
Frank Warford, Nashville, Ind.: June 28, 1969	10
Clem Warn, Indianapolis, Ind.: June 28, 1969	25
Hubert Warren, Cortland, Ind.: June 28, 1969	20
Joseph W. Wasson, Waldron, Ind.:	
Feb. 1, 1969	5
June 28, 1969	10
Mayor Ed Watson, Jacksonville, Ind.: June 28, 1969	10
Kenneth A. Watson, Martinsville, Ind.: June 28, 1969	10
Dr. Robert T. Watson, Nutley, N.J.: June 28, 1969	100
Thomas J. Watson, Jr., Washington, D.C.: Feb. 1, 1969	200
Walter Wayman, Nashville, Ind.: June 28, 1969	10
Wayne Township Democratic Club, Indianapolis, Ind.: June 28, 1969	10
Mrs. Emily Weathers, Indianapolis, Ind.: June 28, 1969	10
Lloyd Weaver, Portage, Ind.: June 28, 1969	20
E. Murphy Webb, Huntington, Ind.:	
Feb. 1, 1969	100
June 28, 1969	30
Hugh Weber, Carthage, Ind.: June 28, 1969	10
Arthur M. Weimer, Bloomington, Ind.:	
Jan. 3, 1969	30
Feb. 1, 1969	50
June 28, 1969	25
Dr. Eugene Weiss, South Bend, Ind.: Feb. 1, 1969	10
Morris Weiss, Gary, Ind.: June 28, 1969	25
Mr. & Mrs. Zoltan Weisz, Indianapolis, Ind.:	
Feb. 1, 1969	100
June 28, 1969	25
Dec. 6, 1969	200
John A. Welch, Indianapolis, Ind.: June 28, 1969	10
Robert V. Welch, Indianapolis, Ind.: June 28, 1969	500
Ruth Welch, Auburn, Ind.: June 28, 1969	10
Robert Welker, Roanoke, Ind.:	
Jan. 3, 1969	20
June 28, 1969	25
Keith Wellman, Noblesville, Ind.: June 28, 1969	10
G. C. Wells, Jan. 3, 1969	75
John E. Welsh, Vincennes, Ind.: Jan. 3, 1969	30
Patricia Welsh, Indianapolis, Ind.: June 28, 1969	10
Robert J. Welsh, Gary, Ind.: Feb. 1, 1969	50
Mr. H. L. Weninger, North Judson, Ind.: June 28, 1969	50
Dorothy Werkheiser, Jan. 3, 1969	10
Hazel Weston, Brookville, Ind.: June 28, 1969	10
Eugene Wethington, Indianapolis, Ind.: Feb. 1, 1969	5
Al Wheeler, Washington, D.C.: Feb. 9, 1969	250
Mr. J. H. Wheeler, Greensburg, Ind.: Feb. 1, 1969	25
John Wheeler, Washington, D.C.: Feb. 9, 1969	50
Robert B. Whinrey, Muncie, Ind.: Feb. 1, 1969	500
Edward A. White, Fort Wayne, Ind.: Feb. 1, 1969	200
Florence White, Indianapolis, Ind.: June 28, 1969	10
Mr. and Mrs. Howard White, New Castle, Ind.: June 28, 1969	10
Max L. White, Angola, Ind.: Feb. 1, 1969	30
Robert S. Whitehead, Kokomo, Ind.: June 28, 1969	10
William Whitlatch, Lexington, Ind.: Jan. 3, 1969	10
John W. Whiteleather, Jr., Columbia City, Ind.: June 28, 1969	10
Don Wickens, Greensburg, Ind.: June 28, 1969	10
Hazel Widdows, Geneva, Ind.: June 28, 1969	20
J. F. Wiechman, Richmond, Ind.: Feb. 1, 1969	50
Richard L. Wilder, Bloomington, Ind.: Dec. 6, 1969	100
F. A. Wilhelm, Indianapolis, Ind.: June 28, 1969	100
Robert E. Wilhelm, Hammond, Ind.: Feb. 1, 1969	100
Robert Willey, Washington, D.C.: Jan. 3, 1969	50
Boyd R. Williams, Clayton, Ind.: June 28, 1969	10
Clem Williams, Greencastle, Ind.: Feb. 1, 1969	10
Clyde Williams, Jr., South Bend, Ind.:	
Jan. 3, 1969	1,000
June 28, 1969	1,000
James Williams, Corydon, Ind.:	
Jan. 3, 1969	15
June 28, 1969	10
Mr. and Mrs. James P. Williams, Indianapolis, Ind.: June 28, 1969	25
Manon Williams, Indianapolis, Ind.: June 28, 1969	100
Marion A. Williams, Indianapolis, Ind.: June 28, 1969	100
Marshall E. Williams, Indianapolis, Ind.:	
Feb. 1, 1969	25
June 28, 1969	25
Rhoda Williams, Indianapolis, Ind.:	
Jan. 3, 1969	25
June 28, 1969	50
Ruby Williams, Indianapolis, Ind.: June 28, 1969	25
Sarah J. Williams, Greencastle, Ind.: June 28, 1969	10
Thomas W. Williams, Indianapolis, Ind.: June 28, 1969	10

Hon. James R. Williamson, West Lafayette, Ind.: Feb. 1, 1969	25
William H. Williamson, Indianapolis, Ind.: June 28, 1969	10
Mrs. Ann Wilson, Elkhart, Ind.: June 28, 1969	20
Ernest Wilson, Bluffton, Ind.: June 28, 1969	10
Mrs. Freida Wilson, Clinton, Ind.: June 28, 1969	25
J. B. Wilson, Indianapolis, Ind.: June 28, 1969	10
Keith Wilson: Jan. 3, 1969	10
L. Dale Wilson, Noblesville, Ind.: June 28, 1969	20
Laura Jean Wilson, Greencastle, Ind.: June 28, 1969	10
Lyndal Wilson, Kokomo, Ind.: June 28, 1969	25
Russell Wilson: Jan. 3, 1969	25
Wm. J. Wilson, Boonville, Ind.: June 28, 1969	10
Mr. and Mrs. Fred Witney, Bloomington, Ind.: June 28, 1969	10
Mr. Charles W. Wolf, Reynolds, Ind.: Jan. 3, 1969	50
Mr. and Mrs. Frederick W. Wolf, Clarksville, Ind.:	
Jan. 3, 1969	10
June 28, 1969	10
Henry Wolf, Logansport, Ind.: June 28 1969	20
Kenneth Wolf, Acton, Ind.: June 28, 1969	5
William H. Wolf, Greenfield, Ind.: June 28, 1969	100
Mary Louise Wolfard, Indianapolis, Ind.: January 3, 1969	10
Mary Louise Wolfard, Indianapolis, Ind.: June 28, 1969	100
M. Wolka, Seymour, Ind.: June 28, 1969	20
Richard A. Wollenboeler, Indianapolis, Ind.: June 28, 1969	5
Joseph G. Wood, Jr., Indianapolis, Ind.: June 28, 1969	100
Robert Woodward, Fairbanks, Ind.: June 28, 1969	20
H. E. Woods, Muncie, Ind.: April 1969	25
Albert Woodward, Washington, D.C.: February 9, 1969	100
Evans Woollen III, Indianapolis, Ind.: June 28, 1969	10
Agnes F. Woolery, Bloomington, Ind.: June 28, 1969	25
D. O. Woolf, Indianapolis, Ind.: June 28, 1969	10
V. L. Worland, Shelbyville, Ind.: January 3, 1969	30
F. Leo Wright, Washington, D.C.: February 9, 1969	50
Warren C. Wright, Williamsport, Ind.: June 28, 1969	25
Dan Wyant, Marion, Ind.: June 28, 1969	50
D. R. Wygant, Huntington, Ind.: January 3, 1969	30
D. R. Wygant, Huntington, Ind.: June 28, 1969	25
W. W. Wyneken, Ft. Wayne, Ind.: June 28, 1969	10
Perry W. Woofter, Washington, D.C.: June 28, 1969	100
Charles Yeager, Delphi, Ind.: June 28, 1969	250
Donald Yeakley, Sr., Bringhurst, Ind.: June 28, 1969	20
Don Yeakley, Bartholomew, Ind.: June 28, 1969	25
Melton T. Yelvington, Indianapolis, Ind.: June 28, 1969	10
Mrs. Newell W. Yoder, Plymouth, Ind.: Feb. 1, 1969	10
L. Marshall York, Hope, Ind.: June 28, 1969	20
R. A. York, Columbus, Ind.: June 28, 1969	20
Louis B. Yosha, Indianapolis, Ind.: Dec. 6, 1969	100
Harry Young: Jan. 3, 1969	5
Jack Young, Ft. Wayne, Ind.: June 28, 1969	200
John E. Young, Indianapolis, Ind.: June 28, 1969	10
Richard Young, Martinsville, Md.: June 28, 1969	10
Steven Young, Indianapolis, Ind.: June 28, 1969	5
Vic Young: Jan. 3, 1969	16
Chris Zak, Gary, Ind.: June 28, 1969	100
John M. Zanetis, Olney, Ill.: Jan. 3, 1969	30
George J. Zazas, Indianapolis, Ind.: June 28, 1969	100
Dec. 6, 1969	100
Mrs. Dorothy Zellers, Fairoaks, Ind.: June 28, 1969	25
Harry Zerbe, Lawrenceburg, Ind.: June 28, 1969	100
Milan Zima, Portage, Ind.: June 28, 1969	20
Norbert Zimmer, Kentland, Ind.: Jan. 3, 1969	10
Corrine Zimmerman, Angola, Ind.: June 28, 1969	5
Liz Zorn, Bloomington, Ind.: June 28, 1969	25
Everett Zurn, Washington, D.C.:	100
Ernest Zwerner, Terre Haute, Ind.: Feb. 7, 1929	25

SPACE SHUTTLE PROPOSAL

Mr. MONDALE. Mr. President, the Senate soon will be debating NASA's proposal to develop a multibillion-dollar space shuttle. On April 25, 1972, I wrote to the chairman of the Senate Committee on Aeronautical and Space Sciences explaining in some detail my opposition to this proposal.

As I stated in that letter, the case against the shuttle centers on: First, its concealed and burgeoning cost and; second, the absence of any clear-cut policy to justify or guide such a massive expenditure.

I ask unanimous consent that the following items be printed in the RECORD: First, my letter of April 25, 1972, to the Senate Committee on Aeronautical and Space Sciences; second, a letter to me from Dr. Ralph Lapp, dated April 24, 1972, which emphasizes certain points made in his earlier testimony before the Senate Committee on Aeronautical and Space Sciences; and third, Dr. Lapp's testimony of April 12, 1972.

There being no objection, the following items were ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON LABOR AND
PUBLIC WELFARE,
Washington, D.C., April 25, 1972.

Hon. CLINTON P. ANDERSON,
Committee on Aeronautic and Space Sciences,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Before the Committee's deliberations on the NASA Authorization bill, I would like to explain my continued opposition to the proposed development of a space shuttle.

As you know, there has been significant criticism of this program in the scientific community. *The Space Science Board of the National Academy of Sciences, the Federation of American Scientists, and many independent space scientists have expressed strong reservations about the wisdom of developing the shuttle.* Since billions of the taxpayers' dollars are at stake here, I urge the Committee to carefully consider the views of these scientists.

For example, Dr. James Van Allen, a pioneer of the U.S. space program, has observed that a massive program like the shuttle "is far beyond the context of any existing national policy on the scope and magnitude of our activities in space during the next two decades." He estimates that a "well designed program of space applications"—including such activities as radio communications and earth reconnaissance—can be maintained by delivery into earth of only about 50,000 pounds of satellites per year It should be emphasized that 50,000 pounds is *less* than the capacity of *one* shuttle flight.

Dr. Thomas Gold (a member of the President's Science Advisory Committee and Director of Cornell's Center for Radiophysics and Space Research) has also vigorously opposed the shutttle's development. In testimony recently submitted to the Committee, he stated:

"If we were certain that we wanted a large continuous manned earth orbital program throughout the 1980's then it would be easier, despite the great uncertainties, to justify the development costs of the Shuttle. But the case for such a program is weak. It cannot be justified for applications purposes nor for science. . . . For unmanned, instrumental flight purposes, such as is required for applications programs and for space science, the economic advantages of the Shuttle is very doubtful."

And perhaps most significant, the Space Science Board of the National Academy of Sciences has also expressed skepticism about the shuttle. In a 1971 report entitled *Priorities for Space Research, 1971–1980,* this Board made the following observation on the proposed development of the shuttle and station:

"The absence of recommendations concerning the shuttle and space station should also be noted. These were considered as vehicles for the support of science, but we found the concepts too vaguely defined with respect to costs and engineering difficulties to permit any realistic assessment of the potential values to scientific research and applications. Nor was the Study able to evaluate the economics of the shuttle, because it depends so strongly on the volume of space traffic, which in turn is dependent upon many user activities besides those included in the present frame of reference. *It is clear that space science and applications by themselves are insufficient to justify the cost of developing the shuttle.*" (emphasis added)

I believe, therefore, that there is a compelling case for rejecting—or at the very least, postponing—Senate authorization of any further funds for development of the space shuttle. The case against the shuttle centers on (1) its concealed and burgeoning costs, and (2) the absence of any clear-cut policy to justify or guide such a massive expenditure.

THE SHUTTLE'S REAL COST

As the Committee well knows, the shuttle will require a large and expanding commitment of limited Federal resources. The $227.9 million for the shuttle requested by NASA for FY 1973 is merely the tip of a multibillion dollar iceberg. According to NASA's own latest estimates, the total development and investment costs for this transportation system are *$8 billion.*

It should be noted that this $8 billion figure includes the space tug—an $800 million vehicle which NASA concedes is "an essential future element of the total space transportation system." Despite NASA's admission that many shuttle missions will depend on the space tug, the Agency has consistently *omitted* this item in its public statements on the shuttle's development cost.

This $8 billion estimate assumes that the actual development and procurement cost of an extremely complex technological program like the shuttle can be accurately predicted. Yet in light of the enormous cost overruns experienced in almost every large-scale aerospace and defense project, there is no basis for such an optimistic assumption. It is quite likely, then, that the ultimate development and procurement costs of the shuttle will greatly exceed $8 billion.

And even without any cost overruns, this estimate is still deceptive, since it does *not* include the sizeable cost of the projected shuttle payloads or its actual operating costs. Thus, the most recent Mathematica Report (a study funded by NASA, which NASA relies on to justify the shuttle) estimates that the shuttle's total program cost over a 12-year period will be $35 billion—which makes this program far more expensive than Apollo.

It should be emphasized, moreover, that this $35 billion figure still does not include the multi-billion dollar cost of developing a permanent manned station to be placed in earth orbit. Because the shuttle is inevitably linked to the eventual development of such a space station, the complete cost of this program—assuming no cost overruns—will approach $40 billion!

Not surprisingly, NASA and the Administration have tried to obscure the real cost implications of this program. Instead of openly focusing the debate on these costs, they have consistently made claims that the shuttle will greatly reduce the cost of space transportation to earth orbit.

For example, in his January 5, 1972 statement on the shuttle, President Nixon claimed that the shuttle "may bring operating costs down as low as one-tenth of those of present launch vehicles." On that same date, Dr. Fletcher, the NASA Administrator, was more specific about the shuttle's capability for reducing space transportation costs: "It is estimated," he stated, "that the reusable space shuttle will reduce the cost per pound of putting a payload into space from $600 and $700 (using existing expendable boosters) to $100." And Dr. Myers, NASA's Associate Administrator, testified last year that the cost might be reduced to "as low as $75 per pound of payload."

However, as Dr. Ralph Lapp pointed out in his testimony before the Committee on April 12, 1972, there is no basis in fact for these extravagant claims. Using the data supplied in the 1972 Mathematica Report, Dr. Lapp concluded that *at the very least,* every pound put into orbit by the shuttle will cost $2,250—which is *3 times* more expensive than the transportation costs of existing launch vehicles.

Here is how Dr. Lapp reached his conclusion:

"Mathematica, Inc. estimates the Launch Vehicle (LV) costs for 514 shuttle flights as $12.0 billion. Dr. Fletcher in his February testimony updated this figure to $13.1 billion. This amounts to *$25.5 million per Shuttle flight.*"

Mathematica, Inc. (Vol. 11 page 6–42) states: "As it turns out, the actual loading of Space Shuttle Systems in terms of *satellite payload weight* comes to about 5,000 pounds on the average (*not* the 40,000 pounds theoretically available)." Thus, a total of 514 Shuttle flights equals a total of *2.6 million pounds of orbital payload.*

If we divide $25.5 million by 5,000 pounds, we get a unit price of $5,100 per pound placed in orbit. This, I maintain, is the true price since it is based on full accounting of all new appropriated dollars for the space program transportation system. However, proponents of the Shuttle may argue that they refer their unit prices *only* to operating costs without figuring in research, development, test and engineering and shuttle investment. Well, that isn't the way General Motors figures it when I buy a car, but even if we look at operating costs the unit price is nowhere near President Nixon's goal.

Although operating costs for the latest configuration of the Space Shuttle are undergoing almost monthly revision, the latest figure I find is that of $10.5 million per shuttle flight. This figure is, in my opinion, a highly optimistic one since it assumes that the solid rocket motor (SRM) cases will be used as many as 20 times. Inferior multiple use of the booster could double the unit operating cost. However, accepting the $10.5 million statistic and dividing by 5,000 pounds yields *$2,250 per pound placed in orbit. Thus even on this lowest Shuttle cost basis, the unit cost is triple that specified by Dr. Fletcher for conventional expendable rockets.*"

Based on NASA's own data, this analysis conclusively demonstrates that the shuttle *cannot* achieve the savings in space transportation costs claimed by NASA and the Administration.

In fact, as Dr. Lapp observed, "the space shuttle will, according to NASA's own numbers, *be more expensive than a variety of launch vehicles which NASA now uses.*"

Confronted with this analysis, NASA seems to have abandoned its earlier claims (which it extensively promoted in the media and before the Congress) about the shuttle's alleged reductions in existing transportation costs (See NASA's comments on Dr. Lapp's testimony, *Congressional Record,* 13789). Instead, it rests its entire economic case for the shuttle on the reports of its contractors—particularly the Mathematica Report. This report concluded that the shuttle is economically feasible "assuming a level of space activity equal to the average of the United States unmanned program of the last eight years."

The Mathematica study constructs a future scenario of 514 space missions over a 12-year period. On the basis of this scenario, it concludes that the U.S. will "save" $7 billion by using the shuttle instead of existing launch vehicles. However, this finding is based on the *assumption* that the U.S. will spend *$42 billion* using expendable vehicles for earth orbital missions during this 12-year period. Accepting this $42 billion program, Mathematica concludes that the shuttle's total program cost will be "only" $35 billion—thus, leading to the "savings" of $7 billion.

But the Congress has never approved such a $42 billion program. And until it does, any projections of shuttle economies based on such an escalation in future space activity are meaningless and deceptive.

Furthermore, the Mathematica Report compares the development and procurement costs of existing launch vehicles—which are well-defined—with NASA's *estimates* of the shuttle's development and procurement costs. But as Dr. Oskar Morgenstern (the Chairman of the Board of Mathematica) told the Committee, all of the proposed shuttle designs have "considerable cost uncertainties" attached to them. "Given the advance in space transportation proposed by the space shuttle system," Dr. Morgenstern continued, "these cost uncertainties are prominent."

Dr. Lapp made the same point in his testimony:

"I would like to emphasize that any comparison of Space Shuttle and current expendable space vehicles must take into account the fact that in the development of any new technology contractor estimates of systems costs are hardly reliable. Rand studies (Alvin J. Harman "A Methodology for Cost Comparison and Prediction" August 1970 RM–6269–ARPA and Robert Summers "Contractor Estimate and Prediction of Actual Weapons Costs: March 1965 RM–3061–PR) show that contractor estimates are invariably low and that actual costs exceed the estimates by 80 percent."

Thus, if NASA's relatively speculative cost estimates for the shuttle prove to be unreliable—which is quite likely—Mathematica's fragilely constructed rationalization for the shuttle will collapse.

Finally, it should be emphasized that Mathematica carried out its economic analysis solely on the basis of space traffic data provided to them by Aerospace, Inc. and Lockheed Missiles and Space Company—all three NASA contractors.

I do not believe that we should make another multi-billion dollar commitment to a new space program *solely* on the basis of studies solicited and paid for by the agency which has the greatest stake in this decision.

In an *independent* analysis of the Mathematica study, Dr. Lapp concluded that "instead of 'saving' $7 billion, the Shuttle could actually 'cost' us $19 billion more for the U.S. space program."

Regardless of whether the Committee agrees with every point in Dr. Lapp's analysis, he has raised serious questions—questions which deserve to be examined in an impartial study by a body which is free of any conflicting interests and which is in no way dependent on NASA.

LACK OF CLEAR-CUT POLICY

Beyond these serious questions about the hidden costs and cost-effectiveness of the shuttle, there is another basic reason for opposing this project.

It seems to me self-evident that the Congress should not approve such massive spending of tax money for development of the shuttle—or for development of any other space transportation system—until we have established a realistic space program for the future. With the impending phase-out of the Apollo program, however, the nation simply lacks any agreed-upon set of objectives—any coherent future policy—for our space program. Only *after* Congress has approved long range missions in space and defined their probable costs would we *then* consider whether an expensive new transportation system to earth orbit is really required—or whether we can save billions by continuing to rely on existing expendable boosters.

Instead, NASA is urging us to approve a multi-billion dollar investment in the space shuttle *before* these long term goals in space are established as a matter of national policy. NASA openly admitted this in responding to Dr. Lapp's assertion that the U.S. has not approved the $42 billion program for orbital missions projected in the Mathematica Report:

"Of course," NASA stated, *"the United States has not approved in detail any space program for the 1980's;* NASA and DOD will continue to seek approval from the Administration and the Congress of their space activities—program by program—as they now do each year." (See *Congressional Record,* page 13790).

This *ad hoc,* improvised approach may have been feasible so long as NASA was operating within the general context of the Apollo moon program. But with the end of Apollo in sight, neither the public or the Congress—and apparently not even NASA—have an overall strategy and purpose to guide the enormous investments we are now being asked to make. This purposelessness and lack of policy makes no more sense than it would in national defense, in transportation programs here on earth, or in any other type of public program.

What we are being asked to do, then, in approving the shuttle, is to purchase a fantastically expensive vehicle with no real idea of the legitimate and worthwhile transportation demands for that vehicle.

But one thing is certain: If NASA has its way, a commitment to develop the shuttle inevitably will close off certain policy options and back us into others without the slightest public debate on realistic space goals for the future.

And without an approved space program for the future, any analysis of the shuttle's cost-effectiveness—such as the Mathematica Report—is highly speculative and can only be hypothetical. We should keep in mind that Mathematica rests its conclusions on the completely unwarranted assumption that the U.S. will have a $42 billion earth orbital space program over a projected 12-year period.

In a March 29, 1972 speech at the University of Toledo, Dr. Ralph Lapp aptly characterized NASA's advocacy of the shuttle:

"I submit that NASA is putting the cart before the horse—or the rocket before the payload—in focusing Congressional attention on a launch vehicle when it should, in fact, be examining the nature of the future U.S. space program. The only way you can make the Space Shuttle even begin to look economically attractive is to make it a weekly work horse for boosting huge payloads into orbit. I submit that before we get ourselves into a massive trucking operation, we ought to ask ourselves what is the basic purpose and payoff of this vastly expensive activity."

The fact that the shuttle is viewed by NASA as an end in itself—rather than as a transportation system—is demonstrated by the shifts and zig-zags in this project since it was first proposed several years ago. In its desperation to get the shuttle funded, NASA has repeatedly changed its design, purpose, and justification—not to meet legitimate scientific or technological demnads, but to make it politically salable.

In 1970, the shuttle and station were presented by NASA as a joint project—the basis of what NASA called "a new epoch in manned space flight." The Agency justified the shuttle primarily as a reusable "logistical truck" for carrying men and supplies to a permanent manned space station in earth orbit.

In early 1971, NASA—responding to budgetary pressure—argued that the shuttle was no longer related to development of the station and that it could be justified on its own merits. Within the space of one year, NASA completely changed the shuttle's mission and its justification. As one NASA official put it:

"This does represent a reversal of priorities. Initially, we thought of the shuttle only in terms of the station; now the shuttle is to the fore alone."

NASA's 1971 version of the shuttle was a reusable, two-staged vehicle—with both stages piloted by men. The estimated development cost of that shuttle was $12.8 billion.

Prior to last year's debate on this issue, NASA *again* realized that it would be difficult to persuade the Congress to fund such a costly development program. On June 16, 1971 the Agency issued a release stating that it was actively examining a "phased approach" to the "development of a reusable space shuttle system in which the orbiter vehicle would be developed first and initially tested with an interim expendable booster." In other words, NASA was considering deferring a reusable, two-staged shuttle in return for a partly reusable vehicle.

Finally, on January 5, 1972, the President announced still another shuttle design. This design—now being considered by the Committee—consists of a partly reusable, unmanned booster (which NASA assumes will be reused as many as 20 times) and a manned orbiter (which NASA claims is capable of carrying out 100 space missions.)

One clear fact emerges from this pattern of shifting justifications and changing designs: NASA desperately wants this multibillion dollar project, and will seek any rationale to justify its development.

What we see, then, is a classic case of a program and agency in search of a mission. Instead of the normal process of presenting a clear and consistent justification for a program—and then seeking to fund it—NASA wants to develop this project on a "fund now, justify later" basis.

There is no more vivid example of the murkiness of NASA's position—and the confusion caused by an absence of coherent policy—than the ambiguous relationship between the space shuttle and the space station. First, NASA presented the shuttle and station as a joint project—with the shuttle serving as a logistical truck to the station; then, NASA claimed that the shuttle had been "decoupled" from the station; and finally, at the beginning of this year's debate, the station again emerged as an integral part of the program to develop a shuttle.

In his January 5, 1972 statement, Dr. Fletcher stated that "farther in the future," the shuttle will be used to "resupply with men and equipment space modules which themselves have been brought to space by the space shuttle." Dr. Myers (NASA's Associate Administrator for manned space flight) was even more specific in his recent testimony before the Committee; he stated that one of the shuttle's primary missions will consist of "Space Station logistic support." And as Dr. Lapp pointed out, the Mathematica Report, in its tabulation of future space shuttle missions, listed a minimum of 62 flights to a space station.

It is obvious then, that the space station is very much a part of NASA's future plans. Nevertheless, NASA persists in attempting to focus this debate on the shuttle alone. They realize that a joint shuttle-station project raises two significant problems.

First, the simultaneous development of both the shuttle and station will create an enormous budgetary strain. In 1970, NASA estimated that the station's development would cost approximately $7 billion; recently, this estimate has decreased to $3 billion. But like estimates for the shuttle itself, I believe that these figures are most unrealistic and that the final costs of the station will be a great deal higher than NASA claims.

And second, the space station is based on the unproven assumption that man can function effectively in a space environment for long periods of time.

A 1969 Report by the House Subcommittee on Space Science and Applications stated that:

"If there is an ultimate limiting factor (to exploring space), it may well be the length of time through which man can endure the influences of the hostile environments encountered beyond the earth. The extent and limits of human frailty or endurance have not yet been established."

Weightlessness and other special effects of the space environment may be extremely deleterious and even fatal to man after extended space flight. The Biosatellite III mission (which resulted in the death of a monkey after 8½ days of a scheduled 30-day flight), the medical reports on the cosmonauts aboard the Soyuz flights, and the problems experienced by our own astronauts have reinforced the view in the scientific community that many unanswered questions remain about the biomedical effects of long duration space flight.

NASA's Skylab project is designed to determine the feasibility of manned operations in a space environment over long periods of time. The first of these Skylab missions is scheduled for 1973; and until the results of these missions are evaluated, we will not know whether man will be able to use the space station. Even if it is demonstrated that man can survive in such an environment, the station will undoubtedly have to be tailored to solve various biomedical problems.

It is therefore senseless to begin funding for a giant space station before we have even flown the small one which is supposed to test the concept of space station flight. As Air Force Secretary Seamans told the Committee last year,

". . . we should wait until we have had further experience with the Skylab program and the shuttle before we embark on a space station mission. Knowledge derived from Skylab will give us a greater understanding of the role that man can perform in space and only after a thorough investigation and analysis of the shuttle, can we predict with reasonable accuracy our ability to resupply such a station economically and to ferry astronauts, scientists, and engineers back and forth from the space platform."

Thus, NASA's claim that the shuttle can be justified independently of the station presents it with a very basic dilemma: with the station, it has a $15–20 billion development program over the next decade which even NASA knows Congress and the American taxpayer will not support and it has a program which depends on unanswered questions about the *feasibility* and *value* of long duration manned space flight; "decoupled" from the station, the shuttle is left without a primary purpose and without the activity needed to enable it to *begin* to make sense from a cost point of view.

It is evident that NASA has resolved this dilemma by deciding to proceed as soon as possible (perhaps after clearing this year's hurdle on the shuttle) with rapid development of the station. As Dr. Low of NASA told the Committee last year, expedited development of the station is very much a part of NASA's plans:

"I think it is a question of timing," he stated, "as to when we should move out with the space station. *I am not sure we need to wait until the shuttle and the Skylab are fully developed.* It may well be that as our space program moves out into the 1970's that we would decide sooner rather than later to start the full development of the space station as well."

NASA's strategy boils down to this: once the shuttle is no longer endangered by Congressional opposition, the other multi-billion dollar shoe—called the space station—will drop. We will be told that the station's development logically follows from development of the shuttle. And we will be back to where we were when NASA first presented the shuttle and station as a joint project in 1970.

As one commentator perceptively noted, "The shuttle is a bundle of oddities such as even the space age has not seen before. It is really only half of a bigger project sonorously labeled the 'Space Transportation System.' The other half is a large manned orbital station and is what the shuttle originally was meant to shuttle to and from. Only it's becoming apparent that there isn't enough money to build the two halves concurrently. So the shuttle will be built first. And when it is built, probably it will have no place to go (fifty times a year) until the space station comes along five or six years later."

Underlying NASA's shifting positions on the shuttle and its obfuscation of the role of the station is one central fact: NASA has persistently refused to confront the basic policy questions of what we expect to achieve in space, for what purpose, and at what cost.

To the extent that NASA has considered future policy, it is apparent that they are determined to keep intact their large bureaucracy built around the manned space program. Thus, the NASA Administrator has stated that a primary reason for developing the shuttle is that it "is the only meaningful new manned space program which can be accomplished on a modest budget."

NASA's belief that the shuttle is essential to *its* bureaucratic future—particularly to its future in *manned* space flight—is certainly *not* a sufficient reason for funding this multi-billion dollar project. Before this large-scale undertaking (or any other public expenditure) can be justified to the American taxpayer, the Congress must be convinced it is designed to meet real and pressing public needs.

I do not believe this burden can be met *unless* there is a clear and precise definition of a future space program in terms of launch vehicles, payloads and missions. As NASA concedes, no such program has even been presented to the Congress—let alone approved by it.

Ironically enough, NASA's own contractor—Mathematica, Inc.—aptly summarized the criteria by which the shuttle should be judged. As they emphasized in their Report of January 31, 1972,

" . . . *any investment can only be justified by its goals*. This applies to business as well as to government, hence also to NASA. *A new, reusable Space Transportation System should only be introduced if it can be shown, conclusively, what it is to be used for and that the intended uses are meaningful to those who have to appropriate the funds, and to those from whom the funds are raised*, as well as to the various government agencies that undertake space activities." (emphasis added)

The demonstrated failure of the shuttle proposal to meet these criteria makes it clear that the Congress cannot at this point sanction this multi-billion dollar expenditure.

I therefore urge this Committee to delete all funds requested by NASA for development of the Space Shuttle.

Thank you for your consideration of this presentation.

Sincerely,

WALTER F. MONDALE.

ALEXANDRIA, VA., *April 24, 1972*.

Senator WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: I am writing to you with regard to my concern that the U.S. Senate will soon be considering authorization of funds for a Space Shuttle Transportation System without adequate airing of the technical and financial aspects of this venture.

Shuttle advocates have pressed their claims for building the new Shuttle on the grounds that it is a $5.5 billion venture guaranteeing great economies for the United States. In reality, it is a technological component of a space program which by NASA's own admission will amount to a minimum of $35 billion.

I submit that the U.S. Senate should be debating the $35 billion program (a minimum, I believe, because my own estimates place the true costs closer to $50 billion) not a piece of hardware for the program.

In announcing the shuttle development on January 5th of this year, the White House decried the high costs of space transportation—of lifting a pound of payload from earth to orbit—and argued that the shuttle would drastically reduce these costs. A NASA statement on the same day specified a cost of $600–$700 for hoisting a pound of payload into orbit as the best achievable today. A figure of $100 per pound for the Space Shuttle has been widely advertised by NASA and was used extensively in the House of Representatives on April 20th when the NASA authorization was passed for the shuttle.

Now I submit that the U.S. taxpayer is entitled to know what the facts are about the Space Shuttle's claimed economy. It was for this reason that I spent considerable time analyzing the pertinent NASA data on the Shuttle. As you know, I testified before the Senate Committee on Aeronautical and Space Sciences on April 12th. Senator Clinton P. Anderson, chairman of the Committee, very kindly agreed to my testifying and was most courteous in presiding at the session when I appeared before the Committee. Confronted with what must have seemed most contradictory statements about the Shuttle's economics, he very properly sought NASA's comments on my testimony. These were reproduced on pages 13789 and 13790 of the *Congressional Record* for April 20th.

NASA's "rebuttal" to my testimony is a completely inadequate response to the points which I raised regarding the Space Shuttle. I have herewith addressed a commentary on the "rebuttal" to Senator Anderson and I hope that NASA can be prodded into releasing the pertinent data on the Space Shuttle.

I would emphasize the fact that the American people are being asked to buy a Space Shuttle program, advertised as having a price tag of $5 billion, whereas it is in fact merely a down payment on a program with almost ten times the cost. It seems to me that the U.S. Senate should not rush into a hasty decision on a program which may cost twice as much as Project Apollo to land men on the moon, especially when the Space Shuttle program has lurched about on a swiftly-changing technological basis. Last year NASA promoted a $12.9 billion *fully reusable* Space Shuttle. This year it is promoting a $5.5 billion *partially* reusable Shuttle. It has signally failed to bring forth the pertinent cost data on this new booster which will utilize two 156 inch SRM (solid rocket motors). These will be jettisoned over the ocean, moderated in descent by parachutes and then ocean-recovered to be refurbished for future use.

The SRM cases to be recovered are very fragile structures which are subject to zero re-use in the event of improper impact on the ocean surface. I would very much like to see NASA's analysis of this particular problem, both from a technical and cost-analysis viewpoint. Would it be possible for you to acquire this information from NASA?

You will note that NASA has failed to tell the American taxpayers just what kind of space program it plans for the future in terms of launch vehicles, payloads, missions, cost-per-payload and cost-per-mission. Actually, my argument with NASA over the economics of the Space Shuttle could be resolved very easily. Simply, have NASA give the Senate an orderly mission-by-mission, payload-by-payload, launch vehicle-by-launch vehicle itemization of its program. First, by providing pertinent cost data for conventional vehicles (which we now have or have in production) and then for the Shuttle with full display of all the cost data and the range of uncertainty needed to embrace the technological problems of the Shuttle. Then it should be possible to reach a sensible agreement on our difference. We do not need a four volume analysis of sophisticated mathematical economics and theory. We need some down-to-earth data on specific programs and launch vehicles and what NASA intends to do with them.

Sincerely,

R. E. LAPP.

THE SPACE SHUTTLE SYSTEM

(Statement of Ralph E. Lapp)

I appreciate this opportunity to testify in opposition to the proposed Space Transportation System known as the Space Shuttle. While the views I express are my own, I have consulted with a number of space scientists in preparing my testimony. A number of scientists are manifesting a growing interest in "adversary science and technology"—this being a movement which, in my opinion, is an attempt to exercise a set of checks and balances on the unprecedented activities of research and development. The Space Shuttle is an example of a complex and highly costly technology which is difficult for the layman to comprehend. A number of adversary scientists are attempting to interpret such technological issues free from the bias of the promoter's eye.

1. President Nixon made a statement on the Space Shuttle on Jan. 5, 1972 in which he stressed the economies of the Shuttle in these words:

"The new system will differ radically from all existing booster systems, in that most of the new system will be recovered and used again and again—up to 100 times. The resulting economies may bring operating costs down as low as one-tenth of those of present launch vehicles."

2. The layman would be justified in welcoming such a ten-fold reduction in space economy IF it is achievable and IF transportation costs are indeed the prime determinant of space costs. I believe that the data I shall present demonstrate that:

(A) Space Shuttle transportation costs cannot achieve their advertised rates, and

(B) Transportation is not the cost-driver of the unmanned space program.

3. To make specific the projection of Shuttle transportation costs, I quote from Dr. Fletcher's Jan. 5, 1972 White House statement: "It is estimated that the reusable space shuttle will reduce the cost per pound of putting a payload into space from between $600 and $700 to $100." NASA Associate Administrator Dale D. Myers testified last year that the cost might be reduced to "as low as $75 per pound of payload." Aerospace industry officials (House hearings, Science and Astronautics Committee, FY 72 Pt. II, page 482) have projected costs as low as $50 per pound.

4. NASA's case for the economy of the Space Shuttle is tied to the report "Economic Analysis of the Space Shuttle System" by Mathematica, Inc., a NASA contractor. The Committee has asked me to be prepared to comment on the 1972 Mathematica, Inc. report and on March 13th forwarded the 4 volume report to me. I am happy to respond to this request.

5. Mathematica, Inc. (Executive Summary dated Jan. 31, 1972, page 0–8) estimates the Launch Vehicle (LV) costs for 514 Shuttle flights as $12.0 billion. Dr. Fletcher in his February testimony updated this figure to $13.1 billion. This amounts to *$25.5 million per Shuttle flight*.

6. Mathematica, Inc. (Vol. II, page 6–42) states: "As it turns out, the actual loading of the Space Shuttle Systems in terms of *satellite payload weight* comes to about 5,000 pounds on the average (*not* the 40,000 pounds theoretically available)." Thus a total of 514 Shuttle flights equals a total of *2.6 million pounds of orbital payload*.

7. If we divide $25.5 million by 5,000 pounds, we get a unit price of *$5,100* per pound place in orbit. This, I maintain, is the true price since it is based on full accounting of all new appropriated dollars for the space program transportation system. However, proponents of the Shuttle may argue that they refer their unit prices *only* to operating costs without figuring in research, development, test and engineering and shuttle investment. Well, that isn't the way General Motors figures it when I buy a car, but even if we look at operating costs the unit price is nowhere near President Nixon's goal.

8. Although operating costs for the latest configuration of the Space Shuttle are undergoing almost monthly revision, the latest figure I find is that of $10.5 million per Shuttle flight. This figure is, in my opinion, a highly optimistic one since it assumes that the solid rocket motor (SRM) cases will be used as many as 20 times. Inferior multiple use of the booster could double the unit operating cost. However, accepting the $10.5 million statistic and dividing by 5,000 pounds yields *$2,250 per pound placed in orbit*. Thus even on this lowest Shuttle cost basis, the unit cost is triple that specified by Dr. Fletcher for conventional expendable rockets.

9. It appears to me that someone has sadly misformed the White House on the costs of the Shuttle and, as a result, the American taxpayers have been misled into thinking they are getting some kind of a space bargain. Quite the contrary, the *Space Shuttle will*, according to NASA's own numbers, *be more expensive* than a *variety of launch vehicles which NASA now uses*. I refer to data given on page 389 of this Committee's FY72 Authorization Hearing, Part I. I believe that ad-

versary science serves the citizen-taxpayer well when it forces NASA to face facts which compel a realistic assessment of the Shuttle.

10. Since Mathematica, Inc. (1972 Executive Summary, pg 0–1) makes as its *primary conclusion:* (Emphasis, Mathematica's)

"The development of a space shuttle system is economically feasible assuming a level of space activity equal to the average of the United States *Unmanned* program of the last eight years.

I believe it is pertinent to tabulate the *actual* NASA launch vehicle procurement costs for the **FY** 1964–1971 period, for unmanned missions:

[Dollar amounts in millions]

Fiscal year	LV procurement costs	Percent of NASA budget
1964	$129.8	3.0
1965	154.4	3.0
1966	177.6	3.0
1967	117.6	2.2
1968	124.5	2.6
1969	96.9	2.4
1970	107.8	3.0
1971	124.9	3.7
1964–71 total	1,033.5	22.9

Total LV development costs are $631 million.

I think it is very clear that in the past 8 year period launch vehicle costs for NASA have been a very small part of its budget. Yet a layman reading the Mathematica, Inc. primary conclusion cited above would be led to conclude that the Space Shuttle would be economic for unmanned NASA flights. He would, perhaps, be unaware that Mathematica, Inc. was using as its actual baseline Department of Defense (DOD) and NASA unmanned flights. This confusion of military and civil space programs persists throughout the Mathematica, Inc. report and makes difficult a realistic appraisal of the Space Shuttle in terms of the NASA program. There is also confusion injected because of a blending in of unmanned and manned space programs and an abundance of assumptions which are not made clear in the Mathematica, Inc. analysis.

11. In the 1964–71 period U.S. Navy and Air Force space missions dominated the U.S. space activity. To the best of my knowledge there were 369 space missions conducted by DOD. Payloads tended to be heavier than NASA's with emerging dependence upon Titan III–C space vehicles, whereas the NASA total of some 150 space launches employed smaller LVs such as Scout and Delta. Defense space spending amounted to about $14 billion over the past 8 year period. Therefore any comparison by Mathematica, Inc. of this period for Shuttle versus Current Expendable LVs is necessarily heavily weighted in the direction of defense missions. If the Space Shuttle is intended to be a military vehicle, then I submit it ought to be justified and funded by the Department of Defense.

12. It is pertinent to note that during recent years NASA payloads have averaged just slightly under 1,000 pounds. Mathematica, Inc. has projected an average of 5,000 pounds per Shuttle mission. This means two things: first, averaging in defense payloads which have been heavier than NASA's and second, programing larger and heavier payloads for NASA missions. Thus, the Mathematica, Inc. projections call for increased space activity, as measured by payloads, but the rationale for the Space Shuttle seems to be that it is a cheaper means of space transportation. This requires that we focus attention on the real cost-driver of the space program—the cost of the payloads.

13. In order to pinpoint this discussion—and to comply with the Committee's request that I make my testimony responsive to the Mathematica, Inc. 1972 report, I am reproducing from page 0–8 of the Executive Summary Table 0.1 SPACE TRANSPORTATION SYSTEMS COST SUMMARY (1) Source: Adapted from Aerospace Corporation and Contractor Data. Modified NASA and DOD Baseline, 514 Space Shuttle Flights (1979–1990).

TABLE 0.1

[In millions of dollars]

	Current expendable	New expendable	Space shuttle and tug
Expected launch vehicle costs:			
Nonrecurring costs (fiscal years 1972–87)	1,620	2,000	7,450
Recurring costs (fiscal years 1977–90)	10,600	8,760	4,800
Total launch costs	12,000	11,000	12,000
Expected payload costs (satellites):			
Research, development, test and engineering (fiscal years 1975–90)	11,000	10,600	9,880
Recurring costs (fiscal years 1976–90)	18,800	18,400	12,700
Total payload costs	30,000	29,000	23,000
Expected total space program costs	42,000	40,000	35,000

14. A quick glance at the assembled statistics might lead one to the conclusion that the Space Shuttle promises $7 billion in savings. That is the difference between program costs for current expendable launch vehicles and the shuttle costs. This is the basis on which the program is being sold. But Mathematica, Inc. projections should be carefully examined item by item to determine what assumptions they may involve. First of all, I maintain that the United States has not approved $42 billion space program in the current expendable category. Therefore, I would question the basic premise of Mathematica, Inc. in its cost projections. In order to determine just what the United States would get for such a $42 billion expenditure, I would recommend that Mathematica, Inc., or, preferably, NASA, should make a program presentation to substantiate this $42 billion figure.

15. I would like to emphasize that any comparison of Space Shuttle and current expendable space vehicles must take into account the fact that in the development of any new technology contractor estimates of systems costs are hardly reliable. RAND studies (Alvin J. Harman "A Methodology for Cost Comparison and Prediction." Aug. 1970 RM–6269–ARPA and Robert Summers "Contractor Estimate and Prediction of Actual Weapons Costs" March 1965 RM–3061–PR.) show that contractor estimates are invariably low and that actual costs exceed the estimates by 80 percent.

16. Additionally, I would stress that the Space Shuttle involves a number of significant technological risks. The degree of these risks was undoubtedly a prime factor in NASA's backing away from a fully reusable manned booster. But the unmanned booster still involves risks in that ocean recovery of a huge 156 inch SRM case is a great extrapolation of recovery technology. The way to overcome technological risk is well known and involves parallel paths of development and improvision—both of which add cost. It would be highly useful if NASA would perform sensitivity analyses on its areas of high risk and determine the costs which may be involved in these technological sectors.

17. Focusing attention on Col. 1 of Table 0.1, I do not see why *any* funds are included for non-recurring costs of current expendable vehicles. These vehicles are already developed and their costs have been paid. The $1.62 billion listed actually involves $267 million for RDT&E and investment of Titan IIIB/D/M and $550 million plus $800 million for Big Gemini. This is scarcely fair to include these costs under the "current expendable" category. Therefore, I would strike this $1.62 billion from the column.

18. As for recurring costs of current expendable launchers, I note first that this $10.6 billion figure includes $2.15 billion for Big G. There is also $0.25 billion for Intermediate 21 and since Mathematica, Inc. states (Vol. II, p. 5–16) that: "Based on the very limited flexibility and applicability of this vehicle it is quite unlikely that it will be used in the 1980s." I would strike this from the column. Since Big G *and* the Shuttle are redundant I would suggest subtracting the $2.35 billion total from the $10.6 billion leaving a residual *$8.25 billion* which then becomes the *total* launch costs rather than the $12.0 billion figure. This is a "saving" of $3.75 billion and involves no diminution of the unmanned NASA or DOD program.

19. Looking now at the expected payload costs under Column 1 of Table 0.1, I suggest that the proper way to proceed to analyze this expenditure of $30 billion is to set down the complete list of missions and their individual costs so that a rational decision may be made on the program. I note that Mathematica, Inc. (Vol. II Table 6.21 p. 6–46) tabulates the OSSA payloads by cost (but not by mission) as follows:

Payload cost range (millions)	Number of payloads	Percent of total
$0 to $20	17	4
$20 to $40	242	61
$40 to $60	46	12
$60 to $80	17	4
$80 to $100	1	<1
$100 to $120	22	6
$120 to $140	22	6
$140 to $160	11	3
Over $160	20	5
Total	398	100

My estimate is that these nearly 400 payloads represent a $20 billion cost. I estimate that $10 billion represents 75 payloads each more than $100 million in cost. I believe that there ought to be a very critical examination of each class of mission from the standpoint of science and national priorities. I believe that the large public expenditures involved make it mandatory that mission models such as Mathematica, Inc. has used be more than NASA or NASA contractor inputs. There can be no doubt that the mission model used in Table 0.1 represents a sharp step-up in NASA space activity and that such a program change should be subjected to public examination on a programmatic basis. Furthermore, the mission model should be specifically a NASA model and not a mixed NASA–DOD model.

I note that the 398 payloads dispersed over a 15 year time span represent a biweekly launch rate for OSSA missions—more than double the present rate and that for recent years. I submit that such an increase in the tempo of the civilian space program has not been justified as a legitimate public expenditure. Therefore, I feel that the $30 billion total in this column is unrealistic and, although lacking a specific itemization of missions, I would suggest a more realistic figure would be $20 billion. Such an adjustment automatically feeds back to launch vehicle procurement and would reduce my suggested $8.25 billion figure to about $5 billion.

20. Using the new numbers for column 1, I arrive at a bottom line total of $25 billion rather than the $42 billion stipulated by Mathematica, Inc. I further believe that if the scientific and technical community was given this figure as a ceiling, it would be possible to define an aggressive and rewarding space program for the 1975–1990 period.

21. Skipping Column 2 for the moment, I would like to comment on the launch vehicle and payload costs for the Space Shuttle. First, I would note that new numbers need to be inserted for LV costs. The nonrecurring costs of $7.45 billion are now estimated to be $8.1 billion. Using the 1.8 factor of contractor estimate understatement (No. 15) has 8.1 billion figure could *escalate to $14.5 billion*. It is not necessary to provide a parallel escalation for conventional launch vehicles since their research, development, test and engineering costs have been paid.

22. The recurring costs for the Space Shuttle estimated at $4.8 billion by Mathematica, Inc. as of Jan. 31, 1972 need to be revised in the light of the hardware decisions made in March. Clearly, recurring costs will depend on the orbiter functioning properly for 100 or more times and refurbishment costs being held in line. More critical to the recurring cost total for the Shuttle is the uncertain reusability of the booster. It is highly likely that the $4.8 billion figure cited by Mathematica, Inc., will escalate considerably. Total launch costs for the Space Shuttle certainly exceed $13 billion and for the 514 flights specified in Table 0.1 it is quite possible that a *$20 billion total* might result.

23. In any event any comparison of the launch vehicle costs for current expendable LVs, which we have, and the space shuttle, which we do not have, must lead to a favorable cost margin for existing launch systems. No matter how one tries, the Space Shuttle cannot claim an economic advantage based on launch costs. I agree with Mathematica, Inc., in its conclusion (Vol. II, page 6–43): "What matters are the actual space missions performed in the 1980s and used in the economic analysis when comparing Space Shuttle Systems to expendable modes of operations. What matters most, in the economic analysis, is the cost of payloads and of space missions in the 1979–1990 period." Let us therefore look at the cost of the Shuttle payloads.

24. Table 0.1 lists $9.9 billion as R, D, T & E costs of Shuttle payloads or $1.1 billion less than for conventional launch vehicle payloads. It is however in the area of recurring costs that Mathematica, Inc. claims a Shuttle advantage. The 12.7 billion figure is $6.1 billion less than for conventional LV payloads. Economies claimed for the Shuttle derive from the potential of making larger and heavier satellites which can be cheaper per pound of instrumentation. No doubt the ability to add weight to a satellite may permit less costly microminiaturization of instrumentation but this is a trade-off situation. Furthermore in making comparative costs of placing a pound of payload in orbit the Shuttle payload cannot then be compared on a 1 for 1 basis since the conventional less weighty payload is then equivalent to x pounds of Shuttle payload. This means that the $5,100 unit price per pound of payload listed in Sec. 7 needs adjustment upwards. This means that instead of the Shuttle providing transportation for one-tenth the unit price of conventional launch vehicles, it is *actually ten times more expensive*. It is difficult to state how much the higher payload capacity of the Shuttle allows reduction in payload costs on a pound basis, but the trend is contrary to the thrust of technology which aims at more compact, solid-state, instrumentation of high reliability.

25. Apart from the economy of permitting bulkier instrumentation, the Space Shuttle is claimed to be economical in increasing the reliability of satellities placed in orbit by allowing man to be on board and make a final check-out of the orbital device prior to dispatch into orbit. Since many orbital devices have achieved a 95% reliability in operation, this feature of the Space Shuttle does not appear to be highly significant. Furthermore, the increasing complexity of orbital devices calls for a much greater payload of check-out devices and personnel competence at the check-out point. If the orbital device is checked out prior to launch it does not appear overly advantageous to provide a final checkout prior to orbital insertion.

26. Proponents of the Space Shuttle place greater emphasis on the capability of retrieving orbital devices, servicing them in orbit, and in bringing them back to earth for refurbishment and redeployment in orbit. Here one is faced with a trade-off situation in which the unit cost of the orbital device vs the cost of retrieval, refurbishment and redeployment is of critical importance. As mentioned earlier, there is also the relative impact of obsolescence of the orbital device. What is also involved here is the relative advantage of a single massive orbital device vs a number of smaller, lower-price, units. In the communications satellite field, there appears to be a trend toward smaller devices which grant greater flexibility and back-up to the deployed system. Rather than replace a malfunctioning communications satellite with the same device, retrieved and refurbished, it might be more economic to launch a new, higher-capacity, satellite. I believe that it would be very useful to solicit the views of Comsat Corporation on this matter.

Mathematica, Inc. bases its estimates of retrieval/refurbishment economies on Lockheed Missiles and Space Company (LMSC) studies. LMSC studied (NASW–2156 Contract, LMSC–A990594, June 30, 1971 "Payload Effects Analysis") three devices—OAO (Orbiting Astronomical Observatory), SEO (Synchronous Equatorial Orbiter) and SRS (Small Research Satellite). It concluded that the savings would be significant., i.e. refurbishment cost ratios of 0.32 to 0.39 for Shuttle vs conventionally launched satellites. However, there appears to be considerable uncertainty in these estimates. Since LMSC is an aerospace company which would benefit from Shuttle contracts, it is questionable whether Mathematica, Inc. is justified in accepting the LMSC data without considerable adjustment for bias. Conventionally launched satellites are not credited with much of an increase in future reliability and little attention is paid to the contest between refurbishment and technological obsolescence. It would have been highly instructive for LMSC to have performed an analysis of Comsat type satellites and to have carried out sensitivity analyses on a variety of satellites (retrieval/refurbishment as a function of age of the satellite).

The basic problem posed by the retrieval/refurbishment issue is whether or not the traffic in satellite retrieval and refurbishment justifies the development and deployment of a new space system as costly as the Shuttle. Since Mathematica, Inc. has singled out the recurring costs of Shuttle payloads as the sector of maximum "savings" i.e. "$6.1 billion" in comparing Columns 1 and 2, I suggest that a more careful study be made of this sector. I believe that it should be required that Mathematica, Inc. make a very detailed accounting of how this $6.1 billion payload "savings" is to be achieved. By this I mean specification of *all* missions as tabulated in Table 6.20 on page 6–44 of Vol. 11. It will be noted that in this tabulation, Mathematica, Inc. postulates:

	New satellites deployed	Refurbished satellites deployed	On orbit maintenance/refurbishment	Flights to space station
Total NASA	242	274	62	62
Total DOD	103	302	Some	(1)
Total	345	576	62+	62+

[1] Not available

Obviously, Mathematica, Inc., foresees a flourishing business in refurbishment of sick or aging satellites. I suggest that the uncertainties of Shuttle costs, technological issues, mission models and booster reuse do not now permit a 1978–1990 projection such as Mathematica, Inc. has made—or, to put it another way, do not permit public confidence in the projection.

27. I call to you attention the fact that Mathematica, Inc. has listed a minimum of 62 flights to Space Station. I also note that the most recent NASA estimate of the cost of such Space Station development/deployment is $6 billion and that much higher figures have been suggested. If Mathematica, Inc. is going to include earth-to-Space Station flights in its mission model then it should provide for this expenditure under Shuttle payload costs. This inclusion of the Space Station in its mission model makes it clear that buying the Space Shuttle means we are also buying the Space Station.

28. I believe that the foregoing commentary makes it clear that the total payload costs associated with the Shuttle system will not be $23 billion, but will be considerably higher and would probably approach the $30 billion figure cited for the conventional payload. I have suggested in Sec. 19 that the latter could be $20 billion.

29. If we now consider the "bottom line" totals for conventional and Shuttle program costs, the $42 billion figure (Col. 1) for conventional launch vehicles shrinks to $25 billion (Sec. 20) while the $35 billion Shuttle total may in fact soar to over $44 billion. In other words, *instead of "saving" $7 billion the Shuttle could actually "cost" us $19 billion more for the U.S. space program.*

30. It seems to me that we can put space spending in better perspective if we translate the billion dollars total into specific costs per pound. This was done by President Nixon in his Jan. 5th message for costs of transportation. I suggest we do the same thing for costs per pound of satellite payload. For example, if we accept the $23 billion total for Shuttle payload costs given by Mathematica, Inc. (which includes a large credit for satellite reuse) and use the 2.6 million pound orbital payload (Sec. 6) postulated by Mathematica, Inc. we arrive at an *average cost of $8,800 per pound of payload.*

Expressed in other units, *Shuttle payloads will average $550 per ounce.* Thus *Shuttle payloads will average ten times more expensive than their weight in solid gold.*

31. In proceeding to discuss Shuttle costs we jumped from Col. 1 to 3 without consideration of Col. 2, the "New Expendable" category. Referring back to Table 0.1 (Sec. 13) Mathematica, Inc. figures for this category is $1 billion less for total launch costs than for either the conventional or Shuttle launch vehicles. Payload costs are $1 billion less than for conventional LVs and $6 billion more than for Shuttle payloads. It seems to me that Mathematica, Inc. and NASA have skipped over a very important potential cost-saver in space activity. In as much as NASA has opted to recover the massive twin rocket motor cases for the Shuttle booster, it would seem to me completely logical that NASA apply the same degree of optimism to recoverability and refurbishment of Titan-class launch vehicles.

Thus I would recommend that NASA examine the possibility of new launch vehicles of the non-shuttle class. In this examination, I would recommend that an attempt be made to standardize on a launch vehicle so that unit costs can be reduced.

32. In summary, I conclude that the NASA and NASA-contractor basis for the Space Shuttle is inadequate and that the entire issue of launch vehicle choices for the future space program should be restudied. I believe that I have shown remarkable deviations in the cost estimates of NASA and NASA contractors for comparative launch systems.

I appreciate this opportunity to have presented an adversary view of the Space Shuttle System.

THE CVAN-70

Mr. MONDALE. Mr. President, a major issue raised by the military procurement authorization bill, now being considered by the Senate Committee on Armed Services, is the Navy's request for funding a fourth nuclear carrier, the CVAN-70. After a careful review of the most recent congressional testimony on this issue, I am convinced that the Navy has failed to make the necessary case for funding this carrier. The Navy itself estimates that the total investment cost of the CVAN-70 will be approximately $1 billion—which makes this carrier the most expensive ship in history.

On April 11, 1972, I wrote both the chairmen of the Senate Armed Services Committee and the chairman of the Senate Appropriations Committee explaining in some detail my reasons for opposing the funding of the CVAN-70.

Since that time, several letters raising other questions about the funding of this ship have appeared in the Washington Post. The first of these letters, dated April 18, 1972, is from Rear Adm. Gene LaRocque, who recently retired from the Navy; the second letter, dated April 29, 1972, is from Stuart B. Barber, former Assistant Director of the Navy's long-range objectives group.

I ask unanimous consent that these two letters to the Washington Post, as well as a copy of my letter to the chairman of the Senate Committee on Armed Services, be printed in the RECORD.

There being no objection, the following items were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 18, 1972]

LETTERS TO THE EDITOR: CONGRESS AND THE AIR WAR

The presence of a large number of U.S. aircraft carriers currently stationed off Vietnam has encouraged press speculation that the Congress will be stampeded into approving funds for the new aircraft carrier CVN-70. Before Congress commits itself to this billion-dollar carrier, it would be well to ascertain what has been accomplished in the past eight years through bombing in Southeast Asia. What has been the net military effect? At what cost in men, money and aircraft? Has it strengthened or weakened the will of the North Vietnamese? Have eight years of bombing increased our national security? Will more bombing do the same?

A complete analysis of the entire air war in Southeast Asia is long overdue. It should be conducted and made available to the Congress before it takes final action on the new attack carrier requested by the Department of Defense.

GENE LA ROCQUE,
Rear Admiral, USN. (Ret.).
WASHINGTON.

BILLION DOLLAR CARRIER

Your correspondent Rear Admiral LaRoque is entirely correct in suggesting that the value of our bombing in Southeast Asia should be carefully scrutinized by Congress before it approves the proposed fourth nuclear-powered aircraft carrier, budgeted at $951 million. But in fact he fails to state the full case against this ship.

As one who for 30 years has strongly supported naval carrier forces, I consider the Navy's request for this carrier an unconscionable, parochial imposition on the nation, in defiance of national priorities, interests and needs.

In the first place, it is absurd to suggest that a single ship, without its aircraft and escorts, is worth nearly a billion dollars. Only a mind wholly out of touch with the realities of today could believe that it is.

More damning is the fact that the Navy's own studies—as Secretary Laird well knows—indicate that the Navy has grave deficiencies in anti-submarine warfare. The billion dollars could buy a lot of other things far more valuable against submarines—and available sooner—than this CVAN.

There will be much Navy palaver about flying anti-submarine planes from this CVAN. Sure, and you could drop depth bombs from the fantail of a battleship, but that wouldn't justify buying battleships for anti-submarine warfare. For a billion dollars you could build three genuine anti-submarine aircraft carriers. No, the only honest justification for this CVAN is carrying air war against land areas.

What is most disturbing is the disregard, by the Navy and Mr. Laird, of factors one would think basic. For one thing, there has developed a vast national opposition to banging the boondocks of Asia. There is also the problem of the defense budget. These two factors call for a fresh look at our priorities. I believe it generally accepted that our first non-nuclear priority—well ahead of Asia—is NATO. Our anti-submarine deficiencies go to the very heart of the NATO defense. It is news to many people that NATO needs more U.S. attack carriers than the 11 modern ones already funded, when U.S. and other NATO naval forces combined couldn't get our military shipping safely across the Atlantic (let alone bring in essential oil) against submarine opposition.

It would be very healthy if the Congress would stop this mindless perpetuation of our no longer tenable addiction to imposing our will on Asians, and re-focus Pentagon attention on our high priority problems and of sea control.

STUART B. BARBER,
Former assistant director of the Navy's long range objectives group.
ARLINGTON.

APRIL 11, 1972.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, Old Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: As the Committee begins its deliberations on the Military Procurement Authorization Bill, I wanted to repeat my opposition to funding for a fourth nuclear attack carrier, the CVAN-70. A careful review of the most recent testimony has shown again, I believe, that the Navy has failed to make the necessary case for spending $299 million for CVAN-70's long lead-time items, or in the larger sense, for spending approximately one billion dollars overall for this most expensive ship in history.

The basic issue now, as in the past, is how many carriers we need for national defense. The Navy has tried to justify the CVAN-70 on general grounds of fleet obsolescence.

However, even if we accept the Navy's own "rule of thumb" that a carrier is obsolete after 30 years (a very questionable assumption, as I stated in testimony April 8, 1970 before the Joint Senate-House Armed Services Subcommittee on the CVAN-70), the fleet will still consist of the following eleven fully modern attack carriers until the mid-1980's:

Eight large-deck *Forrestal* class carriers, the oldest of which was commissioned in 1955;

One *Enterprise* nuclear attack carrier, commissioned in 1961;

Within the next three years, *two* more nuclear carriers will have joined the fleet.

The oldest of these eleven carriers will not reach the 30-year limit until 1985.

Thus, the burden of proof for this billion-dollar investment in the CVAN-70 is to show why *more than* eleven fully modern carriers are essential to national security. Yet nowhere has the Navy made that case.

Moreover, since a primary mission of carriers is providing tactical air power, there are several important factors—bearing upon the relative merits of carriers vis-a-vis land bases for tactical aircraft—which indicate that a 12th modern carrier is *not* essential—and that 11 carriers or *even less* are adequate to meet our present and future national security needs.

First, there is substantial evidence that carriers are a far more expensive means of delivering tactical air power than land bases.

According to the Navy's own estimates, the CVAN-70 will cost $951 million. But since the Navy only operates the carrier with a task force, consisting of various escort and logistical ships, and since every carrier is equipped with an air wing, these procurement costs must also be considered.

Several years ago, the Navy estimated the four destroyer escorts for a carrier and a carrier's air wing would cost approximately $1.3 billion—bringing the total procurement cost for a typical carrier task force (which does not include operating costs, basing costs, and other logistical ships) to almost $2.3 billion. Needless to say, these costs will often run a great deal higher.

But even this is not a complete picture. For the Navy normally deploys two task forces "on station" in the Mediterranean and three in the Western Pacific on a continual basis.. For every carrier task force "on station", two must be held in reserve as back-ups, since the normal rotation time of a carrier is 4 months. The investment cost of maintaining one nuclear task force on continued deployment, therefore, amounts to a multiple of 3 times the cost of one task force—or $6.9 billion.

A land base is a far cheaper operation. According to the Air Force, a base in the Pacific can be built for under $75 million; the Bare Base Support Program can convert an existing civilian runway for about $50 million.

It is not surprising, therefore, that studies by the Office of the Assistant Secretary of Defense for Systems Analysis have concluded that a sea-based wing is 40% *more expensive* than a land-based wing. I believe all these cost factors argue compellingly against procuring an additional nuclear carrier at this time.

In addition to the comparative cost of land and sea-based air power, there is also the issue of the relative vulnerability of these two means of delivering tactical air power. Again, the evidence indicates that the carrier suffers a major disadvantage in its vulnerability to attack by modern missiles and submarines.

While modern technology has augmented the defense of land bases—including new methods for protection, maintenance, and rapid repair—the latest weapons and reconnaissance developments have made carriers easier to find and to damage to the point of making them inoperable. Furthermore, the necessary compensation for this increased vulnerability—the need to maneuver widely and commit the carrier's air power to defensive actions—diminishes the overall offensive capability of the carrier's tactical strike force.

Experts have concluded, therefore, that carriers would not be suitable for use in any situation where an enemy could concentrate land based aircraft, missiles, or submarines against them. Since this would minimize, if not rule out altogether, action in any conflict in which the Soviet Union Union were involved, vulnerability would dictate that the use of the carrier's force would be limited to those contingencies involving only smaller powers—another strong reason why eleven modern carriers or less would be adequate for our national security needs over the foreseeable future.

Finally, any effort to define the proper size of our carrier fleet should take into account the existing and potential U.S. capability for providing land-based tactical air power. I believe that the present carrier fleet duplicates and overlaps this land-based capability.

Carrier task forces are assigned to the two major "trouble areas" of the world—9 are available for the Western Pacific and 6 for the Mediterranean. But our capacity to deploy land-based tactical air power is more than adequate in these areas, as well as in most other parts of the globe where peace or U.S. interests may be threatened.

The United States Air Force maintains 21 wings of tactical fighters and bombers in active forces at home and abroad.

The geographic spread of overseas bases either operated by, or available to, the United States gives us an impressive land-based tactical capability, especially in the Mediterranean and the Western Pacific. In Europe, the U.S. has bases in 8 countries, with approximately 475 tactical aircraft; at least 4 of those bases are within striking distance of the Mediterranean. In the Pacific, we have bases in 6 countries, in addition to our bases in Guam and Hawaii, with over 300 tactical aircraft.

The U.S. also has the capacity for creating new land bases as needs arise. There are at least 700 overseas civilian air fields which the Air Force, within three days time, claims it can convert to a fully equipped tactical air base using the "pre-positioned kits" of the Bare Base Support Program.

Furthermore, the range of modern tactical aircraft is between 2 and 3 times greater than that of the older jets. This increased range is expanded even further by the use of midair refueling. Consequently, our overseas land-based planes are capable of reaching many more targets than they were even 10 years ago; and U.S. based tactical aircraft can be operational anywhere in the world in a short period of time.

The Navy contends that the reduction in the number of our overseas land bases justifies the need for the CVAN–70. While these bases have decreased from 119 in 1957 to 47 at the present time, the number of tactical air wings has increased from 16 to 21 during the same period. More important, the greatly increased range of these planes—both in the U.S. and overseas—means that far fewer land bases can provide ample tactical air support in any areas of potential conflict. And the Bare Base Support Program enables the U.S. to supplement existing land bases to the extent that it is necessary to do so. Even with fewer overseas land bases, then, carriers still overlap and duplicate our land-based capability.

This point above overlap and duplication was dramatically illustrated in a September, 1969 letter and memorandum from the Department of the Air Force to Senator Hatfield. Senator Hatfield asked whether the loss of overseas land bases had jeopardized the Air Force's tactical air capability. The Air Force responded that "the capability of USAF tactical air has in no sense been diminished by land base inactivations." The memorandum to Senator Hatfield also contained an extremely significant statement about the overall capability of land-based tactical air power, which reads as follows:

"There are enough land air bases in Southeast Asia and Europe to base all the tactical fighter aircraft which the Joint Chiefs of Staff estimate are required to meet a major contingency in those areas."

It may be argued that this statement by the Air Force should be disregarded, since it is merely a reflection of the long-standing Air Force-Navy controversy over the role of land-versus sea-based air power. But before rejecting this evaluation as "anti-Navy propaganda," I urge you to consider whether or not the Navy's insistence on funding the CVAN–70 in FY 1973 might also be classified as the effort by one service to maintain its position—with little regard for military realities.

In short, the Congress is faced with conflicting claims; on the one hand, the Air Force asserts that carriers are essentially redundant in furnishing tactical air power; on the other hand, the Navy claims we need a large carrier fleet and argues that the obsolescence of that fleet makes the CVAN–70 essential. Without thorough investigation, I do not believe we can reject as self-serving the claim of one service, while accepting the claim of another service as the complete truth.

My own view is that the truth lies somewhere between these conflicting claims. While I believe that some carriers are necessary to ensure flexibility in our overall tactical air capability, I also believe that there is no need for a fleet consisting of more than 11 large modern carriers.

In order to justify the funding now of the CVAN–70, the Navy must show that a 12th modern carrier is essential. I think it is clear that they have failed to meet this burden.

Refusing to authorize the CVAN–70 until the Navy can justify a fourth nuclear carrier will in no way jeopardize national security. Since our potential adversaries have no attack carriers and since we now have 16—with the assurance that there will be 11 fully modern carriers under the Navy's own criteria until 1985—we can afford to insist upon a clear justification for such a massively expensive project.

If it is determined that 11 or fewer modern carriers will be required through the mid-1980's, there is no reason to fund this ship now—particularly in light of the present deficit in the Federal budget and the impact on this deficit of another multi-billion dollar program.

I believe that there are far more urgent and justifiable demands on limited Federal funds, both within the defense budget and in other areas of critical national importance.

But regardless of my position, the central fact remains that the Navy has failed to make its case for the present funding of the CVAN–70.

I therefore respectfully urge the Committee to withhold authorization of all funds requested for this carrier.

Thank you for your consideration of this matter.

Sincerely,

WALTER F. MONDALE.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. SPONG). The time for the transaction of routine morning business has expired.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The PRESIDING OFFICER (Mr. SPONG). Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

The Senate resumed the consideration of the bill.

NATIONAL SECURITY STUDY MEMORANDUM NO. 1

Mr. ROBERT C. BYRD. Mr. President, I move, in accordance with rule XXXV of the Standing Rules of the U.S. Senate—believing that the subject matter which I wish to discuss does, at this moment, require secrecy because of the rules of the Senate—that the Senate go into closed session.

Mr. TOWER and Mr. BENTSEN. I second that motion.

The PRESIDING OFFICER. The motion having been made and seconded that the Senate go into closed session, the Chair, pursuant to rule XXXV, now directs the Sergeant at Arms to clear the galleries, close the doors of the Chamber, and exclude all the officials of the Senate not sworn to secrecy.

The question is not debatable.

[At 1:27 p.m. the doors of the Chamber were closed.]

CLOSED SESSION

CALL OF THE ROLL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. This will be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names:

[No. 176 Leg.]

Allen
Allott
Anderson
Beall
Bellmon
Bentsen
Bible
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Cook
Cranston
Fong
Fulbright
Gravel
Griffin
Harris
Hollings
Jordan, Idaho
Magnuson
Nelson
Randolph
Ribicoff
Roth
Schweiker
Sparkman
Spong
Stennis
Taft
Talmadge
Thurmond
Tower
Weicker
Williams
Young

The PRESIDING OFFICER (Mr. SPONG). A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

Mr. HARRIS. Mr. President, I would like to be recorded as present.

Mr. STENNIS. I would also like to be recorded as present.

The PRESIDING OFFICER. The Chair is advised that all Senators who are present in the Chamber are recorded as present.

The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Aiken
Bayh
Bennett
Boggs
Brooke
Buckley
Case
Church
Cooper
Cotton
Curtis
Dole
Dominick
Eagleton
Ellender
Ervin
Fannin
Gambrell
Gurney
Hansen
Hart
Hartke
Hatfield
Hruska
Javits
Kennedy
Long
Mathias
Metcalf
Mondale
Montoya
Pastore
Pell
Proxmire
Smith
Stafford
Stevens
Stevenson
Symington
Tunney

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr.

CANNON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from North Carolina (Mr. JORDAN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah (Mr. MOSS), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. MCGEE), and the Senator from New Hampshire (Mr. MCINTYRE) are absent on official business.

Mr. GRIFFIN. I announce that the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Iowa (Mr. MILLER), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), and the Senator from Ohio (Mr. SAXBE) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The PRESIDING OFFICER. A quorum is present.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. Before recognizing the Senator from West Virginia, the Chair would like to read from paragraph 2 of rule XXXVI of the Standing Rules of the Senate:

> When acting upon confidential or Executive business, unless the same shall be considered in open Executive session, the Senate Chamber shall be cleared of all persons except the Secretary, the Chief Clerk, the Principal Legislative Clerk, the Executive Clerk, the Minute and Journal Clerk, the Sergeant at Arms, the Assistant Doorkeeper, and such other officers as the Presiding Officer shall think necessary; and all such officers shall be sworn to secrecy.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the same officials admitted to the closed session on May 2 be admitted to the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Official Reporters of Debates be authorized to take notes, for whatever disposition thereof the Senate wishes to make later.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I do not feel that this closed session need be long, and I shall attempt to be as brief as possible. First, by way of review, for the benefit of any Senators who may not have been here on Tuesday, the situation is as follows:

Senators will recall that on Tuesday, April 25, the distinguished Senator from Alaska (Mr. GRAVEL), during the period for the transaction of routine morning business, sought to insert certain documentary material into the CONGRESSIONAL RECORD. He sought to do this by unanimous consent. The distinguished assistant Republican leader sought to inquire—I hope that my recollection is correct, and I am willing to be corrected—as to whether or not the material contained sensitive matter. If my understanding is correct, the assistant Republican leader indicated that, if so, the matter should be discussed in closed session. The Senator from Alaska did not prevail in his efforts to include the material by unanimous consent. Realizing that a motion to insert the material into the RECORD would not be in order, he desisted at that point.

I discussed the matter with him during the afternoon of that day, and he indicated that it was his intention to move for a closed session, and he inquired as to what day might be the best day with respect to the overall programing of the Senate's business. I suggested that, on Monday we expected rollcall votes, and on Wednesday there was to be a Democratic caucus, and for various other reasons, I felt that Tuesday probably would be the best day. So he moved to go into closed session on Tuesday of this week. That motion was seconded, and under Senate rule XXXV, the closed session was ordered.

There were two closed sessions on Tuesday, and during those two closed sessions, it is my distinct recollection that the distinguished Senator from Alaska (Mr. GRAVEL) did not ask that the documents be inserted in the RECORD. He did not move, because such a motion would not be in order, in any event. A motion would have been in order to have the clerk read the documents; and if that order had been made, then a motion to suspend the further reading of the documents and to have them inserted in the RECORD would have been in order. But no such motions were made in Tuesday's closed sessions.

During those sessions, there was no indication as to the content of the documents. In my personal judgment, speaking only as one Senator, I did not feel that anything that was said during either of the closed sessions on Tuesday was of a sensitive nature, or had anything to do with the national security or with troop movements or with the national defense.

The discussion, as I recall it, mainly ranged around two issues. One was classification procedures. There were suggestions as to how these classification procedures might be regularized. Suggestions were made with respect to possible legislation which would provide procedures whereby declassification of improperly classified matter would be brought about.

In the event improperly classified material came into the hands of any Senator or any committee, and if a request of the executive branch to declassify that material proved to be futile, then there would be procedures whereby the Senate could make the decision for itself.

The other issue, which seemed to consume most of the time, was simply to determine whether or not the injunction of secrecy should be lifted and the proceedings of the closed sessions printed in the RECORD.

So, in summation, I wish to say again that I feel that absolutely nothing was stated in those closed sessions that would merit the retention of the injunction of secrecy. Nothing. Everything that was said in those closed sessions could have been said in open session—although it probably would not have been said in open session, because the hour was getting late and tempers were beginning to show a little bit. Perhaps we might have not talked quite so long, had we been in open session. So, I sought to lift the injunction of secrecy, believing as I did that there was no justification for it as things turned out.

My two basic reasons for urging the Senate to lift the injunction of secrecy were as follows, and I shall not push overly hard today to do this. I shall make a unanimous-consent request a little later and possibly move to lift the injunction, if need be. I want to leave it up, of course, to the judgment of the Senate. I shall not be too long. I am not going to be overly tenacious in my efforts to get the injunction of secrecy lifted. Having stated the case, I shall leave it to Senators present to decide without further ado.

Mr. President, paragraph 4 of rule XXXVI of the Standing Rules of the Senate reads as follows:

> 4. Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body; and if an officer, to dismissal from the service of the Senate, and to punishment for contempt.

Mr. President, my first reason for urging that the injunction of secrecy be lifted revolves, in the main, around the paragraph which I have just read. It was written into the rules for the express purpose of protecting Senators, protecting the national security, and allowing the public's business to be conducted in the interest of the public where necessary in a closed, secret session.

The sanctions expressed in that paragraph are very strict, in my opinion. Any Senator who goes out of a closed session, unless the injunction of secrecy is lifted, and even inadvertently states to someone—a news reporter perhaps, or anyone else—the most trivial development that occurred in that session makes himself liable to expulsion from this body.

I did not feel that Senators should carry that burden. A similar burden is placed upon officers of the Senate—and I think quite rightly so.

But Senators are elected by the people. Officers of the Senate do not have to respond to news reporters. An officer of the Senate, however, might also, inadvertently, reveal something that occurred. But more particularly, Senators who are elected by the people, and who have to face the press, carry a tremendous burden—which is easily enough carried if, indeed, the subject matter of the session was such that it involved the security of the Nation. I do not think Senators would have any problem in that kind of situation. Their duty would be clear.

But in a situation such as the one I

am discussing, if a Senator went out of the Chamber and a news reporter should say to him, "I heard two rollcall bells for two rollcall votes. What were they voting on?" The Senator might answer, "Well, one of the rollcall votes was on a motion to go out of closed session, and the other rollcall vote was on a motion to adjourn."

Perfectly harmless—absolutely innocuous; yet that Senator, by revealing what he had, would have subjected himself to possible expulsion from the Senate.

Thus, I did not feel that the injunction of secrecy should carry that kind of burden with respect to a session that, as I say, even by the greatest stretch of the imagination, contained absolutely nothing that was sensitive to our national security.

The second reason why I thought the injunction of secrecy should have been lifted was a reason which was expressed very well by the Senator from Florida (Mr. Chiles): That the public's business, in a democracy, should be conducted in the open except when there are overriding reasons such are contemplated by paragraph 4 of rule XXXVI.

I think that the closed session was asked for in good faith by the distinguished Senator from Alaska (Mr. Gravel), it was his full intention—I am convinced of that, and I am convinced that it was the intention of the distinguished Senator from California (Mr. Cranston), to move at some point during the first closed session that those documents be included in the Record.

In their judgment, they felt that the matter was improperly classified and, in their judgment, they felt that the Senate, if it was to assume its proper role in this Government of separate but equal branches, could not do so unless the people are always fully apprised of information such as that which these two Senators had in their hands.

So, in good faith, they intended to have a closed session for the purpose of discussing matters that might be considered by some Senators—maybe not by those two—as being sensitive to the security of the country.

Mr. CRANSTON rose.

Mr. ROBERT C. BYRD. If I may just finish—if I have misstated anything, I will be very glad to have it corrected by the Senator.

As the proceedings developed, there were Senators who made suggestions, as I have already indicated, as to possible procedures whereby improperly classified material could be declassified. The Senator from Alaska (Mr. Gravel) and the Senator from California (Mr. Cranston), I believe, were persuaded by the arguments and the suggestions made by their colleagues—persuaded to the extent that they felt they would not press for insertion of the matter for the time being That being the case, everything that was said, as I have already indicated, was of such an innocuous nature that it could have been said in open session.

I believe that the public will bear with us if we conduct closed sessions with respect to a matter which is vital to the national security, but I do not believe that the public will understand or tolerate the Senate's having a closed session in which we engage in discussions that, as I say, by no stretch of the imagination, should be kept secret.

Accordingly, those two reasons having been stated for my urging that the injunction of secrecy be lifted, I shall stop at this point, except to say that it will be my intention, after discussion has gone on for a while, to ask unanimous consent that the proceedings of the two closed sessions on Tuesday last and the closed session of today be printed in the Record. I would suggest at the moment, to my own mind, that it be in tomorrow's Record—that is Friday's Record.

Mr. COOK. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. One final comment first, and then I will be glad to yield to this Senator and that Senator—because I mentioned his name—it was decided in the second closed session that the Senate would meet today in a closed session to make a decision with respect to lifting the injunction of secrecy regarding the proceedings of those two closed sessions.

It was agreed that there would be a limitation, not to exceed 2 hours, for the reaching of a decision with respect to both of those closed sessions.

I say to my colleagues who may not have been present last Tuesday that this was the order. And I, therefore, moved today for the closed session which we are now in.

The PRESIDING OFFICER. Does the Senator from West Virginia offer a unanimous-consent request at this point?

Mr. ROBERT C. BYRD. Mr. President, I shall, and then it can be discussed. Senators can reserve the right to object.

UNANIMOUS-CONSENT REQUEST

Mr. President, I ask unanimous consent that the proceedings of the two closed sessions of Tuesday last and today's closed session be printed in the Record of Friday of this week.

May I say in further explanation of that request, Mr. President, that I think the date of Friday will give Senators who are interested an additional day beyond today in which they may examine the transcripts of last Tuesday and today and edit their own remarks for the better clarification thereof and for the purpose of making grammatical corrections.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ALLOTT. Mr. President, we have a request for a unanimous-consent agreement.

Mr. CRANSTON. Mr. President, I reserve the right to object, and I will not object because I support the proposal made by the Senator from West Virginia. I wish to state first that I think the distinguished acting majority leader has led us wisely and well in a very difficult situation that is unprecedented in some ways. He has now stated very clearly in opening this closed session the events that led to the closed sessions we had and to what occurred there and where we are now except in one respect, in which he stated his understanding of my intentions.

I simply rise to clarify the record. I did not come into the closed session the other day with the intention of making any motion that the National Security Memorandum No. 1 be read into the Record for public examination. Had the Senator from Alaska (Mr. Gravel) made such a motion, I would have supported that motion, because I believe those records are not properly classified secret now in view of all of the events that have transpired since the memorandum was written and the fact that it contains in my opinion—and I have read it carefully—no material that is sensitive in a security aspect.

However, it was my intention, had a motion been offered by the Senator from Alaska and failed, to then make a motion to set forth the procedures whereby the Senate could in its own wisdom consider the matter and recommend through the committee back to the main body what we should do with those papers.

Mr. President, I read that motion and offered it as a unanimous-consent request. It was objected to by the Senator from Arizona (Mr. Goldwater). I did not pursue it with other proposals that I had which could have been allowed by a majority vote in view of the majority will and the fact that many people wanted to suggest other courses. I did, along with the Senator from New York (Mr. Javits) and the Senator from Idaho (Mr. Church), indicate a desire in open session to offer a motion to provide a mechanism for the Senate to deal with this and other future situations like it.

That has been my intention straight through and that is the way that I suggested to the acting majority leader of dealing with this problem in terms of our national interest and national security.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for clarifying the Record and his intention. I misstated it. And I am glad that the Senator has corrected my impression.

Mr. ALLOTT. Mr. President, reserving the right to object, I do not want to stop the floor leader from recognizing the Senator from Kentucky (Mr. Cook). However, I wonder, so that we could regularize these proceedings and so that those of us who wished to have remarks could gain the floor in our own right, if he would withdraw his unanimous-consent request until any time that he feels appropriate.

I personally will not object. However, I would like to have the proceedings regularized so that we could obtain the floor in our own right.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request temporarily.

The PRESIDING OFFICER. The Senator from West Virginia withdraws his request.

Who yields time?

Mr. GRIFFIN. Mr. President, am I in charge of half of the time?

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. GRIFFIN. Mr. President, I yield 5 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 5 minutes.

Mr. COOK. Mr. President, first of all I will probably not object to the request of the Senator from West Virginia. However, I would like to draw the attention of my colleagues to the fact that rule XXXV does not say a thing about secrets of a national nature or secrecy that would endanger the country's secrets or that would cause a great catastrophe throughout the world. They say: "in the opinion of a Senator require secrecy."

All the conversations we have had dealing with classified material and unclassified material is not covered in rule XXXV at all.

The objection I have is that the Senate was called into a secret session and that the distinguished Senator from California, when it was over, decided to say that even though under rule XXXV we had had a secret session, considering the admonition under rule XXXVI, section 4, he was going to make a motion that anything that occurred in there be made public.

Mr. President, I would like the Parliamentarian to make a report to the Senate on how many secret sessions have been held by the Senate in the last 10 years and how many motions have been made at the end of those secret sessions that the admonitions of rule XXXV have been obviated because a Senator stood upon the floor and said: "I will move that everything said in secret session be printed in the Record."

I want to say to my colleagues that I believe one of the greatest concepts of a democracy is freedom of expression. Without it we are in trouble. Without it we are going downhill.

That is the problem that we face in the country today. We have gone through Korea and Southeast Asia. And we have decided to classify so many things. There is an inherent belief in this country that there is not this information. However, let us look at the rules that we live under.

I attended a secret session of the Senate called for by the Senator from Missouri. And the next day I read all about it in the Washington Post. There was no motion at the end of that session that everything go in the Record, the maps that were here in the corner, and the debates that went on.

I want to say that is one of the reasons that I wanted this closed session, so that I could put this in the Record. The headline reads: "Senate Rejects Gravel's Bid to Air Secret Viet Report." For the purpose of airing what the discussion was, I ask unanimous consent that this article be printed in the Record, and if the Record is opened up, it will be in the public record.

There being no objection, the article was ordered to be printed in the Record, as follows:

SENATE REJECTS GRAVEL'S BID TO AIR SECRET VIET REPORT

(By Spencer Rich)

A bid by Sen. Mike Gravel (D-Alaska) to place a secret 1969 report on Vietnam in the Congressional Record failed to win Senate approval in a four-hour locked-door debate yesterday, but the issue may be debated again in a few days.

The rare closed session—the first since a debate on Laos last June 7—was requested by Gravel last week. Gravel said he would ask the Senate to allow him to make the 1969 report available to the public by placing it in the public record. The report, prepared under the direction of presidential aide Henry A. Kissinger, is still classified, but Gravel obtained a copy privately.

The "Kissinger Papers," as the document has been called, described the military and political situation in Vietnam—as a way of laying out options for the new Nixon administration.

Gravel contends they show that bombing cannot defeat North Vietnam. Copies of the papers were obtained privately by The Washington Post, Newsweek, Jack Anderson and other reporters. Large excerpts as well as stories based on the 1969 report have appeared in many publications over the past weeks.

Yesterday's debate was conducted under the strictest injunctions of secrecy, and senators emerging from the four-hour and eight-minute meeting cited Senate rule 36, which calls for a senator to be expelled from the Senate if he reveals what went on in a closed-door session.

However, several senators who were present said privately that Gravel had been unable to obtain a final vote on his request to publish the papers in the Congressional Record.

Instead, they said, there were two procedural votes after Gravel held the floor at length to expound the theory that the Senate has the right to "declassify" a document that has been classified as "secret" by the executive branch.

They said Gravel had sought to put the issue in the wider context of whether the executive branch has the right to impose an injunction of secrecy on a co-equal branch of government.

The closed session began at 3:44 p.m. and ended at 7:52 p.m. In the first vote, which occurred at 5:58, the Senate rejected, 36 to 32, a move to go back into open session. At 6:45, it voted a second time, turning down, 39 to 30, a motion by Sen. Russell B. Long (D., La.) to adjourn for the night.

Citing the secrecy rule, Long refused to tell reporters why he had moved to adjourn. One Senator said he interpreted it as a move to put aside the whole issue and, in effect, turn down Gravel's request without actually ever voting on it; another, simply as a move to put off debate until a later day because of the late hour.

Senators said they left the meeting with the definite impression that the issue would be taken up again in closed session, perhaps Thursday. Acting Majority Leader Robert C. Byrd (D., W. Va.) assured reporters there would be no secret session today, but declined to discuss the possibility of such a session later this week.

While debating the Gravel request, the Senate marked time on the State Department-USIA authorization bill, with its Dec. 31 fund cutoff on all U.S. combat operations in Vietnam, including air.

Senate Armed Services Committee Chairman John Stennis (D., Miss.) has offered a motion to strike out the end-the-war language. Administration supporters, believing they have the votes to pass the Stennis move, would like a vote on it this week. Acting Minority Leader Robert P. Griffith (R., Mich.) said yesterday, "we'll be ready to vote this week."

However, the Senate Democratic Caucus is meeting to discuss end-of-war language today, and Sens. Frank Church (D., Idaho) and Clifford P. Case (R., N.J.) apparently want to delay the vote until next week, when Senate Majority Leader Mike Mansfield (D., Mont.)—a supporter of the cutoff—returns from China. They apparently also want delay because they believe the current military crisis in Vietnam would reduce their votes because of a "rally-round-the-commander-in-chief" mood in times of crisis.

Mr. COOK. Mr. President, my only objection is that a closed session was called under rule XXXV. If there is an admonition that goes along with rule XXXV, we ought to be men enough to understand what it is. Are we to understand henceforth that if a closed session is called under rule XXXV, it will be perfectly all right if, by a one-, two-, or three-vote majority the Senate decides that everything that has been considered in that secret session goes in the Record?

My objection is that there never should have been one in the first place, for those who called the session, for those who wanted it, for those who seconded the motion for it, and for those who entered into the debate as a result of it. Obviously the Senator from California entered into the debate because I was here. But obviously under rule XXXV it does not mean anything. That is what we are really saying, that rule XXXV does not mean a thing because when it is over and the time for its conclusion comes, then somebody stands up and says: "I move that everything discussed in this secret session pursuant to rule XXXV is no longer of any consequence. I have made a value judgment that none of this in any way should be considered secret."

Rule XXXV says merely "in the opinion of a Senator shall be secret." However, a Senator who did not make the original motion, makes a motion that this all go into the Record and be part of the public record.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. COOK. I have 5 minutes. Then I am sure the Senator can have some time. He knows I would yield to him if I had more time.

I am only saying that maybe the Senate should rewrite rule XXXV to say that the material should be of a classified nature and should be something that is secret to the Nation and Congress in its role, and the Nation in its relation to the world.

For instance, we voted the other day to go into secret session. When the motion was made, immediately the Senator from Arkansas seconded the motion. Apparently the Senator thought that something would be said that, in his opinion, under rule XXXV was a secret; but obviously nothing was discussed in the nature of a national catastrophe.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. COOK. Maybe we should get rid of rule XXXV or make it conform to what we talk about.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. COOK. I yield.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROBERT C. BYRD. I yield 1 minute to the Senator.

Mr. COOK. I thank the Senator.

Mr. ROBERT C. BYRD. Did the Senator refer to the Senator from West Virginia when he used the words: Obviously the Senator thought there was going to be something of a sensitive nature. I am paraphrasing.

Mr. COOK. Let me say in all fairness that the Senator had to do it because we had just come out of a secret session and if we discussed anything relating to it we had to go back into secret session. But my point is that it was utilized for that purpose when there was something sensitive, something that came forth from the secret meeting this body had, but there was nothing in that secret debate that was in any way of a national interest or involved anything in any way classified.

So maybe what we should do in the Rules Committee is to rewrite rule XXXV so that it means what we have been debating here.

I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 additional minute.

I see nothing wrong with the rules of the Senate. They have evolved over a period of many, many years. They have been tested by experience. I see nothing wrong with them. I would hope we would be just as cautious about amending the rules of the Senate, almost as cautious, as we would be about amending the Constitution.

Now, Mr. President, I moved on Tuesday afternoon to go back into open session. Immediately when we were in open session I began talking to all Senators and inadvertently I found myself, as a result of Senator BENNETT calling it to my attention, talking about things that had transpired in the closed session.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 1 additional minute.

I did this inadvertently. It should show how easy it is for a Senator, without any intention, to reveal something which he is not supposed to reveal. So the second session was necessary if we were to further discuss lifting the injunction of secrecy. To have any meaningful discussion of that issue it was necessary to go back into closed session.

Mr. GRIFFIN. Mr. President, I yield such time as may be required by the Senator from Nebraska.

Mr. CURTIS. Mr. President, I thank the distinguished acting minority leader. I would like to inquire of the acting majority leader if it was his intention when he again propounds the unanimous-consent request to limit editing and correcting to the correcting of errors of grammar. The reason I raise that point is to go beyond that would not be a publication of the true record.

The junior Senator from Nebraska was out of town last Tuesday. I was in Lincoln, Nebr. to address a State medical association meeting. I cannot find out what took place Tuesday. None of my colleagues will talk about it. They do not want to be expelled from the Senate. I have a suspicion as to what took place in this room.

Am I to get a revised version and have a modified record of what somebody said, or will the corrections be limited?

Mr. GRIFFIN. Mr. President, will the Senator yield to me? I think I should answer that.

Mr. CURTIS. I yield.

Mr. GRIFFIN. Mr. President, a copy of the transcript of those two earlier sessions is here on the desk for perusal or to make such corrections as Senators are permitted to make, and, if I am not mistaken, I would like to ask the Senator——

Mr. CURTIS. Mr. President, if the Senator will yield there, suppose a printed record comes out which has been revised and does not correspond. Can that be used by a Senator? That record over there, that is the original transcript of what took place—could it be used by a Senator to clarify a position?

Mr. ROBERT C. BYRD. If I may respond to the Senator, the understanding was that Senators could make corrections as they deemed necessary, one to remove grammatical errors and, two, to clarify their statements so as to contribute to a better understanding by the public of what was said.

Mr. CURTIS. I think that is a pretty broad allowance.

Mr. ROBERT C. BYRD. Mr. President, I can only say this. No Senator should understand that any documentary or other material could later be inserted in the RECORD. For example, Senator COOK waited until today to insert a newspaper article. That was the understanding, that no documentary or extraneous matter could be entered. The Senator from Alaska even stated in that session that he would not change one word of his statements.

Mr. CURTIS. I think if it is to be released it should be as near verbatim to what took place as possible with very stringent limitations.

Mr. ROBERT C. BYRD. This original transcript will always be available.

Now, Senators who were here, if they read something in the proceedings—as they later appear in the RECORD—which goes beyond correction of grammar or goes beyond clarification of intent, so as to make for better understanding on the part of the public——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I yield myself 2 additional minutes.

They can get this transcript and call the Senator to task, if they wish to do so. They can do that in open session. Senators make deletions and changes in the RECORD, and if any Senator who was present and heard any other Senator speak, feels the RECORD was changed so drastically that it should be brought to the attention of the Senate and the public, he can do that.

So this transcript has been in my office, and the Senator from Michigan had a copy of the transcript in his office, in accordance with the order entered authorizing Senators to go to those offices and read and edit the RECORD—only Senators, not staff people. The RECORD could not be taken from those two offices. Incidentally, only two Senators have availed themselves of that opportunity as far as my office is concerned.

Mr. President, I ask unanimous consent that today's whip notice, which went from the office of the majority whip to all majority party Senators before 10 o'clock this morning, be printed in the RECORD.

I ask this so that the RECORD will show that my whip notice called attention to the availability in my office of that transcript for any Senator's inspection.

There being no objection, the notice was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., May 4, 1972.

DEAR COLLEAGUE: The Senate will convene at 12 o'clock noon today. The following Senators will speak for not to exceed the time shown:

Senator Stennis, 15 minutes.
Senator Buckley, 15 minutes.
Senator Weicker, 10 minutes.

Morning business for not to exceed 30 minutes will then ensue with the usual limitation of 3 minutes on statements. At the close of morning business, the Senate will resume the consideration of the unfinished business, S. 3526, the pending question being on the adoption of Amendment 1175 by Mr. Stennis.

It will be my intention to move that the Senate go into closed session under Rules XXXV and XXXVI, my motion being for the purpose of deciding whether or not to lift the injunction of secrecy regarding the proceedings in the two closed sessions of Tuesday, May 2 (and the closed session of today) and to print those proceedings in the Congressional Record. By previous order, the time for reaching that decision is not to be in excess of two hours. There *could* be rollcall votes in today's closed session. All Senators are urged to be present during the closed session.

Once a decision has been reached regarding the lifting of the injunction of secrecy, the Senate will return to open legislative session to resume consideration of the unfinished business. As of now, I do not contemplate any rollcall vote this afternoon on the unfinished business. Of course, tabling motions are always in order and could bring about unforeseen votes; moreover, conference reports, being privileged matter, can be called up if and when ready (the Black Lung Conference Report, for example, is expected to be called up today or tomorrow, more than likely the latter).

Efforts are being made to work out an agreement to set a definite day and hour for voting on the Stennis amendment. You will be notified if and when such an agreement is reached. I can say now that, if such an agreement is reached, the vote on that amendment would not occur before Tuesday of next week.

NOTE.—Any *Senator* may see the transcripts of Tuesday's closed sessions by reading them in my office, S–148, The Capitol, today (extension 52158).

REMINDER.—Closed session today—possible votes therein. Please attend, if at all possible.

ROBERT C. BYRD,
Extension 52158 or 52397.

Mr. GRIFFIN. Mr. President, I yield 1 minute to myself to advise the distinguished Senator from Nebraska and other Senators that as of the time this closed session began only one Senator had contacted me and had examined the transcript. But the transcript is now available over here and, of course, there has been no unanimous-consent agreement that it will be made public; and the Senator from Nebraska might well have some support if he wanted to insist that corrections be limited to grammatical changes.

Mr. CRANSTON. Mr. President, may I request some time from the Senator from West Virginia?

Mr. ROBERT C. BYRD. Mr. President, I yield 3 minutes to the Senator from California.

Mr. CRANSTON. I refer back to the remarks made by my good friend from Kentucky. The closed session was entered into on the motion of the Senator from Alaska, seconded by the distinguished acting minority leader, with full knowledge and prior consent of the distinguished acting majority leader, because of a belief that there might be a discussion of matters sensitive to the national interest, or viewed as such by some Members of this body, which transpired during the course of the debate. In my opinion there was not, and it was why I made the motion to open the debate, and it was the opinion of the Senator from West Virginia that no such material had been discussed. Therefore, he made a unanimous-consent request that the record be laid bare.

The Senator from Kentucky had not had an opportunity to hear our words. He raised a question as to whether or not some material had been discussed that was sensitive, and that every Senator should have an opportunity to remove that from the record before it was made public. That, of course, is the privilege of any Senator concerned with the national interest.

Then there was a discussion about correcting the record to get rid of anything sensitive, and also correcting the record to make clear exactly what a Senator had in mind when he spoke in order to make it meaningful to those who look at the record. If we agree that there was nothing sensitive in it that would preclude its publication, then we should agree that the entire record should be laid bare.

It seems to me that what we are talking about is secrecy in Government. We are talking about secrecy in the executive branch and whether or not the executive branch should do that. So I hope the discussions here are not kept secret so that we are not accused of not keeping things in the open.

The question was asked as to what is the parliamentary practice up to date of making such records public. I checked the record and my understanding is—and he may correct me if I am in error—when we had closed sessions while I have been here and a question was raised as to what material should or should not be made public it was with respect to the ABM closed session and the Laos closed session. They were the only two closed sessions while I have been here. They were made public. I hope we will adopt the wise recommendation of the Senator from West Virginia of doing likewise in this case.

The PRESIDING OFFICER. The Chair will state for the record that he is advised that there have been 10 closed sessions since 1963, including this one, all of which records have been made public by unanimous consent, after being sanitized.

Mr. GRIFFIN. Mr. President, I yield to the distinguished Senator from New York 5 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I have every confidence that the good will that generally animates us in this body will prevail; that we will publish the transcript, as indeed it should be published.

I would like to remind Members of something that happened to me when I first came to Congress. Joe Martin, with whom I served in the House, came into the Chamber, put his arm around my shoulder—this was in 1947—looked around, and said, "Jack, just remember, this is a hard place to get to." I think all of us feel that way and we feel that a problem like this can be worked out without particularly circumscribing a Senator except in his own conscience and the right of a Member to make whatever changes he should make.

Let us remember that even those changes will be made available to us all. So I do not think Members will be wanting to play fast and loose in the transcript. It will all be there. It will not be destroyed. I am sure the deputy majority leader will assure us of that.

But in the discussion so far we have rather missed the forest for the trees. We came here for a purpose. That was to find out whether we shall permit publication of a particular document. We were strangely uninformed the other day. I am supposed to do my homework, but I was uninformed, and a lot of us were. The fact is this is a very murky area. The fact is that there is doubt that the Executive has any right to classify a paper, and if any person should violate the classification of a paper, that person could go to jail, unless it is in the law. The law affects cryptography and communications directly. It indirectly affects classified material, accepts and grants the fact that it is classified and treated of as if there were some law. It is a crime to give classified material to a foreign agent and a crime for that agent to receive it.

If you read the legal justification the Department has for classification, the laws ought to be much tighter rather than weaker, from the point of view of protecting the country, and that could be done, in my judgment, without in any way disadvantaging the Congress whatsoever.

Listen to this, lawyers, and see what you think of this.

Mr. HRUSKA. Which section?

Mr. JAVITS. It is the conclusion. This is unbelievable. "In the absence of any law to the contrary, there is an adequate constitutional and statutory basis upon which to predicate Presidential authority to issue Executive Order 1051."

Just think of it—"in the absence of any law to the contrary."

It is a fine government of laws, is it not?

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HRUSKA. The Senator is talking about statute law.

Mr. JAVITS. Yes.

Mr. HRUSKA. And the Senator implies that that is something horrible. It is not at all, because in the New York Times case this is the way Justice Stewart put it. He said:

> Be that as it may, it is clear to me that it is the constitutional duty of the Executive, as a matter of sovereign prerogative and not as a matter of law as the courts know law, through the promulgation and the enforcement of Executive regulations, to protect the confidentiality necessary to carry out its responsibilities in the field of international relations and national events."

There is an overriding, well precedented procedure for this kind of classification. It is this constitutional basis which is the foundation for the Internal Security Act and also the others acts that impose criminal sanctions of the nature of 5 years in jail and a $10,000 fine. So there is law, notwithstanding the language read with the tenor in which it was read by the Senator from New York.

Mr. JAVITS. I thank my colleague for that point of view. I appreciate it as being a part of what we are doing. It was not my fundamental point. My fundamental point was that obviously there was not the precision respecting the authority of the President which we would expect on so highly sensitive a matter, where there is a question of challenge between him and the Congress as to what he should or should not give us.

All I am talking about is not the past, but the future. That is what I was coming to. How do we meet this great crisis? Should we act in the field, because they are depending on essentially the situation that we have not acted in the field, or if we have, it was by implication. That is what I am talking about. I am talking to my congressional colleagues. Do we think we should explore it precisely so as to give a fair break to ourselves and the people?

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. FULBRIGHT. Is the Senator discussing the congressional proposal for authority to declassify?

Mr. JAVITS. I am going to discuss a way we can get at it. That is why I came up with a suggestion, joined in by a number of Senators, that this is a subject urgently requiring the Senate to face it, and I was going to announce that, together with other Senators, in the morning hour tomorrow, I will bring up a resolution seeking to establish a committee of 10, five to be appointed by the majority leader and five by the minority leader, the majority leader to be chairman and the minority leader to be cochairman, in order to deal with this whole subject, and I state in the resolution:

> The Committee shall conduct a study and report its findings and recommendations to the Senate, within sixty days of its establishment, on all questions relating to the secrecy, confidentiality and classification of government documents committed to the Senate, or any Member thereof; and propose guidelines with respect thereto, and the laws and rules relating to classification, declassification or reclassification of government documents, and the authority therefor.

Mr. FULBRIGHT. Of course, I would like to join the Senator, but I would want to go a little further. Is the Senator considering not only the immediate problem of these papers, but the proposal the Senator from Idaho read the other night about a method for congressional declassifying by majority vote of the House?

Mr. JAVITS. That is exactly right.

Mr. FULBRIGHT. Will that be included in his resolution?

Mr. JAVITS. I hope the first tangible, substantive proposal which will be before the committee will be that of Senator CHURCH.

Mr. FULBRIGHT. I think that is urgent. I would certainly cosponsor that. I think it would be a great service if that could be clarified.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. JAVITS. I yield.

Mr. TOWER. Is there not some rather clear statutory authority, or at least an acknowledgement by Congress through enacted legislation, of the right to classify, in the Freedom of Information Act, which is contained in title 5, section 552, of the United States Code, where there is a specific exemption of documents that are by executive order required to be kept secret?

Mr. JAVITS. Will the Senator read what he has in mind?

Mr. TOWER. Well, the exemption is contained in subsection (b), where it says:

> This section does not apply to matters that are (1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy.

Mr. JAVITS. Well, that is true, Mr. President, and there are other implied authorities. All that I was pointing is that if you look at all the authorities, you will find they are all implied insofar as classification is concerned, as it affects us.

What I was arguing, and Senator HRUSKA kindly helped me make it vivid, is that we need, in our own interest and that of the country, to deal with the subject specifically. In other words, what can the executive classify as to us? All the questions, like the section the Senator has read and the ones to which I have referred, the Internal Security Act, what is called the Espionage Act, the National Security Council legislation—all the acts take for granted the fact that there is classified information, and that somebody is classifying it, to wit, the President or the head of an agency or department authorized by him. All I was saying is that——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. One more minute. All that I am saying is that because of what has arisen, it is time to deal with the question specifically, so that, for example, conceivably Congress would authorize the President to do so and so and so and so, and we would authorize ourselves to do whatever else ought to be done. That would be a law. As it is now, it is implied.

Senator HRUSKA argues that that implication is valid under the Constitution because of the President's executive authority to administer the law, and he quotes Justice Potter Stewart. I am not criticizing that. I only point out that it is implied; even if the courts say it is lawfully implied, it is still by implication, and the circumstances which have arisen in the country dictate a need for specificity, because it is now we who are concerned, not some government official who is running out with papers under his arm, or some spy or aid to a spy who is going to leak it to somebody else; it is the Senate or the House of Representatives.

Mr. TOWER. Mr. President, I just wanted to avoid the implication that the President was doing something illegal when he issued that order.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. JAVITS. I do not think I am disposing of the time.

Mr. ROBERT C. BYRD. I yield the Senator such time as he may require.

Mr. CRANSTON. I would first like to ask the Senator from New York if he can place in the RECORD the memorandum he read, so that it will be available for the guidance of all of us.

Mr. JAVITS. I prefer not to, because I am going to introduce it in the morning.

Mr. CRANSTON. I did not mean that. The Senator quoted from some memorandum.

Mr. JAVITS. Oh, yes. I am sure I can put that in the RECORD. I ask unanimous consent that the legal memorandum dealing with the classification program, which has been prepared at my request, which I gather dates back to 1970, be printed in the RECORD as a part of my remarks.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

LEGAL BASIS FOR THE CLASSIFICATION PROGRAM

Information on the legal basis for the security classification program was previously furnished to the Chairman of the Senate Foreign Relations Committee by letter of April 30, 1970, from the Legal Adviser of the Department of State, John R. Stevenson. (Copy Attached).

The legal statement then provided was taken from the 1957 Report of the Commission on Government Security, and it is set forth below for ease of reference.

AUTHORITY FOR THE PROGRAM

"As previously noted, the current legal authority for the document classification program is Executive Order 10501, which became effective December 15, 1953, and revoked Executive Order 10290.

APRIL 30, 1970.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I refer to your inquiry of March 26, 1970 as to the statutory authority for Executive Order 10501, concerning the safeguarding of official information. In 1957 a Commission on Government Security, appointed by President Eisenhower, the Speaker of the House of Representatives, and the President of the Senate, pursuant to Public Law 304, Eighty-Fourth Congress, considered the legal basis for Executive Order 10501. I am enclosing for your information the pertinent section of the Commission's report. You should be aware that one of the statutes cited in the report, 5 U.S.C. § 22 (now 5 U.S.C. § 301), was amended in 1958 and is no longer relevant.

In addition to the statutes cited by the Report, there are other statutory provisions that contemplate and assume a system of classification of information. For example, section 142 of the Atomic Energy Act of 1954 (42 U.S.C. § 2162 (c)) provides that, upon joint determination of the Atomic Energy Commission and the Department of Defense, data which relate primarily to the military utilization of atomic weapons and "can be adequately safeguarded as defense information" may be removed from the classification of "restricted data". This provision is obviously predicated on the system for protection provided for in Executive Order 10501. See also the exception, in the Freedom of Information Act, for classified information "specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy," 5 U.S.C. 552(b) (1)).

We have discussed this matter with Assistant Attorney General Rehnquist of the Department of Justice who informs us that the Justice Department agrees with the Commission's report regarding the legal basis for Executive Order 10501 subject to the points made above.

I hope this information is helpful to you.

Sincerely,

JOHN R. STEVENSON,
The Legal Adviser.

REPORT OF THE COMMISSION ON GOVERNMENT SECURITY

* * * * *

LEGAL BASIS

Authority for the program

As previously noted, the current legal authority for the document classification program is Executive Order 10501, which became effective December 15, 1953, and revoked Executive Order 10290.[1]

Legal justification for the order

The preamble of the order contains the standard recitation that it was issued, "By virtue of the authority vested in me by the Constitution and statutes as President of the United States." Therefore, to be vaild, Executive Order 10501 must be the product of a proper exercise of executive power derived either from executive authority conferred by the Constitution or from statutory authority, or both.

A. EXECUTIVE AUTHORITY CONFERRED BY THE CONSTITUTION.—Pertinent sections of the Constitution appear to contain no express authority for the issuance of an order such as Executive Order 10501. However, the requisite implied authority would seem to lie within article II which says in section 1: "The executive power shall be vested in a President of the United States of America"; and in section 2: "The President shall be Commander in Chief of the Army and Navy of the United States"; and in section 3: ". . . he shall take care that the laws be faithfully executed."

When these provisions are considered in light of the existing Presidential authority to appoint and remove executive officers directly responsible to him, there is demonstrated the broad Presidential supervisory and regulatory authority over the internal operations of the executive branch. By issuing the proper Executive or administrative order he exercises this power of direction and supervision over his subordinates in the discharge of their duties. He thus "takes care" that the laws are being faithfully executed by those acting in his behalf; and in the instant case the pertinent laws would involve espionage, sabotage, and related statutes, should such Presidential authority not be predicated upon statutory authority or direction.

B. STATUTORY AUTHORITY.—While there is no specific statutory authority for such an order or Executive Order 10501, various statutes do afford basis upon which to justify the issuance of the order.

---

[1] Executive Order 10501 is entitled "Safeguarding Official Information in the Interests of the Defense of the United States." In summary, it establishes the classification categories of "confidential," "secret," and "top secret." It is designed to regulate the day-by-day handling of national security information within the various executive agencies and departments by prescribing uniform procedures governing the classification, transmission, dissemination, custody, and disposal of such information. In addition, there is provision for review of the entire classification program to insure adequate protection of the national security as well as to insure that no information is withheld thereunder which the people of the United States have a right to know.

A statute frequently cited as affording some implied authority for the issuance of Executive Order 19501 is found in 5 U.S.C.A. 22, which authorizes the heads of departments and agencies, among other things "to prescribe regulations, not inconsistent with law, for . . . the conduct of its officers and clerks, the distribution and performance of its business, and the custody, use, and preservation of the records, papers, and property appertaining to it." The primary purpose is to afford a check or brake upon the general flow into the public domain of such agency information which might reflect upon internal management or proposed policy, and the publication of which could impede or prejudice efficient agency operation. The fact that such information may involve national security matters is not essential in giving proper effect to the statutory language.

The espionage laws have imposed upon the President a duty to make determinations respecting the dissemination of information having a relationship to the national defense. For example, 18 U.S.C. 795 (a) provides that "Whenever, in the interests of national defense, the President defines certain vital military and naval installations or equipment as requiring protection against the general dissemination of information relative thereto, it shall be unlawful to make any photograph, sketch, picture, . . ., etc." Proceeding under this statute the President issued Executive Order 10104 which covers information classified by the agencies of the military establishments.[2]

In 18 U.S.C. 798 there is specific reference to the unauthorized disclosure of "classified information" pertaining to the cryptographic and communication systems and facilities. Furthermore, the term "classified information" is defined as information which for reasons of national security has been specifically designated by the proper government agency for limited or restrictive dissemination or distribution.

The most significant legislation, which set into motion the current document classification program, was enacted in 1947, when the Congress passed the National Security Act[3] in order to provide an adequate and comprehensive program designed to protect the future security of our country. To accomplish this avowed purpose the act provided for the creation of a National Security Council within the executive branch subject to Presidential direction. Its job is to consider and study security matters of common interest to the departments and agencies and to make appropriate recommendations to the President. Within the framework of this program, the Interdepartmental Committee on Internal Security (ICIS) came into being, and the activity of this committee was responsible for the issuance in 1951 of Executive Order 10290, which established the original document classification program. Thus it would appear that a document classification program is within the scope of the activities sought to be coordinated by the National Security Act of 1947, and that the issuance of an appropriate Executive order establishing such a program is consistent with the policy of the act.

Prior to issuance of Executive Order 10290, Congress had apparently recognized the existing Presidential authority to classify information within the executive branch when it passed the Internal Security Act of 1950.[4] Contained therein were provisions defining two new criminal offenses involving classified information.

Section 4 (b) of the act makes it a crime for any Federal officer or employee to give security information classified by the President, or by the head of any department, agency, or corporation with the approval of the President, to any foreign agent or member of a Communist organization, and section 4 (c) makes it a crime for any foreign agent or member of a Communist organization to receive such classified security information from a Federal employee.[5]

Conclusion

It is concluded, therefore, that in the absence of any law to the contrary, there is an adequate constitutional and statutory basis upon which to predicate the Presidential authority to issue Executive Order 10501.

PRESENT PROGRAM

Introduction

This survey, by definition, is concerned with the activities of the Federal Government as they involve policies and practices with respect to classified documents. It is not intended to cover information control policies and practices that do not involve material subject to the classified information provisions of Executive Order 10501. Although departmental and agency policies with respect to information control may impinge upon the area of document classification, they are governed by different criteria. The criteria of document classification involve application of narrowly defined standards of national security and defense. The criteria of information control, on the other hand, involve the broadest kind of standards. They range from the traditional claim against privileged information to the arguments for the "housekeeping" privileges required in the normal operation of the executive branch.

Scope of the program

Although all Federal agencies have rules of some type to control documents and information in their possession, relatively few have the authority to restrict general availability of their material on grounds of its relevance to either national defense or security. Under Executive Order 10501 the authority to apply the top secret, secret, or confidential classification to Federal documents was severely limited. The following 28 agencies were denied authority to apply original classification to material originated by them:

American Battle Monuments Commission; Arlington Memorial Amphitheater Commission; Commission on Fine Arts; Committee on Purchases of Blind-Made Products; Committee for Reciprocity Information; Commodity Exchange Commission; Export-Import Bank of Washington; and Federal Deposit Insurance Corporation.

LEGAL BASIS

AUTHORITY FOR THE PROGRAM

As previously noted, the current legal authority for the document classification program is Executive Order 10501, which became effective December 15, 1953, and revoked Executive Order 10200.

"Executive Order 10501 is entitled 'Safeguarding Official Information in the Interests of the Defense of the United States.' In summary, it establishes the classification categories of 'confidential,' 'secret,' and 'top secret.' It is designed to regulate the day-by-day handling of national security information within the various executive agencies and departments by prescribing uniform procedures governing the classification, transmission, dissemination, custody and disposal of such information. In addition, there is provision for review of the entire classification program to insure adequate protection of the national security as well as to insure that no information is withheld thereunder which the people of the United States have a right to know.

"LEGAL JUSTIFICATION FOR THE ORDER

"The preamble of the order contains the standard recitation that it was issued. 'By virtue of the authority vested in me by the Constitution and statutes as President of the United States.' Therefore, to be valid, Executive Order 10501 must be the product of a proper exercise of executive power derived either from executive authority conferred by the Constitution or from statutory authority, or both.

"A. *Executive Authority Conferred by the Constitution.*—Pertinent sections of the Constitution appear to contain no express authority for the issuance of an order such as Executive Order 10501. However, the requisite implied authority would seem to lie within article II which says in section 1: 'The executive power shall be vested in a President of the United States of America'; and in section 2: 'The President shall be Commander in Chief of the Army and Navy of the United States'; and in section 3: '. . . he shall take care that the laws be faithfully executed.'

"When these provisions are considered in light of the existing Presidential authority to appoint and remove executive officers directly responsible to him, there is demonstrated the broad Presidential supervisory and regulatory authority over the internal operations of the executive branch. By issuing the proper Executive or administrative order he exercises this power of direction and supervision over his subordinates in the discharge of their duties. He thus 'takes care' that the laws are being faithfully executed by those acting in his behalf; and in the instant case the pertinent laws would involve espionage, sabotage, and related statutes, should such Presidential authority not be predicated upon statutory authority or direction.

"*B. Statutory Authority.*—While there is no specific statutory authority for such an order or Executive Order 10501, various statutes do afford a basis upon which to justify the issuance of the order.

"A statute frequently cited as affording some implied authority for the issuance of Executive Order 10501 is found in 5 U.S.C.A. 22, which authorizes the heads of departments and agencies, among other things "to prescribe regulations not inconsistent with law; for . . . the conduct of its officers and clerks, the distribution and performance of its business, and the custody, use, and preservation of the records, papers, and property appertaining to it." The primary purpose is to afford a check or brake upon the general flow into the public domain of such agency information which might reflect upon internal management or proposed policy, and the publication of which could impede or prejudice efficient agency operation. The fact that such information may involve national security matters is not essential in giving proper effect to the statutory language.

"The espionage laws have imposed upon the President a duty to make determinations respecting the dissemination of information having a relationship to the national defense. For example, 18 U.S.C. 795 (a) provides that "Whenever, in the interests of national defense, the President defines certain vital military and naval installations or equipment as requiring protection against the general dissemination of information relative thereto, it shall be unlawful to make any photograph, sketch, picture. . . . etc." Proceeding under the statute the President issued Executive Order 10104 which covers information classified by the agencies of the military establishments.

"In 18 U.S.C. 798 there is specific reference to the unauthorized disclosure of "classified information" pertaining to the cryptographic and communication systems and facilities. Furthermore, the term "classified information" is defined as information which for reasons of national security has been specifically designated by the proper government agency for limited or restrictive dissemination or distribution.

---

[2] 15 F. R. 597, Feb. 1, 1950.

[3] 61 Stat. 496, July 26, 1947.

[4] 64 Stat. 937-1031.

[5] 50 U. S. C. A. 783.

"The most significant legislation, which set into motion the current document classification program, was enacted in 1947, when the Congress passed the National Security Act in order to provide an adequate and comprehensive program designed to protect the future security of our country. To accomplish this avowed purpose the act provided for the creation of a National Security Council within the executive branch subject to Presidential direction. Its job is to consider and study security matters of common interest to the departments and agencies and to make appropriate recommendations to the President. Within the framework of this program, the Interdepartmental Committee on Internal Security (ICIS) came into being, and the activity of this committee was responsible for the issuance in 1951 of Executive Order 10290, which established the original document classification program. Thus it would appear that a document classification program is within the scope of the activities sought to be coordinated by the National Security Act of 1947, and that the issuance of an appropriate Executive order establishing such a program is consistent with the policy of the act.

"Prior to issuance of Executive Order 10290, Congress had apparently recognized the existing Presidential authority to classify information within the executive branch when it passed the Internal Security Act of 1950. Contained therein were provisions defining two new criminal offenses involving classified information.

"Section 4(b) of the act makes it a crime for any Federal officer or employee to give security information classified by the President, or by the head of any department, agency, or corporation with the approval of the President, to any foreign agent or member of a Communist organization, and section 4(c) makes it a crime for any foreign agent or member of a Communist organization to receive such classified security information from a Federal employee.

"CONCLUSION

"It is concluded, therefore, that in the absence of any law to the contrary, there is an adequate constitutional and statutory basis upon which to predicate the Presidential authority to issue Executive Order 10501."

Mr. CRANSTON. I would like to say I am one of those who have been working with the distinguished Senator from New York in preparing the resolution he is offering. I will join in cosponsoring it, because it is obvious that we need a careful study of how to deal with problems like this in the future. With the Senator's advance knowledge, I am going to offer an amendment to his resolution, which I would like to read for the information of all concerned. The amendment would insert, at the end of what Senator Javits proposes, the following language:

Such report—

That is, the report of the committee that he has suggested be established by the majority and minority leaders on this matter—

Such report shall also include recommendations to establish a continuing mechanism in the Senate for disposition of the requests for opinions which individual members or groups thereof may make respecting the applicability of procedures and guidelines adopted by the Senate to govern the secrecy, confidentiality, and classification of such documents.

A final sentence would then read:

Until such report is made, such Select Committee shall perform the functions prescribed in the preceding sentence, and shall dispose of any such request within 30 days of receipt thereof.

I included that final sentence so that this committee could receive a document such as National Security Study Memorandum No. 1 and make a determination as to what it felt was the proper disposition of that memorandum, and report back to the Senate for the Senate's further consideration of the matter within 30 days. This would provide a mechanism for dealing with the problem we face.

I have discussed all of this with Sam Ervin, whom all of us respect for his knowledge and judgment in this field. He raises a large question about what both the Senator from New York and I propose. He feels that if the Senate adopted a procedure such as this, we would be sort of, in advance, preventing or prejudicing or precluding the right of an individual Senator, which he now possesses under the law as a Senator, to proceed to make whatever efforts he chooses to make and sees fit to make, in view of his understanding of his responsibilities and of the national interest, in relation to any document into the possession of which he comes.

I simply state that as evidence that we will have a considerable debate on this matter, and frankly, after talking with Sam Ervin, I am not totally convinced at the moment as to what course is wise and what course is unwise.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. I yield the Senator from New York my remaining time.

Mr. JAVITS. I would like to state that I do not expect the resolution to be immediately enacted. This is just a way of laying it before the Senate.

Mr. GRIFFIN. Mr. President, I yield to the distinguished Senator from Kentucky 3 minutes.

Mr. COOPER. Mr. President, I just want to make two observations.

First, I agree with Senator Hruska and Senator Javits that there is a question which goes to the President's power, in his duty to administer the law of the land, which I understand he is not dealing with.

Mr. JAVITS. That is right.

Mr. COOPER. Then, I understand that in the case of the Pentagon papers, several Justices, in their opinions, said that they found it very difficult to pass upon the issue because Congress had not laid down any rules dealing with such matters, and I would assume with classification.

I am sure the Senator's inquiry did look into this problem, but just for the Record, I wanted to raise the question. I assume, under the constitutional immunity given to a Member of the Senate to say anything he wants to in the House or in its committees, and therefore it is open to the public, that even with some papers which have been illegally secured he could do that.

But will the Senator consider, in his study, that subject of what the Senate should do with respect to papers which do not come in the regular course of business, either to a Member or to a committee, but which come from sources which have secured them illegally?

Mr. JAVITS. I certainly believe we have to. I thoroughly agree with the Senator that nothing must be done to trammel or impede or abort the constitutional privilege of every Member. But every Member is on notice that that constitutional privilege is subject to his position as a Senator. So long as he is a Senator, he has the right to do whatever he wishes respecting those papers. But he can be unmade a Senator, if that is the way the Senate decides.

I am reminded of what I consider among the most heroic examples in American history, of Martin Luther King attending a prayer meeting, blocking the street on bended knee, praying to our common God for what he considered to be justice, with his little package under his arm, not only prepared to go to jail, but it was an essential part of the ritual that he was perfectly ready to accept the fact that you had to run an orderly society. This did not stop him, but he did not expect to be excused.

So I agree thoroughly with the Senator from Kentucky.

Of course, we cannot, should not, and I hope, so long as I am alive, will not interfere with the right of a Senator to speak anything he wishes. But there are other aspects of the matter, as, for example, when a Senator comes to us—which is essentially what Senator Gravel did—and says: "What do you want me to do? How shall I proceed? I do not want to run it as if it is my own. I have a right to, but I do not want to. How shall I proceed?"

Or, as Senator Fulbright says to the executive department: "You deny it to me, but I force it out of you. You give it to me. Then when I see it I say: It is ridiculous. Why did you deny it to me? Why should we have this fight?" And he is right. But who is to decide?

These matters certainly cannot be left to implication. These are the difficult problems about which I hope we would begin to get some enlightenment from this committee.

Mr. GRIFFIN. Mr. President, the Senator from Ohio has been seeking recognition. I yield him such time as he may require.

Mr. TAFT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TAFT. Mr. President, I noted the statement of the Chair a few moments ago with regard to rulings since 1963. I also noted that comments in regard to them related totally, I believe, to action by unanimous consent and desecrefying the proceedings of the Senate.

My inquiry is whether, in view of rule XXXV, a motion to desecrefy the proceedings of the Senate in a secret session would be in order under the precedents.

The PRESIDING OFFICER. Under the precedents, particularly those prior to 1929, it could be done by motion.

Mr. TAFT. On a vote of a simple majority of the Senate?

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. TAFT. I thank the Chair. I ask for recognition.

The PRESIDING OFFICER. The Senator is recognized.

Mr. TAFT. Mr. President, there is a question here that the Senate has not fully considered, as to what is really in the national interest in this regard. A great deal has been said—and I share in the feeling—that the fullest possible disclosure to the public of information on which Congress acts is tremendously important in principle. But I think we ought to be asking ourselves, too, whether or not having a simple majority vote of this body to desecrefy the proceedings of a secret session of the Senate is in the national interest. If it is not, and if the precedents indicate, as has just been ruled by the Chair—although I find nothing in the Senate rules that would so indicate, insofar as the rules themselves are concerned—but if this indeed is the situation with regard to the precedents—and I may not object to the unanimous-consent request, because I do not want to strengthen the precedents any more than they exist today, and I almost hope we do not go beyond the unanimous-consent procedure—but if we do, and if we set the precedent clearly, once and for all, that a simple majority vote of the Senate may desecrefy a secret session of the Senate, I think we may well raise some very serious questions of national interest, not so much with regard to military classification and naticnal security matters, because in these matters I feel that the Senate is going to act with great care; but it seems to me that at times information may come into the hands of a Senator, perhaps with regard to other branches of the Government, which he may consider to be of enormous importance for consideration by the Senate or by Congress. Yet, if he knows that by a mere vote of a majority in the body, with perhaps heavy political implications involved, the matter may be desecrefied, he will not bring that matter before the Senate for its consideration.

If we are going to take this step today and further strengthen the apparent precedents that are involved, I think we should consider very seriously whether or not we should go into an amendment of the rules of the Senate to require at least a two-thirds vote—perhaps even a greater vote—so that we do not get that countereffect upon the desirability of having each Senator feel that he can bring to the Senate any matter that happens to come to his attention which he feels requires a secret session, but which he would not want to bring before the Senate for a secret session if a majority vote could declassify it. I think this is a question that we should go into seriously in considering our rules.

As I have said, insofar as the action today is concerned, I feel that we probably should go along with the unanimous-consent request, because I do not feel that the issue is raised directly on this particular point, and I do not want to strengthen the precedents. I think that the precedent we are setting and strengthening even by going along with the unanimous-consent request is one that the Senate should examine very carefully in the near future.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. MATHIAS. Mr. President, it seems to me that the Senator from Ohio has raised an interesting and an important point which directs our attention toward the two ways in which such information can be used. One way is for it to be used by the Senate, within the Senate, for the necessary legislative purposes of the Senate. The second way is for the Senate to use the information in such ways that require its publication beyond the Senate.

I think this is a difference which has not been focused on in this discussion, but it is an important difference, and it goes to the very heart of what the Senator from Ohio has suggested.

Mr. TAFT. I thank the Senator from Maryland. I agree with him.

I might say, also, that many of the remarks of the distinguished Senator from Kentucky go directly to the point I have raised.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. I yield to the Senator from Arkansas.

Mr. FULBRIGHT. I want to associate myself with the remarks of the Senator from New York. I do not know that I can clarify them much.

I agree with the Senator from Texas, if what he says is confined to the executive department. I certainly never have questioned nor wished to question the authority of the President's executive order to control the dissemination or publication or anything within the executive department.

The part of this question that interests me very much is the right of the Senate as an institution to the information to which I believe it is entitled in its legislative duties. I do not think that Executive Order 10501, I believe it is, referred to by the Senator from New York, does have the force of law with respect to controlling or influencing the right of the Senate and its committees to basic information which is relevant to the duties of the Senate.

This is a matter that has plagued several committees, not just the Committee on Foreign Relations.

The Senator from North Carolina, in the Committee on the Judiciary, has had as much to say about this as I have—or more.

This really is the on-going question of checks and balances—the rivalry, if you like, of the legislative branch. Myself, I am very much devoted to the primacy of the legislative branch. The Constitution intended it to be that way. I think it is so written. I think the reference to which the Senator from Nebraska had in Justice Potter Stewart's comments do not deal with the power of the Congress as distinguished from the New York Times or someone else to have access to classified information.

So what I am particularly interested in is that this committee, which I understand from this discussion will probably be appointed, will pay particular attention to the proposal of the rights of Congress for the declassification of material. I was not thinking of the kind of case in which the Senator from Ohio was talking about. If that is a classification at all, it is a classification by the Senate itself. That is a separate problem from the one in which I am very much interested.

I think it might be interesting for the Senate—maybe this has been called to your attention—one of my staff called to my attention a comment made by the present occupant of the White House, President Nixon, on April 27, 1948, when he was a Member of the other body.

The background on this is his desire to obtain a copy of a letter relating to Dr. Condon—one of the well known cases back in those days. It is very interesting to show the different attitude of the same man when a Member of the House of Representatives, or of the Senate, after he moves a few blocks down the street.

Here is what he said:

> Now, I am not criticizing the reporter for getting the information. That is his job. But I do say that when the time comes that the executive department feels that a particular letter is so confidential that it cannot be disclosed in executive session to a committee of Congress but that its contents can be bandied about among newspaper reporters, it is certainly high time that the Congress did something about that situation and got the information to which it was entitled.
>
> I am now going to address myself to a second issue which is very important. The point has been made that the President of the United States has issued an order that none of this information can be released to the Congress and that therefore the Congress has no right to question the judgment of the President in making that decision.
>
> I say that that proposition cannot stand from a constitutional standpoint . . .

I invite the particular attention of the Senator from Nebraska to that. This is the present President of the United States speaking when he was a Member of the House of Representatives—

> . . . or on the basis of the merits for this very good reason: That would mean that the President could have arbitrarily issued an Executive order in the Meyers case, the Teapot Dome case, or any other case denying the Congress of the United States information it needed to conduct an investigation of the executive department and the Congress would have no right to question his decision.

Mr. President, I ask unanimous consent that the entire page of the Congressional Record, which is page 4783 dated April 22, 1948, be printed in the Record. It is an historical comment on the controversy which is now engaging the Senate.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

[From the Congressional Record,
Apr. 22, 1948]

Mr. Nixon. Mr. Speaker, I think my distinguished colleague from the State of California [Mr. Lea] put his finger on this problem very neatly in his 3 minutes. I am going to address myself to that particular point.

There are Members of the House who may disagree on the merits of the Condon case itself. You may have different viewpoints as to whether or not Dr. Condon is or is not loyal. You may have different viewpoints as to whether or not his alleged associations do or do not constitute a security risk. You may have different viewpoints on whether or not the procedures of the Committee on Un-American Activities, in presenting the Condon case, have or have not been fair to Dr. Condon. These are not the issues before us, however.

I wish to address myself, as did the gentleman from California [Mr. LEA], to the narrow but very important issue before us, of this particular FBI letter. Referring to the letter, I want to summarize briefly the facts concerning it, most of which appear in the report, but an elaboration of which will, I believe, be of interest to the Members.

Mr. PRIEST. Mr. Speaker, will the gentleman yield?

Mr. NIXON. I yield.

Mr. PRIEST. Will the gentleman point out, if he has knowledge on which to base it, whether or not in his opinion the disclosure of all the contents of this letter would in any way endanger the security of the country? That is troubling a great many Members.

Mr. NIXON. I am glad the gentleman mentioned that point, because I intend to discuss it in my remarks, specifically.

In the first place, this letter was the basis for a report by a subcommittee of the Committee on Un-American Activities which was issued on March 1.

Certain paragraphs of the letter which had been obtained by a committee investigator were quoted in the report. The quoted portion referred to various associations of Dr. Condon with alleged foreign agents and the committee report concluded that these associations constituted a security risk in view of Dr. Condon's access to secret information.

On March 3, the letter again became a subject of discussion as the result of an article which appeared in the Washington Post. It is important to refer to this article because it fills out the story.

I quote from the article of March 3:

"Two persons who saw the letter, and are known to be reliable, told the Washington Post last night that they were struck by the omission in the subcommittee's quoting of the letter of a certain sentence."

The following day, on the 4th of March, another article appeared in the Washington Post which stated:

"The exact text of the missing statement was secured by the Washington Post last night."

The newspaper article, in other words, quoted directly from a letter which the executive department refused to turn over to a congressional committee.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. NIXON. I yield.

Mr. HARRIS. Can the gentleman, as a member of the Committee on Un-American Activities, who has given much time and thought to this question, tell this House whether or not the statement just read, together with the statement in the report issued by your committee, contains the full text of the letter in question?

Mr. NIXON. That is exactly the point. The gentleman has asked whether these quotations constitute the full and exact text of the letter. We do not know. That is what we are trying to find out. We do not know whether the version of the letter quoted in the committee report is correct, or whether the version quoted in the newspaper is correct, because we, apparently unlike the newspaper reporter involved, cannot get the text of the letter.

But this point should be emphasized to the House. Confusion has resulted by reason of the fact that portions of this letter were included in the committee report which apparently cast an unfavorable deflection upon Dr. Condon, while other portions have been quoted in the newspapers which create the inference that Dr. Condon is completely innocent, insofar as these particular associations are concerned. In order to clear up this confusion, in order to clear the air, it is essential that the whole letter come out.

I wish to point out that there are only two copies of this letter, one in the FBI and one in the Department of Commerce. Certainly no one will contend that the FBI made the letter available to newspaper reporters. The only other place from which it could have come was the Department of Commerce. We heard before our committee, in executive session, every available employee of the Department of Commerce who was supposed to have seen the letter. Every one of them refused to divulge the contents of the letter in any respect to a committee of Congress, and yet we find that portions of the letter are apparently made available to a newspaper reporter and are used to discredit the committee's report.

Now, I am not criticizing the reporter for getting the information. That is his job. But I do say that when the time comes that the executive department feels that a particular letter is so confidential that it cannot be disclosed in executive session to a committee of Congress but that its contents can be bandied about among newspaper reporters, it is certainly high time that the Congress did something about that situation and got the information to which it was entitled.

I am now going to address myself to a second issue which is very important. The point has been made that the President of the United States has issued an order that none of this information can be released to the Congress and that therefore the Congress has no right to question the judgment of the President in making that decision.

I say that that proposition cannot stand from a constitutional standpoint or on the basis of the merits for this very good reason: That would mean that the President could have arbitrarily issued an Executive order in the Meyers case, the Teapot Dome case, or any other case denying the Congress of the United States information it needed to conduct an investigation of the executive department and the Congress would have no right to question his decision.

Any such order of the President can be questioned by the Congress as to whether or not that order is justified on the merits. So, looking at the order and noting the reasons which the President gave for denying this information to the Congress, let me read:

"It is necessary in the interest of our national security and welfare, to preserve the confidential character and sources of information furnished, and to protect Government personnel against the discrimination of unfounded or disproved allegations."

This is from the memorandum of the President of March 13.

The SPEAKER. The time of the gentleman from California has expired.

Mr. WOLVERTON. Mr. Speaker, I yield the gentleman from California one additional minute.

Mr. NIXON. In the brief time remaining to me I want to apply these two criteria to the Condon letter. First, the order says we must not disclose confidential sources of information. As a matter of fact, this letter does not disclose confidential sources of information, and I make this statement on the basis of the testimony of Mr. Towne, secretary of the Commerce Department Loyalty Review Board, before our committee. Let me quote from that testimony:

"Mr. Stripling. * * * I contend that there are no names disclosed in Mr. Hoover's letter.

"Mr. Towne. If Mr. Harriman's letter is limited to the letter of May 15, a thing of which I was not aware. I think it would be accurate to say that the FBI file, however, does contain the names of people, however, who are identified by name."

From this statement it seems apparent that there are no sources of information in the letter. There may be in the complete FBI file which is not covered by this resolution.

The second point, just as important, upon which the President based his secrecy order is that we must protect Government personnel against the dissemination of unfounded or disproved allegations. This point constitutes one of the strongest arguments for making the letter public rather than for keeping it secret. Because as a result of the portions of the letter which have already been released allegations have been made which reflect upon Dr. Condon. Some sources say that the letter in fact clears him of these charges. In the interest of a complete airing of all the facts and of dispelling these unfounded allegations, if they are that, it is essential that the entire content of the letter be released to the Congress.

The SPEAKER. The time of the gentleman from California has again expired.

Mr. FULBRIGHT. Mr. President, it is interesting, because it is an on-going problem. It is not peculiar to this administration or to any other administration. What I am interested in is that Congress itself have greater access to information much of which is not of a sensitive nature with regard to the defenses of the United States. I call attention to the fact that the last case that came before my committee was simply what the President called the internal working order of the USIA information. I believe under the President's own words, there is no justification for his present Executive order saying that virtually all internal working papers, everything except the final decision of the executive department, is available to the Congress. I think he himself would have said that and did say it at the time he made that comment.

So I sincerely hope that this committee will give particular attention to the question of the right of Congress to information relevant to its legislative duties. The other questions are important, but peripheral to that.

Mr. GRIFFIN. Mr. President, I now yield 3 minutes to the Senator from Kentucky (Mr. COOK).

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from Kentucky is recognized for 3 minutes.

Mr. COOK. Mr. President, the comments of the Senator from Arkansas are interesting. I only say that I do not know the President has entered into this debate. My understanding is that the papers the Senator from Alaska has, and which the Foreign Relations Committee has—I do not know whether the chairman of the Foreign Relations Committee made those papers available to all members of the Foreign Relations Committee—but I think this bears——

Mr. FULBRIGHT. If the Senator will yield right there, let me say that I did not make them available to the committee. There is no time to discuss that now, but I will be perfectly willing to discuss it in open or any other session. They were delivered to me. I did not make them available to anyone.

Mr. COOK. My point is, this bears out the remarks the Senator from Ohio made, as to how we use a secret session, and whom we decide to scold in secret session, and whether we make them political secret sessions. The intervention of the President's remarks in 1948, they may be the same remarks today. I have no idea. I do not know that it goes to the point of the debate before this closed session now that involves the remarks of the President of the United States in 1948, except that it will be necessary to get those into the Record when they become open and available for publication—which they should be.

But the point is, we get back to the real debate we had here, and that was as to certain papers a Member of the U.S. Senate had that came into his possession, and that had been distributed to other sources, including your own and to your own committee—and, obviously, members of your own committee did not have them available to them.

So maybe we should take into serious consideration the veil of secrecy that may really prevail within the confines of the committee system of the U.S. Senate, and that this great debate we are having as it applies to the executive might also apply to the legislative as well.

Mr. GRIFFIN. Mr. President, I yield 5 minutes to the Senator from Colorado (Mr. Allott).

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. ALLOTT. Mr. President, first, I should like to ask a parliamentary inquiry.

When we had the secret session the other day, I raised the question that we could not go into an executive or secret session because the motion was not properly made. At that time, or subsequent to that time, the Parliamentarian showed me two precedents, which I looked at rapidly, which seemed to indicate that any Senator may make a motion to go into secret session provided it is seconded without respect to the qualifications of rule XXXV.

Now, Mr. President, I make this parliamentary inquiry.

The PRESIDING OFFICER (Mr. Stafford). The Senator from Colorado will state it.

Mr. ALLOTT. Would it be in order at this time to ask unanimous consent that, without respect to any former precedents of the Senate, a motion to close the doors of the Senate and indulge in a secret session may only be made under the provisions of rule XXXV? I ask if such a unanimous consent would be in order.

The PRESIDING OFFICER (Mr. Stafford). The Chair is informed that such a unanimous consent would be in order. It would have the effect, the Chair is informed, of repudiating previous precedents.

Mr. ALLOTT. Then, Mr. President, because this is the rule of the Senate, I make such a unanimous consent request.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I would have to object today, until I could have a better understanding of just what is involved when we talk about repudiating previous precedents of the Senate. I would hope that the Senator would withhold his request and allow us——

Mr. ALLOTT. I will do so. I will be happy to do it at the request of the majority whip, but I think this is a very important question, because there have been subsequent ones. I think the last one was in connection with the late Senator Dirksen in 1969 in which the precedent set up under rule XXXV completely vitiates rule XXXV. And if we are going to vitiate rule XXXV, let us change it and toss it out of the window.

I would hope, at a later time perhaps—there is no reason why it should not be open—in an open session to make such a request because I know of no other way to go back to the rules of the Senate as they are written.

Mr. President, I would like to comment on this matter.

The PRESIDING OFFICER. The Chair understands that the request has been withdrawn then.

Mr. ALLOTT. Mr. President, I withdraw it temporarily.

The PRESIDING OFFICER. The request is withdrawn.

Mr. ALLOTT. Mr. President, to me I think there are several questions which have not been discussed here that have lightly been alluded to. One of the most serious questions is what is the position of any person, a Senator or anyone else, who comes into the possession of documents which are stolen, and what are his duties?

The Senator from New York has alluded to some law. I ask unanimous consent that at this point in my remarks several sections of the Atomic Energy Act of 1954 be printed in the Record. They are sections 224, 225, 227 of chapter XVIII under the title "Enforcement."

There being no objection, the sections were ordered to be printed in the Record, as follows:

Sec. 24. Communication of Restricted Data.—Whoever, lawfully or unlawfully, having possession or access to, control over, or being entrusted with any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data—

a. communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with intent to injure the United States or with intent to secure an advantage to any foreign nation, upon conviction thereof, shall be punished by death or imprisonment for life (but the penalty of death or imprisonment for life may be imposed only upon recommendation of the jury), or by a fine of not more than $20,000 or imprisonment for not more than twenty years or both;

b. communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with reason to believe such data will be utilized to injure the United States or to secure an advantage to any foreign nation, shall, upon conviction, be punished by a fine of not more than $10,000 or imprisonment for not more than ten years, or both.

Sec. 225. Receipt of Restricted Data.—Whoever, with intent to injure the United States or with intent to secure an advantage to any foreign nation, acquires, or attempts or conspires to acquire any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data shall, upon conviction thereof, be punished by death or imprisonment for life (but the penalty of death or imprisonment for life may be imposed only upon recommendation of the jury), or by a fine of not more than $20,000 or imprisonment for not more than twenty years, or both.

Sec. 227. Disclosure of Restricted Data.—Whoever, being or having been an employee or member of the Commission, a member of the Armed Forces, an employee of any agency of the United States, or being or having been a contractor of the Commission or of an agency of the United States, or being or having been an employee of a contractor of the Commission or of an agency of the United States, or being or having been a licensee of the Comission, or being or having been an employee of a licensee of the Commission, knowingly communicates, or whoever conspires to communicate or to receive, any Restricted Data, knowing or having reason to believe that such data is Restricted Data, to any person not authorized to receive Restricted Data pursuant to the provisions of this Act or under rule or regulation of the Commission issued pursuant thereto, knowing or having reason to believe such person is not so authorized to receive Restricted Data shall, upon conviction thereof, be punishable by a fine of not more than $2,500.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRIFFIN. Mr. President, how much time remains to this side?

The PRESIDING OFFICER. Seven minutes remain to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I yield 5 additional minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 additional minutes.

Mr. ALLOTT. Mr. President, I will close as rapidly as I can. As an example of what we should do, I would think, if the Senator makes his request, that 60 days is not enough. I think we ought to look at the secret papers after the British Government. I have not read them. However, I have discussed them in some years past with other people. I think they should be made applicable here.

Mr. President, I was quite sincere the other day. I think the whole question is—whether we approve of what this President has done or not and whether we think he has the power or not—how long this country can go on with having highly classified, highly sensitive documents stolen from the executive branch or from Congress, for that matter, and published.

This becomes particularly pertinent in the remarks made the other day by the Senator from Alaska when he said in substance that it was a matter of his own conscience as to whether he should release these. If we are all on that basis, then we have reached a state of anarchy. There is no other choice. We have to establish laws, and those laws have to be broad and cover the whole spectrum of this problem.

Otherwise, we had better not touch it. We had better leave it alone.

In conclusion, Mr. President, I want to say that my purpose the other day in opposing the opening of the record on these matters was simply to see how strictly the Senators in this body could obey the injunction of the rules of the Senate. I recall specifically when we had the closed session on the ABM that I read in the paper the following morning specific figures that could never have come out of anywhere but that closed session of the Senate. Maybe we had better look at our rules and our whole procedures and decide that it is time for us to be sure to start to live up to the rules of the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, how much time remains on the other side?

The PRESIDING OFFICER. The other side has 8 minutes remaining. The Senator from Michigan has 3 minutes remaining.

Mr. GRIFFIN. Mr. President, I yield 2 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 2 minutes.

Mr. HRUSKA. Mr. President, there are two matters involved in this question. It is a usual matter to mix them up. They should not be mixed up. There is no question that the President under the doctrine of the separation of powers has the power to protect the confidentiality of documents. That is so plain when we read the authorities that it is not open to question.

Then we move into the next category, that of executive privilege. Which of these items which are classified confidential must the President make available upon process issuing from either the legislative branch or the judicial branch? That is the doctrine of executive privilege. It does not depend upon confidentiality at all. It has nothing to do with that.

Mr. President, we ought to keep those two categories separate and apart from each other, because classified information is often supplied to congressional committees, to Congress, to the Senate, and to the House of Representatives. The mere fact of classification by itself does not cut off the basis for withholding information from a committee of the Congress. Conversely, documents bearing no relation to national security may properly be made the subject of executive privilege.

What Representative Nixon was saying in 1948 had to do with the question of executive privilege and not with the separation of power to classify and protect material that is confidential or pertinent in his judgment.

So, we have to get those concepts separated. It is easy to fall into general language.

Mr. President, I am sorry. I wish that I were temporarily a Member of the House so that I could have the privilege of extending my remarks.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for an additional minute.

Mr. HRUSKA. Mr. President, it is upon the basis, Mr. President, of the assumption and not only the assumption, but also the history of this country for almost 200 years, that the President has that power to classify documents and also has the power of executive privilege. It is upon that basis that the Congress passed the Atomic Energy Act, the Espionage Act contained in 18 U.S.C., 792–798, and also the Freedom of Information Act.

There Congress undertook to impose penalties. If a person entrusted with documents or in lawful possession of documents violated that trust, they could be subject to a penalty up to $10,000 fine and up to 10 years in jail.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, I yield the Senator from Nebraska 1 additional minute.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 1 additional minute.

Mr. HRUSKA. Mr. President, those are severe penalties. They not only extend to whoever has possession and violates the law in divulging it or who has control, but it is even that person who has knowledge that the document is stolen and does not report it that the penalty applies to. It also applies to persons who engage in a conspiracy, two or more persons, and if one of those persons engages in an act that effects the conspiracy, then both of them are guilty of the conspiracy charge.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. FULBRIGHT. Mr. President, this is much too limited a time in which to pursue this subject.

Mr. HRUSKA. It is, indeed.

Mr. FULBRIGHT. Mr. President, I only wish to say that this clear-cut distinction often becomes confused. That is the question of whether we could properly classify as against the public and the members of the executive whether or not that is also a proper classification of executive privilege vis-a-vis Congress.

I do not think the Senator can find in the Constitution any reference to executive privilege, and the original historical reason was something closely identified with the President in the nature of a confidential communication between the President himself and a confidential secretary, or something of that nature.

My point is that this concept has no constitutional basis other than the immunity of the President himself. If that is accepted under the earlier understanding it should not be extended to where it applies against Congress and its constitutional responsibilities across the board, and that is what it comes down to. An agency with as little sensitivity as USIA can claim executive privilege, and that is a complete distortion of the concept. That is what I have been suggesting.

We cannot resolve it today, but if we are going to have this special committee I strongly recommend that it look into this aspect, which is far more important than stolen documents. I am not particularly interested in that aspect; it only occurs sporadically and under certain circumstances. As interpreted now, it is a block to the system.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Hawaii.

Mr. FONG. Mr. President, I was one of the Senators who objected to making public the record of the secret session on the ground that if we are going to have a secret session we should have a secret session. It is so easy to have a secret session under rule XXXV of the rules of the Senate. A Senator makes a motion, the motion is seconded, and the doors are closed and we are in secret session. We see also how easy it is to disclose to the public what has been done because by majority vote, as ruled by the Parliamentarian, the minutes of what is said here can be made public. I think that is a bad rule. When we assure Senators we are going to have a secret session we actually tell them that the proceedings will be secret. If we are going to say by majority rule that we can "desecretize" the meeting—and they know very well how easy it is to "desecretize" the minutes of the meeting—for anyone wishing to make the minutes public can easily secure a majority vote to make it public. Hence, no meeting will be secret, for a majority vote will make the minutes of the meeting public.

I think the Senate should really look into the rules to see what we can do to remedy that situation. I think the better rule would be to have unanimous consent. If there were unanimous consent to make the minutes public, we would know that everyone had consented to it being done. If there were a majority vote only, then those who did not vote for the motion have been forced to have whatever is said made public. This should not be.

There will be a motion before the Senate to make the minutes public. I will not object because in objecting, the consent will not be unanimous, as nothing has been said which is detrimental to the national interest, I will not object to making public the minutes of this meeting.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the notes of today's proceedings be transcribed and that the original transcript be placed in my hands; that a copy of that transcript be placed in the hands of the assistant Republican leader, that those two copies remain in the two respective offices until 3 o'clock tomorrow, during which time Senators may examine them, and those who participated in the debate may edit them with respect to grammar and clarification; that the transcripts of the closed sessions on Tuesday also remain in those two respective offices until 3 o'clock tomorrow to permit Senators to further examine them; and that the proceedings of the three closed sessions—the two closed sessions Tuesday and the closed session today—be printed in the RECORD of Friday of this week.

The PRESIDING OFFICER. Is there objection?

Mr. ALLOTT. Mr. President, may I hear the request?

The PRESIDING OFFICER. Will the Senator restate his request?

Mr. ROBERT C. BYRD. Mr. President, how much additional time do I have?

The PRESIDING OFFICER. The Senator has less than 1 minute.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Official Reporters' notes of today's closed session be transcribed; that the transcript be placed in the hands of each of the two assistant leaders, that those transcripts not leave their offices; that any Senator may examine those transcripts in those two respective offices until 3 o'clock tomorrow; that as of 3 p.m. tomorrow those two transcripts, together with the transcripts of Tuesday's two closed sessions be returned to the Official Reporters; that the proceedings of the three closed sessions then appear in the Record on Friday, May 5, 1972; and that the injunction of secrecy thereon be lifted as of the close of business tomorrow or as of 5 p.m. tomorrow, whichever is the later.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ALLOTT. Mr. President, I would like the Record to show for the Senator from Colorado that he was present at the time of the unanimous-consent request and did not object.

The PRESIDING OFFICER. The Record will so show.

Mr. COOK. Mr. President, I wish to make the same request for the Record. I intended to reserve the right to object and asked the Senator to make that in the form of a motion because I think it is important to put this in the Record, and conceivably it should be voted on. However, because of the lateness of the day I wish to have the Record show that the Senator from Kentucky was in attendance today, that I did not object to the request, and that had it been put to vote the Senator from Kentucky would have voted yea.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. GRIFFIN. Mr. President, I yield to the Senator from Texas.

Mr. TOWER. Mr. President, I would like the Record to show that I am present and did not object.

Mr. PASTORE. Mr. President, I think a Democrat should say the same thing. I make the same request.

Mr. CRANSTON. The Senator from California makes the same request.

Mr. GRAVEL. Mr. President, the Senator from Alaska makes the same request.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair act on each request.

The PRESIDING OFFICER (Mr. Jordan of Idaho). Without objection, it is so ordered.

Mr. CASE. I make the same request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Same request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FULBRIGHT. Same request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOGGS. Mr. President, I make the same request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, the same request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I make the same request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AIKEN. Mr. President, does not the Record already show that 52 Members of the Senate were present?

The PRESIDING OFFICER. All time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may proceed for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the publication of the closed sessions' proceedings in Friday's Record, the proceedings with respect to Tuesday's closed session appear in the permanent Record in the appropriate place in that day's Record, and that the proceedings of today's closed session appear in the appropriate place in the permanent Record of Thursday, May 4, 1972.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. One precautionary word: the injunction of secrecy remains upon all of us until the close of business tomorrow or 5 p.m. tomorrow, whichever is the later.

I thank all Senators for their patience.

The PRESIDING OFFICER. The Chair hears no objection.

STATEMENT ON VOTES

Mr. SPONG subsequently said: Mr. President, I was present at the beginning of the closed session on this past Tuesday but left to return to my home in Portsmouth to vote in the local election on that day. Subsequent to my departure two procedural votes were taken. Had I been present and voting, I would have voted against returning to open session and against adjourning, and I would like the Record to so indicate. I approve of the Senate's action in making the proceedings of the Senate public for both Tuesday's closed sessions and the closed session of yesterday, Thursday.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to open legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered. The doors will be opened.

(At 3:30 p.m. the doors of the Chamber were opened.)

LEGISLATIVE SESSION—FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The PRESIDING OFFICER (Mr. Jordan of Idaho). The Chair lays before the Senate the unfinished business.

The legislative clerk read the bill by title, as follows:

A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Mississippi.

Mr. STENNIS. Mr. President, I yield 5 minutes, or such time thereof as he may use, to the Senator from Delaware (Mr. Boggs).

THREAT TO BEACHES OF DELAWARE

Mr. BOGGS. Mr. President, it has come to my attention that the beaches of Delaware may soon face a serious environmental danger.

The city of Philadelphia and the State of Pennsylvania may soon grant a contract which could result in the dumping of 1,800,000 cubic yards of sewage sludge near our Delaware beaches.

I might point out that 1,800,000 cubic yards of sewage sludge would fill Philadelphia's new Veterans Stadium to the brim several times. That is how much sludge may be dumped on the clam beds, the fishing grounds, and, potentially, the beaches of southern Delaware.

The sludge would be pumped off of 100 acres of lagoons in preparation for the construction of Interstate Highway 95 south of Philadelphia.

This area, where Philadelphia dumped sewage sludge from one of its treatment plants for a number of years, could also serve as the site for any bicentennial exposition.

There are a number of potential disposal techniques under consideration when bids are accepted: One would involve burning; another involves converting it into fertilizer; a third technique would call for land disposal; the fourth alternative, of course, would be ocean disposal.

While the city of Philadelphia has apparently withdrawn the contract specifications for redrafting, I am disturbed over press reports quoting city officials as saying the sludge will probably go to sea.

The Senate wisely passed an effective and important ocean dumping bill late last session. It is unfortunate that a conference committee has not yet resolved differences with a similar House bill, so that the legislation could be sent to the President.

I say "unfortunate," because such legislation would, for the first time, create a rational method for evaluating the potential environmental damage of ocean disposal of wastes. If such disposal were damaging, under the Senate bill, it could not take place. If it were judged not to be damaging, a permit could be issued for the dumping.

While there is now no effective law to prevent the dumping of this sludge in the Atlantic, I believe the environmental impact of this propoced work should be carefuly evaluated before any work begins.

I have today written to Transportation Secretary John Volpe, expressing my hope that such an environmental study can be made, since Federal highway dollars may have a catastrophic effect on Delaware's environment.

I know that Mr. Volpe's Department is well aware of this situation, and they will be working hard to assure that this does not happen. However, the only way that this can be assured would be to require an environmental impact statement, allowing full public scrutiny of the decision by Philadelphia and Pennsylvania.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 9019. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Jicarilla Apache Tribe in Indian Claims Commission docket numbered 22–A, and for other purposes; and

H.R. 13753. An act to provide equitable wage adjustments for certain prevailing rate employees of the Government.

The enrolled bills were subsequently signed by the President pro tempore.

BLACK LUNG BENEFITS ACT OF 1972—CONFERENCE REPORT

Mr. RANDOLPH. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes.

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

Conference Report (S. Rept. No. 92–780)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes, having met after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from is amendments numbered 8, 30, 32, 33, 41, 48, and 49.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 6, 7, 9, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 36, 37, 38, 42, 44, 45, and 47, and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(5) In the case of the dependent parent or parents of a miner whose death is due to pneumoconiosis, or of a miner who is receiving benefits under this part at the time of his death, or of a miner who was totally disabled by pneumoconiosis at the time of death, and who is not survived at the time of his death by a widow or a child, or in the case of the dependent surviving brother(s) or sister(s) of such a miner who is not survived at the time of his death by a widow, child, or parent, benefits shall be paid under this part to such parent(s), or to such brother(s), or sister(s), at the rate specified in paragraph (3) (as if such parent(s) or such brother(s) or sister(s), were the children of such miner). In determining for purposes of this paragraph whether a claimant bears the relationship as the miner's parent, brother, or sister, the Secretary shall apply legal standards consistent with those applicable to relationship determination under Title II of the Social Security Act. No benefits to a sister or brother shall be payable under this paragraph for any month beginning with the month in which he or she receives support from his or her spouse, or marries. Benefits shall be payable under this paragraph to a brother only if he is

"(1) (A) under eighteen years of age, or

"(B) under a disability as defined in section 223(d) of the Social Security Act which began before the age specified in section 202(d) (1) (B) (ii) of such Act, or in the case of a student, before he ceased to be a student, or

"(C) a student as defined in section 402 (g); or

"(2) who is, at the time of the miner's death, disabled as determined in accordance with section 223(d) of the Social Security Act, during such disability. Any benefit under this paragraph for a month prior to the month in which a claim for such benefit is filed shall be reduced to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such claim, the Secretary has certified for payment for such prior months. As used in this paragraph, 'dependent' means that during the one year period prior to and ending with such miner's death, such parent, brother, or sister was living in the miner's household, and was, during such period, totally dependent on the miner for support. Proof of such support shall be filed by such claimant within two years after the month in which this amendment is enacted, or within two years after the miner's death, whichever is the later. Any such proof which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof within such period. The determination of what constitutes 'living in the miner's household', 'totally dependent upon the miner for support,' and 'good cause,' shall for purposes of this paragraph be made in accordance with regulations of the Secretary. Benefit payments under this paragraph to a parent, brother, or sister, shall be reduced by the amount by which such payments would be reduced on account of excess earnings of such parent, brother, or sister, respectively, under section 203(b)-(1) of the Social Security Act, as if the benefit under this paragraph were a benefit under section 202 of such Act."

And the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement with the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

On page 4, line 14, of the Senate engrossed amendments strike out "child" and insert ", child".

And the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement with the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

On page 7, line 1, of the Senate engrossed amendments, strike out "(3)" and insert "(C)".

And the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement with the amendment of the Senate numbered 34, and agree to the same with amendments, as follows:

On page 9 of the Senate engrossed amendments, beginning with line 21, strike out all through line 4 on page 10.

On page 10 of the Senate engrossed amendments, strike out line 5 and insert "Sec. 4. (a) Section 402(f) of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows:".

On page 10, line 17, of the Senate engrossed amendments, strike out "(c)" and insert "(b)".

On page 11, line 1, of the Senate engrossed amendments, strike out "(d)" and insert "(c)".

On page 12, line 6, of the Senate engrossed amendments, strike out "(e)" and insert "(d)".

On page 12, line 14, of the Senate engrossed amendments, strike out "(f)" and insert "(e)".

On page 12, line 19, of the Senate engrossed amendments, strike out "(g)" and insert "(f)".

On page 13, line 7, of the Senate engrossed amendments, strike out "(h)" and insert "(g)".

On page 7, line 18, of the House engrossed bill, strike "4" and insert in lieu thereof 5.

And the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement with the amendment of the Senate numbered 35, and agree to the same with amendments, as follows:

On page 7, line 20, of the House engrossed bill, strike out " "1971" " and insert "December 31, 1971".

In lieu of the matter proposed to be inserted by such amendment insert "June 30, 1973",.

And the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with amendments as follows:

Restore the matter proposed to be stricken out by the Senate amendment and—

On page 8, line 4, of the House engrossed bill, delete " 'nine'." and insert in lieu thereof "twelve",.

And the Senate agree to the same.

Amendment numbered 40: That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with amendments as follows:

On page 13, line 19, of the Senate engrossed amendments, strike out "(4)" and insert in lieu thereof "(5)".

On page 14, line 3, of the Senate engrossed amendments, strike out "fourth" and insert in lieu thereof "sixth."

And the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement with the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

On page 16 of the Senate engrossed amendments, strike lines 4 and 5 and insert in lieu thereof "pneumoconiosis. No person shall cause or attempt to cause an operator"

And the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment as follows:

On page 18, line 12, of the Senate engrossed amendments strike the period and insert in lieu thereof a colon and the following: "*Provided*, That for the purpose of determining the applicability of the presumption established by section 411(c)(4) to claims filed under Part C of this title, no period of employment after June 30, 1971, shall be considered in determining whether a miner was employed at least fifteen years in one or more underground mines."

And the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement with the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

On page 19, line 8, of the Senate engrossed amendments, strike out "7" and insert "6".

And the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement with the amendment of the Senate numbered 51, and agree to the same with amendments, as follows:

On page 19, line 21, of the Senate engrossed amendments, strike out "8" and insert "7".

On page 20, line 7, of the Senate engrossed amendments, strike out "January" and insert "July".

And the Senate agree to the same.

Amendment numbered 52:

That the House recede from its disagreement with the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows:

On page 21, line 22, of the Senate engrossed amendments, strike out "9" and insert "8".

And the Senate agree to the same.

HARRISON A. WILLIAMS,
JENNINGS RANDOLPH,
CLAIBORNE PELL,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ADLAI E. STEVENSON III,
HAROLD E. HUGHES,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
BOB PACKWOOD,
ROBERT TAFT, JR.,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.
CARL D. PERKINS,
JOHN H. DENT,
ROMAN C. PUCINSKI,
PHILLIP BURTON,
JOSEPH M. GAYDOS,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The following Senate amendments made technical, clerical, clarifying or conforming changes: 1, 3, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 31, 33, 38, 41, 47, 48, and 49.

With respect to these amendments (1) the House either recedes or recedes with amendments which are technical, clerical, clarifying, or conforming in nature; or (2) the Senate recedes in order to conform to other action agreed upon by the committee of conference.

Amendment No. 2: Both the House bill and the Senate amendments provided benefits for orphaned children of miners who died from pneumoconiosis or who were receiving benefits at the time of death.

The Senate amendment added orphaned children of miners who were totally disabled by pneumoconiosis, permitted such children to take benefits where the miner's widow survives him and then dies, and limited the child's entitlement to benefits in such cases to months in which the widow's entitlement is not established. The House recedes.

Amendment No. 5: The Senate amendment permitted dependent parents of a deceased eligible miner to succeed to such miner's benefits if there is no surviving widow or child. If there is no surviving dependent parent, surviving dependent brothers and sisters may succeed to such miner's benefits. Under the Senate amendment, dependent parents, brothers or sisters must have received at least one half of their support from the miner for at least one year prior to his death. The House bill contained no such provision.

The House receded with an amendment that provided that in order to qualify for benefits, parents, brothers and sisters must have been wholly dependent on the miner and must have resided in the miner's household for one year prior to the miner's death. The amendment provided further that in the case of a surviving brother, he would not receive benefits after the age of 18, or if a student, after age 22, unless the surviving brother became disabled before the age of 18 or was disabled at the time of the miner's death. In the case of a surviving sister or brother, the amendment provided that no benefits would be paid to her or him if he or she married or received support from his or her spouse.

The House amendment also removed language in the Senate version specifically requiring the Secretary to apply the relevant State or District of Columbia intestate succession law in determining whether a claimant is a parent, brother, or sister of a miner. The conferees concluded that the Social Security Administration generally refers to such intestacy laws in making such determinations.

Amendment No. 8: The Senate amendment permitted dependent children to file claims for augmented benefits in their own right where necessary. The House bill did not contain such a provision. The Senate recedes. The conferees concluded that the objective of the Senate amendment could be achieved through regulations issued by the Secretary of Health, Education, and Welfare.

Amendment No. 27: Both the House bill and the Senate amendments limited the time for filing by a child. The House bill limited such time to six months after the death of the surviving parent or December 31, 1972, whichever is later. The Senate amendment extended the date certain to December 31, 1973. The House recedes.

Amendment No. 30: The Senate amendments made the provisions of section 1 of the bill retroactive to December 30, 1969, except as otherwise provided therein. The House bill contained no such provision. The Senate recedes.

Amendment No. 32: The House bill required the elimination of the practice of offsetting social security disability insurance benefits of certain miners where the claimant also receives black lung benefits. The Senate amendments limited such offsetting to 100 percent of former earnings. The Senate recedes.

Amendment No. 34: The Senate amendments:

(1) altered the definition of "pneumoconiosis" to include the sequelae of the disease. The Senate recedes. The conferees understand that in the administration of the program benefits are now provided for total disability due to the sequelae of pneumoconiosis, such as cor pulmonalae.

(2) altered the definition of "total disability" to provide that a miner is totally disabled when pneumoconiosis prevents him from engaging in gainful employment requiring skills comparable to his regular work in a mine. The House bill contained no such provision. The House recedes.

Questions were raised during the conference regarding the Senate language on total disability and whether it expanded the definition so as to include any miner who could no longer perform work in the coal mines. The House receded on the understanding that under the Senate language it is not intended that a miner be found to be totally disabled if he is in fact engaging in substantial work involving skills and abilities closely comparable to those of any mine employment in which he previously engaged with some regularity and over a substantial period of time, or if it is clearly demonstrated that he is capable of performing such work and such work is available to him in the immediate area of his residence.

Once a claimant qualifies as totally disabled, any money he earns at gainful employment will be subject to the excess earnings test in section 412(b) of this Act.

(3) Added to the benefit criteria of section 411(a) to permit payment of benefits where a miner was totally disabled by pneumoconiosis at the time of his death. The House bill contained no such provision. The House recedes.

(4) Added a new paragraph (4) to section 411(c) which established a rebuttable presumption of pneumoconiosis where a miner was employed fifteen or more years in a mine, where a chest roentgenogram is interpreted as negative but where such miner has or had a totally disabling respiratory or pulmonary impairment. The Secretary may rebut such presumption by establishing the absence of pneumoconiosis or by establishing that such impairment did not arise out of, or in connection with, employment in a coal mine. A miner who was in whole or in part employed in other than an underground mine may establish this presumption if his conditions of employment were substantially similar to conditions in an underground mine.

The House bill did not contain such a provision.

The House recedes. See Amendment No. 46 concerning the application of these provisions under Part C.

(5) Required final regulations with respect to implementation of amendments to title IV to be promulgated by the Secretary of HEW by the end of the fourth month after enactment. The House bill contained no such provision. The House recedes.

(6) Required compensation laws on the Secretary of Labor's list to have standards for determining death or total disability due to pneumoconiosis which are substantially similar to those in section 402(f) and others under part B. The House bill contained no such provision. The House recedes.

(7) Contained a provision prohibiting the denial of a claim solely on the basis of the results of a chest roentgenogram and also required the consideration of all relevant evidence, including tests, history and affidavits, in establishing the validity of a claim.

The House bill also contained a provision prohibiting the denial of a claim solely on the basis of a chest roentgenogram, but did not contain the other provisions. The House recedes.

Amendments No. 35, 36, and 37: The House bill extended full Federal financial responsibility under part B for two years, while the Senate amendments extended such responsibility for one year. The conferees agreed to extend full Federal financial responsibility for new claims for eighteen months. Temporary financial responsibility of the Federal Government has been shifted from the year 1972, as provided in existing law, to the six-month period beginning July 1, 1973, and ending December 31, 1973.

Amendment No. 39: The House bill extended the termination date of part C for two years. The Senate amendment made the program permanent. The Senate recedes with an amendment terminating responsibility for new claims under part C of the program as of December 30, 1981, or an extension of five years beyond existing law. For claims filed on or before December 30, 1981, responsibility under part C will continue beyond that date.

Amendment No. 40: The Senate amendments required that final regulations under part C to implement any amendments thereunder be promulgated and published no later than the end of the fourth month following enactment. The House bill contained no such provision. The Senate recedes with an amendment requiring publication no later than the end of the sixth month following enactment.

Amendment No. 42: The Senate amendments authorized the construction, purchase, and operation of clinical facilities for the analysis, examination, and research related treatment of miner's occupational respiratory and pulmonary impairments. The new section required research to be initiated within the National Institute of Occupational Safety and Health to devise tests to measure, detect and treat miner's respiratory and pulmonary impairments. Appropriations for clinical facilities were authorized at $10 million for each of the three fiscal years 1973, 1974, and 1975, and such sums as are necessary for research. The House bill contained no such provision. The House recedes.

Amendment No. 43: The Senate amendments added a new section 428 to title IV which prohibits discrimination by an operator against any miner employed by him solely by reason of the fact that such miner has pneumoconiosis or other respiratory or pulmonary impairment. Investigation, hearing and enforcement procedures by the Secretary of the Interior, were included. The section also contained a provision requiring compensation of hearing examiners at a rate not less than GS–16.

The House recedes with an amendment which omits the reference to other respiratory or pulmonary impairments.

The conferees note the appropriate jurisdictional concerns of the Post Office Civil Service Committees of both Houses in this matter, and reluctantly adopted the provision only out of a desire to avert an imminent personnel crisis arising from the existing disparity in the compensation of hearing examiners at the Department of Interior and other Federal agencies. This provision will eliminate the disparity.

Amendment No. 44: The Senate amendments added a new section 429 to authorize appropriations in such sums as are necessary to enable the Secretary of Labor to carry out his responsibilities under title IV. The House bill contained no such provision. The House recedes.

Amendment No. 45: The Senate amendments included an amendment to section 422(a) which requires employers to provide medical benefits to employees under part C. It also required State compensation laws to include such a requirement in order to qualify as adequate under Part C. The House bill contained no comparable provision. The House recedes.

Amendment No. 46: The Senate amendments added a new section 430 to apply all appropriate amendments in part B to part C. The House bill contained no such provision. The House recedes with an amendment which provides that with respect to the rebuttable presumption of section 411(c) (4), such presumption shall only apply for purposes of part C, where the fifteen years employment in a coal mine occurred entirely before July 1, 1971.

The conferees further agree that the elimination of the social security disability insurance offset provision shall not apply to part C.

The conferees note specifically that the provision relating to the prohibition against the denial of a claim solely on the basis of the results of a chest roentgenogram, among other amendments made to part B, applies to part C.

Amendment No. 50: The Senate amendments required the Secretary of HEW to inform claimants under title IV of the changes in the law made by the Black Lung Benefits Act of 1972 and to advise them that their claims will be reviewed. The House bill contained no such provision. The House recedes.

Amendment No. 51: The Senate amendments added a new provision to part B under which the Secretary of Labor is to pay benefits and process claims during the period from July 1, 1973 to December 31, 1973, utilizing the procedures of Section 19 of the Longshoremen's and Harbor Worker's Compensation Act. In processing such claims, potentially liable operators are to be notified and allowed to participate. Operators will be bound under part C on any claim determined under this section. The House bill contained no such provision. The House recedes. It is noted that Section 21 of the Longshoremen's and Harbor Worker's Compensation Act provides for judicial review of awards rendered pursuant to Section 19 of the Act.

Amendment No. 52: The Senate amendments added a limitation on claims filed under part C where eligibility of such claims is based on the rebuttable presumption of section 411 (c) (4). A living miner must in such cases within three years after last exposed employment and in the case of a deceased miner such claims must be filed within fifteen years after last exposed employment in a coal mine. The House bill contained no such provision. The House recedes.

Harrison A. Williams,
Jennings Randolph,
Claiborne Pell,
Gaylord Nelson,
Thomas F. Eagleton,
Adlai E. Stevenson III,
Harold E. Hughes,
Jacob K. Javits,
Richard S. Schweiker,
Bob Packwood,
Robert Taft, Jr.,
Robert T. Stafford,
Managers on the Part of the Senate.
Carl D. Perkins,
John H. Dent,
Roman C. Pucinski,
Phillip Burton,
Joseph M. Gaydos,
Managers on the Part of the House.

The PRESIDING OFFICER. The time for debate is limited to 1 hour, with 30 minutes under the control of the Senator from West Virginia (Mr. Randolph) and 30 minutes under the control of the Senator from New York (Mr. Javits).

Who yields time?

Mr. RANDOLPH. Mr. President, I yield myself such time as I may desire.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, it is with understandable satisfaction that I come into the Senate Chamber to speak on behalf of the Senate conferees on H.R. 9212 and announce to our colleagues that all members of the Senate conference committee have agreed to the conference report on this legislation, the amendments to the Coal Mine Health and Safety Act of 1969, title IV, known as the Black Lung Benefits Act of 1972.

Mr. President, following 2 days in the conference with the managers on the part of the House, we reached an agreement on this important legislation. I do not use the term lightly when I say that "historic" is a word that, in my opinion, can be appropriately used to describe this legislation. Why do I say that to my colleagues? Because, Mr. President, we will, with this measure, bring assistance to disabled coal miners in this country, who have sacrificed, in many instances, their health, and lives in a dedication of their working efforts to the extraction from the earth of that substance—coal—which has been of such extreme importance to fueling and energizing the vast industrial complex of this country over a period of years. Having sponsored the original black lung benefits provision contained in the Coal Mine Health and Safety Act, I know how important this new measure will be to our miners and their families.

I referred, as my colleagues will remember, when we passed our Senate bill on April 17 in this body by a vote of 73 to 0, to the tremendous contribution of these men, as well as the owners of the industry who employ the miners, because coal represents about 54 percent of the thermal power under which this Nation has been able to move forward in its many aspects from the standpoint of electricity and power, not only for our great manufacturing establishments, but for the very operation of life itself.

I think not only of these disabled miners, but also I think it is important for us to speak of their dependents, and the survivors of deceased miners. I feel that there is a significant measure of equity and justice which is being written into law by the Senate of the United States and hopefully by Congress, with the House acting, I trust, in a matter of days, on the conference report. Also, I am very, very hopeful that the President of the United States will sign this legislation when it comes before him, having been agreed to in the Senate and the House of Representatives.

I had the privilege of managing the Senate bill, that is, our own version of H.R. 9212. As my very knowledgeable colleague, the Senator from New York (Mr. Javits) who is in the Chamber and who has taken such an active and constructive role in this whole effort since 1969 and until this very hour, will recall, on the date this body gave its stamp of approval, even though there was opposition from the administration and opposition from the industry, there was no lack of unanimity here. There was, I repeat, a rollcall vote of 73 to 0 for that measure.

The Senator from Ohio (Mr. TAFT) is also in the Chamber this afternoon. His activity, within the subcommittee and within the Committee on Labor and Public Welfare, was of an equally constructive nature. He had many questions that had to be resolved in his mind, and yet he, as well as all the rest of us on behalf of the Senate, signed the conference report.

It is my conviction—a very strong conviction, Mr. President—that what we have done in conference is what should be enacted. There were certain compromises in certain respects to the House-passed measure, but what we have done—and it is very important to state this in a very earnest way—is to preserve nearly all the improvements to title IV of the Federal Coal Mine Health and Safety Act, made by the Senate measure enacted here on April 17. Additionally, the final version of H.R. 9212 embodies the basis thrust and concepts contained in S. 2675, which I introduced last year.

I shall now undertake to outline for my colleagues those provisions of H.R. 9212 which were the same in both the House and the Senate versions, as well as to briefly outline the points of difference which were compromised. Both bills, Mr. President, extended title IV benefits coverage to orphan children, with such coverage made retroactive to December 30, 1969. That was the date of enactment, as Senators will recall, of the original program of black lung benefits.

In the second instance, both the House and Senate bills extended coverage to disabled miners other than those who had worked in the underground mines.

Third, the denial of claims based solely on the results of a chest X-ray is prohibited in both measures.

Fourth and last, the House bill and the Senate amendments provide that the Secretary of Health, Education, and Welfare may certify dependents' benefits directly to dependents where it is deemed advisable and desirable to do so.

Aside from the provisions which I have just outlined, H.R. 9212 as passed by the House of Representatives differed considerably from our measure. Under the current law, no payments of benefits under part C of title IV are required to be paid after 7 years following the date of enactment of the Coal Mine Health and Safety Act. This means, I say to my colleagues, that the program will, unless modified, terminate on December 30, 1976. The House bill extended this termination date by 2 years, to December 30, 1978. The Senate measure eliminated the termination date entirely, thus making the program a permanent one.

In the committee of conference, we agreed to a provision which terminates responsibility for the new claims that are filed under part C on December 30, 1981. However, all claims filed prior to that date and approved for payment would be paid for life.

The existing law requires that Federal responsibility for new claims terminate on December 31, 1972. The House bill would have extended this responsibility for 2 years, until December 31, 1974. The Senate, based on the very persuasive arguments set forth by the Senator from New York and others who joined him in that belief, agreed upon only a 1-year extension. The conference agreement—as the very knowledgeable and able Senator from Pennsylvania (Mr. SCHWEIKER) who is now with us knows—provides not for 1 year, as passed by the Senate, not for 2 years, as passed by the House, but for a so-called compromise extension of 18 months. But, we cut the so-called "swing" or "transition" period from 1 year to 6 months. Therefore, under part C, claims which are to be filed with State workmen's compensation agencies and paid by coal mine operators will actually begin as in the Senate bill on January 1, 1974.

The black lung benefits program is now being interpreted by the Social Security Administration as a workmen's compensation plan. It was not so intended by Congress in 1969. Thus, where a beneficiary, under title IV of the Coal Mine Health and Safety Act of 1969, is receiving social security disability insurance benefits and black lung benefits, the social security payments are reduced by any amount by which the combination of benefits exceeds 80 percent of the average miner's current earnings prior to his disability. The House bill completely eliminated this so-called "offset" provision to permit the full amount of both benefits to be collected. The Senate bill limited the offset to 100 percent of average current earnings. I might say that the bill I introduced last October, S. 2675, like the House bill, eliminated the offset provision entirely. The Senate conferees agreed to the House position.

Total disability under existing law is determined according to regulations of the Secretary of Health, Education, and Welfare. Thus, if a disabled miner has the capacity to work at any job, no matter how menial or far away from his home, he is not now considered to be totally disabled, and is, therefore, not eligible for black lung benefits. The House bill did not change existing law. The Senate bill established a new criterion for total disability which is more in line with reality. If pneumoconiosis prevents a miner from engaging in gainful employment requiring skills comparable to his work in a mine, he will be considered totally disabled. If such miner is in fact doing such work, or if it is clearly demonstrated that such work is available to him in the immediate area of his residence, he will not be considered totally disabled. The conferees accepted the Senate provision.

One of the most prevalent complaints against existing law and its interpretation made by witnesses during hearings held by our Subcommittee on Labor involved the inability of miners or their widows to establish the existence of black lung, even though the miner was clearly totally disabled. The House and Senate bills did, as I noted earlier, eliminate sole reliance on the X-ray. The Senate bill further provided that where a miner worked 15 years or more in an underground coal mine, or in comparable conditions on the surface, where such miner had a negative X-ray and where such miner had a totally disabling respiratory or pulmonary impairment he is given the benefit of a rebuttable presumption that he was disabled due to pneumoconiosis. The alteration made by the conference committee limited such claims under part C to those in which the 15 years of work took place prior to July 1, 1971.

Existing law limits beneficiaries to miners, their widows, and children. The House bill and Senate bills extended benefits to orphans. The Senate bill, and the conference measure, extends such benefits, where there is no widow or child who survive the miner, to wholly dependent parents. If there are no such parents, then benefits may accrue under certain conditions to wholly dependent brothers and sisters, if any.

Under existing law a widow, if she is to claim black lung benefits, must show that her miner husband died from black lung or a respiratory disease. The House bill did not propose a change in the law. The Senate bill, which was acceptable to the conferees, provided that a widow may also claim benefits if her husband was totally disabled by pneumoconiosis at the time of his death. Thus, if the miner was so disabled, the widow may claim benefits regardless of the cause of death.

The current law, in effect, limits evidence which may be used to support a claim for benefits to the X-ray. As previously mentioned, both the House and Senate bills eliminated sole reliance on the X-ray. The Senate bill, in addition, includes other evidence such as additional medical tests, affidavits, and clinical and work history to support a claim; this provision was accepted by the conference committee.

Not in the House bill nor in the existing law is a provision adopted in the Senate and accepted in conference that applies all sections of part B, including any amendments to the act, to part C, where such provisions are appropriately applied. The only provision of part B not applicable to part C is that related to the offset of social security disability benefits. The applicability to part C of the rebuttable presumption as noted earlier is also limited to situations where work in the mines took place prior to July 1, 1971.

Another provision of the Senate bill which was adopted in conference authorized the Secretary of Health, Education, and Welfare to build clinical facilities for the diagnosis and treatment of lung ailments in coal miners. The provision also authorized research to devise simplified tests to measure lung impairments in miners.

Also agreed to in conference was a Senate provision not contained in the House bill which prohibits discrimination by an operator against any miner employed by him because such miner has pneumoconiosis. Applicability of this provision to breathing impairments other than pneumoconiosis was deleted at the insistence of the House conferees.

Several other provisions of the Senate version of H.R. 9212 were adopted in conference. These include a section which eases the complications of filing claims during the transition period between part B or part C by requiring the Secretary of Labor to pay claims filed in that period and to assure that operators are bound by claim determinations made during that period. This provision is designed to insure uninterrupted payment of benefits when part C goes into effect.

In other sections of the conference bill, the Secretary of Health, Education, and Welfare must notify all claimants under title IV of changes in the law, and that their claims will be reviewed; regulations with respect to the new law must be promulgated by the Secretary of HEW by the end of the fourth month after enactment, and by the Secretary of Labor within 6 months; claims filed under part C which rely on the rebuttable presumption must be filed within 3 years after last exposed employment in a coal mine in the case of a living miner, or within 15 years after such employment in the case of a deceased miner.

Other miscellaneous provisions of the conference measure authorize appropriations to the Secretary of Labor; require employers to provide medical benefits to employees under part C; and limit the definition of pneumoconiosis with the understanding that the sequelae of the disease are now compensable under administrative regulations.

Mr. President, I am deeply pleased with H.R. 9212 as it now comes before the Senate. It is landmark legislation. It is a measure which the Congress can look to with pride and a sense of great accomplishment.

I want to offer my sincere thanks for a job well done to the managers on the part the House. I single out for special commendation the astute chairman of the Education and Labor Committee, Representative CARL PERKINS, who performed so ably the task of conference committee chairman. My appreciation goes also to Representative JOHN DENT and Representative PHILLIP BURTON and to the other House conferees who, even though they may have disagreed with the final conference bill, cooperated fully in the work of the conference.

The Senate conferees, comprised of the Subcommittee on Labor of the Committee on Labor and Public Welfare, showed intense interest and dedication to the development of this legislation. I want especially to commend the deep personal interest and cooperation of my colleagues, Senators JAVITS, SCHWEIKER, TAFT, and STAFFORD, and the absolutely essential assistance of the chairman of the committee, Senator WILLIAMS.

Without the very substantial help of these able and valued Members of the Senate and their staffs, the Black Lung Benefits Act of 1972 would not have been possible.

Finally, I want to thank the coal miners, their widows and their families for their indulgence in waiting for this urgently needed legislation. I know that this legislation will in some measure ease their very heavy burdens. The Nation owes these proud people of the coal fields a debt. H.R. 9212 will help pay that debt.

Mr. President, I know that Senators who were conferees have certain commitments. Perhaps at this point it would be best, if agreeable to and desired by the Senator from Ohio, who has been very helpful and cooperative on this measure, that I yield the floor and give him an opportunity to speak.

Mr. JAVITS. I yield 5 minutes to the Senator from Ohio.

Mr. TAFT. I thank the Senator from New York, and I thank the Senator from West Virginia, the able chairman of the subcommittee, who has done an exemplary job in moving this rather technical and difficult measure to this point of success.

There are certain areas in which I do not agree entirely with the result of the conference, as set out in the minority views attached to the committee report when it was filed. However, I do feel that this is an essential piece of legislation and one which is fair in every way to those who have been affected by this tragic affliction.

I have made known my views with regard to where the burden for payment for this should lie, both in the past and in the future. Having put those views in the RECORD, I will not repeat them here.

Mr. President, every time we send a man into the mines for coal we are asking him to risk his health and even his life in order that we may have heat, electric power, and industrial production. Without America's coal miners our cities would be dark and our industries would come to a stop. Our country owes a great debt to these men many of whom have sacrificed their health in order that we may continue our high standard of living.

The Black Lung Benefits Act of 1972 recognizes the sacrifice of our Nation's coal miners. It recognizes the injustice of having crippled men denied benefits solely because their disease could not be detected by an X-ray. Yet the evidence is clear from autopsies that approximately 25 percent of black lung cases do not show up in X-rays. At the present time, men who have been crippled for life working in our Nation's coal mines are unable to collect, because of the way in which the existing law has been drafted. It is absolutely vital, in my judgment, that this measure be adopted and I hope that my colleagues will support it.

With regard to the conference report, I very much regret that the conferees have relieved the coal mine operators of their responsibilities for an additional period of 18 months. Under traditional workmen's compensation principles, the companies should bear the cost of this program. Under the 1969 law, they would have had to assume this obligation in 1973, yet this bill keeps them out of responsibility for payment for an additional period of 18 months.

Many of the companies which will be the principal beneficiaries are among the largest in America.

At a time when our budget is running a massive deficit, there is questionable justification for having the American taxpayers relieve these corporations of responsibility to their coal mining employees.

Despite my objections to this provision, however, I strongly support this bill. Failure to pass it would be a cruel setback for America's coal miners and retired coal miners who so desperately need its passage.

Mr. JAVITS. I yield myself 3 minutes.

Mr. President, I feel that this matter should be put into focus for the Senate.

The fact is that if there had been effective workmen's compensation laws to take care of the disability imposed on miners, because of their hazardous occupation through the inhalation of coal dust, we would not be here and we would not have been here before, when the bill was passed.

It is interesting to note the consequences of the improvidence of both the States and the industry. The cost to the industry is likely to be, before we are through with this bill, approximately $2 billion. We calculate that the cost of the conference bill to the United States could run approximately $4 billion. All this because of the accumulated injustice of not having adequate workmen's compensation laws on the books for years and years and years and the essentiality of coal production in the interest of the country and the fact that the country has a moral responsibility to the miners who produce this coal at such peril to themselves. That is the first thing to note, Mr. President.

Second, we must note that this is a unique situation, and it is no precedent for other industries which may be impacted in this way or a similar way; and we have made this, for the reasons we have discussed, a case which the lawyers call sui generis. It stands on its own, because of its own state of facts.

Third, Mr. President, we tried very hard in the Senate to hold the Federal responsibility to the 1-year level, and this makes a good deal of difference in money. We calculate it would make a difference of as much as $600 million if there had been an extra year. Our problem was that the other House just could not see it that way. After a long and arduous conference, we settled it at 18 months, which adds $300 million to the Federal cost. But we must assume that the other body has as much a sense of responsibility as we. We could have held out and wrecked the bill, but that would have been deeply unjust to thousands of miners. So we did not do that, but arrived at a compromise, and one can say the same for them. They felt very strongly about the 2 years in the other body, and they, too, feel that they arrived at a compromise.

Mr. President, it should be noted in this connection that under the Senate bill part C was made permanent. As Senator RANDOLPH has explained, we finally accepted a 10-year limitation. But that is for the filing of new claims. It does not limit payment on claims filed prior to December 30, 1981.

In addition, the liberalizing amendments respecting various presumptions as to how this disease was acquired, and other changes in favor of miners, widows, children and other relatives are applicable as well to the responsibility of the mine operators.

Finally, Mr. President, it should be made known to the Senate that the heavy costs undertaken here by the Federal Government in order to do elementary justice to these afflicted miners only emphasizes and makes us even more interested in the work of the National Commission on State Workmen's Compensation Laws, which is now functioning, chaired by Mr. John Burton of Illinois. Its report is due on July 31, 1972, and I hope they will recommend generic legislation which will result, assuming the report which I believe they will make, doing something about the gross inequalities and inadequacies among the States respecting workmen's compensation to which individuals may be entitled based on their earning power. There is a gross disproportion among the States, let alone, as in this case, the failure to make any provisions at all.

Mr. President, I believe that the Senator from West Virginia (Mr. RANDOLPH) who has personally given so much of his time and interest, with deep devotion, to bringing about a condition of justice for the miners and some relief for them, has really performed almost a miracle in producing this conference report so quickly, after there were so many discouragements about whether the bill could even be considered, let alone enacted into law.

I join him in expressing hope that the President will sign it. It represents, I assure the President, because I participated in every stage of the conference, the best result we could possibly obtain in the two Houses. The equity involved is so great that I would hope the President would not put us through the pain of trying to go through this again, and thus delaying justice to the miners.

Therefore I join the Senator from West Virginia (Mr. RANDOLPH) and other members of the conference committee in that hope.

Before I yield the floor, I should like to pay tribute to the Senator from Ohio (Mr. TAFT) who has just spoken, and who gave a tremendous amount of his time, attention, and help to perfecting the bill, and to the Senator from Pennsylvania (Mr. SCHWEIKER) who, like the Senator from West Virginia (Mr. RANDOLPH), has a deep, a burning, and a human interest in the miners afflicted, and who knows so many personally and whose expertise in this particular field enabled us finally to come to the conclusions we have on the bill.

I think that those concerned, especially the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Pennsylvania (Mr. SCHWEIKER), have every reason to derive enormous satisfaction in a personal as well as a representative sense from the result that has been achieved.

This is a complicated bill. I should like also to pay tribute to the staff members, Mr. Gerald Feder, counsel to the Subcommittee on Labor, Mr. Robert Humphreys, special counsel to the Committee on Labor and Public Welfare, Mr. Philip McGance, legislative assistant to Senator RANDOLPH and, on the minority side, Mr. Eugene Mittelman, minority counsel to the Committee on Labor and Public Welfare and Richard Siegal, associate minority counsel to the committee, as well as William Wickens, legislative assistant to Senator TAFT. They have done so much to make possible the result we produce today.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I wish to compliment my distinguished colleague from West Virginia, Senator RANDOLPH, and the other Senate conferees on the black lung report which is now pending before the Senate. They have done a remarkable job in their work with House conferees on this legislation, and they have done it in a commendably short time.

If this conference report is agreed to by both Houses, and if the legislation is then allowed to become law by the President, it could go a long way toward correcting the defects that existed in the Federal Coal Mine Health and Safety Act of 1969. For example, this legislation will, for the first time, extend benefits to eligible children and orphans of miners disabled or killed by pneumoconiosis. The black lung amendments, which are embraced in this legislation, also firmly establish that black lung benefits are not a form of workmen's compensation. Persons receiving the benefits will no longer see their social security benefits reduced just because they may also be receiving black lung benefits.

I hope that the Senate will adopt the conference report, and I again congratulate my colleague, Senator RANDOLPH, and the other Senates conferees on both sides of the aisle.

Mr. SCHWEIKER. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield to the Senator from Pennsylvania such time as he may require.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The Senator from Pennsylvania is recognized.

Mr. SCHWEIKER. Mr. President, I thank the distinguished Senator from New York for yielding me this time and rise in strong support of the conference report now pending before the Senate.

This is truly an historic milestone in the life of the coal miners of this country. More than 2 years ago, under the leadership of the Senator from West Virginia (Mr. RANDOLPH), we passed for the first time a bill that compensated for pneumoconiosis as an occupational disease of coal miners. This meant that those of us who utilize the energy, the fuel resources, and the power produced by those coal miners who go deep down into the bottom of the earth, were recognizing that we had a debt to see that black lung should be compensated as a work-caused disease, at the Federal level at least, because the States had not sufficiently met their obligation. This bill updates that recognition and that work so that we no longer throw the burden of proof upon the miner who has had his life and, in many cases, his lungs physically impaired by his work. Now we give him a fair day in court and a fairer and more equitable process for filing his claim and for having his claim adjudicated in a way that our first piece of legislation did not do.

We accomplished this in several ways.

First, by broadening the definition of disability, so that for those who come from the coal mining towns of Pennsylvania, West Virginia, and Kentucky, the disability definition reflects the working conditions and the working environment of their towns, since as what other work can they do in most cases if they are disabled by the occupational disease of pneumoconiosis?

Second, the bill will eliminate the X-ray as the sole test of whether a victim has pneumoconiosis. We have learned from many medical authorities that the X-ray is not infallible. In fact, it is not very accurate in detecting the early stages of pneumoconiosis. It was most unfair and unjust previously to rely solely on the X-ray as a determinant of whether a miner had that disease. So, by eliminating the X-ray as the sole determinant in denying claims, we give a much more just and a much more fairer shake to the coal miner in making this determination.

Third, to overcome some of the problems of recognizing cases of pneumoconiosis by X-ray, we have incorporated here, thanks to the Senator from West Virginia (Mr. RANDOLPH), a preliminary presumption of pneumoconiosis, that if a person has worked in the mines for 15 years and if, after that period of time, he is shown to be disabled from a pulmonary or respiratory disease, he will be presumed to have pneumoconiosis even without X-ray evidence of pneumoconiosis, unless there is medical evidence to the contrary.

That is a world of difference between the way the law is written now. It does truly mean the turning over of a new leaf, with a fairer judgment and a fairer adjudication of the claims of many coal miners who actually have the disease but cannot prove it by conventional X-ray techniques. That is, in a case where a miner cannot walk upstairs to his bed so that his bed has to be moved down into the living room on the first floor, where his heart and lungs have been affected, yet it does not show up on an X-ray, when everyone associated with him knows that he has a pulmonary disability, the only fair thing is to give this 15-year-or-more miner a presumption he has pneumoconiosis. Because we do not know, yet, enough about the disease and how to detect it other than the X-ray, or how to find the symptoms before it afflicts the miner and results in permanent, often fatal damage to him, many miners were being unfairly judged not to have the disease when, in fact, they did have it and their pulmonary functions evidenced that they did have the disease.

So the "15-year" pulmonary presumption in this bill is a very important step. Through it, we are giving the coal miners a much more even break and a much more fairer judgment whether or not he is eligible for compensation.

Thus, Mr. President, these three points, expanding the definition of disability, the pulmonary presumption, and eliminating the X-ray as the sole determinant for denying claims, will at long last, give the miners the fair shake they are entitled to in determining whether the lungs, the heart, or the body have been ravaged by the occupational disease of pneumoconiosis.

Mr. President, I want to thank the distinguished Senator from New York (Mr. JAVITS), the ranking minority member of the committee on which I serve, for his help and interest in this problem.

I maintain it not only relates to those who mine the coal in Pennsylvania, West Virginia, or Kentucky, but also to everyone who utilizes the coal, who turns on the light switch, who runs the dishwasher, who turns on the television set, who benefits materially from the human havoc and wreck that comes from coal miners producing the energy source from the bottom of the earth. The American people now are accepting their full measure of responsibility in this broadening of the law so that each and every coal miner will get a fair judgment on whether or not he did in fact suffer from this disease.

Finally, I am pleased to report on one of my own amendments, assisting a miner's parents, brothers, and sisters who were dependent on him, providing that if there were no children or wife in that particular family that black lung benefits would go to a brother, sister, or parent if he or she in fact were fully dependent prior to the death of this person although there was no similar House language, I am delighted that my amendment remained in the conference report, with only a few modifications.

Mr. President, in closing I want to say that the Senator from West Virginia (Mr. RANDOLPH), who acted as chairman of the subcommittee and chairman of the Senate conferees, who did so much to advance the cause of miners' health and miners' working conditions, and the recognition of the miners' special health problems, is to be credited with true leadership in this field. It was a pleasure to work with him on the Labor Subcommittee and also on the conference committee.

I am sure that without the guiding hand of the Senator from West Virginia and his intimate knowledge of the life and working problems of the miner, without his skillful ability in their working out of conflicts that are bound to occur in any legislation of this type between various groups whose interests are affected, and without his knowledge and experience we would not have had the very good bill and finally the conference report that we have today.

Mr. President, I rise to support the conference report and to give special commendation to our chairman the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, how much time remains to me?

The PRESIDING OFFICER. The Senator from West Virginia has 14 minutes remaining. The Senator from New York has 12 minutes remaining.

Mr. RANDOLPH. Mr. President, I am genuinely grateful to the Senator from New York (Mr. JAVITS), the Senator from Ohio (Mr. TAFT), and the Senator from the Commonwealth of Pennsylvania for their thoughtful expressions concerning my activities on this measure. I thank all concerned for the constructive effort in which not merely one Member of this body, but all of us have joined. I again thank the conferees on the part of the Senate, who were members of the Labor Subcommittee and members of the parent Committee on Labor and Public Welfare.

All of these men were intensely interested in what we were doing. They did not just evidence a cursory interest. They knew what we were doing in our hearings in Pennsylvania and in West Virginia. They knew what we were doing in our subcommittee in the hearings in Washington. They knew what we were doing in attempting to finalize the measure and bring it to the Senate floor as quickly as possible. All of them in a very real sense were participants in what we have done.

And, Mr. President, I express special commendation to my esteemed colleague, Senator ROBERT C. BYRD of West Virginia, the acting majority leader of the Senate. He cosponsored my original amendment in 1969 for payment of victims of pneumoconiosis. He cosponsored the bill which is the basis for this conference agreement. I am personally and officially gratified to recognize his active interest and helpful participation in this legislation. Senator ROBERT C. BYRD testified in both West Virginia and Washington in favor of the measure which I hope we will soon pass by a unanimous vote in this body.

Finally, I extend my genuine appreciation to the many staff members who have given so much of their time, not just during the working day, but also very late at night.

They are the members of the staff of the committee and offices of Senators. The Senator from New York (Mr. JAVITS) earlier mentioned them by name. I wish to reinforce his expression of thanks to these staff members, because we are so dependent on them in this sort of complex study and development of legislation. We need the help of these staff men who stay with us and follow through with us.

Mr. President, I indicated in the beginning of my remarks this afternoon that in a sense this is an historical occasion. This in a very real sense is landmark legislation.

I know that in the coming years the expenditures will be very substantial in cost to both the Federal Government and the coal operators. We have to realize that this is a very costly program. However, in doing this we have recognized the responsibility which we have toward the coal miners of this Nation. It is my belief that the coal industry will accept this joint responsibility with the Federal Government.

Mr. President, I think it is unnecessary to say more. I have covered the essence of the matter. The Senator from New York (Mr. JAVITS), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Ohio (Mr. TAFT), and I have covered these matters in the conference report. This legislation will be fully explained in the proceedings of the Senate.

I just close by reiterating that I think we have treated with equity the responsibility of the Federal Government and also that of the operators of the coal mines. We have also given to the coal miners and their dependents at the levels that have been explained the aid which they fully deserve. So, it is not with any pride that we do this, because I do not want to use that word or even to think of it. What we are doing here is not something which we will point to with pride. It is something which ought to be done, something which needs to be done and which Congress, in response to the need, has done. This is the way it should be on legislation which touches the very lifeblood of the working population of this country and also those who help them.

So, Mr. President, I shall not use more time. I shall yield back the remaining minutes that have been, I think, allotted to me.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield back his time?

Mr. SCHWEIKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. RANDOLPH. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. SCHWEIKER. Mr. President, I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The Chair lays before the Senate the unfinished business, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 724, S. 3526, a bill to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

QUORUM CALL

Mr. RANDOLPH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. SCHWEIKER. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair.

The motion was agreed to; and at 4:28 p.m. the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 4:36 p.m., when called to order by the Presiding Officer (Mr. JORDAN of Idaho).

PUBLIC BUILDINGS AMENDMENTS OF 1972

Mr. RANDOLPH. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1736.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1736) to amend the Public Buildings Act of 1959, as amended, to provide for financing the acquisition, construction, alteration, maintenance, operation, and protection of public buildings, and for other purposes which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Public Buildings Amendments of 1972".

Sec. 2. The Public Buildings Act of 1959 (73 Stat. 479), as amended (40 U.S.C. 601 et seq.), is amended as follows:

(1) strike out in subsection (b) of section 4 the figure "$200,000" and insert the figure "$500,000" in lieu thereof;

(2) strike out in subsection (a) of section 12 the following: "as he determines necessary,";

(3) insert at the end of section 12(c) the following sentence: "In developing plans for such new buildings, the Administrator shall give due consideration to excellence of architecture and design."; and

(4) section 7 is amended to read as follows:

"Sec. 7. (a) In order to insure the equitable distribution of public buildings throughout the United States with due regard for the comparative urgency of need for such buildings, except as provided in section 4, no appropriation shall be made to construct, alter, purchase, or to acquire any building to be used as a public building which involves a total expenditure in excess of $500,000 if such construction, alteration, purchase, or acquisition has not been approved by resolutions adopted by the Committee on Public Works of the Senate and House of Representatives, respectively. No appropriation shall be made to lease any space at an average annual rental in excess of $500,000 for use for public purposes if such lease has not been approved by resolutions adopted by the Committee on Public Works of the Senate and House of Representatives, respectively. For the purpose of security consideration for such approval, the Administrator shall transmit to the Congress a prospectus of the proposed facility, including (but not limited to)—

"(1) a brief description of the building to be constructed, altered, purchased, acquired, or the space to be leased under this Act;

"(2) the location of the building or space to be leased and an estimate of the maximum cost to the United States of the facility to be constructed, altered, purchased, acquired, or the space to be leased;

"(3) a comprehensive plan for providing space for all Government officers and employees in the locality of the proposed facility or the space to be leased, having due regard for suitable space which may continue to be available in existing Government-owned or occupied buildings;

"(4) with respect to any project for the construction, alteration, purchase, or acquisition of any building, a statement by the Administrator that suitable space owned by the Government is not available and that suitable rental space is not available at a price commensurate with that to be afforded through the proposed action; and

"(5) a statement of rents and other housing costs currently being paid by the Government for Federal agencies to be housed in the building to be constructed, altered, purchased, acquired, or the space to be leased.

"(b) The estimated maximum cost of any project approved under this section as set forth in any prospectus may be increased by an amount equal to the percentage increase, if any, as determined by the Administrator, in construction or alteration costs, as the case may be, from the date of transmittal of such prospectus to Congress, but in no event shall the increase authorized by this subsection exceed 10 per centum of such estimated maximum cost.

"(c) In the case of any project approved for construction, alteration, or acquisition by the Committees on Public Works of the Senate and of the House of Representatives, respectively, in accordance with subsection (a) of this section, for which an appropriation has not been made within one year after the date of such approval, either the Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives, may rescind, by resolution, its approval of such project at any time thereafter before such an appropriation has been made."

Sec. 3. Subsection (f) of section 210 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490 (f)), is amended to read as follows:

"(f)(1) There is hereby established in the Treasury of the United States on such date as may be determined by the Administrator, a fund into which there shall be deposited the following revenues and collections:

"(A) User charges made pursuant to subsection (j) of this section payable in advance or otherwise.

"(B) Proceeds with respect to building sites authorized to be leased pursuant to subsection (a) of this section, and proceeds with respect to building sites, plans, and specifications authorized to be sold pursuant to subsection (h) of this section.

"(C) Receipts from carriers and others for loss of, or damage to, property belonging to the fund.

"(2) Moneys deposited into the fund shall be available for expenditure for real property management and related activities in such amounts as are specified in annual appropriations Acts without regard to fiscal year limitations.

"(3) There are hereby merged with the fund established under this subsection, unexpended balances of (A) the Buildings Management Fund (including any surplus therein), established pursuant to this subsection prior to its amendment by the Public Buildings Amendments of 1972; (B) the Construction Services Fund, created by section 9 of the Act of June 14, 1946 (60 Stat. 259), as amended; and (C) any funds appropriated to General Services Administration under the headings 'Repair and Improvement of Public Buildings', 'Construction, Public Buildings Projects', 'Sites and Expenses, Public Buildings Projects', 'Construction, Federal Office Building Numbered 7, Washington, District of Columbia', and 'Additional Court Facilities', in any appropriation Acts for the years prior to the fiscal year in which the fund becomes operational. The fund shall assume all the liabilities, obligations, and commitments of the said (1) Buildings Management Fund, (2) Construction Services Fund, and (3) the appropriations specified in (C) hereof.

"(4) In any fiscal year there may be deposited to miscellaneous receipts in the Treasury of the United States such amount as may be specified in appropriation Acts.

"(5) Nothing in this section shall preclude the Administrator from providing special services not included in the standard level user charge on a reimbursable basis and such reimbursements may be credited to the fund established under this subsection."

Sec. 4. Section 210 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490), is amended by adding two new subsections reading as follows:

"(j) The Administrator is authorized and directed to charge anyone furnished services, space, quarters, maintenance, repair, or other facilities (hereinafter referred to as space and services), at rates to be determined by the Administrator from time to time and provided for in regulations issued by him. Such rates and charges shall approximate commercial charges for comparable space and services, except that with respect to those buildings for which the Administrator of General Services is responsible for alterations only (as the term 'alter' is defined in section 13(5) of the Public Buildings Act of 1959 (73 Stat. 479), as amended (40 U.S.C. 612(5)), the rates charged the occupant for such services shall be fixed by the Administrator so as to recover only the approximate applicable cost incurred by him in providing such alterations. The Administrator may exempt anyone from the charges required by this subsection. To the extent any such exemption is granted, appropriations to the General Services Administration are authorized to reimburse the fund for any loss of revenue.

"(k) Any executive agency, other than the General Services Administration, which provides to anyone space and services set forth in subsection (j) of this section, is authorized to charge the occupant for such space and services at rates approved by the Administrator and the Director of the Office of Management and Budget. Moneys derived by such executive agency from such rates or fees shall be credited to the appropriation or fund initially charged for providing the service, except that amounts which are in excess of actual operating and maintenance costs of providing the service shall be credited to miscellaneous receipts unless otherwise authorized by law."

Sec. 5. (a) Whenever the Administrator of General Services determines that the best interests of the United States will be served by taking action hereunder, he is authorized to provide space by entering into purchase contracts, the terms of which shall not be more than thirty years and which shall provide in each case that title to the property shall vest in the United States at or before the expiration of the contract term and upon fulfillment of the terms and conditions stipulated in each of such purchase contracts. Such terms and conditions shall include provision for the application to the purchase price agreed upon therein of installment payments made thereunder. Each purchase contract authorized by this section shall be entered into pursuant to the provisions of title III of the Federal Property and Administrative Services Act of 1949, as amended. If any such contract is negotiated, the determination and findings supporting such negotiation shall be promptly reported in writing to the Committees on Public Works of the Senate and House of Representatives. Proposals for purchase contracts shall be solicited from the maximum number of qualified sources consistent with the nature and requirements of the facility to be procured.

(b) Each such purchase contract shall include such provisions as the Administrator of General Services, in his discretion, shall deem to be in the best interests of the United States and appropriate to secure the performance of the obligations imposed upon the party or parties that shall enter into such agreement with the United States. No such purchase contract shall provide for any payments to be made by the United States in excess of the amount necessary, as determined by the Administrator, to—

(1) amortize the cost of construction of improvements to be constructed plus the fair market value, on the date of the agreement, of the site, if not owned by the United States; and

(2) provide a reasonable rate of interest on the outstanding principal as determined under paragraph (1) above; and

(3) reimburse the contractor for the cost of any other obligations required of him under the contract, including (but not limited to) payment of taxes, costs of carrying appropriate insurance, and costs of repair and maintenance if so required of the contractor.

(c) Funds available on the date of enactment of this subsection for the payment of rent and related charges for premises, whether appropriated directly to the General Services Administration or to any other agency of the Government and received by said Administration for such purpose, may be utilized by the Administrator of General

Services to make payments becoming due from time to time from the United States as current charges in connection with agreements entered into under authority of this section.

(d) With respect to any interest in real property acquired under the provisions of this section, the same shall be subject to State and local taxes until title to the same shall pass to the Government of the United States.

(e) For the purpose of purchase contracts provided for in this section for the erection by the contractor of buildings and improvements for the use of the United States, the Administrator is authorized to enter into agreements with any person, copartnership, corporation, or other public or private entity, to effectuate any of the purposes of this section; and is further authorized to bring about the development and improvement of any land owned by the United States and under the control of the General Services Administration including the demolition of obsolete and outmoded structures situated thereon, by providing for the construction thereon by others of such structures and facilities as shall be the subject of the applicable purchase contracts, and by making available such plans and specifications for the construction of a public building thereon as the Government may possess. Projects heretofore approved pursuant to the provisions of the Public Buildings Act of 1959, as amended (40 U.S.C. 601 et seq.), may be constructed under authority of this section without further approval, and the prospectuses submitted to obtain such approval shall for all purposes, be considered as prospectuses for the purchase of space, except that any such project shall be subject to the requirements of section 7(b) of the Public Buildings Act of 1959, as amended, based upon an estimated maximum cost increased by not more than an average of 10 per centum per year, exclusive of financing or other costs attributable to the use of the method of construction authorized by this section.

(f) Except for previously approved prospectuses referred to in (e) above, no purchase contract shall be entered into pursuant to the authority of this section until a prospectus therefor has been submitted and approved in accordance with section 7 of the Public Buildings Act of 1959, as amended, and each such prospectus shall be limited to public buildings generally suitable for office or storage space or both and any other type of public building that is specifically approved by resolution adopted by the Committee on Public Works of the Senate and the House of Representatives for a purchase contract under this section.

(g) No purchase contract shall be entered into under the authority granted under this section after the end of the third fiscal year which begins after the date of enactment of this section.

(h) No purchase contract shall be entered into under this section until it has been authorized by resolution adopted by the Committees on Appropriations of the Senate and House of Representatives, respectively.

SEC. 6. (a) The Postmaster General of the United States Postal Service shall convey to the city of Carbondale, Illinois, all right, title, and interest of the United States and such Postal Service, in and to the real property (including any improvements thereon) in Carbondale, Illinois, bounded by old West Main Street on the south, Glenview Drive on the west, Illinois Route 13 and access road to Murdale Shopping Center on the north, and by Texaco Service Station and residences on the north, approximately 308 feet on the east, 525 feet on the south, 420 feet on the west and with an irregular boundary on the north, a total area of approximately 191,100 square feet. The exact legal description of the property shall be determined by the Postmaster General, without cost to the city of Carbondale, Illinois. Such conveyance shall be made without payment of monetary consideration and on condition that such property shall be used solely for public park purposes, and if it ever ceases to be used for such purpose, the title thereto shall revert to the United States which shall have the right of immediate reentry thereon.

(b)(1) The United States Postal Service shall grant to the City of New York, without reimbursement, air rights for public housing purposes above the postal facility to be constructed on the real property bounded by Twenty-eighth and Twenty-ninth Streets, Ninth and Tenth Avenues, in the City of New York (the Morgan Annex site), such facility to be designed and constructed in such manner as to permit the building by the City of New York of a high-rise residential tower thereon: *Provided*, That—

(A) the City of New York shall grant to the Postal Service without reimbursement exclusive use of Twenty-ninth Street, between Ninth and Tenth Avenues in the City of New York, such use to be irrevocable unless the Postal Service sells, leases, or otherwise disposes of the Morgan Annex site; and

(B) the City of New York shall agree to reimburse the Postal Service for the additional cost of designing and constructing the foundations of its facility so as to render them capable of supporting a residential tower above the facility, and shall issue any permits, licenses, easements and other authorizations which may be necessary or incident to the construction of the postal facility.

(2) If within twenty-four months after the City of New York has complied with the provisions of paragraphs (A) and (B) of subsection (b)(1) of this section, the United States Postal Service has not awarded a contract for the construction of its facility, the Postal Service shall convey to the City of New York, at the fair market value, all right, title and interest in and to the above-described real property. Such conveyance shall be made on the condition that such property shall be used solely for public housing purposes, and if public housing is not constructed on the property within five years after title is conveyed to the City of New York or if thereafter the property ever ceases to be used for such purposes, title thereto shall revert to the Postal Service, which shall have the right of immediate reentry thereon.

SEC. 7. To carry out the provisions of the Public Buildings Amendments of 1972, the Administrator of General Services shall issue such regulations as he deems necessary. Such regulations shall be coordinated with the Office of Management and Budget, and the rates established by the Administrator of General Services pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended, shall be approved by the Director of the Office of Management and Budget.

SEC. 8. (a) Notwithstanding any other provision of law, the House Office Building Commission is authorized (1) to use, to such extent as it may deem necessary, for the purpose of providing office and other accommodations for the House of Representatives, the building, known as the Congressional Hotel, acquired by the Government in 1957 as part of Lot 20 in Square 692 in the District of Columbia under authority of the Additional House Office Building Act of 1955 and (2) to direct the Architect of the Capitol to lease, at fair market value, for such other use and under such terms and conditions and to such parties as such Commission may authorize, any space in such building not required for the aforesaid purpose.

(b) Any space in such building used for office and other accommodations for the House of Representatives shall be deemed to be a part of the "House Office Buildings" and, as such, shall be subject to the laws, rules, and regulations applicable to those buildings.

SEC. 9. Section 8 of the John F. Kennedy Center Act, as amended (72 Stat. 1969) is amended by inserting "(a)" immediately after "SEC. 8" and by adding at the end thereof the following new subsection:

"(b) There is hereby authorized to be appropriated to the Board not to exceed $1,500,000 for the fiscal year ending June 30, 1972, for the public costs of maintaining and operating the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts."

SEC. 10. Section 6 of the John F. Kennedy Center Act, as amended (72 Stat. 1968), is amended by adding at the end thereof the following new subsection:

"(e) The Secretary of the Interior, acting through the National Park Service, shall provide maintenance, security, information, interpretation, janitorial and all other services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1973, to the Secretary of the Interior such sums as may be necessary for carrying out this subsection."

SEC. 11. This Act shall become effective upon enactment. The effective date of applying the rates to be charged pursuant to the regulations to be issued under subsections (j) and (k) of section 210 of the Federal Property and Administrative Services Act of 1949, as amended, shall be as determined by the Administrator of General Services but in any event shall not be later than the beginning of the third full fiscal year subsequent to the enactment thereof.

Mr. RANDOLPH. Mr. President, I move that the Senate disagree to the amendment of the House to S. 1736 and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. GRAVEL, Mr. JORDAN of North Carolina, Mr. TUNNEY, Mr. BOGGS, and Mr. COOPER conferees on the part of the Senate.

ORDER FOR PRINTING ADDITIONAL COPIES OF THE 1971 REPORT OF THE SPECIAL COMMITTEE ON AGING

Mr. CHURCH. Mr. President, I submit a resolution which would authorize the printing of additional copies of the 1971 report of the Special Committee on Aging, "Developments in Aging: 1971, and January through March 1972," and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 298

Resolved, That there be printed for the use of the Special Committee on Aging one thousand five hundred additional copies of its report to the Senate entitled "Developments in Aging: 1971, and January through March 1972."

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. CHURCH. Mr. President, by having the additional copies, which we require, printed at the same time as the regular quantity, we can effect a savings to the Government of over $2,000. I have discussed this action with the chairman, the Senator from North Carolina (Mr. JORDAN), and the ranking minority member, the Senator from Kentucky (Mr. COOK), of the Committee on Rules and Administration; and in view of the circumstances, they have agreed to interpose no objection to this unanimous-consent request.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 298) was agreed to.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. RANDOLPH. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair.

The motion was agreed to; and at 4:38 p.m. the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 4:47 p.m., when called to order by the Presiding Officer (Mr. JORDAN of Idaho).

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Assistant Secretary of the Senate reported that today, May 4, 1972, he presented to the President of the United States the following enrolled bills and joint resolutions:

S. 641. An act for the relief of Luis Guerrero-Chavez, Guadalupe-Chavez, and Alfredo Guerrero-Chavez;

S. 1089. An act for the relief of Robert Rexroat;

S. 1675. An act for the relief of Antonio Plameras;

S. 1923. An act for the relief of Harold Donald Koza;

S. 2676. An act to amend the Public Health Service Act to provide for the control of sickle cell anemia;

S.J. Res. 173. A joint resolution to provide for the appointment of A. Leon Higginbotham, Jr., as citizen regent of the Board of Regents of the Smithsonian Institution;

S.J. Res. 174. A joint resolution to provide for the appointment of John Paul Austin as citizen regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 175. A joint resolution to provide for the appointment of Robert Francis Goheen as citizen regent of the Board of Regents of the Smithsonian Institution.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

AMENDMENT NO. 1175

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. Mr. President, we have been asked by the critics of the administration's Vietnam policy to set a date certain for abandoning our Vietnamese allies to conquest by Hanoi. The men who would have us do this sometimes say, that the Vietnam war is a civil war and that we have no business there. Other times they say that, no matter what kind of war it is, it is time for us to get out. They say that it has cost too much in American lives and material, that the South Vietnamese should be left to stand on their own—allowing the chips to fall where they may.

I wish as strongly as anyone that we could bring peace to Vietnam, but I do not think we can just turn our backs on our allies, not when the Communists are attacking across established frontiers in a bold attempt to discredit Vietnamization and topple the South Vietnamese Government. We should not undercut the President's policy by giving Hanoi a victory it cannot achieve on the battlefield. Let us not forget that Hanoi has been planning these attacks for some time, and that one of the Communists' major targets is U.S. public and congressional opinion. The big Tet offensive came in 1968, also an election year. If we vote a date certain for withdrawal from Vietnam or for a cutoff of funds, in effect scuttling the Vietnamese Government, we will thereby be playing directly into Hanoi's hands.

That the present offensive was a long time in the planning is demonstrated by the enemy's use of modern weapons and regular North Vietnamese units.

They are better equipped than the South Vietnamese defenders. The Soviets, who invited President Nixon to visit Moscow later this month, provided these new weapons, knowing full well they would be used during this period of negotiation by President Nixon. Thus, President Nixon faces talks with the Soviets while South Vietnam is under fierce attack.

All of this could not have happened without long months of stockpiling supplies, training personnel in new tactics, and moving tanks, artillery, and personnel to the battle areas—in some cases hundreds of miles outside North Vietnam. At the same time, the enemy was building up in Laos opposite Kontum Province, in the Vietnamese Central Highlands, in Cambodia, in the region near Saigon, and in their own territory near the DMZ. Hanoi spent months preparing for this invasion southward which now threatens to reach bases manned by U.S. support forces.

It is interesting to note that when they were making their plans, the Communists recognized that the Vietcong did not have the strength in the South to carry out important attacks against government forces. Facing this fact, Hanoi was willing to deplete its own forces in the North to the extent that only one combat division has stayed within North Vietnamese borders. Every North Vietnamese combat division except one is now fighting outside North Vietnam.

The Vietcong Communists in South Vietnam have been beaten, and Hanoi knows it; otherwise, the northern units would not have been sent south. It was clear to Hanoi that the Vietcong could not inflict a major military defeat on South Vietnam. It was also clear that President Nixon could not abandon the South Vietnamese Government in the face of this kind of attack, so Hanoi launched its invasion anyway. Why? Knowing that the Vietcong could not achieve a military victory in South Vietnam, the North Vietnamese Communists committed nearly all its forces in hopes of achieving important political and military victories. They were willing to pay a high price in lives and material in an attempt to force the Nixon administration to abandon its Vietnamization program. One way they can accomplish this is by mobilizing American opinion to withdraw U.S. support from the Saigon government, thereby assuring the collapse of South Vietnam.

Should we play into Hanoi's hands by withdrawing from Southeast Asia, abandoning our allies to Hanoi's cruel invasion? I think not. Rather, I believe we should stand by our ally in this difficult moment.

Mr. President, for these reasons I urge my colleagues in the Senate to support the pending amendment offered by the distinguished Senator from Mississippi (Mr. STENNIS).

DISTORTION AND MANIPULATION OF THE NEWS

Mr. THURMOND. Mr. President, service in Congress affords perceptive Members an opportunity to obtain a deep insight into the formulation of policies affecting national security. Experience soon enables Members to recognize sharp differences between events as observed by participants and as reported in thee mass news media because of distortions, fabrications, or omissions.

Under the stimulus of illuminating exposures of some of these practices by Vice President AGNEW in periodic statements, I have noticed an increased volume of criticism of the mass media by skilled newsmen. Outstanding among such critics is Herman H. Dinsmore of New York, former editor of the international edition of the New York Times. Author of the important book, "All the News That Fits: A Critical Analysis of the News and Editorial Contents of the New York Times," published in 1969 by Arlington House, he can speak with the authority of experience.

In an address on April 13, 1972, before the District of Columbia Chapter of the Military Order of the World Wars on the startling subject of "How to Construct an Enemy," he told the story of the buildup of a Soviet balance of power against the United States. He documented his presentation with facts from relatively unknown books that should have been widely reviewed in the major news media of the United States but were not.

Among the volumes cited are the following: Dr. Medford Evans, "The Secret War for the A-Bomb." Chicago: Henry Regnery Col, 1953; George Racey Jordan, "From Major Jordan's Diaries," Belmont, Mass.: Western Islands, 1965; Dr. Anthony Kubek, "How the Far East Was Lost; American Policy and the Creation of Communist China, 1941–49," Chicago: Henry Regnery Co., 1963; Dr. Anthony C. Sutton, "Western Technology and Soviet Economic Development," Stanford, Calif.: Hoover Institution, 1968.

One of the matters covered by Mr. Dinsmore in this address is the construction in the Soviet Union with U.S. technology and material of a huge truck manufacturing plant on the Kama River, which is about 800 miles east of Leningrad close to the Ural Mountains.

In an address to the Senate on March 3, 1972, I quoted a December 6, 1971, address by Mr. Dinsmore before the American Speakers Forum of Schnectady, N.Y., on the subject of "Current History Everyone Needs to Know." In this address he revealed some of the practices of the New York Times in controlling the flow of news to the people of our country and its distortion.

Mr. President, because the latest address by Mr. Dinsmore supplies additional information essential for understanding events now unfolding, it should be of high interest to the Congress and the Executive in relation to policy determination, I ask unanimous consent to have it printed at this point in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

How To Construct an Enemy

(By Herman E. Dinsmore)

I am grateful for this invitation to speak to you, and I am honored to be here.

Today I want to talk on a how-to subject—"How to Construct an Enemy," which involves considerable news twisting.

In October of 1945 David E. Lilienthal, head of the Tennessee Valley Authority and about to become the first chairman of the civilian Atomic Energy Commission, asked President Truman if it would be all right for him (Mr. Lilienthal) to accept invitations to make speeches on the TVA at various places around the country. Mr. Truman replied:

"It is perfectly all right to accept them . . . that's the only way the people will get to know the facts—they sure won't know them through the newspapers." *

This statement struck me with considerable force because it was a conclusion I came to some years later, although I had by then begun to see the pattern of *omissions, distortions and fabrications* that the national news media would come to and would have to come to, to maintain the Established position—namely, that we must not irritate the Russians; we must not be victorious in any wars; we must make the Soviet Union at least as strong as we are; we must set up and maintain a balance of power; we must not only sacrifice the truth, but American lives in the scores of thousands to uphold the doctrine of the balance.

What is this "doctrine of the balance of power"? It was stated by Walt Whitman Rostow, who was chairman of the policy planning staff of the State Department in the Administration of President Kennedy. Here is the gist of what he said:

"Rising tensions or the pleas of our allies or *of the American public* must be ignored in any crisis with Russia. The temptation must be avoided to prolong or expand any crisis in an effort to degrade or embarrass the Soviets in the eyes of the world." (As summarized by Willard Edwards in the *Chicago Tribune* in June, 1962.)

Mr. Rostow believed that the Russians were mellowing. He called for "the reduction and eventual elimination of United States national military capabilities except those required for maintaining internal order and for an international police force." He also said:

"It is a legitimate American national objective to remove from all nations—including the U.S.—the right to use substantial military force to pursue their own interests. Since this residual right is the root of national sovereignty and the basis for the existence of an international arena of power, it is, therefore, in American interest to see an end to nationhood as it has been historically defined." (Daily Congressional Record, June 6, 1963, pp. A362–A363.)

This is also said to be the attitude of Dr. Henry A. Kissinger, the present national security officer in the White House.

It was previously the view of Adlai Stevenson, who twice ran for the Presidency of the United States. He said:

"In short, the U.S. program calls for total elimination of national capacity to make international war." (Address in the United Nations on Nov. 15, 1961)

That, of course, meant the end of nationhood and the end of the nation. You can work to destroy the nationhood of the United States in a number of ways. One of them is to construct an enemy so powerful that you will then be able to turn to the American people and tell them that we dare not win a war with that enemy lest he turn upon us and destroy the nation. You see, it is really a most inane program. But it has been and is being attempted, and I want to tell you how the West, chiefly the United States, has undertaken to make the Union of Soviet Socialist Republics a formidable enemy immune to defeat in any war with us. It is possible Communist China is slated to be the next existing foe to be built up. When the United States gives up power, that power goes not into the United Nations or a world government, but into one or both of the two great terrorist governments, Russia and Red China.

The construction of the Soviet Union to be an outsized antagonist began in 1942, when we started sending the first shipments of documents and atomic materials to the Russians during World War II. This has been established beyond all cavil through the *Diaries* of Major George Racey Jordan, now confirmed by independent research. I myself never doubted the absolute validity of Major Jordan's statements of what he saw being shipped to Russia when he was the officer in charge of observing the shipments by sea and air under Lend-Lease, directed by Harry Hopkins. Two highly respected Army colonels in New York told me they knew and admired Major Jordan for his integrity, as did a well-respected and scholarly Navy captain in Washington.

While more than 99 per cent of the American people, including Major Jordan and nearly all other military personnel, knew nothing about our plan to build an atomic bomb, the Russians appear to have had knowledge of it almost from the beginning. President Roosevelt told General Follett Bradley as he was about to leave for Moscow in 1942 that "our position should be to say to the Russians that 'we can let them have almost everything they want.'" (Dr. Anthony Kubek in *How The Far East Was Lost.*) From the information in the Jordan *Diaries*—and that is by no means complete—we sent to the Russians 22,958,742 pounds of materials used in the construction of atomic bombs, plus "millions of dollars worth of mining, ore-crushing and construction equipment." Major Jordan appears to have been removed from his assignment at Great Falls, Montana, because of his eagerness to check on what was being shipped by air to the Soviets, and to make a record of the data. Major Jordan felt that eventually there would be a scandal about this, but he could not even guess the extent of the perfidy to the United States. Even today it is customary in some high places to despise and reject Major Jordan. Published in 1952 by Harcourt, Brace, his book received cursory reviews in most cases, except for a favorable mention in the *Chicago Tribune,* which then had more courage in reviewing books than it has today.

It is worth hearing a few words of that review by Walter Trohan in the *Chicago Tribune* of Sunday, September 14, 1952:

"It is a tale surpassing belief and one to make shivers race up and down the spine in contemplating the threat of World War III. The diaries of Major Jordan present an astounding account of arrogant Soviet connivance and of blind American trust, with ominous overtones of treason."

Yes, and it makes you wonder why other reviewers were not equally disturbed, instead of brushing off this work as questionable. The truth is that in those days the atomic bomb had been made completely undiscussible by the left-wing news media, which were building up the Soviet Union for all they were worth. Major Jordan received no Pulitzer Prize or George Polk Memorial Award or any other public encomium for his devotion to the interests of the United States. Nor did the newspapers compete for the rights to publish his book in daily installments so that the public would be widely informed of the existence and contents of this work. In brief, the *Diaries,* of immense importance to all of us, failed to make any impact on the nation. I, who am supposed to be a newspaper man, did not hear about the book until 1969, 17 years after its publication.

What the Russians were able to do during World War II with the material that we sent them is problematical. They recently exhibited a picture of a reactor similar to one in Hanford, Washington. They said the reactor was built in 1946, but that is beyond confirmation. Since the Russians could not possibly have used the materials we sent them to build a bomb during the war, the question arises as to why American atomic-bomb making materials were ever sent to them in the first place. As we see now, it was to build them up into a strong enemy, so that the United States would have an adversary worthy of it. But why Russia? Because she filled the bill better than any other nation or combination of nations. The Soviet Union was hostile to the United States even during the war. The Soviet Union was ideal as a balance-of-power antagonist because it was secretive; it was to build a Wall and lower an Iron Curtain; it was big and blustering; it could be depended upon to enter into the spirit of the balance of power and play its part to the hilt. It remained for the national news media of the United States to play its role of setting up an Establishment Wonderland, a world of make-believe in the press and on television and radio.

In this connection an extraordinary development occurred in 1945 at the end of the war. A great hue and cry arose, chiefly among American intellectuals or members of the arts, sciences and professions, for sharing the secrets and even atomic bombs with the Russians. How this was achieved to set up a balance of power with a venegeance will be described after completion of the story of the second phase of the build-up. This concerns the manner in which the West, chiefly the United States, restored or created virtually all of basic Soviet industry.

The first of three volumes of *Western Technology and Soviet Economic Development* by Dr. Antony C. Sutton of Stanford University was published in 1968. Dr. Sutton found that during the 1930's the United States and other Western countries helped the Soviet Government to obtain "30 years of technical development in three years." Some of this was erased in World War II, but the Stanford researcher says this:

"Looking at the picture as a whole, there were two massive injections of Western technology and capacity (into the Soviet Union), in the period 1930–33 and 1943–45. World War II, and assuming that 25 percent of the Soviet economy was destroyed, the Soviets were far better off in terms of both capacity and technology by 1946 than before the war. Destroyed facilities were more than replaced by reparations and Lend-Lease, and, more importantly, replaced with equipment 10 to 15 years more advanced.

"No major technology or major plant under construction between 1930 and 1945 has been identified as a purely Soviet effort. . . Soviet technology was almost completely a transfer from Western countries; only two major Soviet innovations have been identified: SKB synthetic rubber and the Ramzin once-through boiler; both were supplemented with Western methods by 1945."

---

*The Journals of David E. Lilienthal, Vol. II, p. 4. Harper & Row, N.Y., 1964.

Two weeks ago a distinguished professor said to me. "We must not underestimate the enemy." My answer was, "Precisely. And for that very reason we must not build him up to make him stronger than we are."

Through Dr. Sutton's penetrating study we learn about the strength and weakness of the Soviet Union. We discover that the U.S.S.R. was chiefly weak—which I saw with my own eyes—and we find out that the West, mainly the United States, made it strong. But we did not learn the principal facts in this matter from the national news media. For instance, on November 25 last the Associated Press sent out a dispatch from London reporting that a Soviet space scientist said in a book published on that day in Britain that "Moscow's space program is a gigantic bluff covering bad workmanship and technical inadequacy." *The New York Times* and other newspapers did not publish the dispatch. Why? Apparently because the same sources that helped so much to build up the Soviet Union are not going to tear it down by publishing such unfavorable information. That AP dispatch said:

"Leonid Vladimirov, a Soviet engineer and journalist, who defected while on a visit to Britain in 1966, said the Soviet space program originally began as a series of publicity stunts.

"In his book, *The Russian Bluff*, Vladimirov said these stunts were aimed at persuading the West that the Soviets had reached a high level of advanced technology comparable with that of the United States. Vladimirov's book describes political pressures and frustrations under which Soviet scientists and technologists work, always separated by security barriers. (Inside a Soviet factory or plant you go from one door to another by unlocking one and then locking it behind you.)

"Vladimirov said the West has always overrated Soviet strength in space because of early Soviet successes.

" 'Russia knew a long time ago that she could not beat America to the moon because she cannot build a moon rocket,' he said. 'Even today the Soviet Union cannot produce any significantly big jet nozzles.' "

There is more of a technical nature that only engineers would understand, but the part of this dispatch that I have read to you is perfectly understandable to me. Is there any earthly reason why an American newspaper should not publish this? As a matter of fact, it is a fairly ripe piece of news that deserves a place on the front page. It would not make Americans overconfident. They would digest it, and eventually get it and the Soviet Union into perspective. But the aim of our left-wing news media is to build up and maintain a balance of power. And to do this it is deemed necessary to suppress and distort news.

The great work of Dr. Sutton, *Western Technology and Soviet Economic Development*, exposing the strange economy of the U.S.S.R., was called "the most important publication since The Bible" by one reviewer. But only one of the first two volumes was reviewed by any newspaper in the United States. The Phoenix *Arizona Republic* was the sole newspaper to bring this work to the attention of its readers.

I asked Dr. Sutton whether he was aware of the *Diaries* of Major Jordan. He said he was, and that he had come to Washington, D.C., to check the invoices listed by Major Jordan for the atomic and other materials sent to Russia. He said he assumed that if the Jordan figures tallied with the original sources in a number of random cases, then it would be possible to accept the Jordan material as authentic. With Congressional help, Dr. Sutton made a sample check and found that Major Jordan's data tallied with the originals. Dr. Sutton said that much of the material involved was still classified. Let us hope it will soon be released to scholars and the press, if they should want to give the facts to the public.

Dr. Sutton said that it was his conclusion that, technically, the Soviets could not have manufactured an atomic bomb without U.S., British or Swiss assistance because those were the only sources of some of the machine tools needed. Moreover, he said, the Soviets could not even manufacture the extrusions needed to build certain aircraft early in the 1940's. There is much more to the atomic bomb matter, but first I want you to hear Dr. Sutton's views on Russian assistance to the North Vietnamese. These are stated in his paper entitled, "The Problem of Government Censorship in Regard to Our Assistance to the Soviet Military Structure." He says:

"Some years ago my research strongly suggested that the Soviets had no indigenous (or home-grown) military transport technology: either moter vehicles or marine diesel engines. However, the bulk of the weapons and supplies for the North Vietnamese in the present war came from the Soviet Union, and the greater part of these Soviet supplies and weapons went to Vietnam by sea, and along the Ho Chi Minh Trail by Soviet-built trucks. Therefore I applied some effort to this apparent contradiction and specifically to identify and make an analysis of the main propulsion units of the Soviet supply ships. While such information is readily available in (U.S.) Government files, it is classified and not available to Congress (by virtue of 'executive privilege') and certainly not to individual citizens.

"By using Russian-origin data I was able to make an accurate analysis. I determined that all main propulsion systems (diesel and steam turbine) of the 96 Soviet ships used on the Haiphong supply run and which could be identified (that is, 84 out of the 96) originated in design or construction outside the USSR. (See CONGRESSIONAL RECORD, vol. 117, pt. 28, p. 37385.) By applying the export control laws and some initiative in DoCom the State Department could have prohibited the export of the greater part of this military technology to the USSR. However, without access to the DoCom and State papers I do not know whether we have a problem of culpable negligence, abysmal inefficiency or basic inability to examine all sides of a problem. We *do* know that if the U.S. State and Commerce Departments had consistently enforced the 1940 legislation passed by Congress, then the Soviets would not have had the ability to supply the Vietnamese War—and 50,000 more Americans would be alive today."

The *Washington Post* reported on February 17 of this year that the United States Government on the day before approved $367,100,000 worth of export license to the Soviet Union for possible sales of machinery for a large truck-manufacturing plant on the Kama River. The dispatch did not say that the plant is to be the world's largest maker of trucks, most of them of giant size. It is still true that the Soviet Union does not have a mass-producing truck plant or automobile plant, though a mass-producing automobile plant is now being built there by the Italian Fiat company with American help.

Now we come to the possibility that the United States has supplied another important earlier need of the Russians—namely, atomic bombs. Let us start with the statement of a man who had just stepped down as President of the United States. Mr. Truman said in Kansas City one week after leaving the White House:

"I am not convinced the Russians have achieved the know-how to put the complicated mechanism together to make an A-bomb work. I am not convinced they have the bomb."

Since Mr. Truman as President of the United States would have had pretty complete knowledge of this matter, it is my opinion that he was trying to tell something to the American people. It was Mr. Truman as President who announced to the world the first Russian atomic explosion in 1949. Now in January of 1953, when he could speak more freely, he seemed to be in haste to tell his countrymen that he did not believe the Russians were capable of making atomic bombs. But he had been convinced that the Russians did produce atomic explosions or he would not have announced them. Could it be that the Russians exploded atomic materials manufactured in another country—namely, the United States?

That is a theory that has been investigated thoroughly by Dr. Medford Evans, who was the security officer of the United States Atomic Energy Commission in the early 1950's and who resigned when none of his security measures was accepted or put into effect. Dr. Evans concluded that twenty or more bombs—or the materials to put together the bombs, the component parts—probably had been stolen from Los Alamos and/or Oak Ridge and Hanford. He gave his views in a closely reasoned book, *The Secret War for the A-Bomb*. Almost needless to say by now, this work was not reviewed in any newspaper in New York, Washington or Boston, which are vital centers in bringing books to the attention of the people. Dr. Evans had stumbled into the Acheson-Lilienthal Wonderland, where only the grotesqueries and fantasies of the Establishment Plan were tolerated. What was the Plan? Incredibly, it was to build atomic bomb plants in the Soviet Union and at other points around the world, and at the same time to withdraw the United States military guard around the atomic bomb components within this country. Bernard Baruch, a man whose two feet were firmly on the ground, killed the plan to build atomic bomb plants in Russia, but he could not prevent the relaxation of security around the atomic bomb plants in the United States—his work was only in the United Nations Atomic Energy Commission.

The hue and cry that started a wide demand among intellectuals for sharing the bomb with the Russians was launched by Dr. Leo Szilard, a Hungarian scientist who fled ahead of the insane Hitler to the United States. It was Szilard who led the movement to get Dr. Albert Einstein to move President Roosevelt to build the bomb. and, alas, it was Szilard who said this in March 1945:

"During 1943 and part of 1944 our greatest worry was the possibility that Germany would perfect an atomic bomb before the invasion of Europe. . . . In 1945, when we ceased worrying about what the Germans might do to us, we began to worry about what the government of the United States might do to other countries."

It should be said immediately that neither Dr. Albert Einstein, the true and tried father of the atomic age, who was a German refugee from Nazi fury, nor Dr. Edward Teller, a Hungarian emigre colleague of Dr. Szilard and the father of the hydrogen bomb, shared these views of Szilard. Dr. Einstein advised that the United States should maintain "overwhelming superiority" over the Russians, and Dr. Teller moved tc do just that by helping to build the H-bomb. He was joined in those efforts by Admiral Lewis L. Strauss.

After World War I we were asked, What price glory? After World War II the question was, What price nationhood? Now we must answer, before it happens. What price slavery?

Julius Rosenberg, the master spy for the Soviet government, recruited an unknown number of atomic and other spies. His word to them in 1944 was:

"The United States and Britain are working on this (atom bomb) jointly, and refusing to share the information which should go to Russia as an ally. If all the nations can't have the information, then one nation can't use the bomb threat against another." (From Oliver Pilat's *The Atom Spies,* page 210)

That is the very essence of the balance-of-power doctrine. It has already been proved wrong because Khrushchev thrice threatened atomic war—against Britain, Greece, and against the United States in 1962. Also, it is noticeable that no advocate of the balance ever suggested that the Soviet government should supply any of its secrets to the United States. The Russians contributed nothing but spies to the creation of the bomb, whereas the British contributed a great deal, as did nationals of a number of other countries. We have already suggested why we think the Soviet Union was chosen as the first great power to be balanced against the United States.

The Rosenbergs were fairly tried, convicted and executed, but their fate has always served as a cover for those in the United States government who appear to have done the same thing as the Rosenbergs, though on a far larger scale. The left hand does not know what the right hand doeth. For instance, Dr. Evans remarked in *The Secret War for the A-Bomb* (page 66):

"Enough has been observed to suggest that two of the three mainline establishments—that is, Oak Ridge and Los Alamos—are, or at least have been, susceptible of being systematically milked by an organization of resolution and ingenuity. This is true at Oak Ridge because of the physical nature of isotope separation plants; it is true at Los Alamos because of the administrative arrangement."

That was written in 1953. I have in recent weeks talked with Dr. Evans, and he thinks the theft of atomic bombs still is a reasonable hypothesis. The military guards around the bombs were withdrawn as soon as Gen. Leslie R. Groves was relieved of the command of the Manhattan Project, and civilians took over under the Atomic Energy Commission. Today the military has no access to the bomb by law except under the specific order of the President. Actual thefts of bomb-making materials have been recorded—one in the case of Allan Nunn May, British scientist and spy, and the other in the case of an American citizen employed at Los Alamos, who in 1946 took as a souvenir a glass vial containing plutonium and buried it under his house in Denver, Colorado. He was not accused and arrested until four years later.

I could give a number of instances of scientists or technologists who felt as Dr. Evans does, that a determined organization like the Communists' could divert—that is, steal—atomic bomb components. But I will leave something for you to read when you get this out-of-print book from the library—*The Secret War for the A-Bomb*. I do, however, want to tell you of one more revelation in this volume. It is that when what appears to have been the first official inventory of our atomic bombs at Los Alamos was taken in 1947, the cupboard was found shockingly bare. This has since been remedied in our total inventory, with the addition of the hydrogen bomb and other nuclear weapons. But I am persuaded that Communist treachery may have syphoned off some bombs and many secrets. Some of the scientists who demanded the utmost secrecy in the early days changed their minds after the bomb had been created. Then the word was: There are no secrets. It is probable that many secrets were betrayed in the great wave of the Communist and world government future that has swept over this land in its most recent years. The list of secrets known to have been handed over to the Russians is a long one, in addition to the highly sensitive electrical and mechanical developments given to them by the government during the Lend-Lease period and the Pipeline that followed it. It was as if our government got so used to giving things to the Russians that it could not stop doing it, and so we plan to build the largest truck-manufacturing plant in the world in the Soviet Union; this could really fix the balance-of-power center in Moscow.

We have now come down to this—that when books are hidden from the public to prevent its knowing of their existence, then somebody has got to get hold of the books and read them to the public. I suspect that *The Secret War for the A-Bomb* was not reported to the greatest part of the public because the volume was felt to contain some very frightening information, not all of which I have relayed to you. Of course, one is not supposed to reveal information that might upset some ever-pending negotiations with the Russians, who are sure to keep some discussions going somewhere on something every week of the year for that very reason.

And there is a point that must be noted. It is that the Russians are well aware that they are being appeased, and that their nation is being pushed upward as a balance-of-power antagonist of the United States by the United States. Can any one possibly doubt that the Russians are keenly aware that we follow a no-victory policy and that they make the most of it, since victory is their consistent and never-ending plan? While the Russians and the Peking Chinese use Communists around the world for all they can get out of them, both the Soviet Union and Communist China have proved themselves hard-shelled nations, seeking to grab all they can under the veneer of Communism. There are no elements in Russia and China seeking to establish any kind of balance of power against either of those countries.

This is not a balance, really. It is a shell game. We lost Eastern Europe, then China. We refused to win in Korea when we could have done so. We lost Cuba unnecessarily. Actually we transferred Cuba to the Communists. Chile is going Communist. Will the Panama Canal be next? We have refused to win the Vietnam War, and have brought about a vast upheaval in our country. Gen. Bruce K. Holloway, Commander of the Strategic Air Command, said in December:

"I am not going to get into the business of why we fought the Vietnam War the way we did. On strictly military considerations, nobody in uniform that I have every heard of would have done it that way.

"I think the quickest way to get the North Vietnamese to negotiate would have been to go after their Achilles' heel—their war-supporting logistics." (*U.S. News & World Report,* Dec. 22, 1971)

Nonetheless the B–52's have done very well.

As you think back over what I have said here, you will ask yourselves whether I could have been wrong. Possibly, here and there, but one thing is certain—this whole matter is not just one long typographical error. Even saying the things that I have said here today is fiercely resented in some liberal quarters of the national news media. They regard the truth as a political matter that must not be bandied about indiscriminately in conversation, in speeches or in the news. I say that is spinach, and you know the rest. Thank you.

QUORUM CALL

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Hansen). Without objection, it is so ordered.

EXTENSION OF TIME FOR JUDICIARY COMMITTEE TO FILE REPORT ON CONFIRMATION OF APPOINTMENT OF RICHARD G. KLEINDIENST TO BE ATTORNEY GENERAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary may have until midnight tomorrow, May 5, to file the supplemental report with minority or individual views in the matter of the confirmation of Richard G. Kleindienst, of Arizona, to be Attorney General of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—EXECUTIVE J, 92D CONGRESS, SECOND SESSION

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Protocol to Amend the Single Convention on Narcotic Drugs, opened for signature at Geneva on March 25, 1972 (Executive J, 92d Congress, second session), transmitted to the Senate today by the President of the United States, and that the protocol with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

TO THE SENATE OF THE UNITED STATES

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a copy of the Protocol Amending the Single Convention on Narcotic Drugs, 1961. The Protocol was opened for signature at Geneva on March 25, 1972 and has been signed by the United States and forty-two other countries.

The process of amending the Single Convention was initiated by the United States in March 1971 as part of our attack upon the drug problem on an international level. The amending Protocol was adopted without a dissenting vote at a United Nations Conference in Geneva, in which 97 countries participated from March 6–24, 1972.

The Protocol would significantly strengthen the international machinery for the control of drugs. The International Narcotics Control Board, a body of technical experts created by the Single Convention, would be enlarged and reorganized, its authority and range of remedial actions increased, and its sources of information materially expanded. The Board would be given, for the first time, an explicit mandate not only to supervise legitimate trade, but also to combat illicit traffic in narcotic drugs. Its new powers would include authority to publish its own estimates of the drug needs of a country in case of disagreement between the Board and the country regarding those estimates; to require that a country reduce its production of opium where there is evidence of diversion into illicit traffic; to propose an on-the-spot study of a situation with a view to developing remedial measures where they appear necessary, and to recommend to United Nations organizations and to the specialized agencies that technical and financial assistance be provided to a government in support of its efforts to carry out its obligations under the Convention. Whenever it identifies a serious drug problem, the Board would also be authorized to refer the matter with recommendations to the appropriate United Nations bodies. For the first time the drug problem would be treated as serious enough to merit remedial political action by the United Nations General Assembly.

The Protocol would also strengthen extradition machinery for drug offenders in a manner similar to that employed with respect to airplane hijacking.

These and other amendments discussed in the enclosed report of the Department of State on the Protocol should substantially improve international cooperation in combating illicit traffic in narcotic drugs and their abuse. Taken together they constitute a major new affirmation from the international community that it is determined that the drug menace be conquered. I strongly recommend that the Senate give early consideration to the Protocol and give its advice and consent to ratification.

RICHARD NIXON.

THE WHITE HOUSE, *May 4, 1972.*

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TOMORROW, FRIDAY, MAY 5, 1972, TO MONDAY, MAY 8, 1972, AT 12 NOON

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until 12 o'clock noon, Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two assistant leaders have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business, S. 3526.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will meet at 10 o'clock tomorrow morning. After the two assistant leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business, S. 3526.

The pending question at that time will be on the adoption of the amendment offered by the able junior Senator from Mississippi (Mr. STENNIS), amendment No. 1175.

Mr. President, for the information of the Senate, there may be rollcall votes tomorrow. It is hoped that it will be possible on tomorrow to temporarily lay aside the Stennis amendment—which, of course, would require unanimous consent—and thus allow other amendments to come up from time to time, if there be such offered, which amendments might be disposed of with the understanding that if the Stennis amendment is laid aside temporarily, there would be a time agreement on any such amendment which would temporarily displace it. That time agreement would, of course, have to displace it. That time agreement would, of course, have to encompass a time frame which would allow for the disposition of any such amendment as would be brought up during the temporary laying aside of the Stennis amendment.

Mr. GRIFFIN. Mr. President, will the distinguished majority whip yield?

Mr. ROBERT C. BYRD. I yield.

Mr. GRIFFIN. Mr. President, I believe the Senator made the situation very clear, but just to reinforce it, it would, of course, be unlikely that any unanimous consent to temporarily lay aside the Stennis amendment would be agreed to unless there were incorporated therein a unanimous-consent agreement with a time-certain limitation as to any amendment that might be taken up; and, of course, each request to temporarily lay aside the Stennis amendment would have to be considered on a one-amendment-at-a-time basis, and when an amendment was agreed to or disposed of, the Stennis amendment would then immediately become the pending business again, I understand.

Mr. ROBERT C. BYRD. The distinguished acting Republican leader is correct. May I say, also, in that regard, there would be no disposition of the Stennis amendment tomorrow. That is the pending question now and it will be the pending question throughout the remainder of this week, and only temporarily laid aside—if laid aside at all—so that another amendment could be brought up and disposed of within a certain minimum time limit.

Mr. STENNIS. Mr. President, reserving the right to object, I was called away from the Chamber and I regret I was not here when the unanimous-consent request was made. As I understand the proposal——

Mr. ROBERT C. BYRD. If I may interrupt the able Senator, there is no unanimous-consent request pending. I was merely stating for the RECORD, so that Senators may be apprised, that there is a possibility there might be rollcall votes tomorrow but that such would not occur on the amendment of the Senator from Mississippi.

Mr. STENNIS. I thank the Senator. I would want some speaking time tomorrow on the amendment that bears my name, and those in favor of the bill as now written would want to speak. I know the Senator from Idaho wants some time.

Mr. ROBERT C. BYRD. Yes. The Senate will come in at 10 o'clock tomorrow, which would give the Senator ample time to speak on the amendment. However, it was indicated in colloquy between myself and the distinguished acting Republican leader that there might be an amendment or amendments offered by Senators, more or less routine in nature, for example, increasing the amount for such-and-such an authorization by such-and-such amount—and only by unanimous consent could the pending amendment be laid aside—but we stated there was the possibility that unanimous consent could be gotten whereby the Stennis amendment would be laid aside temporarily and disposition made of such other amendment or amendments, with the understanding that when the Senate completes its business tomorrow the amendment of the able Senator from Mississippi would still be the pending business before this body.

Mr. STENNIS. I thank the Senator. I understand the situation.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. GRIFFIN. Mr. President, I move in accordance with the previous order that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and at 5:23 p.m. the Senate adjourned until tomorrow, Friday, May 5, 1972, at 10 a.m.

NOMINATION

Executive nomination received by the Senate May 4, 1972:

IN THE AIR FORCE

The following officer to be placed on the retired list in the grade of lieutenant general under the provisions of section 8962, title 10 of the United States Code: Gen. John D. Lavelle, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

EXTENSIONS OF REMARKS

MARIETTA, OKLA., YOUTH WINS NATIONAL ORATORICAL HONORS

HON. CARL ALBERT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. ALBERT. Mr. Speaker, a 17-year-old constituent of mine, a resident of Marietta, Okla., Mr. Donnie Paul Minyard, has won national honors in another oratorical contest, one of many such firsts he has collected during the past several years. Donnie Paul first gained national recognition as an orator when he won first place and a $2,000 scholarship in a contest sponsored by Optimist International in Los Angeles, Calif., in 1970. Last month, he won third place and a $3,000 scholarship at the American Legion National High School Oratorical Contest held in Weirton, W. Va.

Donnie Paul began winning honors in speech contests 4 years ago when he competed in a beginner's speech tournament at Lawton, Okla. Since that time, he has won 55 medals and many trophies. In addition to the national trophies, Donnie also has won first place in the National Forensic League State Competition in men's extemporaneous speaking. He was the first contestant from a Class B school to win that contest in about a decade.

A senior in Marietta High School, Donnie has a straight A average and hopes to attend Oral Roberts University in Tulsa beginning this fall. His parents are Mr. and Mrs. O. E. Minyard of Marietta.

I am happy to share with you copies of Donnie's winning orations in the Optimist International and American Legion oratorical contests:

YOUTH, FULL PARTNERS IN A BETTER TOMORROW

A few years ago, a small nation—eager for prestige—found itself blessed with 4 of the finest runners the world had seen. They and everyone else fully expected them to win the relays in the Olympics and bring home to their country some of the honor and prestige for which it so hungered. Careful training and many hours of practice were carried out. The day of the race finally arrived—the first three runners each brought the baton to the other runner well ahead of the opposition—yet when it came time for the hand-off between the 3rd runner and the anchor man the baton was fumbled and dropped. The anchor man recovered quickly but not in time to win the race. Did the 3rd runner stumble? Did the 4th runner start sooner than expected? Or were they distracted by something along on the sidelines? No one is quite sure—maybe it was all three things—the important thing was that their goal was not accomplished.

Here in the United States as the decade of the 70's begins we are faced with an almost identical situation. It's almost time to share with the 4th generation of Americans the baton of leadership. The first three generations have excelled—they have brought our nation to this point—well ahead of other nations. But the fact remains that if the timing is off—if the preparation and training are inadequate—if we lose sight of our objective then the entire nation will suffer. Therefore, it becomes imperative that youth and adults work together as a team, as partners, to accomplish those goals of a better tomorrow.

Youth has much to contribute—unbridled energy, vitality, and enthusiasm that is characteristic of those starting on something new. A seemingly innate desire to be "a part of the action"—and the time to do it—and finally ideals and dreams untarnished and undimmed by age. Yet those of you who come into day by day contact with young people or who follow their activities in the news media are well aware that youthful energy and vitality can generate destruction as well as enthusiasm—that desire to be a "part of the action" can lead to a brashness and situations whence there can be no return—and those youthful dreams if not viewed with the harshness of reality can become the nightmares of the world of tomorrow.

But young people are indeed fortunate for that baton of leadership is not passed on to them alone. It is passed to a generation that includes men and women of all ages—a generation that has within it the wisdom and tolerance that is necessary to temper and strengthen the energy and vitality of youth—a generation that has within it the experience to evaluate objectively in the light of history those dreams and ideals of the young—so that we will not be destined to relive some of those trying experiences of the past.

Yes, this generation must truly be a partnership that commands the best qualities of both the young and adult societies—a partnership where each plays his unique role—resulting in the distinct advantages derived from both groups. A partnership which will be the focal point around which a better tomorrow will revolve. A partnership that will not fumble as the baton of leadership is passed to us.

But as we approach this fourth generation of Americans the relay analogy as most analogies is not completely comparable. The 4th lap of a relay is usually the last—and certainly if the 4th generation of Americans is the last one then our civilization will have ended much too soon. For we have much to offer the world—and if it ends then tomorrow will certainly not be a better one.

So it is our responsibility—yours and mine—to form the partnership and work in such a strict way that the 5th generation of Americans will find that we too have moved civilization forward to bigger and better things—and we utilize our talents of tomorrow's partnership. Let's heed the words of the poet Louis Untermeyer in his poem "Prayer":

Open my ears to music
Let me thrill to spring's first flutes and drums
But never let me dare forget
The bitter ballad of the slums

From compromise and things half done
Keep me with stern and stubborn pride,
And when at last the fight is won,
God, keep me still unsatisfied.

Yes, we can never afford to be satisfied that all that can be done has been done, or that nothing can be done. With that in mind, with God's help—tomorrow *will* be better as today's youth is accepted as full partners in working toward that goal.

THE AMERICAN CONSTITUTION, FOUNDATION OF FREEDOM

On the evening of the seventeenth of June, 1858, an angular and homely-clad figure rose by a table in the Hall of the House of Representatives in Springfield, Illinois. Standing before a cheering audience, he was the spokesman for a new cause, and events still in the future were to make his words famous. He began his speech slowly with frequent emphasis on particular words. This man, Abraham Lincoln, had not proceeded far into his famous address when he uttered the words "A House divided against itself can not stand." And only three short years later, as if fulfilling a prophecy, the nation was plunged into a civil war. A civil war that ripped and tore us asunder. Yet as a nation we survived. We survived because our country was built on a foundation that was solid and sure. It was a foundation based on the idea that a government under a constitution was better than a government by the whim of man. Yes, we have survived for over one hundred and eighty years as a democratic republic subject to change as needed.

Yet, today there are fast growing forces that seem bent on destroying the present system. The drummers are drumming, the demonstrators are demonstrating, and documents and buildings are being burned and bombed. Internal unrest and dissension are approaching an all time high, and the time has come for us to decide if our constitution is flexible enough to meet the needs of the changing times or should we abandon it and let nature take its course.

Finalizing a decision on whether to retain or abolish the Constitution requires us to examine the pages of history to determine how other nations have fared without a constitution.

Remember, if you please, the stories of the glories of an Ancient Greece, a democracy without a Constitution. But a democracy that has long since disappeared. Remember the grandeur of a Roman Republic, a republic without a constitution that decayed from within and collapsed at the hands of the barbarians. Remember a modern Germany without a Bill of Rights to protect individuals that took the lives of thousands of Jews. And, finally, remember a modern 20th-century Soviet Union without a constitution that has purged itself of thousands of people for voicing an opinion or supporting the wrong political candidate.

What does this imply? One of two things. First that a democracy such as Greece and Rome can not endure without a written law, and second that autocracies such as Germany and the Soviet Union can endure but the lives of freedom-loving individuals are at stake.

Obviously, we need to retain our Constitution, a document written and published so that every citizen knows and understands his rights and the role of the various levels of government. A Constitution that can stand up to the glaring inspection of all foreigners. Perhaps the best evidence that the Constitution has withstood this inspection is the fact that the United States is the only country in the world where people are waiting in lengthy lines to get in. The lines are lengthy because they know that here they can voice their opinions without fear of government repression. They can worship God as they choose or not worship at all. Also, they can go to the polls and cast a secret ballot or stay home if they wish. Freedom of choice, the right to life, liberty, and property are phrases that are trite and taken for granted in America although they are seemingly impossible dreams to the rest of the world.

Yes, our Constitution has stood the test of time and the inspection of the rest of the world, but what of those destructive forces within? Well, if our Constitution is going to stand, we must do something more than "standing up and being counted." We must activate those Constitutional articles so that no one can say that they are merely words and phrases. But activating these articles is not always easy. All of us must help make those decisions that are truly value judgments. For example, freedom of religion protects us from required religious exercises in schools, but does it also deny us the right to voluntary exercises? Freedom of speech guarantees us the right to express an opinion, but who has the right to speak—a speaker at a microphone or a heckler in the crowd? Does the teacher have the right or a student yelling obscenities? Another example, freedom of the press, the right to publish the truth. Does this mean every obscene word and pornographic picture? The Constitution also says that no state can abridge the rights of any citizen. This certainly carries with it the right of every person to full use of all public facilities, but does this also carry with it the right of the government to assign a student outside his school district? And finally, the rights of an accused person must be protected. We will agree that the idea of a fair trial is necessary and an accused person should be advised of his rights. However, are a confessed killer's rights to life, liberty, and property greater than the rights of a law-abiding citizen to the same things?

You see, it isn't easy because there will always be the difference of opinions concerning the extent of rights. Freedom of the press can infringe on the right to a fair and impartial trial. Freedom of speech can infringe upon the rights of others. And it's conflicts like these that necessitate that all of us participate in making those decisions that will keep the Constitution a living, viable document.

If we do not, then the Constitution will not survive, and the controversy surrounding each freedom will cause our own self-destruction. Some controversy is good and beneficial, but too much is national suicide. A few years ago, Irving Dillard of the St. Louis Dispatch wrote "What I think about the state of our liberties is the blackest thought I have had in my life. I am convinced that the Bill of Rights would not be submitted and ratified as a part of the Constitution were it presented to Congress today." A somewhat sad commentary on a very valuable document. A commentary that only serves to point out that we must work to protect our ideas for we have too much that is good to sacrifice it all in hopes that we might come up with something better. God created man as a reasoning, thinking person. It is this ability to reason and the energy to exercise that reason that will help us protect our rights and freedoms under the Constitution. Several years ago, American forces in Vietnam held their own oratorical contest in which several hundred South Vietnamese youngsters participated. Speaking eloquently, quietly, but very sadly, each one began his speech with the words—I have a dream. Almost every dream was about freedom—one very small frail boy brought tears to the eyes of almost everyone when he concluded his speech with a prayer that went something like this: "God please help me to find freedom, and give me the strength to keep it." We in America found our freedoms through a revolution, and what we need now is the strength to keep them. And we should never be willing to compromise any of our freedoms to our enemies. Perhaps we should adhere to the words of the poet, Louis Untermeyer in his poem, "Prayer":

From Compromise and things half-done,
Keep me with stern and stubborn pride.
And when at last each fight is won,
God keep me still, unsatisfied.

Yes, we should never be willing to compromise our freedoms to our enemies. For if we do many will feel that those who have died defending our country will have died in vain. But in another sense, if we compromise our freedoms and end up losing them, only our dead will be victors. For only our dead will be free.

RESERVE COMPONENTS

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Thursday, May 4, 1972

Mr. THURMOND. Mr. President, it is a pleasure for me to bring to the attention of the Senate and all Americans an address delivered by Lt. Gen. Harris W. Hollis, Chief of Reserve Components, Department of the Army, and a native South Carolinian, to the members of the South Carolina Department of the Reserve Officers Association at Fort Jackson on April 29, 1972. It was a pleasure for me to be present for this occasion which reflected the true spirit of Americans.

Mr. President, it was refreshing and encouraging to hear such an inspiring address for America rather than against it. South Carolina is proud to claim General Hollis. He is an outstanding representative of South Carolina, who like other patriotic and dedicated South Carolinians of our great State, believes in the reality of the world in which we live and not in the fantasy of protecting a free America through weakness. General Hollis personifies a statement he made in his address:

> This State and its people have never shirked from wholehearted commitment to the defense of the Nation.

Thirty centuries of recorded history demonstrate the philosophical thesis of General Hollis' address that weakness invites aggression and war. America must not be lulled into believing that free nations can survive without a strong defense and the will to use it. This strength relies heavier than ever before on our Reserve components as vividly presented by General Hollis. America's future may well depend on our Reserve Forces. Our country must support this vital element of our defense if we are to survive as a free nation.

Mr. President, I ask unanimous consent that General Hollis' address be printed in the Extensions of Remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SOUTH CAROLINA AND NATIONAL DEFENSE

Remarks by Lt. Gen. Harris W. Hollis

Let me take you back a bit.

We follow where the Swamp Fox guides,
  His friends and merry men are we;
And when the troop of Tarleton rides,
  We burrow in the cypress tree . . .
The true heart and the ready hand,
  The spirit stubborn to be free,
The twisted bore, the smiting brand—
  And we are Marion's men, you see.

We follow where the Swamp Fox guides,
  We leave the swamp and cypress tree.
Our spurs are in our coursers' sides,
  And ready for the strife are we.
The Tory camp is now in sight,
  And there he cowers within his den.
He hears our shouts; he dreads the fight;
  He fears, and flies from Marion's men.

How long has it been since you have heard these lines, written by William Gilmore Simms?

In my mind's eye I can still see Miss Margaret Saye as she read aloud to first and second graders in 1926 at Oakley Hall, in Chester County. She read with a view to instilling in us a sense of pride in Carolina and America. In that gentle spinster's sure way she was instilling, too, something about those ideas and ideals of man that make him more than mere beast: his long quest for justice in a faulted world; his spirit of freedom; his sense of obligation to do something about these things; the elements of inspiration and leadership requisite to move men to great purpose; and of the buoyance, the confidence, the basic charity that are also needed in our striving for a better estate. Miss Margaret was counselling us in the grand design. I see this now.

It is good to be back in South Carolina and to celebrate with you the proud fact that we are Carolinians.

South Carolina, in the almost 200 years of this nation's existence, has contributed mightily to national affairs. Its noted statesmen, its soldiers, its public servants and other countless good and solid citizens, besides Francis Marion, have made their marks. Just the other day we paid final honors to a latter day giant, James F. Byrnes. I won't presume to recite state history to a crowd of native sons and daughters, except to say the obvious to this Department of the Reserve Officers Association: This state and its people have never shirked from wholehearted commitment to the defense of the nation.

Today we ponder our traditional stance in these matters, and its relative worth, as South Carolina moves beyond its tricentennial epoch into a challenging era.

A popular bumper sticker reads, "Make love, not war." But is it not true that, since the dawn of history, man has been tempted to "make love *and* war"?

One of the words used much these days is "relevant". The youth of this nation, if one is to believe the printed word, views each action, each goal, in terms of relevance to the individual. In their seeking of a better way of life, any tradition, any dogma, any chart for the future must answer the question: "Is it relevant at this instance?"

At this instance ours is a globe of exploding populations and unsatisfied aims and hopes; an estate of frustrated dreamers and "get-rich-quick" international gamblers. The stresses and strains are all around us—in the Far East, in that bridge across three continents, the Middle East; in the aspirations of those within the Western Hemisphere who would export revolution throughout; in Europe where an uneasy equilibrium of power is juxtaposed between a growing and ambitious complex of Soviet armed force and that of the nations of the free world—where a balance of power favorable to our interest is the keystone of our security in the decades ahead; indeed a must. The potentiality for mischief and conflict in these times looms large.

In such an environment is our military power and the way we have organized it relevant?

Let's put it to the test. Are strong and ready U.S. armed forces—active and reserve—really relevant now in man's striving for a better world? Let's look at the proposition, not in a partisan or chauvinistic way, but as thoughtful Americans. In some respects I risk preaching to the choir; but I will run the risk.

Well-meaning individuals in our nation today, placing their trust in a belief that nonviolent arbitration alone is the way to solve all our ills, are, with moralistic fervor, demanding again the war "be outlawed"—that armaments be drastically reduced. The thought of armed force is painful to them. They do not see a need for significant American military power. Rather, they perceive that we can have a "greening", noncompetitive America and keep it safe from the wolves, without the use of this power, if one but listen to them. I do not agree with this reasoning, as attractive as it may sound. To me, it is a new and tenuous search for the golden fleece; it is a dream of things that never were. It would be a boon if such could be, but alas, it is in the nature of man himself, and not in arms, that war has its origin.

We Americans—many of us—have never been too keen on history—and we have miscalculated more than once because we did not read the signs clearly.

For example, World War II came about because we did little to stay what was developing in Europe and Japan in the Thirties. Our attitudes prior to that war were dominated by absolutist thought—even then our universities produced some students who swore not to help the United States should it find itself at war. (Although, parenthetically, they did not ask that the other side "send more missiles to shoot down American planes.") In those days we failed to recognize that rivalry among nations accompanies life. We passed Neutrality Acts; we kept ourselves weak; we preached out against the world—to no avail. We did not aim to check and balance by countervailing power the contending power we saw developing. Had we moved with credible power in 1936, that war might have been avoided. But we had not anticipated nor laid up that power; we tempted the aggressor to make war. He did.

And what were the results of our simplistic outlook? Let me recall with you: almost 300,000 U.S. dead and millions of others, and billions of national treasure expended. One might reflect today, "How moral in their effects on man were those attitudes which brought on that holocaust, when less cataclysmic means might have stopped the aggressor earlier.

General George Marshall noted that war is not the clear choice of those who wish passionately for peace, but rather the option of those who are willing to use violent measures for political profit. He said:

"We finish each bloody war with a feeling of acute revulsion . . . and yet on each occasion we confuse military preparedness with the causes of war and then drift almost deliberately into another catastrophe . . . Until it is proved . . . a solution has been found to . . . (eliminate) war, a rich nation which lays down its arms as we have done . . . (before) will court disaster."

For awhile Marshall was heeded but a retreat into weakness in the last Forties soon tempted North Asian communist powers to assault Korea—and once more we were involved in a war we might have deterred with our power, had we had it. We tempted the aggressor again.

Between Korea and now our national policies have been oriented more to the realities of world-wide conflict than before. We have seen, some of us, that instances of non-intervention can be just as immoral, perhaps even more so, than intervention. After all, the Good Samaritan intervened. Would he have been more moral had he not? The problem is not so simple; the world is a complex ganglion of interacting forces in which good and evil are many times mixed.

But in our frustrations with the latest phase of the struggle, some would draw strained conclusions about America's need to use responsibly its power in maintaining justice, political community and order within the world.

We have seen this week new antiwar demonstrations; angry young men from the universities and their affluent professors taking to the streets with banners and slogans, certain of their own rectitude profuse in their condemnation of those who disagree, and full of passion, moralistic fervor and idealism. In an era when public problems have never been more complex, when the dimensions of these matters are such that one could devote many months of study and striving before making categorical judgment we see, sadly, the attempts of those who would take decisions made in council and overturn them in the street. But one should take heed. "We have been so cocksure of so many things that were not so," Justice Oliver Wendell Holmes admonished, that we ought to see that "certitude is not the test of certainty". When passion runs tyrant to the mind, it is hard for reason to flourish. We human beings have more than once in history applauded an imitation and hissed at the real thing.

Remember the angry crowd before Pilate, "Crucify him! Set Barabbas free!"

Yet we must not downgrade the idealism of youth—idealism is after all a great thing. We must be understanding and charitable. Our challenge is to help them idealize the reality, rather than making of reality a fantasy.

I dare say if we do that, these young people would come to realize that strategic decisions call for seasoned judgment, experience, a widened knowledge of the world and a sound historical perspective. Hopefully, they will come to understand that superficial browsing in newspapers and catching snatches of commentary and lecture in the public media are not the same as the experience one needs, for example, when removing a patient's sick lung or when deciding on the grave issues of war or peace.

The thought of these things is enough to make one feel humble.

Dr. Paul Ramsay, Professor of Religion at Princeton University, in his book The Just War, reasons eloquently that "Peace and justice are not linked by an invisible hand, nor can political life endure without the use of force"—possibly armed force. "You are not likely to win at the conference table," he says, "anything that it seems evident you could not win on the battlefield, or are not resolved to win." And Pascal observed that "justice and might must be wedded together so that whatever is just may be powerful and what is mighty, just."

In these things we should try to avoid the fetters of wishful thinking. Yet, it is not altogether easy to train our thoughts to the stern realities that have been man's historical lot since time immemorial.

For more than thirty centuries of recorded history sanguinary war has accompanied man's existence.

When Americans are sick of war and long for peace, we would rather the problems of the world go away. We, some of us, would put these aside, and the historical, perspectives as well, and live today doing our own thing", watching our own "Laugh In" in a kaleidoscopic way—in an instant interval—and not remember the past.

Some would say that our past history is an improper basis upon which to make judgments in a world of expanding pace and accelerated knowledge; that to look to the past is sheer madness in a world of vastly new experience. The revisionist historians tell us that even our understanding of that period must be reinterpreted in the light of the new doctrines and ideology—and some would even leave out the facts in their haste to redo history and the world. But if we must not be mad, should not our respect for history be at least pious? After all, the philosopher has warned: "Those who cannot remember the past are condemned to repeat it,"—George Santayana.

Where does all this fit in? I think it fits in where our forefathers placed it; to wit:

"There is a rank due the United States among nations that will be withheld if not absolutely lost by the reputation of weakness. If we desire to avoid insult . . . we must be ready to repel it. If we desire peace, one of the institutions of our rising prosperity, it must be known that we are at all times ready for war."—George Washington.

We cannot play games with national defense. No one knows this better than the soldier-statesmen here.

It is in this context of political reality that military power and the mission of our Reserve Component forces for which I share responsibility, take on new meaning and new criticality, and let me turn to this now.

They are vital to our long term well-being.

To get them ready we are moving forward on a broad front.

We are issuing new, modern equipment, including aircraft, reversing the mid-Sixty trend when much of the Reserve equipment, but not the Reserves themselves in meaningful numbers, were mobilized for the Vietnam conflict. We are looking anew at our training methods; and we do have some problems. The flood of incoming equipment presents maintenance and security challenges. Increased readiness for these combat units requires close-in training areas. Not unexpectedly we are having trouble getting volunteers. Six years ago the number of enlistees under the six-year Reserve program were large—some motivated by the draft—others filling to 100% the Selected Reserve Force units of that time. These enlistments are being terminated this year—just as we entered an essentially no-draft environment.

An intensified recruiting and retention system designed to attract young men of all races has been organized and in the Army National Guard the strength seems to be improving. The US Army Reserve, however, is encountering somewhat more trouble. We are asking Congress for some inducements—but even this will not fully satisfy the issue.

Admittedly, we have been late getting started in these matters, but let's not kid ourselves—the problem is more profound than that. Given the way many are thinking, will we be able to man the force? Will we be able, in a no-draft environment, to attract quality youth to our ranks?

The Reservist must be convinced that the time and efforts he devotes to the Reserve Component units is important, is worthwhile to him and essential to his nation. We in the military must demonstrate these truths to him by our leadership and excellence. Others, too, must help.

I think we need to take a stalwart view of the matter. I know that many people do. I know that some do not. As I go about the country, I am from time to time asked the question, "Do you really think the Reserves can perform the mission which the Secretary of Defense has set out for them?"

That is a pertinent question. It is made all the more pertinent when one considers that by 1974 about 45% of the strength of the Army will reside in the Reserve Components. It is pertinent when one considers that about one and a half billion dollars were appropriated for the Army Reserve forces in 1972, and something under two billion is asked for 1973. The question is not only pertinent, the business at hand is serious, very serious.

My answer to that question is "Yes, *if we want to*. If the American people want to." It is more a question of national will than national capability. We have the means. Perhaps a better question to ask is, "Do we want to?" Are we willing each to contribute sincerely to these enterprises in appropriate ways? We should stand up before our mirrors and ask ourselves this. Those of us who have children should ask it of ourselves in recognition that these very children are hostages to the fortunes of tomorrow. Our young people are our most precious assets. My encounter with them has been exciting and heartwarming. They are influenced by our attitudes, our leadership, our goals, our capacity for hard work and sacrifice, our state of energy in pursuit of these goals.

I do not accept the view that the sturdy people of this land cannot do this job. We can do it if we all put our shoulders to the wheel and keep a gleam in our eyes.

We can do it, if the opinion makers and the state, city and county fathers—at large—stress the importance and honorable nature of the task of the citizen-soldier.

We can do it, if the employers throughout the land recognize that their larger interests are served by a program which encourages their employees to participate in the Reserve Component program.

We can do the job, if there is a widespread understanding that with our modern equipment, now being delivered, we need places to train—and that our installations and training areas are important to that end. It is paradoxical that some would have these taken away for other uses, at the very time when the government is emphasizing more than ever the role of Reserve forces.

We can do this job, if all of us get our sights lined up on what is really important to us. I would certainly include in this that program which keeps us free and reasonably safe in a competitive world.

We can get our Reserves ready and strong if we all understand how important it is for each of us first to decide that we *are* going to do it; to decide that the matter is indeed important and must be done.

"The commands of democracy", said Woodrow Wilson, "are as imperative as its privileges."

I have unbounded faith in the American people, young and old.

When the issues are clear, I believe that they will overwhelmingly want to insure, in company with South Carolinians, that our powder is dry and our defenses sure. Keeping the Reserve Components strong is a part of that sure way.

As Americans see ahead their freedom worth enjoying, they will surely see it worth defending, and worth perfecting; so that justice, liberty, order, and the pursuit of happiness may be more fully realized—at home and for men of good will everywhere.

TRIBUTE TO BRAD MORSE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. HARRINGTON. Mr. Speaker, after 11 years of dedicated and distinguished service in the House, my good friend and colleague from Massachusetts. Brad Morse, is leaving to become the Under Secretary General for Political and General Assembly Affairs at the United Nations. This post was last held by the late Dr. Ralph Bunche and I am confident that Brad will be able to perform the duties of Under Secretary General with the same competence and wisdom that earned Dr. Bunche the respect and admiration of the world.

Brad's main area of interest has always been foreign policy. As a member of the Committee on Foreign Affairs Brad has contributed his broad knowledge, expertise, and good sense to the committee's deliberations, earning the respect and friendship of members from both sides of the aisle.

Brad Morse has always been in the forefront of the House of Representatives in the quest for peace. He was one of the earliest Members to adovcate a peaceful settlement to the tragic conflict in Vietnam. He has played an active and important role in Members of Congress for Peace Through Law. Under his chairmanship during the 91st Congress, the MCPL grew in size from 62 members to 105. He also was responsible for changing the nature of the organization from a study group to an action group. In addition, Brad has served as congressional adviser to the U.S. delegation at the 18-Nation Disarmament Conference in Geneva, and has served as a member of the Council on Foreign Relations, and director of the Pan American Development Foundation.

Yet, despite his deep involvement with foreign affairs, Brad Morse never lost site of his district and its problems. As a fellow member of the Massachusetts delegation, I can testify to Brad's tireless devotion to those problems which affect our area of the country. On the oil import quota, on the problem of unemployment, on the problem of pollution, on the energy crisis. Brad Morse's presence was felt in the Congress. The citizens of the Fifth District will have lost an effective and respected voice in Congress, but I am sure that they, too, are happy and proud about Brad's new post.

Finally, in addition to being a good Congressman, Brad Morse has also been a good friend, and I will miss him after he leaves. His constant good humor, cooperation, and good sense has added a measure of enjoyment to my own job. It has been a pleasure to work with Brad and I will miss him, but I'm sure he will keep in touch and let us know about the good work he is doing at the U.N.

EQUITABLE RETIREMENT CREDIT FOR NATIONAL GUARD TECHNICIANS

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Thursday, May 4, 1972

Mr. GRIFFIN. Mr. President, I wish to register my strong support for S. 855, which the Senate approved yesterday by a voice vote. This bill will correct certain inequities in crediting the service of National Guard technicians toward their civil service retirement.

I am a cosponsor of the bill, which was introduced by the distinguished Senator from New Hampshire (Mr. COTTON).

Mr. President, a retirement program was established by the 90th Congress for the 41,000 National Guard technicians. The program has helped the Guard to retain the services of very valuable technicians who are often subject to attractive employment offers from private industry with better retirement and fringe benefits.

At present, National Guard technicians receive only a 55-percent credit toward their retirement for years of service prior to 1969. Enactment of S. 855 will eliminate this discriminatory feature and accord them full credit for past service.

These civilian technicians are an essential part of the National Guard. They respond in emergencies with the same sense of dedication and commitment as those who serve in the military, and they are vital to the defense of this Nation.

Their service to the country should be fully recognized. This legislation will do that.

NATIONAL CIVIL RIGHTS WEEK FOR THE DISABLED

HON. HUGH L. CAREY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. CAREY of New York. Mr. Speaker, I would like to call to the attention of my colleagues National Civil Rights Week for the Disabled beginning today, May 5 through 13.

I am proud of the leadership shown by these New York groups: Disabled in Action, Disabled in Coalition, Spina Bifida Association, National Association for the Physicially Handicapped, Pride, and HSO in securing equal rights for physically and mentally disabled Americans.

National Civil Rights Week for the Disabled is the first concerted, structured effort to raise the collective consciousness of America, to come before our fellow citizens with the neglected needs and bypassed problems of generations of disabled Americans. It challenges the humanity and imagination of the legislators and private citizens whose indifference and inertia has created a crisis in social justice within our society.

Mr. Speaker, I invite Members and staff to join with us in observing May 5 as National Advocacy Day for the Disabled to be marked by a mass march from the Washington Hilton Hotel to the Capitol west front. The march begins at 9:30 a.m. and will conclude with a rally at the Capitol at 11:30 a.m.

The executive president of one of the New York groups, Disabled in Action, is Miss Judy Heumann. Miss Huemann had polio as a child and has been confined to a wheelchair ever since. A graduate of Long Island University in Brooklyn, she tried to obtain a teaching position and was turned down, because of her disability. She refused to yield to this discrimination and sued the Board of Education to permit her to teach. She won the suit, and was given a position at P.S. 219 teaching art and music to disabled children.

This remarkable woman, who has served as a model for other disabled persons, has been one of those responsible for working for the rights of the disabled. She considers the disabled to be the most discriminated-against minority in the country. Miss Heumann is one of the founders of Disabled in Action, which is an organization run by and for the disabled with the goal of securing full human rights for the disabled citizens of America.

MRS. EVA FERGUSON

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. GRIFFIN. Mr. Speaker, I noted with interest an article in the April 30, 1972, issue of the Clarion Ledger-Jackson Daily News on the impending retirement of Mrs. Eva Ferguson, my high school mathematics teacher.

Mrs. Ferguson has devoted 43 years to classroom teaching and administration. She taught me mathematics at Utica High School and was not only a source of knowledge, but a source of inspiration to all of her students.

As Mrs. Ferguson enters this new phase of her life, I join all of her former students in wishing her good health and happiness.

Under leave to extend my remarks, I include the aforementioned article:

Forest Hill Honors Mrs. Eva Ferguson

(By Billy Skelton)

Mrs. Eva Ferguson is a woman who has spent many hours of her life convincing school children that they could do something they did not think they could do.

That is, learn mathematics.

Mrs. Ferguson, assistant principal at Forest Hill High School who will retire in June after 43 years as a school teacher and administrator, spent more than 25 of those years teaching math.

Asked how she helped pupils intimidated by the subject, Mrs. Ferguson said it was mostly a job of convincing them that they were capable of doing the work.

In algebra classes, she learned that many difficulties were caused by the fact that the students were not reading the problems.

So, she taught them to read to understand.

After that she helped them work the problem, if they needed aid, and as soon as possible she put them on their own to do the work without help.

"I didn't have just too many failures," she said.

FOUND ABILITIES

One secret of her success may be that she attempted to find something every child could do.

Overcoming their fear of failure, the children overcome the subject.

She has found the method of convincing a student of his ability has been effective in other areas of school work, including things that come to her attention as a principal.

Mrs. Ferguson, who looks nowhere near retirement age, believes that any teacher "who works at it" can eliminate many of the failures in classwork.

The community of Forest Hill will honor Mrs. Ferguson with a program Monday night to begin at 7:30 in the Shellie Bailey Coliseum. "Everybody is invited," Principal Joe Walker has announced.

She has found administration—Mrs. Ferguson became an assistant principal in 1955—a little more difficult than teaching.

Although she has found some of the same problems with teachers that she has with students—"They both forget, and are tardy sometimes"—she said there are some methods that can be used with pupils that can't be used with teachers.

Which has she enjoyed most, being a teacher or principal? She likes both equally, she asserted.

ENJOYED WORK

"I really have enjoyed the years I have worked with teachers," she said. "They have worked so beautifully with us. However, I miss the close feeling with the children."

She still deals with children, but more often than not, perhaps, in the problem area.

Mrs. Ferguson would still be a school teacher in Mississippi if she had to start all over again.

"I have loved my work," she stated. "I have had the best bosses in the state and the most delightful children."

Former pupils of Mrs. Ferguson are scattered around the world.

The teacher-administrator hasn't ventured far from her native Florence, where she was born and raised. She obtained her Bachelor's degree from Blue Mountain College, and she has taken post graduate courses at Mississippi College, Peabody College and Millsaps College.

Her first year as a teacher was spent in Mendenhall in 1929–30 when she taught college algebra at Simpson County Agricultural High School during a session when an attempt was made to expand the institution into a junior college, an attempt that was subsequently abandoned.

TO HINDS COUNTY

The next year she came to Hinds County as a teacher at Utica High School, and she's been teaching in the county ever since.

Thirteen years at Utica were followed by three years at Liberty Grove (a former county school which is now Watkins Elementary School in the Jackson Municipal Separate School District) and 26 years at Forest Hill.

Commenting on changes in the schools over the years, Mrs. Ferguson said "I didn't know the term, code of dress," when I started as a teacher. As she said it a boy was seated in her office because he had on a shirt that did not meet school requirements.

She welcomes the individualization of instruction—in fact, she welcomed it in her own classroom by instituting the basic method many years ago.

Mrs. Ferguson said she changed somewhat her instructional methods yearly, as she required, for one example, less work by students at the blackboard and put more of them to work on problems individually.

Desegregation has brought about more changes, and she commented that it has put a much heavier pressure on administrators. Her way of coping with these problems has been to generalize, "to try to be very fair."

What will she do when the school bell rings next year?

"I don't know," she replied. "I just don't know. I guess I'll stay home and be a housewife, something I've missed out on a lot all these years."

LOOK TO TRAVEL

Mrs. Ferguson's husband, Howard Ferguson, is a retired Illinois Central railroad clerk, and she thinks they will use their retirement years to travel, first in the states and possibly later abroad. Disney World may be their first stop.

Although she has been a career woman as well as a housewife, Mrs. Ferguson does not want to be a part of the women's liberation movement.

Combining marriage and a career has been easy, Mrs. Ferguson said, "because I have such an understanding husband. He has enjoyed my school work along with me."

The Fergusons are members of the First Baptist Church of Jackson, and Mrs. Ferguson is also a member of Delta Kappa Gamma, the Hinds County Teachers Association and the Mississippi Education Association.

Like many teachers, Mrs. Ferguson feels especially honored by the kind comments on her work by former (and current) pupils. A successful Delta businessman came by not long ago to tell her she was the best teacher he ever had, and on Easter this year a Forest Hill boy gave her flowers.

Her face glowing as she related these treasured experiences, Mrs. Ferguson said of the flowers: "I said to myself, why would a senior boy do such a thoughtful thing for an old woman like me?"

However, not a week goes by, she said, that she doesn't hear from her former students, many of whom come by for a visit.

"I know they think I'm hard—they call me 'Old Lady Ferguson," she said, "and I still use a paddle. But I think children want to be disciplined."

But she has not found anything to top the great satisfaction that comes from "knowing you have helped somebody else have a better life," she affirmed. "It's worth it all."

HON. J. EDGAR HOOVER

HON. JOHN S. MONAGAN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. MONAGAN. Mr. Speaker, the regret which Americans felt upon learning of the sudden death of J. Edgar Hoover extended beyond our borders because Mr. Hoover's dedication to the preservation of the freedom, security, and well-being of our people brought recognition to him on a worldwide basis. Indeed, under his direction for 2 years short of a half century, the Federal Bureau of Investigation became the outstanding federal investigative agency in the world.

Under his guidance which, admittedly was not without criticism, the FBI developed a force of dedicated and qualified men in the Hoover pattern, adopting the latest technological and scientific developments in the war against crime and to meet the continuing threats to the security of our people. I have noted with interest and understanding that in death he is praised even by those with whom he had traded criticisms in the course of his noteworthy career in the fight against crime.

It was my sad experience to report Mr. Hoover's death to many of his friends and, perhaps some of his adversaries, at a hearing Tuesday morning of the Legal and Monetary Affairs Subcommittee of the Committee on Government Operations, of which I am chairman. Today we recessed another hearing of this subcommittee at which the principal witness was Secretary of Housing and Urban Development Romney, in order to attend the memorial services in the rotunda of the Capitol. J. Edgar Hoover has won high honor and appreciation from the Nation which he served.

J. Edgar Hoover and the FBI were active when the country needed their services—"gang-busting" in the 1930's; pursuing Nazi spies in the 1940's tracking Communist agents attempting to acquire the plans of the A-bomb in the 1950's; and during recent years organizations which threaten overthrow of the United States through force and violence.

J. Edgar Hoover effectively carried out his duties under eight Presidents and 16 Attorneys General. It is my hope that the FBI will continue in this fine tradition which is the legacy J. Edgar Hoover has left to this country. We have truly lost a great American public servant to whom all of us owe a debt of gratitude.

U.S./U.S.S.R. COOPERATION IN SPACE RESEARCH

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. RARICK. Mr. Speaker, I include a report from NASA covering the November 29 through December 6, 1971, U.S./U.S.S.R. joint space research meetings and the April 24, 1972, press release in the RECORD at this point:

NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION,
Washington, D.C., May 3, 1972.

Hon. JOHN R. RARICK,
House of Representatives,
Washington, D.C.

DEAR MR. RARICK: Enclosed (Tab A) is a statement on US/USSR Cooperation in Space Research.

Since this statement was prepared the reports from the November 29 through December 6, 1971, meetings were approved, as pointed out in more detail in the April 24, 1972, press release (Tab B).

If I can provide any additional information, please let me know.

Sincerely,

GERALD J. MOSSINGHOFF,
Deputy Assistant Administrator for Legislative Affairs.

U.S./U.S.S.R. COOPERATION IN SPACE RESEARCH

BACKGROUND

Cooperation with the Soviet Union in space has been marked by three distinct phases:

1. From 1955 to early 1962, US overtures for cooperation evoked no response from the USSR.

2. In the spring of 1962, a Kennedy-Khrushchev exchange of letters led to technical discussions which produced four limited agreements for projects in satellite meteorology, communications, magnetic survey, and in space biology and medicine. Soviet performance in implementing these early and limited projects was disappointing, and it was obvious that Soviet leadership placed space cooperation low on its scale of priorities.

3. In late 1969, a new phase began when the President of the Soviet Academy responded affirmatively to suggestions from the Administrator of NASA that they meet to discuss expanded cooperation. This led to an agreement (October 28, 1970) to design compatible rendezvous and docking arrangements and to a second agreement (January 21, 1971) for the exchange of lunar samples, for exchanges on scientific results and objectives, for certain coordinated scientific activities, and on procedures for recommending additional cooperation in space science and applications.

CURRENT STATUS

Thus far, Soviet performance under the new agreements of 1970 and 1971 has been positive.

Rendezvous and docking

a. Three Joint Working Groups, meeting in Houston, June 21–25, 1971, considered the technical requirements for compatible systems including the general methods and means for rendezvous and docking, radio and optical reference systems, communications systems, life support and crew transfer systems, and docking assemblies. They agreed in principle or in detail on a number of technical solutions and requirements and identified a number of other problems which required additional development and discussion. They also agreed that studies should be made of the technical and economic implications of experiments that might be conducted to test the technical solutions for compatible systems and that a first such experiment might be the docking of an Apollo-type spacecraft with a manned orbital scientific station of the Salyut type.

b. The three Joint Working Groups met again in Moscow, November 29–December 7, 1971, and made progress toward completing the definition of technical requirements for compatible systems in future spacecraft, as well as in planning possible joint test missions.

Space science and applications

a. On June 10, 1971, representatives of NASA and the Soviet Academy exchanged approximately three grams of lunar material returned by Luna 16 for about 3 grams of lunar samples returned by Apollo 11 and the same amount returned by Apollo 12.

b. Joint Working Groups met in Moscow in August and October, 1971, to make recommendations for expanded cooperation under the NASA/Soviet academy agreement of January 21, 1971.

(1) The Working Group on Near-Earth Space, the Moon, and the Planets recommended continued exchange of lunar samples; rapid exchange of findings of special interest by the current U.S. and Soviet Mars probes; working seminars to consider scientific objectives, strategy, and results, and cross-calibration of instruments; and expert consideration of the principles of constructing a common lunar coordinate system.

(2) The Working Group on the Natural Environment recommended experiments in remote sensing of the environment at sites in the U.S. and the USSR, with each country carrying out the research at its own sites, and joint efforts in remote sensing of the ocean to relate satellite measurements to sea surface measurements.

(3) The Working Group on Space Meteorology recommended a review of the existing methods of temperature sounding from satellites, a joint experiment in methods of microwave measurement, assurance that ground stations for receiving cloud cover data from satellites (APT receivers) of both countries will be as nearly identical as possible, and coordinated meteorological rocket soundings along selected meridional zones in the Eastern and Western Hemispheres.

(4) The Working Group on Space Biology and Medicine began an exchange of data and results from the Soyuz and Apollo programs and recommended procedures for expanded exchange of information in space biology and medicine.

All of the above recommendations were confirmed by the principals, and steps to implement them are in progress. Both parties have sent the other reports on findings of special interest from their respective probes to Mars.

c. In accord with the agreement of January 21, 1971, the National Oceanic and Atmospheric Administration is coordinating directly with the Soviet Hydrometeorological Service to improve the exchange of meteorological satellite data provided for in the Bilateral Space Agreement of 1962.

Joint review of space biology and medicine

The project for publishing a joint review of U.S./USSR experience in space biology and medicine, agreed between NASA and the Soviet Academy in 1965, lagged until 1969, when the Soviets took a renewed interest in it. Since then, there has been steady progress. The exchange of chapter materials is virtually complete, and authors have been assigned to two-thirds of the chapters. Manuscripts for these chapters are to be finished by May 1, 1972.

NATIONAL AERONAUTICS
AND SPACE ADMINISTRATION,
Washington, D.C., April 24, 1972.

U.S./U.S.S.R. REPORTS ON DOCKING

The Academy of Sciences of the USSR and the National Aeronautics and Space Administration have approved a second set of reports by Joint Working Groups on studies of compatible rendezvous and docking systems for manned spacecraft. The working groups met in Moscow, Nov. 29–Dec. 6, 1971.

Purpose of the meetings was to define technical requirements for the possible rendezvous and docking of US and USSR manned spacecraft. Compatible systems would permit emergency assistance as well as joint experiments. No decision has been taken that would commit either the US or the Soviet Union to a joint manned space mission.

The meetings took place under the NASA/Soviet Academy agreement of Oct. 28, 1970. A previous meeting was held at the Manned Spacecraft Center, Houston, Texas, from June 21–25, 1971.

Working Group 1 substantially completed general documentation on life support systems, coordinate systems, and constraints on spacecraft configuration. The Group agreed on objectives and preliminary documentation requirements for a possible test mission, as well as to exchanges on launch windows, certain program elements of a test mission, and communications channels which the respective control centers would require.

Working Group 2 listed guidance and control systems and onboard equipment of US and USSR spacecraft which would need to be compatible. Documentation on lights, docking targets and contact conditions, control systems and radio tracking has been nearly completed.

With respect to a possible test mission, Working Group 2 considered communications and tracking systems and agreed on docking contact criteria and on a docking target for installation in the center of the docking hatch. Additional work will be necessary on control stabilization requirements and their relationship to spacecraft size, and on the design, development schedule, evaluation and installation of the new docking target concept.

Working Group 3 agreed to a series of basic values for a compatible docking system, including the diameter of the tunnel through which astronauts and cosmonauts might pass. Further study is required for the development of a single joint concept. Also still to be agreed are programming and methods of conducting tests at various stages of development. The Working Group agreed to create a scale model of a docking system that would allow verification of the parameters and ensure compatibility at an early stage of development. It was agreed that the next meeting of the Joint Working Groups would be held in the United States. One such Working Group meeting was held at Houston in March.

THE LATE J. EDGAR HOOVER

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. DELANEY. Mr. Speaker, it was with deep sadness that I learned of the passing of J. Edgar Hoover, the highly respected Director of the Federal Bureau of Investigation.

He was a great patriot, and a man of unquestionable honesty and character. Through his tireless efforts and exemplary devotion to duty, the FBI, under his leadership of more than 47 years, became widely recognized as the most effective law enforcement agency in the world.

He was tough and strong at a time when toughness and strength were needed. He demanded the best of his agents and employees, and he got it. Mr. Hoover was the FBI, and he had the profound respect and admiration of the American people.

He was not only a courageous and vigorous crime fighter, but also a relentless foe of atheistic communism and other alien movements dedicated to subversion of our form of government.

He served this Nation with brilliant distinction under eight Presidents. J. Edgar Hoover symbolized much that was good about America. His loss leaves a void that will be extremely difficult to fill.

EMERGENCY NATIONWIDE MORATORIUM DAY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. WILLIAM D. FORD. Mr. Speaker, today has been designated Emergency Nationwide Moratorium Day, a time for concerned Americans to express, in their own way, their opposition to our Nation's continued intervention in Southeast Asia.

The events of the past few days in Vietnam have demonstrated once again the utter futility of our long and costly effort to support the Government of South Vietnam.

President Nixon's claims of success for his Vietnamization program were dramatically refuted by newspaper accounts of South Vietnamese troops in headlong retreat, stealing cars, and trucks at gunpoint from fleeing civilians, and engaging in mass looting in the city of Hue.

Meanwhile, we continue to spend $18,000,000 a day for a war that the overwhelming majority of Americans have long since come to oppose.

President Nixon continues to remind us that he is withdrawing American troops, but American dollars are still being poured into the war. The total cost of the air war alone last year was nearly $2.8 billion. Every bombing mission of a B–52 costs the American taxpayers $41,000. Every day, we spend $7,000,000 for bombs, rockets, and bullets which are spreading death and destruction in both North and South Vietnam.

At the same time, our own economy stagnates. Our President vetoes money for education, he impounds money appropriated by Congress for highways, sewers, waterlines, urban renewal, and hospitals. Our educational system is collapsing, our health standards are deteriorating, our cities are crumbling, our water and air remain polluted.

At the same time, millions of Americans cannot find jobs, and a whole crop of high school graduates this June will find few opportunities to use their education and talents.

Future historians will surely find this era of American history an unbelieveable study of contradictions and futility: Problems begging to be solved, projects begging to be done; millions begging for employment, but the money that could make these things possible being wasted on a war that nobody wants; billions of dollars spent to devastate a tiny nation halfway around the world.

Mr. Speaker, on this Emergency Nationwide Moratorium Day, I join millions of my fellow Americans in renewing our plea to President Nixon—stop the bombing, stop the slaughter, stop the destruction; bring our boys home, and let us get down to the job of rebuilding America.

FBI STANDS AS LIVING TESTAMENT TO J. EDGAR HOOVER

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. COUGHLIN. Mr. Speaker, I join with Americans throughout the Nation to pay tribute to J. Edgar Hoover, whose death ends an era.

As the FBI's Director for 48 years, Mr. Hoover was responsible for developing the agency into an incorruptible investigative force whose reputation extends far beyond our borders.

Mr. Hoover himself exemplified the qualities of the tough but fair administrator. When he became Director in 1924, the FBI was mired in bureaucratic inefficiencies and was tinged with scandal.

With resoluteness and purpose, Mr. Hoover set out to make the FBI a law enforcement agency without peer. That he succeeded so well is evidenced by the record of the FBI since he assumed command in 1924.

I think that Mr. Hoover was a remarkable man who produced a remarkable record as FBI Director.

First, he proved that an individual could make a difference by taking the scandal-soiled FBI and turning it into a model of crime-fighting proficiency, free from corruption and graft, based on the integrity of its Director and agents.

Second, the FBI, under J. Edgar Hoover, successfully resisted political pressures that could have subverted the lofty role of the FBI to that of a national police force, beholden to the administration in office at any given time.

I think, also, we owe a great debt of gratitude to Mr. Hoover for his service during World War II. While those times now may seem far distant, the role of Mr. Hoover and the FBI was especially critical on the homefront while our military services and those of our Allies were engaged in the awesome task of defeating Hitler's forces.

The Hoover era has ended, but the FBI that he nurtured and built stands as a living testament. I feel it would be appropriate, however, that the new FBI building be named after J. Edgar Hoover.

Mr. Hoover was a dedicated and proud American. We mourn his passing.

NIXON AND THE HANOI OFFENSIVE

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. RIEGLE. Mr. Speaker, yesterday James Reston wrote a perceptive article, which was carried by the Washington Evening Star, concerning the dilemmas facing President Nixon in Vietnam. I would like to insert it into the CONGRESSIONAL RECORD at this point:

NIXON FACING HARDEST DECISION

NEW YORK.—President Nixon is now approaching another critical decision in Vietnam: What to do if the enemy stops the invasion before or after the battle for the former Vietnamese capital of Hue, and offers to make a deal while Hanoi is in control of a large part of the north of South Vietnam?

There have been some reliable indications through the embassies in Paris and Washington that Hanoi and the National Liberation Front will do just that, and such a pause in the fighting would put the Nixon administration and the Thieu government in Saigon in a very awkward situation.

So long as the Communist offensive goes on—and it is making alarming progress—Nixon's policy is clear. He has stated that he would do "whatever is necessary," short of using atomic weapons or sending the American expeditionary force back into the battle on the ground—"until the North Vietnamese stop their offensive in South Vietnam.'

But he has left himself an out. He has not said that he would continue his air and naval attacks until they pull back of the demilitarized zone and get their troops out of South Vietnam, but only "until the invasion stops." What then if it stops, with Hanoi in substantial control of the north or even of Hue?

"The only thing we have refused to do," Nixon said in his last Vietnam policy statement on April 26, "is to acceed to the enemy's demand to overthrow the lawfully constituted government of South Vietnam and to impose a Communist dictatorship in its place."

But when Le Duc Tho of the North Vietnamese politiburo got back to Paris on April 30 to repoen the negotiations, he denied that he was demanding a Communist government in Saigon.

"In South Vietnam," he said in a formal statement, "what we want is a government of national harmony . . . we in no way want to impose a 'Communist regime' in South Vietnam such as Mr. Nixon has fabricated, but our people are also determined not to permit the American administration to establish a puppet power in its pay."

Well, we have heard all this before, but with the enemy invasion cutting South Vietnam in half and threatening Hue, the alternatives before the President are hard and even ominous. The farther south the enemy penetrates, the closer the armies get together and the more they move into populous civilian areas, where the President has to risk hitting the ARVN and the South Vietnamese people.

He can insist on fighting the battle through, relying on the South Vietnamese and American air and naval power to smash the invasion and drive the enemy back of the DMZ, or, if the enemy paused and offers to negotiate at Hue, he can agree to negotiate for a coalition government in Saigon, with the Communists and without General Thieu.

It is a hard bargain, but he is probably going to have to choose between fighting even harder while he withdraws his ground forces, or negotiating a new coalition government in Saigon. Nixon has been up against many hard decisions since he entered the White House, but this may be the hardest of all, especially since he has to try to reconcile the tough moral line he took at Secretary Connally's ranch in Texas with his mission to Moscow this month to negotiate "a generation of peace," which is his main presidential election argument.

In the middle of his first term in the White House, Nixon offered to negotiate a settlement on the basis of the hard political and geographical facts: Who was in control of what in South Vietnam. And now Hanoi seems to be testing that proposition.

Nixon gave three reasons in his April 26 statement for continuing the battle: "First, to protect our remaining American forces. Second, to permit continuation of our withdrawal program. And third, to prevent the imposition of a Communist regime on the people of South Vietnam against their will, with the inevitable bloodbath that would follow for hundreds of thousands who have dared to oppose Communist aggression."

Hanoi's answer to this, from Le Duc Tho in Paris, was that his government would guarantee the protection of the remaining American forces, and the release of the American prisoners, and that it didn't want to impose a Communist government on Saigon, but that it "demanded" the "immediate resignation" of Nguyen Van Thieu as head of the Saigon regime, and a change of policy in Saigon by a new coalition government, including the Communists.

Nothing could be harder for Nixon to swallow, but he may have to swallow it or fight even harder than before by the end of this month. The danger at the moment is that Hanoi is doing so well in the drive toward Hue that it may think it can smash its way to a military victory and not only demoralize and defeat Saigon but humiliate Washington.

Hopefully, they will not take this gamble, because nobody in Washington, or Moscow or Peking, let alone in Hanoi, can calculate what Nixon will do if he is trapped. This point has been emphasized through private channels to everybody on the other side, and apparently they have got the point.

So Hanoi will probably call for a cease-fire at Hue and proclaim an alternative "government" of South Vietnam there, and ask for a compromise settlement and a coalition government in Saigon without Thieu.

What then will Nixon do? This is the question that is being debated privately in Washington these days, and the answer may very well determine the outcome of the war and influence the presidential election in November.

HONORABLE J. EDGAR HOOVER

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. WYDLER. Mr. Speaker, a few weeks before I was born, in 1924, J. Edgar Hoover became head of the Federal Bureau of Investigation—FBI. His death a few days ago has taken from the Nation one of its most dedicated public servants, a man I greatly admired.

The FBI was Hoover's life and it reflected his personality and character. It is the finest law enforcement agency in the world. I can attest to this first hand.

For many years of my life, in the 1950's, I served as an assistant U.S. attorney in the eastern district on Long Island. My job was to prosecute Federal crimes. My detective agency was the FBI.

Each day I would read and rely on reports of criminal activity by the FBI. These reports reflected the excellence of the agency. They were competent, effective, honest and set forth all the facts, both those against a defendant and those favoring him. They were factual and fair.

The agents themselves were men of great integrity and devotion to duty. They followed the lead of their chief, and he led by personal example.

The FBI stands today as a model of what a law enforcement agency can and should be. When Hoover took it over, it was a small, unreliable group of men. He turned that situation around. Each day we read sad stories of how a group of law enforcement officers in this city or that have been indicted for corruption. Their numbers are small but the effect of the stories is demoralizing. Over the years, in spite of the thousands of agents who have come and gone, the FBI has remained scandal-free. It has been the most honest and efficient agency of the Federal Government.

It has its enemies and detractors. Most are those who fear the FBI. Since I have held Federal positions, I too have been investigated by them and I know how thorough they are. I never resented this because I knew it was for the protection of the public in general. In many ways the importance of the FBI can be proven by a review of its critics.

The death of Mr. Hoover is not the end of an era. It should be the start of a tradition of excellence in Federal service based on honesty and dedication, not only for the FBI, but hopefully for our country as well.

EMERGENCY NATIONWIDE MORATORIUM DAY, THURSDAY, MAY 4

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. WOLFF. Mr. Speaker, today thousands of Americans are gathering in their towns and cities and here in the Capital to protest the war in Vietnam and to urge the President and the Congress to put an immediate end to this senseless conflict. The American people can no longer tolerate the insidious rhetoric that has been handed to them since the inception of this war to justify our continuing involvement in Southeast Asia. We are seeing all too clearly the administration's withdrawal policy; as our ground troops were being slowly pulled out, the administration has been replacing them with massive air and naval forces. Escalating and intensifying the air war, the administration leaned on the weightless argument that we must protect our remaining troops. We must protect our troops, but experts agree that the bombing of Hanoi and Haiphong will not have the desired effect. If the promises made 4 years ago by the President had been honored, there would be no U.S. troops in Vietnam to protect. I say, and the American people say, eliminate the administration's excuse for massive bombing raids and the destruction of more American lives; protect our POW's and withdraw all our forces now.

Mr. Speaker, the frustrating and distressing fact right now is that despite public outcry, despite congressional protest, the President persists in intensifying military operations in Vietnam at his own discretion and the Congress as a whole declines to challenge his authority. The Congress must assume the responsibility for ending the war now. We are Representatives of the American people and we cannot turn our backs on the American people's plea for peace. I urge my colleagues to join with me in meeting the efforts of so many concerned Americans; but even more essential, I urge them to heed the public's outcry and bring an end to our involvement in Southeast Asia.

J. EDGAR HOOVER: THE NATION'S "TOP COP," ESTEEMED NATIONAL HERO

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. PICKLE. Mr. Speaker, today this Nation buries a man it has looked to for leadership for half a century. And it was not disappointed in any of those 50 years.

John Edgar Hoover, the Nation's "top cop" is dead. But the legend and the unsurpassed reputation he fostered and held for so long will live for many a year to come.

Never before has a civil servant been honored by lying in state in the Capitol Rotunda. But never before has this country seen a civil servant like Mr. Hoover.

The story of J. Edgar Hoover and of the agency he literally molded singlehandedly into the greatest law enforcement power on earth is well known. The FBI "G-man" has been familiar to us since we were children.

But even more important are the high standards Mr. Hoover set for his law enforcement body—standards of education and of excellence unsurpassed, standards of honesty, forthrightness, and of freedom from the influence of any who would try to bend the law to their own desires.

Mr. Hoover has been the personal friend of seven U.S. Presidents. And it was his astuteness, his honesty, and his high ideals which won him those friendships.

He will be missed not only by our Chief Executives, but also by the Congress and by this Nation. He wielded unprecedented power in a democracy, but he wielded that power with unprecedented integrity. That is what makes his shoes so large to fill.

But one of the marks of a great administrator like Mr. Hoover is that he can create an organization larger even than himself. I know that the high ideals of Mr. Hoover are thoroughly imbedded in the agency he headed and I know that those who must now try to follow him and to carry on their tasks without his personal leadership still will have the dictates and teachings of his life and his leadership to guide them.

Probably the greatest single force behind Mr. Hoover was his love for this country. I hope we can all in our own ways do honor to the memory of this great civil servant and the great love he had.

EULOGY TO JOHN EDGAR HOOVER, DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. MATSUNAGA. Mr. Speaker, it is with a sense of personal loss and deep sorrow that I rise to pay tribute to the late J. Edgar Hoover.

Although I was not always in agreement with Mr. Hoover's views, I knew him personally to be a man of unimpeachable integrity and courage. His loyalty to America, steadfastness of purpose, his strength of leadership and his competence, cannot be questioned.

J. Edgar Hoover's career as a public servant spanned 56 years—more than a fourth of our history as a Nation. Before two-thirds of America's present population was born, he was a significant force in national affairs. Under his direction, the FBI was transformed from an inadequate, scandal-ridden bureaucracy into what is recognized universally as one of the most efficient and incorruptible law enforcement agencies in the world.

Mr. Speaker, the people of Hawaii will long remember Mr. Hoover in gratitude for the unshakable position he took in defense of the loyalty of Americans of Japanese ancestry in Hawaii, at the outbreak of World War II. He thus prevented the mass incarceration of one-third of Hawaii's population, as proposed by certain elements in the Federal hierarchy. Moreover, when the tragic decision was made in 1942 to place those of Japanese ancestry living on the west coast behind barbed wire fences in what were euphemistically termed "relocation centers," it was arrived at over Mr. Hoover's objections.

Mr. Speaker, J. Edgar Hoover did much for America and leaves behind him what is now a part of our American heritage; he will long be remembered with respect and admiration.

I extend my heartfelt condolences to his bereaved family.

WHERE ANTI-COMMUNISTS STILL STAND FAST

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. SCHMITZ. Mr. Speaker, a strange thing is happening in West Germany today—strange, that is, to those who assumed that because it has now become our official policy to seek accommodation with Communist governments, all other major governments and political parties in the West are sure to follow suit. Everyone wants peace, the argument goes, so now that we have abandoned our obsolete concern about Communist aggression and tyranny, nobody else in or near positions of political power will think about it any more.

Not so. There are nations in the world which must watch millions of their own former citizens—people who speak their language and share their historical experience and cultural traditions—suffer year after year under Communist rule. It is as though here in America we had to live next door to a Communist regime enslaving all of our people west of the Rocky Mountains. Nations in this position cannot forget what communism has been and, clearly, still is. There are four of them in the world today: South Korea, the Republic of China on Taiwan, South Vietnam, and West Germany. Their anti-Communists, unlike too many of ours, are standing fast.

A year and a half ago West Germany Socialist Chancellor Willy Brandt signed a treaty with the Soviet Union, subject to ratification by the West German Parliament. This treaty, immediately and enthusiastically hailed by the "pundits" whom apparently no evidence can ever convince that our differences with communism, are not negotiable, is far more than a mere "nonaggression pact" as it is usually termed in our news reports. It specifically legalizes the Polish Communist seizure of vast tracts of territory which throughout modern European history has been German, and by its language amounts to recognition of the legitimacy of the puppet Communist slave state established in East Germany by the Soviet Union after World War II, in flagrant violation of Soviet agreements on the administration of conquered German territory.

Based on these enormous West German concessions, we proceeded to make similar and equally indefensible concessions to the Soviet Union regarding the status of Berlin—see my newsletter 71–43. For a time nearly all U.S. commentators regarded ratification of the Brandt-Kremlin treaty as a foregone conclusion.

But the Christian Democratic Party in West Germany, Brandt's opposition, would have no part of the game of Ostpolitik—the "opening to the east." Ever since the text of the treaty was first announced August 11, 1970, the Christian Democrats have held firm against it. By doing so, they have given American anti-Communists a much needed lesson in the benefits of being steadfast. Far from losing strength by opposing this "wave of the future," Communist style, the Christian Democrats in West Germany are gaining strength. Brandt's coalition government has begun to crumble. Three of its key members in the Lower House of the West German Parliament, the Bundestag, have already abandoned Brandt—primarily because of his treaties—to join the Christian Democrats, who fell two votes short of toppling the Brandt government in a trial vote April 27. If just one more member changes his position, Brandt's appeasement treaty is dead.

As a recent recipient of the annual award by the Federation of American Citizens of German Descent as their outstanding citizen of the year, I have been in touch with West Germany's Christian Democrats as they resolutely carried on their struggle, so important to the whole of the West. Their success has been most heartening. Many in West Germany are concerned that the President's forthcoming appearance in Moscow, at about the time that action on the treaty is expected in the West German Parliament, will tilt the closely balanced scales against our friends and in favor of the Communist side, as Henry Kissinger's second visit to Peking helped to tilt the originally close U.N. vote last October in favor of the expulsion of our Free Chinese allies.

J. EDGAR HOOVER

HON. CHARLES H. GRIFFIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. GRIFFIN. Mr. Speaker, this Nation has lost one of its greatest and most faithful servants in J. Edgar Hoover. He was a man who truly believed in America and the ideals for which it stands. His entire adult life was dedicated to serving and protecting the nation he loved so much. He will be missed but he will not be soon forgotten.

In almost a half century of service, J. Edgar Hoover's leadership, unparalleled devotion to duty and ability established the FBI as the greatest law enforcement agency in the world. The American people came to respect the FBI for its aggressive pursuit of criminals, its aid to local law enforcement and its nonpolitical devotion to the Nation's security. The name J. Edgar Hoover and the FBI were synonymous and came to be recognized as meaning strong, effective law enforcement, and exceedingly high standards of professional and personal conduct.

In the 1930's when our Nation was beset with widespread gangland activities, it was through the efforts and courageous actions of Hoover and the FBI that law and order were returned to the streets of our cities.

Perhaps his greatest contribution came

nearly 20 years later when our country once again faced a serious threat. This time the threat was to our internal security from a growing Communist conspiracy. The FBI, under Hoover's leadership, devised and carried out a complete infiltration of the movement. Through these successful efforts the party was unable to make a move without the knowledge of the FBI. Even after this threat was checked, the FBI remained as a watchdog against any subversive activities that might undermine the national stability. When public concern waned, J. Edgar Hoover remained in the forefront, ever watchful over the national security.

Mr. Speaker, the accomplishments and contributions of the FBI and J. Edgar Hoover are many. They cannot all be listed here. J. Edgar Hoover was the FBI. The man and the agency were one. His efforts and accomplishments will be remembered so long as this Nation honors its heroes and its past. The Federal Bureau of Investigation will remain a vital guardian of our national defense as long as it adheres to the standards set by Mr. Hoover. He has laid down his shield, but the battle goes on. The honor we owe his memory demands no less than he himself gave.

THE LATE HONORABLE J. EDGAR HOOVER

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. ADDABBO. Mr. Speaker, Americans in all walks of life are mourning the passing of J. Edgar Hoover. As we in the Congress express our sorrow at the death of this devoted public servant, citizens across the country are expressing their tributes to a man who truly dedicated his life to the job he held for so long.

The story of J. Edgar Hoover's career is being told and retold this week, but what stands out is the complete honesty and integrity with which he pursued the goals he set for himself and for the Bureau. The FBI, under his direction, achieved a level of public confidence unknown to any other Government agency. That is the legend which this man has left to our Nation.

With his death we must now remember those ideals which J. Edgar Hoover accepted as basic and we must now assume the responsibility of preserving the kind of dedication to public service which his career illustrates. If we can produce that kind of public confidence in Government which he earned for the Bureau, we will have done a great service for our system of democracy. If we can learn from his accomplishments and bring about a new faith in Government, we will have achieved a monument to the life of this distinguished American.

A national figure has died and an era has ended. I hope that the next era of law enforcement will be marked by respect for and faith in it, as Mr. Hoover had believed in it.

ANOTHER APOLLO EPIC

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. TEAGUE of Texas. Mr. Speaker, Mr. Robert Hotz, editor of Aviation Week & Space Technology, contributed a significant editorial in the May 1, 1972, edition of that magazine. Mr. Hotz writes of the Apollo lunar landing program and the more recent success of Apollo 16. As he so well points out, Apollo has contributed much to our understanding of the moon, the earth, and the solar system in which we live. Yet the exploration raises as many questions as it answers and calls for a continued vigorous national space effort not only in exploration but in utilitarian applications. The editorial follows:

ANOTHER APOLLO EPIC

Another epic chapter in the history of man's exploration of the moon was written by John Young, Charley Duke and Ken Mattingly with their Apollo 16 spacecraft systems. Apollo 16 surmounted a variety of operational problems to complete successfully the first exploration of the lunar highlands, provide man with his longest and most mobile working period on the moon's surface and gather an increasingly rich harvest of scientific data.

The operational problems in lunar orbit that threatened to abort the landing provided another rare glimpse of the tremendous technical and operational depth that supports each Apollo mission. These problems and their successful solution also emphasized the wisdom of the experimental flight test program that brought the Apollo system to its present status as a reliable translunar transport system. Data from the initial flight testing of the lunar module and command and service module in separate flight during the Apollo 9 mission provided the answers that were required to determine whether it was operationally feasible to complete the lunar landing of Apollo 16 after trouble developed with the service module propulsion unit guidance system.

About 200 technical people were mobilized on the ground in such widely separated places as North American Rockwell's Downey, Calif., facility, Massachusetts Institute of Technology and the Manned Spacecraft Center in Houston to check the Apollo 9 data and run simulations on various possibilities for Apollo 16. All of this was done with incredible speed and precision, while the Apollo 16 crew was making three orbits around the moon, to yield a decision to initiate powered descent to the surface on the fourth time around. Rocco Petrone, Apollo program director, also noted that the flight test data from Apollo 9 had provided the procedures that enabled the Apollo 13 crew to return safely to earth using the lunar module as a "lifeboat" during most of the mission after an oxygen tank explosion had disrupted the command and service module systems.

SCIENTIFIC INTEREST SURGES

By all traditional barometers—beach watchers at the Cape, network television time (only ABC ran very close to previous mission coverage) and working press—public interest in the Apollo 16 mission had waned. But we hardly think these are the real measures of the program's worth. Nothing will ever surpass the emotional drama of Apollo 11. As the moon missions become more routine, they are diminishing as TV "boffo" almost in direct proportion to their increase in scientific value. Technical and scientific interest in Apollo is increasing by leaps and bounds as each new mission demonstrates dramatically the widening horizons of man's capabilities to explore the moon.

The precision performance of the Apollo system has given scientists the opportunity to put the lunar module down in specific areas of the moon to provide an extreme variety of data. From Neil Armstrong's "hover and take another look" maneuver before landing Apollo 11's Eagle to John Young's edging over a few hundred feet to avoid large craters before setting Orion down in the lunar highlands, the performance of the lunar module has been superb. Addition of the sturdy lunar rover on Apollo 15 and 16 provided an enormous increment of practical mobility for the lunar explorers. Each new Apollo crew appears to extend the ease and agility with which men can do their scientific work on the surface of the moon.

Performance of John Young and Charley Duke in maneuvering and working on the moon indicated how much hard practice in these peculiar techniques can enhance the useful work time. The additional equipment on board the Apollo command module has also opened another rich lode of scientific data. In the Apollo 15 and 16 operations with the crews well adapted to working in the lunar environment, the rover for surface mobility and the command module operating its own experiments from lunar orbit the Apollo program has reached its configuration for maximum scientific return per mission.

ENORMOUS DIVIDENDS

Most outside observers are unaware of the extremely close coordination that exists between the explorers on the moon and earthbound scientists in Houston. A closer-circuit television links the capsule communicator (capcom) to the scientific support rooms where several dozen scientists follow the mission. When anything unusual is found on the moon or further pursuit of a certain type specimen is desirable, they can flash a message to the capcom on the television link which can be relayed to the moon. Thus realtime scientific exploration is possible linking the brains and experience of the earthbound scientists to the actions of the astronauts on the moon.

It is of course a futile lament to note the false economy that canceled the three final Apollo missions after all the mammoth basic investment in facilities, spacecraft and operational techniques has been made. The additional funds required for Apollo 18, 19 and 20 would have returned enormous scientific dividends in relation to the modest investment they required.

With only one more Apollo mission to go, it is apparent that the five manned landings on the moon have upset most of the traditional theories about that body and produced just enough new information to whet an enormous new scientific curiosity to find the answers to the basic questions Apollo data have raised.

J. EDGAR HOOVER

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. JONES of Tennessee. Mr. Speaker, the passing of J. Edgar Hoover came as a shock to the whole Nation. This legendary figure had reached such proportions in the minds of Americans that we had come to think of him as indestructible.

We saw him as a symbol of strength and integrity, while admiring the proficiency of the agency he headed from the time of its infancy.

No doubt, an able leader will be found to perform the duties of Director of the Federal Bureau of Investigation, but in the hearts and minds of the American people, J. Edgar Hoover can never be replaced. The Nation is deeply indebted to this man, and we shall miss him. While we mourn his death, we also feel a deep sense of gratitude for his life.

CONGRESSMAN ROUSH COMMENTS ON TAXATION AND THE WORKING MOTHER

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. ROUSH. Mr. Speaker, just this week the House passed a bill to extend and expand the powers of the Civil Rights Commission and to empower that Commission to study the problem of sex discrimination in our society. Earlier this year the Senate concurrent in the House-passed equal rights amendment, which is expected to provide equality before the law for men and women.

But we all know that real equality for women in the working world cannot be achieved unless and until women are able to provide adequately for their children while they are working. Although both parents are responsible for the children, their everyday care in our society has rested mainly with the wife.

Today there are 32,933,000 women who are working and they constitute 38 percent of the work force. The latest figures we have on working mothers indicate that in March of last year there were 12,201,000 mothers in the work force with children under 18.

For many of these the Revenue Act of 1971, passed last December, contained a provision that may well contribute as significantly to equal rights in the marketplace as any legislation we have passed. I am referring to the section revising the dependent care deduction effective this year.

The deduction under this provision is available for expenses for gainful employment where the taxpayer's household includes a child who is dependent, a disabled dependent, or a disabled spouse.

In 1971 the maximum amount that could be deducted for dependent care—and the definition of dependent care was more restrictive—was $600 for one or $900 for two for the entire year. If the dependent, as usually, was a child, the deductions stopped after age 13. If a maid or housekeeper was hired, the taxpayer could only deduct the costs strictly attributable to care for the dependent. Moreover, the amount of the deduction had to be reduced by the amount by which the combined parents' adjusted gross income exceeded $6,000.

But, as of this year the full amount of expenses may be deducted up to a limit of $400 a month for care in the home. For care outside the home, the deduction can be $200 a month for one dependent, $300 for two, or a maximum of $400 for three or more. Thus, the taxpayer has the choice of employing someone in the home, or if the dependents are children, paying the costs of day care outside the home. And if a housekeeper is hired, the full amount paid, whether for housekeeping or strictly care of the child or dependent, may be deducted—within the above maximum—as long as part of the housekeeper/maid's time was spent in caring for a qualified dependent. More realistically the age limitation has now been raised to 15. The adjusted gross income has been raised to $18,000 before there is a reduction in the amount of the allowable deduction.

I believe that this relatively unknown provision of the Revenue Act of 1971 is an important contribution to assuring women equal employment opportunity and to eliminating an unconscious but pervasive discrimination against working women who are mothers.

UNICEF PROMOTES COMPREHENSIVE CHILD DEVELOPMENT TO INTERNATIONALIZE CHILDREN

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. RARICK. Mr. Speaker, last December President Nixon vetoed the comprehensive child development plan as having "family-weakening implications," creating "a new army of bureaucrats," and committing "the vast moral authority of the National Government to the side of communal approaches to child rearing against the family-centered approach," President Nixon indicated that the American people should have a great national debate before facing the challenge of changing the traditional American childrearing custom.

Apparently this great national debate extends far beyond our country's borders and is in reality a great international debate.

Last month U.N. Secretary General Waldheim, addressing the Executive Board of UNICEF, had this to say about comprehensive child development for Sovietizing the child-parent relationship:

> Until fairly recently, in most societies, the responsibility for child development rested entirely with parents or in the immediately surrounding community. This is still largely true, but it is changing. Within the framework of the two United Nations development decades, we are now embarked on a historic endeavour to eliminate poverty. With this new concept has come the realization that, if we are to break the self-perpetuating cycles of poverty at the family level and change them into upward spirals of progress, the process of child development has to be the concern of society as a whole—on the national and international level. From the very beginning, the leaders of UNICEF—both Board and Secretariat—clearly understood this, and I congratulate them for their foresight and their vision.

It seems quite in keeping with tradition that while Communist aggression continues against South Vietnam the U.N. does nothing. And while the people's attention is focused on the war, the U.N. leaders plot to take away the children of the next generation under the misguided apprehension that children without parents will be more susceptible to the U.N. one-world teaching.

According to Secretary Waldheim's comments, the children under comprehensive child development will be the international children of the future—children of the world. International children is now admitted to have been UNICEF's goal from its inception.

I include the text of Mr. Waldheim's UNICEF speech:

STATEMENT BY THE SECRETARY-GENERAL, MR. K. WALDHEIM TO THE UNICEF EXECUTIVE BOARD, APRIL 24, 1972

(United Nations Economic and Social Council, United Nations Children's Fund Executive Board 1972 session, Distri. General, E/ICEF/619, 24 April 1972, Original: English)

> Mr. Chairman, I welcome this first opportunity to address the Executive Board of UNICEF. Since the members of this Board are far more familiar than I with the details of UNICEF's activities, I propose to offer you today a brief glimpse of how I, as Secretary-General, view UNICEF and its work within the framework of the United Nations system as a whole, and within the even broader context of today's global challenges.
>
> I am deeply aware of the extent to which UNICEF's tasks have evolved since its early days in Europe when it was concerned with emergency relief to children and mothers in a post-war situation. UNICEF is still very much concerned with emergencies, but the emphasis of its humanitarian activities has been shifted to long-range programmes for child development. In both areas, UNICEF's operations are now being conducted on a global scale.
>
> Today, UNICEF's responsibility for providing emergency help has assumed vast dimensions. The conscience of mankind has been awakened to the point where there exists the determination to bring help to all, wherever and whenever emergencies occur. This large-scale response has been made possible by a number of scientific and technological developments. For example, we now learn of emergencies as soon as they occur thanks to a global network of communications and, additionally, we now have the physical means to deliver massive aid quickly. Also there are now special foods such as "K-Mix II", which UNICEF helped to develop and which was first used on a large scale in Nigeria and later in India for refugee children. I am told that this food, together with CSM, has made it possible to rehabilitate starving children who would otherwise have died. To cite another example, the development of lighter construction materials—especially plastics—now makes it much easier to airlift supplies quickly to disaster areas.
>
> The larger challenge which we face today is an organizational one. World opinion has rightly concluded that the United Nations should play an important role in co-ordinating all phases of its response, from pre-disaster planning through emergency relief and on to rehabilitation. These activities should, of course, accord with and benefit from the special capacities of the international institutions of the Red Cross and other non-governmental organizations. Governments, of course, will continue to be the largest donors directly or through the United Nations. Let me point out that the performance of these tasks represents an essential test of the effectiveness of the United Nations system as a whole.

In the past year, UNICEF has demonstrated remarkably its capacity to respond quickly when emergency situations arise. I understand that in 1971 UNICEF responded to calls for help in some 20 countries. On the Indian subcontinent, where the most dramatic emergency situations occurred, UNICEF not only carried on its own programmes for child feeding, well drilling, etc., but acted for the United Nations system in purchasing essential supplies for transport, roofing and many other needs. It is particularly well equipped for such action by virtue of its world-wide purchasing, storage and delivery capacity, and its field staff who have the necessary "know-how" to assist Governments, not only in the crucial relief phase, but in the rehabilitation of essential services.

UNICEF, of course, is not the only member of the United Nations system concerned with these matters—there are also WFP, UNHCR, WHO, UNESCO and the United Nations itself—but the Children's Fund has a crucial role to play, for it is children and mothers who are usually the principal victims of any disaster. Because of its experience both as a supplier and in co-ordinating its work with other organizations of the United Nations system, UNICEF is particularly qualified to assist the newly appointed Co-ordinator for Disaster Relief. I wish to take this opportunity to express my personal appreciation to the Executive Board for the wisdom of its policies which have enabled UNICEF to operate so successfully. I hope that the Governments will continue to give UNICEF the mandate and the financial means to enlarge its future activities.

UNICEF's long-term assistance programmes are designed to help Governments provide for their children, at the very least, a minimum of basic health care, adequate nutrition at the crucial stages of growth and the basis for life-long education. In today's world and in the foreseeable future, these programmes make uncommonly good sense. We are constantly rediscovering the ancient truth that childhood is not static but that it is a period of rapid growth and change. Whatever is done or not done for a child in its crucial early years determines a life pattern which is almost irreversible.

Until fairly recently, in most societies, the responsibility for child development rested entirely with parents or in the immediately surrounding community. This is still largely true, but it is changing. Within the framework of the two United Nations development decades, we are now embarked on a historic endeavour to eliminate poverty. With this new concept has come the realization that, if we are to break the self-perpetuating cycles of poverty at the family level and change them into upward spirals of progress, the process of child development has to be the concern of society as a whole—on the national and international level. From the very beginning, the leaders of UNICEF—both Board and secretariat—clearly understood this, and I congratulate them for their foresight and their vision.

More recently a new dimension has been added to a task already staggering in its dimensions and complexity. I refer to the implications of accelerating technological change with its potential consequences for the human environment. We are just becoming aware of these frightening implications and the first global attempt to deal with them will be made at the Stockholm Conference. If certain technological developments remain uncontrolled, civilized life, as we know it on this planet, can be in jeopardy. If understood in time, these developments contain untold possibilities for the enhancement of everyone's life. Although the industrialized countries will continue to be first and perhaps most affected by advanced technology, the developing countries do and will continue to experience the impact of such changes. Although no one can accurately predict what life will be like 25 or even 15 years from now as a result of these changes, we do know that the world will be more complex, more sophisticated and more fragile. Today's leaders thus face enormous responsibilities. One of them—perhaps the most important—is to prepare our children so that they are able to cope with world problems in their turn. They must be prepared to be participants in a society to which all can contribute and from which all can benefit. Society cannot expect that a young adult who has been ill-fed and unschooled will suddenly become an active and intelligent participant in the community. Preparation for responsible citizenship must start at the earliest possible age, and most important, it must be of far higher quality than at present.

Let me say in conclusion that UNICEF's long-term programmes must be seen in the larger context of society's present and future needs.

If UNICEF were conducting its long-term programmes on its own, its $60–$70 million per year in more or less regular income would be small. Since the Fund has a central and crucial role in the development of human resources, a maximum effort must be made to enable it to reach its current income goal of $100 million per year by 1975 and then to look beyond that figure. This implies a rise of only some $11 million per year which is relatively small in relation to the large amounts that have been forthcoming in cases of dramatic emergencies. As my predecessor has said, the world can well afford to support to this modest extent the one United Nations organ so vitally concerned with children. What is more, it must begin giving more attention to the future of its children if that future is to be something even resembling what it wants.

I have been following the work of UNICEF for the last 17 years and I am personally aware of the great contribution it has made to the welfare of mothers and children the world over since its inception. I would therefore like to take advantage of this occasion to pay a personal tribute to the work of your Executive Director, Mr. Henry R. Labouisse, and his dedicated staff.

I thank you for this opportunity to share my thoughts with you and I offer you all good wishes for a most fruitful session and for continuing success in your efforts.

JOHN W. SMITH

HON. WM. JENNINGS BRYAN DORN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. DORN. Mr. Speaker, John W. Smith was one of the great builders of the new South. He was a dynamic business executive in the great American tradition of private enterprise. "Jesse" Smith, as he was affectionately known, was one of the Nation's leading transportation leaders and played a crucial role in the development of the Southland. He joined the Seaboard Airline Railroad engineering department in 1924 and became president of the Seaboard in 1952. When Seaboard merged with Atlantic Coast Line in 1967, Jesse Smith was named chairman of the board of the new Seaboard Coast Line. He had served as retired board chairman since 1970.

Mr. Speaker, President Franklin D. Roosevelt once said that the South was the Nation's No. 1 economic problem. But today due in no small part to the efforts of John W. Smith, the South is the Nation's No. 1 area of opportunity. Jesse Smith was well known here in the Congress, and throughout the South where he played a leading role in the development of countless communities. He visited my own home in furtherance of industrial development efforts. Jesse Smith was a personal friend. His devoted wife Mae Appel Smith epitomizes the very highest traditions of Southern womanhood.

It is an honor for me to join with other members of our State delegation and with other Members of Congress who were friends of Jesse Smith in paying tribute to the memory of this great American. To Mrs. Smith, to his lovely daughter and to John W. Smith, Jr., we extend our deepest sympathy.

J. EDGAR HOOVER—ONE OF THIS CENTURY'S TRULY GREAT AMERICANS

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. FISHER. Mr. Speaker, the death of J. Edgar Hoover leaves a void that can never be adequately filled. He will undoubtedly be ranked in history as one of the truly great Americans of this century.

For nearly half a century this man was a symbol of every attribute that is good, honorable, decent, and righteous. His life and his works provided fuel for character building, ambition, courage, patriotism, respect for law and order, in the lives of tens of millions of American youth. By leadership and example, there is no way of fully assessing the magnitude of his contribution to those decades of American history during which he served. He undoubtedly touched the lives and influenced the conduct of more people than any other one living man during this century.

Above all, he earned the title and was universally recognized as "Mr. Law Enforcement." His courage knew no bounds. He spoke out against evil when it raised its ugly head. He pulled no punches in exposing individual misconduct when it needed to be exposed. He commanded total confidence of eight Presidents under whom he served as chief of the Federal Bureau of Investigation.

As would be expected J. Edgar Hoover had his critics, and even enemies, and for various reasons. A few broadsides were unleashed against him in the Congress. Crime syndicates had good reason to despise him. Poison pens were used by a few left-wing columnists to smear him and discount his usefulness. But surely the memory of this man will dominate a secure place in American history long after these critics shall have been totally forgotten.

Mr. Speaker, as is true of many others, it was my happy privilege to have known Mr. Hoover personally. I recall with understandable pride that some 20 years ago he came to the radio recording studio on Capitol Hill, in response to my invitation, for a 15-minute interview—at a time when he was making few public appearances.

It was my privilege to attend a number of small dinner parties when he was present. That enabled me to know more about the man, his humor, his interest in people, and his joviality. I recall that I once asked him: "Mr. Hoover, what is the best technique to use in fighting American Communists?" His reply was, "Exposure. Turn the light on them; let the people know who they are and precisely what they are doing and what their purposes are."

J. Edgar Hoover is dead, but his memory will live and inspire people to pursue the better life for many generations yet unborn.

THE GENERAL AND THE KIDS AT YALE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. MICHEL. Mr. Speaker, it is unfortunate that we are still seeing instances on some of our college campuses whereby a loud minority of students have succeeded in preventing the appearance on campus of speakers who may not represent the misguided and distorted views of that small minority.

The latest incident occurred last month at Yale when General Westmoreland was unable to even reach the podium because of a massive wall of shouters and hecklers.

A column written by Mr. William F. Buckley, Jr., appearing in the May 1, 1972, edition of the Peoria Journal Star describes the whole sorry picture in some detail and I insert the column in the RECORD at this point.

The column follows:

THE GENERAL AND THE KIDS AT YALE

(By William F. Buckley, Jr.)

You will recall that early in the month General Westmoreland, who is the chief of staff of the Army, went to Yale at the invitation of the students' Political Union. They took him to dinner, and they began to propel him towards the auditorium. But at that point an aide to the general reported that the massive wall of shouters and hecklers made it impossible for Westmoreland to speak, unlikely that he could accomplish anything by trying to make his way to the podium and just possible that he might be physically assaulted.

So the general pulled out of his pocket a politely-worded statement declining to go ahead with his speech, and inviting student leaders of the anti-free speech movement to visit him "in peace and dignity" in Washington.

The President of Yale, Mr. Kingman Brewster, pulled some boys-will-be-boys boilerplate from his book shelf, spliced it with a little lard on the general subject of academic freedom, and went back to worrying about how hard it is for a black man to get a fair hearing in New Haven.

The student newspaper, frightened at being censorious, did a perfunctory editorial, and published a regular columnist, a young man of exquisite discernment who announced, "I think that Westmoreland is a war criminal," and argued that depriving Westmoreland of platform had been not a theoretical or philosophical or constitutional deprivation but a tactical blunder, because it prevented a Yale audience from acquiring first-hand knowledge of Westmoreland's criminal mentality.

All this proved to be too much for Eugene Rostow, professor of law, former undersecretary of state for political affairs, former dean of the Yale Law School. He addressed an open letter to the president of Yale and the fellows of Yale University.

He might as well have addressed it to his wife, for all the publicity it received. To be sure, the New Haven press gave it notice. But the Yale Daily News (as of this writing) seems to be taking not only the position that Yale students shouldn't hear Westmoreland, but that Yale students shouldn't hear distinguished professors who believe that Yale students should hear Westmoreland.

Mr. Rostow began: "In my considerable experience at Yale. I have never before known a situation that justified a direct appeal to the Corporation by students and by members of the Faculty." He went on to cite the commitment of the university to academic freedom, and criticized the president's statement as being inadequate because it "did not order an independent investigation to determine whether disciplinary proceedings against the students involved should be brought, or criminal charges preferred against those who, through the use of force, deliberately made it impossible to hold the meeting at which General Westmoreland was scheduled to speak."

Mr. Rostow then reminded Yale's officials that the student newspaper had carried notices that students would try to break up the meeting, and even so adequate preparations were not taken; and that no apology had been extended to General Westmoreland. "The weakness of your statement invites worse trouble. But it is to be deplored for a deeper reason. It does not begin to meet your responsibility to the laws of this community, and especially to the laws protecting academic freedom."

Unofficial Yale is taking the line that after all, Westmoreland didn't try physically to speak, and therefore, in a sense, his rejection was platonic. After all, isn't it true, one worldly professor with a copious memory points out, that Adlai Stevenson was heckled in 1956 by the students,—to the point where he couldn't speak, but after all, he tried for about ten minutes . . . Yes, it is true, and it is also true that the students should have been disciplined at that time, if indeed they were not.

What is wrong about the current situation is most cogently singled out by Eugene Rostow. It is less that students can behave like Nazi youth squads, it is that there is something less than a universality of disapproval of those that do. Name one person who came to the defense of the hecklers of Adlai Stevenson.

Perhaps it isn't so bad elsewhere. A freshman profile published in the Yale Daily News reveals that it is further left than most American universities. Sixty per cent of the freshman class considers itself "liberal," 14 per cent "far left"—as compared to 41 per cent and three per cent for the rest of the country. Twenty per cent of the freshmen think of themselves as "middle of the road," six per cent as "conservative,"—compared with 42 per cent and 14 per cent nationwide.

Somebody ought to write a book about the left-mindedness at Yale University. The trouble is nobody would believe him.

MORE NIGHTMARES FROM THE COMMITTEE BILL TO INCREASE THE MINIMUM WAGE—PART II

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. ERLENBORN. Mr. Speaker, yesterday I pointed out two substantive differences between H.R. 7130, the Education and Labor Committee's bill to increase the minimum wage, and the substitute bill, H.R. 14104, Mr. FUQUA, Mr. QUIE, and I will offer.

Today, I want to call your attention to three more defects of the committee bill. One will work against employing the unemployed, and not one of the three has anything to do with our goal of replacing the purchasing power that has been lost since the minimum wage scales were last increased.

REFERRALS BY PUBLIC EMPLOYMENT AGENCIES

Thousands of employers—for example, retail establishments doing less than $250,000 gross business a year—are not required to pay the minimum wage. Yet the committee bill would prohibit public employment agencies from referring individuals in need of jobs to employers who do not pay the minimum wage.

This is a backward step. We should be expanding the use of public employment agencies, not restricting them.

ILLEGAL ALIENS

Do we really want everyone who does not "look American" or who speaks with an accent to have to produce proof of citizenship or legal immigration in order to get a job? That would be one effect of the committee bill.

Another of its practical effects would be to put housewives in the position of having to determine whether an individual is a legal or illegal alien.

If our laws with respect to the employment of illegal aliens are not adequate, the solution is in amending our immigration laws, not a criminal provision in a minimum wage bill. Immigration laws, incidentally, do not come within the jurisdiction of the Committee on Education and Labor. They come within the purview of the Committee on the Judiciary, which over the past year has been, and even now is, involved in solving this problem.

RESTRICTIONS ON IMPORTS

If title III of the committee bill becomes law, Federal funds—be they in the form of loans, grants, subsidies, or guarantees—could not be used to purchase foreign goods.

That television equipment your school district wants for instructional purposes may well contain parts made in Japan. School officials had best not contemplate buying it with money acquired through the Federal Government.

If Federal funds are involved, the communications system or police car your local police department would like to order could not contain any imported parts—even if they cost much less than their American-made counterparts.

Do you have a penchant for fiction stories? Title III is a classic. It prohibits imports from countries where the working conditions are substantially less favorable than those enjoyed by Americans performing similar work.

Is there any other country in the world where working conditions are as good and workers are paid as well as in the United States? Are workers in other countries covered by minimum wage laws? Are they protected by safety and health acts? Do they have comparable pension and social security benefits at a comparable cost? Obviously, all imports would be banned.

Our substitute bill does not include these three or any similar provisions. Its primary purposes are to provide a reasonable increase in the current minimum wage rates and to alleviate the disproportionately high unemployment among our young people by establishing a special youth differential wage.

A TOTAL PICTURE OF OUR OVERALL MINERALS AND ENERGY PROBLEMS

HON. JAMES A. McCLURE

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. McCLURE. Mr. Speaker, in late December 1970 the Mining and Minerals Policy Act was enacted. This law focused much needed attention on the role of minerals, mineral reclamation, and energy in the American economy. A key provision of the act requires the Department of the Interior to report annually on the state of the mineral industry in the United States. The first such report has now been issued by Secretary Morton and I bring it to your attention, and to the attention of my colleagues, as an important piece of work on an important subject.

As the report so graphically points out, a comprehensive minerals policy is a national necessity. In the past, except in times of war, we have tended to muddle along with respect to minerals policy, assuming, no doubt, that the steel and oil and gas and other mineral products that this Nation's economy requires in such large quantities would be found somewhere.

Such is not necessarily the case. Our expanding economy needs new mineral supplies far faster than new domestic sources are being developed or available, secure foreign sources can be tapped. It takes 4 billion tons of new mineral supplies a year—20 tons per person—to satisfy American demand. The energy we burn up in our machines is measured in quadrillions of British thermal units—69 quadrillion per year—to quote latest estimates—a figure too huge for most mortals to comprehend. Interior Department specialists say, however, that to get an equivalent amount of work done with human labor, every citizen in the country would need a staff of 300 servants, all willing to work 24 hours a day, 7 days a week.

During the two decades from 1950 to 1970, demand for energy in this country doubled. During the same period, demand for metals tripled. There is every reason to believe that demand will continue to grow. By the year 2000, the Interior Department estimates that U.S. demand for minerals of all kinds will be three times what it was in 1970. If domestic output then is no more than it is today, we may have to import more than $60 billion worth of minerals annually—six times the present import rate.

These figures, though startling, tell only part of the story of impending mineral problems in the United States. For one thing, most of the rich, easy-to-recover minerals sources have already been found in this country; miners face the prospect of working leaner and leaner ore deposits.

Another limitation on minerals and energy supply stems from the public's continuing concern for the environment. Minerals and fuels producers face increasingly strict regulation as to where and how they can recover and process the resources they extract from the earth.

Even the prospects for importing minerals are not all bright, because the competition for foreign mineral supplies is getting keener as other nations throughout the world continue to demand more and more raw materials to raise their living standards. These and many other factors are cited in the Interior Department report as reasons why we must have a strong domestic minerals industry.

Although the Mineral Policy Act is relatively new, the first report cites many sound opportunities for implementing our mining and minerals policies. While it does not contain specific recommendations, which are to be submitted after further study, it does point out broad general areas of possible improvement.

It suggests that there must be continued cooperation between Government and industry. While a cooperative spirit has characterized relations between the Government and the minerals industry there is room for improvement. Reliable data on mineral reserves, for example, are requisite to the forming of mineral policy. Some mineral industries volunteer such data, others do not. The Government, in turn, influences industrial climate through its authority over taxes, patent law, antitrust decisions, and foreign trade negotiations. As Government officials work for the benefit of all citizens, it must be recognized that a healthy mineral industry is one of the essentials to our economic growth.

One development that could well foster better relations between Government and industry, the Interior Department suggests, would be implementation of the plan to establish a Department of Natural Resources, a recommendation for Government reorganization made by President Nixon in 1971. Under this plan, major responsibilities for energy and mineral resources would fall within the Department of Natural Resources. Federal energy and mineral resource policy would be largely integrated, and policies developed with a clear understanding of its overall implications.

Whatever else is done in the way of mineral policy it appears essential that the technology of mineral recovery and utilization be improved. Most scientists agree that there is still plenty of mineral wealth left in the ground. Man has, after all, only scratched the surface in his quest for minerals. His deepest oil wells go down only 5 miles, his mine shafts no more than 2 miles—only a small fraction of the nearly 4,000 miles to the center of the earth. The treasures are undoubtedly there, but it will take sophisticated prospecting tools to find them.

The same thing is true in other phases of the mineral industry. Excavation of mineral ore today largely reflects mechanization of mining methods introduced long ago. New mining techniques are needed, techniques that will improve the safety records of the men in the mines as well as the efficiency of ore extraction.

The various states of mineral processing likewise must be improved. Smelting methods must respond to the growing needs to prevent environmental degradation. Mills and refineries, too, need to devote more attention to research and development; since World War II, many important advances in metallurgy have come from Europe. Aside from the petroleum field, research in the minerals industries during the past quarter century has not been what it should be.

Congress has already taken note of this and is acting to provide for Government support of university mineral research and education programs. Pending legislation in this area, it is believed, will do much to preserve or revive interest in mineral engineering programs on the Nation's campuses.

The Secretary of the Interior's first annual report on the state of the mineral industry in the United States establishes one thing beyond doubt: The importance of the role that mineral wealth plays in the economy and welfare of a modern society. America's mineral industry has made possible comforts and convenience for all that earlier generations of men could only dream about.

One other thing that the report makes clear, however, is that we must modify our mineral policies to fit present realities. Secretary Morton and his staff have taken the first step toward that goal through the preparation of this excellent report.

It is important that Congress get a total picture of our overall minerals and energy problems and I believe this report will be a real aid to all of us in our consideration of policy matters affecting our extractive industries. I urge all of my colleagues to read it and use it as an excellent reference in your day-to-day activities involving our mineral resources.

J. EDGAR HOOVER

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. HEINZ. Mr. Speaker, I join with my colleagues in mourning the passing of a great American, J. Edgar Hoover, but also in voicing my concern about the tremendous void Mr. Hoover's death has created.

Mr. Hoover's was a vital job, one which he performed for scores of years with an expertise and understanding uncommon in most men. He commanded loyalty and respect and became a legend in his own time.

Mr. Hoover's successor faces no small task in carrying on the leadership qualities and persuasive abilities of the late FBI chieftan. The American public owes a debt of gratitude to J. Edgar Hoover. I pray his successor has the courage and stamina to continue his fine and dedicated service to this Nation.

J. EDGAR HOOVER

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. JOHNSON of California. Mr. Speaker, I rise to recognize a great career in law enforcement.

J. Edgar Hoover's outstanding leadership not only directly improved the Nation's law enforcement profession but also was an inspiration to all dedicated law enforcement officers throughout the country.

Over the years, J. Edgar Hoover demonstrated by his actions and his way of life that he loved his country. He was proud to be an American and despised those who wanted to overthrow our free, democratic system of government which was established by our forefathers nearly two centuries ago.

I would like to emphasize one particular aspect of the Federal Bureau of Investigation which he built into such a fine, respected organization. That is the training program. Law enforcement offiers from throughout the Second Congressional District, representing State, county, and city governments have benefitted from this fine training program. Not only has the basic FBI Academy here helped individual officers, but it has also proven an example for various State and local training programs all of which have markedly improved the quality of our law enforcement over the past several years.

I am proud, during the nearly 14 years that I have served in the House of Representatives, to have given my full support to the Federal Bureau of Investigation and its programs including its appropriations.

Just recently I completed my annual legislative poll among the constituents in the Second Congressional District and I would note their No. 1 concern is that of law and order. It is indeed a concern of all our people but I think we can be thankful here today for the progress that we have made over the years and the personal contributions of J. Edgar Hoover. Had it not been for the dedication and ability of this man the crime situation would have been far worse today.

I agree with my colleagues that the real monument to his memory is the FBI, which he built. He had tremendous power but he also had a tremendous respect for individual rights and freedoms. I, too, feel that it is very appropriate that legislation has been introduced to name the new FBI Building the J. Edgar Hoover Building, a visible, lasting tribute to a great man.

Mr. Hoover, over the years, made a genuine and tremendous contribution toward effective law enforcement and to the professionalization of law-enforcement officers. He will long be remembered for his integrity, his patriotism, and his ability. All of us will miss him and we all mourn the passing of this distinguished American.

HAVE WE LEARNED ANYTHING FROM KENT STATE?

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. MOORHEAD. Mr. Speaker, 2 years ago today, four youngsters were shot to death and nine wounded, one seriously, by Ohio National Guardsmen during a student protest at Kent State University.

The killings further incensed students across the country who already were seething over President Nixon's decision to invade Cambodia. More campus riots and demonstrations followed the Kent State incident.

The tragedy of May 4, 1970, has been compounded by the unwillingness of the State of Ohio, or the Federal Government, to investigate the Guardsmen, or their officers, for these shootings.

Indeed, the State of Ohio convened a grand jury which merely blamed the disorder on students and absolved the National Guard of any wrongdoing in the deaths of Allison Krause, Sandra Scheuer, Jeffrey Miller, and William Schroeder.

A Federal district court later ordered the grand jury's report to be physically destroyed for its lack of content and obvious bias.

The FBI carried out the only exhaustive, definitive analysis of the incident.

However, the FBI was less than cooperative with me and 19 other Members of Congress who requested this study so that the many doubts surrounding what happened on the dreadful day could be told to the Nation.

Not only was our request for the study refused, but only when this Congress recessed for the summer in August 1971 did the Justice Department announce it would not comply with our demands that a Federal grand jury be convened to investigate the killings.

In the meantime suits and countersuits have been filed against the State of Ohio, the Methodist Church, the parents of the four students, and a citizen by the name of Peter Davies, who with the assistance of the Methodist Church published his own theory on the killings.

The Davies study, which I put into the RECORD on July 22, 1971, holds that the four dead and nine wounded students were the victims of a conspiracy by members of the Ohio National Guard to take the lives of student demonstrators.

I think it is significant that James Michener, author of his own book on the Kent State incident, should now embrace the Davies theory. This development was reported in the New York Times on May 1.

Frankly, I was ashamed of the actions of the Justice Department in the Kent State affair. I think with this issue, the Federal Government had an opportunity to show young people that there is a sense of justice in Washington concerning the activities of the young, the angry, and the alienated.

Even after the Justice Department ignored those of us who petitioned them, the administration had a second opportunity to show its sense of justice.

Student representatives from the university came to Washington to see President Nixon, carrying with them the names of 12,000 Kent State students who asked that he overrule the Justice Department and convene a Federal grand jury. But President Nixon refused. And the stench of political expediency still lingers like a shroud over the affair.

Have we learned anything from the incident at Kent State?

There is little doubt that campus disorders occurred less frequently following that day. Some attribute this to the willingness of public officials to shoot the young rather than reason with them.

I hope the truth is that both youngsters and those of us in authority realize that bullets and violence are not answers to the frustrations that are manifest in public protests.

However, the reason that students took to the streets at Kent still persists—the war in Southeast Asia.

How in good conscience can the President expect to fool the electorate with his thinly veiled political campaign to bring our involvement in Vietnam to a halt just before the November elections?

Here is a man who won the Presidency on his promise to end the war. Yet today's papers tell of new missions to Vietnam to see if our allies needs additional weapons. These weapons drag with them the American "advisers and volunteers" who must educate the Vietnamese in their use. Weapons mean air support and "protective reaction" bombing that mean more American dead.

It seems those with the power to end the war will not listen.

I hope I am wrong. I hope these young people have not died in vain.

L. PATRICK GRAY ACTING DIRECTOR OF FBI

HON. DAN KUYKENDALL

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. KUYKENDALL. Mr. Speaker, I noted with pleasure this morning's news reports that President Nixon has decided to appoint Assistant Attorney General

L. Patrick Gray III as Acting Director of the Federal Bureau of Investigation.

This decision by the President indicates that he fully intends to keep this most important Federal office outside the field of partisan political debate. I salute this decision by the President. In the remarks which I delivered 2 days ago following the death of J. Edgar Hoover, I emphasized the importance of efficient, effective management of this law enforcement organization. Those of us in the Congress, and the country in general have had our fill of the politically motivated squabbling in the Senate Judiciary Committee over the confirmation of Acting Attorney General Kleindienst.

Assistant Attorney General Gray, a retired Navy captain and experienced attorney, I am sure will serve our country in the great tradition of the late Mr. Hoover.

HOW SOCIALIZED MEDICINE IS BEING MADE AN ACCEPTABLE PROGRAM

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. RARICK. Mr. Speaker, HEW has issued an Executive order, promulgated in the Federal Register of April 18, 1972—vol. 37, No. 75—proposed regulations requiring all "hospitals, facilities for long-term care, out-patient facilities, rehabilitation facilities, and public health centers" to budget and provide free services for "persons unable to pay," up to 5 percent of operating costs or 25 percent of net income, whichever is the higher figure.

Authority for this HEW "ordered charity" which must be carried on by private medical facilities is cited as 42 U.S.C. 291c, 78 stat. 451.

No one understands better than those of us in Congress that nothing is free; someone must pay, or there is no service. Federal giveaway programs simply return something to the people that the Federal Government has first taken away from them.

In this instance, the intended free medical services for "persons unable to pay" will but constitute a new use tax on the paying patient—otherwise, the medical facility will face certain bankruptcy.

Any additional increase in free health benefits can but reduce the number of paying patients and proportionately increase the discontent with the high cost of private medical services.

Carried to its ultimate conclusion, we must realize that the American people will again be exploited by Government-inflated costs of medical services, which will in turn force the people to cry for more and more Government-subsidized health services—and eventually the people will demand socialized, or federalized medicine out of sheer desperation.

Then, as if the hospitals and medical service institutions will not be subject to enough inflationary pressure resulting from these proposed regulations by HEW, this House will consider legislation next week raising the standard for minimum wage in this country to $2 per hour.

Whether such legislation would simply increase or decrease the number of people now on the welfare rolls is certainly debatable; but that such an increase in the minimum wage standard will raise the cost of medical services in private hospitals by as much as $12 to $14 per day is not debatable.

It is evident that the Federal Government is setting in motion the processes to destroy private, traditional medical service facilities and replace them with socialized medicine—"free" for all the people, paid for by those who work and contribute to this society, but controlled and rendered ineffective by Federal bureaucrats. The pressure from above now awaits pressure from below. The trap is set for socialized medicine.

I ask that the HEW-proposed regulation and its purported legislative authority follow my remarks.

The material follows:

MEDICAL SERVICES FOR PERSONS UNABLE TO PAY: NONDISCRIMINATION

Public Health Service

[42 CFR Part 53]

PROPOSED STANDARDS FOR DETERMINING COMPLIANCE

Notice is hereby given that the Administrator, Health Services and Mental Health Administration, with the approval of the Secretary of Health, Education, and Welfare, and subject to the approval of the Federal Hospital Council, proposes to revise § 53.111 of Title 42, CFR, entitled "Services for persons unable to pay."

The principal purpose of the revision is to establish more specific standards, guidelines, and procedures for determining compliance with, and enforcing, assurances to provide a reasonable volume of services to persons unable to pay therefor previously given by recipients of, or to be given by applicants for, assistance under Title VI of the Public Health Service Act as amended (42 U.S.C. 291 et seq.).

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed revision of 42 CFR Part 53, Subpart L, to the Health Care Facilities Service, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20852, within 30 days after the date of publication of this notice in the Federal Register. Comments received will be available for public inspection at Room 9-05, Parklawn Building, between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

This proposed revision of Title 42 CFR 53.111 is issued under authority of section 603 of the Public Health Service Act as amended, 78 Stat. 451, 42 U.S.C. 291c.

It is therefore proposed to revise 42 CFR 53.111 to read as set forth below.

Dated: April 12, 1972.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: April 15, 1972.

§ 53.111 Services for persons unable to pay.

(a) *Applicability.* The provisions of this section apply to every applicant which heretofore has given or hereafter will give an assurance that it will make available a reasonable volume of services to persons unable to pay therefor.

(b) *Definitions.* As used in this section:

(1) The term "facility" includes hospitals, facilities for long-term care, out-patient facilities, rehabilitation facilities, and public health centers;

(2) The term "applicant" means an applicant for, or recipient of, a grant, a loan guarantee or a loan under the Act;

(3) "Fiscal year" means the fiscal year of the applicant;

(4) The term "operating costs" means the actual operating costs of the applicant for a fiscal year as determined in accordance with cost determination principles and requirements under Title XVIII of the Social Security Act (42 U.S.C. 1395): *Provided,* That such "operating costs" shall be determined for the applicant's entire facility and for all patients regardless of the source of payment for such care: *And provided further,* That in determining such operating costs there shall be deducted the amount of all actual or estimated reimbursements, as applicable, for services received or to be received pursuant to Title XVIII and XIX of the Social Security Act (42 U.S.C. 1395 and 1396);

(5) The term "net income" means the net income of the applicant determined in accordance with the applicant's usual accounting methods provided that such methods are consistently applied and are compatible with accounting principles generally accepted in hospital and related fields;

(6) The term "reasonable cost" means the cost of providing services to a specific patient determined in accordance with the cost determination principles and requirements under title XVIII of the Social Security Act (42 U.S.C. 1395) and Subpart D of the regulations thereunder (20 CFR 405, 401 et seq.);

(7) The term "uncompensated services" means services which are made available to persons unable to pay therefor without charge or at a charge which is less than the reasonable cost of such services. The level of such services is measured by the difference between the amount charged for such services and the reasonable cost thereof;

(8) "Reasonable volume of services to persons unable to pay therefor" means a level of uncompensated services which meets a need for such services in the area served by an applicant and which is within the financial ability of such applicant to provide.

(c) *Assurance.* Before an application under this part is recommended by a State agency to the Secretary for approval, the State agency shall obtain an assurance from the applicant that there will be made available in the facility or portion thereof to be constructed or modernized a reasonable volume of services to persons unable to pay therefor. The requirement of an assurance from an applicant shall be waived if the applicant demonstrates to the satisfaction of the State agency, subject to subsequent approval by the Secretary, that such a requirement is not feasible from a financial viewpoint.

(d) Presumptive compliance guideline. An applicant which, for a fiscal year, budgets for the support of, and makes available on request, uncompensated services at a level not less than the higher of 5 percent of operating costs or 25 percent of net income shall, subject to the provisions of paragraph (h) of this section, be deemed in presumptive compliance with its assurance.

(e) Compliance reports. (1) Each applicant shall, not later than 120 days after the end of a fiscal year, unless a longer period is approved by the State agency for good cause shown, file with the State agency a copy of its annual statement for such year as required by section 646 of the Act and § 53.128 (q), which shall set forth its operating costs and the amount of uncompensated services provided in such year. The provision of a level of uncompensated services in such year which equals or exceeds the level established pursuant to paragraph (h) of this section for such year shall constitute compliance with the assurance. If the level of services provided was less than the level of uncompensated services established pursuant to paragraph (h) of this section, the applicant shall submit with such statement (i) a justification therefor, showing that the provision of such lower level of uncompensated services was reasonable under the circumstances and (ii) a description of the steps it proposes to take to assure the availability and utilization of the level of uncompensated services to be established for the current fiscal year, which shall include an affirmative action plan, utilizing available media of mass communication as well as other appropriate means, to bring to the attention of the public the availability of such uncompensated services and the conditions of eligibility therefor.

(2) Each applicant shall file with its annual statement a copy of that portion of its adopted budget for the current fiscal year relating to the support of uncompensated services in such year. Such budget for uncompensated services shall be based on the operating costs of the applicant for the preceding fiscal year and shall give due cognizance to probable increases in operating costs. If the budget statement does not conform to the presumptive compliance guidelines, the applicant shall submit with its statement (i) a justification therefor, showing that such lower level of uncompensated services is reasonable under the circumstances, and (ii) a plan to increase such uncompensated services to meet the presumptive compliance guideline or such other level of uncompensated services as may have been established or as it requests the State agency to establish in accordance with paragraph (h) of this section.

(3) The applicant shall also submit such additional reports related to compliance with its assurance as the State agency may reasonably require.

(f) Qualifying services. (1) In determining the amount of uncompensated services provided by an applicant, there shall be included only those services provided to an individual with respect to whom the applicant has made a formal written determination prior to the provision of such services that such individual is unable to pay therefor under the criteria established pursuant to paragraph (g) of this section except that such determination may be made after the provision of the services where (i) there has been a change in circumstances, e.g., the patient's financial condition has changed or the cost of the services provided is greater than anticipated, (ii) an emergency or an urgent need for services has precluded a determination of the patient's ability to pay therefor or (iii) the applicant has for other good cause been unable to complete its investigation and determination prior to the provision of the services: *Provided*, That a statement of such good cause be made a part of the applicant's written determination.

(2) There shall be excluded from the computation of uncompensated services:

(i) Any amount which the applicant has received, or is entitled to receive, from a third party insurer or under a governmental program; and

(ii) The reasonable cost of any services for which payment in whole or in part would be available under a governmental program (e.g., Medicare and Medicaid) in which the applicant, although eligible to do so, does not participate, but only to the extent of such otherwise available payment.

(g) Person unable to pay for services. (1) The State agency shall set forth in its State plan, subject to approval by the Secretary, criteria for identifying persons unable to pay for services, which shall include persons who are otherwise self-supporting but unable to pay the full charge for needed services. Such criteria shall be based on the following or similar factors:

(i) The health and medical care insurance coverage, personal or family income, the size of the patient's family, and other financial obligations and resources of the patient or the family in relation to the reasonable cost of the services;

(ii) Generally recognized standards of need such as (a) the State standards for the medically needy as determined for the purposes of the Aid for Families with Dependent Children program; (b) the current Social Security Administration poverty income level; (c) the current Office of Economic Opportunity Income Poverty Guidelines applicable in the area; or

(iii) Any other equivalent measures which are found by the Secretary to provide a reasonable basis for determining an individual's ability to pay for medical and hospital services.

(2) A copy of such criteria shall be provided by the applicant, upon request, to any patient or former patient of the applicant and to any person seeking services from the applicant.

(3) The State agency shall provide a copy of such criteria to any person requesting it.

(h) Level of uncompensated services. (1) The State agency shall set forth in its State plan procedures for the determination for each applicant of the level of uncompensated services which constitutes a reasonable volume of services to persons unable to pay therefor.

(2) The State agency shall for the purpose of making such determination, review, and evaluate the annual statement, the budget and the related documents submitted by each applicant pursuant to paragraph (e) of this section, by applying the following criteria:

(i) The financial status of the applicant, taking account of income from all sources, and its financial ability to provide uncompensated services;

(ii) The nature and quantity of services provided by the applicant;

(iii) The need within the applicant's service area for the provision, without charge or at charge which is less than reasonable cost, for services of the nature provided or to be provided by the applicant; and

(iv) The extent and nature of joint or cooperative programs with other facilities for the provision of uncompensated services, and the extent and nature of outreach services directed to the needs of underserved areas.

(3) In accordance with its findings made after such review and evaluation, the State agency shall, within 60 days after receipt of the annual statement and related documents required by paragraph (e) of this section, for each fiscal year of an applicant which begins following the expiration of 90 days after the effective date of this regulation:

(i) Establish a level of uncompensated services for each applicant which may be equal to or less than the presumptive compliance guideline: *Provided*, That if the State agency determines, in accordance with subparagraph (2) of this paragraph, that (a) there is a need in the area served by an applicant for a level of uncompensated services greater than the level proposed in the applicant's budget statement, and (b) the applicant is financially able to provide such greater level of uncompensated services, the State agency shall establish such greater level as the level applicable to the applicant; and

(ii) Accept or modify a plan submitted pursuant to paragraph (e) of this section:

(4) The State agency shall notify the applicant in writing of the level of uncompensated services which it has established for the applicant for the fiscal year. At the time of notifying the applicant, the State agency shall also publish as a public notice in a newspaper of general circulation within the community served by the applicant the rate that has been established, a statement that the documents upon which the agency based its determination are available for public inspection at a location and time prescribed, and that persons wishing to object to the rate can do so by writing to the State agency within 20 days after publication of the notice.

(5) The applicant or any person or persons residing or located within the service area of the applicant, or any organization on behalf of such person or persons, may submit to the State agency within 20 days of the publication and sending of the notice objections to the rate established by the State agency for the applicant. Such objections may be supported in writing by factual information and argument. The State agency may, if it believes that determination of the objections will be assisted by oral evidence or by oral argument, set a public hearing on the objections and shall give notice of such hearing to all interested parties and to the public. If no hearing is set, the State agency shall give public notice of the receipt of the objections and shall make the objections and their supporting documents available for public inspection and comment. The State agency shall rule promptly upon the objections in writing, stating its reasons for sustaining or overruling them, in whole or in part, and establishing finally the rate of uncompensated services either the same as, above, or below the rate previously established, as may best accord with all of the evidence on file with or heard by the State agency.

Notice of the final determination shall be mailed to all parties who filed objections or who participated in the proceedings leading to the redetermination.

(6) Within 20 days of receipt of written notice of the final determination of a State agency after ruling on objections to the rate established by the State agency, the applicant or any other interested person or organization may submit to the Secretary a written request for review of the State agency determination. Such review shall be made upon the record of the State agency determination which shall be sustained if supported by substantial evidence and is not otherwise arbitrary or capricious. If the Secretary or his designee determines that the rate established by the State agency is unsupported by the evidence in the record or is otherwise arbitrary or capricious, the Secretary or his designee shall, upon the basis of the record or upon other evidence or information which is before him or which he may obtain, establish a level of uncompensated services which he determines, in accordance with the criteria set out in subparagraph (2) of this paragraph, is appropriate.

(7) The level of uncompensated services established for an applicant under this section for any fiscal year shall constitute a reasonable volume of services to persons unable to pay therefor with respect to such applicant for such fiscal year.

(i) *Evaluation and enforcement.* The State plan shall provide for evaluation and enforcement of the assurance in accordance with the following requirements:

(1) The State agency shall, (i) at least annually, perform evaluations of the services provided in each facility with respect to which Federal assistance has been provided under the Act, to determine whether such assurance is being complied with; and (ii) establish procedures for the investigation of complaints that such assurance is not being complied with.

(2) Evaluation pursuant to subparagraph (1) of this paragraph shall be based on the annual budget of each facility for uncompensated services and on financial statements of such facilities filed pursuant to section 646 of the Act and § 53.128(q), and on such other information, including reports of investigations and hearing decisions, as the State agency deems relevant and material.

(3) The State plan shall provide for adequate methods of enforcement of the assur-

ance, including effective sanctions to be applied against any facility which fails to comply with such assurance. Such sanctions may include, but need not be limited to, license revocation, termination of State assistance, and court action.

(j) Reports. (1) The State agency shall, not less often than annually, report in writing to the Secretary its evaluation of each facility's compliance with the assurance, the disposition of each complaint received by the State agency, proposed remedial action with respect to each facility found by the State agency to be not in compliance with the assurance, and the status of such remedial action.

(2) In addition, the State agency shall promptly report to the Regional Attorney and Regional Health Director of the Department of Health, Education, and Welfare the institution of any legal action against a facility or the State agency involving compliance with the assurance.

[FR Doc. 72-5966 Filed 4-17-72; 9:31 am]

§ 291c. General regulations

The Surgeon General, with the approval of the Federal Hospital Council and the Secretary of Health, Education, and Welfare, shall by general regulations prescribe—

* * * * *

State plan requirements; assurances necessary for approval of application

(e) that the State plan shall provide for adequate hospital and other facilities for which aid under this part is available, for all persons residing in the State, and adequate hospitals (and such other facilities) to furnish needed services for persons unable to pay therefor. Such regulations may also require that before approval of an application for a project is recommended by a State agency to the Surgeon General for approval under this part, assurance shall be received by the State from the applicant that (1) the facility or portion thereof to be constructed or modernized will be made available to all persons residing in the territorial area of the applicant; and (2) there will be made available in the facility or portion thereof to be constructed or modernized a reasonable volume of services to persons unable to pay therefor, but an exception shall be made if such a requirement is not feasible from a financial viewpoint.

July 1, 1944, c. 373, Title VI, § 603, as added Aug. 18, 1964, Pub.L. 88-443, § 3(a), 78 Stat. 451, and amended Sept. 4, 1964, Pub. L. 88-581, §3(b), 78 Stat. 919.

DEATH OF J. EDGAR HOOVER

HON. JOHN C. KLUCZYNSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. KLUCZYNSKI. Mr. Speaker, the Nation mourns the death of the Honorable J. Edgar Hoover, Director of the Federal Bureau of Investigation since 1924. Mr. Hoover was not only a fearless and incorruptible law enforcement officer, but he was also a loyal and dedicated American whose aim in life was to support, defend, and sustain our great Republic in the lofty principles upon which it was founded.

Mr. Speaker, for some years there has been under construction on Pennsylvania Avenue in the city of Washington a building to house the Federal Bureau of Investigation. Mr. Hoover was dedicated to the final completion of that building, and he looked forward to the time when that building would house the Federal Bureau of Investigation. I am today introducing a bill in the House of Representatives that the building be named after Mr. Hoover.

CENTRAL CITY FOODS MOVES TO PROFIT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. CLAY. Mr. Speaker, a serious problem facing inner city residents is the lack of supermarkets. More and more we see the large food retailers leaving the inner city as their operation costs mount.

This trend must be stopped if inner city residents are to have a plentiful supply of quality food products available at reasonable cost. I am proud to say that one of this country's leading efforts to stop this trend is in my district.

Central City Foods in St. Louis, owned by the citizens of the community it serves, has just celebrated its third anniversary of service to the inner city. I have had the privilege of a long association with Central City Foods and its president, Mr. James E. Hurt.

Surviving economically while providing the community with a quality food source and employment opportunities is, however, no easy job for Central City Foods. That is why I have recently begun working with the U.S. Department of Labor in an effort to secure a grant to help Central City Foods train its employees in entreprenuerial skills. Such a training experience will provide Central City Foods with the upwardly mobile workforce which is essential to its continued success. Such training will also provide the employees with expanded employment horizons and an opportunity to upgrade their position.

We are hopeful that the U.S. Department of Labor will be able to assist Central City Foods in this project.

So that my colleagues may learn more about Central City Foods, I insert a St. Louis Post-Dispatch article on the firms' development at this point in the RECORD:

[From the St. Louis Post-Dispatch, Apr. 30, 1970]

CENTRAL CITY FOODS MOVES TO PROFIT

(By Curt Matthews)

Central City Foods, Inc., the supermarket that opened a year ago at 3500 Franklin Avenue as the city's most ambitious example of Black Capitalism, ended its first year of operation with a loss.

However, James E. Hurt, president, points out that the market has been running ahead of projections in sales and is moving steadily toward sustained profitability.

"We told our investors not to expect a profit for the first three years," says Hurt. "Although we've had month-to-month operating profits, there were unusual start-up promotion expenses and costs related to hiring and training inexperienced help that were factors in our loss for the first 12 months."

Hurt noted that the company spent $35,000 on promotion and advertising last spring when the market opened. He also pointed out that the store's work force, drawn from the nearby black community, was largely without experience in supermarket operation.

$200,000 CAPITAL

Central City Foods opened April 9, 1969, on the fringe of an area considered to be part of the city's decaying inner core. The 15,000 square foot area store, representing a capital investment of $200,000, is affiliated with National Jet Food Corp. of Baltimore, a black-controlled food distribution business.

The break-even volume for Central City Foods was estimated at about $35,000 a week when the store was built. Hurt says that early last fall the store surpassed that volume and in recent months has been doing about $43,000 to $45,000 a week. Total sales the first year amounted to more than $2,500,000.

"The apparent key to profits is our ability to control and stabilize employment," Hurt says. "Although we recognize that one of the aims in building this store was to provide jobs for people who needed them, we have at times been overstaffed."

The store currently has 37 employees including four nonblacks. At times last year, employment was as high as 60. Hurt estimates that with increased volume in the coming year, employment will stabilize at about 45.

"The greatest problem we faced in our first year was trying to keep personnel costs in the line in view of our policy of hiring inexperienced help," Hurt explained.

EMPLOYES NEEDED TRAINING

Less than half of the store's original staff had ever worked in a supermarket before joining Central City Foods, a factor that Hurt says added significantly to the overall operating costs in the first year. Hurt says the store has tried to maintain salary expenses at about 9 per cent of gross sales.

"Like most supermarkets we operate on a very narrow margin of profit on sales—about 1 to 1½ per cent," Hurt points out.

The most encouraging aspect of the first year of operating for Central City Foods, according to Hurt, was the steady increase in sales from month to month and the support given the business by the community—particularly church groups in St. Louis County. Forty-six church groups and organizations have pledged support of the supermarket by periodically shopping there.

The importance of this support is symbolic rather than economic, Hurt points out: "Most of those groups only shop here once a year but their support is important in that it contributes to our eventual success."

"STANDS ON OWN FEET"

Hurt stresses that he wants the business to stand on its own economic merits and has therefore not aggressively sought special shopping groups such as the churches. Realizing the importance of good relations within the business community, he comments, "We don't want to take business from other stores by reason of our location or the character of our store."

Central City Foods, Inc., was formed in 1967 by a group of Negro ministers and businessmen with Hurt as president. He is also president of Employes Loan and Investment Co. and is a vice president of the Gateway National Bank, a black-owned and managed bank.

Original financing for the market was raised through a stock offering at $10 a share. The firm has about 2000 investors, many of them living in the immediate neighborhood of the store.

Noting this point as one reason the market has had a low rate of pilferage and loss, Hurt says. "You have to realize that this is a different kind of corporation. Many of our customers are also stockholders."

PROFIT ONLY A SYMBOL

The investors in the super-market, although told in advance that the store may not return a profit in its first three years, may not have to wait that long. Hurt says his primary goal in the second year of operation is to boost sales to $60,000 weekly and put the store in a firm profit position.

"Profit is important only as a symbol of what a black-owned and operated enterprise can do," Hurt says. "We're not trying to prove to white people that this operation can be successful—we're trying to prove it to black people."

For this reason, Hurt says the store will maintain its identity as a black enterprise and not seek to be absorbed as "just another business."

Hurt's secondary goal for Central City Foods in the coming year is to open a second store in the Central West End.

CONGRESSMAN CRAIG HOSMER'S WASHINGTON NEWS NOTES

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. HOSMER. Mr. Speaker, I have distributed to many organizations within my congressional district my monthly "Washington News Notes" letter. For the information of my colleagues, the May issue follows:

CONGRESSMAN CRAIG HOSMER'S WASHINGTON NEWS NOTES

MAY 1972.

More about those tennis shoes.—In the April "News Notes," we reported on a new political book which describes Congressman Craig Hosmer as being a "kindred spirit" with "little old ladies in tennis shoes." We lightly noted that Craig didn't even own any tennis shoes.

Well, he does now! Charles Furgason of 9851 Jamaica Circle, Huntington Beach, promptly sent Hosmer a star-spangled, red, white and blue pair of size 10½s. He suggested that "if you're going to represent Orange County, please do it properly."

The heroin hotline.—As part of a massive nationwide push to clean up drug traffic, the Federal Government has established a new "Heroin Hotline." Here's how it works:

If you have any information or knowledge about anyone who is selling Heroin, you may call toll-free from anywhere in the Continental U.S.—24 hours a day—and report this information. All information and identification are kept strictly confidential.

The hotline number is (800) 368–5363. As citizens we all have a responsibility to help crack down on drug pushers.

The 'Pep' Program.—A new pamphlet, "The Public Employment Program—Bringing Together Jobless Workers and the Public Work to Be Done," is available from the Labor Department. The "PEP" program is financed with Federal funds, with $1 billion being spent this year to create new jobs in the field of public service. State and local governments handle the planning of the program, which has concentrated on finding jobs for veterans and youth. In some areas, police departments are taking on several "PEP" aides, freeing officers for outdoor law-enforcement work.

'Nein' on Proposition 9.—Congressman Craig Hosmer has spoken out forcefully against Proposition 9 on the June 6 primary ballot, the so-called Pollution Initiative. He says that it would wreak environmental and economic disaster on California, wiping out thousands of jobs and turning the state into another Appalachia.

Responsible business, labor and environmental groups statewide are lining up in opposition to the measure. Hosmer says that writing environmental protection legislation is tough enough even when you know what you're doing. It takes a careful balancing of often competing social goals. He adds that "lynch mob justice" is no way to go about it.

Transpo 72 Opens This Month.—Families planning visits to Washington this Spring should plan to take in Transpo 72 at Dulles Airport. The show opens May 27 and runs through June 4, featuring more than 500 displays of the most modern and futuristic transportation equipment from around the world. A variety of entertainment programs also are on the schedule. It'll be great fun for all.

Douglas 5, Boeing 0.—McDonnell Douglas recently won a big new Navy jet transport contract for its Long Beach plant. The $25.3 million pact is for the first five of an estimated 33-plane fleet of multi-purpose transports called the C–9B. The company, the area's largest employer, won the bidding over Boeing Co. of Seattle, giving a big boost to our local economy.

How Big Is Big Business?—A recent study shows that some U.S. corporations have net sales rivaling the gross national product of many substantial countries. For example, General Motors had sales of $18.8 billion for 1970, which is more than the GNP of Pakistan, and South Africa and just slightly less than Switzerland. AT&T, Standard Oil (N.J.) and Ford all outrank Denmark, Austria and Indonesia. Sears Roebuck had $9.3 billion in sales, while Greece has a GNP of $9.0 billion.

Interestingly, IT&T, which has been accused of meddling in the internal political affairs of Chile, had $6.4 billion in sales, compared to Chile's gross national product of $6.3 billion. Maybe IT&T should just buy the country.

It's About That Time.—Fred Nelson of Huntington Beach reminds us that absentee ballots for the June 6 primary election will be available from May 8 through May 30. If you won't be able to go to the polls on Election Day, be sure to request an absentee ballot from the Registrar of Voters in either Los Angeles or Orange County.

PENTAGON AGREES TO SMALL BUSINESS COMMITTEE'S RECOMMENDATIONS OF MILITARY MOTELS

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. EVINS of Tennessee. Mr. Speaker, Representative JOHN C. KLUCZYNSKI, chairman of the Subcommittee on Small Business Problems in Smaller Towns and Urban Areas, of the Select Committee on Small Business, of which I have the honor to be chairman, recently completed hearings and issued a report on the impact of Federal installations on small business. The report's recommendations were directed, in part, to the Department of Defense in connection with the services' announced plans to construct and operate Government motels on various military bases in competition with private enterprise.

Specifically, the subcommittee recommended:

That the Department of Defense:

a. Immediately review all temporary lodging projects for which contracts have been awarded, but construction not completed, with a view to determining if the projects should continue in light of the subcommittee's findings.

b. Consider the feasibility of giving small businessmen in the private sector an opportunity to manage and operate those temporary lodging units which have already been constructed.

c. Require each of the military departments to forward for review and approval all construction projects for temporary lodging quarters, regardless of method of funding.

d. Before approving temporary lodging projects, determine, by complete and accurate surveys, whether:

(i) There exists a need for such facilities (such as kitchenettes),

(ii) If private enterprise can meet the need, including the feasibility of leasing private units or having private enterprise construct and operate such facilities under contract with the Department.

Mr. Speaker, I am pleased to announce that the Department of Defense, in a letter to Representative KLUCZYNSKI from Assistant Secretary Barry J. Shillito, has agreed to, and is actively cooperating in implementing the subcommittee's recommendations. DOD, however, did take exception to one recommendation, but I believe that their conclusions in this matter are quite understandable and reasonable.

The Department of Defense is to be commended in this instance for its interest and concern for the small businessman of the Nation while at the same time attempting to alleviate the plight of servicemen who are required to move. I want to take this opportunity to commend Chairman KLUCZYNSKI's efforts and, in concert with him, to reiterate the subcommittee's position on this matter. I am pleased that the Department of Defense concurs with our committee that this should not be done at the expense of the Nation's free enterprise system.

Because of the interest of my colleagues and the American people in this most important subject, I am placing Secretary Shillito's letter in the RECORD:

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., May 2, 1972.

Hon. JOHN C. KLUCZYNSKI,
Chairman, Subcommittee on Small Business Problems in Smaller Towns and Urban Areas, Select Committee on Small Business, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your letter of March 24, 1972 to Secretary Laird which transmitted the Subcommittee on Small Business Problems in Smaller Towns and Urban Areas Report on the Impact of Federal Installations on Small Business and to an interim reply of March 31, 1972 from Mr. Rady A. Johnson, Assistant to the Secretary for Legislative Affairs.

The first recommendation of the Subcommittee's report concerning the Department of Defense is that we review all temporary lodging projects for which contracts have been awarded, but construction not completed, with a view to determining if the projects should continue. This office will conduct such a review of the temporary lodging projects currently under construction in accordance with the Subcommittee's recommendation.

A further recommendation was to consider the feasibility of giving small businessmen in the private sector an opportunity to manage and operate those temporary lodging units which have already been constructed. Although our military installations utilize a great many businessmen to provide services on our installations, these are generally in functional areas such as banks, cafeterias, barber shops, or shoe repair shops where the businessman's particular expertise or service is required. The temporary lodging program was developed to provide economical lodging for permanent change of station personnel. To have the private sector operate these on-base lodging facilities could only increase the cost of the lodging accommodations and is considered counterproductive to the intent of the program. The Department of Defense, therefore, does not consider it feasible to operate temporary lodging facilities in this manner.

The Subcommittee also recommended that the Department of Defense require each of the Military Departments to forward for review and approval all construction projects for temporary lodging quarters, regardless of method of funding. This office is currently writing a Directive which will be applicable to all Military Departments and Defense Agencies and which will establish policy and procedures in regard to the construction, acquisition, administration, operation, and use of temporary lodging facilities. The Directive will require review and approval of all future temporary lodging facilities by this office. The review will include an evaluation of the availability, adequacy, and cost of commercial facilities including the feasibility of leasing adequate commercial facilities.

We trust the above is responsive to the recommendations of the Subcommittee's report.

Sincerely,

BARRY J. SHILLITO,
Assistant Secretary of Defense (Installations and Logistics).

PHYSICAL EDUCATION TEACHES SELF-DISCIPLINE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. KEMP. Mr. Speaker, not long ago, I had the privilege of speaking to the Eastern District Association of American Association for Health, Physical Education, and Recreation at the invitation of Dr. Jean Berger. My remarks to their convention focused on the need for and advantages of incorporating physical education and recreation into the educational curriculum. It was my desire to convey my conviction that the hard lessons of life—the discipline, the dedication, and the human relationships emanating from athletics of all kinds—are indispensable in preparing an individual to face the demands of a free society.

Hopefully, I struck a responsive chord. As a result of that talk, I have come into the possession of some remarkable words spoken by Dr. Margaret C. Brown, president emeritus of Panzer College, dealing with the same subject. Prof. Hazel Wacker, who, along with Dr. Brown were honored by their colleagues, sent me a copy of Dr. Brown's remarks. I know her remarks will strike a responsive note as well—they certainly did with me. I submit her remarks so that they be included in the RECORD to focus attention on the fact that freedom requires self-displine. As Edmund Burke warned long ago "men of intemperate minds can never be free, their passions forge their fetters."

DISCIPLINE AND TRAINING—AN ART

(Dr. Margaret C. Brown)

Tonight you have honored three graduates who exemplify the high ideals and traditions of both Panzer College and the Panzer School at Montclair State College. Many others in this group have been honored here or elsewhere or are worthy of honor for their achievements in education and community and social services of infinite variety.

These traditions are the traditions of teacher education which have evolved in the United States since the first normal school was founded in Lexington, Massachusetts, in 1839. They may fluctuate like the stock market but still hold true. On the contrary, methods do change with the growth of scientific foundations of education and with the rapid social changes.

Teaching is necessarily a profession, not labor, because it is concerned with human life. It is not too much to ask that teachers have good personal habits and integrity, good manners, scholarship, professional competence and concern for the creation of an environment in which the human organism can grow and develop normally. These are the disciplines of professional training and education.

I am quite aware that discipline and training are unmentionable words, and that all we hear or read about is freedom, rights, and privileges.

Indeed, I have failed to find an editorial or article in the news media which explains the close relation of freedom and discipline. Yet I must ask, is anyone who has not mastered the disciplines of his own actions truly free?

Without discipline or training, the regiment is not free to march, nor the orchestra to play. How well can the team play without the disciplines of sport, or how can people function socially without the disciplines of the social amenities? Of what value is free speech without the discipline of reason and judgment or even the pain of thinking?

People so often ask me, how would you like (a) to be president (b) how would you manage? The answer is simple: (a) I would not (b) I could not. But you can, and you *do*. When I think of the collective results of all your contributions, I feel that the country is safe, in spite of the endless marches for freedom.

I am so very proud of you. I have learned much from you and I keep track of you through alumni association. I am proud of you as parents, teachers, scholars, administrators, as community leaders, and also as people of consequence in the development and stability of American culture.

QUESTIONNAIRE FOR TENNESSEE CONSTITUENTS

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. QUILLEN. Mr. Speaker, this week I am sending a legislative questionnaire to all postal patrons in the First District of Tennessee, as well as in two additional counties which have been redistricted back into my district next year.

Nine issues are included in my questionnaire, and I feel I have covered areas of vital interest.

As soon as I have tabulated the responses to my questionnaire, I will report back the results to you and to the President. In the meantime, I would like to have my questionnaire made available for readers of the RECORD:

QUESTIONNAIRE

MAY 1972.

DEAR FRIENDS: As your Congressman, I am very interested in what you think about the important issues of our times. I realize that time does not always give you an opportunity to write, so I have prepared this questionnaire which lists some of the key issues.

Of course, questions such as these are very complex. Sometimes it is difficult to answer with a simple "Yes" or "No," but this problem faces every Member of Congress when legislation comes up for a vote. Please take a few minutes to give me the benefit of your views.

In order to have the results tabulated as soon as possible, no individual acknowledgement that your questionnaire has been received will be made. Just as soon as the responses have been tabulated, I will send you the results in a special Report from Washington. In addition, I will report the results to the Congress and the President.

Sincerely,

JAMES H. QUILLEN.

Please check the appropriate box after the question, then detach this questionnaire at the fold and mail it as a post card or enclose it in an envelope to 102 Cannon House Office Building, Washington, D.C. 20515.

(Boxes provided for "his" and "hers" for "yes" or "no" answers.)

1. Do you favor granting amnesty to draft dodgers and deserters?
2. Should persons who voluntarily strike be entitled to food stamps?
3. Should the U.S. place a fixed limit on imports of agricultural products to aid our farmers?
4. Are you in favor of the U.S. expanding diplomatic and trade relations with Mainland China?
5. Do you favor forced busing of school children to achieve racial balance?
6. Do you feel the present system of wage and price controls is working to end inflation?
7. Do you favor changing the term of a Member of Congress from two years to four years?
8. Do you favor eliminating the criminal penalties for possession of marijuana?
9. The so-called value added tax, in effect a national sales tax, is contemplated as a method to hold the line on property tax increases. Do you favor such a tax?

(Check one)—(Mr. & Mrs.); (Mr.); (Mrs.); (Miss).

Name ------------------------------------

Address ---------------------------------

EXPERT URGES STATUTORY SECURITY CLASSIFICATION SYSTEM TO END DANGEROUS OVERCLASSIFICATION AND ADMINISTRATION CHAOS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. MOORHEAD. Mr. Speaker, the Foreign Operations and Government Information subcommitee has been holding hearings on the interrelationship between the Freedom of Information Act and problems resulting from the administrative breakdown of our security classification system. Such matters may be exempted under section 552(b)(1) of the act in the "interest of the national defense or foreign policy."

During our hearings last summer during the "Pentagon papers" controversy, Mr. William G. Florence, a recently retired Air Force official with 43 years of experience in the security classification field testified that more than 99 percent of the information classified under Executive Order 10501 did not meet the secrecy criteria that warranted such protection in the national defense interest. He pointed out that overclassification on such a massive basis actually undermined and endangered the truly vital defense and foreign policy secrets.

Our hearings this year have focused on the President's new Executive Order 11652, which he issued on March 8. His statement acknowledged the security classification chaos uncovered last year in our hearings and proclaimed the new order as the solution. Mr. Speaker, as I repeatedly have told my House colleagues the new order is full of technical defects and loopholes. A section-by-section comparative analysis of the old and newly proposed security classification executive orders was placed in the CONGRESSIONAL RECORD on March 21, page 9377. In my judgment, it is not the answer to the problem.

Yesterday, the subcommittee was privileged to receive new testimony from Mr. Florence on the sad state of the security classification system and the inadequacies of the new Executive Order. His conclusion is that the classification practice represents the greatest hoax of the century, and the new order itself does not require improvement. This expert also urged that Congress consider a statutory approach to the security classification system. He outlined certain criteria that he thought such a law should contain. Of course, the Atomic Energy Commission has for many years successfully operated its internal security classification system under a section of the Atomic Energy Act of 1954, as amended.

Mr. Speaker, I commend the testimony of Mr. Florence to all Members and include it in the RECORD at this point:

STATEMENT OF WILLIAM G. FLORENCE, SECURITY CONSULTANT, ON ISSUES IN CLASSIFYING AND PROTECTING NATIONAL DEFENSE INFORMATION

Mr. Chairman, I consider it a privilege to respond to the invitation of this committee to testify regarding the effect that the President's Executive Order of March 8, 1972, will have on the economic and efficient operation of the Executive branch security classification system. My comments will also explore actions which Congress could take to provide for safeguarding official information vital to the national defense without abridging the freedom of speech or of the press.

These comments are made as a continuation of my testimony before this subcommittee June 24, 1971. I had retired from employment with the Federal government after 43 years of military and civilian service. The last 26 years of my service had involved responsibility in the Department of Defense for developing and implementing policy for classifying and safeguarding information relating to the national defense. Since June 1971, I have served as Security Consultant to Government contractors and others concerned with matters involving consideration of defense interests.

Mr. Chairman, secrecy in the Executive Branch of the Federal government has developed into one of the most serious problems of our time. There has been an increasing tendency of Federal bureaus to operate in secrecy. This has created a state of antagonism between the Executive branch and the people of this country, including the Congress.

Thousands of officials and employees view Members of Congress and other outsiders as adversaries. Denial of information to Congress and the public has become a way of life in the Federal bureaus. It is most significant that this subcommittee has received testimony from various departments and agencies within the past two months acknowledging the need for drastic changes in attitudes of personnel in those organizations before there can be any change in the practice of withholding information from the Congress and the people.

The greatest difficulty stems from misrepresenting the interests of national security as an excuse for secrecy. This assumption of censorship power in the name of national security has grown to the point where the Executive branch believes that it can deny any private citizen the right to discuss with other citizens the information he knows or possesses, if some official happens to object to the disclosure.

The attempt in June 1971 to stop newspaper publication of the Vietnam Study was clearly an act of arrogance. The subsequent allegation of criminal action on the part of private citizens in disseminating the information required a strained administrative interpretation of the espionage laws that is without precedent in our history. The freedom of men who published *historical* information of great interest to the Congress and the United States is at stake this very moment *solely* because they did not get some Executive branch functionary to cancel an outdated and unjustifiable security classification marking.

I frequently ask myself, "What on earth has happened to my fellow citizens that they put up with Executive branch officials who acted and still act so vindictively against Dr. Daniel Ellsberg for performing a service to all of us which at least equalled in importance most of the successes our heroic field generals ever achieved in battle." I also shudder at the thought of Executive branch officials going into Federal District Court for an injunction against Mr. Victor Marchetti publishing information involving Central Intelligence Agency matters of real interest to the people, but at the same time insisting to the Court that since the reasons were marked "Secret" they could not be disclosed to the defendant's counsel and witnesses. The Executive branch had to be *ordered by the Court of Appeals* to disclose the reasons so that the defendant's rights could be protected.

The several court cases of 1971 and 1972 show that the more secretive the Executive branch becomes, the more repressive it becomes. It has adopted the practice of honoring its own *internal secrets* more than the right of a free press or the right of a citizen to free speech. The gravity of the actions brings to mind the following words of James Madison: "I believe there are more instances of the abridgment of freedom of the people by gradual and silent encroachments of those in power than by violent or sudden usurpations."

Mr. Chairman, there is abundant proof that the administrative security classification system currently in Executive Order 10501 is the source of most of the secrecy evils in the Executive branch. Loose implementation at the outset, and incredibly inept administration of the policy in recent years, have invited and promoted widespread use of the three security classifications, "Top Secret," "Secret," and "Confidential." There is also a constant flow of propaganda reflected in slogans such as the Department of Defense distributes in an effort to convince every person that security is *his* responsibility. They include the threat of punishment as well as a plea to follow the security line.

Attitudes of literally millions of people everywhere have been influenced toward secrecy and the sanctity of the three classification markings. The people have been so thoroughly misled that they accept as fact the gigantic falsification that a conflict exists in the Constitution between (a) the right of citizens to know and discuss the activities of their government and (b) a need for the Executive branch to keep information secret.

The contagion of the classification philosophy long ago reached the point where the security system in Executive Order 10501 represents the greatest hoax of this century. Officials occupying even the highest positions in our government have been conditioned to promote the belief that the words "Top Secret," "Secret" and "Confidential" on a paper automatically give it a substantive value of extraordinary importance, and beyond the ken of most people.

Two examples are given to show how deadly serious the misconceptions about classification markings have become:

(1) Shortly after the *New York Times* started publishing portions of the Vietnam Study last June, a statement attributed to the President by his press secretary reflected clearly the belief that prosecution was indicated on the basis of a classification marking having been assigned to the study. Criminal action stemming from the classification theory is still in process today.

(2) One of the most noted among the members of the United States Senate [Senator Goldwater] wrote in an article also published by the *New York Times* last summer that, "Government papers marked 'Secret' and 'Confidential' should remain secret and confidential until such time as the Government sees fit to declassify them. The laws governing classification of Government papers were enacted to protect the majority of our people." [Note: There is no such law.]

That same misunderstanding in the Senate of the meaning, or lack of meaning, of classification marks was reflected again just a few days ago, April 25, 1972, when a member [Senator Gravel] was prevented by another member [Senator Griffin] from entering information in the *Congressional Record* solely on the basis of an assigned classification marking. At this moment, the Senate has yet to agree that it must use knowledge as it sees fit, regardless of some self-serving censorship action represented by a bureaucratic secret marking.

To me, it is appalling that people do not realize just how much *counterfeit* classification and *fake* secrecy the Executive branch imposes on the country. Last June, it was my privilege to help call the nation's attention to the intolerable abuses in the secrecy system. I testified that *at least* 99½% of the total documents in the country bearing security classifications did *not* qualify for classification and protection in the defense interests of the Nation. Later, in an article in the *Washington Post*, I expressed the conclusion that even at the Department of Defense headquarters level in the Pentagon, about 95% of the classified documents did not warrant any classification.

Since last summer it has been my personal observation that the rate of classification in the Department of Defense has *increased*, not decreased. Also, my observation of Department of Defense operations and contract work in the past 10 months has convinced me that at least *99.9%* of the existing classified documents do not warrant any classification. In other words, only about one-tenth of one percent of them, or *one in a thousand*, contain information the unauthorized disclosure of which actually could be prejudicial to the defense interests of the Nation. I have seen holdings of many hundreds of documents with classification marking and not a single one of them with any security value in terms of national defense. A person might search through thousands of so-called classified documents in contractor facilities as well as military units without ever finding information the unauthorized disclosure of which could be harmful to our defense interests.

Many of my associates who are engaged in work involving the safeguarding of defense information recognize the same degree of unnecessary classification that I have reported. One of the most critical comments I heard last year about my testimony on secrecy practices was made by the chief of a Department of Defense office having responsibility for conducting security surveys at contractor facilities. He told me that I should have reflected the fact that more than 99¾% of all documents with a security marking were unnecessarily classified. A few days ago, one of the top security classification officials in the Federal government stated as his own conviction that no more than one-tenth of one per cent of the information normally considered for classification could possibly cause damage to the national defense if it was released to the public.

There is a massive wastage of money and manpower involved in protecting this mountainous volume of material with unwarranted classification markings. Last year, I estimated that about $50 million was being spent on protective measures for classified documents which were unnecessarily classified. After further observation and inquiry, and including expenditures for the *useless clearances granted people for access to classified material*, it is my calculation that the annual wastage for safeguarding documents and equipment with counterfeit classification markings is over $100 million.

Consider just the waste of funds spent on so-called classified holdings of contractors. There are about 13,000 contractor facilities cleared to recommend use classified information. Some do not retain any classified material. But a great many store thousands of documents and other items with classification markings. Almost none of it actually requires protection in the defense interests of the nation.

Some of the facilities have such a limited quantity of classified material that it can be protected by employees as an integral part of their regular duties. Other facilities employ dozens of people to handle and guard classified material. If there was no classification, those employees would not be needed.

If we assume that only half of the 13,000 facilities use, as an average, just one employee on duties related solely to protecting information because of an assigned classification marking, and that wages and other annual security costs amount to only $10,000.00, the bill to the taxpayers for just those facilities alone would be $65 million. The total bill for safeguarding classified information within and outside the government would certainly be tremendous. My estimate of an annual wastage of $100 million, including protection of documents and equipment unnecessarily classified and the granting of worthless security clearances, is conservative.

The question often arises as to how the classification system could possibly get to be over 99½% wrong. The plain truth is that our present-day national defense effort does not lend itself to being crammed into a narrow military control system represented by current Executive order classifications. The strength of our national defense is not limited to military effort. It is intermixed with a broad dedication of the Federal government, in and outside the country, involving legislative action, foreign relations, industrial and economic development, international trade, and social endeavor as well as conventional military functions. Also, planning for our national defense has become as much an international function as a national effort.

A commensurate interchange of information within and outside the country among those who contribute to the strength of our national defense is essential to its success. The imposition of security classification markings on documents containing information which requires wide usage is absurd and extremely wasteful. The practice has proved frequently to be seriously damaging rather than helpful to the national defense.

However, counterfeit classifications are still being applied to information by hundreds of thousands of people today as in the past. The markings are apt to be put on any conceivable type of correspondence, data, plan, report, or other administrative material, without regard to whether the information has already been exposed or could not possibly be protected. Fantastic ideas and practices have evolved from this craze for classification, including the continuing classification of privately-owned information.

This subcommittee has an abundance of examples of unnecessary classification assignments showing that classification markings on a document usually are clearly unwarranted. I will describe only one at this time to emphasize how utterly ludicrous the classification system is in practice.

Compilations of *unclassified* information are still being *classified* frequently by individuals who seem to believe that multiplicity or complexity itself should be protected. The Department of Defense affidavit given the court last summer in the *Washington Post* case involving the Vietnam Study included the following: "it is sometimes necessary to classify a document in which no single piece or part is itself classified." This falsification of policy in Executive Order 10501 has led to unnecessary classification of millions of documents in the Department of Defense.

An example of compilation classification I gave last June was the RAND Corporation Memorandum RM-5684-PR, subject: Listing of Avionics for USAF Aircraft, February 1970. The Department of Defense assigned the Confidential classification to that document and carries it as being confidential today, notwithstanding the fact that the document contains nothing but listings of equipment published separately for each aircraft in pamphlets specifically marked "Unclassified" so as to facilitate widespread distribution.

Another example of the classification of unclassified information is a document prepared by the Massachusetts Institute of Technology for the Air Force Space and Missile Systems Office, with the title, "Assembly Manual—Gyro Float." It was issued in February 1971 with the classification of confidential, which was the responsibility of the Air Force. This document, with its confidential classification marking, contains the following statement: "Each section of this volume is in itself unclassified. To protect the compilation of information contained in the complete volume, the complete volume is confidential." Also in the Foreword of the document is the following statement, which is required by Executive Order 10501 on all classified documents held by contractors: "This document contains information affecting the national defense of the United States within the meaning of the Espionage Laws, Title 18, U.S.C., Sections 793 and 794, the transmission or revelation of which in any manner to an unauthorized person is prohibited by law."

This nonsensical practice of the Department of Defense not only is outrageously expensive in terms of wasted money but it is atrocious in its application to individuals who happen to become involved in an allegation of mishandling the unclassified information. I have seen people in responsible positions blindly take punitive action against employees in the government and in industry for handling such *unclassified* information as *being* unclassified.

Mr. Chairman, I have discussed at length the existing classification operations so that a comparative analysis of the new Executive Order 11652 will be truly informative.

The administrative permissiveness of Executive Order 10501 for secrecy proved to be fatally defective. The President himself acknowledged in statements made March 8, 1972, that "the system of classification which has evolved in the United States has failed to meet the standards of an open and democratic society." He condemned the controls on classification authority as having "proved unworkable," and stated that "the many abuses of the security system can no longer be tolerated."

This brings us to the President's answer to the existing intolerable classification system. Mr. Chairman, somehow the President manages to get the worst possible advice about information-security matters. He accepted recommendations of the Executive branch people who have been and continue to be responsible for the current fiasco, and promulgated in Executive Order 11652 substantially the same system that is now in Executive Order 10501.

Here is an analysis of Executive Order 11652 which I originally prepared for publication [*Federal Times*]. It shows that the Order *itself* does nothing to stop the proliferation of classification authority or eliminate unnecessary classification of information. The organization of content reflects a compromise of views, with the defensive attitude toward secrecy the clear winner. The gaps in regulatory coverage, including restrictions of authority to classify, requirements for declassification, exemptions from automatic declassification, and vitally important procedural controls, show a lack of understanding of information-security principles sufficient to achieve the purpose indicated for the order. It is manifestly less than adequate. Mr. Chairman, I ask that the analysis be entered in the record at this point.

Of major interest to this committee is the effect that Executive Order 11652 could have in relation to Exemption (b)(1) of the Freedom of Information Act. That exemption now permits a government agency to withhold from a requesting citizen *matters that are "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy"* (italics supplied).

The first problem is the fact that effective June 1, 1972, the new Executive order will refer to "national security information" and "foreign relations" instead of "national defense information" and "foreign policy." That is a legal matter that I assume will be resolved.

As for the practical effect of the secrecy system in Executive Order 11652, this subcommittee and everyone else in the country can anticipate the same rate of refusals by government agencies to release documents that applies today. The agencies which lose classification authority are likely, of course, to loosen up in their practices. But those hundreds of thousands of people who can continue to classify information *will* continue to do so. And they *will* continue to exempt their information from automatic declassification if at all possible. There is no reason to believe that the classifiers will be more inclined under the new order to cancel the classification on a document for the benefit of a private citizen than they are now.

The Executive branch witnesses who testified before the Subcommittee on Intelligence of the House Armed Services Committee March 8–14, 1972 and before this committee May 2, 1972 demonstrated beyond any doubt that needless classification and false secrecy will continue under Executive Order 11652. Their testimony specifically showed and reflected the following:

(1) Refusal to consider any coordination with the Congress in implementing the order. The Department of Defense consistently reflected an effort to withhold facts about its contribution to the order, and showed an attitude of defiance in response to specific inquiries about the status of implementation.

(2) The Department of Defense representative on March 9, 1972, showed a significant lack of understanding of the need to eliminate unwarranted secrecy classifications. He

stated that consideration of "competing advantages and disadvantages" is the Department of Defense approach to a classification decision. The idea of applying the "damage to national defense" criterion was not included. He also reported as commendable the fact that over 13,500 security classification guides have been reviewed to see about doing some declassifying, which, of course, should be done on a continuing basis. The disturbing fact is that the Department has more than 13,500 separate guides *requiring the classification of information* in addition to all other classification instructions. Furthermore, he stated that in the politico-military area of information, which evidently qualifies for wide classification coverage is his opinion, automatic declassification is not suitable after any time period.

(3) The Department of Defense representative on May 2, 1972, strongly supported the classification of various types of information currently carrying unjustifiable classifications, including the general term, "weapon system characteristics."

(4) Virtually every suggestion made to Executive branch witnesses, especially those from the Department of Defense, for specific controls to preclude needless classification and assure timely declassification were rejected on the basis that there will be too much material requiring classification.

(5) Slightly accelerated automatic declassification was hailed as the answer to the secrecy problem. However, even greater emphasis was given the view that security interests of the Executive branch would justify keeping a large volume of material classified for *30 years*, and some of it much longer. The Department of State testified to holding documents in secrecy for 75 years. Parenthetically, I submit that the practice of turning an official record into a mummy and keeping it from the people is as damaging to us as the practice of book-burning which we all deplored so much a few years ago.

Mr. Chairman, it is clearly within the responsibility of Congress to correct the abuses of administrative power now being exercised under the existing security classification system in Executive Order 10501, and which can be expected to continue under Executive Order 11652. It is an honor to have this opportunity to recommend certain legislative and procedural actions.

First, each committee of the Congress should withdraw immediately from any existing agreement or understanding with an Executive branch agency for safeguarding information assigned a security classification, and give assurance that protection will be afforded only upon request by the head of the agency having jurisdiction, unless the committee agrees that secrecy is required. With deepest respect for Congress and each Member, I submit that the prevailing practice of treating Executive branch classifications as being valid serves the secrecy interests of the bureaucratic classifiers, not the defense interests of this nation or the needs of the people. I cannot imagine a Member of Congress being less qualified than the hordes of security-oriented Executive branch employees to assess the importance of information required by the Congress to perform its constitutional functions.

The most suitable legislative action would be the enactment of a law to accomplish the purpose of Executive Orders 10501 and 11652, and at the same time serve the interests of Congress and the people regarding access to information. Any reasonable legislation that would provide a framework of law instead of an administrative regulation in which to protect such national defense information as can and ought to be protected would be a very worthwhile improvement. It is my belief that a bill should be enacted to do the following:

(1) Establish precisely the authority for the President and the heads of a few specified departments and agencies to designate certain official information as requiring protection against disclosure, so as to preclude actual damage to the national defense. The law would not *force* the designation of any information as requiring protection. But if an item of information *is* considered for designation, the procedures and restrictions would apply and be controlling *within the Executive branch.*

(2) Prescribe use of the single term "Secret Defense Data" for such information as may be designated for protection. No other classification would be permitted, but routing designators could be used to assist in restricting the distribution of specific items of information.

(3) Define as narrowly and clearly as practicable the criterion "would damage the national defense." Efforts in the past to define types of *information* requiring protection have always proved a failure. As reflected in our espionage laws, it is *injury* and *damage* to the national defense and to the United States that we are concerned about.

(4) Impose strict limitations on authority to designate information as Secret Defense Data. Only the head of an agency or an official designated by him could make the designation. His name and title would appear on documents containing the information. [He would have a "warrant" similar to a contracting officer.]

(5) Set practical limits for retaining information in the Secret Defense Data category, which would reflect the need to eliminate the current fiction about how this Nation would be harmed if its citizens should learn what the Executive branch is doing and has been doing in the name of national defense.

(6) Establish a specific standard for the dissemination within and by the Executive branch of Secret Defense Data. This would reflect the responsibility of the Executive branch itself to protect the information it considers important. That branch should not operate on the basis that it can make wide dissemination of classified information on the expectation that recipients would become subject to prosecution if they don't agree with the Executive branch ideas about security controls. A vitally important provision would make it *unlawful for any person to withhold or authorize the withholding of information from the Legislative branch* on the basis of its qualification for designation as Secret Defense Data.

(7) Direct that an official with appropriate staff be designated by the President to assist him monitor implementation of the law. A *report* of the various actions taken *would be submitted to Congress semiannually.*

Another legislative action of less complexity within the purview of this committee would be to amend the Freedom of Information Act by adding a subsection that would cancel or otherwise make inapplicable any restriction imposed in the name of national defense against public access to official records originated *three* years or more prior to enactment of the legislation. Exclusions could be made for Atomic Energy Restricted Data and any other type of information Congress might wish to specify. Experience indicates that three years is the limit of protection time for most information.

A third legislative action that this committee might initiate immediately, and quite possibly see enacted, would be to amend Exemption (b)(1) of the Freedom of Information Act so that it could apply only if the head of an agency or an official designated by him certifies that the material must be kept secret to preclude damage to the national defense. This action would be consistent with other proposals to limit classification authority to the head of an agency or to an official designated by him.

Mr. Chairman, I venture to suggest that action be taken as soon as possible to eliminate unjustifiable secrecy from our government. The people must have knowledge about what is going on to make intelligent decisions for themselves.

I again express my deepest thanks for the invitation to come before the committee and present these facts and suggestions.

ANALYSIS OF EXECUTIVE ORDER 11652: CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL

TYPE OF SYSTEM

The system for classifying information as top secret, secret, and confidential is outdated. It is substantially the same as the Army and Navy used before World War II to classify a very small volume of military information as secret or confidential. The system cannot work in a gigantic bureaucracy of millions of employees with millions of classification stamps.

SCOPE

A major improvement in Executive Order 10501 was substitution of the narrow terms "national defense" and "defense information" for the broader terms "national security" and "security information" that were used in Executive Order 10290. Reinstatement of the vague term "national security" in Executive Order 11652 invites wider classification coverage. (Also, the order is at variance with laws using the term "national defense.")

PREAMBLE

The claim that information classified under the order is exempted from public disclosure by the Freedom of Information Act is false. Exemptions are *permissive*, not mandatory. Also, the order misrepresents any "wrongful disclosure" of classified information as being a crime and subject to prosecutive action under the Federal Criminal Code. The truth is that there is no basis in law for an Executive order to threaten the press, members of Congress or anyone else for wrongful disclosure of information.

NUMBER OF CLASSIFICATIONS

Multiple classifications invite confusion, promote uncontrollable overclassification, and reduce the effectiveness of the security system. But the new order keeps three classifications. According to the Department of Defense General Counsel, adoption of a single classification was rejected because (1) NATO has a multi-category system, and (2) a top secret clearance would be expected for everybody, which would be too expensive. He did not reflect the fact that (1) we eliminated the restricted classification in 1953 after NATO had adopted it, and (2) clearances for access to classification categories are virtually worthless. Anyway, an individual's duties determine whether to permit him access to a given item of classified information.

CLASSIFICATION CATEGORIES

The top secret category in the new order is at least as broad as it is now. The secret category could include more information than at present. Programs need not be of vital importance any longer. The new confidential criterion "expected to cause damage to the national security" includes as much information as the existing "prejudicial to defense interests of the nation."

AUTHORITY TO CLASSIFY

Under Executive Order 10501, classification authority may be exercised only by a department head and such other persons as he or his representative designates. The delegation "shall be limited as severely as is consistent with the orderly and expeditious transaction of Government business." The *new* order only requires that (1) the head of a top secret classification department designate other persons who may classify as top secret, and (2) that the head of a secret classification department designate other persons who may classify as secret. In the top secret classification departments, *whoever* is delegated top secret classification authority may in turn designate *any or all* of his subordinates to classify as secret. In both the top secret and secret classification departments, *whoever* is delegated secret classification authority may in turn designate as *many* "officials" as he wishes to classify as confidential. The new order will eliminate existing controls and proliferate classification authority far beyond that envisioned by Executive Order 10501.

DECLASSIFICATION

Executive Order 10501 states that when classified information or material *no longer* requires protection, *it shall be declassified.* Heads of departments were directed to establish effective declassification programs on a continuing basis. Executive Order 11652 only states *who* shall *exercise* declassification authority. It does not require or even suggest any declassification of *current* information. The people could be getting *less* information in the future to use in making their decisions.

SCHEDULE FOR AUTOMATIC DECLASSIFICATION

Administration spokesmen have represented the new 10–8–6-year *automatic* declassification schedule in the new Executive order for top secret-secret-confidential information as the answer to the public's right of access to *historical* material. But the various authorizations for exemptions from automatic declassification will permit at least as much information to be kept classified as at present. For example, the following exemption in the new order is as broad as its counterpart in the existing order: "Classified information or material disclosing a system, installation, project or foreign relations matter the continuing protection of which is essential to the national security."

DISSEMINATION CRITERIA

The existing order limits dissemination of classified information to persons for the performance of *official* duties in the interest of promoting the national defense. The new order *expands* the dissemination criteria to persons whose access "is necessary for the performance of his duties." The limitation to official purposes has been eliminated. This reflects the wider scope of the new order as compared with Executive Order 10501.

SPECIAL ACCESS PROGRAMS

The new order broadens the authority of departments to establish "special access" programs, with special stamps to keep the people from knowing about them. The additional restrictions exist only because the effectiveness of classification markings has been ruined by wide abuse. Evidently, improvement is not foreseen.

FORMER OFFICIALS

The new order will permit former Presidential appointees to have access to any classified material which they signed or approved, or which came into their respective offices. This unjustifiable special privilege policy could only have been adopted in anticipation of continued massive unnecessary classification and massive unnecessary exemption from declassification.

POSSIBLE SANCTIONS

The new order, for the first time, requires that a person who abuses the classification process be told that he has violated a Presidential instruction. "Repeated abuse" will be grounds for a possible administrative reprimand. This has been hailed as a step forward in controlling overclassification. But the requirement will have no effect on the blanket application of classifications assigned by departmental regulations or classification guides for specified programs. And there really is no basis in lanugage such as "repeated abuse" to assume that individuals will get reprimanded. However, anyone unfortunate enough to be accused of mishandling documents with a counterfeit classification will probably get punished severely.

SEPARATE INSTRUCTIONS

Additional instructions will be issued by the President on access, marking, safekeeping, accountability, transmission, disposition and destruction of classified information and material. The procedures will control the effectiveness of the new order. Unquestionably, the reason that they were not published with the other instructions was that the people who drafted and staffed the order could not agree on what was needed. When the procedures are issued they will reflect the different purposes and operations of the participating departments. The basic principle of that security is the responsibility of command will surely be sacrificed for committee compromise.

INTERAGENCY CLASSIFICATION REVIEW COMMITTEE

A comittee of representatives of the Departments of State, Defense and Justice, the Atomic Energy Commission, the Central Intelligence Agency and the National Security Council, plus a chairman, will be established. Its functions will be (1) to oversee department actions to ensure compliance with the new order, and (2) to review complaints and suggestions made by anyone and assure that affected departments take appropriate action. But, in truth, no committee of employees can require that a department head do anything that he does not choose to do.

ASSESSMENT

If the people want unnecessary secrecy eliminated regarding Executive branch operations, they must look somewhere other than Executive Order 11652 for the answer. The President changed the number and some of the language in the existing order. But he re-established the same system for administrative classification and censorship that he condemned as having failed to meet the standard of our open and democratic society.

CONGRESS MUST NOT TIE THE PRESIDENT'S HANDS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. ARCHER. Mr. Speaker, the President's decision to continue the military pressure on North Vietnam so long as the invasion of the South continues, combined with his insistence on serious negotiations in Paris, offers the best hope for an end to the war. I sincerely hope that the American people—and the Congress—will stand behind the President during the very trying weeks ahead. I am hopeful, therefore, that the Senate will strike title VII from the bill, S. 3526, now under consideration. There can be no justification for limiting the President's bargaining position at this critical time.

I would like to commend to the attention of my colleagues the following editorial from the Houston Chronicle of April 19, which further explains the dangers involved:

FUND CUTOFF PROPOSAL DANGEROUS

The move by the Senate Foreign Relations Committee to cut off funds for all U.S. combat operations in Indochina after Dec. 31 is dangerous.

The committee would destroy the ability of the President to negotiate any peace settlement with the Viet Cong and the North Vietnamese. It is difficult to believe the senators who favored this move gave full consideration to the consequences of the move they are supporting.

Any final solution to the Indochina dispute must be reached at a bargaining table. What these senators propose to do is take all the cards out of the President's hand as he seeks agreement on a stable Indochina.

The fund cutoff is in the form of an amendment to a bill authorizing funds for the State Department.

We agree with Sen. Robert P. Griffin, R-Mich., who said a fund cutoff would simply "weaken the President's hand and encourage the enemy just when the President is moving toward serious negotiations with Moscow and Hanoi."

The amendment even produced a schism among those who have for many years called for a speedy end to the Vietnam conflict.

War critic George Aiken, R-Vt., dissented in the committee vote, declaring: "I vote against accepting the North Vietnamese terms. All the North Vietnamese have to do is back up behind the DMZ."

Sen. John Sherman Cooper, R-Ky., who has sponsored antiwar amendments in the past, said he abstained from voting because "we are in a battle right now."

The Senate panel is wrong to attempt to tie the President's hands as he seeks an end to this conflict. We urge the full Senate to remove this language from the bill.

J. EDGAR HOOVER

HON. JOE D. WAGGONNER, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. WAGGONNER. Mr. Speaker, I would like to join with all Americans and freedom lovers throughout the world in expressing my feeling of deep personal loss at the sudden passing of J. Edgar Hoover, whom I consider one of the greatest and most unforgettable Americans of our time. For almost half a century, people in this country felt more secure, knowing this great man had the FBI at work, guarding our internal security against foes from within and without.

Directing one of the world's largest investigative law enforcement agencies is a demanding job, but J. Edgar Hoover rose to the challenge for 48 years with a sustaining power and presence that I daresay was never bent by political armtwisting by anyone in the whole Federal Government, or the whole Nation for that matter. But just as this legendary American with the stony composure received countless recognitions for his passionate and unrelenting efforts to maintain law and order, he just as often came under unwarranted attack. But that, of course, would be the plight of any man whose relentless strive for perfection elevated him above harrassment, and brought the highest level of police work this Nation has ever known.

So tireless and effective was his opposition to the forces of organized lawlessness, in fact, that it won him the confidence of eight Presidents, five of whom ultimately rested on the same draped bier where we honor him today. His devotion to his work left little time for a life of his own. For the FBI was his life, the wellspring of his being, and he took a relatively small body, just 16 years old, and turned it into a nationwide corps of highly trained officers that became the envy of several continents.

Since J. Edgar Hoover was a legendary man, we really cannot say he has died, for legends live on in extensions and reflections of their monumental meaning. Therefore, I hope and pray that whoever is permanently selected to continue his great work will have the vision and vigor to lead his men down the winding road of accomplishment which they walked under his tutelage.

My heartfelt sympathy goes to John Edgar Hoover's loved ones in this time of great grief, when most of the Nation is in a state of mourning. A great man is gone, but his accomplishments live on in a blaze of immortality.

AS AN INVESTOR, HE MAKES YOU WONDER—AS A PRODUCER, HE MAKES YOU MARVEL

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. ZWACH. Mr. Speaker, the New Holland Farm Equipment Co. has been running a series of advertisements in our Nation's newspapers pointing out the problems faced by our producers as they supply in abundance and at bargain prices, the food for America and much of the rest of the world.

For those of us from rural America, there is nothing new in these advertisements. I have enumerated them many times in my correspondence and in statements in the RECORD. But I want to commend New Holland for spending their money to get this message to the American people.

To reinforce my previous comments and to give wider scope to these statements of New Holland, I insert this advertisement into the CONGRESSIONAL RECORD:

The average Class I farm in this country—one with farm-product *sales* of $40,000 per year—represents a capital investment in land, buildings and equipment of $300,000.

All of which probably sounds very impressive until you realize that the farmer owning all this nets an average of only $14,000 from this sizeable investment.

Now consider this: By investing the same $300,000 in government bonds, he could realize a greater income every year without so much as setting foot outside his front door.

Then why does a man continue to farm? Mostly because farming, for all its change and modernization, is still a way of life. A way of life some men enjoy and want to stick with. And because of this, they measure part of the return from farming in something other than money.

We're fortunate they do, because our farmers have wrought minor miracles in the production of food and fiber.

AVERAGE HOURLY RATES

Farmer, $1.57.

Food Marketing Employee, $2.83.

Factory Worker, $3.19.

Item: Corn yield per acre has zoomed 180% since 1940 and wheat yield has doubled in that time.

How do all of us benefit from this bounty? Each year we are able to spend a smaller percentage of our income on food. In 1950, Americans earmarked 23.7% of income on food; in 1970, it dropped to 18.5%. A West German, by comparison spends fully ⅓ of his income on food while a Russian spends a staggering 55%.

Thus unburdened, Americans find themselves with disposable income to support a wide range of consumer goods and services.

We can—and do—pour money into education, automobiles, household appliances, housing. It isn't stretching a point too much to say that our farm abundance gives a big boost to our national affluence.

It's something to think about next time you load up your basket at the supermarket.

Item: In 1945, one American farmer fed 15 people, today he feeds 45.

Item: An hour of farm labor produces seven times as much as it did in 1920.

Item: In the 1960's alone, productivity of the average farm worker increased by 6% a year vs. only 3% for nonagricultural workers.

CALIFORNIA WATER PROJECT NEARS GOAL

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. HANNA. Mr. Speaker, over a decade ago, the people of California committed themselves to a $2.8 billion plan to transport water from northern California to southern California. The State was at that time confronted with the ironic problem of a severe water shortage in the south and frequent floods in the north. The future progress of the State hinged on a balanced distribution of the State's water resources.

I am happy to report that that balance is soon to be a reality. Industry, homes in Ventura, and Los Angeles Counties are now using northern California water, thus lessening the demand for water from the Colorado River. By 1976, 124 southern California communities will be using water from northern California.

The following article from the Los Angeles Times describes the project more fully, and it is with great pleasure that I bring it to the attention of my colleagues in the House:

NORTHERN WATER FLOWS THROUGH SOUTHLAND TAPS—INITIAL DISTRIBUTION GOES TO POPULATION OF 300,000 IN VENTURA AND LOS ANGELES COUNTIES

(By Ray Hebert)

Water from Northern California began flowing into Southland homes for the first time Monday.

More than 10 years after work started on the $2.8 billion California Water Project, northern water reached nearly 300,000 persons in eastern Ventura and western Los Angeles counties.

Water officials said the first distribution of the new water supply came "barely in time" to stave off some shortages in a year of extreme drought.

The supply, they pointed out, eased a situation which threatened to create problems in providing water for agricultural use—and possibly for cities—in Orange, Riverside and San Diego counties.

Southern California's huge Metropolitan Water District made the first deliveries of northern water from Castaic Reservoir, 35 miles northwest of downtown Los Angeles.

IN USE WITHIN HOURS

And within hours it was being piped into homes, factories, businesses and ranches in cities and communities served by the Calleguas and Las Virgenes municipal water districts.

The sprawling Calleguas district has a population of more than 250,000 and includes Oxnard, Camarillo, Conejo Valley, Simi Valley, Moorpark and other parts of Ventura County.

Las Virgenes serves an area with a population of about 20,000 in the western San Fernando Valley and the Santa Monica Mountains west of Topanga Canyon.

The two districts had shut off their supplies of Colorado River water, also provided by Metropolitan, before they started receiving the new water from the Feather River and other Northern California streams.

The new supply, transported south through more than 500 miles of state Water Project aqueducts, dams and other facilities, had been backing up behind Castaic Dam since mid-January.

PROCESSED AT NEW PLANT

In making its first distribution of northern water, Metropolitan processed the supply from Castaic at its new $50 million Joseph Jensen Filtration Plant in the Granada Hills area.

From there it was fed into the district's Sepulveda Feeder which connects with a line across the San Fernando Valley through which Calleguas and Las Virgenes have been reeciving Colorado River water.

Officials said residents using the new water from Northern California for the first time were not likely to notice any difference in taste from the Colorado River water they have been receiving.

The northern water, however, is much softer and they might notice it in washing.

Colorado River water has 360 parts per million of hardness compared to 100 for northern water, Metropolitan said.

The new water supply could be a stimulus for a resumption of growth some sections of the Calleguas district experienced during most of the 1960s.

The Simi Valley, for example, was one of the fastest growing areas in California.

Some officials have predicted the Calleguas area could hit a population of 1 million in less than 30 years if enough water is available.

The arrival of the new water supply in Ventura and western Los Angeles Counties will make it possible for Metropolitan to make more of its existing Colorado River supplies available for other cities in the six counties it serves.

It also resolves a drought problem which had prevented Metropolitan from filling Lake Mathews, terminal reservoir for Colorado River water, for the first time in the district's history.

Lake Mathews is about 30,000 acre-feet short. Metropolitan is expected to receive about 50,000 acre-feet of northern water this year.

AREAS SERVED

Much of this water, following the lead of Calleguas and Las Virgenes, will be distributed to the South Bay area and to such cities as San Fernando, Burbank, Glendale, Santa Monica, Beverly Hills, Culver City and Inglewood.

By 1976, Metropolitan officials pointed out, all 124 cities and communities it serves will be receiving some northern water.

"We would be running out of water in a very few years (without the state project) . . ." Frank M. Clinton, Metropolitan's general manager, said.

Metropolitan is the largest contractor for state water. It will be receiving about 75,000 acre-feet more each year until it reaches its annual contracted amount—2,011,500 acre-feet.

However, about one-third of the new Northern California supply will be used to replace an estimated 60,000 acre-feet Metropolitan will lose to Arizona when the multimillion-dollar Central Arizona Project is completed.

A 1963 U.S. Supreme Court decision awarded half of Metropolitan's existing Colorado River supply to Arizona for the Phoenix-Tucson urban areas.

EFFECTS OF FORCED BUSING

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. YOUNG of Florida. Mr. Speaker, the disastrous effects of forced busing upon a school system were graphically outlined today in testimony before the House Judiciary Committee. Mr. Sam Buice, chairman of Parents Against Forced Busing, made an extremely effective presentation on what has happened because of court-mandated busing in my home community of Pinellas County, Fla.

Mr. Buice's testimony in support of a constitutional amendment to preserve neighborhood schools deserves our fullest attention. Here, in its entirety, is what he had to say:

TESTIMONY OF SAM BUICE

Mr. Chairman, distinguished members of the Judiciary Committee: Thank you for the opportunity of appearing before you to bring you the voice of Florida in general and Pinellas County in particular on this most important issue of forced busing of pupils to achieve racial balance in the public schools.

Parents against forced busing is a 50,000 member strong organization of parents and citizens dedicated to the neighborhood school concept and equal educational opportunity for all children, but adamantly opposed to forced busing of pupils to achieve racial balance.

We in Pinellas County are experiencing the evils of forced busing and can testify from first hand experience that nothing good has been accomplished by forced busing either socially, economically or educationally.

There is ample evidence that race relations rather than improving, are deteriorating rapidly. Riots in the schools are commonplace. Students describe the schools as powder kegs and educators admit that little or no learning is taking place in the classroom.

In Dixie Hollings High School an estimated 30,000 pupil days have been lost—thus far—in the 1971–72 school year because of racial strife.

In Boca Ciega High School an estimated 20,000 pupil days have been lost because of rioting.

Figures from the school administration's public records verify the following facts:

"In the school year 1970–71 there were 11 reported assaults. In the school year 1971–72, September through March, there were 195 reported assaults, an increase of 1772 percent. At the elementary school level prior to the 1971–72 school year, there were 7 suspensions—for serious misbehavior. This was considered normal. In the 1971–72 school year, September through March there have been 150 suspensions, an increase of 2143 percent.

At the junior, senior high level there were 100 suspensions in the 1970–71 school year. In the 1971–72 September through March there have been 1200 suspensions, an increase of 1200 percent. Our schools are in a state of rebellious confusion and chaos. I quote from the St. Petersburg Independent newspaper, Monday March 17, 1972 caption "Racial Harmony Aim of Park Group."

Describing conditions at Pinellas Park Junior High School, where 1,000 students walked out March 14th, quote "in a formal statement issued by both black and white students following the walkout and a meeting with Principal Thomas Wooley, the students said: "All this year Pinellas Park Junior High has been a school of constant and seemingly endless turmoil and friction."

The following morning, Tuesday, April 18, 1972, from the St. Petersburg Times newspaper, caption "Fence to Go Up at School." The story relates how the administration had decided to erect a six (6) foot chain link fence to keep pupils in and troublemakers out.

In a related story from the St. Petersburg Times dated Tuesday, April 18, 1972, caption "Dixie Hollins Gets Warning on Accreditations." This story relates how Dixie Hollins, because of its turmoil and strife has lost the interest of the pupils. The report from the accrediting team from the Southern Association of Colleges and Schools, as reported in the St. Petersburg Times states, "the report found fault with the schools activities programs and observed that the school spirit that once flourished here is now at a low ebb."

The report concludes, again I quote from the St. Petersburg Times, "Despite the fact that recent *violent upheavals* often brought about by circumstances beyond the control of school officials—can understandably cause a staff to be "gun shy" in regards to allowing more student activity. The faculty and staff must generate new enthusiasm and vigor so that young people will feel that they are a part of Dixie Hollins and not just students attending Dixie Hollins."

These are not isolated cases, they are ones which made news in April 1972.

Economically our school system is on the verge of bankruptcy. Florida statutes allow each school system 10 mills on which to operate without referendum. The Pinellas County School Board insists that to maintain quality education under the present court ordered forced busing plan to achieve racial balance, they need an additional 4 mills, or eight million dollars per year.

This referendum was submitted to the voters on September 14, 1971 who for the first time in the history of Pinellas County rejected it by a margin of 3 to 1. This was not a vote against quality education, but a protest against forced busing to achieve racial balance.

Parents against forced busing led the fight to defeat this millage election. However, we have stated publicly that we will also lead a drive to pass a millage levy for all the money needed for quality education for *all* children once we are assured this money will be spent for quality education for *all children* and not for forced busing to achieve racial balance. We will lead this drive once we are assured that our children will no longer be used as pawns in a socio-economic experiment by Federal judges in direct violation to existing laws and far in excess of any Supreme Court rulings.

From the educational standpoint, I submit a statement from a man very high in school administration here in Pinellas County, but who asked that his name not be used, "If an honest achievement study were made at the end of the 1871–72 school year it would be found that education is nil".

It is not necessary for me to trace the history of busing for you distinguished lawmakers. However, in the interest of pointing out the intolerable situation in Pinellas County, please bear with me as I briefly review the past and observe the present.

In the landmark decision of 1954 Brown versus the Board of Public Instruction, the Supreme Court ruled that under the equal protection of the law clause of the 14th amendment no child could be assigned to any school because of race, color, creed, sex or national origin. The equal protection clause in its simplest form says that no State can treat one person in a given situation differently than it treats another person in the same situation.

Every subsequent Supreme Court decision including the most recent Charlotte, Mecklenberg case has held to this conclusion, yet has clouded the decision with legal jargon to the extent of allowing lower courts enough latitude to impose their own judgment on the people even to the extent of violating the mandate of the Congress and the equal protection clause of the 14th amendment. It is a fact that we are being forced to violate the 14th amendment under the guise of enforcing the 14th amendment.

As an example Pinellas County schools are operating under an exact black white ratio. One child in a neighborhood is allowed to walk to the neighborhood school, but his enrollment fills the quota for his race. The child next door is bussed across town in order to maintain the racial quota for another school.

I submit to you gentlemen that both children are in the same situation but one is denied access to the neighborhood school solely because of race. If it was unconstitutional to assign pupils by race in 1954 it is unconstitutional in 1972.

Further you gentlemen know that transportation of pupils for racial balance is expressedly forbidden in the 1964 Civil Rights Act, yet, we are operating under Federal court orders in direct violation to this mandate of the Congress. I submit that portion of the order relating to black white ratios and orders to bus to achieve this ratio for your inspection:

"EXHIBIT A

"The student assignment plans submitted to this court by the defendant School Board involve modification of existing zone lines, elimination of all pairing and clustering, implementation of the zone-within-a-zone or satellite zone concept and increased transportation of students. The plan submitted to this court for the senior high schools in Pinellas County desegregates every high school so that each high school in the entire system will have both black and white students and no high school will have a student body with a majority of black students. The percentage of black students in each high school student body ranges between approximately 3.1 per cent and 17.5 per cent. The senior high school plan involves only a very minor zoning change from that plan which it formerly contemplated using for the 1971–72 school year. The student assignment plan submitted to this court for the desegregation of every junior high school in Pinellas County will result in all junior high schools having student bodies consisting of both black and white students and no junior high having a student body with a majority of black students. The plan of student assignment creates a percentage of black students in junior high school student body composition between approximately 5.6 per cent and 22.2 per cent in all regular junior high schools. The student assignment plan for the elementary schools in the Pinellas County school system is designed so that each elementary school will have both black and white students and no elementary school will have a student body with a majority of black students. All elementary schools will return to the traditional concept of kindergarten through sixth grade. The student assignment plan submitted to this court by the defendant School Board is designed so that the percentage of black students in each elementary school will vary between approximately 8.1 per cent and 24.9 per cent. The court holds that the student assignment plans do not violate the constitutional rights of anyone, white or black."

Regarding the President's proposed legislation and moratorium on busing, we are pleased that the President has made his thinking known regarding the evils of forced busing and we have hope that this will arouse the Congress to the extent that the American public is aroused.

There is much confusion and disagreement among the highest officials in the Nation as to the effect of this proposed moratorium.

Secretary Elliot Richardson of the Health, Education and Welfare is quoted as testifying before this committee on April 13th, that only "recent" busing orders would be subject to review. Recent is a relative word, our question is what will it do for Florida?

Acting Attorney General Kleindienst is quoted as testifying on April 12th, that the moratorium would affect every case ordered in violation of the 1964 Civil Rights Act.

Congressman C. W. "Bill" Young of Florida, who is with me here today has called on President Nixon for an investigation of the Pinellas County case which is certainly in violation of the 1964 Civil Rights Act. We respectfully add our plea for relief under the law to that of Congressman Young.

The people of Florida made their sentiments abundantly clear in the March 14th presidential primary when they were given the opportunity to vote yes or no for a constitutional amendment to prevent forced busing to achieve racial balance. The vote was an overwhelming 4 to 1 yes. Every poll across the Nation has reflected like sentiment.

Gentlemen, with this type of evidence, with forced busings proven track record of failure to achieve its stated goals in every area where it has been tried, with the overwhelming sentiment of America from the President down expressing disapproval of forced busing, how can you in good conscience do less than bring this matter out of committee and before the Congress who is elected as the voice of the people.

HON. J. EDGAR HOOVER

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BROOMFIELD. Mr. Speaker, it is with a deep sense of loss, that I rise to express my sorrow and shock at the sudden passing of J. Edgar Hoover. His passing has created a tremendous void, a void which will be difficult to fill. For, above all else, J. Edgar Hoover was a man who unselfishly and continually dedicated himself to the service of his country.

The accomplishments of the man were many and I am sure that history will duly record them. His work against organized crime and the Communist Party alone earned him the respect and admiration of his fellow citizens. In addition, he molded the FBI into the greatest law enforcement agency in the world.

However, to tell the story of the record that this man carved against crime without also speaking about the character of the man himself would render any eulogy incomplete. For J. Edgar Hoover was a man of almost unsurpassed integrity, character, and virtue.

It is not surprising then that the FBI during his tenure as Director has never been the subject of a scandal or ever been questioned concerning the integrity or fairness of its administration. J. Edgar Hoover nurtured and developed this agency into one which reflected the qualities and virtues which he held so dear.

As Director of our Nation's largest and most efficient investigatory agency, he had at his disposal the potential to wield overwhelming power over the course of our domestic and international affairs. It is a mark of tribute to the man that he never succumbed to such temptations. On the contrary, he was scrupulously careful to insure that his position and the FBI remain aloof from the affairs of politics.

Mr. Speaker, it is ironic and sad that 1 week from today J. Edgar Hoover would have marked the 48th anniversary of service to his country as Director of the FBI. Fortunately, as with all great men, he has left his mark upon his country and we are better for it. I am confident that in the days ahead, the FBI will continue to emulate the ideals which this great American practiced throughout his distinguished career of public service.

THE LATE HONORABLE J. EDGAR HOOVER

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. DULSKI. Mr. Speaker, I take this opportunity to join my colleagues in expressing shock and sincere sadness at the sudden passing of a great American.

The passing of J. Edgar Hoover is the passing of an era in our Nation's history. The story of the Federal Bureau of Investigation is the story of this man for it was to the FBI that he devoted himself during most of his adult life.

The FBI began to develop into the tremendous organization it is today only after President Coolidge named him director and gave him full backing in putting operations on a professional and nonpolitical basis.

Mr. Hoover devoted 48 years of his life to public service. Few individuals in our history have served as long and with such determined and highly successful dedication as J. Edgar Hoover.

He was demanding and exacting with all who served under him, but no more so than in the demands and efficiency he imposed upon himself.

He had his critics, many of whom were unknowing and unreasonable about what Mr. Hoover and his organization were trying to do in the public interest. I have noted many of these same individuals are coming forth to praise him now that he is gone.

For myself, I always have had the greatest respect and admiration for both Mr. Hoover and the FBI. He has been in the forefront of efforts to enforce law and order.

His arena was national, but he was ever ready to devote as much time and staff as he possibly could spare to help State and local law enforcement agencies improve their systems and train their men to meet ever-changing threats to our daily lives.

Mr. Speaker, a great American has left our worldly midst. But he has left behind for us a legacy of devotion to duty and country which should be an inspiration to all. He was on the job to the last.

CONGRESSMAN SHOUP'S DISTRICT MEETINGS ON PUBLIC LANDS MANAGEMENT

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. SHOUP. Mr. Speaker, I invited interested citizens for a meeting at Big Sky Village, Superior, Mont., to search for ways to protect the forest environment and the local economy. The meeting was held April 1, 1972. The following describes the results of the meeting:

SUMMARY OF MEETING

Congressman Shoup opened the meeting by stating a conflict of interest existed between those wishing to protect the environment and those whose jobs depended on the continued harvesting of timber. Shoup said previous meetings had demonstrated many areas of agreement between the two factions and expressed the hope that the problem could be solved to the satisfaction of both parties.

Shoup said expressions of concern had reached him regarding how a lack of timber sales on U.S. forest lands could force businesses to close and unemployment, which was already serious, to become a greater problem.

Shoup said he hoped to have a clearer picture of the entire problem, as a result of the meetings, to enable him to draw up corrective legislation. He then called on Mr. Jack Large, Forest Supervisor for the Lolo National Forest, to speak on the situation in his area of responsibility.

Mr. Large spoke of the problems involved in identification of candidate areas for wilderness. He said new disciplines: gydrologists, landscape architects, geologists, wildlife biologists, and others are now used in planning timber sales with the intent of meeting objections raised heretofore.

Large said 158 million board feet had been programmed for sale last year in the Lolo National Forest, 96 million board feet this year and 132 million board feet for the coming fiscal year. He related that sales had been scheduled for unroaded areas, which have since been withdrawn, and that much mature timber already has been logged off, leaving little for sales.

Shoup stated he would support line items in the budget which are intended for roads, rather than having them deducted from the proceeds of sales.

Mr. Large replied that frequently the Office of Management and Budget (OMB) holds up those types of appropriations. He said many sales are three years in the making, a year to acquire rights-of-way, another in reconnaissance and a final year to make the sale.

Shoup asked what effect the 96 million board feet would have on the economy of Mineral County.

Dave Owen, of the U.S. Forest Service, stated there is very little backlog now.

Jack Large stated that as sales grow smaller, costs go up.

Tom Phillips, Diamond Match Corporation, said they currently have 13 to 14 million board feet under contract and said the future looked bleak, although he felt other firms were in greater difficulty. He stated that Van Evan and Pack River would be strong competitors for the sales in Mineral County. If timber sales were to stop entirely, he said they could operate for possibly two years, and at the end of one year they would be starting to feel the pinch.

Dave Owen said the U.S. Forest Service was having some difficulty in meeting all environmental requirements, but he felt they would be able to keep up with their goals.

Jack Large said that the federal employee reduction may require the USFS to contract some services . . . such as building roads . . . which would cut back the proceeds from sales paid to the counties. He said he agreed with me that some roads had been built to standards higher than neccessary, which caused sale prices to escalate while, in some cases causing a meager return to the counties.

Ken Sims, a logger, complained that the roads frequently were poorly designed. He cited an instance where they were able to demonstrate to a ranger a better routing and began to build the road as so agreed. In the meantime, the ranger was transferred and his replacement, not understanding the informal agreement, held up further construction causing a loss of $30,000 in down time. Sims closed by saying that an experienced contractor, on the ground, could frequently build a better road.

Shoup said that, in conversation with Steve Yurich, Regional Forester, he had said the USFS policy required one good trunk road into each area.

Jack Large noted that it was difficult to allow contractors or dozer operators to willy-nilly build roads, since cuts and fills had to be mathematically balanced. He added that this was a USFS responsibility and said that if the dirt were to roll down a slope and into a creek, his agency would be required to account for it.

Shoup spoke of a bill pending in the House, introduced by Congressman John Kyl, Iowa, which would provide for reforestation. Funds would come from existing tariffs on imported wood products. He said immediate plantations in logged-over areas would have the effect of increasing the present allowable cut on a sustained yield basis.

Jack Large, responding to a question, from an unidentified individual, on restraints of mining activity, said mining had been less restricted than had logging operations. He noted that restrictions on the manner and use of heavy equipment have been implemented in line with new environmental constraints.

An unidentified individual asked if there was anything being done to assist western Montana counties with "in lieu of tax payments."

Shoup spoke of the difficulty counties have in budgeting on the basis of stumpage. He stated the Public Land Law Review Commission has been aware of the problem and has made recommendations and policies are now being worked out; however, Shoup said he wasn't aware of any time table other than that a bill would be introduced expressing the sense of Congress on the subject and the hope that it would pass during the current session.

David Owen stated that productive timber areas within the state have shown a high return, but that the state has used those monies as their share of the school foundation program. He felt that work should be done at the state level to alter the policy.

An unidentified individual asked why the USFS was trying to put large portions of the forests into wilderness status.

Shoup stated that in Region I there are about seven million acres, 1.5 million of which are being studied for possible inclusion into the wilderness system, while the balance is not being considered. He noted that it had been suggested that all unroaded areas automatically be considered as wilderness candidate areas but this had not been done. He said that the USFS had been trying to feel the public pulse and manage the forests accordingly, and when conservationists brought pressure to bear, the USFS responded accordingly.

Elmer Tillotson asked how the USFS had arrived at the 1.5 million acre figure for wilderness candidate study.

Dave Owens of the USFS explained how, in the Lolo National Forest, they had considered 11 areas using a rating system combined with public meetings to receive inputs from the public as to their needs. Qualities such as solitude, scenic beauty, lack of man and his works, plant and animal life, and undisturbed water courses and other items were considered in the study, while also weighing the areas mineral, timber and water resources and their possible present and future use in the local and national economy. He noted that the potential mineral values were extremely difficult to measure and consider in their studies; forcing them to put heavy reliance on the U.S. Geological Survey's recommendations plus conclusions drawn from old mining activity in a given area. He noted that while the USFS can suggest an area to be included in wilderness, only Congress has the authority to do so. He said areas which had previously been designated as primitive areas, were being managed by the USFS as wilderness and would continue as such until final determination has been made.

John A. Anderson complained that he felt the freedoms of the people were being withdrawn by the USFS.

Elmer Tillotson asked for clarification on how a wilderness status is arrived at.

Shoup stated that in each instance, the area is judged solely on its merits. He said if the area under consideration was thought to have significant amounts of commercial timber, it probably wouldn't qualify as wilderness.

Donna McVey asked what the USFS intended to do about trash and litter management in back country areas.

Jack Large conceded that the USFS had not as yet been able to solve the problem and likened the situation to the ones faced by many cities.

Dave Owen said that the present approach to the problem was to educate the public to clean up after themselves, since enforcement was nearly impossible.

Shoup said that the sincerity of those who littered, while professing a love of the forest, was suspect.

Jack Large commented that management of wilderness was difficult because of its size and lack of personnel. He added that the USFS must solicit the assistance of back country users in their management roles.

Russell Corn asked how moths damaged fir trees.

Jack Large said that not enough is known on the subject other than the moth does debilitate the trees and some die. He said research is being conducted to better understand what actually happens and how to prevent it.

Sharon Procopio asked if there was anything new to report relative to a possible interchange location at the west end of Superior.

Shoup reported that he had requested the Federal Highway Administration (F.H.A.) to rule in the affirmative on the request. I noted that the Montana Highway Department had recommended the interchange and the F.H.A. Division Engineer for Montana had endorsed the project. He said they had reason for cautious optimism in light of a favorable ruling on a similar interchange request elsewhere in the district.

An unidentified individual stated that a request for a federal grant had been filed in order for the community to build a hospital. He asked if writing letters to me and other members of the delegation would help in securing the grant.

Shoup said it would indicate public interest and support and urged them to write.

Ken Sims asked if there were figures available to demonstrate the worth to the national economy of each 1,000 board feet of timber processed.

Jack Large said he had seen such figures worked up to the economy of the Flathead Valley, but not for the nation as a whole. He said that it was commonly understood that each dollar, generated from forest products, went through the local community several times and the same product generated other dollars as it headed toward and reached its ultimate use. He cited the transportation industry, the building material dealers and craftsmen who all partake of the financial benefits.

Shoup stated he too had seen the Flathead Valley study and that, as best his memory served him, if the timber sales were held at the present schedule of 96 mbf with the current backlog, the Flathead Valley would lose $8,000,000.

Ken Sims paid tribute to the dedication of both industry and ecologists but said if the latter group does not condone cutting, they are then, in effect, favoring waste because the timber will either rot or burn. He suggested that an educational program be instituted to explain what occurs when harvesting by man does not take place.

Mrs. John Howell stated that ecologists had conducted an effective publicity campaign while industry had defaulted.

Jack Large said the pendulum is swinging back toward the center. He urged the people to attend and participate in public meetings in order that their views become known to the USFS. He added that the economic future of Mineral County looked bright, based on the availability of natural resources. He cautioned, however, that the land must be wisely managed to maintain the productive capacity of the timber, fisheries and recreation.

Elmer Tillotson asked what consideration the USFS gives to the economy in their management in their management decisions.

Jack Large stated that if, in management, a decision is made resulting in loss of one percent of the soil, then that was a wrong decision. He said the land must be managed to retain 100% of its potential for the future. If we allow a clear cut sale in which there is a loss of the soil base, we have erred, he concluded.

Shoup stated that in the past the USFS made estimates on the quantities of wood fiber available annually and invited its harvest but, due to complaints, that management method is no longer used. He said that the old system had encouraged investment based on USFS estimates of availability of timber and those estimates have now been proven to be excessively high. The resultant cutback in the allowable cut has caused economic hardship. He urged those present to continue to attend public hearings and let their opinions be heard regarding land management.

There being no further questions or comments, the meeting closed.

OPERATION PUSH

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. RANGEL. Mr. Speaker, there is a new organization dedicated to the economic, political, and cultural independence of black Americans. That organization is Operation PUSH led by the Reverend Jesse L. Jackson. Last month, PUSH held its outstanding New York soul picnic, a tribute to black heroes and heroines. As one who was privileged to attend this affair and as a strong supporter of Rev. Jackson's efforts on behalf of the black people of the United States, I am pleased to insert the platform of Operation PUSH in the RECORD at this time:

OPERATION PUSH PLATFORM

We, the People United to Save Humanity, believe that humanity will be saved and served only when justice is done for all people. We believe that we must challenge the economic, political, and social forces that make us subservient to others; and that we must assume the power (of being) given us by the Power of God. We believe that our worth as humane people is expressed in our united efforts to secure justice for all persons. We therefore, state our declaration of goals.

1. PUSH for a comprehensive economic plan for the development of Black and poor people. This plan will include status as underdeveloped enclaves entitled to consideration by the World Bank and the International Monetary Fund.
2. PUSH for humane alternatives to the welfare system.
3. PUSH for the revival of the labor movement to protect organized workers and to organize unorganized workers.
4. PUSH for a survival Bill of Rights for all children up to the age of 18 guaranteeing their food, clothing, shelter, medical care and education.
5. PUSH for a survival Bill of Rights for the aging guaranteeing adequate food, clothing, shelter, medical care and meaningful programs.
6. PUSH for full political participation including an automatic voter registration as a right of citizenship.
7. PUSH to elect to local, state and federal offices persons committed to humane economic and social programs.
8. PUSH for humane conditions in prisons and sound rehabilitation programs.
9. PUSH for a Bill of Rights for veterans whose needs are ignored.
10. PUSH for adequate health care for all people based upon need.
11. PUSH for quality education regardless of race, religion or creed.
12. PUSH for economic and social relationships with the nations of Africa in order to build African/Afro-American unity.
13. PUSH for national unity among all organizations working for the humane economic, political and social development of people.
14. PUSH for a relevant theology geared to regenerating depressed and oppressed peoples.
15. PUSH for Black excellence.

We are dedicated to reaching our goals through the research, education, development and execution of direct action programs that provide for economic, political and cultural independence.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

RARICK'S TESTIMONY IN OPPOSITION TO POLITICAL ACTIVITY BY TAX-EXEMPT ORGANIZATIONS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. RARICK. Mr. Speaker, I testified this morning before the Ways and Means Committee in opposition to H.R. 13720 and related legislation seeking to extend further privileges to special interest groups already operating tax exempt under existing law.

The testimony follows:

STATEMENT OF THE HONORABLE JOHN R. RARICK

Mr. Chairman, Members of the Committee, I appreciate the opportunity to testify today in opposition to legislation designed to quantify percentagewise the measure of legislative activity in which a section 501 (c) (3) organization may engage without jeopardizing its tax-exempt status.

I represent people, not special privilege groups or classes, some of whom already enjoy the benefit of tax exemption. This legislation would grant further special privilege by allowing organizations already enjoying tax exemptions to escape further responsibility.

Especially is this so when we consider that non-profit, tax-exempt organizations are authorized under many of the Federal programs to receive grants and Federal funds. The prospect that non-profit, tax-exempt organizations would be licensed to use taxpayers' money to lobby for further programs for greater participation and more Federal money to achieve their goals and objectives is unfair to say the least.

Examples of such action are: This large printed volume funded by an EPA grant of almost $50,000 in taxpayers funds to the Institute for the Study of Health and Society. It is entitled "Engineering A Victory for our Environment; A Citizens Guide to The U.S. Army Corps of Engineers." Any reasonable interpretation of the book shows it to be a manual for the mobilization of grassroots citizens—the environmentalists and ecologists—to deter or stop the U.S. Corps of Engineers water development projects. Projects which were also approved and funded by this Congress from the taxpayers dollars.

This is a paperback volume received gratuitously by every Member this week. It is called "Windows on Day Care" and acknowledges an OEO contract—OEO money authorized to help the poor and destitute.

Incidentally, both of these volumes are marked "Copyright" so despite tax subsidy they are limited in their distribution and reproduction without permission of the publisher.

Then the May 1st Washington Post reported the Meyer Foundation, started by its former board chairman, had made a $100,000 grant as matching funds for federal support of a child development center in Washington, D.C. The Comprehensive Child Development program was vetoed by President Nixon last year, yet the taxpayers are now forced to bear continuation of the program by tax-exempt seed money to continue the experiment until such time as it may become federal law and funded directly by the taxpayers.

THE PROVISIONS OF THE LEGISLATION

Affecting lobbying activities

The legislation presently before this Commission would license organizations privileged by exemption from taxes under Section 501(c)(3) of the Internal Revenue Code to devote 20% of their expenditures to communications with legislative bodies for the purpose of influencing legislation, 5% of which may be expended in communication with the general public for the purpose of influencing legislation. In other words, Mr. Chairman, this legislation would not only allow such an organization to lobby directly, up to 20% of its expenditures, but it would allow these organizations to, in effect, organize and influence the general public into a secondary lobbying force with far greater consequences.

Furthermore, this legislation which purports to place a 20% limitation on lobbying proceeds to exempt other activities in lobbying from any limitation.

(a) The dissemination of the results of nonpartisan analysis, study, or research;

(b) Appearances before or communications with a legislative body, at the request of the legislative body; and

(c) Appearances before or communications with a legislative body regarding matters affecting the existence of the organization, its powers and duties, or its tax-exempt status.

The inclusion of these exceptions renders the 20% limitation imposed by this legislation on lobbying expenses meaningless. Exception (a) would, in effect, exclude the cost of the only reasonable lobbying activity on the part of these organizations from the total amount allowed for communication with the general public. Tax-exempt organizations would be licensed to spend up to 5% of their total budget for emotional appeals to the American people inasmuch as it would place no restrictions whatsoever on expenditures to present so-called "non-partisan analysis, study, or research" to the American people. Exactly what makes such a study "nonpartisan," or objective, is not made clear, nor is it clear who will have ultimate jurisdiction over such a question.

Exceptions (b) and (c), in a similar manner, would exclude the cost of the only reasonable lobbying activity on the part of these organizations from the total amount allowed for communications with legislative bodies for lobbying purposes. In other words, Mr. Chairman, this legislation fails to quantify percentagewise the measure of lobbying activity in which a section 501 (c) (3) organization may engage without jeopardizing its tax-exempt status because it frees from any limitation the only reasonable lobbying activities available to these organizations. Presumably, the 20% limitation would be applicable only to those activities designed to manipulate public opinion to obtain the desired legislative action to please the tax-exempt organizations governing body.

Finally, the use of the word *normally* in lines 14 and 19 of page 2 of this legislation raises serious questions about the provisions of this bill applying any limitation to lobbying expenses or activities on the part of these organizations. This passage is worth noting in its entirety because it appears to render invalid any action against these organizations:

"Exemption from taxation . . . shall not be denied because a substantial part of the activities of such organization consists of carrying on propaganda or otherwise attempting to influence legislation, unless, with respect to the total of the amounts . . . paid by such organization . . . during each taxable year to influence legislation . . . *normally* exceed 20 percent, or (B) amounts paid or incurred by such organization . . . *normally* exceed 5 percent."

There is no attempt in this legislation to define the word *normally;* if, for example, it means an average over, say a five year span, then an organization could reasonably expect to spend 10% of its budget on lobbying activities for four of the five years and, all within the law, spend 60% of its budget for lobbying activities in the 5th year of the span. This possibility is certainly within reason as it is generally true that the legislative bodies of this country will not consider legislation affecting the same topic every year during a five year span, thus these organizations would not be affected except occasionally by legislation. Such a situation raises insurmountable obstacles to any attempt to maintain an objective legislative process in the representation of our people.

Affecting tax deductions for contributions

Mr. Chairman, the provisions of this legislation relative to tax deductions for contributions to these tax-exempt organizations appears to be totally unworkable. The bill reads, page 6, lines 17ff, "No deduction shall be allowed under this section for a contribution for the use of an organization described in subsection (c) if the contribution is made for the purpose of influencing legislation (as defined in section 501(f)(5))."

If this section of the legislation is enacted into law, two possibilities can occur: (1) either the charitable organization must ask that all donations be made for a specified purpose, in which case, the organization's ability to raise money will be seriously affected; or (2) an individual who makes an unspecified contribution to one of these charitable organizations or institutions covered by this legislation will be able to claim only that portion of his contribution that corresponds to the percentage of the organization's budget not expended for lobbying purposes. The absurdity of such a situation is evident, especially in the light of the recent hue and cry for simplified tax forms. The alternative—allowing a tax deduction for all such contributions regardless of use by the organization—is even more abhorrent and contrary to the American system.

THE EFFECTS OF THIS LEGISLATION

Enactment of this legislation could only result in increasing the power of the rich and super rich and their control over the life of the American citizen. This is not populist legislation; it cannot benefit the people in general. On the contrary, this is elitist legislation that can only benefit the ultra wealthy already in power in this country. This legislation would only legalize the pressure activities of the minority rule of those already in control of our society.

Consider, for example, the decision-making process of the organizations affected by this legislation. Usually this power rests with a governing board which is either made up of or controlled by the largest contributors to the organization. This is generally true on all levels of government.

As usual, money talks; and those people who, by virtue of their success in the public sector, can afford to make large, tax-free contributions to these organizations have considerable power and control over their activities. Not content with their already considerable power in public sector resulting from their economic power, they would now be licensed to further their influence while veiling their strength behind "charitable" causes.

Enactment of this legislation could but further increase the power of those men already in control of much of our lives by virtue of their economic power. Furthermore, passage of this legislation would enlarge existing tax loopholes by which the rich and super rich avoid their fair share of the cost of running our government and living in our free society. This legislation is doubly discriminatory. First, it discriminates against the taxpayer who receives no tax-exempt loophole; and, secondly, it discriminates against the taxpayer who is limited to a $50 "campaign contribution," yet is denied any voice in lobbying to influence the nation's political activity. If the Committee seriously considers this bill, I would suggest a 20% tax deduction to every American taxpayer and with similar exemption from the limitation as would be herein granted to the tax-exempt organization—all to be tax deductible. If we are going to open the doors for tax-exempt lobbying, let us at least give the taxpayer a chance in the fight for his Congressman's and Senator's votes.

Mr. Chairman, if we are to return "power to the people, this legislation should be stopped in Committee. I urge this Committee give every consideration of the evils of this legislation and then for the good of the American people kill it.

The War for Independence was fought over "taxation without representation"—Let's not go to the extreme of government-supported representation without taxation. I personally feel that the Committee would better spend its time and serve the American people by considering legislation to close the tax loopholes and tax all of the wealth of our land.

Thank you for this opportunity to appear before you this morning.

HON. J. EDGAR HOOVER

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. BURKE of Florida. Mr. Speaker, I rise to pay tribute to J. Edgar Hoover who has passed away from our midst in the Government of the United States. It will be a loss that will long be remembered and history should record his efforts in life with due respect. But, rather than mourn in sorrow, I believe Mr. Hoover, the departed Director of the Federal Bureau of Investigation, would have us look ahead, and take heed.

I, personally, would like to bring out those qualities in his life which should be a model for our present generation of young Americans, the qualities which will always enhance rather than retard that American way which has been the envy of other nations. For it is of individuals that our Nation is composed, individuals who pave way for others to follow and emanate. And J. Edgar Hoover was such an example.

Born on New Year's Day, 77 years ago in Washington, D.C., J. Edgar Hoover grew up in the Nation's Capital City. Although he was the smallest boy in his high school's cadet company, he soon became their captain. And guided by the ideal of doing one's best all of the time, "Speed" as he was nicknamed, "chastised" all his friends with a certain morality which was to become his hallmark in everything he did. There was never any question of honor and justice about him.

Graduated as valedictorian of his class, his determination to prove himself and succeed was always evident. He began as messenger in the Library of Congress, and evenings studied law at George Washington University. In due time he achieved the bachelor of laws and master of laws degrees and was admitted to the bar and practiced law.

After World War I, following some experiences in wartime counter espionage, he was appointed special assistant to then Attorney General Palmer, directing a newly created General Intelligence Division. In 1921 he was appointed assistant director of the FBI and 3 years later became its chief, which he has been ever since. It is no doubt the longest period that any public servant of his stature has served our Nation—over half a century.

Upon becoming the Director of the FBI, he found that it was a "sloppy, demoralized agency" which in a short time Hoover turned into "one of the finest, most efficient law enforcement agencies the world has ever known," according to Time magazine. Seeking other dedicated public servants to work with him he soon filled his staff with qualified members of the bar and experienced accountants. New departments of training were instituted, new scientific methods of criminal detection studies and a central bureau for fingerprints set up.

It was through these efforts and organizational skill that "public enemies" such as Baby Face Nelson, John Dillinger, and Pretty Boy Floyd were apprehended and solutions of a large number of kidnaping cases solved. He was indeed the man for those times, and admiration for J. Edgar Hoover by the public and Government officials grew daily. At the same time he became a target for those who feared law and order, and who belittled his efforts to maintain the safety and security of our Nation.

During this era of the 1930's, 1940's, and even mid-1950's, the idol of the American boy and girl was the "fighting G-man, destroying the forces of crime and evil." It was a healthy image for our youngsters—certainly much healthier and saner than ones being promoted from some quarters in this day—polluting the minds of our posterity and confusing them to no end.

The charges of his critics have been as unsupported as the denunciations against a truly dedicated public servant. His work was his life and the morality he adopted as young cadet in high school guided all his years of life. He said:

> In every field of human endeavor, he that is first must perpetually live in the white light of publicity. . . . When a man's work becomes a standard for the whole world, it also becomes a target for the shafts of the envious few.

The record of the Justice Department's Federal Bureau of Investigation is almost perfect—a yearly average of over 90 percent of cases brought to court.

When World War II came, Mr. Hoover again set about to organize his General Intelligence Division in the Bureau, viewing with clear perspective the menace communism posed to all free governments. This, naturally, only intensified the enmity and vengeance of this, and our Nation's detractors. All sorts of stories were aired about Hoover's personal life and the methods he used—for it was a do-or-die struggle to get Hoover out. Much like the "War of the Roses," it became obvious that Mr. Hoover had treaded on something "very touchy"—for which he would never be forgiven—much like our President Nixon.

To be an unremitting foe of corruption in politics will earn any decent man a "badge of courage," and Mr. Hoover has earned it every day, to his dying day. Serving under eight Presidents—from Coolidge to Mr. Nixon, who had their utmost confidence in his work, dedication to his country and its system of government, J. Edgar Hoover stands out well as a fighter for freedom—also much like our President Richard M. Nixon.

My fellow colleagues in the Congress, I could certainly go on and on extolling the virtues of our departed public servant, but after all is said, one should remember the most important attribute of this man "the quality of life and service he promoted and which we should understand and promote among ourselves and with our posterity. Like Plato the Greek philosopher whose motto was to seek perfection in every act one undertakes, so did Mr. Hoover promote and instill the need for excellence in performance. He realized that "a law enforcement agency is only as good as the support it receives from the public. And over the long run, the public cannot be fooled. Only demonstrated performance produces the respect and cooperation necessary to achieve the results FBI responsibilities demand—and which the public has every right to expect."

Particularly in this, "our age," when the call for excellence and doing one's best, has been so circumvented: When the encouragement for mediocrity and free handouts without effort is being promulgated—we should take heed of this departed man's goals in his own lifetime. Unless we do take heed, seriously, and begin propogating the morality which has always been the standard of our American way of life; unless each individual does every day to really "earn his keep" rather than demand something which rightfully he or she has not earned, then I can see only a downfall of the system which has offered so much to so many in the past; a system which is the unrealized ideal of those compelled to live under totalitarian regimes. The cornucopia of life cannot produce endlessly. There is a need for rededication to the ideals which made this country great so that we can continue developing the quality of life we all seek.

Rest in peace, J. Edgar Hoover. I believe that the ideals by which you were guided will take form with us and with our posterity as we are reminded of your life and your passing.

PENSION RELIEF FOR WORLD WAR I VETERANS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. SEIBERLING. Mr. Speaker, I would like to bring to the attention of my colleagues a situation involving our World War I veterans which urgently needs correction.

Several of my constituents who are World War I veterans have lost their veterans pensions when social security and another retirement pension were increased. This causes a great hardship to these individuals who rely on this money for basic necessities.

The purpose of increasing pensions and social security benefits is to account for increases in the cost of living. By cutting off veterans pensions when others are increased, this purpose is negated. The veteran is still in the position of trying to maintain a decent standard of living in an inflated economy—and, in fact, he is often worse off than before pension increases.

There is legislation pending in the Veterans' Affairs Committee which would exempt increases in social security, railroad retirement, and Federal retirement pensions as income in determining pensions for World War I veterans. I urge my colleagues on the committee to give this matter their immediate attention to help the veterans who gave their efforts when the country was in need.

FINAL REPORT OF THE AMERICAN ASSEMBLY ON THE UNITED STATES AND THE UNITED NATIONS, 1972

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. FRASER. Mr. Speaker, April 13 to 16, 1972, I joined 35 others at Arden House, Harriman, N.Y., in the American Assembly on the United States and the United Nations. The final report of this assembly is now available.

My colleagues will be interested in this product of our 4 days of discussion. The report follows, preceded by a brief description of the American Assembly and a listing of the trustees and officers of this affiliate of Columbia University:

THE AMERICAN ASSEMBLY ON THE UNITED STATES AND THE UNITED NATIONS, 1972

PREFACE

These pages contain the views of a group of 36 Americans who met April 13–16, 1972, at Arden House, Harriman, New York, to consider the United States role in the United Nations in the face of public and Congressional controversy over that organization greater than at any previous time in its history. Among the principal issues discussed were: use of the U.N. in American foreign policy; U.N. decision-making arrangements; financial and management problems; and federal government organization for U.N. affairs.

The meeting was held under the auspices of The American Assembly of Columbia University, which regularly convenes for the purpose of focusing attention on issues of public importance. The recommendations of this Assembly were adopted in a final plenary session on April 16 after two full days of discussion at a committee of the whole. There were also three evening sessions: an address by Justice Arthur Goldberg; and panel sessions with Assistant Secretary of State Samuel DePalma and Ambassador Charles Yost, and Congressmen John Culver, F. Bradford Morse, and James Scheuer.

The Assembly was directed by Richard N. Gardner, Henry L. Moses Professor of Law and International Organization at Columbia University and former Deputy Assistant Secretary of State Professor Bardner led the daily deliberations and prepared the draft report.

As a non-partisan educational forum The American Assembly takes no official stand on matters it presents for public discussion. The opinions herein belong to the participants, who represented themselves and not necessarily the institutions or persons with whom they are affiliated. The Charles F. Kettering Foundation, which provided generous financial support for this Assembly, is also neutral toward this report and is not to be associated with its findings and recommendations.

CLIFFORD C. NELSON,
President,
The American Assembly.

FINAL REPORT OF THE AMERICAN ASSEMBLY ON THE UNITED STATES AND THE UNITED NATIONS

(At the close of their discussions the participants in the American Assembly on *The United States and the United Nations*, at Arden House, Harriman, New York, April 13–16, 1972, reviewed as a group the following report. The report represents general agreement; however no one was asked to sign it; and not every participant supported every statement in it.)

The time has come for a major recommitment by the United States to the United Nations and the processes of multilateral diplomacy. Our government has already taken a number of initiatives to adjust our foreign policies to a world in which the United States no longer exercises preponderant power. The Nixon Doctrine embodies the principle that the United States should do less by itself and more in cooperation with others. The President has further called for a new "structure of peace" based on five major power centers—the United States, the Soviet Union, China, Japan and an enlarged European community.

While the search for a new power balance is a legitimate objective, a balance of power alone is not good enough. Balance of power politics, by itself, has never brought peace in the past. It will not do so in the future unless it is accompanied by institutional arrangements to accommodate the interests of the competing power centers. Moreover, countries outside the five centers of power will demand—and rightly so—a fair measure of participation in the world political process. The "structure of peace" which the President calls for needs a strong institutional foundation and expression—centered in the United Nations.

Balance of power politics, by itself, is inadequate in the face of the unprecedented situation in which mankind now finds itself. As a result of revolutionary developments in science, technology, economics and communications, the nations of the world face a series of common challenges that require common responses. These challenges include the expensive and dangerous arms race, the explosion of the world's population, the pollution of the common biosphere, and the rising demands of impoverished masses for a decent standard of life. New forms of global cooperation and even planetary planning are essential to insure the well-being and perhaps the survival of the human race.

We have reached a critical point in our country's relations with the United Nations—a situation that endangers the best interests of the United States. We have a vital interest in the development of international institutions to deal with mankind's common problems. Yet we appear to be on a collision course with the very international agencies in whose future we have an important stake.

We are defaulting on our multilateral commitments:

We have imported chrome from Rhodesia in violation of a legally binding embargo for which we voted in the Security Council.

We have refused to pay our assessments to the International Labor Organization.

We have failed to appropriate promised funds for the expansion of the U.N. headquarters in New York.

We have neglected to perform our part of internationally agreed arrangements to grant tariff preferences to developing countries, and we have so far neglected to provide promised additional resources for multilateral development banks.

Although these defaults are of recent origin, they are the culmination of a process of erosion in our multilateral diplomacy during recent years under both Democratic and Republican Administrations. While taking laudable initiative in areas such as disaster relief, population, the environment, narcotics, and seabeds, we have shown diminishing interest in the U.N.'s basic Charter functions of peacekeeping, development, and human rights. At the same time, our military actions in Vietnam and the Dominican Republic have further weakened the U.N. and respect for international law.

Other countries have often behaved even less responsibly toward international organizations than the United States. But the failures of others and the shortcomings of the U.N. system are no reason for us not to support international institutions and programs vital to our own and to the general interest. Moreover, the future of the U.N. and of the other great world agencies inevitably depends in large measure on what we do.

I

A major effort is needed to revive and improve the United Nations as a peacekeeping and peacemaking agency. The new tasks which the United Nations has assumed in such areas as environment, population and drug control are no substitutes for the United Nations' political role. Indeed there are limits to which these functions can be performed effectively by the U.N. if the political functions continue to atrophy. Without more effective peacekeeping and peacemaking, the U.N. is unlikely to command the public support and the institutional vitality required for the discharge of its non-political functions. Equally important, global functional cooperation cannot long endure in a world of violence and disorder.

The United Nations, with all its disappointments, has already made important contributions to international peace and security—in Korea, in the Congo, in Cyprus and elsewhere. Yet confidence in its peacekeeping and peacemaking role is now at a low ebb. Some critics see the cause in certain institutional difficulties—disparity between voting power and capacity to act, defects in the functioning of the Security Council and General Assembly, and weaknesses in the administration of the Secretariat.

Without denying many of these deficiencies, this American Assembly does not believe that they can be remedied by attempts at sweeping Charter revision. If a second San Francisco Conference were held today, it is doubtful that we could achieve as good a documentation as we have now. Most of the steps needed to strengthen the U.N.'s political role can be achieved without a change in the Charter by fundamental alterations in the policies of member states.

The most obvious change required in national policy is the willingness to apply the Charter limitations on the unilateral use of armed force and the willingness to submit political issues to the processes of peaceful settlement. It may be many years before certain members are willing to implement these fundamental obligations. Yet there is much that the United States can do to strengthen the United Nations by improving its own standards of international conduct and by taking initiatives in the U.N.

This American Assembly recommends:

1. We should apply Charter standards on use of force and peaceful settlement to our own behavior as well as to the behavior of others.

2. We should seek, at the highest political level, a resolution of the Charter issues over the initiation, financing and effective management of U.N. peacemaking operations. We urge the President to underline our concern with this question in his meetings with the leaders of the Soviet Union and other world powers.

3. We should support improved arrangements for preventive diplomacy under the auspices of the Security Council, the General Assembly and the Secretary-General, including strengthened fact-finding and mediation procedures. We should agree to accept such procedures in any dispute to which we are a party. Except in the most vital areas of national security, we should accept third-party judgment by a procedural majority in the Security Council, by a General Assembly majority including a specified majority of countries specially interested in the matter at issue or by decision of the International Court of Justice. Our self-judging Connally Amendment to the compulsory jurisdiction of the Court should be withdrawn.

4. We should seek the creation, at the earliest date feasible, and in concert with others, of those measures for peacekeeping and peacemaking which have been proposed by the Lodge Commission and recent policy panels of the United Nations Association, notably a standby U.N. peace force, a U.N. peace fund, a U.N. corps for humanitarian and relief missions and an enlarged group of military observers.

5. We should make available to the U.N. the most modern communications equipment and earmark airlift facilities for use in future peacekeeping emergencies. We should also urge the International Telecommunication Satellite Consortium (Intelsat) to make voice channels available without charge for U.N. operational requirements.

6. We urge the President and the Congress to observe the U.N.'s embargo on trade with Rhodesia.

II

We call for enlarged participation by the United States in multilateral economic and social cooperation. We should recognize that our interests in environmental protection and population control will not be achieved without a massive increase in the quantity and quality of global assistance efforts. Action in these areas will cost large sums of money that the developing countries do not have. Moreover, many of them will resist action in environmental and population control if international development assistance is static or declining.

We view with concern the tendency to regard some U.N. programs as exclusively favoring one group of nations or another. It is understandable that individual nations and groups of nations will attach priority to particular programs. However, it is essential to recognize that mutual support is necessary if all nations are to enjoy the mutual benefits that inevitably flow from effective international cooperation.

Until the middle of the 1960's, the basic limitation on the increase in multilateral efforts lay in the willingness of other countries to match U.S. assistance efforts. Today the situation is reversed. The volume of multilateral aid is limited by the unwillingness of the United States to put up its fair share. Such assistance should not be considered "foreign aid"; it is our investment in civilization.

The time has come to press much more vigorously for improvements in the administration of multilateral aid programs. The time has also come for the United States to be a recipient of, as well as a contributor to, U.N. assistance efforts.

We feel that it is essential for the United Nations to have the technical structure to research and develop models of systems which reflect the interrelationship of national human and environmental factors throughout our own global system.

Therefore:

1. We call upon the President to seek immediate Congressional action to appropriate our promised share of the funds for the International Development Association and the regional development banks.

2. We urge the President and the Congress to approve annual increases in our contributions to the U.N. development program, so that our yearly contribution reaches a minimum of $200 million by 1975.

3. We urge our government to condition these increases in our assistance on improvements in the headquarters and field operations of the UNDP, including the more rigorous application of performance standards.

4. We should seek advice and technical assistance from international agencies in dealing with pressing domestic problems, such as urbanization and mass transportation.

5. We urge our government to take steps to restore the vitality of the General Agreement on Tariffs and Trade and the International Monetary Fund so that they may become the principal forums for decision-making on trade and monetary questions. In place of the group of developed countries known as the Group of Ten, we propose the creation within the IMF of a policy group of finance ministers from both developed and developing countries.

6. We urge continued U.S. leadership at the forthcoming Stockholm Conference on the Human Environment, the 1973 Conference on the Law of the Sea, and the 1974 World Population Conference. To this end we propose the appointment of special ambassadors to direct our preparations for the Law of the Sea and population conferences.

III

The crisis in our relations to the United Nations finds acute expression in pressing financial issues.

It is indefensible that the United States should withhold funds from the U.N. system in violation of its legal obligations. There is no justification for refusing to pay our assessed dues to the International Labor Organization. Withdrawal from the ILO unless the Congress appropriates the necessary funds could deal a death blow to an organization needed to deal with world-wide problems in whose solution we have an important stake—mass unemployment and the achievement of fair labor standards.

Also indefensible is Congressional insistence that a portion of our U.N. assessments be paid in U.S. owned foreign currencies. Congress should appropriate as soon as possible the dollar amounts to liquidate our indebtedness on this account.

The U.N. faces a desperate cash shortage due in part to failure of members to pay their due assessments at the beginning of each calendar year. In this regard the United States is a major offender. We must pay our assessments on time.

Capacity to perform peacekeeping and other functions is also jeopardized by the large and growing deficit resulting from refusal to certain members to pay their assessed obligations, particularly the Soviet Union and France. These countries, together with the Peoples Republic of China, are also withholding that portion of their current budget assessments for certain contested items in the regular budget, such as payment of interest and principal on the U.N. bonds. Although we bear no responsibility for this part of the U.N.'s financial problem, it would be in our interest to make a reasonable contribution to a comprehensive financial settlement, provided the Soviet Union and France made substantial contributions.

Most serious of all is the controversy over fair shares of money and influence. Our country currently pays 31.52 percent of the regular budget of the U.N. There is some merit in the recommendation that the U.S. share of the U.N.'s regular budget be reduced to 25 percent "over a period of years." It is not in the interest of the world community for the U.N.'s basic operations to be overly dependent on any one nation's contribution. Taking into account the probable entry of the two Germanys into the U.N. in 1973 and the increases already agreed to in the assessments of other members, the U.S. share of the budget will be reduced to between 28 and 29 percent for the period 1974–76.

But we believe an effort to achieve a reduction to 25 percent in the immediate future is both impractical and unwise. It could be effectively achieved only by persuading virtually all of the developed non-Communist countries to forego the full amount of the reduction in assessments to which they would be entitled as a result of the admission of new members. We have no case for asking them to do this, since even after devaluation we represent more than 30 percent of the national income of the total membership. We could succeed in this effort only by the threat of unilateral Congressional action—a threat which could undermine their willingness to cooperate with us on other questions.

An effort to apply the 25 percent limitation at the next General Assembly would involve a misuse of our bargaining power in the U.N. for comparatively trifling amounts—approximately $6 million annual in the U.N. regular budget and less than $20 million in the assessed budgets of other U.N. agencies. We have bigger interests at stake on which to apply our limited negotiating leverage. The United States should be focusing on the question of how to achieve greater influence in the U.N.'s budget and policy-making process and how to persuade the organization to improve its financial and management practices. We can only compromise our chances for reaching these objectives through an abrupt reduction in financial support which polarizes U.N. attitudes and throws the organization into political crisis. As President Nixon declared in his "State of the World" message: "In view of the U.N.'s current financial difficulties, and of the requirements of international law, we must proceed in an orderly way in reaching this goal. It is unrealistic to expect that it can be done immediately."

Therefore:

1. Congress should without delay appropriate the funds owned by our country to the International Labor Organization and to the other U.N. agencies.

2. The U.S. should pay its dues at the beginning of each calendar year as called for in the U.N.'s financial regulations. The Executive Branch could take a step in this direction by paying the dues as soon as the funds are appropriated, but full compliance would require a double appropriation from Congress in one year. We urge the Executive Branch to seek such a double appropriation in the spring of 1973.

3. The United States should seek actively a comprehensive settlement of the United Nations deficit which would include retirement of the U.N. bond issue and removal of certain controversial items from the regular budget. We should also be prepared to waive monies owed us by the U.N. and be willing to make a modest cash contribution provided the Soviet Union, France, and other countries make substantial contributions.

4. The United States should not insist on establishing the 25 percent ceiling at the forthcoming General Assembly or for the 1974–76 triennium. We should, of course, receive our share of the reductions in our assessment to which we are entitled as a result of the admission of new members and the increases already agreed to in the assessments of other countries.

5. We should make every effort to increase our influence and the influence of other major contributors to U.N. budgets in the decisionmaking process on budgets and programs. We should seek such basic reforms as (a) creating a budget bureau within the Secretariat and (b) enhancing the authority of the Advisory Committee on Administrative and Budgetary Questions.

IV

To participate more effectively in international organizations we shall need to reform our domestic arrangements for shaping and implementing policy in multilateral diplomacy. Reforms are needed in the Department of State, and the White House, in the U.S. Missions to International Organizations, in the Congress, in the recruitment of Americans for the international secretariats, in techniques for mobilizing public support, and in performing our hostship obligations in New York City.

Responsibility for multilateral policy-making is now scattered through a wide variety of executive agencies in Washington. Some progress has been made in strengthening the machinery for coordination, but more could be done. Moreover, we need new arrangements to assert the importance of international institutions at the highest level of the Department of State and in the White House itself.

Our missions to international agencies must be strengthened if they are to become adequate instruments for an effective multilateral diplomacy. The U.S. Mission to the United Nations has been weakened by staff cuts, the departure of experienced personnel, and the difficulty of finding adequate replacements. For years our mission to the European headquarters to the United Nations at Geneva has been treated as an inferior foreign service assignment or as a resting ground for the politically deserving. In neither mission do we have sufficient personnel with the specialized professional skills to handle the U.N.'s complex new activities in trade and development, population and environment, science and technology, and the law of the sea. The problem of recruiting for the U.S. Mission to the U.N. is complicated further by a lack of housing allowances to compensate for the high cost of living in New York City.

We are gratified by the selection of Bradford Morse and Rudolph Peterson for the two most senior posts in the United Nations occupied by American citizens. These appointments are encouraging evidence that our government does give serious attention to recruitment for international organizations when it comes to the highest posts. But neither the Department of State nor the U.S. Mission to the U.N. is devoting adequate attenion to recruitment at lower levels. More needs to be done to recruit from the scientific, academic and business communities and to interest outstanding young people in international service.

We are also concerned about the failure of Congressional leadership. We condemn the arbitrary and irresponsible treatment that has been given in recent years to certain appropriations for international organizations. We appeal to the Congress to take a more enlightened attitude toward the international institutions and programs so important to our national interest.

We commend the excellent work of the United Nations Association and other organizations which have contributed to public understanding and scholarly analysis of the United Nations. But they are not enough. We need new ways to develop effective political support for international institutions.

We have seen a resurgence of public participation in highly effective activitist citizens groups in areas of environmental and other concerns. Many of these problems can be resolved only through international cooperation. The UNA should reach out to such organizations in an attempt to elicit their collective energies in support of international efforts to solve them. In addition, comparable groups without benefit of tax exemption should be formed to mobilize pressure on Congressmen, decision-makers in the Executive Branch, and other elements in the political process.

It is desirable that the headquarters of the United Nations remain in New York. To that end the Federal Government must provide adequate security to U.N. delegations. Congress should also promptly provide its share of the funds necessary to develop the facilities of the New York headquarters site. If some relocation of U.N. functions becomes necessary, a movement to the environs of New York City should be the first choice; the second choice is Geneva. In the interests of efficiency and coordination, U.N. functions should remain concentrated as far as possible in New York and Geneva and their surrounding areas.

There are a wide variety of measures that should be taken to strengthen U.S. participation in international organizations. Among them, this American Assembly recommends that:

1. A new post of Undersecretary of State for Multilateral Affairs should be created in the Department of State to assume overall responsibility for U.S. participation in all multilateral organizations, political and economic, global and regional.

2. A senior official should be appointed to the staff of the National Security Council to concern himself exclusively with multilateral affairs.

3. The U.S. Permanent Representative to the U.N. should be made a member of the National Security Council. Either he or the new Undersecretary of State for Multilateral Affairs should sit with the Council when it deals with matters with important implications for our participation in the United Nations and other international agencies.

Many of the measures advocated in this report may seem difficult to achieve. They are. For most of these proposals an unprecedented effort of leadership will be needed both in the Executive Branch and in the Congress.

Accordingly, this American Assembly appeals for a fundamental change in our foreign policy priorities. The President must use the full powers of his office to build the institutions necessary to promote a decent world order, and the Congress must lend its support to the process.

PARTICIPANTS IN THE AMERICAN ASSEMBLY ON THE UNITED STATES AND THE UNITED NATIONS—1972

Richard N. Gardner, Professor of Law and International Organization, Columbia University (Discussion Leader and Director of Drafting).

Frank Altschul, Council on Foreign Relations, New York.

Harry S. Ashmore, President, Center for Study of Democratic Institutions, Santa Barbara.

Stuart Awbrey, Editor and Publisher, The Hutchinson News, Kansas.

Landrum R. Bolling, President, Earlham College, Indiana.

Dorothy A. Brizill, Harriman Scholar, Columbia University.

Courtney C. Brown, Chairman, Editorial Board, Columbia Journal of World Business, New York.

James P. Brown, Editorial Board, The New York Times.

Colin C. Cameron, President, Maui Land & Pineapple Co., Inc., Hawaii.

Archibald J. Carey, Jr., Judge, Circuit Court of Cook County, Chicago.

R. G. Chollar, President & Chairman, Charles F. Kettering Foundation, Dayton.

Myer Cohen, Acting Deputy Administrator, United Nations Development Program, New York.

John C. Culver, Representative from Iowa, Congress of the United States.

Samuel De Palma, Assistant Secretary of State for International Organization Affairs.

Most Rev. John J. Dougherty, Auxiliary Bishop of Newark, New Jersey.

Richard A. Falk, Millbank Professor of International Law, Princeton University.

Philip Foisie, Assistant Managing Editor, The Washington Post.

Donald M. Fraser, Representative from Minnesota, Congress of the United States.

Arthur J. Goldberg, Washington, D.C.

Abbott C. Greenleaf, Brigadier General, USAF, Deputy Chief of Staff, Hq. Air Forces Systems Command, Washington, D.C.

Ernest A. Gross, Curtis, Mallet-Prevost, Colt & Mosle, New York.

Alexander Hehmeyer, Executive Vice President, Field Enterprises, Inc., Chicago.

Elmore Jackson, Vice President for Policy Studies, United Nations Association of the USA, New York.

David A. Kay, Carnegie Endowment for International Peace, New York.

Reynold Levy, Harriman Scholar, Columbia University.

F. Bradford Morse, Representative from Massachusetts, Congress of the United States.

Nathan A. Pelcovits, Director for Policy Planning, Bureau of International Organization Affairs, Department of State.

Francis T. P. Plimpton, Debevoise, Plimpton, Lyons & Gates, New York.

Hyman Judah Schachtel, Rabbi, Congregation Beth Israel, Houston.

William E. Schaufele, United States Mission to the United Nations, New York.

James H. Scheuer, Representative from New York, Congress of the United States.

Stephen M. Schwebel, Professor of International Law, School of Advanced International Studies, The Johns Hopkins University, Washington, D.C.

Georgiana G. Stevens, *Atlantic Monthly*, San Francisco.

Griffith Way, Attorney at Law, Seattle.

Watson W. Wise, Tyler, Texas.

Charles W. Yost, Distinguished Lecturer in Foreign Policy, School of International Affairs, Columbia University.

ABOUT THE AMERICAN ASSEMBLY

The American Assembly was established by Dwight D. Eisenhower at Columbia University in 1950. It holds nonpartisan meetings and publishes authoritative books to illuminate issues of United States policy.

An affiliate of Columbia, with offices in the Graduate School of Business, the Assembly is a national, educational institution incorporated in the state of New York.

The Assembly seeks to provide information, stimulate discussion, and evoke independent conclusions in matters of vital public interest.

American Assembly Sessions

At least two national programs are initiated each year. Authorities are retained to write background papers presenting essential data and defining the main issues in each subject.

About 60 men and women representing a broad range of experience, competence, and American leadership meet for several days to discuss the Assembly topic and consider alternatives for national policy.

All Assemblies follow the same procedure. The background papers are sent to participants in advance of the Assembly. The Assembly meets in small groups for four or five lengthy periods. All groups use the same agenda. At the close of these informal sessions participants adopt in plenary session a final report of findings and recommendations.

Regional, state, and local Assemblies are held following the national session at Arden House. Assemblies have also been held in England, Switzerland, Malaysia, Canada, the Caribbean, South America, Central America, the Philippines, and Japan. Over one hundred institutions have cosponsored one or more Assemblies.

Arden House

Home of The American Assembly and scene of the national sessions is Arden House, which was given to Columbia University in 1950 by W. Averell Harriman. E. Roland Harriman joined his brother in contributing toward adaptation of the property for conference purposes. The buildings and surrounding land, known as the Harriman Campus of Columbia University, are 50 miles north of New York City.

Arden House is a distinguished conference center. It is self-supporting and operates throughout the year for use by organizations with educational objectives. The American Assembly is a tenant of this Columbia University facility only during Assembly sessions.

THE AMERICAN ASSEMBLY, COLUMBIA UNIVERSITY

Trustees

Arthur G. Altschul, New York.
Robert O. Anderson, New Mexico.
George W. Ball, New York.
William Benton, Connecticut.
Courtney C. Brown, Chairman, New York.
William P. Bundy, Massachusetts.
Josephine Young Case, New York.
John Cowles, Minnesota.
George S. Craft, Georgia.
Marriner S. Eccles, Utah.
Milton S. Eisenhower, Maryland.
Arthur S. Flemming, Virginia.
Katharine Graham, District of Columbia.
W. Averell Harriman, New York.
Hubert H. Humphrey, Minnesota.
George F. James, ex officio, New York.
J. Erik Jonsson, Texas.
Sol M. Linowitz, New York.
William J. McGill, ex officio, New York.
Clifford C. Nelson, ex officio, New Jersey.
Chester W. Nimitz, Jr., Connecticut.

Officers

Clifford C. Nelson, *President*.
Kurt Ludwig, *Secretary*.
George M. Phillips, *Treasurer*.
Mary M. McLeod, *Assistant to the President*.
Chairman Emeritus: Henry M. Wriston, New York.

A TRIBUTE TO THE LATE J. EDGAR HOOVER

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. LENT. Mr. Speaker, today I join all Americans in mourning the death of a fine public servant, a man who devoted his entire life to the service of this country—the late J. Edgar Hoover.

Mr. Hoover, in the span of 48 years, singlehandedly took a Government bureau beset with problems and turned it into the finest and most widely respected law enforcement agency in the world. J. Edgar Hoover's direction of the Federal Bureau of Investigation spanned the service of eight Presidents, truly a remarkable career. The continuingly high standards he set for the operation of the FBI resulted in public accolades for the law enforcer rather than the lawbreaker, and his outstanding administration of the Bureau will be difficult to approach.

So in paying tribute today, Mr. Speaker, we can pay the ultimate compliment in saying that J. Edgar Hoover's shoes will be hard to fill at the Federal Bureau of Investigation.

EULOGY FOR THE LATE HONORABLE ADAM CLAYTON POWELL, JR.

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. RANGEL. Mr. Speaker, the death of former Representative Adam Clayton Powell, Jr., left the entire Nation saddened at the loss of a champon of the rights of the poor and minorities in America.

One of the most moving tributes paid to Adam was the eulogy by Dr. Samuel D. Proctor. I know that my colleagues who worked with Adam over the past years share Dr. Proctor's sentiments:

A EULOGY FOR ADAM CLAYTON POWELL, JR.

(By Samuel D. Proctor)

The Second Epistle of Timothy is the benedictory of a tired warrior who had come to the end of his days. Paul writes to his young disciple and fellow-laborer, Timothy. Let me paraphrase that Epistle.

He starts out by saying, Timothy, I think about you night and day. I remember how you cried when you learned of my sorrows.

Timothy, I remember the great faith of Lois, your grandmother and of Eunice, your mother. True believers. I remember ordaining you and I hope you will keep your gift alive.

Never be ashamed of being a preacher, Timothy, and don't be ashamed of me because I am in jail for the Gospel. Be honored when you can suffer for the Gospel.

I do indeed suffer but, I am not ashamed: "I know whom I have believed and am pursuaded that he is able. . . ."

And then, after other admonitions he said to him, "I am now ready." Ready. "Ready to be offered, and the time of my departure is at hand. I have fought a good fight, I have finished my course, I have kept the faith. . . ."

Then he went on and laid his soul bare. He was saying that he didn't mind dying but what he couldn't stand was the loneliness that went before death. He said, Timothy come to see me as soon as you can. Everybody has left me alone. Demas is gone back to Thessalonika, Crescens has gone to Galatia, Titus to Dalmatia. Everybody has left. Only Luke has stuck with me. Find John Mark. Bring him with you when you come, and when you come through Troas, pick up a coat and some books I left there at the home of Carpus.

Remember Alexander the coopersmith? He was awfully cruel to me. At my first trial, in fact, no man stood with me. Nobody! But the Lord was by my side and was strengthening me every minute.

Come to see me. Try to get here before winter. But remember. . . . I am ready, anytime now. "I have fought a good fight. I have finished my course, I have kept the faith."

To the bereaved family, to Skipper, to the officers and members of Abyssinian, to the friends and mourners who have gathered, we are here to bid farewell to another warrior.

I received word shortly after his passing from his devoted friend, Dr. Aaron Wells, and I began immediately to reflect on his enormous contributions.

Later, his trusted associate for many years, Odell Clark, called and as we reviewed some of his victories for the people, hardly have so many people ever owed so much to one man.

Every once in a while history has to clear the way for a giant who is prepared to stride across the stage of time. Once in a generation we can expect a Frederick Douglas, an Adam Powell or a Martin Luther King, one who is sensitive to injustice, perceptive of institutional evil and who is prepared to fling himself into confrontation with the forces of oppression.

These men move with selfless abandon because their actions originate with an early response to the call of God. They are propelled by a strange urge from within that is like the feeling that Jeremiah had when he said, "his word was in mine heart as a burning fire shut up in my bones, and I was weary with forbearing and I could not stay."

You see, good religion, like love, is a many splendid thing. It has several manifestations. When the light of God shines in the human soul, it reflects itself prismatically like a diamond with several facets. On one side there is the element of ecstasy, just sheer ecstasy, the feeling of overflowing that makes one cry "Glory!" It made the Psalmist sing: "I will lift up mine eyes unto the hills, whence cometh me my help." Overflowing ecstasy.

Ecstacy! It made the prophet Isaiah cry when he had his vision, "Woe is me! for I am undone . . ." Ecstasy. It made Charles Wesley write, "O, for a thousand tongues to sing, my Great Redeemer's praise!"

Ecstasy. It used to make my grandmother close her eyes and tighten her lips and whisper, "Praise the Lord!" That is one side of religion.

On another side we find simplicity, getting life uncluttered, withdrawal from the world, asceticism, contemplation and serenity. This is what religion means to some. The simple, quiet life.

Saint Francis, for example, was born the son of a cloth merchant and became an ascetic. He was of noble lineage. As a young soldier—adventurer he joined one crusade after another until a vision obsessed him. He gave himself to solitude and prayer. He renounced his wealth and went in rags, mingling with the beggars and asking alms. When he tried to seize his father's wealth and give it away, he was arrested.

Having adopted a life of poverty and simplicity, he organized a new order, the Franciscans, with 12 disciples and won the approval of Pope Innocent III.

Now, let's face it, the simple life of poverty and withdrawal does have its rewards. From such living enormous spiritual wealth can accrue. Listen to the prayer of Saint Francis, for example:

"O Lord
Make me an instrument of thy peace,
Where there is hatred let me sow love,
Where there is injury, pardon,
Where there is darkness, light,
Where there is sadness, joy,
Where there is doubt, faith,
And where there is despair, hope.

O Divine Master,
Grant that I may not so much seek
To be consoled as to console,
To be understood as to understand,
To be loved as to love.

For
It is in giving that we receive,
It is in forgiving that we are pardoned,
And it is in dying that we are born to eternal life."

On another side we find charity, pure altruism, self-giving. This has always been an important criterion of good religion.

When John the Baptist sent his followers to ask Jesus for his credentials, Jesus sent word back to John, Charity! Meeting human needs!

"The blind see,
The lame walk,
The lepers are cleansed,
The deaf hear,
The dead are raised,
The poor are hearing the Gospel."

Charity. St. Paul said that this was the greatest spiritual gift. He said if you don't have it you are a mere noise maker. It won't make any difference if you can move a mountain, feed the poor, commit suicide. Nothing. . . . You need real charity! He said that the things that will last the longest are faith, hope and charity, but the greatest was charity.

The list could be longer, but the only other side of good religion that calls for attention today is justice. In the earliest documents of the Old Testament, we find a craving for justice.

When Nathan the prophet found David the king wrong, in the name of justice, he told him, "Thou art the man."

Justice is that human virtue that does not wait for volitional, spontaneous, unscheduled charity. Justice says that a certain kind of fair play should be counted on, expected, scheduled and without which some penalty is sure to follow.

Justice says that if you plan to do right, write it down, tell everybody, make it known, commit yourself, let us all be in on it together. Justice is blind, impartial, persistent, even-handed, plays no favorites.

The prophet Micah said that this was among the highest priorities of religion. He said, "What doth the Lord require of thee, but to do justly, to love mercy and to walk humbly with God."

The prophet Amos gave it an even higher priority. He said that God would not listen to their violin music or be deceived by the sweet fragrance of their incense. He said, "Let justice roll down as waters, and righteousness as a mighty stream."

Jesus applied the principles of justice when he found people eager to judge the lives of others. He said you can't see a mote in your brother's eye if you have a big splinter in your own. When they wanted to stone a woman to death who was alleged to be unfaithful, He asked the one who had no sin at all to cast the first stone.

Justice. It is an ancient concept found in the Code of Hammurabi 2,000 years before Christ, but a very simple one. It says don't ask a privilege for yourself that you would not grant to everyone similarly situated. On the other hand, it says don't do to another person what you would not want done to you. It is even-handedness.

But my friends, lying behind the notion of justice is the assumption that someone will be around to see that it is done, to supervise it, to monitor it, to guarantee it, to give it force. There just has to be someone who has the fine tuning, the understanding to know when a situation is out of balance, and that somebody must have the courage, the brains, the audaciousness, the cool bravery and the passionate zeal, the size, the voice, the looks, the energy, the following to force an issue in the name of justice.

This is where the work and the ministry of Adam Clayton Powell, Jr. comes to the fore. If Charles Wesley was a man of ecstasy; if St. Francis was a man of simplicity; if St. Paul was a man of charity, then Adam Powell stands in the train of Amos and Micah who were men of justice.

In 1941, when he was elected to the City Council of New York City, I was a college senior in Virginia. I was proud of my progress and I was burdened with ambition. The campus of Virginia Union University, where his father received his education, was located on a hill on the edge of the north end of Richmond. We revelled in our youthful exuberance in that Confederate citadel, and we were inspired by our Black heroes. Adam Powell was our new hero. He had defied the power structure, had created a black political base and, had given us our first evidence that American institutions were capable of any change at all.

This new fact that he flashed before us burned itself into the consciousness of a young college boy. I had no assurance at all that my degree, my sacrifices, my new learning would be an avenue to success or to freedom. We lived behind a thick wall of segregation. There was no hint of change in 1941. The churches were segregated, the unions were segregated, the colleges and universities were segregated, the hospitals and cemeteries, restaurants and hotels, buses and trains—in every way possible my country screamed at me making me think I was nobody, in 1941. But Adam Clayton Powell Jr. was marching up and down Seventh Avenue telling us we were somebody.

That was the beginning of one of the most colorful and significant careers that any man has had in the 20th century. We pause today to bid him farewell as the drama closes, the curtain falls, the lights grow dim and the script is finished.

Come now and see that as a prophet of social justice he put the plight of the urban black and poor on the nation's agenda as no one had done before.

Our problems remain so largely unsolved. But no one can deny that the plight of the urban poor—the black poor—is before the attention of America. And those who know the history will remember that it was Adam Powell who brought the issue out in the open, carried it to City Hall and then to Washington.

President Johnson and President Kennedy wrote him letters and thanked him for handling the work of the House Committee on Education and Labor more productively than any other chairman had ever done. The major social legislation of both Kennedy and Johnson had to go through that committee and there had not been any social legislation at all in the hundred years before him.

What do we owe to Adam? Federal manpower training, Head Start, Job Corps, higher minimum wage, federal aid to education, loans for college students and federal dollars for school equipment, new training for Indians, new help for migrant laborers, new opportunities for the handicapped, the deaf, the blind, the aged and the mentally retarded.

In other words, that entire procession of persons whom Jesus met on the hills of Judea and on the road through Samaria and around the Sea of Galilee, all of those who had been beaten and broken by poverty and disease, whose lives were being snuffed out slowly by steady oppression—that's the crowd of persons in modern terms who were on Adam's mind. He roared like a lion and snapped like a cobra in their defense.

Come further and see that as a prophet of social justice he awakened with a one sided version of Christianity. We paid a lot of attention to the minutia of religion. Who should be baptized, who could take communion, how to debate on the Bible, who could be saved, etc. We were reared around Southern Methodists, Episcopalians, and Baptists. They kept us singing about heaven with our condition on earth unchanged. They had rigid teachings *about* Christ but they forgot the teachings *of* Christ. It all had to do with his birth and death, but they forgot entirely about his life.

Nevertheless, the black churches played an indispensable role. Men like Adam Powell Sr. had the ability to bring people together, to inspire them to improve their lot and to protect their gains. Dr. Powell Sr. was one of the real champions of the people in New Haven and in New York. His fiery preaching caused the hearts of men to be strangely warmed and after the respite of the Sabbath they could return to face a week of hard work.

They were also educated in civic and political affairs by the pastors. But organized social action, coming out of the sanctuary to face the enemy of righteousness—that was something new. And it had to come. The black church was the only free agency we had and if the church did not eventually become the focal point of social justice, it would have been delayed much longer than it has been. After Adam began, church after church caught the spirit. Thus, when King began his movement, churches and preachers all over the country acknowledged that social justice was nothing more than the Gospel applied to modern life. He began a tradition that later spawned Leon Sullivan, Channing Philips, Walter Fauntroy, Wyatt T. Walker, Andrew Young, Ralph Abernathy, Jesse Jackson, and many others. Of course, Martin Luther King was his prize progeny. This church, Abyssinian, and her officers and members, deserves the highest praise for standing by him with unfailing loyalty.

Finally, as a prophet of social justice he followed a long and lonely path. When a man is burdened with a passion to ameliorate social conditions he steps on a lot of tender feelings, like romping through a bed of roses. The petals fall on all sides.

Every time he made a move he scared away another group of friends. Every time he lifted his voice in defense of one group, it was in offense to another. Follow that program for 35 years and see what it gets you, loneliness, enemies, detractors, and false friends. So many people are beholden to the power structure that when you make relentless assaults upon it you shake a lot of friends loose. Your cause becomes too risky. Jesus lost his family, his followers, and finally his closest colleague, Simon Peter.

Adam Powell was the first black leader in America whose financial support came from the people he served. His money was indigenous. Homegrown. Right here. And he was therefore free to speak his mind, and this did not make friends among those in power.

He took out after the dime stores, the hospitals, the department stores, the telephone company, the City of New York, the State of New York, the labor unions, the construction industry, the colleges and universities, and the United States Marine Corps. He was unafraid. The chemistry of defiance was in his blood and he responded to it until he was weakened by illness.

But each of these battles caused his enemies to vow that at the right time they would make their assault.

When he was denied a chance to take his congressional seat, it was one of the most blatant examples of a double standard and of the height of contempt for bold black men that the nation has seen. The men who excluded him had sat in the House for years allowing racism to run rampant, subsidizing their favorite industries at the expense of the poor, denying Constitutional rights to black people, maintaining segregation in Washington, D.C., allowing the states to go to any lengths to deny black people rights, giving grants to contractors who discriminated against black folks, giving money to hospitals who didn't allow black doctors to practice, and giving money to universities that didn't allow black folks to study. They supported a segregated Army, Navy, Air Force, National Guard, FBI, and State Police.

Adam took out after the whole crowd. He threw down the foul flag every time he saw one and they couldn't stand him.

So they tightened the noose and when they thought they had him they sprang the trap.

All this he did, remember now, for a people who had been in the country for 350 years and who were only half free. It was our cause that he gave himself to serve. Life is vastly different today because of his valiant fight in our behalf.

Like St. Paul, facing his end, he came down to the shores of time a lonesome man.

But as St. Paul said to Timothy, I can hear Adam answering the moment. "I am not ashamed. I know whom I have believed, and he is able. . . ."

"The time of my departure is at hand. I have fought a good fight, I have finished my course, I have kept the faith."

Farewell Adam. We'll never forget you. You made a big difference among us. God speed you on your journey. You don't want us to weep but parting is such sweet sorrow.

But Adam, our sorrow is assuaged by one strong truth that won't let us go. Although you depart from us alone and leave for the other shore, lost from sight in the dim horizon, somehow we can't help but believe that Jesus was right when he said that in our Father's house there were many mansions. You won't be alone, Adam.

In that land of sweet forever, where the wicked cease from troubling and the weary are at rest, you will find other arrivals who have left just a little while ago. There is a great company whom we have bidden farewell, who wait for you on the other side! Medgar Evers from Jackson is there; Whitney Young just left; young Mike King is there; Ralph Bunche hasn't been long gone. You'll find others there, Adam. Malcolm has made the journey. There are more.

John said he saw a hundred and forty-four thousand who sang a new song. No one could sing the song but the hundred and forty-four thousand whom God had redeemed from the earth.

He fought a good fight, he finished his course. He kept the faith.

FOR THE PRESIDENT'S AGENDA

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. ROSENTHAL. Mr. Speaker, the Hungarian Freedom Fighters' Federation, under its copresident, Istvan B. Gereben, wrote recently to President Nixon supporting the passage by the House of Representatives of House Concurrent Resolution 471 which asks the President to support the cause of Soviet Jews. Mr. Gereben requests the President to bring the matter of Soviet Jews before the Soviet officials whom he will meet on his coming trip to Moscow.

I include below Mr. Gereben's excellent letter to the President, which also supports the cause of Hungary, as well as the organization's letter to me as chairman of the Subcommittee on Europe which held hearings on Soviet Jewry and which reported House Concurrent Resolution 471:

HUNGARIAN FREEDOM FIGHTERS' FEDERATION,
Rockville, Md., April 25, 1972.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The House of Representatives on April 17, with a 360 to 2 vote, passed House Concurrent Resolution 471, urging you Mr. President to call upon the Government of the Soviet Union during your forthcoming visit to the Kremlin, to apply the principles and rights to the Jewish and other religious minorities of the Soviet Union as they are expressed by the Soviet Constitution and the United Nations Declaration of Human Rights. The members of the Hungarian Freedom Fighters' Federation U.S.A. fully support this resolution.

We are aware of your clear commitment to the basic human rights. We hope that during your talks with the leaders of the Soviet Union, you will have not only the oppressed Russian Jews in mind, but you will not forget the countries which are occupied and thereby denied independence and sovereignty by the Soviet Union. We also respectfully petition you on behalf of the many millions of Americans with East European background to exert your influence to convince the Soviet leaders that their ruthless oppression of individuals and nations in the captive countries is not only violating the internationally endorsed principles of Human Rights, but also creating an image of the Soviet Union which is damaging to its own and the world's best interest.

We present a special plea for Hungary, our beloved native land, the land which contributed so much to the cultural, scientific and social progress of the world and of the United States. You, Mr. President, who personally witnessed at the Bridge of Andau, the results of the bloody suppression of the Hungarian October, do not need specific justification of our plea. The hopes, humble requests and strong demands of the Hungarian people are still the same as they were in 1956. If your visit to Moscow brings the ideals, concepts and principles expressed by a free people one step closer to realization, we will be grateful.

We pray for you and for the success of your trip. May God guide you in your difficult mission for peace with justice, on the battlefields and in the halls of Diplomacy, but above all for peace of mind for everyone: the Jews of Russia, the downtrodden of Hungary, the hopeful of Vietnam and the troubled of the United States.

Sincerely yours,

ISTVAN B. GEREBEN.

HUNGARIAN FREEDOM FIGHTERS' FEDERATION,
Rockville, Md., April 26, 1972.

Hon. BENJAMIN S. ROSENTHAL,
U.S. Representative,
House Office Building,
Washington, D.C.

DEAR MR. ROSENTHAL: The Hungarian Freedom Fighters Federation congratulates you for introducing House Concurrent Resolution 471. The overwhelming vote in favor of that resolution is a credit to your legislative abilities.

We informed the President of our support of your resolution. I enclose my letter to the President for your information and use.

It is reassuring to know that there are so many distinguished public figures like you and your colleagues who care about the oppressed, the downtrodden millions who's only hope are us, the free and concerned here in the United States.

Thanking you to keep the torch of hope high I remain,

Sincerely yours,

ISTVAN B. GEREBEN.

A LONGSHOREMAN FROM SOUTH BOSTON SUPPORTS SENATOR McGOVERN

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. KASTENMEIER. Mr. Speaker, the strong vote appeal of Senator GEORGE

McGovern among the blue-collar workers in this year's presidential primaries, starting in New Hampshire and continuing in Wisconsin, Massachusetts, Pennsylvania, and Ohio, has stunned and confounded the Nation's political pundits, particularly those who sought to belittle the McGovern campaign for the presidency from the outset.

Time magazine sent correspondent John Stacks to investigate the McGovern popularity in a working-class area of Boston, Mass., and I would like to call to the attention of my colleagues the Stacks interview in the May 8 issue of Time with Basil Quirk, a longshoreman from South Boston, who supports Senator McGovern:

A Boston Longshoreman Explains McGovern

(Note.—The early-form charts on this election would have placed Basil Quirk, 48, an Irish Catholic longshoreman from South Boston, in the camp of Edmund Muskie, the Polish Catholic from Maine. Or perhaps Hubert Humphrey, who dotes on organized labor. Maybe even George Wallace, the sometime Horatio of the hardhats. Those charts have been proved wrong a number of times. Basil Quirk, boxing fan, father of five, proud owner of a three-decker in one of Boston's most solidly working-class areas, is a firm and enthusiastic supporter of McGovern. Over a dinner of roast beef, baked potatoes, rolls and pastries, Quirk told Time Correspondent John Stacks why:)

I was a little bit mistaken about McGovern. I thought he had just a following of the kids. But I went to hear him speak over at the Lithuanian club. He can talk to you on the local level. He picks up on things real quick, and he doesn't seem to need a lot of counselors blowing in his ear.

You know these other guys seem to forget where they come from. They form a kind of political royalty. They think they never can get licked. All the wise guys and all the smart money lined up with Muskie. Now McGovern, he's gone around on a pretty short bankroll. If he can put this thing together, who will he owe? Who'd have ever figured McGovern? He's set them all on their ear.

Today I'm working on a ship from Poland. I talk to foreign nationals all the time. The other day this Norwegian guy says to me: "You know, Basil, America is so big, it can do anything it wants. But it's so big, it don't listen to the small people." That hit me kind of good.

These people forget they spend money to sell themselves to us. To beg to represent us. But when they get a position, they forget they represent people here and that we're the ones that count.

Now McGovern, he started down at the lower levels. At the grass roots so to speak. He's got a realistic understanding of what politics is. He's got to be an honorable guy.

Here in Southie, we got a feeling for each other you don't find many other places. McGovern seems to be a guy who fits in the middle of Southie. You could bring him in and have him to dinner and feel like he's part of the family. I think these farm-state guys are more conservative, more down to earth. I don't think McGovern is that far from his origins.

They say he's left wing. Hey, who's what today? When he gets in there, it's what he is that matters. He's got the kids. And when he's in there, he's got to do the right thing. They'll put a picket line on his lawn if he doesn't. These kids are hard to crap.

What's the future of America? The kids—right? You've got to show them there is something worthwhile here. If he can get these kids in line, maybe it's work out for all of us. Maybe he can make America become a country these kids would think was worth fighting for.

Now, I want you to write this down. I firmly object to a representative of a top Government agency saying on TV that the country doesn't have the resources to get a true audit on the phone company. That's wrong.

America is the greatest possible place for the average guy. But big business—when we send a representative down to Washington, they send down a lobbyist, and they take all these guys by the hand. I've worked 25 years on the docks. My kids actually think they're in the middle class. But I'm about two months away from the poverty stricken. We need someone with guts, which I think McGovern has got.

Muskie? If he couldn't handle that guy Loeb, what will he do when he's really in trouble. He knew Loeb; he's lived next door. I'd have liked it better if he'd gone to Loeb's house, rung the bell and whacked him in the nose.

Some of the guys where I work are Wallace guys. They're going for McGovern. He's a class guy. He's got guts.

EQUAL EMPLOYMENT—KNBC EDITORIAL

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. WALDIE. Mr. Speaker, in an editorial of April 6, 1972, San Francisco radio station KNBC aired the longstanding problem of job discrimination to the Members of Congress. This time though, the charge of discriminatory hiring practices is not aimed at the private sector, but rather, in Federal Government agencies.

I feel this apparent exclusion from the job market of Mexican Americans in Federal agencies is disgraceful, particularly since we have legislated and enforced, as best we could, equal employment opportunities in the remaining job market.

I here register my protest at this turn of events and wish to include the following editorial in the Congressional Record, to facilitate exposure and corrective action of this situation which might also be found in other agencies of the Federal Government:

[KNBC editorial]

Who Watches Washington?

April 6, 1972.

For at least two years, the federal government has been putting the heat on its suppliers and contractors to do a better job of recruiting and hiring Blacks, Mexican-Americans and members of other ethnic minority groups. In many industries, the heat has been effective. But apparently the federal bureaucracy hasn't felt any of its own heat, because the federal government itself is lagging far behind everyone else in employment equality.

The feds has done pretty well pressuring the private sector. Ethnic minority groups in Southern California, with 27 percent of the total population, hold over 24 percent of the area's 5 million jobs. By the way, these two statistics alone don't show the great *recent* progress, nor do they show some pretty impressive moves up the ladder of job responsibility for minority workers.

It's just too bad federal pressure doesn't change hiring practices within the federal government itself.

In the employment of Southern California's biggest minority group, Mexican-Americans, for example, the federal government is far behind. Spanish-speaking people make up 17 percent of this area's population, yet they hold less than 6 percent of the 150,000 federal jobs here. Worse, they almost never wind up in the top jobs. Nine big federal agencies have zero percent of their top management posts filled by Spanish-speaking people.

If this great employment disparity were based on education, training or skill deficiencies, it might be excusable. No one wants or expects government to hire the unqualified.

But the federal bureaucracy's pattern of exclusion is too obvious to be accidental; it goes clearly beyond any possible skill or training reason.

It's our view the federal government's hiring patterns give convincing evidence of an occupational caste system—a pattern of unlawful job exclusion within the same government body charged with enforcing fair hiring. We look now to Congress to recognize this wrong and to right it.

HOUSE JOINT RESOLUTION 1186

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. SCHMITZ. Mr. Speaker, yesterday I introduced House Joint Resolution 1186, an amendment to the Constitution of the United States which would specifically affirm the right of all our citizens to their lives, from the moment of their conception. Coincidentally, my amendment was introduced just 1 day after the gentlewoman from New York (Mrs. Abzug) introduced her bill to deny the right to life to our citizens who have been conceived, but are not yet born.

I have no intention of following her costly example of filling 137 pages of the Congressional Record with interminable arguments on this issue. But her verbose case for killing unborn babies cannot be allowed to go unanswered.

The testimony immediately following, presented to the Committee on Public Health, Welfare, and Social Security of the Indiana State Senate by Charles E. Rice, professor of law at Notre Dame University, in opposition to an "abortion on demand" bill, includes a specific recommendation of a U.S. constitutional amendment such as I introduced yesterday. After that, I call to your attention a brief statement of the reasons why abortion is in truth murder, prepared by Christians for Life in New York; a graphic description by a doctor of what an abortion really is, excerpts from "A Pro-Life Report on Population Growth and the American Future," prepared by Randy Engel, who is demographic advisor for Women Concerned for the Unborn Child, columnist for Pennsylvanians for Human Life, and executive director of National Vietnam Refugee Services; and excerpts from "Handbook on Abortion" by Dr. and Mrs. J. C. Willke, nationally known lecturers and writers on human sexuality and reproduction, which decisively refute the three arguments most commonly used to justify abortions—"mental health" of the mother, eliminating "unwanted children," and the alleged "population explosion":

TESTIMONY OF CHARLES E. RICE

THE ISSUE

The critical issue is whether an abortion involves the destruction of a human life. If one concedes that it does, then one can hardly support a proposal to kill existing human beings to suit the convenience or comfort of others (even in the most aggravated circumstances of rape and incest) or because those others consider the victim unfit to live.

More precisely, the critical issue revokes around the benefit of the doubt. Our law and civilization have rested on the premise that the benefit of the doubt should always be accorded to life rather than death. Thus we require proof beyond all reasonable doubt before we execute a criminal or even subject him to fine or imprisonment. I believe that I could prove to the satisfaction of an impartial observer that human life actually begins at the moment of conception. However, I do not have to sustain this burden. Rather, those who support liberalized abortion can do so only if they can say that, beyond any and all reasonable doubt, human life does not begin at the moment of conception. If there is any doubt whatever, our tradition and civilization dictate the resolution of that doubt in favor of innocent life rather than death.

THE CHILD IN THE WOMB IS A LIVING HUMAN BEING

The child in the womb is in fact a human being from the moment of his conception. This could easily be demonstrated at length. It is so clearly a scientific fact that we teach it as such in our schools. As the fifth grade sex education text in the New York City school system flatly says, "Human life begins when the sperm cells of the father and the egg cells of the mother unite." On the eighteenth day after his conception his heart begins to beat. At 6½ weeks, when he weighs only 1/30 of an ounce, he has, in being, every internal organ he will ever have as an adult. He then has a mouth with lips, a tongue and buds for 20 milk teeth.

At eight weeks his skeleton begins to form, with real bone replacing the earlier cartilage, and the electrical activity in his brain is detectable by electroencephalograph (EEG). Incidentally, the lack of such detectable brain activity is increasingly accepted as the conclusive proof of death in the case of donors of heart transplants and in other cases. If an adult is considered alive as long as the EEG shows activity, how can the child in the womb be considered anything less than a living human being when his brain activity is similarly detectable? Nor does the detection of brain activity at eight weeks mean that the child's life begins then. Brain activity is the last sign of life to go, but it is not the first to come. Human life is a continual process of development from conception to death.

At eleven weeks the child's nerves and muscles begin to synchronize with his bones. His arms and legs begin to move.

At twelve weeks hair begins to grow on his scalp and his teeth are forming in his gums.

At sixteen weeks his mother feels him move. He kicks her with his feet, knees and elbows. He can already scratch himself, suck his thumb and even cry although he makes no sound because there is no air in the womb.

He can feel pain. If a needle is inserted in the womb for any purpose and it touches him, he will jump.

Clearly, the target of abortion is a living human being. It might be useful here to canvass some of the scientific opinion on the matter. Modern science has established that the life of every human being begins at conception. Dr. Herbert Ratner, a noted medical authority, affirmed this in an article in the April, 1966 issue of Report:

"It is now of unquestionable certainty that a human being comes into existence precisely at the moment when the sperm combines with the egg. How do we know this? From everything we know about genetics. When the sperm and egg nuclei unite, all of the characteristics, such as the color of the eyes, hair, skin, that make a unique personality, are laid down determinatively. That's why a physician—even without any kind of formal ethical education, moral teaching or even philosophical sophistication—relying solely on medical science, knows, when he performs an abortion, that he is killing another human being. After all, the fetus isn't mineral or vegetable or dog or cat; nor is it part of mama, the way a leg or a tumor is part of mama." (Rather, A Doctor Talks About Abortion, 2–3)

Dr. Bradley M. Patten of the University of Michigan Medical School described the process by which "a new individual life history" is begun:

"The reproductive cells which units to *initiate the development of a new individual* are known as gametes . . . the small, actively motile gametes from the male being called spermatozoa or spermia, and the larger, food laden gametes formed within the female being termed ova. . . . The growth and maturation of the sex cells, the liberation of the ovum, and the transportation of the sperm are all factors leading toward the actual union of the gametes. It is the penetration of the ovum by a spermatozoon and the resultant mingling of the chromosomal material each brings to the union, that culminates the process of fertilization and *initiates the life of a new individual.*" (emphasis added) (Patten, Foundations of Embryology (1964), 35, 82; see Mietus, The Therapeutic Abortion Act; A Statement in Opposition (1967), 12)

THE REALITIES OF ABORTION

But people sometimes support abortion because they do not realize what it is. Until the twelfth week after conception, a common procedure is dilation of the entrance to the uterus and curettage. Dr. Alan Guttmacher detailed this method in the Clinical Obstetrics and Gynecology Journal:

"A sharp curette is then inserted to the top of the fundus with very little force, for it is during this phase that the uterus is most likely to be perforated. Moderate force can be safely exerted on the down stroke. The whole uterine cavity is curetted with short strokes, by visualizing a clock and mak- a stroke at each hour. The curette is then withdrawn several times bringing out pieces of placenta and sac. A small ovum forceps is then inserted and the cavity tonged for tissue, much like an oysterman tonging for oysters. . . . In pregnancies beyond the seventh week, fetal parts are recognizable as they are removed piecemeal."

When Dr. Guttmacher mentions "fetal parts," he means an arm, a leg, a head and other parts of what moments before was a living, though small, human body.

Beyond the fourteenth week of pregnancy, the child can be killed in two ways. One is to inject a salt or glucose solution into the womb. As Dr. H. P. Dunn described it, "The baby can be felt to make a few convulsive movements, and within a few minutes it dies. In about twenty-four hours labor starts and the already disintegrating baby is delivered." By this means, of course, the baby is simply pickled alive. Sometimes the child is still alive when he emerges from the womb in this type of "salting out" abortion. He then dies as intended, although at least one child in New York has survived this attempted murder and has been placed for adoption.

The other technique of abortion is hysterotomy, where an incision is made in the mother's abdomen and the child is lifted out. Frequently the child is kicking and crying when he is lifted from the womb. In all cases there is a disposal problem. And it is not surprising that in an abortion room the dignity of life is not highly regarded. One widely circulated photograph, which I show you here, shows the fully formed body of an aborted child lying in the bottom of a surgical bucket on a bed of gauze pads soaked in his own blood. And you recall, of course, the recent discovery of the bodies of aborted children in a Los Angeles dump where they had been thrown after they had been experimented upon in a medical laboratory.

THE UNDERLYING PRINCIPLE

It is sometimes argued that, although the life of the child in the womb begins at conception, his life is not a human life. However, the child in the womb is the living offspring of human parents. What else can he be but human? He is neither dog nor cat nor turnip. If we define him out of the human race, we will have embarked on the same road as the tyrannical regime of Nazi Germany.

The basic principle of the abortion movement is precisely the principle that underlay the Nazi extermination of the Jews. It is the principle that an innocent human being can be killed if his existence is inconvenient or uncomfortable to others or if those others deem him unfit to live. And if somehow you do not concede that he is human you ought at least to give him the benefit of the doubt. If an innocent human being can be killed because he is too young, that is, he has not lived nine months from his conception, there is no reason in principle why he cannot be killed because he is too old. Or too retarded. Or too black. Or too politically undesirable. The philosophy is Nazi Germany's. And this nation is adopting it.

Incidentally, it is increasingly clear that the fusion of the abortion and population control movements involves the implicit coercion of welfare clients and other poor persons to undergo abortion. The overtones of coercion are unmistakable when welfare caseworkers "suggest" that their pregnant clients consider abortion to resolve their problems and to ease the taxpayers' burden. The idea seems to be to eliminate poverty by eliminating the poor. Of course this is a form of genocide. Instead of working constructively to alleviate poverty, the abortion proponents turn to the mindless and cruel solution of death for the helpless child in the womb. Moreover, the experience in Japan, Sweden and Hungary indicates that legalization of abortion does not decrease the number of "back-street" illegal abortions.

TWO AFFIRMATIVE PROPOSALS

First. The Constitution of the United States can be amended if two-thirds of the states propose an amendment and it is then submitted by Congress to the states and ratified by three-fourths of the states. It is time to propose an amendment to the United States Constitution to make its guarantees of due process of law and the equal protection of the laws applicable to the child in the womb. This could be done by inserting "from the moment of conception" into the relevant clauses of the Fifth and Fourteenth Amendments. For example, "No person, *from the moment of conception,* shall be . . . deprived of life, liberty or property, without due process of law." And, "nor shall any State deprive any person, *from the moment of conception,* of life, liberty or property, without due process of law; nor deny to any person, *from the moment of conception,* within its jurisdiction the equal protection of the laws." Under any proper construction, the Constitution already gives this protection to the child in the womb. But it ought to be made specific for two reasons: First, to prevent any possible misconstruction that would permit the child in the womb, unlike his elder brethren, to be killed for the convenience of others. Second, and more important, to serve an educational purpose through the campaign for amendment to carry the issue clearly to the American people and to afford them a clear opportunity to choose life over death.

Second. Article I, Section 23, of the Indiana Constitution, provides that "The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens." If the proposed abortion liberalization is enacted, then those who have lived nine months from their conception will be granted an immunity to being killed which will be denied to citizens who have not lived nine months from their conception. It would be desirable to add to Article I, Section 23, a provision as follows, "nor shall any person, from the moment of his conception, be denied the equal protection of the laws."

These proposed constitutional amendments would not prevent the law from making reasonable distinctions on such matters as inheritance rights and the right to sue. But they would ensure that the child in the womb, as with older persons, would not be subject to being killed for the convenience or comfort of others or because those others consider him unfit to live. They would conform the law to the realities of science. And their proposal by the Indiana legislature would affirm the determination of our state to protect the liberty of all regardless of age or condition.

Recently, *California Medicine*, the "Official Journal of the California Medical Association", editorialized that the "traditional Western ethic" is being supplanted by a new ethic that will emphasize "the quality of life" and that "it will become necessary and acceptable to place relative rather than absolute values on such things as human lives." Then the editorial uncovered the reason why abortion proponents have evaded the real issue and have clouded their case in subterfuge:

"Since the old ethic has not yet been fully displaced it has been necessary to separate the idea of abortion from the idea of killing, which continues to be socially abhorrent. *The result has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continuous whether intra- or extra-uterine until death. The very* considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under socially impeccable auspices. It is suggested that this schizophrenic sort of subterfuge is necessary because while a new ethic is being accepted the old one has not yet been rejected." (Emphasis added) (California Medicine, Sept. 1970, 67–68)

The acceptance by society of what is essentially the Nazi ethic is neither progressive nor inevitable. The abortion trend, the legalization of the killing of innocents for convenience, can be reversed. We can begin that reversal here in Indiana. We can affirm that innocent life is not negotiable. And we can reestablish the basic equality of all before the law.

THE TREND OF THE LAW, APART FROM ABORTION LIBERALIZATION, IS TO RECOGNIZE THE HUMANITY AND RIGHTS OF THE CHILD IN THE WOMB

As the highest court of New Jersey summarized the state of scientific knowledge, "Medical authorities have long recognized that a child is in existence from the moment of conception." (*Smith* v. *Brennan*, 31 N.J. 353, 362, 157 A 2d 497, 502 (1960)). These and other authorities bear witness to the scientific facts that the child in the womb is a human being from the moment of conception and that, in the words of a pamphlet issued in 1963 by the Planned Parenthood Association, an abortion "kills the life of a baby after it has begun."

And this finding of modern science, that life begins at conception, has been recognized in the development of the civil law of property and torts. As the New York Appellate Division said in 1953.

"We ought to be safe in this respect in saying that legal separability should begin where there is biological separability. We know something more of the actual process of conception and fetal development now than when some of the common-law cases were decided; and what we know makes it possible to demonstrate clearly that separability begins at conception."

* * * * *

"If the child born after an injury sustained at any period of his prenatal life can prove the effect on him of the tort . . . we held he makes out a right to recover." (*Kelly* v. *Gregory*, 282 App. Div. 542, 544, 545 (3rd Dept., 1953)).

Other scientific authorities are analyzed in the District of Columbia case of *Bonbrest* v. *Kotz*, where the court noted that, "From the viewpoint of the civil law and the law of property, a child en ventre sa mere is not only regarded as a human being, but as such from the moment of conception—which it is in fact." (*Bonbrest* v. *Kotz*, 65 F. Supp. 138, 140 (D.C., Dist. Col., 1946); see the subsequent authorities collected in *Byrne*, A Critical Look at Legalized Abortion, 41 Los Angeles Bar Bulletin 320 (1966))

Nor is this recognition limited to cases where the child is ultimately born alive. The majority of states that have considered this question have ruled, for example, that a stillborn child may, through his representative, maintain a legal action for his wrongful death caused by injuries inflicted on him while he was in the womb. (See *Maledon*, Note, The Law and the Unborn Child: The Legal and Logical Inconsistencies, Notre Dame Lawyer, Vol. 46, 349, 359 (1971); *Byrn*, Abortion-on-Demand: Whose Morality?, Notre Dame Lawyer, Vol. 46, 5 (1970))

Surely, therefore, the thrust of the law has been to keep pace with increased scientific knowledge and to recognize the child in the womb for what he is—a living human being. Seen in this light, the abortion movement is a retrogressive throwback running counter to the modernizing trend of the law.

ABORTION IS MURDER

(By Christians for Life)

If you think God Failed to inform us as to when the soul enters into life, then speculate on the following passages from the Old Testament Jeremiah 1,5, "before I formed you in the womb I knew you, before you came to birth I consecrated you." Job 31, 15 "God shaped us all within our mother" Jeremiah and Job credited God with our creation in the womb. Eve also credits God in Genesis 4.2 "I have acquired a man with help of Yahew" (God).

God does not credit human life that is not bound to eternity, therefore, the soul must be present at conception. To prove this we refer to David in the Old Testament who claimed he was A Sinner From The Moment of Conception. Psalms 51, 5.

* * * * *

To be in sin indicates the presence of a soul. According to the New Testament, Jesus is conceived at once. He did not become Jesus, a week, a month, or many months later. He is Jesus at once. (you are you at once).

Mary the Mother of Jesus immediately goes to Elizabeth who is six months pregnant. Elizabeth rejoices in the presence of her Lord. Even though Mary is pregnant only a matter of days. In unmistaken terms the bible proves both Life and Soul present at (as David said) The Moment of Conception.

* * * * *

Abortion is murder. The right to life comes directly from GOD. Do not fight deformity by deforming your soul. Poverty is no license to kill your son or daughter in the womb. Doctors who perform abortions are paid Assassins.

* * * * *

In the words of St. Paul, "You are not your own property. You have been bought and paid for. That is why you should use your body for the Glory of God." Corin. 6, 20.

It is, indeed, the very matter of life which is at stake. Medical science has informed us that at the moment of conception, there comes into being a unique human life in the microscopically tiny egg cell. Contained in this cell is the blueprint for the development of the whole human person, factors which will influence the temperament, physique, eye, hair and skin color, and even intellectual capacity. This cell's tissue composition is distinct from its mother's tissue and would be rejected from her body were it not to be enclosed in the amniotic sac.

The unborn child's civil rights have increasingly been recognized by the law. We recall, in particular, that case in which the mother was forced by the courts against her religious convictions to have a blood transfusion to maintain her baby's life. Likewise, the unborn child's rights of inheritance and medical or economic support, his right to recover damages for injury suffered in the womb are affirmed by the courts. In short, the law has cast itself in the role of safeguarding the rights of the unborn.

Law is an educator. If it allows the destruction of unwanted life, it unavoidably teaches that life is cheap.

A final quote from Isaiah, "Woe to the legislators of infamous laws, to those who issue tyrannical decrees, who refuse justice to the unfortunate."

Isaiah 10, 1

THE REALITY OF ABORTION

(By Tom Pawlick)

What is the reality of abortion—the reality on which legislators are being called upon to determine by their vote?

"I've performed two abortions," said Dr. Richard V. Jaynes, an obstetrician-gynecologist in private practice in Detroit for 19 years.

"Both were accidents resulting from errors in diagnosis.

"Every doctor is bound to make an error sometime. I admit mine," he concluded.

"In one of them, I had no idea there was a fetus inside the patient's uterus until I drew out a detached arm, still moving at the elbow. Personally, it was one of the most sickening experiences I've had in practicing medicine," he said.

In standard abortion procedure however, it's normal. There are two methods commonly used to destroy an unborn child—a suction apparatus procedure used to about four-weeks after conception, and curettage.

"The suction apparatus involved the creation of a powerful vacuum in a tube. The tube is inserted in the woman's uterus and what's inside is drawn through it into a bottle.

"The vacuum is so powerful that the process is almost instantaneous. "You hardly see the fetus as it zips through the tube."

"After about 10 to 12 weeks, however, the developing child has grown too large and solid to pass through the suction apparatus. After that point curettage is generally used," he continued.

LIMB BY LIMB

"A roughly spoon-shaped instrument called the curette about 10 inches long and with sharp edges is inserted into the uterus. The child inside is cut into pieces and pulled or scooped out limb by limb." Dr. Jaynes said.

"In order for the members to be removed, of course, the doctor must stretch the uterine opening. It isn't dilating of its own accord as it would in a normal birth.

"It can't be stretched too far, however, and in order to pass larger parts like the head, they must be crushed. Some doctors use a ring forceps.

"After a legal abortion, in a hospital, the pieces are sent to the pathology lab for study. In illegal abortions, the most common practice is to throw the parts in a sink's garbage disposal.

"Curettage is rarely used after 14 weeks of pregnancy. At that stage of development a hysterotomy is used as a kind of abdominal surgery similar to Caesarean section.

"Technically, however, by 24 weeks you have to call it a premature birth, not an abortion. There have been instances where babies born that early have survived. I think 2 percent do.

"I know personally, in my own practice, of three babies born that early who survived to live normal lives. In abortion, of course, the premature child is not permitted to survive.

"As far as the child's development is concerned it, of course, varies. No two are alike.

"From about two weeks after conception onwards, the fetus is in almost constant motion. It can respond to moments of stress, a decrease in its oxygen for example, by moving faster. If you stick a needle into the bag of water to remove a little sample fluid and touch the baby—it jumps.

"By eight weeks it has all its organs, legs, arms, feet, hands, ears and looks like a human being. It often sucks its thumb at this stage.

"There is a definite heart beat. It waves its arms and legs and, if removed from the uterus, often struggles to take a breath into its lungs. It answers all the ordinary criteria for life.

TWO HOURS TO DIE

"Frequently a three-month-old-fetus removed from the uterus will struggle for life as long as two or three hours. It won't be too long before we'll be able to put that fetus in an artificial placenta and save it. "Researchers have already done it with sheep.

"At about five months, or shortly after, the child is capable of making feeble cries. They make them when they're being destroyed sometimes."

"These, obviously, are the only defense mechanism an infant has, visibility and audibility."

What about the mother in an abortion operation?

"An abortion is major surgery," said Dr. Jaynes. "It requires anesthesia, which is always somewhat dangerous. But the most serious danger is that of hemorrhage. Especially with curettage you run the risk of puncturing the uterus.

DANGEROUS

"This is a common accident in illegal abortions, performed by men who aren't even doctors. There is also danger of infection, although that's lessened in legal abortions performed in a reputable hospital.

"But legal or illegal, statistics show it is definitely more dangerous than childbirth to the mother. To the child, of course, it is the ultimate danger—death."

A Pro-Life Report on Population Growth and the American Future

(By Randy Engel)

For behold, days are coming in which men will say "Blessed are the barren, and the wombs that never bore, and breasts that never nursed. . . . Luke, 23.29

The Federal Government and Abortion—Clearly, there is ample evidence to substantiate the charge that the Federal government is promoting and financing a Malthusian ideology which views abortion as a legitimate birth control technique for omitted contraception or contraception failure, or to control "unwanted fertility, and that there is in fact a very real relationship between abortion and other anti-life activities, and an explicit government population policy of 'stabilization' or reduced population growth, which the Commission on Population Growth and the American Future will propose in its final report.

PLANNED PARENTHOOD

"Planned Parenthood Federation of America (also known as Planned Parenthood-World Population) is the largest *private* organization in the family planning field" states the Dept. of HEW in its Five Year Plan (emphasis added).

"Over the past few years, our organization (PP-WP) has entered a new and invigorating era of *public-private partnership*. The passage of the Family Planning Services and Population Research Act of 1970 signalled a milestone in the development of this partnership, dovetailing the efforts of public agencies with our own in a framework of a greatly-expanded commitment of Federal funds. And a second milestone was reached in the past several months with preparation by the Dept. of HEW of the first nationwide five-year plan for family planning services . . . " (testimony of John C. Robbins, Chief Executive Officer, Planned Parenthood-World Population in favor of S.J. Res. 108 on October 14, 1971) (emphasis added).

Government Grants

Which of these two statements comes closer to the truth?

Is Planned Parenthood primarily a private organization with limited governmental funding, or, is it in fact a quasi-governmental agency with a shrinking public support in the form of unrestricted contributions?

Since Planned Parenthood not only engages in abortion referral and counseling, but also operates abortion clinics of its own, the question of the extent of the use of taxpayer's money is of considerable importance.

In 1970, PPFA, Inc., (not including affiliates) received the following amounts:

Approx. $2.6 million in unrestricted contributions; $2.4 million in restricted contributions; and $.8 million in other sources which equals $5.8 million in total public support and $1 million in grants from Government agencies.

According to Planned Parenthood's president, Dr. Alan Guttmacher, reporting in his personal newsletter of June 18, 1971,

"Government funding has permitted affiliates (PP) to open numerous satellite clinics and employ indigenous people as Planned Parenthood workers to teach family planning in their own neighborhood. The Washington office reports that in 1970–71, 125 affiliate projects shared $10,057,273, *exclusive of Medicaid payments*. The lion's share (over $9.25 million) was provided by the Federal government in a roughly 5 to 3 ratio between OEO and HED" . . . . . .

Dr. Guttmacher goes on to state that governmental funding on each occasion requires new matching funds, usually 25%, and that *"these government grants free unrestricted citizens' contributions to finance new areas of service excluded from government subsidy."* (emphasis added).

Planned Parenthood Finances Lagging

In *Planned Parenthood Report*, issued in March-April 1971, Dr. Guttmacher highlighted the activities of PP–WP and its affiliates for 1970 and took note of their increased services and expanded activities, and the need for greater financial support from government.

"For the first time in a decade," he reported, "gifts to affiliates failed to grow, and gifts to national headquarters fell off."

Big Money in Abortion

To what extent Planned Parenthood's activities in abortion will help boost its lagging financial resources is, of course, unanswerable at the time.

Clearly, however, abortion in general is a very lucrative field, as Dr. Irwin H. Kaiser, chief of obstetrics-gynecology at Lincoln Hospital in New York ("famous" for its large out-patient abortion facilities) pointed out to the abortion establishment at the Los Angeles symposium mentioned earlier.

When asked about the financing and costs of the out-patient clinic, Kaiser said that it was impossible to give an accurate accounting of who got what from where and that they did a certain amount of midnight requisitioning. He then went on to say "We have vastly more than recouped this (about $65,000) by now. At $160 per patient, this is a substantial money-maker for the hospital and, obviously, if we were prepared to step into the competitive New York market, where abortions go as high as $1,500, we probably would make a substantial killing, if I may use that expression. (Great laughter from audience!)

Planned Parenthood Abortion Clinics

As of 1971, Planned Parenthood was operating at least three aboratoriums, including an out-patient center in Alameda-San Francisco area for "low-income" patients, a clinic in Syracuse, and one in New York which will perform 9,000–10,000 low cost abortions per year.

In New York City, Planned Parenthood operates a Family Planning Services Information Service for the city, which gives information and makes referrals for birth control, voluntary sterilization, and abortion for city residents.

Abortion Counseling

"Across the nation, 181 Planned Parenthood affiliates were involved in abortion counseling," says PP–WP medical director (NY) Dr. George Langmyhr.[34] Planned Parenthood, Milwaukee, for example has received a $150,000 grant from HEW which was matched by $75,000. This permitted PP to increase its services by 50% to include contraception, sterilization and "abortion referral".

According to PP, abortion counseling and referral are "educational and political" as well as purely "service", that is, a total program aimed at educating the public so as to "mold a new attitude" toward abortion; to "increase the number of therapeutic abortions performed under the law in the Bay area and throughout California; and to work for further liberalization of the law" and other objectives.

The *Center for Family Planning Program Development* is a key Planned Parenthood agency established in 1968 to pioneer methods of program planning for community-wide family planning programs and is financed primarily through foundation grants.

Last year the Center conducted a survey in the Pittsburgh metropolitan area and revealed that there were an estimated 57,000 women who want and/or need family planning services. This survey resulted in a $1,000,000 grant from the Dept. of HEW to the Family Planning Council of Southwestern Pennsylvania, Inc.

Magee-Womens Hospital, in Pittsburgh, is one of the 25 health related agencies associated with the Council.

According to its 1971 Annual Report, Magee-Womens Hospital is dedicated to "the conception, gestation and birth of a healthy, wanted baby in an environment where he can develop to his maximum potential." (emphasis added). Toward this end, Magee-Womens, the largest non-governmental maternity service hospital in the country, aborted 1,709 unborn children last year.

ABORTIFACIENT RESEARCH

This filtering down of Federal funds to hospitals performing abortions-on-demand is in keeping with HEW Secretary Elliott Richardson's 1970 statement that "I don't anticipate that we (HEW) would take a position on this (legalized abortion) as a Federal agency, beyond saying, in effect that, one; it is primarily a matter for state action and, two; that in general *we believe that medical services in cases where a pregnancy is unwanted or where it is medically undesirable should be available to women without undue legislative restrictions.*" (emphasis added)

In the area of abortion research, federal funds are being funneled into the Contraceptive Development Branch (CDB) of the Center for Population Research (CPR)—a unit of the National Institute for Child Health and Human Development (NHI) of the Department of HEW.

The CDB, which last year received a full time director according to Science Magazine (March 26, 1971) is reviewing a number of contracts relating to abortion including one "to explore the use of microwaves and ultrasound in performing abortions."

The development of prostaglandins, i.e., for use as abortifacients, which according to Dr. Reimert Ravenholt of the Agency for International Development will be very suitable in developing countries because they act through "post-conceptive (hindsight) means of fertility control." has been given top priority in AID, which invested some three million dollars in prostaglandin research in 1969. (Population Council).

This is presented as being only a small portion of the Federal government's involvement in abortion which is being subsidized by the American taxpayer—an involvement which will increase, as Dr. Hellman suggests, if the government adopts a population policy, and if HEW's Five Year Family Planning and Population Research program goes unchallenged.

OEO CONTROVERSY

Since the root of the abortion problem is the government's promotion of Neo-Malthusianism or Planned Parenthood ethics as a matter of PUBLIC POLICY, I will therefore address myself to this problem—even while abortion is excluded as a method of family planning.

By 1971, the Office of Economic Opportunities had received some 26 million dollars for programs relating to family planning, a portion of which has been given to PP affiliates to carry on such programs.

In one specific case, Planned Parenthood of San Diego rejected a sum of $150,000 for 1972 from the OEO through its OEO office. According to a report in a San Diego press release, the Executive Director of the Economic Opportunity Center said, "The organization (PP) is in non-compliance because one-third of the board is supposed to represent the poor of the community. This is hardly the case." He also stated, "PP has always ignored OEO guidelines to adequately represent the poor. They would not follow the guidelines for a 'racially balanced district' ", to which a PP representative answered that PP does not intend to do so and therefore it plans to reject the OEO grant.

What we see in effect here is a "democratization" of birth control techniques intended to limit the poor while the power remains in the hands of the Malthusian elite.

Must the poor be guinea pigs?

Another specific injustice relating to federally sponsored family planning programs involves the use of welfare recipients and minority poor for human guinea pigs without informed consent.

The Southwest Foundation has received from the Federal government a three year grant of $913,000 for the study of steroids.

A portion of the research, carried on by Dr. Joseph Goldzieher, involved the physiological or psychologically induced effects of the Pill.

In a Hasting Center report published in the Spring of 1971 by the Institute of Society, Ethics and the Life Sciences, an article written by Robert M. Veatche, entitled "Experimental Pregnancy" explained Dr. Goldzieher's mode of operation.

Poor, multiparous Mexican-American women had come to the San Antonio, Texas, clinic for birth prevention devices and instructions. Seventy-six of these who were told they were reacting to the Pill were given placebos while others received a variety of hormonal compounds including some containing chlormadinore acetate progestin (recently banned from all further human investigation because of bad side effects in beagles). Of the women on placebos, ten became pregnant and remained so because, according to Dr. Goldzieher, "We could have aborted them if the abortion statute in Texas weren't in limbo right now!"

The Hastings Report raised many excellent ethical questions relating to the injustice of uninformed consent and asked why it is always the poor that must be the subject of experiments of this kind instead of the researchers' wives and daughters.

PRIVATE OR PUBLIC MORALITY?

But the dangers of Neo-Malthusianism are not only related to the poor, for the ideology which it promotes is a challenge to the entire Judaeo-Christian community—regardless of economic circumstance.

Neo-Malthusians can never deliver on their promises—to ensure *only* wanted children in a family, to build marital happiness, to eradicate "illegal" abortions and veneral disease, and to promote the welfare of the community. For theirs is an ideology based only on secular humanism and crass hedonism—the adoption of which gnaws away at the backbone of moral virtue and strong family life based on fidelity and sacrifice and love.

Not a sacred cow

The Federal government has no right to adopt it as a national credo without first fully debating *all* the implications for society, particularly those relating to family stability which Neo-Malthusianism tends to break down, rather than build up. Instead of increasing its involvement in family planning, the Federal government must begin phasing itself out, starting with a divorce of all family planning policies from welfare. Government programs in the area tend inherently to invade privacy and, ultimately, the right to live.

At the Second World Population Conference, held in Belgrade in 1965, a Korean official pointed out the relationship between government promotion of family limitation and abortion when he stated that a nation which launches a birth control campaign *owes* it to the citizens to liberalize abortion laws to a certain extent. There will be many unwanted pregnancies, he explained, and the people should have a method of meeting this problem (emphasis added). The fact is that once the government puts itself into the business of promoting contraception, it will be held responsible for subsequent failures. The establishment of tax-supported nationwide aboratoriums, which has alreday been proposed by the abortion establishment, is a very real possibility in the not-too-distant future.

The problem is further complicated by the fact that anti-population propaganda tends to increase the reluctance of parents to bear children who, under more normal circumstances, would be accepted and welcomed into the family. Hence, it is likely that government promotion of family limitation will result in more, not fewer, unwanted children.

This is the case in contemporary Japan, where prior to 1948, a pro-natalist policy was in effect and "unwanted children" were practically non-existent. Today, there are many fewer births in Japan but the number of "unwanted children" has increased, as evidenced by an increasing number of child beatings, exposures and parental neglect by mothers and fathers who are busy with other things.

ABORTION & GOVERNMENT BIRTH CONTROL PROGRAMS

This may also help to account for the fact that massive government programs of contraception, intended in part to reduce national abortion rates, do just the opposite.

This has been the experience of Chile (Santiago region), Korea, and Taiwan—all of which have, since the early 1960s, been taking part in massive IUD programs promoted and financed by the United States' Agency for International Development (AID), the Rockefeller Foundation, the Population Council, and the Ford Foundation.

According to a special ASA report, International Consultants' Report 1970, in greater urban Santiago, Chile, the abortion rate in 1961 was 15.5% of all pregnancies. By 1966, the rate had increased to 20.1% of all pregnancies "in spite of the use of contraception."

Asian abortions on the increase

In Korea, 74% of patients on oral contraceptives have had induced abortions . . . and 58% who have discontinued use of the IUD have also experienced induced abortion . . . the article then notes "The proportion of wives practicing contraception prior to and/or after induced abortion is much higher than those who have never had an induced abortion."

Taiwan over the last three years has experienced an increase in the number of induced abortions. "*These findings lead to an impression that promotion of family planning may in fact increase abortion, particularly at the initial stage of the program when a large proportion of women are anxious to keep their families small, yet are unable to avoid unwanted pregnancies completely.*" (emphasis added) (pg. 4).

"VOLUNTARY" FAMILY PLANNING PROGRAMS FOR THE POOR

As for the argument that prohibiting *government* promoted birth control programs rob the poor of the "freedom" to limit their numbers, it should be noted that under title 19 of the Social Security Act, mothers are free to go to their own physicians, and free to get family planning advice under total medical care, which is as it should be.

The constant problem of the Malthusians since the days of Thomas Malthus is not getting birth control information to the poor but convincing the poor that they need to limit births, as evidenced by the candid statement of Dr. David L. Crane of the Sarasota County Health Department which was entered into the hearing report of *Family Planning Services*.

"I speak for every area, not just for this county. I do not know any areas in the county where anyone has found a formula that will get more than 25% of the needy patients served at an acceptable cost which could be applied nationwide. Meanwhile, the other 75% who are not served are inundating us with another generation of indigents. This indeed is a serious problem! I hope some of the one billion to be provided will be utilized ($1,100 million allocated in 1970 Family Planning Act) *to find solutions to the* *problem of how to get patients to accept our free service!"*

ABORTION OPENS DOOR TO ANTI-LIFE FORCES

Given the "nature of the beast", I believe the Commission on Population Growth will come out in favor of an explicit population policy directed at 'stablizing' the American population rather than a report centered on the ways in which America can accommodate a very moderate, indeed a very low level, of population growth if immigration is taken into consideration. In turn, an acceptance of the Commission's recommendations will in fact be an acceptance of Neo-Malthusianism as an American way of life—with all of its attendant evils including permissive abortion, contraceptive sterilization, euthanasia, infanticide, and genetic engineering.

Coming—compulsory population control

It is not merely co-incidence that one of Planned Parenthood's most zealous leaders is also a board member of the Abortion Rights Association of New York, Inc., a member of the Medical and Public Health Committee of the Association for Voluntary Sterilization, Inc., is on the Advisory Council of the Euthanasia Education Fund, and is a board member of the Pathfinder Fund. Abortion—Contraceptive Sterilization—Euthanasia—Population Control—all are closely related anti-life activities which will be promoted and financed by the Federal government unless steps are taken now to divorce Malthusianism from government policy. The eventuality of *compulsory* birth control, abortion, sterilization and death control also must be considered, once such "voluntary" programs are put into effect and protected by law.

HANDBOOK ON ABORTION

(By Dr. & Mrs. J. C. Willke)

MENTAL HEALTH

"Maternal mental health was the commonest indications for hospital abortion in 1969, accounting for 93.7% of all cases."—Abortion Surveillance Report, Annual Summary U.S. Dept. of Health, Education & Welfare.

Q. How new is mental health as an indication for abortion?

A. It is quite new and has been spoken of only in the last few years. Since the decline and virtual disappearance of therapeutic abortion of the type that once was necessary to save the life of the mother, many major university hospitals have gone a decade or more without doing a single therapeutic abortion. For instance, the University Hospital of the College of Medicine at the University of Cincinnati did not do a single therapeutic abortion for fifteen years prior to 1968. This experience is not unusual. (W. Stone, Dept. of Psychiatry, U. of C., Feb., 1971.)

Already in 1951, Dr. R. J. Hefferman, of Tufs University, speaking to the Congress of the American College of Surgeons, said: "Anyone who performs a therapeutic abortion (for physical disease) is either ignorant of modern methods of treating the complications of prenancy, or is unwilling to take time to use them."

Q. So abortion is rarely necessary today to save a mother's life?

A. Yes, abortion is almost never necessary anymore.

Q. But isn't it sometimes necessary to preserve her mental health?

A. The word "mental health" is so broad and vague as to be almost meaningless. In fact, in the last few years, it has become a catch-all reason for which all sorts of abortions have been justified, only rarely in fact being done for serious psychiatric reasons.

Q. What would be a serious psychiatric reason?

A. Frank Ayd, M.D., medical editor and nationally known psychiatrist has said: "True psychiatric reasons for abortion have become practically non-existent. Modern psychiatric therapy has made it possible to carry a mentally ill woman to term."

It can be flatly stated that no mental disease known to man can be cured by abortion. The most that can be said is that possible mental breakdowns or complications might be prevented by abortion. To predict this accurately, however, is quite frankly beyond the competence of ordinary men, and we include psychiatrists in this group. There are so many variables, people are so different, and react in so many different ways, that no one, no matter what his training, can accurately predict what effect a pregnancy or an abortion will have on a woman.

Q. That's one opinion. Can you cite other authorities?

A. Dr. Theodore Litz, Yale University Psychiatrist, has said: "It is practically impossible to predict when an abortion will not be more detrimental to the mental health of the mother than carrying her child to birth."

Dr. R. Bruce Sloan of Temple University (who would permit abortions), writing in the New England Journal of Medicine, May 29, 1969, said: "There are no unequivocable psychiatric indications for abortion." He stated further that if the pregnancy is not interrupted, "The risk of flare-up or precipitation of psychosis is small and unpredictable, and suicide is rare."

Q. Suicide is rare? I thought it was common in women who were refused abortion.

A. This is an oft-repeated fallacy. Suicide among pregnant women is extremely rare. Several well-controlled studies have shown conclusively that the actual incidence of suicide among pregnant women is less than one-fourth that of the general female population of the same age. (See p. 45 Minnesota).

Q. That's hard to believe.

A. A good example comes from Sweden. In a series of 344 women who were refused legal abortion in Sweden for a variety of reasons, 62 specifically stated that they would commit suicide. It was determined that none of them did. (Abortion and Psychiatry, Richard Vaughan, Dept. of Psychology, Univ. of San Francisco.)

Q. But does Sweden's experience compare to that of the United States?

A. It would certainly be comparable to the experience of many of our states or large cities. Perhaps a good comparison would be to compare Sweden with Minnesota. Both have relatively similar population groups; both have generally excellent medical care.

Q. But some pregnant women do commit suicide, don't they?

A. Minnesota is the source of some of the figures on maternal suicides. Their suicides of pregnant women have averaged about one per year. It is interesting to note that almost three-fourths of these have occurred in women who have not seen a psychiatrist. As Dr. Frank Ayd mentioned in the question above, when women are under competent psychiatric care, they can be adequately supported through their pregnancies. Abortion for "mental health" is in some areas frequently approved by psychiatrists, which adds one more paradox to the confusing abortion scene in this country.

What occurs at times today is that the psychiatrist, who should be capable of helping the woman through her pregnancy by virtue of his skill, may advise an abortion. This doesn't cure the psychiatric illness, being at best only symptomatic treatment. Most commonly, after such an encounter, there is no follow-up psychiatric treatment. To most inquiring minds, this would seem to confirm the fact that there was no major mental illness in the first place.

Q. Are you saying that mental illness is usually just an excuse for an abortion?

A. We are saying exactly that.

Q. But don't several physicians usually have to certify that there is mental illness?

A. In practice, the need for certification by several physicians (psychiatrists or non-psychiatrists) to authorize an abortion has been a blatant, premeditated, open-door vehicle by which abortion-on-demand has come to be a reality in several states. Any physician can find three other physicians who will sign a document testifying to the need for an abortion for mental health. Any physician can also find three other physicians who would never sign such a document. This requirement has proved to be totally meaningless.

Medical opinion is deeply divided as to whether psychiatric reasons can ever justify an abortion.

Q. What if a woman has a psychosis, is pregnant, and needs shock treatments. Shouldn't she be aborted?

A. Pregnancy does not rule out the use of almost any known psychiatric therapy, including electric shock.

Q. But don't some women have psychotic breakdowns after delivering a baby?

A. Yes. Post partum psychosis is relatively common following childbirth. It, however, is almost entirely unpredictable. It does not bear any particular relationship to whether or not a woman had mental trouble during her pregnancy. It frequently occurs in a woman who was entirely mentally stable during her pregnancy.

Q. Are there any bad mental after-effects from abortion?

A. There certainly are. In Chapter Ten we quoted a recent British study reporting on eight maternal abortion deaths, noting that two of them were suicide deaths after the abortion had been performed.

Q. Is this common?

A. In your authors' experience, we have seen no cases of suicide from refused abortion, but do know of one suicide produced by guilt feelings after an abortion.

Q. Do these guilt feelings come from religious beliefs?

A. Certainly there are guilt feelings relating to religious beliefs, but most guilt feelings subsequent to abortion have little to do with sectarian religious beliefs. Abortion violates something very basic in a woman's nature. She normally is the giver of life. Most women who are pregnant are quite aware of the fact that they have a baby growing within them. Most women who have an abortion feel that they have killed their baby. Sometimes there is an almost irresolvable guilt, continuing self reproach, and depression. A good counselor would be of help to a woman during a trying time like this, but the woman who has had an abortion doesn't always come to a counselor.

A wise psychiatrist has said that it is easier to scrape the baby out of the mother's womb than to scrape the thought of that baby out of her mind.

Q. Most guilt feelings aren't religious then?

A. No. This was well expressed in a letter to the Editor of the A.M.A. News, Aug. 1970, by Mrs. Brian McGivern:

"If guilt feelings are not always permanent, how often? How often and how long will a woman be thankful for the abortionist's action: through menopause? If she has no more children? when she sees a child whose age would have been her own? If she had the abortion under emotional stress, will she be grateful to the doctors who refused to refer her to a decent agency which could have helped her rather? I would not.

You might not have to hospitalize me for my severe guilt feelings but I'd never forget, after getting out of the stressful situation, that some abortionists have encouraged me to

---

Footnotes at end of article.

take the easy way out and let me pay the penalty."

Q. Are there any good studies reporting on mental health damage from abortion?

A. In 1966, the Council of the Royal College of Obstetrics and Gynecology in England reported on a survey of this problem at that time, and said:

"The incidence of serious permanent psychiatric aftermath (from abortion) is variously reported as being from between 9 and 59%."

Q. How about in the United States?

A. Dr. Paul Gebhart, who did the pioneering work in human sexuality with Dr. Alfred Kinsey and who is known as one of the foremost authorities in this field in the United States, in testifying before the New Jersey legislature in 1968, said that there was evidence of prolonged psychiatric trauma in 9% of a sample of American women who had abortion induced therapeutically or criminally.

Q. I'm not sure that much of this guilt business isn't an unconscious replay of old Christian ethics. How about a non-Christian culture?

A. Japan has had abortion-on-demand for 22 years and is certainly not a Christian culture. A number of major surveys have been done there in recent years.

In 1963, the Aichi survey reported that 73.1% of women who had been aborted felt "anguish" about what they did.

In 1964, Dr. Tatsuo Kaseki's report stated that 59% felt that abortion was something "very evil" and only 8% though that it was not "something bad."

In 1969, a major survey by the Prime Minister's Office reported that 88% of women answered that abortion is "bad."

Q. Can you predict who will have psychiatric problems resulting from abortion?

A. A good evaluation of this comes from Dr. M. Ekblad, whose study in 1955 was reported in Acta Scandinavica, the Swedish medical journal. Sweden, as we know, is a country with very liberal sexual morality standards, and abortion there is not subject to any moral stigma. Dr. Ekblad, however, found that 25% of women having had legal abortions later had "serious regret." In evaluating who might have emotional problems because of abortion, he found a clear relationship. "The psychiatrically abnormal woman finds it more difficult than the psychologically normal woman to stand the stress of abortion."

Q. Then the woman in poor mental health is more likely to suffer further psychological harm than the woman who is not upset?

A. That is exactly what Dr. Ekblad found.

This truism has been a rather well-kept secret from most of our state legislators. While purporting to do abortions for reasons of preserving mental health, in fact, if done on women who are actually psychologically ill, they are being done on the very people to whom they probably will do the most damage psychologically.

Emotional upset, anxiety, fear, strain, and mixed feelings about pregnancy are common, even under the best of circumstances. Pregnancy is not a minor event. Feelings of depression in the early stages of pregnancy are very common. Judgments that the pregnancy and child are unwanted are very common. What is absolutely crucial to understand, however, is that how a woman feels in the first three months of her pregnancy and how she will feel in the last three months of her pregnancy, are commonly totally different. If all upset women with unwanted pregnancies had been aborted in years past, at least one-third of our readers would not be living today. (p 38)

Competent medical opinion is deeply divided as to whether psychiatric reasons ever justify an abortion. The phrase "mental health," written into some of our state laws, has opened a Pandora's box of abortion-on-demand. It bears serious reconsideration by those states that have incorporated this phrase into their laws, and almost certainly it should be stricken from them.

Q. Give more details on Minnesota?

A. In a detailed report of the Minnesota experience from 1950–65 (Minnesota Maternal Mortality Committee, Dept. of OB & Gyn, University of Minnesota,) entitled "Criminal Abortion Deaths, Illegitimate Pregnancy Deaths, and Suicides in Pregnancy (American Journal of OB & Gyn, 6/1/67) the following facts are reported:

There were only 14 suicides of pregnant women in the state of Minnesota in 15 years, or one for every 93,000 live births. Four were first pregnancies. None were illegitimately pregnant.

Ten of these women committed suicide after delivery, only four while pregnant, leading to the author's comment, "The fetus in utero must be a protective mechanism. Perhaps women are reluctant to take another life with them when they do this."

Twelve of the 14 were psychotic depressions. Two were schizophrenics. Only four had seen a psychiatrist.

Male suicides during these years averaged 16 per 100,000 population. Non-pregnant female suicides averaged 3.5 per 100,000 and pregnant female suicides 0.6 per 100,000.

The authors conclude that therapeutic abortion for psychiatric reasons "seems a most nebulous, non-objective, non-scientific approach to medicine. It would seem that psychiatrists would accomplish more by using the available modalities of their speciality in the treatment or rehabilitation of the patient instead of recommending the destruction of another one."

UNWANTED CHILD—RIGHT TO HER OWN BODY

"EDITOR: I would like to write to you to let you know that I am in full accord with the abortions that are being performed in New York City. For every early physiologic process interrupted, we are preventing a candidate for our relief rolls, our prison population, and our growing list of unwanted and frequently battered children."

The above, taken from a letter to the editor of the A.M.A. News, reflects the thinking of some people today. If the above were true, the proponents of abortion at the mother's request would certainly have added weight to their side of the balance arm of the scale weighing the value of the life of the unborn child. If the above is not true, then pro-abortionists have deluded themselves with more wishful thinking.

Q. I believe every child should be a wanted child, don't you?

A. We agree that every child should be wanted. A world without unwanted children would be an idyllic place in which to live. No one could quarrel with that as an idealistic goal. Wouldn't it also be a wonderful world if there were no unwanted wives by husbands, no unwanted aging parents by their children, no unwanted Jews, Black People, Catholics, Chicanos, or ever again a person who at one time or place finds himself unwanted or persecuted. Let's all try to achieve this, but also remember that people have clay feet and, sadly, the unwanted will always be with us.

The measure of our humanity is not that there aren't unwanted ones, but what we do with them. Shall we care for them or kill them?

Q. But why should a mother carry to term an unwanted pregnancy?

A. Physicians who deliver babies will all agree that a significant percentage of all pregnancies are not planned, and, at the time these women are first seen in the doctor's office, they definitely have "unwanted pregnancies." Overwhelmingly, however, a mother adjusts to the initial surprise and shock, accepts the baby growing within her, and comes to anticipate the birth of her child. After more than twenty years of medical practice, your author personally can say without hesitancy that he has seen many unwanted pregnancies, but has yet to see the first unwanted newborn child. If we permit abortion for an unwanted pregnancy, we will be destroying vast numbers of children, who, by the time of their birth and through their childhood would have been very dearly wanted and deeply loved children indeed. If the judgment of being wanted at an early stage of pregnancy were a final judgment, and abortions were permitted freely, a high percentage of everyone reading this book would never have been born.

Q. But what if a mother delivered a baby that she really didn't want?

A. The federal judges who, in January, 1971, ruled the Ohio abortion law to be constitutional spoke very eloquently to this. They said:

"Equating the necessity of giving birth to a child with the necessity of rearing the child has no foundation in law or fact. The law may take permanently from its natural parents a child who is neglected by them, and the frequent hesitancy of courts and social agencies in this regard does not change the legal situation. Statutes of practically all states provide for the voluntary surrender of children. When the statutes are complied with, the child is legally and practically as dead to its natural parents as if it had been aborted, stillborn, or had died in infancy. The validity and effectiveness of surrender statutes has been upheld in every case in which they have been questioned. There is no need for parents to terminate an undesired pregnancy by killing the unborn child physically when with less risk to themselves, its legal death can so easily be procured."

Q. The opening letter assumes that all unwanted pregnancies will be neglected children. Is that a valid assumption?

A. That assumption is almost too naive and simplistic to be given any serious consideration. The fact that it has been mentioned again and again is almost beyond comprehension. Most unwanted pregnancies become wanted babies. Some wanted children become unwanted ones. Unloved babies sometimes become dearly loved and vice versa. To make the assumption that because a woman is unwillingly pregnant, the child in every case, in most cases, or even in many cases will be unwanted and therefore neglected and abused, is totally inaccurate and wildly unrealistic. Some will, of course, but many will not. Why kill them all before birth? Why not sort them out after birth, strengthen our laws that the court mentions above, and take unwanted children from parents who are unworthy to raise them?

Q. The woman in the Ohio court case said that if her baby was delivered that she would batter it. What about that?

A. The logical answer, of course, is to take the child from her at birth and to give the baby to adoptive parents who would love and care for him.

Q. But don't many unwanted pregnancies become battered children?

A. Many would think so. In fact, this is not true. Dr. Edward Lenoski, Professor of Pediatrics at the University of Southern California, did a four-and-a-half year study of 400 battered children. He determined that 90% of the battered children in his study were planned pregnancies. Ninety percent is far above average for planned pregnancies. Most of our readers undoubtedly deeply cherish and love the children that they have been given. How many of you, however, actually planned the conception of 90% of them? We could apparently kill all "unwanted" babies in the early estages of pregnancy, but still not significantly reduce the numbers of battered children.

Dr. Lenoski has also determined that since the advent of the contraceptive pill (which has certainly reduced unwanted pregnancies), child beating is up threefold.

What of the right of a woman to the privacy of her own body?

A. At least one pro-abortion court decision has referred to this. We think it is an entirely fallacious bit of reasoning. If you, as a citizen, stand outside of a door and listen to a mother battering her child, even to the point of killing it, what would you do? Would you respect the privacy of her home? You would not! You would open or break down the door and rescue the child. By virtue of her assault upon and abuse of another human person, she has surrendered her constitutional right to privacy in this case. The same analogy applies to abortion. The right of the child to live is greater than and supersedes any right that a woman may have to the privacy of her own body.

Q. But a woman does have a right to her own body. Isn't the child, at least in the early stages of pregnancy, part of her body?

A. A woman's appendix, obviously a part of her body, can be removed for sufficient reason. The cells of the appendix, however, carry the identical genetic code that is present in every other cell in the mother's body. They are, for this reason, undeniably part of her body. The single-celled fertilized ovum or the multi-celled zygote or later developing embryonic human being within her uterus cannot, by any stretch of the imagination, be considered part of her body. This new living being has a genetic code that is totally different from the cells of the mother's body. It is, in truth, a completely separate growing organism and can never be considered part of the mother's body. Does she have a right to her own body? Yes. But this is not part of her own body. It is another person's body.

Q. No right at all?

A. The Rev. Charles Carroll, Protestant chaplain of the University of California at Berkeley, student of International Law at Yale, Harvard, and the University of Berlin during the Hitler period, and officer of the United States military government in Germany at the trial of the Nazi doctors at Nuremberg, has stated:

"As I would reject the law of paterfamilias of ancient Rome, so I would also reject the proposed law of materfamilias in present day America. As I would not sympathize with the grant by the state of the power of life and death of his offspring to the Roman father, so I cannot sympathize with the grant by any state of the power of life and death over her offspring to the American mother. Surely I would hope our legislators would be as humane as the Emperor Hadrian, who abolished that article of the Roman Law."

POPULATION EXPLOSION?

"The Census Bureau announced yesterday a major downward revision of its population projections for the next thirty years.

"It is possible, the Bureau said, that there will be nearly 100,000,000 fewer Americans in the year 2000 than had been forecast in one maximum projection made just three years ago.

"The revised projections are based on the dramatic decline in U.S. birth rates experienced in the United States in the Sixties. The birth rate in 1968, for example, was the lowest in American history."—Washington Post, August 13, 1970.

Most people's reaction to the above was, "What's going on here? For years we've been told that it won't be long until there's standing room only on the earth."

Population explosion very definitely has a place in our discussion about abortion. One of the major reasons given to justify new and liberalized abortion laws is the pressure of unwanted population. Let's look at some of these facts.

Q. What is the population of the United States?

A. The 1970 U.S. Census count placed the U.S. population at 204.7 million.

Q. Isn't this a substantial increase in the last decade?

A. In total numbers of people, it was the second largest in U.S. history, having declined from the total number added between 1950 and 1960. In the percentage of gain, however, it was the second lowest rate of increase of any decade in the history of the United States. Only the depression years of the 1930's were lower.

Q. How many children should the average family have in order to stabilize population growth?

A. In 1850, the average number of children per family in the United States was 6.0. In 1970, the average number of children per family was 2.45, and dropping. Taking into account a slowly increasing death rate in this country, as our population bulge approaches old age, population growth will stop altogether between 2.1 and 2.2 children per family. This would be zero growth rate.

Q. What about population trends? Can't they tell us accurately what will happen?

A. Population trends are notoriously subject to both mistakes and abuse in predicting any distance in the future.

In 1910, there were 30.1 children born in the United States for every 1000 people. In 1936, this had dropped to 18.4. If this trend had continued, births in the United States would have ceased altogether by 1975.

In 1936, the birth rate was 18.4 per 1000. In 1957, the birth rate had risen to 25.3 per 1000. If this trend had continued, we would have had over 400 million people by the year 2000, almost a billion by 2050, and two-and-a-half billion by 2100.

In 1957, the birth rate was 25.3 per 1000. By 1970, it had dropped to 17.0. If this trend continues, the last baby in the United States to ever utter its first cry after birth, will be born in the year 1992, and further births will cease totally.

It seems obvious that extending any population trend very far into the future can prove to be quite inaccurate.

Q. But can't we make some kind of prediction?

A. As you can see from the above, predictions are hazardous. It would seem safe, however, and it is the general concensus of opinion among almost everyone, that births per family and per woman in the United States will continue to decline in the next five to ten years. It is on the basis of this that Mr. George Brown, Director of the United States Census Bureau, said in October of 1970: "Instead of the loudly proclaimed people explosion in the United States, current population trends could result in a zero growth rate."

President Nixon appointed a group to study this. What did they find out?

President Nixon's National Goals Research Staff released its report in July, 1970, entitled, "Toward Balanced Growth: Quantity With Quality" (U.S. Government Printing Office, Washington, D.C., 20042, $1.50 per copy). It reported that, "If present trends continue for just ten more years, our national population growth will stop altogether. The question of population size in the United States is not Malthusian. The issue is not whether we can feed and clothe a population of any size we can realistically envisage, or even supply it with the expanding amount of energy it may demand."

Q. What of the death rate? Does this influence population size?

A. The U.S. death rate is now 9.6 per 1,000 people per year. As our population grows older and more people reach old age, the death rate will eventually rise to about fifteen per 1,000 per year, assuming our life expectancy holds at 70 years.

Q. How many people will we have in the United States in the year 2000?

A. If our current birth rate stabilizes at its present level, we will have a population of 281 million in the year 2000. If it continues to decline, it could be much less.

Q. Since the rate is dropping, then why this rather substantial increase from our present 204 million?

A. This is because the babies born during the postwar baby boom of the early Fifties constitute a population "bulge" as they now come of marriageable age. This excess in numbers of people of this one age group will be forming their families and having children, thus producing an overall jump in total number of people, even though the percentage per family continues to drop. When this bulge, however, is past, if current trends continue, the population growth will flatten and probably reach zero growth rate.

Q. How many babies are actually born in the United States in a year?

A. In 1957, there were 4,308,000 babies born. In 1968, there were 3,470,000 babies born. We are already educating that excess of births from the late Fifties. Our schools are crowded with them. This bulge is passing, however. In 1976, for instance, there will be 800,000 fewer third graders in the nation's classrooms than there are today. This, at least, is not guesswork. These babies have already been born. We can look forward to an overabundance of teachers, schools, and educational facilities in the decade of the Seventies.

Q. You believe that families will be smaller in the future?

A. In a Gallup Poll (Feb., 1971) the question was asked: "Would you like four or more children in your family?"

In 1967—40% answered "Yes"
In 1971—23% answered "Yes"

Of great importance was that, of all the college-educated, only 14% wanted four or more. Of those with only a grade school education, 33% wanted four or more.

This is further confirmation, if any is needed, that the only way to effectively limit population growth is to raise a group's standard of living and education.

Q. Abortion is being spoken of as a means of population control. What does the medical profession think of this?

A. The official statement of the American College of Obstetrics and Gynecology in 1968 said: "It is firmly stated that the College will not condone nor support the concept that abortion be considered or performed as a means of population control."

Q. Isn't the increase of population in our cities the cause for the rise in violent crime, illegitimacy, etc.?

A. Our cities have a population implosion. This is due to a poor distribution of people, not the simple fact of natural over-population itself.

In Holland, the population density is 1,000 people per square mile. In the United States it is 57 people per square mile. Even taking into account the vast waste areas of mountains, etc., in the United States, the only areas that approach Holland in population density are those of our crowded cities. Yet it is well known that Holland has only a fraction of the crime rate and social upset of our major cities.

As another example, Great Britain has 50 million people living in an area smaller than California. Why is it then, that there are fewer murders on the entire British Isles annually than there are in the city of Chicago, or Cleveland, or even of Greater Kansas City? Obviously, population density in itself does not produce high crime rates and social upset.

Q. Won't too many people increase the problem of pollution?

A. Certainly, more people produce more pollution. Certainly, more affluent people produce more pollution per person than poor people. However, more wealthy and more educated people also produce the wealth and technology to combat pollution. The basic problem is not the simple fact of people existing, but of education, of methods of industrial production, of self-discipline, etc.

Q. What will remedy our pollution problems?

A. Not merely the simplistic answer of reducing the number of children per family. We could stop population growth, and our rivers would still be ecological slums, the air over our cities would still remain unbreathable, and our environment would continue to deteriorate. What is needed is massive efforts, great sums of money, educational campaigns, and in many ways, a substantial change in the way we live, not in how many of us are alive.

Q. What will the effects of population growth in our country do to the economics of this country?

A. The Wall Street Journal (Dec., 1970) said: "Population projections for the 1970's indicate a further decline in the growth rate. Our big population explosion is in the past, but the echo effects will reverberate strongly throughout the economy for many years to come. Census experts believe American families in general will enjoy rapidly rising incomes in the years ahead. Median family income is expected to rise from around $9,900 today to $15,000 in 1985, measured in dollars of constant purchasing power."

The other thing the Journal pointed out was that the labor force in the United States will be increasing much faster than the population, as the bulge of young people moves into their working, productive adult years. A Labor Department report says of this: "The large numbers of young workers may provide an abundance of new ideas. The eagerness, imagination, and flexibility of the young will contribute to developing new ways of business organization, production, and marketing." Needless to say, they will also find new ways of attacking and solving our pollution problems.

Q. How much space is there actually existing at this time for every person who lives in the United States?

A. If we divide the number of people presently living in the United States by its total acreage, each individual has ten acres.

Q. What percentage of the population of the U.S. is needed to produce the food we eat?

A. Less than 5%.

Q. What of the world population? Will it follow the same trends as the United States?

A. One thing is certain. Neither voluntary birth control nor abortion has ever stopped the population growth of an economically underdeveloped and underprivileged country. One sure way to slow down population growth of underdeveloped countries is to bring them up to an increased standard of living. As we increase the standard of living of a nation, its people will voluntarily limit their family size. This is the major problem for the rest of the world in the decades ahead.

Q. Won't the rest of the world outgrow its food supply?

A. A few years ago, dire predictions of this were being made. Within the last several years, however, a "green revolution" has occurred. Hybrid wheat, corn, and rice have been developed that have radically changed the outlook in these hungry lands. In Pakistan, wheat output has soared from four-and-a-half to twelve-and-a-half million tons in just five years. In India, wheat production has gone from twelve-and-a-half to nineteen-and-a-half million tons in five years. The same has happened to rice within several years. At present rates, most of the teeming sub-continent of Asia will be exporting grain rather than needing our help to stave off starvation. Their remaining problem is distribution of food, not production of it.

Q. What is the opinion of major candidates for the 1972 Presidential election?

A. President Richard Nixon on April 3, 1971, said:

"I consider abortion an unacceptable form of population control. Further, unrestricted abortion policies, or abortion on demand, I cannot square with my personal belief in the sanctity of human life—including the life of the yet unborn. For, surely, the unborn have rights also, recognized in law, recognized even in principles expounded by the United Nations.

"Ours is a nation with a Judeo-Christian heritage. It is also a nation with serious social problems—problems of malnutrition, of broken homes, of poverty and of delinquency. But none of these problems justifies such a solution.

"A good and generous people will not opt, in my view, for this kind of alternative to its social dilemmas. Rather, it will open its hearts and homes to the unwanted children of its own, as it has done for the unwanted millions of other lands."

Senator Edmund Muskie, the same week said on a T.V. show:

"I'm concerned about diluting in any way the concept of the sanctity of life.

"First of all, we're not entirely sure of the psychological impact upon mothers themselves who become free or indiscriminate in the use of this way of avoiding the consequences of sexual relations.

"A life has been taken away from them, and it's the very nature of motherhood, you know, to shield and protect life, not to destroy it . . . If it becomes all right to take a life in that stage, then how easy will it be to slip into the next step. Should people in old age who are senile—does it then become legitimate to take their lives? And there is the medical question of when does life begin to quicken. That, I guess is about six weeks . . . it's when you get beyond that point that I begin to have trouble."

RECOGNITION OF JAMAICA BAY, SEPTEMBER 24, 1972, CANARSIE PARK MALL, BROOKLYN, N.Y.

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. ADDABBO. Mr. Speaker, at the request of my constituent and friend, Mr. Jerome J. Hipscher, president, Jamaica Bay Council, Arverne, N.Y., I wish to join with him to remind others of the beauty of wetlands throughout America, and at the same time extend an invitation to Members of Congress, their families, and those interested to attend the environmental pageant on September 24, 1972, to see firsthand the importance of a Gateway National Park through visual arts and history; performing arts and environmental programs.

Jamaica Bay is an environmental paradise situated in the Boroughs of Brooklyn, Queens and Nassau Counties, going from Coney Island to Inwood Park. The Gateway National Park will include a part of the Jamaica Bay. The bay has a natural wildlife refuge situated in Broad Channel area and under the supervision of the Department of Parks of New York City. Gateway National Park can be reached by a system of buses.

New York City needs the Gateway National Park, as an area for relaxation, recreation, environmental education, research, and preservation. Those citizens who by virtue of being poor are locked into an urban city with no relaxation, poor recreational facilities, and no open space and clean air to breathe. Senior citizens likewise become locked in. This park can serve to bring clean air and a place where citizens can enjoy the beauty of America whether they be poor, senior citizens, youth or a traveling American or foreign visitor to New York.

To celebrate this coming event and hopes for early development of the Gateway National Park, the Jamaica Bay council are planning a fall Jamaica Bay pageant on Sunday, September 24, 1972, at Canarsie Park Mall in Brooklyn from the hours of 11 a.m. to 5 p.m. Please set this date aside and join those interested in this celebration and expression of love for the wetlands.

J. EDGAR HOOVER: INDOMITABLE, INCORRUPTIBLE

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. ZWACH. Mr. Speaker, a part of America passed from the scene with the death of J. Edgar Hoover, Director of the Federal Bureau of Investigation.

Mr. Hoover took his place in America in the era of the tough prohibition-rich, power-mad, gangsters who were threatening the very structure of our American Republic.

Bank robberies, kidnapings, and gangland executions had so intimidated the American people that some of our cities had made truces with gangland chiefs, guaranteeing them safe sanctuary in return for freedom from their predations.

No public figure ever stepped into a more disheartening situation, but as his later life proved, J. Edgar Hoover was indominable.

First he sought laws to give his bureau authority, and then he sought stiffer penalties for the crimes peculiar to that era, bank robbery, kidnaping, bootlegging, and crossing State lines to avoid prosecution.

Thus armed, he cut an exciting swath through the American crime hierarchy and soon had it all but erased from the American scene.

Mr. Hoover built his department from one of inept anonymity to one of the world's most famous criminal investigative agencies.

Smart, incorruptible, tenacious, J. Edgar Hoover's foresight and ability resulted in an almost complete roundup of enemy spies at the outbreak of World War II. When German submarines attempted to land saboteurs on our shores, the FBI was waiting for them at water's edge.

J. Edgar Hoover was a legend in his own time, immortalized on the screen and television.

His service of 48 years, under eight different Presidents is unique and probably never will be equaled in American history. This was the mark of his true worth. He was unshakable, untouched by politics.

Mr. Hoover's passing should be mourned by every American. They owe him more than most will ever realize.

NEWSMAN'S DILEMMA

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. MOORHEAD. Mr. Speaker, the tremendous amount of information overclassified by the executive branch bureaucrats has created some real problems for the Nation's news media.

There are no doubt some who believe that every piece of information which is classified is overclassified and therefore fair game to be printed if the item falls into their hands. At the other extreme, there are those newsmen who believe that everything classified is done so for the best of reasons and to print the document or to discuss its contents is tantamount to treason.

Between these extremes is the great mass of newsmen who try to cast an independent judgment on each issue—or document—as it arises, asking themselves, "If I got hold of this item would I print it?"

Regardless of their decision, there is little doubt that the classification stamp, used irreverently and illogically, is at the bottom of a great crisis among newsmen.

A newsman whom I respect greatly has written recently of this problem.

At this time, I would like to introduce into the RECORD a column by John Troan, editor of the Pittsburgh Press:

NEWS MEDIA'S DILEMMA

(By John Troan)

In Washington, the Nixon administration has sprung a sieve—and government documents of various sorts are leaking out to the public.

In Cambridge, Mass., an anti-war group is peddling to the news media what it claims to be secret information about U.S. troop movements and military plans.

In Virginia, a former high official of the Central Intelligence Agency (CIA) has written a magazine article which purports to reveal how U.S. spies throughout the world gather secret information for our government.

To some newsmen, this is a dream—reflecting the ultimate in freedom of the press. To me, this is a nightmare—reflecting the dilemma of balancing a basic right against a basic responsibility.

For, unlike some of my brethren, I do not believe the right of freedom of the press absolves us from the responsibility of protecting the national security.

SECURITY DANGER

I don't mean protecting the national government from mere embarrassment—such as that which followed publication of the "Pentagon Papers" on the Vietnam war or the "Anderson papers" on the India-Pakistan war.

I mean protecting the national security from being undermined—as by advance publication of battle plans or troop movements, or by disclosure of the men or methods our government employs to ferret our from foreign sources information vital to our country's welfare and even to our survival.

Roger Fisher, a Harvard University law professor, pointed up this conflict between press rights and press responsibilities at the meeting of the American Society of Newspaper Editors in Washington the other week.

He confessed he himself doesn't know where to draw the line. Nor does anybody else.

But certainly we have a responsibility to draw it somewhere short of jeopardizing the lives of our fighting men. Or foreclosing our government's access to information needed for self-protection in a civilized world that still resorts to jungle rules too often.

BOMBING PLANS?

The anti-war group in Massachusetts is bragging, for instance, that it tipped off some of the news media about U. S. plans to bomb Hanoi and Haiphong the week before.

I don't know what truth there is to this, or whether anyone actually published or broadcast the information.

But I think anybody who would deliberately seek to have a fellow American shot down by enemy guns should himself be shot at sunrise.

And the same goes for anyone who would condemn U.S. espionage agents to almost certain death by exposing who they are or how they work.

This is not freedom of speech or freedom of the press. This is treason.

And if the news media don't exercise their responsibilities in this area, it won't be long before they won't be able to exercise their rights either.

DISCRIMINATORY REVENUE PROVISION SHOULD BE ELIMINATED

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. ARCHER. Mr. Speaker, on April 26, the Ways and Means Committee reported a long awaited revenue sharing proposal which is expected to come before the House in the near future. While I question the propriety of several of the provisions contained in the bill, one in particular has drawn strong criticism from the citizens of my home State of Texas—and rightly so.

The provision penalizing the 10 States which do not have an income tax does great injustice to the spirit of federalism, which has long been a cornerstone of our republican form of government.

Mr. Speaker, there is no overriding Federal interest that would justify legislation dictating the system of taxation practiced by the several States. Moreover, the fiscal condition of the Federal Government is certainly no shining example for the States to follow. As one of my constituents aptly explained in a recent letter:

> Our State is run in a manner far more sound fiscally than is the Federal government. Our budgets ultimately balance. We have no debt. We pay our way.

I sincerely hope that the House is afforded an opportunity to strike this discriminatory section from the bill. If a closed rule is granted, thus providing no such opportunity, then I must urge my colleagues to vote "no" when H.R. 14370 is brought before the House for a vote.

For the benefit of all Members of Congress, I would like to insert in the RECORD the following editorial from the April 19 edition of the Houston Chronicle.

INCOME TAX PROVISO HAS GOT TO GO

The revenue-sharing bill approved this week by the House Ways and Means Committee still contains the proviso penalizing Texas and the nine other states that do not have a state income tax.

If approved as it came out of the committee, the bill would deny the 10 states a share in the $900 million of revenue allocated to states. Under the committee formula, half of the $1.8 billion going to the states would be distributed on the basis of state income tax collections, the other half on basis of total revenue.

There is no justification for linking the states' share with a state income tax, just as there would be no reason for tying the funds to any other source of revenue. In doing this, the federal government in effect would be telling the states how to collect their taxes. Allocation of the entire $1.8 billion should be based solely on total state revenue.

When Lt. Gov. Ben Barnes went to Washington in March to protest the income tax matter, committee chairman Wilbur Mills, D-Ark., pledged total opposition to the proviso. Mills said his committee staff drew up the bill based on wishes of a cross section of governors and mayors. He indicated that governors whose states have an income tax favored an allocation tied to the income tax to encourage the other 10 states to join the fold and thereby erase any advantage they might hold in attracting industry.

Rep. Mills, of course, still can honor his pledge to fight the income tax proviso when the bill comes before the House, and he should do so. The Chronicle urges all members of Congress to make this a fair revenue-sharing bill and remove any connection with an income tax.

J. EDGAR HOOVER

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mrs. HICKS of Massachusetts. Mr. Speaker, we all mourn the loss of J. Edgar Hoover, a public servant, serving under eight Presidents of the United States. I join my colleagues in paying tribute to this great American who became the Nation's No. 1 policeman 48 years ago.

J. Edgar Hoover created a national police force of high competence whose members have been of such exalted morale that the Bureau has been untouched by scandal for 48 years.

It has been said of J. Edgar Hoover "he is a hero to millions of decent citizens and anathema to evil men." No other man has fought so long or so hard for a safer and better national life.

Upon acceptance as Director of the FBI, J. Edgar Hoover set up the criteria for appointments to the Bureau:

> The Bureau must be divorced from politics, appointments and promotions must be based on merit and the Bureau must be responsible to the Attorney General only.

J. Edgar Hoover molded the FBI into a model law enforcement agency, setting a rigid standard of personal behavior for himself. His creed to attain a goal of excellence: Integrity of self and deed with absolutely no compromise.

His passing will be mourned by all those who search for law and order. His passing marks the end of an era of dedicated, courageous service. He truly was a great American patriot.

REPRESENTATIVE LONG'S ACTIVITIES IN BEHALF OF ISRAEL

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. ROSENTHAL. Mr. Speaker, during his 10 years in the House of Representatives, CLARENCE D. LONG has worked to strengthen Israel by supporting programs to improve agricultural and industrial development, to keep Israel strong militarily, and to aid the emigration of Soviet Jews to Israel.

As a member of the Foreign Operations Subcommittee of the House Appropriations Committee—which initiates congressional action on U.S. foreign aid programs—Dr. LONG has introduced and supported programs to aid Israeli educational institutions, including the Weismann Institute and the Feinberg Graduate School of Hebrew University; medical centers, such as the Hadassah-Hebrew University Medical Center; and homes for the aged, such as Zichron-Yaakov. In addition, the Maryland Representative has worked for the passage of legislation to express the sense of Congress with respect to peace in the Middle East, to urge the President to intercede with Soviet leaders to obtain better living conditions for Soviet Jewry, and to allow Soviet Jews to emigrate freely to Israel or to any other nation of their choice.

In 1967 and 1971, Dr. LONG visited Israel to consult with Levi Eshkol, Golda Meir, Abba Eban, David Horowitz, Finance Minister Phinhas Sapir and other Israeli leaders.

Following the 1971 trip, during which Congressman LONG also conferred with President Sadat of Egypt—the first American Congressman to do so—he reported his views to the House Foreign Affairs Subcommittee on the Near East.

Representative LONG pointed out that his principal conclusion—based on observations, conversations, and economic analysis—is that time is very much on Israel's side. That nation is producing about the same gross national product as Egypt, although it has only one-eleventh the population, and is moving ahead at one of the fastest rates economically of any country in the world.

Israel looks for a doubling of population in the next 20 years from natural growth and immigration. If Israel continues her 6-percent annual growth in real output per capita, this will mean a six-fold increase in total output in the next 20 years. Thus, in another two decades, there will be the economic equivalent of six Israels. In contrast, Egypt is growing slowly—barely keeping ahead of a population growth which is a hindrance rather than a help since Egypt is already bursting with unabsorbed labor.

The Maryland Congressman observed at the hearing which I attended, that the American people can take pride in Israel's progress, for they have given Israel nearly $8 billion in economic and military aid—through the U.S. Government and the American Jewish Community.

PASSING OF J. EDGAR HOOVER

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. DON H. CLAUSEN. Mr. Speaker, J. Edgar Hoover's passing at the age of 77 and after 48 unbroken years of public service, has deeply saddened those of us in America who had a deep and abiding respect for both the man and the law. I say this because, for as long as I can remember, the two have been accepted as one and the same by all Americans familiar with his extraordinary and unparalleled record of service.

I know of no citizen of this great country who has served his Nation so ably and so loyally, as has J. Edgar Hoover. Some have said that he was incorruptible, but that does not reflect the true measure of this great man. In the recorded history of the Federal Bureau of Investigation, there is not a single known instance of an FBI agent ever accepting a bribe or otherwise defaming the Bureau. That, in my judgment, is but one example of the greatness that was J. Edgar Hoover the leader, the Director, and the man that we all referred to as an institution unto himself.

From the lawlessness and corruption of the 1920's, the subversion and intrigue of the 1940's, to the bombers and dissenters of the 1960's—J. Edgar Hoover remained true to his profession, to enforcing the law, to upholding justice, and to the many Presidents he served along the way. And throughout it all, he remained above partisan politics, above revenge to his critics, and above reproach in directing the activities of what is recognized through the world as the epitome of a national crime-fighting organization—an organization that always supplemented and supported the State and local peace officers and their efforts—an organization that gave us more internal security and freedom than any country in the world.

I should like to conclude my remarks by quoting a line I read today by noted columnist David Lawrence about Mr. Hoover—

> He died while in office, so it can be said he retired peacefully.

When you trust a man and respect him as much as we all trusted and respected J. Edgar Hoover, there can be no question that he is going to be missed. When a man remains in public office and at the same job for nearly half a century, there can be no doubt that his departure is going to leave a great void. As a boy he was my hero and as a man, he remained my hero. And he always will be.

A G-Man, when I was a boy was a man that gave me something to trust, something to cling to, as I sought assurances of security, something I could believe in.

J. Edgar Hoover projected an image of fairness and firmness and he directed and built the great organization we commonly accept and respectfully refer to as the FBI.

America desperately needs to recognize and adhere to the principles of honesty, integrity, and justice that this great man practiced each day of his life.

J. Edgar Hoover was truly a Christian soldier for peace in America.

Today he is resting in peace, but his memory and his name will linger on forever in the hearts and minds of all Americans privileged to live in his time and under his protective shield of service.

When we as individuals have accomplished our daily tasks, we can go to sleep in peace—knowing that God is always awake and aware.

J. Edgar Hoover, with a lifetime of fulfillment and accomplishments has earned his right to sleep in peace.

May the good Lord look kindly upon this man, my hero.

SENATE—*Friday, May 5, 1972*

The Senate met at 10 a.m. and was called to order by Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father God, we thank Thee for Thy providential care over this Nation, for watching over us in peace and in war, in prosperity and adversity, and for leading us to this very hour. Guide us to a new high destiny of spiritual power, moral rectitude, and strength in the quest for peace and justice. Equip us in mind and nourish us in spirit.

"To serve the present age
Our calling to fulfill
O, may it all our powers engage,
To do the Master's will."

We pray in His name. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 5, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. STEVENSON thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, May 4, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PAYMENT OF JUDGMENTS IN FAVOR OF THE MIAMI TRIBE OF INDIANS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 745, H.R. 5199.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk proceeded to read as follows:

H.R. 5199, to provide for the disposition of funds appropriated to pay judgments in favor of the Miami Tribe of Oklahoma and the Miami Indians of Indiana in Indian Claims Commission dockets numbered 255 and 124–C, dockets numbered 256, 124–D, E, and F, and dockets numbered 131 and 253, and of funds appropriated to pay a judgment in favor of the Miami Tribe of Oklahoma in docket numbered 251-A, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment, on page 2, beginning with line 14, strike out "adding the names of children born to enrollees on or prior to and living on the date of this Act, (b) by adding the names of persons living on the date of this Act who were eligible for enrollment under said section 4 but were not enrolled, and the names of their children born on or prior to and living on the date of this Act, and (c) by deleting the names of persons who are deceased as of the date of this Act." and insert in lieu thereof "adding the names of persons living on the date of this Act who were eligible for enrollment under said section 4 but were not enrolled, (b) by adding the names of children born to enrollees on or prior to the date of this Act and who are living on said date, (c) by adding the names of children born to persons who were eligible for enrollment under said section 4 but who were not enrolled, regardless of whether such persons are living or deceased on the date of this Act, provided said children of such persons are living on the date of this Act, and (d) by deleting the names of persons who are deceased as **of the date** of this Act."

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds appropriated by the Acts of July 22, 1969 (83 Stat. 49), and January 8, 1971 (84 Stat. 1981), to pay judgments awarded to the Miami Tribe of Oklahoma and the Miami Indians of Indiana in Indian Claims Commission dockets numbered 255 and 124–C, dockets numbered 256, 124–D, E, and F, and dockets numbered 131 and 253, and to pay a judgment awarded to the Miami Tribe of Oklahoma in docket numbered 251–A, together with interest thereon, after payment of attorney fees and litigation expenses, shall be distributed as provided in this Act.

SEC. 2. The Secretary may make appropriate withdrawals from the judgment funds and interest thereon, using interest funds first, to pay costs incident to carrying out the provisions of this Act.

SEC. 3. The Secretary of the Interior shall bring current to the date of this Act the roll prepared pursuant to section 4 of the Act of October 14, 1966 (80 Stat. 909), by (a) adding the names of persons living on the date of this Act who were eligible for enrollment under said section 4 but were not enrolled, (b) by adding the names of children born to enrollees on or prior to the date of this Act and who are living on said date, (c) by adding the names of children born to persons who were eligible for enrollment under said section 4 but who were not enrolled, regardless of whether such persons are living or deceased on the date of this Act, provided said children of such persons are living on the date of this Act, and (d) by deleting the names of persons who are deceased as of the date of this Act.

SEC. 4. An application for addition of a name to the roll pursuant to section 3 of this Act must be filed with the area director of the Bureau of Indian Affairs, Muskogee, Oklahoma, on forms prescribed for that purpose. The determination of the Secretary regarding the eligibility of an applicant shall be final.

SEC. 5. On completion of the roll by the Secretary of the Interior, the balance of the funds appropriated to satisfy the judgments in dockets numbered 255 and 124–C, dockets numbered 256, 124–D, E, and F, and dockets numbered 131 and 253, and interest accumulated thereon, shall be distributed equally to the individuals enrolled.

SEC. 6. The funds on deposit in the Treasury of the United States to the credit of the Miami Tribe of Oklahoma that were appropriated by the Act of July 22, 1969 (83 Stat. 49), to pay a judgment by the Indian Claims Commission in docket numbered 251–A, together with the interest thereon, after payment of attorney fees and expenses, may be advanced or expended for any purpose that is authorized by the tribal governing body of the Miami Tribe of Oklahoma, and approved by the Secretary of the Interior.

SEC. 7. (a) Except as provided in subsection (b) of this section, the Secretary of the Interior shall distribute a per capita share payable to a living enrollee directly to such enrollee, and shall distribute a per capita share payable to a deceased enrollee directly to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive.

(b) Sums payable to enrollees or their heirs or legatees who are less than eighteen years of age or who are under a legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interest of such persons.

SEC. 8. None of the funds distributed under the provisions of this Act shall be subject to Federal or State income taxes.

SEC. 9. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the unfinished business is laid before the Senate today and the Chair has announced that the pending question is on adoption of the amendment of the Senator from Mississippi (Mr. STENNIS), immediately thereafter the Stennis amendment be temporarily laid aside for not to exceed 1 hour and 30 minutes; that the amendment by the Senator from California (Mr. TUNNEY) meanwhile, be temporarily laid before the Senate for disposition and that time on the Tunney amendment be equally divided between and controlled by the mover of the amendment (Mr. TUNNEY) and the manager of the bill; and that at the close of one hour and a half, or at such time as all time has been yielded back, a vote occur on the amendment by Mr. TUNNEY; and that immediately following disposition of that amendment, which would ordinarily be the case anyhow, the Stennis amendment again be announced as the pending question.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I do not intend to object, it would be the understanding, I take it, that if there were any amendments to the Tunney amendment, discussion of such amendments would have to take place within the one hour and a half; is that correct?

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. Such amendments to the amendment could, conceivably, be offered so that the vote thereon would come at the end of the one hour and a half; is that correct?

Mr. ROBERT C. BYRD. The distinguished assistant Republican leader is correct.

Mr. GRIFFIN. The laying aside temporarily of the Stennis amendment and the likelihood of a rollcall vote may inconvenience some Senators today, but I know of no objection on this side to the consideration of this single amendment. Indeed, I will support the amendment. It restores funds budgeted and recommended by the administration for the Peace Corps. But I have been requested by other Senators on this side to object if further unanimous-consent requests are made today with respect to any other amendment. It appears that we can notify Senators there is likely to be a rollcall vote on the Tunney amendment at about 12 noon today.

Mr. ROBERT C. BYRD. Mr. President, may I say in this regard that I shall cooperate with the distinguished assistant Republican leader in this instance, particularly, but I think it should be stated for the record that the leadership on this side of the aisle is not always going to willingly submit to the placing of blanket objections—to unanimous-consent requests to call up amendments—by Senators who are not here.

I do not know the identity of the Senators that the distinguished assistant Republican leader has in mind. If I were in his place, I would do precisely as he has done in honoring the requests, insofar as possible, of my colleagues. At least, if I gave my word that I would object, I would do so. But I think I should state that this is the President's legislation. It is not mine. I think it is in the interest of the administration, and it is our duty as Senators, that we get on with the business here. The leadership wishes to accommodate any Senator on either side of the aisle when it is possible to do so without delaying the business of the Senate, but the leadership does have a responsibility to do everything it can do to expedite the work of the Senate.

It has been said by someone high in the executive branch of the administration that Congress is stalling, that Congress is delaying action on the program of the President.

I would urge the administration to have its Members here so that we can act. I am not implying, or stating, that there are no Members on my side of the aisle who are not here. The record of attendance on both sides of the aisle is, from time to time, not to be boasted about, but I am disappointed this morning—having heard some statements expressed yesterday on the part of certain Senators who were not going to be here today—that overnight, the distinguished acting Republican leader has been asked to object in their stead.

I gave the distinguished assistant Republican leader and other Senators, including the distinguished Senator from Mississippi (Mr. STENNIS), my word yesterday in our off-the-floor conference, that we would not set the Stennis amendment aside today for any other amendment except by unanimous consent, and only then for relatively noncontroversial amendments. But we did reach an understanding to try to move forward to that extent. I intend to keep that word. So far as I am concerned, I cannot set the Stennis amendment aside except by unanimous consent today, but what I could also say is that it can be done by motion. Of course, that motion, if it comes, after the unfinished business is laid down, is debatable and if any Senator wants to hold up the business of the Senate, he can filibuster that motion.

But this business of objecting to a unanimous-consent request by proxy is not always going to work around here. The leadership has the responsibility and so far as I am concerned, I am going to carry out my responsibility. I am not always going to feel constrained against moving to call up a measure or an amendment if a unanimous consent to do so is objected to.

Again, what I am saying is not with any intent to cast any reflection whatsoever on the assistant minority leader, for whom I have the utmost respect. He is doing his job, and he does it well. But I have my job to do also. And I intend to do it to the best of my ability. I do not want the Senate's business to be stalled by a Senator who wants to go somewhere on Friday and does not want a vote to occur during his absence, and requests some other Senator to object in his stead. It may work this time. However, it will not always be successful.

Mr. GRIFFIN. Mr. President, now that the distinguished majority whip has completed his most eloquent and forceful statement, which he is of course entitled to make, I will observe that when the roll is called on the Tunney amendment, I think the number of Senators on this side of the aisle will look pretty good in comparison with the absentees on the other side of the aisle.

Mr. ROBERT C. BYRD. Mr. President, that may be true. However, no absent Senator on this side of the aisle has lodged a request for an objection to be made to a unanimous-consent request to set aside an amendment and to take up some noncontroversial amendment which may be offered. The objection is coming from the other side of the aisle. I say most respectfully that I honor the assistant minority leader for doing his job. But I have a job to do also.

Mr. GRIFFIN. Mr. President, I respect and honor the able majority whip for doing his job. He does it very well and very effectively.

Perhaps a mistake was made in agreeing that any other amendment could be taken up to displace the Stennis amendment. Of course, the pending business before the Senate is the amendment of the distinguished Senator from Mississippi. And we have been ready and willing to vote on the Stennis amendment for these past several days. We are ready and willing to vote today.

The delay has not come from this side of the aisle; or at least it has not come from this side of the issue. I say it that way because I realize that the issue involved is not a partisan matter. Obviously there are Senators on both sides of the political aisle with differences about the merits of the Stennis amendment.

I am inclined to say that perhaps we should keep the Stennis amendment as the pending business and agree to no unanimous-consent requests at all. Perhaps that is the way we should have dealt with the issue. We were merely trying to provide some accommodation.

The ACTING PRESIDENT pro tempore. Without objection, the unanimous-consent request of the Senator from West Virginia is agreed to.

SENATE RESOLUTION 299—SUBMISSION OF A RESOLUTION ESTABLISHING A SELECT COMMITTEE TO STUDY QUESTIONS RELATING TO SECRET AND CONFIDENTIAL GOVERNMENT DOCUMENTS

Mr. JAVITS. Mr. President, I send a resolution to the desk and ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution.

The second assistant legislative clerk read as follows:

Resolved, that there is hereby established a special, ad hoc Select Committee of the Senate to be composed of ten members, five from the majority and five from the minority. The Majority Leader shall be the Chairman and the Minority Leader the Co-Chairman. Of the remaining eight members, four will be appointed by the Majority Leader and four by the Minority Leader. Any member appointed under the provisions of this resolution shall be exempt from the provisions of the Reorganization Act relating to limitations on Committee service.

The Committee shall conduct a study and report its findings and recommendations to the Senate, within sixty days of its establishment, on all questions relating to the secrecy, confidentiality and classification of government documents committed to the Senate, or any member thereof, and propose guidelines with respect thereof; and, the laws and rules relating to classification, declassification or reclassification of government documents, and the authority therefor.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from New York?

Mr. GRIFFIN. Mr. President, reserving the right to object, it is my understanding, if I may make an inquiry of the disinguished Senator from New York, the sponsor of this resolution, as to the parliamentary situation which he is pursuing, the way for him to get this on the calendar is to ask for unanimous consent that it be considered immediately. I do not think he really expected that it would be considered immediately today, and it is within the framework of his plans that it be put on the calendar and held over until next week.

Mr. JAVITS. Mr. President, may I say to the Senator that I would have been disappointed if this had not happened. It would not be my plan that we consider it today. I intend to make no comment of any kind on the resolution today except to ask that the clerk read the names of the cosponsors. I expect that it will be held on the calendar until Monday. We will then have both leaders here, and, at their disposition, it can either be discussed and considered if they wish then, or it can go on the calendar and be discussed and considered at an appropriate time.

Mr. GRIFFIN. Mr. President, I have not had any opportunity to consider the merits of the resolution. From listening to the wording of it for the first time, I think that the idea of the Senator to do something in the area of providing a more orderly procedure for declassifying or considering the subject of classification of documents is needed. However, in order to accommodate the situation, and because someone has to make an objection and I happen to be the leader on the floor, I object.

Mr. JAVITS. Mr. President, if I may be recognized, I appreciate that very much. That is exactly what I wanted to see occur. I am grateful to the Senator for his accommodating us in this way. I wish to make it clear myself that I in no way consider this an indication of the Senator's opinion as to what ought to be done on this or any other similar legislation.

Mr. President, I ask unanimous consent that the clerk read the names of the cosponsors on the resolution.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will state the names of the cosponsors.

The second assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) submits a resolution for himself, the Senator from Massachusetts (Mr. BROOKE), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from Kentucky (Mr. COOPER), the Senator from California (Mr. CRANSTON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oregon (Mr. HATFIELD), the Senator from Iowa (Mr. HUGHES), the Senator from Maryland (Mr. MATHIAS), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Illinois (Mr. STEVENSON).

Mr. JAVITS. Mr. President, I ask unanimous consent that an analysis of the law relating to the confidentiality of documents prepared under the auspices of the Foreign Relations Committee may be made part of my remarks together with a compilation of basic documents on security classification of information from the Library of Congress.

There being no objection, the analysis and compilation were ordered to be printed in the RECORD, as follows:

SECURITY CLASSIFICATION AS A PROBLEM IN THE CONGRESSIONAL ROLE IN FOREIGN POLICY

PREFACE

The controversy generated by the Pentagon Papers is the most recent manifestation of the subterfuge which has undermined popular confidence in our leaders and in our institutions. The U-2 incident of 1960, the Bay of Pigs affair, the Dominican intervention, and the Executive branch's misrepresentations concerning the war in Southeast Asia have all contributed to the skepticism of the general public towards the actions and policies of our Government. Excessive secrecy tends to perpetuate mistaken policies, and undermines the democratic principles upon which this country was founded. For this reason, I requested a study by the Congressional Research Service of the Library of Congress of the security classification procedure and the problem it presents to Congress in the performance of its Constitutional role. I believe that this memorandum will be of interest to both my colleagues and to the general public.

The memorandum was prepared by the Foreign Affairs Division of the Congressional Research Service, to which I express my appreciation.

J. W. FULBRIGHT, *Chairman.*

I. INTRODUCTION

Security classification in this paper means the formal process in the Executive Branch of limiting access to or restricting distribution of information on the grounds of national security. The purpose of this paper is to survey the security classification process to determine how it affects the work of Congress on foreign policy and to explore proposals for changing the process. It does not deal with the related problems of loyalty or censorship, and it attempts to differentiate the problem of security classification from the problem of executive privilege, that is the withholding of either classified or unclassified information from Congress by the Executive Branch on the grounds that it is the right of the President to do so.[1]

First, as background for considering proposed changes, the study outlines the origin of the system, the legislation and regulations on which the Executive Branch bases its process of classification, and present practice. Second, it discusses the access of Congress to classified information and the relationship of classified information to the role of Congress in making foreign policy. Finally, it explores proposals for changing the present classification system.

Secrecy has been a factor in making foreign policy since the first days of the nation's history. At the Constitutional Convention the belief that negotiations with other countries might require secrecy was a major element in vesting the treaty power in the President and the Senate rather than in the entire Congress. Similarly, military secrecy in time of war is a long-standing practice. It is only in the period since the Second World War, however, that the problem of classified information has grown to its present dimensions. More formalized procedures, the greater United States involvement in world affairs, the concept of an all-pervading threat from the Soviet Union and other Communist countries, the growing size of the government, and vastly increasing amounts of information have all contributed to a tremendous increase in the amount of information treated as secret.

Classification practice today is based primarily on Executive Order 10501 and the manner in which it is interpreted and carried out throughout the Executive Branch. Although there is no legislation establishing a classification system, during the first ten post-war years Congress in effect cooperated or at least acquiesced in the Executive Branch's establishment of a classification system through such legislation as the Atomic Energy Act of 1946, the National Security Act of 1947, and the Internal Security Act of 1950. Since 1955, however, Congress has moved in the direction of preventing excessive withholding of information through amendment of some of the statutes which were being used to justify the classification system. Nevertheless the dimension of the problem of classified information does not appear to have been significantly reduced. There is general agreement that the quantity of classified information and documents remains huge and includes many documents which should no longer be classified. Moreover, many observers would say that much information never should have been classified in the first place.

There are two main ways in which the security classification of information affects the work of Congress in the foreign affairs field. First, it limits the kind and amount of information which Congress receives. Second, it circumscribes what Congress can do with information which it does receive, especially what it can pass on to the public to explain its position.

Members of Congress can frequently obtain classified information upon request. If requested information is withheld, it apparently is ultimately done so on the grounds of executive privilege rather than on the grounds that it is classified. However, the classification of information does prevent Congress from making it public. Moreover, it may prevent Congress from knowing that it exists and hence requesting it. Classification leaves the Executive Branch in fuller control over what information it will provide both Congress and the public since it bars journalists and scholars from access unless the Executive Branch wants to make it available (or "leak" it) to them.

Many of the proposals relating to the classification problem aim at cutting down the amount of classified information or making certain that information which would not jeopardize national security is not classified. Action in this direction might reduce the frequency of instances in which information in the foreign affairs field cannot be obtained even when it is unlikely that the information could in any way jeopardize the national security if it were made public. The problem for Congress in the foreign affairs field, however, goes beyond reducing unnecessary classification. It involves finding a way for Congress to make certain that it receives the full information necessary for exercising its war and foreign policy powers, including information which most people would agree should be kept secret from potential enemies. It may also involve finding a way for Congress to share in determining what information is classified and thus kept secret from the American people.

II. THE ORIGIN AND LEGAL BASIS OF PRESENT CLASSIFICATION PROCEDURES

A. Origin

Secrecy has been practiced to some degree in diplomatic and military affairs throughout the nation's history. For example, in 1790 President Washington presented to the Senate for its approval a secret article to be inserted in a treaty with the Creek Indians.[2] A formal and extensive classification system to keep certain information secret for purposes of national security did not develop until much later, however. According to one authority, "Measures and practices for the protection of official information in general long served to protect any defense information that needed protection without there having to be any clear distinction between defense information and other official information requiring protection."[3]

The use of markings such as "Confidential," "Secret," or "Private" on communications from military and naval or other public officials "can be traced back almost continuously into the War of 1812."[4] However, the roots of the present classification system appear to be found around the time of the First World War. A General Order of the War Department dated February 16, 1912, established a system for the protection of information relating to submarine mine projects, land defense plans, maps and charts showing locations of defense elements and the character of the armament, and data on numbers of guns and the supply of ammunition, although it prescribed no particular markings.[5] A General Order from the General Headquarters of the American Expeditionary Force dated November 21, 1917, established the classifications of "Confidential," "Secret," and "For Official Circulation Only."[6]

The classification system established during the First World War was continued after the war was over. Army Regulation 330-5 of 1921 stated:

"A document will be marked "Secret" only when the information it contains is of great importance and when the safeguarding of that information from actual or potential enemies is of prime necessity.

* * * * *

"A document will be marked "Confidential" when it is of less importance and of less secret a nature than one requiring the mark of "Secret" but which must, nevertheless, be guarded from hostile or indiscreet persons.

* * * * *

"A document will be marked "For official use only" when it contains information which is not to be communicated to the public or to the press but which may be communicated to any persons known to be in the service of the United States whose duty it concerns, or to persons of undoubted loyalty and discretion who are cooperating with Government work."[7]

In a 1935 revision the term "Restricted" was introduced as a fourth category, to be used when a document contained information regarding research work on the design, test, production, or use of a unit of military equipment or a component thereof which

---

Footnotes at end of article.

was to be kept secret. It also emerged in 1935 that documents on projects with restricted status were to be marked:

"Restricted; Notice—This document contains information affecting the national defense of the United States within the meaning of the Espionage Act (U.S.C. 50:31, 32). The transmission of this document or the revelation of its contents in any manner to any unauthorized person is prohibited."[8]

Executive Order No. 8381 issued March 22, 1940, by President Roosevelt, entitled "Defining Certain Military and Naval Installations and Equipment" gave recognition to the military classification system. In this order he cited as authority the act of January 12, 1938 (Sec. 795(a) of Title 18, part of the Espionage laws) which stated:

"Whenever, in the interests of national defense, the President defines certain vital military and naval installations or equipment as requiring protection against the general dissemination of information thereto, it shall be unlawful to make any photograph, sketch, picture, drawing, map, or graphical representation of such vital military and naval installation or equipment without first obtaining permission of the commanding officer. . . ."[9]

In defining the installations or equipment requiring protection against the dissemination of information concerning them, the President named as one criterion the classification as "secret," "confidential," or "restricted" under the direction of either the Secretary of War or the Secretary of the Navy. In addition to military or naval installations, weapons, and equipment so classified or marked, included in the definition were:

"All official military or naval books, pamphlets, documents, reports, maps, charts, plans, designs, models, drawing, photographs, contracts, or specifications, which are now marked under the authority or at the direction of the Secretary of War or the Secretary of the Navy as "secret," "confidential," or "restricted," and all such articles or equipment which may hereafter be so marked with the approval or at the direction of the President."[10]

That Executive Order was superceded by Executive Order 10104 issued by President Truman February 1, 1950. In addition to the three designations previously mentioned, the new Executive Order referred for the first time to "top secret," although this designation had been in use some years earlier. In place of the Secretary of War and the Secretary of the Navy, Executive Order 10104 described the President. the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force as being authorized to classify or direct to be classified the designated information.[11]

On September 24, 1951, President Truman issued an executive order which officially extended the classification system to nonmilitary agencies and to "security information—" Executive Order 10290, "Prescribing Regulations Establishing Minimum Standards for the Classification, Transmission, and Handling, by Departments and Agencies of the Executive Branch, of Official Information Which Requires Safeguarding in the Interest of the Security of the United States." It permitted any department or agency of the Executive Branch to classify and define "classified security information" to mean "official information the safeguarding of which is necessary in the interest of national security, and which is classified for such purposes by appropriate classifying authority."[12]

President Eisenhower replaced Executive Order 10290 with Executive Order 10501. "Safeguarding Official Information," on November 9, 1953. It narrowed the number of agencies authorized to classify and redefined the usage of the various security labels. Executive Order 10501, which will be described later, and its revisions, form the basis for the present system of classification of information.

B. Legal basis

Executive Order 10501 does not claim to be authorized by a specific statute. Unlike Executive Order 10104, "Definitions of Vital Military and Naval Installations and Equipment," which is linked to a specific provision of the statutes, Executive Order 10501 contains in its preface as to authority only the general statement, "Now, therefore, by virtue of the authority vested in me by the Constitution and statutes, and as President of the United States, and deeming such action necessary in the best interests of the national security, it is hereby ordered as follows. . . ." The Executive Branch apparently relies primarily on implied constitutional powers of the President and statutes which it claims afford a basis on which to justify the issuance of Executive Order 10501, acknowledging that there is no specific statutory authority for it. In 1970 when the Senate Foreign Relations Committee inquired of the State Department about the legal basis for the President's issuance of Executive Order 10501, the Legal Adviser of the State Department, John R. Stevenson, with the approval of the Department of Justice, referred to the Report of the Commission on Government Security of 1957 for a statement of the legal basis.[13] That Commission cited provisions of the Constitution and stated: "While there is no specific statutory authority for such an order or Executive Order 10501, various statutes do afford a basis upon which to justify the issuance of the order.[14]

1. Constitutional Provisions

The three constitutional provisions cited by the Commission are in article II on the Executive Branch: Section 1, "The executive power shall be vested in a President of the United States of America"; section 2, "The President shall be Commander in Chief of the Army and Navy of the United States"; and section 3, ". . . he shall take care that the laws be faithfully executed." The Commission said:

"When these provisions are considered in light of the existing Presidential authority to appoint and remove executive officers directly responsible to him, there is demonstrated the broad Presidential supervisory and regulatory authority over the internal operations of the executive branch. By issuing the proper Executive or administrative order he exercises this power of direction and supervision over his subordinates in the discharge of their duties. He thus "takes care" that the laws are being faithfully executed by those acting in his behalf; and in the instant case the pertinent laws would involve espionage, sabotage, and related statutes, should such Presidential authority not be predicated upon statutory authority or direction."[15]

The 1957 Commission report did not explicitly spell out the right of Congress to make laws affecting the classification system. However, recognition of this right was implicit in the Commission's conclusion that "in the absence of any law to the contrary, there is an adequate constitutional and statutory basis upon which to predicate the Presidential authority to issue Executive Order 10501,"[16] and in the citation of various statutes as affording a basis upon which to justify the issuance of the order.

Among the provisions of Article I of the Constitution which might be cited as giving Congress powers to legislate in this field would be the following: Section 1, "All legislative powers herein granted shall be vested in a Congress of the United States . . .;" Section 8, "The Congress shall have power to . . . provide for the common defense and general welfare of the United States; . . . to make rules for the government and regulation of the land and naval forces; . . . and to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

2. "Housekeeping" Act Prior to 1958 Amendment

Prior to 1958, 5 U.S.C. 22, now 5 U.S.C. 301, sometimes called the "Housekeeping" act, was frequently cited as justifying a system for withholding information on the basis of a security classilcation system. This was the first and earliest statute cited by the 1957 commission as at that time providing a basis for Executive Order 10501. This statute had been enacted in 1789 with the process of providing the authority for government officials to set up offices and file documents.[17] As early as 1877 and numerous times since then Section 22 of Title 5 of the U.S. code had been cited as authority to refuse information sought from the government.[18] However, in 1958 the housekeeping statute was amended by P.L. 85–619 to specify that it did "not authorize withholding information from the public or limiting the availability of records to the public." The Department of State 1970 memorandum pointed out that since the 1958 amendment this statute was no longer relevant to the justification of classification. It is mentioned in this report as a matter of historical interest and to note the legislation of 1951 specifying that it should not be used as authority for withholding information.

3. Espionage Laws

Perhaps the statutes now most frequently cited for justification of the security classification of information are the espionage laws generally. The 1957 Commission cited the espionage laws second only to the housekeeping statute discussed above. It said:

"The espionage laws have imposed upon the President a study to make determinations respecting the dissemination of informaton having a relationship to the national defense. For example, 18 U.S.C. 795(a) provides that "Whenever in the interests of national defense, the President defines certain vital military and naval installations or equipment as requiring protection against the general dissemination of information relative thereto, it shall be unlawful to make any photograph, sketch, picture. . . . etc." Proceeding under this statute the President issued Executive Order 10104 which covers information classified by the agencies of the military establishments.

"In 18 U.S.C. 798 there is specific reference to the unauthorized disclosure of 'classified information' pertaining to the cryptographic and communication systems and facilities. Furthermore, the term 'classified information' is defined as information which for reasons of national security has been specifically designated by the proper government agency for limited or restrictive dissemination or distribution."[19]

It might be questioned whether the first provision mentioned above is a basis on which to issue an executive order covering classification by non-defense agencies since it relates to information pertaining to vital military and naval installations and has already been used to justify Executive Order 10104 on military information classified by the military departments.

The second provision mentioned, section 798, does refer to classified information, thus acknowledging its existence. However, it provides penalties only for actions relating to communications intelligence and cryptography, specifying four specific categories of classified information: (1) concerning the nature or preparation of codes; (2) concerning the apparatus used for cryptographic or communication intelligence purposes; (3) concerning the communication intelligence

---

Footnotes at end of article.

activities: or (4) obtained by the process of communication intelligence from the foreign government, with knowledge that it was so obtained. Moreover, this section which was added by Public Law 248 of October 31, 1951, makes it clear that its objective is to prevent the use of classified information relating to communication intelligence activities in a manner prejudicial to the safety of the United States, and not to prevent congressional access to it. Sec. 798(c) states:

"Nothing in this section shall prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representatives of the United States of America, or joint committee thereof."[20]

Executive Order 10501 itself does not refer to Section 795 or 798 but instead refers to Sections 793 and 794 of Title 18 U.S.C. Section 5(j) of Executive Order 10501 states that when classified material affecting defense is furnished to persons outside the executive branch, the material should carry the statement, whenever practicable, "This material contains information affecting the national defense of the United States within the meaning of the espionage laws, Title 18, U.S.C., Sections 793 and 794, the transmission or revelation of which in any manner to an unauthorized person is prohibited by law."[21]

Section 793, "Gathering, transmitting or losing defense information," provides penalties of a fine or imprisonment for (a) going into defense installations or in other ways obtaining information "respecting the national defense with intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage of any foreign nation"; (b) copying or obtaining sketches, documents, or anything connected with the national defense; (c) receiving or obtaining from any source any document, writing, or anything connected with the national defense, knowing that it has been obtained contrary to the provisions of that chapter of law; (d) willfully transmitting to a person not entitled to receive it a document, etc., which a person either lawfully or without authorization possesses and has reason to believe could be used to the injury of the United States or the advantage of a foreign nation; or (e) when entrusted with any document or information relating to the national defense "through gross negligence" permitting it to be removed from its proper place "or to be lost, stolen, abstracted, or destroyed" or failing to report such loss, theft, abstraction, or destruction.

Section 794 provides for imprisonment or the death penalty for (a) communicating or transmitting a document or information relating to the national defense to any foreign government, faction, citizen, etc. "with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation"; or (b) "in time of war, with intent that the same shall be communicated to the enemy," collecting, publishing, communicating, or attempting to elicit any information with respect to the movement, numbers, or disposition of armed forces, ships, aircraft, or war materials or military operation plans or defenses "or any other information relating to the public defense, which might be useful to the enemy." In 1953 the provisions of this section in addition to coming into effect in time of war were extended to remain "in full force and effect until six months after the termination of the national emergency proclaimed by the President on December 16, 1950 or such earlier date as may be prescribed by concurrent resolution of the Congress."[22]

The espionage laws may make it sensible to have some kind of system for marking information which it would be a crime to transmit, but history does not indicate that the classification system developed directly from the Espionage Act of 1917 or that the Espionage Act was intended to authorize such a system. One student of the history of classification has observed:

"There is no indication at this time [in 1917] that difficulties could arise in enforcing the Espionage Act if official information relating to the national defense was not marked as such, insofar as it was intended to be protected from unauthorized dissemination. Violation of the first three subsections of Section I, Title I, of the act depended upon intent, but violation of the other two subsections depended in the one case on material relating to the national defense having been turned over to someone "not entitled to receive it" and in the other case on such material having been lost or compromised through "gross negligence." Since the expression "relating to the national defense" was nowhere defined, the possibility of the public being permitted to have any knowledge whatever relating to the national defense, even the fact that Congress has passed certain legislation relating thereto, depended on application of the expressions "not entitled to receive it" and "gross negligence."

"In any prosecution for violation of either of the last two subsections the burden of proving that one or the other key expressions had application in the case would rest on the prosecution, and proof would be difficult unless clear evidence could be adduced that authority had communicated its intention that the specific material involved should be protected or unless that material was of such a nature that common sense would indicate that it should be protected. For purposes of administering these two subsections of the Espionage Act the marking of defense information that is to be protected is almost essential, and its marking can also be of great assistance for purposes of administering the preceding three subsections.

"It would be logical to suppose that the markings of defense information began out of the legal necessities for administering the Espionage Act, but the indications are that such was not the case. The establishment of three grades of official information to be protected by markings was apparently something copied from the A.E.F., which had borrowed the use of such markings from the French and British."[23]

It apparently was not until 1935 that the link between classification and the espionage act was made. Then, under the army regulation of February 12, 1935, it was specified that material on projects with restricted status would be marked: "Restricted: Notice—this document contains information affecting the national defense of the United States within the meaning of the Espionage Act (U.S.C. 50:31, 32). The transmission of this document or the revelation of its contents in any manner to any unauthorized person is prohibited."[24]

4. National Security Act

The 1957 Commission on Government Security report, referred to by the State Department in 1970 as citing the legal basis for a classification system, described the National Security Act of 1947 as the "most significant legislation, which set into motion the current document classification programs." It said:

"The most significant legislation, which set into motion the current document classification program, was enacted in 1947, when the Congress passed the National Security Act in order to provide an adequate and comprehensive program designed to protect the future security of our country. To accomplish this avowed purpose the act provided for the creation of a National Security Council within the executive branch subject to Presidential direction. Its job is to consider and to make appropriate recommendations to the President. Within the framework of this program, the Interdepartmental Committee on Internal Security (ICIS) came into being, and the activity of this committee was responsible for the issuance in 1951 of Executive Order 10290, which established the original document classification program. Thus it would appear that a document classification program is within the scope of the activities sought to be coordinated by the National Security Act of 1947, and that the issuance of an appropriate Executive order establishing such a program is consistent with the policy of the act."[25]

As has been pointed out, the roots of classification systems within individual Departments go back many years before the National Security Act was passed. However, efforts made after the National Security Act appear to have led to the new government-wide directive on classification which was embodied in Executive Order 10290. Coordination of classification systems in the military department had already been provided to some degree in Executive Order 8381 which was superseded by Executive Order 10104.

The Commission on Government Security contended that the National Security Act "set into motion" the current classification program; that the classification program "is within the scope of the activities sought to be coordinated by the National Security Act of 1947"; and that "the issuance of an appropriate Executive order establishing such a program is consistent with the policy of the act."[26] It did not contend that the National Security Act actually authorized the system.

One authorization which was made by the National Security Act is pertinent, however. After establishing the Central Intelligence Agency and giving it the purpose of coordinating intelligence activities, the National Security Act provided that the Director of Central Intelligence "shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."[27] This would appear to provide adequate authorization for a system of protection of certain types of information, namely intelligence sources and methods.

5. Internal Security Act

The final statute cited by the 1957 Commission on Government Security under the assertion that "various statutes do afford a basis upon which to justify the issuance" of Executive Order 10501 was the Internal Security Act of 1950. The Commission report stated:

"Prior to issuance of Executive Order 10290, Congress had apparently recognized the existing Presidential authority to classify information within the executive branch when it passed the Internal Security Act of 1950. Contained therein were provisions defining two new criminal offenses involving classified information.

"Section 4(b) of the act makes it a crime for any Federal officer or employee to give security information classified by the President, or by the head of any department, agency, or corporation with the approval of the President, to any foreign agent or member of a Communist organization, and section 4(c) makes it a crime for any foreign agent or member of a Communist organization to receive such classified security information from a Federal employee."[28]

Section 4(b) of the Internal Security Act states:

"It shall be unlawful for any officer or employee of the United States or of any department or agency thereof, or of any corporation the stock of which is owned in whole or in major part by the United States or any department or agency thereof, to communicate in any manner or by any means, to any other person whom such officer or employee knows or has reason to believe to be an agent or representative of any foreign government or an officer or member of any Communist organization as defined in para-

---

Footnotes at end of article.

graph (5) of section 782 of this title, any information of a kind which shall have been classified by the President (or by the head of any such department, agency, or corporation with the approval of the President) as affecting the security of the United States, knowing or having reason to know that such information has been so classified, unless such officer or employee shall have been specifically authorized by the President, or by the head of the department, agency, or corporation by which this officer or employee is employed, to make such disclosure of such information." [29]

This provision of the Internal Security Act appears to come the closest to sanctioning a system for the classification of information "as affecting the security of the United States" rather than the narrower concept of "relating to the national defense" or the still narrower categories of cryptographic or intelligence information.

There has been one case in which a foreign service officer convicted under this provision appealed his case and the Court of Appeals, in affirming the verdict, held that under the statute and Executive Order 10501 an Ambassador did have authority to classify foreign service dispatches and the dispatches as classified and certified by him were within the scope of the statute. Moreover, it held that in prosecution of the officer for communication of classified information to a foreign government, the government was not required to prove that the documents involved were properly classified "as affecting the security of the United States." [30]

6. Atomic Energy Act

In addition to the above statutes listed by the 1957 Commission on Government Security, the Department of State memorandum of 1970 said "there are other statutory provisions that contemplate and assume a system of classification of information." [31] The first example it cites is section 142 of the Atomic Energy Act of 1954 (42 U.S.C. section 2162(c). The entire Chapter 12 of the act (Sections 141 through 146) is on the control of information with section 142 providing for the classification and declassification of "Restricted Data."

"Restricted Data" is defined in the Atomic Energy Act as follows:

"The term 'Restricted Data' means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142." [32]

Section 142 requires that the Atomic Energy Commission from time to time determine the data within the definition of Restricted Data which can be published "without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data."

With "Restricted Data" so defined as to include all data in certain categories, Sec. 142 proceeds on the assumption that all information in these categories is classified "Restricted Data" and is concerned mainly with setting up procedures for declassifying information in these categories. It requires that the Atomic Energy Commission from time to time determine the data within the definition of Restricted Data which can be published "without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data." It provides that in the case of Restricted Data which the Commission determines jointly with the Department of Defense to be related primarily to the military utilization of atomic weapons, the determination that it could be published is to be made jointly by the Commission and the Department of Defense, with the President deciding in case of disagreement.

In Section 142 the Atomic Energy Act also recognizes the existence of "defense information" and intelligence information. Giving recognition to "defense information" Section 142d states:

"The Commission shall remove from the Restricted Data category such data as the Commission and the Department of Defense jointly determine relates primarily to the military utilization of atomic weapons and which the Commission and Department of Defense jointly determine can be adequately safeguarded as defense information: *Provided, however,* That no such data so removed from the Restricted Data category shall be transmitted or otherwise made available to any nation or regional defense organization, while such data remains defense information, except pursuant to an agreement for cooperation entered into in accordance with subsection 144b." [33]

Giving recognition to intelligence information and its treatment as "defense information" Section 142e. states:

"The Commission shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the Commission and the Director of Central Intelligence jointly determine to be necessary to carry out the provisions of section 102 (d) of the National Security Act of 1947, as amended, and can be adequately safeguarded as defense information." [34]

The act provided a channel for transmitting information to Congress rather than a barrier, however. It established the Joint Committee on Atomic Energy (sec. 201), required that the Atomic Energy Commission and the Department of Defense keep the Joint Committee fully and currently informed on matters relating to development and application of atomic energy and required that any government agency furnish any information requested by the Joint Committee relating to its responsibilities in the field of atomic energy (sec. 202), and authorized the Joint Committee to "classify information originating within the committee in accordance with standards used generally by the executive branch for classifying Restricted Data or defense information" (sec. 206).

7. Freedom of Information Act Amending the Administrative Procedure Act

The second example the 1970 State Department memorandum cited of a statutory provision which assumed a system of classification was the Freedom of Information Act (P.L. 89–487, approved July 4, 1966). The Freedom of Information Act was an amendment and rewriting of Section 3 of the Administrative Procedure Act which had been passed in 1946. Both the original act and the amendment dealt with disclosure of information by Federal agencies, requiring them to publish procedures in the Federal Register and make available to the public final opinions, staff manuals and instructions, and statements of policy.

However the 1946 provisions had permitted material "required for good cause to be held confidential" to be withheld from disclosure. This had provided a loophole which Congress attempted to close in the 1966 Freedom of Information by exempting from its provision only nine specific kinds of information. The first of these exceptions was for matters "specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy." Accordingly, although the Freedom of Information Act was designed to make more government information available, it did not apply to classified information and even could be used, as it was by the State Department in 1970, as an example of a statutory provision that contemplated and assumed a system of security classification.

While the exceptions in the Freedom of Information Act may permit withholding information from the public on grounds that it needs to be held secret in the interest of national defense and foreign policy, however, they clearly do not apply to Congress. Section 3(f) states:

(f) Limitation of Exemptions—

"Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress." [35]

8. Legislation on Foreign Relations

The Department of State 1970 memorandum did not mention any other legislation on foreign relations. However, there are some provisions in legislation directly relating to foreign affairs which also might be said to assume a system of classification or in effect sanction the withholding of some information of the grounds of national security.

One example is the Foreign Assistance Act of 1961, as amended. Section 634 (b) provides that in the annual report on operations required and in response to requests from Members of Congress or the public the President shall "make public all information concerning operations under this Act not deemed by him to be incompatible with the security of the United States." This section would provide a basis for the President not to make public certain information concerning aid operations. The next section, 634 (c), in effect limits any material which might be withheld from Congress to that which the President certifies he has forbidden furnishing with his reasons for doing so. Otherwise, funds are to be cut off if information or documents are not furnished by thirty-five days after a written request has been made by the General Accounting Office or by a congressional committee considering legislation or appropriations for the program.

Section 414 on munitions control of the Mutual Security Act of 1954, as amended, authorized the President to control the export and import of arms and technical data relating thereto. It also authorized him "to designate those articles which shall be considered as arms, ammunition, and implements of war, including technical data relating thereto, for the purposes of this section." [36]

The Arms Control and Disarmament Act of 1961, as amended, assumes a system of classification in Sec. 45 on Security Requirements. Section 45 (a) provides for investigations of all employees and states:

"No person shall be permitted to enter on duty as such as officer, employee, consultant, or member of advisory committee or board, or pursuant to any such detail, and no contractor or subcontractor, or officer or employee thereof shall be permitted to have access to any classified information, until he shall have been investigated in accordance with this subsection. . . ."

Section 45(b) states:

" . . . The Director may also grant access for information classified no higher than "confidential" to contractors or subcontractors and their officers and employees, actual or prospective, on the basis of reports on less than full-field investigations: Provided, That such investigations shall each include a current national agency check."

Section 45(c) discusses access to Restricted Data under the Atomic Energy Commission.

Through legislation such as this Congress has on occasion given recognition to the classification system although it has made no overall attempt to regulate it. To this extent it has sanctioned keeping information secret in the interest of national defense or foreign policy. At the same time, however, on a number of occasions (particularly the "disclosure of classified information" legislation relating to cryptographic intelligence passed in 1951, and the Freedom of Information Act of 1966), Congress has made clear its intention that provisions to keep security infor-

---

Footnotes at end of article.

mation secret were not to constitute authority to withhold information from Congress.

III. THE CLASSIFICATION SYSTEM IN PRACTICE—EXECUTIVE ORDER 10501 AND AGENCY REGULATIONS

A. Handling defense information

Executive Order 10501 of December 15, 1953, "Safeguarding Official Information in the Interests of the Defense of the United States," is the basic regulation describing the security classification system to be applied to information bearing on the defense of the United States. The order, as subseqently amended, is quite comprehensive, setting forth guidelines for such matters as (1) material to be classified and categories of classification (i.e., Top Secret, Secret, etc.), (2) agencies and officials authorized to classify, (3) use of classification, (4) handling, marking, transmittal and destruction of classified material, (5) downgrading and declassifying, (6) access to classified material for historical research, and (7) enforcement procedures. For the purposes of this paper, it may be useful to look into some of these points more closely.

1. Categories of Classified Material

Section 1 of the order provides that "official information which requires protection in the interests of national defense shall be limited to three categories of classification, which in descending order of importance shall carry one of the following designations: Top Secret, Secret, or Confidential. No other designation shall be used to classify defense information, including military information, as requiring protection in the interests of national defense, except as expressly provided by statute."

These three categories are defined as follows:

(a) *Top Secret.*—Material the defense aspect of which is paramount and requiring the highest degree of protection. Unauthorized disclosure could result in "exceptionally grave damage to the Nation, such as leading to a definite break in diplomatic relations affecting the defense of the United States, an armed attack against the United States or its allies, a war, or the compromise of military or defense plans, or intelligence operations, or scientific or technological developments vital to the national defense."

(b) *Secret.*—"Material the unauthorized disclosure of which could result in serious damage to the Nation, such as jeopardizing the international relations of the United States, endangering the effectiveness of a program or policy of vital importance to the national defense, or compromising important military or defense plans, scientific or technological developments important to national defense or information revealing important intelligence operations."

(c) *Confidential.*—"Material the authorized disclosure of which could be prejudicial to the defense interests of the Nation."

2. Authority to Classify

The order specifies over thirty federal departments and agencies, such as State,[37] Defense, CIA, etc., "having primary responsibility for matters pertaining to national defense" in which the authority to classify may be delegated to such responsible officers or employees as the principal officer may designate. However, "such authority to classify shall be limited as severely as is consistent with the orderly and expeditious transaction of government business."

The order also names several other departments, such as Interior, Agriculture, and HEW, whose concern with national defense matters is "partial" rather than primary. In these cases, "the authority for original classification of information or material . . . shall be exercised only by the head of the department or agency . . ." Government agencies or units not specifically named do not have the authority to originate classified material. (Section 2)

3. Guidelines for Classification

Those authorized to classify material are responsible for adhering to the definitions of the three categories listed above. "Unnecessary classification and over-classification shall be scrupulously avoided", and the classification of documents is to be based upon their content, not their relationship to other papers or the fact that they contain references to highly classified material. (Section 3)

4. Declassification and Downgrading

Classified material is to be downgraded or declassified when it "no longer requires its present level of protection in the defense interest. . . . Heads of departments or agencies . . . shall designate persons to be responsible for continuing review of such classified information or material on a document-by-document, category, project, program or other systematic basis, for the purpose of declassifying or downgrading whenever national defense considerations permit, and for receiving requests for such review from all sources."

To give greater effect to this provision, a system was instituted in 1961 which provided for automatic downgrading of certain material at 3-year intervals. The system called for drafting officers to categorize classified material into groups as follows:

Group 1.—Information or material originated by foreign governments or international organizations and over which the United States Government has no jurisdiction, information or material provided for by statutes such as the Atomic Energy Act . . . and information or material requiring special handling, such as intelligence and cryptography. This information and material is excluded from automatic downgrading and declassification.

Group 2.—Extremely sensitive information or material which the head of the agency or his designees exempt, on an individual basis, from automatic downgrading and declassification.

Group 3.—Information or material which warrants some degree of classification for an indefinite period. Such information or material shall become automatically downgraded at 12-year intervals until the lowest classification is reached, but shall not become automatically declassified.

Group 4.—Information or material which does not qualify for, or is not assigned to, one of the first three groups. Such information or material shall become automatically downgraded at three-year intervals until the lowest classification is reached, and shall be automatically declassified twelve years after date of issuance.

There is, of course, no bar to downgrading or declassifying more rapidly if circumstances warrant, but each such action requires the approval of the "appropriate classifying authority," i.e., the person or office originating the document in question. The downgrading of extracts from or paraphrases of documents also requires the consent of the appropriate classifying authority "unless the agency making such extracts knows positively that they warrant a classification lower than that of the document from which extracted. . . ." (Section 4)

5. Limitations on Dissemination

There are two basic requirements for access to classified information: the need-to-know and personal security clearance or proof of trustworthiness. The Executive Order covers both points in a single sentence:

"Knowledge or possession of classified defense information shall be permitted only to persons whose official duties require such access in the interest of promoting national defense and only if they have been determined to be trustworthy."

Distribution of classified material is strictly controlled, and rigid accountability is required, especially for the more highly classified documents and materials. Furthermore, each agency retains ultimate control over the dissemination of all such material originating in that agency. Thus, the State Department cannot release to other agencies or to the Congress material originating in the Defense Department without prior approval by the latter. This is the so-called third agency rule, which has on occasion contributed to difficulties and delays in providing classified materials to the Congress.[38]

6. Special Classifications for Atomic Energy, Intelligence, and Cryptographic Information

The Atomic Energy Act of 1954, as amended, established special requirements for the classification of information on nuclear weapons and their technology. Such information is classified as "Restricted Data" and, more recently, "Former Restricted Data," and a special clearance, known as a "Q" clearance, is required by the AEC for access to this information. The intelligence community likewise has special designations and special clearances for certain intelligence information in order to protect sensitive sources, and communications people protect their codes by extra security precautions (COMSEC) as well.[39] These special categories are acknowledged by the terms of Executive Order 10501. (Section 13)

7. Historical Research

Access to classified material by persons outside the Executive Branch for historical research projects may be permitted if the researcher is trustworthy and if such access is "clearly consistent with the interests of national defense." But the material must not be published or otherwise compromised. (Section 15)

8. Review

The order requires various types of review to ensure (a) that information is not improperly withheld which the people have a right to know, (b) that proper safeguards are employed to protect classified information, and (c) that agencies are in full compliance with the order. The President is charged with designating "a member of his staff who shall receive, consider and take action upon suggestions or complaints from non-Governmental sources relating to the operation of this Order." (Sections 16–18)

B. Information provided to contractors and industry

Executive Order 10501 applies also to information given to the Congress or to private persons outside the Executive Branch. In such cases, the material must be marked with the following notation in addition to its security classification:

"This material contains information affecting the national defense of the United States within the meaning of the espionage laws, Title 18, U.S.C., Sections 793 and 794, the transmission or revelation of which in any manner to an unauthorized person is prohibited by law."[40]

Such release cannot be made to persons who have not been cleared and briefed following security investigation. In this connection, President Eisenhower in February 1960 issued Executive Order No. 10865, "Safeguarding Classified Information within Industry." The latter, in effect, defines Executive Order 10501 in terms of non-governmental application. It establishes the rules for granting security clearances to civilians and the means of redress should clearance be denied. Once granted clearance, a person outside of government is required to observe the same rules for the protection of classified material as his military or federally-employed counterpart, and this includes individuals working with classified material in both the "hardware" and "software" organizations. An example of the former would be information provided to such government contractors as General Electric and Westinghouse by the Atomic Energy Commission. An example of the latter would

---

Footnotes at end of article.

be government documents provided to RAND or other contractors doing research for the government. This has led to a substantial diffusion of classified information. One commentator on government classification practices noted that:

"The inexorable advance of the technology of war generates classified documents by the millions. One expert made the estimate four years ago that there were, in the defense industry, something like 100 million documents classified Top Secret and Secret." [41]

But it has also led to some difficulties. Scientific developments that emanate from classified data may sometimes be classified if bearing directly on important defense programs. Furthermore, certain developments that have their origins in unclassified data may be classified as well. For example, the AEC proposed that all new developments in the purification of weapons grade radioactive materials be subject to review by the Commission, no matter what the source of these developments. The Commission justified its actions on grounds of national security.

"Unless there are controls on the dissemination of classified information concerning atomic weapons, and concerning centrifuges and gaseous diffusion plants (which can be used for the production of the special nuclear material used in weapons), the efficacy of all non-proliferation efforts is seriously weakened. In this light, the question of whether that data are developed for private commercial purposes or pursuant to a Government contract is irrelevant—it is the content of the data which necessitates the control." [42]

This type of control, however, is difficult to administer. Assuming that American scientists recognize and abide by these requirements, the writ of the United States does not extend to other scientifically modern nations. Indeed, three European nations (England, Germany and the Netherlands) have formed subsequently a consortium to develop gas centrifuge technology.[43]

The State Department usually does not deal in scientific hardware. Rather its classified materials are concerned with the conduct of foreign policy.[44] As in the case of other government agencies, studies performed by outside contractors are reviewed by relevant desk officers to ensure that all classified information is so marked. Often specifically "sanitized" versions are prepared for dissemination on an unclassified basis.

C. Foreign policy information

The security regulations issued by the Department of State and other agencies concerned with foreign policy (e.g., USIA, AID, and ACDA) take a somewhat broader view of "defense information," extending it to include international operations and programs as well. According to the State Department regulations:

"The Attorney General of the United States on April 17, 1954, advised that defense classification may be interpreted, in proper instances, to include the safeguarding of information and material developed in the course of conduct of foreign relations of the United States whenever it appears that the effect of the unauthorized disclosure of such information or material upon international relations or upon policies being pursued through diplomatic channels could result in serious damage to the Nation. The Attorney General further noted that it is a fact that there exists an interrelation between the foreign relations of the United States and the national defense of the United States, which fact is recognized in section 1." [45]

State's regulation goes on to cite examples, including the following:

"Political and economic reports containing information the unauthorized disclosure of which may jeopardize the international relations of the United States or may otherwise affect the national defense.

"Information received in confidence from officials of a foreign government whenever it appears that the breach of such confidence might have serious consequences affecting the national defense or foreign relations."

The rules and regulations applicable to defense information acknowledge the need to establish a balance between the protection of such material and freedom of information. The State Department's security regulations in implementation of Executive Order 10501 include the following caveat:

"The requirement to safeguard information in the national defense interest and in order to protect sources of privileged information in no way implies an indiscriminate license to restrict information from the public. It is important that the citizens of the United States have the fullest possible access, consistent with security and integrity, to information concerning the policies and programs of their Government." [46]

D. Handling of controlled information by executive branch

1. Limiting the Distribution of Sensitive Material

The application of a security classification to papers and materials is not the only method by which government agencies safeguard sensitive information. In some respects an even more effective method is to limit drastically the distribution of a particular document. Distribution of telegrams concerning the arrangements for Dr. Kissinger's secret visit to Communist China, for example, must have been so limited in number that only a few Cabinet members and a very select group of key officials in State, Defense, and CIA were privy to the operation.

A government-wide system governs the distribution of telegrams, staff studies, and memoranda of conversion. Those papers deemed to require something less than standard distribution are marked "LIMDIS" (limited distribution) by the drafting officers. In such cases, the number of copies circulated is reduced by perhaps 50 percent, with all interested bureau offices taking a proportionate reduction.

In the case of exceptionally sensitive matters, the material is designated "EXDIS" (exclusive distribution), and the number of copies is curtailed much more drastically to, say, one or two copies for each assistant secretary of State and Defense with a legitimate need to know. Key staff members are allowed to read but not retain EXDIS messages, which are kept in a central registry within each geographic or functional bureau.

But the Kissinger trip must have received even more restricted treatment. In this case the documents would have been "NODIS," meaning, of course, no distribution beyond the principal officer of an agency or department with a need to know.

Highly classified documents are generally given rather limited distribution, but many NODIS and EXDIS papers are classified no higher than SECRET. The most sensitive documents, including all Top Secret and all NODIS AND EXDIS material, are serialized, i.e., each copy is numbered and must be registered and accounted for at all times, including when destroyed. The very process of serializing requires the originating office to exercise care and restraint in drawing up a list of those to whom the material is to be sent.

2. Administratively Controlled Information

Some types of information are controlled not in the interests of national defense but for administrative reasons. Thus, personnel records, medical reports, commercials and investigative data are considered privileged information and treated as confidential. In the Defense Department this type of material is marked "For Official Use Only"; in State it is designated "Limited Official Use." In either case, although the material is "non-classified," i.e., not related to the national defense, it is protected from indiscriminate disclosure.

E. Compliance with regulations

1. Overprotection

In actual practice, however, there is wide agreement that the great bulk of defense material is usually over protected—too highly classified for too long a time. Arthur Goldberg former Ambassador to the U.N. recently had this to say to the House Foreign Operations and Government Information Subcommittee:

"I do not mean to suggest to this Committee, which has given thoughtful consideration to this entire subject, that the government does not require secrecy in the conduct of its vital operations, that each day's collection of confidential messages with foreign governments should be broadcast on the six o'clock news, or that the engineering details of advanced weapons systems must be published in the Congressional Record.

* * * * *

"Anyone who has ever served our government has struggled with the problem of classifying documents to protect national security and delicate diplomatic confidence. I would be less than candid if I did not say that our present classification system does not deal adequately with this problem despite the significant advances made under the leadership of the Committee and Congress in the Freedom of Information Act of 1966. I have read and prepared countless thousands of classified documents and participated in classifying some of them. In my experience, 75 percent of these never should have been classified in the first place; another 15 percent quickly outlived the need for secrecy; and only about ten percent genuinely required restricted access over any significant period of time." [47]

For obvious reasons there are strong incentives for staff officers to err on the side of over-classifying material on which they are working. There are no penalties for this, whereas the penalties for violating security regulations, even inadvertently, can be severe and costly in terms of career prospects, especially if one has a series of such offenses. Very often material is classified or overclassified largely through inadvertence or failure to apply critical judgment. Mr. William G. Florence, formerly with Headquarters, U.S. Air Force, had this to say to the House Subcommittee:

"The majority of people with whom I worked in the past few years reflected the belief that information is born classified and that declassification would be permitted only if someone could show that the informaion would not be of interest to a foreign nation." [48]

Florence also referred to the practice of assigning a classification to material merely on the basis of association or reference to other classified material:

"Some time ago, one of the service chiefs of staff wrote a note to the other chiefs of staff stating briefly that too many papers were being circulated with the top secret classification. He suggested that use of the classification should be reduced. Believe it or not, that note was marked top secret." [49]

According to a recent editorial in the Christian Science Monitor:

"The classic case of overclassification of government documents was Queen Frederika's menu. The former Queen of Greece was given a moderately elaborate dinner at an American military base during her official tour of the United States. A thoughtful officer stamped "classified" on the menu to avoid the comments which some reporter might otherwise have made on what might have been called a non-democratic event." [50]

The purpose of the classifying officer in this case was no doubt to avoid any potential embarrassment to the United States. There are many occasions when the avoidance of embarrassment is more closely re-

---

Footnotes at end of article.

lated to activities potentially affecting the national defense. One example, related to military security demands that certain aspects of weapons capabilities be classified, follows:

"In Vietnam, the Army stamped 'secret' on reports of field malfunctions of the controversial M16 rifle, which was jamming, until corrective action was taken. 'The evaluation reports were bad,' says a man who found out what was in them. He asserts the Army simply wanted to avoid embarrassment, since the enemy was obviously aware of the rifle's weaknesses." [51]

Individuals may overclassify a document hoping to augment the importance of the contents or to appear more important themselves:

"There's what a former federal official calls the 'ego-building angle.' Some bureaucrats, he says, classify a document confidential or secret to indicate that 'the stuff is important—that it should be moved up the chain of command promptly instead of getting stuck in someone's "in" basket." [52]

Such individuals evidently consider that the power to classify increases the personal prestige of the classifier. William Florence testified that:

". . . numerous individuals in the Department of Defense, including myself, have attempted to the best of our ability to limit the use of defense classifications to the purpose for which they were intended. Various officials from the Secretary of Defense down have initiated measures designed to restrict the use of defense classifications. But hundreds of thousands of individuals at all echelons in the Department of Defense practice classification as a way of life." [53]

Once a paper has been classified secret or top secret, bureaucratic inertia adds to the already strong propensity to "protect" the national security by maintaining that classification for an unnecessarily long period of time. Richard J. Levine, writing in the Wall Street Journal of June 25, 1971, pointed out that:

"Today almost 26 years after the end of World War II, U.S. archives still hold some 100 million pages of classified war records. . . . The government process of declassification is haphazard and cumbersome. . . ."

According to Levine, the "group" system for automatic downgrading and ultimate declassification of defense information has not provided an answer to the problem. The turnover in personnel within State and Defense, with career officers moving on to new assignments and with many top policy makers taking other jobs after a year or two, militates against the continuous review of classified material called for by the executive order. Even more important, perhaps, is the fact that the officers who originate classified material continue to be involved in substantive matters and feel that they have more important things to do than review their work of yesteryear to see if it can now be downgraded or declassified. Thus, quite apart from the legitimate concern of the Executive to protect sensitive information, there are a number of factors in the present situation which reinforce the tendency to maintain secrecy to a higher degree and for a longer period than is necessary.

Among the World War II documents which are still classified Top Secret are those on Operation Keelhaul, which was the U.S.-U.K. name for the forcible repatriation to the Soviet Union of displaced Soviet citizens after the war. An American historian, Julius Epstein, has attempted without success to obtain access to these files in connection with his studies on forced repatriation of anti-communist prisoners of war and displaced persons during and after World War II. Epstein went to court under the Freedom of Information Act but lost the case on the grounds that the Act does not apply to documents classified "in the interest of the national defense or foreign polcy." [54] Writing in the New York Times, Epstein related his continuing efforts to have the file declassified:

"On October 22, 1970, the White House informed me that President Nixon has removed the main obstacle for declassification of the Keelhaul files. The letter states: 'The U.S. Government has absolutely no objections (based on the contents of the files) to the declassification and release of the "Operation Keelhaul" files. However, given the joint origin of the documents, British concurrence is necessary before they can be released and this concurrence has not been received. Thus, we have no alternative but to deny your request.' . . ." [55]

2. Leaks by Government Officials

On the other hand, Levine points out that government agencies permit "deliberate leaks which tend to make a mockery of the system," and he cites several instances of news men who were given classified information by high-level government officials as a matter of public policy. Both the New York Times and the Washington Post filed affidavits to this effect in their legal fight against the government's injunction which sought to stop publication of the Pentagon papers.

On behalf of the Times, Mr. Max Frankel, Washington bureau chief, argued that without the use of classified material:

"There could be no adequate diplomatic, military, and political reporting of the kind our people take for granted, either abroad or in Washington, and there could be no mature system of communication between the government and the people. . . .

"Presidents make 'secret' decisions only to reveal them for the purposes of frightening an adversary nation, wooing a friendly electorate, protecting their reputations. The military services conduct 'secret' research in weaponry only to reveal it for the purpose of enhancing their budgets, appearing superior or inferior to a foreign army, gaining the vote of a Congressman or the favor of a contractor.

"In the field of foreign affairs, only rarely does our government give full public information to the press for the direct purpose of simply informing the people. For the most part, the press obtains significant information . . . only because it has managed to make itself a party to confidential materials, and of value in transmitting these materials . . . to other branches and offices of government as well as to the public at large. This is why the press has been wisely and correctly called the Fourth Branch of Government." [56]

Mr. Benjamin C. Bradlee, executive order of the Washington Post, stressed in his affidavit that:

"The executive branch . . . normally, regularly, routinely, and purposefully makes classified information available to reporters and editors in Washington. This is [done] in private conversations . . . and in the infamous backgrounders normally, but not exclusively, originated by the government." [57]

It may be done to "test the climate of public opinion on certain options under deliberation by the government" or "to influence the reporter's story in a manner which the government official believes is in the best interest of his country, his particular branch of government, or his particular point of view."

Mr. Bradlee cited specific instances when he had been given highly classified information by President Kennedy (concerning his 1961 encounter with Khrushchev in Vienna) and by President Johnson (on the Vietnam war in 1968). He also pointed out that Congress sometimes follows the same practice:

"Legislators request and obtain classified information from the executive branch of the government for the purpose of helping them draft legislation. They do not always use it for that purpose. They often use it to defeat legislation they don't like, and they often try to enlist the assistance of the press in their private battle. . . ." [58]

The agency most frequently charged with leaking classified information is the Department of Defense. This fact is scarcely surprising. It is due in part to the sheer size of the department and the vast amount of defense material in its custody. However, some contend that the incidence of deliberate leaks tends to be related to the national budget cycle as defense officials seek to persuade Congress and the public of the validity of their budget requests. But as was pointed out two years ago by George Ashworth of the Christian Science Montor, perhaps the most important factor is the man at the top:

"Government secrets come in many sizes and styles. At one end of the spectrum are piddling little secrets, and at the other there are secrets, that are so secret their security classifications are secret. And there are critically important secrets as well as ones that are embarrassing and nothing more.

"Secretary of Defense Melvin R. Laird loosed a few secrets of middling size upon the Senate and the public recently. Before the secret-telling was over, everybody knew a great deal more about the strategic strengths of the superpowers. Sen. Stuart Symington (D) of Missouri and Mr. Laird had reached the I-know-what-you-know-and-you-know-what-I-know-and-neither-of-us-can-tell stage of discussion.

"Telling a great deal without telling all is nothing new for high defense officials. A secret told at the right time can shock, arouse, surprise, stymie opposition, and gain advantage. Or it can be a dreadful mistake. A secretary has to know the difference and act accordingly. If a secret is not properly handled, it can accomplish little through the telling and do incomparable damage.

"The Defense Department has been much freer with its secrets in recent times. Former Secretary of Defense Robert S. McNamara was not averse to dropping secrets from time to time. The only time the secretary showed an avid interest in keeping a specific matter completely under wraps was the case of the so-called McNamara line.

"During his 11-month tenure, former Secretary of Defense Clark M. Clifford generally stayed away from heavy public involvement in strategic armaments affairs, preferring to devote his energies to efforts to bring about successful negotiations on Vietnam. Many of the Pentagon's deepest secrets are in specifics on the strategic arsenals of both nations, and Mr. Clifford spent little effort on the learning of specifics. Thus, in a sense, he was somewhat limited as to juicy secrets to tell.

"Mr. Clifford's periodic frankness on the subject of relations with South Vietnam were, however, often spellbinding. Although many secrets probably were not divulged as the former Secretary discussed the maneuvering prior to the complete halt, the material he gave forth was obviously of the sort normally considered privileged.

"Now, with the stage set by Mr. Laird's revelations about specifics of missiles and megatonnage in the Soviet nuclear arsenal, chances are good that the administration will be releasing still more information of a nature that would have been considered classified at earlier times," [59]

Obviously, the Secretary of Defense is concerned with the state of the country's defenses and the overall threat as he sees it. Secretary Laird assumed office at a time when the U.S.S.R. was overtaking the United States in the number of land-based ICBM's deployed, and he foresaw the prospect of their catching up also in the number of antisubmarine-based launchers in a few years. Still another cause for concern was the megaton-

---

Footnotes at end of article.

nage of the biggest Soviet ICBM, the SS-9, and the possibility that it would be fitted with multiple war heads capable of destroying the U.S. Minuteman missile in a preemptive strike. These and other considerations led him to make public a great deal more information about Soviet strategic programs, actual and anticipated, than had either of his predecessors.

As Ashworth remarked:

"The approach to strategic secrecy has indeed changed since 1960, when the Republican managers of the Defense Department refused to declassify information to refute Democratic charges of a "missile gap." Upon taking office, Mr. McNamara himself refuted the charge made by his party.

"The 1968 election failed to feature any real controversy over strategic strength. Consequently, it was marked by few Pentagon revelations. The same was not true in 1964 when Republican charges caused the Pentagon to declassify profuse quantities of classified information.

"In 1967, when the Republican challenge was brewing, Deputy Secretary of Defense Paul H. Nitze was most forthright on warhead sizes, yields and effects, as well as reliability, when the nation's deterrent was questioned by Rep. Craig Hosner (R) of California.

"Slightly earlier, Mr. McNamara had mentioned multiple independently targetable warheads for the first time publicly. He used the medium of an article in Life magazine to discuss the antiballistic missile defense system and multiple warheads. Earlier, the warheads, MIRVs, had been so tightly classified that the Pentagon would say nothing about them. Mr. McNamara wanted, however, to reaffirm public faith in a U.S. lead.[60]

Still another current practice in declassification is that of former government officials who take advantage of personal files to write the bureaucratic battles of the past. Commenting on this, Herbert Feis, who spent many years in the State Department, has drawn ironic attention to the contrast between public policy (to keep official papers classified for years) and private practice:

"If we turn to the problem of writing the history of the crucial events in our foreign relations during the short term of office of the gallant John F. Kennedy, the divergence of the restrictions becomes glaring. There is, I presume, no chance that the historian would at present be able to consult the pertinent official records or memos of conferences, instructions to our embassies, and correspondence with foreign statesmen during the period of his presidency. But what an admirable series of privileged and candid narratives and memoirs tell us what may be found in them! What elaborately detailed accounts have appeared in the weekly magazines of how the rout of the Bay of Pigs came about, and what happened in the critical crisis when President Kennedy challenged the Russian installations of missiles in Cuba!

"Can the historian be blamed if he is struck by the contrast between the scope and contents of the published official records and the disclosures of participants, confidants or a few favored journalists? This places a very high premium on securing and diffusing information before anyone else, and perhaps exclusively. Men may be drawn into office as the corridor to future careers as historians. Warm the Boswells inside the gates, envious the Boswells left outside!"[61]

The high incidence of leaks of classified information which appear to be approved by some one in authority serves to conceal the fact that many disclosures occur which are completely unauthorized. In most cases, it is difficult if not impossible to track down the guilty party because the information is so widely disseminated within the government and because reporters are unwilling to reveal the sources of their information.

IV. THE EFFECT OF THE CLASSIFICATION SYSTEM ON THE CONGRESSIONAL ROLE IN FOREIGN POLICY

A. The congressional need to know

Under the Constitution both the foreign policy powers and the war powers are shared by the President and the Congress. The need of Congress for information on defense and foreign relations stems primarily from specific responsibilities of Congress which are enumerated in the Constitution.

Aside from the general mandate provided by Article I, Section 1, "All legislative Powers herein granted shall be vested in a Congress of the United States. . . ." the Constitution provides that Congress shall have power "to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States. . . ." [Article I, Section 8 (1)]; "to regulate commerce with foreign nations. . . ." [Article I, Section 8(3)]; "to define and punish . . . offenses against the law of nations." [Article I, Section 8(10)]; "to declare war . . ."; [Article I, Section 8 (11)]; "to raise and support armies . . .;" [Article I, Section 8(12)]; "to provide and maintain a navy;" [Article I, Section 8(13)]; "to make rules for the government and regulation of the land and naval Forces;" [Article I, Section 8(14)]; and finally, "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;" [Article I, Section 8(15)]. Article II, Section 2(2) provides the Senate with two additional responsibilities, stating that the President "shall have the power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls,, . . ." In addition to these specific responsibilities, the Constitution provides further that the Congress "make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof." [Article I, Section 8(18)].

Congress frequently needs to have information which is classified in order to carry out specific defense and foreign policy responsibilities assigned to it under the Constitution. For example, Congress needs to know what are the threats to the country's security and what are current military capabilities if it is to provide for the common defense. It needs to know the precise facts involving hostilities when there is a queston of whether or not war should be declared. The Senate needs to know the history of negotiations leading to a treaty before it decides whether to advise and consent to the ratification of that treaty.

Because of the congressional "need to know," the first aspect of the problem of classified information is how classification affects the efforts of Congress to get the information necessary to carry out its duties in the foreign and defense policy fields. A comprehensive survey of individual Members of Congress and committees would be necessary to ascertain the extent to which the information they need is classified and the extent to which they are given the classified information which they seek. Similarly, access to the classified information would be necessary to determine if the information given out to Congress was the whole truth. Nevertheless the outlines of the situation can be traced without such comprehensive information.

B. Access of Congress to classified information

The classification of information does not automatically mean that Members of Congress cannot obtain it. Long ago, before the classification system, President Washington recognized the right of the Senate to access of secret information when he placed before that body information which he had kept from the public and the House of Representatives regarding the Jay Treaty in 1796. Similarly today the Executive Branch appears to recognize the general right of Congress to be given classified information. Although there is nothing in Executive Order 10501 covering the specific subject of providing classified information to Congress, a Department of Defense directive makes it clear that classified information may be given upon request from Members of Congress and that it may be discussed with congressional committees in closed hearings. The directive states as policy that information not available to the public because of classification "will be made available to Congress, in confidence" in accordance with certain procedures.[62]

The Department of State regulations contain a recognition that classified information may be sent to Members of Congress in the statement "Classified or administratively controlled material may be sent to other Federal departments or agencies or to officials and committees of Congress or to individuals therein only through established liaison or distribution channels."[63] Further policy on this matter apparently does not appear in writing. However, according to one State Department official, by virtue of their office Members of Congress may be shown classified information even though they have not received formal clearances as individuals. Classified information is not ordinarily left with individual members, however, because of the lack of approved storage facilities for security material.[64]

Committees often do have facilities and procedures for safeguarding classified material, and the congressional committees chiefly concerned with foreign and defense policy have been given sizeable amounts of classified information, usually through closed hearings. When the transcripts of the closed hearings are printed, the classified information is deleted unless the executive branch officials concerned declassify the information so that it can be made public.

The fact that Congress obtains a considerable amount of classified information does not mean that members of committees get all the classified information they request or need, however. The Department of Defense directive acknowledges that there may be "rare" instances in which there is a question whether information should be shown to a Member of Congress even in confidence. The directive specifies that a final refusal of information to a Member should be made only with the approval of the Head of the Department of Defense component concerned or the Secretary of Defense, and that a final refusal to a committee of Congress should be made only with the concurrence of the Assistant to the Secretary of Defense for Legislative Affairs. The latter is responsible for insuring compliance with any procedural requirements imposed by the President:

"In the rare case where there is a question as to whether particular information may be furnished to a Member or Committee of Congress, even in confidence, it will normally be possible to satisfy the request through some alternate means acceptable to both the requester and the DOD. In the event that an alternate reply is not acceptable, no final refusal to furnish such information to a Member of Congress shall be made, except with the express approval of the Head of the DOD Component concerned, or of the Secretary of Defense. The Assistant to the Secretary of Defense (Legislative Affairs) shall be informed of any such submissions to the Head of a DOD Component or to the Secretary of Defense. A final refusal to a Committee of Congress may be made only with the concurrence of the Assistant to the Secretary of Defense (Legislative Affairs), who shall be responsible for insuring compliance with all

---

Footnotes at end of article.

procedural requirements imposed by the President or pursuant to his direction."[65]

Instances in which members were not given information they believed they needed date back for many years. A survey conducted by the Subcommittee on Constitutional Rights of the Committee on the Judiciary in 1960 revealed several cases relating to foreign policy in which specific information or documents being sought were not transmitted or were transmitted only in part to members of Congress.

One case in that record involved Senator Humphrey in his capacity as Chairman of the Disarmament Subcommittee in 1960. In 1959, President Eisenhower announced a full review of United States disarmament policy under the chairmanship of Charles Coolidge. In January of 1960, Coolidge reported to the Secretaries of State and Defense and Senator Humphrey subsequently attempted to obtain the report. In response to a letter from Senator Humphrey, the Secretary of State said that the report was in the form of a working paper and was not being made public. The State Department also answered negatively the Senator's second letter requesting that the report be made available on an executive basis. When Senator Humphrey's third letter asked on what ground and under what authority the information was being denied, the Secretary replied that the study was prepared for internal use of the Secretaries of State and Defense only.

Similarly, Senator Fulbright, in response to the survey, related that he was denied a complete copy of the report of General Carroll on black market activities in Turkey in 1959. After exchanges of correspondence with the Secretary of Defense and the General Counsel of the Department of Defense, the Senator was given the first 15 pages but the General's conclusions were withheld and never made available.[66]

When a Member or committee of Congress attempts to obtain a specific piece of classified information and is denied it, the problem merges with that of executive privilege. For though the information sought may be classified, withholding it from Congress apparently is more likely to be based on executive privilege than on the basis of classification. To deny it on the grounds of classification might imply either that the member of Congress seeking it did not have a need to know or that he was not trustworthy. The Committee on Government Operations reported in 1960:

"It should be borne in mind that none of the information withheld from this subcommittee has been withheld on the basis that it is classified; that is, that its release to a congressional committee would imperil the national security. . . .

"On a number of occasions, when the question was raised, the subcommittee has been directly told by executive branch officials that particular documents withheld were not being withheld on ground of security, but on the grounds of 'executive privilege.' "[67]

Although the doctrine of executive privilege is controversial, as a practical matter when information is in the hands of the executive branch the President is physically or administratively able to withhold it if he deems it advisable.

More recently, the work of the Subcommittee on Security Agreements and Commitments Abroad demonstrates that committees can obtain a great deal of, but not all, classified information on a subject if they know it exists and are persistent.

The Subcommittee on Security Agreements and Commitments Abroad stated in its final report of December 21, 1979:

"The record of the Subcommittee is replete with a variety of instances in which we failed to obtain information without which the Congress cannot deal seriously, and as an equal, with the Executive Branch on matters of foreign policy.

"One of the more important of these was an understanding of the relationship which exists between the United States and the Royal Government in Laos. . . .

"When our initial Congressional effort was made to get the truth about Laos, we were either blocked, or the responses were misleading. . . .

"The details of agreements with Thailand, Korea, the Philippines, Ethiopia, Spain and other countries, which details remain classified, have been obtained during the Subcommittee investigation and discussed during country-by-country hearings. Few facts were volunteered in the first instance."[68]

Classification of information appears to present more of a problem to Congress when it prevents Congress from knowing enough about policies to raise questions about them or to ask to see the classified information which exists, and thus from participating in formulating policies. This is not a new problem. In the 1960 survey conducted by the Subcommittee on Constitutional Rights Senator Anderson, Chairman of the Joint Committee on Atomic Energy, responded with a list of instances in which the Joint Committee on Atomic Energy was not kept fully and currently informed by the Department of Defense as required by the Atomic Energy Act of 1954. One of the Senator's examples related that the Committee was informed of a proposed arrangement with an allied nation for the use and custody of an American air-to-air nuclear weapon by a special assistant to the Secretary of Defense in November of 1959, only after the planned arrangements had been discussed with the allied nation some time earlier in 1958 and the recommendation for the arrangement made by the Joint Chiefs of Staff in April 1959. The Defense Department in June of 1959 proposed that such an arrangement be entered into by the State Department. None of these dealings had been brought to the attention of the Joint Committee until November.[69]

The Symington Subcommittee report, discussing the growth of the United States commitments involving defense of other countries, said:

"One secret agreement or activity [regarding Southeast Asia] led to another, until the involvement of the United States was raised to a level of magnitude far greater than originally intended.

"All of this occurred, not only without the knowledge of the American people, but without the full knowledge of their representatives or the proper committees of the Congress.

"Whether or not each of these expensive and at times clearly unnecessary adventures would have run its course if the Congress and/or the people had been informed, there would have been greater subsequent national unity, often a vital prerequisite to any truly successful outcome."[70]

The Senate Foreign Relations Committee hearings on Laos released in October 1969, six months after they were held, revealed that for five years the United States had been waging a secret war in northern Laos. In his testimony, the United States Ambassador to Laos told the committee that the United States had no military training and advisory organization in Laos; that there were no U.S. advisors with the Laotians; and that Air America carried equipment only for the AID program and was not involved in combat operations. The Ambassador neglected to acknowledge the significant role of the U.S. Air Force which had been bombing northern Laos for years. When confronted at later hearings by the committee, the former ambassador said that he did not discuss the bombing because he was not asked any direct questions about United States operations in northern Laos. Senator Fulbright went to the heart of the problem when he answered:

"We do not know enough to ask you these questions unless you are willing to volunteer the information. There is no way for us to ask you questions about things we don't know you are doing."[71]

Senator Symington pointed out that the secrecy imposed by the executive "prevented any objective review by the Congress of our policy. . . .," but that when details of the heavily stepped-up bombing were finally disclosed to the Members, Congress took action by adopting an amendment which prohibited the sending of ground combat troops into Laos.[72]

C. Congress, classified information, and public opinion

In addition to the foreign policy functions of Congress set by the Constitution, Congress plays a role as a link with public opinion. Its hearings and debates help keep the public informed of the various sides of foreign policy issues and reflect the diverse views of the American people. President Nixon recognized this role for Congress when he wrote in the conclusion of his Second Annual Review of United States Foreign Policy.

"Charged with constitutional responsibilities in foreign policy, the Congress can give perspective to the national debate and serve as a bridge between the Executive and the people."[73]

A number of Members of Congress have also seen the informing and reflecting of public opinion as one of the most important current roles of Congress in the foreign policy field. Senator Javits in an article in Foreign Affairs last year wrote:

"A major function of the Congress with respect to the great issues of foreign policy and national security is that of shaping as well as articulating public opinion. In a democracy such as ours, governmental action is possible only within parameters defined by public attitudes and opinions. In the major Senate foreign policy debates of the very recent past—Viet Nam and ABM—we have learned that the development and public presentation of new information and interpretations bearing on the great issues is a vital Congressional function as well as a potent instrumentality in asserting legislative prerogatives and responsibilities."[74]

Senator Fulbright in The Arrogance of Power expressed the view that:

"Congress has a traditional responsibility, in keeping with the spirit if not the precise words of the Constitution, to serve as a forum of diverse opinions and as a channel of communication between the American people and their government."[75]

Classification of information has been a major problem to Congress in fulfilling this role. As long as the information remains classified, Congress cannot publicly debate it to inform the people or to inform other Members voting on legislation. The frustrations inherent in this were expressed by Senator Fulbright in hearings on United States commitments in Morocco. Senator Fulbright contended that it was Congress' responsibility to be concerned with the funding of United States installations in Spain and Morocco and told executive branch officers, "But then you said, it is classified, it would not do to talk about it. Therefore, we cannot even discuss it on the Senate floor."[76]

To meet this problem, Congress has played an important part in getting information declassified to make it available to all. A process of negotiation has been used by congressional committees to make testimony given in secret or in closed hearings by executive branch representatives a matter of public record. The transcripts of the hearings given in executive session are submitted to the executive agency involved for review. The agency marks those portions of the testimony which, in its opinion, should remain classified. When the agency gives reasons for classifying a certain portion other than security, the committee attempts to persuade the officials to declassify

---

Footnotes at end of article.

more information. Walter Pincus, former chief consultant to the Symington Subcommittee on United States Security Agreements and Commitments Abroad of the Senate Foreign Relations Committee, discovered that "the declassification of some security information and almost all the political material—at any level of classification, even top secret—was negotiable." [77] In one particular hearing, Pincus relates, the Administration deleted 60 to 70 percent for reasons of "security." After negotiation with the subcommittee, almost 80 percent of the hearings were made public. Pincus concluded that the amount of "secret" material was sharply reduced, not for any reason other than it probably did not deserve to be classified in the first instance.[78]

One problem associated with this declassification through negotiation procedure is that various committees may have different practices on classified information. One committee might be treating information as secret which another committee published with the agreement of the Executive Branch that it could be declassified.

Related to the problem of congressional efforts to get classified material declassified is the issue regarding the type of material which finds itself labeled with a security classification and therefore generally withheld from Congress. Reference has already been made to Walter Pincus, former consultant to the Symington subcommittee, who stated that much of the information should not have been classified from the start. Much credence must be given also to the former chief civilian classification officer in the Department of Defense, William G. Florence, who in testimony before the Foreign Operations and Government Information Subcommittee of the House Committee on Government Operations in June 1971 stated that, ". . . the disclosure of information in at least 99½ percent of those classified documents could not be prejudicial to the defense interests of the nation." [79]

Some time earlier, Senator Humphrey made a statement entitled, "The Experience of the Senate Subcommitte on Disarmament on the Declassification of Government Documents and Testimony" before the Moss Subcommittee on Government Operations in 1959 to illustrate that "information is withheld for reasons that cannot be justified in the name of national security. . . ." Humphrey gave as his example the Department of the Army's restoring over 90 percent of the testimony of then Army Chief of Staff, General Maxwell Taylor, when challenged on the classification of the officer's testimony.[80]

One of the factors in this case as in many others involving classified information is that much of the data is classified mainly to keep policy decisions from being made public. Walter Pincus wrote that in the Symington subcommittee hearings on the Philippines, the Administration's deletions, amounting to from 60 to 70 percent of the transcript, fell into two categories: security and political. The subcommittee was able to enter into negotiations with the Administration to declassify the political testimony only after a threat of public subcommittee hearings on the subject.[81] Without such efforts, declassification decisions would be entirely in the hands of the Executive Branch and the knowledge made available to the public would depend on what the Executive Branch alone wanted the public to know.

V. PROPOSALS FOR CHANGING THE CLASSIFICATION SYSTEM

A. Past efforts

Many of the problems involved in the classification system have long been recognized and there have been many proposals for changing the system. Some of these proposals have resulted in changes but others have not. A brief survey of some of the major studies of the classification system in the past and their recommendations demonstrates that such problems as overclassification are not new. A few examples follow.

1. Coolidge Committee

A Committee on Classified Information was appointed by Secretary of Defense Charles E. Wilson on August 13, 1956, because of the latter's concern about unauthorized disclosures of information. Headed by Charles A. Coolidge, the committee reported on November 8, 1956, that while the classification system under Executive Order 10501 seemed "beyond reasonable criticism as a matter or theory", the system in practice could justifiably be criticized both for withholding too much information and for harmful leaks of information.[82] The recommendations of this Committee included (1) making a determined attack on overclassification; (2) cutting down the number of persons authorized to classify documents as top secret; (3) making clear that classification was not to be used for information not affecting the national security and specifically not for administrative matters; (4) establishing within the Office of the Secretary of Defense an official responsible for establishing, directing, and monitoring an active declassification program, the official to be separated from the direct influence of both security and public information officials in order to bring an unbiased judgment to the field of classification; and (6) supplying more specific guidelines on classification criteria.

2. Commission on Government Security

Another group which concerned itself with the defense classification system was the Commission on Government Security established pursuant to P.L. 84–304, approved August 9, 1955. The Commission consisted of several Members of Congress as well as private citizens with Loyd Wright as chairman and Senator Stennis as Vice Chairman. The Commission, which also examined other aspects of the effort to protect national security including the Federal Civilian Loyalty Program, the Atomic Energy Program, and the immigration and nationality program, expressed its conviction that "an adequate and realistic program for control over information or material of concern to national defense or security is vitally important to the objectives of our national security program.[83] The reason behind document classification, the Commission stated, was the necessity for balancing the need to insure that hostile eyes did not gain access to information the country wished to safeguard against the need to make certain that the American people and friends had access to all information which would help in the achievement of peace and security. The problem was how best to achieve this balance.

The Commission recommended the establishment of a "Central Security Office having review and advisory functions with respect to the Federal document classification program and to make recommendations for its improvement as needed." [84] The Central Security Office was also to have other functions such as hearing cases on government employees whose loyalty was questioned. The Commission concluded that the problem of the classification program was not a matter of the criteria established by Executive Order 10501. However, it recommended a few modifications, particularly the abolition of the "confidential" classification on defense information in the future. It expressed the belief that the document classification program should be embodied in an executive order, with the exception of the review and advisory functions of the proposed Central Security Office which it stated required legislation.[85]

3. Special government information subcommittee proposals

The House Committee on Government Operations has recommended various changes in Executive Order 10501 since its Special Government Information Subcommittee (Moss Subcommittee) was formed in 1955. It reported in 1962 in a study on the status of that executive order that as the committee had made various recommendations there had been gradual progress toward resolving the conflict between the necessity for an informed public and the necessity for protecting defense information. Its 1962 report stated:

"There has been a gradual recognition of the fact that the ideal information security system is one which defines very carefully those secrets which are imperative to the Nation's defense and then protects them as carefully as possible. Thus, Executive Order 10501 has evolved from a sort of catchall system permitting scores of Government agencies and more than a million Government employees to stamp permanent security designations on all kinds of documents, to a system permitting only those officials directly involved in security problems to place on limited numbers of documents security classifications which are to be removed with the passage of time." [86]

Nevertheless, the committee reported, two of the most important problems remained to be solved. One of these problems was the lack of penalties for abuse of the classification system by withholding all kinds of administrative documents in the name of security. The report stated:

"A security system which carries no penalties for using secrecy stamps to hide errors in judgment, waste, inefficiency, or worse, is is a perversion of true security. The praiseworthy slogan of Defense Secretary McNamara—"when in doubt, underclassify"—has little effect when there is absolutely no penalty to prevent secrecy from being used to insure individual job security rather than national military security." [87]

To meet this problem, the committee urged the Defense Department to establish administrative penalties for misuse of the security system until set penalties could be established.

The other problem it noted on which progress had not been made was the lack of an effective procedure for appeals against abuse of the classification system. To meet this problem, the committee urged that the appeals section of Executive Order 10501 be implemented in an effective manner. It stated that "until a responsible individual in the White House is charged with the primary duty of receiving and acting upon complaints against abuse of the classification system—until a full operating appeals system is set up and widely publicized—the most important safety valve in the information security system is completely useless." [88]

B. Current study in executive branch

The Administration has launched two new efforts this year relating to the classification problem. On August 3, 1971, President Nixon asked Congress to approve a supplemental appropriation for fiscal 1972 of $636,000 for the General Services Administration to begin an immediate and systematic effort to declassify by the documents of World War II. In his message he stated that representatives of the National Archives, the General Services Administration, and the Department of State and Defense had agreed that 90 to 95 percent of the classified documents of World War II, involving 160 million pages, 48,000 cubic feet of record storage space, and 18,500 rolls of microfilm, could be declassified if funds were available.[89]

In addition, on January 15, 1971, President Nixon directed that a study be made of the classification procedure. William H. Rehnquist, an Assistant Attorney General and Director of the Office of Legal Counsel in the Department of Justice, was named chairman of the working group comprised of representatives from the executive departments affected. The study has not yet been completed. However, on August 12, 1971, John D. Ehrlichman, Assistant to the President for Domestic Affairs, and John Dean, Counsel to

---

Footnotes at end of article.

the President, gave a progress report on the study in a press conference.

Mr. Ehrlichman said the final recommendations are expected to cover both the classification and declassification systems, proceeding on the "basic principle that we are going to be classifiying fewer documents in the future, but classifying them better," and that there should be limits on distribution to persons which clearance on a strict need-to-know basis. The direction thus far indicated, he said, that there would be new limits on the right to duplicate and disseminate documents.

Mr. Ehrlichman said the President had decided he would expand his request for appropriations to speed the declassification process and has asked for a special study of methods by which first priority could be given to declassifying information relating to events of special historical incidents, particularly the Korean War, the action in Lebanon under President Eisenhower, and the Cuban action under President Kennedy. The criteria for declassification would be (1) that the release of the documents would not jeopardize current intelligence sources and (2) that release could not imperil current relations with other governments or seriously and unnecessarily embarrass foreign citizens. Finally, Mr. Ehrlichman said:

"The recommendations of the committee will undoubtedly be in the direction of a system which will impose a presumption, after passage of a certain period of time, that a document should be declassified, which presumption could be rebutted by a showing that it would be contrary to the national interest to declassify it at that time.

"The presumption now runs in the other direction; that a document will remain classified unless someone can move forward and sustain the burden that it should be declassified."[90]

C. Other recent proposals

Several proposals for legislation have been made in the 92nd Congress to deal with the problem of classification of materials by the executive branch. Some of these deal only with information from a single agency, such as the proposal by Senator Cooper in S. 2224 to make it the duty of the Central Intelligence Agency to keep fully and currently informed the Committees on Foreign Relations and Armed Services, with the intelligence information thus acquired to be made available to any Member of Congress under rules prescribed by the committees. This study will discuss only proposals dealing with the problem of classified information throughout the Executive Branch. While most have been introduced since the release of the Pentagon papers, some have a history which goes back several Congresses.

1. Temporary Study Commission or Committee

One approach which has been suggested is the establishment of a temporary commission or joint congressional committee to make a study of the specific problem of classification of information and to make reccommendations for legislation or other governmental action. For example, S. J. Res. 119 introduced by Senator Roth and others on June 24, 1971, would set up a commission of seven members (two Senators, two Representatives, and three private citizens including one representative of the press). The commission would be called upon to study all laws, regulations, and procedures relating to classification and make recommendations and a report by February 1, 1972.

A similar proposal would establish a select joint committee of Congress known as the "Committee on Freedom of Information" to make a study of the problem. This has been proposed by Rep. Harrington and others in H. Con. Res. 348 introduced June 24, 1971. The select committee would "conduct a full and complete investigation and study as to whether the policies and procedures followed by the agencies, departments, and instrumentalities of the Federal Government, with respect to the classification and dissemination of information, are adequate to insure the free flow of information that is necessary for the intelligent and responsible exercise of constitutional rights, duties, and powers by Members of the Congress, the Congress, and the people of the United States."

The establishment of a temporary study commission or committee would have the advantage of assuring a thorough preliminary study prior to making changes in the existing system. Whether it would have meaningful results would depend upon the degree to which further action were taken upon the basis of its study and recommendation.

2. An Independent Review Board or Commission

Another suggestion which has been made is for a permanent commission or independent review board to review classification policies or decisions or to declassify documents at its discretion. Senator Muskie, for example, has said he intended to propose legislation for the creation by Congress and the President of an independent board which would be responsible for declassifying documents.[91] It would be enabled to make a document public after a two year waiting period or to send relevant documents at any time to the appropriate committee of Congress.

Senator Muskie has stated that the establishment of an independent review board would give the President and the Departments a strong incentive to be frank about the facts since they would be revealed soon anyway. His view is that such a board would protect national security without allowing security classification to hide blunders or launch covert actions.[92] The board would be bipartisan and composed of one member from the Government, one from the press, and five from the public, with non-renewable terms.

Representative Hébert introduced an amendment to the National Security Act of 1947 on July 15, 1971, which would establish a Commission on the Classification and Protection of Information (H.R. 9853). The Commission would have a total of twelve members, two from the Senate, two from the House of Representatives, and four each appointed by the President and the Chief Justice. Its purpose would be to make a continuing study and review of the classification rules and practices. Similarly, one of the possibilities to be explored by the proposed study commission under S.J. Res. 119 introduced by Senator Roth would be the feasibility of establishing an independent agency to ensure the full disclosure of information while protecting the security of the United States. A number of other bills have been introduced which would have the effect of creating an independent board or commission on classification.

As has been noted, a Central Security Office was suggested by the Commission on Government Security in 1957. However, the recent proposals for an independent board or commission appear to differ from the earlier proposal in several ways. First, the Central Security Office would have had several other functions; any relating to classification would have been only a segment of its responsibilities. Second, the Central Security Office would have been part of the Executive Branch although independent of any department. Third, the Central Security Office would not have had power to review individual documents for the purpose of determining whether or not they were properly classified. It would have been limited to considering policies and procedures expediting declassification, and suggesting recommendations to make the security programs of various agencies uniform, consistent, and effective.[93]

The feasibility and effectiveness of an independent commission or board could vary according to the purpose sought and the functions assigned to such a group.

If it had the confidence of both the Congress and the Executive, an independent board or commission might be able to arbitrate differences of opinion between the two branches as to whether specific data should be made public. At the present time the Executive Branch is usually permitted the final decision by Congress and only rarely does a Member defy the classification stamp and make public a classified document without the consent of the Executive Branch. Under some proposals for a Joint Congressional Committee on classified information, however, apparently the final decision on a dispute over the classification of a document in dispute might be made by the Joint Committee, an arm of Congress.

If one of the functions of the commission was to oversee the classification process and review classified documents in general, one problem would be to ensure that it was given or had access to all classified documents so that it could review them. In view of the time necessary to read and understand the significance of documents and the large number of documents which would apparently be involved, any comprehensive review of classified information could be extremely time consuming. President Nixon has estimated that it will require 100 people five years to review the 160 million pages of documents from World War II which are still secret.[94] General review functions, therefore, might require a commission or board with a rather large staff.

In establishing the duties of the commission, however, methods might be found by which the review commission did not attempt to review all classified documents but only certain ones. For example, if it were provided that all documents would be automatically declassified within a certain period unless the review board determined that they should not be, the burden of initiating an exception and proving the need of continued classification would rest on the agency desiring to keep a document secret. Or, as has been suggested in one proposal, documents would be reviewed at the time they were first classified and each classification would have to be justified at that point.[95] The problem would remain, however, of whether the board would know if any agency had withheld documents from the review process.

3. Permanent Joint Congressional Committee on Security Information

Another approach is the establishment of a permanent joint congressional committee to serve as a watchdog on classification policies. This offers a direct way to give Congress a more active role in determining classification policy. In addition, since the membership of Congress reflects a wide range of opinion on how much and what kind of information should be made public, it might offer a way to find a good balance between that information which should be available to all and that which should be kept secret in the interests of national security.

Several bills have been introduced in the 92nd Congress calling for the establishment of a Joint Congressional Committee on Classified Information. These are quite similar in the functions they provide for the committee but vary in the size and composition of the membership. The joint committee would be responsible for continuing investigation of practices and methods used in the executive branch to classify information for defense and security purposes, and of suspected misuse of such classification for purposes con-

---

Footnotes at end of article.

trary to the public welfare. Upon findings of such misuse the committee could initate such action as it deemed necessary to prohibit such misuse, sometimes including making any classified information which it considered ought not to be classified available to the public. The joint committee would also be responsible for assuring that classified information was available to Congress unless it agreed otherwise.

As an example of the way the joint committee might be composed, H.J. Res. 745, introduced by Congressman Addabbo on June 24, 1971, and in the 91st Congress as H.J. Res. 1131, would create a committee of 18 members to be composed of the chairman and ranking minority members of the House and Senate Armed Services Committee, the Foreign Relations and Foreign Affairs Committees, the Defense Appropriations Committees of the House and Senate, three other members of the Senate appointed by the President of the Senate, and three other members of the House appointed by the Speaker of the House.

S. 2290, introduced by Senator Humphrey on July 15, 1971 would establish a joint committee of 25 members, including the Speaker of the House; Majority and Minority leaders of the Senate and the House; Chairman and ranking minority members of the following committees of both houses. Appropriations, Armed Service, Foreign Affairs/Foreign Relations; three additional members of the House and Senate; and two members of the Joint Committee on Atomic Energy.

4. Legislation Revising Classification Procedures

Another approach is to establish through legislation the regulations and procedure for classification as Executive Order 10501 now does or to supplement that order to remedy the weaknesses which have appeared in its implementation. Rep. Gibbons has recommended that Congress pass legislation which, in addition to establishing a congressional oversight committee, would provide a clear definition of national security matters which could be classified and the circumstances under which such classification could be imposed. He proposed that each agency be required to number classified documents chronologically and provide to Congress annually a list of its classified documents identified by number. The list would be required to contain also an indication of the number of classified documents from the preceding year, a listing of the documents which had been declassified, and an indication of how long the remaining documents had been classified. The departments and agencies, under his proposal, would be required to review classification annually and the continued classification of any document for three or more years would require the authorization of the head of the agency or department.[96]

Senator Mansfield has said:

"Perhaps the need is for a 20th Century Stamp Act, which would define more precisely who has the right to stamp the various classifications, and under what circumstances, and to require a justification by originator of the classification as to his selection and how public dissemination would compromise national security."[97]

The proposal has also been made that Executive Order 10501 should be rescinded so that there would be no authority for a large number of people throughout government to classify information. Mr. William Florence, a retired civilian official of the Air Force who had extensive experience with the classification system, has suggested the rescinding of Executive Order 10501 (as necessary to root out the classification habits which have developed) and its replacement with legislation controlling defense information. He stated in testimony before the Government Operations Committee on June 24, 1971:

"I respectfully suggest the enactment of legislation for controlling "defense information" or "defense data" similar to that which covers "restricted data" under the Atomic Energy Act of 1954. The Congress could decide upon appropriate language, sufficiently precise, that would include only those elements of military information which warrant and must be accorded effective protection against disclosure. We could easily amend the existing order, but we cannot amend people. The use of so-called classifications or other similar labels should be avoided. Any proposed disclosure not authorized by the statute could be stopped, and any unlawful disclosure could be the basis for penalty. The degree of punishment should be made commensurate with the seriousness of the violation, not necessarily a severe penalty."[98]

5. Legislation providing for automatic declassification

As an alternative approach, instead of addressing itself to classification procedures legislation might be directed toward facilitating declassification. For example, a law might be passed after a certain period of time all documents would be automatically declassified unless some positive determination were made that a document should remain classified, thus making it easier to declassify documents than to keep them classified. The time period might be set as low as one year or as high as fifty years. Dr. Edward Teller, for example, has suggested that the United States declassify all secret documents after a year because "That is the period of time during which we can keep secrets. In a longer period, we cannot."[99] At the other extreme, a fifty-year limit, which the British Official Secrets Act sets, after which all official documents must be made public, has been criticized as being too long and as inhibiting the publication of documents before that time.[100] However, even a long time-limit assures that all documents would eventually be declassified without a time-consuming and expensive review. Apparently the Administration is considering this general approach, although not necessarily through legislation.[101]

6. Study by qualified historians

The recent controversy over the unauthorized publication of a classified Department of Defense history of the Vietnam war, the "Pentagon Papers," focused attention on the importance to historians of declassifying documents relating to past events. In addition to arguing that there is a need for the data to make wise foreign policy decisions on current problems, some historians have attempted to gain recognition of the needs of historians in compiling accurate factual histories of U.S. foreign policy. Currently the time lag between the occurrence of an event and its publication in the "Foreign Relations of the United States. Diplomatic Papers" volume is 25 years, and the delay continues to grow longer. Some historians have gone so far as the judicial system to force the release of specific information, as in Operation Keelhaul mentioned earlier, without success.

An editorial in the Washington Post of July 7, 1971, by Henry Owen outlines a proposal suggested in recent years by historians. This would call for the opening up of all historical records, with a few exceptions, to qualified, professional historians after a specified amount of time. These historians would then compile histories of U.S. foreign policy under the sponsorship of University or Foundation grants. This was done by the government in the late 1940's for two historians whose work on the Second World War has become an important historical source.

7. Congressional vigilance

Whether or not new laws relating to classified information are enacted or new machinery for classification and declassification is established, there may be a considerable amount that can be done to minimize the impediments which classified information places on the work of Congress in the field of foreign affairs. For example, reporting provisions in legislation can require that certain information be transmitted to Congress. Resolutions can be passed requesting the release of specified information if enough members believe that the information should be released. New legislation can be reviewed to ascertain whether it sanctions classification of information by such means as requiring clearances for access to certain information, and if so whether the legislation also provides safeguards against withholding information from Congress. Congressional review and oversight activities can be intensified over the areas and agencies in which large amounts of classified information render inadequate the amount of information available to the general public.

The power of the purse can be utilized by specific provisions such as Sections 624(d)(7) and 634(c) of the Foreign Assistance Act of 1961 as amended, and Section 502 of the Foreign Assistance and Related Programs Appropriation Act, 1971, relating the release of funds to the provision of information requested by a committee or subcommittee of Congress. These particular provisions permit information to be withheld upon a personal certification by the President that he has forbidden the furnishing of the specified information. Such a personal certification was made by the President on August 30, 1971, to prevent a suspension of Military Assistance Program funds after the Secretary of Defense had refused to supply the Senate Foreign Relations Committee with a requested five-year plan for military assistance. The withholding of information was done on the grounds of executive privilege and the need for "privacy of preliminary exchange of views between personnel of the Executive Branch" rather than security classification. It appears to have been facilitated, however, by the provision of the law permitting a waiver upon the President's personal certification. In its 1960 report: "Executive Branch Practices in Withholding Information From Congressional Committees," The House Committee on Government Operations endorsed the use of the power of the purse for the purpose of obtaining information necessary for Congress to perform its functions, stating as its concluding paragraph:

"Utilizing the power of the purse, the Congress can and should provide in authorizing and appropriating legislation, that the continued availability of appropriated funds is contingent upon the furnishing of complete and accurate information relating to the expenditure of such funds to the General Accounting Office and to the appropriate committees, if any, at their request."[102]

Congress can survey its own policies and practices in handling classified information and revise them if they seem to be either a barrier to the declassification of information or a barrier to obtaining or debating secret information. For example, if the lack of proper storage facilities has been used as a reason for not leaving classified material with Members of Congress, consideration could be given to providing the necessary facilities. Similarly, Congress could survey its own sources of information in the foreign affairs field and, if the Executive Branch does not cooperate in supplying the information it gathers, consider expanding or utilizing its own investigative resources more fully. For information which remains classified, it could make more frequent use of closed sessions of the Senate, as in the debate on Laos on June 7, 1971.

In any event, the many proposals which have been introduced in Congress indicate that a new attitude toward classified information is developing. A greater awareness of the hazards in Executive Branch secrecy is

---

Footnotes at end of article.

leading to a greater vigilance on the part of Congress against misuse of the classification system. A new determination by Congress to play its full constitutional role in the making of foreign policy may be bringing an end to an era in which persons without access to classified information were often made to feel that they could not debate foreign policy issues on a par with officials in the Executive Branch.

FOOTNOTES

[1] For an examination of the question of executive privilege, see the Congressional Research Service report, "Executive Privilege, a Brief Survey," by Majorie Browne, July 23, 1971. C.R.S. Multilith 71-238F.

[2] U.S. Congress, Senate, Executive Journal, vol. I, p. 55 (Aug. 4, 1790).

[3] National Archives, "Origin of Defense-Information Markings in the Army and Former War Department," prepared by Dallas Irvine, Dec. 23, 1964, p. 2.

[4] Ibid.

[5] Ibid., p. 7.

[6] Ibid., p. 16.

[7] Ibid., p. 21.

[8] Ibid., p. 24. Change No. 3 in Army Regulation No. 850, Feb. 12, 1935.

[9] Sec. 795 of title 18, United States Code.

[10] Par. 3, Executive Order 8381, Federal Register, Mar. 26. 1940, vol. 5, p. 1147–1148.

[11] Executive Order No. 10104, "Basic Documents," op. cit. p. 14.

[12] Pt. II, par. 4, Executive Order 10290, Federal Register, Sept. 27, 1951, vol. 16, p. 9797.

[13] U.S. Congress, Senate, Committee on Foreign Relations, Subcommittee on United States Security Agreements and Commitments Abroad, 91st Cong., hearings, vol. II, pp. 2008–2010, Washington, U.S. Government Printing Office, 1971. Hereinafter cited as "Security Agreements and Commitments Abroad Hearings."

[14] Ibid., p. 2010.

[15] Ibid.

[16] Ibid., p. 2011.

[17] U.S. Congress, House, Committee on Government Operations, "Amending Sec. 161 of the Revised Statutes With Respect to the Authority of Federal Officers and Agencies To Withhold Information and Limit the Availability of Records." H. Rept. 1461, 85th Cong., 2d sess., p. 1.

[18] Ibid.

[19] Hearing on U.S. security agreements and commitments abroad, op. cit. p. 2010.

[20] Congressional Research Service, "Basic Documents on Security Classification of Information for National Security Purposes," Multilith 71–172 F, hereinafter cited as "Basic Documents," p. 15.

[21] "Basic Documents," op. cit. p. 4.

[22] Title 18, United States Code, sec. 798, "Basic Documents," op. cit. p. 15.

[23] National Archives, op. cit., p. 20.

[24] Ibid., p. 24.

[25] "Security Agreements and Commitments Abroad Hearings," op. cit., p. 2011.

[26] Ibid.

[27] Sec. 102(d)(3), Public Law 253, 80th Cong., July 26, 1947, as amended. U.S. Senate. Committee on Armed Services, National Security Act of 1947 as amended through Dec. 31, 1969. Committee print, pp. 4–5.

[28] "Security Agreements and Commitments Abroad Hearings," op. cit., p. 2011.

[29] Title 50, United States Code, sec. 783.

[30] *Scarbeck* v. *U.S.*, 1962, 317 F. 2d 546.

[31] "Security Agreements and Commitments Abroad Hearings," op. cit., p. 2008.

[32] Atomic Energy Act of 1954, Public Law 83–703, as amended, sec. 11y.

[33] U.S. Congress, Joint Committee on Atomic Energy, "Atomic Energy Legislation Through 90th Cong., 2d sess.," December 1968, p. 42.

[34] Ibid., p. 43.

[35] Public Law 89–487, sec. 3(f), "Basic Documents," op. cit., p. 25.

[36] U.S. Congress, Senate, Committee on Foreign Relations, House, Committee on Foreign Affairs, "Legislation on Foreign Relations With Explanatory Notes," 92d Cong., 1st sess. Joint committee print, April 1971, p. 137.

[37] For an explanation of the relationship of defense information to diplomacy and foreign policy, see p. 18.

[38] See U.S. Congress, House, Committee on Government Operations, 25th report, "Executive Branch Practices in Withholding Information From Congressional Committees," 86th Cong., 2d sess. H. Rept. No. 2207. Washington, U.S. Government Printing Office, 1960, 14 pages.

[39] See 18 U.S.C. 798.

[40] Executive Order 10501, sec. 5(j).

[41] Ikenberry, Kenneth, "U.S. Security Classification a Maze of Rules," The Sunday Star, Washington, Nov. 9, 1969.

[42] 32 Federal Register 250, Dec. 28, 1967.

[43] Nuclear Industry, March 1970, pp. 59–61.

[44] The Arms Control and Disarmament Agency (ACDA) is probably a major exception to this rule in its concern over hardware as well as policy.

[45] U.S. Department of State, "Uniform State/AID/USIA Security Regulations, Physical and procedural," Washington, U.S. Government Printing Office, 1969. Sec. 911.2.

[46] Ibid., sec. 901.4.

[47] Testimony of Arthur J. Goldberg before the Foreign Operations and Government Information Subcommittee of the Committee on Government Operations of the House of Representatives, June 23, 1971. Mimeographed statement.

[48] Statement by Mr. William G. Florence, retired civilian security classification policy expert, submitted to the Foreign Operations and Government Information Subcommittee of the U.S. House of Representatives Committee on Government Operations, June 24, 1971, Mimeographed prepared statement.

[49] Ibid.

[50] "The Duty of Print," Christian Science Monitor, June 23, 1971.

[51] The Wall Street Journal, June 25, 1971.

[52] Ibid.

[53] Florence, op. cit.

[54] Harvard Law Review, Cambridge, Mass., February 1970, p. 928.

[55] Epstein, Julius, "A Case for Suppression," New York Times, Dec. 18, 1970, p. 39.

[56] Affidavit by Frankel, New York Times, June 19, 1971, p. 10.

[57] Affidavit submitted by Washington Post Executive Editor Benjamin C. Bradlee to the U.S. District Court for the District of Columbia, Boston Globe, June 27, 1971, p. 5.

[58] Ibid.

[59] Ashworth, George W., "U.S. Secrets and How They Grow," Christian Science Monitor, Mar. 31, 1969, p. 1.

[60] Ibid., p. 6.

[61] Feis, Herbert, "The Shackled Historian," Foreign Affairs, January 1967, p. 337.

[62] Department of Defense Directive No. 5400.4, "Provision of Information to Congress," Feb. 20, 1971, sec. III.B.

[63] Uniform State/AID/USIA Regulations, sec. 943.1.

[64] Based on telephone conversation with Alexander Schnee, legislative officer, Bureau of Congressional Relations, Department of State, July 30, 1971.

[65] Department of Defense Directive 5400.4, Sec. IV.B.2.

[66] U.S. Congress, Senate, Committee on the Judiciary, Subcommittee on Constitutional Rights, "Withholding of Information From the Congress," 86th Cong., 2d sess., Washington, Government Printing Office, 1961, pp. 18–19.

[67] U.S. Congress, House, Committee on Government Operations, 25th report, "Executive Branch Practices in Withholding Information From Congressional Committees," 86th Cong. 2d sess., H. Rept. No. 2207, Aug. 30, 1960, p. 6.

[68] U.S. Congress, Senate, Committee on Foreign Relations, Subcommittee on Security Agreements and Commitments Abroad, "Security Agreements and Commitments Abroad," report 91st Cong. 2d sess., Dec. 21, 1970, p. 26.

[69] U.S. Congress, Senate, Committee on the Judiciary, Subcommittee on Constitutional Rights, op. cit., p. 2.

[70] U.S. Congress, Senate, Committee on Foreign Relations, Subcommittee on U.S. Security Agreements and Commitments Abroad, op. cit., p. 3.

[71] Symington, Stuart, "Congress's Right To Know," New York Times Magazine, Aug. 9, 1970, p. 62.

[72] Ibid., p. 63.

[73] Message from the President of the United States transmitting his Second Annual Review of U.S. Foreign Policy, H. Doc. 92–53, 92d Cong., 1st sess., Feb. 25, 1971, p. 179.

[74] Javits, Jacob K., "The Congressional Presence in Foreign Relations," Foreign Affairs, January 1970, p. 244.

[75] Fulbright, James W., "The Arrogance of Power," New York, Random House, 1966, pp. 44–45.

[76] U.S. Congress, Senate, Committee on Foreign Relations, "Hearings on U.S. Security Agreements and Commitments Abroad," pt. 9, "Morocco and Libya," July 20, 1970, p. 1972.

[77] Pincus, Walter, "Congress Negotiates with the Executive Branch," Washington Post, June 30, 1971, p. B6.

[78] Ibid.

[79] Florence, William G., op. cit.

[80] U.S. Congress, Senate, Committee on the Judiciary, "Withholding of Information From the Congress," committee print, 1961, p. 35.

[81] Pincus, op. cit.

[82] Report to the Secretary of Defense by the Committee on Classified Information, Nov. 8, 1956, U.S. Congress, House, Committee on Government Operations, "Availability of Information From Federal Departments and Agencies," hearings, pt. 7, Washington, U.S. Government Printing Office, 1957, p. 2134.

[83] Commission on Government Security, Loyd Wright, Chairman, report pursuant to Public Law 304, 84th Cong., as amended, June 21, 1957, p. 172.

[84] Ibid., p. 181.

[85] Ibid., p. 183–184.

[86] U.S. Congress, House, Committee on Government Operations, 25th report, "Safeguarding Official Information in the Interests of the Defense of the United States (The Status of Executive Order 10501)." H. Rept. No. 2456. 87th Cong., 2d sess., Washington, Government Printing Office, 1962, p. 13.

[87] Ibid.

[88] Ibid.

[89] Weekly Compilation of Presidential Documents, p. 1117.

[90] White House press release, Aug. 12, 1971.

[91] Remarks by Senator Edmund S. Muskie, Garden City, N.Y., June 20, 1971, Congressional Record, July 19, 1971, p. E7889.

[92] Ibid., p. E7890.

[93] Commission on Government Security, op. cit., pp. 89 and 182.

[94] Washington Post, Aug. 4, 1971.

[95] Hudson, Richard, "Let's Declassify," New York Times, July 1, 1971, p. C47.

[96] Testimony of Representative Sam Gibbons before the House Government Operations Committee, June 24, 1971.

[97] Congressional Record, vol. 117, pt. 17, p. 22272.

[98] Congressional Record, vol. 117, pt. 17, p. 22511.

[99] Dallas Morning News, Aug. 20, 1971, p. 9F.

[100] Worsnop, Richard L., "Secrecy in Government," Editorial Research Reports, 1971, vol. II, Aug. 18, No. 7, p. 641.

[101] See above sec. B., "Current Study in Executive Branch."

[102] U.S. Congress, House, Committee on Government Operations, 25th report, "Executive Branch Practices in Withholding Information From Congressional Committees," 86th Cong., 2d sess., H. Rept. No. 2207, Aug 30, 1960, p 14.

Basic Documents on Security Classification of Information for National Security Purposes

(Weston Burnett, research assistant, foreign affairs division, July 15, 1971)

EXCUTIVE ORDER 10501—SAFEGUARDING OFFICIAL INFORMATION

Nov. 9, 1953, 18 F.R. 7049, as amended by Ex. Ord. No. 10816, May 8, 1959, 24 F.R. 3777; Ex. Ord. No. 10901, Jan. 11, 1961, 26 F.R. 217; Ex. Ord. No. 10964, Sept. 20, 1961, 26 F.R. 8932; Ex. Ord. No. 10985, Jan. 15, 1962, 27 F.R. 439; Ex. Ord. No. 11097, Mar. 6, 1963, 28 F.R. 2225; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247.

Source: U.S. Laws, Statutes, etc., United States Code Annotated. St. Paul, Minnesota; West Publishing Company, 1927—(Title 50, War and National Defense, Section 401, pages 35–45).

Section 1. Classification Categories. Official information which requires protection in the interests of national defense shall be limited to three categories of classification, which in descending order of importance shall carry one of the following designations; Top Secret, Secret, or Confidential. No other designation shall be used to classify defense information, including military information, as requiring protection in the interests of national defense, except as expressly provided by statute. These categories are defined as follows:

(a) Top Secret. Except as may be expressly provided by statute, the use of the classification Top Secret shall be authorized, by appropriate authority, only for defense information or material which requires the highest degree of protection. The Top Secret Classification shall be applied only to that information or material the defense aspect of which is paramount, and the unauthorized disclosure of which could result in exceptionally grave damage to the Nation such as leading to a definite break in diplomatic relations affecting the defense of the United States, an armed attack against the United States or its allies, a war, or the compromise of military or defense plans, or intelligence operations, or scientific or technological developments vital to the national defense.

(b) Secret. Except as may be expressly provided by statute, the use of the classification Secret shall be authorized, by appropriate authority, only for defense information or material the unauthorized disclosure of which could result in serious damage to the Nation, such as by jeopardizing the international relations of the United States, endangering the effectiveness of a program or policy of vital importance to the national defense, or compromising important military or defense plans, scientific or technological developments important to national defense, or information revealing important intelligence operations.

(c) Confidential. Except as may be expressly provided by statute, the use of the classification Confidential shall be authorized, by appropriate authority, only for defense information or material the unauthorized disclosure of which could be prejudicial to the defense interests of the nation.

Sec. 2. Limitation of authority to classify. The authority to classify defense information or material under this order shall be limited in the departments, agencies, and other units of the executive branch as hereinafter specified.

(a) In the following departments, agencies, and Governmental units, having primary responsibility for matters pertaining to national defense, the authority for original classification of information or material under this order may be exercised by the head of the department, agency, or Governmental unit concerned or by such responsible offices or employees as he, or his representative, may designate for that purpose. The delegation of such authority to classify shall be limited as severely as is consistent with the orderly and expeditious transaction of Government business.

The White House Office.
President's Science Advisory Committee.
Bureau of the Budget.
Council of Economic Advisers.
National Security Council.
Central Intelligence Agency.
Department of State.
Department of the Treasury.
Department of Defense.
Department of the Army.
Department of the Navy.
Department of the Air Force.
Department of Justice.
Department of Commerce.
Department of Labor.
Department of Transportation.
Atomic Energy Commission.
Canal Zone Government.
Federal Communications Commission.
Federal Radiation Council.
General Services Administration.
Interstate Commerce Commission.
National Aeronautics and Space Administration.
National Aeronautics and Space Council.
United States Civil Service Commission.
United States Information Agency.
Agency for International Development.
Office of Emergency Planning.
Peace Corps.
President's Foreign Intelligence Advisory Board.
United States Arms Control and Disarmament Agency.
Export-Import Bank of Washington.
Office of Science and Technology.
The Special Representative for Trade Negotiations.

(b) In the following departments, agencies, and Government units, having partial but not primary responsibility for matters pertaining to national defense, the authority for original classification of information or material under this order shall be exercised only by the head of the department, agency, or Governmental unit without delegation:

Post Office Department.
Department of the Interior.
Department of Agriculture.
Department of Health, Education, and Welfare.
Civil Aeronautics Board.
Federal Power Commission.
National Science Foundation.
Panama Canal Company.
Renegotiation Board.
Small Business Administration.
Subversive Activities Control Board.
Tennessee Valley Authority.
Federal Maritime Commission.
Subversive Activities Control Board.

(c) Any agency or unit of the executive branch not named herein, and any such agency or unit which may be established hereafter, shall be deemed not to have authority for original classification of information or material under this order, except as such authority may be specifically conferred upon any such agency or unit hereafter.

Sec. 3. Classification. Persons designated to have authority for original classification of information or material which requires protection in the interests of national defense under this order shall be held responsible for its proper classification in accordance with the definitions of the three categories in section 1, hereof. Unnecessary be scrupulously avoided. The following special rules shall be observed in classification of defense information or material:

(a) Documents in General. Documents shall be classified according to their own content and not necessarily according to their relationship to other documents. References to classified material which do not reveal classified defense information shall not be classified.

(b) Physically Connected Documents. The classification of a file or group of physically connected documents shall be at least as high as that of the most highly classified document therein. Documents separated from the file or group shall be handled in accordance with their individual defense classification.

(c) Multiple Classification. A document, product, or substance shall bear a classification at least as high as that of its highest classified component. The document, product, or substance shall bear only one over-all classification, notwithstanding that pages, paragraphs, sections, or components thereof bear different classifications.

(d) Transmittal Letters. A letter transmitting defense information shall be classified at least as high as its highest classified enclosure.

(e) Information Originated by a Foreign Government or Organization. Defense information of a classified nature furnished to the United States by a foreign government or international organization shall be assigned a classification which will assure a degree of protection equivalent to or greater than that required by the government or international organization which furnished the information.

Sec. 4. Declassification, Downgrading, or Upgrading. When classified information or material no longer requires its present level of protection in the defense interest, it shall be downgraded or declassified in order to preserve the effectiveness and integrity of the classification system and to eliminate classifications of information or material which no longer require classification protection. Heads of departments or agencies originating classified information or material shall designate persons to be responsible for continuing review of such classified information or material on a document-by-document, category, project, program, or other systematic basis, for the purpose of declassifying or downgrading whenever national defense considerations permit, and for receiving requests for such review from all sources. However, Restricted Data and material formerly designated as Restricted Data shall be handled only in accordance with subparagarph 4(a) (1) below and section 13 of this order. The following special rules shall be observed with respect to changes of classification of defense information or material, including information or material heretofore classified:

(a) Automatic Changes. In order to insure uniform procedures for automatic changes, heads of departments and agencies having authority for original classification of information or material as set forth in section 2 shall categorize such classified information or material into the following groups:

(1) Group 1. Information or material originated by foreign governments or international organizations and over which the United States Government has no jurisdiction information or material provided for by statutes such as the Atomic Energy Act [section 201] et seq. of Title 42. The Public Health and Welfare and information or material requiring special handling, such as intelligence and cryptography. This information and material is excluded from automatic downgrading or declassification.

(2) Group 2. Extremely sensitive information or material which the head of the agency or his designers exempt on an individual basis, from automatic downgrading and declassification.

(3) Group 3. Information or material which warrants some degree of classification for an indefinite period. Such information or material shall become automatically downgraded at 12-year intervals until the lowest classification is reached, but shall not become automatically declassified.

(4) Group 4. Information or material which does not qualify for, or is not assigned to, one of the first three groups. Such information or material shall become automatically downgraded at three-year intervals until the lowest classification is reached, and shall be

automatically declassified twelve years after date of issuance.

To the fullest extent practicable. the classifying authority shall indicate on the information or material at the time of original classification if it can be downgraded or declassified at an earlier date, or if it can be downgraded or declassified after a specified event, or upon the removal of classified attachments or enclosures. The heads, or their designees, of departments and agencies in possession of defense information or material classified pursuant to this order, but not bearing markings for automatic downgrading or declassification, are hereby authorized to mark or designate for automatic downgrading or declassification such information or material in accordance with the rules or regulations established by the department or agency that originally classified such information or material.

(b) Non-Automatic Changes. The person designated to receive requests for review of classified material may downgrade or declassify such material when circumstances no longer warrant its retention in its original classification provided the consent of the appropriate classifying authority has been obtained. The downgrading or declassification of extracts from or paraphrases of classified documents shall also require the consent of the appropriate classifying authority unless the agency making such extracts knows positively that they warrant a classification lower than that of the document from which extracted, or that they are not classified.

(c) Material Officially Transferred. In the case of material transferred by or pursuant to statute or Executive order from one statute or Executive order from one department or agency to another for the latter's use and as part of its official files or property, as distinguished from transfers merely for purposes of storage, the receiving department or agency shall be deemed to be the classifying authority for all purposes under this order, including declassification and downgrading.

(d) Material Not Officially Transferred. When any department or agency has in its possession any classified material which has become five years old, and it appears (1) that such material originated in an agency which has since become defunct and whose files and other property have not been officially transferred to another department or agency within the meaning of subsection (c), above, or (2) that it is impossible for the possessing department or agency to identify the originating agency, and (3) a review of the material indicates that it should be downgraded or declassified, the said possessing department or agency shall have power to declassify or downgrade such material. If it appears probable that another department or agency may have a substantial interest in whether the classification of any particular information should be maintained. the possessing department or agency shall not exercise the power conferred upon it by this subsection, except with the consent of the other department or agency, until thirty days after it has notified such other department or agency of the nature of the material and of its intention to declassify or downgrade the same. During such thirty-day period the other department or agency may, if it so desires, express its objections to declassifying or downgrading the particular material, but the power to make the ultimate decision shall reside in the possessing department or agency.

(e) Information or Material Transmitted by Electrical Means. The downgrading or declassification of classified information or material transmitted by electrical means shall be accomplished in accordance with the procedures described above unless specifically prohibited by the originating department or agency. Unclassified information or material which is transmitted in encrypted form shall be safeguarded and handled in accordance with the regulations of the originating department or agency.

(f) Downgrading. If the recipient of classified material believes that it has been classified too highly, he may make a request to the reviewing official who may downgrade or declassify the material after obtaining the consent of the appropriate classifying authority.

(g) Upgrading. If the recipient of unclassified information or material believes that it should be classified, or if the recipient of classified information or material believes that its classification is not sufficiently protective, it shall be safeguarded in accordance with the classification deemed appropriate and a request made to the reviewing official, who may classify the information or material or upgrade the classification after obtaining the consent of the appropriate classifying authority. The date of this action shall constitute a new date of origin insofar as the downgrading or declassification schedule (paragraph (a) above) is concerned.

(h) Departments and Agencies Which Do Not Have Authority for Original Classification. The provisions of this section relating to the declassification of defense information or material shall apply to departments or agencies which do not, under the terms of this order, have authority for original classification of information or material, but which have formerly classified information or material pursuant to Executive Order No. 10290 of September 24, 1951.

(i) Notification of Change in Classification. In all cases in which action is taken by the reviewing official to downgrade or declassify earlier than called for by the automatic downgrading declassification stamp, the reviewing official shall promptly notify all addressees to whom the information or material was originally transmitted. Recipients of original information or material, upon receipt of notification of change in classification, shall notify addressees to whom they have transmitted the classified information or material.

Sec. 5. Marking of Classified Material. After a determination of the proper defense classification to be assigned has been made in accordance with the provisions of this order the classified material shall be marked as follows:

(a) Downgrading-Declassification Markings. At the time of origination, all classified information or material shall be marked to indicate the downgrading-declassification schedule to be followed in accordance with paragraph (a) of section 4 of this order.

(b) Bound Documents. The assigned defense classification on bound documents, such as books or pamphlets, the pages of which are permanently and securely fastened together, shall be conspicuously marked or stamped on the outside of the front cover, on the title page, on the first page, on the back page and on the outside of the back cover. In each case the markings shall be applied to the top and bottom of the page or cover.

(c) Unbound Documents. The assigned defense classification on unbound documents, such as letters, memoranda, reports, telegrams, and other similar documents, the pages of which are not permanently and securely fastened together, shall be conspicuously marked or stamped at the top and bottom of each page, in such manner that the marking will be clearly visible when the pages are clipped or stapled together.

(d) Charts, Maps and Drawings. Classified charts, maps, and drawings shall carry the defense classification marking under the legend, title block, or scale in such manner that it will be reproduced on all copies made therefrom. Such classification shall also be marked at the top and bottom in each instance.

(e) Photographs, Films and Recordings. Classified photographs, films, and recordings, and their containers, shall be conspicuously and appropriately marked with the assigned defense classification.

(f) Products or Substances. The assigned defense classification shall be conspicuously marked on classified products or substances, if possible, and on their containers, if possible, or, if the article or container cannot be marked, written notification of such classification shall be furnished to recipients of such products or substances.

(g) Reproductions. All copies or reproductions of classified material shall be appropriately marked or stamped in the same manner as the original thereof.

(h) Unclassified Material. Normally, unclassified material shall not be marked or stamped Unclassified unless it is essential to convey to a recipient of such material that it has been examined specifically with a view to imposing a defense classification and has been determined not to require such classification.

(i) Change or Removal of Classification. Whenever classified material is declassified, downgraded, or upgraded, the material shall be marked or stamped in a prominent place to reflect the change in classification, the authority for the action, the date of action, and the identity of the person or unit taking the action. In addition, the old classification marking shall be cancelled and the new classification (if any) substituted therefor. Automatic change in classification shall be indicated by the appropriate classifying authority through marking or stamping in a prominent place to reflect information specified in subsection 4 (n) hereof.

(j) Material Furnished Persons not in the Executive Branch of the Government. When classified material affecting the national defense is furnished authorized persons, in or out of Federal service, other than those in the executive branch, the following notation, in addition to the assigned classification marking, shall whenever practicable be placed on the material, on its container, or on the written notification of its assigned classification:

This material contains information affecting the national defense of the United States within the meaning of the espionage laws, Title 18, U.S.C., Secs. 703 and 704, the transmission or revelation of which in any manner to an unauthorized person is prohibited by law.

Use of alternative marking concerning "Restricted Data" as defined by the Atomic Energy Act [sections 1801–1810 of Title 42] is authorized when appropriate.

Sec. 6. Custody and Safekeeping. The possession or use of classified defense information or material shall be limited to locations where facilities for secure storage or protection thereof are available by means of which unauthorized persons are prevented from gaining access thereto. Whenever such information or material is not under the personal supervision of its custodian, whether during or outside of working hours, the following means shall be taken to protect it:

(a) Storage of Top Secret Information and Material. As a minimum, Top Secret defense information and material shall be stored in a safe or safe-type steel file container having a three-position dialtype combination lock, and being of such weight, size, construction, or installation as to minimize the possibility of unauthorized access to, or the physical theft of such information and material. The head of a department or agency may approve other storage facilities which afford equal protection, such as an alarmed area, a vault, a vault-type room, or an area under continuous surveillance.

(b) Storage of Secret and Confidential Information and Material. As a minimum, Secret and Confidential defense information and material may be stored in a manner authorized for Top Secret information and material, or in steel file cabinets equipped with steel lockbar and a changeable three-combination dial-type padlock or in other storage facilities which afford equal protection and which are authorized by the head of the department or agency.

(c) Storage or Protection Equipment. Whenever new security storage equipment is procured, it should, to the maximum extent practicable, be of the type designated as security filing cabinets on the Federal Supply Schedule of the General Services Administration.

(d) Other Classified Material. Heads of departments and agencies shall prescribe such protective facilities as may be necessary in their departments or agencies for material originating under statutory provisions requiring protection of certain information.

(e) Changes of Lock Combinations. Combinations on locks of safekeeping equipment shall be changed, only by persons having appropriate security clearance, whenever such equipment is placed in use after procurement from the manufacturer or other sources, whenever a person knowing the combination is transferred from the office to which the equipment is assigned, or whenever the combination has been subjected to compromise, and at least once every year. Knowledge of combinations shall be limited to the minimum number of persons necessary for operating purposes. Records of combinations shall be classified no lower than the highest category of classified defense material authorized for storage in the safekeeping equipment concerned.

(f) Custodian's Responsibilities. Custodians of classified defense material shall be responsible for providing the best possible protection and accountability for such material at all times and particularly for securely locking classified material in approved safekeeping equipment whenever it is not in use or under direct supervision of authorized employees. Custodians shall follow procedures which insure that unauthorized persons do not gain access to classified defense information or material by sight or sound, and classified information shall not be discussed with or in the presence of unauthorized persons.

(g) Telephone Conversations. Defense information classified in the three categories under the provisions of this order shall not be revealed in telephone conversations, except as may be authorized under section 8 hereof with respect to the transmission of Secret and Confidential material over certain military communications circuits.

(h) Loss or Subjection to Compromise. Any person in the executive branch who has knowledge of the loss or possible subjection to compromise of classified defense information shall promptly report the circumstances to a designated official of his agency, and the latter shall take appropriate action forthwith, including advice to the originating department or agency.

Sec. 7. Accountability and Dissemination. Knowledge or possession of classified defense information shall be permitted only to persons whose official duties require such access in the interest of promoting national defense and only if they have been determined to be trustworthy. Proper control of dissemination of classified defense information shall be maintained at all times, including good accountability records of classified defense information documents, and severe limitation on the number of such documents originated as well as the number of copies of classified defense information documents shall be kept to a minimum to decrease the risk of compromise of the information contained in such documents and the financial burden on the Government in protecting such documents. The following special rules shall be observed in connection with accountability for and dissemination of defense information or material:

(a) Accountability Procedures Heads of departments and agencies shall prescribe such accountability procedures as are necessary to control effectively the dissemination of classified defense information, with particularly severe control on material classified Top Secret under this order. Top Secret Control Officers shall be designated, as required, to receive, maintain accountability registers of, and dispatch Top Secret material.

(b) Dissemination Outside the Executive Branch. Classified defense information shall not be disseminated outside the executive branch except under conditions and through channels authorized by the head of the disseminating department or agency, even though the person or agency to which dissemination of such information is proposed to be made may have been solely or partly responsible for its production.

(c) Information Originating in Another Department or Agency. Except as otherwise provided by section 102 of the National Security Act of July 26, 1947, c. 343, 61 Stat. 498, as amended, [section 403 of this title], classified defense information originating in another department or agency shall not be disseminated outside the receiving department or agency without the consent of the originating department or agency. Documents and material containing defense information which are classified Top Secret or Secret shall not be reproduced without the consent of the originating department or agency.

Sec. 8. Transmission. For transmission outside of a department or agency, classified defense material of the three categories originated under the provisions of this order shall be prepared and transmitted as follows:

(a) Preparation for Transmission. Such material shall be enclosed in opaque inner and outer covers. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and address. The outer cover shall be sealed and addressed with no indication of the classification of its contents. A receipt form shall be attached to or enclosed in the inner cover, except that Confidential material shall require a receipt only if the sender deems it necessary. The receipt form shall identify the addressor, addressee, and the document, but shall contain no classified information. It shall be signed by the proper recipient and returned to the sender.

(b) Transmitting Top Secret Material. The transmission of Top Secret material shall be effected preferably by direct contact of officials concerned, or, alternatively, by specifically designated personnel, by State Department diplomatic pouch, by a messenger-courier system especially created for that purpose, or by electric means in encrypted form; or in the case of information transmitted by the Federal Bureau of Investigation, such means of transmission may be used as are currently approved by the Director, Federal Bureau of Investigation, unless express reservation to the contrary is made in exceptional cases by the originating agency.

(c) Transmitting Secret Information and Material. Secret information and material shall be transmitted within and between the forty-eight contiguous States and the District of Columbia, or wholly within Alaska, Hawaii, the Commonwealth of Puerto Rico, or a United States possession, by one of the means established for Top Secret information and material, by authorized courier, by United States registered mail, or by the use of protective services provided by commercial carriers, air or surface, under such conditions as may be prescribed by the head of the department or agency concerned. Secret information and material may be transmitted outside those areas by one of the means established for Top Secret information and material, by commanders or masters of vessels of United States registry, or by the United States registered mail through Army, Navy, Air Force, or United States civil postal facilities; provided that the information or material does not at any time pass out of United States Government control and does not pass through a foreign postal system. For the purposes of this section registered mail in the custody of a transporting agency of the United States Post Office is considered within United States Government control unless the transporting agent is foreign controlled or operated. Secret information and material may, however, be transmitted between United States Government or Canadian Government installations, or both, in the forty-eight contiguous States, the District of Columbia, Alaska, and Canada by United States and Canadian registered mail with registered mail receipt. Secret information and material may also be transmitted over communications circuits in accordance with regulations promulgated for such purpose by the Secretary of Defense.

(d) Transmitting Confidential Information and Material. Confidential information and material shall be transmitted within the forty-eight contiguous States with the District of Columbia, or wholly within Alaska, Hawaii, the Commonwealth of Puerto Rico, or a United States possession, by one of the means established for higher classifications, or by certified or first-class mail. Outside those areas Confidential information and material shall be transmitted in the same manner as authorized for higher classifications.

(e) Within an Agency. Preparation of classified defense material for transmission, and transmission of it, within a department or agency shall be governed by regulations, issued by the head of the department or agency, insuring a degree of security equivalent to that outlined above for transmission outside a department or agency.

Sec. 9. Disposal and Destruction. Documentary record material made or received by a department or agency in connection with transaction of public business and preserved as evidence of the organization, functions, policies, operations, decisions, procedures or other activities of any department or agency of the Government, or because of the informational value of the data contained therein, may be destroyed only in accordance with the act of July 7, 1943, p. 192, 57 Stat. 380, as amended (sections 366–380 of Title 44). Nonrecord classified material, consisting of extra copies and duplicates including shorthand notes, preliminary drafts, used carbon paper, and other material of similar temporary nature, may be destroyed, under procedures established by the head of the department or agency which meet the following requirements, as soon as it has served its purpose:

(a) Methods of Destruction. Classified defense material shall be destroyed by burning in the presence of an appropriate official or by other methods authorized by the head of an agency provided the resulting destruction is equally complete.

(b) Records of Destruction. Appropriate accountability records maintained in the department or agency shall reflect the destruction of classified defense material.

Sec. 10. Orientation and Inspection. To promote the basic purposes of this order, heads of those departments and agencies originating or handling classified defense information shall designate experienced persons to coordinate and supervise the activities applicable to their departments or agencies under this order. Persons so designated shall maintain active training and orientation programs for employees concerned with classified defense information to impress each such employee with his individual responsibility for exercising vigilance and care in complying with the provisions of this order. Such persons shall be authorized on behalf of the heads of the departments and agencies to establish adequate and active inspection programs to the end that the provisions of this order are administered effectively.

Sec. 11. Interpretation of Regulations by the Attorney General. The Attorney General, upon request of the head of a department or agency or his duly designated representative, shall personally or through authorized representatives of the Department of Justice render an interpretation of these regulations in connection with any problems arising out of their administration.

Sec. 12. Statutory Requirements. Nothing in this order shall be construed to authorize the dissemination, handling or transmission of classified information contrary to the provisions of any statute.

Sec. 13. "Restricted Data," Material Formerly Designated as "Restricted Data," Communications Intelligence and Cryptography. (a) Nothing in this order shall supersede any requirements made by or under the Atomic Energy Act of August 30, 1954, as amended (section 2011 et seq. of Title 42, The Public Health and Welfare). "Restricted Data," and material formerly designated as "Restricted Data," shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.

(b) Nothing in this order shall prohibit any special requirements that the orginating agency or other appropriate authority may impose as to communications intelligence, cryptography, and matters related thereto.

Sec. 14. Combat Operations. The provisions of this order with regard to dissemination, transmission, or safekeeping of classified defense information or material may be so modified in connection with combat or combat-related operations as the Secretary of Defense may by regulations prescribe.

Sec. 15. Exceptional Cases. When, in an exceptional case, a person or agency not authorized to classify defense information originates information which is believed to require classification, such person or agency shall protect that information in the manner prescribed by this order for that category of classified defense information into which it is believed to fall, and shall transmit the information forthwith, under appropriate safeguards, to the department, agency, or person having both the authority to classify information and a direct official interest in the information, agency, or person to which the information would be transmitted in the ordinary course of business), with a request that such department, agency, or person classify the information.

Historical Research. As an exception to the standard for access prescribed in the first sentence of section 7, but subject to all other provisions of this order, the head of an agency may permit persons outside the executive branch performing functions in connection with historical research projects to have access to classified defense information originated within his agency if he determines that: (a) access to the information will be clearly consistent with the interests of national defense, and (b) the person to be granted access is trustworthy: Provided that the head of the agency shall take appropriate steps to assure that classified information is not published or otherwise compromised.

Sec. 16. Review to Insure That Information is Not Improperly Withheld Hereunder. The President shall designate a member of his staff who shall receive, consider, and take action upon, suggestions or complaints from non-Government sources relating to the operation of this order.

Sec. 17. Review to Insure Safeguarding of Classified Defense Information. The National Security Council shall conduct a continuing review of the implementation of this order to insure that classified defense information is properly safeguarded, in conformity herewith.

Sec. 18. Review Within Departments and Agencies. The head of each department and agency shall designate a member or members of his staff who shall conduct a continuing review of the implementation of this order within the department or agency concerned to insure that no information is withheld hereunder which the people of the United States have a right to know, and to insure that classified defense information is properly safeguarded in conformity herewith.

Sec. 19. Unauthorized Disclosure by Government Personnel. The head of each department and agency is directed to take prompt and stringent administrative action against any officer or employee of the United States, at any level of employment, determined to have been knowingly responsible for any release or disclosure of classified defense information or material except in the manner authorized by this order, and where a violation of criminal statutes may be involved, to refer promptly to the Department of Justice any such case.

Sec. 20. Revocation of Executive Order No. 10200. Executive Order No. 10290 of September 24, 1951 (set out as a note under this section) is revoked as of the effective date of this order.

Sec. 21. Effective Date. This order shall become effective on December 15, 1953.

EXECUTIVE ORDER NO. 10865—SAFEGUARDING CLASSIFIED INFORMATION WITHIN INDUSTRY

Feb. 23, 1960, 25 F.R. 1583, as amended by Ex. Ord. No. 10909, Jan. 18, 1961, 26 F.R. 508; Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247.

Whereas it is mandatory that the United States protect itself against hostile or destructive activities by preventing unauthorized disclosures of classified information relating to the national defense; and

Whereas it is a fundamental principle of our Government to protect the interests of individuals against unreasonable or unwarranted encroachment; and

Whereas I find that the provisions and procedures prescribed by this order are necessary to assure the preservation of the integrity of classified defense information and to protect the national interest; and

Whereas I find that those provisions and procedures recognize the interest of individuals affected thereby and provide maximum possible safeguards to protect such interests:

Now, therefore, under and by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States and as Commander in Chief of the armed forces of the United States, it is hereby ordered as follows:

Section 1. (a) The Secretary of State, the Secretary of Defense, the Commissioners of the Atomic Energy Commission, the Administrator of the National Aeronautics and Space Administration, and the Secretary of Transportation, respectively, shall, by regulation, prescribe such specific requirements, restrictions, and other safeguards as they consider necessary to protect (1) releases of classified information to or within United States industry that relate to bidding on, or the negotiation, award, performance, or termination of, contracts with their respective agencies, and (2) other releases of classified information to or within industry that such agencies have responsibility for safeguarding. So far as possible, regulations prescribed by them under this order shall be uniform and provide for full cooperation among the agencies concerned.

(b) Under agreement between the Department of Defense and any other department or agency of the United States, including, but not limited to, those referred to in subsection (c) of this section, regulations prescribed by the Secretary of Defense under subsection (a) of this section may be extended to apply to protect releases (1) of classified information to or within United States industry that relate to bidding on, or the negotiation, award, performance, or termination of, contracts with such other department or agency, and (2) other releases of classified information to or within industry which such other department or agency has responsibility for safeguarding.

(c) When used in this order, the term "head of a department" means the Secretary of State, the Secretary of Defense, the Commissioners of the Atomic Energy Commission, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the head of any other department or agency of the United States with which the Department of Defense makes an agreement under subsection (b) of this section, and in sections 4 and 8, includes the Attorney General. The term "department" means the Department of State, the Department of Defense, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Department of Transportation, any other department or agency of the United States with which the Department of Defense makes an agreement under subsection (b) of this section, and, in sections 4 and 8, includes the Department of Justice.

Sec. 2. An authorization for access to classified information may be granted by the head of a department or his designee, including but not limited to, those officials named in section 8 of this order, to an individual, hereinafter termed an "applicant," for a specific classification category only upon a finding that it is clearly consistent with the national interest to do so.

Sec. 3. Except as provided in section 9 of this order, an authorization for access to a specific classification category may not be finally denied or revoked by the head of a department or his designee, including, but not limited to, those officials named in section 8 of this order, unless the applicant has been given the following:

(1) A written statement of the reasons why his access authorization may be denied or revoked, which shall be as comprehensive and detailed as the national security permits.

(2) A reasonable opportunity to reply in writing under oath or affirmation to the statement of reasons.

(3) After he has filed under oath or affirmation a written reply to the statement of reasons, the form and sufficiency of which may be prescribed by regulations issued by the head of the department concerned, an opportunity to appear personally before the head of the department concerned or his designee, including, but not limited to, those officials named in section 8 of this order, for the purpose of supporting his eligibility for access authorization and to present evidence on his behalf.

(4) A reasonable time to prepare for that appearance.

(5) An opportunity to be represented by counsel.

(6) An opportunity to cross-examine persons either orally or through written interrogatories in accordance with section 4 on matters not relating to the characterization in the statement of reasons of any organization or individual other than the applicant.

(7) A written notice of the final decision in his case which, if adverse, shall specify whether the head of the department or his designee, including, but not limited to, those officials named in section 8 of this order, found for or against him with respect to each allegation in the statement of reasons.

Sec. 4. (a) An applicant shall be afforded an opportunity to cross-examine persons who have made oral or written statements adverse to the applicant relating to a controverted issue except that any such statement may be received and considered without affording such opportunity in the circumstances described in either of the following paragraphs:

(1) The head of the department supplying the statement certifies that the person who furnished the information is engaged in obtaining intelligence information for the Government and that disclosure of his identity would be substantially harmful to the national interest.

(2) The head of the department concerned or his special designee for that particular purpose has preliminarily determined, after considering information furnished by the investigative agency involved as to the reliability of the person and the accuracy of the statement concerned, that the statement concerned appears to be reliable and material, and the head of the department or such special designee has determined that failure to receive and consider such statement would, in view of the level of access sought, be substantially harmful to the national security and that the person who furnished the information cannot appear to testify (A) due to death, severe illness, or similar cause, in which case the identity of the person and the information to be considered shall be made available to the applicant, or (B) due to some other cause determined by the head of the department to be good and sufficient.

(b) Whenever procedures under paragraphs (1) or (2) of subsection (a) of this section are used (1) the applicant shall be given a summary of the information which shall be as comprehensive and detailed as the national security permits, (2) appropriate consideration shall be accorded to the fact that the applicant did not have an opportunity to cross-examine such person or persons, and (3) a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

Sec. 5. (a) Records compiled in the regular course of business, or other physical evidence other than investigative reports, may be received and considered subject to rebuttal without authenticating witnesses provided that such information has been furnished to the department concerned by an investigative agency pursuant to its responsibilities in connection with assisting the head of the department concerned to safeguard classified information within industry pursuant to this order.

(b) Records compiled in the regular course of business, or other physical evidence other than investigative reports, relating to a controverted issue which, because they are classified, may not be inspected by the applicant, may be received and considered provided that: (1) the head of the department concerned or his special designee for that purpose has made a preliminary determination that such physical evidence appears to be material, (2) the head of the department concerned or such designee has made a determination that failure to receive and consider such physical evidence would, in view of the level of access sought, be substantially harmful to the national security, and (3) to the extent that the national security permits, a summary or description of such physical evidence is made available to the applicant. In every such case, information as to the authenticity and accuracy of such physical evidence furnished by the investigative agency involved shall be considered. In such instances a final determination adverse to the applicant shall be made only by the head of the department based upon his personal review of the case.

Sec. 6. The Secretary of State, the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, or his representative, or the head of any other department or agency of the United States with which the Department of Defense makes an agreement under section 1(b), or his representative, may issue, in appropriate cases invitations and requests to appear and testify in order that the applicant may have the opporunity to cross-examine as provided by his order. Whenever a witness is so invited or requested to appear and testify at a proceeding and the witness is an officer or employee of the executive branch of the Government or a member of the armed forces of the United States, and the proceeding involves the activity in connection with which the witness is employed, travel expenses and per diem are authorized as provided by the Standardized Government Travel Regulations or the Joint Travel Regulations, as appropriate. In all other cases (including non-Government employees as well as officers or employees of the executive branch of the Government or members of the armed forces of the United States not covered by the foregoing sentence), transportation in kind and reimbursement for actual expenses are authorized in an amount not to exceed the amount payable under Standardized Government Travel Regulations. An officer or employee of the executive branch of the Government or a member of the armed forces of the United States who is invited or requested to appear pursuant to this paragraph shall be deemed to be in the performance of his official duties. So far as the national security permits, the head of the investigative agency involved shall cooperate with the Secretary, the Administrator, or the head of the other department or agency, as the case may be, in identifying persons who have made statements adverse to the applicant and in assisting him in making them available for cross-examination. If a person so invited is an officer or employee of the executive branch of the Government or a member of the armed forces of the United States, the head of the department or agency concerned shall cooperate in making that person available for cross-examination.

Sec. 7. Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.

Sec. 8. Except as otherwise specified in the preceding provisions of this order, any authority vested in the head of a department by this order may be delegated to the

(1) Under Secretary of State or a Deputy Under Secretary of State, in the case of authority vested in the Secretary of State;

(2) Deputy Secretary of Defense or an Assistant Secretary of Defense, in the case of authority vested in the Secretary of Defense;

(3) General Manager of the Atomic Energy Commission, in the case of authority vested in the Commissioners of the Atomic Energy Commission;

(4) Deputy Administrator of the National Aeronautics and Space Administration, in the case of authority vested in the Administrator of the National Aeronautics and Space Administration;

(5) Under Secretary of Transportation, in the case of authority vested in the Secretary of Transportation;

(6) Deputy Attorney General or an Assistant Attorney General, in the case of authority vested in the Attorney General; or

(7) the deputy of that department, or the principal assistant to the head of that department, as the case may be, in the case of authority vested in the head of a department or agency of the United States with which the Department of Defense makes an agreement under section 1(b).

Sec. 9. Nothing contained in this order shall be deemed to limit or affect the responsibility and powers of the head of a department to deny or revoke access to a specific classification category if the security of the nation so requires. Such authority may not be delegated and may be exercised only when the head of a department determines that the procedures prescribed in sections 3, 4, and 5 cannot be invoked consistently with the national security and such determination shall be conclusive.

Dwight D. Eisenhower.

EXECUTIVE ORDER NO. 10985—AMENDMENT OF EXECUTIVE ORDER NO. 10501, RELATING TO SAFEGUARDING OFFICIAL INFORMATION

Jan. 15, 1962, 27 F.R. 439.

By virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States, and deeming such action necessary in the best interest of the national security, it is ordered that section 2 of Executive Order No. 10501 of November 5, 1953, as amended by Executive Order No. 10901 of January 9, 1961 [set out as a note under this section], be, and it is hereby, further amended as follows:

Section 1. Subsection (a) of section 2 is amended (1) by deleting from the list of departments and agencies thereunder the Operations Coordinating Board, the Office of Civil and Defense Mobilization, the International Cooperation Administration, the Council on Foreign Economic Policy, the Development Loan Fund, and the President's Board of Consultants on Foreign Intelligence Activities, and (2) by adding thereto the following-named agencies:

Agency for International Development
Office of Emergency Planning
Peace Corps
President's Foreign Intelligence Advisory Board
United States Arms Control and Disarmament Agency

Sec. 2. Subsection (b) of section 2 is amended by deleting from the list of departments and agencies thereunder the Government Patent Board, and by adding thereto the following-named agency:

Federal Maritime Commission

Sec. 3. The agencies which have been added by this order to the lists of departments and agencies under subsections (a) and (b) of section 2 of Executive Order No. 10501, as amended [set out as a note under this section], shall be deemed to have had authority for classification of information or material from the respective dates on which such agencies were established.

John F. Kennedy.

EXECUTIVE ORDER NO. 11097—AMENDMENT OF EXECUTIVE ORDER NO. 10501, RELATING TO SAFEGUARDING OFFICIAL INORMATION

Mar. 6, 1963, 28 F.R. 2225.

By virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States, and deeming such action necessary in the best interest of the national security, it is hereby ordered as follows:

Section 1. Section 2 of Executive Order No. 10501 of November 5, 1953, as amended by Executive Order No. 10901 of January 9, 1961, and by Executive Order No. 10985 of January 12, 1962 [set out as a note under this section], is hereby further amended (A) by adding at the end of Subsection (a) thereof "Export-Import Bank of Washington", "Office of Science and Technology", and "The Special Representative for Trade Negotiations"; and (B) by deleting from Subsection (b) thereof "Subversive Activities Control Board."

Sec. 2. The Export-Import Bank of Washington, the Office of Science and Technology, and The Special Representative for Trade Negotiations shall be deemed to have had authority for the original classification of information and material from the respective dates on which such agencies were established.

John F. Kennedy.

NOTES OF DECISIONS

Library references: War and National Defense—40. C.J.S. War and National Defense § 48.

1. Classification of material: "Classification" in security sense simply means decision made by proper authority in Department of Defense to put piece of defense information or material into specific category that then makes it subject to current regulations regarding safekeeping and dissemination. Dubin v. U.S., 1966, 363 F. 2d 938, 176 Ct. Cl. 702, certiorari denied 87 S. Ct. 1019, 386 U.S. 956, 18 L. Ed. 2d 103.

Purposes of classification system of Department of Defense is to safeguard information from becoming known to potential enemies of United States in interest of national defense. Id.

Under section 783 of this title, prohibiting communication of classified information by United States officers or employees to an agent or representative of a foreign government, the classification of documents is not required to be made personally by President of United States or Secretary of State; an Ambassador of United States Embassy had authority to classify foreign service dispatches, and dispatches as classified and certified by the Ambassador were within scope of section 783 of this title. Scarbeck v. U.S., C.A.D.C. 1962 317 F.2d 546, certiorari denied 83 S.Ct. 1897, 374 U.S. 856, 10 L Ed. 2d 1077.

Foreign service dispatches classified as "secret" or "confidential" pursuant to presidential executive order and foreign service manual were "classified as affecting the security of the United States" within meaning of section 783 of this title prohibiting a United States officer or employees from communicating classified information to representatives of a foreign government. Id.

2. Suspension of security clearance: Defense department order providing that willful failure or refusal of employee, needing security clearance, to furnish information might prevent finding required for security clearance in which event security clearance would be suspended and further processing of case discontinued, was not authorized by any executive order or Congressional act. Shoultz v. McNamara, D.C.Cal.1968, 282 F.Supp. 315.

Where, under defense department order, employee whose security clearance was once suspended had no further administrative or judicial remedy to challenge suspension, and further processing of case was discontinued, and where employer would no longer employ employee until clearance, suspension was equivalent of final revocation and was deprivation of employment and professional rights within liberty and property concepts of U.S.C.A. Const Amend. 5. Id.

3. Procedure for redress: That employee whose security clearance and employment had been suspended could obtain resumption of processing of his case by answering questions under procedures which he believed to be unauthorized and unconstitutional and which did raise serious constitutional questions did not negate deprivation of employment and property rights within liberty and property concepts of U.S.C.A. Const. Amend. 5. Shoultz v. McNamara, D.C. Cal. 1968, 282 F.Supp. 315.

4. Access to secret information: Where court found that board followed improper procedure in determining that employee of government contractor was not entitled to clearance for access to secret information and in determining that, pending final disposition of case, employee was not authorized for clearance at any level, trial court should have remanded the case for further proceedings but should not have ordered that pending such proceedings employee be given clearance for access to secret information. McNamara v. Remenyi, C.A.Cal. 1968. 391 F.2d 128.

ESPIONAGE ACT

Source: U.S. Laws, Statutes, etc. United States Code. 1969 ed., containing the general and permanent laws of the United States, in force on January 3, 1965. Prepared and published . . . by the Committee on the Judiciary of the House of Representatives. Washington, U.S. Govt. Print. Off., 1965 (v. 4, title 18, Crimes and Criminal Procedure, chapter 37, pages 3574–9).

Chapter 37.—ESPIONAGE AND CENSORSHIP

Sec.
792. Harboring or concealing persons.
793. Gathering, transmitting or losing defense information.
794. Gathering or delivering defense information to aid foreign government.
795. Photographing and sketching defense installations.
796. Use of aircraft for photographing defense installations.
797. Publication and sale of photographs of defense installations.
798. Disclosure of classified information.[1]
798. Temporary extension of section 794.[1]
799. Violation of regulations of National Aeronautics and Space Administration.

Amendments

1961—Pub. L. 87–369, § 2, Oct. 4, 1961, 75 Stat. 795, deleted item 791.

1958—Pub L. 85–568, title III, § 304 (c) (2), July 29, 1958, 72 Stat. 434, added item 799.

1953—Act June 30, 1953, ch. 175, § 3, 67 Stat. 133, added second item 798.

1951—Act Oct. 31, 1951, ch. 655, § 23, 65 Stat. 719, added item 798.

§ 791. Repealed. Pub. L. 87–369, § 1, Oct. 4, 1961, 75 Stat. 795.

Section, act June 25, 1948, ch. 645, 62 Stat. 736, related to the application of the chapter within the admiralty and maritime jurisdiction of the United States, on the high seas, and within the United States.

§ 792. Harboring or concealing persons.

Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe or suspect, has committed, or is about to commit, an offense under sections 793 or 794 of this title, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, 62 Stat. 736.)

Legislative History

Reviser's Note.—Based on section 35 of title 50, U.S.C. 1940 ed., War and National Defense (June 15, 1917, ch. 30, title I, § 5, 40 Stat. 219; Mar. 28, 1940, ch. 72 § 2, 54 Stat. 79).

Similar harboring and concealing language was added to section 2388 of this title.

Mandatory punishment provision was rephrased in the alternative.

Indictment for violating this section and sections 793, 794; limitation period

Act Sept. 23, 1950, ch. 1024, § 19, 64 Stat. 1005, provides that an indictment for any violation of this section and sections 793 and 794 of this title, other than a violation constituting a capital offense, may be found at any time within ten years next after such violation shall have been committed, but that such section 19 shall not authorize prosecution, trial, or punishment for any offense "now" barred by the provisions of existing law.

Canal Zone

Applicability of section to Canal Zone, see section 14 of this title.

Cross references

Federal retirement benefits, forfeiture upon conviction of offenses described under this section, see section 2282 of Title 5, Executive Departments and Government Officers and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

Harboring and concealing, generally, see section 1071 et seq. of this title.

Jurisdiction of offenses, see section 3241 of this title.

Misprision of felony, see section 4 of this title.

§ 793. Gathering, transmitting or losing defense information.

(a) Whoever, for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage or any foreign nation, goes upon, enters flies over, or otherwise obtains information concerning any vessel, aircraft, work of defense, navy yard, naval station, submarine base, fueling station, fort, battery, torpedo station, dockyard, canal, railroad, arsenal, camp, factory, mine, telegraph, telephone, wireless, or signal station, building, office, research laboratory or station or other place connected with the national defense owned or constructed, or in progress of construction by the United States or under the control of the United States, or of any of its officers, departments, or agencies, or within the exclusive jurisdiction of the United States, or any place in which any vessel, aircraft, arms, munitions, or other materials or instruments for use in time of war are being made, prepared, repaired, stored, or are the subject of research or development, under any contract or agreement with the United States, or any department or agency thereof, or with any person on behalf of the United States, or otherwise on behalf of the United States, or any prohibited place so designated by the President by proclamation in time of war or in case of national emergency in which anything for the use of the Army, Navy, or Air Force is being prepared or constructed or stored, information as to which prohibited place the President has determined would be prejudicial to the national defense; or

(b) Whoever, for the purpose aforesaid, and with like intent or reason to believe, copies, takes, makes, or obtains, or attempts to copy, take, make, or obtain any sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, document, writing, or note of anything connected with the national defense; or

(c) Whoever, for the purpose aforesaid, receives or obtains or agrees or attempts to receive or obtain from any person, or from any source whatever, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note, of anything connected with the national defense, knowing or having reason to believe, at the time he receives or obtains, or agrees or attempts to receive or obtain it, that it has been or will be obtained, taken, made, or disposed of by any person contrary to the provisions of this chapter; or

(d) whoever, lawfully having possession of, access to, control over, or being entrusted with any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted or attempts to communicate, deliver, transmit or causes to be communicated, delivered or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it; or

(e) Whoever having unauthorized possession of, access to, or control over any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it; or

---

[1] So enacted.

(f) Whoever, being entrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, note, or information, relating to the national defense, (1) through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed, or (2) having knowledge that the same has been illegally removed from its proper place of custody or delivered to anyone in violation of its trust, or lost, or stolen, abstracted, or destroyed, and failed to make prompt report of such loss, theft, abstraction, or destruction to his superior officer—

Shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

(g) If two or more persons conspire to violate any of the foregoing provisions of this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy. (June 25, 1948, ch. 645, 62 Stat. 736; Sept. 23, 1950, ch. 1024, title I, § 18, 64 Stat. 1003.)

Legislative History

Reviser's Note.—Based on sections 31 and 36 of title 50, U.S.C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title I, §§ 1, 6, 40 Stat. 217, 219; Mar. 28, 1940, ch. 72, § 1, 54 Stat. 79).

Section consolidated sections 31 and 36 of title 50, U.S.C., 1940 ed., War and National Defense.

Words "departments or agencies" were inserted twice in conformity with definitive section 6 of this title to eliminate any possible ambiguity as to scope of section.

The words "or induces or aids another" were omitted wherever occurring as unnecessary in view of definition of "principal" in section 2 of this title.

Mandatory punishment provision was rephrased in the alternative.

Minor changes were made in phraseology.

Amendments

1950—Act Sept. 23, 1950, divided section into subdivisions, added laboratories and stations, and places where material or instruments for use in time of war are the subject of research or development to the list of facilities and places to which subsection (a) applies, made subsection (d) applicable only in cases in which possession, access, or control is lawful, added subsection (e) to take care of cases in which possession, access, or control, is unlawful, made subsection (f) applicable to instruments and appliances, as well as to documents, records, etc, and provided by subsection (g) a separate penalty for conspiracy to violate any provisions of this section.

Indictment for violating this Section; limitation period

Limitation period in connection with indictments for violating this section, see note under section 792 of this title.

Canal Zone

Applicability of section to Canal Zone, see section 14 of this title.

Cross References

Activities affecting armed forces—

Generally, see section 2387 of this title.

Classified information, disclosure by Government official, or other person, penalty for, see section 783 (b), (d) of Title 50, War and National Defense and section 798 of this title.

Federal retirement benefits, forfeiture upon conviction of offenses described under this section, see section 2282 of Title 5, Executive Departments and Government Officers and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

Jurisdiction of offenses, see section 3241 of this title.

Letters, writings, etc., in violation of this section as nonmailable, see section 1717 of this title.

Nonmailable letters and writings, see section 1717 of this title.

§ 794. Gathering or delivering defense information to aid foreign government.

(a) Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by death or by imprisonment for any term of years or for life.

(b) Whoever, in time of war, with intent that the same shall be communicated to the enemy, collects, records, publishes, or communicates, or attempts to elicit any information with respect to the movement, numbers, description, condition, or disposition of any of the Armed Forces, ships, aircraft, or war materials of the United States, or with respect to the plans or conduct, or supposed plans or conduct of any naval or military operations, or with respect to any works or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense, which might be useful to the enemy, shall be punished by death or by imprisonment for any term of years or for life.

(c) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy. (June 25, 1948, ch. 645, 62 Stat. 737; Sept. 3, 1954, ch. 1261, title II, § 201, 68 Stat. 1219.)

Legislative History

Reviser's Note.—Based on sections 32 and 34 of title 50, U.S.C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title I, §§ 2, 4, 40 Stat. 218, 219).

Section consolidates sections 32 and 34 of title 50, U.S.C., 1940 ed., War and National Defense.

The words "or induces or aids another" were omitted as unnecessary in view of definition of "principal" in section 2 of this title.

The conspiracy provision of said section 34 was also incorporated in section 2388 of this title.

Minor changes were made in phraseology.

Amendments

1954—Act Sept. 3, 1954, increased the penalty for peacetime espionage and corrected a deficiency on the sentencing authority by increasing penalty to death or imprisonment for any term of years.

Temporary extension of war period

Temporary extension of war period, see section 798 of this title.

Section 7 of act June 30, 1953, ch. 175, 67 Stat. 133, repealed Joint Res. July 3, 1952, ch. 570, § 1(a) (29, 66 Stat. 333; Joint Res. Mar. 31, 1953, ch. 13, § 1, 67 Stat. 18, which provided that this section should continue in force until six months after the termination of the National emergency proclaimed by 1950 Proc. No. 2914 which is set out as a note preceding section 1 of Appendix to Title 50, War and National Defense.

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54, as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96. Intermediate extensions by Joint Res. June 14, 1952, ch. 437, 66. Stat. 137, and Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952, expired by their own terms.

Indictment for violating this section; limitation period

Limitation period in connection with indictments for violating this section, see note under section 792 of this title.

Canal zone

Applicability of section to Canal Zone, see section 14 of this title.

Cross references

Classified information, disclosure by Government official or other person, penalty for, see section 783 (b), (d) of Title 50, War and National Defense and section 798 of this title.

Conspiracy to commit offense generally, see section 371 of this title.

Federal retirement benefits, forfeiture upon conviction of offenses described under this section, see section 2282 of Title 5, Executive Departments and Government Officers and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

Jurisdiction of offenses, see section 3241 of this title.

Letters, writings, etc., in violation of this section as nonmailable, see section 1717 of this title.

Nonmailable letters and writings, see section 1717 of this title.

§ 795. Photographing and sketching defense installations.

(a) Whenever, in the interests of national defense, the President defines certain vital military and naval installations or equipment as requiring protection against the general dissemination of information relative thereto, it shall be unlawful to make any photograph, sketch, picture, drawing, map, or graphical representation of such vital military and naval installations or equipment without first obtaining permission of the commanding officer of the military or naval post, camp, or station, or naval vessels, military and naval aircraft, and any separate military or naval command concerned, or higher authority, and promptly submitting the product obtained to such commanding officer or higher authority for censorship or such action as he may deem necessary.

(b) Whoever violates this section shall be fined not more than $1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 737.)

Legislative History

Reviser's Note.—Based on sections 45 and 45c of title 50, U.S.C., 1940 ed., War and National Defense (Jan. 12, 1938, ch. 2, §§ 1, 4, 52 Stat. 3, 4).

Section consolidated sections 45 and 45c of title 50, U.S.C., 1940 ed., War and National Defense.

Minor changes were made in phraseology.

Canal Zone

Applicability of section to Canal Zone, see section 14 of this title.

Ex. Ord. No. 10104. Definitions of Vital Military and Naval Installations and Equipment

Ex. Ord. No. 10104, Feb. 1, 1950, 15 F.R. 597, provided:

Now, therefore, by virtue of the authority vested in me by the foregoing statutory provisions, and in the interests of national defense, I hereby define the following as vital military and naval installations or equipment requiring protection against the general dissemination of information relative thereto:

1. All military, naval, or air force installations and equipment which are now classified, designated, or marked under the authority or at the direction of the President, the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force as "top secret," "secret," "confidential," or "restricted," and all military, naval, or air force installations and equipment which may hereafter be so classified, designated, or marked with the approval or at the direction of the President, and located within:

(a) Any military, naval, or air force reservation, post, arsenal, proving ground, range, mine field, camp, base, airfield, fort, yard, station, district, or area.

(b) Any defensive sea area heretofore established by Executive order and not subsequently discontinued by Executive order, and any defensive sea area hereafter established under authority of section 2152 of title 18 of the United States Code.

(c) Any airspace reservation heretofore or hereafter established under authority of section 4 of the Air Commerce Act of 1926 (44 Stat. 570; 49 U.S.C. 774) except the airspace reservation established by Executive Order No. 10092 of December 17, 1949.

(d) Any naval harbor closed to foreign vessels.

(e) Any area required for fleet purposes.

(f) Any commercial establishment engaged in the development or manufacture of classified military or naval arms, munitions, equipment, designs, ships, aircraft, or vessels for the U.S. Army, Navy, or Air Force.

2. All military, naval, or air force aircraft, weapons, ammunition, vehicles, ships, vessels, instruments, engines, manufacturing machinery, tools, devices, or any other equipment whatsoever, in the possession of the Army, Navy, or Air Force or in the course of experimentation, development, manufacture, or delivery for the Army, Navy, or Air Force which are now classified, designated, or marked under the authority or at the direction of the President, the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force as "top secret," "secret," "confidential," or "restricted," and all such articles, materials, or equipment which may hereafter be so classified, designated, or marked with the approval or at the direction of the President.

3. All official military, naval, or air-force books, pamphlets, documents, reports, maps, charts, plans, designs, models, drawings, photographs, contracts, or specifications which are now marked under the authority or at the direction of the President, the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force as "top secret", "secret", "confidential", or "restricted", and all such articles or equipment which may hereafter be so marked with the approval or at the direction of the President.

This order supersedes Executive Order No. 8381 of March 22, 1940, entitled "Defining Certain Vital Military and Naval Installations and Equipment.'

Cross references

Publication and sale of photographs of defense installations, see section 797 of this title.

§ 796. Use of aircraft for photographing defense installations.

Whoever uses or permits the use of an aircraft or any contrivance used, or designed for navigation or flight in the air, for the purpose of making a photograph, sketch, picture, drawing, map, or graphical representation of vital military or naval installations or equipment, in violation of section 795 of this title, shall be fined not more than $1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 738.)

Legislative history

Reviser's Note.—Based on sections 45, 45a, and 45c of title 50, U.S.C., 1940 ed., War and National Defense (Jan. 12, 1938, ch. 2, §§ 1, 2, 4, 52 Stat. 3, 4).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Punishment provided by section 795 of this title is repeated, and is from said section 45 of title 50, U.S.C., 1940 ed.

Minor changes were made in phraseology.

Canal Zone

Applicability of section to Canal Zone, see section 14 of this title.

§ 797. Publication and sale of photographs of defense installations.

On and after thirty days from the date upon which the President defines any vital military or naval installation or equipment as being within the category contemplated under section 795 of this title, whoever reproduces, publishes, sells, or gives away any photograph, sketch, picture, drawing, map, or graphical representation of the vital military or naval installations or equipment so defined, without first obtaining permission of the commanding officer of the military or naval post, camp, or station concerned, or higher authority, unless such photograph, sketch, picture, drawing, map, or graphical representation has clearly indicated thereon that it has been censored by the proper military or naval authority, shall be fined not more than $1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 738.)

Legislative history

Reviser's Note—Based on sections 45 and 45b, of title 50, U. S. C., 1940 ed., War and National Defense (Jan. 12, 1938, ch. 2 § § 1, 3, 52 Stat. 3).

Punishment provision of section 45 of title 50, U. S. C., 1940 ed., War and National Defense, is repeated. Words "upon conviction" were deleted as a surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

Canal Zone

Applicability of section to Canal Zone, see section 14 of this title.

§ 798. Disclosure of Classified Information.[2]

(a) Whoever knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—

(1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or

(2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used for prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

(3) concerning the communication intelligence activities of the United States or any foreign government; or

(4) obtained by the process of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes—

Shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

(b) As used in subsection (a) of this section—

The term "classified information" means information which, at the time of a violation of this section, is, for reasons of national security, specifically designated by a United States Government Agency or limited or restricted dissemination or distribution;

The terms "code," "cipher," and "cryptographic system" include in their meanings, in addition to their usual meanings, any method of secret writing and any mechanical or electrical device or method used for the purposes of disguising or concealing the contents, significance, or meanings of communications;

The term "foreign government" includes in its meaning any person or persons acting or purporting to act for or on behalf of any faction, party, department, agency, bureau, or military force of or within a foreign country, or for or on behalf of any government or any person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States;

The term "communication intelligence" means all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients;

The term "unauthorized person" means any person who, or agency which, is not authorized to receive information of the categories set forth in subsection (a) of this section, by the President, or by the head of a department or agency of the United States Government which is expressly designated by the President to engage in communication intelligence activities for the United States.

(c) Nothing in this section shall prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representatives of the United States of America, or joint committee thereof. (Added Oct. 31, 1951, ch. 655, § 24 (a), 65 Stat. 719.)

Canal Zone

Applicability of section to Canal Zone, see section 14 of this title.

Cross References

Disclosure of classified information by Government officer or employee, see section 783 (b), (d) of Title 50, War and National Defense.

Federal retirement benefits, forfeiture upon conviction of offenses described under this section, see section 2282 of Title 5, Executive Departments and Government Officers and Employees.

Forfeiture of veterans' benefits upon conviction under this section, see section 3505 of Title 38, Veterans' Benefits.

§ 798. Temporary extension of section 794.[3]

The provisions of section 794 of this title, as amended and extended by section 1 (a) (29) of the Emergency Powers Continuation Act (66 Stat. 333), as further amended by Public Law 12, Eighty-third Congress, in addition to coming into full force and effect in time of war shall remain in full force and effect until six months after the termination of the national emergency proclaimed by the President on December 16, 1950 (Proc. 2912, 3 C.F.R. 1950 Supp., p. 71), or such earlier date as may be prescribed by concurrent resolution of the Congress, and acts which would give rise to legal consequences and penalties under section 794 when performed during a state of war shall give rise to the same legal consequences and penalties when they are performed during the period above provided for. (Added Jan 30, 1953, ch. 175 § 4, 67 Stat. 133.)

---

[2] So enacted. See second 798 enacted on June 30, 1953, set out below.

[3] So enacted. See first section 798 enacted on Oct. 31, 1951, set out above.

References in Text

Section 1 (a) (29) of the Emergency Powers Continuation Act (66 Stat. 333) as further amended by Public Law 12, Eighty-third Congress, referred to in the text, was formerly set out as a note under section 791 of this title and was repealed by section 7 of act June 30, 1953.

Proc. 2912, 3 C.F.R. 1950 Supp., p. 71, referred to in the text, is an erroneous citation. It should refer to Proc. 2914 which is set out as a note preceding section 1 of Appendix to Title 50, War and National Defense.

Canal Zone

Applicability of section to Canal Zone, see section 14 of this title.

§ 799. Violation of regulations of National Aeronautics and Space Administration.

Whoever willfully shall violate, attempt to violate, or conspire to violate any regulation or order promulgated by the Administrator of the National Aeronautics and Space Administration for the protection or security of any laboratory, station, base or other facility, or part thereof, or any aircraft, missile, spacecraft, or similar vehicle, or part thereof, or other property or equipment in the custody of the Administration, or any real or personal property or equipment in the custody of any contractor under any contract with the Administration or any subcontractor of any such contractor, shall be fined not more than $5,000, or imprisoned not more than one year, or both. (Added Pub. L. 85–568, title III, § 304 (c) (1), July 29, 1958, 72 Stat. 434.)

Codification

Section was added by subsec. (c) of section 304 of Pub. L. 85–568. Subsecs. (a) and (b) of section 304 are classified to section 2455 of Title 42, The Public Health and Welfare. Subsec. (d) of section 304 is classified to section 1114 of this title. Subsec. (e) of section 304 is classified to section 2456 of Title 42.

Canal Zone

Applicability of section to Canal Zone, see section 14 of this title.

CLASSIFYING, DECLASSIFYING OF PAPERS

SOURCE.—Classifying, Declassifying of Papers. Affidavit of George Mclain, presented in open session in U.S. District Court. Washington Post, June 22, 1971: A 11.

Affidavit of George MacClain, *presented in open session in U.S. District Court. Most of the government's affidavits were presented in closed session.*

I, George MacClain, Director of the Security Classification Management Division, Office of the Deputy Assistant Secretary of Defense (Security Policy) (Administration), being duly sworn, depose and say:

1. That, I have held my present position since 1963. I have been employed in the Department of Defense continuously since 1935.

2. That under the general direction of the Assistant Secretary of Defense (Administration), my Division is responsible for the development, promulgation, and administrative oversight of the rules and regulations of downgrading, and declassification of official information over which the Department of Defense (DoD) has original classification jurisdiction vested in the Secretary of Defense by Executive Order (EO) 10501 Safeguarding Official Information in the Interests of the Defense of the United States, December 15, 1953, as amended, or over which the DoD has derivative classification authority by reason of having been placed in custody thereof by some other United States Government agency, foreign nation, or international organization exercising original classifying jurisdiction. A copy of EO 10501, as amended to date, is attached hereto.

3. That the principal regulations of the DoD for security classification, downgrading and declassification consist of DoD Instruction 5210.47, Security Classification of Official Information, December 31, 1964, and DoD Directive 5200.10. Downgrading and Declassification of Classified Defense Information, July 26, 1962. These regulations specifically implement those portions of EO 10501, as amended, which pertain to security classification, downgrading and declassification of official information. Copies of these regulations, as amended to date, are attached hereto.

4. That as originally issued in 1953, EO 10501 provided guidance for security classification at three levels, top secret, secret, and confidential, and further provided for the downgrading and declassification of information when the same level or no level of classification was no longer required. Under the original EO 10501, downgrading and declassification were to be accomplished upon the basis of the results of review and reevaluation from time to time more or less on continuous basis. On September 1961, EO 10501 was amended by EO 10964 for the purpose of providing for a system of time-phased automatic downgrading and declassification to supplement the ongoing review and reevaluation process. This automatic system was derived from a similar system earlier created by the DoD for its own use—DoD Directive 5200.10 implements EO 10501 as amended by EO 10964.

a. The basis for original security classification is that the unauthorized disclosure of the information involved could or would be harmful to the national defense interests of the United States. The judgment whether to impose an original classification is derived from considerations of the immediate present and future. The considerations include, without limitation, the following: The international posture of the United States as related to other nations in those respects which affect, directly or indirectly, United States national defense interests. The technological state of the art in respect to those systems and equipments by which the United States is enabled to preserve its security including, without limitation, systems and equipment for gathering intelligence; weapons systems; systems and equipments for supply, maintenance and operation of military forces; systems and equipments for military forces; systems and equipments for the exercise of effective diplomatic relationships with other nations. The extent to which the information involved is already publicly known either domestically or in foreign countries. The extent to which a United States leadtime advantage is deemed absolutely necessary in the interests of United States national defense, and whether in order to achieve and maintain this lead time, security classification is indispensable. The extent to which a United States national defense, and whether in order to achieve and maintain this lead time, security classification is indispensable. The extent to which a United States lead time advantage can be forgone in the interests of net overall advantage to the United States from unclassified use of the information. The extent to which the information can in fact be safeguarded against unauthorized disclosure. The extent to which the costs of effective safeguarding would or could defeat the purposes of the program to which security classification would be applied.

b. The question as to whether the level of classification should be TOP SECRET, SECRET or CONFIDENTIAL is determined by the extent of possible damage to the current and future United States national defense interests if the information were disclosed without authority. If the damage could or would be exceptionally grave, TOP SECRET (TS) would be the required level. If the damage could or would be serious, SECRET (S); if prejudicial, CONFIDENTIAL (C). The safeguarding measures for the information subsequently applied would vary according to the level of classification.

c. Downgrading means to reduce the level of classification. Downgrading is appropriate when, on the basis of a current judgment of the present and future United States national defense interests, the degree of possible harm to those interests would change from exceptionally grave to serious or prejudicial, or from serious to prejudicial.

d. Declassification means to terminate the classification. Downgrading is appropriate when, on the basis of a current judgment of the present and future United States national defense interests, the degree of possible harm to those interests is less than prejudicial.

e. The factors applied to command and control of * * * cation are the same as those used for classification in the first instance. With the passage of time, changes in the state of the art, and other changes in the circumstances which justified the original classification or a later reduced level of classification, a new current judgment is made in the light of the now current situation, all relevant things considered.

f. The passage of time, in and of itself, is not in any case a completely sufficient reason for downgrading or declassification. On the other hand, the passage of time is always important because of the inevitable connotation that during the passage of time the circumstances and conditions originally justifying classification, or reduced classification, have themselves changed.

g. It has always been a policy that at the time of original classification, the original classifier would endeavor to visualize a future situation in which downgrading or declassification could and should occur. The purpose would be to try to bring about downgrading or declassification at the earliest reasonable and feasible time, and to achieve this result if per chance the action did not earlier result from review and reevaluation. In other words, if a specific event, or date, or period of time can be identified, the downgrading or declassification process can be made to occur automatically upon the occurrence of the selected factor or factors.

h. Unless the original classifier establishes the conditions for automatic downgrading and declassification and signifies those conditions by marking intended to put the future custodian immediately on notice, the level of classification as originally determined, or as reduced, will continue without change until the process of review and reevaluation occurs and the appropriate downgrading or declassification action is determined and ordered.

i. A determination to classify must be accompanied by a classification designation directly and immediately associated with the information involved. On documents, this designation is achieved by the marking "Top Secret," "Secret," or "Confidential." These markings are not authorized to be changed or removed except as an incident of downgrading or declassification.

j. An essential part of a completed downgrading or declassification action is a change in, or cancellation of the current designation. Even if a judgment to downgrade or declassify has been made, the judgment cannot be made effective without the appropriate change, or cancellation of, the current designation.

k. Downgrading or declassification can occur at any time. Review and reevaluation can occur at any time. The system contains requirements for continuous review and reevaluation, and also for review and reevaluation on a systematic and orderly basis. It is difficult administratively to achieve the officially desired frequency of review and reevaluation.

1. In connection with making a response to a request for information which currently is classified, a review and reevaluation of the information would be needed if the requester was not eligible, by personal security clearance and by officially determined need to have the information, to be given access to that information at its current level of classification.

6. That the time-phased system of automatic downgrading and declassification established by EO 10501 as amended by EO 10964 and as implemented in DoD by DoD directive 5200.10, provides for four categories or groups numbered from one through four. For groups 1, 3, and 4, there is no necessary relationship between a level of classification, TS, S or C, and the particular group. Thus, TOP SECRET, as well as SECRET or CONFIDENTIAL information can be placed in either group 1, 3, or 4. Group 2 information, however, is used for only very sensitive information, and may be applied only on a unit basis, such as, document by document. The classification level of group 2 information must always be either TS or S.

a. Group 1 information is excluded from the automatic system. Information which is not completely within the exclusive original security classification jurisdiction made of the DoD must be placed in group 1. Thus, classified information made available to the DoD by another agency of the United States Government, such as the Department of State or The Central Intelligence Agency, or by a foreign nation or international organization, must be placed in group 1 regardless of its level of classification. Some group 1 information is within the exclusive jurisdiction of DoD. Group 1 information is never automatically downgraded or declassified. If not within exclusive DoD jurisdiction, it can be downgraded or declassified only with the combined action of the original classifier and the DoD.

b. Group 3 information is subject to automatic downgrading on a 12-year, time-phased basis. TS becomes S in 12 years, and S becomes C in 12 years. There is no automatic declassification.

c. Group 4 information is subject to automatic downgrading and declassification on the prescribed time basis of reducing one level in 3 years and becoming automatically declassified after 12 years from date of origin. Thus, TS would become S in three years, S would become C in three more years, and declassification would occur in 6 more years, a total of 12. Information starting at S or C would become declassified only after the passage of a total of 12 years from date of origin.

7. That original classification is very different from derivative classification. Original classification is determined by the original classifier in relation to his judgment of the current interests of United States national defense. After the original classification, all custodians are bound by the classification originally imposed, until and unless changed by the original classifier or by those duly authorized to act for him. Within the DoD, the authority for original classification, downgrading and declassification is exercised within a vertical channel of command or supervision. Any higher official in a vertical channel of command or supervision may change a classification imposed at a lower level, or act in lieu of a classifier at a lower level. The exercise of original classification is controlled by the Secretary of Defense or his designee, the Assistant Secretary of Defense (Administration). At the TS level, the number of officials vested with original classification authority is relatively few and is precisely specified on the basis of official positions. Many more officials have original classifying authority at the S and C levels, generally determined by the necessities of the particular positions and responsibilities held as verified by appropriate authority.

8. That the original classifying authority not only determines the level of classification, as TS, S or C. He also is required to establish the group for automatic downgrading and declassification purposes. A custodian holding only derivative classification authority with respect to the information in question is authorized, however, if a group marking has not been made, to establish the correct group and put the appropriate group marking on the document in accordance with the rules under which the original classifier exercised his authority.

9. That the classification of documents is required to be determined on the basis of the content of the particular document. Within any document there may be classified portions as well as unclassified portions, and there may be portions classified at different levels from other portions. The document as an entirety, however carries only one overall classification, and that classification must be the same as that portion of the document bearing the highest level of classification. When two or more documents are combined together to make a single package, the overall classification of the total package would depend upon not only the highest level of classification of any portion of material in either of the parts of the package, but also upon the question whether putting the two or more parts together into a single package gives rise to information which in itself merits a higher classification than any part within the total package. On this principle, it is sometimes necessary to classify a document in which no single piece or part is itself classified.

10. That when a new document is prepared from two or more source documents, it is sometimes very difficult, if not impossible, to sort out the individual portions of the new document in relation to specific sources for the purpose of endeavoring to identify specific portions of the new document which can be determined to be unclassified. For example, if source documents were supplied to the DoD by the Department of State or the Central Intelligence Agency, or by a foreign nation, and from those several sources a new document was prepared as an original composition, it is absolutely certain that the new original composition would have to carry the classification level of the highest classified portion of any source document which had been carried into the final new composition.

11. That under the foregoing system, certain necessary conclusions follow. Within DoD, an original TS classification determination must be made by an official specifically vested with that authority, and subsequent downgrading and declassification of TS information must be determined by that same authority unless another official has been duly designated to take that action. Further, when classified information at any level is entrusted by another agency of the United States Government to the DoD, no official in the DoD may reduce or cancel that classification except in concert with and by authority of the other agency exercising the original classifying authority.

12. That it is appropriate to repeat with emphasis that classification, downgrading and declassification determinations under EO 10501 as amended as implemented by the DoD must be made in terms of the current and future national defense interests of the United States, whether those interests are related in one case to the international posture of the United States in relation to other nations, or in another case to a particular weapons system or intelligence gathering or collection system or to intelligence sources and methods, or to plans for current or future military operations. Further, classification, downgrading and declassification always depend upon a judgment currently made as to the immediate and future national defense interests of the United States.

13. That, based upon information and belief and my understanding, and pursuant to EO 10501, as amended, DoD Instruction 5210.47, and DoD Directive 5200.10, the required classification of the study entitled "United States—Vietnam Relations 1945–1967," as a single package document consisting of 47 volumes, based upon and derived from miscellaneous source materials some of which were prepared and classified Top Secret by original classifying authorities outside of the DoD and some of which were prepared and classified Top Secret by original classifying authorities within the DoD, at the time for completion of the study was, and now is, Top Secret.

DEPARTMENTAL REGULATIONS: SEC. 301
TITLE 5 U.S.C.

SOURCE.—U.S. Laws, Statutes, etc. United States Code. 1964 ed., supplement V, containing the general and permanent laws of the United States enacted during the 89th and 90th Congresses and 91st Congress, first session, January 4, 1965, to January 18, 1970. Prepared and published . . . by the Committee on the Judiciary of the House of Representatives. Washington, U.S. Govt. Print. Off., 1965. (Title 5, government organization and employees, chapter 3, pp. 70–71).

§ 301. Departmental regulations.

The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public. (Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 379.)

Historical and revision notes

U.S. Code: 5 U.S.C. 22.

Revised Statutes and Statutes at Large: R.S. § 161. Aug. 12, 1958, Pub. L. 85–619, 72 Stat. 547.

The words "Executive department" are substituted for "department" as the definition of "department" applicable to this section is coextensive with the definition of "Executive department" in section 101. The words "not inconsistent with law" are omitted as surplusage as a regulation which is inconsistent with law is invalid.

The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which provided:

"All laws, orders, regulations, and other actions relating to the National Military Establishment, the Department of the Army, the Navy, or the Air Force, or to any officer or activity of such establishment or such departments, shall, except to the extent inconsistent with the provisions of this Act, have the same effect as if this Act had not been enacted; but, after the effective date of this Act, and such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or establishment, shall be deemed to have vested such function in or relate to the officer or department, executive or military, succeeding the officer, department, or establishment in which such function was vested. For purposes of this subsection the Department of Defense shall be deemed the department succeeding the National Military Establishment, and the military departments of Army, Navy, and Air Force shall be deemed the departments succeeding the Executive Departments of Army, Navy, and Air Force."

This section was part of title title IV of the Revised Statutes. The Act of July 26, 1974, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171–1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

FREEDOM OF INFORMATION ACT; P.L. 89–487

Source.—U.S. Laws, Statutes, etc. An act to amend section 3 of the Administrative Procedure Act, chapter 324 of the act of June 11, 1946 (60 stat. 238), to clarify and protect the right of the public to information, and for other purposes [Freedom of Information Act]. Approved July 4, 1966. [Washington, U.S. Govt. Print. Off., 1966], [2] p. (Public law 487, 89th Congress, 80 stat. 250).

Public Law 89–487—July 4, 1966

An act to amend section 3 of the Administrative Procedure Act, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), to clarify and protect the right of the public to information, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3, chapter 324, of the Act of June 11, 1946 (60 Stat. 238), is amended to read as follows:

"Sec. 3. Every agency shall make available to the public the following information:

"(a) Publication in the Federal Register.—Every agency shall separately state and currently publish in the Federal Register for the guidance of the public (A) descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions; (B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available; (C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations; (D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and (E) every amendment, revision, or repeal of the foregoing. Except to the extent that a person has actual and timely notice of the terms thereof, no person shall in any manner be required to resort to, or be adversely affected by any matter required to be published in the Federal Register and not so published. For purposes of this subsection, matter which is reasonably available to the class of persons affected thereby shall be deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

"(b) Agency Opinions and Order.—Every agency shall, in accordance with published rules, make available for public inspection and copying (A) all final opinions (including concurring and dissenting opinions) and all orders made in the adjudication of cases, (B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register, and (C) administrative staff manuals and instructions to staff that affect any member of the public, unless such materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction: *Provided,* That in every case the justification for the deletion must be fully explained in writing. Every agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after the effective date of this Act and which is required by this subsection to be made available or published. No final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects any member of the public may be relied upon, used or cited as precedent by an agency against any private party unless it has been indexed and either made available or published as provided by this subsection or unless that private party shall have actual and timely notice of the terms thereof.

"(c) Agency Records.—Except with respect to the records made available pursuant to subsections (a) and (b), every agency shall, upon request for identifiable records made in accordance with published rules stating the time, place, fees to the extent authorized by statute and procedure to be followed, make such records promptly available to any person. Upon complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated shall have jurisdiction to enjoin the agency from the withholding of agency records and to order the production of any agency records improperly withheld from the complainant. In such cases the court shall determine the matter de novo and the burden shall be upon the agency to sustain its action. In the event of noncompliance with the court's order, the district court may punish the responsible officers for contempt. Except as to those causes which the court deems of greater importance, proceedings before the district court as authorized by this subsection shall take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

"(d) Agency Proceedings.—Every agency having more than one member shall keep a record of the final votes of each member in every agency proceeding and such record shall be available for public inspection.

"(e) Exemptions.—The provisions of this section shall not be applicable to matters that are (1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy; (2) related solely to the internal personnel rules and practices of any agency; (3) specifically exempted from disclosure by statute; (4) trade secrets and commercial or financial information obtained from any person and privileged or confidential; (5) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the agency; (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (7) investigatory files compiled for law enforcement purposes except to the extent available by law to a private party; (8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; and (9) geological and geophysical information and data (including maps) concerning wells.

"(f) Limitation of Exemptions.—Nothing in this section authorizes withholding of information or limiting the availability of records to the public except as specifically stated in this section, nor shall this section be authority to withhold information from Congress.

"(g) Private Party.—As used in this section, 'private party' means any party other than an agency.

"(h) Effective Date.—This amendment shall become effective one year following the date of the enactment of this Act."

Approved July 4, 1966.

CONTROL OF INFORMATION (AEC); SECS 2161—2–66 TITLE 42 U.S.C.

Source.—U.S. Laws, statutes, etc. United States code. 1964 ed., containing the general and permanent law of the United States, in force on January 3, 1965. Prepared and published . . . by the Committee on the Judiciary of the House of Representatives. Washington, U.S. Govt. Print. Off., 1965. (v. 9, title 42 public health and welfare, subchapter 11, pages 8070–8073).

Subchapter XI.—Control of information

Prior Provisions

Provisions similar to those comprising this subchapter were contained in section 10 of act Aug. 1, 1946, ch. 724, 60 Stat. 755 (formerly classified to section 1810 of this title), prior to the complete amendment and renumbering of act Aug. 1, 1946 by act Aug. 30, 1954, 9:44 a. m., E. D. T., ch. 1073, 68 Stat. 921.

§ 2161. Policy of Commission.

It shall be the policy of the Commission to control the dissemination and declassification of Restricted Data in such a manner as to assure the common defense and security. Consistent with such policy, the Commission shall be guided by the following principles:

(a) Until effective and enforceable international safeguards against the use of atomic energy for destructive purposes have been established by an international arrangement, there shall be no exchange of Restricted Data with other nations except as authorized by section 2164 of this title; and

(b) The dissemination of scientific and technical information relating to atomic energy should be permitted and encouraged so as to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding and to enlarge the fund of technical information. (Aug. 1, 1946, ch. 724, § 141, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat 940.)

§ 2162. Classification and declassification of Restricted data.

(a) Periodic determination. The Commission shall from time to time determine the data, within the definition of Restricted Data, which can be published without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data.

(b) Continuous review. The Commission shall maintain a continuous review of Restricted Data and of any Classification Guides issued for the guidance of those in the atomic energy program with respect to the areas of Restricted Data which have been declassified in order to determine which information may be declassified and removed from the category of Restricted Data without undue risk to the common defense and security.

(c) Joint determination on atomic weapons; Presidential determination on disagreement. In the case of Restricted Data which the Commission and the Department of Defense jointly determine to relate primarily to the military utilization of atomic weapons, the determination that such data may be published without constituting an unreasonable risk to the common defense and security shall be made by the Commission and the Department of Defense jointly, and if the Commission and the Department of Defense do not agree, the determination shall be made by the President.

(d) Same; removal from Restricted Data category.

The Commission shall remove from the Restricted Data category such data as the Commission and the Department of Defense jointly determine relates primarily to the military utilization of atomic weapons and which the Commission and Department of Defense jointly determine can be adequately safeguarded as defense information: *Provided, however,* That no such data so removed from the Restricted Data category shall be transmitted or otherwise made available to any nation or regional defense organization, while such data remains defense information, except pursuant to an agreement for cooperation entered into in accordance with section 2164(b) of this title.

(e) Joint determination on atomic energy programs.

The Commission shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the Commission and the Director of Central Intelligence jointly determine to be necessary to carry out the provisions of section 403(d) of Title 50 and can be adequately safeguarded as defense information. (Aug. 1, 1946, ch. 724, § 142, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 941.)

Ex. Ord. No. 10899. Communication of Restricted Data by Central Intelligence Agency

Ex. Ord. No. 10899, Dec. 9, 1960, 25 F.R. 12729, provided:

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 *et seq.*) [this chapter], and as President of the United States, it is ordered as follows:

The Central Intelligence Agency is hereby authorized to communicate for intelligence purposes, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsections 144 a, b, or c of the act (42 U.S.C. 2162 (a), (b), or (c)), such restricted data and data removed from the restricted data category under subsection 142d of the Act (42 U.S.C. 2162(d)) [subsection (d) of this section] as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841 [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Central Intelligence Agency in accordance with the terms and conditions of the agreement for cooperation involved: *Provided,* that no such communication shall be made by the Central Intelligence Agency until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperations by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Central Intelligence Agency.

DWIGHT D. EISENHOWER.

Ex. Ord. No. 11057. Communication of restricted data by Department of State

Ex. Ord. No. 11057, Oct. 18, 1962, 27 F.R. 10289, provided:

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 et seq.) [this chapter], and as President of the United States, it is ordered as follows:

The Department of State is hereby authorized to communicate, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsection 144b of the act (42 U.S.C. 2164(b)), such restricted data and data removed from the restricted data category under subsection 142d of the act (42 U.S.C. 2162(d)) [subsec. (d) of this section] as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841, as amended [set out as a note under section 2153 of this title], to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Department of State in accordance with the terms and conditions of the agreement for cooperation involved: *Provided,* that no such communication shall be made by the Department of State until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission and the Department of Defense and applicable to conduct of programs for cooperation by the Department of State.

JOHN F. KENNEDY.

§ 2163. Access to Restricted Data.

The Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee or prospective licensee of the Commission or any other person authorized access to Restricted Data by the Commission under section 2165(b) and (c) of this title to permit any employee of an agency of the Department of Defense or of its contractors, or any member of the Armed Forces to have access to Restricted Data required in the performance of his duties and so certified by the head of the appropriate agency of the Department of Defense or his designee: *Provided, however,* That, the head of the appropriate agency of the Department of Defense or his designee has determined, in accordance with the established personnel security procedures and standards of such agency, that permitting the member or employee to have access to such Restricted Data will not endanger the common defense and security: *And provided further,* That the Secretary of Defense finds that the established personnel and other security procedures and standards of such agency are adequate and in reasonable conformity to the standards established by the Commission under section 2165 of this title. (Aug. 1, 1946, ch. 724, § 143, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 941, and amended Aug. 6, 1956, ch. 1015, § 14, 70 Stat. 1071; Sept. 6, 1961, Pub. L. 87-206, § 5, 75 Stat. 476.)

Amendments

1961—Pub. L. 87-206 inserted the reference to subsection (c) of section 2165 of this title.

1956—Act Aug. 6, 1956, inserted between the words "licensee of the Commission" and the words "to permit any employee" the words "or any other person authorized access to Restricted Data by the Commission under section 2165(b) of this title".

§ 2164. International cooperation.

(a) By Commission. The President may authorize the Commission to cooperate with another nation and to communicate to that nation Restricted Data on—

(1) refining, purification, and subsequent treatment of source material;

(2) civilian reactor development;

(3) production of special nuclear material;

(4) health and safety;

(5) industrial and other applications of atomic energy for peaceful purposes; and

(6) research and development relating to the foregoing:

Provided, however, That no such cooperation shall involve the communication of Restricted Data relating to the design or fabrication of atomic weapons: *And provided further,* That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 2153 of this title, or is undertaken pursuant to an agreement existing on August 30, 1954.

(b) By Department of Defense. The President may authorize the Department of Defense, with the assistance of the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data (including design information) as is necessary to—

(1) the development of defense plans;

(2) the training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy;

(3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy; and

(4) the development of compatible delivery systems for atomic weapons;

whenever the President determines that the proposed cooperation and the proposed communication of the Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title.

(c) Exchange of information concerning atomic weapons; research, development, or design, of military reactors. In addition to the cooperation authorized in subsections (a) and (b) of this section, the President may authorize the Commission, with the assistance of the Department of Defense, to cooperate with another nation and—

(1) to exchange with that nation Restricted Data concerning atomic weapons: *Provided,* That communication of such Restricted Data to that nation is necessary to improve its atomic weapon design, development, or fabrication capability and provided that nation has made substantial progress in the development of atomic weapons; and

(2) to communicate or exchange with that nation Restricted Data concerning research, development, or design, of military reactors;

whenever the President determines that the proposed cooperation and the communication of the proposed Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 2153 of this title.

(d) Communication of data by other Governmental agencies. The President may authorize any agency of the United States to communicate in accordance with the terms and conditions of an agreement for cooperation arranged pursuant to subsection (a), (b), or (c) of this section, such Restricted Data as is determined to be transmissible under the agreement for cooperation involved. (Aug. 1, 1946, ch. 724, § 144, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 942, and amended July 2, 1958, Pub. L. 85–479, §§ 5—7, 72 Stat. 278.)

Amendments

1958—Subsec. (a). Pub. L. 85–479, § 5, substituted "civilian reactor development" for "reactor development" in cl. (2).

Subsec. (b). Pub. L. 85–479, § 6, authorized communication of design information, of data concerning other military applications of atomic energy necessary for the training of personnel or for the evaluation of the capabilities of potential enemies, and of data necessary to the development of compatible delivery systems for atomic weapons; and eliminated provisions which prohibited communication of data which would reveal important information concerning the design or fabrication of the nuclear components of atomic weapons.

Subsecs. (c) and (d). Pub. L. 85–479, § 7, added subsecs. (c) and (d).

§ 2165. Security restrictions.

(a) On contractors and licensees. No arrangement shall be made under section 2051 of this title, no contract shall be made or continued in effect under section 2061 of this title, and no license shall be issued under section 2133 or 2134 of this title, unless the person with whom such arrangement is made, the contractor or prospective contractor, or the prospective licensee agrees in writing not to permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

(b) Employment of personnel; access to Restricted Data. Except as authorized by the Commission or the General Manager upon a determination by the Commission or General Manager that such action is clearly consistent with the national interest, no individual shall be employed by the Commission nor shall the Commission permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

(c) Acceptance of investigation and clearance granted by other Government agencies. In lieu of the investigation and report to be made by the Civil Service Commission pursuant to subsection (b) of this section, the Commission may accept an investigation and report on the character, associations, and loyalty of an individual made by another Government agency which conducts personnel security investigations, provided that a security clearance has been granted to such individual by another Government agency based on such investigation and report.

(d) Investigations by FBI. In the event an investigation made pursuant to subsections (a) and (b) of this section develops any data reflecting that the individual who is the subject of the investigation is of questionable loyalty, the Civil Service Commission shall refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation, the results of which shall be furnished to the Civil Service Commission for its information and appropriate action.

(e) Same; Presidential investigation. If the President deems it to be in the national interest, he may from time to time determine investigations of any group or class which are required by subsections (a), (b), and (c) of this section to be made by the Federal Bureau of Investigation.

(f) Certification of specific positions for investigation by FBI. Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a majority of the members of the Commission shall certify those specific positions which are of a high degree of importance or sensitivity and upon such certification the investigation and reports required by such provisions shall be made by the Federal Bureau of Investigation.

(g) Investigation standards. The Commission shall establish standards and specifications in writing as to the scope and extent of investigations, the reports of which will be utilized by the Commission in making the determination pursuant to subsections (a), (b), and (c) of this section, that permitting a person access to restricted data will not endanger the common defense and security. Such standards and specifications shall be based on the location and class or kind of work to be done, and shall, among other considerations, take into account the degree of importance to the common defense and security of the restricted data to which access will be permitted.

(h) War time clearance. Whenever the Congress declares that a state of war exists, or in the event of a national disaster due to enemy attack, the Commission is authorized during the state of war or period of national disaster due to enemy attack to employ individuals and to permit individuals access to Restricted Data pending the investigation report, and determination required by subsection (b) of this section to the extent that and so long as the Commission finds that such action is required to prevent impairment of its activities in furtherance of the common defense and security. (Aug. 1, 1946, ch. 724, § 145, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 942, and amended Aug. 19, 1958, Pub. L. 85–681, § 5, 72 Stat, 633; Sept. 6, 1961, Pub. L. 87–206, § 6, 75 Stat. 476; Aug. 29, 1962, Pub. L. 87–615, § 10, 76 Stat. 411.)

AMENDMENTS

1962—Subsec. (f). Pub. L. 87–615 deleted the comma following "investigation".

1961—Subsec. (c). Pub. L. 87–206 added subsec. (c) Former subsec. (c) redesignated (d).

Subsec. (d) Pub. L. 87–206 redesignated former subsec (c) as (d). Former subsec. (d) redesignated (c).

Subsec. (c). Pub. L. 87–206 redesignated former subsec (d) as (c) and amended the provisions by substituting "determine that" for "cause investigations", inserting reference to subsection (c) of this section and eliminating "instead of by the Civil Service Commission" following "Federal Bureau of Investigation." Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 87–296 redesignated former subsec (e) as (f) and amended the provisions by inserting reference to subsection (c) of this section and eliminating "instead of by the Civil Service Commission" following "Federal Bureau of Investigation." Former subsec (f) redesignated (g).

Subsec. (g). Pub. L. 87–206 redesignated former subsec. (f) as (g) and amended the provisions by substituting ", the reports of which will be utilized by the Commission in making the determination, pursuant to subsections (a), (b), and (c) of this section, that permitting a person access to restricted data will not endanger the common defense and security" for "to be made by the Civil Service Commission pursuant to subsections (a) and (b) of this section." Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 87–206 redesignated former subsec. (g) and (h).

1958—Subsec. (g). Pub. L. 85–681 added subsec. (g).

Cross reference

Arms control and disarmament security restrictions, see section 2585 of Title 22, Foreign Relations and Intercourse.

§ 2166. Applicability of other laws.

(a) Sections 2161—2165 of this title shall not exclude the applicable provisions of any other laws, except that no Government agency shall take any action under such other laws inconsistent with the provisions of those sections.

(b) The Commission shall have no power to control or restrict the dissemination of information other than as granted by this or any other law. (Aug. 1, 1946, ch. 724, § 146, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 943.)

SECURITY REGULATIONS: PHYSICAL AND PROCEDURAL

(State Department/AID/USIA); Selected excerpts—Uniform State/AID/USIA regulations.)

900—Physical and Procedural Security

(NOTE.—* indicates revision; ** indicates new material.)

901 Policy

901.1 Interests of National Defense

The interests of national defense require the preservation of the ability of the United States to protect and defend itself against all hostile or destructive action by covert or overt means, including espionage as well as military action. Therefore, certain official information *including that in the field of foreign relations* affecting the national defense must be protected against unauthorized disclosure. *(See section 911.2.)*

901.2 Safeguarding Official Information

Executive Order No. 10501 of November 5, 1953 (18 F.R. 7047), as amended (note following 50 U.S.C. 401), provides for the safeguarding of official information which requires protection in the interests of national defense. *For the types of foreign policy information which may fall within the criteria of national defense, see sections 911.2 and 911.4.*

**901.3 Safeguarding Other Official Information

The Freedom of Information Act (5 U.S.C. 552) recognizes the necessity for the Government to withhold from public disclosure certain categories of records in addition to those containing information specified in Executive Order 10501 and other Executive Orders. These include, but are not limited to, records the disclosure of which would be a clearly unwarranted invasion of personal privacy or would violate a privileged relationship.

The absence of a security classification or an administrative control designation on a record should not be regarded as authorizing the public disclosure of information contained therein without independent consideration of the appropriateness of the disclosure. In this regard, Department and Agency policy with respect to disclosure of information under the Freedom of Information Act, or otherwise, does not alter the individual's responsibility arising from his employment relationship with the Department or Agency.**

SOURCE.—U.S. Department of State. Uniform State/AID/USIA security regulations, physical and procedural. [Washington, U.S. Govt. Print. Off.] 1969. 1 v. (various pagings)

901.4 Limitation

The requirement to safeguard information in the national defense interest and in order to protect sources of privileged information in no way implies an indiscriminate license to restrict information from the public. It is important that the citizens of the United States have the fullest possible access, consistent with security and integrity, to information concerning the politices and programs of their Government.

901.5 Scope

These regulations prescribe the security rules for classifying, marking, reproducing, handling, transmitting, disseminating, storing, regrading, declassifying, decontrolling, and destroying official material in accordance with its relative importance. They are intended to ensure accurate and uniform classification of such information and to establish standards for its protection, as required by Executive Order 10501.

901.6 Responsibility

a. Primary. The specific responsibility for the maintenance of the security of classified or controlled information rests with each person having knowledge or physical custody thereof, *no matter how obtained.*

b. Individual. Each employee is responsible for familiarizing himself with and adhering to all security regulations.

c. Supervisory. The ultimate responsibility for safeguarding classified and administratively controlled information as prescribed in these regulations rests upon each supervisor to the same degree that he is charged with functional responsibility for his organizational unit. Supervisors may, however, delegate the performance of any or all of these functions relating to the safeguarding of material.

d. Organizational. The Offices of Security in State, USIA, and A.I.D. are responsible for physical and personnel security in their respective agencies. The Office of Communications in the Department of State is responsible for cryptographic security. For administration and enforcement, see section 990.

**e. Limitation. Responsibility for safeguarding classified and controlled information and records shall not be construed as authority to determine whether records may be withheld from the public when requests for their disclosure are made under the Freedom of Information Act (5 U.S.C. 552). Such requests must be referred in the manner described in section 943.2 for processing in accordance with applicable agency regulations. (State, 5 FAM 480; A.I.D., M.O. 820.1; USIA, 22 CFR 503.5–503.7.) **

910 Classification and Control of Information and Material

911 Authorized Classifications

911.1 Classification Categories

Classification of official information requiring protection in the interests of national defense shall be limited to one of the three authorized categories of classification, which in descending order of importance are: Top Secret, Secret, and Confidential. No other classification shall be used to identify defense information, including military information, requiring protection in the interests of national defense, except as expressly provided by statute.

911.2 Defense *and Foreign Policy* Information

The Attorney General of the United States on April 17, 1954, advised that defense classifications may be interpreted, in proper instances, to include the safeguarding of information and material developed in the course of conduct of foreign relations of the United States whenever it appears that the effect of the unauthorized disclosure of such information or material upon international relations or upon policies being pursued through diplomatic channels could result in serious damage to the Nation. The Attorney General further noted that it is a fact that there exists an interrelation between the foreign relations of the United States and the national defense of the United States, which fact is recognized in section 1 of Executive Order 10501. Illustrative examples of such information which may require classification include but are not confined to:

a. Information and material relating to cryptographic devices and systems.

b. Information pertaining to vital defense or diplomatic programs or operations.

c. Intelligence or information relating to intelligence operations which will assist the United States to be better prepared to defend itself against attack or to conduct foreign relations.

d. Information pertaining to national stockpiles, requirements for strategic materials, critical products, technological development, or testing activities vital to national defense.

e. Investgative reports which contain information relating to subversive activities affecting the internal security of the United States.

f. Political and economic reports containing information, the unauthorized disclosure of which may jeopardize the international relations of the United States or may otherwise affect the national defense.

g. Information received in confidence from officials of a foreign government whenever it appears that the breach of such confidence might have serious consequences affecting the national defense or foreign relations.

911.3 Classification of Defense Information

911.3–1 Top Secret

Except as may be expressly provided by statute, the use of the classification Top Secret shall be authorized by an appropriate official only for defense information or material which requires the highest degree of protection. The Top Secret classification shall be applied only to that information or material the defense or diplomatic aspect of which is paramount and the unauthorized disclosure of which could result in exceptionally grave damage to the Nation, such as leading to a definite break in diplomatic relations affecting the defense of the United States, an armed attack against the United States or its allies, a war, or the compromise of military defense plans, intelligence operations, or scientific or technological developments vital to the national defense.

911.3–2 Secret

Except as may be expressly provided by statute, the use of the classification Secret shall be authorized by an appropriate official only for defense information or material the unauthorized disclosure of which could result in serious damage to the Nation, such as jeopardizing the international relations of the United States or its allies, endangering the effectiveness of a program or policy of vital importance to the national defense, or compromising important military or defense plans, scientific or technological developments important to national defense, or information revealing important diplomatic or intelligence operations.

911.3–3 Confidential

Except as may be expressly provided by statute, the use of the classification Confidential shall be authorized, by an appropriate official, only for defense information or material the unauthorized disclosure of which could be prejudicial to the conduct of United States foreign relations or the defense interests of the Nation.

911.3–4 Unclassified

Normally, unclassified material should not be marked or stamped "Unclassified" unless it is essential to convey to its recipient that it has been examined specifically for the need of a defense classification or control designation and has been determined not to require such classification or control. However, preprinted forms such as telegrams, which make provision for an assigned classification, shall include the term "Unclassified" if the information contained the text is neither classified nor administratively controlled. *Envelopes containing unclassified information to be sent by diplomatic pouch must be marked or stamped "Unclassified" on both sides. (See section 956.5b.) *

911.4 Authorized Administrative Control Designation

911.4–1 Limited Official Use

The administrative control designation Limited Official Use is authorized to identify *non-classified information which requires physical protection comparable to that given "Confidential" material in order to safeguard it* from unauthorized access. Matters which should be administratively controlled include information received through privileged sources certain personnel, medical, investigative *commercial, and financial* records; specific references to contents of diplomatic pouches; and other similar material.

Documents which routinely would be made available to the public upon request pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552) should not be administratively controlled. See State, 5 FAM 480; A.I.D., M.O. 820.1; USIA, M.O.A. III 526.

911.5 Restricted Data

a. "Restricted Data" is a term used in connection with atomic energy matters. Section 11r of the Atomic Energy Act of 1954 defines Restricted Data as follows:

"The term 'Restricted Data' means all data concerning:

"(1) Design, manufacture, or utilization of atomic weapons;

"(2) The production of special nuclear material; or

"(3) The use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data Category."

b. Restricted Data shall be classified Top Secret, Secret, or Confidential. Before any person may be permitted to have access to Restricted Data, he must have a "Q" clearance from, or the special permission of, the Atomic Energy Commission. Nothing in these regulations shall be construed as superseding any requirements of the Atomic Energy Act of 1954. Restricted Data shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954 and the regulations of the Atomic Energy Commission.

*c. A cover sheet, JF–42, Restricted Data, bearing the appropriate defense classification top and bottom, shall be used to cover each copy of each document marked "Restricted Data." (See Appendix V (p. 18.)) *

911.6 Limitations

No other security classification or administrative control designation shall be used on documents originating in the Department, USIA, and A.I.D. without the specific approval of the appropriate Office of Security.

912 Principles of Classification and Control

912.1 Assigning a Classification or Control Designation

a. The originator of a document is responsible for the original assignment of its classification or control designation. Documents or materials shall be classified or controlled according to their own content and not necessarily according to their relationship to other documents. Each document or item of material shall be assigned the lowest classification or control designation consistent with the proper protection of the information in it. *Documents or material containing references to classified material which do not themselves reveal classified information are not to be classified. (See sections 912.2 and 912.3.) *

b. The practice of assigning to a document a classification or control designation exceeding the degree of protection required may appear to be a simple, innocuous means of providing extra protection in the interests of security. To the contrary, overclassification and unnecessary control of documents result in the establishment of cumbersome administrative procedures and seriously hamper operations, especially abroad, even to the extent of defeating the purposes for which the documents are intended. Overclassification and unnecessary control cause delays in handling and may preclude the accessibility of documents to personnel who should be working with them.

912.2 Physically Connected Documents

The classification or administrative control designation assigned to a file or group of physically connected documents must be at least as high as that of the most highly classified or controlled document in it. Documents separated from the file are handled in accordance with their individual classification or control designation. A cover sheet, JF–18, Classified or Controlled File, may be placed on the front of each file or group of physically connected documents, marked to indicate the highest classification or control designation it covers, or the front and back of the folder must be stamped or marked according to the highest classification or designation of the combined information contained in it.

912.3 Transmitting Communication

A transmitting communication shall bear a classification or control designation at least as high as the most highly classified or controlled document it covers. The transmitting communication also must be marked with its appropriate group marking. (See section 966.1.)

912.4 Foreign Government Classified Information

Information furnished by a foreign government or by an international organization with restrictions on its dissemination must be protected according to the instructions specified by the foreign government or international organization furnishing the information.

912.5 Multiple Classifications or Control Designations

A document must bear a classification or administrative control designation at least as high as that of its most highly classified or controlled component. Pages, paragraphs, sections, or components may bear different classifications or a control designation, but the document shall bear only one over-all classification or control designation. When separate portions of a document are marked with different classifications or control designations, each portion bearing a single classification or control designation (including "Unclassified") shall be set off with the phrases:

"Begin ———" (Insert classification or designation.)

"End ———" (Insert classification or designation.)

940 Safeguarding and Dissemination of Classified and Administratively Controlled Information

941 Principles Governing the Safeguarding of Classified and Controlled Information

941.1 Authorization for Access and Use

Classified or administratively controlled information must be given only to those persons who require and are authorized to receive the information in the course of the performance of their official duties; who have an appropriate and current security clearance; and who have adequate facilities for protection of documents or other tangible matters.

Special and specifically authorized clearances are required for access to information identified as Restricted Data, Cosmic, SEATO, CENTO, Cryptographic, Intelligence, Office of Security, and other information given special protection by law or regulation.

941.2 Need-to-Know Doctrine

A person is not entitled to receive classified or administratively controlled information solely by virtue of his official position or by virtue of having been granted security clearance. The "need-to-know" doctrine shall be enforced at all times in the interest of good security.

941.3 In Conversation

The discussion of classified or administratively controlled information must not be held in the presence or hearing of persons who are not authorized to have knowledge thereof.

Classified or administratively controlled information must not be discussed in telephone conversations.

941.4 Control on Dissemination

The dissemination of classified or administratively controlled information must be carefully controlled at all times. This includes maintenance of adequate records of transmission and receipt and the imposition of strict limitations on the number of copies prepared or reproduced.

941.5 Restriction on Personal Use

Classified or administratively controlled information must not be used for personal interests of any employee and must not be entered in personal diaries or other nonofficial records.

941.6 Access by Foreign National Employees

Classified information must not be dictated to, typed, or otherwise prepared by local employees. This restriction must not be circumvented by the assignment or classifications after a local employee has prepared a particular document. However, when warranted, information collected by local employees and prepared in report form by such employees may receive classification protection by appending such reports to classified transmittal reports prepared by U.S. employees.

Except as noted in sections 941.6–1, 941.6–2, and 941.6–3, classified or administratively controlled information must not be made available to, or left in the custody of, Foreign Service local employees or alien employees resident in the United States; nor will such employees be permitted to attend meetings where classified or administratively controlled information is discussed.

941.6–1 When local employees obtain information from privileged sources or otherwise develop information warranting an administrative control designation or must be given access to administratively controlled information or material originated elsewhere in order to perform their official duties, they may be authorized limited access to such information provided that:

(a) The local employee's U.S. citizen supervisor requests authority to permit access to administratively controlled material in writing, specifying the reasons the employee must have access in order to perform his official duties and describing the type of material, reports, etc., contemplated for access.

(b) The regional security officer concurs in the request, issues a memorandum of limited access, and recommends approval to the principal officer of the post concerned.

(c) The principal officer must authorize the limited access in writing. Such authority shall be reviewed by each succeeding principal officer, and he shall affirm or discontinue such authority as he deems appropriate.

(d) The employee's access is not construed to mean blanket authority to receive administratively controlled information or material. Select local employees authorized to have access to administratively controlled material shall be permitted access only to that type of material specified in paragraph (a) of this section on a strict "need-to-know" basis.

941.6–2 When it is essential that information contained in classified documents (excluding Top Secret) be disseminated to the broadcasting service alien personnel resident in the United States, in order for them to perform their duties, such information must be given verbally. They are prohibited access to Top Secret information and are not authorized visual access to classified documents or material.

941.6–3 Foreign Service local employees in very limited cases, may be permitted access to Confidential information coming from or to be delivered to the government of the host country. The internal procedures for granting access are the same as those provided in the foregoing parts of section 941.6 with regard to local employee access to administratively controlled material. Almost all instances of use of this authority will involve necessary translations. Access to such material should be allowed only after consideration of the host government's reaction to the particular Foreign Service local employee's having such access. When and where feasible, the local employee should be given such access only after a responsible agency of the host country has indicated it has no objection to the specific local employee's access to the information.

941.7 Access by Binational Center Grantees

Since appointments of Binational Center grantees are made only upon completion of a full field investigation, classified information that applies to their assignments and is necessary in the performance of their duties may be made available to them. Under no circumstances will classified documents be given to them for retention at a Binational Center. (This authority does not apply to those U.S. citizens appointed locally whose salaries are paid from Binational Center operating funds.)

942 Report of Missing or Comprised Documents

Any employee who discovers that a classified or administratively controlled document is missing must make a prompt report to the Office of Security or regional security officer via his unit or post security officer. In the case of a known or suspected compromise of a Top Secret document or crytographic material, the report must be made immediately. Telegraphic or oral reports must be followed by a prompt submission** of a memorandum addressed to the Office of Security or regional security officer, which includes the following information:

a. Complete identification of the material, including, when possible, the date, subject, originator, address, serial or legend markings, classification, and type of material (i.e., telegram, memorandum, airgram, etc.).

b. Where compromise is believed to have occurred, a narrative statement detailing the circumstance which gave rise to the compromise, the unauthorized person who had or may have had access to the material, the steps taken to determine whether compromise in fact occurred and the office or post evaluation of the importance of the material compromised.

c. Where a document is lost or missing, the narrative statement should detail the movements of the material from the time it was received by the post or office, including to whom it was initially delivered; later routings; the persons having access to the material; the time, date, and circumstances under which loss was realized; and the steps taken to locate the material.**

**d. When material is either compromised or missing, identify if possible the person responsible and state the action taken with regard to the person and/or procedures to prevent a recurrence.

Where cryptographic material is involved, a report is also to be made to the Office of Communications (OC/S) using FS–507, Report of Violation of Communications Security.**

943 Official Dissemination

943.1 Distribution to Other Agencies

Classified or administratively controlled material may be sent to other Federal departments or agencies or to officials and committees of Congress or to individuals therein only through established liaison or distribution channels. An exception is permitted when a post transmits classified or administratively controlled material to an office of another U.S. Government agency within the executive branch located outside the United States.

Classified or administratively controlled material originated in another U.S. department or agency must not be communicated to a third department or agency without the consent of the originating department or agency, including material originated in State, USIA, and A.I.D. Such approval must be obtained in writing, and a record of the approval and communication must be maintained by the communicator.

943.2 Referral of Public Requests

**Requests from the public for classified records, whether made to a Department or Agency office within the United States, or to a post abroad, must be referred to the Chief, Records Services Division (State); Director, Information Staff (A.I.D.); or Assistant Director, Office of Public Information (USIA), as appropriate.

Administratively controlled and unclassified records may be released upon approval by chiefs of mission at Foreign Service posts in accordance with 5 FAM 482.2. Administratively controlled and unclassified records abroad of A.I.D. and of USIA may also be released by the A.I.D. country mission director and by the USIA country public affairs officer respectively. See M.O. 820.1 and M.O.A. III 526.

Requests for classified or for administratively controlled records which the chief of mission (for A.I.D., the mission director, or for USIA, the public affairs officer) has declined to make available on his own authority, should be submitted to the appropriate agency, by operations memorandum for State and USIA and by airgram for A.I.D., containing sufficient information to permit consideration of the request.

Classified or administratively controlled records to be made available to the public by the above-identified authorized officers in the United States and abroad must first be declassified or decontrolled in accordance with the provisions of 5 FAM 966.4.

For more detailed procedures on releasing records to the public, see the appropriate Department or Agency regulations. (State, 5 FAM 480, A.I.D., M.O. 820.1; USIA, M.O.A. III 526.) **

943.3 Clearance for Publication

Any employee writing for publication, either in an official or private capacity, must submit his manuscript for agency clearance if the content may reasonably be interpreted as related to the current responsibilities, programs, or operations of the employee's agency or to current U.S. foreign policy, or may reasonably be expected to affect U.S. foreign relations. For detailed clearance procedures, see 3 FAM 628 and 1865, M.O. 831.1 and MOA II 120.

943.4 Use of Official Records

The regulations governing access to official records are set forth in 5 FAM 480, M.O. 820.1, and MOA III 526. They include procedures to be followed for access to official records for purposes of historical research.

943.5 Release of Material to U.S. Citizen Personnel Outside the Executive Branch

Classified and administratively controlled material must not be released to persons who are not security cleared U.S. citizen employees of the executive branch of the U.S. Government until appropriate security checks and briefings have been completed. Release of such material or information shall be made only when consistent with security and administrative requirements. Responsibility for authorizing release is vested as follows:

Top Secret, Secret, Confidential, and Limited Official Use Material—The concurrence of both the director of the originating or action office and the director of the Office of Security must be obtained prior to the release of any classified or administratively controlled information. Either the originating or action office concerned with the substance of the information may decide whether it can be declassified or decontrolled and released or whether it can be released without such action. If the information to be released remains classified or administratively controlled, the Office of Security must specify the manner in which the release is to be effected including special markings, receipts, and such other safeguards as are deemed necessary to ensure that the information receives appropriate protection.

943.6 Dissemination Ordered or Requested by a Court of Law or Other Official Body

**a. Except as provided in section 943.2 any subpena, demand, or request for classified or controlled information or records from a court of law or other official body shall be handled in accordance with the regulations of the agency concerned which prescribe procedures for responding to subpenas (State, 5 FAM 485; USIA, MOA III 527 and 625.6) **

b. Testimony involving classified or administratively controlled information must not be given before a court or other official body without the approval of the head of the Department or Agency concerned. An employee called upon to give such testimony without prior authorization shall state that he is not authorized to disclose the information desired and that a written request for the specific information should be transmitted to the head of the Department or Agency concerned. Such testimony, when so approved, shall be given only under such conditions as the head of the department or agency may prescribe.

c. Reports rendered by the Federal Bureau of Investigation and other investigative agencies of the executive branch are to be regarded as confidential. All reports, records, and files relative to the loyalty of employees or prospective employees (including reports of such investigative agencies) shall be maintained in confidence, and shall not be transmitted or disclosed except as a required in the efficient conduct of business, and then, only in accordance with the provisions * of the President's directive of March 13, 1948. (See Appendix II.) *

944 Dissemination to Foreign Governments

944.1 Dissemination of Classified Defense Information to Foreign Governments and International Organizations

For detailed instructions governing the release of classified information to foreign governments and international organizations, see 11 FAM 600.

d. In the domestic service specific approval to remove classified or administratively controlled material for overnight custody must be obtained from an office director or higher authority. At posts, specific approval must be obtained from the principal officer or officers designated by him to approve such removals.

964.3 Transporting Classified and Administratively Controlled Material Across International Borders

Classified and administratively controlled material is carried across international borders by professional diplomatic couriers. Nonprofessional diplomatic couriers are given such material for international transmission only in emergencies when the professional service will not cover the area into which the pouch must be carried or the post to which the pouch is addressed within the time that official business must be conducted. In such isolated cases, the nonprofessional diplomatic courier must be in possession of a diplomatic passport and courier letter, and his material must be enclosed in sealed diplomatic pouches until delivered to its official destination. Special procedures are in effect for U.S.-Mexican border posts.

964.4 Personal Responsibilities

The safeguarding of classified or administratively controlled material removed from official premises remains the personal responsibility of the removing officer even though all conditions of section 964 have been met.

964.5 Office Working or Reference Files

Information and working files accumulated in the course of Government employment are not personal files as defined in section 432, M.O. 520.1, and MOA III Exhibit 610A. The transfer or removal of such working or reference files shall be in accordance with the provisions of sections 417 and 443.2, M.O. 520.1, and MOA III 512.6.

965 Storage and Access of Classified and Administratively Controlled Material by Persons not Regularly Employed

965.1 Storage

Authorized consultants and contractors engaged in work involving classified or administratively controlled material may not store classified or administratively controlled material overnight on their premises unless the Office of Security has granted approval for such storage. No classified or administratively controlled material may be made available to consultants or contractors off the official premises or transmitted to such persons off the premises except with the approval of the Office of Security.

965.2 Access

Contractors or consultants may not have access to classified administratively controlled materials until a personnel security clearance has been given or confirmed by the Office of Security. Employees are personally responsible for obtaining clearance from the Office of Security prior to release or transmitting of classified or administratively controlled material to a consultant or contractor addressee off the premises. Normally, such material is sent through the Office of Security.

966 Downgrading, declassification, and decontrol

966.1 Automatic Changes

Classified and administratively controlled material should be kept under review and be downgraded, declassified, or decontrolled as soon as conditions permit. When material is assigned a classification or control designation, it must also be assigned a group marking and/or identifying notation to effect its automatic downgrading, declassification, or decontrol when the material no longer requires its original degree of protection. There are five standard group markings and identifying notations associated with the automatic downgrading and declassification of classified material and two identifying notations associated with the automatic decontrol of administratively controlled material. In atypical situations where the standard group markings and notations do not adequately describe the method or time-phase intended to accomplish the automatic downgrading procedure, the notations may be enlarged upon or amended. Group markings and identifying notations should be placed, whenever possible, two spaces above the defense classification or control designation appearing at the bottom of page one on all copies.

966.2 Classified Documents

966.2–1 Group 5 documents are those which do not require a classification protection for any regulatory period of time specified for the protection of documents assigned to Groups 4 through 1. To the greatest extent possible, classified documents that can be assigned to Group 5 should be so assigned and be marked:

Group 5—(Declassified following date or conclusion of specific event, or removal of classified enclosures or attachments)

966.2–2 *Group 4 documents* are those requiring protection for a minimum number of years, at the conclusion of which they may be declassified. Group 4 documents are automatically downgraded one step each 3 years and are automatically declassified 12 years after date of origin. Such documents should be marked:

Group 4—Downgraded at 3-year intervals. Declassified 12 years after date of origin.

966.2–3 *Group 3 documents* are those which may be automatically downgraded but not automatically declassified. Such documents should be marked:

Group 3—Downgraded at 12-year intervals, not automatically declassified.

966.2–4 *Group 2 documents* are Top Secret and Secret documents which are so extremely sensitive that in the interests of national defense they must retain their classification for an indefinite period of time. Only an official empowered to exercise original Top Secret classification authority may assign a document to Group 2. Such documents must be signed by the exempting official when his identity is not apparent from the document itself and must be marked:

Group 2—Exempted from automatic downgrading By (Signature and Title of Exempting Official).

966.2–5 *Group 1 documents* are those classified documents excluded from the automatic downgrading and declassification provisions because they contain information or material as follows:

a. Originated by foreign governments or international organizations not subject to the classification jurisdiction of the U.S. Government.

b. Provided for by statutes, such as the Atomic Energy Act.

c. Specifically excluded from these provisions by the head of the Department or Agency.

d. Requiring special handling, such as intelligence and cryptography.

Group 1 documents should be marked:

Group 1—Excluded from automatic downgrading and declassification.

966.2–6 Administratively Controlled Documents

Limited Official Use documents will be processed in one of two categories: (1) exempted from automatic decontrol or (2) decontrolled upon the conclusion of a specific event, removal of controlled attachments, or the passage of a logical period of time. Such documents must bear an appropriate notation but no group marking and shall be identified as follows:

Exempted from automatic decontrol.

Or:

Decontrolled following (Date or conclusion of specific event, or removal of administratively controlled enclosures or attachments.)

966.3 Classified and Administratively Controlled Telegrams

Information contained in Top Secret, Secret, Confidential, and Limited Official Use telegrams is subject to automatic downgrading, declassification, and decontrol procedures to the same extent as the substantive contents of nontelegraphic documents. In order to eliminate costly transmissions, code symbols have been substituted for group markings and identifying notations which shall appear at the end of the message text as the final paragraph as follows:

GP 4 for Group 4.
GP 3 for Group 3.
GP 2 for Group 2.
GP 1 for Group 1.

Instructions for downgrading or declassifying information should be appended as the final unnumbered paragraph of the message text, when such instructions do not coincide with one of the four GP code symbols.

Since there is no GP code symbol for administratively controlled documents, the appropriate notation must be added as the final unnumbered paragraph of the message text.

SECURITY CLASSIFICATION OF OFFICIAL INFORMATION, DOD 5201.47 (DEPARTMENT OF DEFENSE); SELECTED EXCERPTS—SECURITY CLASSIFICATION OF OFFICIAL INFORMATION

References:

(a) DoD Directive 5120.33, "Classification Management Program," January 8, 1963.

(b) DoD Instruction 5120.34, "Implementation of the Classification Management Program," January 8, 1963.

(c) DoD Directive 5122.5, "Assistant Secretary of Defense (Public Affairs)," July 10, 1961.

(d) DoD Directive 5200.1, "Safeguarding Official Information in the Interests of the Defense of the United States," July 8, 1957.

(e) DoD Directive 5400.7, "Availability to the Public of DoD Information," June 23, 1967.

(f) DoD Directive 5200.10, "Downgrading and Declassification of Classified Defense Information," July 26, 1962.

(g) DoD Directive 5230.9, "Clearance of Department of Defense Public Information," December 24, 1966.

(h) OASD(M) multi-DoD memo., "DoD Instruction 5210.47, Security Classification of Official Information," January 27, 1965 (hereby cancelled).

I. Purpose and applicability

In accordance with references (a) and (b), this Instruction provides guidance, policies, standards, criteria and procedures for the security classification of official information under the provisions of Executive Order 10501, as amended, for uniform application throughout the Department of Defense, the components of which, in turn, through their implementation of this Instruction, shall accomplish its application to defense contractors, sub-contractors, potential contractors, and grantees. Determinations whether particular information is or is not Restricted Data are not within the scope of this Instruction.

II. Definitions

The definitions given below shall apply hereafter in the Department of Defense Information Security Program.

SOURCE.—U.S. Department. Security classification of official information. [Washington] 1964. 1 v. (various pagings) At head of title: Department of Defense Instruction. "Number 5210.47, Dec. 31, 1964."

Classification: The determination that official information requires, in the interests of national defense, a specific degree of protection against unauthorized disclosure, coupled with a designation signifying that such a determination has been made.

Classified Information: Official information which has been determined to require, in the interests of national defense, protection against unauthorized disclosure and which has been so designated.

Declassification: The determination that classified information no longer requires, in the interests of national defense, any degree of protection against unauthorized disclosure, coupled with a removal or cancellation of the classification designation.

Document: Any recorded information regardless of its physical form or characteristics, including, without limitation, written or printed material; data processing cards and tapes; maps; charts; photographs; negatives; moving or still films; film strips; paintings; drawings; engravings; sketches; reproductions of such things by any means or process; and sound, voice or electronic recordings in any form.

Downgrade: To determine that classified information requires, in the interests of national defense, a lower degree of protection against unauthorized disclosure than currently provided, coupled with a changing of the classification designation to reflect such lower degree.

Formerly Restricted Data: Information removed from Restricted Data category upon determination jointly by the Atomic Energy Commission and Department of Defense that such information relates primarily to the military utilization of atomic weapons and that such information can be adequately safeguarded as classified defense information. (See subparagraph VIII, D. 13, below, regarding foreign dissemination.)

Information: Knowledge which can be communicated by any means.

Material: Any document, product or substance on or in which information may be recorded or embodied.

Official Information: Information which is owned by, produced by or is subject to the control of the United States Government.

Regrade: To determine that certain classified information requires, in the interests of national defense, a higher or a lower degree of protection against unauthorized disclosure than currently provided, coupled with a changing of the classification designation to reflect such higher or lower degree.

Research: All effort directed toward increased knowledge of natural phenomena and environment and toward the solution of problems in all fields of science. This includes basic and applied research.

Basic Research, which is the type of research directed toward the increase of knowledge, the primary aim being a greater knowledge or understanding of the subject under study.

Applied Research, which is concerned with the practical application of knowledge, material and/or techniques directed toward a solution to an existent or anticipated military or technological requirement.

Restricted Data: All data (information) concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but not to include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act. (See Section 11w, Atomic Energy Act of 1954, as amended, and "Formerly Restricted Data.")

Technical Information: Information, including scientific information, which relates to research, development, engineering, test, evalution, production, operation, use and maintenance of munitions and other military supplies and equipment.

Technical Intelligence: The product resulting from the collection, evaluation, analysis and interpretation of foreign scientific and technical information which covers (1) foreign developments in basic and applied research, and in applied engineering techniques; and (2) scientific and technical characteristics, capabilities, and limitations of all foreign military systems, weapons, weapon systems and material, the research and development related thereto, and the production methods used in their manufacture.

III. Policies

A. Protecting Essential Information

1. The Preamble, Executive Order 10501, as amended, provides in part as follows:

"Whereas the interests of national defense require the preservation of the ability of the United States to protect and defend itself against all hostile or destructive action by covert or overt means, including espionage as well as military action [,] . . . it is essential that certain official information affecting the national defense be protected uniformly against unauthorized disclosure."

2. The primary objective of the Classification Management Program is to assure that official information is classified accurately under Executive Order 10501, as amended, when in the interests of national defense it needs protection against unauthorized disclosure.

3. Consistent with the above objective, the use and application of security classification to accomplish such protection shall be limited to only that information which is truly essential to national defense because it provides the United States with:

a. A military or defense advantage over any foreign nation or group of nations; or

b. A favorable international posture; or

c. A defense posture capable of successfully resisting hostile or dstructive action from within or without, overt or covert;

which could be damaged, minimized or lost by the unauthorized disclosure or use of the information.

B. Informing the Public

The Department of Defense, in accordance with the policy of the United States Government, shall inform the American public of the activities of the Department of Defense to the maximum extent consistent with the best interests of national defense and security. Nothing contained herein, however, shall be construed to authorize or require the public release of official information. In this connection see reference (c).

C. Regrading and Declassification

In order to preserve the effectiveness and integrity of the classification system, assigned classifications shall be responsive at all times to the current needs of national defense. When classified information is determined in the interests of national defense to require a different level of protection than that presently assigned, or no longer to require any such protection, it shall be regraded as declassified.

D. Improper Classification

Unnecessary classification and higher than necessary classification shall be scrupulously avoided.

E. Misuse of Classification

Classification shall apply only to official information requiring protection in the interests of national defense. It may not be used for the purpose of concealing administrative error or inefficiency, to prevent personal or departmental embarrassment, to influence competition or independent initiative, or to prevent release of official information which does not require protection in the interests of national defense.

F. *Safeguarding privately owned information*

1. Privately owned information, in which the Government has not established a proprietary interest or over which the Government has not exercised control, in whole or in part, is not subject to classification by the private owner under the authority of this Instruction. However, a private owner, believing his information requires protection by security classification, is encouraged to provide protection on a personal basis and to contact the nearest office of the Army, Navy, or Air Force for assistance and advice.

2. Section 793 (d), Title 18 United States Code provides penalties for improper disclosure of "information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation."

3. Sections 224 to 227 of the Atomic Energy Act of 1954, as amended, provide penalties for the improper obtaining, disclosure or use of Restricted Data.

G. *Safeguarding official information which is not subject to security classification*

Office information which does not qualify for security classification or has been declassified, and which pursuant to lawful authority requires protection from unauthorized disclosure or public release for reasons other than national security or defense, shall be handled in accordance with references (c) and (g).

IV. *Classification Categories*

A. *General*

All official information which requires protection in the interests of national defense shall be classified in one of the three categories described below. Unless expressly provided by statute, no other classifications are authorized for United States classified information. Appendix A gives examples of information which may come within the various categories. Section VI. below provides specific criteria for determining whether information falls within these categories.

B. Top Secret

The highest level of classification, Top Secret, shall be applied only to that information or material the defense aspect of which is paramount, and the unauthorized disclosure of which could result in *exceptionally grave* damage to the Nation; such as, leading to a definite break in diplomatic relations affecting the defense of the United States, an armed attack against the United States or its allies, a war, or the compromise of military or defense plans, or intelligence operations, or scientific or technological developments vital to the national defense. The use of the Top Secret classification shall be severely limited to information or material which requires the utmost protection. (See Part I, Appendix A.)

C. Secret

The second highest level of classification, Secret, shall be applied only to that information or material the unauthorized disclosure of which could result in *serious damage* to the Nation; such as, by jeopardizing the international relations of the United States, endangering the effectiveness of a program or policy of vital importance to the national defense, or compromising important military or defense plans, scientific or technological developments important to national defense, or information revealing important intelligence operations. (See Part II, Appendix A).

D. Confidential

The lowest level of classification, Confidential, shall be applied only to that information or material the unauthorized disclosure of which could be *prejudicial* to the defense interests of the Nation. (See Part III, Appendix A.) The designation "Confidential-Modified Handling Authorized," which is not a separate classification category, identifies certain Confidential information pertaining to combat or combat-related operations which, because of combat or combat-related operational conditions, cannot be afforded the full protection prescribed for Confidential information. The designation C-MHA shall be applied to that Confidential information pertaining to military operations involving planning, training, operations, communications and logistical support of combat units when combat or combat-related conditions, actual or simulated, preclude the full application of the rules and procedures governing dissemination, use, transmission and safekeeping prescribed for the protection of Confidential information. The designation may be applied prior to the introduction of the information into combat areas, actual or simulated, when the information is intended for such use and dissemination, but the rules and procedures for handling the information shall not be modified until the information is so introduced. C-MHA cannot be applied to material containing Restricted Data.

E. Foreign Classified Information

1. Section 3(e), Executive Order 10501, provides as follows:

"Information Originated by a Foreign Government or Organization: Defense information of a classified nature furnished to the United States by a foreign government or international organization shall be assigned a classification which will assure a degree of protection equivalent to or greater than that required by the government or international organization which furnished the information."

2. Foreign security classifications generally parallel United States classifications. A Table of Equivalents is contained in Appendix B.

3. Top Secret, Secret, and Confidential. If the foreign classification marking is in English, no additional U.S. classification marking is required. If the foreign classification marking is in a language other than English, an equivalent U.S. classification marking as shown in Appendix B will be added.

4. Restricted.* Many foreign governments, and international organizations such as, for example, NATO, CENTO, and SEATO, use a fourth security classification "Restricted" to denote a foreign requirement for security protection of a lesser degree than Confidential. Such foreign Restricted information released to the United States Government under international agreement requiring its protection, usually does not require or warrant United States security classification under Executive Order 10501. Under the agreement covering the release of information, however, certain protection is required. In the usual case, therefore, in order to satisfy this requirement, a document or other material containing foreign Restricted information shall show, or be marked additionally to show, in English, the name of the foreign government or international organization or origin and the word "Restricted," e.g., UK-Restricted; NATO-Restricted. (See Appendix B.) Any document or other material marked as aforesaid shall be protected in the manner specified in reference (d). Documents or other material on hand falling in this category which already have been marked so as to require protection as "Confidential" or "C–MHA," as they are withdrawn from the file for any purpose, shall be re-marked in accordance with this subparagraph and the previously applied marking shall be obliterated or excised. Henceforth, the provisions of this subparagraph shall apply thereto.

5. The origin of all material bearing foreign classifications, including material extracted and placed in Department of Defense documents or material, shall be clearly indicated on or in the body of the material to assure, among other things, that the information is not released to nationals of a third country without consent of the originator.

V. *Authority to classify*

A. Original Classification

1. *Original* classification is involved when—

a. An item of information is developed which intrinsically requires classification and such classification cannot reasonably be derived from a previous classification still in force involving in substance the same or closely related information; or

b. An accumulation or aggregation of items of information, regardless of the classification (or lack of classification) of the individual items, collectively requires a separate and distinct classification determination.

---

* The effective date of this paragraph 4 is postponed. See paragraph XIV. B.

2. For the purpose of assuring both positive management control of classification determinations and ability to meet local operational requirements in an orderly and expeditious manner, the Assistant Secretary of Defense (Manpower) will exercise control over the granting and exercise of authority for original classification of official information. Pursuant thereto, such authority must be exercised only by those individuals who at any given time are the incumbents of those offices and positions designated in or pursuant to subparagraph 3 below and Appendix C, including the officials who are specifically designated to act in the absence of the incumbents. The following general principles are applicable:

a. Appendix C designates specifically the officials who may exercise *original* Top Secret or Secret classification authority and who among them may make additional designations. All such additional designations shall be specific and in writing.

b. The authority to classify is personal to the holder of the authority. It shall not be exercised for him or in his name by anyone else, nor shall it be delegated for exercise by any substitute or subordinate.

AUTOMATIC, TIME-PHASED DOWNGRADING AND DECLASSIFICATION OF CLASSIFIED DEFENSE INFORMATION, DOD 5200.10 (DEPARTMENT OF DEFENSE); SELECTED EXCERPTS

SOURCE.—U.S. Department of Defense. Downgrading and declassification of classified defense information [Washington, 1962] 4, 24 p. At head of title: Department of Defense Directive. "Number 5200.10, July 26, 1962."

1. Purpose

The purpose of this regulation is to apply the provisions of Section 4 and Section 5(a), Executive Order 10501, as amended by Executive Order 10964, 20 September 1961; and to implement the provisions of DoD Directive 5200.9 and 5200.10. It establishes a continuing system based on the passage of time for automatically downgrading, or automatically downgrading and declassifying, classified defense information originated by or under the jurisdiction of the Department of Defense (DoD), the Federal Aviation Agency (FAA), and the National Aeronautics and Space Administration (NASA). It also declassifies by category, effective January 1, 1964, certain Group-3 documents and materials originated prior to January 1, 1940, described in subparagraphs 6. a. (3), (4), (5), and (6) of this regulation. This regulation is not a guide for the assignment of a classification to information; it applies only to defense information which is assigned a classification by competent authority.

2. Explanation of Terms

The meanings of some terms used in this regulation are given below:

a. Declassify: To *cancel* the security classification of an item of classified material.

b. Downgrade: To assign a *lower* security classification to an item of classified material.

c. Weapon System: A general term used to describe a weapon and those components required for its operation.

3. Scope and application

a. DoD, FAA, and NASA Information

(1) This regulation applies to all classified information originated by or under the jurisdiction of the Department of Defense or by its contractors, or by a predecessor agency of the Department of Defense or its contractors. Specifically, this includes all classified material originated by the Office of the Secretary of Defense and Department of Defense agencies; the present and former Joint Chiefs of Staff and Joint Staff; the Department of the Army and former War Department; the Department of the Navy; the Department of the Air Force and former Army Air Forces; the United States Coast Guard when acting as a part of the Navy; joint committees or agencies comprised entirely of representatives from within the Department of Defense or its predecessor agencies; other Government agencies whose functions have been officially transferred to the Department of Defense; and contractors in the performance of contracts awarded by or on behalf of the Department of Defense, its components, or its predecessors.

(2) By agreement between the Department of Defense, the Federal Aviation Agency, and the National Aeronautics and Space Administration, this regulation also applies to all classified information originated by or under the jurisdiction of FAA and NASA. This includes all classified information originated by the Federal Aviation Agency, its components and predecessors, including the Civil Aeronautics Administration of the Department of Commerce, and the Airways Modernization Board; the National Aeronautics and Space Administration, its components and predecessors, including the National Advisory Committee for Aeronautics; joint committees, boards and agencies comprised entirely of representatives from the above agencies or from the Department of Defense, its components and predecessors; and contractors in the performance of contracts awarded by or on behalf of FAA, NASA, their components or predecessor agencies.

b. Other Departments and Agencies

By Executive Order 10964, the automatic, time-phased down-grading and declassification system applies to all classified information originated by or under the jurisdiction of all departments and agencies of the Executive Branch. However, custodians of classified material originated by or under the jurisdiction of US departments or agencies other than those described in *a* above, shall defer action with regard to such material until advised of the implementing instructions issued by the department or agency concerned. Pending that implementation, such material (other than Group-1 material defined herein) shall not be marked or assigned to a Group under this regulation; if the information is incorporated into DoD, FAA, or NASA material, an appropriate explanation shall be included in the text (for example: "Paragraph 2 contains information classified by the State Department; the automatic downgrading-declassification group cannot be determined until appropriate instructions are issued by that department").

c. Authority of Classifying Officials

(1) Nothing in this regulation shall be construed to relieve of responsibility, or to limit the authority of, those officials designated by competent authority to classify, downgrade, or declassify official defense information. Immediate action should be taken by such officials to downgrade or declassify information when it needs less protection or when it no longer requires such protection.

(2) Any DoD, FAA or NASA classified information, whether or not affected by this regulation, may be downgraded or declassified by the official who has been given that authority under pertinent regulations. Pursuant to that authority, the official who has primary functional responsibility for an item of classified information can prescribe earlier downgrading and declassifying (including assigning it to a less restrictive Group) than that provided by this regulation. However, except as authorized in paragraphs 5 and 6*b* he cannot assign information to a *more* restrictive Group than provided herein.

d. Material Officially Transferred

When material is transferred by or pursuant to statute or Executive Order is the classifying, downgrading, and declassifying authority for all purposes under this regulation. Official transfers result in the material becoming part of the official files or the property of the recipient (e.g., Army Air Forces material officially transferred to the newly established Department of the Air Force in 1948). Transfers merely for the purpose of storage do not constitute an official transfer of classification authority.

e. Material Not Officially Transferred

When any department or agency has in its possession any classified material which has become 5 years old, and a review of the material indicates that it should be downgraded or declassified and it appears that either (*i*) the material originated in an agency which has since become defunct and whose files and other property have not been officially transferred to another department or agency within the meaning of *d* above, or (*ii*) it is impossible for the possessing department or agency to identify the originating agency, the possessing department or agency shall have power to downgrade or declassify the material or to assign it to a downgrading-declassification Group according to this regulation. If it appears probable that another department or agency may have a substantial interest in whether the classification of any particular information should be maintained, the possessing department or agency shall not exercise the power stated in this subparagraph, except with the consent of the other department or agency, until 30 days after it has notified such other department or agency of the nature of the material and of its intention to downgrade or declassify it. During that 30-day period, the other department or agency may, if it so desires, express its objections to downgrading or declassifying the particular material, but the power to make the ultimate decision shall reside in the possessing department or agency.

f. General Information

The effect of the automatic, time-phased downgrading and declassification system is that all classified information and material heretofore and hereafter received or originated by the Executive Branch, its components, and its contractors, is assigned to one of four groups, described in the following paragraphs. (The attachment shows in graphic form how each Group is affected by the automatic time-phased system.) Upon receipt of this regulation and without further notice, each holder of classified material originated by or under the jurisdiction of DoD, FAA, or NASA, is authorized and required to Group, mark, downgrade, or declassify, as prescribed herein, the material in his custody or possession. In addition, classified material originated by or under the jurisdiction of other Executive departments and agencies shall be Grouped, marked, downgraded, or declassified in accordance with the instructions of the originating agency, when issued.

4. Group-1 material

Material in this Group is completely *excluded* from the automatic downgrading and automatic declassification provisions of this regulation either because it has been removed from such provisions or because it contains information not subject to the classification jurisdiction of the Executive Branch of the U.S. Government.

a. *Definition.* Specifically, Group-1 comprises material:

(1) Originated by or containing classified information *clearly* attributed to foreign governments or their agencies, or to international organizations and groups, including the Combined Chiefs of Staff. This does not include US classified information hereafter furnished to a foreign government or international organization; the US classified information shall be Grouped and marked as otherwise prescribed herein.

(2) Concerning communications intelli-

gence or cryptography, or their related activities.

(a) This includes information concerning or revealing the processes, techniques, technical material, operation, or scope of communications intelligence, cryptography, and cryptographic security. It also includes information concerning special cryptographic equipment, certain special communications systems designated by the department or agency concerned, and the communications portion of cover and deception plans.

(b) However, provided the material does not reveal the foregoing information, this does not include radar intelligence or electronic intelligence, or such passive measures as physical security, transmission security, and electronic security.

(3) Containing Restricted Data or Formerly Restricted Data.

(4) Containing nuclear propulsion information or information concerning the establishment, operation, and support of the US Atomic Energy Detection System, unless otherwise specified by the pertinent AEC–DOD classification guide.

(5) Containing special munition information as defined in AG Ltr AGAM-P(M)311.5, (17 Sept. 60) DCS/Ops 19 Sept 60; OPNAVINST 008190.1 series; or AFR 205–17.

(6) Information concerning standardized BW agents.

5. *Group-2 documents*

This Group is established as a means whereby authorized officials can exempt individual documents containing extremely sensitive information from both automatic downgrading and automatic declassification. This Group applies only to documents originally classified Top Secret or Secret.

6. *Group-3 material*

This Group contains certain types of information or subject matter that warrants some degree of classification for an indefinite period. There are two kinds of Group-3 material: (i) that containing the subject matter normally assigned to Group-3 according to *a* below; and (ii) documents which are *individually and specifically* assigned to Group-3 under the optional exemption provisions of *b* below. Group-3 documents and materials originated prior to January 1, 1940, which fall within the descriptions of subparagraphs 6. a. (3), (4), (5), or (6), without at the same time falling within the descriptions of subparagraphs 6. (a), (1), (2), or (7), are hereby declassified, effective January 1, 1964.

a. *Definition—Normal Group-3.*

The specific information or subject matter normally comprising Group-3 is as follows:

(1) Plans for an operation of war that were prepared by an organization *higher than* Army division, Navy task force, numbered Air Force, or other military command of comparable level. This includes but is not limited to:

(a) Plans for combat operations; and information concerning or revealing long-range operational concepts and the employment of forces.

(b) Plans on cover or deception, including information on operations relating thereto.

(c) Information concerning or revealing escape or evasion plans, procedures, and techniques.

(d) Planning and programming information which concerns or reveals service-wide force objectives, over-all force deployments, and complete service-wide combat unit priority listings; or which contains or reveals detailed service-wide planning or programming data.

(e) Targeting data on foreign areas, or information which would reveal strategic targeting plans.

(2) DoD and FAA intelligence and counterintelligence.

(3) Information concerning or revealing the capabilities, limitations, or vulnerabilities of a weapon, weapon system, or space system in current use or in development for future use. This is limited to information concerning significant combat capabilities.

8

#First amendment (Ch 3, 11/15/63)

7. *Group-4 material:*

a. *Definition.*

Group-4 includes all classified material which does not qualify for, or is not assigned to, one of the first three Groups.

(1) Normally, information such as logistical data, production schedules, budget and cost figures, dimensions or weights, and similar subjects shall be assigned to Group-4, even if the equipment or material to which it applies is in Group-3.

(2) Defense information classified in accordance with a topic of a joint AEC–DoD classification guide shall not be assigned to Group-4 unless such an assignment is clearly indicated under the pertinent topic in the joint guide.

(3) . . . vulnerabilities, knowledge of which could be exploited by an enemy to counter, render ineffective, neutralize, or destroy the weapon or system; or limitations which degrade the combat effectiveness of the weapon or system. However, it specifically includes:

(a) Target detecting devices for proximity VT fuses.

(b) Biological weapon system information which reveals the scientific name or designation of the agent and the non-descriptive code designation of the agent.

(c) Technical information concerning electronic countermeasure or counter-countermeasure equipment, processes, or techniques; and technical data concerning infrared detection or suppression.

(d) Research and development information concerning or revealing significant combat capabilities of a future weapon or space system or subsystem. This is limited to information concerning or revealing significant new technological developments or adaptations beyond normal evolutionary improvements.

(e) Information pertaining to combat-type naval vessels which reveals structural, performance, or tactical data, such as armor and protective systems, war damage reports, damage control systems, power, speed, range, propeller RPM, and maneuvering characteristics.

(4) Information which could be used by an enemy to develop target data for an attack on the United States or its allies, such as geodetic and gravimetric survey data, reductions of survey data that can be used for intercontinental datum connections or for determining the size of the earth, or the precise (in seconds of arc) coordinates of facilities that are essential elements of a weapon system or that are essential elements of a weapon system or that are essential to the conduct of a war.

(5) Technical information concerning or revealing explosive ordnance demolition techniques.

(6) Defense information (other than Group-1 material) classified according to AEC-DoD classification guides, unless otherwise specified by the pertinent guide.

(7) Material prepared by a theater headquarters, military government headquarters, military mission headquarters, or other headquarters of comparable or higher level, which concern or affect the formulation and conduct of U.S. foreign policy, and plans or programs relating to international affairs.

Mr. JAVITS. Mr. President, finally I ask unanimous consent that the text of the new Executive Order 11652 scheduled to go into effect on June 1 respecting the confidentiality of documents, methods of classification, and so forth, and the Executive Order 10501 now in effect may be printed in the RECORD.

There being no objection, the Executive orders were ordered to be printed in the RECORD, as follows:

TITLE 3—THE PRESIDENT—EXECUTIVE ORDER 11652

CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL

The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act and in the current public information policies of the executive branch.

Within the Federal Government there is some official information and material which because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both an overt and covert nature, it is essential that such official information and material be given only limited dissemination.

This official information or material, referred to as classified information or material in this order, is expressly exempted from public disclosure by Section 552(b)(1) of Title 5, United States Code. Wrongful disclosure of such information or material is recognized in the Federal Criminal Code as providing a basis for prosecution.

To ensure that such information and material is protected, but only to the extent and for such period as is necessary, this order identifies the information to be protected, prescribes classification, downgrading, declassification and safeguarding procedures to be followed, and establishes a monitoring system to ensure its effectiveness.

Now, therefore, by virtue of the authority vested in me by the Constitution and statutes of the United States, it is hereby ordered:

SECTION 1. *Security Classification Categories.* Official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") shall be classified in one of three categories, namely "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security, except as otherwise expressly provided by statute. These classification categories are defined as follows:

(A) *"Top Secret"* "Top Secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with the utmost restraint.

(B) *"Secret."* "Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "Secret" shall be sparingly used.

(C) *"Confidential."* "Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

SEC. 2. *Authority to Classify.* The authority to originally classify information or material under this order shall be restricted solely to those offices within the executive branch which are concerned with matters of national security, and shall be limited to the minimum number absolutely required for efficient administration. Except as the context may otherwise indicate, the term "Department" as used in this order shall include agency or other governmental unit.

(A) The authority to originally classify information or material under this order as "Top Secret" shall be exercised only by such officials as the President may designate in writing and by:

(1) The heads of the Departments listed below;

(2) Such of their senior principal deputies and assistants as the heads of such Departments may designate in writing; and

(3) Such heads and senior principal deputies and assistants of major elements of such Departments, as the heads of such Departments may designate in writing.

Such offices in the Executive Office of the President as the President may designate in writing.

Central Intelligence Agency.
Atomic Energy Commission.
Department of State.
Department of the Treasury.
Department of Defense.
Department of the Army.
Department of the Navy.
Department of the Air Force.
United States Arms Control and Disarmament Agency.
Department of Justice.
National Aeronautics and Space Administration.
Agency for International Development.

(B) The authority to originally classify information or material under this order as "Secret" shall be exercised only by:

(1) Officials who have "Top Secret" classification authority;

(2) Such subordinates as officials with "Top Secret" classification authority under (A) (1) and (2) above may designate in writing; and

(3) The heads of the following named Departments and such senior principal deputies or assistants as they may designate in writing.

Department of Transportation.
Federal Communications Commission.
Export-Import Bank of the United States.
Department of Commerce.
United States Civil Service Commission.
United States Information Agency.
General Services Administration.
Department of Health, Education, and Welfare.
Civil Aeronautics Board.
Federal Maritime Commission.
Federal Power Commission.
National Science Foundation.
Overseas Private Investment Corporation.

(C) The authority to originally classify information or material under this order as "Confidential" may be exercised by officials who have "Top Secret" or "Secret" classification authority and such officials as they may designate in writing.

(D) Any Department not referred to herein and any Department or unit established hereafter shall not have authority to originally classify information or material under this order, unless specifically authorized hereafter by an Executive order.

SEC. 3. *Authority to Downgrade and Declassify.* The authority to downgrade and declassify national security information or material shall be exercised as follows:

(A) Information or material may be downgraded or declassified by the official authorizing the original classification, by a successor in capacity or by a supervisory official of either.

(B) Downgrading and declassification authority may also be exercised by an official specifically authorized under regulations issued by the head of the Department listed in Sections 2(A) or (B) hereof.

(C) In the case of classified information or material officially transferred by or pursuant to statute or Executive order in conjunction with a transfer of function and not merely for storage purposes, the receiving Department shall be deemed to be the originating Department for all purposes under this order including downgrading and declassification.

(D) In the case of classified information or material not officially transferred within (C) above, but originated in a Department which has since ceased to exist, each Department in possession shall be deemed to be the originating Department for all purposes under this order. Such information or material may be downgraded and declassified by the Department in possession after consulting with any other Departments having an interest in the subject matter.

(E) Classified information or material transferred to the General Services Administration for accession into the Archives of the United States shall be downgraded and declassified by the Archivist of the United States in accordance with this order, directives of the President issued through the National Security Council and pertinent regulations of the Departments.

(F) Classified information or material with special markings, as described in Section 8, shall be downgraded and declassified as required by law and governing regulations.

SEC. 4. *Classification.* Each person possessing classifying authority shall be held accountable for the propriety of the classification attributed to him. Both unnecessary classification and over-classification shall be avoided. Classification shall be solely on the basis of national security considerations. In no case shall information be classified in order to conceal inefficiency or administrative error, to prevent embarrassment to a person or Department, to restrain competition or independent initiative, or to prevent for any other reason the release of information which does not require protection in the interest of national security. The following rules shall apply to classification of information under this order:

(A) *Documents in General.* Each classified document shall show on its face its classification and whether it is subject to or exempt from the General Declassification Schedule. It shall also show the office of origin, the date of preparation and classification and, to the extent practicable, be so marked as to indicate which portions are classified, at what level, and which portions are not classified in order to facilitate excerpting and other use. Material containing references to classified materials, which references do not reveal classified information, shall not be classified.

(B) *Identification of Classifying Authority.* Unless the Department involved shall have provided some other method of identifying the individual at the highest level that authorized classification in each case, material classified under this order shall indicate on its face the identity of the highest authority authorizing the classification. Where the individual who signs or otherwise authenticates a document or item has also authorized the classification, no further annotation as to his identity is required.

(C) *Information or Material Furnished by a Foreign Government or International Organization.* Classified information or material furnished to the United States by a foreign government or international organization shall either retain its original classification or be assigned a United States classification. In either case, the classification shall assure a degree of protection equivalent to that required by the government or international organization which furnished the information or material.

(D) *Classification Responsibilities.* A holder of classified information or material shall observe and respect the classification assigned by the originator. If a holder believes that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification under this order, he shall so inform the originator who shall thereupon re-examine the classification.

SEC. 5. *Declassification and Downgrading.* Classified information and material, unless declassified earlier by the original classifying authority, shall be declassified and downgraded in accordance with the following rules:

(A) *General Declassification Schedule.* (1) *"Top Secret."* Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the tenth full calendar year following the year in which it was originated.

(2) *"Secret."* Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(3) *"Confidential."* Information and material originally classified "Confidential" shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

(B) *Exemptions from General Declassification Schedule.* Certain classified information or material may warrant some degree of protection for a period exceeding that provided in the General Declassification Schedule. An official authorized to originally classify information or material "Top Secret" may exempt from the General Declassification Schedule any level of classified information or material originated by him or under his supervision if it falls within one of the categories described below. In each case such official shall specify in writing on the material the exemption category being claimed and, unless impossible, a date or event for automatic declassification. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be restricted to the following categories.

(1) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(2) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(3) Classified information or material disclosing a system, plan, installation, project or specific foreign relations matter the continuing protection of which is essential to the national security.

(4) Classified information or material the disclosure of which would place a person in immediate jeopardy.

(C) *Mandatory Review of Exempted Material.* All classified information and material originated after the effective date of this order which is exempted under (B) above from the General Declassification Schedule shall be subject to a classification review by the originating Department at any time after the expiration of ten years from the date of origin provided:

(1) A Department or member of the public requests a review;

(2) The request describes the record with sufficient particularity to enable the Department to identify it; and

(3) The record can be obtained with only a reasonable amount of effort.

Information or material which no longer qualifies for exemption under (B) above shall be declassified. Information or material continuing to qualify under (B) shall be so marked and, unless impossible, a date for automatic declassification shall be set.

(D) *Applicability of the General Declassification Schedule to Previously Classified Material.* Information or material classified before the effective date of this order and which is assigned to Group 4 under Executive Order 10501, as amended by Executive Order No. 10964, shall be subject to the General Declassification Schedule. All other information or material classified before the effective date of this order, whether or not assigned to Groups 1, 2, or 3 of Executive Order No. 10501, as amended, shall be excluded from the General Declassification Schedule. However, at any time after the expiration of ten years from the date of origin it shall be subject to a mandatory classification review and disposition under the same conditions and criteria that apply to classified information and material created after the effective date of this order as set forth in (B) and (C) above.

(E) *Declassification of Classified Information or Material After Thirty Years.* All classified information or material which is thirty years old or more, whether originating before or after the effective date of this order, shall be declassified under the following conditions:

(1) All information and material classified after the effective date of this order shall, whether or not declassification has been requested, become automatically declassified at the end of thirty full calendar years after the date of its original classification except for such specifically identified information or material which the head of the originating Department personally determines in writing at that time to require continued protection because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the head of the Department shall also specify the period of continued classification.

(2) All information and material classified before the effective date of this order and more than thirty years old shall be systematically reviewed for declassification by the Archivist of the United States by the end of the thirtieth full calendar year following the year in which it was originated. In his review, the Archivist will separate and keep protected only such information or material as is specifically identified by the head of the Department in accordance with (E)(1) above. In such case, the head of the Department shall also specify the period of continued classification.

(F) *Departments Which Do Not Have Authority For Original Classification.* The provisions of this section relating to the declassification of national security information or material shall apply to Departments which, under the terms of this order, do not have concurrent authority to originally classify information or material, but which formerly had such authority under previous Executive orders.

SEC. 6. *Policy Directives on Access, Marketing, Safekeeping, Accountability, Transmission, Disposition and Destruction of Classified Information and Material.* The President acting through the National Security Council shall issue directives which shall be binding on all Departments to protect classified information from loss or compromise. Such directives shall conform to the following policies:

(A) No persons shall be given access to classified information or material unless such person has been determined to be trustworthy and unless access to such information is necessary for the performance of his duties.

(B) All classified information and material shall be appropriately and conspicuously marked to put all persons on clear notice of its classified contents.

(C) Classified information and material shall be used, possessed, and stored only under conditions which will prevent access by unauthorized persons or dissemination to unauthorized persons.

(D) All classified information and material disseminated outside the executive branch under Executive Order No. 10865 or otherwise shall be properly protected.

(E) Appropriate accountability records for classified information shall be established and maintained and such information and material shall be protected adequately during all transmissions.

(F) Classified information and material no longer needed in current working files or for reference or record purposes shall be destroyed or disposed of in accordance with the records disposal provisions contained in Chapter 33 of Title 44 of the United States Code and other applicable statutes.

(G) Classified information or material shall be reviewed on a systematic basis for the purpose of accomplishing downgrading, declassification, transfer, retirement and destruction at the earliest practicable date.

SEC. 7. *Implementation and Review Responsibilities.* (A) The National Security Council shall monitor the implementation of this order. To assist the National Security Council, an Interagency Classification Review Committee shall be established, composed of representatives of the Departments of State and Justice, the Atomic Energy Commission, the Central Intelligence Agency and the National Security Council Staff and a Chairman designated by the President. Representatives of other Departments in the executive branch may be invited to meet with the Committee on matters of particular interest to those Departments. This Committee shall meet regularly and on a continuing basis review and take action to ensure compliance with this order, and in particular:

(1) The Committee shall oversee Department actions to ensure compliance with the provisions of this order and implementing directives issued by the President through the National Security Council.

(2) The Committee shall, subject to procedures to be established by it, receive, complaints from persons within or without the government with respect to the administration of this order, and in consultation with the affected Department or Departments assure that appropriate action is taken on such suggestions and complaints.

(3) Upon request of the Committee Chairman, any Department shall furnish to the Committee any particular information or material needed by the Committee in carrying out its functions.

(B) To promote the basic purposes of this order, the head of each Department originating or handling classified information or material shall:

(1) Prior to the effective date of this order submit to the Interagency Classification Review Committee for approval a copy of the regulations it proposes to adopt pursuant to this order.

(2) Designate a senior member of his staff who shall ensure effective compliances with and implementation of this order and shall also chair a Departmental committee which shall have authority to act on all suggestions and complaints with respect to the Department's administration of this order.

(3) Undertake an initial program to familiarize the employees of his Department with the provisions of this order. He shall also establish and maintain active training and orientation programs for employees concerned with classified information or material. Such programs shall include, as a minimum, the briefing of new employees and periodic reorientation during employment to impress upon each individual his responsbility for exercising vigilance and care in complying with the provisions of this order. Additionally, upon termination of employment or contemplated temporary separation for a sixty-day period or more, employees shall be debriefed and each reminded of the provisions of the Criminal Code and other applicable provisions of law relating to penalties for unauthorized disclosure.

(C) The Attorney General, upon request of the head of a Department, his duly designated representative, or the Chairman of the above described Committee, shall personally or through authorized representatives of the Department of Justice render an interpretation of this order with respect to any question arising in the course of its administration.

SEC. 8. *Material Covered by the Atomic Energy Act.* Nothing in this order shall supersede any requirements made by or under the Atomic Energy Act of August 30, 1954, as amended. "Restricted Data," and material designated as "Formerly Restricted Data" shall be handled, protected, classified, downgraded and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.

SEC. 9. *Special Departmental Arrangements.* The originating Department or other appropriate authority may impose, in conformity with the provisions of this order, special requirements with respect to access, distribution and protection of classified information and material, including those which presently relate to communications intelligence, intelligence sources and methods and cryptography.

SEC. 10. *Exceptional Cases.* In an exceptional case when a person or Department not authorized to classify information originates information which is believed to require classification, such person or Department shall protect that information in the manner prescribed by this order. Such persons or Department shall transmit the information forthwith, under appropriate safeguards, to the Department having primary interest in the subject matter with a request that a determination be made as to classification.

SEC. 11. *Declassification of Presidential Papers.* The Archivist of the United States shall have authority to review and declassify information and material which has been classified by a President, his White House Staff or special committee or commission appointed by him and which the Archivist has in his custody at any archival depository, including a Presidential Library. Such declassification shall only be undertaken in accord with: (i) the terms of the donor's deed of gift, (ii) consultation with the Departments having a primary subject-matter interest, and (iii) the provisions of Section 5.

SEC. 12. *Historical Research and Access by*

Former Government officials. The requirement in Section 6(A) that access to classified information or material be granted only as is necessary for the performance of one's duties shall not apply to persons outside the executive branch who are engaged in historical research projects or who have previously occupied policy-making positions to which they were appointed by the President; *Provided,* however, that in each case the head of the originating Department shall:

(i) determine that access is clearly consistent with the interests of national security; and

(ii) take appropriate steps to assure that classified information or material is not published or otherwise compromised.

Access granted a person by reason of his having previously occupied a policy-making position shall be limited to those papers which the former official originated reviewed, signed or received while in public office.

SEC. 13. *Administrative and Judicial Action.* (A) Any officer or employee of the United States who unnecessarily classifies or over-classifies information or material shall be notified that his actions are in violation of the terms of this order or of a directive of the President issued through the National Security Council. Repeated abuse of the classification process shall be grounds for an administrative reprimand. In any case where the Departmental committee or the Interagency Classification Review Committee finds that unnecessary classification or over-classification has occurred, it shall make a report to the head of the Department concerned in order that corrective steps may be taken.

(B) The head of each Department is directed to take prompt and stringent administrative action against any officer or employee of the United States, at any level of employment, determined to have been responsible for any release or disclosure of national security information or material in a manner not authorized by or under this order or a directive of the President issued through the National Security Council. Where a violation of criminal statutes may be involved, Departments will refer any such case promptly to the Department of Justice.

SEC. 14. *Revocation of Executive Order No. 10501.* Executive Order No. 10501 of November 5, 1953, as amended by Executive Orders No. 10816 of May 8, 1959, No. 10901 of January 11, 1961, No. 10964 of September 20, 1961, No. 10985 of January 15, 1962, No. 11097 of March 6, 1963 and by Section 1(a) of No. 11382 of November 28, 1967, is superseded as of the effective date of this order.

SEC. 15. *Effective date.* This order shall become effective on June 1, 1972.

RICHARD NIXON.

THE WHITE HOUSE, *March 8, 1972.*

[FR Doc.72-3782 Filed 3-9-72; 11:01 am]

EXECUTIVE ORDER 10501—SAFEGUARDING OFFICIAL INFORMATION IN THE INTERESTS OF THE DEFENSE OF THE UNITED STATES

Whereas it is essential that the citizens of the United States be informed concerning the activities of their government; and

Whereas the interests of national defense require the preservation of the ability of the United States to protect and defend itself against all hostile or destructive action by covert or overt means, including espionage as well as military action; and

Whereas it is essential that certain official information affecting the national defense be protected uniformly against unauthorized disclosure:

Now, therefore, by virtue of the authority vested in me by the Constitution and statutes, and as President of the United States, and deeming such action necessary in the best interests of the national security, it is hereby ordered as follows:

SECTION 1. *Classification Categories.* Official information which requires protection in the interests of national defense shall be limited to three categories of classification, which in descending order of importance shall carry one of the following designations: Top Secret, Secret, or Confidential. No other designation shall be used to classify defense information, including military information, as requiring protection in the interests of national defense, except as expressly provided by statute. These categories are defined as follows:

(a) *Top Secret.* Except as may be expressly provided by statute, the use of the classification Top Secret shall be authorized, by appropriate authority, only for defense information or material which requires the highest degree of protection. The Top Secret classification shall be applied only to that information or material the defense aspect of which is paramount, and the unauthorized disclosure of which could result in exceptionally grave damage to the Nation such as leading to a definite break in diplomatic relations affecting the defense of the United States, an armed attack against the United States or its allies, a war, or the compromise of military or defense plans, or intelligence operations, or scientific or technological developments vital to the national defense.

(b) *Secret.* Except as may be expressly provided by statute, the use of the classification Secret shall be authorized, by appropriate authority, only for defense information or material the unauthorized disclosure of which could result in serious damage to the Nation, such as by jeopardizing the international relations of the United States, endangering the effectiveness of a program or policy of vital importance to the national defense, or compromising important military or defense plans, scientific or technological developments important to national defense, or information revealing important intelligence operations.

(c) *Confidential.* Except as may be expressly provided by statute, the use of the classification Confidential shall be authorized, by appropriate authority, only for defense information or material the unauthorized disclosure of which could be prejudicial to the defense interests of the nation.

SEC. 2. *Limitation of Authority to Classify.* The authority to classify defense information or material under this order shall be limited in the departments and agencies of the executive branch as hereinafter specified. Departments and agencies subject to the specified limitations shall be designated by the President:

(a) In those departments and agencies having no direct responsibility for national defense there shall be no authority for original classification of information or material under this order.

(b) In those departments and agencies having partial but not primary responsibility for matters pertaining to national defense the authority for original classification of information or material under this order shall be exercised only by the head of the department or agency, without delegation.

(c) In those departments and agencies not affected by the provisions of subsection (a) and (b), above, the authority for original classification of information or material under this order shall be exercised only by responsible officers or employees, who shall be specifically designated for this purpose. Heads of such departments and agencies shall limit the delegation of authority to classify as severely as is consistent with the orderly and expeditious transaction of Government business.

SEC. 3. *Classification.* Persons designated to have authority for original classification of information or material which requires protection in the interests of national defense under this order shall be held responsible for its proper classification in accordance with the definitions of the three categories in section 1, hereof. Unnecessary classification and over-classification shall be scrupulously avoided. The following special rules shall be observed in classification of defense information or material:

(a) *Documents in General.* Documents shall be classified according to their own content and not necessarily according to their relationship to other documents. References to classified material which do not reveal classified defense information shall not be classified.

(b) *Physically Connected Documents.* The classification of a file or group of physically connected documents shall be at least as high as that of the most highly classified document therein. Documents separated from the file or group shall be handled in accordance with their individual defense classification.

(c) *Multiple Classification.* A document product, or substance shall bear a classification at least as high as that of its highest classified component. The document, product, or substance shall bear only one over-all classification, notwithstanding that pages, paragraphs, sections, or components thereof bear different classifications.

(d) *Transmittal Letters.* A letter transmitting defense information shall be classified at least as high as its highest classified enclosure.

(e) *Information Originated by a Foreign Government or Organization.* Defense information of a classified nature furnished to the United States by a foreign government or international organization shall be assigned a classification which will assure a degree of protection equivalent to or greater than that required by the government or international organization which furnished the information.

SEC. 4. *Declassification, Downgrading, or Upgrading.* Heads of departments or agencies originating classified material shall designate persons to be responsible for continuing review of such classified material for the purpose of declassifying or downgrading it whenever national defense considerations permit, and for receiving requests for such review from all sources. Formal procedures shall be established to provide specific means for prompt review of classified material and its declassification or downgrading in order to preserve the effectiveness and integrity of the classification system and to eliminate accumulation of classified material which no longer requires protection in the defense interest. The following special rules shall be observed with respect to changes of classification of defense material:

(a) *Automatic Changes.* To the fullest extent practicable, the classifying authority shall indicate on the material (except telegrams) at the time of original classification that after a specified event or date, or upon removal of classified enclosures, the material will be downgraded or declassified.

(b) *Non-Automatic Changes.* The persons designated to receive requests for review of classified material may downgrade of declassify such material when circumstances no longer warrant its retention in its original classification provided the consent of the appropriate classifying authority has been obtained. The downgrading or declassification of extracts from or paraphrases of classified documents shall also require the consent of the appropriate classifying authority unless the agency making such extracts knows positively that they warrant a classification lower than that of the document from which extracted, or that they are not classified.

(c) *Material Officially Transferred.* In the case of material transferred by or pursuant to statute or Executive order from one department or agency to an other for the latter's use and as part of its official files or property, as distinguished from transfers merely for purposes of storage, the receiving department or agency shall be deemed to be the classifying authority for all purposes under this order, including declassification and downgrading.

(d) *Material Not Officially Transferred.* When any department or agency has in its possession any classified material which has become five years old, and it appears (1) that such material originated in an agency which has since become defunct and whose files and other property have not been officially transferred to another department or agency within the meaning of subsection (c), above, or (2) that it is impossible for the possessing department or agency to identify the originating agency, and (3) a review of the material indicates that it should be downgraded or declassified, the said possessing department or agency shall have power to declassify or downgrade such material. If it appears probable that another department or agency may have a substantial interest in whether the classification of any particular information should be maintained, the possessing department or agency shall not exercise the power conferred upon it by this subsection, except with the consent of the other department or agency, until thirty days after it has notified such other department or agency of the nature of the material and of its intention to declassify or downgrade the same. During such thirty-day period the other department or agency may, if it so desires, express its objections to declassifying or downgrading the particular material, but the power to make the ultimate decision shall reside in the possessing department or agency.

(e) *Classified Telegrams.* Such telegrams shall not be referred to, extracted from, paraphrased, downgraded, declassified, or disseminated, except in accordance with special regulations issued by the head of the originating department or agency. Classified telegrams transmitted over cryptographic systems shall be handled in accordance with the regulations of the transmitting department or agency.

(f) *Downgrading.* If the recipient of classified material believes that it has been classified too highly, he may make a request to the reviewing official who may downgrade or declassify the material after obtaining the consent of the appropriate classifying authority.

(g) *Upgrading.* If the recipient of unclassified material believes that it should be classified, or if the recipient of classified material believes that its classification is not sufficiently protective, it shall be safeguarded in accordance with the classification deemed appropriate and a request made to the reviewing official, who may classify the material or upgrade the classification after obtaining the consent of the appropriate classifying authority.

(h) *Notification of Change in Classification.* The reviewing official taking action to declassify, downgrade, or upgrade classified material shall notify all addressees to whom the material was originally transmitted.

SEC. 5. *Marking of Classified Material.* After a determination of the proper defense classification to be assigned has been made in accordance with the provisions of this order, the classified material shall be marked as follows:

(a) *Bound Documents.* The assigned defense classification on bound documents, such as book or pamphlets, the pages of which are permanently and securely fastened together, shall be conspicuously marked or stamped on the outside of the front cover, on the title page, on the first page, on the back page and on the outside of the back cover. In each case the markings shall be applied to the top and bottom of the page or cover.

(b) *Unbound Documents.* The assigned defense classification on unbound documents, such as letters, memoranda, reports, telegrams, and other similar documents, the pages of which are not permanently and securely fastened together, shall be conspicuously marked or stamped at the top and bottom of each page, in such manner that the marking will be clearly visible when the pages are clipped or stapled together.

(c) *Charts, Maps, and Drawings.* Classified charts, maps, and drawings shall carry the defense classification marking under the legend, title block, or scale in such manner that it will be reproduced on all copies made therefrom. Such classification shall also be marked at the top and bottom in each instance.

(d) *Photographs, Films and Recordings.* Classified photographs, films, and recordings, and their containers, shall be conspicuously and appropriately marked with the assigned defense classification.

(e) *Products or Substances.* The assigned defense classification shall be conspicuously marked on classified products or substances, if possible, and on their containers, if possible, or, if the article or container cannot be marked, written notification of such classification shall be furnished to recipients of such products or substances.

(f) *Reproductions.* All copies or reproductions of classified material shall be appropriately marked or stamped in the same manner as the original thereof.

(g) *Unclassified Material.* Normally, unclassified material shall not be marked or stamped *Unclassified* unless it is essential to convey to a recipient of such material that it has been examined specifically with a view to imposing a defense classification and has been determined not to require such classification.

(h) *Change or Removal of Classification.* Whenever classified material is declassified, downgraded, or upgraded, the material shall be marked or stamped in a prominent place to reflect the change in classification, the authority for the action, the date of action, and the identity of the person or unit taking the action. In addition, the old classification marking shall be cancelled and the new classification (if any) substituted therefor. *Automatic* change in classification shall be indicated by the appropriate classifying authority through marking or stamping in a prominent place to reflect information specified in subsection 4(a) hereof.

(i) *Material Furnished Persons not in the Executive Branch of the Government.* When classified material affecting the national defense is furnished authorized persons, in or out of Federal service, other than those in the executive branch, the following notation, in addition to the assigned classification marking, shall whenever practicable be placed on the material, on its container, or on the written notification of its assigned classification:

"This material contains information affecting the national defense of the United States within the meaning of the espionage laws, Title 18, U.S.C., Secs. 793 and 794, the transmission or revelation of which in any manner to an unauthorized person is prohibited by law."

Use of alternative marking concerning "Restricted Data" as defined by the Atomic Energy Act is authorized when appropriate.

SEC. 6. *Custody and Safekeeping.* The possession or use of classified defense information or material shall be limited to locations where facilities for secure storage or protection thereof are available by means of which unauthorized persons are prevented from gaining access thereto. Whenever such information or material is not under the personal supervision of its custodian, whether during or outside of working hours, the following physical or mechanical means shall be taken to protect it:

(a) *Storage of Top Secret Material.* Top Secret defense material shall be protected in storage by the most secure facilities possible. Normally it will be stored in a safe or a safe-type steel file container having a three-position, dial-type, combination lock, and being of such weight, size, construction, or installation as to minimize the possibility of surreptitious entry, physical theft, damage by fire, or tampering. The head of a department or agency may approve other storage facilities for this material which offer comparable or better protection, such as an alarmed area, a vault, a secure vault-type room, or an area under close surveillance of an armed guard.

(b) *Secret and Confidential Material.* These categories of defense material may be stored in a manner authorized for Top Secret material, or in metal file cabinets equipped with steel lockbar and an approved three combination dial-type padlock from which the manufacturer's identification numbers have been obliterated, or in comparably secure facilities approved by the head of the department or agency.

(c) *Other Classified Material.* Heads of departments and agencies shall prescribe such protective facilities as may be necessary in their departments or agencies for material originating under statutory provisions requiring protection of certain information.

(d) *Changes of Lock Combinations.* Combinations on locks of safekeeping equipment shall be changed, only by persons having appropriate security clearance, whenever such equipment is placed in use after procurement from the manufacturer or other sources, whenever a person knowing the combination is transferred from the office to which the equipment is assigned, or whenever the combination has been subjected to compromise, and at least once every year. Knowledge of combinations shall be limited to the minimum number of persons necessary for operating purposes. Records of combinations shall be classified no lower than the highest category of classified defense material authorized for storage in the safekeeping equipment concerned.

(e) *Custodian's Responsibilities.* Custodians of classified defense material shall be responsible for providing the best possible protection and accountability for such material at all times and particularly for security locking classified material in approved safekeeping equipment whenever it is not in use or under direct supervision of authorized employees. Custodians shall follow procedures which insure that unauthorized persons do not gain access to classified defense information or material by sight or sound, and classified information shall not be discussed with or in the presence of unauthorized persons.

(f) *Telephone Conversations.* Defense information classified in the three categories under the provisions of this order shall not be revealed in telephone conversations, except as may be authorized under section 8 hereof with respect to the transmission of Secret and Confidential material over certain military communications circuits.

(g) *Loss or Subjection to Compromise.* Any person in the executive branch who has knowledge of the loss or possible subjection to compromise of classified defense information shall promptly report the circumstances to a designated official of his agency, and the latter shall take appropriate action forthwith, including advice to the originating department or agency.

SEC. 7. *Accountability and Dissemination.* Knowledge or possession of classified defense information shall be permitted only to persons whose official duties require such access in the interest of promoting national defense and only if they have been determined to be trustworthy. Proper control of dissemination of classified defense information shall be maintained at all times, including good accountability records of classified defense information documents, and severe limitation on the number of such documents originated as well as the number of copies thereof reproduced. The number of copies of classified defense information documents shall be kept to a minimum to decrease the risk of compromise of the information contained in such documents and the financial burden on the Government in protecting such documents. The following special rules shall be observed in connection with accountability for and dissemination of defense information or material:

(a) *Accountability Procedures.* Heads of departments and agencies shall prescribe such accountability procedures as are necessary to control effectively the dissemination of classified defense information, with particularly severe control on material classified Top Secret under this order. Top Secret Control Officers shall be designated, as required, to receive, maintain accountability registers of, and dispatch Top Secret material.

(b) *Dissemination Outside the Executive Branch.* Classified defense information shall not be disseminated outside the executive branch except under conditions and through channels authorized by the head of the disseminating department or agency, even though the person or agency to which dissemination of such information is proposed to be made may have been solely or partly responsible for its production.

(c) *Information Originating in Another Department or Agency.* Except as otherwise provided by section 102 of the National Security Act of July 26, 1947, c. 343, 61 Stat. 498, as amended, 50 U.S.C. sec. 403, classified defense information originating in another department or agency shall not be disseminated outside the receiving department or agency without the consent of the originating department or agency. Documents and material containing defense information which are classified Top Secret or Secret shall not be reproduced without the consent of the originating department or agency.

SEC. 8. *Transmission.* For transmission outside of a department or agency, classified defense material of the three categories originated under the provisions of this order shall be prepared and transmitted as follows:

(a) *Preparation for Transmission.* Such material shall be enclosed in opaque inner and outer covers. The inner cover shall be a sealed wrapper or envelope plainly marked with the assigned classification and address. The outer cover shall be sealed and addressed with no indication of the classification of its contents. A receipt form shall be attached to or enclosed in the inner cover, except that Confidential material shall require a receipt only if the sender deems it necessary. The receipt form shall identify the addressor, addressee, and the document, but shall contain no classified information. It shall be signed by the proper recipient and returned to the sender.

(b) *Transmitting Top Secret Material.* The transmission of Top Secret material shall be effected preferably by direct contact of officials concerned, or, alternatively, by specifically designated personnel, by State Department diplomatic pouch, by a messenger-courier system especially created for that purpose, or by electric means in encrypted form; or in the case of information transmitted by the Federal Bureau of Investigation, such means of transmission may be used as are currently approved by the Director, Federal Bureau of Investigation, unless express reservation to the contrary is made in exceptional cases by the originating agency.

(c) *Transmitting Secret Material.* Secret material shall be transmitted within the continental United States by one of the means established for Top Secret material, by an authorized courier, by United States registered mail, or by protected commercial express, air or surface. Secret material may be transmitted outside the continental limits of the United States by one of the means established for Top Secret material, by commanders or masters of vessels of United States registry, or by United States Post Office registered mail through Army, Navy, or Air Force postal facilities, provided that the material does not at any time pass out of United States Government control and does not pass through a foreign postal system. Secret material may, however, be transmitted between United States Government and/or Canadian Government installations in continental United States, Canada, and Alaska by United States and Canadian registered mail with registered mail receipt. In an emergency, Secret material may also be transmitted over military communications circuits in accordance with regulations promulgated for such purpose by the Secretary of Defense.

(d) *Transmitting Confidential Material.* Confidential defense material shall be transmitted within the United States by one of the means established for higher classifications, by registered mail, or by express or freight under such specific conditions as may be prescribed by the head of the department or agency concerned. Out side the continental United States, Confidential defense material shall be transmitted in the same manner as authorized for higher classifications.

(e) *Within an Agency.* Preparation of classified defense material for transmission, and transmission of it, within a department or agency shall be governed by regulations, issued by the head of the department or agency, insuring a degree of security equivalent to that outlined above for transmission outside a department or agency.

SEC. 9. *Disposal and Destruction.* Documentary record material made or received by a department or agency in connection with transaction of public business and preserved as evidence of the organization, functions, policies, operations, decisions, procedures or other activities of any department or agency of the Government, or because of the informational value of the data contained therein, may be destroyed only in accordance with the act of July 7, 1963, c. 192, 57 Stat. 380, as amended, 44 U.S.C. 366–380. Non-record classified material, consisting of extra copies and duplicates including shorthand notes, preliminary drafts, used carbon paper, and other materials or similar temporary nature, may be destroyed, under procedures established by the head of the department or agency which meet the following requirements, as soon as it has served its purpose:

(a) *Methods of Destruction.* Classified defense material shall be destroyed by burning in the presence of an appropriate official or by other methods authorized by the head of an agency provided the resulting destruction is equally complete.

(b) *Records of Destruction.* Appropriate accountability records maintained in the department or agency shall reflect the destruction of classified defense material.

SEC. 10. *Orientation and Inspection.* To promote the basic purposes of this order, heads of those departments and agencies originating or handling classified defense information shall designate experienced persons to coordinate and supervise the activities applicable to their departments or agencies under this order. Persons so designated shall maintain active training and orientation programs for employees concerned with classified defense information to impress each such employee with his individual responsibility for exercising vigilance and care in complying with the provisions of this order. Such persons shall be authorized on behalf of the heads of the departments and agencies to establish adequate and active inspection programs to the end that the provisions of this order are administered effectively.

SEC. 11. *Interpretation of Regulations by the Attorney General.* The Attorney General, upon request of the head of a department or agency or his duly designated representative, shall personally or through authorized representatives of the Department of Justice render an interpretation of these regulations in connection with any problems arising out of their administration.

SEC. 12. *Statutory Requirements.* Nothing in this order shall be construed to authorize the dissemination, handling or transmission of classified information contrary to the provisions of any statute.

SEC. 13. *"Restricted Data" as Defined in the Atomic Energy Act.* Nothing in this order shall supersede any requirements made by or under the Atomic Energy Act of August 1, 1946, as amended. "Restricted Data" as defined by the said act shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1946, as amended, and the regulations of the Atomic Energy Commission.

SEC. 14. *Combat Operations.* The provisions of this order with regard to dissemination, transmission, or safekeeping of classified defense information or material may be so modified in connection with combat or combat-related operations as the Secretary of Defense may by regulations prescribe.

SEC. 15. *Exceptional Cases.* When, in an exceptional case, a person or agency not authorized to classify defense information originates information which is believed to require classification, such person or agency shall protect that information in the manner prescribed by this order for that category of classified defense information into which it is believed to fall, and shall transmit the information forthwith, under appropriate safeguards, to the department, agency, or person having both the authority to classify information and a direct official interest in the information (preferably, that department, agency, or person to which the information would be transmitted in the ordinary course of business), with a request that such department, agency, or person classify the information.

SEC. 16. *Review to Insure That Information is Not Improperly Withheld Hereunder.* The President shall designate a member of his staff who shall receive, consider, and take action upon, suggestions or complaints from non-Governmental sources relating to the operation of this order.

SEC. 17. *Review to Insure Safeguarding of Classified Defense Information.* The National Security Council shall conduct a continuing review of the implementation of this order to insure that classified defense information is properly safeguarded, in conformity herewith.

SEC. 18. *Review Within Departments and Agencies.* The head of each department and agency shall designate a member or members of his staff who shall conduct a continuing review of the implementation of this order within the department or agency concerned to insure that no information is withheld hereunder which the people of the United States have a right to know, and to insure that classified defense information is properly safeguarded in conformity herewith.

SEC. 19. *Revocation of Executive Order No. 10290.* Executive Order No. 10290 of September 24, 1951 is revoked as of the effective date of this order.

SEC. 20. *Effective Date.* This order shall become effective on December 15, 1953.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *November 5, 1953.*

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

Mr. GRIFFIN. Mr. President, I thought I had objected. However, if I did not, I now object.

The ACTING PRESIDENT pro tempore. The resolution will go over under the rule.

AMENDMENTS NOS. 1180, 1181, AND 1182

Mr. CRANSTON. Mr. President, I send to the desk three amendments to the resolution just submitted by the Senator from New York and ask that they be stated.

The ACTING PRESIDENT pro tempore. The clerk will report the amendments.

The second assistant legislative clerk read as follows:

AMENDMENT No. 1180

Adding at the end thereof the following:

Such report shall also include recommendations to establish a continuing mechanism in the Senate for disposition of the requests for opinions which individual members or groups thereof may make respecting the applicability of procedures and guidelines adopted by the Senate to govern the secrecy, confidentiality and classification of such documents.

AMENDMENT No. 1181

By adding at the end the following:

Such report shall also include recommendations to establish a continuing mechanism invocation of the doctrine or executive privilege with respect to executive branch documents, recommendations with respect to the extent to which the Congress is entitled to such documents in pursuit of legislative purposes when such documents are withheld, and recommendations for the establishment of appropriate congressional procedures to obtain information in the possession and control of the executive branch necessary for such legislative purposes and as to appropriate legislative and other recourse on the part of the Senate in order to obtain such necessary information.

AMENDMENT No. 1182

Adding at the end thereof the following:

Until such ad hoc select committee has reported its findings and recommendations to the Senate, said select committee shall report its findings and recommendations to the Senate on all questions relating to the secrecy, confidentiality, and classification of any specific Government document or documents submitted to said committee by any Member or Members of the Senate, and shall dispose of any such requests within 30 days of receipt thereof.

Mr. CRANSTON. Mr. President, for the same reasons that cause the Senator from New York to make no explanatory remarks today concerning his resolution, I shall make no explanatory remarks concerning my amendments.

TRIBUTE TO THE WASHINGTON, D.C., POLICE DEPARTMENT

Mr. PROXMIRE. Mr. President, I rise to pay tribute to the Washington, D.C., Police Department. We all know of the tragic crime problem in this city, but few of us fully realize what a tremendous effort is being made to cope with it.

I suppose there are few more difficult jobs these days than to reduce the incidence of crime. Well, that is being done in this city, in spite of the rising trend nationally and in spite of the relentless pressure of crime-generating social forces in the District: poverty, drugs, miserable housing conditions, and deep racial antagonisms and discrimination.

These forces are fundamental. If crime is going to be reduced sharply and permanently we must deal with them. Our efforts here in the Congress have been far too feeble.

But the immediate day-by-day problem of dealing with crime in the Nation's Capital is being handled in an extraordinarily skillful and determined way, and I now speak with experience.

Within the last 6 months, I have been the victim of two crimes, and in both cases the response of the Washington police was swift and efficient.

Six months ago, my home on Ordway Street in Northwest Washington was burglarized. It was obviously a professional job, the burglar struck when no one was at home. He wore gloves to conceal his fingerprints. He left virtually no clues. My home was one in a series of homes in the area that had been burglarized.

The Washington police promptly came to my home when I reported the burglary, questioned my daughter and me at length. I was impressed by their efficiency, but I estimated that there was not a chance in a hundred that they would catch the skilled professional thief.

Within a few weeks, they apprehended him. He confessed and was convicted and sentenced.

Last night, I suffered the second crime. I was walking within a block of my home when two young men shoved me, demanded my wallet and threatened to blow my head off.

I retorted loudly and emphatically, started yelling, and they left. I walked home, reported the holdup to the police. Within a very few minutes, police and detectives arrived. They questioned me, and within 15 minutes the so-called tactical squad came with two suspects who had been seen running from the vicinity of the attempted holdup.

The tactical squad is something else. They are right out of the "French Connection." They are dressed very informally. One would think them to be hippies and not connected in any way with the police department. They were most impressive. The suspects were not the young men who had accosted me.

I mentioned two eye witnesses who had seen the two men who had threatened me and the police questioned the witnesses carefully and at length. The police arranged for me and the witnesses to see mug shots of the suspects today.

The police acted with such courtesy, thoroughness, and efficiency that I could see why this city is one of the very few that is enjoying a reduction in crime.

One serious weakness with this country—with our proper regard for civil liberties and justice for anyone who is accused—is that the police are frequently denounced, demeaned, or even categorized as somehow enemies of a free and happy society.

Well, let me say, Mr. President, that of all the forces working to make Washington a better and a happier and a freer place to live—and there are many good and fine people working for that purpose—the Washington police in my book rate right at the top.

We are very proud of our police departments in Wisconsin. Milwaukee and Madison and our other cities have incorruptible and dedicated officers doing a remarkable job holding down crime, but I think they would agree that their fellow officers here in the District of Columbia are among the very best anywhere and they deserve the grateful thanks they rarely, if ever, get.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Appropriations, without amendment:

H.J. Res. 1174. A joint resolution making an appropriation for special payments to international financial institutions for the fiscal year 1972, and for other purposes (Rept. No. 92–781).

By Mr. ROBERT C. BYRD for Mr. MOSS, from the Committee on Interior and Insular Affairs, with an amendment:

H.R. 13435. An act to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior (Rept. No. 92–782).

By Mr. SPONG, from the Committee on Commerce, with amendments:

S. 1478. A bill to amend the Federal Hazardous Substances Act, as amended, and for other purposes (together with supplemental views) (Rept. No. 92–783).

REPORT ENTITLED "DEVELOPMENTS IN AGING: 1971 AND JANUARY–MARCH 1972"—REPORT OF A SPECIAL COMMITTEE (REPT. NO. 92–784)

Mr. CHURCH, from the Special Committee on Aging, pursuant to Senate Resolution 27, 92d Congress, first session, submitted a report entitled "Developments in Aging: 1971 and January–March 1972," which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

Lt. Gen. Russell E. Dougherty, [redacted]R (major general, Regular Air Force) U.S. Air Force, to be assigned to a position of importance and responsibility requiring the rank of general, under the provisions of section 8066, title 10, U.S.C.

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Harald Bernard Malmgren, of the District of Columbia, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador (Ex. Rept. No. 92–21).

Mr. FULBRIGHT. Mr. President, I wish to report to the Senate the nomination of Mr. Harald B. Malmgren, from the Committee on Foreign Relations. Mr. Malmgren is to be a Deputy Special Representative for Trade Negotiations with the rank of Ambassador. Having considered same, he is to be recommended to be confirmed.

Over the years, the Committee on Foreign Relations has become increasingly concerned about the use of the title of Ambassador for individuals serving in positions not involving accreditation to a foreign government.

In the committee's view, the rank of Ambassador should be reserved for the representatives of our country to another country—the sense in which the title of Ambassador is used in the Constitution—and not be used by negotiating personnel within the bureaucracy. Excessive use of the title of "Ambassador" tends to denigrate the role of the duly accredited American representatives to each country and creates confusion as to who is actually the official spokesman of the United States Government.

The practice of granting the title of "Ambassador" is particularly prevalent among U.S. representatives in Europe—to say nothing of the United Nations Headquarters in New York where the United States has no less than four individuals with the rank of Ambassador. In Brussels, for example, counting the Special Representative for Trade Negotiations and his two Deputy Representatives, the United States will have six Ambassadors in residence. In Paris, when the American representative to UNESCO is present, there are four Ambassadors, and in Geneva there are two.

Mr. President, it does seem to me that this practice is becoming really an absurdity. I do hope that the Senate will give a little more consideration to the question of maintaining some degree of enforcement, degree, and significance to the title of ambassador and to the functions of real ambassadors accredited to foreign nations.

In view of the foregoing, the Committee on Foreign Relations takes this opportunity to state that henceforth the committee will be most reluctant to approve individuals given the title of "Ambassador," unless that person has been nominated by the President as the duly accredited representative of the United States Government to a foreign country or to an international organization as authorized by law.

The committee emphasizes that its action is not to be construed as any reflection on the nomination of Mr. Harald Malmgren, whose position was created by an Executive order. On the contrary, Mr. Malmgren appears to be well qualified to act as a deputy to the President's Special Representatives for Trade Negotiations.

The ACTING PRESIDENT pro tempore. Without objection, as in executive session, the report will be received.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 738 (WITHDRAWAL)

Mr. PERCY. Mr. President, on May 1, 1972, my name was added in error as a cosponsor of S. 738, a bill to amend the Immigration and Nationality Act with respect to the waiver of certain grounds for exclusion and deportation.

I ask unanimous consent that I be withdrawn as a cosponsor of S. 738.

The ACTING PRESIDENT pro tempore (Mr. STEVENSON). Without objection, it is so ordered.

S. 3276

At the request of Mr. DOLE, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 3276, a bill to enable wheat producers, processors, and end-product manufacturers of what foods to work together to establish, finance, and administer a coordinated program of research, education, and promotion to maintain and expand markets for wheat and wheat products for use as human foods within the United States.

S. 3410

At the request of Mr. ALLOTT, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 3410, a bill to revise the special pay structure for the military.

S. 3495

At the request of Mr. DOLE, the Senator from Tennessee (Mr. BROCK) and the Senator from Kentucky (Mr. COOK) were added as cosponsors of S. 3495, a bill to provide reimbursement of extraordinary transportation expenses incurred by certain disabled individuals in the production of their income.

NOTICE OF HEARING ON NOMINATION BEFORE THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished senior Senator from Alabama, I ask unanimous consent that a statement prepared by him be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR SPARKMAN

Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold a hearing on the nomination of Jeffrey M. Bucher, of California, to be a member of the Board of Governors of the Federal Reserve System.

The hearing will be held on Friday, May 12, 1972, and will commence at 10 a.m. in room 5302, New Senate Office Building, Washington, D.C.

NOTICES OF HEARINGS

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished senior Senator from Alabama (Mr. SPARKMAN), I ask unanimous consent that two statements prepared by him be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENTS BY SENATOR SPARKMAN

Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold a hearing on the bill, S. 2987, to authorize the Secretary of the Treasury to make grants to Eisenhower College, Seneca Falls, N.Y., out of the proceeds of the sale of minted proof dollar coins bearing the likeness of the late President of the United States, Dwight D. Eisenhower.

The hearing will be held on Friday, May 19, 1972, and will begin at 10 a.m. in room 5320, New Senate Office Building, Washington, D.C

Persons wishing to testify or to submit written statements in connection with this bill are requested to contact Mr. Dudley L. O'Neal, Jr., Committee on Banking, Housing and Urban Affairs, room 5300, New Senate Office Building, Washington, D.C. 20510; telephone 225–7391.

Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold hearings on the following bills:

S. 1015, to establish an Environmental Financing Authority to assist in the financing of waste treatment of facilities;

S. 1699, to establish a National Environmental Bank, to authorize the issuance of U.S. Environmental Savings Bonds, and to establish an Environmental Trust Fund;

S. 3001, to establish a Federal Financing Bank, to provide for coordinated and more efficient financing of Federal and federally assisted borrowings from the public; and

S. 3215, to expand the market for municipal securities.

The hearings will be held on Monday, Tuesday, Wednesday and Thursday, May 15, 16, 17 and 18, and will begin at 10 A.M. each day in Room 5302 New Senate Office Building.

Persons wishing to testify or to submit written statements in connection with these bills are requested to contact Mr. Dudley L. O'Neal, Jr., Committee on Banking, Housing and Urban Affairs, Room 5300 New Senate Office Building, Washington, D.C. 20510; telephone 225–7391.

ANNOUNCEMENT OF PUBLIC HEARINGS ON THE RIVER AND HARBOR AND FLOOD CONTROL ACT OF 1972

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Chairman of the Subcommittee on Flood Control, Rivers and Harbors, of the Committee on Public Works (Mr. JORDAN of North Carolina), I ask unanimous consent that a statement relating to public hearings on the 1972 river and harbor bill, be printed at this place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR JORDAN

I wish to announce for the information of the Senate and the public, that open hearings have been scheduled by the Subcommittee on Flood Control, Rivers and Harbors, of which I am Chairman, commencing at 10:00 a.m. on Friday, May 12, 1972. Hearings will continue on May 15, 16, 17, 19, 22, 23, and 24. Also, on June 7, 8, 9, 13, 14 and 15. All hearings will begin at 10:00 a.m., and will be held in Room 4200, New Senate Office Building.

On Friday, May 12, the Subcommittee will be privileged to hear from the Chief of Engineers, Lt. General Frederick J. Clarke, who will review the civil works program. Members of the Committee, the Congress, and the public are urged to attend the opening session to hear General Clarke on important water resource matters facing the Corps of Engineers and the Nation.

Other days scheduled by the Subcommittee will be devoted to receiving the recommendations of the Corps of Engineers on a number of water resource projects and policy matters. The views of Members of Congress, State and Federal agencies, environmental and water resource groups, and interested and concerned individuals will also be heard during the course of these hearings.

Any person or organization desiring to present testimony or file a statement for the record relating to proposed water resource projects or matters, should contact Mr. Joseph F. Van Vladricken, Professional Staff Member, telephone: area code 202–225–6176.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished senior Senator from Mississippi (Mr. EASTLAND), the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Thomas A. Grace, Jr., of Louisiana, to be U.S. marshal, middle district of Louisiana, for the term of 4 years; new position created by Public Law 92-208, approved December 18, 1971.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, May 12, 1972 any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

DON'T TURN YOUR BACK ON THE FLAG

Mr. HANSEN. Mr. President, Gen. Daniel James is a very wise man.

One of the things he has said is:

> The power of excellence is overwhelming.

Another thing he has said is:

> Don't ever, no matter what the provocation or the invitation, turn your back on your God or your country or that flag.

That, Mr. President, is what I believe, and it is what a majority of our American citizens believe in, regardless of their skin color.

The capital city of my State, Cheyenne, has had a recent incident involving the refusal of a few students at one of the high schools to join in the pledge of allegiance.

James Flinchum, managing editor of the Wyoming State Tribune, Cheyenne, has commented on this editorially and quoted General Daniel's recent speech to the National Association of Secondary School Principals.

The editorial—and General Daniel's remarks—make such good sense that I want to share them with the Senate. I ask unanimous consent that the April 29, 1972, Wyoming State Tribune editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DON'T TURN YOUR BACK ON THE FLAG

> In connection with the flag incident at Central High School here, in which seven black students first were suspended, and later a total of 121 students black and white were excused from the pledge of allegiance ceremonies at an Army Band concert, a local reader has sent us some excerpts from a speech by Daniel James to the National Association of Secondary School Principals at Anaheim, Calif., on March 18.
>
> James is a brigadier-general in the Air Force currently assigned as deputy assistant secretary of defense for public affairs.
>
> He also is a black. While the remarks of General James, a distinguished Air Force combat leader in Vietnam, were directed to black youth, we think they are particularly inspiring for all people of whatever age, color or national origin.
>
> Said General James:
>
> "My young life was filled with orders, advice and encouragement. I was told to eliminate one by one all the reasons some bigot might say I was not capable of standing beside him or deserving of equal opportunity.
>
> "If he says you are dirty, make sure you are clean. If he says you steal, make sure you don't. If he says you are dumb, make sure you learn. If he says you are scared, make sure you are brave, my son.
>
> "And if there ever comes a time to fight for your country, don't you run away and hide. And don't you ever, no matter what the provocation or the invitation, turn your back on your God or your country or that flag.
>
> "Remember, they said, you are not African. You are an American and this is your land. Many of those who will suggest you go back to Africa cannot trace their ancestors in this country as far back as you can trace yours.
>
> "This is your nation and don't you get so busy practicing your right to dissent that you forget your responsibility to contribute. If she has ills you hold her hand until she is well and then work for constructive change within the system.
>
> "Let your own contribution to the problems of your race be a by-product of your achievement in your chosen field. You will prosper in proportion to your contribution to the Nation.
>
> "Remember that with the heritage of being an American goes the responsibility for developing that heritage and passing it on to your kids in better shape than you got it.
>
> "Don't stop to argue with the ignoramus on the street who calls you nigger. You don't have time. Press on. Perform. Perform. Excel. Excel.
>
> "And when you drive back by in the limousine of success, that ignoramus will still be standing there on the corner wrapped in his hate. The power of excellence is overwhelming. It is always in demand and nobody cares about its color."

NOMINATION OF RICHARD G. KLEINDIENST TO BE ATTORNEY GENERAL

Mr. BEALL. Mr. President, the position of Attorney General of the United States has been filled by Richard G. Kleindienst in an acting capacity for many weeks. Although his nomination had previously been approved by the Judiciary Committee, Mr. Kleindienst requested a reopening of the hearings in order to remove any doubt as to the propriety of his actions in the Antitrust Division's handling of the ITT merger cases.

While the subsequent hearings turned into a political circus, they have clearly shown that Richard Kleindienst's actions have been entirely proper, and as a result the Judiciary Committee has recommended that the Senate act favorably on his nomination to be Attorney General of the United States.

Mr. President, the time has now come for Members of the Senate to put this matter behind us by proceeding to confirm the nomination of Mr. Kleindienst. In his service as Deputy Attorney General of the United States, he has demonstrated the ability, character, and capacity to be Attorney General of the United States. Even those who differ with him philosophically have found no basis for questioning his legal ability or the fairness with which he has carried out the responsibilities of his office.

Mr. President, Richard G. Kleindienst possesses the attributes necessary to be a fine Attorney General. To delay his nomination further would be an injustice to the nominee and to the Department which he will head. I intend to vote in favor of his nomination, and I hope that the Senate will proceed to consider this matter as soon as possible.

NATIONAL ARBOR DAY

Mr. WILLIAMS. Mr. President, I am greatly pleased that Friday, April 28, 1972, was observed as National Arbor Day. For Friday was the 100th anniversary of the first observance of Arbor Day, held in the State of Nebraska.

In 1872, because of a great shortage of trees in Nebraska, J. Sterling Morton, the founder of Arbor Day, initiated a Statewide tree-planting contest, calling for each citizen to plant as many trees as possible in 1 day. Mr. Morton's program was so successful that many other States soon adopted this activity. As a result, thousands of trees were planted by various groups throughout the country.

The observance of Arbor Day 100 years ago was a positive step toward improving and preserving our ecology. I believe that this work is well summed up in an article entitled "Arbor Day—The First 100 Years," written by Mr. Harry Banker, of West Orange, N.J. Mr. Banker referred to this observance as "probably the granddaddy of our country's conservation movements."

But even the most determined efforts of those early environmentalists were little match for the inexorable march of what we often refer to as progress.

Borrowing again from Mr. Banker's article, I would like to emphasize the value of our trees.

Every person on this earth needs 78 trees to absorb the carbon dioxide we exhale, and to produce the oxygen we inhale.

Approximately 20 trees are required to offset the effect of the average commuter who drives his car to work.

More than 100,000 trees are needed to cancel the atmospheric pollution of one commercial jetliner traveling round-trip between New York and Los Angeles.

But, despite this obvious need, we in this country, have steadily reduced our green space. Astoundingly, we pave over some 1 million acres of greenery every year.

For this reason, the observance of National Arbor Day is of significant importance and should be appropriately acknowledged by all those dedicated to preserving our natural resources and in protecting our trees and forests.

Mr. President, on Friday the International Shade Tree Conference commemorated the 100th anniversary of Arbor Day by planting a tree on the grounds of the Capitol. I had the honor of accepting this tree on behalf of the President and the Members of Congress. It was, indeed, my privilege to offer my contribution to National Arbor Day.

RUMANIA'S DAY OF INDEPENDENCE

Mr. PROXMIRE. Mr. President, the 10th of May has long been a day of proud celebration for the people of Rumania.

On May 10, 1866, Charles, Prince of Hohenzollern-Sigmaringen and scion of the southern and Catholic branch of the Prussian royal family, was proclaimed the Prince of Rumania in Bucharest. This momentous occasion ended years of internal rivalry and strife and finally brought political tranquility to the Rumanian State.

On May 10, 1877, 11 years later, the Princiality of Rumania, in alliance with Russia, defeated the Turkish Sultan during the Russo-Turkish War and proclaimed her independence from the old Ottoman Empire. This was perhaps the greatest moment in Rumanian history, for as a result of the Congress of Berlin the following year, the nations of Europe acknowledged the existence of a free and independent Principality of Rumania.

Four years later, on May 10, 1881, the Principality was elevated to the Kingdom of Rumania when Charles I was crowned King. From that point forward, Rumania became a factor in the ever delicate European balance of power, and her prosperity grew rapidly over the next six decades.

This has been the history and great achievement of Rumania, and the 10th of May has symbolized these moments of progress and victory. Today, however, the 10th of May receives no official recognition or celebration within the Communist-run nation of Rumania, and those who cherish freedom must restrain their joy. Freedom is stifled in this country, now behind the Iron Curtain.

Yet those of us fortunate enough to live in the free world can recall the days of Rumania's independence. In our hearts we celebrate the spirit of that independence.

PROLIFERATION OF GENERALS IN THE ARMED SERVICES

Mr. GOLDWATER. Mr. President, it seems that we have heard so many complaints about the so-called military industrial complex, the Department of Defense, and the man in uniform that many Senators have completely lost their perspective on some vital military questions.

For example, it has been the belief for some years now that the defense establishment of the United States was top-heavy in its number of generals and admirals. Even this year, in a report on the 1972 defense appropriations bill, the House Committee on Appropriations criticized what it called the "proliferation of generals and colonels in the armed services." It pointed out that the United States had 190 more generals and admirals today than it had at the height of the Korean war, and it then directed the Secretary of Defense to review the officer requirements of each of the services.

Mr. President, it is perhaps significant that it took an outside organization, the Army and Navy Journal, Inc., to conduct a study showing that the United States is—to use the Journal's exact wording—"badly out-generaled by its NATO allies and other foreign nations." Their study showed that the United States has 54 generals and admirals for every 100,000 active duty servicemen. By comparison, the Army and Navy Journal's report showed little Denmark had 55 top ranking officers per 100,000 servicemen; the Philippines 65, France 74, Spain 107, Greece 108, Canada 128, South Africa 145, the United Kingdom 186, Austria 188, Finland 237, Sweden 373.

Mr. President, because of the important light this article of the Army and Navy Journal sheds on an important aspect of our defense system, I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

U.S. GENERALS ARE BADLY OUTNUMBERED

The United States is badly out-generaled by its NATO allies and other foreign nations. The "general/admiral gap" shows up vividly in a Journal survey just completed.

For years, some members of Congress have made headlines carping about the "proliferation" of generals and admirals in our armed services. But a Journal survey of military rank structure world-wide shows that American generals and admirals are badly out-outnumbered—two-and-a-half to one, on the average, among fourteen countries which provided enough data for a meaningful comparison of flag and general officers as a percent of active duty strengths.

For every 100,000 Servicemen on active duty, the U.S. has 54 generals and admirals: Sweden, by comparison, has 373—almost seven times as many. Finland out-stars us by over four-to-one. Great Britain and Austria have close to 3½ times the U.S. average. Canada and South Africa outnumber us 2½-to-one, Greece and Spain two-to-one. Even Denmark out-stars the U.S. top brass, if only by two percent. Only one of all the nations surveyed, West Germany, shows fewer generals and flag officers per 100,000 Servicemen than the United States—47 for the Federal Republic of Germany, about 87 percent of the U.S. figure, 54.

Incidentally, the high ratio of generals to Servicemen obviously doesn't breed wars. Sweden, which has the most generals in relation to the size of its armed forces, has not been involved in a major war since 1814. At that time, a former French Marshal who was also Crown Prince, Marshal Bernadotte, led the Swedish forces to victory against Napoleon and Denmark, and later became King Charles Johann XIV.

An earlier Journal survey showed that what Congress refers to as the "proliferation of top ranking officers" is small potatoes by at least one other significant criteria, the U.S. Civil Service structure. Civil Service executive suites are manned by more than four times as many "supergrades"—GS–16s, –17s, and –18s equivalent to general and flag rank—as are military headquarters (August Journal, "Stars vs. Supergrades: Who's Ahead?"). At a time late in 1970 when military strength totaled 11% more than Civil Service ranks (2.87 vs. 2.57-million), there were 5,586 GS–16s, –17s, and –18s on the U.S. payroll, compared with only 1,330 generals and flag officers.

The Civil Service figure excluded 543 scientific and technical experts in the Department of Defense alone who are paid equivalent supergrade salaries by special acts of Congress, as well as 49 Presidential appointees in the $36,000-to-$60,000 bracket. Chief of Naval Operations Admiral Elmo Zumwalt made note of this point while testifying before the House Defense Appropriations Subcommittee on the "proliferation of top ranking officers" early in February.

The Journal survey of general officer versus active duty strengths was mailed to seventy foreign countries beginning last December. About half of the nations replied, but many of them with data too sparse to permit a meaningful comparison. The Soviet Union refused to provide any data, as did other Warsaw Pact countries.

Italy also declined to respond. A recent story in the Philadelphia Inquirer, however, said that Italy has more generals and admirals than all of Latin America (with under 1,000) and Africa (about 200) combined. According to the Inquirer, the Italian Army has "roughly 1,200 generals to command 295,000 troops and 76,000 carabinieri (national police under military command). This is one general per 309 men. In the Italian Navy, there are more admirals (number not given) than ships, submarines, and all other sea craft combined. The Air Force has 228 generals and 425 planes."

Spain, in contrast, was anxious to set the record straight. Data provided to The Journal show 310 general and flag officers against a total active duty strength of 289,098, or one "general" for every 933 Servicemen. This is about one-fourth the figure quoted by the Chicago Tribune late last year in an article which claimed that "Spain has more than 1,200 generals and admirals, about as large a group as the country's college professors."

Norway provided detailed active duty strengths, but said "General and flag officers: at present no available figures free to the public." Israel declined as well: "We are sorry we cannot answer your other questions because of disclosure policy."

OXFAM AMERICA

Mr. ALLOTT. Mr. President, I have recently received an impressive packet of information entitled "Anatomy of Oxfam America." This packet was sent to me by Oxfam America, Inc., our branch of the distinguished Oxford Famine Relief Committee of the United Kingdom.

Oxfam America is operating in the tradition of the parent organization, which was founded in 1942 to help World War II refugees. The principal current concern of Oxfam America is called "Oxfam Recognizes Bangladesh." The purpose of this campaign is to supplement the $6.5 million in cash and kind already raised for Bangladesh by Oxfam organizations around the world.

The campaign, which enjoys widespread support, especially among young Americans, is sure to be a success and a credit to all those who support it. I commend Oxfam America for its noble work in bringing idealism to bear on the miseries of mankind.

DEATH OF WILLIAM MAHER, FORMER ASSISTANT SERGEANT AT ARMS

Mr. JACKSON. Mr. President, my longtime friend Bill Maher, who served the Senate for 15 years as an Assistant Sergeant at Arms, passed away on April 29, 1972.

Bill and I shared the same hometown, Everett, Wash. He was born in New Castle, New Brunswick, but lived in Everett almost all his adult life. He was for many years active in the labor movement, serving as a vice president of the

Washington State American Federation of Labor. He also contributed his time and talents to Democratic Party affairs and public service in his hometown.

When Bill reached 65, he was not ready to retire, so he came to Washington, D.C., to serve the Senate until his retirement in 1970 at the age of 81.

Bill Maher was a good friend and helpful colleague who will be missed by all who knew him during his long and active life.

EMPLOYMENT AT KITTERY-PORTSMOUTH NAVAL SHIPYARD

Mrs. **SMITH**. Mr. President, yesterday my office received a letter from the executive director of the Maine Republican State Committee in which he reported rumors in Maine that "massive layoffs are due in the fall" at the Kittery-Portsmouth Naval Shipyard and asked my office to investigate the matter.

Inquiry was then made immediately to the Department of the Navy as to whether there was any truth in such rumors. A check was made by the Navy Department and on oral report was made in which an unequivocal refutation of such rumors was made. The Navy stated that there was absolutely no basis for such rumors and that no layoffs were planned or scheduled in the fall or at any future time.

It was only a week ago on April 27, 1972, that I disclosed the letter of the Secretary of the Navy of April 21, 1972, to me, stating that the current schedule being developed at the Kittery-Portsmouth Naval Shipyard will provide a stable workload for the shipyard throughout fiscal year 1973.

One can only wonder in the face of these assurances where and how these rumors start and circulate and the degree of responsibility of those who do start and circulate them. As in most cases, in this case they remain anonymous. Perhaps the explanation is that this is the political campaign season when motivated rumors run riot.

NOMINATION OF RICHARD G. KLEINDIENST TO BE ATTORNEY GENERAL

Mr. **BENNETT**. Mr. President, the Committee on the Judiciary has voted for the second time to report favorably to the Senate the nomination of Richard G. Kleindienst, and the committee report confirms the intentions of the majority of the committee members.

Now that the final actions have been taken by the committee, I urge the Senate to begin promptly its consideration of the nominee for Attorney General. The nomination has been pending long enough; the Senate should get on with its business.

There have been repeated threats by those who do not agree with the decision of the Judiciary Committee to lead a protracted floor fight to defeat the nomination, or return it to committee for further hearings. I find it difficult, if not impossible, to see what good can come from such tactics. The Judiciary Committee has conducted extensive hearings on the nomination, and nothing which came out in the hearings demonstrated that the nominee had behaved dishonestly or dishonorably in connection with the out-of-court settlements in the three ITT antitrust suits. There may be some questions about the testimony of other witnesses which some Members of this body may wish to pursue, but as the majority of the committee has indicated, there is no evidence of any wrongdoing on Mr. Kleindienst's part. If there are those who are not satisfied with the committee's action regarding the entire ITT affair and all of the testimony which was given by the various witnesses, then, perhaps, they may wish to pursue the investigation of ITT. However, the nomination of Mr. Kleindienst should not be held hostage to their desires to make political mileage out of the ITT case now that the Judiciary Committee has reported the nomination favorably.

The Constitution gives the Senate a voice in Presidential appointments by declaring that:

> The President shall nominate and by and with the Advice and Consent of the Senate, shall appoint.

The time has come for the Senate to act on this nomination. Those who wish to make a political sideshow out of the remnants of the ITT case should pursue their activities in a forum removed from the consideration of this nomination.

THE GENOCIDE CONVENTION: AMERICA'S SILENCE ON HUMAN RIGHTS

Mr. **PROXMIRE**. Mr. President, recently the Minneapolis Tribune printed an excellent article by Morris B. Abram, former United States representative to the United Nations Commission on Human Rights. As a distinguished civil libertarian, scholar and educator, Mr. Abram has perceptively described America's changing attitude toward violence and oppression in the world community. While once the United States unhesitantly upheld the rights of all men to life and liberty, now our voice for peace and freedom has grown nearly inaudible.

Mr. Abram's piece notes that the time has come for America to reaffirm her commitment to humanitarian principles and to stand by those international treaties which serve to protect those basic rights. One of those treaties which the U.S. Government should immediately endorse is the International Treaty for the Prevention and Punishment of Genocide. Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Minneapolis Tribune, Jan. 4, 1972]

AMERICA'S MUTE CONSCIENCE

(By Morris B. Abram)

NEW YORK.—The outrages perpetrated in South Asia should be seen in the perspective of other horrors of this century and the failure of a succession of American presidents even to raise an official voice in protest.

As the 18th century was one of enlightenment and the 19th one of industrial formation, the 20th may all too appropriately be characterized as the century of massacre.

Beginning with the pogroms in Russia and the genocide of the Armenians, the century has witnessed the killings and deportations of World War I, the Stalin ravages of the Kulaks, the Japanese pillage of China and the unparalled massacres by Hitler.

Post-World War II history has been but little better. The British retirement from India was the occasion for slaughter. The Indonesian revolution in the 1960s was accompanied by at least a half-million deaths inflicted by the most unspeakable means.

Less than three years ago, the Ibos were decimated by sword, gun and noose. Now, again, the Indian subcontinent is wracked with death, and American policy has succeeded in alienating all sides. Nor can we find solace in a position which, however lonely, is at least moral.

There was a time when America's voice was heard, loud and clear, in the name of humanity and against tyranny. In 1851, an American man-of-war rescued Kossuth, a Hungarian freedom fighter, and the American people gave him a tumultuous reception when he visited this country.

Post-World War II history has been but little better. The British retirement from India was the occasion for slaughter. The Indonesian revolution in the 1960s was accompanied by at least a half-million deaths

But the voice of our conscience has now too long been mute. Not once did we express our horror and disgust at the slaughter in Indonesia in any world forum. Nor have we raised a peep against the barbarities of our junta allies in Greece.

Quite the contrary; when a subcommission of the United Nations Commission on Human Rights asked in 1968 merely for a study of "some particularly glaring examples of . . . consistent patterns of violation of human rights" in Greece and Haiti, I, as the then U.S. representative to the commission, was required to withdraw even a mild resolution to look into the matter because of heavy pressure from our NATO ally.

America pays lip service to the principles of human rights set forth in the Charter and in innumerable United Nations declarations and covenants. But like others, we have grown accustomed to reining in our impulses where a narrow self-interest seems to dictate another course.

The executive has grown so callous that it was left for the House of Representatives, first through its Foreign Affairs Committee and then by House vote, to take the lead in proposing to deny military aid to the despotic governments of Pakistan and Greece.

While the President has authorized emergency relief for the Bengali victims, this frugal Care package will not stop the terror or make clear our moral position on the matter.

No state can lead in the development of human rights until it puts principle above expediency and is willing to have the standard applied to its own conduct. It is time that the United States makes international human rights a priority of foreign-policy consideration; that we announce that we shall call all shots as we see them against friend and foe alike.

Such a policy could not mean that we scrap alliances. An honest adherence to the spirit of our democratic heritage mandates an uncompromising respect for freedom and human life. When our friends commit gross violations of human rights, we must do the unusual of condemning and marshaling world opinion against these acts. And we should invite every other state to do the same when we are at fault.

In the United Nations particularly, we must resist the temptation to tailor our attitudes toward human rights in other nations to conform with foreign policy toward those nations. For as we exempt our allies and satellites and limit criticism to our foes, as we now do, we can hardly object when others follow our bad example.

What I propose would be new in recent history, but will help refurbish a badly tarnished American image. It might even make more practical sense than the current mispractice of realpolitik.

CHANCELLOR BRANDT'S OSTPOLITIK

Mr. CURTIS. Mr. President, Secretary of State Rogers will be in West Germany this weekend on the first stop of his overseas trip.

I well realize that it is not the Secretary's intention, nor that of the administration, that this visit should in any way be taken as expressing official or even tacit support of either side in the current West German government crisis. Nevertheless, it has come to my attention that, whether intended or not, the Secretary's visit is being construed as an expression of support for the Brandt government.

It is only natural that Chancellor Brandt, now that his coalition government is on the verge of collapse, would take every opportunity to wrap his policies in the cloak of U.S. support and to assure, for that purpose, that the Secretary's visit is so construed.

For this reason, I think it should be made absolutely clear that the United States is not taking sides in this internal crisis. For myself, I have grave reservations regarding Chancellor Brandt's Ostpolitik. I know that many of my colleagues share those reservations.

At a time when the Soviet Union is being severely criticized for meddling in internal German affairs and attempting to force ratification of the Moscow and Warsaw treaties by threats of renewed Cold War, we in this country should certainly be most circumspect about doing anything which could be construed as meddling on our part. Much of the criticism of the actions of the Soviets in this matter has come from the United States, and what is sauce for the goose is sauce for the gander.

LAMAR, COLO., DUDES AND DAMES

Mr. ALLOTT. Mr. President, it is refreshing these days to read of wholesome youth activities, and I would like to call the attention of the Senate to an organization in my hometown of Lamar, Colo., known as the Lamar Dudes and Dames. This cooperative square dance group of young people from 5 to 18 years of age has been cited for controlling juvenile delinquency and for contributing more than $12,000 to the fight against polio and other diseases.

Mrs. J. B. Spencer started the Dudes and Dames 21 years ago with a group of 10 youngsters. The demand for membership grew in fantastic numbers, and today there are 600 children from Lamar and from surrounding communities. Mrs. Spencer is still the director with the help of her husband, John. No child is refused membership because of lack of talent or coordination. The Spencers feel that those who are not so talented as others may need the training more than those who do have the talent. The Dudes and Dames have been featured in Look magazine and on national television. So that the Senate may know more of this unusual group, I ask unanimous consent to have printed in the RECORD a recent article about the group, published in the Lamar Tri-State Daily News.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Lamar (Colo.) Tri-State Daily News, Apr. 28, 1972]

GONE, FOR THIS YEAR, BUT NEVER FORGOTTEN—THE LAMAR DUDES AND DAMES

Lamar, Colo., a town of approximately 8,000 population, claims (and so far the claim has gone undisputed) to have more children (per capita) participating in a recreational square dance program than any other town or city in the nation.

This recreational organization embracing youngsters 5 to 18 years of age is known as the "Lamar Dudes and Dames." Originated in 1949 with 10 members, the group has grown to 600 members and available meeting time and space has forced the sponsors and director to limit membership to the 600. There is always a waiting list of youngsters anxious to belong.

Contrary to the experiences related by many leaders in other areas where youth groups formed, flourished for a short time and died an early death, the Lamar group has never experienced a lag in interest. Their only problem has been to find enough meeting time to include all who wish to join.

Any child in Lamar is eligible to belong—there are no tryouts. Instead, each child is encouraged to develop his own best level of dancing.

The "Cloggers," a nationally known faction of the organization, are all high school students and are much in demand for entertaining. Having traveled over most of the United States, this group is known for a very fast clog step which is done as they execute the intricate square dance figures, usually doing their own choreography. The exuberance of these youthful dancers and the unique and fast moving routines seem to delight audiences, wherever they appear.

Included in their major appearances was the World's Fair, Seattle, Wash., Ted Mack Original Amateur Hour on CBS TV, the Red Rocks Theater near Denver, Colo., and Colorado State Fair daily for the past 12 years, also eight National Square Dance Conventions including Oklahoma City, San Diego, St. Louis, Denver, Des Moines, Detroit, Miami, Beach and St. Paul, Long Beach, Indianapolis, Philadelphia, Louisville, and New Orleans.

The organization in 1958 received a special citation from Gov. Stephen McNichols of Colorado for their part in helping to control juvenile delinquency. By providing wholesome recreation for the young people of the community and for the money they have raised and contributed to fight polio, cancer and other diseases. In the past 12 years this amount is $12,000.

Each year the entire 600 dancers present a revue of many types of dancing in a varied program which draws an audience from several states. It is presented two nights in order to accommodate the people who wish to attend.

Look Magazine representatives photographed the entire group in action and included this unique program as one of the reasons for naming Lamar, Colo., as "All American City" in 1960.

ORGANIZATION

Each set has a "set mother" who works all year for her group. She attends classes when her set meets, calls meetings of the eight mothers concerned to plan the costuming for the revue and, in other words, she acts as committee chairman behind the set.

ORDER OF PROMENADE

First is the third grade, then second, then first grade set. Next in line are the fourth, fifth, and sixth grade; and the third group is made up of seventh, eighth and ninth grade students who come on under blacklight, a spectacular entrance.

New kindergarten and first grade dancers come next and the applause is always tremendous because this is called the Hokey Pokey group.

Blacklight comes on for the sophomores and the magic of the dancers is made a little more elusive.

Then to the music of "What Can I Do for My Country" come the juniors and seniors, strutting out, then doing a most fantastic clog, fast-paced, perfectly timed, beautifully choreographed.

Leaders of this promenade are George Baker and Gary Peyton. Following the entrance of all 600 dancers, Gary Peyton leads the audience and dancers in the Pledge of Allegiance.

Specials include dogs and a dog act, complete with trainers; elephants and donkeys as well as runners; the special number "Everything is Beautiful," done by 16 junior and senior girls from Wiley and Lamar; 12 first, second and third graders who danced to the call of Mrs. Spencer; ballroom dancing—which includes those in first grade and on up; and separate and tandem sets.

Of course it was a sell-out. Even Tuesday, April 25, when everything in Nature seemed to let loose in the wide and deep area from which these dancers came, they came—all except two, who had called in sick. And the audience was there both nights—just a bit late Tuesday but just as anxious to attend and to enjoy this once-a-year extravaganza.

J. EDGAR HOOVER

Mr. WILLIAMS. Mr. President, I join Senators in expressing my sorrow over the death of FBI Director J. Edgar Hoover, I was, indeed, saddened to learn that this vigorous man, as active as ever at the age of 77 years, had died.

While many people in our country often disagreed sharply with some of Mr. Hoover's activities and opinions, I believe most Americans had great respect for him. Certainly our Nation owes him its gratitude for the lifetime of devoted service he gave to this country.

Next Wednesday, Mr. Hoover would have marked his 48th anniversary as Director of the FBI. When he became Director in 1924, the FBI was an agency with several hundred employees and a poor reputation; at the time of his death he had built it into a vast and highly respected crime fighting network with more than 19,000 employees, including 8,500 agents.

It was Mr. Hoover's hand that guided the FBI as it grew from a fledgling operation into one of the world's most effective law enforcement agencies. He made sure that it was a thoroughly professional organization, entirely competent to enforce our Federal laws and to guard against subversive activities whether they were contemplated by Nazi saboteurs during World War II, by Communist agents in the 1950's, or by homegrown extremists of either the left or the right.

Whether one was a constant admirer of Mr. Hoover's or not, it can safely be said that the United States is more secure, and all of our citizens are better protected from criminal elements, because of his dedicated leadership as Director of the FBI; for this, we must say a sincere thank you, and mourn his passing.

THE VIETNAM WAR AND THE SALT TALKS

Mr. COOPER. Mr. President, I have today urged the President to take no action that would adversely affect the expected favorable outcome of the SALT talks.

Today there was a speculation report that the SALT talks might break down because of the Vietnam war. I do not believe this will occur.

The military situation in Vietnam is in a state of crisis, and it is evident that the forces of South Vietnam will be under severe attack for sometime. I am confident that President Nixon will carry out his constitutional responsibility to protect U.S. forces from imminent danger as he continues to withdraw U.S. forces from Vietnam, and I support him.

The President has stated that he is going to Moscow at the end of this month to meet with leaders of the Soviet Union to conclude the first stage of the SALT talks. It is expected that a treaty to limit ABM's to a very low level will be signed at that time, and an agreement to limit further deployments of offensive weapons will be entered into. The SALT talks are the most important undertakings that the United States is now engaged in throughout the world. Nothing—the Vietnam war, or any other critical situation—should be permitted to adversely affect the expected agreement.

It will be the greatest act of courage and statesmanship, in this time of crisis, if the President and the leaders of the Soviet Union remain firm in their effort to limit the dangerous nuclear armaments race.

I have confidence that the President will continue his efforts to reach agreement. I am sure that he will have the supports of Congress and the country in bringing the SALT talks to a successful conclusion in Moscow at the end of this month.

JUST LET US RUN THINGS

Mr. WILLIAMS. Mr. President, we all recall the crises in the securities industry in 1969 and 1970, which led to the enactment of the Securities Investor Protection Act and to the 2-year study of the industry now being conducted by the Securities Subcommittee of the Committee on Banking, Housing and Urban Affairs.

Another result of those crises was a demand for the strengthening of the Securities and Exchange Commission's oversight and enforcement responsibilities with regard to the operation of the self-regulatory organizations in the industry, including the New York Stock Exchange.

Until recently, the SEC itself seemed ready to press for greater authority in this area. However, there are now beginning to be expressions of concern in many quarters as to whether the SEC is seriously interested in obtaining or exercising this additional authority, and whether it is taking a truly independent view of what rules will best serve the interests of the investing public as distinguished from the interests of the brokerage firms.

I ask unanimous consent to have printed in the RECORD, an article entitled "Just Let Us Run Things," written by Philip Greer, and published in the Washington Post of April 24, 1972. I believe Mr. Greer's article expresses very well the bases for my own concern and that of others as to the SEC's willingness to provide firm and vigorous supervision over the brokerage business and the self-regulatory agencies in the public interest.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, April 14, 1972]

JUST LET US RUN THINGS

NEW YORK, April 24.—On the last day of 1971, the Securities and Exchange Commission, in a letter from chairman William J. Casey, asked Congress for additional powers over the country's stock exchanges. At the time, it looked like Casey and the SEC were beginning to flex a little more muscle and that was a welcome sign.

The feeling may have been premature. In his more recent statements, the SEC chairman has made it very clear that he has no plans for revamping the exchanges. In the debate over the future of the markets, the brokers and the exchanges are clearly the white hats and everybody else is a black hat—especially the mutual funds, insurance companies and other institutional investors who account for the lion's share of trading and the bulk of the brokers' profits.

Appearing at a question-and-answer "press conference" on stage at the Institutional Investor Conference last week, Casey spelled out his conviction that running and regulating the stock market is best left primarily to the brokers.

Delivering what amounted to his personal statement of position, Casey didn't exactly unleash a thunderbolt. There have been signs enough over the past few months. In January, the SEC issued its White Paper which, in essence, came out in almost blanket support of the position of the New York Stock Exchange which is, basically, that everything will be all right if you'll just let us run things our own way.

It wasn't put just like that, of course. But the commission did say that the membership rules, which allow members to go into just about any business they want, but prohibit anybody is another business from entering the hallowed halls of the exchange, are just about right.

Casey also said he sees no real reason for abandoning the fixed commission system for smaller investors, although he conceded that there would be no harm in a test. That goes beyond the exchange's position because they don't even want the test. It might work and the brokers wouldn't want to take that chance.

Last week, Casey was questioned rather closely on his willingness to keep the NYSE as the front line of regulation. He said the exchange has improved its procedures since the operational and financial crisis of 1968–70.

That's all true, but those are the symptoms and not the causes. The reason why the back office mess developed into a full-blown crisis—and the reason why the industry came to the brink of financial collapse—is simply that the NYSE refused to enforce its own rules when it meant going against the wishes of the brokers.

So far, nobody—not Casey, not NYSE president Robert Haack, anybody—has claimed that has changed. Nobody has said, much less demonstrated, that the Big Board is any more willing to enforce its own rules when members don't want them enforced.

That's the crux of the problem. The NYSE is, after all, nothing more than a trade association which happens to run a trading floor as part of its operations. It is owned and controlled by its members. It is run for their benefit—and when that ends, they'll stop paying the bill. The head man at the exchange—call him the president, the chairman or whatever—is a paid employee of the members.

There's nothing wrong with that. But no one can regulate the people who underwrite his salary. That's a job for somebody outside the exchange and that somebody should be the SEC, whether Casey thinks so or not.

COMPULSION OF BROADCASTERS TO PROVIDE TIME FOR COUNTER ADVERTISING

Mr. ALLOTT. Mr. President, great interest has been shown recently in the proposal by the Federal Trade Commission that the Federal Communications Commission compel broadcasters to provide time for counter advertising. Broadcasters see this quite rightly for what it is—a misguided expansion of the fairness doctrine and another unwarranted intrusion by an overzealous Government agency into their affairs.

The board of directors of the Colorado Broadcasters Association has adopted a resolution on behalf of all Colorado broadcasters which clearly explains the apprehension they feel and the reasons behind that apprehension. So that all Senators may benefit from the wisdom expressed by the Colorado broadcasters, I ask unanimous consent that the text of their resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION OF THE COLORADO BROADCASTERS ASSOCIATION

Whereas, The Federal Trade Commission has advocated that broadcasting alone, among all advertising media, should be compelled to sell time for counter-advertising that attacks broadcast commercials, and that broadcasters should be compelled to provide additional free time for such attacks, and that the sole basis for selection of broadcasting as the only affected medium is its government-regulated status, and

Whereas, This proposal by the FTC would cripple or destroy the financial basis which supports the entire broadcasting industry including the many free social contributions of broadcasters, because common sense and past experience shows that advertisers would not remain interested in advertising on a medium wherein they would be forced to pay for opponent's messages, and

Whereas, The advertiser would transfer expenditure of his advertising budget to other media, and

Whereas, This proposal by the FTC seeks to obtain through the rules or policies of the Federal Communications Commission a degree of power over broadcast advertising which Congress has not seen fit to grant to the FTC with respect to any kind of advertising, and would force on individual broadcasters a role that the FTC admits it cannot fufill, and

Whereas, This proposal would broaden the chaos that has already resulted from the FCC's and the Court's misguided and illegal expansion of the "Fairness Doctrine" into commercial broadcasting, and

Whereas, Broadcasters do not in any way seek to defend false and misleading advertising or any other form of advertising that is contrary to law, now therefore be it resolved, That the entire membership of the Colorado Broadcasters Association expresses its strongest feelings that counter-advertising would impose on broadcast licensees an impossible administrative burden, hold them responsible for their judgments in areas of controversy outside their competence, set them up for criticism from advertiser, counter-advertiser, and the general listening public, and would subject them to fines or the loss of license if the Federal Communications Commission or the Federal Courts later disagree with broadcaster judgments made under stress, all the while diverting broadcast time for counter-advertisements that ultimately will destroy the core of broadcast existence, the economic life blood of broadcast licensees and obliterate the advertiser-supported broadcasting system, and

Be it further resolved, That the Colorado Broadcasters Association strongly urges and implores the members of the Colorado Congressional Delegation to expend every effort in the defeat of this proposal, and to encourage their fellow legislators in the Senate and House of Representatives of the United States also to diligently and energetically work for the defeat of this proposal.

This resolution was passed by the Board of Directors of the Colorado Broadcasters Association on April 19, 1972.

NEED FOR FLAMMABLE FABRIC LEGISLATION

Mr. SCHWEIKER. Mr. President, on April 12 I introduced S. 3491, the Schweiker Flammable Fabrics Act Amendments of 1972 to toughen Federal requirements for fire-resistant clothing. Flammable fabrics constitute a serious health hazard for every person, and my bill is intended to speed up the Federal regulatory process so that we can insure that our clothing becomes fire-resistant.

My interest in drafting legislation relating to flammable fabrics began when a friend and constituent received serious burns in seconds when a lone spark from his fireplace ignited his shirt and engulfed it in flames. Unfortunately, this type of accident is all to common.

Recently the Pittsburgh Post-Gazette published a report of a woman who suffered burns over 50 percent of her body when her nightgown caught fire.

So that Senators and their constituents might gain a broader understanding of the gravity of the flammable fabrics problem, I ask unanimous consent that the Post-Gazette article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BURN VICTIM SPED HERE IN RACE AGAINST DEATH

A 62-year-old Cumberland, Md., woman was fighting for her life at Mercy Hospital last night after a race with death from her home where she suffered burns over 50 percent of her body after her nightgown caught fire.

Mrs. Estelle Jewel was whisked to Mercy in about 3½ hours by ambulance after Cumberland hospital officials turned down an evacuation plane from the Air National Guard in Pittsburgh because of the woman's critical condition.

The C-121 medical evacuation craft with a full crew aboard was about to leave Pittsburgh when Cumberland officials changed plans.

A Mercy Hospital spokesman said Mrs. Jewel was receiving specialized treatment under the direction of Dr. Charles E. Copeland, director of the burn center and chief of surgery at the hospital.

Mrs. Jewel arrived at the hospital unconscious about 3 p.m. attended by nurses Mary Seller and C. Wilhelm who accompanied her in the ambulance, the spokesman said.

Members of her family were reported en route to the bedside of Mrs. Jewel, who lives alone.

Mrs. Jewel's nightgown is believed to have caught fire while she was smoking.

She was taken to Memorial Hospital in Cumberland, where no special burn treatment facilities exist, according to Mercy spokesmen.

OSHA OVERSIGHT HEARINGS WILL HELP

Mr. HANSEN. Mr. President, on several occasions I have called the attention of the Senate to the burdens which have been placed on employers as a result of the Occupational Safety and Health Act of 1970.

I support the purposes of the act, but cannot condone the cumbersome and often irrelevant rules and regulations with which employers are being asked to comply. Not only are the standards so voluminous that they require days of constant reading, but they are so technical that they are often difficult for the layman to understand.

In spite of these problems, Occupational Safety and Health Administration inspectors inspect work premises, issue citations, and fine the employer on the spot without giving him an opportunity to comply. These penalties are not imposed only in the case of serious violations, as required by law, but in the case of lesser violations as well.

In light of these circumstances, I wish to thank the chairman of the Committee on Labor and Public Welfare for his decision to schedule legislative oversight hearings to review the Occupational Safety and Health Act of 1970. It is my hope that persons who have experienced problems with the provisions of the act and the enforcement of the rules and regulations will make the facts of their specific cases available to the committee either by testifying in person before the committee or submitting their experiences to the committee in written testimony for inclusion in the hearing record.

These hearings offer the American people the opportunity to convince Congress and the administration of the need for change. I hope that all citizens will take advantage of that opportunity.

EXECUTIVE DEPARTMENT—INTERNATIONAL ECONOMIC POLICY

Mr. JAVITS. Mr. President, in recent days, Secretary of State William P. Rogers and Assistant to the President for International Economic Affairs Peter M. Flanigan have made excellent speeches on the international economic problems and opportunities facing the United States. These speeches are particularly germane to the debate now underway in the United States concerning the future shape of our trading and monetary relations with our major trading partners in the free world—debates which will help influence the major trade legislation which is likely to be before Congress in 1973.

I am encouraged that both the Secretary of State and Presidential Assistant Peter Flanigan firmly reject the idea of an inward-looking United States retreating behind protectionist walls.

Secretary Rogers warned that—

> In "walling out" imports we would run the grave risk of "walling in" the very U.S. exports that we want to encourage. Building protectionist walls may seem very tempting, but it leads inevitably to retaliation and counter-retaliation. Today no single country, no matter how powerful can succeed in a unilateral policy of beggaring its neighbors or of exporting its "domestic adjustment" problems. It could be disastrous to our national interest to abandon our commitment to a more open world in which our economy, above all others, has flourished.

Peter Flanigan's fine speech outlines the threat that economic isolation would pose to the health of the U.S. economy. He said:

> One factor which threatens to undermine our foreign economic policy is the persistence, and perhaps even the growth, of irrational protectionism—an economic isolationism. This economic isolationism holds that the United States can no longer compete, even if the rules are fair; that expanded trade may have been good in the past, but that no matter what the terms it is suspect in the future. This philosophy is currently reflected in several pieces of legislation proposed to the Congress. Perhaps the principal example is the Foreign Trade and Investment Act of 1972, known informally as the Burke-Hartke Bill.
>
> The Bill shares an Administration objective—more jobs for American workers. Its failure stems from the premises on which it rests. It is our belief that the Bill would result in fewer jobs, lower real wages, and higher prices for the American consumer.

Mr. Flanigan's speech then goes on to provide a detailed analysis of the foreign trade and investment bill of 1972—the so-called Burke-Hartke bill.

I commend these two speeches to the Senate and ask unanimous consent that they be printed in the RECORD.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

ADDRESS BY THE HONORABLE WILLIAM P. ROGERS

It is a privilege to be here this morning and to address the annual meeting of the Chamber of Commerce. President Nixon has asked me to convey to you his greetings and best wishes for what will surely be a successful and significant meeting. Your program is most timely in that it quite properly connects national progress—and in a very real sense international progress—with the success of American business enterprise.

Your theme is "The World Is Your Main Street." Two generations ago Sinclair Lewis wrote a book called "Main Street" in which he dwelt on the provincialism of American life as he had known it growing up in Sauk Center Minnesota.

Nowdays, few social critics write about small towns or at best write about them with a sense of nostalgia. In a relatively short time many of our towns have become cities or suburbs of cities and many of our Main Streets have lengthened into interstate highways. Electronic communications and jet travel take a little notice of frontiers and national boundaries, and the provincialism of "Main Street, U.S.A." has given way to the assured sophistication of the theme of your meeting here today.

It is quite surprising that all of us have made the practical and psychological adjustment as well as we have. I venture to suggest that this adjustment was possible because we applied to the world, as our horizon expanded, many of the principles of Main Street, U.S.A. They are the same principles that President Nixon is applying to our international economic policy.

The first is a sense of community responsibility. I believe that we have shown this responsibility in the Marshall Plan which helped revive a war-ravaged Europe, in our efforts to assist Japan, in our aid to less-developed countries, and in our willingness to join with others to stimulate international economic well-being and social improvement. Now that other countries have made good use of their opportunities and have achieved unprecedented prosperity, it's a new ball game—or if they prefer, a new soccer match. Thus it is that we expect them more fully to share with us the responsibility for the free community as a whole.

A second principle is a sense of fairness among neighbors. Good neighbors recognize the necessity of shared responsibility. International behavior must be governed according to rules of fair trade and good international business practice. We intend to insist on this.

A third principle for any dynamic community—local or international—is a determination and zest to grow. In a nation an important role of government is to give encouragement and scope to the human initiative, creativity, and energy which produce growth. In the world the role of the international economic system is to give similar encouragement and scope, for rich countries and poor countries alike to develop and grow in an interdependent environment.

Thus these principles—a sense of common responsibility, a sense of fair treatment, a determination to encourage constructive growth—are as sound for international economics as they are for business on Main Street. They helped to build the post-war international economic system from which all have benefited.

Today that system is in need of repair. It was created at a time when the United States had few economic competitors and when our help was essential to stimulating the economics of others. Now that these conditions have changed, the continuing inertia of the system has put both our trade and our payments position on the critical list.

1971 proved that abrupt and major adjustments were needed. President Nixon's New Economic Policy which was announced on August 15 was followed by the so-called Smithsonian Agreement of December 18. Thus it is that today we have a new pattern of exchange rates more favorable to the United States—a change which was long overdue. We recognize, of course, that it will take time to improve our balance of payments. And we must not forget that the key to a substantive and lasting improvement is increased productivity, efficiency and ingenuity by American private enterprise. Without these no amount of government effort will prevail. But now that the exchange rate adjustment has been made, we have the opportunity, and it is up to American business to take full advantage of it. I have every expectation that you will.

It is right that Americans should take our international economic problems seriously, but it is also right that we should put them in the perspective of our overall economic success. There is a lot of hand wringing about America's economic future. I don't subscribe to it. Since becoming Secretary of State, I have travelled to 42 countries, and there is no doubt that our economic system and our economy—whatever their problems and however much they are in need of solution—are the envy of virtually every nation and of most thoughtful people in the world. And no wonder, when you look at the facts—for example:

With only one twentieth of the world's population the United States accounts for one third of its total output of goods and services.

Our annual gross national product is twice that of the second-ranking country, the Soviet Union.

Our annual exports are only four percent of our GNP, but those exports alone are more than the total annual GNP of all but nine of the world's nations.

One dollar out of every seven generated by world trade comes to this country in payment for American exports.

U.S. direct foreign investment totals nearly $80 billion. It is four times that of Great Britain, the next largest foreign investor, and 60 percent of all world-wide direct foreign investment.

According to one estimate of all the goods and services produced outside the United States, the foreign operations of U.S. firms account for fully one-eighth of it.

It is difficult even to grasp the magnitude of such an economic performance. And we are still growing. During 1971, despite inflation, unemployment, and our international problems, our GNP in real terms grew by $30 billion—a figure itself higher than the annual GNP of 90 percent of the countries in the world.

As we set about the task of restructuring the international economic system, therefore, there is as little room for recrimination as there is for complacency. The task is too important for either.

With three million American jobs directly dependent on exports, with our increasing import needs—for example, in petroleum and minerals—and with our enormous investments abroad, we have a large stake in a world economy which is both expanding and equitably regulated. Over a year ago, in my first foreign policy report to Congress, I said that economic policy would play a far larger and more vital role in U.S. foreign policy. It is playing such a role, and there can be no doubt that the trend will continue throughout this century.

President Nixon's visits to the People's Republic of China and the Soviet Union, his determination to reach a SALT agreement, his troop withdrawal policy in Viet-Nam, his successful efforts in bringing about a cease-fire in the Middle East, his fidelity to U.S. commitments throughout the world—all these have created greater opportunities for a more peaceful and stable world. But we simply cannot maintain a constructive foreign political policy unless it is based on a sound American economy.

Some segments of the American business community may still believe that the State Department tends to represent foreign interests at the expense of American interests. Nothing could be further from the truth. We are the people who sit where domestic and foreign considerations intersect. I have—and I believe my associates have—a deep conviction that a healthy and competitive American economy is our number one asset in U.S. foreign relations. Thus, the fundamental objective of our foreign economic policy is to assure the international conditions of competition and cooperation which can keep our economy strong.

To accomplish this, we must pay greater attention to economic matters and pay particular attention to our relations with our major economic partners—Canada, Japan, Mexico, and the states of western Europe. These countries are at once our friends, our allies and our competitors. They are the best customers for our exports and they sell us most of our imports. They are the host countries to two-thirds of our overseas investments.

These extraordinarily close economic ties grew up in a post-war period distinguished by a rapid growth in the flow of goods and capital across national borders. During the post-war period tariffs world-wide were cut by 75 percent. Let us not forget what this openness meant to our economy. Between 1950 and 1970 U.S. exports increased four-fold. U.S. direct investment abroad increased six-fold.

Even against this background there are some Americans in the business community, in Congress and elsewhere who believe we should turn to protectionism to correct the current inequities in our trade and payments position.

I profoundly disagree.

Robert Frost once wrote: "Before I built a wall I'd ask to know what I was walling in or walling out." In "walling out" imports we would run the grave risk of "walling in" the very U.S. exports that we want to encourage. Building protectionist walls may seem tempting, but it can lead to retaliation and counter-retaliation.

In negotiating such a new international system with our major trading partners, however, we must and will apply the principles I spoke of earlier—a sense of community, fair treatment, and a desire for constructive growth. In this connection our competitors point to our past economic successes for example, while they recognize the problem of our trade deficit.

They point to the fact that we ran consecutive surpluses for the 77 years before 1971. They must, however, fully understand and respond constructively to the stark fact that our trade deficit for the first quarter of 1972 was $1.5 billion—an historic high. We cannot go on this way. All of the nations involved must understand and appreciate that openness in one direction means openness in both and that negotiation is a two-way street. And we must advance our own interests forcefully and without apology but in such a way as to strengthen the fabric of community, not to weaken it.

Our trade partners must see that it is in their interest for the international monetary and trade system to provide a reasonable equilibrium. It is a challenge to wise statesmanship to bring this about.

We have a responsibility toward our neighbors in the world community to maintain our own economic house in good order, and to see that we do not create unnecessary problems for other people in the international community. They have a similar responsibility toward the community and consequently toward us. Problems cannot be solved by making speeches at each other domestic political advantage. We can solve them only by working together pragmatically, realistically and in a spirit of cooperation. Peace—whether political or economic—is constructed patiently, little by little. It is a fragile structure, needing constant attention and repair. At the heart of that structure, however, must be the principle of freer trade. We must accept that fact and others must honor it, in both word and deed. The world of the future will not flourish behind walls—no matter who builds them and no matter what their purpose. A world divided economically must inevitably be a world divided politically. As Secretary of State I cannot contemplate that prospect with anything but deep disquiet.

The State Department is deeply engaged in the effort to strengthen the international aspects of the American economy.

First, we are stepping up our efforts on behalf of U.S. exports. We now have some 450 officers in our missions abroad engaged specifically in commercial and economic activities. A number of your overseas members have testified to the value of their work.

To cite only one example, it was largely due to the initiative and follow-through of the U.S. Embassy in Tokyo that the American coal industry obtained agreements resulting in sales to Japan of over $1 billion of coal over a 10-year period.

In this regard, I should note the efforts we have been making within the Government to improve trade in Eastern Europe and the Soviet Union. As many of your know, the Department is now negotiating with the Russians a settlement of their old Lend Lease debts. If we can get a reasonable settlement, then we can look forward to a serious examination of the prospects for increased trade with the Soviet Union—where I think there are very substantial markets for our technology and heavy equipment. And we look forward to the day when trade with the People's Republic of China will develop and grow.

In a recent letter to every American Ambassador I reemphasized my conviction that export promotion is not just the responsibility of the specialists but of everybody in the mission, from the Ambassador on down. On the whole, I think our record has been good. Apart from our positive contribution to specific contracts, there have been literally hundreds of occasions when our diplomats have stepped in and quietly but very effectively persuaded other governments not to take action or adopt policies harmful to American business interests. For diplomatic reasons, we cannot shout from the housetops about these successes—but many of you here have reason to appreciate them.

And I have directed Bill Armstrong, our new Assistant Secretary of State for Economic Affairs and, as you know, the former President of the United States Council of the International Chamber of Commerce, to give high priority to export promotion and to our ties with American business. I might say, in this regard, that our commercial services to American business can play a relatively more important role in helping you in those areas of the world where you don't have established contacts and marketing services. Japan, Europe, Latin America are familiar ground to many of you. The Middle East, Asia and Africa may not be to you. We would be happy to cooperate with you in connection with those areas of the world.

Second, we are working to promote the interests of American commerce on a wide range of specific issues which rarely make headlines. For example, over the past five years the State Department has concluded 28 bilateral air transport agreements opening new markets for U.S. carriers. And we have worked closely and successfully with the major oil companies on some of the recent international problems. We are working to ensure that actions which we or others may take during and after next month's U.N. Environment Conference do not put U.S. business at a competitive disadvantage. In preparation for next year's U.N. Law of the Sea Conference we are seeking international support for concepts which take full account of the interests of our fishing industry.

Third, we are doing all we can to help the American overseas investor, who may encounter serious problems in dealing with other governments. We cannot always solve the problem to everyone's satisfaction—and we do not want to interfere with private business if it prefers us to keep hands off. But we do consider the protection of American interests abroad as one of the basic and most important responsibilities of the Department of State and the Foreign Service.

Fourth—and perhaps of greatest current significance—we are strongly committed to the continuing effort to reform the international monetary and trade system.

The U.S. Government seeks a monetary system which permits necessary adjustments to be made promptly and which can be used as a mechanism for greater balance of payments equilibrium. We are cooperating fully in the efforts of the Treasury and others in the Executive Branch to achieve such a system.

Trade liberalization has been a consistent U.S. policy ever since Secretary of State Cordell Hull's reciprocal trade program of 1934, and the State Department has consistently been in the vanguard of our national efforts to lower barriers. Early this year we helped to negotiate some reduction in barriers to our exports to the Common Market and Japan. But there is a more fundamental need to make a broad attack on remaining barriers to world commerce. Thus we look forward to the negotiations to deal with tariff and non-tariff barriers contemplated for next year within the General Agreement on Tariffs and Trade. These negotiations should improve our competitive position within an enlarged European Community. They should also assure the general growth of world trade and assure the United States a fair chance to share in that growth.

As we move toward major monetary and trade negotiations, it is well to keep in mind that we ourselves will benefit greatly from an international economic system in which all are treated equitably and from which all can benefit. As President Nixon said in his speech to the Canadian Parliament two weeks ago: "Peaceful competition can produce winners without producing losers; . . . success for some need not mean setbacks for others; . . . a rising tide will lift all our boats."

Thus it is in a cooperative as well as a competitive spirit that the President and his associates in this Administration approach our international economic problems. A peaceful and cooperative world is vital among U.S. national interests. We are totally determined not to fall behind in our efforts to advance those interests and to contribute to bringing about such a world.

Let me make a final observation. I have spoken today of the role of government in our international economic affairs. We think it is an important role and we are determined to make it an effective role. Government can set a congenial framework for economic activity and it can help stimulate that activity. But it is not the government that makes our economy work. It is, I think first, a sound democratic political system based on free enterprise and, second, the resourcefulness of the individual American.

There are some—particularly in other countries—who tend to attribute our success solely to our wealth. They fail to appreciate the fact that our wealth came from our efforts not from money trees, that what we have we earned and that the achievements of our nation resulted from the character and the determination of the American people. In following the superb performance of the astronauts of Apollo 16, I was reminded of this fact. Money was required to put these men on the moon, but it isn't wealth that accounts for the dedication, the ingenuity, the stamina, and the courage that our astronauts and their associates possess in such abundance. It is the spirit and the dedication of men which has made our space program the marvel of our age.

So it is with the performance of our economy; it is the human qualities that count. And it is the human qualities that are again needed for us to achieve our full economic potential, both at home and abroad. The task is primarily yours—Americans who are engaged in business and commerce. I have no doubt that you will be equal to it. And I want you to know that, in foreign policy as in domestic matters, you have the strong, dedicated and enduring support of the Government of the United States.

A Look at International Economic Policy

(By Peter M. Flanigan)

1971 was a watershed year for the free world economy. There was a fundamental break with the past; a new course was set for the future. The President undertook a series of far-reaching measures to strengthen our international competitive position and to set the stage for long-term reforms in the international economic system. Let us first consider the major accomplishments already achieved and then where we want to go and how best to get there in the international economic area.

ACCOMPLISHMENTS TO DATE

The nation has, since 1957, suffered a continuing balance of payments deficit. By the middle of last year these deficits culminated in a damaging foreign exchange crisis. On August 15th the President announced a major new program of domestic and international economic measures.

The broad goals of the President's New Economic Policy were: (1) to stimulate economic growth in order to provide more jobs at higher levels of real income for American workers; (2) to curb the inflation so costly to the American consumer; and (3) to strengthen the nation's international economic position.

To reach the latter goal, he imposed a 10% surcharge, since removed, on imports, closed the gold window preventing the convertibility of dollars into gold, and called for a realignment of exchange rates. His domestic anti-inflation efforts, so important to maintain a healthy economy at home, also will contribute to a stronger international competitive position.

The end result of these actions was the Smithsonian Agreement in December 1971 in which we agreed with our major trading partners on a realignment of exchange rates, revaluing their currencies against the dollar by about 13%. The most significant trade components of the monetary and trade package were the immediate unilateral lowering of barriers to our exports by Japan and the European Community, and their commitment to begin multilateral comprehensive trade negotiations during 1973.

To improve the competitive position of American industry and its workers, the President proposed and Congress passed the Revenue Act of 1971. This established the 7% job development tax credit and new tax provisions for Domestic International Sales Corporations. These DISCs provide American industry and its workers with tax treatment comparable to competitors abroad, giving a strong inducement to build plants and provide jobs at home to serve export markets. More than 1,100 firms have already filed DISC plans with the Internal Revenue Service.

The President also directed that particular "sore spots"—industries and workers suffering special problems as a result of imports—be given special attention. As a result, at the end of last year the four major textile exporting countries in the Far East agreed to limit the growth of their textile exports to the United States—agreements that had been sought since the Kennedy Administration. Italy agreed to monitor the growth of shoe exports to this country, keeping them at a level to which our industry and our workers could adjust. And after two years of intensive negotiations, the major steel exporting companies in the free world seem close to agreeing to limit the growth of steel exports to the United States. All of these agreements have been reached on a voluntary basis, avoiding restrictive legislation with its inevitable consequences of retaliation by our trading partners.

Finally, we have improved our enforcement of anti-dumping laws. It is essential that these laws be something more than a minor deterrent to some foreign producers who would compete unfairly. The Treasury has speeded up its investigative procedures. The number of headquarters staff assigned to anti-dumping cases have been quadrupled and new positions have been created abroad.

The time it takes to assess a dumping complaint has been reduced from six months to one. The Treasury has reached its first goal of completing anti-dumping cases on the average of one year, compared to two years or more in the past. Treasury's next objective is to cut the time needed for the handling of normal cases to 270 days.

The Administration's objective is to create a responsive and fair system of investigation, one that assures prompt and effective protection to domestic workers and industry from destructive international price discrimination.

PERIOD OF TRANSITION

The Administration's progress to date in the international economic area has been substantial; yet I should remind you that this is a period of transition. Transition not from an era of free trade to an era of protectionism—not from an era of looking outward to one of looking inward—but rather transition from the post World War II period of American dominance in world economic affairs to one of greater equality. This calls for the establishment, if you will, of a Nixon doctrine for our economic relations, recognizing the new realities of America's competitive position much as the Nixon doctrine recognizes the new realities in foreign affairs.

These new economic realities have been in existence for some time. Until the President's actions, however, many government policies failed to recognize their existence. For a number of years the pressing tensions resulting from the Vietnam War had distracted us from important decisions required in other areas of national policy. Plainly, the time has long since passed when American resources were such that we could afford to give more than we got. The time has come to insist on equity in our international economic dealings with our major trading partners. This was the basis of our 1971 agreements, and will be the basis for future agreements.

In 1972 we will be preparing for the negotiations to create a new monetary system for the free world. We will also be preparing for next year's trade negotiations. In the monetary arena, the forum for negotiations first must be agreed upon. In preparing for trade negotiations we first must define our goals. Given the fundamental requirement of equity, what agreements can we reasonably expect from the next round of trade talks. Having defined this goal in detail, we must then develop our negotiating strategy for getting there. And finally we will need legislation to give the President the authority to implement the strategy. In reaching these positions we in the Administration will be working with both the Congress and the private sector. The outcome will be the product of all of us. Given the scope of this undertaking, including the necessity of getting legislation through the Congress, it is easy to see why the second half of next year is the most realistic time for the opening of detailed, give and take trade negotiations.

THREAT OF ECONOMIC ISOLATIONISM

One factor which threatens to undermine our foreign economic policy is the persistence, and perhaps even the growth, of irrational protectionism—an economic isolationism. This economic isolationism holds that the United States can no longer compete, even if the rules are fair; that expanded trade may have been good in the past, but that no matter what the terms it is suspect in the future. This philosophy is currently reflected in several pieees of legislation proposed to the Congress. Perhaps the principal example is the Foreign Trade and Investment Act of 1972, known informally as the Burke-Hartke Bill.

The Bill shares an Administration objective—more jobs for American workers. Its failure stems from the premises on which it rests. It is our belief that the Bill would result in fewer jobs, lower real wages, and higher prices for the American consumer.

Supporters of the Bill hold that U.S. firms invest heavily abroad to produce goods for the U.S. market. In their view, this is "double jeopardy"; jobs are lost because investment made abroad could be made at home and then imports from these investments take their toll in domestic employment. From this they argue that imports should be drastically reduced, that the foreign investment activities of Americans should be regulated, and that the tax laws should discriminate against foreign production.

IMPORTS AND EXPORTS

Let us examine those premises. First, it is contended that the U.S. is being heavily supplied by imports from foreign subsidiaries of American parents. The fact based on most recent figures, is that only about 14% of U.S. imports came from foreign subsidiaries of U.S. companies. And if you exclude imports of cars and parts from Canada under the special auto agreement, only about one-half of foreign subsidiary imports remain. On the other hand about one quarter of our merchandise exports, or an estimated $10 billion, go directly to U.S. foreign subsidiaries, creating more than half a million domestic jobs. Legislation destructive of U.S. foreign subsidiaries would eliminate a natural market for many of our current exports. Jobs at home could be lost, not gained, by restricting foreign investment.

Most of U.S. foreign affiliate sales occur in the country where the facility is located. Latest available data indicate that 78% of sales by U.S. businesses abroad are made in the country of residence, 14% to third countries, and only 8% to the U.S. Obviously, the "import problem" and the supposed loss of jobs cannot be sweepingly ascribed to American foreign investments or the foreign subsidiaries of U.S. companies.

Critics of the multinational firm in particular, and direct foreign investment in general, argue that foreign markets should be served by exports from the U.S. and not by overseas subsidiaries. In their view, both exports and domestic employment would benefit and there would be no "exporting" of jobs. But this analysis assumes that foreign markets are ours for the taking. On the contrary, as every aggressive businessman already knows, it is often necessary for firms to locate abroad physically to serve overseas markets; that it would be dfficult, if not impossible, to supply many foreign markets by exporting domestic production.

U.S. firms manufacture abroad to meet foreign standards and marketing requirements, to move behind tariff and non-tariff barriers, and in some cases to meet foreign demands for local production. U.S. firms abroad participate in growing foreign markets that would be difficult or impossible to reach by simply exporting products manufactured domestically.

FOREIGN INVESTMENTS AND THE BALANCE OF PAYMENTS

Because of the outflow of funds for direct foreign investment—about $5.5 billion in 1971—some at home echo the complaints of some abroad that this is the cause of our balance of payments difficulties. Again the premise is wrong—it overlooks the benefits to our balance of payments generated by such investment. The return flow of earnings far exceeds the capial outflow. Last year that return flow amounted to $7.3 billion, so the net effect of our foreign investments was a surplus of almost $2 billion accruing to our international accounts. This surplus plays an important role in maintaining U.S. strength in world commerce and finance. It would be a grave error to undercut this long-term source of strength.

QUOTAS AND JOBS

Legislation currently before Congress would place mandatory quotas on all imports that do have their counterpart in some U.S. production or are not already restricted. Proponents argue that setting quotas would regulate the unemployment supposedly caused by the recent "drowning" of our country in foreign goods. Again let us look at the premise.

During the sixties, imports did grow about 1½ times faster than the economy, while exports increased only slightly faster than our GNP.

Supporters of the legislation argue that this cost more than half a million U.S. jobs. Apparently, this figure was derived by subtracting real employment gains from export growth from hypothetical employment gains that might have been created were it not for import growth. But this is comparing the apples of real employment with the oranges of hypothetical employment. As the Department of Labor has noted, it simply does not follow that because imports *might* have been produced domestically they *would* have been.

To shift domestic resources to produce import substitutes would substantially raise prices for U.S. consumers. There would be difficulties in finding the skills and facilities at home for import substitution. For many products, if consumers were denied access to imports, they might simply not buy for reasons of cost, style and the like. Given these reasons and the certainty that U.S. costs and prices would be higher than those of imports, it simply cannot be fairly concluded that 500,000 jobs were "lost" because of the rapid growth of imports compared to exports.

The notion that limiting imports would improve U.S. employment also ignores the estimated 1.2 million jobs associated with domestic marketing and processing of imports. And some of our imports contain materials and parts originally exported from the United States—automobiles from Canada, products containing U.S. electronic components, and even textiles finished abroad using domestic cotton.

Most importantly, as the record clearly shows, any comprehensive program to curb U.S. imports would immediately be countered with programs abroad to reduce our exports and the jobs associated with our foreign sales. Domestic jobs simply cannot be saved by arbitrarily restricting imports.

The Burke-Hartke Bill proposes quotas on all imports on a category-by-category and country-by-country basis. The quotas would be equal to the average annual imports during the 1965–1969 period.

Preliminary figures show that this would result in an import cutback, from 1971 levels, of $2 billion from the European Community, $2.6 billion from Japan, and $3.6 billion from Canada. These countries are major buyers of our exports, in 1971 we shipped $8.3 billion to the European Community, $4 billion to Japan, and $10.1 billion to Canada. Overall, the Bill would require a reduction of 25%, or $11 billion, in our 1971 imports of about $45 billion.

Our trading partners clearly could not and would not take this massive restriction of their exports lying down. Indeed, they would have a legitimate grievance. They would retaliate in kind, as they have in the past, with the result that tens of thousands of higher paying jobs associated with U.S. exports would be wiped out, forcing massive adjustments and dislocations on the U.S. economy. If retaliation was comparable in size to the proposed restrictions, one-quarter of our exports, or about $10 billion in 1971, could be cut off. And most of the burden would be borne by American workers, the very people the quotas in theory are designed to help. Surely the economic history of Smoot Hawley and the 1930's teaches us that shrinking trade costs jobs while fair and expanding trade creates jobs.

U.S. PATENTS

The Bill would also limit a U.S. patentholder's right to produce the patented product abroad or to license someone else to produce it in a foreign country. Effects on U.S. patent holders could be drastic. Controls on the flow of commercial technology would greatly limit U.S. marketing flexibility. Given the skills in science and research now available to foreign producers, the result would simply be to reduce the value of U.S. inventions.

Many foreign countries have patent laws that do not protect foreign patents which are not used in local production. Under the proposed legislation, therefore, patent holders would be denied royalty income as well as protection against infringement that results from a patent being licensed to a foreign producer. In short, withholding the use of a U.S. patent would not generally stop the transfer of know-how; it would, however, shift production away from American firms to foreign firms. In turn, this would cause a loss of our competitive strength. Finally, denying our inventors the right to exploit their patents abroad could again provoke retaliation in kind by foreign governments, and thus prevent the U.S. from obtaining and using foreign inventions.

There are, to be sure, inequities in the international rules governing technology transfer, particularly in the present requirements imposed by Japan for the sharing of patents as consideration for participation in joint ventures. And some countries will not recognize patents on imports, but will only recognize them when the patent is exercised in local production. The problem of technology transfer needs resolution, but the proposed legislation is hardly the way to go about it.

INVESTMENT AT HOME AND ABROAD

Finally, let us look at the Bill's tax proposals. It would change the tax laws under which direct foreign investment is conducted, with the objective of denying the so-called "incentives for foreign investment" of those laws. Under present law, the earnings of U.S. subsidiaries abroad are generally not taxed until they are sent back to the parent, and foreign taxes paid by subsidiaries are generally allowed as a direct credit against American income taxes on income earned overseas.

One proposal would eliminate the deferral of U.S. taxes on earnings of foreign subsidiaries and would treat foreign income taxes as an expense but not as a credit against U.S. corporate income taxes. Some believe that the deferral and credit provide an incentive for investment abroad at the expense of job and investment at home. The premise is that removal of these presumed incentives would return investment to the U.S., thereby increasing domestic employment. Again let us examine that premise.

Allowing credit for foreign taxes is provided for in thirty bilateral treaties as a way to preclude double taxation of income. To change the treatment of foreign taxes as a credit would be inconsistent with those treaties, go against tax equity, and produce double taxation, effectively raising the tax liability on income of U.S. foreign subsidiaries by about 50%.

The credit and the deferral of taxes on foreign income enables U.S. foreign subsidiaries to compete on even terms against foreign firms in foreign countries, and to compete with them in third countries. Eliminating their deferral would diminish their comparative strength. However, about two-thirds of the earnings of foreign subsidiaries are already returned to the U.S. annually, so the deferral does not create a huge tax free profit.

The deferral and tax credit are not so much an incentive, but a way to enable these U.S. firms to compete.

Rather than discouraging Americans investing in foreign countries, we should increase our efforts to attract foreigners to invest in the United States. The recent currency realignment is a major step in that direction. The result of foreign investment here will be more jobs for Americans and an improvement in our balance of payments.

An examination of the facts and figures of direct foreign investment confirms the fallacy of the premise that foreign investment is a major substitute for domestic investment. Comparing direct foreign investment by Americans to gross private domestic investment in the United States reveals that in 1971 foreign investment was only about 3.7% of the U.S. total; for plant and equipment it was 5.1%. Despite the minor proportion of foreign to domestic investment, it is not clear that even this amount would be placed back in the U.S., were the Bill's tax proposals imposed.

Since our firms go abroad primarily to gain access and to better serve foreign markets, it is doubtful that anything like a major substitution of investment would be made. The Bill would have domestic investment made "just as attractive as investment abroad", but investment can only be attractive where there is access to markets.

The most effective way to stimulate our exports is to reduce tariff and other barriers to trade—a major goal in the next round of trade negotiations. To react to foreign barriers by penalizing U.S. companies, as Senator Hartke would do, is to compound the problem.

THE CHALLENGE AHEAD

A major problem now is one of transition. The textbook arguments supporting free trade assume a smooth, costless movement of resources among industries, but this assumption does not fit the harsh realities of economic life. It is up to all of us—business, government, and labor—to find paths and programs to lower the human cost of change. It is also our job to increase the competitiveness of the U.S. economy, to use the genius of American technology and inventiveness, together with the most modern plant and equipment, to keep ours the most productive of the world's societies.

This is a task which I consider one of the most vital responsibilities of the Council on International Economic Policy. But stifling restrictions on trade, investment and technology would do great harm to our country, to its workers, its consumers, and its investors. Let us see to it that our remedies are in proportion to the problem.

The overwhelming evidence points to the counter-productive nature of economic isolationism; this is clearly not the way to save or create jobs. More importantly, economic isolationism can breed political isolationism, and a turning away from the kind of interdependent free world which has been the aim of post-war American foreign policy. The American tradition and the American spirit call on us to look outward—to believe in the competitiveness of our American workers and our American system in any fair competition. The Administration is convinced that the New Economic Policy is the right approach and that the programs set in motion by the President's decisive actions will produce real and lasting benefits to American workers, consumers and managers.

SPACE SHUTTLE

Mr. ANDERSON. Mr. President, as we approach the debate on the space shuttle, we are going to hear more and more about the testimony of Dr. Ralph Lapp before the Committee on Aeronautical and Space Sciences on April 12. Indeed, the entire testimony has already been placed in the Record three times, twice on April 19—pages 13409 and 13583—and again yesterday, May 4—p. 15956. No doubt we will see this testimony in the Record again and again, long after the material has been refuted by responsible authorities, or long after the material had any other than historical value to the relevance of the current situation.

Dr. Lapp is a physicist, not an economist, but all of his arguments against the shuttle are directed at its economics. Therefore, the committee felt it only proper to ask that Dr. Lapp's remarks be analyzed by recognized experts in this field. Consequently, we asked Dr. Oskar Morgenstern and Dr. Klaus P. Heiss to supply a rebuttal to his statement.

Previously, on April 20, I placed in the Record—p. 13786—the remarks of Dr. Morgenstern and Dr. Heiss before the committee and a reply to Dr. Lapp's statement submitted to us by NASA. I do not see the need for placing this material in the Record again at this time. I do, however, ask unanimous consent to place in the Record the letters I have received from Drs. Morgenstern and Heiss and the detailed rebuttal to Dr. Lapp's statement. The rebuttal is conveniently numbered to correspond to the specific points raised by Dr. Lapp.

I hope that Senators will study this rebuttal in detail and decide for themselves what the proper course of action is regarding the future of our space program.

There being no objection, the rebuttal was ordered to be printed in the Record, as follows:

MATHEMATICA, INC.,
Princeton, N.J., April 24, 1972.
Hon. CLINTON P. ANDERSON,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to inform you for the record that I am in complete agreement with the contents and form of the statement Dr. Heiss has written in reply to the testimony by Dr. Lapp which the latter delivered before the committee on April 12th. My own reply on that day was necessarily brief because the meeting was breaking up. I am glad that Dr. Heiss' testimony exists because it surely will set the record straight.

We have both tried sincerely to provide correct and useful information about the economic characteristics of the planned Space Shuttle.

If we can be of further use, please do not hesitate to call on us.

Yours truly,

OSKAR MORGENSTERN.

MATHEMATICA, INC.
Princeton, N.J., April 19, 1972.
Hon. CLINTON P. ANDERSON,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed please find a detailed rebuttal concerning Dr. Ralph E. Lapp's testimony made before your committee April 12, 1972, after the testimonies presented by Dr. Oskar Morgenstern and by me.

The detail and the depth of the rebuttal to Dr. Lapp is motivated not so much by the attention that this particular testimony deserves, but rather by my personal strong feeling that a constructive criticism of the

Space Shuttle System could actually have contributed in a positive way to a better understanding by your committee of the true issues involved. This service in my opinion has not been rendered so far by the critics of the Space Shuttle.

As a matter of fact, it is rather the economic analysis performed for NASA by us, as well as other important inputs from other agencies and industry, that NASA has substantially adapted the Space Shuttle System to meet economic requirements as well as technical design wishes. This has led, as a matter of fact, to a reduction of non-recurring costs of the Space Shuttle System of about $7 billion.

As stated in the rebuttal, the present configuration that NASA has now chosen is meeting the most conservative economic evaluation criteria. There are important issues that remain to be studied with regard to the proposed Space Shuttle System and in the absence of a constructive criticism from the outside I think that NASA is studying these on its own initiative already.

Yet whatever the outcome of these additional exercises will be they will not change the basic economic findings that first, a reusable space transportation system is within the economic interest of the United States and second, that the present configuration chosen by NASA guarantees the lowest cost and lowest risk approach to the Space Shuttle development in the 1970's.

Most sincerely yours,

Klaus P. Heiss.

Rebuttal by Dr. Klaus P. Heiss, Director, Advanced Technology Economics, Mathematica, Inc., To Testimony of Dr. Ralph E. Lapp, Made to the U.S. Senate Committee on Aeronautical and Space Sciences, Wednesday, April 12, 1972, Entitled "Statement on the Space Shuttle System"

OPENING REMARKS

Dr. Ralph E. Lapp has shown in his testimony of Wednesday, April 12, 1972 a singular unawareness of the facts as presented in the economic study performed by Mathematica and the two supporting contractors, namely Aerospace Corporation and Lockheed Missiles and Space Corp. (LMSC). Dr. Lapp, for example, calls repeatedly for analyses that have been carried out in much more depth and detail than he actually advocates in his testimony.

Also, Dr. Lapp's testimony shows that, his claims to the contrary, Dr. Lapp is singularly unfamiliar with space transportation systems, space program costs and operations, as well as economic analyses thereof. His testimony has been a disservice to the *critics* of the Space Shuttle System.

In the following are some ad hoc statements concerning Dr. Lapp's testimony. It may suffice to highlight some of the major misconceptions and mistakes made in his testimony. This rebuttal in no way should imply that there do not exist many issues that need further examination and study by NASA, Congress and others concerning the Space Shuttle program. In the following, I will comment on the individual "points" made by Dr. Lapp in his ad hoc testimony.

Points 1 through 9: During the course of the Space Shuttle efforts, NASA as well as other government agencies have been making use of a rather naive oversimplification of the economic case for the Space Shuttle by quoting numbers such as $100 per pound for the cost of putting a payload into orbit using the Space Shuttle and then comparing this cost to $600, $700 or even $1,000 per pound for expendable systems. The numbers of $100 per pound (and more recently of $160 per pound) was arrived at by dividing the due east payload capability of the Space Shuttle to a 100 nautical miles orbit into the average operating costs of a Space Shuttle launch. As only a fraction of space payloads are launched due east and only a fraction of these into a 100 nautical mile orbit, it is difficult to assert that the payload number used should be this maximum capability of the Space Shuttle. Furthermore, since the Space Shuttle is not yet developed and the non-recurring investment for the system is not yet made, opponents of the system have argued that the large non-recurring costs must be added into the balance to calculate a "cost per pound" in terms of transportation costs of the Space Shuttle System.

Let me state to this Committee that the complete systems cost of the Space Shuttle System were included in our economic evaluation. Of course with regard to the existing expendable system, all if not most of the research costs have been spent in the 1960's and therefore are *not* considered at all in the comparison between the Space Shuttle System and the expendable transportation technologies. This should be so. It is on the total life cycle cost basis of the Space Shuttle System and the comparison of these to expendable systems that we do find the Space Shuttle System to be economically justified.

It is, of course, an entirely different matter when costs are measured for *pricing* the services of Space Shuttle launches. In this latter context, such freshman course economic concepts as *average* costs, *incremental* costs and *total* cost recovery do play an important role. The relation of, for example, incremental cost to the prices that NASA should charge for Space Shuttle launches to bring about the most efficient national use of the new space transportation system is a complicated issue. I dealt extensively in a separate working paper with exactly this. With all due considerations, let me state that the presently quoted number of $10.5 million for a single Space Shuttle launch for the new Space Shuttle configuration is an *average* cost per Space Shuttle launch expected for the 1980's. The actual *incremental* costs as shown by our analysis are expected to be *below* this figure by anywhere from $2 to $3 million. In addition, the capability of the Space Shuttle System to launch *multiple* payloads leads to the theoretical possibility of *zero* launch costs for some particular spacecraft.

In a practical sense, the $160 per pound number is, therefore, meaningless and the only way in which a proper assessment of the Space Shuttle economics can be made is by considering all costs incurred in the operation of a space program using the Space Shuttle or expendable systems. In particular, the *different* costs of *payloads* as well as satellite *operations* (for expendable systems and the Space Shuttle System) have to be included in an economic comparison. The complete life cycle costs of *launch vehicles as well as payloads and operations* have then to be compared between expendable vehicle operations and Space Shuttle operations. This is exactly what has been done in a series of analyses presented in the MATHEMATICA Report, as well as by the two support contractors.

NASA's passion for the use of this oversimplification has, of course, left it vulnerable to attack by uninformed critics, and Dr. Lapp has seized upon this opportunity.

Space launch costs have to be seen in proportion to the cargo they carry. This is the most immediate and primitive notion in transportation economics in general. For bulk cargo, transportation costs are very important. For highly valued instruments, transportation costs actually are only a fraction and often the least important portion of their overall cost. Thus, bulk cargo is transported by ship and rail; scientific instruments can be transported economically by air freight. Also, the cost of the cargo, the packaging, as well as insurance premiums, may change depending on the transportation system used.

In the case of the Space Shuttle System one has to estimate and analyze the effects that different space transportation systems will have on the costs of space satellites since these are the major contributors to the costs of the national U.S. space program today.

In the case of hydrogen or other space bulk cargo in support, for example, of a large interplanetary mission or an in-orbit space tug, the transportation costs *do* become important and the Space Shuttle cargo bay *can* be used to its full capability yielding in these cases cost per pound of $160 (and possibly less on an incremental cost basis).

When looking at individual missions, of course, the economics of the Space Shuttle occurs both in the *payload costs* and in the *launch costs*. Let me draw Dr. Lapp's attention to just three examples of *scientific* payloads. The examples chosen, at random, are the Radio Explorer, the Solar Orbit A, and the Polar Earth Observatory (see Table 1.0). As Table 1.0 shows, in the case of the Radio Explorer the payload cost using expendable launch vehicles would be $305 million in the 1980's. The launch vehicles needed to carry these payloads into orbit would come to a total of $103 million. Individual launch breakdowns as well as launch vehicle optimization with regard to the individual payloads were considered in our analysis in detail. Table 1.1 gives the *aggregate* results of this analysis for the Radio Explorer as performed by Aerospace Corporation. Underlying Table 1.1 again are analyses on a *subsystem* basis for this satellite based on the inputs provided by LMSC as well as other extensive satellite cost information available to Aerospace Corporation. For the Space Shuttle System the *identical mission requirements in terms of observations* were then taken and *a Space Shuttle payload program performing the same scientific functions* constructed, making use of the Space Shuttle vehicle. In this particular example, the payload cost over the same time period would amount to $222 million and the launch vehicle costs needed to carry the payloads into orbit and maintain their capability are $54 million. Overall, the advantage in the case of the Radio Explorer would amount to $83 million in terms of payload cost savings. In this particular case, the economics of the Space Shuttle derives about equally from the payload area and the launch vehicle area. In the most recent analyses, reported in the January 1972 report, we actually used *average* cost per launch of $10 million rather than the lower *incremental* costs for the Space Shuttle.

TABLE 1.0.—SAMPLE OF 3 PROGRAM ANALYSES (TOTAL CIVILIAN PROGRAMS ANALYZED:78)

[Millions of 1970 dollars]

	Expendable systems	Space shuttle system	Advantage of space shuttle
Radio Explorer:			
Payload costs	$305	$222	$83
Launch vehicle costs	103	54	49
Total	408	276	132
Solar Orbit A:			
Payload costs	146	126	20
Launch vehicle costs	27	22	5
Total	173	148	25
Polar Earth Observatory:			
Payload costs	771	438	333
Launch vehicle costs	84	128	−44
Total	855	566	289

TABLE 1.1.—INDIVIDUAL PROGRAM COST INCLUDING LOSSES, RADIO EXPLORER—OSSA, LAUNCHED FROM ETR

[Dollar amounts in millions of 1970 dollars]

	Case A—Current expendable system					Case C—Space transportation system (Space Shuttle)									
						Pl									
Fiscal year	Pl (number)	Lv T3B/C (number)	Pl Tot	Lv dir	Prog dir	New (number)	Ref (number)	Lv (number)	Lv (number)	Lv Shtl (number)	Lv Tug (number)	Lv Tug exp (number)	Pl Tot	Lv dir	Prog. dir
1974															
1975															
1976															
1977															
1978			$16	$6	$22								$13		$13
1979			54	15	69								48		48
1980	2	2	55	11	66	2				1.0	1.0		49	$10	59
1981	1	1	15	2	17	1				.6	.6		14	8	22
1982			7	3	10								4		4
1983			38	12	50								26		26
1984	1	1	55	15	70		1			.6	.6		41	6	47
1985	2	2	23	8	31		2			1.0	1.0		15	10	25
1986			8	6	14								3		3
1987	1	1	3	2	5		1			.6	.6		3	6	9
1988			6	6	12								1		1
1989			17	12	29								7		7
1990	2	2	8	5	13		2			1.2	1.2		4	14	18
Total	9	9	305	103	408	3	6			5.0	5.0		228	54	282

NOTES

Dir—Direct. ETR— astern Test Range. Lv—Launch Vehicle. OSSA—Office of Science and Space Applications. Pl—Payloads (spacecraft and instruments). Pl-New—New payloads. Pl-Ref—Refurbished Payloads. Prog—Program. Shtl—Space Shuttle. TAT9/D/T—Thrust Augmented Thor Delta. T3C—Titan 3C. T3B/C—Titan 3B/Centaur. Tot—Total. Tug—Space Tug. WTR—Western Test Range.

In the case of the Solar Orbit A, the payload cost using expendable launch vehicles would have been over the 1980's about $146 million. Similarly, the optimum launch vehicle costs to carry this payload into its orbit are $27 million again for the same time period and present technology. Again, using a detailed analysis of achieving the same scientific observations, using the Space Shuttle System, the payload cost of the Solar Orbit A would come to $126 million for the Space Shuttle System. The launch vehicle costs using the Space Shuttle System were $22 million (see Table 1.2). Overall, the savings *in this particular mission* of the Space Shuttle System break down into $20 million saved in the payload area and another $5 million saved in launch vehicle costs. Again, payload cost as well as launch vehicle cost savings occurred using the Space Shuttle System. In both areas the Space Shuttle System showed an advantage.

Finally, in the case of the Polar Earth Observatory, the expendable launch payload costs would have amounted to about $771 million over a twelve year program of active observations. The launch vehicle costs needed to carry these payloads to their orbits are $84 million. In arriving at both payload as well as launch vehicle costs on the expendable system, the technical capabilities of expendable launch vehicles were optimized to come to the least cost solution to fulfill this mission with expendable transportation systems (in all cases for current and new expendable technology).

TABLE 1.2.—INDIVIDUAL PROGRAM COST INCLUDING LOSSES, SOLAR ORBIT A—OSSA, LAUNCHED FROM ETR

[Dollar amounts in millions of 1970 dollars]

	Case A—Current expendable system					Case C—Space transportation system (Space Shuttle)									
						Pl									
Fiscal year	Pl (number)	Lv T3C/ (number)	Pl Tot	Lv dir	Prog. dir	New (number)	Ref (number)	Lv (number)	Lv (number)	Lv Shtl (number)	Lv Tug (number)	Lv Tug exp (number)	Pl Tot	Lv dir	Prog. dir
1974															
1975															
1976															
1977															
1978															
1979															
1980															
1981															
1982			$30	$3	$33								$25		$25
1983			67	8	75								56		56
1984	1	1	25	3	28	1				1	1		21	$10	21
1985															
1986															
1987			5	3	8								5		5
1988			13	8	21								13		13
1989	1	1	6	2	8	1				1	1		6	12	18
1990															
Total	2	2	146	27	173	2				2	2		126	22	148

NOTES

DIR—Direct. ETR—Eastern Test Range. Lv—Launch Vehicle. OSSA—Office of Science and Space Applications. Pl—Payloads (spacecraft and instruments). Pl-New—New payloads. Pl-Ref—Refurbished Payloads. Prog—Program. Shtl—Space Shuttle. TAT 9/D/T—Thrust Augmented Thor Delta, T3C—Titan 3C. T3B/C—Titan 3B/Centaur. Tot—Total. Tug—Space Tug. WTR—Western Test Range.

In comparison, an optimum use of the Space Shuttle System making use of its larger payload bay as well as weight carrying capability, the payload costs performing the *same missions and functions* in terms of scientific information came to $438 million. The launch vehicle costs that go with this for the Space Shuttle System were $128 million, actally *larger* than expendable launch costs (see Table 1.3). (One should understand that this optimization or economic calculation was carried out in detail year by year, depending on the launch requirements of both expandable and Space Shuttle vehicles and again on a satellite subsystem basis.) Let overall in the third case quoted, of the Polar Earth Observatory the advantages of the Space Shuttle System are obvious: in the area of payloads there are $333 million of savings, offsetting amply launch vehicle cost increases of $44 million. In the latter case, obviously it is the payload costs that matter most, while based on launch vehicle costs only one might reject the Shuttle System.

One should take notice that for scientific and application programs about 78 missions (all civilian) were analyzed on this basis for the 1980's in a similar extensive manner. It goes without saying that programs of the Department of Defense were analyzed in similar detail.

It is not possible in these few pages to describe to the Committee the care as well as the conservatism in each of these steps that were taken in order to come up with a true and comprehensive evaluation of the Space Shuttle System when compared to expandable space transportation technology. It is a sad commentary that after an extensive period of time, some critics of the Space Shuttle System still resort to neglecting the economic analysis actually carried out.

TABLE 1.3—INDIVIDUAL PROGRAM COST INCLUDING LOSSES, POLAR EARTH OB—OSSA, LAUNCHED FROM WTR

[Dollar amounts in millions of 1970 dollars]

	Case A—Current expendable system					Case C—Space transportation system (Space Shuttle)									
						Pl									
Fiscal year	Pl (number)	Lv TAT9 /D/T (number)	Pl Tot	Lv dir	Prog. dir	New (number)	Ref (number)	Lv T3B/C (number)	Lv (number)	Lv Shtl (number)	Lv Tug (number)	Lv Tug exp (number)	Pl Tot	Lv dir	Prog. dir
1974															
1975															
1976															
1977			$22	$2	$24								$19	$8	$27
1978			67	5	72								54	20	74
1979	1	1	70	7	77	1		1					47	6	53
1980	1	1	81	7	88	1				1.0			45	10	55
1981	1	1	102	7	109		1			1.0			60	8	68
1982	1	1	78	7	85		1			1.0			44	10	54
1983	1	1	57	7	64		1			1.0			30	10	40
1984	1	1	60	7	67		1			1.0			29	8	37
1985	1	1	75	7	82		1			1.0			38	10	48
1986	1	1	51	7	58		1			.5			23	4	27
1987	1	1	37	7	44		1			.5			14	6	20
1988	1	1	37	7	44		1			1.0			14	8	22
1989	1	1	29	5	34		1			1.0			14	10	24
1990	2	2	5	2	7		1			1.0			7	10	17
Total	12	12	771	84	855	2	10	1		10.0			438	128	566

NOTES

Dir—Direct. ETR—Eastern Test Range. Lv—Launch Vehicle. OSSA—Office of Science and Space Applications. Pl—Payloads (spacecraft and instruments). Pl-New—New payloads. Pl-Ref—Refurbished Payloads. Prog—Program. Shtl—Space Shuttle. TAT9/D/T—Thrust Augmented Thor Delta. T3C—Titan 3C. T3B/C—Titan 3B/Centaur. Tot—Total. Tug—Space Tug. WTR—Western Test Range.

I must emphasize therefore here again that the numbers as put forth by Dr. Lapp in terms of cost per pound of transportation have no practical significance and play no part in the economic analysis as suggested by Dr. Lapp.

Furthermore, I would like to point out the baseline program used by us as an input (514 Space Shuttle flights) already is a *scaled down version* of the program given to us by NASA and the Department of Defense, which actually included 624 Space Shuttle flights in the 1980's. The reduction from 624 to 514 Space Shuttle flights was made by us *independent* of the judgment of NASA and the Department of Defense in order to *exclude* 110 Space Shuttle flights that potentially contributed greatly to the economic advantage of the Space Shuttle but on which no clear convergence of opinions existed as to the *exact* scale of the Space Shuttle advantage, although everybody agreed that these advantages would be substantial. The missions were not excluded due to a lack of our confidence that they will actually happen in the 1980's but rather in order not to open the economic analysis to controversy with regard to the actual figures used and the great difficulty to estimate the economic advantages in these particular areas for the 1980's. This was a modification made on the *input* side.

Points 10 and 11: Here again Dr. Lapp is exploiting the situation which has been fostered by NASA and other agencies. The MATHEMATICA Report makes no secret of the fact that it considers the complete national United States space program, namely including NASA, non-NASA users of space, and the Department of Defense. We state and restate this fact again and again throughout the report. MATHEMATICA examined a series of space programs (called SCENARIOS) in which the military component for one measured in terms of Space Shuttle flights, varies from a low of about 30% to a hypothetical high of about 60%.

The Administration has chosen NASA for the task of developing a national capability for space transportation in the 1980's. Several commercial applications have come to my attention which actually would lead to quite a dramatic increase of civilian economic commercial space applications in the 1980's and beyond, that might overshadow any of the present considerations made by us for the analysis of the Space Shuttle System in terms of numbers of Space Shuttle flights. Our analysis shows that the Space Shuttle will be effective over a very broad spectrum of traffic mixes between the Department of Defense, NASA, commercial users and other government agency users, *provided* the total national United States traffic level remains at least in excess of about 30 Space Shuttle flights per year. Thus the Space Shuttle should serve the national purpose *whatever* the future may hold in terms of requirements for Space Shuttle flights. It is most astonishing that this particular characteristic of our analysis escaped Dr. Lapp's attention. Chapter 8 of our report is exclusively dedicated to the analysis of these different space programs. Literally hundreds of different space programs have been analyzed and alternative space transportation systems were competed against them. The summary reflects the overall objective results of this analysis.

Dr. Lapp, however, states, "If the Space Shuttle is intended to be a military vehicle, then I submit that it ought to be funded by the Department of Defense." In reply to this, let me state that the Space Shuttle is intended to be a general purpose vehicle which has military applications and is by no stretch of the imagination *exclusively* a military vehicle. As stated above in terms of numbers of Space Shuttle flights, over 70% of the traffic will be civilian, by NASA and by commercial users as well as other government agencies. If to this a demand for space transportation were added by European and other nations, this portion of the expected traffic of the Space Shuttle would be increased even more in favor of civilian space transportation. The very fact that the Space Shuttle System may lend itself as a worldwide means of space transportation, is all the more a reason why a civilian agency like NASA should develop the Space Shuttle System.

The national investment competence to develop advanced space vehicles has been made in NASA way back in the 1960's. Why Dr. Lapp believes that this now should be abandoned is far from clear. Also since the Space Shuttle will be the single major development program of NASA in the 1970's, I am confident that NASA will give its undivided attention to the task of seeing this program come in at the estimated costs.

By analogy, of course, the railroad systems of the United States also transport military cargo quite extensively. Yet, I have not seen any single notion advanced by economists or "adversary scientists" that the railroads should be run and taken over by the Department of Defense for that reason.

In Point 10 and the Table outlined therein, Dr. Lapp just makes a point in support of the economic analysis carried out by us by quoting that launch vehicle costs are only a minor part of the space program costs. Why he then concentrates in the previous points exactly on launch vehicle costs escapes my notion. In Point 11, Dr. Lapp quotes a $14 billion figure over the past *eight* years for the Department of Defense for space spending. For 12 years, the comparable time period, this would amount to $20 billion. In addition to this, Dr. Lapp forgets to adjust the dollars spent by the Department of Defense between 1964 and 1971 to constant 1970 dollars, which would increase the number of $20 billion just quoted by another substantial factor, in the neighborhood of 38% over a 12-year period. Thus, Dr. Lapp is actually implicitly making the case for a $27.6 billion Department of Defense program over a 12-year period by citing the record of the 1964-to-1971 period. Of the total space program used by us of $42 billion for expendable systems, this would then leave only $14.4 billion for all NASA, non-NASA and other civilian applications. Nowhere in our analysis were we so optimistic with regard to activities of the United States by agencis in the 1980's. It underlines the conservation of our analysis.

Points 12, 13 and 14. First of all, the Table reproduced in Dr. Lapp's testimony is not a result of our analysis but is an input given to our analysis. It represents the life-cycle cost comparison for a specific space program, a measure of the size of which is given by its content of 514 Space Shuttle flights in a 12-year period from 1979 through 1990. As a matter of fact, this particular space program was modified from the original input given to MATHEMATICA by NASA and the Department of Defense which included a Space Shuttle flight activity of about 624 flights for this same 12 year period. In adapting the 624 Space Shuttle flight program to the 514 Space Shuttle flights, we did exclude several missions which, if they came about, would be *particularly favorable* to the economics of the Space Shuttle System. We are more than happy to report and explain to Dr. Lapp more about this particular adaptation. Thus, the inputs used by us have already scaled down some portions of the national space activity within which and above which a Space Shuttle System would make sense to the United States on an *economic* basis.

We then examined a variety of space programs, varying in size from a low of 400 Space Shuttle flights to a high of 682 Space Shuttle flights in the January 1972 analysis (and in the analyses reported on in May of 1971 to a high of up to 900 Space Shuttle flights). We have shown in these analyses, and the extrapolations made, that the Space Shuttle remains economically acceptable for the United States down to a low of about 360 Space Shuttle flights, and including payload cost, over a 12 year period from 1979 to 1990. We extended, furthermore, the space program of the United States beyond this period in accordance with general principles of economic analysis to see the effects of an extended use of reusable space transportation technology.

Dr. Lapp questions the $7 billion savings shown in the Table that he extracted from our analysis. In doing so, he questions the $42 billion space program in the current expendable category. Please bear in mind that this is the direct cost of the total national United States space program including NASA, non-NASA government agencies, commercial users and the Department of Defense for a 12 year period with an average of total funding of $3.5 billion per year. To give a better understanding of the physical distribution of these dollars over time, Figure 1 is included which shows the total life cycle costs comparing the Space Shuttle System and a new expendable system over the same time period for a 12 year space program. I am looking forward to explain to Dr. Lapp more of the detail and the backup of the numbers used in our analysis.

The numbers shown in Figure 1 as well as those just quoted can hardly be said to be unreasonable in the light of what we are *presently* spending for our national space program. In the comment made with regard to Points 10 and 11, I already cited numbers given by Dr. Lapp himself in support of the Department of Defense program, which, if we were to use Dr. Lapp's own figures, would amount to a Department of Defense program in comparable 1970 dollars of possibly as high as $27.6 billion out of the total quoted by us of $42 billion. No where in our analysis did we include such a Department of Defense program, although in some of our space programs we did increase hypothetical Department of Defense activities to be in line with these historical figures quoted by Dr. Lapp.

Rather, our Department of Defense space activity levels were roughly half of those which Dr. Lapp quotes on an historical basis. (Of course, again done in constant comparable 1970 dollars).

Dr. Lapp also mentioned RAND studies on aerospace cost prediction performance and states with pseudo authority that "Actual costs exceed the estimates by 80%", as though this were a well defined empirical law.

As a matter of fact, we did a detailed study also of the relevant RAND reports in house with MATHEMATICA. As far as possible, we did allow in our sensitivity analyses extensively for possibilities of cost overruns and learning effects within the Space Shuttle program. These analyses are reported extensively in both the May 31, 1971 report as well as the January 31, 1972 report by us.

Of the two RAND reports that Dr. Lapp references, the second RM–3061–PR, dates back to 1965 and does not reflect more recent experience. Dr. Lapp does not reference RAND report RM–6072–PR dated November 1969, which is the data base for RM–6269–ARPA, which he does reference. These later results, the significance of which escapes Dr. Lapp, predict that 1970 vintage cost estimating techniques should predict a cost within about 20% of the final numbers. Again, I would be more than happy to review with Dr. Lapp the present state of the art of cost estimation of advanced aerospace systems, including the potential uncertainties that remain in these areas. However, nowhere is the present state of the art close to the facts as reported by Dr. Lapp; the updated RAND results are quite different and contradict Dr. Lapp's testimony. In our own in-house evaluation, we basically concur with later RAND findings. This is not to say that substantial cost uncertainties do not exist in these major programs. As a matter of fact, NASA has allowed for $1 billion of contingency funding for the Space Shuttle above and beyond the quoted $5.15 billion research and development figure.

The numbers used in the MATHEMATICA Report for the non-recurring cost of the Space Shuttle are in excess of the contractors' numbers. The numbers being used by NASA in turn exceed in some areas the figures used by MATHEMATICA. It would appear, therefore, that NASA's numbers are realistic in the light of present day cost estimating capabilities. NASA's own past performance in the area of space transportation (and cost estimates associated with that) is actually remarkable, at least on an aggregate basis. In this connection, for example, it should be remembered that the Apollo program, overall, was undertaken at less cost than predicted at the beginning of the 1960's. Detailed examples to the contrary, of course occur within any agency, yet the overall aggregate performance of NASA in the most important program undertaken by that agency, namely, the landing of a man on the moon, the agency performed actually remarkably well. If similar attention is given by NASA to the development of the Space Shuttle and the potential tradeoff between capability, cost, and time, there exists no reason why NASA cannot perform similarly well within this new development program.

Point 16: Solid rocket motors in the present configuration chosen by NASA for the Space Shuttle booster can either be reused or expended. MATHEMATICA's analysis certainly shows that SRM reuse is not required for economic justification of this system and that the use of these boosters in an expandable mode is entirely satisfactory. The $10.5 million average cost number per launch could be *substantially lower* if one were to believe industry estimates as to the potential for reuse of the solid rocket motor boosters within the expected activity level of space transportation in the 1980's. If these economic analyses, when confirmed, show that resue of solid rocket motors is more advantageous, then so much the better for the Space Shuttle System.

It is important to point out that the new space transportation system in the form of the Space Shuttle is actually a *mixed reuseable and expendable space transportation system*. Any great advantages that theoretically could or might be claimed for expendable systems would therefore intrinsically also help the new Space Shuttle configuration chosen if the advantages of expendable propulsions were integrated in suitable form with the reusable orbiter now being developed by NASA. We actually performed a hypothetical analysts in which the expendable cost for both transportation systems (the Shuttle System as well as the "expendable" system) were assumed to be zero. In this case, through the reuse, updating, maintenance and repair capability of the Space Shuttle System, there is actually an *increasing* advantage and justification to develop the reusable *orbiter* shuttle. This result goes to indicate that hypothetical, dramatic launch cost savings on expendable systems will and might actually help the economics of the present Space Shuttle configuration.

Point 17: In our analysis, we examined in considerable detail the equal capability case in which the costs of operating a given space program using the Space Shuttle are compared to the costs of operating an identical program using expendable vehicles. Since the Space Shuttle, by its very nature, provides the *capability* for a manned space flight, it is necessary for a true comparison to include in the expendable system at least an economic earth orbital capability. The *lowest cost* way of achieving this capability with expendable vehicles in the 1980's is considered to be an adaptation of the present manned capability for best use in earth orbit; that is, to develop a Big G (Gemini) spacecraft and its associated launch vehicle.

The launch vehicles would be different from the Saturn technology, which turns out to be extremely expensive, as witnessed by Apollo launches, the complete mission costs of which change between $350 and $500 million per launch. Yet, Dr. Lapp calls for the maintenance of that system "We have the current expendable capability."). The vehicles in support of an earth orbiting manned capability are *not* presently developed. They would allow on the *expendable* space transportation system side for a low cost capability to perform a much reduced manned program in earth orbit (our funding level for the manned program varies between $250 to $350 million per year as compared to about a tenfold number in the 1960's). Therefore, for a true (minimum cost) comparison, the non-recurring costs associated with these vehicles must be included in an economic analysis comparing expendable as well as reusable space transportation systems. Other Office of Manned Space Flight space capabilities were considered, for example a space glider, which then were dismissed as uneconomic for a true equal capability comparison with regard to the Space Shuttle System. To repeat, the Big G program included for our equal capability analysis is the lowest cost alternative within the U.S. space program of the 1980's to Apollo technology for earth orbital missions.

Point 18: It is true that a program including both Big G and a Space Shuttle would involve a redundancy, just as a program including both the Space Shuttle and expendable launch vehicles would involve redundancies; the Big G program is an *alternative*, and at that the lowest cost alternative to be considered within *expandable* systems. Since the Big G and the Space Shuttle are not shown as components of the same space transportation system, Dr. Lapp's comment eludes me.

Point 19: In the analysis of the Space Shuttle and of expendable space transportation systems, we were keenly aware of the problem of accurately forecasting a traffic model for a period which is from 10 to 20 years away. We therefore chose to analyze the performance of the Space Shuttle for a wide range of potential space programs. The actual programs analyzed and compared run literally into several hundreds. How these programs were arrived at is described in detail in several chapters of the reports of May 31, 1971 and January 31, 1972. How this key portion of the analysis escaped Dr. Lapp's attention is beyond my comprehension.

Why Dr. Lapp should, furthermore, consider it immoral to carry Department of Defense traffic using a national launch system such as the Space Shuttle is not clear. Since NASA, a civilian agency, is developing the Space Shuttle, am I to understand that the Department of Defense should be precluded from using this system in the 1980's for reasons of economy?

Our work shows the Space Shuttle to be economically effective down to a traffic level of 30 Space Shuttle flights per year. Dr. Seamans has gone on record that the Department of Defense will plan to use about 20 Space Shuttle flights per year and we have reason to believe that the civilian non-NASA traffic, including other government agencies, earth resource applications, navigation, etc., will be at least 7 or 8 flights for the United States per year. Thus, the 30 flight total could include no more than 3 NASA flights per year, all this assuming that there is no traffic originating from overseas.

In conclusion, this hardly sounds like Dr. Lapp's "sharp step up" in NASA's space activity.

We also reduced, for example, the (formerly) Office of Space Science and Applications space program by up to 50% in the activity levels given to us in some of our space programs. We did not do this because we advocate such a reduction, but just to determine the sensitivity of the Space Shuttle System, as well as the minimum activity level which has to be supported and predicted in order to make the Space Shuttle System an economic choice. This activity level, using relatively conservative evaluation methods, is determined by us to be around 30 Space Shuttle flights per year.

Point 20: Dr. Lapp's new total of $25 billion for column 1 would give an average national expenditure of approximately $2 billion per year in the 1980's. The Department of Defense needs approximately $1.5 billion per year based on our extrapolation of DoD needs for the 1980's, rather than the historically high expenditure level quoted by Dr. Lapp earlier. To handle these requirements, therefore it would leave about $500 million per year for all civilian applications including NASA, other government users of space, as well as commercial applications for the United States non-military space program in the 1980's.

On the other side, if we were to take the advocated $25 billion by Dr. Lapp for scientific and application purposes in the space program in the 1980's for Space Shuttle applications, I could not but agree that we can define an aggressive and rewarding space program for the 1979 to 1990 period. The point is that with the Space Shuttle, we could do *twice* the activity advocated by Dr. Lapp. With regard to the economic analysis of the Space Shuttle System, this could not but yield a tremendous return on investment. It seems unlikely that there will be spent, however, $25 billion for the civilian U.S. space applications in the 1980's. If this were to come about it would just confirm the economic choice of a Space Shuttle System over and above the present expendable technology.

Point 21: The value of $8.1 billion is not a contractor number nor has Dr. Lapp's 1.8 factor any basis that we can discover (other than the old 1965 RAND study, which was updated since then by RAND to 1.2). Contractor estimates for the present Space Shuttle are rather in the neighborhood of $4 billion. Again, I would be more than happy to explain to Dr. Lapp the actual cost estimation that has gone into our economic analysis as well as that of NASA, and with which Dr. Lapp seems not to be familiar.

Point 22: The basis for Dr. Lapp's $20 billion forecast is not given. It escapes my notion on how Dr. Lapp possibly did arrive at this number other than by subjective estimates of his own and ignoring the facts. For example, why not $40 billion or on the other side, why not $4 billion? I would appreciate the opportunity to study and evaluate the foundation and backup for Dr. Lapp's figures.

Point 23: Nobody ever, at least within our group, contested Dr. Lapp's statement that it is not possible to justify the Space Shuttle economically on the basis of launch vehicle costs only, at least for space programs that historically we have experienced. The examples given in the opening remark amply document how the economic analysis was carried out and the role transportation costs play therein.

As to the future, Dr. Lapp's statement may actually prove wrong in fact. For example, the analysis of just one manned lunar exploration program yielded advantages for the Space Shuttle System of possibly $3 billion of additional savings *if* such a mission were to be undertaken, a mission of course not included in our economic analysis of the Space Shuttle System for reasons of conservatism.

Of course, the more the Space Shuttle System would be used, the more Dr. Lapp would contest it using his methodology based on increased total costs. (As a matter of fact, it is one aim of the Space Shuttle System to lead to a much enlarged use for economics and civilian purposes of space which will come about by the reduction of the mission cost of space programs). Thus, Dr. Lapp's economic analysis leads to this paradoxical result: *the more desirable a system is for economic reasons, the more it should be rejected.* The more productive activity a space transportation system supports, the worse it is for the nation.

Point 24: Only a very small portion of the payload economy claimed and used in our economic analysis for the Space Shuttle System is derived from the potential of making larger and heavier satellites. We suggest that Dr. Lapp study our report again as well as Aerospace Corporation's "Integrated Operations/Payloads/Fleet Analysis" Report, the primary source of input data for MATHEMATICA's analysis, which may be obtained from NASA's Scientific Technical Information Center at College Park, Md. The report is extensively referenced in our report. Dr. Lapp appears to have missed this most important reference.

In addition to this, of course, groups other than LMSC and Aerospace Corporation have looked at payload effects for reusable space transportation systems. In my earlier testimony, that is in the testimony given above, I quoted three corporations, namely Grumman Aerospace Corporation, TRW, as well as Messerschmitt-Bölkow-Blohm Space Division. It is my understanding that in addition to these corporations other studies of payload effects were made and are being done. As far as a satellite by satellite and space mission analyses competing Space Shuttle Systems against expendable systems go, these studies confirm in a broad sense the payload effect analysis used in our study.

This analysis was carried out satellite by satellite on a subsystem basis. As a matter of fact, there are indications in several subsystem areas that the Space Shuttle System could decrease substantially the costs of space programs below the actual inputs used in our economic comparisons. On the other side, for particular missions, for example communication satellites, the Space Shuttle System did contribute only in a very limited way to the overall economics of these programs within *present* technology. More to this later on.

Point 25: Dr. Lapp's statement with regard to payload failures and reliability of present launch vehicles is simply not based on facts. Statistical analyses of payload mortality rates are reported in Aerospace Corporation's report, referenced above. In addition to this, substantial and very extensive statistical information is available through various sources and reports existing to date. A study made by Planning Research Corporation, and recently updated, on detailed satellite failures formed the statistical basis for the analysis by Aerospace Corporation. Apparently the record is not known to Dr. Lapp.

As reported earlier in our testimony, one has to look also at the distribution of payload failures over time as well as the effect on the costs of payload development that are incurred due to the extensive testing procedures needed today before launch to assure their functioning in orbit. Yet, even with these extensive expenditures of funds to date, payloads, often of a very expensive nature, do fail.

To report here fully the potential of the Space Shuttle in this area obviously is not possible. Extensive historical experience and records exist in this area and I would like to draw Dr. Lapp's attention to this record.

Point 26: Dr. Lapp suggests or actually states that there has been no very detailed analysis of payload costs for the different launch systems. *Nothing could be further from the truth.* Again, I refer him to Aerospace Corporation's report referenced above, the major portion of which is a very detailed analysis of payload costs on a mission by mission and spacecraft subsystem by subsystem basis for future defense space applications as well as for 78 different and detailed civilian missions. It may be of interest to note that the direct cost of the Aerospace study was approximately $1.2 million.

Dr. Lapp furthermore makes the statement, "In the communications satellite field, there appears to be a trend towards smaller devices which grant greater flexibility and backup to the deployed system." In fact, however, the history of the Intelsat program completely contradicts this statement. Intelsat I (1965) had an in orbit mass of 37 kilograms. Intelsat II (1967) had an in orbit mass of 81 kilograms, Intelsat III (1968) had an in orbit mass of 127 kilograms, Intelsat IV (1971) had an in orbit mass of 700 kilograms.

For the benefit of Dr. Lapp, I would like to call his attention to an article now published by Wilbur L. Prithsard and Pier L. Bargellini of COMSAT Corporation, "Trends in Technology for Communications Satellites" published in *Astronautics and Aeronautics* in April, 1972 which goes very extensively in *current* trends of communication satellites ,that do not allow at all for particular Space Shuttle capabilities). The trends in communications satellites, using inputs such as those of COMSAT, do indicate that the mission model used for communications within our own analysis for the 1980's might be very low when compared to projections that are now already being made by individual companies for domestic as well as international communications systems for use in the 1980's. Planned future assignments for communication satellites in the higher frequency ranges (for example up to 30 GHz) invariably lead to a much expanded activity level for communication satellites in the 1980's and potentially for uses of the Space Shuttle System that, among others, could allow for "crude force" approaches to these higher frequency bands in communication systems. Yet, in our analysis no allowance was made for such potentials. As to the uselife of communication satellites, we did allow for the expansion of their physical life time of up to 7 years.

In conclusion, therefore, a mission by mission payload effect analysis was carried out, something that Dr. Lapp chooses to ignore, and with regard to particular technical statements on communications satellites, I do think Dr. Lapp's statements are not borne out by the historical facts and trends as well as possible projections into the future.

We did *not* reuse and refurbish satellites wherever this was shown *not* to be economic.

Points 28 and 29: These "results" are derived from Dr. Lapp's 7-page analysis. They represent a summary of "back of the envelope scratchings" of a nuclear physicist when compared to a major study taking nearly two years, costing over $2.2 million and undertaken by recognized experts in the aerospace and economics field. Of course, this "exercise" of Dr. Lapp's might still have been useful were it based on actual experience as well as understanding on how space programs are operated, by the different government agencies today in the United States or for that matter, in other countries. Yet, this understanding seems to be singularly lacking in this case.

Point 30: The finding of the Aerospace, LMSC and MATHEMATICA study effort is that a space program can be operated with the Space Shuttle for about 60% of the direct cost of operation using expendable vehicles.

As the price and use of gold, I might add that Dr. Lapp may be overstating the case for and value of gold.

As Dr. Lapp is kind enough to state, the space program cost of payloads using a Space Shuttle System average to about $8,000 per pound. The actual costs of payloads to date average between $20,000 and $40,000 per pound. The analogy chosen by Dr. Lapp is therefore particularly ill-suited for an understanding of the economics of the Space Shuttle System.

Point 31: Dr. Lapp makes a telling point when he suggests that NASA should recover what are now known as expendable launch vehicles with the same dexterity with which it proposes to recover the Space Shuttle boosters. As mentioned earlier, the Space Shuttle booster recovery is *not necessary* for an operational Space Shuttle System. It may be economically convenient. It could well be that when the design progresses to a further stage that this feature might be abandoned or it may be emphasized even more. The present Space Shuttle configuration chosen actually does not need to recover and reuse the boosters to be economically justified. It can do so, however.

In addition, I cited earlier an example where we hypothetically put the question of what the effects of a "zero cost" expendable launch technology would be with regard to using or not using the present Space Shuttle System. Of course, by having a "zero cost" expendable launch capability one has to incorporate the same technology also with regard to the *expendable* portions of the Space Shuttle as presently proposed by NASA. The astonishing and unique result is shown to be that the lower the expendable launch technology costs are, the higher the use and the usefulness of the reusable space orbiter now being developed by NASA will be with regard to its use in the 1980's. This is a unique feature of the new, mixed, reusable-expendable transportation system being proposed by NASA with its present Space Shuttle configuration. This example, of course, is hypothetical, but it shows the limit properties of the present Space Shuttle when compared to expendable systems within the overall space program of the United States in the 1980's.

Point 32: In conclusion, Dr. Lapp presents no substantial evidence based on facts to back up his "remarkable deviations." May I be allowed to observe at this point that if the "adversary scientist" concept is to fulfill any constructive and useful function, it has to be first based on a factual understanding on present operations as well as potential future operations being proposed by technological alternatives such as those represented by expendable versus reusable space transportation systems. Once this has been accomplished, it is then yet a very difficult task for the economist to go through the findings and results and inputs, adjust these for a suitable economic analysis and then to come up with conclusions that may hold up in the future, within a reasonable range of expected variations. This to the best of my knowledge, has been done by our study group which I was happy to direct and lead over the past two years in cooperation with Dr. Oskar Morgenstern. One of the most useful experiences for this Committee would have been if it had the opportunity to be present in some of many, many interchange meetings and discussions that took place between our research group, Aerospace Corporation, as well as Lockheed (LMSC) to assure independence and objectivity in this study effort.

There remain many areas with regard to the new Space Shuttle System that need further analysis, further confirmation, and further study. However, within the original two major questions, that is:

a. The value of a reusable space transportation system for the United States, and

b. The most economic Space Shuttle configuration to achieve the objectives originally posted by NASA.

I do not think that the economic analysis carried out for NASA is as conclusive as economic analyses ever can be in this area. The answers to both questions are:

a. Yes, a reusable space transportation system is economically advantageous to the United States, and

b. Among the many, many alternative Space Shuttle configurations analyzed by us, the parallel burn solid rocket motor 156 inch version of the thrust assisted orbiter shuttle is the most economic configuration.

As a result in part of the economic analysis performed on the Space Shuttle System, I do think that the original non-recurring cost for the Space Shuttle program was reduced by about $7 billion. This is a positive, constructive achievement within a rationally done economic analysis for the U.S. It is positive contribution in terms of determining a reasonable or economically justified level of non-recurring costs when balanced against potential future cost savings in the 1980's and beyond in the area of space transportation.

On the other side, I do think that the present economic analysis does show conclusively that no further savings in the non-recurring costs can be achieved without *substantially* reducing the national capabilities in performing space missions in the 1980's in the areas of science, of economic commercial applications, as well as in the areas of defense applications that presently are being done by the United States.

Even within the original objectives of the "adversary scientist" I do think that a much better performance and criticism could have been put forth that would lead to a constructive exchange in helping NASA to achieve the objectives within a national framework, the economic analysis does show conclusively the Space Shuttle to be a unique opportunity for the United States in the area of advanced technology with regard to space, space applications, and benefits to a wide range of areas that are in the interests of the United States.

Finally, in conclusion, let me repeat our often-stated willingness to present the results of the economic analysis, the methodology, as well as the inputs used for the economic analysis to any interested group of persons, be they critical or be they favorable to a Space Shuttle development. In this connection, it would be most useful to us to have alternative programs available for our further analysis. Yet, within reason, I do believe that these alternative programs might well be included in the many, many space programs analyzed by us when looking at a Space Shuttle in its relation to the present expendable transportation system.

BYRD SUPPORTS EQUAL RIGHTS FOR WOMEN

Mr. ROBERT C. BYRD. Mr. President, a recent column which appeared in the Beckley, W. Va., Post-Herald, under date of April 1, 1972, reflected an honest error inasmuch as it was based on earlier news media reports concerning my vote in the Judiciary Committee on the matter of equal rights for women. I responded to the column in a letter dated April 7, 1972, in which I stated a clarification of the committee vote. In order that the clarification may be made a matter of record, I ask unanimous consent that the April 1 column and my response thereto of April 7 be inserted in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Byrd Didn't Vote on Rights Bill

(By Charlotte Fleshman)

West Virginia Sen. Robert Byrd must be in doubt as to whether his constituents favor or oppose equal rights for women.

He was not present and his position was not recorded when the Senate Judiciary Committee approved the Equal Rights Amendment to the U.S. Constitution so it could go to the Senate floor for action by all senators.

Byrd's supporters frequently comment that the thing they like about the Democratic senator is that he "says what he means and means what he says."

Well, perhaps he means what he says when he says what he means—to reverse the order—but obviously there are some things he contrives not to say and one of them seems to be how he feels about women's rights.

As one who believes strongly in equal rights for all Americans—regardless of race, color, creed or sex—and as one who believes that all legislators should vote—and how they vote be made public—on all bills, I find it disturbing that Byrd declined to stand up and be counted on this important issue.

I find it embarrassing, too. His failure to vote will be interpreted as his opposing equal rights for women. This will suggest to the rest of the United States that West Virginians don't want women to have equal rights.

There may be some West Virginians who feel this way, but I don't think that the majority of West Virginians are that unfair and prejudiced in their thinking. I resent Senator Byrd's contributing to our image as a backward state.

There are a few senators—perhaps Byrd is one—who view the Equal Rights Amendment as something desired only by a comparative handful of women activists.

This isn't true, of course. Women have fought for this constitutional amendment for 48 long years.

Equal rights for women have been sought even longer than that by the General Federation of Women's Clubs, which has never been accused of being radical!

Neither has the National Business and Professional Woman's Club and many other fine organizations to which hundreds of Beckley area women belong.

The Senate Judiciary Committee, except for the absent Byrd, voted 14–1 to permit a "pure" Equal Rights Amendment to go to the floor. The lone dissenter was Sam Ervin (D-N.C.), who has consistently opposed equality for women.

Of course he always claims to be "protecting" women, but in actuality the amendments he has proposed would render the Equal Rights Amendment meaningless.

Ervin's six destructive proposals were defeated in committee, but they and possibly other crippling amendments can be expected to be offered again on the Senate floor when debate begins any day now.

The only way that women will truly have equal rights is by Congress passing and three-fourths of the state legislatures passing an unadulterated amendment without any ifs, ands and buts attached.

The simple, concise and clear language of Senate Resolution 8 (identical to House of Representatives Resolution 208) is:

"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex."

This is the way it was passed in the House by vote of 354–23 and this is the way it must be passed in the Senate if women are to have equal rights and become first class citizens.

Anyone who believes that this is "simple justice," as the late President Dwight Eisenhower put it, should urge senators to pass the legislation in its exact present language, with no amendments tacked onto it, just as House members passed the Equal Rights Amendment.

Senators also should be urged to take a firm stand if a filibuster develops and to vote for cloture to end the filibuster.

The EDITOR,
The Beckley Post-Herald,
Beckley, W. Va.

DEAR SIR: I write to call attention to an error in the "Top O' The Morning" column of April 1, 1972, entitled "Byrd Didn't Vote on Rights Bill."

The column, written by Charlotte Fleshman, stated that it was "disturbing that Byrd declined to stand up and be counted" on the important issue of equal rights for women. According to the column, "He [Byrd] was not present and his position was not recorded when the Senate Judiciary Committee approved the equal rights amendment to the U.S. Constitution. . . . The Senate Judiciary Committee except for the absent Byrd, voted 14–1 to permit a 'pure' equal rights amendment to go to the Floor. . . ."

The column was correct about my absence, but it was in error in stating that I did not vote. When the Judiciary Committee voted, on February 29, to report the Equal Rights for Women Amendment, Senator Scott, Senator Kennedy, and I were not present. Both Senator Scott and I were at the White House attending a briefing on the President's trip to China. However, Senator Bayh cast Senator Kennedy's proxy in committee for the amendment, Senator Cook cast Senator Scott's proxy for the amendment, and, at the request of Senator Bayh, I was to be offered the opportunity of recording my vote later during the day—a courtesy often afforded by the Committee to members necessarily absent.

I was reached by a professional staff member of the Committee that afternoon when I returned from the White House and was informed of the rollcall vote and my ability to be recorded. I cast my vote for the amendment, and the official records of the Committee attest to this. The rollcall vote, therefore, which had previously been announced to the press as a 14–1 vote, was, in reality, 15–1.

I also voted for the Equal Rights for Women Amendment when it was passed by the Senate on March 22, 1972, by a vote of 84–8.

I can understand the honest error in Charlotte Fleshman's column, based, as it was, on earlier news media reports regarding the committee action. However, I shall appreciate your making this clarification of the committee vote available to your readers.

Sincerely yours,
ROBERT C. BYRD,
U.S. Senator.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, S. 3526, which the clerk will read by title.

The second assistant legislative clerk read as follows:

> A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

AMENDMENTS NO. 1179

Mr. TUNNEY. Mr. President, I call up my amendments No. 1179.

The ACTING PRESIDENT pro tempore. The amendments will be stated.

The second assistant legislative clerk read the amendments, as follows:

> On page 28, line 7, strike out "$77,000,000" and insert in lieu thereof "$88,027,000".
>
> On page 28, beginning with line 21, strike out through line 5 on page 29.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the Senator from Arizona (Mr. GOLDWATER) and the Senator from California (Mr. CRANSTON) be added as cosponsors of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, my amendment is offered to restore $11 million to the authorization of America's Peace Corps. Mr. President, you will remember that the committee report provides for $77 million of the $88 million needed for the operation of the Peace Corps for fiscal year 1973.

As far as I know, no one died of smallpox in the United States last year. Only a few Americans know what smallpox means. It was eradicated from this country before most of us were born. But there are 17 Americans who know what smallpox means in Ethiopia. They have seen the broken families and the scarred faces that this terrible disease leaves in its wake. During the present month, these 17 Americans will return to this country after 2 years' service of testing for smallpox and vaccinating people against the disease. Ethiopia has requested new Peace Corps volunteers to take their places and continue this program.

If we cannot support the Peace Corps, this work may well come to an end.

After 22 years of professional experience in California, geologist Tom Hays joined the Peace Corps in June 1970, and was sent to Kenya. His core samples identify promising locations for wells which bring life-giving water to the developing crops of this arid East African country. The wells he has helped drill will stay behind him when he comes home—a permanent monument to his dedication and concern.

More importantly, he will say goodby to Kenyans who have benefited from his hard-earned knowledge. Like all Peace Corps volunteers, Tom Hays speaks the language of the people he works with and knows that the most important help he can give is to help people to help themselves.

If we cannot support the Peace Corps, Tom Hays may have to come home before his 2 years of service are completed. The investment America has made in him will be short-changed, but, more importantly, both he and the people of Kenya will have reason to question the seriousness of America's commitment.

In Colombia, campesino diets are short of protein because the people sell their chickens and their pigs at high prices for badly-needed cash. Eleven Peace Corps volunteers working with the Colombian Government have been trying to introduce the protein supplement, Colombiano. For a while their efforts met with failure. The staff member assigned to this project was Marcia Jaffe, who had been a volunteer herself in Colombia. From her experience with the life of the campesinos, she was able to demonstrate the use of Colombiano in the preparation of a dozen familiar dishes, which was the key to a successful nutrition project.

If we cannot support the Peace Corps, Marcia Jaffe and many like her may have to come home, and the Peace Corps work around the world will falter.

If we cannot support the Peace Corps, if we do not restore the $11 million cut from the Peace Corps budget, these illustrations will become reality around the world. Expressed in overall terms, the Peace Corps would be forced into some combination of the following alternatives:

First, reduce the number of trainees entering new and replacement programs from 5,500 to 3,875. This means that after January 1, 1973, Peace Corps will be unable to place any new volunteers in the field; or

Second, eliminate Peace Corps operations in five to eight large Peace Corps countries. This will result in the return of 700 to 1,200 volunteers and the elimination of 1,000 to 1,400 new trainees; or

Third, eliminate Peace Corps operations in 18 to 25 small to medium sized countries. This will result in the return of 700 to 1,200 volunteers and the elimination of 1,000 to 1,500 new trainees; and

Fourth, drastically reduce all program support operations below the minimum needed to sustain the volunteers.

I do not think any of us in the Senate would want to be the ones to make the choice among these alternatives, because they all will hurt. I know the American people do not want the Peace Corps diminished—a recent survey shows that only 5 percent of our citizens would agree with the action the committee has recommended. I cannot understand why this body would wish to take such action, and the committee offers, in its report, no explanation or justification for the cut. That is why I am asking today for full restoration of the moneys that were cut by the committee.

Mr. President, there has been an inordinate amount of concern and activity surrounding the Peace Corps budget in recent months. Only 6 weeks ago, we were toying with tiny amounts of money which would have had drastic consequences for Peace Corps operations in fiscal year 1972. Now we have before us authorizations for fiscal year 1973 and, again, we are toying with tiny amounts of money which will have drastic consequences for Peace Corps operations.

And truly, these are tiny amounts of money. May I quote to you today the gentleman from Alabama in the other body, who describes himself as a "fiscal conservative" and goes on to say that he hopes:

> The Congress and the Committee will not be so pennywise and pound foolish as to fail

> to take advantage of this wonderful kind of bargain with a tiny, tiny portion of the Federal budget.

Mr. BUCHANAN continues by suggesting that:

> There might be some sentiment on the part of some of us to vote for an even higher level than the Peace Corps has requested in light of the number of volunteers there are who are willing to go and the number of requests there are which cannot be met.

Mr. President, these small amounts of money, relatively speaking, mean far more than the percentage of the Federal budget which they represent. For the Peace Corps is not just another program. The Peace Corps is not just millions of dollars, nor grants and contracts, nor "slots" and organization charts, nor interoffice memos, nor any of the all too familiar stuff of government here in Washington. The Peace Corps is, instead, 7,500 Americans at work today in 57 countries around the world. And the Peace Corps is the memory of almost 50,000 Americans who have been overseas, done their work, and returned.

The Peace Corps is, above all, a symbol of the commitment of this Nation and its people to helping others who have asked for our help. None of us would like to choose among the complex alternatives the $11 million cut will present to the Peace Corps, but we have an even harder choice before us today. If we allow the committee's action to stand, it cannot help but be interpreted by the peoples of the world, by Americans and by the volunteers themselves, as a vote of no confidence in the Peace Corps, both as an idea and as a program. This is a message I do not believe, I cannot believe, that the Senate would wish to convey.

Instead, I believe this body wishes to convey our full confidence in the Peace Corps and our full support for the work of the volunteers. By the amendment I am offering now with my cosponsors, Senator GOLDWATER and Senator CRANSTON, we will show the volunteers, our fellow citizens and the people of the world that we, too, believe in what the Peace Corps has done, and will do—with our help.

Mr. FONG. Mr. President, the Peace Corps has asked us for a modest increase in its fiscal 1973 budget so that it may send about 10 percent more volunteers to the developing countries who need our help to combat hunger, disease and ignorance.

Yet it is proposed here that the Senate authorize only $77 million for the Peace Corps—an $11 million cut for an agency which just recently had to absorb severe cutbacks in its 1972 funding. Most of us know about the valuable contributions of the Peace Corps; I am not sure everyone understands the drastic consequences this proposal will have.

With $11 million less, the Peace Corps will have to phase out its operations in up to a third of its host countries. Specifically, it will have to pull out volunteers from 15 to 20 smaller countries, or five to eight large countries—regardless of how urgently these countries need the skills and talents of the Peace Corps volunteers.

With $11 million less, the Peace Corps will also have to close its door in the faces of thousands of Americans who want to help others help themselves.

The Peace Corps plans to add 5,500 new volunteers in fiscal 1973 to fill the developing countries' requests for skilled manpower and to replace volunteers returning home after 2 years of service. With $11 million less, the Peace Corps could bring in only 4,000 new volunteers. Only one out of every eight applicants could be accepted into such a shrunken Peace Corps.

How shall the Peace Corps decide which 1,500 volunteers should not be sent? They are all needed for vital development jobs—nearly 2,500 to teach and to train future teachers, nearly 1,400 to combat hunger through agriculture and rural development programs, about 500 in health programs, and hundreds more in municipal and urban development, business and public management.

But let's say, for example, that the Peace Corps would be unable to send 1,500 education volunteers. This means that 1,500 schools would be deprived of Peace Corps volunteer teachers. Over a 2-year period—coinciding with the 2-year terms of service for volunteers—approximately 2½ million students would be denied the opportunity of being taught by Peace Corps volunteers skilled in teaching critical subjects such as science, mathematics and English.

In many countries there simply are not enough trained teachers to take the Peace Corps volunteers' places in the classrooms. If we deny the Peace Corps the funds it needs to send these teachers overseas, we are, in effect, condemning children to illiteracy for the next two school years—or perhaps their lifetimes.

This must not happen. I urge the Senate to assure the Peace Corps of the full $88 million it needs and deserves to carry out its work.

Mr. GOLDWATER. Mr. President, I am very happy to join with my colleague from California in presenting this amendment, and I sincerely hope that the Senate in its wisdom will accept it.

I have no concept of why the committee cut this sum. It was cut last year. It seems that the Peace Corps has a rather difficult time in Congress; but somehow or other they always seem to prevail, and I hope they will this time.

My friend from California mentioned a conservative Member of the House of Representatives being in favor of this proposal. I am a conservative Member of the Senate, and I have backed the Peace Corps ever since its inception. I would like to express the reasons, with which, I think, most Americans would agree.

First, I have been associated with an organization in Arizona that for years has been training people to do, at a higher level, precisely what the Peace Corps is doing at, let us say, a lower level—I am speaking of levels of pay—and has been extremely successful. We have established wonderful relations in every country to which those people have traveled, to work. We have had no complaints and no problems. The Peace Corps is patterned, to some extent, after that program.

Of course, Mr. President, at first some people thought of the Peace Corps as just another gimmick with a lot of political sex appeal, especially to younger people; but I assure the Senate that there are more older people in this program than younger people, and many more older people are wanting to work in it.

I think the concept is a perfect example of how this country was built and has come to be what it is. The country, from its very inception, has had people in it who wanted to help other people, not for monetary or material gain, but just for the satisfaction of teaching others how to use their hands, how to do things well that they cannot do so well at this time. That is precisely what the Peace Corps is all about.

I have traveled rather extensively in some of the smaller countries where the Peace Corps has been employed, and I find almost without exception complete agreement with what the Peace Corps is doing there, and a very happy feeling that they are there. I think, for example, of the efforts in one Central American country to teach the natives how to make concrete building blocks out of lava and concrete, and as a result they live better, and are going to live even better hereafter, because they are getting out of squalid straw huts and moving into strong, one-room or two-room buildings patterned after the buildings in our country.

I have been in other countries where the Peace Corps has been instrumental in teaching people how to use water. The use of water is not too important to many people in this country, but to one who comes from the desert, as I do, water and its use is most important; and I found in some of these countries people who had never realized that water could be applied to the soil; they felt the moisture had to be supplied by rain. It was a superstitious feeling, mostly; but now, through the efforts of the Peace Corps, they have become able to divert water for agricultural purposes.

In many small countries I have been in, the Peace Corps has taught people how to dispose of their sewage and waste water, making it possible for them to live better.

Mr. President, this is the kind of program I think the United States should follow. I have expressed this feeling negatively whenever I have voted against foreign aid. I would think it would behoove Congress to turn down this cut and to make the small addition that is requested, so that we can have an opportunity to improve our relations. Our relations abroad, where they are good, have been promoted more by American citizens working with the citizens of the particular country than by anything we have accomplished through the State Department or our ambassadors, our so-called emissaries of good will.

When we can, in effect, rub elbows with people in other lands, and show them how to do things with their hands that we do well and easily with ours, and how to figure things out that we do easily, so that as a result of the figuring they can live better, I see nothing but improved relations between that country and our own country—maybe not immediately, maybe not at the top, but it starts at the bottom and bubbles up, and sooner or later our work with those people receives its dividend in the form of better relations.

I might cite as an example the Taiwan Chinese, who have been instrumental in teaching the people in some of the south African countries how to grow rice, something they did not know of before, and those in other countries how to grow rice better. As a result we have achieved at least four good friends in the United Nations, because of our association with the Taiwan Chinese, and the very fact that they took it unto themselves to take on this policy to, in effect, combat the efforts of the Red Chinese Communists who were beginning to infiltrate that part of the world.

I think this amendment is needed. I intend to do my utmost to see that it is passed by this body, and then I would hope that in any conference with the House of Representatives it could be retained.

I think we are making a big mistake in cutting out funds from one program that is working and has worked, and is producing for the United States those things that we have not been able to produce by the mere gift of money to other countries. You do not buy friendship; you earn friendship; and I do not know of a better way to earn friendship than to help somebody else, whether it be our own neighbors in our country or neighbors in other parts of the world.

Again I compliment Senator TUNNEY for having offered this amendment. I must say that, knowing his wonderful father as long as I have known him and the great respect I have for him, I am not at all surprised.

Mr. TUNNEY. I thank the Senator from Arizona for his very kind words.

As my father's son, I know the tremendous respect that my father has for the junior Senator from Arizona. I share his feeling of respect.

I know that all of us who have a concern about the increasing isolationist feeling in this country are deeply concerned about maintaining a high support level for a program such as the Peace Corps, which probably offers the very best in American aid abroad.

The Senator from Arizona talked about technical assistance. Yes, I think technical assistance is very important, too, and I support it.

It seems to me that the idea of young men and women dedicated to the principle of helping others and being prepared to go overseas, without significant financial remuneration, but just to give their time and their efforts for subsistence, represents an ideal that cannot be challenged. It represents the very best that our country can offer to the world.

I fear very deeply the neo-isolationism in this country which is emerging as a result of our involvement in Southeast Asia. I think that many people believe that we have so many problems at home that we should forget about some of the problems overseas; that we should just tend to our own knitting. I think that this attitude is a mistake. It represents an over-reaction to a severe crisis.

I think that to decrease the Peace Corps effort, which represents such a high American ideal of generosity and willingness to give of oneself and a willingness to allow the youth of America to furnish the regenerative quality that youth has to offer in the way of forming new ideals and new attitudes, would be shortsighted. It would not be in the interest of the United States.

I have had the opportunity, as has the Senator from Arizona, to visit Peace Corps men and women in outlying parts of the world, many of them living in very primitive conditions, many of them subject to the possibility of disease, many of them living in communities in which there is a certain amount of hostility to the United States; and I have had a chance to talk to them on location about the job they are doing.

Often, they are dissatisfied with the attitude of the government of the country in which they are working; they feel that perhaps not enough is being done for the people. Sometimes they feel satisfied that the government is doing everything it can with its limited resources. But always I have found, when I have talked to these young men and women, a sense of total commitment to give to the people of the areas in which they are working an opportunity to improve their lot in life.

I do not think there are any greater guardians of freedom and people who are more desirous of seeing those freedoms protected at home in the United States than are the Peace Corps men and women. More than 50,000 of them have come back from their duties overseas, and they have had an opportunity that perhaps they would not have had, if it had not been for the Peace Corps, to see the way peoples in foreign lands live. They have had the opportunity to contribute their own unique and individual capacity to improve the lives of these people in other lands. When they come back to the United States, these young men and women are able to contribute far more to the political process of this country because of that experience abroad.

I must say that I agree 100 percent with the Senator from Arizona when he says that he thinks that this is the best type of foreign aid program we could have. I sincerely appreciate the fact that he has cosponsored the amendment. I know of his very deep and long-abiding interest in the welfare of the Peace Corps.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SCHWEIKER. Mr. President, I rise in support of the amendment of the Senator from California. I believe that the Peace Corps is a worthwhile expenditure of American effort and resources.

I believe that too often our country is known for some of our military efforts, some of our military postures, some of our military actions. The Peace Corps is one of the important ways in which America can project an image, a profile, of some of its deep-rooted heritage, in terms of the individual American, his sincerity, his dedication to sacrifice, his belief in working for his fellow man.

I think our young people in this way project an image far better than any official action we could perform or any official program we could maintain. This person-to-person, man-to-man contact is one of the more effective things, albeit perhaps less sensational and obviously lower profile, than the many other things we do around the world. It is one of the best investments we can make.

I believe there are two advantages to this kind of activity. First, I think it lets the average American participate in foreign policy in a very small, perhaps fragmented, but very important way. It lets him put our best foot forward in a way that can only be received favorably by the people who are utilizing his help and support.

So I think this is a way of letting Americans express themselves individually, on a country-by-country basis. It can only add up as a plus, as an asset, and as a credit to our country.

Second, I think it shows that because it is not involved in something of an offense nature, because it is not involved in something of an intelligence activity, because it is not involved in the things with which Americans have become too familiar, it is a unique way, perhaps the only way, to convey honestly the feeling of many Americans about our world and the countries in which we live.

So I commend the Senator from California. I ask unanimous consent that my name be added as a cosponsor of his amendment, if he has no objection. I shall support his amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Mr. TUNNEY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. TUNNEY. I ask unanimous consent that the time be equally divided.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FULBRIGHT. Mr. President, this is not a new subject. I greatly appreciate the statement of the Senator from California and the Senator from Arizona, but I am bound to remark that what they have said about the Peace Corps is about 10 years out of date. The original idea of the program was, of course, for young men and women to go abroad, sacrificing their time and energies for an ideal. The program was initiated by President Kennedy, who was a symbol of youth, of devotion, and sacrifice to our country.

The fact is that the character of the Peace Corps has changed. Today it is just another technical assistance program manned, as the Senator from Arizona admitted, primarily by mature artisans and craftsmen. It is just one more technical assistance program.

Mr. President, I am a little bit tired of having everyone who seeks to do anything to bring about a saving of Federal expenditures, to do anything calculated to bring our budget back under control, being labeled as a neoisolationist. It has become fashionable for spokesmen for the administration and others to characterize everyone interested in restoring the integrity and the solvency of the United States as being a neoisolationist. That word is obviously a pejorative one. I resent its use in connection with efforts to try to reestablish some degree of solvency and responsibility on the part of the Government of the United States. I do not think that those interested in balancing the Federal budget are neoisolationists. I could just as well say of those who wish to perpetuate the war in Vietnam, the Peace Corps, or the USIA, that they are imperialists, if we want to bandy about bad words. These programs certainly contribute a form of intervention abroad.

Mr. President, the Peace Corps, which marked its 10th anniversary last year, bears little resemblance to the one that Congress established in 1961. I believe it is an idea whose time is past and Congress should face this fact this year, not next, as has been recommended.

The Peace Corps is no longer strong enough, either at home or abroad, to warrant its continuation, even as a lesser branch of a new agency. Except for a recent upturn, Peace Corps recruiting has been steadily failing off, showing a waning interest on the part of our citizens, especially our younger citizens, in this kind of activity. Yet, at the same time, the Peace Corps remains too visible a symbol of the American presence overseas and is suffering from that association. Last year, it was disinvited again from Guinea and, more ominously, terminated by Bolivia, Panama, and Guyana—the first Latin American countries to do so.

A more fundamental question, however, concerns the allocation of our resources. The maintenance of a Peace Corps volunteer costs the American taxpayer an average of $10,000 a year. That is a great deal of money per person. I seriously question whether a developing country, given a voice in spending such money on a trained AID technician, or on the education and training of its nationals in the United States, or for engaging a U.S. visiting professor, or getting a Peace Corps volunteer, would willingly opt for the latter.

Mr. President, I have long regarded the Peace Corps as primarily an educational program for young Americans. I supported it largely on those grounds in the early days, when it was first founded. Its accomplishments in the developing world have been intangible and probably insignificant. At a minimum, the Peace Corps has done no harm. At a maximum, it has returned more aware, involved, and sensitive citizens to us. Those were in the early days when young people were the principal recruits. But, in view of the demands on our financial resources and the many unmet domestic needs, that is no longer good enough. Not only the developing countries but we ourselves can use the funds authorized in this bill for more urgent tasks here at home.

It is time now, before the Peace Corps image becomes tarnished or so altered that it belies its name, to disband it with a pat on its back.

Moreover, the United Nations has elevated the idea of volunteer service to a higher level, giving our citizens the opportunity to enlist in truly multinational teams. To the extent that the Peace Corps idea still has any validity, that is the direction in which it needs to move.

Mr. President, as my colleagues know, the Peace Corps has been merged into an organization called Action. As I have already said, the character of the Peace Corps has, I think, substantially changed from what it was originally.

However, I recognize, just as in the case of the USIA, that the sentiment of this body is such that, for fear of being accused of being neoisolationist, the great majority, I suppose, will support it. It is the easy way of doing things, to go along with the recommendations of the administration and avoid any controversy about a decision to pull back from an established program.

Mr. President, personally, I see no reason for a record vote. However, I shall vote against it in either case, but I am quite sure that the Senate will support the amendment. I base that cn the actions of last Monday when the Senate refused to take away $45 million from an equally questionable and dubious program.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 8140) entitled "An act to promote the safety of ports, harbors, waterfront areas, and navigable waters of the United States," requests a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. GARMATZ, Mr. CLARK, Mr. LENNON, Mr. PELLY, and Mr. KEITH were appointed managers of the conference on the part of the House.

The message also announced that the House had passed the joint resolution (H.J. Res. 1174) making an appropriation for special payments to international financial institutions for the fiscal year 1972, and for other purposes, in which it requests the concurrence of the Senate.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 1174) making an appropriation for special payments to international financial institutions for the fiscal year 1972, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

Mr. TUNNEY. Mr. President, I yield 5 minutes to the distinguished Senator from Illinois.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I support the amendment to restore funds for the Peace Corps. I support the amendment without reservation. I support it enthusiastically, and I urge my colleagues to support it. Mr. President, I think the vote on this issue will give resounding evidence of the Senate's support for the Peace Corps.

The Peace Corps has long since proven its value, and for this reason it does enjoy wide public support. I cannot detect any degree of opposition to the Peace Corps. It does not matter whether I go to a college campus, a senior citizens' center, or a nursing home, I have always found universal support for the whole concept and idea of the Peace Corps.

If the Peace Corps is to continue to do its job effectively, it requires adequate funding. Compared with other agencies and programs in the foreign affairs field, the Peace Corps has asked for a relatively small budget, and is entitled by its performance to have this budget.

Not only does the Peace Corps offer a measure of hope and assistance to many developing countries, but it also shows the concern of Americans for the well-being of these countries.

A side benefit, which is very important to our own Nation, is the opportunity the Peace Corps provides to many idealistic Americans of all ages and all backgrounds to serve mankind in a practical manner. These Americans, after their period of Peace Corps service abroad, then return to the United States enriched by their experience and with greater understanding of the peoples of the developing countries. With their broadened experience in dealing with people, and with the determination to make some useful contribution to social, educational and economic development, large numbers of them choose to carry on their good work here in our own urban and rural areas. They become a great asset for progress and understanding here at home.

From my own State of Illinois, alone, there are now 443 men and women serving in such countries as Fiji, Tunisia, India, Malaysia, and Liberia, helping the people of these countries to improve their schools, increase their agricultural production, reduce disease, and generally build the basis for a more peaceful world society. Their work is vital—not only to the people of those countries—who see the volunteer as representing the concerns of all Americans for the betterment of their lives—but equally to the individual volunteer who finds purpose in helping others. It is significant to note that the most recent sampling of public opinion concerning the Peace Corps showed that 93 percent of Americans feel that volunteers become "more useful citizens" as a result of their service.

Probably no other Member of the Senate has visited more Peace Corps volunteers in the field over the past decade than I, having been privileged to study Peace Corps volunteers at work in many countries of Latin America, Asia, and Africa. I can personally vouch for their devotion and energy under conditions of severe hardship. They ask but little and they receive but little; but they give of themselves a great deal.

I know of no better investment that we can make abroad. I hope that my colleagues will join with me in a strong vote of confidence for one of the finest overseas efforts that our country has ever undertaken.

Mr. President, I would like simply to recount the experience of one young person I met in Uruguay who represented the Peace Corps in a remote village many miles from major urban areas. He was probably the first American that was ever in that locality. I asked him how he happened to join the Peace Corps.

He said:

> I will have to admit that I did not join it essentially to help these people, but to find myself. I had not counted for very much at home, in my family, or in the community. I thought I might find myself in this program. And I surely have. Every day I get up and walk down the village path and the villagers look at me, and when I come back after 12 hours of work I realize that I am the United States of America as far as these people are concerned.

I think the experience of that young man is repeated tens of thousands of times. It does not matter whether it is a representative of the Peace Corps in India or in some other area of the world hundreds of miles from an urban area, where they have to walk for 7 days to get to their outpost. They are out there to help people. There is no glamour in this. This is work for very little compensation. However, the work of these young people is of great benefit to the United States of America and to the world. This is not a one-way street. We have enriched ourselves as a nation with the human resources we have developed equally with the benefits we have provided to other nations.

Mr. TUNNEY. Mr. President, I thank the Senator from Illinois for his statement. I think it is very clear that there is wide support for the Peace Corps all across this country.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TUNNEY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The Senator does not have enough time remaining under the unanimous-consent agreement to have a quorum call.

Mr. TUNNEY. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from California has 13 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, how much time does the other side have remaining?

The ACTING PRESIDENT pro tempore. Thirty-four minutes remain to the other side.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for the quorum call be equally divided between both side.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I wish to make a few points in response to the remarks of the distinguished chairman of the committee, the Senator from Arkansas.

I have been advised that in the past no country has asked Peace Corps volunteers to leave, although in previous years on occasion there have been requests by host countries to have Peace Corps volunteers leave. In the past year no such request has been made. As a matter of fact, there are new countries asking for Peace Corps volunteers.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. FULBRIGHT. The fact of the matter is, the young people are the ones who speak out and say what they think. These are nice, demure, pleasant craftsmen who are in the technical assistance program. So if you want to give them a good agricultural county agent, a tinsmith, or whatever, they will take them. I do not object to that. But we are already doing this under the existing technical assistance program.

The point I wish to make is that the Peace Corps program is costing $10,000 a person and our country cannot afford it any longer, because our needs at home are so urgent. Nobody is arguing that without regard to the cost to the United States it would not be acceptable or that it is objectionable. I supported this program in the beginning, but the budgetary situation is such that we cannot afford $10,000 a person to go over there to take ideas of the good life to underdeveloped countries. I think we need them here.

I do not like the idea of the Senator accusing anyone who wants to make a savings in the running of the program of being neo-isolationist, or in the case of USIA of being neo-isolationist.

Mr. TUNNEY. This Senator did not say that. I did not call the Senator neo-isolationist. I believe it would be most inappropriate to cut back on the Peace Corps, but I did not call the Senator neo-isolationist.

Mr. FULBRIGHT. The implication is clear that that is what the Senator meant.

Mr. TUNNEY. I meant no such implication, and the Senator knows that I have supported his position in Southeast Asia. I have been a consistent and strong supporter of that position. We have very similar positions on American efforts in Southeast Asia.

So I am in no way accusing the Senator of being a neoisolationist. I admire many of his views immensely, but this is one area in which I respectfully disagree.

Mr. President, I would like to add one last word with regard to the Peace Corps. The average age of the Peace Corps volunteer since 1961 has gone up only 1 to 2 years. My understanding of what the Senator said is that we are dealing with a lot of old men or middle-aged men and women in the Peace Corps. That is not true. I understand that the average age since 1961 has gone up only 1 or 2 years. In 1972, 34,000 applicants are anticipated. Only one-sixth of those applicants can be accepted. It is clear there has been marked enthusiasm for the Peace Corps by the young people in this country.

With the average age being only 1 to 2 years greater, we can see that the Peace Corps has a dramatic impact on young people and they are most desirous of being able to participate in Peace Corps activities overseas.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for 1 minute?

Mr. TUNNEY. I yield, if I have time remaining.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

PERMISSION FOR COMMITTEES TO HAVE UNTIL 5 P.M. TODAY TO FILE COMMITTEE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may have until 5 p.m. today to file committee reports.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL INSTITUTE OF ARTHRITIS, METABOLISM, AND DIGESTIVE DISEASES

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 13591, which I understand has been cleared on both sides of the aisle.

The ACTING PRESIDENT pro tempore (Mr. STEVENSON) laid before the Senate H.R. 13591, to amend the Public Health Service Act to designate the National Institute of Arthritis and Metabolic Diseases as the National Institute of Arthritis, Metabolism, and Digestive Diseases, and for other purposes, which was read twice by its title.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The bill was ordered to a third reading, was read the third time, and passed.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The Senate resumed the consideration of the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on the rollcall vote which is about to occur not exceed 30 minutes today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I think I should explain this request for the Record because it is a little unusual. If my calculations are correct, from the standpoint of mathematics we are just barely operating with a quorum today and if we stick with a 15-minute rollcall vote we may not have a quorum.

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of the amendment by the Senator from California.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from California yield to me for 1 minute?

Mr. TUNNEY. Mr. President, I yield.

Mr. ROBERT C. BYRD. Mr. President, for the information of Senators, this rollcall vote which is going to occur will be the only rollcall vote today. The amendment by Mr. Stennis then will again be the pending question before the Senate. No votes will occur thereon today.

There will be some statements today by Senators at least one of which will be somewhat lengthy. So the Senate will be in session for another 2, 3, or 4 hours today.

I thank Senators for their cooperation.

Mr. KENNEDY. Mr. President, I support the amendment by the junior Senator from California to provide for an increase in the level of authorization for the Peace Corps in fiscal year 1973.

Vietnam, the alienation of the Nation's youth, and the directions being taken by the Peace Corps under this administration all joined in decreasing Peace Corps attractiveness. Over the past 3 years, the result showed in the decline of volunteers and trainees. A partial reason for the decline may well have been the submersion of the Peace Corps into the new Action agency, its identity blurred by the reorganization.

But perhaps most important to the malaise of the Peace Corps has been the continual question of whether funds would be cut, whether salaries would be paid, whether the level of volunteers requested in each country would be met.

Last year, the Peace Corps had to live within a budget that was changed three times by the Congress.

The result was a confused and frustrating year for everyone concerned. It also meant a loss of morale, a question in everyone's mind of what programs could be maintained, what programs had to be reduced.

Now it is time to look at the Peace Corps in comparison to relations to the priorities of our relations with other nations. How does the $88 million compare to the more than $800 million requested for military grants? Which is more effective in promoting development, the $88 million for the Peace Corps or the more than $500 million in military credit sales?

This year's request of some $88 million compared to last year's authorization of $77.2 million represents a reasonable attempt to meet new requests from host countries and to meet the rising numbers of volunteer applications. And it should be noted that the request still is substantially below the fiscal year 1971 authorization of $98.8 million and below the previous 4 years' authorizations as well.

Essentially, the Peace Corps remains a positive force for change around the world and a positive force for change here at home, as well. Today, there are 50,000 returned volunteers in the United States. They understand what underdevelopment means, not in economic statistics solely but in the human terms of the families they know in the favelas and barriadas of the world.

They understand that we cannot, nor should we, close our eyes to the needs of others.

The Peace Corps continues to stir the sense of idealism in this Nation as no other program has been able to do. President Kennedy's greatest satisfaction with the Peace Corps was in permitting more young Americans to use their skills and their dedication in the cause of freedom and development around the world.

Also, I would urge the Peace Corps to consider ways in which it can strengthen the international role of the Peace Corps by participating in international development teams, by permitting Peace Corps volunteers to operate as part of international volunteer organizations of the UN. and by continuing its program of encouraging the volunteer to operate fully under the direction of host-country institutions.

President Kennedy was convinced more than a decade ago that the young people of this country were ready to "join in a worldwide struggle against poverty and disease and ignorance." The record of the Peace Corps during the 1960's justified his optimism. And I would hope that the Congress will give young Americans the same opportunity during the 1970's.

I urge the adoption of the pending amendment.

Mr. TUNNEY. Mr. President, I do not have anyone who wants to speak on this side of the aisle so I am perfectly willing to yield back the remainder of my time if the Senator from Arkansas is prepared to yield back his time so that we may get to the vote.

Mr. FULBRIGHT. I yield back my time.

Mr. TUNNEY. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from California. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. Allen), the Senator from Indiana (Mr. Bayh), the Senator from North Dakota (Mr. Burdick), the Senator from Nevada (Mr. Cannon), the Senator from Missouri (Mr. Eagleton), the Senator from Mississippi (Mr. Eastland), the Senator from North Carolina (Mr. Ervin), the Senator from Georgia (Mr. Gambrell), the Senator from Alaska (Mr. Gravel), the Senator from Oklahoma (Mr. Harris), the Senator from Indiana (Mr. Hartke), the Senator from Iowa (Mr. Hughes), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from North Carolina (Mr. Jordan), the Senator from Arkansas (Mr. McClellan), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), the Senator from Utah (Mr. Moss), the Senator from Maine (Mr. Muskie), the Senator from Connecticut (Mr. Ribicoff), and the Senator from Alabama (Mr. Sparkman), are necessarily absent.

I also announce that the Senator from South Carolina (Mr. Hollings), the Senator from Montana (Mr. Mansfield), the Senator from New Hampshire (Mr. McIntyre), and the Senator from Georgia (Mr. Talmadge) are absent on official business.

I further announce that if present and voting the Senator from North Dakota (Mr. Burdick), the Senator from Oklahoma (Mr. Harris), the Senator from Minnesota (Mr. Humphrey), the Senator from New Hampshire (Mr. McIntyre), the Senator from Georgia (Mr. Gambrell), and the Senator from Connecticut (Mr. Ribicoff) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Oklahoma (Mr. Bellmon), the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Kentucky (Mr. Cook), the Senator from Arizona (Mr. Fannin), the Senator from Florida (Mr. Gurney), the Senators from Oregon (Mr. Hatfield and Mr. Packwood), the Senator from Iowa (Mr. Miller), the Senator from Kansas (Mr. Pearson), the Senators from Ohio (Mr. Saxbe and Mr. Taft), and the Senator from Texas (Mr. Tower) are necessarily absent.

The Senator from Pennsylvania (Mr. Scott) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

The Senator from South Carolina (Mr. Thurmond) is absent because of illness in his family.

If present and voting, the Senator from Massachusetts (Mr. Brooke), the Senator from New York (Mr. Buckley), the Senator from Oregon (Mr. Hatfield), the Senator from Ohio (Mr. Taft), and the Senator from Texas (Mr. Tower) would each vote "yea."

On this vote, the Senator from Iowa (Mr. Miller) is paired with the Senator from South Carolina (Mr. Thurmond). If present and voting, the Senator from Iowa would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 47, nays 9, as follows:

[No. 177 Leg.]

YEAS—47

Aiken
Anderson
Beall
Bentsen
Bible
Boggs
Brock
Case
Chiles
Church
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Fong
Goldwater
Griffin
Hansen
Hart
Hruska
Jackson
Javits
Jordan, Idaho
Kennedy
Magnuson

Mathias
Metcalf
Montoya
Nelson
Pastore
Pell
Percy
Proxmire
Randolph
Roth
Schweiker
Spong
Stafford
Stennis
Stevens
Stevenson
Symington
Tunney
Weicker
Williams

NAYS—9

Allott
Bennett
Byrd, Harry F. Jr.
Byrd, Robert C.
Ellender
Fulbright
Long
Smith
Young

NOT VOTING—44

Allen
Baker
Bayh
Bellmon
Brooke
Buckley
Burdick
Cannon
Cook
Eagleton
Eastland
Ervin
Fannin
Gambrell
Gravel
Gurney
Harris
Hartke
Hatfield
Hollings
Hughes
Humphrey
Inouye
Jordan, N.C.
Mansfield
McClellan
McGee
McGovern
McIntyre
Miller
Mondale
Moss
Mundt
Muskie
Packwood
Pearson
Ribicoff
Saxbe
Scott
Sparkman
Taft
Talmadge
Thurmond
Tower

So Mr. Tunney's amendment was agreed to.

Mr. TUNNEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination which was reported earlier today by the Committee on Armed Services.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER (Mr. Chiles). The nomination will be stated.

U.S. AIR FORCE

The second assistant legislative clerk read the nomination of Lt. Gen. Russell E. Dougherty to be a general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Virginia (Mr. Harry F. Byrd, Jr).

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

The PRESIDING OFFICER. Without objection, it is so ordered.

Now that the amendment of the Senator from California has been disposed of, the Senate will now return to the consideration of the amendment by the Senator from Mississippi (Mr. Stennis).

HOUSE BILL PLACED ON CALENDAR

Mr. LONG. Mr. President, H.R. 13334 passed the House by a vote of 271 to 56. It creates one new position in the Treasury Department, the post of Deputy Secretary, and makes three other positions in the Treasury Department subject to confirmation by the Senate.

The Committee on Finance is presently working on H.R. 1, the administration's welfare expansion bill. Rather than turning aside to other matters, we are going to continue to work on H.R. 1. However this bill is needed and we believe that this matter should go directly to the calendar.

Mr. President, I ask unanimous consent that a summary of H.R. 13334 be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Summary of H.R. 13334

Deputy Secretary.—The bill would establish one new position in the Treasury Department, the post of Deputy Secretary of the Treasury, to be compensated at level II in the Executive Pay Schedule ($42,500). This new position would be filled by Presidential appointment, subject to the advice and consent of the Senate.

Deputy Undersecretary.—It would also designate two positions in the Treasury as Deputy Undersecretary, compensated at level IV in the Executive Pay Schedule ($38,000). These are not new positions, but a redesignation of existing positions. In the future, however, they would be filled by Presidential appointment, subject to the advice and consent of the Senate, rather than being appointed by the Secretary.

Assistant Secretary.—The bill also would elevate the position of Assistant Secretary for Administration (presently level V, $36,000) and appointed by the Secretary under the Civil Service System to level IV ($38,000), appointed by the President with the advice and consent of the Senate.

Undersecretary.—The bill would authorize the present position of Undersecretary to be designated "Counselor", if the President so chooses.

Compensation.—Two of the positions being elevated involve pay increases. In addition, the present position of Undersecretary which would be vacated if the incumbent is designated Deputy Secretary may be filled from within the Department. The bill provides that the higher salaries associated with the new positions may not be paid to any incumbent prior to January 21, 1973.

Number of Executive level positions in various departments

State	41
Defense	50
Justice	24
Health, Education, and Welfare	23
Transportation	26
Interior	20
Commerce	20
Housing and Urban Development	20
Treasury	19
Agriculture	17
Labor	13

Mr. LONG. The Committee on Finance has authorized me to make the motion that the committee be discharged from further consideration of the bill so that it might be placed on the Senate calendar.

Mr. President, I move that the Committee on Finance be discharged from further consideration of H.R. 13334.

The motion was agreed to; and the bill was placed on the calendar.

SPECIAL PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 748, House Joint Resolution 1174, with the understanding that there be a time limitation for consideration of this measure of not to exceed 30 minutes, the time to be equally divided between the two assistant leaders or their designees.

Mr. GRIFFIN. With the understanding that at the expiration of that time, the amendment of the Senator from Mississippi (Mr. Stennis) will again become the pending business.

Mr. ROBERT C. BYRD. Yes, of course.

The PRESIDING OFFICER (Mr. Chiles). The joint resolution will be stated by title.

The second assistant legislative clerk proceeded to read as follows:

H.J. Res. 1174, making an appropriation for special payments to international financial institutions for the fiscal year 1972, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

The Chair hears none, and it is so ordered; and, without objection, debate will be limited to 30 minutes as requested by the Senator from West Virginia (Mr. Robert C. Byrd).

Mr. ROBERT C. BYRD. Mr. President, I yield 5 minutes to the able Senator from Virginia (Mr. Harry F. Byrd, Jr.)

The PRESIDING OFFICER. The Senator from Virginia is recognized for 5 minutes.

Mr. HARRY F. BYRD, JR. Mr. President, this legislation would appropriate $1.6 billion to adjust United States balances in international lending agencies to accommodate the recent devaluation of the dollar. The recipient agencies are the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank. In each, the United States commitment is stated in terms of gold, thus, when the gold price in dollars was raised, more dollars must be supplied.

Mr. President, this legislation results from the formal devaluation of the dollar. I did not oppose the formal devaluation of the dollar for the simple reason that the dollar already had devalued itself.

Over the years, and in recent months and weeks, the dollar has become a less valuable currency. As I have said, the dollar has actually devalued itself and the formal action taken by the President and Congress merely recognizes what has taken place.

The reason the dollar has devalued itself, and the reason it was necessary to devalue it formally, is due to the reckless and, in my judgment, irresponsible fiscal policies of the United States Government over a period of years.

Mr. President, less than 15 years ago, U.S. gold holdings were $22.8 billion. Total assets at that time, as of December 1, 1957, in the United States, were $21.8 billion. Liquid liabilities at that time, less than 15 years ago, were $15.8 billion.

What is the situation today?

The situation today is that the total assets of the U.S. Government available to apply against foreign demands are roughly $12 billion. Yet our liquid liabilities to foreigners total $65 billion.

During the past fiscal year, the Federal funds deficit of the U.S. Government was $30 billion. The Treasury Department estimates that for current fiscal year ending next month, the deficit will be $45 billion.

The PRESIDING OFFICER. The time of the Senator from Virginia (Mr. Harry F. Byrd, Jr.) has expired.

Mr. ROBERT C. BYRD. I yield an additional 3 minutes to the Senator from Virginia (Mr. Harry F. Byrd, Jr.).

The PRESIDING OFFICER. The Senator from Virginia is recognized for 3 minutes.

Mr. HARRY F. BYRD, JR. The projection for the upcoming fiscal year is that the Federal funds deficit will be at least $36 billion.

Mr. SYMINGTON. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I am glad to yield to the Senator from Missouri.

Mr. SYMINGTON. I congratulate the able Senator for his remarks on this subject. Is it not also true that any corporation which presented a balance sheet with a net current position of this character would be immediately considered, by any banker, to be totally insolvent?

Mr. HARRY F. BYRD, JR. The Senator from Missouri is totally correct.

Mr. SYMINGTON. Actually, I notice the committee report states:

> The Secretary of the Treasury is hereby authorized and directed to take the steps necessary to establish a new par value of the dollar of $1 equals one thirty-eighth of a fine troy ounce of gold.

Inasmuch as the price of gold this past week on the London gold market was $50.70 per troy ounce at one time, is not that "new par value" a little theoretical?

Mr. HARRY F. BYRD, JR. It appears to me that it is.

Mr. SYMINGTON. Would not the able Senator, one of the true experts in this body on financial matters, agree that this development is just further emphasis, in any case, that we should not go back to convertibility, where we would buy and sell gold at a particular price, regardless of the true market price.

Mr. HARRY F. BYRD, JR. The Senator is correct.

Mr. SYMINGTON. I thank my colleague, agree fully with him that this is an extraordinary amount of money, $1.6 billion.

Mr. President, how many Americans will have to work more to get that kind of money, which we now add to those soft loan window banks which the distinguished Senator from Viriginia and I have felt was wrong for a long time. They are not really loans, rather gifts because of the terms. Therefore, we are adding another $1.6 billion as an albatross around the necks of American taxpayers, who are already plenty disturbed about the way our money is being expended abroad by this Government, especially when they look at all the problems currently facing us here at home.

I thank the Senator from Virginia very much.

Mr. HARRY F. BYRD, JR. I am very glad the distinguished and able senior Senator from Missouri (Mr. Symington) mentioned the soft-loan window of the World Bank to which a part of this $1.6 billion will go.

Mr. President, this is Friday. It was only Monday of this week that the Senate was called upon to vote $320 million as an additional payment to the soft-loan window of the World Bank.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. ROBERT C. BYRD. I yield 5 additional minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 5 additional minutes.

Mr. HARRY F. BYRD, JR. Mr. President, this amount being appropriated today, Friday, will be added to the $320 million which the Senate voted to appropriate only last Monday for the soft-loan window of the World Bank.

I am very proud to have stood side by side with the able senior Senator from Missouri in opposing the $320 million appropriation this past Monday, because I think the time has come—of course, it is way past time, really—when Congress and the Government must give some consideration to the American people and to the taxpayers of the United States.

The only place the money can come from for these tremendous appropriations that Congress is making is out of the pockets of the hard-working men and women of our Nation. The facts show, Mr. President, that the interest on the national debt—which will be $493 billion at the end of the next fiscal year—in the current budget is $22 billion. That $22 billion will come out of the pocket of the wage earners.

Mr. President, the facts also show that for every dollar of personal and corporate income tax paid into the Treasury by the American corporate and personal taxpayers, 13 cents goes for one purpose, to pay the interest on the national debt.

What we are doing here today in this $1.6 billion appropriation to the world financial organizations dramatizes once again just how deeply troubled the Federal Government's financial situation is.

Mr. President, I have had a tabulation prepared, the heading of which is: "U.S. Gold Holdings, Total Reserve Assets, and Liquid Liabilities to Foreigners." This table is for selected periods and is in billions of dollars. I ask unanimous consent that the tabulation to which I have just referred be printed in the Record.

There being no objection, the tabulation was ordered to be printed in the Record, as follows:

U.S. GOLD HOLDINGS, TOTAL RESERVE ASSETS, AND LIQUID LIABILITIES TO FOREIGNERS

	Gold holdings	Total assets	Liquid liabilities
End of World War II	20.1	20.1	6.9
Dec. 31, 1957	22.8	24.8	15.8
Dec. 31, 1970	10.7	14.5	43.3
Aug. 31, 1971	10.1	12.1	59.9
Jan. 31, 1972	9.7	12.9	[1] 65.2

[1] Estimated figure.

Source: U.S. Treasury Department.

Mr. PROXMIRE. Mr. President, this joint resolution would appropriate such sums as are necessary—but not to exceed $1,600,000,000—to enable the Secretary of the Treasury to carry out the provisions of section 3 of the Par Value Modification Act, Public Law 92–268, approved March 31, 1972. This law authorizes and directs the Secretary of the Treasury to maintain the value in terms of gold of the dollars held by the International Monetary Fund—estimated cost, $525 million and the multinational development lending institutions of which the United States is a contributing member. These are the International Bank for Reconstruction and Development—World Bank—estimated cost, $560 million; International Development Association—estimated cost, $122 million; the Inter-American Development Bank—estimated cost, $370 million; the Asian Development Bank—estimated cost, $18 million. This breakout supports the total estimate of $1.594 billion necessary to fulfill the U.S. obligation to maintain the value of past and presently authorized subscriptions at such time as they may be appropriated.

The supplemental budget estimate for this appropriation was submitted in House Document 92–276, dated April 4, 1972, and requested an open-ended appropriation of "such amounts as necessary." The House wisely placed a ceiling of $1.6 billion on the request and the Senate concurs with this action.

The basic legislation—Public Law 92–268—authorizing this appropriation was passed by the Senate on March 1, 1972, by a vote of 86 to 1, and in the House of Representatives on March 21, 1972, by a vote of 342 to 43 and reads as follows:

> Section 1. This Act may be cited as the "Par Value Modification Act."
>
> Section 2. The Secretary of the Treasury is hereby authorized and directed to take the steps necessary to establish a new par value of the dollar of $1 equals one thirty-eighth of a fine troy ounce of gold. When established such par value shall be the legal standard for defining the relationship of the dollar to gold for the purpose of issuing gold certificates pursuant to section 14(c) of the Gold Reserve Act of 1934 (31 U.S.C. 405b).
>
> Section 3. The Secretary of the Treasury is authorized and directed to maintain the

value in terms of gold of the holdings of United States dollars of the International Monetary Fund, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of such institutions. There is hereby authorized to be appropriated, to remain available until expended, such amounts as may be necessary to provide for such maintenance of value.

SECTION 4. The increase in the value of the gold held by the United States (including the gold held as security for gold certificates) resulting from the change in the par value of the dollar authorized by section 2 of this Act shall be covered into the Treasury as a miscellaneous receipt.

The maintenance of value obligation directed by section 3 of Public Law 92–268 stems from a provision in the agreements governing each of these international financial institutions providing that each member country that devalues its currency must maintain the value of its contributions as measured by a common yardstick—in this case, gold. The committee is advised that these provisions have been applied routinely to all other countries devaluing their currencies and there has been no instance in which these obligations have not been fully discharged.

The Appropriations Subcommittee on Foreign Operations held hearings on the item on April 14 and the full committee recommended it without objection. Further information as to the basis of the estimate, the budgetary impact, and the reasons advanced for its earliest possible consideration is contained in the committee's report.

The PRESIDING OFFICER. The joint resolution is open to amendment.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time come from the time allotted to this side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am prepared to yield back my time, if I have any remaining.

Mr. GRIFFIN. Mr. President, I yield back the time on this side.

The PRESIDING OFFICER. All time has been yielded back. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 1174) was read a third time and passed.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The Senate resumed the consideration of the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from Mississippi (Mr. STENNIS).

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Presiding Officer.

Mr. President, I ask unanimous consent that the Senator from Arizona (Mr. GOLDWATER) may now be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum without prejudice to the rights of the Senator from Arizona.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I ask recognition.

The PRESIDING OFFICER. The Senator is recognized.

SECTION 701—THE KISS OF DEATH

Mr. GOLDWATER. Mr. President, it is my purpose today to try and make sure that each and every Member of the Senate realizes the enormous stakes involved in the possible adoption of an end-to-the-war proposal at this critical point in history.

Riding on the outcome of the proposal by Senators CASE of New Jersey and CHURCH of Idaho to cut off funds for all U.S. land, sea, and air combat operations in Indochina after December 31 is much more than an expression of senatorial opinion or legislative concern. Tied up in this crucial decision could easily be the hopes and dreams of millions of American allies, the hopes for stability throughout the strategic area of Southeast Asia, and more even than the honor of our Nation.

From repeated briefings which I have received from intelligence sources, it is apparent that the outcome of the struggle in Vietnam now hinges on whether the morale and determination of the South Vietnamese holds or whether it is broken to smithereens. If the South Vietnamese, our allies in this conflict, lose the remainder of their morale and refuse to fight, the whole effort into which we have poured so many lives and so much money is lost beyond redemption. However, if the South Vietnamese hold an element of steadfastness throughout this tremendous pounding, the continued terrific loss on the North Vietnamese will begin to tell, and the conflict will swing in the direction of freedom and away from Communist slavery.

At this point, I would remind my colleagues of President Nixon's assertion the other night that the enemy in Vietnam hopes to win its victory through the U.S. Congress and the American people. I say that they could do it right here in this Chamber if the Senate votes favorably on section 701 of this bill.

Mr. President, I know not how others might stand but I, for one, believe that Senate adoption of this end-the-war proposal at this time will be a "kiss of death" for many things that Americans hold dear. It certainly would prove to be the kiss of death for the hopes of the South Vietnamese people. It would serve notice that our support has a deadline and that the strings attached to it by the U.S. Senate would insure a victory for the North Vietnamese. I believe Senate passage of this proposal would destroy completely what remains of the South Vietnamese people's will to resist the Communist enemy. And as a U.S. Senator and as an American citizen, I do not want any part of that shame to hang over my head for the rest of my life.

Mr. President, I do not think many of my colleagues actually know what a vote in favor of section 701 could mean, not only to the embattled South Vietnamese, but to the respect with which future commitments by the United States will be held throughout the world.

This proposal at this time, Mr. President, is actually the kiss of death for almost everything we are trying to do. It could easily result in the collapse of the South Vietnamese and the annihilation of part of the 69,000 Americans still in that section of the world. It could bring about the liquidation of millions of South Vietnamese who, encouraged by us, have opposed Communist aggression for many years.

There can be no doubt that the adoption of this resolution would spell the kiss of death for our peace negotiations in Paris. Why would the enemy wish to engage in any meaningful negotiations at this time if the U.S. Senate was assuring it that almost everything they want will be handed them on a platter at the end of this year?

It could be the kiss of death for our hopes at the forthcoming summit meeting in Moscow. Enactment of this proposal would certainly weaken President Nixon's hand and render questionable any results that might come out of those important meetings.

Mr. President, I feel that because the President took the strong action he took against North Vietnam when the invasion began at the instigation of Hanoi, he goes to Moscow stronger than any American President has ever been when he visited another country. I am reminded of the tremendous strength gained by President Kennedy when he acted in a strong way in the Cuban crisis.

Mr. President, I beg of my colleagues to think this thing through. Just imagine the joy that it would bring to the headquarters of Mrs. Nuygen Binh, chief Vietcong negotiater at the Paris talks, who wrote to the Members of the Senate urging them to repudiate President Nixon. Passage of this proposal at this time would give Madame Binh exactly what she asked for while handing the President of the United States—the man the American people elected to run this country—a deliberate slap in the face.

Mr. President, this proposal is not

needed to inform the President that some Members of this body are unhappy with the events which their party caused to occur in Southeast Asia. I can assure you President Nixon needs no official announcement from the Senate of the United States that there is much unhappiness, frustration, and discouragement among the American people with the war which President Kennedy began and President Johnson escalated. He knows that perhaps better than anybody else. All this proposal would do would be to bring despair to the hearts of our allies and joy to the hearts of our enemies. Win, lose, or draw, I want no part of any such proposal.

Mr. President, I beg my colleagues to consider how their action here, if this section is approved, would appear to the rest of the world. It is a spectacle of a Senate of the United States refusing to consider a simple resolution condemning aggressive invasion and supporting the United States Government, while at the same time giving that Government orders on how it shall finally liquidate the mess which President Nixon's predecessors handed him.

In conclusion, Mr. President, this war has not been finally lost by the South Vietnamese, despite the impression created by a pessimistic communications media—a media which has been known to delight in the idea that the United States and its allies are being humbled. But if this Senate actually wants to do its best to destroy all hope rather than exercise a courageous patience, then all it has to do is to pass this proposal and spread the kiss of death throughout Southeast Asia.

Mr. President, I have become convinced myself through almost daily briefings I receive from Vietnam—and the same opportunity is available to other Senators—that the intelligence people in stating their position have put it in the way I would put it. When asked the question, What is going to happen in South Vietnam? I am convinced it is a matter of two points, and which one will happen first.

The first point would be the demoralization of the South Vietnamese Army to the point where they would no longer fight. That, of course, would end the conflict. The other point is: When the North Vietnamese make the decision they cannot stand the frightful losses that have been inflicted on them. The loss ratio, by the most conservative estimates, is about 4 to 1. How long can they continue to lose their Russian-made tanks, with their forces cut by one-half?

How long will the people of Hanoi be content with the tens of thousands of wounded and sick soldiers returning to that city, and how long will it be before they realize they have no reserve, that all 13 divisions, including two in Laos, from the Plain of Jars, are in conflict in Vietnam.

In other words, while I am not ready to stand up and say we are winning, I am ready to stand up and say that I feel within the next week or 10 days we are going to know the answer, and the answer is going to come on one of these two points. Will the South Vietnamese quit? I think if we pass the section that the Stennis amendment would knock out, this would add immeasurably to the chances they will give up. Mr. President, you cannot blame these people. There is not a living man in all of South Vietnam who has not been in a war. They have been fighting for over 25 years, either while the French were there or in the battle of the South against the North. These people are tired of war, and the people of North Vietnam are tired of war. We are learning through Japanese intelligence sources that they are about ready to quit. Their economy has suffered to the point that it would probably take five uninterrupted years to get it back on its feet. They suffer losses of food, and as in the case of all people, they have grown tired of conflict.

I would hope that over this weekend all of my colleagues would give this matter real study. I know how tempting it is to stand on the floor of the Senate and offer suggestions on how to end the war; I know how tempting it is to vote for these measures; but we are at a point in history where I think that even having this language spread on the RECORD and having this language contained in a bill will be detrimental to our efforts not only in Vietnam but around the world.

I think the least we can do is to take this language out and then after the conflict has been decided, have those people on this floor who want more control over the presidential war powers introduce an amendment to the Constitution that would change the intent of the Constitution which now, in my opinion, confers the exclusive right and power of war and peace to the President; but let us not act at this time on the matter that could be of embarrassment to the President, and I would say that if the President happened to be a member of the opposite party. After all, the President, is an office; he is not a man, he is an office created by our Constitution.

I think the least that we Americans, particularly those serving in the Congress, should do is show respect for that office and recognize the problems of that office at this particular time, and recognize, too, that the President is about to embark upon what could be a very meaningful visit to the capital of communism, and realize that he, through his actions, has reduced our forces in Vietnam from over 550,000 down to 69,000.

We have to think of those 69,000 men. As I said the other day, if they are trapped at Danang, that is an almost indefensible point. The airfield could be destroyed, in my opinion, from the surrounding hills without too much effort, and the embarkation of ships from the harbor could be controlled by the Communists at the narrow mouth of the harbor.

The same applies to the concentrations at Camranh, where we have billions of dollars worth of equipment that we want to protect and bring home as much as we can. This is also an indefensible area, different in nature from Danang, but nevertheless indefensible, and our men would be there at the mercy of the Communists should anything happen that would allow them to come down the country without any resistance.

I have more optimism than pessimism. I think Vietnamization of South Vietnam forces has been more successful than many people believe. I think in many respects their air force equals ours, their naval force, for practical purposes, does a better job than ours, and their communications are as good as ours. The question is how many divisions they have battle ready, and I think we are going to find that out in the next week or 10 days.

This is a weekend to do a lot of big thinking—thinking about whether we should be voting for something that could be of utmost damage to the United States, or should we be wise and not vote on this at all, but strike the language from the bill and allow the bill to pass in the form that would enable the State Department to continue to operate.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF THE RAIL PASSENGER SERVICE ACT OF 1970

Mr. MAGNUSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11417.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 11417) to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation for the purpose of purchasing railroad equipment, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MAGNUSON. Mr. President, I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. HARTKE, Mr. HOLLINGS, Mr. BEALL, and Mr. WEICKER conferees on the part of the Senate.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

VIETNAM: IN THE EIGHTH YEAR OF THE AMERICAN ORDEAL

Mr. CHURCH. Mr. President, last month, still another voice was added to the chorus out of the past, when the current Secretary of State solemnly testified that the war in Vietnam had entered a new era. In an attempt to justify the resumption of massive American bombing of North Vietnam, Mr. Rogers argued that the Hanoi Government had now invaded its neighbor to the south; that its indirect aggression had become direct; and that the Vietnamese struggle could no longer be regarded as a civil war.

Thus was delivered up, in hearings before the Senate's Committee on Foreign Relations, the latest addition to our collection of myths concerning this misbegotten war. The mind boggles at our seemingly limitless capacity for self-deception.

It is no new war, it is the same war still. The introduction into South Vietnam of regular troops from the North began years ago, and their numbers have steadily increased. As early as 1969, for instance, North Vietnamese regulars comprised about 70 percent of the enemy forces inside South Vietnam. The magnitude of the present invasion may be greater, but the character of the war is no different than before.

The reasons for our intervention, grown hollow over the years, have long since been discredited. One by one, they have fallen of their own rotten weight. The latest excuse for the renewal of our bombing and shelling of North Vietnam is utterly unresponsive to the only sensible question left to be asked: Why are we still there?

Why has Congress supinely supported our part in this disastrous and divisive war, after three Presidents have failed either to end it or win it? Why do we keep on voting the money? Are we so timid that we dare not cross a President?

If so, we have sunk to the low estate of the British Parliament at the turn of the 19th century, when England and France were locked in protracted war. Charles James Fox arose to address the House of Commons on February 3, 1800. His words apart from the elegance of phrase which graced his period, are so uncannily relevant to our own predicament that they could be uttered in this chamber on this very day.

Listen to his words:

> Sir, my honorable and learned friend has truly said that the present is a new era in the war. The Right Honorable Chancellor of the Exchequer feels the justice of the remarks; for by traveling back to the commencement of the war, and referring to all the topics and arguments which he has so often and so successfully urged to the House, and by which he has drawn them on to the support of his measures, he is forced to acknowledge that, at the end of a 7-years conflict we are come but to a new era in the war, at which he thinks it necessary only to press all his former arguments to induce us to persevere.
>
> All the topics which have so often misled us—all the reasoning which has so invariably failed—all the lofty predictions which have so constantly been falsified by events—all the hopes which have amused the sanguine, and all the assurances of the distress and weakness of the enemy which have satisfied the unthinking, are again enumerated and advanced as arguments for our continuing the war.
>
> What, at the end of 7 years of the most burdensome and the most calamitous struggle that this country was ever engaged in, are we again to be amused with notions of finance and calculations of the exhausted resources of the enemy as a ground of confidence and of hope?
>
> Gracious God. Were we not told, 5 years ago, that France was not only on the brink, but that she was actually in the gulf of bankruptcy?
>
> Were we not told, as an unanswerable argument against treating that she could not hold out another campaign—that nothing but peace could save her—that she wanted only time to recoup her exhausted finances—that to grant her repose was to grant her the means of again molesting this country, and that we had nothing to do but persevere for a short time in order to save ourselves forever from the consequences of her ambition. . . .
>
> What! After having gone on from year to year upon assurances like these, and after having seen the repeated refutations of every prediction, are we again to be seriously told that we have the same prospect of success on the same identical grounds?
>
> And without any other argument or security, are we invited, at this new era in the war, to carry it on upon principles which, if adopted, may make it eternal?[1]

Despite the force and eloquence of this argument, the House of Commons lacked the resolution to break with the government's war policy. Fighting went on for another 2 years before the Peace of Amiens was negotiated at last, on terms less favorable to England than when Fox had pleaded for a settlement.

II

When it was decided in 1965 that an American Army should be sent to fight in Vietnam, we took up arms in an open-ended war being waged by an alien people in an Asian land. Our Presidents spoke of it as a "limited war," by which they meant that we had limited ourselves to the defense of the Saigon regime in South Vietnam. From the start, the conquest of North Vietnam was ruled out, prudence dictating that a counter-invasion of the North could easily set off a war with China. The Chinese, after all, had entered the Korean conflict after we converted the defense of the south into a counterattack upon the north and our troops had approached the borders of China.

Hence, from the moment of our intervention in Vietnam, we were constrained to fight on the enemy's terms of attack and attrition. No matter how doggedly we persevered, we could never outlast the Vietnamese in their own homeland. Having denied ourselves the victory that only the conquest of the north could bestow, we were caught fast behind the breastworks of a war we could not stop or win. As Vietnam expert Richard Holbrooke recently observed on the editorial page of the Washington Post:

> Vietnamize it, pacify it, democratize it, pull troops out, pour aid in, visit China, send Kissinger to Paris, change our rhetoric, drive it off the front pages for awhile—it still won't go away.[2]

The newest enemy offensive, now in full flower, is being compared with battles of 4 years ago when the ancient imperial capital of Hue was devastated during the Tet uprising. Hopefully, this offensive can be turned back like the last, though the issue is in doubt. But then, as surely as leaves wither in the fall, other attacks will follow.

Of the North Vietnamese and their partisans in the south, Holbrooke writes the stark truth:

> They simply will not stop fighting, after all these years, until they get what they want. That is, they will not stop fighting unless we can make them stop fighting. That was patently beyond our military ability when we had over 500,000 men in Vietnam. It is even less likely when we have less than 100,000.[3]

It was inevitable, I suppose, that Presidents who conceded the need to confine our ground troops to the defense of the South would be persuaded by an unquenchable war to strike at the North through the air. President Nixon has again taken to the air in the desperate hope that he can bomb the enemy into submission. Reason and past experience better sustain the desperation than the hope.

Indeed, the dynamics of the Nixon Vietnamization policy, in the absence of a political settlement, almost guaranteed that North Vietnam would eventually launch the type of full-scale offensive now underway." By refusing to declare a firm deadline for the completion of our withdrawal, by intimating that a residual force would be left in South Vietnam until such time as our demands for the release of prisoners, a cease-fire, and new elections under a caretaker government were met, President Nixon has maneuvered the United States into a highly precarious position. His mistake is not that he removed more than 450,000 of our troops, but that he refused either to remove, or to commit himself to remove, them all. As a result, the safety of nearly 70,000 Americans who remain in South Vietnam now depends on Saigon's army, upon its willingness to stand and fight.

President Nixon has played the role of Hamlet in the Vietnamese tragedy. "To leave or not to leave," that is the question on which he could never make up his mind. So we find ourselves today in the worst of all possible postures, half in and half out, left with no recourse but to hurl our thunderbolts from the air upon an advancing enemy determined to seize the ground.

---

[1] Quoted in *A Treasury of the World's Great Speeches*, edited by Houston Peterson. New York: Simon & Schuster, 1954, p. 288.

[2] *Washington Post*, April 5, 1972.

[3] *Ibid.*

Thus, the reason for the President's desperation is evident. But what is the basis for his hope of success? In the short run, we hope that the tactical support our air power confers on the defenders in the field will prove sufficient to halt this latest enemy attack; in the long run, there is little reason to believe that the President's decision to resume the strategic bombing of the North will prove any more successful than in the past.

In July of 1966, our Central Intelligence Agency and the Pentagon's Defense Intelligence Agency reported that 16 months of bombing North Vietnam "had had no measurable direct effect on Hanoi's ability to mount and support military operations in the South." Moreover, the intelligence estimate concluded that the situation was "not likely to be altered" by mining Haiphong harbor or adopting other military proposals then contemplated for expanding the air offensive.[4] When, nevertheless, President Johnson escalated the air offensive in the North, Defense Secretary McNamara reported that "there continues to be no sign that the bombing has reduced Hanoi's will to resist, or her ability to ship the necessary supplies south."[5]

After President Nixon took office, a comprehensive review of the war was prepared for him. National Security Study Memorandum No. 1—NSSM-1—a summary of which has now appeared in the public press, acknowledged that years of strategic bombing "did not seriously affect the flow of men and supplies to Communist forces in Laos and South Vietnam. Nor did it significantly erode North Vietnam's military defense capability or Hanoi's determination to persist in the war."[6]

It is truly said that those who cannot learn from the mistakes of the past are destined to repeat them. The strategic bombing will fail again, as it failed before. Darken their skies with clouds of bombers, rain down destruction upon them, spread the carnage far and wide, and they may scurry for cover but they will not yield. The bombing will only stiffen their spines; it will never bend their knees.

Who can doubt it? Before our latest air strikes against the north, we had already dropped more than 6 million tons of bombs on the enemy, three times the total tonnage dropped by American aircraft throughout the Second World War. Over half of this incredible bombardment had been ordered by President Nixon.[7] Still, the war has never been suppressed, the supply lines never severed, the enemy never subdued.

An indigenous war, a civil war, is the least susceptible to control by outsiders. President Kennedy once sensed this when he said of Vietnam:

> In the final analysis, it's their war. They're the ones who have to win it or lose it.[8]

Until we Americans, the foreigners, leave, this war will persist. The French finally learned that lesson and left. One day we shall have to do likewise. The only question is how much longer we shall insist on staying, and how many more American lives we shall sacrifice before we leave.

The awful tragedy is that we are still there. Mr. Nixon's withdrawal, which could have been completed at any time within 9 months, has been dragged out instead over 3 and a half agonizing years, during which 20,000 young Americans have died and more than a hundred thousand have been maimed and wounded. Now, with nearly 70,000 men still remaining, we find ourselves caught up once more in the grizzly embrace of another enemy assault.

III

It will be said that the President is unaccountable for the prolongation of our ordeal in Vietnam, since, from the beginning of his term, he has striven diligently to negotiate a peace. The fault, it will be said, lies with an intractable Hanoi.

Here in the United States, that proposition would seem incontestable. From our point of view, the terms Mr. Nixon has offered appear unprecedented in their generosity. He has said, let the people of South Vietnam decide by free elections who shall govern them. What could be fairer than that? What could be more reasonable?

Yet the likelihood remains that the North Vietnamese and the Vietcong will continue to reject even the most "reasonable" proposals. They have been at war for over 20 years. They believe themselves to have been betrayed before by Western governments: by the French in 1946, who promised a referendum and then refused to hold it; by the United States in 1956, when the Eisenhower administration upheld Ngo Dinh Diem in his refusal to hold the elections called for in the Geneva accords. These are not experiences to encourage reasonableness. Even the most painstaking arrangements for a fair, internationally supervised election—if that were possible—could well be regarded with implacable mistrust.

Besides, when was a civil war ever decided by a cease-fire and elections? If this seems unreasonable, we might ask ourselves how, during our own civil war, the Union Government would have taken to being branded an aggressor for invading the Confederacy, or how, indeed, it would have responded to a British proposal for an internationally supervised plebiscite in the Southern States on the question of secession.

Nonetheless, the President protests, he has bent as far as honor permits in seeking a settlement at the conference table.

I would accept that as his honest judgment.

He insists that he must not yield to what he describes as Hanoi's demand that we throw over the Saigon regime, or implicate the United States in any strategem, other than elections, which would either undercut Thieu's government or facilitate a Communist takeover.

I agree that the President of the United States could not honorably accept such terms or ever be a party to a sellout.

For these reasons, I have long doubted that the talks in Paris would ever bear fruit. Conceiving themselves to be the eventual winners on the battlefield, it is hardly to be anticipated that the North Vietnamese would agree to terms at the conference table less favorable to the realization of their ultimate goal. That goal, steadfast and unchanging through the years, remains twofold: driving out the foreigner and reunifying the two halves of Vietnam, North and South, under the revolutionary government in Hanoi.

This being what the war is all about, our "generous terms for peace" must seem irrelevant to our adversaries. When President Nixon declares, as he did to the Nation on April 26, 1972:

> The only thing we have refused to do is to accede to the enemy's demand to overthrow the lawfully constituted government of South Vietnam and to impose a Communist dictatorship in its place.[9]

He states a position from which we cannot honorably recede. At the same time, in the eyes of the enemy, it is a position they cannot honorably accept, for to do so means forfeiting the very purpose for which they fight.

And when the President repeats, in the course of the same address, that all we seek at the conference table is "peace with honor for both sides—with South Vietnam and North Vietnam each respecting the other's independence,"[10] the outcome he describes, however laudable it may appear to us, is nothing other than the enemy's definition of defeat.

We are poles apart at Paris. To reconcile such contradictory positions would seem to call for the black arts of Merlin the Magician than the diplomatic skills of Henry Kissinger, impressive as they may be. I can see little prospect for a negotiated settlement of this war.

IV

If neither our bombing in Indochina nor our talks in Paris hold out plausible hope for stopping the war, then what are we to do? Mr. Nixon's familiar refrain is that we must persevere. "If we now let down our friends," he warns, "we shall surely be letting down ourselves and our future as well."[11]

After all the blood and treasure we have spilled in the jungles of Indochina over the past 7 years, are we permitted to ask just how we could possibly let down our friends? Have we not long since fulfilled, many times over, all our commitments to them? Have we not amply furnished them with the weapons and wherewithal to carry on for themselves? After all, we did not promise to fight in their place forever.

Show me a nation that ever before, in defense of another, offered up its sons on the altar of war in such prodigious numbers, or spent so profligately of its wealth. Never in history has one government given so hugely to insure the survival of another.

---

[4] *Jason Study, Institute of Defense Analysis*, Summer, 1967, quoted in *The New York Times*, April 19, 1972.

[5] *Ibid.*

[6] *Washington Post*, April 25, 1972.

[7] Information Office, Department of Defense. (Cf. *New York Times*, September 29, 1971).

[8] Press Conference, President John F. Kennedy, Hyannis Port, September 2, 1963.

[9] Address, President Richard Nixon, April 26, 1972.

[10] *Ibid.*

[11] *Ibid.*

The President says:

> The facts are clear. More than 120,000 North Vietnamese are now fighting in the South.[12]

But he refrains from saying that there are 10 times that many men under arms in the South, trained and equipped to defend their country against the attackers. He refrains from mentioning that we have supplied the Saigon Government with what Defense Secretary Melvin Laird recently described as:

> The fourth largest air force in the free world.[13]

And nothing at all is said about Saigon's navy, the biggest in all of Asia.

Instead, administration officials speak of the "flagrant, massive invasion"—an all-new war—made possible by a great influx of sophisticated weapons from the Soviet Union. To listen to these lurid descriptions, one would think that a giant were pouncing on a pygmy. In truth, just the reverse has occurred.

At one point, we had over half a million Amercan fighting men actively engaged in war on behalf of South Vietnam. No Chinese or Russian soldiers have ever fought for the North. For every spoonful of aid Hanoi has gotten from Communist countries, we have given a bucketful to Saigon.

R. H. Shackford, writing in the April 24 edition of the Washington Daily News, sums it up:

> Russian and Chinese economic and military aid to North Vietnam during the last seven years is so small that it would barely pay one year of interest on the more than $100 billion the United States has spent on the war in Southeast Asia.[14]

And that $100 billion covers only the direct costs of the war to the Armed Forces of the United States. It does not include the $11.64 billion military assistance program with which we armed Saigon's forces, or the $5.7 billion given in economic support, or the vast quantities of surplus materiel and installations transferred to the South Vietnamese as American forces have departed. Even the Pentagon's computers can only guess at the mammoth totality of it all.

If, at this late date and after such unprecedented largesse, we must still interpose our Air Force and Navy to shield South Vietnam against each new attack from the North, then when will our pilots and sailors ever be freed from the bondage of this war?

One searches in vain to find an answer to that question in the latest Presidential message to the American people. If the enemy offensive is turned back, Mr. Nixon observes, "the South Vietnamese will then have demonstrated their ability to defend themselves on the ground against future enemy attacks." Beyond that, the President justifies the escalated American role in the air war by quoting from the report of General Abrams:

> Our air strikes have been essential in protecting our own remaining forces and in assisting the South Vietnamese in their efforts to protect their homes and their country from a Communist takeover.[15]

There is nothing in the President's speech to suggest when American air strikes will no longer be "essential." No reference is made as to when the American Navy will be withdrawn from Vietnamese waters. The entire emphasis is placed on a further reduction—this time 20,000 men—in the American ground forces still remaining in South Vietnam. Of course, I am gratified that another contingent of our ground troops will be coming out, but they should all have been out long ago.

In fact, the more one studies the Nixon Vietnamization policy in Indochina, the more it resembles the Nixon Doctrine, meant for the rest of Asia. As that policy has been explained to us, the United States will keep its treaty commitments to its Asian allies. But should a new Vietnam-type war develop, "we shall look to the nation directly threatened to assume the primary responsibility of providing the manpower for its defense."[16] The American role will be to furnish the government under attack with arms, not soldiers, but to give it such direct American air and naval support as the circumstances may require.

I submit, upon all the evidence before us, that the much-touted Vietnamization policy turns out to be no more nor less than an application of the Nixon Doctrine by a different name. I suspected as much years ago, after the policy was first unveiled. In an article written in 1969 and published in the December issue of the Washington Monthly, I wrote:

> "Vietnamization" is not really a formula for disengaging from Vietnam; it is, rather, a formula for leaving American forces engaged in Vietnam indefinitely. Its purpose is not to get us entirely out, but to keep us partially in.[17]

Now, 2½ years later, I see no reason for changing that assessment. What is wrong with the policy is that it fails to live up to its name. This defect in the policy could be cured if the President would only go through with it, if he would only consummate it by disengaging all American forces—land, naval, and air—from further involvement in the war.

That is my proposition, not to linger, but to leave; not to retain "protective cover" for our remaining troops, but to recover our troops that remain. My proposition is to do what the President's policy purports to do, Vietnamize the war. Give henceforth to South Vietnam, as long as the war persists, the same kind of help that the Russians and Chinese give to the North, weapons and materiel. But give them our men no longer.

V

Commonsense has long since called for the disengagement of American forces. The American people have long wanted out of this winless war. Three times last year the Senate voted its approval of the Mansfield amendment, a modified version of which was written into law. Congress thus endorsed a policy for ending our participation in the hostilities, subject only to the release of all American prisoners of war and an accounting of all Americans missing in action. Included in the fiscal year 1972 Defense Procurement Authorization Act, as section 601 of title VI, and captioned "Termination of Hostilities in Indochina," the Mansfield amendment clearly enunciates congressional policy. It speaks for itself:

> It is hereby declared to be the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina, and to provide for the prompt and orderly withdrawal of all United States military forces at a date certain, subject to the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces. The Congress hereby urges and requests the President to implement the above-expressed policy by initiating immediately the following actions:
>
> (1) Establishing a final date for the withdrawal from Indochina of all military forces of the United States contingent upon the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.
>
> (2) Negotiate with the Government of North Vietnam for an immediate cease-fire by all parties to the hostilities in Indochina.
>
> (3) Negotiate with the Government of North Vietnam for an agreement which would provide for a series of phased and rapid withdrawals of United States military forces from Indochina in exchange for a corresponding series of phased releases of American prisoners of war, and for the release of any remaining American prisoners of war concurrently with the withdrawal of all remaining military forces of the United States by not later than the date established by the President pursuant to paragraph (1) hereof or by such earlier date as may be agreed upon by the negotiating parties.[18]

Before signing this bill, President Nixon explained how he viewed the troop withdrawal amendment. Here are his words, uttered on November 17, 1971:

> To avoid any possible misconceptions, I wish to emphasize that Section 601 of this Act—the so-called Mansfield amendment—does not represent the policies of this Administration. Section 601 urges that the President establish a "final date" for the withdrawal of all U.S. forces from Indochina subject only to the release of U.S. prisoners of war and an accounting for the missing in action. Section 601 expresses a judgment about the manner in which the American involvement in the war should be ended.
>
> However, it is without binding force or effect and it does not reflect my judgment about the way in which the war should be brought to a conclusion. My signing of the

---

[12] *Ibid.*

[13] *Testimony, Secretary of Defense Melvin Laird*, Senate Foreign Relations Committee, April 18, 1972.

[14] The *Washington Daily News*, April 24, 1972.

[15] Nixon. *Op. Cit.*

[16] *Press Conference*, President Richard Nixon, July 25 1969.

[17] Senator Frank Church, "The Only Alternative," *The Washington Monthly*, December, 1960.

[18] Military Procurement Authorization Legislation, Fiscal Year 1972, Public Law 92-56, 92nd Congress, First Section.

> bill that contains this section, therefore, will not change the policies I have pursued and that I shall continue to pursue toward this end.[19]

A century ago, it is inconceivable that a chief executive would have disregarded a statute, let alone dismiss its provisions in such an abrupt and peremptory way. That Mr. Nixon felt no compunction in doing so is a reflection of the low estate to which the Congress has fallen.

Did the Senate intend, when approving the Mansfield amendment by a vote of 57 to 42, on June 22, 1971, that its provisions should be ignored? Were we engaged in an idle exercise, when, by a somewhat larger margin, a vote of 57 to 38, the Senate reconfirmed the Mansfield amendment on September 30, 1971? And when, by voice vote, we again ratified the amendment on November 11, 1971, were we serious or engaged in a shameless charade?

That is the issue posed by the Senate Foreign Relations Committee in adopting, by a vote of 9 to 1, with 2 abstentions, the Case-Church amendment to this year's State Department-USIA Authorization bill. The issue, bluntly put, is whether we shall lay down and suffer the President's rebuke, or whether we shall stand up and insist that Congress be respected. The issue is whether we shall give teeth to the Mansfield amendment by backing it up with the power of the purse, or whether we shall acquiesce in the President's disavowal of the amendment as being "without binding force."

The Case-Church provision, if enacted into law, would give the Mansfield amendment binding force. It would close the purse strings on any further involvement of American forces, ground, sea, or air, in hostilities in Indochina, after December 31, 1972, subject only to the release of our prisoners of war and an accounting for all Americans missing in action. The provision, which forms section 701 to title VII of the authorization bill, reads as follows:

> TITLE VII—TERMINATION OF HOSTILITIES IN INDOCHINA
>
> Section 701. Notwithstanding any other provision of law, none of the funds authorized or appropriated in this or any other Act may be expended or obligated after December 31, 1972, for the purpose of engaging United States forces, land, sea, or air, in hostilities in Indochina, subject to an agreement for the release of all prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.[20]

The Case-Church amendment has been drafted in a manner calculated to reach every Senator who seriously voted for the Mansfield amendment. By invoking the purse strings, it would use the power of Congress to enforce the policy objectives of the Mansfield amendment. Congress has done this before, in the enactment of the several Cooper-Church amendments that relate to Laos, Thailand, and Cambodia. These amendments utilized the purse strings. As a result, they have been observed by the executive branch.

The same principle must be applied if Congress is to play its role in bringing about an orderly termination of American participation in this war, already the longest by far in our history. The time has come to place a date certain on our further involvement in the fighting. Unless a definite deadline is fixed, South Vietnam will keep relying on us to carry the burden of its defense indefinitely.

The Case-Church amendment would employ congressional power over the public purse to bring our direct involvement in this endless war to a close. It allows reasonable time for the orderly withdrawal of the balance of our forces from Indochina and for South Vietnam to assume the full responsibility for its own defense. It takes effect after December 31, 1972, provided there is a satisfactory agreement for the release of our prisoners of war and an accounting for all Americans missing in action.

No "precipitous withdrawal," about which the President has so often warned, would be involved. The amendment allows an ample 6 months to remove the 50,000 troops who, the President says, will still remain in South Vietnam after July 1 of this year. Actually, the amendment gives the President a little more time to complete our withdrawal than the schedule he himself has been observing—a rate that has averaged about 10,000 men a month.

To those who argue that we must not quit the war until all American prisoners of war are freed, the answer is written plainly in the amendment itself. The fund cutoff would not occur until next year, and then only if a satisfactory agreement on releasing the prisoners is entered into.

To those who reverse the argument and contend that the amendment might somehow prolong our stay in Vietnam by making total withdrawal contingent upon the release of prisoners, the answer is equally plain. Nothing in the amendment forces us to remain in Vietnam. If the President should decide that getting out—lock, stock, and barrel—is the best way to assure the return of the prisoners, the amendment would not stand in his way.

But the amendment, if enacted, would hold out a powerful incentive to Hanoi to free our men. For the first time, the Government of North Vietnam would be put on notice, as a matter of law, that release of our prisoners of war would bring an end to further American participation in the fighting, on the land, at sea, and in the air.

It has been contended by opponents of the Case-Church amendment that its retention in the bill would somehow constitute a vote of no confidence in the President of the United States. This is the same shopworn argument used to intimidate Senators every time Congress is challenged to share responsibility with the President for ending our part in the war. The Senate, on certain occasions before, has mustered up the courage to reject this argument for what it is; essentially, a plea for congressional abdication. I fervently hope we will do so again.

For, in a larger sense, the Case-Church amendment is not an attempt to thwart the President's policy of Vietnamization, but an effort to assume our part of the responsibility for carrying it out. If enacted into law, it would implement authentic Vietnamization by writing an orderly end to further direct American involvement in the war, thus completing the process of turning the struggle back to the Vietnamese, from whose hands we should never have lifted it in the first place.

VI

It is not easy to plead for the retention of an end-the-war amendment at a time when the enemy is pressing his attack on the battlefield. We are told, "This is not the right time," or, "This is not the right bill."

Well, perhaps not. But we are now in the eighth year of the American ordeal in Vietnam. When will the "right time" ever come? When will we ever find the "right bill?"

One of the tragedies of this war is the profound misconception each side has had of the other. If Hanoi understood the United States, it would release our prisoners of war and declare a cease-fire, while the balance of our forces withdrew from Indochina. Instead, they heat up the battle at the very time our remaining forces are most vulnerable.

If, on the other hand, we understood either the North Vietnamese or the nature of the war into which we blundered, we would stop branding them "aggressors" for invading a land they believe to be their own, and we would stop relying upon our bombers to make them quit.

Hanoi's army fights more fiercely than Saigon's because the Northerners see themselves as the true patriots. They despise Saigon's soldiers whom they regard as contemptible puppets hired to fight with American money.

No doubt, they are blinded by their passions, they are moved to strike even when their own interest would be better served by a show of restraint. Perhaps, like Billy Budd in Herman Melville's famous tale, they have come to place all of their faith in their blows. When Billy Budd was tried for the murder of his accuser, the young man declared:

> If I could have found my tongue, I would not have struck him . . . I could say it only with a blow.[21]

Two years ago, I urged the Senate to use the purse-strings in order to set the outer limits of American participation in a widening war. I said then, what I must sorrowfully repeat today:

> Too much blood has been lost—too much patience gone unrewarded—while the war continues to poison our whole society.[22]

Again the time is upon us for the Congress to act. If we fail now to erect a framework for completing our disengagement from this war, if we continue to acquiesce in a policy which leaves us partly in and partly out, we shall move inexorably closer, day by day, to that which the policy purports to avoid: a grim rendezvous with disaster and defeat.

---

[19] *Congressional Quarterly,* November 20, 1971, p. 2371.

[20] S. 3526, *Title VII,* lines 1 through 12, 38.

[21] Herman Melville, *Billy Budd and Other Prose Pieces,* London, 1924.

[22] From an address, "War Without End," delivered in the U.S. Senate, May 1, 1970.

Mr. CASE. Mr. President, will the Senator yield?

Mr. CHURCH. Yes, I am happy to yield to my distinguished colleague, the Senator from New Jersey, who is a cosponsor of the amendment.

Mr. CASE. The Senator has made a strong speech, a speech which measures up to the high standards which he has set in this body and in his forensic achievements in other forums. Beyond that, he has come very directly to the heart of the issue.

One does not have to agree with every statement that the Senator has made, and I do not in all respects. But on the essential point that we are faced with the necessity for stopping a war without end, I agree with him completely. I believe that the American people instinctively recognize that we have been taking the wrong approach and that now the Congress should follow their lead.

As a matter of fact, I ask the Senator, Is it not true that the American people have indicated their agreement with our amendment in response to a recent Gallup poll question on complete withdrawal of U.S. forces from Indochina by the end of the year?

Mr. CHURCH. Yes. The latest Gallup poll, which sets out the formula contained in the Case-Church amendment—a cutoff of funds after the end of the year contingent on the release of all American prisoners of war—is favored by 71 percent of the people, 25 percent are opposed, while 4 percent are undecided. Here is a situation where three-quarters of the American people, using their commonsense, have concluded that the time has come to set a definite date for the completion of our withdrawal, provided our prisoners of war come out safely.

Mr. CASE. And is it not true, as it seems to me, that the only prospect for the success of Vietnamization in its best sense—that is to say, of leaving the South Vietnamese in a position to defend themselves—is the course which our amendment has suggested? Has it not now been demonstrated beyond possibility of doubt that until the United States has indicated that on a date certain the South Vietnamese will be on their own, they will never be ready to take the responsibility for their own defense.

Mr. CHURCH. I concur completely with the Senator. Indeed, I would go further. Two things have become evident: First, that the North Vietnamese will never be willing to give up our prisoners of war until we are willing to give up the war; second, the South Vietnamese will never be willing to rely on their own arms, abundant as they are, for the defense of their country until we can make it plain, through the setting of a date certain, that we are in fact withdrawing from further participation in the war.

This is not a new adventure. We have been waging this war for 8 long years, and for 5 years we undertook with our own manpower to fight the war for the South Vietnamese. We assumed the heaviest part of the fighting. During this period, we built up an immense army for the South Vietnamese, more than a million strong; we built up a formidable air force, described by the Secretary of Defense as the fourth largest in the free world; we built up a South Vietnamese navy which is now, I am told, the largest of any navy in Asia.

We have furnished the tools. But, until we are willing to say that the time has come for Saigon to assume a full responsibility for its defenses, it is clear that the Saigon government will continue to rely indefinitely upon the United States, on our air power, on our naval power.

Mr. CASE. The Senator recalls, I am sure, that though it has not been made officially public, we have read accounts of a memorandum prepared for the President at his request upon his coming to office in 1969. This memorandum called NSSM–1 summarized, among other things, the views of the highest officials in the State and Defense Departments and the CIA as to how long it would be before the South Vietnamese would be able to pacify their own country.

I have not read the memorandum, but I read newspaper summaries of it. As I recall, the estimates ran from the most optimistic of something about 8 years to a pessimistic 13 or more years before South Vietnam could be pacified. As these matters go, this means no end at all.

Does not the position of those who oppose the Senator from Idaho, the Senator from New Jersey, and others who support our point of view, rest in large measure upon an indefinite continuation of the use of American airpower? And does not the Senator feel that the American people will not—as I know he feels they should not—support for any indefinite period such as this the continued destruction by these mechanical means of life in South Vietnam and the risk of American lives in the process? Is their revulsion not a factor which everyone must recognize as a further indication of the impossibility of success of the course which, in the absence of the approach the Senator from Idaho and I are proposing, is already foredoomed?

Mr. CHURCH. I agree wholeheartedly with the Senator. He knows, I know, and the American people know, that there is no such thing as "surgical bombing" or "precision bombing" when directed at ground targets 35,000 feet below. These bombing strikes inflict terrible loss of life and limb to the civilian population. At least we should stop deluding ourselves about the heavy toll we take of civilian life in these operations.

If there were any evidence to indicate that such bombings are effective, if the past 8 years had given us any basis for believing that the bombing could somehow force the enemy to pull out of South Vietnam, then, of course, a case could be made for it as a cumbersome and bloody, but nonetheless necessary, aspect of the war.

I submit that there is no evidence to sustain that conclusion. As I indicated earlier, we have already dropped more than 6 million tons of bombs on Vietnam, Laos, and Cambodia—far more than we have dropped on all previous enemies in all previous American wars combined. But it has not stopped the Communist supply lines. It has not broken the spirit of the North. It has not forced them to withdraw from the South. It has not even had any apparent effect upon diminishing the ferocity, or the effectiveness with which they fight. Indeed, just the opposite seems to be the case.

Now, after all of that bombing, all of the death, all of the destruction that we, in command of the air, have been able to pummel down upon the enemy they have mounted the largest and most dangerous offensive of the war.

I understand the President's use of bombers, now that the enemy has launched so formidable an attack: That is all he has left. I understand the desperation: He has left 70,000 Americans in South Vietnam with nothing, but the South Vietnamese army to protect them. But I see no reason, on the basis of the evidence, to conclude that the bombing will now succeed when it has always failed before.

Mr. CASE. It seems to me that this is very close to the heart of the matter. In fact, I think it probably is the heart of the matter.

I do not know whether the following story is apocryphal, but an American officer is supposed to have said, in regard to the 1968 devastation visited upon the city of Ben Tre in South Vietnam:

> We had to destroy the city in order to save it.

Whether or not that actually was said, we seem to be faced with the same problem now in Vietnam. Do we want to destroy Vietnam in order to "save" it? I think not. And to accept that fact is, it seems to the Senator from New Jersey, scarcely a sign of weakness either of intelligence or of moral fiber. To refuse to accept that fact seems intolerable for us as responsible Members of the Congress of the United States.

I will say one more thing and then I shall not keep the Senator from Idaho on his feet any longer, because he has done a stupendous job: Is not the effort that he and I are making on this occasion, with many supporters, one to provide the Nation and its leaders, including the President, a way by which all of us may join in a common effort to conclude a war which otherwise is a hopeless situation and an endless one?

I cannot too strongly express my hope that our amendment will be accepted in that fashion—if not today, then in the very near future. I have come to the conclusion that there is no other way out and that the only alternative is indefinite continuation of intolerable destruction. We are physically capable of continuing this destruction but we cannot much longer continue and still retain the national confidence in our rightness that is essential for a country and its leaders to hold.

Mr. CHURCH. I again concur in everything the Senator has said.

Two arguments are made against our amendment, not so candidly here on the Senate floor as in the cloakrooms and in private conversation.

One argument comes down essentially to this: The Senate should do nothing. We should continue to follow our leader. This is advice the Senate has heard frequently before and, sadly enough, Congress has accepted that advice, almost without exception, whenever it was challenged to assume its part of the responsibility for our war policy. Follow our leader.

Three leaders we have followed—two Democrats and one Republican—for 8 years of anguish, none of whom was either able to win the war or end it. Where are we today? We are at the brink of disaster in South Vietnam, and our forces there are in a more precarious position than ever before. Follow our leader. That is what we have been admonished to do; and it has been an easy way out for Congress.

Now the hour is very late, but we have a final opportunity, perhaps, to share with the President the responsibility that the Constitution vests in Congress: To make public policy, to establish a program for coming out of this war in an orderly and dignified way, with our honor intact.

But there are others in the cloakrooms who say, "Well, the President has made his bed; let him lie on it. Why should we, at this late date, get ourselves involved?"

The Senator from New Jersey and I do not believe that either argument has any validity. From the beginning it has been the duty of Congress to assume its share of the responsibility both for the war and for its termination. I do not want to let the President lie alone in the bed he has made, even though he might prefer it that way. I do not want to see Congress abdicate, even at this late hour. It is a part of our responsibility to the people we represent to help formulate an end-the-war policy and share with the President the responsibility for that policy. In essence, that is the argument that the distinguished Senator from New Jersey and I make today, on behalf of the Case-Church amendment.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. SYMINGTON. Mr. President, I rise to congratulate the distinguished Senator from Idaho for one of the finest addresses it has been my privilege to hear since becoming a Member of this body. The able Senator was kind enough to send me an advance copy, and I read it, and read it again. Let us hope that not only every Senator but every American as well will have a chance to gage for himself the logic—the effective logic—contained in the words of this speech.

I was glad to note that he, too, in this convincing presentation of his case, emphasized that the only real authority the Congress has lies in the power of the purse.

I have been to Vietnam seven different times since 1960, including a visit this year. Each time I come back from one of those visits, I am more impressed with the futility of our gigantic expenses out there, and even more with the sadness of the killing—not only the killing of those young Americans who are ordered by many people, including Members of this body, to fight and die, but also the killing of civilians, especially little children. The mutilated and burned children, perhaps more than anything else, make you wonder, what this is all about.

I say with great respect that, having spent more than a quarter of a century directly or indirectly connected with the Military Establishment of this country, no one can convince me that it was or is important to the security of the United States for this killing to continue. If it was, I would be for it. It is not, so I am against it, and the tragedy should be stopped as soon as possible. Why must we continue to take the side of the South Vietnamese in their fight with members of their own country—they all were members of their own country, Indochina, before that country was arbitrarily partitioned by the major powers?

Mr. President, today, by voice vote, the Senate passed a bill for $1.6 billion so we could add that gigantic sum to our international commitments. There was little argument against it. The Senator from Virginia (Mr. HARRY F. BYRD, JR.) and I spoke against it.

Now, just how much is $1.6 billion?

I would hope someone would try and estimate just how long the American taxpayers, already being so unfairly treated by their Government, would have to work to provide that $1.6 billion to equalize in theory, our international position.

That is nothing, however, compared to the money we continue to pour down the drain in Indochina.

These are also my convictions, but I am not expressing them nearly as well as has the able Senator from Idaho.

I would make another observation, and would hope the Senator would give this thought serious consideration, as well as the other distinguished author of the amendment, now in the Chamber, the able Senator from New Jersey (Mr. CASE).

There will never be a time that is not the wrong time by those who oppose for this type of legislation to go through. Year after year, while we have been spending billions of dollars and witnessing the killing of tens of thousands of Americans, it has never been quite the right time.

Now those opposing this amendment may say "The President of the United States, when a Democrat, was going to go here or there and make an arrangement. The President of the United States, a Republican now, is going somewhere and make an arrangement. Perhaps he will succeed and, in any case, this will hurt his chances." The people who are even more practical politically will say, "He will then blame it on us."

Everyone thinks about many such possible developments, but few think about the young Americans who continue to fight and die in a cause universally agreed upon as not capable of victory.

Right now, the President is planning a trip to Moscow, and there will be people who will say, "Don't do this now, because it might affect the success of his trip."

But, Mr. President, if we do not pass this Church-Case amendment now, when the President gets back, win or lose, these same people will say, "Well now, there really is a chance. They are really looking into it all. Let us not be hasty. Let us wait. Let us give the President a chance to put over some kind of arrangement that will protect our honor."

And all this after 8 long years of fighting and dying on the other side of the globe.

Whose honor? Whose honor?

I have just had a pleasant lunch, and expect to have a pleasant evening. Let us think less about our own honor and more about the honor of those young people in Indochina, many of whom will be killed today while we are on this floor.

What does the Christian religion stand for if it does not stand for love and for the value of a human life?

When I came back from Vietnam after my fourth trip, 1967, and switched my position on the war, I presented my reasons to a Junior Chamber of Commerce group in my State, said that I thought we should call then for a ceasefire. That was the fall of 1967. One young man got up and said, "Are you trying to say that 14,000 young Americans have died in vain?"

My reply was: "I would answer your question with another question: Would you rather kill 14,000 more than admit we made a mistake?"

Now we have killed over 45,000, with over 300,000 wounded; and today there is no one, from the President down, but who admits no military victory is possible.

Mr. President, I intend to speak more on this subject from another angle at a later time; but again, I congratulate the able Senator from Idaho (Mr. CHURCH), a thoughtful, reasoned, and intelligent American, with a great war record of his own, a Senator who won a scholarship for excellence from the American Legion. I congratulate him on one of the finer addresses, I am especially glad he delivered it on the floor of the Senate because of my conviction that what he has said is right from the standpoint of what is best for the future security of our country.

Mr. CHURCH. Mr. President, I want to express my very sincere thanks to the distinguished senior Senator from Missouri (Mr. SYMINGTON) for his generous remarks about the address I have given today.

I want to say to him that, though the timing of the vote is a matter of judgment, I have made the same argument he has made. I know, as I stand here on the floor of the Senate today, that whenever it is decided to bring our proposition up—because it will be brought up for a vote—there will be many who will say that it is untimely. Those who say it, of course, are those who would oppose the amendment at any time. They have made that same argument for the 8 long years we have engaged in this futile and foolish war.

But I want to say something else to the Senator from Missouri. If I remember correctly—and I want the Senator to correct me if I am wrong—in the early stages of the war, the Senator from Missouri supported the war effort. He accepted the reasons that were then offered, but he wanted to survey the situation for himself. He traveled to Southeast Asia to examine tne case in the field in order to determine whether it substantiated the arguments being made in Washington. In the course of that personal pilgrimage to the theater of war, the Senator from Missouri changed his mind.

That takes courage, particularly among public men. It is always safer to hold to a consistent point of view, no matter how tragically wrong it may be, than to change one's mind. But it is part of the bigness of Senator SYMINGTON that he changed his mind and became one of the most effective and influential critics of our Southeast Asia war policy.

Mr. President, would that our Presidents had shown the same capacity to look at the evidence and change their minds. But our Presidents—like Czar Nicholas II of Russia—sit in the White House surrounded by the trappings of the high office they hold, treated with a deference and respect which we were unaccustomed to giving our Presidents in the simpler days of this Republic and which are traditionally accorded to emperors. Despite the fact that every calculation has proven wrong, that every optimistic prediction has been undone by events, despite all assurances, events in Asia have played tricks upon them, and these Presidents have shown no capacity to adapt our policy to reality.

That was Czar Nicholas II's problem until finally the monarchy collapsed in 1917.

Mr. President, the senior Senator from Missouri has mentioned that Vietnam was not historically divided into two sovereign nations, that this is a war between the North and the South, even as our own war between the States was between the North and the South. It is a war to determine what? To determine whether Vietnam is going to be run as one country, under one government, or whether it is going to be divided into two countries, one run by Hanoi in the North, and the other by Saigon in the South.

That was the issue in our own Civil War, whether the United States was going to be one country run from Washington, or two countries, one run from Washington and the other from Richmond. Our civil war was not settled by a plebiscite. And I do not think that Mr. Lincoln would have been much impressed if he had been labeled an aggressor for sending his northern armies into the South.

What are we hearing from the administration concerning this latest invasion? Let me quote the words of President Nixon in his address on April 26, 1972:

> It is a clear case of naked and unprovoked aggression across an international border.

What international border? What are the facts of the case? The border was established as the result of the Geneva talks of 1954 in which the French negotiated for an arrangement whereby they could withdraw from the country, ending the French colonial rule following the French defeat at Dienbienphu.

This was what was said about the border in the agreement, reading from the agreement on the cessation of hostilities in Vietnam, July 20, 1954:

> *Article 1*
>
> A provisional military demarcation line shall be fixed, on either side of which the forces of the two parties shall be regrouped after their withdrawal, the forces of the People's Army of Viet-Nam to the north of the line and the forces of the French Union to the south.
>
> It is also agreed that a demilitarized zone shall be established on either side of the demarcation line, to a width of not more than 5 kms. from it, to act as a buffer zone and avoid any incidents which might result in the resumption of hostilities.

Mr. President, in another part of the agreement it is specifically stressed that the provisional military demarcation line is not to be considered a political boundary.

The Accords also specifically provided that elections would be held throughout Vietnam within 2 years so that the people might determine whether the people wanted the country reunited or left divided.

Mr. President, I ask unanimous consent that paragraphs 6 and 7 of the final declaration of the Geneva Conference, July 21, 1954, to which I have just referred, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, those elections were never held. They were never held because Mr. Diem, whom we supported in Saigon, refused to go through with them, and we concurred. Those of us who read the passage will remember that in President Eisenhower's memoirs, he explained why we concurred. His advisers at that time, he said, believed that had the elections been held, Ho Chi Minh was likely to get 80 percent of the vote.

That is the history of the case.

Yet President Nixon now tells us, so many years later, that in the present instance "we have a clear case of naked and unprovoked aggression across an international border."

Mr. President, it is this kind of self-delusion that has led us to miscalculate this war from the outset, to misconceive its purpose, to misunderstand the motives of the Asian people involved, to misjudge this little country so far from our shore, a little country that cannot reach us nor possibly constitute a threat to the American people. But there we are, locked into this mistaken war, still misreading the record, still misinterpreting the history, still deluding ourselves that the cause for which we fight is just, and that a struggle among the Vietnamese is our affair.

That, of course, has been the weakest reed of all. It was not our affair to start with. It is not now. It never will be. We used to tell the French it was not their affair. After billions of dollars expended and thousands of French lives lost, they finally woke up one day to the fact that they were not wanted there, that the indigenous people who lived in that land, were fighting to secure independence, fighting to drive the foreigner out, even as we fought in our own Revolutionary War to achieve our independence nearly 200 years ago.

We told the French to leave, to settle the war, to give the Vietnamese their independence. Then, we turned around, a few short years later, and intervened in a country where we had no substantial interest, where we had no historical connections, and where we owed no post-colonial responsibility, and we made the war there an American engagement on the continent of Asia. We did it against the best advice of the American generals who had fought in Korea, who told us after that struggle:

> Never again engage American men in an Asian war, for to do so will mean an endless attrition in a struggle that bears no real relationship to the security of the United States or to our vital interests as a Nation.

Mr. President, there is no need to recount any further that sad story. The need now is to end our involvement in the war. We have done all we can for the faction we support, the Theiu regime in Saigon. We have given it the weapons to defend herself. Now is the time to set a date for completing our withdrawal and for making Vietnamization what its name implies, a policy for returning the war to the Vietnamese.

That is what we would accomplish with the Case-Church amendment. The American people, in their good commonsense, know that is what we ought to do, nearly three-fourths of them, in the latest Gallup poll, endorsing the formula contained in the amendment. I hope we find the will to do it. I hope the Senate will not vote to strike this amendment from the bill.

Mr. President, I yield the floor.

PARAGRAPHS 6 AND 7

6. The Conference recognizes that the essential purpose of the agreement relating to Viet-Nam is to settle military questions with a view to ending hostilities and that the military demarcation line is provisional and should not in any way be interpreted as constituting a political or territorial boundary. The Conference expresses its conviction that the execution of the provisions set out in the present declaration and in the agreement on the cessation of hostilities creates the necessary basis for the achievement in the near future of a political settlement in Viet-Nam.

7. The Conference declares that, so far as Viet-Nam is concerned, the settlement of political problems, effected on the basis of respect for the principles of independence, unity and territorial integrity, shall permit the Viet-Namese people to enjoy the fundamental freedoms, guaranteed by democratic institutions established as a result of free general elections by secret ballot. In order to ensure that sufficient progress in the restoration of peace has been made, and that all the necessary conditions obtain for free expression of the national will, general elections shall be held in July 1956, under the supervision of an international commission composed of representatives of the Member States of the International Supervisory Commission, referred to in the agreement on the cessation of hostilities. Consultations will be held on this subject between the competent representative authorities of the two zones from 20 July 1955 on wards.

Mr. STENNIS. Mr. President, I shall not detain the Senate at any great length. I hope the Senator from Idaho will remain in the Chamber long enough for me to pay him a very highly deserved compliment and also to comment on his consistency in connection with this problem.

I am not given to talking about myself, I hope, but so many times, especially in this field of activity, if the press takes any note of me, they refer to me as "the hawkish chairman of the Senate Armed Services Committee."

The title of the Senator's very fine speech refers to the prolongation of 8 years. Long before I was chairman of the Committee on Armed Services, in 1954, I was pleading in this Chamber that we not go into Vietnam with military men. The first move was to send 200 airplane mechanics in there. They were in American uniform and, therefore, they represented the American Government. My argument was that no one was going in with us and war was going on there, and if we got in, we most likely would have to carry most of the burden. I claim no credit for that.

I just note that because the element of time has been mentioned. It is said the argument is against Congress passing such a provision as the Church-Case amendment; not now, not this time, this is not the bill.

I have further background on this problem. I challenged very seriously, repeatedly, on the floor of the Senate in 1954 the SEATO Treaty. We are not in Indochina because of the SEATO Treaty but it relates to the neighborhood. I asked: If we are going in, what is going to touch this off? Will there have to be a declaration of war by Congress? I was assured over and over again that such was the position of the document. That would be the procedure that was threshed out here when we had the debate on the so-called war powers. So this is not a new subject for me and it is not a new subject for the Senator from Idaho.

I remember when the Senator from Idaho came here he was impressed with this problem. I remember he appeared repeatedly in this Chamber and discussed the entire Indochina problem and argued about the Laotians. That is the first problem that I remember him discussing, and that was as early as 1959 or 1960. He has been very helpful to the Senate and very able, as he always is, in the way he handles this subject. I always pay attention to what he says. As a matter of fact, I have encouraged him to dig into a few things I learned he was prodding into. So I completely appreciate what he has said.

I think the great tragedy is that there were not more Senators present to hear what the Senator from Idaho had to say—the very fine presentation of his viewpoint—and the facts he has mentioned. The attention of others will be brought to what happens here this afternoon because it will appear in the RECORD and go throughout the country. It was a very worthy speech.

But, Mr. President, with all deference, I do not believe the sentiment of the Senate is now such that a majority of the Senate will pass this provision cutting off these funds. I believe that the majority of the Senate, on second thought, does not want that to be done. This is for a reason that the Senator from Idaho gave little attention to in his prepared remarks, although he did refer to it in his later extemporaneous remarks. There is no real recognition, though, in the main argument with reference to Vietnam. There is recognition in the argument presented.

I refer to the fact that our Chief Executive—and regardless of who it is because that is incidental—in a few days will be on his way to Moscow where there can be the most far-reaching agreement, beneficial to us. I am not talking about beneficial to someone in Asia or Europe, but to us, the American people—it can be the most helpful and beneficial agreement that has been entered into by us since World War II. I believe that no Member of the Senate would want to hinder the President, and I believe the majority of them will decide that this provision, which we are trying to take out of the bill by my amendment, is detrimental and hurtful to the interests of our people and our country at this conference coming up.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. STENNIS. Yes, sir; I yield briefly to the Senator.

Mr. CHURCH. It will be brief.

Mr. STENNIS. I know the Senator does not wish to interrupt the remarks.

Mr. CHURCH. First, I thank the able and distinguished Senator for his generous reference to me. I appreciate it very much. Second, I want to say that it is tragic that the Senator's good advice back in 1954 was not followed. I know he did take that position before we got involved.

If a decision is made to defer the vote on this proposition to a later date, it will be because of the forthcoming trip that the President is making to Moscow.

All of us share the hope that his trip can prove fruitful, and that understandings can be reached of great consequence to the future.

I want the Senator to know that his argument on that score is being very carefully weighed by those of us who favor this amendment. Should it appear that there is any possible way that the provison might interfere with that trip, then the Senator knows we will try to work out a deferral of the vote to a more appropriate time.

I thank the Senator.

Mr. STENNIS. I thank the Senator very much for his remarks. My argument now does not relate solely to that. I am just saying that I believe, when this matter is voted on, the majority will have the judgment to strike this provision from the bill, and the main reason I am citing here is this trip.

Let us not write it off as old hat that something might come from this conference with respect to the SALT talks. I am not an expert in this field, but I am generally familiar with it. It was to the Committee on Armed Services that the nomination of the Ambassador of the United States to the SALT talks, Ambassador Smith, was referred. So we have a special responsibility there. I was greatly impressed with him. Then we have a subcommittee, headed by the Senator from Washington, which has held regular hearings on the subject of the SALT talks, where it is very much hoped that we can get some kind of agreement on arms limitations—not disarmament, which is just a fancy word, but arms limitation. We have followed the progress of all those talks for the more than 3 years that they have been in progress.

I am not prophesying what is going to happen, because I do not know, but I say seriously there is a very fine chance that out of that summit conference in Moscow will come the culminating and finishing touches to an agreement that will at least be a beginning toward limitations by Soviet Russia and the United States in the nuclear weapons field. How far it will go, no one knows, but if it makes a start, an appreciable start, that will be going a long way, because time is running out. Technology has far outdistanced statesmanship or diplomacy—by whatever name it is called—and it is high time that we made a start now if we are going ever to have an arrangement.

Mr. President, there is no way to overemphasize the importance of that development, but that is not the only thing that is going on. I referred to this the other day. The war in Vietnam is rising to a high pitch, a very threatening part of it. It may be the climatic part. I am not making a firm prediction about what is going to happen there. I have no way of knowing. I have no great wealth of added information as compared with what other Members of this body have, but I do know it is considered to be a very critical situation. Anyone who reads and listens can tell that. This is happening in spite of the fact that we have done everything we possibly could have done with respect to air cover and air power for the battlefield.

It has been no rout, and reflects no discredit to the South Vietnamese armies. They have done exceptionally well in many respects and in many parts of more recent battles. They have fought with valor and effectiveness, but, on the whole, they are certainly not winning the battles. They are losing them in the northern area and, although I am far from predicting they are going to lose the war, and I do not think they are going to lose it—this is a critical time.

I believe this same meeting in Russia has a chance—might furnish something good—to improve our situation on the Asiatic side of the world.

The last few weeks we also have had the peace talks going on in Paris. They are suspended again. They are off again and on again, but they are not entirely abandoned and they could come back into the forefront.

Anyway, in the next 2 or 3 or 4 weeks—of all the time to handshackle, and undercut, or restrict, or embarrass the President of the United States—this is the last month of the year to pick to do it.

That is why I say, with emphasis and some confidence, that I believe the second thought of the membership of this body is going to stay the hand with respect to the section we are attempting to strike out, all of section 701, page 38.

After all, Mr. President, under these conditions and circumstances, in modern times at least—with such a conference and in a critical time in two places in the world—when has any President been so hamstrung, so to speak, or had a choker put on him with reference to such matters? I do not believe there is any parallel in history where Congress has passed a law under such conditions, and has totally cut off money for military men in a great area where they were operating. I know Lincoln was under attack during critical times in that unfortunate war—and I do not mean in the South. His policies were under the most serious attack, and the effort was made to cut off and restrict his power as the Union's leader in that war. The move was not successful, but if it had been, and had made more serious progress, he could not have continued as the effective leader, and the Union would not have been saved at that time.

I think I am competent to comment on that point. We in the South were on the other side, and we have studied some of the history a little closer, I find, than some in other areas of the country. We remember better, and somewhat longer, that that was one of the big issues of the time. But the move did not prevail then, and I do not think it should or will prevail now.

What country is this that is talking about restricting our leader under these circumstances? We all want to get out of war, and I think we will. We want to anyway, and we are trying—everyone from the President on down. But what country is this that is talking about restricting the Chief Executive on the eve of a conference? Is this the country that took the lead in forming the United Nations, and is still backing it, even though we have been disappointed in what it has been able to accomplish?

We took the lead in covering the entire free world with what we called mutual security treaties, and that is what we meant: The first was one to protect Western Europe. I think it was very timely and has been very effective, and was well worth the effort. I shall always be proud of those achievements, and I believe they are going to continue to be effective.

This is also the country that put the protective umbrella over Japan after those 4 years of terrible war with them, and is still protecting them. We reached away over into Korea, and fought a war there, even, and are still standing guard for those people, even though it is on the other side of the world.

We came in and saved Formosa from oblivion, you might say, with the Southeast Asia Treaty Alliance that I have already mentioned—SEATO. And the same concept for South America.

That is not consistent with the position, now, that we should stop because we are a little embarrassed, maybe, the idea that we should be so small as to hobble and stifle our Chief Executive on his way to a highly important conference with our main adversary, under circumstances that have been worked on for years by his predecessors and by this Chief Executive. It is a conference that really holds out promise for results that will benefit us—and the world, of course. I would think its importance is to be measured by the extent of an initial agreement, as well as by the fact that if we get an agreement that has some meaning, I believe that that meaning will grow.

This resolution would take foreign policy away from the President in this troublesome area of the world, and pass a legislative mandate, not calling on him to set a date, but saying on the floor of the Senate, "We have set a date, a time certain." Would that make him look good, with that wrapped around his neck?

Suppose a peace conference were still going on. He would look good, if he stopped in for conference in Paris; he would feel fine, sitting down at the conference table in Moscow, if it should be the deliberate judgment of this body that such a provision should be passed.

It is totally inconsistent, I respectfully submit, Mr. President, with commonsense, with the experience of our policy, and with the human nature side of this entire problem.

Let us not say it will not make any difference. No one knows any better, I am sure, than the President of the United States himself how it could adversely affect him and his position. I just do not believe we are going to let this happen, and I hope that we can get a vote on this matter, maybe as early as next Tuesday. I do not hope it wins by a small margin; I think it should win big and I believe it will win, under the circumstances, by a very high, substantial majority of the votes of this body, because that is the judgment of commonsense.

So I rest the entire case for my amendment to strike out this proposition. I am glad to yield to the Senator from Wyoming.

Mr HANSEN. Mr. President, I compliment the distinguished Senator from Mississippi for his characteristic astuteness, his honesty, and his candor. I am sure there is no one in America today who does not wish that Vietnam were not there, that not a single American life had been lost, or any other life lost.

I am old enough to remember full well, though, the long days of World War II and the tragedy that was visited upon a great many American homes during the worldwide conflict. I have heard my nearest neighbors say that they would be willing to pay any price, to go any distance, to do anything, in order to avert world war III.

Out of the overwhelming unanimity that existed in America at that time, the United Nations came into existence. I did not have the hope for that organization that some people had, because I could remember, in my early youth, when the old League of Nations was still being talked about, and the disappointments and frustrations that were expressed by many as they contemplated what had happened to the noble ideal that had failed to come to fruition.

I state this, not to recall past disappointments, but rather simply to remind us of the lesson history holds for us. I think it is pretty clear that following the close of World War II there were, not only in America but throughout most of the world, many millions of human beings who wanted to see if there were not some way that we could put out small brush fires, if there were not some way that we could establish the principle of arbitration, of giving people a sounding board, so that nations feeling aggrieved could appeal to a rather enlarged sense of decency and respect for law that hopefully would help persuade aggressors that there might be a better way.

I think that our involvement in Vietnam also underscores another fact of life; namely, that this country has for a long time exhibited a willingness to intervene on the side of the victim of aggression. That is exactly why we are in Vietnam. I am not trying to defend what has been going on over there all too long. Rather, I think the distinguished Senator from Mississippi has put the situation in the proper perspective when he says, "Let us see where we are today, and, without trying to make any judgments of assessments on the past, let us now, in the month of May, of the year 1972, decide what will serve best the purposes of America."

Trying to view the whole situation, worldwide, from that perspective, I certainly do agree with him that it makes little sense, at this moment, to undercut the great chance that I believe the forthcoming visit to Moscow that the President intends to undertake will have in order to bring peace out of the present situation.

But more than that is involved, Mr. President, because we have our NATO Alliance friends, and, as the Senator from Mississippi has pointed out, we have been active in many parts of the world, trying to lend our weight and our influence and the respect in which we are held by people throughout the world to the side of the victims of aggression, to the smaller countries, which may be right but which do not have the power otherwise to stand up to a more forceful adversary. That, too, is at stake.

I remember approximately 2 years ago when an effort was being undertaken to spell out in an appropriation bill a restriction against the further use of funds in Southeast Asia because, it was being contended, we should not be getting into other people's arguments; and our beloved colleague, the distinguished senior Senator from Delaware at that time said, "Let us broaden this and make the application of this restriction worldwide." Well, it did not take very long for several Senators to be on their feet immediately, saying, "We don't mind cutting things off in Southeast Asia, but we don't want to disrupt what is going on in the Middle East; we don't want to disrupt what is going on in other parts of the world." They very quickly and very quietly exerted their pressures and their efforts to get that sort of change made so as not unnecessarily to hold or stay the President's hand in the Middle East. That, too, is involved.

I think it is involved because, in a sense, what we do in Southeast Asia, the posture we continue to present to the world, will be a part of the basis on which we are judged in other parts of the world. We have a great deal at stake in other parts of the world. I do not know how the whole thing is going to come out, but I can say this: I think that if we look back over the years since the close of World War II, despite the tragic loss of life that America has sustained as she has tried to stand on the side of what she felt was right and just; and if we compare the period of time since, say, 1946 with any other period during the 20th century, we have to admit that, despite the losses we have had—I agree that they are tragic—in an overall sense there has been less loss of life. I am not trying to equate something so tragic as this in numbers. But because we have been willing to try to keep all the dominoes from toppling, I think it probably can be suggested, at least, and submitted at the very least, that to an extent we have been successful in preventing a bigger war from following in the footsteps of smaller wars.

I hope, as I know every other Senator hopes, that this involvement in Vietnam can come to an end very shortly; and I think the chances of that coming about are best if we adopt the Stennis amendment to strike this particular part of the bill so as not unnecessarily to weaken the President's hand as he journeys to Russia.

I thank the Senator from Mississippi.

Mr. **STENNIS**. I thank the Senator from Wyoming. I am impressed with his remarks.

Mr. President, I am ready to yield the floor, but first I should like to say this: We hear much talk about the South Vietnamese being in hasty retreat, and there is much in the newspapers about those who ran. What about those who did not run? What about those who stood their ground and sacrificed their lives? What about those who stopped the enemy at terrific cost to the enemy? They need every encouragement we can give them. Say what we will, the passage of the bill with that provision in it—unless my amendment to strike it is adopted—would be a tremendous encouragement to the leaders of the North Vietnamese, even to their rank and file. In turn, it would bring great discouragement and almost despair to those who are holding the line and are carrying on in a highly responsible way.

With respect to the President of the United States I am not talking about an individual; I am talking about the Chief Executive. The responsibility in this matter rests directly on him now, and I say that we should keep that responsibility on him. That is where it belongs, under our system of government.

Do not hobble him; do not throw impediments in front of him and block the way as he tries to carry out that mission.

I trust and believe that this will be the will and the judgment and the action of a great majority of this body.

I yield the floor, Mr. President.

Mr. **BROCK**. Mr. President, as part of S. 3526, the State Department authorization bill, this body is being asked to impose upon the State Department a detailed procedure for handling any grievances which State Department employees may have. I want to address myself to that provision because I think we are being asked to enact an arrangement which is unworkable—and could be disastrous.

What is at stake in this measure is the ability of the Secretary of State to maintain a disciplined and effective diplomatic establishment for the United States. What this measure would do is to transform the Department of State from a department of diplomats to a department of litigants.

The bill as it now stands places no limits on what an employee of the Department of State can complain about. He could complain about his assignment if he did not like it. He could complain about the assignment of another employee to a post which he wants and considers himself qualified to fill. He could complain about not being promoted. He could complain about someone else being promoted who he thinks is less deserving than himself. He could complain about the foreign policy of the United States if he felt that policy was injurious to his career prospects. He could complain about the over-all management policy of the Department of State. He could complain about any reprimand he might receive from his superior, or, indeed, about any criticism of his work by his superiors.

Mr. President, S. 3526 would not permit the leadership in the Department of State to deal with such complaints on the basis of their merits. Instead, it would set up an outside body to hear these complaints. Open hearings would be mandatory on virtually all such complaints.

Moreover, the findings of this outside board would be mandatory upon the Secretary of State in most instances, and would be binding in all instances except where the Secretary was able to formally declare that to carry out the decision of the board would be injurious to the national security and foreign policy interest of the United States.

Mr. President, bad as the provisions I have mentioned would be, there are other provisions in this legislation of an even more objectionable nature. The bill provides that complaints can be made retroactive back to the creation of the Foreign Service in 1924. Complaints will be judged by a board completely outside the Department of State and sets aside the authority of the Secretary of State, it deliberately creates a board of an adversary nature rather than of an objective nature. It would call upon the Secretary to name one member of the three-man board, and the employee's group to name the second member. The third member, with what is obviously intended to be the swing vote, would have to be agreed on by the Secretary and the employee's group. If they could not agree, the third member of the board would be named by the chief judge of the U.S. court of appeals. Mr. President, that is the same court before which litigation stemming from the board's action would come. The provision, therefore, is of dubious constitutionality as well as being singularly inappropriate by involving the judiciary in the decisionmaking of the executive branch.

The bill would also require the Department of State to make available to the board and to the complainer any and all officers of our diplomatic establishment who may be connected with the complaint. These people would have to drop what they are doing here and abroad in the interest of American foreign policy and return to Washington to play their part in the complaint hearings.

Finally, this bill gives the board the power to enjoin the Secretary of State from proceeding with any action related to an employee complaint. If the complaint involved an assignment, the Department of State would be paralyzed from filling the position until disposition of the complaint. If the complaint concerned promotion, the Department of State would be enjoined from proceeding with promotion lists until such time as the board ruled.

Mr. President, this is a formula for paralyzing the Department of State. It removes the Secretary's authority to run his Department effectively. It encourages dissidents and complainers to concentrate on their own desires rather than on the needs of the U.S. Government for a disciplined diplomatic establishment. It prevents the Secretary of State from assigning the right man to the right job, unless the right man wants that job, and unless there is no wrong man who would also like the job.

Mr. President, the proponents of this provision have admirably publicized past inequities in the State Department's handling of some personnel problems. The Department has recognized this fact. Last year it put into effect new grievance procedures and established a board of distinguished citizens to give a fair and impartial hearing to employees with a grievance. This system is working well. Moreover, the Department has pledged itself to negotiate new grievance procedures with whatever organization is chosen by the employees of the Department to represent them in an election which will be held soon.

Mr. President, the grievance provision of S. 3526 does not solve a problem. It creates one. It is not and should not be the business of this body to impose upon the Secretary of State detailed provisions for the handling of grievances by his employees. It is not the business of this body to undercut the authority of the Secretary of State over the organization for whose conduct he is responsible.

There have been many complaints made by members of the legislative branch about the declining importance of the Department of State in the foreign policy machinery of the executive branch. This bill will make that problem worse. It will undercut the Secretary's authority. It will prevent the effective management of the Department and the Foreign Service. It will destroy the discipline and cohesion of the Foreign Service of the United States. It will divert the senior officers of the Department of State and our Embassies abroad from the foreign policy problems which are their responsibility, to the care and feeding of their most recalcitrant and self-centered employees.

There is no substance to claims that the bill is not as bad as it looks because the employees of the Department of State will not fully avail themselves of the provisions of the law. To be sure, most of the employees of Department will not do so. But this bill is written in such a way that only a handful of malcontents could tie the Department in knots and frustrate the effective conduct of American diplomacy.

Mr. President, I am told that some of the supporters of this legislation have had second thoughts about some of the objectionable features of this provision. I am told that they will attempt to make amendments on the floor to "perfect" the bill. Mr. President, it cannot be perfected. The fact that last-minute efforts may be made to correct some of its more glaring weaknesses simply proves that this measure is ill considered, inadequately digested, and faulty in its conception.

Mr. President, the Foreign Relations Committee is offering the Senate a strange brew in this authorization bill. Early this week we refused to drink the potion which would have destroyed the effectiveness of the U.S. Information Agency. I urge this body to give the same wise and prudent treatment to section 109(a), which would, if passed, destroy the effectiveness of our diplomatic establishment.

QUORUM CALL

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HANSEN). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Nebraska (Mr. HRUSKA).

NOTICE CONCERNING FILING OF SUPPLEMENTAL REPORT BY JUDICIARY COMMITTEE ON NOMINATION AND CONFIRMATION OF RICHARD G. KLEINDIENST TO BE ATTORNEY GENERAL

Mr. HRUSKA. Mr. President, concerning the filing of the supplemental report by the Committee on the Judiciary on the nomination and confirmation of Mr. Richard G. Kleindienst to be Attorney General, the Judiciary Committee approved the motion of the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), which was supplemental to that part of the supplement pertinent here, that the supplemental report would be filed no later than midnight tonight and proceeding to print it.

Request was made yesterday that the time for additional individual views be granted. There has been communication between the chairman, who is out of the city, and members of the committee. The following arrangement has been agreed to.

First, that the supplemental report on the nomination and confirmation of Mr. Kleindienst will be filed today, together with several individual views. They will proceed to print it, pursuant to the motion, as part I of the supplemental report.

As to any additional views that may be proffered by any member of the committee, the time for filing of such additional individual views will expire at 5 p.m. on Tuesday next, May 9, 1972. Such individual views as will be filed in the meantime—during that period of time—will be printed as part II of the supplemental report.

I ask unanimous consent, therefore, Mr. President, that any additional individual views on this subject may be filed on or before 5 p.m. on Tuesday next, and shall be printed as part II of the supplemental report.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER (Mr. HANSEN). Is there objection to the request of the Senator from Nebraska? The Chair hears none, and it is so ordered.

Mr. HRUSKA. I thank the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Senator from Nebraska.

REMOVAL OF INJUNCTION OF SECRECY—EXECUTIVE K, 92D CONGRESS, SECOND SESSION

Mr. GRIFFIN. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage and certain amendments to the International Convention for the Prevention of Pollution of the Sea by Oil of 1954, relating to tanker tank size and arrangement and the protection of the Great Barrier Reef—Executive K, 92d Congress, second session—transmitted to the Senate today by the President of the United States, and that the convention and amendments, with accompanying papers, be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Supplementary to the International Convention on Civil Liability for Oil Pollution Damage of 1969), done at Brussels of December 18, 1971. The United States and eleven other nations signed this Convention on that date, subject to ratification. For the information of the Senate, I am also transmitting the report of the Department of State on the Convention.

I transmit also, with a view to receiving your advice and consent to acceptance, certain amendments to the International Convention for the Prevention of Pollution of the Sea by Oil of 1954, relating to tanker tank size and arrangement and the protection of the Great Barrier Reef. Both the tank amendments and the Barrier Reef amendments were recommended by the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization (IMCO). The Assembly of that Organization adopted the tank amendments on October 15, 1971 and the Barrier Reef amendments on October 12, 1971.

The Convention and the tank amendments are indispensable measures in the programs of both the United States and the IMCO to create a widely accepted international system for the prevention of pollution of the seas by oil and for the payment of compensation for damages resulting from such pollution. The Compensation Fund Convention more than doubles the amounts available for compensating oil pollution damage under the 1969 Civil Liability Convention, expands the Convention's coverage, and makes the operation of provisions benefiting shipowners conditional on their compliance with pollution prevention requirements. The tank amendments establish tank size limitations and construction requirements which will minimize damage to the environment from oil spills in the event of collision or stranding. The Barrier Reef amendments increase the protection from oil discharges under the requirements of the 1954 Oil Pollution Convention in the area of the reef.

I urge the Senate to give early and favorable consideration to the Convention and the amendments submitted herewith.

RICHARD NIXON.

THE WHITE HOUSE, *May 5, 1972.*

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the two leaders, or their designees, have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE UNFINISHED BUSINESS, S. 3526, TO BE LAID BEFORE THE SENATE ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when morning business is closed on Monday next, the Chair lay before the Senate the unfinished business, S. 3526.

The PRESIDING OFFICER. Without objection, it is so ordered

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, what is the pending question before the Senate at this time?

The PRESIDING OFFICER. The amendment of the Senator from Mississippi (Mr. STENNIS), No. 1175.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, at the time the Chair lays before the Senate the unfinished business on Monday next, amendment No. 1175, offered by the distinguished Senator from Mississippi (Mr. STENNIS), will be the question pending before the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday is as follows:

The Senate will convene at 12 o'clock noon. After the two leaders have been recognized under the standing order there will be a period for the transaction of routine morning business for not to exceed 30 minutes with statements limited therein to 3 minutes.

A resolution authored by the distinguished Senator from New York (Mr. JAVITS), submitted during morning business today, will go over under the rule, and will be placed before the Senate at the close of morning business on Monday. If debated until the hour of 2 p.m., that resolution automatically will then go on the calendar. It may be that the distinguished Senator from New York (Mr. JAVITS), would be willing on Monday to agree by unanimous consent that the resolution be placed on the Calendar, which would save the time of the Senate. But, in any event, Senators could debate that resolution if they wish to do so until the end of the morning hour.

Of course, there possibly could be a rollcall vote on that resolution on Monday, but I doubt that Senators will want to act on it that day.

When the unfinished business is laid before the Senate, the pending question will be on the adoption of amendment No. 1175 of Mr. STENNIS. It is impossible, at this point, to say whether or not there will be rollcall votes Monday on the unfinished business. Of course, any motion to table an amendment or the bill itself would be in order, and rollcall votes could occur in such event.

Conference reports, if and when ready, are privileged matters and may be called up at any time.

ADJOURNMENT TO MONDAY, MAY 8, 1972

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and at 3:21 p.m., the Senate adjourned until Monday, May 8, 1972, at 12 noon.

CONFIRMATION

Executive nomination confirmed by the Senate May 5, 1972:

IN THE AIR FORCE

The following officer to be assigned to a position of importance and responsibility requiring the rank of general, under the provisions of section 8066, title 10, United States Code:

Lt. Gen. Russell E. Dougherty, [redacted]FR (major general, Regular Air Force) U.S. Air Force.

EXTENSIONS OF REMARKS

SHALL THE SWORD DEVOUR FOREVER?

HON. JACOB K. JAVITS

OF NEW YORK

IN THE SENATE OF THE UNITED STATES

Friday, May 5, 1972

Mr. JAVITS. Mr. President, quoting from the Book of Samuel in the Bible—"Shall the sword devour forever?"—Dr. Isaac Lewin, distinguished Yeshiva University professor, spoke before the United Nations Commission on Human Rights on behalf of the Agudas Israel World Organization making a strong appeal for peace in the Middle East.

The quotation cited by Dr. Lewin has implications beyond the turmoil in the Middle East:

> Abner called Joab and said: "Shall the sword devour forever? Knowest thou not that it will be bitterness in the end? How long shall it be then until you bid the people to return from fighting their brethren?"

I ask unanimous consent that Dr. Lewin's remarks be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY DR. ISAAC LEWIN ON BEHALF OF THE AGUDAS ISRAEL WORLD ORGANIZATION BEFORE THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS, MARCH 22, 1972

My organization—the Agudas Israel World Organization—is no stranger to the Commission on Human Rights.

For many years it has been our great honor and privilege to enjoy consultative status with the Economic and Social Council, and we have not failed to assiduously attend the sessions of the Commission on Human Rights during the past years and to endeavor to contribute constructively to its work.

It is in this tradition that I now address the Commission.

The Agudas Israel World Organization, now almost sixty years old, is primarily a Jewish organization. It represents an important segment of world Jewry and looks at life and the world with the eyes of an ancient people whose roots are deeply imbedded in the history of our people and its Biblical origins.

In this respect we have been the carriers of an abiding ethic and of moral principles which have been the source of our concept of human rights in the most universal dimensions. Every violation of human rights, anywhere, to any people, is a matter of great concern and deep sorrow to our people.

For this reason we reject categorically such concepts as racism and apartheid, which manifest themselves so flagrantly today in many parts of the world. Our people have always supported and will continue to support all United Nations efforts to eradicate this anachronism from a world that is surely moving to greater humanity and justice in the relations of all men.

It is also natural for us as Jews to have our own concerns in this area, having been the victims of discrimination for many centuries.

Now, in this forum, the State of Israel is accused of practicing discrimination against Arabs. We heard the representative of Israel deny such allegations. Allow me to say a few words on this problem.

For many centuries, Arabs and Jews understood each other thoroughly. In the Middle Ages—and even in modern times—when Jews were exiled from European countries, Moslem states accepted them as brothers. Through the common efforts of Jews and Arabs, a Judeo-Arab culture developed which was, and remains today, the pride of both the Judaic and Moslem traditions.

When, in 1947, the United Nations established the State of Israel, we hoped that it would be built on a solid foundation of Arab and Jewish friendship.

To the United Nations and to all governments, Israel is just one more state. To the Jewish people it has meaning beyond this merely political concept. Biblically and traditionally our people have viewed the emergence of this state as a historic symbol. We have seen it as reflective of a triumphant renaissance—as an emergence from the despair that engulfed our people during the abysmal period of World War II.

We have always believed that this state can make a great contribution to the international community, and I know that that is its profoundest aspiration.

But we also know that this hope of ours cannot be realized but with peace in the entire Middle East.

Peace—as we all know—is the indispensable condition of all human rights. During a period of war and truce, such rights become the first casualties. We submit this thought to the distinguished members of the Commission on Human Rights regarding the difficult task that confronts them.

I would like to remind you, for a moment, of a Biblical story.

The Second Book of Samuel (II:26) tells of how two great generals who were brotherly enemies, Abner the son of Ner and Joab the son of Tzeruya, confronted each other on a battlefield. And the Scriptures report as follows:

> "Abner called to Joab and said, Shall the sword devour forever? Knowest thou not that it will be bitterness in the end? How long shall it be then until you bid the people to return from fighting their brethren?"

These words—"Shall the sword devour forever?" (in Hebrew: *"Halanetzach tochal herev?*)—I place now on the table of this distinguished Commission on Human Rights.

Peace in the Middle East is the best guarantee for human rights. Mountains of paper filled with accusations and recriminations engulf us because of the horror of war in the Middle East.

May I, in conclusion, recall the words of a great American President, Woodrow Wilson, who said on January 22, 1917:

"It must be a peace without victory . . . Only a peace between equals can last. Only a peace the very principle of which is equality and a common participation in a common benefit."

These words of Woodrow Wilson can serve as the platform for securing human rights in the Middle East: *"Peace without victory."*

INFORMS CONSTITUENTS OF CONGRESSIONAL ACTIVITIES

HON. WILLIAM LLOYD SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. SCOTT. Mr. Speaker, since coming to the Congress I have sent periodic newsletters to constituents to help keep them informed of congressional activities. Our May newsletter has just been completed and I would like to insert it in the RECORD for the information of our colleagues:

BILL SCOTT REPORTS—MAY 1972

COMMUNIST APPEAL

You may have read that Madam Binh, Communist negotiator at the Paris Peace Conference, has written to Members of the Congress and requested our assistance in terminating the war in Vietnam. Frankly, I believe the American public have a strong desire for the conflict to be ended as promptly as possible. Nevertheless, it seems improper for a representative of a foreign nation with which we are in armed conflict to write Members of the Congress and seek our help. You may be interested in my response: "I have your letter of April 20 to Members of the Congress of the United States. Of course you know that foreign affairs are handled by the Department of State. Let me assure you of my confidence in the action taken by the Executive Branch of our government in relation to the aggressive action of the government of North Vietnam. If your government in fact wants peace, all you need to do is to withdraw your troops from the soil of another nation and to keep them within your own boundaries. When this is done and prisoners of war are exchanged, I feel sure that bombing will cease. But if you continue your aggressive tactics you have only yourself to blame for whatever recourse is necessary to protect American lives and to comply with obligations. It would seem preferable in the future for you to go through established diplomatic channels and not attempt to compromise the interest of this Nation by writing to its elected representatives to the Congress."

HEALTH BENEFITS

The House recently passed a measure to increase the government's contribution for Federal employees' health benefit insurance from 40% to 55% in 1972 with an additional 5% increase each year thereafter until 1976 when the government contribution would reach 75%. Indications are that the President will veto the measure partly because of the cost and partly because postal workers are included even though under present law their salaries and fringe benefits are negotiated by long term contracts between the government and employees' union representatives. Health benefits legislation for Federal employees was originally enacted in 1960 with an equal sharing of the cost between the government and employees. This was on a dollar basis and as medical costs increased, premiums also increased and the government's contribution was reduced to 24%. During the 91st Congress, the House passed a measure to again provide equal sharing of cost but this was reduced to a 40% government contribution in conference with the Senate. In view of this history, and the prospects of a veto, I offered an amendment to the bill to provide equal sharing of cost, 50% by the government and 50% by the employee. My amendment carried on a standing vote of those in the Chamber with 47 yeas and 36 nays but was defeated upon demand for a recorded vote by 219 nays and 124 yeas. As a co-sponsor of the legislation, I voted for the final passage but am informed that it will be vetoed if passed by the Senate in its present form.

MEMORIAL DAY

Under a recently enacted law, Memorial Day will be observed on May 29 and I have the privilege of placing the National Wreath at the Tomb of the Unknowns, at 11:00 a.m. and delivering the principal address at the Arlington Amphitheater. This is a time when we need to honor those who have sacrificed for the Nation in the past and to recognize that few enjoy the freedoms guaranteed us by the Bill of Rights nor are many people better fed, better housed, or better clothed.

ANOTHER COMMUTER TAX

Under the guise of pollution control, the District of Columbia has proposed to tax each car parked for a period of hours in a downtown commercial parking lot. This seems to be another version of the commuter tax, meant to tax persons living in the suburbs but working in the city, and the District Government has no taxing power except that given by the Congress. But, to remove any doubt, I introduced a bill to prohibit the imposition of this tax. Parked cars do not pollute and no tax is suggested for cars which are in operation. Traffic congestion in the District is a problem and the subway must be completed. However, until a satisfactory substitute is in operation, people are going to have to continue using their automobiles to get to and from work.

PUBLICATIONS AVAILABLE

The following pamphlets are available for distribution upon request: 1. Exterior Painting, 2. Protection of Wood From Insects, 3. Lightning Protection on the Farm, 4. Vegetable Gardening, 5. Family Planning Digest, 6. Consumer Protection Information Index (lists publications available on how to buy, use and care for such items as appliances, seafood and heating and cooling systems.)

TRANSPORTATION CONFERENCE

Traffic congestion in Northern Virginia is continuing to be a major problem which needs to be resolved. To this end, a conference has been arranged in my office on May 15 to be attended by Under Secretary of Transportation, James M. Beggs; Federal Highway Administrator, Francis C. Turner; Virginia Commissioner of Highways, Douglas B. Fugate; and White House Aide, Dr. Charles Clapp. The overall traffic picture will be reviewed, and an effort made to determine whether some interim measure can be adopted to relieve congestion until more permanent relief can be afforded, such as completion of the planned metro and highway systems. Among other ideas, I am hopeful that further consideration can be given by the Department of Transportation to a pilot project to utilize existing rail lines for commuter traffic.

REVENUE SHARING

Citizens throughout the country are concerned with increased taxes at all levels of government; yet they continue to demand additional services. Governors and Mayors indicate that sources of revenue at State and local levels have been exhausted, and they almost uniformly endorse some form of federal revenue sharing. As you know, the President for a number of years has spoken of decentralizing the federal government and returning many functions to the states and localities. Revenue sharing is a part of this program, and I have joined with other members of Congress in co-sponsoring legislation of this nature as a substitute for the categorical grants-in-aid. It seems desirable for the federal government, which obtains a major portion of the tax dollar to assist the states through revenue sharing in such fields as education and health services. The present system of grants often-times encourages states and local governments to promote marginal programs partly because a major part of the cost is borne by the federal government. Proponents of revenue sharing feel that if responsibility for entire programs is shifted to the states and their political subdivisions through a form of revenue sharing, the programs will be more economically administered.

A revenue sharing bill has now been favorably reported by the House Ways and Means Committee and is expected to be brought before the entire House for consideration within a few weeks. The reported bill, however, differs from the proposals of the President; and if the usual custom of the House is followed, it will be considered under a closed rule which will not permit any amendments to be offered. We realize, of course, that there is no magic formula for solving conflicts between the various levels of government and that government at all levels look to the same taxpayers as the source of revenue. We also know that the existing National Debt is more than $425 billion dollars, and that over the past years there has been a deficit in the federal government budget. So the program will amount to the federal government borrowing money under a system of deficit financing to make it available to states and localities. Some critics have been said that state and local officials will reduce their taxes when federal funds are made available through revenue sharing.

An alternate method to accomplish a similar result suggested by some members of the Committee is to allow full credit on individual federal income taxes for the amount of taxes paid to state and local governments. This would permit state and local governments to collect the same amount in taxes from the individual citizen as he now pays to them and the federal government combined without any increase in the individual tax burden. It is very probable, however, that the House will pass the revenue sharing bill brought before it by the Ways and Means Committee but the subject is presented so that you can see an example of the dilemma with which we are faced on these matters.

MULTIPLE SCLEROSIS

Improved health for all has been a major bipartisan goal of this Congress, as measures have been passed by the House to fight cancer, sickle cell anemia, drug addiction, etc. Now legislation has been introduced to combat multiple sclerosis, the giant crippler of young adults. The measure would provide for a study to identify the best approaches to finding causes, cures and treatments.

AMNESTY

A number of constituents have contacted the office with regard to the granting of amnesty to draft evaders. In my opinion, the question should not be considered as long as our troops are being injured and killed on the battlefield. There is time enough to consider the issue after all the members of our Armed Services have left Vietnam and our prisoners of war have been returned.

APPOINTMENTS TO SERVICE ACADEMIES

Again this year we were fortunate in the placement of 8th District young people with the nation's service academies. Six young men have been appointed to the Naval Academy, three to the Military Academy at West Point, four to the Merchant Marine Academy, and three to the Air Force Academy at Colorado Springs. They came by the office on Friday to meet each other and to attend an informal reception in their honor.

SOMETHING TO PONDER

There is a tendency among some groups to promote a scrap between "big business" and the "working man". However, in a recent speech, Secretary of the Treasury Connally points out that business payrolls and the taxes benefit the "working man". Using the biggest business of them all—General Motors—as an example, he noted that in 1971 GM took in $28,328,000,000. Where did this money go? Suppliers got $13.5 billion, employees got $9.5 billion, taxes took $2.5 billion, depreciation of plants cost $878 million modernization took $950 million and the stockholders were paid $985 million. The stockholders got 3.5 per cent of the GM "pie", with workers getting ten times that amount.

SBA COMMENDED FOR CUTTING REDTAPE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. RARICK. Mr. Speaker, it has been the small business, the individual entrepreneur, who has built this country and made it great. For this reason, I have always supported legislation fair to the small businessman.

Unfortunately, the small businessman is now threatened by continued inroads of multinational corporations, an unequal tax structure favoring the rich and super rich, and unrealistic guidelines promulgated and enforced by Federal bureaucracies who have failed to realize that there is a difference between running and maintaining a small business or an international corporation.

The Congress has, in its wisdom, recognized the plight of the small businessman or the individual who wants to set out on his own by creating the Small Business Administration to aid in the development of the small business concern through Government loans to deserving individuals who, in the great American tradition, want to be their own boss.

The Independent Bankers Association of America, at its 1972 convention in Bal Harbour, Fla., has passed by unanimous vote a resolution commending the SBA and its Administrator, Mr. Thomas Kleppe, a former colleague, for its contributions to the economic life of American communities.

I insert a copy of this resolution in the RECORD at this point:

RESOLUTION OF INDEPENDENT BANKERS ASSOCIATION OF AMERICA

(The following resolution was unanimously adopted by the Independent Bankers Association of America at their National Convention held in Bal Harbour, Florida on March 10–13, 1972:)

SMALL BUSINESS ADMINISTRATION

Through the years of its existence, the Small Business Administration has played an important role in the economic life of our respective communities.

In recent months, the adoption of certain measures whereby the programs offered by the SBA has made the processing of certain forms and reports much less cumbersome for the applicant and the banker, thereby resulting in a much more enthusiastic interest and acceptance by the borrower.

The forward thinking programs offered by the SBA have had a most beneficial effect on the economic life of the community.

Therefore the Independent Bankers Association of America commends the SBA for its progressive efforts, and directs a copy of this resolution be forwarded to Mr. Thomas S. Kleppe, Administrator, Small Business Administration, Washington, D.C.

OCCUPATIONAL SAFETY AND HEALTH ACT

HON. RICHARD W. MALLARY

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. MALLARY. Mr. Speaker, not infrequently when a good piece of legislation becomes law and is implemented, we find that language in the law permits or requires certain actions to be taken which may be contrary to the original purpose of the law. The result can be unfair, burdensome, and apparently capricious bureaucratic procedures which distort the original intent of Congress and place an unfair and unnecessary burden upon our citizens.

In my opinion, this is at the root of much of our citizen dissatisfaction with big government, more government for government's sake and redtape for no discernible purpose.

One such law—a good law in concept—is the Occupational Safety and Health Act of 1970. Unfortunately, one effect of this act was to take various criteria and guidelines which had been set forth by several organizations and make them into inflexible rules with the effect of law. These so-called "National Consensus Standards" were not meant to be any more than guidelines. Some of them are written in the form of general standards and some as instructions, often so specific and complex as to be absurd. For example, under these "National Consensus Standards" which the Secretary of Labor was required to adopt as rules, employers must color code certain switches using red and green even if they have successfully trained their employees to use another color coding system. There are other specific requirements ranging from roll bars on tractors to coat hooks in restrooms to the design of stairways. What these rules aim to achieve is certainly worthwhile. What they fail to recognize is that there is more than one way to achieve a safe working environment and that something that presents a safety hazard in a crowded busy plant, may not present a significant hazard in a different working environment.

There have been several amendments proposed to provide specific exceptions and relief for various types of employers. I am introducing a bill which does not propose to add loopholes to the present law. It would simply insure that a small employer who does in fact provide a safe working environment would be free from prosecution under this law even if he technically violates the law in achieving this safe working environment using procedures that are different from those spelled out in the lengthy, complex regulations.

The small businessman—including the small farmer—faces substantial difficulty in complying with the Occupational Safety and Health Act. The act applies throughout the whole spectrum of the American economy and to every kind of employer and the small businessman is required to abide by an extremely complex and lengthy code of regulations which he has no practical way of mastering—and much of which may not be applicable to his situation. Under existing law, it is no defense to a charge of violating the regulations to argue that the violation caused no safety hazard; the mere violation of the regulation in and of itself creates the offense. My bill deals directly with this problem. As long as the small businessman provides safe and healthy conditions of employment, he does not have to fear a charge under the act; he does not have to worry about the complexity of the regulations as long as the employment he provides is in fact free from hazard.

Thus this bill deals with the legitimate complaint of small businessmen that they cannot find out what they are supposed to do, or that they are required to comply with regulations which do not in fact protect their employees. On the other hand, the bill is also fair to the employees of small businessmen. The life and health of these employes is just as valuable and deserving of protection as that of their fellow workers working for larger firms. My bill does not remove them from the protection of the act; instead it adapts their protection to the realistic capacity of their employer.

Present law also requires the correction of every violation of the regulations regardless of the cost involved or the degree of hazard caused by the violation. This may, on occasion, require the expenditure of large sums to correct situations which pose only a marginal hazard. While the law makes special provision for small business loans for employers needing them in order to come into compliance with the act, it contains no provision to deal with expenditures which are exorbitant in relation to the risk corrected. The bill deals with this situation by permitting violations of the regulations to continue if the expense involved in correcting them is exorbitant in light of the benefit achieved and if the small-business employer takes other appropriate steps to ameliorate the condition.

In brief, my amendment to the Occupational Safety and Health Act would give small businessmen two types of reasonable relief from the act:

First, it would excuse noncompliance with issued safety regulations where the small employer was in fact providing safe and healthful conditions of employment.

Second, it would not require the abatement of safety and health violations if the cost of such abatement was unreasonable when viewed in the context of the extent of the danger and if the small employer took the other reasonable steps to protect his employees against the hazard.

The bill follows:

H.R. 14800

A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Occupational Safety and Health Act Amendments of 1972".

SEC. 2. Section 9 of the Occupational Safety and Health Act of 1970 (P.L. 91-596) is amended by adding at the end thereof the following new subsections:

"(d) In the case of an employer operating a small business as defined in section 3(f), no citation shall be issued for the violation of any standard, rule or order promulgated pursuant to section 6 of this Act unless the employees of such employer are exposed to working conditions which are in fact unsanitary or hazardous or dangerous to the health or safety of his employees.

"(e) No citation issued to an employer operating a small business shall require the abatement of a violation if (1) the abatement would be unreasonably burdensome to the employer taking into account the degree of risk involved to the employees and the expense of abatement and (2) the employer agrees to take such appropriate steps to minimize the hazards included in the citation as are reasonable under the circumstances."

SEC. 3. Section 3 of the Occupational Safety and Health Act is amended by adding at the end thereof the following new paragraph:

"(15) The term "Employer operating a small business" shall mean an employer who, on the average, had no more than 25 employees in his employ in the previous calendar year, or, in the case of employers not in business for the full previous calendar year, such other appropriate period as the Secretary may prescribe."

TAX EQUITY FOR SINGLE TAXPAYERS

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mrs. ABZUG. Mr. Speaker, I have had the pleasure of presenting my views on the problem of the current inequities in the Federal income tax structure before the Committee on Ways and Means during the recent hearings. I would like to present them here in full:

BELLA ABZUG: STATEMENT TO THE COMMITTEE ON WAYS AND MEANS ON LEGISLATION CONCERNING TAX EQUITY FOR SINGLE TAXPAYERS AND WORKING MARRIED COUPLES

Mr. Chairman, Members of the Committee, it is a pleasure to have the opportunity to present my views on H.R. 14193, of which I am a sponsor under number H.R. 14550. This legislation would end varous discriminations against single persons and against married persons where both are working by establishing a single uniform rate structure for all taxpayers whether married or not.

Prior to the enactment of the Tax Reform Act of 1969, the principle inequity in this area was the fact that a single person with a certain income paid far more—as such as 40.9 percent more—in income taxes than a marred couple with the same total income. The 1969 act rectified this problem in part by reducing the tax rates for single individuals to the point where this differential could not exceed 20 percent—still not an equitable situation, but clearly an improvement.

In attempting to provide some equity for single taxpayers, however, the drafters of the 1969 act disadvantaged married couples in which both spouses worked. The result of all of this is that although a married couple wherein only one spouse pays less taxes than a single person with the same taxable income, a married couple wherein both spouses work pays more taxes than two single individuals living together.

Mrs. Florence Donahue, who testified before this committee earlier, included in her statement a number of examples of the present state affairs:

Example 1. Bill and Mary are married and have two children. They are unskilled workers and each makes $4,000 a year. If they file a joint return, they will pay a tax of $672. On separate returns, they would each pay a tax of $339, for a total of $678, if each claims one child. If they were not married, each would pay a tax of $246, for a total of $492. This low income family would pay a marriage penalty of $180. If one qualified as head of household, there would be an additional $6 saving if they were not married.

Example 2. Bert is a young accountant and makes $12,000 a year. His wife Susan teaches school; her salary is $10,000. Assuming they have no children and use the standard deduction for 1971, their tax on a joint return is $4,142. If they file separate returns, because they are married, their tax would be $4,165. But if they weren't married at all, the combined tax Bert and Susan would pay would be $3,642.50. So they are paying between $499.50 and $522.50 more taxes because they are married.

Example 3. John and Julia are both attorneys. They are in partnership together, and each partner's share of the partnership income is $20,000. If they are single, they will each pay a tax of $4,450.50, for a total tax of $8,901. If they got married in 1971, their total tax bill went up to $10,857.50.

Example 3 above assumes the standard deduction of $1,500 available for 1971. The 1972 maximum standard deduction of $2,000 will increase the tax penalty even more.

Example 4. Jim is a young widower with two children aged 8 and 10 who live with him in his household and are his dependents. He makes $20,000 a year and itemizes deductions of $4,000. He contemplates marrying a young woman who is an accountant and makes $13,000 a year. She presently takes the standard deduction and intends to go on working. If they do not marry in 1972, Jim's tax bill will be $2,912.50, and the girl's will be $2,171, for a total of $5,083.50. If they do marry, their tax on a joint return, assuming the total itemized deductions remain $4,000 will be $6,380. The difference—the penalty for getting married—is $1,296.50.

I am not particularly concerned over the question of whether a couple living together are married or not, but I am interested in seeing to it that individuals—whether married or single—are taxed on an equitable basis. The argument which has traditionally been made in favor of lower tax rates for married persons—namely, that they usually have children and therefore, greater expenses—is a sound one, but granting lower tax rates to married individuals is not the proper way to adjust for this.

The most obvious reason for this is that not all married couples have children; even those couples that do have children have different numbers of them. The proper way to account for the additional expenses of children is to provide realistic exemptions for them as dependents—not $650 or $675 or even $700, but exemptions which bear some relevance to the actual expenses. Going about it in this manner would be far more fair than the present approach; instead of giving a break to married couples without regard to whether they have any children at all, it would give credit where credit is truly due.

The problem of the working married couple who must pay higher taxes than two single working people living together is a different one in that there does not appear to be any rationale which could or might justify it; rather, as has been stated previously by myself and many others, it appears to be the result of an oversight in the drafting of the Tax Reform Act of 1969. In addition, it has a substantial negative aspect which is especially damaging to the growing role of married women as members of the American work force. Right now, the most heavily taxed income in our internal revenue scheme is that of the married woman who works to bring in a second income.

In my opinion, the solution proposed in H.R. 14193 is a sound one. Under this legislation, there would be a single rate for all taxpayers without regard to whether they are single or married. Any inequities created due to the fact that married couples have children should then be rectified by increasing the dependent exemption.

I thank you for hearing my views, and urge favorable action on the legislation before you.

ONE BANKER WHO IS AN AMERICAN AND WHO IS CONCERNED

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. RARICK. Mr. Speaker, at long last I have received correspondence from a banker who not only is concerned over the fiscal policies that this Congress is supporting by acquiescing in, but who also states:

> I am concerned for the welfare of my family, my employees, my customers, and my country.

The banker, Mr. John R. Montgomery III, president of Lakeside Bank, Chicago, Ill., is not a constituent of mine, but my people and I would be happy to have a banker like this in our midst.

Mr. Montgomery hits the nail on the head when he says:

> If, in fact, we have a concern for minorities, for the poor, the aged or persons otherwise handicapped, we must stop this excessive government spending. *No amount of government spending for the very groups we say we care most about can replace the purchasing power lost through deficit-created inflation.*

I include Mr. Montgomery's letter, as follows:

LAKESIDE BANK,
Chicago, Ill., May 1, 1972.

Hon. JOHN R. RARICK,
Longworth House Office Building,
Washington, D.C.

DEAR MR. RARICK: The Federal Reserve Board in its annual report for the year 1971 stated that economic recovery "will depend importantly on a strengthening in consumer demands". We are told that personal income is at an all time high and yet consumer savings continues at an historically high rate.

How likely is it that the consumer will spend more money and incur more debt in 1972 to spur an economic recovery?

I thought you might be interested in the results of a study we initiated recently in our bank. We have 47 employees. Except for promotional raises (2), no officer or employee received more than a 5% increase in pay in 1972. After adjustment for these promotional raises and terminated employees, our average raise from December 1971 to January 1972 was 4.14% on a comparable basis, well within the Federal guidelines. With the expiration of the surtax, 1972 federal income tax rates are less than the 1971 rates. There has also been an increase in the personal exemption. These will have an impact on taxes payable in 1973. However, as a result of insufficient withholding last year, many people have an unusually large out-of-pocket liability to meet by April 15 this year. To prevent a recurrence of this situation, tax withholding rates were increased in 1972. In our bank, without considering F.I.C.A. taxes, federal income tax withholding increased from December 1971 to January 1972 by 17%. *Thus, not only do many people have significant cash tax liabilities to meet this April, but the effect of increased withholding is to limit the raise for my average employee to only 0.8%*

Now we are told by leading economists across the country that inflation is to abate in 1972 and the rate of inflation will approximate 2½% to 3½%. *Well, the employee whose average salary increase was 0.8%, if the rate of inflation is 3%, will actually be making 2.2% less this year than he did last year.*

Our bank hosted its Sixth Annual Business Forecast Luncheon in February. At that time we distributed questionnaires to our guests so they could prognosticate what sales profits, demand for loans, etc. might be during the coming year. We had about 100 local businessmen in attendance. *The composite guess on the rate of inflation for 1972 was 5.3%!* This, of course, seems high until we read that in February the wholesale price index went up (adjusted for seasonal variations) 0.7%. Should this monthly increase in prices continue at the same rate during 1972, the annual rate would be 8.4%!! Naturally, we hope this will not happen, but it does seem apparent that the annual rate of inflation in 1972 will exceed the 2½% to 3½% forecast earlier. *If the increase is 5.3%, which does not now seem at all unrealistic, my average employee will face a loss of spending power of 4½% in 1972!* Facing the prospect of higher Federal income taxes (or a value added tax) in 1973, increased Social Security taxes, higher real estate taxes, probable further devaluation of the dollar which will have the effect of increasing domestic prices, together with continued and possibly more pervasive economic controls, can the consumer be expected to trigger an economic recovery? Or, given the uncertainty the future holds, is he likely to continue his high rate of savings and shy away from increased debt?

With this continued increase in prices, it is apparent that controls are "not working". Since Congress has shown no historic propensity for self-incrimination I am sure it will feel that the obvious answer is to make controls more pervasive and more mandatory. But how can controls possibly work when it is Congressional spending itself which continues to create these gigantic inflationary pressures?

We ran a $25 billion deficit on top of a full employment economy in 1968. In 1971, we ran a $23 billion deficit. In 1972, it looks like $40 billion. Budgeted for 1973 already is $25.5 billion!! We are being asked to pay the price for government excess. Who is controlling the government?

If, in fact, we have a concern for minorities, for the poor, the aged or persons otherwise handicapped, we must stop this excessive government spending. *No amount of government spending for the very groups we say we care most about can replace the purchasing power lost through deficit-created inflation.*

Is there some way we, as bankers, while still remaining responsible to our stockholders can help you return a measure of sanity to our monetary affairs? I am concerned for the welfare of my family, my employees, my customers and my country.

Cordially yours,

JOHN R. MONTGOMERY,
President.

TODAY'S VD-CONTROL PROBLEM

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. HALPERN. Mr. Speaker, reported cases of infectious syphilis continued to climb upward during fiscal 1971 with a rate of increase twice that of 1970. The problem of VD has not been remedied in the United States, and despite allocation of millions of dollars on task forces, comprehensive health plans and the creation of a National Commission on VD, this dreaded disease has continued to spread.

National awareness of the dangers of this affliction must be intensified in this country. Our attitudes must be changed, education must be intensified and medical efforts must be supported to meet the challenge.

Recently I came across an excellent article published by the American Social Health Association entitled, "Today's VD-Control Problem." The sponsors of the publication: the American VD Association, the American Public Health Association, the American Social Health Association and the Association of State and Territorial Health Officers should be commended on a job well done. The remarks appear below:

VENEREAL DISEASE EDUCATION

VENEREAL DISEASE EDUCATION IN SCHOOLS

Replies to the Joint Statement questionnaire show that in FY 1971, 73% of the 5,013 junior and senior high schools in 109 counties and cities included venereal disease information in the curriculum.

Teachers require special training to teach about the venereal diseases. Colleges and universities with teacher training programs include venereal disease education in the curriculum in 29 of the 50 states responding and in Puerto Rico, and in 57 out of 145 counties and cities.

Some states have legal restrictions imposed upon VD instruction. However, 40 states responded that there was state approval of the inclusion of venereal disease information in the school curriculum. Massachusetts said that it was a "local decision." In California, the state department of education developed a "Framework for Health Instruction, Kindergarten through Grade 12." VD instruction was recommended for classes covering diseases, especially communicable diseases.

The following nine states replied that there was no approval of the inclusion of VD information in the school curriculum: Alabama, Connecticut, Louisiana, Mississippi, Nebraska, Nevada, Rhode Island, Tennessee and Virginia. Of the 147 counties and cities responding, 79% said that there was local approval of such instruction. The response is somewhat below the approval indicated two years ago by the questionnaires and is the same percentage as last year. There has apparently been very little recent progress in gaining such approval.

Cooperation between health departments and community groups to secure or strengthen inclusion of VD information in the curriculum did, however, improve between FY 1970 and FY 1971. According to replies from 50 states and 150 cities and counties, over 80% of their departments of education, other educational programs, operations or agencies, and citizen groups or committees worked with health departments to secure or strengthen inclusion. Improved cooperation was reported, especially between health departments and citizen groups or committees.

Table P shows when and where VD information was presented during the high school years in 109 counties and cities during FY 1971.

TABLE P.—VENEREAL DISEASE EDUCATION IN JUNIOR AND SENIOR HIGH SCHOOLS

[Replies from 109 counties and cities]

Grades that included VD education	Number of times included	Percent of total times included
6th	40	3.8
7th	92	8.7
8th	128	12.1
9th	187	17.7
10th	217	20.5
11th	199	18.8
12th	195	18.4
Total	1,058	100.0

Courses that included VD education	Number of times included	Percent of total times included
Biology	166	15.7
Famil life education	207	19.6
Health education	291	27.5
Physical education	256	24.2
Science	138	13.0
Total	1,058	100.0

Source: Joint statement questionnaire.

(Other courses mentioned, but not tabulated because of insufficient data, include the following: driver's education; English; general assemblies; government; homemaking; human growth and development; life science; physiology; psychology; religion; senior problems; social science and sociology.)

Venereal disease instruction was given most often in health education and physical education courses, usually in grades 9–12. Some form of VD education or information was presented an average of 9.7 times during the high school years in these counties and cities, which listed a total of 1,058 instances by grade and course. Parental demand, as well as cooperation between departments of health and departments of education, was crucial in achieving the amount of VD teaching reflected here.

The need for instruction in the sixth grade has often been emphasized by authorities on the venereal diseases. Only 3.8% (40 out of 1,058) of the grades and courses listed by the counties and cities as including VD information were on the sixth grade level. According to the Public Health Service, the 10–14 age group (which would have a high percentage of sixth graders in it) had a 19.7% increase in gonorrhea from calendar 1969 to 1970, with 5,289 cases reported in 1970.

The proceedings of the 1971 International Venereal Disease Symposium (See next column.) summarize the recommendations made by its workshop on education, stating that "venereal disease information should be in the communicable disease curriculum . . . high school or junior high school courses should stress that venereal diseases do exist, that they are epidemic, that some students may be affected by them, and that we can and should do something about them. If any student has the slightest suspicion or is for any reason worried that he may have a venereal disease, he should be advised to get a medical examination. Contacts must be brought in, in order to eliminate the disease from the community."

"The subject of VD should be taught in regular classrooms by classroom teachers, who could be specially trained—perhaps by public health organizations—through credit courses."

EFFECT OF VD EDUCATION ON VD INCIDENCE

This year's questionnaire asked whether any method of evaluating the effect of VD education on the teenage VD rate had been established. A majority of replies said that increased self-referrals for treatment by the young were the best evidence of the effect of VD education. The Monterey County (California), health department stated that, "There is no evidence that VD education has lowered our county VD rate, but it has greatly facilitated earlier diagnosis through self-referral and speeded up contact follow-up and immeasurably increased community awareness and interest in finding out the extent of the problem."

Self-referral patients in one city were asked routinely why they had come to the clinic. Records kept of their replies showed that over 35% mentioned school VD education programs or radio and TV announcements.

Increased knowledge shown by young patients about gonorrhea and about its lack of symptoms in females was often cited as evidence that VD education had been effective.

VD INFORMATION IN THE COMMUNITY

A publication of significance which received wide distribution was *The VD Crisis*, from the proceedings of the International Venereal Disease Symposium, St. Louis, Missouri, 1971, co-sponsored by ASHA and Pfizer Laboratories Division, Pfizer, Inc.

The Southern Medical Association devoted the entire April 1971 issue of its *Bulletin* to the subject of gonorrhea.

Among publications with special issues on venereal disease were: *American Pharmaceutical Association Journal* (August 1971); *Maternal and Child Health* (November 1971) and *Ohio's Health* (September–October 1971).

The Joint Statement questionnaire asked health officers to describe the most effective VD education and public information programs carried on in their jurisdiction in FY 1971. The following replies reflect the wide variety of community groups and activities involved in promoting awareness of the venereal diseases:

"There were three statewide associations accepting VD as a main health project during the year: California Federation of Women's Clubs, Junior Membership; the California Jaycees.

"Some California Pharmaceutical Association activities were: 1. Three VD 'Teach-Ins.' 2. A VD counter display placed in all pharmacies in the state. 3. Press conferences. 4. Promotion of legislation that enables pharmacies to display prophylactics when accompanied by VD literature. 5. Development of a VD message for prescription bags.

"The California Jaycees plan first to educate their membership and then involve the local Jaycees with the youth VD education program.

"The 'Juniors' were very much involved with projects during the year. A VD song was written and recorded into VD radio spots. One high school planned and built an exhibit and then donated it along with 100 different poster ideas to their county health department.

"Organizations similar to the Bay Area Venereal Disease Association appeared in Ventura, Fresno, Sacramento and Bakersfield. BAVDA was extremely active during the year. Its main thrusts were sponsorship of a seminar for physicians; the April VD Awareness Month; a new TV spot, along with numerous TV and radio programs; and a rock concert.

"The Alameda-Contra Costa Medical Auxiliary sponsored a VD seminar that was well attended by local educators.

"In January 1971, the state board of public health created the California Task Force on Venereal Disease, composed of 27 professionals and private citizens within the state charged with the responsibility to review the extent and nature of the VD problem in California and make recommendations. The task force reported its findings and recommendations to the state board of public health. The recommendations were acted upon favorably by the board and the state legislature. As a result, $238,000 was set aside to carry out the recommendations."

"During the Spring of 1971, a group of University of Denver graduate students undertook an intensive VD awareness campaign in the Denver metropolitan area. The 'VD, Silent Epidemic' drive, sponsored by our agency, consisted of an eight-week effort which utilized all forms of media, various professional and citizen groups.

"Purpose of the campaign was to inform the general public of the growing problem and to refer individuals 15–25 years old to clinics and physicians for VD examinations. Referrals were encouraged to a specific phone number set up to give general and clinic information.

"During the campaign, 2,733 phone calls were received by the 'hot line' and 1,632 new patients were seen in area clinics, with 409 cases of VD treated by these clinics.

"February, 1971, was 'VD Awareness Month' in Connecticut. Mass media campaign sponsored by state department of health, ASHA, Connecticut Pharmaceutical Inc., Pfizer Co., and Connecticut Junior Women's Clubs. Theme of campaign was 'VD: It's a Bummer.' Utilized radio spots, billboards, pamphlets, television programs, in addition to mailing information packets to 2,300 schools, colleges, libraries and youth serving agencies. Campaign was endorsed by Connecticut State Board of Education, Connecticut State Medical Society, Connecticut Broadcasters Association, Connecticut Business and Industry Council and Connecticut Public Health Association."

"The most significant public awareness program was set up by the New York Alliance for the Eradication of VD entitled 'Partners in VD Prevention.' Led by the alliance and with the cooperation of the New York City Department of Health, the services of some 200 Neighborhood Youth Corps personnel and other community people were utilized for a door-to-door VD information campaign. The program successfully accomplished its two main objectives—as well as reaching 25,000 people with VD information: (a) public recognition of the concept of VD prevention and the use of prophylactics as an acceptable solution to the VD problem; (b) publicity on the VD problem. Some 400 newspapers covered such events as the corner distribution of 'Fight Love Pollution' matchbooks and New York City's 'VD Light-In'—a flashlight parade of about 100 teenagers down Fifth Avenue. The program also created and introduced a VD newsletter entitled *Rx for VD*, designed for professionals in the medical and pharmaceutical fields."

"The Second Conference on Venereal Disease Among Teenagers was held in Philadelphia October 7, 1970. It received the most widespread community support and mass media coverage of any effort to date. Two major results of the conference were the establishment of Operation Venus and the Counterattack Committee.

"Operation Venus is the most effective program for public awarenese and information in Philadelphia. The program was established by the Community Service Corps (an organization of high school students.) The two basic elements of Operation Venus are a 'hot line' and a transportation service to private physicians and public clinics. The program has received wide publicity."

"Governor Frank Licht (of Rhode Island) today announced a statewide effort to reduce venereal disease, which has reached panic proportions in the state, and 'is probably doing far more physical and mental damage to our citizens than the drug problem.'

"A three-month program, beginning immediately, will emphasize the state's ongoing program of free and confidential medical assistance to persons affected by a venereal disease. People suspecting that they have the disease only need telephone 421–9836 to arrange an examination and treatment.

"The theme of the program, *Let's Get V.D.*, will be particularly directed to the 14–25 age group, where incidence of venereal disease is the greatest. A key to the campaign is that young adults can be treated without parental approval, and in strict confidence.

"The program will be executed with the cooperation of all the news media, the neighborhood health centers, hospitals, private physicians, public assistance employees, schools, and many other organizations and groups.

" 'We intend to blanket the state with our messages to be sure that we sufficiently impress on the minds of all people the seriousness of this disease,' Governor Licht said." (from a December 16, 1970 press release)

"Approximately 35,000 males visit barber shops in Houston each day. For this reason, the Texas Alliance for the Eradication of VD asked 832 barbers in Houston to set up VD information centers in their shops. Each received a specially designed poster appropriate for display, along with a supply of bumper stickers and pamphlets that they were asked to distribute. The Texas Alliance also sponsored a billboard campaign. The Harris County Medical Society launched a 'Stamp Out VD' campaign which encouraged doctors to report all cases to the health department and which also promoted classroom VD education."

"The VD control program distributed over 3,000 VD information resource kits to school teachers and others who are involved in teaching about the venereal diseases. Nearly 500,000 pieces of literature were provided to schools and other organizations for distribution to students, employees, etc. Ten VD films were shown 4,178 times to audiences which included students, physicians, paramedical groups—an estimated 156,000 persons." (Texas)

"We undertook a program to educate male homosexuals in the southern Wisconsin area. Main thrust of program was the distribution of posters and leaflets describing venereal disease among male homosexuals. Volunteer rate of male homesexuals at Milwaukee Social Hygiene Clinic increased markedly as a result of this effort."

FEDERAL FUNDING

The project grant mechanism has been used by the federal government to assist state and local health departments in the control of the venereal diseases since 1953. Prior to the implementation of the Partnership for Health legislation in July 1967, project grant support was provided from categorical funds appropriated specifically for venereal disease control.

The Partnership for Health legislation provided, in Section 314a of the Public Health Service Act, for grants to assist the states in developing comprehensive plans for all health needs, under a designated Comprehensive Health Planning agency. Section 314b of the same act provided grant assistance for the development of area-wide plans in approved regional or metropolitan local areas. Section 314c provided grant funds which are now administered by the National Center for

Health Services Research and Development, for the development of new methods or improving existing methods of organizing, delivering and financing health services.

Section 314d of the Public Health Service Act established a mechanism for block ("formula") grants to states for the delivery of health services. Each state has an entitlement under Section 314d which is based on population. States submit a program plan for each health activity for which they propose to use 314d funds, and must pay a proportionate share of the cost of the plan based upon per captia income. The 314d grants replace many previous categorical formula and project grants. States now, as in the past, do not use significant amounts of the "formula" grants for venereal disease control.

Prior to FY 1963, venereal disease project grant funds amounted to less than $3,000,000 each year. After the report of the Surgeon General's 1962 Task Force on Eradication of Syphilis, project grant funds for venereal disease increased to a high in FY 1965, FY 1966, and FY 1967 of $6,229,000 per year. As recommended by the task force, these funds were limited to syphilis control programs.

Beginning with FY 1968, both ongoing and new venereal disease control projects have been awarded to state and local health departments from funds appropriated under Section 314e of the PHS Act. These grants have continued to be limited almost entirely to syphilis control programs. This section replaced several sources of authority for a variety of categorical project grants, including venereal disease. Although venereal disease project grant requests have had to compete with a wide variety of grant requests for many kinds of health services, project grant support continued through FY 1970 at a level approximately equivalent to that of the years before the Partnership for Health legislation was enacted. However, inflation (particularly increasing personnel costs) has decreased program activities.

FY 1971 and FY 1972 have seen a change in the pattern of federal grants to state and local health departments for venereal disease control under Section 314e. A total of $6,300,000 was "set aside" for spyhillis grants in each year. Eligibility for grants was established with respect to the extent of the early syphilis problem. Since many states did not meet the criteria for support at a level equivalent to prior years, grant support was drastically curtailed in some areas and eliminated in others. Areas with increased problems received increased grant support. Some states in which special efforts had achieved a reduction in reported infectious syphillis had federal project grants cut almost immediately.

The federal government actually provided $8,245,840 to states and cities for venereal disease control activities during FY 1971, and $24,357,000 has been spent. or is currently programmed to be spent, during FY 1972. According to the Public Health Service, these funds break down as follows:

	Fiscal year 1971	Fiscal year 1972
314e project grants	$6,300,000	$6,300,000
317 project grants		16,000,000
CDC supported personnel provided directly to States and cities	1,311,200	1,657,000
CDC supported gonorrhea control pilot studies (fiscal year 1972 estimated)	634,640	400,000
Total	8,245,840	24,357,000

The program envisioned by the planners of Partnership for Health legislation is not yet fully operational in all states. Since all project grants for VD control are now funded through the appropriation for Comprehensive Health Planning (even though they are continuations of grants formerly awarded by the VD Branch of CDC), the only source of information from which total funds expended for VD control can be ascertained is state and city health departments. Replies to the Joint Statement from 45 states, the District of Columbia and Puerto Rico show that state funds made available to health departments for VD control increased by 21.7% from FY 1971 to FY 1972. Increased state funding was reported by 30 of the states responding, with four states (Georgia, Pennsylvania, Tennessee and Texas) and the District of Columbia accounting for over half of the increase. The 15 largest U.S. cities reported that local funds appropriated for VD control increased by 10.3% from FY 1971 to FY 1972.

Public Law 91–464, "The Communicable Disease Control Amendments of 1970," was enacted in October 1970. It provided appropriation authority for FY 1971 and FY 1972, to make grants to state and local health authorities for the control of tuberculosis, venereal disease, rubella, measles, RH disease, poliomyelitis, diphtheria, tetanus, whooping cough or other communicable diseases, amenable to reduction and determined by the Secretary of HEW on the recommendation of the National Advisory Health Council to be of national significance.

A small appropriation was made under this legislation for FY 1971, all of which was used to fund tuberculosis control activities. The appropriation in August 1971 of $20,000,000—$16,000,0000 of it for venereal disease control—was made under this authority and represents a renewed commitment by Congress to eradicate syphilis and its first real commitment to the control of gonorrhea. The status of these funds is discussed in the Progress Report.

In an attempt to discover the effect that changes in federal funding have upon state control programs, health officers were asked to comment upon such changes in FY 1971 and to anticipate the situation in FY 1972. Most states said their control programs had been curtailed. The following selection of comments from health officers documents the problem:

"Arizona had requested $30,096 federal financial assistance in FY 1971. The amount approved was none. An emergency special state appropriation was granted by the state legislature to support in FY 1971 the personnel and related costs of the two Navajo Indian investigators and one clerk, as well as the in and out of state travel costs previously supported by federal funds. Federal financial support in FY 1972 totals $1,875 for communications equipment, out of state travel and educational materials."

"Federal budget restrictions have created a cutback in personnel and California is experiencing a rapid increase in infectious syphilis cases. Cost of living increases will cause a further cutback in FY 1972 in that budget levels were not increased."

"VD control is no longer a categorical program in Georgia. It has become a part of the department's Comprehensive Health delivery plan and all former categorical health program representatives have become generalists assigned to the district directors of public health.

"Our program has suffered during FY 1971 from reduced federal funding, but our federal budget grants for FY 1972 for Fulton County have been increased and should result in a considerably improved program in the Atlanta area."

"Since FY 1968 we have lost five Public Health Service assignee positions. The cutback in CDC operating money for assignees has placed the higher paid PHS assignees on grant monies which results in less money for other services. Travel monies are severely limited. None of the 314d funds could be used for venereal disease control in Louisiana."

"We have applied for 314d funding but have not received funds from this source. Our project grant funds (314e) have been cut by almost 75% over the past five years. Personnel staffing is less than half the level of five years ago. Unfortunately the venereal disease problem remains serious and we cannot afford this reduction in assistance without losing some degree of program effectiveness." (Missouri)

"New York State did not receive the number of public health advisors we considered necessary to carry out our venereal disease control program. As a result, we are now showing increases in our syphilis incidence and gonorrhea is reaching epidemic proportions."

"FY 1971: Reduced cash and personnel, coupled with almost twice the primary and secondary syphilis morbidity of previous years, forced reduction of most program activities other than early syphilis epidemiology. FY 1972: More of the same." (Washington)

EXECUTIVE ORDERS IN A STATE OF NATIONAL EMERGENCY—RARICK REPORTS TO HIS PEOPLE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. RARICK. Mr. Speaker, I recently reported to my people on Executive orders in a state of national emergency. I insert the report at this point:

RARICK REPORTS TO HIS PEOPLE ON EXECUTIVE ORDERS IN A STATE OF NATIONAL EMERGENCY

The Founding Fathers who wrote the U.S. Constitution giving us a Constitutional Republic divided the functions to be exercised by the federal government among the three branches which were intended to act as agents of the principals—the sovereign States and the people thereof. Every American student is or should be familiar with this concept known as "separation of powers." The Legislative Branch legislates or writes the laws; the Executive Branch executes or enforces the laws; and the Judicial Branch judges or interprets the laws passed by the Congress.

Being aware of the power-seeking trait in human nature, the wise and prudent architects of the U.S. Constitution provided a system of checks and balances whereby each branch of government could restrain usurpations or encroachments by each of the other branches outside of its limited powers. Should any branch fail to rectify a breach of the Constitutional contract, it was then incumbent upon the States as principals to the contract to restore order.

Today we find the Constitution in disrepair. The Congress has delegated many of its assigned functions to the Executive Branch, to bureaucrats, to independent groups and even to international organizations—to regulate commerce with foreign countries, to issue money, and to declare war, to mention only three examples.

Federal judges occupying the Judicial Branch have taken on the functions of making and executing laws based on sociological concepts while the Executive Branch has become lawmaker as well as judge. And while usurpation runs rampant, neither the separate branches nor the sovereign states and the people thereof exercise their Constitutional prerogatives and duties to preserve and defend the Constitution.

A cause for considerable concern in the Executive Branch of the present administration is the skyrocketing growth in both size and power of the Executive Office of the President making it a veritable Palace Guard.

The expanding size and power of the Executive Office of the President in conjunction with the Presidential use of executive orders to bypass the Congress, to make laws and the continued existence of a state of national emergency provide the framework and mechanics for dictatorship in America. So, I thought we'd consider today the threat posed by these political realities both to our individual liberties and to our Constitutional Republic.

EXPANDED POWER OF THE EXECUTIVE OFFICE OF THE PRESIDENT

Candidate Nixon in 1968 declared that "the best government is closest to the people." He spoke of the need to decentralize the powers exercised by the federal government so that people at the local level could make in accordance with the U.S. Constitution those decisions which so greatly affect their lives. Yet, during over 3 years in office, President Nixon has taken actions to the contrary which have centralized policy planning and decision making powers in a super-cabinet White House bureaucracy.

According to official government sources, the number of permanent personnel to staff the White House office and the special executive agencies established to serve the President increased from 1,992 under LBJ to 2,419 in December, 1971, or 21% during the first three years of President Nixon's tenure; and the cost to taxpayers of this growth in White House bureaucracy is estimated to reach $63.3 million for the Fiscal Year ending June 30, 1972—a 105% increase over the $30.9 million cost for Fiscal year 1969.

A report dated April 24, 1972, of the House Committee on Post Office and Civil Service and entitled "A Report of the Growth of the Executive Office of the President, 1955–1973" presents data showing that from the middle of the Eisenhower Administration (1955) through the middle of the Johnson Administration (1965), the EOP grew by 12 percent; and that during the five-year period 1965 to 1970, the EOP increased in size an additional 12 percent. In less than three years since 1970, the size of the EOP increased by 25 percent. More than 50 percent of the increase in the Executive Office of the President over its size in 1955 has occurred since 1970.

The White House, which once provided office space for nearly all of the Presidential assistants, now is the center of a cluster of buildings which house the increasing number of aides to the Chief Executive. This enlargement of the White House entourage has resulted from the establishment by President Nixon of 124 groups—councils, commissions, committees, and task forces—of which 99 still exist. Thirty-nine of these organizations, including the Office of Intergovernmental Relations, and the Cost of Living Council, were created by executive orders.

EXECUTIVE ORDERS

The authority to issue executive orders allows the President, in effect, to make laws. Over 11,000 executive orders or laws by the President have been issued since 1907 when the numbering of Presidential executive orders was begun. The number of unnumbered orders issued is undetermined with estimates ranging from 15,000 to 50,000. The scope of executive orders has ranged from the appointment of a charwoman in a local post office to the seizure by the federal government of the steel industry.

While the executive order appears to constitute an unconstitutional usurpation by the Executive Branch of the lawmaking function of the Legislative Branch, Congress has never delineated the scope of the executive orders. What is the source of authority for executive orders?

The U.S. Constitution vests the President with the executive power of the Government (article II, Section 1, Clause 1), the power to preserve, protect and defend the Constitution (Article II, Section 1, Clause 8), and the power to see that the laws are faithfully executed (Article II, Section 3). It is from these powers that the authority to issue executive orders is derived.

The executive order has been used by Presidents from the time of President Washington up to the present. In the early days of the Republic, the executive order was used primarily for the disposition of the public domain, the withdrawal of lands from federal reservations, to promulgate rules for civil service and administrative matters.

It is understandable that the Chief Executive should issue orders so as to fulfill his duty to see that the laws are faithfully executed. The danger lies in orders which go beyond the intent of Congress and attempt to accomplish some end not intended by legislation. An example of this is the 1962 executive order of President Kennedy—as he said, "by the stroke of a pen" I am banning racial discrimination in all federally aided housing. This action was taken even though Congress had refused to include language authorizing it in housing bills.

One current example of legislation by executive order a quasi-executive order by H.E.W.—is a little publicized notice which appeared in the Federal Register of April 18, 1972. Executive orders and regulations of the various federal departments and agencies which appear in the Federal Register have the force of law. The notice to which I refer is entitled "Medical Services for Persons Unable to Pay: Nondiscrimination." The final promulgation date is given as May 18, 1972, and will affect us all. All hospitals in the country that have received any federal funds are to budget for free hospital services for persons unable to pay to the extent of 25 percent of net profit or 5 percent of operating expenses whichever is higher. There is nothing that is free, so the effect of this new executive order can be but to raise the price of health services to all paying patients who will now be compelled to give "ordered charity" to pay the hospital bills of others. And the cost to hospitals to prepare the required federal reports and forms as well as free services will be reflected in increased hospitalization costs to patients.

Even more serious are executive orders which do not implement any law and are thus of a dictatorial nature. An early example of this is Washington's Neutrality Order of 1793, declaring U.S. neutrality in the war between France and England. The attitudes of Jefferson and Hamilton toward the order of neutrality exemplify two distinct points of view regarding executive orders. Jefferson felt that the power not to declare war as well as the power to declare war belonged to Congress; while Hamilton, on the other hand, reasoned that the constitutional provision of executive power gave the President broad powers to take actions he deemed to be in the national interests.

While the courts have on many occasions rendered decisions in suits challenging the legality of specific executive orders, neither the courts nor Congress has issued a clearcut ruling as to the extent or degree to which the President may use an executive order.

The U.S. Supreme Court, for example, held in the 1952 Youngstown Co. vs. Sawyer case that the executive order calling for seizure of the steel industry was without Constitutional or Congressional authority since the power sought to be exercised under the order was a lawmaking function which the Constitution vested in Congress alone. The court reasoned: "Nor can the seizure order be sustained because of several constitutional provisions that grant executive power to the President. In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad."

In his concurring opinion in this case, Justice Frankfurter quoted a statement made by Justice Brandeis as follows: "The doctrine of the separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was, not to avoid friction, but, by means of the inevitable friction incident to the distribution of the governmental powers among three departments, to save the people from autocracy."

In this case, the court ruled that the "inherent powers" doctrine of presidential power did not include the power to seize private property in time of emergency.

Few of the Supreme Court cases regarding executive orders have been concerned with the constitutionality of the executive order itself. In a 1955 case, *Peters* v. *Hobby* involving action of the Loyalty Review Board under Executive Order 9835, Mr. Justice Black made this pertinent comment:

"But I wish it distinctly understood that I have grave doubt as to whether the Presidential Order has been authorized by any Act of Congress. That order and others associated with it embody a broad far-reaching espionage program over government employees. These orders look more like legislation to me than properly authorized regulations to carry out a clear and explicit command of Congress. *I also doubt that the Congress could delegate power to do what the President has attempted to do in the Executive Order under consideration here. And of course the Constitution does not confer lawmaking power on the President.*"

On a number of occasions, Congress has repealed executive orders of the President. The U.S. Supreme Court declared in 1866 in *Ex Parte Milligan:*

"The power to make the necessary laws is in Congress; the power to execute in the President. Both powers imply many subordinate and auxiliary powers. Each includes all authorities essential to its due exercise. But neither can the President, in war more than in peace, intrude upon the proper authority of Congress, nor Congress upon the proper authority of the President. Both are servants of the people, whose will is exercised in the fundamental law."

The proper use of the executive order as a vehicle by which the President sees that the laws are faithfully executed has never been challenged. It is the abuse of this power that has caused concern.

To alleviate this concern an awakened Congress should establish a watchdog committee—a joint committee on Executive Orders—to conduct a continuing study and investigation of all executive orders with the purpose of advising Congress whether such orders are issued pursuant to the authority vested in the office of President by the Constitution. The President should keep the committee informed on all matters pertaining to executive orders.

EXECUTIVE ORDERS IN A STATE OF NATIONAL EMERGENCY

During periods of an officially declared state of national emergency, Congress has acted temporarily to broaden the authority and power of the President so that he could take prompt efficient action in the national interest.

During World War I executive orders established such agencies as the Food Administration, the Grain Corporation, and the War Trade Board; and during World War II, the War Shipping Administration, the War Manpower Commission, and the Office of Censorship. In periods of war declared by Congress, citizens are willing to tolerate extensive powers in the hands of the President as Commander in Chief so that he can effectively conclude the war as quickly as possible with a minimum loss of lives. In periods of undeclared war, citizens are rightfully reluctant to give such dictatorial powers to the Chief Executive.

Since 1933, the United States has been in a continuous state of national emergency even though this country was in a war declared by Congress from 1941–1945 only. Powers surrendered temporarily by Congress are continued by extension of the emergency.

With the passage of the Emergency Banking Act of 1933, Congress gave to the President unprecedented peacetime emergency powers. In the haste with which this legislation was railroaded through Congress, a little noticed amendment to Section 5b of the Trading with the Enemy Act of 1917 was added. In Section 5b of the 1917 Act, Congress transferred to the President the power to regulate trade and financial transactions between Americans and foreigners *in wartime*. By the 1933 amendment to Section 5b, the President was authorized, by simply declaring a national eemrgency, to assume in peacetime these broad wartime emergency powers. The President can decide when a national emergency exists and when it ends as well as when he will use the almost dictatorial authority contained in some 200 laws which grant special powers to the President in national emergencies.

An Office of Emergency Preparedness pamphlet entitled "Guide to Emergency Powers Conferred by Laws in Effect on January 1, 1969," lists these powers. A few of these powers which are today at the disposal of the President of the United States are the following: to forbid citizens to leave this country, to take privately owned boats for a fair compensation, occupy or take over any factory, prohibit any transaction in foreign exchange, call up reserve or retired members of the Armed Forces and send them to the Middle East or to aid any country, and to award government contracts without asking for bids.

The "national emergency" declared by President Roosevelt in 1933 was superseded by another "emergency" proclaimed by President Truman in 1950 and continues in effect today.

Even so, on August 15, 1971 in his Proclamation Number 4074, President Nixon proclaimed a state of national emergency. Such a proclamation like a declaration of war, by the President of the United States, should be an historical event which a free press should be expected to bring to public attention with banner headlines. Yet, President Nixon's declaration of a national emergency strangely went almost without comment in the nation's press.

Several very significant and far reaching executive orders have been issued by President Nixon. One such directive is Executive Order 11490 of October 28, 1969 entitled "Assigning Emergency Preparedness Functions to Federal Departments and Agencies." This executive order compiled in one order over 20 separate executive orders issued by President Kennedy dealing with emergency planning and which outline a plan for dictatorial control.

Without further congressional approval, Executive Order 11490 places in the hands of the President and his heads of departments and agencies vast powers over food supply, money and credit, transportation, communications, public utilities, and other facets of the lives of Americans.

I wrote to the President asking if the declaration of a state of national emergency authorized him to effectuate the emergency plans prepared pursuant to Executive Order 11490. The following is a portion of the reply I received:

"The recent declaration by the President is not intended as an instruction to any government agency to take any specific action. In general, it simply makes available for future action, statutes which require the existence of a national emergency for their implementation. Since the 1950 emergency declared by President Truman has continued in effect (see Op.A.G. No. 35, P. 6–8), the declaration of August 15 does not significantly change the legal picture from what existed prior to that date."

Executive Order number 11647 of February 10, 1972 is another very significant Presidential directive. It establishes and assigns functions to the ten Federal Regional Councils.

Each of the 50 states now managed by elected officials has been assigned by President Nixon to one of ten regions headed by an appointed bureaucrat carrying the title of sub-cabinet status. Governors of the States are now to be insulated from the Federal hierarchy by Under Secretaries for regional councils.

The creation of these ten "Soviets" has received little publicity. They provide the framework while the executive order plus the awesome emergency powers possessed by the President because of the state of national emergency provide the vehicle for bypassing States, county, and local governments for the establishment of dictatorial controls from Washington.

Part of the solution to this precarious situation is to curb the President's use of executive orders and to enact legislation revoking the state of national emergency proclaimed by Presidents Truman and Nixon.

There is no constitutional government where the decisions of government are made by executive orders. The oath of office of congressmen is to the Constitution and not to the President or to executive orders which exceed or defeat legislative purpose. Congressmen cannot represent their constituents if they are representing rule by executive order.

THE AMNESTY QUESTION: ARE THEY ALL EQUAL?

HON. BURT L. TALCOTT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. TALCOTT. Mr. Speaker, there is considerable debate and division of opinion on the subject of amnesty for draft evaders and deserters. Many citizens and Members of the Congress seem to have a penchant for discussing the issue now.

The most knowledgeable presentation and the most sensible proposal I have heard or read is by Leavitt A. Knight, Jr., in the May 1972 issue of the American Legion magazine.

Before reaching a conclusion on this emotional issue, I urge my colleagues to read Mr. Knight's article which I insert at this place in the Record:

The Amnesty Question for Draft Evaders: Are They All the Same?

(By Leavitt A. Knight, Jr.)

Today, some sort of *blanket amnesty* for those who illegally evaded the draft or deserted from the military during the Vietnam war is being widely debated, discussed, aired, promoted and opposed.

In all this discussion there has so far been a good deal of silence on what is most certainly the central question. The key word is not "amnesty," it is "blanket."

Without exception, the proposals for amnesty for Vietnam war draft evaders and deserters that are now being debated would either treat them all as one group, or divide them into large classes (such as between draft dodgers and deserters). Every such proposal is a proposal to avoid examining individual cases, to offer forgiveness to 70,000 John Doe's if we offer it to one John Doe.

The assumption behind all blanket amnesty proposals is that all draft evaders and/or deserters are the same, so one judgment will do for all. Very often the case of one or two men with a sympathetic ring is cited to support amnesty for 70,000.

But they are not all the same, and the whole debate, as it gets to the public, stands on a false assumption.

There are John A. Doe's who were too illiterate or mentally retarded to understand their draft board's instructions. There are John Z. Doe's who were wanted for murder, and avoided registering for the draft to keep justice from catching up with them.

In between is a whole alphabet of John Doe's. Some stood on private conviction against all war, knew that what they were doing was illegal, and chose to take the consequences. Others were not actually against the Vietnam war as they claimed. They were in it on the side of the enemy, with whom they conspired (sometimes openly) not to stop the war but to assure a victory for Hanoi.

The actual motives of many draft evaders cannot be determined from what they *said* their motives were. What they said was often ground out on mimeo machines and printing presses by others and handed to them to be cited as their own statements. Some draft evaders openly refused to register or report. Others never openly resisted the draft, but cheated by feigning mental or physical disabilities or making false claims for exemptions. As we all know, a whole business grew up "educating" draft-eligibles on ways to disqualify themselves by lying.

It is entirely possible to carry out any sort of justice the nation decides it wants to render, be it stern or lenient, by pursuing a policy which is applied to each case according to the facts of the case.

It is impossible to render any sort of justice by enacting a blanket amnesty which closes its eyes to what it is doing in each case.

If we take the sternest approach, and punish all who even technically avoided the draft, we will hurt many relatively innocent men who might be shown to be victims of draft board error or overzealousness. If we only exact some mild sort of penance from every draft dodger, such as Sen. Robert Taft's proposal to let them work for three years in government service in some agency, who will require too much of men who are victims of error. You cannot find error if you do not look at each case.

In WW2, a few overzealous draft boards instituted charges of draft-dodging against Japanese-Americans who had been relocated from the West Coast as "undesirable citizens." And technically, they had dodged the draft by failing to register. But when President Truman's Amnesty Board (*which looked at each case*) caught up with these charges they were dismissed out of hand. And so should any similar purely technical charges be dismissed today, instead of offering the accused a chance to buy a pardon with a three-year tour of government duty.

Most appeals for blanket amnesty today state that *all* draft evaders and/or deserters were acting on high principles which are grounds enough for granting amnesty to all of them. It is irrelevant to debate at this point whether or not it is "high principle" to avoid service—sometimes by lying—under conditions that require that another man go in one's place. A blanket amnesty would let all the so-called "high-principled" off, and with them it would let off all the "low-principled"—the stickup men and wanted murderers who failed to register in order to flee justice.

One thing is clear. *Blanket* amnesty is wrong no matter what amnesty might be right, if any. The experience of the WW2 Amnesty Board is enlightening on this point.

In 1946, President Harry S. Truman appointed a three-man Amnesty Board to recommend Presidential clemency for WW2 draft evaders. He named to it then-recently-retired Associate Justice of the Supreme Court Owen J. Roberts (chairman); Willis Smith, then President of the American Bar Association and later U.S. Senator from North Carolina, and James F. O'Neil, who had been a special assistant to the Secretary of the Navy in WW2 and is presently the publisher of this magazine.

Justice Roberts was highly in favor of blanket amnesty when the board began its work. In fact, his name appeared on the letterhead of the Fellowship for Reconciliation, a pacifist organization. His initial proposal to the whole board was to treat all of the draft evaders the same—to recommend executive clemency for all of them to President Truman. Smith and O'Neil proposed to review the cases individually, and persuaded Justice Roberts to review a sample and see if he still wanted blanket amnesty. After he reviewed a few, he agreed that each of 15,805 cases should be reviewed. It took a year, with help from the Justice Department staff. In the end, the Board recommended executive clemency for 1,523 cases. President Truman had earlier arranged for pardons for another 1,518. In all, out of 15,085, pardons were granted to 3,041. As he handed the Board's report to the President, Justice Roberts said that the review of each case had saved him from a great mistake, for he "never realized how many were not entitled to amnesty."

Here is one quotation from the unanimous report of the Roberts Board:

"Examination of the large number of cases at the outset convinced us that to do justice to each individual as well as the nation, it would be necessary to review each case upon its merit with the view of recommending individual pardons, and that no group would be granted amnesty as such."

Two further passages indicating what examination of each case revealed are also enlightening:

"In perhaps one-half of the cases considered, the files reflected a prior record of one or more serious criminal offenses. The Board would have failed in its duty to society and to the memory of the men who fought and died to protect it, had amnesty been recommended in these cases. Nor could the Board have justified its existence, had a policy been adopted of refusing pardon to all. . . ."

"Many of the willful violators were men with criminal records; many whose record included murder, rape, burglary, larceny, robbery, larceny of Government property, fraudulent enlistment, conspiracy to rob, arson, violations of the narcotics law, violations of the immigration laws, counterfeiting, desertion from the U.S. Armed Forces, embezzlement, breaking and entering, bigamy, drinking benzedrine to deceive medical examiners, felonious assault, violations of National Motor Vehicle Theft Act, extortion, blackmail, impersonation, insurance frauds, bribery, black market operations and other offenses of equally serious nature; men who were seeking to escape detection for crimes committed; fugitives from justice; wife deserters, and others who had ulterior motives for escaping the draft. . . ."

There were just about 7,500 such cases, and there's no reason to believe that an examination of Vietnam military evaders would not show similar numbers.

The WW2 Board, by looking at each case, found all sorts of other people who could hardly be classed as being all the same or reasonably subject to the same consideration. On their records they deserved anything from extreme leniency to the sternest punishment. Today, because no such close look is being taken, the draft evaders and deserters are being lumped together under all sorts of misnomers.

A recent headline in the New York Times is typically foggy. It reads: "Amnesty is Asked for All War Foes." Here, the Times headline writer represents everyone who is *opposed to war* as one in need of amnesty. The use of such language is a smoke screen of the kind we need less of in airing public questions.

It's a fair presumption that everyone in the United States is opposed to war. It is certainly no crime and nobody needs amnesty for abhorring war. Of course, the story under the headline was not about "all war foes." It reported a petition circulated by 16 people to grant total amnesty to all Vietnam draft evaders and deserters—that is, lawbreakers. As usual, the petition stated that all 70,000 or so of them had ducked the draft or deserted for the same reasons, which seemed honorable to the 16 petitioners.

Now, it is a fair bet that virtually every man who served in Vietnam or any other of our wars hated every bit of it. In short, millions of war foes registered for the draft and served. It is certainly kidding the public to give the distinction of war-hater uniquely to those men who illegally avoided war service. Yet both the Times and these 16 petitioners did exactly that, and they are not alone in such gross misidentification in today's amnesty debate. I don't object to these folks having and sticking to their opinions. But I most certainly object to the sand they throw in other people's eyes, and to their representing their wildest and most undermonstrable beliefs as fact.

The petitioners, in this case, claimed it as a fact that the deserters and draft dodgers "wherever they are, are already concerned with the making of a better America." All of them. Justice Roberts, pacifist though he was, would roll over in his grave at the suggestion that these petitioners could possibly know what they were talking about. Of course, the way to find out is to examine every case, as Justice Roberts and his colleagues did. But it is exactly the point of all such petitioners that every case should *not* be examined.

One error leads to another, or rather scores of others. Legionnaire Benjamin Truskoski, of Bristol, Conn., pointed out in a letter to a Congressman that Senator Taft's proposal to give amnesty to any draft evaders who would serve for three years in a government agency—such as VISTA, the VA hospitals, etc.—is loaded with pitfalls and injustices. Senator Taft seems to view government service as a sort of punishment. To some it would be punishment. Just what will happen to the quality of service in VA hospitals and other agencies that load themselves up with sullen men who look upon their jobs as punishment, and who have a record of breaking the law when it doesn't appeal to them, is quite a question. The government service, Truskoski noted, has a hard enough time without taking on thousands of such. The WW2 Roberts Commission found that some of the draft evaders were mentally unstable. That Senator Taft would view government employment as a penance is itself a little eyebrow-raising. Another side of the question is that government jobs are sought after by many. There are loads of Vietnam veterans who are walking the streets looking for jobs, while scores of volunteers and organizations are trying to help them. What an irony, said Truskoski, to offer 70,000 federal posts to draft evaders, while many men who didn't evade it go unemployed after having fought the war!

I don't mean to beat Senator Taft over the head. He is probably as much a victim of fog as everyone else. The hidden evils in his proposal are the sort of things that follow basing a whole public debate on false premises. Once you start pretending that all draft evaders are the same—once you decide not to look at their records one by one—it follows that whatever you propose to do will be full of mischief because it stands on the false ground that they can be treated justly as a class.

All we need, after the Vietnam war is over, is for some board or agency to do for the President what President Truman's Amnesty Board did for him. The President has full powers to grant executive clemency, and justice can only be served by basing it on the facts of each case. If I'm wrong on that, our whole concept of justice has been wrong since we established our courts, our appeals courts and the pardoning power. Until now, we always thought it was a virtue of our system that every accused man should have his day in court. If we don't stay with that, we can't avoid being too soft on some and too hard on others.

One argument that has been widely publicized in favor of a blanket amnesty should be taken very seriously if it is found to hold water. It states that the draft evaders are such a large and important part of our population that—quite apart from the justice or injustice of forgiving them en masse—we must accommodate them in some special way in "order to cement a divided nation back into one piece."

If the facts are correct, this is not a specious argument. After the Civil War, when half the nation had fought the other half and the Conferedate Army had actually taken up arms against the victorious Union, the wisest leaders recognized that the nation could ill afford to subject everyone in the Confederate cause to prosecution as a lawbreaker. Lincoln instituted a policy of blanket amnesty in his instructions to Grant who, at the surrender of Lee's army at Appomattox Court House, told Lee to send his men home with their horses for the next plowing. Every one of them was technically subject to prosecution as one who'd taken up arms against the United States.

With the assassination of Lincoln, and the Northern cry for vengeance, his amnesty policy was the subject of bitter recrimination and turmoil for years. (Which illustrates that the amnesty did not cement the nation but continued to divide it.) In fact, Congress passed a law to wipe out a later amnesty granted by President Andrew Johnson (which Johnson ignored).

The question then was not a question of either justice or injustice. It was a statistical question. The nation could not afford to prosecute close to half its citizens, and the enormity of that conflict dictated Lincoln's policy to "bind up the nation's wounds." Since the question is based on statistics, and not on justice, its relevance today stands on the question of numbers, as it did in the Civil War.

Are the Vietnam draft evaders and deserters such a significant part of the population that the nation cannot afford to give them even justice but must try to deal with them as a class, as Lincoln proposed to do for the South?

Statistically, it would be more important to forgive our other lawbreakers as a class, if the nation stands in danger of alienating large classes of citizens by prosecuting them evenhandedly. In 1969, more than five million people stood accused of serious crimes in the United States for which they were arrested. Auto thieves alone came to over 870,000. Most unofficial guesses estimate the accumulation of Vietnam draft evaders and deserters since 1964 or thereabouts at about 70,000. They are a small fraction of lawbreakers (less than 1 in 500 over an eight-year period). They are a small number compared to those who did serve in the military, and in fact they are not a fifth as numerous as those who were killed, wounded or reported missing in Vietnam. They are a tiny part of the total population—averaging out to the population of one small hamlet of 1,400 people in each state.

Thus the statistical approach claiming that we can ill afford to give them the same sort of justice we give everyone else because they are so important a segment of the nation is only empty verbiage. Put them in the Los Angeles Coliseum and there would be 6,000 empty seats, if the 70,000 figure is correct. However both the Justice and Defense Departments have testified in the Senate that the total number who could face prosecution is much smaller than 70,000.

This review of the insignificance of their numbers in the nation is not said for or against the draft evaders, but only to reveal what an attempt at hoodwinking the public is involved in the claim that they are too important a part of the nation to be dealt with like everyone else who stands accused of lawbreaking. Fog and sand-in-the-eyes are found everywhere on the amnesty question.

The "blanket" question has created more fog than that. It has generated an illusion that anyone who is opposed to blanket amnesty is opposed to all amnesty, and another illusion that those who may deserve amnesty on the merits of their cases won't get it unless some blanket amnesty is provided. Of course, there was no blanket amnesty after WW2, yet Truman—under existing powers of the President—gave it to more than 3,000 men, including everyone whom the extremely liberal Justice Roberts thought was entitled to it. What blanket amnesty does, by contrast, is to assure that those who are not entitled to it also get it.

National Commander John H. Geiger, of The American Legion, testified on the amnesty question before a Senate subcommittee on March 1 of this year. Let's close this by quoting liberally from the meatier parts of his testimony. It seems to be right on the ball, and also lets readers of this magazine see what their organization said most recently on the subject. Said Commander Geiger:

"Today my appearance and the position I take on amnesty are based upon Resolution 207 adopted at our 1971 National Convention. . . . The delegates who unanimously adopted Resolution 207 represented every one of the 50 states and the District of Columbia. They were all honorably discharged veterans of wartime service, and represented a cross section of American ethnic, cultural, political and economic life. Resolution 207 also has the unanimous support of The American Legion Auxiliary whose nearly one million members are the wives, mothers, sisters and daughters of men who served their nation.

"Like you, we Legionnaires are deeply concerned over the complex problems presented by the issue of amnesty. It is an emotional problem with overtones of justice tempered with mercy and understanding. Amnesty is particularly difficult to consider today because of the profound and bitter division in our land over the Vietnam conflict—our longest war and—like the Revolutionary, Mexican and Civil Wars—a bitterly divisive one. A large number of our young men are involved in the amnesty question—though far more were involved in this question in the Civil War.

"Today, our Vietnam casualties far outnumber our draft evaders. Over 70,000 by unofficial estimate are either military deserters or selective service evaders. For many, their excuse is the immorality of the participation of the United States in the conflict in Vietnam. Canada, Sweden, and, to a much lesser extent, other countries have given some of these young men asylum. Their cause is now being popularized and propagandized by many and diverse groups in the United States and abroad—including several candidates for high public office in our own country. Let us hope that as a result of these hearings, earnest and full consideration will be given to all facets of the issue of executive clemency so that we shall be able to discover and follow that difficult line between the dictates of the law and the charity our moral heritage demands.

"The American Legion has an intense and direct interest in amnesty because of the fact that its members all were subject to the laws, regulations, pressures and responsibilities of military service in defense of the United States and most also were subject to the operation of the Selective Service System.

"Proponents of amnesty at the present time fall into two categories. One group advocates unconditional amnesty for all military deserters and draft evaders. This group reasons that the Vietnam conflict is an 'immoral' war for the United States; that those who recognized this and followed their conscience ought not suffer any legal penalties for 'being right while their country was wrong'; and, therefore, amnesty should be a blanket recognition of this.

"Some spokesmen for this view go so far as to advocate full veterans rights and pensions for deserters and draft evaders for their *sufferings* in Canada, Sweden and elsewhere. The second group of proponents offer amnesty to draft evaders but not to military deserters, provided that draft evaders prove their sincerity by performing alternate service for their country.

"The American Legion believes that most draft evaders and deserters consciously decided to refuse to accept their responsibilities by flouting our laws and legal remedies rather than by going through the available, legal channels of redress; that their actions in declining to obey certain laws distasteful to them is contrary to sound legal and moral standards; and that the obligations of citizenship cannot be applied to some and evaded by others.

"The American Legion resolved that: 'We go on record as opposing any attempt to grant amnesty or freedom from prosecution to those men who either by *illegally* avoiding the draft or desertion from the armed forces failed to fulfill their military obligation to the United States.'

"In other words, we of The American Legion firmly believe that giving any wholesale amnesty—whether conditional or unconditional—would make a mockery of the sacrifices of those men who did their duty, assumed their responsibilities in time of conflict, and—in many cases—were killed, seriously wounded, or now lie in a prison camp somewhere in Indochina. Over 50,000 men have paid the supreme price of patriotism and citizenship. Another 302,602 have been wounded or injured. Over 1,600 are prisoners or missing in action in Vietnam, or Cambodia. And the casualties have not ended.

"How can any general amnesty be explained to these men? How can amnesty be explained to parents, wives, children—all those who have lost a son, husband or a father in their country's service? How can we excuse ourselves to the prisoners of war, the missing in action, or to their suffering families for offering amnesty?

"Furthermore, what would be the effect on the morale of our Armed Forces if amnesty were granted to those who have violated the law and their oath of service by turning their backs and fleeing their country? In our opinion, it could only badly undermine that morale and cheapen the value of honorable service to one's country—at the very moment these values are most in need of strengthening. . . .

"It is clear from the Legion's resolution that our official opposition to amnesty is not a total opposition to it, but an opposition to any sort of amnesty (with or without conditions) to all draft evaders *as a class*. Our resolution asks that all draft evaders be prosecuted. This means that we would like each case to be heard in court, and tried on its merits. The courts can deal with the particulars of each case, and exercise leniency or sternness, based on the actual facts brought out in hearing about each particular draft evader. Surely the courts will find those who are innocent, and who should be excused without any further conditions.

"It is also implicit in our resolution that those found guilty would still have open to them the right of appeal. Should appeal fail they would have recourse to the President's pardoning power, if, on review of the facts in each case, he wishes to extend additional leniency beyond what the courts may extend. This is implicit in our resolution, because any request for prosecution implies not only the possible finding of guilt but the finding of innocence, and the avenues for redress, appeal and pardon that are available to all persons who are prosecuted.

"Our request that draft evaders be prosecuted does not deny to them their full rights under the law, or the opportunity for executive clemency. Our resolution, in effect, opposes any form of blanket amnesty, and asks that each case be considered on its merits. The only other example in our history of amnesty for wartime draft evaders certainly bears out the wisdom of this approach—and, of course, it is consistent with the whole American system of justice which is based on hearing the charges and the facts of each case.

"After WW2, the Roberts Board tried to treat all 15,805 WW2 draft evaders the same, as all proposals for blanket amnesty do. The Board threw up its hands at the injustice of any such operation. It found sinners of all degrees, as well as innocent men, among the WW2 draft evaders. In the end, with the aid of the Justice Department staff it reviewed each case. That was not the easy way out, but the Roberts Board shouldered the huge job of review rather than accept the onus of dispensing justice by the shovelful.

"There are some in this country who would create the illusion that every Vietnam draft dodger was acting on high principle out of deep-seated convictions against war. When all cases were judged individually by the Roberts Board after WW2, nearly half were found to have been men wanted for murder, robbery, desertion of their families and other serious crimes.

"On the other hand, others were found to have been legally exempt from military service, or they fell afoul of the law through ignorance or illiteracy. President Truman gave a complete pardon to 1,523 and a conditional one to 1,518, while more than 12,000 did not merit such treatment.

"If the Vietnam draft evaders are all prosecuted, courts will be able to judge each case on its merits. They will again find a mixture of victims of error, deliberate conspirators and professional criminals. The President could then have them screened and consider recommendations for clemency in each case.

"An act of Congress to provide an across-the-board three-year stint of government service in exchange for amnesty would offer that penance to some for whom it is too heavy a penalty and to others for whom it is too mild a punishment. The most flagrant offenders will get the best break and the least offenders the worst.

"This is hardly equal justice under the law. At least ten Presidents, from Washington to Truman, have handled the amnesty question under existing machinery. An act of Congress that decides all cases without a hearing is neither necessary nor desirable.

"There was no amnesty granted after the Korean War. It is therefore clear that amnesty has not been lightly given by our modern American Presidents. And it has been granted only after the shooting has stopped and the war is over.

"Lastly, an argument much used by advocates of unconditional general amnesty is that the Vietnam conflict is 'immoral,' therefore no American should be prosecuted or punished for refusing to take part in any direct or indirect way in an 'immoral' war. I am not aware of the precise moral standards used by those who would label our military assistance to the Republic of Vietnam 'immoral.' It is rarely defined.

"And the assumption that the Vietnam conflict is now, or was from the beginning, an immoral war is much in dispute. We Legionnaires reject the simplistic labeling of our effort in Vietnam as immoral.

"We reject it on the grounds that such allegations are patently false. The United States commitment to the government and people of South Vietnam is just and moral—we are committed to providing South Vietnam the means whereby it can defend its independence and its right of self-determination.

"The Viet Cong were committing genocide in South Vietnam at the time we became heavily involved in that conflict—systematically slaughtering innocent civilians wholesale as a means to gaining political control. We knew this then, we know it now. Everyone within sound of my words knows it. But when discussion of the morality of the Vietnam war arises today, the fact that we intervened against genocide, when the United Nations would not, is simply omitted from the discussion. One cannot admit and still define our role in Vietnam as immoral. We hope and believe that the Congress will not decide such a moral question by closing its eyes to genocide.

"We cannot believe that the Congress will ever decide that those who violated the law have the superior moral position of the President, the Congress and to the men who served.

"If Congress should decide that they *do*, we wonder who next will take up the pretext and use the precedent to claim a moral superiority over some fresh enactments of the Congress.

"We wonder what future legal dilemmas will be in store for us if we create such an extraordinary precedent as the Congress assenting to the right of citizens to determine unilaterally which laws they will obey.

"Any determination of amnesty based on the moral superiority of draft law violators is contrary to our concept of justice.

"Historically, the Congress, the President and the Judiciary have struggled to determine the extent of power of each. Should we now add a new dimension to this three-sided struggle—namely any citizen who claims that his unilateral view of morality is superior to the Congress, the courts and the President alike? If we establish this as a correct view, the day will arrive when there will be little further use for the Presidents, the courts or the Congress.

"Our involvement in Vietnam was authorized under proper Constitutional procedures and was sustained by the Congress.

"In summary, The American Legion's position on amnesty is:

"1) We oppose any attempt to grant amnesty now.

"2) After the conflict ends, peace is established, and our prisoners of war and missing in action have been repatriated or accounted for, each case should be reviewed under existing procedures available to the courts and the President."

IN TRIBUTE TO J. EDGAR HOOVER

HON. ALEXANDER PIRNIE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. PIRNIE. Mr. Speaker, we are saddened by the death of J. Edgar Hoover. For nearly a half century he has served this Nation with distinction. His professional competence has spearheaded our country's law enforcement. The Federal Bureau of Investigation has achieved great stature under his guidance.

He loved his country and found great satisfaction in tireless service to it in an arena that demanded the utmost in courage and judgment. He was a fine, dedicated individual, the very image of selfless devotion to duty.

His impact on the youth of our country has been most inspiring. He loved them and wished to aid them in developing useful, happy lives.

This man was a real giant, admired and trusted by eight successive Presidents. He kept aloof from political alliances which would reflect adversely on his administration of law enforcement.

In our grief, we feel great pride that such a man has walked so straight and tall in our midst. For generations, men of the FBI will strive to maintain a dignity and capability worthy of his memory. We salute J. Edgar Hoover in our hearts and minds.

RED CHINA HAS BECOME WORLD'S LEADING EXPORTER OF OPIUM

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. FISHER. Mr. Speaker, Red China is now recognized as the world's leading producer and exporter of opium. A recent pamphlet published by the Australian Citizens for Freedom reported that "at least 65 percent of the world's illicit narcotics come from the Communist-occupied Chinese mainland." In fact, a Pravda article in 1964 charged the Peking regime with being the "biggest opium, morphine, and heroin producer in the world."

An authoritative report made last year by James Turnbull confirmed the sinister use being made of this diabolical traffic. The export has been directed at American troops stationed in Southeast Asia, and along with other markets accounts for a half billion dollars per year foreign exchange intake by the Red Chinese.

Mr. Speaker, as the free world moves toward friendlier relations with the Peking regime, it must be done in the backdrop of this major export policy being pursued by the Reds. Any negotiations with them should take this into account.

Under leave to extend my remarks I include an article published in the April 16 issue of Free China Weekly. It follows:

[From Free China Weekly, Apr. 16, 1972]

LONDON PUBLICATION WARNS FREE WORLD: PEIPING EXPORTS 2,000 TONS OF OPIUM A YEAR

The Chinese Communist regime exports illicitly 2,000 tons of opium annually to the non-Communist world, according to a report published in London April 10.

The traffic is estimated to be worth US$500 million.

The report, a booklet of 24 pages, is titled "Chinese (Communist) Opium Narcotics—A threat to the Survival of the West."

Written by James Turnbull after years of extensive research and study, the booklet has a picture on its cover showing 50 packets of raw opium which weigh a total of 221.67 lbs ready for refining at a Chinese Communist plant.

It was published by the Foreign Affairs Publishing Co. Ltd. of Richmond, Surrey, England.

NASSER RECORDS CHOU'S CONFESSION

On the back of the cover, the author blazons a quotation from the late President Gamal Abdul Nasser of Egypt which reads: "One of the most remarkable things Chou En-lai (premier of the Maoist regime) said that night when talking about the demonstration of the American soldiers (in Vietnam) was that 'some of them are trying opium, and we are helping them. We are planting the best kinds of opium especially for the American soldiers in Vietnam.'"

The quotation, first published by the London Sunday Telegraph October 24, 1971, came from Nasser's notebook which recorded his talks with Chou En-lai in Cairo June 23, 1965. The notebook was made public by Mohammed Heikal, the late president's closest friend and Egyptian cabinet minister, after Nasser's death.

The booklet carries a foreword by Geoffrey Stewart-Smith, M.P.

The British M.P. said President Nixon's visit to the Peiping regime "has led to a wave of illusory wishful thinking throughout the West about the intentions of the world's largest Communist regime."

However, he said, "there remain in the West those who will not be fooled by fashionable whims and superficial judgements. They will speak the truth as they see it, no matter how ugly and brutal that truth may be."

The M.P. calls attention to the fact that for years, many in the West have been perturbed by the growing amount of evidence that Mao's regime was using drugs as a weapon in "subversive war against the Free World."

TO ITS "FRATERNAL" STATES, TOO

Noting the growth of drug taking in Eastern Europe, he said that it is very possible that the Chinese Communists are doing the same thing to their "fraternal" Communist states there too.

According to the booklet, one of the first significant reports about the Maoist drug offensive appeared in the Russian newspaper *Pravda* on Sept. 13, 1964. Written by a Soviet correspondent in Tokyo, based on first-hand observations in Peiping and supported by statements of the Japanese National Narcotics Committee, the article charged the Peiping regime with being the "biggest opium, morphine and heroin producer in the world."

Independent reports from other agencies in Tokyo, West Berlin and London confirm the magnitude of this illicit export traffic to the free world, which exploits a vast consumer market for the Maoist narcotics at cut prices.

According to Table 6 of the booklet, the Chinese Communists have cultivated a total of 368,700 hectares for opium production. Based on an estimated average yield of 5 kg per hectare, the Maoist opium farms produce 1,843,500 kg annually.

Table 6 indicated that the biggest opium farms are located in Yunnan, Kwangsi and Kweichow provinces in Southwest China. The farms have a combined area of 135,000 hectares with an annual harvest of 675,000 kg.

The figures do not include "special cultivation areas" which are "nationally" operated farms.

Author Turnbull said the border area between Yunnan and Burma has become a major center where illicit distributing companies enjoy the Communist Chinese "Ministry of Foreign Trade."

He said the importance of this source of supply in the global drug control problem has been virtually eliminated as a major producer.

The booklet said the production of opium drugs for export on a global scale provides the Chinese Communists "with a valuable source of national income, and a powerful weapon of subversion."

It further revealed the subversive aspects of the Maoist drug drive as having three basic aims: to finance subversive activities abroad; to corrupt and weaken the people of the Free World and to destroy the morale of U.S. servicemen fighting in Southeast Asia.

SAME WARNING FROM AUSTRALIA

Meanwhile, in a pamphlet published on Nov. 11, 1971, the Australian Citizens for Freedom, reported that "at least 65 per cent of the world's illicit narcotics come from the Communist-occupied Chinese mainland."

The Australian organization estimated that the Maoist drugs exceeded US$800 million annually.

COL. EDWARD C. WEST

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. GAYDOS. Mr. Speaker, on April 30, just past, the brilliant military career of Col. Edward C. West came to a close with his retirement. Up to that date, starting on June 9, 1970, Colonel West served as district engineer of the U.S. Army Engineer District, Pittsburgh. He brought to this assignment a mind keenly honed by his undergraduate work at the U.S. Military Academy at West Point; by his studies at Massachusetts Institute of Technology, where he obtained a master's degree in civil engineering, and at Georgetown University, where he obtained a master's degree in business administration; and by completing resident courses at several advanced service schools. He came to Pittsburgh from an assignment in Washington as Assistant Secretary of the General Staff, Office of the Chief of Staff, U.S. Army.

Colonel West has given his personal attention to a number of projects, proposed projects and studies within or influencing my 20th Congressional District. Possibly the most pretentious is the Monongahela-Youghiogheny River Basin study, which, by the middle of the decade, will come up with a positive determination of the needs and problems of the basin. Concurrently, he was concerned with two proposed reservoirs in advanced design stage in two of the upper arms of the Monongahela River. These are located outside my district, but if constructed would be beneficial in elimination of the many floods that now cause severe damage in the lower and middle reaches of the Monongahela River. The newest approach to avoidance of damaging floods is the practice of flood plain management—control of construction in flood plains by zoning and building codes. The district has a flood plain management service branch which makes the necessary studies and explains to local valley communities how to put these controls into effect. The studies for Allegheny County have been started and are scheduled for completion next December.

Colonel West's involvement with environment may well be the activity of his final tour of duty that will have the most lasting effect. During this past fiscal year he served as chairman of the Environmental Quality Committee of the Pittsburgh Federal Executive Board. He recruited committee membership from the executive staffs of a number of Federal, State, and county agencies. Under his leadership, the committee planned, developed, and staged the First Tri-State Environmental Symposium, providing a confrontation of representatives of government agencies concerned with environment and local environment-oriented citizen groups. the symposium was successful. It served the long-range goals established by Colonel West's committee: to inform the public as to what government machinery is available for protection and improvement of the environment; and to find out from the public some of the environmental problems that need solving. The FEB Environmental Quality Committee will not have Colonel West's leadership in the future; but the momentum gathered in its first year will insure its continuance as a substantial force in the community.

Colonel West's retirement is a loss to the Corps of Engineers, the Department of the Army, and Federal Government service. On the other hand, his acceptance of an executive position in a local engineering firm is an enrichment to the community. His creativity, vision, and professional capacity are such that he will surely enhance his reputation as one of the men who make things happen in the tri-State area.

SENATE—*Monday, May 8, 1972*

The Senate met at 12 noon and was called to order by the Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, we thank Thee for that knowledge of Thyself which lights our life with eternal splendor and for everything around us which communicates Thy presence—the greatness and glory of nature, the lives of noble men, the thoughts of Thee in words, in symbols of stone and glass, in music, the reverent moods and solemn ceremonies and in holy silences. We thank Thee, too, for the pressure of daily duties, for health and strength for sudden insights and seasons of quickened thought and firm resolution.

Grant to all in the Government of this Nation faith and wisdom and courage to serve the higher causes of justice and peace. Increase our faith to believe that if we seek first Thy kingdom and righteousness, Thou wilt provide all lesser needs. Preserve us as a people whose God is the Lord. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 8, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ADLAI E. STEVENSON III, a Senator from the State of Illinois, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. STEVENSON thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. SCOTT. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, May 5, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. SCOTT. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

EXECUTIVE SESSION

Mr. SCOTT. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar, under "New Report."

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination on the Executive Calendar, under "New Report" will be stated.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

The second assistant legislative clerk read the nomination of Harald Bernard Malmgren, of the District of Columbia, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. SCOTT. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. SCOTT. I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT OF U.S. CIVIL SERVICE COMMISSION—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. STEVENSON) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

I am hereby transmitting the United States Civil Service Commission's Annual Report for fiscal year 1971.

The report encompasses a year marked with considerable progress and innovation in Federal personnel management. Among the year's highlights were significant liberalizations in retirement and health benefits; increased emphasis on employment opportunities for returning Vietnam veterans; a strengthened program in equal employment opportunity for minorities and women; considerable progress in job evaluation policy and personnel management evaluation; and preparations by the Commission to implement the Intergovernmental Personnel Act of 1970 which should bring a new partnership between Federal, State, and local governments.

These improvements resulted from the joint action and cooperation of the Commission, the Congress, the executive agencies, employee organizations, and the President. I therefore hope you share my pride in these achievements which not only have made the Government a better employer but have also provided sharpened government responsiveness to the changing social and economic needs of the American people.

RICHARD NIXON.

THE WHITE HOUSE, *May 8, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. STEVENSON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of Senate proceedings.)

WAIVER OF THE CALL OF THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rules VII and VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

THE NOMINATION OF JEFFREY M. BUCHER TO FEDERAL RESERVE BOARD

Mr. PROXMIRE. Mr. President, with great regret, because I have very high respect for Federal Reserve Board Chairman Arthur Burns, nevertheless, I think he is in the process of packing the Federal Reserve Board with inexperienced amateurs, untrained in economics, and ill equipped for the complex issues facing the economy. I am talking about the nomination of Los Angeles Banker Jeffrey M. Bucher, as Governor of the Federal Reserve System.

President Nixon announced bad news for the American economy when he nominated Los Angeles Banker Jeffrey M. Bucher to a vacancy on the Federal Reserve Board. Mr. Bucher is no doubt an able man in other fields, but he is totally and completely unqualified to serve on the Federal Reserve Board.

This is the second weak appointment to the Fed in 3 months. While the President nominates members of the Fed, it is obvious that Reserve Board Chairman Arthur Burns has a lot to say about who gets on the Board.

The Bucher nomination seems to be part of a deliberate plan to replace professional economists on the Board with unqualified amateurs who can be easily dominated by Chairman Burns. I can only conclude that Dr. Burns is more interested in building a personal power dynasty than with getting the best economic judgment needed to run the Federal Reserve System. Such an exercise in personal empire building can only weaken the Board and produce tragic results for the American economy.

I have great respect for Dr. Burns. In my view, he is the best appointment made by the administration and I strongly supported his nomination. But Dr. Burns has only one vote. We should have men of comparable stature to insure a well-balanced monetary policy.

The pattern of downgrading the Fed was first established last February when the administration appointed Mr. Jack E. Sheehan to fill a vacancy on the seven-man Board. Sheehan was a former naval officer and businessman with no professional experience in economics or monetary policy prior to his appointment.

I strongly opposed Mr. Sheehan's nomination. I will contest Mr. Bucher's nomination even more strongly when he comes before the Senate Banking Committee on May 12.

I have no doubt that Mr. Bucher is a fine man, an able lawyer, and a competent banker. But there are literally thousands of professional economists who are more qualified to serve on the Board.

The Federal Reserve Board is the most important and powerful economic agency in our Government. Its decisions affect the lives of every American. A mistake in judgment can plunge our economy into deep recession or a runaway inflation.

For these reasons, it is essential that we get the best economists we can find to serve on the Board. We would not dream of putting a nonlawyer on the Supreme Court. Why, then, should we put a noneconomist on the Fed?

Putting an unqualified banker on the Fed is like starting a midget as middle linebacker for the Washington Redskins.

Why has the President ignored the many capable economists in this country in favor of an obscure banker with no professional experience in economics? Such an obviously weak appointment can only invite speculation of a political payoff. Whatever the reasons, the Federal Reserve System is far too important to be entrusted to unqualified amateurs.

In many ways, Mr. Bucher's appointment is even worse than Mr. Sheehan's. Mr. Bucher replaces Dr. Sherman Maisel, one of the best housing economists in the country and a man who profoundly understands the impact of monetary policy on the housing industry.

Mr. Bucher has nowhere near the credentials of his predecessor. He has been a lawyer and a banker during his entire career. Moreover, even his banking experience has been narrowly confined to trust management—a subject far removed from the complex monetary issues considered by the Federal Reserve Board.

Mr. Bucher also comes from a giant California bank. His appointment can only lend fuel to the charge that the Fed is run by big bankers to the detriment of small banks and the rest of the economy.

Previous administrations under President Kennedy and President Johnson have wisely upgraded the competence of the Fed by appointing able economists. The present administration is taking a giant leap backward by restoring bankers and businessmen to their former positions of power. This is the same type of leadership which produced recession and unemployment.

Mr. President, the Federal Reserve now has four trained and competent economists among its seven members. The appointment of professional economists to the Board has resulted in a considerable improvement in the conduct of monetary policy. True, the Board has still made mistakes. But the magnitude of those mistakes is nowhere near as great as the disastrous blunders committed when businessmen and bankers dominated the Board. Anyone conversant with Friedman and Schwartz' monumental work, "A Monetary History of the United States," must realize the grievious policy errors made by the Board. For example, during the 1929–33 depression when the unemployment rate reached 25 percent, the Fed incredibly permitted the money supply to shrink by 33 percent thus exacerbating the economic decline and sending the country into the worst depression in its history. Many economists feel the erratic stop and go monetary policy pursued by the Fed in the 1950's—a policy which William McChesney Martin characterized as "leaning against the wind"—was largely responsible for the three recessions suffered during that period. Every time the Fed was leaning one way the economy had turned around and was also leaning in the same direction. With bankers and businessmen calling the shots, untrained in professional economics, the Fed, on balance, exerted a destabilizing influence on the economy during the 1950's.

The Fed has had a much better record in the 1960's. The professional economists appointed to the Board brought a new sophisticated and a better sense of timing which kept it from making major mistakes. The two recessions experienced in the 1960's and early 1970's have not been nearly as great as the three recessions suffered in the 1950's.

One of the most difficult problems in monetary economics is measuring the lag effects of monetary policy actions. Policy actions taken today will not have an impact until sometime in the future. How long is the lag? How is it distributed over time? How do we forecast economic conditions ahead of time so that our policy actions today are in harmony with future economic conditions. These are enormously complicated and technical problems. The Federal Reserve has one of the best staffs in Washington to analyze these complex issues. But only the members of the Fed can decide the course of monetary policy. I do not believe an amateur can make an informed decision on the many technical issues surrounding monetary policy. Why should we settle for an amateur when there are so many competent professionals?

This is no time to play politics with the Federal Reserve System. Our economy cannot afford to have untrained men on the Fed; we need the best economic brains we can get. Mr. Bucher simply does not have the experience for the job. He should, therefore, be rejected by the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. Stevenson) laid before the Senate the following letters, which were referred as indicated:

Proposed Supplemental Appropriation (S. Doc. No. 92–73)

A communication from the President of the United States, transmitting a proposed supplemental appropriations for the fiscal year 1972, in the amount of $650,000, for the Senate (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

Proposed Amendment of National School Lunch Act

A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the National School Lunch Act and the Child Nutrition Act of 1966 (with accompanying papers); to the Committee on Agriculture and Forestry.

Plans for Works of Improvement in Certain States

A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, plans for works of improvement in Georgia, Kansas, Louisiana, South Dakota, and Tennessee (with accompanying papers); to the Committee on Agriculture and Forestry.

Reports on Number of Officers on Duty With Headquarters, Department of the Army

A letter from the Secretary of the Army, transmitting, pursuant to law, reports on the number of officers on duty with Headquarters, Department of the Army and detailed to the Army General Staff, as of March 31, 1972 (with accompanying reports); to the Committee on Armed Services.

Proposed Amendments of Title 10, United States Code

A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize educational institutions where units of the Senior Reserve Officers' Training Corps are maintained to be reimbursed in recognition of reasonable costs incurred by them in support of ROTC programs (with an accompanying paper); to the Committee on Armed Services.

Report on Obligations in, for, and on Behalf of Cambodia

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on obligations in, for, and on behalf of Cambodia, for the third quarter of 1972 (with an accompanying report); to the Committee on Foreign Relations.

List of Reports Submitted by the General Accounting Office

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports submitted by the General Accounting Office, during the month of April, 1972 (with an accompanying report); to the Committee on Government Operations.

Proposed Contract With Texas Instruments Inc.

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Texas Instruments Incorporated, Dallas, Tex., for a research project entitled "Mine Air Monitor" (with an accompanying document); to the Committee on Interior and Insular Affairs.

Proposed Contract With United Aircraft Research Laboratories

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with United Aircraft Research Laboratories, East Hartford, Conn., for a research project entitled "Development of a Boring Machine Cutter Instrumentation Program" (with an accompanying document); to the Committee on Interior and Insular Affairs.

Report of National Labor Relations Board

A letter from the Chairman, National Labor Relations Board, transmitting, pursuant to law, a report of that Board, for the fiscal year ended June 30, 1971 (with an accompanying report); to the Committee on Labor and Public Welfare.

Report of Federal Activities in Vocational Rehabilitation and Related Fields

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of Federal activities in vocational rehabilitation and related fields, for the fiscal year 1971 (with an accompanying report); to the Committee on Labor and Public Welfare.

Report on Educational Renewal

A letter from the Chairman, National Advisory Council on Education Professions Development, transmitting, pursuant to law, a report entitled "Report on Educational Renewal" (with an accompanying report); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. Stevenson):

Resolutions of the General Court of the Commonwealth of Massachusetts; to the Committee on Finance:

"Resolutions Memorializing the Congress of the United States To Enact Legislation Providing for the Assumption of Welfare Costs by the Federal Government

"Whereas, The welfare costs of the several States have risen in such alarming proportions that the available means of obtaining revenue by the states are proving insufficient to meet such costs; and

"Whereas, It is the responsibility of the federal government to provide to its citizens on public welfare a minimum income to satisfy their food, clothing and housing needs; now, therefore, be it

"*Resolved,* That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation providing for the assumption of all welfare costs of the several states by the federal government; and be it further

"*Resolved,* That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth.

"House of Representatives, adopted, April 6, 1972.

"Senate, adopted in concurrence, April 12, 1972."

Resolutions of the Senate of the Commonwealth of Massachusetts; to the Committee on Foreign Relations:

"Resolutions Memorializing the Congress of the United States To Enact Legislation Setting a Date for Complete U.S. Withdrawal From Southeast Asia

"Whereas, The most recent stepped-up bombing of the people and territory of North Vietnam is a dangerous escalation of our role in the Indochina war; and

"Whereas, This move is a flagrant and direct violation of the declared policy of the Nixon Administration to wind down the war; and

"Whereas, The national interest would be best served by setting at once a date for the immediate and complete withdrawal of all materiel and armed forces—land, sea and air—in and over all of Southeast Asia; and

"Whereas, This step is the best and most promising assurance that American prisoners of war now in North Vietnamese hands will be at the earliest time released; now, therefore, be it

"*Resolved,* That the Massachusetts Senate respectfully urges the Congress of the United States to prepare at once legislation designated to accomplish the aforesaid objective and requests the President of the United States to expedite the implementation of such action; and be it further

"*Resolved,* That copies of these resolutions be transmitted by the Clerk of the Senate to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth.

"Senate, adopted, April 26, 1972."

A telegram, in the nature of a petition, from Myrtle M. Mikkelson, of Minneapolis, Minn., in support of Security Council action; to the Committee on Armed Services.

A resolution adopted by the Board of Selectmen of Brookline, Mass., praying for immediate action to terminate the war in Indo-China; to the Committee on Foreign Relations.

A resolution of the National Association of Retired Civil Employees, of Shreveport, La., praying for the enactment of legislation relating to the obtaining of adequate medical needs at reasonable cost for retirees and annuitants; to the Committee on Labor and Public Welfare.

A resolution adopted by the Southeastern Association of Regulatory Utility Commissioners, Atlanta, Ga., praying for repeal of the Federal Refuse Act of 1899; to the Committee on Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BOGGS (for himself and Mr. ROTH):

S. 3581. A bill to amend the Federal-Aid Highway Act, 23 U.S.C. 121, and for other purposes. Referred to the Committee on Public Works.

By Mr. ANDERSON:

S. 3582. A bill to amend the Highway Safety Act of 1966 to provide for highway safety programs on Indian reservations, and for other purposes. Referred to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOGGS (for himself and Mr. ROTH):

S. 3581. A bill to amend the Federal-Aid Highway Act, 23 U.S.C. 121, and for other purposes. Referred to the Committee on Public Works.

Mr. BOGGS. Mr. President, my distinguished colleague (Mr. ROTH) and I today are introducing legislation designed to regulate the disposal of highway construction wastes at sea or in this Nation's navigable waters.

The bill, an amendment to the Federal-Aid Highway Act, would require the consent of the Governor of a State potentially affected by the dumping of such wastes in the State's waters or adjacent to the State's waters. Without that consent, no Federal payment could be made under the Federal-Aid Highway Act for the highway construction work.

Mr. President, the need for this legislation is being amply demonstrated in the Philadelphia area and in my own State of Delaware.

Last week, I called the attention of the Senate to the fact that the city of Philadelphia and the State of Pennsylvania are planning to remove 1.8 million cubic yards of sewage sludge in preparation for the construction of Interstate Highway 95 south of Philadelphia. This sludge has been accumulated in lagoons for many years. Several methods of disposing of this sludge have been discussed, but one in particular alarms me. It would involve barging the sludge down the Delaware River and Bay and dumping it in the Atlantic Ocean off Delaware and southern New Jersey.

This action could severely damage our clam and oyster beds, our fishing grounds, and ultimately our beaches and wetlands. Ninety percent of the cost of this work, under present law, would be financed from the highway trust fund. I think the Federal Government should not finance a program that might severely pollute Delaware's most precious natural resource.

Other disposal techniques are possible. The sludge might be burned, converted into fertilizer, or processed through a land-disposal technique. There are obvious difficulties with all these proposals, but I believe any of them would be less damaging than ocean disposal.

The possibility that the ocean disposal route might be chosen is given credence by the fact that the city of Philadelphia twice a week disposes of sewage sludge by dumping it in the Atlantic.

The Subcommittee on Air and Water Pollution, on which I am privileged to serve, held hearings on this subject a year ago at Rehoboth Beach, Del. That hearing clearly demonstrated the severe damage that had already resulted from sewage-sludge dumping off Delaware.

There is legislation that has passed the Senate which would rectify this situation. It would establish a rational method for evaluating the possible environmental damage of ocean disposal. It would prohibit damaging dumping and require permits for all other ocean disposal.

Unfortunately, this bill remains in a conference committee where the differences between it and a similar House bill have not been resolved.

Mr. President, I would not want it thought that by introducing this legislation we are trying to stop construction of this highway. That is not the case. We fully realize the importance of this proposed road.

Rather, our interest is in protecting our environment and making certain that no State's ecology is threatened by actions over which it has no control.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 121 of Title 23 of the United States Code is amended to add a new subsection (f) as follows:

"(f) No payment shall be made under this chapter for that part of the cost of construction related to the production or transportation of any materials to be deposited or discharged into the navigable waters of the United States, the waters of the contiguous zone, or the oceans unless such deposit or discharge has been approved by the Governor of the State (1) in which the navigable waters where such deposit or discharge will occur, or (2) contiguous with that portion of the waters of the contiguous zone or the ocean where such deposit or discharge will occur. This requirement shall be supplementary to any requirements under the Federal Water Pollution Control Act, as amended, or the Marine Protection Act, as amended."

ADDITIONAL STATEMENTS

DEALING WITH MISUSE OF DRUGS

Mr. HUGHES. Mr. President, I have recently had the opportunity to examine a new book entitled "Dealing with Drug Abuse: A Report to the Ford Foundation," published by Praeger, Inc., of New York. In my judgment, this study is a solid contribution to society's understanding of and response to one of our most perplexing concerns, drug use and abuse.

The report accurately portrays drug abuse not as a single problem but as a confusing complex of individual and social problems. Those of us who have studied, heard testimony, and prescribed legislative action on the problems of drug misuse must agree with the authors that there are no easy answers.

As the authors of the study point out, it is "a monumental task to get the country to focus on the real evils of drug abuse and to attack them rationally without contributing to the creation of even greater ones." An effective response will require not more fear, scare tactics, and emotionalism, but a realistic assessment and reliable information. This study is an excellent contribution toward that end.

The report was prepared by a team of consultants headed by Washington attorneys Peter Barton Hutt and Patricia M. Wald, who were commissioned by the Ford Foundation in 1970 to survey nationwide efforts to cope with drug abuse and recommend appropriate areas for foundation support. The first chapter contains a summary of findings, conclusions, and recommendations of the study, and the remaining chapters consist of staff papers on particular topics such as the psychopharmacology of drugs, drug education, an economic analysis of the heroin market, Federal expenditures for drug abuse control, drug experiences as altered states of consciousness, and a description of the British program of heroin maintenance clinics.

The authors of the study recommended the establishment of a private, independent Drug Abuse Council to sponsor research, finance evaluation of treatment and educational programs, analyze public policy, and disseminate information. The council, in the words of the report, would strive to become "a vitally needed center of excellence" and seek "to obtain the factual information needed to provide a basis for sound policy and to disseminate to the public and to persons in key policy positions the best knowledge available in the field and the best analysis of this knowledge as it pertains to current programs."

The recommendation was favorably received by several foundations and, after some further study and planning, the Drug Abuse Council was formally announced on February 15 of this year. Dr. Thomas E. Bryant, former Director of the Office of Health Affairs in OEO, was named President, Bethuel M. Webster, former president of the Bar Association of the city of New York, was named chairman of the board. The council will be supported by the Ford Foundation, the Carnegie Corp., the Commonwealth Fund, and the Kaiser Family Foundation.

Mr. President, those of us who have been concerned with the problem of drug abuse and addiction know only too well that a sound governmental response to the problem will be achieved only with the help of an informed, enlightened public. The Drug Abuse Council, with the support of some of the Nation's leading foundations, is already serving in that cause with professional skill and dedication. I wish it well, and I urge all Americans, especially Members of the Senate, to read the report entitled, "Dealing With Drug Abuse."

MEMORIES OF BEALE STREET

Mr. BAKER. Mr. President, music provides a particularly personal key to understanding the spirit of America, for the soul of our Nation is expressed in the songs of its people.

To commemorate the richness and diversity of our country's musical heritage, this week, May 7–14, has been declared National Music Week.

At this time I think it is especially appropriate for us to reflect on that uniquely American contribution to the world of music known simply as the blues.

Beale Street in Memphis, Tenn., is famed as the place the blues began. It was on this "Main Street of Black America" that the immortal W. C. Handy gave birth to the blues.

Those Memphis melodies have had profound national and international influence and appeal. Thousands will gather in Memphis on May 11–13 to celebrate at the Memphis Blues and Jazz Festival.

The creative spirit of the historic thoroughfare of Beale Street was expertly captured by the noted Memphis community leader George W. Lee in an address delivered recently before the West Tennessee Historical Society.

Mr. Lee is widely respected as a thoughtful and articulate author and commentator. He is senior vice president and director of Atlanta Life Insurance Co. and editor of the magazine the Vision.

George Lee was recently honored by the Memphis City Council as one of that city's most outstanding citizens. He is a dedicated civic leader and a close personal friend.

I ask unanimous consent that Mr. Lee's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

MEMORIES OF BEALE STREET

(By George W. Lee)

Echoes of the gorgeous and melodramatic past of Beale Street drifts across the sea of time, echoes building upon echoes, like winged music through eternity. Beale Street was a mile of vice and commercial ambition, of sweet melody and of comedy, enjoyed by the Negroes and made famous by the Negroes. It is where the blues began. Where they will end nobody knows.

Beale Street music is really an inverted expression in song of the sorrow which the heart cannot tell in its own futile terms, but must borrow out of travesty and fervent plaint the wails out of which Handy drew his own great songs. His songs have made indelibly articulate the ideas and moods of his times, of the people of Beale Street in that era. Out of this curious little street, as of some miasmic dream of a paved Congo, rises the jerky pantomime of plaint and piety, suppression and sensuousness which was the outer soul of the plantation Negro come to the American town.

Unlike other hectic modernisms that have lived a swift and furious life and then faded out, these songs of sorrow, flowing in quick tears and laughter straight from the unhappy fear of man still hangs like tinsels on a half lighted Christmas tree. The true test of music is how long it can echo down the corridors of the years and baffle the mist of time; how long it can remain in the memory of man; how long it will be followed by mankind with admiration and devotion.

A million songs have flown with the drift of the wind, a million songs have gone down the runways to oblivion, but only a few have withstood the test of time and remained sweeter and brighter as the years flowed by, but the music of Beale Street still remains a distinctive gift to the American treasury of song.

More than 50 years have passed since Handy wrote the "Memphis Blues." It was then and is now the first and only art score ever produced in American music. Its mood and melody inspired the "St. Louis Blues," "The Beale Street Blues," and thousands of other blues songs that have moved in a medley of music to Paris, to Singapore, and then back to a shot-gun house in the mud flats of East Street. "The St. Louis Blues" still holds its place as one of the twelve great songs in American music. Rising out of the bosom of Beale Sreet's steaming pavement are man's other authentic contributions to Americana. Such institutions as the gravy trains, the honky tonks, the slow drag, and the possum-mala which takes us right into the heart of folk life.

Beale Street was home to Robert R. Church, a staunch and honest power in Republican politics, the roving dictator of the Lincoln belt; the home of Roscoe Conkling Simmons, picturesque orator who rose on a hot June day in Chicago, cried out: "And now I am permitted to speak of my captain. With eyes and heart I examine him. I watch him on the bridge. I note him most when the storm is wild," and thus seconded the nomination of Herbert Hoover in 1932.

It was adopted home to Dr. J. E. Walker, who laid the foundation for the Universal Life Insurance Company, the second largest capital stock or risk capital business enterprise owned, and controlled by Negroes in America. It was home to Mack Harris, noted card shark; Dr. Scissors, the "herb medicine man;" "Ten Dollars" Jimmy; Cornelius Coleman; "Bad Sam" and Jimmy Turpin, the back-out men of the gambling dens; home of Ben Griffin and "Cousin Hog;" home of Louise Cook, exponent of the "snake hip," who developed a specialty dance of sensuous artistry in which the graceful movement of her muscles, free from the lascivious postures of the honky tonk dancers, captivated her audiences; home to the midnight marauders and seductive concubines; a street of pawn shops "where golden balls glisten in the sun" sang Handy, "enough to pave the new Jerusalem;" where Jewish vendors stretched their wares across the storefronts and glib-tongued barkers called to the passersby to "come in and view the bargain"; where men of African descent waged a relentless battle to keep the white community's attention focused on one of its foremost unfinished pieces of business—that of insuring minority groups of their rightful place at the starting line and to keep the white community's attention focused on the fact that our economy cannot prosper and is indeed in danger when equal participation is denied a sizable group of its people.

Beale Street was the main street of Negro America where the pulse of Negro America beat highest, where richly red, dark brown women, hang jawed country rubes mixed with spruce urban Negroes in an atmosphere pungent with barbecued pig, alive with loud and plaintive music of those who sit around in the cafes trying to ease their souls with ready made song. The night cries of care-free people, the midnight serenaders twanging on their guitars, blended with the traffic noise to create a sound triumphant. Back of the sound of this red-hot syncopation lies the plantation Negro who, if he was sometimes lost in the vast apathy of a decaying system, was also often impelled to seek Beale Street where it was always Saturday night. On Saturday night they came from Arkansas, north Mississippi, east Alabama, and west Tennessee. They arrived in the early morning in their wagons, in Fords, on horseback. They bargained for clothes in the pawn shops, bought groceries in piggly wigglys, barbecued pig at hog nosed restaurants and chitterling cafes, then gathered at a vacant spot called the Wagon Tongue at Beale and Second, and entertained the crowds with their banjos and harmonicas, their jug bands, and country preachers barking at the edge of the crowd. And at sundown they left to cross the Arkansas Bridge or journey down the Hernando Road to their cabins in the cotton and in the sweltering river bottoms. Such were the people and institutions that caused Handy to sing: "I would rather be there than any place I know."

It is probable that the early activities of R. R. Church on Beale Street had much to do with making it the center of commercial life for black people. He took to the river in early childhood under the guidance of Captain C. B. Church, one of the best known navigators on the Mississippi. While in Captain Church's employ he rose from cabin boy in 1855 to steward on the *Victoria* and sailed to Memphis in the year that the town was occupied by Federal troops. The crew fell into the hands of Union soldiers and Church fell into the hands of freedom.

In 1881 it became necessary to float a large issue of compromise bonds in order to rehabilitate the shattered finances of the city. Church promptly put up $1,000 for the first compromise bonds. His benefactions to the inhabitants of Beale Street were many. In 1905 he built a bank for the black citizens. He secured the possession of a valuable tract of land on the street and transformed it into a large pleasure ground. He built an immense concert hall and auditorium on it and planted hundreds of trees to make a sylvan retreat in the midst of a bustling city.

Beale Street was not without its church going population, where black people's accomplishments in song and speech were exercised. The Beale Street Baptist Church was the first brick church even built for black people in America. It mothered all black churches in Memphis. Under the leadership of Reverend R. N. Countee it started on a course that carried it through thirty years of internal strife. When Reverend Countee was elected pastor he made secret societies the object of many bitter attacks in his sermons, exposing their rituals and secret work from the pulpit. Reverend Countee built a church down on Turley Street and a two-story residence along side of the church for himself. He had made so many enemies among members of the secret societies and they were so hot on his trail that he dared not go out of doors after dark. So he built a chute that extended down from his bedroom window on the second floor of his house to the church window on the side next to his residence. When he went to church at night to hold services he would slide down the chute into the church. He had also had a contraption made to pull himself back up the chute when the services ended.

Beale Street is easy to describe. It is a crooked little thoroughfare that rises out of the swirling vortex of a treacherous whirlpool in the bosom of old man river and crawls up the slippery bluff at what was once an interesting point of the river. In 1860 before the coming of the railroads to the South when the river was the main artery of travel, passengers by the thousands landed at the foot of Beale Street. There was dancing and music down there by night. Men stood before polished counters with their feet on brass rails while smiling bartenders served them rounds of drink. Long bearded gamblers sat in poker rooms risking small fortunes at cards. Roustabouts with their britches rolled up to their knees and flashing cotton hooks in their hands rolled cotton bales down the jumpy gangplank of the Robert E. Lee and other packets that plowed the stream. But this was not all of Beale Street, it continued to ramble for a crooked mile through the busy heart of Memphis and then lose itself in the mud flats of East Street.

The block from Hernando to Fourth Street was generally considered as underworld. Here a gay and raucous night life that included gambling and street walking and every kind of vice known to the demimonde flourished in the noisy and congested block in which guitar players strolled up and down filling the night with music in which blind men sang on the street corners, lifting their souls up from the steaming pavements. On the south side of Beale Street, sprawling in the middle of the block was Pee Wee's Place. A colorful nightspot as full of items as a department store, one of which had the dubious distinction of being called Hadden's Horn; it was a leather device used by the management to keep smart gamblers from using crooked dice. They had to drop the dice in the horn before they could roll them. It was named after Pappy Hadden, the colorful mayor of Memphis who sometimes rode down Beale Street on a mule. Not long ago as I walked slowly down the street my heart grew heavy with a sad sweet pain as I watched two house painters swing from the ladders leaning against the brown facade of a building and paint out a name. The movement of their brushes seemed to swing in perfect harmony with the music of an electric piano that blared forth from a nearby cafe:

"Feeling tomorrow like I feel today
Feeling tomorrow like I feel today;
Gonna pack my trunk and make my get-a-way."

As my eyes followed the wild rush of the paint brushes across the top of the building I could see a few of the letters cutting through the white paint like brave soldiers determined not to be blacked out. Then another swish of the brushes and the few letters were gone. Of course, I knew what had been written there. The words etched in the heart of every Beale Streeter—Pee Wee's Place. As I stood there in the gathering dusk I had a desire to step forward and pin a badge of blue ribbon on the door.

Pee Wee's offered Handy just the kind of emotional background he needed for fathering the unconscious creation of the Negro folk. Negroes from the cotton fields and sweltering river bottoms came there to lay down their burdens of work and woe and step into a neat lazy shuffle to raise their voices in wailing melody while weariness, nostalgia and abandon combined to shape their impromptu songs.

Wallace Saunders, engine wiper, was often among those who came to Pee Wee's Place. He followed the common customs of its habitues when he concocted a few crude verses about Casey Jones, famous railroad engineer. From these original scores, the immortal Casey Jones song was fashioned. Out of this same atmosphere came one of the first vague outlines for the Frankie and Johnny songs. Frankie had brought her man, Johnny, to Memphis to buy him a $100 watch and chain, but when Johnny saw the brown girls around Pee Wee's all dressed up in fancy blue gowns he had his first temptation to do Frankie wrong.

Other habitues of Pee Wee's were Casino Henry and Mac Harris, Beale Street's greatest card sharks. Henry was a round faced black man who chewed gum constantly and walked always in the middle of the street. Mac was a tall brown man who wore his mustache twisted at the ends a, wide hat cut in the center, an english walking frock, pen striped trousers, and patent leather shoes. He looked very much the gentlemen of affairs. It was in 1894 that Henry and Mac played their famous three-day game, with a small fortune at stake it was a game of nip and tuck until both fell exhausted onto a lounge.

North on Beale Street was the famous hole-in-the-wall. It had a very clever way of eluding the whiskey raiders that sometimes swooped down upon the place. Every morning, all the liquor in the house was packed into garbage cans and rolled out in front of the place. A look-out was stationed nearby. When a customer came in search of whiskey he paid his money over the counter to the white jacketed attendant behind the counter who signaled to the look-out, and when the customer came out he was given a half pint, fished out of the can. The look-out took up his post until he saw the garbage man coming, then all hands got busy roling the cans back inside to keep the garbage man from picking them up and dumping their contents into the truck as trash.

What makes Beale Street memorable is that it was here that the musical heritage of the southern negro has been preserved through the activities of a group of band and orchestra leaders who haunted the colorful night spots strung out along the main stem. Beale Street, then, is the birth place of the only music that has its roots in the American soil. Up from the docks of the Mississippi River, up from the saloons, the bawdy houses on Beale, up from the honky tonks, the gaudy palaces of pleasure, up from the white cotton fields and the sweltering river bottoms, accompanied by banjo strumming, guitar twanging and hand clapping, rose the sorrow songs of black people.

Band masters on Beale Street emphasized the native and nationalistic element of these songs and sent their echoes in a medley of songs around the world. The late W. C. Handy set them to music and with a golden trumpet pressed to hot lips gave them everlasting voice. Beale Street was the breeder of a line of musicians, each fifth one a small genius, such as Sam Thomas who organized the first Beale Street band just after the Civil War. During his lifetime he won the distinction of being one of the greatest E Flat Cornet Players in America; followed by James Harris who became one of the country's greatest violinists and Robert Baker who organized a band in 1880.

Out of this group came one of the most brilliant band leaders that Beale Street has ever produced—John R. Love who played an inspiring part in the musical progress of the blues. A great instructor in music was professor G. P. Hamilton who organized classes in band music. From one of his classes came William Bailey, one of the world's greatest clarinet and saxophone players, and Johnny Dunn whom Handy gave the great opportunity when he had him play at the midnight show at the Lafayette Theater in New York. Out of this same musical atmosphere came George Duff and Erskine Tate, two of the most successful orchestra leaders of their day. Another great orchestra leader was West Dukes, who came to Beale Street just after the Civil War. However, the greatest of these early day orchestra leaders was Jim Turner who discovered W. C. Handy. Jim Turner was a trick violin player and could imitate anything on the violin. For a time Turner and Handy traveled with the Maharry Minstrels. Turner had a spot as a violinist. For years he controlled the dance music in Tennessee, Arkansas, Louisiana, and Alabama. Later, with the aid of Handy, a large and efficient body of musicians was organized from which a dozen bands could be sent out from Beale Street in one night.

Charlie Bynum was the first orchestra leader on Beale Street to play the blues, but not realizing their potential commercial value he never thought of trying to set them to music. J. Lubrie Hill and George Duff were the organizers of the Georgia Minstrels. J. Lubrie Hill wrote and organized and staged the Darktown Follies which played at the Lafayette Theater and on Broadway in 1913. There was Jimmy Lunceford and his band who traveled over the entire country and toured Europe. Other musicians from Memphis who helped the blues and Beale Street to become famous were Lil Hardin, later to become the wife of Louis Armstrong; Alberta Hunter, the first to popularize St. Louis Blues at the old Chicago Vendrome; Gus Cannon, banjoist and blues singer who composed the song "Walk Right In" which was later recorded by many bands; Ma Rainey, one of the most recorded of the original blues singers; Bessie Smith, greatest of the blues singers; Calvin Newbern and still others.

Of the latter day musicians that grew out of this atmosphere are "Hot Buttered Soul" Isaac Hayes. "It is doubtful even now that many musicians outside of the music business," says William Thomas, "know just how far Issac Hayes has traveled, that his last three record albums grossed nearly five million dollars, that he earns up to $30,000 for an evening's work, that within the space of a few months he made the fashion pages of "Gentlemen's Quarterly," the cover of "Jet Magazine," the music columns of Rolling Stones, and the feature sections of newspapers around the county, that he has carried his own music movement into such a diversity of places as the Apollo Theater in Harlem, the Plaza Motel in Manhattan, the Soul Bowl in New Orleans, and the Hollywood Bowl in Los Angeles." Not long ago in New York City he received a standing ovation when he won a Grammy award for the best original score written for a motion picture or television score.

Millions of youngsters and oldsters alike, around the country, have danced to Rufus Thomas's hit records, "Do the Dog," "The Funky Chicken," and "The Push and Pull." He has been a singer, comic, tap dancer, song writer, talent show director, master of ceremonies, disc jockey, and he is the father of the famed, pretty Carla Thomas, who also records for Stax. There are still others such as Booker T. and the M. G.'s, B. B. King, who has been labeled king of the blues all over the country. He won a Grammy award in 1971 for his performance and was nominated in 1972 for his performance. Aretha Franklin, the Nation's soul queen who is perhaps the most sought after soul singer on the American scene has won a Grammy award for five straight years for the best rhythm and blues female performer for "Bridge Over Troubled

Waters." The Barkays, Jr. Walker and the Allstars, Johnny Ace, Al Hibbler, Hank Crawford, William Bell, Bo Legs Miller, Memphis Slim, who is now the rage of Paris.

All of these came out of the mood and melody of Beale Street music that Handy made immortal by setting it down on music paper. Much have been written about Handy's life. It is a tale of three streets—Beale Street, Market Street in St. Louis, and Broadway in New York. But from the dust of Beale Street rose the legend of a man where he first pressed his trumpet to hot lips and a song rose with the drift of the wind. "I Hate To See That Evening Sun Go Down." Now Handy has gone and many of the others have crossed the Great Divide. But when the last sun goes down on the Judgment Day it will reveal three bright musical mansions in the sky. The one on the right for George Gershwin, built out of Rhapsody in Blue, the one on the left for Stephen Foster, built out of my Old Kentucky Home, and a shaft of lightning will thwart the inky sky and reveal in the center the one for W. C. Handy, built out of the Memphis Blues, the St. Louis Blues, the Beale Street Blues, resting on the solid foundation of those who sow in tears shall reap in joy. St. Peter standing in the doorway must have extended his hand in fellowship and said to Handy: "You have captured the attention of art and music entrusted her charms to your joyous care. The Memphis Blues, the St. Louis Blues, the Beale Street Blues are more than songs; they are shining, loving symbols that only the heart of man can understand."

Beale Street today is a ribbon of blue. Its face resembles that of Hard Hearted Hanna who put her last dime in the collection plate. But despite the bulldozer of the Housing authority that has reduced it to shambles in order to make way for the building of a great tourist center to attract people from all over the world, yet Beale Street still lingers in a dreamy atmosphere half alive, half forgotten, but it is there like the ghost of Banquo and it won't down.

What the late Governor Paterson said about the river, I think it could be said about Beale Street. I think Beale Street won't fade out ever because Beale Street, in my judgment, has a soul, not as mortals have, but one of its own. I am sure it has a voice and the undertone is one of sadness for the river boats that are no more, for its black river giants with broad backs and bulging muscles, who have faded beyond the dreamy mist of the Mississippi River, of sadness for the passing of the richly red, dark brown lovely women who bartered their favors to plantation whites and plantation blacks for whole cotton fields pressed into silver coins. It is one of sadness for the fearless black man who, during the yellow fever epidemic, when the population was reduced from 40,000 to 19,600, stayed on the job during the crisis. And of those who remained in the fever ridden city 14,000 were Negroes. And of the 5,600 whites who braved the fever, 4,204 died. The blacks remained in the city, fought the fever, buried the dead and guarded the business houses against the looters until the passing of the fever and the whites return.

I think this Beale Street music we call the blues will in time constitute a rough foundation of a new American culture. So, if Memphis permits the potentials of Beale Street to be sealed up and made infertile by prejudice, then it will have missed its chance to channel into a wonderful future a musical heritage that would make it and Beale Street a great tourist center, rivaling New Orleans' Bourbon Street, San Francisco's Fisherman's Wharf, and New York's Tin Pan Alley. If the future of Beale Street remains on the drawing board, static and lifeless, when history speaks it will say the glory that was Greece, the grandeur that was Rome, the blues that was Beale.

J. EDGAR HOOVER

Mr. SYMINGTON. Mr. President, last month two outstanding newspapermen in my State, Dale Freeman, editor of the Springfield News & Leader, and one of his foremost staff writers, Frank Farmer, had what in a way has turned out to be a historic interview with a great American—the late J. Edgar Hoover.

In the belief that this interview will be of interest to the Senate, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

[From the Springfield (Mo.) News & Leader, Apr. 23, 1972]

J. EDGAR HOOVER 77, NOT READY TO QUIT FBI SOON

(By Frank Farmer and Dale Freeman)

At 77, John Edgar Hoover has no plans—now or in the near future—to step down as director of the Federal Bureau of Investigation.

"I have never equated age with my ability to be director of the FBI," says the man who has headed the Justice Department's investigative arm for the past 48 years. "I think I should be judged on performance on the job."

"My health is excellent," the redoubtable and controversial Hoover said in an exclusive interview with a News and Leader reporting team.

"I am on the job every day and my vigor and enthusiasm are undiminished. As long as my health continues to be excellent and the attorney general and the President desire me to serve our nation, I plan to remain as director of the FBI.

Hoover was asked a total of 14 questions, ranging from his possible plans for retirement to national security to the morals and mores of the youth of today.

He also spoke up at length on the future of the FBI, the courts, communism, the New Left and violence in America. And he put in several good words for the young folks.

While Hoover expects the work of the FBI to increase in proportion to the population of the nation, he says he does not desire or foresee that the bureau's task will ever become more than it is today—investigative.

"The FBI is not a national police," he said. "I have always opposed a national police system."

How, then, does he propose to slow and, hopefully, stop, the rising trend toward more and more violent crimes?

The citizen is the key, he believes: "Crime will never be reduced until every citizen understands that he, himself, has a firm and unending duty not only of obeying the law himself, but also encouraging others to do the same."

The FBI chief has no hesitation in speaking out boldly in regard to America's future.

"I am extremely optimistic about America's future," he said.

And he is equally adamant that there can be no compromise, no co-existence, with the Communist world. Communism is "diametrically opposed to the concept of freedom and justice which have given meaning of life in our society," he said.

Nor does he believe, as many lawmen have indicated, that the increased complications of life in the United States must of necessity become more restrictive. The Constitution, Hoover said, "remains a viable instrument of meeting the changes not alone of today but also of the future. As Americans, we can be truly thankful for the wisdom and vision of our Founding Fathers whose genius brought forth this great document of government."

Perhaps surprisingly, for the severe, conservative man he has been pictured, Hoover voices great confidence in the youth of America. The 18-year-old voter does not frighten him; to the contrary, he believes the responsibility of the vote "does much to make an individual feel part of his community, to awaken civic pride and responsibility and to create a maturity of judgment."

"I think America should be extremely proud of its youthful generation," he said. "Nothing distresses me more than to hear adults bitterly assailing our youth for being irresponsible and lacking in dedication and courage.

"There are a small minority—represented by a few extremists—who seek to tear down our constitutional form of government. They have resorted to violence, such as bombing military installations and government buildings.

"But they do not represent the vast majority of our youth. I find that most young people today are alert, intelligent and deeply concerned about their country. They seek to take their rightful place in the future leadership of this country."

He has not, however, relaxed his vigilance in regard to the "threat of the New Left."

"These New Left extremists pose a serious problem for the nation today," he declared, adding, "We follow the pathway of violence at great national peril."

As for his plans to insure continued sound operation of what he created after being named Director of the Federal Bureau of Investigation in 1924, Hoover replied:

"I feel the future of the FBI rests, to a large extent, on certain basic principles which have long been a part of our organization. For example, the FBI is non-political and has performed effectively under both Democratic and Republican presidents.

"Our personnel are selected and promoted strictly on the basis of merit. Still another operating principle is the confidential nature of our files. A citizen furnishes information to the FBI and he can have confidence that this data will not be misused. Most important also is the principle that the FBI, in conducting investigations stays strictly within its jurisdiction. There must be a basis in law for us to undertake any investigation. This prevents the FBI from becoming a Gestapo-type police.

"I feel that if our current basic operating principles are followed in the future, the FBI will not only continue to be a highly effective investigative agency, but also remain a servant of the people."

Here is the full text of the questions and answers as submitted by Mr. Hoover, other than those already answered in full:

Q. Since the FBI has been the standard by which all other law enforcement agencies are gauged, how would you project the agency's role in this nation as we approach 300 million persons and the corresponding criminal problems?

HOOVER. The FBI plays a highly important role in American life. As the investigative agency of the United States Department of Justice, it has the responsibility of protecting our citizenry against the criminal who commits federal crimes and the subversive. I hope that this role of the FBI will continue in the years ahead and that, based on our work, we will continue to receive the approbation and support of our citizenry. We expect that all areas of our work will increase in proportion to the increase in population.

Q. As the Uniform Crime Reports constantly remind, crime continues to rise steadily and at an alarming rate in the U.S. To what forces do you attribute this trend and what do you think will be required to stop it?

HOOVER. Most important in the rise of crime is the growing permissive atmosphere in our society which says in essence: "Let a person do what he wants." This means, unfortunately, that some individuals have little respect for our laws and the rights of others. The home, the school, the church are vital in encouraging the individual, especially the young person, to realize that besides privileges and rights he also has duties and responsibilities. Crime will never be reduced until every citizen understands that he himself has a firm and unending duty not only of obeying the law himself but also of encouraging others to do the same.

Q. If all efforts at reversing the trend fail, what will be the ultimate action that will have to be taken by our government, our society or both?

Hoover. To my mind, the nation is taking effective steps to reduce the crime rate. For example, in recent years the law enforcement profession has remarkably improved its ability to meet the criminal. In January, 1967, for example, the FBI instituted the National Crime Information Center (NCIC). The NCIC is a computerized index of documented information concerning crime and criminals which not only has the capacity to store vast quantities of information but also instantly retrieve it on demand. In this way, NCIC computers, electronically linked with control terminals serving municipal, state and federal law enforcement agencies in 50 states, the District of Columbia, and Canada, are applying the skills of technology to the criminal problem. Another example is the opening this year of the FBI's new training academy at Quantico, Va., some 35 miles south of Washington, D.C. This facility will enable the FBI to provide training, not alone to its own personnel, but also to increasing numbers of local law enforcement officers. I am confident that the "ultimate action" against crime must lie in the support by communities of their law enforcement agencies—giving them the personnel, financial ability, and citizen confidence they need to meet the criminal challenge. Also of vital importance is citizen effort to prevent crime. How many citizens, for example, have taken an interest in crime prevention programs? How many are willing to work with youth groups? We must work to make a better community not only through eliminating poverty, discrimination, disease, etc., but we must also do what we can to prevent crime. A serious problem today is the relationship of dangerous drugs to crime. Here is an area where citizen concern should be both intense and continuous.

Q. Will it be necessary for the FBI to expand its activities to encompass much more than the field of investigation, and thus become the control center of all law enforcement agencies in the Nation?

Hoover. The FBI is not a national police. I have always opposed a national police system and this remains my position today. I do not want the FBI to become a "control center" for all law enforcement. The most effective law enforcement is our present system of local, state, and federal agencies, working in voluntary and fraternal cooperation for the protection of our citizens. Our goal must be to improve the quality of our law enforcement agencies, not to establish a national police.

Q. Some philosophers have bleakly spoken of the future of the United States, believing it has had a short and brilliant ascent to world leadership, but that we are foolish, shortsighted and lack the national character that will allow us to overcome our internal problems and continue to lead the world. How do you address yourself to the future of the United States?

Hoover. I am extremely optimistic about America's future. I have an abiding faith in the basic principles of liberty, justice, and constitutional government which underlie this nation. America has made mistakes. We have weaknesses, some of them serious. We have deficiencies. What nation in history hasn't? The key point, to my mind, is not that we have room for improvement, but that, as a people, we recognize our weaknesses, that we are concerned about them, and, above all, that we are working in a democratic way to overcome them. The future of this nation rests in the character of its people—and I believe in their integrity, honesty, and willingness to work for the common goal of freedom and justice.

Q. It would seem that the two great world powers, the United States and the United Soviet Socialist Republics, are modifying their ideological positions; it would seem that somewhere down the road, the two ideologies would cross. Thus, the average American who is proud of his heritage as a sovereign individual is concerned. Will his way of life be tainted by communism but remain primarily democratic, or will his role as a free man someday be totally subjugated by the Communist world?

Hoover. Communism is a totalitarian way of life which destroys the inherent liberties of man. As such, it is diametrically opposed to the concept of freedom and justice which have given meaning to life in our society. As long as Americans sincerely believe in human dignity and the supremacy of law, they will never accept the atheistic tenets of communism.

Q. As government and its affairs become more complicated, it would appear that government would have to be more restrictive in every facet, rather than less restrictive. Thus, do you think that democracy, our Constitution, can continue to serve mankind as it has for nearly 200 years, and why or why not?

Hoover. I am a firm believer in democracy. Today our nation is no longer the rural society of many decades ago. We are becoming increasingly more urban, industrial, complex, and interrelated as a society. Obviously, new problems, some of serious proportions, have arisen. However, I believe that the constitutional principles of government, as embodied in the Constitution and our laws, are entirely adequate to serve our nation in the days ahead. A free government is responsive to the needs of the people. We make or repeal laws. Our Constitution, through the amending process, remains a viable instrument of meeting the changes not alone of today but also of the future. As Americans, we can be truly thankful for the wisdom and vision of our Founding Fathers whose genius brought forth this great document of government.

Q. The national average age, demographers tell us, is lowering. Politics being what it is, and youth being what it is, what do you visualize as more and more voters of younger and younger age go to the polls?

Hoover. I have complete faith in the judgment of our youthful voters. The recent constitutional amendment allowing individuals 18 years of age to vote, for example, has enfranchised many new voters. These young people through their vote can now actively participate in making vital decisions on local, state, and federal levels. In my opinion, the voting privilege does much to make an individual feel part of his community, to awaken civic pride and responsibility, and to create a maturity of judgment. These newly enfranchised young voters can no longer feel that they have been "left out," that their elders are making decisions without consulting them. These young people thereby are encouraged to work "within the system"—not, as a few of them have advocated, to destroy this nation through extremism and violence.

Q. Student violence on campuses has considerably declined in recent months. Does this mean the threat from New Left extremism has declined?

Hoover. Since the academic year 1969–1970, student military on campuses, such as bombings, the seizure of buildings, the kidnaping of school officials, has declined considerably. However, we must not be lulled into believing that New Left extremism has disappeared. Early in 1970 many of the extremists, especially those associated with the Weatherman (the extremist wing of the former Students for a Democratic Society), started dropping underground. By underground is meant that these young people changed their names, utilized aliases and disguises, moved clandestinely from one location to another. In this underground, bomb factories were established, where homemade bombs were fashioned. As a result, there have been incidents of violence directed against government buildings, military installations, and office buildings. These New Left extremists post a serious problem for the nation today.

Q. We hear a great deal about urban guerrillas in the country today. What about them?

Hoover. In the New Left and among black extremist groups there are urban guerrillas who are attacking our society through violence. In addition to the Weatherman, there is, for example, the Black Panther Party. This party, which is now composed of two warring factions, advocates violence and has been engaged in guerrilla warfare.

Q. Isn't violence today one of our key national problems?

Hoover. Most emphatically. Unfortunately, there exists a small minority of individuals who feel that if they cannot have their way they are ready to resort to violence. These are the inviduals and groups which often resort to civil disobedience. They look upon violence as something "constructive" and "positive," needed to bring about changes in society. Nothing could be more untrue. Violence usually begets more violence. It causes hatred, dissension, and bitterness. What we need today is a greater respect for the law and our democratic processes of government. We follow the pathway of violence at great national peril.

NOTABLE COMMONSENSE ON GUN CONTROL LEGISLATION

Mr. HRUSKA. Mr. President, the subject of gun control is a perennial issue in Congress, as it is with the American people.

An article on this subject, published last month in the Daily Nebraskan, the newspaper of the University of Nebraska, has recently been called to my attention. Written by a student at the university, John Vihstadt, the article is particularly notable for its maturity of approach and plain commonsense. I take pride in the fact that commonsense is especially prevalent in young people from Nebraska.

The writer of the article discusses the specter of the "gun lobby," which a number of proponents of gun control laws blame for their inability to achieve the goals they seek. "The real gun lobby is the grassroots owner of a firearm," says Mr. Vihstadt, with clarity and accuracy. This point was underscored last November through the public response to a gun control debate on the program "The Advocates" carried on public television. There were 31,000 viewers who wrote to express their opinion on whether there should be a national ban on private handgun ownership. Some 83 percent of the writers, or 25,690 members of the public, opposed such a ban.

Regarding the impracticability of strict gun control measures, Mr. Vihstadt points out with considerable logic that:

The criminal—is not about to surrender his weapon voluntarily, much less have it registered by the police.

Mr. President, I believe the article will be of interest to all Senators and to the American people, so I ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Different Drummer

(By John Vihstadt)

Various politicians and sociologists of the liberal left these days are crying out in anguish at what they fear is the administration's "sensitivity" to the Bill of Rights and the supposed all-too-ready eagerness of the American people to compromise it when they feel their personal safety or sensibilities may be subject to violation.

It appears, however, that these same liberals are not above doing a little compromising of their own when it comes to the second amendment of the Bill of Rights, and with it, the constitutional right to keep and bear arms.

Alarmed at growing crime in the United States (although apparently not enough to take the handcuffs off the police and put them back on the criminal), the well-meaning leftists have proposed a bevy of bills in the Congress (right now in various stages of passage) dealing with gun control.

They range from Congressman Emanuel Celler's, D-N.Y., bill to require all firearms owners to obtain either a federal gun ownership permit or a state permit that meets rigid federal standards, to bills which would prohibit the importation, manufacture, transfer and transportation of handguns, except by law enforcement officers, military personnel and a select government-chosen group of licensed dealers.

Rep. Abner Mikva, D-Ill., claiming that "registration in and of itself is not going to be sufficient," introduced several bills which would prohibit private possession of handguns through a process of "creeping confiscation." Indiana Democrat Birch Bayh has proposed a bill to outlaw any gun, domestic or foreign, which has no sporting purpose.

And Sen. Ted Kennedy, praising arms registration efforts, claims "it will tell us how many guns there are, where they are, and in whose hands they are held." This statement reveals, of course, precisely why *not* to have universal registration. Should this data be collected, the results could be nationally disastrous if it fell into the hands of those who would lead us into despotism and tyranny. Like information was gathered by Hitler and Lenin while in the process of seizing power in their respective countries.

Also hopping on the gun registration, licensing and confiscation bandwagon are the leftist Americans for Democratic Action, the ultra-liberal National Council for a Responsible (?) Firearms Policy and the Fellowship of Reconciliation, an organization of left-wing clergy. The Fellowship has sponsored full-page advertisements in newspapers crying "Disarm America's citizens—ourselves. The country needs a much stiffer gun control law. Insist that all private ownership of guns be outlawed, that the guns now around be collected and destroyed."

It should be obvious to all that to compromise any of the ten amendments to the Constitution in effect compromises the entire Bill of Rights. Liberals and the press arise with righteous indignation and vehemently proclaim the sanctity of freedom of the press guaranteed by the first amendment, if the slightest effort is made to curb publication of anything they deem to be in the public interest. This is as it should be, but the second amendment, no less than any of the other nine, deserves the same consideration.

The "monstrous" gun lobby so frighteningly depicted by the liberal press is a mere figment of the imaginations of the Ramsey Clarks, the Joseph Tydings, the Birch Bayhs, the Ted Kennedys, the John Lindsays and other creatures of the left whose stated intention is to disarm America's people. The real gun lobby is the grassroots owner of a firearm, who views with as much alarm any attempt to adulterate his rights guaranteed by the second amendment as the press does any attempt to sacrifice its right under the first amendment.

Furthermore, if gun control is completely foreign to the American spirit and in violation of the Constitution, it is also completely impractical and unenforceable as well. The criminal—and most armed crimes are committed by the criminal, not the average citizen—is not about to surrender his weapon voluntarily, much less have it registered by the police.

The way to curb gun-oriented crime and lawlessness is plain: enact laws prohibiting bond or bail for armed crime; mandatory, nonpardonable and nonparolable extra sentences for conviction of armed crime; a new attitude by the courts of this country that the civil rights of the criminal are not more sacronsanct than those of the victim.

And, last but not least, a higher national social conscience dedicated to stamping out the breeding places of crime—our slums—and the redirection of the schools of crime—our prisons.

Gun control is not the answer to a safer and saner America—the solution is tougher law enforcement and a commitment to social betterment for all.

A "FIRST CHANCE" FOR THE HANDICAPPED

Mr. McINTYRE. Mr. President, we are always interested in seeing what effect our votes in the Senate have, and especially how they help people. I would therefore like to call the attention of my colleagues to a very successful program for handicapped children operating in Brattleboro, Vt., with the help of Federal funds. All of us in New England should be proud of this program.

When Congress passed the Handicapped Children's Early Education Assistance Act in 1968, this area was designated as one of only 24 throughout the Nation to set up a preschool center for handicapped children. Now in its third year, more than 50 children are attending two Federally-financed "First Chance" centers in this area, and are learning preschool skills and receiving physical therapy and individualized help.

I would like to share with Senators an interesting article which describes this program in greater detail. Written by Marge Runnion and entitled "A 'First Chance' for Brattleboro Youngsters," the article should make us all proud of the role we have played in making this worthwhile program possible.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Handicapped Program: A 'First Chance' For Brattleboro Youngsters

(By Marge Runnion)

A smiling little boy runs up and throws his arms around a visitor's legs in a cordial, pint-sized hug. Across the room, a small girl in pink slacks balances herself carefully on a slanting board. Five other children run around the room in a circular game of tag, while still another little boy sits watching happily.

To all appearances, it's a perfectly normal pre-school scene: noisy, happy, busy, and a bit chaotic. Actually, it's a playroom at the "First Chance" center for handicapped children here in Brattleboro.

The friendly boy, for example, is severly retarded, and at four years of age required two months to learn his name. The little girl doing a balancing act on the plank is crippled by cerebral palsy, and the five-year-old lad who is watching with such keen interest is sitting down because that's all he is able to do. He has progressive muscular atrophy, which means he is gradually losing all ability to move his own body.

Until a couple of years ago, these pre-school, handicapped youngsters would have had no place to go within hundreds of miles for the education, training, and social experiences which they all so badly need. Now, they do. More than 50 children this year are attending two federally-financed First Chance centers here and in Saxtons River, where they are learning pre-school skills, receiving physical therapy and individualized help, and, at the same time, quite obviously having the time of their young lives.

Whether they will continue to do so after this spring, no one yet knows for sure. They are both the beneficiaries and possibly the victims of Federal Money—beneficiaries, of course, in the obvious sense that a federal grant has made their education possible, but perhaps victims too in the sense that the experiences which now mean so much to them may end when the grant ends. And in the case of First Chance, that cut-off day is June 30.

"I hope we're not going to have to close," says Bob DeVoid, director of the First Chance centers, "but we do have to prepare for the possibility. The trouble is, there just isn't much money available these days, either in Washington or elsewhere."

However, both DeVoid and his staff are hopeful that funds will be found, perhaps not all from one source but from foundations which might support different aspects of the First Chance program, and from various other sources such as state aid. At present, no fees are charged for any child, and DeVoid would like to keep it that way.

Aside from the nagging financial concerns, the First Chance center at the corner of Oak and High Streets is a busy, thriving, active place that gives no indication that its operation is only a few years old.

It all started in 1968, when Congress passed a bill called the Handicapped Children's Early Education Assistance Act. It was co-sponsored by the late Sen. Winston L. Prouty of Vermont, and through his efforts, this area was designated as one of only 24 throughout the nation to set up a preschool center for handicapped children.

A staff was organized here and planning began, under the sponsorship of the Brattleboro Town School District and the Health Care and Rehabilitation Services of Southeastern Vermont. (These groups, it might be noted, officially "sponsor" First Chance, but do not provide any funds for it.) On Sept. 16, 1969, six children were enrolled in a group at St. Michaels Episcopal Church. Four more were entered in a satellite center in Townshend.

During that first year, enrollment tripled, from 10 to 30 children; and now, midway through the third year, 57 children are attending the two centers in Brattleboro and in Saxtons River. Children formerly in the Townshend center are now bused to Brattleboro.

CENTER GROWS TOO

Thanks to the efforts of a grateful parent, the Brattleboro center's headquarters also have grown as much as its enrollment. It had become evident by last spring that more spacious headquarters were badly needed.

Therefore, as an expression of appreciation for the training that his own child had received at the center, a local man purchased the former nursing home at 2 Oak St. for First Chance's new headquarters.

Both staff and parents pitched in to refurbish the handsome old building in time for September opening of school. Walls were painted; furniture, carpets and a refrigerator were donated by various parents, and several fathers even made bookcases and shelves for the classrooms.

Much of the therapy equipment is handmade too, which as Bob DeVoid points out, has enabled the center to have facilities which would otherwise be far beyond its budget.

There are bars, for example, to help a blind child with uncoordinated body movement to walk. There is a large plexiglass screen on which images can be projected to help an autistic (extremely self-isolated) child to relate to things outside himself. And there is a carefully constructed one-way window in a classroom so that children may be observed without distraction from an adjoining hall. Often this device is also used to make videotapes of a child's work, which are then shown and discussed later with his parents and other staff advisers.

Sixteen of the younger children come to morning sessions at the Oak Street center, and 13 slightly older children attend an afternoon session. During each period every child has at least 30 minutes of individual special attention with a teacher or therapist, while also enjoying such traditional preschool joys as group play and juice-and-cracker time in the big old-fashioned kitchen.

INDIVIDUAL TRIUMPHS

All these activities go on simultaneously in what appears to be effortless coordination and informality. Yet each child's progress is being noted and recorded, and each scene reflects a series of small, individual triumphs for the young participants.

On a typical morning recently, for example, seven children in the large playroom were busily exploring the fascinations of a sandbox, a domestic corner with toy stove and refrigerator, and a pile of blocks. A Downs Syndrome (Mongoloid) child shared her sand toy with a deaf youngster, and a little retarded boy proudly announced his name that it had taken him two months to learn.

In another room, the Brattleboro center's coordinator, Arthur Schubert, worked with six children who have language problems. Sitting with them on the floor, he "sold" them bright imitation oranges and bananas, helping them buy their fruit with toy money and using this absorbing play to teach them sentence patterns and word usage.

The autistic lad, Jay, was an eager member of this group. A year ago, this youngster's self-isolation was so extreme that, at age 3, he used only four words, would not identify even with his parents, and would touch no one nor even sit near other children. Now, he has a 1,000 word vocabulary, and can enjoy group activities.

At one point that morning, he and his teached laughted together at a joke, and Jay tumbled into his teacher's lap for a hug—a large triumph indeed for a boy who, a year ago, could not stand to be touched by anyone.

THERAPY AT WORK

In still another room, the center's fulltime physical therapist, Elizabeth Harris, worked with the boy handicapped by muscular atrophy. Lying face down on a pad, he too achieved a triumph by lifting each leg an inch or two off the floor, which evoked exclamations of praise from DeVoid and Mrs. Harris, and a happy stream of chatter from the boy.

A very small boy, whose paralyzed spine is supported by a leather body brace, sat nearby on the floor, waiting his turn with Mrs. Harris. At one point, he toppled over on to the soft pad, and said "Help"

" 'Help!' " said the physical therapist jokingly, giving him a tickle and a hug. 'What do YOU need help for?" As she helped him to sit upright again, he was all smiles, and the therapy continued.

Throughout the center, the observer senses this almost tangible atmosphere of compassion without sentimentality or pity.

"Actually, we're probably more structured here than you'd find many regular schools to be," explained DeVoid. "Maybe even strict at times when it's necessary. We have to insist on positive acceptable behavior because the whole point is to establish a pattern in which a child can learn."

Children come to First Chance through a variety of ways, probably the most numerous being referrals from their doctors. During the past two years, the center also has offered screening tests for all three- and four-year-olds in the area, and still other children have been channeled into First Chance by the preschool screening given to slightly older children by the area's public schools.

Staff members include three full-time teachers with master's degrees in special education (Schubert in Brattleboro and Jim Machleid and Susan Brandon in Saxtons River) plus therapists and professional assistants. In addition, there is frequent consultation with physicians, psychologists and neurologists in Boston, Burlington, and even as far away as the University of Michigan.

OTHER PROBLEMS NOTED

Not every youngster who attends the two centers is as seriously handicapped as those mentioned so far. Some are merely a year or two behind the developmental norm for their age, due to cultural deprivation or other, sometimes obscure, causes. Some have relatively minor speech or body coordination problems. Nearly all these children will eventually be able to enter regular school classes, DeVoid says, provided they receive help while they are still very young.

'Otherwise," he says, "their parents are going to wear out the steps of principals' offices trying to find out why they can't learn."

DeVoid added that he himself has been surprised at the number of children who do need help. "We started with 10 kids," he says, "and now we have 57, plus 40 more that the tests show should be looked into. We could keep the institutionalization rate down if we could just get these children when they are 3 or 4 years old."

Bratteboro pediatrician John Trumper enthusiastically confirms these views.

"First Chance is the best thing that's hit this area in years," he said. 'It's both long-term and immediately effective, and it's going to make such a tremendous difference in what happens to these kids later on. It's the envy of the whole state."

Dr. Trumper added that most people are not aware of the need for such a program unlesse they have a handicapped child themselves. Yet the need still exists, he said, "and the best spent dollar you can have is something like this where the money is spent for those who really need it by those who really care.'

His enthusiasm is shared by many parents, who feel, as one father put it, that "there are so many kids like ours who can make it if they just have this help."

HELPING EACH OTHER

Another parent, Mrs. Irene Burtis, pointed out that besides the obvious advantages of receiving special therapy and training in preschool skills, the children also benefit greatly just from being with each other.

"All the children help each other, and they learn that other kids have problems, too," she said. "It's wonderful to see the cooperation between the kids themselves, and between the children and the teachers."

This attitude of cooperation also extends to parents, as evidenced by the fact that recently Mrs. Burtis and others have formed a Parents of Handicapped Children group to discuss mutual experiences and problems. Another important purpose. Mrs. Burtis said, is to contact other parents whose children are not yet in First Chance, who may also welcome someone with whom to talk and share their feelings.

"So often people with a handicapped child just sort of hibernate," said a mother in the group. 'They don't know what to do, and they may even feel sort of embarrassed. They usually seem immensely relieved to find that there are other people they can talk to who really are interested.'

For these people, and certainly for their children, First Chance has been just what its name implies: a first chance to receive regular help, treatment and interest in problems that society as a whole tends to overlook or ignore. One parent summed it up quite simply when she said, "For me, it's hard to even imagine what the last two years would have been like without it."

THE GENOCIDE CONVENTION AND THE UNITED NATIONS DECLARATION OF HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, over the past 5 years I have raised virtually ever conceivable argument in support of ratification of the Treaty for the Prevention and Punishment of Genocide. I have listened to criticism of the treaty and have found little or no substance to it.

It seems to me that our refusal to endorse the Genocide Convention has been inconsistent with our past position of leadership in the world community on humanitarian issues. When critics of the convention argue that ratification would entangle the United States in a complex international agreement detrimental to our own interests I am amazed.

The United States forthrightly affirmed the basic rights and dignity of all men when we proudly endorsed the United Nations' Declaration of Human Rights. At that time we sought to place ourselves on record as extending to all men the rights of life, liberty, and equality which Americans hold so dear.

Yet, as the American Government continues to ignore the treaty to outlaw genocide, I begin to question our resolve when we sign the Declaration on Human Rights. If we sincerely agreed to protect those basic rights, how can we not condemn attempts to abrogate those rights through mass murders. What greater violation of human rights exists?

Certainly, our hesitation in ratifying the Genocide treaty is inconsistent with our position of leadership within the U.N. Therefore, I urge Senators to move swiftly to ratify this worthy treaty.

WELFARE REFORM

Mr. RIBICOFF. Mr. President, it is long past time for welfare reform to take its place at the forefront of the Senate's priorities for action.

As I have already indicated, the Finance Committee welfare proposal is inadequate, inequitable, and inefficient.

True reform is embodied in a family

assistance plan which requires States to make supplemental payments to hold recipients harmless against cutbacks, which provides for Federal uniform eligibility payment standards and administration, and which provides suitable jobs at a decent wage for those able to work.

The present welfare system is a catastrophe. No amount of patching up will suffice. It demeans the recipients, encourages family disintegration, discourages work, and provides inadequate payments. We in the Senate should concentrate our efforts on passing a more adequate version of the House-passed H.R. 1.

It is imperative, therefore, that the Senate have an opportunity at the earliest possible moment to enact welfare reform.

This morning's Washington Post editorial clearly points out the failings of the Finance Committee proposal and the need for supporters of welfare reform to join together.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WELFARE REFORM (FINANCE COMMITTEE STYLE)

Ten days ago, by a vote of 10-4, the Senate Finance Committee tentatively approved a substitute measure for Mr. Nixon's Family Assistance Plan. That means there are now three welfare measures with strong political support contending for congressional passage: the House-passed and administration-backed version of the Family Assistance Plan which has been considerably altered since Mr. Nixon introduced it in 1969; Senator Ribicoff's variation on that measure which retains many of the better features of the original Nixon plan and adds some improvements of its own; and this most recently devised Finance Committee alternative which is different in kind, not just in degree, from what Mr. Nixon originally set out to do.

Because none of these three measures can be expected to attract sufficient support on its own to pass in the Senate, it is evident that any legislation passed in the current session must represent an accommodation between supporters of two of these three bills. And it now seems evident, too, that any such accommodation will have to be made between supporters of the Ribicoff and administration bills. That is because the Finance Committee bill, devised manly by Senator Russell, departs so sharply and fundamentally from the principles invoked by the White House in behalf of its own measure that no amalgam of the two seems possible. For our part, we do not consider this entirely bad news, having hoped (and urged) for some while now that backers of the administration and Ribicoff legislation would get down to the business of fashioning a sound and desirable single bill on which they could agree.

That alternative avenues for a White House accommodation with the Finance Committee's variation are closed off seems obvious—to say the least—from the administration's public response on its unveiling. We quote from remarks made by Secretary Richardson at the White House and echoed in other administration assessments of the Russell Long bill: ". . . a $9 billion step backward . . . into the leaf-raking schemes of the 1930s . . . to the present patchwork of welfare contradiction and injustice, the Senate Finance Committee version would, at massive costs create a new jumbo of overlapping Federal and State programs . . . it would distort private market incentives, create a massive permanent force of [federal] employees and subject recipients to government intrusion into private life never before experienced in this country."

While we are inclined to agree with the assessment, it seems to us worth observing that the proposal itself is surprising in several respects as the handiwork of men who regard themselves as "conservative" on this issue (all the committee Republicans voting broke with the President); and it also strikes as particularly illustrative of the way in which certain assumptions about the poor can lead sober men to the most incautious and reckless of judgments. The principal assumption which underlies this bill is that the poor in this country are poor because they refuse to take available jobs. It is an assumption which is hard to square with what is known about the skill levels, job opportunities and unemployment rates as they affect the poor—especially poor blacks and/or women—who are the particular target of the Finance Committee's "reform." It is also an assumption hard to square with the fact that generally wherever job programs have been tied into welfare disbursing programs, the voluntary demand for work and work-training on the part of welfare recipients has exceeded the available supply.

Nevertheless, from this assumption flows the rest of the committee plan—which simply abolishes benefits for those whom the committee considers employable. Women whose children are above six years of age and who are themselves heads of family are included among these employable persons. Neither they nor their children will receive benefits except as a wage for the parent's work. Work includes partially subsidized (by the federal government) jobs at sub-minimum wage levels in the private sector or jobs paying $1.20 an hour with the employer being the federal government itself in the form of a new corporation which has created jobs. The corporation could oblige workers, in turn, to take certain jobs in the private sector for which it would actually pay the $1.20 hourly wage. Mothers of children under six would be exempted from these provisions, but the way in which the committee has chosen to fund and define this part of the program would result in severe economic hardship—starvation terms, in fact—for many. For those who did work at the makework "jobs" created by the federal government and hedged with an incredible array of taxes, rebates, allowances and the rest, the incentive to work to improve one's condition would be practically nonexistent. By making payment to oneself and one's children dependent upon taking such a job, the committee has created only an incentive not to starve. Its measure would make much work effort beyond that disappointing and even costly to the welfare recipient.

Given its assumptions (and its mood), the majority of Finance Committee members might well have merely settled for cutbacks in the present program. What is rather surprising is that it instead decided to produce this massive and costly job creation and wage subsidy proposal. Presumably that effect is entirely in keeping with the view that welfare recipients nowadays are largely people who refuse to work. But the consequences of the proposal are interesting and surprising chiefly because they run—one would think—so directly contrary to the conservative values held by so many of the men who crafted the proposal. An enormous federal expenditure, the creation of a mind-boggling new federal bureaucracy with authority to intervene in private lives and private sector markets in an unprecedented manner, the congressional gó-head for a mechanism that must distort wage structures and drastically interfere with the workings of the labor market, a proposal which would all but indenture certain citizens to federal employment and give them very little incentive or means to really move ahead—all this is demonstrable in the committee proposition. It is, in its way, a New Deal program gone insane.

Our editorial voice may not be—to put it mildly—what you would call the most persuasive or heeded voice in conservative circles. But we would urge those legislators who are beguiled by the committee alternative to consider whether it does not do violence to terribly important principles—principles that in a way transcend the simple, current definitions of liberal and conservative, "left" and "right." In our view, an honorable, practical and decent alternative can be fashioned from the other two bills now before the Senate—one that both the administration and Senator Ribicoff's backers should be able to support. We intend to become more specific about such a proposal in the days ahead. The Finance Committee alternative has made such a measure all the more urgent and it has suggested, too, that we all could do worse than go back and re-examine what objectives, what values we have in mind for this country when we talk about welfare reform.

HANDS UP FOR HEADSTART WEEK

Mr. McINTYRE. Mr. President, I invite the attention of Senators to a special commemoration which begins today in my State of New Hampshire. By proclamation of the Governor, the week of May 7–13 1972, has been declared "Hands Up for Headstart" week. All citizens have been urged to join in the observance by contacting local Headstart centers, inquiring about the program, and attending a center open house.

I wholeheartedly support this salute to Headstart. All reports indicate that it has been very effective in better preparing our preschool children in low-income areas for full participation in the education process. I have consistently supported this program in the past, and hope to have the opportunity to do so again very soon when the bill to extend the program comes before the Senate.

The evidence of community acceptance of Headstart has been brought to my attention many times. I think a great deal of credit for this success should go to those in each State who are responsible for administering the program. I am especially proud of the fine Headstart projects operating in my State of New Hampshire, and I would like, therefore, to pay particular tribute to the very able directors of these projects: Fred Hill, Jr., Tri-County Headstart—Coos, Carroll, and Grafton Counties; Mrs. Ann Weddleton, Belknap-Merrimack County Headstart; Donald Hutchinson, Hillsboro County Headstart; Elizabeth Beckett, Strafford County Headstart; Richard Yturregui, Rockingham County Headstart; and William Marcello, Sullivan-Cheshire County Headstart.

I ask unanimous consent that the proclamation by the Governor of New Hampshire, declaring May 7–13 "Hands Up For Headstart" week, be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

HANDS UP FOR HEADSTART WEEK, MAY 7–13, 1972

Whereas, the purpose of Head Start is to provide the child with a feeling of self worth by providing positive social, nutritional, physical, emotional and educational experiences and benefits and;

Whereas, Head Start attempts to develop better parent-child relationships by involving parents in the program through Parents Policy groups and classroom participation and;

Whereas, Head Start should be available to all eligible New Hampshire families through adequate funding, and;

Whereas, it is an objective of Head Start to inform the citizenry of its goals and objectives;

Now, therefore, I, Walter Peterson, Governor of the State of New Hampshire, do hereby proclaim the week of May 7-13, 1972 as "Hands Up For Head Start" week in New Hampshire and urge all citizens to join in the observance by contacting local Head Start centers, inquiring about the program and attending a center open house.

QUORUM CALL

The ACTING PRESIDENT pro tempore. Is there further routine morning business?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. without objection, it is so ordered.

SELECT COMMITTEE TO STUDY QUESTIONS RELATED TO SECRET AND CONFIDENTIAL GOVERNMENT DOCUMENTS

The ACTING PRESIDENT pro tempore. If there is no more routine morning business, the Chair lays before the Senate a resolution coming over under the rule, which the clerk will state by title.

The assistant legislative clerk read the resolution (S. Res. 299) by title, as follows:

A resolution to establish a select committee to study questions related to secret and confidential Government documents.

Mr. JAVITS. Mr. President, I have consulted with both leaders about this resolution, which, it will be recalled, arose in the course of discussions and proceedings which are now a matter of public record, to the extent that the Senate has decided they should be a matter of public record, which took place last week in closed-door sessions.

Mr. President, I think it is fair to say that this represents an orderly procedure, on a high level and on a completely ad hoc basis, to endeavor to deal with the problems which the Senate considered.

The language of the resolution, Mr. President, is very simple, intentionally, and very broad, intentionally. Indeed, in order to encompass all questions which would possibly be raised, rather than to complicate the resolution with specifics—because I think that with the kind of ad hoc committee which would act, we are better off leaving the committee with a broad mandate and with the opportunity to make recommendations in almost every direction they wish—I would be prepared, if Senators were willing, to amend the resolution which I have proposed for myself and the number of cosponsors whose names are printed by substituting, on page 2, line 7, by substituting for the words "classification, declassification, or reclassification" the same words which appear in the resolution at page 2, lines 3 and 4, to wit: "secrecy, confidentiality, and classification."

It seems to me that if we did that, it would encompass all questions of the classification of papers by various Government departments and even the invocation of executive privilege, if the committee chose to extend its authority to that extent, and it really should satisfy everybody that the committee should be seized of everything that we had every right to look into as a House of Congress.

I would hope very much that, one, the resolution could be acted on today. I do not think it is precipitate. It does not try to do anything substantive. Senators have had a chance to look at it in order to assure themselves of that fact. Second, I would hope that Senators who feel it needs to be amended or changed to be made more specific will also support it on the ground that its general quality is its own commendation and leaves a change up to the committee itself, which will be a committee of high level.

For myself, I would say, one, that the subject involves an urgent need to be looked into; two, it needs the kind of action which only a high level committee could give it on an ad hoc basis.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. JAVITS. Mr. President, may I ask the Chair what the time situation is in the discussion of this matter?

The ACTING PRESIDENT pro tempore. The resolution is debatable until 2 o'clock this afternoon.

Mr. JAVITS. And is there any limitation of time in which each individual Senator may be heard?

The ACTING PRESIDENT pro tempore. There is no time limitation.

Mr. JAVITS. I thank the Chair. I was not going to preempt the floor, but, with the indulgence of the Senate, will gladly yield.

I yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I wish to commend the Senator from New York for pressing this matter. As the Senate knows, he had much to do with the action in the committee on this subject, but there were some members—at least one member—who did not wish the committee itself to attach this kind of provision to that resolution, and I think the procedure the Senator from New York and his cosponsors are suggesting is the better one.

I want to ask a question. While this primarily relates to documents and information that come to the committees, the Senate, and to individual Senators, as in the case of the Senator from Alaska, does he conceive that this excludes the overall problem of classification generally which arose, as the Senator knows, during the course of the debate?

Mr. JAVITS. I do not think so at all. I think the last clause and the laws and rules relating thereto, and as I hope to change it, with the Senate's consent, to "secrecy, confidentiality, and classification of Government documents, and the authority therefor," will include every question I can think of as a lawyer which can arise.

Mr. FULBRIGHT. I wanted the record to be clear that that is what the Senator from New York conceives of. It seems to me that this committee would be of assistance to the Subcommittee on the Separation of Powers headed by the Senator from North Carolina that is dealing with legislation in the field of executive privilege. These are complementary, it seems to me, and this kind of committee would perhaps be of help to that committee—not that I think that committee necessarily needs any, because I think it is a competent committee, but I think it is necessary to reestablish normal relations between the legislative and executive branches of government.

Mr. JAVITS. I thank my colleague. I want to emphasize the fact that a committee that has as broad a mandate to make recommendations and look into a subject as this committee has the privilege of doing nothing, or doing some of something, or leaving it to another committee. I think the situation which we faced last week illustrated the need for this kind of calm deliberations on the part of the Senate. Knowing the leaders as we both do, I think there is no doubt that the committee will be found satisfactory to the Senate. I think its virtue is that it does not necessarily have to do anything, but it commits the problem to the kind of group that can be constructive in whatever way the Senate needs to be assisted.

I yield now to the Senator from California.

Mr. CRANSTON. I thank the Senator for yielding.

As the distinguished Senator from New York knows, I have proposed three amendments to his resolution, a resolution that I have joined in cosponsoring. The first amendment was designed to cover the matter of the executive privilege and the interest of Congress in securing certain information and reports which may be in the hands of the Executive.

It is my understanding that the amendment offered this morning to his own resolution by the Senator from New York, if incorporated into the resolution, would cover that matter of executive privilege and of the interest of Congress in and its possible right to secure information that may be available to the executive branch. Is that correct?

Mr. JAVITS. I would like to say "yes" to that, but I add immediately the caveat that there is nothing in this resolution which would make the committee either consider that question or report on it. I want to make that very clear.

Mr. CRANSTON. Yes.

Mr. JAVITS. The resolution is broad enough to cover the issue, but that does not mean that this committee would deal with it. They may decide that this is something they do not want to deal with, and they are completely at liberty not to. I must confess my feeling that because the question is one of such sensitivity, it would be well to enlist the best aid we have in its consideration. Sometimes the best answer is silence. So, while the answer to the Senator's question is "yes," I must add that that does not mean they will do anything whatever about that subject, or any other. But we will have asked them to look into everything, including that.

Mr. CRANSTON. I understand and accept that answer. I have consulted with the Senator from Arkansas (Mr. FULBRIGHT), who was the cosponsor with me of that proposed amendment, and with that understanding, and the understanding that the resolution will be amended as the Senator from New York has indicated, we will not press that amendment.

I would like now, if I may, to ask about the area covered by the second amendment I have proposed. The second amendment would request the committee proposed by the Senator from New York in his resolution to consider establishing an enduring mechanism for dealing with this general problem of classification, declassification, and secrecy. Is it the understanding of the Senator from New York that that action would be within the purview of the proposed committee that he suggests be established, that they could consider doing that and act in their own wisdom on that aspect of the problem?

Mr. JAVITS. There is no question about the fact that, again, the answer is precisely the same, but again with the caveat that they may choose to do nothing about it.

The Senator will notice they are asked, if they wish, to give us recommendations or proposed guidelines with respect to those recommendations. Certainly they do what the Senator suggests in his amendment if they wish, but I have to add the latter, because, knowing the nature of the subject and the committee, I cannot assure the Senator they will. I can only assure the Senator they can if they wish.

Mr. CRANSTON. I accept that answer and I shall not press that amendment.

The third amendment I have proposed would provide that until the committee has established an enduring mechanism, if it finds it wise to recommend that that be done and the Senate then acts, until such time the committee established by the Senator's resolution would be instructed to consider any documents in the possession of any Senator and make a recommendation in regard to classifying or holding classified or declassifying all or part of any such material in the hands of any Senator or group of Senators who wish advice on how to handle it. It is my understanding that the Senator's resolution actually would not preclude any Senator or group of Senators from going to that committee for advice on what to do about any papers in their possession, but it would not require, however, that such committee give any such advice if it did not choose to do so. Is that correct?

Mr. JAVITS. That is correct. I give no authority to the committee to deal with a matter of that character, which means setting up a negative ambit. As a matter of fact, I think it would be very difficult for me to do it. I would not impose such a burden upon them.

However, with 10 such prestigious Members of the Senate, if they wished to counsel any Senator, and the Senator wished to follow their counsel, it seems to me, first, if they wished to offer counsel, and second, he decided to follow it, that would give that Senator a very strong position with the Senate. But that is quite outside the terms of the resolution. It seems to me if the committee picks 10 people in whom I know Senators would feel confidence, and a Senator were to say, "Look, I have a very sticky problem, will you give me advice as to how to handle it," it would seem to me they would. And having given their best advice as to how he could handle it and preserve his constitutional immunity, if he then follows that advice, I should believe, if I were the Senator's lawyer, that he would then have a strong standing with the Senate on the question as to whether he had abused his constitutional immunity.

However, this is strictly outside the terms of the resolution; but he could take advantage of the fact that such a committee existed if they were agreeable.

Mr. CRANSTON. I thank the Senator. In part because of the statement of the Senator from New York, whom I respect very much, and in part because of some questions which the Senator from North Carolina (Mr. ERVIN) has raised. I shall not press that amendment. So I now support the amendment of the Senator from New York in its present form, with the understanding that he will revise it in the manner he suggests.

Mr. JAVITS. I thank the Senator. I advise the Senate that I will make the amendment, but the leaders felt, in a matter of such a nature, we ought to have an expression of feeling from Senators as to what they thought about it before taking such a step.

Mr. ALLOTT. Mr. President, will the Senator yield for a question or two?

Mr. JAVITS. I yield.

Mr. ALLOTT. First of all, I have a rather technical matter, which arose out of a situation I had several years ago.

I am informed by the Parliamentarian that the committee should probably, in the first and second lines, eliminate the word "select," since the Senate is not selecting the actual membership of the committee.

Addressing this part of the inquiry to the Chair, am I correct in my understanding of the views of the Parliamentarian?

The PRESIDING OFFICER. That was the concept of the words "select committee."

Mr. ALLOTT. I suggest to the Senator that, while it may not be an earth-shaking deal, it might be wise to make that change.

Mr. JAVITS. I certainly shall eliminate that word. Might I ask, if the Senator will indulge me, could I get the advice of the Parliamentarian if the words "ad hoc" would be appropriate for such a special committee?

The PRESIDING OFFICER. The Senator could make it a special committee or a special ad hoc committee.

Mr. JAVITS. I thank the Chair. I shall certainly eliminate the word "select."

Mr. ALLOTT. I thank the Senator. Referring more directly to the subject matter, I think the Senator has been wise in his selection of a special committee. It would be, then, a special committee?

Mr. JAVITS. Yes.

Mr. ALLOTT. To study questions related to secret and confidential Government documents.

Does the Senator have in mind that this would cover all questions relating to secret and confidential Government documents, including the purloining or theft of those documents, and the position that a Senator would be in if he knowingly accepted documents of a highly classified nature which were known by him to have been stolen?

Mr. JAVITS. I think my answer to that would be "Yes," if the committee wished. I might tell the Senator that I had quite a difference with my own staff about using the word "committed." The word "committed," which I use in the resolution, I have used advisedly, because I did not wish to take cognizance of any other means of acquisition but a commitment, either to the Senate or a Member thereof, which would mean some lawful delivery or lawful possession. Therefore, by using the word advisedly, it seems to me I also include the opposite of that word, and the committee could, if it wished, consider what ought to be done about documents that are not committed to the Senate or any Member thereof and yet they are in possession of a Senator, because they also are called upon to deal with the laws and rules relating to—and so forth.

It seems to me that, one, I should not give acceptance, as it were, in terms of resolution, to any unlawful means of gaining possession, but that the committee should, nonetheless, be able to consider all laws and rules relating to any kind of possession, and that is what I tried to sum up in the last clause.

Mr. ALLOTT. Since our sessions last week, I have not had an opportunity—and I do not have the staff—to explore this question; but I stated last week that I was thinking, also, of a thorough analysis of the British system. I believe it is called the Secret Papers Act.

Mr. JAVITS. That is correct. It is something like that.

Mr. ALLOTT. Something of that type. Friends have told me that it is a very fine document.

But the Senator from New York knows of my concern—not only for this administration but also for administrations to come, whether they are Democrat or Republican—with respect to the situation an administration may face unless it can be assured of more stringency in the inviolability of its really secret documents. So what the Senator has in mind also would include the purloining or theft of documents, the coming of those documents to a Senator who had knowledge thereof, and all matters of that type.

Mr. JAVITS. Yes. Again, if the committee wished.

Mr. ALLOTT. If the committee wished. In my opinion, if the committee did not wish to explore that subject, the committee would, in fact, just be chipping off the top of the iceberg in this matter.

I have one other question—and I am not a nit-picker, as the Senator knows. The 60-day period does bother me. I know of the Senator's desire to move this matter and to get some action on it. Frankly, I could not have supported the three amendments that were placed in here by the Senator from California because, in my opinion, they weight the whole disposition of the committee study. But I am considering the fact that this matter has been talked about for years—I suppose the Committee on Foreign Relations has discussed it many, many times; I am not a member of that committee, but the Senator is—and that various people on the Hill have looked at it for a long time. We have 15 appropriation bills to dispose of before June 30. We have the pending legislation to dispose of. We have the Kleindienst nomination. Then, from June 30 until July 17, Congress will be in recess for the Democratic National Convention. We will be back here approximately a month, and then there will be 10 days for the Republican Convention. Hopefully, we will not have to come back, but I am not that optimistic as yet.

In view of this schedule, does not the Senator think that this special committee really should have a longer life tenure than 60 days? I would regret very much if the committee had to meet a few times and had to depend entirely on staff work and did not have the opportunity of really beating out among themselves the fundamental questions which I think this country faces today. Does not the Senator think that a longer period would be more advantageous, even if the final report of the committee did not come in until late in the fall?

Mr. JAVITS. Would the Senator do me the greater honor of listening to me very carefully?

Mr. ALLOTT. I always do.

Mr. JAVITS. I think I can persuade the Senator that what I have in mind is proper. One cannot say that it should be 60 instead of 61 or 59, but I think it is the right approach, and I will explain why.

I think what we are really doing is establishing a threshold operation. If the committee feels that it is the body to do this job, it will come in and seek more time and will get it. There is no question about that. On the other hand, the committee very well may decide that this is a question of which other committees ought to be seized—Judiciary, Foreign Relations, Armed Services, or any combination of them; also, that perhaps other things ought to be done in the Senate with respect to this matter. Therefore, as a threshold committee, in order really to give us a blueprint for the way we ought to approach this matter—I thoroughly agree with the Senator that they cannot possibly come out in 60 days with any mature resolution on this subject which will be satisfactory to the Senate and the country—I do believe that in 60 days a committee at this level can chart the way we ought to go. They will advise that they will handle it, that other committees should handle it—or whatever way they think we ought to go.

Therefore, I think it would tend to be reassuring to Senators, perhaps, who would not wish it locked into this kind of ad hoc committee but would rather have the freedom to say, "Let every committee handle it on its own," or whatever argument they wish to use. Sixty days seems to me to be just about the outside parameter on both sides—that is, not too short so that they really cannot do anything and not so long as for anybody to feel that "they are locked in, they are seized of this, they are the only body that is going to do it, so I have to make a permanent decision if that is where I want to entrust it."

I suggest to the Senator that this is about the right prescription for now, bearing in mind that the committee will tell us where they think we ought to go.

Mr. ALLOTT. With respect to the threshold concept, I would not object to the 60-day period. I think it is important to remember that this is not a legislative committee; neither do I think it should at this point—at least, in a 60-day study period—recommend specific legislation, because it is a far more complicated and difficult subject.

The Senator from New York mentioned several committees, and I should like to add very quickly two others. One is the Appropriations Committee and another is the Joint Atomic Energy Committee, both of which are highly involved in the same areas of classified documents that the committees of which he spoke are involved.

I think that a threshold is about all that any committee could do. I will not specify, but it occurs to me that this matter certainly should be reviewed in full by the Committee on the Judiciary, because much of the matters in there actually pertain to the judicial process and enforcement of laws. There are other aspects, of course, and other committees also might wish to look at it. If this proposal should go forward to change any laws, or if we were to enact laws which would have the effect of changing customs or patterns of behavior in handling these matters, I think that the proper committees in Congress should be the ones to do it rather than a select committee.

Mr. JAVITS. I am very grateful to my colleague.

Mr. ALLOTT. I appreciate the Senator's yielding.

Mr. JAVITS. Mr. President, in response to my own view as to what we ought to do, I should like to inform the Senate that, for my part, I am ready to see the resolution acted upon, up or down. But if Members feel that they wish to have it referred to the calendar, of course I would certainly not waste the Senate's time by taking another hour to get that done. It will be done automatically at 2 p.m. So I will yield the floor because I do not want to preempt the floor, as another hour is left, to talk about the matter. If Members are willing to see it acted on today, it will be, and I am perfectly satisfied, no matter how the Senate deals with it, but if Members wish to put it on the calendar, it is easy to get that done.

Mr. ROBERT C. BYRD. Has the Senator modified his resolution in accordance with the suggestions made during this colloquy?

Mr. JAVITS. I will be happy to do that now or later. I am sort of following the advice of the leadership, to see how many Members feel about the whole thing, before putting it in final form. I am ready to do that at any time before it goes on the calendar or before it is acted on, but I thought it would be better to see how Members felt about it.

Mr. ROBERT C. BYRD. My thought was that if the Senator would modify his resolution at this point there might or might not still be objection to action on the resolution today.

Mr. JAVITS. All right. Mr. President, am I at liberty to modify my resolution?

The ACTING PRESIDENT pro tempore (Mr. STEVENSON). The Senator from New York has that right.

Mr. JAVITS. Then I modify the resolution as follows:

On page 1, line 2, strike ou the word "select."

On page 2, line 7, strike out the words "classification, declassification, or reclassification," and insert in lieu thereof the words "secrecy, confidentiality, and classification"—with a comma after secrecy and a comma after confidentiality.

The ACTING PRESIDENT pro tempore. Will the Senator send his modification to the desk?

Mr. JAVITS. I will.

The ACTING PRESIDENT pro tempore. The resolution is so modified.

Mr. HRUSKA. Mr. President, I rise to suggest that this resolution should be placed on the calendar so that the Senate can have additional time to consider it on the merits. I rise for the further purpose of announcing that, in due time, when the matter is brought before this Chamber, and unless those who are a little more senior either in service in the Senate or those who are a little more senior in the handling and processing of this general subject, preempt my right and my opportunity to do so, I intend to move that this resolution be referred to the Committee on the Judiciary, where it belongs.

Mr. President, this is not a new subject. It is not a subject which has been neglected by this body in the past. In the last five Congresses that I remember, those immediately preceding this, this subject has come up for consideration in one form or another. The history books tell us that this struggle over procedures, in the first place to classify and in the second place either to respond or not to respond to either judicial or legislative process, first started at the time of George Washington.

Mr. President, it is a regrettable fact of life that constitutional powers in this country are abused from time to time. The rights and privileges granted under our Constitution are not foolproof. That is why the statement is also made that with every constitutional right comes a constitutitonal responsibility.

The Constitution, for example, provides for freedom of speech and freedom of press. Less explicitly but with equal force, the Constitution establishes the President as our country's Chief Executive, with the inherent power to ask executive privilege regarding information in his position in the executive branch. The President's power also extends to the related authority to classify information according to the harm which its widespread knowledge would cause the country.

The Senator from New York has highlighted the problem of overclassification by introducing Senate Resolution 299. It has already been altered from its original text so that it will embrace not only classification but secrecy and confidentiality of Government documents, as well as the authority for classifying and for establishing guidelines.

Mr. President, I would suggest there are a number of reasons why this matter should not be approached by a resolution or by the formation of an independent committee, commission, or other body, especially at this particular time.

I would name as one of the reasons for this that the President has issued a new Executive order on the classification system which will become effective on June 1 of this year. It has been filed with Congress. It is Executive Order No. 11652, signed March 8, 1972. It contains a complete revamping of the system which now exists for the classification of documents in the executive branch.

It is my recollection that this kind of Executive order first came into being shortly after World War I. The first basic and fundamental Executive order on this subject was promulgated by President Harry S. Truman, I believe in 1947 or 1948. It was superseded by a revision by President Eisenhower in 1953—Executive Order 10501—and that has stood—not in its original form but as modified in various of its features by President Kennedy and by President Johnson. Now President Nixon has issued this complete revision which supersedes in its entirety Executive Order 10501, as amended.

By reasons of this new order, we are going to get a fresh hold on this matter of classification. There have been hearings held by the Armed Services Committee in the other body on this matter and on H.R. 9853, which has to do with the establishment of a commission for the continuing review of classification procedures in the executive branch. On March 13 of this year, Ralph Erickson, Assistant Attorney General, Office of Legal Counsel, in the Justice Department, testified before the other body and made a very good case for the holding in abeyance of any measure which interjects the legislative branch into this complex subject until such time as the new Executive order has become effective and the results are known.

The title of that bill, H.R. 9853, says that it is to provide, under the National Security Act of 1947, for a continuing review and study of the measures that should be taken with respect to the designation and protection of information within the Department of Defense and certain other agencies which affect the national security. Its first sentence, marked section 501, says that there is to be established a commission to be known as the Commission on Information Protection and the National Security. It goes on to tell the Commission's purposes, what it shall have as its powers, functions, and so forth. It is somewhat reminiscent of Senate Resolution 299. It is quite clear that the other body has been working on this question also.

There is another measure pending before the Senate, S. 1125, dealing with one aspect of this particular subject. The bill would provide that an employee of the executive branch summoned or requested to testify before any agency of Congress who intends to exercise executive privilege shall not refuse to appear on this ground. In no case shall an employee assert executive privilege unless he presents a statement signed by the President personally requesting him so to do.

If any Member of this Senate is interested in supplementing his reading list and enjoying a weekend or some evenings in intellectual pursuit, it might be well for him to pursue the hearings held on this bill on July 27, 28, 29, and August 5, 1971, by the Senate Separation of Powers Subcommittee, entitled "Executive Privilege: The Withholding of Information by the Executive."

May I be so presumptuous as to suggest that my colleague start with the text of the remarks of the Honorable Dean Acheson, who testified on this bill in an inimitable style and with devastating effect on the error of choosing some little facet that has a superficial imprint in this vast area of activity of the three departments and saying, "We will rearrange this."

Speaking from the point of view of a man who was there and who devoted the balance of his life to the consideration of the problem, a man who is regarded as especially experienced in the purview of the Department of State as well as in the practice of law, the Honorable Dean Acheson laid out a very splendid analysis of such effort.

With all due regard to the Senator from New York as the author of the pending resolution, substituting Senate Resolution 299 for the proposal mentioned in the text of Dean Acheson, I believe that a reading of that statement alone would convince any reasonable man that this subject deserves and must have more study and deliberation and expertise than the formation of a committee to report within 60 days or, Mr. President, within 160 days. It will take more than that.

There is another reason why we should not go forward with this resolution and if it should be placed on the calendar and eventually referred to the Judiciary Committee.

Mr. President, we must envision what this would do to our regularly established order of doing business. Here is a subject which has been considered by the Judiciary Committee, not once, but many times in recent years. Let me say that it is being considered currently, because July and August of last year are past of the current Congress. It is within the express jurisdiction of the Judiciary Committee. Five full days of hearings were held last summer, with 600 pages of testimony. The list of witnesses is notable.

I ask unanimous consent to have printed in the RECORD the names of the notable witnesses, distinguished legal scholars, and experienced people, who testified on this question only last year.

There being no objection, the list of names was ordered to be printed in the RECORD, as follows:

Acheson, Hon. Dean, former Secretary of State; Covington & Burling.

Berger, Raoul, Esq., Concord, Mass.

Bundy, William P., Massachusetts Institute of Technology, Center for International Studies.

Buzhardt, J. Fred, general counsel, Department of Defense.

Dorsen, Norman, professor of law, New York University School of Law; general counsel, American Civil Liberties Union.

Fulbright, Hon. J. William, a U.S. Senator from the State of Arkansas.

Harriman, Hon. W. Averell, former Ambassador to Great Britain and to the Soviet Union.

Keller, Robert F., Assistant Comptroller General of the United States.

Moss, Hon. John E., a Representative in Congress from the Third Congressional District of California.

Reedy, George, Fellow, Woodrow Wilson International Center for Scholars, Washington, D.C.

Rehnquist, William H., Assistant Attorney General, Office of Legal Counsel, Department of Justice.

Roth, Hon. William V., Jr., a U.S. Senator from the State of Delaware.

Rusk, Hon. Dean, former Secretary of State; professor of international law, University of Georgia.

Salans, Carl F., acting legal advisor, Department of State; representing the Honorable William P. Rogers, Secretary of State.

Swan, Alan C., professional lecturer in law, Graduate School of Business, University of Chicago.

Symington, Hon. Stuart, a U.S. Senator from the State of Missouri.

Tunney, Hon. John V., a U.S. Senator from the State of California.

Wellford, Harrison, associate, Center for Study of Responsive Law, Washington, D.C.

Mr. HRUSKA. Mr. President, here we have a matter under the jurisdiction of the Subcommittee on the Separation of Powers, under the leadership of the chairman of the subcommittee, one of the most highly respected and regarded Members of this body, the senior Senator from North Carolina (Mr. ERVIN). He is not here today. The chairman of the parent Judiciary Committee also is not here today. They are absent on what we sometimes call official business. It has to do with the electoral process, a common affliction these days. At any rate, they are not here. It seems to me that we will by this resolution, which the sponsors are now willing to have voted on, block out of the jurisdiction and dominion of the Committee on the Judiciary this subject which is so fundamentally and inherently within that committee's expertise.

Mr. President, I would suggest that this would be viewed in a very dim light indeed by the chairman of the Judiciary Committee and the chairman of the Subcommittee on Separation of Powers. Indeed, such a step would be viewed in a very dim light by members of other committees who might be subjected to this type of treatment.

The supporters of Senate Resolution 299 would argue that no action has been taken in this field in the past, and that we want action and we want it now.

Mr. President, it does not work that way in this body. This is not the only fundamental proposition pending in this Congress that has not been resolved. There are many others. And may I suggest that is one reason why the Senator from North Carolina has not been able to proceed in this session with these hearings before the Separation of Powers Subcommittee on S. 1125, the subject of which he has given much time to in the last year or year and a half, is that he has stood on his feet in this Chamber starting on about January 21 or January 22 and almost unremittingly has been here advocating or opposing either one major measure or another. When one does that, there is not much time to get into the study of a fundamental proposition like this one. There just is not time. And this is not the only measure to suffer this fate. This is not new, I say with due deference to any difference of opinion on this subject.

All we have to do is to cast our eyes at history. From time to time there have been many Members of the Congress who have risen to say that this matter must be attended to and that it must be attended to now, that we must reach a final solution now and forever. It does not work that way either. In the final analysis, there has always been a reconciliation of differing viewpoints on the part of the executive department which resists in some instances the furnishing of documents and of witnesses; and on the part of the Congress when there is a demand for the processes which issue to the executive branch to furnish these materials.

These are some of the reasons why, first of all, this resolution should be put on the Calendar and given considerable deliberation and study.

The opportunity should be taken to refer this proposal to the Judiciary Committee for its consideration. That is where it belongs.

Let me suggest that just by reading some of the opening parts of the testimony of Ralph Erickson, who appeared on March 13 in the other body in connection with the hearings on H.R. 9853, the complexity of this subject is apparent:

> First, I will outline the existing classification system and its historical antecedents, and set out the most significant provisions of the new Executive Order No. 11652 issued by the President last week. Then I will discuss the legal basis for the issuance of Executive Order No. 11652 and its predecessors, and two related areas of the law. Finally, I will speak generally to the appropriateness of and the need for congressional action such as H.R. 9853 in the areas covered by the new Executive Order No. 11652.

Then he proceeded to testify on those three categories.

His final category—congressional action—is especially relevant and I ask unanimous consent that the text of Mr. Erickson's remarks on this subject be printed at this point in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Testimony of Ralph Erickson

I would like to address myself to the important question whether congressional action, in addition to the executive action already taken, is desirable at this time, with particular reference to H.R. 9853. It should be noted at the outset that Congress can, if it wishes, legislate in much of the area now occupied by the new Executive order. While meaningful discussion of the limits on congressional power in this area can be conducted only in the context of particular legislative proposals, it can be noted as a general matter that the constitutional doctrine of executive privilege is one limit on the power of Congress to legislatively determine the extent of protection of information by the Executive branch of our government.

For a number of reasons it is my belief that executive action is preferable to congressional action in this area, except in the extreme circumstance where executive action has proved unsatisfactory and the Executive is unwilling or unable to undertake necessary corrective measures. Whatever the wisdom of the assignment, our Constitution largely confides the conduct of the nation's foreign affairs and the maintenance of the national defense to the Executive. Because it is the Executive who must usually act for the nation in these areas, it is also the Executive who is in the best position to judge when such action requires secrecy in order to succeed. From the very beginning of this nation, it has been recognized that the President must sometimes decide to act in secrecy in order to promote the national interest. This is true even though it may impede the flow of information to the public. Justice Stewart, in the *New York Times* case, made the following remarks about who must resolve this conflict:

"I think there can be but one answer to this dilemma, if dilemma it be. The responsibility must be where the power is. If the Constitution gives the Executive a large degree of unshared power in the conduct of foreign affairs and the maintenance of our national defense, then under the Constitution the Executive must have the largely unshared duty to determine and preserve the degree of internal security necessary to exercise that power successfully. It is an awesome responsibility, requiring judgment and wisdom of a high order. I should suppose that moral, political, and practical considerations would dictate that a very first principle of that wisdom would be an insistence upon avoiding secrecy for its own sake. For when everything is classified, then nothing is classified, and the system becomes one to be disregarded by the cynical or the careless, and to be manipulated by those intent on self-protection or self-promotion. I should suppose, in short, that the hallmark of a truly effective internal security system would be the maximum possible disclosure, recognizing that secrecy can best be preserved only when credibility is truly maintained. But be that as it may, it is clear to me that it is the constitutional duty of the Executive—as a matter of sovereign prerogative and not as a matter of law as the courts know law—through the promulgation and enforcement of executive regulations, to protect the confidentiality necessary to carry out its responsibilities in the fields of international relations and national defense."

Executive Order No. 11652 demonstrates the advantages of executive action in this area. Its provisions reflect the best judgment of the agencies in the Executive branch most concerned with the national defense and foreign affairs on how to solve the problems everyone agrees exist. If the new rules governing classification and declassification prove inadequate in any respect, amendments can readily be made. Administrative problems have proved troublesome in the past. The National Security Council and the new Interagency Classification Review Committee established by Section 7 of the new order are in an excellent position to study and assess the effectiveness of the security programs instituted pursuant to the provisions of the new order. If the Council or the Committee finds failings in these programs, immediate corrective action can be taken.

Unless the bodies charged with administering the new order fail in their assigned tasks, a commission such as that established by H.R. 9853 would be duplicative and unnecessary. Before such legislation is passed, clearly the administrators of Executive Order 11652 should be given the unfettered opportunity to establish that it will prove effective.

Mr. HRUSKA. Mr. President, may I suggest also that in the hearings held last summer before the Separation of Powers Subcommittee, to indicate the terrific scope, breadth, and depth of this subject, there was placed in the record of hearings at page 50 an article which was published in the Law Review of the University of California at Los Angeles, volume 12 of that publication, written by Raoul Burger. It is a long article, and it is scholarly. It is almost encyclopedic in its treatment of the subject. The article starts at page 50 of the hearings and goes to page 203, so that it is more than 150 pages in length. It is a most informative document, and it seems to me that should provide an idea of the very complex nature of this subject on which 10 Senators will be asked to undertake a threshold consideration to provide a blueprint or plan of where we are going on this subject in just 60 days.

Before the committee proposed by Senate Resolution 299 could be organized and begin hearings, or even to formulate plans for hearings, a good part of that 60 days would be over. Before any time could be given to the subject matter by that committee we would find that the 60 days would be gone. Make it 90 days and it would not be much different because of the great demands upon Members of this body for their time in the many other matters that face us for consideration and action.

The Senator from New York well remembers the formation of the Select Committee on Equal Educational Opportunity. That was formed some 3 years ago. It has had two extensions, and a third will be requested in executive session this afternoon or tomorrow. So here we are 3 years and several million dollars later in a very ambitious program where time has been at a premium. There has been a notable absence of committee members from committee meetings. I believe that this Senator was among the most derelict in that regard. But it is not because we are not interested in the subject, it is not because we think it is not important, and it is not because we do not want to develop a good record and committee report. There are just too many demands on our time to get to everything that is assigned to us.

Yet now we have a subject where the Committee on the Judiciary has devoted a good deal of time not only to developing a threshold but a firmly paved sidewalk and driveway to that threshold. The committee is prepared to continue that study and make recommendations, all in due time. We will gain no additional time by forming a new commission or committee in the spirit and tenor contained in Senate Resolution 299. It defies the repeated experience that this body has encountered in similar efforts and similar assignments on varying subjects.

I say all of this with due respect to the senior Senator from New York because he knows my regard for him is high, and he knows I consider his knowledge and approach to things in a parliamentary way are certainly of the highest order at times. But in my limited experience such a step as he proposes just would not be productive. Beyond that I would think there would be resentment on the part of the chairman of the Subcommittee on Separation of Powers for plucking out the corpus of their business a subject to which they have given important time over the last 10 or 12 years.

Certainly, we have the hearings conducted by the Senator from North Carolina (Mr. ERVIN) in connection with military surveillance and the collection of intelligence information, the hearings last summer, and the hearings started as long ago as 1957 and 1958, relating to "The Power of the President to Withhold Information from the Congress," which are encyclopedic also.

Perhaps we will again be confronted with the comment, "But no action flowed therefrom." Mr. President, a decision was made and that decision was not to attempt to formalize rules in this very difficult field because they will lead only to more trouble than we have now. Just to illustrate, in his opening sentence, Dean Acheson said of S. 1125, the bill which was before him in his testimony of July 28, 1971:

> Whatever the purpose of its sponsors, its practical consequences could be to cause useless friction within the Government of the United States, hamper the conduct of one of its most vital functions, and increase the harassment of and difficulties of the President and those citizens who are serving their country in the executive branch as well as gentlemen serving it in the legislative and judicial branches. A similar bill applied to employees of those branches would raise questions which might give both the Congress and the country pause and recollection of both Robespierre and the late Senator Joseph McCarthy.

He goes on to consume more space, perhaps as much as a half a page, in connection with that matter. I ask unanimous consent to have printed in the RECORD the last two paragraphs on page 260 and the first two paragraphs on page 261 of the July 28, 1971, hearings before the Subcommittee on the Separation of Powers of the Committee on the Judiciary.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

SEPARATION OF POWERS—EXCERPT

> What then is accomplished by the bill beyond the customary resolution seeking information described by Justice Sutherland? The answer, I fear, is the possibility of infinite harassment and embarrassment of both the President and a succession of unhappy employees bearing their superior's statements that what is required of each is incompatible with the public interest. This letter of the President would not, of course, excuse the employee from appearing and testifying, else why require him to present it "at the time executive privilege is asserted"?
>
> With what relish one can imagine Senator Joseph McCarthy conducting these examinations without judge or defending counsel. Television would, of course, occupy half the hearing room; the press the other half. The employee's duties, relations with the President, with other employees in the White House, the State Department, and representatives of foreign governments, his qualifications for his duties, past experience, social life, and friends would all receive attention. He would be asked about matters he had worked on, although not the substance of them, aside from the one on which he was summoned, and long arguments would be provoked about whether the President's letter provided exemption from answering extraneous questions irrelevant to its principal subject.
>
> As summons might follow summons as fast as committee clerks could get them out with the aid of the Congressional Directory and these witnesses followed one another with letters asserting privilege, what a picture could be created of a President in the center of a web of secret machination. What a picture presented to the world of a government as bizarre, absurd, and divided by tragic vendettas as the King of Morocco's birthday party.
>
> In short, what a hell of a way to run a railroad.

Mr. HRUSKA. Mr. President, I wish to say at the conclusion of my remarks what I said at the outset. It would be my hope that Senate Resolution 299 would be placed on the calendar, there to await an occasion when the Senate can properly address itself to this matter, at which time it would be my present intention to make a motion either to lay it on the table or to refer it to the Committee on the Judiciary where it properly belongs. At that time hopefully we would have the presence and the advice and counsel of others on the Committee on the Judiciary. They are not present now through no fault of their own, but are engaged in other activities of the Senate.

Mr. President, I suggest the absence of a quorum.

Mr. JAVITS. Mr. President, will the Senator withhold his request?

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Does the Senator withhold his request?

Mr. HRUSKA. I withhold my request.

Mr. JAVITS. Mr. President, I wish to be recognized. The Senator really has only to 2 o'clock today to occupy the time of the Senate. I do not intend to let the matter go that long because people have other things to do and obviously any Member can carry us up to 2 o'clock without a quorum, and there is no need to put the Senate to that trouble.

I would like to speak briefly in response so that the RECORD which Senators read may be available on both sides of the issue, the Senator from Nebraska having spoken to the merits of adopting the resolution at length. But before I do that, I ask unanimous consent that a committee print be prepared of the resolution as I have modified it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, when I am through, unless other Senators wish recognition, I shall ask unanimous consent that the resolution go to the calendar; but I wish to point out the following factors: One, I hope very much the leadership will call this resolution up promptly, precisely because we are now almost compelled to act on this matter.

It is interesting that the record of the Senator from Nebraska (Mr. HRUSKA) of the committee action on bills which may have been introduced to deal with the Penal Code provisions for violations of the classification of documents goes back to the late 1950's. We had two secret sessions last week and a tremendous flap over the fact that one Member of this body used his constitutional immunity to disclose the so-called Pentagon papers, which interested the whole country enormously.

Obviously, the subject is not going to wait for another period of years, whether the Senator from Nebraska wishes that or not.

Second, aside from that, we will probably be faced with an amendment by the Senator from Idaho (Mr. CHURCH)—he has already announced it—to the State Department authorization bill on the question of classified documents, and the Senate will again be in the position which it was in the other day, not really having the benefit of as much information and the pros and cons as it should.

Finally, we are in a very critical period in our national life and the life of this country in terms of our foreign relations. We are in a very serious phase of Vietnam—extremely serious. No one knows how that will go. The documents which may be available on that subject, which were the immediate, inciting cause of the secret sessions of last week, become of supreme importance; and I doubt very much that the questions are simply going to sit around and wait. They are going to demand an answer. We can only have the heat and exacerbation of tempers which result from issues of this kind, where a Member of this body may be wishing to seek his constitutional immunity and saying, "You give me no other course," or we can get the light of reason and authority of the leadership in terms of trying to deal in some way with these vexing problems on the part of the Senate.

Finally, there is no question that it is a deeply agitating question in the country where the people are being denied information, either on classification or through the exercise of the doctrine of executive privilege. At a time of such crisis as this, when one of the great charges is that people are not being adequately informed, the matter could hardly remain in limbo very long.

Finally, the Executive order itself which is referred to indicates the broad scope of the substantive part of this question, quite apart from what should be put in the Penal Code. Obviously, the Judiciary Committee has jurisdiction over what goes in the Penal Code, but it hardly has jurisdiction—certainly not exclusive jurisdiction—over what the Senate does about a document which may be denied or which may be classified or of which one Member of this body may come into possession in such a way that it places an inhibition on him by reason of classification by the State Department. To argue that the Senate cannot strike those manacles from its wrists without the Penal Code is an inconceivable doctrine that cannot and will not stand up.

The matter we are dealing with is a wide-ranging one. Those with authority to impose a classification of "top secret" are not only the Office of the President, but the Central Intelligence Agency, the Atomic Energy Commission, the Department of State, the Department of the Treasury, the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the U.S. Arms Control and Disarmament Agency, the Department of Justice, the National Aeronautics and Space Administration, and the Agency of International Development.

So the Agency for International Development, for example, has a superior standing to the Senate of the United States, and that is what we are asked to perpetuate.

When it comes to the classification of "secret," which stands in the same light, let us see who can stamp the classification of "Secret" on documents: The Department of Transportation, the Federal Communications Commission, the Export-Import Bank of the United States, the Department of Commerce, the U.S. Civil Service Commission, the U.S. Information Agency, a subordinate agency of the Department of State, the General Services Administration, the Department of Health, Education, and Welfare, the Civil Aeronautics Board, the Federal Maritime Commission, the Federal Power Commission, the National Science Foundation, and the Overseas Private Investment Corporation.

All of those agencies, if they classify a document, make a Senator use his constitutional immunity if he is going to use it, and it puts the whole Senate in a twilight zone if it is going to do anything about it, with respect to its procedures. The situation is simply intolerable under present conditions, and the Senate, in my judgment, cannot, and I hope will not, wait.

But the Senator has exercised his privilege very properly. The debate, if continued until 2 o'clock, would result in this matter going to the calendar anyway. So unless the Senator from Nebraska (Mr. HRUSKA) wishes to speak again—obviously he does—I will, at the moment when the debate is finished, ask unanimous consent that the resolution go to the calendar.

Mr. HRUSKA. Mr. President, just an observation or two so that they will be in context with the observations made by the Senator from New York.

Among other things, it has been suggested that we are in a critical period. Certainly now, with these international conferences at the highest level in prospect, and some already having been had, the questions that arise should be answered.

But, Mr. President, they have been answered again and again in similar critical periods of our history. There is not anything in the passage of Senate Resolution 299 that will assist in that regard whatsoever. There is not any question—I know of no authority that would say that there is any question—about the President's right to classify documents. That is so well grounded that it does not require the citation of authority beyond the Constitution. However, I would refer the Senator to the very persuasive opinion of Mr. Justice Stewart in the New York Times case last year, 403 U.S. 729.

It is not correct to say that because the new Executive order includes all of the agencies that are listed, every one of those agencies is superior to the Senate in the matter of having available to it classified documents. The fact is that there are two different propositions involved here. The assertion of confidentiality and secrecy of records is one thing, and that can be done only by the executive department. Nobody else can do that. Then we move over into the matter of executive privilege, which comes to function only at that time when the executive department is confronted by a request for information from either the legislative or judicial branch. And it is at that time we find the confrontation which is bothering some people.

I would like to commend the point of view that Mr. Acheson testified to when he was asked by the Senator from North Carolina (Mr. ERVIN):

> Do you conceive of the Executive privilege as being an absolute right on the part of the President?

His answer, after going back to the treason trial of Aaron Burr and citing an incident which has formed the precedent ever since, was:

> Therefore, of course, the President's executive privilege has to be balanced against the interest which is being sought to be furthered by the testimony or papers required. If that interest is solely the interest of the Senate in attempting to run foreign negotiations. I should think that it would lose. The President is the constitutionally empowered officer to conduct these negotiations, and neither the judiciary nor the legislative branch has the interest or the power or the duty or the right to inquire into them, certainly while they are being conducted.
>
> The situation might be different if the Senate was exercising its constitutional power to make a treaty by ratifying it.

And then he goes on to indulge in a little discussion in that regard. But he concludes:

> But I may say * * * that the conception of a tripartite government being conducted in a manner in which each branch is supposed to be implacably at war with the other branches, and will push its rights to an extreme, seems to me a rather dim view to take of the Constitution. I haven't the faintest doubt, in fact my own experience has given me enough knowledge on this subject to say, that in no case has basic information as such ever been declined so far as the Senate Committee on Foreign Affairs or indeed other committees are concerned. What has been denied is the production of this information in an ex parte adversary proceeding, either in open hearings or in that greattest of all frauds, the so-called executive hearing, where secrecy hardly outlasts the hearing hour itself, before everything said or produced is given to the press.

The purport of that testimony, if read in its full context, is that there is, in the main, an agreement and a harmony between the executive and the legislative branches. While it cannot be said that the Executive power on the part of the President is absolute in this field, it can be said with equal persuasiveness that the power of the Congress for disclosure of documents is not absolute, either. It is not true that these agencies mentioned in the Executive order occupy a superior position to the Senate of the United States. Documents are not withheld from Congress just because they are classified. The classification forbids general public disclosure. This decision has always been made by the executive branch, and it does not place them above Congress. We have always been able to request and receive classified information, except in the rare case when executive privilege is asserted.

Insofar as the criminal penalties and sanctions that are imposed in this field are concerned, they arose back in about 1950. I ask unanimous consent to have printed in the RECORD at this point title 18, section 793, subsections (f) and (g) of the United States Code.

There being no objection, the statutes were ordered to be printed in the RECORD, as follows:

TITLE 18—EXCERPT

(f) Whoever, being entrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance note, or information, relating to the national defense, (1) through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed, or (2) having knowledge that the same has been illegally removed from its proper place of custody or delivered to anyone in violation of its trust, or lost, or stolen, abstracted, or destroyed, and fails to make prompt report of such loss, theft, abstraction, or destruction to his superior officer—

Shall be fined not more than $10,000 or imprisoned not more than ten years or both.

(g) If two or more persons conspire to violate any of the foregoing provisions of this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy. (June 25, 1948, ch. 645, 62 Stat. 736; Sept. 23, 1950, ch. 1024, title I, § 18, 64 Stat. 1003.)

Mr. HRUSKA. There we have statutes imposing criminal penalties which consist, Mr. President, of a fine of not more than $10,000 or imprisonment for not more than 10 years. We have other criminal sanctions contained in title 50, War and National Defense.

The passage of those criminal sanctions and the approval of those actions by Congress was on the assumption and on the basis that the President could and would classify documents. When the trust, imposed upon any official in the Government with reference to a particular document that is governed by this classification is violated, it is punishable. The point is, there is a classification that must be made and will be made, whatever act we are going to pass in Congress, and Congress knows that and it has lived with it. The only point of friction is on occasion when a demand is made for a certain bit of testimony, a certain piece of paper or a lot of papers, and the executive department says, "No, we cannot do that. We cannot do that because it is not in the public interest to do it."

It is those isolated instances—and they

are not as numerous as some would lead us to believe, in comparison with the vast number of requests which are complied with—which do cause a little discomfiture and sometimes a little unhappiness on the part of those who feel they ought to have the documents. That annoyance must be measured against the larger picture and against other considerations, some of which will come out as we get into the subject further

Mr. JAVITS. Mr. President, by way of concluding this discussion, I hope very much we will not get into a situation of the President's men versus Congress' men. That was really the purpose of my resolution. I hope we do not have any such confrontation.

Finally, Mr. President, I shall do my utmost, and I hope very much that other Senators will feel the same way, to have this resolution brought up very shortly.

Our calendar is not all that crowded right now. The matter really cries for decision, as we have seen from the secret sessions and from the feeling which is abroad respecting the crisis in which our country is placed and the problems involving the foreign relations and other committees.

Therefore, Mr. President, there being only 15 minutes more to go, I ask unanimous consent that the resolution be placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HRUSKA. This Senator is highly appreciative of the last remarks of the Senator from New York. I had it firmly in my mind that he would not have in his pattern of action here, as a result of what he has done with this resolution, the bringing about of confrontation. He is, as are many of us, too aware of the devastation and the disadvantage to the country and its well-being which could result to want that to happen, and I am glad of that assurance, although I had assumed it throughout. This is a much larger problem than that, and I appreciate the Senator's understanding once again.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER (Mr. McIntyre). Without objection, the resolution is placed on the calendar under General Orders.

CONCLUSION OF MORNING BUSINESS

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Chair lays before the Senate the unfinished business, S. 3526, which the clerk will state.

Mr. ROBERT C. BYRD. Mr. President, will the Chair withhold that briefly?

For the purpose of the Record and for the future guidance of the Senate, may I ask the question of the Chair, has morning business been closed?

The PRESIDING OFFICER. Morning business was closed when the resolution was placed on the calendar.

Mr. ROBERT C. BYRD. Mr. President, I would like to have that question further clarified. I think it is important for the future guidance of the Senate.

It was my understanding that there was an order under which there would be not to exceed 30 minutes for the transaction of routine morning business. It is also true, of course, the resolution coming over under the rule, that Senators had up until the close of the morning hour—the first 2 hours—for a discussion of that resolution which came over under the rule.

That matter has now been disposed of. Under the order, it would be my impression that the time for the transaction of any other morning business with the exception of the discussion of the resolution which came over under the rule, would have transpired at the end of the 30-minute period because of the order with respect to the time limit thereon. But I would hope that I am correct in my statement that the actual closing of morning business did not occur until the disposition of the resolution which came over under the rule, and that such statement, by the Chair, with reference to the close of morning business, should immediately precede the laying before the Senate of the unfinished business.

The PRESIDING OFFICER. The Senator is correct. Reading from page 453 of Senate Procedure:

> Resolutions coming over from a preceding legislative day, or which have gone over a legislative day, are laid before the Senate (on the next legislative day) for consideration, following the order of introduction of concurrent and other resolutions, as a part of the morning business, and morning business is not closed until such resolutions are disposed of (or until the end of the Morning Hour).

So the Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, which will be stated.

The legislative clerk read as follows:

> A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

The Senate proceeded to consider the bill.

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair.

The motion was agreed to; and at 2:02 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 2:09 p.m. when called to order by the Presiding Officer (Mr. Beall).

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND LAYING BEFORE THE SENATE OF THE UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and this could very well be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION UNTIL 5 P.M. TODAY FOR SECRETARY OF SENATE TO RECEIVE MESSAGES FROM HOUSE OF REPRESENTATIVES AND FOR COMMITTEE TO FILE COMMITTEE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, until 5 p.m. today, the Secretary of the Senate may be authorized to receive messages from the House of Representatives and committees may be authorized to file committee reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock noon. After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes with statements therein limited to 3 minutes. At the conclusion of routine morning business, the Chair will lay before the Senate the unfinished business, S. 3526, a bill to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

The question before the Senate at that time will be on the adoption of amendment No. 1175, offered by the distinguished Senator from Mississippi (Mr. STENNIS). There is no time agreement thereon or on any other amendment or on the bill itself.

There could be rollcall votes tomorrow afternoon. Whether or not the Senate will proceed to lay the Stennis amendment aside to take relatively noncontroversial amendments remains to be seen.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and at 2:15 p.m., the Senate adjourned until tomorrow, Tuesday, May 9, 1972, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate May 8, 1972:

IN THE NAVY

The following-named officers of the Navy for temporary promotion to the grade of rear admiral in the staff corps indicated subject to qualification therefor as provided by law:

Supply Corps

Eugene A. Grinstead, Jr.
Wendell McHenry, Jr.
Stuart J. Evans
William M. Oller

Civil Engineer Corps

John R. Fisher

IN THE AIR FORCE

The following-named Air National Guard of the United States officers for promotion in the Reserve of the Air Force, under the appropriate provisions of section 593(a), title 10, United States Code, as amended.

Major to lieutenant colonel

LINE OF THE AIR FORCE

Roland E. Ballow, [redacted].
Leland J. Bernasconi, [redacted].
Dean T. Biggerstaff, [redacted].
Harold H. Blackshear, [redacted].
James R. Blackwell, [redacted].
Robert B. Blamires, [redacted].
Edward W. Boggs, [redacted].
Bobby Z. Branum, [redacted].
Robert V. Carter, [redacted].
John B. Conaway, [redacted].
Albert J. Cooper, [redacted].
Charles S. Cooper, III, [redacted].
Ray N. Crete, [redacted].
Joseph N. Dietrich, [redacted].
Charles K. Evers, [redacted].
Kenneth O. Gabriel, [redacted].
Homer C. Gober, Jr., [redacted].
Robert J. Gordon, [redacted].
Edward J. Graham, [redacted].
Fillmore V. Hall, [redacted].
Richard O. Hoyt, [redacted].
Joseph A. Kazek, [redacted].
Jack W. Kier, [redacted].
Charles A. Machemehl, Jr., [redacted].
George C. Melloy, Jr., [redacted].
Clyde E. Millington, [redacted].
Donald O. Neary, [redacted].
Joseph Orear, [redacted].
Edward E. Parsons, Jr., [redacted].
John E. Patterson, Jr., [redacted].
Robert Pettinga, [redacted].
George D. Quick, [redacted].
Harold L. Rhoades, [redacted].
William D. Root, [redacted].
Donald J. O'Rourke, [redacted].
Arda J. Roy, Jr., [redacted].
Stanley J. Schill, [redacted].
Sanford T. Shepardson, [redacted].
Fred O. Smith, [redacted].
Luther L. Smith, [redacted].
Richard Suhay, [redacted].
Donald D. Thompson, [redacted].
Hughey S. Williford, Jr., [redacted].
David P. Witmer, Jr., [redacted].
Billy J. Yeiser, [redacted].
Leslie A. Young, [redacted].

CHAPLAIN CORPS

Robert O. Williams, [redacted].

MEDICAL CORPS

William E. Riecken, Jr., [redacted].
Donald E. Wallis, [redacted].

CONFIRMATION

Executive nomination confirmed by the Senate May 8, 1972:

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Harald Bernard Malmgren, of the District of Columbia, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

HOUSE OF REPRESENTATIVES—*Monday, May 8, 1972*

The House met at 12 o'clock noon.

Dr. Jack P. Lowndes, president, Home Mission Board, Southern Baptist Convention, and pastor, Memorial Baptist Church, Arlington, Va., offered the following prayer:

"O send out Thy light and Thy truth: Let them lead me."—Psalms 43: 3.

We need Thy light to guide us in the life of our Nation. We pray, therefore, for Thy presence to give strength to these our elected leaders who meet here. Help them to gain help from Him whose strength is made perfect in man's weakness.

Give us grace, O Lord, to see our failure but not to be defeated by them. Help us to use our difficulties to serve Thy good purpose. Help us to be able to answer yes to Thy rollcall concerning our faithfulness to our duty. In Thy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Geisler, one of his secretaries, who also informed the House that on May 5, 1972 the President approved and signed bills of the House of the following titles:

H.R. 8817. An act to further cooperative forestry programs administered by the Secretary of Agriculture and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 13591. An act to amend the Public Health Service Act to designate the National Institute of Arthritis and Metabolic Diseases as the National Institute of Arthritis, Metabolism, and Digestive Diseases, and for other purposes, and

H.J. Res. 1174. Joint resolution making an appropriation for special payments to international financial institutions for the fiscal year 1972, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9212) entitled "An act to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5199. An act to provide for the disposition of funds appropriated to pay judgments in favor of the Miami Tribe of Oklahoma and the Miami Indians of Indiana in Indian Claims Commission dockets Nos. 255 and 124–C, dockets Nos. 256, 124–D, E, and F, and dockets Nos. 131 and 253, and of funds appropriated to pay a judgment in favor of the Miami Tribe of Oklahoma in docket No. 251–A, and for other purposes; and

H.R. 10880. An act to amend title 38 of the United States Code to provide improved medical care to veterans; to provide hospital and medical care to certain dependents and survivors of veterans; to improve recruitment and retention of career personnel in the Department of Medicine and Surgery.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11417) entitled "An act to amend the Rail Passenger Service Act of 1970 to provide financial assistance to the National Railroad Passenger Corporation for the purpose of purchasing railroad equipment, and for other purposes," agrees to the conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. HARTKE, Mr. HOLLINGS, Mr. BEALL, and Mr. WEICKER to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1756) entitled "An act to amend the Public Buildings Act of 1959, as amended, to provide for financing the acquisition, construction, alteration, maintenance, operation, and protection of public buildings, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GRAVEL, Mr. JORDAN of North Carolina, Mr. TUNNEY, Mr. BOGGS, and Mr. COOPER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 538. An act to declare that certain federally owned lands are held by the United States in trust for the Indians of the Pueblo Cochiti; and

S. 3572. An act to extend and amend sections 5(n) and 8(d) of the Federal Water Pollution Control Act, as amended.

RESIGNATION FROM COMMITTEE

The SPEAKER laid before the House the following resignation from a committee:

WASHINGTON, D.C.

Hon. CARL ALBERT,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I wish to submit my resignation from the Committee on the District of Columbia.

As you know, I agreed to join this Committee in 1969. I find that my duties with the Interstate and Foreign Commerce Committee consume so much of my time, that I am unable to fulfill the obligations of another Committee assignment. It would be only proper for me to step aside and allow another Member, who perhaps has more time, to give this Committee the service it deserves.

Sincerely,

RAY BLANTON,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

HIJACKING FANTASY

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, the latest and most bizarre of airplane hijackings could well have been pure fantasy rather than fact. It is almost incomprehensible that the law enforcement agencies of the entire country were baffled and paralyzed to such an extreme degree by one demented hijacker. Few things have happened which left the United States so completely exposed to ridicule worldwide as the exploits of an individual who commandeered not one plane but two, changed planes, required payment of a king's ransom, then required it be exchanged for bills of another denomination.

So we ask, what was wrong with all the law enforcement personnel that they were unable to cope with this situation? Do plane crews know nothing about self-defense or have they simply been instructed, rabbit-like, to obey any threat by any individual.

It should be obvious that nothing really has been accomplished toward putting an end to the practice of hijacking. If the law enforcement agencies are unable to cope with the problem, airline crews should be trained to do so. Hijackings are a heinous thing, not a lark. They have made the airlines and the law enforcement officials appear ridiculous and it is time to put a stop to it. The airline companies seem to have no difficulty in paying whatever amount of money the hijackers demand for blackmail. This could lead to the deduction that they are making too much money to care what happens to it and it may be well to look into the matter of raising their taxes to reduce the supply of cash available for hijackers.

THE ANNUAL AIR SHOW AT BARKSDALE AIR FORCE BASE

(Mr. WAGGONNER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, on April 30, I had the distinct pleasure of attending, as I do every year at this time, the annual air show at Barksdale Air Force Base, La., in my home district, and I can truthfully say that the show was a truly remarkable one and a success, and most enjoyable, I might add, for me and the same 100,000 people who turned out for it.

Now, a good many people around the country would have thought that with the raft of antiwar and antimilitary demonstrations in evidence these days, whenever there is a public military function or display, that the presentation down at Barksdale would have been tainted by the presence of protesters and demonstrations.

But, I am happy to report, not one time during the presentation by the Air Force was the show interrupted because of a demonstration. Not one time was there ever the slightest sign of the first protest or a single protester. It was refreshing from that standpoint. I am, for these and many other reasons, extremely proud of our people. These folks do appreciate the need for maintaining an adequate military defense posture; their conduct and numbers at the air show attest to that. This is so because they love their God and their country.

SUPPORT FOR EXPANSION OF INDIANA DUNES NATIONAL LAKESHORE

(Mr. ROUSH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ROUSH. Mr. Speaker, expanding the present Indiana Dunes National Lakeshore so as to protect and insure certain prime areas for recreational purposes and ecological study is a subject that has engrossed me in this Congress.

I have received support for my bill (H.R. 10209) from a number of local conservationists, political leaders, and private individuals. Members of the Sierra Club, the Izaak Walton League, the Save the Dunes Council, ECO-Vote and Friends of the Earth have all assisted me in one way or the other in forwarding this legislation.

Last week I received a letter of support from the president of the American Association of University Women, Calumet Area Branch of Indiana. I was pleased and gratified to have their support and I would like to include their letter in full:

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN, CALUMET AREA BRANCH,
Highland, Ind., April 30, 1972.

Congressman J. EDWARD ROUSH,
House of Representatives,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN ROUSH: As a branch of the American Association of University Women in a region which is particularly affected by the presence or absence of parks, we take a supportive stand on the expansion of the Indiana Dunes National Lakeshore.

This park is essential to the wellbeing of this part of Indiana and we view it as an asset to our community. In this industrial area, space, beauty, and recreation are especially needed. We think the park deserves protection by a buffer zone. Industry has plenty of acres; the dunes are irreplaceable.

Sincerely,

HAZEL C. DAVIS,
President, AAUW-Calumet Branch.

RICHARD B. RUSSELL LAKE

(Mr. DORN asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. DORN. Mr. Speaker, the late Senator Richard B. Russell was a pioneer in conserving clean water for future generations. Senator Russell was a leader in improving our environment through watersheds, soil conservation programs, tree planting, and grass to filter water where it falls. The time is now and the place is here to honor this great American and carry on the programs in environmental conservation he so ably began.

The Trotters Shoals project on the Savannah River is the best remaining undeveloped site in the United States. I urge the Congress to appropriate the necessary funds so this great project can begin in earnest. With each day of delay the cost will increase and the area remains one of incredible desolation with industrial, social, and economic development in a state of retrogression.

Mr. Speaker, the Trotters Shoals project should be renamed Richard B. Russell Lake and I believe this proposal will be acted on favorably by our House Committee on Public Works.

Mr. Speaker, the following resolution was recently adopted by the National Rural Electric Cooperative Association:

TROTTERS SHOALS PROJECT

Whereas, the Trotters Shoals multipurpose project located on the Savannah River between the states of South Carolina and Georgia has been authorized by Congress for construction, and funds have been appropriated for land acquisition to begin development of the project, and

Whereas, Senators Talmadge, Gambrell, Thurmond and Hollings and Congressmen Landrum and Dorn have introduced resolutions in both Houses of Congress to rename the project the Richard B. Russell Dam and Reservoir, and

Whereas, the former United States Senator, the late Richard B. Russell of the state of Georgia, was a prime moving force in promoting this much needed government facility: Now, therefore,

Be it resolved, That Congress be urged to complete action on the resolution changing the name to honor Senator Richard Russell, promptly.

U.S. CIVIL SERVICE COMMISSION'S ANNUAL REPORT FOR FISCAL YEAR 1971—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 92–213)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Post Office and Civil Service and ordered to be printed:

To the Congress of the United States:

I am hereby transmitting the United States Civil Service Commission's Annual Report for fiscal year 1971.

The report encompasses a year marked with considerable progress and innovation in Federal personnel management. Among the year's highlights were significant liberalizations in retirement and health benefits; increased emphasis on employment opportunities for returning Vietnam veterans; a strengthened program in equal employment opportunity for minorities and women; considerable progress in job evaluation policy and personnel management evaluation; and preparations by the Commission to implement the Intergovernmental Personnel Act of 1970 which should bring a new partnership between Federal, State, and local governments.

These improvements resulted from the joint action and cooperation of the Commission, the Congress, the executive agencies, employee organizations, and the President. I therefore hope you share my pride in these achievements which not only have made the Government a better employer but have also provided sharpened government responsiveness to the changing social and economic needs of the American people.

RICHARD NIXON.

THE WHITE HOUSE, *May 8, 1972.*

DISTRICT OF COLUMBIA BUSINESS

The SPEAKER. This is District of Columbia day.

The Chair recognizes the gentleman from Georgia (Mr. HAGAN).

MEDICAL RECORDS, STUDIES, AND RESEARCH IN THE DISTRICT OF COLUMBIA

Mr. HAGAN. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 9769), concerning medical records, information, and data to promote and facilitate medical studies, research, education, and the performance of the obligations of medical utilization committees in the District of Columbia, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

Mr. HALL. Mr. Speaker, reserving the right to object, may I inquire of the leadership handling this bill if it is their intention to take time under the rules of District day in order to explain this change in medical recordkeeping for the District of Columbia, and explain it adequately prior to final action on the bill?

Mr. HAGAN. Yes, Mr. Speaker, and if the gentleman has any questions, we would be glad to try to get an answer to them.

Mr. HALL. Mr. Speaker, if that is their intention and the bill will not be passed forthwith, I withdraw my reservation of objection to the unanimous consent request.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill as follows:

H.R. 9769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds and declares that the gathering of information and data to promote and facilitate medical studies, research, education, and optimal utilization of medical care facilities is a matter of public interest and the use of such studies should be limited in the public interest.

Sec. 2. (a) Information, interviews, reports, statements, memorandums, or other data gathered in the District of Columbia by, or used for the purpose of the study of morbidity and mortality (including but not limited to the study of maternal welfare and perinatal morbidity and mortality) by, any entity specified in subsection (b) shall not be admissible as evidence in any proceeding before any court or tribunal, or in any proceeding before any governmental commission, board, or agency, within the District of Columbia, and shall not be subject to subpena by such court, tribunal, commission, board, or agency.

(b) This section shall apply with respect to any medical society operating in the District of Columbia, any agency, department, or instrumentality of the Federal Government operating in the District of Columbia, the government of the District of Columbia and any agency thereof, inhospital staffs (including committees) of accredited hospitals in the District of Columbia, and medical school committees and faculty members of the medical schools engaged in research in the District of Columbia.

Sec. 3. Written reports, notes, records, and other data of medical staff committees used for the professional training, supervision, or discipline of the medical staffs of hospitals operating within the District of Columbia, shall not be admissible as evidence in any proceeding before any court or tribunal or in any proceeding before any governmental commission, board, or agency, within the District of Columbia, and shall not be subject to subpena by such court, tribunal, commission, board or agency.

Sec. 4. The furnishing to any of the aforementioned institutions or organizations of any data described in section 2, in the course of a research project shall not subject any person, hospital, sanitarium, nursing, rest home, or any similiar institution to any action for damages or other relief.

Sec. 5. (a) Any information, reports, records, or other data made available to, or issued, recorded, or reported by, a medical utilization committee of a hospital or other medical care facility operating in the District of Columbia shall be confidential and shall be used by such committee of a hospital or other medical care facility operating in the District of Columbia shall be confidential and shall be used by such committee and the committee members only in the exercise of the proper function of such utilization committee.

(b No physician, surgeon, institution, or hospital furnishing information, reports, records, or other data to any such committee with respect to any patient shall by reason of such furnishing be subject to any action for damages or other relief.

(c) No member of a medical utilization committee shall be deemed liable in damages to any person for any action taken or recommendations made within the scope of the functions of such committee, if such committee member acts without malice and in the reasonable belief that such action is warranted by the facts known to him after reasonable effort to obtain the facts of the matter as to which such action is taken or recommendation is made.

(d) As used in this section, "medical utilization committee" include medical utilization review committees of hospitals, extended care facilities, or medical societies operating in the District of Columbia; such committees of the government of the District of Columbia (or any agency thereof), or of any agency, department, or instrumentality of the Federal Government (operating in the District of Columbia, which are established to determine the medical need for continued medical care of individual patients; and review committees having the responsibility for evaluation and improvement of the quality of medical care in any hospital operating in the District of Columbia.

Sec. 6. Nothing contained herein shall be construed as affecting the admissibility of the primary medical record or hospital record or other extended care facility record pertaining to the patient or to the reproduction of such record.

With the following committee amendment:

Strike out all after the enacting clause and insert the following:

That the Congress hereby finds and declares that the gathering of information and data to promote and facilitate medical studies, research, education, and optimal utilization of medical care facilities in the District of Columbia is a matter of public interest and the use of such studies should be limited in the public interest.

Sec. 2. Chapter 5 of title 14 of the District of Columbia Code (relating to documentary evidence) is amended by inserting at the end thereof the following new section:

"§ 14–508. Medical records

"(a) As used in this section—

"(1) The term 'secondary medical records' means—

"(A) any record of information or data, gathered to be used, or used, in the District of Columbia, to study morbidity and mortality (including the study of maternal welfare and perinatal morbidity and mortality) by any person employed by or working or associated with—

"(i) any medical society operating in the District of Columbia;

"(ii) any department, agency, or instrumentality of the Federal Government operating in the District of Columbia;

"(iii) any department or agency of the government of the District of Columbia;

"(iv) any inhospital staff (including a tissue review committee) of an accredited hospital, or extended care facility, in the District of Columbia; and

"(v) any medical school committee, or any faculty member, of any medical school engaged in research in the District of Columbia; and

"(B) written reports, notes, records, and other data of any medical staff committee, peer review committee, tissue review committee, or medical utilization committee used for the professional training, supervision, or discipline of persons engaged in the practice of medicine in the District of Columbia.

"(2) The term 'primary medical record' means the record of continuing care kept by a physician, hospital, or extended care facility regarding a patient which reflects the diagnostic and therapeutic services rendered by the physician, hospital, or extended care facility to the patient.

"(3) The term 'medical utilization review committee' means any committee of a hospital, or extended care facility, operated in the District of Columbia which reviews, on a sample or other basis, admissions to such hospital or facility, the duration of stays therein, and the professional services furnished, (A) with respect to the medical necessity of the services, and (B) for the purpose of promoting the most efficient use of the services and facilities available in the hospital or extended care facility.

"(4) The term 'peer review committee' means any committee of a professional medical society in the District of Columbia composed of persons engaged in the practice of medicine in the District of Columbia which reviews or receives and hears complaints with respect to the quality of medical services furnished by any other person similarly engaged in the practice of medicine in the District of Columbia.

"(5) The term 'medical staff committee' means a peer review committee of a hospital, or extended care facility, operated in the District of Columbia.

"(6) The term 'tissue review committee' means any committee of a hospital, or extended care facility, operated in the District of Columbia which conducts a continuous review of the results of surgical operations with respect to the removal of tissue or blood from patients in the hospital or extended care facility.

"(b) No secondary medical record, in whole or in part, and no copy thereof, made in the District of Columbia shall be admissible as evidence or used for any purpose in any proceeding before any court in the District of Columbia, or before any proceeding of any commission, board, or agency of the government of the District of Columbia, and shall not be subject to a subpena issued by such court, commission, board, or agency.

"(c) Notwithstanding any other law, or rule or law, any person in the District of Columbia may transmit, upon request, to any medical utilization review committee, peer review committee, tissue review committee or medical staff committee, operating in the District of Columbia, any report, note, record, or other data or other information, relating to the medical services provided to any other person, to be included in a secondary medical record, which such person properly has in his possession.

"(d) No person who provides any report, note, record, or other data or information to be included in a secondary medical record made in the District of Columbia (as specified in subsection (c)) shall be liable to any other person for damages or other relief by reason of his providing such report, note, record, or other data or information.

"(e) No member of a medical utilization committee, a peer review committee, a medical staff committee, or a tissue committee, operating in the District of Columbia, shall be liable for damages or other relief to any person for any action taken or recommendation made by such member or by the committee to which such member belongs within the scope of the functions of such committee, if such committee member acts in the reasonable belief that such action is warranted by the facts known to him after reasonable effort to obtain the facts of the matter as to which such action is taken or recommendation is made.

"(f) Nothing contained in this section shall be construed as affecting the admissibility in any proceeding before any court, board, commission, or agency of the primary medical record or those records maintained by the Medical Examiner of the District of Columbia.

SEC. 3. The chapter analysis of chapter 5 of title 14 of the District of Columbia Code is amended by inserting immediately after: "14—507. Other methods of proof." the following new item:
"14—508. Medical records".

Mr. HAGAN (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. HAGAN. Mr. Speaker, the purpose of the bill, H.R. 9769, as set forth in House Report No. 92-1007, is to promote improved health care for the general public through the gathering of information on diagnostic procedures, therapy, medication, surgery, and intensive and aftercare to provide information for medical studies, research, education, and the best use of medical care facilities. The bill establishes a separate classification on medical records which may be compiled and which are available only for the specific uses for which they have been produced.

NEED FOR THE LEGISLATION

In recent years, the rapidly expanding public demand for medical care, services, and treatment has brought with it new requirements of law which are to be met by medical practice. The establishment of the Medicare and Medicaid programs has imposed upon government regulatory agencies the necessity of establishing policy controls on certain areas of the medical profession and review procedures to insure efficient and economic functioning of prepayment and voluntary insurance programs.

An early expression of the interest of government in this field was in the Health Insurance for the Aged Act (79 Stat. 313; 1965) which requires that hospitals establish utilization review committees which study medical histories and charts, look to the needs of administration of the facilities, the length of stay, discharge practices, and evaluation of services ordered and provided in the facility. It is in the public interest that physicians assigned to or participating in such utilization committees be encouraged to carry out their functions under federal law and at the same time not be in jeopardy of involvement in a suit for damages as a witness or a party defendant as a consequence of carrying out such a public duty.

In addition to utilization committees, other committee groups are equally active in other subject areas directed toward improvement of the practice of medicine and the use of hospital and intensive care facilities.

In recognition of the need for providing essential legal status for such committees, more than 25 States have enacted laws somewhat similar to the pending bill, H.R. 9769. The specific need of the legislation is that of encouraging the performance of the statutory medical review functions by removing the threat of involvement in litigation solely because of the performance of such an obligation.

MEDICAL RECORDS

Historically the medical records of any patient have been those entries made in notes or records of a physician regarding the diagnosis, prescription of treatment, medical or otherwise, and the entries and records of clinics, hospitals, or intensive care facilities. At law such records were considered to be privileged between the doctor and patient with the full right and privilege of use by the patient as he deemed it necessary to serve his best interest medically or otherwise.

The provisions of the bill make no change in the essential character of such records or in their legal status. However, such records, for the purposes of the bill are defined as "primary medical records."

PRIMARY MEDICAL RECORDS

The language of the bill continues the status of such records in custom and in law as they have had in the past. Any purpose for which such records might properly be used in the past or as of the current time, will be uses permitted under the bill in the future. The confidentiality of these records as to treatment by physicians and consultants is continued fully as to disclosure of such entries.

SECONDARY RECORDS

The bill, H.R. 9769 establishes by statute another classification of records called "secondary records" which have a very limited and specific function. Whereas a primary medical record is a record related to the particulars of diagnosis, treatment, and hospitalization of a patient, a secondary record contains a body of general data and information derived from primary records, which material is for the general benefit and improvement of medical practice and facility use.

The principal characteristic of secondary records is that they are generally oversight or after the fact records. While the particular committee using such records may find reason to make recommendations which may affect future medical or hospitalization procedure, such recommendations are general guidelines.

DEVELOPMENT OF COMMITTEE SECONDARY RECORDS

The special committees, defined in the bill, may jointly or severally, compile secondary records related to the purposes of the particular committee. Under the terms of the bill a particular committee may lawfully secure information from primary medical records for use in connection with the oversight or review functions of the particular committee. The confidentiality of the material from primary records, which becomes a part of secondary records, is maintained since secondary records are exclusively for utilization by the respective committees. The provisions of the bill prohibit the production by subpena or use of secondary medical records in litigation before any court or agency for the purposes of any proceeding whatsoever.

COMMITTEE AMENDMENT

The bill H.R. 9769 as reported favorably by our committee was amended by striking out all after the enacting clause and substituting new language. The changes accomplished by this amendment were not changes of substance but rather changes of clarification, definition, and arrangement. The intent of the legislation as introduced and the intent of the Congress as expressed by the committee is that of establishing two different categories of medical records; (1) primary records which are the conventional medical records of a patient and (2) secondary records which are compiled by and may be used only by special committees as defined in the bill. Primary records continue to have the conventional status in law as has been customary while the secondary records may not be produced in court or before agencies for any purpose.

One other principal objective of the clarification accomplished by the amendment was that of making it clear that nothing in the bill is intended to limit the use of the records of the Medical Examiner for the District of Columbia in connection with criminal actions in the courts. The Corporation Counsel for the District of Columbia government raised question concerning the construction of the original bill as to the continuing availability of such information for court purposes. The bill as amended makes it clear that there is no change in the availability or utilization of the records by the Medical Examiner. The committees defined in the bill may have access to data and information in the records of the Medical Examiner.

As a further expression of intent, our committee finds it highly essential that professional persons performing services, on the respective defined committees and whose judgments and opinions are primarily directed to the general improvement of the professional practice of medicine and the use of medical facilities, should not be faced with the unpleasant prospect of being a party to a damage suit as if he were personally responsible as a physician or consultant for a patient who he may never have seen or known.

Likewise, it is the intent of the committee that those persons who have custody of primary medical records may lawfully furnish data and information to committees having custody over secondary records without being in breach of law for maintenance of confidentiality of such records. The bill also provides that members of the defined committees may properly receive such information.

COMMITTEE HEARINGS

Public hearings were held by our committee on the bill, H.R. 9769, by the Subcommittee on Education. A panel of representatives from the District of Columbia Medical Society presented detailed testimony as to the need for such legislation and the purposes which would be accomplished under the bill.

Recommendations were received from the government of the District of Columbia and the Assistant Corporation Counsel commented on the terms of the bill and reviewed the views of the local government. The principal question presented in discussions by the Assistant Corporation Counsel related to the availability of medical records to the Office of the Medical Examiner in the District of Columbia as such information might be needed in connection with the prosecution of criminal cases. As noted above the committee amendment was drawn to meet this question as presented by the District of Columbia government.

COST OF THE BILL

The bill as amended by the Committee relates primarily to procedural matters and recordkeeping in connection with the practice of medicine and the utilization of care facilities in the District of Columbia. Inasmuch as no specific additional personnel is authorized and since such records as are to be kept will be produced primarily by existing personnel, no additional cost is anticipated by reason of this legislation.

ANALYSIS OF THE BILL

The bill H.R. 9769 amends the District of Columbia Code by adding a new section to Chapter 5 of title 1r, which chapter relates to "Documentary Evidence."

Section 1 of the bill is the statement of findings and declaration as to the purposes of the Congress.

Subsection 2(a) defines the term "secondary medical records" as being those records containing information or data to be used or used in connection with morbidity and mortality studies by persons who are employed, work with, or are associated with any medical society, Federal agency operating in the District of Columbia, agents of the District of Columbia government, hospital or extended care facilities in the District of Columbia, or any medical school in the District. The subsection describes the nature of the secondary records and the special committee groups having custody over and use of such records.

Paragraph (2) of subsection 2(a) defines the term "primary medical record," as being the record of continuing care kept by a physician, hospital, or extended care facility reflecting the diagnostic and therapeutic services rendered to the patient.

Paragraphs (3), (4), (5), and (6) of subsection (a) define the types of committees who may assemble and use the secondary medical records for the specific purposes of study and review assigned to those particular committees.

Subsection 2(b) places severe restrictions upon the use of a secondary medical record. No such record in whole or in part, nor any copy, is admissible in evidence or may be used for any purpose before any court or other agency of the District of Columbia government and shall not be subject to production by issuance of a subpena.

Subsection 2(c) provides that any person having possession of data, records, or information relating to medical services may properly transmit such information to the defined special committees.

Subsection 2(d) provides that the person supplying information to be included in a secondary medical record shall not be liable to any other person by reason of his providing the information.

Subsection 2(e) provides that a member of any of the defined committees acts on reasonable knowledge and belief and in good faith in transmitting or making a recommendation shall not be liable for damages or other relief to any person because of such recommendation or action by the committee of which he is a member.

Subsection 2(f) provides that no provision of the bill shall be construed to affect the admissibility of a primary record or of any record of the District of Columbia medical examiner before any court or agency of the District of Columbia.

Section 3 of the bill provides a chapter analysis.

This legislation has the approval of many witnesses who came before the committee. The committee highly recommends that it be passed.

Mr. HANNA. Mr. Speaker, will the gentleman yield for a question?

Mr. HAGAN. I am glad to yield to the gentleman from California.

Mr. HANNA. I am sure the gentleman, because he is very interested in the hospital situation in the District, has been reading some of the very disturbing stories relative to the care of children in Children's Hospital and the ability to assure that young infants will not be dying of diseases picked up right in the hospital. Will this bill give an ability for the hospitals to more appropriately respond to this problem?

Mr. HAGAN. So far as our committee is concerned it certainly will.

Mr. HANNA. I thank the gentleman.

I certainly then feel every Member of this House would want the situation we have been reading about recently to be improved. If this bill is in that direction I certainly commend the committee for bringing it out.

Mr. HAGAN. I thank the gentleman very much.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. HAGAN. I am glad to yield to the gentleman from Missouri. Let me say this, Doctor: I am sorry I did not have an opportunity to discuss this matter with you beforehand, but I will do everything I possibly can to have our eminent Doctor in the House understand what we are trying to do.

Mr. HALL. I appreciate the gentleman's statement. Of course, it is not necessary to clear legislation with all 435 Members prior to a committee bringing it to the floor, especially when that committee action is unanimous.

I do believe, Mr. Speaker, that the gentleman and the committee should lay out in very clear terms the difference between primary and secondary medical records in the District medical and related organizations.

The SPEAKER. The time of the gentleman from Georgia has expired.

Mr. HALL. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I continue in the same vein, and I shall yield to the gentleman or any member of the committee for answers.

Primary medical records in the hospitals, as annotated under progress notes on a patient's chart as made by a physician, or other laboratory determinations, for example, in a hospital, have always been considered primary and as such listed as privileged or confidential communications between doctor—or provider of service—and patient.

This bill, as I read it, and the report of the committee, would establish a system of secondary records, for example, so that certain laboratory reports, useful or useless as the case might be, could be used in the determination of sickle cell anemia, as an example, for which we have recently voted millions of dollars for a primary study.

There is certainly no objection to that if the line is kept clear between the doctor-patient relationship and the confidentiality of hospital records. Would the gentleman comment on this?

Mr. HAGAN. Very definitely so. That was very carefully considered and discussed. The courts are very clear on that particular matter.

In fact, the language of the bill as to primary medical records continues the status of such records in custom and in law as they have had in the past. As to any purpose for which such records might properly have been used in the past, or might be used as of the current time, the same usage will be permitted under the bill in the future.

I should like to say, Dr. HALL, that the confidentiality of these records as to treatment by physicians and consultants is continued fully as to disclosure of such interests.

Mr. HALL. I thank the gentleman.

Mr. Speaker, may I ask the distinguished gentleman from Georgia whether or not the committee amendment changes any of that?

Mr. HAGAN. The committee amendment simply defines the secondary records.

Mr. HALL. And there is no preemption by the so-called secondary records over the confidentiality of primary records in the hospitals of the District of Columbia or offices of physicians?

Mr. HAGAN. None at all. We were very careful.

Mr. HALL. I thank my colleague and have another question. The gentleman from Georgia has been outstanding in his war on alcoholism as a disease. Would this help to benefit the people of the District of Columbia in that regard?

Mr. HAGAN. It certainly would not delay our plans in that direction by any means. I would say yes, it would be of help.

Mr. HALL. Mr. Speaker, again I thank the gentleman.

Finally, I do understand that the District of Columbia Medical Society and District of Columbia's Commissioner of Health and Department of Health are strongly in favor of this bill. Is that correct?

Mr. HAGAN. Yes. That is so. They have so testified.

Mr. HALL. May I ask the distinguished gentleman if this in any wise is a movement to predate and have the District of Columbia Department of Health or other organizations, such as the Hospital Association of the District of Columbia, be prepared to meet national health insurance in the event that it should become the law of the land in any manner?

Mr. HAGAN. It would certainly not tend to that in any way, and I think it would be of help.

Mr. HALL. I say to the gentleman maybe I framed the question poorly, but there are those who believe anything done in anticipation of the type of eventual law that requires Federal intervention—might not be to the best interest of the hospital-doctor-patient relationship.

But, if I may continue for 1 minute, one example of what worries me about this is that as I read the bill it does establish a Peer Service Review Committee as well as continue medical-hospital committees such as tissue committees. Is that correct?

Mr. HAGAN. Yes. That is correct.

Mr. HALL. Is this peer service review organization that this puts into law in the District of Columbia, should it finally be enacted, the same as the peer service review organization——

The SPEAKER. The time of the gentleman has expired.

(By unanimous consent Mr. HALL was allowed to proceed for 2 additional minutes.)

Mr. HALL. Is this the same as the so-called Bennett amendment in the other body, the gentleman from Utah's amendment in the other body, which would establish a peer service review organization under H.R. 1, or anent national health insurance laws?

Mr. HAGAN. The whole purpose in that—in the creation of these committees—is to work with the medical profession in the District to improve services to the people. The testimony will show favorable response to that particular matter both before the subcommittee and the full committee.

Mr. HALL. If I may put the question in a different way, maybe it can be answered either "Yes" or "No."

Does this establish peer service review organization in the District of Columbia on the enactment of the bill?

Mr. HAGAN. In answer to the gentleman's question, I would say yes.

Mr. HALL. Is the sole purpose, then, simply in order to make the secondary medical records available to this peer service review organization?

Mr. HAGAN. That is right.

Mr. HALL. And it would not establish any alien or unusual or ignoble authority to the PSRO if this bill were enacted, in the opinion of the gentleman?

Mr. HAGAN. In my opinion, the gentleman is correct.

I might say further that this was clearly brought out in discussions in the subcommittee as well as in the full committee. I think it has been aired out on that particular point very carefully.

Mr. HALL. Mr. Speaker, I appreciate the gentleman's responses. I am sorry, as he said, it could not have been coordinated before. I see no harm to the bill in its present form, if passed under national aegis or the realization that this is the Federal city and that we must sit and pass the necessary laws enabling the Commission and their Department of Health to function.

Certainly, no good professional objects to peer review. Whether it is peer service review or not is perhaps questionable. The former has long been practiced as "grievance" or utilization review committees at least at local levels.

Mr. Speaker, I have served my purpose today if I have pointed out the fact that this is not simple legislation. It may be anticipatory legislation.

However, it has apparently been well coordinated and I shall vote for it.

Mr. HAGAN. I thank the gentleman very much and I want to thank the gentleman for his contribution, as he has made such great contributions on our Drug Abuse Subcommittee in the past.

The SPEAKER. The question is on the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. HAGAN. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on H.R. 9769.

The Speaker. Is there objection to the request of the gentleman from Georgia?

There was no objection.

CALL OF THE HOUSE

Mr. GROSS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 137]

Abourezk
Addabbo
Anderson, Tenn.
Arends
Ashbrook
Ashley
Aspin
Aspinall
Badillo
Baker
Barrett
Bell
Biester
Bingham
Blanton
Blatnik
Brademas
Brasco
Caffery
Celler
Chisholm
Clark
Clawson, Del
Cleveland
Collier
Collins, Ill.
Conyers
Cotter
Coughlin
Crane
Culver
Curlin
de la Garza
Dennis
Dent
Derwinski
Dickinson
Diggs
Donohue
Dowdy
Dulski
du Pont
Dwyer
Eckhardt
Edwards, La.
Erlenborn
Eshleman
Fish
Foley
Ford, William D.
Fountain
Galifianakis
Gallagher
Giaimo
Goldwater
Grasso
Gray
Gubser
Halpern
Harrington
Hastings
Hawkins
Hays
Hébert
Henderson
Hillis
Holifield
Jones, N.C.
Karth
Kazen
Kee
Keith
Kluczynski
Landgrebe
Link
Long, La.
McCloskey
McCormack
McDonald, Mich.
McEwen
McKevitt
McKinney
Macdonald, Mass.
Mathias, Calif.
Melcher
Mikva
Mitchell
Mollohan
Murphy, Ill.
Murphy, N.Y.
Nichols
Obey
Passman
Patman
Pelly

Pepper
Pettis
Peyser
Poage
Podell
Price, Ill.
Pryor, Ark.
Pucinski
Quie
Quillen
Rangel
Rarick
Robison, N.Y.
Rodino
Rooney, N.Y.
Rostenkowski
Roy
Ruth
Ryan
St Germain
Sarbanes
Satterfield
Scherle
Scheuer
Schmitz
Sisk
Slack
Smith, N.Y.
Springer
Stanton, James V.
Stubblefield
Stuckey
Teague, Calif.
Thompson, Ga.
Udall
Ullman
Ware
Whalen
Whitehurst
Wilson, Bob
Wilson, Charles H.
Wydler
Wyman
Yatron
Young, Tex.
Zion

The SPEAKER. On this rollcall 291 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

DISTRICT OF COLUMBIA BUS SUBSIDY

Mr. CABELL. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 14718) to provide public assistance to mass transit bus companies in the District of Columbia, and for other purposes, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. DINGELL. Mr. Speaker, reserving the right to object—and I shall not object—just simply to protect my procedural rights, let me say I have an amendment in the nature of a substitute which I intend to offer at the appropriate time and I want to be sure my rights on that particular point are protected, if the gentleman from Texas will cooperate with me in that regard.

Mr. CABELL. Yes, I will.

Mr. DINGELL. Then, with that understanding with my friend from Texas, Mr. Speaker, I have no objection and withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill as follows:

H.R. 14718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the Washington Metropolitan Area Transit Commission (hereinafter the Commission) shall determine that a just and reasonable fare for regular route transportation within the District of Columbia would exceed 40 cents, the Commission shall certify to the Commissioner of the District of Columbia with respect to each calendar month commencing with July 1972, and ending June 1973, all inclusive, an amount which is the difference between all fares (including reduced-rate school fares as supplemented under the Act entitled "An Act to provide for the regulation of fares for the transportation of schoolchildren in the District of Columbia", approved August 9, 1955 (D.C. Code, sec. 44–214a)) paid during such calendar month to any carrier for regular route transportation solely within the District of Columbia and the amount which would have been paid for regular route transportation solely within the District of Columbia during that month at the rate determined by the Commission to be just and reasonable. The certification of the Commission shall be made for each month as soon as practicable following the end thereof. The Commissioner of the District of Columbia, upon receiving the certification of the Commission, shall pay to the carrier the amount certified. Amounts paid by the Commissioner pursuant to this Act shall not be considered as income for Federal or District of Columbia income tax purposes.

SEC. 2. Any carrier receiving funds pursuant to this Act shall, in the expenditure of those funds, give priority to meeting obligations to employee retirement and health and welfare programs.

SEC. 3. The Commission shall not make any certification under this Act unless the carrier to which public assistance payments would be made pursuant to that certification has submitted for the approval of the Commission a comprehensive plan for the improvement of transportation services by that carrier within the District of Columbia and a program for the implementation of that plan. The Commission may decline to make certificates for any carrier if, at any time, it finds that substantial progress is not being made in the implementation of the plan of that carrier.

SEC. 4. There is authorized to be appropriated to the District of Columbia not to exceed $3,000,000 to carry out the provisions of section 1 of this Act.

With the following committee amendments:

1. Page 1, strike out line 9 and insert in lieu thereof "commencing with June 1, 1972, and ending May 31, 1973, all".

2. Page 2, immediately after line 14, insert "Such payments to all carriers shall not exceed $3,000,000 in the aggregate.".

3. Page 3, strike out lines 7 through 9, inclusive.

The committee amendments were agreed to.

Mr. CABELL. Mr. Speaker, I move to strike the requisite number of words.

The SPEAKER. The gentleman from Texas is recognized for 5 minutes.

Mr. CABELL. Mr. Speaker, the purpose of the bill, H.R. 14718, is to provide public assistance to mass transit bus companies for service to riders within the District of Columbia. Its terms are designed for the maintenance of local transportation service without the necessity of increasing the existing full rate bus fares. Substantial deficiencies in operating revenues below the increasing operating costs have caused the D.C. Transit company to file an application with the regulatory agency, Washington Metropolitan Area Transit Commission, to establish a schedule of increased fares which will provide the necessary income to permit the operation of the company to proceed as intended under the franchise to the D.C. Transit System, approved July 24, 1956 (70 Stat. 598). This franchise requires that the regulatory body establish rates which permit the franchise holder to meet all operating costs of the system plus a reasonable profit.

Mr. Speaker, this bill is a stopgap measure. It is designed to take care of an emergency that has arisen in the District of Columbia with reference to the public transit system.

Under the terms of a contract that has until 1976 to run the transit company, under a contract given by this Congress, is entitled to make a net income on gross operating revenues of approximately 6.5 percent. They have a right whereby, if they are not making that authorized return, to go before the Washington Metropolitan Area Transit Commission and ask for a rate increase which would give them a return for which their contract calls. The have made their presentation to the commission, and the commission are faced by their own determination with having to increase the fares from the present base rate of 40 cents to a base rate of 50 cents if the projections give the transit company their allowable return.

The hard part and the thing that is facing the people of the District of Columbia is the fact that a fare increase inevitably hurts those who are most in need, that is, the extremely lower income people. Furthermore, there is an inevitable reduction in the number of riders any time a transit system increases its fares.

For example, the ridership of the transit system—the local District of Columbia Transit System—since the last fare increases have dropped from 127 million riders per year to less than 100 million, and it means the ultimate demise of such a transit system. This has been true all over the country. A metropolitan area cannot do without riders and retain its position in the general market.

Mr. Speaker, the purpose of this bill is to authorize the Commissioner of the District of Columbia to give up to $3 million in payments for 1 year only—1 year only, to enable them to maintain their present operations, maintain the validity, the liquidity, of their operation. This will not produce a profit for them.

Based upon the WMATC figures, the present rate of return would present them with a deficit in excess of $4 million for the next 12 months.

The figures that were produced by the Washington Metropolitan Area Transit Commission indicate a loss considerably in excess of $3 million. So, the $3 million which we are authorizing the Commissioner of the District of Columbia to pay out will not give them a profit but will sustain them until a more permanent arrangement can be worked out. Something must be worked out. There is just no question about it.

STABILIZATION OF FARES

The problem faced by our committee in considering this legislation is that of breaking the cycle of increasing fares to meet deficiencies in operating revenues, having increased fares followed by a drop in ridership, finally presenting the same deficit issue as had been hopefully resolved previously. It becomes apparent that there is no end to this process unless there can be a stabilization of the ridership on the transportation system. Facts indicate clearly that this cannot be accomplished unless fares are maintained at a stable level. If the volume of ridership increases and other costs permit such action, a reduction in the subsidy or even in the fares would be possible.

This bill proposes to stabilize mass transit fares within the District of Columbia at the present levels for a period of at least 1 year, during which it is hoped that experience and studies may point to a long range solution which may be satisfactory to the community and meet the needs of the National Capital.

PROVISIONS OF THE BILL

The bill, with amendments as proposed by our committee, provides in section 1 that the Washington Metropolitan Area Transit Commission shall make a determination of what shall be a just and reasonable fare for regular route bus transportation in the District of Columbia. If this fare exceeds 40 cents, the Commission shall certify to the Commissioner for the District of Columbia, for payment from District funds, an amount which is the difference between the amount received from the total payments for bus transportation service during a calendar month and the amount which would have been received by the carrier under the rate determined by the Commission. When the Commission receives the certification from the Commission, he shall pay to the carrier the amount certified. Certifications by the Commission and payments by the Commissioner are related solely to regular route transportation in the District of Columbia.

The bill provides that the certification and the payments shall relate to the period which begins on June 1, 1972, and ends on May 31, 1973, inclusive. The total funding for the subsidy payments may not exceed $3 million in the aggregate amount. The sums received by a carrier from the Commissioner shall not be considered as income for Federal or District of Columbia tax purposes.

Section 2 of the bill provides that funds certified for payment, pursuant to the provisions of the bill, shall be applied by the carrier giving priority to the meeting of obligations to employee retirement, health and welfare programs.

Section 3 of the bill provides that the subsidy assistance provided in section 1 may not be paid to any carrier unless the carrier has submitted, for the approval of the Commission, a comprehensive plan for the improvement of transportation services by the particular carrier within the District of Columbia. The program of the carrier shall also include a plan for implementation. In the event the Commissioner finds that the carrier is not making progress in development and application of an improvement plan, he may decline to make certification for payment to that particular carrier.

PUBLIC HEARINGS

Public hearings on legislation (H.R. 2500, as introduced) were held and detailed testimony was received from the Washington Metropolitan Area Transit Commission, the District of Columbia government, representatives of business groups, community organizations, and private individuals. Alternate suggestions were presented in some instances, but review by our committee resulted in a determination that the 1 year program might expedite action on a long range solution without involving the District of Columbia government in substantial costs without any assurance of a significant change in the immediate problem.

The Washington Metropolitan Area Transit Commission representatives testified at length regarding the problems relating to mass transit in the District of Columbia and expressed the urgency of stabilizing the District of Columbia fares in order to preserve the present ridership as a base for building an improved and better correlated system that might attract back some of the ridership which has been lost because of rate increases.

Representatives of the District of Columbia government supported the general purposes of the legislation, urging that prompt action be taken by the Congress to prevent the development of a crisis as of the deadline date of May 25, on which day the Commission must announce its final action on the application of the D.C. Transit Company for a rate increase. The District of Columbia government explored alternate proposals which were reviewed by the committee.

Community groups concurred in the necessity of good mass transportation in the District of Columbia and the desirability of avoiding further rate increases for such service.

COST OF THE BILL

The cost of the legislation, under the terms of the bill, may be any amount up to, but not in excess of, $3 million which is to be provided from District of Columbia funds.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. CABELL. Yes, I yield to the gentleman from Ohio.

Mr. VANIK. I would like to ask the distinguished gentleman from Texas a question concerning the language on page 2, lines 17 through 19.

I would like to know why amounts paid by the Commissioner pursuant to this act shall not be considered as income for Federal or District of Columbia income tax purposes.

It seems to me that that is an amendment to the tax code and is beyond the jurisdiction of this committee. It invades the Ways and Means Committee jurisdiction. It provides that this subsidy is something more than $3 million. It is $3 million plus the dollar value of the tax free subsidy.

Mr. CABELL. It is my understanding, sir, that this is not to be considered as net income, but a part of the gross operating income. A subsidy will be paid only to the extent necessary to meet the reasonable operating revenue as set by the Commission. The higher the taxes the more of the $3 million maximum will have to be paid to the transit and would go into the revenue fund.

Mr. VANIK. The language provides that the subsidy is not income for Federal income tax purposes. That is an amendment to the tax code of the United States.

Mr. CABELL. That is not the understanding of this gentleman.

The SPEAKER. The time of the gentleman from Texas has expired.

(By unanimous consent Mr. CABELL was allowed to proceed for 5 additional minutes.)

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. CABELL. I yield to the gentleman from Michigan.

Mr. DINGELL. I think the gentleman from Ohio has raised a most valid point. The language from the bill reads as follows:

> **Amounts paid by the Commissioner pursuant to this Act shall not be considered as income for Federal or District of Columbia income tax purposes.**

It does not say that this deals with the ratemaking structure or anything. It says that we are giving Mr. Chalk—the corporation, but really Mr. Chalk, because he will get all of the money—a $3 million tax-exempt break and that he pays no tax to the Federal Government or the District of Columbia on this amount.

Mr. CABELL. I must take issue with the gentleman, upon advice of counsel, but that this would go into their gross operating revenue, but at the same time the gross operating cost would be productive and then if there were a profit, I would assume, and I think it is correct, that they would pay on the basis as any other taxpayer pays on their profits.

Mr. VANIK. Why is the language in the bill? Why not just strike it and eliminate this question?

Mr. CABELL. Ask the legislative counsel.

Mr. VANIK. Well, it is your bill.

Mr. MOSS. Mr. Speaker, will the gentleman yield?

Mr. CABELL. Yes, I yield to the gentleman from California.

Mr. MOSS. I find that I am troubled by the same language as is the gentleman from Ohio and the gentleman from Michigan. It says:

> **Amounts paid by the Commissioner pursuant to this Act shall not be considered as income for Federal or District of Columbia income tax purposes.**

I think that would exclude them from gross income. It would exclude them from any consideration as income. I think the impact here has not been assessed, and has not been reflected in the report of the committee.

Is it considered as income for any purpose?

Mr. CABELL. Mr. Speaker, I read from Public Law 757, and it states:

> Each gas, electric-lighting and telephone company shall pay, in addition to the taxes herein mentioned, the franchise tax imposed by the District of Columbia Income and Franchise Tax Act of 1947, and the tax imposed upon stock in trade of dealers in general merchandise under paragraph numbered 2 of section 6 of said Act approved July 1, 1902, as amended.

So in the existing code there is apparently provision for special treatment of taxes in determining whether the fares set are producing the necessary income.

Mr. MOSS. Mr. Speaker, if the gentleman would yield further, it seems to me this is a later enactment and this is an absolute exclusion of this payment. And the report says that the sums received by the carrier from the Commissioner shall not be considered for Federal or District of Columbia tax purposes. It is reiterated in the report.

Mr. VANIK. If the gentleman will also yield further, what is the purpose of this language? Why is it needed? It would seem to me it definitely excludes this income from taxation. From the standpoint of Federal taxes I think it is incredible that we should make this kind of an exemption.

Mr. CABELL. In response to the question of the gentleman from Ohio, this Member would state very frankly that he has depended on the advice of the counsel who have stated that this does not basically change the status quo with reference to their taxes. If I am in error, then I certainly stand to be corrected.

Mr. VANIK. As a member of the Committee on Ways and Means I cannot read anything else out of this language but an absolute exclusion of this $3 million from any kind of Federal taxation. That is what I understand it to mean.

Mr. CABELL. There was no question raised by the District government on this point.

Mr. McMILLAN. Mr. Speaker, if the gentleman will yield, this bill was drafted by the Washington Metropolitan Area Transit Commission, and this language was sent down here.

Mr. VANIK. If the gentleman will yield further, who drafted the bill?

Mr. McMILLAN. The Transit Commission.

Mr. CABELL. The WMATC, the regulatory agency, the Transit Commission.

Mr. VANIK. I would state to the gentleman that we have to assume the responsibility for our work here, it becomes our work, and I cannot see any justification for this language at all except that it serves to exclude $3 million of profit from taxation by the Federal Government. I do not think it was ever contemplated we should give Mr. Chalk such a tax advantage.

Mr. MOSS. Mr. Speaker, if the gentleman will yield further so that I might respond to the gentleman from Ohio, the gentleman from Ohio says it is removed from taxation.

Mr. VANIK. Federal taxation.

Mr. MOSS. It is excluded from being used to compute the basis for the taxation.

Mr. VANIK. That is right.

Mr. MOSS. So it is more than just an exclusion from taxation.

Mr. VANIK. It is removed from such consideration.

Mr. MOSS. It is removed for the purposes of considering and computing the tax.

Mr. VANIK. That is right.

The SPEAKER. The time of the gentleman from Texas has again expired.

Mr. GERALD R. FORD. Mr. Speaker, I move to strike the last word.

(By unanimous consent, Mr. GERALD R. FORD was allowed to speak out of order.)

DISTRICT INCOME INCREASES

Mr. GERALD R. FORD. Mr. Speaker, I woke up Tuesday, May 2, and was reading the morning Washington post for that day.

Section C1 on the front page had two stories that interested me. I have the newspaper here in my hand.

On the right hand side of the front page of this section, the headline says: "Bus Subsidy of $3 Million Backed Here."

On the left hand side of that same page, there is another story and the headline of that story reads: "District Income Increases; Per Capita Rise of 11 Percent Noted in Year."

The story has the byline of Paul W. Valentine and the first paragraph reads as follows:

> Per capital income in Washington jumped 11.1 percent in 1971 over 1970, almost twice the national increase, Commerce Department figures show.

There is another paragraph later in the story which reads as follows:

> Per capita income in the Nation as a whole rose 5.6 percent during the same period.

Mr. Speaker, it seems to me that a metropolitan area that has this kind of increase in the per capita income ought to be able to support a bus operation in the community and, therefore, I see no reason whatsoever for this Congress to provide on this occasion for an authorization of $3 million for the operation of this bus company in this 12-month period. Furthermore, the District of Columbia has the lowest unemployment of any major metropolitan area in the country. Couple this with a per capita income increase twice that of any other part of the country and it is hard to see why any subsidy should be paid.

In my judgment, the people here and not my constituents and not your constituents ought to pay for whatever they want in the way of public transportation subsidy for operation of a bus system in the District of Columbia.

Mr. McMILLAN. Mr. Speaker, I move to strike out the last word.

I rise in support of H.R. 14718. The Congress of the United States, as some of the older Members will remember, enacted a law approving a franchise for the D.C. Transit Co. I understand the city officials and the Public Utilities Commission for the District of Columbia have continued to keep two auditors with the D.C. Transit Co. for many years, checking on their receipts and expenditures. I fully realize that some Members of the Congress will oppose this proposed legislation simply because it is owned by Mr. Chalk.

I was here when the Congress approved this franchise, and as far as I know his service has been as good as the service in any other city that requires bus service. The unions that perform the work, such as drivers, maintenance men, and other employees have a contract with the company which automatically increases their salaries and gives them certain fringe benefits. I understand that this was necessary in order to prevent a strike in the D.C. Transit Co. I have not received one letter or telephone call from Mr. Chalk requesting that the Congress approve this proposed subsidy legislation; however, we all know the Public Utilities Commission will automatically increase the fares of the D.C. Transit Co. from 40 to 50 cents on May 26 if the pending legislation is not enacted into law before that date.

I personally would not favor this legislation if it were not the view of the committee that in order to prevent additional motor vehicles from coming into the city during rush hours. It would be better to encourage the workers to ride the bus rather than use their cars, which would further harass the existing traffic problem in the Nation's Capital.

In the contract that gave D.C. Transit the franchise, it stated Mr. Chalk was entitled to a profit up to 6½ percent on the dollar and, of course, he has not been making this amount of profit.

I hope this bill can be approved without amendments so we can have it enacted into law before May 26, which is the deadline.

Mr. Speaker, I certainly concur in the statement made by the minority leader that this is supposed to be the top income group in the Nation here living in the U.S. Capital.

However, if we are going to reduce the traffic here in the District of Columbia and keep people riding, the committee came to the conclusion that it would be better to subsidize the transit company and keep more people riding the buses than would otherwise.

I understand that the city of New York and several other cities subsidize their transit companies up to $100 million a year.

I personally can state that I have not received a letter from Mr. Chalk, the Capital Transit Co. or anyone connected with this company asking that this bill be passed. I think they just prefer to have the tokens increased from 40 to 50 cents each. So I do not think anyone can say the company is trying to promote this legislation at all.

Mr. HOGAN. Mr. Speaker, will the gentleman yield?

Mr. McMILLAN. I yield to the gentleman.

Mr. HOGAN. Mr. Speaker, with reference to the colloquy as to the tax provision, I am troubled by section 2 on page 2 of the bill which reads as follows:

> SEC. 2. Any carrier receiving funds pursuant to this Act shall, in the expenditure of those funds, give priority to meeting obligations to employee retirement and health and welfare programs.

Does the gentleman know that the amount due from Mr. Chalk to the health and welfare and retirement funds of employees amounts to $2,320,000? There is only $3 million involved in this bill?

It seems to me, if I am reading this bill correctly, the first thing that is going to be done with this $3 million is to pay off the note that Mr. Chalk owes to the retirement and health benefits fund. Is my understanding correct?

Mr. McMILLAN. That is not my understanding. I understood that it was supposed to go to the Transit Commission which would supervise the expenditure of these funds where they thought it was necessary.

Mr. HOGAN. If the gentleman will yield further, it seems to me that section 2 mandates the payment to be paid to the retirement fund and the health and welfare programs before the money can be spent for any other purpose. Since that amounts to $2,320,000, if my arithmetic is right, there is only $680,000 left over for the fare subsidy.

Mr. McMILLAN. That is not my understanding. I did not conduct the hearings, but I will ask the gentleman from Texas (Mr. CABELL) to respond to the gentleman's question.

Mr. CABELL. Would the gentleman from Maryland repeat his question?

Mr. HOGAN. My question is this: It seems to me that section 2 mandates or gives priority to meeting obligations the company has to employee retirement and health and welfare programs. It is my understanding that Mr. Chalk now has a note payable to the retirement and health benefits program amounting to $2,320,000, interest only, at 7½ percent. Since the bill calls for an expenditure of $3 million, and it also calls for priority payment of the obligations to the retirement fund, what is going to be left for the fare subsidies?

Mr. CABELL. This is an obligation which will be relieved and it will no longer be necessary to pay, because of the contract with the employees. This provision is recommended by the Washington Metropolitan Area Transit Commission, so this will relieve them of that obligation, which is a part of their forecasted deficit.

Mr. HOGAN. In other words, what we are doing here, if we approve this Federal funding of $3 million, is seeing only $680,000 of that going into subsidized fares.

Mr. CABELL. That is right, but the funding would relieve the obligation and the necessity of raising fares to take care of the obligation to the employees.

Mr. HOGAN. If the gentleman will yield further, what it does is to bail Mr. Chalk out of the bad deal that he has made and pays off his debt, because of his use of retirement money, which he probably had no right to use in the first place.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. McMILLAN. I yield to the gentleman from Michigan.

Mr. DINGELL. I should like to point out also that Mr. Chalk will have payments made to the retirement fund on his own behalf out of this tax-exempt grant we are giving of $4,000 a year; is that not correct?

Mr. CABELL. It still relieves his obligation by that amount.

The SPEAKER. The time of the gentleman from South Carolina has expired.

Mr. CABELL. Mr. Speaker, I move to strike the requisite number of words.

(By unanimous consent, Mr. CABELL was allowed to proceed for 5 additional minutes.)

Mr. CABELL. Mr. Speaker, I use this time to move that on page 2, beginning on line 17, to strike out the language—

> Amounts paid by the Commissioner pursuant to this Act shall not be considered as income for Federal or District of Columbia income tax purposes.

The SPEAKER. Is the gentleman offering an amendment to the bill?

Mr. CABELL. I should like to offer that as an amendment to the bill.

Mr. YATES. Mr. Speaker, a point of order. The amendment is not in writing.

AMENDMENT OFFERED BY MR. CABELL

Mr. CABELL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. CABELL: Page 2, line 17, after "aggregate,", strike out all remaining language on line 17 and strike out line 18 and line 19.

Mr. CABELL. Mr. Speaker, I shall not use the 5 minutes because I think the point has been well covered. This gentleman would like to make it quite clear that it would be the last thing he would desire to give Mr. Chalk or anybody else a $3 million windfall on his taxes. For that reason I personally accept the amendment prepared by the gentleman from Ohio (Mr. VANIK) and offer it in my own name instead of the name of the gentleman from Ohio.

Mr. NELSEN. Mr. Speaker, will the gentleman yield?

Mr. CABELL. I am glad to yield the gentleman from Minnesota.

Mr. NELSEN. I think the judgment of the gentleman is very good. I indicated to my colleague (Mr. CABELL) that I agree that those lines should be stricken, because obviously if those lines are misunderstood by Members of the House as attempting to give a windfall, that was never the intention of the committee, including the subcommittee chairman himself, and I am a little surprised at how the language has been interpreted by some. Accordingly, I am glad the gentleman offered the amendment.

Mr. CABELL. The gentleman is eminently correct.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. CABELL. I yield to the gentleman from Washington.

Mr. ADAMS. I should like to inquire of the gentleman, since really I do not think the tax point is going to be of much consequence, if he is going to pay it into the pension fund, because it will be deductible anyway.

I would like to know if this committee, since 4 years ago when we considered this, has ever had a GAO audit, and if it is not still true that the Washington Metropolitan Transit Authority, which is recommending this, has never been allowed to investigate the Chalk finances, the so-called below-the-line utility expenses, where he has squirreled away this money through the past few years? Has there been a General Accounting Office audit, and has the Washington Metropolitan Transit Authority ever been given authority to investigate the full range of the finances of Mr. Chalk?

Mr. CABELL. This gentleman is not knowledgeable that the General Accounting Office audit has been made. However, he has been informed that the Commission has a thorough audit of the below-the-line expenses and the above-the-line expenses and has found nothing out of the way.

Mr. ADAMS. I might say to the gentleman that the terms of the contract under which Mr. Chalk is paid are not based on his capital expenditures but on an income account, which has been a very bad contract for the passengers and taxpayers and for the U.S. Government.

Second, we have nothing in this report that indicates any of the corporations which were spun off by Chalk during the period 1964 to 1967, which included, among other things, the carbarn and the real estate properties in the District, have ever been accounted for, and this money, as I understand it, will simply go into the general operating revenues, and we have no accounting in the report which indicates these moneys he has previously put aside will not be copied by the $3 million.

Mr. CABELL. Those are nonoperating properties and under the terms of the contract, he could do that. May this gentleman say, if ever I have seen a sweetheart contract, Mr. Chalk has got one, but it is a contract made in good faith, and it was tendered by this Congress, and as of 1976 it will run.

We are up against the hard spot in the road. That is why I said in my opening remarks that this is a one-shot thing, and something more permanent and more equitable has got to be worked out. There is not time at the moment, because under the very terms of this contract, so nicely given to him by the Congress, Mr. Chalk can demand and can go right ahead, without any further todo by the Congress, and raise his fares.

Mr. ADAMS. We indicated to the gentleman at least as far back as 1966—those Members on the District Committee in 1966 and 1967 indicated—Chalk was in violation of his contract, because he had not carried out the terms of his franchise, that is, to take up some tracks and provide a minimum of service. Once that contract is canceled, he has no contract, and this Congress and the administration has had it within their power to cancel that contract years ago, and we should have done it. I do not think we should subsidize him.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. CABELL. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, at the appropriate time I propose to offer an amendment to cancel Mr. Chalk's contract and have this corporation run by a public authority, as it should be done. If Mr. Chalk cannot make money on the basis of a sweetheart contract, then we ought to cancel that contract and not subsidize him.

Mr. BROYHILL of Virginia. Mr. Speaker, as one of the cosponsors of the bill H.R. 14718, I wish to urge the support of my colleagues for this measure which will assure the continuance of bus transportation service in the District of Columbia, at the present fare level, for the 12-month period beginning June 1 of this year.

This bill, as amended and reported by our committee, provides that whenever the Washington Metropolitan Area Transit Commission determines that a just and reasonable fare for regular route transportation in the District of Columbia would exceed the present fare level of 40 cents, the Commission shall certify to the District of Columbia Commissioner each month, from June 1972 through May 1973, during which such higher reasonable rate should apply, an amount which is the difference between the fares collected during that month and the amount which would have been collected at the higher just and reasonable rate. The Commisisoner of the District of Columbia shall then pay to each such bus company the amount so certified; and these subsidy payments shall not be considered as income for Federal or District of Columbia income tax purposes. However, the payments to all such companies, in the aggregate, may not exceed $5 million.

Throughout the entire United States, urban mass transportation systems have reached the point where they can no longer support their regular route bus operations through revenues from the fare box. Operating costs have continued to rise steeply in recent years, and as fares have been increased in an attempt to meet these additional costs, the number of riders has decreased as a result. This pattern of diminishing ridership has adversely affected every aspect of bus transit operation—the revenues from the fare box, the ability to maintain existing routes and schedules, and the overall quality and convenience of the bus transit operation to the riding public. Thus it has been proved conclusively that fare increases cannot produce sufficient revenues to offset the rising costs of operation, with the retention of adequate routes and schedules.

This grim situation exists to a very real degree today with respect to the four privately owned bus companies which serve the Washington metropolitan area. Two of these companies, the W.V. & M. Coach Co. and the A.B. & W. Transit Co., serve the suburban communities of northern Virginia, and do not conduct any point-to-point services within the District of Columbia. I shall address myself briefly to the matter of these two companies in a moment; but as far as the provisions of H.R. 14718 are concerned, these apply only to the two companies which provide intra-state service within the District of Columbia, namely the D.C. Transit Co. and, to a much smaller degree, the W.M.A. Transit Co.

The experience of the D.C. Transit Co. in recent years has been typical of the problems besetting the urban transportation business on a nationwide basis. In 1967, D.C. Transit's ridership had attained a level of some 127 million passengers. Since that time, a series of fare increases has resulted in a present fare level of 40 cents, and ridership is presently at about 100 million. Today, the company has an application pending before WMTAC for another fare increase to 50 cents, without which they state that they will not be able to continue the full present service. It is estimated, however, that if this fare increase is granted, the company's ridership will drop to 93 million as a result. Thus, the unhappy picture is that fewer and fewer passengers are being asked to pay higher and higher fares—and furthermore, this combination of higher fares and fewer riders does not produce financial stability for the bus company either. For example, when D.C. Transit Co.'s basic fare was increased from 32 cents to 40 cents in 1970, the company thereafter has been unable to secure the necessary credit for the purchase of new buses which the regulatory body had ordered them to procure.

The Washington Metropolitan Area Transit Commission must reach a decision on this application for fare increase to 50 cents not later than May 25. Obviously, therefore, if this increase is to be avoided, immediate action is needed.

After several sessions of public hearings and a great deal of consideration, the members of our committee have concluded that the only feasible immediate alternative is the temporary subsidy provided in the bill H.R. 14718.

I wish to state at this point that I am unalterably opposed to any further increase in District of Columbia bus fares, simply because the people who will be most affected by any such increase will be those who can least afford it—the thousands of people in the city who cannot afford cars or any other private means of transportation, yet who must travel in the city to and from their jobs. And I want to stress the fact that our concept of the thrust of this proposed legislation is to provide a subsidy, not for the transit companies but for the riders.

I am advised by the chairman of the WMATC that under subsidy, the payment to the D.C. Transit Co. for fiscal year 1973, which is approximately the period covered by H.R. 14718, would amount to some $3 to $4 million. This estimate is based on cost estimates provided by the company and by the WMATC staff in the current rate hearings; and since that case has not yet been decided, of course no precise level of allowable costs is yet certain.

In regard to this estimated figure, however, it must be considered that D.C. Transit serves parts of Maryland as well as the District of Columbia. Therefore, since this service in Montgomery County and Prince Georges County accounts for some 26 percent of D.C. Transit's operation, then the District of Columbia is obligated to subsidize only some 74 percent, which would bring the figure to about $3 million, which is the limit set for all subsidy payments by this proposed legislation.

In addition to the D.C. Transit Co.'s service in the District of Columbia, the W.M.A. Transit Co., operating between Prince Georges County and the District, does provide some point-to-point service in the Southeast section of the city. This company carries approximately 16,000 riders per day, and of this number, about 4,000 are intra-District of Columbia riders. Their fare for this service is presently 45 cents, which under the terms of H.R. 14718 would be lowered to 40 cents, and the subsidy accruing to this company is estimated at some $150,000 for the one-year period covered by the bill.

In reference to the 26 percent of D.C. Transit's operation which is provided to Maryland riders, spokesmen for the WMATC have expressed the hope that, if H.R. 14718 is enacted into law, the two Maryland counties where this service is provided will take steps to provide a similar subsidy for that operation, so that the Commission will not have to increase D.C. Transit fares in those counties.

I wish to make it quite clear that in urging support for this bill, which will assure the continuance of bus transit service in the District of Columbia at the present fare level for the next year, I am by no means unmindful of the need for relief on the part of the bus companies and the riders in the suburban jurisdictions of the metropolitan area, and particularly those in the nearby Virginia communities which I have the honor to represent in the Congress.

As a matter of fact, I am the principal sponsor of a bill, H.R. 13019, which would extend the subsidy which is the subject of H.R. 14718 to bus transit operations in the entire Washington metropolitan area. However, I recognize certain difficulties inherent to combining such legislation into a single bill. For example, the $3 million subsidy provided in H.R. 14718 for District of Columbia bus operations will be paid from District of Columbia funds, which is perfectly proper. Obviously, however and subsidies paid for operations in nearby Virginia or Maryland would have to be funded from a different source. But my principal reason for supporting this purely District of Columbia bus subsidy in legislation at this time is the fact that I am assured that the immediate problems incident to the financing of bus company operations in the suburban areas are in the process of being solved in other ways, as the local governments in Virginia and Maryland are taking steps, with State and Federal assistance, to keep these services alive.

The most significant of these developments is the recent action on the part of the Northern Virginia Transportation Commission, in voting unanimously to acquire the Washington, Virginia, and Maryland Coach Co., by condemnation if necessary, and to operate this line as the Washington area's first publicly owned transit system.

This company, a wholly owned subsidiary of the D.C. Transit System, operates mainly between downtown Washington and Arlington, Falls Church, and northwestern Fairfax County, carrying about 20,000 daily round-trip passengers.

Legislation enacted by the Virginia General Assembly this year permits the condemnation of this company's properties, and the general assembly also provided money that can be used as the local share of the purchase price. Under existing Federal law, the balance can be provided from the Department of Transportation's urban mass transportation administration.

I regard this action by the NVTC, which resulted from the W.V. & M. Co.'s serving notice that it plans to file an application for higher fares and some curtailment of service in the near future, as a highly salutary step toward the protection of the bus riding public in the area.

The other major bus company operating in northern Virginia, the A.B. & W. Transit Co., is presently benefiting from its highly successful Shirley Highway demonstration project, a high-speed commuter service sponsored by NVTC and funded by some $4.4 million of Federal funds, a portion of which has been spent to offset operational costs. Over a recent 4-month period, this Shirley Highway service attracted more than 2,200 new customers, and in the same period a reduction of 33 percent in car commuter traffic was noted on Shirley Highway during early morning rush hours. This very helpful federally funded demonstration project is scheduled to continue through much of 1974.

Finally, Mr. Speaker, I wish to emphasize the fact that while I regard the enactment of this proposed legislation to be a matter of urgent necessity as a temporary expedient, in view of the short time remaining before the WMATC must rule on D.C. Transit's application for a further increase in D.C. fares, this is by no means the permanent solution to the problem. In my opinion, and that of many of my colleagues, the only reasonable and satisfactory permanent solution will be public ownership of all the bus transit companies in the entire Washington metropolitan area, and their operation under a single administrative authority—and that authority, in my judgment, is logically the Washington Metropolitan Area Transit Authority, or Metro, the organization which is presently constructing the rapid rail transit system in the area.

The successful operation of this Metro system will necessarily depend in large measure upon the feeder operations of the local bus lines. Obviously, this can best be coordinated under a system of unified ownership and operation. This does not mean, however, that some subsidy might not continue to be necessary for this overall operation, as this indeed may prove to be the case. Regardless of this possibility, however, such a system will certainly provide a far better coordinated and more efficient service.

I have reached this conclusion with some reluctance, as I am a firm believer in the system of private enterprise wherever it is feasible. As far as urban mass transit is concerned, however, I am convinced that the economic facts involved have made private ownership and operation of such systems no longer practical. As a matter of fact, the private ownership of the four major bus companies in the Washington metropolitan area has become an anachronism, as I believe they represent the last remaining privately owned such companies in urban areas of the United States.

Further in this connection, definite steps have already been taken toward the accomplishment of this goal, as the legislatures of both Virginia and Maryland have enacted legislation ratifying amendment of the Interstate Compact under which the WMATA is organized. It remains necessary only for the Congress to enact legislation to this same effect; and a bill to accomplish this purpose is presently pending before our committee, in the form of H.R. 5628, of which I am the principal sponsor. I am confident that this measure will be enacted into law in due course, and probably by the end of the 1-year period of D.C. subsidy provided in the bill H.R. 14718.

Today, however, our immediate need is to meet the present emergency which will come to a climax on May 25, with respect to the District of Columbia fare structure. For this reason, while the public takeover of the bus companies is to my mind the ultimate answer, the subsidy provided for D.C. bus operations provided in H.R. 14718 on a temporary basis is acutely needed at this time, as a stopgap measure to avert a disastrous further increase in bus fares in the District.

Mr. Speaker, I urge immediate and favorable action on this proposed legislation.

Mr. Speaker, I wish now to summarize the highlights of my remarks.

As has been previously pointed out, this legislation provides for a $3 million subsidy from District of Columbia funds, for a period not to exceed 1 year, for operation of intra-District of Columbia public transportation. It authorizes the expenditure of District of Columbia funds, even though indirectly we are going to have to provide those funds. But the District of Columbia as a local government would have to be authorized by the Congress to provide a subsidy for its local transportation, because we are the legislative authority for the District of Columbia.

This bill would provide such a subsidy only if the Washington Metropolitan Area Transit Commission determines that it is reasonable and necessary to increase the fares in excess of the existing 40-cent fare. The Commission's decision on this fare increase application must be made by May 25, under the law.

Experience with the busfare increases indicates beyond any doubt that if this District of Columbia fare increase is approved, it is inevitable that there will follow a substantial decrease in ridership in the District system.

Obviously, this will cause more traffic on the crowded streets of the Nation's Capital.

Mr. Speaker, I most certainly realize that this is not popular legislation. I would much rather be standing here in the well talking about some other bill. There is no question about the fact that any legislation which provides a subsidy and a possible profit for a private business is objectionable to Members of this House.

Furthermore, I realize that there is a lot of concern, as has been expressed by the gentleman from Washington, about the financial operations of the D.C. Transit Co. But that is not the issue here at this moment. The personalities involved is not the issue. We are not seeking a subsidy for any bus company—we are seeking a subsidy for the riders of the buslines here in the Nation's Capital.

The question is: How will we provide for continued public transportation beyond May 25? Shall we provide it by an increase in fares that will result in a reduction of ridership and a reduction of services, or by a subsidy provided by the District of Columbia government? In either event the operators of the company are going to get by law an increase in income to meet their increase in expenditures.

This legislation, as has been pointed out by the gentleman from Texas, is stopgap legislation. It is temporary legislation, as it will expire in 1 year's time.

We are confronted with a crisis, an emergency. If we stick our heads in the sand, the problem will not go away. Something is going to have to be done one way or the other by May 25 of this year.

I feel, Mr. Speaker, that there are better long-range solutions to this problem. We have pending in the committee, and have discussed in committee, an amendment to the existing compact which created the Metropolitan Area Transit Authority which is now constructing the area subway system. We have pending an amendment to the compact that would authorize that authority to acquire, by condemnation, negotiation, or purchase the four existing public transportation companies which are operating here now in the metropolitan area of Washington. That amendment to the compact has already been ratified by the Commonwealth of Virginia and the State of Maryland. In fact, this same amendment to the compact has already been approved by the other body. But we have not yet had time to go into hearings on that, though possibly we should have by now.

The SPEAKER. The time of the gentleman from Virginia has expired.

Mr. BROYHILL of Virginia. Mr. Speaker, I ask unanimous consent to proceed for an additional 5 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

Mr. DINGELL. Mr. Speaker, reserving the right to object, I should like to ask the gentleman a question.

Mr. BROYHILL of Virginia. I shall be glad to yield at the proper time.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BROYHILL of Virginia. Mr. Speaker, the Northern Virginia Transportation Commission has already taken interim steps to acquire one of these four transportation companies with Federal aid, Federal subsidy authorized under other legislation, and a grant from the State of Virginia. They also intend in future years to acquire another one of the four transportation companies of the area.

We hope that in due time we will approve the amendment to the compact that will permit the consolidation of these four separately operated transit companies with the subway system, into a single administrative operation that will result in a properly coordinated areawide transportation system under public ownership.

Mr. McMILLAN. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL of Virginia. I am glad to yield to the gentleman from South Carolina.

Mr. McMILLAN. Is it not true that the taxpayers of the country pay approximately $500 million for grants to the District of Columbia, or this was true last year, and it seems that no one seemed to object?

Mr. BROYHILL of Virginia. It is my understanding that that is correct.

Mr. Speaker, this problem of public transportation is not peculiar to the District of Columbia.

Every metropolitan area in this Nation has the same problem, which is possibly the most acute of all urban area problems—that is, the problem of soaring operational costs and salaries and the simple fact that the riding public will not pay for those extra expenses. The result is that many riders adopt other means of transportation, and the law of diminishing returns sets in. But the real trouble is that the lower income people simply have no private means of transportation available to them, so the higher fares must be paid by those who can least afford them. And as I have said, we have more and more traffic congestion on our streets and highways.

In fact, I believe that today this bus system in the Washington metropolitan area is the only large urban public transit system which is still privately owned and operated. Such systems have all gone to public ownership throughout the country. As I said before, I feel that public ownership is inevitable here, but we have emergency legislation facing us here to day. It is impossible to pass the necessary legislation and accomplish this public acquisition of the D.C. buslines before the deadline of May 25.

Mr. DINGELL. There has never been a decent audit of Mr. Chalk's operation. I have before me here a copy of an analysis made by the Washington Metropolitan Area Transit Commission, and they say that they cannot properly audit it. Does not the gentleman think that we ought to at least have a good GAO audit of this monster before we go giving them $2 million or $3 million a year?

Mr. BROYHILL of Virginia. Regardless of the desirability of such an audit, there is really no alternative by which to avoid this $3 million temporary subsidy at this time, even if we were to revoke the franchise or pass an amendment to the compact, which I hope will ultimately be done.

Mr. DINGELL. My question to my friend from Virginia was, if we are going to give them $2 million or $3 million, should we not see that they are audited by the GAO? The Washington Metropolitan Area Transit Commission says that they cannot intelligently audit his books the way they are set up at this time.

Mr. BROYHILL of Virginia. The D.C. Transit Co. has not paid a stock dividend in the past 5 or 6 years—and I am not saying this in defense of the company. I am not here speaking in defense of anyone, as a matter of fact.

Mr. DINGELL. Oh, yes, there has. Better than 100 percent has been paid. He gets better than 100 percent on his original investment every year. That is a documented fact. He has prospered mightily from this.

Mr. BROYHILL of Virginia. Of course, the Congress granted this franchise back in 1956. There was a company that was operating profitably here with $13 million in the bank at that time, and they were thrown out. So if there is any fault to be found, it is the fault of the Congress.

Mr. DINGELL. I feel Mr. Chalk gets more than 100 percent on his original investment. It happens every year.

Mr. CABELL. Will the gentleman yield?

Mr. BROYHILL of Virginia. I yield to the gentleman.

Mr. CABELL. The statement has been made to us by the WMATC that no dividends have been paid to stockholders since 1966.

Mr. BROYHILL of Virginia. Mr. Speaker, perhaps we should have acted earlier on this problem. We certainly should have done something about the proposed amendment to the compact. I feel that that is ultimately the best answer if not the only real solution to this particular problem. But we have other legislation pending, with a very heavy schedule in the District of Columbia Committee. We have a bill pending which will change the method of financing the construction of the metropolitan area transit system. However, I have heard the chairman of the subcommittee state that we will get into hearings ultimately on such an alternate program. But we must act now on this particular problem.

The SPEAKER. The time of the gentleman has expired.

(By unanimous consent, at the request of Mr. ADAMS, Mr. BROYHILL of Virginia was allowed to proceed for 2 additional minutes.)

Mr. ADAMS. Will the gentleman yield?

Mr. BROYHILL of Virginia. I will be glad to yield.

Mr. ADAMS. I wonder whether or not this committee prior to going through the compact that the gentleman mentions is going to cancel this franchise, or do you intend to buy this man out and pay the value of a going concern based on a franchise which he has violated?

Mr. BROYHILL of Virginia. The proposed amendment to the compact authorizes the acquisition by purchase or condemnation.

Mr. ADAMS. If you condemn and let the franchise remain in existence, then you pay, in effect, the going market value for a concern that is in violation of its present franchise and contract.

Mr. BROYHILL of Virginia. May I say to the gentleman from Washington that the franchise which was granted to the existing Washington operation was not granted in legislation that was referred to the Committee on the District of Columbia, but to the House Committee on Interstate and Foreign Commerce, of which the gentleman is a member.

Mr. ADAMS. Mr. Speaker, if the gentleman will yield further, the particular franchise in this case comes before the District of Columbia Committee, because it is an intrastate operation.

Mr. Speaker, the second thing that is involved here is the question as to whether or not we are going to pay the $3 million if we are going to condemn this system that is proposed to be given them today.

One final thing is this.

Is the Trans-Caribbean Airline which is involved with the financial operations of this company still in business—the airlines which own this company—or have you severed this link finally?

Mr. BROYHILL of Virginia. I do not know specifically about that.

Mr. ADAMS. That is what bothers me. I am afraid that there are too many things that too many people do not know about this operation.

Many of us in the past have lived with Mr. Chalk's operation, but we need a much better picture of what you are asking us to do.

Mr. BROYHILL of Virginia. May I say in response to the gentleman from Washington that we have to rely upon the evidence provided us by the Washington Metropolitan Area Transit Commission, and upon their expertise.

Mr. ADAMS. Mr. Speaker, if the gentleman will yield further, you do not have to do that.

The gentleman from Arizona (Mr. STEIGER) asked for a GAO audit on this company when he came in and asked for an audit of the subsidy on the children's bus fare. So, you can get a GAO audit based on this bill or based upon the assistance which is provided to this company.

Mr. BROYHILL of Virginia. The gentleman can offer that as an amendment to this legislation.

The SPEAKER. The time of the gentleman from Virginia has again expired.

Mr. ABERNETHY. Mr. Speaker, I move to strike the last word.

The SPEAKER. The gentleman from Mississippi is recognized for 5 minutes.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. DINGELL. Mr. Speaker, my parliamentary inquiry has to do with what is the status of the legislation before us—the pending amendment? I understand we have an amendment offered by the gentleman from Texas. However, we have gone off into other matters.

The SPEAKER. The Chair will state in response to the gentleman's parliamentary inquiry that there is an amendment pending which has been offered by the gentleman from Texas.

PARLIAMENTARY INQUIRY

Mr. CABELL. Mr. Speaker, would a motion be in order to move the previous question on the amendment at this time in order to dispose of it?

The SPEAKER. The Chair will state to the gentleman that the gentleman from Mississippi has been recognized.

Mr. CABELL. Mr. Speaker, would a motion to vote on the pending amendment be in order, since the discussion is not on the amendment?

The SPEAKER. The Chair has control of the House and the Chair has recognized the gentleman from Mississippi (Mr. ABERNETHY).

Mr. CABELL. Then, this Member will defer until that time.

The SPEAKER. The Chair will protect the Members in these matters.

Mr. ABERNETHY. Mr. Speaker and Members of the House, I have not come down to the well either for the purpose of approving or disapproving this bill. However, if I can have your attention for a few minutes, I think I can shed a little light on what has happened here in the last quarter of a century with reference to transit problems that have beset this city.

I was here in 1947, I believe it was, that year, and no doubt some of you were here when the transit system of the District of Columbia was operated by a man named Wolfson. Mr. Wolfson occasionally showed a little profit in his operations. However, some of the people around Washington, on the Hill and downtown, and particularly the Washington Post objected to that. The most vociferous objections and complaints came from the Post.

Mr. Wolfson was making a little money. What is wrong with that? Do we not live in a country where the profit system is recognized, one of the few of such countries left in the world?

How long would the average business in your community last if it were not for the profit system.

But, some people here did not like the idea of their transit company making a little money.

What happened? There was so much complaint raised about Wolfson's profit that they ran the man out of this town or practically ran him out. They forced him into a sale of his system.

The strange thing about it was that they almost never found anyone to take it. Finally Mr. Chalk appeared on the scene. And I can tell you now he was warmly welcomed because they were afraid that they would all soon be walking instead of riding.

Now, a mistake was made, but it was not Mr. Wolfson's, and it was not Mr. Chalk's. Chalk may be one to kick around politically especially in an election year, or at any other time if you must have somebody in your political life to kick in order to impress the public. But Washington welcomed Mr. Chalk with open arms. So did the House of Representatives and the U.S. Senate.

Go back and look at the debate, and see what kind of a contract this Congress approved for Mr. Chalk. Do not kick Mr. Chalk about it, do not kick anybody about it but the Congress. It was approved right here in this Chamber. It was sitting here at the time. As I recall it was late at night that we finally got an agreement, passed this bill, and saved the people of this city a system on which they could commute to their work and transact their businesses.

Mr. Chalk is not asking for this legislation. Mr. Chalk has not been to see one of you. I dare say that none of his employees have been to see you. Chalk does not say, "Give me this legislation, or I am going to fold."

How did it get here? Well, because the cost of operation went up, the operators decided they wanted more pay, the equipment costs a little more money. And every time a situation like that develops you have to take in a little more to make ends meet. That is true in your own business if you have such. That is true in most any ordinary grocery store; if the cost of the merchandise goes up, if your clerks insist on more pay, then you charge a little more for the merchandise to make ends meet. That is what has happened to the transit system in the District; and this happens, I believe, about every 3 years or 4 years. When Chalk has a threatened strike and all of the wages go up, then he has to go to the Utility Commission and seek an increase in fares.

So that is where we stand now.

The SPEAKER. The time of the gentleman from Mississippi has expired.

Mr. ABERNETHY. Mr. Speaker, I ask unanimous consent that I may proceed for 5 additional minutes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. ADAMS. Mr. Speaker, reserving the right to object, I would just state that I will not object if the gentleman from Mississippi will yield to me for a question.

Mr. ABERNETHY. I yield to the gentleman.

Mr. ADAMS. I thank the gentleman for yielding.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. ADAMS. Mr. Speaker, I was very interested in the gentleman's comments on Mr. Wolfson who, I think, if the gentleman will remember, came out of Jacksonville, and came up here. The Washington Transit Authority had put aside a great deal of money during the war years because they could not buy any new equipment, and they had a cash fund of several million dollars; my remembrance is that it was $13 million in cash to be used for such purpose. Mr. Wolfson came in, and in the period of time of 4 years paid out through dividends and used the cash flow literally to finance the Wolfson empire.

We all know what happened to Wolfson's empire, and he later spent some time in the penitentiary for some of his activities.

So when this matter came up it was not a matter of somebody having made a little profit; there was the question that the cash had been drained from this company in order to finance a corporate empire for this man, and the cash flow was used on this basis, but there was still a little left when Chalk came in. Mr. Chalk, as you and I both remember——

Mr. ABERNETHY. The gentleman's question seems a bit long.

Mr. ADAMS. All right, but for the first 5 years of his activities Mr. Chalk paid out a cash dividend every year to himself, and that amount that was paid out in 5 years was more than the entire capital that Mr. Chalk invested in this business.

Mr. ABERNETHY. I do not know whether that is true or not. That was not Chalk's fault. If he paid a dividend; what was wrong with that?

The SPEAKER. There being no objection, the gentleman from Mississippi is recognized for 5 additional minutes.

Mr. ABERNETHY. What was wrong with that? Maybe it was too much—I do not know—but there was nothing illegal about it.

I say again—you were not here, but I was. They ran Wolfson out of this town. He ran a very good system. Whether he took money and established a big empire, I say that I do not think the transit income was sufficient to establish that type of empire—in fact, it would be only a drop in the bucket when compared to the vast Wolfson operations.

But, be that as it may, Chalk has not asked for this legislation. He was not here defending it or asking for it.

The Transit Commission was petitioned by Chalk for an increase in fare. What would you do if your expenses went up? Suppose your expenses went beyond your capacity to pay and you were running the transit service? Who would you go to and what would you do? You would file a petition with the transit authority and give the figures on your expenses and ask for a fare increase.

The utility authority is required to satisfy itself as to whether or not he is entitled to an increase. The transit system, has, I understand already determined that if this is not passed, they are going to give him a raise probably to 45 cents with 5 cents for each transfer. That decision, according to my information, has already been made.

I do not particularly care what you do with this bill. I do not think Chalk cares except that he wants to keep the system operating. Chalk did not ask me to defend his petition in the well of this House. I am doing so only because I think in the debate he has been unfairly attacked.

This is not right—it is not fair to suggest that Chalk is here seeking to euchre this Congress out of any money, subsidy or otherwise.

I do not like subsidies. I do not like this. I may not vote for it. My only purpose in the well of the House at this time is to give you a history of this situation and suggest to you that this is a means recommended by the area transit Commission and the city government to avoid an increase in the fare. It is their bill, not Mr. Chalk's. If you want to continue, then place the source where it belongs.

The SPEAKER. The question is on the amendment offered by the gentleman from Texas (Mr. CABELL).

The amendment was agreed to.

The SPEAKER. For what purpose does the gentleman from Maryland (Mr. GUDE), a member of the committee, rise?

Mr. GUDE. Mr. Speaker, I move to strike out the last word.

(Mr. VANIK asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. VANIK. Mr. Speaker, the bill before the House today, H.R. 14718, asks the Federal Government to provide up to $3 million for the Washington Metropolitan Area Transit Commission.

While I am sure that the Commission needs assistance in carrying on its operations at the present rate structure, many other cities also have transit systems desperately in need of funds. The need for assistance to urban transit systems is not just a District of Columbia problems—it is a national problem. Why should we provide funds expressly for the District of Columbia before we develop a national policy in this area?

In my opinion, the District should be given funds only at the same time and on an equal basis with other needy cities across the Nation. Some of the urban transit needs in this country for mass transportation during the next decade are estimated as follows:

	Billion
Baltimore	$1.7
Boston	0.8
Chicago	2.2
New York	2.15
San Francisco Bay Area	1.8
Other major cities	6.0

It has been estimated that about $2 billion will be needed every year during this decade or about $17.7 billion in total. Therefore, it is obvious that the District of Columbia is not the only metropolitan area that has a mass transportation system that is short of funds.

Not only do all our major cities need assistance in developing improved transportation systems, but most of them are experiencing the same daily operating deficits that are plaguing the District of Columbia's system. For example, in my own area, the Cleveland Transit System lost $1.8 million in 1970 while charging higher fares than the D.C. Transit System. The Cleveland Transit System has the distinction of operating entirely out of the fare box. In other words, like many city transit systems, CTS receives no Government funds. If we are to provide operating subsidies for the District of Columbia system, then we should do so for public systems such as the Cleveland system and others.

In fact, provisions have already been made to subsidize financially endangered mass transportation systems across the country through the provisions of S. 3248, the Housing and Urban Development Act of 1972.

This bill recently passed the Senate by a vote of 80 to 1. It includes an amendment to the Urban Mass Transportation Act of 1964 which provides for the following:

> The Secretary [of Housing and Urban Development] is also authorized, on such terms and conditions as he may prescribe, to make grants or loans to any state or local public body to enable it to assist any mass transportation system which maintains mass transportation in an urban area to pay operating expenses incurred as a result of providing such service.

This legislation is currently before the House Banking and Currency Committee and could provide a uniform method of meeting a national problem.

I am opposed to H.R. 14718. It provides a special and unique grant to the District of Columbia at the expense of the rest of the Nation and it infringes on the development of a uniform national policy in this area.

Moreover, it provides that subsidy to a management of questionable creditability.

Mr. GUDE. Mr. Speaker, as was so eloquently stated by the gentleman from Mississippi we are in a crisis with D.C. Transit, because of the neglect of Congress and the neglect of the District of Columbia Committee as far as transportation is concerned in the Metropolitan Washington area. It is all right to talk all you want about the increased per capita income in the metropolitan area of Washington, but if you do not pass this legislation, or something much stronger, which I would like to support, it is the little guy, the blue-collar worker, who is going to be hurt. Mr. Chalk does not care if his fares go up.

The people who commute in Cadillacs are not going to be affected. The little fellow is the man who is going to be hurt.

It is all right to talk about what we are going to do to Mr. Chalk, and he does not care, as the gentleman from Mississippi outlined.

I thought the gentleman from Michigan (Mr. DINGELL) made a very good observation. I would like to support an amendment to this legislation providing for an audit by the GAO. Our committee has not gone into this whole area of transportation adequately.

I hope the gentleman from Michigan is going to offer his amendment for public ownership. I and the gentleman from Virginia (Mr. BROYHILL) have sponsored legislation to provide for a takeover such as has already been provided by the Virginia and Maryland Legislatures. I hope we are successful in achieving this. We can do this thing by a combination.

Mr. MOSS. Mr. Speaker, will the gentleman yield?

Mr. GUDE. I yield to the gentleman from California.

Mr. MOSS. I will tell the gentleman that I have pending at the Clerk's desk an amendment to provide for an audit by the GAO, and I will offer the amendment as promptly as I am recognized.

Mr. GUDE. That is excellent, and I would hope that we could also obtain what I have pushed for and what the gentleman from Virginia has pushed for in the District Committee in hearings, and that is the power of condemnation to be given to the Transit Authority.

Mr. Speaker, I hope that we achieve this end today. But let us not throw out the baby with the bath water and really hurt the little guy in the Washington area, which we will do if we do not achieve these amendments. It is important that we hold this bus system together, until we can achieve a permanent solution.

I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Strike out all after the enacting clause and insert in lieu thereof the following:

That it is hereby declared that the business of mass transportation of passengers for hire in the District of Columbia is clothed with a public interest and is essential to the proper functioning of the Government of the United States and the government of the District of Columbia. The continuous, uninterrupted, and proper functioning of such business in the District of Columbia is hereby declared to be essential to the welfare, health, and safety of the public, including the civilian and military personnel of the Government of the United States located in the District of Columbia and the metropolitan area of Washington. It is declared to be the duty of any common carrier holding a franchise from Congress to engage in the business of mass transportation of passengers for hire in the District of Columbia to use every reasonable means within its power to perform its franchise functions. The D.C. Transit System, Inc., in the District of Columbia has disregarded its franchise obligations to render public service and has forfeited its right to enjoy franchise privileges. Therefore it is necessary in the public interest to repeal the franchise of the D.C. Transit System, Inc., and grant the Commissioner of the District of Columbia the authority to temporarily perform such functions.

SEC. 2. (a) Effective on and after the date of enactment of this Act, the franchise, and all rights and obligations to operate mass transportation bus system in the Washington Metropolitan Area, granted to D.C. Transit System, Inc., under the Act entitled "An Act to grant a franchise to D.C. Transit System, Inc., and for other purposes", approved July 24, 1956 (70 Stat. 598), are repealed.

(b) On and after the date of enactment of this Act, D.C. Transit System, Inc., shall not be authorized to engage in business as owner or operator of passenger motor bus, public transportation of passengers, or common carrier of passengers within, to, or from, the Washington Metropolitan Area.

SEC. 3. (a) The Commissioner of the District of Columbia (hereafter in this Act referred to as "the Commissioner") shall, on and after the date of enactment of this Act, take possession of, and assume control over, the mass transportation bus system owned and operated by the D.C. Transit System, Inc. in the District of Columbia and shall operate such transportation system on a temporary emergency basis until otherwise provided by law, or until such transportation system may be transferred to the Washington Metropolitan Area Transit Authority (hereafter referred to in this Act as the "Authority") as provided in this Act. Nothing in this section shall be construed to exempt the Commission in operating the transportation system, from any law or ordinance of the Commonwealth of Virginia, of the State of Maryland, or any political subdivision of any commonwealth or State or of any rule, regulation, or ordinance issued under the authority of any such law or ordinance, or from applicable provisions of the Interstate Commerce Act and rules and regulations prescribed thereunder.

(b) In the operation of the transportation system under this Act, the Commissioner is authorized and empowered to engage in special charter or sightseeing services subject to compliance with applicable laws, rules and regulations of the District of Columbia and of the municipalities or political subdivisions of the States in which such service is to be performed, and with applicable provisions of the Interstate Commerce Act and rules and regulations prescribed thereunder.

(c) Nothing in this Act shall be construed as granting to the Commissioner title over any of the real or personal property, including capital stock, of D.C. Transit System, Inc.

SEC. 4. (a) The Commissioner, immediately upon taking possession of the transportation system as authorized under this Act, shall initiate whatever action he deems necessary to acquire by condemnation all assets of D.C. Transit System, Inc., including all real and personal property, capital stock, equipment, pension funds, accounts, and records owned or used by such corporation of whatever nature, whether owned directly or indirectly, used or useful, for the mass transportation by bus of passengers within the Washington Metropolitan Area.

(b) The Commissioner shall prescribe such regulations as he deems necessary to carry out the provisions of this Act.

SEC. 5. The schedule of rates which shall be effective within the District of Columbia upon commencement of operations by the Commissioner shall be the same as that effective for service by D.C. Transit System, Inc., in effect on the date of the enactment of this Act, and shall continue in effect until superseded by a schedule of rates which becomes effective under applicable provisions of law.

SEC. 6. Whenever the Authority determines it has the power to acquire and operate, or provide for the operation of, a mass transportation bus system within the Washington Metropolitan Area, the Commissioner shall, within sixty days after a request therefor is made by the Authority, transfer to it any mass transportation bus facilities theretofore acquired by the Commissioner, together with all other assets and liabilities of the Commissioner relating to such facility. Any such transfer should provide for assumption by the Authority of the labor contract or contracts of the Commissioner.

Sec. 7. As used in this Act, the term "Washington Metropolitan Area" means the District of Columbia, the cities of Alexandria and Falls Church, and the counties of Arlington and Fairfax in the Commonwealth of Virginia, and the counties of Montgomery and Prince Georges in the State of Maryland.

Sec. 8. The Commissioner is authorized to receive and accept from the United States, or any instrumentality or agency thereof, grants, payments, and contributions for or in aid of the acquisition, construction, ownership, operation, and maintenance of any mass transportation bus system, and to receive and accept aid or contribution from any source of either money, property, labor, or other things of value, to be held, used, or applied only for the purposes for which such grants, payments, and contributions may be made.

Sec. 9. Any person who interferes with or obstructs the Combmissioner, in any way, in taking possession and assuming control over, or in operating, the transportation system, under authority of this Act, shall be fined not more than $1,000 or imprisoned for not longer than one year, or both.

Amend the title so as to read: "To terminate the franchise held by D.C. Transit System, Inc., to operate a bus company in the District of Columbia, and provide for public ownership of a mass transportation bus system."

Mr. DINGELL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

POINT OF ORDER

Mr. ABERNETHY. Mr. Speaker, I rise to make a point of order against the amendment.

The SPEAKER. The gentleman will state his point of order.

Mr. ABERNETHY. As I understand, the amendment of the gentleman from Michigan provides for revocation of the franchise of the D.C. Transit System, Inc., and a takeover thereof and operation of the facility by the government of the District of Columbia. The bill we are considering is purely a fare bill. It authorizes the payment of a subsidy to supplement fares. The amendment is not germane to the bill. Therefore, I think it is out of order.

The SPEAKER. Does the gentleman from Michigan wish to be heard on the point of order?

Mr. DINGELL. Mr. Speaker, I think the amendment is germane to the bill. As the gentleman from Mississippi has pointed out, the amendment does do a number of things. One, it makes the legislative finding that Mr. Chalk and D.C. Transit have not carried out their franchise obligations. It does, for that reason, legislatively cancel the operating franchise in the District of Columbia. It directs the Commissioner or the Mayor of the city of Washington, D.C., to take over the mass transit system and operate it until such time as it might be transferred to the Washington Metropolitan Area Transit Authority.

It also directs that the Commissioner may operate the franchise in precisely the same fashion as Mr. Chalk has under the same set of rates under which Mr. Chalk has operated the facility.

And it authorizes the Commissioner to receive and accept grants, payments, and contributions in connection with the ownership of the mass transit system in the same way that Mr. Chalk does.

Mr. Speaker, I think it is pretty plain that, if this Congress can engage in giving $3 million and can exempt Mr. Chalk from the tax laws of the United States and the District of Columbia and can provide for a bonus and a subsidy of this size, it seems pretty clear that we might in the same piece of legislation cancel the franchise.

Indeed, I would say in response to the comments made by my friend from Mississippi that the statute which is before us today is an act to provide for the regulation of fares for the transportation of schoolchildren in the District of Columbia. That is a very broad statute, which provides for the regulation of the agency, it provides for the regulation of fares, and it actually authorizes the enfranchisement of Mr. Chalk and the D.C. Transit Co.

Since the legislation referred to goes that far, I can see no reason why we could not make appropriate findings dealing with the question of the fitness and the compliance by the franchise holder with the statute and with his franchise. So for that reason I have offered the amendment which is now before the House. I do assure my colleagues that it is, in my view at least, very strongly in the public interest, as I have communicated to them by letter a little earlier.

The SPEAKER. The Chair is ready to rule. The Chair has had the opportunity to examine the bill and the amendment proposed by the gentleman from Michigan. The purpose of the bill is to provide a subsidy to the transit company to hold the fare at 40 cents in the event the Transit Commission determines that D.C. Transit is entitled to a fare increase. The proposal offered by the gentleman from Michigan would cancel D.C. Transit's franchise and provide for public ownership and operation of the bus system. The Chair is of the opinion that the amendment proposed is not germane, and, therefore, sustains the point of order.

The Chair recognizes the gentleman from Iowa at this time.

Mr. GROSS. Mr. Speaker, I move to strike the necessary number of words.

Mr. Speaker, I am at a loss to understand exactly what this bill is about. We hear that it is a bill to stabilize bus fares from some of those who support it. Yet it provides, as has been pointed out earlier by the gentleman from Maryland (Mr. Hogan) and others, that any carrier receiving funds pursuant to this act shall—not may, but shall—in the expenditure of those funds give priority to meeting obligations of employee retirement and health and welfare programs.

That sounds like this bill is designed to take care of what? Retirement, health and welfare programs of bus company employees. Are we about to embark upon legislation that will set a precedent that we will have to live with in other cities of these United States? What are we about to do here if we pass this legislation?

Moreover, I should like to ask the sponsors of the bill, where are the hearings in connection with this proposal that can set such precedent?

Does anybody care to answer?

Also, where are the departmental reports? This bill involves $3 million. There is nothing in this bill from any entity in the government of the District of Columbia, the Federal Bureau of the Budget, or anyone else. Where are the usual reports from agencies and individuals that accompany a bill on the House floor? What kind of business are we indulging in here today?

This is pretty sad. We hear from the chairman of the subcommittee that this is a byproduct of a sweetheart contract. If I am quoting him correctly, and I hope that I am, he says he never saw a better sweetheart contract in his life than the contract between O. Roy Chalk and the District of Columbia.

What are we doing here? I suggest we end this debate, vote the bill down, let the committee start all over again, and this time hold some hearings, and this time get some reports from those divisions of the District government that are directly involved. Let us have some information, let us have just a little bit of light on this subject.

I fail to understand how the House Committee on the District of Columbia could possibly put in a provision such as the amendment just knocked out:

> Amounts paid by the Commissioner pursuant to this Act shall not be considered as income for Federal or District of Columbia income tax purposes.

When I read this bill on Saturday, that stuck out like a sore thumb. It was about the first thing I saw in this bill, after observing the $3 million handout that they want from us here today.

Where were members of the committee when that provision went into the bill? How did it get there? Then, when it came to the floor of the House, the chairman of the subcommittee promptly offered an amendment to knock it out and the ranking minority member of the committee quickly arose and said, "I accept the amendment."

Why in the world did you put such a condition in the bill in the first place? Apparently there is no explanation.

This bill ought to be defeated out of hand and let the members of the committee hold hearings, write a decent report, tell us what they are out to do, and bring their bill back, if they feel that way about it. But do not try to ram this thing down our throats here today.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Massachusetts.

Mr. CONTE. I want to join with the remarks of the gentleman from Iowa. Let me also say that there is a HUD bill pending before the Committee on Banking and Currency which provides for $400 million of subsidies for operation and maintenance to private and public transit companies across the United States. That is merely the camel's nose under the tent. It will run into billions of dollars before we are through. It has no incentive whatsoever. It is just like pouring corn down a rat hole. We ought to stop right now.

Mr. GROSS. This is the camel's nose under the tent in the District of Columbia.

Mr. CONTE. There is no question about it. Those others will be sitting down waiting for a Federal handout.

This is as bad as the farm subsidies.

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss:

SEC. ——. Each carrier receiving a payment under this Act shall maintain an integral set of accounts and records, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided in section 105 of title I of the Government Corporation Control Act (31 U.S.C. 850).

Mr. MOSS. Mr. Speaker, I think this is the minimum we should require if we are going to authorize the payment of this $3 million subsidy.

It has been stated here on the floor this afternoon that profit is something we should all anticipate and we should want it—and I do. I believe that profit which comes about as the result of investment prudently managed rendering a service is totally appropriate to our system, and I will defend the ability of any company to have that kind of profit.

But this strange miniaturized Penn Central is operating here in the District of Columbia, O. Roy Chalk's empire, and seems to be sort of the exception to all good practices, legislative and otherwise.

During each of the 20 years that I have been here we have had a problem with D.C. Transit. We had it before Wolfson came in. We had it after Wolfson arrived and found out how profitable it was to interfere with its cash flow and to rearrange some of its assets. And Mr. Chalk has made a very good thing out of this. He has had many spinoffs.

I said it was a miniaturized Penn Central. It is precisely that.

Maybe he did not come here and ask for $3 million, but he knew where to apply the pressure to get the reaction that would lead someone else to come here and ask for the $3 million. He knows the District of Columbia needs transit.

Mr. CABELL. Will the gentleman yield?

Mr. MOSS. I yield to the gentleman from Texas.

Mr. CABELL. This Member is delighted to inform the gentleman from California that both sides of the aisle are favorable to accepting his amendment.

Mr. MOSS. I appreciate that. I think it will improve the bill. But I seriously question the wisdom of us passing this kind of legislation, with or without the amendment, here on this floor today. Still, if we want to perfect it in anticipation of its possible passage, then I think the amendment ought to be adopted.

The SPEAKER. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The amendment was agreed to.

Mr. HOGAN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I had intended to offer an amendment today, but my legislative instincts tell me that the unbeatable liberal-conservative coalition is going to ram this bill to defeat anyway, and that is probably a good thing.

I served on the District of Columbia Committee when we had some hearings on the transit situation and, as the gentleman from Washington has pointed out, a number of us called for an audit by the General Accounting Office, which was not forthcoming.

The gentleman from Arizona (Mr. STEIGER) at that time brought to the attention of the committee some material which was, to say the kindest thing about it, scandalous. It showed indications of siphoning off real estate which had been titled to the D.C. Transit Co. and transferred to various corporate entities controlled by Mr. O. Roy Chalk. Mr. Chalk himself came before the committee and was asked by this gentleman now in the well and others for additional material to corroborate the information that he was giving to this committee. To this day, 3 years later, that information has not yet been received.

So I am pleased that the amendment offered by the gentleman from California (Mr. Moss) was adopted.

Hopefully, if this bill is passed—and I, for one, intend to vote against it—we will be able to get that GAO audit.

I oppose this bill on another basis. It only approaches part of the problem. It only addresses itself to the problem within the confines of the District of Columbia itself. There are bus companies in trouble in suburbia which have been rendering far better service to their riders than D.C. Transit. They have been excluded from this legislation. So, I had intended to offer an amendment to include them, but I would not want that amendment to be interred with the bones of this bill before us.

Mr. Speaker, I do feel we need some way to solve our transit problems, but this bill is not it. As I pointed out earlier, most of this $3 million, if not all of it, is going to go to pay the deficit that Mr. Chalk has run up from the retirement of the health benefits program and none of it will be left to subsidize the fares of the riders.

H.R. 14718 in its present form benefits only O. Roy Chalk and the D.C. Transit Co. and those riders who use the service wholly within the District of Columbia. It does not benefit those who get on in the District of Columbia and get off in Maryland or vice versa and who pay far more in fares than if their trip stopped before they reached the District line. And now we are proposing to take action to compound the inequity.

Year by year in the last decade, the D.C. Transit has lost passengers. The D.C. Transit has a poor financial record and a poor record of service. It pays no real estate, fuel, or mileage taxes unless its profit exceeds 6.5 percent. It has a history of corporate controversy.

On the other hand, let us look at the problems and record of the bus company serving those who ride over the District line into Maryland. The WMA Transit Co., which serves much of my district, has doubled its passengers in the last decade, but mileage has increased four times while D.C. Transit's mileage has remained constant. It pays the D.C. Transit 3.4 cents per mile on duplicated routes for providing service in the District. It pays personal property, fuel, and license taxes in Maryland without regard to earnings. It pays mileage, fuel, and license taxes to the District, also without regard to income. It pays road, revenue, and licenses taxes to Virginia.

Up until the time of the riots in Washington in 1967, the WMA Transit Co. was a profitable company regulated as to rates. From 1968 on, it has lost $300,000 annually. The WMA Transit Co. has been a good corporate citizen and rendered good service. It is run by local people. It does not have the resources of the D.C. Transit, and, it cannot continue to run at a deficit which, this year, may be a half million dollars. Yet, the traffic problem for the area becomes greater every day for those who ride over the District line.

WMA Transit Co., through an expansion program between 1961 and 1967, provided new service to 250,000 residents of Prince Georges County who had previously not been provided with bus service by WMA, most of whom commute to Washington. Passengers rose from 2,167,264 to 6,553,690, an increase of 4,386,426 or 202.39 percent; at the same time, mileage operated rose from 810,141 miles to 3,861,139, an increase of 3,050,998 miles or 376.60 percent. Ridership for this increased service averaged only 1.44 passengers per mile, which lowered the service efficiency—measured in passengers per mile—by 47.2 percent from its peak in 1963.

If WMA Transit Co. had not expanded its area of operations, but had instead concentrated its entire effort in its original service area—as D.C. Transit has—service efficiency would have been stabilized or improved. The increase in service efficiency between 1961 and 1963 was completely within the original service area; 250,000 Prince Georges County residents who have service would be without any bus service, if WMA had concentrated on its original service area instead of expanding its service area.

The WMA Transit Co. has overextended itself in an effort to provide service to as much of Prince Georges County as possible. The cost of providing this service to these 250,000 residents has been borne by the company itself.

While other area transit companies have received fare increases from 1961 through 1971, WMA requested and received a fare increase in 1963. After a 40-day strike in December 1968–January 1969, WMA had three fare increases. Since May 10, 1971, by reason of an appeal from the decision of the Transit Commission, WMA had not yet realized and cannot realize the increase in fares as authorized by the Commission.

At the time of last fare increase the Transit Commission projected a 7-percent loss in passengers. Actual passenger loss for 1971 was 12½ percent and the first 3 months of that period were at the lower fares.

In November 1971, WMA Transit Co. requested certain curtailments and changes in scheduled service from the Transit Commission in lieu of a fare increase. It was granted only 50 percent of the request due to expectation of relief from some governmental agency. If this relief is not forthcoming, WMA Transit Co. Order No. 1197 has been held open for further action. This order says:

> We (Washington Metropolitan Area Transit Commission) will hold this docket open against the possibility that we may be required to take further action if *timely public assistance* is not forthcoming.

Under the proposed H.R. 14718, assistance is not forthcoming. What would be the answer? Certainly not higher rates with further loss of passengers. Service curtailment merely aggravates the problem in what is practically the Nation's fastest growing county, Prince Georges, and, bankruptcy of the WMA Transit would benefit no one.

Even though I have always been dedicated to free enterprise, I support the ultimate public ownership of the Washington metropolitan bus companies. Unfortunately, this is the only ultimate route. However, if we are proposing interim solutions, we must recognize the full problem. We must not favor only the District and the D.C. Transit Co. because of the numbers and the dollars. We must recognize that this is a metropolitan area problem and the solution should be directed at all the bus companies serving Metropolitan Washington.

Because this bill will not solve the problem I plan to vote against it.

Mr. FAUNTROY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of H.R. 14718. I do so reluctantly because I would prefer that we were voting today on an amendment similar to that offered by the distinguished gentleman from Michigan, providing for public ownership of the company. Such bills have been introduced by the gentleman from Virginia, the gentleman from Maryland, and myself on behalf of the people of the District of Columbia.

But, I want to assure you that the issue here is not whether the transit company or Mr. Chalk is being given a windfall.

The issue is, quite frankly, whether or not this transit system will survive until such time as the interstate compact can be amended to enable the purchase of the system in a fashion that the public subsidy becomes a public investment in its own system.

Effective on May 25 the Washington Metropolitan Transit Commission has already decided that it must grant a 50-cent fare, which previous experience shows where it will cause us to lose another 20 million riders in this 1 year, with the result that the situation of the company itself will make it more expensive to acquire.

This is designed to provide the kind of service to which the people of this city are entitled.

It is for that reason that I urge you, albeit reluctantly, to support this subsidy, but to move swiftly thereafter to amend the interstate compact so we can in fact purchase it for operation by the WMATA.

First we ought to be sure that our subsidies in fact become an investment in the transit system of our Nation's Capital.

Mr. ABERNETHY. Mr. Speaker, will the gentleman yield?

Mr. FAUNTROY. I am glad to yield to the gentleman from Mississippi.

Mr. ABERNETHY. I believe the gentleman from the District of Columbia has announced that his position is that he favors public ownership of the Capital Transit Co.; is that right?

Mr. FAUNTROY. Precisely.

Mr. ABERNETHY. And, subsequently, that everyone in the District ride free—no charge at all? That is your position, is it not?

Mr. FAUNTROY. That is not true.

Mr. ABERNETHY. Both you and I have seen a paper to that effect?

Has the gentleman circulated a paper with that statement in it?

Mr. FAUNTROY. That is not true. If you read the statement carefully you will find what I am saying and what I favor.

Mr. ABERNETHY. What is the gentleman's position about charging people fares?

Mr. FAUNTROY. My position about charging people fares at this time is to avoid a 50-cent fare in this city, which would cause a loss of 20 million riders for the coming year. My position is that we should provide the subsidy which is requested here, with the understanding that pursuant to hearings and deliberations of the District of Columbia Committee, we will seek an amendment to the interstate compact in order that we might purchase it from its present owners and run it.

Mr. ABERNETHY. Is the gentleman familiar with this paper I have seen? You know there is such a paper floating around?

Mr. FAUNTROY. If you have reference, sir, to the Washington Agenda, I would be very pleased to discuss it with you, but not on my time on this bill, this very important measure which is now pending before us.

Mr. ABERNETHY. Did the gentleman prepare such a paper as that that has been circulated, or has he circulated one?

Mr. FAUNTROY. I have indicated that I would be very pleased to talk with you about that, but I have stated my position on this bill at this time.

Mr. ABERNETHY. But your position in the future is that everyone rides free?

Mr. FAUNTROY. I have indicated the fact that I would discuss that with you on your time but not on mine.

Mr. ABERNETHY. In other words, you do not want to reveal it right now?

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. FAUNTROY. I would be happy to yield to the gentleman from Iowa.

Mr. GROSS. Well, is the answer "Yes" or "No"?

Mr. FAUNTROY. The answer to what is "Yes" or "No"?

Mr. GROSS. To the question of the gentleman from Mississippi as to whether you want free fares for everyone in this area, or whether as you now say you want a 40-cent fare? Which is it?

Mr. FAUNTROY. I submit, sir, that the question as to whether or not there will be free fares in the District of Columbia is not an issue in this discussion on this bill.

Mr. GROSS. You ought to be able to state your position.

Mr. FAUNTROY. Mr. Speaker, I rise in support of H.R. 14718, a bill that will provide a subsidy to the transit companies operating within the confines of the boundaries of the District of Columbia. This bill, Mr. Speaker, is not intended to subsidize or better the profit of D.C. Transit. It is, rather, designed to maintain the level of ridership that will be lost if a pending fare increase is approved and to preserve a valuable and vital social service for all of us here in the city.

D.C. Transit, Inc., has a 50-cent fare request pending with the Washington Metropolitan Area Transit Commission. It is estimated that if this 10-cent increase is approved, ridership will drop from 100 million per year to less than 80 million. This loss of riders is well documented by the past performance of fare increases. The last fare increase from 32 cents to 40 cents dropped ridership from 120 million to the current 100 million. Today we have one-third the number of riders that we had in 1950. In 1950 we had a 15-cent fare with approximately 300 million riders; in 1955, with a 25 percent fare increase, ridership dropped to 150 million; in 1962, another fare increase to 25 cents was not overly destructive to the level of ridership; but starting in 1967, fare increases in tokens from four for 85 cents to four for 95 cents caused a 4.6 million loss of riders; increases in 1968 caused an 8.4 million loss; from this 30 cent fare increase to the now existant 40 cent fare increase, we, in this city, have seen the level of ridership decreased by about 20 million.

This is a loss of riders which we cannot continue to tolerate. The people who cease to use the public transit system do not cease to go to work. They use, instead, their own cars which mean more congestion, more pollution, and more accidents on our already over-crowded and over-polluted streets.

I favor public ownership, but, if the House will not vote for it, I urge it to support this measure as reported by the committee, for it is clearly intended to be an interim measure until the committee has more time to study and offer a true long-term solution to the problem of mass transportation in the city that is integrated with the outlying jurisdictions.

On May 25, the Transit Commission has indicated that a fare increase will be granted, since the franchise that the Congress granted to the D.C. Transit Co. assures them of a right to a reasonable return. Admittedly this was a poor bargain; but, perhaps at the time that was the best all of us could do. There is absolutely no doubt in my mind that the ultimate resolution to this bad bargain lies in the revocation of the franchise to O. Roy Chalk with a subsequent investment to be made by the public. On the other hand, it is clear from the testimony of Jeremiah Waterman, chairman of the WMATC, that, unless either we revoke that franchise or otherwise change the law, the commission will provide an increase. O. Roy Chalk, and the holding companies that are part of the D.C. Transit empire, will not suffer. The riding public—and particularly the poor and the elderly—will suffer. We will suffer too because we will have failed to protect the investment of people who use public transportation, for the Metro when it is completed. The $3 billion investment that we and our surrounding communities have made in conjunction with one of the most productive compacts ever entered into by the States and the Congress will be jeopardized. We must not allow that to happen, and we must not allow the mistakes that we in the Congress have made, by the grant of this franchise to Chalk, to be passed on to those who are not in any way responsible. We passed that franchise; we have elected to not revoke it; and, it thus seems to me that we ought to do what is right in terms of correcting our past errors.

Frankly, I would have preferred, if not complete ownership, a subsidy bill that would have given us lower fares. I certainly feel that we must provide a means for lower fares for our elderly. For them, transportation is not a luxury. It is a necessity and, on fixed incomes, it is difficult to make the rounds to the doctor, to church, and to see their friends. Cities that have tried reduced fares have had excellent success with attracting more riders. Once attracted and held, it is possible to permit increases that more nearly approximate the operating costs of the system. At this time, Atlanta, Ga., has the best short- and long-term program which can be successful in this regard, starting with a 15-cent basic fare that will be increased in increments after the seventh year until it is 30 cents after the 10th year.

This is the direction in which we must begin to move. Today, in this Congress, we can take that first step. There is only one transit company in this city, there is only a limited amount of time in which we can act before a fare increase will be a fact. I urge you to act in reporting out this bill.

The SPEAKER. The time of the gentleman from the District of Columbia has expired.

Mr. NELSEN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I want to review briefly the background dealing with this piece of legislation. I did not sit with the subcommittee that worked on it, but it was taken up in the full committee. Without question, the major mistake, as Congressman ABERNETHY stated earlier, that was made, was made by the Congress when the franchise was originally granted in 1956 which runs to 1976. I was not a Member of Congress at that time, but certainly we live with that mistake today.

It is a difficult job to deal with District of Columbia legislation. It is a long way from the type of legislation of interest to my folks back home. You can make no gain by being involved in it, but here we are, and we are on the committee, and we assume our responsibility.

And so, I was pleased to see the language on page 2, lines 17, 18, and 19, stricken. I am pleased to note that the GAO examination is recommended. I think this whole, entire matter should be contingent on an examination that thoroughly informs the Congress as to where this total matter stands. But it is obvious to me that the real issue here comes down to: Do we have public ownership of the transit system or do we not? And if you read the statement that was given before the committee by the City Council Chairman, Mr. Hahn, he refers in his statement on page 5 to the fact that, if the transit system were publicly owned, the District of Columbia can get from the Urban Mass Transportation Administration of the Department of Transportation two-thirds Federal funds, one-third local, which in effect means that there might be a subsidy to the District of Columbia transit system by the taxpayers of the United States in far greater amounts—perhaps $12 million—than we find in this bill. It may be a question of a choice between bad alternatives.

The discussion in our committee, and my recommendation, was this: That the bill be drafted so that no subsidy should be allowed out of Federal funds but that, if the District had the money to pay for them, it should come out of District revenues. I do not favor the precedent that may be established where the Federal Government picks up the subsidy for all local transit systems that are in trouble.

But when we talk about this whole proposition I am frank to say that I do not know which way to go because it has an unattractive alternative. There are many things that have happened in the past that have caused people to be turned off as far as the privately operated transit system is concerned. But I would like to point out that those of us who are on the committee who have looked at the New York City experience with a publicly-owned transit system are not at all inclined to move in the direction of turning over the D.C. Transit system to public ownership, feeling that under our system of private ownership with government regulation we have better administration.

Now, great debate goes on as to what our objectives are here in the District of Columbia, as to subsidization or purchase of the transit system. I want to point out that there are those who want public ownership, those who believe that it is better, while I am convinced to the contrary. But I want to read the statement that has been referred to by my good friend, the gentleman from Mississippi (Mr. ABERNETHY). It says here in part in a circular "Toward A Washington Agenda" that the President should support legislation—

> Providing for takeover and operation of D.C. Transit by public agencies, and public ownership and management of all mass transit. Such legislation should include provisions for ultimate elimination of fares in recognition of the fact that transportation is an urgent public service, like education and police service, that should be provided free of charge to the individual user.

Now, if denying a subsidy and turning down this bill means that we force the District of Columbia into the acquisition of the transit system for public ownership which ultimately leads to free fares on the transit system—I would have to favor the subsidy which is the option given you in this bill by the Full Committee.

The SPEAKER. The time of the gentleman from Minnesota has expired.

(By unanimous consent, Mr. NELSEN was allowed to proceed for 3 additional minutes.)

Mr. NELSEN. Mr. Speaker the statement of Gilbert Hahn Jr., former Chairman of the District of Columbia sets forth some of the alternatives as outlined in his testimony to the committee:

STATEMENT ON BEHALF OF THE DISTRICT OF COLUMBIA BY CITY COUNCIL CHAIRMAN GILBERT HAHN, JR., ON H.R. 2500, APRIL 13, 1972

Mr. Chairman, on March 24, I testified before this Committee on H.R. 2500 and H.R. 13019. At that time I requested an opportunity to come back to you with a specific plan of action on the matter of the D.C. bus situation.

I am pleased today to submit a plan, which I believe will be effective in maintaining fares at their present level and in stabilizing and eventually increasing public transit ridership in the period leading to Metro operations. This plan, if adopted, could put the area on the road to consolidating all four regular route bus systems serving D.C. into a single, coordinated operation with Metro, a goal which I'm sure we are all striving to achieve.

This plan represents the position of the Administration and has the endorsement of Mayor Washington and the District of Columbia City Council. In developing it we have worked closely with WMATC, WMATA and COG. In addition, we have sought the advice of the Department of Transportation and the Urban Mass Transportation Administration on the feasibility of the plan's various elements.

I can assure you that with your consent we are all prepared to act as quickly as is necessary to implement the elements of this plan.

The two bills which we are considering, H.R. 2500 and H.R. 13019, would do much to alleviate the critical situation that exists in the metropolitan area regarding increasing fares and resultant decreasing ridership. The bills, however, do not address the important issue of the source of funding for a bus subsidy program and the longer-term consideration of integrating the ownership and operation of all bus service in the Washington area with the operation of Metro.

I am going to suggest some amendments to H.R. 2500 to address these issues by implementing the program outlined below.

As you will recall, current legislation specifically provides for WMATA to cause the Metro system and the four regular route bus companies to be operated in a coordinated manner. We believe, that this should happen by the time Metro begins operations in 1974. Therefore, the plan which I'm proposing, together with other actions already initiated, is consistent with the ultimate public ownership of all the four regular route bus companies operating in the Washington area.

I pointed out in my testimony of March 24, 1972, that the Washington Metropolitan Council of Governments had applied to UMTA for a $3.1 million Technical Studies Grant. I can now report to you that this grant was made on April 10, 1972. As part of the local commitment, $1.6 million in local funds will match the UMTA grant, making a total of $4.7 million. The major purpose of the grant is to develop a comprehensive transit plan, particularly for short-range, immediate action capital and service improvements. We are confident that this grant will result in operating efficiencies and improved levels of service that will help stabilize fares and increase ridership.

Notwithstanding this, you will also recall that in my March 24 testimony I pointed out that the last ten years, the area's private companies have faced serious financial problems. Basic fares have gone from 25 cents in 1962, to 40 cents now. The last D.C. Transit fare increase from 32 cents to 40 cents dropped ridership from 120 million to about 100 million passengers per year.

D.C. Transit, Inc. has a 50 cent fare request pending with the Washington Metropolitan Area Transit Commissions. I estimate that, if the fare is approved, ridership will drop from about 100 million rides per year to 80 million rides or below per year. Thus, a fare increase at this time would aggravate the situation and further diminish ridership.

We should allow no further fare increases. The consequences have been outlined to you forcefully in the past. It is generally agreed that to meet Federal air pollution standards we must attract more riders to public transit, rather than forcing present riders off through higher fares. It is also generally agreed that many of our citizens are dependent upon transit service to move about the area. Further, if we are to meet the transportation needs for the influx of visitors for the Bicentennial Celebration in our Nation's Capital we must take steps now to insure an improved and coordinated public transportation system. Particularly critical to this is the need to improve levels of service so that transit will be a more acceptable alternative to auto travel.

To maintain the current fare level, there is a need for some form of financial assistance and for this reason we support H.R. 2500 with amendments which implement the following program:

1. Provide a fare subsidy to be paid to D.C. Transit for the period from July 1, 1972, to June 30, 1973. That subsidy would be based on the difference between the current 40 cent fare and a "just and reasonable" fare as determined by the Washington Metropolitan Area Transit Commission. Authorization must be provided the District of Columbia Government to make whatever subsidy payments may be necessary under this formula and appropriations to the District Government should be authorized for this purpose. The subsidy would be paid with respect to regular route transportation solely within the District of Columbia.

2. Provide authorization for the District of Columbia to purchase the bus equipment (rolling stock) of D.C. Transit. This action will reduce the subsidy by an estimated $3 million a year. The purchase would be funded through a capital grant from the Urban Mass Transportation Administration of the Department of Transportation on a two-thirds Federal, one-third local, matching basis. Approximately 1,058 buses would be involved and while the book value is about $12.1 million, the purchase would need to take place at the current appraised fair market value which is subject to negotiation. The District of Columbia should be authorized to provide its part of the local share for the UMTA grant and the funding of this authorization should be accomplished in a supplemental appropriation to be sought upon the completion of the negotiations. This would place the District of Columbia in the same position as any other jurisdiction in terms of providing for the local share for a grant from UMTA.

In presenting this program, we expect WMATC to require, in the event of purchase, any lump sum payment to D.C. Transit for the rolling stock to be used by D.C. Transit toward the improvement of operations and the establishment of financial stability, rather than being considered an extraordinary earning. Mr. Loconto, a financial analyst, has made a study for the WMATC which suggests a need of $12 million in cash to be added to D.C. Transit this year in order to make such improvements and to attain financial stability. It appears to me that the only feasible way to meet the need for the $12 million is to ask Congress to provide this sum to D.C. Transit, this year, through the equipment purchase we have prepared. (It would be possible to provide such sums by sale of real estate held by subsidiaries of D.C. Transit, but this is in the control of WMATC.)

3. Provide authorization for the District of Columbia, subsequent to purchase of D.C. Transit's buses, to lease back the buses to the company.

The effect of this arrangement would be to reduce the costs of D.C. Transit by an approximate amount of $3 million for the period from July 1, 1972, to June 30, 1973. This would likewise reduce the amount of subsidy needed for that period from $3½ to $½ million, plus any interest charges that may be necessary in obtaining the local share for the purchase. This figure is based on the $3.5 million in the Present D.C. Transit application before the WMATC. This figure may be lower; but it may also be higher. We have an estimate prepared by the WMATC staff that puts the need at $4¼ million. Consequently, the subsidy may be $1¼ million plus interest, instead of $½ million plus interest.

As amended, this proposed legislation is designed to meet the immediate needs of the riding public dependent upon D.C. Transit for mass transit service. The proposal is designed to provide the most efficient form of subsidy while protecting both the public and private interests involved. However, it should be clearly understood that the proposal is an interim measure. It is assumed that at such time that WMATA is authorized to acquire the Washington area bus companies, the District of Columbia will be appropriately reimbursed for its expenditures in the acquisition of D.C. Transit rolling stock.

In connection with the objective to achieve a more integrated bus mass transit system at this time, it should also be noted that NVTC has applied to UMTA for purchase of WVM Company buses and Maryland officials are expected also to submit an application to UMTA for the purchase of WMA Transit Company. With further respect to Virginia, we have received assurances for NVTC that upon completion of the Shirley Highway Express Bus Demonstration, if not sooner, it will consider acquisition of the bus equipment of AB&W Transit Company. All of these actions involving bus acquisition by public agencies will facilitate the eventual transfer of the bus company property to WMATA with reimbursement for all the jurisdictions involved.

Similar action by the District of Columbia, as authorized by our proposed amendments, is consistent with the actions of Virginia and Maryland and would represent a concerted effort to resolve the regional bus mass transit problems.

The most critical date is May 25, 1972, at which time WMATC must decide on D.C. Transit's request for a fare increase. In presenting this plan to you today, I would first hope that it could be implemented before that date. However, if this is not practical, I request that the Congress join with the District of Columbia Government in urging WMATC to authorize D.C. Transit to utilize the $600,000 reserve bus fund, which the company is maintaining at the request of WMATC, to maintain fares at their present level.

I have attached for your convenience suggested changes in H.R. 2500. I urge you to pass the bill and suggested amendments as soon as possible but in any event before July 1, 1972.

Mr. Speaker, I would say that the voters in my district who are trying to get a road to market from their farms and those who have been waiting for years to get a highway system and to get a better road built, would oppose a situation where we are laying the ground work, if you please, for moving in the direction of a public takeover of a transit system. So far as I am concerned, I feel that there should be more information that would answer the questions such as the gentleman from Iowa (Mr. Gross) propounded.

I believe a further hearing would be fully justified so that public confidence in what was intended to be done could be better substantiated and a better foundation laid for it. I would have no objection to it. In fact, I think it ought to be done. I would vote in favor of recommitment.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Iowa.

Mr. GROSS. I would ask my friend, the gentleman from Minnesota, what was he reading from a moment ago when he spoke of the free fares in the District of Columbia?

Mr. NELSON. This was circulated "Toward a Washington Agenda"—stated to be circulated by Congressman Fauntroy.

Mr. GROSS. I thank the gentleman.

Mr. LENNON. Mr. Speaker, I move to strike out the last word.

Mr. Speaker, I would like to direct a question to the distinguished chairman, both of the subcommittee and of the full committee, with respect to section 2 which provides explicitly and definitively that in the expenditure of the $3 million, priority should be used to meeting the obligations to the employees' retirement and health and welfare programs.

I take it you are talking about the retirement of the present employees of the Chalk Bus Co. and also the health and welfare programs of the District of Columbia Transit Authority?

Mr. CABELL. To the best of my knowledge, it is for the rank and file worker with reference to annuity benefits.

I am sure as in most companies that the administrative personnel also would have coverage on this.

Mr. LENNON. Let me ask the gentleman this question.

I am advised that that particular fund of the retirement fund and the health and welfare programs is in debt to the tune of $2,230,000.

Now assuming the verity and the truthfulness of that, then the $2,230,000 of that $3 million would have to be used first to pay for the retirement system and the health and welfare programs and of the $3 million you would only have less than $800,000 of that $3 million to be used to hold the bus fares at 40 cents.

Mr. CABELL. Mr. Speaker, will the gentleman yield further?

Mr. LENNON. I yield to the gentleman.

Mr. CABELL. That same question was raised and was debated at some length by the gentleman from Maryland. They have this obligation. They are going to have to take the money out of their operating revenues to bring this up to the statutory requirement. That fund is audited by the WMATC.

If they take it out of their operating funds to repay that which is not available to them otherwise, then they are not going to have sufficient money to operate on even under or after the subsidy. If that money goes to bring that back up to its legal amount, then they will not have to take the money out of their operating revenues to continue operation.

It is still a contract and it is six of one and a half dozen of the other.

Mr. LENNON. My basic question is this. In other words, you are saying—if they take the $2,330,000 of that and apply it to the pension fund and the welfare program, they could take the balance of in round figures of $800,000 and keep the fare down to 40 cents?

Mr. CABELL. That is the recommendation and that is what we feel about the situation.

Mr. LENNON. That is what you say they think they can do?

Mr. CABELL. As a matter of fact, they are not asking for this subsidy. They say it is not going to be enough, but they are trying to live with it.

Our question here is whether or not we are going to authorize the District government to pay this in order to maintain the present fare structure. Or, if this is not done, under the terms of their contract, they have two alternatives—either to reduce their service to nothing but their peak paying lines and cut out the Saturday and Sunday service or raise the fare to 45 cents and a transfer fee or go to 50 cents flat fare.

They have the legal right to do that.

Mr. LENNON. Why did you give them the priority? You say the first funds from the $3 million should be used for this purpose, the liquidation of a $2.3 million debt. Why did your committee decide to give them that priority and that much of the $3 million?

Mr. CABELL. That was recommended by the WMATC, which is the regulating agency under the contract.

Mr. LENNON. I thank the gentleman.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. LENNON. If I have more time, I yield to the gentleman from Iowa.

Mr. GROSS. In other words, we are looking at a little sleight of hand here, and with that little sleight of hand, I will say to my friend from North Carolina, this bill mandatorily directs the carrier to expend $2,320,000 to take care of the retirement, health and welfare programs of employees. Yet they say the $3,000,000 in the bill is going to maintain a 40-cent fare. Simple arithmetic should tell anyone that if $3,000,000 is necessary as an outright subsidy to maintain a 40-cent fare it is impossible to do so with the $680,000 that would be available after funding the $2,320,000 shortfall in employee retirement, health and welfare programs.

Mr. FINDLEY. Mr. Speaker, I move to strike the requisite number of words.

The SPEAKER. The gentleman from Illinois is recognized.

Mr. FINDLEY. I would like to say to the gentleman from North Carolina that he has discovered a good deal of the iceberg but not all of it. The $2,320,000 is only a part, as is true of most icebergs, but not all of it. In addition, there is owed some $350,000 to these employee funds for the month of March and a similar sum for the month of April. When you add all three items together, it comes to slightly over $3 million. So there is not going to be 10 cents left for a fare subsidy if this is passed.

Mr. JACOBS. Mr. Speaker, I move to strike the requisite number of words.

The SPEAKER. The gentleman from Indiana is recognized.

Mr. JACOBS. I do not like to prolong the debate very long. I think it is only beating a dead horse anyway. I think we are going to defeat this bill, and I think it is a very good idea. But I would like to call the Members' attention to one partial myth, I think, that has been launched here today, and that is this matter of contractual obligations to the present operators of the bus system in the District of Columbia.

I have never quite understood what is so sacred about an obligation or a contract by the Government with a bus company that is not equally sacred when it involves a Government contractor as an individual. Take myself, for example. I was a Government contractor in the latter part of 1950. I had a contract with the Government under which I was paid $84 once a month, and my contract extended for 2 years. But something occurred over in Asia and Korea and somebody introduced a bill in Congress, and the next thing I knew, I had signed a contract for 3 years. It was called "convenience of the Government."

Now, I do not know of anything I had done to hurt anybody in this country at the time my contract was broken by the Congress, and so I just commend for your consideration, when we consider legislation in the future related to this obligation of the contract with the present operator of the D.C. transit system, the pressure of assets and all the rest, just how sacred that contract is with the Government, particularly in view of the manner in which this bus company has been conducted.

I commend the defeat of this bill heartily, and I was one of the two who voted against it in the committee.

I yield back the remainder of my time.

Mr. McMILLAN. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I would like to state, before we come to the close of the debate on the amendments and on the bill, whatever we call it, that the District Committee has been criticized from time to time for not taking up matters requested by the District people which are presented by the District officials. That is the reason this bill is here today. It was presented to me by the District Transit Commission. It is almost word for word as they presented it to us.

As far as I am concerned, I have no particular interest in the bill other than to carry out my duties as chairman of the committee and present it to the House.

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. McMILLAN. I yield to the Delegate from the District of Columbia.

Mr. FAUNTROY. Mr. Speaker, I would like to ask a question or ask for clarifying information.

It is my understanding that this legislation is sufficient authorization for appropriations to be made for purposes of the bus subsidy payments even though the bill contains no specific authorizing language. Is that true?

Mr. McMILLAN. The bill, as I understand it, authorizes the District of Columbia to take up the $3 million slack for the D.C. Transit Co.

Mr. FAUNTROY. Do I understand that there remains authorized but unappropriated approximately $4 million in District of Columbia fiscal funds for 1972, and that this could be appropriated for purposes of carrying out the intent of this bill?

Mr. McMILLAN. I am not in a position to advise the gentleman whether that is correct or not. He should get that information from the chairman of the Appropriations Committee.

Mr. FAUNTROY. Does the subcommittee chairman know whether or not that $4 million authorized is available?

Mr. CABELL. If the gentleman will yield, it is my impression, or was a short time ago my impression there were some funds which had been authorized but not appropriated, and final disposition of that would be at the discretion of the Appropriations Committee, but I cannot commit them to any course of action.

Mr. FAUNTROY. I thank the gentleman.

Mr. SPRINGER. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, I have been on this committee since 1958. This problem has been with us all of that time, even before Roy Chalk bought out Wolfson. But the part that disturbs me most in all of this, is that this is only the beginning. I certainly think that those on the committee have given this every consideration, including the chairman of the subcommittee, the chairman of the committee, and the ranking minority member. I do not know that I can criticize what has been done, but I think it ought to be brought to the attention of the Members of this body at this time that this is only the beginning.

This $3 million is for the coming fiscal year. I will not be here next year when I am sure this will come up again. But, I will bet anybody who is a wagering man and who wants to bet, 10 to 1 that this will be back here next year with a substantially increased request for appropriation for subsidy. Why do I say that?

Mr. Speaker, the only large city I know of that has had a longtime experience with this problem is New York City. If any Member wants to see a system which has been in chaotic condition, I suggest he visit New York and see what is happening in the city of New York. They tried to stick with a 20-cent fare which had been in existence since before World War I. They recently raised the fare to 30 cents, and in addition they have a $125 million subsidy.

Now I will read from the New York Times of Monday, March 8, 1971. They will need to find approximately $150 million in new subsidy beyond the more than $125 million that was then received in subsidies from the city, and the Triborough Bridge, and the Tunnel Authority. This is in the nature of almost $300 million of subsidy for New York.

There is one thing which I think ought to be brought directly to the attention of Members. It seems we do have a difficult problem in that 80 percent of all the costs of these kinds of transit systems are not in buses, or bus stops, or carbarns, but in wages of employees.

Unless they can increase the efficiency of what they are doing there is no chance to keep the subsidy from going up, let alone saying it will stand still.

I read further from this article:

> One expert estimated that in most job categories, employee productivity is about 25 to 50 percent higher on the highly automated, two-year-old rapid transit line between Philadelphia and points in South Jersey than on any other transit system in the country.

Yet I have not seen anything brought in here today which would indicate there is any thought in the future of increasing efficiency. So I would expect that what they are going to get is another labor raise in the next year, and that is exactly what they will be back here asking a subsidy for next year.

The gentleman from North Carolina and the gentleman from Illinois (Mr. FINDLEY) brought this to the attention of Members a moment ago. There is not anything in this bill, really, to subsidize the busline. This is to subsidize the labor end of it, which I assume is a considerable part of the cost.

I do not want anyone to be under the illusion that the problem involved here is buying business or modernizing or getting any better service than is being given at the present time. The problem here is almost entirely one of an increasing labor cost. This is the problem involved.

We have raised the fare once already in the last year or two. This has not cured the problem. I do not believe there is anything I can see in the future of this system which is going to amount to any kind of a remedy or improvement over what presently exists.

So I believe that possibly some Members who are listening here today on the committee will recall my words at this time next year, if this bill is passed. The District will be back here for just about whatever the labor cost raises are that will be permitted between now and this time in 1973. That is essentially the problem involved. I am not here to criticize.

The SPEAKER. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. SPRINGER was allowed to proceed for 2 additional minutes.)

Mr. SPRINGER. I thought the Members ought to have here, on top of the record, the problem which is involved, about which nothing can be done unless we can improve the efficiency of the system.

The only discouraging thing I find in coming here with this bill is simply that there is no provision looking forward to the future for an improved more efficient transit system. We are not going to be in any better shape either next year or the following year than we are this year, unless we do raise fares or cut costs. And there is some indication that if the fare is raised the transit system will lose some riders. All the more reason, I say, for calling for increased efficiency.

I do say that this is the essential problem of subsidizing the labor costs which go into this system, which will be about 80 percent. I am not being critical of it at all. I am just saying I wanted the Members to be sure of what is involved.

It is not increased efficiency. It is not newer buses. It is not improved operating efficiency of any kind. It is just this one thing.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Iowa.

Mr. GROSS. Is it not true that the citizens of New York City recently voted by an overwhelming majority against a bond issue raising funds to finance their system?

Mr. SPRINGER. Yes. The gentleman's statement is true.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. DINGELL: Page 3, beginning on line 5, strike out "The Commission may decline to make certificates for any carrier if, at any time, it finds that substantial progress is not being made in the implementation of the plan of that carrier", and insert in lieu thereof the following:
>
> The Commission shall conduct a continuing review of the progress being made by each carrier with respect to the implementation of the plan of the carrier. If, at any time, after notice and an opportunity for public hearing, the Commission finds that a carrier is not making substantial progress toward the implementation of its plan, or that such plan does not serve the public interest and necessity, or that the carrier is not providing adequate service, it shall not issue a certificate for that carrier for any suceeding month, as provided under this Act, until such carrier has taken whatever action is necessary to remedy the situation which gave rise to the suspension of its certificates.
>
> Page 3, after line 11, insert the following:
>
> SEC. 4. (a) The Commission is authorized and directed to conduct a full and complete study and investigation leading to establishment of an adequate program of mass transit in the District of Columbia, including whether public ownership would best meet the need for reliable inexpensive surface mass transportation in the Washington Metropolitan Area.
>
> (b) The Commission shall report to the Congress as soon as possible, but in no case later than 6 months after the date of enactment of this Act, the results of its study and investigation; together with such recommendations it deems appropriate.

Mr. DINGELL. Mr. Speaker, the crux of this amendment is simple. It is a try—and I suspect rather unsuccessfully—to make a good bill out of a bad piece of legislation.

The idea is that it requires the Commission and not Mr. Chalk to come forward with a plan for mass transit services. It requires, where the Commission finds after notice of public hearing that the carrier is not making substantial progress toward implementation of the plan that the payment of the $3 million to Mr. Chalk shall be suspended; where it finds the plan of the operator is not necessary and sufficient to meet the public interest that it shall suspend the payments and shall not again renew payments until such time as the situation which caused the suspension has been remedied.

In addition to this it requires that the Washington Metropolitan Area Transit Authority—not the operator, Mr. Chalk—is authorized and directed to make a full and complete study leading to the establishment of an adequate program of mass transit in the District of Columbia, including therein whether or not public ownership could best meet the need for reliable and inexpensive mass transit.

In addition to that, it requires the Commission shall report to the Congress, not later than 6 months after the date of enactment of this legislation so that we may have it substantially in advance of the time that the $3 million of taxpayers' money being dissipated on Mr. Chalk has been exhausted.

The idea is to get us a fair appreciation of what is going, and to have an intelligent plan so that we will know what the needs of the District are and how they can best be met.

Lastly, Mr. Speaker, the purpose is to see to it that during the time we are subsidizing Mr. Chalk to the amount of $3 million a year, we shall at least have some appreciation that he is operating in compliance with the laws and in compliance with orders of the WMATC and with the public interest.

I do not tell my colleagues, Mr. Speaker, that this makes this a good bill. As a matter of fact, I think any time you give O. Roy Chalk access to the public treasury whether it be for 10 cents or $10 million, you have bad legislation. Obviously we are in the higher figures here because we are giving him some $3 million, but I am sure that he will dissipate it to himself and his friends with the same facility that he has dissipated other assets that have fallen within his tender clutches.

Nevertheless, if we must have a bill—and I do not think we should—this amendment is absolutely necessary to see to it that the public interest is served.

Mr. CABELL. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker and Members of the House, this amendment in the final analysis accomplishes nothing. It is a backdoor approach to the kind of amendment which was declared out of order earlier during the day. There is no necessity for this requirement of the Transit Co. specifically as is called for in this amendment. If you will read the wording in the bill, you will find that the Transit Co. is required to submit a plan. That plan must be acceptable to the Transit Commission before they will certify the fares to the District Commissioner, and he can uncertify those plans and improvements and the implementation of them unless they have been approved by the Commission.

Now, UMTA—Urban Mass Transportation Association—has set aside $4 million for a study of the entire metropolitan area, not just the District of Columbia, but throughout the compact area. There is where we will get the real study in timing, in surface and underground transit systems for the best results and the best service.

So, Mr. Speaker, I urge very sincerely the defeat of this amendment as being entirely unnecessary at this time.

Mr. NELSEN. Mr. Speaker, will the gentleman yield?

Mr. CABELL. I am happy to yield to the gentleman from Minnesota.

Mr. NELSEN. I take it from your comments that really you are not opposed to what the amendment proposes to do, but you are of the opinion that what is being proposed can be done under the contract; is that right?

Mr. CABELL. The gentleman is entirely correct.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. CABELL. Yes, I yield to the gentleman from Michigan.

Mr. DINGELL. I would ask my good friend from Texas why he does not accept the amendment if it does no violence to the bill and makes clear the intent of the Congress?

Mr. CABELL. If you already have it, why double up on it?

Mr. DINGELL. Well, if it does not hurt anything, why not accept it?

Mr. CABELL. We are talking about a $4 million grant for a better comprehensive study.

Mr. DINGELL. This defines what will be put into the comprehensive study you are talking about. It strikes me that this amendment would make this a better piece of legislation.

Mr. CABELL. I think it is completely unnecessary and duplicative of the requirements that are in the original bill.

Mr. DINGELL. In reading the original bill this would make clear the requirement that the Commission in handling these matters has to make a series of findings regarding the public interest before proceeding.

Mr. CABELL. You would have duplication if you did this.

The SPEAKER. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and on a division (demanded by Mr. DINGELL) there were—ayes 24, noes 35.

Mr. DINGELL. Mr. Speaker, I demand tellers.

Tellers were refused.

So the amendment was rejected.

Mr. CABELL. Mr. Speaker, I move the previous question on the bill to final passage.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 50, nays 270, answered "present" 1, not voting 111, as follows:

[Roll No. 138]

YEAS—50

Abzug
Boggs
Broyhill, Va.
Burke, Mass.
Burton
Cabell
Clay
Collins, Ill.
Corman
Davis, Ga.
Dellums
Dorn
Dow
Drinan
Edwards, Calif.
Eilberg
Flood
Gonzalez
Gray
Green, Pa.
Gude
Hawkins
Hicks, Mass.
Hicks, Wash.
Howard
Kazen
McClory
McMillan
Matsunaga
Metcalfe
Mink
Moorhead
Nelsen
O'Konski
O'Neill
Patten
Pepper
Reid
Roberts
Rooney, N.Y.
Rooney, Pa.
Roybal
Ruppe
Sisk
Springer
Stephens
Stokes
Stratton
Sullivan
Waldie

NAYS—270

Abbitt
Abernethy
Adams
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Archer
Ashley
Baring
Begich
Belcher
Bennett
Bergland
Betts
Bevill
Biaggi
Blackburn
Blatnik
Boland
Bolling
Bow
Brademas
Bray
Brinkley
Brooks
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byrne, Pa.
Byrnes, Wis.
Byron
Camp
Carey, N.Y.
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Collins, Tex.
Conable
Conte
Daniel, Va.
Danielson
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Denholm
Dent
Devine
Dingell
Downing
Duncan
Dwyer
Eckhardt
Edmondson
Edwards, Ala.
Esch
Evans, Colo.
Fascell
Findley
Fisher
Flowers
Flynt
Ford, Gerald R.
Ford, William D.
Forsythe
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Goodling
Green, Oreg.
Griffin
Griffiths
Gross
Grover
Hagan
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harsha
Harvey
Hathaway
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hillis
Hogan
Holifield
Horton
Hosmer
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Keating
Kemp
King
Koch
Kuykendall
Kyl
Kyros
Landrum
Latta
Leggett
Lennon
Lent
Lloyd
Long, Md.
Lujan
McClure
McCollister
McCormack
McCulloch
McDade
McEwen
McFall
McKay
McKevitt
Madden
Mahon
Mailliard
Mallary
Mann
Martin
Mathis, Ga.
Mayne
Mazzoli
Michel
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Minshall
Mizell
Monagan
Montgomery
Morgan
Mosher
Moss
Myers
Natcher
Nedzi
Nichols
Nix
Obey
O'Hara
Pelly
Perkins
Pickle
Pike
Pirnie
Poff
Powell
Preyer, N.C.
Price, Tex.
Purcell
Quie
Railsback
Randall
Reuss
Rhodes
Riegle
Robinson, Va.
Roe
Rogers
Roncalio
Rosenthal
Roush
Rousselot
Roy
Runnels
Sandman
Satterfield
Saylor
Schneebeli
Schwengel
Scott
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Skubitz
Smith, Calif.
Smith, Iowa
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Wampler
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Winn
Wolff
Wright
Wyatt
Wylie
Yates
Young, Fla.
Zablocki
Zion
Zwach

ANSWERED "PRESENT"—1

Daniels, N.J.

NOT VOTING—111

Abourezk
Addabbo
Anderson, Tenn.
Arends
Ashbrook
Aspin
Aspinall
Badillo
Baker
Barrett
Bell
Biester
Bingham
Blanton
Brasco
Caffery
Celler
Chisholm
Clark
Clawson, Del
Cleveland
Collier
Colmer
Conyers
Cotter
Coughlin
Crane
Culver
Curlin
de la Garza
Dennis
Derwinski
Dickinson
Diggs
Donohue
Dowdy
Dulski
du Pont
Edwards, La.
Erlenborn
Eshleman
Evins, Tenn.
Fish
Foley
Fountain
Galifianakis
Gallagher
Goldwater
Grasso
Gubser
Halpern
Harrington
Hastings
Hays
Henderson
Kee
Keith
Kluczynski
Landgrebe
Link
Long, La.
McCloskey
McDonald, Mich.
McKinney
Macdonald, Mass.
Mathias, Calif.
Meeds
Melcher
Mikva
Miller, Calif.
Mitchell
Mollohan
Murphy, Ill.
Murphy, N.Y.
Passman
Patman
Pettis
Peyser
Poage
Podell
Price, Ill.
Pryor, Ark.
Pucinski
Quillen
Rangel
Rarick
Rees
Robison, N.Y.
Rodino
Rostenkowski
Ruth
Ryan
St Germain
Sarbanes
Scherle
Scheuer
Schmitz
Slack
Smith, N.Y.
Stubblefield
Stuckey
Thompson, Ga.
Udall
Ware
Whalen
Wilson, Bob
Wilson, Charles H.
Wydler
Wyman
Yatron
Young, Tex.

So the bill was rejected.

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Arends.

Mr. Kluczynski with Mr. McDonald of Michigan.

Mr. Brasco with Mr. Hastings.

Mr. Celler with Mr. Fish.

Mr. Rostenkowski with Mr Crane.

Mr. Rodino with Mr. Bell.

Mr. Murphy of New York with Mr. Robison of New York.

Mr. Miller of California with Mr. Bob Wilson.

Mr. Mikva with Mr. Halpern.

Mr. Charles H. Wilson with Mr. Del Clawson.

Mr. Yatron with Mr. Eshleman.

Mr. Young of Texas with Mr. Whalen.

Mr. Slack with Mr. Mathias of California.

Mr. Hays with Mr. Ware.

Mr. Henderson with Mr. Cleveland.

Mr. Barrett with Mr. Biester.

Mr. Clark with Mr. Peyser.

Mr. Cotter with Mr. Pettis.

Mr. Donohoe with Mr. McKinney.

Mr. Dulski with Mr. Smith of New York.

Mr. Evins of Tennessee with Mr. Quillen.

Mrs. Grasso with Mr. Wyman.

Mr. Macdonald of Massachusetts with Mr. Derwinski.

Mr. Meeds with Mr. Erlenborn.
Mr. Mollohan with Mr. Schmitz.
Mr. Stubblefield with Mr. Baker.
Mr. Podell with Mr. Wydler.
Mr. Rarick with Mr. Ruth.
Mr. Long of Louisiana with Mr. Keith.
Mr. Caffery with Mr. Landgrebe.
Mr. Passman with Mr. Dickinson.
Mr. Murphy of Illinois with Mr. Collier.
Mr. Link with Mr. Scherle.
Mr. Culver with Mr. Gubser.
Mr. Foley with Mr. Goldwater.
Mr. Fountain with Mr. Ashbrook.
Mr. Conyers with Mr. Kee.
Mrs. Chisholm with Mr. Gallagher.
Mr. Diggs with Mr. Badillo.
Mr. Aspinall with Mr. Coughlin.
Mr. Anderson of Tennessee with Mr. McCloskey.
Mr. Mitchell with Mr. Harrington.
Mr. de la Garza with Mr. Thompson of Georgia.
Mr. Blanton with Mr. Dennis.
Mr. Aspin with Mr. du Pont.
Mr. Abourezk with Mr. Bingham.
Mr. Udall with Mr. Galifianakis.
Mr. Melcher with Mr. Pryor of Arkansas.
Mr. Rangel with Mr. Pucinski.
Mr. Colmer with Mr. Rees.
Mr. Ryan with Mr. St Germain.
Mr. Sarbanes with Mr. Price of Illinois.
Mr. Stuckey with Mr. Curlin.
Mr. Patman with Mr. Scheuer.

Messrs. ECKHARDT, LONG of Maryland, and CASEY of Texas changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORITY FOR SPEAKER TO DECLARE RECESS FOR PURPOSE OF RECEIVING APOLLO 16 ASTRONAUTS, TUESDAY, MAY 16

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Tuesday, May 16, 1972, for the Speaker to declare a recess for the purpose of receiving in this Chamber the Apollo 16 astronauts.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

REVENUE SHARING IS ABSURD

(Mr. HALEY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HALEY. Mr. Speaker, since the term "revenue sharing" was coined, I have been opposed to it for many reasons—one among them being its unfair distribution scheme. Also, though, I have been against this program because of the absurdity of the idea of the Federal Government sharing revenues with the States which are nonexistent and therefore require more deficit spending to finance.

With the many messages being sent to the Congress this election year by the voters, it would be informative to my colleagues to read what some of the people think about this nationally advertised cure-all for taxpayer woes which neglects to explain on its label the truth about its adverse side effects.

The following article from a constituent newspaper focuses accurately on this problem and reflects the views of many of the voters in my congressional district. I commend it to the attention of the Members of the House.

That Carrot Is Dynamite

"Revenue sharing" is the big gimmick in Congress at the moment, the carrot which some re-election-seeking politicos are dangling before the voters in their bailiwicks.

It has a sweet sound, that—"revenue sharing." It brings visions of federal sugar plums dancing in the heads of pocket-weary state taxpayers. Ah yes, those sweet eternal visions of something for nothing.

But those who can shake off the tantalizing visions for a moment will take a closer look at the carrot before they bite—and they are apt to discover that that carrot actually is a stick of dynamite. Biting on it will not only blow the gold fillings out of the taxpayers' teeth, but might extract some of the teeth as well.

There are two great big booby traps hidden in the politicos' carrot.

Booby Trap No. 1:

Before Uncle Sam starts sharing revenue with the 50 states, the question should be asked "What revenue?" The most optimistic estimates of the federal budget for the next couple of years put the annual deficit at $10 billion dollars. Most guessers figure the shortage at several times that.

So if Uncle Sam is already scheduled to spend umpteen billion dollars a year more than he takes in, there's nothing for him to share with the states.

The bigger the annual deficit, the more the Federal government must borrow; the more the government borrows, the bigger is the national debt; the bigger the national debt, the higher the interest that must be paid; and the higher the interest to be paid, the higher taxes must be to pay the bill.

These are not theories—they are cold, hard facts. And so is this: When Uncle Sam sends money from Washington to the 50 state capitals, he must first get that money from the residents of the 50 states—and before Uncle Sam starts sending the money back, he takes out a healthy chunk for a handling charge.

Booby Trap No. 2:

Even if there were surplus federal funds to be shared with the states, what formula would govern the distribution?

As explained by U.S. Rep. James A. Haley in his latest news letter, half of the amount would be earmarked only for those states which already have a state income tax. Only 10 do not—Florida is one of those 10.

Then, after half the pie is sliced up 40 ways, the other half would be cut into 50 pieces—but the pieces for the 10 no-income-tax states would be smaller than the pieces going to the other 40. Thus, Florida and nine other states would be shorted twice in one transaction, thereby putting almost intolerable pressure on the 10 state Legislatures to saddle their people with state income taxes.

So let's look at that carrot again.

If we bite it we must, first, dig up extra taxes to pay for the carrot, and second, citizens of Florida and nine other states must ante up more state taxes in order to get as much of a Federal hand-out as the other 40 states.

Housewives and husbands, do you think the price of carrots has gone up at your friendly corner grocery store? That's nothing to the price of the carrot Congress is offering in the sweet name of "revenue sharing."

REMARKS OF HON. JOHN BRADEMAS ON RECEIVING FOURTH ANNUAL RIAA CULTURAL AWARD OF THE RECORDING INDUSTRY ASSOCIATION OF AMERICA

(Mr. THOMPSON of New Jersey asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. THOMPSON of New Jersey. Mr. Speaker, on April 25, 1972, our distinguished colleague from Indiana, John Brademas, was the recipient of the fourth annual Recording Industry Association of America Cultural Award.

I believe the citation honoring a Member of this body, and Mr. Brademas' remarks upon accepting the award, deserve the attention of all Members of Congress:

The Fourth Annual RIAA Cultural Award Is Proudly Presented by the Recording Industry Association of America to Representative John Brademas of Indiana

In recognition and deep appreciation of his dedication to the arts and humanities, his continued efforts in behalf of education at all levels, and his enlightened leadership in providing broader cultural horizons for the nation. In his 13 years as a member of the House of Representatives, he has become an internationally-acknowledged leader in the arts and education. He is the vigorous champion of the arts and humanities in Congress, an avid supporter of the National Endowment for the Arts, and an invaluable leader in achieving an expanded Federal role for the support of culture. As floor manager of the Arts and Humanities Foundation Bill in the House in the last Congress, his leadership produced the greatest number of votes in history for this measure. He has been sponsor or co-sponsor of most of the legislation in recent years dealing with education.

He is chief sponsor in the House of the Comprehensive Child Development Bill, the Rehabilitation Act of 1972 and the Museum Services Bill, all measures with significant implications for the arts in America.

He is a Harvard Overseer, a fellow of the American Academy of Arts and Sciences, and a member of the National Historical Publications Commission. For his total involvement and active interest in fostering and encouraging the cultural and educational climate in our country, the Recording Industry Association of America is proud and delighted to present him with its Fourth Annual Cultural award.

Remarks of Congressman John Brademas of Indiana on Accepting the Fourth Annual RIAA Cultural Award of the Recording Industry Association of America, April 25, 1972, Washington, D.C.

First, let me say how grateful I am to the Recording Industry Association of America for the high honor you have done me.

That my father and mother are here tonight makes all the more happy this occasion, for I am sure that my own interest in the arts stems in large measure from them.

When yet a child, I used to hear my father who was born in Greece, speak of the glories of our Hellenic heritage—of Socrates and Plato, of Aristotle and Phidias and Praxiteles.

And to prove he was part of it all, my father, who is, as you can see, not very tall, told me how, back in his home town in Greece, he would stand on a wooden box to play the clarinet in the local symphony.

The overture to "Cavalleria Rusticana" was his speciality—and, though born near Sparta, my father, I like to think, is at heart an Athenian . . .

Vice President Agnew's ancestors, by the way, also come from near Sparta, but I think he feels more at home there!

My mother is a Hoosier schoolteacher—named Beatrice Cenci because my grandfather admired Dante—and she has taught music and art for nearly 50 years in the schools of Indiana and Michigan, mostly to very young children.

I recall still as a child going with her to the operettas she directed in the small country schools of Northern Indiana where she rode circuit, teaching music.

So, to reiterate, I am pleased that my parents could be here tonight for this award is really more properly theirs than mine.

SUPPORT FOR THE ARTS INADEQUATE

During my service of over 13 years now in Congress, I have been immensely encouraged to see the burgeoning appreciation on the part of Presidents and Senators and Congressmen, both Democrats and Republicans, for the vitality of the arts in our society.

That Presidents have sought the full appropriations authorized for the National Arts Endowment is concrete evidence of this rising appreciation.

And that Congress in recent years has given overwhelming approval to these funds is yet another.

Yet we have no right, I must here interject, to bask in the sun of self-congratulations.

For what the United States of America, the wealthiest nation in human history, does in support of the arts is pitifully small and inadequate when measured either by the need or by the relative investment in the arts of other countries of the world.

As my Hellenic compatriot, John Veronis, makes clear in the current issue of Saturday Review, our government spends today less per capita on the arts—just 15¢—than nearly every other country in the Western world.

Measure this 15¢ against the per capita outlay of other countries:

Great Britain	$1.23
Israel	1.34
Canada	1.40
Sweden	2.00
Austria	2.00
West Germany	2.42

Or, if you like, look at how we stand in total government support of the arts.

With 205 million people, we appropriated $30 million last year for the National Arts Endowment.

Our Canadian neighbors, with 22 million people, spent $26 million; Great Britain, with nearly a quarter of our population, spent over twice as much, $66 million; and the West Germans, also with 55 million people, spent $134 million.

Clearly we can afford to do better . . .

And surely we need to do better . . .

And that is why I have been encouraged by such efforts as the Partnership for the Arts, so vigorously led by Amyas Ames, which seeks to mobilize support across the country for more funds for the National Arts Endowment, beginning even now and aiming, after successive annual increases, for $200 million—$1 for every American—to celebrate the bicentennial in 1976.

THE ARTS IN AMERICAN LIFE

You in the Recording Industry Association of America know, better than do most, the immense power of American music, both within our own society and abroad.

Our musicians—composers and performers—our poets and painters, our actors and dancers and novelists are heard and seen and read throughout the world.

And the hunger for the experience of art is not abating here in our own country but is rising rapidly.

Yet the demands on our artists and institutions of art are escalating at just that time when the financial burdens on them are soaring as well.

And I do not believe we can ignore this squeeze any longer.

In particular, I do not believe that we in the Federal government can turn our backs on the situation of the arts in American life.

That the people of the United States, acting through their national government, should give evidence of support for the values of mind and feeling and creativity which are what art is all about seems to me therefore not only proper but, indeed, essential.

So I am not one of those who believe that art is an activity we support provided that some money is left over.

For money will never be left over.

Art and artists must be supported as indispensable in their own right.

THE ARTS AND THE QUALITY OF LIFE

Let me summarize what I am trying to say by telling you of an experience to which I have frequently referred.

As you have been told, the education subcommittee I have the honor to chair has jurisdiction over the programs of the National Arts and Humanities Foundation—but I must tell you that my subcommittee handles a variety of other legislative areas as well.

We also write bills touching on educational technology, child day care and preschool programs, drug abuse education, educational research, public libraries, education of the handicapped, and the older Americans programs.

And it has been fascinating to me to see the ways in which what we do in one area dovetails with our legislative activities in others.

So it will not surprise you when I tell you that when several of my colleagues and I decided some time ago to write legislation providing funds for elementary and secondary schools for offering courses about the environment, I picked up the phone in Washington and called Robert Motherwell to ask him to be a witness on the first day of our hearings.

He said, "Why do you want me to testify on environmental education; I'm a painter."

I said, "Because we want to establish at the outset that in discussing the environmental crisis, we are talking about far more than clean air, land and water. We are talking about the fundamental values of human life."

Motherwell said, "I'll come," and his eloquent testimony that day provides the text for my concluding remarks to you here tonight.

Said this distinguished American painter, "I speak only as an artist, but to speak as an artist is no small thing. Most people ignorantly suppose that artists are the decorators of our human existence, the esthetes to whom the cultivated may turn when the real business of the day is done. But actually what an artist is, is a person skilled in expressing human feeling."

Motherwell went on to demonstrate his own skill in expressing human feeling when he voiced his horror at what we have made of much of our environment:

"One's mind reels at what men without an aesthetic sensibility have been capable of. Far from being merely decorative, the artist's awareness, with his sense of proportion and harmony, is one of the few guardians of the inherent sanity and equilibrium of the human spirit that he have."

It is to help assure that we do not lose the efforts of these indispensable guardians of the human spirit that we must all dedicate ourselves.

And it is with that conviction—of the need for still greater commitment to support of the arts on the part of my colleagues in Congress and myself and, I hope, on the part of all the people of our country—that I accept, with deep thanks, this award from the Recording Industry Association of America.

For to remind you, "To speak as an artist is no small thing."

VLADIMIR MACHLIS FREED TO EMIGRATE

(Mr. KEMP asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KEMP. Mr. Speaker, today I received good news from Moscow which gives additional support to my belief that sustained congressional and public attention to the plight of Soviet Jews produces beneficial results in their behalf.

The message is the result of a weekend telephone call between Vladimir Machlis and Dr. David Korn, chairman of the Soviet Jewry Committee on the Jewish Committee on the Jewish Community Council of Greater Washington.

Less than 3 weeks ago, on April 20, I reported to this body that Mr. Machlis, a 27-year-old Moscow resident, had unsuccessfully sought six times to obtain permission to emigrate to Israel to join his mother, sister and twin brother, Leonid, who had been granted emigration permits 6 months earlier.

Today, Dr. Korn translated into English, the following message he was given in Russian by Vladimir Machlis. It is:

> DEAR CONGRESSMAN KEMP: You have saved my life, and thanks to you, I was given permission on Wednesday to leave for Israel to fulfill my dream of being reunited with my family and my people.
>
> You believe in Democracy and Human Rights and it is because of your belief and your colleagues and of the American President that I am finally free.
>
> But there are others who want to fulfill their dreams and join me. Please make every effort to help them. We only want to help through peaceful means just as you have done on my behalf.
>
> I will be in touch with you as soon as I get to my homeland.
>
> Thank you again, very much.
>
> VLADIMIR MACHLIS.

Mr. Speaker, Vladimir Machlis lost his job as a Soviet Aeroflot pilot after requesting an emigration permit. On April 19, his brother, Leonid, visited my Washington office and gave me the following message from Vladimir:

> I have only one hope left now, that good people of America and everywhere will cry out for me.

Today, I am convinced that the concern of Americans and their Representatives in the Congress have helped Mr. Machlis' dream of emigration come true.

Last November, Yakov Gluzman, who had been frustrated in requests to emigrate to Israel since February 1970, in order to be reunited with his wife and to meet a baby son he had never seen, finally was granted an exit permit.

Following Mr. Gluzman's emigration, I wrote a letter of appreciation to His Excellency, Anatoly F. Dobrynin, the Soviet Ambassador to the United States, for his personal interest in the Gluzman case and his Government's action.

I will write Mr. Dobrynin another letter of appreciation for his Government's action in the case of Mr. Machlis and, at the same time, appeal to the Ambassador to make additional efforts in behalf of those Soviet Jews who are still seeking permission to emigrate.

Even as I received the happy tidings from Vladimir Machlis, Dr. Korn informed me that, as a result of additional telephone conversations to Moscow in recent days, he has learned that at least five young Jews, who were among a list of 46 seeking exit permits which I brought to the attention of my colleagues on April 20, have been ordered into military service.

According to Dr. Korn, the number of emigration applicants being inducted into Russia's armed forces is rapidly growing as the President's planned visit to the Soviet Union draws near. Most vulnerable, I am told, are those in Moscow, Leningrad, and Kiev, the cities the President plans to visit.

The policy of induction is referred to as "Judenfrei," which means, as it did in Nazi Germany, to free a community of Jews, Dr. Korn reports.

The five men, who were previously brought to the attention of my distinguished colleagues as among those being refused exit permits and who have since been inducted into military service are: Abramovich Pavel, Mikhail Kliachkin, Sergei Gurvich, Leonid Tsypin, and Gavriel Shapiro, all of Miscow.

Others who were seeking permission to emigrate and who have been inducted include Vladimir Lerner, Daniel Roginsky, David Markish, Victor Yackhut, Marek Nashpitz, Boris Einbinder, and Leonid Yoffe, all of Moscow, and Mark Levin, of Sverdlovsk.

Mr. Speaker, I wish to commend those on the impressive list of Members of Congress who have joined me in signing a petition to our President, requesting him to express the concern of Americans in behalf of Soviet Jewry to Soviet leaders.

Since April 20, when I entered the names of 127 distinguished colleagues, who had signed the petitions, in the Congressional Record, 16 other colleagues have joined our effort. They are Congressmen Walter Baring, George Collins, James Corman, Nick Galifianakis, Charles Gubser, William Hathaway, Peter Kyros, Ralph Metcalfe, George Miller, William Moorhead, Albert Quie, Henry Reuss, Peter Rodino, Fernand St Germain, W. S. Stuckey, and Guy Vander Jagt.

On May 15, the names of these 16 members and all of the 143 petitioning Members of Congress, along with approximately 1 million signatures of fellow Americans from across the Nation, will be turned over to leaders of the National Assembly on Soviet Jewry in Washington. These leaders, in turn, will bring the signatures to the attention of the White House prior to the President's departure for Moscow.

TRIBUTE TO PRESIDENT TRUMAN ON HIS 88TH BIRTHDAY

The SPEAKER. Under a previous order of the House, the gentleman from Missouri (Mr. Randall) is recognized for 60 minutes.

Mr. RANDALL. Mr. Speaker, once again it is my pleasure to pay tribute to the No. 1 constituent of the Missouri Fourth District—former President Harry S Truman—on this the occasion of his 88th birthday.

To honor such a man is an honor in itself. The life of Harry S Truman reads like the work of Horatio Alger, escalating the hero, through perseverance, honor, and ability. Born to Kentucky-bred parents, two decades following the close of the Civil War, Harry S Truman entered life under rather inauspicious circumstances, in no way suggesting he was destined for greatness. The post-Civil War economic boom had little effect upon his neck of the woods out in Barton County, Mo.; and even after the family moved to Independence, in 1891, the economic struggle continued.

Nor was young Harry Truman the kind of boy to take the social world by storm. He was shy, quiet, wore glasses at the age of 8, and made books his sport while his classmates were riding their horses around the countryside. Such conduct was not exactly the best means of becoming a social lion. Nonetheless, by the age of 15 he was said to have read every single book in the library collection at Independence, Mo.

Another apparent obstacle in Harry's path, at that stage, was his mother's insistence that he study the piano. That was not the sort of thing most young fellows in Independence were doing, back in 1893, and the music sheets that Harry carried through the streets caused some ridicule from those of his same age.

But, for all that, Harry liked books and he liked music. He was not the kind of person to avoid something simply because it happened not to be the fad among his close associates.

He was also a hard worker, and when his family suffered financial reverses in the 1890's Harry took on a couple of part-time jobs, first as drugstore clerk, and later as a mailroom clerk for the Kansas City Star. After high school he worked steadily for a time in Kansas City, before returning to the farm near Grandview where he was reared, to try to make a living in agriculture.

There was no denying Harry Truman's ability as a farmer. His mother declared:

> That boy could plow the straightest row of corn in the county. He could sow wheat so there would not be a spare spot in the whole field. He was a farmer and could do anything there was to do just a little better than anyone else.

While the source of the remarks was not unbiased, numerous other observers were inclined to agree with Mrs. Truman.

There was, however, more on Harry Truman's mind than farming, even while he was plowing "the straightest row of corn in the county." His reading had made him deeply conscious of American history and he had acquired several historical heroes. All of them, he said later, were somewhat familiar with the subjects of military operations, finance or banking, as well as agriculture, and Harry was determined to emulate the men he most admired. With this in mind, he joined the National Guard in 1905, and served 6 years, rising to the rank of corporal. Logically, he might next have turned to finance or banking; but then came World War I, and Harry Truman promptly enlisted in the Field Artillery.

Even in this capacity, he was able to expand his horizons, by some practical economics. At Fort Sill, where he was stationed he started a canteen by collecting $2 from each of the 1,100 men in his regiment. With the aid of a friend with mercantile experience, he built up the canteen until in 6 months it not only refunded the $2 apiece but accumulated $15,000 in dividends for the regiment.

As captain of Battery D, 129th Field Artillery, 35th Division, Harry Truman led his men whom he described as "a hard-boiled bunch of Kansas City Irish," through the Saint-Mihiel and Meuse-Argonne offensives in France. In 1919 he reentered civil life as a haberdasher, and then was married. For a wife he selected Bess Wallace, his childhood sweetheart, whom Harry described as "the only girl I ever went with."

As a businessman, Harry Truman ran into the deflation troubles of 1921, and was quickly driven out of business. But this was his last defeat. From there on, as the saying goes, it was a successful course, "downhill all the way."

From business, Harry Truman turned to politics, for which he was admirably suited. His family were stanch Democrats and he had many friends among the farmers and townspeople of eastern Jackson County, which was a Democratic stronghold. Moreover, he was a Mason, in a section heavily populated by fellow Masons. With this background, he was recognized as a man of political potential, and in 1922 he was selected to run for the office of judge of the Jackson County Court. The court was not judicial, despite its title, but rather a county commission. Harry was elected, studied law, and 4 years later was elected presiding judge of the county court.

In time "Judge" Truman became known all over Missouri as the outstanding symbol of political honesty. With this in his favor, he fought hard for and won the Democratic nomination for U.S. Senator in 1934; the subsequent election was easy.

In Washington Harry Truman revealed from the start that he was devoted to the cause of progress, notwithstanding the conservative tendencies of his colleague, Bennett Champ Clark, the senior Senator from Missouri. Clark was an isolationist, and an opponent of many of F. D. Roosevelt's New Deal reforms. Harry Truman, on the other hand, endorsed the New Deal with many of his votes.

In 1937 Truman was named chairman of two important subcommittees, one of which drafted the Civil Aeronautics Act, the other drafting a bill which became the Railroad Transportation Act of 1940.

In the investigations preceding the finalizing of the Railroad Transportation Act, there were some political shenanigans uncovered in Missouri. Some of his political associates were deeply embarrassed. Pressure was exerted to cut off the investigations, but Truman refused to yield. In consequence of Harry Truman's exposés in Washington, other investigations were launched in Missouri, revealing—among other things—the existence of a bogus voting registration list, containing the names of 47,000 nonexistent Democrats, all of whom were listed as voting for Truman in 1934. It looked as though Harry's honesty had paid off in the form of his own political demise. But he went out for reelection in 1940. It was a struggle in the primary, but in the fall he was reelected, with a majority of 40,000 votes.

The war years, 1941–45, found Harry Truman at the head of the Special Committee to Investigate Contracts Under the National Defense program—a title that was shortened in the press to the more concise description of the "Truman committee." In its first annual report, the Truman committee exposed the waste of $100 million in Army construction work and "extraordinarily poor judgment in many other wartime expenditures.

Truman committee reports were responsible for the abolishment of the bumbling Supply Priorities and Allocation Board, in 1942, in favor of the Office of Production Management. Further exposés by the committee caused the establishment of the highly efficient War Production Board; broke up cartel agreements between American and German industries; ended the scrap shortage that was hampering the war effort; cut down on malpractice by labor unions and faulty production on the part of several major manufacturers; and forced the better coordination of the entire American war program.

At the Democratic National Convention of 1944 Harry Truman was nominated for Vice President, on the strength of his work as head of the Truman Committee. In November of that year he acceded to the second highest office in the land, and with the death of President Roosevelt on April 12, 1945, Harry Truman became President of the United States.

It has been said that President Truman assumed office as a new leader at one of the most unpropitious moments in history. At this point, remember he was without experience in the field of national administration. All his experience had been legislative—not executive. Immediately he was required to take a leading part in winning World War II, making the peace, establishing the United Nations, reconverting from a wartime to peacetime economy and helping the wartorn lands. Moreover, in moving into the White House at this juncture, Harry Truman had to fill the shoes of Franklin D. Roosevelt, the most colorful and popular President to hold office since Teddy Roosevelt, a half century before. F. D. Roosevelt, like Teddy Roosevelt, had already been classed among the political immortals in American history. How, in this event, could Harry Truman be expected to make a fair showing? Could he, walking in the shadow of his predecessor, dare aspire to greatness?

The facts, I think, are clear enough today. Indeed, Harry Truman was able, in his two terms as President, to establish himself among the list of the truly great American Presidents. The fact, I think, is undeniable on its face, and easily supported by the record.

It is a notable fact that the greatest of American Presidents have been inclined to arouse the greatest storm of activity while they are in office, both in favor of and in opposition to their policies. It is also a notable fact that the greatest of American Presidents have departed from office with their outraged opponents in full cry, swearing to undo their policies. This was the case, certainly, so far as Harry Truman was concerned. It was also true of George Washington.

When Washington left the White House, following 8 years of firm Federal control over the infant American Republic, he could hear on every side the voices of his critics. Was he right in following Hamilton's conservative lead in the establishment of the original Federal economic program? His critics did not think so. Was he right in suppressing the Whiskey Rebellion? His critics did not think so. Was he right in avoiding further conflict with England? His critics did not think so.

They said they would show him. They would undo the National Bank, weaken the Federal authority in behalf of States' rights, and drive the British out of Canada. That is what they said. But when all was said and done, none of this occurred. As it turned out, the National Bank was left standing, the Federal authority remained strong, and the British—though nudged a bit in the War of 1812—retained control of Canada. In the end it had to be conceded and admitted that George Washington's program was, in fact, good enough to keep.

The same, you will recall, was the reaction of Harry Truman's opponents to his departure from the Presidency in 1952. Much was said about the changes that were going to take place. Much was prophesied as to the whirlwind revamping that would be required once "that man from Missouri" was out of the White House. But what occurred along this line? Not very much, as I recall. In fact, it seemed as though the great "reformers," who were going to undo Harry Truman's policies, wound up letting them alone, to an extraordinary extent. Why? Because those policies were good ones; good for the Nation and good for the world.

It was President Harry Truman who linked the American destiny with that of Western Europe, under the terms of the NATO alliance. It was he who inaugurated the Marshall plan, which stopped the spread of communism across the European Continent. It was he who brought the Nation through 7½ years of prosperity, without the slightest letup.

I yield at this point to the distinguished Speaker.

Mr. ALBERT. Mr. Speaker, I appreciate the gentleman from Missouri yielding and I commend him on the excellent statement he has made on the birthday of one of the greatest Americans of all time. I want to join the gentleman in wishing Harry Truman a happy birthday.

Mr. Truman is one of the few men who have been recognized in his own lifetime as one of the giants among American Presidents. Certainly as a man of courage, he must be ranked with Andrew Jackson and Teddy Roosevelt. As a man of wisdom and farsight he must be ranked with Washington, Jefferson, and Woodrow Wilson.

He had strong intuition with respect to the direction of history. I have been in Congress ever since the Greek-Turkish loan program was enacted. That program, of course, was the beginning of America's post-World War II foreign policy.

The guidelines which President Truman and his administration laid down at that time have been substantially the guidelines of American foreign policy ever since. No better policy has been promulgated to improve or change the general philosophy of the Truman doctrine, notwithstanding changing conditions.

Mr. Truman was a President who, as the gentleman has said, was criticized severely at times. With the passage of time and relatively little time by historical measurement, his critics appear to have justifiably faulted him only on little issues; he seems to have been right on the big ones. Harry Truman truly was one of the towering giants of this century while he was in the White House. He is a great man who took the helm when his country was at a crossroads. We now realize his perspicacity and his sound judgment made the vital difference in one of the critical turning points of history.

I loved Mr. Truman from the time I first met him. I treasure his friendship as I share it with his countless admirers.

I read only yesterday what the great Missouri artist Thomas Hart Benton said about him in one of the Washington papers.

It is providential that a man could have such longevity. He has served as a world leader, a great modern-day President, and now continues to serve as an inspiring genius for the American people whom he loves and who love him.

Mr. RANDALL. Thank you, Mr. Speaker. We are most grateful for your contribution to this salute to our former President.

I now yield to the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. I thank my distinguished colleague, Harry Truman's own Congressman, for yielding to me.

I want to join in this tribute to former President Truman on his birthday.

Harry S Truman—A man of independence in more than one sense and of considerable courage.

A man whose life poured content into the words "courage" and "loyalty."

An artillery captain who unhesitatingly removed a five-star general who refused to fade away.

A bankrupt haberdasher who could look failure in the face without losing faith in his country's future.

A high school graduate who refused to be intimidated by sheepskins or gold braid.

In the rough and tumble of American politics he remembered rule No. 1: Never forget your friends.

He had the courage to make the awesome decision on the use of the atomic bomb and the wisdom to recognize the imperative necessity of an effective international peacekeeping organization.

And, with all this, he had a simple directness of speech so greatly admired by all of us—an ability to describe the issues as he really saw them without sophisticated pretense.

The sort of father any wife or daughter can recognize; the sort of father any father would like to be.

The piano player who, when a national columnist criticized his daughter's singing, called him an S.O.B. This is the sort of conduct with which we may not approve, but with which we can identify.

May the Lord bless us with his presence for years to come.

Mr. RANDALL. I thank my colleague from Missouri.

Mr. Speaker, I am delighted to yield to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. I thank my distinguished colleague from Missouri for yielding, and I thank him for taking time out today to commemorate this illustrious American's birthday.

I join our illustrious speaker as well as our other colleagues who have spoken in wishing Harry Truman a very happy birthday and many more to follow.

We have a great debt to this great American, and it is well that we pause to mark his birthday.

I thank the gentleman from Missouri.

Mr. RANDALL. We are grateful to the gentleman from Texas.

Mr. Speaker, it is a privilege to yield at this time to the distinguished gentleman from Ohio (Mr. MCCULLOCH).

Mr. McCULLOCH. I thank the gentleman from Missouri for yielding to me.

I first came to Congress when Harry Truman was President. I am not of his party, but he was a Chief Executive with whom most if not all could work.

I watched him through that term when I began to serve, when he was President and I soon came to the conclusion that the Korean war could well be the high tide of armed Communist aggression in the world.

I should like to say, Mr. Speaker, if that summary is correct, Harry S Truman will be the great man of the century. I am glad to say a word about a great President.

Mr. RANDALL. We are appreciative of the remarks of our dear friend from Ohio.

In conclusion, under all present circumstances, I am sure it will be necessary; yes, mandatory, for history to accord a high place to this remarkable man—Harry S Truman of Independence, Mo.—just as the American people accord him a high place in their hearts today on the occasion of his 88th birthday.

He saw his duty and performed it, with a will and with the energy and ability required of his Office. You can well imagine the pride that is mine in knowing that this man—of great mind, great heart, and great accomplishments—is a resident of and a constituent in our congressional district.

It is, therefore, my distinct pleasure to salute Mr. Truman on this day, and to wish him many more happy birthdays in the future; birthdays in a world made better because he was President of the United States.

Mr. HAGAN. Mr. Speaker, today, May 8, marks the 88th birthday of President Harry S Truman and I want to join my colleagues and his multitude of friends in extending my heartiest congratulations and all good wishes on this wonderful milestone in his life of devoted service to his country.

I deeply value some personal remembrances of President Truman which include his kind acceptance of my invitation to speak to the Hibernian Society on St. Patrick's Day of 1962 in Savannah, Ga.

On the celebration of his 88th year, it is earnestly hoped that President Truman's face will grin broadly and that he will reflect with understandable pride on a wealth of remarkable achievements which not only add to his personal stature, but also to the greatness of our beloved Nation.

PIONEERS OF BUFFALO—ITS GROWTH AND DEVELOPMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, the higher education bill, which is presently before a House-Senate conference committee, includes provisions for ethnic heritage studies. As a strong supporter of both the higher education measure and its ethnic studies provisions, I call upon the conference committee to report out this legislation in the immediate future.

I feel confident that the resources provided by this bill can bring about a greater understanding of the different ways of life and tradition among our ethnic peoples and thus help us all live and work together in a more harmonious society.

For too long now we have put too much faith in the great "melting pot" theory of America and have ignored the concept of ethnicity. The American heritage has been greatly enriched by the cultures, backgrounds, and traditions of the countries from which our forefathers emigrated. Our ethnic groups have much to be proud of and pride of origin should be encouraged, not stifled for the sake of uniformity. In the process of homogenization, our peoples lose a sense of identity and the important values of community and family solidarity.

Rather than denying the many ethnic and traditional differences of all Americans, it is time to emphasize them. Rather than sacrificing diversity, we should build upon it to strengthen our pluralistic society.

Mr. Speaker, the Buffalo Commission on Human Relations has published a booklet which tells the story of the city's nationality and racial groups, and I would like to have it reprinted here. A study of ethnic contribution to the growth and development of this great American city and our entire Nation surely will serve to reaffirm pride of origin and renew a sense of identity within our ethnic groups, and I urge swift approval by the Congress of these programs for the study of ethnic heritage.

The article follows:

PIONEERS OF BUFFALO—ITS GROWTH AND DEVELOPMENT

(By Stephen Gredel)

ON BEHALF OF THE PEOPLE OF BUFFALO

"Historia est magistra vitae" is an old Roman saying which suggests that history teaches us. It best expresses the purpose of the Commission on Human Relations in presenting this informative booklet on behalf of the people of Buffalo. It is a story of the city's nationality and racial groups. From the earliest days as a small village, Buffalo has had problems, tensions and conflict situations which confronted her various social, religious and nationality groups or individuals from time to time.

In 1815, a clash between an early Scottish pioneer and blacksmith for the Indians, David Rees, and an important chief of the Seneca tribe, Young King, almost created a crisis between the early white villagers and the Indians. However, they were able to resolve their differences by "peaceful settlement" on November 25, 1815.

The Polish newcomers had a difficult time when they first started to move to Buffalo's East-side. Their neighbors were members of a large well organized German community. At the beginning of the Polish influx, Germans were most helpful to the newly arrived immigrants. Later, however, when the Poles overflowed the East-side of the city, the Germans considered them intruders. Yet, while there was tension, no serious clashes were recorded.

In earlier days the city was well known as the crossroad of the "Underground Railroad," the escape route of fugitive slaves to Canada. Many of Buffalo's citizenry showed a friendly and helpful attitude toward the Negroes. It is recorded in the *Buffalo Morning Express* of October 1, 1847 that on the previous day Robert Perry and another man, also from Kentucky, tried by armed force to compel a fugitive slave named Christopher Webb, who was working as a waiter in the Gothic Hall saloon on lower Main Street, to return to "his master." A "six shooter" threatened anybody who might have tried to interfere.

They took Webb to a law office, but the citizens who soon gathered there made the situation dangerous for the slave hunters. Webb was permitted to leave. The two men from Kentucky hurried through the back window of the second floor of that office running for their lives and left the city in a carriage. A deputy sheriff accompanied by several Negroes on horseback was on their trail. Those slave hunters, if caught, could have been arrested for "assault and battery" and "false imprisonment."

Such were the people and officials of Buffalo. Compassion and mutual help in time of need have never changed in the "City of Good Neighbors."

When the Italian newcomers began to replace the Irish settlers in their stronghold in south-west Buffalo, tension rose and existed there for some time between these two nationality groups. Fights were common in the streets and saloons of the waterfront area but this tension, too, gradually subsided.

Not too long ago in a Buffalo suburb, a Negro family planned to move into a house located in an all-white neighborhood. Apparently some of the neighbors or their children disapproved of this, and one night vandals splattered paint and wrote on the house which was under construction. An appeal by a minister was heard by concerned residents, and they gathered next day to paint the house. From that day on the Negro family lived there undisturbed.

In its entire history, Buffalo has never experienced any rioting or serious internal conflicts. It is my sincere hope that Buffalo's people will continue to live peacefully in the future.

This booklet is the first publication to be published by the city's Commission on Human Relations. In the future, others relating to the present period will follow. With problems of preliminary organization largely met, the newly created Commission may get on with its mission which is to promote equality, interracial understanding, neighborhood peace and harmony among the people of Buffalo.

FRANK A. SEDITA,
Mayor.

ACKNOWLEDGMENTS

In May 1965, the Buffalo and Erie County Historical Society published a part of this material in the thirteenth volume of the *Adventures in Western New York History* series for educational purposes. The title of the booklet was "People of Our City and County." On February 3, 1966, at a meeting of the City Commission on Human Relations the recommendation of its Research and Public Information Committee to publish the entire manuscript was unanimously approved. It will be used as an informative historical booklet relating to the history of Buffalo's major and significant nationality groups.

May I express my deep gratitude to Mr. Walter S. Dunn, Jr., Director of the Buffalo and Erie County Historical Society, who considered my manuscript worthy of publication and took time to condense the manuscript for its first printing; to Mr. Lester W. Smith, the Society's Associate Director, for his constructive suggestions; to Mrs. Thelma M. Moore, former editor of the *Adventures* series and Curator of Education with the Historical Society, who was helpful in counseling me along the way of my writing; to Mrs. Wilma C. Bertling, present Curator of Education at the Society, who volunteered much of her time to read the manuscript for both editions; to Mrs. Mary U. Fiorella, Chairman of the Commission on Human Relations, for her suggestion to the Commission that the complete manuscript be published; and to the members of the Commission who unanimously authorized the publication.

It is my hope that this booklet will bring to its readers more understanding and mutual respect for their neighbors, be they newcomers or natives; white or of other colors and races; of the same religion or other faiths; because we are all the children of God. This city would never be what it is today without people like you and me and our neighbors. May the exciting history of our city stimulate us to be more friendly, humane and loving. May we prove to be worthy of our beloved city, truly the "City of Good Neighbors."

AUTHOR.

When we are listening to the wonderful music of the Buffalo Philharmonic Orchestra at Kleinhans Music Hall, few of us are aware that the musicians performing in such close harmony represent strains of many different national and cultural backgrounds. We find the same variety of national and cultural backgrounds in our Common Council, and elsewhere in the community. There are teachers and classmates, neighbors and store keepers, priests and mailmen, all originating from somewhere abroad and all descending from one or several nationalities. They are now Americans, speak the English language and are devoted citizens of the United States.

The food we eat is a delightful mixture of the delicacies of Southern Europe, the Middle East and the Orient along with our turkey or corn or apple pie. The art we enjoy may be Spanish or French or Chinese in origin. Our architecture may show a blend of different and strange styles. Our speech may have been enriched by various cultures brought to this country by millions of immigrants during many centuries.

In accepting these various cultural strains and by absorbing the best ideas, we have developed our own culture. Americans today, living in comfortable homes, proud of churches, public buildings, schools, cultural institutions, department stores, plazas, banking houses, recreation centers, transportation and communication facilities, need to remember those days when this spot of land was still a wilderness and Indians inhabited the fertile lands of the New World.

At first there were adventurers and later regular homesteaders, followed by waves of immigrants. With them they brought their skills, their dreams, their convictions and their genius, to make this land great and strong, useful and prosperous, rich and comfortable.

INDIANS AND EARLY SETTLERS

Before frontier scouts and traders came as forerunners of the first white settlers, we have strong evidence that Indian council fires once burned here. At first, the Algonquins, then the Neutrals, and lastly the Iroquois, dominated our Niagara Frontier. Several ancient villages and Indian hunting parties made camp on the present location of Buffalo. Archeologists excavating for earthworks, artifacts and skeletons have so located these settlements.

In the mid-Eighteenth Century a Frenchman, Chabert Joncaire, established a farm and trading post at Buffalo Creek, but it lasted only a few short months. In 1789 the British sent about 1600 Indians from a temporary winter camp outside Fort Niagara to Buffalo Creek. There, in the area located about four miles southeast of present downtown Buffalo, the land was excellent for farming and hunting, and the fishing was good.

By 1800 the Indian population of the area began to decrease. As the western New York area was opened up for settlement by the Holland Land Company, the Indians quietly drew back into their reservation where there was an already existing village. In 1817 they numbered about 700 Senecas, some Munsees, Onondagas and Cayugas, and during this period it was not unusual to see Indians on the streets in the growing New Amsterdam, or Buffalo in the midst of groups of newly arrived settlers. By the 1840's the Indians were transferred to the Cattaraugus Indian Reservation and disappeared from the history of our local area.

Even before Joseph Ellicott completed his survey of the future village of New Amsterdam, a name given by the Holland Land Company for the town on the waterfront of their purchase, there were several settlers living here. On land owned by William Johnston, British Indian agent, Ellicott found a Dutch trader and tavern keeper named Cornelius Winney who later departed this area in 1799. There was also a German named Martin Middaugh living with his daughter and son-in-law, Ezekiel Lane, a former Revolutionary War soldier. Joseph Hodge, a Negro called "Black Joe," was the fifth inhabitant. Even at this early date the small settlement was already displaying several cultural strains.

One prominent citizen in this early settlement was John Crow from Oneida County, whose tavern was the gathering place for fur traders, Indians and soldiers from across the river at Fort Erie.

THE YANKEES

Most of these early pioneers were Yankees. Among them were tavern keepers Jesse Skinner and John Palmer; blacksmith William Robbins; Indian trader Sylvanus Maybee and goldsmith Asa Ransom who also traded with the Indians. Ransom had a thriving business making buckles and other pieces of jewelry for Indians to adorn their already colorful costumes. In time, Ransom took land on the Batavia Road to open a tavern, or resting station, for other settlers moving west into the Holland Land Purchase mostly from the eastern or New England states.

Yankees, or New Englanders, followed closely in the steps of frontier scouts. During the War of Independence many of them encountered the frontier in the Genesee Valley, and after the fighting was over they decided to push westward. Usually they came as peddlers and in their wagons they carted what amounted to a small general store with supplies of dry goods, shoes, cloth, firearms, hats, clocks, tinware and salt. Moving deeper and deeper into the wilderness they made their own roads, and when necessary, forded across the creeks. When they came upon desirable trading spots they settled down. They built do-it-yourself homes using the timber, logs, mud, stones and grass that were the natural resources of the area.

Most of the first Buffalo settlers came from Massachusetts, Vermont, Connecticut and New Hampshire. They purchased lots from the Holland Land Company with small "down payments" and promised to pay the rest on a long term basis. Some of them established grist mills or sawmills, so necessary to homesteaders in the pioneer days. As the area continued to be opened up for settlement, land hungry settlers began pouring in.

One typical Yankee settler, Captain Samuel Pratt, passed through what is now Buffalo on a fur-trading trip to Mackinaw in 1802. He saw great future possibilities for this area, and two years later he settled here permanently. His coach and two open wagons stopped at Crow's Tavern on present Exchange Street in September of 1804. He was accompanied by his wife and seven children, one of whom, Hiram, became Mayor of Buffalo in 1835 and again in 1839.

The settlement was composed of some twenty shanties, log cabins and small frame houses. Captain Pratt built a temporary building to be used as a store for trading with the Indians, and a house for himself, referred to as "Pratt's Mansion." In his home, plans were made for the first Presbyterian Church of Buffalo. He was highly esteemed as a public spirited citizen and as a respected businessman of the early village. By the Indians he was called "Negurriyu," meaning "honest dealer," and also "Hodanidoah," or "Merciful man." Members of his family continued to be leaders in Buffalo and his descendants, now in the eighth generation, still live in the community.

These early Yankees, like Pratt, put a stamp of vision, hard work and ambition on the growing village. Another pioneer who was outstanding was Dr. Cyrenius Chapin. Originally from eastern New York, he visited here in 1801 and saw the need for a medical practitioner on the Frontier. He purchased a lot in 1804 and a year later moved his family from temporary quarters in Fort Erie to the first frame house in the village. During the War of 1812 he showed great courage and lived to see the village grow to a prosperous city. Today, a Buffalo parkway honors his name, and a gravestone marks his resting spot in Forest Lawn Cemetery.

THE IRISH

One of the earliest nationality groups to join the Yankees were the Irish. Records of 1817 show that a small Irish settlement was located south of present downtown Buffalo and Exchange Street on the "Flats." Many of them had first immigrated to Canada from their native Ireland. Later they responded to newspaper advertisements on the American side of the river for what were good wages in 1822. Many of them joined thousands of laborers along the Erie Canal at $1.87 a day. On the canal and in the harbor these Irish "canawlers" and laborers fought many a battle with sailors in the streets and the saloons.

By 1815 many people with Irish names were living here. Names such as the O'Rourke family; Daniel Bowen, a coachmaker; Dr. F. Daughtery, a bartender; and G. V. Mooney, an upholsterer, were common. Bishop Dubois, while inspecting land donated by LeCouteulx for St. Louis Church in 1828, found that there were about fifteen hundred French, German and Irish Catholics in the area. Most of the Irish came from Philadelphia, Baltimore and New York. Later, the great potato famine of 1845 in Ireland caused increased Irish immigration to America, and many of these people also settled in Buffalo. Railroad construction was under way, and many other job opportunities were available as well. Among those arriving during this period were Robinson Moorehead, the owner of a dry goods store on Main Street, and the lively William Duffy, proprietor and manager of Buffalo's first theater.

A freedom-loving and democratic people, never sidestepping arguments, the Irish participated from the very first in local politics. There were a significant number of Irish aldermen, school superintendents, supervisors, constables, inspectors, collectors and Commissioners of Deeds serving the city over the years. In 1841, Isaac R. Harrington was elected Mayor, to name but one of their number to hold public office.

In the late 1850's two Irish benevolent societies were formed. The Friendly Sons of St. Patrick and the Sons of Erin. In 1866, the Irish in Buffalo declared war on England, and an army of Fenians was formed to invade Canada. Wagonloads of arms and ammunition were assembled in the First Ward, and Irishmen from other places converged on Buffalo. At midnight on May 31st, six hundred Fenians streamed out Niagara Street headed for Black Rock and commenced the assault on Canada. Needless to say, the invasion was not successful. The Fenians were defeated at Ridgeway, near Crystal Beach. However, many of the Irish who came to fight from as far away as Tennessee and Indiana stayed here to settle permanently, mostly along the waterfront. Although militarily unsuccessful, the Fenians continued to be a powerful force in American politics for several decades thereafter.

The record of Irish contributions to the growth and development of the city should not be concluded without mention of the first Roman Catholic Bishop of the Buffalo Diocese. Rt. Rev. John Timon was an outstanding representative of the Irish-Americans and the first of a continuous line of Buffalo Bishops with Irish heritage. Born in the United States in 1797 he came to Buffalo in 1847. At his invitation religious orders of the church came here, and they helped to establish some of the great institutions in our midst. The Sisters of Charity established Buffalo's first hospital in 1849 and later an orphanage. The Jesuits founded Canisius College. The Sisters of St. Joseph conducted the LeCouteux Institute for deaf mutes and Mt. St. Joseph Academy. The Franciscan Fathers started St. Bonaventure College and Seminary. The Grey Nuns of the Sacred Heart founded Holy Angels Academy and later D'Youville College. The Christian Brothers founded St. Joseph's Collegiate Institute. Bishop Timon was also the founder of Niagara University, and in 1855 he had St. Joseph's Cathedral built. He died in 1867.

THE SCOTS

From the very beginnings of Buffalo there was one vigorous, sturdy and thrifty group of settlers whose influence was far more than their numbers. These were the Scottish people, and their first appearance on the Frontier came with the arrival of David Rees, or "Old Uncle Rees," in 1803. He set up his red-painted blacksmith shop on the site of the present Customs Building on Washington Street, and the shop stood for many years after it was spared during the burning of Buffalo in 1813. He was described by one friend as "an eccentric, quick-tempered Scotchman." His skill in forging a broadaxe was greatly admired in the new settlement. Tales of his violent clashes with Indians live in history amid the happenings at his "Ye Sign of Ye Broad Axe."

Once Red Jacket ordered a special tomahawk made to order. When it was finished, Red Jacket criticized it, indicating it was not made as he had requested. The Indian prepared a wooden pattern for Rees to use as a model. Although annoyed, the blacksmith took the model and made one just like it. When Red Jacket returned for his tool Rees was slyly amused as the chief flung the tomahawk aside in disgust. It had been made exactly like the model—without a hole for the handle.

In 1815 David Rees had an altercation with the Seneca chief, Young King. Rees was having a dispute with another Indian when Young King rode by, dismounted and attacked Rees. Rees seized a scythe from a bystand and struck Young King, almost severing his arm. The next day the Indian's arm was amputated. Later, Young King received a government pension "for his brave services rendered during the War of 1812, where he lost his arm."

Among the other Scottish pioneers was George Keith, who built Buffalo's first schoolhouse in 1807. The first nursery business in western New York was begun by his Scottish neighbor, Joseph Husten. It was located near Main and Utica Streets prior to 1809. Henry M. Campbell is remembered as a hatter, a village trustee and Justice of the Peace.

The most significant early Scottish settler, however, was one well-known navigator on the Upper Lakes, Captain James Rough, who settled here about 1803. He has been described as matching his name, rough as the elements but also "affable, courteous and gentlemanly." His fellow countryman and friend, Donald Fraser, eventually inherited his lands and possessions. Fraser was an eccentric, singular man, as well as a courageous and gallant soldier. His ferry-house and store, which was a curiosity museum during his lifetime, remained for many years after his death as a reminder of the sturdy pioneers of Black Rock.

Rev. Gilbert Crawford, pastor of the First Presbyterian Church from 1824–28; merchants John Adams and William Buxton, who was first President of the Scottish St. Andrew's Society; the Thompson brothers known as the "Tall Thompsons," who were hardware dealers, and Robert Patterson are among other Scottish names found in the story of early Buffalo. The cheap land in western New York state, the variety of business opportunities and the rapid development of the area attracted many Scottish homesteaders from southeastern states to move here after the opening of the Erie Canal. As time went on they became an influential core in the cultural business, and political life of Buffalo. In 1905, one of their number—the well-known merchant, philanthropist, politician and co-founder of the A.M. & A. department store—James Noble Adam, became Mayor of Buffalo (1906–1909).

* * * * *

At the time of the War of 1812 there were some five hundred persons living in Buffalo. After recovering from the devastation caused by the British and Indians in their burnings on this side of the border they set about to develop a busy commercial center. By 1822 the harbor had been constructed, and ship chandlers were doing a thriving business. A steamship, "Walk-in-the-Water," was launched from Black Rock, and Buffalo was picked as the western terminus of the Erie Canal. A chronicler, William Hodge, wrote lively descriptions of the early pioneers he saw on his way to and from a one-room log Cold Spring school house or in his father's tavern or who later became his own friends.

THE FRENCH

Through Hodge and other writers of the period another prominent pioneer comes to life. He was the French nobleman, Louis Stephen LeCouteulx de Caumont, whose occupation was listed for many years in the City Directory as "gentleman." Born in 1756 he came to the New World as an escapee from the French Revolution, and he had contacts among the wealthy financiers of the Eastern cities. Walking the paths of Buffalo in his immaculate and stylish clothes, he was a sharp contrast to the many rough frontiersmen and poor struggling settlers. In 1803 he suggested to Joseph Ellicott, the surveyor of Buffalo, that a canal be cut from the mouth of Buffalo Creek to Black Rock. LeCouteulx was convinced that there existed every possibility "of making a good harbor." In 1804 he settled on the northeast corner of Crow and Main Streets, and there he established Buffalo's first drugstore. In 1828, he donated to Bishop Dubois a lot at the corner of Main and Louis (present Edward) Streets for the erection of St. Louis Church. After that he gave land on which were built the Buffalo Orphan Asylum, the Immaculate Conception Church, the LeCouteulx Institute for Deaf Mutes and St. Mary's Maternity Hospital.

LeCouteulx was a man of great vision. He gave to the booming, bustling little village an air of elegance. His investment profited the community just as his fortunes grew with the community, and after he died in 1840 he was chronicled as "the model of a perfect Gentleman of Irreproachable life."

Several Buffalonians of French parentage have been among the important members of the community. Joseph Anthony Dingens, a businessman; C. Frank Bruso, M.D.; David E. Peugeot, reporter and lawyer, and Raymond P. Hoen, a businessman, are four that should be mentioned.

The influx of French people to Buffalo was modest, except for 1875 when 1,261 French people settled here and for 1920 when a few more than 2,000 of them arrived. In the early days of Buffalo, however, one Frenchman's contributions, those of LeCouteulx, were most significant.

The township of Buffalo was organized in 1810. The British burned the village in December, 1813. The town was rebuilt and was incorporated as a village, using the boundaries laid out in 1804 by Joseph Ellicott. When Buffalo was chosen as the western Port of Entry to the Erie Canal, the door to the future metropolitan city as we know it was opened. The town was lined with stumps and rail fences.

By 1825 the population of Buffalo was nearly 2,500, composed mostly of New England Yankees. To the northeast, in the village of Black Rock, there were over 1,000 people. Living in Buffalo were 51 carpenters, 17 attorneys, 9 physicians and 7 blacksmiths. There were 36 grocery stores and 26 dry goods stores. Four weekly newspapers met the diversified needs of a people engaged in laboring and professional occupations.

The Yankees were then joined by a few English, Scottish, Welsh, French, Dutch and German settlers. Still of local prominence were the Indian chiefs Red Jacket, Captain Pollard and Young King from the Indian reservation.

THE GERMANS

One of the most hardworking, industrious and ambitious of the various nationality groups during the Nineteenth Century were the Germans with their societies; their religious, business and military organizations and their great contributions to Buffalo's cultural, economic and political life.

Martin Middaugh (probably an Americanized form of Mittag) was an early German pioneer to the area. Once a Tory living in New Jersey, he moved first to Canada. Then about 1784, he followed his son-in-law, Ezekiel Lane, back to the American side and settled on Buffalo Creek. The double log house they shared was located on William Johnston's land at Exchange Street and was used as a hostel for travelers for many years. Theirs was the only white family residing between the Genesee River and Erie, Pennsylvania. Martin Middaugh died in 1822 at the extremely old age of 94.

Other German names may also be found in early Nineteenth Century records. There were Schultz, a baker; Henry Windecker, a ferryman at Black Rock and Benjamin Wintermute, among others. Two early German pioneers, Samuel Helm and John Roop, met cruel deaths during the burning of Buffalo in 1813. Roop was the last man scalped by Indians on this frontier.

One of the most unusual was John Kuecherer, often called "Water John" (1795–1876), who arrived in Buffalo in 1821 and was water carrier for the early village. He introduced his "water works" in 1825; this consisted of a large barrel mounted on a two-wheeled cart drawn by a single horse. On washing days he supplied Buffalo housewives with water from Lake Erie. When he furnished a regular supply of water to a household he charged one shilling (12½¢). He would drive slowly through the streets, crying out, "Ladies, here is your water! Ladies—w-a-t-e-r!" For many years he lived in a small house on the southwest corner of Franklin and Court Streets. A good, religious but poor man he died in 1876 after "seeing Buffalo grow from a village of 2,000 inhabitants to a large city of 180,000 people."

By 1827 Buffalo had about 25 German families, mostly settlers of Palatine stock from Pennsylvania. Reactionary absolutism of the post-Napoleonic era and later religious persecution, crop failure and widespread unemployment led to a huge wave of German immigration to the United States. As the rapid growth and activity of this busy lake port attracted more and more people, the new, easier passage to the West via the Canal and the Lakes brought many Germans, as well as other groups, to congregate on our shores.

The first German language newspaper, *Der Weltbuerger*, appeared on Buffalo's streets in 1837. Germans also entered local politics. They founded the Steuben Guard, later the Lafayette Guard; the Harrison Grenadiers, the Jefferson Guard and the Plain Grenadiers. The first German school was opened at Oak and Ellicott Streets.

In 1838 Philip Dorschheimer was appointed postmaster, and Dr. Frederich Dellenbach was elected to the Common Council. In the 1850's the first German singing society was founded, later to be called the Buffalo Liedertafel and to become one of the outstanding musical societies of the area. The well-known German Young Men's Association sprang from the German-English Literary Society founded five years earlier in 1841. All of these societies and organizations served to preserve the German cultural heritage, and with the German-language newspapers were invaluable to the German newcomers, unable to read or write English. Also organized were their own private schools and churches, such as the Old Lutherans, the Evangelical Lutherans, the Baptists, the Methodists and the St. Louis Roman Catholic Church. German fire companies and German lodges were also established.

In 1848 the German Democratic Organization was founded. Following this period German-Irish political strength was to be most influential in local government for several decades. The records of 1845 indicate that the Germans had organized six churches, a number of iron foundries, machine factories, taneries, breweries and many other important businesses.

When these German newcomers arrived, they found the city completely settled up to Chippewa Street. They had to settle beyond that line and to the east of Main Street. Lumbermen and woodcutters found work in the woods of the Masten-Best district and made their homes in the "Fruit Belt." Their area extended up to the old Fourth Ward; later the Fifth and Seventh Wards were almost completely inhabited by German families. By the 1850's the German population of the city numbered about 6,800, and during the 1890's and until 1920 German immigration reached a peak when about 40,000 immigrants arrived.

There was one unusual temporary German settlement on the southeast side of Buffalo that was founded in 1842. Christian Metz, leader of one religious group, came from Germany with about 350 followers. This was known as the Community of True Inspiration, and its philosophy concerning property and living conditions was communistic. Its governing body was theocratic, or oligarchial. The members purchased a large tract of land, cut wood, cleared land and built their homes, even though for a long time the Indians were opposed to the sale of the land for their use. Finally, in 1846, the Indians departed for the Cattaraugus Indian Reservation, and the Ebenezer Community of True Inspiration, only six miles from downtown Buffalo, came into being. Two years later their numbers had increased to about 1,000, and later three other inspirationist settlements were founded. In time, the rapid growth of Buffalo and the expansion of settlement outside the city limits endangered their seclusion, and the inspirationists moved further west to Iowa where land was cheap and plentiful. For a period of ten years they were selling off their lands, and finally in 1865 the last of these German inspirationists left our area.

The entire cultural and social life of Buffalo was stimulated by all the various German organizations. German beer and German food, their popular picnics and musical clubs became well known throughout the community. The brewery business, the tanneries, the lumber industry, the flour mills, the foundries, and bakeries were filled with German workers and owners. One seventeen-year-old German immigrant, Christian Klinck, arrived in Buffalo in the 1850's. First, he took a $6 a week job as a butcher; eventually, he founded a meatpacking business, the Christian Klinck Packing Company, that covered 25 acres and comprised 25 buildings. Jacob Dold, Louis Fuhrmann, Laux and Edbauer, and the Klinck Brothers were among those whose businesses made it common to see a mile-long drove of hogs, cattle and sheep being herded down Main Street out toward the stock pens.

Another German, Jacob F. Schoellkopf, immigrated to Buffalo directly from Germany. He opened a modest leather store on Mohawk Street in 1843 and kept enlarging his activities until, at the time of his death in 1899, every variety of leather which could be made from sheepskin was manufactured in the Schoellkopf plants. His products carried the Buffalo name to countless people in Europe and South America. He also took part in the development of the infant hydro-electric power industry by establishing, in 1878, the Niagara Falls Hydraulic Power & Manufacturing Company. This industry was to influence the whole future of the Frontier.

A year later his son, Jacob F. Jr., introduced the Aniline & Chemical Co. that later became the National Aniline Div., Allied Chemical Corp. The names of both father and son became nationally known in industrial circles.

Another German name that became well known was that of the Rev. Johannes Andreas Grabau. He was a Lutheran clergyman who opposed Union liturgy in Germany, was placed in jail, and, in 1839, he immigrated to the United States accompanied by 1,000 followers. A notable pastor and preacher in Buffalo, he opened a school, later known as Martin Luther Seminary, in 1840, and five years later he organized the Synod of the Lutheran Church in Milwaukee. This was also known as the Buffalo Synod. He had a fierce controversy with C. F. W. Walther and other theologians of the Missouri Synod and, as a result, the Buffalo Synod split into three factions. Rev. Grabau organized a paper, *Die Wachende Kirche*, and was elected Senior Ministerii of the new Buffalo Synod. He edited a hymn-book for his Synod, and in 1879 he died .

But religious and industrial affairs did not claim the whole attention of the German community. In 1853 the Turnverein was founded; in 1868 the *Buffalo Volksfreund* began publication and is still being printed. The next year the famous Buffalo Orpheus was founded, and later, Canisius College. Germans have always been politically active and, beginning with Mayor Alberger in 1860, there have been at least eight mayors of the city with German parentage. The last was George J. Zimmerman in 1937.

By 1850 Buffalo was divided into five wards. Its population had increased to over 42,000 mainly because of its position as the western gateway of the Erie Canal. In 1832 Buffalo had obtained its City Charter and nearly half of the city's people were foreign born, including Germans, Irish, English and Canadians During that period the German settled mostly in the old Fourth Ward bounded by Main, Eagle, Jefferson and Goodell Streets and further to the northeast. The Irish, slightly fewer in number, moved into the area south of Exchange Street. In the German section were also settled the French, and the English Canadians; Scots, Dutch and Swiss were scattered throughout the city. In the 1840's the Indians were transferred to the Cattaraugus Indian Reservation.

One contemporary author, Thomas S. Cuting, enthusiastically wrote that Buffalo had experienced "an increase without parallel in the history of cities." During the season the harbor was crowded with innumerable vessels, loading and unloading the rich products of the West. The "magnificent stores" of Main Street offered every variety and delicacy to their customers.

THE AMERICANS

During this period one of those who settled in Buffalo was Millard Fillmore, lawyer, statesman and educator. He was a typical representative of all-around Americans. Of English descent, he was born in a log cabin in 1800. In 1822 he came to work in Buffalo; six years later he was elected state Assemblyman. When Buffalo became a city, he was elected to Congress, serving from 1836 to 1847 when he was elected New York State Comptroller. Elected to the Vice Presidency in 1848, Fillmore succeeded Zachary Taylor to the Presidency in 1850. At the conclusion of his term he returned to Buffalo.

Then Buffalo's most public-spirited citizen, Fillmore was highly influential during the Civil War as Captain of the Buffalo Home Guard, or Union Continentals; in the Young Men's Association; as one of the founders of the University of Buffalo and its first Chancellor; as president of the first Board of Trustees of the Grosvenor Library; as one of the patrons of the newly established Museum of Natural Sciences and of the Fine Arts Academy, and as first President of the Buffalo Historical Society (1862–1867). He died in 1874 and is buried in Forest Lawn Cemetery.

English speaking people such as those who came from England, Wales, Scotland and Canada did not encounter a language barrier, and they assimilated rapidly into their new environment. Contributions of these people to the growth and development of the city prevailed from the very first, and they are influential up to the present time. The Yankee influence quickly disappeared as the newcomers set about becoming citizens. The new American nationality was born. The immigration of Canadians to the area was significant; this factor has made it difficult to trace the national origins of many groups. They were simply immigrating from Canada. In 1850 this group numbered 1,271; in 1875 there were 4,639; in 1892 there were 12,237 and by 1960 they numbered 20,533.

THE WELSH

The Welsh people, although a small, distinguished group, were successful in preserving their ethnic characteristics for many decades. Many Welshmen came from their homeland to work in the newly established Buffalo rolling mills. They found jobs at the Pratt mill located at Black Rock where they worked as scrapers and puddlers. Many of them also came from the coal mine areas around Scranton, Pennsylvania.

The Welsh are still active locally in their St. David's Society and are proud of their national heritage. For years they held annual meetings in the Genesee Hotel, and later at the Lafayette Hotel, and from those buildings old Welsh songs would ring out across the darkened streets of the city as they recalled the misty hills of home.

* * * * *

At the beginning of the Civil War Buffalo's population was about 84,000. Almost half of the people were forign-born and some 20,000 of them were German-born. Recruiting stations shot up throughout the city like mushrooms, and the Irish enlisted in large numbers in the Union army. A special Irish regiment was formed which distinguished itself throughout the war period. About 1,500 Irish volunteers served, for the most part, in the 116th, 155th and 161st Regiments, and these regiments were outstanding for bravery.

Naturally, native Americans contributed the majority of the enlistments, but the Germans, strongly motivated by their military organizations, the Turnverein, Liedertafel and other societies, also joined the Union cause. The most famous German group sent to the Front was Wiedrich's Battery. They 187th Infantry Regiment was almost all composed of Germans, or men of German descent.

The French people and the Negroes were ready to fight for the Union cause. The Cattaraugus Indians and representatives of the Six Nations led by their chief, Issac Newton Parker, offered to organize an Indian company. One of their number, however, the sachem Ely S. Parker, born on the Tonawanda Reservation, served with distinction and was aide-de-camp to General Grant at the surrender of General Lee.

One other group of hardworking people with a special sense of enterprise and commerce should be mentioned, the Jews. Of course, they belong to various nationalities, but their religious identity surmounts their ethnic origins.

The first forerunners of the Jewish faith were Mordecai Myers who served in the War of 1812 as Captain, and Mordecai Manuel Noah whose name is recorded on a stone marker now in the possession of the Historical Society. It was he who enthusiastically atempted to establish a homeland for Jews on Grand Island in 1825, to be called Ararat.

The first Jewish settlers in Buffalo were Lemuel Flersheim, a German teacher, joined later by Lemuel H. Flersheim, and several Jewish families arriving mainly from Germany. By 1850 Buffalo already had a small Jewish community. One interesting note is the fact that before 1865, except for one Catholic family, all of the early Polish settlers were Jewish. They came from the Russian part of Poland for the most part and were called "Hoch-Polish." Their suppression at home caused their migration to the New World, and some of them chose Buffalo in which to live. They made their living as peddlers. Other Jews who settled here were merchants, clothiers and tailors, and as Buffalo became a center of trade and commerce, the Jews chose locations on lower Main Street, The Terrace and Commercial Streets, located close to the harbor and the bustling Lake traffic.

In 1848 the Polish Jews founded the first Jewish congregation on Pearl Street, Beth El Synagogue. Two years later the German Jews formed the second congregation of the Orthodox faith, Beth Zion, at the corner of Ellicott and Clinton Streets. Later, this group changed to the Reform Beth Zion. In 1865, the third congregation, B'rith Sholem, was formed under the influence of the Lithuanian newcomers.

Several benevolent societies, such as Jacobson which was succeeded by the Hebrew Benevolent Association, and the Young Men's Hebrew Benevolent Association were organized. Several other congregations and lodges were founded in various parts of the city after that.

Several local Jewish men joined the Union army during the Civil War, and in the postwar period Buffalo's Jews moved to new residential sections of the city, displacing the older settlers on Franklin, Tupper, Pearl to the north, and William-Clinton section to the east. Jewish peddlers became traveling salesmen. Some Jewish clothiers from Commercial Street were successful in establishing a fine clothing industry which employed hundreds of laborers in several factories. By 1890 there were about 1,500 Jews living here. A mass migration of Russian Jews then began, because of the dangers of personal persecution, and many of these people landed in Buffalo.

The first Corporation Counsel of the City of Buffalo, Louis E. Desbecker, was Jewish, and from that point on Jewish interest in local politics was established.

After the industrialization of the city, the well-organized Jewish community became even more prosperous, and the newly rich moved further to the north and east of the city, and more recently to the suburbs. Whereas previously their occupations were as tailors, clothiers and peddlers, many of them later made fortunes as real estate businessmen, cigar manufacturers, jewelers, physicians, bankers, lawyers and contractors. After World War II more Jewish people came to Buffalo as refugees from the totalitarian persecutions of the Nazi. By 1950 there were about 22,000 Jews in the city. Today, they and their children may be found working in hospitals, law courts, the many fine educational institutions of Buffalo and the professions. With their fierce love of freedom they give new life to Buffalo's multi-cultural climate.*

The population of Buffalo had reached 135,000 by 1875. By the annexation of the Village of Black Rock, the city limits were extended to approximately the present boundaries. There were then 13 wards and the people were predominantly English speaking groups and Germans along with their descendants. Waterways, railroads and many newly established businesses and industries contributed much to the city's rapid growth. Shipbuilding and heavy industry made Buffalo a booming center after the Civil War, and a substantial labor force was needed by the steel industry to work at the blast furnaces and factories which were making railroad equipment.

THE POLISH

One nationality group met that enormous need in an expanding labor market. This was the Polish group.

According to many sources, the first forerunners of the Polish people here were John and Peter Stadnicki. Careful research, however, reveals that neither actually lived in Buffalo, nor even in the United States. The Stadnicki name occurs in the early village history as the name of one street in New Amsterdam, now Church Street. It was named this by Joseph Ellicott as a compliment to one of the partners of the Holland Land Company who lived in Amsterdam, Holland.

Other Polish names found in our early history were Major Mogilski, Captain Bzowski, Chaplain Sebastian Szcybury, August Wengierski who was a teacher of French and dancing, and J. A. Wilczerski, a drawing teacher; as well as John Hiz and Gregor Sadlowski, officers of the exiled Polish Army, and Father John Zawistowski, pastor of St. Francis Xavier Church. All of these have been claimed as early settlers, but once again, careful research shows that they stayed but for a short time in Buffalo, then moved on.

The first true Polish-Catholic settler was Martin Stephanowski. He moved here with his wife and four children about 1864. Shortly afterwards, scores of Poles began pouring into Buffalo, and they settled in the vicinity of Ash, Walnut, Spruce, Sycamore, Genesee and Carroll Streets. However, until 1872, most of the Polish immigrants were only passing through Buffalo on their way further west—to Chicago, Detroit, Toledo and Milwaukee.

After the St. Stanislaus Society was established, more Polish people stayed in Buffalo and their small community grew. A German Redemptorist Father, Elias Fred Schauer, advised Joseph Bork, City Treasurer, that the surest way to encourage Polish settlement would be to build a church and school for them. Father M. I. Gartner then brought, in 1873, from Rome Italy a young Polish seminarian. He was John Pitass, who later was ordained to the priesthood at Niagara University, Niagara Falls, N.Y. Rev. Pitass found about thrity Polish families when he arrived in Buffalo. Joseph Bork deeded land to him for the first Polish church, St. Stanislaus, in a then undeveloped area at Townsend and Peckham Streets, and after the church was erected in 1874 the real Polish colony began. Ten years later the present St. Stanislaus Church was built. Pitass opened the first Polish parochial school; established St. Stanislaus Cemetery; organized the first Polish language newspaper, *Polak w Americe;* and was appointed dean of all Polish parishes in the Diocese by Bishop Ryan. Rev. John Pitass came to be recognized as the Founder of the Eastside Polish colony and was known as the "Patriarch of Polonia" in Buffalo.

In the 1890's a second Polish colony was established at Black Rock where the Poles were attracted to the growing steel industry there. Later, Poles claimed a third section of the city, that part bounded by Clinton and Snow Streets and Buffalo Creek. In the seventeen years from 1875 to 1892, about 13,000 more Polish people came to make their homes in Buffalo. This enormous influx of Polish immigrants was never equaled by any other ethnic group in the city's history.

The newly arrived Poles settled between Adam and Fillmore Streets on the west, Broadway on the north, Clinton on the south and the city limits on the east. This section may well be called the real cradle of Buffalo's Polish people. At that time, however, the percentage of people born in Poland was relatively small as compared with the 40,000 Germans, for example, who could then claim three generations born on American soil.

From 1892 to 1920 Polish immigration is difficult to trace since Poles were listed both nationally and locally as Germans, Austrians, or Russians upon entry, depending upon which part of divided Poland they had left. Estimates in 1908 show that about 27,500 Polish immigrants, or a total of 60,000, if the Polish born in the United States were included. In 1940 there were 76,465 Buffalonians of Polish background, including second-generation citizens born in the United States.

In the early period of Polish immigration here, only unskilled hard labor in the iron foundries, construction and clothing industries was open to them. They encountered a great language barrier and suffered greatly because of lack of training. As a matter of fact, the great majority were peasants unaccustomed to city life. A severe housing shortage brought more suffering to their people, and again Joseph Bork with his brother, George, and Henry V. Vogt helped the newcomers build hundreds of one- and two-story houses in the Polish district. Even these low mortgage houses were crowded, and as time went on, even more crowded. Most families found that they had to take in boarders since their average family income was too low to adequately support them.

Life became easier after the turn of the century, and the Polish people organized nearly fifteen singing societies and musical clubs. About 400 Polish businessmen established the Polish-American Business Association. Educational opportunities increased noticeably. Polish youngsters, born in Buffalo, enrolled in various departments of the

---

*The story of the Buffalo Jews is based for the most part on the book, *From Ararat to Surburbia*, written by Selig Adler and Thomas E. Connolly. It contains an inexhaustible source for the complete history of the Jews.

University of Buffalo. New Polish parishes, such as St. Adalbert's, Assumption, St. Kazimier's, St. John Kanty and Transfiguration were founded, along with parochial schools in which the Felician Sisters of Cheektowaga played a prominent role. "Dom Polski," with its Polish library, and the "Falcon Hall" were organized and buildings erected. The most powerful Polish club, The Polish Alliance, began its work. By 1929 Buffalo had fourteen Roman Catholic Polish churches. The first Polish-language newspaper, entitled *Ojczyzna*, was edited by Stanislaw Slisz in 1885; two years later it was renamed *Polak w Americe* and for thirty-two years it was edited by M. J. Sadowski and other editors. Several other newspapers lasted for short periods, but *Everybody's Daily* lasted for half a century.

Soon after their arrival, Buffalo's Polish citizens began to take an active part in politics. As early as 1892 the Polish Democratic Club was founded under the leadership of Jacob Rozan, who later became an assemblyman. Frank Burzynski claims the distinction of having been the first Pole elected to the State Assembly. In 1892, Francis Gorski was elected city councilman on the Republican ticket. Prior to that time, most of the city's officeholders were German, Irish or the earlier-settling English-speaking people.

One outstanding figure among the Polish-Americans was Dr. F. E. Fronczak, City Health Commissioner after 1910. It was largely through his efforts that Polish traditions, culture, history and literature became known throughout the city. One of the most successful local Polish businessmen was Stanislaus K. Lipowicz, who arrived here in 1885 and five years later opened a grocery store. His business ultimately developed into a wholesale grocery business serving all the Polish groceries in the city. He was also co-owner of a vinegar works and a soap factory, and later, director of the Stock Yard Bank and the Liberty Bank of Buffalo. Greatly interested in civic affairs, he was one of the prime movers in establishing the first vocational school opened as the Peckham Vocational School, now known as Emerson Vocational High School. He died in 1940.

The Polish community, like the other ethnic communities, grew larger, but unlike the others, maintained its separate identity. The steadily increasing number of Polish councilmen, supervisors and other city officers shows the strength of their political activity and ever growing influence in the city. Joseph Mruk was elected mayor in 1949 and Chester Kowal in 1962. Both were Republican candidates, although most of the Poles are traditionally supporters of the Democratic party.

In the course of but a few decades, the Poles in Buffalo were able to overcome almost insurmountable obstacles—not the least of which were the English language and the traditional English law and customs so common to many of the English speaking immigrants who became Americans. Their integration into the American way of life was speeded, however, when thousands of men with Polish backgrounds served with distinction in the services during World War I and II, the Korean and Viet Nam conflicts. Polish contributions in all areas of civic life have been great and have influenced the growth of Buffalo as a city with a distinctive Polish character.

* * * * *

In 1892, Buffalo was divided into 25 wards with over 265,000 people. The German-Irish populace, reinforced by three generations of native-born Americans of German and Irish descent, was most numerous, even though the number of Irish born immigrants in the city seldom exceeded 10,000. The number of Poles increased sharply as they spread from their nucleus to three other colonies. Forty-two nationality groups settled in this period, and they included Russians, Swedes, Swiss, Austrians, Norwegians, Hungarians and Danes. The population of this busy lake port was becoming increasingly cosmopolitan. The "Gilded Age," and especially the "Brown" or "Mauve Decade" of the 1890's, brought to Buffalo progressive industrialization and great prosperity. Workers were needed for newly established industries, such as railroad car and machine factories, oil refineries, foundries and steel construction. The Great Folk migration of the 1890's brought masses of newcomers looking for jobs and homes, and the city became a natural exchange point for grain, lumber, iron ore and coal transfer. The wealthy of the city built fashionable homes of brown stone and brick, and Delaware Avenue became "The Avenue" of Buffalo.

THE ITALIANS

A new labor force for industry and especially railroad construction was found among the Italians who swarmed into Buffalo next. Living in a small waterfront settlement at first, they soon extended their area as far as Front Park and Niagara Street on the north and Eagle and Chicago Streets on the east.

There were some Italians connected with the early history of the area—Father Francis J. Bressani; Henry de Tonty, called "Tonty of the Iron Hand," and Paul Busti, general agent for the Holland Land Company living in Philadelphia—but these men were not settlers.

Luigi Chiesa is generally recognized as the first Italian pioneer settler of Buffalo. He sold rat traps and bird cages and established his business at the corner of Elm and Batavia Streets in the 1850's. He Americanized his name to Louis Church, and his daughter, Maria, married John Roffo, son of another prominent early Italian family in the city. John Roffo opened a grocery store on the waterfront where Dante Place is now and also built a block of houses, called Roffo's Block, on Erie Street for incoming Italians. Dominico Bozze arrived here about the same time that Chiesa did and bought the Old Revere House in 1860. Four years later he renamed it Waverly House. He introduced billiards to the city and kept a saloon.

Other Italian settlers of that early period also influenced the formation of the Italian community. They were Giovanni Bierone, Antonio Pellegrini, Augustus and Philip Denegri, Vitale Bottani, Giovanni Carraccioli, the Oishei and Pieri brothers. With employment hard to find, many of them moved to the Dante Place section where the rents were cheapest and where they could live at minimum cost. For years the members of the Italian community clustered around the corner of Genesee and Elm Streets; gradually they moved to Canal Street, and that area became the business center of the colony for many years.

One of the most prominent of the early Italian settlers was Louis Onetto who came in 1868. He opened an ice cream shop, later started an ice cream factory using a steam process, and built an ice house. He established a wholesale fruit business and introduced the first peanuts and popcorn fritters to the city. In 1890, he started the first Italian macaroni factory in Buffalo. During the 400th anniversary of the discovery of America, he played the role of Columbus in the parade. He helped to establish the first Italian language newspaper, *Il Corriere Italiano*, and to build the first Italian Roman Catholic Church in Buffalo, St. Anthony of Padua. He died in 1943 at the age of 93. His businesses are still thriving. Louis Onetto was known here as the "King of Peanuts and Macaroni" and was truly recognized as "Patriarch of the Italian colony."

Economic restrictions in Italy were largely responsible for the Italian immigration to this country. Most of the early immigrants came from the northern provinces of Italy as political refugees, but they were followed later by large numbers who came from the rural areas of southern Italy and Sicily. In the 1890's a large group of Italians from northern Italy arrived, and the state census of 1892 shows that there were about 2,500 Italians in Buffalo that year. As they moved in they congregated in the 1st, 3rd, 19th and 20th wards, and these wards became predominantly Italian. Today, their descendants have begun to disperse throughout the city and are being assimilated.

As with the Polish people who settled on the east side and had difficulties with the Germans, so was it also with the Italians. Life was not easy for them as they moved into an area that for decades had been an Irish stronghold. Oldtimers recall how Italians fought Irish with empty bottles, bricks and fists. In time, however, Irish were forced to make way for the large numbers of thrifty Italians who were buying land and building homes.

Typical of the turbulence of the period was the battling among boys. Once the Irish and German boys had a monopoly in the newsboy and shoeshining businesses on Main Street. When an Italian boy was caught working there he would be driven from the streets, but gradually around the turn of the century, this monopoly weakened. Those who once fought on the waterfront streets became ward leaders and policemen. Boys who fought viciously at the drop of a hat, grew into men intent on dominating the political life of the city.

The Italians, mostly of Republican leaning in politics, proved themselves thrifty, industrious citizens and ardent patriots. Many had an ear for music and sound which may have helped them to learn English more easily. Second generation Italians are often indistinguishable from the general citizenry except for their names. In 1910 Buffalo had 11,379 Italians; in 1930 the number of foreign born Italians had reached an all-time high of 19,471. The 1950 census shows that the number of foreign-born has begun to decrease, with only 14,696 Italians being listed.

When their numbers increased, their settlement expanded "out in the wilderness" to Ferry, Winchester, Fillmore, Sidway, Delavan and later to Humboldt Parkway. After the turn of the century a small Italian colony developed on Roma Avenue. By 1920, two-thirds of the Italians of Buffalo lived on the west side along the waterfront in the Niagara District and had displaced the previous residents of that area.

Knowing a great deal about fruit in their native country, it was natural for Italians to engage in fruit-handling and peddling here and in areas outside the city. They owned numerous saloons and restaurants specializing in their style of cooking. Today, Italian food is part of the diet of other ethnic groups as well. In time, Italians entered the professions and other businesses. They may now be found as architects, contractors, barbers, importers, bankers, doctors, merchants or in any of a variety of other occupations.

They organized many religious and mutual aid societies. In 1922 there were about fifty such organizations with Italian connections. Buffalo had twenty-three lawyers and thirty-five physicians of Italian origin by 1922. One of the most prominent was Dr. Charles Borzilleri, an active member of numerous professional societies and a recognized leader in the local Republic organization. Today you will find many office holders of Italian heritage among those in political service of the city and state level affiliated with both major parties.

Italians first published their weekly newspaper, *Il Corriere Italiano*, in 1898 and for many years Ferdinando Magnani was its editor. As the number of foreign-born Italians decreased, publication ceased by 1950. Buffalo elected its first mayor of Italian origin in 1958, Frank A. Sedita, a Democrat, and he was re-elected in 1965 which shows locally their increasing political influence.

* * * * *

The city was divided into 27 wards and was over 500,000 in population by 1920. The Poles were ranked as the most numerous nationality group, and they had enlarged their three colonies. The German influx was less noticeable, as they had already been assimilated into the community. The Italian waterfront colony had expanded as far north as Massachusetts Avenue; a second colony was established between Carroll and Clinton Streets and from the end of William Street into the outlying township of Cheektowaga. Scattered groups of Italians were living east of Main Street and north of Ferry Street, including Roma Avenue. Ukrainians and Russians had settled in the section bounded by Eagle, Madison, Broadway, Bennett and Pine Streets. Smaller nationality groups, such as the English, Welsh, Irish, Greek, Hungarians, French, Scottish and Swedish people, remained at their previous locations but expanded their settlements. One new major ethnic group appeared on the scene, the Negroes. They displaced the German settlers in the area bounded by Eagle, Bennett, Pine, Michigan, Goodell and Main Streets. They were also starting to move northward to the location of present Humboldt Expressway, and a few Negro settlements were scattered throughout the 24th, 25th and 26th wards to the west of Main Street and between Carolina Street on the south, and Ferry and Hampshire Streets on the north.

THE NEGROES

The Negroes are today one of the largest ethnic groups in Buffalo. According to the federal census of 1960 they rank first place in the city with 70,904 individuals, or 13.8 percent of the total population. Their members may be regarded as a separate ethnic grouping, since most of them came here from the South as well as other parts of the country.

The first recorded Negro in the area lived in a bark-covered cabin at the mouth of Little Buffalo Creek in 1792. He was Joseph Hodge, also called "Black Joe." He kept a low class groggery store and served often as an interpreter with the Indians. He left Buffalo in 1807 for the Cattaraugus Creek Indian Reservation. It is said that he married an Indian woman. This early Negro resident is shown as a bystander witnessing a fight between David Rees and the Indian Chief Young King in the "People of Our City and County" exhibit at the Buffalo and Erie County Historical Society which opened in 1963.

Most of these Negroes were free men, but records do show that slavery did exist in the early days of our area, although it was not widespread. The County of Niagara (now divided into Erie and Niagara Counties) listed eight slaves in 1808. Records show that Captain Samuel Pratt had a fugitive slave in 1813 named Jack Ray and a little Negro servant girl called "Tam." Letitia Porter, wife of Gen. Peter B. Porter of Black Rock, inherited five juvenile slaves in 1820 from John Breckenridge of Kentucky. A law had already been passed in 1817 for the gradual abolition of slavery in New York State, and according to that law, the Porter slaves were to obtain their freedom when the males reached twenty-eight and the females twenty-five years of age.

By 1828 there were about 58 Negroes living in the village of Buffalo and working as servants, barbers, laborers in the harbor and stewards on the boats. Their first settlement was around Michigan and William Streets, and in 1931 they founded their first church, Bethel African Methodist Episcopal, and later the Michigan Ave. Baptist Church. The Michigan Ave. Baptist church was a station of the famous "underground railroad." One of their pastors, Dr. J. Edward Nash, who served for 61 years became well known as a religious and civic leader of our community. He was born in 1868 in Virginia as a son of slave parents, graduated from Whalen Seminary, came to Buffalo in 1892 and lived here for many years, becoming instrumental in the founding of the Buffalo Urban League and local branch of the NAACP. In 1954 the National Conference of Christians and Jews presented him its annual Brotherhood Award in the field of human relations. Buffalo's Common Council recognized his meritorious work and in 1953 changed the name of Potter Street to Nash Street. Rev. Nash died in 1957 as a pastor emeritus and a dean of Buffalo's Protestant clergymen.

In 1848 the city established the first Negro public school on Vine Street in a section that became the center of the Negro community.

Buffalo was a center on the escape route for fugitive slaves to Canada known as the "Underground Railroad." The people of the city, Negroes and white (especially those of German ancestry), eagerly supported the fugitives by providing shelter in cellars and coachhouses for them while they were waiting to cross the Niagara River. By 1850 Buffalo had more than 300 Negroes settled within the area of the 1st, 2nd and 3rd wards. Their homes were behind the flourishing business section near the New York Central Depot and Exchange Street. The Buffalo Anti-Slavery and Fugitive Aid Society had already been in existence here for three years and at a special meeting in January, 1863, they celebrated the Proclamation of Emanicipation. George Weir, Jr. gave an enthusiastic address to the audience. By 1870 some prominent Negro Buffalonians, including Payton Harris, Robert Talbert and John Cary, addressed a petition to the Common Council asking admission to their school children to other city schools. When the Fifteenth Amendment was ratified, the Negroes again had a huge celebration. The Negroes gathered at the Michigan Ave. Baptist Church, led a procession through the city streets and afterwards had a dinner at St. James Hall to honor that auspicious occasion.

By 1892 the Negro population had increased to over 1,000. Some of them took jobs in railroad construction and the heavy industries of the city, but most of them were employed as barbers, cooks, waiters and caterers. During World War I many Negroes came from the South to work in the newly created industries producing war equipment, and displaced the older residents up to the central area part of Main Street. During World War II and after, a new flow of Negroes brought more strength to their community, and they became Buffalo's largest ethnic group. Two weekly newspapers, the *Buffalo Criterion*, in existence for forty-one years, and the *Buffalo Challenger*, serve the Negro community.

Better living conditions and job opportunities attracted many Negroes to the city. Since 1945, when the State Commission Against Discrimination was created, prejudice against the Negroes has gradually lessened, and they are now on the way to becoming an influential power in the downtown area. Their community is now well organized with many churches and societies. From 1950 to 1960 they doubled their numbers, and they are still increasing. They are presently experiencing a high rate of unemployment as a result of automation in industry and their lack of job training. Despite this, they are better off here than in many other northern cities, and the city is making great strides in solving the problems of slums and acute housing with its Ellicott Redevelopment project. Today, Negroes in Buffalo are not only working as janitors and hardworking laborers, but also as lawyers, physicians and community leaders. Their businessmen and teachers are highly respected. They are represented on the Common Council, and in local politics they play an important role. The first Negro to be elected assemblyman from the 3rd Buffalo District was Arthur Hardwick, a Democrat, in 1964. Their future in the city looks promising.

THE HUNGARIANS

Local Hungarians consider that the visit of the prominent Hungarian patriot, Lajos Kossuth, to Buffalo in 1851 marked the beginning of early Hungarian migration to the city. The first forerunner of these people, however, had already appeared in Buffalo in 1850. He was William Wise, a cigar maker. In the next thirty years several others—Jacob Perlis, also a cigar maker, and Bernhard Grenfield, a tailor—settled here with their families. The 1892 census lists 94 Hungarians mostly settled in the 11th ward but also later in the 1st ward and the 2nd ward, or Black Rock. They founded St. Elizabeth's Roman Catholic Church in 1906 and in 1918 the Assumption Church in Lackawanna. They also organized several societies.

Hungarian immigration to Buffalo increased from 1910 to 1960 from two to three thousand. In 1956 an unsuccessful revolt in Hungary against the Communist regime dispatched additional Hungarians to our shores, called "Freedom Fighters." Hungarians in Buffalo today have created their own stable community and are greatly respected by the other nationalities. Not only have they enriched American cuisine with their famous Hungarian "goulash," but they have contributed their music and other arts to our culture.

THE UKRAINIANS

Of the present ethnic groups the Ukrainians are more than significant. Their first small colony was founded in West Seneca (now Lackawanna), and this settlement was followed shortly by the Black Rock colony. At the beginning of the 20th Century a larger Ukrainian colony was established in the Fillmore section of the city where they built their national church, St. Nicholas Ukrainian Church, at 308 Fillmore Ave.

Both World Wars brought increasing Ukrainian immigration to the United States and also to our city. Ukrainians themselves, estimate that Buffalo has 12,000 citizens of Ukrainian parentage and about 6,000 foreign-born. Three Ukrainian Catholic, one Orthodox church and more than eighteen societies care for the spiritual needs of Buffalo's Ukrainians. Ukrainian Home Dnipro at Genesee Street serves at their cultural center. The intellectuals among them occupy important positions in the city. Former Mayor Steven Pankow is of Ukrainian descent.

THE GREEKS

Another prominent group is the Greek community. Four Greeks were living in Buffalo in 1880, but generally regarded as their first forerunner was George H. Peters, a tinsmith, who appeared in the area five years earlier. What happened to him later is unknown. At the end of the Mauve Decade Buffalo's Greek population included John D. Farmakis, Peter S. Niarchos, Samuel Niarchos and Theodore K. Macheras, copartners in a confectionery firm at 317 Main Street. They were the pioneers of the present Greek community. In 1906 a Greek Orthodox Church was erected, and the Greek community grew slowly. During the following thirty years the Greeks grew in number to 1,366 inhabitants, including two generations born in the United States. Center of the present Greek community is the Hellenic Orthodox Church of the Annunciation on the corner of Delaware Ave. and W. Utica Street. The Greeks did not settle around their national church, but rather they spread out over the entire city. In the past, several societies and clubs were organized to hold the Greeks together, but they assimiliated rapidly. Their traditions and cultural heritage have been preserved, however, and many of these people are prominent lawyers, physicians, teachers, pharmacists, engineers and businessmen representing a distinguished and well-to-do nationality group in Buffalo.

THE PUERTO RICANS

The Puerto Ricans are recent newcomers to the city. Many of them worked during the season as laborers on farms in the villages of Erie County. Many of them saved their money to improve their poor economic situation; some of them have tried to find permanent jobs here and have settled in the southern sector of the city. By 1960 the Puerto Ricans in Buffalo numbered 1,386, with 790 of Puerto-Rican parentage. Theirs is a happy community proud of its native island, of its Spanish heritage and its American citizenship.

Also newcomers to the area are the Cubans.

* * * * *

The achievements of the many non-English speaking groups who came to Buffalo must be viewed with admiration, in view of the hardships they had to undergo. Only among the Germans, early Dutch and French were there many from the educated middle class. These people could adjust themselves to the new way of life and could learn the language easily. Newcomers from other European countries had greater difficulties.

When the great tide of Polish immigrants was rolling into Buffalo in the 1890's their troubles were complicated by a great housing shortage. Records show that it was not unusual to find seventeen people living in a single room 14' square. It would be so packed at night that it was nearly impossible to open a door. Polish people were often forced by necessity to board in miserable and unhealthy shelters. Twenty Italians during the same period, could be found living in a room considered adequate for two. Often several families shared accommodations in a single room, or one room might shelter a couple of boarders in addition to a whole family. Single and double houses still stand in Lackawanna and other industrial areas that were built at the turn of the century and housed up to a hundred persons.

A street scene typical of that period when immigration was at an all-time high, would have depicted a small crowd of scantily-clothed people carrying bundles, bag or boxes which contained all the possessions they had brought with them from their homelands. They would have been seen moving slowly through the streets, desperately seeking shelter. They had come with high hopes, and they encountered tremendous obstacles, not the least of which was earning their daily bread. (See cover drawing.)

At the turn of the century, about 72 percent of the immigrants arriving in the United States from eastern and southern Europe found employment in the railroad construction, the steel industry, and in the mines. In West Seneca and around the steel plants, Hungarians, Poles, Croatians and the newly arrived Germans lived in huddled tenement houses and huts. Prior to this time trade unions had not been organized to protect workers, hence these men were often denied basic rights. They found themselves unable to either express their dissatisfaction or to protect themselves against exploitation. Their average wage was $1.50 for a 10-hour day, or about $21 for a continuous two weeks of work. Unscrupulous boardinghouse owners exerted pressure on these immigrants to spend the balance of their pay after board and room were covered right in the houses for beer and liquor, or they would not allow them to remain. The tenements were overcrowded, and a laborer returning from work might have found his bed still warm from a fellow worker who had just left for another work shift.

The following incidents illustrate the severity of the existing conditions of that time. During the winter of 1907–08 thirty or more Hungarians were found near starvation at 490 The Avenue, West Seneca. They had no income, and no welfare aid was available. Fathers Baker, Ryan and Basso undertook the relief of these poor men, and Father Basso's work eventually led him to feed about 700 men daily. Several oldtimers still living in that area recall this period as the most critical of their experience.

Not only hardships and obstacles faced the immigrants coming to this country, but on two different occasions, a general prejudice shook the country. A new political movement began in Boston, Massachusetts in the 1850's, or a little earlier, and started to spread out over the country. It soon became known as the political "Know Nothing Party." The nativists organized secret societies that spread the belief that foreigners, largely Catholic, were responsible for the sudden increase in crime, pauperism and insanity. Only white Protestants who spoke English without an accent and whose ancestors had been Americans for two generations were considered 100 percent American. Nativism could not succeed nationwide, and locally it met the resistance of the nationality groups, especially the Germans. Later it completely disappeared. In 1882 a series of laws were passed prohibiting the admission of Orientals. During the early 1920's a new wave of anti-immigrant feeling emerged under the slogan, "America for Americans," which swept the country. Foreigners were blamed for the rise in the number of criminals and gangsterism. Congress passed a series of immigration laws and established quotas to limit immigration. The year 1943 marks the turning point in the modification of the racial barrier.

Neither the hardships nor the prejudices could prevent the immigrants from adjusting to their new environment. The foreigners formed the backbone and bulk of the total labor force needed by heavy industry, and in later years, by the airplane and automobile industries. The major and significant nationality groups of Buffalo were later joined by minor or less significant groups, such as the Russians, Ukrainians, Hungarians, Austrians, Greeks, Croatians, Swiss, Swedish, Slovaks and others. Besides those who came from Europe there were others from Asia, Africa, Australia and South America. All have blended together to make an international community. They have enriched our cultural heritage through the molding and mixing of various cultural strains.

The English and the Canadians quickly scattered throughout the community since no language barrier existed. For a longer period the Irish and the Scottish were clannish, but they, too, could not resist assimilation. Other clannish communities usually clustered around their national churches. A stable community with people speaking their native language, keeping their native customs, eating their national foods and belonging to the same religious group, was the bulwark of each nationality group. As the years passed each community grew, and offshoots spread to other places where they became the nucleus of a new community. After locating the various national churches, the center of each new colony may be determined. The best examples are to be found among the Polish community. As the city spread out and expanded, even their old neighborhoods changed, and they found it necessary to move to the suburbs. Newcomers seeking homes and jobs would move right to the new location. There they would organize their social life around their church. Buffalo's West Seneca, the present City of Lackawanna, is the best example. There Hungarians, Poles, Italians, Croatians, Serbians and other nationalities built small colonies. At the turn of the century the Italians in the nineteenth ward became prosperous after two generations and began leaving that area for the suburbs. The same pattern was repeated all throughout Erie County, and in many other cities of the country as well.

* * * * *

The newcomers and foreigners coming to the city of Buffalo are assisted in their many needs by the International Institute. It is located at 1260 Delaware Avenue and was organized first, in 1917, as part of the YWCA. In 1934 the Institute was established as a community agency supported by the Community Chest and now by the United Fund. The staff assists those seeking naturalization and citizenship; those wanting to keep families together; to adjust to new surroundings, and to locate a new job. They direct special classes in English for those with difficulty. Professional persons are organized whenever necessary. Other services of a diversified nature include translation and evaluation of foreign language documents, organization of nationality and community clubs, special meetings to help newly arrived persons to be quickly integrated. The general purpose of the Institute is to assist newcomers in many ways to become useful, industrious citizens of the community.

* * * * *

The people who settled here sought freedom, but because of improved social conditions in this century, they are today entitled to have equality of opportunity and to be protected by the law regardless of their race, creed or their national origin.

In an effort to eliminate group prejudice, intolerance, bigotry, discrimination and to prevent any disorder of human relations by amendment to the Charter of the City of Buffalo on March 9, 1965 the Commission on Human Relations was created. Originally it was created as the twelfth department of the City Government, consisting of twenty-five members appointed by the Mayor. This number was increased on July 13, 1965 to thirty-five. One of the members is appointed by the Mayor as Chairman of the Commission. The chief executive of the Commission is an Executive Director appointed originally by the Commission, but this law was amended on February 28, 1966 giving the appointive power to the Mayor. The Executive Director is the supervisor and manager of Commission affairs, but he is subject to its direction.

The functions of the Commission are to foster mutual understanding among all racial; religious and ethnic groups; to foster the spirit of Americanism, to encourage equality; to prevent any discrimination against any racial, religious or ethnic group; to cooperate with other agencies and to study human relations. Courses of instruction in order to achieve harmonious intergroup relations shall be presented to public and private schools and city employees. The Commission established six standing committees, such as Education; Employment; Health, Sanitation, Welfare and Recreation; Housing; Research and Public Information; and Grievance Committee. The Grievance Committee shall receive and investigate complaints of discrimination and hold private and public hearings. In addition to the standing committees there are three others, the Police-Community Relations; Community Organization and Good Neighbor Awards Committee.

On June 30, 1965 the Board of Community Relations which operated for twenty years was abolished. Its goal was similar, but not the same as that of the Commission on Human Relations.

* * * * *

Mention should be made of the Buffalo and Erie County Historical Society. It has devoted itself to the gathering of information on general history of the area, and in 1960 established a special ethnic research project which in 1965 received the national award of merit presented by the American Association for State and Local History. A research associate has collected material from all available sources relative to the history of the various ethnic groups of the area. In this way the heritage of all the nationalities which contributed so greatly to the growth and development of our city and county will be preserved, studied and interpreted. Students working on thesis are encouraged to make use of these findings. In 1963 a major long-term exhibit of the Society, "The People of Our City and County," was opened. It reveals the settlement of various people in our midst during a century and a half by use of an electronic talking map. Recognition is given to a number of ethnic groups in the Hall of Pioneers, while a Shrine of Nations with its national costumes represents the native countries of many of our settlers. In conjunction with the exhibit, the Society introduced a series of weekly ethnic programs. Many visitors have been attracted to these performances of native songs, music and dancing. This later became popular as the Annual Festival of Nations, now in its third consecutive year. Each year a grand International Evening concludes the Festival. In this way the Society preserves the cultural heritage of various ethnic groups.

* * * * *

By 1950 Buffalo was divided into 72 census tracts and had over 580,000 people. The Negro population had increased rapidly during the Second World War as families came north to work in the war industries. The Steel Age also brought the Hungarians and Greeks, the largest of the minority groups; Rumanians; Puerto Ricans; Slovaks; Croatians; Lithuanians; Mexicans, Bulgarians; Serbians; Belgians; Czechs; Spaniards; Turks; Latvians and Estonians. While a century ago the foreign-born composed 42 percent of the total city population, in 1950 only 12 percent were born outside the United States.

As a result of the Great Folk Migration of the 1890's other ethnic groups were also noted in Buffalo.

* * * * *

The East-side of Buffalo, the Riverside section of the city, and especially West Seneca, presently the City of Lackawanna, were cradles of other nationality groups. In Lackawanna, the Hungarians, Croatians, Spaniards, Serbians, Macedonians, Arabs and Mexicans gathered joining other major nationality groups of that area. These people settled, built their national churches and established their societies or benevolent organizations. At the coming of the Steel Age many were attracted to West Seneca and Riverside, where it was easy to find jobs in the huge factory plants. The Steel Age introduced mass production followed later by the Atomic Age. It brought to Buffalo a fresh impetus and impulse. This drastic change was intensified by automation and the recent exodus of some local industries to other places. Time will indicate whether the change will be profitable for the remaining labor force, part of which is presently suffering from unemployment. These people, who suffered greatly during the great depression of the 1930's but who loved and trusted their adopted country, gradually became Americans. Their self-sacrifice during the two World Wars and the Korean conflict put a mark of citizenship on them and sealed their longing for happiness and freedom in the New World.

Captain Samuel Pratt, who settled here in 1804, was convinced of the future greatness of the then tiny settlement of that period. Other Yankee pioneers and forerunners of various nationalities made it possible to establish this metropolitan city. Despite hardships, prejudices and difficulties the endeavors of these immigrants and their descendants have made Buffalo a great and prosperous city.

INTRODUCTION OF BILLS TO AID JUVENILES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BELL) is recognized for 5 minutes.

Mr. BELL. Mr. Speaker, I am today introducing on behalf of Congressman PUCINSKI and myself the "Comprehensive Youth Services Act of 1972" as submitted by the administration. At the same time, I am also introducing for myself the "Juvenile Delinquency Prevention and Control Act Amendments of 1972" which was introduced in the Senate by Senator MARLOW COOK.

The statutory authority for the Youth Development and Delinquency Prevention Administration in the Department of Health, Education, and Welfare expires this year. It is my feeling that prevention of crime and assistance to the disadvantaged, to dropouts and to delinquent youth is an important and critical area and one which should receive prime attention from the Congress. In introducing both of these bills, I am doing so to provide vehicles for discussion and comparison of the various approaches. Neither I nor Congressman PUCINSKI are locked into either bill and we hope that our hearings on this subject—which will begin soon—will give us some new insights when we write a new bill.

The bills follow:

H.R. 14817

A bill to encourage and assist States and localities to coordinate their various programs and resources available for the prevention, treatment, and control of juvenile delinquency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Youth Services Act of 1972".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) Delinquency among the youth of this country continues to be a national problem.

(2) While much progress has been made in developing services which can assist in solving the problem of juvenile delinquency, obstacles to the effective provision of those services still exist.

(3) These obstacles often take the form of fragmentation among many agencies and organizations of the responsibility for providing services to juvenile delinquents and those in danger of becoming delinquent; structural rigidity and arbitrary categorization of Federal, State, and local programs; and lack of coordination and communication among agencies and organizations which provide services to youth.

(b) It is therefore the purpose of this Act to encourage and assist State and local agencies to enter into new cooperative arrangements and, where necessary, reorganize or reassign functions, in order to establish or operate comprehensive youth services systems which will—

(1) assist in the prevention of juvenile delinquency or the rehabilitation of youths who are delinquent:

(2) reduce alienation and promote the positive development of youth in ways which are meaningful and socially acceptable;

(3) improve the delivery of services to individuals who are delinquent or in danger of becoming delinquent; and

(4) serve as a model for the establishment or operation of similar systems in other geographic areas.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "youth services" means services which assist in the prevention of juvenile delinquency or in the rehabilitation of youths who are delinquent, including, among other services, the provision of individual and group counseling, family counseling, remedial education, tutoring, alternate schools (which, for purposes of this Act, means institutions or organizations which provide education to youths outside the regular school system), vocational testing and training, job development and placement, emergency shelters, halfway houses, hot lines (which, for purposes of this Act, means the provision of telephone access to emergency counseling), health services, drug abuse programs, social, cultural and recreational activities, community awareness programs, foster home placement, and legal services.

(2) The term "comprehensive youth services system" means a coordinated system, separate from the system of juvenile justice (which encompasses agencies such as the juvenile courts, law enforcement agencies, and detention facilities), for providing youth services to an individual who is delinquent or in danger of becoming delinquent and to his family in a manner designed to—

(A) facilitate accessibility to and utilization of all appropriate youth services provided within the geographic area served by such coordinated system by any public or private agency or organization which desires to provide such services through such system;

(B) identify the need for youth services not currently provided in the geographic area covered by such system, and, where appropriate, provide such services through such system;

(C) make the most effective use of youth services in meeting the needs of young people who are delinquent or in danger of becoming delinquent or their families; and

(D) use available resources efficiently and with a minimum of duplication in order to achieve the purposes of this Act.

(3) The term "State" includes the District of Columbia, Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(4) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(5) The term "Governor" means the Governor of the State, in the case of any of the fifty States, and, in the case of the other States, the chief executive officer thereof.

(6) The term "unit of general purpose local government" means (A) a political subdivision of the State whose authority is broad and general and is not limited to only one function or a combination of related functions, or (B) an Indian tribal organization.

(7) The term "year" means any twelve consecutive calendar months.

ASSISTANCE FOR COMPREHENSIVE YOUTH SERVICES SYSTEMS

SEC. 4. (a) The Secretary may, during the period beginning with July 1, 1972 and ending with the close of June 30, 1975, make grants to, or contracts with, any public or nonprofit private agency or organization to cover, for not more than one year, part or all of the cost of (1) planning for the establishment of, establishing, or operating comprehensive youth services systems; (2) short-term training of personnel employed in connection with the operation of such systems or in connection with the provision of services through such systems; or (3) providing through such systems, either directly or through contractual or other arrangements, youth services which are necessary to the success of such systems, which are not being adequately provided in the community, and for which payment is not available from other sources.

(b) The Secretary may, during the period beginning with July 1, 1973, and ending with the close of June 30, 1977, make supplemental grants to, or contracts with, any public or nonprofit private agency or organization which was provided financial assistance for any period under subsection (a). Such supplemental grants or contracts may be made to cover, for a period not exceeding two years following the period for which assistance was provided under subsection (a), part of the cost of any activity for which assistance is authorized under subsection (a).

(c) A grant or contract may be made under subsection (a) only upon application therefor which—

(1) provides or is accompanied by assurances satisfactory to the Secretary that—

(A) the development of a comprehensive youth services system will be undertaken in a manner which will afford adequate opportunity for recipients of youth services and public or private agencies or organizations providing one or more youth services within the geographic area to be served by the applicant to present their views to the applicant with respect to such development;

(B) the applicant has the necessary capability to develop and operate a comprehensive youth services system;

(C) the applicant will provide such information as the Secretary determines to be necessary for carrying out the purposes of the Act, including information obtained pursuant to procedures established in accordance with clause (2)(D) of this subsection, information which will enable the Secretary to evaluate the benefits of the comprehensive youth services system, and information which will enable the Secretary to determine th desirability of encouraging the establishment of similar systems in other communities; and

(D) in any year for which the applicant receives supplemental assistance under section 4(b), a greater proportion of the cost of the activities for which the applicant receives assistance under section 4 will be covered from resources other than payments under this Act than was covered from such sources in the preceding year; and

(2) includes a description of—

(A) the functions and services which will be coordinated by the applicant;

(B) the administrative efficiencies which will be achieved in the delivery of youth services by such coordination;

(C) the procedures which will be established for protecting the rights, under Federal, State, or local law, of the recipients of youth services provided under the comprehensive youth services system to be developed by the applicant, and for insuring appropriate privacy with respect to records relating to such services; and

(D) the procedures which will be established for evaluating such system;

and

(3) includes such other information as the Secretary determines to be necessary for carrying out the purposes of this Act.

(d) Except in the case of an application by an Indian tribal organization, no grant or contract may be made under subsection (a) unless the application therefor has first been submitted to the Governor of the State in which the comprehensive youth services system is to be established in order to provide him with an opportunity (in accordance with regulations of the Secretary) to review and comment upon such application. In the case of an application by an Indian tribal organization, no grant or contract may be made under subsection (a) unless the application therefor has first been submitted to the Secretary of the Interior in order to provide him with an oppertunity (in accordance with regulations of the Secretary) to review and comment upon such application.

(e) In making grants or contracts under subsection (a), the Secretary shall give preferece to agencies of units of general purpose local government.

PAYMENTS

SEC. 5. Payments under grants or contracts made under section 4 may be made (after necessary adjustment on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

EVALUATION AND TECHNICAL ASSISTANCE

SEC. 6. (a) The Secretary may, directly or by grant or contract, evaluate comprehensive youth services systems assisted under section 4 in order to determine the achievements of such systems and the efficiency and effectiveness of the youth services provided on a coordinated basis thereunder. In addition to funds otherwise available therefor, such portion of any appropriation to carry out this Act as the Secretary may determine, but not in excess of one per centum thereof, shall be available to him for carrying out this subsection.

(b) The Secretary may disseminate the results of the evaluations conducted under subsection (a) as well as other information concerning comprehensive youth services systems and significant findings of research activities in the field of delinquency prevention and youth development, to interested agencies, organizations, and individuals.

(c) The Secretary may provide, directly or by grant or contract, such technical assistance as he determines to be necessary to assist public or nonprofit private agencies or organizations in the planning, establishment, or operation of comprehensive youth services systems or in the provision of youth services.

JOINT FUNDING

SEC. 7. Pursuant to regulations prescribed by the President, where funds are advanced for a comprehensive youth services system by more than one Federal agency to an agency or organization assisted under this Act, any one Federal agency may be designated to act for all in administering the funds advanced. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) regardless of whether such requirement is imposed by statute or by regulation, if such requirement is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. Nothing in this section shall be construed to authorize the expenditure of Federal funds for purposes other than those for which they were appropriated.

INTERDEPARTMENTAL COUNCIL

SEC. 8. (a) There shall be an Interdepartmental Council on Juvenile Delinquency (hereinafter in this section referred to as the "Council") composed of the Attorney General, the Secretary of Health, Education, and Welfare, and the representatives of such other departments or agencies as the President may designate.

(b) The functions of the Council shall be to coordinate all Federal activities in the field of juvenile delinquency.

(c) The Chairman of the Council shall be appointed by the President.

(d) The Council shall submit to the President an annual report which shall contain, among other things, a description of the activities of the Council and of the activities relating to juvenile delinquency of the Federal departments and agencies.

APPROPRIATIONS AUTHORIZATION

SEC. 9. There are authorized to be appropriated for the fiscal year ending June 30, 1973, and for each of the next four fiscal years, such sums as may be necessary for carrying out this Act.

REPEALER

SEC. 10. With respect to appropriations for fiscal years beginning after June 30, 1972, the Juvenile Delinquency and Control Act of 1968, other than section 407 thereof, is repealed. Section 407 of such Act is repealed effective with the close of June 30, 1972.

H.R. 14816

A bill to amend and extend the Juvenile Delinquency Prevention and Control Act of 1968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Juvenile Delinquency Prevention and Control Act Amendments of 1972".

SECS 2. Section 2 of the Juvenile Delinquency Prevention and Control Act of 1968 is amended to read as follows:

"FINDINGS AND PURPOSE

"SEC. 2. The Congress finds that delinquency among youths has reached a crisis situation which can be met by assisting and coordinating the efforts of public and private agencies engaged in combating the problem, and by increasing the number and improving the quality of the services available for preventing and combating juvenile delinquency. It is, therefore, the purpose of this Act to assist States and local communities in providing diagnosis, treatment, rehabilitative, and preventive services to youths who are delinquent or in danger of becoming delinquent, to provide assistance in the training of personnel employed or preparing for employment in occupations involving the provision of such services, to provide support for development of improved techniques and information services in the field of juvenile delinquency, and to provide technical assistance in such field.".

SEC. 3. (a) The heading of title I of the Juvenile Delinquency Prevention and Control Act of 1968 is amended to read as follows:

"TITLE I—COORDINATED PREVENTIVE AND REHABILITATIVE SERVICES".

(b) The heading for part A of such title is amended to read as follows:

"PART A—PLANNING AND DEVELOPING COORDINATED SERVICES".

(c) Section 101 of such title is amended to read as follows:

"DEVELOPING PREVENTIVE AND REHABILITATIVE COORDINATED SERVICES

"SEC. 101. The Secretary may make grants to, or contracts with, any public or nonprofit agency, organization, or institution for establishing or operating programs for the prevention and treatment of juvenile dilinquency, which insure coordinated services. Such grants or contracts may be provided for paying all or part of the cost of establishing or operating coordinated youth services, including the cost of planning such programs, of providing youth services either by contract or through other arrangements, or directly, only for those services which are not being provided in the community and for which payment is not available from other sources.".

(d) The heading for section 102 of such title is amended to read as follows:

"PLANNING COORDINATED SERVICES"

(e) Section 113 of such title is amended to read as follows:

"APPLICATIONS

"SEC. 113. (a) Grants under this part may be made only upon application to the Secretary which contains or is accompanied by satisfactory assurances that—

"(1) such applicant agency will provide to the extent feasible for coordinating, on a continuing basis, its operations with the operations of public agencies and private nonprofit organizations, furnishing welfare, education, health, mental health, recreation, job training, job placement, correction, and other basic services in the community for youths;

"(2) such applicant agency will make reasonable efforts to secure or provide any of such services which are necessary for diagnosing, treating, and rehabilitating youths referred to in section 111 and which are not otherwise being provided in the community, or if being provided are not adeqaute to meet its needs;

"(3) maximum use will be made under the program or project of other Federal, State, or local resources available for provision of such services;

"(4) public and private agencies and organizations providing the services referred to in paragraph (1) will be consulted in the formulation by the applicant of the project or program, taking into account the services and expertise of such agencies and oragnizations, and with a view to adapting such services to the better fulfillment of the purposes of this part;

"(5) in developing coordinated youth services, youth and public or private agencies, organizations, or institutions providing youth services within the geographic area to be served by the applicant are given the opportunity to present their views to the applicant with respect to such development; and

"(6) the applicant or lead agency is responsible for both accountability for and continuity of services for youth.".

(f) Subsection (b) of section 113 of such title is amended (1) by deleting the word "and" after the semicolon in clause (2) thereof, (2) by deleting clause (3) thereof, and (3) by adding at the end thereof the following:

"(3) the functions and services included;

"(4) the procedures which will be established for protecting the rights, under Federal, State, and local law, of the recipients of youth services, and for insuring appropriate privacy with respect to records relating to such services, provided to any individual under coordinated youth services developed by the applicant;

"(5) the procedures which will be established for evaluation; and

"(6) the strategy for phasing out support under this Act and the continuance of a proven program through other means.".

(g) Section 113 of such title is amended by adding at the end thereof the following new subsection:

"(c) No grant or contract may be made under part B unless the application therefor has fiirst been submitted to the Chief Executive Officer of the State in which the coordinated youth services are to be established in order to provide him with an opportunity (in accordance with regulations of the Secretary) to review and comment upon such application.".

SEC. 4. (a) Section 123 of title I of the Juvenile Delinquency Prevention and Control Act of 1968 is amended as follows:

(1) Subsection (a) of such section is amended by deleting "a State agency or, in the case of direct grants under section 132, to the Secretary, by a public agency or nonprofit private agency or organization," and inserting in lieu thereof "the Secretary".

(2) Subsection (b) of such section is amended by deleting the semicolon and the word "and" following such semicolon and inserting in lieu thereof a period.

(3) Such section is amended by adding at the end thereof the following new subsection:

"(c) No grant or contract may be made under part C unless the application therefor has first been submitted to the Chief Executive Officer of the State in which the coordinated youth services are to be established in order to provide him with an opportunity (in accordance with regulations of the Secretary) to review and comment upon such application.".

(b) Sections 131, 132, 133, and 134 of title I of such Act are hereby repealed.

(c) The first sentence of section 135 of title I of such Act is amended by deleting "the State agency or, in the case of grants under section 132,".

(d) Section 402 of title IV of such Act is amended to read as follows:

"SEC. 402. There are authorized to be appropriated for grants and contracts under this Act, to the Department of Health, Education, and Welfare, $75,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years such sums as may be necessary for carrying out this Act.".

(e) The first sentence of section 408 of title IV of such Act is amended by deleting "the Secretary" and inserting in lieu thereof "the interdepartmental council".

(f) Section 410 of title IV of such Act is amended (1) by deleting paragraph (2) thereof; (2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and (3) by adding at the end thereof the following new paragraphs:

"(5) 'Delinquent youth' refers to any youth who has been found by a court to be delinquent, or to be in need of care or supervision.

"(6) 'Youth in danger of becoming delinquent' refers to any youth whose conduct is such as to bring him within the jurisdiction of the juvenile court.

"(7) The term 'youth services' means a variety of services or types of care which are necessary components of a comprehensive program for the prevention of juvenile delinquency or for the rehabilitation of delinquent youth including counseling of various types, employment, vocational training, medical and mental health, education, recreational, and various types of foster care, which are now being developed or provided by a variety of State and local public and voluntary agencies.

"(8) The term 'coordinated youth services' means a comprehensive service delivery system, separate from the system of juvenile justice (which encompasses authoritative action by agencies such as the juvenile courts, law enforcement agencies, and detention facilities) for providing youth services through a coalition of public and voluntary agencies, to an individual who is delinquent or in danger of becoming delinquent and to his family in a manner designed to promote accessibility to and effective use of such services with a minimum of duplication.".

FLOOR STATEMENT BY CONGRESSMAN SEYMOUR HALPERN CALLING FOR AN FDA BAN ON A POTENTIALLY BIRTH-CRIPPLING DRUG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, I would ask the support of my colleagues for a bill I recently introduced which would direct the Food and Drug Administration to ban the sale of a drug known as Tofranil until conclusive research is undertaken to determine whether or not this antidepressant causes birth deformities when taken by pregnant women or by women of child-bearing age.

Dr. William McBride, the noted Australian gynecologist who, a decade ago, first called attention to the disastrous effects of thalidominde on the fetus, has recently attributed a number of birth deformities to the use of imipramine—manufactured in the United States and Sweden and sold on American and foreign markets under the trade name Tofranil.

There is clearly a great deal of confusion as to the effects of Tofranil, both among the general public and within the medical and pharmaceutical professions themselves. Dr. McBride, for example, admitted to inaccuracies in his own statement positively linking Tofranil with birth deformities, following outraged criticisms leveled by drug manufacturers and Australian medical officials. However, the doubts engendered by certain clinical evidence of a connection still remain.

We have recently heard reports, Mr. Speaker, of babies being born in Australia without arms after their mothers took Tofranil in early pregnancy, and two Swedish women claim that their use of Tofranil caused their children to be born deformed. The FDA-mandated warning itself states clearly that—

> Safe use of imipramine during pregnancy and lactation has not been established . . . There have been clinical reports of congenital malformation associated with the use of this drug, but a causal relationship has not been confirmed.

Unfortunately, patients see only the pills, while these grave warnings are buried deep in the pages of the Physician's Desk Reference, for use by doctors in prescribing drug medication.

While Tofranil has been sold in U.S. drug stores since 1959, the FDA has issued warnings about its possible side effects in pregnant women of child-bearing potential since 1965.

I have done an investigation of my own, Mr. Speaker, and have found that there are a surprising number of physicians and pharmacists who refuse to prescribe or fill prescriptions for use of Tofranil by pregnant women due to a lack of knowledge about this drug. The comments I have heard from doctors and pharmacists here indicate that they have no idea of the overall effects of Tofranil but that they try to steer clear of the drug at all costs when prescribing medication for severely depressed patients who are pregnant. An obvious problem arises, however, in the case of less conscientious or less informed physicians and druggists.

How can we, in good faith, permit a drug which presents such drastic dangers to be sold in our drugstores when all we have in place of conclusive evidence of safety are vague assurances that there may be no cause-and-effect relationship between Tofranil and birth defects?

I recently tried to find out just who is conducting ongoing research into the effects of this drug and by what date the American public could finally expect conclusive results. Consumer protection groups claim they do not have the resources to do testing on this drug, and Food and Drug Administration officials themselves claim that the agency's role ended in 1959 when their specialists approved the research done completely by the company which produces Tofranil—Geigy Pharmaceuticals.

Finally, I have spoken with Geigy-employed researchers themselves in Summit, N.J., who told me that although there has been some adverse clinical evidence, and although their own laboratory tests on animals yielded some negative as well as positive results, there has been no research conducted since the 1960's on the possible relationship between Tofranil use and fetal deformity. In other words, if there is a connection—as is suggested by certain official clinical reports and by some of the original testing done on rabbits, mice and rats—the only new evidence may come as babies are actually born without limbs. Mr. Speaker, this policy is nothing less than using women and children as guinea pigs.

It is time to take account of all the costs and benefits involved with the use of Tofranil—not just for Geigy Pharmaceuticals, but for the society as a whole. I feel quite strongly that this anti-depressant should be taken off the shelves until the manufacturers have demonstrated conclusively to FDA authorities that there is no causal tie whatsoever between the use of Tofranil and the birth of deformed children.

THE U.S. INFORMATION AGENCY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, the broadcasters of truth to the world received a vote of confidence recently when the U.S. Senate overrode the objections of its Foreign Relations Committee Chairman, Senator WILLIAM FULBRIGHT, and voted to restore $45 million to the U.S. Information Agency's 1973 fiscal budget.

The Senate acted wisely.

The committee had slashed the huge amount from the Information Agency's budget mainly on a contention that the Voice of America and Radio Liberty are products of the Cold War and increasingly block better U.S. relations with Russia.

The critics, however, did not acknowledge the fact that the Russian Government is by far the broadcaster of more propaganda and untruths than any other country in the world. The People's Republic of China runs a close second.

Right now Russia broadcasts approximately 1,904 hours per week in 84 languages. This compares to 1,304 hours per week for the People's Republic of China in 38 languages.

U.S. Information Agency stations presently broadcast only 779 hours per week in 35 languages.

If the Foreign Relations Committee had had its way, 24 of the 35 foreign language broadcasts of Voice of America would have been eliminated, weekly broadcast time would have been cut from 779 to 454 hours per week, and seven relay stations that send the Voice around the world would have been forced to close.

This would have been a serious blow both to listeners living in free countries and to those listeners who live behind the iron curtain.

Testimonials are numerous for the effective job the U.S. Information Agency is doing in broadcasting the truth to those not allowed to hear it from their own government.

So reliable was the reporting of the Voice of America and Radio Liberty during the 1970 Poland price riots that most top Communist officials appeared to use our program to keep informed, a Polish defector reported.

The wife of a well-known Soviet literary critic wrote recently of the efforts made by many of her friends to hear, despite difficulty, the words of truth filtering through jamming attempts.

She wrote:

> My invalid husband would spend hours sitting tensely before the radio, operating the volume and tuning controls with both hands. We saved our money, and even went without necessities, in order to buy the most sensitive receiver . . . The ending or altering in character of Radio Liberty broadcasts would be a major castastrophe for the Soviet opposition.

A Russian author joined eight other exiled scholars and writers to report:

> When we listened to Radio Liberty programs they were for us a substitute for a free press, non-existent in our countries . . . To speak the language of a free press and not the government propaganda makes the broadcasts so attractive to their audiences. To deprive them of that life-line would be indeed a crime against liberty.

In comparison, the United States already is conducting a modest campaign to keep the people of the world informed of the truth. If the reduction had taken place, the program would have become very ineffective. I am glad the Senate saw fit to keep the Information Agency adequately financed for its functions, in spite of Senator FULBRIGHT.

The Voice of America and Radio Liberty are two of the very few ways America has of getting its message into foreign countries and to counter the untruths and distortions made by other governments.

The stations should be allowed to continue their operation as strong as ever as a symbol of freedom and truth to the world.

MINIMUM WAGE BILL

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 60 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, at the appropriate time when the House begins consideration of the minimum wage bill, I intend to offer an amendment to "stretchout" the immediate increase to $2 called for by the committee bill and the Erlenborn substitute. My amendment would raise the minimum wage for nonagricultural workers covered prior to the 1966 amendments to the FLSA to $1.80 within 60 days of enactment and to $2 1 year after the first effective date. In the case of nonagricultural workers first covered by the 1966 amendments, the increase would be to $1.70 within 60 days of enactment, to $1.80 1 year after the first effective date, and finally to $2 1 year after the second effective date. This contrasts with the committee bill and the Erlenborn substitute which call for an immediate increase to $1.80 for this second group of employees and a further increase to $2 in 1973.

SHORT-TERM CONSIDERATIONS

Mr. Speaker, my immediate reason for offering this stretchout amendment is the fear that the precipitous 25-percent increase called for by the committee bill and the substitute in the basic minimum rate would pose a severe threat to the continued effectiveness of the current wage and price control program. I believe the danger would be especially great in a number of retail and service industries where many workers currently earn hourly wages below the proposed $2 level, and where wage rates of employees above the minimum are often closely tied to those at the bottom end of the scale. If the $2 minimum were to go into effect immediately, I fear both the Pay Board and the Price Commission would soon be inundated with requests for adjustments: Employers with large numbers of employees affected by the new rates would likely demand offsetting price increases to cover their additional wage costs; and higher paid employees—if past experience is any predictor—would likely demand increases to preserve traditional wage differentials.

Yet in light of the current squeeze that the stabilization program is being subjected to between farmers and consumers on the retail front, it would seem that now would be a very ill-advised time indeed to compound the problem. The public credibility of the stabilization machinery is tenuous enough already. It would ill-behoove us in Congress to gratuitously deliver still another blow to an effort that is our only hope if we expect to return to a noninflationary full-employment economy in the near future.

Mr. Speaker, I believe we would be ill-advised indeed to dismiss the potential threat to the stabilization and recovery programs posed by this rapid increase in the minimum wage by arguing that it would affect too few workers in relation to the total work force to make much difference. The committee, for instance, in its usual fashion has indicated that less than 10 percent of the labor force covered prior to the 1966 amendments would be affected by the increase to $2, thereby implying that any adverse consequences of the increase would be minimal. Yet, while it may be true that only a small proportion of the national labor force as a whole would be affected, the impact on certain industries and regions, as I will attempt to demonstrate in a moment, would be enormous. The simple fact is, aggregate national wage bill or labor force statistics totally obscure the real impact of a minimum wage increase. In order to obtain a realistic assessment of the implications of the proposed $2 level, we must look at those sectors of the economy and those geographic areas which would be most directly and heavily affected.

On the basis of a detailed survey taken by the Labor Department in April of 1970, it is possible to pretty closely estimate the labor force impact of the committee bill on the two important sectors of the economy—retailing and service industries—that would bear the brunt of the increase. Moreover, the survey data was broken down by region and metropolitan and nonmetropolitan areas as well, so even a further degree of disaggregation is possible. On the basis of this data, it is clear that the $2 minimum wage would affect from 25 percent to more than 50 percent, depending upon region and urban/nonurban location, of the approximately 12 million retail and service workers now covered by the Fair Labor Standards Act. In my view, the potential disemployment and inflationary implications of that kind of broad impact provide ample evidence that a more cautious approach is needed.

First, consider the service and retail labor force covered prior to the 1966 amendments, for which the minimum wage increase would be to $2 immediately. Assuming that any legislation finally enacted by Congress this year would not take effect before September, we estimate that nearly 25 percent or more than 800,000 retail workers in this group, would receive mandatory wage increases for the country as a whole. However, in nonmetropolitan areas where the entire wage scale tends to be lower, nearly 35 percent of pre-1966 retail workers would be affected. For the South, over 31 percent of all pre-1966 retail workers would be affected and in nonmetropolitan areas of the South almost 50 percent of the retail workers in this category would receive increases. In the case of service industry workers covered prior to 1966, the impact would not be as severe on a national basis, as only about 13 percent of the work force would be affected; but for nonmetropolitan areas the figure would be 20 percent and for the South the figure is nearly 25 percent.

For retail and service workers first brought under the FLSA in 1966, the impact would be even greater. As I am sure my colleagues are aware, the committee bill calls for an immediate increase for these workers to $1.80 now, and then to $2 as of January 1, 1973. Making appropriate allowance for continuing wage rate increases and labor force growth until the date when the $2 minimum would become effective, we estimate that nearly 1.06 million retail workers, or more than 37 percent of all retail workers first covered by the 1966 amendments, would be entitled to the mandatory increase required by the second step of the committee bill. Moreover, more than 40 percent of all nonmetropolitan retail workers in this group would be affected, over 46 percent of all post 1966 retail workers in this group would receive increases, and finally 52 percent or more than one-half of all nonmetropolitan retail workers in the South would fall below the $2 level on January 1, 1973.

Among service workers first covered by the 1966 amendments, the impact of the scheduled increase to $2 next January would be almost as extensive. Nationally, 30 percent or more than 1.1 million of the service workers in this group would be affected. In nonmetropolitan areas, more than 43 percent of post 1966 service workers would be affected, and in the North Central region 55 percent of nonmetropolitan service workers would be in line for mandatory increases. Among the combined group of 6.7 million service and retail workers first covered in 1966, nearly 2.2 million or about one-third would receive mandatory increases in order to reach the $2 level called for by the committee bill in January 1973; in nonmetropolitan areas, more than 40 percent of workers in this group of retail and service workers first covered by the 1966 amendments would receive increases:

TABLE I.—SHARE OF RETAIL AND SERVICE EMPLOYEES COVERED BY THE FLSA AFFECTED BY A $2 MINIMUM WAGE

[In percent]

Area	Covered prior to 1966		Covered after 1966	
	Retail	Service	Retail	Service
United States (total)	23.1	12.9	37.0	28.9
Metropolitan	21.2	12.0	35.8	24.4
Nonmetropolitan	34.1	19.5	40.3	42.8
Northeast (total)	19.7	4.3	30.6	19.8
Metropolitan	18.0	3.2	30.3	16.5
Nonmetropolitan	28.4	13.1	31.9	35.7
South (total)	30.9	23.9	46.2	38.5
Metropolitan	27.6	26.9	43.5	38.0
Nonmetropolitan	48.7	5.3	52.0	39.6
North-central (total)	24.8	12.2	41.3	32.0
Metropolitan	20.0	11.8	40.0	23.8
Nonmetropolitan	30.6	20.7	44.1	55.6
West (total)	15.4	14.5	22.1	22.8
Metropolitan	13.0	10.2	25.2	20.0
Nonmetropolitan	29.3	34.0	13.2	38.3

Source: Data derived from tables 17, 18, 20, and 21 of "Wages and Hours of Work of Nonsupervisory Employees in all Private Nonfarm Industries, by Coverage Status, Under the Fair Labor Standards Act" (U.S. Department of Labor). For retail workers covered prior to 1966, wage-scale tables were adjusted forward by 12 percent to represent the approximate 13 percent wage increase that all retail workers will have received between April 1970 survey and September 1972, the assumed effective date of the $2 increase. The adjustment factor for pre-1966 service workers was 15 percent to account for approximate 16-percent increase that all service workers will have received during the same period. In the case of post-1966 covered workers, the adjustment factor was 14 percent and 17 percent for retail and service workers, respectively, to account for continued general upward wage movement until January 1973 when the $2 minimum would go into effect for these workers.

Mr. Speaker, I believe these figures indicate that the impact of the proposed $2 minimum wage would be substantial in the retail and service sectors, and that the precipitous increase called for by the committee bill might severely jeopardize the attainment of our twin national goals of price stability and full employment. In the past, at least during the last decade when we began to significantly extend FLSA coverage to these sectors of the economy, we have phased in the increases over a period of years in order to keep adverse price and employment effects to a minimum. I think this is more necessary than ever in the current situation, and that a stretchout amendment of the type I plan to offer would significantly lessen the jar to the economy that is implict in the committee bill.

To be specific, an increase for pre-1966 covered workers to $1.80, rather than $2 immediately, would only affect about 9 percent of service workers. Put another way, my proposed stretchout amendment would affect only about 40 percent as many retail workers and 60 percent as many service workers as would the committee bill. The following table indicates the number of pre-1966 workers that would be affected by the stretchout amendment and by the committee bill. I think it is readily apparent that in both the retail and the service sector and for most areas of the country, the stretchout amendment would significantly lessen the labor force impact, and thereby hopefully keep adverse price and employment effects to a minimum.

Area	Retail			Service		
	Stretch-out (hundreds)	Committee (hundreds)	Stretch-out as percent of committee	Stretch-out (hundreds)	Committee (hundreds)	Stretch-out as percent of committee
United States (total)	329.7	827.9	39.8	190.5	299.7	63.5
Metropolitan	236.0	649.6	36.3	148.9	244.8	60.8
Nonmetro	93.5	177.2	52.8	41.3	55.2	74.6
Northeast (total)	57.9	200.2	28.9	14.4	31.2	46.2
Metropolitan	39.2	153.4	25.6	7.8	20.5	38.0
Nonmetro	18.2	46.4	39.2	6.5	10.7	60.7
South (total)	141.7	253.0	56.0	85.9	120.9	71.0
Metropolitan	101.5	190.6	53.3	83.5	116.9	71.4
Nonmetro	40.1	62.6	64.1	2.6	3.8	68.4
North central (total)	107.9	275.8	39.1	47.4	63.6	74.5
Metropolitan	79.1	195.2	40.5	43.0	58.4	73.6
Nonmetro	28.1	41.3	68.0	4.4	5.5	80.0
West (total)	21.7	98.3	22.1	43.7	83.4	52.4
Metropolitan	14.7	70.9	20.7	16.0	48.0	33.3
Nonmetro	7.5	27.1	27.7	227.8	35.4	78.5

Source: Same as table I. Wage scale tables adjusted in same manner as indicated in previous tables. Employment data adjusted forward by 6.17 percent to represent retail employment growth that will have occurred between the April 1970 survey and September 1972 effective date for all retail workers. Employment growth adjustment factor for service workers was 7.78 percent to represent growth trend for this sector over the same period.

Mr. Speaker, in the case of service and retail workers first covered by the 1966 amendments, where the committee's proposed increase to $2 as of January 1973 would have an even more severe impact as I have indicated above, the stretchout amendment would directly affect only about 16 percent of retail workers and 15 percent of service workers. This contrasts with the 37 percent of retail workers and nearly 30 percent of service workers in the post-1966 group that would be affected by the committee bill. Again, these differences mean that the stretchout amendment would only affect about 43 percent as many retail workers and about 53 percent as many service workers as would the committee bill at the time it calls for an hourly rate of $2 for this group on January 1, 1973:

TABLE III —COMMITTEE BILL AND STRETCH-OUT AMENDMENT, COMPARATIVE LABOR FORCE IMPACT FOR RETAIL AND SERVICE WORKERS FIRST COVERED UNDER 1966 AMENDMENTS

[Number of workers affected]

Area	Retail			Service		
	Stretch-out (hundreds)	Committee (hundreds)	Stretch-out as percent of committee	Stretch-out (hundreds)	Committee (hundreds)	Stretch-out as percent of committee
United States (total)	455.9	1,060.9	43.0	592.1	1,111.2	53.3
Metropolitan	353.5	752.8	47.0	356.3	713.6	49.9
Nonmetro	102.4	308.1	33.2	234.8	396.6	59.2
North-east (total)	89.9	211.7	42.5	95.9	180.8	53.0
Metropolitan	83.1	177.5	46.8	65.8	124.7	52.8
Nonmetro	6.9	33.8	20.4	29.9	56.1	53.3
South (total)	159.4	370.2	43.1	241.6	434.7	55.6
Metropolitan	108.3	237.8	45.5	149.6	277.2	54.0
Nonmetro	50.9	132.4	38.4	92.1	158.2	58.2
North-central (total)	181.6	378.8	47.9	149.3	289.6	51.6
Metropolitan	138.0	252.1	54.7	69.3	160.1	43.3
Nonmetro	43.6	126.6	34.4	80.4	129.3	62.2
West (total)	24.4	101.1	24.2	105.9	204.7	51.7
Metropolitan	23.7	85.7	27.7	73.2	152.6	48.0
Nonmetro	.8	15.4	5.2	32.7	51.8	63.1

Source: Wage rate adjustment assumption same as indicated for post 1966 workers in table I. Employment data adjusted forward by 7.4 percent for retail workers and 9.16 percent for service workers to represent continued employment expansion until effective date of Jan. 1, 1973. At that time, post 1966 covered workers would be at $2 per hour under committee bill and $1.70 per hour under stretch-out amendment.

During the first full year of effectiveness, then the committee bill would affect a very substantial share of the labor force in the combined service and retail sectors. Concretely, it would raise nearly 1.13 million retail and service workers to $2 immediately, and another 2.17 million to $2 a few months later in January of 1973. This group of nearly 3.3 million workers represents more than 26 percent of all FLSA covered retail and service employees in the Nation. In my view, it cannot possibly be argued that a minimum wage impact on more than one-fourth of the covered labor force in these two sectors will have no adverse employment or price effects. Therefore, if the Congress feels it is necessary to raise the minimum wage at this critical juncture in our stabilization and recovery programs, then we ought to at least exercise some restraint and moderation so that the economy may be given time to absorb the shock of the increase.

Mr. Speaker, I believe that the stretchout amendment that I plan to offer will accomplish this. It would affect only about one-half as many retail and service workers as the committee bill during the first year, and would raise them to $1.80 and $1.70, depending upon whether they were covered before or after the 1966 amendments, rather that to the full $2 called for by the Dent bill. This would represent about 12.9 percent of the covered retail and service works force, and while even this is, in my view, a substantial share, it is one certainly far more compatible with out current national economic objectives than the committee bill:

NUMBER OF RETAIL AND SERVICE EMPLOYEES AFFECTED DURING THE FIRST YEAR

	Hundreds			Total affected as percent of all covered
	Covered prior to 1966	Covered after 1966	Total	
Committee	1,172.1	2,172.1	3,299.7	26.1
Stretch-out	588.2	1,048.0	1,636.2	12.9

Source: Same as previous tables. Employment and wage rate adjustment assumptions also the same.

Finally, Mr. Speaker, it should be emphasized that the data presented above only indicates the numbers of workers affected. We are now in the process of converting that information into wage bill costs and I can assure my colleagues that the differentials between the committee bill and the stretchout amendment will be even greater when these figures are presented. The reason for this is that the committee bill not only covers more workers but it also raises their wage rates to a higher level in a shorter period of time. For instance, the 1.048 million retail and service workers first covered in 1966 that would be affected by the stretchout amendment, currently—or more precisely as of the assumed September 1972 effective date—have wage rates between $1.60 and $1.70 per hour. To bring them all to $1.70 on the first effective date would certainly have some significant wage bill cost, but this would be minor in comparison with the cost of raising this entire group first to $1.80 and then to $2 in January of 1973 as required by the committee bill. So while the committee bill covers in total about twice as many service and retail workers as does the stretchout amendment, it is obvious that the wage bill costs of the committee bill may be three or four times as great. I hope to have this information before general debate begins on Wednesday, and I fully expect that it will show in quite dramatic terms the wisdom of not foregoing our traditional practice of phasing in these minimum wage increases on a gradual basis.

Mr. Speaker, I think it should not be forgotten that both profit margins and productivity growth rates in these two sectors that I have been discussing are well below those for the remainder of the economy. In addition, the wage bill component of total current operating costs tends to be significantly higher in these sectors and wage scales tend to be significantly more compressed and more closely tied to the minimum wage than in other parts of the economy. These later two facts mean that the wage bill effects—both direct and ripple effects—will be relatively greater than in say manufacturing, while the margin to absorb these increased costs through profit reduction or productivity improvements will be significantly less. As a result, the substantial wage costs that would stem from a precipitous rise in the minimum wage must be reflected in either one of two ways: Either in higher prices, in lower employment, or in some combination of both. There is simply no other place from these increased wage costs to find an outlet under current economic conditions. Yet these are precisely the effects that we should be seeking to avoid at this critical moment in the battle to set aright an economy that has been badly out of control for more than 5 years now.

THE LONGER TERM PERSPECTIVE: THE NEED FOR A REEVALUATION OF MINIMUM WAGE POLICY

The minimum wage presents a classic case of the trade-off which must necessarily occur when a public policy has an impact on two or more desirable objectives. In the present case, it cannot be disputed that substantially raising the minimum wage would further the objective of reducing poverty and raising the income of at least some poor workers and their families. At the same time, though, there is considerable evidence that raising the minimum wage may also have an adverse impact on the objectives of expanding job opportunities for low-skill workers and of reducing inflationary pressures in the economy.

The decision to establish a national minimum wage in 1938, and then raise the rates and expand coverage on four subsequent occasions suggests a feeling, on the part of the majority in Congress anyway, that the gains in terms of raising incomes and purchasing power have proved considerably greater than any possible adverse effects on employment opportunities and the price level. That is, the trade-off has been made in favor of raising incomes.

One strong factor encouraging past decisions to make this kind of trade-off, it would seem, has been the fact that income needs are readily demonstrable and gains in higher earnings due to an increase of the minimum wage can be easily computed in concrete dollars and cents. On the other hand, the possible adverse price and employment effects are very difficult to convincingly assess due to a lack of adequate data, and to the difficulty of isolating purely minimum wage effects in the context of cyclical fluctuations, technological change, variations in the cost of capital and material inputs, and the complex interaction of a host of other economic variables.

As a result, the income-raising consideration and the question—Can you expect a guy to support his family on 65 bucks a week?—has had an irresistible appeal. Nor should this outcome be particularly surprising. When the hard facts of family need and the presence of large numbers of full-time workers in the labor force whose annual earnings do not even bring their families up to the poverty line are stacked up against the findings of complex and esoteric econometric models indicating adverse effects of the minimum wage on employment and the price level, the policy decision is a foregone conclusion. It would seem that only if some alternative means of raising incomes were available, could the negative effects of the minimum wage be given more serious consideration and a more appropriate weight in policy choices.

In the past, of course, there has not been such an alternative means of raising the incomes of the working poor realistically available. Though a few insightful academics on the peripheries of the political decisionmaking process, such as economist Milton Freedman who as early as 1946 urged a negative income tax as a preferable alternative to the miniimum wage, proposed other means of dealing with the income deficiency problem, there was simply insufficient popular support or understanding of these alternatives to significantly affect the terms of the debate.

Fortunately, I believe we are at last approaching the point where minimum wage policy can be realistically reviewed in the context of a wider range of alternatives. Specifically, I refer to a new factor in the policy equation introduced by the President's FAP proposal: income settlements for the working poor. Nonmarket income transfers of this kind clearly have two distinct advantages over the minimum wage as a means of raising family purchasing power: First, income supplements would not have the adverse price and employment effects which accompany the minimum wage; and second, they can be precisely targeted to family need, whereas the minimum wage affects all wage earners uniformly regardless of need, family status or the number of dependents. For example, the proposed increase in the minimum from $1.60 to $2 an hour would raise the annual income of a single individual working at a full-time job by $800 just as it would raise the income of a wage earner supporting a family of six by $800, despite the obvious disparities in need.

Certainly a primary criterion for public policy choices in the context of scarce resources—and this quite adequately describes our current situation all the glib rhetoric about the affluent society notwithstanding—is that it should accomplish its objective in the most efficient manner possible, all other things being equal. Since in the final analysis our economy is a closed system, the cost of an income raising measure—whether it be by means of the minimum wage which works directly through the market in the form of a higher wage bill, or by means of a governmental income transfer program requiring budgetary outlays—must be absorbed somewhere and alternative opportunities for utilizing the resources involved must be foregone in both cases. Yet on the basis of an analysis that I will describe in more detail in a moment, it would appear that the resource cost of raising all families with at least one employed member to the poverty level by means of the minimum wage would be more than five times greater than the cost of raising incomes of these families by means of an income supplement program with a benefit level geared to the poverty line.

Moreover, the secondary employment and price effects of using the minimum wage as an income raising instrument in such a manner would be enormous. Since more than 5 million or 20 percent of the poor in 1970 were members of families of seven or more, it would require a minimum wage of well over $3 per hour to bring these families up to the poverty line. In light of the clear evidence that the minimum wage has adverse price and employment effects even at the current rates, one can only imagine the severe dislocations that this much higher rate would impose on the market.

Mr. Speaker, in light of the foregoing I want to urge my colleagues to begin rethinking our basic minimum wage policy. For when we remove the income raising asset from the ledger of considerations concerning minimum wage policy, we are left mainly with its liabilities. In my remaining time, I want to elaborate in more detail on the relative superiority of governmental transfers as a means of dealing with the income deficiency problems, and then, in light of that evidence, review some of the information available on the adverse employment and price effects of the minimum wage. The conclusion that I hope will emerge from those considerations, is that we have reached a dead end regarding traditional arguments for the minimum wage and that now is the time to begin fashioning a fundamentally different set of solutions to the admittedly real problem that it addresses.

A. THE INCOME GAP AND THE MINIMUM WAGE

Mr. Speaker, in 1970 there were still more than 25 million Americans below the poverty line. In the context of a trillion dollar economy which produced a median family income of nearly $11,000, and in which almost one-fourth of American families had incomes above $15,000, that is a tragic and shameful fact. Moreover, among those poor in 1970, over 8½ million were children under the age of 14. One wonders how many of these children growing up in homes in which family income is less than even the minimum $3,900 budget prescribed by the BLS for a family of four will prove capable of overcoming these severe deprivations, and be able to compete successfully in the adult job market and lead useful, productive lives. The odds are not very great for more than a small minority of them, I am afraid.

Nor would we take comfort in the fact that we steadily reduced the numbers of poor Americans during the last decade or expect that this trend will continue such that the problem will soon disappear on its own. For one thing, the number of poor Americans has actually been increasing in the last couple of years, clearly indicating a halt and actual reversal of the trend of the 1960's. For another, many of these families are still deep in poverty. Fully 54 percent of them were more than $1,000 below the poverty line in 1970 and another 25 percent were more than $2,000 below the poverty line.

Mr. Speaker, what makes these grim statistics even more unpalatable is the fact that poverty is still disproportionately concentrated among our minority population. While only 9.9 percent of white Americans were below the poverty level in 1970, almost 34 percent of black Americans were. Though black Americans account for only 12 percent of our national population, they comprised over 30 percent of the poor. While I certainly welcome the fact that large numbers of black families have made important gains in the past decade in closing the income gap with white families, I do not think we should ignore the fact that this 30 percent share of the poor is significantly greater after a decade of progress than the 25-percent share of the poor accounted for by black Americans in 1959.

Mr. Speaker, I certainly recognize that a great proportion of the poor are members of families in which the head is either absent or incapable of earning a steady income in the marketplace. In those cases, the answer is a more generous level of assistance for the truly deserving and a system such as President Nixon has proposed which would encourage families to stay together and become at least partially self-supporting, rather than break up and become totally dependent upon governmental assistance. But these considerations are secondary to our concern here today.

Our primary target of concern is the nearly 55 percent of the poor who were either members of families which had some work experience during 1970, or were single individuals who held jobs for at least some portion of the year. Fully 77 percent of families below the poverty line headed by males between age 25 to 64, fall into this working poor category, as do 46 percent of the female-headed poor families. Moreover, the head of 57 percent of such male-headed poor families worked during more than 50 weeks in 1970 and still ended up below the poverty line. In addition, nearly 30 percent of these nonretired male-headed poor families had two or more wage earners employed during that year.

Clearly among this category of the working poor—especially the nearly three-fifths of the male-headed poor families in which the head worked a full year—the market is not producing a living income under current wage rates and opportunities for full-time employment.

On the surface this would seem to present a case for substantially increasing the minimum wage, all potential disemployment effects aside. However, a closer look at the evidence reveals two major drawbacks to such an approach: first, of the some 12 million poor who were members of families with some work experience in 1970, fully 46 percent were members of large families—families of six or more individuals. The problem in these cases is essentially more one of need than it is of relative inadequacy of earnings. The poverty level for a family of six is nearly $5,300 and for a family of seven or more it is over $6,400. Yet to raise the minimum wage high enough to bring these families to the poverty level—assuming one wage earner working full-time would require a rate of $2.65 and $3.20, respectively, a rate in the latter case nearly double the current level, and more than 50 percent higher than the proposed $2 level. In fact, the proposed $2 minimum wage would still leave 31 percent of individuals in working poor families below the poverty line—a good portion of these families by as much as $2,000. And this is assuming that every head of these working poor families had the opportunity to work year around at a full-time job. But the fact is, the heads of most working poor families do not have stable full-time, full-year employment. And this suggests the second drawback of the minimum wage as a means of raising the incomes of the working poor.

In only 37 percent of the working poor families in 1970, did the head work at a full-time job for the normal 50-week year. In the case of almost 46 percent of working poor families by contrast, the head either worked part time or held a full-time job for less than 26 weeks during the year. Thus, to the extent that the minimum wage tends to reduce the availability of full-time year-round job for lesser skilled members of the labor force—and whatever the current evidence, it surely would if the minimum were raised sufficiently to really make a dent in the poverty of the working poor—it would exacerbate the income deficiency problem among these families.

The question of the relative priority of greater opportunity for full-time employment as opposed to higher wage rates can be best illustrated by the 36 percent of the working poor who are members of families on the "small size" end of the scale. This group of more than 4½ million working poor, consisted of either unrelated—single—individuals or two or three member families, and as such not one of them would have been considered below the poverty line in 1970 had they, or the head of their family, had opportunity for full-time, full-year employment at the current minimum wage of $1.60 per hour. Full-time employment at the current minimum wage level would have yielded an annual income of $3,200 for each of these families, while the poverty line is $1,954 for unrelated individuals, $2,525 for two-member families and $3,099 for three-member families.

In the case of this one-third of the working poor who are members of small families, then, the clear source of the income deficiency is lack of full-time employment. As might be expected the figures bear out this expectation. For example, among the single working poor in 1970, only 18 percent worked a full year at a full-time job. By contrast, almost 73 percent were able to find and hold only part-time jobs or work at full-time jobs less than 26 weeks.

Mr. Speaker, the point of the foregoing should be obvious by now. The primary reason that the working poor are poor is not at bottom entirely or even mainly a matter of inadequate hourly wage rates. Far more important is first, the lack of full-time job opportunities, and secondly, in the case of more than half the working poor, the fact of relatively great income needs because of large families. Clearly, the minimum wage is too blunt an instrument to deal with the great complexity and variety of the income deficiency problem that we find among the working poor. The reason for this is simply that it is geared to wage earners rather than family units. As such, it cannot distinguish between:

First, single individuals and household heads with dependents to support;

Second, large and small families;

Third, primary breadwinners and secondary wage earners;

Fourth, families which must rely entirely upon wage and salary income earned in the market, and families eligible for various governmental assistance programs and benefits.

To the extent that substantially raising the minimum wage with a view to ameliorating these varied income deficiencies would cast windfall benefits on some and impose shortfall deprivations on many others, it is an inefficient use of the scarce resources that we have, or as a Nation are willing to make available, to deal with the problem of poverty. To the extent that such a substantial increase would further reduce the already inadequate supply of low-skill jobs, it would probably considerably diminish any net income benefits by allowing some of the working poor to be employed in better paying jobs, while depriving many others of any job at all.

As I indicated earlier, the net resource cost of raising most working poor families to the poverty level by means of the minimum wage would likely be more than five times the cost of achieving this important objective by a system of income supplements. Before concluding on this point, I want to elaborate a bit on the basis of that assertion, as it is obviously startling and will likely be more than a little controversial.

To begin, we assumed a minimum wage level of $3 per hour. To be sure, even that would not quite bring seven member families with one full-time wage earner up to the poverty level. But the deficiency would be only a few hundred dollars, and the probability is strong that in these cases there would be at least one secondary wage earner, and perhaps more, who could make a supplemental contribution to over-all family income. Of course, if the family head could not find a full-time job—and the evidence presented earlier indicated that this is the case in more than 60 percent of working poor families—then family income might still fall well short of the poverty line, even with the head working part time at the $3 level. So on balance, a $3 per hour assumption is conservative if the logic of the minimum wage as an income raising instrument is to be carried to its final conclusion, because even at this rate, substantial numbers of the working poor would still be "poor" on the basis of annual income.

We further assumed that all civilian wage and salary jobs would be covered by the minimum wage, and this too is not a realistic assumption in light of the trend over recent decades toward removal of exempt sectors of the economy, and in light of the fact that the bill about to be reported from the Senate Labor and Public Welfare Committee goes a long way to completing this trend toward blanket coverage.

On the basis of Census Bureau data which provides a breakdown by both income class—money earnings—and by full- and part-time employment status and duration of employment for each wage earner, we were able to compute the approximate net wage and salary bill increase that would result from the imposition of a $3 minimum wage. This figure is the difference between the actual money earnings of all workers who had income in 1970 that was less than they would have received at a $3 hourly rate for the number of hours they worked, and what they would have earned had they worked the same number of hours at the $3 rate. The net money earnings increase that would have resulted from the imposition of a $3 minimum wage in 1970 was $65.05 billion or 12 percent of the actual wage and salary bill that year.

The next step was to determine the net cost of a governmental income supplement program with a basic benefit level geared to the poverty line for each family size, and with an earnings offset rate of 60 percent. It should be pointed out here that the basic rationale for this income supplement system is similar to that contained in the President's family assistance plan as embodied in H.R. 1. However, the benefit levels are more generous—$3,900 for a family of four as opposed to $2,400 in H.R. 1—the earnings offset is a flat 60-percent rate rather than the combination front-end exemption of $720 and a 66-percent offset rate on the remainder contained in H.R. 1, and the benefits level per family member is uniform regardless of family size rather than weighted in favor of smaller families as in FAP.* Finally, we included the single working poor in the income supplement program although they are not covered in H.R. 1. All of these changes were made simply for the purposes of facilitating a comparative analysis of the two approaches to raising family income and do not necessarily imply that these changes would be preferable to the provisions in H.R. 1.

---

*See Appendix for data sources and methods of computation.

For a number of technical reasons the benefit level, offset rate and allowance per family member provisions of H.R. 1 would have enormously complicated what was already a very difficult analysis and so the simpler formula described above was used for the purposes of this analysis.

We obtained the net governmental transfer cost of such an income supplement program, then, first by classifying all of the working poor, or families below the break-even points which would be eligible for supplements, into appropriate family size units on the basis of Census Bureau data. Next the number of family units in each of the eight family-size categories—single individuals through seven or more member families—was multiplied by the appropriate benefit level amount for each group and the totals for each of the eight categories were summed. The resulting figure, $35,576 billion, is a hypothetical gross transfer cost before the earnings offset has been netted out. The final step was to compute the aggregate income of this group of families below the break-even point and subtract 60 percent of this sum from the gross transfer cost. This final figure is $12.50 billion and represents the net transfer cost of an income supplement program that would bring every family and single individual classified as part of the working poor in 1970 up to the poverty line and many of them well above that line. Though this sum is quite large in an absolute sense, the important thing is that it is less than 20 percent of the wage bill cost of only partially accomplishing the same objective by means of the minimum wage. And though some would like to believe that a program such as the minimum wage involving no direct governmental expenditure does not cost anything, this is simply not the case. Any claim on our national resources—whether by government or through the private market—means that alternative uses of those resources must be foregone. The basic question, then, is whether we want to pursue the objective of reducing poverty among the working poor by means of a blunt, costly inequitable instrument like the minimum wage with all its secondary adverse effects on the market, or whether it might be more prudent to begin looking to a far more efficient system of income supplements as a means of dealing with this problem. There is little question in my mind that income supplements would be the superior instrument.

It should also be pointed out that a system of income supplements would do a much more thorough job of meeting the income needs of the working poor. Not only would it bring every working poor family up to the poverty line, but it would also provide some small benefits to families above the poverty line, until the break-even point was reached. For instance, in the case of a family of four, a combination of market earnings and income supplements would provide at least $3,968 and in addition would provide small benefits to families of this size up to the break-even level of $6,600 where benefits would finally phase out to zero. By contrast, even a $3 minimum wage would not bring family income up to the poverty line for this same family unless the head of that family was fortunate enough to have opportunity to work more than 1,300 hours during the year, an opportunity that was available to only about 50 percent of the heads of working poor families in 1970. In the cases of seven member working poor families, which as I indicated earlier account for almost 30 percent of all individuals in the working poor group, it would require a full-time job for a full work year to begin to bring the family even within reach of the poverty line, yet as I have also pointed out only about 37 percent of the heads of working poor families had opportunity for full-time year employment in 1970. In short, until we can find some means of increasing very substantially the supply of full-time jobs available to the working poor, the minimum wage, even at the extremely high level of $3.00 used for the purposes of this analysis, will leave a large share of the working poor without adequate income.

Of course, it must also be admitted that such a high minimum wage could provide substantial windfalls for the minority of working poor families which are fortunate enough to have one or more full-time wage earners. For example, a family of three with the husband and wife both working a full-year at the $3 minimum wage level, would have an annual income of $12,000—even greater if substantial overtime work were available—a figure almost four times the poverty line for this size family. But this is just the problem: the minimum wage casts its benefits unpredictably and arbitrarily insofar as need is an important criteria of effectiveness. If there were no cause to be concerned about possible adverse market effects, or to allocate scarce resources efficiently, this characteristic of the minimum wage might not be problematic. However, we are simply not affluent enough as a society to ignore the question of resource efficiency, and the kind of market system on which our economy is based simply cannot absorb without serious dislocations the kind of minimum wage increases that would be necessary to even begin to deal with the income deficiencies of a large share of the working poor. And it is to this latter question that I want to direct the remainder of my remarks.*

B. THE SQUEEZE ON LOW-SKILL JOBS AND MINIMUM WAGE DISEMPLOYMENT EFFECTS

Mr. Speaker, if our economy produced sufficient low-skill jobs to employ adequately all the members of our labor force suited for this type of employment, there would be less need to be concerned about the potential employment displacement effects of substantially increasing the minimum wage. However, this is not at all the case. Over the past decade we have witnessed the gradual development of what might be termed a "labor market mismatch": The supply of low-skill or entry-level jobs has increased slowly, if at all, while the supply of low-skill workers has remained steady and may have actually increased as a proportion of the total labor force. As a result, lesser skilled members of the labor force find it increasingly difficult to find stable, full-time employment opportunities. To the extent that a rapid increase in the minimum wage would reduce even further the relative rate of employment growth in the low-skill industries, our current unemployment problems would only be compounded.

This phenomena of relatively slower low-skill employment growth can be seen in all areas of the economy. In manufacturing during the decade between 1959 and 1969, for instance, total production worker employment grew by about 2.1 million or 17.2 percent. However, in those industries that might be designated lesser skilled, as evidenced by wage rates, 15 percent or more below the average manufacturing wage in 1969, employment increased over the same 10-year period by only 2.2 percent. If we eliminate these low-skill industries from the calculation, overall manufacturing production worker employment increased by more than 20 percent during that period. Thus, lesser skilled employment opportunities in manufacturing industries grew at only about one-tenth the rate of the remainder of that sector during the 1960's.

In the service industries—excluding Government—the same phenomena is apparent. Overall nonsupervisory employment increased by 23.5 percent between 1964 and 1969. However, employment in industries with wage rates more than 15 percent below the average for the service sector increased by only 2.4 percent. If these lower wage industries are excluded, the overall growth rate for service sector employment is nearly 27 percent. Again, we have a situation in which lower skill job opportunities have grown at less than 10 percent of the rate of the remainder of the industry. Tables B–I through B–III below summarize these findings for each sector:

TABLE B-I.—MANUFACTURING EMPLOYMENT GROWTH, 1959–69

	Employment (thousands)			Percent change
	1959	1969	Change	
All manufacturing	12,603	14,768	2,165	17.2
Low-wage [1]	2,164	2,211	47	2.2
All manufacturing minus low-wage	10,439	12,557	2,118	20.3

[1] Consists of the 19 3-digit SIC industries in which average hourly nonsupervisory wage rates were less than $2.71 in 1969 (i.e., 15 percent of $2.19 manufacturing average).

Source: Employment and Earnings, United States, 1909–70, BLS Bulletin 132, 1312–7.

---

*Source: All basic data used in this section was obtained from either, "Income in 1970 of Families and Persons in the United States" or "Characteristics of the Low-Income Population, 1970." (U.S. Bureau of the Census.)

TABLE B-II.—RETAIL EMPLOYMENT GROWTH, 1959-69

Category	Employment (thousands)[1]			Percent change
	1959	1969	Change	
All retail	7,186.0	8,460.0	1,274.0	17.7
Low-wage[2]	828.8	818.6	−10.2	−1.2
All retail minus low-wage	6,357.2	7,641.4	1,284.3	20.2

[1] Employment data for nonsupervisory workers adjusted by "standard work week ratio" to take account of differences in average work-week hours between the initial and terminal year, and between industries within the retail sector. "Standard work week ratio" is equal to 40 hours divided by the average work week for each 3-digit industry used in the table.

[2] Low-wage retail industries ranged from SIC 533 (variety stores) with an average hourly rate of $1.89 in 1969 to SIC 591 (drug and proprietary stores) with an average rate of $2.20. The over-all retail average hourly wage rate was $2.30 in 1969.

Source: Employment and Earnings, United States, 1909-70.

TABLE B-III.—SERVICES INDUSTRY EMPLOYMENT GROWTH, 1964-69

Category	Employment (thousands)[1]			Percent change
	1964	1969	Change	
All service	7,176.0	8,865.0	1,689.0	23.5
Low-wage	970.3	993.8	23.5	2.4
All service minus low-wage	6,205.6	7,871.2	1,665.6	26.8

[1] Employment data for nonsupervisory workers adjusted for standard work week as in table B-II above.

Source: Employment and Earnings, United Stafes, 1909-70.

Mr. Speaker, before proceeding further let me make two points clear about the implications of the figures contained in these tables. First, I am not attempting to imply that the minimum wage accounts solely or necessarily even significantly for the negligible employment growth rates in these low-skilled industries. There are numerous other factors operating in the market that cannot be ignored. These include the impact of foreign import penetration, which has reduced the employment growth rate in many low-skilled industries like textiles; changing consumer tastes that have reduced demand and hence employment in some low-wage industries, for instance, the hat industry where employment declined 40 percent over the last decade; technological innovation as in the case of the shift in employment from the low-wage wooden container industry to the much higher paid metal container industry;* and changing production methods, such as the rise of self-service discount stores in the retail sector during the 1960's which reduced the demand for low-skilled labor.

Second, it should be emphasized that in the long run this shift away from low-skill/low-wage industries is a very welcome and desirable trend. If our primary goal is to provide American workers with more adequate standards of living and more satisfying job experience and working conditions, then this process of manpower resource shifts to more productive sectors of the economy must necessarily continue. Make-work simply for the sake of jobs is no more desirable in the private sector than it is in the public sector.

However, the problem comes in the short- and medium-term future. As I mentioned a moment ago, the employment demand structure of the economy is changing more rapidly than the labor force can adjust to it. As a result, we have labor shortages in many skilled and technical sectors of the economy as we approach the full-employment target and large labor surplusses in unskilled sectors, a factor incidentally that many economists blame in some measure for the apparent worsening of the Phillips curve trade-off that has occurred during recent years with all the complications that implies for fiscal and monetary policy.

To be sure, the obvious best answer to this dilemma is a more effective and comprehensive national manpower policy aimed at matching worker skills to real job opportunities. But we do not even begin to know what such a comprehensive manpower policy would entail, nor how much it would cost, or how it could be best implemented. Moreover, even if we did, it would be a longterm undertaking that would take decades rather than months or years, to achieve noticeable results. For one thing, the labor force simply cannot be shuffled about like chessmen on a board, however rational that might be in pure economic terms for obvious social and political reasons.

Thus, for the near and medium term, it is likely that natural forces operating in the market, such as those I described above, will act to widen the labor force mismatch and particularly to increase the gap between the supply and demand for low-skill labor. And it is for this reason that we must be very careful that our minimum wage policy does not compound the problem. Yet, if we insist that the minimum wage be used as an income-raising instrument, or even that it be kept perfectly in tandem with increases in the cost of living, this is precisely what is likely to happen as I shall attempt to demonstrate in a moment. Since we have at our disposal a far more efficient and equitable means for dealing with the income deficiency problem, it make little sense in my view, to accelerate the relative lag in low-skill job growth at a time when we have not even begun to develop the means to deal with the severe problem that we have already. To do so will only mean increased unemployment among marginal workers, expanded dependency, and all the social disorders that go with these conditions.

In order to underscore the importance of not jeapardizing the supply of low-skill jobs in the private sector in the short run, I think it will be useful to consider just briefly some characteristics of the current American labor force. In essence, I believe these figures show that during the very time that low-skill jobs in a wide variety of sectors within the economy have been growing significantly less rapidly than overall employment—only 10 percent as rapidly in the important sectors discussed above—the supply of workers who would be most likely looking for, and qualified to fill, these kinds of jobs have been increasing substantially more rapidly than the labor force as a whole.

Let me cite just a couple of indicators. During the period 1959 to 1969 the overall civilian labor force increased by about 17.5 percent. However, the number of workers in the 16- to 19-year-old age group rose by more than 55 percent, or at a rate more than three times faster than the labor force as a whole. Of course, we would certainly not want to claim that all teenage workers are qualified for nothing more than the lowest skilled jobs. Nevertheless, both commonsense and economic data suggest that a good share of these workers do actually begin in jobs at the bottom rung of the ladder, and that these figures in some significant measure provide one indicator of the supply of low-skill labor.

Another group in which the rate of civilian labor force increase during this period was significantly greater than that for the labor force as a whole was married women whose husbands were present in the household. For this group, the increase over the 1959-69 period was more than 44 percent, almost two and one-half times that for the entire labor force.

Again, we would not want to imply that all married women in the labor force are low-skill workers—certainly not in these times of Women's Liberation, anyway. But the fact is, in a large proportion of cases, married women do not seek permanent career jobs or the skills necessary to fill them, but rather more marginal jobs for the purpose of supplementing family income for shorter periods of time. For instance, in 1970 slightly less than 3 percent of employed men in husband and wife families worked only part time, while more than 25 percent of employed women from these families held part-time jobs. Thus, it is not entirely off the mark to suggest that the growing numbers of married women who seek, in more cases than not, supplementary rather than career employment, constitute a second group of lesser skilled members of the labor force whose employment opportunities may be jeopardized by minimum wage actions that would reduce the already limited supply of lesser skilled jobs.

A third important group in the labor force that may be penalized by a worsening of the supply/demand squeeze is the rapidly growing number of labor force participants between the ages of 14 and 24 who are enrolled in school, and thus are generally suited for, and in fact interested in obtaining, unskilled, part-time employment to help meet living and schooling expenses. As is well known, a significant reduction in the high school droupout rate and a substantial increase in the college enrollment rate over the past two decades have had the combined effect of substantially increasing the portion of the youth populations enrolled in school. But what is less widely recognized is that the labor force participation rate for this rapidly expanding share of school enrollees has also increased substantially. During the period that we have been examining, for example, the labor force participation rate for school enrollees in the 14- to 24-year-old age group jumped from a little over 26 percent to more than 41 percent. As a result, the labor force increase for this group of more than 5

---

*Employment in SIC 244 (wooden containers) declined by 18% during 1959-69; its hourly wage rate was almost one dollar below the average manufacturing wage in the latter year.

million—as of 1969—school enrollees increased by nearly 67 percent during the 1959–69 period, an increase almost four times as great as that of the labor force as a whole. In the final analysis it may be simply impractical to attempt to insure adequate part-time and casual employment—without resort to heavy Government subsidization—for all those in this group who seek jobs. But, at the same time, I think it is important to consider what the substantial expansion of coverage and increase in rates that would be necessary for the minimum wage to be even a modestly successful income raising instrument would do to the supply of jobs that would be available to this large segment of the labor force.

Finally, Mr. Speaker, we come to the most important group of all which would be adversely affected by a further tightening of this squeeze between the supply and demand for lesser skilled labor: The low-income—both black and white—residents of our decaying central cities. Here the problem is not so much one of aggregate national supply and demand trends, as in the cases that we have previously discussed, as it is a structural labor market problem that afflicts most of our major metropolitan areas. Though the actual number of labor force participants from socially and economically deprived backgrounds and areas has probably been decreasing during the past decade in tandem, to some degree, with the slowdown in the growth of low-skill employment opportunities, these aggregate trends are of little practical significance, because as all economists know the labor force is not perfectly mobile. This is especially true for those members from socially and economically deprived circumstances, and even more especially, for those minority members who face strong residential barriers in areas where job opportunities are growing most rapidly.

To be specific, the supply of low-skill labor in the central cities of most of our great metropolitan areas has probably been increasing during recent years as a result of the white middle class exodus to the suburbs and the simultaneous rural minority inmigration to these centers, while the supply of jobs realistically available to these new residents has been rapidly decreasing due to the great manufacturing and trade employment flight to the suburban ring. In the period between 1947 and 1967, 17 of the largest central cities alone experienced a net loss of manufacturing and retailing jobs that amounted to over 1,200,000. Table B–IV below gives the figures for these major cities and in almost every case it can be seen that the supply of manufacturing and retail jobs has been steadily dwindling:

TABLE B–IV—METROPOLITAN JOB DISPERSAL NET JOB CHANGE, 1947–67

[Figures in hundreds]

SMSA	Manufacturing		Retail		Total, manufacturing and retail	
	CC	OCC	CC	OCC	CC	OCC
Cleveland	−52.3	111.4	−21.7	27.6	−74.0	169.0
Newark	−28.8	64.1	−10.2	39.1	−39.0	103.2
New York	−44.9	158.7	−31.5	120.4	−76.4	279.1
Rochester	14.2	16.4	−2.0	21.4	12.2	37.8
Louisville	8.4	35.4	−1.3	19.3	7.1	54.7
Milwaukee	−14.5	38.6	−1.9	34.7	−16.4	73.3
St. Louis	−41.1	83.0	−25.0	72.5	−66.1	155.5
Paterson	−0.8	58.3	−2.0	41.0	−2.8	99.3
Philadelphia	−64.7	106.0	−28.9	123.0	−93.6	229.0
Indianapolis	6.5	25.8	2.7	19.5	9.2	45.3
Miami	13.4	35.6	5.0	35.7	18.4	71.3
Chicago	−120.5	246.5	−31.4	153.0	−151.9	399.5
Baltimore	−14.3	47.5	−12.8	48.0	−27.1	95.5
Buffalo	−20.6	12 9	−12.6	34.3	−32.2	47.2
Dayton	12.5	9.9	−2.8	18.6	9.7	98.5
Detroit	−128.7	157.4	−38.7	105.2	−167.4	262.6

Source: U.S. Census of Business, 1948 and 1968, Retail Trade, Area Statistics (Census Bureau); U.S. Census of Manufactures, 1947 and 1967, Area Statistics (Census Bureau)

At the same time, the social and economic transformation of the central cities has been in the other direction. In 1950, at approximately the beginning of this period, only two of the 15 largest American cities were more than 25 percent black; by 1960 there were eight such cities among the top 15, and by 1970 there were 12. Moreover, by 1970, three of these cities had become more than 50 percent black, and three others were fast approaching that level. Of course, all of these black citizens are not low income, but more than 25 percent of them are classified as being below the poverty line, and a large additional proportion are not far above it. In the decade of the 1960's alone, it should be pointed out, the net nonwhite inmigration to those 15 cities was more than 1 million, many of these migrants being unskilled individuals from the rural South. So I think it would not be at all inaccurate to contend that the supply of low-skill labor in the central cities has been increasing while jobs have been rapidly disappearing.

In fact, as a result of the dispersal of mainstream blue collar manufacturing and trade jobs, the job market in these large central cities has become increasingly bifurcated between a growing number of professional, white collar and office jobs on the one hand, and a residual supply of low-skill service, manufacturing and municipal jobs on the other. In the long run, of course, we should hope that improved educational efforts and more rigorous enforcement of our equal opportunity employment laws will open up some of these jobs to the low-income and minority residents who will soon account for a majority of the population in our great central cities. But that will take time, just as will efforts to open up suburban housing opportunities in order to allow these groups to take fuller advantage of the job openings in these areas. In the meantime, I think we must be very careful not to jeopardize the supply of those jobs that do remain in the central cities in the low-skill sector of the economy. Yet, unless we are prepared to reevaluate our whole minimum wage strategy, I am afraid that is precisely what will occur. In short, we will tighten the low-skill employment supply-demand squeeze on still another group within the labor force, yet a group that is in greater need of employment opportunities than any other within our society today.

Mr. Speaker, this discussion of the squeeze on the supply of low skill employment opportunities has assumed that increase in the minimum wage may tend to significantly reduce the limited supply of these jobs that would otherwise be available. I am fully aware that this assumption will be hotly contested by those who strongly advocate both expansion of coverage and increased minimum rates. The other day, for instance, I was approached by a delegation strongly in favor of the committee bill that denied any disemployment effects, and produced a chart to show that national employment growth during minimum wage increase years did not seem to be any less than in years in which no minimum wage action was taken over the last 2½ decades. Well, as I indicated in an earlier portion by my remarks, no one in his right mind would expect minimum wage effects to show up in national aggregate data of that sort. In fact, in any economy as vast, varied, and complex as ours, there are very few economic propositions that can be verified or dismissed on the basis of national aggregate data. In the case of the minimum wage specifically, it is only as we reduce the level of focus down to the industry, subindustry and even interplant level, that we can be certain that extraneous variables are properly controlled for, and that the effects of the minimum wage may be playing some role in determining observed employment growth patterns.

But even disaggregation of this type is not adequate in many instances. It is also necessary to devise means for determining relative employment growth patterns. One cannot conclude, as do many advocates of the minimum wage, that if no employment decrease is observed in a particular industry there are no disemployment effects. On the contrary, the pertinent determination is what the rate of increase would have been in the absence of the minimum wage and how this compares to the actual pattern. Needless to say this is a very difficult assignment that has not been very successfully accomplished by even some of our best economists due to inherent limitations of both data and theory.

And for the sake of fairness I should

add that many of the cruder arguments on the antiminimum wage side of the question are subject to the same limitations: Some of the carelessly constructed studies which purport to show that youth unemployment rates rise substantially each time the minimum wage is increased or that unemployment is higher in States which have minimum wage laws than in those which do not, probably have been comparing apples and oranges—you can not compare the unemployment rate of a highly industrialized State with a minimum wage law in which employment is subject to wide cyclical fluctuations, demand changes, and so forth to a State without a minimum wage law which is largely rural and not subject to these forces, and in which agricultural employment is inherently difficult to measure—and have been attributing to the minimum wage the effects of numerous other variables that have not been controlled for. For example, if you think the minimum wage disemployment affect on youth can be readily demonstrated, I would urge a few hours of grappling with the highly sophisticated econometric model that was used in the massive Labor Department study of the question. While I think it is still legitimate to argue that the minimum wage has had a significant adverse effect on youth employment, that cannot be shown conclusively until the data has been considerably refined, extraneous variables have been adequately controlled for, and analytical assumptions have been convincingly justified.

Mr. Speaker, having made these caveats, I think there are a number of studies available that meet the requirements mentioned above, and which do indeed show employment displacement effects. I will only cite a few illustrative examples here in the hope that these will be sufficient to make the case and would refer anyone who may be interested in further discussion of this question to a fine study by Prof. John Peterson and Charles Stewart entitled, "Employment Effects of the Minimum Wage," which reviews most of the available evidence.

First. Southern sawmill study, 1949–50. In the fourth quarter of 1949, just before the new minimum of $0.75 an hour went into effect in 1950, average hourly earnings in this industry were $0.69 an hour, 70 percent of the workers received less than the new minimum rate and a 13.6-percent increase in the wage bill would have been necessary to meet the higher minimum standard. Thus, the impact of the new rate was substantial. Moreover, survey data were available on an intraplant basis so that high wage mills could be separated from low wage mills, and the analysis was limited to a narrowly defined industry segment within one region so that demand forces, previous employment growth patterns and the like could be expected to be similar. Employment surveys taken before and after the increase indicate a strong relationship between severity of minimum wage impact and employment change. Mills with hourly rates that averaged more than 25 percent below the new rate experienced an employment decline of nearly 8 percent; those with hourly wage rates 12 percent or more above the minimum—and hence not affected by the increase—experienced employment increases of more than 35 percent. In total, the 157 mills with wage rates averaging 5 percent or more below the new minimum experienced an employment decline of about 5.3 percent while all those near or above the new minimum experienced a 6.3-percent gain in employment. Absent the minimum wage effect, the increased employment growth pattern experience by the higher wage mills should have been the industrywide pattern as the economy was experiencing a strong upturn in the winter of 1950 after the minor recession of 1948–49.

Second. Seamless hosiery, 1949–50. Prof. John Peterson studied the effect of the 1950 increase to $0.75 on plants within the State of Tennessee. He found that the impact of the minimum was substantial, requiring a 5-percent wage bill increase overall but for some plants as much as 20 percent; that both high and low wage plants faced similar demand pressures; and that employment growth patterns for the high- and low-wage plants were similar during the period before the imposition of the higher minimum. As in the previous case, employment change for higher wage plants that were least affected by the increase was almost three times more favorable than that for lower wage plants that were most heavily affected. In short, the effort to raise the hourly wages of lower paid employees helped some, but put a substantial share of these workers out of a job.

Third. Men's cotton garments, 1949–50. A Labor Department survey 6 months before the $0.75 minimum went into effect indicated that 50 percent of workers in the workshirt industry earned hourly wages below the new level and that a wage bill increase of 12 percent would be necessary to meet the new minimum. In the face of rising demand due to the vigorous recovery of 1950, plants with hourly wage rates that averaged 13 percent or more above the $0.75 minimum at the time of the August survey, and hence were little affected by the increase in February of 1950, experienced employment gains of more than 10 percent during the 6-month period just before and after the new rate became effective. However, plants with average wage rates below the new minimum prior to the effective date experienced employment declines that averaged about 18 percent during the same period. In this case, the minimum wage increase put almost 20 percent of the workers it was designed to help out of work.

Fourth. Kaun study, 1947–58. A major assumption underlying the argument that large minimum wage impacts will reduce employment—either absolutely or relatively depending on the circumstances—is that employers will be encouraged to adopt labor-saving innovations or to substitute capital for labor in order to reduce unit costs. Prof. David Kaun attempted to test this proposition by studying the impact of the 1950 and 1956 minimum wage increase on 19 low-wage manufacturing industries. His basic method of approach was to determine the share of value added in each industry attributable to labor and capital inputs both before and after an increase in the minimum wage. The expectation was that the more heavily affected an industry by the minimum wage increase, the greater would be the shift from labor to capital inputs as a share of value added. The results of his analysis bear out this expectation. For the period as a whole during which two minimum wage increases occurred, and for each increase taken alone, he found a high correlation between severity of minimum wage impact and degree of shift from labor to capital inputs. The rank correlation coefficient for the entire period for these 19 industries was 0.52, which means that nearly 30 percent of the variation in capital labor shift in these industries can be attributed to the severity of the minimum wage impact.

Fifth. The Florida study, 1956. The effect of the Federal minimum wage on employment in small towns and the growth of less developed areas was measured by Prof. Marshall Colberg in detailed study of employment experience in Florida—on a county by county basis—following the imposition of the $1 an hour minimum wage on March 1, 1956. Professor Colberg assembled data on manufacturing employment in 47 counties. He found that production worker man-hours in the low wage counties in Florida declined by 15.2 percent from the January before the $1 minimum to the April after the new minimum wage. In the high wage counties employment declined by 7.9 percent. Since manufacturing employment normally declined by 6 percent from January to April in Florida, the net employment decline which may be attributed to the minimum wage in low-wage counties was 9 percent. A less than 2 percent employment decline from January to April 1956 in the high wage counties is attributable to the $1 minimum. Not only does this study show a clear association between security of minimum wage impact and employment change, but it also suggests that the work of one hand of Government in the field og area redevelopment and rural revitalization may be being undermined by the work of the other through increases in the minimum wage.

Sixth. Retail trade employment, 1961–65. Professors Shkurti and Fleisher of Ohio State Uninversity conducted an intensive study of the employment effects of the extension of FLSA to the retail sector in 1961. They found that for retailing as a whole it was difficult to trace any disemployment effects because a large part of the industry was not covered and the wage bill impact on that part which was included was fairly light in the aggregate. However, then the industry was broken down into subsectors it was clear that there was a substantial wage bill impact on some sectors, variety stores for instance, and that the severity of the impact was highly correlated with employment trends. The following table shows wage bill impact, sales growth patterns and employment changes for three important retail subsectors. It is evident from this data that all three sectors experienced a considerable increase in sales during the 1961–65 period when the new coverage became effective, and on the basis of past employment-sales relationships all should have experienced commensurate increases in employment. However, in actual fact, the employment changes highly paralleled the degree of wage bill impact. In the variety store sector in which the three minimum wage increases between 1961 and 1965 required an average 4.6 percent wage bill increase, on each effective date employment actually declined despite general economic expansion and a 30 percent increase in sales. In the case of drugstores, where the wage bill effect was substantially less, employment increased with sales, as it did for department stores where the wage bill impact was only marginal:

RETAIL EMPLOYMENT, 1961–65

[In percent]

Sector	Wage bill increase [1]	Sales increase	Employment change
Variety stores	4.6	30	−6.0
Drugstores	1.2	21	12.3
Department stores	.7	44	25.5

[1] Average increase required by each of the 3 minimum wage increases during the 1961–65 period

Mr. Speaker, I believe the evidence that I have reviewed from just some of the studies available indicate that if the wage bill impact of a minimum wage increase is severe enough, there are clear disemployment effects. To be sure, if the minimum wage is kept low in relationship to general wage patterns, disemployment will be limited to a few industries, plants, or regions where a significan increase in labor costs results from imposition of mandatory wage requirements. But the point is, advocates of the minimum wage have never been content with keeping coverage limited and the wage level at a rate low enough to provide only the most basic floor necessary to prevent unfair labor practices. On the contrary, they have consistently argued for total coverage and for rates well above those that Congress has finally been persuaded to establish.

The obvious reason for this insistence on strengthening the FLSA is that at current levels, as I indicated earlier, the minimum wage cannot even begin to deal with the problem of income deficiency among working poor families. It is only as rates are substantially increased above anything we have contemplated thus far, will significant, if inefficient and inequitable, progress to be made toward dealing with that problem. But minimum wage rates of this magnitude would have a very substantial labor costs impact on numerous industries and parts of the country, rather than just a few as at present, and in that situation the disemployment effects are guaranteed to be widespread and burdensome. Economic logic and the nature of our economy will permit no other result.

C. THE PRICE EFFECTS OF THE MINIMUM WAGE AND THE SERVICE SECTOR

Mr. Speaker, it is obvious that one would be on pretty tenuous economic grounds arguing that the minimum wage has both large, adverse price and employment effects in the same situation. If an employer can succeed in passing along any additional wage costs resulting from an increase in the minimum wage by means of higher prices without cutting back on production or sales, then obviously employment will not be harmed. At the same time, if he can reduce his labor costs by altering production methods, automation, or other labor-saving actions, there will be no need to raise prices. However, this choice that faces any particular employer does not bind all employers as a group. Depending upon their competitive situation, the possibilities for factor substitution, the state of market demand and many other similar considerations, employers in varying markets significantly impacted by a minimum wage increase will respond in a way most appropriate to their own unique circumstances.

Generally speaking, I believe it could be expected that in highly competitive industries, in industries with a high elasticity of demand to price, in industries where capital-labor substitution is highly feasible, and in industries serving regional or national markets, the response to a substantial minimum wage impact would be in the direction of labor-cost saving and consequently disemployment. By contrast in industries characterized by local markets with minimal competition, little potential for significant capital substitution, and a low elasticity of demand to price, the minimum wage impact would be more likely on the price side. This latter set of characteristics obviously describes the situation in many service industry markets like hospitals, hotels and motels, restaurants, and even laundry and dry cleaning establishments where convenience, quality and similar factors are often more important to the consumer than price.

Mr. Speaker, I believe this theoretical expectation that the increased wage costs—both direct and ripple effects—of the minimum wage would most likely manifest themselves in the form of higher prices in the service sector is borne out by the facts. As I am sure my colleagues recall, prior to the 1966 amendments to the Fair Labor Standards Act, what is generally termed the service sector was virtually exempt from minimum wage coverage. However, as a result of the amendments of that year more than 3.5 million new service workers in such areas as hospitals, nursing homes, cleaning and laundry establishments, hotels and motels, restaurants, and other miscellaneous services were brought under the act. Thus, by comparing service price trends and their relationships with other key economic indicators before and after the effective dates of the 1966 amendments we can get some idea of the price effects of the minimum wage in this sector.

In examining service price trends over the 20-year period between 1950 and 1970 we made two important discoveries. First, as was indicated above, there appears to be little direct short-run relationships between changes in service demand and price. When we computed a correlation coefficient for the relationship between consumption expenditures for services and service price index—minus rent—for the years between 1954 and 1966, the coefficient was less than .02, indicating no statistically significant relationship between the two variables. Or put another way, year-to-year changes in service demand do not seem to bear any noticeable relationship to corresponding year-to-year changes in price. This, of course, confirms the notion that services have a low elasticity of demand to price.

On the other hand, cost variables do seem to have a significant relationship to service price. Specifically, for the same period we found that the combined effect of a variable for labor costs—private economy man-hour compensation—and for capital costs—the producer goods wholesale price index—was closely related to changes in the service price index. The multiple correlation coefficient for these two variable in relationship to service prices was nearly 0.80, indicating that changes in these variables explained nearly 63 percent of the year-to-year variation in service prices. In short, it would appear that variation in input costs, at least in the shortrun cyclical context, are substantially more highly correlated to service price changes than are shortrun demand changes.

On the basis of this strong relationship we found in the preminimum wage period—for services—between the two costs variables and service price, it was possible to construct a simple linear equation that would allow us to predict what the change in the service price index would have been in the post-1966 period had this relationship not been affected by the impact of the new minimum wage coverage. Without going into all the technical and statistical details here, it can merely be said that the regression equation for the relationship between service price change and the combined effect of the labor cost variable and the capital cost variable for the period 1956 through 1966—preminimum wage—was given by the following:

$$y = 2.946 + .272(x_1) + .135(x_2)$$

where:

y = annual service price index change

x_1 = annual change in producer goods index of WPI

x_2 = annual change in private economy compensation per man hour

This estimating equation proved to be a very good predictor of the actual service price changes during the preminimum wage period. The average residual or deviation of the predicted service price change was only 0.08 percent from the actual change in the BLS index for services—minus rent. Moreover, deviations were found to be equally both above and below the actual change, suggesting that the minor estimating errors were random rather than systematically biased toward either over- or under-prediction.

However, the residuals for the post minimum wage period between 1967–71—a period in which the minimum wage was increased from no coverage to $1 per hour in 1967 to $1.60 per hour in 1971 in the service sector—were substantially and consistently positive. Put another way, the actual increases in the service price index were on the average nearly 3 percentage points greater than those which would have occurred had the pre-1966 relationship between the variables been maintained. The following table indicates the actual price change, the predicted price change, and the residual for the years after the minimum wage took substantial effect in the service sector:

SERVICE PRICE INDEX CHANGE

[In percent]

	Actual	Expected	Residual
Year:			
1967	4.9	3.2	+1.7
1968	5.7	3.7	2.0
1969	7.6	3.7	3.9
1970	8.6	3.6	5.0
1971	5.8	3.8	2.0

It can be readily seen from this table that some new factor was noticeably disrupting the previous relationship between these general cost variables and service prices. Since the minimum wage increases of this period were too small to effect these general cost variables, but of sufficient magnitude in relationship to previous service labor costs to register an important impact in that sector, the suspicion is that it accounts in some important measure for the unexpected deviation of the service price index from its previous path during the post-1966 period.

Mr. Speaker, it goes without saying that significant though these findings are, they must be interpreted with extreme caution. An analysis of this type does not establish cause and effect on a one-for-one basis. It merely suggests that for some reason there was a clear and substantial break after 1966 in the relationship that had prevailed between general economywide cost factors and the service price index before that point, and the relationship that developed after minimum wage coverage was extended to this sector of the economy. Thus, there may have been numerous other new factors affecting the service price index in the post-1966 period that account for some of the spread that is shown in the above table. For instance, the onset of medicare and medicaid in this period is believed by many economists to have significantly affected the price level in the health care sector—a significant component of the service sector as a whole. This is believed to have occurred due to both extreme demand pressure in the face of limited supply capacity, and to the fact that the substantial increase in third-party payments occasioned by these programs may have reduced incentives to control costs in the health care field.

In addition, a number of the components of the service price index which increased rather rapidly during this period—auto repairs, physicians services—obviously were not affected by the minimum wage. However, this consideration can not be given too much force because if you examine price trends for only those components of the service price index such as hospitals, hotels and motels, or cleaning establishments, which were directly affected by the minimum wage, it is clear that prices in these areas rose fully as rapidly as the overall index. In other words, the fact that these non-minimum-wage-affected components are included in the overall service price index does not bias it upward, and, therefore, the results of the preceding analysis would tend to be similar in any event.

Having made these caveats, then, it would seem that it is still admissible to infer that the minimum wage increase over this 5-year period played some significant role in this substantially greater than expected increase in the service price index in the post-1966 period. An examination of the wage structure in these industries provides further confirming evidence. A special, detailed wage survey taken by the Labor Department in April of 1970—9 months before the final step increase to $1.60 for post-1966 FLSA covered workers—indicates that fully 20 percent of covered service workers were below the scheduled increase. Moreover, another 30 percent were distributed in a range between 0 and 25 percent above the $1.60 figure. In short, nearly 50 percent of workers in covered service establishments were pretty tightly bunched just above and below the final step increase, and on the basis of other Labor Department data, it would appear that this tight bunching prevailed throughout the 1967–71 period during which the 1966 amendments were phased in.

By way of contrast, less than 1 percent of manufacturing workers were found to be below the $1.60 level at the time of the April 1970 survey, and merely an additional 12 percent were in the 0 to 25-percent range. Had this been the case in the service sector, it would be difficult indeed to attribute much of the unexpected jump in service prices after 1966 to the minimum wage. But in the actual service industry situation there was both a substantial direct wage cost impact, and perhaps more important, most certainly an even more substantial ripple effect due to the tight bunching of more than one-third of service industry workers just above the scheduled minimum. It is simply inconceivable in a situation in which wage intervals are that closely spaced to think that the lowest paid workers could get up to a 15-percent increase without more experienced workers just above the minimum demanding, and in fact receiving, proportional increases. So it would appear, at least in my view, that the wage cost impacts of the minimum wage in the service sector—both direct and indirect—were substantial, and that these cost increases must surely have accounted for some of the observed gap between expected and actual service price behavior during the 1967–71 period.

CONCLUSION

Mr. Speaker, let me say in conclusion that I believe there are some very important both long- and short-run reasons for adopting a more cautious and prudent approach to the minimum wage than that represented by the committee bill. For the immediate future, it is vitally imperative that we stretch out the proposed increase to $2 because its impact in certain sectors like retailing and the service industries would be too severe to be absorbed in one blow without seriously jeopardizing the stabilization program and the progress we are currently making toward recovery and full employment. As I indicated at the opening of my remarks, more than 26 percent of the retail and service labor force now covered by the FLSA would be affected by an immediate increase to $2, and in some regions, especially the South and nonmetropolitan areas, from 30 to 50 percent of the covered labor force would be affected.

The proponents of the committee bill may quote from dawn to dusk if they please, the unfortunate and out of context statement by Mr. Landry of the Chamber of Commerce that suggests increases in the minimum wage do not cause inflation. But whatever the case in times of economic health and stability, I can assure my colleagues that in these days of economic crisis and wage and price controls, enactment of this bill would unleash a flood of requests for price increases that will make a mockery of these assurances within 1 week after the $2 minimum takes effect. The recent unusual rise in raw farm product prices and the current efforts of the price board to crackdown on alleged excessive profit margins in retailing have reduced profits to the bone in this sector of the economy.

If you increase wage costs by even 5 percent in an industry in which labor costs account for more than 60 percent of operating costs, and in which profit margins on sales have in many instances dipped to 2 percent, 1 percent and some cases even below that point, there is no other outlet except either higher prices or massive layoffs and unemployment. In short, the effect of moving to the immediate $2 minimum wage called for by the committee would be the unnecessary creation of a major new threat to the effectiveness of the stabilization program. And if our current fragile control machinery should prove incapable of weathering the storm, we are likely to soon find the whole economy back on that old course of inflation, instability and stagnation from which we have just now begun to extricate ourselves.

But the counsel for restraint on this minimum wage measure depends upon much more than merely shortrun considerations. As I have tried to indicate throughout the course of my presentation this afternoon, I believe we are at a crossroads in minimum wage policy that demands some serious rethinking of our entire approach to this question. There is only one good social argument for the minimum wage and absolutely no satisfactory economic justification for the kind of arbitrary intervention in the market economy that it entails. We are now at a point where a better means is available to deal with the social problem of poverty and inadequate income as I have attempted to demonstrate. The resource efficiency advantages of income supplements as a means of dealing with income deficiencies among the working poor are so overwhelming that the appeal to the facts of poverty and the situation of the worker who must support his family on $75 a week should be laid to rest once and for all.

If the proponents of a substantial increase in the minimum wage are truly concerned about this very real problem, then let them switch the focus of their exertions to a more fruitful endeavor, to getting the President's family assistance plan enacted into law this year. But if the real reason for organized labor's unwavering support for the minimum wage is that it provides a useful protective device for their own inordinate wage demands and collective bargaining agreements, then let them drop the pretense, dispense with the unctuous handwringing about the poor and the $75-a-week family, and expose the real burden of their case to the public.

Mr. Speaker, the disemployment and inflation costs of the minimum wage would be totally unacceptable if we were to seriously attempt to use that instrument as a means of dealing with the very urgent income deficiency problem that afflicts more than 12 million working poor Americans. So let us dispense with that illusion and get on with the business of enacting and then improving a decent income transfer program that will allow all Americans to live in decency and dignity. So, too, let us act with moderation and restraint in the immediate situation, if, in this political year and in light of the fact that we have not yet succeeded in putting the President's family assistance plan on the book, some increase in the minimum wage is necessary by phasing in the increase called for by the committee and the other party. But, finally, let us have the good sense in the future to remove the minimum wage from our main social and economic policy arsenal and to assign it the more modest supportive role of assuring minimal labor standards in the marketplace for which it is properly suited.

NINETY DAYS, AND STILL NO WORD FROM PRESIDENT NIXON ON TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 20 minutes.

Mr. REUSS. Mr. Speaker, it has now been 90 days since House Ways and Means Committee Chairman Wilbur Mills wrote President Nixon asking that the President send to Congress the tax reform proposals he promised last September. The President has still not responded to Chairman Mills' letter.

One waits and waits for help from the President on tax reform. Therefore, when the revenue sharing bill (H.R. 1470) comes to the floor, a number of us, including Congressmen Fraser, Vanik, and Obey, will seek to offer an amendment to the bill to close two existing tax loopholes. This amendment has a dual purpose. First, it makes a start toward dealing with a problem of intense and growing concern to people throughout the country—the inequity of our Federal tax system. Second, by raising an additional $5 to $6 billion per year, it would provide the revenue that H.R. 14370 proposes to share. It is thus, as we have called it, a Fiscal Responsibility Amendment.

The two tax reforms in the Fiscal Responsibility Amendment would repeal the ADR system of special depreciation write-offs for corporations, and tighten up the so-called "Minimum Tax" provision of the 1969 Tax Reform Act.

The minimum tax imposes a tax on certain forms of "tax preferences"—income from real estate shelters, the oil depletion allowance, capital gains, stock options, and other sources which previously escaped taxation. However, the minimum tax exempts the first $30,000 in tax preferences from the tax, and also allows a deduction for the amount of taxes paid on regular, nonpreference income. A minimum tax of 10 percent is then imposed on the amount of tax preference income that remains. Our proposed amendment to the revenue-sharing bill would reduce the $30,000 exemption to $12,000, eliminate the deduction for regular taxes paid, and raise the minimum tax rate to 20 percent.

An analysis of Treasury data on the operation of the minimum tax in 1970 makes it clear that changes are needed to insure that people with very high incomes pay their fair share in taxes. There were, for example, 394 Americans with 1970 incomes in excess of $100,000 who paid no Federal income tax at all for that year, despite the minimum tax. The minimum tax was successful in catching an additional 318 individuals with 1970 incomes of over $100,000 who would otherwise have paid no Federal income tax. But the tax rate they had to pay was only 4 percent—the same ratio paid by a near-poverty-level wage earner making $4,000 a year.

In a sense, these 318 wealthy tax avoiders caught by the minimum tax are the unlucky ones. But it is a little hard to feel sorry for people with incomes in six figures who pay taxes at the same rate as people just above the poverty line.

The total 1970 income for these 318 individuals and the percent of it paid in taxes works out as follows:

There were 279 persons in the $100,000 to $500,000 "adjusted gross income" bracket who paid no tax on their regular income but did pay a minimum tax. The average amount of tax-preference income in that bracket was $171,220, and the average minimum tax paid was $14,122. If we assume that the average person in that bracket had $300,000 in untaxed regular income, this adds up to an average total income of $471,220. The $14,122 minimum tax amounts to only 3 percent of that.

For the 31 people in the $500,000 to $1,000,000 bracket, a similar calculation shows an average untaxed regular income of $750,000 and tax-preference income of $647,420, for a total average income of $1,397,420. The average minimum tax in that bracket came to $61,742—4.42 percent of total income.

For the eight taxpayers in the $1,000,000-and-over bracket, I estimated an unrealistically low, average untaxed regular income of $1,000,000, and then added the average tax-preference income of $703,750 to come up with a total income per person of $1,703,750. The average minimum tax on this was $67,375—3.95 percent of the total income.

These Treasury figures demonstrate clearly that the minimum tax is just administering a small "love tap" to wealthy tax avoiders. They can continue to use tax loopholes if they will just pay a small admission fee for the privilege. At the very least we should increase the admission fee, and the amendment we hope to add to the revenue-sharing bill would do this. Better still, however, we should simply do away with all these tax loopholes once and for all. Income is income, and there is no reason why wealthy investors, executives, and oil men should get more favorable treatment than the "average wage earner."

THE NEEDS OF THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. Brademas) is recognized for 5 minutes.

Mr. BRADEMAS. Mr. Speaker, the report of the Democratic Policy Council planning group on "Problems of the Elderly," has cogently and compassionately identified five issues of critical importance for older Americans: Meaningful retirement, the problems of fixed income, health care, housing, and transportation. To help solve these problems, the planning group has recommended the following measures: A guaranteed annual income, increases in social security benefits, national health insurance, low-income housing, and property tax relief for the elderly. I believe this report is worthy of the closest scrutiny by all Members of Congress.

In conjunction with this report, I am inserting in the Record a copy of my own statement to the planning group, as well as an article by the distinguished cochairman of the planning group, the Honorable Wilbur J. Cohen, former Secretary of Health, Education, and Welfare, on "The Challenge of the Aging," which appeared in Social Action in November 1971:

Problems of the Elderly

(By Cochairmen Wilbur J. Cohen and John J. Gilligan)

The planning group held a public hearing in Cleveland, Ohio on November 19, 1971. Testimony was directed to five major problems confronting elderly citizens:

Meaningful retirement and public attitudes.

Income.

Health.

Housing.

Transportation.

MEANINGFUL RETIREMENT

Governor Gilligan's opening statement voiced the panelists' concern about prevailing attitudes toward the aged and aging:

"The problems of our aged citizens have existed for years, for decades, and we all know it. What we have to understand is why they haven't received adequate attention in the past. Why, for instance, has housing the aged been less important than going to the moon? Why has adequate income for the elderly been less important than an oil depletion allowance for oil barons?

"I think the answer to the question lies in some basic attitudes here in America; attitudes that have caused suffering—attitudes that I believe have to be changed.

"One basic attitude is that anyone not directly contributing to the country's economy by working at a job, is on his own, left to fend for himself. And why? Because under our system people weren't really supposed to help each other. They were supposed to compete against each other and not just for medals or awards of some kind, but for the basic necessities of life. Competition was good for everybody. Everybody competing against everybody else was supposed to produce the greatest good for all. A strange idea—that the sum total of everybody's selfish pursuit of his or her own selfish material interest would be the greatest good for all.

"The people who are starving, are starving not because there is no food but because they can't compete any longer in the marketplace and so they suffer. But it's time this country recognized that everyone has a fundamental, inalienable right to the basic necessities of life. It's time this country recognized that no one loses his right to a minimum standard of living simply because he is old, sick, disabled, or unemployed.

"I hope that from this hearing will issue a clear call to the people of this country for the establishment of a guaranteed annual income to provide each and every citizen with the minimum requirements of a decent, human life in America."

Another witness commented:

"Today's elderly grew up in a time when usefulness and meaningfulness grew out of having a job. Compulsory retirement at age 65, even when you are physically fit and alert, means you are no longer useful and have no meaning to society. The watchword is "produce—produce—produce."

Cleveland's coordinator on the aging warned: "We must not evaluate the worth of an individual in terms of the 'goods' he produces." Witnesses agreed that today the forces of industrialism and technology have altered the meaning of the word "work" and man's relationship to the world of work. Although automation and cybernation have helped lessen the economic need for work, there remains a psychological need to work throughout a person's life—a remnant, no doubt, of the puritan ethic.

Without an occupational status, the individual has few or no alternatives capable of sustaining his position as a respected member of the community. Retirement then means not only a loss of self-supporting income but a loss of identify or role. Many times this loss follows closely the shedding of traditional parental roles as children grow up and move away. These are big adjustments. Too often they become a crisis—to which the suicide rates among those 65 and older are mute testimony.

To remedy these negative attitudes and provide a major redirection in retirement years, witnesses suggested this new educational process could begin as early as elementary school with the growth and aging process being viewed as a natural and universal one. Today there is far too much emphasis on youth. The cult of youth that has successfully cornered the marketplace in literature, movies, news media and particularly advertising has resulted in the cultural rejection of the aged. A community worker said:

"Today everyone must be young and independent to 'mean' anything. Tradition? Who wants it? So what is the picture of the elderly? A physical, senile wreck who must, heaven forbid, depend on someone else to exist. Yet 90% of those 65–75 have no real disabling handicaps. Consider the value of today's older generation in teaching the younger to cope with change. We who are older now have done more adjusting than any other generation in the history of mankind."

The essential problem in providing for meaningful retirement is that of an economic system that demands the fullest *productivity* from an individual rather than the highest development of his individual potential for *creativity*.

INCOME

Sources

Employment. Only about one in every six people aged 65 or older is in the labor force at all and fewer than half of these hold full-time jobs.

Social Security. Nearly nine out of ten older people now receive Social Security benefits. Yet a study issued by the Senate Special Committee on the Aging in 1969 showed that three out of ten people 65 and over were living in poverty in 1966: Though there have been substantial improvements in Social Security benefits in the last five years, the rapid rise in living costs has kept about the same proportion below the poverty line. For most of these persons, poverty came only with old age.

Old Age Assistance. One in ten of the people over 65 receive old age assistance, more than half of them as supplementation of inadequate social security benefits.

Private Pensions. One in five elderly Americans receives a private pension—and that can be as low as ten dollars per month. Testimony revealed:

"By the end of 1968, 28.6 million wage and salary workers were covered by private pension and deferred profit-sharing plans. This represented nearly half (47.8%) of all wage and salary workers. However, the degree of protection afforded by these plans is in many respects illusory. Pension payments vary widely. Many plans require long unbroken service with a particular employer with no vesting provision. Thus, while the total number now working under the provision of some private retirement plan is impressive, there are many more who are totally without such protection

"Even for those fortunate workers who are under liberal, solidly financed plans backed by major industries and supported by powerful unions, the reduction in income at time of retirement can be quite a shock.

"Take, for example, an auto worker earning $9,000 a year. This would put him in the distinctly higher wage group. On retirement, if he and his wife were both 65, and he had been steadily employed over the years, they would together draw $306.80 a month social security benefits. His auto worker's pension would be $183. His annual combined income would therefore be $5,878. This seems liberal but it represents a 23.5% reduction in income taking into account that even on his $9,000 working income he had only $7,684 left after taxes and social security deductions."

Problems of fixed incomes

Amount. In 1970, half of all families with a head over age 65 had incomes below $5,053. Half of all single, aged individuals had incomes below $1,951.

Medical Costs. Physicians' fees rose about 80 percent over the 1957–59 Consumer Price Index base. Hospital daily service charges amount to over 200 percent increase, meaning that these charges are now more than triple what they were some twenty years ago.

Housing Costs. Housing costs have risen on the national average by nearly 50% but have doubled or tripled in some instances, thus exceeding the amount of the total down payment made on the home years ago with the hope that old age could be secure. Property insurance rates are up more than 60 percent.

Transportation Costs. Transportation costs have risen over 35 percent since 1957–59 but cost of local transit fares—on which so many elderly are completely dependent—has more than doubled.

Recommendations

A federally-financed and administered *guaranteed annual income*, a floor of financial assistance to bring income above the poverty level.

An immediate 25 percent across-the-board *increase in social security benefits*.

A *national health insurance program* under which the government would assume responsibility for improving the organization and delivery of high quality economical health and health-related services as well as responsibility for the financing mechanism.

Improvements, as immediate relief, *in Medicare and Medicaid* to extend protection, to control costs, and to reverse the trend toward ever heavier co-payments and deductibles.

Financing of Medicare solely through contributions from earnings and general revenues, eliminating the premiums paid by retirees living on fixed incomes. A spokesman for a national senior citizens organization testified:

"Six years ago passage of the Medicare law improved security in old age by covering the greater part of the most unpredictable and burdensome threat to retirement budgets—the cost of a hospitalized illness and high doctor bills.

"There are still, however, large gaps in the Medicare program that constitute a heavy burden for people living on retirement incomes:

"The deductible and co-insurance features constitute a barrier to medical care, especially for the elderly poor.

"Out-of-hospital drugs, which are not covered, are frequently a costly item. Many drugs which older people use are of the most expensive kind and frequently the elderly need these drugs in treating such disabilities as heart disease, diabetes and arthritis—not just occasionally, but regularly. Their cost represents a steady drain on low incomes.

"Unless the attending physician agrees to the assignment method of payment under which the amount paid by Medicare is accepted as the total payment (minus the 20% co-insurance), the doctor is free to charge any amount he thinks he can get over and above the amount Medicare procedures establish as "reasonable" in terms of the going rates and past practice. So the elderly person is faced with an 87% increase in monthly premiums for Part B Medicare since the start of the program in addition to the burden of increasing charges by physicians over and above the insured amount."

Active promotion of *public service jobs* so badly needed by the nation and so appropriate for the employment of older persons.

Property tax relief through the development of a federal program to reimburse states that extend relief to low-income householders whether owners or renters who are overburdened by property taxes.

HEALTH

A physician, specializing in geriatrics and chronic illness, spoke:

"The prevalence of chronic illness with resultant limitation of activity rises rapidly with increasing age, especially after age 65. Under 45 years of age, only .4% of this population is unable to carry on their major activities—working, keeping house. At age 45–64, this rises to 2.8%. Over age 65, the increase is to 14.6 percent of the population. Furthermore, the number of people unable to function is much greater in the lower income sector as compared to the higher income groups.

"The aged, the poor, and the lonely, those least able to help themselves, have the greatest degree of disability due to chronic illness. Yet the medical care system of this country—by accident but more likely by design—is best fitted to serve the antithesis of these groups: the affluent, the young and the family groups.

"About 10 percent of the population in the United States—some 20 million persons—are over age 65. By 1980, there will be nine million people over 75 years of age.

"Even now, Medicare and Medicaid are inadequate in terms of providing medical services to the elderly. The objective of Medicare and Medicaid legislation was laudable. The designers of these ambitious programs embarked on uncharted seas. But they attempted to devise plans which would fit the nation's pocketbook.

"As in other problems affecting the elderly, the programs that have been devised, researched, funded and activated are impressive; but, the amount of money appropriated by the Congress is totally insufficient. This has meant that these programs are barely more than a public relations effort. They start out as demonstration programs and they remain demonstration programs while the problems get worse and worse."

(Note: A comprehensive study of the nation's health care system was undertaken by the planning group on health. Its recommendations appear in the summary of that planning group, chaired by Leonard Woodcock.)

HOUSING

An Ohio housing authority official voiced the unspoken, yet ever present fear of elderly persons: "The thought of the nursing home spells the end of the road. When this decision is made many people lose their incentive to live."

Yet what are the alternatives? Ralph Nader's study group report on nursing homes, "Old Age: The Last Segregation", graphically summarizes the testimony of the planning group witnesses:

"The practical alternatives for an aged person in need of limited care are a paltry three: hospitalization, institutionalization in a nursing home, of life with younger, more capable relatives. Life at home is impossible.

"About *25 percent of the elderly in this country live alone or with nonrelatives*. For these five million people, life is a daily bout with an income that may once have been sufficient, with tasks that were once simple, with an unfamiliar and unfriendly loneliness.

"*The right to live outside a nursing home* is surely as precious as the right to good care inside one, yet it is astonishingly difficult for millions of elderly people to maintain a decent life on their own.

"*Low-income housing* is a special need of the elderly. . . . According to an HEW official, some two to five million of the twelve million households of older people would like specially designed housing. Every senior housing development has a waiting list, not because older people like to live apart from other age groups, but because so little low-income housing is available in society at large.

"Urban renewal programs often cover areas in which one-half or one-third of the population is made up of older people, most of whom are displaced when the bulldozers move in. *Low-rent housing for the elderly*—with such features as easy-to-open windows, and kitchens and baths that require little stooping—should no longer be built in isolated communities designed just for the aged; it should be integrated into the wider community, for the benefit of both the aged and the young." (Note: an excellent example of this integration is the high-rise senior citizens' "Fellowship House"—an apartment building located in the new town of Reston, Virginia. Within easy walking distance of shopping and medical and transportation facilities, it enables older persons to remain in close contact with younger families without the often-devastating complications involved with relatives living in the home of their children.)

"*Home repair services* should also be available for older people who own their own homes. For most of the elderly, their home is their only major asset; two out of three own their own homes, and 80 percent are free of mortgages. Half have sunk twenty-five thousand dollars or more in to their homes, yet many are "house-poor" because of limited, fixed retirement incomes. Inflation and rising property taxes make it increasingly difficult for the elderly to hang on to the one asset they are likely to have.

"For those who wish to *sell their homes and live in smaller quarters*, there are additional difficulties. This problem is severe for widows and single women, who comprise well over one-quarter of the aged population. Six out of ten of all aged women living alone have incomes below the poverty line."

TRANSPORTATION

Five critical problems relating to transportation for the elderly were cited by the chairman of a task force of transportation for Seniors of Ohio:

Service. As a major transit-dependent group, the elderly have great difficulty using the present mass transit facilities. Policies governing mass transit must provide for subsidies to specific transit dependent user groups such as elderly people. Sources for providing the subsidy could be local, county, state, or federal—private or public.

Fares. The cost of transportation is a major burden for many older people on fixed incomes. Funds appropriated from a source such as a transportation trust fund would subsidize essential supplementary transportation services for the elderly at a rate of fare consistent with their ability to pay. These necessary funds for increased service should be provided in addition to any income increases that may be forthcoming from governmental sources to improve the ability of the elderly to purchase basic needs such as food and housing.

Neighborhood transportation. Elderly people have mobility problems within their own neighborhoods. Present routes and schedules do not give them the mobility they desperately need. Demand-responsive neighborhood transportation should be used. This would supplement bus and rapid transit fixed-route operations in areas where the transit-dependent elderly are primarily located. If properly implemented and operated, not only would this satisfy the majority of the transportation needs of the elderly, but the vehicles could also be used to serve others with special transportation needs.

Coordinated transportation systems. Many elderly people have much difficulty getting to the clinic, to church, to the grocery stores, to cultural and entertainment activities, and other necessary places anyone with a car can reach with ease. A coordinating agency is needed with the authority to insure cooperation of various health and social services to those adults 55 years old or older. Coordination of bus and rapid transit schedules, routes, and walking distances should be considered for general client accessibility. A prime target of any changes in policy must include the old, the disabled, the young and the disadvantaged.

Representation. Elderly are not members of the transit boards or any other transportation policy agency in most cities. The elderly must be included on any decision-making body concerning transportation policy. People who depend on buses and rapid transit must be represented in decisions on how the transportation system will operate.

SUMMARY

In addition to highlighting the problems of the elderly witnesses spoke of the failure of the Nixon Administration to give any indication that it was concerned by these problems much less that the administration would make good earlier commitments to the elderly. No one spoke more forcefully to these disparities between promise and performance than John Brademas (D-Indiana), chairman of the House subcommittee on Special Education:

"Many of us in the last Congress championed a 15% increase in Social Security benefits. But Mr. Nixon said "no", asked for only 7%.

"That beleagured Presidential appointee, the Commissioner on Aging, John Martin, told our subcommittee that the administration was opposed to the Pepper (D-Fla.) bill—a nutritional program—but would come up with another proposal. We are still waiting.

"Time after time this year, the Nixon Administration has acted to strangle the federal agency most directly concerned with the needs of America's senior citizens, the Administration on Aging. And, of course, the President struck another serious blow at older citizens when several weeks ago, in imposing the wage-price freeze, he called for a one-year delay in welfare reform—which of course means a one-year delay in Social Security increases!'

A senior citizen's corporation project director summarized the problems of the aged by noting:

"Aging is a normal process that begins at birth and ends with death. In the latter stages it can be a catastrophy, particularly if the aged person is surounded by ignorant, indifferent or frightened persons. This need not be so. With some understanding, effort and friendliness from the rest of society, the elderly can be made to feel useful and wanted. They can enjoy the last part of their lives and they can make a valuable contribution to their community.

The Nader report put the question in even starker terms:

"In 1969, the American people spent five billion dollars on preparations to keep them looking young; in 1970, the federal government spent one and a third billion dollars on Old Age Assistance. The comparative statistics summarize neatly the problem of the old in the United States.

"Why and how the cult of youth developed in America . . . is not of particular significance here. What is important is that, in our single-minded pursuit of youth, we have systematically ignored those who are old. The American Indians stood in the path of what we conceived to be our national destiny, so we shoved them by the way; we have done the same with the old, who, like the Indians and the blacks, are an oppressed minority; we have segregated them from the rest of society."

CONCERNS OF THE ELDERLY

Cochairmen

Wilbur J. Cohen and John J. Gilligan.

Hearing participants and planning group members

Bechill, William D., Washington, D. C.; Brademas, John, U. S. Representative, Indiana; Brooks, Marie M., Cleveland, Ohio; Brown, Andrew W. L., Detroit, Michigan; Burton, Phillip, U. S. Representative, California; Carmen, John, Cleveland, Ohio; Celeste, Richard F., State Representative, Ohio; Craig, Dorothy, Cleveland, Ohio.

Holleb, Marshall, Esq., Chicago, Illinois; Lake Goldie, Cleveland, Ohio; Martindell, Ann, Vice Chairman New Jersey State Democratic Party; McClendon, Carol, Councilman, Cleveland, Ohio; McNamara, Martin J., Esq., Washington, D.C.; Stocklen, Joseph, M.D., Cleveland, Ohio; Taylor, Mrs. Murtis H., Cleveland, Ohio; and Test, Esther, Cleveland, Ohio.

STATEMENT OF CONGRESSMAN JOHN BRADEMAS, CHAIRMAN, HOUSE SELECT SUBCOMMITTEE ON EDUCATION

Mr. Chairman (Wilbur Cohen): First, let me take this opportunity to congratulate you and other members of the Planning Group of the Democratic Policy Council on Problems of the Elderly on your initiative in scheduling these hearings on one of the most pressing issues facing the people of our country—the problems of the elderly.

I would be most derelict if I failed to pay tribute to you, Mr. Chairman, for the splendid leadership you have given throughout your entire life, in positions both academic and governmental, in shaping major policies for the benefit of the older citizens of America. The name of Wilbur Cohen will be remembered by the chroniclers of our generation as one of the principal architects of a more civilized attitude toward the elderly in the 20th century.

I want also to take this occasion to pay my respects to another good friend and former colleague in the House of Representatives, now the distinguished Governor of the State of Ohio, John Gilligan. Governor Gilligan has come to be identified in the minds of all those who know his record as one dedicated to bringing state governments into the 20th century in terms of enhancing their capacity to help meet the needs of every sector of our society. That he should be here with us today as we look at the concerns of older Americans is thus no surprise to us who have worked with him in Washington or who have observed his leadership in Columbus.

And finally, I am glad to see participating in these discussions another old friend, William Bechill, now at the University of Maryland, the first person to hold the responsibility of Commissioner of Aging established under the Older Americans Act of 1965. Before he assumed that responsibility, while he held it, and since, Bill Bechill has demonstrated his knowledge of the field of the aging and his commitment to the search for a sound national policy with respect to older persons in our society.

DEMOCRATIC PARTY AND THE ELDERLY

Chairman Cohen, you are one of a group of persons who over 35 years ago helped bring into existence the Social Security program, a program of which all of us who are Democrats can justifiably claim to be proud.

Over a generation ago, then, Democrats were working hard for programs to benefit the older citizens of this land; and Democrats are still working hard in Washington to forward that objective.

And, Mr. Chairman, only a generation ago, Republicans were working against programs to benefit the older citizens of this land; and Republicans are still working hard in Washington against such programs.

SCOPE OF THE PROBLEM

Mr. Chairman, I have the honor to be the Chairman of that subcommittee of the House of Representatives with jurisdiction over the Older Americans Act of 1965 as well as over a number of other programs relating to the elderly, and it is for this reason, I assume, that you have done me the honor of inviting me to appear before you today.

I am told by the Census Bureau that there are today over 25 million Americans 65 and over, and by 1990, there will be over 27 million elderly in the nation. For while the total U.S. population has tripled, the older population has increased sevenfold.

All of us here are aware of the needs of the elderly in American life—adequate retirement income, decent health care, sound nutrition, recreational and community service opportunities, housing, transportation, education and employment—to cite only the most obvious.

NIXON ADMINISTRATION AND THE ELDERLY

Because within this very month the White House Conference on Aging, called by President Nixon, will convene in the Nation's Capital, I think it appropriate that I utilize my time with you this morning to review the record of his Administration on problems of the aging. For, I think you will all agree, in a democracy like ours, it is essential—if the government is to be responsible and responsive—to compare the promises of candidates with their performance once in office—and this requirement includes not only Congressmen and Senators but Presidents as well.

It was, I remind you, at a convention of the National Retired Teachers Association and the American Association of Retired Persons in Chicago, Illinois that, on June 25, 1971, President Nixon declared that "the generation over 65 is a very special group which faces very special problems—it deserves very special attention. That is why we have been moving to insure that our older citizens get that special attention that they deserve".

These eloquent words were an echo of the words with which nearly a year and a half ago, on April 9, 1970, President Nixon, proclaimed May as Senior Citizens Month and issued a call for a national aging policy.

Said the President: "For too long we have lacked a national policy and commitment to provide adequate services and opportunities for older people."

What I propose to do is make a judgment on the extent to which the President, on the eve of the White House Conference on Aging has—or has not—fashioned "a national policy and commitment to provide adequate services and opportunities for older people."

In other words, I intend to compare the rhetoric with the action, which is exactly what Richard Nixon, just three years ago, on October 22, 1968, urged, in a nationwide radio address when he said, "For my part, I will make this pledge. I will never promise what I cannot deliver."

So let's look at the record.

RETIREMENT INCOME

Take the issue of retirement income. You and I know that inflation is the continuing enemy of the aging citizen, hitting older persons harder than those of any other age group.

Many of us in the last Congress championed a 15% increase in Social Security benefits. But Mr. Nixon said, "No," asked for only 7%, and even went on to threaten a veto of the 15% hike recommended by the House Ways and Means Committee. Only the fact that the 15% increase was made part of the Tax Reform bill, which the President badly wanted, caused him to sign the bill containing the 15% figure.

That the Administration should now claim credit for the 15% rise in Social Security benefits is therefore little short of hypocrisy.

NUTRITION SERVICES

Or consider the area of nutrition. In October 1969 the White House Conference on Food, Nutrition, and Health recommended programs of adequate nutrition for aged citizens and called for developing "a new system of food delivery" for them.

And President Nixon's own Task Force on Aging in April 1970 urged him to direct the Administration on Aging and the Department of Agriculture to develop nutritional programs for the elderly.

Yet earlier this year, when my subcommittee, following through on these recommendations, held hearings on legislation introduced by Congressman Claude Pepper of Florida to establish a nutritional program for the elderly, what was the response of the Administration of Richard Nixon? I can tell you. The answer was "no."

That beleaguered Presidential appointee, Commissioner on Aging, John Martin, told our subcommittee that the Administration was opposed to the Pepper bill but would come up with another proposal. We are still waiting—but I am not holding my breath, and I do not think the older citizens of America who need low-priced nutritional meals should do so either.

NURSING HOMES

Let me turn to another area of concern to America's elderly. You may have read the President's recent bold pronouncement against the shortcomings of substandard nursing homes. The Federal Government should not, he said, subsidize such homes with Federal funds such as Medicaid.

Yet you and I know that the Federal Government even today continues to pay vast sums to nursing homes which fall far short of meeting the requirements of the twentieth century. So the talk sounds fine, but the action is missing.

What we need, if there is a genuine determination to do something about substandard nursing homes in this country, is less Presidential rhetoric and more Presidential action to enforce Federal regulations in all nursing homes receiving Federal funds.

Or let me remind you that in his 1968 campaign, Mr. Nixon pledged to sponsor restoration of full deductibility of medical expenses of those aged 65 and over. Well, let me tell you something: on Capitol Hill, we are still waiting for his proposal.

ADMINISTRATION ON AGING

Perhaps the most obvious symbol of how this Administration has been long on rhetoric about helping older Americans but scandalously short on action has been the vigorous way in which the Administration has fought to weaken and cripple the agency which both Democrats and Republicans in Congress joined to establish five years ago to assure high level attention in the Federal Government to the problems of the elderly.

I speak, of course, of the Administration on Aging, created in 1965 in the Department of Health, Education and Welfare, to be headed by a Presidentially appointed Commissioner, who would report directly to the Secretary of Health, Education and Welfare.

What has Mr. Nixon done to make good on his promise to give "very special attention" to the "very special group" known as "the generation over 65"—and you will, of course, observe that I am simply here quoting the words of the President.

Time after time this year, the Nixon Administration has acted to strangle the Federal agency most directly concerned with the needs of America's senior citizens, the Administration on Aging.

Earlier this year, the research function of the Administration on Aging was transferred away from it to the Social and Rehabilitation Service.

Then the Administration removed both the Foster Grandparents and the RSVP (Retired Senior Volunteer Programs) from the Administration on Aging to place them in a new agency, which is not chiefly concerned with problems of the elderly.

And then the President moved to eviscerate the important program of the Administration on Aging for Community Projects for the elderly by cutting $3.65 million from the budget for them, slicing $3 million off the budget for Foster Grandparents, and by slashing another $2.15 million from research and training of personnel concerned with aging.

Were these actions taken, one must ask, in order to make good on the President's plea for "a national policy and commitment to provide adequate services and opportunities for older people?"

I am pleased to tell you that, on learning of these proposed budget cuts, I immediately convened the Select Subcommittee on Education to demand an explanation from Administration officials of these extraordinary actions.

I am pleased to tell you that, in responding to our bipartisan criticism of this further Administration retreat from responsibility, Secretary of Health, Education and Welfare, Elliot Richardson, announced the following month that the budget of the Administration on Aging would be amended to continue both Community Projects and Foster Grandparent programs at the current fiscal year funding level. The Secretary also agreed to restore funds for research and training and to request an increase of $1.2 million above the amount originally asked for in fiscal year 1972 for area-wide model projects for the aging.

HOUSING FOR OLDER AMERICANS

Or what about housing for the elderly? It is true that over the past 10 years, the Federal Government has opened housing programs for the elderly that have produced an average of 37,000 new units annually.

But we need at least 120,000 such units a year. There is only one program that has produced a substantial number of decent homes at rates that older persons can afford—section 202 of the Housing Act, which provides direct loans at nominal interest rates to nonprofit sponsors of housing for the elderly. And what is the Administration doing? It is phasing out the program!

EMPLOYMENT OPPORTUNITIES

You and I know that another problem that afflicts many middle-aged and older persons today is the lack of employment opportunities.

That is why many of us in Congress favor a proposal known as the Older Americans Community Service Employment Act, which would help assure a chance for useful and constructive jobs.

And what did the spokesman for the Nixon Administration have to say about this? Once again, Commissioner Martin was sent to Capitol Hill to testify against the bill, "in view of activities which are currently being carried out under present law, proposals pending before Congress and legislation being developed for early submission to Congress"! Does the theme begin to sound familiar?

OTHER PROBLEMS

And I can cite still more examples of the policy of this Administration of consistent opposition to effective action for America's elderly.

The Administration has recommended a one-third cutback in Federal Medicaid matching after a Medicaid patient had received 90 days of care in a nursing home or mental hospital or 60 days in a general hospital.

The Administration is proposing, as part of its comprehensive health package this year, to combine Medicare parts A and B and increase Medicaid copayments. In other words, the older patient pays more.

And of course, the President struck another blow at older citizens when several weeks ago, in imposing the wage-price freeze, he called for a one-year delay in welfare reform—which of course means a one-year delay in Social Security increases!

I hope that what I have been saying to you today will enable you better to understand why so many of us in Congress of both political parties are so profoundly skeptical of the pretensions and promises of the Nixon Administration in the field of the aging.

I hope that you will now understand why many of us in Congress have come to the point where we are far less interested in hearing the speeches of Administration officials about how deeply they are concerned about the problems of older Americans—and why we are far more interested in seeing the evidence of genuine commitment, both to programs and to money, to help meet these problems.

It was only a few weeks ago, I remind you, that the distinguished Chairman of the White House Conference on Aging, Dr. Arthur Flemming, the former Secretary of Health, Education and Welfare and a man for whom I have the highest respect, appeared before my subcommittee to make us still another promise. Said Dr. Flemming: "The President has talked with me about his deep concerns regarding this issue (the problems of aging), and, as a result, I have no hesistancy in saying that between now and the time for the White House Conference, the nation will witness vigorous and effective action in this area".

I must remind Dr. Flemming that his time is running out. He testified before us on September 22. Today is November 19. The White House Conference begins on November 28.

If there has been "vigorous and effective action" for older Americans on the part of an Administration which is usually not reticent about trumpeting its accomplishments, there is precious little evidence of it.

I was present at a meeting of retirees last week when Dr. Flemming reminded us of the Biblical admonition, "Thou shalt love thy neighbor as thyself"—but I must add—that under this Administration the commandment has been changed to read, "Thou shalt love thy neighbor as thyself . . . provided that the Office of Management and Budget says it is all right to do so."

TRUE FEELINGS OF THE ADMINISTRATION

And somehow, I regret to tell you, I am not surprised. For if Dr. Flemming had proved right in his prediction, it would mean a notable change from the previous record of this Administration on problems of the retirement generation. It was, indeed, in 1969 that the Administration gave vent to its true feelings on problems of the aging—in the words of the then Secretary of Health, Education and Welfare and now Counselor to the President, Robert Finch, who made his views very clear—that the Federal Government spends too much on programs for the elderly.

Said Secretary Finch: "This relative imbalance (between expenditures for the elderly and expenditures for the young) has been expanding with the increase over the last ten years for the aged . . . " Mr. Finch of course ignored the fact that the increases in funds for the aged largely represented payments under Social Security, payments contributed by workers and employers and not by the Federal Government!

And here I cannot resist quoting Secretary Finch on April 9, 1969 when he said, "I'd like to see a great chunk of resources put in at the lower end of the aged spectrum and hold it at the top end."

For I speak not only as a cosponsor of the Older Americans Act but a principal sponsor of the Comprehensive Child Development Act, now awaiting final action by Congress, a bill aimed at providing the most important advance for very young children in a decade. Is the Administration of Richard Nixon, which now employs Mr. Finch in the White House supporting this effort to increase the resources "at the lower end of the age spectrum"?

Not at all, for lobbyists of the Department of Health, Education and Welfare have been threatening a veto of this child day care program, too! In other words, the Administration is saying "No" to both the youngest and the oldest of our society.

So where does this all leave us?

I still hope that Dr. Flemming proves right and that the White House Conference on Aging will be fruitful, but I must here solemnly observe that the success of the upcoming conference must be judged not by the resolutions it produces but by the action it causes on behalf of the older people of our country.

And I believe that every older American has the right to ask if the 1971 White House Conference on Aging is tc be either a genuine prelude to effective action, or if it is to be nothing more than a political coverup for this Administration's continuing opposition to congressional initiatives to improve Social Security benefits, housing, health care, nutrition, and other programs crucial to the lives of the elderly.

SUBCOMMITTEE ACTIVITIES

So I think the time has come for action—and I believe that many members of the United States House of Representatives and Senate—of both parties—share this conviction.

That is why my Select Education Subcommittee has already begun hearings here in Washington, D.C. and in Chicago, and will continue them elsewhere in the nation in coming weeks—in Miami, and Boston and New York City after that—to hear the views of representative citizens on the problems of the elderly and on effective ways of coping with those problems.

As we continue our hearings, we shall, by way of carrying out our Congressional oversight responsibility, listen to comments on how the Nixon Administration is implementing the demonstrated intent of Congress with respect to Federal programs to benefit the elderly.

Is this Administration trying to make these programs work, or is it seeking rather to sabotage them?

Members of our subcommittee will also seek to obtain ideas and suggestions for legislation to assure not to piecemeal approach to problems of the aged but instead to consider whether the time has now come to provide comprehensive services for the older citizens of our society.

NEED FOR CREDIBILITY

Some of you may think that I have been too harsh in my criticism of the present Administration with respect to its policy regarding older citizens. However, I must remind you that if government in modern America is to be credible, if the people are to have any respect at all for the solemn declaration made by those whom they have elected to serve them in the highest positions of responsibility, then those of us who share in that responsibility—as we in Congress do—must speak out when we see such yawning gaps between promise and performance as have characterized the record of the Administration of Richard Nixon in dealing with problems of the elderly during the nearly three years which it has held office.

Listen to these words:

"From its beginnings, the American nation has been dedicated to the constant pursuit of better tomorrows. Yet, for many of our 20 million older Americans the 'tomorrows' that arrive with their later years have not been better. Rather than days of reward, happiness, and opportunity, they have too often been days of disappointment, loneliness, and anxiety. It is imperative that this situation be changed."

Those moving words were uttered on April 20, 1971 by President Nixon as he proclaimed Senior Citizens Month.

I want to help the President make good on his promises.

That is why my Democratic colleagues in Congress and I will continue to work, as we have been working, to expose the Administration's policy of inaction and opposition to programs for the elderly. And that is why we will continue to work for constructive programs of action and a greater commitment of funds for programs that benefit the older people of our land.

OLDER AMERICANS AS A RESOURCE

Let me then conclude with some words of an old friend of mine whom I once had the honor to serve for nearly a year, the late Adlai E. Stevenson.

Said Mr. Stevenson:

"What a man knows at 50 that he did not know at 20 is, for the most part, incommunicable. The knowledge that he has acquired with age is not the knowledge of formulas or forms or words, but of people, places, action—a knowledge not gained by words but by touch, sight, sound, victories, failures, sleeplessness, devotion, love—the experiences and emotions of this earth and one's self and of other men and perhaps, too, a little faith and a little reverence for the things you cannot see."

The kind of knowledge, the kind of faith, the kind of reverence which characterizes the older people of our society is much too scarce and much too precious in this great and wealthy nation of ours to be either wasted or, perhaps worse, ignored.

The time has come then—the time is now—for a genuine commitment—not of words but of deeds—to lifting the quality of life of the older citizens of the United States.

Mr. Chairman and members of this Planning Group, the major advances in behalf of older Americans have been made under the leadership of Democratic Presidents and Democratic Congresses.

As we look forward to the Presidential and Congressional campaigns of 1972, therefore, I hope—and I believe—that the Democratic Party is the only party to be entrusted with bringing deeds, not words, to a national commitment to policies to make life better for older Americans.

THE CHALLENGE OF THE AGING

(By Wilbur J. Cohen)

(Wilbur J. Cohen is Professor of Education and Dean of the School of Education in the University of Michigan at Ann Arbor. He has held key positions in the development and administration of federal health, welfare, and social security policy, culminating in his appointment as Secretary of Health, Education and Welfare (1968–1969)).

Each day we all grow a little older and hopefully a little wiser. And many of us can expect to live a little longer than our fathers and their fathers. We ask ourselves how meaningful will that longer life be?

The extension of the life span is an accomplishment of which we can be proud. It is a dramatic tribute to the miracles of modern medicine and the Nation's unprecedented standards of living. But longer lives present many problems and a tremendous challenge, replete with many opportunities to enrich these lives and the lives of all of us.

To be sure, we need far more knowledge if we are fully to understand and plan for the needs of our older citizens. The knowledge being developed should have a direct bearing on the future development of the programs that are designed to serve the aged. As more is understood about the health problems of the aged, patterns of treatment should improve and new patterns of health care will develop. As more is learned about the biological and psychological processes of the maturing adult, we should be better able to develop the resources to meet his needs.

Recent gains

During the past decade, we have begun to take steps which are necessary to solve some of the problems of aging and to take advantage of the opportunities that the older population represents.

20 million older Americans are now protected under Medicare against the high cost of illness.

The value of social security benefits has been increased.

Through the Older Americans Act, older people are benefiting from new and expanded services in their community.

The Regional Medical Program was established to aid in the attack on the diseases that strike particularly at the aged—heart disease, stroke, and cancer.

Age discrimination in employment has been outlawed.

The National Institutes of Health through their research and training programs are seeking new knowledge of aging.

A CHARTER FOR THE AGED

These are some of the steps that have been taken to enrich the later years. But the job has just begun. I believe that we must and will do much more. And as a former Secretary of Health, Education, and Welfare, I believe we should work for a comprehensive ten-point charter for the aged at the 1971 White House Conference on Aging whch will include:

1. Provision of adequate retirement income:

We must immediately raise the general level of social security by 10 percent, and the minimum to at least $200 a month for those persons who have contributed at least 20 years.

Widow's benefits under social security should be increased from 82½ percent of the primary benefit amount to the full 100 percent.

A federal payment should be made to needy aged, blind, and disabled individuals to raise them above the poverty level.

The level of old age benefits should be kept up to date and benefits made "inflation-proof" through a system of automatic adjustments which take into account improvements in the standard of living.

2. Provision of modern and comprehensive health care for all the aged:

Medicare should be extended to protect against the heavy cost of prescription drugs and to include all the disabled receiving social security benefits.

Medicare should be put on prepayment basis, with both medical and hospital insurance financed from employers, employees, and the Federal Government.

Establish a National Health Insurance program to cover all persons in the nation.

Accelerate comprehensive out-of-institution health services for the elderly.

Improve standards of nursing homes.

3. Adequate and appropriate housing at a cost the aged can afford:

Improve housing and provide a range of choices to meet the needs of all older people.

Establish and maintain standards for health and safety of rental housing for aged.

Expand rent supplement programs for low-income elderly.

Expand long-term insured and direct housing loan programs at rates within the means of the elderly.

4. Comprehensive rehabilitative services to restore active and meaningful life:

Expand homemaker services, home health services, and protective services to afford older persons who face institutional care a chance to remain in their own homes if they so desire.

Through expansion of senior centers, adult education programs, and volunteer services provide older people with greater freedom of choice.

Provide special rehabilitation services for older Americans including training, counseling, placement and follow-up services.

5. Opportunities for employment that will use skills and knowledge learned over a lifetime:

Expand work opportunities, especially in the service occupations, for older workers.

Expand adult education and training programs designed to meet the needs of older workers.

6. Continued research to improve the health and happiness of the aged:

Continued progress in the conquest of disease, ill health, and premature death requires that we invest additional research funds in chronic disease, especially diseases of later life.

Increased financial support for research in aging by the National Institute of Child Health and Human Development.

Greatly expand research in ways to extend and improve retirement counseling, volunteer and social employment, recreational and leisure time activities.

7. Meaningful participation of the aged in all institutions of society:

Develop a full range of community services accessible in the neighborhood and designed to meet individual needs of older persons.

Appropriation of the full amounts authorized under the Older Americans Act.

8. A wide range of leisure-time activities—recreation, culture, friendships, and continuing education:

Elevate the status of recreation, cultural pursuits, the joy of friendships, and the value of continuing education as worthwhile goals for all Americans.

An expanded role for the Administration on Aging.

9. Conveniently located and accessible community services for the aged:

As people become older, infirm, and less mobile, a variety of commuity services are needed: such as friendly visiting and telephone reassurance; portable meals; legal and protective services; personal care and foster family care; homemaker, home health, and nutritional services; information, referral, and counseling services.

10. Assurance that the elderly may freely and independently choose what they wish to do with their lives in a healthy, dynamic, and improving society:

Opportunity to participate fully in family and community life.

Freedom of movement from job to job without loss of retirement rights, and adequate safeguard of rights under private pension plans.

Pre-retirement counseling of high quality to assist in meeting the problems of retirement.

Effective implementation of recommendations from the White House Conference on Aging.

WHAT IS REQUIRED

We cannot relax our efforts when 20 percent of our older population—nearly 5 million people—still live in poverty. Their incomes, which are too meager to live on decently, must be raised. I believe they can and will be raised.

Improved social security

In as prosperous a country as the United States, where the Gross National Product has been increasing at an average annual rate of 5 percent, there is no reason why social security beneficiaries should not share in the expanding prosperity. I think we can and we must steadily improve the social security program to keep pace with the nation's economic growth.

Welfare reform

For most people, additional improvements in the social security program would be sufficient to help them out of poverty. But it must be recognized that there are people who may, for one reason or another at the present time, require public assistance. And today their needs are not being met adequately. We must make some radical changes in our welfare programs.

One way to accomplish this is to establish a federally-financed system of income payments with eligibility, the amount of payments, and appeals determined on a national basis. This would overcome many of the problems of inequity, state variations, and fiscal inadequacy which plague the present welfare system. Such a proposal is now included in H.R. 1 as passed by the House of Representatives and pending in the Senate Committee on Finance. I believe that the federal payment for an aged, blind, or disabled individual should be $160 a month in 1972 and $240 for a couple.

Retired people must command a purchasing power related to their needs that will permit them to participate fully in family and community life without being required to work and without the stigma of charity. But those who are able and wish to supplement their basic retirement incomes through earnings must be helped to do so. Society needs their continued services.

Health care

Another area that demands our attention is the health needs of the aged. While Medicare has reduced the financial barriers to medical care that previously existed for many older persons, serious health problems still confront the aged. Longer lives mean little if they are not free from illness, disability, and suffering. The extension of health insurance protection to cover preventive services such as periodic health examinations and disease detection services might be one means of reducing the incidence of serious disabling diseases in old age.

Housing

The aged also must have adequate housing at prices they can afford and a wide variety of alternative living arrangements.

Too many of them today live in one-room walkups, shabby hotels, old lodging houses, or isolated farmhouses. Much of this housing is unsafe, unhealthy, and rat infested. Rents take about one-third of the income of the aged. Much more must be done to improve the housing situation of the aged.

But the aged, no matter what their income, need more housing options. Their needs and desires are as varied as those of any other age group, and no single type of housing can be expected to satisfy all the aged. Some may wish to stay in their own homes; others may wish to move into high-rise apartments. Some may want to enter a church home, others to live in a retirement village. All these options must be available.

Expanding freedom of choice

Alternative and new combinations must also be available with respect to work and retirement. Some people want to retire at 60, others never. Some want to work full time, others part time. For those who retire, meaningful retirement activities must be available.

The development of appropriate social services would greatly increase the freedom of choice in living arrangements. Homemaker services, home health services, and protective services for the aged in sufficient supply would give many older persons who must now live in institutions a chance to remain in their homes if they so desire.

The expansion of senior centers, the development of adult education programs, and increasing opportunities for volunteer services would also give older people greater freedom of choice.

THE COMMON OBJECTIVE

Bold new imaginative approaches are needed if we are to meet our obligation to the generations who have contributed so much to this Nation's progress. And just as important is that they continue their contributions to the fabric of the economy they helped so much to shape.

Our common objective is to improve the quality of each and every American's life, to open up new avenues, and to extend each person's ability to choose and his freedom to choose the direction of his life. The health, education, and general well-being of each individual is interwoven from the time of birth to death.

All of us have a stake in this great venture in improving the quality of life for all people. All of us have a vital role to play. The needs of the American people cannot be met by the national government alone, or by the states or communities alone, or by professional organizations alone, or by the voluntary agencies or individuals. All of us must work together to meet the high goals we have set for ourselves—to make the dream of a healthier, better America a reality for persons of all ages, of both sexes, of all colors and religions.

WILL ALASKAN OIL GO TO THE VIRGIN ISLANDS?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, today I would like to include in the RECORD a document—an application to the Costa Rican Government from the Amerada Hess Oil Co. to build a pipeline across Costa Rica, which, I believe, helps explain why the Alaskan consortium of seven oil companies wants a trans-Alaska pipeline built, which presumably would bring oil primarily to the west coast, rather than a trans-Canadian alternative, which would serve Midwest and east coast markets.

This document reveals a wierd, tricky scheme which would involve transporting the Alaskan oil by tanker to Costa Rica, where the oil would be sold at world prices, transported across Costa Rica by pipeline, and then tankered to the Virgin Islands. The oil would then be refined in Amerada Hess's refinery in the Virgin Islands, which has recently expanded its capacity from 50,000 barrels per day to 450,000 barrels per day. Then the oil would be sent—still on foreign tankers—to east coast ports, where it would be sold at the higher U.S. prices.

The financial implications of this arrangement are extremely profitable for Amerada Hess. Specifically, by selling the oil first in Costa Rica at the lower world price, the Amerada Hess Company reduces the revenues going to the State of Alaska, which are based on the price the oil is originally sold for. By transporting the oil through Costa Rica by pipeline and refining it in the Virgin Islands, Amerada Hess avoids the Jones Act, which requires the use of more expensive U.S. tankers except when the cargo enters or leaves from a foreign country. Avoiding the Jones Act, thus being able to use cheaper foreign tankers, significantly reduces the transportation costs for the oil company. By finally selling the oil on the east coast at prices which are much higher than on the west coast, Amerada Hess gets the maximum profit from the sale of the oil.

The Costa Rica pipeline application states that the purpose of the proposed Costa Rican pipeline is to "carry crude oil from Alaska to the refinery in St. Croix in the Virgin Islands." It confirms suspicions voiced by myself and other critics of the Alaska pipeline that west coast markets—where oil from the Alaska pipeline is presumably intended for—would not consume much of the expected 2.5 million barrels per day production of the North Slope fields, and that attempts would be made to ship some of the excess oil on tankers to the east coast and to Japan.

It is possible that as much as 400,000 barrels per day of Alaskan oil could be headed for Hess' Virgin Island refinery. Such a scheme would cut the State of Alaska's royalty on that oil in half and would cost Alaska more than $35 million annually. Alaska's royalties of about 20 percent are based on the price the oil is originally sold for at market, minus transportation costs. But since Hess would eventually wind up selling the oil for the higher U.S. prices on the east coast, its profits would be increased since it would be able to use cheap foreign tankers to transport the oil from Alaska to the east coast, while paying royalties to Alaska based on the lower world oil rates.

Amerada Hess has an exclusive right to refine oil in the Virgin Islands. The recent expansion of the refinery capacity to 450,000 barrels per day means that apparently Hess is planning on refining at least 400,000 barrels per day of Alaskan oil in the Virgin Islands, since refining other domestic oil there would be completely impractical.

Japan has also frequently been mentioned by Alaska pipeline critics as a possible destination for some Alaskan oil, if a trans-Alaskan oil pipeline is built. Oil Industry and Interior Department officials have admitted that 100,000 barrels per day of the Alaskan oil would be exported to Japan for a limited period of time. They have not admitted that some of the oil could be headed for the east coast via the Virgin Islands and, in fact, there is no mention of such a possibility in the nine volume final environmental impact statement, as far as I can tell.

In short, Mr. Speaker, this application for a Costa Rican oil pipeline is stunning evidence that the west coast will not be able to consume much of the Alaskan oil and that the oil companies and the Interior Department have withheld vital information as to where much of the Alaskan oil will really wind up.

ENDORSING CANDIDATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. STAGGERS) is recognized for 5 minutes.

Mr. STAGGERS. Mr. Speaker, an editorial appearing in the Martinsburg Journal for April 29 has real significance, I am confident, to practically every Member of this body. The Journal is a daily published in Martinsburg, W. Va., within the bounds of the district I have the honor of representing. It is a newspaper of outstanding excellence, and enjoys wide prestige, not only in West Virginia, but in neighboring Virginia and Maryland.

The editor of the Journal is Mr. Paul B. Martin. His editorial, carrying the heading given above, is important to us because it deals with a controversial issue of the day, that of the proper function of the news media in this modern age.

News media are often accused of trying to dominate public opinion. A recent critic raises the question of whether the media may not be trying to control the electorate by controlling the information it receives.

At one extreme of the issue are those who assert that the news media, as private enterprises, have not only the right, but perhaps even the duty, of trying to impose their views on the public. At the other extreme is the argument that the true and proper function of the media is to inform the public, but not to guide it.

Historically speaking, newspapers in the United States were organs of controversy and advocacy. Prior to the Revolution, they were generally subjected to censorship. The first amendment to the Constitution freed them from prior censorship. It did not, however, contrary to present general understanding, free them from legal accountability for what they printed. The Alien and Sedition Acts, passed in the administration of John Adams, resulted in the prosecution of numerous editors for criticism of the Government. Public opinion did not support such prosecution, and in the administration of Thomas Jefferson, the practice of prosecution was quietly dropped, although the acts were not repealed.

In recent years, good theories of the function of journalism seem to tend toward the information side of the argument. News media, like other important private enterprises, are invested with public responsibility. They should inform, but not control.

Yet, as Mr. Martin observes, it is very difficult to draw a fine line between what is news and what is advocacy. A newspaper ought to have convictions in certain areas, and it has the duty of setting them before the public. A policy which maintains a careful balance between fair and accurate presentation of the news while holding to the integrity of the paper is a policy to be sought.

This is the policy to which Mr. Martin gives his approval. In my experience, he adheres to that policy consistently. It is one reason, I think, for the strong influence the Journal exercises within its territory. I believe my colleagues will read the editorial with appreciation and applause.

[From the Martinsburg, W. Va. Journal, Apr. 29, 1972]

ENDORSING CANDIDATES

From time to time, especially during election years, we are asked why The Journal does not endorse more candidates for public office during campaigns.

Well, on occasions, we have, such as our endorsement of Democratic U.S. Senator Robert C. Byrd for reelection two years ago but we have generally refrained on the grounds that the people are smart enough to know for whom they want to vote without a newspaper telling them.

Without exception we have refrained from endorsing any candidates on the city, county or even sectional area. Our theory is that the entire citizenry knows all of the candidates as individuals or at least they have the opportunity to know them and thus can form their own opinions of who would be best for the jobs being sought.

We have never used these editorial columns to support or run down any of the local candidates for office during a campaign although we always remain free to comment, either pro or con, on the performance of elective officials during their tenure of service.

We also reserve the right to comment on candidates for office on the national and state levels because these people are playing for high stakes and because local people do not have as much of an opportunity to get to know them personally as those who run for local offices.

The most difficult job, probably, for this newspaper is to attempt to be fair and equitable in the allotting of news space to candidates and parties locally during a campaign. A diligent effort is always made to give both parties and all candidates an equal share of space in the news columns although this is not as easy as it sounds because of the pressures brought to bear from time to time.

We mention all of the foregoing to attempt to explain how we arrive at positions.

THE CONTRIBUTIONS OF THE FARMERS HOME ADMINISTRATION TO RURAL PROGRESS IN NORTHWEST FLORIDA

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the State of Florida is envied for its abundance of sunshine, ocean beaches, orange groves, tropical climate, and its multi-billion-dollar base for launching American adventures into space. These endowments are generally given credit for Florida's great surge in wealth and population.

But no such easy explanation accounts for the progress being made in northwest Florida, my district of the State.

Our section also has beaches and outstanding centers such as Pensacola, Panama City, and Fort Walton Beach. However, much of our territory in the First Congressional District is more typical of the rest of rural America. It is a district of great forests and smaller towns and farms devoted to livestock and to nontropical crops such as corn, wheat, peanuts, and soybeans.

During the 1960's it would have been easy for northwest Florida to succumb to the malady that gripped many other rural areas, with people drifting away from farms and towns to the cities in search of more rewarding jobs and better living conditions.

Instead, population in most of the rural sections of the district held steady, and there are signs of renewed vitality. The reason is found in the determination and enterprise of our rural people. They were determined not to let their farms and communities wither away. They were determined to pick up the pace of modern advancement.

In meeting this challenge, we have been fortunate to have in our midst representatives of Federal Government who are capable of giving real assistance to the rural community and who have a real interest in doing so. A great source of help has been the Farmers Home Administration, which today is an excellent agency with several lines of rural community and family credit service.

This organization, a part of the U.S. Department of Agriculture, is one that lives with, knows and serves rural areas through a system of local county offices. It is under the able administration of a man who himself has represented a rural district in this House, the Honorable James V. Smith of Oklahoma.

Mr. Speaker, the fatal affliction of many old-time rural communities that have passed from the scene was their inability to modernize their public facilities. No town dependent on the utilities and housing standards of a 100 years ago can survive in the 20th century.

Now, progress of major significance is being made in water, waste disposal and housing programs for rural areas by the Farmers Home Administration.

A dramatic improvement has taken place in the matter of water supply.

Not many years ago, the convenience of central-system water was seldom found outside the principal towns. Water systems were simply beyond the reach of the district.

Today, we are approaching total coverage of our counties by modern water systems. The Rural Community Facilities program of the Farmers Home Administration has made it possible to organize and build 36 rural systems that service combination areas of towns, farms and beach communities in seven of our counties.

The water mains of these systems now run to about 12,000 homes, farms, businesses, and beach developments. They have reached the point of serving 60 percent or more of the rural population in counties such as Escambia, Santa Rosa and Okaloosa.

Here is the roster of projects now completed in counties of my district:

Santa Rosa—The Point Baker, Moore Creek-Mount Carmel, Avalon Beach, East Milton, Chumuckla, Berrydale, Holley-Navarre, Bagdad-Garcon, Midway, and Pace water systems, and both water and sewer systems for the town of Jay.

Escambia—The Buelah, Perdido Keys, Bratt-Davisville, Cottage Hill, Central, Gonzalez, Molino, Perdido Bay, and Walnut Hill systems.

Okaloosa—The Auburn, Milligan, Seashore Village, Destin, Holt, and Baker water systems.

Walton—The Argyle, Freeport, Paxton, and Inlet Beach water systems.

Washington—The Wausau and Caryville water systems, and water, and sewer systems for the town of Vernon.

Holmes—The Esto and Noma water systems.

Jackson—The Alford water system and Greenwood sewer system.

And in the Gulf and Bay County areas, planning now under way with Farmers Home assistance is the forerunner of more project development.

Under the type of financing evolved in this rural program, the towns and rural water-system associations have borrowed, and are paying back, $11 million out of $12½ million secured through the Farmers Home Administration. What I am saying is that grants are held to a minimum, and rural areas pay for what they want. Rarely do we see so much accomplished for so modest an investment of public resources.

Many of the existing water systems are in their second or third round of expansion—a fact that indicates their profound effect on new business development, agriculture, new homebuilding and the modernization of existing homes.

Here again, Farmers Home Administration credit is a mainstay for progress in rural areas. It has enabled more than 2,700 families of modest income to move from substandard to decent homes in our district, through a total of $24 million outstanding in home loans. FHA farm credit totaling $7.7 million has bolstered family ownership and operation of 1,150 farms in the nine counties of northwestern Florida.

By now a substantial part of the water supply problem has been solved in my district; but here and throughout the rural United States, the need to sustain this program is great. A big job still remains to be done in converting to central waste disposal systems.

In whatever actions we take with respect to rural development, we must uphold the fine services now so well performed by the Farmers Home Administration, and extended through capable and dedicated State FHA organizations of which the Florida organization is an excellent example.

We are proud to say that rural development is advancing well into the action stage in our part of Florida. Our towns and countryside are more and more inviting to those who prefer the good things of life in a less pressurized rural environment.

The formula is one that can be commended to any rural area that needs a strong push forward: resolute and persistent action by the local community, and meaningful support from an agency such as the Farmers Home Administration that has a genuine interest in lifting up the standards of life in rural America. The spirit of cooperation of the Farmers Home Administration with other agencies and with the private sector to achieve our objective is most commendable.

THE BAKER CASE—STILL A DISGRACE

(Mr. GROSS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. GROSS. Mr. Speaker, Robert G. "Bobby" Baker, the poor boy who came out of the hinterlands of South Carolina to become a page in the U.S. Senate, and, under the tutelage of the then Senator Lyndon Baines Johnson learned the fine art of political-financial manipulation, will be paroled from a Federal prison June 1.

He will have served less than a year and a half of a maximum 3-year sentence.

Lyndon Johnson, as a Senator, was the Democratic majority leader in that body. Bobby was his secretary. In a speech on the Senate floor, Lyndon described Bobby as "my strong right arm . . . the last man I see at night, the first man I see in the morning."

In addition to applying political pressure, Bobby became adept at raising huge amounts of money, ostensibly for campaign purposes. He was also active in other ventures while on the Senate payroll, including Caribbean gambling concessions, Haitian meat, vending machines, and insurance ventures—all with political overtones and undertones.

This led U.S. Senator John J. Williams, of Delaware, to demand the answer as to how a $19,600 a year Senate functionary could legitimately increase his net worth from $274,476 in 1960 to $2,166,846 in only 26 months.

In 1963, with Senator Williams in hot pursuit, Baker resigned his position in the U.S. Senate but it is not of record that Lyndon Johnson, his boss and tutor, ever publicly denounced Bobby for his high-flying activities. Lyndon may well have had in mind what Bobby threatened later—to make a public statement and "tell all."

In January 1967, Baker was convicted in Federal court in Washington on seven counts of attempted tax evasion, grand larceny, transportation of stolen money, fraud, and conspiracy, but he remained free for 4 years while exhausting his appeals in the courts. Meanwhile, this one-time poor boy from the boondocks of South Carolina, who had amassed a fortune while on Senate Lyndon Johnson's majority leadership staff sufficient to build the Carousel Motel at Ocean City, Md., busied himself with that and other activities. He recently sold the motel for $2½ million.

Finally, on January 14, 1971, Bobby Baker started serving his sentence in a Federal prison. Less than a year later, in December 1971, the Federal Parole Board denied his application for parole, but only 3 months later it reviewed the application and voted to free him on June 1.

The Justice Department said it had made no recommendation to the parole board. This is significant and reflects no credit on the action of the parole board for William O. Bittman, the able and tenacious attorney who, despite heavy pressure, prosecuted the case for the Justice Department had said at Baker's trial that he had chosen "to trade on his position of trust for his own pecuniary profit."

Bittman said:

> **He used his official office as a place of business and abused his position as secretary of the (Senate) majority to assure that his personal businesses would always be successful.**

Continued the prosecutor:

> **In him there had been placed complete confidence and trust. By him there was a total betrayal.**

So it is that Bobby Baker, former highly placed Federal employee and complete betrayer of confidence and trust, who will have served less than a year and a half in prison for his criminal acts, will be released from prison on June 1 to return to his $129,000 brick colonial home in one of Washington's most fashionable residential sections.

Mr. Clark Mollenhoff, syndicated columnist, Pulitzer Prize winner and one of the greatest investigative reporters in the history of Washington, has recently published an excellent book entitled "Strike Force." He devotes a chapter of this new book to the machinations of Robert G. "Bobby" Baker and his free-wheeling, high-flying associates.

I submit for printing in the Record at this point his account in "Strike Force" of one of the most sordid chapters in the operation of legislative process:

BUGGING BOBBY BAKER, BLACK, AND THE BOYS FROM LAS VEGAS

"The most sophisticated use of these electronic surveillance techniques for the purpose of gathering criminal intelligence has been made under Department of Justice authorization by the Federal Bureau of Investigation. The body of knowledge built up by the Bureau concerning the structure, membership, activities, and purposes of La Cosa Nostra was termed 'significant' by the President's Commission on Law Enforcement and Administration of Justice. Indeed, the Commission recognized that only the Bureau has been able 'to document fully the national scope of' the groups engaged in organized crime. Because this information was not gathered for the purpose of prosecution, however, it has not generally been made public." *American Bar Association Project on Minimum Standards for Criminal Justice, Standards Relating to Electronic Surveillance*, page 53.

Until the Bobby Baker case broke into the open in the early fall of 1963, only a few people knew the power of Fred B. Black, Jr. The secret to Black's success was his contacts.

Top officials of North American Aviation Corporation (NAA) recognized the value of those contacts at the National Aeronautics and Space Administration (NASA). Despite the fact that Fred Black was under indictment on charges of federal income tax evasion, North American was paying the University of Missouri dropout more than $200,000 a year for his services in Washington.

Similarly, the fact that he was under indictment by a federal grand jury in Kansas City, Missouri, had not hurt his connections at the Defense Department, NASA, or in Congress. His friends included Robert G. (Bobby) Baker, then Secretary to the Democratic Majority in the Senate. When Lyndon Johnson had been Majority Leader, Baker was his "strong right arm." Later, as Vice-President, Johnson was chairman of the National Aeronautics and Space Council. James E. Webb was administrator of NASA. Senator Robert S. Kerr, wealthy Oklahoma Democrat, was chairman of the Senate Committee on Aeronautical and Space Sciences. Bobby Baker was close to all three.

Independently or through Baker, Fred Black had access to essentially any information he wanted about space contracting and space spending. Webb could rest assured that Kerr would not conduct unreasonable investigations of decisions which benefited the Senator and his associates. Black was one of Kerr's gin-rummy-playing friends.

He lived on a cul-de-sac around the corner from Vice-President Johnson who had purchased Les Ormes from Perl Mesta. A gate in a common back fence connected their gardens in those days before assassination had frightened the nation into tighter security.

Baker and Black had worked diligently to obtain the Democratic nomination for Lyndon Johnson in 1960, but the Kennedy victory at the convention did little to damage their influence. The Kennedys had never understood the jockeying for control of contracts; consequently the trio of Johnson, Kerr, and Webb continued to be influential in the space field.

Their major worry initially was Attorney General Robert F. Kennedy's income tax prosecution of Black.

Attorney General Kennedy's suspicion of Fred Black and Bobby Baker increased as he learned of their association with Las Vegas gambling figures including Edward Levinson, Benjamin Siegelbaum, Edward Torres, and Cliff Jones, former Democratic Lieutenant Governor of Nevada who doubled as a hotel and casino operator. The Internal Revenue Service and FBI were cooperating in a major investigation of the "skimming" of millions of dollars off the top of the take in such Las Vegas hotels and casinos as the Flamingo, the Fremont, and the Stardust. The Justice Department authorized eavesdropping and wiretapping to uncover information in these cases.

This surveillance convinced Kennedy that Fred Black and, perhaps, Bobby Baker deserved special attention from the organized crime unit. Consequently in February 1963, a bug was installed in Black's plush suite at the Carlton Hotel in Washington.

The bug remained operative until late April. Manned on a 24-hour-a-day basis, it furnished an intriguing insight into what organized crime could accomplish with a few highly placed political contacts. Both Baker and Black operated out of the Carlton, and their monitored conversations disclosed an arrangement between the late Senator Kerr and North American officials in the awarding of the Apollo contract.

The first phase of the multibillion-dollar contract was let to North American in the late fall of 1961 instead of to Martin Marietta which was at first judged the best qualified. At the same time, North American Aviation switched its vending-machine dealer. Baker's Serv-U Vending Corporation was substituted for a firm which had handled NAA's vending machine business for years. This change was made despite the fact that Serv-U had no employees, vending machines, or experience when the multimillion-dollar contract was awarded. The partners were Bobby Baker, Fred Black, Jr., Edward Levinson, and Benjamin Siegelbaum.

The financing of Serv-U Vending was arranged through the Kerr-controlled Fidelity National Bank in Oklahoma City, one of whose major stockholders was James E. Webb. This same bank was used by Baker, Black, and the two gamblers in buying into the District of Columbia National Bank during the same period.

The wiretap on Black raised questions about Senator Kerr's influence in the awarding of the Apollo contract to North American. Following his death, an inventory of Kerr's estate showed that he had owned an interest in lands which had benefited from North America's decisions to construct new plants in Oklahoma. Kerr held the land in the name of an Oklahoma City lawyer.

Kerr had died on January 1, 1963, a few weeks before installation of the bug. Black, in a conversation on February 11, 1963, with Dean McGee, the surviving half of Kerr-McGee Industries, deplored the fact that James Webb was less dependable now that the Senator was dead. He was apologetic about the adverse economic effects this might have on Oklahoma.

"First of all, since the old man died, this fellow Webb has gotten weaker and weaker where the state of Oklahoma is concerned," Black said. "We sent them [NASA] several things before the Senator died—OK—when we got them back an OK on a third of what we wanted to put there. He's just not going to do anything for us. I'm getting concerned about a few things in Oklahoma City itself. NASA is not helping us. When the Senator was alive, he'd be helping."

Then Black assured McGee, "I want you to know, North American and Fred Black aren't backing up one inch."

Some of the tapes included comments about Lyndon Johnson, but for the most part these were vague. When it became apparent in 1965 that the tapes might be made public, Johnson was naturally anxious. He requested copies of transcripts from the FBI so he could personally review them. From the day he took office, Johnson was worried that Attorney General Kennedy had obtained recordings of conversations which might prove embarrassing to him.

He revealed his distrust of Kennedy to a number of Senators and Congressmen, who in turn repeated it to Sidney Zagri, Washington lawyer-lobbyist for the International Brotherhood of Teamsters. The Teamsters Union under James R. Hoffa had supported Johnson for the Democratic Presidential nomination in 1960, and Zagri shared with the Vice President an intense dislike of Robert Kennedy.

At the 1964 Republican convention in San Francisco, Zagri sought support for Hoffa on the grounds that Kennedy had used illegal wiretap evidence to convict the Teamsters president. Although some Republicans bought this because of their dislike of Kennedy, the party wanted no obvious alignment with Hoffa.

Hoffa and Zagri were successful, however, in selling the idea that there was too much eavesdropping and wiretapping by federal agencies to the Senate Judiciary Subcommittee on Administrative Procedures. Democratic Senator Ed Long of Missouri conducted the investigation. Long admitted collecting a $48,000 "referral fee" paid to his law firm by the Teamsters, but he denied it was in any way connected with his Subcommittee work.

At the same time, wiretapping was under attack from three other points: the Supreme Court, the Justice Department and, perhaps most significantly, the Executive Branch.

In response to a Presidential Crime Commission recommendation to legalize eavesdropping and wiretapping as essential tools in fighting organized crime, President Johnson launched an unusual tirade. (It was reported that, coincidentally or not, a lawyer from Texas on the Commission had threatened to write a dissenting report.) Nevertheless, the House and Senate passed legislation permitting eavesdropping and wiretapping by federal and state authorities on proper showing of due cause to the federal court and on application by the Attorney General or one of his assistants.

In signing that general crime bill into law on June 19, 1968, President Johnson declared:

"Congress, in my judgment, has taken an unwise and potentially dangerous step by sanctioning eavesdropping and wiretapping by federal, state, and local law officials in an almost unlimited variety of situations.

"If we are not very careful and cautious in our planning, these legislative provisions could result in producing a nation of snoopers bending through the keyholes of homes and offices in America, spying on our neighbors. No conversation in the sanctity of the bedroom or relayed over a copper telephone wire would be free of eavesdropping by those who say they want to ferret out crime."

President Johnson said he signed the law only because other provisions outweighed the evil; but he asked Congress to repeal the wiretapping provision. The President had developed a fixation on the subject not apparent when he was Majority Leader or Vice-President.

He announced that a 1967 Justice Department memorandum barring federal eavesdropping and wiretapping, except in national security cases, would remain in effect.

This policy became the subject of a bitter exchange between Senator McClellan and Ramsey Clark, during Justice Department appropriations hearings on June 27, 1968. The Attorney General argued that electronic eavesdropping was a "wasteful and unproductive" means of obtaining evidence. He said that out of a total of 38 federal electronic surveillance investigations under way, all dealt with national security cases; none with organized crime. Chairman McClellan, however, charged that Clark was flouting the law by refusing to use tools provided by Congress.

"This Administration has never and will never flout the law," Clark said, insisting that the law "authorized" but did not direct federal officials to use electronic surveillance.

"Then why did you fight the bill so hard?" McClellan asked with regard to those sections.

"It is undesirable and leads to invasion of privacy," was Clark's response.

Against the opinion of such seasoned experts as FBI Director J. Edgar Hoover, New York District Attorney Frank Hogan, and former Attorney General Robert F. Kennedy, Clark characterized wiretapping as having marginal value as a law enforcement tool.

Associate Supreme Court Justice and former Attorney General Tom C. Clark, who previously had rarely commented on the dangers of eavesdropping, now lined up with his son and President Johnson. In his majority opinion on Berger v. New York, Tom Clark stated: "Few threats to liberty exist which are greater than that posed by the use of eavesdropping devices."

In the Berger case, the Supreme Court reversed by a six-to-three vote the conviction of a Chicago public relations man for bribing the New York State Liquor Authority and various political figures for illegally issuing a liquor license to the Playboy Key Club.

Chairman McClellan and members of the President's own Crime Commission did not discount the possible misuse of eavesdropping, but noted that the legislation provided concrete safeguards against this. Requirements called for a court order, limited periods of tapping backed by affidavits, and a periodic report on how many telephones had been tapped. Experienced law-enforcement officials recognized the danger of uncontrolled tapping, but they pointed out that under present conditions the FBI and other law-enforcement agencies were really the only ones barred from eavesdropping. Lawless elements employed electronic listening devices for blackmail and other illicit practices and did not worry about evidence being admissible in court.

In general, experienced law-enforcement officials felt that Ramsey Clark was demonstrating his own inexperience when he characterized electronic eavesdropping as "wasteful and unproductive." The record was full of instances in which it had proved invaluable in gaining leads and evidence involving manipulative schemes, narcotic rings, gambling, and other crimes.

The stand of President Johnson and Ramsey Clark on wiretapping, however, had definite consequences for the prosecution of Fred Black.

In the early spring of 1966, Black told me he would not go to jail quietly but would "take some others along." He asked me to arrange a conference with Senator John J. Williams of Delaware. Senator Williams, at the time, was urging a vigorous investigation of Bobby Baker by a reluctant Senate Rules Committee. Black said he wished to "tell all" to Williams, and that what he had to say would involve some of the highest officials in the Johnson Administration. I informed the Justice Department prosecutors, who were handling the case, of Black's desires.

Then suddenly Fred Black changed his mind. Within a few weeks of our conversation, actions taken by the Johnson Administration and the Justice Department resulted in an unprecedented decision that saved Black from going to federal prison.

The chronology of the case is this:

Fred Black was indicted early in 1963 on federal income tax charges alleging he had failed to report income from a number of firms he represented in Washington, D.C. The indictment was returned in Kansas City before he had gained notoriety in the Baker case, and he quietly moved for a change of venue to Washington, where it might be lost in the maze of United States District Court cases in which only big names received much attention.

In May 1964, Black was found guilty and Judge John Sirica sentenced him to prison for 15 months to four years. Black was still confident, because the Circuit Court of Appeals for the District of Columbia was notorious for exploiting every technicality to upset convictions for well-known defendants. Black's friend, Lyndon Johnson, was President and appeared likely to be reelected despite the Baker scandal.

Even so, in 1965 Black lost his appeal. The Senate Rules Committee had issued a report on the "gross improprieties" of Bobby Baker. This report was also critical of the "conflicts of interests" inherent in the awarding of the North American Aviation contract to the Serv-U Vending Corporation.

In the meantime, two former Baker lawyers were nominated by President Johnson for key positions in the prosecution and appeals process. One was Abe Fortas, Johnson's personal lawyer and long-time crony. He was proposed as Associate Justice of the United States Supreme Court. At Johnson's request, Fortas had represented Baker from September 1963, until the week after President Kennedy's assassination. David Bress, who had represented Baker's vending-machine company, was nominated as United States District Attorney for Washington, D.C.

Senator Williams questioned the propriety of these nominations. Nicholas deB. Katzenbach, then serving as Attorney General, assured the Senate Judiciary Committee that Bress would not be in charge of the Baker investigation. Instead, Assistant Attorney General Herbert J. (Jack) Miller had obtained a court order under which the case would be handled by a team of special prosecutors that included William O. Bittman, Austin Mittler, Donald Moore, and Charles Shaffer.

In January 1966, Black was a grim man as he appealed his conviction. He complained he was broke, was getting only lip-service from friends in high places, and he threatened to talk if forced to go to prison. That same month Bobby Baker was indicted. This raised more doubts in Black's mind about the power of those who were urging him to be "patient" while they tried to arrange special treatment for him. Baker and Black knew the Bittman team meant business and would not soft pedal the case regardless of political pressure.

In February, President Johnson named Mitchell Rogovin as Assistant Attorney General in charge of the tax division. A protégé of Carolyn Agger, tax specialist and wife of Justice Fortas, Rogovin had been serving as Chief Counsel in the Internal Revenue Service.

Rogovin took seriously President Johnson's concern about wire-tapping. Digging into Justice Department files, he learned of the FBI bug on the Black suite. At the Internal Revenue Service, Rogovin had been a major block whenever the Senate Committee on Administrative Procedures had sought evidence of bugging taxpayers. At the Justice Department, however, his attitude on electronic surveillance changed.

Now he insisted that the Justice Department had an obligation to go to the United States Supreme Court and reveal the bug on Black. Spokesmen for the criminal division and the FBI maintained it was an unprecedented step at this stage of a case. They informed Rogovin that the eavesdropping had taken place long after the obtaining of evidence which had resulted in the indictment of Black. Furthermore, even if those investigating Black's income tax picture had been aware of the eavesdropping, they would not have sought that kind of evidence, for theirs was a so-called "net-worth" case.

"The Department of Justice's investigation of this incident indicates that none of the evidence presented to the grand jury or used at petitioner's [Black's] trial was obtained, whether directly or indirectly, from any improper source," Rogovin was told. "Nor was anything learned by the government's trial counsel from the monitoring of petitioner's discussion with his attorney which had any effect upon the presentation of the government's case or the fairness of petitioner's trial."

It was stressed that the "prosecution's evidence . . . was founded solely upon material contained in reports of investigating agents of the Internal Revenue Service."

A routine audit examination in 1960 had initiated the Black case and, by October 1960, the case was classed as a "tax-fraud investigation." The investigation was completed in October 1962, months before the bug was placed in Black's suite.

"During the preparation and trial of petitioner's case, no attorney involved in its presentation [or, so far as appears, any other attorney for the Department of Justice] knew that a listening device had been installed in petitioner's suite," it was explained to Rogovin.

Nevertheless, the young lawyer insisted he felt so strongly about the abridgement of Black's rights that he would take the matter into his own hands. Accompanied by Solicitor General Thurgood Marshall, who argued the government's cases before the Supreme Court, he disclosed the eavesdropping to the Court. This ploy was successful. The Supreme Court upset the conviction and called for a hearing on whether the evidence in the tax-fraud conviction was "tainted" by illegal eavesdropping.

Judge Sirica conducted an extensive hearing and found no indication that any wiretap or bugging evidence had been used to obtain the indictment. But even though it was established that Black had received a fair trial, the conviction could not be reinstated and it was necessary to try him again.

Prosecutor Bittman suggested that instead of trying Black again on the same charge, a simpler approach be employed. A net-worth case is always difficult to prove; it can be quite complicated and requires a jury that will pay attention to details. Bittman reasoned that it would be more practical to indict Black for willfully failing to pay the taxes he owed the government. Proof could be established in a few hours through the introduction of his tax returns for several recent years in which he had reported in excess of $150,000 and $200,000, but had paid no taxes.

Rogovin rejected this suggestion for some "technical reasons" which were never made clear to Bittman and other veteran prosecutors. He proceeded to assign another lawyer to the case, moved into the second trial with a good chance that Black would be acquitted. Meanwhile, Senator Williams couldn't help wondering why the Internal Revenue Service, usually so eager to grab the assets of every taxpayer, was permitting Black and his wife to continue living in luxury in their $150,000 home, despite the fact it had piled up claims against them of nearly $500,000.

Before the second trial was completed, Justice Tom Clark resigned from the Supreme Court at President Johnson's request, so that Ramsey Clark could be named as Attorney General without incurring charges of impropriety by having a father on the high court while his son served as the nation's chief federal prosecutor. The vacancy on the Court was promptly filled by naming Solicitor General Thurgood Marshall.

Black was acquitted in his second trial, and resumed his work as a public relations man. At the same time, it was difficult to believe the Bobby Baker case would ever come to trial. Rogovin's stand in connection with Fred Black's conviction required the team of prosecutors headed by William Bittman to turn over all its wiretapping logs to Edward Bennett Williams, famed Washington mouthpiece who served such clients as Jimmy Hoffa, Frank Costello, and others identified with organized crime. As Baker's lawyer, Williams would make the most of the logs.

Bittman found it hard to keep his team working enthusiastically in the face of press reports that President Johnson was cool to the prosecution of his "strong right arm." Coincidentally, certain pressures contrived to split up the smoothly functioning unit.

Charles Shaffer was fed up working in a Justice Department where it was impossible to send reports "upstairs" without fearing how they would be handled. He resigned and set up a law practice in Rockville. Don Page Moore, also discouraged, joined a Chicago law firm. That left only Austin Mittler, a bright young law graduate employed at roughly $12,000 a year on what had once seemed an exciting project but now appeared to be a lost cause. He accepted a much higher salary to become law secretary to New York Supreme Court Judge James Crisona. Bittman argued he needed someone he could trust and who was familiar with the Baker case, but he could not in good conscience tell Mittler that the case was certain to go forward.

Over the Christmas holiday Bittman had to fight off a move in the Justice Department to eliminate two of the nine counts against Baker that he considered crucial. But the trial date was finally set. Persuaded to quit his new job, Mittler returned to Washington at a lower salary. He arrived the day before the trial started.

Throughout all, Bittman was the man who held the Baker prosecution together, even though he had been hard-pressed to move his large family to Washington and still manage on his salary. In the midst of his preparations for the trial he was offered promotions at a substantial increase in pay, either as Special Assistant to Attorney General Ramsey Clark or as United States Attorney in Chicago. There was only one condition: he would have to leave the Baker case.

He rejected the offers and continued with the case until January 29, 1967, when Baker was found guilty of income-tax evasion, theft, and conspiracy to defraud the United States government. The three-week trial revealed that Baker had received $100,000 in cash from West Coast savings and loan executives for "political contributions" to the Democratic Party.

Baker tried to convince the jury that he had delivered this money to Senator Robert Kerr, and had been "loaned" at least $50,000 of it—for Bittman had traced at least that much of the "contribution" to Baker's floundering Carousel Motel. Fred Black testified that the late Senator Kerr had "loved" Baker and regarded him "like a son." He said Kerr had told him of loaning the $50,000 to Baker.

However, Bittman contended this was not characteristic of Kerr. The late Senator's son, Robert, Jr., testified that his father kept notes on loans to his family "even as much as fifteen or eighteen dollars." There was no record of the $50,000 "loan," nor any to substantiate Baker's contention that in late December 1962, a few days before Kerr died, the Senator had changed the "loan" to a Christmas "gift."

Although Black made an impressive witness as he was led through his testimony by Edward Bennett Williams, he was not so impressive under cross-examination by Bittman. Black admitted not mentioning the alleged loan at the time he was questioned by Internal Revenue Service agents about Baker's initial claim that it was a $40,000 loan. He insisted he had given the agents a false story. Finally, under grilling, he lost his composure and declared he wouldn't tell IRS or the FBI anything.

Bobby Baker's conviction did not end Senator Williams' concern that the Johnson Administration might still get Baker off the hook. There were a thousand ways to throw a case into the Circuit Court of Appeals, where the Administration had made a lot of appointments. Williams learned that a young lawyer from the Univesity of Texas had been assigned to work with Bittman and Mittler in connection with the appeal. On December 3, 1968, he wrote to Attorney General Clark:

"A situation has been called to my attention which may be all right, nevertheless it can cause possible embarrassment to the Justice Department.

"I am advised that Mr. Albert Alschuler has been appointed by the Department to assist in representing the government in its opposition to the appeal of Mr. Robert G. Baker while at the same time his wife, who is also a lawyer, is serving as a law clerk for Justice Fortas. Since this is a highly sensitive case I am sure you can recognize the delicacy of such an arrangement."

Fred M. Vinson, Jr., Assistant Attorney General in charge of the Criminal Division, replied on December 13, 1968:

"Mr. Alschuler is a respected and competent attorney. I have the utmost confidence in his trustworthiness and loyalty to the Department.

"Quite apart from that, you should know that Mr. Alschuler's participation in this matter in connection with a hearing to be held in the District Court has been both minimal and ministerial. His work in this regard has been at the direction and under the supervision of two of the original government prosecutors who handled the trial and who have been specially retained for the forthcoming hearing in this case."

The letter from Senator Williams caused a tremor through the Criminal Division. It was just a gentle way of letting the Justice Department know that someone was watching.

Baker entered the Lewisburg federal penitentiary in 1970 to serve a one-to-three-year term, a light enough sentence in view of his conviction on seven out of nine counts involving nearly $100,000 in political payoff money. On entering prison, he piously said that he would "serve with honor."

As for the Las Vegas gamblers, some of whom were associates of Fred Black and Bobby Baker, they too were involved in cases which were undermined by Justice Department decisions.

In May 1967, a United States grand jury in Las Vegas returned indictments for federal income-tax evasion against Ed Levinson, former president of the Fremont Hotel; Edward Torres, former vice-president; P. Weyerman and Cornelius Hurley, former stockholders and employees. The Riviera Hotel also yielded defendants: Ross Miller, chairman of the board; Frank Atol, stockholder and employee; and Joseph Rosenberg, stockholder and casino manager.

The key to these cases consisted of FBI taps which had been made on Las Vegas casinos for the purpose of gathering information on the "skimming" of profits from the gaming places. Unfortunately, Nevada law, designed to provide a favorable atmosphere for the kind of people who run gambling casinos, made it illegal to wiretap for such information.

Nevada Democratic Governor Grant Sawyer condemned the electronic surveillance and challenged the FBI to "give us your evidence or call off your dogs." Nevada Democratic Senator Howard Cannon went to the White House to complain to President Johnson about the taps. Subsequently United States District Judge Roger Foley, a Cannon appointee, sealed the records of the eavesdropping. It was a decision that would later stand in sharp contrast to a more vigorous effort by the government to fight organized crime.

In June 1967, all four former officials of the Fremont entered pleas of innocent. Judge Foley indicated that the trial would not take place for several months. There followed a frantic behind-the-scenes attempt to stop the trial and block publication of the FBI tapes; but the heart of the gamblers' "defense" seemed to be a $4.5 million suit which Edward Bennett Williams' law firm filed for Levinson against the four FBI agents who were responsible for the electronic surveillance of the Fremont Hotel, charging invasion of privacy.

In March 1968, Levinson and Rosenberg pleaded nolo contendere (no contest) to the "skimming" charges, admitting that they had "willfully aided and assisted in the preparation of false corporate tax returns for the fiscal year ending in 1963."

Sursprisingly, Judge Foley accepted the pleas over the government's pro forma objections, and fined Levinson $5,000 and Rosenberg $3,000. In light of the millions of dollars involved in the case, it was a slap on the wrist and considered as such by the FBI and by the Organized Crime and Racketeering Division of the Justice Department which had been bypassed on the arrangement by Assistant Attorney General Mitchell Rogovin.

This acceptance of the pleas was followed by a government motion to dismiss other charges against Levinson and Rosenberg, as well as the five others named in the two indictments. Thus, under Attorney General Ramsey Clark, the government swiftly brought to a close two cases which had required more than two years' preparation and the testimony of more than one hundred witnesses in the six months' investigation before a federal grand jury.

The Los Angeles *Times* reported that the organized crime fighters in Justice were "shocked and demoralized by the sudden end of a major tax-evasion case against Las Vegas casino operators." Henry E. Peterson, then Chief of the Department's Organized Crime and Racketeering Division, had not even been informed of the "arrangement" until it was all over. Two days after the government dropped its charges, Levinson's lawyers dropped his suit against the FBI agents. A related suit against the Central Telephone Company, which had assisted in setting up the electronic surveillance, was settled for an undisclosed amount.

Edwin L. Weisl, Jr., Assistant Attorney General in charge of the Civil Division, handled the dismissal of the suit against the agents and defended this disposition of the case as proper. Weisl was the son of Edwin L. Weisl, Sr., then the Democratic Committeeman from New York and a close friend of President Johnson.

Weisl contended the case "served notice that skimming will have to stop." But not all Justice Department officials were satisfied by this declaration. The case had cost more than $100,000 to develop and had required major cooperation by the FBI and Internal Revenue Service. The settlement also "served notice" that it was still possible to make a deal with the Justice Department if serious charges were filed against the FBI.

It also put Assistant Attorney General Rogovin in a difficult position on eavesdropping and wiretapping. Rogovin, so eager to disclose wiretaps when it was helpful to Fred Black, now opposed disclosure.

The cases of Fred Black, Bobby Baker, and the Las Vegas gamblers clearly showed how political corruption and organized crime both benefited from the same questionable policy under the Johnson Administration. The last chapter in the story was Johnson's unsuccessful attempt to appoint Abe Fortas, his old friend who had represented Baker during the first months of the scandal, as Chief Justice of the United States Supreme Court.

On October 2, 1968, the President withdrew the nomination after the Senate refused to invoke cloture to end a filibuster against the appointment. Then, in May 1969, a *Life* magazine article by William Lambert exposed an arrangement Fortas had made with the Louis Wolfson Foundation while on the Supreme Court to receive $20,000 a year as a consultant. Wolfson, in trouble with the Securities and Exchange Commission, had agreed to pay Fortas this sum for advice on the dispersal of funds from the family foundation. *Life* disclosed that Fortas had accepted and, 11 months later, returned a $20,000 payment. Serious ethical questions were raised by Senator Williams, Senator Robert Griffin (Rep., Mich.), and others, and Fortas was forced to resign on May 14. His was the first resignation under pressure of public criticism in the 178-year history of the Court—a man who had been proposed as Chief Justice only a few months earlier.

The new Administration now had two vacancies to fill on the Court and President Nixon named Warren Burger, a 61-year-old judge on the U.S. Court of Appeals for the District of Columbia, as Chief Justice. Judge Burger had a reputation for being tough on issues dealing with law enforcement and for having what Nixon considered a more realistic view on the importance of eavesdropping and wiretapping in the battle with organized criminals.

Bitter discussion will continue for years about the decision that resulted in springing Fred Black. Equally bitter controversy will rage about the settlement of the Levinson suit against the FBI.

However, there was little disagreement among law-enforcement men over the job Robert Blakey, former Notre Dame University professor of criminal law, did on the Ramsey Clark theory that electronic surveillance is of doubtful value as a law-enforcement tool. Blakey, as a "consultant" for the President's Crime Commission and later as counsel for Senator John McClellan's Senate Judiciary Subcommittee on Criminal Law Procedures, used the disclosures of the Patriarca logs from the tax-evasion trial of Louis (The Fox) Taglianetti to destroy Clark's contention that electronic eavesdropping is a "wasteful and unproductive" means of obtaining evidence.

H.R. 14826, A BILL TO AMEND THE SECURITIES EXCHANGE ACT OF 1934 TO PROVIDE FOR THE REGULATION OF SECURITIES DEPOSITORIES, CLEARING CORPORATIONS AND TRANSFER AGENTS

(Mr. MOSS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MOSS. Mr. Speaker, during the years 1967 through 1970 this Nation's securities industry faced a crisis which was not fully resolved until the Congress enacted legislation providing for a Federal insurance program for brokerage house customers. Pursuant to that enactment the Securities and Exchange Commission has proposed additional legislation providing for Federal regulation of securities depositories, clearing corporations and transfer agents, in order to prevent a recurrence of the back-office problems which contributed so greatly to the problems experienced in those difficult years.

The Commission's bill is designated H.R. 14567. By the provisions of that bill, the Commission would regulate depositories, clearing corporations and nonbank transfer agents. Regulation of bank transfer agents would be divided among the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation and also, apparently, the State bank regulatory organizations.

Question has been raised whether such a regulatory pattern can provide the investing public with the protection it needs and also be fair and evenhanded to those being regulated. While I have reached no conclusion on this question, I believe the question should be explored. In the legislation Mr. Broyhill and I are introducing today, therefore, regulation of all transfer agents, bank and nonbank, would be vested in the Securities and Exchange Commission. It is our hope that discussion of this bill, the SEC bill, and other "back office" legislation currently pending will enable the Congress to enact effective, fair legislation in this area.

Mr. Speaker, I include a copy of the bill at this point in the Record:

H.R. 14826

A bill to amend the Securities Exchange Act of 1934 to provide for the regulatiton of securities depositories, clearing corporations and transfer agents

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Section 2 of the Securities Exchange Act of 1934 (15 U.S.C. 78b) is amended by striking the word "and" immediately before the phrase "to impose requirements necessary to make such regulation and control reasonably complete and effective," and by adding the following immediately after that phrase: "and to provide for the development of an integrated system for the prompt and accurate processing and settlement of securities transactions," SEC. 2. Section 15(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78(c)(3)) is amended to read as follows:

"(3) No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptance, or commercial bills) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(A) to regulate the time and method of making settlements, payments, and deliveries and of closing accounts; and

"(B) to provide safeguards with respect to the financial responsibility and related practices of brokers and dealers including, but not limited to, the acceptance of custody and use of customers' securities, and the carrying and use of customers' deposits or credit balances, and shall require the maintenance of reserves with respect to customers' deposits or credit balances, as determined by such rules and regulations."

Section 3. Section 15A(k)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(k)(2)) is amended by inserting after clause (D) the following:

"(E) the time and method of making settlements, payments, and deliveries and of closing accounts."

SEC. 4. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraphs:

"(22) the term 'clearing agency' means any person who acts as intermediary among participants in making payments or deliveries (or both) in connection with transactions in securities or who engages in providing facilities for participants (A) for netting of purchases and sales of specific securities to reduce the number of settlements of individual transactions, or (B) for allocation of cash and securities settlement responsibilities among itself and participants. Such term also means and includes a person who acts as the custodian of securities in accordance with a system whereby securities so held may (i) be transferred between participants without physical delivery, or (ii) be made the subject of a pledge or other security interest by participants without physical delivery; or such custody otherwise plays an integral role in the settlement of securities transactions or in the hypothecation of securities. The term 'clearing agency' shall not include (1) Federal Reserve Banks, Federal Home Loan Banks, Federal Land Banks, or any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, and (2) banks, brokers, building and loan, savings and loan, and homestead associations and cooperative banks by reason of lending, fiduciary, correspondent, or safekeeping functions commonly performed by them.

"(23) The term 'participant', when used with respect to a clearing agency, means any person who maintains one or more accounts with a clearing agency for the purpose of settling or comparing transactions in securities or making or receiving payments for our delivery or hypothecation of securities.

"(24) The term 'transfer agent' means any person who engages, on behalf of an issuer, or on behalf of itself as an issuer, of securities registered under section 12 of this title or of securities which would be required to be so registered except for the exemption from registration provided by sections 12(g)(2)(B) or 12(g)(2)(G) of this title, in: (A) countersigning such securities upon issuance; (B) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar; (C) registering the transfer of such securities; or (D) exchanging or converting such securities."

SEC. 5. The Securities Exchange Act of 1934 is amended by inserting after section 17 the following new section:

"Section 17A. (a) It shall be unlawful for any person, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce for the purpose of using a clearing agency in connection with any transaction in a security or to transfer, hold or hypothecate any security unless such clearing agency is registered as a national securities clearing agency under this section.

"(b) Any clearing agency may be registered with the Commission as a national securities clearing agency under the terms and conditions hereinafter provided in this section by filing with the Commission a registration statement in such form as the Commission may prescribe setting forth the following information and accompanied by the following documents:

"(1) Such data as to its organization, participation, rules of procedure, financial condition and results of operation, methods of safekeeping, transferring, hypothecating and accounting for funds and securities.

"(2) Copies of its constitution, charter, or articles of incorporation or association, with all amendments thereto, and of its existing by-laws, operational rules, forms, and procedures and of any rules or instruments corresponding to the foregoing, whatever the name, hereinafter collectively referred to in this section as the 'rules of the clearing agency'.

"(3) Such other information as the Commission may, by rule, require.

"(c) An applicant shall not be registered as a national securities clearing agency unless it appears to the Commission that—

"(1) by reason of the number of its participants, the scope of their transactions, and the geographical distribution of its participants, such clearing agency will be able to comply with the provisions of this title and the rules and regulations thereunder and to carry out the purposes of this section:

"(2) such clearing agency is so organized and is of such a character as to facilitate the prompt and orderly settlement of securities transactions, to safeguard funds and securities held for the accounts of participants, and to comply with the provisions of this title and the rules and regulations thereunder, and to carry out the purposes of this section;

"(3) the rules of the clearing agency provide that (i) any broker or dealer who makes use of the mails or any means or instrumentality of interstate commerce to effect any transaction in any security, (ii) other clearing agencies, and (iii) such other classes of persons as the Commission may from time to time designate by rule as necessary to facilitate the prompt and orderly settlement of securities transactions, may become a participant in such clearing agency, except such as are excluded pursuant to a rule of the clearing association permitted under this paragraph. The rules of the clearing agency may restrict or condition participation in such agency on such specified geographical basis, or on such specified basis relating to the type of business done by its participants, or upon deposit with the clearing agency of an amount which bears a reasonable relationship to the value of positions maintained and transactions processed by the participant as appears to the Commission to be necessary or appropriate in the public interest or for the protection of investors and to carry out the purpose of this section and may deny participation to persons who have been expelled or suspended by a registered national securities clearing agency during the period of such expulsion or suspension;

"(4) the rules of the clearing agency assure a fair representation of its shareholders or members and participants in the adoption of rules of the clearing agency or amendment thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs;

"(5) the rules of the clearing agency provide for the equitable allocation of dues, fees, and other charges among its participants to defray reasonable expenses of operation and administration;

"(6) the rules of the clearing agency are designed to promote the prompt and orderly settlement of securities transactions, to provide safeguards for securities and funds which are in its custody, to foster cooperation and coordination with national securities exchanges, national securities associations and with other national securities clearing agencies, and to protect investors and the public interest; and do not have the effect of unfairly discriminating in the admission of participants or among participants in the use of such clearing agency;

"(7) the rules of the clearing agency provide that its participants and their officers, directors, employees, and agents shall be appropriately disciplined by expulsion, suspension, fine, or censure, or being suspended or barred from being associated with all participants for any violation of its rules; and

"(8) the rules of the clearing agency provide a fair and orderly procedure with respect to the disciplining of participants and their officers, directors, employees, and agents and the denial of participation to any person seeking participation therein. For any proceeding to determine whether a participant or other person should be disciplined, such rules shall require that specific charges be brought; that such participant or person shall be notified of and be given an opportunity to defend against such charges; that a record shall be kept; and that the determination shall include—

"(A) a statement setting forth any act or practice in which such participant or other person may be found to have engaged, or which such participant or other person may found to have omitted;

"(B) a statement setting forth the specific rule or rules of the agency which any such act or practice, or omission to act, is deemed to violate; and

"(C) a statement setting forth the penalty imposed."

In any proceeding to determine whether a person shall be denied participation, such rules shall provide that the prospective participant shall be notified of, and be given an opportunity to be heard upon, the specific grounds for denial which are under consideration; that a record shall be kept and that the determination shall set forth the specific grounds on which the denial is based. Notwithstanding any other provision of this section, the rules of the clearing agency may provide for the temporary suspension of a participant and the closing of its accounts pending determination on the merits of any disciplinary proceeding if, in the opinion of the clearing agency, such suspension and closing of accounts are necessary for the protection of investors, of the clearing agency or to facilitate the orderly and continuous performance of its services. Such rules shall afford the participant an expedited hearing on the merits in the case of any temporary suspension.

"(d) Upon the filing of an application for registration pursuant to subsection (b) the Commission shall by order grant such registration if the requirements of this section are satisfied. If, after appropriate notice and opportunity for hearing it appears to the Commission that any requirement of this section is not satisfied, the Commission shall by order deny such registration.

"(e) A registered national clearing agency may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any such registrant or such other person for whom an application of registration is pending is no longer in existence or has ceased to do business in the capacity specified in the registration statement, the Commission shall by order cancel the registration.

"(f) If any registered national clearing agency takes any disciplinary action against any participant therein, or any officer, director, employee, or agent of such a participant, or denies admission to any person seeking participation therein, such action shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within thirty days after such action has been taken or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action until an order is issued upon such review pursuant to subsection (g), unless the Commission otherwise orders, after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of affidavits and oral arguments).

"(g)(1) If, in a proceeding to review disciplinary action taken by a registered clearing agency against a participant or its officer, director, employee, or agent, the Commission, after notice and opportunity for hearing and upon consideration of the record before the clearing agency and such other evidence as it may deem relevant—

"(A) finds that such person has engaged in such acts or practices, or has omitted such acts, as the clearing agency has found him to have engaged in or to have omitted, and

"(B) determines that such acts or practices, or omission to act, are in violation of such rules of the clearing agency as have been designated in the determination of the clearing agency.

"It shall by order dismiss the proceedings, unless it appears to the Commission that such action should be modified in accordance with paragraph (2) of this subsection. If it appears to the Commission that the evidence does not warrant the finding required in clause (A), or if the Commission determines that such acts or practices as are found to have been engaged in are not prohibited by the designated rule or rules of the clearing agency or that such act is found to have been omitted is not required by such designated rule or rules, the Commission shall by order set aside the action of the clearing agency.

"(2) With respect to any penalty imposed upon a participant or its officer, director, employee, or agent the Commission may, having due regard to the public interest, affirm, increase or decrease such penalty.

"(3) If, in any proceeding to review the denial of participation in a registered clearing agency, the Commission, after appropriate notice and hearing and upon consideration of the record before the clearing agency and such other evidence as it may deem relevant, determines that the specific grounds on which such denial or bar is based exist in fact and are valid under this section, it shall by order dismiss the proceeding; otherwise, the Commission shall by order set aside the action of the clearing agency and require it to admit the applicant to participation therein.

"(h) Each registered clearing agency shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, copies of any changes in, additions to, or deletions from the rules of the clearing agency, and such other information and documents as the Commission, may require to keep current or to supplement the registration statement and documents filed pursuant to subsection (c). Any change in, addition to, or deletion from the rules of a registered clearing agency shall take effect upon (1) the thirtieth day (or such later date as the clearing agency may designate) after the filing of the copy thereof with the Commission, or (2) such earlier date as the Commission may determine, unless the Commission shall, by notice to the clearing agency stating the reasons therefor, disapprove the same in whole or in part as being contrary to the public interest or contrary to the purposes of this section.

"(i) The Commission may, by such rules or regulations as it determines to be necessary or appropriate in the public interest or to effectuate this section, require the adoption, amendment, alteration of or supplement to, or rescission of any rule of any clearing agency.

"(j) The Commission is authorized, if such action appears to it to be necessary or appropriate in the public interest or for the protection of investors or to carry out the purposes of this section—

"(1) after appropriate notice and opportunity for hearing, by order suspend for a period not exceeding twelve months or revoke the registration of a registered national securities clearing agency or place limitations upon such clearing agency, if the Commission finds that such clearing agency has violated any provision of this title, or any rule or regulation thereunder, or has failed to enforce compliance with its own rules, or has engaged in any other activity tending to defeat the purposes of this section;

"(2) after appropriate notice and opportunity for hearing, by order suspend for a period not exceeding twelve months or expel from a registered securities clearing agency any participant therein, or suspend for a period not exceeding twelve months or bar any officer, director, employee or agent thereof, if the Commission finds that such person has violated any provision of this section or any rule or regulation thereunder or any rule of the clearing agency; and

"(3) after appropriate notice and opportunity for hearing, by order remove from office any officer or director of a registered national securities clearing agency who, the Commission finds, has willfully failed to enforce the rules of the clearing agency, or has willfully abused his authority.

"(k) If a proceeding under subsection (j)(1) of this section results in the suspension or revocation of the registration of a clearing agency, the Commission shall, upon notice to such clearing agency, apply to any court of competent jurisdiction specified in section 21 or 27 of this title for the appointment of a trustee. In such event, the court may, to the extent it deems necessary or appropriate, take exclusive jurisdiction of the clearing agency involved, and the books, records and assets thereof, wherever located; and the court shall appoint the Commission or its designated agent as the trustee who, with the approval of the court, shall have the power to take possession and to continue to operate or to terminate the facilities of such clearing agency in an orderly manner, for the protection of participants and public investors, subject to such terms and conditions as the court may prescribe.

"(l) This section applies to transactions in securities effected directly or indirectly through use of the mails or any means or instrumentality of interstate commerce regardless of whether the securities which are the subject of the transaction are exempt securities.

"(m) Each registered securities clearing agency shall make, keep, and preserve for such periods such accounts, correspondence, memoranda, papers, books, and other records, and make such reports, as the Commission by its rules and regulations may prescribe as necessary or appropriate in the public interest, or to facilitate cooperation among clearing agencies and the prompt and orderly settlement of securities transactions, to safeguard funds and securities held for the accounts of participants, or for the protection of investors. Such accounts, correspondence, memoranda, papers, books, and other records shall be subject at any time to such reasonable periodic, special, or other examinations by examiners or other representatives of the Commission as the Commission may deem necessary or appropriate in the public interest or for the protection of investors."

SEC. 6. The Securities Exchange Act of 1934 is further amended by inserting after section 17A the following new section:

"SECTION 17B. (a) No person shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, in order to perform the function of a transfer agent, unless such person is registered in accordance with this section.

"(b) Any transfer agent may be registered for the purposes of this section by filing with the Commission a registration statement which shall state the address of its principal office or offices for transfer agent activities, the length of time it has been acting as a transfer agent, and the identity of the issuers and issues of securities for which it is then acting as transfer agent, and shall contain such other information in such detail as the Commission may require as necessary or appropriate in the public interest or for the protection of investors.

"(c) Upon the filing of an application for registration pursuant to subsection (b) the Commission shall, by order, grant such registration, unless it finds that the transfer agent making such application does not have procedures or the means to be able to comply with the provisions of this title expressly applicable to transfer agents, and the rules and regulations promulgated under those provisions, in which case the Commission shall, after appropriate notice and opportunity for hearing, by order, deny such registration.

"(d) A registered transfer agent may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any such registrant or such other person for whom a registration statement is pending, is no longer in existence or has ceased to do business as a transfer agent, it shall by order cancel or deny the registration.

"(e) No transfer agent shall make use of the mails or of any means or instrumentality of interstate commerce, directly or indirectly, to engaged in any activity as transfer agent with respect to any security in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(f) Every transfer agent required to be registered pursuant to this title shall file with the Commission, in accordance with such rules or regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such information and documents as the Commission shall require to keep reasonably current the information and documents required to be included in or filed with the registration statement filed pursuant to subsection (b).

"(g) Every transfer agent required to register pursuant to this title shall make, keep and preserve such accounts, correspondence, memoranda, papers, books, records and other data for such periods and shall make such reports and file such information and documents with the Commission, as the Commission by rules or regulations may prescribe as necessary or appropriate in the public interest or for the protection of investors. Such accounts, correspondence, memoranda, papers, books, records and other data shall be subject at any time or from time to time to such reasonable, periodic, special or other examinations by the Commission as the Commission may deem necessary or appropriate in the public interest or for the protection of investors.

"(h) The Commission may, after appropriate notice and opportunity for hearing, by order, censure, bar, suspend or place limitations upon any transfer agent, or any officer, director or employee of any such transfer agent, or revoke the registration of any transfer agent, if the Commission finds that such censure, barring, suspension, placing of limitations or revocation is in the public interest or necessary for the protection of investors and that such transfer agent or any officer, director or employee thereof has willfully violated or is unable to comply with any provision of this title or any rule or regulation promulgated thereunder expressly pertaining to such transfer agent or any officer, director or employee thereof.

"(i) The provisions of this section 17B or of any rule or regulation thereunder shall not apply to any person acting as transfer agent with respect to securities transactions which occur without the jurisdiction of the United States, unless he acts in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate to prevent the evasion of this title."

SEC. 7. Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. 78x) is amended to read as follows:

"Information filed with the Commission:

"(a) Any person filing information contained in a registration statement, document, report, contract, correspondence or other paper filed with the Commission pursuant to this title may make written objection to the public disclosure of such information stating the grounds for such objection. The Commission is authorized to hear objections in any such case where it deems it advisable. The Commission shall grant confidential treatment to such information for which application has been made if it finds (1) that disclosure is not in the public interest, and (2) that disclosure would (A) jeopardize the safety of funds or securities, (B) require the revealing of trade secrets or processes, or (C) impair the value of a contract.

"(b) The Commission is authorized to treat such information as confidential pending the findings required by subsection (a), but if the Commission does not make such a finding within ten days from the date the information is received by the Commission, then the information shall cease to be afforded confidential treatment.

"(c) Nothing in this section shall prohibit the Commission from disclosing any information in any administrative or judicial proceeding.

"(d) Nothing in this section shall authorize the Commission to withhold information from the duly authorized committees of the Congress.

"(e) It shall be unlawful for any member, officer, or employee of the Commission to disclose to any person other than a member, officer, or employee of the Commission, or to use for personal benefit, any information contained in any registration statement, document, report, contract, correspondence or other paper filed with the Commission which is not made available to the public pursuant to subsection (a) of this section: *Provided*, That the Commission may make available to the Board of Governors of the Federal Reserve System any information requested by the Board for the purpose of enabling it to perform its duties under this title."

SEC. 8. Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) is amended by inserting after subsection (i) the following new subsection:

"(j) It shall be unlawful for an issuer, any class of whose securities is registered under this section or which would be required to be so registered except for the exemption from registration provided by paragraph (2)(B) or (2)(G) of subsection (g), by the use of any means or instrumentality of interstate commerce, or of the mails, to issue, either originally or upon transfer, such securities whose form or format contravenes such rules and regulations as the Commission may prescribe as necessary for the prompt and accurate processing of transactions in securities."

SEC. 9. Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended by inserting after subsection (e) the following new subsections:

"(f) The Commission shall, on or before December 31, 1976, take such steps as are within its power to bring about elimination of the negotiable stock certificate as a means of settlement among brokers or dealers in transactions consummated on national securities exchanges or by means of the mails or other means of instrumentalities of interstate commerce. On or before December 31 of each year, commencing in 1972 and ending in 1976, the Commission shall report to the Congress (1) the steps it has taken and progress it has made toward elimination of the negotiable stock certificate as a means of settlement, and (2) its recommendations, if any, for further legislation to eliminate the negotiable stock certificate.

"(g) The Commission is authorized and directed to make a study and investigation of the practice of registration of securities other than in the name of the beneficial owner and to determine (1) whether such registration is consistent with the policies and purposes of this title, with particular reference to section 14, and (2) if consistent, whether steps can be taken to facilitate communications between corporations and their shareholders while at the same time retaining the benefits of such registration. The Commission shall report to the Congress on or before June 30, 1973, the results of its investigation, together with its recommendations."

SEC. 10. Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended by inserting after subsection (b) the following new subsection:

"(c) No State or political subdivision thereof shall impose any tax on any change in beneficial or record ownership of securities effected through the facilities of a registered national securities clearing agency or any nominee thereof or custodian therefor or upon the delivery or transfer of securities to or through or receipt from such agency or any nominee thereof or custodian therefor, unless such transfer or delivery or receipt would otherwise be taxable by such State or political subdivision if the facilities of such registered national securities clearing agency or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision. No State or political subdivision thereof shall impose any tax on securities which are deposited in or retained by a registered national securities clearing agency or any nominee thereof or custodian therefor, unless such securities would otherwise be taxable by such State or political subdivision if the facilities of such registered national securities clearing agency or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision."

SEC. 11. This bill shall take effect on the date of its enactment, except that sections 17A(a) and 17B(a) of the Securities Exchange Act of 1934 (as amended by this bill) shall take effect upon the expiration of six months after the date of enactment.

PENSION PLANS

(Mr. RAILSBACK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. RAILSBACK. Mr. Speaker, every American—regardless of education, income, profession, race—faces the same perplexing problem: How will I support myself in old age? One answer is to be covered by a pension plan—a plan established by an employer, union, or both, which provides cash benefits for life to the qualified worker upon retirement. Usually benefits are financed by regular contributions by the employer, and, in some cases, by the employee.

The rationale behind providing pension plans is that the security they provide will encourage persons to be better employees. Also, the production level will be raised and morale improved because older employees will be able to retire.

The first industrial pension plan in the United States was established in 1875. At that time, the American Express Co. developed a pension plan which provided retirement benefits to employees who had reached the age of 60 and who had dedicated 20 years of service to the company.

Railroads followed the American Express Co.'s lead and adopted pensions as a convenient way of mustering out enginemen and trainmen who were too old for their jobs. By the turn of the century, unions began financing their own plans. In the 1920's, some local and State governments acted similiarly on behalf of their workers. Passage of the Revenue Act of 1927, allowing tax exemptions for employer payments to trust funds, encouraged other employers to set up their own plans.

However, as late as 1925, only 400 pension plans actually existed in the United States. Further, about one-third of the 4 million persons covered by pension plans were employed by the four largest corporations: American Telephone & Telegraph Co., the New York Central Railroad, the Pennsylvania Railroad, and United States Steel.

Not until the 1940's did pension plans really emerge as a major economic and social force in our economy. When wage and salary controls were imposed during World War II, many companies began giving pensions instead of raises to their employees, and used their wartime profits to finance the plans. The number of persons covered by pension plans increased from 4 million in 1940 to 10 million in 1950.

In 1949, there was a tremendous surge in the number of pension plans. That year, the Supreme Court upheld the National Labor Relations Board's decision that pensions were a proper issue for collective bargaining. Also, the steel industry's factfinding committee concluded that the industry had a social obligation to provide workers with pensions.

Presently, private pension plans cover about 30 million workers, nearly one-half of all persons who work in commerce and industry, and have assets of at least $130 billion. However, such facts tell us very little about the ultimate benefits the employees actually receive. While pension plans have been expected to perform a major service to millions of Americans, they serve far fewer than is commonly assumed and will continue to fall short of expectations unless greatly improved.

The U.S. Senate Special Committee on Aging predicted that only one-third to two-fifths of all aged persons in 1980 will receive incomes from private group pensions, and virtually none of their plans take into account cost-of-living increases.

The House Pension Study Task Force reported that employees with long service, high earnings, and union membership, who work in manufacturing, transportation, finance, and public utilities, are most likely to participate in a pension plan. The persons who have a relatively short service, who are unskilled and semiskilled, nonunionized, and who earn low wages, are those least likely to participate in a pension plan. In other words, those in greatest need in old age will probably not benefit by pension plans.

Just as discouraging are the findings of the Senate Labor and Public Welfare Committee. Of 51 pension plans covering 6.9 million workers, only 4 percent have received any kind of normal, early, or deferred benefits since 1950. Of 36 better structured plans covering 2.9 million workers, only 8 percent of the employees received normal, anticipated benefits.

The Senate committee estimates that 92 to 96 percent of "covered" American workers are not getting their retirement benefits. Further, the committee released the following information which clearly points out the fact that far too many pension plans are as evanescent as the pot of gold at the end of the rainbow:

A joint union-employer pension plan in the transportation industry "has some $800,000 in loans outstanding for which there is no collateral"; a large data-processing manufacturing company has invested pension funds "in unsecured loans to the extent of $41,171,580." A major mining company has been operating since 1952 a pension plan that has $33.3 million in assets, but $107 million in pension liabilities; a major Southern utility company, after 26 years of pension-plan operation, has accumulated $66 million in fund assets, but is liable for $133.5 million in benefits. A couple of transit companies have hit upon a scheme under which each has used some $2 million in pension-fund moneys to underwrite its own mortgages or real-estate investments. A Midwest cable corporation has in the last 5 years charged off to "administrative costs" more than 33 percent of the amount it has paid out in benefits. A Midwest utility company has reduced its pension-plan contributions by some $20,000 annually since 1962 as the result of "actuarial gains" made because workers who left the company and the plan retained no "vested interest" in their pension contributions.

The argument for pension regulation was excellently illustrated by a Labor Department official—

In all too many cases, the pension promise shrinks to this:

> "If you remain in good health and stay with the same company until you are 65 years old, and if the company is still in business, and if your department has not been abolished, and if you haven't been laid off for too long a period, and if there is enough money in the fund, and if that money had been prudently managed, you will get a pension."

It is imperative that we in the Congress come to grips with the serious problems far too many Americans face regarding pension plans. As a first step, I am today introducing legislation on pension reform.

If enacted, my proposal will establish a reasonable and fair basis for making pension credits nonforfeitable. Under it, pension credits will vest at 10 percent a year starting with the sixth year of service. Thus, after an individual has worked 15 years, he will be entitled to a 100 percent vested right in the benefits he accumulated over that period of time. If he decides to leave the company, or if his employment is terminated, the employee will be entitled to some form of pension benefit when he reaches the retirement age specified in the particular plan under which he was covered. For example, if a worker remained with an employer for only 9 years, he will still have a 40 percent vested right in the pension credits earned over those 9 years.

My bill also directs that a portability study be undertaken. Portability is the system whereby a worker can accumulate pension credits from job to job and eventually combine them into qualification for one single pension.

The proponents of portability stress its need in a mobile society. As one advocate explained:

> The possibility of small, perhaps miniscule benefits, the incompatibility of benefit provisions, disproportionately high administrative costs, attrition of fixed benefits by inflation, withdrawal of contributions, their lack of utility for the disabled, and the nonparticipation of vested deferred benefits in plan improvements, all argue for the desirability of collecting the bits and pieces of employees' vested pension credits into one more adequate benefit, a benefit based upon contributions which have earnings and growth up to the date of retirement.

The opponents of portability base their arguments primarily upon the complexities of establishing such a system. For example, how will the credits from plan to plan be transferred? How will their ultimate value be determined?

The extensive hearings conducted by the Senate Labor and Public Welfare Committee concluded that it is the right of an employee to carry his pension credits with him; but this is too complex an area, requiring exhaustive consideration, to attempt any solutions at this point. Because I agree with the committee's recommendation, my bill directs that a portability study be undertaken.

I also recognize the problem of funding. Through the input of contributions, funding must catch up with accrued pension liabilities within a specified period of time. My bill will require funding of liabilities over 40 years for plans in existence, and 30 years for those plans created after enactment.

A classic example of the need for adequate funding requirements was that of the Studebaker Corp. plan which began in 1950 and which came to an abrupt halt in 1964, when the company stopped manufacturing automobiles in the United States. It was a liberal plan—vesting at age 40, after 10 years of service. Of the 11,000 persons covered, 3,600 were already receiving pensions or were eligible to do so. An additional 4,500—with average service of 23 years—had vested rights. When the plan terminated and the available money was distributed, there were not enough funds to meet the company's liabilities. Only the 3,600 individuals eligible or already receiving pensions received their full share. The 4,500 vested employees, including some nearly 60 years of age, received an average of $600 apiece—approximately 15 percent of the value of their rights. And the remaining 2,900 employees received absolutely nothing.

Finally, although pension plans do not need to be insured if assets are available to meet all liabilities, it is generally agreed that it would be unrealistic to expect employers to provide immediate funding when an unfunded liability comes into existence. Therefore, I have included in my bill a provision which will establish a U.S. Pension and Employee Benefit Plan Commission to collect and insure plans.

Mr. Speaker, we must be committed to correcting the inequities which now exist in the private pension system. I urge immediate consideration of my bill which is designed to solve many of the problems and provide benefits to millions of workers who believe in their pension plans.

FRIVOLOUS AND NUISANCE LAWSUITS FILED AGAINST POLICE, SHERIFFS, AND PROSECUTORS

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, an increasingly serious impediment to efficient, vigorous law enforcement work and disposition of justice is the constantly growing number of frivolous lawsuits, so-called nuisance suits, filed against police, sheriffs, prosecutors, and others in the field.

No one objects, of course, to filing suits for false or improper arrest, or violation of civil liberties, when there is justification for such action.

But I submit that altogether too many such suits are being filed these days as a ploy to delay prosecution, to create publicity, or to try and win sympathy for a patently guilty defendant. The result has been, I believe, that officers are increasingly hesitative to perform their duties diligently because of the fear of such suits.

Such a result is readily understandable when it is realized that many lawmen must rely on their own financial resources in defending against such litigation. Law officers, particularly policemen in our smaller communities, Mr. Speaker, usually are not paid well enough to finance, on their own, expensive defense litigation. Such suits can reduce them to poverty, even force them deeply into debt.

In examining this problem, I think it appropriate to discuss title 42, United States Code, which encompasses laws relating to public health and welfare. Specifically, I would like to address my remarks to section 1983 of title 42 which states:

> Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

The interpretation of section 1983 by Federal courts has generally been of a broad nature in accordance with its broad language as well as its purposes as perceived by Congress.

A review of court decisions from cases filed under the title and section indicates that courts recognize this statute was designed to underwrite certain kinds of State laws and to provide a Federal remedy where State statutes, although adequate in theory, proved inadequate in practice.

However, the courts have also consistently held that section 1983 was not intended as a source of damage actions brought by disappointed litigants against officers that commit errors while acting within the scope of their authority. Nor was the purpose of section 1983 to discipline law enforcement officers nor to turn every defeat of claimed State right into a Federal right with Federal remedy.

It was recently brought to my attention that competent law enforcement officers in my congressional district found themselves defendants in what appeared and what was ultimately determined to be—a "nuisance suit" filed under section 1983.

I was very much distressed to learn that these officers were forced to depend on personal income for costs of investigation and legal defense fees.

This prompted me to ask the International Association of Chiefs of Police if this was a representative example of what is happening elsewhere in the Republic.

Somewhat to my surprise, I learned that many law enforcement officers, even prosecuting attorneys, have neither insurance plans to cover actions filed against them nor do many of the States, counties, and cities provide for costs involved in investigation and defense of such suits.

Now we all realize that the legislative branch traditionally takes reform a step at a time, addressing itself to that phase of the problem that seems most acute at the moment.

Thus I have been doing some research into the matter and have developed some interesting facts and figures dealing with what has become a worrisome problem.

The filing of lawsuits against law enforcement officers alleging misconduct was formerly an infrequent practice but today that is no longer true.

The number of such lawsuits has swollen from just a few hundred a year in the Nation a few years ago to several thousand last year. An increasing amount are brought under section 1983.

Records of the administrative offices of the U.S. courts show that 8,267 cases involving section 1983 were filed in 1971. That is an increase of sevenfold in the 5-year period ending last year. I submit that this is an unduly large increase, indicating that many of the suits are of the nuisance variety.

Figures are available from several cities on the number of suits filed against their police in the 5-year period ending last year. Los Angeles, for example, numbered 768 and the 5-year figures from that city by year from 1967 are: 95; 137; 149; 201; and 186, making an increase of 196 percent from 1967 to 1971. Of the 768 cases, 16 percent were filed in Federal court.

There is one specific case in Los Angeles that I would like to detail.

In 1968, the Western Center on Law and Poverty filed a suit against the Los Angeles Chief of Police, and others, claiming there was an organized conspiracy to violate the civil rights of all Negroes in the south-central portion of the city.

This suit was later expanded to include all Negroes in the county of Los Angeles.

After the suit was served, an investigation was launched and it soon became evident that the center could not sustain its complaint with the persons named as plaintiffs because of the activities of such persons with various militant organizations. Then, through a series of legal maneuvers, the militants were substituted out of the lawsuit and replaced by persons not connected or at least not known to be connected with militant groups.

The city of Los Angeles proceeded to conduct extensive discovery proceedings and the center was eventually ordered to write a pretrial order. It was unable to do this for several reasons, partly because of an inability to find their plaintiffs. Faced with either dismissal or bringing the case to trial, the center, on its own motion, asked that the case be dismissed.

That is the legal background of the Los Angeles incident, Mr. Speaker. Now let us examine what all this futile, expensive and frivolous maneuvering cost the taxpayers in the city and county of Los Angeles, Calif.

The city police department paid more than $61,000 in salaries for investigators whose work was confined to this case alone.

It is estimated that yet another $40,000 was spent in additional investigators' time and the time other police officers spent in court proceedings, investigations, gathering testimony, obtaining depositions, and so on.

Clerical time involved in the effort is estimated to have cost more than $16,000.

Thus what amounted to no more than a nuisance suit cost the taxpayers more than $117,000 in man-hours alone.

Let us examine just a few other locations where nuisance suits have proved costly both in money and time.

The metropolitan Dade County, Fla., Sheriff's Department, which includes the city of Miami, reports that 15 Federal civil rights cases have been filed under section 1983 there in the last 2 years. One cost more than $50,000 to investigate—and the plaintiffs took a voluntary dismissal prior to trial.

The police general counsel's office in the District of Columbia tells us that last year 50 cases were filed against the department or its officers. Besides that, the District of Columbia correctional institutions were frequently the objects of lawsuits.

However, in the 5-year period ending on December 31, 1971, not a single case was reported in the Federal supplement.

The relatively small police department in Charlotte, N.C., reported that during the past 12 months, 39 suits against it were filed under section 1983 and recently the department had to spend 1 week in court trying six cases that totaled more than $7 million in claims. All but one were awarded a "no verdict" by the jury. In only one case the jury returned an award of $2.50 against two officers on two counts, totaling an awarded damage of $10.

The police departments of Mecklenburg and Charlotte, N.C., note that their insurance premiums—despite having never lost a suit except for the $10 award—have increased from $12,000 to more than $48,000 in 2 years.

I do not wish to take up any more time with examples, Mr. Speaker. There are enough to require that this House do little more for the rest of the year but hear them. Later I will report some reactions by law enforcement personnel and agencies to a suggestion that nuisance suits are becoming a serious problem and to a proposal I have to reduce their numbers.

The measure I am introducing today would provide a minimal measure of protection to the law enforcement officer's pocketbook by establishing certain equitable procedures for those individuals who seek damages for deprivation of rights whether real or imagined.

Essentially, Mr. Speaker, my measure would require plaintiffs to file a bond with the court conditioned upon the payment of reasonable investigative and legal costs should the defendant prevail. I do not think this would deter those who seriously believe or have reason to believe that they have been the victims of improper actions by police or those who believe their civil rights have been violated.

But I do think it would make those who are interested only in harassing our police and courts hesitant to prosecute such cases.

Mr. Speaker, the International Association of Chiefs of Police—on its own initiative—submitted my proposed measure to the Association of Police Legal Advisers and the board of directors of the National Association of District Attorneys and asked for comment on the bill. The IACP advised that the response was one of the greatest ever to such a request for comment and that the reaction was overwhelmingly favorable.

I would like to offer a few of the comments made by law enforcement personnel to the IACP on the bill:

Bernard L. Silbert, legal adviser, Baltimore, Md., Police Department:

> I have examined Congressman Ichord's bill . . . I wish to go on record as favoring and supporting such legislation. As an attorney who has tried several of these civil rights cases, it is my considered opinion that the requirement of the posting of bond will greatly deter individuals from filing frivolous civil rights actions.
>
> In my experience many of these cases are brought so as to interfere or intervene with pending State court prosecutions. When it becomes apparent to the litigant that he stands to lose a sum equal to the cost of legal fees for the defense of such a case, the desire to take such an extraordinary step will have to be weighed carefully before choosing the federal forum.

George A. Phair, regional police legal adviser, Beaumont, Tex.:

> I have examined the bill forwarded to me which seeks to eliminate frivolous lawsuits. I feel this type of legislation is long overdue and heartily endorse its merits.

Some, Mr. Speaker, would even go beyond the provisions of my bill. I quote from a letter from Royal P. Terry, Jr., legal adviser to the Brevard County, Fla., Police Department:

> I have long felt that many of these suits are not only frivolous but the results of actual conspiracies to defame law enforcement officers and their departments.
>
> The only ideas that occur to me along these lines are: that such conspiracies ought to be punished as crimes; there might be a civil provision for third party joinder of any organization aiding or abetting an individual in bringing a frivolous or malicious suit; punitive damages should be allowable against any organization or individual participating in a frivolous or malicious suit.

Edwin D. Heath, Jr., director of Police Legal Liaison Division, Dallas, Tex., Police Department, said:

> With regard to Congressman Ichord's bill concerning frivolous lawsuits, we are in favor and support such legislation.

Sam D. Pendino, police legal adviser, Miami, Fla., Police Department:

> In reference to your letter dated Jan. 12, 1972, concerning the proposed bill which seeks to eliminate frivolous lawsuits . . . I feel that law enforcement agencies throughout the nation are in desperate need of such legislation.

Jerome Dwyer, legal analyst, Newark, N.J., Police Department:

> I endorse the proposed Ichord bill.

John W. Hayden, Jr., assistant attorney general, State of Washington:

> In response to your request, I have examined the proposed bill of Representative Ichord to amend the Judiciary and Judicial Procedure Act of 1948 to require the posting of a bond by the plaintiff to cover legal expenses. The bill is good and I believe needed.

Royce A. Fincher, Jr., police legal adviser, San Jose, Calif.:

> I am pleased to learn of the consideration being given by Congressman Ichord to legislation that would provide for a bond to insure the costs of legal fees in a 42 USC Sec. 1983 suit, inuring to the benefit of the prevailing party.

David L. Miller, police legal adviser, Vincennes, Ind.:

> With regards your letter and the enclosed draft, I wish to state that such a bill is long overdue . . .

Edward T. Dodd, Jr., police legal adviser, Waterbury, Conn.:

> It appears to be a much needed and long overdue remedy to the numerous frivolous and vexatious lawsuits brought under Title 42, Section 1983 . . . Moreover it will significantly improve the morale of police officers throughout the nation.

G. Patrick Hunter, Jr., police attorney, Charlotte, N.C.:

> I cannot emphasize to you enough how much detriment has been afflicted on law enforcement by frivolous suits filed in Federal Court under Sec. 1983.

John T. Casky, Jr., legal adviser, Baton Rouge, La.:

> This department is completely in accord with this proposed legislation, as members of this department have been faced with several such suits.

Charles Finston, aid and legal coordinator to the superintendent, Chicago, Ill.:

> The proposed Ichord Bill to halt so-called frivolous lawsuits against policemen under Title 42, Paragraph 1983 sounds good.

William J. Chisholm, police legal coordinator, Denver, Colo.:

> I am very much in favor of this bill. . . .

Howard Levine, police legal adviser, Fort Lauderdale, Fla.:

> There can be no question that legislation of this nature is urgently needed to provide police agencies with protection from what has become an avalanche of meritless litigation against police departments.

John R. Wilson, legal counsel, Jefferson County, Ky.:

> I feel the requirement of a party bringing the action to provide a bond commensurate with the costs of legal fees is desirable. . . .

John H. Comstock, legal adviser, Lincoln, Nebr.:

> Such legislation I'm sure would help in making law enforcement officers feel a little more secure in doing their work as it should be done. That is also the opinion of a number of men in our department who read and discussed the matter. . . .

George J. Franscell, assistant city attorney, Los Angeles, Calif.:

> Please be advised that we are in accord with the position that some form of written undertaking should be filed by a plaintiff in a civil rights action for monetary damages.

James F. Downey, acting sheriff, Los Angeles County, Calif.:

> There exists a real, demoralizing effect on law enforcement officers with the realization they may be subject to frivolous lawsuits and must defend with their own assets. The enactment of Section 1930 would obviously be a step in the right direction to prevent harassment of law enforcement by individuals and groups with unfounded claims.

John A. LaSota, Jr., assistant city attorney, Phoenix, Ariz.:

> I have read and heartily approve of the bill introduced by Congressman Ichord, seeking to curb the numerous frivolous suits against police officers . . .

Eugene Gordan, police legal adviser, San Diego, Calif.:

> The number of groundless suits being brought in federal court is rising each year, and something needs to be done to discourage overzealous attorneys and clients from initiating these suits . . .

There you have, Mr. Speaker, responses from north and south, east and west. There were many more similar replies.

Attorneys engaged in the law enforcement field believe there is a great need for such legislation. I believe that most members of the general public will agree.

Therefore I am introducing today a proposal to amend the Judiciary and Judicial Procedure Act of 1948 which reads as follows:

> SEC. 1930. In all courts of the United States, in any civil action brought against a law enforcement officer of the United States, or of any State, county, municipality, or other political subdivision, claiming damages resulting from the performance by an officer of his duties, the party bringing the action shall provide and file with the court in which the action is instituted a surety bond conditioned on the payment to defendants of reasonable costs of investigation and legal fees for defending such action should the defendants prevail in the action.
>
> For the purposes of this Act the term "law enforcement officer" shall include but not be limited to attorneys general, prosecuting attorneys, chiefs of police, sheriffs, constables, and their subordinates.

THE CHALLENGE FACED BY WOMEN OFFICERS IN THE SERVICES

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, on February 25 of this year a class was graduated at the Women Officers School of the U.S. Navy, Newport, R.I. At that time, Officer Candidate Susan J. Young spoke for her class. Her speech was so unusual that it has recently been brought to my attention.

I felt it had a message that ought to be shared with my colleagues, especially at a time when we have been paying far greater attention to the role of women in the Nation's armed services. Under leave to extend my remarks I include the text of Miss Young's fine, brief address:

> Admiral Wheeler, Admiral Crutchfield, Captain Scott, Commander Sheldon, distinguished guests, staff members, family, friends, and graduating students—
>
> In a few moments we will be taking the oath of office which will mark our official entrance into the Navy family. With that oath, we pledge to support and defend our Government and our way of life; in so doing, we indicate our acceptance of all responsibilities which may be placed upon us for the purpose of upholding that pledge. In addition to those obvious responsibilities we have toward our seniors, our subordinates and our work, we face others—less apparent, but no less important.
>
> Here at women officers school we have had the occasion to make decisions very much like those we will soon encounter. We have made mistakes, but that is part of the learning. And a large part of it was learning that what may be a wise decision—a correct action—in civilian life may not be at all appropriate—even be potentially dangerous—in the Navy. Part of this lies in the fact that in the Navy our responsibility does not end with ourselves. We as individuals are no longer the only ones to feel the results of our decision.
>
> Out of the 41 of us you will probably find just as many reasons for being here—a sense of adventure, job security, travel, new faces. But we are all bound by a common tie—we

want to be here. Nobody forced us; we have no threat of a draft hanging over us. We willingly committed ourselves to three years of the unknown. This willingness means then that we are totally dedicated to our new way of life, whether we choose to live it for three years or for thirty. For we are not about to commit ourselves to three years of half-hearted effort. We mean business.

We face a unique challenge as women in a traditionally male environment. We seek acceptance not as women officers, but as naval officers working together with all members of the Navy team—male and female—toward the fulfillment of the Navy's objectives. I don't think that any of us is trying to prove that women can be an integral part of the Navy—doing the same work, facing the same challenges, demanding the same respect as male officers. The fact that we are here proves we can—or at least it proves the Navy has *confidence* in us, and it is a confidence we will not betray. For it is a greater tragedy to reject something dearly won than never to have won it at all.

We are a spirited group—always seeking answers and explanations, always speaking our minds, then questioning the validity of the answers we receive. Why? Because we care. We care about our futures, the Navy's future and our country's future. We want to know the whole story about the Navy because we care what others think about us. A generation ago there was hardly a greater thing one could do than to join in the defense of one's country. Today, unfortunately, the reverse is all too common. The military is no longer viewed as that defender of freedom it was 30 years ago; it has become to many people some monster encroaching upon the rights of an innocent populace. It is our responsibility to change this attitude. For the attitude people hold of the Navy is the attitude they hold of us. And we have too much pride in ourselves and in our uniform to tolerate inaccuracies concerning us. It is within our power to educate others as the Navy's true purpose, which is to guard our freedom. And no one can say that freedom is not worth working toward.

Finally, we have a responsibility to ourselves. We have taken it upon ourselves to face the challenges and responsibilities the Navy can provide. Armed with our dedication, conviction and pride, we owe it to ourselves to do our very best, for we must live with ourselves and the life we make.

We alone can earn the personal satisfaction that comes from successfully meeting a challenge.

We were born into an age of new-found peace, matured during a period of prosperity, and have emerged as adults into a troubled, turbulent, confusing world. The way of life we have chosen is not easy. There will be many inconveniences, many sacrifices; a naval officer, like a parent, has a 24-hour-a-day job. We cannot afford to give *anything* less than our greatest effort. For the world we greet tomorrow rests upon what we accomplish today.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Eshleman (at the request of Gerald R. Ford), for today and the balance of the week, on account of continued recuperation.

Mr. Brasco (at the request of Mr. O'Neill), for today, on account of death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Steele) and to include extraneous matter:)

Mr. Kemp, for 10 minutes, today.

Mr. Bell, for 5 minutes, today.

Mr. Halpern, for 5 minutes, today.

Mr. Edwards of Alabama, for 5 minutes, today.

Mr. Veysey, for 5 minutes, today.

Mr. Anderson of Illinois, for 60 minutes, today.

(The following Members (at the request of Mr. Mazzoli) to revise and extend their remarks and include extraneous material:)

Mr. Reuss, for 20 minutes, today.

Mr. Brademas, for 5 minutes, today.

Mr. Aspin, for 10 minutes, today.

Mr. Gonzalez, for 10 minutes, today.

Mr. Staggers, for 5 minutes, today.

Mr. Denholm, for 30 minutes, May 9.

Mr. Danielson, for 30 minutes, May 9.

Mr. Fraser, for 10 minutes, May 9.

EXTENSION OF REMARKS

By unanimous consent, to revise and extend remarks was granted to:

Mr. Randall to revise and extend his remarks and that all Members have 5 legislative days in which to extend their remarks on the birthday of Harry S. Truman.

Mr. Roush.

(The following Members (at the request of Mr. Steele) and to include extraneous matter:)

Mr. Wyatt.

Mr. Kemp in two instances.

Mr. Quie.

Mr. Minshall.

Mr. McClory in two instances.

Mr. Martin.

Mr. Brown of Ohio in two instances.

Mr. Springer in two instances.

Mr. Halpern in four instances.

Mr. Duncan.

Mr. Veysey.

Mr. Horton.

Mr. Collins of Texas in three instances.

Mr. Scherle in 10 instances.

Mr. Harvey.

Mr. Saylor.

Mr. Schwengel in two instances.

Mr. Vander Jagt.

Mr. Price of Texas.

Mr. Spence.

Mr. Hosmer in two instances.

Mr. Fish.

(The following Members (at the request of Mr. Mazzoli) and to include extraneous matter:)

Mr. Hamilton in 10 instances.

Mr. Fisher in three instances.

Mr. Drinan in two instances.

Mr. Gonzalez in three instances.

Mr. Rarick in three instances.

Mr. Hungate in two instances.

Mr. Rogers in five instances.

Mr. Rodino in three instances.

Mr. Dingell in two instances.

Mrs. Abzug in five instances.

Mr. Harrington in three instances.

Mr. Brasco.

Mr. Burke of Massachusetts.

Mr. Symington in two instances.

Mr. James V. Stanton in two instances.

Mr. Waldie in six instances.

Mr. Edwards of California in five instances.

Mr. Moorhead in three instances.

Mr. Jacobs.

Mr. Pike.

Mr. Pepper.

Mr. Begich in three instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 538. An act to declare that certain federally owned lands are held by the United States in trust for the Indians of the Pueblo Cochiti; to the Committee on Interior and Insular Affairs.

S. 3572. An act to extend and amend sections 5(n) and 8(d) of the Federal Water Pollution Control Act, as amended; to the Committee on Public Works.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 13591. An act to amend the Public Health Service Act to designate the National Institute of Arthritis and Metabolic Diseases as the National Institute of Arthritis, Metabolism, and Digestive Diseases, and for other purposes; and

H.J. Res. 1174. Joint resolution making an appropriation for special payments to international financial institutions for the fiscal year 1972, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On May 4, 1972:

H.R. 11589. An act to authorize the foreign sale of certain passenger vessels.

On May 5, 1972:

H.R. 9019. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Jicarilla Apache Tribe in Indian Claims Commission docket numbered 22-A, and for other purposes; and

H.R. 13753. An act to provide equitable wage adjustments for certain prevailing rate employees of the Government.

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 47 minutes p.m.), the House adjourned until tomorrow, Tuesday, May 9, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1942. A communication from the President of the United States, transmitting an amendment to the request for appropriations transmitted in the budget for fiscal year 1973 for the Department of Agriculture (H. Doc. No. 92-291); to the Committee on Appropriations and ordered to be printed.

1943. A communication from the President of the United States, transmitting an amendment to the request for appropriations transmitted in the budget for fiscal year 1973 for the National Oceanic and Atmospheric Administration, Department of Commerce (H. Doc. No. 92–292); to the Committee on Appropriations and ordered to be printed.

1944. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting plans for works of improvement, none of which involves a structure which provides more than 4,000 acre-feet of total capacity, pursuant to section 5 of the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1005); to the Committee on Agriculture.

1945. A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize educational institutions where units of the Senior Reserve Officers' Training Corps are maintained to be reimbursed in recognition of reasonable costs incurred by them in support of ROTC programs; to the Committee on Armed Services.

1946. A letter from the Secretary of Health, Education, and Welfare, transmitting a report of Federal activities in vocational rehabilitation and related fields covering fiscal year 1971, pursuant to 29 U.S.C. 34 and 39; to the Committee on Education and Labor.

1947. A letter from the Chairman, National Labor Relations Board, transmitting lists containing (1) the names, salaries, and duties of all employees and officers of the NLRB, (1) cases heard and/or decided by the Board, and (3) the fiscal statement showing total obligations and expenditures for fiscal year 1971, pursuant to section 3(c) of the Labor Management Relations Act of 1947; to the Committee on Education and Labor.

1948. A letter from the Chairman, National Advisory Council on Education Professions Development, transmitting a report on educational renewal, pursuant to Public Law 90–35; to the Committee on Education and Labor.

1949. A letter from the Acting Administrator, Agency for International Development, Department of State, transmitting a determination of the Secretary of State that an increase in AID's supporting assistance fiscal year 1972 allocation for Jordan is in the security interests of the United States, pursuant to section 653 of the Foreign Assistance Act; to the Committee on Foreign Affairs.

1950. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Texas Instruments, Inc., Dallas, Tex., for a research project entitled "Mine Air Monitor," pursuant to Public Law 89–672; to the Committee on Interior and Insular Affairs.

1951. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with United Aircraft Research Laboratories, East Hartford, Conn., for a research project entitled "Development of a Boring Machine Cutter Instrumentation Program," pursuant to Public Law 89–672; to the Committee on Interior and Insular Affairs.

1952. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, together with a list of the persons involved, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

RECEIVED FROM THE COMPTROLLER GENERAL

1953. A letter from the Comptroller General of the United States, transmitting a report on the need for improvement in readiness of Strategic Army Forces, Department of the Army; to the Committee on Government Operations.

1954. A letter from the Comptroller General of the United States, transmitting a list of the reports issued or released by the General Accounting Office in April 1972, pursuant to Public Law 91–510; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GARMATZ: Committee on Merchant Marine and Fisheries. H.R. 14146. A bill to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zone, and for other purposes; with an amendment (Rept. No. 92–1049). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ABZUG:

H.R. 14814. A bill to provide Federal citizen anticrime patrol assistance grant to residents' organizations; to the Committee on the Judiciary.

By Mr. ANDREWS of North Dakota:

H.R. 14815. A bill to amend chapter 15 of title 38, United States Code, to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations; to provide for such veterans a certain priority in entitlement to hospitalization and medical care; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BELL:

H.R. 14816. A bill to amend and extend the Juvenile Delinquency Prevention and Control Act of 1968; to the Committee on Education and Labor.

By Mr. BELL (for himself and Mr. PUCINSKI):

H.R. 14817. A bill to encourage and assist States and localities to coordinate their various programs and resources available for the prevention, treatment, and control of juvenile delinquency, and for other purposes; to the Committee on Education and Labor.

By Mr. DINGELL:

H.R. 14818. A bill to require the approval of the Secretary of Labor of all closings of plants in areas of high unemployment; to the Committee on Education and Labor.

By Mr. DOWNING:

H.R. 14819. A bill to have the President appoint the Director of the Federal Bureau of Investigation to a single term of 15 years; to the Committee on the Judiciary.

By Mr. HALPERN (for himself and Mr. LINK):

H.R. 14820. A bill to provide financial assistance for State and local small, community-based correctional facilities; for the creation of innovative programs of vocational training, job placement, and on-the-job counseling; to develop specialized curriculums, the training of educational personnel, and the funding of research and demonstration projects; to provide financial assistance to encourage the States to adopt special probation services; to establish a Federal Corrections Institute; and for other purposes; to the Committee on the Judiciary.

By Mr. HATHAWAY:

H.R. 14821. A bill to provide housing for persons in rural areas of the United States on an emergency basis; to the Committee on Banking and Currency.

By Mr. ICHORD:

H.R. 14822. A bill to amend the Judiciary and Judicial Procedure Act of 1948; to the Committee on the Judiciary.

By Mr. JOHNSON of Pennsylvania:

H.R. 14823. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

By Mr. LENT (for himself and Mr. BRASCO):

H.R. 14824. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education dependents; to the Committee on Ways and Means.

By Mr. MINSHALL:

H.R. 14825. A bill relating to the tariff treatment of certain equipment for ice skating facilities; to the Committee on Ways and Means.

By Mr. MOSS (for himself and Mr. BROYHILL of North Carolina):

H.R. 14826. A bill to amend the Securities Exchange Act of 1934 to provide for the regulation of securities depositories, clearing corporations, and transfer agents; to the Committee on Interstate and Foreign Commerce.

By Mr. O'NEILL:

H.R. 14827. A bill to provide payments to localities for high-priority expenditures, to encourage the States to supplement their revenue sources, and to authorize Federal collection of State individual income taxes; to the Committee on Ways and Means.

By Mr. QUIE:

H.R. 14828. A bill authorizing continuation of programs of Action, creating a National Advisory Council for that agency, and for other purposes; to the Committee on Education and Labor.

By Mr. RAILSBACK:

H.R. 14829. A bill to provide additional protection for the rights of participants in employee pension and profit-sharing-retirement plans, to establish minimum standards for pension and profit-sharing-retirement plan vesting and funding, to establish a pension plan reinsurance program, to provide for portability of pension credits, to provide for regulation of the administration of pension and other employee benefit plans, to establish a U.S. Pension and Employee Benefit Plan Commission, to amend the Welfare and Pension Plans Disclosure Act, and for other purposes; to the Committee on Ways and Means.

By Mr. REUSS (for himself, Mr. OBEY, Mr. FRASER, and Mr. VANIK):

H.R. 14830. A bill to amend the Internal Revenue Code of 1954 to raise needed additional revenues by repealing certain provisions relating to the allowance for depreciation and increasing the amount of minimum tax imposed on tax preferences; to the Committee on Ways and Means.

By Mr. RODINO (for himself, Mr. CELLER, Mr. EILBERG, Mr. FLOWERS, Mr. DENNIS, Mr. MAYNE, Mr. HOGAN, and Mr. MCKEVITT):

H.R. 14831. A bill to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. RODINO:

H.R. 14832. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U. S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. ROE:

H.R. 14833. A bill to amend the Public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY of Pennsylvania:

H.R. 14834. A bill to amend the Internal Revenue Code of 1954 with respect to lobbying by certain types of exempt organizations; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI:

H.R. 14835. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. SCHEUER (for himself, Mrs. Abzug, Mr. Badillo, Mr. Conyers, Mr. Harrington, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Koch, Mr. Mitchell, Mr. Moorhead, and Mr. Rees):

H.R. 14836. A bill to limit the term of office of the Director of the Federal Bureau of Investigation and to provide for Presidential appointment and Senate confirmation of the Director; to the Committee on the Judiciary.

By Mr. SEIBERLING:

H.R. 14837. A bill to amend the Foreign Assistance Act of 1961 to expand American exports by utilizing U.S.-owned foreign currencies to pay import duties on such goods, and for other purposes; to the Committee on Foreign Affairs.

By Mr. J. WILLIAM STANTON:

H.R. 14838. A bill to deauthorize the Lake Erie-Ohio River Canal; to the Committee on Public Works.

By Mr. STRATTON (for himself, Mr. Bevill, Mr. Biaggi, Mr. Brademas, Mr. Cleveland, Mr. Derwinski, Mr. Dulski, Mr. Forsythe, Mrs. Green of Oregon, Mr. Harrington, Mr. Helstoski, Mr. Hogan, Mr. Kyros, Mr. Macdonald of Massachusetts, Mr. McFall, Mr. Moorhead, Mr. Rodino, Mr. Roy, Mr. Staggers, Mrs. Sullivan, and Mr. Yatron):

H.R. 14839. A bill to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, and for other purposes; to the Committee on Ways and Means.

By Mr. ULLMAN (for himself, Mr. Wyatt, Mrs. Green of Oregon, and Mr. Dellenback):

H.R. 14840. A bill providing for Federal purchase of the remaining Klamath Indian Forest; to the Committee on Interior and Insular Affairs.

By Mr. VEYSEY (for himself, Mr. Denholm, and Mr. Bob Wilson):

H.R. 14841. A bill to promote the use of low-pollution motor fuels by equalizing the tax treatment of liquefied and compressed natural gas; to the Committee on Ways and Means.

By Mr. WINN:

H.R. 14842. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. YATRON:

H.R. 14843. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence; to the Committee on Ways and Means.

By Mr. ZWACH:

H.R. 14844. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the St. Croix River, Minn. and Wis., as a component of the national wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

By Mrs. ANDREWS of Alabama:

H.J. Res. 1190. Joint resolution proposing an amendment to the Constitution of the United States relative to neighborhood schools; to the Committee on the Judiciary.

By Mr. EILBERG:

H.J. Res. 1191. Joint resolution to suspend temporarily the authority of the Interstate Commerce Commission to permit the abandonment of a line of railroad or the operation thereof; to the Committee on Interstate and Foreign Commerce.

By Mr. FRASER:

H.J. Res. 1192. Joint resolution to terminate U.S. military involvement in Indochina; to the Committee on Foreign Affairs.

By Mr. LONG of Maryland (for himself, Mr. Garmatz, and Mr. Sarbanes):

H. Con. Res. 603. Concurrent resolution expressing the sense of Congress with respect to peace in the Middle East; to the Committee on Foreign Affairs.

By Mr. HORTON:

H. Res. 967. Resolution urging supplemental appropriations to implement the President's message of March 17, 1972, calling for equal educational opportunities; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

385. By the SPEAKER: Memorial of the Legislature of the State of Tennessee, relative to American military preparedness; to the Committee on Armed Services.

386. Also, memorial of the Legislature of the State of Hawaii, relative to the planning and construction of water resource facilities at Kokee, Kauai; to the Committee on Interior and Insular Affairs.

387. Also, memorial of the Legislature of the State of Tennessee, requesting the Congress to call a convention to propose an amendment to the Constitution of the United States to guarantee the rights of students to attend the school nearest their home; to the Committee on the Judiciary.

388. Also, memorial of the Legislature of the State of West Virginia, ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

389. Also, memorial of the House of Representatives of the State of Hawaii, relative to foreign oil import quota program; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 14845. A bill to grant a Federal charter to the National Association of Auto Racing Fan Clubs; to the Committee on the District of Columbia.

By Mr. ECKHARDT:

H.R. 14846. A bill for the relief of Lai Huen Chow (also known as Hannah Chow); to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

225. By the SPEAKER: Petition of the Board of County Commissioners, Dade County, Fla., relative to enactment of a Federal antirecession and full employment law; to the Committee on Banking and Currency.

226. Also, petition of Henry Stoner, York, Pa., relative to the Federal Election Campaign Act of 1971; to the Committee on House Administration.

227. Also, petition of the mayor and council, Tucson, Ariz., relative to making Federal highway trust funds available for mass transportation purposes; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

ARKANSAS, LAND OF OPPORTUNITY

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. ALEXANDER. Mr. Speaker, less than 25 years ago 57 percent of Arkansas' gross cash receipts came from the production of one crop—cotton. It was grown in the State's hillier areas as well as in the more suitable rich fertile flatlands of the Mississippi Delta. Now, although Arkansas still ranks third among the States in cotton production, three other crops—soybeans, poultry, and cattle—have taken firm root in the Arkansas farmlands and moved cotton down to fourth place in the State's agricultural production statistics. And, the State produced enough of its fifth-place crop to rank second only to Texas in rice earnings.

Today I am including in the Record an article which illustrates how Arkansas farmers have effectively put to use the "Land of Opportunity."

[From Crop Production, Mar. 16, 1972]

ARKANSAS, LAND OF OPPORTUNITY

"We have two miracle crops here in Arkansas. One's a bean. The other's a bird," remarked Roy D. Bass, statistician in charge for SRS in Little Rock, in an interview recently.

"Soybeans and broilers do deserve special mention because they are the fastest expanding farm products in the Land of Opportunity.

"Take 1970 (the last year for which complete livestock data are available) as an example. That year soybeans and broilers each earned about a fifth of Arkansas farmers' gross income. Back in 1950, broilers earned somewhat over 8 percent and soybeans less than 5 percent," noted Bass.

"Soybeans got going about 25 years ago," added Bass. "In 1949 about 300,000 acres were harvested. Then we picked up steam, harvesting about 1.2 million acres by 1955 and 2.4 million by 1960. Last year farmers harvested an estimated 4.3 million acres."

The 1971 soybean crop is estimated at 91.7 million bushels, making Arkansas the No. 5 soybean producer in the Nation. The value of last year's crop totaled $275 million—about 45 percent more than the State's next most valuable crop, cotton.

"Cotton is no longer what it once was down here," said Bass. "In 1949, when cotton was still grown in many of the State's hilly areas, it earned 57 percent of gross cash receipts. By 1970 cotton brought in 12 percent, excluding government payments. Production is now pretty much confined to flatlands along the Mississippi, where mechanization is practical."

Arkansas now ranks as the Nation's No. 3

cotton State. It produced over 1 million bales of cotton in 1970 and over 1.2 million in 1971—cotton lint values, respectively, $117 and $161 million.

After cotton, rice ranks fifth in earnings to Arkansas farmers. Last year the State was edged out of the No. 1 production spot by Texas. Still, the 21.8 million hundredweight produced was worth almost $118 million.

Arkansas' crop farming lies mostly in the eastern part of the State, near the Mississippi River. Much additional land has been cleared or drained in this area. In fact, Arkansas is one of the few States to register a gain in farmland since the start of the 1960's.

The central and western counties are mostly hilly or mountainous. Farming there is mostly related to livestock and poultry enterprises.

"Poultry means growth in this State," said Bass. "Just look at our record on broilers, eggs, turkeys."

Arkansas emerged as the Nation's No. 1 broiler producer in 1970 and weekly chick placement reports indicate that lead was maintained for 1971.

Production figures illustrate the broiler growth most dramatically. In 1950 the State turned out somewhat less than 50 million birds. Production totaled almost 453 million birds in 1970. In fact, during 1970 Arkansas turned out 9 percent more broilers than the year before.

Farm income from the broiler business also expanded dramatically over the past 20 years. It rose from 1950's almost $37 million and 1960's $91 million to 1970's $200-plus million. Broiler production now holds the second spot for gross farm income in Arkansas.

Eggs have shared the growth spotlight. In 1950 Arkansas' chickens laid 726 million eggs, worth almost $20 million. In 1970 production stood at almost 3.5 billion eggs, worth over $101 million in cash receipts. The State ranked No. 4 nationally in egg production in 1970, compared with No. 23 in 1950.

In 1970, Arkansas farmers sold 7.4 million turkeys, compared with 493,000 in 1950. They earned farmers almost $34 million in 1970, compared with $2.7 million two decades earlier. Over that period, Arkansas rose from No. 28 to No. 6 turkey State.

Cattle and calves earned over $161 million in 1970, exceeded only by soybeans and broilers. Relatively few cattle are finished out for slaughter within the State; most find their way to out-of-State feedlots.

ARTHUR E. SUMMERFIELD

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Monday, May 8, 1972

Mr. GRIFFIN. Mr. President, on April 29, Mrs. Griffin and I were among those who attended the funeral of former Postmaster General Arthur E. Summerfield.

The Reverend Dr. David E. Molyneaux, pastor of Flint's First United Presbyterian Church, delivered a most appropriate and moving message. I ask that the text of his message be printed in the RECORD.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

ARTHUR E. SUMMERFIELD

(By Dr. David E. Molyneaux)

In the passing of Arthur E. Summerfield, Flint has lost a loved friend, a neighbor, and unfailing advocate—and our nation has lost a positive and forthright Elder Statesman. But we are here today to give thanks to God for the friendships and associations that drew us into the company of this "man for all seasons". Recognizing the love, respect and reverence present here in such abundance, Mr. Summerfield's family has asked that every person present today be an "Honorary Pallbearer" for his services. I am sure we all thank you—Miriam, Arthur and Gertrude—for this honor you have done us.

Some years ago, in an accidental meeting on a plane coming to Flint, Mr. Summerfield handed me a card he was carrying in his pocket. It was a copy of Rudyard Kipling's famous poem "If". The lines haunt me with their applicability with reference to him:

If you can keep your head when all about you
  Are losing theirs and blaming it on you;
If you can dream—and not make dreams your master;
  If you can think—and not make thoughts your aim,
If you can force your heart and nerve and sinew
  To serve your turn long after they are gone,
And so hold on when there is nothing in you
  Except the Will which says to them: "Hold on!
If you can talk with crowds and keep your virtue,
  Or walk with Kings—nor lose the common touch,
If you can fill the unforgiving minute
  With sixty seconds' worth of distance run,
Yours is the Earth and everything that's in it,
  And—which is more—you'll be a Man my son!

Today the smoke of old political battles has blown away; the fury of ideological struggles has subsided; and Arthur Summerfield looms up before us in the heroic stature of an elemental man. Political leaders, statesmen, prominent people in the business, professional and industrial worlds have paid tribute to his genius and leadership—but the common people claimed him as a friend and a supporting pillar.

Last evening a man whom I did not know called me to share with me his impressions of Mr. Summerfield. This man and a group of his co-religionists, dress in period costumes and sing carols at the Christmas season to raise money for certain worthy projects. I recalled with deep appreciation the times that they knocked on the Summerfield door and were greated warmly by Mr. Summerfield himself. Calling Miriam to his side, the two of them stood in the doorway with their arms entwined—not grudgingly giving a few minutes, but joyously sharing in the thrilling tradition of the season with these earnest singers. "I shall always remember Mr. Summerfield", said my caller, "standing in that doorway, a picture of love and friendship—his arm around his wife and his attention directed to us."

What was the basis of the life of this man who, paradoxically, was a mixture of simplicity and complexity?

(1) First of all, Arthur Summerfield was a man acquainted with struggle. He struggled to educate himself for life after leaving formal schooling at the eighth grade . . . to make a living for himself and his bride in a depression time that forced him to sell his own home . . . to organize a sound automobile agency in the fearful years that followed 1929 . . . to bring order and progressiveness to the political structure in his home state . . . to assist in the election of a President in whom he had confidence and to whom he could pledge support . . . to tackle the tough and thankless job of running the incredibly involved post office department . . . to carry on as a wise and helpful counselor in the face of physical illness.

A few weeks before the 1964 Republican national convention he told a gathering of Berrien County Republicans: "After these many years of experience and intimate knowledge of our national problems and policies, and working with the greatest leaders of our time, I cannot withdraw from this responsibility. No man in this position has a right to do so."

At no time in his life could he draw back from a struggle. He believed that the purpose back of the divine gift of talents was to propel a person into the struggles for human betterment. He would not divorce himself from the fight to save himself personal cost or discomfort.

(2) Then, Arthur Summerfield was a man with a sensitive conscience. What a choice legend is that which recounts the impulse that put him into politics. In 1940 the candidate, Wendell Willkie came to Flint and was met by a small and somewhat hostile audience. Mr. Summerfield was appalled by the sight of a candidate for the country's highest office being booed and pelted. Like Abraham Lincoln viewing a slave market, Arthur's anger carried him into politics and into the places of great responsibility.

But this quality was always present with him. He was disturbed by the conditions existing in the North End of Flint, and he bent his efforts to correcting them. He was horrified by the sub-standard housing he found in the city, and he moved mountains to secure funds for re-development. He was baffled by the unbusinesslike methods he found in the department he headed in Washington, but he set to work to bring order and progress there. A disturbed conscience was the first step toward constructive action for him.

(3) Arthur Summerfield was a man with rare talents of communication. Passionate in his convictions, he carrried others along with him. He awakened people to their political responsibilities in Michigan as never before. On occasion when he happened to be on a plane together, Mr. Summerfield began a discussion of some political concern in which he was vitally interested. He poured out his reasoning and his earnest convictions with all the zest that he would have employed speaking to a national convention or a conference of leading statesmen instead of an insignificant preacher—and I was already convinced in his direction. But here was a man who believed his beliefs with a passionate intensity and stood by his convictions without equivocation.

He filled the role of "king-maker" in persuading Mr. Eisenhower to accept the call to public service and in marshalling the electorate behind him. His benign influence with the current administration in Washington has been the result of the friendships he created in former years.

Believing that the integrity of its leaders was the strength of the American system, he promoted the decencies of mind and soul with firmness and vigor. By his personal life and by the words he spoke, he helped to create an atmosphere of honesty and reliability wherever he went.

(4) Arthur Summerfield was both the creator and the product of his local community. That he influenced many of the developments that have made Flint a progressive and forward-moving city is well-known. In St. Paul's Cathedral in London is an inscription to the memory of Sir Christopher Wren: "If you seek a monument for this man, look around you". That is, the churches and other buildings of magnificent architectural beauty in London are the work of his hands and thus his monument. In the same sense, Flint says, "Our city is a monument to Mr. Summerfield".

But Flint molded him while he was molding it. Here he came at the age of 9 to make his lifelong home . . . . here he met and married Miriam Graim . . . . here he reared his fine family and grandchildren . . . . here he built a great and thriving business . . . .

here he took his first steps into the political world . . . . from here he set forth for Washington . . . . here he returned for the sunset years . . . . and here he rests in hallowed sleep—

His task well done
His race well run
His reward well earned

He served his friends and neighbors well—never diminishing his zeal for improving his world, never losing the tie that bound him to his fellowman.

Josiah Gilbert Holland might well have been speaking of him when he wrote:

God, give us Men! A time like this demands
Strong minds, great hearts, true faith and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie;
Men who can stand before a demagogue
And damn his treacherous flatteries without winking!
Tall men, sun-crowned, who live above the fog
In public duty and in private thinking.

BRINGING OIL OUT OF ALASKA

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. ASPIN. Mr. Speaker, recently the New York Times, the Washington Post, and the Christian Science Monitor in editorials all strongly criticized the Interior Department for failing to hold public hearings on the final environmental impact statement on the proposed trans-Alaska pipeline. In addition, each of these three distinguished newspapers strongly pointed out both the economic and environmental advantages of building an oil pipeline parallel to a natural gas pipeline expected to be built from Alaska's North Slope to the Midwest.

Also, 12 Republican Senators from the Midwest and East, led by Senator ROBERT GRIFFIN of Michigan, have strongly endorsed a Canadian pipeline alternative.

Today, I would like to include in the RECORD an editorial that appeared in the April 30 issue of the Boston Sunday Globe called "Bringing Oil Out of Alaska." Those of my colleagues interested in the Alaska pipeline issue will, I believe, find this editorial informative. It follows:

BRINGING OIL OUT OF ALASKA

A decision on the Alaskan Pipeline could come as early as May 4, at which time the Secretary of the Interior could grant a construction permit without any further hearings, despite the fact that a new environmental impact statement issued on March 20 in six solid volumes describes the possibility of earthquakes on the 800-mile route as "almost a certainty" and states that it is "unlikely" that no oil spills would occur.

Secretary Morton has argued that adequate testimony was taken in hearings following release of a draft impact statement last year. But the Wilderness Society points out that "so little information was then available that scientists and engineers wishing to evaluate the project could do little more than point to the glaring omissions of the government's draft statement."

That is no longer true. Even the Sierra Club, which calls for a five-year moratorium on pipeline construction, praises the Department of the Interior and the seven corporate members of the Alyeska Company for their efforts to detail potential hazards of the proposed pipeline. But the wealth of new information and in particular a new emphasis on an alternate route through Canada, make it imperative that careful study be given before rushing ahead with construction in the alleged national interest of ending this country's dependence on oil from the Middle East.

Although a temporary restraining order obtained by three conservation groups in a Washington District Court will almost certainly be appealed to the U.S. Supreme Court, there is increasingly less talk of halting all exploitation of oil from Alaska's North Slope. But, almost from the beginning, there has been discussion of a trans-Canada route to carry natural gas from the North Slope, southeast along the Mackenzie River, to Edmonton where it could be carried on through the expansion of existing systems to Chicago and Seattle.

The new impact statement, of which only seven copies have been made available at no cost, appears to accept a trans-Canada route for natural gas which cannot easily be transshipped from pipe to ship and back to pipe again, and suggests that "less environmental costs would result from a single transport corridor than from two separate corridors," with a separate pipeline for oil running from the North Slope to Valdez on Alaska's south coast.

The Canadians, alarmed at the possibility of oil spills from U.S. tankers off the coast of British Columbia if the trans-Alaska pipeline goes through, predict that the required studies for a Canadian route could be completed by the end of the year with possible approval for a pipeline to Edmonton by the end of next year.

The oil companies have resisted the trans-Canada route because it would be double the length of the pipeline and could result in a two- to three-year delay in bringing oil out of the North Slope. But the Canadian route would have the clear advantages of avoiding the dangers of crossing Alaska's high earthquake belt, of not having to transship oil at Valdez to bring it by tanker down an inland waterway, and, perhaps most importantly, it would deliver North Slope oil to Chicago where it would be available to those areas that need it the most—the midwestern United States and the East Coast megalopolis.

The proposed north-south route across Alaska would cut America's largest remaining wilderness in half with the danger of tearing up the tundra, melting the permafrost, polluting the rivers and disrupting the habitat of the birds and beasts who roam these open lands. It would also deliver oil to the West Coast which already has a surplus and, in fact, the impact statement admits that, if the trans-Alaska route is approved, some of the North Slope oil would be sold to Japan while import quotas keep oil high elsewhere in the United States.

Representative Les Aspin of Wisconsin, who has led the battle for hearings on the new impact statement, argues that any oil crisis caused by waiting for a trans-Canada pipeline could be prevented by lowering U.S. import quotas and buying extra oil from Canada. The Canadians, who foresee the added advantage of being able to link future oil discoveries in the Canadian north into a Mackenzie River system, discussed this favorably with President Nixon on the President's recent visit to Ottawa.

As for the issue of national security, the impact statement points out that the North Slope's two million barrels of oil a day would represent only 9 percent of this country's needs for the year 1980. And Secretary C. B. Rogers Morton has been quoted as saying "no matter what we do by the mid-'80s, the United States will be dependent on foreign sources for one-third of our oil."

All things considered, Mr. Morton would be well advised to resist oil company pressure and allow a delay for hearings on the new issues raised by his own staff in the six-volume impact statement.

CONSUMERS SUFFER FROM PHASE II CONTROLS

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. MOORHEAD. Mr. Speaker, evidence is beginning to mount that controls under phase II of the Presidents' new economic policy are not working.

Inflation persists and high prices gut the take-home pay of the wage earner.

The housewives of America have been telling us right along that they have been spending more money for products which supposedly are under control.

Sylvia Porter in a recent column supplies the figures that support the contention that phase II and the President's economic policy have been less than effective.

I include that article in the RECORD at this point.

CONTROLS OF PHASE II ARE NO GREAT SUCCESS

(By Sylvia Porter)

Within a few days, Phase 2 will reach the six-month milestone. What has been the record of this extraordinary experiment with price controls during a period of undeclared war?

Just fair, at best.

In fact, using President Nixon's own yardstick for success—slowing in the annual rate of rise in the price level to the 2½ percent range—it has been a dismal flop.

It has not been a dismal flop, though—and now that Phase 2 is turning into a stricter Phase 3, it will become a much more apparent success.

We are watching Phase 3 unfold right now—with its stiffer policing, heavy and widely publicized clampdown on violators, threats of real punishment for flagrant abuses, tighter controls on the giants and in the most troublesome areas.

If you include the freeze of Phase 1 (August-November 1971) with the price-wage controls of Phase 2 (since November), the record comes out much brighter. The August-March rise in consumer prices was at an annual rate of only 2.8 per cent and, if update through May 14, the annual rate of rise well might be down to Nixon's 2.5 percent target. The cost of automobiles in the Phases 1-2 period through March was actually down 2.3 percent.

But this is not an honest way of judging Phase 2.

The freeze the President announced last Aug. 15 was obviously a temporary thing. You couldn't live under such rigidity and you wouldn't want to.

The only honest way to judge the success of Phase 2 is to compare its inflation rates with those which were battering the U.S. economy in the months leading to the freeze.

Here are the figures for the six months prior to August, and for the Phase 2 months through March, put together for this column by the Bureau of Labor Statistics. The current rates probably will show a perceptible improvement when the May figures become available in late June. These statistics however, will give the essential clues.

[In percent]

Item	Precontrols	Phase 2
All items	+4.1	+3.7
Food	+5.4	+7.4
Nonfood commodities	+3.7	+2.1
Housing	+4.1	+3.6
Rent	+3.9	+2.9
Property taxes	+8.2	+16.9
Services	+4.5	+3.7
Medical care	+7.3	+3.1
Public transportation	+7.6	+2.8
Private transportation	+2.4	−.5
Clothes and upkeep	+2.4	+1.7

The percentages that leap out are the 7.4 percent upsurge in food prices and the 16.9 percent spiral in property taxes—both much, much worse in Phase 2 than in the precontrol period.

Both of these are among the categories exempt from Phase 2 controls—a point which cannot be overemphasized. Close to 20c of every $1 goes for goods and services which are not under controls, a fat loophole indeed.

Among other categories also exempt from controls: damaged and used products, such as used cars; insurance premiums on new life insurance policies other than credit life insurance; tailoring of clothes; custom products and services including leather goods, wigs and toupees, fur apparel, jewelry; rents on farms, offices and industrial property; interest rates; fees and service charges by state and local governments.

In the food category, there are no controls on fresh fruits, vegetables, shell eggs, fresh potatoes, all seafood products, live animals and poultry. Meat prices are controlled only after a animal is slaughtered. Moreover, "pass through" rules permit meat processors and wholesalers to pass along whatever price increases and markups have been passed to them—all along the way to you and me.

NIXON'S FORMER ENERGY ADVISER FAVORS CANADA OIL PIPELINE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. ASPIN. Mr. Speaker, it has become increasingly apparent lately that the almost unanimous consensus of those not employed by the Government or the oil industry who have studied the Alaska pipeline question in some depth is that a Canadian oil pipeline alternative is far superior to the proposed trans-Alaska line both environmentally and economically.

S. David Freeman, the former head of the Energy Policy Staff of the President's office of Science and Technology, "came out squarely for the Canadian pipeline route in a letter to Interior Secretary Rogers C. B. Morton," according to an article in the Washington Evening Star last Friday, May 5. Thus, the former energy adviser to President Nixon joins with the New York Times, the Washington Post, the Christian Science Monitor, the Detroit Free Press, and the Boston Globe in advocating further consideration of a trans-Canadian route before any decision is reached on the trans-Alaska line.

The Washington Star article follows:

EXPERT FAVORS CANADA ROUTE FOR OIL

(By Roberta Hornig)

A former government energy expert says that transporting North Slope oil through Canada rather than across Alaska "is not only environmentally superior and economically more attractive but . . . would materially strengthen our national security."

S. David Freeman, who headed the energy policy staff of the President's Office of Science and Technology until he resigned last September, came out squarely for the Canadian pipeline route in a letter to Interior Secretary Rogers C. B. Morton this week, and urged the cabinet officer to do the same.

While at the White House, Freeman had worked on Nixon's energy message to Congress last July. He had been originally appointed by President Johnson.

Morton is currently contemplating whether to grant a permit opening the way for a controversial trans-Alaska pipeline to carry oil from the state's rich oil fields in the Arctic north to the ice-free port of Valdez in the southern part of the state.

The oil then would be shipped to the continental United States in tankers.

In his letter, Freeman pointed to recent oil finds by Canada in its Arctic north—discoveries that are believed to equal the Alaskan reserves.

"It is . . . of prime importance to our national security that we encourage the exploration and development of the rich petroleum resources in Canada, as well as those in the United States, and thus lessen our reliance on less secure imports from the Middle East," Freeman said.

He added that building a pipeline "land bridge" from Alaska down the MacKenzie River Valley "would be the strongest possible measure to further exploration and development of secure North American petroleum."

ECONOMIC ANALYSIS

Freeman's letter is in the nature of comments on the Interior Department's environmental impact statement and its accompanying economic analysis of the proposed trans-Alaska pipeline.

The impact statement agreed with environmentalists' arguments that the proposed Alaska route would pass through intense earthquake belts and that oil spills would be inevitable during tanker transport to the U.S. West Coast.

The accompanying economic analysis, however, brought up the question of "national security" and seemed to favor the Alaskan pipeline over any alternative route.

"FALSE NOTION"

Downgrading the argument that the Alaska route is necessary for "national security" proposes, Freeman said that that route would fail to provide the incentive and means for developing the Canadian oil and bringing it to U.S. markets.

"It would only tap the Alaskan oil and direct it toward the West Coast market, which is not large enough to consume all of it," he said.

Further, he added, "the most vulnerable areas to short energy supplies are the East and the Midwest, which would better be served through a Canada routing."

"The notion that we can't afford to wait for the completion of the Canadian energy corridor is . . . a false notion that is detrimental to obtaining a secure source of energy for the United States in the 1980's," Freeman argued.

Earlier this week, 12 members of the Senate asked Morton to endorse a Canadian routing.

AUSTRALIAN GENERAL VOICES CONCERN

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SPENCE. Mr. Speaker, a recent editorial by Dumitru Danielopol in the Joliet, Ill., Herald-News warrants the attention of every Member of Congress. The editorial recounts an article by Brig. Gen. Francis Serong who commanded Australian units fighting in Vietnam, in which he calls the prospects facing Australia today as grim as the situation following the British and American pull-out from the Pacific early in the Second World War which left this country virtually defenseless.

Serong wisely points out that while the focus of attention has been on the Vietnam War, people have tended to overlook, the fact that both China and Russia are racing to win Indonesia, which controls the vital oil supply line from the Middle East to Japan and is a key to the destiny of the 23 Asian countries between Iran and Japan which contain more than half of the world's total population.

Serong sees as essential to Australia's future and, indeed the future of the Free World, a strong Japan, ready, willing and able to protect her own interests in the broadest sense. But he sees Japan as an uncommitted and very vulnerable nation, despite the fact that its defense budget has been edging upward in the face of well-organized leftist and anti-military opposition and despite the fact that 50 percent of the population now favors obtaining nuclear arms.

I have long shared General Serong's concern about the way in which Russia and China are moving in to take over key defensive points in the Asian perimeter as we withdraw and leave vacuums to be filled. I know that prominent and highly regarded officers in our own military, including Admiral McCain, Commander-in-Chief of the Pacific fleet, share that concern.

It is greatly to be hoped that those who guide our own foreign policy will not fail to see the struggle that is going on beneath the surface and that seems to be so obscured by the Vietnam conflict, which, in reality, is a part of the overall Soviet plan to dominate Asia.

It is equally to be hoped that the Western oriented Liberal Democratic Party, which has brought Japan to its present heights as the second strongest industrial power in the world, will continue to govern there. The elevation of Prime Minister Fukuda to the leadership of the Japanese Government when Premier Sato retires will provide the greatest possible assurance that Japan will continue to fill in an honorable and effective way the key role she now plays in the Pacific: a role which will grow increasingly significant as the future unfolds.

Mr. Speaker, I insert Mr. Danielopol's editorial in the RECORD at the conclusion of my remarks.

[From the Joliet, Ill., Herald-News, April, 14 1972]

AUSSIE GENERAL VOICES CONCERN

(By Dumitru Danielopol)

WASHINGTON.—Australia is beginning to feel "The raw nakedness of 1942 all over again," says Brig. Gen. Francis Serong, the man who commanded Australian units fighting in Vietnam.

After Pearl Harbor and the massive defeats suffered in the Pacific 30 years ago by the British and American forces, Australia was practically defenseless.

Serong fears the situation is beginning to look just as grim as the British and Americans' retreat from their Pacific outposts. He outlined his views in an article published in London by the Free Central European News Agency.

"Behind us there is nothing—The South Pacific and Antarctica," the Brigadier says. "We have nowhere to go."

He looks on Russian moves in India and the Indian Ocean with misgivings. And he finds no comfort in the creeping spread of Red Chinese influence, particularly in Black Africa.

While the focus has been on the Vietnam War people have almost forgotten that between Iran and Japan there are 23 Asian countries with a population of 1.8 billion, more than half that of the whole world. Sixteen of these countries have been involved in armed conflict at one time or another in recent years. And most of these conflicts have been inspired and sustained by Peking.

Japan, which is rapidly developing into the second strongest industrial power in the world, is a major concern in Serong's equation. He sees Japan as uncommitted and a very vulnerable nation, depending on oil from the Middle East.

"Her supply lines run through Indonesia," he writes. "Both China and Russia know this and they are racing to win Indonesia. Whoever controls Indonesia controls Japan, and who controls Japan controls the world."

Americans and Europeans, he claims, refuse to realize that. "That is what the ploy in the Indian Ocean and the war in Vietnam are all about."

Tokyo apparently is becoming aware of the precarious position. Despite opposition from well-organized leftist and antimilitary groups the Japanese defense budget is edging upward. A recent poll showed that 50 per cent of the people are in favor of obtaining nuclear arms. Significantly Japan hasn't ratified the nuclear non-proliferation treaty. Its scientists already are building nuclear submarines and short-range ballistic missiles.

Although some Asian countries are nervous about any rebuilding of Japanese militarism, Gen. Serong says it doesn't bother Australians despite their brush with disaster in 1942.

"If only Japan—were ready," the Brigadier writes. "A strong Japan—ready, willing and able to protect its own interests in the broadest sense—would provide the sort of strategic setting with which Canberra can be comfortable."

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

"MISTAKEN IDENTITY" FOR THE ANTI-AMERICANS

HON. JOHN P. SAYLOR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SAYLOR. Mr. Speaker, in the current issue of the "Pennsylvania VFW News," we find an editorial that goes to the heart of the current wave of "antism" which floats over the country with the help of the news media and certain public officials.

The sane, the sensible, the sincere people, both in and out of Government, who are trying to bring the war in South Vietnam to an honorable end, have been, and are being, vilified again in the name of "free speech." The editorial I refer to specifically and concisely answers a question of definition which has been on the minds of many, to wit: "just who are the antiwar protestors?"

The editorial writer makes the point much better than I could so I should allow the piece to stand "as is" but I cannot help but repeat the conclusion in which I totally agree. "These phonies, these hypocrites, are not antiwar. They're anti-American. They're antidemocracy. And most horrifyingly, they are antihumanity."

The full text of the editorial follows:

MISTAKEN IDENTITY

We wonder how the "anti-war" folks got their name?

Consider this, if you will: The "anti-wars", so far as we know, have never protested war. They've marched through this country protesting our presence in the Far East. They've roamed the streets protesting the use of American airpower in Vietnam. They've blocked traffic while protesting Washington's support of the Saigon government.

These "anti-war" individuals have blown up banks and school buildings and, God help us, the Capitol Building, protesting this nation's attempt to aid the poor South Vietnamese in their fight for freedom from Communist rule.

The anti-wars have ridiculed our government—the best in the world, despite the shortcomings—while they protest the draft and military training and, for all we can see, Mom's apple pie.

The anti-wars have protested, all right, but why call them anti-wars?

They did not protest the 12 Red divisions which invaded South Vietnam last month. This is the most massive action of its kind since the 1939 invasion of Poland by Nazi Germany. Instead they protest our reaction to this new aggression. They protest the B-52 raids on enemy supply dumps, where the rocket or rifle slug with your brother's or your son's name on it could be stored.

They did not protest the cruel tortures suffered by the people of Hue at the hands of the Communists during the Tet offensive. Instead they protested our use of tear gas to drive Viet Cong snipers from their underground hideouts. Perhaps the anti-wars would rather see some young Marine from Clearfield or Leola or Duncansville go in after the "bad guys" with a pistol.

They have never protested the inhumane treatment of American war prisoners. They have not protested Soviet and Red Chinese supplies funneled into Hanoi. Instead antiwars protest our support of a gentle people who have endured 20 years of war.

These phonies, these hyprocrites, are not anti-war. They're anti-American. They're anti-democracy. And most horrifyingly, they are anti-humanity.

FORTY PERCENT OF FOOD PLANTS CHECKED BY FDA ARE DIRTY

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SYMINGTON. Mr. Speaker, when this century was young, Sinclair Lewis wrote "The Jungle," a book detailing and berating filth in food and meatpacking plants. Sadly, the "jungle" still exists according to studies done by private regional groups and the Food and Drug Administration in cooperation with the General Accounting Office. Forty percent of the food plants checked were found to be unsanitary. It is estimated that over 1,000 firms have serious sanitary problems. To remedy this deplorable situation, I joined the chairman of our Public Health and Environment Subcommittee and most of our colleagues on the subcommittee in cosponsoring H.R. 14498, the Food Processing Registration and Inspection Act of 1972.

This bill amends the Federal Food, Drug, and Cosmetic Act to require food processing firms to register with HEW and FDA and provide the Federal Government with a list of the various kinds of foods manufactured, processed, or shipped in interstate commerce. It is felt this registration system will greatly facilitate food inspection programs. Finally, this legislation is intended to protect the public from unfit and adulterated food.

I would call to the attention of my colleagues an excellent account of the FDA-GAO food inspection study. This appeared in the St. Louis Post-Dispatch of April 19, 1972. At this point I insert the article in the RECORD:

FORTY PERCENT OF FOOD PLANTS CHECKED BY FDA ARE DIRTY

WASHINGTON, April 19.—Forty per cent of food processing plants inspected by the Food and Drug Administration are operating under insanitary conditions, the Government Accounting Office said yesterday.

FDA Commissioner Charles C. Edwards, testifying at a House appropriations subcommittee hearing at which the findings were disclosed, said there "is nothing in the report that we (the FDA) were not aware of ourselves."

The General Accounting Office, which conducted the study, asked FDA inspectors to check 97 food processing plants picked at random from among 4500 firms in 21 states for possible violations of the Food, Drug and Cosmetic Act.

The GAO said that 39 plants, or 40 per cent, "were operating under unsanitary conditions and of the 39, there were 23 that were operating under serious insanitary conditions having the potential for causing or having caused product contamination."

"On the basis of the sample we estimate that 40 per cent of the 4500 plants are operating under insanitary conditions, including 1000 with serious unsanitary conditions," the GAO said.

"FDA officials advised GAO that conditions at the plants located in the 21 states would, in their opinion, be representative of conditions at plants nationwide," the report said.

"We cannot cope with the totality of the problem," Edwards told Representative Jamie L. Whitten (Dem.), Miss., the subcommittee chairman, who disclosed the report.

The GAO, which refused to identify the 97 plants inspected or the 21 states in which they were situated, said that it had found "rodent excreta and urine, cockroach and other insect infestation and nonedible materials in, on or around raw materials, finished products and processing equipment."

In a separate report yesterday the GAO called for a crackdown on criminal diversion of drugs from legal markets.

The agency, the investigative arm of Congress, said the Bureau of Narcotics should do more about the drug problem.

It quoted the narcotics bureau as saying that 90 per cent of the dangerous drugs now on the illicit market were diverted from licensed sources such as manufacturers, distributors, doctors and pharmacists.

Although the bureau receives tips from drug manufacturers about unusually large or suspicious orders for dangerous drugs, it does not maintain enough records to follow up leads systematically, the GAO said.

In the course of its investigation, the GAO said, it reviewed the activities of state law enforcement agencies in California, New Jersey and New York and found they lacked sufficient personnel to monitor retailers effectively and force corrective action.

The GAO urged the drug industry to improve standards of self-regulation.

SUPPORT FOR UKRAINIAN INTELLECTUALS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. EILBERG. Mr. Speaker, in many parts of the world minority peoples are being persecuted by the governments which rule them.

In many instances this is government without the consent of the governed.

One of the peoples in this terrible situation is the Ukrainians who live under the domination of the Government of the Soviet Union.

On Saturday, May 6, 1972, I spoke at the Demonstration in Defense of Ukrainian Intellectuals, which was held in my city, Philadelphia. The demonstration was organized to show support for the Ukrainian intellectuals who have been imprisoned because they advocated independence for their people.

At this time I enter into the RECORD the resolution approved by 1,600 Ukrainian Americans, which is their statement of support for these brave men, and my remarks at the demonstration:

RESOLUTION

We, Americans of Ukrainian descent, participants in the demonstration held in defense of persecuted intellectuals in Ukraine, at J. F. Kennedy Plaza, in Philadelphia on May 6, 1972, accept unanimously the following resolution:

1. Whereas in mid-January 1972, the International News Agencies, the World Press and Ukrainian Information Sources reported a new wave of arrests by the Soviet Russian regime of well known and noted writers, literary critics, journalists, professors and scientists in Ukraine and

2. Whereas among those arrested were: Vyacheslav Chornovil, Ivan Svitlychny, Ivan Dzyuba, Evhen Sverstiuk and many others, whose works were published in the free world, and

3. Whereas many Ukrainian intellectuals presently serve severe and unjust sentences in Russian prisons and camps, outside of Ukraine, and

4. Whereas all the arrests are a flagrant violation of the Universal Declaration of Human Rights, which was adopted by the U.N. General Assembly in 1948, and which was also signed by the Soviet Union and the Ukrainian SSR as members of the U.N., and

5. Whereas, all these arrests are also a flagrant violation of the rights guaranteed to the Soviet citizens by the constitution of the Soviet Union and the Ukrainian SSR.

Therefore:

We, Americans of Ukrainian descent appeal to the free world to defend those who defend freedom. We appeal to the conscience of our fellow American citizens, who always were sympathetic to all freedom fighters.

We appeal to all American journalists, radio and television correspondents, editors, writers and scientists, who are the true champions of human rights for all, to turn the public opinion against the Russian Communist oppressors.

We appeal to the U.S. Government officials, to the U.S. Congressmen and Senators and to all American leaders to act in accordance with the great American tradition of freedom of speech, press and petition and in the spirit of such great American statesmen as G. Washington, Thomas Jefferson and Abraham Lincoln to influence the U.S. Government to demand from the United Nations:

1. Immediate intervention in the defense of arbitrarily detained Ukrainian intellectuals.

2. Assurance of an open trial of the arrested, in accordance with articles 10 and 11 of the Universal Declaration of Human Rights.

3. Consignment of the representatives of the International Court of Justice to the trial as observers.

4. Appointment of a special commission to investigate the repeated violations of human rights and basic freedoms in Ukraine, a member state of the United Nations.

And finally, we appeal to the President of the U.S.A. Richard M. Nixon, to consider these matters during his trip to Moscow and to request:

1. The end of unjust and illegal arrests.

2. Immediate release of all political prisoners presently held in Russian concentration camps and prisons.

3. The honoring by the Soviet Union of the guarantees of Civil Liberties, incorporated in its constitution and those it pledged itself to with the United Nations Universal Declaration of Human Rights.

SPEECH OF HON. JOSHUA EILBERG

The suppression of human rights and freedoms has always been of great concern to all of us who believe in freedom, justice, and human dignity.

Recently, we have become more and more aware of the present injustices suffered by the Ukraine and its people.

Soviet domination has been a tragic and stark reality for over half a century. The oppressed population of the Ukraine has virtually been imprisoned in its homeland, separated from the free world by the iron curtain.

Yet the hope for freedom is ever present.

Forced russification, discrimination, arbitrary arrests and deportations, and secret trials have all been an every day occurrence.

However, writers and intellectuals reflecting Ukrainian ethnic individualism, pride and nationalism are continually resisting cultural and political repression by speaking out in support of human rights and national consciousness.

When I was in Russia in 1969 I visited the Ukraine. Even though our party was very carefully guided and separated from the common people it was very easy to see the signs of repression and economic depression.

The streets were almost empty except for army and other Government vehicles.

Even though we were not generally permitted to speak to persons on the street it was obvious that most people were afraid to speak to strangers.

On the drive from Kiev to the town of Uman, where my wife was born, we saw almost nothing but army trucks on the road and the farms and buildings appeared as though they had not been changed or improved in any way since the 18th century.

It was obvious that the Ukraine is under tight and repressive control.

In recent years, especially since 1965, the Kremlin has stepped up the persecution of Ukrainian intellectual leaders.

Many teachers, scientists, writers, actors, musicians, and literary critics have been harassed and then placed under arrest. Some have been confined in psychiatric institutions in an effort to discredit and silence them.

The list of prominent Ukrainian intellectuals who are known to have been sentenced to lengthy imprisonment and forced labor is almost endless and grows longer by the month. Their crime is that of speaking out for the right to preserve their nation and their people.

During the 1960's literary critic Ivan Dzyuba and journalist Vyacheslav Chornovil both wrote revealing books protesting the Soviet regime's policy of Russification in the Ukraine—through neglect and distortion of Ukrainian culture and history, and the arrests and trials of the many dissidents who opposed these policies.

Chornovil, who smuggled out his accounts of the secret trials, was himself sentenced to hard labor for (quote) anti-Soviet actions and slander (unquote) and was eventually released in 1969.

Valentyn Moroz, a young Ukrainian historian, sentenced to hard labor in 1966, then released, was once again put on trial in November 1970.

In his writings Moroz denounced the forced Russification of the Ukraine and the open violation of common justice in the Soviet Union generally.

His appeal for the preservation of the Ukrainian traditions and institutions and the rights of oppressed nations everywhere, has universal appeal.

These acts of repression continue today.

Most recently, January 1972, the Ukrainian KBG carried out a massive wave of arrests and house searches involving prominent Ukrainian intellectuals and civil rights advocates. Among those arrested in Lveev was Vyacheslav Chornovil. On the following day the action spread to Kiev where a prominent literary critic, Ivan Svitlychny was arrested.

It is significant to note that all the arrested intellectuals have been in the forefront of the Ukrainian nationalist movement and that arrests and searches have concentrated again and again on the same individuals.

Thus, today people in the Ukraine and in the Soviet Union are being harassed and arrested only because they have the courage to voice their support of freedom and human rights and demand justice in their homeland.

Although the Soviet Union maintains that it adheres to the spirit of the Universal Declaration of Human Rights, it has nonetheless continued to respond to the Ukrainian challenge by expanding police repression and its utilization of prison camps.

Let us hope that these actions will soon be eliminated.

We have seen that the Soviet intelligentsia in general has become more and more aware of the need for human rights and freedoms within the Soviet Union and shares, with many of the ethnic nationalities, their demands for cultural preservation and human justice.

Today I join with you in your efforts to aid the achievement of justice, freedom, and full civil liberties for the Ukrainian people as well as for all oppressed people throughout the world.

Let us hope that our voice of protest and concern will be heard by Kremlin leaders.

Let us pray that in the not too distant future your brethren in your Ukrainian homeland will no longer suffer the present injustices and that your homeland will once again enjoy its cultural heritage in freedom.

But, there is more that we can do than hope and pray.

The President is going to Russia in the next few weeks. I have written to him asking that he voice our concern for the situation in the Ukraine and that he use all of the power of his office to influence the Russian leaders to change their policy.

But, mine is only one letter and I urge you to write to him and to make your feelings known because unless the Russian leaders know the world is watching and is demanding change they will do nothing.

Thank you.

ROBERT F. LARKIN, JR., WINS STATEWIDE ORATORICAL CONTEST

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BURKE of Massachusetts. Mr. Speaker, I want you to know that I rise as a very proud Congressman today. I know I am not saying anything too earthshaking when I say that a Congressman is only, in some respects, as good as the staff he has behind him. I have always felt particularly fortunate in those I have had assisting me here in Washington and back in my congressional district. Today I am particularly proud of a young man who has been an intern in my office for the past 9 months by the name of Robert Larkin, Jr. While Robert and his immediate family live just outside of Washington, D.C., I have known his good family for many years back in Boston. Therefore, it came as particularly good news for me to learn that on Friday a week ago, young Robert won the statewide oratorical contest of the Virginia High School League. I do not intend to hide my pride and like to think that his experience in my office over the past year contributed at least in some small way to this success.

As if this good news was not enough for any one young man in 1 week, young Robert was chosen by his peers to be president of the McLean High School student government. Robert is also a student adviser to the high school principal. He was president of his sophomore class. Before joining my staff he served as a former House page, having been appointed by the former Speaker, the much loved John W. McCormack.

I think it is only fitting for men such as you and I, occupying the positions we do, to give encouragement and proper recognition to good work when we meet it. The papers are always filled with the tales of woe and pain young adults experience on the road to full adulthood. I know this kind of news just does not get front-page billing. It is a pity, it should. Therefore, it is all the more important that men such as myself give such achievement the recognition it so obviously deserves. Consequently, I am very pleased today to include at this point in the RECORD of the proceedings of this body the speech delivered on the occasion of the oratorical contest by Robert Larkin, Jr., in Charlottesville April 28, 1972. It only remains for me to wish young Robert, and I am sure my good friends in this House join me in doing so, all the very best wishes for a bright and glorious future.

The speech follows:

SPEECH OF ROBERT F. LARKIN, JR., VIRGINIA HIGH SCHOOL LEAGUE ORATORICAL CONTEST

For every generation there comes a time when it has an opportunity to manifest its spirit of patriotism. For most Americans this is a cherished moment. Once and for all a man can make a visible exhibition of his loyalty to his government. For over three generations the way to do this has been to bear arms, be it the Revolutionary War nearly two centuries ago, or a war in Indochina today. The call to defend democracy it seems, has always been a call to battle.

The question arises then, is to go to battle *the* way to exhibit your belief in democracy? There are those that would say yes, that is what it means to "be an American."

And there within that answer lies the foundation for the somewhat twisted concept we have today of what patriotism "should be in America."

And so what is patriotism? Is it to honor the flag? And if so, if it is unpatriotic to degredate the flag, which stands for all the ideas of America, is it not more unpatriotic to degredate America itself?; to pollute, exploit and murder the landscape; to allow people to starve, yet pay our farmers *not* to grow food; to spend nearly fifty cents of every tax dollar on the military budget, while our care programs for the elderly are economically drained!!!

It is patriotism to believe in the Government, not to question it? How could any of us say this? Would any of us be so foolish or naive as to say that the men in government are infallible?! If we go along with this concept are we not paving the way for unscrupulous or cowardly leaders to *use* patriotism as a fig leaf to cover their own wrongdoings?

I say that to enroll in that school of thought is not to be a friend of democracy, but its foe. For *that* type of patriotism which works to stifle dissent instead of encouraging it, can only work to cripple a democracy and finally paralyze it to the point of tyranny.

And so, is this really patriotism at all?, any of it? Well, the old kind, perhaps, but evolving in America is a new kind of patriotism; the real patriotism. A patriotism that says, not my country right or wrong, but rather, to quote Carl Schurz, "Our country . . . when right to be kept right, when wrong to be put right."

People are beginning to ask, if America can develop the most sophisticated weaponry system ever known to man, why can't she clean the rats out of her cities? If the United States Government can so easily engage America in a war in a foreign land, why is it that the American people have to nearly bring that Government to it's knees before disengagement can even begin? If the United States Government can subsidize inefficiency and mismanagement in private industry, why can't she assure that the child in the city will have a nutritionally balanced meal at breakfast? They are beginning to ask, and they are demanding that the Government have some good answers.

It is no longer a case of the Government ambling along in one direction not knowing if the people will ever catch up. It is now a case of the people *demanding* a *part* in choosing that direction, in this case a new direction.

There's a spirit of change in the air, the time has come for a rearranging of our national priorities. Concern is with, not the style and the status of America, but with the pulse, the needs of her citizens.

For those we have kept back, says this new patriotism, it is our business to help them catch up; for those walls of fear, hate and prejudice that have been built, let us tear them down. Let us focus not so much on world status and gross national product as on a strong, moral, new kind of leadership not where the Government leads the people, but where the people *direct* their Government.

The old patriotism, easily manipulated by any elite in control of a government, had potentially little relationship to the real feelings of that country's masses, but ours is a new patriotism! A patriotism demanding rather a close cooperation and a thinking deliberation of the issues from each individual citizen.

And that is what patriotism *should be in America!*

RUMORS HINT MORE DELAYS FOR TRANS-ALASKA PERMIT

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. ASPIN. Mr. Speaker, I have generally found the Oil Daily to be a fairly accurate source of information concerning anticipated administrative action relating to oil and energy policies.

I would like to include an interesting article in the RECORD today, entitled "Rumors Hint More Delays for Trans-Alaska Permit," which appeared in the Thursday, May 4, issue of the Oil Daily. It gives hope to those of us who believe that far more study should be given to the issue before any decision is reached on the proposed trans-Alaska, or an alternative Canadian route.

That article follows:

RUMORS HINT MORE DELAYS FOR TRANS-ALASKA PERMIT

WASHINGTON.—There were rumblings here Wednesday that the stage is being set for another delay on a permit sought by Alyeska Pipeline Co. for the trans-Alaska pipeline from the North Slope to the southern coast of Alaska—which has already been held up for nearly three years.

There were reports, which could not be confirmed immediately, that both the Environmental Protection Agency and the Council on Environmental Quality are secretly advising President Nixon to put a further hold on the line.

These reports followed on the heels of a polite, but firm, request to Interior Secretary Morton from twelve Republican Senators that the administration withhold a decision so more time can be given to studying an alternative oil-gas pipeline corridor from the North Slope through Alaska and Canada down into the Mid-West area of the U.S.

The twelve GOP solons, led by Senate assistant minority leader, Robert Griffin, R-Mich, wrote to Morton that a "trans-Canada route would hold economic, environmental and national security advantages over the Alaska pipeline proposal" and they asserted that "the Candian government has expressed strong interest in such a joint venture with the U.S."

Their letter to Morton cited Interior Department's own impact statement on the project which had said that a trans-Canada route would be "an equally efficient alternative" from an economic standpoint.

The Senators also argued that a combined oil-gas pipeline corridor through Canada would cause "the least disruption to the natural environment, as your (impact) report acknowledges."

"In view of the public-stated willingness of the Canadian government to cooperate in the construction of a trans-Canada pipeline," they asserted, "and the ultimate advantages . . . which would accrue to both countries, we believe this alternative should be given more serious consideration than appears to have been the case thus far."

The Republicans signing the letter to Morton were Sens Griffin; Percy, Ill; Buckley, NY; Stafford, Vt; Cotton, NH; Aiken, Vt; Brooke, Mass; Javits, NY; Case, NJ; Roth, Del; Boggs, Del; and Brock, Tenn.

Officials at the Interior Department Wednesday said that Secretary Morton would make no announcement this week on the line permit. The 45-day waiting period promised by Morton after issuance of the department's final environmental impact statement on the line was up May 4.

"There may be an announcement next week," said one Interior official, "but even that is not certain at this point."

Morton has already told a number of House members and Senators, mostly democrats, who appealed for a delay until the Canadian route could be worked out as an alternative, that he plans no further hearings on the issue. Morton had pointed out that extensive hearings were held a year ago and the public has had a full opportunity to comment on the final statement.

However, the growing demands among Republicans, particularly in the Senate, that the administration hold up introduces a new element.

The "bi-partisan" appeals for close study of a Canadian route and cooperation between the two governments to make this possible quickly, appeared to some observers to be a "set-up" that would provide the basis for President Nixon to order a further delay, pending negotiations with the Canadian government.

Whether this speculation is correct should be proved or disproved within the next week. If Morton maintains his silence through next week, the odds against an early permit for the line would appear to be increasing significantly.

J. EDGAR HOOVER

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. FLOOD. Mr. Speaker, J. Edgar Hoover was above all a concerned and dedicated Armerican. He spent most of his life in the service of this Nation as the chief cop in the crime fighting agency which battled prohibition gangsters, Communist sympathizers, extremists of every type and modern day drug pushers in which his cause was to make America safer for all Americans.

I first came to know J. Edgar Hoover as a freshman Congressman when I was appointed to the Subcommittee on Appropriations for the Department of Justice. From then on, I was consistently impressed with his dedication and determination to lead the fight for a greater United States.

This country has lost one of its outstanding public servants of the 20th century. His service will be recorded in our history along with those of our distinguished Presidents, our great war heroes, and our statesmen.

GATEWAY NATIONAL PARK—A PROGRESS REPORT

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BRASCO. Mr. Speaker, everywhere across the Nation, Americans are coming to the belated, sobering realization and conclusion that we are running out of room, that the quality of national life is deteriorating and that we must set aside such first class outdoor resources as we can before it is too late.

We have been on a user's binge insofar as our outdoor recreation places are concerned. Today, however, we are face to face with our limitations. Nature has presented man with a bill of particulars and told him that time and resources have practically run out.

For the first time in our history, space in national parks for visitors is at a premium. Waiting lists for admission are common.

It is utterly vital that we insure that the few remaining natural enclaves are preserved and enhanced for the use of all our people and for generations to come. Nowhere is this situation more pronounced than near our major metropolitan areas. New York City, is of course, foremost in my mind. Our need for more recreation areas is critical. Only a few more such places remain intact within relatively easy reaching distance of large numbers of our people. Action is vital if we are to preserve them for our people. Nowhere is the need for positive action more imperative than in the New York City area.

This places Gateway National Park and Recreation Area in proper perspective.

Existing estimates show that about 20 million Americans reside within 2 hours driving distance of Gateway. As a result, once brought into being, Gateway is expected to accommodate more visitors than are now being served by our six existing national seashores.

In tandem with creation of this new park, we must pay attention to the fact that much of the new York area's population will find it very difficult to reach for recreation use. Public transportation is inadequate. This situation must be rectified if Gateway is to serve its intended purpose.

Under the proposal that has already passed the Senate, the Sandy Hook area of New Jersey, and the Great Kills, Jamaica Bay, and Floyd Bennett Field segments would be combined to compose the total park area. Much of the Breezy Point area, excluding the Breezy Point Coop, would also be included.

A major successful struggle has been waged to prevent inclusion of the 2,500-odd private homes belonging to the Coop. I did not believe then and do not believe now, that Gateway can or should include the Coop portion. These private homes constitute viable neighborhoods, and my protests finally secured agreement on all sides that the Coop would be exempted.

Inclusion of Floyd Bennett Field was an important addition to the proposed recreation area. By including this sizeable plot, we avert a major disruption of the area, which would have been caused by building a massive housing project there. It was proposed to create such a project, housing some 180,000 citizens. Congestion in the Flatbush Avenue area is already too severe for most of the residents to exist with in comfort. Had the State of New York succeeded in placing such a project on Floyd Bennett Field, which would have contained the equivalent of the population of Hartford, Conn., congestion would have become intolerable. Inclusion of the area in Gateway provides a perfect solution.

With these two problems solved, one difficulty remains—Broad Channel, a viable neighborhood which the State seeks to include in Gateway. This is an alternative which in my opinion is not viable.

Broad Channel homeowners lease their land from the city of New York. This has been the case for years. The city maintains there is a problem with sewers, requiring extensive improvements. By virtue of these problems, according to the city, the homes should instead be taken from their owners and included in the proposed Gateway Park. A more regressive and sterile policy can hardly be envisioned. Why must city authorities persist in ruining existing, viable neighborhoods with one or another grandiose plan which emerges full blown from the drawing boards without taking existing realities into consideration? Housing is critical in New York today. The Broad Channel area has viable homes and businesses. The alternative which the city can and should pursue is to make sewer improvements itself, saving the neighborhoods intact. Surely, Broad Channel taxpayers deserve such consideration.

Should we be successful in solving this difficulty, there remains the question of adequate appropriations for actually securing the Gateway real estate, once final legislative approval is granted. I am certain we shall in the end be successful in this endeavor.

We should also note that Gateway would provide an economic shot in the arm for New York City.

We would be preserving one of the last enclaves in the Northeast where the natural environment is still relatively intact.

Much of the entire area would emerge as a far more sightly and enjoyable environment as a result of creation of such a park and recreation area. Also, it is hoped that the quality of Jamaica Bay will be considerably improved under the Water Pollution Control Act amendments, now being considered in a House-Senate Conference.

The quality of life in America deteriorates before our eyes. More and more Americans reside on less and less of our total land area. Daily life is becoming more difficult as time goes on. City dwellers today confront daily difficulties not even conceived of a generation or two ago.

The need for such recreational enclaves and access to them for these masses of Americans is immediate and growing. People cannot survive cooped up in major metropolitan areas without some outlet of the kind afforded by the type of park envisioned by this project.

It is easily within the power of the Government to put this endeavor into gear, bringing Gateway into being. Such a facility would serve as a vital, overdue outlet for the millions of people who presently are afforded minimal recreational opportunities.

My area of New York is overwhelmingly in favor of this enterprise, and has sought its transformation into reality for some years. Now donations of land by the Federal Government have added to the total acreage available.

It would be foolish in the extreme to allow the present opportunity to pass without action on our part. With approval already secured from the other body, it is incumbent upon the House to act accordingly and affirmatively.

DEATH OF AN INDUSTRY

HON. JAMES HARVEY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HARVEY. Mr. Speaker, as one who has joined in sponsorship of legislation to amend the Communications Act of 1934 to establish more orderly and reasonable procedures for the consideration of applications for renewal of broadcast licenses, it was with more than passing interest that I noted and read with care the article entitled "Death of an Industry?" which appeared in this month's edition of "Nation's Business." I strongly recommend that all Members read this article, and I am certain there will be general agreement that some congressional action is truly necessary to stabilize the current license renewal process.

The article follows:

DEATH OF AN INDUSTRY?

How would you like to own a business where you are required every three years to justify your performance to seven political appointees and perhaps lose that business if they don't think you measure up?

Or perhaps be forced to give away one of your wares for each one you sell?

Those are only two of the life-or-death problems facing the American radio and television industry.

Why should you be concerned about the broadcasters? Everybody knows they make millions and millions of dollars.

Their plight is of concern to you, however, for two reasons. If you ever advertise anything at all, new rules proposed for the broadcasting industry could eventually affect you, whatever form your ads take.

In a broader sense, you have a stake in the broadcasters' struggle because government policies that could cause the death of their industry could spread to others. The worst threat to the stations, of course, is that of being put out of business.

Owners of two TV stations—one in Boston, Mass., the other in Jackson, Miss.—have actually been stripped of their licenses, and over a hundred more stations are under attack.

Because of court decisions, any individual or group can challenge a station's right to continue operating. No matter how frivolous or unrealistic the complaint, the station is compelled to respond.

And a recent decision by the U.S. Court of Appeals in Washington has raised concern that a broadcaster—even after meeting the demands of a protester—might be required to pay for all expenses incurred by the challenger. And this, warn industry officials, could open the floodgates to all kinds of extortion by persons more interested in money than in changing a station's programs.

Pressures on broadcasters are coming from militant minority groups on the one hand and government edict on the other.

Target stations are having to spend untold man-hours and many thousands of dollars in legal fees to protect their investments.

The seven-member Federal Communications Commission can wipe out those investments by refusing to renew the licenses of station owners who come under attack. The owners' recourse: a further investment in money and time before the U.S. Court of Appeals in Washington, whose past rulings do not cast it in the role of the broadcaster's best friend. And now the Federal Trade Commission is asking the FCC to force radio and TV stations to offer time—even free time—to almost anyone who wants to challenge the contents of commercials.

This is known as "counteradvertising" and if it should come to pass, warns the Columbia Broadcasting System, it would "undermine and destroy" the financial base of commercial broadcasting.

Here, too, the fate of the industry is in the hands of the FCC.

These twin threats are part of an overall review of who should have access to the airwaves under the so-called Fairness Doctrine for presenting all sides of controversial issues.

The implications are abundantly clear: Under this kind of oppressive federal regulation, the foundation of the competitive enterprise system is being severely rocked.

While advertisers on radio and television are most immediately under the threat of counteradvertising required by government decree, it's only a short step to the point at which any form of advertising would be affected.

Broadcasting officials, from the owners of tiny radio stations to executives of the national networks, have warned that any attempt to implement a counteradvertising policy in their industry could lead to an end to free TV and radio in this country.

After all, the only thing the broadcasters have to sell—in order to remain in business—is the time for commercials.

Sponsors, they say, are hardly likely to continue paying for commercials when part of the money is going to finance time to rebut those commercials.

One broadcasting executive asks specifically: Should free air time be made available to horse lovers to condemn autos, or to let "the carrot juice sippers" rail against soft drinks?

A colleague puts the issue in somewhat different terms: "When a commercial for a brassiere is aired on radio or television, should the no-bra bunch be offered equal time to extoll the virtues of the swinging life?"

PROGRAMS AND PERSONNEL

While the counteradvertising debate rages, militants are aiming at the very heart of the broadcaster's business—his federal license to operate.

Petitions to deny license renewals are being filed with the FCC on behalf of Negroes, Mexican-Americans, Puerto Ricans, Indians, Orientals, Gay Liberation, Women's Lib and various other groups and causes. Common threads of their complaints concern programing and personnel.

They argue that they are entitled to more attention in broadcasting through "relevant" programs reflecting their interests and concerns. The racial and ethnic blocs in particular contend they should be represented on the broadcasting staffs of the stations.

Recent court and administrative decisions have opened the FCC's door to petitions by such groups for denials of license renewals, even though the complainants do not want to take over the licenses themselves and indeed often have no suggestions on who should operate the stations.

Some stations have compromised and agreed to such steps as putting on more black-oriented programs and hiring blacks for on-the-air jobs.

Hanging over the broadcasters, who have at stake millions of dollars in capital investments, not to mention goodwill built up over the years, is the fact that their licenses must come up for renewal every three years. The long-standing policy for the 7,000 radio and television licenses in this country once was to judge a broadcaster at renewal time on the basis of the record. Satisfactory performance in the previous three years virtually guaranteed renewal.

A competing application for the same license could be filed by a party with sufficient resources to establish and maintain a station on that same frequency. But a petition to deny the renewal application could be filed only by someone who could show a direct economic stake—another station that claimed interference with its signal, for example.

SHOCK WAVES

In recent years, however, two major developments have sent shock waves through the broadcasting industry.

Here's what happened:

In 1966, the U.S. Court of Appeals in Washington—overruling the FCC—held that the general public, as individuals or groups, had legal standing to challenge a renewal and to argue that a given station had not performed in the public interest. (In the same case, three years later, that court stripped television station WLBT in Jackson, Miss., of its license as a result of objections to the way it handled matters concerning the local Negro community.)

The FCC, in 1969, made a major departure from its own policy that an adequate record gave a licensee priority over a challenger. It refused to renew the license of WHDH-TV, of Boston, Mass., which had gone on the air in 1957 and was estimated to be worth more than $50 million. The station's record was not "superior," the FCC ruled, and the licensee would therefore be considered on the same basis as a competing applicant for the same license.

Then the FCC went on to take the license away from WHDH on the ground that its parent company also owned a newspaper, the *Boston Herald Traveler*. The FCC said it believed in diversification of ownership of communications media.

(There were two grim ironies for the station here: Only three of the seven members of the FCC voted against it. One member voted against transferring the license and the other three did not act on the decision.

(And, when the station finally ceased broadcasting this past March, company officials said the *Herald Traveler* could not long survive without television revenues that more than offset its losses.)

Later, the FCC sought to draw back from its sharp departure in the WHDH case and issued a policy statement reaffirming the importance of a good record in renewal applications. But the Court of Appeals in Washington struck down the policy statement last June on the ground it discriminated against new applicants.

LIBERALS ATTACK A LIBERAL

Sen. John O. Pastore (D.-R.I.), chairman of the Senate communications subcommittee, introduced a bill in 1969 to stabilize the situation. Under the legislation the FCC could not consider a competing application for a license unless it had first taken the license away from the applicant for renewal.

Said the Senator: "A person who has a license has to live up to the law. And when he does, and does a good job, he hadn't ought to be harassed by any entrepreneur who comes in and makes a big promise."

Sen. Pastore, a veteran liberal and staunch supporter of civil rights legislation, suddenly found himself the target of liberal, civil rights and other activist groups.

Absalom Jordan, national chairman of Black Efforts for Soul in Television (BEST), told the Senator: "This bill is back-door racism . . . it says, in effect, no black ownership. First priority goes to whites."

The Rev. William F. Fore, executive director of the Broadcasting and Film Commission of the National Council of the Churches of Christ, opposed the bill "because we believe it would have the effect of permanently protecting the licenses of incumbent broadcasters. . . ."

The hearings on the Pastore bill became so emotionally charged over allegations that it would insulate broadcasters from challenges by minority groups that it got nowhere. While the Senator pointed out that challenges would be possible, the provisions of the bill itself were obscured by injection of the racial issue.

Sen. Pastore, who was subjected during his 1970 re-election campaign to charges of racism because of his sponsorship of the bill, has declined to take up the fight again.

And the industry has been unable to obtain hearings on measures to restore some stability to the license renewal situation while at the same time keeping open avenues for legitimate grievances against a station.

As a result, more and more stations find themselves under fire.

In 1967, only one petition to deny a license renewal was filed with the FCC. In 1970, there were 32. In 1971, there were 68. The total this year is expected to go even higher.

Organizations that have filed, or are considering filing, petitions to take licenses away from present holders include such groups as the Black Knights and the Columbus Civil Rights Council, both of Ohio; the Black Identity Educational Association, of Omaha, Nebr.; the Bilingual-Bicultural Coalition on Mass Media, of San Antonio, Texas; the Chinese Media Committee of San Francisco, Calif. the United Farm Workers (see "Chavez Blight Spreads East," page 32); the National Organization of Women (NOW); and the National Union Alianza Federal de Pueblos Libres of Albuquerque, N. Mex. (The Alianza was organized originally to press a claim that Southwestern inhabitants of Mexican origin are entitled to vast tracts under Spanish land grants.)

ONE STATION'S STORY

In Denver, Colo., for example, station KLZ–TV was the target of a complaint that carried such allegations as "lack of programing related to the black community and the Chicano community. . . . Programs fail to deal with human relations. . . . [The station] failed to display to the total community the frustrations, problems, aspirations and the cultural values of the black community and the Chicano community. . . . Many commercials urge children to purchase edibles of doubtful nutritional value and perhaps harmful. . . ."

KLZ–TV officials estimated that to prepare a response to those and other allegations, executives and employees put in 1,200 man-hours. In addition, University of Denver students were hired to review more than 1,000 days of news scripts. And thousands of dollars went for legal fees involved in drafting the response.

The station said:

"With one exception, none of the individuals or organizations signing the petition even contacted the station to make known any of their views, suggestions and observations . . . which are so vehemently expressed in the petition.

"Because of the nonspecific nature of charges, the preparation of this response . . . has consumed tremendous amounts of time . . . Effort of this magnitude was required because the petitioners indulged in broad characterizations and loosely stated serious allegations without providing supporting facts. The licensee is left, therefore, to defend itself against many charges and innuendos that are neither articulated nor supported."

As an example of what it was facing, the station told of one incident. It had received a complaint that a commercial featuring the "Frito Bandito" was considered offensive by Mexican-Americans.

The station told its advertising agency, the sponsor and CBS that when the commercial was scheduled, it would disconnect from the network and substitute a commercial acceptable locally. This involved special arrangements for a cue, breaking the network connection, presenting the local commercial and then rejoining the network.

"This arrangement required special handling by six different members of the station's personnel," KLZ told the FCC.

HOW MUCH IS ENOUGH?

Broadcasters confronted with challenges often find themselves up against such questions as who, if anyone, has the wisdom to lay down specific standards for determining "relevance" of programming to one or more minority groups, for identifying the genuine spokesmen for such groups, and for fixing the point at which minority-oriented programming is sufficient.

How much is enough? A Bakersfield, Calif., radio station directed 97 per cent of its programming to the Mexican-American community but was challenged on grounds it had not discussed programming with bona fide representatives of that community.

From the industry standpoint, the key legal case now pending involves WMAL–TV of Washington, D.C. That city's Black United Front has filed a petition for a denial of license renewal on grounds the station "has failed to serve the public interest . . . by completely overlooking and failing to serve the interests, needs and desires of the substantial black population within its primary signal area." The petition noted that blacks "constitute an overwhelming majority" of the city that WMAL "purports to serve."

The cost to WMAL–TV, in legal fees alone, of defending its position and retaining its license can only be described as staggering. Nation's Business editors, examining FCC files, studied one set of documents submitted by the station—not its entire response—which amounted to a stack measuring some 36 inches high.

The FCC refused to order a hearing on the complaint. "Many types of programing cannot be broken down into that for black people and that for others," it said. "Were the Commission to require such a breakdown of programing according to the racial composition of the city of license, we would effectively be prohibiting the broadcast of network and other nationally presented programing. It is sufficient to say that such 'separate programing' is not feasible."

The Black United Front has asked the U.S. Court of Appeals to overrule the FCC and order a hearing.

A key issue in the case, one that could have a major impact on broadcasters in urban areas everywhere, is what constitutes WMAL–TV's area of responsibility.

The Black United Front says it is Washington, D.C., which is 70 per cent Negro. But the station points out its signal area, extending far beyond the city limits, contains a popularity that is predominantly white.

RUNNING THE GAUNTLET

Thomas H. Wall, president of the Federal Communications Bar Association, says broadcasting is "the only industry I know where you have to run the gauntlet every three years to stay in business."

No one is suggesting, he says, that broadcasters who do not live up to their responsibilities be shielded from competition. On the other hand, Mr. Wall says, those who make charges against licensees should be compelled to bear the burden of proving them. And, he adds, "if broadcasters give in to wishes of the protesters too much, they will wind up being led around by the nose."

Mr. Wall says the bar group believes Congress should act to clarify the "confusion and uncertainty" surrounding license renewals.

The National Association of Broadcasters is backing legislation to extend the license period to five years from three. It also would provide that a license be renewed if the holder shows he has made a "good faith effort" to fulfill his responsibilities and has not shown callous disregard for the law or FCC regulations. Opponents could still come in to challenge licensees on whether they had met those standards. Meanwhile, what amount to pools of legal aid have been set up for challenges.

That pioneer case in Jackson, Miss., was brought on behalf of the local black community by the Office of Communication of the United Church of Christ, which has since made its legal expertise in license matters available to protesting groups in many other communities. And several other organizations have been formed to provide legal services in license challenges on request.

One recent case in which the United Church of Christ figured prominently could well cause even more headaches for the broadcasting industry.

Several black groups filed a petition to deny renewal of the license of KTAL–TV, in Texarkana, Ark.

Whereupon, KTAL entered into an agreement in which it pledged, among other things, to "discuss programing regulatory with all segments of the public." It also hired two black newsmen to appear on camera.

On top of that, the station agreed to a demand that it pay more than $15,000 in legal and other fees incurred by the protesters.

The challenge to the license renewal was withdrawn, but the FCC refused to allow the payment to the challengers, holding that would not be in the public interest.

Then the same Court of Appeals that had ruled against the broadcasting industry so many times in the past overturned the FCC ruling and said the payment could be made.

Another case in which protesters have demanded that a station pay their legal fees—this time, the station refused to pay—is now before the FCC and is expected to wind up in court. Industry sources are concerned, because of the KTAL decision, that judges are heading toward requiring, not just permitting, payments by stations when challengers are withdrawn.

Taking a long look at all that is going on, the National Association of Broadcasters sums up this way: "It is no longer foolish or alarmist to say that present trends in government control . . . could wreck broadcasting."

NOW YOU SEE IT, NOW YOU DON'T

In 1967, the Federal Communications Commission ruled that radio and television stations had to carry—without charge—antismoking messages to counter the paid commercials of the cigaret companies.

Smoking, the FCC said, had become sufficiently controversial to come under the Fairness Doctrine requiring broadcast licensees to air all sides of major issues.

On Jan. 2, 1971, cigaret commercials were banned from the airwaves under a law Congress had passed the previous year.

But the antismoking messages continued. The FCC had announced just before the ban took effect that continuing the antismoking spots would be regarded as a public service. (Many broadcasters took the announcement as a strong signal that it would be good to be able to tell the FCC when their licenses were up for renewal that they had provided this service.)

So, under the Fairness Doctrine, it now appeared that the shoe was on the other foot, that stations carrying antismoking messages would have to carry the industry's arguments on the smoking-and-health issue.

No, it wouldn't be that way at all, the FCC said. Only the antismoking messages could continue.

The Fairness Doctrine? Well, the FCC explained, information about cigaret smoking had become so well-known that there no longer was a controversy over its effects. And the Fairness Doctrine, you know, applies only to controversial issues.

RESULTS OF HON. WILLIAM L. HUNGATE'S LATEST QUESTIONNAIRE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HUNGATE. Mr. Speaker, I would like to bring to the attention of my colleagues the results of my recent questionnaire to my constituents in the Ninth District of Missouri. With responses from more than 25,000 men and women in my district, from both rural and urban areas, I believe the results will be of value to the Members of the House:

1. Should the federal government subsidize health insurance for every citizen?

[In percent]

	His	Hers	Total
Yes	33.1	33.4	33.2
No	62.1	60.5	61.3
No opinion	4.8	6.5	5.5

2. Would you be willing to pay more for products (i.e., automobiles), and utilities (i.e., gas, oil and electricity) if they were made virtually pollution free?

[In percent]

	His	Hers	Total
Yes	61.6	60.7	61.2
No	33.3	33.1	33.2
No opinion	5.1	6.2	5.6

3. Do you believe the Federal Law Enforcement Assistance program has been effective in fighting crime in your area?

[In percent]

	His	Hers	Total
Yes	21.7	20.5	21.2
No	57.4	55.8	56.6
No opinion	20.9	23.7	22.2

4. Do you favor no-fault insurance?

[In percent]

	His	Hers	Total
Yes	67.0	60.3	63.8
No	22.2	23.3	22.7
No opinion	10.8	16.4	13.5

5. What do you consider the three most pressing problems currently facing our Ninth District?

1. Inflation.
2. Unemployment.
3. Vietnam.

Control of crime and drug abuse also ranked high as sources of concern.

This report on Ninth District opinion should be of value to us all in consideration of the appropriate legislation.

THE DOCTOR'S PAPERWORK MOUNTAIN: WE ALL PAY THE PRICE

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. VEYSEY. Mr. Speaker, we often hear complaints about the shortage of good medical care in this country. Everyone knows we have a shortage of doctors and we are now underwriting large new training programs to train more.

But merely increasing the number of doctors will not make much difference if the paperwork mountain standing between the physician and his patient keeps growing.

There seems to be a competition between the Government and private insurance carriers to see who can force the physician to fill out the most forms. The Government has the resources to win easily, of course, and is pressing its advantage. But the public pays a large price for this flow of redtape.

The unnecessary duplication of recordkeeping by separate agencies along with constant revision of the requirements tie up doctors for thousands of hours every year: It has a direct impact on the quality of care that is dispensed in the remaining time. I recently received a clear and convincing description of this and a number of other problems facing physicians in this country from Dr. Stefan K. Haller, an orthopedic surgeon in Riverside, Calif. Dr. Haller not only describes the symptoms, he prescribes a number of sensible and workable alternatives. I invite my colleagues to read his comments and bear them in mind as health legislation is considered in this Congress:

STEFAN K. HALLER, M.D., F.A.C.S.,
Riverside, Calif., March 13, 1972.

The Honorable VICTOR V. VEYSEY,
House of Representatives,
Washington, D.C.

DEAR MR. VEYSEY: I was much impressed with your letter of February 10, 1972. Perhaps the following comments might be of some assistance to you during the coming legislative session.

One of the biggest headaches for any practicing physician and the source of much wasted physician's time is the current "paper war" between agencies and the practitioner, particularly agencies of the government at all levels.

If you just look at the forms required for Medicare, Medical, CHAMPUS and compare them to private industry forms (samples enclosed), it strikes you immediately that the government agencies are bent on self-preservation at all costs. (Particularly the taxpayers.)

I recognize that the government has a fiduciary function. There must be a simpler way, however, to accomplish this, both to control quality of care provided as well as its cost.

An additional source of unnecessary costs in care is the periodic recertification of disability for private insurances, lenders, etc., who provide disability payment coverage to the insured. Again, there must be a simpler way of providing this information to the satisfaction of the insurer without having to impose on the physician's time. My office has experimented with simple disability statements (sample enclosed), particularly in cases where this has to be recertified periodically, such as every week or every month. These statements are not acceptable to all insurers for reasons unknown. One of their arguments is that they need an estimate of future disability in order to set aside reserves. Perhaps if we simplified this procedure of reserve requirement and uniformly set aside three months reserve by the individual carrier with a secondary pool of reinsurance between the carriers, it might solve the problem of estimating and re-estimating the anticipated period or temporary disability.

Another area of tremendous waste of the physician's time is litigation. Particularly for an Orthopaedist it is necessary to provide legal documentation both of the positive as well as significant negative findings. Many times this degenerates into a game of "hide and seek" with one side trying to outsmart the other. The end result is a tremendous effort both in time and money to make a case "air tight". The effort is totally nonproductive as far as medical care is concerned, yet it adds to cost. (See sample on Medical-Legal Fees and the Orthopaedic Examination.) In addition, many times, one of my secretaries has to pull the file chart and stand by while a representative of the copying service copies the records. Afterwards, she has to reassemble the file and put it away. Many times, it requires additional telephone calls with the insurance company and the patient's attorney to make sure that the authorization is not stale-dated or still applicable.

My average work week is approximately fifty hours. Of these fifty hours, I spend less than 50% in direct patient care. The remainder is taken up by the above mentioned "paper war" and "red tape". It also makes me employ three full time aides, three part time aides and a part time accountant. In addition, I buy the services of a computer billing firm to do the accounting. My office has been reviewed and is one of the most efficient orthopaedic practices in town. I say this as a simple statement of fact and not in order to impress anyone.

These preliminary points bring us to the central problem of health care today, not only the lack of man power, but also the tremendous cost of delivering this care. The information requested is usually the same for all the carriers. Many times it is repetitive and redundant. There must be a way to simplify and standardize this reporting so that it can be delegated to the office staff, rather than require a physician's own time.

Since I have been on the computer, I have been receiving regular averages of the care provided. Under the present setup, I work with a variety of fee schedules, such as the Industrial Accident Commission, the Medicare-Medical, CHAMPUS programs and private fees. Although there is a spread of almost 100% between the Medical fee and my usual and customary private fee, it has impressed me that the same care could be delivered at a lower cost if some of these nonproductive matters were removed from my practice. The Medical Association has attempted to solve this problem by establishing the Foundation concept. I am sure that you are well aware of California's leading contribution to this approach. The heart of the Foundation concept is retention of the personal physician-patient relationship since medical care still is delivered from me, the physician, to you, the patient. With very few exceptions which lend themselves to delegation, there is no way around this fact of medical life. In addition, the physicians commit themselves to a uniform, lower fee across the board with the expectation that Foundation claims have a turn-around time of less than three weeks. This helps immensely in reducing the overhead and of course, the savings are directly passed on to the consumer. It also helps with local peer reviews since the local physicians know their own "bad apples" and are able to control the quality and adequacy of care. Since the public and particularly the patient has a specific interest in this phase of peer review, it would be very simple to add a consumer watchdog or any representative of Labor Unions, Government or whoever, to participate in this peer review and make sure that the interest of the public is safeguarded. Practically all foundations have provisions in their By-Laws to include lay people on their review board.

There are some other aspects of medical practice which are greatly overlooked in national debate. Let me mention again the physician-patient relationship. Medicine is an art and a science. Most of our critics concentrate on the science part and forget the art. If it were that simple, a "cook-book of medicine" would solve the problem and everyone could do his own medical care. Since medicine is an art at this stage and requires a great deal of learning, judgement and discretion, there will be certain phases of medical care which cannot be computerized, standardized or otherwise pressed into the neat formulas devised by our critics who almost uniformly are nonphysician. Once you apply this particular thought to your own situation and everyone of us has had experience with illness or injury, it becomes immediately apparent that there is a great fallacy in the thinking of our contemporary critics. I have tried this argument on the most critical patients and they have all agreed that it is correct.

Another point in the national debate is the so-called "preventive medicine".

All through our training we are taught to prevent rather than treat after effects. However, prevention takes two people. The doctor who gives the advice and the patient who follows it. As long as the patient is actuely ill, the doctor is a "saint" and his word is law. Once the disease subsides, the concern for health becomes rather remote and I do not believe I have to elaborate anymore on this point. In addition, there is a large body of medical conditions which cannot be anticipated and will have to be treated when they occur.

And again I know that no one would prophylactically have their appendix out, their hemorrhoids removed, their gallbladder taken out, the stomach out to prevent ulcers, the breast to prevent cancer of the breast, the bones to prevent cancer of the bones and prevent them from breaking, etc. These arguments proposed by our critics simply show their lack of knowledge.

We have many excellent, preventive programs in effect, and as research provides new clues, they are immediately put to work, many times even without proper testing. However, this leads to another argument of preventive medicine and it is as old as Ehrlich, Behring and Koch and all the other investigators who used their newly discovered medicine to help their patients rather than wait for double-blind scientifically acceptable studies. No physician in his right mind will ever object or withhold preventive measures from his patients.

Finally, let me assure you that satisfaction for a physician is seeing a patient walk out of his office on his own two feet for good. Material gain is a by-product of a job well done. And here again, it has been the experience of many financial advisers to psysicians that an increase in the physician's fee and restriction of his accessibility inevitably leads to higher demand. The patient associates the successful physician with good medical care and he would rather pay more than go to a poorer physician who cannot afford to raise his fees because it would drive away his patients.

Many times my patients tell me during the evening hospital rounds, "Doc, you now get a good night's sleep and be fresh in the morning when you operate on me."

The emotional strain on any physician is tremendous. The more advanced our medical techniques become, the more risky they are. When the chips are down, the patient places his full confidence in his physician and he is the one who worries, wondering if he has covered all fronts and not overlooked anything in order to see his patient through safely. There is no money in the world that can pay you for those sleepless nights and many moments of tension. After all is done and over, I enjoy my vacation and I enjoy my afternoon on the golf course. I don't feel apologetic about it at all.

As far as I am concerned, I am a physician because I like it, not because I make money in it. If I had wanted to make money, I would have been a tough competitor in any occupation. The many years of hard training, studying and self discipline have convinced me that I would have been at the top of any class, no matter what the endeavor.

When you and your worthy colleagues consider health legislation, please keep in mind that you cannot legislate motivation.

I hope I have not bored you with these thoughts. Usually there is no time to verbalize these sentiments. Perhaps we can interest Ralph Nader to look into the aspects of medical practice which are wasteful at the present time, and obtain some rational data to simplify procedures. This would result in immediate savings both of physician manpower and money to the patient.

It would be far simpler and less expensive than imposing an entirely new and untried system on the already existing inefficient system.

I believe I can assure you not only on my part, but also on the part of my colleagues, that whatever legislation Congress will develop to make medical care more accessible will be welcomed by the physicians. There is nothing more frustrating for the physician to know that the means and techniques are available to counter a certain medical problem, yet the cost is out of reach both to the patient and his physician.

I have included several copies of correspondence which will give you a first-hand flavor of the problems encountered and my personal response to them.

If any of this material is of value to you, please feel free to use it in any way that you wish. I have tried to eliminate patient identifications for their protection.

I am a one-man office. There are no frills or luxuries in my office. My personal overhead before taxes runs between $50,000.00 and $60,000.00, excluding x-rays. If x-ray is added, the anual overhead rises to more than $80.000.00 per year. These figures do not include physicians compensation or taxes.

I hope that this information will be useful to you. If more documentation is required, I shall be happy to supply it.

Respectfully yours,
STEFAN K. HALLER, M.D., F.A.C.S.

INTERNATIONAL ORDER OF ODD FELLOWS DECORATE THE TOMB OF THE UNKNOWN SOLDIER

HON. DAVE MARTIN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. MARTIN. Mr. Speaker, the International Order of Odd Fellows yesterday had the honor to hold services and decorate the Tomb of the Unknown Soldier at the Arlington National Cemetery. The Patriarchs Militant, a subordinate branch of the IOOF, had the honor of standing guard at the Tomb of the Unknown Soldier. These militants were headed by the Nebraska division, and Maj. Gen. Wilmer Hamilton of my hometown, Kearney, Nebr., was in command. The Sovereign Grand Master, Mr. J. Ray King, is a constituent of mine from Sutherland, Nebr. I include below the very appropriate remarks of Mr. King on the occasion yesterday, at the Arlington National Cemetery:

REMARKS BY MR. J. RAY KING

We assemble here today to raise our voices in solemn praise and extoll the valor exhibited by the men of our beloved nation, who have been laid to rest here. We revere their memory, and cherish in memory their display of gallantry on the field of battle. As members of the Independent Order of Odd Fellows we gather at the tombs of the unknown soldiers and look about us and see evidences of valor. Now we can only exclaim, what price was so dear as to give up life so precious for the land he loved. And it may be true that many lie in unknown tombs. Even though unknown, their gallantry was great, and some may have been in the front lines of battle where the spirit of bravery was a supreme virtue. It is in meager appreciation that we stand here and enjoy the great freedom that was bequeathed to us by such men of noble character.

We must honor them because they fought in wars; not for territory, but for freedom from tyranny. Wars are terrible because they bring about destruction of life and property. Even the airplane, an instrument of great utility has been transformed into a mechanism of great destruction, along with the rifle, the cannon, the tank, and the bomb. The atom is small, but because of its mighty power has been commandeered to form feats of destruction and casualty to human life. We can hope that such means of destruction may some day be eliminated from the ken of man.

Our presence here is a testimony of our love and admiration for the sacrifices these honored dead have made for human benefaction of those of us who make up the generations who succeeded them. It is our duty to live so worthily as to honor their heroic effort to build an honorable society. Our debt is to live so nobly as to assure them that they have not died in vain. Our lives ought to be a tribute of our affection for the grandeur of their noble lives.

We stand here before these monuments and realize that brave and courageous men paid the supreme sacrifice that we might enjoy the blessings of a great and cherished freedom. That freedom means that we may order our lives in daily activities that bring comfort and happiness to every American. The citizenry of this grand and noble republic may worship according to the dictates of his own conscience.

This citizenry may also come and go where he will in this fair land of ours. He may enjoy the fruits of his labors as he may fondly desire. He may provide himself and family with any type of education that best adapts him for happiness. It is the hope of every American and every member of the Independent Order of Odd Fellows that this freedom shall be the privilege of good citizens. Such is the desire of every good citizen.

The purpose of good government is to promote peace and understanding among its peoples. We, in America, need to follow such guidelines that the peoples of the world will understand and trust us, as men of truth. Then a common bond can be found between us and the nations of the world. Truth, as well as trust, must be a characteristic of mankind. The world needs brotherhood so that freedom may be promoted for all its people together throughout the whole world.

Here on the banks of the Potomac is raised a city that has become the capital of a great nation. This nation has longed to be the herald of that spirit of brotherhood that makes a great nation. It has unselfishly stood by the needy with a helping hand. Such is the sense of justice that has animated the spirit of the American people that they have lent aid to others in need. That spirit grew up like a flower ascending from fertile soil. That nation had its birth at Bunker Hill, and found its borders transplanted westward, far across mountain, valley and plains of the American continent. We call it the spirit of American Idealism. It has come into full fruition by declaring full equality for all races and creeds of mankind.

That idealism must completely serve mankind in this great hour of human need. Then men of all races must find ways to make progress in his society. The needs of our times demand that we keep our ethical standards high. The history of this great American Republic marks tremendous advancement in society and industry. It shows progress as clearly as a mirror reflects images of an object before it. We are turning toward a new brotherhood, a brotherhood of friendship. We also need a brotherhood of nations whose members can promote love and trust in mankind. The spirit of America must not drift from the love of freedom that animated its beginning.

However, it is true, that the course is changing with electronic speed. It is taking on a very broadened meaning. Youth is becoming aggressive and is trying to point to new concepts of government. So the age to which we belong moves in restless motion. It is a transition age. Even science is covering the earth with new creations. Industry seems to have found new bounds for its creations. Chemistry expands in the creation of new products, possible for good or ill as some think. So the history of man is advancing in marvelously new directions. The age of development and invention has not passed.

All these developments ushered in a spirit of impatience. May that impatience finally be transformed into power, liberty and freedom. May it become the basis for progress. May it also form the basic process of law and order. Thus will hatred be banished, and men will believe in reason and gain confidence in the potentiality of good government.

We live in a country that has kept step in the progressive movement and yearnings of the human heart. The gallantry of the American soldier has been exhibited in unselfish loyalty to the defense of the spirit of progress. Yes, may I repeat that the gallantry of the American soldier has never been wanting in the defense of his honesty and integrity. There are times when we seem to be breaking with the past, but it is only an aggressive effort to find a new and deeper meaning to life. This nation is looking for a new opportunity to advance in moral force and make progress in the fraternity of man. No matter from mountain, valley, plain or city where man may come, there is a need of a better social order. And this is the hope of every citizen of this nation.

Sacred memories prompt us to come and pay reverent respect to the honored dead. Time in its rapid flight has borne us past the close of our great wars, which cost us thousands of lives and billions of treasure to save our country from destruction. Those who participated as soldiers fraternize as brothers. They carried the Stars and Stripes as the insignia of freedom. It is fitting and proper that those who died in the struggle or those who have since died, should be remembered and honored. Theirs was an invaluable service to their country and humanity. Let the graves of the dead soldiers be decorated with flowers and the memory of their noble deeds review anew with oratory and song.

"Blessing for garlands shall cover them over,
Parent, husband, brother and lover.
God will reward those heroes of ours,
Cover them over with beautiful flowers."

RESEARCH IN PSORIASIS

HON. WENDELL WYATT

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. WYATT. Mr. Speaker, on May 2, I testified before the Labor-HEW Subcommittee of Appropriations in support of a $3 million appropriation for research in psoriasis. I believe it is extremely important that we do more in seeking a cure for this affliction, which affects between 8 and 10 million people in the United States. Most of you know psoriasis is a disease of the skin causing flaking and scaling, while in more severe cases the disease manifests itself in lesions sometimes over the entire body. The suffering and mental anguish are difficult to comprehend unless you are actually a victim.

Recently victims of psoriasis have banded together to focus more attention on the disease. The National Psoriasis Foundation was organized in Portland, Oreg., by Mrs. Beverly Foster and the work of this woman has been an inspiration to everyone connected with the foundation to myself included. I know many of my colleagues have received letters from psoriatics asking them to support this request for $3 million in research funds, and I believe the testimony will provide more adequate background on the issue:

STATEMENT BY THE HONORABLE WENDELL WYATT IN SUPPORT OF FUNDS FOR PSORIASIS RESEARCH

Mr. Chairman, members of the subcommittee, I appreciate this opportunity to appear before you in support of additional funds for psoriasis research.

I'm sure that most of you are somewhat familiar with the disease. It afflicts in varying degrees between 8 and 10 million Americans, and an estimated 150,000 new cases are diagnosed each year. It is not known what causes the disease, and there is no cure or universally effective treatment.

In its mild form, psoriasis may appear as a few scaley spots on the arm or leg, or in pitting of the finger or toe nails. But more severe cases manifest themselves in lesions over the entire body, or as one woman described her affliction: "You break out and look like raw beefsteak."

During Biblical times psoriatics were often classed as lepers and forced to carry a bell warning the populace of their presence. This barbaric practice has, fortunately, ended, but for too long now psoriatics have suffered in silence when the disease cries out for public attention and commitment in seeking a cure.

Psoriasis is seldom, if ever, fatal in itself. Because of its prevalence it has been assumed to be a trivial disease. Because of the embarrassment associated with its appearance, individuals with psoriasis have not been effective spokesmen in seeking a cure, or at least an effective treatment.

Fortunately, psoriatics are beginning to speak out and the major credit must be given to a sufferer, Mrs. Beverly Foster, of Portland, Ore. Mrs. Foster is the founder and director of the National Psoriasis Foundation which has some 30,000 members and chapters in 37 states. Mrs. Foster first drew my attention to the desperate need for additional research on psoriasis, and I have been pleased to contribute what little I have to date in spotlighting the need for funds to help conquer this disease.

The subcommittee should know that psorasis is a model for the study of malignant diseases in which the growth and division of cells is uncontrolled. If we can unlock the key to why cell division continues unchecked in psoriatics whereas in normal persons this division stops when the injury is repaired, we may have come a long way in efforts to treat various cancers.

Mr. Chairman, I am here to request a $3 million appropriation to accelerate research toward this end. This is a small enough figure when measured against the millions spent in seeking cures for other diseases; but it is large by comparison to the estimated $200,000 research expenditure to date on psoriasis.

I wish you could read the hundreds of letters in my files describing the misery, the mental anguish, individuals suffering from psoriasis have endured, often from early childhood. Just the other day, a fine young man whom I had appointed to the U.S. Naval Academy was denied the appointment because doctors there diagnosed an active case of psoriasis.

Again, Mr. Chairman and members of the subcommittee, I appreciate the privilege of appearing before you and I respectfully urge that you approve the $3 million appropriation for psoriasis research for Fiscal Year 1973.

BOWIE KUHN DISCUSSES THE SUBJECT OF GAMBLING ON PROFESSIONAL BASEBALL

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SYMINGTON. Mr. Speaker, last March at the Conference of the National District Attorneys Association, the subject of gambling on professional baseball games was discussed. A forthright, articulate and compelling argument legalized gambling on team sports in general and baseball, the great American pastime, in particular was offered by the Commissioner of Baseball Bowie K. Kuhn. I think Commissioner Kuhn's remarks deserve an audience as wide as the country itself and, accordingly submit them here for the RECORD:

SPEECH OF BOWIE K. KUHN

President William Cahn of your Association has graciously invited me to address you regarding Baseball's opposition to proposals existing in several states to legalize gambling on professional sports events. It is our position that any form of gambling on professional Baseball games, legal or illegal, poses a threat to the integrity of the game, exposes it to grave danger and threatens to disserve the public interest. I would like to tell you why.

The proponents of legalized gambling on team sports have argued that legalization would contribute in the following ways to the public welfare:

1. It would deal a death blow to organized crime.

2. It would increase state and local revenues.

3. It would not have adverse effects on society or the team sports involved.

Speaking on behalf of professional team sports, I disagree emphatically on each of these three points. Let me say preliminarily that I have discussed this matter extensively with Commissioners Kennedy and Dolph of Basketball; Commissioner Rozelle of Football and President Campbell of the National Hockey League. We are all in agreement as to the adverse effects of legalization on team sports. These gentlemen are all aware of my appearance here today and have authorized me to say they join with me in opposing legalization.

EFFECT ON ORGANIZED CRIME

With respect to organized crime it is my very strong conviction that legalization would lead to greatly increased gambling on baseball both in terms of the dollar volume and the number of bettors. As I will discuss later, I believe this because in my judgment legalization with the attendant government sanction it implies would open up the avenues of gambling to the scores of millions of team sports' fans who presently have no interest in gambling. *Remember that most people in this country do not gamble.* That is the fallacy of the oft heard argument that you might as well legalize gambling because people are going to do it anyway. Maybe a small percentage will but not the vast majority who are not gamblers.

Under the circumstances it is naive to think that legalization would eliminate or even substantially diminish the substantial volume of illegal gambling on baseball. By introducing gambling to the non-gambling majority, legalization would open the doors for organized crime to a vast array of people they could not otherwise have interested.

We are realistic about the existing volume of illegal gambling and we recognize that it is substantial. Going back to the days of the Black Sox scandal in 1919, Baseball felt the frightful impact that gambling could have on our sport. The simple fact is that a group of hoodlums succeeded in fixing the result of the World Series in that year. In order to protect Baseball against this real danger the Office of Commissioner of Baseball was created in 1920 with the foremost purpose and mission of protecting the integrity of the game. Kenesaw Mountain Landis, the first Commissioner and all of his four successors have viewed this as their most critical assignment. Baseball's record for honesty in the ensuing half century has been a distinguished one. To ensure the record, Baseball adopted a major league rule with the strictest possible penalty for baseball people who attempt to fix the outcome of games—namely, mandatory lifetime ineligibility.

We have also maintained a Security Department headed by experienced former FBI executives which operates effectively and efficiently throughout the wide world of professional baseball to protect its integrity.

We think we know the habits and ways of the illegal bookmaker. He will not be put out of business by legalization, but rather can be counted on to compete by private services and other advantages which will assure the continuation of his profitable operations and which will feed on the host of newly initiated gamblers which legalization would make available to him. He will meet gimmick with gimmick and service with better service. He will give credit and rebates. He will accept poor credit risks confident that his strong arm methods will be an efficient collection agency. He will benefit from the tax free profits and his customers from tax free winnings. He will benefit further from enlarged loan sharking opportunities presented by increased gambling.

Off Track Betting which has recently been adopted in New York has made no bones about the fact that it has not reduced illegal gambling on horse races. So have the federal authorities fighting organized crime. Daniel P. Hollman, head of the U. S. Justice Department's Joint Strike Force against organized crime recently contended that Off Track Betting in New York was an example of how such public betting had failed to interfere with the bookmaking activities of organized crime.

EFFECT ON STATE AND LOCAL REVENUES

As to the argument that legislation will increase state and local revenues, we do not see it as the financial bonanza which has been forecast for local treasuries. Indeed some experts have already characterized Off Track Betting in New York as a failure. At the present time the Governor of New York is sufficiently concerned with the possible adverse effects of Off Track Betting on legalized track operations that he is seriously reviewing whether or not it is desirable to extend it beyond New York City. Aqueduct Race Track in New York has recently been shut down by a costly strike because of the need to lay off employees brought about by dwindling attendance and betting revenues. The cause was Off Track Betting.

If increased anti-social behavior should be the result of legalization, the costs to the state and citizenry could easily offset whatever immediate revenue benefits, if any, might occur. I will deal with the anti-social aspects subsequently in my remarks.

Certainly the possibilities of direct loss of revenue elsewhere must be considered; for instance, if moneys used in betting are siphoned away from the purchase of taxable commodities.

I do not think society has even begun to evaluate the complex set of potential interactions which could make the promised riches of legalization fools gold.

EFFECTS ON SOCIETY

What are the likely effects of legalization on society in general? One must fear that many of its well intended proponents seeking somehow to improve the serious revenue problems of local governments have blinded themselves to its dangerous consequences. A February editorial in the Chicago Tribune stated the case well against legalization:

"As too few people are saying out loud these days, gambling can be as addictive as heroin or alcohol. Despite revenues from liquor and tobacco taxes, governments increasingly try to discourage drunken driving and smoking. Tho profits in the heroin business are high, too, yet few urge government to take it up. No discussion of legalizing gambling (and thus inevitably spreading and encouraging it) is complete without an acknowledgment of its unmeasurable social costs.

"On balance, encouraging vices for the sake of taxing them is counterproductive."

What is going to be the source of the money that the public uses for legalized gambling? Is it likely to be money that would otherwise go into luxury items? I doubt it. It is mathematically certain that those who gamble regularly with either the legal or the illegal bookmaker always lose in the long run. If we open this gambling door further to a whole new generation I shudder to think what the price will be. The money will come from people who are least economically able to lose it; money that should go for food, clothing, education and other necessities will go into gambling. Gambling money is also likely to be taken from welfare payments with all the varieties of problems that could present.

I think it is the utmost in cynicism to use the great family sport of baseball to draw into the addiction of gambling the overwhelming majority of our population which does not gamble today. We have enough problems of addiction in our society now without introducing another lure such as legalized gambling.

EFFECT ON SPORTS

Probably the area in which the legalization proponents have the least knowledge and sophistication is the effect on team sports. I do not think I exaggerate one bit when I say that legalization could jeopardize the existence of professional baseball and other professional team sports by—

1. shaking public confidence in the integrity of the game;

2. creating a new class of gambling fans;

3. adversely affecting Baseball's strong family following;

4. creating a climate favorable to gambling which would undermine Baseball's historic efforts to prevent gambling by its people;

5. threatening the financial stability of Professional Baseball.

I have no doubt that legalization would adversely affect Baseball's reputation for honesty by creating suspicion in the mind of the betting and non-betting public. Where there is heavy gambling suspicion of dishonesty will inevitably follow regardless of however honest the sport may actually be. There is no way of proving that this is no other than to search the opinions of knowledgeable people ins ports all of whom uniformly recognize this clear danger. Baseball has long been free of even whispers regarding its honesty and there can be no doubt that this freedom is in large measure responsible for the enormous popularity of the game.

Moreover legalization would certainly increase the likelihood of efforts being made to fix baseball games and performances. This is simply inevitable as the quantum of gambling and the number of gamblers increase. For a shocking but tremendously meaningful comparison look at the record summarized from New York *Times* stories since 1960 of sports scandals in countries abroad which have gone down the side road of legalization:

Roy Paul, Welsh international soccer star, admitted he and several Manchester City teammates had taken bribes to throw two games. Two other players admitted receiving offers of bribes. (10/10/60)

A top British soccer club investigated reports one of its stars had offered bribes to two Everson players to throw a game in March 1960. A British bookmaker claimed he was certain soccer matches were being fixed. (10/12/60)

Sentences were imposed on more than 80 Czech sportsmen convicted of influencing the results of the sports pool thru fraudulent speculations. Among those included were 30 hockey players, 30 soccer players, 13 wrestlers, two tennis players, and a coach. (10/13/60)

A list of 20 soccer players reportedly involved in bribing and fixing of games has been drawn up by the leaders of the Football Association and the English Football League to be given to Scotland Yard. (10/19/60)

Esmond Million, goalie for the Bristol Rovers, admitted accepting $840 to throw a game that ended in a two to two tie. Keith Williams, a center forward, and Million were suspended. Subsequently Million, Williams and Brian Phillips, captain of the Mansfield Town team, were suspended for life by the Football Association after pleading guilty to sports bribery charges. (8/16/63)

A former British pro-football player, James Gould, was found guilty of attempting to fix results of soccer matches. (11/23/63)

James Thorpe, one of Sheffields biggest soccer bookmakers, asserted at least two pro-soccer matches were fixed each week last season. (4/19/64)

A drowning victim, Joseph Hancock, who was a 52 year old bookmaker had been questioned by police about alleged bribes of some of the major soccer teams in England. (4/28/64)

Peter Swan, former Sheffield, England Center has been in jail four months for his part in a soccer bribery case and was suspended for life by the Football Association. (5/6/65)

A disciplinary court of the West German Soccer Federation suspended three players for life, October 23, for their involvement in a bribery scandal which rocked the First Division last season. (10/25/71)

Italian Soccer Federation demotes Udinese Club to minor league, 1955 through 1956 season, suspends four players indefinitely on finding evidence that club bribed Pro Patria players to lose game, 1953. (8/3/55)

Incensed Italian fans blocked trains and overturned trucks after the Italian Soccer Federation dropped Caserta Team to a lower division. Caserta was penalized after a charge that one of its players had tried to bribe a Taranto player before their game last May. (9/9/69)

One can only shudder at the effect stories like this would have if they occurred in our professional sports in the United States.

Based on our own investigative experience and substantiated by law enforcement authorities it is our conclusion that both big and small-time gamblers who patronize legal or illegal sports bookmaking operations will try to get *inside information* from players and others who work in or in conjunction with Baseball in order that they will have what they call the "edge", which is restricted knowledge of a strength or weakness on the team. Likewise bookmakers are seeking the same type of inside information in order that their "odds line" will be accurate and thus attract bets to both teams in the contest which leads to a "balanced book" and sure profits for the bookmakers regardless of which team wins. This pressure for inside information would inevitably lead to undesirable associations involving our people and would focus suspicion on the integrity of our game.

There is another danger for Baseball if legalization were to occur. It is altogether probable that it would lead to forms of baseball betting other than individual game bets. The most likely new forms of betting would be spread betting and individual performance betting. The reason is simple: where you have a wide spread betting climate which is what legalization would produce you can be sure that more sophisticated forms of betting would ensue. The danger of these more sophisticated forms is that performers might be lured into run shaving and predetermined individual performances which would not necessarily involve fixing a game. Such approaches give the gamblers a much more persuasive argument when trying to induce athletes to give less than their best.

NEW YORK LEGISLATIVE RESEARCH

In 1963 the New York State Assembly completed a report on Off Track Betting in England. Its conclusions (appearing on pages VII and VIII) have for us an ominous ring in their applicability to legalization here:

Serious economic and social problems have been generated by the enactment of the British statute. These include:

1. A massive increase in gambling expenditures which involve at least a fourfold increase in turnover and the participation of thousands of new citizens in this activity.

2. The great bulk of increased gambling turnover has come from those in the lowest income strata, contributing to an unhealthy and largely unproductive shift of wealth, via betting, away from lower income families.

3. A sharp increase in defaults of debts owed small shopkeepers as a result of family resources diverted to betting.

4. Changed family expenditure patterns with an increased proportion of household income diverted to gambling.

5. Millions of leisure man and woman hours being consumed in the process of gambling.

6. Juvenile indoctrination in gambling habits as a recognized form of entertainment.

7. The development of new forms of gambling to meet the demand generated by the increased public appetite for wagering.

There are also strong indications, although there has been no effort by government or private organizations to research these areas, that:

(a) a greater proportion of social welfare funds are siphoned off into gambling;

(b) new strains have been placed upon family relationships;

(c) new forms of criminal activity have developed."

CONCLUSION

In summary legalization would jeopardize the public acceptance of Baseball—one of our national treasures—and would threaten its integrity and financial viability. Professional Baseball in North America consists of 24 major league and over 150 minor league teams (10 in New York State). Their games are attended by over 40 million fans annually. They constitute one of our most important and popular entertainment systems. In jeopardizing this system, legalization cannot do anything but a serious disservice to the public interest.

We in Baseball will try to persuade the public through every means available to us that we are right in our fight against legalization. We intend to enlist leading organizations and institutions and private citizens in our fight. We appeal to the District Attorneys of the United States and to all friends of team sports to give us their assistance and support. Time is critical and the cause is vital.

THE AVIATION INDUSTRY IS ON THE MOVE

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SPRINGER. Mr. Speaker, the Federal Aviation Administration held its fourth annual planning conference in Washington earlier this month. It opened with speeches by FAA Administrator John H. Shaffer and Deputy Administrator Kenneth M. Smith. Their remarks provide us a valuable insight into the present situation of the aviation industry and the changes that are in prospect during the next few years.

Despite the problems of the past, business indicators for the aviation industry are pointing upward and Administrator Shaffer is confident that the industry is on the move with "a vitality of spirit which has made, and kept, this country great."

I know my colleagues will be interested in these remarks of John Shaffer and Ken Smith, two men who are well qualified to speak on the problems of this great industry and what is being done about these problems:

REMARKS OF JOHN H. SHAFFER

Thirty years ago the mission of the aviation industry was to build an armada to safeguard the model of free government—democracy as practiced in America. We responded to that challenge as businessmen patriots and, during the next three years, supplied our country and its allies with most (more than 90 per cent) of the aircraft used in World War II.

Twenty years ago, in the era of American aeronautical predominance, our aircraft, aircraft engine and components industry were virtually sole supplied to the airlines of the world. Our general aviation export was equally impressive, but on a different scale. Our domestic and international air carriers were expanding at an incredible rate and our national aviation system somehow managed to keep abreast or more accurately to "hang on."

Ten years ago, with our government's preoccupation with Far Eastern affairs, the image of world ladership earned by the United States aerospace industry during the 1950's, though still on the ascendency was growing, dimmer—tailing off so to speak. We often acted as if our role was principally one of exporting American know-how instead of hardware.

The shift from the false industrial affluency of the wartime 60's, to the solidly based peacetime economy of this decade and beyond isn't easy and, I daresay, repercussions in certain quarters of the aviation industry are yet to be felt. I am confident, however, of one fact; our industry is on the move. There is a vitality of spirit which has made, and kept, this country great.

Business indicators for our industry are strengthening. Airline revenue passenger miles were up—in 1971, about four per cent over 1970, and the outlook for this year is this recovery in demand for services, cargo and passengers. For general aviation, the first quarter of 1972 is the best since 1969 in both units and dollars. Shipments during this first quarter of the year have increased 25 percent in units and 40 per cent in dollars over the same period in 1971. The major segments of our manufacturing industry still suffer from a lack of new programs partially attributable to the strain on investment resources and our withdrawal from Vietnam, but there is a glimmer of light at the end of the tunnel; military and space programs now before the Congress should provide aerospace industry a healthy infusion of dollars—the military STOL, lightweight fighter, space shuttle, to name just a few.

I'm of the persuasion that the greatest challenge with which industry and government, managers and planners are still reluctant to face, is acknowledgement that we must adopt a pattern of behavior different from that we learned, practiced, and fell victim to during the inflationary boom of the 60's. Today we're marching to the sound of other drums—the public need, the public requirement and the public demand. This requires a cooperative effort which the entire aviation community is just beginning to understand. We are slowly but definitely shifting from a "fractionated" industry to a team effort—in manufacturing, and in both the public and private sectors of air transport.

This new sharing of ideas, techniques and procedures by the aviation community in the building of progress—consortiums if you will—are as American as apple pie. We've been engaged in this sort of effort for years, perhaps on a smaller scale, under a banner we have called sub-contracting. Its financing has been different to be sure but therein, nevertheless, lies the key to progress—partnership.

For example, there is a genuine concern in America dictating the reduction of noise of the civil aircraft fleet and, to the everlasting credit of the industry, engine manufacturers have succeeded in reducing it at the source. We effectively put a lid on the sound of aviation with FAR 36 and every one of the aircraft that have been produced since have either met or improved on the standard. These planes are identified as the Boeing 747, the DC–10, the L–1011 and the Cessna citation.

All of these aircraft are better than the Federal standard, and technology holds forth the hope that in the next ten years we will progressively reach even lower levels of aircraft sound. Indeed, technology is now available to cut the sound of aviation in half *again!* In this regard, a modification of the engine for the new North American B–1 bomber has the potential for powering a civil aviation aircraft this nation sorely needs—a short-haul transport with 25,000 pounds of thrust per engine and a forecast noise level of 95 EPNDB.

Now, let me complete this rationale by questioning our anti-noise sect who keep suggesting that we retrofit the DC–9's, the 737's, the 727's, and even the DC–8's and 707's with quieter engines. The dollars that would be involved in such a program have been variously estimated to be in excess of $1.5 billion.

If there be that much capital around that's not working, I suggest that a more meritorious project than retrofit would be the development and construction of the airplane America needs for its transportation system—a short-haul transport designed for the U.S. airport network. If we collectively make up our minds, with minimum help of a responsive Congress, and the support of an enlightened public who should be more interested in the future than in the past, we could have a new quiet, short-haul transport certificated and in domestic service in this decade. This annual Planning Review Conference is an important step in the Department's annual consultative planning cycle. The record of comments and discussion at this conference will be carefully reviewed by the FAA and DOT and reconciled in its programming processes and in framing or reframing transportation policies.

The topics of report, and for discussion, during this and the two days subsequent will encompass all elements and exhaustively examine each aspect of aviation activity within the Departmental purview. The format of this conference, as with those in the past, is designed to demonstrate the relationship between FAA's specifications during the past year and those planned for the next ten in the building of the national aviation system. In return we ask your candid appraisal and encourage thoughtful comment.

REMARKS OF DEPUTY ADMINISTRATOR KENNETH M. SMITH

This fourth annual planning review conference—as with our first in 1969—is in a sense our annual meeting with the stockholders of the aviation community.

In developing the national aviation system, the Airport and Airway Development Act instructs the Federal Aviation Administration "to consult with other Federal agencies as appropriate, airport operators, air carriers, aircraft manufacturers, and others in the aviation industry." It was at our instigation that these words exist in the act.

These planning review conferences highlight the annual results of the consultative process of the FAA in the orderly development of the national aviation system authorized for at least a ten year period, as called for by the Airport and Airway Act of 1970. The ten year policy planning document is a report of what we are doing and what we are planning to improve the national aviation system. But it is more than a recital of events. It reviews the premises and philosophy of FAA policy within the context of President Nixon's mandate, the Airport and Airway Development Act, to build a system totally responsive to the public need in this last quarter of the 20th century.

The role of industry is to lend *credibility* and importance to our planning review. These ingredients will accrue from the dialogue developed during these next three days and the next 12 months. We hope to tap the planning resources of the many elements of industry, Government and user organizations participating here. The fullest extension of our dialogues must, of course, inevitably encompass the pro as well as the con. This is good and this is healthy. In this, the consultative process, lies the ultimate strength of the Federal Aviation Administration and the viability of the national aviation system which it serves.

You may be sure that what *is* said here in these next few days shapes our national aviation system policy in the year to come and those to follow. You may be sure that what you have to offer is thoughtfully studied by the FAA and reconciled with the interests of other elements of our community, the users of the aviation system, and importantly, the non-using public.

Thus the core of our planning review conference is a partnership that reflects the basic theme prefaced by President Nixon in 1969: "We can no longer afford to approach the longer-range future haphazardly. Only by focusing our attention farther into the future can we marshal our resources effectively." The President's reasoning is basic to the orderly acquisition of new facilities and equipment for the national aviation system at a rate great enough to fulfill immediate shortcomings as well as provide for future demands.

But the building of the system embraces more than an expansion and modernization of our airport and airways network. Its necessary adjuncts are a strong and competitive manufacturing and airline industry, and an equally healthy general aviation component, responsive to the vastly growing needs of the private sector as well as commuter and air taxi operations. So, in the final analysis, the aims and goals of the Federal Aviation Administration and the many segments of the aviation community, government, and public and private represented here are inter-dependent. In the progress of one lies the success and purpose of another.

Adjustments in our national aviation system policy surely will be required, but our experience with these annual planning review conferences—particularly since enactment of President Nixon's Landmark Airport/Airways Act—has confirmed the soundness of our approach.

For example, the advancement and modification of our ILS/MLS replacement program, facilities and equipment for privately owned, public-use airports, our modular construction control tower program, stepped-up modernization of flight service stations, and the creation of a special task force to develop the urgently needed area navigation system to name but five, are all requests of the consultative process between the FAA and its constituency.

To further amplify, we are currently in the development stage of a microwave instrument landing system which will enable small communities, particularly those with rough terrain features, to have reliable ILS's. The FAA has awarded contracts totaling $3 million to six companies for the initial phase of a planned five-year program to develop a new common civil/military microwave landing system which we call MLS.

Further, until a recent change, and as a result of the consultative process, Federal funds could not be used for equipping privately owned airports. However, the FAA can now utilize F&F funds to finance certain facilities and services at qualified privately owned airports which are open to and available for use by the public. The owner(s) of privately owned airports must comply with the requirements of airways planning standard number one to qualify for FAA F&F funds for this purpose.

FAA research and development efforts, again as the direct result of industry/government consultative interface, have led us into the design of modular air traffic control towers. These standardized turn-key installations will enable us to establish air traffic control service at some of the less busy airports. Their modular design permits permanent installations at lower cost than conventional hand tailored built in place towers. Sixty-four prefabricated control towers are to be installed at low and medium activity airports in 33 States and Puerto Rico, under a $12,900,000 contract. The turn-key package includes design, site work, fabrication, erection, furnishing and installation of electronic and other equipment.

The first delivery will be made by December of this year and thereafter at the rate of one a week for 15 months. The towers will vary in height from 30 to 70 feet and can be expanded in 10 foot modules to a maximum of 90 feet. These facilities, I might add, can be dismantled and relocated should future airport expansion dictate.

Flight service stations began operating in 1920 when the Post Office Department established four aeronautical stations to support a transcontinental airmail route. These stations literally kept the bonfires burning as an aid to navigation, accumulated weather information and served as radio telegraph stations for the airmail service. As the system expanded, the bonfires were replaced by beacons and the first radio range was introduced. Despite some opinion to the contrary, that a return to the bonfire concept might be more expeditious, we are making considerable progress with regard to flight service stations.

To meet the challenge of a growing and volatile aviation industry, more effectively, an action program is planned to reconfigure the entire FSS system and streamline its operation. Under this program, four types or categories of stations will be established. The specific type, and the services provided at any particular location will be responsive to the level of user demand.

Type I stations will be unmanned facilities providing self-briefing materials, a telephone to a briefer at a higher level FSS.

Type II and III stations will be FAA staffed facilities operating on a part-time basis. They will provide individual pilot briefings and flight planning services.

Type IV stations will perform the centralized functions for the entire flight service network, including en route communications and in-flight assistant services, search and rescue, lake-mountain-island reporting, transborder services and mass pilot briefings.

I believe, however, that the FAA airport certification program is an example of the consultative planning process at its best. Development of the draft certification regulations has involved an almost continuous coordination and consultative effort between the Federal Government and the industry. Many of you here today have been deeply involved in this process. When the notice of proposed rulemaking was published—we received over 900 individual comments. These comments significantly affected the requirements as developed in the draft regulation.

Again, when the agency found itself faced with a problem of how to implement this huge program with minimum manpower resources, we turned to industry for advice. A meeting held in February produced suggestions that have had a significant impact in the final recommendations submitted to the Secretary of Transportation. A decision on this will be forthcoming very soon.

Airport planning is another area in which very close consultation is maintained between the agency and industry and professional organizations. For instance, technical planning guidance such as our advisory booklet on metropolitan airport system planning was developed by a joint committee involving FAA and the airport operators council international in close cooperation with the Department of Housing and Urban Development and the Federal Highway Administration. Similarly, the document entitled "planning the state airport system" was developed by a joint effort involving FAA and the National Association of State Aviation Officials (NASAO).

Our airport master plan advisory, although not developed jointly, was closely coordinated with industry. The planning grant program procedures also received extensive coordination with industry groups, consultants, and professional societies.

This fourth planning review conference, then, is a means to fulfill our national transportational responsibilities on a sustained basis by evoking both the contributions of our friends in industry and the continued support of the NASA and the Department of Defense.

The annual planning review conference was never designed to be the sole point of consultation. It is instead an opportunity to review the efforts of consultation of the past twelve months. The policy and planning documents have been finalized, printed and distributed. Most of you have them before you now. They are not gospel. They are the foundation for consultation for the next twelve months.

The very nature of the expanding requirements of the National Aviation System calls for, indeed demands, continuing dialogue among us all.

WASHINGTON REPORT FROM CONGRESSMAN BOB PRICE

HON. ROBERT PRICE

OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Monday, May 8, 1972

Mr. PRICE of Texas. Mr. Speaker, it is my policy to publish a weekly news report at my own expense to keep my constituents advised of my activities in their behalf. The following is the text of my latest Washington Report:

WASHINGTON REPORT FROM CONGRESSMAN BOB PRICE

Ever since the bill proposing to increase the minimum wage was introduced in Congress last year, I have received many letters, telegrams and phone calls from Texans expressing their opposition to any increase in the minimum wage.

I am opposed to an increase in the minimum wage and will vote against it when it comes up for a vote this week in the House of Representatives. I am opposed to it, because it would result in higher prices and fewer employment opportunities—at a time when lower prices and more employment opportunites are what we need.

This bill called for an increase from $1.60 to $2.00 per hour in the minimum wage. It was introduced by a member of the opposition party, which has a majority in Congress. It was approved by the House Democratic Caucus. And it was approved with amendments by the Education and Labor Committee, which is controlled by the majority party.

An example of the many letters I have received opposing an increase in the minimum wage is this one from a small businessman in our district:

"DEAR BOB: I'm writing you about the efforts now being made in Congress to raise the minimum wage from $1.60 to $2.00. When this is considered against the background of wage-price controls and the battle to slow inflation, it is absolutely bewildering!! Here the wage board is trying to hold wage increases to 5.5% and at the same time our Government may legislate a 25% increase!!!

"To legislate an increase of this size can only add pressure for higher prices and cause additional unemployment as businesses try to cut back and control their expenses. It will work a special hardship on teenagers. Many businesses won't hire them now because they don't feel they can afford to pay them $1.60 much less $2.00 per hour. It works a hardship on small businesses such as ours also. We have two secretaries with several years experience that make a salary based on about $2.30 per hour. If we have to hire an untrained green employee maybe just out of school and pay her $2.00, then we will have to raise our other employees accordingly.

"We are flatly against any increase in the minimum wage at this time. If there must be one, then let Congress set a good example and limit it to 5.5% increase. Please vote against H.R. 7130, and if our only choice left is H.R. 14104, then please support the Anderson amendment to raise to $1.80 this year and $2.00 next year."

This letter makes good sense, and I hope my colleagues in the Congress will heed the advice of small businessmen like this Texan. I certainly plan to do so.

FREEDOM OF INFORMATION ACT SEEN FLOUTED

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Monday, May 8, 1972

Mr. MOORHEAD. Mr. Speaker, the Foreign Operations and Government Information Subcommittee began a comprehensive review of the operation of the Freedom of Information Act—5 U.S.C. 552—on March 6. Our hearings are the first in-depth examination of the way the law has been administered since it became effective on July 4, 1967.

Thus far, we have held 18 days of hearings, taken testimony from more than 60 witnesses, including 10 Cabinet departments and seven executive agencies, and have received many constructive recommendations for strengthening the act.

The hearings, now centering on the relationship of the Freedom of Information Act to the security classification system, will also include an investigation of case histories of the denial of information by the Executive to Congress. This phase of our hearings will begin on May 15.

Early in June, the subcommittee will begin its review of public access to information, meetings, and activities of various types of advisory commissions, committees, and other executive branch groups.

Mr. Speaker, an article by Bill Andronicos in the March 29, 1972, issue of the Federal Times provides an interesting summary of the first several days of our hearings. It is included at this point in the RECORD:

FREEDOM OF INFORMATION ACT SEEN FLOUTED

(By Bill Andronicos)

WASHINGTON.—Federal departments and agencies are not adhering to the provisions of the Freedom of Information Act of 1967, congressional witnesses have contended.

Charges of weaknesses in the practice of disclosing information and documents for public consumption were hurled at hearings of the House subcommittee on foreign operations and government information, headed by *Rep. William S. Moorhead, D-Pa.*

However, the government's role—as being consistent with the spirit of the act—was defended by Anthony L. Mondello, general counsel of the Civil Service Commission and one of the original drafters of the law.

To determine the extent to which the federal government is observing the law, Moorhead's subcommittee has scheduled a long series of hearings that will run twice weekly through June.

Witnesses will include government officials from virtually every department and agency, public information officers, representatives of the legislative and judicial branches, educators, industrialists, labor representatives, members of all facets of the news media and others too numerous to list.

Moorhead indicated that on completion of the hearings, Congress plans to suggest legislative solutions for any shortcomings found.

In his opening statement, he noted that the subcommittee also will look into the special information problems "posed by the hundreds of government advisory groups who hold thousands of official meeting often behind closed doors with no public or congressional knowledge of decisions made or deals discussed."

The first day of testimony saw two former presidential press secretaries—James Hagerty, who served under President Eisenhower, and George Reedy, who served under President Johnson—acknowledge there is too much secrecy in government.

Hagerty, now vice president of the American Broadcasting Co., reported on the frustrations he experienced in trying to release overclassified information to the public when he was in the Eisenhower administration.

The classification system, he said, was an antiquated one "often subjected to abuse and used with widespread regularity as a matter of rote or imagined protection from error." He added that there are too many "stamp happy" bureaucrats keeping government information from the public.

Reedy suggested that Congress should look into a proliferation of operations centered in the White House where they are covered by presidential executive privilege, thus making it "literally impossible to get at the facts."

In suggesting the subcommittee should come to grips with modern problems of "executive privilege," both Hagerty and Reedy agreed that intimate presidential advisers should remain protected from possible harassment. Both indicated the interrelationship between the President and his advisers was a personal one—and should not be interfered with.

A group of former public information officers also attacked the government's shortcomings in disclosing information to the public.

Among them was Harold R. Lewis, former director of information in the Department of Agriculture, who suggested that "direction from the Congress" is needed to strengthen the administration of the Freedom of Information law.

With particular reference to nine exemptions within the law—under which the government can refuse to disclose information—Lewis said the exemptions encourage some officials to refuse disclosure of information in instances where withholding is not actually necessary.

J. Stewart Hunter, former associate director of information for public services in the Department of Health, Education and Welfare, told the subcommittee that in HEW—and possibly in other agencies—clear conflict exists between earlier legislation and the Freedom of Information Act.

For example, Section 1106 of the Social Security Act, as later amended, authorizes denial of information on virtually every operation of that agency. This authority was blanketed into HEW's public information regulation, as was similar restrictive legislation dealing with the Food and Drug Administration. According to Hunter this "has placed severe inhibitions on the successful administration of the Freedom of Information Act."

"The original intent of the Social Security Act amendment was to protect the earnings records of those enrolled—a perfectly laudable objective," Hunter said. "But, Section 1106 as it now stands squarely contradicts the Freedom of Information Act. As long as it exists, it will constitute a barrier to obtaining information on that agency's operations."

Richard B. Wolf, deputy director of the Institute for Public Interest Representation, Georgetown University Law Center, charged that instead of offering prompt and inexpensive disclosure of information, federal agencies have sought refuge in the act's exemptions. In many instances, he added, agencies take several months to respond to specific requests for information.

According to Wolf, the federal government is forcing the freedom of information issue into a posture so inflexible that only the courts can settle the controversy.

Frank Wozencraft, a Houston lawyer and a former assistant attorney general who helped draft the information act, expressed disappointment that the act has not yet had greater impact.

He urged the subcommittee, in its quizzing of witnesses, to ask each government agency representative specifically what he has done to assure that guidelines for information have been published and made available to the public.

On the other hand, Mondello, in defending efforts of the Civil Service Commission and other agencies in upholding the Freedom of Information Act, denied that the federal government is derelict or negligent in disclosure of information.

He decried the attitude of critics who insist the withholding of information constitutes the prevailing philosophy of all federal bureaucracy, simply because of isolated actions.

Mondello said one of the problems is that the federal government is torn between those who want public information officers to divulge "just about everything" and those who are concerned that disclosures might constitute unwarranted invasion of privacy.

Another witness, David Parson, chairman of the Federal Bar Association's committee on government information, discussing the role of the federal lawyer, said that although the lawyer's ultimate employer is the people, he has chosen to be a civil servant and thus cannot be expected to countermand his immediate employer.

Whatever the case, because of congressional pressure, it appears that agency officials will need to take a second long look at—and review and revise where necessary—internal policies in an effort to comply with the Act which became effective July 4, 1967.

A key role in the development of the act was played by Rep. John E. Moss, D-Calif., who devoted years of effort to it. At the time it became law, Moss told House colleagues he hoped its guidelines would convey to officials of the executive branch of the government the basic objective—"which is to define the right of access to official records of the government and to broaden the availability of all government information to the public."

But what of the Freedom of Information Act itself? Specifically, it encompasses several key issues. These include:

Disclosure is to be the general rule, not the exception.

All individuals have an equal right to access.

The burden is on the government to justify the withholding of a document—and not on the individual requesting the document.

Individuals improperly denied access to documents have a right to seek injunctive relief in the courts.

There should be a change in government policy and attitude, particularly where there is a tendency to be reluctant to divulge information.

At the time of the law's passage, then Atty. Gen. Ramsey Clark cautioned in a memorandum that "if government is to be truly of, by and for the people, the people must know in detail the activities of government."

BUREAU OF THE CENSUS STATISTICS FOR 1970 ON INDIANA'S NINTH CONGRESSIONAL DISTRICT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HAMILTON. Mr. Speaker, the Bureau of the Census has just released its 1970 report on the population makeup, housing patterns and voting trends in the new congressional districts in Indiana. The statistics in this report offer an insight into the makeup and the character of the 19-county Ninth District and southeastern Indiana.

The report includes these facts about the Ninth District:

NINTH DISTRICT STATISTICS

POPULATION

Population	472, 321
Percent of the State's population	9. 1
Percent of population change (1960–1970)	11. 1
No. of residents per square mile	78
White residents	463, 894
Negro residents	7, 702
Other	725
Percent Negro and other residents	1. 8
No. of male residents	230, 494
No. of female residents	241, 827
No. of urban residents	215, 231
No. of rural residents	257, 090
Percent of urban residents	45. 6
No. of metropolitan residents	160, 928
No. of non-metropolitan residents	311, 393

POPULATION MAKEUP BY AGE

Under 5 years	42, 733
5–13 years	90, 813
14–17 years	38, 640
18 years and older	300, 135
18–20 years	21, 129
21–24 years	26, 930
25–34 years	59, 155
35–44 years	53, 132
45–64 years	92, 742
65 years and over	47, 047
Median age (years)	27. 7

HOUSING

No. of housing units	155, 905
Owner occupied	109, 826
Renter occupied	35, 118
Percent of units owner-occupied	75. 8
Units lacking some or all plumbing	21, 017
Units with 1.01 or more persons per room	14, 034

RENTAL UNITS

No. renting for less than $60 per month	10, 270
$60–99	11, 171
$100–149	4, 530
$150–199	792
$200–299	97
$300 or more	8
Median rent	$68

VALUE-OWNER-OCCUPIED UNITS

Less than $5,000	6, 311
$5,000–9,999	19, 780
$10,000–14,999	21, 594
$15,000–19,999	15, 302
$20,000–24,999	6, 993
$25,000–34,999	4, 429
$35,000–49,999	1, 469
$50,000 or more	463
Median value	$12, 800

VOTING

Votes cast for U.S. Representative, 1970	169, 617
Democratic	104, 291
Republican	65, 326
Votes cast for U.S. Representative, 1968	189, 668
Democratic	102, 806
Republican	86, 860
Votes cast for U.S. Representative, 1964	194, 213
Democratic	112, 182
Republican	82, 031
Votes cast for President, 1968	198, 432
Democratic	76, 980
Republican	94, 637
Wallace Party	26, 178
Votes cast for President, 1964	197, 368
Democratic	118, 340
Republican	78, 029

DEMONSTRATORS ARE NOT ALWAYS QUAKERS

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BRAY. Mr. Speaker, it is often assumed—and very erroneous the assumption is, too—that most if not almost all demonstrators for "peace" are Quakers or members of Quaker-endorsed groups. This simply is not true. As a Quaker myself I have long resented this unwarranted allegation and I know many of my fellow members of that faith do, as well.

Earlier this year I received a letter from Southwood Friends Church, of Southport, Ind., which addressed itself to that very topic. I have permission of the meeting to insert their letter in the RECORD, which I am pleased to do at this time:

SOUTHWOOD FRIENDS CHURCH,
Southport, Ind., January 22, 1972.

Mr. WILLIAM BRAY,
U.S. Capitol Building,
Washington, D.C.

DEAR MR. BRAY: America's vast communications network keeps the world's news in every citizen's home—whether he be a citizen of the United States or any other free world country. When this news is indicative of some prevailing social turmoil within our nation, it becomes more and more interesting to our own people, our nation's allies, and our "cold war" foes, too. And when the communications media report that the turmoil has been initiated by some particular organized religious or church group and that members of the denomination in question participate daily in the turmoil, yet more attention is awarded the movement.

More specifically, we are speaking of the "Quaker" camp-in at the White House in Washington, D.C. Several individuals have felt compelled, for some reason, to maintain a constant vigil at the White House in protest of hunger and inadequate shelter for the poor, United States involvement in the Vietnam conflict, and our country's entire governmental and social structure.

Two friends of our meeting spent some time in Washington during the holiday period and were told by the friends with whom they were staying to make certain they did not miss the spectacle created by the "Quakers" at the White House. A city bus driver conducting a tour of the city stopped the bus and brought to the attention of all the passengers the "Quakers" who were lying all over the sidewalk. That night when the 11:00 p.m. news was televised, there was mention of the "Quaker" protest that was still in process at the White House after more than five months.

These friends of our meeting, one of whom is a Quaker, were perturbed to think that Quakers were involved in such a fiasco. They did not disagree, in theory at least, with some of the supposed objectives of the participants. They did object seriously, however, to the terrible spectacle being created by human beings in the name of Quakerism.

Our friends decided they had to talk to the movement's participants and learn more about their objectives. They walked into the "camp" and spent about ten minutes conversing with two of the most talkative of the campers. Some of the most noteworthy of the revelations they found and the observations they made were these:

1. The participants were physically filthy.

2. Jail is no threat to these people and, at times, is a haven for them. They respect the law only when it affords them protection and provides physical comforts.

3. Drugs, pot, etc. are used by the campers.

4. They advocate the abolishment of all national governments and the eventual creation of a world government if any government at all is necessary.

The most interesting fact of all is this:

5. Not a one of the White House campers is Quaker!

Our friends learned from the campers that the last Quaker had departed in November. The present participants seemed to be glad of their departure, insinuating that the Quakers were ineffective to the movement. They also stated happiness over the Quaker departure because the Quakers had objected to their drug and drinking habits, smoking, and other related activities. Also, the Quakers did not like their foul language.

We do not know the absolute facts about the original Quaker involvement in the White House camp-in. Neither are our friends who talked with the present campers necessarily willing to accept as absolute everything they were told. But we have no reason to suspect that the present campers are Quakers when they say they are not and when they express so much sarcasm toward the Quakers for their moral views.

Mr. Bray, it hurts our national pride to have this type of individual camping in Washington outside the residence of this nation's president. But as Quakers who are reasonably conscientious about our Society's public image, we are embarrassed that Quakerism is receiving the notoriety for the movement we have described. We solicit your help in a publicity movement to inform all who have heard about the "Quakers" at the White House for the past several months that there are no Quakers there. We also seek your advice concerning what we can do in this regard at our local level. We have several months' worth of news media publicity to negate, and we feel that the job can only be accomplished through assistance from someone in a position such as yours.

Will you help us, please?

Yours truly,
EVERETT DALE CARTER,
Clerk.

THE BIHARIS OF BANGLADESH—A PEOPLE WITHOUT A FUTURE

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HALPERN. Mr. Speaker, the tragedy of the 1.5 million Biharis in Bangladesh is the latest example of the hatreds and communal strife that have plagued the Indian subcontinent for decades and even centuries. Three times in the last 25 years the people of the subcontinent have gone to war over their religious and ethnic conflicts. Millions have died needlessly as Indians fought Pakistanis, Hindus clashed with Muslims, Sikhs fought Hindus, and Kashmiris fought against each other. And so it goes on and on with the death toll rising year after year from the senseless killing.

Many of us believed that the India-Pakistan war of last December would finally end this senseless slaughter. Logically, or so we thought, we concluded that the killing of between 200,000 and 1 million innocent East Bengalis—no one really knows how many died in the bloodbath—would sober the governments and people of the region into a realization that the violence and hostilities had to cease if they were ever to join together to unshackle the chains of poverty that have bound them for thousands of years.

Unfortunately, we now know that our own logic and values seldom apply to the Indian subcontinent. The tragedy of the Biharis in Bangladesh has demonstrated once again that the ethnic and religious hatreds of that part of the world have a staying power that defies all logic and reason. It has also shown us that no single group in South Asia is responsible for the violence and killing of the past 25 years. Indians, Pakistanis, Bengalis, Sikhs, Biharis and other peoples all share equally the guilt and responsibility. The oppressed Bengalis of 1971 have become the oppressors of 1972. The Biharis, some of whom participated in the persecution of the Bengalis in 1971, have now become the persecuted. The Indians, who went to war in 1971 in a crusade to liberate the Bengalis now shrug their shoulders at the plight of the Biharis. And the Pakistanis, who so eagerly used the Biharis in their ill-fated effort to subdue the Bengalis, now express reluctance to discuss the possibility of repatriation of the Biharis to West Pakistan.

The Biharis today have been herded into camps and ghettos where they live in the most squalid conditions. In one camp near Dacca, 16,000 people live within a walled compound about 50 yards square. The compound has 23 latrines and four water pumps at which people line up hours to draw water. The only source of food is the International Red Cross. The Bangladesh Government has provided little or nothing and has restricted outside efforts to help the Biharis.

The United States, which now has recognized Bangladesh, will provide over $200 million in humanitarian aid to that nation this fiscal year. President Nixon has asked the Congress for an additional $100 million for fiscal year 1973. The United States should insure that its aid reaches the Biharis in order to relieve their suffering. As a first step I propose that the United States ask the Government of Bangladesh to allow the American Red Cross to conduct an on-the-spot investigation of the needs of the Biharis. Complete knowledge of their requirements will enable our aid people to direct adequate amounts of food, medicine, clothing, and other items to them. It will also indicate to the Government of Bangladesh our concern that the Biharis receive humanitarian assistance and be allowed to live in peace; it may also generate international awareness over their plight. By doing this, the United States can help to insure that the Biharis cease being a people without a future.

HAIPHONG BLOCKAGE WOULD BE CRIMINAL INSANITY

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. LEGGETT. Mr. Speaker, gentlemen, yesterday Evans and Novak reported that the administration is seriously considering a quarantine—a Cuba-style blockage—of Haiphong.

Such a move would not strengthen our national security. It would not weaken it. It would destroy it.

The year 1972 is not 1962. We no longer have the faintest hope of a successful first-strike capability against the Soviet Union. Vietnam is not Cuba; the Soviets have not overextended themselves into our backyard; they are supporting a brother Asian Communist nation in what they regard as an effort to drive out a colonial invader. Russia cannot abandon North Vietnam and the NLF without suffering unacceptable loss of face.

Russia cannot afford this loss of face. It wants the summit and the SALT agreement, but anyone who thinks it wants them badly enough to publicly yield to U.S. military pressure is out of his mind. It cannot order its freighters to turn back when confronted by our quarantine. The only way we can stop them is to sink them.

If we do this, the Soviets will have to respond. They might bring their air force directly into the war, they might attack our carriers with their submarines, or they might use their subs to set up a quarantine of Saigon. Any of these would, in turn, force a greater reaction from us, which would then force a still greater reaction from them, and so on.

The risk of global nuclear war generated by blockade of Haiphong is unacceptable.

President Nixon has Vietnamized Vietnam up to the ears. He has given Thieu all the equipment money can buy. If the Saigon regime needs more equipment, we should give it to them. If they swim with it, fine. But if they sink, we cannot and must not jump in after them.

Thieu is not worth world war III.

The Evans and Novak article follows:

Nixon's "Quarantine" Option

(By Rowland Evans and Robert Novak)

A "Quarantine" or blockade of the port of Haiphong to stop the flow of Soviet war material pouring into the battlefields of South Vietnam is under intense study as the likeliest, most dramatic response to Hanoi's invasion now available to President Nixon.

A second option—all-out bombing to destroy Haiphon's port and dock facilities—is viewed as more politically dangerous. If battlefield conditions in South Vietnam continued to deteriorate and Mr. Nixon decided he could no longer delay a military reaction, a major bombing campaign before the May 22 Moscow summit would almost certainly cause the Kremlin to cancel the summit.

In short, the Russians would refuse to receive the President while Soviet ships were in danger of being sunk by American bombs and the principal port of Moscow's ally in North Vietnam was under severe attack.

And yet, for his part, Mr. Nixon could scarcely go to Moscow as Hanoi's invading armies were about to crush the city of Hue. Hue, a few miles south of the enemy-held city of Quangtri, is symbolically vital to Saigon.

What, then, can President Nixon do within the extremely narrow margins available if, in fact, Hue is successfully attacked before May 22–or if, to the south, the Communists split South Vietnam in two or start advancing toward Saigon iteseif?

The answer as of now: declare Haiphong "quarantined" to all war shipments and order the U.S. fleet to enforce the quarantine, much as President Kennedy did in the Cuban missile crisis of 1962.

That dramatic military action would be coupled with a credible warning to Moscow and an appeal that, to save the summit and a possible U.S.-Soviet confrontation, the Soviet Union must respect the quarantine.

As some top-level experts now view this admittedly high-risk scenario, Moscow might be persuaded to accept it. The most persuasive part of the U.S. argument is this: that after a full generation of the nuclear arms race and off-and-on cold war, the United States and the Soviet Union cannot permit their first successful effort at bilateral negotiations on arms control and trade agreements to be wrecked by a small Asian country.

Thus, both American and Soviet officials are saying privately that if the summit meeting between Mr. Nixon and Communist Party chief Leonid Brezhnev collapses now, it could be a long time—perhaps years—before the climate for detente becomes favorable once again.

Moreover, in addition to a nuclear arms agreement and trade with the United States, Moscow also regards the summit meeting as essential to restore the Soviet balance in the dangerous game of triangular politics now being played between Washington, Peking and Moscow. Mr. Nixon's spectacular visit to Peking in February had a distinctly uneasy audience in Moscow.

If the command shakeup in the South Vietnamese army following the fall of Quangtri actually results in stiffening its combat capability, the quarantine option could be postponed until after the summit meeting or indefinitely.

The most sensitive point today is still the city of Hue, where the Communists are now regrouping and re-equipping after severe losses. It is at least possible, in short, that the North Vietnamese will not be able to repeat their successes of the past five weeks.

But every political and diplomatic effort by the Nixon administration to slow down the offensive (particularly Mr. Nixon's efforts to revive the Paris peace talks with at least a "tacit" slowdown of the enemy offensive) has dismally failed so far.

Some officials here are arguing that Mr. Nixon cannot wait to react with extreme toughness to Hanoi's invasion even without any new Communist successes. As of today, the President is acting more cautiously. But if Hue falls in the north or if there are major new enemy successes in the south, Mr. Nixon will feel he must react and react hard and the option at the top of the list is the quarantine option.

DRAMATIC REVIEW OF DR. MARGOLES PLEA FOR CLEMENCY

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. McCLORY. Mr. Speaker, a dramatic and informative series of articles has appeared recently in the News Sun, a daily newspaper published in my congressional district in Waukegan, Ill., concerning the heartrending case of Dr. Milton Margoles.

Mr. Speaker, this series, prepared by the News Sun staff writer Steve Rothman dramatizes and explains the human emotion and suffering which Dr. Margoles and his family have experienced following Dr. Margoles' conviction in an income tax case in 1960.

Mr. Speaker, I have tried in vain to secure a Presidential pardon for Dr. Margoles who, long ago, completed his prison sentence and has paid more than $300,000 in penalties, interest, and taxes on an original deficiency claim of $33,000.

Mr. Speaker, the articles explain more eloquently than can I the justification for executive clemency in behalf of Dr. Margoles. I commend this series to my colleagues in this Chamber and to others in authority who may wish to lend their understanding and support to this petition for compassion and relief:

Zion Doctor's Story: A Study in Futility

(By Steve Rothman)

It was raining out and the drops beat steadily on the windows of the gray octagonal house where Dr. Milton Margoles lives in Winthrop Harbor.

"All I want is peace and a chance to do something with the rest of my life," said the 59-year-old medical man. "I am tired and I just want to be with my family."

His wife, Betty, and his son, Perry, sat in front of the fireplace of the home they recently purchased.

"You'll have to come to Milwaukee with us one of these days and see our former home," said his wife. "That was a real place. That's where Perry and his sister were raised."

His 26-year-old son held a briefcase full of files dealing with the tragic set of circumstances which left his father almost penniless. Practically every dollar he now makes goes to pay a staggering tax debt totaling almost one half million dollars.

"You know Congressman (Robert) McClory is working on our case," said Margoles. "He's been in touch with the Justice Department. He hopes something will break the right way for us in the near future."

"He's also been in contact with the President," said Perry. "He thinks Nixon may take a hand in this matter himself. At least he hopes so."

Dr. Margoles has been the subject of a sympathetic press for more than 15 years. Recently, Washington columnist Jack Anderson raised new questions concerning the doctor's case.

"I am not interested in fighting any battles now," said Margoles. "I am tired of fighting. It's for younger men, for those who still feel society can be made a better place to live. I am sick of inquiry, investigations and words. Let it die now before it kills me."

"I hope we can get this thing settled quickly now," said McClory when reached by phone. "There has been too much said and not enough done."

McClory became embroiled in the strangest tale of misadventures he had ever heard more than 18 months ago. He had taken on the battle started by Congressman H. R. Gross, R-Iowa, before him. That was when Margoles tried to get an Iowa license to practice medicine.

McClory began his fight as Zion officials sought the doctor for their tiny northern city. He had won the right to practice in Illinois in 1970—a small victory in a fight where more battles have been lost than won. Now he was fighting what he hopes will be his last battle for a presidential pardon.

While the Justice Department reviews each case for the President, there are times when the executive branch of the government can make a request for action on its own. Margoles and his many supporters hope this will be one of those cases.

White House Press Secretary Ron Ziegler has been informed of the case and promised to get the President's ear—possibly this week. At least this is what his office said when contacted by the News-Sun about the case.

The series of mis-adventures began almost three decades ago when Margoles returned from World War II. He had come back to Milwaukee where his family had lived for many years. He opened an office at 12th and Vliete streets—in an area since throughly integrated.

"I found Milwaukee 30 years behind because of the war," said Margoles, who came out of an era in medicine when doctors served an apprenticeship before even thinking of taking up a specialty.

That was in 1946 when the hospital situation reached crisis proportions. "There was an influx of doctors and not enough hospital beds," he said. "It was a time when medical insurance was just coming into vogue."

In those days, Margoles recalls, he performed many a tonsilectomy and delivered many a baby on a kitchen table.

It was also an era when integration was still a word unknown in most people's vocabulary. "I found there was a desperate need for hospital beds for blacks especially," he said.

During those days he found himself fighting for bed space every time he had a black patient. The hospitals were not too interested in this clientele.

One of the cases which decided his future was that of the late Joe Harris a leader in the black community. Harris had suffered a case of acute appendicitis.

"I watched one of the strangest events take place in my entire life," said Margoles. "I watched a nurse walk into a ward holding five white men. She asked each one if they minded having a black man in the ward.

"They all said yes so I was forced to put my patient in segregation—in a $30-a-day private room instead of a $15-a-day ward bed."

With the encouragement of a few friends and colleagues, he opened Capitol Hospital at the north end of Milwaukee. Over the next few years he poured all he could get into building one of the finest community hospitals in the country.

"We were quite successful," he said. "We peaked at more than 40 bed patients with a staff of 65 and 20 doctors—ten of them black."

This was in 1957 at the opening of the battle for school integration in Little Rock. The Ford Foundation had recently given the hospital a grant because of its not-for-profit work. He was fighting for hospital accreditation in a period where there was great hostility to integrate at any levels.

It was also the beginning of a move by the larger hospitals to fight any expansion of small institutions like Capitol Hospital. They saw such hospitals as a threat to their economic well-being.

"I really wasn't thinking about the number of problems which I was creating," he said. "All I could think about was building that hospital up."

Margoles was so successful that Charles Letourneau, a professor of hospital administration and editor of Hospital Management Magazine gave this institution nationwide attention for its unique success in integration. Then the next series of problems began for Margoles.

THE MARGOLES STORY: TAX TROUBLE AND JAIL

Mrs. Betty Margoles brought in steaming cups of hot Sanka and placed them on the narrow coffee table.

She had been listening while her husband, Milton, had related some of the earlier experiences leading to a tax suit which has stripped him of almost $500,000 in taxes and legal expenses, putting the family into debt.

"It's the wife who suffers and the children," she said. "You don't know what it's been like. The endless telephone calls, the trips to Washington, endless questions and never any peace. Do you know what it is like to be hounded by the Internal Revenue Service? Do you know what it is like to just want to be able to start a new life and know you can have something to build with?"

Perry Margoles, their son, hushed his mother. "It won't be much longer," he said. "I'm certain that McClory will be able to do something. He's is trying."

Congressman Robert McClory, R-Lake Bluff, took up the fight where Congressman H. R. Gross, R-Iowa, started. He has written to President Nixon and made repeated visits to the Justice Department.

"I hope I'm not asking for all that much," said Margoles, who has spent 15 years trying to clear up what started as an alleged $33,000 tax bill with Uncle Sam.

"You can't really appreciate the way things were going," he said. "Those were good years when we were getting Capitol Hospital in Milwaukee moving."

There was also an ugly undercurrent of hostility from the rest of the predominantly conservative Wisconsin city. The other hospitals didn't like his success. Many of the people resented his concept of "integrated" medical care. And there was occasional harassment.

"We even had an attempt to plant an illegal abortion in the hospital," he said. "But our operating room nurse was a strict Catholic. Do you really think that she would have let us get away with a thing like that even if we wanted to, which we didn't."

Margoles didn't know what was coming when the first IRS man entered the hospital. "He spent about three months piddling around then left," he said.

Then the IRS suddenly took interest in Margoles' financing during the same period when a Milwaukee union showed interest in buying a hospital. Margoles' operation seemed particularly interesting. It was learned later.

Margoles found the IRS was looking into the way he purchased his government bonds and some of his other financial arrangements. He had been buying small bonds and converting them into larger bonds without declaring the interest. He had also mortgaged his house on various occasions to get credit to build his hospital.

In retrospect, Margoles admits he was not very smart when it came to this financing and his other investments and awoke one day to find himself embroiled in a tax suit. Uncle Sam wanted $33,000 in unpaid income taxes.

"I went to my tax consultant and asked him if I should pay it," said Margoles. "He told me not to worry as we would fight it all the way to the Supreme Court." In 1959, the case not having been settled, he was indicted for income tax evasion.

Facing a prison sentence in 1960, Margoles threw in the sponge. "I can remember spending the entire day waiting while my lawyer and the government's attorney met with the judge in his chambers," he said.

Out of this came a negotiated plea which was neither legal or on the record in those days. It was agreed that Margoles would plead no contest and receive a stiff fine and probation, he was told later.

"I didn't have anything to worry about," he said. "Few people were being sent to prison for tax evasion. I had watched the cases closely. It was a civil matter as far as I was concerned. I was wrong and willing to pay."

However, when Federal Judge Robert Tehan told him the penalty was one year in prison and a $15,000 fine, Margoles paled. The judge said one of the reasons he was giving him this sentence was that the doctor had hidden away $731,000 in cashier's checks. A charge never made by the government and steadfastly denied by the Margoles.

The doctor asked for three months to get his affairs in order. He also went to Mayo Clinic in Rochester, Minn., for help with a medical problem. Upon his return he had planned to seek a reduction in the sentence. He felt something must be wrong as the judge had given as his reason for the stiff penalty a figure which represented the worth of his entire hospital operation. He had hired Wisconsin attorney David Rabinovitz to represent him.

During this same period, he received a phone call from a man named Earl Villmow who was seeking some help in financing his home. The doctor had been known to make some second mortgages where a man was in trouble.

"I went," said Margoles. At this meeting he was approached with a proposition that if he would pay $5,000 down to a law firm in which Tehan's son was associated, he would get a suspended sentence according to Congressman Gross in a statement made part of the Congressional Record.

"I asked my attorney and was told perhaps it would work," said Margoles. "He told me to go ahead and pay it."

At the same time, unbeknown to Margoles, an Indianan had written a letter to Sen. James O. Eastland, then chairman of the Senate Judiciary Committee. Attorney Owen Crumpacker had asked the Mississippi Democrat to look into Tehan's handling of a multimillion dollar court reorganization case in Hammond, Ind.

"Whether Tehan became frightened because of this investigation, I'll never know," said Margoles, "We didn't even know he had any problems."

Tehan also might have found himself in trouble for failing to file or even pay income taxes for eight years prior to his appointment to the federal bench according to Sen. John Williams, R–Del., in the Congressional Record. But somehow this problem got swept aside and was never raised again.

It was in this atmosphere that Margoles was indicted for attempted bribery and obstruction of justice. And the judge, in what can only be considered an act of questionable conduct, issued pre-trial publicity releases, implying the doctor's guilt.

After what must have been a difficult case, the jury decided that Margoles was not guilty of attempted bribery. But on the same set of facts, it found him guilty of attempted obstruction of justice.

As in any court battle, some of the important facts get left out through various legal maneuvers so the jury never learned that the doctor had received advice from his attorney to pay the money.

And as Washington columnist Jack Anderson said last week, the junior Tehan's law firm had a lucrative bankruptcy practice in his father's court. The jury never learned of this either as the younger Tehan never took the stand.

THE MARGOLES STORY: STARTING ALL OVER

It was a somber day in 1962 when Dr. Milton Margoles returned to his Milwaukee home after 22 months in a federal prison at Sandstone, Minn.

While he had been away, a local union had seized control of Capitol Hospital, which he had started many years before. It had been the first integrated hospital in the Wisconsin city.

Now he was returning to find most of his assets dissipated and a ballooning tax bill which would eventually reach several hundred thousand dollars.

Margoles had pleaded no contest to evading income taxes amounting to more than $33,000 by time he was finally sentenced in 1960. He had received one year in a federal prison and a fine of $15,000.

In what can only be considered a case of bad legal advice, he had paid a retainer of $5,000 to the law firm of the sentencing judge's son after being solicited by a third party, according to testimony in the Congressional Record of March 27, 1972. His own lawyer had advised him to do it and never warned him that such an act could be considered criminal.

This resulted in an indictment for attempted bribery and charges of attempted obstruction of justice. A jury found him innocent of bribery, but guilty of attempted obstruction of justice. He received five years more in prison because of this bad advice.

"It all seemed like a bad dream," said Margoles as he sat down to lunch in the gray octagonal house in Winthrop Harbor.

Through the efforts of Congressman Robert McClory, R-Lake Bluff, he had been able to get a medical license in 1970 so he could help serve the people in Zion. McClory is also trying to obtain a presidential pardon for Margoles.

"I just don't think income tax evasion is the kind of crime which warrants the punishment this man has received," said McClory. "He has suffered more than enough for what he accidentally did to himself."

During the months Margoles was away, the union managed to dissipate all of the accounts receivables and assets of the hospital and left a stack of unpaid bills for Margoles.

By coincidence, Margoles returned home on the day union leaders decided to sell or lease the hospital. The union threw the institution into voluntary bankruptcy. All of the key records showing how the assets had been dissipated had disappeared.

"I went out and borrowed the money to get back the hospital," said Margoles. "I had to buy back the medical equipment, the beds, and even the office equipment. If my friends hadn't loaned me the money, I wouldn't have succeeded."

Meanwhile Uncle Sam was watching eagerly from the side lines and immediately took an interest in Margoles as he regained control of the hospital. He was forced to assign all funds obtained by leasing the building to a medical group to pay his tax bills. A sore point with the Margoles family has been that they could have paid off their debt to IRS if the government had approved the sale of the hospital in 1966.

Needless to say, the federal wheels turn slowly and the potential sale fell through. "We could have paid off all of our loans, tax and legal obligations if the government had moved faster," he said.

Since that time, the building has been leased to another organization and Margoles' son, Perry, has devoted all of his time to trying to find a buyer.

As a result of the failure to complete the sale, however, the family incurred an additional $60,000 in real estate taxes.

The doctor is still mystified why the IRS in 1960 had threatened him with a jeopardy action if he refused to assign control of his few assets to a third party bank for management.

Even then IRS District Manager Emil J. Nelson was unable to explain what prompted this threatened use of force.

The Margoles family has also discovered that the government wasted assets worth more than $7,000 by failure to collect on outstanding debts to the hospital.

"We also found that the government had invested thousands of dollars they had collected in government bonds which paid only two or three per cent. The government was charging us 6 per cent interest on the unpaid balance of our tax bill," said Margoles.

It was not until 1969 that the IRS admitted in a letter that Judge Robert Tehan Sr.'s claim that Margoles had assets worth $731,000 buried in the ground as being unfounded. This had been the basis for the stiff penalty handed down by Tehan during the income tax case in 1960.

In addition to this harassment, tax officials put the doctor's home on the auction block in 1969. Margoles was forced to go out and borrow more money to buy it back.

It was under this economic burden that Margoles was forced to try and build something out of his remaining life.

At the same time, Margoles was fighting another battle—getting reinstated as doctor.

"It's a tough battle trying to take on a huge tax burden and try to restart your life again," said Margoles. "There were so many forces to contend with that it's hard to know just where to begin."

"I was seeking to go back to work. I am a career physician and this is the only way I can pay off the mounting tax bills."

But when Margoles went to obtain a license in Wisconsin, he was thwarted.

"First I was told that I couldn't get a license until I finished serving my four years on parole," he said. Margoles resigned himself to wait and returned to school. And his wife went to work.

But it was during the early 1960s, that many communities found a need for doctors. Margoles had the skills and there were plenty of communities which wanted his services.

"I kept asking the Wisconsin medical board," said Margoles, "but it did no good." There were openings, however, with the federal government, so Margoles went to Washington, D.C. He had already been turned down, however, in Iowa, the Dakotas, Illinois, Minnesota, and every other state where he applied.

"I had little reason to think I would be successful," said Margoles, "but I had to try."

To his amazement, he received a license. "It was a wonderful Christmas present," said Margoles. The federal examiners ignored all considerations except his qualifications as a doctor.

Suddenly, doors began opening. Michigan offered him a position with a state hospital. He received an invitation to come to New Jersey. California re-instated his license. But Wisconsin remained adamant. State officials still refused to grant him a license.

"If he had been granted a license right after he came out of prison, he would have been able to pay his debts by this time," said his son, Perry.

And as support grew for the doctor, more and more newspapers began asking why the doctor still was being treated as a second class citizen in Wisconsin. Congressman H. R. Gross, R-Iowa, asked in Congress whether Margoles' civil rights had been violated. He raised a question of discrimination.

And Gross asked how long a man must suffer before he regains his civil rights including the right to practice his profession where he pleased.

THE MARGOLES STORY: A FIGHT FOR JUSTICE

It was a crisp February day when Dr. Milton Margoles first came to Zion. He had answered an advertisement in the Journal of the American Medical Association. The community was seeking another doctor.

"This wasn't the first Illinois community I visited," said Margoles. He previously tried to move to Buckley in 1964. The city fathers had placed an advertisement along the highway seeking a doctor for the community.

"They wanted me, but I couldn't get a license at that time," added the 59-year-old physician.

Margoles and his wife, Betty, are busy reestablishing a home in Winthrop Harbor after 15 years of troubles with the Internal Revenue Service, the federal courts and conservative elements of Milwaukee.

He had founded the first not-for-profit integrated hospital in the Wisconsin city in 1951 when integration was still a very new word in the public's vocabulary.

Capitol Hospital was a small proprietary institution which was viewed, along with similar institutions, as a threat to the economic well-being of other larger and established hospitals.

It was during this period that the doctor placed his financial matters into the hands of other people he now recognizes were not qualified so he could devote himself to building this not-for-profit institution.

This led to the income tax evasion case which ultimately caused the doctor to serve 22 months in a federal prison. After the doctor was sent to Sandstone, Minn., to serve his time, a state court action was started to lift his Wisconsin license.

The doctor, who was represented by counsel but not allowed to defend himself by being present, was accused of moral terpitude because he did not pay his income taxes. He also was accused of certain financial arrangements which were later dismissed as unfounded.

The doctor didn't learn that these allegations had even been made until 1966 . . . four years after he was released from federal custody.

Milwaukee lawyers contacted by the News-Sun said Margoles was considered one of the finest medical men the city ever had.

"I can remember having Margoles as a medical expert in one of my cases," said one lawyer. "It is the only case in my entire legal profession where more people knew the doctor who would be testifying in the case than they did the names of the lawyers."

While most lawyers would not discuss the Margoles tax case, they did indicate he had received a raw deal in state courts.

"The case involving the doctor's license went all the way to the Wisconsin Supreme Court," said one lawyer. "The court affirmed a lower decision, which said income tax evasion could be considered moral terpitude."

This was the reason (moral terpitude) that caused the doctor to lose his license, one lawyer said.

The doctor's struggles had taken him to various states seeking re-licensing. But it was not until December 1966, that he obtained a license from the District of Columbia. At one point in his battle, he even had volunteered for service as a civilian doctor in Vietnam. He had been turned down because he didn't have a license. After practicing in Michigan for two years, the doctor was now coming to Zion. He wanted to practice closer to his relatives and loved ones across the border in Wisconsin.

"We needed doctors for the community," said Zion's former Mayor Lee Fleming. "I listened to the doctor and thought his qualifications excellent.

"But when I began making inquiries elsewhere, I received some unfavorable reports from Milwaukee," continued Fleming. "These reports seemed to be vengeful and full of vindictive comments."

Fleming said he even received a call from a woman claiming to be a reporter for a Milwaukee newspaper. "She told me we didn't know what we were doing," he said. "She told us Margoles was a terrible man."

"Someone had a lot of hatred in their mind," said Fleming in thinking back to his investigation. "He (the doctor) was even accused of running an abortion mill."

Fleming also received a mountain of favorable reports. More and more it began looking like a personal vendetta," he said.

Fleming said he contacted officials in Springfield, who also took a negative attitude about giving the doctor a license. But with the help of U.S. Rep. Robert McClory, R-Lake Bluff, he was able to overcome this negative attitude.

"After we completed our investigation, we found that the only thing the doctor ever had done was this attempted obstruction of justice," said Fleming. "In fact, we found that the doctor had been approached by a government informer posing as a go-between for the judge's son's law firm. This was the man who solicited Margoles. It wasn't the way the Milwaukee papers had printed it at all."

Fleming said he didn't look on the doctor's failure to pay all of his income tax as "any great crime. He wasn't doing anything more than any of us try to do every year.

"The only difference between the doctor and the rest of us is that when IRS tells us to pay, we pay," he added. "The doctor's mistake was in trying to argue with IRS."

Fleming said the community felt that his qualifications as a doctor were "excellent" so it gave the doctor the green light to come to the city and practice medicine.

"Now all we are interested in is getting my husband a presidential pardon," said his wife. "My husband has a lot to offer society and he should be entitled to serve the people who need his services and want them.

For the doctor, there have been many punishments since he was sent to prison in 1960 for 22 months.

He has lost:

The Milwaukee hospital which he founded in 1951.

The family home to pay back taxes.

His license to practice medicine in Wisconsin where his family lived and where his friends are.

His right to practice medicine for six years in any community.

His life savings.

His social prestige and professional standing in his community.

His health, and that of his wife, have been injured by pressure from those who don't want the doctor to return to Wisconsin to re-establish his practice.

The issue which the president has been asked to deal with is how much punishment should a man receive for improperly filling out his income tax, said McClory. If we can consider pardoning men and women who have killed and maimed other human beings why not a man whose major crime was filing out his 1040 in the wrong manner.

HORTON RESOLUTION SEEKS AN ADDITIONAL $2.5 BILLION FOR EDUCATING POOR YOUNGSTERS

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HORTON. Mr. Speaker, I have introduced today a resolution calling for forward and increased funding of Title I of the Elementary and Secondary Education Act of 1965, a prime vehicle for improving educational opportunities for the disadvantaged. The text of the resolution follows:

H. RES. 967

Whereas the President of the United States, in a message to Congress on March 17, 1972, called upon the Congress to direct $2,500,000,000 so that we may move forward to guarantee that the children currently attending the poor schools in our cities and rural districts be provided with education equal to that of the good schools in their communities, and

Whereas the President of the United States, in his aforesaid message has requested that such funds be channeled through the authorities under title I of the Elementary and Secondary Education Act of 1965, and

Whereas the Congress has effectively extended the Elementary and Secondary Education Act of 1965 through the fiscal year ending June 30, 1973, and the fiscal year ending June 30, 1974, and

Whereas there are presently authorized to be appropriated for each of the fiscal years ending June 30, 1973, and June 30, 1974, approximately $6,100,000,000 to carry out the provisions of title I of the Elementary and Secondary Education Act of 1965, and

Whereas there is a financial crisis in the schools currently being attended by concentrations of children from low-income families in our cities and in our rural districts: Now, therefore, be it

***Resolved*, That there be added in a supplemental appropriation bill for the fiscal year ending June 30, 1972, to remain available until expended the sum of $2,500,000,000 for the purpose of allocating funds to schools pursuant to the provisions of title I of the Elementary and Secondary Education Act of 1965.**

Mr. Speaker, in 1968, I conducted together with four of my colleagues a fairly extensive study of the problems of urban education. We concluded that America's urban schools were in deplorable shape and that, in order to make any progress in the achievement and motivation of urban school pupils, our urban schools had to offer not equal but superior educational opportunity than that available in the suburbs. While we recognized that so-called compensatory education programs are not a panacea for learning success of poor youngsters, the facilities and program gap between most urban and suburban schools was so great as to cry out for upgrading every aspect of urban education.

Certainly, our urban schools are in even worse shape today. Since 1968, the school tax squeeze has gone beyond the crisis point. In some cities, schools have literally shut down for lack of an adequate tax base. It is common knowledge that property tax growth cannot keep up with the costs of providing a decent education—particularly in decaying urban areas.

Despite the crisis in urban education, the sad fact is that the Federal Government has failed to put its money where its mouth is where educating poor children is concerned. For example, for the past year, the administration has requested and Congress has appropriated little more than $1.5 billion for title I of the Elementary and Secondary Education Act. On the surface, this might sound like a lot of money. But it is spread among 16,000 or more school districts and it is less than one-third of what Congress authorized as the needed funding of this program. We know that $1.5 billion is inadequate to reach most poor pupils; it is even inadequate to really help the few who can participate in title I programs. Over the past 7 years, $7.8 billion has been appropriated for title I, compared to $16.8 billion authorized by Congress.

These figures underscore the failure of the executive and legislative branches to come to grips with educational opportunity for the poor. Our own inaction has left the judicial branch to stumble along in an effort to achieve some modicum of equal opportunity. If Congress and the President are now to step in to relieve these problems we must provide the alternatives—and the moneys—to realistically deal with equal educational opportunity and racial integration.

Mr. Speaker, the resolution I have introduced is an important first step toward adequate funding of compensatory services for the disadvantaged. That our States are in critical need of increased title I funding was made abundantly clear by New York State Education Commissioner Ewald B. Nyquist. I commend his remarks in support of this resolution for the consideration of my colleagues.

UNIVERSITY OF THE
STATE OF NEW YORK,
Albany, April 6, 1972.

HON. FRANK HORTON,
United States House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HORTON: In recent weeks there has been evidenced an increased interest in using Title I of the Elementary and Secondary Education Act as a vehicle for providing compensatory services for equal educational opportunity, presuming an ability to reach all disadvantaged children in the Nation. Title I is based on the concept of targeting funds on the neediest children, making it the one existing program with a built-in potential for reaching this end. However, due to the nationwide inflation increase and the resultant rise in cost factors, there has been a rapid decline in the effectiveness of funding over the last seven years. As a consquence, most states in the Nation have not had the opportunity to develop a concentrated level of services.

Since fiscal year 1970, New York State has experienced an approximate 21% increase in poverty statistics, along with a concurrent 25% decrease in the full funding level for Title I. In fiscal year 1972 alone, twenty-nine of our sixty-three counties in New York State received less in allocations than in fiscal year 1971, despite a 13% rise in the poverty statistics in the State.

Our Federal assistance level for fiscal year 1972 provided approximately $245 per disadvantaged child as compared to $273 per child in fiscal year 1971. The poverty statistic in fiscal year 1972 for the State was 788,564 students with need. In moving toward the 1968 Office of Education guidelines of providing for disadvantaged pupils under Title I, one half the average state per pupil expenditure, we concentrated those funds at $350 per pupil. This allowed New York State to accommodate only 552,743 of its needy children, leaving 235,821 equally qualified students by the wayside. Providing $632 per pupil in accordance with the Federal guidelines would have enabled New York State to accommodate even less students.

It is quite possible that, due to the present economic environment, the total of poverty eligibles in New York State will increase substantially for fiscal year 1973, as measured in terms of January 1972 AFDC statistics. The policy in New York State for fiscal year 1973 is that a program should be so constructed that there is a concentrated expenditure of $400 per disadvantaged child under Title I. The President has suggested an average mass critical level for the Nation of $400 per disadvantaged child. Taking into consideration the cost factors in New York State and the vital need to provide concentrated assistance for all the disadvantaged students, the New York State equivalent to this suggested mass critical level would amount to approximately $660 per pupil. This figure would be in accord with the Office of Education guidelines and with the Administration's recently stated desire to see a concentration of funds.

Clearly, then, since the funding for Title I began, New York State and other similar urban states have not had the ability to put to test the contention that an established mass critical funding level would bring about greater success to the compensatory education programs. For this reason, I strongly urge you to support legislation providing for a forward funding of Title I at an increased level.

Faithfully yours,

EDWARD B. NYQUIST.

REV. DR. DANA McLEAN GREELEY: SERMON ON VIETNAM

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. DRINAN. Mr. Speaker, I am pleased and honored to reproduce herewith a moving and splendid sermon given by the distinguished Rev. Dr. Dana McLean Greeley, a former president of the Unitarian-Universalist Association of America.

Dr. Greeley delivered this sermon at the First Parish Church, Unitarian, in Concord.

Dr. Greeley's sermon is very perceptive and most constructive. The title of the sermon is "Vietnam! and What Can We Do About It?"

Dr. Greeley's sermon follows:

VIETNAM! AND WHAT CAN WE DO ABOUT IT?

(By Rev. Dr. Dana McLean Greeley)

Our subject this morning is again the most difficult one that we have to face, in this Church, and in America, and in the world, the war in Southeast Asia. There are varied opinions about it in Washington, and among us, and I don't doubt even in Peking. I know there are many who think that the war in Vietnam must go on to victory at any cost, many who think that we cannot yield an inch at any point to communism, as some of them would not yield an inch to capitalism. To me it seems as if the conflict in Northern Ireland is just as shameful but not nearly as dangerous to the world. I guess I will change that and say it is not as shameful. The war in Bangla Desh is over. The tensions and sporadic fighting in the Middle East constitute a powder-keg with a horrible potential; but they cannot be compared currently with Vietnam as a threat and an affront to mankind and all human decency.

The race question in our country is a momentous issue; and even the bussing problem does not yet appear to have a solution. Scientists who ought to know are telling us that we have an emergency situation with relation to the ecology, and that if we don't turn the tide against pollution in 10 or 20 years, life on this planet may be permanently and fatally poisoned. Population and birth control and abortion are issues that if they are not dividing American, are yet splitting its largest religious body wide open. And law and order, many officials tell us, must be achieved, or anarchy and chaos will ensue, and no man, no property, no value will be secure. But I am asserting that above every other curse or cancer in our culture at the present moment is Vietnam, which is like the Black Plague of the Middle Ages, and no second curse or plague is to be compared with it. Vietnam is the most crucial problem both morally and finally that we have to deal with.

I don't think that the fact that we have a presidential election coming up should either incite or prevent the discussion of this subject. And I do not believe that it has to be a partisan issue. My own personal feeling toward Johnson and Rusk and Rostow was no different from my personal feeling now toward Nixon and Laird and Kissinger. And the Republican "plan to end the war" in my judgment hasn't differed in any basic sense from the Democratic plan that preceded it. Nor are changes in the draft on the one hand, or bringing home the big majority of the ground troops on the other hand, going to provide any essential alleviation, as long as we are amassing our naval strength within the range of Haiphong Harbor and seeking still a military victory and dropping two million pounds of bombs a day or more on North Vietnam or anywhere else.

I am sure that the vast majority of Americans wish that we were not in Vietnam today. I wonder if there are many who would deny that we went there first to bolster a tottering French Colonialism and to prevent a revolution that might transfer the power from the feudal lords to the communists. But the French were defeated, and later it became our war; and it has been our war and an open war longer than any other in our history.

We used to talk about the domino theory in relation to Southeast Asia, which was that if one country went Communist, another would do likewise, and then another, until they had all fallen away from the free world. But what has happened in domino-like fashion is that the war has spread from Vietnam into Cambodia and Thailand, and unless we can negotiate or withdraw, there is no end in sight.

I have said before that Vietnamization seems to me to be a massive mistake or hoax. In 1965, before the real American fighting began, the Vietnamese on the side of the government could not win the war. How can they win it today? It is obvious that they cannot. We have dropped, is it more than twice as much in bombs on that little area, as we dropped altogether on Germany and Japan in World War II, and we have actually been unleashing and escalating that bombing in the last couple of weeks, with statements from the Secretary of Defense that we will do whatever is necessary to overcome North Vietnam's aggression. Is that Vietnamization? We know that it is not.

We have also had official statements, one after another, that our bombing is to protect our own troops as they withdraw. And to me that appears to be equally flagrant deception, or double-talk. If the object is to withdraw the troops, I really believe they could be withdrawn without a war in Thailand or the bombing of Hanoi. If there is another purpose to be accomplished, perhaps the arguments for bombing would be plausible.

A third pronouncement just lately that has been made repetitiously and that sickens me is the charge against Russia for supplying weapons to North Vietnam. The White House has blamed Russia for aiding and abetting the North Vietnamese aggression. I truly cannot understand how American officials can be so stupid or so brazen as to make such statements. We are supplying practically all the power that South Vietnam possesses, and we know that without our help it would fall in a very short time. Why has not Russia as much justification for assisting the North as we have for assisting the South?

The first time that I was in Saigon we were told emphatically that Ho Chi Minh loyalties were to Moscow, not Peking, and that the important axis is the Hanoi-Moscow axis; and that is certainly being borne out today. Russia's help for Hanoi may threaten us, but our protest is shockingly like the pot calling the kettle black. If the war is still primarily a civil war in South Vietnam, then we could say that North Vietnam and the United States are the other two participating belligerents. But I think it is more nearly correct today to acknowledge that the government of Saigon and the government of Hanoi are the parties that are pitted against one another, and Russia could readily rationalize that it has as much obligation to one party as we have to the other.

I want to speak more specifically, as I have a hundred times, about what seems wrong to me. It seems wrong to me to be using military might to combat ideas, namely communism. All the great sages of the ages have pointed out that that is not the way you get rid of an idea. And I have said that to me it is as bad as if we were today to start the crusades all over again, and send Christians to fight Moslems. We are not going to create a better world by fighting that way. And we are not going to get rid of Communism by the force of B-52s.

Secondly, the killing that we are doing is wrong. If there are nearly a hundred thousand homes with broken hearts in America, there are nearer a million in Southeast Asia. And they are not just the enemy, any more than we are just the enemy. They are people. You perhaps noticed the other day that someone asked an American general if we push the enemy troops all the way back to Thailand, and the general replied that we would kill them all before we get there. It's a horrible thing to say, but it seems to me that a person like Melvin Laird must become as callous to death and as void of humanity as Goebbels or Goehring in Nazi Germany. History will pass a very severe verdict on both the White House and the Pentagon in connection with this war. Whether Sacco and Vanzetti were guilty or innocent, a wave of public sentiment rose to their defense both before and after their electrocution; and public sentiment will increasingly condemn civilians in the last seven years as if they were chickens or hogs.

Thirdly, it seems wrong to me for us to make a profession of democratic ideals, and prevent democratic self-determination in South Vietnam. We have just celebrated the beginning of the American Revolution, and yet America is stubbornly using its enormous power to thwart the revolution in Southeast Asia. We have broken the Geneva Agreements. We have supported a corrupt, authoritarian puppet government. We have frustrated the will of the people. We have prevented the possible reunification of a country, in such fashion perhaps as if a foreign power had supported the Confederate South a century ago, against the North, and prevented the preservation of the U.S.A.

Again, it seems to me that our failure in negotiation is a tragedy and a travesty. Whether Lyndon Johnson would have been willing to have the Paris Peace talks accomplish anything short of what could be achieved by a military victory in Asia, possibly we cannot know. But the fact that they have accomplished nothing over this long period of time is a disgrace in our diplomatic record, and a major blow to the diplomacy of the world. It was only a few days ago that the French Government gave us a mild rebuke for the cancellation of the peace talks, and Washington replied with a little pique or irritation.

Of course it takes two to negotiate, and North Vietnam may have been very difficult; but it was four years ago that that negotiating was initiated, and that we have gained nothing in that time is no credit to the then Johnson administration or to the subsequent Nixon administration. And it is profoundly demoralizing to everyone concerned. At least one chief American negotiator resigned because he was not given the freedom or power by Washington to truly negotiate. I cannot believe that if labor and capital, and dock strikers and owners, and baseball personnel can all resolve their problems in a matter of days, it should not be possible for the Paris Peace negotiators to resolve their problems in a matter of a few years, if either side had a resolute will to do so, and the other side was at least mildly responsive to world sentiment.

The United States conference of private arbitrators had its annual meeting in Boston earlier this month. There is no excuse for arbitration on the international level today to be as hopeless or impossible as it appears to be in the case of Vietnam. Allow me to say that Walt Rostow of the Johnson administration once said to another man and me in the White House that he could assure us that there would be negotiation—we had been pleading for it. But what he meant was that the Viet Cong and Hanoi would be forced by our superior military power to negotiate. I think that is what each administration has hoped for and believed in, but that is not the negotiation that I have in mind.

But that brings me naturally to my next point. It seems wrong to me for the U.S. in such a context, to be acting still unilaterally, not re-convening the Geneva Conference, or using the World Court, or asking for the help of the United Nations. The world bank and international monetary discussions and decisions are indispensable in 1972. We were forced to recognize this recently. World Health regulations are essential. Why can we not sacrifice an ounce of pride of sovereignty to achieve world diagnosis of a world crisis? Or if we are afraid of communism in the United Nations (which fear I could not condone), why can we not submit the whole question of Vietnam to such a committee as England, Canada, and France?

Anything to save ten to one American life and the extermination of countless equally precious lives and whole cities and villages and the fertility of their land in Southeast Asia? Some one said a while ago that the whole budget of the United Nations, which he thought was the promise of mankind, was less than the cost of garbage removal in the city of New York. And Justice Arthur Goldberg has just charged in the New York Times that one of the major sins of Vietnam is Washington's by-passing and down-grading of the United Nations.

Sixthly, it seems wrong to me to risk a third world war, which most of us believe would mean the destruction of both sides in the conflict, if not of civilization altogether; and if either Russia or China should decide to become as aggressive in defense of North Vietnam as we are in defense of the Thieu regime of Saigon, we would be on the verge of that third world war. If Russia were as determined to extend its sphere of influence and power in Cuba and South America, for example, as we are to defend or extend ours in Asia, then also we'd be on the verge of that unthinkable third world war. How and when can we begin to substitute goodwill for threats and friendship for fear and positive treaties for neutral balances of power?

What can we do? We can think hard, every one of us, and try at the grass roots to resolve a problem that three presidents have not been able to resolve, but that must be resolved. We can speak freely, privately and publicly, and increase knowledge and counteract both repression and irresponsibility, and also get people to understand that patriotism does not mean accepting a certain position, or supporting the government, but having a deep concern for America and for mankind. We can vote, not alone for president, but at every level, for people who we think will work to bring about peace in the world, as the foremost necessity of our time.

We can write letters and send telegrams to people whom we know and to people whom we don't know, in high positions and in low positions—everyone counts. We can refuse to pay our taxes, telephone taxes or others, if we wish to, as Henry David Thoreau did in the case of the Mexican War, as a kind of financial protest or boycott, though I rather think for myself I prefer the ballot-box to the boycott. We can use investments, if we have them, or can help control any, to express our convictions and to influence both corporate and public policy. We can give money, little or great, to peace movements or political committees to be at work in your behalf. We can participate in demonstrations that dramatize citizen sentiment, peaceful demonstrations that constitute personal witness. We can counsel young people who are opposed to the war and support their stand.

I have the highest admiration for the courage of young men who are convinced that military service is their duty, and I pray for their health and integrity and safety; and I admire also the courage of those who honestly believe that war is wrong and that they cannot fight, and I think that we can struggle to see to it that they are not called draft-dodgers and that they are not punished for conscience' sake. They may be the heroes of tomorrow's world.

Can we get rid of war? We must, both morally and practically, as much or more than we must get rid of the crime on our streets. It is worse to sanction the systematic slaughter of millions or of hundreds or thousands than to suffer the killing of hundreds or thousands; and the added crimes of theft and rape that are rare in peace seem axiomatic in war. We must get rid of war before war gets rid of us.

It is time in the development both of ethics and of science for a real turn toward peace. Of course that is a Herculean step, but it is possible. H. G. Wells some time ago said, "I agree to the existence of a mountain range of difficulties, and to the prospect of complications and set-backs beyond number on the way to a federated world peace.—But over that mountain range of difficulties lies the way, the only way" for men to go. It used to be argued that man had an aggressiveness that could not be overcome. I don't think my daughters or son-in-law have it and they are normal people.

The policy makers are in Washington and not on the battlefield or in the air. And I do not believe that the enlisted or conscripted men have any irremedial compulsion to go to war. George Wald wouldn't accept that and neither would General Eisenhowever. President Eisenhower thought that we could get rid of war and should. He said after Korea, which he ended. "Every gun that is made, every warship that is launched, every rocket that is fired, signifies—a theft from those who hunger and are not fed, those who are cold and not clothed. This world in arms—is spending the sweat of its laborers, the genius of its scientists, the hopes of its children" on the art and tragedy of homicide.

It is time to use the sweat of our laborers and the genius of our scientists and the hopes of our children in another direction. "I saw a new heaven and a new earth," said John on Patinos. It is time for us to build a new world, without war, and founded upon brotherhood and justice and peace. War is of the past. Peace is of the future.

LARRY EISENBERG ELECTED NATIONAL EXPLORER PRESIDENT

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SCHWENGEL. Mr. Speaker, the Explorer Scouts of America are a vibrant and vital organization for our American youth.

Recently, Larry Eisenberg was elected National Explorer President. Larry, past president of the Illinois-Iowa Explorer Council, brings a distinguished record of service and achievement to his new position. My personal congratulations to Larry and my hopes for his continued success.

News release follows:

EISENBERG ELECTED NATIONAL EXPLORER PRESIDENT

WASHINGTON, D.C., April 16.—The leadership of more than 400,000 young adults has been set with the election of Larry Eisenberg, 18, of Rock Island, Ill., as national Explorer president.

Eisenberg and 12 national officers were elected in a full-scale political convention and machine balloting at the National Explorer Presidents Congress, April 12–16 in Washington, D.C. The officers for this young adult program of the Boy Scouts of America were installed by Associate Chief Justice William O. Douglas.

As Explorer president, the Rock Island High School senior will provide a communications link to more than 30,000 Explorer posts throughout the nation; plan national Exploring programs, and represent Explorers in national and international youth events.

Eisenberg's election by more than 2,500 Explorers attending the Explorer Congress culminated a long campaign trail. Larry started his Exploring leadership as president of Explorer Post 2007, in Davenport, Ia. Later he was elected Explorer president for the 1,000 young men and women Explorers in the Illowa Council. In that position he is also a member of the adult executive board for the council.

Before becoming an Explorer in 1970, Larry was an active Boy Scout for five years. As a Scout, he reached the highest rank of Eagle, and earned the Ner Tamid award for Scouts of the Jewish faith.

In school, Larry is an A student, taking advance courses in math, English and biology. In addition, he is active on the newspaper staff, dramatics productions, and is a member of the Spanish, and Ecology clubs.

Larry also holds active leadership positions as regional chairman of B'Nai B'Rith, and last January was elected Youth Governor of Illinois at the Annual Citizenship Program.

After graduation in May, Explorer President Larry Eisenberg plans to study political science. He is the son of Mr. and Mrs. Harry Eisenberg.

Exploring is the young adult, co-ed, program of the Boy Scouts of America. It is a planned program that brings young people voluntarily into association with adults in specialized fields of interest ranging from space science to auto mechanics, and banking to law enforcement. Exploring is presently the largest young adult program in the country.

THE POLISH CONSTITUTION

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. EILBERG. Mr. Speaker, on May 7, 1972, the Polish American Congress of eastern Pennsylvania held a commemorative celebration of the 181st anniversary of the adoption of the Polish Constitution.

I was privileged to be the guest speaker at this ceremony, which was held at the National Shrine of Our Lady of Czestochowa, in Doylestown, just outside of Philadelphia.

The struggle of the Polish people for freedom and independence dates back to the 1760's. It is a fight which continues today.

Polish independence is a cause which should concern all Americans because we owe so much to the Polish people. During our War of Independence two of Poland's greatest heroes, Casimir Pulaski and Thaddeus Kosciuszko, fought with us against the British. Pulaski was killed at the battle of Charleston, S.C.

At this time I enter into the RECORD the program for this celebration and the speech I was honored to deliver:

PROGRAM

General Chairman: Walter Szmid, President, Polish Language School of St. Adalbert's Philadelphia.

1. Opening: Edwin Pelczarski, Vice-Chairman of the Polish Constitution Day Observance.
2. Master of Ceremonies: Henry Wyszynski, President, Eastern Pennsylvania District and National Director of Polish American Congress.
3. Presentation and review of colors: Szymon Klimek, Post No. 12, Polish Army Veterans Association.

PARTICIPATING POSTS

Post No. 12 P.A.V., Philadelphia, Pa.
Post No. 121 P.A.V., Camden, N.J.
Post No. 178 P.A.V., Philadelphia, Pa.
Post No. 207 P.A.V., Conshohocken, Pa.
Polish Veterans in Exile Group No. 36, Philadelphia, Pa.
Polish Air Force Veterans Association, Philadelphia Wing.
Polish Air Force Veterans Association, New York Wing.

4. National anthems: Combined Youth Groups, Asia Bodziuch, conducting.
5. Pledge of Allegiance: Led by Maria Szmid, 1972 Carnival Queen Polish Language School St. Adalbert's.
6. Invocation.
7. Proclamations.
8. Principal speaker: Hon. Joshua Eilberg, Member of U.S. Congress.
9. Selections: Adam Mickiewicz Polish Language School.
10. Remarks of Youth: Christine Pelczarski, student Polish Language School St. Adalbert's.
11. Presentation of youth groups representing fraternal organizations:

St. Adalbert's Polish Language School of Philadelphia.
Union of Polish Women in America.
Polish Beneficial Association.
Polish Intercollegiate Club of Philadelphia.

12. Presentation of awards: Henry Wyszynski, president Eastern Pennsylvania District Polish American Congress (awards donated by the Hon. Tom Gola, Philadelphia City Controller).
13. Closing remarks: Very Rev. Michael Zembrzuski, O.S.P., Vicar General, Pauline Fathers, Director National Shrine Our Lady of Czestochowa.
14. Combined group presentation: Song "Mysmy Przyszloscia Narodu." All youth groups conducted by Asia Bodziuch.
15. Audience participation:

"God Bless America."
"Boze Cos Polske."

REMARKS OF JOSHUA EILBERG

In this time of trouble and unrest the American people are being called upon to reaffirm their dedication to the ideals of freedom and democracy on which this country was founded.

Many questions have also been raised about our desires and goals as a people.

In order to answer these questions we must remember who we are and what is our heritage. We must know who are our ancestors and what they stood for.

That is why this celebration is so important. Today we are not only reaffirming the United States' strong ties to the cause of Polish freedom and independence.

We are also honoring the men who fought for Polish freedom and who made the cause of American independence their own battle.

For these reasons, I am exceedingly honored by your invitation to appear here today.

Among the men who fought for Polish and American independence, the greatest were undoubtedly Casimir Pulaski and Thaddeus Kosciuszko. I will say more about their great deeds in a moment.

But, first, I would like to talk about what is being done to honor Thaddeus Kosciuszko and the contributions of all Polish-Americans.

In Philadelphia, at Third and Pine Streets, is a house which was once the home of this great man. For some time, myself and other Congressmen have been working with Polish-American organizations to have this building designated as a national historic site.

Until now these efforts have been delayed by the bureaucratic red tape and inertia which seems to plague so many worthwhile projects these days.

However, it now seems that our efforts are going to be successful.

Recently, a bill sponsored by Senator Edmund Muskie, of Maine, designating the house as a historic site was passed by the Senate.

This proposal, along with my own bill, and the plans of other Congressmen, are now being considered by the House of Representatives' Committee on the Interior and Insular Affairs.

And, I am happy to say that a bill with the same provisions as the Muskie proposal should be submitted to the full House in the near future.

I hope that I will be able to report to you very soon the final success of our efforts to honor Kosciuszko and the Polish contribution to the American tradition.

Polish association with the democratic spirit has been strong from the outset, blending as it has with a Polish spirit long preceding the creation of this country in 1776.

In the 1760's—on the eve of the American war of independence—European nobility was preparing for the destruction of Polish independence, by means of the first partition of Poland, in 1772.

The century before, in 1683, Polish troops had won the admiration of all Europe by stopping the Mohammedan armies of Sulemein II, in the battle of Vienna.

Poland had become the savior of Christianity. Her future seemed secure, but events were to prove otherwise.

The glory thus attained faded rapidly, giving way to a general decline in the Polish national spirit under the kings of the early 18th century, who demonstrated only slight concern for the welfare of the Polish people or the Polish state.

Economically, Poland was bled dry by wars with Sweden and Russia, which resulted in the loss of Kiev and Polish control of East Prussia.

This in turn was followed by a governmental breakdown bordering on anarchy and the entrance of Russian troops, supposedly in the interest of law and order. Actually, they invaded Poland to make it a colony for the Czars.

Rejecting the Russian occupation and the authority of the weak Polish king and his lieutenants who were working in collusion with the Russians, Polish patriots in 1768 established the Confederation of Bar, under the leadership of Count Joseph Pulaski who was the voice of Polish independence.

The patriot insurgents were outnumbered, outfinanced, and outgunned in all of their endeavors—yet they held on, to the astonishment of the world, through 4 long years of civil war.

Their leaders were the bravest of men, and of all those involved none prove more effective than Joseph Pulaski's son, young Casimir Pulaski, cavalry commander of all the insurgent forces.

In battle after battle, the Polish cavalry confounded the Russian adversary.

In one encounter in particular, at the fortress-monastery Czestochowa, the cavalry—under Pulaski—scored one of the stunning victories of the war, routing the Russians in confusion, to the delight of Polish patriots in every corner of the land.

In the end, in the year 1772, the confederation of bar collapsed, Joseph Pulaski was put to death, and his many followers, including his son were forced into exile.

With the patriots no longer in the way. the king surrendered to Russian demands and the first partition took place, to the outrage of the Polish people and Polish traditions dating back for centuries.

Many Poles who had sympathized with the purposes of the confederation of bar had not engaged in the war out of traditional respect for the Polish crown.

But, when they witnessed their king's surrender to the ravages of the partition, they, too, lost all concern for his regime and many of their number left the country.

A major figure in this grand exodus was Thaddeus Kosciuszko.

As a member of the upper class, Kosciuszko had received an education at the Royal School in Warsaw, from which he graduated with the rank of captain in 1769.

While the partition was taking place, he was abroad, studying engineering and artillery in France. Following a brief and unrewarding visit home, he returned to France where he remained until 1776.

Advised of the outbreak of the American Revolution, Kosciuszko and Pulaski, acting independently, declared in favor of the American cause, which they regarded in the same light as the cause of Polish independence.

Both were to volunteer their services and make their contributions to the battle for liberty on American soil.

In the uniform of the American Continental Army, Pulaski organized a cavalry legion that earned renown at Valley Forge and later in the war at Charleston, South Carolina, where Pulaski died of wounds received in battle.

Kosciuszko would be remembered for his part in the glorious American victory at Saratoga, and the construction of the imposing American fortifications at West Point.

As outstanding participants in the American War of Independence, Kosciuszko and Pulaski established a record that was to stand forever in the history of democratic accomplishment.

And, as a symbol of freedom, the American cause quickly repaid the actions of its Polish supporters by encouraging the spirit of democracy in Poland, which was implemented virtually at once.

Following the death of Frederick the Great, in 1786, the Polish people moved against oppression by calling a convention to consider the prospect of a governmental change.

The delegates were to convene over a period of 4 years, during which time the Federal Constitution was adopted in the United States.

From 1787 to 1791 the Polish convention struggled to effect a governmental structure satisfactory to all, including those delegates who approved of the American example so recently set forth at Philadelphia, and those who favored a more conservative approach.

On May 3, 1791—181 years ago—after great deliberation, and with Russia and Austria threatening invasion, the convention adopted the Polish constitution, based largely on the spirit of its American counterpart. It is this constitution we revere and commemorate today.

Under the provisions of the document, the powers of the king were considerably reduced and all class distinctions striken from the law of the land.

Under separate legislation confirmed by the constitution, the towns received judicial and administrative autonomy and parliamentary representation.

Many property rights of the ruling gentry were done away with, in the interest of the townspeople at large, establishing equality in the matter of real property rights, and access to office in the state and in the church.

The peasants were placed under the full protection of the law, and their serfdom mitigated with a view to its utter abolition. Absolute religous freedom was established and provision made for further reforms by subsequent conventions.

Thus, it came about that the Polish people took a stand for liberty, wholly in keeping with the spirit and many of the principles enunciated only 4 years previously in the Federal constitution of the United States.

Yet the battle for democracy in Poland was by no means finished, and Thaddeus Kosciuszko—having fought for democratic principle in his adopted land—was to have the opportunity of waging the fight all over again in the interest of his mother country, for the Russian Government could not abide Democracy in Poland.

In July 1784 Kosciuszko left New York for Paris and from there returned to Poland.

After 4 years of rural retirement, in October 1789, he became Major-General of the Polish Army and in 1792 led the army into battle against the Russians.

Overwhelmed by Russian arms and betrayed by the Polish aristocracy, he resigned his commission and left the country, only to return in 1794 at the head of a revolutionary force.

After several brilliant successes, he was named ruler of all Poland, in which capacity he promulgated a series of liberal reforms.

But the power of the Russian Army could not be overcome and Kosciuszko was finally defeated, for the last time, in October 1794.

In his revolutionary zeal for democratic government, Kosciuszko was following the footsteps of the United States.

But that was not always the order of things. In April 1817, 6 months before he died, he issued a letter of emancipation to the serfs on his estate in Poland.

It was to be almost half a century before the United States was able to emulate this departing gesture of one of Europe's truly great democrats, Thaddeus Kosciuszko, remembered as a "hero of the worlds," with an emancipation proclamation of its own.

So today, when we honor the deeds of great men of the past, let us remember what they stood for and believed in so we can assure ourselves an honorable future.

Thank you.

CHARLES DE GAULLE ON VIETNAM

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. JACOBS. Mr. Speaker, the following is a quotation from Charles de Gaulle as it appeared in his "Memoirs of Hope."

> In South Vietnam, after having encouraged the seizure of dictatorial power by Ngo Dinh Diem and hastened the departure of the French advisers, they were beginning to install the first elements of an expeditionary corps under cover of economic aid. John Kennedy gave me to understand that the American aim was to establish a bulwark against the Soviets in the Indochinese peninsula. But instead of giving him the approval he wanted, I told the president that he was taking the wrong road.
>
> "You will find," I said to him, "that intervention in this area will be an endless entanglement. Once a nation has been aroused, no foreign power, however strong, can impose its will upon it. You will discover this for yourselves. For even if you find local leaders who in their own interests are prepared to obey you, the people will not agree to it, and indeed do not want you. The ideology which you invoke will make no difference. Indeed, in the eyes of the masses it will become identified with your will to power. That is why the more you become involved out there against communism, the more the communists will appear as the champions of national independence, and the more support they will receive, if only from despair. We French have had experience of it. You Americans wanted to take our place in Indochina. Now you want to take over where we left off and revive a war that we brought to an end. I predict that you will sink step by step into a bottomless military and political quagmire, however much you spend in men and money. What you, we and others ought to do for unhappy Asia is not to take over the running of these states ourselves, but to provide them with the means to escape from the misery and humiliation that, there as elsewhere, are the causes of totalitarian regimes. I tell you this in the name of the West."

TRIBUTE TO CONGRESSMAN BERT PODELL

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BIAGGI. Mr. Speaker, I would like to take a few moments out to pay tribute to my esteemed colleague, the gentleman from New York (Mr. PODELL).

Since first coming to Congress in February 1968, Congressman BERT PODELL has demonstrated a serious concern for the problems of Americans of Italian descent. While his other activities and accomplishments are equally meritorious, I would like to single out his special efforts in this area because it demonstrates his commitment to fighting for the rights of Americans of every ethnic, racial, or religious background.

Soon after coming to Washington, he worked with Congressmen PETER RODINO and FRANK ANNUNZIO in obtaining passage of legislation making Columbus Day a national holiday. This was the first time an individual was honored in this way with the exception of George Washington.

Moreover, Congressman PODELL has been a leader in the fight to eliminate discrimination against Italo Americans. He has taken up the cause of many of his constituents against individuals and groups who are prejudiced against those of Italian ancestry in employment, in housing, and in human relations.

He has recently joined with me and others here in the House to protest Time magazine's printing of statements prejudicial to Italians and Italo Americans. He was also among the first to speak out against the use of the terms "Mafia" and "Cosa Nostra" to describe organized crime and has continuously protested the characterization of organized crime as the sole province of Americans of Italian descent.

The Government of Italy has recognized his outstanding efforts in this area as well. He was the only American Congressman not of Italian descent invited to a special Columbus Day celebration last October in Genoa, Italy. This singular tribute was a mark of the international respect he has earned among Italians and those of Italian ancestry.

I know those of Italian origin in the 13th Congressional District of New York are as appreciative of his efforts as I am. As president of the Grand Council of Columbia Associations, representing over 80,000 Italo Americans in civil service, and as a dear friend and colleague here in Congress, I would like to say "thank you" to Congressman BERT PODELL.

EULOGY OF J. EDGAR HOOVER

HON. JOHN C. KLUCZYNSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. KLUCZYNSKI. Mr. Speaker, it is with a sense of deep remorse that I call to the attention of the House the passing of that great public servant J. Edgar Hoover, Director of the Federal Bureau of Investigation of the Department of Justice.

As the formulator of FBI policy over 48 years, Mr. Hoover became an American institution in his own right, admired by the vast majority of the American people and feared and hated by the underworld.

Mr. Hoover established himself in Washington by providing the FBI from the moment his directorship began in 1924 with the professional quality essential to the effectiveness of such an organization. Under the federal system, with most of the police and law enforcement responsibility resting in local and State governments, the investigative and police arm of the Justice Department was limited in authority and often handicapped by Washington politics. It was lacking in authority and low in prestige. Mr. Hoover—himself a lawyer by profession—established standards which stress professional training in law or accountancy for prospective FBI agents, and gradually over the years built up the FBI until it was a training center for police officers from all over the country and until it was a power in itself in the Washington structure—so much a power that as Mr. Hoover worked beyond the usual retirement age Congress and Presidents made special provisions for him to continue in office.

During the 1920's and the 1930's, the FBI devoted the bulk of its energies to battling the national crime wave, and running down the master gangsters of the period. In World War II, the sabotage of our war industries was prevented by FBI surveillance. All investigative aspects of the Federal Loyalty Program of the 1940's and 1950's fell to the responsibility of the FBI staff, and the recent suppression of radical violence is clearly to the credit of FBI activity.

No matter the nature of the crisis confronting the forces of law and order in America, the FBI—under the direction of Mr. Hoover—has stood ready to serve in the national behalf.

In all the years of his directorship, Mr. Hoover never once allowed himself to become identified with the special concerns of any single political faction and never once was tainted with scandal.

His performance was exemplary and the country is proud of his purposes and his numerous accomplishments. Fortunately, his spirit shall remain, to serve the FBI and the American people for centuries to come.

GEN. BRUCE K. HOLLOWAY HONORED

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. DUNCAN. Mr. Speaker, Gen. Bruce K. Holloway has served his country well and, upon his retirement, the President and the U.S. Air Force have seen fit to honor him. General Holloway has dedicated his life both in peace and war to the service of his country. It is only fitting that the country, upon the conclusion of this most distinguished career, offer General Holloway an expression of its appreciation for a job well done.

A country can receive no greater gift from a man than patriotism and heroism. General Holloway, throughout his career has always been there to perform with patriotism and heroism whenever his country needed his service.

The following article which appeared in the May 2, 1972, edition of the Knoxville Journal will permit all Americans to review the career of a most outstanding general in the U.S Air Force and a patriotic American:

[From the Knoxville (Tenn.) Journal, May 2, 1972]

AIR FORCE ACE, KNOXVILLE NATIVE GENERAL HOLLOWAY RETIRES

Gen. Bruce K. Holloway, a Knoxville native and famed fighter ace of World War II, has received the Distinguished Service Medal (First Oak Leaf Cluster) and a letter of commendation from President Nixon after his retirement Sunday as commander of Strategic Air Command.

The medal honored the 59-year-old Air Force leader for duties as commander of SAC and as director, Joint Strategic Target Planning Staff, Organization of the Joint Chiefs of Staff, from 1968 to 1972.

The letter from President Nixon read, in part, "You have discharged a succession of increasingly difficult and demanding responsibilities with exceptional skill and judgment, and our nation is extremely fortunate to have men of your ability serving as lasting inspiration for every American."

Holloway graduated from Knoxville High School and attended the engineering school at UT for two years before he entered West Point in 1933.

During World War II, Holloway began his combat experience as a fighter pilot in China with the famed "Flying Tigers" of the American Volunteer Group. In that time he earned status as a fighter ace, shooting down 13 Japanese aircraft.

In 1946, the General was made commander of the Air Force's first jet-equipped fighter group, and performed pioneer service in the new field of tactical jet air operations.

After graduation from the National War College in 1951, he progressed through key staff assignments in both operations and development fields.

He spent four years in Tactical Air Command (TAC) as Deputy Commander of both the 9th and 12th Air Forces, and in 1961 he was named Deputy Commander in Chief of the United States Strike Command.

General Holloway assumed command of the United States Air Forces in Europe in 1965, and served in that capacity until his appointment as Vice Chief of Staff of the Air Force in 1966.

POSTAL CRAFT UNIONS COMMENT ON PROPOSED AMENDMENT TO H.R. 12202

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. WALDIE. Mr. Speaker, recently the House passed an amendment to my bill, H.R. 12202, which enabled the Nation's postal workers to share in the provisions of that bill, which includes the increase of the Federal Government's contribution to health insurance premiums.

Several points were raised during the course of debate on this amendment which remain unclear. Thus, I think it beneficial to insert in the RECORD a post-hearing statement by the postal craft unions regarding this amendment:

POSTHEARING STATEMENT OF THE NATIONAL POSTAL CRAFT UNIONS ON INCLUSION OF THE POSTAL SERVICE IN H.R. 12202

The issues raised by the question of amending H.R. 12202 to provide for the express inclusion of the Postal Service therein (Tr. 92)[*] were sharply pinpointed at the hearing. Those issues are:

(1) Did Congress intend by enactment of the Postal Reorganization Act *ipso facto* to exclude the Postal Service from legislative improvements in the "fringe benefit" statutes referred to in Section 1005(f) of PRA;

(2) In adopting Article XXI, Section 1, of the July 1, 1971, contract, pertaining to the health insurance benefit program, did the parties intend to exclude legislative changes in the program during the life of the contract?

(3) If Congress finds that the phrase "current contribution level," as used in the first four sections of Article XXI, was not contemporaneously understood by the Unions to exclude future changes mandated by Congress for the Federal establishment generally, should the Postal Service be expressly included in H.R. 12202 to prevent frustration of the Postal Unions' legitimate expectations?

I. CONGRESS DID NOT INTEND OR CONTEMPLATE THAT PRA, IN AND OF ITSELF, WOULD EXEMPT THE POSTAL SERVICE FROM SUBSEQUENT AMENDMENTS TO THE HEALTH BENEFITS PROGRAM

At the hearing, it appeared that several members of the Subcommittee interpreted the language of Section 1005 of PRA to mean that Congress had divided fringe benefits of postal employees into two categories. One, such as retirement, provided for in subsection (d) of Section 1005, was to be controlled exclusively by Federal law (chapter 83 of title 5), subject, however, to such improved benefits as the parties might negotiate. The other, health insurance and the other kinds of benefits referred to in subsection (f) of Section 1005, was to be governed exclusively by collective bargaining, provided only that the parties could not agree to a level of benefits lower in the aggregate than that prescribed by law on the day that Section 1005 became effective. This was the dichotomy espoused by the Postal Service in its letter of January 26, 1972, to Chairman Dulski, and reiterated at the hearing (Tr. 16, 28–29, 45).

The Unions believe that a close reading of the language of Section 1005 does not support the implications so attached to subsection (f). On the contrary, a quite different construction of that subsection emerges rather clearly. It is true that, in subsections (c) and (d) of Section 1005, Congress treated separately the subjects of compensation for work injuries and retirement. The purpose of segregating these items from the other fringe benefits referred to in subsection (f) is quite clear, however; Congress intended to deny the parties power to bargain postal employees out of these Federal systems. Congress dictated, in other words, that postal employees *must* remain participants in the Federal civil service retirement and workmen's compensation systems (and, accordingly, benefit automatically from any subsequent changes in those systems).

Congress chose to deal differently, however, with other fringe benefit systems, including specifically subchapter I of chapter 85 (unemployment insurance), chapter 87 (life insurance), and chapter 89 (health insurance). As to these, in subsection (f) of section 1005, Congress gave the parties authority to "vary," "add to," or *"substitute for,"* the existing Federal employee benefit systems. Congress thereby authorized the parties, for example, to agree to an entirely new health benefit system, completely divorced from the Civil Service Commission and chapter 89 of title 5. Logically, this difference required sectional segregation of the several types of fringe benefits in this category from the others. But the conclusion drawn from this segregation by the Postal Service—that legislative changes in the retirement and workmen's compensation programs automatically apply to the Postal Service, whereas changes in the other programs included in Section 1005(f) do not—simply does not follow. Section 1005(f) is very clear on this point; the statutes providing the fringe benefits referred to therein *continue* to apply to postal employees *unless and until the parties agree to abandon or modify them.* The key is the second sentence of 1005(f), which reads (emphasis added):

"Subject to the provisions of subchapter I of this chapter and chapter 12 of this title, the provisions of subchapter I of chapter 85 and chapters 87 and 89 of title 5 *shall apply to officers and employees of the Postal Service, unless varied, added to, or substituted for,* under this subsection."

This language can mean only one thing: unless the parties expressly agree to changes, the referenced statutory provisions shall continue to apply to Postal Service officers and employees. This construction is fully supported by the chart introduced into the Congressional Record by Congressman Udall on June 19, 1970 (H. 5709) and offered as an exhibit by the Postal Service at the February 16 hearing. The chart states that "Health and Life Insurance" for the "New Postal Worker"

"Will be *identical* to *existing law until changed by collective bargaining.*" (Emphasis added.)

In view of the adverse inferences drawn

---

[*] The symbol "Tr." refers to the transcript of the hearing held on February 16, 1972, which did not become available until February 22, 1972.

by some at the hearing from this chart, it cannot be over-emphasized that Congressman Udall's reference was not to "existing *benefits*," but to "existing *law*." And the health insurance program for postal employees was to be *identical* to *existing law until changed* by collective bargaining.

To sharpen the issue, assume that the parties had made no provision at all in the 1971 contract on the subject of health insurance benefits. Necessarily, since there would have been no "variation," "addition," or "substitution" by contract, the referenced statutory provisions would remain applicable. Any legislative change in those statutory provisions would apply to postal workers, as to any other federal employees, absent express exclusion of postal workers by agreement of the contracting parties, for the changes would become part of "existing law." It can hardly be doubted that a legislative change effected before the parties made a collective bargaining contract would govern their relationship as "existing law."

The Postal Service would rebut this conclusion on two theories: one, that it is inconsistent with the first sentence of Section 1005(f); the other, that it is inconsistent with a "canon" of statutory construction. We deal with each in turn. The first sentence of Section 1005(f) provides:

"Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the former Post Office Department or the executive branch of the Government of the United States, shall continue to apply to officers and employees of the Postal Service, until changed by the Postal Service in accordance with this chapter and chapter 12 of this title."

The Postal Service says that the phrase "in effect immediately prior to the effective date of this section" was obviously intended to place a ceiling upon benefits to which postal employees could become entitled by statute. Read literally, standing alone, this may well appear to be the intent of the first sentence. Under that reading, *all* "compensation, benefits, and other terms and conditions of employment" in effect on the effective date of the section would be frozen as of that date, and could not be improved by statute, rules or regulations, but *only* by collective bargaining. But if, indeed, that *is* the intent of the *first* sentence, it strengthens the force of our interpretation of the function of the second.

For the *second* sentence deals separately with three specific "benefits," those covered by "subchapter I of chapter 85 and chapters 87 and 89 of title 5." It provides that those statutes shall apply until changed by collective bargaining and thereby excludes them from the general category of "compensation, benefits, terms and conditions of employment" as to which Congress laid down a different rule in the first sentence. Unlike the first sentence, the second, which refers only to these three benefit systems, carries no restrictive reference to what was "in effect immediately prior to the effective date of this section." Instead, the second sentence simply states that the enumerated provisions of title 5 "shall apply," unless changed or substituted for. If Congress had not intended different treatment for these three benefit programs, it would not have written the second sentence of subsection (f), since the first sentence, which refers to "benefits," would have unmistakably encompassed these three subjects as well. But the fact is that Congress *did* deal separately with these three programs in the second sentence, and *did not* say, as it said in the first sentence, that they were to be limited to the level of benefits "in effect immediately prior to the effective date of this section." In fact, if this limitation were to be read into the second sentence, then the second sentence would become utter surplusage, and it is presumed, of course that Congress does not indulge in surplusage. On the contrary, realistic comparison of the first and second sentences of Section 1005 (f) can only lead to the conclusion that Congress intended to draw a sharp distinction between the applicability of post-effective-date legislative changes to "[c]ompensation, benefits, and other terms and conditions of employment" generally, and to the three "benefits" specifically referred to in the second sentence.

The Postal Service argues, however, that a particular rule of statutory construction defeats our reading of the second sentence as encompassing subsequent legislative amendments. That rule, as stated at page 2 of the Service's letter of January 26, 1972, is that:

"A statute of specific reference [i.e., one that refers to a particular statute by its title or section number] incorporates the provisions referred to from the statute as of the time of adoption without subsequent amendments, unless the legislature has expressly or by strong implication shown its intention to incorporate subsequent amendments with the statute. 2 *Sutherland, Statutory Construction*, § 5208 (3rd ed. 1943)."

It should be noted at the outset that the rule invoked by the Service actually confirms our differentiation of the specific subjects referred to in the second sentence from the general subjects of the first. For, under *that* rule, the ceiling on the three benefits would be the programs as they existed on the date of *adoption of the legislation*, whereas, with respect to all the others, the ceiling would be the *effective date of the section*, which Congress understood would occur quite considerably later. It is unthinkable that Congress intended to treat the subjects referred to in the second sentence *less* favorably than all the others comprehended by the first sentence. Yet, that would be the result of applying the presumption.

Second, of course, we have shown that the very function of the second sentence is to remove the three referenced benefit programs from the ceiling upon legislative improvements implied by the "effective date" clause. This removal *itself*, and the absence of a comparable clause in the second sentence carries a "strong implication" that Congress intended "to incorporate subsequent amendments" of the three referenced statutes.

Third, and equally important, intrinsic evidence in other subsections of Section 1005 conclusively rebuts the theory that Congress intended the "special reference" presumption to apply. General Counsel Cox agreed, indeed insisted, at the hearing, that Congress intended in subsection (*d*) of 1005 to incorporate not only the statutory retirement scheme as it existed on the date of enactment, *but also any subsequent amendments thereto adopted by Congress* (Tr. 12, 15, 17, 28, 38, 74). The legislative history of subsection (d) bears out this contention, with which the Unions fully agree. Yet that provision is one which can only be characterized as a statute of "specific reference":

"Officers and employees of the Postal Service (other than the Governors) shall be covered by chapter 83 of title 5 relating to civil service retirement. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in such chapter. The Postal Service, upon request of the Civil Service Commission, but not less frequently than annually, shall pay to the Civil Service Commission the costs reasonably related to the administration of Fund activities for officers and employees of the Postal Service."

Similarly, subsection (c) of § 1005 is, just as clearly, a statute of "specific reference":

"Officers and employees of the Postal Service shall be covered by subchapter I of chapter 81 of title 5, relating to work injuries."

Although General Counsel Cox did not comment on this provision at the hearing, it seems certain that he would agree that any legislative amendments to subchapter I of chapter 81 will apply to the Postal Service, since "On-The-Job-Injuries" was one of the subjects which Congressman Udall's chart, discussed above, described as "Set By Congress."

Thus, it is plain that the canon of the construction upon which the Services relies cannot legitimately be applied to *this* statute. The Chairman of the Civil Service Commission appears to agree that this rule of construction cannot be applied willy-nilly. In his letter of February 2, 1972, to Chairman Dulski, Chairman Hampton stated:

"*Where an entire chapter or subchapter of a code title is referred to*, such as the political activity restrictions of chapter 73 of title 5 of the United States Code, *it seems more likely that Congress was adopting the applicability of restrictions on political activity as a general matter*, and did not intend to apply different sets of restrictions to different groups of employees, dependent upon subsequent amendment" (Hampton letter, p. 4; emphasis added).

This approach to statutory construction is even more appropriate when the issue involves the benefits to be afforded postal employees, rather than the restrictions to be imposed upon them. It is inconceivable that Congress, intent upon improving the economic status of those employees, would have meant to withhold from them, absent an express concession by their bargaining agents, the fruits of any Congressional liberalization of these crucial fringe benefits programs which would accrue to other Federal employees.

Finally, it should be noted that the last sentence of Section 1005(f) does not in the slightest impair this analysis. This sentence, following immediately after the concluding phrase of sentence two, which authorizes the parties, by collective bargaining agreement, to "vary, add to or substitute for" various statutory fringe benefit programs, provides, in part, that:

"No variation, addition, or substitution with respect to fringe benefits shall result in a program of fringe benefits which on the whole is less favorable to the officers and employees than fringe benefits in effect on the effective date of this section. . . ."

This sentence simply sets a floor below which the Postal Service and the Unions are not permitted to go even by way of contractual "variation. . . or substitution." Thus, even if the postal Unions were to win by bargaining a 50% increase in wages, Congress nonetheless decreed that the parties were powerless to agree that the accompanying fringe benefit package could be one cent less than that which postal employees enjoyed on the effective date of the section. No inference can possibly be drawn from the existence of this floor, that, in the *absence* of "variation" or "substitution" by contract, legislative improvements of the fringe benefit statutes referred to in the second sentence of Section 1005(f) would not also apply to postal employees.

We have set out this necessarily lengthy exposition for the purpose of refuting the Postal Service's claim that Congress' mere authorization of the Postal Unions and the Postal Service *to bargain* over unemployment compensation, life insurance, and health insurance programs, was intended to exclude application of legislative amendments of these programs, absent variation by bargaining. We have done this by showing that Congress intended to continue to accord postal employees the benefits of such improvements unless and until the parties, by collective bargaining, expressly agreed to "vary," "add to," or "substitute for" those benefit systems. As to this group of benefits, as we have shown, Congress did not, contrary to the Services' assertion, simply kick the fledgings out of the nest, saying "You are entitled by law to what you were getting on July 1, 1971, and nothing more, unless you win it in bargaining." Instead, Congress told postal workers, "Until such time as you expressly agree to fly on your own, the Postal Service will continue to regard you as Federal employees for purposes of these laws."

It follows that it would be wholly consistent with the Congressional intention manifested in PRA for this Committee explicitly to declare applicable to the Postal Service any improvement in the Health Benefits Act which it might report out. As we have shown, Congress clearly "retained jurisdiction" over this area of postal labor relations in the absence of deliberate variation in, addition to, or substitution for, the present program which might result from negotiations. The only question remaining, therefore, is whether the national postal bargaining agreement of July 20, 1971, clearly "varied, added to, or substituted for" the provisions of chapter 89 of title 5.

II. THE COLLECTIVE BARGAINING CONTRACT DOES NOT, AND THE PARTIES DID NOT CONTEMPLATE THAT IT WOULD, EXEMPT THE POSTAL SERVICE FROM SUBSEQUENT AMENDMENTS TO THE HEALTH BENEFITS PROGRAM

The Unions submit that, on the basis of the contract language itself, the meaning contemporaneously attached to it by the parties, and the subsequent practice of the Postal Service, the contract cannot be construed as having been intended to "vary," "add to," or "substitute for" the provisions of chapter 89.

Initially, it should be noted that section 1005(f) itself establishes the proper allocation of the burden of proof on this question. It states, as set out above, that "... the provisions of ... chapter ... 89 . *shall* apply to officers and employees of the Postal Service, *unless* varied, added to, or substituted for ... (emphasis added). Postal employees, that is, together with other Federal employees, shall continue to be covered by chapter 89, "unless" it can be demonstrated that postal employees have agreed to different coverage. In the context of this language and the legislative background of PRA, it becomes incumbent upon the Postal Service to demonstrate that the Unions consciously agreed to forfeit the right of postal employees to benefit from legislated improvements in chapter 89.

That is a demonstration which the Postal Service has not undertaken to make and which it cannot make. In his letter to Chairman Dulski, General Counsel Cox does no more than quote Article XXI, Section 1 of the bargaining agreement:

"The Employer shall continue the health insurance benefit program *at the current contribution level* for the duration of this agreement,"

And then he simply concludes:

"This language reflects a negotiated understanding that accords fully with the Postal Service's interpretation discussed above, that the changes proposed in H.R. 9620 and H.R. 12202 will not apply to postal employees" (Cox letter, p. 3; emphasis in original).

The question of the meaning of this language cannot be so blithely disposed of. The facts and circumstances accompanying the negotiation, execution and implementation of the agreement show that, in fact, the "negotiated understanding" the parties reached was that changes in the Federal Health Benefits Act *would* apply to postal employees.

Before discussing the direct testimonial evidence of intent which has been submitted to this Committee, it should be pointed out that the language of Section 1, Article XXI, is easily susceptible to an entirely different interpretation. The Postal Service emphasizes the words "at the current contribution level," but it neglects to note the final phrase, "for the duration of this Agreement." An agreement to continue "the health insurance benefit program" at that contribution level which is current for the "duration of this Agreement" lends itself more readily to an interpretation that the entire "program" will be supported at whatever contribution level is "current" at any time during the "duration of the Agreement," than it does to the construction proffered by the Postal Service.

Most significantly, Section 3 of Article XXI, which refers to the retirement program, employs virtually identical wording:

"The Employer shall continue the funding and administration of the retirement program *at the current contribution level* for the duration of this agreement" (emphasis added).

At the Subcommittee hearing, General Counsel Cox admitted that, although the underscored words in Section 3 are identical to those in Section 1, the Postal Service construes the words "current contribution level" in Section 3 to mean that the Service is required to honor any subsequently-enacted increases in Government contributions to the retirement program (Tr. 14–15, 38–40). Although questioned repeatedly, he did not satisfactorily explain why the identical phrase, contained in four consecutive sections of the same article of the contract, should, as a matter of contract construction, be construed differently in the third and fourth sections than in the first and second.

Cox claimed that the identical clauses mean different things because they should be read in the light of the PRA provisions (as construed by the Postal Service) to which they relate (Tr. 18, 39–40). But there is no showing that *the Unions* ever had the same understanding or interpretation of those PRA provisions. Thus, the Postal Service would have the Committee adopt the truly novel theory that identical phrases in the same article of a contract should be construed differently solely on the basis of *one party's* interpretation of Section 1005 (f), an interpretation which was never articulated during negotiations and was publicly advanced by the Postal Service for the first time in connection with this bill.

Equally fallacious is the Postal Service's attempt to evade the issue on the theory that appearance of the phrase in Section 3 of the agreement is "superfluous" (Tr. 35–36). If the phrase was superfluous in Section 3, it was not less "superfluous" in Section 1. The fact is that the phrase was equally superfluous (or significant) in both places, for the parties are in agreement that all they were trying to do was "continue the status quo" (Blaisdell, Tr. 15, 20). As Mr. James P. Blaisdell, chief negotiator for the Postal Service, put it, "the [health benefits program] was not changed by collective bargaining" (Tr. 30). In the words of Mr. Bernard Cushman, chief negotiator for the postal unions (Tr. 68), Article XXI reflected "an agreement to continue as we were to be covered by the law." As he further specified, "The health benefits for example, were governed by statute and it was our understanding that when we said those matters would be continued that they would continue to be governed by the Federal Health Program" (Tr. 59).

In the context of the bargaining however, the use of this phrase in Article XXI did serve a significant purpose; it reflected the parties' agreement that the Postal Service was not required to do *more* than the legislative programs governing these benefit areas compelled it to do. This was a significant point because the Postal Unions had been seeking improvements by agreement.

As described by James H. Rademacher, in his affidavit and in his testimony, bargaining about the health insurance program from January, 1971 until July, 1971, centered on the Unions' demand that the Postal Service assume *full* payment of health insurance premiums. The Service, on the other hand, stated that it did not even propose "to enter into contractual arrangement on this subject." Finally, on or about July 19, the Unions agreed to drop their insistence on a wholly non-contributory program and to continue to live with the contributory program.

Against this history of bargaining, it is impossible to conclude that the Unions' acceptance of the "current contribution level" phrase was understood as anything more than abandonment of their efforts to obtain 100% contribution by the Service. It is inconceivable that the parties believed that the Unions were intentionally settling for a lesser employer contribution than Congress might grant to Federal employees generally in the future. As shown in the Rademacher affidavit, the Unions knew full well that legislation to increase Government contributions had been introduced in the Senate on March 30, 1971. It is beyond the pale of reason to conclude that, having failed to secure a totally non-contributory program, they would also deliberately sign away (without a word having been spoken on the subject during negotiations) the right of postal employees to benefit from the across-the-board increase anticipated for Federal employees.

The history of the negotiations proves that, far from signing that right away, the Unions were explicitly assured by the Postal Service that they had secured it. On July 19, the Unions finally agreed to withdraw their proposal for a non-contributory program. The Postal Service then unilaterally drafted, overnight, contract language purportedly designed to incorporate the agreement which had been reached, and that language now appears in Article XXI, Section 1. It is, of course, axiomatic that contract language must be construed strictly against the draftsman (see *E. L. Conwell and Co.* v. Gutberlit, 429 F. 2d 527, 528 (4 Cir.), where the rule was applied to employment contracts drafted by the employer), and that canon of construction weighs against the interpretation here offered by the Postal Service. But far more telling is the direct evidence contained in the affidavits and testimony of Bernard Cushman, chief spokesman for the Unions, and Chester Parrish, Chairman of the Council of American Postal Employees. That testimony shows that when confronted on July 20 with the Service-drafted language, Mr. Cushman, before initialling the document (Tr. 72), took pains to obtain from the Postal Service unequivocal confirmation of his understanding that any subsequent changes in the health insurance benefits law *would* apply to postal employees. He asked Mr. Blaisdell explicitly whether the proposed language would give postal employees the benefit of subsequent statutory changes. He was told that it would (Tr. 60–62). Mr. Parrish expressly confirmed Mr. Cushman's testimony on this important conversation (Tr. 63). The Unions relied on Blaisdell's representation (Tr. 82).

Since that had been the understanding of the parties as to the meaning of the Postal Service's proposal to continue the existing program, and since the contractual language is susceptible to the interpretation Messrs. Blaisdell and Cushman contemporaneously placed upon it, Mr. Cushman correctly saw no need to incorporate the mutual understanding on this point *in haec verba* in the contract (Tr. 65). As is customary in collective bargaining negotiations generally, and contrary to the generally more relaxed, conditions under which commercial contracts are normally executed, the weeks preceding the consummation of the postal agreement had consisted of pressure-filled, day-and-night negotiations, which were not conducive to, and did not result in, dotting every "i" and crossing every "t." See Professor Archibald Cox's analysis, quoted p. 19, *infra*. Neither party deemed it feasible or necessary to indulge "an abundance of caution" (Tr. 63), or exquisite draftsmanship (Tr. 14, 64). In view of the positive assurance he had elicited and received as to the intended meaning of words he was seeing for the first time, assurance which confirmed his previous understanding of what the Service's "status quo" counterproposal meant, Mr. Cushman quite reasonably could, as he did, accept the Service's language.

In his testimony before the Subcommittee, Mr. Blaisdell stated (Tr. 8), "I do not remember this exchange." He added, however, that he has "great respect for Mr. Cushman and I do not doubt that he is sincere in his recollection." He then went on to testify (Tr. 9):

"What I did say, on many occasions, is that we would, of course, abide by any legislation enacted by the Congress which is applicable to the Postal Service."

The Unions believe that the implications of this latter statement are of crucial significance. While we consider Mr. Blaisdell a gentleman whose probity and integrity are beyond reproach, it is clear that the conversations alluded to by Mr. Blaisdell could only have been couched in language which had the unfortunate effect of misleading the Union negotiators as to the Postal Service's position.

Mr. Cushman, as Mr. Blaisdell was well aware from the outset of negotiations, is an eminent and respected attorney. Union Presidents Rademacher and Filbey are, from long experience on Capitol Hill, well-versed in the legislative process. It is not conceivable that Mr. Blaisdell, "on many occasions," found it necessary to tell these knowledgeable Union negotiators that the Postal Service would abide by any law which *Congress expressly* made "applicable to the Postal Service." They would neither need nor seek any assurance from Mr. Blaisdell on *that* score, and he would have insulted them by uttering any such platitude. Plausibly and realistically, the only inference that the Union negotiators could have drawn from whatever comments Mr. Blaisdell made on this general subject was assurance that under the Postal Service's counterproposals on health insurance and other fringe benefit programs, postal employees would continue to enjoy the benefits of any *general* Congressional amendments to those programs which did *not* expressly include or refer to postal employees.

Not only has Mr. Blaisdell thus not specifically denied the solemn testimony of Messrs. Cushman and Parrish, but he has, we believe, conceded, in corroboration of the affidavits of Presidents Rademacher and Filbey, that he engaged in "many" conversations with the Union spokesmen which could only have led them to believe that the Service's counterproposal included improvement of the fringe benefit programs by general legislative amendments. Unimpeachable evidence that the Unions so understood the contract is found in the fact that, on September 28, 1971, *after* the agreement had been signed and long before the present dispute arose, President Rademacher testified before this Committee in support of H.R. 9620, another measure designed to increase Government health insurance contributions. Fully assuming that the amendment would automatically apply to postal employees, President Rademacher gave the bill his complete support, and did not at any time request the Committee to make it expressly applicable to the Postal Service.

Thus, if there is any doubt about the meaning which the parties intended Article XXI, Section 1, to have, it is dispelled by the testimony of Messrs. Rademacher, Filbey, Cushman, and Parrish, as well as by that of Mr. Blaisdell. That testimony shows convincingly that the parties fully understood that any amendments to the Health Benefits law would be applicable to postal employees. And, we might add, whether it is introduced before this Committee, a court, or an arbitrator, oral testimony to clarify the intention of the parties as to the meaning of the lanugage of Article XXI is admissible under established principles of contract law. The preeminent authority in the field, Professor Williston, puts it this way in 4 *Williston on Contracts* (3rd ed.) § 613.

"If words are used by the parties in a special sense even though the meaning is not fully defined, it may be shown, provided the words actually used are appropriate under the local standards to express that sense."

Williston cites with approval the case of *Ganson* v. *Madigan*, 15 Wis. 144, which held:

"If evidence of surrounding facts and circumstances is admitted to explain the sense in which the words were used, certainly proof of the declaration of the parties made at the time of their understanding of them, ought not to be excluded."

Williston also quotes at length from *Stoops* v. *Smith*, 100 Mass. 63, where the court stated:

"The purpose of all such evidence is to ascertain in what sense the parties themselves used the ambiguous terms in the writing which set forth their contract. If the previous negotiations make it manifest in what sense they understood and used those terms, they furnish the best definition to be applied in the interpretation of the contract itself."

These are but a few of the cases holding that where contract language is susceptible to several meanings, one may consider extrinsic evidence as to the understanding of the parties about the meaning to be attached to the words. See also *Metcalf* v. *Williams*, 104 U.S. 665; *Boardman, et al.* v. *The Lessees of Reed & Ford, et al.*, 6 Pet. 328.

In addition, it is universally held that:

"If the language used is ambiguous, it is to be interpreted in the sense that the promisor knew, or had reason to know, that the promisee understood it." *Star-Chronicle Publishing Company v. New York Evening Post*, 256 F. 435 (2 Cir.).

Indeed, "One is bound, not by what he subjectively intends, but by what he leads others reasonably to think he intends." *Globe Steel Abrasive Co.* v. *National Metal abrasive Co.*, 101 F. 2d 489, 492 (6 Cir.). In the present case, the Unions were led to believe and did believe that the language drafted by the Service meant to incorporate future amendments to the Federal benefits statutes, and, on the evidence, the Service knew that the Unions believed this.

Furthermore, even if there were a question whether evidence of the oral agreement between the parties as to the meaning of the contract is admissible in court proceedings, it is clear, and widely recognized, that arbitrators construing labor agreements are not bound by judicial evidentiary rules, and they customarily draw upon many sources in reaching their decisions. As Professor Cox noted in his article "Reflections Upon Labor Arbitration," 72 Harv. L. Rev. 1482, 1500:

"The arbitrator applies a common law of contracts to actions upon industrial agreements. He performs the function because it is inescapable, even though the collective agreement confines him to 'interpretation and application.' Yet the task is markedly different in two important respects. *Collective agreements, because of the institutional characteristics already mentioned, are less complete and more loosely drawn than many other contracts; therefore, there is much more to be supplied from the context in which they were negotiated.* The governing criteria are not judge-made principles of the common law but the practices, assumptions, understandings, and aspirations of the going industrial concern. The arbitrator is not bound by conventional law [1] although he may follow it. If we are to develop a rationale of grievance arbitration, more work should be directed towards identifying the standards which shape arbitral opinions; if the process is rational, as I assert, a partial systematization should be achievable even though scope must be left for art and intuition. I can pause only to note some of the familiar sources; legal doctrines, a sense of fairness, the national labor policy, past practice at the plant, and perhaps good industrial practice generally.

In view of the traditionally liberal practice followed by arbitrators in considering evidence relevant to the meaning of a labor contract, there cannot be much doubt that, in the present case, an arbitrator would, and, *a fortiori*, this Committee should, admit and consider testimony by the parties as to their mutually expressed declarations of intent.

In addition, this Committee unquestionably should read the contract in the light of the Postal Reorganization Act, which was designed to repair past injustices suffered by many generations of postal workers. The legislative history and the language of the statute itself resound with a Congressional purpose to improve the plight of postal employees. It would be incongruous, to say the least, in such a setting, to assume that the Postal Unions would wittingly have surrendered the minimum insurance benefits which their constituents would have enjoyed had they merely continued to be regular Federal employees. And it comes with ill grace from the Postal Service at this late date to assert that Congress should decide that this is what they did, wittingly or unwittingly.

The practice of the Postal Service in interpreting the very provisions in issue must also be accorded great weight. Practice of the parties under the contract has always been a significant factor in determining what the parties intended the contract to mean. As set out in the Rademacher affidavit, on January 8, 1972, a little less than two months ago, the Postal Service increased its health insurance contributions in accordance with the formula prescribed by 5 U.S.C. § 8906. Obviously, then, the Service cannot be taking the position that "current contribution level," as used in the contract, must be literally construed, for a literal interpretation of "level" would mean the pre-existing fixed amount of contributions. Clearly, the Service recognizes that its contributions are controlled by and coterminous with chapter 89 of title 5. This concession, the Unions submit, effectively destroys the "fixed quantum of contribution" rationale offered by the Service to support its contention that it is not bound by changes in the statute.

Additionally, we must point out that Mr. Blaisdell's emphasis (Tr. 3, 6–9, 27) upon the fact that coverage under H.R. 12202 would increase cost to the Postal Service is totally misplaced. Mr. Blaisdell's premise appears to be (Tr. 27) that in entering into the contract the Postal Service insisted upon and the Unions agreed to a ceiling (fixed and determinable when, as of its effective date or as of its enactment date?) upon the total cost to the Postal Service of compensation, *all* fringe benefits and other terms and conditions of employment, a ceiling "whereby a cost [could not] be increased beyond our [the Postal Service's] control." That premise is demonstrably false, for subsequent legislative improvement in retirement and unemployment compensation benefits during the life of the contract would obviously raise the Postal Service's costs, and yet the Postal Service *admits* that it would have to shoulder *those* increased costs, under contract clauses identical to the one governing contributions to the health and welfare program (Tr. 27, 20).

Closely allied to this argument is the Postal Service's contention that it is somehow inappropriate or improper to legislate on the subject of Postal Service coverage under H.R. 12202. According to the spokesmen for the Service, collective bargaining should be an either-or proposition: governed entirely by Congress or entirely by bargaining, but not both (Tr. 31–32, 35). The shortest answer is that the Postal Unions are not here seeking to secure from Congress something surrendered in bargaining, but are only attempting to obtain clarification of Congressional intent behind a statute in which Congress explicitly reserved a major role in the future shape of postal employee benefit programs. In the context of PRA, in which Congress expressly determined that its subsequent amendments to various statutes would apply to the Postal Service and its employees, it is hardly inconsistent for Congress to declare its continuing interest in the field of health benefits.

---

[1] Mayberry v. Mayberry, 121 N.C. 248, 28 S.E. 349 (1897); Smith v. Hillevich & Bradby Co., 19 Lab. Arb. 745 (Ky. Ct. App. 1952); 6 Williston, Contracts § 1929 (rev. ed. 1936)." (Emphasis added.)

In the private sector, of course, Congressional intervention is commonplace. Parties cannot collectively bargain for lesser wages on overtime compensation than the Federal Wage and Hour Act provides. A contract for lower wages or overtime compensation than called for by Federal law would be unenforceable. Nor can an employer by contract immunize himself against amendments to the law during its term which raise the minimum rate of compensation above that provided by the contract. This is a hazard every employer assumes when he enters into a collective bargaining contract, and it by no means detracts from or is inconsistent with the principles and practices of free collective bargaining as they are understood in our society. *A fortieri,* in this instance, where the Unions are asking Congress merely to place beyond the possibility of controversy an intention which, in their view, Congress actually manifested in the legislation, namely, that changes in the benefit programs *do* apply unless and until the parties change the programs by negotiation, there can be no conceivable impropriety in granting their request. Of course, we are not saying, nor could we argue, that if the Unions in collective bargaining had intentionally released the Postal Service from subsequent amendments to the Health Benefits program, Congress should relieve them of their bargain for that is the kind of bargain Congress authorized the Unions to make. What we do say is that if the Unions did not intentionally and consciously waive the applicability of such future amendments, nothing in the philosophy of PRA militates against Congress clarifying its intention that in the absence of a deliberate waiver such an amendment automatically applies to the Postal Service.

III. CONGRESS SHOULD PROVIDE EXPLICITLY FOR INCLUSION OF THE POSTAL SERVICE IN H.R. 12202

Finally, we confront the question, sharply raised at the hearing, whether it is appropriate for Congress now to resolve the question of applicability to the Postal Service of the proposed amendment, or whether Congress should leave that question unresolved and relegate it for resolution to arbitration or to a court (Tr. 47). We submit that Congress should itself resolve the question, unequivocally, now. At bottom the question is one of policy: does *this* Congress, *now*, under all the circumstances, including the current contract, believe that postal employees should or should not be included in the improved contribution program with all other Federal employees. Arguments pro and con as to whether, if this Congress abstained from resolving that question, the amendment would or would not apply to the Postal Service, are unnecessary to determination of whether this Congress should itself decide the desirable scope of its own amendment. Now that the question of applicability has been raised by the Postal Service, it would seem the course of responsibility and wisdom for Congress itself to resolve it. Indisputably, Congress is the tribunal uniquely qualified to decide what result it wants to achieve by its own legislation. Legal arguments as to what the rights of the parties would turn out to be under PRA in light of the current collective bargaining contract, are, at best, influential but not decisive on the issue of policy. Thus, assuming, *arguendo,* that if the amendment was silent as to inclusion of the Postal Service, the Unions would win before an arbitrator or the courts, what is to be gained by compelling the parties to expend a large sum in litigation costs and fees when a phrase of legislative clarification would resolve the issue? *Per contra,* assume that the Unions would lose before an arbitrator or the courts. If this Congress believes that such a result would be inequitable or unfair, why risk it?

CONCLUSION

The Unions believe that the preceding discussion demonstrates beyond substantial doubt that postal employees are contractually and statutorily entitled to enjoy the benefits of H.R. 12202. However, the Postal Service has taken a contrary position. To put the matter at rest, so that postal employees can be assured of receiving the benefits owing to them, H.R. 12202 should be amended expressly to apply to the Postal Service.

ALASKA PIPELINE

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. VANDER JAGT. Mr. Speaker, the May 7 editorial section of the Washington Post included a comprehensive article by C. Robert Zelnick on the Alaska pipeline. The economic and environmental issues at stake here are effectively described. A valuable discussion on the Mackenzie River alternative route is discussed. I urge Members of Congress to give careful attention to the article which follows:

[From the Washington Post, May 7, 1972]

THE DARKNESS AT THE END OF THE PIPELINE

(By C. Robert Zelnick)

Among those who care about such things, the conviction runs deep that the battle over the transAlaska pipeline has become the Interior Department's Vietnam. Ill-conceived from its inception, fraudulently purveyed, divisive in its political repercussions and disastrous in its consequences, the project has little to recommend itself other than the enormous quantity of resources already poured into its accomplishment.

Yet Interior continues to see light at the end of the pipeline. That it will issue the right-of-way needed by the Alyeska Pipeline Company—a consortium of seven oil industry giants—to cross federal lands in Alaska seems a foregone conclusion. On March 20, the day his department released its massive "final" impact statement—which conceded every significant ecological objection ever voiced against the 789-mile Prudhoe Bay-to-Valdez route, Interior Secretary Rogers C. B. Morton promised a decision "within about 45 days." Eight days later, after meeting with Morton, Peter Flanigan and other administration officials to express his country's desire "for the construction of a Mackenzie Valley pipeline," Donald S. Macdonald, Canada's Minister of Energy, Mines, and Resources, told reporters at a Washington news conference: ". . . I had the impression that, with so much effort and study invested in the transAlaska pipeline, that it rather looks as though they would be giving that priority in their consideration."

Actually, as Morton conceded in an appearance on the "Today" show the morning after Interior released its report, his department could not have decided anything with finality within 45 days. Since April, 1971, Interior has been blocked by an injunction issued by the federal district court in Washington from issuing the permit. Two weeks advance notice is required, during which time Judge George L. Hart Jr., will have do satisfy himself that Interior has complied with the National Environmental Policy Act of 1969. The act requires a complete statement of the consequences of any agency action "significantly affecting the quality of the human environment," plus a thorough examination of alternative courses.

Hart, a model of judicial self-restraint, is expected to rule for Interior. The Wilderness Society, Friends of the Earth, and the Environmental Defense Fund—the three environmental group plaintiffs—would then probably appeal to the more assertive U.S. Court of Appeals, with the loser, in all likelihood, taking the case to the Supreme Court. The ultimate result is almost certain to be a landmark decision in environmental—or, for that matter, administrative—law.

THE CHOICES

The nub of the social issue involved is not whether Alaskan oil should be brought to market. Rather, the choice is between an 1,800-mile overland route, 1,500 miles of which would traverse Canada's Mackenzie Valley, and a shorter land route from Prudhoe Bay to Valdez, with the oil then moving via tankers to ports on the U.S. West Coast. The nub of the legal issue is whether Interior has considered the Canadian alternative to the degree necessary to satisfy the environment law, and whether, regardless of Interior's diligence, the evidence favoring the Canadian route is not so overwhelming as to make any right-of-way grant through Alaska a clear abuse of administrative discretion.

Environmentalists are convinced that the Mackenzie Valley route is superior, in part because it involves a single pipeline corridor rather than two, and that should Morton decide otherwise, they can beat him in court. They maintain that abundant support for their position can be found in Interior's own impact statement of March 20. The stakes are high. The pipeline project would be the largest undertaking in the history of private enterprise. The oil industry claims to have invested almost $100 million to date in studying the Alaskan terrain and in procuring pipe and construction materials. That figure, even if exaggerated, is a mere pittance compared to the profits they expect to reap from the venture.

The known oil field in the Prudhoe Bay area—three giant pools running inland from a 40-mile stretch along the Beaufort Sea and covering an area the size of Massachusetts—exceeds 10 billion barrels. This, however, is only a fraction of what the industry eventually hopes to find. Forty billion barrels is a more realistic estimate. In September, 1969, an assortment of producers paid Alaska more than $900 million for the privilege of looking for more North Slope oil. A barrel of oil sells for about $3.25 on the West Coast, more in the Midwest and East.

NO "GOOD" WAY

Despite years of study and volumes of "stipulations" designed to protect the environment, there remains no "good" way of running 2 million barrels of oil a day through 48 inches of pipe at a temperature of 145 degrees Fahrenheit over and under a vast stretch of Arctic wilderness. You have to begin by building gravel service roads and air strips large enough to accommodate the big Hercules aircraft. You must find more gravel for 12 camp sites and 6 pumping stations, each 50 acres; this means gouging about 50 million cubic feet of gravel out of riverbeds and off the tops of hillsides along the way. Stream siltation and land erosion are the inevitable results. Some 350 streams would be crossed by the route. Many are spawning grounds for salmon and grayling. Oil spills can be a problem there. There can be even more of a problem if the oil gets carried out to the Beaufort Sea and trapped under the ice. Then the oil becomes a permanent part of the marine ecology.

If you decide to bury the pipe all the way, its heat melts the permafrost, causing slides and differential settlement, eroding the support for the structure and eventually causing a break. When you are forced to build part of it on stilts, you erect a barrier that blocks caribou and other migrating animals and subjects the line to greater risks of surface damage. When you dig a ditch to catch expected oil spills, the ditch becomes a moat entrapping other animals.

Your service road extends civilization where it has never reached before. The construction activity, the planes landing and taking off and the helicopters hovering overhead frighten bear and caribou, rare birds and sheep. When these move to other areas, they die or cause other animals to die. The ecological balance in the Arctic is fragile. In the winter, a caribou uses almost all its energy just staying alive. A single timberwolf can exhaust and kill the stoutest buck in the herd. So can a bulldozer.

What we get in return for the partial destruction of our nation's largest wilderness area is more oil, a lot of natural gas, the corresponding need to spend fewer U.S. dollars buying foreign sources of energy, and, arguably, a mild, temperature improvement in our national defense posture. This latter case has been stated so often and with such apparent conviction by both the Interior Department and the oil industry that one wonders how we would have survived had not the Prudhoe Bay field been discovered in 1968. Statistical projections provide a clue.

THE EARTHQUAKE PROBLEM

By 1980, the United States is expected to be using about 22 million barrels of oil daily and producing some 10.4 million barrels, excluding what is to be drawn from the North Slope. Part of our expected deficit can be made up by importing an estimated 4 million barrels a day from nations in the Western Hemisphere. The rest will have to come from Indonesia and the Middle East.

Alaska's 2 million barrels daily could reduce this dependency somewhat for about five years. After that, our demand is expected to so outstrip domestic production that North Slope oil will be of little strategic value. In the case of a minor outbreak in the Middle East, say between 1980 and 1985, the benefit is obvious. But if the problem were big and with Russia, an exposed pipeline can offer small comfort to our military strategists. Prudhoe Bay is only 600 miles from Siberia.

While conservationists—at least those involved in the pipeline battle—accept the reality that 10 billion to 40 billion barrels of oil are going to find their way to market, they believe that even if oil was the only resource involved and even if big tankers weren't needed for the remainder of the Alaskan route, the Canadian route, while longer, is preferable. For one thing, the Alaskan area involved is renowned for its extreme seismic activity. In the past 70 years, some 23 major earthquakes have clobbered the terrain over and under which the Alaskan pipeline would go; and one of the quakes could have caused a catastrophic break in the pipe. Valdez itself, where a 900-acre, 510,000-barrel-capacity "tank farm" is planned, is a "new" city, about four miles northwest of its predecessor. The "old" Valdez was substantially washed into the area as tidal waves of up to 170 feet rolled ashore following the great Alaskan earthquake of 1964.

The route through Canada poses no comparable seismic problems. It has fewer miles of unstable soil and more existing roads, even railroads. From Edmonton, the proposed Canadian terminus, existing pipelines now extend both to the Midwest (Chicago) and the West Coast (Seattle). Certainly less environmental damage is involved in expanding existing facilities or building parallel facilities than in constructing new ones.

THE GAS LINE

The relative merits of one land route versus another, however, are matters about which a court is unlikely to substitute its judgment for that of an administrative agency with admitted expertise in the field. But what about *two* land routes versus one land route? Environmentalists claim that this is the fatal legal weakness in Interior's position. Buried, almost lost in the department's six-volume statement, and totally lacking from its consideration of alternatives to the Alaska route, is the acknowledgment that "at some time during the operation of the proposed trans-Alaska pipeline, it would become necessary to transport to market the natural gas that would be produced with the Prudhoe oil."

Indeed it would. In fact, it is estimated that 26 trillion cubic feet of gas are under the Prudhoe Bay fields waiting to be developed with the oil. Moreover, Interior says, "route selection and construction procedures would be similar to those for an oil pipeline but with some simplifications resulting from reduced pipe weight and lower operating temperatures."

Yet logistics militate against the likelihood of a trans-Alaska gas pipeline. The gas would have to be liquefied at Valdez prior to shipment. Interior estimates that operational costs of a liquefaction plant would run to half a billion dollars a year. Additionally, there are only about a dozen liquefied natural gas tankers operating in the world, while some 20 to 40 would have to be built to handle the Valdez traffic alone. Thus, Interior concludes, "A gas pipeline across Alaska appears to be a remote possibility because of the problems involved in shipment from the southern terminus; a gas pipeline through Canada to the Midwest seems to be much more feasible."

Of the various Canadian possibilities, Interior leans toward the Mackenzie Valley, noting, "The Mackenzie River is a valuable artery for us in the construction of a trans-Canada gas pipeline. Good all-weather roads and some railway mileage also exist, and existing winter trails would be valuable at the right time of year." So much does Interior favor the Canadian route when it comes to natural gas—where neither oil industry prestige nor money is on the line—that in March Secretary Morton set aside a 300-mile corridor on federal lands in northern Alaska along the route the natural gas would travel from Prudhoe Bay to Fort McPherson atop the Mackenzie Valley.

If Interior is a bit circumspect about confessing that, in effect, it plans to grant two rights-of-way instead of one, it is far less bashful in assessing the environmental impact of 41 oil-laden tankers as they steam between Valdez and West Coast ports. Here, in fact, the report takes on a quality of terrifying candor, much like Yukie Mishima standing on the balcony, coldly describing the act of harikari he is about to perform.

The sea journey poses exceptional hazards, particularly for the crews of oil tankers. Port Valdez is a 3-mile-wide, steep-walled glaciated fjord that extends east-west about 14 miles. It narrows to less than a mile before dumping out into the Valdez Arm section of the 2,500-square-mile Prince William Sound. The coastline is rocky and treacherous, not entirely free of icebergs and blasted by frequent gale-force winds. A special pilot must guide each vessel through the narrow neck of the port.

The area, moreover, is one of extreme seismic activity. Prince William Sound was the epicenter of the 1964 Alaskan earthquake during which, as Interior notes, "74 lives were lost mainly as a result of submarine landslides, sudden large-scale tectonic displacements, destructive waves, and, to a lesser extent, vibration of structures."

From Prince William Sound the tankers would run into the Gulf of Alaska and down the foggy northern Pacific coast. "During the cool months," Interior says, "the Gulf has the highest frequency of extratropical cyclones in the Northern Hemisphere." From October through February, it is rocked by waves of 12 feet or better about 20 per cent of the time. Moreover, "the 1964 Alaskan earthquake was but one of a large number of earthquakes of moderate and high intensity that have occurred in or near the Gulf of Alaska, and there is no geologic basis to assume that other equally devastating earthquakes will not occur in the near future."

"REHABILITATING" BIRDS

Plans call for about 10 per cent of the tankers to pass through the narrow Strait of Juan de Fuca—where again navigational hazards will require the assistance of a pilot—and into the 40 miles of beautiful waterway known as Puget Sound, a recreational haven for 2 million Americans and Canadians. The remaining vessels would head for San Francisco, Los Angeles and points further south.

Again, seismic dangers will be extreme. Interior recalls that "on April 13, 1949, an earthquake with an intensity of 7.1 on the Richter scale and an epicenter between Olympia and Tacoma resulted in approximately $25 million damage to the Puget Sound area. More recently, on April 29, 1965, an earthquake of slightly less intensity (6.5) with an epicenter between Seattle and Tacoma caused an estimated $12.5 million damage to the Seattle area. These are the two largest of the numerous earthquakes that have occurred in this region during the last hundred years; the level of seismic activity has increased substantially during the last few decades."

Interior estimates that if the performance of the oil tankers on the Valdez run was no better than the world-wide average, we can anticipate spills averaging 384 barrels a day, or about 140,000 barrels a year. Better vessels may reduce these numbers somewhat, but the damage per spill would likely exceed the world-wide average since "large spills in the area would be more difficult to contain, clean up and restore because of the distances from sources of ships and cleanup gear and the generally limited manpower in the region."

Interior details the impact all this filth would likely have on the huge salmon runs of the Northern Pacific, and how it would probably impede, and perhaps wipe out, fishing in the Port Valdez-Prince William Sound area, where the coastal waters are today as pristince as any on earth. On a cheerier note, while chronicling the devasting effect an oil spill might have on the many rare migratory bird species that inhabit Alaska-Canadian coastal areas during certain months, Interior records for posterity Alyeska's pledge to "rehabilitate" those birds belonging to endangered species. The term seems peculiarly appropriate. In this forgiving society we "rehabilitate" drunkards, junkies, whores and others who have gone astray. Clearly the murres, murrelets, loons, grebes, albatrosses, gulls, terns, ducks, geese and shore birds who fall victim to the oil industry's determination to bring its goods to market along the route it deems best are out of step with the natural order of things and gravely in need of "rehabilitation." Unfortunately, only about one in seven of the poor creatures doused in the San Francisco Harbor spill a year ago lived long enough to profit from the experience.

SHOCKING OMISSIONS

If the six volumes of Interior's report dealing with the environmental impact of the combination overland-tanker route contain some shocking revelations, the three-volume economic analysis shocks by what it fails to disclose. Simply stated a careful reading of Interior's economic analysis provides no clue as to why Alaskan crude should go to the West Coast in the first place, certainly none justifying an iota of increased environmental risk.

The West Coast is second only to the Southwest in the production of petroleum. It will not need any Alaskan crude for the next few years, will not be able to absorb 2 million barrels a day from the North Slope until well into the 1980s, and, if as expected, Alaskan production increases to 5 million barrels a day, the West Coast will not be able to absorb the surplus during the life of the pipeline.

Thus, even ignoring the greater hazard of the tanker route from Valdez, it is nonsense to say, as Secretary Morton did on his March 21 "Today" show appearance, that "if the pipeline went through Canada and if it ended up in the middle of the country, you would then have to bring oil into the West Coast by tanker. So the same amount of oil would be arriving by tanker."

The West Coast simply does not need as much oil as Alyeska wants to provide. And, if it did, the obvious source would be the South-west or Canada, a fact Canadian minister Macdonald has been pressing upon his Washington counterparts without apparent success. On April 19, for example, Macdonald was questioned in the Ottowa House of Commons by David Anderson, a Vancouver MP active in the battle against Alaskan tanker traffic, as to whether Canada was willing to supply the United States with enough oil to compensate for the anticipated additional two years it would take to complete the trans-Canada route. Macdonald's reply:

"Both in my discussions with Secretary Morton and other officials of the United States administration in Washington and recently with Secretary Rogers last week, I made it perfectly clear that Canada was prepared to supply additional quantities of oil to the United States not only for a two-year period, but a longer period, and that this would be facilitated by their lifting their quota system."

Would Alyeska, assuming a right-of-way is granted for the trans-Alaska pipeline, then be stuck with a $2 billion to $4 billion Edsel, given the bearish West Coast market for Alaskan crude. A few energy economists believe so and have privately expressed surprise that the oil industry has been able to maintain so united a front on the issue while both the East and Midwest hunger for additional crude oil. More probably, Arco and British Petroleum, the two companies with the biggest positions in the pipeline, would be able to trade their excess crude to Japan in exchange for Japanese rights to Middle East oil, rights purchased long in advance. The Middle East crude oil could then be sold at a good profit on the East Coast, bailing the two companies out of their predicament but making an utter shambles of any national defense arguments for trans-Alaska route.

WINNING IN THE COURTS?

There is a reasonable chance that the environmentalists will ultimately prevail in the courts. Perhaps they will persuade the courts that Interior's failure to consider adjacent oil and gas pipelines rendered its statement procedurally inadequate. Perhaps they will win an even more significant point by forcing Interior to abide by the results of its own research, thus introducing important substantive requirements, as well as procedural ones, into the environment law.

Interior, meanwhile, hopes that its "final" impact statement on the trans-Alaska pipeline will at last get the environmental monkey off its back. From the outset it seems to have regarded the environment statute as an unwelcomed encumbrance to a predetermined course.

Two years ago the department attempted to grant the oil consortium a right-of-way to build a service road adjacent to the pipeline, arguing, incredibly, that the road and the pipeline were unrelated. Its impact statement on 361 miles of gravel carved into the middle of Alaska's wilderness totaled four pages, and became the subject of the court injunction still in effect.

Interior's second attempt at compliance with the environmental law was a bit more sophisticated, but not much. Its multivolume "draft" impact statement, produced in January, 1971, during the interregnum between the Hickel and Morton secretaryships, was basically a collection of data and argument compiled by Alyeska itself. In that report, the Department found it unnecessary either to consider the impact of tanker traffic from Port Valdez to the West Coast or to assess the feasibility of a trans-Canada pipeline route. Even today, Secretary Morton can be heard arguing from time to time that consideration of the Canadian alternative is superfluous because "no application for a Canadian route is pending."

Since the 1965 *Scenic Hudson* case, however, federal courts have held that an administrative agency charged with protecting the environment has a duty to consider alternatives not placed before it by the parties. It cannot only "sit as an umpire blandly calling balls and strikes," the court found. In any event, Interior's 1971 statement was sufficiently derelict so that even the Corps of Engineers, in its formal comment, warned that the department had failed "fully to comply with the letter and spirit of the Environmental Policy Act."

SCARCE STATEMENT

The Justice Department, fighting the pipeline case for Interior in court, has also shown a greater zest for adversaria than guardianship of the public domain. Last summer, more than a year after the first lawsuit was filed, Justice tried unsuccessfully to remove the case from the District of Columbia to the friendlier confines of the U.S. District Court in Anchorage, Alaska. This past April, when MP Anderson and several Canadian residents of the Puget Sound area sought to intervene in the case, Justice opposed the motion.

Now we have Interior's third attempt at compliance with the environmental act. Legally, the department hopes that by confessing the devastating results of its proposed action, it can achieve what it failed to get by denying those results in its two earlier efforts. Politically, it appears anxious to present the public with a fait accompli. In the weeks since March 20, only seven copies of the impact statement have been made available to the public without cost in six cities across the entire "lower 48" states. For others, the volumes cost $42.50 a set. Faced with a demand for public hearings. Under Secretary William Pecora claimed that "a public hearing would be a circus" and would "interfere with a more thoughtful and rational analysis of this complex document."

"Clearly the department has not tried to encourage hearings or informed debate," complained the Christian Science Monitor on May 2, in what might pass as the editorial understatement of the year. The Monitor went on to wonder "how much 'thoughtful and rational analysis' the Interior Department has itself given to the study." Before too long the federal courts may themselves be wondering the same thing.

SHOULD NUCLEAR WEAPONS TESTS BE STOPPED?

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. FRASER. Mr. Speaker, tomorrow, Tuesday, May 9, Mr. Bingham, Mr. Whalen and I, along with over 60 cosponsors, intend to introduce a resolution calling on the President to propose that the limited nuclear test ban treaty of 1963 be expanded to include testing underground.

The issue of underground nuclear testing is often lost in the forest of international crises. But while the threat underground nuclear tests represent to international peace may be obscured, until these tests are ended, we cannot end the nuclear arms race.

Mr. Speaker, we are very fortunate that almost coincident with the introduction in the House of the Hart-Mathias resolution on a comprehensive nuclear test ban—CTB—the Task Force on a Nuclear Test Ban has published a pamphlet "Should Nuclear Weapons Tests Be Stopped?" In this brochure, frequently asked questions on a comprehensive test ban are answered.

For the benefit of those who have not already decided to sponsor our resolution, I place this fine booklet in the Record:

Should Nuclear Weapons Tests Be Stopped? The Crucial Questions and Answers on Nuclear Test Explosions

(Published by the Task Force on a Nuclear Test Ban)

This booklet covers the basic questions on the issue of a Comprehensive Nuclear Test Ban, a treaty that would prohibit underground nuclear weapons tests.

The booklet was prepared by Mrs. Jo Pomerance, Dr. Betty Goetz Lall and Dr. Herbert Scoville, Jr., of the Task Force on a Nuclear Test Ban.

Mrs. Jo Pomerance was chairman of the Disarmament Issues Committee of the United Nations Association of the U.S.; consultant to the U.S. Mission to the U.N.; and is special consultant to the Chairman, Senate Foreign Relations Subcommittee on Arms Control, International Law and Organization. Dr. Betty Goetz Lall is a former official of the U.S. Arms Control and Disarmament Agency and of the Senate Foreign Relations Subcommittee on Disarmament. Dr. Scoville is former Assistant Director of the Arms Control and Disarmament Agency and Deputy Director of the Central Intelligence Agency.

Copies of this booklet may be obtained from the Task Force on a Nuclear Test Ban, c/o Cornell University, 7 East 43rd Street, New York, New York 10017. The cost of the booklet will be 25 cents per copy, with a 20% discount on 100 copies or more.

(Cover Art by Robert Osborn.)

PREFACE

It was hoped that the signing of the Limited Test Ban Treaty in 1963 would signal the end of the nuclear arms race, and be followed within a short time by a ban on all nuclear weapons tests. This has not been the case. Since 1963, the United States and the Soviet Union have conducted hundreds of underground tests, and France and China have exploded nuclear devices in the atmosprere. The nuclear arms race has not only continued, but it has accelerated, increasing the threat of an atomic disaster and creating environmental hazards.

The present nuclear powers are continuing to develop weapons of greater destruction. The U.S. and U.S.S.R. now possess the capacity to destroy each other many times over. In addition, the danger of nuclear proliferation grows daily. Several nations now are on the verge of developing their own nuclear arsenals.

The Task Force on a Nuclear Test Ban was formed with the single purpose of informing the public of the facts about nuclear weapons testing and the need for a ban on these tests. A comprehensive test ban will help prevent the further development and refinement of nuclear weapons, as well as prevent the proliferation of these weapons to other nations.

We hope this booklet will help explain the reasons why a total test ban is vital to world peace and, therefore, to our national security.

Dr. Betty Goetz Lall,
Jo Pomerance,
Dr. Herbert Scoville, Jr.

The Crucial Questions and Answers on a Comprehensive Nuclear Test Ban

1. Q. Why should nuclear weapons tests be stopped?

A. The most important benefit of a comprehensive test ban is that it would be a major step toward ending the nuclear arms race. It would sharply reduce the danger of a nuclear holocaust, and would be a signal that the U.S. and U.S.S.R. were willing to halt further development of nuclear weapons.

Underground tests enable the U.S. and Soviets to continue the costly development of new, more destructive weapons, and encourage other nations to develop their own nuclear capability and escalate an arms race that could ultimately end in a world disaster.

II. Q. Is underground testing hazardous to the environment and health?

A. Yes. Underground nuclear testing presents a variety of hazards. First, these tests can vent radioactivity. The U.S. Government admits that some 20 underground tests conducted between 1963 and 1971 vented radioactive material. Soviet tests have also vented radioactive debris into the atmosphere. It is established that exposure to radioactive substances, even in small doses, has the potential to cause cancer and birth defects in unborn children. Also, leading scientists believe that underground tests produce earth tremors that could trigger major earthquakes and, subsequently, tidal waves. A White House Commission in 1968 concluded after a thorough scientific study that an underground test explosion might induce severe earthquakes or tidal waves that could cause serious damage well beyond the limit of the test site. Another environmental hazard which would be halted by a test ban is the threat of underground tests contaminating vital underground water tables.

In addition, a comprehensive test ban agreement between the U.S. and the Soviets could eventually include China and France, which would stop the radioactive fallout from their tests in the atmosphere.

III. Q. Why have the U.S. and Soviets failed to agree to a comprehensive test ban?

A. The U.S. has insisted that on-site inspection is necessary to prevent clandestine underground tests. The Soviets have rejected on-site inspections, though at one stage in negotiations it appeared that the nations were close to agreement on a limited number (between three and seven) of inspections.

IV. Q. Is on-site inspections still necessary to prevent "cheating"?

A. No. Seismic capabilities of detection and identification have vastly improved over the past few years. These improvements, combined with other verification methods, make a comprehensive test ban possible without on-site inspections. It is now possible to identify underground explosions and earthquakes down to magnitudes as small as two kilotons (two thousand tons of TNT), although some slightly larger explosions might be unidentified.

This seismic capability has been attested to by many of the nation's leading scientists and arms control experts, including testimony by experts before the Senate Foreign Relations Subcommittee on Arms Control, International Law and Organization, in hearings on the comprehensive test ban held in July of 1971.

V. Q. Would signing a test ban now put the U.S. at a military disadvantage?

A. No. The U.S. presently has nuclear warheads for an array of present and possible future offensive and defensive missile systems. The U.S. and Soviets each have a nuclear arsenal that could withstand a first strike attack and destroy the other side many times over. The U.S. also has a wide variety of warheads for tactical warfare ranging in size from those that can be hand carried to large bombs and missiles. The U.S. is well ahead of the U.S.S.R. in almost every category of nuclear weapons design. The cessation of all testing by both sides would work to the advantage of both. A world in which neither tested would enhance the security of each more than a world in which both nations continued testing.

VI. Q. Would clandestine tests unidentified by present seismic technology be a threat to U.S. security?

A. No. Explosions by the U.S.S.R. or any other nation that might not be identified by a U.S. network of seismic stations would be so small that it could be of little value in major weapons development.

Also, important new nuclear weapons programs require many tests before the technology can be used to produce actual weapons. It is considered inconceivable that the U.S.S.R., or any other nation, could conduct an entire series of secret tests without detection. The gains to U.S. security from preventing Soviet's tests above the identification threshold would more than offset the small risks of possible cheating.

VII. Q. Would a comprehensive test ban help stop the spread of nuclear weapons to other nations?

A. Yes. In addition to the two nuclear superpowers, and the United Kingdom, France and China, which have smaller nuclear capability, there are several countries now considering the development of their own nuclear weapons. This proliferation would greatly increase the possibility of an eventual nuclear war.

The purpose of the Nuclear Non-Proliferation Treaty of 1968 is to halt the spread of nuclear weapons. Some nations, including Japan, Israel and India, have refused to ratify the Treaty as long as the U.S. and Soviets continue to add to their nuclear arsenal through testing. If the nuclear superpowers negotiated a ban on testing, as they are pledged to do under a provision of the NPT,[1] these potential nuclear nations may be strongly influenced to forego developing their own nuclear capability. If these nations signed a comprehensive test ban treaty, nuclear proliferation would be forestalled.

VIII. Q. Would China agree to a comprehensive test ban?

A. In view of the recent thaw in U.S.-China relations, it is difficult to predict China's reaction. Before the apparent rapprochement, it was believed that China would probably not initially sign a test ban because its nuclear technology is far inferior to that of the U.S. and U.S.S.R., and they would want to reduce this gap before ceasing their test program. The recent improvement in U.S.-China relations could improve the chances of China's signing a test ban. However, weapons experts believe China is so far behind, U.S. security would not be jeopardized by a test ban that initially would not include China.

IX. Q. Would a test ban prohibit peaceful nuclear explosions?

A. The present Limited Test Ban Treaty prohibits peaceful nuclear explosions in the atmosphere. Underground nuclear tests for peaceful purposes have caused some of the major cases of venting radioactive materials. There is, however, considerable interest throughout the world in the use of nuclear explosions for mining, major construction projects, and for other purposes. While a comprehensive test ban treaty would initially prohibit peaceful nuclear explosions, if these tests could be made safe, the treaty might at a later date be amended to allow these tests under the supervision of an international organization.

X. Q. Will a test ban save money?

A. Yes. The U.S. is presently spending at the rate of close to $300 million a year directly on underground nuclear testing. All of this money and manpower resources could be redirected to peaceful purposes. In addition, over $1 billion is spent annually on related weapons development and tens of billions of dollars are spent each year on the development of weapons delivery systems. A significant portion of these expenditures could also be either saved or put to more constructive use in solving domestic problems and developing the machinery of international peacekeeping.

XI. Q. What measures of restraint can nations undertake while a test ban is negotiated?

A. The nuclear nations can initiate several positive actions preparatory to a test ban. In a Canadian proposal, it is suggested that the U.S. and U.S.S.R. disclose dates of underground explosions so that monitoring equipment could be tested; reduce the scope of their underground test programs; take special precautions to prevent their present tests from causing environmental hazards; and cooperate on the development of monitoring systems.

XII. Q. Is there strong support in the U.S. for a comprehensive test ban?

A. Yes. There has been a resurgence in the public's alarm at the spiraling nuclear arms race. The vast propaganda program of the Defense Department and some defense contractors has for years cited the need for more destructive and costly nuclear weapons. But in the past two years a growing number of leaders in Congress and government agencies, scientists and the American public have become convinced that this dangerous buildup of weapons endangers rather than strengthens our national security.

There are presently three resolutions in Congress calling on the President to negotiate a comprehensive test ban with the Soviet Union. One is a resolution introduced by Senator Kennedy in January 1972; another is a bipartisan resolution introduced by Senators Hart and Mathias in March 1972; a House resolution was introduced by Congresswoman Bella Abzug in December 1971; additional co-sponsorship to existing resolutions is expected.

The strong protest against the huge Cannikin underground test in November 1971, was led by many of the nation's leading scientists, arms control experts, and citizens organizations, and this test was only allowed to proceed by a last minute 4–3 vote by the Supreme Court.

XIII. Q. What is world opinion on a test ban?

A. Strong support for a test ban treaty extends to other governments and people throughout the world. The United Nations General Assembly in 1969 voted 114 in favor, one opposed and four abstentions urging the U.S. and the U.S.S.R. to negotiate a treaty. The most recent resolution was introduced by Canada on December 9, 1971, urging all governments that have been conducting nuclear weapons tests immediately to undertake measures to suspend such tests or reduce the size of their tests pending the entry into force of a comprehensive test ban treaty; to develop and use existing capabilities for seismological identification of underground tests; and to develop proposals for an underground test ban treaty. The resolution was adopted on December 16th with 91 for, two against (China and Albania), and 21 abstentions.

---

[1] "Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control."

XIV. Q. What can you do to help?

A. If, after studying the issue, you believe that our nation's national security will be strengthened by stopping this dangerous, expensive nuclear arms race, you can help by making your views known. Write your Senator or Representative. Write the President. Write the editor of your local newspaper. The government must become aware that you will no longer accept the views of some of the professional military and munitions contractors that we must continue to increase our overkill capacity by spending billions on new nuclear weapons. Public support can change the course of history.

The Limited Test Ban Treaty, the first small step towards halting the arms race, may not have been possible without the active support of many national citizens groups and individuals who were appalled at the fall-out hazard of atmospheric nuclear tests. We now know that underground testing is dangerous to our environment, and keeps the clock ticking on the nuclear time bomb that someday may explode.

APPENDIX I.—TEXT OF THE HART-MATHIAS RESOLUTION (SENATE RESOLUTION 273)

Whereas, prior to 1963 there were earnest efforts by the United States to achieve a total nuclear test ban treaty in the hope of curtailing the burdensome and dangerous arms race between our nation and the Soviet Union; and

Whereas, inability to achieve agreement on methods of verifying a ban on underground tests frustrated hopes for a comprehensive treaty, and resulted in acceptance in 1963 of a limited test ban; and

Whereas, the massive underground testing which has since continued on both sides has constantly fueled the burdensome nuclear arms race without promoting national or international security; and

Whereas, steady and continuing scientific progress in seismology now makes it possible, using national means alone, to monitor underground events down to levels so small that any remaining undetected or unidentifiable events would have no controlling military significance; and

Whereas, the early achievement of total nuclear test cessation would have many beneficial consequences; imposing inite limits on the nuclear arms race; releasing resources for peaceful purposes; protecting our environment from growing testing dangers; creating a more favorable international arms control climate; helping to win acceptance by more nations of the crucial nuclear nonproliferation treaty; making more stable agreements it is hoped will result from the current SALT negotiations: Now, therefore, be it

Resolved, That in the interest of promoting negotiations for general cessation of the nuclear arms race and advancing international security, the Senate calls upon the President to propose to the Soviet Union and the other nuclear powers an extension of the limited test ban treaty to include testing underground and to strive for its prompt acceptance.

Senators PHILIP A. HART (D), and CHARLES McC. MATHIAS, Jr. (R).

APPENDIX II

Excerpts from a Staff Report on Subcommittee on Arms Control International Law and Organization (Chairman, Edmund S. Muskie) of Senate Foreign Relations Committee. Report following hearings on Comprehensive Test Ban held in July 1971

". . . Recently the subject of nuclear testing has returned to the arena of public discussion. The multimegaton tests by the United States in Alaska and the U.S.S.R. in the Arctic have recalled attention to this subject and the lack of progress since 1963 toward a comprehensive test ban (CTB) covering underground tests as well. The question has been raised with increasing frequency—what are the barriers to a ban on *all* nuclear tests? The hopes and expectations generated by the Limited Test Ban Treaty, when it seemed that we were so close to a total ban, have remained unfulfilled.

The possibilities of movement toward a CTB have always foundered on the question of on-site inspection. In 1963 the dispute focused on the *number* of permissible inspections (although there were other unresolved issues involving on-site inspection). The United States insisted on seven such inspections, while the U.S.S.R. would accept only three. Subsequently the Soviets took the position that on-site inspection was no longer necessary and that national means of verification were sufficient. In contrast, the U.S. position has remained unchanged since 1963.

In that period, however, enormous advances have been made in seismology so that it is now possible, through seismic means alone, to identify underground explosions to a degree unknown five years ago. It is now possible to deploy new seismic monitoring network which would constitute a powerful force in the monitoring of a CTB. In addition, even presently deployed systems are vastly superior to those deployed a few years ago. These advances would seem to justify, indeed require, a reassessment of the U.S. position regarding on-site inspection. . . ."

APPENDIX III—BRIEF BIBLIOGRAPHICAL REFERENCES

"A Comprehensive Nuclear Test Ban Treaty," by Dr. Betty Goetz Lall, International Conciliation No. 587, March 1972, published by the Carnegie Endowment for International Peace, 345 East 46th Street, New York, New York 10017 ($1.00 per copy).

"The Pentagon Blocks Arms Pact," a brief history of the role of the U.S. military establishment in the test ban negotiations, by James J. Wadsworth and Mrs. Jo Pomerance, The New York Times, Sunday, August 29, 1971. (Available from the Task Force on a Nuclear Test Ban).

"Prospects for Comprehensive Nuclear Test Ban Treaty," Hearings before the Subcommittee on Arms Control, International Law and Organization of the Committee on Foreign Relations, United States Senate, under the Chairmanship of Senator Edmund Muskie, July 22 and 23, 1971, U.S. Government Printing Office, Washington, D.C.

Rapoport, Roger, *The Great American Bomb Machine*, E. P. Dutton & Company, New York, New York 1971.

"Seismic Methods for Monitoring Underground Explosions," 1971 Progress Report by Dr. David Davis. This report is available free from the Stockholm International Peace Research Institute, Syeavagen 166, S–113 46 Stockholm, Sweden, or for $3.50 from Humanities Press, Inc., 303 Park Avenue South, New York, New York 10010.

Senate Resolution 273—Remarks of Senator Philip Hart on Submission of a Resolution Relating to Extension of the Nuclear Test Ban Treaty to Include Underground Testing. U.S. Congressional Record, March 2, 1972, S 3078–S 3083. (Includes letter of support and list of signatories from Task Force on a Nuclear Test Ban).

"Status of Current Technology to Identify Seismic Events as Natural or Man-Made," hearings before the Subcommittee on Research Development and Radiation of the Joint Committee on Atomic Energy, October 27 and 28, 1971. U.S. Government Printing Office, Washington, D.C. 20402. Order #5720–1300. Price is $1.50.

"The Test Ban, the SIPRI Research Report," published by the Stockholm International Peace Research Institute, Syeavagen 166, S–113, 46, Stockholm, Sweden. To be published June 1972, as part of the SIPRI Yearbook of World Armaments and Disarmament. Available from Humanities Press, Inc., 303 Park Avenue South, New York, New York 10010.

MEMBERSHIP OF THE TASK FORCE ON A NUCLEAR TEST BAN

Honorary Co-Chairmen

Mr. Benjamin V. Cohen, Formerly U.S. Ambassador to U.N. Disarmament Commission.

The Honorable James J. Wadsworth, Formerly Permanent U.S. Representative to the U.S. Mission to the U.N.

Co-chairmen

Dr. Betty Goetz Lall, New York State School of Industrial Labor Relations, Cornell University.

Mrs. Jo Pomerance, Consultant to the Chairman of the Senate Subcommittee on Arms Control.

Secretary

Dr. Allan Parrent, Department of International Affairs, National Council of Churches.

Treasurer

Dr. Herman Will, Jr., Associate General Secretary, Board of Christian Social Concerns of the United Methodist Church.

Counsel

John Silard, Rauh & Silard.

Consultant

Robert B. Pickett.

Members

The Rev. Harry Applewhite.
Mrs. J. Berenson.
William J. Butler.
Hon. Joseph S. Clark.
Norman Cousins.
Dr. Bernard Feld.
Mr. and Mrs. Joseph Filner.
Hon. Seymour M. Finger.
Hon. Adrian Fisher.
Mrs. Carol W. Haussamen.
Hedda Hendrix.
Rabbi Richard G. Hirsch.
Dr. Marvin Kalkstein.
Dr. Arthur Larson.
Oscar de Lima.
Dr. Franklin A. Long.
Allard Lowenstein.
The Rev. Pat McDermott.
Stewart Mott.
Mrs. Rose Okin.
Miles Pennybacker.
Mrs. Miles Perrin.
Mrs. Mildred Persinger.
Mrs. Lee Pomerance.
John A. Reed.
Victor G. Reuther.
Dr. Leonard Rodberg.
Mrs. Marjorie Schell.
Dr. Herbert Scoville, Jr.
C. Maxwell Stanley.
Mrs. Dewitt Stetten.
Mrs. Carolyn Tumarkin.
Mrs. Maurice Wertheim.
Jerry Wurf.

THIS PAMPHLET IS CO-SPONSORED BY THESE FOLLOWING ORGANIZATIONS

Division of Christian Social Concern, American Baptist Convention.
Americans for Democratic Action.
American Ethical Union.
American Humanist Association.
American Jewish Congress.

Arms Control Association.

Board of Christian Social Concerns, United Methodist Church.

Christian Church (Disciples of Christ).

Church Women United.

Coalition on National Priorities and Military Policy.

Federation of American Scientists.

Friends Committee on National Legislation.

Friends of the Earth.

National Board of the YWCA.

National Federation of Temple Sisterhoods.

National Council of Churches.

National Council of Jewish Women.

SANE.

Sierra Club.

United Automobile Workers.

United Nations Association of the United States of America.

United Presbyterian Church, USA.

Unitarian-Universalist Association.

Women United for the U.N.

Women Strike for Peace.

Women's International League for Peace and Freedom.

HOUSING FOR THE HANDICAPPED

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SCHWENGEL. Mr. Speaker, housing shortages exist in almost every locality throughout our country. Much is being done to remedy this situation. One factor, however, has long been overlooked in designing houses for these areas with short supplies. I am referring to the disabled or handicapped person. In most cases, homes are not designed with the handicapped in mind. Disabled American Veterans are increasing in numbers and their problems in securing adequate housing continues to grow.

Recently an Iowa company, Mini-Mansions, Inc., in conjunction with the Disabled American Veterans, began design and construction of housing suitable for the handicapped. They have created an efficient and unique system of manufacturing and erecting low-cost housing. All architectural barriers—that have long been a source of inconvenience for the physically handicapped—have been eliminated. The special features include bathroom arrangements, utility controls and kitchen facilities which are easily accessible from a wheelchair, ramp entrances, wide halls, interior and exterior wide doors, and weather protected entrances.

Due to the unique design of this special housing plan and the wealth of thoughtful considerations, the millions of physically handicapped can now live more independently. The design meets the standards outlined in VA Pamphlet 26–68–1, and the suitability requirements under title 38, United States Code, chapter 21 for Disabled Veterans. Another important factor is that this housing also accommodates senior citizens in comfort and convenience.

It is, indeed, a pleasure to give recognition to such a fine effort. It is not often we find such thoughtful concern for the interests of the disabled and senior citizen. Mr. William McNeil, president of Mini-Mansions, Inc., deserves praise for his leadership in this area and the courage to put the prestige of his company behind this noble effort.

In this era of housing shortage and high demand, it is refreshing to find a corporation taking interest in the plight of the many citizens in need of adequate housing.

RESULTS OF INDIANA NINTH DISTRICT OPINION POLL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HAMILTON. Mr. Speaker, each year I send to the residents of the Ninth District of Indiana a questionnaire asking for comment on the major issues facing the Congress.

This year over 15,000 responses were received.

I was very pleased with the number of responses, because it suggests the awareness and concern of Ninth District residents on the important issues the Nation confronts.

I recognize the inadequacies of a brief questionnaire in assessing the full range of opinion from the district. Nevertheless, it is helpful to me as one indication—among several—of the trend of opinion in the 19 counties of the district.

The results of the questionnaire are as follows:

RESULTS OF QUESTIONNAIRE

THE ECONOMY

Are you satisfied with the administration's economic program to curb inflation and unemployment?

	Percent
Satisfied	30.30
Not satisfied	63.29
No opinion	4.34
No answer	4.10

Do you think wage and price controls should be—

	Percent
More strict	63.93
Kept about the same	17.60
Less strict	2.05
Discontinued altogether	10.73
No opinion	2.13
No answer	5.52

NATIONAL PROBLEMS

What do you think are the 2 most serious problems facing the Nation?

	Percent
Community development	0.90
Confidence in Government	10.22
Crime	17.00
Drug abuse	11.36
Government spending	16.33
Inflation	11.16
Pollution	6.39
Unemployment	7.97
Welfare	7.49
Vietnam	7.02
Other	1.57
No answer	4.57

CRIME

Are you and the members of your family personally afraid of crime in your area?

	Percent
Yes	40.96
No	55.95
No opinion	2.05
No answer	3.07

POLLUTION

Do you favor stricter federal laws to control pollution, even if it means spending more of the taxpayer's money for this purpose?

	Percent
Yes	59.66
No	31.64
No opinion	2.94
No answer	5.76

"NO FAULT" AUTO INSURANCE

There is increasing interest in a national "no fault" auto insurance system, in which accident victims recover losses from their insurance companies, no matter who is at fault. Do you—

	Percent
Favor	61.32
Not favor	23.04
No opinion	12.07
No answer	5.60

SPACE

The President has proposed spending from $10 to $14 billion on a new, reusable vehicle to continue space experiments. Do you—

	Percent
Favor the proposal	25.65
Favor a reduced expenditure for this effort	32.75
Reject the proposal	35.91
No opinion	4.18
No answer	3.55

DEFENSE

The President is seeking $83.4 billion, $6.3 billion more than last year, for the Defense Department budget. Do you—

	Percent
Approve	37.17
Disapprove	52.72
No opinion	7.49
No answer	4.65

UNITED NATIONS

Do you think the U.S. participation in the United Nations should—

	Percent
Be increased	10.33
Continue as it is	36.38
Be reduced	26.67
Be discontinued altogether	17.44
No opinion	6.31
No answer	4.98

VIETNAM

The Paris Peace Talks have been unproductive, both in the public sessions and in the recently-revealed private talks. Do you think we should—

	Percent
Withdraw all troops immediately	10.18
Withdraw all troops by a specific date, subject only to the release of all prisoners	27.22
Withdraw all troops subject to an agreement on free elections, a cease-fire, and the release of all prisoners	33.38
Withdraw troops only as needed to turn the war over to the South Vietnamese	15.86
Escalate our efforts as necessary for a military victory	10.10
No opinion	1.73
No answer	3.55

NATIONAL PRIORITIES

[In percent]

	Increased	Held at present levels	Decreased
Consumer protection	43.17	35.75	4.55
Crime prevention	65.50	22.88	3.63
Defense	29.51	36.93	24.46
Education	33.85	41.15	15.15
Farm programs	21.07	41.67	26.75
Foreign aid	1.26	11.60	79.55
Health	40.80	41.35	9.07
Housing	16.73	46.01	25.73
Job creation and training	42.54	34.25	14.83
Pollution control	54.93	24.70	12.07
Rural development	16.65	46.17	23.83
Space	11.60	29.67	50.27
Urban development	12.62	44.83	29.83
Welfare	8.20	21.70	63.45

THE FEARSOME NEW YORK FILLIES

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HALPERN. Mr. Speaker, there are a great number of professions which, for centuries, have been dominated by males—law and medicine are but two examples. One by one, however, those bastions of masculine "superiority" which have succeeded in slighting the rights and intelligence of women are being infiltrated by female members. There are, for example, a great number of female journalists, psychologists and professors, and the surprising success being made by the women's liberation movement seems to augur even more progress in the near future.

Yet what Sunday afternoon sports enthusiast, in his wildest male chauvinist dreams, would ever have expected to see a team of 11 women charging down the gridiron? Mr. Speaker, there is now an all-female professional football team—the first of its kind—called the New York Fillies.

This determined group of women have booked a series of games in the New York metropolitan area and hope to accomplish in the area of football what other women have already succeeded in doing in the tennis, golf, bowling and horse racing professions.

Mr. Speaker, I would like to insert into the RECORD three excellent news items written by Roy J. Harris, Jr. of the Wall Street Journal, Larry Sokoler of the New York Post, and Ricki Fulman of the New New York Daily News. I salute the New York Fillies and wish them every success in their exciting endeavor. I am convinced that under the able and energetic direction of Joseph Kover, general manager of the Fillies and a man whose friendship I have treasured for many years now, the NFL and AFL will soon be given a run for their money!

Recently there have appeared in various newspapers some articles about this exciting new football team. I am placing them in the RECORD today and invite my colleagues to read them.

The articles follow:

[From the Wall Street Journal, Dec. 2, 1971]

WHAT KIND OF TEAM HAS A 110-POUND END AND A 265-POUND TACKLE?—PLAYERS SAY FOOTBALL IS ROUGH BUT LOTS OF FUN—ESPECIALLY WHEN IT'S "YOU AGAINST HER"

(By Roy J. Harris, Jr.)

PITTSBURGH.—The football is on Detroit's 12 yard line. The tension in the stands mounts as the Pittsburgh quarterback looks over the awesome Detroit "front four," stares briefly at a giant, 265-pound tackle and begins barking signals.

As the ball is snapped the line of scrimmage becomes a mass of pushing, shoving, tangled bodies. The crowd rises to its feet as the Pittsburgh end speeds across the backfield from the far side of the field, gets the hand-off, breaks a tackle and darts in for the score.

After the game, the end who made that touchdown says that scoring is fun, but playing linebacker on defense is really a bigger thrill: "Nothing's more fun than a one-on-one tackling situation, when it's you or her."

That's right. Her.

That touchdown scoring end is Martie Love, a 22-year-old keypunch operator who played for the Pittsburgh Powderkegs, a semi-pro team composed of about 20 nurses, teachers, students, telephone operators, secretaries and housewives—all decidedly female. The touchdown scene is from a recent Saturday-night game here between the Powderkegs and the Detroit Fillies (who won, 16–12). Some 1,000 fans paid $2.50 each to watch the opposing sets of girls play a tough brand of tackle football that is surprisingly well executed. One intrigued businessman in the stands shook his head after a particularly fine Detroit defensive play and murmured, "I can't believe it. I can't believe they're girls."

SHEILA THE MOUSE

Girls they are. Ordinary girls they aren't. The four defensive lineladies of the Detroit Fillies, for instance, weigh, together, 880 pounds; they are led by 265-pound Pat Young, a 25-year-old housewife. Not all the gridiron girls are that, uh, substantial, of course. In fact, some are downright dainty, such as 17-year-old Sheila (Mouse) Shannon, Detroit's 5-foot-4-inch, 110-pound end.

But big or small, the girls are tough, and they love the contact. And if their sport grows along the lines some promoters have in mind, they'll get plenty more of it. Women's semi-pro tackle football began several years ago as a gimmick dreamed up by Cleveland talent agent Sid Friedman. Mr. Friedman now runs a league that includes teams in Cleveland, Toledo, Toronto, Buffalo and Pittsburgh.

The Detroit Fillies and Pittsburgh Powderkegs are owned and operated independently of that league, and they mostly play each other. But a two-team league isn't much fun, so the promoters of the two teams hope to have at least four and possibly eight new opponents next year—in a league that former Detroit Lions tackle Alex Karras has volunteered to head as commissioner. Plans call for Chicago and Kalamazoo, Pontiac and Lansing, Mich., to field 1972 teams. Mr. Friedman, organizer of the rival league, says he envisions eventual Eastern and Western divisions of teams with champions meeting in a year-end "super bowl."

Despite those ambitions, team owners confess that so far the enterprise has been less than a bonanza. Overhead expenses include stadium rent, printing programs, paying coaches, insuring and paying players and transportation. And the gate receipts are often unpredictable. Some games have pulled several thousand fans. Others haven't.

DON'T MESS WITH LINDA OR LINDA

The players aren't getting rich, either. The Pittsburgh Powderkegs each get $20 a game. Mr. Friedman won't disclose how much he pays his girls, saying it depends on "how good they are," but a couple of his Pittsburgh Hurricanes say that everyone gets $20 a game, merit notwithstanding. But the women don't mind. They say the rewards are in the competition. "I like tackling best," says Linda Mosley, a Powderkeg guard who is a telephone operator off the field.

Indeed, Linda Hodge, the Powderkeg's captain, who plays halfback and does the kicking, believes that a lot of girls who currently fritter away the skills playing softball or basketball would find football more to their liking.

"I'm like a lot of girls," she says, "I love physical activity. I knew this was going to be rough, but it couldn't be rougher than I am." Miss Hodge is 5'6" and weighs 120 pounds, and she says she loves "every aspect of the game—except getting the tape off my ankles."

Even though the girls wear exactly the same protective equipment that male football players wear—"Well, almost exactly," says one—injuries are frequent, especially to weak ankles, and all the teams carry full medical insurance. A doctor is on hand at all games, and practice sessions include lots of calisthenics to build up feminine limbs.

Despite those risks, promoters say they have no trouble at all recruting players. Classified ads and a modest publicity campaign bring they flocking, Mr. Friedman says. Much recruiting is word of mouth—girls who hear about the game from friends or fellow employes—and the Pittsburgh Powderkegs, with a full roster, regularly turn down ladies who show up to join late in the season.

There's no doubt the ladies take the game seriously. They practice as often as four times a week, and they are schooled by coaches who often have considerable experience. The Powderkegs' coach is Charley Scales, a seven-year National Football League veteran player, and the Cleveland Daredevils are coached by Marion Motley, the former Cleveland Brown of Football Hall of Fame fame.

Coaches confess, however, that there are problems that their own football experience didn't prepare them for. Like pressure from boyfriends and husbands. That causes dozens of girls to quit, often on short notice. Coach Scales laments that he seldom knows who's going to show up for practice.

Detroit Fillies' coach Dave Pierce says "girls have a tendency to take criticism more personally" and are often "unfamiliar with the player-coach relationship." He says he finds himself often assuming too much football knowledge on the girls' part. In some early games, he recalls, "sometimes the linebacker would tackle the defense."

Then there is the delicate problem of the quarterback. As in male football, "the quarterback is the most important player," says Coach Pierce. So, naturally, "you never put a married girl at that position."

"She might get pregnant."

ALL-GIRL FOOTBALL TEAM TACKLES A MAN'S GAME

(By Ricki Fulman)

Football is the New York Fillies' game. But New York's first all-girl semi-pro team isn't playing for kicks, or for money.

They're playing to win, practicing vigorously three times a week at Sloane House, YMCA (the only gym they could get) to prepare for their first season. It officially begins May 13, when they tackle the Midwest Cowgirls at Randalls Island Downing Stadium. Tickets are $3 apiece, available from Ticketron.

At first glance the 38 team members look like typical New Yorkers. Few tomboys were to be seen at a recent practice session. And no one talked about women's liberation. The Fillies are simply sportswomen and they play it hard and tough—with real honest-to-goodness tackling. Football grabs them.

Most had played touch football when growing up, but never had the chance to play tackle (the boys they knew wouldn't let them).

Pretty Joan Carney, a blonde quarterback from Brooklyn and at 16 the youngest member of the team, said she used to resent that. Admitting that her boyfriend finds the idea of an all-girl team laughable, she explained: "He's just jealous, I'm sure, because he's not on a team himself and can only be a spectator."

Secretaries, bookkeepers, students, one nightclub singer, and a few young mothers, the team members didn't waste practice time on idle gossip or sitting around. They worked out for two hours solid, dressed in old shirts and shorts, with barely a break, first performing calisthenics, then practicing formations.

Dressed in old shirts and shorts, the team will be getting standard football uniforms in Fillie colors—kelly green and gold.

INJURED PLAYER'S COMPLAINT

For added protection, they will wear breastplates, made of foam-padded plastic.

But few worry about injuries, unless they hinder performance. That night, in fact, Nancy Berardino, 17, of Far Rockaway, who plays offense tackle, sprained her ankle. She begged the coach to put her back in the scrimmage, concerned she was missing something.

"What a waste of time to have to sit here with this bag of ice around my ankle" she complained. "I don't care what happens to me," she said fervently, "just as long as I can play. It's what I've always wanted to do."

She, like many of the players, prefers tackling to running or kicking. "I think it's a way to work out lots of frustrations," explained another teammate, Charlotte Rauch, 20, with a knowing smile.

Mother of a 2-year-old son, who attends most sessions, she is the smallest member of the team, weighing in at 105 pounds and standing 5 feet. But most of the other girls are surprisingly slim and small.

According to team coach, Mitch McCarrol, 28, a computer salesman and football coach at St. Francis Prep School, Brooklyn: "Size doesn't matter, as long as they're in top shape and know technique."

He noted that he chose his girls—recruited through newspaper ads—for general athletic ability and coordination.

He stressed that he's training his team as he would a male team, and that the games will be of standard length following the same rules observed by men's football teams.

NO LIFE-STYLE TABOOS

"I've seen film clips of the competition," he added (the Detroit Fillies and Pittsburgh Powderkegs) which didn't impress me at all. Although those girls are enormous physically, many of them don't move too well. I'm not worried."

He asks his team to exercise every day. Otherwise, training doesn't place any taboos on the girls' normal life style.

They will earn $25 a game, according to Jim Egan, an attorney who finances the team.

Just learning the fine points of football himself, Egan decided to organize a team after reading about some of the out-of-town all-girl teams. If the Fillies turn into moneymakers, he hopes to organize more teams in Newark, N.J., and Hempstead, L.I.

Although a few of the players look forward to a career on the field, most see it as a constructive hobby. None seem too concerned about losing their femininity, even though they're playing a rough game.

Said curvy blonde Gail Dearie, 29, of Red Bank, N.J., mother of two children (who switched her college classes so she could play on the team): "I know I can be feminine off the court. Meanwhile I enjoy a bit of Jekyll and Hyde. One night I might play a great game. Then the next night, if a man whistles at me, it's fun to know I can probably kick a football further than he ever could."

FOOTBALL'S THEIR STEADY DIET

(By Larry Sokoler)

It all started with an article two months ago in the Wall Street Journal for girls.

Football for girls? Right.

They're called the New York Fillies and they're the fourth all-girl team to be formed. They come in all shapes and sizes, from all walks of life, and they come to try out, practice and play from all parts of the metropolitan area.

Some are working girls, some are in school and some are entertainers (frustrated actresses, maybe). This makes practice time vitally important.

"The hardest thing," says quarterback aspirant Tracy Gessner, an office supervisor in Manhattan, "is learning the plays and retaining them. We've got about 20 to 25 plays down and it's matter of getting used to them."

And each other. And the contact. These girls don't fool around. There's blocking and tackling just like, you should pardon the expression, the big boys in the NFL. No soft touch here.

It's a long way from the Powderpuff League days Sylvia Morgan, a Richmond Hill High senior, remembers. That's when tackling a running back, which Sylvia hopes to be, was done by grabbing the string attached to the football pants. Times are different now. These girls are, after all, pros, $25-a-game (plus expenses) pros.

"When I saw the article in the paper," Sylvia says, "I thought it was a great opportunity for girls. I love sports so I decided to try out. I run a lot and played basketball and Powderpuff Football when I was in Germany."

Now that she's trying to earn a spot on the Fillies, Sylvia knows she's got to watch her weight and do without some of life's eating pleasures. Not that she's heavy, mind you. But . . .

"But I hate to give up milkshakes," she says. "I really like to have them."

"You practice like we do for two hours or so," says Winnie Walker, a cafeteria manager who'd like to be the Fillies' fullback when they play their first game May 13 at Randalls Island, "and by then you're so hungry you don't know what to do."

"Our coach, Mitch McCarrol, can tell if you've been cheating," says Winnie. "You know, smoking, overeating. But I eat one meal a day. One meal's enough balance for me. It eliminates all the in-between."

And for the lady QB, there's also a dietary restriction. "Since I've been playing," says Tracy, "I stay away from ice cream and most other desserts."

Tracy and Winnie say their coach has complete faith in them where diet is concerned. "It's a trust basis," Winnie says. "We know we have to do it and if we've been cheating he (McCarrol) catches us in calisthenics."

Like pushups. "I can do 10 pushups," Tracy says. "It's no trouble doing nine but the 10th one is real hard for me."

"Others can get away with pushups," says Winnie, "but not me."

Then there's the contact. "I was afraid myself," Sylvia says, "but I conditioned myself." I knew I had to have confidence because I have to get through the holes." Running backs are like that.

"The more confidence you have in yourself and the game," Tracy says, "the better you play. We know the game is played and you have to consider getting hurt.

"Right now we work out in sweatshirts but we'll be putting on shoulder pads and helmets, which are new for me. We'll be fully equipped."

What could she mean by that? "We'll have chest protectors," Tracy says, "for obvious reasons."

* * * * *

The Fillies will play at Randalls Island May 13 against the Midwest Cowgirls, June 3 vs. the Pittsburgh Powderkegs (honest) and June 24 against the Detroit Fillies (no relation). Tickets may be purchased at all Ticketron outlets.

[From the New York Times, May 5, 1972]

WOMEN WHO PREFER GRIDIRON TO STEAM IRON

(By Judy Klemesrud)

There are Phillies (team of men who play baseball of varying quality in the City of Brotherly Love) and there are fillies (female horses who run races and give birth to colts) and now there are the New York Fillies.

The latter, you might have guessed, are women, and on May 13 they will become Gotham's first functioning female football team.

Yes, football, the tackle kind, not the powderpuff stuff where you down your opponent with a two-hand touch. Football, played with National Football League rules and cleats and helmets and protective padding and only one concession made to sex—foam-padded plastic breastplates.

The breastplates hadn't arrived for their practice session last Sunday morning. But everything else had, and the 30 New York Fillies climbed into their new kelly green and gold uniforms and their gold helmets for the first time before running through their plays in a practice field near 97th Street and Fifth Avenue in Central Park.

"People don't believe that we hit, but we hit," said Lynda Berardino, 24 years old, of Far Rockaway, an IBM keypunch operator and right end who was sidelined with torn ligaments in her knee. "Women's football is not a put-on, like the Roller Derby is. You should see the black and blue mark on my chest!"

The Fillies were practicing for their first game of the season, against the Midwest Cowgirls at 8 P.M. a week from tomorrow, in Downing Stadium on Randall's Island. Tickets are $3 each available from Ticketron, and each Fillie will be paid a whopping $25 per game.

"They're not doing it for the money," said Jim Eagan, the team's president, a 30-year-old, red-headed, stocky Manhattan lawyer who came up with the idea of a women's football team in New York after reading about similar teams in the Midwest in an article last winter in The Wall Street Journal.

"They just want to play football," he said, gesturing toward the sweating Fillies as they did push-ups on the field. "Before, if you were a young woman and wanted to play football and you asked your father to buy you the equipment, he would probably laugh."

Mr. Eagan said that almost 100 women had tried out for the Fillies after he placed want ads in newspapers announcing that a tryout would be held last Feb. 27.

Since then, the team members have been practicing three nights a week at the Sloane House YMCA and on weekends in Central Park in preparation for their four-game spring schedule, in which they will tackle the Midwest Cowgirls, the Pittsburgh Powderkegs (two games) and the Detroit Fillies.

WRONG SEASON FOR FOOTBALL

Football? In the spring? "That way we're no threat to the men's teams," said Mr. Eagan, puffing on his pipe, "If you have your choice between men's and women's football, you would probably choose men's because it's the proven sport."

Mr. Eagan admitted that he and his financial backers had organized the team strictly to make money. "And I think we will make money," he said firmly. "Last year 6,000 people paid $3 each to watch two women's teams play in Erie, Pa. It was an $18,000 gate—in Erie, Pa!"

During the week, the Fillies double as secretaries, waitresses, factory workers, actresses, housewives and high school and college students. They range in age from 16 to 40 (the average age is 22) and from tiny 100-pounders to husky 200-plus pounders.

Their reasons for joining the team vary, but generally boil down to these three; a lifelong love affair with football; a desire to get in shape physically; the thrill of being a member of a "first" in New York.

"I'm here because of my love for physical contests," said Mrs. Gail Dearie, of Red Bank, N.J., a 29-year-old mother of two who is also the team's blond glamour girl. "I was always in athletics as a kid—track and field events, diving, swimming. When I was in grade school in Indiana I pitched my team to the state softball championship."

Most of the Fillies said they had changed their living or eating habits somewhat as part of their training for the team. Carol Brown, 28, a 5-foot-9-inch, 212-pound center, who has the reputation among her teammates as being the Fillies' toughest linewoman, said she had stopped drinking and cut down on her smoking since joining the team.

"Oh, I may have an *occasional* drink during the week," confessed Miss Brown, who is an assembler for a Manhattan electronics firm, "But now I only smoke about five cigarettes a day and I don't inhale. I used to smoke two packs. I also got myself some Greek worry beads to keep my hands busy."

Winnie Walker, 25, a Manhattan cafeteria manager who is the team's star running back, eats only one meal a day—but it has nothing to do with training. She is a member of the Nation of Islam, and is also known as Hassin Ali. Her religion also requires that she abstain from pork.

The Fillies are coached by Mitch McCarrol, 28, a beefy computer salesman who also coaches football at St. Francis Prep School in Brooklyn. He received $20 per practice session, and his three male assistants receive $10 each.

Women football players conceded Mr. McCarrol in comparing their merits with their male counterparts, "don't move as quickly and don't have as much power."

"And you also have to take into consideration that they don't have 10 years of working with weights or with calisthentics," he added. "But size doesn't really matter as long as they're in top shape and know technique."

Joe Kover, the team's general manager, said the Fillies had suffered several injuries so far, including a broken nose, a sprained ankle, and several torn fingernails. In fact, one Fillie quite the team after she broke a fingernail during a practice session at Sloane House.

A random survey of team members indicated that their football heroes are Jim Brown, who retired from the Cleveland Browns several seasons ago to become a movie actor; and Joe Namath of the New York Jets. ("He's got a good arm, but I don't think he's got as much team spirit as he should," Miss Brown said.) Also frequently mentioned were Y. A. Tittle, the retired New York Giants quarterback; Gale Sayers of the Chicago Bears and Duane Thomas of the Dallas Cowboys.

Mrs. Willo Lovett, 30, of Port Chester, N.Y., a beautician at Lord & Taylor and a defensive end for the Fillies, brought her husband, Earl and their five children to the Central Park practice. Mr. Lovett, an upholster, sat quietly under a tree while the children romped around the edges of the practice field.

"I think Willo really enjoys it," said Mr. Lovett, who once played football at Pepperdine College in Los Angeles. "There are women in golf, tennis, basketball and almost all competitions, so why shouldn't they play football, too?"

Most of the Fillies seemed to have stock replies to the question that almost everybody had been asking them: Can a women play football and still be feminine?"

"Sure," said Pat Mambel, 20, of Babylon, L.I., the team's quarterback and a securities clerk for the Chase Manhattan Bank, who so far has learned 30 basic plays, with options.

"You can go out and play football and then be feminine after the game," she said. "There's a time to be a lady and time to use manners and put a dress on. But should you wear a dress all your life? Why can't you just go out and be you?"

THE INDEPENDENCE OF THE FEDERAL JUDICIARY

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. JAMES V. STANTON. Mr. Speaker, recently the Honorable Frank J. Battisti, chief judge of the U.S. district court in the northern district of Ohio, gave a frank and scholarly talk at Boston College on an issue that has in recent years been especially controversial: The role and the authority of Federal judiciary. In his thoughtful speech, Judge Battisti traced the history of attempts to limit the power of the judiciary. I would now like to commend the text of his excellent statement to my colleagues:

THE INDEPENDENCE OF THE FEDERAL JUDICIARY†

(By Hon. Frank J. Battisti) *

It is indeed an honor to speak at the Boston College Law School. As you are probably aware, there has been some criticism directed at judges who deliver speeches and write articles on matters which may subsequently come before them in the course of litigation. The subject of my remarks is one that will likely not be part of any litigation that may come before me, and it is a subject of the highest interest to members of the bench and bar alike. I address myself today to the current congressional attempt to infringe upon the independence of what Professor Alexander Bickel calls "the least dangerous branch."

As you are no doubt aware, in our unique system of government we have three independent, yet interdependent branches. Each limits and counterbalances the others so that the ship of state continues on a relatively even keel. The power of the executive and legislative branches is checked by the operation of the judicial branch; the jurisdiction of the courts is within the aegis of Congress; and the power to appoint Judges is vested in the Executive.[1]

A hallmark of our federal system is the independence of the judiciary. This independence is occasionally threatened by those who, while meaning well, would undermine the very attribute that makes the judicial system of this nation without peer. The paramount importance of the judiciary's independence was ably expressed by the late Circuit Judge John J. Parker:

"There is one qualification which is the *sine qua non* of judicial success or even judicial respectability. That quality is independence . . . The judge must not only be independent—absolutely free of all influence and control so that he can put into his judgments the honest, unfettered and unbiased judgment of his mind, but he must be so freed of business, political and financial connections and obligations that the public will recognize that he is independent. It is of supreme importance, not only that justice be done, but that litigants before the court and the public generally understand that it is being done and that the judge is beholden to no one but God and his conscience. As was well said by John Marshall in the debate on the Constitution in the Virginia Convention: "The Judicial Department comes home in its effects to every man's fireside; It passes on his property, his reputation, his life, his all. Is it not, to the last decree important, that he (the judge) should be rendered perfectly and completely independent, with nothing to influence or control him but God and his conscience? . . . I have always thought, from my earliest youth till now, that the greatest scourge an angry Heaven ever inflicted upon an ungrateful and sinning people, was an ignorant, a corrupt, or a dependent Judiciary." [2]

The founding fathers were convinced that the independence of the judiciary was of paramount importance in their new government. Their belief was embodied in the Third Article of the Constitution, which provides that judges "shall hold their office during good behavior." The framers of the Constitution sought to establish the judiciary's independence by limiting the method for removal of federal judges to a cumbersome [3] impeachment process.

Alexander Hamilton expressed their views most clearly in his contributions to the Federalist Papers. In No. 79 he wrote:

"The precautions for their [judges'] responsibility are comprised in the article respecting impeachments. They are liable to be impeached for mal-conduct by the house of representatives and tried by the senate, and if convicted, may be dismissed from office and disqualified for holding any other. This is the only provision on the point, which is consistent with the necessary independence of the judicial character, and is the only one which we find in our own constitution in respect to our own judges.

"The want of a provision for removing the judges on account of inability, has been a subject of complaint. But all considerate men will be sensible that such a provision would either not be practiced upon, or would be more liable to abuse than calculated to answer any good purpose. . . . An attempt to fix the boundary between the regions of ability and inability, would much oftener give scope to personal and party attachments and enmities, than advance the interests of justice, or the public good. The result, except in the case of insanity, must for the most part be arbitrary; and insanity, without any formal or express provision, may be safely pronounced to be virtual disqualification." [4]

In Federalist No. 78, Hamilton concluded his argument for an independent judiciary by elucidating the benefits of the good behavior standard:

"The standard of good behaviour for the continuance in office of the judicial magistracy is certainly one of the most valuable of the modern improvements in the practice of government. In a monarchy it is an excellent barrier to the despotism of the prince: In a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government, to secure a steady, upright, and impartial administration of the laws."

"[In view of] the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed, or influenced by its coordinate branches; [and] . . . nothing can contribute so much to its firmness and independence as permanency in office.

"If then the counts of justice are to be considered as the bulwarks of a limited constitution against legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges, which must be essential to the faithful performance of so arduous a duty.

"But it is easy to see that it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the constitution, where legislative invasions of it had been instigated by the major voice of the community.

"Upon the whole there can be no room to

Footnotes at end of article.

doubt that the convention acted wisely in copying from the models of those constitutions which have established *good behaviour* as the tenure of their judicial offices in point of duration; and that so far from being blamable on this account, their plan would have been inexcusably defective if it had wanted this important feature of good government. The experience of Great Britain affords an illustrious comment on the excellence of the institution." [5]

I. ATTEMPTS TO ENCROACH ON JUDICIAL INDEPENDENCE

In the last forty years Congress has considered several alternative methods for the removal of federal judges. In 1936, two bills were introduced which sought to provide an additional avenue for the removal of federal judges. Both bills gave the power of removal to a special court and allowed on appeal to the Supreme Court. One bill,[6] introduced by Senator McAdoo, proposed the establishment of a court to be composed of the senior judges of the ten circuit courts of appeals and the Chief Judge of the Court of Appeals for the District of Columbia. Its jurisdiction would have extended to the trial of all federal judges, except justices of the Supreme Court, upon the issue of misbehavior. Prosecution of the matter was to be entrusted to the United States Attorney General; and upon conviction and transmission of notice thereof to the President, the judge was to be automatically removed from office. The bill also provided for an appeal to the Supreme Court.

A second bill,[7] introduced by Congressman Summers, provided a method whereby the House of Representatives could transmit a resolution directly to the Chief Justice of the United States. This bill provided that if, in the opinion of the House, there were reasonable grounds for believing that any judge of the United States, other than a judge of any of the circuit courts of appeals or the Supreme Court, was guilty of misconduct, the Chief Justice should convene the circuit court of appeals for the circuit in which the judge's judicial district was situated to try the issue of the accused judge's good behavior. The Chief Justice would have been required to designate three circuit judges, none of whom had to be from the circuit of the accused judge, to serve on such a court. Prosecution was to be entrusted to managers designated by the House, and appeal was allowed to the Supreme Court of the United Sattes by either the prosecution or the accused. Judgment was to be limited to removal from office.

Both of these bills were the subject of much criticism. Serious doubt existed as to whether a proceeding for removal constituted a "case or controversy" falling within the judicial power [8] of the courts under Article III.[9] A further objection was predicated on the argument that the impeachment provisions of the Constitution impliedly exclude all other methods for removal.[10] In rejecting the two proposals, Congress wisely adhered to the belief of the framers of the Constitution that the impeachment procedure should be the sole means for removing judges.

A similar and equally unfortunate attempt to tamper with the independence of the judiciary occurred when President Franklin Roosevelt sought to "pack" the Supreme Court with Justices who would sustain the legislation of the New Deal.[11] In 1937, President Roosevelt delivered a message to Congress in which he proposed a legislative plan that would have increased the number of justices from nine to a possible maximum of fifteen. Thus he brought into the open a disagreement between the Court on one hand, bent on maintaining the doctrine of judicial independence, and, on the other, those individuals and groups who wished the Court to refrain from reviewing matters of legislative policy. The unsuccessful action by President Roosevelt exemplified the angry collision between dynamic and popular presidents and the federal courts, and is illustrative of the numerous presidential and congressional efforts to encroach on the federal judiciary's independence.[12]

In a recent session of Congress, former Senator Tydings, together with other liberal senators,[13] introduced S. 1506, a bill entitled The Judicial Reform Act.[14] Although both Senator Tydings and his bill were unsuccessful in gaining popular approval, the principal aim of the bill—the establishment of a Commission on Judicial Disabilities and Tenure—still enjoys strong support. Addressing a convention of the American Bar Association. Deputy Attorney General Kleindienst expressed the Nixon Administration's approval of the bill. He stated, in part:

"I [regret] . . . that I did not either see or get the opportunity to speak in favor of Senator Tydings' proposal with respect to judicial removal. On behalf of the Administration and on behalf of the Attorney General, we favor this very much indeed, and judicial reform. Although we have not yet presented our position to the Congress, we will in the near future. We commend his effort and his activity and his diligence in this area, and, like you, as a result of the vote you took here this morning, we are hopeful that the Congress will enact this into legislation this year." [15]

In spite of its initial defeat, the terms of the proposed Act deserve considerable attention. It is to Title I of this Act that my comments and criticism will be directed, for it is this section that represents the most recent assault on the independence of the federal judiciary. Title I calls for the creation of a "Commission on Judicial Disabilities and Tenure" within the judicial branch.[16] This Commission would be composed of five members, each a federal judge in active service, and would include two district judges and two circuit judges to be assigned by the Chief Justice. In addition, no judge who is a member of the Judicial Conference [17] of the United States could be assigned to the Commission.

The Act would provide that, upon a complaint, either formal or informal, of *any* person, the Commission could undertake an investigation of the official conduct of an Article III judge to determine whether that judge's conduct has been consistent with the standard of good behavior. Willful misconduct and persistent failure to perform his official duties would constitute conduct inconsistent with the requirement of good behavior. After an investigation, the Commission could order a hearing concerning the conduct of the judge and, within ninety days after the adjournment of the hearing, the Commission would have to make findings of fact and a determination regarding the judge's conduct. If, upon the concurrence of four of its members, the Commission decided that the conduct of the judge was inconsistent with the good behavior requirements of Article III, it would report its findings to the Judicial Conference with the recommendation that the judge be removed from office. If the Commission found that the judge's conduct was in keeping with good behavior, the matter would be dismissed; the judge under investigation could then decide whether to make public any or all information relating to the investigation.

The Judicial Conference or one of its committees would review the record, findings and determination of the Commission. It could hear oral arguments, receive additional evidence or require the filings of briefs. The Conference could accept modify or reject the findings of the Commission. Should the Conference accept the recommendation of the Commission, the Conference would then stay certification of its determination to the President pending review in the Supreme Court by writ of certiorari. If the judge did not seek review, or if he did and the findings were affirmed the Conference would certify to the President that the judge be removed from office. The judge then would be removed and a new one appointed by the President with the advice and consent of the Senate.

In addition the Commission would be empowered to hear any claim by a retired judge that he was not being assigned court duties which he was willing and able to undertake. Such a claim would have to be substantiated to the satisfaction of a majority of the Commission, which would then transmit an appropriate order to the authority responsible for the assignment of judicial duties to retired judges.

The proposed Act attempts to circumvent the impeachment provisions of the Constitution. Its supporters correctly contend that the impeachment process is cumbersome; indeed, they argue that it is too cumbersome. In their haste to condemn it, however, they demonstrate its essential purpose. Impeachment was designed to be cumbersome in order to make removal by whim an impossibility.[18] It embodies the belief that before a judge can be removed from office he must have offended the Constitution to such a degree that the great weight of the Congress is moved to convict him. The supporters of S. 1506 who testified before the Tydings Subcommittee, claim that an easier method of removal for federal judges is necessary. However, the clear result of the bill would not be to make removal of federal judges easier than is provided by the Constitution; rather, the result would be to make it easy to remove federal judges. This change would violate the spirit and letter of the Article II impeachment grounds, which were purposely intended to make difficult the removal of federal judges and other civil officers. The impeachment provisions have been fundamental in permitting judges to retain their independence from political interference, which in turn, has allowed them to accord justice without favoritism. This beneficial and necessary aspect of the federal judiciary would be substantially undermined if the bill were to become law.

The impeachment process has been and continues to be a viable means of removing federal judges and policing their conduct. While thirteen men, eight of them judges and one of them a President, have been impeached and four have been convicted by the Senate, a total of fifty-five judges were subjected to congressional inquiry up to 1962.[19] As the testimony of Joseph Borkin, a proponent of S. 1506, makes clear, the benefits of the impeachment process are realized indirectly:

"[I]mpeachment is a costly, complicated, and cumbersome process, initiated rarely, and then only with the greatest of reluctance. Its only real effectiveness has been indirect. By threatening a misbehaving judge with exposure and disgrace, it has forced those judges guilty of the most flagrant abuses to resign rather than face the ordeal of impeachment." [20]

However, as an expert on judicial behavior, Mr. Borkin argued that the history of the impeachment of judges indicates the procedure's failure. This failure, he contended, is evidenced by the fact that while fifty-five judges were investigated, only eight were impeached. It should be noted that, in addition, eight were censured and seventeen resigned at some stage of the investigation, while the balance were absolved. Mr. Borkin thus concluded that the impeachment process is so cumbersome that the bar, the prosecuting officials and Congress "appear [to be] willing to permit resignation from the bench to serve as a curtain behind which judges of questionable character could hide the details of their misdeeds." [21]

It seems to me that supporters of S. 1506,

Footnotes at end of article.

such as Mr. Borkin, do not really want to see the federal judiciary improved; they want to see heads roll. It should not matter how a "judge of questionable character" leaves the bench so long as he does. The institution of the federal judiciary is better served by the resignation of a particular judge than by the successful witch-hunting of a few individuals bent on removing all those jurists who, in the opinion of a few, are not observing the requirements of good behavior.

In his testimony before the Subcommittee, Mr. Borkin explained in great detail the sagas of three federal judges [22] indicted for judicial corruption. They were sordid tales and most unfortunate. However, they missed the point. It is not surprising that a few judges have violated the canons of judicial ethics; judges after all are human, appointed by a less-than-perfect man, a President, and confirmed by less-than-perfect men and women, the United States Senate Men may err. What is significant is the number of fine men and women who grace the federal bench and who are above reproach—men and women who are dedicated to their high position as federal judges—conservative judges, liberal judges, black judges, white judges—all, or at least the vast majority, of whom discharge their responsibilities to the utmost of their abilities. If a judge is to be placed in a position where he can be reviewed by five other judges on the complaint of "any person," many well-qualified individuals would refuse appointment. The independence of the federal judiciary is more important to those persons than perhaps any other aspect of the position.

Many decisions of a judge may bestir bitter feelings in the litigants. If the proposed bill were passed, every judge would be made constantly aware of the possibility that an unsatisfied litigant might seek to discredit him and to have him removed by means of an investigation. This is especially true in the district courts, where the trial judge is regularly in personal contact with controversial issues, emotional settings, and, frequently, volatile personalities. Under these circumstances, a district judge *must* be able to act and decide cases and controversies free from the threat of reprisal through use of the investigative function of the Commission. For those who would deny that the power of the Commission could be used as a means of reprisal need only look to those unfortunate circumstances in Oklahoma involving Judge Chandler, a matter to which I shall later return.

It is easy to discern how the existence of such a Commission might have affected the work of a judge such as the former Chief Judge of this district, Charles E. Wyzanski. Judge Wyzanski is a man of integrity with definite, but enlightened, opinions. Yet one can imagine that in his more than thirty years on the bench he has angered some individuals who would have been happy to see him investigated, humiliated and removed. On the other hand, I think you would agree that there are many in this country who would wish that fate to befall Judge Julius Hoffman of the Northern District of Illinois. While there are those who have disagreed with Judge Wyzanski and with Judge Hoffman, it is the strength of our system that they are not to be investigated or removed for any reason other than a finding that they are guilty of the charge of "high crimes and misdemeanors" as determined by a trial in the Senate.

As a federal district judge I have the strongest feeling that Title I of the proposed bill would obstruct and effectively destroy the independence of the federal judiciary. There is, however, much disagreement on this point. Many fine judges, all circuit judges, I might add, as well as esteemed members of the bar testified before the Senate Subcommittee on Improvements in Judicial Machinery to the effect that (1) the bill would strengthen the federal judiciary and (2) impeachment is not the exclusive remedy for removal.

Judge Craven of the Fourth Circuit testified before the Subcommittee that, in his view, impeachment might not be the exclusive remedy for the removal of judges since impeachment is an Article II procedure and judges are created by Article III. He did not find the standard of "willful misconduct in office"—the bill's new "definition" of misbehavior—overly vague, although he considered it less than satisfactory:

"A phrase like 'willful misconduct' is like other phrases such as 'judicial temperament' and 'obscenity.' It is almost impossible to define such phrases, but we generally recognize the quality when we see it. . . .

"But even if broad general terms are retained, I do not think that the federal judges need be fearful of a legislative grant of power to a committee composed of themselves enabling removal from office for willful misconduct in office or willful or persistent failure to perform official duties. It does not seem to me that the grant of such power *within* the judicial branch itself seriously infringes upon a proper tenure of office. I have never thought that independence of the judicial branch embraced hog-on-ice license for the individual judge. I do not believe that a federal judge will be inhibited or made timid in the discharge of his duties by recognition that he may not, with impunity, willfully engage in misconduct in office or persistently fail to do his job. Absolute tenure, in my opinion, is not necessary to assure judicial independence in deciding cases." [23]

With due deference to Judge Craven, to my knowledge, no reasonable man has ever argued that judges have absolute tenure. The impeachment process has kept many judges, both directly and indirectly, from completing their careers on the federal bench. It should also be remembered that judges are subject to the sanctions of the criminal law and that they, like any other citizen of the Republic, may be indicted, tried and found guilty of any criminal violation.

I cannot count the number of times nor recount the variety of claims upon which attorneys have brought suit against powerful public agencies in my courtroom. If the Commission were in existence and any disgruntled litigant could bring a judge before it, how, then, could a judge decide a case which requires the determination of a controversial social issue. Unquestionably, he would be reluctant to find against a contentious litigant if he knew that the loser could bring him before the Commission. Under the present system, the dissatisfied litigant returns to his office and prepares an appeal. If the Commission were in existence he might also call an investigative agency to request an inquiry into the judge's character and his activities on and off the bench. With the possibility of abuse so great, it is unlikely that the presence of the Commission would lead to the fair hearing of cases; rather, it would likely give dissatisfied litigants license to discredit federal judges.

With great regularity, cases come before me and every other federal judge involving vast sums of money and, often, the future of major business enterprises. Frequently, the cases involve a stockholder's derivative action or a class action in which the plaintiffs may be quite poor in comparison to the wealth and power of the defendant. The pressures on a judge in such a case can be enormous, especially where the livelihood of a city may depend on the outcome of the case. To add to the equation the possibility that the powerful corporation, should it lose, could attempt to have him removed from the bench or at least harassed by bringing him before the Commission, might well be more than any individual judge could withstand.

While it is uncertain whether S. 1506 should or could be applied to justices of the Supreme Court, we can well imagine the number of complaints that would have been made to such a commission against Mr. Chief Justice Warren and members of his Court. Imagine, also, the number of times that Mr. Justice Douglas, or the late Mr. Justice Black, might have been brought before such a commission. It is unlikely that with the ominous presence of a commission hanging over its head, the Warren Court could have handed down its landmark decisions in matters of race relations, criminal procedure and voting rights. These decisions have changed the face of the nation. It is not impermissible to speculate whether monumentally important cases such as *Marbury v. Madison,* [24] *McCulloch v. Maryland* [25] and *Dred Scott v. Sanford* [26] would have been decided differently, had the Commission on Disability and Tenure been in existence from the beginning of the Republic. It is quite possible that the power of the "third branch" might have been so weakened that, in truth, it would now be the least dangerous branch.[27]

I happen to be one who believes that there are no such things as political trials in the United States. However, I am convinced that this committee would create political federal courts, with judges fearful of deciding potentially volatile issues because of the threat of reprisal. While I do not intend to discredit or impugn the bar or the bench in any of these statements, the possibilities are alarming. I know that I personally would have great difficulty in sitting in review of another judge's alleged willful misconduct in office; there may be others, however, who might relish such an opportunity. This is not to suggest that they are inferior men and women but rather, that they are merely men and women who have likes and dislikes, hates and loves, each with his own judicial, political and personal philosophy of life and the law.

In his testimony, Judge Craven expressed his belief that S. 1506 would allow the federal judiciary to keep its own house in order. He felt that as long as Congress described willful misconduct in office, then he, as a judge, would be on notice. He also felt that the congressional standard of "willful misconduct" could act as a stronger deterrent than the potential threat of impeachment:

"Now, I think this would have a very healthy effect not just on the crooked judge but on the judge who may be arrogant on the bench, who may be discourteous to counsel and even to the jury sometimes, who is utterly indifferent . . . to time, except his own time; who will come to court at 11 instead of 9:30 if it suits him . . . who continues cases . . . for a lawyer with whom he formerly practiced but it seems quite difficult to get a continuance if you didn't practice with him. You don't really know it is favoritism, but if you suspect it, injury has been done to the judiciary; even the suspicion of it reflects upon the whole judiciary.

"Then there is the judge who may be thoughts to be one who deliberately will delay adjudication of a particular class of cases; he doesn't like that kind of case, and it may take 9 months to get a decision out of him. It is impossible to know whether he is really guilty or not. But this sort of thing would tend to diminish if the judges felt that they were subject, at least, to inquiry, not necessarily to removal. . . ." [28]

Judge Craven suggests that the inquiry might lead to the serious punishment of censure, but he assumes that this is unlikely to occur very often, since the Commission would make few investigations. He premises his conclusions on the personal belief that the Commission and members of the bench and bar would act with honor and would initiate such proceedings against a judge only under grave circumstances. I would like

---

Footnotes at end of article.

to believe this but, unfortunately, in order to accept such a conclusion, I would have to ignore my own experience on the bench as well as some events of recent history.

Mr. Justice Douglas, for example, whose absolutist views on First Amendment rights have often vexed conservatives, several terms ago published his controversial book, *Points of Rebellion*.[29] The outcry was significant enough to cause the House Judiciary Committee to begin yet another investigation into the public and private affairs of Justice Douglas. Although it is uncertain whether the Commission would have jurisdiction over Justices of the Supreme Court, one can envision a situation in which a federal judge such as Justice Douglas would have to present his case before the Commission, after having been accused of being unfit by "any person" distressed by the judge's First Amendment views.

Another witness before the Subcommittee, Judge Maris, Senior Circuit Judge of the Third Circuit, also favored the Commission, arguing that impeachment is an inadequate mechanism to deal with those infrequent occasions when a judge is guilty of improper conduct or becomes physically or mentally disabled and refuses to retire. His only concern with the Commission was that of insuring that its proceedings be conducted with due process. With regard to the issue of the independence of the federal judiciary, Judge Maris stated:

"I believe it is perhaps salutary from time to time to have somebody looking over your shoulder. I don't see how any judge need fear any such provision if he is conducting himself properly. As a matter of fact, it seems to me our history teaches that judges receive great consideration in their conduct and in their work. They are regarded highly, as a group, and perhaps too often derelictions which may well be small are overlooked by the public. I just don't fear that this would be any real threat to the independence of the judiciary."[30]

With all due respect to Judge Maris, it appears that he offers "the wishing makes it so" theory in support of S. 1506. He believes that since men are basically honorable and that judges are, with few exceptions, basically competent and honorable individuals, judges have nothing to worry about. His argument assumes a premise which ignores the activities of those who lose important or controversial lawsuits.

Judge Haynsworth of the Fourth Circuit also endorsed the Commission. He stated, in part:

"I believe that the very existence of . . . the commission, which would initially handle complaints, would result in substantial protection to the fit judge who is the victim of misconceptions or frivolous complaints that may rankle widely in the absence of some readily available adjudicatory forum to assess them. I believe it would result in earlier retirements of those judges whose conduct is substantially questionable, and it would provide a much more orderly means for the involuntary removal of the rare unfit judge than the impeachment procedures now provide. I am heartily in favor of authorizing judges to remove from office the unfit judge whose willful misconduct reflects upon the entire system and the administration of justice, itself, so long as the judge in question has all of those rights to hearings and procedural due process which Title I of S. 1506 provides."[31]

Judge Haynsworth further testified that he was opposed, as were the district judges of the Fourth Circuit, to having district judges represented on such a commission. While the prospect of being reviewed by a judge or judges who may never have sat in a district court is somewhat disturbing, the prospect of being personally reviewed by a circuit judge from one's own circuit is, however, far more disconcerting. Were this latter prospect to become a reality, how regularly would a district judge disagree with the law in his circuit if he knew that his good behavior could be reviewed eventually by the same judge with whom he had disagreed?

In my review of the testimony of the witnesses before the subcommittee, I think I have fairly summarized the views of those who favor the Commission. They believe that a statutory alternative to impeachment may be devised which would enable the federal judicial system to clean its own house, and that the system, in fact, needs cleaning. The men who testified before the subcommittee are honorable and well-meaning, but they are wrong. The most unfortunate testimony was that contained in the statement of Bernard Segal, then President of the American Bar Association, who indulged in a broad indictment of the federal judicial system in his support of the proposed bill. His statement to the Subcommittee read, in part:

"In one respect, we have had continuing improvement in the federal courts during the past fifteen years. In my opinion, the quality of the judges on the federal bench, their general level of competence and diligence, has never been higher. But more than ever before, this fixes a glaring spotlight on the judge who because he is incompetent or physically or mentally disabled simply does not or cannot do his job. . . . It is regrettable, but true . . . that one bad judge can undo the efforts of a hundred excellent judges. This circumstance, present always, is aggravated in these days when causes beyond the control of even the most able of judges have created such widespread cynicism by our citizens as to the efficiency of our judicial system to meet the demands which the modern world presses upon it."[32]

Mr. Segal and those who share his views rely heavily on existing state procedures similar in principle to those proposed in S. 1506 to alleviate the shortcomings of the federal judiciary. In many instances these procedures are inapposite. In some states, for example, judges are subject to review through the elective process. In others, where the state constitutions contain no impeachment provisions, the states clearly must provide other means for removal. But putting aside these differences for a moment, it is possible that such a system could work. The question is, however, whether Congress should adopt such a program, regardless of the possible constitutional limitations, when the danger of abuse is so great. It is my belief that it should not.

In 1959 Professor Henry Hart of the Harvard Law School devoted forty pages to criticism of the opinions of certain members of the Supreme Court of the United States.[33] One of his criticisms of the opinions of the Court was, in general, that they were "threatening to undermine the professional respect of first-rate lawyers for the incumbent Justices of the Court. . . ."[34] Thurman Arnold, a former judge of the Circuit Court of Appeals, and himself a first-rate lawyer, responded eloquently to Professor Hart[35] in language that is relevant to the subject here under discussion:

"I do not know what "first-rate lawyers" Professor Hart has in mind. But to the public, first-rate lawyers can only mean men with large corporate practices and leaders in the American Bar Association who are now attacking the Court. Therefore, regardless of what Professor Hart is saying to himself, he is saying to the public that the Court must so conduct itself as to regain the admiration of its critics in the American Bar Association and the corporate bar. Has Professor Hart forgotten that Mr. Justice Brandeis was bitterly opposed by those who were considered the first-rate lawyers of that time? Has he forgotten that in the early days of the New Deal the majority of the Court did so conduct themselves as to gain the admiration of the first-rate lawyers of that time and that they did this so steadfastly as almost to wreck the Court? Has he forgotten that the decisions bitterly attacked by "first-rate lawyers" have often proven to be the Court's greatest decisions?

"Had I been judging the competence of the members of the Court as Mr. Hart does, I would have chosen Justice Black's eloquent dissent in *Barenblatt* and Justice Brennan's dissent in *Uphaus*, Justice Harlan's majority opinion in *Cole v. Young*, Chief Justice Warren's majority opinion in *Watkins*, and Justice Frankfurther's courageous dissenting opinion in *Rosenberg*. I would have concluded that the Justices who joined in these opinions were worthy of sharing with Holmes and Brandeis the honor of making the Court represent at least in part a great symbol of the ideal of civil liberties. . . .

"At the time the *Barenblatt* and *Uphaus* opinions were written, there was a resolution pending in Congress to limit the appellate jurisdiction of the Supreme Court, which failed to pass the Senate by only one vote. The Court was under heavy attack from a prominent faction of the American Bar Association, all of whom could be classed as the "first-rate lawyers" who Mr. Hart tells us are losing confidence in the Court. I do not suggest that the majority was motivated by the pending resolution in arriving at their decision. I do suggest that had the dissent prevailed the resolution might have passed. It may well be fortunate that these great dissents did not prevail, so that they may later make a path to be traveled in the future. In any event, from these samples I would have presented a much more hopeful picture than Professor Hart does and, I suspect, a much more realistic one."[36]

I join with the late and distinguished Judge Arnold. Quite correctly, it seems to me, his reply dramatizes the potential impact that a powerful faction might have on the federal judiciary if such a resolution or S. 1506 were passed. The outcome would be precipitous. "The benefits of the integrity and moderation of the judiciary" of which Hamilton spoke in the Federalist Papers[37] might well be supplanted by the temerity and excessiveness which political power and wealth often breed. S. 1506 can only bring great harm to the courageous and independent members of the judiciary who have withstood a wide variety of pressures. In my opinion the passage of the Judicial Reform Act would be the sort of mistake from which the judiciary and the Republic could never recover.

Although I am most disturbed by the potential for abuse which lies dormant in this bill, proponents of the Judicial Reform Act must also convince its critics and, very likely, the Supreme Court, that the bill is constitutional. It is to the constitutional issue and to an examination of the exclusivity of the impeachment clause that I should now like to turn.

II. THE EXCLUSIVITY OF THE IMPEACHMENT POWER

"The power of Congress to remove all civil officers by impeachment has always been regarded as an integral part of the system of checks and balances. . . ."[38] As noted previously, impeachment is the only method expressly provided in the Constitution for the removal of unfit civil officers, including federal judges. Therefore, it is my belief, and that of many others,[39] that the Constitution provides impeachment as the exclusive procedure for the removal of federal judges. This position is predicated on the language of the Constitution, the Federalist Papers and the principle of the independence of the federal judiciary.

A. *Removal: The cases and the Constitution*

Three sections of the Constitution are relevant to a discussion of removal: (1) Article I, section 2 provides that the House of Representatives "shall have the sole power of impeachment"; (2) Article I, section 3 in-

---

Footnotes at end of article.

vests in the Senate "the *sole* power to try all impeachments" (emphasis added). Section 3 also requires that "no person shall be convicted without the concurrence of two-thirds of the members present." Article I further provides that "judgment in cases of impeachment shall not extend further than to removal of office"; and (3) Article II, section 4 enumerates the grounds for removal: "for conviction of, Treason, Bribery, or other high Crimes and Misdemeanors."

Those who contend that a statutory alternative to impeachment would be constitutional note that the language of Articles I and II does not expressly provide that impeachment is exclusive. It is difficult for me to come to any other conclusion, however, after a careful reading of the language of the Constitution and the Federalist Papers. Despite the obvious intent of these documents, the nonexclusivists contend that the exclusivity argument is inconclusive since there are a number of cases which hold that impeachment is not the sole mode for removal of civil officers.

The first case usually cited for this proposition is *Parsons v. United States*.[40] Parsons was the United States Attorney for the Northern and Middle Districts of Alabama. Although Parsons' term of office was to end on February 4, 1894, President Cleveland attempted to remove him from office on May 26, 1893. Upon his removal, Parsons sued to recover the salary owed to him from May 26 to December 31, 1893. The question before the Court was whether the President had the power to remove a United States Attorney when removal occurred prior to the end of a four-year appointment. Parsons claimed that the President had no power to remove him directly and that the President and the Senate had no authority to remove him indirectly by appointing his successor.

Mr. Justice Peckham, writing for the majority of the Court, analyzed the constitutional history regarding the President's power of removal. He found that, after long debates in the two Houses of the First Congress, both had voted to allow the President the power to remove the Secretary of the Department of Foreign Affairs.[41] He noted that in *In re Hennen* [42] Mr. Justice Thompson had stated:

"No one denied the power of the President and the Senate, jointly, to remove, where the tenure of the office was not fixed by the Constitution; which was a full recognition of the principle that the power of removal was incident to the power of appointment. But it was very early adopted, as the practical construction of the Constitution, that this power was vested in the President alone. And such would appear to have been the legislative construction of the Constitution." [43]

Justice Peckham also received a case which involved the removal of a federal judge, *United States v. Guthrie*.[44] In *Guthrie*, the President had attempted to remove Chief Justice Goodrich of the territory of Minnesota, an Article I judge.[45] Judge Goodrich petitioned for a writ of mandamus in the Circuit Court of Appeals for the District of Columbia, to be issued against the Secretary of the Treasury to compel payment of the former's judicial salary. On appeal, the Supreme Court held that it lacked the power to command the withdrawal of money from the Treasury for the payment of any individual claim and that, therefore, the mandamus should not issue. Thus the question of the President's authority to remove Judge Goodrich was not reached.[46]

However, the Attorney General's advisory opinion to the President on the issue of removal prior to the litigation in *Guthrie* had implicitly recognized limits on removal other than by impeachment. Certain officials, the opinion indicated:

"Are not exempted from the executive power which, by the constitution, is vested in the President of the United States over all civil officers appointed by him; and whose tenures of office are not made by the constitution itself more stable than during the pleasure of the President of the United States." [47]

The Attorney General concluded that the President had the authority to remove the territorial Chief Justice from office for any cause. During oral argument in *Guthrie*, however, the Attorney General modified this conception of the President's power of removal. He argued quite persuasively that territorial judges were not Article III judges but rather, Article I judges:

"Constitutional courts are such as are intended by the provisions of the third article of the Constitution. The judges of this class, by the express terms of the constitution, hold their offices during good behavior. It comprehends the judges of the Supreme Court and of the various judicial circuits and districts into which the United States are subdivided." [48]

Mr. Justice Peckham concluded in *Parsons* that the President had the power of removal, despite some question concerning construction of the tenure of office statute.[49] Therefore the President, in his discretion, was allowed to remove an officer, "although the term of office may have been limited by the words of the statute creating the office." [50]

Parsons may be construed as holding that the President may remove an officer appointed with the advice and consent of the Senate. But it seems to me that the facts of that case are simply not susceptible of such broad application. Parsons served with limited tenure and was appointed under the authority of Article II, rather than Article III. In addition, the United States Attorney General involved in *Parsons* is distinguishable from the current members of the federal judiciary. The latter, as Article III judges, serve during a period of good behavior, a standard prescribed by the Constitution, not a statute. *Parsons*, therefore, cannot be viewed as being dispositive of the case of an Article III judge.

In another removal case, *Shurtleff v. United States*,[51] the petitioner was a customs agent who had been removed from office solely by presidential action. As in *Parsons*, the petitioner sought to recover pay for the remaining period of his appointment. The duty of writing the Court's opinion again fell to Mr. Justice Peckham and, not surprisingly, he reaffirmed the position of the Court in *Parsons*. He stated, in part:

"It cannot now be doubted that in the absence of constitutional or statutory provision the President can by virtue of his general power of appointment remove an officer, even though appointed by and with the advice and consent of the Senate. . . . To take away this power of removal in relation to an inferior office created by statute, although that statute provided for an appointment thereto by the President and confirmation by the Senate, would require very clear and explicit language. It should not be held to be taken away by mere inference or implication. Congress has regarded the office of sufficient importance to make it proper to fill it by an appointment to be made by the President and confirmed by the Senate. It has thereby classed it as appropriately coming under the direct supervision of the President and to be administered by officers appointed by him, (and confirmed by the Senate,) with reference to his constitutional responsibility to see that the laws are faithfully executed." [52]

In discerning the intent of the statute, Justice Peckham reasoned that the right of removal exists unless precluded by the presence of explicitly contrary language in the statute. The right, he suggested, exists in the right to appoint rather than in the grant itself, and "it requires plain language to take it away." [53] The Justice went on the question whether Congress had intended to limit the right to certain enumerated causes:

"If so, see what a difference in the tenure of office is effected as to this office, from that existing generally in this country. The tenure of judicial officers of the United States is provided for by the Constitution, *but with that exception* no civil officer has ever held office by a life tenure since the foundation of the Government." [54]

That lone exception is the core of my position. Article III judges are creatures of the Constitution, not the Congress. They are provided with life tenure during good behavior and only the constitutionally authorized court of impeachment may remove them from office. In *Shurtleff*, Justice Peckham rather inconclusively blurred the distinction between creations of the Constitution and those of the Congress. He concluded that the impeachment requirement was never intended to prevent the removal of a customs agent for causes other than those listed in Article II, section 4 or by the President, if he so desired it. His observations on the removal of a customs agent certainly seem correct. But it is a giant leap from that premise to the conclusion that Article III judges may be removed by a commission established by the Congress operating under its Article I powers.

Another case which considered the limitations of nonimpeachment removal, *Myers v. United States*,[55] involved the removal of a postmaster four months before the expiration of his four-year term.[56] In that case, the Act establishing the position of postmaster was held to be unconstitutional because it made the President's power of removal depend upon the consent of the Senate. The Court found that the appointment of a postmaster was an exercise of the President's executive power, as provided in Article II, section 1; and although the power of appointment was limited by senatorial advice and consent, the Executive's power, the Court held, was not limited or tempered by the legislative branch in the matter of removals.

In *Myers*, Mr. Chief Justice Taft, writing for the majority, as well as Justices Brandeis, McReynolds and Holmes all in dissent, carefully reviewed the power of the President to remove executive officers. All the opinions contained dicta concerning the removal of federal judges. Despite disagreement among them on the issue in the principal case, the Justices agreed that even though Congress establishes the number of federal judges, the extent of their jurisdiction and their salary, judges are not to be treated like postmasters or United States attorneys on the issue of removal. The Chief Justice stated:

"It has been sought to make an argument, refuting our conclusion as to the President's power of removal of executive officers, by reference to the statutes passed and practice prevailing from 1789 until recent years in respect of the removal of judges, whose tenure is not fixed by Article III of the Constitution, and who are not strictly United States Judges under that article. The argument is that, *as there is no express constitutional restriction as to the removal of such judges*, they come within the same class as executive officers, and that statutes and practice in respect thereof may properly be used to refute the authority of the legislative decision of 1789 and acquiescence therein.

"The fact seems to be that judicial removals were not considered in the discussion in the First Congress, and that the First Congress . . . and succeeding Congresses until 1804, assimilated the judges appointed for the territories to those appointed under Article III, and provided life tenure for them, while other officers of those territories were appointed for a term of years unless sooner removed." [57]

Although *Myers* did not consider the removal of an Article III judge, Chief Justice Taft's dictum indicated that federal judges could be removed only by impeachment. Only

---

Footnotes at end of article.

some executive officers, he posited, could be removed by other means. To some degree, this view has been observed in legislation vesting the President with removal power. Revised Statutes 1768 [58] gave the President, in his discretion, authority to suspend any civil officer appointed by and with the advice and consent of the Senate, except judges of the courts of the United States. Chief Justice Taft further noted that Congress could never take onto itself the power to remove or the right to participate in the exercise of the powers to remove inferior executive officers.[59] It seems to me logical to ask, if Congress could not so act here, how could it constitutionally enact legislation which would permit the removal of an Article III judge by any means other than impeachment? Any legislation sanctioning other means of removal would seem to infringe the constitutional principle of the separation of governmental powers.

The question of removal was again raised in a later case, *Humphrey's Executor v. United States.*[60] That case concerned the issue whether a commissioner appointed to the Federal Trade Commission for a fixed term under the Federal Trade Commission Act could be removed by the President for a reason other than inefficiency, neglect of duty, or malfeasance in office. The Court held that Commissioner Humphrey could be removed by the President but only for one of the enumerated reasons. In limiting the grounds for removal to those expressly stated in the statute, the Court distinguished the *Myers* case which had permitted the removal of the postmaster for reasons unspecified in the relevant Act.[61] The Court found the office of postmaster to be essentially unlike the position of a Federal Trade Commissioner:

"A postmaster is an executive officer restricted to the performance of executive functions. He is charged with no duty at all related to either the legislative or the judicial power. The actual decision in the *Myers* case finds support in the theory that such an officer is merely one of the units in the executive department and, hence, inherently subject to the exclusive and illimitable power of removal by the Chief Executive, whose subordinate and aide he is." [62]

The petitioner in *Humphrey's Executor* was, in contrast, a member of a federal agency; the Court recognized this distinction as being crucial:

"The Federal Trade Commission is an administrative body created by Congress to carry into effect legislative policies. . . . Such a body cannot in any proper sense be characterized as an arm or an eye of the executive." [63]

Thus Mr. Justice Sutherland, speaking for the Court, read the *Myers* opinion as excluding from its grasp all officials "who occup[y] no place in the executive department and who exercis[e] no part of the executive power vested by the Constitution in the President." [64]

The distinction articulated by Justice Sutherland is not unlike the distinction made by Mr. Chief Justice Marshall in *Marbury v. Madison.*[65] The Chief Justice determined that a justice of the peace for the District of Columbia could not be removed at the will of the President. Such an officer was to be distinguished from one, such as the director of the Department of Foreign Affairs, appointed to aid the President in the performance of his constitutional duties.[66] Although Chief Justice Marshall might have disapproved of some of the decisions previously discussed, the Supreme Court has held that the President *does* have the power to remove executive officers at his whim and that his power to remove officials from positions established by Congress is limited to the conditions enumerated in the enabling legislation.

In the case of a federal judge, however, neither of these distinctions applies since the source of the judgeship is neither executive nor legislative. The authority to establish federal judgeships derives from Article III, and the Constitution has already established both the conditions under which a federal judge can be removed and the method by which removal is to be accomplished. In view of the constitutional provisions, the decisions in all the case from *Marbury* through *Myers* and *Humphrey's Executor* ought not to be relied upon to reach the conclusion that the impeachment process is nonexclusive.

As I have suggested, it is a long leap from the principle laid down in *Myers* to the conclusion that Congress can provide a procedure by which one judge may try another's right to hold office. Despite the measure of distance between the premise and conclusion, such distinguished scholars as Solicitor General Griswold still subscribe to the nonexclusivity position. In his brief to the Supreme Court in *Chandler v. Judicial Council,*[67] a case I will examine in detail momentarily, the Solicitor General stated:

The power of impeachment—which applies to *all* federal officers, not only to federal judges—is not defined in Article III but rather embodies the sole method by which the *legislature* may *directly* remove governmental officials—to the exclusion, for example, of the English practice of passing bills of attainder. Thus, just as the impeachment clause does not prevent the President from removing executive officers in his own discretion, even though they are also subject to removal by Congress through impeachment . . . so also there is nothing in the Constitution to suggest that Congress cannot, consistently with the separation of powers, provide procedures by which the courts could try the right of a judge to continue to hold office." [68]

The Solicitor General posits that implicit in the good behavior clause is the assumption that judges must, therefore, be subject to supervision and control by "appropriate agencies." He states quite correctly that, in a hierarchical judicial system, judges of "inferior courts" are subject to the supervision and control of superior courts. The writ of mandamus may, for example, be used to exert "supervisory control." However, I still cannot accept the conclusion that impeachment is nonexclusive by starting from the premise that superior courts may regulate inferior courts by the use of mandamus, or by reviewing their decisions on appeal. The existence of the Judicial Conference of the United States and the resolutions it promulgates may also be included within this "supervisory power." But this again is not the issue of the exclusivity of the impeachment remedy nor may the two be analogized.

On the issue of impeachment itself, the Solicitor General stated in his *Chandler* brief:

"There has been general agreement from the earliest times that Congress could constitutionally provide alternative procedures to impeachment, particularly judicial trials or hearings, for determining whether federal judges have abided by the requirement of good behavior." [69]

With all respect to the Solicitor General, this statement is inaccurate. Whether Congress has this power is a highly debatable issue. Unfortunately, the Supreme Court's attention in the *Chandler* case, as well as that of the Solicitor General, focused on whether the procedures at the removal tribunal were consistent with due process guarantees, rather than on the exclusivity of the impeachment remedy.

B. The language of the Constitution

To return to the thread of the argument of the nonexclusivists, they contend that the terms of sections 2 and 3 of Article I establish that the House and Senate shall both be involved in the impeachment of all civil officers and that the two bodies hold exclusive power to remove federal judges. These sections provide that the House of Representatives "shall have the sole power of impeachment" and that the "Senate shall have the sole power to try all impeachments." Since impeachment is the only procedure available for the removal of federal judges, in my opinion, this language limits the procedure involved in the exclusively congressional process to impeachment and is not a grant of power to the legislature.[70]

There is some question, however, as to whether the removal process and the impeachment process are coextensive.[71] Article II section 4 provides that "all civil Officers of the United States shall be . . . removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." The Constitution calls for removal *on* impeachment and conviction rather than *by* impeachment and conviction. Thus, although removal is a result of impeachment and conviction, the nonexclusivists argue that it is not limited solely to this process. As our review of the cases arising under this section indicated, the Supreme Court has refused to lump together all civil officers, including judges, for the purpose of approving removal by means other than impeachment. Removal of "executive" officers and "legislative" officers under certain conditions may be effected without impeachment proceedings; but there is no authority which indicates that removal by means other than impeachment applies to Article III judges.

The nonexclusivists also contend that the language of the Constitution creates difficulty in that there exists a gap between the conduct for which impeachment will lie and that which violates good behavior.[72] Nonexclusivists theorize that some additional removal process must have been contemplated to fill this gap. The argument is based on the traditional notions of impeachment in England, which permitted removal for even slight offenses. Those notions were considered too broad in scope by the framers of our Constitution. Thus removal was limited to legislative impeachment for serious crimes. The nonexclusivists maintain that "high crimes and misdemeanors" refer to offenses similar in magnitude to "treason" and "bribery," and that the standard of good behavior may be breached by conduct of a lesser magnitude.[73] It should be noted that good behavior had a rather well-defined meaning at common law:

"[Good] behaviour means behaviour in matters concerning the office except in the case of a conviction upon an indictment for any infamous offense of such a nature as to render the person unfit to exercise the office, which amounts legally to misbehaviour though not committed in connection with the office.

"Misbehaviour as to the office itself means improper exercise of the functions appertaining to the office, or non-attendance, or neglect of or refusal to perform the duties of the office.[74] "

Nonexclusivists still complain that "high crimes and misdemeanors" is not comprehensive in scope because it excludes laziness which, as the English knew, was violative of good behaviour.[75] The question whether laziness is something less than good behaviour is purely academic. A more important question is whether the term "misdemeanor" covers unethical but not illegal conduct.[76] I believe it does. The fact that the Constitution fails to specify every possible misdemeanor does not mean that impeachment may not lie for conduct which may fall short

---

Footnotes at end of article.

of a crime of great magnitude, such as treason or bribery.

The nonexclusivists' argument continues that since the founding fathers were concerned primarily with the independence of the judiciary,[77] they intended a narrow definition of the grounds for impeachment in order to curb legislative interference with the operation of the judiciary.[78] Following this theory, one could find a distinction between the good behaviour and the impeachment clause standards. I cannot accept this theory. It is true that the framers sought to avoid legislative intrusion into the affairs of the judiciary. Thus they intended that breaches of good behaviour would refer to high crimes and misdemeanors, so that judges could be removed only by the Senate sitting as a court of impeachment. While this question is far from settled, any doubts should be resolved in favor of the constitutional provision, especially in view of the founders' belief that the legislative branch should refrain from interfering in judicial matters.

The theory that the constitutional language does not preclude the legislative creation of judicial removal machinery, the nonexclusivists claim, is supported by the doctrine of the separation of powers.[79] Each of the three branches is independent. Within this independence, it is argued, each branch has the inherent power to remove its own members, unless prevented by an express constitutional provision to the contrary. Their argument concludes that the Constitution denied the Judiciary this inherent power by vesting the impeachment power in the Congress. Apparently, the framers' intention in creating the impeachment provisions was to protect the judiciary from the political caviling that removal power often engenders.

Article I, section 5 does permit each House of Congress, by a concurrence of two-thirds, to expel its members for misbehavior. Since there is no such clause in Article III, it must be assumed that the founding fathers did not intend that the judiciary should police its own ranks. Nor it is likely that they intended to vest in Congress the power to create machinery by which the judiciary could carry out this purpose. The nonexclusivists, however, assert that the rebuttal to this argument lies in the concept of Federalism:

"The Framers established a Federal form of government and carefully delineated the powers of the national and state governments. Article I, section 4 of the Constitution establishes state authority over Elections for Senators and Representatives. "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof: but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators." Had the Framers failed to provide for congressional punishment and expulsion of its own members, the States may have exercised such powers incident to their "election" powers. Since judges are, however, appointed by the President with the advice and consent of the Senate, there is no similar threat of State removal. The absence of a judicial removal provision in Article III then, is not conclusive of an intent that the judiciary should have no power to punish misbehaving judges."[80]

I must confess that I do not grasp this argument. To suggest that the Constitution explicitly grants to Congress, and not the judiciary, the right to discipline and to expel the latter's members in order to avoid the rigors of state election rights is a tortured reading of the Document. This is especially true when one considers the illogical conclusion the nonexclusivists draw from this reading; namely, that Congress, as a result of the threat of state removal of its members, may create additional powers of removal of judicial officers besides impeachment. Unquestionably, this argument is outside the realm of reason.

C. The Federalist papers

When the Summers Bill[81] was introduced in the House of Representatives a minority report was filed.[82] The report indicated that the bill was unconstitutional and recommended its rejection. The House members who joined in the minority report[83] contended that the issue of good behavior should be tried only by a court of impeachment. They determined that the remedy of impeachment is as broad as the obligation of good behavior, because the words "high crimes and misdemeanors" were not used in their criminal sense but in their social sense. For support of their position, the minority report drew from Hamilton's observation in the Federalist Papers:

"Mr. Hamilton pointed out that a judge might be impeached for 'any conduct rendering him unfit to be a judge,' even though not involving any violation of a criminal statute. He pointed out for example that a judge might be impeached because of insanity if that rendered him unfit to perform the duties of his office. In fact, a judge was once impeached on that ground."[84]

The minority congressmen objected to the bill because the conduct and statements of the framers of the Constitution indicate that they thoroughly examined other methods for the removal of judges and discarded them all except for the procedure of impeachment. The dissenting congressmen frankly feared, and I think correctly so, that if Congress had the authority to legislate in this area, it could abuse the authority, causing great damage to the third branch of the Government. The fear of legislative abuse of the judiciary, which the minority report recognizes, has deep roots in our system of government. In number seventy-eight of the Federalist Papers, Hamilton expressed this same fear. He concluded that "all possible care is [a pre]requisite to enable [the judiciary] to defend itself against [congressional] attacks."[85]

The opinion of the signatories of the minority report has lost none of its validity in the intervening years, and it endures as wise counsel. The cases as well as the plain meaning of the Constitution indicate that impeachment is the sole means of removal of federal judges. The arguments of the nonexclusivists, designed to contradict this conclusion, purportedly rest on the apparent motives of the framers; their reliance seems erroneously founded. As the Federalist Papers of Hamilton suggest, the framers likely intended that the impeachment provisions should be exclusive. The wisdom of the framers' belief is perhaps best demonstrated by the unfortunate saga of Judge Chandler. It is to his case that I will now address my remarks.

III. THE CASE OF JUDGE CHANDLER

Although a number of cases have discussed the removal issue[86] and much commentary has been written about the subject,[87] only one case has actually considered the issue of removal of an Article III judge by means other than impeachment. That case, *Chandler v. Judicial Council,*[88] considered the authority of the congressionally created Judicial Council to limit the powers of a federal judge.

On December 13, 1965, the Judicial Council of the Tenth Circuit, acting under the authority of 28 U.S.C. Section 332,[89] issued an order[90] finding (a) that Chief Judge Chandler of the Western District of Oklahoma was unable or unwilling to discharge his duties as a district judge and directing that he should not act in any case then or thereafter pending; (b) that until the Council's further order, no cases filed in the district were to be assigned to him; and (c) that if all the active judges could not agree upon the division of business and case assignments necessitated by the order, the Council, acting under the authority of 28 U.S.C. Section 137[91] would make such division and assignments as it deemed proper. In response, Judge Chandler filed a motion wtih the United States Supreme Court for leave to file a petition for a writ of mandamus or, alternatively, a writ of prohibition addressed to the Tenth Circuit Judicial Council.

During the four years prior to the order of December 13, 1965, Judge Chandler was involved as a defendant in a considerable amount of litigation. A civil suit,[92] which was later dismissed, was brought charging him with malicious prosecution, libel and slander. He was also named as a party defendant in a criminal indictment which charged him with conspiracy to cheat and defraud the state of Oklahoma.[93] In addition, he was "the subject of two applications to disqualify him in litigation in which . . . (he) had refused to disqualify himself."[94] For these reasons and because there was a long history of controversy between the Council and Judge Chandler, the Council had issued the order of December 13. Then followed some confusing months. Judge Chandler agreed not to take any new cases, but he continued to assert his judicial authority over cases pending before him. In February of 1966, the Council ordered Judge Chandler to continue to sit on the cases pending before him prior to December 28, 1965, the effective date of the December 13 order. Judge Chandler challenged all the orders of the Council relating to the assignment of cases in his district "as fixing conditions on the exercise of his constitutional powers as a judge."[95] He specifically urged that the impeachment power had been usurped by the Council. The Supreme Court, in an opinion by Chief Justice Burger, held that the administrative action of the Council was not reviewable and that even if it were, Judge Chandler had not made out a case for extraordinary relief.

The question raised before the Court was whether Congress can vest in the Judicial Council power to enforce reasonable standards concerning when and where federal court shall be held, how long a case may be delayed in decision, whether a given case is to be tried, and other routine matters. In essence, the Court was asked to determine whether Congress could enact legislation which significantly encroached upon the independence of a federal judge. Writing for the majority, the Chief Justice answered the questions affirmatively, but the majority avoided the crucial question—whether a creation of Congress, the Judicial Council could place restrictions on a federal judge such that he was effectively removed from office. Instead, the majority found that the Court did not have the jurisdiction to entertain Judge Chandler's petition for extraordinary relief, and denied his motion for leave to file. The dissenters, however, discussed at length[96] both the issue of whether a judge could be removed from office by means other than impeachment and "the scope and constitutionality of the powers of the judicial councils under 28 U.S.C., §§ 137 and 332."

Of the minority opinions, Mr. Justice Harlan disagreed on the matter of jurisdiction, as did Justices Black and Douglas. All three favored reaching the crucial issue of the independence of the judiciary, and it is their opinions which deserve our attention. Mr. Justice Harlan, in his concurring opinion, felt that the order of February 4, 1966, did not constitute a removal from judicial office, or "anything other than an effort to move along judicial traffic in the District Court."[97] In treating the order in this way, Justice Harlan was able to avoid the delicate issue raised so vigorously by the other dissenters.

The dissents of Justice Douglas and Black were, in contrast, addressed to the necessity of preserving the independence of the federal judiciary. Mr. Justice Douglas stated:

"What the Judicial Council did when it ordered petitioner to "take no action whatso-

---

Footnotes at end of article.

ever in any case or proceeding now or hereafter pending" in his court was to do what only the Court of Impeachment can do. If the business of the federal court needs administrative oversight, the flow of cases can be regulated. . . . But there is no power under our Constitution for one group of federal judges to censor or discipline any federal judge and no power to declare him inefficient and strip him of his power to act as a judge.

"The mood of some federal judges is opposed to this view and they are active in attempting to make all federal judges walk in some uniform step. *What has happened to petitioner is not a rare instance; it has happened to other federal judges who have had perhaps a more libertarian approach to the Bill of Rights than their brethren.* The result is that the nonconformist has suffered greatly at the hands of his fellow judges.

"The problem is not resolved by saying that only judicial administrative matters are involved. The power to keep a particular judge from sitting on a racial case, a church-and-state case, a free-press case, a search-and-seizure case, a railroad case, an antitrust case, or a union case may have profound consequences. Judges are not fungible; they cover the constitutional spectrum; and a particular judge's emphasis may make a world of difference when it comes to rulings on evidence, the temper of the courtroom, the tolerance for a proffered defense, and the like. Lawyers recognize this when they talk about "shopping" for a judge; Senators recognize this when they are asked to give their "advice and consent" to judicial appointments; laymen recognize this when they appraise the quality and image of the judiciary in their own community.

"These are subtle, imponderable factors which other judges should not be allowed to manipulate to further their own concept of the public good. That is the crucial issue at the heart of the present controversy.[98]

"If they become corrupt or sit in cases in which they have a personal or family stake, they can be impeached by Congress. But I search the Constitution in vain for any power of surveillance that other federal judges have over those aberrations. Some of the idiosyncrasies may be displeasing to those who walk in more measured, conservative steps. But those idiosyncrasies can be of no possible constitutional concern to other federal judges." [99]

Mr. Justice Black's short dissent closes with these words:

"I am regrettably compelled in this case to say that the Court today in my judgment breaks faith with this grand constitutional principle. Judge Chandler, duly appointed, duly confirmed,and never impeached by the Congress, has been barred from doing his work by other judges. The real facts of this case cannot be obscured, nor the effect of the Judicial Council's decisions defended, by any technical, legalistic effort to show that one or the other of the Council's orders issued over the years is "valid." This case must be viewed for what it is—a long history of harassment of Judge Chandler by other judges who somehow feel he is "unfit" to hold office. Their efforts have been going on for at least five years and still Judge Chandler finds no relief. What is involved here is simply a blatant effort on the part of the Council through concerted action to make Judge Chandler a "second-class judge," depriving him of the full power of his office and the right to share equally with all other federal judges in the privileges and responsibilities of the Federal Judiciary. I am unable to find in our Constitution or in any statute any authority whatever for judges to arrogate to themselves and to exercise such powers. Judge Chandler, like every other federal judge including the Justices of this Court, is subject to removal from office only by the constitutionally prescribed mode of impeachment.

"The wise author of our Constitution provided for judicial independence because they were familiar with history; *they knew that judges of the past—good, patriotic judges—had occasionally lost not only their offices but also sometimes their freedom and their heads because of the actions and decrees of other judges.* They were determined that no such things should happen here. But it appears that the language they used and the protections they thought they had created are not sufficient to protect our judges from the contrived intricacies used by the judges of the Tenth Circuit and this Court to uphold what has happened to Judge Chandler in this case. I fear that unless actions taken by the Judicial Council in this case are in some way repudiated, the hope for an independent judiciary will prove to have been no more than an evanescent dream.[11]

Needless to say, I am in full agreement with the positions of the dissenters in this case. I find it distressing to think that the Chief Justice of the United States can countenance the removal of federal judges by any means other than impeachment. It also seems incredible to me that distinguished members of the Senate could continue to lend any support to a measure like S. 1506 in light of the *Chandler* situation. As the background of that case demonstrates, the potential for abuse by these congressionally created review boards is considerable.

IV. CONCLUSION

The time has come once and for all to end the harassment of federal judges. Every few years another attempt is made to impinge upon the independence of our unique judicial system. This time, however, there is some new evidence of the probable ill effects of such an impingement. Somewhat rhetorically I must ask how many more Judge Chandlers there must be before Congress recognizes that these legislative creations unconstitutionally encroach on the independence of the federal judiciary. Some members of Congress who support this kind of legislation seem intent upon creating some new tribunal for the removal of federal judges. But in assuming this position they ignore a tribunal which already exists—the Senate sitting as a court of impeachment. As I have noted, the arguments against sole reliance upon this Court are weak and unpersuasive.

The time has also come for all the interested parties, both judicial and congressional, to remember the limitations inherent in their offices. The judicial Conference was created to aid in the efficient administration of the courts and not to sit as a reviewing body over the issue of the alleged misbehavior of federal judges. Similarly, the Supreme Court should be the ultimate arbiter of lawsuits, not the final authority in determining whether an inferior judge or one of its own members is unfit to sit.

I am a Chief Judge of the United States District Court. I attempt to administer within my own district, and I attempt to see that the judges in my district operate as efficiently as they can. It is not my role, however, to demand that any one judge not have a case on his docket for more than a specific length of time, or that he act more cordially towards litigants. We are judges, not policemen. If we fail in our duties, have us impeached. The Congress should neither foster nor condone conflicts within the judiciary; conflicts will inevitably arise through creation of any judicial commissions such as that proposed in S. 1506. As Senator Sam Ervin has noted on numerous occasions: "To me, the duty of a federal judge is to decide cases and controversies—not to meddle in the business of his colleagues." I agree.

FOOTNOTES

†This paper was delivered on November 18, 1971, at the Boston College Law School Forum. It is reproduced without substantial change except for the addition of footnotes. The reader is asked to bear in mind that it was written primarily to be heard, not read.

*Chief Judge, United States District Court, Northern District of Ohio. A.B., Ohio University, 1947; LL.B. Harvard University, 1950.

[1] The power to appoint judges is, of course, subject to the advice and consent of the Senate. U.S. Const. art. II, § 2.

[2] Parker, The Judicial Office in the United States, 20 Tenn. L. Rev. 703, 705–06 (1949).

[3] The impeachment process is a cumbersome but carefully structured procedure which requires some analysis. Procedurally, the Constitution provides that a civil officer may be impeached by the House of Representatives and tried by the Senate, and, if convicted, may be removed from office and disqualified from holding any other. Congress alone possesses the power to remove all civil officers by impeachment, although many civil officials, with the exception of Article III judges, may be removed in other ways. See text at p. 440 infra. The authority for this result is implicit in various other sections of the Constitution. Id. The President has the power to remove all subordinate executive officers since the power of appointment carries with it, absent contrary authority, the power of removal. See text at p. 439 infra. Similarly, Congress may set the tenure of inferior officers and so may enforce those limits by necessary means. Id.

[4] The Federalist No. 79 at 532–33 (J. Cooke ed. 1961) (A. Hamilton).

[5] The Federalist No. 78 at 21–23, 525–27, 530. (J. Cooke ed. 1961) (A. Hamilton).

[6] S. 4527, 74th Cong., 2d Sess. (1936). For congressional discussion of the measure see 80 Cong. Rec. 5933–39 (1936).

[7] H.R. 2271, 75th Cong., 1st Sess. (1937). See congressional discussion of the measure in 81 Cong. Rec. 6157–96 (1937).

[8] "The judicial power shall extend to all cases . . . [and] controversies. . . ." U.S. Const. art. III, § 2.

[9] See Note, The Exclusiveness of the Impeachment Power Under the Constitution, 51 Harv. L. Rev. 330, 333–34 (1937).

[10] See text at pp. 449–50 infra.

[11] See generally W. Leuchtenburg, Franklin D. Roosevelt and the New Deal ch. 10 (Torchbook ed. 1963).

[12] See, e.g., the discussion of Lincoln's disregard for the Court in Ex parte Merryman, in R. Cushman, Leading Constitutional Decisions 79 (13th ed. 1966).

[13] The cosponsors were Senators Eagleton, Goodell, Hatfield, Magnuson, Mondale, Muskie, Scott, Stevens and Yarborough.

[14] S. 1506, 91st Cong., 1st Sess. (1969).

[15] Reprinted in hearings on S. 1506. Because the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary, 91st Cong., 1st & 2d Sess. 93 (1970).

[16] The proposed version of S. 1506 is contained in Hearings on S. 1506 Before the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary, 91st Cong., 1st Sess. 10–47 (1969) [hereinafter cited as Hearings].

[17] 28 U.S.C. § 331 (1970) provides:

> The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of Claims, the chief judge of the Court of Customs and Patent Appeals, and a district judge from each judicial circuit to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the conference may be called by the Chief Justice at such times and places as he may designate.
>
> Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the sessions of the conference and advise as to the needs of his circuit

or court and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

The conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary, and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.

The Conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use as prescribed by the the Supreme Court for the other courts of the United States pursuant to law. Such changes in and additions to those rules as the Conference may deem desirable to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the Conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in accordance with law.

The Attorney General shall, upon request of the Chief Justice, report to such conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.

[18] See discussion in note 3 supra.

[19] See Hearings, supra note 16, at 100–15.

[20] Id. at 101.

[21] Id. at 104.

[22] Id. at 105–14.

[23] Id. at 116–17.

[24] 5 U.S. (1 Cranch) 137 (1803).

[25] 17 U.S. (4 Wheat.) 316 (1819).

[26] 60 U.S. (19 How.) 393 (1856).

[27] The Federalist, No. 78 at 523 (J. Cooke ed. 1961) (A. Hamilton).

[28] Hearings, supra note 16, at 121.

[29] W. Douglas, Points of Rebellion (1969).

[30] Hearings, supra note 16, at 130.

[31] Id. at 136.

[32] Hearings Before the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary, 91st Cong., 1st & 2d Sess. 121–22 (1970).

[33] Hart, Foreword: The Time Chart of the Justices, The Supreme Court, 1958 Term, 73 Harv. L. Rev. 84 (1959).

[34] Id. at 101.

[35] Arnold, Professor Hart's Theology, 73 Harv. L. Rev. 1298 (1960).

[36] Id. at 1315–16 (footnotes omitted).

[37] The Federalist No. 78 at 528 (J. Cook ed. 1961) (A. Hamilton).

[38] Note, The Exclusiveness of the Impeachment Power Under the Constitution, 51 Harv. L. Rev. 330 (1937).

[39] Included among those distinguished jurists who share or have shared this belief are Mr. Justice Story, Lord Bryce, Alexander Hamilton and Professor Hart. See Kramer & Barron, The Constitutionality of Removal and Mandatory Retirement Procedures for the Federal Judiciary: The Meaning of "During Good Behavior," 35 Geo. Wash. L. Rev. 455, 459 (1967) [hereinafter cited as Kramer & Barron].

Several recent articles deal with the exclusivity of impeachment proceedings. Of these, two deal exclusively with this issue and rely heavily on English precedents and the beliefs of the delegates to the Constitutional Convention, as contrasted with my focus on American Court decisions, infra. These articles are Ervin, Separation of Powers: Judicial Independence, 35 Law & Contemp. Prob. 108 (1970) and Shipley, Legislative Control of Judicial Behavior, 35 Law & Contemp. Prob. 178 (1970).

[40] 167 U.S. 324 (1897).

[41] Id. at 328–30.

[42] 38 U.S. (13 Pet.) 230 (1839).

[43] 167 U.S. at 331, quoting 38 U.S. (13 Pet.) at 259.

[44] 58 U.S. (17 How.) 284 (1854).

[45] For a discussion of other than Article III judges, see H. Hart and H. Wechsler, The Federal Courts and the Federal System 340–51 (1953).

[46] 58 U.S. (17 How.) at 303.

[47] Op. Att'y Gen. 288, 290 (1851).

[48] 58 U.S. (17 How.) at 289.

[49] The statute in question may be found in 167 U.S. at 343.

[50] Id.

[51] 189 U.S. 311 (1903).

[52] Id. at 314–15. The Act which had created Shurtleff's position permitted his removal for inefficiency, neglect of duty or malfeasance in office.

[53] Id. at 316.

[54] Id. (emphasis added).

[55] 272 U.S. 52 (1926).

[56] The administratrix of the postmaster's estate argued that the postmaster could not be removed without the consent of Congress.

[57] 272 U.S. at 154–55.

[58] The statute is cited in full in McAllister v. United States, 141 U.S. 174, 177 (1891).

[59] See discussion at p. 444 infra.

[60] 295 U.S. 602 (1935).

[61] The Court distinguished the case on the grounds that the narrow issue treated in *Myers* "was only that the President had power to remove a postmaster of the first class, without the advice and consent of the Senate as required by act of Congress." Id. at 626. The Court also distinguished the *Shurtleff* case as one dealing with "exceptional" circumstances. Id. at 623.

[62] Id. at 627.

[63] Id. at 628.

[64] Id.

[65] 5 U.S. (1 Cranch) 137 (1803).

[66] Id. at 162, 165–66.

[67] 398 U.S. 74 (1970).

[68] Brief for Solicitor Gen. at 33, Chandler v. Judicial Council, 398 U.S. 74 (1970).

[69] Id. at 35 (footnote omitted).

[70] Much of the following discussion relies on the arguments raised in a memorandum prepared by the staff of the Subcommittee on Improvements in Judicial Machinery. The memorandum is entitled Constitutionality of a Statutory Alternative to Impeachment. See Hearings at 221.

[71] Shartel, Federal Judges—Appointment, Supervision, and Removal—Some Possibilities under the Constitution, 28 Mich. L. Rev. 870, 895–97 (1930) [hereinafter cited as Shartel].

[72] Id. at 899.

[73] Hearings on S. 1506 Before the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary, 91st Cong., 1st Sess. at 223–24 (1969) [hereinafter cited as Hearings].

[74] 7 E. Halsbury, Laws of England 22–3 (1909).

[75] Hearings, supra note 73, at 222–23.

[76] See Simpson, Federal Impeachments, 64 U. Pa. L. Rev. 803, 805 (1916).

[77] See generally The Federalist, Nos. 78 & 79 (J. Cooke ed. 1961) (A. Hamilton).

[78] Dwight, Trial By Impeachment, 15 Am L. Reg. 257, 263 (1867).

[79] Hearings, supra note 73, at 224.

[80] Id.

[81] H.R. 2271, 75th Cong., 1st Sess. (1937).

[82] Reprinted in Hearings, supra note 73, at 234.

[83] Representatives Guyer, Hancock, Michener, Gwynne, Graham and Springer.

[84] Hearings, supra note 73, at 234.

[85] The Federalist, No. 78 at 523 (J. Cooke ed. 1961) (A. Hamilton).

[86] See discussion at pp. 438–46 supra.

[87] See generally Shartel, supra note 71; Note, The Exclusiveness of the Impeachment Power Under the Constitution, 51 Harv. L. Rev. 330 (1937); Kramer & Barron, supra note 39; Simpson, supra note 76.

[88] 398 U.S. 74 (1970).

[89] Section 332 provides:

(a) The chief judge of each circuit shall call, at least twice in each year and at such places as he may designate, a council of the circuit, in regular active service, at which he shall preside. Each circuit judge, unless excused by the chief judge, shall attend all sessions of the council.

(b) The council shall be known as the Judicial Council of the Circuit.

(c) The chief judge shall submit to the council the quarterly reports of the Director of the Administrative Office of the United States Courts. The council shall take such action thereon as may be necessary.

(d) Each judicial council shall make all necessary orders for the effective and expeditious administration of the business of the courts within its circuit. The district judges shall promptly carry into effect all order of the judicial council.—28 U.S.C. § 332 (1970).

[90] 398 U.S. at 77–8.

[91] Section 137 provides:

The business of a court having more than one judge shall be divided among the judges as provided by the rules and orders of the court.

The chief judge of the district court shall be responsible for the observance of such rules and orders, and shall divide the business and assign the cases so far as such rules and orders do not otherwise prescribe.

If the district judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders.—28 U.S.C. § 137 (1970).

[92] O'Bryan v. Chandler, 352 F.2d 987 (10th Cir. 1965), cert. denied, 384 U.S. 926 (1966).

[93] 398 U.S. at 77 n.4. The indictment was later quashed.

[94] Id. at 77. See Occidental Petroleum Corp. v. Chandler, 303 F.2d 55 (10th Cir. 1962), cert. denied, 372 U.S. 915 (1963); Texaco, Inc. v. Chandler, 354 F.2d 655 (10th Cir. 1965), cert. denied, 383 U.S. 936 (1966). In both cases writs of mandamus were issued against Judge Chandler.

[95] 398 U.S. at 82.

[96] Id. at 89–143.

[97] Id. at 119.

[98] Id. at 136–137 (emphasis added).

[99] Id. at 140–41.

[100] Id. at 142–43.

J. EDGAR HOOVER

HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. CEDERBERG. Mr. Speaker, I wish to join with my many colleagues to pay tribute to a great American, J. Edgar Hoover. His sudden death this past week cast a long shadow over the city of Washington.

Director Hoover, in his last years provoked intense controversy, as do all great men, but J. Edgar Hoover will remain for millions of Americans the "ultimate in law enforcement and the personification of rectitude in public life." Even his critics could not minimize those lasting contributions he made to the well-being of the country.

Mr. Hoover took an incompetent and corrupt investigative service and turned it into a fully professional and honorable institution immune to the pressures of partisan politics. In his 48 years as FBI Director he has been characterized as the crime fighter, the incorruptible foe of the underworld, and the watchdog against communism. Behind that image was a man of personal conviction and massive energy. He was a rigid man dedicated to his own precise schedule and he pursued his principles with a military man's sense of discipline. He carried with him years of pioneering innovations in the organization he rescued from chaos five decades ago. Through these five decades he has remained the single public figure most consistently identified with upholding order and decency in America. I had the opportunity to visit with Mr. Hoover many times over the years as he appeared before my subcommittee to discuss the appropriation for the FBI. I was always impressed with his dedication to excellence in law enforcement.

President Nixon eulogized Mr. Hoover as "the symbol and embodiment of the values he cherished most: Courage, patriotism, dedication to his country, and a granite-like honesty and integrity." It was on these principles, which J. Edgar Hoover exemplified throughout his life, that the FBI was built and it is on these principles that the FBI will continue. Its structure will be a living monument to a great man's extraordinary status. J. Edgar Hoover is, and will continue to be, an American legend.

Director Hoover had many loyal supporters throughout his years, but his legend will survive because even his most severe critics added their voices in tribute. "No man has served his Nation with greater dedication or productivity. He leaves a great name." These are the words of my colleague, the distinguished majority leader, a one-time critic, but they reflect the grief of America.

The FBI stands today not as a reflection of J. Edgar Hoover, but as a reflection of those principles he so fiercely defended. The business of the week continued, as he would have wanted, but it continued with a profound sense of loss and sadness.

PERSONAL EXPLANATION

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. KOCH. Mr. Speaker, I will be voting against H.R. 14718, not because I am against the Federal Government providing financial aid to meet local transit operating costs, but because this House will soon be considering a bill to provide such aid for mass transit systems throughout the country. In my judgment it is proper that any subsidy for the District of Columbia come from funds authorized under such legislation, now under consideration by the Banking and Currency Committee for inclusion in the housing bill. I might add that I am the sponsor of a bill (H.R. 13362) which is cosponsored by 84 of our colleagues, that would provide $400 million annually in operating assistance to mass transit systems; this bill provides a distribution formula based on passengers serviced. Under H.R. 13362 every transit system would be eligible to receive funds in proportion to its share of the Nation's total transit ridership.

J. EDGAR HOOVER

HON. ROBERT N. GIAIMO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 2, 1972

Mr. GIAIMO. Mr. Speaker, I wish to join my colleagues in paying tribute to Mr. J. Edgar Hoover, a great American, who directed the FBI since 1924.

It is not raw power, political manipulation or patronage that keeps a man in high office for 48 years. These particular values or methods do not have the high-quality consistency of the leadership, discipline and love of country owned and displayed by Mr. Hoover.

Throughout his career, he remained a symbol of dedication, toughness, and keen management. He fought crime and subversion with unbending righteousness, and for that this Nation should be grateful.

Mr. Hoover was a pragmatic and demanding administrator who chose to live a lonely life to be able to set the high examples he laid down of his subordinates to follow.

With imagination and intelligent planning, he helped to construct the best domestic information gathering machine in the world. Without the FBI and Mr. Hoover as its captain, today's problems of law enforcement would be many times larger.

It was J. Edgar Hoover who masterminded the tactics that brought to oblivion the wild rashes of gangsterism which filled the depression years, and it was Mr. Hoover who directed the collection of data that supported convictions of countless espionage agents during and after the Second World War.

The legacy of Mr. Hoover will be what we can best remember him as being—America's watch on crime and other injustices. It is almost certain that the part of him that upheld this constant watch will continue as a motivating factor behind the skills of the existing FBI.

If I had to single out Mr. Hoover's most remarkable and lasting achievements, I would suggest that they were first his great ability to keep America's national police force free from politics and second, his ability to deny at all times the growth in the FBI of those dangers inherent in any national police force which could take on the character and growth of a gestapo.

With the passing of J. Edgar Hoover, the forces of anticrime have lost a bigger-than-life hero. There is no doubt that his absence will be felt for a very long time.

AEC'S SAFETY REGULATIONS ARE UNSAFE

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. EILBERG. Mr. Speaker, on Friday, May 5, the Washington Post published an article by Victor Cohn about the inadequacy of the Atomic Energy Commission's safety regulations for nuclear powerplants.

The article cites recent tests on laboratory models of these reactors and the failures of the emergency safety equipment to do its job.

Mr. Cohn also states that because of these failures the AEC's safety regulations, including new restrictions added after the laboratory tests, are insufficient.

Despite these developments, the Commission has continued to support the applications of power companies for permission to build similar plants with similar inadequate safety precautions.

In at least one case—the 6,600 megawatts thermal twin reactor installation proposed by the Public Service Electric & Gas Co. of New Jersey for Newbold Island, 11 miles north of Philadelphia—it is advocating the construction of a plant in the heart of one of the most densely populated areas of the country.

When it comes to matters of atomic energy the AEC rarely, if ever, admits that it is wrong or has made a mistake, even when the proof is incontrovertible.

It is up to the Atomic Energy Commission to make sure these installations are 100 percent safe. According to this article, the Commission is not doing its job:

AEC SPLIT ON A-POWER PLANT SAFETY

A serious split among Atomic Energy Commission scientists on the safety of the nation's nuclear power plants has burst into the open.

As a result of the disagreement, the agency's five commissioners are being forced to take a new look at a set of strict safety practices they ordered less than a year ago.

The precautions are intended to prevent any disaster as a result of possible shortcomings in a nuclear reactor's emergency cooling system.

As another result, AEC Chairman James Schlesinger, who took over last year as head of the increasingly beleaguered agency, has begun a series of steps to strengthen the agency's regulatory arm.

Meanwhile, Sen. Howard Baker (R–Tenn.)—who has been acting as a maverick on the traditionally pro-AEC Joint Committee on Atomic Energy—has spearheaded an effort to establish a new independent Safety Research Division inside the agency.

COMBINATION OF DUTIES

Committee Chairman John O. Pastore (D–R.I.) wrote Schlesinger in January asking whether the Nixon administration is satisfied with the agency's traditional combination of regulatory and atom power-promoting duties.

Schlesinger, said an aide yesterday, told Pastore that "the matter is being taken into consideration, and he has given considerable thought to it since becoming chairman."

In this way, the emergency cooling system issue—thrust into public view only a year ago—may be forcing a review of the AEC's basic jobs, a kind of scrutiny not undertaken since the "military versus civilian control" debate of the late 1940s.

The Joint Committee plans atomic power safety hearings sometime after June 1, when it has been promised a thoroughgoing AEC report.

It was in May 1971 that the public learned of six failures of lab-sized atomic reactors to cool themselves in emergencies. When emergency water was flooded in to cool a reactor core—after the reactor had theoretically lost its primary coolant—pressurized steam unexpectedly kept the water from getting through.

Last June, a concerned AEC ordered new "interim" rules. Five older plants were told to modernize their cooling systems. Three others were told to lower their peak operating temperatures. Some new plants have had to cut their proposed operating temperatures and possibly—despite the threat of nationwide power shortages—their power capacity.

HEARINGS ORDERED

In January, Schlesinger ordered public hearings which are expected to run into the summer, to help set permanent rules.

It became clear in those sessions that at least a vigorous minority of AEC staffers feel last year's precautions were insufficient. Among those who have testified about their reservations have been Morris Rosen and Robert J. Colmar of the regulatory staff and Phillip L. Rittenhouse of Oak Ridge National Laboratory.

Rittenhouse read the names of 28 persons who shared his views. They included William Cottrell, Oak Ridge's director of nuclear safety; David Hobson, his assistant, and 10 officials of Aerojet Nuclear Corp., which manages the Idaho test program.

A news report in Science magazine yesterday accused the AEC of "studiously ignoring, rejecting and even discouraging, dissenting views." AEC information Director John Harris cited the hearing record as evidence of openness.

TRIBUTE TO DON VON RAESFELD, CITY MANAGER OF SANTA CLARA, CALIF.

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. EDWARDS of California. Mr. Speaker, on the 19th of May, the city of Santa Clara will honor a good friend of mine, Don Von Raesfeld. His life and achievements certainly deserve a closer look by us all.

Don Von Raesfeld is a member of an old Santa Clara family—his grandparents came from Germany before the turn of the century. This family established a tradition of hard work, thrift, and honesty which Mr. Von Raesfeld reflects. He and his wife, Celine, have in turn instilled these same virtues in their nine children who are and will be constant tributes to their parents and the virtues they live by.

Don Von Raesfeld attended local schools in the area then went on to obtain his degree in engineering from the University of Santa Clara. He soon found employment at the California Water Service and remained in this private organization for 10 years. Because of his demonstrated skill here and his desire to serve the public, Mr. Von Raesfeld moved on to assume the position of water superintendent for the city of Santa Clara. In this capacity, he modernized the department and its procedures and undertook a very successful program in finding new water sources for the city. From this position, he then became director of public works and utilities for the city. Here, he oversaw the construction of an advanced water-treatment facility and the establishment of a system that will easily supply the future needs of the city of Santa Clara.

During the last 10 years, Don Von Raesfeld has been the city manager of Santa Clara and has added to his long list of accomplishments there. Under him, the industrial base of the city has grown tremendously, supplying jobs for residents and revenue for the city. In fact, the city ranked first among all in the State for industrial growth in 1970. At the same time, the fire and police departments have acquired the newest equipment possible and the personnel in the departments have undergone some of the most up-to-date training to be found anywhere. The emergency forces in the city are able now to meet almost any challenge and in large part this is due to the efforts of Don Von Raesfeld. Federal funds for employing the disadvantaged have been obtained by the city, in large measure thanks to his efforts in constructing the successful programs utilizing the funds. And all of these increases in services have been accomplished with a declining tax rate, now significantly lower than when he took office 10 years ago.

The personal and civic accomplishments of Don Von Raesfeld are tribute to the tremendous determination and integrity of the man. They will remain as models for all Americans to admire and emulate for years to come.

POUGHKEEPSIE, N.Y., HOSPITAL HAS NEW INSTRUMENT FOR CATARACT SURGERY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. FISH. Mr. Speaker, St. Francis Hospital which is located in Poughkeepsie, N.Y., has become the second hospital in the State of New York and the 11th in the entire country to install a surgical instrument that has revolutionized cataract surgery.

I recently had the privilege of visiting St. Francis Hospital and seeing this new surgical instrument, and, I, like so many others within my congressional district, are impressed with this medical advance being brought to our area.

The Cavitron/Kelman Phaco Emulsifier TM dissolves, emulsifies and removes cataracts through an incision just two or three millimeters in size. Performed under high-powered microscopy, the instrument utilizes a sharp-tipped ultrasonic probe which vibrates at 40,000 strokes per second. After the tiny incision is made, the probe is inserted into the chamber separating the cornea from the lens. Once in contact with the lens, the probe is surgically activated and begins dissolving and aspirating the cataract. The operation, performed under general anesthesia, is usually completed within a short period of time. Patients are often able to return to normal activities, in uncomplicated cases, within a few days after surgery. Older methods, while successful, required 4 to 7 days hospital stay and 6 to 12 weeks recuperation.

Cataracts are an affliction of the lens that causes clouded vision and eventual blindness. Cataract surgery involved the removal of the opaque lens, which usually results in a loss of optical clarity. Contact lenses or glasses are then prescribed to correct this loss and to restore sharp vision.

The procedure, developed by Dr. Charles D. Kelman, director of Cataract Research, Manhattan Eye and Ear Hospital in New York and a consultant on the medical staff at St. Francis Hospital, may be performed on approximately 80 percent of adult, juvenile, and congenital cataracts. It requires a surgeon skilled in the Kelman technique, assisted by a specially trained nursing and technical staff.

HOW CONGRESSMAN ELWOOD H. "BUD" HILLIS SERVES THE FIFTH DISTRICT

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BRAY. Mr. Speaker, our respected colleague "BUD" HILLIS was recently the subject of one of the most widely read syndicated columns in the State of Indiana. Following is Hoosier columnist Donald White's "The Hoosier Day" from the Rushville, Ind., Republican of Monday, May 1, 1972:

THE HOOSIER DAY

(By Donald White)

Pilots develop a special awareness of and interest in the environment.

Walter M. Schirra heads an Environmental Advisory agency under contract to advise Indiana on ecological problems. He developed his interest observing the earth from space. Entertainer Arthur Godfrey, an avid aviation enthusiast, has emerged from semi-retirement in the interest of ecology.

I noticed the special interest during an interview with Fifth District Congressman Elwood H. "Bud" Hillis, taped in Washington, D.C. by my sister for the column. Hillis owns and flies his own airplane, with his family still residing in Kokomo. Due to his special interest in flying, he was given an honor by his colleagues seldom entrusted to a freshman. He was made floor manager of a bill to update the regulations of Air Controllers. Members of both parties congratulated him when the vote was overwhelming in favor of the measure.

He said: "I notice in traveling about, going back and forth to Washington each week, that in some places the air and water is a lot cleaner than it is in others. I noticed that Indianapolis has less air pollution than it did a few years ago and White River near the Indianapolis airport looks pretty good when compared with the Ohio River between Morgantown and Zanesville, which I see every week."

Hillis had supported many amendments to make the Water Pollution Control Bill much stronger prior to passage of the landmark $26.6 billion three-year program. Some of the amendments might be revived during a House-Senate Conference Committee.

He observed: "Some criticize the House bill as not being as strong as the Senate bill but in many regards, I think it was more realistic. It still talks about making the waters of our nation usable for recreational purposes by 1981." The Salamomie reservoir is in Hillis's district and is now usable for recreational purposes, and he wants to see it stay that way.

Several have said that William Ruckelhaus would never be able to satisfy both industry and the people. Hillis was asked about this. He said: "I know Bill personally, and I know that he will do what he thinks is right carrying out the role of the administration to solve the problem so that we reach a reasonable standard say by 1981. At the same time, I don't think that he would ever stand for policies that would completely bankrupt the entire industrial system of this country and do away with jobs or tear up the economy."

Another Hoosier doing a good job in Washington in the opinion of Hillis is Secretary of Agriculture Earl Butz. Hillis said: "I stood up for him when he was first nominated and put personal testimony on the Congressional Record in his behalf when it wasn't the most popular thing to do with some. He has really stood up and told it like it is as far as the family farmer is concerned and proved that he is really interested in the welfare of the small average-size farmer of which there are so many in Indiana. We've come to the point in our development of this country where 12 per cent of the people feed and clothe the other 88 per cent of us, and it's amazing."

He feels that the 12 per cent frequently are passed over on some of the advantages and are not compensated as well for the time they put into their occupation and investment as others in our economy. Butz is trying to place this story before the public.

Prior to Hillis' election to Congress, I had never met him, but knew his father, Glenn R. Hillis well. Glenn was a fraternity brother and we had shared many experiences in our mutual interest in The American Legion. Glenn was the unsuccessful Republican candidate for Governor in 1940.

One of the first things that impressed me about Congressman Hillis was his sincerity. He resigned from his law firm as well as from the boards of banks upon his election. He felt that the electorate was entitled to a full time representation for which it was paying.

As a member of the Indiana General Assembly, he was entitled to back pay under the recent court decision. He refused to file a claim, becoming one of a small handful of legislators who did not take the windfall.

Hillis received the nomination over a crowd of contestants when Richard Roudebush sought the Senate seat rather than reelection. He serves on the Veterans Affairs, Post Office and Civil Service committees.

TRIBUTE TO THE HONORABLE HENRY FRANCO, MAYOR OF UNION CITY, CALIF.

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. EDWARDS of California. Mr. Speaker, I would like to take a moment now to pause in recognition of a gentleman who has dedicated many years and his immense talents to the betterment of the lives and government of the people of southern Alameda County.

Mr. Henry Franco, the mayor of Union City, will be honored Saturday, May 12, and the honors are long overdue. Mr. Franco has served Union City in many capacities. As planning commissioner, he was instrumental in the development of the six neighborhood parks which now serve the people of Union City. The large central park and the civic center complex also owe their existence to his foresight and planning. Mayor Franco has served the community as a city councilman, as the vice president of the chamber of commerce, as a member of the Selective Service Board, as a member of the Union City Merchants Association, and as a member of the GI Forum. As an active member of the Tri-City Forum, serving the cities of Fremont, Newark, and Union City, he has been a leader in the kind of careful and thoughtful development of the area that other areas could well envy. His efforts to bring about cohesive development of the entire southern Alameda County area were furthered by his actions as representative to the Alameda County of Mayors Conference last year.

Henry Franco is the kind of citizen and government official that has helped make Union City into the pleasant and vibrant place it is in which to live. I want to take this opportunity to commend Mayor Franco and offer the hope that he will continue to serve Union City in the future as he has done so ably in the past.

FANNIE MAE BUYS FIRST CONVENTIONAL MORTGAGE IN CALIFORNIA

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HOSMER. Mr. Speaker, on April 30, the Los Angeles Times reported another first from the State of California, a purchase for the first time of a conventional mortgage from a California lender. The Long Beach home involved is located in the congressional district I am honored to represent.

In view of the excellent record being compiled by the Nation's thrift, mortgage banking and private mortgage insurance industries and the Federal National Mortgage Association in helping thousands of American families reach their goal of home ownership. I believe the event is noteworthy.

The article follows:

[From the Los Angeles Times, April 30, 1972]

FNMA BUYS FIRST MORTGAGE IN CALIFORNIA

The Federal National Mortgage Assn. has purchased the first conventional mortgage from a California lender in its new, nationwide secondary market operation.

The $21.600 mortgage was written on a $24.000, single-family home at 6722 Espanita St., Long Beach, bought by Mr. and Mrs. Ernest G. Barrios.

The mortgage was purchased from City & Suburban Mortgage Co. of Long Beach. The top 20% of the loan was insured by Investors Mortgage Insurance Co. of Boston through its Newport Beach regional office.

The Emergency Home Finance Act of 1970 granted FNMA authority, for the first time, to buy and sell conventional mortgages in a secondary market operation. FNMA purchased its first mortgage under the program in February.

SEATA RESPONDS

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BEGICH. Mr. Speaker, I have received from the corresponding secretary for the Southeast Alaska Trollers Association a copy of their letter to "The Advocates." The letter was written in response to membership request after the NBC-TV showing of the debate on extending U.S. coastal jurisdiction. This is an important area of concern for Alaskans as Alaskan fisheries are consistently being marauded by foreign fishing fleets.

I would like to include in the RECORD for my colleagues' attention a copy of this perceptive and forceful letter:

[From the Daily Sitka (Alaska) Sentinel, Mar. 22, 1972]

SEATA RESPONDS TO "ADVOCATES" DEBATE

Southeast Alaska Trollers Association at an Executive Board meeting Sunday night released for publication a letter to "The Advocates".

The letter was written in response to membership request after the NBC-TV showing of the debate on extending U.S. coastal jurisdiction.

The breadth of territorial claims to the sea will be one of the principal subjects at the 1973 international Law of the Seas Conference.

Following is the SEATA letter:

Gentlemen:

Our organization, exceeding 350 members from Alaska to Oregon, and by membership request, wish to comment about your program for U.S. Extended Coastal Jurisdiction.

Our type of fishing is principally "hook and line" and chiefly on Pacific salmon. We should not be confused with the trawl (drag) method as we often are. Some of us troll for tuna, and some are diversified trollers, engaging in the long-line bottom fishery for halibut and sablefish, or inshore in the salmon gill net and seine effort. And some, are small-boat fishermen who supplement their income troll fishing in protected waters such as that in the Alaska Alexander Archipeligo.

We realize we are only a small segment of the national fishery, but we find it incomprehensible a program such as yours can be presented without reference to Alaska as "the nation's greatest fishery today"; quoting the National Marine Fisheries Service.

The general public, and far too many congressmen, visualize a fisherman as a squint-eyed individual clad in a so'wester; a little below the norm in literacy, and fiercely independent.

Independent he has been—the near-last of the free enterprise system to be involved in international diplomacy and bureaucratic dictates. He may be squint-eyed, but he is NOT illiterate, and, he has become distrustful of diplomacy.

The fisherman knows he can no longer "just go fishing and forget the world," for when he sailed in the past 15 years, he was face to face with super foreign fleets on his coastal breeding and rearing grounds—grounds systematically drug the year round. And off which American fishermen sometimes do not fish, partly as a conservation measure, and sometimes by regulation. The excuse the foreigner gives for being there is they "are fishing under-utilized stocks."

Concerned American fishermen can't take much "stock" in that statement when they read, by those purported to know, "that the world fisheries are 70 per cent over-fished", and, by another, that, "the ocean outside the continental shelves are virtual deserts."

The fisherman is distrustful when he hears the term "limited entry" for the simple reason that it is not the American fisherman who has built up, and invaded, these grounds with super fleets—who have made our experts admit to decline of the herring on the Atlantic, the menhaden, and the flounder. It is not they who have caused the decline of ocean perch on the Pacific, the sable fish off Alaska. The American fishing fleet, as also admitted by the experts, is not capable of carrying out that depletion!

Information, such as that declassified and published, from the late Dr. Wilbert Chapman was that, in the 1958 and '60 Law of the Sea negotiations, "the last ditch bargaining material used was FISH" (his emphasis). It was used in an attempt to establish exclusive jurisdiction of the coastal state over the resources of the continental shelf without losing the navigational rights!

What our diplomats did, was trade "fishing rights" for "navigational rights", and the fisherman is not so naive he doesn't know it!—Nor why he now has the foreign fleet to contend with on North American stocks.

Neither are the bulk of American fishermen so naive as not to know that the U.S.-South American "tuna war" is partly involved in the diplomacy for protecting billions of American investments in South American oil, fish, fruit, coffee, rubber and a host of other "programs".

The time has come when the American fisherman, with a good many more Americans think a portion of this largess being strewn around the world, might well be used at home—at least in protecting our resources. By every expert projection, our continental shelves are most important; oil, minerals, and, a protein resource for a burgeoning nation.

Oh yes! the fishermen know that "certain rights" were worked out for exploration on "the shelves"—but not for fish! They also know one of the reasons for the gigantic oil lease sale in Alaska was because many of the foreign recipients of our largess, and diplomatic actions, have forced these companies to come home. Most Americans realize that one of the richest countries on earth has developed a "poor image" and does not justify its balance of deficits (including seafood imports), its under-employed, and its national debt.

If this sound far from fishermen, it is not!

The subsidizing of the American fishing fleet, tax write-offs for oil, the paying of American fishing "fines" from everyone's tax dollars will in no way stop the foreign incursion on our continental shelves. To invest in it we must protect it! As one researcher writes, "by the time we get through 'researching' what damage the Russian and Japanese fleets have done to our continental stocks, they will have left for South American waters, and the fishermen will all be broke."

A statement often heard among fishermen, thinking in terms of conservation, is "you know what happened to the whale!" We DO know what happened to the whale! It was put on the endangered species list.

We fishermen, on both coasts and the National Marine Fisheries Service, know how heavy is this foreign pressure on North American stocks. To cite only one month on Alaska's shelf (Dec. '71) there were 204 Soviet and Japanese vessels. 176 of those were trawlers taking ground fish, ocean perch, flounder, herring and sable fish; all species showing a decline on our coasts, and largely cut of U.S. control. The NMFS estimates (probably conservatively) that the Russian and Japanese take 3 billion pounds of all fish species off Alaska each year.

The Japanese concentration on the last great North American salmon stocks is accomplished by high seas gill net—from which some reports estimate a 70 per cent loss! The Soviets say they take salmon only "incidentally", but one report states they admit to 300,000 salmon (perhaps 3 million pounds) each year, taken "incidentally" in their trawls JUST in the Bering Sea.

All Northwest fishermen continually witness Soviet trawl fleets moving into concentrations of returning salmon. When reporting violations, the trawlers move outside the 12 mile limit, and fishermen know their calls are monitored. In Japanese and Soviet fish schools the English language is a required subject, at least for fishing masters.

To summarize, we see no effective control for protecting bottom habitat, and the stocks who feed and rear therein, without coastal state jurisdiction over its conservation. Neither is there logic to subsidizing American fleets, and limiting unit effort, so long as foreign fleets have relatively free rights on the continental shelf. The andromous Pacific salmon, and of course the warm-water tuna, must be considered. But, for the greatest fishery this nation has today there will be no adequate conservation until coastal states have custody of the continental feeding and rearing grounds—for all its inhabitants; ground and shell fish, salmon, the pelagics, birds, whales and even sea otter and fur seal. These grounds are the world's greatest contributors to a renewable protein resource, and they deserve attention of every North American!

Thank you for your program; we wish we could have participated more fully. And, we hope we've justified our stand—for all Americans!

U.S. FUTURE IN ASIA

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. RHODES. Mr. Speaker, in our concern over our involvement in the war in Vietnam, we quite often forget the long-range importance of this area of the world to our Nation. Most people seem to believe that the "domino theory" of earlier years was not valid, and are therefore inclined to minimize the long-range importance of Southeast Asia. This article by Walt Whitman Rostow, printed in the Los Angeles Times of Friday, April 28, 1972, seems to me to impart a perspective to the future interests in Southeast Asia that deserves to be shared with the Members of the Congress.

The article follows:

THE FUTURE OF THE UNITED STATES IN ASIA

(By W. W. Rostow)

Three of the major events of 1972 have concerned Asia: the internecine struggle on the Indian subcontinent; President Nixon's trip to China; and the massive North Vietnamese invasion of South Vietnam. Each deeply involves the United States; but they came when there is great confusion about our interest in Asia.

The passionate debate over Vietnam has, of course, contributed to this confusion—bringing to American political life a strand of feeling that we should depart Asia and leave its people to their own devices. On the other hand, most Americans understand in their bones that Asia will be more, rather than less, important in our future than it has been in the past; that we simply cannot turn our backs on the part of the world where two-thirds of humanity lives; where the third industrial power in the world is situated; where the 800 million people of China, the 600 million of the Indian subcontinent, and the 300 million of Southeast Asia are rapidly modernizing.

There is an awareness within us that it was from an Asia, moving toward domination by a single power, that the attack on Pearl Harbor came; that China is a nuclear power; and that Japan, India and others in Asia might acquire nuclear weapons if we prove an inattentive or unreliable friend or ally.

But, still, we as a nation lack a consensus on our interest in Asia.

Historically, this lack stems in part from the initial asymmetry between our experiences across the Atlantic and across the Pacific. From the beginnings of our nationhood we were embroiled with the balance of power in Europe. For example, our independence was achieved, the Louisiana Territory and Alaska acquired only because Americans could exploit the conflicts among European powers.

When, in 1917, Britain and British dominance of the Atlantic were threatened by unrestricted German submarine warfare, it was a shock for America to have to throw its weight directly into the European power balance to prevent the hegemony of a single power. Nevertheless, there was continuity; for Americans had known for more than a century that a Europe united under a single power could threaten the United States.

It was different in Asia. Initially, traditional Asia did not represent a threat to America. It was an arena within which more advanced nations could compete for commerce and power; the missionaries, for converts. But starting with the industrialization of Japan and Russia from the mid-1880s, real military potential began to emerge in Asia.

The beginning of modern American policy toward Asia is the line drawn by President Franklin Roosevelt's resistance to the Japanese takeover of southern Indochina in 1940–41, a resistance marked by the cutting off of American trade in scrap metal and oil and the sequestering of Japanese assets in the United States. Here, contrary to every short-run interest in avoiding a war in Asia, President Roosevelt could not bring himself to acquiesce in Japanese hegemony in East Asia. He chose, in effect, to risk direct military confrontation with the major power in Asia.

The experience of World War II underlined to Americans that we could be threatened from Asia, as from Europe, if a single power achieved hegemony in that region.

Starting in 1949, the underlying symmetry in our approaches to Europe and Asia became institutionalized in NATO and in a series of military arrangements stretching from Tokyo and Seoul to Canberra and Wellington. The Presidents and Congress recognized in these pacts that we had an abiding interest in the balance of power in both Europe and Asia.

The debate over Vietnam has shaken that consensus at an unfortunate time. Events in Asia since 1964 have made the achievement of a stable balance of power there more likely than ever before in the past: The intensification of the Sino-Soviet split; the failure of the Peking-Hanoi-Jakarta effort to collapse Southeast Asia in 1965; the more moderate policy in Peking since the failure of the Cultural Revolution; the rising strength of nationalism and the momentum of modernization in South Korea and Southeast Asia; the emergence of a Japan capable of using its resources and political influence to help stabilize the whole region. Working steadily, reliably and purposefully with these forces, the

United States could help give substance to these hopeful joint passages from the Chinese-American communique of Feb. 27, 1972, issued at Shanghai: ". . . the two sides state that . . . neither should seek hegemony in the Asia-Pacific region and each is opposed to efforts by any other country or group of countries to establish such hegemony"; they also support "respect for the sovereignty and territorial integrity of all states, nonaggression . . . noninterference in the affairs of other states . . ."

The consolidation of stability in Asia is endangered by two possibilities.

First, a convulsive change in U.S. policy toward Southeast Asia. Why is Southeast Asia so important in the Asian balance of power? Because its population and resources give it a weight approximately that of Latin America or Africa; because it commands the sea routes of the Southwest Pacific, which are of critical importance to Australia, New Zealand and Japan, as well as the United States; because it commands the eastern Indian Ocean, an area of critical importance to India and Burma, as well as Malaysia and Singapore; because Southeast Asia is a critical buffer zone, if it remains independent separating India and China.

Given these powerful, abiding interests in the independence of Southeast Asia, an American withdrawal of commitment to the area is likely to yield not peace but a larger war than that now proceeding in Indochina.

The second danger lies in the nuclear future of Asia. Here again, American policy may be the critical variable. India and Japan command the technical capacity to produce nuclear weapons. They have refrained from doing so for political and military reasons. One of the most powerful is that a reliable relation to a reliable United States is more advantageous than going it alone. As the history of Sino-Soviet relations since 1957 suggests, a decision to go it alone in nuclear matters can convert allies and friends into near enemies. I do not believe a Japanese decision, for example, to produce nuclear weapons would necessarily yield all the hostility of Sino-Soviet split; but the extraordinarily intimate political and economic ties across the Pacific that have evolved in the past quarter-century and closely related to the fact that the United States is the nuclear guarantor of Japan, just as the American nuclear relation to Western Europe lies at the heart of political and economic cooperation across the North Atlantic. Further nuclear proliferation could fragment those essential stabilizing links and upset the balance of power in both Europe and Asia. An American withdrawal of commitment to Southeast Asia could well bring about that result in Asia, with profound consequences for our relations in every other part of the world.

I believe, therefore that we ought to try to pull ourselves out of the deep and painful grooves of the debate over Vietnam and reexamine our abiding interests in the vital Asia that is emerging. If we do so, I am confident that our commitments in Southeast Asia will be seen as an essential component of our interests and the interests of all who share the objective of a stable and peaceful Asia.

COLLEGE GRADUATES FACE JOB PROBLEMS

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. QUIE. Mr. Speaker, Sylvia Porter has written a short column on the decreasing job opportunities for college graduates which I should like to submit for my colleagues' attention.

Witnesses before the House Education and Labor Committee have pointed out that in the 1980's, 8 out of 10 job opportunities will be for those with less than a college degree.

Also, 8 out of 10 young people do not graduate from college. Over 45 percent of our high school graduates enter college, but only 20 percent graduate.

When, as Mrs. Porter points out, presumably skilled college graduates—particularly engineers, liberal arts graduates, majors in math and statistics, economics and finance—are having difficulties finding a job it means—

> That many who do get jobs during this business advance will get them only by bumping others with lesser qualifications.

I believe this to be a sad situation, for we are not only failing to provide job opportunities for the educated and the skilled, we are failing to educate the vast majority of our youngsters for the job opportunities which do exist. We must reorient our educational system to provide not only a comprehensive academic education, but to provide the job skills for the 8 out of 10 jobs in the 1980's which will not require a college degree.

Legislation which I have introduced and incorporated into the omnibus education bill—now in conference—called the Occupational Education Act which will provide incentives for the States to develop better career education programs in their schools.

The news article follows:

GRADUATES FACE JOB RIVALRY

(By Sylvia Porter)

This month and next, about 1 million young men and women will be graduated from U.S. colleges and universities. The vast majority will want to move directly into jobs—although significant numbers will join the Peace Corps or Vista, go on to graduate school or simply take a sabbatical from the world of education for a while.

What are their job prospects?

Still below the job projections made in the late 1960s for this year, but moderately better than they were in catastrophic 1971. Hiring plans are up 11 percent, according to the annual tally of recruiting companies by Dr. Frank S. Endicott, director of placement at Northwestern University.

For engineers with B.S. degrees, though, hiring plans are up only 5 percent and they are actually down 3 percent for graduates with master's degrees. This is an even grimmer picture when viewed, against the background of 1971. Then, on average, companies recruiting on college campuses cut their hiring in half.

Fairly sharp job increases were reported for male college graduates in the fields of accounting, sales-marketing and chemistry. But declines were reported for liberal arts graduates, majors in math and statistics, economics and finance.

Other surveys of the job picture come up with similar findings. The average number of job offers being made by each recruiting company is less than one-third the average that was made in 1967, reports the College Placement Council in Bethlehem, Pa.

Job openings for college graduates with bachelor's degree will be down 2 percent from last year, forecasts the Michigan State University Placement Bureau. At the start of 1972, the unemployment rate for men aged 20 to 24—which includes recent college graduates—was nearly 10 percent, and more than 16 percent for non-whites.

What does it mean? Despite the quickening pace of the economic upswing, hundreds of thousands of college graduates will be searching for jobs which do not exist and which will not be created in the near future.

It means that many who do get jobs during this business advance will get them only by "bumping" others with lesser qualifications—which will hardly add to the general satisfaction of young Americans with our economic society.

It means a shameful waste of our educated manpower at a time when young people with this level of education are deeply needed in all areas of our effort to improve the quality of life.

And it certainly means the U.S. government will be losing out in the collection of huge amounts of additional taxes that these young men and women would be paying if they had jobs paying them appropriate salaries.

Despite the widespread belief that the economic upturn itself would solve the problem—a comment made by many of the employers surveyed by Dr. Endicott—this is not likely unless the expansion becomes dangerously bloomlike. Much sounder would be a head-on attack on unemployment in each of the areas where it is concentrated.

For this category of unemployed, most helpful would be an overhaul of the U.S. Employment Service; an urgently needed matching of job seekers to job vacancies; an increase in the number of higher level and stimulating public service jobs that so desperately need doing.

Meanwhile, to end on a positive note, here are some tips on how to approach a prospective employer:

Write a brief letter to the personnel office of the company, telling why you are interested in working for the company. Enclose a resume and a picture. Request an interview.

Do your homework on the company first, so you are familiar with its products and policies, its general history and outlook. You don't have to boast about your knowledge; it'll show through in your letter and during your interview.

Deal directly with the personnel department. Do not antagonize the people who will be deciding on your employment by attempting to bypass them and to enlist the help of an executive of the company. Similarly, do not ask your professor or dean or college placement officer to intervene unless the company requests recommendations from these sources.

Emphasize the special qualifications you have that separate you from other applicants—fluency in the languages of countries in which the company may have affiliates; a background of travel, social work, civic activities; artistic talents; outstanding abilities in sports, etc.

McGOVERN AN EXTREMIST ON NATIONAL DEFENSE

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SPRINGER. Mr. Speaker, people are beginning to wonder where Senator McGovern really stands on the issues now troubling America.

James J. Kilpatrick, in a recent column in the Washington Evening Star, points out that McGovern is an extremist on national defense, favoring deep cuts in the strength of our Army, Navy, and Air Force at a time when the Soviet

Union is increasing its nuclear capability.

As the campaign develops, I am sure that the people will want Senator McGovern to explain more fully some of his other far-out positions, particularly on abortion programs, amnesty for draft evaders, legalization of marihuana and schoolbusing. Senator McGovern has barely mentioned his stand on these matters on the campaign trail.

For my colleagues who may have missed Mr. Kilpatrick's column in the Star, I am including it here:

McGovern an Extremist on National Defense

(By James J. Kilpatrick)

Several months ago, not long before the primary in New Hampshire, Sen. George McGovern called a press conference to release a 56-page statement of his views on national defense. Few persons were taking McGovern seriously then. The statement got a fair play in the press; it drew some editorial comment, pro and con; it faded from the news a few days hence.

McGovern went on to startle the experts in New Hampshire; he broke even in Florida; he swept to a solid victory in Wisconsin; and last week in Massachusetts he raced home with 52 percent of the vote. At this writing, he leads the field in terms of committed delegates. A great many persons are taking him seriously now.

The senator's carefully detailed statement on "an alternative national defense posture" thus invites our re-examination. It represents the candidate's considered thinking on an issue of great national importance. This is what McGovern would recommend if he were elected President of the United States.

The Marine Corps now numbers roughly 207,000 men. McGovern would cut its strength to 140,000 by 1975, by reducing its three combat divisions to two.

He would recommend that the Air Force be cut from 753,000 to 476,000. He would reduce the number of interceptors "by slightly more than half." For the time being, he would preserve the Minuteman missile system, but "plans to upgrade Minuteman should be discontinued." Deployment of the Safeguard system "should be halted." Prototype development of the B1 bomber also "should be halted." Development of the F15 "should be ended."

At a time when the Soviet Union is dramatically expanding its naval forces, as President McGovern would reduce the U.S. Navy from 605,000 to 471,000. He would cut the fleet from roughly 700 ships to 341. He has small use for aircraft carriers: He would cut their number to six. He envisions only 130 escort vessels; in this field "no further construction is required." He is doubtful that amphibious assaults ever will be required in the future; he would preserve only enough vessels to serve a single Marine expeditionary force.

The Army has an authorized active force of 942,000 men, McGovern would cut this to 648,000. He recommends a limit of 10 general purpose divisions, down 25 percent from present levels. As part of its NATO commitment, the United States maintains 4⅓ divisions in Europe; McGovern would cut this to two. He would of course withdraw all land and air forces from Indochina. The remaining division in South Korea should also be returned to the United States.

McGovern places the nation's "baseline" defense budget, excluding the costs of Vietnam, at $75.5 billion in the current fiscal year. He would reduce this figure to $54.8 billion by 1975.

In justification for these drastic reductions, the senator makes a number of excellent points. He observes, for example, that the armed forces in 1969 were maintaining about one-fifth more colonels and captains, with a total force of 3.5 million men, than there were at the peak of World War II with a force of over 12 million. He denounces, with great justification, the scandalous waste and bungled defense programs of recent years. He is convinced that his recommendations would produce armed forces "both leaner and tougher than those now in being."

Yet many experienced observers—men who could not possibly be ridiculed as Colonel Blimps or as victims of paranoia—disagree strongly with the basic assumptions that underlie the McGovern recommendations. They see potential danger to the national security that McGovern does not see. They are concerned, in ways that McGovern is not concerned, over the Soviet Union's relentless gains in first-strike nuclear capability.

Is McGovern an extremist as to national defense? In my view, yes. And voters may discover, as the campaign rolls along, that in such other fields as welfare reform, the gentleman from South Dakota is further out yet.

FOREIGN MILITARY ASSISTANCE

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. ROUSH. Mr. Speaker, some weeks ago I announced my opposition to the proposed administration budget of more than $2 billion for foreign military assistance. The time comes ever closer when the Congress will be required to vote on this assistance request.

I have not changed my mind a bit on this subject; in fact, almost daily my initial observations are being reconfirmed. In yesterday's Washington Post and again today, articles appeared by Laurence Stern documenting much of what I have said and thought on this subject of foreign military assistance. I include these in the Record for the benefit of Members who might not have seen this series:

Guns and Diplomacy: U.S. Arms Aid Under Fire

(By Laurence Stern)

Military aid has been a cornerstone of American foreign policy for a quarter of a century—starting more than fifty billion dollars ago.

It has provided the guns in the context of a foreign aid philosophy that dispenses both guns and butter to governments whose survival is deemed to be in the interests of American security.

But after years of almost placid acceptance in Congress, military aid has become a subject of major controversy. Its civilian and uniformed advocates feel like embattled men these days.

There are charges of excessive spending and excessive secrecy. The program is under attack for meddling in the internal political processes of client countries. Fears are expressed that military aid in various parts of the world might be a prelude to new Vietnam commitments.

The flow of military aid billions that have become the subject of such controversy began after World War II under President Harry S. Truman and signaled the emergence of the United States as a superpower with imperial responsibilities and global interests.

Those dollars funded the European military coalition, the North Atlantic Treaty Organization, which was formed when Washington regarded as its preminent danger an aggressive and monolithic Soviet bloc.

A modest military aid program in Vietnam during the Eisenhower and Kennedy years was the preliminary commitment to what became a full-scale American war—the most unpopular foreign war in our history.

Through the years Congressional conservatives groused at "hand-outs" of economic aid to far-away lands. By and large liberals and conservatives alike had no complaints with the "guns" component of the foreign aid program. National security has always been easier to merchandise on Capitol Hill than philanthropy, government-to-government style.

And so the cheering has stopped for military aid. Last October the Senate, in an unprecedented action, voted to kill foreign aid. Complaints were as loud against the military programs as they were against straight economic assistance.

Only after extensive legislative surgery did the two programs survive, in separate bills and substantially reduced from the spending level requested by the administration.

One veteran Senate staff official diagnosed the case this way: "There has been a strong trend, especially on the part of the liberals, to regard military assistance more and more as an imperial device. It is a way of having influence over the most delicate part of a foreign government—the way it chooses to spend on its own defense. There has been a definite shift of attitudes here."

Another Congressional expert on military aid said: "The military wants to be able to spread American weapons around the world. Our embassies like to have it available as a form of bargaining power. But more and more members of Congress are coming to realize that it's a hell of a waste of money and much of it is going to countries who are not fighting anyone."

Even Senate Armed Services Committee chairman John Stennis (D-Miss.), no enemy of the military establishment, has gone along with the imposition of ceilings on military aid spending. He also declined last year a private entreaty from the administration to take jurisdiction of military aid which is now on the turf of the Foreign Relations Committee.

PREPOSTEROUS SCANDAL

During the near demolition job on the foreign aid bill last fall, Sen. Frank Church (D-Idaho) said that "the military assistance program has become a preposterous scandal. It should be drastically curtailed, not enlarged." His speech expressed the new *angst* of the liberals who had been voting reflexively for foreign aid through the years in keeping with liberal conventional wisdom.

For the past month the administration has been trying to make its case for a $2.2 billion international military assistance program and avoid a repetition of last year's debacle. The new bill has been pronounced by President Nixon as a cornerstone of the doctrine that bears his name.

As Congress was conducting hearings on the new program and began to scrutinize the administration's fiscal 1973 figures, correspondents of The Washington Post surveyed military aid activities in 12 countries throughout Europe and Asia where the bulk of the money is spent. Here are some of the conclusions drawn from interviews with dozens of American and foreign officials:

In Cambodia, which President Nixon claimed to be "the Nixon Doctrine in its purest form," the Phnom Penh government's efforts to expel the North Vietnamese forces—an effort begun by deposed Prince Norodom Sihanouk—is being severely sapped by incompetent leadership, corruption and narrowly based political rule.

Despite the obligation by Congress of well over $500 million of military and economic aid in the last two years, the military and economic position of the Lon Nol government is now worse than at the time Sihanouk was ousted in March, 1970.

In Ethiopia, Emperor Haile Selassia's government is using American weapons and training along with Israeli military advisers and West German police equipment, to suppress a rebellion that has been simmering in Ethiopia's Red Sea province of Eritrea since 1962.

The Ethiopian public knows little of this and even the highest ranking U.S. officials in Addis Adaba do not appear to be fully aware of the American involvement in the Eritrean insurgency. A calculated policy of secrecy has, in fact, surrounded a series of commitments which now provide Ethiopia with U.S. grants of more than $12 million a year—80 per cent of all American aid to Africa.

In addition to regular military aid, running at about $60 million a year, Thailand is being paid large, secret subsidies for the services of 8,000 or so Thai "volunteers" in Laos under a joint Defense Department and Central Intelligence Agency program. Thai soldiers have told newsmen that they were assigned to positions in Laos by military superiors, rather than volunteering.

The distinction is that Congress has prohibited U.S. financing of "third country" armed forces in Laos and Thailand. As one top diplomatic official in Vientiane said: "The Thai volunteer thing is worked out in a rather Rube Goldbergish sort of way . . . They are volunteers because of the Fulbright amendment prohibition against our use of regular ground forces."

In the eastern Mediterranean, the prospective U.S. credit sale of 36 high performance F-4 Phantom jet fighters (at nearly $5 million a plane) to Greece has heightened Turkish anxieties over an arms imbalance in the Aegan Sea that would assure Greek military superiority if there is another confrontation over Cyprus. The two American-equipped NATO allies have come close to war over the communally split island twice within the past eight years.

Despite the opposition of top State Department officials with a supposed share in military aid policy-making, the Pentagon now maintains MAAG (Military Assistance Advisory Group) missions in nine West European countries where military aid programs no longer exist. Critics of the MAAG missions in non-assisted countries regard them as costly and needless displays of U.S. military presence. It is an example of the relative power yielded by the two agencies in a program that is supposed to be jointly run.

The Pentagon's uniformed bosses have also successfully resisted efforts by some of the Defense Department's top civilians, including former Deputy Defense Secretary David Packard, to dismantle the costly SOUTHCOM command headquarters in the Canal Zone and transfer its functions to the United States. SOUTHCOM administers Latin American military aid grant programs totaling less than $10 million but is headed by a four-star general, one star higher than the director of the entire program, worldwide.

CONFIDENCE SHAKEN

Behind the closed doors of Congressional mark-up sessions the military aid bill is about to be probed and pared by the House and Senate authorizing committees for foreign aid. There have been strong indications of stormy weather ahead for the measure.

The new military reverses and political disarray in South Vietnam, Laos and Cambodia have further shaken the confidence on Capitol Hill in the long-term benefits of our military commitments in Southeast Asia.

As Rep. Wayne Hays (D-Ohio) snapped at Lt. Gen. George Seignious, director of the Defense Security Assistance Agency, during a House Foreign Affairs Committee hearing.

". . . The administration keeps saying what a huge success the Cambodian venture has been, everybody else seems to think it is a catastrophic failure. How can you justify pouring money in there? . . . Now forgive me, general, if I don't put much confidence in your reports from out there . . ."

MAP BECOMES SAP

In the Pentagon there have been determined efforts to try to merchandise the program in the face of growing Congressional resistance. For reasons that were in part cosmetic, the Military Assistance Program was renamed the Security Assistance Program to lessen the emphasis on the word military. The move also changed the program's ecronymic identity from the familiar MAP to SAP, an alteration that one Pentagon spokesman wryly described as "perhaps unfortunate."

President Nixon has admonished Congress against chopping into his $2.2 billion security assistance bill. In a March 14 message he said severe Congressional budgetary surgery on his fiscal 1972 military aid program went below the levels required to attain his military and foreign policy goals. A repetition of the perforamance this year, said Mr. Nixon, would have "destabilizing effect" on world confidence in the United States.

Nonetheless, on Capitol Hill there are recurrent complaints that foreign military programs are a distant and tangled thicket over which it is difficult to keep watch.

"The government of Thailand did not want it known that the United States was using air bases in that country. The government of Laos did not want it known that the United States was fighting in a major fashion in that country . . . The government of the Philippines did not want it known that the United States was paying a heavy allowance to the Philippine contingent that went to Vietnam.

"Yet in each of these instances, and others could be cited, one secret agreement or activity led to another, until the involvement of the United States was raised to a level of magnitude far greater than originally intended."

So complained the Symington Subcommittee on Security Agreements and Commitments Abroad more than a year ago.

FAMILIAR LAMENT

Such laments run like a refrain through more than two years of Congressional hearings, speeches, press conferences and staff reports dealing with U.S. military aid activities abroad.

Townsend Hoopes, a high-ranking military aid policy maker in the Johnson administration, says that Pentagon advocates of military aid are still operating under prevailing mythology of the Cold War era.

They assume, said Hoopes, that "there is a clearly defined entity called the Free World and that every part of this entity is threatened militarily by an expanding Communism and that the United States should be prepared to defend militarily against every such threat."

"Such a conception," he added, "of course makes life easier for the military planners, but does not accurately reflect the more complicated relationships in the present-day, real world."

NO DAMNED GOOD

"Silly" and "obsolete" were the words used by a former assistant secretary of defense in Lyndon Johnson's Pentagon to describe much of the present military aid program. "Most of the program is no damned good. We had plans in 1968 to end all military assistance in Latin America. There is simply no justification for it.

"If there are some governments that are threatened with insurgencies, it may well be that they deserve to be kicked out."

Among critics of the military aid program the most frequent complaints heard abroad and in Washington were that it is a political insurance policy for unpopular regimes whose survival depends on military power; it distorts the budgetary processes of client countries toward heavier military expenditure; it operates without regard to clear-cut foreign policy objectives.

The administration's strongest brief for the program is that, as Gen. Seignious said in an interview, it "puts teeth in the Nixon Doctrine" and will help to enable "friendly" countries to defend their own security with their own manpower, even at the price of a temporary increase in American costs. (This year's $2.2 billion request exceeds the amount appropriated by Congress for military aid in fiscal 1972 by $700 million.)

Security assistance is a patchquilt international enterprise with clients in 46 countries stretching from Taiwan to Madrid. It gives, sells and loans hundreds of millions of dollars worth of arms to "friendly" governments each year. As an arms supply program it competes with the European weapons industries for clients around the world.

After the 1965 war between India and Pakistan, in which the two armies battered each other with American-supplied weapons, the Soviet Union became the principal arms merchant. Russian weapons poured into India at the rate of more than $100 million a year after the war.

In the 14-day war between India and Pakistan last December American and Russian jets battled each other in the skies over Dacca and an American submarine on loan to Pakistan was sunk by fire from a British aircraft carrier in the Bay of Bengal.

American military aid sends U.S. counterinsurgency advisers to hilltops in Thailand. It provides financing for sale of Phantom jets to Israel. It pays the salaries of Cambodian soldiers with counterpart funds generated by the sale of Iowa wheat under the Food for Peace program.

In Ethiopia, the Azores, Thailand, and Spain military aid is, either in whole or in part, a disguised form of rent paid by the United States in exchange for "rent-free" base facilities.

Although there are nearly four dozen countries in the military assistance program, about 80 per cent of the grant aid would go to four countries under the administration's spending proposals: South Korea, $235 million; Cambodia, $210 million; Turkey, $100 million and Thailand, $60 million.

While the official advocates of the program say their goal is to reduce grant aid in favor of military sales—a position designed to appeal to cost-consciousness on Capitol Hill—the administration is requesting an increase of nearly $300 million in present appropriations.

The Defense Department also wants to raise the ceiling on military grants and sales to Latin America so that American arms could compete more fully with European armaments industries. And in the interests of U.S. worldwide arms competition the Pentagon is strongly endorsing a stretchout in the repayment period for foreign arms customers from 10 to 20 years.

During the current round of Congressional hearings on the administration's new military aid request, Pentagon spokesmen for the program were challenged by Congressional questioners on the political side-effects of the program.

In a House Foreign Affairs Committee executive hearing on March 22, Rep. Donald M. Fraser (D-Minn.) questioned Security Assistance Director Seignious on what the U.S. national interest might be in aiding Cambodia after American troop withdrawal from South Vietnam.

"There is no definable security interest," Seignious replied.

Mr. Fraser: "Then why are we doing it?"

General Seignious: "Because I think there is a national interest in trying to prevent the North Vietnamese from overrunning the entire Indochinese peninsula."

Mr. Fraser: "You say it is in the U.S. interest. Since it is not a security interest, what is it? How do you define it?"

General Seignious: "I would say that it is an international interest that could be called foreign policy; an interest that relates to our desire to see freedom of choice and some form of stability in the entire world . . ."

Mr. Fraser: "General, is freedom of choice in your judgment an important element of U.S. foreign policy?"

General Seignious: "Sir, I would be glad to try to respond to this but I think it is a little beyond my competence to do so."

Even within the administration there are strong differences on military aid activities, such questions as: how much? what kind? where should it go? what objective does it serve?

There are doves, hawks and dawks scattered through Defense and State Department bureaucracies which exercise divided responsibility for the program.

The White House recently nominated Selective Service Director Curtis Tarr as a superheadknocker with the title of coordinator for security assistance and the rank of Undersecretary of State to help give unified guidance to the program and also help sell it on Capitol Hill.

CAMBODIAN EXPERIENCE TURNS SOUR

(By Laurence Stern)

"Cambodia is the Nixon Doctrine in its purest form." Richard M. Nixon, Nov. 15, 1971

"The quarter-billion dollar aid program for Cambodia is, in my opinion, probably the best investment in foreign assistance that the United States has made in my lifetime." Richard M. Nixon, Dec. 10, 1970

The army that marched in sneakers, rode ebulliently to war in Pepsi-Cola trucks and fired Chinese carbines only two years ago seems like a romantic fiction. There are now proper trucks and uniforms and American M-16s.

Nonetheless President Nixon's description of the Cambodian aid program is a piece of hyperbole that has turned bittersweet, if not completely sour.

The Cambodian army, known as FANK (Forces Armee Nationale Khmer), has grown from a poorly equipped and ill-trained militia of 30,000 at the time Prince Norodom Sihanouk was overthrown in 1970 into a poorly led and frequently outfought force that is now, at least on paper, supposed to number 200,000.

Although the figure is still technically classified, the administration is seeking to raise its military aid sights to support a Cambodian army of 220,000, although U.S. military planners envision further expansion of the force.

The United States has been pouring in military supplies at a rate of 5,000 tons a month along the Mekong River from Vietnam and into Pochentong Airport in Phnom Penh. Half of the incoming cargo is ammunition.

More than 50,000 Cambodian troops have undergone training in South Vietnam, Thailand, the United States, Indonesia, Malaysia and elsewhere, knowledgeable U.S. officials in Phnom Penh report.

Since President Nixon spoke the above-quoted words 16 months ago the dollar value of assistance to Cambodia has more than doubled.

However, at least half of Cambodia's land mass and a quarter of its 7 million population now lie beyond the writ of the Lon Nol government, by official intelligence estimates.

GUERRILLA STRENGTH GROWS

The insurgent Khmer Rouge (Red Cambodian) movement has grown from a scattered force of about 2,000 to a wide-spread guerrilla force that one key White House official this week set at 50,000. State Department intelligence estimates of Khmer Rouge strength are 15,000 to 30,000.

The current North Vietnamese offensive demonstrates that the avowed objective of the American "incursions" two years ago and follow-up operations by the South Vietnamese army—the cleaning out of Cambodia's Communist sanctuaries—was short-lived in its effect.

Despite the rapidly rising scale of American weapons, logistic support and tactical air assistance, the Cambodian army failed its most important test of "Cambodianization" when a major offensive thrust along Route 6 last fall turned into a demoralizing rout.

These are not the judgments of amateur war critics or "knee-jerk" dissenters but of professional diplomats and military men whose job it is to know how the Cambodian conflict goes.

For the progress of the war is the test of the realism and efficacy of the military and economic support programs which in this fiscal year reached an obligational level of $341 million from a zero starting point two years ago.

One well-informed U.S. official in Cambodia said the defeat inflicted by counter-attacking North Vietnamese in the Highway 6 operation, known as Chenla II, devastated the Cambodian Army for the 1971-1972 dry season.

REOCCUPATION IS CONCEALED

Before the current Communist offensive into South Vietnam officials were conceding that the North Vietnamese had long reoccupied the eastern sanctuaries which served as the staging grounds for the new offensive probes toward Saigon and into the Mekong Delta.

Corruption, no stranger to the Cambodian military or to the civil government before Sihanouk's downfall, has increased in scale along with the enlarged range of opportunities.

The "phantom battalion" system that is a legacy of the Vietnam war experience, under which senior officers collect and pocket the pay of nonexistent troops claimed to be under their command, has achieved a solid reincarnation in Cambodia.

This has been tacitly recognized in the American assistance command. Last fall, at the direction of Gen. Theodore Metaxis, former head of the U.S. equipment delivery program in Cambodia, hundreds of cameras were distributed to Cambodian commanders for troop verification purposes. Several American surveys were also conducted on a spot basis. The results never surfaced nor, it is said by some observers in Phnom Penh, did the cameras.

"HAVEN'T LOST ANY GROUND"

"What does anyone expect of a ratty-assed, inexperienced little country of seven million?" asked one senior U.S. official with rhetorical fervor. "At least they haven't lost any ground they didn't have in 1970." That was the year the North Vietnamese backed their forces throughout Cambodia following the American and South Vietnamese incursions from the east.

The scope and objectives of the American aid that has poured into Cambodia in the past two years seem to have expanded at a more rapid pace than was implied in President Nixon's April 30, 1970, telecast announcing the American incursions.

". . . We shall do our best to provide small arms and other equipment which the Cambodian army of 40,000 needs and can use for its defense. But the aid we will provide will be limited to the purpose of enabling Cambodia to defend its neutrality—and not for the purpose of making it an active belligerent on one side or the other."

On May 14, 1970, Secretary of State William P. Rogers said the defense of the Cambodian government is not "our primary purpose and that will not be our purpose in the future."

But on March 14, 1972, Rogers told the House Foreign Affairs Committee: "As you know, one of the reasons we have increased the request for Cambodian assistance is that we are anxious to see that the government in Cambodia survives."

With the irresistible momentum that has characterized so much of the American experience in Southeast Asia, the commitment took wings.

MILITARY AID GRANTS

Within 12 days of his April 1970 speech Mr. Nixon signed a presidential determination for $7.9 million in military aid grants to the Phnom Penh government. By June 30, there was another trickle of $1 million. Within a month—$40 million more. By November the President asked Congress for a $255 million supplemental military aid program—$155 million for Cambodia and the rest to repay the program for the emergency Cambodian borrowings.

When Congress enacted the supplemental bill it signaled a new stage in the Cambodian commitment and also touched off an intra-governmental debate over the U.S. military presence there.

Until that point the MEDT (military equipment delivery team) program was funded out of the President's own drawing account and run by ex-Green Beret Jonathan F. Ladd, a military maverick and legendary Vietnam combat advisor. Ladd was sent to Phnom Penh in May of 1970 by presidential National Security Adviser Henry A. Kissinger. His instructions were to provide objective reporting, set up a "primitive" logistics system and keep a low silhouette.

The mission was to his liking because of Ladd's anti-bureaucratic style of operation.

PENTAGON ASSUMES CONTROL

But when the program was funded by Congress it automatically went under the control of the Pentagon and gradually Ladd's influence waned while the military hierarchy in Washington and at Pacific Command headquarters in Honolulu took over.

The tendency from that point onward was toward more Americans, more sophisticated weapons and toward the erection of a typical military assistance bureaucracy in Phnom Penh. (The size of the American government contingent in Cambodia has increased from five in March, 1970, to about 160 today. A limit of 200 Americans has been imposed by Congress.)

An illustrative episode occurred last June when the Joint Chiefs of Staff asked for a U.S. logistics delivery team of 100 Americans in Phnom Penh. At the time Ladd had only 23 technicians working under him. Both Ladd and Ambassador Emory C. Swank protested vehemently. Defense Secretary Melvin R. Laird halved the Joint Chiefs' proposal to 50—still more than doubling the Phnom Penh contingent.

"No, no," Ladd pleaded. "I have functional use for no more than seven men." He got 27.

The size of the MEDT mission now exceeds 115, with less than half the number in Phnom Penh and the rest in Saigon. The new MEDT chief, Gen. John Cleland, who replaced the expansion-minded Metaxis, has put out the word that he will try to reduce the size of the American group and sharply police U.S. "end-use" inspections in the field. The end-use checks are intended to assure that the weapons are being put to the purposes for which they were delivered—and no more.

PRESERVE BUILDING SYMBOLIZES

The most palpable symbol of the American presence and of the Nixon Doctrine in Cambodia is a high-rise "tempo" building behind the enlarged American embassy that houses the MEDT program in Phnom Penh. Resident wags call it, as inevitably they would, Pentagon East.

American voices are heard where they would have been a jarring novelty in 1970. At the poolside of the Phnom (the republicanized Royal) Hotel, once a predominantly French sunbathing preserve, hefty U.S. technicians and officers shout, "Gar-sahn" at confused, scurrying waiters. It is an old page out of the Vietnam war next door.

Economic aid to Cambodia has also followed a well-rutted trail that winds through the earlier aid programs to Vietnam and Laos. The newly established Commodity Import Program for Cambodia is stalled dead center and reflects little attention to the priorities of the country's war-disrupted economy.

It has already become a matter of unfriendly attention on Capitol Hill that in the one-year lifetime of the AID program far more money has been pushed on Phnom Penh than the government has been able to digest.

During the first half of 1971 less than a tenth of the $70 million in economic assistance obligated for Cambodia was used. Nonetheless AID officials in Cambodia asked for another $110 million to finance commodity imports in this fiscal year.

PROGRAM BORN OF HASTE

The economic aid program for Cambodia was hatched in the greatest of haste. AID programmers arbitrarily set the level of the commodity import program, under which the U.S. finances the shipment of essential commodity items to Cambodian importers, at what they believed to be the level of imports before the war broke out in 1970. The guess proved disastrously high. Only a trickle of import applications were filed by the shrewd Chinese traders who form the elite of Indochinese mercantile society.

"It may be that they are unfamiliar with our procedures," conjectured one AID advisor in Cambodia, a theory that brings guffaws of incredulity from more experienced officials.

The Phnom Penh traders and financiers are past masters at dealing with governmental red tape, smuggling, black market operations, currency manipulation and the many other varieties of private enterprise in Southeast Asia.

The more plausible and commonly accepted explanation is that AID underestimated the disruption of the war on consumer demand.

Among the "essential items" approved by AID to underwrite Cambodia's economic survival last year were: 1,700 Italian motor scooters valued at $660,000; more than $100,000 worth of color movie film and other professional movie equipment; radio paraphernalia worth $307,700 to provide broadcasting facilities at the port city of Kompong Som and Battambang. (One U.S. official in Phnom Penh refers acerbically to the project as the "Cambodian Radio Amelioration Program, C-R-A-P."

TRIBUTE TO THE LATE J. EDGAR HOOVER

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 3, 1972

Mr. EILBERG. Mr. Speaker, along with all Americans I feel a deep sense of loss with the passing of J. Edgar Hoover. His dedication to the people of this great Nation will be long remembered, for it is no exaggeration to say that wherever and whenever the name of the Federal Bureau of Investigation may be mentioned the image of Mr. Hoover will come to mind.

He took over in 1924 the small bureau, mired in politics at the time, that he built into the respected, and highly successful law-enforcement agency we know today as the FBI. The character of the man is etched on the organization he built—and the record of Mr. Hoover and the Federal Bureau of Investigation are an inspiration to all who believe in the rule of law, and the place it has in our society.

It is impossible to visualize the 1930's in America without bringing to mind the picture of gangland violence, bank robbings, and kidnappings which shocked the public into demanding an end to the wave of crime then on the front pages of every newspaper.

J. Edgar Hoover brought the full resources of the FBI into action. He branded major criminals as "public enemies," and sent his college-trained special agents to work on scores of cases, ranging from the brutal Lindbergh kidnaping to the infamous Dillinger gang. He had started a war on crime that raged as long as there were still criminals at large.

In World War II, the FBI continued its battles on behalf of law and order—but its duties were broadened in scope to include the apprehension of enemy agents attempting acts of sabotage within the United States. And not a single act of successful enemy sabotage was committed within the United States during the war—a record for which the FBI and J. Edgar Hoover could rightfully claim much of the credit.

Now we mourn the passing of this dedicated public servant, and we well realize our loss cannot be measured or expressed solely by words. Perhaps the best tribute that all of us as Americans can pay to the memory of J. Edgar Hoover in death is to reflect upon the principles by which he lived—respect for law, honesty, integrity, fair play, and faith in the Almighty.

ALASKAN WATER BOUNDARIES

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. BEGICH. Mr. Speaker, I would like to insert into the Record a copy of a resolution passed by the Alaska State Legislature urging the Department of State to revise the provisional charts delineating territorial water boundaries. It is important that this be done because, if allowed to stand these charts will permit further marauding of vital Alaskan fisheries.

ALASKA STATE LEGISLATURE 1972

(House joint resolution No. 85, relating to the provisional action of the United States Department of State delimitation of the territorial sea, contiguous zone and certain internal waters of the United States.)

Be it resolved by the Legislature of the State of Alaska:

Whereas the United States Department of State has provisionally issued charts showing its interpretations of existing legal interpretations to delimit the territorial sea, contiguous zone and certain internal waters of the United States; and

Whereas some waters historically considered as internal waters of the State of Alaska are depicted on these charts as territorial sea or international waters; and

Whereas, if these charts are not revised, foreign vessels may fish with impugnity the boundaries of our country, thereby allowing foreign fishermen to fish closer to Alaskan shores than ever before; and

Whereas, if allowed to stand, the provisional charts would enable the federal government to obtain a disproportionate share of the underseas mineral resources that would be affected under the proposal thereby causing the state to lose possibly millions of dollars of revenue;

Be it resolved by the Alaska Legislature that the United States Department of State is urgently requested to review and revise the provisional charts as they affect Alaska and urgently requests the United States Congress to hold public hearings in Alaska in order to establish lines delineating territorial, internal, contiguous and international water utilizing tradition, custom, and legal interpretations which are consistent with the protection of our fishing areas and the rights of Alaska to our offshore mineral potential;

Copies of this resolution shall be sent to the Honorable Richard M. Nixon, President of the United States; the Honorable William P. Rogers, Secretary of State; the Honorable Richard Kleindienst, Attorney General Designate; the Honorable Rogers C. B. Morton, Secretary, Department of the Interior; the Honorable J. W. Fulbright, Chairman, Senate Foreign Relations Committee; the Honorable Thomas E. Morgan, Chairman, House Foreign Affairs Committee; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Nick Begich, U.S. Representative, members of the Alaska delegation in Congress.

UNSANITARY FOOD PLANTS

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. SYMINGTON. Mr. Speaker, when this century was young, Sinclair Lewis wrote "The Jungle," a book detailing and berating filth in food and meat packing plants. Sadly, the "jungle" still exists according to studies done by "Nader's Raiders" and the Food and Drug Administration in cooperation with the General Accounting Office. Forty percent of the food plants checked were found to be unsanitary. It is estimated that over 1,000 firms have serious sanitary problems. To remedy this deplorable situation, I joined the able chairman of our Public Health and Environment Subcommittee and most of our colleagues on the subcommittee in cosponsoring H.R. 14498, the Food Processing and Inspection Act of 1972.

This bill amends the Federal Food, Drug, and Cosmetic Act to require food processing firms to register with HEW and FDA and provide the Federal Government with a list of the various kinds of foods manufactured, processed, or shipped in interstate commerce. It is felt this registration system will greatly facilitate food inspection programs. Finally, this legislation is intended to protect the public from unfit and adulterated food.

I would call to the attention of my colleagues an excellent account of the FDA-GAO food inspection study. This appeared in the St. Louis Post-Dispatch of April 19, 1972. At this point I insert the article in the Record:

Forty Percent of Food Plants Checked by FDA Are Dirty

Washington, April 19.— Forty per cent of food processing plants inspected by the Food and Drug Administration are operating under insanitary conditions, the Government Accounting Office said yesterday.

FDA Commissioner Charles C. Edwards, testifying at a House appropriations subcommittee hearing at which the findings were disclosed, said there "is nothing in the report that we (the FDA) were not aware of ourselves."

The General Accounting Office, which conducted the study, asked FDA inspectors to check 97 food processing plants picked at random from among 4500 firms in 21 states for possible violations of the Food, Drug and Cosmetic Act.

The GAO said that 39 plants, or 40 per cent, "were operating under unsanitary conditions and of the 39, there were 23 that were operating under serious insanitary conditions having the potential for causing or having caused product contamination."

"On the basis of the sample we estimate that 40 per cent of the 4500 plants are operating under insanitary conditions, including 1000 with serious unsanitary conditions," the GAO said.

"FDA officials advised GAO that conditions at the plants located in the 21 states would, in their opinion, be representative of conditions at plants nationwide," the report said.

"We cannot cope with the totality of the problem," Edwards told Represestative Jamie L. Whitten (Dem.), Miss., the subcommittee chairman, who disclosed the report.

The GAO, which refused to identify the 97 plants inspected or the 21 states in which they were situated, said that it had found "rodent excreta and urine, cockroach and other insect infestation and nonedible materials in, on or around raw materials, finished products and processing equipment."

In a separate report yesterday the GAO called for a crackdown on criminal diversion of drugs from legal markets.

The agency, the investigative arm of Congress, said the Bureau of Narcotics should do more about the drug problem.

It quoted the narcotics bureau as saying that 90 percent of the dangerous drugs now on the illicit market were diverted from licensed sources such as manufacturers, distributors, doctors and pharmacists.

Although the bureau receives tips from drug manufacturers about unusually large suspicious orders for dangerous drugs, it does not maintain enough records to follow up leads systematically, the GAO said.

In the course of its investigation, the GAO said, it reviewed the activities of state law enforcement agencies in California, New Jersey and New York and found they lacked sufficient personnel to monitor retailers effectively and force corrective action.

The GAO urged the drug industry to improve standards of self-regulation.

CONGRESSMAN JAMES V. STANTON REVIEWS HIS RECORD OF 15 MONTHS IN CONGRESS

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. JAMES V. STANTON. Mr. Speaker, last week at the City Club in Cleveland, Ohio, I issued a statement summing up my activity over the past 15 months as the Representative of Ohio's 20th Congressional District, detailing my position of issues which have come before the Congress in that time, and expressing my plans and expectations for the future. In order that my colleagues and my constituents might be more fully informed on my record, I would now like to insert this statement into the Congressional Record.

Remarks of Congressman James V. Stanton

Members and Guests of the City Club—Ladies and Gentlemen:

I am tremendously pleased to have this opportunity to appear before you to render an accounting of my first 15 months as the Congressman from the 20th District—and to discuss with you what I feel I am accomplishing, and also what I hope to achieve as a Clevelander in the nation's capital.

In the time allotted to me for this presentation, I would like to cover four major areas. First, by way of emphasizing that I am speaking to you as a Clevelander—as one of *you* people, whether you live in the city or suburbs—I will report to you on my performance as a representative of this area and, above all, of the *people* who live and vote here. Second, I will recount for you my record on key roll calls in 1971 and 1972. Third, I will summarize several initiatives I have taken on legislation—since I do believe that a Congressman should be an active advocate on important issues, rather than a passive person who merely responds when his name is called on the roll. Fourth, I would like to give you some idea of what I think the government ought to be doing to transform itself into a more effective instrument for meeting the nation's needs.

I

Now, as to my role as your Representative, I am doing all I can to establish and encourage a continuing person-to-person dialogue with my constituents. Every letter I get is given a prompt and personal reply—and the number of letters has been increasing, from about 150 a week one year ago, to nearly 250 now, and it is still going up. Through a quarterly newsletter and an annual questionnaire addressed to voters, I have been encouraging them to give me their personal views and comments.

I take these letters seriously—and I act on them. When one constituent, a mailman, who had had $800 wrongfully withheld from his pay, asked me to do something about his case, which had been knocking around Washington for 12 years, I introduced a special bill and pushed it first through the House and then the Senate. When another constituent, a woman, wrote me that the Veterans Administration had wrongfully withheld some $260 in educational benefits due her, I got the VA to apologize and to send her a check for the full amount.

When several senior citizens wrote me that the government was threatening to shut down the Social Security office on West 25th Street, I intervened and succeeded in keeping the office open for direct service to people in that vicinity. When the Cleveland Nationalities Services Center wrote to me, urgently requesting suggestions on financing so it could expand its services to the poor, I set up a meeting in my Cleveland office and was able to steer the Center to a source of federal funds.

I have a highly capable staff assisting me on these and other matters—and I might add that, unlike many other Congressmen who load the payroll in Washington, I have assigned half of my staff to the Cleveland office, to make it easier for people to get service, and to get it without having to wait. As a matter of fact, my Washington office, too, functions as an outpost of Cleveland and the suburban communities. When mayors, councilmen and other public officials come to Washington on federal business affecting their areas, they are free to use my office as a base of operations. My Washington staff assists them in setting up appointments, and provides them with secretarial and other services. So far as I am concerned, these officials, having been elected themselves, are the alter egos of the people I represent.

II

Moving on to my voting record, I can summarize it in the usual way by saying that I have voted with my party most of the time, thereby winning high marks from labor and liberal organizations and a low rating from the far right-wing conservatives. But another rating—by the authoritative and impartial Congressional Quarterly—found me supporting the President on 57% of certain key roll calls. I hope, then, that this reflects an open mind on my part and an independent approach to the issues.

I have, as you know, supported all measures to remove our troops from Vietnam, subject only to the safe return of our prisoners. While opposing the President on that issue, I did go along with him on his plan for welfare reform, and I have backed his efforts to obtain revenue sharing for the cities and suburbs. I voted against the Administration's tax program—on the ground that it gave most of the breaks to business, and also because it creates new tax loopholes—such as the plant investment credit—that deprive the government of revenues at a time when the people need *more* programs and *more* service, rather than less. Mr. Nixon's tax program has helped to create a $40 billion deficit—and the administration has nothing to show for it except a 6% unemployment rate. In the days of the smaller Democratic deficits, we at least had people working.

Also, on the economic front, I insisted with other Democrats on giving the President authority to invoke price and wage controls. Mr. Nixon, in turn, insisted he didn't want such authority. But later, as we know, he was glad to have it—and he ended up using it. I wish the results were better, though. His Pay Board has done an excellent job of controlling wages, but his Price Commission, unfortunately, is not as ambitious or as dedicated to its own task.

Also, on another matter affecting the economy, I sponsored and voted for an Accelerated Public Works Act. The President vetoed it—an action which I hope he now regrets, in view of the persistent unemployment we have. At any rate, I have helped revive the bill as a member of the Public Works Committee, and I hope to see it reach the President's desk again.

I voted in favor of legislation to strengthen the fair employment commission—preferring a version with more teeth in it than the bill backed by the Administration. I also lined up with my colleagues in favor of the Constitutional amendment guaranteeing equal rights to women—a proposition which I see as essentially a bread-and-butter issue. This is because many women, nowadays, support or help support whole families, and they deserve an equal break on job openings and promotions.

I have voted to restrict the power of the government to require school busing for the purposes of integration, but on the other hand I have refused to support a move to inject this emotional issue into the U. S. Constitution via a Constitutional amendment.

I have stated on several occasions my intension to support legislation giving a 20% Social Security increase to senior citizens and guaranteeing to every American, regardless of age or financial circumstances, adequate prepaid medical care. I am also on record as favoring sweeping tax reforms to simplify the law and to help convert it into an instrument that favors the poor and the middle class, rather than the well-to-do, who do not really need any special benefits from their government.

III

Now, many of you will recall that when I was campaigning for Congress two years ago, I criticized my opponent because he took credit for helping to enact many laws when, in fact, he had contributed very little, if anything, to the success of these legislative projects. It is easy for a Congressman to add his name as a cosponsor to someone else's bill.

I have done that too, when invited to do so by my colleagues and when I have felt that another name might give an added shove to a worthwhile measure. But I have tried to deliver too on a promise I made two years ago—to submit my own ideas to the Congress in the form of original legislation. This has resulted in time-consuming work for me and my staff, but I feel that the effort has not been wasted. Our goal is, first, to get my bills enacted as they now read, or, failing that, to get the concepts we are advancing incorporated in other legislation that ultimately reaches the President's desk.

I have been able to accomplish some of this through my Committee work. For example, as a member of the Public Works Committee, I helped write the water pollution control legislation that the House approved recently. One of my contributions was a provision authorizing $25 million for experimental projects in Lake Erie and the other Great Lakes. A pollution bill approved earlier by the Senate did not contain such a provision.

However, my interest in doing something creative about the problems confronting the nation is not limited merely to those issues coming before the committees on which I serve. I know from my experience as President of the Cleveland City Council that the people I represent are greatly troubled about crime and lawlessness, and I have been devoting myself to this problem. My innovative Emergency Crime Control Act has achieved nationwide attention, and it is picking up support across the country. The U.S. Conference of Mayors has endorsed the legislation in principle, and it is helping me by lobbying for it. Essentially, this is a plan to redirect federal crimefighting funds to the areas of greatest need—the high crime urban-suburban areas. It is also an attempt to speed the flow of these funds by slashing red tape. This would be accomplished by giving blocks grants to the large metropolitan areas so officials in these jurisdictions can spend the money *as they see fit*, according to priorities determined *locally*. This would relieve our mayors and other local officials of having to file a separate application for each and every project and then waiting interminably for bureaucratic clearance. I hope to see action on this legislation this year. The House leadership has assisted me in obtaining hearings—and this, of course, is the essential first step. Many, many bills are introduced each year, but only a small proportion advance to the hearing stage.

In two other areas relating to crime, I have introduced my own bills in an attempt to reshape legislation now under consideration in the House and Senate. There are several bills pending which would compensate victims of violent crime for medical costs and loss of wages attributable to injuries and/or hospitalization. My bill would have the amount of compensation determined by local U.S. Attorneys rather than a board in Washington or the state capital. I feel that this arrangement would reduce red tape, bring this new program closer to the people, and help assure that most of the dollars spent on the program would be paid out to crime victims, rather than to bureaucrats sitting in a new office. Another section of my bill contains disclosure provisions which would discourage doctors or funeral directors or others from profiteering as a result of the program.

A third crime-related bill introduced by me would authorize payment of a $50,000 death benefit to the survivors of any public safety official killed in the line of duty. My bill is broad enough so that judges and probation and parole officers, as well as prison guards, are included. In addition, the families of firemen would be provided for under my bill. The Administration version of this legislation excludes firemen—on the ground that they are not, by and large, victims of violent crime. I don't know what the Nixon administration means when it says that. We Clevelanders know how wrong the administration is. We know that firemen have been shot at and stoned in Cleveland, and machine gunned in Cincinnati.

I will be introducing shortly—as soon as staff work is completed—a tax reform measure that would help persons laid off from work, or persons in their first year of retirement. Congressman Rostenkowski of Chicago, ranking member of the Ways and Means Committee, is collaborating with me on this measure; he happens to be, in addition, a cosponsor of my Emergency Crime Control Act. This bill would extend the benefits of a device called income averaging to persons who have a bad year financially. The benefit already is available to persons whose income shoots up in a given year, such as authors, movie stars and athletes. Our legislation would add a reverse twist to income averaging, making it available as well to the people who really need it. By averaging their current year's income with higher earnings from previous years, they could show, in effect, that they had overpaid their taxes in the prior years, and they therefore could qualify for a refund in the current year, when their need happens to be great.

IV

I said earlier I would try to give you some idea of what I think has to be done to make the federal government more responsive to the needs of people living in urban-suburban areas. I would say that my thinking in this connection has been inspired not only by my experience in local government but also by the writings of such persons as Alice M. Rivlin, a fellow at the Brookings Institution in Washington and one of the nation's keenest analysts of public policy. In her book "Systematic Thinking for Social Action," published in 1970, she says:

"(There is) a new realism about the capacity of a central government to manage social action programs effectively. There was a time when those who believed in broader commitment to social action pinned their hopes on centralization . . . The last several years have seen a marked shift in the attitude of liberals toward the federal roll . . . I, for one, once thought that the effectiveness of a program like Headstart . . . could be increased by tighter management from Washington . . . This view now seems to me naive and unrealistic. The country is too big and too diverse . . . Since the federal government is good at collecting and handing out money, but inept at administering service programs, then it might make sense to restrict its role in social action mainly to tax collection and check writing and leave the detailed administration of social action programs to smaller units. This view implies cutting out categorical grants-in-aid with detailed guidelines and expenditure controls . . . Lower levels of government would receive funds through revenue sharing or bloc grants for general purposes like education. The last two federal budgets, with their emphasis on . . . revenue sharing, appear to be moving the federal government in this direction."

I think you can see how my Emergency Crime Control Act fits in with this pattern of thinking. Recently, Transportation Secretary Volpe proposed a so-called Single Urban Fund—a program of block grants to cities allowing each city to decide for itself what proportion of federal assistance funds to allocate to freeways, what proportion to mass transit, and so forth. I am on record in favor of such legislation.

It seems to me that this is the direction in which we ought to move. The cities and suburbs have seemingly insurmountable problems. The federal government has tried to help through a spate of Great Society programs. But most of these programs appear to have failed. I think that the time has come to restructure the programs, ceding more discretionary authority to local officials—on the ground that they are close to their communities and therefore have a sharper perception of problems and possible solutions. We should keep working at these problems, trying new ideas and new ways of delivering federal services, in a search for something that works. We haven't yet reached the point where we ought to give up. I, for one, refuse to give up—not until we've explored every possible alternative.

AFL–CIO CHALLENGED TO UPHOLD ITS TRADITION

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. LEGGETT. Mr. Speaker, from its earliest years, organized labor has been a leading force for social justice. It has stood not only for higher wages and better working conditions for its members, but for better education and more equitable justice for all Americans. Labor has played a leading role in the struggle for racial equality, and continues to do so today with its opposition to demagoguery on the busing issue.

But over the years the success of organized labor has made labor part of the Establishment. At a result, in some cases labor has tended to go along with both political administrations.

The most important "go along" issue was the war in Indochina. This was, which does not and never will serve our national interest in the reckless way in which it has been conducted, has wrecked our economy, slaughtered 55,000 of our best young men including the sons of many union members, and has torn our Nation in two or in perhaps even five parts.

Despite this, the AFL–CIO Executive Council has supported the war both under President Johnson and under President Nixon. In doing so, it places itself in disagreement not only with the United Auto Workers but with many of its members.

In the San Francisco Bay area in California, union sentiment strongly opposes the war and favors withdrawal. They do not go along! In a closely reasoned and articulate editorial by editor Felix Rodriquez, Organized Labor, the official publication of the Building and Construction Trades Council of San Francisco, urges George Meany and the AFL–CIO Executive Council to uphold the highest traditions of organized labor by reversing itself and opposing the war as cost ineffective and not currently in our national interest. I insert this editorial, from the April 24, 1972 issue, in the RECORD at this point:

OPEN LETTER TO PRESIDENT GEORGE MEANY AND MEMBERS OF THE EXECUTIVE COUNCIL

This is a most urgent request that you and the AFL–CIO Executive Council reconsider your longstanding support of the Nixon Administration's policy regarding the war in Southeast Asia.

The Nixon Administration has determined it need not, and will not, change the direction of national priorties. Such a change of direction in this torn nation is needed desperately.

In view of the Administration's adamant stand in favor of military victory at all costs, there remains only one power that can push effectively for an immediate change. And that is, for most of the world and the real majority of the American people, for the AFL–CIO Executive Council to announce publicly that further involvement in the war is a mistake. Such decision making by individual Council members is simple, even if it takes some agonizingly human reappraisal.

Of even greater concern than the need to change national priorities is the real danger that further involvement may lead to an incident touching off nuclear devastation.

There are several conclusions, not entirely my own, that should be reached about labor's leadership. If the AFL–CIO Executive Council does not make a move soon, the American electorate will have to wait until the November elections to attempt a change in directions. Nixon's plea may be that the nation is in so deep it cannot be left to amateurs. If labor's leadership has not, by election time, improved its image, we may as well dutifully accept future consequences as conditions of our own making. In the critical election decisions ahead, organized labor cannot afford to isolate itself from the other sectors crying out for change.

It is generally agreed that the war and military spending are to blame for the economic gaps, inflation, unemployment, priorities, and the most critical division within American society since the Civil War. Therefore, it is pointless for consumers to complain about high prices, for workers to complain about frozen wages, for property owners to complain about high taxes, while this nation continues to wage a war nobody wants.

My thinking is this: If I do not now do my tiny bit to warn against the possibility of nuclear war, I would have the consequences on my conscience—if I lived through it. Reconsideration of your action would bring labor into a common, unified political effort, and the world would be deeply indebted to you.

Whether or not most people realize it, or admit it, the AFL–CIO Executive Council has the great power to create a change in national direction and priorities. We pray that you will exercise that power. If the thought of admitting a mistake is repugnant to President Nixon, it should not be so to you.

By declaring now against Nixon's war policies, you would remove much of the distrust of unions held by the general public, and you would gain greater respect from millions of disillusioned American workers. The young would add their voices to yours in your continued struggle to improve living standards of all Americans. With such support, you could stand up on better than even terms on the critical economic issues against the Nixon Administration or any power structure. (Walking off a puppet Wage Board would get public sympathy.)

The conclusions I have reached here are, I am certain, shared by a great majority of workers in the San Francisco Bay Area. EVERYONE of the Labor Councils here have gone on record against continued involvement in the war. After many years as an editor for this newspaper, I have become convinced that most union leaders and the rank and file want out of the war now.

The Labor Councils have acted although there is an understandable reluctance on the part of many officers to contradict the policies of the AFL–CIO Executive Council. If it were not for that reluctance, labor would have forced a disengagement long ago.

And there is the understandable reluctance of the young, who view the war as murderous and senseless leaving them as the real victims, to share the same table with organized labor. Often, the most liberal unionist is ostracized at a youthful political rally. Youth asks unions why they do not propose collective bargaining for peace as effectively as they bargain collectively for working conditions.

Most thoughtful people see no sense in a policy that says that small nations on the other side of the world must not have communism (President Eisenhower said the majority in Vietnam would have voted for it) but instead we must support an absolute dictatorship, without limits in the costs of destruction of humans and resources. Is the preference for a dictatorship over communism there worth the price of tearing this nation apart? If that is the preference, then let's give the president all the help he wants, even if it means Nixon dictatorship.

Fraternally,

FELIX RODRIGUEZ.

IMPACT AID PROGRAM

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. DRINAN. Mr. Speaker, I wish to bring to the attention of my colleagues some highly relevant hearings now being conducted by the Labor, Health, Education, and Welfare Subcommittees of the Appropriations Committee, under the chairmanship of our colleague from Pennsylvania, Congressman DANIEL FLOOD. On Tuesday, May 2, Chairman FLOOD's subcommittee examined the U.S. Office of Education's impact aid program and brought to light some shocking weaknesses in the administration's proposed budget for fiscal year 1973 for this important educational program.

Public Laws 81–874 and 81–815 were authorized in 1950 to provide financial assistance to school districts whose tax base was seriously affected by Federal installations or Federal activities. These so-called impacted school districts were unable to absorb the additional cost of providing educational services to the children of Federal employees. Public Law 815 authorized financial assistance for the construction of schools in impacted districts. Public Law 874 authorized maintenance and operating assistance for already existing schools.

Of the two, Public Law 874 is the more important. In 1971, assistance under Public Law 874 amounted to $536 million, and under Public Law 815, $24.3 million. All 50 States and the District of Columbia benefited from Public Law 874, while only 18 States received Public Law 815 funding in 1971.

Yet, for reasons known only to itself, the Nixon administration has never supported the impact aid program. It has consistently requested far less than needed, and it is only through the wisdom of Congress that the final appropriation has been sufficient each year to keep the impact aid program going. Fortunately, during the Nixon years, Congress has each year appropriated more for the impact aid program than the President requested. For fiscal year 1972, the Nixon administration asked for $439 million. Congress appropriated $611 million.

These funds are practically indispensable to the school districts who qualify for assistance under the impact aid program. In my own State of Massachusetts, for example, 215 school districts received impact aid in 1971. A total of $20 million was allocated to Massachusetts, which works out to a substantial $100,000 per impacted school district. This sum is often 50 percent or more of a school district's total budget, a very important factor in the quality of its educational program.

Yet the Nixon administration persists in its attempts to weaken the impact aid program. Its budget request for fiscal year 1973 is $430.9 million—$415 million under Public Law 874 and $15.9 million under Public Law 815. Thus the Nixon request is more than $180 million below last year's funding level, and is even $9 million below last year's totally inadequate budget request.

The Nixon administration proposes to absorb this substantial cut by doing grave damage to the "B" category of Public Law 874 aid. Two different categories of schoolchildren qualify for impact aid: those who live on Federal property with parents employed by the Federal Government—category "A," and those who live on private property with parents employed by the Federal Government on a Federal installation in the same State—category "B." The President proposes to take eligibility away from all children in category "B" except those whose parents are on active military duty. This "civilian exemption" would have the effect of making three-quarters of those children who qualify under category "B" ineligible beginning July 1, 1972—or, in other words, beginning next academic year.

The effect this proposed change would have on the impact aid program is nothing short of devastation. Of the 2,487,000 children who qualified under Public Law 874 in 1971, 2,100,000, or 84.4 percent of the total, were in category "B." Considering that more than 75 percent of these schoolchildren will lose their eligibility if Congress approves the Nixon proposal, one can comprehend how overwhelming this change would be.

Concurrently the Nixon administration proposes another change in the impact aid program. In January a special task force appointed by the President to study the impact aid program recommended that changes be made in the way school districts apply for eligibility grants. As things are now, 28 field program officers visit school districts in person, evaluate applications, and report their findings to HEW regional offices. The task force recommended that the tried and tested field program officers be eliminated from the application process, and that school districts submit their applications by mail directly to the HEW regional office. The President has proposed that an experimental version of the new procedure be tried in four regional offices in Boston, Kansas City, Dallas, and San Francisco, beginning on July 1.

School district officials have expressed dismay over this experiment, first, because of the morass of paperwork required under this proposal for making application, and second, because the depersonalized nature of the proposed application process can only detract from the effectiveness of the impact aid program.

From these actions and many others during the past 4 years one must inevitably conclude that the Nixon administration is actively seeking to weaken or, at worst, destroy the impact aid program. By consistently requesting less funds than needed, by complicating and depersonalizing the application process, and now by eliminating from eligibility more than 60 percent of the students who now qualify for Public Law 874 aid, the Nixon administration has demonstrated a hostility to this program which educators and school administrators find difficult to explain and impossible to justify.

All these points were made in testimony before Chairman FLOOD's subcommittee on May 2. Of particular interest to those of us from the New England area was the testimony of Dr. Charles R. Hand of Ayer, Mass. Dr. Hand is superintendent of schools for the communities of Ayer, Shirley, and Boxborough, and is also regional chairman of the Impacted Area Schools Information Service. Dr. Hand and I have been allies on many matters, and his competence and knowledge are highly respected and highly relied on by those in the New England area.

His statement before the Appropriations Subcommittee offers graphic evidence of the damage wrought to New England's school systems by the Nixon administration's proposed changes in the impact aid program. I urge my colleagues to read Dr. Hand's statement, which follows, and to realize that what is true in New England is true in their area of the country as well:

STATEMENT OF DR. CHARLES R. HAND

MAY 2, 1972.

I am Charles R. Hand, superintendent of schools in Ayer, Boxborough, Shirley, and Fort Devens, Massachusetts, as well as being Region 1 Chairman of Impacted Area Schools representing the New England area. I appreciate the opportunity of appearing once again before this distinguished committee.

I am here to urge full funding for the *A* and *B* category under Public Law 874.

In the six states of New England there are approximately 20,000 Category A students and 85,000 B students. Four hundred and forty-nine school districts benefit from PL 874. The breakdown by states is as follows:

	Number of applicants	Approximate A & B entitlement
Connecticut	47	6, 000, 000
Maine	82	5, 000, 000
Massachusetts	215	20, 000, 000
New Hampshire	60	3, 000, 000
Rhode Island	24	5, 500, 000
Vermont	21	200, 000

New England needs the Public Law 874 funds. It cannot afford to lose the 3B civilian entitlement under the absorption factor as proposed by the administration. Over 60,000 of the 85,000 B students in New England would be classified as civilian.

What are the alternatives if full funding for Public Law 874 is not forthcoming? Unfortunately, what looms as the most prominent alternative is that of lessening the quality of education.

For example, we find a tax structure within the Commonwealth of Massachusetts that provides for less than 20 percent in state contributions for the cost of education being borne by local communities.

I am aware that there is thinking concerned with help for the local taxpayer in the matter of educational financing other than the property tax. But it is likely to be years away as it lays between the thinking and the actual financing. In the meanwhile the communities within the New England states, as in fact, in all of the nation, must find some way to function financially as well as educationally.

For instance, in Maine the 1972 B payment was $1,353,130 whereas the 1973 proposal is for $507,582; in New Hampshire the 1972 figure was $1,304,607 whereas the 1973 proposal is $413,274; in Vermont the 1972 amount was $129,996 whereas the 1973 proposal is for $52,924; in Massachusetts the 1972 figure was in excess of $10 million whereas the 1973 proposal is in excess of $4 million; in Rhode Island the 1972 amount was $1,927,740 whereas the 1973 proposal is $1,394,986; in Connecticut the 1972 payment was $2,318,194 whereas the 1973 proposal is for $783,596. This amounts to a loss to New England of approximately $10 million.

I urge full payment for the 3(b) students, both civilian as well as military, as a means of maintaining the best efforts toward the best education in the public schools of our nation.

THE NIGHT PASTOR

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. HALPERN. Mr. Speaker, I would like to pay tribute today to a man who not only aids the poor and oppressed on a daily basis, but who performs his praiseworthy ministry in a way that is calculated to meet the addict, vagrant, or potential thief on his home ground.

The work hours of "Night Pastor" Bruce Wheeler are 10 p.m. to 4 a.m. Father Wheeler serves the ragged stream of humanity that populates Chicago's Rush Street every night. He counsels them, provides them with food or clothing when they are in need, and steers them toward jobs and the hope of rehabilitation.

The large metropolitan centers of America are filled with crime, addiction, hunger, and poverty. It is due to men like Father Wheeler that some modest inroads are being made toward improvement in the lives of our cities' castaways.

Mr. Speaker, I would like to insert an article which appeared in the Sunday, May 7, edition of the Chicago Tribune. This excellent article, written by James Martin, describes the difficult job of Father Bruce Wheeler—a man who spends six hours each day caring for those whom the rest of society has managed to ostracize.

The article follows:

[From the Chicago Tribune, May 7, 1972]

NIGHT PASTOR TENDS HIS FLOCK IN PRIVATE, PUBLIC, AND PUBS

(By James Martin)

If you stand at the intersection of Rush and Oak streets and look up—just behind the revolving neon hamburger which announces Burger Ville to the world, you will see the modestly-stenciled lettering on a soot-blackened window which reads: Night Pastor—10 P.M.-4 A.M.

It is from behind those letters, in a stifling second floor walk-up over the restaurant, that a small man with thinning grey hear [which makes him look older than his 47 years], a habit for cigars [Goldblatt's seconds], and a tough-talking, easy-going manner, headquarters a unique ministry. He is Father Bruce Wheeler, the Night Pastor of Rush Street. And his congregation is the irregular, informal, ever-changing. and amorphous group of society which populates the Rush Street area during the dark hours of the night and early morning.

His parish bears little semblance to the Episcopal church in Prospect Heights he left two years ago to become Night Pastor upon the death of his predecessor, Father Bob Owen. A leased, cramped, and stuffy six room apartment which could use more than a little renovation, it has only one semi-religious painting among several which dot the otherwise bare walls. There is no pulpit because there is no preaching here; instead there is a pool table and a piano. In the background, it is the sound of progressive rock music from an all-night radio station, not a church choir, which provides the liturgical cant. The services provided are social, not soul-saving.

Father Wheeler is a popular and needed figure amidst the night life of Rush Street. Whether in his office at 30 E. Oak St. or on the streets of his parish, the loney people of the night seek him out, some wishing advice, others comfort or consolation, many a little pocket money for a "flop" or a square meal . . . few have elsewhere to go, and none are turned away. Regardless of their race, age, or religion. Loneliness makes no distinctions; nor does Father Wheeler.

This night, as he does five nights a week a few minutes before 10 p.m., Father Wheeler walks briskly up the one flight of stairs to the apartment he calls his church. He is accompanied by three people, regulars, who have been waiting for him in the downstairs lobby. Familiar with him, and his routine, they patiently take seats in one of the rooms while the Night Pastor changes his vestments and checks in with his answering service—conversing amiably with them from the other room as he does so.

Helen, who has been coming here longer than Father Wheeler, looks and dresses like Marie Dressler in "Tugboat Annie." Fervently believing that the government is trying "to get" her, she takes a seat on one of the several worn sofas, her back to the revolving hamburger and the din of Rush Street's merriment, and talks to herself. Eventually, she will move next to Joe, an unshaven and emaciated man of perhaps 50, who, as he sits staring at the floor, carries one shoe in his hand because his right foot is heavily swathed in bandages. She will tell him, again, of the conspiracy against her, and how the government—probably the CIA—kidnapped her daughter in 1963. The obsequious Joe, however, will not listen hard . . . he will instead quietly attempt to explain his own personal plight, the bandages.

"Burned out," he mumbles partially to the floor, partially to Helen. "Got burned out of my hotel last night." Altho he won't say so, the fire which burned his foot was probably caused by his smoking in bed.

Pierre, the third member of the group, is a 34-year-old retardee who looks and acts 17. His problem is keeping a job and a roof over his head . . . he needs the Night Pastor as a father figure because he doesn't know where his real father might be. Pierre is the first to see Father Wheeler in his office this night. He enters, hesitantly, scratching himself in several places, often looking downward, shifting his weight from one foot to the other.

"Come on Pierre, come on in," says the Night Pastor. "What can I do for you tonight?"

"Well, Father . . . I wondered if you'd be mad at me if I went to D.C."

"What do you want to go there for?" asks Father Wheeler patiently. "Last week you wanted to go to Kansas City. Now why go to Washington? What's there?"

"The President is there," says Pierre looking up. "I'll ask him for a $100 . . . and maybe I can get me a job."

"You can't get a job in Chicago . . . what makes you think you can get one in Washington?"

"My feet hurt," comes the evasive answer after a moment's pause. "I itch. Ain't had a bath in a week and half. . . . Have you got any money? I wanna get me a hotel . . . get a room . . . and a shower."

"When are you going to get a job? That's what you need now, a job."

"I'm flat broke . . ."

"You've been flat broke ever since I've know you, Pierre. When are you going to get a job? Have you been looking for one? You had a chance to do some day labor . . . why didn't you take that? $1.60 an hour is better than nothing, Pierre.'

"Can you give me $6 for a room?" comes the answer from somewhere around Pierre's shoetops.

"No way, Pierre. There's no way I can give you that much money," answers Father Wheeler turning to a side table. "Here's a meal ticket—have you eaten yet tonight?—go downstairs and get some food before they close."

Pierre, not dissatisfied with the conversation [it's typical and therapeutic], silently accepts the ticket and heads downstairs to Burger Ville, where free meals have been arranged thru the Night Pastor. He is still scratching as he leaves.

"Pierre's up here every night," the Pastor explains when he's gone. "There's nothing that can be done with him except to deal with him on a level he can handle. He can't keep a job, and he doesn't try very hard to find any. But he does listen to me . . . and if I keep after him, he knows that I at least expect something in the way of effort from him.

Joe sees Father Wheeler next. His visit is brief. He wants only a little encouragement, money for a flop [$1 from the ministry's petty cash], and a meal ticket. The Pastor provides all three and Joe limps out the door toward the street as Helen, still talking to herself, enters the office. Having gotten most of what she wants to say off her chest already, her talk with the Pastor is also brief.

"Believe me, Father," she says as the Pastor walks her to the door, "there's people up there in high places that don't believe in God. They're the ones trying to get me. Will you pray for me, Father?"

"Well, I certainly will," comes the answer, "but are *you* praying?"

"Oh, I sure am, Father, I sure am . . . got to. Got to pray or they'll get me sure." Her spirits buoyed, Helen, too, heads out into the night. This will prove to be the only instance the Deity is mentioned in the course of the work night.

"I'm not here to push religion as such at these people," says Father Wheeler. "God knows they have enough problems. Consolation, a roof, a meal—the needs of each are too *immediate* for me to do any long-term work here. I can't give them therapy—I don't deal in therapy—but I can counsel them; I can help for a night. And I can let them know I expect something from them. Once in a while I sneak in a few licks for religion, but that's not a major concern.

"These people don't need preaching. They need to know somebody is there in the desperate hours of the night to listen without telling them they have no problems—because to them, the problems are real and very immediate. So one of my major functions is to listen; and when I give counsel, I must shoot straight with them. I say, 'look, don't b.s. me, and I won't b.s. you. Let's be friends and not lie to each other.' Ultimately, they must solve their own problems, whether it's alcoholism, drug addiction, hooking, joblessness, whatever; but when they come to me they're not ready to make a long-term religious commitment. So what do you do? You give them a meal ticket for downstairs and a couple of quarters to rub together and they go away feeling better than when they came in. What you can't do is to tell them to go home and pray and everything will be all right. That means nothing to them."

Within moments there is another ring. This time it is a couple which walks thru the doors. He is a troubled-looking American Indian. She, a young white girl who clutches his arm tightly.

"How are you two, anyway?" is the greeting from the Pastor. "Are you sober, John?"

"Yes," comes the meek answer with a shake of his head.

"How long you been sober . . . how 'bout you, Bessie . . .?"

"Yes," is the second, almost inaudible answer.

"All I can find is dishwashing jobs, Father."

"Well, John, anything helps," comes the reply. "You don't have to take on the rebuilding of the Kennedy Expressway. You have to take whatever work you can get. Then you can build on that. And you've got to keep off the booze. You won't get any good jobs if you're on the booze."

After several more minutes of counsel, with Father Wheeler doing most of the talking, the couple listening, they quietly walk down the hall and out into the night. "He just needs someone to talk to," explains the Night Pastor. "He just got out of the hospital again, and he's drinking too much. Poor John. He has an incredible ability to get hurt. As fast as he can get healthy and get a job, he re-injures himself and lands back in the hospital. It's almost an unconscious desire to remain a cripple."

At approximately midnight, as he does five nights a week, he walks down the stairs to the streets. They too—at least the streets bordered by Chicago Avenue on the south, Division Street on the north, Michigan Avenue on the east, and LaSalle Street on the west—are his parish. For two hours each early morning the Night Pastor walks slowly thru the city's nightlife center stopping now and then to shake a hand, to give a little comfort, to merely acknowledge someone. Occasionally he ducks into one of the many bars, coffee shops, restaurants, or strip joints which dot the area for a little refreshment and conversation. Not much business is really conducted here—it's more advertising than practical assistance which takes place. But at least he is seen, he reasons, and if so desired, anyone can approach him to arrange an office visit [he makes no appointments, but simply encourages people to drop by anytime].

The first to stop him this night, as he walks north toward the swingin' singles haven of the Division Street area, is a black car attendant who just wants to say hello and shake his hand. No problem this night. The Pastor then turns the corner and heads in the direction of The Gap. As he steps into the lobby of the bar, several young people are just leaving and greet him.

"Hi ya, Padre."

"Take it easy, Father."

Father Wheeler acknowledges each greeting, and, looking into the club, decides not to stop for any length of time. It looks quiet tonight. Instead he walks a little farther down Division and steps into the cavernous Mothers. At the door, the gigantic bouncer who oversees the bar's activity greets him, and they have a short, friendly chat before Father Wheeler enters. Sitting at the bar, surrounded by the "swingles of Rush Street" and an overly-loud juke box, he orders up a Cutty and water to go with his umpteenth cigar of the evening.

"You know," he says, referring back to the many people who visit him, "many of these people have latched onto a way of surviving which we find hard to understand. They make things seem a lot worse for themselves than they often are. Pierre, for instance . . . he's really pretty much of a con man. He knows it, and I know it. And no matter how much he complains, he does all right. He's probably got a place all lined up to stay tonight; but he'll try to get a little money out of me if he can. Helen—she's not in any serious trouble. Her rent's paid every month . . . but she's lonely, and she could use some psychiatric help. She won't admit it, so she comes to me and I listen. But they survive. They're a tough bunch of people for the most part . . . and tho they have their share of problems, they have an instinct to survive that most people don't comprehend."

Father Wheeler tosses down the last of his Cutty and ambles back onto the street, joking with the bouncer on the way out. There is not much action on the street tonight. A few couples pass now and then, on their way to the next night spot. Most acknowledge the Night Pastor. Back up Rush, walking south, peering into the many shop windows, nodding to passing individuals, he walks past Mister Kelly's toward the more garish section of go-go and burlesque joints. He is stopped by the hawker outside one, Bourbon Street, who wants him to come in.

"It would be an honor if you'd stop in and say hello to some of the girls, Pastor," he says. "I think a couple of them would like to talk with you."

Father Wheeler is pondering whether or not to enter when a man, who is having trouble walking upright, approaches and, spotting the clerical collar, accosts him verbally.

"Sayyy," he slurs, his eyes slipping shut with every other word, are you a ——— Catholic?"

"No," answers the Night Pastor, whose seven and a half years in the Navy exposed him to almost every type of language and activity, "I'm an Episcopalian."

"Well I'm a ——— Catholic . . . I saw your collar, thought you were too . . ."

"Pastor," interjects the hawker trying his best to ignore the other fellow, "It'd be a privilege to have you come in for a while . . ."

"Sayyy," counters the drunk, "are you the Night Pastor? I heard a you . . . it's pleasure t' meet ya. My name's Al, Father, put 'er there. I'm gonna come and see ya some time, Father."

Father Wheeler, upon the third plea from the hawker, decides to enter the club and heads up the steps. Al has decided to enter with him.

"Is he with you?" asks the hostess at the door.

"Sure, why not?" answers the Night Pastor looking at Al, who is listing severely to his right. The two are led to a table by a pretty, young waitress named Jo-An, who knows the Pastor from earlier talks.

"Nice to see you again, Father," she says. "I've been meaning to come and see you for some time . . . I just haven't gotten around to it."

"Anytime you're ready, Jo-An. I'm always available; just stop by the office."

Another Cutty and water is ordered up along with one for new friend Al, who, altho he is having trouble talking, is doing a good job of blubbering all over everyone else's conversation.

Onstage, under the garish pink lights which give everyone and everything an illusory look, one girl after another, each more bored than the last, is going thru her routine to the uneasy delight of several tables full of young men. Just behind the Pastor's table, a short scuffle breaks out between an unescorted woman and a man at the bar—the girl is asked to leave.

The Pastor shrugs . . . "she was looking for trouble," he says.

Midway thru the fifth girl's act, just as she is yawningly getting down to her pasties, a girl sitting at the table next to Father Wheeler's asks to see him. He excuses himself and joins her for what proves to be a long, troubled discussion of the girl's problems. While he's gone, friend Al leaves—without paying for his drink. The conversation, which is serious, keeps the Night Pastor long past 2 a.m., the time at which he is due back in his office. When he returns to his table, he quickly picks up the tab [including Al's], says goodbye to Jo-An, and walks briskly back to 30 East Oak.

Back in the office it's relatively quiet. The in-office traffic has been heavy the early part of the shift, but the phone has not been ringing much. A pool game sounds good to the Pastor.

As we rack the balls, Rush street is entering that twilight period between closings and re-awakening. People are seeking out all-night diners for ham and eggs and Alka-seltzer on the side. Pedestrian traffic, which never stops completely during the early hours, is picking up again. Upstairs, at the Night Pastory, the telephone is ringing.

"You know," Father Wheeler says when he returns from the phone to pick up his pool cue, "I can generally get a good deal accomplished on the phone. It's surprising how many people will call me from all over Chicago, which means I don't have to limit my services to just this Rush Street area. Many of my regular callers are from the suburbs. I even have one in Kenosha, Wis., who calls every week. Once, I had a guy call me from Miami. I'd never spoken with him before, but it seems he had heard about the Night Pastor from someone, and one night when he was troubled, he called."

Father Wheeler makes one quick sweep of the apartment rooms, picking things up a little, turning off lights, getting it ready for the next work day. It has been a fairly busy night for him, altho the telephone calls were fewer than usual; and as he lights up one last cigar he looks tired.

At 4 a.m., the Night Pastor of Rush Street locks up, walks a few blocks to his Toyota in the early morning light, and drives home.

CENTER FOR DEFENSE INFORMATION

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, May 8, 1972

Mr. ROSENTHAL. Mr. Speaker, the need for independent sources of information on our defense establishment is familiar to anyone who has ever tried to raise honest questions about that establishment. Members of Congress and even the concerned committees of Congress have difficulty in obtaining information from the Defense Department when DOD judges the request antagonistic or even indifferent to the Pentagon mystique.

This is just one reason why I welcome the establishment of the Center for Defense Information which recently opened its offices on Capitol Hill at 201 Massachusetts Avenue NE. The center, under the able direction of Rear Adm. Gene R. La Rocque, U.S. Navy, retired, will provide a continuing analysis of the defense budget and detailed studies on specific weapons systems. The center will also publish regularly a newsletter. The Defense Monitor, the first issue of which has just appeared.

The Center for Defense Information is also available to congressional offices for individual requests for defense information. I hope it has a long and successful life.

Below is the first edition of the Defense Monitor:

THE SOVIET NAVAL THREAT: REALITY AND ILLUSION

Admiral Thomas H. Moorer, Chairman of the Joint Chiefs of Staff, has told Congress that "a major shift in the naval balance between the United States and the Soviet Union is taking place.

"Unless we accelerate the modernization of our fleet," he told the Senate Armed Services Committee on February 15, 1972, "the Soviets will increasingly challenge our control of the seas in those maritime regions essential to the success of our forward defense strategy, as well as in ocean areas closer to our shores."

On the basis of these arguments, the Defense Department has asked Congress for $9.7 billion in new Navy procurement funds for fiscal 1973, about $1 billion more than in 1972, which was in turn about $1 billion more than in 1971. These funds are part of a Navy's "modernization" program: 42 major combat ships and 21 submarines now under construction or authorized by Congress and more than 60 major surface ships and a new fleet of ballistic missile submarines contemplated (see tables 4 and 5).

The Center for Defense Information has made its own study of the naval balance and has reached the following conclusions:

The balance is heavily in favor of the United States.

The Soviet Union is doing little which would significantly change the balance in the next few years.

There is little evidence to support the request for a large increase in money for ships designed to project US power overseas and to greatly expand US strategic weapons capability.

A LOOK AT THE BALANCE

Defense Department testimony to Congress on the Soviet naval threat stresses such trends as an increase in the number of Soviet major combat surface ships in the last five years (from 185 to 215, including two new helicopter carriers, seven new missile cruisers, 18 new missile destroyers and 36 new escorts). It stresses Russia's numerical advantage in submarines (about 343 Soviet to 138 US), new Soviet anti-ship missiles, and increases in Soviet naval operations in the world's oceans.

But these presentations fail to give a fair picture of the relative strengths of these two navies. The diagrams and data on the following pages give a fair picture. They show that:

1. The Soviet Union has no nuclear-powered combat surface ships and is not reported to be building any. The United States has four and is building seven more.

2. The United States has 14 attack aircraft carriers which carry from 40 to 90 jet aircraft each, used for striking land or sea targets. Two nuclear carriers are under construction. The Soviet Union has no attack carriers and no sea-based fixed-wing aircraft. The Defense Department has asked for funds in 1973 to start building the power plant for a fourth nuclear attack carrier. It also has asked for funds to design a new fleet of at least eight smaller follow-on carriers to be called Sea Control Ships.

3. The United States has two anti-submarine carriers which carry helicopters and fixed-wing anti-submarine aircraft. The Soviets have two anti-submarine carriers which are actually cruisers with large helicopter landing decks. One 35,000-ton ship is under construction in the Soviet Union which may be a carrier or some other type of ship.

4. The United States has seven "assault" helicopter carriers designed to move marines ashore. Five more, twice the size of the existing ones, are under construction. The Soviet Union has no comparable ships.

5. The United States has nine cruisers. The Soviets have 25. But four of the Soviet cruisers are pre-World War Two and are probably being retired. Ten of the Soviet cruisers are smaller than many US destroyers. The US Navy wants to build two 2200-ton prototypes of what would eventually be a cruiser-size hovercraft called a "surface effects ship."

6. Soviet missile-firing destroyers are fewer and smaller than their US counterparts. Congress has already authorized 30 new destroyers (DD963 Spruance Class), which are larger than any destroyers of the Soviet Union. The US Navy is asking for funds for 50 new "patrol frigates" which will be larger than most Soviet destroyers. By the late 1970s all US destroyers and patrol frigates are to be equipped with the new Harpoon surface-to-surface missile.

7. The present US fleet of 41 strategic ballistic missile submarines has 2800 separately targetable warheads.[1] Russia's ballistic missile submarines have about 500 warheads (see Table 1). Also, a greater percentage of the US ballistic missile submarines are on station at a given time than is the case with the Soviet submarines. By 1976, the number of separately targetable US submarine-launched warheads will increase to almost 7000. This figure does not reflect the proposed new ULMS ballistic missile submarine system which will be the subject of a subsequent edition of *The Defense Monitor*.

8. The Soviets have a fleet of 68 submarines armed with anti-shipping "cruise" missiles. The United States decided in the 1950s not to develop a capability in this area and abandoned its Regulus missile program. Recently, the Pentagon decided to go ahead with development of a new cruise missile for a new attack submarine.

9. The US has more than twice the number of nuclear-powered attack submarines as the Soviet Union. The Russians have 190 diesel attack submarines as compared to 41 for the US, but these are being phased out of both navies. The total number of Soviet at-

---

[1] To put in context with overall US strategic capability, Secretary Laird gave these comparative figures for nuclear weapons for mid 1972: Total offensive strategic weapons (warheads): US 5700; USSR 2500.

tack submarines has decreased from 430 in 1960 to 283 in 1972, and Admiral Moorer states that he expects this number will continue to decline as newer submarines are introduced at a slower rate than older units are withdrawn. The US is building a new class of nuclear attack submarines (SSN 688 Los Angeles Class).

CONSTRUCTION

Admiral Moorer told Congress: "The rate of modernization in the Soviet surface fleet is expected to accelerate during the next few years."

The Russians are building mainly light cruisers and destroyers. These include Kresta II cruisers, and Krivak and Kashin destroyers. Recently these have been built at a rate of about one per year in each class. Defense Department reports have suggested another "possible" cruiser construction program and a "possible" carrier.

But in view of the US construction program already in progress, Soviet "acceleration" would have to be enormous to make a significant difference in the overall balance.

REGIONAL BALANCES

When talking about a shifting balance, Defense Department witnesses limit themselves to comparing the US and Soviet navies. Yet, many NATO allies have modern effective navies that must be taken into account. When NATO and Warsaw Pact forces are compared the balance clearly favors NATO (see Table 2).

The balance is even more striking when naval forces in the Mediterranean, for example, are examined alone (see Table 3). (Not shown in the table are the more than 50 small patrol boats armed with anti-ship missiles which the Soviet Union has given many of her allies in the area. These boats normally operate relatively near shore.)

OTHER FACTORS

The map on page seven (not reproducible in the Congressional Record) shows that Soviet fleets suffer geographic and climatic handicaps—limitations not faced by the US Navy. Some fleets are partially iced-in during winter. Others can be bottled up in home waters because of narrow passages through which they must travel. These "choke point" also facilitate NATO's monitoring of Soviet fleet movements.

In discussing the US–USSR naval balance, Defense Department witnesses neglect to consider the US Coast Guard—a force which possesses over 50 ocean-going cutters of naval destroyer size, armed with guns and antisubmarine weapons.

CONCLUSIONS

The overall naval balance favors the United States. The Soviet Union is not likely to change this status in the near future.

The naval "balance" argument does not, therefore, justify, by itself, the kind of naval buildup which the Defense Department has under way now or plans in the future. However, Defense Department testimony makes clear that the Navy has other purposes in mind. Admiral Elmo R. Zumwalt, Jr., Chief of Naval Operations, told Congress that the Navy's four "capabilities" are:

"Assured second strike" (This refers to the Polaris-Poseidon fleet retaliating with strategic missiles after a Soviet nuclear attack on the United States.

"Control of sealines and areas".

"Projection of power ashore".

"Overseas presence".

The first "capability" is defensive. In view of the overwhelming second strike capability which the US possesses, the new ULMS program is not needed at this time. The American public deserves a much clearer definition of the other Navy "capabilities": What kind and degree of "control of the seas" has the US decided to pursue? Under what conditions and in what areas of the world will it "project power ashore"? What portion of the present Navy and what portion of the "modernization" program is designed for overseas presence? These are questions which must be publicly asked and answered before additional programs are approved by Congress.

"Every addition to defense expenditure does not automatically increase military security. Because security is based upon moral and economic, as well as purely military strength, a point can be reached at which additional funds for arms, far from bolstering security, weaken it." President Eisenhower.

TABLE 1.—CURRENT BALLISTIC MISSILE SUBMARINE COMPARISON

Type	Number of submarines	Missile type	Missile range	Number of launchers per submarine	Total number of launchers	Number of independent warheads per submarine	Total number of warheads
United States:[1]							
Poseidon	12	Poseidon	2,500 nm	16	192	192	2,304
Polaris	21	A-3	2,500 nm	16	336	16	336
Polaris	8	A-2	1,500 nm	16	128	16	128
Total	41				656		2,768
U.S.S.R.:[2]							
Yankee	26	SS-N-6 (Sawfly)	1,300 nm	16	416	16	416
Hotel II	9	SS-N-5 (Serb)	650 nm	3	27	3	27
Golf II	25	do	do	3	75	3	75
Total	60				518		518

[1] Figures as of June 1972. [2] Figures as of February 1972.

TABLE 2.—MAJOR NAVAL COMBATANT COMPARISON (FIGURES AS OF FEBRUARY 1972)

NATO

	Totals	United States	United Kingdom	France	Canada	Denmark	Netherlands	Italy	Norway	Portugal	Greece	Turkey	West Germany
Attack and ASW carriers	20	16	2	2	0	0	0	0	0	0	0	0	0
Helicopter carriers	12	7	3	2	0	0	0	0	0	0	0	0	0
Cruisers	16	9	3	2	0	0	2	0	0	0	0	0	0
Destroyers and escorts	460	214	76	48	20	2	18	24	5	11	12	10	20
Submarines	259	138	34	20	4	6	5	10	15	4	2	10	11
Total	767	384	118	74	24	8	25	34	20	15	14	20	31

WARSAW PACT

	Totals	U.S.S.R.	Bulgaria	Czechoslovakia	East Germany	Hungary	Poland	Rumania
A Httack and ASW carriers	0	0	0	0	0	0	0	0
Celicopter carriers	2	2	0	0	0	0	0	0
ruisers	25	25	0	0	0	0	0	0
Destroyers and escorts	206	195	2	4	3	0	2	0
Submarines	350	343	2	0	0	0	5	0
Total	583	565	4	4	3	0	7	0

TABLE 3.—MAJOR NAVAL COMBATANTS IN MEDITERRANEAN AREA

	NATO AND U.S. ALLIES					WARSAW PACT AND U.S.S.R. ALLIES					
	Totals	NATO[1]	Spain[2]	Israel	Morocco	Totals	W.P. (U.S.S.R.)[3]	Egypt	Yugoslavia[4]	Albania[4]	Others[5]
Attack and ASW carriers	5	4	1	0	0	0–0	0–0	0	0	0	0
Helicopter carriers	3	3	0	0	0	0–1	0–1	0	0	0	0
Cruisers	3	2	1	0	0	2–4	2–4	0	0	0	0
Destroyers and escorts	106	86	17	2	1	14–17	5–8	7	2	0	0
Attack submarines	47	41	3	3	0	27–32	7–12	12	5	3	0
Totals	164	136	22	5	1	43–54	14–25	19	7	3	0

[1] NATO includes US 6th Fleet; United Kingdom forces normally in the area; one-half of the French Navy; and the naval forces of Italy, Greece, and Turkey.

[2] One-half of the Spanish Navy.

[3] U.S.S.R. totals are normal and highest observed.

[4] Yugoslavia and Albania are included though the political situation with the U.S.S.R. may be strained at the moment.

[5] Others include Syria, Libya, Algeria, Tunisia, and Lebanon.

TABLE 4.—SUMMARY OF MAJOR U.S. COMBATANT SHIPS AUTHORIZED OR PRESENTLY UNDER CONSTRUCTION

2—Nuclear Attack Carriers.

5—Large Amphibious Helicopter Assault Carriers.

5—Large Nuclear Guided Missile Destroyer Leaders.

16—Large All-Purpose Destroyers (DD963 Spruance Class).

14—Large Escorts (DE1052 Knox Class).

12—Large Nuclear Attack Submarines (SSN688 Los Angeles Class).

9—Medium Nuclear Attack Submarines (SSN637 Sturgeon Class).

TABLE 5.—SUMMARY OF MAJOR U.S. COMBATANT SHIPS FISCAL YEAR 1973 REQUESTED

$299 million for long lead items for one additional nuclear attack carrier (CVN-70). (Eventual total program will cost an estimated $951 million.)

$10 million for contract design for a "first buy" of eight new follow-on carriers called Sea Control Ships (SCS). (Eventual total program will cost an estimated $1 billion.)

$50 million for two 2200-ton prototypes of a new major surface combatant called Surface Effect Ship (SES), which will be a large hovercraft. (Eventual total program cost is not available.)

$945 million for advanced development of a new strategic-missile nuclear submarine called Undersea Long-Range Missile System (ULMS). (Eventual total program will cost an estimated $11.2 billion as "presently constituted.")

$612 million for procurement of seven additional all-purpose destroyers of the DD963 Spruance Class. (Eventual total program will cost an estimated $2.7 billion.)

$192 million for the lead ship of a new fifty ship class called Patrol Frigate (PF). (Eventual total program cost is estimated at $2.4 billion.)

$1.05 billion for procurement of six additional nuclear attack submarines of the SSN-688 Los Angeles Class. (Eventual total program will cost an estimated $6.8 billion.)

(All total program cost estimates are based on Department of Defense figures.)

TABLE 6.—UNITED STATES AND U.S.S.R. MAJOR NAVAL COMBATANTS

[Figures as of February 1972]

	United States	U.S.S.R.
Surface:		
Aircraft carriers	16	0
Helicopter carriers	7	2
Cruisers (with missiles)	8	11
Cruisers (without missiles)	1	14
Destroyers and escorts (with missiles)	65	40
Destroyers and escorts (without missiles)	149	155
Surface total	246	222
Submarines:		
Nuclear submarines (with ballistic missiles)	41	[1] 35
Diesel submarines (with ballistic missiles)	0	25
Nuclear attack submarines (with cruise missiles)	0	[1] 40
Diesel attack submarines (with cruise missiles)	0	28
Nuclear attack submarines (without missiles)	56	25
Diesel attack submarines (without missiles)	41	190
Submarine total	138	343
Major naval combatant total	384	565

[1] Estimate.

TABLE 7.—UNITED STATES AND U.S.S.R. MAJOR NAVAL COMBATANTS

[Figures as of February 1972]

UNITED STATES

Number of ships	Class or type	Tonnage	Status	Operational dates
	NUCLEAR AIRCRAFT CARRIERS			
1	Enterprise	75,000	Active	1961.
2	Nimitz	81,000	Under construction	1974–6.
1	Nimitz	81,000	Requested FY 1973, $229 million for long lead items (Est. total cost—$951 million).	
	CONVENTIONAL AIRCRAFT CARRIERS			
4	Kitty Hawk	60,100	Active	1961–8.
4	Forrestal	59,650	do	1955–9.
3	Midway	51,000	do	1945–7.
2	Hancock	32,800	do	1944–50.
2	Essex	32,800	do	1943–5.
8	Sea Control Ship	17,000 (estimated).	Requested fiscal year 1973, $10 million for contract design (estimated total cost—$1 billion).	Late 1970's.
	HELICOPTER CARRIERS			
7	Iwo Jima	17,000	Active	1961–70.
5	Amphibious assault ship.	35,000 (estimate).	Under construction	1973–6.
	NUCLEAR CRUISERS			
1	Long Beach	14,200	Active	1961.
	CONVENTIONAL CRUISERS			
1	Salem	17,000	Active	1949.
3	Albany	13,700	do	1945–6.
4	Cleveland	10,670	do	1944–5.
7	Surface effect ship (hovercraft).	10,000 estimated).	Requested, fiscal year 1973, $50 million for two 2,200 ton prototypes (estimated total cost—not available.)	Late 1970's.
	NUCLEAR DESTROYERS			
5	California	9,000 (estimate)	Under construction	1972–5.
1	Truxton	8,200	Active	1967.
1	Bainbridge	7,600	do	1962.
	CONVENTIONAL DESTROYERS AND ESCORTS			
63	Missile Destroyers	3,370–6,570	Active	1953–67.
30	Spruance [1]	6,000 (estimate).	Under construction	late 1970s.
50	Patrol Frigate	3,400 (estimate).	Requested fiscal year 1973 $192 million for lead ship.	late 1970s.
46	Knox	3,011	Active (14 still under construction).	1971–2.
(The United States has about 115 additional older destroyers and escorts.)				
	NUCLEAR SUBMARINES WITH BALLISTIC MISSILES			
41	Polaris/Poseidon	5,900–7,320	Active	1959–67.
7	ULMS	16,000 (estimate).	Requested fiscal year 1973 $945 million for advanced development (estimated total cost—$11.2 billion).	Late 1970s.
	DIESEL SUBMARINES WITH BALLISTIC MISSILES			
None.				
	NUCLEAR ATTACK SUBMARINES WITH CRUISE MISSILES			
None.				
(The United States decided not to pursue this weapon system in the late 1950's, but a cruise missile weapon system is presently under development.)				
	DIESEL ATTACK SUBMARINES WITH CRUISE MISSILES			
None.				
	NUCLEAR ATTACK SUBMARINES			
56	Sturgeon and others	2,317–3,860	Active (more under construction).	1954–7
12	6,000 estimated	Los Angeles	Under construction (6 more requested in fiscal year 1973 budget).	1967–7
	DIESEL ATTACK SUBMARINES			
41	Guppy and others	1,850–2,145	Active (but being deactivated).	1943–59.

---

[1] The surface-to-surface missile (Harpoon) will be put on these units and almost all other destroyers by the late 1970s. These units are shown because of this fact and their large size.

Note: All total program cost estimates are based on Department of Defense figures.

U.S.S.R.

Number of ships	Class or type	Tonnage	Status	Operational dates
			NUCLEAR AIRCRAFT CARRIERS	
None.				
			CONVENTIONAL AIRCRAFT CARRIERS	
None.				
			HELICOPTER CARRIERS	
2	Moskva[1]	15,000	Active	1967–8.
1	Possible carrier or merchant ship.	35,000 (estimate).	Under construction	late 1970's.
			NUCLEAR CRUISERS	
None.				
			CONVENTIONAL CRUISERS	
10	Sverdlov	15,450	Active	1951–60.
1	Dzerzhinski	15,450	do	1962.
2	Chapaev	11,500	"Probably" being deactivated (old).	1948–50.[2]
1	Missile cruiser	9,000 (estimate)	Under construction	late 1970's.
2	Kirov	8,500	"Probably" being deactivated (old).	1938–44.
	(The following Soviet cruisers are smaller in size than U.S. destroyers.)			
2	Kresta II	6,000	Active	1968-?.
4	Kresta I	5,140	do	1967–8.
4	Kynda	4,800	do	1962–5.
			NUCLEAR DESTROYERS	
None.				
			CONVENTIONAL DESTROYERS AND ESCORTS	
40	Missile destroyers	2,850-5,200	Active	1954-?.
(The U.S.S.R. has about 155 additional older non-missile destoyers and escorts. Some are being converted to missile ships.)				
			NUCLEAR SUBMARINES WITH BALLISTIC MISSILES	
35	Yankee	7,300	Active	1969-?.
	Hotel II	3,700	do	1961-?.
			DIESEL SUBMARINES WITH BALLISTIC MISSILES	
25	Golf II	2,300	Active	1950–65.
			NUCLEAR ATTACK SUBMARINES WITH CRUISE MISSILES	
40	Echo I+II	5,000	Active	1961–8.
	Charlie	4,000	do	1969–?.
			DIESEL ATTACK SUBMARINES WITH CRUISE MISSILES	
28	Juliett	2,200	Active	1962–7.
	Whiskey	1,200	do	1950–7.
			NUCLEAR ATTACK SUBMARINES	
25	Victor	3,600	Active	1969–?.
	November	3,500	do	1959–65.
			DIESEL ATTACK SUBMARINES	
190	Fox Trot and others	650–2,000	Active (most being deactivated).	1950–67.

[1] Cruiser forward with large ASW helicopter deck aft.

[2] Construction began in 1938.

Note: (Question marks denote continuing construction.)

In addition to the over-all numerical superiority of the US major naval combatant force and its preponderance of strength in ballistic missile capability, the US Navy also enjoys fewer climatic and geographic limitations in its normal fleet operations. The Soviet North and Pacific Fleets are restricted by severe winter weather. The Baltic and Black Sea Fleets can easily be blocked if necessary to prevent them from exiting their home waters into international seas. Also, due to geographic factors, it is easier for NATO to keep the Soviet fleets under surveillance than it is for the Soviets to maintain continuous surveillance of NATO naval operations.

TABLE 8.—UNITED STATES AND U.S.S.R. FLEET OPERATIONAL COMPARISONS

UNITED STATES

Normal operations	Estimated number of major units	Major facilities	Climatic or geographic limitations
1st Fleet: Extensive training operations in eastern Pacific yearround.	125	San Diego, Long Beach, San Francisco.	None.
7th Fleet: Extensive training operations in Western Pacific yearround. Frequent operations in Sea of Japan and South China Sea. War operations in Gulf of Tonkin and Philippines Sea. Infrequent operations in Indian Ocean. Patrols US Trust Territory of the Pacific Islands.	61	Pear Harbor, Guam, Midway, Japan, Phillippines, Formosa, Vietnam.	Do.
2d Fleet: Extensive training operations in western Atlantic, Norwegian and North Seas, and in the Caribbean Sea year-round. Annual operations around South America. Deploys to Mediterranean Sea and to the Indian Ocean.	179	Norfolk, Newport, Charleston, Mayport, Key West, New London, Spain, Scotland, Iceland, Cuba, Bermuda, Puerto Rico, Azores.	Do.
6th Fleet: Extensive training operations throughout the Mediterranean Sea year-round. Quarterly deployment of 2–3 destroyers into the Black Sea.	[1] 23	Ports in Italy, Greece, France, Spain, Turkey, Malta.	Narrow exit via Strait of Gibraltar.
Middle East Force: Normal training operations in Persian Gulf	2	Bahrein, Diego Garcia (Indian Ocean).	Narrow exit from Persian Gulf via Strait of Hormuz.

U.S.S.R.

Normal operations	Estimated number of major units	Major facilities	Climatic or geographic limitations
Black Sea Fleet: Normal in-area training experience in Black Sea year-round. Extensive deployments to Mediterranean Sea. Infrequent operations in Atlantic or Caribbean Sea.	123	Batumi, Sevastopol, Novorossik (U.S.S.R.).	Narrow exit via Turkish Straits.
Mediterranean Fleet: Normal operations in Eastern and Central Mediterranean Sea. Extensive time spent at anchorages or in ports. Submarines deploy from North or Baltic Fleets. Most surface combatants deploy from Black Sea Fleet.	21	Egypt	Narrow entrance via Strait of Gibraltar and Turkish Straits.
Baltic Fleet: Normal in-area training operations in Baltic Sea year-round. Out-of-area operations in North Sea. Infrequent operations in the North Atlantic or Caribbean Sea.	74	Riga, Kaliningrad (U.S.S.R.).	Partial winter freeze in both ports. Narrow exit via The Sound.
North Fleet: Normal in-area training operations in White and Barents Seas during summer months. Out-of-area exercises in Norwegian Sea. Infrequent operations in North Atlantic and Caribbean Sea.	197	Kola, Murmansk Severodvinsk (U.S.S.R.).	Partial winter freeze in all ports.
Pacific Fleet: Normal in-area training operations in Seas of Japan and Okhotsk. Infrequent out-of-area operations in North and Central Pacific during summer months only. Deployments in the Indian Ocean.	161	Vladivostok, Nakhodka, Petropavlovsk (U.S.S.R.).	Partial winter freeze in all ports. Narrow exits via Kuril Islands and Korea and Tsugaru Straits.
Indian Ocean detachment: Extensive time spent at anchor in the Socotra Island area, or in Seycnelles and Maldvie Islands. Minor training operations in Arabian Sea.	5	None. Use friendly ports for support.	Narrow entrance via Strait of Malacca. Long distance from Pacific and North Fleets.
Guinea Patrol: Off west coast of Africa	3	None. Use Conakry, Guinea for support.	None.

[1] Includes two attack carriers and amphibious landing ships with embarked Marine Battalion Landing Team.

THE CENTER FOR DEFENSE INFORMATION

The enormous size and complexity of the military effort in this country has outrun the institutions established for citizen understanding and control of public policy. An informed public opinion on national defense and foreign commitments in lacking in our society.

For these reasons the Center for Defense Information has been established. The Fund for Peace has encouraged and made possible the initiation of this Center. Further funding will be provided by private foundations and interested individuals. The Center will be under absolutely no financial or other obligation to any government, military, industrial or individual special interest.

The Center will concentrate exclusively on analyzing and circulating public information on matters of national defense and overseas commitments, as well as scrutinizing our national defense program on a day-to-day basis. Its appraisals will challenge existing assumptions about national defense and provide the basis for rational alternative policies and budgets, to be measured against those of the Department of Defense.

The Center will disseminate its research and information to the broadest public possible through position papers; a journal. *The Defense Monitor,* of which this is the first edition; and material designed for the news and other media. In addition, the Center will respond to requests for information on defense matters. Future editions of *The Defense Monitor* will include analysis of the defense budget, ULMS (Underwater Long-range Missile System), the B-1 Bomber technological superiority, the proposed attack carrier, U.S. forces overseas and military commitments to foreign nations, as well as other topics of vital national and military concern.

The Center and its rapidly developing inventory of information will be a reliable and non-partisan resource for all individuals and groups insisting upon a military that will genuinely defend and strengthen American society not weaken it by overcommitments and waste of resources.

THE STAFF

Rear Admiral Gene R. La Rocque, US Navy (Ret.) *Director.*

Lindsay Mattison, *Assistant Director.*

Donald May, *Assistant Director.*

Sally Anderson, Robert Berman, David Johnson, William Ronasaville, Dean Rudoy, Judith Weiss.

Rear Admiral Gene R. La. Rocque retired from the United States Navy on April 1st, 1972 to become Director of the Center for Defense Information.

He commanded destoyers in the Pacific in World War Two and holds the Bronze Star and Navy Commendation Medal. He commanded a fast carrier task group with the Sixth Fleet, a divsion of destroyers, a cruise and Cruiser-Destroyer Flotilla. He served on the staff of the Naval War College, and more recently, in the Strategic Plans Division of the Joint Chiefs of Staff. Admiral La Rocque recently received the Legion of Merit and left his position as Director of the Inter-American Defense College to direct the Center for Defense Information.

HOUSE OF REPRESENTATIVES—*Tuesday, May 9, 1972*

The House met at 12 o'clock noon.

Dr. Jack P. Lowndes, president, Home Mission Board, Southern Baptist Convention, and pastor, Memorial Baptist Church, Arlington, Va., offered the following prayer:

Our help is in the name of the Lord, who made heaven and earth.—Psalm 124: 8.

Eternal God, we need Thee in our troubles, for they are many. We are burdened with the perplexities and problems that destroy our peace. In this hour when our world is sobered by fear and uncertainty, we pray not only for our Nation but for all nations.

Grant wisdom to those upon whom rest our Nation's responsibilities. We pray that decisions will be made that will open doors where we thought there was no way out. Help us to do the right thing that will bring peace at last with promise of justice and human decency and freedom. Forgive and overrule our mistakes.

Please, God, meet our needs this day and be to us as to our fathers, our strength, hope, and victory. In the spirit of Christ we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

THE LATE HONORABLE WILLIAM ROBERT WILLIAMS

The SPEAKER. The Chair recognizes the gentleman from New York (Mr. Pirnie).

Mr. PIRNIE. Mr. Speaker, it is with sorrow that I rise to announce the passing this day of a former Member of this body from the district I now represent, the Honorable William Robert Williams of Cassville, N.Y. Born on August 11, 1884, in Brookfield, N.Y., Mr. Williams spent almost a quarter of a century in public office. During that time he won and held the respect of all who worked with him. He was a rugged, dependable, public servant.

Mr. Williams' public life began in 1935 when he became a member of the assembly of the New York State Legislature. He served his constituents faithfully as assemblyman and in 1943 he was elected to the post of sheriff of Oneida County.

Following 8 years of courageous service to the public in this position, Mr. Williams, in November of 1950, was elected Member of Congress from what was then the 34th District of New York. It was indeed a proud day for his wife and three children when he took his oath of office in Washington, D.C., on January 3, 1951.

A farmer by vocation, Congressman Williams loved nothing better than to spend the days when Congress was not in session at his farm in Cassville, visiting his friends and neighbors. This interest in farming led naturally to a seat on the House Agriculture Committee where he served ably from the 82d through the 85th Congress.

In 1958 he announced that he would not be a candidate for reelection. At age 74, he felt that it was time for a younger man to take over and he gave generous and enthusiastic support to my candidacy to succeed him. At the end of his term he retired to his farm. Sadly, it was only a short time before his loving wife was stricken with a fatal illness. During his last years he has had the loving care of his two daughters, Jane Hurn of Cassville, N.Y., and Helen Pughe of Sauquoit, N.Y.

Congressman Williams never actively sought the glaring spotlight of political acclaim. He left the cheers and jeers to others, contenting himself with playing the supporting role without which this Government of ours simply could not function. His unfailing devotion to the Republican Party continued throughout his life.

He loved his country and served it faithfully. No higher tribute can be paid to any man. I am sure that many Members will join me in extending to his family and friends our deepest sympathy in their loss. We will long remember this strong, yet kindly friend who handled his personal and public relationships with such admirable fidelity.

GENERAL LEAVE

Mr. PIRNIE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks in the Record on the life, character, and service of our late colleague, William R. Williams.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

STRONG OPPOSITION TO NEW ESCALATION

(Mr. DOW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOW. Mr. Speaker, an inflexible President, unable to accept the failure of his own policies, has brought us to an eyeball confrontation with Soviet Russia. It is not the same as the Cuban crisis. There the right circumstances were on our side. Today, the right of the issue and the circumstances are not all on our side. This is America's tragedy. Led by headstrong leaders, like Nixon, insensitive to the aspirations of peasant peoples around the globe, we have come to this shameful reliance on force alone to gain our purposes.

Nixon has given an ultimatum to the Soviet ships in Haiphong Harbor to leave within 3 days. If blockade was such an easy measure to use, why was it not employed before? There must have been a reason.

President Nixon has always had the idea that Moscow could turn the Vietnam war on and off. So he is throwing a direct challenge at Russia more than North Vietnam. For this misreading of the facts by the President, we may all pay a fearful price.

The President is taking a risk of exterminating our civilization for a shabby purpose. He appears as a pious man, but the fact is that he is leading us down the road of evil where might makes right. To our everlasting grief, we may find that might does not make right.

Acting like a despotic monarch, the President has bypassed the intent of the Constitution, by making this grave decision without consulting the Congress.

As an American, I do not want to be led like a sheep to such a vicious end as Nixon is willing to risk.

As a Congressman, I will oppose the President's decision.

PRESIDENT'S DECISION IN INDOCHINA

(Mr. SIKES asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, I support President Nixon in the difficult and trying decision he has made on the war in Indochina. It is a course which could bring greater danger, but it also is a course which can bring an end to the impasse which has developed there and a course which can save many lives. I applaud his courage in facing up to the facts of Communist intransigence. Vietnamization is not being given a chance to work. It cannot work in the face of massive invasion. South Vietnam deserves to survive. We must also protect the Americans still in Vietnam. What is being done now to shut off supplies of war should have been done long ago.

We have tried all other approaches in the search for peace. The Communists want only surrender. This America cannot give. Those who now wring their hands simply are calling for a continuation of the present intolerable situation with no promise either of peace or a return of POW–MIA's.

America cannot accept defeat in Indochina. We have too much invested in principle, lives, and treasury. Defeat would also destroy our effectiveness in world councils for years to come. It would provide the Communists with the muscle they need for rapid takeover in most of the free world.

PRESIDENT'S DECISION IN VIETNAM

(Mr. STRATTON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, like the gentleman from Florida (Mr. SIKES) who has just spoken, I rise to express my support of the President in the very difficult decision which he announced last night.

The situation in Vietnam is very serious in my judgment, and American forces still in Vietnam face a grave threat. In these circumstances I believe it is time that we suspend politics and not try to complicate the President's job.

I think that a blockade, as we saw in the Cuban missile crisis, when President Kennedy relied on a similar approach, is the most cautious action we could take at this critical time. I hope and pray that it will finally persuade both the Soviets and the Chinese that they ought to join us in ending the fighting in Vietnam instead of sitting on the sidelines and cheering.

The President's offer to withdraw our troops 4 months after an internationally enforced cease-fire and after the return of all our prisoners is certainly the most constructive proposal we have yet tabled, and I hope and pray it will finally bring an end to this war.

THE SITUATION IN VIETNAM

(Mrs. ABZUG asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. ABZUG. Mr. Speaker, the President has acted without the authority of this Congress, which alone has the power to declare war, and against the overwhelming mandate of the American people, who have made clear their desire to withdraw from Vietnam. I challenge the President, Mr. Speaker, to bring a declaration of war before this Congress. Let the elected representatives of the people vote on whether we shall be at war with a people who in no way threaten the vital interests of our Nation.

The American people and the Congress are left to sit on the sidelines totally uninformed and unconsulted, while their fate and the fate of the people of Indochina are decided by one man who has arrogated to himself enormous and unconstitutional power.

Mr. Tom Wicker said today in the New York Times:

> Has it come to this, then, that it lies within the sole province of one man, unlimited by law or opinion, whether elected by landslide or hair's breadth, to decide without let or hindrance how the military power of the United States shall be used even in a situation his own policies have done much to create?

I understand that before he went on television yesterday, the President summoned the Speaker and other congressional leaders to the White House. I believe that the Members have a right to know what happened at that meeting, and I call on the Speaker to report to us immediately on the substance of that conversation, if indeed it was that, and to submit to questioning and discussion by the Members of the House. We must act to restore the authority of the House. It is our responsibility.

There are those, and I join with them, who intend to introduce a motion to impeach the President because he has indeed committed high crimes in violation of the Constitution and against the people of this country and the world. I charge him with that high crime and misdemeanor.

The SPEAKER. The time of the gentlewoman from New York has expired.

PRESIDENT'S ACTION IN VIETNAM

(Mr. DORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORN. Mr. Speaker, I rise today to support the President of the United States in his action to protect our men while they are being withdrawn in the cause of peace. The President had no alternative. Complete Communist success in this aggression would subject American withdrawal forces, most of whom are support personnel with no combat experience, to the gravest peril.

I would shudder to think what would happen in the future if we should abandon duty and shirk our responsibility and let thousands of our troops fall into the hands of the enemy. Without question, Mr. Speaker, I believe that with our men as ransom you would have Communist blackmail demands for the United States to abandon South Korea, the Philippines, Japan, and Taiwan. This would set the stage for a Communist demand to get out of Europe, out of the Mediterranean, the Indian Ocean, and even the Panama Canal Zone.

To flee Indochina with no regard for our prisoners of war, leaving our men at the mercy of a ruthless enemy, is not the road to peace but the old familiar road to world war.

The heavy military equipment, ammunition, and guns are pouring into Haiphong Harbor from Russia and her Communist allies. This is actually placing in the hands of the North Vietnamese aggressor the means to capture or kill more American boys and prevent them from returning home.

Mr. Speaker, we should support the President. Otherwise I see no real hope of rescuing our prisoners or bringing our troops safely home. The President acted in the interest of peace with honor. This is a time for unity among the American people, a time for all Americans to support actions taken to protect our withdrawal forces and prevent another world war. Now is the time and here is the place to stop helping North Vietnam by continuing to hold out to them the hope of dissension, political partisanship and chaos here in our country.

SUPPORT FOR THE PRESIDENT'S ACTIONS IN SOUTHEAST ASIA

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, I also rise to join my colleagues in support of the President in his new actions in Southeast Asia.

In my opinion, it would be presumptuous for anyone to condemn the President's actions without knowing the full and detailed information at Mr. Nixon's disposal on the current situation in Southeast Asia and our relationship with Russia.

The next few days will severely test the mettle of the American people. I would suggest that rather than engaging in further rhetoric at this time, all Americans should offer heartfelt prayers that President Nixon has made the right decision to end the killing, win freedom for our captured U.S. servicemen and accomplish total withdrawal of American troops from South Vietnam.

PRESIDENT'S ACTION IN SOUTH VIETNAM

(Mr. O'NEILL asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, last night President Nixon changed the policy of this Government. I believe that his "get tough" attitude presents the calculated risk of a confrontation with the Soviet Union. The White House will have to show tremendous diplomatic skills in the next 3 days or we could be in world war III.

At the weekly Wednesday morning State Department briefings that the Members of Congress attended, we were led to believe that our 60,000 troops were not in danger; and we were also led to believe that the North Vietnamese had all the needed supplies so that a blockade of their harbors would be ineffective. Last night, the President reversed this position. A naval blockade and mining of all North Vietnamese ports are now considered necessary actions to insure the safety of our troops and to bring the North Vietnamese to their knees.

I am opposed to the President's new policy.

MR. NIXON'S TRAGIC POLICY

(Mr. PUCINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PUCINSKI. Mr. Speaker, the tragedy of President Nixon's reckless decision to mine the harbors of North Vietnam and bring the world to the brink of world war III obscures the fact that the administration for the first time has publicly offered a fixed day for U.S. troop withdrawal from the conflict.

It is deplorable, Mr. Speaker, that the President would order an escalation of the war at the same time he has made his offer for troop withdrawal in 4 months if an internationally policed cease-fire can be worked out.

Had Mr. Nixon first made his firm offer for troop withdrawal and given the enemy an opportunity to respond before he ordered the escalation of hostilities, perhaps today both sides would be discussing peace in Paris instead of preparing for a massive confrontation in the battlefield.

The President has enlarged the war. You cannot talk peace when you are escalating the conflict. Instead of moving toward a meaningful peace, the President has again placed the entire burden of the conflict on the American people. It is a futile step, for we Americans have long since met any commitment we ever had to the Government of South Vietnam. The time has come to get out, lock, stock, and barrel—now.

PRESIDENT'S ACTION IN VIETNAM

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, 4 years ago, when President Nixon was a candidate, he said he knew how to end the war—that solution is still a well-kept secret.

Then the President was going to Vietnamize the war. Up until a short time ago, he was telling us how successful his policy was. We were told the Vietnamese Army was capable of defending itself, our remaining men were in no danger, and that he would, therefore, continue to withdraw U.S. troops.

Now he suddenly escalates the war, not only within Vietnam but in such a way that risks a confrontation with the Soviet Union that could push us into a nuclear world holocaust. The reason for this reckless act is purportedly to protect our own men in South Vietnam—who, he told us 2 weeks ago, were perfectly safe.

The only possible answer is the South Vietnamese lack of faith in their own government in this war.

If the South Vietnamese people do not have their heart in this struggle, why should the American people squander the lives of their sons, and the hard-earned dollars and why should we escalate to a major power confrontation?

How can we justify this policy in the name of stopping communism when the President himself goes to Peking and Moscow to deal with the world leaders of communism?

I cannot help but believe, with much sorrow, that President Nixon is more interested in his own reelection than in the maintenance of world peace.

The President's actions indicate that he has placed the lives and safety of 69,000 Americans in the hands of a corrupt military regime which cannot defend itself.

We have provided South Vietnam with billions upon billions of dollars. We provide them with total superiority in the air and on the sea. Has Mr. Nixon asked himself why with our aid, which far outstrips anything the Russians and Chinese have been able to do, the South Vietnamese do not fight to defend their own homes, but instead desert in droves while the North Vietnamese fight on.

We, as the elected representatives of the people, must find some way to halt the irresponsbile acts of a President hell-bent for reelection.

While Congress has the power to make war under the Constitution, President Nixon is arrogating to himself the power to create a war under the flimsiest of pretexts.

Let us all pray that Mr. Nixon's brinksmanship will not lead us on a path of no return before we in Congress and the American people can make clear that American honor is staked on a just peace, not war.

PRESIDENT'S SPEECH

(Mr. FUQUA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FUQUA. Mr. President, the speech by President Nixon last night to the American people pointed out the tragic situation which we now face in South Vietnam. In a period when we are attempting to remove our forces from that strife-torn land, the North Vietnamese have invaded with all their might in aggression against South Vietnam.

The Communists show utter contempt for world opinion, just as they have shown utter contempt for every attempt we have made in the past 4 years to find a peaceful settlement.

There is much about our present policies with which I disagree. In spite of the President's campaign statements that he had a secret plan for ending the war, we still have not seen the release of our prisoners and our men missing in action remain missing.

I have consistently pondered the wisdom of a nation participating in a conflict where there is no resolve to win.

The situation, as outlined by the President, is serious and fraught with danger.

Naturally he does not want a world conflict or nuclear war. I can only hope that there have been some prior agreements made with the Soviet Union when discussions and conferences have been held between that nation and the President's representative or representatives.

We have already announced that we do not consider the conflict worth continuing. It certainly would not be worth becoming involved in a world war under those circumstances.

Mr. Nixon said upon taking office that he would be judged by his actions. As a nation, let us hope that there has been some secret agreement arrived at by this administration as to what action the Soviet Union might take in line with his newly announced policy.

PRESIDENT TOOK REALISTIC COURSE OF ACTION IN VIETNAM

(Mr. ICHORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ICHORD. Mr. Speaker, the President took yesterday one of the few courses of action realistically available to him as Commander in Chief.

It should now be clear to all that negotiations under present circumstances are a farce. The North Vietnamese have no serious intentions to negotiate an end to the war at this time under existing circumstances. We cannot pull out the remainder of our troops in the face of the massive invasion of South Vietnam. To do so now would require us to resort to begging for the return of our prisoners of war. The POW's are the key, I think, to the President's action.

It is difficult to assess the immediate effect of the mining of Haiphong Harbor. The mining of the harbor will be detrimental to North Vietnam's war effort in the long run, however, it will have minimal effect upon their capability to continue their offensive in South Vietnam. There will also have to be a concentrated effort to interdict the railroad lines leading into the country from China. I would point out that the Russian tanks and SAM missiles have been transported through China by rail. Personally, I believe that the President at this late date will have to do more than mine the harbor and interdict the railroad. However, the President in his speech did go straight to the source of North Vietnamese strength—namely, Russia. So it would appear that the President is still aiming at a negotiated settlement rather than a final solution through continued warfare.

Politically it would be easier to criticize the action of the President without offering any responsible alternative. But I must support the President in a very difficult decision and I fervently hope and pray that most Americans will do likewise. The responsibility of leadership, I believe, dictated the President's action. The responsibility of citizenship, I believe, calls for our united support of the President's action in this difficult and trying hour for America.

GET OUR MEN, BOMBS, AND MINES OUT OF VIETNAM

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, I will support the President when I think he is right and I will oppose him when I think he is wrong. I think he is wrong.

I think that is the obligation of citizenship. I think that in this case the President is wrong. My judgment is not predicated on my position on the war—I oppose the war—but on the fact that the Congress is authorized by the Constitution to declare war, not the President. Surely the mining of harbors and the raining of bombs are acts of war. Nobody can dispute that.

The President's statement last night surely shocked an overwhelming number of Americans and hopefully an overwhelming number of Members of this Congress. He has drastically escalated the war without any authorization by this Congress. Surely no thoughtful citizen will accept his statement that the mining of North Vietnam's harbors is being done in defense of our American troops now in South Vietnam. If that reasoning is allowed to prevail there is no constitutional restraint at all in his taking similar action against any country at any time without congressional authorization because there is not a single country in which some American citizen or American interest is not located.

I am sick to death of a war where 55,000 of our young men have died and our planes still rain bombs on both North and South Vietnam killing innocent civilians. In the critical days ahead, I will pursue every constructive effort necessary to undo the President's usurpation of congressional authority and get our men, bombs, and mines out of Vietnam.

If the President and those people who support the President think we ought to be at war, ought they not have the courage of their convictions and bring in a resolution for a declaration of war that we can vote on? Would the Members who support the President, rightly or wrongly, vote for a declaration of war? If they would, should they not introduce it?

SUPPORT FOR THE PRESIDENT'S ACTION

(Mr. ABERNETHY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERNETHY. Mr. Speaker, I have listened with interest to a number of the brief speeches this morning. May I remind those on my side of the aisle that the gentleman in the White House did not put us in this war. We got in the war during the term of a Democratic President and we remained in it through the term of another Democratic President. Furthermore, if there was an obligation to declare war before we got in then the failure took place when we on our side of the aisle were in control of this Congress.

Now it is too late to declare war. The war has been going on for 10 years. What is the use in declaring a fight when the fight is already in action? I recognize the fact that the Constitution empowers the Congress to declare war. But the failure of the Congress to do so should not be a matter about which the President should be criticized.

What the people of this country want to see is to bring it to an end. We cannot bring it to an end by continuously coming into the well of this House and extending a hand out to North Vietnam. They do not want peace. They want nothing short of total victory. The blood of the present push in South Vietnam is on the hands of Hanoi, not on the United States or President Nixon. It has been clearly demonstrated that North Vietnam is not going to do business with us.

The only means by which we can get this war over is to let the North Vietnamese feel the real power of our military, with both barrels open, or cut off the delivery of weapons from Russia and other powers. The latter is exactly what the President proposed to do last night, and I stand with him on it. I compliment him for what he is doing, he is entitled to the support of every citizen in this country, and I am pleased to say he has mine as well as that of my people.

THE PRESIDENT'S DECISION

(Mr. MONAGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONAGAN. Mr. Speaker, by ordering the mining of Haiphong Harbor, President Nixon has made a grave and far-reaching decision. I hope that this gamble will be effective in moving the North Vietnamese to enter the meaningful negotiations which the President described as the objective of his move. It is clear, however, that his action is an escalation which will have unpredictable effects on our relations with the Russians while its timeliness and effectiveness in the current critical military situation are doubtful. In my judgment the people of the United States wish to withdraw from Indochina with all deliberate speed while protecting our own men and obtaining release of our prisoners of war. It is questionable that the President's decision advances this objective.

THE REACTION FROM THE KREMLIN

(Mr. HAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYS. Mr. Speaker, one of the burning questions around here as well as in the country is what reaction is going to come from the Kremlin. Well, I am not long on making predictions, but I think it is significant that there has been no reaction from the Kremlin so far except the usual propaganda statements. I think they are waiting to see how much support they are going to get from the U.S. Congress, in the Kremlin, to defy the President, to decide what they are going to do. For one, I am not going to give them any encouragement.

PRESIDENT NIXON'S COURAGE

(Mr. WYMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYMAN. Mr. Speaker, I get sick and tired of the cooing of doves with yellow wings in the face of aggression by enemy forces that threatens the lives of thousands of Americans still in Vietnam because a Democratic President sent them there.

President Nixon has brought more than 90 percent of our troops back home. He has trained the South Vietnamese to defend themselves and they are doing the ground combat there now, not Americans, thanks to President Nixon.

The South Vietnamese are fighting against a brutal aggressor that kills men, women, and children without compassion, supplied by the Soviet Union and Red China.

What is an American President to do after offering the olive branch only to be kicked in the back and spat in the face?

President Nixon is right in acting to cut off supplies to the invading enemy. This should have been done long ago. It is about time.

Instead of cooing for surrender to aggression, persons who claim to be leaders should support our American President in his courageous stand.

As I said in 1967 on January 24 in a speech in this House urging the same action:

> Let us get this war over with. Let us for once do something because it is right and necessary and not because it might or might not mean some votes on some future election day.

NIXON: COURAGEOUS EXAMPLE OF LEADERSHIP

(Mr. PELLY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PELLY. Mr. Speaker, this is a day in America of great concern and strong debate following the President's announcement to the American people last evening that he had decided to take new military measures to stop the flow of Russian and other supplies from reaching the invading armies of North Vietnam now in decisive battles in South Vietnam.

If this plan succeeds in preventing the defeat of our allies, the South Vietnamese, if it succeeds without Red China or Russian confrontation, or if it succeeds in bringing about peace talks and the release of our POW's in the hands of Hanoi and the withdrawal of all Americans from Indochina, President Nixon will go down in history as a great leader.

On the other hand if it fails and the odds are not too good—then it could well cost Mr. Nixon his reelection.

As an admirer of his, I want to see him win in November, but if it means his defeat, I still think he had to take the risk and do what appeared to him to be the right thing for the Nation.

Mr. Nixon in his talk explained his alternatives and certainly the course he chose was not the easy one nor politically, the safe way.

History could prove his decision wrong, but it will record one fact, whether he was right or wrong. That is, that he was a great leader in that he put his country first and did not betray his conscience.

Last night, President Nixon appealed to the American people for their support in this crisis and, I can state, as I did in a telegram I sent to the White House last night; he has my support and admiration in this courageous example of leadership.

PRESIDENT'S ACTIONS ON VIETNAM

(Mr. RIEGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIEGLE. Mr. Speaker, last night the President announced a major escalation in U.S. military involvement in the war in Vietnam. His policy to blockade Haiphong Harbor is a clear act of war which directly violates international law. Yet we have not declared war against the North Vietnamese or any other country. The Constitution of the United States does not grant to any President the right or personal privilege to commit the United States to acts of war unless specifically authorized by this Congress of the United States. When we here in the Congress acquiesce silently to that action we also break the law.

The possibility that these military actions may defeat or destroy North Vietnam does not make them right. I urge my colleagues to insist that Congress immediately become a formal party to these decisions.

I will have more to say on these matters later in a special order.

IN SUPPORT OF THE PRESIDENT'S ACTION

(Mr. MINSHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINSHALL. Mr. Speaker, I am proud that we have a President in the White House who has the guts and the courage to make decisions despite any domestic political consequences. I want this House to know that I support him 100 percent.

THE PRESIDENT'S ACTION WITH REFERENCE TO THE WAR IN VIETNAM

(Mr. KEMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KEMP. Mr. Speaker, in the military and diplomatic crisis confronting our country today, there is only one course to follow, and I believe that is the course of action enunciated last night so courageously by our President. The alternative is a unilateral American withdrawal without any guarantee that our prisoners would be returned or that the killing would be stopped in Southeast Asia.

Despite all the rhetoric to the contrary, the President has made a very generous and reasonable offer to both Hanoi and Moscow.

The necessity of taking military steps to bring about a settlement is obvious to anyone willing to recognize that the diplomatic initiatives of this country have been totally rejected by an intransigent enemy seeking total military victory.

The President is very simply offering what his critics have been demanding for many years—that is, total American troop withdrawal and a cease-fire in exchange for our prisoners and those who are missing.

In fact, the President's offer is fully in accord with his most severe critics in the Democratic Party. His offer meets the resolution approved by the Democratic Caucus which, in recent days, resolved, and I quote:

> Resolved further, that the national interest in obtaining a permanent peace with security would best be served by promptly setting a date to terminate all U.S. military involvement in and over Indochina, subject only to obtaining the release of our prisoners of war and all available information on the missing in action.

The only difference is that the President has gone further and seeks to guarantee that the killing would be stopped and that our prisoners and missing would be returned.

Mr. Speaker, the balance of my remarks will hereafter appear in the body of the RECORD.

THE PRESIDENT'S DECISION IN VIETNAM

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROUSSELOT. Mr. Speaker, the President's announced military actions of last night, and their followup initiatives of today, deserve the support of the American people. The ruthless invasion by the Communist North Vietnamese Government required decisive action which the President has been willing to take.

More important, the President indicated that "with God's help," we shall accomplish the goal of peace. This should be a mandate for all Americans to dedicate appropriate time in religious devotion and prayerful thought for the guidance of the President and our men charged with the military responsibility in Vietnam.

Assuming that our forces strike to win over the aggressive and sadistic forces of the Communist North, and that our POW's are promptly returned, there could be a rapid and immediate disengagement of our American presence.

THE PRESIDENT'S DECISION IN VIETNAM

(Mr. BRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRAY. Mr. Speaker, the President's remarks last night have implications ranging far beyond Vietnam, and Southeast Asia.

They put friends—friends, everywhere, not just in Vietnam—on notice that we will not ever desert them, once we have pledged our support.

They put enemies—active today, and potential tomorrow—on notice that pulling the American eagle's tail feathers has only one result: a face full of claws.

But, I must say, I do have regrets about his speech.

I regret Lyndon Johnson did not make it in 1965. I would have supported Lyndon Johnson then, if he had, just as strongly and as solidly as I support Richard Nixon now.

SUPPORT THE PRESIDENT

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include therein the address by the President on national radio and television last night.)

Mr. GERALD R. FORD. Mr. Speaker, Americans were surprised by the President's firm announcement last night that the United States will mine and blockade North Vietnamese ports to shut off the supplies that are feeding the North Vietnamese invasion of South Vietnam.

Now that we have had a chance to reflect on the meaning of this Presidential action, Mr. Speaker, it seems to me there is only one response which would be proper and right for the American people—to support the President.

Dean Acheson, a lifelong Democrat and Harry Truman's Secretary of State, has said he is inclined to:

> Support the President whatever the issue, until we come to the quadrennial donnybrook and get it out of our system.

I urge today, Mr. Speaker, that Americans back the President because what he has done is right.

In my view, Mr. Speaker, the President was forced to choose between surrender and a decisive action aimed at ending the war. I am proud that he chose the latter course. I think all Americans should be.

The alternative was for us to slink out of Vietnam like a beaten dog with his tail tucked between his legs. At the same time we would have been risking a Dunkirk-like evacuation of the 60,000 ground troops we still have in Vietnam.

It took great courage for the President to do what he has done. However, I am sure that more than courage was involved. I am certain the President has made an informed judgment that the risks attached to his decision are not as great as feared by those now uttering doomsday cries.

Mr. Speaker, the President is proving to the world that the United States is not a pitiful giant. He is proving to the world that America's word is good, that it is clothed with integrity. He is proving to the world that Americans are people who are determined that justice and fair dealing shall prevail in world affairs. This is a time of crisis, Mr. Speaker. Ths is a time for all of us to stand up for America. It is a time when all of us should come forward to be counted.

PRESIDENT'S DECISION ON VIETNAM

Mr. ARENDS. Mr. Speaker, if there ever was a time when our American President deserves and needs the support of the American people, it is now.

This is a critical hour. The cause of peace and the cause of freedom are at stake.

The bold and courageous actions taken by our President demand nothing less than total national unity. In unity there is strength. And it is for us to make crystal clear to the international bandits of Hanoi that they cannot defeat the United States by the strategy of "divide and conquer".

We are as one people in our determination to ensure the safety of our troops remaining in South Vietnam, to obtain the release of all our prisoners of war, and to bring about an honorable settlement of the war that there may be a sound basis for permanent peace in the world.

PRESIDENT'S ACTION IN SOUTHEAST ASIA

(Mr. THOMPSON of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON of Georgia. Mr. Speaker, I was in Georgia last night when the President spoke. The minute his address was over, my telephone started ringing. The first caller was a lady who said, "I am proud to be an American. For the first time, I feel the President of the United States is doing something which will bring our POW's home and I hope that he has the support of you in the Congress to stand firm behind him because it is only by standing firm that we will succeed."

Then driving to the airport this morning, on the 6 o'clock news there were four people speaking against the President's decision and only the whip of the House, the minority whip was speaking for it. There were Senators who are presidential candidates and the other is a former Senator from Oregon and not even an officeholder but the NBC radio news at 6 a.m. on WSB gave four times as much time for views against the President than it did in support.

Why do these Senators not condemn the aggression of the North Vietnamese? Not one word did they say against the invaders. This is a classic land invasion with which South Vietnam is now being confronted—complete with tanks. By this invasion, the North Vietnamese changed the ground rules under which the war was being fought. Now why is it so wrong for us to react to this change? I am delighted that the President has reacted, and I stand behind him and I assure you that the people of my district do also.

PRESIDENT'S DECISION ON VIETNAM

(Mr. MAYNE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MAYNE. Mr. Speaker, the President's offer to withdraw all troops in exchange for our prisoners and a cease-fire gives the necessary priority to the release of our prisoners. He has also made it clear he seeks no confrontation with the Russians by giving them 3 days to remove their ships from North Vietnam harbors and by stating he is still willing to meet them in Moscow. The success of the enemy's massive invasion thus far shows that we no longer have sufficient ground combat troops to protect the withdrawal of our remaining personnel or convince the North Vietnamese they must free our prisoners. Inasmuch as they refuse to negotiate, the President had little choice but seek to achieve these legitimate objectives through the use of air and sea forces which all Americans can be thankful are still preponderant.

NEW DEVELOPMENTS IN SOUTHEAST ASIA

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DERWINSKI. Mr. Speaker, I fully understand the concern many Members have expressed this afternoon over the new developments in Southeast Asia, but I believe that it would be well for all of us to maintain a degree of objectivity, and recognize that the President is taking steps that he feels necessary to further our foreign policy goals of peace and freedom for all people. Those who are vigorously second-guessing him at this point should realize that there may be developments not as yet reported to them that could well demonstrate the wisdom and correctness of the President's actions. I would make the same point to those Members who are dutifully endorsing the President's actions.

Mr. Speaker, for my part, I intend to wait and watch for developments. At this point, we still do not know what the position of the Soviet Union or Red China will be nor do we know what the compliance with the President's blockade will be from other countries. The military situation in South Vietnam is still somewhat confused and, with the possible exception of the minority leader, we do not have all the information on which the President based his decision.

I fully understand the temptation that exists in a political year for Members, especially those of the opposition party, to shoot from the hip. I recognize that we have in the House a great number of senatorial candidates who wish to be quoted on every question, especially a prominent issue like this. I recognize it in the other body in a great number of presidential candidates as well as in those egotists who wish to be quoted on all subjects. The temptation for all these individuals to shout their opinions to the skies is obvious.

PRESIDENT'S ACTION IN VIETNAM

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. EDWARDS of Alabama. Mr. Speaker, President Nixon's address to the Nation last night revealed important new developments in the Vietnam war. In the peace negotiations, the United States has walked the extra mile and more. North Vietnam's arrogant intransigence at the conference table coupled with their brutal, indiscriminate invasion of the South comprise ample justification for the President's decision to interdict the supply lines of the Communists.

There are dangers, there are risks, there are hazards in the President's action, just as there are always obstacles along the path to peace. But the President has committed himself to ending this war, to ending it with honor in such a way as to insure the safety of the 60,000 U.S. servicemen still in Vietnam and to assure the return of our prisoners of war.

This is a time for each American to look into his own heart for renewed faith and fresh dedication. It is not a time for demogoguery or expediency. It is a time for trusting in ourselves, in our leaders, and in God. It is not a time for despair or for abandoning our heritage. It is a time for leadership, not a time for timidity and doubt. It is a time for confidence in America, not a time for blind self-defeating criticism.

In his inaugural address, President Nixon said:

> What has to be done has to be done by government and people together or it will not be done at all. The lesson of past agony is that without the people we can do nothing; with the people we can do everything.

The President has clearly shown his courage and desire for peace. It is high time the Congress and the people joined together steadfastly behind the President. With the support of the people, we can do everything; we can achieve the peace which has eluded us so long.

PRESIDENT EXEMPLIFIES COURAGE AND DETERMINATION TO HONORABLY END VIETNAM WAR

(Mr. QUILLEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. QUILLEN. Mr. Speaker, our men who have died for freedom speak to us today.

> To you from failing hands we throw
> The torch; be yours to hold it high.
> If ye break faith with us who die
> We shall not sleep. * * *

The President has again exemplified his courage and determination to honorably end the Vietnam war.

In my opinion, this action of mining the harbors is long overdue—in fact, it should have been taken in 1963. We cannot, and we must not, desert our remaining troops, citizens, and prisoners of war to an almost certain slaughter by the enemy.

I commend the President for his courage and unselfishness in this move. By putting politics aside during this crisis, he has set an example that his critics should well follow.

IN SUPPORT OF THE PRESIDENT

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BUCHANAN. Mr. Speaker, I rise in support of the President. His most recent response to the North Vietnamese Communist aggression in South Vietnam was both courageous and right.

In referring to the leaders of that government as international outlaws, he was precisely defining their outlook and conduct.

There can be no challenge to the fact that they are the invaders and aggressors in Cambodia, Laos, and South Vietnam. Nor could the President stand idle while our remaining forces continue to be threatened by this continuing Communist invasion.

The mining of Haiphong Harbor is not only in order, it is several years past due, in my judgment. The intensified bombing is also a necessary and appropriate response to Hanoi's intransigence.

The cause of world peace cannot be served either by the slaughter of our remaining American forces or the bloodbath which will proceed among the civilian population of South Vietnam if the North Vietnamese succeed in imposing upon that people a Communist government by force.

What happened in Hue in the Tet offensive in 1968 is a clear example of what will happen to several million people if the Communists succeed in their aggression.

The President has made a very generous and reasonable new offer—that of withdrawal of all American forces in 4 months if Hanoi will agree to an internationally supervised cease-fire and release of all our prisoners of war.

Acceptance of this offer by the Communist leaders could bring the immediate American withdrawal for which so many have clamored, provide a formula for peace in the immediate future, and leave the political settlement for the Vietnamese themselves.

It may be, Mr. Speaker, that the South Vietnamese military, notwithstanding the support we have given them, will let both us and the South Vietnamese people down in this moment of truth. For their sake as well as ours, I pray this will not be the case.

But whatever the outcome of their struggle, our American President is attempting to lead us on a pathway of courage and honor. I believe he has the support of the overwhelming majority of the American people. He deserves the support of the Congress as well.

PRESIDENT'S ACTION IN VIETNAM

(Mr. LEGGETT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, I want to add my voice here to the group opposing the action of the President, and I do that only because of the great number that has spoken in his favor. I do not think speeches of this type do any great good, but I would say this: I think we fully explored under the Johnson administration the idea of blockading Haiphong Harbor as a method of solving the problems of the war. We determined years ago this would only stampede the enemy into the hands of the Chinese.

Of course, I think the blockade can be effective if we want to do that. The net effect of it is going to be that Hanoi is going to be more intransigent than ever, and we are going to have more problems. We are going to continue to bomb heavily the area around Hanoi and Haiphong. I find it unconscionable to send our pilots into this war, where they can become prisoners of war, where we have no prospects whatsoever of their recovery.

I think the President has said the Vietnamization program is a success, and I think that statement had to apply to the Vietcong and the North Vietnamese, and anybody on the Indo-Chinese Peninsula. I think he should rise or fall with that statement. We, perhaps, ought to keep up a line of supply to the people in the South, but I think our troops should come out and we should scale down our bombing, and we should pull out our forces from the Tonkin Gulf.

Mr. Speaker, I hope under the rules that prevail in this House that we could have a vote on this issue in the very close foreseeable future to see exactly how we stand. It may well be the President has a majority, but I would say this, that we should be recorded on this issue right now. I have been on record for 10 years as against the escalation under previous administrations, and it is not inconsistent at all for me to take this position at this time.

THE PRESIDENT'S ACTION

(Mr. RYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN. Mr. Speaker, the President has acted without constitutional authority to enlarge the war, ordering actions which ignore the overwhelming desire of the American people for peace and violate national policy as enacted into law, but which the President declared he would ignore when he signed it.

Section 601 of the Military Procurement Act of 1971, Public Law 92–156, declares it to be the policy of the United States to terminate at the earliest practicable date all U.S. military operations in Indochina and to provide for the withdrawal of all U.S. military forces at a date certain subject to the release of all American prisoners of war.

Rather than following a path to peace, the President has chosen a reckless and potentially disastrous policy by announcing the mining of North Vietnamese harbors, the interdiction of ships delivering supplies, the cutting off of rail and other communications, and continuing air and naval strikes against North Vietnam. He has precipitated not only an international crisis, but he has intensified the constitutional crisis confronting the Congress, for without the consent of the Congres he has placed our Nation in perhaps the most precarious position we have been in the last 20 years.

Congress can no longer allow this administration and this President to wage war in the name of peace. The Congress, and only the Congress, has the power to declare war. However, the power of Congress has been usurped again by the President, and the constitutional process subverted.

Today I have filed with the House a resolution of impeachment of the President. It is important that this House take seriously its responsibilities and once and for all curb the President. Since all other legislative remedies appear to have been exhausted, I urge the House to use this method as a vehicle for ending the war.

PRESIDENT'S ACTION IN VIETNAM

(Mr. JACOBS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACOBS. Mr. Speaker, the minority leader has said that the President on yesterday had to face the choice of seeing South Vietnam overrun or taking the action that he took.

My father used to say that there are too many people making history who have never read it.

I ask all my colleagues to remember back to that day in 1964 and later in 1965 when President Johnson was faced with exactly the same decision—South Vietnam, the Saigon regime, about to be overrun.

Ask yourselves, deep down inside what do you suppose President Johnson thinks today, really deep down inside, about that decision? Do you suppose that he and the majority of the American people do not wish to God that they could go back and choose the other path?

One other point, Mr. Speaker. Truth is the first casualty of war. The 17th parallel in Vietnam was never mentioned in the history of the world in connection with boundaries until the 1954 Geneva accords.

Paragraph 6 of the Geneva accords provided that the 17th parallel is a military line of demarcation and then went on to say, and I quote:

> And shall in no way be taken as an international or political boundary.

Mr. Speaker, are we not against wasteful Government spending of private treasure whether in silver certificates or death certificates.

Here we go down the path again, and in fact, just since this path has been chosen only a week and a half ago there are nearly 50 new American prisoners in the Hanoi Hilton who were laughing, breathing, free kids a week and a half ago.

Are we to choose this path again? Could we not prove wrong the proposition that the only thing we learn from history is that we do not learn from history?

THE PRESIDENT'S ACTION IN THE VIETNAM WAR

(Mr. HARRINGTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRINGTON. Mr. Speaker, at this point I share the feelings of a Member of the other body who plaintively expressed the view that we in Congress are being treated by the executive branch as if we were no more than extras in a movie set.

Last night, the President announced a policy which amounts to an act of desperate bellicosity. It carries a high risk of a much greater military escalation without in any way compromising any military advantage in the foreseeable future. And the question confronting us today, as the elected Representatives of the American people, is whether or not we intend to exercise our constitutional duty to do something about it.

I have sat here and listened to the incantation of all of the code words—"doves with yellow wings" and the rest. But I think of the desire to continue a senseless war which has already cost the lives of more than 50,000 young Americans, well over 1 million Asians, and more than $100 billion.

Neither am I impressed with expressions of partisanship. I opposed the reelection of a President of my own party early in 1968 on this issue, and I do not intend to let charges of partisanship inhibit me now. This is not an issue on which either party has a record that is free from responsibility, and it is not an issue where partisanship is appropriate either on the attack or in defense.

If we are to deserve the title of Representative, and live up to our constitutional obligation, then we must act on what is undoubtedly the most important question to confront our country in at least a decade. I believe it is essential that the Congress act quickly to repudiate the reckless escalation announced by the President last night, and that we proceed as quickly as we can to vote an immediate end to a war which becomes daily more senseless, more cruel, more damaging, and now, more threatening to the world peace.

The SPEAKER. The time of the gentleman from Massachusetts has expired.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make the announcement that the Chair did not order the clearing of the galleries except those on the Chair's left, where there was disorder.

THE PRESIDENT'S DECISION IN VIETNAM

(Mr. BLACKBURN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BLACKBURN. Mr. Speaker, the purpose of my taking the podium today is not merely to cite my support for the President, which I am sure would be expected by most Members of this body, but because I strongly suspect that the actions of the leaders of Hanoi during the next few weeks are going to be more determined by what is said on the floor of this House than by what occurs in a blockade of their ports, or on the battlefield.

Mr. Speaker, the purpose of my rising today is to solicit the support of the Members of the fourth estate in seeing to it that the reports they make of what is going on in this body today carry the true balance of the support that the President has received from the elected representatives of the people of this country.

If all that the leaders of Hanoi hear concerns the few disturbers who were in the gallery, and the relatively few Members who oppose the President, then Hanoi is going to assume that they are on the winning side. They will remain hopeful that they will still win the war on the floor of the House of Representatives when they cannot win it on the battlefield.

So, Mr. Speaker, my purpose today is to ask that those reporting the events today give a true perspective to what the spokesmen for the American people are saying today, that is, they are expressing a strong, continuing support for the President.

The SPEAKER. The time of the gentleman from Georgia has expired.

THE PRESIDENT'S DECISION IN VIETNAM

(Mr. LATTA asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, I think that the fathers and mothers of the 66,000 U.S. troops remaining in South Vietnam salute the action the President has taken. They know their sons are serving under a Commander in Chief who will do what he believes necessary to protect their welfare.

Mr. Speaker, I think it is strange that we have heard from the so-called doves in this Chamber today on the President's announced action before we received any official reaction from the countries having ships in the Haiphong Harbor. Would it not be a godsend if the President's forthright action brought about meaningful negotiations, and an end to this war, the return of our prisoners and our remaining troops, and red faces to those who would forget our sacrifices, and surrender all to the Communists?

The SPEAKER. The time of the gentleman from Georgia has expired.

THE PRESIDENT'S DECISION IN VIETNAM

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, I rise in support of my President, and I rise in support of my country, and I rise in support of the right of those who feel differently than I to express that difference.

But, Mr. Speaker, I also rise in strong, strong opposition to the words and deeds of those who would, willingly or unwillingly, feed the propaganda machine of the Communists, and give them reason to believe that if they will hold on just a little bit longer they can win the war in the Congress that they cannot win on the ground.

Mr. Speaker, I wonder if anyone on the floor today heard the very key phrase shouted by one of the group of demonstrators in the gallery when he raised his fist and shouted at you: "Victory to the NLF."

Did you hear that? Have you heard that theme throughout this controversy from the leaders of some of these anti-American activities in recent months? I think that you have. I hope this Congress will let the Communists who are watching today, and the rest of the world, know that we do support our President, that we do support our country, and that we will not stand by while those subversive elements in this Nation undermine our country and try to overthrow the constitutional way of life that Americans have enjoyed since our Nation was born.

THE PRESIDENT'S DECISION IN VIETNAM

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, I would like to echo the words of the gentleman from Pennsylvania (Mr. Dent) that when passions run high in times of crisis, it behooves us to keep our heads.

I do not wish to speak to the merits of the President's decision yesterday, but I do think that the Congress should consider the fact that that decision to undertake what is tantamount to a naval blockade was made unilaterally by the President, without authority from the Congress. We should look back on our long and illustrious history to those instances where we have gone to war when there was an illegal interference to the naval blockades were involved or when freedom of the seas. Such interference is clearly illegal unless this country is at war.

I would remind my colleagues that the Congress is the sole agency of government in which is reposed the power to declare war.

The President does not have the power to declare war; only the Congress has such power. Yet the President made the decision to make an act of war yesterday without consulting with the Congress. It seems to me that this imposes upon us the obligation to consider now whether we, as a coequal branch of government, are going to declare war against North Vietnam in order to legitimize this action by the President, or whether we, as the Congress, are going to declare that the war be terminated.

I think we have that obligation regardless of how we may disagree on the merits.

The decision is the responsibility of the Congress, not that of the President of the United States.

PARLIAMENTARY INQUIRY

Mr. RIEGLE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state the parliamentary inquiry.

Mr. RIEGLE. Mr. Speaker, I have observed different speakers being given very different lengths of time to speak under the 1-minute rule.

I just noticed, for example, the gentleman from California who was given approximately half the time that the gentleman from Ohio (Mr. DEVINE) and several other speakers were given today. I object to that and I think if we are going to use the 1-minute rule, let us use it fairly.

The SPEAKER. The Chair will state that the Chair is trying to enforce the 1-minute rule. That is not a parliamentary inquiry and the gentleman was out of order in making it.

WAR IN VIETNAM

(Mr. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRANE. Mr. Speaker, in May of 1965 I participated in the first national teach-in on Vietnam, while still a professor at Bradley University.

In that debate, I supported my President, Lyndon Johnson. I supported him at the request of my Democratic colleagues at Bradley University notwithstanding the fact that I had campaigned energetically for Senator GOLDWATER in the 1964 election.

Since that date I have continued to participate in debates throughout the Nation in support of American efforts to give the people of South Vietnam the opportunity to shape their own destiny free from Communist domination.

It is easy, with the benefit of hindsight, to find fault with aspects of past policy. But on one thing honest men must agree: The U.S. commitment to the principle of self-determination for less fortunate people than ourselves is unparalleled in history.

Last night President Nixon made a courageous and intelligent decision wholly consistent with our policy objectives under President Wilson in World War I, President Roosevelt in World War II, President Truman in the Korean war, and Presidents Kennedy and Johnson in Vietnam.

Mr. Speaker, I am confident that loyal Americans will rally behind President Nixon in his efforts to find peace with honor in a way that hopefuly will prevent our children from having to fight in future Vietnams.

WAR IN VIETNAM

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, first of all I would like to thank you for what I consider an evenhanded and fair manner in which you have treated the House today.

Diplomacy, that sometimes visible and sometimes invisible intercourse among nations, is a very fragile thing.

Some have spoken today about a declaration of war. Remember this: There are some agreements between nations, mutual assistance agreements, which in the absence of an actual declaration of war do not force one nation to assist another party to the treaty.

To declare war could in itself force involvement of additional countries.

Further, when the United States does actually declare war, there is automatically given to the President the kind of ultimate authority which so many people seeking a House declaration want to avoid.

We have to consider these matters with extreme care. We must even consider our remarks with great care.

DANGEROUSLY WRONG

(Mr. YATES asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. YATES. Mr. Speaker, there are those who say we should not criticize the President's decision at this critical time because they say it gives aid and comfort to the enemy. Even the President himself called for unity in his speech last night. But heeding such demands for unity when the President's decision may court disaster for our Nation is, in my view, the height of irresponsibility. I feel we must speak out if we believe the President's decision is wrong, and I believe it was wrong. Dangerously wrong.

In another time, the President thought so, too. In 1951, the then Senator Richard M. Nixon, in a statement critical of the Truman administration's conduct of the Korean war, said:

> What is more important is that we adopt the right policy in a moment of great national danger. This means that above all our policy should represent the best thinking of our national leaders, including those who disagree with the President as well as those who agree with him.
>
> The country wants unity, but it does not want unity on a policy which has led to disaster or on the perpetuation and power of those who made that policy and who cannot be expected to make good on any other. In other words, the country does not want unity on defeat, or unity on disaster. Disunity hurts our cause without question but unity on a policy which was wrong could bring even greater disaster.

The decision to mine the harbors of North Vietnam and to interdict shipping entering those harbors is provocative, unnecessarily risky, and in great measure, useless. Why indulge in such futile gestures at this time? Even the most ardent hawk will concede the North Vietnamese have enough arms and war materiel on hand to carry on their operations for months without additional supplies from the outside. The President's action comes too late, if indeed such action was ever warranted, unless he intends the war to go on for another year or more.

It is particularly difficult to understand an action that may jeopardize the work of years for peace in the signing of the nuclear arms limitation agreement.

It might have been otherwise, for lost in the President's rhetoric is the seed of settlement of the conflict. He seems to have dropped his insistence on maintaining the Thieu government in office by limiting our terms for settlement to an international cease-fire and the return of our POW's. Standing alone, these might have moved the parties closer to a settlement of their hostilities. It is questionable now, however, in view of the hostile position taken by the President that his new proposal will be accepted.

PROVIDING FOR PRINTING OF "REPORT OF SPECIAL STUDY OF SECURITIES MARKET BY THE SECURITIES AND EXCHANGE COMMISSION"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92–1050) on the concurrent resolution (H. Con. Res. 483) providing for the reprinting of a House document entitled "Report of Special Study of Securities Markets by the Securities and Exchange Commission," and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 483

Resolved by the House of Representatives (the Senate concurring), That there shall be reprinted for use of the Interstate and Foreign Commerce Committee one thousand copies each of a six-part House Document Numbered 95 of the Eighty-eighth Congress, first session, entitled "Report of Special Study of Securities Markets by the Securities and Exchange Commission".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

TO REPRINT BROCHURE ENTITLED "HOW OUR LAWS ARE MADE"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92-1051) on the concurrent resolution (H. Con. Res. 530), to reprint brochure entitled "How Our Laws Are Made," and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 530

Resolved by the House of Representatives (the Senate concurring), That the brochure entitled "How Our Laws Are Made", as set out in House Document Numbered 144 of the Ninety-second Congress, be printed as a House document, with a suitable paperback cover of a style, design, and color, to be selected by the chairman of the Committee on the Judiciary of the House of Representatives, with emendations by Joseph Fischer, Esquire, law revision counsel of the House of Representatives Committee on the Judiciary, and with a foreword by the Honorable Emanuel Celler; and that there be printed two hundred and forty thousand five hundred additional copies, of which twenty thousand shall be for the use of the Committee on the Judiciary and the balance prorated to the Members of the House of Representatives.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF HEARINGS ENTITLED "AMERICAN PRISONERS OF WAR IN SOUTHEAST ASIA, 1971, PART 2"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92-1052) on the concurrent resolution (H. Con. Res. 545), authorizing the printing of additional copies of hearings on "American Prisoners of War in Southeast Asia, 1971—Part 2" by the Subcommittee on National Security Policy and Scientific Developments, and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 545

Resolved by the House of Representatives (the Senate concurring), That there shall be printed for the use of the Committee on Foreign Affairs, House of Representatives, one thousand five hundred additional copies of the hearings by the Subcommittee on National Security Policy and Scientific Developments in June, August, and September, 1971, entitled "American Prisoners of War in Southeast Asia, 1971—Part 2".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF COPIES OF THE CONSTITUTION OF THE UNITED STATES AND DECLARATION OF INDEPENDENCE

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92-1053) on the concurrent resolution (H. Con. Res. 552), to provide for the printing of the Constitution of the United States together with the Declaration of Independence, and ask for immediate consideration of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 552

Resolved by the House of Representatives (the Senate concurring), That the Constitution of the United States, as amended to July 1, 1971, together with the Declaration of Independence, be printed as a House document, with an index, in such form and style as may be directed by the Joint Committee on Printing, and that two hundred and twenty thousand be printed for the use of the House of Representatives.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF REPORT OF PROCEEDINGS OF THE 45TH BIENNIAL MEETING OF THE CONVENTION OF AMERICAN INSTRUCTORS OF THE DEAF

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92-1054) on the Senate concurrent resolution (S. Con. Res. 41), authorizing the printing of the report of the proceedings of the 45th biennial meeting of the Convention of American Instructors of the Deaf as a Senate document, and ask for immediate consideration of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 41

Resolved by the Senate (the House of Representatives concurring), That the report of the proceedings of the forty-fifth biennial meeting of the Convention of American Instructors of the Deaf, held in Little Rock, Arkansas, from June 25, 1971, through July 2, 1971, be printed with illustrations as a Senate document. Five thousand five hundred additional copies of such document shall be printed and bound for the use of the Joint Committee on Printing.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PROVIDING FOR PRINTING OF SENATE HEARINGS ENTITLED "WAR POWERS LEGISLATION"

Mr. BRADEMAS. Mr. Speaker, by direction of the Committee on House Administration, I submit a privileged report (Rept. No. 92-1055) to print additional copies of hearings on "war powers legislation," and ask for immediate consideration of the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 54

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Foreign Relations five thousand additional copies of the hearings entitled "War Powers Legislation" held before the Senate Committee on Foreign Relations.

With the following committee amendment:

Page 1, immediately following line 5, add the following:

"SEC. 2. There shall be printed for the use of the House of Representatives three thousand additional copies of the hearings authorized by section 1 of this concurrent resolution, five copies to be set aside for each Member of the House of Representatives."

The committee amendment was agreed to.

The Senate concurrent resolution, as amended, was concurred in.

A motion to reconsider was laid on the table.

AMENDING TITLE 5, UNITED STATES CODE, TO PROVIDE A CAREER PROGRAM FOR AIR TRAFFIC CONTROLLERS

Mr. DULSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 8083), to amend title 5, United States Code, to provide a career program for, and greater flexibility in management of, air traffic controllers, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 9, after "the" insert "separation and".

Page 2, line 1, after "the" insert "separation and".

Page 2, lines 3 and 4, strike out "section to the employees of the Department."." and insert "section."."

Page 2, after the line following line 7, insert:

"SEC. 2. (a) Section 3307 of title 5, United States Code, is amended to read as follows:

"§ 3307. Competitive service; maximum-age entrance requirements; exceptions

"(a) Except as provided in subsections (b) and (c) of this section, appropriated funds may not be used to pay an employee who establishes a maximum-age requirement for entrance into the competitive service.

"(b) The Secretary of Transportation may, with the concurrence of such agent as the President may designate, determine and fix the maximum limit of age within which an original appointment to a position as an air traffic controller may be made.

"(c) The Secretary of the Interior may determine and fix the minimum and maximum limits of age within which original appointments to the United States Park Police may be made.".

"(b) Item 3307 of the analysis of chapter 33 of title 5, United States Code, is amended to read as follows:

(b) Item 3307 of the analysis of chapter entrance requirements; exceptions.".

Page 2, line 8, strike out "2." and insert "3.".

Page 2, line 13, strike out "If an" and insert "An".

Page 2, lines 13 and 14, strike out "career tenure who has completed".

Page 2, line 14, after "controller" insert "who".

Page 2, line 15, strike out "from duties".

Page 2, line 22, strike out "well-being" and insert "health".

Page 2, lines 23 and 24, strike out "the Secretary may provide, with the written agreement of the controller," and insert "is entitled to not more than the full-time equivalent of 2 years of".

Page 2, line 24, strike out all after "controller," over to and including line 2 on page 3 and insert "training.".

Page 3, strike out lines 3 to 6, inclusive.

Page 3, line 7, strike out " "(c)" and insert " "(b)".

Page 3, line 7, strike out "the" and insert "a".

Page 3, line 8, strike out "shall—" and insert "shall be—".

Page 3, line 9, strike out "be".

Page 3, line 11, strike out "be".

Page 3, line 12, strike out "by or".

Page 3, line 12, strike out "statute;" and insert "law;".

Page 3, line 13, strike out "be".

Page 3, line 13, strike out "the".

Page 3, line 15, strike out ""(d)" and insert ""(c)".

Page 3, line 19, strike out "Government" and insert "Executive".

Page 3, line 24, strike out "purpose" and insert "purposes".

Page 3, lines 24 and 25, strike out "determining entitlement to severance pay under".

Page 3, line 25, strike out "of this title".

Page 4, line 1, strike out "entitlement to immediate retirement under".

Page 4, line 3, strike out ""(e)" and insert ""(d)".

Page 4, line 6, strike out all after "section" down to and including line 21 and insert "including expenses authorized to be paid under chapter 41 and subchapter I of chapter 57 of this title, and the costs of other services or facilities directly related to the training of a controller.".

Page 4, strike out lines 22 to 26, inclusive, and insert:

"(e) Except as provided by subsection (d) of this section, the provisions of chapter 41 of this title, other than sections 4105(a), 4107 (a) and (b), and 4111, shall not apply to training under this section.

Page 5, line 1, strike out ""(g)" and insert ""(f)".

Page 5, line 1, after "not" insert "otherwise".

Page 5, line 5, strike out "an".

Page 5, line 6, strike out "annuity" and insert "retirement".

Page 5, line 6, strike out "subchapter III of chapter 83" and insert "section 8336".

Page 5, line 7, strike out "for retirement".

Page 5, line 13, strike out "well-being" and insert "health".

Page 5, lines 15 and 16, strike out "The involuntary separation of a controller" and insert "Separation".

Page 5, line 18, strike out "which immediately follows" and insert "following".

Page 5, line 18, strike out "on which".

Page 5, line 23, after "later." insert "A controller who is to be separated under this section is entitled to training under section 3381 of this title. Separation of such a controller who elects to receive training under section 3381 shall not become final until the last day of the month following the completion of his training".

Page 5, line 25, strike out "A" and insert "An air traffic".

Page 6, line 4, strike out "date of".

Page 6, line 7, after "such" insert "a".

Page 6, line 9, strike out "of the Secretary".

Page 6, line 13, after "shall" insert "immediately".

Page 6, line 20, strike "A" and insert "The".

Page 6, lines 20 and 21, strike out "convened under subsection (b) of this section".

Page 6, line 21, after "review" insert "evidence supporting and inconsistent with".

Page 7, line 7, strike out "from" and insert "within".

Page 7, line 10, strike out "shall prescribe" and insert "is authorized to issue".

Page 7, line 11, strike out "necessary".

Page 7, line 12, strike out all after "ter." down to and including line 17.

Page 7, line 19, strike out "does" and insert "shall".

Page 7, line 22, after "of" where it appears the first time insert "the".

Page 7, line 22, after "efficient" insert "separation and".

Page 7, line 23, strike out "well-being" and insert "health".

Page 7, line 23, strike out "the" and insert "a".

Page 8, line 4, strike out "3." and insert "4".

Page 8, line 19, strike out "4." and insert "5".

Page 9, line 3, after "inserting" insert "after subsection (d)".

Page 9, line 10, strike out "5." and insert "6".

Page 9, line 16, after "inserting" insert "after subsection (d)".

Page 9, lines 20 and 21, strike out "employee unless that employee received training under section 3381 of this title.". and insert "employee.".".

Page 9, line 22, strike out "6." and insert "7".

Page 9, line 24, after ""8339(h)"" insert "each place it appears".

Page 10, line 1, after "8332(b)(3)" insert "and (8)".

Page 10, line 7, strike out "(i)" and insert "(A)".

Page 10, line 11, strike out "(ii)" and insert "(B)".

Page 10, line 12, strike out "(c)" where it appears the first time and insert "(e)".

Page 10, line 13, strike out "respectively,".

Page 10, line 18, strike out "(iii)" and insert "(C)".

Page 10, line 22, strike out "(iv)" and insert "(D)".

Page 10, line 26, strike out "(v)" and insert "(E)".

Page 10, line 26, strike out "reference" and insert "references".

Page 11, line 1, after "(a)–(h)"" insert "and "subsection (i)"".

Page 11, line 2, strike out "reference" and insert "references".

Page 11, line 2, after "(a)–(i)"" insert "and "subsection (j)", respectively".

Page 11, line 4, strike out "(vi)" and insert "(F)".

Page 11, line 8, strike out "(vii)" and insert "(G)".

Page 11, line 9, strike out "respectively,".

Page 11, line 15, strike out "(a)–(h)" and" and insert "(a)–(h)",".

Page 11, line 15, after "8339(i)"," insert "and "section 8339(j)"".

Page 11, line 15, strike out "respectively,".

Page 11, line 17, strike out "(a)–(i)" and" and insert "(a)–(i)",".

Page 11, line 17, after "8339(j)"," insert "and "section 8339(k)"".

Page 11, strike out all after line 25 over to and including line 3 on page 12 and insert:

(5) by amending section 8344(a)—

(A) by striking out the reference "section 8339 (a), (b), (d), (g), and (h)" in subparagraph (A) and inserting the reference "section 8339 (a), (b), (d), (e), (h), and (i)" in place thereof; and

(B) by striking out the references "section 8339(i) of section 8339(j)(2)" in the sentence following immediately below clause (i)), and inserting the references "section 8339(j) or section 8339(k)(2)" in place thereof.

Page 12, line 4, strike out "7." and insert "8.".

Page 12, line 8, strike out "8." and insert "9.".

Page 12, line 18, strike out "9." and insert "10.".

Page 12, after line 19, insert:

SEC. 11. The Act of September 26, 1969 (Public Law 91–73; 83 Stat. 116), relating to age limits in connection with appointments to the United States Park Police, is repealed effective at the end of the eighty-ninth day after the date of enactment of this Act.

Mr. GROSS (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DULSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill H.R. 8083, and to include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 55, SEABEES MEMORIAL

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 960 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 960

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 55) proposing the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the Seabees of the United States Navy. After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. COLMER. Mr. Speaker, I am very pleased to have had the privilege of being the author of the resolution, House Joint Resolution 55, to provide for the erection of a monument on the "Avenue of Heroes" to and for the Seabees of the U.S. Navy. Born in 1942 during the early days of World War II, the men of the naval construction force, the Seabees, have spread their "Can Do" spirit from one corner of the earth to the other.

The Seabees are homeported at three construction battalion centers in the United States. These are Davisville, R.I.; Port Hueneme, Calif.; and Gulfport, Miss. Since Gulfport, Miss., is located within my congressional district, I have had the honor of being associated very closely with the varied and far-flung activities of these gallant builders for many years.

Specific tasks of the Seabees range from construction for any of the military forces, including operational, logistics, underwater and ship-to-shore facilities, to the construction for any military branch during assault operations. They also provide disaster control during the time of an emergency, disaster or catastrophe caused by natural or enemy action and provide forces for counterinsurgency or civic action employment.

In the pages of history we can find that the Seabees, when in the Pacific in World War II, constructed 111 major airstrips, 441 piers, 2,558 ammunition magazines, 700 square blocks of warehouses, hospitals for 70,000 patients, tanks for storing 100,000,000 gallons of gasoline and housing for 1,500,000 men.

A prime example of the "Can Do" spirit of the Seabees was exhibited in the construction of a critical and vital airstrip during the Korean war. They were deployed to Yo Do in the Bay of Wonsan and given 35 days to have the airstrip ready for use. The job was completed in 16 days and all of the work was done under constant artillery bombardment from enemy forces.

The activities of the Seabees in Vietnam probably represent one of the greatest challenges and greatest accomplishments. Performing construction at the rate of $10 million per month at the peak of the effort, they built camps for Marine, Army, Navy, and Air Force troops equivalent to a city with a population of more than one-half million, including utilities and sanitation systems, roads and housing. In addition more than 4½ miles of bridges; one-quarter million lineal feet of runways and taxiways; and 4 million square feet of warehouse space were constructed and over one-half million tons of asphalt was produced.

The peacetime efforts of the Seabees are no less impressive than their wartime achievements. Seabee teams have worked in many foreign countries in socio-economic programs of community development. Working side by side with the civilian populace in Southeast Asia, the Trust Territory of the Pacific, and other countries of the free world, Seabees have carried out projects in construction and development of water systems, sanitation facilities, roads, schools, hospitals, and orphanages. A prime example of the peacetime disaster activities of the Seabees would be the excellent job performed by them during and immediately following the destructive hurricane Camille.

The U.S. Navy Seabees are unique military men who build for democracy, fight to defend freedom and foster ideas which promote international understanding and good will through civic action teamwork. The sailor in green—the Seabee—is an ambassador for peace at the grassroots level.

It is most noteworthy that in the true spirit of the Seabees the funds for the construction of this memorial have been raised by the Seabees themselves.

Therefore, Mr. Speaker, it is with distinct pleasure and, I feel, a high honor that I present this resolution to my colleagues in this Chamber. I am confident that the membership of both the House and the other body will overwhelmingly show their appreciation, by their vote, of this splendid organization of fighting construction engineers—a most valuable component of our Armed Forces.

Mr. Speaker, with the permission and approval of my friend, the gentleman from Tennessee, I should like at this time to yield such time as he may consume to the distinguished Speaker of the House.

(Mr. ALBERT (at the request of Mr. COLMER) was granted permission to speak out of order.)

TRIBUTE TO THE HONORABLE EMANUEL CELLER

Mr. ALBERT. Mr. Speaker, on May 6, 1888, in a frame house on Summer Avenue and Floyd Street, in Brooklyn, N.Y., was born a man destined to become one of the great public servants of all times—a Member of this House since 1923, and its dean since 1965. Today I extend not only belated birthday congratulations and greetings to my distinguished colleague, the gentleman from New York (Mr. CELLER) but, more important, my congratulations in his lifetime of achievements to which he has just added another milestone. The gentleman's longevity is outdistanced only by his talents and his contributions to this body and his country.

It is impossible to wish MANNY CELLER "Happy Birthday" without at least touching upon his many great attainments. The chairman of the Committee on the Judiciary was fighting for civil rights and constitutional liberties long before these were headline issues. He was also one of the foremost proponents of New Deal legislation, having led the fight for the National Recovery Act, reciprocal trade agreements, the Social Security Act, TVA and WPA. He was in the vanguard of the historic legislative battles for antitrust legislation, revision of the national quotas immigration system, and the establishment of Federal regulatory bodies.

His name has probably appeared on more historic legislative measures than the name of any other Member in the history of either House of Congress.

Regarded as a great internationalist and a great liberal, a supporter of the Marshall plan and the displaced persons bill, MANNY CELLER has nevertheless always kept our country's domestic needs foremost in mind. He has always stood for a strong national defense, having voted for conscription measures including the first peacetime compulsory training law passed shortly before Pearl Harbor.

The American child who gets a better education, the American family who moves into better housing, and cities and towns upgraded by improved transportation and urban renewal, can thank MANNY CELLER for his leadership and for his vote cast for all these and many other programs to make the promise of America come true for all people of all races, colors, creeds and national origins.

The biography of no Member can claim participation in more historical events, more constructive programs, than that of our beloved dean. He serves in the greatest and finest traditions of this body. He well deserves the accolades, the affection, which we all extend to him and which we all share.

As alert and resourceful as he was on the day when he entered this chamber, MANNY CELLER is still a tower of strength among us. May his days be lengthened and his service in this great House be continued for years and years to come.

Mr. GERALD R. FORD. Mr. Speaker, will the distinguished Speaker yield?

Mr. ALBERT. I am happy to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, our distinguished Speaker has set forth for the RECORD the superb achievements and accomplishments of our friend, the gentleman from New York (Mr. CELLER).

I am honored and privileged, Mr. Speaker, to join with you in wishing MANNY CELLER my very, very best wishes on this birthday milestone, the 84th in his lifetime.

I am also pleased, Mr. Speaker, to read into the RECORD a letter from the President of the United States. I have a copy of that which was sent to the distinguished gentleman from New York. It reads as follows:

> THE WHITE HOUSE,
> *Washington, April 26, 1972.*
>
> Honorable EMANUEL CELLER,
> *House of Representatives,*
> *Washington, D.C.*
>
> DEAR MANNIE: On your eighty-fourth birthday I want you to know that Mrs. Nixon and I will be thinking of you. With your constituents and countless fellow Americans, we admire the impressive measure of years which you have given in devoted service to your country. Your enduring achievements and strong articulate leadership have earned you respect that crosses party lines, respect that is reserved for only the most distinguished United States' citizens.
>
> Warmest congratulations to you on this happy occasion.
>
> Sincerely,
>
> RICHARD NIXON.

Mr. Speaker, I have had in my 23-plus years in this Congress many opportunities to work with the gentleman from New York. We have not always agreed, but I know no one in this House who has more personal charm, more skill and ability, more dedication to the viewpoint that he holds than my friend MANNY CELLER.

I hope and trust that this milestone is only one in many more that will follow.

His record is indelibly written in this House of Representatives—a fine, admirable, and outstanding record.

I congratulate him on his birthday and wish him well.

Mr. ALBERT. I take pleasure in yielding to the distinguished dean of the House.

Mr. CELLER. Mr. Speaker and gentlemen of the House, naturally the words you have just heard warm the cockles of my heart, and I am deeply grateful for the expressions you have just heard concerning me.

Every age has its special compensations, as we all know, and among those are sustained and sustaining friendships. The warmth of these friendships glow in this Hall today. I thank my worthy colleagues for their having borne with me these many years. To me, now, the House of Representatives is my very life. But to depart from this solemn note, I am reminded of a ditty I once learned:

King Solomon and King David led very merry lives
With their very many concubines and very many wives
Until—old age crept upon them with its very many qualms
Then—Solomon wrote the Proverbs and David wrote the Psalms.

Perhaps I should ask that my birthday no longer be remembered and just leave it at 21 plus—or should I say 18 plus? But I do rejoice in my birthdays and hope and believe that I shall be here many years to listen to the voices of friendship.

Mr. McCULLOCH. Mr. Speaker, will the gentleman yield?

Mr. ALBERT. I am glad to yield to the distinguished gentleman from Ohio (Mr. McCULLOCH).

Mr. McCULLOCH. Thank you, Mr. Speaker.

This is a pleasant day in my life, Mr. Chairman, as I am sure it is a pleasant day in your life.

When I came to Congress almost 25 years ago, at my request, I was assigned to the Judiciary Committee where I have served ever since. It has been a delightful and enlightening service.

I come from the plow fields of Ohio, Mr. Chairman, and some of my friends, both in the plow fields and from the high tower, wonder how and why the Honorable EMANUEL CELLER and BILL McCULLOCH should agree on so many fundamental issues.

Those of us who have been here at least partially as long as the chairman, know why that has been possible. In the time that he has served in the House, the chairman of the Judiciary Committee has made contributions to the fundamental law of this country, exceeded only by those who wrote the Constitution initially.

He has been a guide and a helper in some of the most difficult periods in our history.

I am really glad that I was assigned to the Judiciary Committee.

Now, the chairman is going to be back here again in the next term. I hope that his success and his accomplishments will be as great in that time as they have been in any like period in the past.

Mr. Chairman, you have nothing but my very best wishes always.

Mrs. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. ALBERT. I yield to the gentlewoman from New York.

Mrs. ABZUG. Mr. Speaker, I would like to rise and pay my respects to the chairman of our New York delegation.

His own history and belief in civil rights and civil liberties of this country speak most eloquently for themselves.

I hope you will forgive me if I note that there has been an expression of the people here today in the galleries. They are seeking to express their will and the will of the American people to end this terrible war in Indochina. Their will has been denied by the actions of the President. I think that it is fitting that at the moment we are paying tribute to a man who has led the fight for the civil liberties and civil rights of the people that we in this House respect the rights of the people by acting to represent them against the violation of their rights—and the rights of this body—by the President.

Mr. Speaker, I hope and expect that you will address yourself to the House today to explain, as leader of our party, what transpired in your conversation with the President, and that you will help lead us out of this terrible situation.

I hope the chairman of my delegation will forgive me, but I think I do honor to him and what he stands for when I express the feelings which I have today.

Mr. CORMAN. Mr. Speaker, once again it is my pleasure to extend to "MANNY"—as Chairman CELLER is affectionately called—congratulations, this time on the occasion of his 84th birthday. I join with the Speaker and other of my colleagues in paying tribute to him.

With every year that passes, MANNY's contribution to the causes of individual freedom and the dignity of every man has strengthened the constitutional wall that protects each of us from any erosion of the Bill of Rights. In this, and in countless other ways, Chairman CELLER has served America and Americans admirably.

As dean of the House, he holds a special place in our affection and the utmost respect for him abounds from both sides of the aisle.

For myself, I wish for this good friend, today and every day, long life, excellent health and contentment for many years to come.

Mr. RYAN. Mr. Speaker, I am pleased to join my colleagues in extending best wishes to the dean of the House on the occasion of his 84th birthday. I think we should also note the fact that this year marks Chairman CELLER's 50th year of service in the House of Representatives.

During his many terms of office he has earned the respect of his colleagues on both sides of the aisle as a truly effective legislator and a rare individual. His constituents have indicated their confidence in his ability to represent their interests in the House by returning him to office 25 times.

His influence in the House was extended even further when he became chairman of the Judiciary Committee, a position he has held for 21 years. The vast amount of legislation that he has successfully steered through his committee, and indeed, through the House itself, is testimony to his unceasing efforts. As a member of the Judiciary Committee, I have had the opportunity to work closely with Chairman CELLER and to observe his unquestioned ability at first hand. It has been a privilege for me to know him both as an able chairman and a valued friend.

I think it only fitting that we pause to pay tribute to our dean, who has contributed so much to our country, and to wish him well as he continues his dedicated efforts in the House.

GENERAL LEAVE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the birthday and service of the gentleman from New York (Mr. CELLER).

The SPEAKER pro tempore (Mr. STRATTON). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER pro tempore (Mr. STRATTON). The gentlewoman will suspend. The Chair will warn those in the galleries that there will be no expression of sentiment one way or the other, or the galleries will be cleared.

The time of the gentleman from Oklahoma has expired.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished chairman of the House Committee on Rules has explained this resolution in depth, and I offer my congratulations to the gentleman for presenting this resolution, and making available to the Members of the House an opportunity to vote on such a worthwhile measure.

Mr. Speaker, the purpose of House Joint Resolution 55 is to authorize the Seabee Memorial Association to construct a memorial to the Seabees of the U.S. Navy.

The Seabee Memorial Association will pay the entire cost of the construction of the memorial, which is to be built on public lands in the District of Columbia or its environs. The site is to be selected by the Secretary of the Interior, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission. If the site selected is under the jurisdiction of the District of Columbia is to be obtained as well.

The Department of the Interior, the Commission of Fine Arts, the National Capital Planning Commission, and the District of Columbia all submitted departmental letters on the bill. Of these only the Commission of Fine Arts opposed this bill, on the ground that they felt it inappropriate to single out specific components of any branch of the military for a memorial in Washington, given the very limited number of sites available.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. COLMER. Mr. Speaker, if I may I would like to speak out of order for just a moment, before moving the previous question on this resolution in order to join in with the distinguished Speaker and the distinguished minority leader in their accolades and appraisal of the work of the dean of this House, our friend, the gentleman from New York, Manny Celler.

Mr. Speaker, while I have not always agreed philosophically with the able and distinguished gentleman from New York, I do have great admiration for his ability and respect for him as a person.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1736, TO AMEND THE PUBLIC BUILDINGS ACT OF 1959

Mr. GRAY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1736) to amend the Public Buildings Act of 1959, as amended, to provide for financing the acquisition, construction, alteration, maintenance, operation, and protection of public buildings, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. Gray, Kluczynski, Wright, Harsha, and Grover.

PROVIDING FOR CONSIDERATION OF H.R. 4383, FEDERAL ADVISORY COMMITTEE STANDARDS ACT

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 957 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 957

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4383) to authorize the Office of Management and Budget to establish a system governing the creation and operation of advisory committees throughout the Federal Government which are created to advise officers and agencies of the Federal Government. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from New York (Mr. Delaney) is recognized for 1 hour.

Mr. DELANEY. Mr. Speaker, I yield one-half hour to the gentleman from Tennessee (Mr. Quillen), and pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 957 provides an open rule with 1 hour of general debate for consideration of H.R. 4383, the Federal Advisory Committee Standards Act. The resolution also makes it in order to consider the committee substitute as an original bill for the purpose of amendment.

The purpose of H.R. 4383 is to promote more effective use of advisory committees in the executive branch. It would establish a system for the creation and operation of such committees throughout the Government.

There are presently existing between 2,600 and 3,200 advisory committees which have been established either by statute or reorganization plan, by the President, or by agencies. Investigation by the Government Operations Special Studies Subcommittee revealed that tighter management of the committees is needed.

H.R. 4383 provides for the termination of the existing committees, except those established by statute. After the enactment of this legislation, the advisory committees will be re-created every 2 years.

The committees must make public notice of meetings and must provide public access to records. The Library of Congress will establish a depository for all committee reports and make them available to the public.

A Committee Management Secretariat is established in the Office of Management and Budget for oversight operations of the committees. The Director of Office of Management and Budget would be required to review committee activities and responsibilities and to prescribe guidelines and management controls.

An annual report to the Congress shall be made by the President on the activities of the advisory committees.

The committees will be required to meet at least twice each year and keep informative records of their meetings.

The cost of the legislation is estimated at $370,600 the first year and between $277,500 and $291,200 in each of the next 5 years. The present annual cost of the existing advisory committees is estimated at $75 million.

The legislation shall become effective 90 days after enactment.

Mr. Speaker, I urge the adoption of House Resolution 957 in order that the legislation may be considered.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentleman from New York has ably described the provisions of this bill.

Mr. Speaker, I am in favor of any way by which we can consolidate these functions and save money.

Mr. Speaker, the purpose of H.R. 4383 is to increase the effectiveness of advisory committees in the executive branch of the Government and to eliminate those advisory committees which do not perform a useful function.

A recent study has revealed that there are at least 2,600 interagency and advisory committees and possibly as many as 3,200 presently existing. For the purposes of this bill, an advisory committee is defined to include committees, boards, commissions, councils, conferences, task forces and other similar bodies which are established to give advice to the President or any agency.

H.R. 4383 would assign the Office of Management and Budget to monitor the operations of these advisory committees. Each year, the President would make a report on the activities of advisory committees in existence in the executive branch of Government.

The bill provides for the termination of each advisory committee other than an advisory committee established by statute within 2 years after the effective date of this bill. In the case of an advisory committee created after the effective date of the bill, termination will take place within 2 years after creation. However, an advisory committee may be continued for successive 2-year periods, if the creating authority takes appropriate action. An advisory committee created by statute after enactment of this bill will terminate after 2 years unless its termination is otherwise provided for by law.

The cost of implementing this bill is estimated at $370,600 in the first year of operation and between $277,500 and $291,200 per year for each of the next 5 years. The present cost of maintaining advisory committees is estimated at more than $75,000,000. The Committee on Government Operations expects considerable savings will result from the termination of committees which no longer serve a useful purpose.

There are departmental letters from the Library of Congress, Comptroller General, and the Office of Management and Budget. Of these, OMB opposes the bill, on the ground that the desired results can be achieved by OMB directive, without congressional action. In rebuttal the committee report notes that the committee requested action 25 months ago, and no directive has yet been forthcoming.

Mr. Speaker, I have no requests for time and yield back the balance of my time.

Mr. DELANEY. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SEABEES MEMORIAL

Mr. NEDZI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 55) proposing the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the Seabees of the U.S. Navy.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 55) with Mr. STRATTON in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the first reading of the joint resolution was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Michigan (Mr. NEDZI) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. HARVEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Chairman, I yield myself such time as I may require.

The Committee on House Administration has considered this legislation and approved it unanimously.

By the terms of the joint resolution, the Secretary of the Interior is authorized and directed to select, with the concurrence of the National Commission of Fine Arts and the National Capital Planning Commission, an appropriate site for this memorial in the District of Columbia area. It is provided that, should such site be on public grounds under the jurisdiction of the District of Columbia, the approval of the Commissioner of the District of Columbia is to be obtained as well.

Planning and design for this memorial will be subject to the approval of the Secretary of the Interior, the National Commission of Fine Arts, and the National Capital Planning Commission. The U.S. Government will assume no funding responsibility for the erection of this memorial, the entire cost thereof to be borne by the Seabee Memorial Association, Inc. The maintenance and care of the memorial will be the responsibility of the Secretary of the Interior.

The Seabee Memorial Association has indicated its desire to locate this monument near the entrance to Arlington National Cemetery; of course, this site as well as the proposed design must be approved by the Department of the Interior and the National Commission of Fine Arts and the National Capital Planning Commission.

House Joint Resolution 55 provides that the authority conferred therein shall lapse in the event that the monument's erection has not commenced within 5 years after the enactment of the joint resolution, or in the event that prior to the commencement of such construction the Secretary of the Interior is not satisfied that sufficient funds are certified available to insure completion of this memorial.

As you know the Seabees of the U.S. Navy have made a very substantial contribution to the defense of the Nation, and in my view some lasting recognition of that contribution is most appropriate and overdue. Accordingly, I urge the approval of House Joint Resolution 55.

Mr. HARVEY. Mr. Chairman, House Joint Resolution 55 proposes that a memorial be erected on public grounds in or around the District of Columbia to honor the Seabees of the U.S. Navy. No branch of our Armed Forces has served with more dignity and honor than the U.S. Navy Construction Battalions, or simply the Seabees. As one of the most specialized and courageous branches of the service, the Seabees are charged with the building and the defense of supply and transportation facilities. Their valor and their performance under fire are well known, and since their founding in the early stages of World War II, they have earned an honored position in American military history.

Formed 30 years ago, the Seabees built and repaired bases to support our Navy and Marine Corps installations in both theaters during the Second World War. As carpenters, plumbers, electricians, and engineers, the Seabees built airfields, waterfront facilities, supply depots and anything else necessary to keep our attack forces alive. It was in the South Pacific during the battles for Guadalcanal, Tarawa, and Guam that they earned their now-famous motto "Can Do."

The resourcefulness and skill of the Seabees extends the mobility of our combat forces throughout the world. They reduce to routine the problems of military logistics, and their efforts guarantee the success of operations that would otherwise languish. At Normandy, for example, they built the flexible fuel pipelines that kept our fighting men going during the invasion and throughout the liberation of France.

Since World War II, the Seabees have seen action not only in the combat zones of Asia, but also in Antarctica in 1947 and with Operation Deepfreeze in 1955. They have also become the Navy's "peace corps," serving in Africa, Latin America, and the Pacific, building schools, sanitation facilities, roads, and many other necessities that the developing nations must have to improve their standard of living.

From their peak of 250,000 men in 1945, the Seabees now number less than 23,000 men. All of these men have served their country honorably and courageously, and I believe it only fitting and proper that this Congress recognize their achievements and sacrifices by approving this memorial proposed in House Joint Resolution 55.

I have no further requests for time. I yield back the remainder of my time.

Mr. NEDZI. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, the accomplishments and sacrifices of the officers and men of the U.S. Naval Construction Force—the fighting Seabees—helped to construct the path to victory in World War II and, since then, they have contributed significantly to America's national efforts to build for peace.

Born in the dark days following Pearl Harbor, the Seabees have labored in many parts of the world to provide roads, airstrips and shore installations which enabled the armed might of our Nation and its Allies to prevail over the force of our enemies. From the beaches of Europe to the beaches of the far Pacific, a quarter million Seabees built everything imaginable, under the most extraordinary conditions, using techniques and materials in such unusual ways that their motto "Can Do" became a permanent part of American language. In the Korean action, Seabees engaged in amphibious landings to assist in stemming the rising tide of Communist aggression in that part of the world. In Vietnam, the Seabees have been active in the construction of military facilities to support our combat units deployed there to halt Communist aggression.

The Seabees are builder-fighters, but in the last 10 years they have also become known as the "Navy Peace Corps." Seebee civic action teams have served in Africa, Latin America, Asia, and Micronesia providing medical help, improving village sanitation, digging water wells, building schools, roads, and bridges, repairing homes and orphanages, and showing the people that Americans understand and care about the people of the world. The Seabees have established a fine new legend in the American Armed Forces.

The Seabees have served the United States with honor and courage. This service, I feel, is most deserving of especial tribute and remembrance. I am a cosponsor of this proposal and I urge the House to adopt the resolution under consideration today.

Mr. TIERNAN. Mr. Chairman, I rise to express my strong support for House Joint Resolution 55 which is identical to my bill, House Joint Resolution 250. This legislation authorizes the erection of a memorial on public grounds here in the District of Columbia, or the surrounding area, to honor and commemorate the Seabees of the United States Navy.

The Secretary of the Interior is authorized and directed to select, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission, a suitable site and is then responsible for the maintenance and care of the memorial.

The entire cost of the erection of the memorial will be assumed by the Seabee Memorial Association, Inc.:

Mr. Chairman, the Seabees, known officially as the Civil Engineer Corps, were born at Davisville, R.I., 30 years ago. My State takes great pride in this distinction.

A healthy and wholesome spirit of accomplishment pervades this unique organization and is appropriately reflected in its motto "Can Do."

Their record is a proud and courageous one. I believe it fitting and proper that a memorial to the Seabees be located here in the Nation's Capital.

We can do no less.

Mr. CONTE. Mr. Chairman, as a cosponsor of this legislation, I rise in enthusiastic support of House Joint Resolution 55. This measure authorizes the Seabee Memorial Association, Inc., to erect, at no cost to the Federal Government, a modest memorial in the District of Columbia, or its environs, in honor of the Seabees of the United States.

Having served in the southwest Pacific theater with this crack outfit during World War II, I am well aware of the accomplishments and sacrifices that the officers and men of the U.S. Naval Construction Force have contributed to their country. Through their stalwart efforts, a path to victory was constructed in World War II. And since that time, they have contributed significantly to our national efforts to build for peace.

Born in the dark days following Pearl Harbor, the Seabees labored in many parts of the world to provide roads, airstrips, and shore installations which enabled our Armed Forces and allies to prevail over our aggressors.

From the beaches of Europe to the reaches of the far Pacific, a quarter-million Seabees built everything imaginable under the most extraordinary conditions. They used techniques and materials in such unusual ways that their motto "Can Do" became a permanent part of the English language.

During the last decade, the Seabees have added to their admirable accomplishments as builder-fighters by becoming a "Naval Peace Corps." Seabee civic action teams have served in Africa, Latin America, Asia, and Micronesia. They have provided medical help, improved village sanitation, built schools, roads and bridges, repaired homes and orphanages, and thus showed that Americans understand and care about the people of the world.

Mr. Chairman, I am proud to have been part of this outstanding branch of the service. And I was deeply honored when I received their silver Seabee award in 1967. The Seabees have served the United States with courage and distinction. This record of achievement, I feel, is most deserving of tribute and remembrance. Let us accord them that tribute with the overwhelming passage of this legislation.

Thank you.

Mr. NEDZI. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.J. Res. 55

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Seabee Memorial Association, Incorporated, is authorized to erect a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the Seabees of the United States Navy who have served their country with the "CAN DO" spirit in building for peace.

Sec. 2. (a) The Secretary of the Interior is authorized and directed to select, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia, or its environs, upon which may be erected the memorial authorized in the first section of this Act: *Provided,* That if the site selected is on public grounds belonging to or under the jurisdiction of the government of the District of Columbia, the approval of the Commissioner of the District of Columbia shall also be obtained.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the National Commission of Fine Arts, and the National Capital Planning Commission, and the United States or the District of Columbia shall be put to no expense in the erection thereof.

Sec. 3. The authority conferred pursuant to this joint resolution shall lapse unless (1) the erection of such memorial is commenced within five years from the date of enactment of this joint resolution, and (2) prior to its commencement funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior, to insure completion of the memorial.

Sec. 4. The maintenance and care of the memorial erected under the provisions of this Act shall be the responsibility of the Secretary of the Interior.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair (Mr. STRATTON), Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee having had under consideration the Joint Resolution (H.J. Res. 55) proposing the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the Seabees of the U.S. Navy, pursuant to House Resolution 960, he reported the joint resolution back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. THOMPSON of Georgia. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 366, nays 4, answered "present" 1, not voting 60, as follows:

[Roll No. 139]

YEAS—366

Abbitt
Abernethy
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashbrook
Aspin
Baker
Baring
Barrett
Begich
Belcher
Bell
Bennett
Bergland
Betts
Bevill
Biaggi
Biester
Blackburn
Blatnik
Boland
Bolling
Brademas
Brasco
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton
Byrne, Pa.
Byrnes, Wis.
Byron
Cabell
Camp
Carey, N.Y.
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Chappell
Clawson, Del
Clay
Cleveland
Collier
Collins, Ill.
Collins, Tex.
Colmer
Conable
Conte
Corman
Cotter
Coughlin
Crane
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
Delaney
Dellenback
Denholm
Dent
Derwinski
Devine
Dickinson
Dingell
Donohue
Dorn
Dow
Downing
Drinan
Dulski
Duncan
du Pont
Eckhardt
Edmondson
Edwards, Ala.
Edwards, Calif.
Eilberg
Erlenborn
Evans, Colo.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fulton
Fuqua
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Gross
Grover
Gubser
Gude
Hagan
Haley
Hall
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Karth
Kastenmeier
Kazen
Keating
Kemp
King
Koch
Kuykendall
Kyl
Kyros
Latta
Leggett
Lennon
Lent
Link
Lloyd
Long, Md.
Lujan
McClory
McCloskey
McClure
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McKinney
McMillan
Madden
Mahon
Mailliard
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Minshall
Mizell
Monagan
Montgomery
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
O'Hara
O'Konski
O'Neill
Patten
Pelly
Pepper
Perkins
Peyser
Pickle
Pike
Pirnie
Poage
Podell
Poff
Powell
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rees
Reid
Reuss
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Satterfield
Saylor
Scherle
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Skubitz
Smith, Calif.
Smith, Iowa
Snyder
Spence
Springer
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Zablocki
Zion
Zwach

NAYS—4

Dellums
Rangel
Riegle
Scheuer

ANSWERED "PRESENT"—1

Harrington

NOT VOTING—60

Abourezk
Ashley
Aspinall
Badillo
Bingham
Blanton
Boggs
Bow
Brooks
Caffery
Chisholm
Clancy
Clark
Clausen, Don H.
Conyers
de la Garza
Dennis
Diggs
Dowdy
Dwyer
Esch
Eshleman
Evins, Tenn.
Frelinghuysen
Galifianakis
Gallagher
Goldwater
Hansen, Wash.
Hébert
Henderson
Hosmer
Jones, Tenn.
Kee
Keith
Kluczynski
Landgrebe
Landrum
Long, La.
Macdonald, Mass.
Mitchell
Mollohan
Obey
Passman
Patman
Pettis
Preyer, N.C.
Pryor, Ark.
Rarick
Rodino
Roncalio
Rostenkowski
Sarbanes
Sisk
Slack
Smith, N.Y.
Staggers
Steiger, Ariz.
Stubblefield
Waggonner
Young, Tex.

So the joint resolution was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Bow.
Mr. Rodino with Mr. Hosmer.
Mr. Evins of Tennessee with Mr. Clancy.
Mr. Waggonner with Mr. Esch.
Mr. Stubblefield with Mr. Goldwater.
Mr. Aspinall with Mr. Pettis.
Mr. Ashley with Mr. Landgrebe.
Mr. Boggs with Mr. Smith of New York.
Mr. Passman with Mrs. Dwyer.
Mr. Brooks with Mr. Keith.
Mr. Rostenkowski with Mr. Dennis.
Mr. Sarbanes with Mr. Steiger of Arizona.
Mr. Staggers with Mr. Eshleman.
Mr. Henderson with Mr. Frelinghuysen.
Mr. Jones of Tennessee with Mrs. Hansen of Washington.
Mr. Kluczynski with Mr. Badillo.
Mr. Landrum with Mr. Long of Louisiana.
Mr. Caffery with Mr. Patman.
Mrs. Chisholm with Mr. Gallagher.
Mr. Mollohan with Mr. Mitchell.
Mr. Young of Texas with Mr. Clark.
Mr. Sisk with Mr. Diggs.
Mr. Macdonald of Massachusetts with Mr. Abourezk.
Mr. Slack with Mr. Blanton.
Mr. Conyers with Mr. Kee.
Mr. Bingham with Mr. de la Garza.
Mr. Rarick with Mr. Preyer of North Carolina.
Mr. Roncalio with Mr. Galifianakis.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FEDERAL ADVISORY COMMITTEE STANDARDS ACT

Mr. MONAGAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4383) to authorize the Office of Management and Budget to establish a system governing the creation and operation of advisory committees throughout the Federal Government which are created to advise officers and agencies of the Federal Government.

The SPEAKER. The question is on the motion offered by the gentleman from Connecticut.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 4383, with Mr. STRATTON in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Connecticut (Mr. MONAGAN) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. BROWN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Connecticut.

Mr. MONAGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of this bill is to make ground rules for the operation of the advisory commissions which extend throughout the executive branch of the Government. In recent years, particularly, there has been a tremendous proliferation of these commissions.

Really they have gotten out of hand. Because of their influence they have been referred to as the "fifth arm of the government." It has been estimated, for example, that there are up to 3,200 of these advisory commissions which are circulating about, out in outer space without any substantial control over them.

It is not only the number of these commissions that is important, but also the number of people who are involved in their activities. It has been estimated that there are up to 20,000 people serving on various of these commissions, and that there is a staff of some 4,400 engaged in their activities.

Not only are many people involved and are there so many commissions, but substantial sums of money are spent in the pursuit of these activities. It has been estimated that between $65 and $75 million a year is expended upon advisory commissions of various types. For example, the National Commission on the Causes and Prevention of Violence spent $1.3 million. The Commission on Obscenity and Pornography spent almost $1.8 million. The recommendations of these commissions were substantially repudiated, and in some cases even before a formal report had been made.

It is the belief of the committee, and it is my belief that there is a tremendous waste of time in the operation of these commissions, because the executive branch members of the Cabinet serve on as many as 43 advisory committees. The committees are too often inefficient and in many instances there are duplications. In some instances, five or six different commissions have been constituted to cover the same subject.

Control of the growth and administration of advisory committees is the type of activity I believe, Mr. Chairman, in which the Committee on Government Operations should be engaged. It relates to the efficient functioning of Government agencies, and it is in the interest of improving the efficiency of operation of the Government that this bill is brought before the House, to perform a housekeeping function that is not being performed at the present time.

Briefly, the bill itself establishes an office in the Office of Management and Budget whose function will be to ride herd on these various advisory commissions.

The bill also provides for the termination of advisory committees. Those advisory committees created by statute after the date of enactment of the bill will terminate upon the expiration of 2 years following their establishment unless termination is otherwise provided for by statute.

All nonstatutory advisory committees, whether created before or after the enactment of the bill will terminate 2 years after the effective date of the bill or 2 years after the date of their establishment, whichever is later unless the creating authority continues them in existence by appropriate action. The effect of this provision will be to require a biannual review of an advisory committee's usefulness.

A Committee Management Secretariat, as I say, will be set up. The Director will review the activities of each advisory committee to see whether or not it is achieving its objectives. He will prescribe administrative management and controls.

In addition to that, I think a very important point for the Congress is that the existing committees are requested to look upon their own responsibilities, and it is declared to be the policy of Congress that no new commissions should be set up where an existing committee of the Congress is competent to carry on the studies or the obligations sought to be placed upon a new body.

The President is required to make some sort of report upon the work of the advisory committees and to make an annual report on the activities of advisory committees.

Provision is made that there shall be a central filing place for the reports of advisory committees in the Library of Congress. At the present time there is no provision anywhere for the permanent recording of the often important work of these advisory commissions.

Each agency head is required to maintain general information about the advisory commissions within his jurisdiction.

Finally, the administration of the advisory committees is governed. I believe the most important provision here is the one which requires fair representation of different points of view upon any advisory commission, so that they will not all be educators on committees in the Department of Education and will not all be scientists, physicians, or medical men on commissions relating to the Institutes of Health.

Finally, there is a provision for fair and adequate publicity about the doings and the meetings of these advisory commissions, so that the public will be informed as to when they meet and what the purpose of any meeting will be.

This, in short, Mr. Chairman, is a summary of the legislation that we bring before the House today. It will streamline the operations of the Government insofar as advisory committees are concerned. It will reduce their personnel. It will provide a definite procedure for their creation. More importantly, it should bring substantial savings to the taxpayer not only because of elimination of duplication but also because of reduction of the expenditure of funds that have been going in the past to fund the operations of these committees.

I hope that Members will support this legislation.

Mr. BROWN of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I commend the chairman of the committee, the gentleman from Connecticut, for the fine work he has done in bringing to light the uncontrolled growth of advisory committees in the Federal Government and for pointing up the absence of guidelines under which such committees should operate.

The problem he describes is not new and does not bear any political party's label. It has existed in both Republican and Democratic administrations and requires a bipartisan effort to solve it.

The Office of Management and Budget witnesses testified before our subcommittee and indicated their concurrence in the general objectives of H.R. 4383. However, I would be less than candid if I called it an administration bill. The OMB contends that the objectives of the bill affecting the executive branch could be best attained through administrative regulation and that additional legislation is not needed. Indications are, however, that there is no alternative to the legislation.

It has now been over 2 years since the Assistant Director of OMB, Mr. Dwight Ink, promised the subcommittee an early release of a directive implementing a revised plan to improve Federal committee oversight. The directive has yet to be issued.

There is no question but that advisory committees are useful and necessary to bring expertise and knowledge not otherwise available to Government.

This bill is not intended to impair the effectivenes of the advisory committee system, but rather to maximize its effectiveness by prescribing guidelines for the creation, administration and, where indicated, the termination of advisory committees.

The guidelines include provisions intended to mitigate the dominance of advisory committees by any special interests and bolsters these provisions with provisions for public inspection and use of advisory committee reports.

I believe that legislation to authorize the establishment of a system governing the creation and operation of advisory committees is long overdue and I support H.R. 4383.

I urge my colleagues in the House to do likewise.

Mr. HORTON. Will the gentleman yield?

Mr. BROWN of Michigan. Certainly.

Mr. HORTON. I would just like to take this opportunity to indicate my support of the bill and also to commend the gentleman in the well (Mr. Brown) the minority leader on the subcommittee, and also Mr. Monagan, the chairman of the subcommittee, for the fine work they have done.

It is true that there are a large number of advisory committees, and it is time we made some order out of this situation. I think the bill goes a long way toward doing this, and toward providing some sensible management of the finances that are necessary to run these advisory committees. I think it is important, as this bill provides, that that funding now be managed under OMB guidelines and management controls.

Not only is it important that this bill provide for the phasing out of special advisory and study councils and commissions which have served their purpose, it is even more important that those statutory advisory panels, established for permanent functions by the Congress be managed and treated in a far more sensible and orderly way than is presently the case.

First, the bill provides that the President, through his Domestic Council, must at least consider and comment on the recommendations made by these advisory and investigatory bodies which look over the shoulder of operating Federal programs. Presently, it is widely felt that the report and recommendations of these panels are often merely left to gather dust on shelves in Congress and in the Executive Office.

Second, the bill contains a vital provision which can permanently eliminate some very serious existing conditions which place many Federal agencies in positions bordering on conflict of interest. Most if not all statutory advisory councils are dependent for their staff and budget funds on the very agencies and programs they are asked to review and comment on. Obviously, wherever an agency feels that too much review and criticism is likely to result from an adequately budgeted and properly staffed advisory panel, there is a built-in propensity to seek to cripple the operations of these panels by cutting or limiting their budgets and staff. In one instance I have been made aware of, a Federal agency actually caused an advisory panel's annual report to Congress to be delayed in its printing process because of either disagreement or misunderstanding of some of its contents. This is clearly in contravention of the purpose and intent of Congress in establishing these panels specifically for the purpose of having citizens and experts who serve on them provide Congress and the President with unfettered and independent evaluations of the way in which these Federal agencies are spending the taxpayers' money.

Under this bill, the control of management and budgeting of these councils and commissions would be given to the Office of Management and Budget. This is particularly important where statutory councils appointed by the President are concerned, since they report to Congress and to the President, and should not be put in a position of going hat in hand to the very agencies they review in order to obtain operating funds.

So I do want to express appreciation to the gentleman in the well and to the subcommittee for the fine job they have done in bringing this bill to the floor.

Mr. BROWN of Michigan. I thank the gentleman for his comments.

Mr. MONAGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Holifield).

Mr. HOLIFIELD. Mr. Chairman, as the chairman of the House Committee on Government Operations, I want to add my praise to the work of Congressman Monagan as chairman of the subcommittee and all of the Members on both sides of the aisle on this particular piece of legislation.

This piece of legislation comes as a result of a previous committee recommendation back in 1970 in the 91st Congress. This is an implementing piece of legislation which seeks to set up an inventory of all of these more than 2,000—or some 2,600, I believe—interagency and advisory committees.

The strange thing about these interagency advisory committees is that they never die. This does set up a 2-year limitation on them, and they have to be extended by affirmative action or else they die automatically.

It has been estimated that we are paying about $75 million into the expense of running these interagency advisory committees and over 20,000 salaried people are working on them, with about 4,000 staff. So this is no small matter we are talking about.

I believe, No. 1, if we have an inventory of these interagency advisory committees and study commissions and first of all have a central depository with an inventory as provided for in this bill and then, if we have a termination date on them so that they do not run on and on and on without official action renewing them, I think we can reduce a great number of them. Maybe we can cut them in half. If we can do that, it would give us a saving of possibly half of the $75 million it is costing us now to run them. I believe this is a step in the right direction. This is not a bill that will shake the world, but it is one of those steps that you have to take in a gradual improvement of the administrative process in the executive branch of the Government.

I see no reason why anyone should oppose this bill. At least it is worth a try. It should save us a great deal of money.

I am certainly in favor of the bill and hope it will be passed unanimously.

Mr. Chairman, the Committee on Government Operations has been considering the use of advisory committees in the Federal Government for some time. During the 91st Congress the Special Studies Subcommittee, which was chaired by my distinguished colleague from Connecticut, conducted 5 days of hearings on this subject and received testimony from some 20 witnesses. Based on these hearings the full committee on December 11, 1970, issued a report entitled: "The Role and Effectiveness of Federal Advisory Committees."

The report revealed that there are at least 2,600 interagency and advisory committees in the Federal Government, that we spend approximately $75 million annually to support the efforts of a total committee membership of about 20,000 individuals and assigned staff of approximately 4,400 persons. These figures are of necessity only estimates. Even the Office of Management and Budget was unable to supply definitive information on the names and cost of advisory committees in existence in the executive branch of Government.

Not only are advisory committees widely used in the Federal Government; they are at times misused. For example, many Presidential commission reports are ignored by the President and his staff or are not fully utilized. The President and White House staff refused to accept the final report of the National Commission on Urban Problems which they activated and sponsored. The Commission's cost came to $1,500,000. The Commission on Obscenity and Pornography's report was publicly disavowed by the White House even prior to its submission. The cost of the Commission and report to the Government came to about $1,800,000.

After documenting the use and abuse of advisory committees in the Federal Government, the 1970 committee report set forth a series of recommendations. The first among these was that—

> The Congress should spell out in public law the philosophy behind and need for advisory bodies and definitively establish policy and administrative criteria for their use at all levels of government.

The bill which we are considering today will implement many of the recommendations contained in the 1970 committee report. It spells out guidelines for the creation of advisory committees; it requires an annual review of and report on advisory committees to the Congress; it establishes central responsibility for the management of advisory committees in OMB; it requires the President to report to the Congress his views on the public recommendations of Presidential advisory committees; it provides for procedures for the termination of advisory committees.

Mr. Chairman, the time has come to take action to put the system of advisory committees into order. I recommend passage of H.R. 4383.

Mr. BROWN of Michigan. Mr. Chairman, I yield 3 minutes to the gentelman from Nebraska (Mr. THONE).

Mr. THONE. Mr. Chairman, as a member of the subcommittee which considered the legislation, I have studied carefully the problem that gave rise to this bill, H.R. 4383.

I concur in the solution of the problem intended by the bill.

I rise in support of the bill with some pride of authorship, having long championed the public's right to know in having written some of Nebraska's freedom of information law. It was my privilege to author Nebraska's open record law; I also helped write Nebraska's open meetings law and a limited open court's statute in my State. I have come here to Congress solidly imbued with the philosophy of the public's right to know.

Mr. MONAGAN. Mr. Chairman, will the gentleman yield?

Mr. THONE. I would be happy to yield to the gentleman from Connecticut.

Mr. MONAGAN. I should like to express the appreciation of the subcommittee to the gentleman from Nebraska for the constructive contribution that he made to this legislation in the field that he is discussing at the present time. His expertise was very helpful in writing the type of provision we did, and I think this provision goes a long way toward protecting the public in its right to information in regard to the operation of these advisory commissions.

Mr. THONE. I thank the distinguished gentleman from Connecticut, our subcommittee chairman.

Mr. Chairman, knowing the potential for domination by special interests inherent in the use of advisory committees, I thought it especially important to make reports and background papers of such committees open to the public.

Furthermore, as Chairman MONAGAN has so graciously noted, I suggested and supported the inclusion of section 7 in the act.

Subsection (a) requires the Director of the Office of Management and Budget to provide for the filing of reports and other papers from advisory committees with the Library of Congress where they may be inspected and used by the public.

Subsection (b) provides that the Freedom of Information Act is applicable to this section.

This should remove any doubt as to whether advisory committees are subject to the Freedom of Information Act. Otherwise, I assume, it might be argued that advisory committees do not fall within the definition of agency in section 551(1) of the Freedom of Information Act and are, therefore, not subject to the act.

Mr. Chairman, I strongly favor the enactment of H.R. 4383.

I yield back the balance of my time.

Mr. MONAGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD. Thank you, Mr. Chairman.

Mr. Chairman, I rise in support of H.R. 4383, because I am vitally aware of the proliferation in the executive department of advisory commissions, and the need for some legislative control over these quasi-governmental bodies.

I congratulate the gentleman from Connecticut for the outstanding leadership he has provided in this effort, and support him fully in the vital objective which this legislation seeks to obtain.

I certainly want to associate myself with the remarks of the gentleman from Nebraska also. This does provide for adequate public access to information.

As a member of the Subcommittee on Government Information of the Committee on Government Operations, chaired by the distinguished gentleman from California (Mr. MOSS), I was vitally interested in that section and I am pleased that in the subcommittee and in the full committee the relevant sections were adopted.

Mr. Chairman, the need for the Government to respond to a myriad of complex problems has necessitated the need for the advice of outside experts. However, as is often the case with any bureaucratic enterprise, the advisory committee syndrome has grown enormously in recent years.

It is time that the Congress asserted its oversight role in this area, and H.R. 4383 will accomplish that purpose. It should also be noted that this legislation will set a limit of 2 years for the life of such advisory committees unless a different termination date is set by statute. This, in itself, will cut into the proliferation of committees which have long since lost their usefulness.

Mr. Chairman, the House committee report indicates that at least 2,600 and possibly as many as 3,200 interagency and advisory committees are presently existing. Studies done by the Foreign Operations and Government Information Subcommittee corroborate these estimates. While the report correctly states that the Congress cannot administer this subbureaucracy, it does have the obligation to exercise the necessary oversight to insure that the public funds are being wisely and efficiently spent. This bill, through its reporting provisions, will insure that oversight.

Another feature of the bill which must be applauded is the requirement for public access to the deliberations and recommendations of these advisory committees. All too often, such committees meet behind closed doors, and submit advice to Executive departments without any opportunity for the public to comment on or be aware of the purport of such advice. While these reports are technically advisory, such advice is often automatically translated into agency policy.

Mr. Chairman, under the Federal Advisory Committee Standards Act, such committees will be required to give timely public notice of their meetings and to keep full and complete minutes of all transactions, with the exception of those limited occurrences involving the national defense or foreign policy. Section 10(b) clearly states that all records and files including agenda, transcripts, studies, analyses, reports, meeting notices, and other data, compilations, and working papers which were made available or prepared for or by each advisory committee shall fall within the provisions of the Freedom of Information Act, thus insuring a considerable degree of public access to these materials and deliberations.

Mr. Chairman, the need for Congress and the public to know what the executive branch of our Government is doing makes the passage of this legislation vitally essential. I congratulate the gentleman from Connecticut (Mr. MONAGAN) for the outstanding leadership he has provided in this effort and support him fully in the important objectives which this legislation seeks to attain.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield for a question?

Mr. MOORHEAD. I yield to the gentleman?

Mr. SEIBERLING. One of the concerns about the use of advisory committees in the past under the Executive order procedures was that they might be used to circumvent the antitrust laws.

I wonder if there is any provision in this bill which would avoid the circumvention of the antitrust laws by business advisory committees of the various departments?

Mr. MOORHEAD. I prefer to yield to the gentleman from Connecticut to answer that question.

My primary concern in the legislation has been with the Freedom of Information Act. The gentleman from Connecticut has adopted those sections, but on the question of antitrust laws, I believe the chairman of the subcommittee is better fitted to answer that question.

Mr. MONAGAN. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD. I yield to the distinguished gentleman from Connecticut.

Mr. MONAGAN. In answer to the inquiry of the gentleman from Ohio I would say no, I do not see how this would affect the antitrust laws or affect the operation of corporations under the antitrust laws. These are simply advisory commissions. Their role is basically to advise the Executive. They are not operating commissions.

Mr. SEIBERLING. Then by the same token is there any protection for corporations that have representatives on an industry advisory committee against being prosecuted under the antitrust laws for actions taken or recommendations made in their capacity as members of such a committee or commission?

Mr. MONAGAN. If the gentleman will yield further, there is no specific provision, but of course if they did not violate the law they would not be prosecuted.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Florida.

Mr. FASCELL. Let me add that there was some concern, as the gentleman from Ohio pointed out, about an advisory committee being under prosecution because of having too many representatives of industry and creating a question of conflict of interest.

What the bill does is, by setting guidelines and opening up records, give everybody a look at these things and thus eliminate as much as possible and reasonable the problem the gentleman alludes to.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, if I may say one more word, it seems to me that the arrangement proposed in this bill is infinitely preferable to the present arrangement of having the whole thing covered by Executive order, no statutory basis, and no guidelines at all. I commend the committee for its action in bringing this bill out.

Mr. MOORHEAD. Let me say further to the gentleman from Ohio that section 9 of the bill provides for termination of such advisory committees, and this is probably one of the most significant parts of the bill, if there is any danger in what the gentleman from Ohio alludes to.

Mr. SEIBERLING. If the gentleman will yield still further, I believe that the public information requirements of this bill are one of the best guarantees against such abuses.

Mr. MOORHEAD. I agree with the gentleman from Ohio.

Mr. BROWN of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time in order to make certain that this proposed legislation covers advisory boards and commissions, as well as advisory committee. Am I correct in that, I would ask the gentleman from Connecticut.

Mr. MONAGAN. Mr. Chairman, if the gentleman will yield, that is correct. The definition of advisory committee is found on page 11, and it means any committee, board, commission, council, conference, panel, task force, or other similar group.

Mr. GROSS. I thank the gentleman from Connecticut, and I wish to commend the committee for bringing this bill to the floor of the House. We are surfeited with advisory boards, commissions, and committees in our Government—some 3,000 of them—and if this bill will have the effect of eliminating some of them, certainly those that are surplus to the needs of the proper conduct of government, then the committee will have performed a very meritorious service.

Mr. BROWN of Michigan. Mr. Chairman, if the gentleman from Iowa will yield, just to make sure the record is straight, it does cover all of the entities that the chairman, the gentleman from Connecticut (Mr. MONAGAN) has cited, except that we should point out it does not cover advisory committees to the courts, nor does it cover the Advisory Committee on Intergovernmental Relations. Those are the only two exceptions.

Mr. GROSS. I thank the gentleman, and I support the bill.

Mr. MONAGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as a member of the subcommittee that has worked on this, I must apologize for not contributing as much help to my chairman as I would have preferred. But I am pleased to rise in support of H.R. 4383.

I think we all know there has been a tendency at all levels of government—local, State, and Federal—for quite some time to have what we call government by commission or government by committee.

We are in the place we are because, when we encounter a problem, we try to solve it by letting it be studied by a committee or a commission. These commissions have proliferated and increased in number over the years until, as you have heard today, there are several thousand now in existence.

The section of this bill which seems to me should be of most interest to all of us is the provision for the termination of these advisory committees. I am not sure of the exact figures, but it is close to $75 million that is spent to pay for the membership and staffs of these different advisory committees and the administration of their studies.

The most worthwhile provision of this bill before us today is the possible saving of quite a substantial sum of money. I want to commend the gentleman from Connecticut and other members of the committee who have worked so hard.

It seems to me that, while we have a lot of differences from time to time in this body, this is one measure we can all support.

Mr. BROWN of Ohio. Mr. Chairman, I am pleased to rise in support of H.R. 4383. We live in an age when the technological, economic, social, and political questions that confront our daily lives are so complex that they often seem to be beyond the reach of any single individual. And, the proposed solutions to these problems challenge our society. The individuals selected to analyze and solve these problems should be particularly well suited to respond to them in order to bring the national spectrum into perspective.

With such a responsibility it is no wonder that the approach of a "blue ribbon" commission is so frequently applied to solving the complex problems facing today's decisionmakers.

My remarks may come as a surprise since it might be legitimately argued that my predecessor and late father popularized the recent wave of Federal commissions. He was the legislative author of the original Hoover Commission on the Reorganization of the Executive Branch of Government in 1949 and its successor, the Second Hoover Commission, 2 years later. These two commissions, on both of which he served, are generally given credit for saving taxpayers of our Nation billions of dollars by updating Government after World War II and improving its economy and efficiency. His service on the Hoover Commission was shared with his friend and colleague, the Honorable CHET HOLIFIELD, now chairman of the Government Operations Committee. Clarence J. Brown's service on the Government Operations Committee led directly to my service on that panel and ultimately to my disillusionment—or at least caution—about the value of study commissions. Four years ago, I asked the Library of Congress to advise me how many special study commissions had been established in Government since the Hoover Commission. I was told that such a compilation was impossible and would only be estimated at several hundred at considerable cost to the taxpayers. Might not these funds have been more efficiently and economically spent on upgrading and expanding the staffs available to the legislative branch of Government to carry out its oversight function?

The basic problem with study commissions is where to place responsibility and accountability for the results of the programs adopted. Do we later accuse the advisory commission, or does the responsibility for decisions fall at a level of Government divorced from the review and study of the problem?

As a Member of Congress, I sometimes wonder if we are sent to Washington by our constituents to make legislative decisions and study the pressing domestic and international challenges or are we sent to Washington to approve commissions and study groups?

Under the American system of government there are three branches of Federal power—the legislative, the executive and the judicial. The regulatory bodies exercise powers that are sometimes administrative, sometimes legislative, and sometimes judicial; they have been referred to as the fourth branch of government. But I ask you whether we have not actually created a fifth branch of government—the study commission. Congress must accept accountability for our single and aggregate decisions—accountability to the people for the manner in which we allocate national resources and resolve national problems.

I do not believe that responsibility for investigating and recommending solutions to the major problems facing the Nation should be vested in the establishment of temporary commissions. What is required instead is that the Congress through the appropriate committee with adequate resources, shoulder its responsibility to review the problems before us and provide the proper forum for both the discussion and analysis of problems.

There is a regrettable tendency, both in the Congress and executive branch, to call upon commissions to study and make recommendations on matters which should be the clear and routine responsibility of existing elected and appointed officials acting through their permanent committees and committee staffs.

This tendency to shift responsibility to faceless commissions makes the average citizen question whether commissions are established to review pressing national problems, or because public officials are reluctant to accept the direct responsibility for which they were elected.

Commissions should be created only to investigate matters which are so broad that they cannot fit the jurisdictional constraints of existing congressional committees. Blue-ribbon commissions should only be empaneled to examine problems so fundamental to government that the needs for specialized knowledge or unique approach go beyond that routinely found in a congressional committee. Advisory committees and commissions should be created only when there is an obvious and overwhelming need for avoiding the political and geographic considerations which get built into a congressional committee from time to time and prevent innovative and responsive leadership. I submit this need would be rare indeed.

As far as budget, staff, and expertise are concerned, a congressional committee can match or exceed those of most temporary commissions. For every cent proposed to be spent by a commission, the Congress can more efficiently and economically use these funds. An already organized committee with an established factfinding procedure can carry out an investigation more efficiently than one created for a one-time effort only. For every staff member to be hired by a commission, a committee of Congress should be able to attract new and equally competent staff. The discretionary power already available to congressional committees to hold public or executive hearings and subpena witnesses is not always within the jurisdiction of a temporary commission. In fact, it would seem to me that a committee of the Congress would be superior to a commission in all these respects.

Of course, it can be cynically argued that the members of a congressional committee or committee staffs lack the necessary degree of special knowledge or training, or the broadmindedness and fresh viewpoint for the best ultimate deliberation and preparation of recommendations.

But how sound is this criticism? It can be countered just by the fact that a congressional committee has the ability and basic philosophic balance to obtain all necessary outside advice and assistance.

The relative value of a congressional committee over a commission is underscored when one realizes that the end product of a commission is only advisory in nature. Ultimately a commission's recommendations must be referred to a congressional committee which will then be requested to conduct the same type of deliberation and review in order to validate or reject the commission's conclusions and recommendations. A congressional committee may or may not be "second-guessed" by the public and the press, and so forth, but if a commission is not "second-guessed" by a congressional committee, then it will be ignored.

The suggestion has been made that Members of Congress lack the required time to review particular problems. The fact is though, that Members of Congress have the duty and obligation to devote the necessary time to important matters of Government and any burden can be relieved through the assistance of capable staff. Members are frequently more experienced in what should be done and what can be done, especially in a practical political sense, than are the members of a transitory commission. Congressional staff members also are more knowledgeable and practically experienced than are staff members available for temporary employment on a commission. In addition, the familiar information sources available to Members of Congress and their committees are far greater than that casually available to a study commission. Congress has a direct link to the General Accounting Office, the Library of Congress, and the Legislative Reference Service—the latter having a potentially greater capacity for processing and evaluating information in the years ahead.

I feel strongly that the Congress should place more emphasis on its own basic legislative role as the chief designer and implementer of programs to overcome our Nation's problems.

Perhaps we cannot immediately eliminate or even reduce the number of new commissions created, but we have learned too well the art of delaying or blurring a thorny issue by letting a commission study it. Hopefully, this legislation provides an answer to the present practice of burying problems and the responsibility for their solution in a proliferation of advisory commissions.

Mr. BROWN of Michigan. Mr. Chairman, I have no further requests for time.

Mr. MONAGAN. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Advisory Committee Standards Act".

FINDINGS AND PURPOSES

SEC. 2. The Congress finds that there exist numerous committees, boards, commissions, councils, and similar groups which were established to advise officers and agencies in the executive branch of the Federal Government, that the present need for these bodies has not been adequately reviewed, that some should be disestablished or their functions revised, and that standards should be prescribed to govern the creation, administration, and operation of such bodies.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "Director" means the Director of the Office of Management and Budget.

(2) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, (hereafter in this paragraph referred to as "committee"), which is—

(A) established by statute or reorganization plan, or

(B) established by the President, or

(C) established by one or more agencies,

in the interest of obtaining advice or recommendations for the President or one or more agencies, except that such term excludes (i) the Advisory Commission on Intergovernmental Relations and (ii) any committee which is established by a single agency and which is composed wholly of full-time officers or employees of such agency.

(3) The term "agency" has the same meaning as provided for in section 551(1) of title 5, United States Code.

(4) The term "Presidential advisory committee" means an advisory committee which advises the President.

RESPONSIBILITIES OF COMMITTEES OF CONGRESS

SEC. 4. (a) In the exercise of its legislative review function pursuant to section 136 of the Legislative Reorganization Act of 1946, as amended, or clause 28 of rule XI of the Rules of the House of Representatives, each standing committee of the Senate and House of Representatives shall make a continuing review of the activities of the advisory committees under its jurisdiction with a view to determining whether the responsibilities assigned such advisory committees should be revised, whether any such advisory committee should be merged with any other advisory committee, or whether any such advisory committee any longer performs a necessary function. Each such standing committee shall take appropriate action to obtain the enactment of the legislation necessary to implement recommendations resulting from any review performed under this subsection.

(b) In its consideration of legislation creating, or authorizing the creation of, an advisory committee, each standing committee of the Senate and of the House of Representatives shall endeavor to assure that no advisory committee will be created if its functions are adequately performed by an existing advisory committee, or by such standing committee, and that such legislation—

(1) contains a clearly defined purpose for the advisory committee

(2) requires the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee,

(3) contains appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of its independent judgment,

(4) Contains provisions dealing with authorization of appropriations, the date for submission of reports (if any), the duration of the advisory committee, and the publication of reports and other materials, to the extent that the standing committee determines the provisions of section 10 of this Act to be inadequate, and

(5) contains provisions which will assure that the advisory committee will have adequate staff (either supplied by an agency or employed by it), will be provided adequate quarters, and will have funds available to meet its other necessary expenses.

(c) To the extent they are applicable, the guidelines set out in subsection (b) of this section shall be followed by the President, agency heads, or other Federal officials in creating an advisory committee.

RESPONSIBILITIES OF THE DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Sec. 5. (a) The Director shall establish and maintain within the Office of Management and Budget a Committee Management Secretariat, which shall be the principal agency within such office having responsibility for matters relating to advisory committees.

(b) The Director shall, immediately after the enactment of this Act, institute a comprehensive review of the activities and responsibilities of each advisory committee then in existence with a review to determining whether it is achieving its objectives; whether the responsibilities assigned to it should be revised; whether it should be merged with any other advisory committee; and whether it any longer performs a useful function. Upon the completion of the Director's review he shall make recommendations to the President with respect to actions he believes should be taken. Thereafter, the Director shall carry out a similar review annually. Where appropriate, agency heads shall cooperate with the Director in making the reviews required by this subsection.

(c) The Director shall, to the extent not otherwise prescribed by statute or executive order, prescribe administrative guidelines and management controls to be applicable to advisory committees. The Director shall, to the maximum extent feasible, provide advice, assistance, guidance, and leadership to advisory committees with a view to the improvement of their performance. In carrying out his functions under this subsection, the Director shall consider the recommendations of each agency head with respect to means of improving the performance of the advisory committees advising him. The Director shall cooperate with the Civil Service Commission in carrying out the Intergovernmental Personnel Act of 1970 with respect to training members and staffs of advisory committees.

RESPONSIBILITIES OF THE PRESIDENT

Sec. 6. (a) The President shall assign to such agency as he deems appropriate responsibility for evaluating and taking action, where appropriate, with respect to all public recommendations made to him by Presidential advisory committees.

(b) Within one year after a Presidential advisory committee has submitted a public report to the President, the President shall make a report to the Congress containing his views on any recommendations contained in such report and stating either his proposals for action with respect to the recommendations or his reasons for inaction.

(c) The President shall, not later than March 31 of each calendar year (after the year in which this Act is enacted), make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceeding calendar year. The report shall contain the name of every advisory committee, the date of and authority for its creation, its termination date or the date it is to make a report, its functions, a reference to the reports it has submitted, a statement of whether it is an ad hoc or continuing body, the dates of its meetings, the name and occupation of its current members, and the total estimated annual cost to the United States to fund, service, supply, and maintain such committee. Such report shall include a list of advisory committees established by statute which the President recommends be abolished together with his reasons therefor.

RESPONSIBILITIES OF LIBRARY OF CONGRESS

Sec. 7. (a) The Director shall provide for the filing with the Library of Congress of at least eight copies of each report made by every advisory committee and, where appropriate, background papers prepared by consultants. The Librarian of Congress shall establish a depository for such reports and papers where they shall be available to public inspection and use.

(b) The provisions of section 552 of title 5, United States Code, shall apply to this section.

RESPONSIBILITIES OF AGENCY HEADS

Sec. 8. (a) Each head of a department or agency of the United States shall, subject to applicable statutes, establish administrative guidelines and management controls for advisory committees set up to advise him, which shall be consistent with directives of the Director under section 5(c).

(b) Each agency shall maintain general information on the nature and function of each advisory committee within its jurisdiction.

TERMINATION OF ADVISORY COMMITTEES

Sec. 9. (a) Each advisory committee (other than an advisory committee established by statute) which is—

(1) in existence on the effective date of this Act, or

(2) established after the effective date of this Act, shall be discontinued following the expiration of the two-year period following such effective date or the date of its establishment, whichever is later, unless prior to the expiration of such two-year period the President or the agency, as the case may be, continues the existence of such advisory committee by appropriate action. Each such advisory committee, may be continued in existence for successive two-year periods by appropriate action on the part of the President or the agency, as the case may be, prior to the expiration of each such two-year period.

(b) Any advisory committee established by a statute enacted after the date of enactment of this Act shall terminate upon the expiration of the two-year period following the date of enactment of the statute establishing such committee, unless its termination is otherwise provided for by statute.

ADMINISTRATION OF ADVISORY COMMITTEES

Sec. 10. (a)(1) The Director, after study and consultation with the Civil Service Commission, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. Unless otherwise provided by statute, no member of an advisory committee or its staff shall be paid compensation for his services at a rate in excess of the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code, in the case of an individual serving full time, or the daily equivalent of the annual basic rate of pay specified at such time for such grade, in the case of service other than full-time service.

(2) Nothing in paragraph (1) shall limit—

(A) an individual who (without regard to his service with an advisory committee) is a full-time employee of the United States, or

(B) any individual who immediately before his service with an advisory committee was such an employee,

from receiving compensation at the rate at which he otherwise would be compensated (or was compensated) as a full-time employee of the United States.

(b) Unless otherwise provided by law or by the agency head which creates it, each advisory committee shall meet at the call of its chairman not less than two times each year. Minutes of each meeting of each advisory committee shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committee. The accuracy of all minutes shall be certified to by the chairman of the advisory committee. The provisions of section 552 of title 5, United States Code, shall apply to all records and files, including agenda, transcripts, studies, analyses, reports, meeting notices, and any other data, compilations, and working papers which were made available to or prepared for or by each advisory committee.

(c) Each advisory committee shall give timely public notice of the time and place of committee meetings by such means as it shall deem appropriate, except in cases in which such notice would endanger the national defense and foreign policy.

(d) Each advisory committee shall keep such records of its activities as will fully disclose the disposition of any funds which may be at its disposal and the nature and extent of its activities in carrying out its functions. The Comptroller General of the United States, or any of his duly authorized representatives, shall have access, for the purpose of audit, to any books, documents, papers, and records of each advisory committee created by statute or reorganization plan.

EFFECTIVE DATE

Sec. 11. This Act shall become effective ninety days after the date of its enactment.

Mr. MONAGAN (during the reading). Mr. Chairman, I ask unanimous consent that the substitute committee amendment be considered as read and open to amendment at any point.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: Page 20, insert after line 2 the following:

INAPPLICABILITY OF CERTAIN PROVISIONS TO REGULATORY AGENCY ADVISORY COMMITTEES

Sec. 11. Sections 5, 6, 7, 8(a), 10(a) of this Act shall not apply to an advisory committee established in the interest of obtaining advice or recommendations for one or more of the following agencies:

(1) The Civil Aeronautics Board.

(2) The Federal Communications Commission.

(3) The Federal Power Commission.

(4) The Federal Trade Commission.

(5) The Interstate Commerce Commission.

(6) The Securities and Exchange Commission.

(7) The Federal Maritime Commission.

Redesignate section 11 as section 12.

Mr. MOSS. Mr. Chairman, I want to commend the subcommittee and its chairman for an excellent job. I think we need to bring order out of the rather chaotic situation which exists in the Federal Government in relation to advisory committees.

I think the record clearly calls for some check on the hydra-like proliferation of these committees and for control of their operations. I am concerned, however, that in acting to impose needed controls, the Congress is about to give the executive branch still another means of influencing the decisionmaking processes of the independent regulatory agencies.

In the interest of economy and organization, this bill would place substantial power in the Office of Management and Budget to establish guidelines for advisory committees and to direct the agencies' use of them.

I think it is entirely appropriate that the Office of Management and Budget perform this function for executive agencies. This office has traditionally been used by the President to coordinate policy among the executive departments. The Director of this office is one of the President's most intimate advisers and can be expected to compel executive agencies under the control of the President to comply with the President's in structions. However, because the Office of Management and Budget is so closely identified with and subject to the will of the Executive, it is particularly inappropriate to give control to OMB over the formation and activities of advisory committees to independent regulatory agencies. Here the Congress would be achieving economy and control at the price of the regulatory freedom of these agencies.

When the regulatory commissions were first established it was made clear that they were intended to perform as subordinate arms of the Congress. Each was designed to be "independent" from the Executive or executive departments with the hope that these agencies be removed as far as possible from partisan politics and political influence.

Unfortunately, over the years the Congress has sat by and permitted the executive branch to gradually acquire influence over the independent agencies. In each case controls by the executive branch were acquiesced in or expressly permitted by the Congress in the interest of economy and organization.

I will not attempt to discuss the many ways in which our independent regulatory commissions are now influenced by the executive branch. It is important, however, to note a few instances of control which have greatly eroded the regulatory freedom of these agencies.

Under the Judges Act of 1925 and the practices which have arisen under it the Justice Department asserts great influence on independent regulatory agency enforcement powers by reason of the Department's ability to control civil litigation, to settle actions, and to determine whether or not to appeal agency cases.

Under the Federal Reports Act of 1942 OMB exerts considerable control over the agencies' investigatory processes by reason of its power to coordinate governmental questionnaries and requests for information.

Also, the executive branch asserts influence over the regulatory policy of the agencies by requiring that all legislative recommendations or communications with the Congress which concern pending legislation be cleared through OMB. And, perhaps most importantly, by requiring independent regulatory commissions to submit their budget requests through OMB the Executive has gained power over the purse of the agencies. In many respects this has given the Executive ultimate authority to control agency policy and programs.

Mr. Chairman, I think it is time that we embark on a deliberate program of reversing this pattern. After all, the regulation of commerce is by specific constitutional provision given to the Congress as its responsibility, and starting back in the 1870's with the creation of the Interstate Commerce Commission Congress attempted to fashion a different kind of agency to carry out these functions.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Moss was allowed to proceed for 3 additional minutes.)

Mr. MOSS. Mr. Chairman, I recognize that this is not a major breach in the law, but it is a part of a pattern which has persisted far too long. It is a compromise of the independence of vitally sensitive agencies of this Government carrying out the responsibilities of the Congress, and the compromise has not been as a result of any partisan action. I recall when President Kennedy arrived on the scene in Washington and he had Dean Landis along with a package of goodies that would have further compromised the independence of these regulatory commissions. This is an attractive group of agencies for any Executive to control or gain dominance over, and I do not think we should permit that by any inadvertence, however attractively packaged.

I sincerely trust that in the spirit of maintaining the integrity of the independence of the regulatory process of discharging our responsibilities in the regulation of commerce that we will adopt this amendment, which will free these agencies of the direct supervision of the OMB and of the President in regard to the operations of the advisory committees. This would not change certain of the statutory provisions of this language here which would impose a greater accountability and a more orderly procedure for operation of the advisory commissions or committees.

I should emphasize that this is not a partisan issue. Presidents of both parties have attempted to control the regulatory commissions, and it is quite natural that if Congress continues to assign to the Executive powers over these agencies, the White House will make every effort to bring these agencies even more securely under its control.

The amendment which I offer would exempt advisory committees to independent regulatory agencies from those portions of this bill which provide for control by OMB or by the President. The remaining substantive sections of this bill which provide for public access to committee records and reports, for automatic termination, and for the balanced representation of view will remain in effect with respect to such committees.

Let me repeat and reemphasize that the regulatory agencies which are listed in my amendment are not agencies in the Executive department; they are designed to be independent agencies of the Congress established to carry out quasi-legislative functions. My intent is merely to avoid, in this bill, what I consider to be a further erosion of the regulatory freedom and independence of these agencies.

Mr. MONAGAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I certainly agree with the gentleman from California in desiring to resist all attempts on the part of the Executive to encroach upon the freedom of operation of the independent agencies. However, I submit and believe that this legislation does not constitute a threat to their independence. In fact, it should assist in improving their efficiency of operation.

It must be remembered that the power that is given to the Office of Management and Budget is a ministerial power. It does not authorize the office to go into the merits of any causes that may come before these regulatory bodies. This bill simply is creating a formula whereby the Office may report regularly on the matters which are the subject of this legislation here today.

I point out that in many instances the interagency committees which advise the independent agencies have already come under the provisions of a similar regulation in OMB circular A–63, and under this regulation they have been reporting to the Office of Management and Budget, formerly the Bureau of the Budget, since 1964, apparently without any substantial repercussions.

So it is for this reason that I oppose this amendment and also because the purpose of the bill is to create a central place of registration and a central clearing house to which the activities of these commissions throughout the Government will be reported, and the objectives which we have in the bill will be maintained. But I honestly believe and submit that this legislation will not make any substantial change in the power that the Executive exercises or might seek to exercise over the independent agencies, the regulatory agencies which are covered in this amendment.

This amendment would effect several of the important sections of this bill. One of the provisions which would be eliminated by the amendment provides for the filing with the Library of Congress of reports of any such advisory commission. Another one is the general provision about the establishment of the secretariat, and these agencies would be exempted. I just say that as far as these important regulatory bodies are concerned, their adequate regulation would be frustrated if this amendment were adopted.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to begin by paying a word of very sincere tribute to our good friend, the gentleman from Connecticut, and the members of the committee who have brought this legislation to the floor. The legislation addresses itself to a most important problem, one which has been a source of great concern and outrage to me. I think the bill is fundamentally and essentially a very good one.

Mr. Chairman, I would refer my colleagues to the comments which I have had the opportunity to make earlier on the floor on a particular one of these advisory committees, the National Industrial Pollution Control Council, the NIPCC, whose meetings have been entirely secret, and whose minutes have been unavailable, which is composed largely of the major polluters among American industry, whose function apparently has been to guide and direct the actions of the Department of Commerce on pollution abatement programs and policies of the United States. I refer my colleagues to the CONGRESSIONAL RECORD, volume 117, part 22, page 29617, and also to the CONGRESSIONAL RECORD volume 117, part 19, page 25693, in which I discourse upon the very unsavory activities of this particular agency. I would also point out I had the opportunity to make observations in the CONGRESSIONAL RECORD, volume 117, part 19, appearing on this particular agency, in which I made some remarks at page 25694, again on July 16, 1971.

I pointed out that this Commission, which is supposed to serve the public interest, was simply serving as a forum for the polluters and as a device to bend and to alter and to adversely affect environmental programs and pollution abatement programs.

Mr. MONAGAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Connecticut.

Mr. MONAGAN. I certainly agree with the point the gentleman is making. The subcommittee and the committee also agree. It was for this reason that we included in section 3 of the bill the requirement that the committees be fairly balanced in terms of the interests of the nominees, and also that they not be influenced by the appointing authority or by any special interest, but that they have independent judgment.

Mr. DINGELL. The gentleman has gone even further in the bill, and required that minutes be kept, that they maintain records of persons present, and a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committee, all to be made available to the public.

This is all to the good. I certainly commend my friend for it. I pay high tribute to him, for he is an able Member of this body.

Certainly the bill before us is an excellent one. However, I do believe there is a very fundamental question at stake before us; that is, whether or not we should treat regulatory agencies, created as arms of the Congress, as parts of the executive branch.

Certainly every President during my service in this body has sought to usurp the powers and the prerogatives of the Congress with regard to these independent agencies, and has sought to convert them in one fashion or another into arms of the Executive, sometimes by controlling appointments, sometimes by controlling budgets, sometimes by controlling the work product, sometimes by controlling the output or the questionnaires, and sometimes by actually seeking to transfer major functions from these agencies to the departments.

In the case of the Department of Transportation there has been a continuing effort going forward to seize and to take over control of the various agencies in the field.

The President now has an Office of Communications Policy, proliferated to a degree no Government agency ever has grown before. It has multiplied its population, its staff and its payroll many times since the present administration came into power. Its whole goal is to take over the functions of the Federal Communications Commission, again so as to diminish the powers and prerogative of the Congress over regulatory agencies, which properly are one of our arms.

I serve on three committees which deal with the activities of regulatory agencies. One is the Select Committee on Small Business, where I run a subcommittee which has to do with the activities of regulatory agencies. Another is the Committee on Merchant Marine and Fisheries, where we have a specific responsibility and concern in the area for the Maritime Commission. The last, of course, is the Committee on Interstate and Foreign Commerce, where I sit next to my dear friend from California. On that committee I have observed a continuous effort on the part of the executive—not necessarily of this administration, but on the part of the executive of all administrations—to usurp the functions involved.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Mr. Chairman, on these committees I have observed the continuous effort by the Executive to usurp the functions and the prerogatives of these agencies, which are the creatures and the arms of Congress, which are supposed to be responsive to us, which are supposed to set out independent policies independent of the administration, which are supposed to carry out the laws enacted by Congress and to act responsive to the will of the Congress and not as a part of the executive structure.

So, for this reason, the amendment offered by my good friend and colleague from California, I believe, is of extreme importance.

If Members will read the bill before them they will see it is a good bill—I intend to support it whether or not this amendment prevails—and they will observe very clearly that it does place to a greater degree still than unfortunately is the case today the arm of the Executive upon these so-called independent agencies.

It requires that advisory councils be set up by these independent agencies which are supposed to advise them as arms of the Congress on important questions of national policy and to be responsible to whom? To the Bureau of the Budget.

The gentleman from California and I and members of the Committee on Interstate and Foreign Commerce are much concerned about this. We are engaged in a major effort on another front to seek to emancipate these independent agencies from the dead hand of the Bureau of the Budget and the executive so that they might regulate as they are supposed to according to the wishes of the Congress whose creatures, whose arms, and whose subsidiary bodies they are.

It is for that reason, although I recognize the gentleman from Connecticut and his fine committee have done an extraordinary job in legislating and in coming forward to this body with an extraordinary bill, that I ask my collegeaues to join in support of what I regard to be an amendment which is very much in the public interest and one which does recognize the fundamental difference between the quasijudicial or the alphabetical agencies or the independent agencies and the other executive agencies which are properly the subject of this bill.

So I do ask my colleagues to support the gentleman from California and try to see to it in this instance that the prerogatives of the Congress are carried forward until the day when we might further emancipate these independent agencies from the dead hand of the Bureau of the Budget and the executive and return them to the agency which is properly responsible for their administration; namely, the Congress of the United States.

Mr. BROWN of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman and my colleagues in the House, I would appreciate it if you would follow with me for 1 minute the significance of the adoption of this amendment.

The amendment, of course, relates to the exemption of the so-called independent agencies from certain sections of the bill, but, lest my colleagues think they are insignificant, let me run through them for you.

If these so-called independent agencies are removed from section 5 of the bill, there is no review imposed upon them of their responsibilities. They are not subject to recommendations regarding revision of their functions and purposes; they are not subject to a determination as to whether or not such an advisory committee continues to perform a useful function. That is section 5.

Eliminating them from section 6 would provide that there would be no evaluation by the President required.

Moreover, exempting them under section 6 would remove the requirement that a report by the President be made annually as to the activities, the status, and the composition of these advisory committees and the dates of their meetings, the composition of their memberships, and the cost to the Federal Government.

Under section 7, if this amendment prevails, the so-called independent agencies would be exempted from a requirement to file with the Library of Congress and make public copies of their reports.

Under section 10(a) these independent agencies would be, under the amendment, exempted from compliance with the uniform rates of pay of members applicable to other advisory committees. The amendment would remove the so-called executive agencies and their advisory committees from the salary control of section 10(a) and from the maximum salaries set forth in the bill.

There may be something to be said for maintaining the independence of these independent agencies, but the question is, the benefit that might be derived by the total exemption of these independent agencies significant when compared with the benefit to be derived by including them under this legislation.

Frankly, the gentleman from California, the author of this amendment, offered his amendment in the full committee. At that time he at least subjected these independent agencies to an audit by the General Accounting Office.

I could not support that amendment in the full committee for the reasons I have stated and I cannot support the amendment here.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Michigan. I would be glad to yield to the gentleman from California.

Mr. MOSS. I think for the purpose of having the record correct here, I would have made the activities of these agencies and committees subject to comparable controls through the General Accounting Office. All of these agencies are subject to audit by the General Accounting Office, which is in itself an independent arm of the Congress. I think that would be very appropriate. It would not compromise the independence of the agencies as it does now place them in the single office, the most amenable Presidential office, the Office of Management and Budget, whomever the occupant of the White House is.

Mr. BROWN of Michigan. I would say in response to the gentleman's comments that probably the most impeding thing about this is that most of these agencies are composed of Presidential appointments, and since they are Presidential appointments, it seems to me that the elimination of Presidential influence that you are attempting to accomplish by this amendment is relatively insignificant.

Mr. MOSS. Mr. Chairman, will the gentleman yield further?

Mr. BROWN of Michigan. Certainly I yield further to the gentleman from California.

Mr. MOSS. You do not include the courts here or any advisory committees to them. The President appoints all the judges of our Federal courts of the United States. The independence of the judicial branch is maintained very carefully in this legislation.

Mr. BROWN of Michigan. I trust that the gentleman is not suggesting that the independent agencies now in this Government constitute the fourth branch of Government?

Mr. MOSS. I would not suggest that they constitute a fourth estate in the Government, but I would suggest that in relationship to the legislative branch, that relationship is far stronger and more pertinent than the relationship to the Executive.

Mr. BROWN of Michigan. Reasonable men can differ on that issue.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the distinguished gentleman from Connecticut has done so much in proposing a good bill for this body, but is in my opinion somewhat incorrect and the gentleman from California is correct in his interpretation with respect to the power of the Director in his surveillance over these commissions.

The gentleman from Connecticut has stated that the function of the Director is purely ministerial.

It is very difficult for me to come to that conclusion when I read the language on page 14, line 3, wherein it says:

> The Director shall, immediately after the enactment of this Act, institute a comprehensive review of the activities and responsibility of each advisory committee then in existence with a view to determining whether it is achieving its objectives;

Now, it is very difficult for me to see that this is purely ministerial, when it looks to the whole question of whether the committee is fulfilling a desirable objective, and when it looks toward advising the President not to further extend the existence of that committee.

Further, he is called upon to determine whether a committee advising, for instance, regulatory agencies any longer performs a useful function.

Now, presumably, if the President and the Director feel that a committee is not properly advising an administrative agency, an independent agency, it would decide that that committee's advice was not a useful function because they do not think that is the way that agency should decide, and that is not ministerial. That goes to questions of subjective judgment as to whether or not the regulatory agency would act properly if it responded to the advisory committee's recommendations. The bill provides that—

> Upon the completion of the director's review he shall make recommendations to the President with respect to actions he believes should be taken.

Now, I want to stress to this committee that I, like the gentleman from California (Mr. Moss) agree that the provisions of this act are desirable with respect to those committees which advise executive bodies, but not as to those agencies which advise independent regulatory agencies. I submit that with the Moss amendment the total bill will be more logical, more homogenous, and will work better than without the amendment.

The Moss amendment does not touch section 9. Section 9 provides that these committees shall terminate within a period of 2 years from the effective date of the act, or from the time they came into existence, I believe it is, whichever is the later. And then it says that each such advisory committee may be continued in existence for successive 2-year periods by appropriate action on the part of the President, or the agency, as the case may be, subsequent to the expiration of each such 2-year period. Therefore it will be noted that section 5 is not exactly comparable to section 9. Section 5 calls for review by the Director with the report to the President to discontinue a committee. But the President is not the one to report to with respect to all committees, as is indicated in section 9.

I would submit to the committee here that the amendment offered by the gentleman from California (Mr. Moss) is a quite logical amendment, an amendment which is harmonious with the general purpose of the bill, and an amendment which will make the entire bill more internally consistent, so that the amendment should be supported.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment, and I move to strike the requisite number of words.

Mr. Chairman, I think that we have an agreement on the fact that we have a problem in terms of a multiplicity of advisory committees, with a multiplicity of guidelines, methods, and operations that need to be corrected.

One of the major purposes of the bill is to establish congressional control over the proliferation of committees. That is the reason the bill is here. This bill will not affect the advice given by members of advisory committees. It will not affect the appointment of members of advisory committees. It has nothing to do with the substance of advisory committee actions. Therefore, unless we change it by statute the bill will not affect the independence of those committees because we make it quite clear in this legislation that the manner of appointment of committee members that now exists remains untouched. If the President appoints members of a Presidential advisory committee, he continues to do so under his power and authority. If an agency has power and authority to appoint advisory committee members under general statute now, the agency would continue to perform that particular function under this bill. If the Congress creates an advisory committee by statute, we shall continue to have a right to repeal or create. The only way we touch a committee or affect a committee in this bill, and that applies to all of them, is they terminate at the end of 2 years, unless appropriate action is taken to continue them. As far as the President is concerned, that means by Executive order. If it is an agency advisory committee, it means whatever their appropriate action is under the authority that they have. If it is Congress, we must reauthorize. Now, we do that so that we can get some kind of control with respect to the creation and indefinite continuation of these committees.

As to the amendment, the proponents of the amendment obviously make a very solid case in terms of the fact that you have got to keep independent agencies independent. You should not have independent agencies under the control of the President. We are talking about Presidential direction through the OMB. And as far as the management guidelines for advisory committees are concerned, we could spell the guidelines out here in this statute, if we wanted to take the time to clutter the statute with that kind of detail. We do not want to do that. What we are doing is delegating the authority to promulgate management guidance to OMB. Yes, if you will, we are putting those advisory committees of the independent agencies, for the purpose of management only, within the purview of OMB.

Now the gentleman from Texas pointed out exactly what the limitations are. It is not a question of control. He has read very carefully into the Record and the bill is explicit and without any ambiguity as to the kind of authority the Director of the OMB would have in making the guidelines and in making a report.

When he makes his report then what does he do with it? He takes it to the President for such action as the President may take under the law. That is quite clear, he cannot affect any authority of the Congress to act any way it sees fit.

While you can make a plausible case for the amendment by dividing the authority to promulgate management guidelines, you would have to set up two different guidelines—two separate directions under two managements and that is one of the things we are trying to get away from.

In order to pay for the price of coordination, you do in a small way as a matter of theory what the gentleman from California rightly says.

But I think the bill does not in any way directly impinge upon the operation of an independent agency and in no way affects the operation even of an advisory committee. I think for management coordination, direction, and guidelines, we can afford to pay the price.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman.

Mr. ECKHARDT. Does the gentleman from Florida not agree with me that when the Director has authority to engage in surveillance over this agency, making a comprehensive review of the activities and responsibilities of each advisory committee, and then recommend as to whether or not the advisory committee should be extended—does the gentleman not agree with me he is not just recommending with respect to procedure but with respect to substance?

Mr. FASCELL. I would say to the gentleman from Texas, it might be if the Director had any authority to do anything about it. But he is not given any authority to do anything other than make recommendations.

He can recommend, for example, that the advisory committee of the SEC serves no useful function and he can recommend to the President that it be abolished. The question then arises as to whether or not under existing law the President has the authority to abolish the advisory committee. Of course, the President may recommend to the Congress the abolition of any advisory committee.

The point is—in full response to the gentleman from Texas and the issue he raised—that if the President has the authority to abolish the advisory committees of independent agencies now, it is not changed under the bill. If he does not have the authority to abolish now, he will not be given it by the bill.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman.

Mr. MOSS. Of course, the President does not by law directly, but because we have eroded that independence, one being through budget control, if the Bureau of the Budget and the OMB Director could determine that an advisory committee and agency X in his judgment is not performing a useful function after this review, he could then of course inform the agency head—we will see that you do not get any funds next year for this advisory committee.

Mr. HOLIFIELD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am very zealous personally about maintaining the independence of the regulatory agencies. I am not as apprehensive as my friends, the gentleman from California (Mr. Moss), the gentleman from Michigan (Mr. Dingell), and the gentleman from Texas (Mr. Eckhardt) seem to be about this legislation.

I asked the staff to give me some figures relating to these regulatory agencies and the number of advisory or interagency committees that they have. I find they have 12 advisory committees and they have 21 interagency committees that deal with other agencies that are of interest to the regulatory agencies.

Mr. MONAGAN has told us that these 21 interagency committees have been in existence since 1964 and these committees have been reporting to the old Bureau of the Budget and the new Office of Management and Budget, which succeeded them.

My conclusion is this, that the committees of statutory jurisdiction—and I am referring specifically to the Interstate and Foreign Commerce Committee, on which Mr. Eckhardt, Mr. Dingell, and Mr. Moss serve—have done nothing apparently in the last 8 years to prohibit this report to the BOB and the Office of Management and Budget. They have complete statutory oversight. They can call in and ask for any kind of report that they wish and any kind of recommendation that is made in relation to these committees at any time, and therefore I say they have complete control over any abuse that might be attempted, if it is attempted.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from Michigan.

Mr. DINGELL. The gentleman is making a point that concerns me very much, and I want respectfully to give the gentleman my views.

There recently came to my attention a major problem related to the responsibility of the Food and Drug Administration, the Federal Trade Commission, and the Federal Communications Commission. In other instances I have found problems which have related, say, to the Federal Power Commission and the Federal Trade Commission. As a result of my effort, in many instances there have been joint committees which have been set up comprising the memberships of the affected Federal agencies, independent agencies, together with some of the other Federal agencies, to try to work out a common approach to major problems in the regulatory agency field.

The problem that I have with the bill without the amendment offered by my friend from California (Mr. Moss) is that these interagency committees would not continue to be able to function in the same efficient way.

Mr. HOLIFIELD. Why not? I would like to know.

Mr. DINGELL. This would be placed under the supervision of the Bureau of the Budget, something which I find violently offensive.

Mr. HOLIFIELD. The Bureau of the Budget, after consulting, as the bill requires, with the Federal agencies involved, would set up broad guidelines, but I cannot see them interfering with the function of the interagency committees without at least some attention being given by the statutory oversight committee, which is your committee. I just cannot see them doing that. I do not share the apprehension which the gentleman has.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman from California.

Mr. MOSS. I remember the years the gentleman and I joined in opposing here, earlier in the session, the creation of the OMB as it is now created.

Mr. HOLIFIELD. That is correct.

Mr. MOSS. You are saying the committees having direct legislative jurisdiction go to the OMB. The gentleman knows that the OMB pleads privilege against the Congress. It is not willing to compromise the independence of the Executive as we are, apparently, the independence of the independent regulatory agency.

Mr. HOLIFIELD. If the gentleman will allow me to reply, I had no trouble with the Office of Management and Budget being substituted for the BOB. The trouble I had was in setting up the Domestic Council over the OMB, between the Office of Management and Budget and the President, and the amendment—well, the reason I opposed the organization plan was based not on the Office of Management and Budget, because I believe the old Budget Bureau, which had a Management Division in it, should have had a stronger Management Division in it than it had. My basic objection—and I think the gentleman will recall—was the setting up of a 60-man Domestic Council which actually stood between the Office of Management and Budget and the President.

Mr. MOSS. It still stands, does it not?

Mr. HOLIFIELD. I think it still does stand, and I still object to it in the same way. But we are talking now, not about the Domestic Council, but about the Office of Management and Budget.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The amendment was rejected.

The CHAIRMAN. If there be no further amendments to be proposed, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STRATTON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4383) to authorize the Office of Management and Budget to establish a system governing the creation and operation of advisory committees throughout the Federal Government which are created to advise officers and agencies of the Federal Government, pursuant to House Resolution 957, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BIAGGI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 357, nays 9, not voting 65, as follows:

[Roll No. 140]

YEAS—357

Abbitt
Abernethy
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashbrook
Ashley
Aspin
Aspinall
Baker
Baring
Barrett
Begich
Belcher
Bell
Bennett
Bergland
Betts
Bevill
Biaggi
Biester
Blackburn
Blatnik
Boland
Bolling
Bow
Brademas
Brasco
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Byrne, Pa.
Byrnes, Wis.
Byron
Cabell
Camp
Carey, N.Y.
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clawson, Del
Clay
Cleveland
Collier
Collins, Ill.
Collins, Tex.
Colmer
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Crane
Culver
Curlin
Daniel, Va.
Daniels, N.J
Danielson
Davis, Ga.
Davis, S.C.
Delaney
Dellenback
Dellums
Denholm
Dent
Derwinski
Dickinson
Dingell
Donohue
Dorn
Downing
Drinan
Dulski
Duncan
du Pont
Dwyer
Edmondson
Edwards, Ala.
Edwards, Calif.
Erlenborn
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Fisher
Flood
Flowers
Flynt
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Frenzel
Frey
Fulton
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffin
Griffiths
Gross
Grover
Gubser
Gude
Hagan
Haley
Hall
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hawkins
Hays
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Howard
Hull
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Karth
Kastenmeier
Kazen
Keating
Kemp
King
Koch
Kuykendall
Kyl
Kyros
Latta
Leggett
Lennon
Lent
Link
Lloyd
Lujan
McClory
McCloskey
McClure
McCollister
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McKinney
McMillan
Madden
Mahon
Mailliard
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills, Ark.
Minish
Mink
Minshall
Mizell
Monagan
Montgomery
Moorhead
Morgan
Mosher
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Konski
O'Neill
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pike
Pirnie
Poage
Podell
Poff
Powell
Price, Ill.
Price, Tex.
Pucinski
Purcell
Quie
Quillen
Railsback
Randall
Rangel
Rees
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Roush
Rousselot
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Saylor
Scherle
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Smith, Calif.
Smith, Iowa
Snyder
Spence
Stanton, J. William
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stokes
Stratton
Stuckey
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Terry
Thompson, Ga.
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wright
Wyatt
Wydler
Wyman
Yates
Yatron
Young, Fla.
Zablocki
Zion
Zwach

NAYS—9

Burton
Dow
Eckhardt
Long, Md.
Moss
Pickle
Reid
Satterfield
Wolff

NOT VOTING—65

Abourezk
Anderson, Tenn.
Badillo
Bingham
Blanton
Boggs
Brooks
Brown, Ohio
Caffery
Celler
Chisholm
Clancy
Clark
Clausen, Don H.
Davis, Wis.
de la Garza
Dennis
Devine
Diggs
Dowdy
Eilberg
Esch
Eshleman
Ford, Gerald R.
Frelinghuysen
Galifianakis
Gallagher
Garmatz
Goldwater
Hathaway
Hébert
Henderson
Hosmer
Jones, Tenn.
Kee
Keith
Kluczynski
Landgrebe
Landrum
Long, La.
McCormack
Macdonald, Mass.
Mills, Md.
Mitchell
Mollohan
Passman
Patman
Preyer, N.C.
Pryor, Ark.
Rarick
Rodino
Rostenkowski
Sarbanes
Scheuer
Slack
Smith, N.Y.
Springer
Staggers
Stanton, James V.
Steed
Stubblefield
Teague, Tex.
Waggonner
Wylie
Young, Tex.

So the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Brown of Ohio.

Mr. Rodino with Mr. Hosmer.

Mr. Teague of Texas with Mr. Smith of New York.

Mr. Waggonner with Mr. Devine.

Mr. Stubblefield with Mr. Gerald R. Ford.

Mr. James V. Stanton with Mr. Goldwater.

Mr. Steed with Mr. Springer.

Mr. Garmatz with Mr. Clancy.

Mr. Boggs with Mr. Keith.

Mr. Passman with Mr. Landgrebe.

Mr. Henderson, with Mr. Esch.

Mr. Rostenkowski with Mr. Davis of Wisconsin.

Mr. Sarbanes with Mr. Don H. Clausen.

Mr. Staggers with Mr. Frelinghuysen.

Mr. McCormack with Mr. Eshleman.

Mr. Jones of Tennessee with Mr. Wylie.

Mr. Kluczynski with Mr. Mills of Maryland.

Mr. Landrum wtih Mr. Dennis.

Mr. Caffery with Mr. Badillo.

Mrs. Chisholm with Mr. Anderson of Tennessee.

Mr. Mollohan with Mr. Bingham.

Mr. Macdonald of Massachusetts with Mr. Kee.

Mr. Young of Texas with Mr. Scheuer.

Mr. Celler with Mr. Patman.

Mr. Clark with Mr. Mitchell.

Mr. Brooks with Mr. Hathaway.

Mr. Diggs with Mr. de la Garza.

Mr. Rarick with Mr. Pryor of Arkansas.

Mr. Eilberg with Mr. Galifianakis.

Mr. Gallagher with Mr. Blanton.

Mr. Slack with Mr. Preyer of North Carolina.

Mr. Long of Louisiana with Mr. Abourezk.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONAGAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed, and to include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Geisler, one of his secretaries.

PERSONAL ANNOUNCEMENT

Mr. PETTIS. Mr. Speaker, because I was on the Senate side testifying before the Appropriations Committee on behalf of flood control in California, I was not present on rollcall No. 139.

I strongly support House Joint Resolution 55 and had I been present I would have voted "aye."

The erection of this memorial to the Seabees is small indeed when considered in the light of this country's great debt to the Seabees.

FIRST ANNUAL REPORT ON THE ADMINISTRATION OF THE FEDERAL RAILROAD SAFETY ACT OF 1970—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I transmit herewith the First Annual Report on the administration of the Federal Railroad Safety Act of 1970 (Public Law 91-458, of October 16, 1970), as required by Section 211 of that Act. The report covers the period October 16, 1970 through December 31, 1971.

RICHARD NIXON.

THE WHITE HOUSE, *May 9, 1972.*

CONFLICT IN SOUTHEAST ASIA

(Mr. KING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KING. Mr. Speaker, President Nixon last night stated in no uncertain terms that the United States will not capitulate to the North Vienamese demands or betray South Vietnam at the point of a gun. His decision to mine all North Vietnam ports, to halt ships entering the harbor of Haiphong and to cut rail lines was not an easy decision. Under the circumstances, however, I believe the President took the only honorable course of action open to him.

The massive invasion by the North Vietnamese Communists amounts to a serious breach of international law, a blatant disregard for numerous agreements entered into by the North Vietnamese, and a dangerous escalation of a war which had entered into its twilight period. Moreover, the safety and security of more than 60,000 American men were and are being jeopardized by this unwarranted invasion.

In announcing his plans to the Nation last night, President Nixon placed the responsibility for the continuation of this conflict exactly where it belongs, on the Soviet Union. It is they who have continued this conflict by supplying North Vietnam as they have done for years. It would, of course, been easier for the President to announce that we would withdraw all our remaining troops—to surrender or to continue the meaningless negotiations in which the North Vietnamese have flatly and arrogantly refused to participate.

As mentioned in his nationwide address last night, President Nixon did not commit over one-half million troops to Vietnam. On the contrary, he has withdrawn 500,000 American men with the promise that all our troops will be out of Southeast Asia within 4 months after the truce and the return of the prisoners of war.

It took a brave, dedicated President to lay his future on the line, but President Nixon has done so. He has placed his country and its future first over any personal ambition.

It is my hope that the American people will wholeheartedly support the President's decision to end this tragic conflict and permit the 17 million people of South Vietnam to live in peace.

Certainly, in the history of all warfare no nation has shown the same patience and forebearance as the United States has shown in Indochina. President Nixon came into office with a war that he did not initiate, on a battlefield he did not choose, under circumstances he did not determine. In 3½ years, the President has pursued every avenue of peace under the most constrained of conditions. But when the hand of peace was met with the mailed fist of war, the President took the only option left to a reasonable man.

Tanks which are capable of killing Americans are to be prevented from entering the theater of war. Artillery and mortars which have been wantonly killing helpless civilians will no longer have their free entry into North Vietnam. The President has wisely decided that the bullets, guns, missiles, grenades, rockets, and trucks which have made it possible for North Vietnam to brutally assault a neighbor will no longer have privileged transit into the hands of an invading nation.

I stand with the President. So should all Americans. We must let him know of our support, because in the end Hanoi and its source of supply, the Soviet Union must know that Americans do not break when put to the test. That test is now, and the stakes are high. Let us not falter.

UNITE WITH THE PRESIDENT

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, the President of the United States in his nationwide telecast last night clearly demonstrated his interest in our country is paramount to any political considerations.

Obviously, the easy course, and politically expedient position, would be to placate the doves and announce immediate withdrawal from further involvement in Vietnam.

Several surrender-oriented presidential candidates have long expoused this line, as have a number of Members of this body.

Nevertheless, the President, protecting the integrity of the Office of the Presidency, has accepted the vast responsibilities of that awesome position and refused to knuckle under to the pressures of advocates of the easy way out.

The completely unreasonable and irresponsible refusal to engage in meaningful negotiations by the North Vietnam leaders, coupled with their naked aggression and wholesale bloody invasion of the South, gave the President few alternatives. He described them as: First, immediate withdrawal; second, continue negotiation efforts; or third, military action to end the war.

The President long ago offered to deescalate, cease-fire, withdraw, new elections, exchange of prisoners of war on a 10-to-1 ratio. The enemy answers with insolence, insult, escalation, and demands for surrender.

Our Nation is not about to abandon 17 million South Vietnamese to Communist aggression and slaughter, nor fail to protect 60,000 Americans.

The logical way to end the war and stop the killing is, as the President said, to "keep the weapons of war out of the hands of the international outlaws of North Vietnam." To do this, the most humane of military maneuvers is the mining and blockading of the supply ports. Three days' notice has been given, and if aggression continues, all parties are aware that they must assume their own risk. No incident need occur unless the Communists and their apologists want it. Obviously, it is a showdown—not necessarily an ultimatum.

The President desperately wants peace, and has been steadfastly working in that direction for years, but peace at any price—yielding to this kind of aggression—would just be a temporary delay to further aggression and encourage the Soviets to follow the same course elsewhere in the world—specifically the Middle East.

The U.S. position is most reasonable. The conditions are just and humane. Our actions will cease when American prisoners of war are returned, cease-fire and we will withdraw all U.S. forces within 4 months.

Now is not the time for Americans, well intentioned or not, to give aid and comfort to the enemy by protesting, demonstrating, demagoging, or fomenting disunity. The interests of this Nation, and indeed world peace, should supersede personal ambition, publicly, or expediency. The people of this Nation must unite in the interest of peace.

THE LESSONS OF HISTORY

(Mr. DENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DENT. Mr. Speaker, these are days when one either feels strong one way or the other. I do not feel strong either way.

I let history come back and tell me what was learned in the past, and perhaps learn a lesson from it.

I attended more than one conference at the White House when the President of the United States, President Johnson, was going through this very process of making a decision on this very matter we are discussing today.

It is not a question of moral courage. It is not a question of political sagacity or political courage. It is a question of judgment.

At that time the advisers to the President of the United States advised against attempting to mine or to blockade the harbor at Haiphong. They took into consideration, if I remember it correctly, the many historical incidents that arose from just that kind of action.

No person will be able to tell in the heat of the demand of the requirements for their salvation or their life what the North Vietnamese and their allies will resort to. But one sure thing history records very well in the minds of those of us who are old enough at this time to recall when this country marched to war, with all the heat and fervor any nation ever brought itself to a point to command, on the question of the sinking of the *Lusitania*. It was a passenger ship, true, but history has never yet cleared up whether or not there were in the holds of that ship war materials for the allies.

We also go back to the sanctions against Italy in World War II.

We are dealing in a subject matter that no man can predict. I would advise all the Members of the House to support where necessary those particular proposals that will give a fair chance for the tryout of any plan, because all plans from the beginning of that war to now have been a hit and miss proposition.

If this works, all of us will be happy.

The point I am trying to make is, let us not make it an issue that becomes one which divides this House so bitterly that we cannot think right and think straight on the decision we have to make.

I have neither been a dove nor a hawk. I have tried to be a Member of Congress voting on that particular day when a subject matter was before us to the best of my conscience and to the best of my ability to determine that which is right.

At this moment I say to all of us: It is a very grave and serious decision. Unless there are some behind-the-scenes arrangements made—the President said last night he reserved for himself and for this country the right to do that which had to be done to help our allies, and he went on further to say that that particular right also belongs to the other countries, and he named them both, to do that which they thought they had to do to back their allies. The dangers are evident.

If we blockade, if we mine Haiphong, if in the decisions of the allies of North Vietnam they feel they too would be within their right to blockade or to the best of their ability mine Saigon, where will we be on that day? Where will we be if a passenger ship loaded with munitions steam into the harbor at Haiphong? Will we be able to seize and search on the open ocean? Will that right be given us by the rest of the powers of the earth in a military sense or in a political sense?

These are the questions which have to be answered. All I beg of you is that all of us try to keep our heads in this matter so that we do not give consolation to anybody nor do we give them any false impression about the courage of the American people and our country. We will end up together in any event.

IN SUPPORT OF THE PRESIDENT'S ACTION

(Mr. SCHMITZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHMITZ. Mr. Speaker, President Nixon's decision to mine North Vietnamese harbors, especially Haiphong, and halt the flow of Russian war supplies to North Vietnam should be supported.

Three weeks ago I commended the President for his decision to resume the bombing of North Vietnam once their blatant invasion of South Vietnam by fully mechanized divisions had begun. Exactly 15 days ago I stood in this well and called particular attention to the Los Angeles Times news story of April 21 reporting that aerial mines had been loaded aboard a naval ammunition ship at Subic Bay in the Philippines.

I welcomed this indication that the administration was contemplating a step long urged by our military men and vetoed by civilians—the use of aerial mines in North Vietnamese harbors. I pointed out that this was a logical step to take since we have several types of planes which can plant air-deliverable mines, and that these mines are fully capable of eliminating North Vietnam's capability to send heavy artillery, T-54 tanks and antiaircraft guns against our remaining troops in the south, the South Vietnamese troops defending their country, and our aircraft operating in the north.

In addition, I explained that this mining would be a humane action, since it would effectively cut off supplies for the invading troops, thereby saving not only countless thousands of South Vietnamese and many American lives but also the lives of the young North Vietnamese men who are impressed into the army to come south, to suffer hunger, to be chained into tanks, and finally to die.

Former Defense Secretary McNamara said that 80 percent of the North Vietnamese war supplies are coming through Haiphong Harbor.

Mr. Speaker, cutting off the potential to wage war is the best way and the most humane way of acting at this time, since it will save many lives on both sides. President Nixon, as Commander in Chief, is acting in that direction, and in this action he deserves the full support of the American people.

There is one point which I would like to add. I was a jet fighter pilot in the Marine Corps, serving 8 years on active duty. If I had not made the decision to transfer to the Reserves in which I am now a lieutenant colonel, I would probably be flying over North Vietnam now with Soviet missiles being shot at me. Because of this it is only fitting that I add my support to the President's decision which will make it safer for American pilots. The least I can do here is to support the President in this time of crisis in his effort to bring this war to a successful conclusion.

SUPPORT OUR PRESIDENT

(Mr. TALCOTT asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. TALCOTT. Mr. Speaker, I support our President in his May 8 effort to end the war. I believe everyone should—news media reporters, Congressmen, antiwar advocates, people who care about future peace, everyone.

It is clear to me. We have tried every other suggestion, including every suggestion of all the critics of the President, short of surrender of the South Vietnamese to terrorist aggression—limited resistance, full-scale negotiation, almost complete withdrawal, and maximum Vietnamization. But the North Vietnamese have sabotaged every peace effort in their inexorable drive to subjugate South Vietnam, Laos, and Cambodia, all of Southeast Asia.

They have shown no mercy for any human being and no respect for their neighbor's land. We can deny their means of aggression. We can deprive them of sanctuary. When we have this capability we should not shirk our responsibility. By permitting unlimited arming and secure sanctuary, we only perpetuate the war, the killing, and the horrendous waste.

The President has offered Hanoi the best offer yet. They can withdraw from South Vietnam and release our prisoners and no more damage or injury will be done to them. Only if they reject this generous offer do they risk considerably more irreparable damage and injury, particularly to themselves.

As a former prisoner of war, I can tell you that most POW's and their waiting families would welcome this action. They expect action by their Government on their behalf. They reject the theory of passively relying upon the mercy of an unmerciful enemy for their release from hostage.

Not one of our military personnel in the country of South Vietnam wants to be there. Not one of them wants the war to continue. They are there under orders of our Government—from three administrations, two Democratic and one Republican. We have a high responsibility, even a commitment, to protect them. The "all-out" Easter invasion of South Vietnam by the North Vietnamese was aimed at our forces as well as the South Vietnamese. We should ask ourselves, "if our son or brother was assigned to South Vietnam, would we want or expect him to be protected?" My answer must be "Yes."

The alternatives seem clear—even if difficult and agonizing. Decisions should not be left to the fainthearted, or to political opportunists. Decisions should be made on a basis of how they affect us, not on whether the enemy will approve or be benefited.

Unfortunately, the national media are seeking out every opponent, digging out every horrendous possibility, encouraging every dissent, creating every doubt. Many domestic politicians are doing the same or acting in concert with the national media.

One theme of several aspirants to the Presidency is: "The quarantine of North Vietnamese ports takes the risk of highly unpredictable consequences that could be dangerous." An easy truth. They neglect to mention that the consequences of the invasion of South Vietnam are more than dangerous—and more certain than predictable—they are both an accomplished fact and lethal to life, limb, and liberty.

The summit meeting with the Soviet Union should not be pursued under present circumstances; if the Government of the U.S.S.R. is going to foster war, aggression, and terror behind the drapes of the conference room, they make a mockery of arms limitation talks and peaceful relations among nations.

If you hate war as I do, let us stop it. If you hate violence as I do, let us stop it. If you hate aggression as I do, let us stop it. If you love liberty as I do, let us share it. If you love people as I do, let us protect them: let us interdict the arms and weaponry that are harming them. If you believe in settlement of disputes by negotiation as I do, let us support the last best offer of the President for peace. If, as I, you do not want the enemy injured further, let us urge them to accept the President's generous offer, let us urge them to cease fire, go home, release their hostages, account for those missing and previously unaccounted for. In short, let us support the President's peace offer, end the killing, and get on with the other challenges which can be achieved only when all persons live in peace with freedom and our precious resources are not wasted on defending human beings from the transgressions of their neighbors.

THE PRESIDENT'S DECISION IN VIETNAM

(Mr. DICKINSON asked for and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, listening to the twittering of some of my dovish friends, both on and off the floor, makes me think that perhaps if they had been around in 1938 they would have been in favor of Hitler invading Poland. I cannot see much difference.

Mr. Speaker, it is common knowledge that supplies are coming into North Vietnam through the port of Haiphong. As a matter of fact, according to various news reports, there were 24 to 28 ships there yesterday, which is twice the average number. Those supplies and weapons of war that do not come by ship come through China by rail.

Mr. Speaker, there could have been no invasion of South Vietnam if it were not for the military supplies coming in from the Russian and Chinese Communists. These included Mig fighters, surface-to-air missiles—SAM—and there have been several thousand SAM missiles launched at American planes—all supplied to the North Vietnamese by Communist Russia, Soviet antiaircraft weapons which were used to shoot at our planes once they get below the SAM missile danger radius, and Russian-made tanks which have been used to spearhead the aggression. Long-range artillery, all Russian made, are being used by the North Vietnamese.

Some of these doves would have us believe that the invasion is not by regular army units of North Vietnam but by the Vietcong who are little old men and women, and that they are putting these tanks together in their huts back in the jungle. These America-lasters completely ignore the fact that all of these weapons have come from Russia and China, and that the North Vietnamese invaders are being provided with ammunition by the Soviet Union.

I have said this for a number of years, 6 at least: if we do not do something to cut off these supplies, then all we are doing is opening the doors for further aggression into South Vietnam.

By cutting off the supplies coming into North Vietnam through the ports and by the railways, we can make sure there will be no aggression into South Vietnam. They cannot succeed without outside help. The only way we can effectively stop the Communist aggression and protect our American citizens who are there is to cut off the invader's supplies.

I would also like to reply to a statement made earlier here by a couple of my colleagues who use the spurious argument that mining the ports of Haiphong was too dangerous and that is why President Johnson did not do it. It is true he refused to cut off all military supplies to North Vietnam. He failed to state what he did do. The alternative which he chose was to send several million young men to fight in South Vietnam, build up our force levels to almost 550,000 men there at one time, plus additional troops in other parts of Southeast Asia, build bases in Thailand and other places, spend over $100 billion of the U.S. taxpayers' money in the effort—and the result was over 50,000 dead. It is elementary that if an adequate effort had been made to choke off the materiels and supplies by President Johnson, McNamara and company, there would have been no prolongation of the war, there would not be 50,000 dead, no 1968 Tet offensive, and no invasion now.

ANALYSIS OF PRESIDENT'S ACTION IN VIETNAM

(Mr. HANNA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. HANNA. Mr. Speaker, I am reflecting this morning the wisdom of my having restricted my office of leadership to the modest dimensions of the 34th Congressional District. It has been rightly observed that the American public are little inclined to follow a politician with an unclear call. I must admit I do not know whether the President is right or wrong in what he has done. I think that qualifies as an unclear call that has very little of absolutism in it.

Mr. Speaker, I do not know that there is a right or wrong there. I do know there are serious implications in the decision the President has made. I have asked, Mr. Speaker, to extend my remarks so that I might discuss what I consider to be a necessary analysis of some of these implications. If one is not to lead, at least one can hope to give a little light along the way.

Mr. Speaker, the President's latest change of policy with respect to Vietnam raises a number of questions and answers only a few of them. I do not intend to make a final judgment of praise or condemnation at this point, simply because to do either adds nothing to the public debate on the issue. The ultimate judgment obviously rests with the outcome, and all of the protestation for and against the announced blockade and mining will not affect its success or failure.

What it does seem incumbent upon us to do here is to examine in our own minds the rationale for the latest policy, the possible effects it will have on our broader foreign policy, and the conditions under which this could be the final stage in our long and all too costly experience in Vietnam.

In order to fairly assess our position, we must also consider the immediate goal of the blockade and its chances of success. The blockade is a response to the massive invasion of South Vietnam. The President obviously hopes that by cutting off Hanoi's supplies, the invasion can be defeated without direct combative action by American forces. He could have chosen to reintroduce U.S. ground forces in sufficient numbers to repel the invasion. Such action would have had very high costs in American lives, and very high political risks for the President. Obviously, the President remains committed to withdrawing from direct ground combat in South Vietnam.

There are few more indiscriminate weapons of war than open sea, antiship mines. Once activated, the ships of all nations will be barred, regardless of cargo and/or purpose. Therefore, the longer we maintain this interdiction, the greater the risk of serious confrontation and deterioration of our relations with a number of maritime nations who have very little to do with the military situation in Vietnam, not to mention the increased chances of a failure of the action to achieve its stated objective, the cessation of the North Vietnamese invasion.

There remains the open question of whether the blockade will succeed in stopping the invasion. It is possible that the build up in military supplies by Hanoi over the last few months has already given them the ability to capture and hold still more cities and provinces south of the DMZ. It is very possible that it will be several weeks before the North Vietnamese feel the affects of the blockade. We can only hope that Hanoi's current war plans depend on continued supplies from Russia, so that they will reassess their posture and accept the President's terms.

This, of course, raises the question of whether there is reason to believe that Hanoi will see it in their own best interest to accept the President's offer. In comparing the various parties' seven-, eight-, and nine-point peace plans, we can see certain common areas, especially relating to the repatriation of POW's and MIA's. The departure from this common track comes in two vital areas: First, the political future of the Saigon-based Thieu government; and second, the presence of foreign troops in South Vietnam. The Hanoi government has never relented in its stated objective of driving the foreign invaders from Vietnam. The United States has likewise frequently suggested the removal of all North Vietnamese troops from South Vietnamese territory. Hanoi has consistently demanded the removal of the Thieu government—either with U.S. cooperation, or at least without U.S. opposition. Again, the United States has consistently refused to abandon this government. Thus, if we carefully examine the President's remarks of last evening, I believe we can see a subtle yet dramatic shift in our position, a shift to a posture very different from that heretofore being pursued in Paris. The President, in setting forth the conditions under which the blockade, and others, will be lifted, listed but two: The return of all American POW's, and an internationally supervised Indochinese cease-fire. He did not stop there, however, but rather continued to pledge as well the cessation of "all acts of force throughout Indochina" and the "complete withdrawal of all American forces from Vietnam within 4 months."

The President has now conceded, to my mind, to the basic elements of Hanoi's demands in Paris first offered almost 1 year ago. He did not continue his pledge to maintain the Thieu regime. He did not renew the demands for any North Vietnamese withdrawal of troops from any Indochinese country.

I think we can all agree on one observation—that the President has decided to take a very high risk course of action. We are now in a posture of a possible confrontation with the Soviets in which, to many countries, we would be the aggressor. The President has also risked a major setback in our gradually improving relations with the Soviet Union—something for which the President has worked hard over 3 years.

The President's actions reveal an opinion—often disputed by many knowledgeable and respected Americans—that ultimate control over North Vietnamese policies and actions resides behind the red brick walls of the Kremlin in Moscow, and not in Hanoi or Peking. Hanoi, if not tied as strongly to the Soviet Union as the President seems to believe, may well now turn to Peking for succor and Peking's influence in Southeast Asia will blossom. We must hope, therefore, that the President has good reason in his own mind to believe that the chances of success significantly outweigh the many risks associated with such a viewpoint.

I assume, Mr. Speaker, that the President has taken the announced actions with these risks clearly in mind. We must believe, then, not only in an assumption of Russian control over Hanoi, but also in the existence somewhere of a carefully constructed, long-range plan which embraces, among other items, an understanding of the probable Soviet reaction to the blockade. It is possible that, from Dr. Kissinger's recent trip to Moscow or through other channels, the President may well have a tacit understanding that the Soviets will neither challenge the sea blockade nor institute an airlift of critical military supplies to Hanoi, and that they will urge Hanoi to accept the terms which the President announced. If this is the case, then the risks are not as severe as they seem.

If—and I must reemphasize that word—if such a scenario as I have herein projected is in fact behind the President's new actions, then my hopes are that the plan will succeed, for no American wants out of that war more than I. There are severe and deeply felt doubts, however, as to the credibility of this President, and it is essentially for this reason that I withhold any immediate judgment of last night's disturbing announcement. For, if the opposite of what I have here conjectured and synthesized in an effort rationally to explain these new actions is true, if there is no carefully thought-out and orchestrated master plan providing a prompt and timely termination of our Vietnam nightmare, then the President has acted in a reckless and irresponsible manner and he will have brought the United States perilously close to the unthinkable.

The nightmare scenario is a situation where North Vietnam decides it has sufficient quantities of heavy equipment and enough fuel in the pipeline to rely upon a Russian airlift and the Russians are willing to substitute airlift for shipping cargo. In this instance we run the risk of our mines sinking other than Russian ships and the war goes on.

One can only hope that the next 3 days deliver decisions in response to the President's ultimatum that makes a productive and peace leading scenario the more possible alternative.

NEED FOR UNITY

(Mr. SCOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCOTT. Mr. Speaker, the disturbances by our guests in the gallery and the screams for victory for the North Vietnamese indicates the need for unity among the overwhelming majority of Americans who are loyal, patriotic citizens, especially with regard to the conduct of foreign affairs.

Some days ago, the Communist negotiator, Madam Binh, wrote to Members of Congress and, in substance, asked for our repudiation of the administration's efforts to bring about a just peace in Southeast Asia. It was an insulting gesture on her part, just as the actions of those in the gallery today are insulting to the Congress. A few of our colleagues, by their intemperate remarks, may also have brought comfort to our enemies.

It seems reasonable to me for all of us, regardless of our political label or philosophy, to put the welfare of the Nation above political consideration and to support the President and the administration as they make determined efforts to terminate the Vietnamese conflict as fairly and as promptly as possible. In his message to the Nation last night, President Nixon told us of his efforts within the last 30 days to negotiate with the Communist leadership and the flat refusal of the North Vietnamese to consider any peace proposal.

In both public and private meetings the President indicated about all that was heard from the enemy was bombastic rhetoric and replaying of their demands for surrender. The administration's efforts over the past several years indicate a sincere desire to either terminate the conflict or turn the fighting over to the people of South Vietnam. When he made the decision to close the entrances to North Vietnamese ports through the mining of the waters to prevent the delivery of supplies, to cut rail and other communication lines, and to direct air and naval strikes against military targets in Vietnam, he did this only when other efforts to terminate the invasion of the South had failed. We have roughly 60,000 of our military personnel remaining in South Vietnam, our prisoners of war remain captive in the North, and we have additional American civilians who are threatened by the action of the enemy. The President was also considering the safety of the people of South Vietnam, compliance with treaty obligations, as well as the effect upon the future of world peace of risking South Vietnam being overrun by the enemy. Those who listened to the President know that this was not an angry retaliation. It was not done on the spur of the moment, but the action was taken after long deliberation and consultation with the Security Council as well as the leadership of the Congress.

Had one of us been sitting in the President's chair, we might have acted somewhat differently. The Vietnamese problem is a complex one, much of which was inherited by the present occupant of the White House. I am not in a position to say that every action he has taken with regard to Vietnam is the same as I would have taken, but I do say that the President has worked in the interest of the entire country. As long as he and his military and diplomatic advisers are acting in the Nation's interest and making decisions based on the best information available, I do not want to contribute to their problems and the Nation's problems by criticizing their action. Therefore, Mr. Speaker, I hope the Congress and the American people will be united behind our Chief Executive and against a common enemy. I hope the enemy will know that responsible Americans support the Government's action, and that the voices of the few which have been raised in criticism, are not the voices of the American people.

ADDRESS BY CHIEF GEORGE A. MURPHY

(Mr. HANLEY asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. HANLEY. Mr. Speaker, last Friday, the Honorable George A. Murphy, chief of police in Oneida, N.Y., and the president of the International Association of Chiefs of Police, delivered the annual commencement address to the graduating class of the Agency for International Development's International Police Academy. I am proud to say that Chief Murphy is both a constituent and close personal friend of mine. He is an experienced law enforcement official, with a long distinguished career in police administration. He has been the chief of police in Oneida for the past 15 years. Mr. Speaker, I have spoken here on the floor of the House about Chief Murphy and the IACP previously. I would like to take a moment today, however, to praise the work of AID in the field of law enforcement training. As part of its coordinated overall aid program to underdeveloped countries throughout the world, AID has established an International Police Academy. This year, a total of 149 police officers from 26 countries of Latin America, the Far East, Africa, and the Near East were graduated from the academy. They will take home with them not only the skills acquired in the classroom and in the field, but they will also take home a better understanding of the American people and the principals of our democracy.

Chief Murphy, the IACP, and Mr. Thomas Finn, director of the academy deserve our highest commendation for their work.

Mr. Speaker, at this point, I would like to insert in the RECORD, the excellent graduation address:

IMPROVING EXECUTIVE POLICE SERVICE

(An address by Chief George A. Murphy)

Mister Engle, Mister Finn, distinguished guests, and officers of the International Police Academy graduating class:

I was very happy to receive and anxious to accept an invitation to be with you today for your commencement ceremonies.

The International Police Academy and the International Association of Chiefs of Police have enjoyed a very close professional relationship for many years.

In fact, the genesis of the IPA was influenced by a 1954 contract between the IACP and the early Foreign Operations Administration, forerunner to the International Cooperation Administration, and now the Agency for International Development.

The contract called for the IACP to provide training in the United States for foreign administrators and technicians.

It is particularly gratifying for us to see that early effort culminate in what is now known by police chiefs throughout the world as the finest training academy of its kind.

With these ceremonies, the number of IPA graduates now exceeds 4,000 individual police executives from 73 different nations.

And again, evidence of the close association between our two agencies is borne out in the fact that many of the IPA alumni are members of the IACP.

Since you came to the United States to further develop your police leadership skills, it would therefore seem proper that I should talk about improvement of executive police service.

In our lifetime, we have seen dramatic developments in global evolution.

The technological advancement of communications has put us in constant contact with each other.

Jet transportation has allowed us to reach the farthest points of the world in a matter of hours.

Shipping and trade between the nations of the free world have bridged a commerce gap and given us more widespread use of international goods and services.

Cultural and educational exchange has brought greater understanding and appreciation of the arts, crafts, and mores of our different peoples.

And scientists from more than 100 different countries are studying material and data brought back from the surface of the moon.

We have reached a point in world society where decisions and actions of one nation can produce profound and lasting effects on the lives of others.

In view of these examples of international dependence, it is obvious to all that we share a very small world, indeed.

And the degree to which we live in peace and security depends in large measure on *you* and your police brothers the world over.

The internal security of a nation has as its *first* line of defense, its civil police.

The need for order and security is basic to the development of a nation.

None of the advancements which I have cited could be possible without basic security.

But, great scientific and cultural achievements are *least* important to a nation whose people cannot live and work freely.

Can you plow a field with rebel insurgents shooting at you?

Can you hold a free election with terrorists firebombing the voting booths?

Can you trade goods in a market where highways are interdicted by guerillas levying illegal taxes?

Can you build a free nation while enemy invaders proselytize and conscript your young people?

Without security, none of *these* things are possible!

Law enforcement therefore becomes the most vital extension of a government to its people.

Police are not merely the defenders of justice and liberty, they are the purest expression of it.

To the people, your personal actions and attitudes represent the official position of the government with respect to the law.

Whether a government is considered responsive or repressive will be measured by the exercise of police authority.

Your responsibility is awesome.

And, I can think of no greater deed to perform for a country than to serve as the protector of the lives, liberties, and properties of its people.

Yet, you will be praised by very few—and damned by many.

You and your officers will be cajoled, ridiculed, insulted, threatened, and even assaulted.

You will be misunderstood most by the people you are trying to protect.

And, you will find no other calling in life that returns as much self-satisfaction and pride.

The senior officers of this class have, no doubt, experienced many of these things.

Those of you who are younger may still have them before you.

I pray you draw comfort from the fact that you are performing a service that no nation, worthy of the name "democracy," can live without.

Law enforcement is no easy task; it never has been.

And, for that reason, you are here today.

During this past 17 weeks, you have received the most comprehensive and intensive training available to better prepare you for the difficult times ahead.

The most modern concepts of police administration, management, community relations, and police technical skills have been made available to you.

The premise upon which this academy is based is that training is a never-ending process.

Some of us who have spent many years in law enforcement can recall when the primary requirement in attaining executive rank was longevity.

This narrow point of view has been very properly relegated to history and has no place in modern law enforcement.

With the natural progression that has taken place in the volume and complexity of law enforcement problems, routine technical experience over a period of years is not sufficient to produce the police administrators needed now, and in the future.

Just as private industry and the military from many nations have found, the police too have realized that there is no end to training.

Each year industry goes to considerable expense to provide advanced educational opportunities for its executives.

Managers through vice-presidential levels are sent to conferences, seminars, and institutes to broaden their intellectual scope and sharpen their decision-making capabilities.

In the military of many countries, a prerequisite for advancement to higher rank and increased responsibilities is the progression through successively higher levels of formal education at institutions such as command and staff colleges and service and national war colleges.

Certainly, if those responsible for our economic progress and national defense find this mandatory, it must be equally so for those charged with the vital task of safeguarding our lives, liberties and properties.

Here in the United States, we in law enforcement have made considerable progress in making increased formal education and specialized training available to our operational personnel.

Our Association, for instance, has developed the Model Police Standards Council Act for adaptation by the states to assist in the establishment of minimum education and training standards for both entry-level and in-service personnel.

We have developed model curricula for both two- and four-year police science degree programs.

We have seen the number of colleges and universities providing these degree programs nearly double in the past five years to over 300.

I am confident this rise will be greatly accelerated in the next few years based on the enthusiastic cooperation shown by most educators.

A logical reaction to these and similar programs instituted by individual agencies would be: "Well, this is fine, and certainly we all agree that our young officers, and operational veterans with potential, need the best continuing education and training opportunities available, but I'm a veteran in this business with years of experience as a police executive.

"Do I too need further training?"

The answer is obvious. You gentlemen would not be here, taking the time from your important duties, if this wasn't the case.

But let's dig a little deeper into the *why* of it.

Just within the past few years far-reaching changes have taken place.

The scientific and technological advances I spoke of earlier have made more changes in the past twenty years than in the previous two thousand.

Social changes overturning hundreds of years of inertia have occurred within the past five years.

Many of these changes have been revolutionary when we would have preferred for them to be evolutionary.

But regardless of our individual desires, as police executives we must adapt to these changes.

The major requirement placed on police executives from these changes is the acquisition of managerial talents that will allow us to cope with them.

To succeed in meeting the challenges of these dynamic and demanding changes, police leaders must evaluate the adequacy of their facilities and equipment; they must make thorough and objective appraisals of the methods being used to administer and operate their departments' resources and personnel.

And, most importantly, they must grow intellectually to keep pace with the new and dynamic concepts of management and organization that are being evolved to better enable law enforcement to meet the challenges of tomorrow.

I don't propose to give you a resume of the course you have just completed. This would be redundant, because from my knowledge of the course contents it was both progressive and complete. Certainly those who devised it, and those who participated in it, are deserving of praise for a job well done.

I would, however, like to comment briefly on the functions of management to which you have been exposed during your attendance here.

Police planning, in brief, is the setting of goals.

Broadly speaking, these goals are to protect the lives and property of the people, to prevent crime, and to detect and apprehend offenders.

To progress towards these goals, the police administrator must plan the programs of his department in context with the specific law enforcement problems of his community.

He must consider the potentialities of any course of action.

He must have a thorough knowledge of his resources, and his must be the directing force that will culminate in successful results.

And in this day and age, he certainly must take into full consideration the matter of public opinion.

He should not pander to special interests through the sacrifice of principles and professional ethics, but he should have the flexibility to change his courses of action when proven wrong or ineffective.

Organization is the blending together of people into a workable unit to achieve their goals.

As a process, organization seeks to achieve three primary goals: first, the appropriate division of labor; second, fixing authority and responsibility; and third, defining relationships within the unit.

If these organizational goals are not achieved; conflict, loss of efforts, and operational problems occur.

In the division of labor, there must be a clear division of responsibility and work.

These responsibilities and work efforts must be directed toward reaching organizational goals and objectives and eliminating duplication and undesirable overlapping of efforts.

Without a clearly defined source of authority, each individual will do what he wants, when he wants, and any integrated effort and attainment will be impossible.

Relationships must be clearly delineated so that each member of the department can have a basic understanding of his function, position and standing in the organization.

The police administrator is a leader and must assume leadership responsibilities.

He must inspire confidence in his leadership, earn the loyalty of his subordinates and be enthusiastically interested in his job.

He must always keep in mind that his organization is a team and he must constantly inspire and stimulate each member to do his best.

Within his organization, the administrator must coordinate the activities of all subordinate units.

This cannot be done by sheer exercise of authority but rather by inspiring command and supervisory personnel to exercise their authority, assume their responsibilities and make their own decisions within the framework of departmental policy.

And finally, and in my opinion the most important next to the planning function, the police executive must control results by continual follow-up, inspection, and review.

He may assign authority but he cannot delegate this ultimate control responsibility.

Periodically, he should make an objective appraisal of his department to be certain that it is functioning in conformance with his policies and towards the realization of departmental objectives.

To accomplish these leadership functions, the modern-day police executive must increase his knowledge and skills in three broad interrelated areas.

The first of these areas contains what can be defined as the conceptual skills. These center around the management function and include planning, programming, budgeting, supervising, decision-making, directing and controlling.

The second area includes those that can be defined as the human skills.

In this area are included the ability to assume leadership and the leadership responsibility to discharge authority and assign it properly and the ability to motivate personnel to higher productivity and maintain high morale.

Finally, the police administrator must have a thorough grasp of the technical skills of an executive.

These include the ability to make decisions based on careful objective analyses.

He must have a thorough understanding of materiel and personnel requirements, the ability to evaluate the social forces that must be dealt with, and the ability to measure accurately the effectiveness of the operations he supervises.

All these functions make the job of leadership a lonely one.

He must have the confidence of his staff and his commanders, but he cannot enjoy their friendship to the point where it might bias his decisions.

He must have the proper rapport with the political and civic leaders of the community, but not to the point that he is compliant to their every whim against his considered professional judgment.

And finally, he must know that he, and he alone, has the ultimate executive responsibility for law enforcement in his community—its success or failure.

The fact that police officers of your stature are here to study and develop increased capabilities of leadership to better serve the cause of law enforcement speaks more eloquently than I can of your dedication.

Not only does it reflect credit upon each of you as an individual, but it contributes importantly to the attainment of true professionalism that we of the police are sworn to provide each of our nations.

Gentlemen, the problems you face as police executives are of the gravest nature. And, generally speaking, I am sure your resources are inadequate. However, the dedication you have evidenced to better law enforcement through your completion of this rigorous course of study makes me confident that law and order will not only endure in your nation, it will prevail.

And this will happen because of the leadership you and others like you in our profession, will provide—now, and in the future.

Gentlemen, my sincere congratulations. Thank you!

MINING OF NORTH VIETNAM PORTS

(Mr. MIKVA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MIKVA. Mr. Speaker, with his decision to mine North Vietnamese ports and to continue the bombing of its major cities, the President has set this country back 10 years and raised the threat of a direct confrontation with the Soviet Union for the first time. The mining and increased bombing will do nothing to end the war or return our prisoners. Rather, it will serve only to increase the bloodshed and increase the number of American prisoners of war. The President now has implemented virtually every plank of the Goldwater war platform of 1964. The people of this country overwhelmingly rejected the Goldwater strategy then, and they should reject President Nixon's "new" strategy now the same way—by defeating him in November.

Since 1964, every military solution this country has tried in southeast Asia has failed. There is no reason to believe the mining of North Vietnamese harbors will succeed as a "military solution" where the others have failed. The best evidence is that mining has been suggested before and rejected time and time again, simply because it will not work. The possibility of mining North Vietnamese harbors was raised specifically in 1966 and 1967 and specifically rejected by President Johnson and Secretary of Defense McNamara. It was a matter of too much risk for too little return.

In May of 1967, Secretary McNamara outlined in detail his opposition to mining. He said it would not reduce North Vietnam's capacity to wage war in the South. The CIA agreed with that assessment. It still does. The situation has not changed over the last 6 years. Nothing has happened to make mining an effective military strategy. The 1969 National Security Memo No. 1, prepared by Dr. Henry Kissinger, has more to say about mining.

> OSD (Office of Secretary of Defense) and CIA believe that (if all imports from the sea were denied) the overland routes from China would provide North Vietnam enough material to carry on, even with an unlimited bombing campaign.

Besides, North Vietnam now has stockpiled enough supplies in the South to carry on its offensive for several months.

Over the last few years, this administration has promised the American people a number of "final solutions" to end the war and bring the troops and the prisoners home. First, it was the invasion of Cambodia, then the concept of Vietnamization, then increased air strikes with B-52's and now the mining of Hanoi and Haiphong harbors and the possibility of military confrontation with the Soviet Union and China. We have returned to the dark years of 1965 and 1966 when the Joint Chiefs of Staff claimed that we could "win the war if only we unleashed America's military might." Unless we accept the absurd proposition that more war will bring peace, it appears that the longing of the American people to end the war has been ignored. After all these years, the administration is still trying to "win."

The mining amounts to a declaration of war against North Vietnam without the advice or consent of Congress. It may be a violation of international law. It clearly will be ineffective from a military standpoint, and it holds the threat of a frightening confrontation with the Soviet Union or China. Will Soviet ships try to run the blockade or penetrate the mine field? What if they fire back? What if they attempt to stop American planes from seeding the mines? Is the corrupt Thieu government in Saigon worth the possibility of an American-Soviet military confrontation? The tragedy is that we in Congress do not know the answers because we do not know what the Soviets will do. We do not even know if Dr. Kissinger asked them about it on his last trip to Moscow.

The U.S. Constitution gives Congress the power to declare war. The authors did not do that capriciously. They realized that such an awful possibility should be tested in the minds of more than just one man. Since he was inaugurated, President Nixon has ignored the constitutional requirement of input from Congress, and this latest escalation is only the latest example of that. He "notified" Congress of the mining after he made his decision. Despite this, Congress has an obligation to the people to try to end the war on its own. We will try to find ways to cut off funds for the war. We will try to convince the President to listen to the sentiment of the people, a sentiment reflected by the recent vote of the Democratic Members of the House of Representatives against escalation of the war. To do this, we need an expression from the people that is firm and clear. I hope they will tell the President and their Congressmen—by telegram, letter, phone call, and personal visit—that they oppose this war and this escalation.

Ultimately, of course, the only way to end this war once and for all is to defeat the President who is continuing it and escalating it. The policies of this President—like the policies of his predecessor—must be repudiated by the people in November. That power of the vote is direct and absolute, and it represents the last clear chance to end this war and save this country.

DISTRICT OF COLUMBIA ANTIPOLLUTION DRIVE

(Mr. GUDE asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. GUDE. Mr. Speaker, I wish to offer a word of congratulation to the District of Columbia Department of Motor Vehicles for their recommendations, reported in today's Washington Post by Mr. Jon Katz, for improvement in the present method of automobile exhaust emission inspections. For some time, the District has conducted auto inspections. I have visited one of these inspection stations and have inspected the pollution control equipment they have.

I only wish that my own State of Maryland would adapt an effective annual auto inspection system, giving special attention to emission control.

One problem with the District of Columbia system, however, was that it merely passed or failed a car, giving little indication to the owner of the car as to the exact correction needed to meet pollution control standards.

Following a 2-year study undertaken for the Environmental Protection Agency, the Motor Vehicle Department has recommended an inspection system which would pinpoint for the auto owner the exact problem and the corrections needed for the car to meet emission standards. The District has applied to EPA for funds to initiate such a program.

The report cites the fact that average car owners do not properly maintain their vehicles, and that the great majority of auto mechanics know little or nothing about emission control devices, caring more for an engine that runs more smoothly then for one which is pollution free.

Further, and I find this fact encouraging in our work to clean up Washington's polluted air, the report states that the average cost of correcting emission problems on 1968 and later model cars is a minimal $5.87. Even on older cars, the costs run an average of $22.78.

The District of Columbia deserves special praise for this positive effort to reduce air pollution and deserves full support.

PRESIDENT'S PLAN FOR BRINGING WAR IN VIETNAM TO AN END

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLING. Mr. Speaker, President Richard M. Nixon, in an address to the Nation last night, announced a plan for bringing the lengthy war in Vietnam to an end. In effect, the President's plan is designed to cut off the arteries that feed the war heart in Vietnam, doing this by mining all North Vietnam harbors, by blocking traffic in internal waters, and by cutting rail traffic that enters Vietnam from China.

Probably not since a former President of the United States decided to use the A-bomb in World War II has any Chief Executive of the United States been called upon to make a more difficult decision than that made by the President last night.

Mr. Nixon promised that these severe war measures would terminate when all American prisoners of war held by the North Vietnamese are released and when an international cease-fire is implemented in Indochina.

When these conditions are met, the United States will stop all acts of force and will pull out all of American military personnel within a period of 4 months.

Some Americans will protest the President's action as being overly stringent. The simple truth of the matter is that war is never a pretty thing and neither are the solutions devised to bring it to an end.

In this particular case, we are dealing with an enemy that is ruthless to the core and will respond only to direct and forceful measures. This is an enemy which, for instance, has consistently violated the demilitarized zones set up in this conflict. In fact, the enemy started the current phase of fighting by using these zones for jumping-off stations for its invasion of South Vietnam with regular troops and tanks. Too, during the Tet offensive of 1968, the North Vietnamese brutally executed thousands of innocent South Vietnamese and coldly buried their bodies in shallow ditches strewn over bare acres.

It must be recognized, of course, that there are risks associated with the President's venture, because it is an outright challenge to two major powers that are supplying materials and supplies to the North Vietnamese. Russia has performed as such a provider through deliveries with her vessels in the port of Haiphong, while Red China has used an overland rail system to feed essential war goods to the North Vietnamese. Only time will tell what the reactions of these nations will be.

President Nixon has acted in accord with the responsibilities imposed upon him by the U.S. Constitution. There are, of course, obvious political hazards involved in this move, and the President is, indeed, to be complimented for acting over and above politics and in the immediate interests of the United States.

President Nixon has weighed all of the risks involved one against the other and has, as our Commander in Chief, determined that the hazards of remaining engaged in this conflict outweigh those attached to an effort to get out of it.

The American people, in times of stress, have a remarkable aptitude for closing ranks and supporting their President. I am confident President Nixon can depend upon such support as he makes this important decision designed to bring the war in Vietnam to a quick and honorable end.

UNITED STATES-BRAZIL FISHING AGREEMENT

(Mr. FASCELL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FASCELL. Mr. Speaker, in these troubled and difficult times, it is particularly pleasant to discover fresh evidence that rationality and good will can find satisfactory solutions to thorny and complex international problems. I wish to pay tribute to the skillful negotiators, both those of our country and those of Brazil, who have been able to work out an interim arrangement for continued shrimp fishing off the Brazilian coast which will assist and support our joint interest in conserving the world's marine resources while maintaining inviolate our very different conceptions of the proper juridical limitations on territorial claims and freedom of the seas.

The representatives of our two countries have been able to separate long-term disagreements from short-term common interests and worked out methods whereby the harvesting of an important seafood will continue and prosper under improved conditions. At the same time the residual juridical problems have been more clearly identified so that their ultimate resolution by multilateral international negotiation can take place during the U.S.-sponsored Law of the Sea Conference now scheduled to begin during the summer of 1973.

I have already commended the negotiators. Let me conclude by commending to you the agreement itself as one more piece of concrete evidence that all problems are soluable if men of good will decide that their objective is solution and not disagreement:

AGREEMENT BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING SHRIMP

The Parties to this Agreement,

Note the position of the Government of the Federative Republic of Brazil,

that it considers its territorial sea to extend to a distance of 200 nautical miles from Brazil's coast,

that the exploitation of crustaceans and other living resources, which are closely dependent on the seabed under the Brazilian territorial sea, is reserved to Brazilian fishing vessels, and

that exceptions to this provision can only be granted through international agreements,

Note also the position of the Government of the United States of America that it does not consider itself obligated under international law to recognize territorial sea claims of more than 3 nautical miles nor fisheries jurisdiction of more than 12 nautical miles, beyond which zone of jurisdiction all nations have the right to fish freely, and that it does not consider that all crustaceans are living organisms belonging to sedentary species as defined in the 1958 Geneva Convention on the Continental Shelf, and further

Recognizing that the difference in the respective juridical positions of the Parties has given rise to certain problems relating to the conduct of shrimp fisheries,

Considering the tradition of both Parties for resolving international differences by having recourse to negotiation,

Believing it is desirable to arrive at an interim solution for the conduct of shrimp fisheries without prejudice to either Party's juridical position concerning the extent of territorial seas or fisheries jurisdiction under international law,

Concluding that, while general international solutions to issues of maritime jurisdiction are being sought and until more adequate information regarding the shrimp fisheries is available, it is desirable to conclude an interim agreement which takes into account their mutual interest in the conservation of the shrimp resources of the area of this Agreement,

Having Agreed as Follows:

ARTICLE I

This Agreement shall apply to the fishery for shrimp (*Penaeus* (M.) *duorarum notialis, Penaeus braziliensis* and *Penaeus* (M.) *aztecus subtilis*) in an area of the broader region in which the shrimp fisheries of the Parties are conducted, hereinafter referred to as the "area of agreement" and defined as follows: the waters off the coast of Brazil having the isobath of thirty (30) meters as the south-west limit and the latitude 1° north as the southern limit and 47°30′ west longitude as the eastern limit.

ARTICLE II

1. Taking into account their common concern with preventing the depletion of the shrimp stocks in the area of agreement and the substantial difference in the stages of development of their respective fishing fleets, which results correspondingly in different kinds of impact on the resources, the two Parties agree that, during the term of this Agreement, the Government of the Federative Republic of Brazil is to apply the measures set forth in Annex I to this Agreement and the Government of the United States of America is to apply the measures set forth in Annex II to this Agreement.

2. The measures set forth in Annexes may be changes by agreement of the Parties through consultation pursuant to Article X.

ARTICLE III

1. Information on catch and effort and biological data relating to shrimp fisheries in the area of agreement shall be collected and exchanged, as appropriate, by the Parties. Unless the Parties decide otherwise, such exchange of information shall be made in accordance with the procedure described in this Article.

2. Each vessel fishing under this Agreement shall maintain a fishing log, according to a commonly agreed model. Such fishing logs shall be delivered quarterly to the appropriate Party which shall use the data therein contained, and other information it obtains about the area of agreement, to prepare reports on the fishing conditions in that area, which shall be transmitted periodically to the other Party as appropriate.

3. Duly appointed organizations from both Parties shall meet in due time to exchange scientific data, publications and knowledge acquired on the shrimp fisheries in the area of agreement.

ARTICLE IV

1. The Party which under Article V has the responsibility for enforcing observance of the terms of the Agreement by vessels of the other Party's flag shall receive from the latter Party the information necessary for identification and other enforcement functions, including name, port of registry, port where operations are usually based, general description with photograph in profile, radiofrequencies by which communications may be established, main engine horsepower and speed, length, and fishing method and gear employed.

2. Such information shall be assembled and organized by the flag Government and communications relating to such information shall be carried out each year between the appropriate authorities of the Parties.

3. The Party which receives such information shall verify whether it is complete and in good order, and shall inform the other Party about the vessels found to comply with the requirements of paragraph 1 of this Article, as well as about those which would, for some reason, require further consultation among the Parties.

4. Each of those vessels found in order shall receive and display an identification sign, agreed between the Parties.

ARTICLE V

1. In view of the fact that Brazilian authorities can carry out an effective enforcement presence in the area of Agreement, it shall be incumbent on the Government of Brazil to ensure that the conduct of shrimp fisheries conforms with the provisions of this Agreement.

2. A duly authorized official of Brazil, in exercising the responsibility described in paragraph 1 of this Article may, if he has reasonable cause to believe that any provision of this Agreement has been violated, board and search a shrimp fishing vessel. Such action shall not unduly hinder fishing operations. When, after boarding or boarding and searching a vessel, the official continues to have reasonable cause to believe that any provision of this Agreement has been violated, he may seize and detain such vessel. In the case of a boarding or seizure and detention of a United States vessel, the Government of Brazil shall promptly inform the Government of the United States of its action.

3. After satisfaction of the terms of Article VI as referred to in paragraph 4 of this Article, a United States vessel seized and detained under the terms of this Agreement shall, as soon as practicable, be delivered to an authorized official of the United States at the nearest port to the place of seizure, or any other place which is mutually acceptable to the competent authorities of both Parties. The Government of Brazil shall, after delivering such vessel to an authorized official of the United States, provide a certified copy of the full report of the violation and the circumstances of the seizure and detention.

4. If the reason for seizure and detention falls within the terms of Article II or Article IV, paragraph 4 of this Agreement, a United States vessel seized and detained shall be delivered to an authorized official of the United States, after satisfaction of the terms of Article VI relating to unusual expenses.

5. If the nature of the violation warrants it, and after carrying out the provision of Article X, vessels may also suffer forfeiture of that part of the catch determined to be taken illegally and forfeiture of the fishing gear.

6. In the case of vessels delivered to an authorized official of the United States under paragraphs 3 or 4 of this Article, the Government of Brazil will be informed of the institution and disposition of any case by the United States.

ARTICLE VI

In connection with the enforcement arrangements specified in Article V, including in particular any unusual expenses incurred in carrying out the seizure and detention of a United States vessel under the terms of paragraph 4 of Article V, and taking into account Brazil's regulation of its flag vessels in the area of agreement, the Government of Brazil will be compensated in an amount determined and confirmed in an exchange of notes between the Parties. The amount of compensation shall be related to the level of fishing by United States nationals in the area of agreement and to the total enforcement activities to be undertaken by the Government of Brazil pursuant to the terms of this Agreement.

ARTICLE VII

The implementation of this Agreement may be reviewed at the request of either Party six months after the date on which this Agreement becomes effective, in order to deal with administrative issues arising in connection with this Agreement.

ARTICLE VIII

The Parties shall examine the possibilities of cooperating in the developing of their fishing industries; the expansion of the international trade of fishery products; the improvement of storage, transportation and marketing of fishery products; and the encouragement of joint ventures between the fishing industries of the two Parties.

ARTICLE IX

Nothing contained in this Agreement shall be interpreted as prejudicing the position of either Party regarding the matter of territorial seas or fisheries jurisdiction under international law.

ARTICLE X

Problems concerning the interpretation and implementation of this Agreement shall be resolved through diplomatic channels.

ARTICLE XI

This Agreement shall enter into force on a date to be mutually agreed by exchange of notes, upon completion of the internal procedures of both parties and shall remain in force until January 1, 1974, unless the Parties agree to extend it.

In witness whereof the undersigned representatives have signed the present agreement and affixed thereto their seals.

Done in duplicate this 9th day of May, 1972, in the English and Portuguese languages both texts being equally authoritative.

ANNEX I

(a) Prohibition of shrimp fishing activities, for conservation purposes, in spawning and breeding areas;

(b) Prohibition of the use of chemical, toxic or explosive substances in or near fishing areas;

(c) Registry of all fishing vessels with the Maritime Port Authority (Capitania dos Portos) and with SUDEPE;

(d) Payment of fees and taxes for periodical inspections;

(e) Use of the SUDEPE fishing logs to be returned after each trip or weekly;

(f) Prohibition of the use of fishing gear and of other equipment considered by SUDEPE to have destructive effects on the stocks;

(g) Prohibition of discharging oil and organic waste.

ANNEX II

(a) Not more than 325 vessels flying the United States flag shall fish for shrimp in the area of agreement and the United States Government undertakes to maintain a presence of no more than 160 of those vessels in the area at any one time. Such vessels shall be of the same type and have the same gear as those commonly employed in this fishery in the past, noting that electric equipment for fishing purposes has not been commonly employed by boats in this fishery in the past.

(b) Shrimp fishing in the area of agreement shall be limited to the period from March 1 to November 30.

(c) Shrimp fishing in that part of the area of agreement southeast of a bearing of 240° from Ponta do Ceu radio-beacon shall be limited to the period March 1 to July 1.

(d) Transshipment of catch may be made only between vessels authorized under this Agreement to fish in the area of agreement.

AGREED MINUTE RELATING TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING SHRIMP

The Delegations of the Government of Brazil and the Government of the United States of America consider it desirable to record the points set out below relating to the Agreement between the two Governments concerning shrimp signed on the 9th day of May, 1972:

The Brazilian Delegation informed the United States Delegation that the portion of the area of Agreement between the true bearing of 240° and 225°, drawn from the Ponta do Ceu radio-beacon, has a special interest to the Brazilian shrimp vessels, in view of its vicinity to both the port and the industries existing in Belem. State of Para. Under these circumstances, the Brazilian Delegation informed the United States Delegation that it was not the intention of the Brazilian Government to re-include such region in agreements it might conclude after 1973.

The United States Delegation stated its view to the Brazilian Delegation that the area of the Agreement between the true bearing of 240° and 225°, drawn from the Ponta do Ceu radio-beacon, lies on the high seas and is thus open to fishing by all nations.

Both the Brazilian and the United States Delegations agreed that, based on the available information, the expression "of the same type", included in item A of Annex II in relation to United States vessels that have in the past fished in the area of the Agreement, means vessels having a length up to approximately eighty-five feet.

With respect to item A of Annex II, both Delegations agreed that an excess of up to 15 vessels in the area of Agreement over the figure of 160 shall constitute, during the first fishing season of the Agreement, a situation requiring consultations between the Parties within the scope of Article X with a view toward arriving at as promptly as possible the agreed figure. In view of the special nature of the arrangements contained in item A of Annex II, both Delegations understand that consultations referred to in paragraph 2, Article II will be held as soon after the close of the current fishing season as possible, to examine the operation of this provision with a view toward revising, if necessary, the measures outlined in item A of Annex II or revising the procedures necessary to achieve better compliance with them.

MAY 9, 1972.

NOTE

The Embassy of the United States of America presents its compliments to the Ministry of External Relations of the Federative Republic of Brazil, and with reference to the Agreement Concerning Shrimp signed on this date, as well as the accompanying exhange of Notes, related to Article VI of that Agreement, has the honor to inform the Ministry of the following:

Pending the entering into force of the agreement as provided for in article eleven, the Government of the United States of America is prepared to make every effort to encourage the voluntary compliance by its industry of the provisions of the Agreement so as to ensure that events in the interim period do not prejudice the successful implementation of those provisions. It is the understanding of the Government of the United States of America that the Government of the Federative Republic of Brazil intends also to abide by the spirit of the proposed interim Agreement.

Following the exchange of instruments of ratification, but prior to the passage of enabling legislation the Government of the United States of America proposes to continue its effort to encourage voluntary compliance.

In the period between the completion of internal procedures as noted in article eleven and the entering into force of the Agreement, the Government of the United States of America will seek, *inter alia*, with the voluntary cooperation of U.S. flag vessel owners,

1. To achieve the objectives of Article II.
2. To institute appropriate Article III procedures.
3. To achieve the intent of Articles IV and V.

In stating its willingness to encourage the voluntary compliance with appropriate provisions of the Agreement so that the intent of the accord may be achieved while awaiting its entering into force, it is the understanding of the Government of the United States of America that the Government of the Federative Republic of Brazil agrees that in this same interim period both Parties should have as their objective the achievement of the intent of the Agreement.

With specific reference to Article III, paragraph 2, the Government of the United States of America shall treat the information obtained from individual fishing logs as confidential.

Initialed by:

MARIO GIBSON BARBOZA,
Foreign Minister of Brazil.
WILLIAM M. ROUNTREE,
U.S. Ambassador to Brazil.

MAY 9, 1972.

REPLY TO THE NOTE FROM THE AMERICAN EMBASSY

The Ministry of External Relations of the Federative Republic of Brazil presents its compliments to the Embassy of the United States of America and has the honor to acknowledge receipt of the Embassy's note of today's date, which reads as follows:

(*Note of the USA*)

2. In reply, the Ministry of External Relations wishes to confirm that the understanding referred to in the penultimate paragraph of the Embassy's note is shared by the Brazilian Government.

3. Further more, the Ministry of External Relations wishes to state that, pending the entry into force of the Agreement, it is the intent of the Brazilian Government to apply its provisions insofar as possible from today and in a manner which will ensure that events in the interim will not prejudice the successful implementation of those provisions.

4. With specific reference to Article III, paragraph 2, the Government of the Federative Republic of Brazil shall treat the information obtained from individual fishing logs as confidential.

Initialed by:

MARIO GIBSON BARBOZA,
Foreign Minister of Brazil.
WILLIAM M. ROUNTREE,
U.S. Ambassador to Brazil.

BRASILIA, MAY 9, 1972.

His Excellency MARIO GIBSON BARBOZA,
Minister of Foreign Affairs,

EXCELLENCY: I have the honor to refer to the Agreement on Shrimp signed today by the Governments of the Federative Republic of Brazil and the United States of America and to confirm, on behalf of my Government, the following:

(a) The Government of the United States of America shall, after the appropriation of funds by Congress, compensate the Government of Brazil in an annual amount of U.S. $200,000 (two hundred thousand dollars) pursuant to the terms of Article VI;

(b) The Government of the United States of America shall, after the appropriation of funds by Congress, further compensate the Government of Brazil in the amount of U.S. $100.00 (one hundred dollars) for each day a United States flag shrimp fishing vessel is under the control of Brazilian enforcement authorities pursuant to the terms of paragraph 2 of Article V.

I have the honor to propose that his Note and Your Excellency's reply confirming the above points of understanding on behalf of your Government shall be regarded as constituting satisfaction of the terms of Article VI of the aforementioned Agrement between the two Governments.

Accept, Excellency, the renewed assurances of my highest consideration.

WILLIAM M. ROUNTREE,
U.S. Ambassador.

BRASILIA, MAY 9, 1972.

His Excellency, WILLIAM M. ROUNTREE,
U.S. Embassy, Brasilia.

EXCELLENCY: I have the honor to acknowledge receipt of Your Excellency's note, of today's date, which reads as follows:

(Note of the U.S.A.)

2. In reply, I wish to confirm, on behalf of the Brazilian Government, that the above points of understanding shall be regarded as constituting satisfaction of the terms of Article VI of the Agreement on Shrimp, signed today by the two Governments.

I avail myself of this opportunity to renew to you the assurances of my highest consideration.

MARIO GIBSON BARBOZA,
Foreign Minister.

TRIBUTE TO THE LATE J. EDGAR HOOVER

The SPEAKER. Under a previous order of the House, the gentleman from South Dakota (Mr. DENHOLM) is recognized for 30 minutes.

(Mr. DENHOLM asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. DENHOLM. Mr. Speaker and my colleagues and all to whom these presents come, spoken or written, I asked for this special order today to recognize the achievements of a distinguished American—sought by many but actually accomplished by few. Some time in the early morning hours of the night, 7 days ago, a distinguished gentleman and a great American departed the earthly life of this world to his surest reward. J. Edgar Hoover died in the same quiet manner that he lived, unassuming, devoted to duty, ready always to answer in the darkness of the night and in the face of any danger—the call of his country.

He led with dignity and with decency and with the respect of those he led the fundamental cause of justice and security in and of this Nation. He led this country through a half century of troubled times. In peace and in war he was always there. He was committed to the highest ideals and objectives of liberty and freedom in search for the delicate balance of justice through the processes of law in the interest of all the citizens of this Nation against the few who would invade the rights of others in the name of the law or obstruct the thrust of justice under the pretense of the concepts of freedom and liberty.

The name of J. Edgar Hoover became synonymous with the institution he founded and served so long, the FBI, and he was recognized as a pillar in the troubled seas of crime, corruption, deception, fraud, indecency, immorality, insurrection, riot, rebellion, sabotage, and all subversive activities, and every criminal law enacted by the Congress of the United States of America.

Mr. Hoover exercised no powers not granted by statute and not enacted by the Congress. He was sometimes criticized, from places that he was precluded from entering—in equal opportunity to answer. He was the target of criminals, "commies" and "comers" but he never abandoned his post of duty in upholding the obligation imposed upon him by acts of this Congress or any previous sessions thereof. He upheld the laws of the land.

J. Edgar Hoover was to 430,000 or more citizens serving this Nation in 40,000 different agencies of law enforcement a symbol or a harbor light in the troubled waters of the dark seas. He provided a central sense of direction which was relied upon by all.

It may be paradoxical but in the issue of the FBI Law Enforcement Bulletin, volume 41, No. 5, published on May 1, 1972, in honor of Law Day, U.S.A., Mr. Hoover wrote his final message to his associates charged with the duties of law enforcement and with the responsibility of maintaining the peace and tranquility of this great land.

Mr. Speaker, I ask unanimous consent that the last message of the late and Honorable J. Edgar Hoover to all law enforcement personnel and officials be printed at length in the official RECORD of this Congress.

The SPEAKER. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

The message is as follows:

MESSAGE FROM THE DIRECTOR TO ALL LAW ENFORCEMENT OFFICIALS

Extremists of all stripes in our society ceaselessly attempt to discredit the rule of law as being biased and oppressive. They have no conception of—or purposely choose to ignore—its role and history. It is not surprising that these divisive elements concentrate their abuse on the law enforcement officer. Above all, he stands firmly in the path of mindless actions that would reduce our government of laws to mob rule or the whims of lawless men.

To permit such attempts to damage the reputation of our government by law is, of course, a necessary condition of democracy. While it must tolerate the lawfully expressed views of extremists, its citizens cannot through their own ignorance be entrapped with sympathy for bankrupt doctrines that would lay waste the foundations of their Nation.

In observing Law Day, USA, this May 1st, we have an opportunity to view our laws in their proper perspective and appreciate the role they have played in developing our Nation. This day is also a time to renew our obligation of support to law enforcement officers, 126 of whom selflessly gave their lives last year in upholding the law.

Our greatest democratic heritage is the rule of law. It is the foundation for and the guardian of the rights, liberties, and orderly progress we enjoy. It is also the soil that has nurtured the "American dream" implicit in the Declaration of Independence pledge to provide ". . . Life, Liberty, and the Pursuit of Happiness" for all our citizens.

The tests of time and challenge in our Nation's history have more than proven the majesty of the law. Were this not so, our country would not have endured its strife to now stand before the nations of the world as a model of freedom and accomplishment. This is not to say the law has always been right, but that it has been organized to ultimately seek justice. Recognition of its power for good is not merely the experience of our nearly two centuries of democratic government. The struggle to insure the rights of the individual and his social organizations by written decree has roots which reach far back into antiquity. The authors of our Constitution were mindful of this legacy when they drafted that historic document.

Nor was the importance of a definitive rule of law lost to the general public of our infant Nation. Worn by the ravages of the Revolutionary War, our expectant forefathers appealed for and got amendments to the Constitution which formed the Bill of Rights—specific guarantees of law that responded to the heart of their grievances. Together the Constitution and the Bill of Rights gave birth to our rule of law and it is the flesh and blood of our Nation.

The law is dynamic because it responds to change as it did for those who argued for and received the Bill of Rights. And our Nation's history has been a chronicle of change. But the process of change in a democracy requires discipline and responsibility that will not unleash unrestrained forces that would rip the fabric of our freedoms. That fabric derives its strength through the warp and woof of laws that orderly guide the process of change by defining our individual and corporate duties. Change in our society would otherwise simply result from those who could impose their will on others without regard for the validity of their arguments or the rights of those who do not share their views.

Law Day honors an indispensable commitment of a free society: that democracy be dynamic but not self-destructive. If we do not value this commitment by both honoring and obeying the rule of law, the tyranny of extremists may inevitably result.

J. EDGAR HOOVER,
Director.

MAY 1, 1972.

Mr. DENHOLM. Mr. Speaker, in closing my remarks today—I acknowledge with gratitude my prior years of service as a special agent of the FBI. It was my privilege to be associated with the Federal Bureau of Investigation for several years before I voluntarily returned to my State of South Dakota to establish a law firm. During the years that I served as a special agent of the FBI I was associated with some of the best American citizens that I have ever personally known. I knew the Director as a leader of men, a man dedicated to duty—and a patriot of our time.

On that sad morning seven days ago—I said in part, that Mr. Hoover was a man of compassion, decency, dignity, and destiny. He sought no glory but glory shall seek him. His reverence for right is now a hallmark in the annals of history. His trials of life are a tribute in honor of country. His lifetime of service to others was his surest goal of service to God—and his service of the Master of all men was his noble work on earth—now finished but never to be forgotten. He is dead but the name of J. Edgar Hoover shall live as a legend of time.

Mr. BURLESON of Texas. Mr. Speaker, immediately following the death of Mr. J. Edgar Hoover, I joined with several of our colleagues in eulogy to him.

This is further opportunity to express a deep appreciation for this man who has meant so much to our Nation and to those who knew him personally.

A number of us here in the House of Representatives served as agents of the FBI. We value the associations which that experience afforded. I know we all have an untimed respect for the Federal Bureau of Investigation, an organization built from the very beginning by its only Director, J. Edgar Hoover.

Mr. Hoover was a man who commanded respect but never demanded it. He was a legend to those of us who were a part of the FBI and who served under his direction. In the Bureau there was always an inspiration from the Director. His dedication to the safety and welfare of our country was felt by those privileged to work for him and with him.

Mr. Hoover so formed the FBI that his predecessor can carry on its great traditions and efficient services. I wish for the new Acting Director, Mr. Gray, the very best and pledge him my support and cooperation. I know Mr. Gray will make all efforts to follow in the footsteps of his illustrious predecessor. J. Edgar Hoover will live always in the minds and hearts of the people of America. His greatest monument is the esteem and appreciation we hold for him.

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. DENHOLM. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, today would mark the end of the 48th year in which John Edgar Hoover served as Director of the Federal Bureau of Investigation.

On May 10, 1924, the Federal Bureau of Investigation, then known as the Bureau of Investigation, a branch of the U.S. Department of Justice, formally went into operation. Mr. Hoover was the first and only Director of the FBI. Prior to that time he had served in the Department of Justice as an attorney, following his original appointment in 1917, so that his total career in the Department of Justice was about 55 years. Insofar as I know, no one in high executive office has ever served so long, nor with such excellence in performing his public duty.

At the time Mr. Hoover took over as Director of the FBI a police or investigation agency was commonly staffed by people with little if any, formal training. They were oftentimes selected from the ranks of political followers of those who were empowered to make the appointments, and were simply issued a badge and a gun and set to work. They became instant law-enforcement officers.

When John Edgar Hoover took over the FBI in 1924 he immediately set about making it a truly professional organization. He established high standards for the selection of recruits; he established an unheard of thing, a training school for his agents. He trained them as well as possible at that time in the science of police work. He gave them training in the law and usually selected men who had a law background.

He made a truly professional organization out of the FBI, an organization whose standards of excellence have become the standard of the world.

During the nearly 50 years that he headed the FBI, he guided it and its agents through the gangsterism of the prohibition era, the crimes of kidnaping, extortion, bank robbery, and other violence which infested our country in the 1930's; into World War II when, at its inception, he was called upon to fill a gap little known to most Americans.

At the beginning of World War II the United States had no intelligence system whatsoever, and no counterintelligence system. At the direction of President Franklin D. Roosevelt, J. Edgar Hoover immediately set about filling this need. Also, pursuant to Presidential directive, the FBI, under J. Edgar Hoover, took on the responsibility of protecting our country from espionage, sabotage, and subversive activities.

During the 1950's and 1960's he continued to guide the Bureau, at all times following the laws of the United States and with a profound respect for constitutional rights.

One of the most satisfying and interesting things in my memory of the Bureau and of J. Edgar Hoover is the fact that as far back as the 1930's he insisted that his agents adhere to strict principles guaranteeing the constitutional rights of persons arrested or being investigated; principles which in recent years are finally being recognized and protected in the decisions of the Supreme Court; namely, the right to counsel, the right to remain silent, and the right to prompt appearance before a magistrate.

All of these were standard Bureau policies of the thirties, and now they are fixed in our constitutional law by Supreme Court decisions demanding that other law enforcement agencies obey these same constitutional rights.

Mr. Speaker, fairness demands that we make a special record of the fact that in the early days of World War II J. Edgar Hoover himself opposed the regrettable Japanese internment even through his agents were required to carry it out under the direction of the executive department.

There have been times in the not too distant past in which persons who had attacked Mr. Hoover were dismayed to find that documents which they had turned over to other investigatory committees were in turn being delivered to the FBI for scientific examination. Yet they promptly found that the FBI laboratories conducted the examinations and studies fairly and impartially.

Within the field of law enforcement John Edgar Hoover was the first man to employ scientific procedures of the type which we accept today as commonplace.

He set up the world's greatest identification system. He perfected the fingerprint identification system which had been experimented with in prior years. He brought scientific laboratory experimentation and investigation within the reach of every police department in the United States, free of charge to local authorities. This included chemical laboratories, spectographic laboratories, his laboratories involving the principles of ballistics which, again, brought another dimension to law enforcement throughout the United States and the world. Not content simply to train his own men in a professional manner, he persuaded the Congress to set up the FBI National Academy, formerly known as the National Police Academy, and thousands of police officers throughout the United States have received excellent professional and field training as the result.

John Edgar Hoover was not only a man of great understanding, knowledge, loyalty and dedication but, most of all, a man of restraint.

At no time did he abuse the vast powers which were at his disposal.

Mr. Speaker, we are going to miss John Edgar Hoover as the Director of the Federal Bureau of Investigation.

I wish his successor, well in the discharge of his responsibilities.

Mr. MAHON. Mr. Speaker, I wish to be counted among those who seek to honor the memory of the late J. Edgar Hoover.

Through the years Mr. Hoover performed a great service to the Committee on Appropriations. This inured to the benefit of the entire Nation.

In the early 1940's the Committee on Appropriations sought the cooperation of Mr. Hoover in establishing a system of investigations that would assist the committee in securing facts concerning expenditures and the operation of Government agencies. An objective system was established. It has proven invaluable to the committee over the years in arriving at decisions relating to appropriations for the operations of the Government.

Mr. Hoover was ever faithful to his trust as Director of the FBI. He did a masterful job and he meant much to this country during a very long, trying, and difficult period. I pay honor to the memory of this great American.

Mr. HAGAN. Mr. Speaker, the death of J. Edgar Hoover leaves a terrible void—for there is no doubt but that this unusual individual who had devoted a lifetime to serving the interests of justice and law and order will be hard to replace or be equalled in our time.

I think the editorial written by Mrs. Helen Williams Coxon, editor and publisher of the Ludowici News, Ludowici, Ga., best exemplifies the unique quality of Mr. Hoover and I, therefore, commend it for your attention:

Seen and Heard Here and There

(By Helen Williams Coxon)

When J. Edgar Hoover passed away this week, a part of American justice went with him. The seventy-seven year old Director of the Federal Bureau of Investigation since 1924, who made the FBI a symbol of law enforcement, stood for all that is best in law enforcement.

The greatest compliment that could have been paid him in his forty-eight years in office is the fact that he has been reappointed to his position by every United States Attorney General who has taken office since 1924.

As the Statute of Liberty in New York Harbor stands as a beacon light of Liberty to those coming to our shores, the statute of J. Edgar Hoover will stand forever as a symbolic of law and order in America.

He was a man of firm convictions. Like anyone else, he did not welcome criticisms. Nevertheless, when they came, and from every side, he stood his ground because he knew he was standing on a firm footing. He was on the side of law and order. He knew he was right and his war on criminals never ceased to the day of his death.

It is said that when Hoover was asked to head the Bureau of Investigation he said he would take the position on certain conditions, which were, "The Bureau must be divorced from politics and not be a catch all for political hacks. Promotion will be made on ability, and the Bureau will be responsible only to the Attorney General." These standards have been rigidly enforced and there has never been any stigma of politics coupled with the name of the FBI.

Now nearing the half century mark in office, J. Edgar Hoover and his highly trained men have tracked down and brought about the conviction of some of the greatest criminals the world has ever known. It is said that with at least sixty offices in the United States with skilled personnel, no major crime is ever committed in this country but that the FBI can be on the job in one hour. FBI men live under rigid standards. Mr. Hoover's life was an exemplary one and his men, no matter where they are stationed, live by a high standard of personal conduct and discipline. The selection and training standards set up by Director Hoover is responsible for the integrity and high regard in which his men are held.

It is generally conceded that those who would have ousted Mr. Hoover from the directorship of the FBI have been those people who have been soft on Communism.

In the space of a short time we have known a Superior Court Judge to be dragged from his court room and killed; more than six hundred policemen have been killed; the National Guard has been attacked with lethal weapons; the United States flag has been pulled down and stomped; draft cards have been burned, young people have fled to other countries to evade the draft; government and university buildings have been burned and bombed by arsonists and traitors; protestors have demonstrated over trivialities; planes have been hijacked; prayer has been stripped from our schools; communists have been speaking in our colleges; Cuba is operating a training school for communists at our very door; and still we sit by and watch these things happening.

It is a great loss to this nation to see a man who has stood for law and order and who has fought communism, pass from our scene of action when his experience and judgment are so sorely needed at this time.

It is hoped that his principles will live on in the great organization which he has founded and built on such a strong foundation.

Mr. BIAGGI. Mr. Speaker, I rise to join my colleagues in paying tribute to a great American, J. Edgar Hoover.

As a former police officer, I have a profound personal respect for the memory of J. Edgar Hoover and his Federal Bureau of Investigation. The accomplishments of Mr. Hoover in the field of law enforcement made him a legend in his own time. When he became the Director of the FBI in 1924, he transformed that organization into the No. 1 crime fighting body in the world. Indeed, we are all aware of the major cases which the FBI solved over the years.

In 1932, for example, the son of the famous aviator Charles Lindbergh was kidnapped. Once the FBI was put on the case, they used the most modern methods available to criminologists along with the scientific processing of evidence which led to the arrest of the kidnapper, Richard Hauptmann. Hauptmann was later convicted and executed for the kidnaping and murder which had shocked the country.

Other cases in the 1930's saw the FBI, under the able leadership of its Director, track down the major public enemies of the time. Mr. Hoover's highly educated agents ripped into the gangs and hoodlums and put such notorious criminals as John Dillinger, George "Baby Face" Nelson, Charles "Pretty Boy" Floyd, and "Ma" and Fred Barker out of operation.

In addition, the phenomenal success of the Bureau during World War II in apprehending Nazi spies was most impressive. These spies were arrested as fast as they infiltrated the United States.

From that time on the American public had a deep respect for J. Edgar Hoover and his Federal Bureau of Investigation. So much respect, in fact, that eight Presidents considered the Director as an indispensible crime fighter and asked him to continue in his country's service.

Mr. Speaker, the country has suffered the loss of a great man. A man who dedicated his entire life to protecting America from criminal and conspiratorial influences. No one can question the sincerity of his convictions nor the depth of his feelings for what he considered to be the fundamental values of America. This feeling was reiterated by Mr. Hoover recently when I was fortunate enough to have spent some time with him in his office. At that time he told me stories of his colorful past during which a recurrent theme came forth that his prime concern was for the betterment of the American way of life. Indeed, this great man never wavered in his conviction that America is a great Nation.

He shall always be remembered for maintaining his ideals even in the face of criticism. It is not surprising that such a man became America's No. 1 crime fighter.

GENERAL LEAVE

Mr. DENHOLM. Mr. Speaker, I ask unanimous consent that all Members have 5 days to revise and extend their remarks and include extraneous matter on the subject of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

COMPREHENSIVE NUCLEAR TEST BAN (CTB); EXTENSION OF THE NUCLEAR TEST BAN TREATY TO INCLUDE UNDERGROUND TESTING

The SPEAKER. Under a previous order of the House the gentleman from Minnesota (Mr. Fraser) is recognized for 10 minutes.

Mr. FRASER. Mr. Speaker, today a bipartisan group of Members join the gentlemen from New York (Mr. Bingham) and Ohio (Mr. Whalen) and me in introducing legislation calling upon the President to propose an expansion of the Nuclear Test Ban Treaty of 1963 to include underground testing. A list of the cosponsors follows my brief remarks.

The sponsors of this resolution may not all agree on what a comprehensive test ban—CTB—treaty should include. But we do agree that negotiations for such a treaty are a high priority matter and we ask the President, in the words of our resolution:

> To propose to the Soviet Union and the other nuclear powers an expansion of the limited test ban treaty to include testing underground and to strive for its prompt acceptance.

We continue, Mr. Speaker, to seek additional cosponsors for our resolution. The list of those sponsoring the resolution today follows:

List of Sponsors

Jonathan B. Bingham of New York.
Donald M. Fraser of Minnesota.
Charles W. Whalen, Jr. of Ohio.
Herman Badillo of New York.
Seymour Halpern of New York.
Robert N. C. Nix of Pennsylvania.
Robert L. Leggett of California.
Lucien N. Nedzi of Michigan.
Abner J. Mikva of Illinois.
Edwin B. Forsythe of New Jersey.
Charles A. Mosher of Ohio.
Benjamin S. Rosenthal of New York.
William F. Ryan of New York.
John Dellenback of Oregon.
William D. Hathaway of Maine.
John F. Seiberling of Ohio.
Robert F. Drinan of Massachusetts.
Robert W. Kastenmeier of Wisconsin.
Parren J. Mitchell of Maryland.
Dante B. Fascell of Florida.
Bertram L. Podell of New York.
John G. Dow of New York.
Nick Begich of Alaska.
Phillip Burton of California.
John C. Culver of Iowa.
Michael Harrington of Massachusetts.
Henry Helstoski of New Jersey.
Ralph H. Metcalfe of Illinois.
Thomas M. Rees of California.
James H. Scheuer of New York.
Frank Thompson, Jr. of New Jersey.
Bob Bergland of Minnesota.
Don Edwards of California.
Arthur A. Link of North Dakota.
William S. Moorhead of Pennsylvania.
Patsy T. Mink of Hawaii.
Charles C. Diggs, Jr. of Michigan.
Charles B. Rangel of New York.
Edward P. Boland of Massachusetts.
Walter E. Fauntroy of the District of Columbia.
Ken Hechler of West Virginia.
Augustus F. Hawkins of California.
Edward R. Roybal of California.
Peter H. B. Frelinghuysen of New Jersey.
Bill Frenzel of Minnesota.
William J. Green of Pennsylvania.
Henry S. Reuss of Wisconsin.
William S. Mailliard of California.
John Conyers, Jr. of Michigan.
Joshua Eilberg of Pennsylvania.
William (Bill) Clay of Missouri.
William D. Ford of Michigan.
Paul N. McCloskey, Jr. of California.
George W. Collins of Illinois.
Paul S. Sarbanes of Maryland.
Shirley Chisholm of New York.
John E. Moss of California.
Floyd V. Hicks of Washington.
Bella S. Abzug of New York.
Spark M. Matsunaga of Hawaii.
Donald V. Dellums of California.
John Brademas of Indiana.
Frank Horton of New York.
Jerome R. Waldie of California.
Robert A. Roe of New Jersey.
William A. Barrett of Pennsylvania.
James C. Corman of California.
Louis Stokes of Ohio.
James G. O'Hara of Michigan.
Claude Pepper of Florida.
Peter W. Rodino, Jr. of New Jersey.
Ogden R. Reid of New York.
Edward I. Koch of New York.
Bob Eckhardt of Texas.
H. John Heinz III of Pennsylvania.
Lawrence Coughlin of Pennsylvania.

VIETNAM AND THE RESPONSIBILITY OF THE HOUSE OF REPRESENTATIVES WITH REFERENCE THERETO

The SPEAKER. Under a previous order of the House the gentleman from Michigan (Mr. Riegle) is recognized for 1 hour.

Mr. RIEGLE. Mr. Speaker and colleagues, I rise today not in anger, but in sadness, and with a feeling of despair about the House of Representatives and, for that matter, the whole legislative branch of the Federal Government. Now, I have served here in the Congress 5½ years; I recognize that is a limited period of time when compared to many of my senior colleagues who have been here for several decades.

So, I do not stand here and suggest in any way that somehow my term of service would better equip me than anyone else to speak about the problem in Vietnam, which is what I take this special order to address.

But, Mr. Speaker, during the time I have been here I have seen the House of Representatives and the Congress plagued by the war in Vietnam.

I remember when I first ran for election in 1966. In that campaign there was the issue of Vietnam. At that time 5,000 Americans had been killed in the war. The figure today, 5½ years later, is something like 55,000. And, there is no way we can calculate the deaths of Asians, both those that were involved in some direct way in the war, but the many more who have been caught in the crossfire and whom I think can best be classified as civilians on both sides who possibly never understood the rationale and the arguments of either side, but were killed anyway.

Nonetheless their lives in terms of tens of thousands have also been sacrificed.

I have served 5½ years since I have been in Congress on the Committee on Appropriations, and I have seen us time and time again have to say "No" to requests for funds for problems here in the United States, such as on-the-job training programs, public works programs, assistance for the elderly, medical research programs, or to build new schools here in the District of Columbia, or any one of dozens of other things. We had to say "No" to those requests because there has not been enough money, and yet at the same time we have taken the money that we might have spent for those things and sent it to Indochina, and spent it on the war in

Vietnam. Probably a conservative estimate of our total Vietnam war costs is something in excess of $150 billion, and that is more money than anyone can even understand. But the true cost is not just in terms of the dollar expenditures, but is in terms of those worthwhile things we might otherwise have done with those same dollars to solve the problems that have not been solved, either in our country or abroad. That is the worst part of our expenditure, our failure to face up to other problems far more important and worthy of our investment of lives and dollars.

In speaking about the war in Vietnam this afternoon, I do not rise in the belief that I possess any special knowledge over and above any one of my colleagues here in the House, or the Members of the other body. I rise primarily because I feel so deeply about the wrongness of our U.S. policy in Indochina. I dissent from our current policy, and most particularly the recent developments within the last day and a half, not to be argumentative or to quarrel with the President, whose election I supported in 1968, and not to raise a divisive voice in this country, but I speak in order to meet what I believe to be my personal responsibility as a Member of this Congress.

I feel very strongly that honest dissent is essential to the health and well-being of our system of government as we know it.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. RIEGLE. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I commend the gentleman from Michigan for rising to voice his opinion, and I join him in his dissent. It does not make sense to me to make the decision that the President did last night in blockading the ports of North Vietnam, and to stop the ships of the nations of the world from entering those ports. It does not make sense to me to threaten the Soviet Union at a time when we should be winding down the war rather than threatening to escalate it. Particularly in reference to the action taken by the President which seems to be a futile gesture at best, because, according to most experts on the North Vietnamese, they have enough war material and weapons and arms on hand to carry on their military operation without the necessity for receiving any additional material from the outside for months to come.

The point that I want to make, however, is that some would criticize the gentleman in the well and some would criticize me for taking this action because the President himself called for unity last night, and for support of his decision. But, believing as we do in the dangers involved in the President's decision, should we then be quiet and let happen what we fear may happen? I do not believe so.

As a matter of fact, in 1951 at the time the Korean war was at its height there were two Senators who voiced their opinion to the contrary, saying that unity is dangerous to the well-being of our country if the country is embarking upon a disastrous course. One of them said this:

> What is more important is that we adopt the right policy in a moment of great national danger. This means that, above all, our policy should represent the best thinking of our national leaders, including those who disagree with the President as well as those who agree with him.
>
> The country wants unity, but it does not want unity on a policy which has led to disaster or on the perpetuation and power of those who made that policy and who cannot be expected to make good on any other. In other words, the country does not want unity on defeat, or unity on disaster. Disunity hurts our cause without question, but unity on a policy which was wrong could bring even greater disaster.

The Senator who made those remarks in 1951 was the distinguished Senator from California at that time, the Honorable Richard M. Nixon.

In 1951 too, rising to speak in the Senate during the Korean war the late Senator from Ohio, Senator Robert A. Taft, said this:

> During recent years a theory has developed that there shall be no criticisms of the foreign policy of the administration, that any such criticism is an attack on the unity of the Nation, that it gives aid and comfort to the enemy, and that it sabotages any idea of a bipartisan foreign policy for the national benefit. I venture to state that this proposition is a fallacy and a very dangerous fallacy threatening the very existence of the Nation . . . As I see it, Members of Congress, and particularly Members of the Senate, have a constitutional obligation to reexamine constantly and discuss the foreign policy of the United States. If we permit appeals to unity to bring an end to that criticism, we endanger not only the constitutional liberties of the country, but even its future existence.

In his speech, Senator Taft also lashed at those in the Senate who criticized by name calling rather than by intelligent debate.

So I say to the gentleman, I think it is necessary and I think it is essential that those who disagree with the President at this critical time and on this critical issue should rise in the Congress and voice their sentiments in opposition to that policy.

I commend the gentleman for doing so.

Mr. RIEGLE. Mr. Speaker, I thank the gentleman from Illinois for his statement.

Mr. Speaker, I too think it is regrettable that we cannot have a full scale, unrestricted debate on the pros and cons of American policy in Southeast Asia here in the House Chamber.

Under the normal workings of the House, as we know, we operate under a system where bills must be reported out from committees and they must receive a rule from the Committee on Rules before they can come to the House floor for open debate by Members meeting in the Committee of the Whole.

Thus far in this war, there have been some instances where amendments have been offered or efforts have been made to try to address at least tangentially the issue of the war in Vietnam, yet we have not managed ever to have a full and unlimited debate here in the Congress on this critical issue.

So what many of us have been left with, who feel strongly about the wrongness of our involvement in the war, has been to stand up at the beginning of the day and make a 1-minute speech, and very little of course can be said in 1 minute on a problem as complicated as this one. Or maybe wait until amendments are offered to various bills and then hope to get maybe 2 or 3 minutes of time to debate the amendment which we think relates to ending American involvement in the war. Again that is not sufficient time on a really controversial and complex question to discuss it properly.

All we are left with then is the alternative that I am using here today, namely, requesting time under a special order under the rules to speak at the end of the day when the Congress has finished its regular business and most of the Members have gone home.

In a sense, standing here in this virtually deserted House Chamber to discuss the war is symbolic of how this war has gone on and on. How it continues to go on today and how it has gone on for the past 10 years. And there is no end in sight.

Last night the President announced a major escalation of U.S. military involvement in the war in Vietnam and Indochina. His policy to blockade the Haiphong harbor in North Vietnam is a clear act of war which directly violates international law.

Yet we have not declared war against North Vietnam or any other country. And the Constitution of the United States does not grant to any President, past, present, or future, the right or personal privilege to commit the United States to acts of war unless specifically authorized by the Congress.

Despite this unmistakable constitutional requirement, the Congress has not been consulted in this matter.

We have not been asked to give nor have we given any legal authority for these new acts of war.

These unauthorized acts of war are illegal and they are wrong.

If I as a Member of this Congress were to acquiesce quietly to these acts, I think I would bear equal responsibility with the executive branch for this violation of the U.S. Constitution. So I must urge my colleagues to insist that the Congress, we who have been charged with this constitutional responsibility by the people of America, immediately insist that our branch of Government become a formal party to these decisions, and that actions taken in the name of the United States be ones that we clearly and fully participate in from the very beginning.

That seems to me only a basic assertion of constitutional law.

One might ask, "Why is it, then, that the Congress, knowing this, and being charged with this responsibility, is off doing other things?" We had two bills on the House floor today, one to build a monument in the District of Columbia, the other relating to a matter with respect to the reorganization of part of the Government—certainly not matters of major attention or major concern. But did we meet to discuss the war in Vietnam? Did we meet to discuss its constitutionality and the rightness and the properness of addressing the question and resolving the question whether or not we are at war and whether or not there ought to be a declaration of war?

Oh yes, there was a period in the 1-minute speeches when we heard Members speak briefly about these issues. But I would hope that this Congress would never feel that it had discharged its responsibility in this area in the period reserved for 1-minute speeches.

We have been at war now for 10 years. And 55,000 of our best young Americans are dead. Still we have not faced this question, and we do not face it today. And what a shame that is on this House, and it is a shame on each one of us in this House. I do not like it, and I do not think the people of America like it. Yet we seem so pitifully inept at being able to come to grips with this issue. So the war goes on, people continue to get killed, and the bombers bomb. For what purpose and under what legal authority? Well, that authority does not exist, at least not as the Constitution of the United States defines it.

Each one of us in this House stood up at the beginning of our terms. We raised our hands and we swore an oath before God to defend the Constitution of the United States—not part of it, not the part that we may like, but all of it. The war powers are very clearly set forth in the Constitution, and they do not give the President of the United States the right to send this country to war, whether that President is Lyndon Johnson, John Kennedy, Richard Nixon, or anybody else.

But what do we do? Do we stand up and try to exercise our constitutional responsibility? The record is very clear. Of course, we do not. We are busy with other things. We have monuments to build here in the District of Columbia. We have other things, but we have not yet been able to schedule for top priority consideration in this House the question of whether or not we ought to be at war in Vietnam.

I say I am prepared to accept that part of the responsibility which is mine for the failure of this Congress to act. But I feel a great shame that this fact is so, and the fact that we are silent as a House, and that we go to such great lengths not to face this issue. It makes a mockery of constitutional government.

We wonder why there is not public faith today in the process of self-government in the United States. How can we ask people to have faith in a Congress that goes 10 years without facing up to the question of the war in Vietnam?

Of course, people are not going to have faith in that kind of government. They cannot have faith in it. What a shame that is. We are the people's branch of government, but what does that mean when we know the people of the United States want this war to end? The question of whether President Thieu sits in the presidential palace in Saigon is not an issue that the people of the United States are prepared to risk all of mankind for.

They are to smart for that, and they are a great deal smarter than we are, and they deserve better leadership than they are getting—and again, that is our responsibility.

Anyone in this Congress should have to go to Arlington Cemetery only one time to bury a young American killed in this war, in the absence of a declaration of war, in the absence of any clear strategic, moral, or legal justification for our involvement in this war, to come back with a heavy heart and insist that we would take action and face the issue at least and not slip off to the side. I think we have to ask ourselves the question, "Why do we not face the issue?" And there are many reasons.

I think one of the principal reasons is something we call the seniority system. We have a system here in the Congress, as my colleagues know but unfortunately as the country does not fully know, whereby we pick our committee chairmen, the most powerful men within the legislative process, not on the basis of ability or merit or competitive leadership, but we pick them on the basis of seniority. The man who serves on the committee the longest becomes the committee chairman. We have seven committee chairmen in the Congress today in this House who are in their seventies and four who are in their eighties. A man to become a committee chairman in the House in many instances has to win 20 elections in a row, or 15. In the case of 15, that is 30 years he has to serve here before he becomes a committee chairman.

It is not surprising, therefore, that the Members avoid risks and complicated issues, and they avoid the war in Vietnam like a plague. Let us vote on anything else, but not on the war in Vietnam, because it is a political risk, particularly this year, because this is an election year. So by and large, as a Congress, we do not want to have to face this issue. We will let the President make the decisions even though that violates the Constitution. We will ignore it and look the other way, and let him decide. That is wrong, and it is not wrong because it is under this particular President, but it is wrong under any President. But that is what goes on, and we let it go on, and it is a travesty. It is an absolute travesty.

Mrs. ABZUG. Mr. Speaker, will the gentleman yield?

Mr. RIEGLE. I yield to the gentlewoman from New York.

Mrs. ABZUG. Mr. Speaker, I want to commend the gentleman for taking this special order. It is a very lonely moment for the gentleman, for me, for the American people, and for many good Members of this House, those who have spoken in support and those who have spoken in opposition to what the President has done.

I think that those who have spoken in support of what the President has done may be well meaning, but I think they have a misguided sense of where their loyalty or responsibility to the American people as a Member of Congress lies.

The overwhelming majority of the American people have indicated their desire to withdraw from Vietnam. We have only one reason for being there. It is, simply, to support the puppet regime of General Thieu, who was elected in a nonelection without any opposition. Surely, we cannot be pledging to commit the will of the people the prestige of this Nation, the prestige of this Congress, and even the prestige of the Presidency to the maintenance of power of a dictator.

Once again, when there could have been peace, an American President has chosen the course of war. The choice was clear: Negotiations could have led to the resignation of General Thieu and the election of a neutral non-Communist government in South Vietnam. President Nixon and his military advisers have chosen the policy of death and madness. They have chosen to ignore the rational settlement that is theirs for the asking and that has been urged upon them by the American people and by men and women of conscience everywhere. They have chosen even to ignore the pleas of the wives and families of the American prisoners of war in whose name they have pursued this policy of devastation and bombing.

I think of what Mr. Tom Wicker said today in the New York Times, pointing out that:

> When Nixon went on the air last night, it was terrifyingly true that no one knew what the President would do, that no immediate means of influencing his judgment was at hand, that no real way existed to stop him from following some apocalyptic course.
>
> He was in that moment as true an emperor as ever existed and scarcely more accountable; a people who wanted peace could still be given war at his dictate; and what good would it do to vote him out of office six months from now if the world were an ash or "the enemy" had been obliterated in his honor?

Mr. Wicker's remarks underscore the humiliating position in which the Congress, and I as a Member, and you as a Member, has allowed itself to be placed. Under the Constitution—and I have studied it all my life—it is the Congress that has the right to declare war; and yet for almost a decade it has allowed three successive Presidents to wage war without the mandate of the elected representatives of the people.

I was shocked, frankly, to hear many of my colleagues roll out the drums today and support the President even though the President is wrong. I think that we fail to carry out the functions of Congress when we do so. I think that our failure to act decisively to state that the President is acting unconstitutionally and without regard to the will of the American people is a complete abdication of our power. It is an abdication which makes meaningless the repeal of the Gulf of Tonkin resolution, in which whatever alleged legality for the pursuit of this war might have existed.

Congress has the responsibility to either declare this war or not, to have this war or not. The blockade—and make no mistake about the fact that it is a blockade—is an act of war which threatens the peace of this country, threatens the peace of Vietnam, and threatens the peace of the world.

It may be that this bluff will not create that third world war, but I do not think that democracy should be based upon bluff. I think that democracy is based on action. I, for one, will not stop in this House until action is taken by this House to declare that it is the representative of the people and that it has the sole responsibility for stopping this war, cutting off funds, facilitating the release of our prisoners, and securing the withdrawal of our troops and planes.

I think sponsoring an impeachment of the President, an action which is to be taken by a good number of Members including myself, is wholly in order. In acting as he has, the President has in fact committed high crimes and misdemeanors within the contemplation of the Constitution.

I think the people of this country are going to accelerate their demands and accelerate their protests. They are going to take political action against President Nixon and, I think, against any men and women in this House who do not act in this moment of serious crisis to relieve them of their pain, their suffering and their concern over our bringing on these conflagrations in the world.

I believe the people will act. I believe they will come, as they did today in vain, to assert their will on the House, that they will try to exercise their will, which has been ignored by the House, and will try to speak out, even though this is not normally done. What is not normally done is no longer going to matter.

The Members of the House also have a special responsibility for accelerating their legislative activities in the House to act to cut off the funds, to censure President Nixon, to insist that there be a vote in the House as to whether we approve of this blockade, as an act of war, and whether we declare war or not.

This must happen. I, for one, will not stop until we bring these resolutions and these issues to the floor of the House. I think the people of this country will accelerate their protests, their petitions for redress of grievances here in the House and at the White House. And I urge them to do it. I urge them to act to petition for redress of grievances.

The only way a democracy can survive in such a situation is if the people exercise their rights and insist that they negate actions taken unlawfully by the Executive.

Mr. RIEGLE, you are to be commended for standing here, lonely as it is. I do believe that many of our colleagues agree with us.

We have made great mistakes in believing the Executive should be sacrosanct from criticism. The "defense" of which they speak has nothing to do with us. A blockade thousands of miles away does not have any meaning at all in terms of protecting this Nation or the people of this Nation, so many, many miles away.

I commend you, and I hope that all of us will be able to act here. I hope that our leaders will also act with us to provide ways in which we can enforce what I think was a statement of clear direction by the Democratic caucus to the Democratic Party in this House that we believe there should be an end to the bombing and military activity, and the withdrawal of our troops, conditioned solely upon the release of our prisoners of war.

Mr. RIEGLE. I thank the gentlewoman from New York.

I would draw attention to the fact that nearly 200 years ago, when the Constitutional Convention met to draw up our Constitution there was a great debate as to where the war power would reside. The people at that time had a great fear—and properly so—of residing that great power, that war power, in one person. So the debate in the Constitutional Convention, if one studies history, was not a debate that centered at any time around whether the President of the United States, whoever he might be, would have the sole responsibility of making a decision as to when the United States would or would not go to war.

As a matter of fact, the debate then was between two other alternatives. One was to reside that power here in the Congress with the Members of the House and the Members of the Senate. The people who argued against that said "no, even that was too great a concentration of power on so critical an issue." They claimed there ought to be a public referendum on anything as vital as going to war and every citizen of the United States ought to have the opportunity to vote yes or no. That was the debate.

The debate was finally resolved by the decision to reside that power here in the Congress. The theory was that that would provide sufficient protection against a mistake by just one person making that decision by himself. I think that was a wise decision, because in that way all areas of the country could be represented and all of the people of the country could have a much more direct voice in the issue as to whether or not this country would go to war. It would more likely guarantee there would be a broad and full dissemination of information and facts about the reasoning that anyone would offer to suggest that the United States should go to war.

In all likelihood it would mean that the United States citizens would be much more fully informed, so if a judgment were finally made by the Congress, by the people's elected representatives here in the legislative branch, if the decision were made here to go to war, then everyone in the country would fully understand why it was done and what the stakes were, and we would have a kind of unity of purpose and a national understanding which any country needs to have if it is going to undertake anything as dramatic and serious and profound as a war effort. We have been denied that in this case.

Mr. Speaker, as I said earlier, this is a direct violation of the U.S. Constitution. But more than that, it is a violation of the very spirit of this Government and what it is all about.

So what do we see today out across the country? Not just in the young people, although very clearly there, but among all age groups in the country there is apathy and despair and cynicism and a loss of faith in Government. In all the people that have gone before, they have made great sacrifices on the public side and private side and in the legislative branch of the Government and men in the armed services over the years, in decades past, have made great sacrifices. All of that effort and all of that sacrifice is literally being wasted today in terms of the loss of faith in this country because our Government is not now functioning as it should or as the law requires.

We can ignore that fact, if we want to, and we can lose self-government. We can lose it. I think that is the direction we are moving in. How sad it is that that is so. But we are a long way from reversing that drift today.

Frankly—well, I do not intend, I do not intend to talk at much greater length on that point because there are many other things that have to be considered with that particular problem, but it is hard to be optimistic about the future of self government in the United States when we witness the kind of pathetic self-government response that we see today, right this very day, with respect to the issue of the Congress of the United States and the Executive with reference to the war in Vietnam.

I think we have got to face the fact that we have placed world peace in jeopardy, grave jeopardy, as a result of the decisions in the last 2 or 3 days. We must be honest enough to acknowledge that, because these latest military moves by the United States, and the United States alone, have created this new threat to world peace. Until yesterday the conflict in Vietnam, despite its inhumanity and its tragic dimensions, had never posed a true threat to world peace.

Mr. Speaker, it is the United States Government that has falsely exaggerated this internal Indochinese conflict into a matter that now threatens possible world war.

At no time previously has this conflict involved a direct and belligerent confrontation between competing superpowers.

President Nixon has changed that. His actions have pushed the world to the brink of a possible military confrontation between the United States and the Soviet Union. One wonders what international circumstances could ever truly justify provoking this kind of superpower confrontation.

Every single fact that has been accumulated from 10 years of miserable United States involvement in Vietnam provides overwhelming proof in every form that the war in Vietnam could never justify that kind of confrontation. The internal struggle in Indochina is not been worth the suggestion of a world war.

Arguments about the safety of the United States troops stationed in Vietnam and the return of American prisoners of war have been very thoroughly discussed. We are all deeply concerned about those arguments. However, the final withdrawal of all United States troops from Indochina now—not 4 months from now, not 4 years from now or 10 years from now is paramount. But the only way to protect American troops in Vietnam is to bring them home. That is the only way, no matter who is President. That is the only way.

We are wrong to remain in Vietnam. The wrongs of other nations provide no excuse or justification whatsoever for our wrongs. In the end, we are responsible for our own conduct.

Mr. Speaker, there is no moral, strategic or any other justification for our forces to remain any longer in South Vietnam.

To ignore these facts and to dramatically up the stakes, gambling all humanity against the horrors of nuclear war is so outrageous, so indefensible that all the citizens of the world are victimized, and for what?

What have we been given as the justification by the President? What statement and what list of particulars has come here to the Congress from the executive? There is none whatsoever.

So, here we are mired down as we have been for so many years.

Did the gentleman from Ohio wish me to yield to him?

Mr. SEIBERLING. Yes. I thank the gentleman for yielding. I wish to commend the gentleman for what he has just said and for the effort which he is making with reference to this matter.

I share his views on this very grave situation in which we find ourselves.

Mr. Speaker, as I listened to the President last night, I tried to reflect back through recent history to see if there was some comparable period of time when we were confronted with a similar set of circumstances. I had to think back to the summer of 1914 in order to find a situation which would be comparable, where the Chief of State of one of the great powers burned its bridges and set in motion a chain of grave events from which it was impossible to foresee the outcome. It placed its future in the hands of fate, so to speak.

If you will recall that, the German Chancellor in 1914, after the Sarajevo assassination, and after some of the ultimatums that Austria was starting to throw around, gave guarantees to Austria that Germany would back them up, and he placed no conditions or no lines of retreat for himself. The French gave similar guarantees to Russia. Each of them was burning their bridges behind them. When the situation finally got out of hand, and it looked as though it was going to develop into a major war, the German Kaiser at the very last called the Chancellor in and said, "Maybe we ought to call the Reichstag into session, and see if we ought to go any further." And the Chancellor said, "I am sorry, my Emperor, but the orders have already been given, and the troops are marching, and there is nothing we can do."

I had somewhat the same feeling as I listened to the President burn his bridges behind him, and, I might add, without even consulting the Congress in advance.

There are some aspects of this situation which I think we ought to get down on the record. The first is that with the repeal of the Gulf of Tonkin resolution, which we have done, the only statutory authorization to the President contains the requirement that he limit his actions to what is necessary to protect the withdrawal of our troops. And in view of the fact that administration spokesmen have admitted that the bombing of Haiphong or the cutting off of supplies through Haiphong would not affect the actual armed forces of the North Vietnamese for 6 months—and the President himself last night said that one of the alternatives which he could follow was to carry out the immediate withdrawal of our troops—it seems that he has practically admitted that the action he has taken is not going to protect our troops. The only way to protect them is to withdraw them, and he has made it clear he does not intend to follow that policy. Instead he is going to follow a policy whose objective is preservation of the present government of South Vietnam.

There is another aspect to this. Fortunately, today, unlike 1914, we do have a world organization. The Secretary General of the world organization has, as recently as 10 days ago, made an offer of his good offices to all the parties in this war to mediate and help resolve the conflict. So far, as far as I have been able to determine, the United States has not responded to that offer. It seems to me that this is the very least that we should do. I see no reason why the President should not respond to it. It could not possibly injure his policy in any way, and it may help give him some line of retreat, some graceful way out of his blind alley.

Accordingly, I have circulated to all of the Members a proposed letter to the President urging that he make a positive response to the Secretary General, and I urge that all Members consider that very seriously, and act upon it at this time.

Again I thank the gentleman for yielding me some of his time.

Mr. RIEGLE. I thank the gentleman from Ohio for his remarks.

Mr. WALDIE. Mr Speaker, will the gentleman yield?

Mr. RIEGLE. I yield to the gentleman from California.

Mr. WALDIE. Mr. Speaker, I wish to associate myself with the gentleman's remarks and commend you on the presentation you have made this day and I share your sorrow and your despair that there seems to be so little that the legislative branch is willing to do—and I emphasize "willing to do"—not so little that they can do to put a brake upon the irresponsible actions of the Executive when they occur, whether that Executive be a Democratic President or a Republican President.

The power is here to do it, but the will is not here to do it.

I do not know whether the legal format that you suggest would change the lack of will that exists in the legislative branch of the U.S. Government were a declaration of war sought by either the President who preceded the present one, or the present one. It is my belief there would be an immediate reaction in favor of that in the House of Representatives particularly.

There might be some hope that the Senate would react contrary to that request for those powers by a President. But a President does not have to seek these powers when he can exercise them without having to seek them from the legislative body.

Had he sought from the legislative branch, the tragedy that seems to me to be the situation confronting Members possessing the views that you have expressed and that I possess is that our branch of the Congress has been so supine in terms of its dealings in respect to the executive power of the United States, and that reaction has been attributed, I suspect, to the causes you have described briefly in your earlier remarks.

In addition, it seems to me, there is a syndrome of philosophy that has existed in the House, perhaps since President Roosevelt, when President Roosevelt sold the legislative branch, both the minority party, the Republican Party then, and the Democratic Party, that in foreign policy the President should have the final say and that partisanship should end at the shoreline, which was another way of saying no one should question the executive or the President.

It was misleading the legislative branch when he suggested it, and it was damaging to the people of the country when the legislative branch accepted it.

My fear is that the leadership in the House of Representatives and the individuals that occupy those posts of leadership—and I have the greatest respect for the gentlemen, both your party and mine, that occupy posts of leadership. But they came into that largely during that era when this syndrome that the executive department could and should make all foreign policy of the country and should particularly make decisions for the country involving military conflict, and I suspect that they are largely bemused and still confused by that attitude that developed during the Roosevelt administration.

There are similarities at this time with the Roosevelt administration. But it was wrong then and it is wrong now. It would be a refreshing thing indeed were we to have read in this morning's paper that the President had asked the House leadership to join him for a briefing before he discussed the matter with the people of the United States and not just the Senate and the Senate leadership.

As a matter of fact, the President pays no attention to the House of Representatives and unhappily with good cause because the House of Representatives has simply been a body on which he could rely totally and completely no matter how disordered and twisted and tortuous the terms of this involvement in Indochina have been.

So it does seem to me that though he is approaching close to the action of the majority party caucus indicating for the first time in the history of this conflict some reservations, albeit—not well defined, but some reservations by the majority of the majority caucus—I hope the leadership of the House and the gentlemen present in that capacity during this sparsely attended colloquy, if you will, between you and a few Members of the House, will have an opportunity to reassess their particular roles on behalf of the people and the people's representatives which constitute the House of Representatives in attempting to check a President of the United States and at least demand of him if not a change in his policy, consultation with them before he reveals his policy, let alone executes that policy to the American people.

I thank the gentleman for yielding.

Mr. RIEGLE. Mr. Speaker, I thank the distinguished gentleman for what he has just said.

Of course, under the Constitution the Speaker of the House is the third in line for the presidency. If something should happen to the incumbent President—and the Vice President then the Speaker of the House would become the President of the United States.

Again we trace this back to the Constitutional Convention and the belief on the part of the people who wrote the Constitution that it should be the House of Representatives that was truly the body that would represent the will of the people.

I think, as you suggest, that we have a potential for leadership and an opportunity to fill a vacuum on the national scene which thus far has not been filled, insofar as I see it, by the presidential campaigns in either party through this point in time or, for that matter, any other outside activity. So there is a need for an assertion of leadership, and I would hope that we would see more of that.

Mr. WALDIE. Mr. Speaker, will the gentleman yield briefly?

Mr. RIEGLE. I yield to the gentleman from California.

Mr. WALDIE. Let me correct a misstatement that I made. I have been informed by the Speaker of the House that my understanding of the facts was in error. I now recall a portion of the facts that the Speaker has just explained to me. When the President first indicated that there would be a reassement of the policy in terms of the response to the military offensive from the north, I do recall—and the Speaker has stated to me that that was so—the Speaker publicly called on the President to explain the policy and the response that he was contemplating to the American people, and I am advised that the President, in fact, did bring the House leadership, at the request of the Speaker, to the White House for consultation, and they were, in fact, brought to the White House last night with the Senate.

So there was consultation to that degree, and for that I am pleased and I commend the leadership for having brought that about.

Mr. RIEGLE. I join the gentleman in being appreciative of the fact that the Speaker of the House did make that request. I recall, within a matter of the last few weeks, that I read in the newspaper that the Speaker had voted in the Democratic Caucus to support the mandate to the Foreign Affairs Committee to report out a resolution or a bill which would set a terminal date for the war in Vietnam. I thought that that was a great act of leadership and was one of the few times, as I look back over 5½ years, when I have felt encouraged about the House in that respect. So I join with you in that commendation of the leadership on your side with respect to that specific point.

I would go even further than that to say I think there probably exists, if I may say so, in the State of Oklahoma, a kind of common sense, a sensitivity, on the part of the people in that great State with whom I have met, and which we need in policy circles on the great issues of peace and war. I personally would feel much more confident if more of that kind of input, not just from that State, but particularly from that State and from my own and from your own of California and all the rest could be a part of these decisions. But as you suggest, we are on the whip end of these events when we are told after the fact what is going to occur and what steps are being taken, we have precious little chance to exercise our mandate to speak for the people as the Constitution requires.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. RIEGLE. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I wish to add my commendation to the Speaker for taking the initiative to request the meeting with the President before this grave step was taken. I think it certainly is an improvement over the situation that existed at the time the invasion of Cambodia was decided upon 2 years ago. But it seems to me a measure of the extent to which the power of the Congress as a whole has been eroded that the President no longer considers it necessary to come to the Congress as a whole, as distinct from the leaders of the House and the Senate, when he takes a step of this very grave nature.

I recall that prior to the United States entering the Second World War, when the President of the United States took significant steps, such as the Lend-Lease Act, and other similar major steps that drew us closer to involvement, he did consult the Congress. I think the President of the United States, whenever he takes a step that brings with it the risk of a confrontation that might lead to a major war, has the obligation morally, if not legally, to come to the Congress to obtain their viewpoint and their counsel.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. RIEGLE. I yield to the gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding. In listening with great interest to the comments you have made and some other Members of the House, I find it a little bit difficult to understand all of the argument that is being offered here.

Now, if we will just move off the question of Vietnam for a moment, the gentleman, in effect, has been condemning the House for its action which it has either taken or not taken, according to one's point of view on this issue. It seems to me that in the past 2 years, the House has acted several times on this issue, and the House through its series of votes, whether on the Mansfield amendments or the various other amendments of that nature, or on appropriations, has very distinctly acted.

It is obvious the gentleman does not agree with the action the House has taken, but I do not think because of that the gentleman can condemn the House of Representatives and say the Members are no longer carrying on their job and are not acting in a responsible manner, because I have not found that to be the case at all.

I understand, for instance, that tomorrow there is going to be a resolution on the floor to impeach the President of the United States. To me this is a grossly irresponsible move, but nevertheless if that move is made, the House is going to act on it, and I think the House will act very solidly on it.

So I think the question of whether one differs with the House or not is not so much the point. The gentleman may differ and I respect that difference, but I do not think the House stands condemned for what it has done.

Mr. RIEGLE. May I pose a question to the gentleman?

Mr. PEYSER. Yes.

Mr. RIEGLE. Does the gentleman know what the specific dollar amount is of the last Defense appropriation to conduct the war in Indochina?

Mr. PEYSER. The gentleman asks: Do I know the specific dollar figure in the 1972–73 budget?

Mr. RIEGLE. That is right.

Mr. PEYSER. The figure I would recall would be in the range of $8 billion in that specific area.

Mr. RIEGLE. Let me say to the gentleman as a member of the Appropriations Committee, that figure is not made public at all or available to Members of Congress. The Members cannot inquire and find out the exact amount of the total U.S. expenditure in Vietnam.

I have on a previous occasion asked the chairman of the Appropriations Committee on the House floor in the midst of the debate on the Defense appropriation, to specify the exact amount of the part of the budget allocated to carry on the war in Indochina. He has steadfastly refused to make that figure public.

I say that for this reason, as I think the gentleman knows, we have never had an opportunity in the House to vote yes or no on just that part of the Defense appropriation that would be allocated to the war in Vietnam. I would submit to the gentleman the reason that is so is because there has been an effort within the House, and I think bipartisan in nature, to keep the Vietnam issue from, in fact, being separated and treated by itself, apart from the rest of the Defense appropriation. I think there has been a concerted effort to keep it hidden in the Defense appropriation and force Members of this House to either take the untenable position of voting against the entire Defense appropriation, if they oppose the war in Vietnam, or else of being forced to vote for the entire appropriation, which means, of course, supporting the money that is going to be allocated to Vietnam.

I have found for example that I have had to vote "present" in that situation, because of the impossibility of getting a direct yes or no vote just on the funding of the war in Vietnam. I think the gentleman knows that is the way we provide the dollar resources for the war in Vietnam, and we have not had a direct vote on that specific amount to date.

Mr. PEYSER. This brings up a particular point. On April 26, a resolution was introduced on the floor of this House stating the Defense Department should make public to the Members of the House of Representatives the information pertaining to the invasion, since the invasion had taken place on March 30 in Vietnam, and the chairman of the Armed Services Committee stated at that time that the information was available to any Member of the Congress who wanted to go and view that information. It was classified secret information. The vote was taken on the floor that day to defeat the resolution, and the resolution was defeated 217 to 113.

As of this morning, two Members of the House of Representatives have viewed those secret documents, and those documents were reviewed by Congressman McCLOSKEY, the gentleman from California, and by me.

It was very interesting for me to note that 113 Members voted to say we want the right to know the information, the same kind of information the gentleman is speaking of right now, and nearly 14 days later, only two Members of the House have gone to look at that information.

So I am not convinced that that becomes that vital a situation.

Mr. RIEGLE. I appreciate the gentleman's thoughts on the issue and the point he has made. I would say to the gentleman, if he feels, based on what has occurred in the House in the past, that we have truly faced fully the Vietnam war issue and have had unlimited debate and clear-cut "yes" or "no" votes easy for the public to understand either as to the continuation of the war or, the continuation of funding for the war, I would have to strongly disagree. I think the record proves exactly the contrary.

Most of the time we have had votes not on direct issues but on procedural questions. I think it is to the everlasting discredit of the House it is that way.

I have 2 minutes left on my special order, so I will try to summarize.

I think that today in the 1-minute speeches there were a number of points made with regard to justifying the escalation of the war by the United States which just do not hold water. I think a specific case in point is the idea that we are defending democracy in South Vietnam. There is not a democracy in South Vietnam. There was a one-man election last year. We see today that the President of South Vietnam, President Thieu, is actually harassing his noncommunist opposition rather than reaching out to try to broaden his base, and we see a disintegration occurring within the armed forces structure of South Vietnam, which indicates there is a lack of the cohesion we were led to expect there.

I could go on and cite many other things, in terms of securing the release of the prisoners of war. In fact, the policies followed today will almost certainly create additional prisoners of war. I am sure that new American prisoners of war are being taken captive today.

There is this notion about a bloodbath. Every time a cluster bomb dropped from an American plane goes off in a populated area, there is a bloodbath. It is bound to happen that innocent people are killed, and most often it is the old people or the children who cannot get away. This fact exists.

Here we are facing this dilemma. We have had this unilateral escalation of the war, not by the American Government but by the executive branch of the American Government, I say in direct violation of the Constitution of the United States.

It is a very discouraging thing, in a sense, to stand here and to try to recount this history and to try to express a personal point of view with respect to this problem, and to know that the Congress today has basically chosen to render itself ineffective in this area. We have chosen to abdicate our responsibility.

It is a dark day, I think, for the Congress and for the American people. One can only hope as the events unfold in the days ahead that one side or the other does not miscalculate, based on pride or arrogance or fear, and set in motion a chain of events that could literally destroy this planet.

HISTORICAL ACCORD ON NARCOTICS CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, early this spring in Geneva, Switzerland, a long-awaited, historic accord was reached by representatives of over 90 nations—an accord which finally promises to set into motion a concerted international attack on the worldwide epidemic of narcotics addiction. For the first time ever the major nations of the world have chosen to define drug abuse as an enemy no less threatening than the spectre of multinational conflict, and have agreed to such significant international sanctions against the production, processing, or transit of illicit narcotics as the imposition of an embargo on the licit drug trade of any offending country, and the censure of any violating nation before the United Nations General Assembly.

The United Nations Conference To Consider Amendments to the 1961 Single Convention on Narcotic Drugs, which met in Geneva from March 6 through 25 of this year, was the ill-publicized forum at which delegations from 97 nations convened to strengthen what has been recognized by the world community for over a decade now as a woefully defective weapon in the struggle to control the international flow of narcotics. The Single Convention on Narcotic Drugs, which now includes 90 member States, was adopted in New York on March 30, 1961, and entered into force for its members on December 13, 1964. The U.S. Senate gave its advice and consent to accession on May 8, 1967.

In essence, the convention operates through two bodies: The United Nations Commission on Narcotic Drugs and the International Narcotics Control Board—INCB. The Commission exercises the function of a policymaking body, while the Board actually administers the system of controls.

The Control Board is charged with issuing quotas on the amount of opium to be produced, imported and exported by member nations. Each party to the convention is required to submit to the INCB estimates of the amount of opium to be consumed for medicinal and scientific purposes, as well as the amount to be held in stock. Using these figures, the INCB computes the amount to be produced in specially designated countries and later reviews the statistical report each nation is responsible for filing annually. These reports are supposed to catalog production, manufacture, consumption, stocks, imports, exports, and confiscation.

It has proven impossible, however, for the understaffed Control Board to oversee an elaborate, international quota system for the legal drug supply on the one hand, and to control the growing illicit traffic in narcotics on the other. The INCB was given too weak a mandate by the Single Convention conferees to identify and confiscate the estimated 1,200 to 1,400 tons of raw opium which have been entering the illegal market annually—to be processed into 120 to 140 tons of heroin.

No provision was made under the original Single Convention, for example, for:

A comprehensive information network to aid the INCB in its determination of drug quotas;

Investigatory powers to be used by the Board when it suspects any member State of violating the pact; and

Meaningful sanctions which might deter any member from making a mockery of the treaty by violating its articles with impunity.

The Control Board has even been underutilizing the weak mandate it does have to monitor international traffic in drugs, and has seemed prone to maintain a policy of "live and let live" rather than to offend member States by pointing a finger at any one nation's failure to adhere to treaty requirements. This has proven to be yet another instance of the age-old obstacle to effective U.N. action—the reluctance of member nations to yield their jurisdiction in legislative and administrative fields to international bodies.

A glaring example of the Control Board's failure to carry out one of its most basic responsibilities has been its treatment of the Turkish situation. Under the Single Convention certain nations are permitted to cultivate opium for export, in order to fulfill the world's medicinal and scientific needs. This permission is contingent, however, upon local enactment of an enforceable licensing law to control production. Turkey is one of the nations authorized to grow opium.

It was not until 1971 that Turkey put a licensing law into effect, however, and this was the result of a major diplomatic and financial incentives, initiated by the United States. No penalties, either economic or political, were ever imposed upon Turkey through the years by the Control Board and no embargo against the importation of Turkish opium was ever recommended, despite their flagrant disregard for the provisions of the Single Convention.

This combination of imputence and timidity on the part of the INCB has had tragic consequences, not only for the United States, whose addict population of over 400,000 is the largest in the world, but for such other victim populations as those in France (30,000), Iran (350,000), India (250,000), and Hong Kong (150,000)—to mention only a handful of those countries which are being seriously affected by the narcotics plague.

It appeared until recently, then, that the 1961 Single Convention on Narcotic Drugs would mark yet another failure in the efforts of modern man to control the worldwide abuse of narcotics—efforts which date back to President Theodore Roosevelt's appeal in 1909 for a conference to ban opium smoking, and continuing on through the praiseworthy but ineffective international drug conference of 1925, 1931, and 1953.

While the Single Convention espoused for the first time the objective of limiting the production of narcotic drugs exclusively to medical and scientific uses, its enforcement arm—the INCB—was simply not given the executive powers necessary to realize this admirable intent. The world community is faced with the fact that the international black market in narcotics has never before been as profitable, as destructive, and as all-pervasive as it is at this point in time.

By the end of the 1960's it had become quite obvious that dramatic action would be necessary to control the ever-spreading narcotics epidemic. The major nations of the world had joined together 10 years before in humanitarian concern for the relatively small addict population at that time. The instrument for international narcotics control fashioned in 1961 proved painfully inadequate, however, and it was in order to eliminate the loopholes in this treaty that the United States embarked on a lengthy campaign to amend the Single Convention on Narcotic Drugs.

Following up on the American initiative, the U.N. Economic and Social Council announced on May 20, 1971, that a plenipotentiary conference would be held the following year to consider amendments to the Single Convention. Every member State of the United Nations and its specialized agencies were invited to send delegations as well as all parties to the 1961 treaty.

The United States, over 1 year in advance of the Conference, had prepared a draft of suggested amendments, and began presenting and explaining these proposals to well over 100 other governments. In addition, three ambassadorial teams—headed by Ambassador David Popper, Ambassador Joseph Jova, and John Ingersoll, U.S. Delegate to the U.N. Commission on Narcotic Drugs—were dispatched to consult on and gather support for these amendments in more than 30 of the world's capitals.

The result of this lengthy series of missions is the development of a new international consensus on narcotics control—a consensus which both defines drug abuse as a critically dangerous contagion to which no country is immune, and finally equips the International Narcotics Control Board with sufficient power to adjust world opium production to scientific and medical demand, while preventing diversion to illicit channels.

The U.S. amendments, which were cosponsored by 29 other nations, were formally presented at the conference by a capable U.S. delegation headed by Ambassador Nelson Gross, the Secretary of State's Senior Advisor for International Narcotics Affairs, and including Members of Congress and representatives from Treasury, Justice, HEW, State, and the Special Action Office for Drug Abuse Prevention.

By a vote of 71 countries for, none against and 12 abstaining, the following U.S. proposals, only slightly modified in the Conference working sessions, were adopted by the representatives of Geneva:

First. The INCB has been given new responsibilities for attacking illicit traffic in narcotic drugs. Up to now the Board's authority has been concentrated primarily on the licit cultivation, production, manufacture, trade, and use of narcotic drugs; the Board will now be explicitly charged to join the fight against illicit trafficking;

Second. The Board now will have at its disposal information from a wider range of sources, including the U.N. and its specialized agencies and certain intergovernmental and nongovernmental organizations having direct competence in the drug field;

Third. The Board will be reorganized and strengthened by enlarging its membership to make it more representative, by assuring continuity through staggered terms, and by strengthening the independence of its administrative staff;

Fourth. The Board will be authorized to recommend to competent U.N. organs and specialized agencies that technical and financial assistance be provided to governments in support of their efforts to carry out their obligations under the Single Convention;

Fifth. If it has reason to believe that the aims of the Single Convention are seriously endangered by the failure of a country to carry out its obligations or if there is evidence that a country has become or is in danger of becoming an important center of illicit cultivation, production, manufacture, or consumption of narcotics, the INCB will be able to ask the government in question for explanations, or consultations, or take the initiative in proposing an on-site inquiry into the situation, designed to develop remedial measures where those appear necessary;

Sixth. If a country fails to provide satisfactory explanations or to adopt remedial measures when requested to do so, or if the Board believes a serious situation exists which requires cooperative remedial action, it may call this to the attention of the parties to the Single Convention, the U.N. Economic and Social Council, and the U.N. Commission on Narcotic Drugs, with appropriate recommendations. This process can now also include consideration of the matter by the U.N. General Assembly, and an INCB recommendation to that body that an embargo be placed on the import and export of all drugs by the violating nation;

Seventh. If in any country producing licit opium there is evidence of diversion into illicit traffic, the Board may, 90 days after notifying the government concerned, require that country to reduce its production in the following year;

Eighth. The new amendments would apply to narcotics offenses the same kind of improvements in the area of extradition that have recently been accepted in multilateral conventions on air hijacking and other offenses against civil aviation. Traditional extradition agreements have failed to include narcotics offenses, since it is only recently that the problem has taken on critical worldwide proportions.

Forty of the nations participating in the Single Convention must ratify and sign the amending protocol before this document becomes international law. Forty-one countries have already signed, subject to ratification by their respective governments.

The acceptance of these forceful amendments by the major nations of the world signals a new phase in the international war against narcotics abuse. This dread disease is now being accorded the attention which the United Nations has traditionally reserved for such crises as the Mideast situation or the recent India-Pakistan war.

As for our own obligations resulting from the Conference, it now remains for the Congress and those executive departments involved in formulating our policies on drug abuse prevention and control to continue our bilateral negotiations with such producing countries as Turkey and Thailand, but to concentrate more time, funding, and effort on the research, education, treatment, and rehabilitation facets of the narcotics problem at home, in anticipation of the benefits to be reaped on the supply side of the problem due to a dramatically strengthened Single Convention.

The recent Geneva Conference on drugs should serve as a warning to those black market syndicates which deal in the lethal heroin trade, and as a spur to further action for those many nations whose populations are being decimated by the scourge of narcotics addiction. The United Nations now has the power to put a stranglehold on the illicit worldwide drug traffic, and it is the responsibility of the United States and all members of the strengthened Single Convention to help attain that very objective.

URGE PRESIDENTIAL WAR REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 2 minutes.

Mr. FINDLEY. Mr. Speaker, the distinguished chairman of the Foreign Affairs Subcommittee on National Security, the gentleman from Wisconsin (Mr. ZABLOCKI), and myself today sent a letter to the President, urging that he make a prompt written report to the Congress concerning the military actions in Vietnam he announced to the Nation Monday night.

We are the chief authors of House Joint Resolution 1, the bill concerning the war powers of the Congress and the President which was passed without dissenting vote last August by this body. Although the bill has not been accepted by the Senate, the executive branch has indicated it has no objection to its enactment.

It therefore seemed appropriate that we suggest that the President meet the reporting provisions of the bill. To do so would serve two important purposes: First, it would enable the Congress to fulfill its own constitutional responsibilities in regard to the use of military force on foreign territory; second, it would give the President the opportunity to be more explicit and candid in explaining the reasons and basis for his actions than was prudent in his televised statement.

The text of our letter to the President follows:

DEAR MR. PRESIDENT: Those of us in Congress, along with other Americans, listened with intense interest last night as you announced the new initiatives you have taken to end the Vietnam War. Your request "for the same support" Americans have always given the President "in difficult moments" will naturally strike a responsive chord in most Members of Congress.

Our purpose in writing, therefore, is to urge you to report in writing to the Congress at the earliest practicable moment the circumstances necessitating your action, the authority under which it was taken, the estimated scope of activities contemplated, and such other information which you feel might be useful to the Congress in determining what course it should take to provide you with the support you have requested.

As you know, the House adopted on August 2, 1971, without a dissenting vote, H.J. Res. 1, "concerning the war powers of the Congress and the President." On several occasions, most recently in Secretary Rogers' letter of March 24, 1972, to Senator Gordon Allott, the Department of State has indicated that the Executive Branch has no objection to this legislation.

Section 3 of the bill reads as follows:

"Sec. 3. In any case in which the President without specific prior authorization by the Congress—

"(1) commits United States military forces to armed conflict;

"(2) commits military forces equipped for combat to the territory, airspace, or waters of a foreign nation, except for deployments which relate solely to supply, repair, or training of United States forces, or for humanitarian or other peaceful purposes; or

"(3) substantially enlarges military forces already located in a foreign nation;

the President shall submit promptly to the Speaker of the House of Representatives and to the President of the Senate a report, in writing, setting forth—

"(A) the circumstances necessitating his action;

"(B) the constitutional, legislative, and treaty provisions under the authority of which he took such action, together with his reasons for not seeking specific prior congressional authorization;

"(C) the estimated scope of activities; and

"(D) such other information as the President may deem useful to the Congress in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad."

The Senate, on April 13, 1972, passed S. 2956, cited as the War Powers Act, which contains a reporting requirement similar to that in H.J. Res. 1.

Hopefully these bills will soon go to conference.

Inasmuch as the Executive Branch has no objection to H.J. Res. 1, it would seem highly appropriate for you to fulfill the reporting requirement as it pertains to your recent actions in Vietnam, even though the requirement has not been signed into law.

The report, of course, as suggested by the House report, could be handled under whatever classification rules you deem advisable, and this would make possible a more detailed and candid discussion of the circumstances necessitating this action than you could wisely provide in your report to the nation last night.

It would provide an orderly way in which the Congress could meet its responsibilities in the war powers field.

The Congress has been aptly described as the "great anvil of democracy." A timely detailed report placed on this "great anvil" could do much to rally the public understanding and support you need in this hour.

Sincerely,

CLEMENT J. ZABLOCKI,
Chairman, National Security Policy Subcommittee, Committee on Foreign Affairs.

PAUL FINDLEY,
Member of Congress, Ranking Minority Member.

PERSECUTION OF RUSSIAN JEWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 10 minutes.

Mr. FRENZEL. Mr. Speaker, on Sunday I spoke by telephone to a Russian Jew in Moscow. What I learned will distress lovers of freedom and liberty throughout the world.

The Soviet Government has stepped up its persecution of Russian Jews. The current tactic is the drafting into military service of Jews who have asked to emigrate to Israel.

Until recently the brave men and women who requested emigration have suffered the loss of their jobs—usually as teachers and professors—and have been assigned to manual labor. Now they are being conscripted into the Russian military.

Four Jews asked the town council of Moscow for permission to hold a demonstration on May 24, the day President Nixon is in Moscow. Their request was not approved. They and other Jewish activists are being constantly harassed, persecuted, and now they are being drafted.

I made my call to a man named Zev Shacknov in Moscow. I talked in English to another man who was afraid to identify himself. He told me the situation is difficult and that there was an emergency.

He told me about a number of Russian Jews who are threatened in concrete ways in that cases will be lodged against them in a military tribunal. They have refused to respond to the conscription.

I was also told that the new campaign of persecutions is being carried out in preparation for the visit of President Nixon. I can only conclude that it is the intention of the Soviet Government to remove by conscription all Jewish activists from Moscow prior to the President's visit.

It is a horrible and terrifying thing to contemplate that any government would prepare for our President's visit of friendship and peace by drafting people into military service who merely wish to exercise an internationally recognized right of emiration. I suppose that, to the Soviets, these Jews have committed a different and even more heinous crime. Although they are powerless, they have stood up to the all-powerful Russian Government and demanded their rights.

Right now, I was told that the men in most serious difficulty are Victor Yachot, Leonid Yoffe, Gavriel Shapiro, and Sergei Gurevitz.

Yachot, a 27-year-old scholar, was given a psychiatric examination and told that his desire to leave the Soviet Union to go to Israel was abnormal behavior.

Yoffe, another intellectual, has been drafted for 2 years. Gurevitz, a Moscow physician, has been drafted to a Leningrad military corps for 2 months. Shapiro, like the others, has refused to be drafted.

In addition to the four men mentioned above, others are reported in previous telephone calls to be in similar danger. These are: David Markish, Pavel Abramovitz, Michael Klachkin, Mark Nashpitz, Don Roginski, Vladmir Lerner, Boris Einbilder, Dr. Ronelle.

The last two are interesting cases in that Mr. Einbilder was supposed to have a 5-year deferment from the Army, but has recently been given a draft notice after only 1 year had expired. Dr. Ronelle, a professor of physical science, has also been drafted, although he is known to be ill and a man over 40 years old.

The pattern is clear, and it is apparently vicious. We cannot intervene in the domestic affairs of another country. Nevertheless, we are not as powerless as the Russian Jew himself. We can bring these distressing conditions to the attention of the world and expose the escalating campaign of harassment and persecution by conscription for what it really is—a bad example of religious, ethnic, and cultural discrimination.

GUARANTEEING OF PEACE IN SOUTHEAST ASIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, rejection of the President's offer both privately and secretly by North Vietnam has forced the President to take military steps to assure the protection of our withdrawing men, the return of our prisoners, and an internationally supervised cease-fire to stop the killing in Indochina.

Mr. Speaker, two of the leading Democratic candidates for President have, in the past, advocated such military steps for the protection of our men and for the security of Southeast Asia.

In a 1965 interview with the New York Times, Senator GEORGE MCGOVERN said:

> I support the strafing ordered by President Johnson (of North Vietnamese targets) because I agree that when our forces are attacked and our interests are under fire, we have to respond with appropriate retaliation.

In October 1967, Senator HUBERT H. HUMPHREY, then the Vice President, said in a speech:

Our own American security is at stake. That's why we're there. If we fail to do it there, we'll have to meet it someplace else, and later it may be more difficult and even more dangerous.

We have no choice but to persevere. Today, the threat to world peace is militant, aggressive Communism with its headquarters in Peking, China. The aggression of North Vietnam is but the most current and immediate action of that militant Asian Communism. If it should succeed in its goal of conquest of South Vietnam, it would add to the strength of Communism in Asia and Europe. And it would stimulate the appetite for more aggression and conquests. It would represent a defeat—not only for America but for freedom everywhere.

Today, of course these candidates are vociferously critical of the President.

Mr. Speaker, John Stuart Mill wrote that:

> War is an ugly thing, but not the ugliest of things: the decayed and degraded state of moral and patriotic feeling which thinks nothing worth a war is worse . . . A man who has nothing which he cares about more than his personal safety is a miserable creature who has no chance of being free, unless made and kept so by the exertions of better men than himself.

Even in Biblical times, Moses recognized that winning the peace was a difficult task when he is quoted as saying in Deuteronomy:

> When thou comest nigh into a city to fight against it, then proclaim peace unto it . . . and if it will make no peace with thee, but will make war against thee, then thou shall besiege it.
>
> And thou shalt build bulwarks against the city that maketh war with thee, until it is subdued.

Mr. Speaker, to confront the moral issue of the war in Vietnam, as all of us must do, one must ask some hard questions—not hard in the sense that they would be difficult to answer. But hard in the sense that so few have confronted them. Questions like:

What country was the first to invade Laos in this war?

What country was the first to invade Cambodia? Let me give you a hint. It was the same country that first invaded Laos.

What country was the first to funnel troops and ammunition through Laos and Cambodia to ignite a guerrilla war in South Vietnam?

And what country, in recent weeks, launched a massive invasion of South Vietnam with heavy artillery, tanks and sophisticated antiaircraft guns and other weapons supplied by the Soviet Union in an unconcealed attempt to gain a military and diplomatic victory in the face of the most generous peace offer in the 20th century?

Reasonable men may disagree on the degrees of guilt for this war but there are certain elementary, unmistakable truths that all can see—if they will only look.

Mr. Speaker, North Vietnam, backed by Moscow and Peking, is looking for total military and diplomatic victory and the President, as Commander in Chief, recognizes that unilateral withdrawal in the face of their aggression would not lead to peace but a prelude to more wars and further killing throughout Southeast Asia, as well as the testing of U.S. commitments in the Mideast, Europe, and elsewhere.

The only way to assure total peace after we have withdrawn is to obtain some guarantees that there will be a cease-fire. As I see it, we are today in a major diplomatic and military confrontation as critical to this country's foreign policy as the Cuban missile crisis of 1962. Americans stood behind our President then and we should let the world know that we stand behind our President today. Negotiations are a two-way street and I am glad to see that our President has put heavy responsibility on Soviet Russia for the future success of trade, disarmament, and peace talks. There must be give and take on both sides, not just our giving and the other side taking if we are truly to enter an era of negotiations. Further, it is imperative that the vast majority of American people who agree with the President's position express their support by contacting the White House and their representatives in Congress so we may show the world our concern for a lasting peace with honor as well as our concern for our fighting men and those who are missing or held captive.

Mr. Speaker, I am reminded of a story about Clemenceau, who found himself debating a representative of the Weimar Republic years after World War I.

The subject was which country had been to blame for the war. He was asked:

> What will future historians think of this issue?

Clemenceau replied:

> This I don't know. But I know for certain they will not say Belgium invaded Germany.

Nor will they say, Mr. Speaker, that South Vietnam invaded North Vietnam.

The following article by Prof. Walt Rostow points out some of the reasons why this country cares about South Vietnam and why it is unfair to label all those who have tried to keep South Vietnam from being turned over to communism as somehow immoral or guilty of deception:

VIETNAM—WAS IT WORTH IT?

(By Walt W. Rostow)

The costs to us of the struggle in Southeast Asia makes sense only if you agree with the last six American Presidents that the United States will be endangered if a potentially hostile power gains control of Asia, and that control over Southeast Asia is critical to the fate of all Asia.

Southeast Asia contains nearly 300 million people—as many as Africa or Latin America. It commands the sea routes of the South Pacific and the eastern Indian Ocean. It is a buffer area separating the two giants, China and India. If any single power attempts to seize control of Southeast Asia, the other major powers must instinctively react.

America, for example, passively stood by while the Japanese took over Manchuria in 1931 and then seized the major cities of China. But in 1940–41, the Japanese moved into Indochina and toward Indonesia. President Roosevelt had every interest at that time in concentrating American attention and resources on rearming at home, and on aid to Britain and, then, to Russia. But he refused to accept passively the Japanese takeover of Southeast Asia and the balance of power in Asia, including control of the sea routes to Australia, New Zealand and India. He cut off shipments to Japan of oil and scrap metal, and he froze Jaapanese assets in the U.S.

Indochina was at the center of our diplomatic dialogue with Japan right down to the eve of Pearl Harbor.

For similar reasons, President Truman threw our resources behind the French in Indochina at the time of the Korean War, despite reservations about the viability of French colonialism.

The same rationale lay behind President Eisenhower's (and the Senate's) support for SEATO in 1954–55; President Kennedy's policies in Laos and South Vietnam and his flat affirmation of the domino theory on September 9, 1963; President Johnson's basic Vietnam decisions of 1965; and President Nixon's insistence that America withdraw from Vietnam in ways compatible with stable peace.

Throughout this period of at least 30 years, it has been U.S. policy to sustain the independence of Southeast Asia from potentially hostile control. But sacrifice for a policy that cannot succeed is meaningless or worse. What have the sacrifices since 1965 achieved?

Look back and consider the panorama of Asia in 1965.

South Vietnam was on the verge of defeat and take-over, as the weight of North Vietnamese regular-army units, introduced in 1964 was fully felt.

Indonesia was out of the United Nations, in confrontation with Malaysia making common cause with Peking, and eager to complete what both Jakarta and Peking described as a pincer movement to envelop the whole of Southeast Asia, through a "Jakarta-Phnom - Penh - Hanoi - Peking - Pyongyang Axis"—a concept enunciated on August 17, 1965, by President Sukarno himself.

Peking was proclaiming that "Thailand is next."

All of Asia knew that its future hung in the balance. Robert Menzies, then Prime Minister of Australia, said if Vietnam fell, it would be "not so very long" before Australia would be menaced. And the danger was still closer and more obvious in the other capitals—as, for example, Macapagal, in Manila, and Abud Rahman, in Kuala Lumpur, made clear.

The domino theory was not just a theory in the first seven months of 1965: every observer of the scene knew the dominoes were about to fall unless American power was rushed into the balance.

Then, at the end of July, 1965, President Johnson moved to commit American forces.

Now, six years later, there is a different Asia.

South Vietnam has harvested the greatest rice crop in its history and is about to conduct its second presidential election under a democratic constitution. Well over 90 percent of its population live under reasonably reliable government administration.

Indonesia is independent and advancing hopefully in economic and social progress, after the successful defense of its independence in October, 1965, which, incidentally, triggered the Cultural Revolution in China.

Asian regional organizations have come into being; for example, the Asian and Pacific Council (ASPAC), the Association of South East Asian Nations (ASEAN), the Asian Development Bank. These offer great promise that in the future, Asians, working together, can increasingly shape their own destiny.

Japan, now the third industrial power in the world, is evidently prepared to use its expanding economic resources to help others in the region whose modernization began much later, but who are now moving forward with astonishing momentum: South Korea, Taiwan, Thailand, Malaysia, Singapore.

China is beginning to enjoy economic progress after a decade of external frustration and internal violence and is experimenting, at least, with the idea of normalizing its relations with Asia and the rest of the world.

Without the U.S. effort in Southeast Asia, there would now be no Ping-Pong diplomacy and no presidential visit to Peking planned.

But all this is still precarious and fragile.

As the South Vietnamese assume increasing responsibility for their own defense and try to make a constitutional system work (which very few post-colonial nations have been able to manage), they feel every day the threat of hasty, total American withdrawal and the pressure of those who would cut off all military aid to them in order to guarantee a Communist victory.

North Vietnamese troops are embedded, without a shred of legality, deep in Cambodia and Laos, threatening the Mekong towns and the Thai border. Not one weapon they carry or shell they fire was manufactured in North Vietnam. Putting aside their long-neglected tasks of economic and social development, the leaders in Hanoi continue to pour young men into the infiltration pipelines to South Vietnam in an effort to destroy the process of Vietnamization.

There is a decent hope that in the years ahead an Asia could emerge in which the North Vietnamese will go back within their own borders; the independent states will survive and increasingly work together; relations with China—and, indeed, North Vietnam—will be normalized; and the American role will continue to diminish, while remaining a relevant force in Asian and Pacific affairs.

There is also a real danger that all that has been achieved since 1965 by Asians and ourselves will be lost; that a vacuum will develop in Southeast Asia which Peking, as well as Hanoi, will feel impelled to try to fill; and that Asia will move from the promise of stability and progress to chaos or a war far worse than what we now see in Indochina.

Was it worth it? Clearly, the outcome of the common effort is still uncertain. If we mindlessly walk away from Asia, we shall make sure it was not worth it. If we patiently stay the course, the suffering of these years could be repaid with stable peace and security for ourselves and the two thirds of humanity who live in Asia.

What still remains to be done in Asia may not, if we are wise, involve the use of much American military force. Asians are now able to do vastly more to defend themselves than they were in 1965. And China, with some 50 Soviet divisions on its frontiers, may now be influenced to move in more peaceful directions than in the past.

But our resources and our treaty guarantees retain a decisive margin in the Asian balance of power. We ought to ask ourselves bluntly: What is likely to happen if we bury the past and leave Asia to its own devices?

First, the end of America's commitment in Southeast Asia would change the debate now under way in mainland China. Powerful forces there are working to move China toward the long-delayed concentration of its energies and talents on the modernization of life. American withdrawal would inevitably lead Peking to exploit its new opportunities to the South. No one can predict the precise form in which a nuclear China, with its huge ground forces, would exercise its power in the vacuum we would create. But I cannot believe that Peking would remain passive.

Second, the nations of Southeast Asia, certainly as far as Singapore—quite possibly as far as Indonesia—would lose their independence, as, for example, Lee Kuan Yew, Prime Minister of Singapore, believes; or they would be forced into a protracted military or quasi-military struggle that would force them to abandon their exceedingly promising economic, social and political development.

Third, Burma, in particular, would either fall under Communist domination or become the scene of an Indian-Chinese struggle. For Burma, not Tibet, is the point of strategic danger for the Indian subcontinent—a warning consistently made to me in private by high and responsible officials of both India and Pakistan.

Fourth, Japan and India would quickly acquire nuclear weapons, and the Nonproliferation Treaty would quite possibly die elsewhere in the world as well. The willingness of many nations to forego the production of nuclear weapons depends on a carefully balanced calculation—a calculation that says the United States can provide greater security at less risk than going it alone with a national nuclear capability. An America that walks away from a treaty commitment after bringing into the field a half-million of its armed forces and encouraging a small ally to fight desperately for its independence, would not be regarded as a reliable ally on such a mortal issue as nuclear deterrence in Asia or anywhere else.

There are many, I know, who believe that, somehow, the United States can live safely divorced from the fate of Asia.

I do not.

Thirty years ago, an Asian power, reaching for Asian hegemony, was able to mount Pearl Harbor.

There is already one nuclear power in Asia, now moving to produce ICBM's. If we walk away from our commitments in Asia, there are liable soon to be at least three. Having come in these hard years as close as we now are to the possibility of stable peace in Asia, I think it would be disastrous to throw in our hand and leave future Americans to bear the inevitable costs of a nuclear-armed Asia.

The more than 50,000 Americans—and the more than one million Asians—who died in this struggle for a stable, peaceful Asia deserve better of us.

PRESIDENT NIXON SHOULD BE COMMENDED FOR HIS COURAGEOUS ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CRANE) is recognized for 10 minutes.

Mr. CRANE. Mr. Speaker, I rise in support of the action of the President in mining the North Vietnamese harbors and continuing the bombing of military targets in the north.

I do not do so lightly because, as one of my constituents told me this morning, "we are all tired of the war." I know that the President shares this weariness and that his decision was not an easy one to make.

Perhaps a brief review of the situation in Southeast Asia would be in order at this time. Under four administrations we have made a huge investment in manpower and treasure for a simple, honorable objective: To give the people of South Vietnam the opportunity to determine their own future without outside pressures.

Clearly, the leaders in the north are an outside influence: The history of Vietnam over many centuries has shown that there have only been brief periods of time when Vietnam was united under one rule imposed by outsiders. The people of the south are and have been very different from the people of the north.

In addition, and perhaps more importantly, the leaders of the north have been guilty of atrocities which put them in a class with other tyrants of the 20th century such as Hitler, Stalin, and Mao. This is the historical record—thousands of people in the north have "voted with their feet" by leaving all of their possessions to travel to the freedom of the south.

It is to these rulers in the north who have repeatedly expressed their desire to overrun the south, and eventually expand the Communist hegemony over all of Indochina, that we have appealed for reason and rational action at the peace table in Paris.

In Paris we have been met with rebuffs and rebukes which began with the extended debate over the shape of the conference table, and have continued to the present time over trivial "nonissues" while we have genuinely and generously tried to reach a rational solution which would be acceptable to all sides.

To reassess the situation in view of the recent North Vietnamese offensive, the President has called on his top military advisors to make a fresh, independent assessment of the situation in Vietnam. They have reported back to him.

In a further reassessment, the President has met with the National Security Council to discuss the situation. Here I am reminded of a notable speech which then-Congressman Melvin Laird made on the floor of this Chamber in March 1967. In that speech he pointed out that the "key to peace in Vietnam lies in Moscow." This statement was true in March of 1967 and it is true in May of 1972, as the President has explained.

I support the President because he has placed the emphasis where it properly belongs and where it should have been placed by his predecessors many years ago. At this time, when the President has shown in so many ways that he desires to reach agreement with the Soviets in numerous areas, it is inconceivable that he could permit them to continue their open support of the North. It constitutes a grave violation of the spirit in which he has entered into these other areas of negotiations.

Let me touch upon another point which many critics claim: Namely, that the Vietnamization program is failing. Vietnamization is being tested thoroughly. It has been clear to all that there will be battles won and battles lost under the Vietnamization program, and that this current offensive is the main push of the regular army of North Vietnam. The military statistics show the extent of this drive. With 12 divisions in the south, only one division is left in the north. The draft has been extended to include many citizens of the north who were formerly exempt. The army of the south, with its American advisors has been inflicting extremely heavy losses on the north's troops. But, at the same time, the north is using new and sophisticated weapons against the south. These include the Red Eye heat-seeking missile, about which I wrote Secretary Laird only yesterday. It also includes tanks, heavy artillery, and other sophisticated weapons which make this a conventional battle in an unorthodox war.

In view of these circumstances, it is clear that dramatic and bold steps are required to stress the role which the Soviets have been playing in supporting the regime in Hanoi.

Whether Vietnamization will succeed cannot be known at this time. What is known is that those who call the regime corrupt and dictatorial, do so without considering all of the facts: The government in Saigon has been extensively arming the villagers in the South for their own self-defense. As anyone who has read history knows, you do not arm the civilian population unless you are confident of their support.

The President, Mr. Thieu, has offered to resign and hold a new election, again a sign that the government in the South is representative. In addition, it must be remembered that the South Vietnamese experiment in national democracy has been conducted during a period of war and bloodshed. In sum, this aspect of South Vietnam certainly compares most favorably with our own experience under President Lincoln during our own War Between the States.

Mr. Speaker, we cannot retreat into a fortress America. In this nuclear age, distance is not measured in miles, but in minutes, and we have allies around the world who are dependent on us for their very survival as independent nations.

There is more at stake in Vietnam than what is loosely called our "honor." What is at stake is our solemn pledge, the firmness of our commitment to our allies who have staked their very existence on the pledges of their ally, the United States. The President has gone a long way toward redefining our role in the world: He has made it clear that under the Nixon doctrine, we will help those nations who help themselves. This is a reasonable role for the United States to play during this decade. But it is dependent upon the credibility of our word. To destroy that pledge in Vietnam would be to set a pattern around the world which could lead to many further problems down the road.

Finally, permit me to say a word about the politics of the President's decision. It should be mentioned only because it again proves that the President is not playing politics with the vital security interests of the United States. I can say this with such assurance because I have only to ask a hypothetical question: Would it not have been much easier for the President to have, in effect, "copped out?" Certainly, with our own war weariness in this election year, it would have been much easier for the President to have opted for another easier alternative.

In conclusion, Mr. Speaker, I commend the President and I salute him for his courageous action.

NIXON ADMINISTRATION DESIRE FOR PEACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAMS) is recognized for 10 minutes.

Mr. WILLIAMS. Mr. Speaker, as I have stated in previous Washington reports, the Nixon administration has repeatedly demonstrated its desire for peace. Shortly after taking office, the President announced that the U.S. troops in South Vietnam would be orderly withdrawn. Of the 549,000 U.S. troops in South Vietnam when President Nixon took office, less than 69,000 remain there today. By the end of June we will be down to 49,000 U.S. troops, a reduction of one-half million since President Nixon took office.

This administration has shown its determination to end, with dignity, the U.S. involvement in Vietnam, which was started and escalated under previous administrations. In addition to the massive U.S. troop withdrawal, the President has visited Peking, and plans to visit Moscow this month in an effort to achieve the peace we all desire.

On March 30, 1972, the Communists answered our peace efforts with a massive invasion of South Vietnam by North Vietnamese troops using the most modern Soviet tanks, artillery, and other weapons. In violation of treaty obligations and private agreements, the major attack into South Vietnam was made through the Demilitarized Zone—DMZ. Virtually every major South Vietnamese population center has been attacked with mortar and rocket fire, or artillery shells.

We are supporting South Vietnam by our air and naval power. This we must do to avoid any apparent appeasement of the forces of communism, which could only encourage continued Communist aggression. We cannot accurately forecast the future, but the policy spelled out by the Nixon administration on the Vietnam war should be supported as the best policy to be followed to insure the future security of our country and obtain a lasting peace.

Control of drug abuse—A Special Action Office for Drug Abuse Prevention will be established since H.R. 12089 has been passed by both the House and the Senate, and has been signed into law by the President. Law 92-255. H.R. 12089 was almost identical to H.R. 12569, which I cosponsored. This new law will also concentrate the resources of the Nation against the problem of drug abuse and should effectively assist in controlling devastating growth of drug addiction in the United States.

NEW ENERGY BILL

As a result of the necessity to conserve our dwindling supply of natural fuels, I have authored a bill, H.R. 14218, to give tax relief to firms which invest in new methods of using normally wasted materials for producing energy. The bill will encourage the business community to reexamine their operations to see if they can use their waste materials to produce energy.

Examples of that which can be done to conserve energy under this bill are the incinerator plants near Stockholm, Sweden, Chicago, Ill., and the incinerator under construction in Harrisburg, Pa. These incinerators burn trash, garbage, and other waste from the metropolitan areas in which they are located. The heat from these incinerators, which normally escapes up the smokestack, is used to produce steam which, in turn, is used to generate electric power, or could be sold to nearby manufacturing plants for use as a source of heat or operating steam turbines. Only a small part of the steam produced by the incinerators is used to operate the mechanical equipment of the incinerator plants. These incinerators operate at high efficiency and are equipped with the most modern air pollution control equipment.

Our need for new sources of electrical energy is almost overwhelming. We are faced with the possibility of electrical brownouts and blackouts in most of our major metropolitan areas again this summer. This bill gives industry an incentive to find new ways of using waste material to produce energy. This will both lessen the power shortage and reduce the pollution of the environment caused by careless disposal of incompletely consumed fuels and other waste products.

QUALITY EDUCATION

I am in complete agreement with the President's proposals to the Congress which will further the achievement of high quality education for all our children. This concept of a high quality education for all is universally accepted. Extensive student busing to achieve racial balance has, in many areas, required the spending of large amounts of funds which should have been used for improving the quality of educational facilities and instruction in our schools. Thus, the quality of educational programs is inferior due to the misuse of these funds. The proposed legislation will make quality education available in areas currently suffering with substandard curriculums.

Dr. James S. Coleman, who headed the team that produced the widely acclaimed Coleman report on equal educational opportunity, says that judges are misusing his research results to support their "busing to achieve racial balance" orders. Though studies, paid for by the Office of Education in the Department of Health, Education, and Welfare, have conclusively shown that the level of learning in a school is not affected by the number of minority group students attending the school. Therefore, all we are doing by busing students is wasting the taxpayers' money which could be much better spent on a higher quality education for all students.

OUR U.S. ECONOMY

There has been much concern about phase II of the President's economic policy. As previously stated, large increases in U.S. wages and salaries have resulted in large increases in U.S. prices and rents. This has caused drastic inflation which has priced many American products out of the world and domestic markets. In 1971, for the first time in this century, the United States had an unfavorable balance of trade, which means that we imported more than we exported.

The only way we will be able to control inflation and provide more U.S. jobs is for both management and labor to give complete cooperation during phase II of the economic stabilization program, which they have not been doing. During the Banking and Currency Committee hearings on the phase II legislation, I reminded all of the labor leaders that for our economy to recover they must remember at the negotiating table that the consideration of increasing the number of jobs for American workers is as important as increasing wages and fringe benefits. Management must keep profits at minimal levels so that they can price their products competitively and thus provide more jobs through increased sales.

WATER POLLUTION CONTROL

With my support, the House passed the Federal Water Pollution Control Act Amendments of 1972 on March 29. This legislation, H.R. 11896, is designed to correct the tragic scope of our Nation's water pollution problems. Lake Erie is now completely polluted. Both the Potomac and Delaware Rivers are polluted, and the Hudson River has reached pollution levels 170 times the safe limit. The bill provides quick, positive steps to control and eventually eliminate pollution.

The intentions of the Congress in H.R. 11896 are to prohibit the discharge of pollutants, provide financial assistance to communities to construct waste treatment facilities, encourage and promote research and development, expand regional and basin planning and management programs, and improve the administrative procedures of water pollution control programs. The bill calls for the Environmental Protection Agency to establish new Federal standards covering pretreatment to eliminate discharging toxic pollutants from industrial operations into both publicly and privately owned treatment plants.

SOVIET JEWRY

The House has passed House Concurrent Resolution 471, with my support, which calls on the Soviet Government to grant basic human freedoms to Jews and other religious minorities of the Soviet Union. The freedom to openly practice one's religion and to freely emigrate are affirmed in the United Nations Declaration of Human Rights for which the Soviet delegates voted. It is hoped that the pressure of international public opinion will convince the Soviets to honor that Declaration.

THE TELEPHONE PRIVACY BILL GAINS SUPPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, I am reintroducing again the telephone privacy bill with an additional 20 cosponsors. This brings the total of cosponsors of this legislation to 49.

The telephone privacy bill would give individuals the right to be free of businesses trying to sell their wares over the telephone. In short, it would allow an individual to place a "no solicitors" sign on his telephone.

I believe this legislation, which was originally introduced in the House less than 2 months ago, has gained this much bipartisan support primarily because it speaks to an issue of concern to literally tens of millions of Americans. Some evidence of this is the incredible number of letters I have received from people who still believe that their home should be their castle. Some of those people who wrote to me said they had received up to 10 telephone ads in 1 day. Others said that they averaged up to five of these telephone ads per day. People complained of being awakened from restful naps, having to put down a crying baby, having to get up in the middle of dinner, just so a funeral home, a land developer, or a magazine could make its pitch.

The American people get bombarded with advertising every day from television, radio, newspapers, magazines—wherever we turn. But we have precious little privacy left, and the growing telephonic invasion is reducing it even further.

Congress has a unique opportunity to pass legislation that would serve to increase the privacy of millions of Americans. Whether Congress responds to this opportunity will say a lot about how we respond in general to the needs of the people.

A list of the 49 cosponsors of the telephone privacy bill follows:

LIST OF COSPONSORS

Hon. Bella Abzug, N.Y.
Hon. Mark Andrews, N. Dak.
Hon. Nick Begich, Alaska.
Hon. Ben Blackburn, Ga.
Hon. Clarence Brown, Ohio.
Hon. John Buchanan, Ala.
Hon. Phillip Burton, Calif.
Hon. Bob Casey, Tex.
Hon. Shirley Chisholm, N.Y.
Hon. Geo. Collins, Ill.
Hon. Dominick Daniels, N.J.
Hon. George Danielson, Calif.
Hon. Ronald Dellums, Calif.
Hon. John Dent, Pa.
Hon. Robert Drinan, Mass.
Hon. Don Edwards, Calif.
Hon. Paul Findley, Ill.,
Hon. Sam Gibbons, Fla.
Hon. Ella Grasso, Conn.
Hon. Seymour Halpern, N.Y.
Hon. Michael Harrington, Mass.
Hon. James Hastings, N.Y.
Hon. Augustus Hawkins, Calif.
Hon. Ken Hechler, W. Va.
Hon. Margaret Heckler, Mass.
Hon. H. John Heinz III, Pa.
Hon. Henry Helstoski, N.J.
Hon. Edward Koch, N.Y.
Hon. Peter Kyros, Maine.
Hon. Norman Lent, N.Y.
Hon. Parren Mitchell, Md.
Hon. John Moss, Calif.
Hon. John Murphy, N.Y.
Hon. James O'Hara, Mich.
Hon. Otis Pike, N.Y.
Hon. David Pryor, Ark.
Hon. Charles Rangel, N.Y.
Hon. Benjamin Rosenthal, N.Y.
Hon. James Scheuer, N.Y.
Hon. John Seiberling, Ohio.
Hon. Louis Stokes, Ohio.
Hon. Samuel Stratton, N.Y.
Hon. James Symington, Mo.
Hon. Victor Veysey, Calif.
Hon. Jerome Waldie, Calif.
Hon. Charles Wilson, Calif.
Hon. Larry Winn, Kans.
Hon. Lester Wolff, N.Y.

COOLEY'S ANEMIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROSENTHAL) is recognized for 20 minutes.

Mr. ROSENTHAL. Mr. Speaker, more than 200,000 American children may not live to adulthood because of a little-known and largely neglected disease called Cooley's anemia. This is a hereditary, incurable childhood blood disease requiring frequent blood transfusions to keep its victims alive.

Frequency of the transfusions depends on the severity of the case, but most children with Cooley's anemia require transfusions every 2 to 4 weeks—for the rest of their lives, or until a cure can be found.

This often fatal disease occurs most commonly in individuals whose ancestors were natives of Mediterranean countries. In the United States, therefore, most of the victims are of Italian descent. Those of Greek, Turkish, Southern French and North African origins are also more susceptible. There are sporadic cases found in individuals of other origins, especially among the Chinese and Israeli.

Individuals with merely the trait or minor form of the disease have a normal life span and enjoy normal health. Those with the severe form of the disease, which occurs in about one-fourth of the children of parents who both are carriers of the trait, however, may succumb to the disease by the age of 20.

The severe form of the disease usually becomes apparent during the first year of life. Both sexes are equally affected. The earliest signs may be pallor, listlessness, loss of appetite and irritability. Blood examination will usually show a severe anemia.

As a result of the chronic state of anemia, the children with this disease are greatly handicapped. Bone growth is poor, and consequently, they tend to be small for their age. Their bones also are more fragile than normal, leading to seemingly spontaneous fractures. The anemia also causes a lack of pep and energy.

The only effective treatment today is the proper administration of blood transfusions to alleviate the constantly recurring anemia. There are other specific treatments for various complications of the basic disease.

Some children require transfusions weekly. Most need 1 or 2 a month. Some children die within a few years; others may live into their 20's. There is no known cure.

According to Dr. Herbert C. Lichtman of Kings County Hospital Center, "basic research on the problem of blood formation and destruction offers the only hope available to the sufferers."

That is why I am today introducing the National Cooley's Anemia Control Act.

This bill would establish a national program for the diagnosis, prevention and treatment of, and research in, Cooley's anemia. This would include a voluntary screening program to detect the disease.

It would provide slightly more than $7.1 million over the next 3 years to seek out the causes and find a cure for Cooley's anemia.

Mr. Speaker, fellow Members, I ask your support for this legislation so that the children and families affected by this tragic disease can be given hope for a cure and the opportunity to live a normal, healthy life.

I am inserting a copy of my bill in the RECORD at this point:

H.R. 14861

To amend the Public Health Service Act to provide for the prevention of Cooley's anemia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Cooley's Anemia Control Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that Cooley's anemia is a debilitating, inheritable disease that afflicts approximately two hundred thousand American citizens and has been largely neglected;

(2) that efforts to prevent Cooley's anemia must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the trait;

(3) that simple and inexpensive screening tests have been devised which will identify those who have the disease or carry the trait;

(4) that programs to prevent Cooley's anemia must be based entirely upon the voluntary cooperation of the individuals involved; and

(5) that the attainment of better methods of prevention, diagnosis, and treatment of Cooley's anemia deserves the highest priority.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the diagnosis, prevention, and treatment of, and research in, Cooley's anemia.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 3. (a) Section 1 of the Public Health Service Act is amended by striking out "titles I to X" and inserting in lieu thereof "titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), and references thereto, as section 1201 through 1214, respectively.

"TITLE XI—COOLEY'S ANEMIA PROGRAM

"PROGRAMS RELATING TO COOLEY'S ANEMIA

"SEC. 1101. (a) (1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects for the establishment and operation of Cooley's anemia screening, treatment, and counseling programs.

"(2) The Secretary may make grants to public and nonprofit entities, and may enter into contracts with public and private entities and individuals, for projects for research in the diagnosis, treatment, and prevention of Cooley's anemia.

"(3) The Secretary may make grants to public and nonprofit private health profession schools for fellowships for training in the diagnosis, treatment, and prevention of Cooley's anemia. Fellowships provided under grants under this paragraph shall be limited to such amounts as the Secretary finds necessary to cover the cost of the training of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the fellows.

"(4) The Secretary shall carry out a program to develop information and educational materials relating to Cooley's anemia and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit entities or contracts with public and private entities and individuals.

"(b)(1) For the purpose of making payments pursuant to grants and contracts under subsection (a)(1), there are authorized to be appropriated $500,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

"(2) For the purpose of making payments pursuant to grants and contracts under subsection (a)(2), there are authorized to be appropriated $1,700,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

"(3) For the purpose of making grants under subsection (a)(3), there are authorized to be appropriated $150,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

"(4) For the purpose of carrying out subsection (a)(4), there are authorized to be appropriated $25,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

"VOLUNTARY PARTICIPATION

"SEC. 1102. The participation by any individual in any program or portion thereof under this title shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

"APPLICATIONS; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"SEC. 1103. (a) A grant under this title may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

"(1) provide that the program and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) describe with particularity the programs and activities for which assistance is sought;

"(3) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released; or (B) statistical data compiled without reference to the identity of any such patient;

"(4) provide for appropriate community representation in the development and operation of any program funded by a grant under this title;

"(5) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

"(6) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"(b) In making any grant or contract under this title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1104. The Secretary shall establish a program within the Public Health Service to provide for voluntary Cooley's anemia screening, counseling, and treatment. Such program shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs.

"REPORTS

"SEC. 1105. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this title.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary."

THE AIR PASSENGER SAFETY AND CONVENIENCE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. ADAMS) is recognized for 10 minutes.

Mr. ADAMS. Mr. Speaker, I am today introducing, with the cosponsorship of Mr. JARMAN, Mr. MOSS, Mr. METCALFE, and Mr. HELSTOSKI, the Air Passenger Safety and Convenience Act. This legislation will hopefully accomplish two important objectives. First, it will greatly assist in the struggle against air piracy or "skyjacking" by increasing the Federal share on airport and airways "security equipment and facilities" to 100 percent. Second, it will prohibit units of State and local governments from levying costly and inconvenient "head taxes" on airline passengers when they enplane and deplane at airports throughout the country. This legislation, then, is designed to protect the nearly 200 million individuals in this country who will travel by air this year from the threat of "skyjackers" on the one hand and from an inequitable double burden of taxation on the other.

Section 1 of this bill provides Federal assistance to prevent would-be hijackers and extortionists by increasing the Federal share of payments for security equipment under the Airport and Airways Development Act to 100 percent. It also changes the general Federal-local ratio for matching funds under the Airports and Airways Development Act for other statutory purposes from 50 to 50 percent to 75 to 25 percent. Changing the Federal/local ratio to 75 to 25 percent will help free much of the over $270 million in eligible projects now being held in abeyance due to the lack of local funds.

Section 2 of this legislation is designed to protect interstate passengers from numerous, inconvenient and burdensome "head taxes," or fees per person, at possibly each and every airport in the

United States. In the recent case of Evansville-Vanderburgh Airport Authority District against Delta Airlines, Inc., the U.S. Supreme Court stated that Evansville, Ind., could collect a head tax on each airline passenger. In its opinion the Court stated:

> "No federal statute or specific congressional action or declaration evidences a congressional purpose to deny or preempt State and local power to levy charges designed to help defray the costs of airport construction and maintenance.

Yet when the Transportation and Aeronautics Subcommittee of the House Interstate and Foreign Commerce Committee was drafting the Airport and Airways Act of 1970, we considered the head tax to finance this capital improvement system and firmly and finally rejected it. Those who have traveled in foreign countries know that many nations now collect head taxes at their airports, and that they are costly to administer and extremely inconvenient to the traveling public. In addition, there are immense problems in making such a tax uniform because the flow of passengers from one airport terminal to another is not even. Some terminals originate a great deal of traffic whereas others are receiving terminals; yet both supply the same type of services to a passenger. If this taxation system is used we will soon have taxes on those entering planes and those leaving, with resulting long lines and delays as additional ticket personnel are required to handle different taxes at each airport. The result may be that in New York City a person will pay a $5 head tax, in Little Rock 25 cents, and in Denver $1.40.

Finally, the traveling public is already taxed through a user charge added to the price of an airline ticket as authorized under the Airport and Airways Act of 1970. These revenues are allocated to local governments to assist in their airport development programs. In this year alone, user charge revenues, from passenger and nonpassenger sources, are expected to reach $693 million. Thus air travelers are already being uniformly taxed for airport facilities. An additional head tax by each airport would be, in effect, double taxation on our air travelers.

Mr. Speaker, unless we pass this legislation as soon as possible, our Nation's air travelers will be burdened and harassed by a system of nonuniform local "head taxes." It is in the public interest and in the interest of an effective and freely-moving interstate commerce that the Congress preempt this field and protect the right of all Americans to travel.

TIME FOR UNCLE SAM TO RECOGNIZE THE QUALITY OF RESIDENT AMERICAN WORK FORCES IN HAWAII, ALASKA, PUERTO RICO, AND GUAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 10 minutes.

Mr. MATSUNAGA. Mr. Speaker, Federal employees assigned to overseas posts are given certain special benefits: periodic transportation at Government expense to and from their homes of record and, in some cases, pay differentials and commissary and exchange privileges.

Few persons, know, however, that Federal employees who maintain homes of record on the mainland are granted similar privileges if they are stationed in Hawaii, Alaska, Puerto Rico or Guam.

When originally instituted, these special benefits were designed to attract "qualified" workers to an area where the local labor force was deemed inadequate to meet the Federal Government's needs. Whatever justification there might have been at an earlier time in our history, Mr. Speaker, these inducements are no longer needed. The labor market in these areas are such that the need for outside recruitment has substantially diminished, or disappeared completely.

In real life, of course, mainland residents who accept positions in a place like Hawaii tend to remain there for many years, perhaps for the rest of their careers. By receiving these benefits, they are in effect being paid more than a local person hired for the same job. Often, the "mainland" employee has no intention of ever returning to his official home of record.

Mr. Speaker, there is little or no need to spend additional money attracting qualified workers to these areas. Qualified workers already reside there. In recognition of this fact, the Department of Defense, the major employer involved, instituted last fall a program to eliminate the benefits administratively. Because of the constraints of existing law, however, the only possible method for DOD was to force those who refused to accept a transfer to mainland areas, to actually leave the service and be rehired as local residents. The result has been that some of these workers, who would be more than willing to retain their former positions without the special benefits, are threatened with the permanent loss of their jobs. Once they break service, there is no guarantee that persons on a waiting list might not be selected to fill their vacated positions.

Accordingly, I am today introducing legislation to terminate these special benefits for all employees whose positions could be filled from the local labor force, while at the same time assuring those employees that they will not lose their jobs altogether.

Under my bill, any agency employing a "mainland hire" person, could terminate the special benefits if three conditions were met:

That qualified local residents were available for the position;

That the employee's contract with the agency has expired; and

That the employee refuses reassignment to a similar job on the mainland.

Mr. Speaker, the bill I introduce today will eliminate a costly and unnecessary Government expense, while safeguarding the legitimate rights of the individuals involved. I trust that it will be enacted quickly, so that this drain of dollars, which burdens the taxpayer and discriminates against local residents, can be shut off.

I include at this point the text of my bill.

H.R. 14856

A bill to amend title 5 of the United States Code in order to provide that certain benefits to which employees of the United States stationed in Alaska, Hawaii, Puerto Rico, the Canal Zone, or the territories or possessions of the United States are entitled may be terminated under certain conditions, and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) subchapter II of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5734. Termination of certain entitlements

"Under such regulations as the President shall prescribe when an employee of an agency of the United States who is stationed in Alaska, Hawaii, Puerto Rico, Guam, or any possession of the United States is entitled to receive for himself or his immediate family, or both, any of the benefits under sections 5722, 5724 through 5731 (except when section 5729(a)(2) applies), inclusive, 5941, and 6303(d) through 6304, inclusive, of this title, solely as a result of his claim of actual residence outside the area in which he is stationed, the employing agency may terminate his entitlement to such benefits if—

"(1) qualified local residents, who are not already employees of an agency of the United States, are eligible and available for employment in the position held by the employee;

"(2) the initial or renewal period of the employee's current contract or agreement has expired; and

"(3) the employee refuses, or otherwise indicates that he would not accept, assignment to a comparable position in the continental United States or to any other area in which he claims an actual residence;

except that the employee may continue in the same position at the same rank and pay without being separated or otherwise subject to a break in service if he certifies that he (A) has become, or has initiated appropriate action to become, a permanent resident of the area in which stationed, and (B) intends to maintain permanent residence in that area."

(b) The analysis of subchapter II of such chapter 57 is amended by adding at the end thereof the following: "5733. Termination of certain entitlement."

PRESIDENT NIXON'S DECISION TO ESCALATE THE WAR IS WRONG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 10 minutes.

Mr. COTTER. Mr. Speaker, last night I listened with deep concern and apprehension to the President's message. I have never questioned the President's courage in making decisions, but I have often questioned the wisdom of those decisions. Last night was no exception. The President announced a decision to mine Haiphong and, less clearly, to interdict ships supplying North Vietnam.

While I have no sympathy for the North Vietnamese invasion, I believe the President's drastic military action indicates the failure of his Vietnamization program. We have supported the South Vietnamese more than the Chinese and the Soviet Union have supported North Vietnam. We have sacrificed 55,000 U.S. soldiers and have spent hundreds of billions of dollars on this war. In spite of our most persistent efforts at supplying, training, and even dying, the South Vietnamese Army has failed to protect its own country. According to all reports, only U.S. air power has staved off defeat of the South Vietnamese Army. Instead of recognizing the major fallacy of his Vietnamization policy, President Nixon has taken a drastic step. Even with this new and dangerous escalation, the key variable remains, as the President once said, "Can ARVN hack it?" The answer appears to be "No."

Without the South Vietnamese Army's will to fight, any major military escalation by the United States—in both military and political terms—is both unwarranted and fruitless. Further, according to most reports, the North Vietnamese have stockpiled enough weapons and supplies to continue the current offensive for the next several months.

Last year—my first in Congress—I warned my colleagues that as long as we maintained U.S. troops in Southeast Asia, there would be pressure for "one last strike." This prediction, unfortunately, is coming true. Our air and naval armada in the Bay of Tonkin is replacing our ground troops which have been withdrawn. Further, the 60,000 U.S. servicemen in South Vietnam can be viewed as hostages to this "one last strike" policy. The rationale to protect our remaining troops appears to be an attempt to provide a reason for further continuing a large U.S. military presence.

I vigorously denounce this dangerous escalation. For 3½ years, President Nixon has not ended the war as he promised in 1968.

I know that many of my colleagues will focus on related matters: The Soviet summit, relations with China, and the SALT talks, but I feel it is imperative to keep focused, as objectively as possible, on the situation in South Vietnam. The lynch pin of U.S. withdrawal—the end of direct U.S. military participation—is the ability of the South Vietnamese Army to go it alone. The events to date indicate this policy has been a failure and no cosmetic military action—however drastic—will cover this fatal flaw.

In conclusion, Mr. Speaker, I believe the President's decision is tragically wrong. He has chosen to bring the world to the brink of a nuclear power confrontation to save a country that has not demonstrated the willingness or the capability to fight its own battle. The result of this decision will not be known for weeks, but in the meantime, men and women will die, the land will continue to be ravaged, people's hopes and dreams will be blighted, while each of the super powers jockey for a self-perceived advantage. I believe that the United States should end its military commitment to South Vietnam. Delay in ending this war or trading air and naval troops for ground combat troops represents a thinly disguised attempt to continue this war and it serves to create the impetus for a "one more strike" policy.

I hesitate to think what our next military action will be when this new venture fails to bail out the South Vietnamese Army.

It is apparent that the President is unable to end our participation in this war. The time is long past when the Congress could exercise its constitutional power to end this war. Since coming to Congress, I have fought for this congressional mandate. I will continue my strong efforts to end this divisive war, subject only to the release of POW's.

NATIONAL HIGHWAY SYSTEM INCOMPLETE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 30 minutes.

Mr. ALEXANDER. Mr. Speaker, I would like to bring to the attention of my colleagues a persistent dilemma which exists in the State of Arkansas—particularly in the First Congressional District. The problem to which I refer must exist, I believe, in every other State in the Nation which has a region—or regions—which is substantially undeveloped, underdeveloped or in need of revitalization.

Take a look at those regions. I expect they have something more than poverty and unemployment in common. I believe you will find that each and every one of those regions needs a proper transportation system.

In Arkansas, the First Congressional District has the largest concentration of poor and underdeveloped counties in the State. These are both delta and hill regions, and areas which have a pleasant mix of both. More importantly, they are regions of tremendous potential for growth through the wise conservation and use of our natural resources—the most valuable of which is our people.

We are working to provide better housing, more and better jobs, better education, more recreational facilities and health care. But, without a top quality transportation system—particularly an interstate quality highway running southeast from Kansas City, Mo., to Florida—the region will be unable to offer the kind of life its people have a chance to be able to make for themselves.

These are proud, hardworking people who put their whole strength into a project in which they believe. Let me use just one example to show you what I mean. The highways which serve the northeast and the northern portions of Arkansas are not capable of carrying the traffic load which they now have, and will become increasingly insufficient with the passage of time.

Seven years ago a group of interested and concerned citizens met in Newport, Ark., and organized the Ozark Express Route Association. Nine counties are participating in this group. They are Baxter, Crittenden, Cross, Fulton, Independence, Izard, Jackson, Poinsett, and Stone counties. The members of the association pooled their resources and hired a professional planning firm to study the need to build an interstate highway route from Memphis, Tenn., northwest through Arkansas to Kansas City.

Since that time the association has actively—though with limited success—sought to improve the transportation system of their region.

It would be useful, here, I believe to consider some facts about this region the association would make more accessible to visitors from throughout the Nation and more pleasant for residents. There are a number of points which must be considered. One of the major ones is the fact that the failure of the Federal Highway program to include this area in the interstate system has deprived Americans of full access to the wonders of Arkansas during a national shortage of recreation facilities.

Tourism is potentially the most valuable asset in North Arkansas' effort to develop its economic capability. Investment in a top quality highway system in this region would provide a multitude of benefits. Chief among them, of course, would be the opening up of the region's recreation outlets to the whole Nation.

This would provide new momentum to the efforts to improve the region's economic standing. A good highway system which combines routes of interstate-quality with excellent roads designed for other kinds of use is essential to the full use of the region's recreation areas.

We have got the attractions to bring in visitors. There are Blanchard Springs Caverns which are subterranean wonders. White and St. Francis Rivers and the Bull Shoals and Norfolk Reservoirs are filled with fish enough to lure any angler. Outdoorsmen are just naturally drawn to the beauties of the Ozarks National Forest.

Every week the hills ring with the sound of folk music hootenanies. The performers are generally everyday residents of the region who have worked diligently to preserve the remanents of their musical and cultural heritage. And a number of the region's communities hold colorful, annual folklore festivals which bring visitors from many areas. With the aid of the Federal Government, we are building a folk cultural center in Mountain View.

Despite the narrow, winding and totally inadequate highway system in the region, thousands of visitors still make their way into the area annually to enjoy its wonders. But, in order that these assets may be fully utilized for the benefit of the Nation as a whole, we must have a greatly improved highway system through this region. Using tax moneys to build such facilities will provide a minimum of a return to the people. First, they will be able to cross the region quickly, conveniently and safely without being limited to the low speeds the present routes require.

Second, those who live in this region will be more able to use their ingenuity, grit and energy to earn their own way. Three, those taxpayers who live in areas poor in recreational resources, particularly those natural beauties of field and stream, would be able to conveniently visit and enjoy this region of Arkansas.

The need for improving the economy and job opportunities in the region is undeniable. Of the nine counties involved in the Ozark Express Route Association, six had increases from 1.1 to 3.5 percent in their average annual unemployment rate over that of 1969. One remained stable, and two dropped—but by less than 1 percent. Eight of the nine had rates for both years which were higher than the national annual average rate of unemployment.

For this region, the potential for growth is proven. Again, limiting the discussion to the counties involved in the express route association, five of the nine grew by 9 percent or more. One, in fact, had a population increase of 54.1 percent. The other two experienced population decreases.

The wisdom of investing in improved highways for a region like this one in Arkansas is unquestionable in view of the multiple benefits to be gained. I would, at this time urge all members of the Congress, particularly those who have such regions as I have described in their districts, to act to assure that the Nation's countryside gets a share of available highway money which is directly related to its needs.

Let us act to see that regions like northeast and north Arkansas get their share of transportation system funds, based on a formula of benefits to be derived, need for development or redevelopment, and potential to make effective use of the money.

Such a step is a natural action if the Congress is committed—as it said it was in 1970—to the achievement of a more balanced growth in all portions of the Nation. All portions, including the almost depopulated countryside.

I would further urge every member of the Congress to consider the full development of the interstate highway system, rather than accepting its limited status as it now stands.

POSITION OF PRESIDENT SADAT OF EGYPT WEAKENS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 10 minutes.

Mr. HAMILTON. Mr. Speaker, 1 year ago, President Sadat of Egypt took the bold step of dismissing several colleagues who were said to be planning a coup against him. Many of them were thought to have close ties with the Soviet Union. At the same time, Mr. Sadat embarked on a diplomatic offensive aimed at achieving some peace settlement on terms acceptable to Egypt.

Today, 1 year later, President Sadat's internal position has weakened and his rhetoric has toughened. His diplomatic efforts have produced no fruits and his critics have increased in numbers. His position will only weaken further the longer the status quo remains and he may be forced by internal pressures to undertake some limited military operation on Sinai despite the fact he knows it will be unsuccessful.

As much as President Sadat, like Prime Minister Golda Meir, is worried about the possibility of some United States-Soviet agreement compromising his demands in a peace agreement, Sadat is more immediately troubled by increased domestic pressures.

At least four Egyptian groups are increasingly frustrated with the course of no war and no peace that has existed for over a year now.

First, technocrats and much of the educated elite ridicule Sadat's often clumsy and false rhetoric and his inability to move toward some peace.

Second, Army officers do not know what they are preparing for, but know they do not have the offensive material for trying to recapture even part of Sinai, Sadat's stated goal in any resumption of fighting. To date, the Soviet Union has been reluctant to give Egypt large stocks of offensive weapons.

Third, students like the greater freedom of expression they have had under Sadat, but their immediate futures remain uncertain. There are few jobs available and no one knows when he might be drafted. No war and no peace frustrate them.

Fourth, those with vested interests in close ties with the Soviet Union do not like the unpredictability of Sadat and would prefer a more decisive person who might get more aid from Russia, even more sophisticated weaponry.

Unless there is some movement toward an interim or final settlement of the Arab-Israel conflict, Sadat or any other Egyptian leader is likely to suffer. If he pursues the past diplomatic efforts without success, his opposition only increases and his position deteriorates. On the other hand, if he pursues military options, he is beaten and Israel retaliates and his position worsens. Even more ominous, desperate acts can become realities. Instability in Egypt only reinforces instability throughout the area because Egypt remains a political barometer for the Arab world.

A very strong case can be made that the present quiet interlude in the Middle East is deceptive. To circumvent any gathering storm, the United States must redouble its efforts to use its good offices to bring Egypt and Israel to the table so that they can negotiate, to talk with the Soviet Union about peace and arms limitation talks on the Middle East and to facilitate Dr. Gunnar Jarring's mission pursuant to United Nations Resolution 242. No other course is in U.S. interests.

THE FUTURE OF THE AMERICAN FAMILY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 15 minutes.

Mr. PODELL. Mr. Speaker, sometimes we overlook the most obvious things. There is one very important problem which we have ignored—the future of the American family. Although this problem is so close to us, we, as a nation, have a woeful lack of information concerning the family.

Despite this ignorance, we have witnessed the passage of legislative proposals which would affect fundamentally the future of the family in ways no one—liberal, moderate, or conservative—has estimated. We have a National Child Development Act. Localities have redefined the notion of family so as to restrict occupancy of housing by "communes." We have seen legislatures across the country pass new laws dealing with divorce and abortion. Even the American Bar Association is planning to press for a national divorce law similar to the very easy California divorce law.

At this moment, the Congress is still struggling to deal with President Nixon's family assistance schemes. The President's plans were passed on the as yet unsubstantial theories about family life which were propounded by Mr. Moynihan. Those same plans would radically affect the structure of poor families.

Even my own housewives' pension scheme would have some unknown consequences for the family.

At the same time that this legislative production is going on, several changes in the family are also proceeding at a fast pace.

In one of the few articles in the public press on problems of the family, Jack Waugh of the Christian Science Monitor has written:

> In part more women are being pushed beyond the traditional roles expected of them because raising a family no longer occupies all their lifetime—or even half of it.
>
> To all this the typical male attitude is ambivalent. The non-father husband has troubles of his own. One of them is that he doesn't know exactly where he stands in the face of the growing complexity of handling, at the same time, the technological world, a liberated wife, and children who are smarter and more sophisticated than he was when he was one of them.
>
> To many a father, the world is a more perilous place than it has ever been, because he feels he no longer has the control fathers once had. He sees his position in the family atrophying and isn't certain what to do about it.

Apparently not only the man faces this problem of identification. A few weeks ago, Life magazine ran a story about this ever increasing, but relatively new, problem of runaway wives.

Numerous social problems, from juvenile delinquency to welfare, from narcotics to alcoholism, have been connected with family problems.

I have provided an outline of a problem which is fundamental to our society. And what have we done to investigate the problem? Very, very little.

The National Science Foundation estimates that less than $100,000 out of several millions in social science research funds have gone, each year, to research concerning the family.

The National Institute of Child Health and Human Development is the only research arm of the Federal Government that even remotely deals with the family. And even NICHHD has fewer than thirty research projects out of thousands of research projects that deal directly with the family.

As I have already noted, the public press has given little attention to the picture of the family. It is about time we faced up to our responsibilities.

Mr. Speaker, I appeal to you and to our colleagues to support my proposal that Congress establish a Joint Committee on the Family. We have joint committees on economics, on atomic energy, on expenditure reduction, et cetera. Surely the family is as important as those subjects.

The Joint Committee on the Family would first focus Federal time, energy, and money on the most important problem. It would collect data and conduct or contract research on the future of the family and family organization. It would review all legislation for possible consequences on family organization. It would develop a national family policy and monitor implementation of family programs. The Joint Committee would provide a national focus for our concern about the family.

No matter what opinion on the traditional family one may have, all of us should recognize the necessity to clarify the consequences for families of our legislative activities. If you think this legislation is unnecessary, go home tonight and look carefully at your family.

Can you be sure you know the future of your family? Can you be sure of the effect on your family of the bills you have voted on?

NEW YORK TIMES NEWSSTORY ON PANAMA CANAL TREATY NEGOTIATIONS: FURTHER CLARIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in a statement to the House of Representatives in the CONGRESSIONAL RECORD of April 12, 1972, I commented at some length on a newsstory in the New York Times of April 9 by C. L. Sulzberger in which he advocated "Removing an Old Blemish" by surrender at Panama. That story by Mr. Sulzberger did not explain the actual situation on the Ithmus and thus was misleading.

The strategically located Republic of Panama was taken over by a pro-Red oriented revolutionary government on October 11, 1968, in military coup d'etat. Omar Torrijos, the commandant of the National Guard of Panama and that country's strong man, is reported as a great admirer of the communist President Allende of Chile and as following the latters' practices in land expropriations. Moreover, the chief of the Panamanian Land Reform Program is Robledo Landero, a prominent member of the People's Party of Panama, which is the Communist Party subject to controls from Moscow.

The last Constitutional President of Panama, overthrown on October 11, 1968, after only 10 days in office, had to take refuge in the Canal Zone to avoid assassination. In addition, his home at Boquete in Panama was burned, and valuable objects of art, property, documents and personal possessions destroyed, all on express orders of the National Guard. Such facts as these are seldom, if ever, mentioned in the mass news media of the United States.

As to the April 9 Sulzberger newsstory, I have received a copy of a most informative letter addressed to him. From the facts therein developed it is clear that the U.S.S.R. is well along in its program for the occupation of Panama as was accomplished by pro-Red elements in the State Department in 1959 in Cuba. Moreover, by the refusal on August 15, 1970, of the Torrijos regime to renew the lease of the Rio Hato Air Base, built by the United States during World War II, and permitting Soviet Yak-40 trijet transport planes in and out of Colombia to use it at will, the Torrijos government has indirectly enabled the U.S.S.R. to establish its first air base in Central America, close to the Panama Canal. This, Mr. Speaker, constitutes an unfriendly act and should be so recognized.

The indicated letter follows:

LOS ANGELES, CALIF., *April 21, 1972.*

Mr. C. L. SULZBERGER,
The New York Times,
New York, N.Y.

DEAR MR. SULZBERGER: Congressman Daniel J. Flood recently sent me a copy of your article on April 9th concerning relations between the United States and the Republic of Panama and the blemish that is supposed to exist.

For the past two years I have been devoting my time and efforts by informing Congress, both the Senate and the House, the Executive Branch, the Department of State, the lending agencies, the Pentagon, and others about the pro-Communist de facto military regime in Panama and their close ties with the USSR who indirectly is now ruling Panama from within. To further explain how the USSR came to power in Panama and the method they used to gain control over the National Guard, I am enclosing a copy of my 5 page letter to Congressman John M. Murphy, Chairman of the Subcommittee on Panama Canal and a copy of Congressman Flood's speech to the House on March 29th. I believe that Congressman Flood's speech and my letter to Congressman Murphy clearly tell the objectives of the USSR in the Isthmus of Panama and their strategy to control all the waterways of the world.

Being the grandson-in-law of the founder of the Republic of Panama, knowing Panama well, and very familiar with the political background and the aspects of former treaties, I would like very much to comment on your article "Removing an Old Blemish" and to explain that the present pro-Communist de facto military regime in Panama does not want a new treaty with the United States. There are 2 reasons why:

1. By the 1903 constitution of Panama, it clearly states that any treaty has to be signed by a constitutional president and ratified by the National Assembly. There are no procedures in Panama today for ratification as the country is non-constitutional. Any attempt to revise the constitution to make the ratification process acceptable to the United States, still would not be valid.

2. The pro-Communist military regime in Panama have already a verbal agreement with the USSR and Japan to construct a new sea-level canal in that country.

For your perusal, I am enclosing Paul Scott's syndicated column concerning the new USSR canal in Panama and the Hoja Del Lunes newspaper article from Madrid on April 10th that further explained the proposed USSR canal. This article from Madrid mentioned 2 prominent Americans. One concerned Senator Henry M. Jackson. It said that when Senator Jackson was in Florida recently, he found out about the proposed USSR-Japan canal and had planned to release this information on television. The Department of State told him that if he did, they would issue a denial of the proposed USSR canal. The article also says the reason why the Department of State denies such a proposal, although Secretary Rogers is aware of it, because it may jeopardize President Nixon's trip to Moscow next month. The other American it mentioned was Admiral John McCain. It seems that he made some comments concerning the USSR canal in Panama and because of these remarks, he was severely censored by Washington. The article from Spain also said that the Soviets were exploring the possibility of having an air base in Panama.

Pertaining to how this USSR–Japan proposal for a canal in Panama materialized. I am enclosing a copy of my letter to Secretary David M. Abshire of the Department of State concerning Omar Torrijos' flight to Cuba on November 1st where he met with Premier Kosygin to discuss the new USSR proposal for Panama. In my letter to Secretary Abshire I explained to him the Soviet's plan for control over the 19,000 acre, 9,000′ runway of the Rio Hato Air Base only 80 miles west of Panama City. This is the air base that Torrijos refused to renew on August 15th, 1970.

Your article mentioned that "the U.S. still pays Panama only $1,930,000.00 a year for the waterway itself although Americans living and working in the Canal Zone spend almost a hundred times that much annually." It is correct that the U.S. does pay nearly 2 million dollars annually; however, the fringe benefits that Panama receives in the way of salaries, pensions and products bought from Panama is over $160 million dollars yearly. The large silent majority of Panamanians do not want to lose this income and livelihood.

Concerning the amount of money that Americans spend in the Canal Zone, you must take into consideration the amount of money that has been spent on U.S. investments in the canal enterprise up-to-date. For the acquisition of the canal zone, construction, maintenance, operation, sanitation, and protection of the Panama Canal, the total book value from 1904 to June 30th, 1971 is $5,695,745,000.00. This figure does not represent 1972 values. If the expenditures made in earlier years were converted into present day currency, the total U.S. investment would be far greater, possibly by billions. These figures were given in Congressman Flood's speech to the House on April 18th. In his speech he also explained to his colleagues, as he has done so many times in the past, that Article IV, section 3, clause 2 vests the power to dispose of territory and other property of the United States in the Congress, which includes the House of Representatives as well as the Senate. This constitutional provision as regards a new treaty (which would be invalid by the constitution of Panama) has never been publicized by the USSR controlled news media in Panama; that is, property of the United States would have to be considered by the House as well as the Senate before they could be surrendered or disposed of. As Congressman Flood stated in his speech concerning this on April 18th, "Such concealment from Panama in this connection amounts to duplicity and, ultimately, a gross disservice to Panama."

If you recall, the military of Panama overthrew the constitutional government of President Arnulfo Arias, a good friend of the United States and a target of the Soviets since the early forties, on October 11th, 1968. In my enclosed letter to Congressman Murphy, I explained how the Soviets were able to do this. Today, the government is being ruined by 2 Panamanian agents of the USSR; namely, Juan Tack, the Foreign Minister, and Romulo Betancourt, the former Secretary General of the People's Party, the Communist Party of Panama. Lt. Col. Omar Torrijos (his self-proclaimed title of General has no validity) is the figurehead. Demetrio Lakas, the puppet President, was placed in that position because of his ownership of 2 houses of prostitution in which the military of Panama participate in the profits of this business.

Last month you no doubt read the accusation by the Bureau of U.S. Narcotics and Dangerous Drugs naming Panama as one of the world's key centers of the illegal narcotics traffic. It also named the Foreign Minister, Juan Tack, and Moises Torrijos, the brother of the pro-Communist dictator, in the illegal narcotics traffic of heroin to the United States.

Concerning the illegal narcotics traffic in Panama, we must remember that in any military regime and especially the one in Panama that is now controlled by the USSR, there are no safeguards such as a constitutional government would have. I do know that President Arnulfo Arias, a former physician and now in exile in Miami, is gravely worried over this mounting problem in his country in which 12% of the heroin in the United States stem from Panama.

In your last paragraph you stated "and, above all, no more of the humiliating implication that part of its territory can perpetually be ruled by a foreign power." But today it is. And that power is the USSR. To further consolidate their position over the captive Panamanians, the USSR controlled military have increased their National Guard budget from $6 million in 1971 to $25 million for 1972. This increase of $19 million is used for personal self-gain, more armaments that are bought from behind the Iron Curtain (when Tack and Lakas were in Europe last August, they made a pact with Czechoslovakia), more recruits into the National Guard, more paid informants and more agents added to the dreaded Secret Police that is now being advised by KGB agents of the USSR that are now infiltrated into Panamanian life.

Do remember that when the USSR controlled military took the country over by gunpoint, they immediately closed the National Assembly, abolished all political parties and civil liberties, and censored all news media. The 1,400,000 Panamians deplore the treasonous act of the USSR controlled military that deprived them of all freedom and democracy. They deplore the tortures, the disappearances of prominent people, the imprisonment of former politicians, the deportations, and confiscation of private property.

To sum it up, the USSR controlled military of Panama have been demanding the return of the U.S. sovereignty of the Canal Zone but they have taken away the sovereignty of the people of Panama.

With my warmest regards.

Cordially,

PHILLIP HARMAN.

PRESIDENT'S ADDRESS TO THE NATION ON VIETNAM

(Mr. GERALD R. FORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, in his speech to the Nation last evening the President set forth precisely the situation in Vietnam and the choices that he faced in making his decision to mine and blockade North Vietnamese ports. With unanimous consent, I insert the President's address to the Nation at this point in the RECORD:

ADDRESS BY THE PRESIDENT, MAY 8, 1972

Good evening. Five weeks ago, on Easter weekend, the Communist armies of North Vietnam launched a massive invasion of South Vietnam, an invasion that was made possible by tanks, artillery, and other advanced offensive weapons supplied to Hanoi by the Soviet Union and other Communist nations.

The South Vietnamese have fought bravely to repel this brutal assault. Casualties on both sides have been very high. Most tragically, there have been over 20,000 civilian casualties, including women and children, in the cities which the North Vietnamese have shelled in wanton disregard of human life.

As I announced in my report to the Nation 12 days ago, the role of the United States in resisting this invasion has been limited to air and naval strikes on military targets in North and South Vietnam. As I also pointed out in that report, we have responded to North Vietnam's massive military offensive by undertaking wide-ranging new peace efforts aimed at ending the war through negotiation.

On April 20th, I sent Dr. Kissinger to Moscow for four days of meetings with Secretary General Brezhnev and other Soviet leaders. I instructed him to emphasize our desire for a rapid solution to the war and our willingness to look at all possible approaches. At that time, the Soviet leaders showed an interest in bringing the war to an end on a basis just to both sides. They urged resumption of negotiations in Paris, and they indicated they would use their constructive influence.

I authorized Dr. Kissinger to meet privately with the top North Vietnamese negotiator, Le Duc Tho, on Tuesday, May 2nd, in Paris. Ambassador Porter, as you know, resumed the public peace negotiations in Paris on April 27th and again on May 4th. At those meetings, both public and private, all we heard from the enemy was bombastic rhetoric and a replaying of their demand for surrender. For example, at the May 2nd secret meeting, I authorized Dr. Kissinger to talk about every conceivable avenue toward peace. The North Vietnamese flatly refused to consider any of these approaches. They refused to offer any new approach of their own. Instead, they simply read verbatim their previous public demands.

Here is what over three years of public and private negotiations with Hanoi has come down to: The United States, with the full concurrence of our South Vietnamese allies, has offered the maximum of what any President of the United States could offer.

We have offered a de-escalation of the fighting. We have offered a cease-fire with the deadline for withdrawal of all American forces. We have offered new elections which would be internationally supervised with the communists participating both in the supervisory body and in the elections themselves.

President Thieu has offered to resign one month before the elections. We have offered an exchange of prisoners of war in a ratio of 10 North Vietnamese prisoners for every one American prisoner that they release. And North Vietnam has met each of these offers with insolence and insult. They have flatly and arrogantly refused to negotiate an end to the war and bring peace. Their answer to every peace offer we have made has been to escalate the war.

In the two weeks alone since I offered to resume negotiations Hanoi has launched three new military offensives in South Vietnam. In those two weeks the risks that a communist government may be imposed on the 17 million people of South Vietnam has increased and the communist offensive has now reached the point that it gravely threatens the lives of 60,000 American troops who are still in Vietnam.

There are only two issues left for us in this war. First, in the face of a massive invasion do we stand by, jeopardize the lives of 60,000 Americans, and leave the South Vietnamese to a long night of terror? This will not happen. We shall do whatever is required to safeguard American lives and American honor.

Second, in the face of complete intransigence at the conference table do we join with our enemy to install a communist government in South Vietnam? This, too, will not happen. We will not cross the line from generosity to treachery.

We now have a clear, hard choice among three courses of action: Immediate withdrawal of all American forces, continued attempts at negotiation, or decisive military action to end the war.

I know that many Americans favor the first course of action, immediate withdrawal. They believe that the way to end the war is for the United States to get out and to remove the threat to our remaining forces by simply withdrawing them.

From a political standpoint, this would be a very easy choice for me to accept. After all, I did not send over one-half a million Americans to Vietnam. I have brought 500,000 men home from Vietnam since I took office. But, abandoning our commitment in Vietnam here and now would mean turning 17 million South Vietnamese over to communist tyranny and terror. It would mean leaving hundreds of American prisoners in communist hands with no bargaining leverage to get them released.

An American defeat in Vietnam would encourage this kind of aggression all over the world, aggression in which smaller nations armed by their major allies, could be tempted to attack neighboring nations at will in the Mid-East, in Europe, and other areas. World peace would be in grave jeopardy.

The second course of action is to keep on trying to negotiate a settlement. Now this is the course we have preferred from the beginning and we shall continue to pursue it. We want to negotiate, but we have made every reasonable offer and tried every possible path for ending this war at the conference table.

The problem is, as you all know, it takes two to negotiate and now, as throughout the past four years, the North Vietnamese arrogantly refuse to negotiate anything but an imposition, and ultimately that the United States impose a Communist regime on 17 million people in South Vietnam who do not want a Communist Government.

It is plain then that what appears to be a choice among three courses of action for the United States is really no choice at all. The killing in this tragic war must stop. By simply getting out, we would only worsen the bloodshed. By relying solely on negotiations, we would give an intransigent enemy the time he needs to press his aggression on the battlefield.

There is only one way to stop the killing. That is to keep the weapons of war out of the hands of the international outlaws of North Vietnam.

Throughout the war in Vietnam, the United States has exercised a degree of restraint unprecedented in the annals of war. That was our responsibility as a great nation, a nation which is interested—and we can be proud of this as Americans—as America has always been, in peace not conquest.

However, when the enemy abandons all restraint, throws its whole army into battle in the territory of its neighbor, refuses to negotiate, we simply face a new situation.

In these circumstances, with 60,000 Americans threatened, any President who failed to act decisively would have betrayed the trust of his country and betrayed the cause of world peace.

I therefore concluded Hanoi must be denied the weapons and supplies it needs to continue the aggression. In full coordination with the Republic of Vietnam I have ordered the following measures which are being implemented as I am speaking to you.

All entrances to North Vietnamese ports will be mined to prevent access to these ports and North Vietnamese naval operations from these ports. United States forces have been directed to take appropriate measures within the internal and claimed territorial waters of North Vietnam to interdict the delivery of any supplies. Rail and all other communications will be cut off to the maximum extent possible. Air and naval strikes against military targets in North Vietnam will continue.

These actions are not directed against any other nation. Countries with ships presently in North Vietnamese ports have already been notified that their ships will have three daylight periods to leave in safety. After that time, the mines will become active and any ships attempting to leave or enter these ports will do so at their own risk.

These actions I have ordered will cease when the following conditions are met: First, all American prisoners of war must be returned.

Second, there must be an internationally supervised cease-fire throughout Indochina.

Once prisoners of war are released, once the internationally supervised cease-fire has begun, we will stop all acts of force throughout Indochina, and at that time we will proceed with a complete withdrawal of all American forces from Vietnam within four months.

Now, these terms are generous terms. They are terms which would not require surrender and humiliation on the part of anybody. They would permit the United States to withdraw with honor. They would end the killing. They would bring our POWs home. They would allow negotiations on a political settlement between the Vietnamese themselves. They would permit all the nations which have suffered in this long war—Cambodia, Laos, North Vietnam, South Vietnam—to turn at last to the urgent works of healing and of peace. They deserve immediate acceptance by North Vietnam.

It is appropriate to conclude my remarks tonight with some comments directed individually to each of the major parties involved in the continuing tragedy of the Vietnam War. First, to the leaders of Hanoi, your people have already suffered too much in your pursuit of conquest. Do not compound their agony with continued arrogance; choose instead the path of a peace that redeems your sacrifices, guarantees true independence for your country and ushers in an era of reconciliation.

To the people of South Vietnam, you shall continue to have our firm support in your resistance against aggression. It is your spirit that will determine the outcome of the battle. It is your will that will shape the future of your country.

To other nations, especially those which are allied with North Vietnam, the actions I have announced tonight are not directed against you. Their sole purpose is to protect the lives of 60,000 Americans who would be gravely endangered in the event the Communist offensive continues to roll forward and to prevent the imposition of a Communist government by brutal aggression upon 17 million people.

I particularly direct my comments tonight to the Soviet Union. We respect the Soviet Union as a great power. We recognize the right of the Soviet Union to defend its interests when they are threatened. The Soviet Union in turn must recognize our right to defend our interests.

No Soviet soldiers are threatened in Vietnam. Sixty thousand Americans are threatened. We expect you to help your allies, and you cannot expect us to do other than to continue to help our allies, but let us, and let all great powers help our allies only for the purpose of their defense, not for the purpose of launching invasions against their neighbors.

Otherwise the cause of peace, the cause in which we both have so great a stake, will be seriously jeopardized.

Our two nations have made significant progress in our negotiations in recent months. We are near major agreement on nuclear arms limitation, on trade, on a host of other issues.

Let us not slide back toward the dark shadows of a previous age. We do not ask you to sacrifice your principles, or your friends, but neither should you permit Hanoi's intransigence to blot out the prospects we together have so patiently prepared.

We, the United States, and the Soviet Union, are on the threshold of a new relationship that can serve not only the interests of our two countries, but the cause of world peace. We are prepared to continue to build this relationship. The responsibility is yours if we fail to do so.

And finally, may I say to the American people, I ask you for the same strong support you have always given your President in difficult moments. It is you most of all that the world will be watching.

I know how much you want to end this war. I know how much you want to bring our men home and I think you know from all that I have said and done these past three and one-half years how much I, too, want to end the war to bring our men home.

You want peace. I want peace. But, you also want honor and not defeat. You want a genuine peace, not a peace that is merely a prelude to another war.

At this moment, we must stand together in purpose and resolve. As so often in the past, we Americans did not choose to resort to war. It has been forced upon us by an enemy that has shown utter contempt toward every overture we have made for peace. And that is why, my fellow Americans, tonight I ask for your support of this decision, a decision which has only one purpose, not to expand the war, not to escalate the war, but to end this war and to win the kind of peace that will last.

With God's help, with your support, we will accomplish that great goal.

Thank you and good night.

Mr. HALL. Mr. Speaker, thank God that finally this Nation has a Commander in Chief with the perception to determine what must be done in Vietnam, the "guts" to do it, and the perseverance to see it through, once the decision has been made.

Mr. Nixon's determination to "cut off" the Soviet-built, sophisticated supplies of war that have been provided to North Vietnamese, by mining the port of Haiphong—coupled with the decision to deny the enemy sanctuary, by eliminating his bases in Cambodia, while bombing the strategic areas in the north, will in time, limit the ability of the Communists to continue the already overly prolonged war, under conditions that have heretofore worked only to their advantage.

At the same time, the President has held open the door to peace by offering to negotiate a cease-fire with conditions that would see the withdrawal of all American forces from Southeast Asia, within a certain time, contingent upon the release of our prisoners of war.

The President inherited this war under circumstances that had denied our Air Force the right to bomb, the Navy the right to support, and the infantry the ability to attack and hold. Our military had been "handcuffed" while the enemy was permitted to roam at will. Now, even though the hour is late, we have taken the steps that should have been taken years ago. I have faith they will succeed.

Mr. Speaker, we now have fewer than 60,000 men in Vietnam, but the aggressive advance of the entire North Vietnamese Regular Army has threatened their very lives. I, for one, am not willing to see them placed in further jeopardy. It is high time we all unite and stand behind the President in this hour of determination. Let us give him the support needed to end this war with honor, while at the same time providing conditions that will bring about a peaceful settlement.

Our troop withdrawals have been met with escalation; our attempts at meaningful negotiation have been continually rebuffed. Our envoys to private talks have obviously been insulted. Through it all, our leaders have shown infinite patience, now the Commander in Chief has finally served notice that this Nation will not be longer humiliated. On that score, I believe all thinking citizens will stand by his side.

Mr. KUYKENDALL. Mr. Speaker, there is one commodity that every Member of this body recognizes and reveres, and that is courage. And whether you agree with his decision—which I endorse without reservation or qualification—you must admire the courage that our President demonstrated last night.

All of us must realize just what is involved here, just how high the stakes are, and how easy and tempting it must have been, to take a lesser action. But lesser action would not have been Richard Nixon's way.

Even if the Vietnam war dragged on, our President could have faced future historians as the man who showed the way toward warmer relations with Mainland China, who hammered out the SALT agreement, who helped negotiate a ceasefire in the Middle East—and any one of these things might in other times have placed him in nomination for the Nobel Peace Prize. Virtually on the eve of a summit trip to Soviet Russia, which might well have been the culmination of his 4 years of stewardship of this Nation's dreams and hopes, he draws the line in front of an armed aggressor, and he says "Stop."

It is a calculated risk. It is the result, not of headlong gambling instinct, but of weighing the alternatives, and taking the courageous way—the difficult way, yes, but the honorable and forthright way, turning his back on vacillation and temporizing.

In years to come, it will rank with the forthright actions of other great leaders of the world in times past—with millions for defense, but not 1 cent for tribute; with England expects every man to do his duty; with Henry V at Agincourt and John Kennedy at the blockade of Cuba.

And, as those heroes in times past were inspired and guided by the prayers of the multitudes, so should we offer ours for the conclusion of this war we did not want, that we want to be ended so desperately, and out of which our President is so desperately trying to lead us.

Mr. BENNETT. Mr. Speaker, I sincerely hope that the President's program will succeed and that we will soon be out of the war as he plans.

The North Vietnamese would be wise to accept the President's very reasonable proposals.

Mr. CHAMBERLAIN. Mr. Speaker, last night the President in announcing the mining of North Vietnamese ports emphasized as nothing else could the vital importance of supplies to the enemy. I would like to point out the President's order to close the ports of North Vietnam is directed not only against the vessels of nations allied with North Vietnam but also against ships flying free world flags.

The Department of Defense has advised me that last month there were a total of eight arrivals of vessels flying non-Communist flags—four under the registry of the United Kingdom and four of the Somali Republic. This brings the total so far this year to 32 such arrivals which represents an increase of 11 over the 21 similar arrivals during the first 4 months of last year.

The recent increase in this traffic demonstrates anew the significance of this trade. In 1968 there were a total of 149 free world flag arrivals in North Vietnam involving nine different countries. By the end of 1971 this had been more than cut in half to a total of 63 arrivals involving only ships of British and Somali registry.

This and other seaborne sources of supply have played an essential role in helping North Vietnam to launch its current massive invasion of the South. If the lives of the remaining American troops are to be protected, if our prisoners of war are to be returned, and if there is to be any real prospect for genuine peace in the months and years ahead the supplies destined for the battlefield and extending the war must, in some way, be denied to the aggressors.

In this most difficult decision the President deserves the full support of the American people.

The table follows:

NON-COMMUNIST SHIP ARRIVALS IN NORTH VIETNAM 1972

	United Kingdom	Somalia	Total
January	5	1	6
February	4	4	8
March	6	4	10
April	4	4	8
Total	19	13	32

Mr. ZION. Mr. Speaker, for 20 years now we have faced three alternatives in Southeast Asia:

First. To defeat the Communist invaders by military means. Previous administrations were reluctant to take this step for fear of triggering massive action by the Russians or Red Chinese that might lead to world war III.

Second. Fighting a stalemate war—just enough action to prevent a takeover, but not enough to win or incur the wrath of the Communist powers. This is the course we have been taking.

Third. Settle the war on the enemy's terms. This means to surrender our POW's and those men listed as missing in action. It means the assassination of the free people of South Vietnam and the continued invasion of other governments in that part of the world.

None of these alternatives would bring the parties involved to a negotiated peace. This present step by our President may result in meaningful peace talks for the first time. If his action prevents delivery of weapons of destruction to the invading armies from Hanoi they may well be caught far in the field without support and thus be forced to negotiate.

I hope all Americans join with me in praying for the success of this bold step.

Mr. WALDIE. Mr. Speaker, the President's decision to redeem the failure of his policy of "Vietnamization" by confronting Russia and China militarily is a desperate gamble with world peace that is not warranted by the prospective gain.

Saving the weak, toppling leaders of South Vietnam, who have never evinced a sufficient will to fight for their Government, by risking more American deaths and a wider conflagration is a policy I will not support.

The President listed the alternatives, but failed to select the proper one, the most courageous and honorable one—immediate withdrawal.

The war and the carnage will continue, and so will my opposition.

Mr. FRELINGHUYSEN. Mr. Speaker, the basic significance of the President's message in my opinion is his deep desire for peace and I feel that he is moving constructively in his search for a peaceful settlement. He has promised to stop all military activity and to withdraw all American forces from Vietnam within 4 months after the return of our prisoners of war and the establishment of an internationally supervised ceasefire. These are specific commitments and I believe his terms are generous.

The President's decision to mine North Vietnamese ports and to interdict delivery of supplies as well as to continue air and naval strikes at military and communication targets is a momentous one. Although designed to bring an early end to the war it is obviously a course involving considerable risk. I pray that his decision will bring about the long-sought peaceful settlement. Additionally, the President's message was unmistakably both a warning and an appeal to the Soviet Union. The Russians have been told that they must halt shipments of heavy weapons to North Vietnam. They have also been reminded that their own best interests are not being served by a prolongation of this tragic conflict.

Mr. MIZELL. Mr. Speaker, President Nixon has acted with courage and determination and has put above everything else the safety of our troops, the release of our prisoners of war, and the complete withdrawal of American troops in his quest for peace.

He has kept every commitment he has made to the American people in regard to his action in Southeast Asia. Therefore, I believe he has earned and will receive the support of the American people to end this long and difficult conflict.

GENERAL LEAVE

Mr. GERALD R. FORD. Mr. Speaker, I ask unanimous consent that all Members may have permission to revise and extend their remarks on the subject of the President's speech last night and to include therein extraneous material.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

AFTER 91 DAYS, STILL NO WORD FROM PRESIDENT NIXON ON TAX REFORM

(Mr. MAZZOLI asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MAZZOLI. Mr. Speaker, it has now been 91 days since House Ways and Means Committee Chairman Wilbur Mills wrote President Nixon asking for the tax reform proposals the President promised last September. In his February 7 letter, Chairman Mills asked that the President's tax reform proposals be sent by March 15 so the Congress would have time to act on them this session. To date, Mr. Mills' request has been ignored.

Instead, we perceive indications that the administration no longer deems tax reform to be a matter of priority. The Secretary of the Treasury has indicated that he sees no loopholes in the present tax laws.

Mr. Speaker, the heavily burdened middle-income taxpayers of my district, and of the country as a whole, are not in a position to so benignly neglect the very real tax inequities which exist in this country today. The viewpoint of the average American, I believe, is far more likely to mirror the views expressed in the following editorial which appeared April 26, 1972, in Kentucky's most widely circulated newspaper, the Louisville Courier-Journal:

Why Tax Reform Is Necessary—Now

Curiouser and curiouser, as Alice was wont to say. Just when every Democratic candidate from George Wallace to George McGovern has come to recognize that tax reform may well be the No. 1 populist issue of 1972, President Nixon suddenly seems to have decided that things are nicer just the way they are.

And so we have the intriguing sight of a top Treasury Department official making the rounds of selected businessmen's and professional organizations to insist—with a statistical slide-show to illustrate his arguments—that "there are more important problems before the nation than reshaping our tax laws. We're doing pretty well."

Tell that to the hard-pressed average citizen who has just written a larger check than usual to the Internal Revenue Service, and who can hardly open a newspaper or magazine without seeing some reference to all those wealthy individuals and corporations that manage, quite legally, to escape paying any taxes at all. As Ralph Nader wrote in an article in a recent *Courier-Journal and Times Magazine*, "Obviously something has gone wrong with the theory of taxing each citizen according to his ability to pay."

The administration, however, would now like us to believe that all those tax loopholes really don't count. The oil and other mineral depletion allowances, the tax-free interest on municipal bonds, the tax advantages of stock options, says the Treasury's lecturer—these little benefits only add up to $4.9 billion. In fact, he continues, $100.4 billion, or more than half of the total $193.6 billion in tax breaks on individual incomes, goes to people with incomes under $20,000.

A MISLEADING FIGURE

This sounds impressive until you realize (1) that the $100.4 billion figure includes *all* deductions, both standard and itemized, plus "transfer payments," which is governmental jargon for Social Security benefits and welfare payments; and (2) that this little-more-than-half of all tax breaks is divided among nine-tenths of the taxpayers. A recent study by the prestigious Brookings Institution, however, showed that if all the loopholes were plugged and all tax preferences eliminated, tax rates could be cut across the board by as much as 43 per cent.

Another administration claim, that the U.S. tax burden is mild compared with other countries, is also misleading. The table in one lecture slide purports to show that the portion of the Gross National Product (GNP) represented by taxes is lower in the U.S. than that in any other major industrialized country except Japan, which spends little on defense. Let's leave out the fact that one or two countries with fairly high GNPs were omitted from the list—notably Australia, South Africa and Switzerland; they also have tax burdens lower than ours, so that would probably spoil the chart. But what most of the European countries above us on the list have that wasn't mentioned are more and better public services: better-funded schools, free or subsidized heatlh care, cleaner cities, more comprehensive welfare programs, more mass transit.

And this gets to the point. For what is becoming clearer by the day, despite the efforts of official Washington to ignore it, is that we're going to have to raise more tax money—if not this year, then next—to pay for all the extra services and programs that the American public keeps demanding.

Some of the burden of financing our schools, for example, will have to be shifted to other sources, for the property tax stone has been squeezed dry. Earlier this year President Nixon floated the idea of a value-added tax—in effect, a national sales tax—but the outcry against such a regressive and concealed tax, which hits the poor harder than the rich, seems to have knocked out that proposal for the time being.

Yet, once it gets through to the average citizen that the total national revenue from taxes probably will have to be raised, a taxpayers' revolt will really be upon us—unless at the same time there is a real redistribution of taxes, with the more affluent segment of the nation paying its share and with the glaring inequities of the present system eliminated. The notorious loopholes may represent only a minor fraction of the total tax picture, but so long as they're there and used, the taxpayer who has few or no escape holes is going to be resentful and rebellious.

A ROADBLOCK IN THE HOUSE

Tax reform is thus a tempting issue for the presidential candidates to latch onto, but it's not entirely in the hands of the man who sits in the White House. Congress controls the national purse and there are powerful interests at work on Capitol Hill, particularly among members of the key House Ways and Means Committee.

For years these members have been in the habit of meeting behind closed doors to pass bills designed to create new loopholes for wealthy individuals or corporations. Slowly, other Congressmen are suceeding in blocking some of these bills on the House floor. But they're in an uphill fight. Even the so-called Tax Reform Act of 1969, which was supposed to set a 10 per cent minimum tax for everyone, has been riddled with enough holes for those both affluent and astute to slip through.

During the current session, a House group led by Representative Henry Reuss (and including Representative Romano Mazzoli of Louisville) has sponsored a strong reform bill, and another has been filed in the Senate with Senators Hubert Humphrey and Edward Kennedy among its sponsors. President Nixon, however, has indicated that he wont' be presenting any tax reform proposals this year, since Congress' schedule is already too full.

Yet, could this be the year when the voters finally make their influence felt over their representatives, in defiance of big business and the other special interests? It's a long shot, but the Nixon administration, with its bland dismissal of tax reform as unnecessary, may suddenly emerge from Wonderland to find that the voters, curiously enough, were really serious in their demands for change.

AN UNDERSTANDABLE POLICY IN VIETNAM

(Mr. WYMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WYMAN. Mr. Speaker, in light of President Nixon's courageous and wise decision announced last night, to cut off supplies to the enemy forces invading South Vietnam, I would like to point out that I urged this course of action more than 5 years ago, on January 24, 1967. Had it been done then the tragedy that has been our involvement in Southeast Asia would have long since been ended.

This is what I said in 1967:

[From the CONGRESSIONAL RECORD, Jan. 24, 1967]

NEEDED—AN UNDERSTANDABLE POLICY IN VIETNAM

Mr. WYMAN. Mr. Speaker, an understandable American policy in Vietnam is urgently needed. We do not have one—or at least if we do it is perhaps the No. 1 best kept secret both at home and abroad. Many people believe that our participation in an undeclared war, 10,000 miles away in Vietnam, is the wrong kind of war, at the wrong time and in the wrong place. Certainly a land war on the continent of Asia in a hostile environment with a supply line reaching halfway around the world is the wrong place in the judgment of every trained military man, be he five-star general or buck sergeant.

But—and it is a big "but"—we are now heavily committed by the Johnson administration in Vietnam, rightly or wrongly, to the extent of nearly half a million American lives. We cannot now simply walk out on these men. We cannot now pull back to enclaves on the beachheads. We cannot now, having gone this far, say to the Communist aggressor, we will go no farther; we will sit here until you negotiate or we are destroyed.

Such indecisiveness is not a policy worthy of the name. It is chaotic and confused, as well as a virtual betrayal of every man in uniform in Vietnam. It invites attrition, guarantees eventual defeat, and exhibits to the world a weakness in American government which is the proper relationship of civilian political control over the military in time of war. Surely the Joint Chiefs of Staff are not responsible for, and want no part of, the sometimes inadequate military tactics that have characterized much of the American performance in Vietnam to date. Examples are legion, but only two need be mentioned. First, leaving the port of Haiphong unmolested while supplies used in killing Americans are received and handled on a daily basis in huge quantities; and second, sending the cream of America's pilots to battle will-o'-the-wisps and jungle swamps to a point where they are publicly begging to be given "half a chance to win."

Even if we could get our entire 450,000 men back home without a further casualty we could not abandon the courageous South Vietnamese to the tender mercies of the Vietcong. Eighty percent of these brave people voted for freedom at the risk of life and limb. We promised them that we would underwrite their independence when we should instead have helped the French to defend Vietnam against the Communist Ho Chi Minh on condition that a timetable spell the end of colonialism and assure the eventuality of independence for all of Vietnam. Then it was France in the frontline, asking for our help and we said no. Now it is us in the frontline, virtually alone, asking not only the help of France but of the entire remaining free world and they say no.

Something must be radically wrong with our position in Vietnam when we continue to fight on almost alone. What is it?

With every passing day of this sorry war we go further into monstrous debt, lose more and more frontline planes, wear out more and more carrier decks, lose more and more combat pilots, sap the reserve strength of more and more home based divisions—all while the Soviet Union grows relatively stronger, and the free world is appalled that the mighty America cannot even win a war in an area no larger comparatively in terms of world affairs than a football field.

So, Mr. Speaker, since we cannot now withdraw with honor, and we must not condemn our loyal troops to slow attrition in the swamps by a mere holding operation, there is but one policy that has validity at this hour, a policy which transcends political considerations and ought to be supported by Republicans and Democrats alike in the interests of getting this abominable war over with as soon as possible.

This policy is for our President to announce to the Vietcong and to North Vietnam that their continuing aggression against South Vietnam must be stopped. That to do this means to effectively cut off their supplies, and that the United States is first declaring a blockade of Haiphong and if this fails will block the entranceway to Haiphong, and if this fails will, as a last resort, destroy the port facilities at Haiphong.

That the United States will proceed to destroy the airstrips and Sam sites of North Vietnam and that if the North Vietnamese deliberately locate these in the middle of civilian populations, they must realize that this will not shield them.

That the United States will not use atomic weapons, or bugs or chemicals, but that the independence of South Vietnam will be attained and a beachhead of freedom established and maintained in Southeast Asia.

And, finally, that they and the world should now know that unless the Communist aggression is ended it will mean such destruction of North Vietnam as is necessary to win and end this war.

Mr. Speaker, here is a policy our Armed Forces and the world can understand. Here is a policy that will mean independence for South Vietnam. Here with such a policy will be marked the resurgence of America's declining leadership in a deteriorating situation. Here is a policy that will unite, inspire and highly motivate the South Vietnamese who know so bitterly that the source of their scourge is North Vietnam.

Actually, there is no other choice. The demand to negotiate now falls on deaf ears. And why not? For it is we who are losing in Vietnam, blood and billions and staggering commitments of reserves.

The Communists know this. It is to their advantage to keep us thus committed—indefinitely if they can.

Our present indecision means just this. It is playing into the enemy's hands. It is unfair to our troops and downright deceitful to the concerned families back home.

Let us lead in Vietnam. Let us get this war over with. Let us for once do something because it is right and necessary and not because it might nor might not mean some votes on some future election day.

After all, we are on God's side, and there can be no greater cause than freedom and independence and eventual genuine peace, everywhere in the world.

This can never happen in our lifetime if Communist aggression succeeds in South Vietnam.

Mr. Speaker, no doubt President Nixon felt he had to first go the full route with the olive branch. He has done this, and it still falls on arrogantly deaf ears in North Vietnam. He has offered a cease-fire, a complete withdrawal of all U.S. forces within 4 months following the return of Americans held prisoner by North Vietnam, and a continuation of negotiations toward a political settlement but between Vietnamese of North and South and without American presence.

To all these offers the North Vietnamese have said "Nuts." To all the gestures toward peace they have responded with aggression, invasion, terrorism, and war—which now endangers the very lives of thousands of American support forces still in South Vietnam.

President Nixon has acted courageously. He deserves the commendation and support of concerned Americans rather than the bleating, hysterical calls for turn-tail surrender to aggression from politicians who seek the easy path of political expediency at the risk of more Vietnams in other parts of the world.

Thanks to President Nixon's policy of Vietnamization it is South Vietnamese ground forces fighting the invaders and not U.S. troops. The U.S. support role of denying Soviet supplied arms and munitions may risk a confrontation but without the cut-off of supplies there can be no end to this aggression. President Nixon's courageous decision can end this tragic war and get American prisoners returned as well. He deserves the support of the American people.

PRESIDENT NIXON'S COURAGE

(Mr. WYMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WYMAN. Mr. Speaker, it took courage for President Nixon to make the decision to cut off supplies to North Vietnam. The easy way out is to turn tail and run out—avoiding further confrontation and giving the Communist aggressor what it demands despite the huge American sacrifice to help South Vietnam remain free.

But President Nixon will accept no part of American dishonor or infamy in a sellout. Neither will he set the stage for more Vietnams by action that would be a signal to other nations that they cannot rely on the United States.

At considerable political risk he undertook a visit to Communist China in the cause of peace. There were charges of sell-out then—from the right—but the cause of our great President in that visit and in the forthcoming one to Moscow—if it takes place—is world peace through rational commitment but without dishonor. It is the same in Vietnam at this hour as he offers a cease-fire, withdrawal of all U.S. Forces within 4 months following the return of Americans held prisoner, and continued negotiations between the Vietnamese themselves on an internal political settlement of differences between North and South.

How many more invasions of the South by the North: how much additional slaughter of innocent civilians: how many additional insults, lies and arrogant rejections from so-called negotiators from Hanoi will be needed to prove the fact that the naked aggression of communism endangers not only South Vietnam but the entire free world?

American help in cutting off supplies to Communist invading forces in the South will enable South Vietnam to defeat and expel the enemy. Because of Vietnamization it is South Vietnamese ground forces who are doing the ground combat now—not Americans.

Five years ago, on January 24, 1967, on the floor of this House in urging essentially the course of action the President has now undertaken, I said:

> Mr. Speaker, here is a policy our Armed Forces and the world can understand. Here is a policy that will mean independence for South Vietnam. Actually there is no other choice. The demand to negotiate falls on deaf ears. Let us lead in Vietnam. Let us get this war over with.

Mr. Speaker, I am proud of our President.

POLLUTED ESTUARY

(Mr. GUDE asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. GUDE. Mr. Speaker, the Washington Metropolitan Area is facing the realization that the Potomac Estuary will be used for water supply purposes in the near future. This is necessitated by the fact that the quantity of the river at low flow may be exceeded by the consumption requirements of the metropolitan area. At normal periods our area's water comes from further up the river—above the estuarine line.

If we are to use estuary water for drinking purposes, we must redouble our efforts to get the river cleaned up. We must not allow the expansion of the Blue Plains waste treatment plant to be held up further for lack of funds. We must devise a method to handle the sewage overflow and storm runoff problem that comes with heavy rainfall.

Finally, we must press on with our studies of recycling waste water for the purposes of consumption. This is the inevitable solution to Washington's water supply problems and as well as for many other cities around the country.

I submit for the information of my colleagues an article on this matter which appeared in the Washington Star on May 9, 1972.

POLLUTED ESTUARY—OUR EMERGENCY WATER SOURCE

(By John Fialka)

The broad expanse of water that most Washingtonians refer to as the Potomac River is really not a river.

From Chain Bridge downstream it is technically the Potomac Estuary. Instead of flowing like a river, it sloshes back and forth, governed by the tides.

Area residents may be drinking from it soon. Government engineers warn that Washington's increasing demands for water soon will exhaust the river during prolonged dry spells. They point to the estuary as the next major source of drinking water.

The problem is that the Nation's Capital has fouled its own nest. Parts of the estuary, which receives most of the area's sewage, are grossly polluted.

The solution to the problem will have national implications. The estuary is now the base for a critical, unprecedented study on the detection and removal of disease-causing viruses from drinking water, a problem which nearly every major city may have to face.

In theory, at least, the estuary would be a likely place to look for drinking water. It can be considered a natural reservoir, containing more than 100 billion gallons of fresh water in the 35-mile stretch between Chain Bridge and a point below Ft. Belvoir, where the water turns salty.

The U.S. Army Corps of Engineers, which is charged with collecting and purifying the water used by the District, Arlington and parts of Falls Church, has always looked to the river for water.

In 1963, and every two years since, the corps has gone to Congress for money to build a network of dams on the upper Potomac and its tributaries to help supplement the river's flow during dry months.

Except for emergencies, one corps general told Congress early in these hearings, the estuary would be unfit for use because it "consists of a mixture of the effluents from several sewage treatment plants, local drainage from urban areas, raw sewage from combined sewer overflows, discharges from recreational and commercial craft, backwash from the water purification plant and the unused water of the Potomac River."

NOW IS THE TIME

The emergency has arrived. The area's appetite for water on a peak day now exceeds the lowest recorded flow of the river, although the two events have not, as yet, occurred on the same day.

Since 1969, the corps has been ready to pump from the estuary on an emergency basis during the driest part of the summer. The makeshift emergency system will be completed this summer.

An intake pipe will be situated on a barge moored near Chain Bridge. The water will be pumped into the C & O Canal and then sucked back out of the canal behind the Dalecarlia Filter Plant, where it will be given an extra dose of chlorine and then blended with the city's water supply.

By the summer of 1974, a permanent intake system will be installed, with a capacity to take up to 100 million gallons a day from the estuary.

RUNNING UPSTREAM

Among the long-range plans for estuary use now being weighed by government engineers is the possibility of piping the water upstream, to a point above the Washington Suburban Sanitary Commission's intake. (The commission supplies most of the water for suburban Montgomery and Prince Georges Counties.)

This would dilute the estuary water and give the natural elements which tend to purify a river's water—the sun, certain bacteria and algae—time to work before it reaches the purification plants.

"It would also give the suburbs a shot at the estuary water," one engineer added.

The estuary has become the focal point of water supply planning because the corp's dream of a network of 16 dams on the upper Potomac and its tributaries has never materialized.

Influenced by stubborn opposition from conservationists and others interested in preserving the historic beauties of the river, Congress has only authorized one dam, which will not be ready until 1977.

HOW MUCH TO PUMP?

Now the engineers, and other federal and local agencies that have become involved, are frantically trying to untie a host of knotty problems involved in estuary use.

First, how much water can you pump from the estuary? According to Gary Baltis, an engineer-planner for the Corps, the pumping will begin in 1974 by drawing a total of about 10 or 15 million gallons a day.

Based on a mathematical model of the estuary developed by the Environmental Protection Agency, there will come a point—somewhere beyond 3 billion gallons—where the major "slug" of sewage emitted by the area's largest treatment plant at Blue Plains will be sucked upstream to the intake.

"What we hope to do is simply draw off water from the relatively clean upper end of the estuary. After that we'll stop," Baltis explained.

One problem is that in the dry summer months, when the estuary water may be needed, what current there is in the estuary diminishes. The 270 million gallons a day of dark gray liquid emitted by the Blue Plains plant tends to remain longer in the estuary, feeding massive blankets of green, foul-smelling algae.

A ping-pong ball, dropped into the water at Blue Plains during a low flow period, will go back and forth in the estuary approximately 41 times, coming as far upstream as Hains Point, before it is washed into the salty water below Ft. Belvoir.

MORE SALT WATER

The corps' planners have even considered pumping Blue Plains sewage downstream as far as the Route 301 bridge. However, the mathematical model of the Potomac shows that this would simply move the saltwater front in the river upstream, further fouling the water supply.

This problem will be somewhat alleviated after 1975, when Blue Plains and other area treatment plants which discharge into the Potomac are scheduled to begin tertiary treatment, which produces an effluent that is much cleaner.

Second, assuming the District and other area jurisdictions can clean up the estuary using tertiary sewage treatment, will it stay that way?

The short answer to this question is no. The District, like most older cities, has a combined storm and sanitary sewer system. If it rains during a low flow period when water is being pumped from the estuary, raw sewage will be leaking into the water supply from at least 65 overflow points, according to Paul V. Freese, head of the District's water resources management office.

OVERFLOW TO RIVER

The sewage treatment plant keeps running at its rated capacity and the rest of the millions or even billions of gallons of mixed sewage and storm runoff goes directly into the Potomac.

According to Freese, the cost of separating the two systems would be about $500 million and would require digging up a good part of the city.

Other cities, faced with this problem, are considering storing storm runoffs in huge underground reservoirs. Some, including the District, have experimented with huge, floating plastic bags that would store the runoff until it could be processed through the treatment plant during less than peak periods.

"Whatever we look at takes two things, time and money," Freese added. "We're running out of time and we don't seem to get the money."

(If the rain continues long enough, however, this problem would become moot because the flow in the river would be restored and the District could take all of its water from its two regular pumping stations at Great Falls and Little Falls.)

VIRUS PROBLEM

The third major knotty problem involved in the use of estuary water concerns viruses.

Until ten years ago, there was almost no research on whether the presence of viruses in public water supplies was harmful to man.

Then a few scientists began to point out that in waters which had a heavy concentration of human or animal fecal matter, there could be as many as 100 different types of enteric viruses.

(Enteric viruses cause a number of human diseases, including polio, infectious hepatitis and intestinal flu.)

In the late sixties, when it became apparent to the Corps of Engineers that it would have to consider the estuary as a temporary source of water in the 1970's and 1980's, and, perhaps, as a permanent source after that, it asked the U.S. Public Health Service to study viruses in the Potomac.

RESULTS STILL PENDING

The project, still under way, has been taken over by the Environmental Protection Agency (EPA).

So far, according to the Baltis, the Corps' planner, the results have been "inconclusive." A total of 25 different viruses have been grown in Potomac water and then subjected to chlorination. "We've found that some strains are far more resistant (to chlorination) than others," he added.

J. H. McDermott, head of EPA's water supply program's division is conducting the testing, explained that so little work has been done on viruses that scientists are still trying to perfect ways to detect them.

Because laboratory methods could not find the minute quantities of viruses living in small samples of Potomac water, scientists have first had to "spike" the water with sizenized with some type of polio virus.

Once the water is spiked, scientists try to track down and identify the virus they put in the water. Then they observe how much chlorination will kill it.

"We have gotten it up to being able to find 60 percent of the known quantity (of viruses) that was spiked in it," said McDermott, who added that a scientist working at Baylor University in Texas may have found a way to identify up to 90 percent of the virus population in a given water sample.

POLIO VIRUS IS TOUGH

One type of polio virus was found to have survived 120 minutes of chlorination. (The average dose given to municipal tap water lasts between 15 and 30 minutes.)

Polio viruses have become common inhabitants of sewage water, McDermott pointed out, since most people have been immunized with some type of polio virus.

While the estuary testing continues, other EPA studies have isolated viruses that have survived chlorination in the drinking water of Lawrence, Mass., and Billerica, Mass., a Boston suburb.

"It is quite conceivable that we have detected the tip of an iceberg," McDermott says.

The highly complicated questions of how to find and eliminate viruses in the public water supply seems to have set off a controversy among the scientists themselves. Some argue that huge amounts of money should now be earmarked for virus research, pointing out that, heretofore, most water supply money has gone into sewage treatment.

WE'RE DRINKING IT

Others including one EPA water quality scientist (who asked that his name be withheld) take a more conservative stance:

"Look, whatever is in the water has been there for a long time. Some cities on the Mississippi and the Ohio have been making tap water out of each other's sewage for years. So far, we've survived."

The virus controversy is somewhat confusing to traditional Potomac watchers, men like Dr. Spencer Smith, the head of the Citizens Permanent Conference on the Potomac (CITPERCON), a coalition of conservationists and like-minded groups who have battled against the Corps' plans to dam the Potomac for years.

CITPERCON has argued long and consistently that the cheapest and best solution to the area's water problems would be to clean up the Potomac Estuary.

This also would fulfill the group's major goal, which is to keep the upper Potomac, "The National River," in its natural state.

HOW MANY UPSTREAM?

Smith sometimes worries aobut viruses, but because the corps has raised so many objections to alternatives to dams, he often wonders whether the question is a red herring.

"Hell, there are viruses coming down the river. They tell you there's viruses in the estuary, ask them how many they've looked for in the river," he said.

"There should be an answer to that," Gen. Kenneth B. Cooper, the corps' deputy director for civil works, replies. He has asked his staff to come up with an answer.

"At the moment, there isn't an answer to your question," a corps spokesman said later. He said that virological tests of the river may begin this year.

UNITED STATES-BRAZILIAN SHRIMP AGREEMENT TO BE SIGNED TODAY

(Mr. PELLY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PELLY. Mr. Speaker, my colleagues will recall that I have on numerous occasions spoken on behalf of the interests of American distant-water fishermen who have had their vessels seized and have been made to pay heavy fines for fishing on areas of the high seas where coastal countries have made extensive claims to jurisdiction. It has been my contention that with good will on both sides and a proper understanding of the real fishery issues involved, such disputes could be settled by negotiation and agreement with due regard for the economic interests of coastal and distant-water fishermen, the requirements for conservation of the resources in question, and the desire of the governments to preserve their respective legal position.

I am happy to be able to report to the House that my contention appears to have been vindicated by the announcement that the Governments of the United States and Brazil are to sign today an agreement on the conduct of the shrimp fishery and the conservation of shrimp stocks in waters off the coast of Brazil. I am hopeful that the agreement will contribute not only to the rational and prosperous development of the shrimp industries of both countries and to the maintenance of a high level of productivity from the resources but also to strengthening of the traditionally friendly and cooperative relations between these two great countries.

It is my hope that this agreement may serve as a model for an equally satisfactory and mutually advantageous solution of problems which have arisen with other countries off the coasts of which our high seas fishermen ply their trade. The diplomats, fishery experts, and fishing industry advisers who successfully negotiated this agreement are to be congratulated for having established what may well turn out to be a landmark on the way to an era of more harmonious relations in all of the international fisheries in which Americans participate.

Mr. Speaker, I ask unanimous consent to have printed hereafter the text of the United States-Brazilian Shrimp Agreement.

AGREEMENT BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA, CONCERNING SHRIMP

The Parties to this Agreement,

Note the position of the Government of the Federative Republic of Brazil,

that it considers its territorial sea to extend to a distance of 200 nautical miles from Brazil's coast, that the exploitation of crustaceans and other living resources, which are closely dependent on the seabed under the Brazilian territorial sea, is reserved to Brazilian fishing vessels, and

that exceptions to this provision can only be granted through international agreements,

Note also the position of the Government of the United States of America that it does not consider itself obligated under international law to recognize territorial sea claims of more than 3 nautical miles nor fisheries jurisdiction of more than 12 nautical miles, beyond which zone of jurisdiction all nations have the right to fish freely, and that it does not consider that all crustaceans are living organisms belonging to sedentary species as defined in the 1958 Geneva Convention on the Continental Shelf, and further

Recognizing that the difference in the respective juridical positions of the Parties has given rise to certain problems relating to the conduct of shrimp fisheries,

Considering the tradition of both Parties for resolving international differences by having recourse to negotiation,

Believing it is desirable to arrive at an interim solution for the conduct of shrimp fisheries without prejudice to either Party's juridical position concerning the extent of territorial seas or fisheries jurisdiction under international law,

Concluding that, while general international solutions to issues of maritime jurisdiction are being sought and until more adequate information regarding the shrimp fisheries is available, it is desirable to conclude an interim agreement which takes into account their mutual interest in the conservation of the shrimp resources of the area of this Agreement,

Have Agreed as Follows:

ARTICLE I

This Agreement shall apply to the fishery for shrimp (*Penaeus* (M.) *duorarum notialis, Penaeus braziliensis* and *Penaeus* (M.) *aztecus subtilis*) in an area of the broader region in which the shrimp fisheries of the Parties are conducted, hereinafter referred to as the "area of agreement" and defined as follows: the waters off the coast of Brazil having the isobath of thirty (30) meters as the south-west limit and the latitude 1° north as the southern limit and 47° 30′ west longitude as the eastern limit.

ARTICLE II

1. Taking into account their common concern with preventing the depletion of the shrimp stocks in the area of agreement and the substantial difference in the stages of development of their respective fishing fleets, which results correspondingly in different kinds of impact on the resources, the two Parties agree that, during the term of this Agreement, the Government of the Federative Republic of Brazil is to apply the measures set forth in Annex I to this Agreement and the Government of the United States of America is to apply the measures set forth in Annex II to this Agreement.

2. The measures set forth in Annexes may be changed by agreement of the Parties through consultation pursuant to Article X.

ARTICLE III

1. Information on catch and effort and biological data relating to shrimp fisheries in the area of agreement shall be collected and exchanged, as appropriate, by the Parties. Unless the Parties decide otherwise, such exchange of information shall be made in accordance with the procedure described in this Article.

2. Each vessel fishing under this Agreement shall maintain a fishing log, according to a commonly agreed model. Such fishing logs shall be delivered quarterly to the appropriate Party which shall use the data therein contained, and other information it obtains about the area of agreement, to prepare reports on the fishing conditions in that area, which shall be transmitted periodically to the other Party as appropriate.

3. Duly appointed organizations from both Parties shall meet in due time to exchange scientific data, publications and knowledge acquired on the shrimp fisheries in the area of agreement.

ARTICLE IV

1. The Party which under Article V has the responsibility for enforcing observance of the terms of the Agreement by vessels of the other Party's flag shall receive from the latter Party the information necessary for identification and other enforcement functions, including name, port of registry, port where operations are usually based, general description with photograph in profile, radio-frequencies by which communications may be established, main engine horsepower and speed, length, and fishing method and gear employed.

2. Such information shall be assembled and organized by the flag Government and communications relating to such information shall be carried out each year between the appropriate authorities of the Parties.

3. The Party which receives such information shall verify whether it is complete and in good order, and shall inform the other Party about the vessels found to comply with the requirements of paragraph 1 of this Article, as well as about those which would, for some reason, require further consultation among the Parties.

4. Each of those vessels found in order shall receive and display an identification sign, agreed between the Parties.

ARTICLE V

1. In view of the fact that Brazilian authorities can carry out an effective enforcement presence in the area of Agreement, it shall be incumbent on the Government of Brazil to ensure that the conduct of shrimp fisheries conforms with the provisions of this Agreement.

2. A duly authorized official of Brazil, in exercising the responsibility described in paragraph 1 of this Article may, if he has reasonable cause to believe that any provision of this Agreement has been violated, board and search a shrimp fishing vessel. Such action shall not unduly hinder fishing operations. When, after boarding or boarding and searching a vessel, the official continues to have reasonable cause to believe that any provision of this Agreement has been violated, he may seize and detain such vessel. In the case of a boarding or seizure and detention of a United States vessel, the Government of Brazil shall promptly inform the Government of the United States of its action.

3. After satisfaction of the terms of Article VI as referred to in paragraph 4 of this Article, a United States vessel seized and detained under the terms of this Agreement shall, as soon as practicable, be delivered to an authorized official of the United States at the nearest port to the place of seizure, or any other place which is mutual acceptable to the competent authorities of both Parties. The Government of Brazil shall, after delivering such vessel to an authorized official of the United States, provide a certified copy of the full report of the violation and the circumstances of the seizure and detention.

4. If the reason for seizure and detention falls within the terms of Article II or Article IV, paragraph 4 of this Agreement, a United States vessel seized and detained shall be delivered to an authorized official of the United States, after satisfaction of the terms of Article VI relating to unusual expenses.

5. If the nature of the violation warrants it, and after carrying out the provision of Article X, vessels may also suffer forfeiture of that part of the catch determined to be taken illegally and forfeiture of the fishing gear.

6. In the case of vessels delivered to an authorized official of the United States under paragraphs 3 or 4 of this Article, the Government of Brazil will be informed of the institution and disposition of any case by the United States.

ARTICLE VI

In connection with the enforcement arrangements specified in Article V, including in particular any unusual expenses incurred in carrying out the seizure and detention of a United States vessel under the terms of paragraph 4 of Article V, and taking into account Brazil's regulation of its flag vessels in the area of agreement, the Government of Brazil will be compensated in an amount determined and confirmed in an exchange of notes between the Parties. The amount of compensation shall be related to the level of fishing by United States nationals in the area of agreement and to the total enforcement activities to be undertaken by the Government of Brazil pursuant to the terms of this Agreement.

ARTICLE VII

The implementation of this Agreement may be reviewed at the request of either Party six months after the date on which this Agreement becomes effective, in order to deal with administrative issues arising in connection with this Agreement.

ARTICLE VIII

The Parties shall examine the possibilities of cooperating in the development of their fishing industries; the expansion of the international trade of fishery products; the improvement of storage, transportation and marketing of fishery products; and the encouragement of joint ventures between the fishing industries of the two Parties.

ARTICLE IX

Nothing contained in this Agreement shall be interpreted as prejudicing the position of either Party regarding the matter of territorial seas or fisheries jurisdiction under international law.

ARTICLE X

Problems concerning the interpretation and implementation of this Agreement shall be resolved through diplomatic channels.

ARTICLE XI

This Agreement shall enter into force on a date to be mutually agreed by exchange of notes, upon completion of the internal procedures of both parties and shall remain in force until January 1, 1974, unless the Parties agree to extend it.

In witness whereof the undersigned representatives have signed the present agreement and affixed thereto their seals.

Done in duplicate this 9th day of May, 1972, in the English and Portuguese languages both texts being equally authoritative.

ANNEX I

(a) Prohibition of shrimp fishing activities, for conservation purposes, in spawning and breeding areas;

(b) Prohibition of the use of chemical, toxic or explosive substances in or near fishing areas;

(c) Registry of all fishing vessels with the Maritime Port Authority (Capitania dos Portos) and with SUDEPE;

(d) Payment of fees and taxes for periodical inspections;

(e) Use of the SUDEPE fishing logs to be returned after each trip or weekly;

(f) Prohibition of the use of fishing gear and of other equipment considered by SUDEPE to have destructive effects on the stocks;

(g) Prohibition of discharging oil and organic waste.

ANNEX II

(a) Not more than 325 vessels flying the United States flag shall fish for shrimp in the area of agreement and the United States

Government undertakes to maintain a presence of no more than 160 of those vessels in the area at any one time. Such vessels shall be of the same type and have the same gear as those commonly employed in this fishery in the past, noting that electric equipment for fishing purposes has not been commonly employed by boats in this fishery in the past.

(b) Shrimp fishing in the area of agreement shall be limited to the period from March 1 to November 30.

(c) Shrimp fishing in that part of the area of agreement southeast of a bearing of 240° from Ponta do Ceu radio-beacon shall be limited to the period March 1 to July 1.

(d) Transshipment of catch may be made only between vessels authorized under this Agreement to fish in the area of agreement.

Agreed Minute Relating to the Agreement Between the Government of the Federative Republic of Brazil and the Government of the United States of America, Concerning Shrimp

The Delegations of the Government of Brazil and the Government of the United States of America consider it desirable to record the points set out below relating to the Agreement between the two Governments concerning shrimp signed on the 9th day of May, 1972:

The Brazilian Delegation informed the United States Delegation that the portion of the area of Agreement between the true bearing of 240° and 225°, drawn from the Ponta do Ceu radio-beacon, has a special interest to the Brazilian shrimp vessels, in view of its vicinity to both the port and the industries existing in Belem, State of Para. Under these circumstances, the Brazilian Delegation informed the United States Delegation that it was not the intention of the Brazilian Government to re-include such region in agreements it might conclude after 1973.

The United States Delegation stated its view to the Brazilian Delegation that the area of the Agreement between the true bearing of 240° and 225°, drawn from the Ponta do Ceu radio-beacon, lies on the high seas and is thus open to fishing by all nations.

Both the Brazilian and the United States Delegations agreed that, based on the available information, the expression "of the same type", included in item A of Annex II in relation to United States vessels that have in the past fished in the area of the Agreement, means vessels having a length up to approximately eighty-five feet.

With respect to item A of Annex II, both Delegations agreed that an excess of up to 15 vessels in the area of agreement over the figure of 160 shall constitute, during the first fishing season of the Agreement, a situation requiring consultations between the Parties within the scope of Article X with a view toward arriving at as promptly as possible the agreed figure. In view of the special nature of the arrangements contained in item A of Annex II, both Delegations understand that consultations referred to in paragraph 2, Article II will be held as soon after the close of the current fishing season as possible, to examine the operation of this provision with a view toward revising, if necessary, the measures outlined in item A of Annex II or revising the procedures necessary to achieve better compliance with them.

MARCH 1972.

NOTE

The Embassy of the United States of America presents its compliments to the Ministry of External Relations of the Federative Republic of Brazil, and with reference to the Agreement Concerning Shrimp signed on this date, as well as the accompanying exchange of Notes related to Article VI of that Agreement, has the honor to inform the Ministry of the following:

Pending the entering into force of the agreement as provided for in article eleven, the Government of the United States of America is prepared to make every effort to encourage the voluntary compliance by its industry of the provisions of the Agreement so as to ensure that events in the interim period do not prejudice the successful implementation of those provisions. It is the understanding of the Government of the United States of America that the Government of the Federative Republic of Brazil intends also to abide by the spirit of the proposed interim Agreement.

Following the exchange of instruments of ratification, but prior to the passage of enabling legislation, the Government of the United States of America proposes to continue its efforts to encourage voluntary compliance.

In the period between the completion of internal procedures as noted in article eleven and the entering into force of the Agreement, the Government of the United States of America will seek, *inter alia*, with the voluntary cooperation of U.S. flag vessel owners,

1. To achieve the objectives of Article II
2. To institute appropriate Article III procedures
3. To achieve the intent of Articles IV and V.

In stating its willingness to encourage the voluntary compliance with appropriate provisions of the Agreement so that the intent of the accord may be achieved while awaiting its entering into force, it is the understanding of the Government of the United States of America that the Government of the Federative Republic of Brazil agrees that in this same interim period both Parties should have as their objective the achievement of the intent of the Agreement.

With specific reference to Article III, paragraph 2, the Government of the United States of America shall treat the information obtained from individual fishing logs as confidential.

Reply to the Note from the American Embassy:

The Ministry of External Relations of the Federative Republic of Brazil presents its compliments to the Embassy of the United States of America and has the honor to acknowledge receipt of the Embassy's note of today's date, which reads as following:

(Note of the USA)

2. In reply, the Ministry of External Relations wishes to confirm that the understanding referred to in the penultimate paragraph of the Embassy's note is shared by the Brazilian Government.

3. Furthermore, the Ministry of External Relations wishes to state that, pending the entry into force of the Agreement, it is the intent of the Brazilian Government to apply its provisions insofar as possible from today and in a manner which will ensure that events in the interim will not prejudice the successful implementation of those provisions.

4. With specific reference to Article III, paragraph 2, the Government of the Federative Republic of Brazil shall treat the information obtained from individual fishing logs as confidential.

BRASILIA, *March, 1972.*

No. ——

EXCELLENCY:

I have the honor to refer to the Agreement on Shrimp signed today by the Governments of the Federative Republic of Brazil and the United States of America and to confirm, on behalf of my Government, the following:

(a) The Government of the United States of America shall, after the appropriation of funds by Congress, compensate the Government of Brazil in an annual amount of U.S. $200,000 (two hundred thousand dollars) pursuant to the terms of Article VI;

(b) The Government of the United States of America shall, after the appropriation of funds by Congress, further compensate the Government of Brazil in the amount of U.S. $100.00 (one hundred dollars) for each day a United States flag shrimp fishing vessel is under the control of Brazilian enforcement authorities pursuant to the terms of paragraph 2 of Article V.

I have the honor to propose that this Note and Your Excellency's reply confirming the above points of understanding on behalf of your Government shall be regarded as constituting satisfaction of the terms of Article VI of the aforementioned Agreement between the two Governments.

Accept, Excellency, the renewed assurances of my highest consideration.

His Excellency,

MARIO GIBSON BARBOZA,
Minister of Foreign Affairs, Brasilia.

BRASILIA, *March, 1972.*

Excellency,

I have the honor to acknowledge receipt of Your Excellency's note, of today's date, which reads as follows:

(Note of the USA)

2. In reply, I wish to confirm, on behalf of the Brazilian Government, that the above points of understanding shall be regarded as constituting satisfaction of the terms of Article VI of the Agreement on Shrimp, signed today by the two Governments.

I avail myself ——

J. EDGAR HOOVER—LAST MESSAGE

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, in the May 1, 1972, issue of the FBI Law Enforcement Bulletin, the late Director J. Edgar Hoover, left an important message, which ironically turns out to be his last.

As we all know, Mr. Speaker, Mr. Hoover passed away last week, and all America will suffer due to the loss of this great and dedicated man.

President Nixon, in his fine eulogy, properly described Mr. Hoover as one of the few giants, and he truly was.

I had the honor, Mr. Speaker, to serve under Mr. Hoover as an FBI agent for nearly 5 years. During that time I learned to respect and revere the "Boss." He was not for an age, but for all time. He was fair, honorable, dedicated, and the very personification of integrity.

As the years rolled on after I resigned from the Bureau, my admiration and respect for Mr. Hoover continued. In fact, they increased, and I am sure history will record J. Edgar Hoover as the most dedicated, honorable public servant of all time.

Mr. Hoover's final message to all law enforcement officers follows:

Message From the Director to all Law Enforcement Officials

Extremists of all stripes in our society ceaselessly attempt to discredit the rule of law as being biased and oppressive. They have no conception of—or purposely choose to ignore—its role and history. It is not surprising that these divisive elements concentrate their abuse on the law enforcement officer. Above all, he stands firmly in the path of mindless actions that would reduce our government of laws to mob rule or the whims of lawless men.

To permit such attempts to damage the reputation of our government by law is, of course, a necessary condition of democracy. While it must tolerate the lawfully expressed views of extremists, its citizens cannot through their own ignorance be entrapped with sympathy for bankrupt doctrines that would lay waste the foundations of their Nation.

In observing Law Day, USA, this May 1st, we have an opportunity to view our laws in their proper perspective and appreciate the role they have played in developing our Nation. This day is also a time to renew our obligation of support to law enforcement officers, 126 of whom selflessly gave their lives last year in upholding the law.

Our greatest democratic heritage is the rule of law. It is the foundation for and the guardian of the rights, liberties, and orderly progress we enjoy. It is also the soil that has nurtured the "American dream" implicit in the Declaration of Independence pledge to provide ". . . Life, Liberty, and the Pursuit of Happiness" for all our citizens.

The tests of time and challenge in our Nation's history have more than proven the majesty of the law. Were this not so, our country would not have endured its strife to now stand before the nations of the world as a model of freedom and accomplishment. This is not to say the law has always been right, but that it has been organized to ultimately seek justice. Recognition of its power for good is not merely the experience of our nearly two centuries of democratic government. The struggle to insure the rights of the individual and his social organizations by written decree has roots which reach far back into antiquity. The authors of our Constitution were mindful of this legacy when they drafted that historic document.

Nor was the importance of a definitive rule of law lost to the general public of our infant Nation. Worn by the ravages of the Revolutionary War, our expectant forefathers appealed for and got amendments to the Constitution which formed the Bill of Rights—specific guarantees of law that responded to the heart of their grievances. Together the Constitution and the Bill of Rights gave birth to our rule of law and it is the flesh and blood of our Nation.

The law is dynamic because it responds to change as it did for those who argued for and received the Bill of Rights. And our Nation's history has been a chronicle of change. But the process of change in a democracy requires discipline and responsibility that will not unleash unrestrained forces that would rip the fabric of our freedoms. That fabric derives its strength through the warp and woof of laws that orderly guide the process of change by defining our individual and corporate duties. Change in our society would otherwise simply result from those who could impose their will on others without regard for the validity of their arguments or the rights of those who do not share their views.

Labor Day honors an indispensable commitment of a free society: that democracy be dynamic but not self-destructive. If we do not value this commitment by both honoring and obeying the rule of law, the tyranny of extremists may inevitably result.

JOHN EDGAR HOOVER, *Director*.

MAY 1, 1972.

PROPOSED INCREASE IN MINIMUM WAGE

(Mr. BROWN of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROWN of Ohio. Mr. Speaker, on Wednesday of this week the House is scheduled to take up consideration of H.R. 7150, the Fair Labor Standards Act Amends of 1971. The primary issue in this legislation is the proposed increase in the Federal minimum wage from the current level of $1.60 to $2. As I am sure my colleagues know, the Senate Committee on Labor and Public Welfare is currently considering S. 1861 which would require an increase to $2.20 an hour for covered employees.

Over the past several months the Joint Economic Committee on which I serve has heard testimony from a number of distinguished economists concerning the current status and future outlook for the American economy. During those hearings I had occasion to ask the views of these gentlemen on the wisdom and impact of an increase in the minimum wage at this time.

I think that it is important that every Member of the House have the benefit of this expert opinion as we decide how to act on H.R. 7130. I am, therefore, inserting in the RECORD at this point the pertinent testimony of these economists.

Henry C. Wallich—member, President Eisenhower's Council of Economic Advisers from 1959 to 1961; currently Seymour H. Knox, professor of economics at Yale University—testified on February 18, 1972:

> I would regard an increase in minimum wage as very unfortunate.

Arthur Okun—member and chairman, President Johnson's Council of Economic Advisers from 1964 to 1969; currently a senior fellow at the Brookings Institute—testified on February 18, 1972:

> I would agree that there is evidence of a ripple effect, evidence of unfavorable effects, certainly on the employment of teenagers, and I would think that this is not the time to move the minimum wage up, certainly not up significantly.

Saul H. Hymans—professor of economics, and codirector of the research seminar in quantitive economics at the University of Michigan—testified on February 18, 1972:

> I am not sure about the long-range effects, but I feel very strongly that on the short-run right now increases in the minimum wage should not be had.

Herbert Stein—Chairman, President Nixon's Council of Economic Advisers from 1969 to present—testified on April 14, 1972,

> . . . we have these estimates of the addition to the unemployment rate that would be caused by raising the minimum wage for teenagers to $2 at this time. And we estimate that it would add by July 1972 9/10th of a point, that is, almost one percentage point, to the unemployment rate of white teenagers, and by October it would add 1.7 percentage points to the unemployment rate of white teenagers. And for non-whites it would add 2.8 percent to the unemployment rate of teenagers by July and 5.1 percent by October. So we think that the failure to provide the differential for youth, if the minimum wage is to be raised at all, would be quite disastrous.

He continued:

> Well, the Administration, as you know, has proposed a moderate increase in the minimum wage more or less to keep pace with the increase of average wages of the country, and not to upset a long-standing policy of the government with respect to the minimum wage. My own preference would be for no increase at all.

Dr. Stein concluded by saying:

> I think that the minimum wage is the enemy of full employment and price stability, and it is unnecessary in the kind of economy that we now have. But I think that what we are most able to demonstrate statistically is the bad effect on the employment of youth, because it is the young people whose productivity is closer to the minimum wage and who, therefore, become unemployable if the minimum is raised.

NEW STEEL AGREEMENT

(Mr. DENT asked and was given permission to extend his remarks at this point in the RECORD and to include a synopsis of a new steel agreement.)

Mr. DENT. Mr. Speaker, Japan and the European Community, including the United Kingdom, announced last week their intention to renew for 3 years the 1969 voluntary trade agreements.

Mr. Speaker, I am a longtime fighter for American industry and jobs, and one who has studied in depth the tariff and trade problem of our country.

Mr. Speaker, although I have not yet examined the full details of the new steel import agreement negotiated by the State Department, I cannot consider it a breakthrough in trade relations, because it is merely a voluntary agreement, and, therefore, subject to the same disregard with which every other such arrangement has been met. Previous voluntary restraints on the importation of steel, stainless steel tableware, textiles, and oil have been violated, and there is no reason to believe this most recent restraint extension will be treated otherwise.

As meager as the details are, this point stands out: With Japan planning to export 6,498,000 tons per year to the United States, and the European Community 8,093,573 tons—accounting for 85 percent of the anticipated steel imports—a total of over 17 million tons of steel mill products would be imported by our country this year. During the life of this new 3-year agreement, over 41 million tons of these products would be shipped to the United States. These figures do not even include the 2½-percent per annum increase allowed on the previous year's limitation.

Since we lose 6,000 steelworker jobs each year for every million tons of imported steel, a yearly job loss of 142,000 is sustained.

From my point of view, it looks like a bad deal. However, since Congress has abdicated its authority over trade matters, there is nothing we can do but accept this agreement, but we do not have to like it. The specialty steel industry in this country deserves and demands special attention—and soon—or we may find ourselves out of the picture in this industry altogether. Since the State Department now negotiates all trade deals, foreign diplomacy appears to be the major consideration, with little or no attention given to the employment needs of the United States.

PRESIDENT'S ACTION IN VIETNAM

(Mr. O'HARA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. O'HARA. Mr. Speaker, 8 days ago I stood in this Chamber to express my support for the President's decision to return to the conference table in an effort to end the war in Indochina through negotiations instead of by the force of arms.

At that time, Mr. Speaker, I also expressed my concern over the fact that the President had coupled this action with bellicose words about a war which, in the President's view, still could be "won" or "lost" on the battlefield.

Today, I stand here to express my horror at the decision of the President, by his own admission, to "intensify" the war in Indochina. The ports of North Vietnam are being mined. The rail and highway arteries to that country are to come under air and naval bombardment. Through these actions, the President sets this Nation on what could be a collision course with two other major nuclear powers—the Soviet Union and mainland China. These actions have been taken, and the risks are to be incurred, because the President views the struggle in that faraway land as being one involving the prospects of our "surrender" or our "humiliation"—as a struggle in which America's "honor" is at stake.

It is sheer hypocrisy for the President to use that word "honor" now to justify intensification of a war he has supposedly been "winding down" throughout these long and agonizing months. It is reckless bravado to promise the American people that, through these new military adventures, we will now achieve peace—and that we will do it with 60,000 American troops in Vietnam, when we could not attain that goal with more than half a million troops there in years past.

The President talked to the American people last night about sliding back into the "dark shadows of a previous age." By taking this dangerous course of deepening the American involvement, the President has turned the clock back to the dark shadows of 4 years ago or more. And I would like to remind my colleagues of where the President, himself, stood then.

It was in February 1968—and I invite my colleagues to check the record for themselves—it was in February 1968 that Mr. Nixon, in pursuit of the highest office of the land, gave President Johnson a 9-month ultimatum. Mr. Nixon said then that the President could end the war in that length of time—or else he should be replaced with new leadership, unencumbered by the past, Mr. Nixon said, and therefore capable of ending this terrible conflict.

The American people elected President Nixon—more on his pledge to end the war than on any other single promise. Today, 40 months later, the war grinds inexorably on. The President's promised peace plan never materialized. His vaunted Vietnamization program lies now in ruin. His attempts at clandestine international relationships, conducted by a mere member of his staff, stand exposed as little more than the futile comings and goings of an amateur diplomat who, unlike the Secretary of State—the official charged with the responsibility for foreign affairs—is beyond the reach of either the Congress or the American people. And a new "domino theory"—embracing the Middle East and Europe, rather than merely the Southeast Asian dominos of John Foster Dulles—is put forth as a rationale for defending our "honor" by bringing all of us nearer the brink of global war, and total annihilation.

President Kennedy, President Johnson, and, until now, President Nixon, have all rejected the idea of mining North Vietnamese harbors on the ground that doing so involved unacceptably high risks of a greatly expanded war that could not be justified by our limited objectives in Vietnam. The reasons that deterred President Kennedy, President Johnson, and, for 3 years, 4 months and 18 days, President Nixon are even more cogent today when we are engaged in "winding down" the Vietnam war and withdrawing our troops. The President's reckless decision announced last night is wrong for those same reasons. The risks of confrontation with another nuclear superpower are much too great to justify any such action.

VIETNAM DILEMMA

(Mr. ASHLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHLEY. Mr. Speaker, all thinking Americans would agree that U.S. military involvement should require that two basic conditions exist: First, that there is a substantial, identifiable national interest at stake; and, second, that the ability exists to achieve the military and political objectives being pursued.

Today it is doubtful that either of these conditions exist.

Our interest in South Vietnam, in my view, is a legitimate one, but certainly is not one upon which the fate of our Nation hinges. If it were, we would not be engaged in the systematic withdrawal of our troops at a time when the military situation is as doubtful as it has been and continues to be.

From the mining of North Vietnam's harbors and the other actions ordered by the President, it is clear that such political objectives as we have in Vietnam will require greatly increased military commitments and therefore much greater risks. Yet prospects of success are doubtful at best.

President Nixon has said that the actions he has taken escalating the war will cease when certain conditions are met. Among these conditions is that there must be an internationally supervised cease-fire throughout Indochina. This condition has been unacceptable to Hanoi and in my view will continue to be.

Do we then escalate one step further? Do we recommit American troops? Do we use tactical nuclear weapons?

Why should North Vietnam accept U.S. peace terms at a time when there are only 60,000 U.S. troops in Vietnam and the President does not dare increase this number significantly. Why should this mining of ports push them to the peace table when the north must have adequate supplies for at least 4 months and, as one expert last night said, for several years. They can afford to hold out with the good likelihood that their resistance will cost Nixon the election and bring in a Democrat who will simply withdraw.

At the same time, Nixon's making Russia the villain of the peace presents a real dilemma for Russia. As former Secretary McNamara said several years ago, the mining of North Vietnam's ports "would place Moscow in a particularly galling dilemma as to how to preserve the Soviet position and prestige in such a disadvantageous place." This would seem to be particularly difficult for the Russians in light of the fact that the Cuban missile crisis helped lead to the ouster of Khrushchev. If Russia does not back down, they could send in pilot volunteers or mine the south's harbors and we would be on the brink of world war III. If they back down, we might well not get our peace anyway and then later we would surely have to pay a grave price, as we did in Czechoslovakia in 1968.

Equally important, the President has jeopardized the SALT talks where we have a chance for an agreement to freeze our nuclear missile stockpiles for the first time, not to mention expanded trade opportunities and the real chance for a thawing of East-West tensions.

If this interpretation is accurate, then Nixon's move has little or no chance of bringing about peace in Vietnam and could well bring on a nuclear war. What, then, is the alternative? The mining, coupled with the North Vietnamese invasion, reflect the failure of Vietnamization and show us that we would have to be in South Vietnam indefinitely for this program to have a chance to work. South Vietnam has a standing army of 1 million men and the best weapons. If this is not enough against a much smaller, less well-equipped force, then I find it hard to believe that these people really care who runs the country. In any event, who could ask more of America than 7 years, 50,000 dead, hundreds of thousands wounded and maimed and billions of dollars.

In light of this, while it is far from acceptable as the ideal solution, I submit that Congress should legislate a U.S. withdrawal as the only rational option left open to us.

Therefore, I will support the resolution, soon to be reported by the House Committee on Foreign Affairs, that will set a date to terminate all U.S. military involvement in Indochina, subject only to obtaining the release of our prisoners of war and all available information on the missing in action.

MOORHEAD CALLS NIXON'S ACTIONS DANGEROUS

(Mr. MOORHEAD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOORHEAD. Mr. Speaker, I am extremely distressed that President Nixon is taking an action which previous Presidents have rejected because of the inherent danger.

To blockade North Vietnamese harbors is more an act against the Soviet Union than against the North Vietnamese. I believe that the President, unless he has some understanding with the Soviets, with this recent action, is endangering whatever rapport we have reached with the Russians and this includes his coming talks in Moscow and the very important SALT talks.

His thinking and rationale, as expressed last night, is a throwback to the cold war rhetoric of the 1950's. His constant use of the word "arrogance" and references to "bombastic" talk by the Communists shows the degree to which he has taken the talks' stalemate personally, a very dangerous attitude for the leader of the most powerful nation in the free world.

Nixon obviously wants to get out of Vietnam, but his cold warrior's pride refuses to allow for the concessions necessary to achieve a settlement.

Once again, there was no discussion with Congress before this statement was made. I believe this is a purposeful distortion of the Constitution. He has continually refused to seek the support and counsel of the people's representatives in Congress before launching into his military adventures.

The introduction of mines and the word that Soviet minesweepers are proceeding toward North Vietnam conjure a menacing set of possibilities. What would our Navy do if the Soviets began clearing away our minefields? Would they attempt to sink the Russian vessels? This would be an act of war which would throw the world previously close to Armageddon.

I think the President, through his intentional boycotting of the Congress, has strengthened the hand of those of us who believe that the Congress should immediately establish a date for total withdrawa of all U.S. forces from Southeast Asia contingent upon release of our prisoners of war. I do not believe that the fate of the free world rests on propping up the South Vietnamese regime with more American lives and treasure.

SOVIET MILITARY BUILDUP IN CUBA

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, on May 3, my good friend, and distinguished and able commentator, Dr. Manolo Reyes, testified before the Special Committee on Security of the Organization of American States, expressing the growing concern over the recent buildup of the Soviet military presence in Cuba.

Dr. Reyes, who has come to Washington seven times in the past 2 years to argue eloquently the dangers of Soviet military and political expansionist tactics, stressed the significance of the new Soviet-Cuban offensive. He has kept a continued vigilance over the Castro regime, and has with untiring effort exposed the threats of communism in the Western Hemisphere. Dr. Reyes commented as follows:

> Cuba has been supplied with the latest Soviet weaponry, including the most advanced MIG fighters and ships, each capable of firing four missiles. Castro has renewed his guerilla infiltration into Latin America using Chile as a central base of operation. He hopes to use the Andes in the same manner as the Sierra Maestra Mountains from which he launched his successful guerilla takeover of the island of Cuba.

Dr. Reyes testified, and I wholeheartedly concur:

> There is a substantial and significant difference between establishing relations with Communist China and Cuba. Thousands of miles separate our country and China, but a mere 90 miles is all that stand between the United States and the Soviet war planes, ships, and submarines stationed in Cuba.

In conclusion, Mr. Speaker, though the administration has steadfastly refused to acknowledge that Soviet nuclear submarines patrol a few short miles off our coast in Cuban waters, commander John Heekin, Soviet area analyst in the Department of Defense, on September 28, 1971, appearing before the House Subcommittee on Inter-American Affairs, admitted the presence of such submarines off the Florida coast.

I believe that until the Castro government ceases to use Cuba as a Soviet military base and until the exportation of Castro-trained Communist guerillas throughout Latin America is brought to a halt, the reestablishment of relations with Cuba cannot and must not realistically be considered.

SUPPORT FOR PRESIDENT NIXON ON VIETNAM WAR MOVE

(Mr. MICHEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MICHEL. Mr. Speaker, President Nixon has taken a major step toward ending the Vietnam war. It is a serious move. It has come only after long consideration and painful recognition of military realities. He has made it plain that this step has the aim of protecting the safety of 60,000 American troops still in Vietnam, obtaining a cease-fire, release of our prisoners of war and ultimately a negotiated peace based on self-determination by the Vietnamese of their own governments.

To those who seem eager to jump in and pitch a few political bales of hay because the President has acted, I would offer a word of caution. They are playing politics with the lives of 60,000 troops and 1,500 prisoners of war. The President made clear the fact that our evacuation of troops has been steady—we have proved to Hanoi that we seek only peace. They have been adamant, and now have turned aggressive.

To those who shrill that it cannot work, I submit that the latest Vietcong offensive is based on mechanized warfare. This requires vast supplies—especially of oil, gasoline, and parts—and these supply lines, once the restraints on our firepower have been removed, are highly vulnerable.

It ill behooves the opposition party, who supported a massive buildup in Vietnam, to castigate our President for taking measures to end our involvement. It also would be a disservice to our men still in Vietnam to undermine at home what our Nation is trying to do in Indochina to end the war and bring all Americans home.

RELIGIOUS LEADER OPPOSES WAR

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, as the horrors of that far away war continue inevitably to ricochet ever so grotesquely back into the hearts and minds and consciences of Americans, the resolve of the vast majority of Americans grows firmer every day, that our involvement must be ended.

On May 1, 1972, the Right Reverend Monsignor Daniel J. Dever, of Hawaii, was compelled by conscience and deep religious belief to state his moral opposition to this war by distributing his statement to members of the armed services and their dependents at the gate of Hickam Air Force Base in Hawaii.

Monsignor Dever is a highly respected citizen of Hawaii. He is superintendent of all Catholic schools in Hawaii and is a valued participant in a wide range of community endeavors. I applaud Monsignor Dever and I would like to share his statement with my colleagues:

NO MORE WAR

> My fellow Catholics at Hickam Air Force Base and friends of other faiths: Whatever have been our reasons for failure to judge the evil of our participation in the Vietnam War, or refusal to speak against it, this failure and this refusal are no longer justified.
>
> Even before the renewal of bombing of North Vietnam, the American Catholic Bishops (November 1971) raised a serious doubt whether the good we had hoped to achieve through the continuation of the war was outweighed by the greater harm we were causing.
>
> The harm is too obvious to detail—more harmful to us than to those we injure and kill. Evil made remote by automation or distant by others carrying it on in our behalf comes home to roost—more evil still by reason of untruth and irresponsibility.
>
> If we had been deceived by "Vietnamization" that untruth is made clear by the increased deployment of Americans on the sea and in the air.
>
> If concern for POW's had kept us silent, that false hope is shattered daily by their growing number.
>
> If the sacrifice of so many lives till now had conjured up the absurd desire to protect our investment, we had only to recall the French, more than twenty years ago protesting the holding up of dead soldiers as models to justify additional sacrifices.
>
> In 1965, Pope Paul pleaded with us: "No more war, war never again." We have preferred to go on with the hope that this war would come to an end, lacking the courage and the humility to end it. Our leaders are blind and we share their darkness. If only we could see what Father Delp saw from his death cell in Nazi Germany:
>
> "The cataclysmic presence of an apocalyptic lie that is at work not only in this or that nation, this or that class or party, this or that race, but in all of us everywhere. But how shall we see it seeing how we are shielded by a dehumanized bureaucratic conscientiousness—the absurd and monumental deception that practices the greatest evil with ritual solemnity as if it were somehow noble, intelligent and important. The inhuman complacency that is totally incapable of seeing in itself either sin, or falsity or absurdity, or even the slightest impropriety.
>
> "In truth each of us must be shocked to

his depth at what he is capable of, not for the sake of perverse pleasure of contemplating his own ruin but to find a way out—a way of liberation from fixation upon subjective needs and compulsions—a way of encounter with the redeeming God—our only hope—a way of serving and rebuilding the world threatened by untruth in its every disguise."

PIED PIPERS OF VIETNAM

(Mrs. MINK asked and was given permission to extend her remarks at this point in the Record and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, a constituent of mine recently expressed quite eloquently the frustration and despair so many Americans feel at the tragic human losses and suffering in Vietnam which cannot be justified.

Mr. Marshall M. Reddish, a retired attorney, moved to Hawaii from Colorado where he was active in the practice of law and a State Commander of the American Legion. Mr. Reddish submitted his statement to one of Hawaii's major newspapers where it was printed, and he has since transposed it to blank verse form, which further vivifies the unanswerable anguish contained in its words.

In his poem "Pied Pipers of Vietnam," Mr. Reddish portrays so well the blind and mindless fascination of our Government for Vietnam. We follow a wistful, idyllic tune which leads us down a path of unbelievable bloodshed, suffering, and horror. The cliffs of destruction lie just ahead but still we cannot seem to turn away and ignore the treacherous tune to which we dance.

The wasteful and wanton slaughter of the young and old, and the dismal heritage we leave for succeeding generations in robbing them of the dream of America's goodness and morality is so poignantly expressed in this poem that I would like to share it with my colleagues in the hope that we will be able to ignore the "Pied Pipers of Vietnam" before it is too late.

The poem follows:

PIED PIPERS OF VIETNAM

(By Marshall M. Reddish)

Some day the mists of the swamps of Vietnam may rise and we may see the Communists playing the pipes and the tunes of the Pied Piper which have long beguiled us,
And the people will find they have once again been fooled,
And there may even be a little indignation.
But we cannot console the mothers and the widows as Lincoln did because these mothers and widows will not have laid a costly sacrifice upon the altar of human freedom,
But will have found them wasted,
And they will say that life is full of sound and fury signifying nothing.
And the fathers will say with King Eadgar "My life has been but a heaping of sticks under an empty pot",
Or with Maccus that their sons' blood has been splashed out in the dust like a bucket of kitchen slop,
Or with King Eadgar again that all of America weeping could not weep their worth.
And the world will say "We reminded you again and again that this was an immoral war."
And some of us blind followers will wonder whether we should not have finally spoken out,
And whether Pied Pipers will again play a hypnotic tune,
And whether the people will again be misled by demagogues,
And whether the Congress will ever reassume it's constitutional responsibility and never again permit an undeclared war,
And for solace we shall listen intently for the drums at Valley Forge, Gettysburg, and San Juan Hill,
And we shall think of Verdun and the Marine, Iwo Jima and the three chaplains who joined their hands as they sank beneath the waves.
And we shall further search our souls to see whether we have any torch to pass to succeeding generations,
And whether there is still an American dream to dream,
And the clergy will wonder whether it fulfilled its responsibilities,
And our wounded will try to bear their pain and not to moan.
And our beautiful dead sons, in bits and pieces, shall lie in some cemetery or in the silt of Vietnam,
And the waves of the seas shall cradle the rest.

PRESIDENT'S SPEECH

(Mrs. MINK asked and was given permission to extend her remarks at this point in the Record and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, Americans have a right to be angry at President Nixon's announcement to increase the bombing to nonmilitary targets and to impose a naval blockade of North Vietnam. It is a foolish and terribly dangerous course of action.

This decision of the President is the act of a desperate man, intent upon covering up the fact that his policy of Vietnamization has failed. His plan of gradual withdrawal of American troops so that the South Vietnamese could defend themselves has failed. The South Vietnamese do not see their future in a war against their brothers. They do not support the Thieu regime which under threat of death orders them to fight. No matter how well we train their army, no matter how well equipped with American arms they are, without the will to fight and a belief in what they are fighting for, they will never succeed. And President Nixon has finally come to the realization that America cannot implant that will to fight where it is nonexistent.

I have analyzed the President's statement of last night carefully and compared it with his other statements. Beneath the hardline statement of escalation of the bombing is a retreat from his earlier demands that we would not leave Vietnam without a political settlement.

Last night he finally agreed with his critics. He finally set aside his support of the Thieu regime as the price for an end to the war.

President Nixon announced a new basis for withdrawal. His new terms are much like those we all have been advocating for years. He says that we will get out totally within 4 months from the date of the return of our prisoners of war and a cease-fire, internationally supervised. He no longer insists upon the terms of a political settlement of the civil war. He did not speak of keeping Thieu in power until 1 month before the elections. In fact, he said that his new offer will allow for negotiations on a political settlement between the Vietnamese themselves. The President has finally removed the only barrier which has kept us from ending this war 3 years ago, and 20,000 American deaths too late.

The tragedy is that he had to wait until now to see the light. The danger is that he is trying to mask his reversal of policy by a final, unnecessary show of power which could have disastrous consequences.

Why could President Nixon not just announce his new proposal without more killing? Whom does he have to appease? He said last night his new proposal is not a surrender. He said it will allow the United States to withdraw with honor.

I beseech the President, therefore, to put aside his own personal considerations, and in name of national honor, pursue the plan he advocated last night: an internationally supervised cease-fire which we can achieve without more killing.

THE PRESIDENT'S ACTION

(Mr. MATSUNAGA asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MATSUNAGA. Mr. Speaker, the tragedy of the action taken by the President last night is that he has completely usurped the constitutional power of the Congress to declare war.

An even greater tragedy is that the Congress has supinely acquiesced and even supported the President in his acts of usurpation of its constitutional authority, and the American people, more than 80 percent of whom oppose the war in Vietnam, find themselves being led closer and closer to the brink of world war III, against their wishes, at the will and command of one man. This great democracy, of which I am proud to be a citizen, has become dangerously close to permitting itself to be run as a dictatorship.

If we are to preserve the balance of power and Congress is to remain a coequal branch of Government with the Executive, as intended by the Founders of this great Nation, the Congress must insist that the President cease and desist from exercising those powers reserved to the Congress.

It has become increasingly evident that the only way we are going to do this is to cut off all funds for the further prosecution of the war.

ADDRESS BY THE HONORABLE WILBUR MILLS

(Mr. DORN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DORN. Mr. Speaker, Chairman Wilbur Mills, our great and beloved colleague, delivered a significant address this morning at the change of command of the U.S.S. *Simon Bolivar* at Newport News, Va. Comdr. Claude C. Cross, the new commander of the *Simon*

Bolivar, is a friend of the family of our distinguished chairman.

Chairman Mills' address, though brief, was outstanding in that it points out the absolute necessity of patrolling the sea lanes of the world for peace and for freedom. In the light of world events today I particularly commend to the attention of my colleagues and the American people Chairman Mills' splendid comments:

REMARKS OF CONGRESSMAN WILBUR D. MILLS

This is a most significant—and a most symbolic—day in the history of our country.

It has been the experience of free men that all freedom is indivisible—whether it be the freedom of the individual man—or the freedom of the seas for all nations. How fitting it is, therefore, that this ship, dedicated to the preservation of freedom, recognizes freedom's indivisibility in its very name, the U.S.S. Simon Bolivar. The name of this ship, as it patrols the ramparts we watch, signals the appreciation of the American Republic that the same freedom for which Simon Bolivar, the Great Latin American Liberator fought, unites the countries of this hemisphere in the desire of common freedom, common friendship and common ideals which will make them inseparable in peace, in war, and in common future destiny.

I need not say that these are days of deep challenge for all freedoms and for all free men. But I feel I must say that it is often overlooked that the keystone of our national security is the freedom of the seas. For a century and a half, the sea posture of the United States has been so secure that we have taken it for granted. For more than a hundred and fifty years, a de facto British-American naval understanding was observed by which the preponderance of sea power was vested in the English speaking nations.

Indeed, if this were not so, two Great World Wars would have been lost—for our nation—neither then nor now—can protect its own shores, much less project its force in support of its allies—unless the United States Navy can secure the sea lanes which are the only presently feasible means of common defense.

Our country came into existence in large measure because the French Navy won the Battle of the Chesapeake Capes, a few miles from here—in a few hours. When the Royal Navy lost control of the seas for only a few months, General George Washington's army and the French Fleet crushed General Cornwallis at Yorktown. Great Britain defeated Napoleon not at Waterloo, but at Trafalgar. It was Admiral Nelson's victories at the Nile and Trafalgar which cut off Napoleon for the victory by General Wellington. It was Admiral Jellicoe's victory over the German High Seas Fleet at Jutland which sealed the fate of the Kaiser's Army; and it was the U. S. Navy's great victory at Midway which marked the end of the Japanese control of the Pacific, the turning point in that theatre. I will not labor the point: but from Carthage to Hitler the message is unmistakable: that nation which loses control of the seas risks loss of its life.

There have been vast changes in the techniques of warfare in the past quarter of a century: but the fundamental rules of history haven't changed a bit. That rule is that a nation cannot expect by mercy what it has yielded in strength and respect. Our colonial forefathers recognized this—in our first ensign—even before we were a nation—with the Flag—"Don't tread on me."

This is still the rule—a tragic rule in this day and age—but our deterrent force as represented by this ship, the U.S.S. Simon Bolivar—is the strongest deterrent at our country's disposal. Heaven knows, we have sought peace and we will always seek it in the four quarters of the globe—but, if stand we must, stand we will.

Accordingly, I count this one of the most solemn and proud moments of my life, as I speak to the two captains and crews, Commander Cross and the Gold Crew, and Commander Browder and the Blue Crew, for more than a U. S. naval warship and its flag is entrusted to your care. Nothing less than the safety of the Nation is in your hands, and as was said once before, never have so few had so much responsibility for so many. I bless you and I bless your ship, as I bless our Flag and our beloved country—for as the fate of our Nation rode that night with Paul Revere, it rides the waves with the U.S.S. Simon Bolivar.

I pray God that may you never be called upon for action—but I thank God that you will be ready, in the great traditions of the U. S. Navy, if you are.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Preyer of North Carolina (at the request of Mr. O'Neill), for today and the balance of the week, on account of committee official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Riegle, for 60 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. Peyser) and to revise and extend their remarks and include extraneous matter:)

Mr. McCloskey, for 60 minutes, today.

Mr. Halpern, for 5 minutes, today.

Mr. Findley, for 2 minutes, today.

Mr. Frenzel, for 10 minutes, today.

Mr. Kemp, for 10 minutes, today.

Mr. Michel, for 5 minutes, today.

Mr. Crane, for 10 minutes, today.

Mr. Williams, for 10 minutes, today.

(The following Members (at the request of Mr. Denholm) and to revise and extend their remarks and include extraneous matter:)

Mr. Aspin, for 10 minutes, today.

Mr. Gonzalez, for 10 minutes, today.

Mr. Rosenthal, for 20 minutes, today.

Mr. Adams, for 10 minutes, today.

Mr. Matsunaga, for 10 minutes, today.

Mr. Cotter, for 10 minutes, today.

Mr. Alexander, for 30 minutes, today.

Mr. Hamilton, for 10 minutes, today.

Mr. Podell, for 15 minutes, today.

Mr. Flood, for 5 minutes, today.

Mr. Leggett, for 30 minutes, on May 10.

Mr. Hamilton, for 10 minutes, on May 10.

Mr. Gonzalez, for 60 minutes, on May 15.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Arends, that his remarks, under general leave granted to Mr. Gerald R. Ford, follow those of Mr. Gerald R. Ford today.

(The following Members (at the request of Mr. Peyser) and to include extraneous matter:)

Mr. Lent in five instances.

Mr. Duncan in two instances.

Mr. Archer.

Mr. Riegle in two instances.

Mrs. Heckler of Massachusetts.

Mr. Derwinski in two instances.

Mr. McClory in two instances.

Mr. Schwengel in two instances.

Mr. Whitehurst.

Mr. Bray in three instances.

Mr. Wyman in two instances.

Mr. Scherle.

Mr. Keating.

Mr. Hosmer in two instances.

Mr. Shoup.

Mr. Brown of Ohio.

Mr. Sandman in two instances.

Mr. Halpern in three instances.

Mr. Erlenborn.

Mr. Zwach.

Mr. Bob Wilson in four instances.

Mr. Goldwater.

Mr. Kemp in two instances.

Mr. McDade in two instances.

Mr. Davis of Wisconsin.

Mr. Belcher.

Mr. Anderson of Illinois.

Mr. Quie.

Mr. Ashbrook in three instances.

Mr. McCloskey.

(The following Members (at the request of Mr. Denholm) and to include extraneous matter:)

Mr. Dingell in three instances.

Mr. Gonzalez in three instances.

Mr. Hagan in three instances.

Mr. Rogers in five instances.

Mr. Rarick in three instances.

Mr. Bingham in three instances.

Mr. Vanik in two instances.

Mr. Roncalio in 12 instances.

Mrs. Griffiths.

Mr. Begich in three instances.

Mr. Rostenkowski in two instances.

Mr. Evins of Tennessee in three instances.

Mr. Stokes.

Mr. Rangel.

Mr. O'Hara in two instances.

Mr. Podell in three instances.

Mr. Hungate.

Mrs. Sullivan.

Mr. Gibbons in three instances.

Mr. Van Deerlin.

Mrs. Green of Pennsylvania in two instances.

Mr. Metcalfe.

Mr. Waldie in three instances.

Mr. Miller of California in five instances.

Mr. Mahon.

Mr. Dorn in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 855. An act to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill and a joint resolution of the House of the following titles:

H.R. 13591. An act to amend the Public Health Service Act to designate the National Institute of Arthritis and Metabolic Diseases as the National Institute of Arthritis, Metabolism, and Digestive Diseases, and for other purposes; and

H.J. Res. 1174. A joint resolution making an appropriation for special payments to international financial institutions for the fiscal year 1972, and for other purposes.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 10, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1955. A letter from the Secretary of the Army, transmitting reports of the number of officers on duty with Headquarters, Department of the Army, and detailed to the Army General Staff on March 31, 1972, pursuant to section 3031(c) of title 10, United States Code; to the Committee on Armed Services.

1956. A letter from the Director of Civil Defense, Department of the Army, transmitting the 82d report of Federal Contributions Program Equipment and Facilities for the quarter ending March 31, 1972, pursuant to subsection 201(i) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

1957. A letter from the Secretary of Defense, opposing enactment of title III of H.R. 7130, relating to procedures to relieve domestic industries and workers injured by increased imports from low-wage areas; to the Committee on Education and Labor.

1958. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the National School Lunch Act and the Child Nutrition Act of 1966; to the Committee on Education and Labor.

1959. A letter from the Assistant Secretary for Economic Affairs, Department of State, transmitting the 24th report on operations under the Mutual Defense Assistance Control Act of 1951 (Battle Act); to the Committee on Foreign Affairs.

1960. A letter from the Assistant Secretary of the Interior, transmitting the annual report of the U.S. Government Comptroller for the Virgin Islands for the fiscal year ended June 30, 1971, pursuant to Public Law 90–496; to the Committee on Interior and Insular Affairs.

1961. A letter from the Attorney General, transmitting a draft of proposed legislation to make level III of the executive schedule applicable to the Special Assistant Attorney General, and to make level IV of the executive schedule applicable to the U.S. Attorney for the Central District of California; to the Committee on Post Office and Civil Service.

1962. A letter from the Assistant Secretary of Defense, transmitting a report showing grants for basic scientific research made by the Department of Defense to nonprofit institutions during calendar year 1971, pursuant to Public Law 85–934; to the Committee on Science and Astronautics.

1963. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend section 210(c) of title 38, United States Code, to extend the authority of the Administrator of Veterans' Affairs to grant equitable relief from administrative error; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 483. Concurrent resolution providing for the reprinting of a House document entitled "Report of Special Study of Securities Markets by the Securities and Exchange Commission" (Rept. No. 92–1050). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 530. Concurrent resolution to reprint brochure entitled "How Our Laws Are Made" (Rept. No. 92–1051). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 545. Concurrent resolution authorizing the printing of additional copies of hearings on "American Prisoners of War in Southeast Asia, 1971—Part 2" by the Subcommittee on National Security Policy and Scientific Developments (Rept. 92–1052). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. House Concurrent Resolution 552. Concurrent resolution to provide for the printing of the Constitution of the United States together with the Declaration of Independence (Rept. 92–1053). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. Senate Concurrent Resolution 41. Concurrent resolution authorizing the printing of the report of the proceedings of the 45th biennial meeting of the Convention of American Instructors of the Deaf as a Senate document (Rept. 92–1054). Ordered to be printed.

Mr. BRADEMAS: Committee on House Administration. Senate Concurrent Resolution 54. Concurrent resolution to print additional copies on "War Powers Legislation"; with an amendment (Rept. 92–1055). Ordered to be printed.

Mr. ICHORD: Committee on Internal Security. H.R. 9669. A bill to amend the Subversive Activities Control Act of 1950, as amended; with an amendment (Rept. 92–1056). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas; Committee on Veterans' Affairs. H.R. 14742. A bill to amend title 38, United States Code, to encourage persons to join and remain in the Reserves and National Guard by providing full-time coverage under servicemen's group life insurance for such members and certain members of the Retired Reserve up to age 60. (Rept. 92–1057). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 14752. A bill to provide for the conversion of Servicemen's group life insurance to veterans' group life insurance, and for other purposes (Rept. 92–1058). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 13780. A bill to authorize the Administrator of Veterans' Affairs to convey certain property in Canandaigua, N.Y., to Sonnenberg Gardens, a nonprofit educational corporation (Rept. 92–1059). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 480. A bill to amend section 3101 of title 38, United States Code, to prevent consideration of proceeds of, or transfer of proceeds of, U.S. Government life insurance and national service life insurance for Federal estate tax purposes; with amendments (Rept. 92–1060). Referred to the Committee of the Whole House on the State of the Union.

Mr. MADDEN: Committee on Rules. House Resolution 968. A resolution providing for the consideration of H.R. 7130. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes (Rept. No. 92–1061). Referred to the House Calendar.

Mr. O'NEILL: Committee on Rules. House Resolution 969. A resolution providing for the consideration of H.R. 7375. A bill to remove the statutory ceiling on salaries payable to U.S. magistrates. (Rept. No. 92–1062). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADAMS (for himself, Mr. Jarman, Mr. Moss, Mr. Metcalfe, and Mr. Helstoski):

H.R. 14847. A bill to amend the Airport and Airway Development Act of 1970 to increase from 50 to 75 percent the U.S. share of allowable project costs payable under such act; to amend the Federal Aviation Act of 1958 to prohibit State taxation of the carriage of persons in air transportation; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ALEXANDER:

H.R. 14848. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. DAVIS of Wisconsin:

H.R. 14849. A bill to provide for the duty free entry of animal glue valued under 40 cents per pound; to the Committee on Ways and Means.

By Mr. GAYDOS:

H.R. 14850. A bill to authorize the Office of Management and Budget to establish a system governing the creation and operation of advisory committees throughout the Federal Government which are created to advise officers and agencies of the Federal Government; to the Committee on Government Operations.

By Mr. HEINZ:

H.R. 14851. A bill exempting State lotteries from certain Federal prohibitions; to the Committee on Ways and Means.

By Mrs. HICKS of Massachusetts:

H.R. 14852. A bill to authorize the establishment and operation of a model secondary school for the deaf in the Greater Boston area; to the Committee on Education and Labor.

By Mr. KOCH (for himself, Mr. Alexander, Mr. Archer, Mr. Brooks, Mr. Celler, Mr. Delaney, Mr. Fish, Mr. Forsythe, Mrs. Hansen of Washington, Mr. Heinz, Mr. Kee, Mr. Kemp, Mr. Lent, Mr. McCloskey, Mr. McEwen, Mr. Melcher, Mr. Moss, Mr. Pryor of Arkansas, Mr. Symington, Mr. Yatron, and Mr. Young of Florida):

H.R. 14853. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. KYROS:

H.R. 14854. A bill to amend title 39, United States Code, to permit the attendance, without loss of pay or deduction from annual leave, of certain U.S. Postal Service employees at funerals of honorably discharged members of the U.S. Armed Forces, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. McKEVITT:

H.R. 14855. A bill to authorize designated employees of the National Park Service and the U.S. Forest Service to make arrests for violation of Federal laws and regulations, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MATSUNAGA:

H.R. 14856. A bill to amend title 5 of the United States Code in order to provide that certain benefits to which employees of the United States stationed in Alaska, Hawaii, Puerto Rico, the Canal Zone, or the territories or possessions of the United States are entitled may be terminated under certain conditions, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PEPPER:

H.R. 14857. A bill to amend the Federal Aviation Act of 1958 so as to limit the power of the Secretary of Transportation to delegate his authority to examine medical qualifications of airmen; to the Committee on Interstate and Foreign Commerce.

By Mr. PODELL:

H.R. 14858. A bill: Joint Committee on the Family; to the Committee on Rules.

By Mr. PRYOR of Arkansas:

H.R. 14859. A bill to provide additional readjustment assistance to veterans by providing improved job counseling, training, and placement service for veterans; by providing an employment preference for disabled veterans and veterans of the Vietnam era under contracts entered into by departments and agencies of the Federal Government for the procurement of goods and services; by providing for an action program within the departments and agencies of the Federal Government for the employment of disabled veterans and veterans of the Vietnam era; by providing a minimum amount that may be paid to ex-servicemen under the unemployment compensation law; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. QUILLEN (for himself, Mr. Downing, Mr. Hosmer, Mr. Hechler of West Virginia, Mr. Abernethy, Mr. Sikes, Mr. Jonas, Mr. Jones of North Carolina, Mr. Lennon, Mr. Hays, Mr. Springer, Mr. Nichols, Mr. Mayne, Mr. Minshall, Mr. Daniel of Virginia, Mr. Denholm, Mr. Fisher, Mr. Wyman, Mr. Kuykendall, Mr. Charles H. Wilson, Mr. Findley, Mr. Hogan, Mr. Wampler, and Mr. Daniels of New Jersey):

H.R. 14860. A bill to amend title 5 of the United States Code with respect to the observance of Memorial Day and Veterans Day; to the Committee on the Judiciary.

By Mr. ROSENTHAL:

H.R. 14861. A bill to amend the Public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. SANDMAN (for himself and Mr. du Pont):

H.R. 14862. A bill to amend the Federal-Aid Highway Act, 23 U.S.C. 121, and for other purposes; to the Committee on Public Works.

By Mr. SIKES:

H.R. 14863. A bill to provide that a Federal building being constructed in the District of Columbia shall be named the "J. Edgar Hoover FBI Building"; to the Committee on Public Works.

By Mr. STEIGER of Arizona:

H.R. 14864. A bill to amend the Internal Revenue Code of 1954 to permit deduction of the cost of pollution control facilities; to the Committee on Ways and Means.

By Mr. TEAGUE of Texas (by request):

H.R. 14865. A bill to amend section 210(c) of title 38, United States Code, to extend the authority of the Administrator of Veterans' Affairs to grant equitable relief from administrative error; to the Committee on Veterans' Affairs.

By Mr. VANIK:

H.R. 14866. A bill to amend the Mineral Lands Leasing Act of 1920 to authorize the Administrator of the Environmental Protection Agency to assist the Secretary of the Interior in granting leases for the extraction of oil shale; to the Committee on Interior and Insular Affairs.

By Mr. BIAGGI (for himself, Mr. Rosenthal, Mr. Corman, Mr. Cederberg, Mr. Bell, Mr. Gude, Mr. Pickle, and Mr. Byrne of Pennsylvania):

H.R. 14867. A bill to amend the Maritime Academy Act of 1958 in order to authorize the Secretary of the Navy to appoint students at State maritime academies and colleges as Reserve midshipmen in the U.S. Navy, and for other purposes; to the Committee on Armed Services.

By Mr. BRASCO:

H.R. 14868. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. BROYHILL of Virginia:

H.R. 14869. A bill to convey to the City of Alexandria, Va., certain lands of the United States, and for other purposes; to the Committee on the District of Columbia.

By Mr. DANIELS of New Jersey:

H.R. 14870. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos; to the Committee on Foreign Affairs.

By Mr. MATHIS of Georgia:

H.R. 14871. A bill to authorize equalization of the retired or retainer pay of certain members and former members of the uniformed services; to the Committee on Armed Services.

By Mr. PERKINS (for himself, Mr. Quie, and Mr. Pucinski):

H.R. 14872. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966; to the Committee on Education and Labor.

By Mr. ROE:

H.R. 14873. A bill to amend the Internal Revenue Code of 1954 to provide that employees receiving lump sums from tax-free pension or annuity plans on account of separation from employment shall not be taxed at the time of distribution to the extent that an equivalent amount is reinvested in another such plan; to the Committee on Ways and Means.

By Mr. RUPPE:

H.R. 14874. A bill to amend the Public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. BRADEMAS:

H. Con. Res. 604. Concurrent resolution to authorize the printing as a House document of a revised edition of "The Capitol", and to provide for additional copies; to the Committee on House Administration.

H. Con. Res. 605. Concurrent resolution to authorize the printing as a House document the pamphlet entitled "Our Flag", and to provide for additional copies; to the Committee on House Administration.

By Mr. SCOTT:

H. Con. Res. 606. Concurrent resolution to provide that the Liberty Bell be available for tour and exhibition; to the Committee on Interior and Insular Affairs.

By Mr. STOKES (for himself, Mr. Clay, Mr. Collins of Illinois, Mr. Dellums, Mr. Hawkins, Mr. Metcalfe, Mr. Nix, Mr. Rangel, Mr. Mitchell, Mrs. Chisholm, Mr. Diggs, and Mr. Fauntroy):

H. Con. Res. 607. Concurrent resolution expressing the sense of Congress that the blockade of North Vietnamese ports constitute an overt act of war and usurps the constitutional powers granted to the Congress; to the Committee on Foreign Affairs.

By Mr. BLATNIK:

H. Res. 970. Resolution to provide funds for the expenses of the investigations and studies authorized by House Resolution 142; to the Committee on House Administration.

By Mr. FRASER (for himself, Mr. Bingham, Mr. Whalen, Mr. Mikva, Mr. Ryan, Mr. Drinan, Mr. Kastenmeier, Mr. Mitchell, Mr. Dow, Mr. Burton, Mr. Harrington, Mr. Helstoski, Mr. Edwards of California, Mr. Rangel, Mr. Conyers, Mr. Clay, Mrs. Abzug, Mr. Koch, Mr. Collins of Illinois, Mr. Badillo, Mr. Hawkins, Mr. Eckhardt, Mr. Metcalfe, Mr. Fauntroy, and Mrs. Chisholm):

H. Res. 971. Resolution calling on the President to propose an extension of the nuclear test ban treaty to include underground testing; to the Committee on Foreign Affairs.

By Mr. FRASER (for himself, Mr. Bingham, Mr. Whalen, Mr. Hathaway, Mr. Seiberling, Mr. Podell, Mr. Begich, Mr. Rees, Mr. Scheuer, Mr. Thompson of New Jersey, Mr. Bergland, Mr. Link, Mr. Moorhead, Mrs. Mink, Mr. Boland, Mr. Hechler of West Virginia, Mr. Roybal, Mr. Green of Pennsylvania, Mr. Reuss, Mr. Eilberg, Mr. William D. Ford, Mr. Sarbanes, Mr. Moss, Mr. Waldie, and Mr. Stokes):

H. Res. 972. Resolution calling on the President to propose an extension of the nuclear test ban treaty to include underground testing; to the Committee on Foreign Affairs.

By Mr. FRASER (for himself, Mr. Bingham, Mr. Whalen, Mr. Mailliard, Mr. Frelinghuysen, Mr. Nix, Mr. Rosenthal, Mr. Fascell, Mr. Halpern, Mr. Reid, Mr. Culver, Mr. Diggs, Mr. Dellums, Mr. Brademas, Mr. Forsythe, Mr. Mosher, Mr. Leggett, Mr. Nedzi, Mr. Dellenback, Mr. O'Hara, Mr. Frenzel, Mr. McCloskey, Mr. Hicks of Washington, Mr. Horton, and Mr. Matsunaga):

H. Res. 973. Resolution calling on the President to propose an extension of the nuclear test ban treaty to include underground testing; to the Committee on Foreign Affairs.

By Mr. FRASER (for himself, Mr. Roe, Mr. Barrett, Mr. Corman, Mr. Pepper, Mr. Rodino, Mr. Heinz, and Mr. Coughlin):

H. Res. 974. Resolution calling on the President to propose an extension of the nuclear test ban treaty to include underground testing; to the Committee on Foreign Affairs.

By Mr. RYAN:

H. Res. 975. Resolution impeaching Richard M. Nixon, President of the United States, of high crimes and misdemeanors in office; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 14875. A bill for the relief of James Phillip Briggs; to the Committee on the Judiciary.

By Mr. HAGAN:

H.R. 14876. A bill for relief of Eugene Peyton Floyd; to the Committee on the Judiciary.

By Mr. HARRINGTON:

H.R. 14877. A bill for the relief of Sgt. Michael Garabedian; to the Committee on the Judiciary.

By Mr. HOGAN:

H.R. 14878. A bill for the relief of Payton Bailey; to the Committee on the Judiciary.

By Mr. NIX:

H.R. 14879. A bill for the relief of Francesco Sita; to the Committee on the Judiciary.

SENATE—*Tuesday, May 9, 1972*

The Senate met at 12 noon and was called to order by Hon. LAWTON CHILES, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, Ruler of men and nations, amid the confusion, contention, and uncertainty of our times—O Thou who changest not, abide with us. Keep our purposes certain, our directions clear, and our minds stayed on Thee.

We beseech Thee, O Lord, to strengthen and guide the President, our leaders, and the people, especially those in the Armed Forces and all those in the pursuit of peace. Have compassion upon all who suffer in body and spirit. Overrule our finite and human limitations by Thy infinite grace and love, until the shadows flee away and the brighter day dawns when all men live in the light of Thy kingdom.

In the name of the Prince of Peace, we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 9, 1972.

To the Senate:

Being temporarily absent from the Senate an official duties, I appoint Hon. LAWTON CHILES, a Senator from the State of Florida, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. CHILES thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT—ENROLLED BILL AND JOINT RESOLUTION SIGNED

Under authority of the order of the Senate of May 8, 1972, the Secretary of the Senate, on May 8, 1972, received the following message from the House of Representatives:

That the Speaker had affixed his signature to the following enrolled bill and joint resolution:

H.R. 13591. An act to amend the Public Health Service Act to designate the National Institute of Arthritis and Metabolic Diseases as the National Institute of Arthritis, Metabolism, and Digestive Diseases, and for other purposes; and

H.J. Res. 1174. Joint resolution making an appropriation for special payments to international financial institutions for the fiscal year 1972, and for other purposes.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 9769) concerning medical records, information, and data to promote and facilitate medical studies, research, education, and the performance of the obligations of medical utilization committees in the District of Columbia, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 9769) concerning medical records, information, and data to promote and facilitate medical studies, research, education, and the performance of the obligations of medical utilization committees in the District of Columbia, was read twice by its title and referred to the Committee on the District of Columbia.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, May 8, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDRESS BY THE PRESIDENT ON NATIONAL RADIO AND TELEVISION LAST EVENING

Mr. SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD the speech made by the President of the United States on national radio and television at 9 p.m. last night.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE PRESIDENT ON NATIONAL RADIO AND TELEVISION

Good evening. Five weeks ago, on Easter weekend, the Communist armies of North Vietnam launched a massive invasion of South Vietnam, an invasion that was made possible by tanks, artillery, and other advanced offensive weapons supplied to Hanoi by the Soviet Union and other Communist nations.

The South Vietnamese have fought bravely to repel this brutal assault. Casualties on both sides have been very high. Most tragically, there have been over 20,000 civilian casualties, including women and children, in the cities which the North Vietnamese have shelled in wanton disregard of human life.

As I announced in my report to the Nation 12 days ago, the role of the United States in resisting this invasion has been limited to air and naval strikes on military targets in North and South Vietnam. As I also pointed out in that report, we have responded to North Vietnam's massive military offensive by undertaking wide-ranging new peace efforts aimed at ending the war through negotiation.

On April 20th, I sent Dr. Kissinger to Moscow for four days of meetings with General Secretary Brezhnev and other Soviet leaders. I instructed him to emphasize our desire for a rapid solution to the war and our willingness to look at all possible approaches. At that time, the Soviet leaders showed an interest in bringing the war to an end on a basis just to both sides. They urged resumption of negotiations in Paris, and they indicated they would use their constructive influence.

I authorized Dr. Kissinger to meet privately with the top North Vietnamese negotiator, Le Duc Tho, on Tuesday, May 2d, in Paris. Ambassador Porter, as you know, resumed the public peace negotiations in Paris on April 27th and again on May 4th. At those meetings, both public and private, all we heard from the enemy was bombastic rhetoric and a replaying of their demand for surrender. For example, at the May 2nd secret meeting, I authorized Dr. Kissinger to talk about every conceivable avenue toward peace. The North Vietnamese flatly refused to consider any of these approaches. They refused to offer any new approach of their own. Instead, they simply read verbatim their previous public demands.

Here is what over three years of public and private negotiations with Hanoi has come down to: The United States, with the full concurrence of our South Vietnamese allies, has offered the maximum of what any President of the United States could offer.

We have offered a de-escalation of the fighting. We have offered a cease-fire with the deadline for withdrawal of all American forces. We have offered new elections which would be internationally supervised with the communists participating both in the supervisory body and in the elections themselves.

President Thieu has offered to resign one month before the elections. We have offered an exchange of prisoners of war in a ratio of 10 North Vietnamese prisoners for every one American prisoner that they release. And Vietnam has met each of these offers with insolence and insult. They have flatly and arrogantly refused to negotiate an end to the war and bring peace. Their answer to every peace offer we have made has been to escalate the war.

In the two weeks alone since I offered to resume negotiations Hanoi has launched three new military offensives in South Vietnam. In those two weeks the risk that a communist government may be imposed on the 17 million people of South Vietnam has increased and the communist offensive has now reached the point that it gravely threatens the lives of 60,000 American troops who are still in Vietnam.

There are only two issues left for us in this war. First, in the face of a massive invasion do we stand by, jeopardize the lives of 60,000 Americans, and leave the South Vietnamese to a long night of terror? This will not happen. We shall do whatever is required to safeguard American lives and American honor.

Second, in the face of complete intransigence at the conference table do we join with our enemy to install a communist government in South Vietnam? This, too, will not happen. We will not cross the line from generosity to treachery.

We now have a clear, hard choice among three courses of action: Immediate withdrawal of all American forces, continued attempts at negotiation, or decisive military action to end the war.

I know that many Americans favor the first course of action, immediate withdrawal. They believe that the way to end the war is for the United States to get out and to remove the threat to our remaining forces by simply withdrawing them.

From a political standpoint, this would be a very easy choice for me to accept. After all, I did not send over one-half a million Americans to Vietnam. I have brought 500,000 men home from Vietnam since I took office. But, abandoning our commitment in Vietnam here and now would mean turning 17 million South Vietnamese over to communist tyranny and terror. It would mean leaving hundreds of American prisoners in communist hands with no bargaining leverage to get them released.

An American defeat in Vietnam would encourage this kind of aggression all over the world, aggression in which smaller nations armed by their major allies, could be tempted to attack neighboring nations at will in the Mid-East, in Europe, and other areas. World peace would be in grave jeopardy.

The second course of action is to keep on trying to negotiate a settlement. Now this is the course we have preferred from the beginning and we shall continue to pursue it. We want to negotiate, but we have made every reasonable offer and tried every possible path for ending this war at the conference table.

The problem is, as you all know, it takes two to negotiate and now, as throughout the past four years, the North Vietnamese arrogantly refuse to negotiate anything but an imposition, and ultimately that the United States impose a Communist regime on 17 million people in South Vietnam who do not want a Communist Government.

It is plain then that what appears to be a choice among three courses of action for the United States is really no choice at all. The killing in this tragic war must stop. By simply getting out, we would only worsen the bloodshed. By relying solely on negotiations, we would give an intransigent enemy the time he needs to press his aggression on the battlefield.

There is only one way to stop the killing. That is to keep the weapons of war out of the hands of the international outlaws of North Vietnam.

Throughout the war in Vietnam, the United States has exercised a degree of restraint unprecedented in the annals of war. That was our responsibility as a great nation, a nation which is interested—and we can be proud of this as Americans—as America has always been, in peace not conquest.

However, when the enemy abandons all restraint, throws its whole army into battle in the territory of its neighbor, refuses to negotiate, we simply face a new situation.

In these circumstances, with 60,000 Americans threatened, any President who failed to act decisively would have betrayed the trust of his country and betrayed the cause of world peace.

I therefore concluded Hanoi must be denied the weapons and supplies it needs to continue the aggression. In full coordination with the Republic of Vietnam I have ordered the following measures which are being implemented as I am speaking to you.

All entrances to North Vietnamese ports will be mined to prevent access to these ports and North Vietnamese naval operations from these ports. United States forces have been directed to take appropriate measures within the internal and claimed territorial waters of North Vietnam to interdict the delivery of any supplies. Rail and all other communications will be cut off to the maximum extent possible. Air and naval strikes against military targets in North Vietnam will continue.

These actions are not directed against any other nation. Countries with ships presently in North Vietnamese ports have already been notified that their ships will have three daylight periods to leave in safety. After that time, the mines will become active and any ships attempting to leave or enter these ports will do so at their own risk.

These actions I have ordered will cease when the following conditions are met: First, all American prisoners or war must be returned.

Second, there must be an internationally supervised cease-fire throughout Indochina.

Once prisoners of war are released, once the internationally supervised cease-fire has begun, we will stop all acts of force throughout Indochina, and at that time we will proceed with a complete withdrawal of all American forces from Vietnam within four months.

Now, these terms are generous terms. They are terms which would not require surrender and humiliation on the part of anybody. They would permit the United States to withdraw with honor. They would end the killing. They would bring our POWs home. They would allow negotiations on a political settlement between the Vietnamese themselves. They would permit all the nations which have suffered in this long war—Cambodia, Laos, North Vietnam, South Vietnam—to turn at last to the urgent works of healing and of peace. They deserve immediate acceptance by North Vietnam.

It is appropriate to conclude my remarks tonight with some comments directed individually to each of the major parties involved in the continuing tragedy of the Vietnam War. First, to the leaders of Hanoi, your people have already suffered too much in your pursuit of conquest. Do not compound their agony with continued arrogance; choose instead the path of a peace that redeems your sacrifices, guarantees true independence for your country and ushers in an era of reconciliation.

To the people of South Vietnam, you shall continue to have our firm support in your resistance against aggression. It is your spirit that will determine the outcome of the battle. It is your will that will shape the future of your country.

To other nations, especially those which are allied with North Vietnam, the actions I have announced tonight are now directed against you. Their sole purpose is to protect the lives of 60,000 Americans who would be gravely endangered in the event the Communist offensive continues to roll forward and to prevent the imposition of a Communist government by brutal aggression upon 17 million people.

I particularly direct my comments tonight to the Soviet Union. We respect the Soviet Union as a great power. We recognize the right of the Soviet Union to defend its interests when they are threatened. The Soviet Union in turn must recognize our right to defend our interests.

No Soviet soldiers are threatened in Vietnam. Sixty thousand Americans are threatened. We expect you to help your allies, and you cannot expect us to do other than to continue to help our allies, but let us, and let all great powers help our allies only for the purpose of their defense, not for the purpose of launching invasions against their neighbors.

Otherwise the cause of peace, the cause in which we both have so great a stake, will be seriously jeopardized.

Our two nations have made significant progress in our negotiations in recent months. We are near major agreement on nuclear arms limitation, on trade, on a host of other issues.

Let us not slide back toward the dark shadows of a previous age. We do not ask you to sacrifice your principles, or your friends, but neither should you permit Hanoi's intransigence to blot out the prospects we together have so patiently prepared.

We, the United States, and the Soviet Union, are on the threshold of a new relationship that can serve not only the interests of our two countries, but the cause of world peace. We are prepared to continue to build this relationship. The responsibility is yours if we fail to do so.

And finally, may I say to the American people, I ask you for the same strong support you have always given your President in difficult moments. It is you most of all that the world will be watching.

I know how much you want to end this war. I know how much you want to bring our men home and I think you know from all that I have said and done these past three and one-half years how much I, too, want to end the war to bring our men home.

You want peace. I want peace. But, you also want honor and not defeat. You want a genuine peace, not a peace that is merely a prelude to another war.

At this moment, we must stand together in purpose and resolve. As so often in the past, we Americans did not choose to resort to war. It has been forced upon us by an enemy that has shown utter contempt toward every overture we have made for peace. And that is why, my fellow Americans, tonight I ask for your support of this decision, a decision which has only one purpose, not to expand the war, not to escalate the war, but to end this war and to win the kind of peace that will last.

With God's help, with your support, we will accomplish that great goal.

Thank you and good night.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

VIETNAM—THE AMERICAN NAVAL FORCES TO MINE HAIPHONG HARBOR

Mr. PROXMIRE. Mr. President, the President's action in directing American naval forces to mine Haiphong Harbor and to interdict ships landing supplies in North Vietnam harbors is both reckless and wrong.

It is wrong for these reasons:

First. It shoves this country into a direct collision course with the Soviet Union, and risks our sinking Soviet ships.

Second. In doing so, it seriously jeopardizes the strategic arms limitation talks and of the summit agreement with Russia at their most critical stage. And, of course, this could endanger the progress we have been making in achieving a limit to the nuclear arms race.

Third. It raises the admittedly remote but terrible possibility of war with the Soviet Union.

Fourth. It might provoke Soviet retaliation by mining South Vietnam harbors or Russian submarine attacks on American shipping, and because of the far greater volume of American shipping to South Vietnam than Russian shipping to North Vietnam, we are far more vulnerable.

Fifth. It will increase the killing and carnage and risk without any genuine likelihood that it can achieve a military success, since Russian and especially Chinese support and supply of North Vietnam will undoubtedly continue and may even increase in response to our escalation.

It is time for Congress to act by cutting off funds now for any further military action in Southeast Asia.

GEORGE MEANY BACKS THE PRESIDENT

Mr. GRIFFIN. Mr. President, it has been quite apparent from time to time that AFL–CIO President George Meany is rather anxious to see President Nixon defeated in November. To say that Mr. Meany is a powerful and influential political opponent of the President is quite an understatement of the relationship between the two men.

Nevertheless, George Meany has demonstrated on numerous occasions that he puts the security and best interests of the United States of America ahead of political considerations.

Needless to say, George Meany and I have had some differences over the years. I suspect that his forces will be out to defeat me in this election year. Yet I have always respected Mr. Meany for the fact that he is, and always has been, a patriot first and a union leader second.

When he was asked for comment concerning President Nixon's speech last night, George Meany said:

> In this time of crisis, with 60,000 lives at stake, I think the American people should back up the President, irrespective of politics or other considerations.

Mr. President, I should like to suggest that Mr. Meany has set a praiseworthy example for others, in and out of Congress, who believe that President Nixon should be retired in November.

I wish to commend Mr. Meany for his statesmanlike and responsible reaction at this most difficult hour.

PRESIDENT NIXON'S FATEFUL DECISION ON VIETNAM

Mr. ALLEN. Mr. President, the President had a soul-searching decision to make and I certainly hope that this fateful decision will shorten the war and speed the end of hostilities.

For years, top military men have advised the closing of the port of Haiphong and other supply routes. The President is now ordering this done. He feels this action is necessary to deprive North Vietnam of war materiel and supplies, and to protect our remaining troops in Southeast Asia. As the junior Senator from Alabama, I feel that I must give the President my support in this crisis. To insist that the President, having taken this bold step, must now back down is unthinkable.

Now, Mr. President, as to the insistence that this may cause the cancellation of the summit conference in Moscow or an end to the SALT talks, it would occur to me that this might merely add another item to the agenda to be discussed at Moscow. There is no reason in the world why this should cause a cancellation of the summit talks or a cancellation of the SALT talks.

The President has made a bold and courageous move and I feel that all Americans, regardless of political considerations, should unite behind him in this crisis.

PRESIDENT NIXON'S VIETNAM POLICY

Mr. THURMOND. Mr. President, last night President Nixon announced a courageous and far-reaching decision regarding the Vietnam war. The President also appealed for support of the American people in this difficult hour. I applaud the President's action, and urge my fellow Americans to give the President the support he needs.

The war in Vietnam has been a long and costly war. It has been costly in terms of human lives, in terms of money, and in terms of the burden of emotional frustration which many Americans are experiencing regarding the war. These factors have led many Americans to believe the United States should simply withdraw from Vietnam, to bring a halt to this conflict which has cost lives and money and which has divided this Nation. The basic flaw in this issue is that it ignores the consequences of American defeat in Vietnam.

I have always believed that the insatiable appetite of an aggressor can never be whetted by the sacrifice of the independence and freedom of some small nation. I believe it now.

I have believed for 8 years that the Communist aggressors from North Vietnam would respond only to decisive military action. I believe it now.

I have believed for 8 years that the single most encouraging factor to Hanoi in this war has been the much publicized division of opinion among the American people and their elected representatives. I believe it now.

Mr. President, the time has come for the leadership of these United States to unite behind our Commander in Chief. We can owe nothing less to a man who has put the welfare of freedom-loving people above his own political fortunes.

The time for partisan political bickering is past.

The time for questioning the motives of our President is past.

The time for whitewashing the atrocities, tactics, and goals of the enemy is past.

The time for condemning and downgrading the military spokesmen of this country is past.

The time for ignoring and downplaying the broken promises of the Hanoi government is past.

The time for proposing a sellout of our Southeast Asian allies is past.

Yes, Mr. President, the time for division in America is past.

Instead, the time has come for unity.

Hanoi will abandon her goal of military conquest in the South only if this Congress shows a solid unified wall of support behind our President.

President Nixon has offered a complete withdrawal of American troops from Vietnam within 4 months of an internationally supervised cease-fire and an exchange of prisoners of war.

He has promised an exchange of prisoners at the rate of 10 Communists for every American.

He has offered conditions which will lead to new elections in South Vietnam. These elections will be preceded by the resignation of President Thieu, and they will be participated in by all elements of South Vietnamese society.

The President wisely refused to follow those who would surrender when the stakes are so high. He has chosen to take the other road. The course is difficult and uncertain. It may have serious political implications for the administration. Last night President Nixon spoke as our President, not as a candidate. He showed his determination that the United States will not relinquish its role in world affairs nor will we endanger the security of our troops in Vietnam, the unstable balance of power in the Far East, nor the cause of the Free World in general.

He has provided real hope for 17 million South Vietnamese people to live in freedom under a government of their own choosing.

He has returned credibility to the word of this Nation—a word articulated by the late President Kennedy who told the world that we would defend any friend and oppose any foe in the cause of freedom.

And now the issue is clearly drawn. President Nixon's action to close off the pipeline of war supplies to the North Vietnamese is a bold decisive move. It will have a definite long-range effect on the military operations in Indochina. The immediate impact of his decision will be more diplomatic than military.

It is hoped that the combined result will blunt the present invasion. If not, there are still additional measures that the President may have to take.

Mr. President, I urge united support for President Nixon, who has demonstrated time and again the courage to act decisively to hasten the end of this war.

Mr. President, I ask unanimous consent that the text of the President's address to the Nation be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

TEXT OF A RADIO AND TELEVISION ADDRESS BY THE PRESIDENT ON SOUTHEAST ASIA

Five weeks ago, on Easter weekend, the Communist armies of North Vietnam launched a massive invasion of South Vietnam—an invasion that was made possible by tanks, artillery, and other advanced offensive weapons supplied to Hanoi by the Soviet Union and other Communist nations.

The South Vietnamese have fought bravely to repel this brutal assault. Casualties on both sides have been high.

Most tragically, there have been over twenty thousand civilian casualties, including women and children, in the cities which the North Vietnamese have shelled in wanton disregard for human life.

As I announced in my report to the Nation twelve days ago, the role of the United States in resisting this invasion has been limited to air and naval strikes on military targets in North and South Vietnam.

As I also pointed out, in that report, we have responded to North Vietnam's massive military offensive by undertaking wide-ranging new peace efforts, aimed at ending the war through negotiation.

On April 20, I sent Dr. Kissinger to Moscow for four days of meetings with General Secretary Brezhnev and other Soviet leaders. I instructed him to emphasize our desire for a rapid solution to the war and our willingness to look at all possible approaches. At that time, the Soviet leaders showed an interest in bring the war to an end on a basis just to both sides. They urged resumption of negotiations in Paris and indicated they would use their constructive influence.

I then authorized Dr. Kissinger to meet privately with the top North Vietnamese negotiator, Le Duc Tho, on Tuesday, May 2, in Paris. Ambassador Porter, as you know, resumed the public peace negotiations in Paris on Thursday, April 27, and on Thursday, May 4.

At those meetings, public and private, all we heard from the enemy was bombastic rhetoric and a replaying of their demands for surrender.

For example, at the May 2 secret meeting, I authorized Dr. Kissinger to talk about every conceivable avenue toward peace.

The North Vietnamese flatly refused to consider any of these approaches. They refused to offer any new approach of their own. Instead, they simply read verbatim their previous public demands.

Here is what over three years of public and private negotiations with Hanoi had come down to:

The United States, with the full concurrence of our South Vietnamese allies, has offered the maximum of what any President could offer. We have offered a de-escalation of the fighting. We have offered a ceasefire with a deadline for withdrawal of all American forces. We have offered new elections which would be internationally supervised with the Communists participating both in the supervisory body and in the elections themselves. President Thieu has offered to resign one month before the elections. We have offered an exchange of prisoners of war in a ratio of ten North Vietnamese prisoners for every one American prisoner they return.

North Vietnamese has met each of these offers with insolence and insult.

They have flatly and arrogantly refused to negotiate an end to the war and bring peace.

Their answer to every peace offer we have made has been to escalate the war. In the two weeks alone since I offered to resume negotiations, Hanoi has launched three new offensives.

In those two weeks, the risk that a Communist government may be imposed on the 17,000,000 people of South Vietnam has increased. And the Communist offensive has now reached the point that it gravely threatens the lives of 60,000 American troops who are still in Vietnam.

There are only two issues left for us in this war.

First, in the face of a massive invasion, do we stand by, jeopardize the lives of sixty thousand Americans, and leave the South Vietnamese to a long night of terror?

This will not happen. We shall do whatever is required to safeguard American lives and American honor.

Second, in the face of complete intransigence at the conference table, do we join with our enemy to install a Communist government in South Vietnam?

This, too, will not happen. We will not cross the line from generosity to treachery.

We now have a clear, hard choice among three courses of action: immediate withdrawal of all American forces; continued attempts at negotiation; or decisive military action to end the war.

I know that many Americans favor the first course of action. They believe that the way to end the war is for the United States to get out, and to remove the threat to our remaining troops by simply withdrawing them.

From a political standpoint, this would be an easy choice for me to accept. I did not send over one-half million Americans to Vietnam. I have brought 500,000 home from Vietnam since I took office.

But abandoning our commitment in Vietnam here and now would mean turning 17,000,000 South Vietnamese over to Communist terror and tyranny. It would mean leaving hundreds of American prisoners in Communist hands with no bargaining leverage to get them released.

An American defeat in Vietnam would encourage this kind of aggression all over the world—aggression in which smaller nations, armed by their major allies could be tempted to attack neighboring nations at will. World peace would be in grave jeopardy.

The second course of action is to keep on trying to negotiate a settlement. This is the course we have preferred from the beginning. We shall continue to pursue it. But we have made every reasonable offer and tried every possible path for ending this war at the conference table. The problem is that it takes two to negotiate, and that now, as throughout the past four years the North Vietnamese arrogantly refuse to negotiate anything but an imposition by the United States of a Communist regime on 17,000,000 people in South Vietnam who do not want a Communist government.

It is plain that what appears to be a choice among three courses of action for the United States is really no choice at all. The killing in this tragic war must stop.

By simply getting out we would only worsen the bloodshed. By relying solely on negotiations we would give an intransigent enemy the time he needs to press his aggression on the battlefield.

There is only one way to stop the killing, and that is to keep the weapons of war out of the hands of the international outlaws of North Vietnam.

Throughout the war in Vietnam, the United States has exercised a degree of restraint unprecedented in the annals of war.

That was our responsibility as a great nation—a nation which is interested, as America has always been, in peace and not in conquest. However, when the enemy abandons all restraint, throws its whole army into battle on the territory of its neighbor, and refuses to negotiate, we face a new situation:

In these circumstances, with 60,000 Americans threatened, any President who failed to act decisively would have betrayed the trust of his country and the cause of peace.

I have therefore concluded that Hanoi must be denied the weapons and supplies it needs to continue its aggression. In full coordination with the Republic of Vietnam, I have ordered the following measures which are being implemented as I am speaking to you.

(1) All entrances to North Vietnamese ports will be mined to prevent access to these ports and North Vietnamese naval operations from these ports.

(2) United States forces have been directed to take appropriate measures within the internal and claimed territorial waters of North Vietnam to interdict the delivery of supplies.

(3) Rail and all other communications will be cut off to the maximum extent possible.

(4) Air and naval strikes against military targets in North Vietnam will continue.

These actions are not directed against any other nation. Countries with ships presently in North Vietnamese ports have been notified that their ships will have three daylight periods to leave in safety. After that time, the mines will become active and any ships attempting to leave or enter these ports will do so at their own risk.

These actions will cease when the following conditions are met:

First, all American prisoners of war must be returned.

Second, there must be an internationally supervised ceasefire throughout Indochina.

Once prisoners of war are released, and once the internationally supervised ceasefire has begun, we will stop all acts of force throughout Indochina.

At that time we will proceed with a complete withdrawal of all American forces from Vietnam within four months.

These are terms which would not require surrender and humiliation on the part of anybody. They would permit the United States to withdraw with honor. They would end the killing and bring our POWs home. They would allow negotiations on a political settlement between the Vietnamese themselves. They would permit all the nations which have suffered in this long war to turn at least to the urgent works of healing and peace. They deserve immediate acceptance by North Vietnam.

It is appropriate to conclude my remarks tonight with some comments directed individually to each of the major parties involved in the continuing tragedy of the Vietnam war.

First, to the leaders in Hanoi: Your people have already suffered too much in your pursuit of conquest. Do not compound their agony with continued arrogance. Choose instead the path of a peace that redeems your sacrifices, guarantees true independence, and ushers in an era of reconciliation.

To the people of South Vietnam: You shall continue to have our firm support in your resistance against aggression. It is your spirit that will determine the outcome of the battle. It is your will that will shape the future of your country.

To other nations, especially those which are allied with North Vietnam: The actions I have announced tonight are not directed against you. Their sole purpose is to protect the lives of 60,000 Americans who would be gravely endangered in the event that the Communist offensive continues to roll forward, and to prevent the imposition of a Communist government by brutal aggression upon a nation of 17 million people.

I particularly direct my comments tonight to the Soviet Union. We respect the Soviet Union as a great power. We recognize the right of the Soviet Union to defend its interests when they are threatened. The Soviet Union, in turn, must recognize our right to defend our interests.

No Soviet soldiers are threatened in Vietnam. Sixty thousand Americans are threatened. We expect you to help your allies. You cannot expect us to do other than continue to help our allies. But let us, and all great powers, help our allies only for the purpose of their defense—not for the purpose of launching invasions against their neighbors. Otherwise the cause of peace, the cause in which we both have so great a stake, will be serious jeopardized.

Our two nations have made significant progress in our negotiations in recent months. We are near major agreements on nuclear arms limitations, on trade, on a host of other issues. Let us not slide back toward the dark shadows of a previous age. We do not ask you to sacrifice your principles or your friends. But neither should you permit Hanoi's intransigence to blot out the prospects we together have so patiently prepared. We are on the threshold of a new relationship that can serve not only the interests of our two countries but the cause of world peace. We are prepared to continue to build this relationship. The responsibility is yours if we fail to do so.

Finally, to the American people: I ask you for the same strong support you have al-

> ways given your President in difficult moments. It is you most of all that the world will be watching.
>
> I know how much you want to end this war. I know how much you want to bring our men home. I think you know, from all that I have said and done these past three and a half years, how much I, too, want to end the war and bring our men home.
>
> You want peace. I want peace. But you also want honor and not defeat. You want a genuine peace, not a peace that is merely a prelude to another war.
>
> At this moment we must stand together in purpose and resolve. As so often in the past, we Americans did not choose to resort to war. It has been forced upon us by the enemy that has shown utter contempt toward every overture we have made for peace.
>
> That is why tonight I ask you for your support of this decision, a decision which has only one purpose—not to expand the war, not to escalate the war, but to end this war and to win the kind of peace that will last. With God's help and with your support we shall accomplish that great goal.

THE SITUATION IN VIETNAM

Mr. MANSFIELD. Mr. President, I would call to the attention of my colleagues that the first amendment to the Constitution of the United States, which we are sworn to uphold, still is in existence. It says:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, . . .

By that I mean, if I may interpolate, to express our views as we honestly and conscientiously feel them. I continue to read from the first amendment:

> . . . or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Mr. President, the statement has been made that there are additional measures which could still be taken. I really do not know what they are, because it appears to me that we have sent an armada of B–52's to Vietnam and Indochina.

Last weekend, if my memory serves me correctly, we sent an additional 75 fighter planes to an airfield in Thailand. We have the biggest sea flotilla ever assembled in that area, in the South China Sea, as well as some additional units in the Gulf of Thailand blockading Cambodia.

I would express the hope that when we talk about additional measures, we do not go too far, because it would be an easy way to win and, in winning, an easy way to lose.

I would call to the attention of my colleagues the latest total casualty figures beginning on January 1, 1961, through the 29th of April 1972, more than 11 years, and more than 358,918 American casualties later.

Now we are mining the harbors of North Vietnam. We were told about it after the fact, not before. And there is always the possibility that this will bring about the possibility of a conflict with other nations if they do not obey our dictum and the law that we lay down, if they do not move out within a 3-day period from the 3-mile zone or the 12-mile zone. And it appears to me, Mr. President, that what we are witnessing is not a shortening of the war—although I hope devoutly that that is what it turns out to be—but rather a lengthening of it, an expanding of it, perhaps a placing of the SALT talks in jeopardy, and perhaps a bringing about of a cancellation or, at the least, a postponement of the Moscow conference, making it more difficult to release our prisoners of war and recoverable missing in action, and very likely increasing the total of the POW's.

So, I would hope that we would look at this somberly and soberly and recognize all the implications involved. I would expect also that no one would be criticized who happens to express a different point of view, because every Senator in this body has sworn to uphold the Constitution. Every Member of this body is entitled to the use of free speech and the exercise of his conscience. As far as I am concerned personally, the sooner this horrible, tragic war is brought to a close and every American is brought home, the better off I will feel, because to me 358,918 U.S. casualties in a 12-year period is 358,918 too many in a war in which we have no business and which is not vital to the security of this Nation, a war which, in my opinion, is the greatest tragedy which has ever befallen this Republic.

Mr. President, it does no great nation any harm to admit that a mistake has been made. And sometimes when nations and men will do so, they will be the bigger and the better for it.

The ACTING PRESIDENT pro tempore. Is there further morning business?

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FOREIGN RELATIONS AUTHORIZATION ACT—AMENDMENT

AMENDMENT NO. 1183

Mr. BROOKE. Mr. President, yesterday I announced my intention to submit an amendment calling for the cessation of hostilities and the withdrawal of American forces in or over Indochina by August 31 of this year. I now submit that amendment, on behalf of the Senator from South Dakota (Mr. McGOVERN), the Senator from Oregon (Mr. HATFIELD) and myself, and I will call for its adoption.

The ACTING PRESIDENT pro tempore (Mr. CHILES). The amendment will be received and printed, and will lie on the table.

Mr. BROOKE. But between the announcement of my intention yesterday, and the submission of the amendment today, certain momentous events have occurred which call for responsible commentary.

Last night, the President undertook a grave risk to end the war in Vietnam. His decision involves the imminent prospect of direct confrontation with the Soviet Union. It signals to the Soviet Union, and to the nations of the world, that the United States will take extreme risks in defense of the U.S. position in South Vietnam.

I disagree with the President, I have never believed that South Vietnam was vital to our national security. I have never believed that its fall would ignite a rebellion and Communist takeovers elsewhere in the world. And I certainly do not believe that South Vietnam, on the periphery of Asia, is so important to our national security that it is worth the sacrifice the United States has made, and the still greater sacrifice the President is apparently willing to make.

Among the risks we are taking is the chance of forfeiting many years of dedicated effort to achieve an arms limitation agreement; the possible risk of wider war; and the possible sacrifice of our improving relationships with the People's Republic of China.

But, Mr. President, there was also contained within the text a peace offer. The President said, and I quote:

> These actions I have ordered will cease when the following conditions are met:
>
> First, all American prisoners of war must be returned.
>
> Second, there must be an internationally supervised cease-fire throughout Indochina.

The President did not leave it at this. He went on to say:

> Once prisoners of war are released, once the internationally supervised cease-fire has begun, we will stop all acts of force throughout Indochina. And at that time we will proceed with a complete withdrawal of all American forces from Vietnam within 4 months.

In the event of any doubt he said that:

> Negotiations and a political settlement must occur between the Vietnamese themselves.

And he charged the South Vietnamese:

> It is your spirit that will determine the outcome of the battle. It is your will that will shape the future of your country.

Nowhere in the text was there any mention of the political conditions previously obtaining to a settlement: No requirement for free and democratic elections, no international organization and supervision of those elections, no outside body determining the qualifications of the candidates.

It is my understanding that the President has offered withdrawal of U.S. forces from Vietnam within 4 months of an internationally supervised cease-fire and the return of our prisoners and that the political settlement will be left to the Vietnamese themselves—not just the South Vietnamese, but all Vietnamese.

Without additional conditions this is an acceptable offer. If the North Vietnamese and the Vietcong were to agree tomorrow, the United States would be out of Indochina by the 15th of September, or only 15 days after the date set by my amendment.

I do not expect that the North Vietnamese and their allies to overlook the context in which these terms were presented. They have, in effect, been given an ultimatum: Accept this last best offer, or risk wider war. The context in which this offer is made, in my judgment, is unfortunate.

But acceptance of the President's peace offer would be a brave and enduring act in the interests of peace. I hope and pray that the North Vietnamese will have the judgment to accept this offer, for themselves and for all humanity.

VIETNAM—THE NEW ESCALATION

Mr. MOSS. Mr. President, we now stand on the brink, linked to another escalation in Vietnam. No one can be sure where the President's decision to mine Haiphong will lead. All Americans surely must hope that we will finally reach an end to this long struggle. Yet our hope has gone bitterly sour over the years. At each turn in the trail we have been offered the expectation of peace, but only more war has followed. How well-founded is the hope of the newest venture?

President Nixon's fundamental view of Indochina has not changed. Until it does, we face the probability of prolonged conflict. If I shared this view, then I, too, would be willing to sacrifice the fruits of the strategic arms limitation talks. I, too, would willingly jeopardize our world image as a people of peace. But I have never given credence to the domino theory, nor to the linkage concept, and, therefore, shun the belief that a naval encounter between superpowers serves the interest of our Nation or the world. Though I deeply hope the restraint of Peking and Moscow surpasses our own, I fear that we risk far too much by severely testing the progress made in this decade toward detente.

What reasons exist for believing the staircase of escalation will lead to peace? We have climbed it before, only to find the will of North Vietnam matching each step we took.

Mining harbors and massive bombing say by action what administration officials have refused to voice—Vietnamization and secret peace plans, the cornerstones of the President's Vietnam policy, have failed. He was given a mandate by the American people in 1968 to lead us out of this war, but he has badly misjudged the nature of that war and the people of Indochina. We are trapped by positions and policies that should have been reversed long ago.

We are asked to sustain the President's hope, by suppressing our own conscience. It is too much. While we hope for acceptance of the President's terms by North Vietnam, we must also hope that further prolongation of this struggle would draw the President toward a fundamental redirection of his policy in war-torn Indochina. We must now await those responses.

QUORUM CALL

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRESIDENT NIXON'S SPEECH ON VIETNAM

Mr. HARTKE. Mr. President, the President that we elected to end the war has now brought us to the brink of mankind's last war.

President Nixon's actions last night constitute the most reckless act of international lawlessness that any American President has ever committed.

He has thrown down the gauntlet of nuclear war to a billion people in the Soviet Union and China. He has alienated us from every last vestige of world opinion. He has placed the very survival of mankind at hazard because he could not find the moral or political courage to admit his own failures in Vietnam.

The Congress cannot permit so evil an act to be done in our Nation's name and at such incalculable risk to the entire world. We must act at once to reverse this fateful error. Armageddon may be only hours away.

It was in 1968 that presidential candidate Mr. Nixon said that if the President at that time, which was the Democratic administration of President Johnson, did not end the war by the time the next election occurred, he would have a new administration which would end the war and win the peace. Here we are now, almost 3½ years later, with a President who would never have been elected President if everyone had known there were going to be 20,000 additional military caskets coming back as a result of actions of the U.S. Government in his administration in that same war, who at the same time threatens the whole world with world war III, 3½ years later.

The acts of the President, in my opinion, are his own. I only wish that I knew exactly the background of how this is all going on, because if Mr. Kissinger is calling the shots—as it appears to me he is—although I know those who speak for the President say he is not—all we have to do is read what he says, and it is very clear that the outline of Mr. Kissinger, as contained in so many publications and books, is being followed. That outline is——

The ACTING PRESIDENT pro tempore. The Senator's 3 minutes have expired.

Mr. MANSFIELD. Mr. President, if I may be recognized, I yield my time to the Senator.

The ACTING PRESIDENT pro tempore. All time for morning business has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that that time be extended for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. I yield to the distinguished Senator.

Mr. HARTKE. I thank the majority leader.

The outline is very simple. It is called the high-risk policy. What is the high-risk policy? What it says, in substance, is that we must take high risks in international politics, and that war is an extension of the political process. He says there are two things in a limited war that must be made very clear. One of them is to the people of our own Nation that we do not intend to go to a nuclear holocaust, and the second is to make it clear to the other side that we will not extend it except for limited purposes.

The difficulty with that approach is that we do not know whether the other side, with that high risk that we have thrown in their face, can accept it, or what the reaction will be, and that the chain reaction resulting therefrom is absolutely incalculable.

If one follows Mr. Kissinger's statements—and these are no secrets; they can be examined in detail—they are very simply that he believes tactical nuclear weapons are permissible in a limited war. He says two things must be done before that can be done, however. One is that the American people must be educated to the fact that the use of tactical nuclear weapons does not necessarily mean there will be a nuclear war.

I would hope that the Congress would now lead in providing an alternative to President Nixon's proposal. I would hope that the Congress would take definitive action to see that the President does not proceed, within the remaining time of the 72-hour period for the mining of Haiphong. I would hope the President would reestablish the opportunity to discuss this matter either at Paris or before the United Nations and that he will say this Nation made a mistake and that it has continued to make other mistakes.

If Mr. Nixon wanted to do that, I would praise him for having the courage to take this Nation out of the war. I would not criticize him for the actions he has taken during the past 3 years. Until that is done, Congress must do everything it can to prevent the high-risk policy favored by the President.

Mr. BROCK. Mr. President, this morning I listened with a great deal of interest. I had not intended to make any remarks, because I made a statement in support of the President earlier in the day. But I cannot help but respond to some of the comments that have been made.

It seems passing strange to me that once again when the President makes a dramatic peace proposal, even before we get any response from Hanoi or Russia or any of those who support those countries, his actions are criticized in the highest legislative body of our Nation. I cannot for the life of me see for what constructive purpose this serves.

It seems to me the President has taken every possible step for peace. He has withdrawn all conditions to our peace offer except the stopping of the fighting—which apparently those who criticize him do not want—and the return of our prisoners of war—which critics say they would like to see. Those are not difficult conditions. The gauntlet has not been thrown down by the President. It has been offered to Hanoi as a condition that will end the fighting and allow resolution of the conflict, which they and their neighbors to the south can work out for themselves.

I do not think the President had any alternative but to take such action as was necessary to save American lives.

The Senator from Indiana refers to this as a high-risk policy. How high was the risk to our men when the North Vietnamese invaded the south with every single division they had. Our men are in real jeopardy. Could any President do less than attempt to protect their lives?

And, yet, there has been criticism of that act. I hear no criticism of North Vietnam for endangering the world's peace. I hear only criticism of the President for imposing so-called "intolerable terms." Yet, the only terms he has imposed are that those people stop shooting and for our men to be returned.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. BROCK. I yield.

Mr. HARTKE. Let me ask the Senator, was he consulted in advance or advised in advance by the White House of what was going to happen?

Mr. BROCK. No, I was not.

Mr. HARTKE. Is the Senator a Member of the U.S. Senate?

Mr. BROCK. Yes, I am.

Mr. HARTKE. I am, too, but I was not advised, either, or consulted, and under the Constitution the power to take such an act of war rests with the Congress of the United States, not with the President of the United States alone. Why was not Congress consulted?

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, I yield my time to the Senator.

Mr. BROCK. The Constitution says something else, and that is that the President himself is the Commander in Chief of our Armed Forces. In that capacity, he is responsible for the health, safety, and security of our Armed Forces. The President acted to do just that with full knowledge of his constitutional prerogatives and responsibilities. I for one supported him in that step, because I think he has taken a step to protect our remaining men and to resolve this conflict. I would hope he would receive the Senate's support because of the magnanimity of his peace offer. It is beyond any offer that has been suggested by his opposition.

Mr. TOWER. Mr. President, it seems to me that the suggestion of much that has been said today is that what the President should do is surrender South Vietnam to North Vietnam. I can think of nothing more calculated to encourage military aggression all over this world. I believe the step the President took was an eminently correct step. It is necessary that we interdict the enemy's supplies if South Vietnam is to contain the aggression that has been overtly launched against it, in contravention to the Geneva Accords and the 1968 understanding; and probably the most merciful and humane means of interdiction is through the mining of harbors, so that the instruments of war cannot reach the enemy. Certainly that is better than to make bombing targets of areas of high population density.

So I think, despite the foreboding cries of the risk of confrontation with the Russians, the step the President has taken is eminently proper. As a matter of fact, there has been no response from the Soviet Union, and the mines were sown some 15 hours ago. I think it is not responsible to create a lot of scare talk about nuclear war around here when as a matter of fact I do not think the Soviet Union wants a direct face-to-face confrontation with the United States of America.

Mr. BAKER. Mr. President, the new peace proposals and military actions announced last night by President Nixon represent, in my judgment, a measured, courageous, and necessary response to the overt military aggression of North Vietnamese regular troops against South Vietnam and other southeast Asian nations.

The situation is serious, and there is a potential for peril. But that potential need not be realized if all parties concerned conduct themselves with intelligence and restraint.

Of particular importance is the need for a united American people behind the President at this time. While responsible debate on Vietnam policies may continue during this time, I hope and pray that no American will endanger the chances for peace through thoughtless and carping criticism.

There were options available to the President that certainly would have been much more palatable politically, at least in the short term. He could, for example, simply have removed all American troops at once and left the South Vietnamese to fend for themselves. But this is a man of great strength and courage, who knows exactly what the risks are. He has often been described as a man motivated solely by political consideration, with no scruple or principal. Now, he has clearly put what he believes is right above his own political career, and laid that career on the line. He deserves our support during this period of stress. November will have to wait its turn.

The American Government and the South Vietnamese Government have never sought the military conquest or the political domination of any other sovereign nation. Aggression in Southeast Asia has always been on the part of the Government of North Vietnam and those nations which supply that government with the machines of war. All that Saigon and her allies have ever sought was the right to choose their own political system free from military coercion.

The policy of President Nixon since taking office has been to strengthen the capacity of the South Vietnamese to defend their own freedom, steadily withdrawing over 500,000 American troops, and all the while pressing for a negotiated settlement to the conflict in Paris and through all available channels. The North Vietnamese have remained obdurate and intransigent.

Now, in light of the new North Vietnamese military offensive in the South, the fate of the remaining American troops is in jeopardy. Without adequate military supplies, the North Vietnamese offensive will be blunted. That is the meaning and purpose of the President's plan to interdict those supplies, whether transported by land or sea.

One of the most remarkable aspects of the President's address last night was the extent to which he sought to reassure the Soviet Union that the military action he was taking was in no way directed at Moscow. He noted that:

> We, the United States and the Soviet Union, are on the threshold of a new relationship that can serve not only the interests of our two countries but the cause of world peace.

It is a matter of the very highest importance that this new relationship, as symbolized by the upcoming summit meeting in the Kremlin, not be disturbed by the latest developments in Vietnam. The leaders of the Soviet Union are in a unique position to respond affirmatively to the President's message and to exert a positive influence on their allies that could lead to a prompt peace.

For peace, after all, is the issue. Last night the President made what is, far and away, the most generous peace proposal ever made by an American Government in time of war. In exchange for an internationally supervised cease-fire on the ground, and the release of all American prisoners of war, the President has offered a total withdrawal of all American troops within 4 months, and a total cessation of all "acts of force" throughout Indochina.

The military actions that the President has taken are those calculated to result in minimum loss of life. The peace proposal of the President holds out a real promise for an end to the fighting. The final decision now rests with the North Vietnamese and their allies. Let us all pray that they will respond in such a way that a permanent peace can be maintained.

I applaud the President for his courage and restraint, and I support him fully in his efforts to end this long and tragic war.

Mr. GOLDWATER. Mr. President, I rise for the purpose of paying my respects to the majority leader, to welcome him home, but also to plead with my fellow Senators that they follow his example in the use of freedom of speech.

I have never known Senator MANSFIELD to become vehement. I have never known him to use language that might arouse people. He reminded us of the first amendment and our rights under it, and he criticized the President in what I would consider a moderate and very limited way.

I think it is going to be more and more necessary to remind ourselves that while we can use violent rhetoric in this body, I do not think at this particular time in history it is going to be of any advantage.

I found very interesting a part of an editorial which appeared in today's Washington Evening Star, and I would particularly like to read the last two paragraphs:

> What clearly is not needed at this time is a frantic or angry reaction to the President's move in Congress, on the campuses or in the streets. Americans are a free people and have the right to disagree with the wisdom or efficacy of Mr. Nixon's action. Indeed, all of us will have the opportunity to pass judgment on the rightness or wrongness of that action when we go to the polls in November. But it would be contrary to the national interest in this crucial test were the support for which Mr. Nixon has asked denied him.
>
> The point is this and only this: For better or worse, the President has taken what he himself has described as "a decisive ac-

tion." The die is cast, the Rubicon is crossed. If he fails, not only he but each of us will be the loser; if he wins, all of us benefit. Under such circumstances, the place of this newspaper is behind the President of the United States. And we believe that on that firm ground we will find ourselves in the company of the great mass of all Americans.

The ACTING PRESIDENT pro tempore. Is there further morning business?

UPPER COLORADO RIVER BASIN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 750, H.R. 13435, which I understand has been cleared on both sides and is available for action at this time.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 13435) to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That in order to provide for completion of construction of the Curecanti, Flaming Gorge, Glen Canyon, and Navajo units, and transmission division of the Colorado River storage project, and for completion of construction of the following participating projects: Central Utah (initial phase—Bonneville, Jensen, Upalco, and Vernal units), Emery County, Florida, Hammond, LaBarge, Lyman, Paonia, Seedskadee, Silt, and Smith Fork; the amount which section 12 of the Act of April 11, 1956 (79 Stat. 105) authorizes to be appropriated is hereby further increased by the sum of $610,000,000, plus or minus such amounts, if any, as may be required, by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved. This additional sum shall be available solely for continuing construction of the previously authorized units and projects named herein.

Mr. MOSS. Mr. President, I rise to support this bill (H.R. 13435) as amended which increases the authorization for appropriation for continuing work on the Colorado River Basin Project.

The bill, as amended and reported by the Senate Interior Committee, contains the text of the bill which I introduced, and provides for authorization of $610 million, the amount requested by the Department of the Interior as necessary to complete the job. The House bill provides for the authorization of only $352,195,000, with the proviso that this amount must be spread out over 5 years, and that the Department must come back to Congress for additional authorization at the end of that period.

I feel very strongly that the full amount requested should be authorized. The argument has been offered by the House that only $352,195,000 will be required to meet the present construction schedule on the already authorized projects eligible for these funds.

I can not buy this argument. If it is found during the 5-year period that construction schedules can be stepped up, and that additional construction funds can be made available within budget limits, then the authorization should be available.

We are running out of water very fast in many areas of the upper basin. We should move forward on our water development projects as rapidly as planning and budgetary limits will allow us to do so. Water development has been greatly retarded because of demands of the war in Vietnam. We hope these restraints will soon be lifted. A readjustment of national priorities should provide more funds for essential domestic projects—and what could be more essential to scores of western communities than enough water for industrial and municipal use as well as water for land to grow the food we need for our expanding population.

One of the key units of the Upper Colorado River project is the central Utah project. And central to that project is the Bonneville unit. This unit, authorized in 1956, became a construction start in the mid-1960's only because the Congress wrote funds for it into the budget. It has been given only token funding since that time. This year, for the first time, the budget request—some $29 million—for the Bonneville unit is at a realistic level. We must move this project faster. If we do not, it will take 50 years to complete. The Utah communities depending on Bonneville for tapwater cannot wait that long. If we can find any conceivable way to get water in the pipelines faster than we are now, we do not want lack of authorization to hold us up.

I recognize that the Department can always come to Congress for more authorization authority but that takes time—as witness the bill before us today.

This bill must be passed and signed before reclamation appropriations bills now under consideration by the Senate and House Appropriations Committees can be enacted. The funds requested for these projects for fiscal 1973 will exceed the present authorization ceilings. I am going to testify next Tuesday before the Public Works Appropriation Subcommittee on central Utah appropriations requests—and they are not authorized yet. Why let ourselves in for another cliff hanger in a few years—why not authorize the funds now that will be needed to complete the projects provided for in the original Upper Colorado River Project Act of 1956, and get on with the job without any further delay.

Mr. President, I ask that the bill before us (H.R. 13435) as amended, be passed. I hope that the House of Representatives will see that the weight of the argument is on the side of the Senate version of the bill.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, how much remains of the time designated for the transaction of routine morning business?

The ACTING PRESIDENT pro tempore. There are 2 minutes remaining.

Mr. MANSFIELD. I ask unanimous consent that the time for the transaction of routine morning business be extended until 1 o'clock.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GURNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE PRESIDENT'S SPEECH ON VIETNAM

Mr. GURNEY. Mr. President, last night President Nixon delivered one of the most important—one of the most difficult—speeches any American President has ever had to deliver. The issue is clearcut and the President met it head on with one of the most straightforward, courageous speeches any President has ever made.

As the President stated, our choices were either to take decisive action to stem the massive invasion of South Vietnam or to place in grave jeopardy the lives of some 60,000 U.S. troops in South Vietnam and to surrender 17 million South Vietnamese to communism.

Since the North Vietnamese have met every U.S. peace initiative with an escalation of their offensive in the South, the alternatives of withdrawal and dependence on a negotiated settlement hold little hope of protecting U.S. troops, U.S. honor, or the South Vietnamese. Until the North Vietnamese are willing to cease their aggression in Indochina, I feel that the President's actions are fully justified and offer the best hope for world peace.

As a matter of fact, I advocated the mining of Haiphong harbor 6 years ago and have felt that, if the Communists refused to give up their dreams of territorial aggrandizement, such a course of action would be most appropriate. I only hope that it is not too late for this mining to have the desired effect. Should it not be enough to convince the North Vietnamese to quit, I think that their dikes, their industrial capability, and anything else being used to support their aggressive war of massive invasion should be attacked by air. The day of sanctuaries for aggressors is at an end.

President Nixon has also offered an eminently fair peace proposal: After our prisoners are returned and an internationally enforced cease-fire throughout Indochina implemented, we will withdraw our forces in 4 months. As the President said last night in far better language than can I, "these are terms which would not require surrender and humiliation on the part of anybody."

This is more than fair to the North Vietnamese, for the political settlement of this future of this unhappy land is left to the Vietnamese, South and North, themselves.

If these terms are accepted, the integrity of North Vietnam will not be threatened, while the basis for a lasting peace in all of Indochina will be laid.

As for a possible confrontation with the Soviet Union, I do not see that at all. They are not involved with their forces. They are only furnishing supplies. They are a big power, as are we, and they fully realize that, with the lives of U.S. troops at stake, we must do what we have to do. Were the roles reversed, they would do the same, or even more, as witness the Hungarian and Czechoslovakian invasions.

Moreover, the Russians have a great deal at stake. They desire easing of tensions between Russia and the United States, East and West, more than we do. The President has thrown the ball to them, and whether they fumble or not is up to the Russian leaders. I do not think that they will want to forego this real possibility for better understanding with the United States and the easing of tensions for the sake of their conquest-crazy client in North Vietnam.

Mr. President, it occurs to me that this long, tragic war in Southeast Asia has now come to the 11th hour, the final, decisive stage, and this action of President Nixon's may well set the stage for peace.

We have a wise courageous leader in the White House who has taken decisive action in this conflict in Southeast Asia.

Now is the hour of crisis when the Nation should rally behind the President. My guess is that the majority of the people in the Nation will do just that.

I would hope that Congress would, and especially the Senate.

It would shame me as a U.S. Senator to witness the President and the people trying to drag along with them a reluctant Congress.

If Communist aggression is to be halted, both now and in the future, decisive action has to be taken. The President has taken that action, and this Senator is 100 percent behind him for having done so.

THE PRESIDENT'S SPEECH

Mr. BELLMON. Mr. President, I believe that the action taken last night by President Nixon should have been taken when the first American combat troops were sent to Southeast Asia, and this war would have long since been finished if the leaders had acted as decisively at that time.

As President Nixon dramatically pointed out last night, every possible effort has been made to secure a settlement of the war. President Nixon took his action only after North Vietnam had invaded South Vietnam and after North Vietnam had occupied large areas of South Vietnamese territory.

The President faced a plain choice, to act now or to accept the prospect of a spread of military aggression to many parts of the globe and for many years to come.

The President's action has bared the duplicity of Soviet foreign policy for all the world to see, for while the U.S.S.R. has been talking peace in Europe and trying to secure approval of the German-Russian peace treaty, the Soviet Union has been sponsoring war in Asia. The Soviets cannot have it both ways.

It is plain to see that aggression against South Vietnam began when the U.S.S.R. started to furnish tanks and heavy artillery to destroy South Vietnamese cities and slaughter South Vietnamese citizens.

The next move is plainly up to the U.S.S.R.

If the leaders of the Soviet Union want peace elsewhere, they must act now to bring peace to Southeast Asia.

President Nixon displayed cool, deliberate, and reasonable leadership last night, particularly since the decision was made before the scheduled summit meeting in Moscow and during an election year here at home. This is certainly his most difficult and also his finest hour. He deserves the support of the country and of this body.

I, for one, intend to give him the fullest support in this difficult time.

VIETNAM AND THE CONSTITUTIONAL CRISIS

Mr. McGOVERN. Mr. President, it is plain now that the President must not have a free hand in Indochina any longer.

The Nation cannot stand it.

The Congress must not allow it.

I have said that the political regime in Saigon is not worth the loss of one more American life.

Mr. Thieu, whose comfort has been bought at such terrible cost for the American people, is not worth 1 more day of confinement for our prisoners.

He is not worth 1 more day of suffering for the helpless Asians we have pounded so mercilessly for so long.

And today I say to the Senate with special urgency, Mr. Thieu is not worth the sacrifice of our constitutional system.

The President has now taken the most dangerous act of this war.

He has transformed a struggle with no bearing on our national interest, into a deadly confrontation between great powers.

A President who promised a "generation of peace" has made the world more dangerous for all mankind.

And he has done it without so much as a glance toward Capitol Hill.

In March of 1969, with Americans still dying and falling from the sky in Indochina, I thought we had waited long enough to see the President's secret plan for peace.

But the President was stanchly defended. It was said he deserved more time.

In 1970 the Senate rejected the Hatfield-McGovern amendment and other measures to reassert congressional authority. The Commander in Chief, it was said, needed a free hand.

Again last year, the Hatfield-McGovern amendment, the Chiles substitute, and other fund cutoff proposals were defeated. We settled for an impotent, nonbinding plea to the President—a plea he told us in advance he would ignore.

We have occupied ourselves with the periphery.

We have focused on the past—on the fraudulent circumstances which involved us in Indochina.

The Gulf of Tonkin resolution was repealed. And the boys kept dying. The bombs kept falling.

We have focused on future wars—on steps to define more precisely who holds the power of war.

And the blood kept running.

The Congress has debated, dawdled and delayed for nearly 40 months. All that time we have deferred to the President.

We have given him 20,000 more American dead, 200,000 more wounded, hundreds more prisoners, and tens of billions more dollars, to pour away on a policy we knew would not work.

Now the President's program called "Vietnamization" stands exposed as a failure. It is crumbling before our eyes.

And we see now the full extent of the arbitrary war power claimed by Mr. Nixon, as he grasps at still more deadly straws that will turn to fire in his hands.

The chairman of the Armed Services and Foreign Relations Committees are turned away at the White House door as he plots and carries out the latest and most serious escalation of the war.

The Congress is not consulted. The Congress is not even trusted as the President flirts with world war III.

What more must we see before we call our country back from disaster?

Must we wait until there is open war on the seas?

Must we wait until the President sends American planes North to intercept a Russian airlift to Hanoi?

Must we wait until he bombs the ultimate sanctuaries and supply routes, in Moscow and Peking?

It is clear now that the President may claim that authority. After seeing his latest irrational act, who is confident that he would not use it? If the President can unilaterally place mines before the ships of other nations without the approval of Congress, then the constitutional war powers of the Congress are dead.

We cannot permit this outrageous spectacle to continue. We are faced with deadly danger abroad and an unprecedented constitutional crisis at home.

The hope of the American people now lies with the Congress, and there is no other hope—from now until the election next fall.

I propose immediate action by Congress to end the war.

I propose immediate action to tie the President's hands, to stop the insanity in Indochina, and to choose the course of decency and responsibility which the American people overwhelmingly want.

I, therefore, ask unanimous consent that my name be added as a cosponsor of Senator BROOKE's amendment. We must enact it as quickly as we can.

The PRESIDING OFFICER (Mr. HUGHES). Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I ask unanimous consent that a statement issued by the distinguished Senator from

Oregon (Mr. HATFIELD) be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

None of the military escalations of the past, of either Presidents Johnson or Nixon, has accomplished the objective of shortening the war or saving American lives. This unnecessary escalation and expansion of the war will serve no other purpose than to continue the killing and threaten even further expansion.

This unconscionable commitment to the Thieu regime is not worth the expense of one more American or Vietnamese life, and is not worth an 18th Century concept of face-saving for national pride.

NEW INDOOR THEATER AT LONG BINH, VIETNAM

Mr. HARRY F. BYRD, JR. Mr. President, the Wall Street Journal for Monday, May 1, 1972, reported the opening of a new indoor theater at Long Binh in South Vietnam at a cost of $445,000.

I became curious about this, as to why, with the President's withdrawal program going on, we would want to build a new facility of this kind—a new indoor theater in South Vietnam.

I communicated with the Department of the Army and today I received a reply from them. I find that construction of this theater began only 4 months ago. It was completed on April 29. The Army puts the cost at $305,000.

Whether it cost $305,000 or $445,000, the fact is, it is the American taxpayers' money being used. It is true that such a sum is not a vast amount when one considers the great amounts of money now being spent by our Government. But it does not seem reasonable to me to continue to build new facilities in South Vietnam of this kind at a time when the President is withdrawing our troops at the rate of 23,000 per month. There are approximately 69,000 troops remaining in South Vietnam. By July 1, the number will be down to 49,000.

So I believe that the Army, the State Department, our Ambassador in Vietnam, and others involved, have an obligation to safeguard in better fashion the funds of the American taxpayers. I do not see any justification for building a new theater in this year of 1972 in Vietnam at a cost of somewhere between $305,000 and $445,000.

Mr. President, I ask unanimous consent to have printed in the RECORD the Wall Street Journal article I have referred to and the correspondence from the Department of the Army to me on this subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUST LIKE HOME: IN VIETNAM, THE PLACE TO BE AS WAR RAGES ON IS LUXURIOUS LONG BINH

(By Peter R. Kann)

"Entertainment for troops stationed at Long Binh post takes another step forward Saturday with the grand opening of a new $445,000 movie theater. Located on Tennessee Street near the Pacesetter Service Club and the Long Binh Crafts Shop, the centrally air-conditioned theater can accommodate 459 patrons"—The Long Binh Post, issue of April 11.

LONG BINH.—Long Binh lies about 20 miles north of Saigon, roughly one-fourth of the way to An Loc, where North and South Vietnamese regiments are decimating each other in some of the heaviest fighting in the history of the Vietnam war. At least 1,000 South Vietnamese soldiers are dying each week in the current nationwide Communist offensive, and the future of "Vietnamization"—if not of South Vietnam—hangs in the balance.

But you wouldn't know it at Long Binh. Saigon is in many ways an island in the war, but Saigon at least is a Vietnamese island. Long Binh is an American oasis. The enemy offensive has prompted some special defensive precautions at Long Binh, but as one colonel says, "The only real change is that the clubs have to close early so the Vietnamese girls can get home before curfew."

Long Binh, 17,000 acres of Americana housing 14,000 American military men and another 7,000 U.S. civilian contract personnel, is the biggest U.S. base in Vietnam and indeed the biggest overseas American military post in the world, according to officials here. Long Binh's acreage and population have been reduced somewhat since the peak years of the war, when 27,000 Americans resided here, and troop cuts at the base are continuing. But Long Binh still is likely to be one of the very last U.S. installations closed down. If and when it is "Vietnamized" one can only wonder what the Vietnamese will do with a base that is larger than the city of Saigon.

LITTLE TO DO WITH WAR

With its movie theaters and bowling alleys, massage parlors and male beauty salons, air-conditioned offices and Vietnamese servants, Long Binh must rank as the most comfortable post in this not-very-comfortable country.

And, with only one company of combat infantrymen, 122 men, among the 14,000 soldiers stationed here, it probably also ranks as the least combat-oriented collection of military men in any war zone. In fact, the functions being performed by the 21,000 Americans at Long Binh have little to do with fighting a war or even with directly helping the South Vietnamese to fight one.

The post's primary function, according to briefing officers, is "retrograding" American military equipment. This means collecting, repairing and then shipping home (or otherwise disposing of) the millions of tons of equipment the U.S. military has used in Vietnam. "We're tidying up the battlefield," says a briefing officer. While the task is no doubt admirable, the phrase sounds a mite ironic at a time when Vietnam's battlefields are being rendered "untidier" than ever before with the broken bodies of contending Vietnamese.

The second major function here is supporting other American units in Vietnam. But since there are only two American combat brigades left in the country, plus some air squadrons, most of the U.S. troops being supported by Long Binh are themselves support troops of various sorts.

"Actually, a lot of us just support each other," says an infantry sergeant who found himself assigned here as a clerk.

Long Binh also houses "USARV," which is the administrative headquarters of the U.S. Army in Vietnam. This helps account for why there are 12 generals living on the base. However, the operational headquarters of the U.S. military effort in Vietnam (and the office of the U.S commander, Gen Creighton Abrams) are not located here, but rather at Ton San Nhut airbase on the outskirts of Saigon.

BRONTOSAURIAN LOGISTICAL TAIL

Critics of the remaining U.S. military presence in Vietnam can use Long Binh as an example to argue that many of the 70,000 American troops still in Vietnam are performing something less than vital tasks and that troop withdrawals should be accelerated. Critics of the way America has fought the Vietnam war can argue that Long Binh exemplifies the brontosaurian logistical tail of the U.S. military; even in the peak of the American war effort, logistical and administrative troops outnumbered combat soldiers by a ratio of about five to one, and by now the ratio is well over 10 to one. It can also be argued that the comfort (or, by Vietnamese standards, luxury) of a base like Long Binh represents an affront to the average, often miserable, Vietnamese on whose behalf Americans presumably are here.

Defenders of the system, on the other hand, can claim that residual tasks like "retrograding materiel" are important—at least to the U.S. taxpayer. They can point out that troop withdrawals are proceeding despite the enemy offensive, President Nixon having announced last week that another 20,000 troops will be withdrawn by July 1. More generally, defenders of the U.S. effort would argue that America's massive military support apparatus has enhanced the efficiency and safety of the combat infantryman. And defenders can note that the comforts of an oasis like Long Binh are part of a plan to keep U.S. troops off the streets of Vietnamese towns and to prevent them from further warping the economy and society of the Vietnamese.

If any place in Vietnam can be considered really safe, then that place is probably Long Binh. The last enemy-inflicted deaths here were from several rockets that landed inside the base in March of 1971, killing two soldiers. The last time the base perimeter was penetrated was back at Tet of 1968 when some Vietcong sappers managed the feat.

But back in those days there were battalions of combat troops based at Long Binh, and there were three American divisions operating in the general military region that includes Long Binh. Now there are only the one infantry company plus some military police based at Long Binh and only one brigade of U.S. combat troops in the military region.

The current enemy offensive is still mostly raging in border regions, and U.S. installations do not seem to be a prime target for the North Vietnamese, at least at this stage. But if the offensive continues to build, if the South Vietnamese army breaks rather than bends, if the South Vietnamese government should topple or chaos should otherwise engulf the country, what would become of Long Binh?

Perhaps with such thoughts in mind, however remote the likelihood, Long Binh is taking special security precautions.

The outer perimeter of Long Binh is 23½ kilometers long and is defended by 100 two-man guard positions. Guard duties are shared, on a rotation basis, by all the various units at Long Binh, engineers, clerks, mechanics, publicists and so on. The guards have recently been issued new, heavier weapons, including antitank guns (the North Vietnamese have been using tanks at An Loc and elsewhere in this offensive).

The sole infantry company and a company of military police have been assigned duty as a ready-reserve force in case the perimeter is attacked. Two weeks ago the infantry company arranged a "simulated attack situation."

"We simulated against four tanks and some infantry," says Capt. James Kuykendall of Echo Company. Did you win? he is asked. "Yup," he says.

An inner perimeter has also been mapped out for the "extremely unlikely case of penetration and fallback," explains Maj. Hugh Sproul, a base operations officer whose office wall is decorated with photos of a mock sapper attack.

A brigade of the 1st Air Cavalry Division (one of the two U.S combat brigades left in the country) is based five kilometers from Long Binh and could land troops here by helicopter in case of serious attack.

All officers at Long Binh have been issued weapons, though the enlisted men have not been. This is presumably to keep the accident rate down. Already one officer, handling a weapon in bed, accidentally discharged a bullet through the ceiling of his barracks, nicking an upstairs officer in the ear. The victim ran downstairs and proceeded to beat up the man whose weapon had gone off. Both officers had to be hospitalized.

There are many officers at Long Binh who, having pursued noncombat career specialties, may not have had any infantry training since they first entered the Army. They are simply required to pass a weapons-familiarization test once a year.

Still, everyone at Long Binh, through the rank of lieutenant colonel, is being required to take a turn at walking night guard duty around his own billet. "Initially the order included full colonels," says a briefing officer, "but they griped a bit."

Long Binh also depends on Vietnamese for protection. There are some 30 to 40 platoons of regional and popular force militiamen deployed outside the perimeter of Long Binh. And Long Binh recently hired 160 Montagnard mountain tribesmen mercenaries, trained by the U.S. Special Forces, to help patrol within the perimeter. The Montagnards are being issued "distinctive uniforms"—black shirts, maroon berets and what Maj. Sproul calls "flashy patches."

But none of the new defense precautions have had much impact on the eight-to-five office routines and varied social life of Long Binh.

On any given evening there are more than 100 movies being shown at Long Binh. There are 10 large club-bars on the base and another 50 or more smaller unit bars. There are 10 small swimming pools, and there's a new Olympic-size pool still under construction. A new bowling alley is also nearing completion. (Do the Vietnamese bowl? asks a reporter, thinking of the day when Long Binh might be "Vietnamized." "No, but I guess they'll learn," say an Army spokesman.)

The base sporting program includes basketball, baseball, flag football, volleyball, tennis, squash and archery. There are a golf driving range and a skeet shooting range, and the Long Binh newspaper recently invited "hunting, fishing and camping enthusiasts" to the organizational meeting of a new rod and gun club. The base drama society has fallen on hard times due to personnel transfers, but Maj. P. R. Kringle Jr., special services officer, says the base retains a "drama capability."

There are handicraft workshops, a photo lab and a lapidary shop, along with Bingo tournaments, bridge contests and dating games. A massage parlor offers steambaths and massages by Vietnamese girls. ("A towel must cover the body at all times," says a sign.) A male beauty bar offers treatment with "cologne, after shave, tonic, hair cream, lotion, deodorant, hair spray and Q-tips." There's also a manicurist on duty.

Upward of 20,000 Vietnamese employes work at Long Binh, including a variety of servants for the American military men. "Housemaids" tidy up barracks, do soldiers' laundry and polish their shoes every day. Such services are provided for all troops on the base, not just for officers. "They iron everything, even underwear," says one sergeant. Other Vietnamese serve at tables in the clubs and do the more menial chores in mess-hall kitchens. There is no KP duty at Long Binh, except during the annual Tet holidays when Vietnamese workers take a week's vacation.

It's conceivable that the very vastness of this base and its most un-Vietnamese character are its best protection. One can imagine the bewilderment of a company of North Vietnamese soldiers, having survived the rigors of the Ho Chi Minh Trail and the ferocious fighting at An Loc, who might find themselves on, say, Tennessee Street, near the Pacesetter Service Club. One can imagine them searching for the manicured lawn of USARV headquarters and somehow winding up at Robin's Skeet Range instead. "If we ever really got attacked the VC would have to use the scheduled bus service to get around this base," says a smiling colonel.

MAY 9, 1972.

Hon. HARRY F. BYRD, Jr.,
U.S. Senate.

DEAR SENATOR BYRD: This is in reply to your questions concerning the indoor theater constructed at Long Binh, Vietnam.

The project for a 35 mm indoor theater was approved by HQ, MACV in late 1971, and construction started shortly after 1 January 1972. It was completed on 29 April, at a cost of $305,000.

Construction of the above listed facilities was approved based on the projected troop population and stationing plans for residual U.S. Army elements at Long Binh, RVN. The facilities were deemed essential to provide recreational services for Army personnel at Long Binh. The 35-mm theater is the only such facility at Long Binh. The progress of construction projects completed since 1 January 1972 was continuously reviewed for possible cancellation in the event force level plans indicated that course of action to be proper.

Funds for this project were AIK funds. All means Assistance in-Kind Piaster accounts provided by the Government of Vietnam to MACV, under the Pentalataral Mutual Defense Agreement between the United States, France, Cambodia, Laos and Vietnam, signed in December 1950.

I trust this information will be of assistance.

Sincerely,
L. STEPHEN QUATANNENS,
Lt. Col., GS Deputy, Congressional Inquiry Division.

MAY 9, 1972.

Hon. HARRY F. BYRD, Jr.,
U.S. Senate.

DEAR SENATOR BYRD: This is in reply to your inquiry concerning recreational facilities for servicemen in Long Binh.

Commensurate with the Army's declining combat involvement in Vietnam, emphasis has been placed on providing the American soldier with sufficient activities and facilities to afford him the opportunity to spend his leisure time in a productive fashion. The availability of such activities and facilities decreases the potential for morale and discipline problems that result from boredom and lack of meaningful free time activities.

Recognizing the increased athletic and recreational facilities and programs were required to provide for the morale and welfare needs of the troops during the withdrawal period, this command proceeded with plans originally formulated in 1970 to complete and operate the athletic and recreational facilities mentioned in the article sent to you by your constituent. The cost of the theater was $305,000 and was constructed through the use of Assistance-in-Kind Piaster funds generated as credits from commodity sales. It is centrally located to service all personnel stationed on Long Binh Post. The 35-mm theater is the only such facility on Long Binh Post, and troop reaction to the stateside theater environment has been enthusiastic and favorable since the opening of the theater.

Long Binh currently has a troop population of approximately 14,000. The theater and other recreational facilities are the minimum necessary to meet the recreational needs of American soldiers stationed there, since for security and other reasons soldiers are not permitted to visit local Vietnamese population centers. Approval of construction of the facilities was based on projected population and planned use of Long Binh Post, consistent with the ongoing troop reductions throughout the Republic of Vietnam.

I trust this information will be of assistance.

Sincerely,
L. STEPHEN QUATANNENS,
Lt. Col., GS Deputy, Congressional Inquiry Division.

The PRESIDING OFFICER. The time for the period of the transaction of routine morning business has expired.

ADDITIONAL PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be an extension of the period for the transaction of routine morning business for an additional 10 minutes.

The PRESIDING OFFICER. Without objection it is so ordered.

IN SUPPORT OF PRESIDENT NIXON

Mr. DOLE. Mr. President, I just returned from the heartland of America, the Kansas-Missouri area, where I spoke last night following the President's address on television. I found that people in that part of the country—and throughout the nation—generally support the President and are hopeful that his policies for peace will succeed. I have returned to the Senate to hear the junior Senator from South Dakota (Mr. MCGOVERN) condemn President Nixon, but I do not hear one word uttered in condemnation of North Vietnam or of the enemy in Indochina. This has been the pattern for the past few weeks: condemnation of the President, silence about the enemy's aggression.

There is always room for criticism of any President. President Nixon is not above criticism, whether it be partisan or otherwise. I am certain that he expects criticism. Being a Republican and occupying another role other than that of U.S. Senator, I would not expect that everything President Nixon were to do in every area would be completely satisfactory to the junior Senator from Kansas. But I also believe that the critics should be reasonable and should be fair to the President and should refrain from automatic criticism of whatever action he takes.

Mr. President, I listened carefully last night to President Nixon and believe the President again went the extra mile in search of peace. The President's action was both bold and necessary, and it is my sincere hope that the time will never come in America when any President fails in his responsibilities to American troops or fails in his responsibilities to the American people or fails in his responsibility to an ally and a people who seek freedom.

President Nixon, like President Johnson and President Kennedy before him, understands the grave responsibility in Southeast Asia. Certainly President Nixon, as President Johnson and President Kennedy before him, wants peace in Southeast Asia, and wants peace in the rest of the world. But President Nixon has an added responsibility or a different responsibility, because in the past 3½ years we have seen a deescalation of the war in South Asia. We have seen nearly a half million Americans removed from Southeast Asia.

The policy of Vietnamization is being tested and severely tested. However, I am not willing, as the junior Senator from South Dakota is always willing, to conclude that our policy is a failure in Southeast Asia, that Vietnamization has collapsed.

Mr. President, I believe I share the view of most Americans, regardless of party, that there comes a time when we must rise above partisanship and support the Government—not necessarily the President, because some may not like the President—but our Government. Our Government does have a very serious responsibility and obligation in Southeast Asia, as it does in the Mideast and in other areas of the world.

President Nixon added a new dimension to the effort for peace last evening when he made it very clear to the North Vietnamese that if there is a cease-fire and if the prisoners of war are released in North Vietnam, all American troops will be withdrawn in 4 months. That point has been the subject of debate in this body, and there have been differences of opinion. It is my belief that most Senators would like to see that happen, but at the same time I also believe that those who are so quick to criticize should have some alternative, should offer some responsible alternative, and should be responsible in what they are saying, because I am convinced that the North Vietnamese are listening and are looking for a public relations victory when they cannot achieve a military victory.

Mr. President, without question the President was taking a risk. He understands that. President Kennedy also understood that in the Cuban crisis. Every President takes risks if he fulfills his responsibility as President.

The junior Senator from Kansas would hope that, at least for a few days, those of us who speak could from time to time support our Government in its efforts to end the war in the Southeast Asia—not to extend it, not to expand it, and not to escalate it.

In the Senate as we look at the record of President Nixon over the past 3½ years, I find it steady. It shows a continuous deescalation, and half a million Americans have come home in 3½ years under President Nixon's leadership. The casualties have been reduced by some 90 percent. I would like to have it 100 percent, as does the Presiding Officer and every other Senator in the Chamber.

Everyone in this Chamber, every Member of this body, wants to see the war end in Southeast Asia, and so does the President. I do not know of any Senator or any public official or any private citizen who has a greater desire for peace than the President has.

I recall the days of the Gulf of Tonkin debate and the passage of the Gulf of Tonkin joint resolution and the escalation in Southeast Asia, and my support of those policies. As I have said, perhaps I have been mistaken. Perhaps the Senator from Kansas and others who were here in Congress during that period were mistaken. However, it is well to point out that during that period, President Nixon had no voice. He had no vote. He had no policy. He was a private citizen. He did not authorize sending a single American to Southeast Asia in the years from 1963 through 1968 when more than 500,000 were sent. But to repeat, under his leadership a half million men have been returned to this country.

The Senator from Kansas would hope that the war would end today, yesterday, next week, or soon. However, I do not believe we hasten the end by criticizing the Commander in Chief, who has a responsibility to 60,000 Americans in Vietnam, when that Commander in Chief has added a new dimension to the efforts to end the war.

Mr. WEICKER. Mr. President, I am sure that last night's decisions, as announced to the American people, were difficult ones for the President of the United States.

I have not commented on them at this point because it seems to me that careful analysis, rather than rhetoric, best serves both our remaining American men in Vietnam and the broader national interest. However, I now give my reaction here on the floor.

It is, first, that I reiterate my support of the President in all of the steps he has taken to date, including those announced last night, because I share with him a primary concern over the withdrawal in safety of American troops from South Vietnam.

Second, I intend to support such legislation as may come before the Senate, which legislation would preclude any further funding for American operations in and over Indochina after December 31 of this year, or at the end of the 4-month period contained in the President's peace proposal, whichever date is sooner.

It will be said that this reaction cares not a whit for either the North Vietnamese or the South Vietnamese. That is exactly what it is intended to say.

Mr. JAVITS. Mr. President, I will put my own views in the RECORD, in view of what I have just heard from my colleagues.

Last night, I issued a statement in which I urged the President, in the spirit of the war powers bill which we have already passed here, and in the face of the crisis which he and the country might face respecting the Soviet Union or the Peoples Republic of China, to repair to Congress in order to justify his action, to get our thinking, to ascertain if we had anything to urge that we thought was more desirable, and to cause Congress to participate and concur in any final decision, in so grave a crisis.

The PRESIDING OFFICER. The time for the period for the transaction of routine morning business has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended for not to exceed 10 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I commented last night that the President's announcement is the inevitable result of the gravely mistaken course of action our country has taken in Indochina. The United States should have disengaged from Vietnam long before this—a course of action which I and so many others have worked to bring about.

Now we must face the sequel of our failure to withdraw in a timely manner.

Since then I have had a chance to refine my thinking. In my judgment, the President has to justify his new action directly in terms of getting 60,000 Americans withdrawn safely. We must unscramble the decision he seemingly has taken, of giving an indefinite underwriting and guarantee to the government of South Vietnam too. This we cannot do in the national interest of the United States.

Therefore, I find myself also alined upon the side of those who believe that Congress must seek to induce the President to end our military operations there now. I believe that it is absolutely essential in our own national interest to get our troops out. We have already expended our Nation's resources, both tangible and intangible, most improvidently in Vietnam.

If the South Vietnamese, who are as well equipped as North Vietnam and as well trained as the North Vietnamese, who are not 9 feet tall, do not have the heart to resist the Communists, we cannot do it for them, or underwrite their survival as a state.

I hope the President will not make the mistake made before in Vietnam by his predecessor, and to come to us just to ask us to vote yea. We should not do it. He must come to us as full partners so that whatever national decision is taken, the Congress will have joined in it.

The result may not be the decision I want, but it would be a decision in which the total organs of the country will be committed, and in accordance with the constitutional processes of our system of government.

I believe that the national decision should be to get out, and to take only those military actions necessary to get us out.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. CHILES) laid before the Senate the following letters, which were referred as indicated:

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a confidential report entitled "Need For Improvement in Readiness of Strategic Armed Forces" (with an accompanying report); to the Committee on Armed Services.

REPORT OF THE COMPTROLLER FOR THE VIRGIN ISLANDS

A letter from the Assistant Secretary of the Interior submitting, pursuant to law, the annual report of the U.S. Government Comptroller for the Virgin Islands for the fiscal year ended June 30, 1971 (with accompanying report); to the Committee on Interior and Insular Affairs.

METALLIC AND NONMETALLIC MINING IN THE UNITED STATES

A letter from the Assistant Secretary of the Interior transmitting, pursuant to law, a proposed contract for a study of "Metallic and Nonmetallic Mining in the United States" (with accompanying papers); to the Committee on Interior and Insular Affairs.

CHARACTERISTICS OF ATTACHED RADON-222 DAUGHTERS

A letter from the Assistant Secretary of the Interior transmitting, pursuant to law, a proposed contract for a research project entitled "Characteristics of Attached Radon-222 Daughters" (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION RELATING TO THE DEPARTMENT OF JUSTICE

A letter from the Acting Attorney General submitting proposed legislation to make level III of the Executive Schedule applicable to the Special Assistant Attorney General, and to make level IV of the Executive Schedule applicable to the U.S. attorney for the central district of California (with accompanying papers); to the Committee on the Judiciary.

APPENDIX TO REPORT ENTITLED "MARIHUANA: A SIGNAL OF MISUNDERSTANDING

A letter from the Chairman, National Commission on Marihuana and Drug Abuse, transmitting, pursuant to law an appendix to the report entitled "Marihuana: A Signal of Misunderstanding" (with an accompanying document); to the Committee on the Judiciary.

REPORT OF THE RAILROAD RETIREMENT BOARD

A letter from the Chairman of the Railroad Retirement Board transmitting, pursuant to law, the annual report of the Railroad Retirement Board for the fiscal year ended June 30, 1971 (with accompanying report); to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION TO AMEND THE PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965, AS AMENDED

A letter from the Secretary of Commerce submitting proposed legislation to amend the Public Works and Economic Development Act of 1965, as amended (with accompanying papers); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. CHILES):

A joint resolution of the Legislature of the State of West Virginia; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION NO. 3

"Ratifying the proposed amendment to the Constitution of the United States relative to equal rights for men and women

"Whereas, The Ninety-second Congress of the United States of America at its second session by a constitutional two-thirds vote in both Houses adopted a Joint Resolution proposing an amendment to the Constitution of the United States, which Joint Resolution is in the following words:

"'Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women

"'*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"'"ARTICLE—

"'"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"'"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"'"SEC. 3. This amendment shall take effect two years after the date of ratification."'

"Therefore, be it

"*Resolved by the Legislature of West Virginia:* That the Legislature of the State of West Virginia hereby ratifies this proposed amendment to the Constitution of the United States; and, be it

"*Resolved further,* That the Secretary of State of the State of West Virginia notify the Administrator of General Services, Washington, D.C., the President of the Senate of the United States and the Speaker of the House of Representatives of the United States of this action by forwarding to each of them a certified copy of this Joint Resolution adopted by the West Virginia Legislature."

A resolution adopted by the Board of County Commissioners of Dade County, Fla., praying for the enactment of legislation entitled "A Federal Anti-Recession and Full Employment Law"; to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ALLOTT (for Mr. JACKSON), from the Committee on Interior and Insular Affairs, with an amendment:

H.R. 8116. An act to consent to the Kansas-Nebraska Big Blue River compact (Rept. No. 92–786).

By Mr. ALLOTT (for Mr. BIBLE), from the Committee on Interior and Insular Affairs, with an amendment:

S. 953. A bill to amend section 1 of the act of August 9, 1955, relating to the leasing of Indian lands (Rept. No. 92–785).

By Mr. PASTORE, from the Joint Committee on Atomic Energy, without amendment:

S. 3543. A bill to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission to issue temporary operating licenses for nuclear power reactors under certain circumstances, and for other purposes (Rept. No. 92–787), together with supplemental views.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. HART, from the Committee on Commerce:

Robert F. Buckley, and sundry other persons, for permanent appointment in the National Oceanic and Atmospheric Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. GOLDWATER:

S. 3583. A bill for the relief of Gerald Vincent Bull. Referred to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 3584. A bill to provide for a comprehensive national program of earthquake monitoring, research and engineering in order to reduce loss of life and property; to provide for studies leading to earthquake prediction and control; and for other purposes. Referred to the Committee on Commerce.

By Mr. HUMPHREY:

S. 3585. A bill for the relief of Mr. Deepak Nettar. Referred to the Committee on the Judiciary.

S. 3586. A bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to revise the eligibility conditions for annuities, to change the railroad retirement tax rates, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. PERCY:

S. 3587. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful. Referred to the Committee on Commerce.

By Mr. SCHWEIKER:

S. 3588. A bill to establish a Federal Radiation Protection Agency, to transfer certain functions of the Atomic Energy Commission and other departments and agencies to such Agency, and for other purposes. Referred, by unanimous consent, to the Joint Committee on Atomic Energy; and, if and when reported by that committee, to the Committee on Government Operations.

By Mr. COOPER (for himself and Mr. RANDOLPH):

S. 3589. A bill to amend the Highway Safety Act of 1966, title 23, United States Code, section 401 and the following. Referred, by unanimous consent, to the Committee on Public Works; and, if and when reported by that committee, to the Committee on Finance.

By Mr. COOPER:

S. 3590. A bill to authorize appropriations for the construction of certain highways and public mass transportation facilities in accordance with title 23 of the United States Code, to establish an urban transportation program, and for other purposes. Referred, by unanimous consent, to the Committee on Public Works; and, if and when reported by that committee, jointly to the Committee on Banking, Housing and Urban Affairs, the Committee on Commerce, and the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUMPHREY:

S. 3586. A bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to revise the eligibility conditions for annuities, to change the railroad retirement tax rates, and for other purposes. Referred to the Committee on Labor and Public Welfare.

RAILROAD RETIREMENT: SOME NEEDED CHANGES

Mr. HUMPHREY. Mr. President, I am introducing legislation that would allow railroad employees to retire after 30 years service if they have reached the age of 55.

This legislation would also change the financing mechanism of railroad retirement to shift the burden on to the railway carrier.

Under present law, railroad employees have protection through two Federal laws: the Railroad Retirement Act and Railroad Unemployment Insurance Act.

Traditionally, the vast majority of railroad employees have been covered under the railroad private pension plans. During the depression, though, plans were weakened requiring Federal action to make them solvent.

Now, an employee, with 10 years of service, may draw a full lifetime annuity at age 65 if he retires. An employee may begin to receive reduced retirement benefits at age 60 if he has 30 years of service. A 1966 amendment provided for a supplementary annuity to career railroad employees. This plan is entirely financed by employers.

But, the railroad retirement system is under severe stress. Almost without exception, railroads throughout the Nation are going through a period of retrenchment. The causes of this are not completely clear; what is clear though is that the railroad retirement system based on employer/employee contributions is facing tough or possibly catastrophic financial times. There are over 973,000 beneficiaries, including some 441,000 retirees, 211,000 wives, 273,000 widows and 48,000 children.

In 1970, the fund paid out over $1,593,400 in benefits. The average benefit was $171.60 per month. While the system does serve retirees, wives, widows, and dependent children, it is financed from taxes on current workers, and employers. Now, however, there are more beneficiaries than there are current workers—1.45 beneficiaries to every current employee. What is happening is that the burden on the present employees is becoming extremely heavy. An employee, according to latest data, pays in at the rate of 10.8 percent on a wage base of $750 a month. His maximum monthly tax is $81.

This legislation would correct two severe problems: First, it would allow railroad retirees with 30 years of service and reaching age 55 to retire. Second, it would finance the retirement program through a shift of the burden onto the carrier.

The legislation is directed to two problems. The first is that of providing options for a dedicated worker who has 30 years of service with the railroads. This man has been productive. He has worked hard. He ought to have the option of retiring. There are precedents for this kind of legislation—the railroad retirement age has been continually lowered.

The second problem is one of financing. This legislation while shifting the burden on to the carrier, clearly recognizes that the financing of railroad retirements is a complex issue. Complete carrier financing with appropriate tax credits is but one method. Another, perhaps more equitable method is general revenue contributions. I am introducing this legislation because all alternatives deserve to be explored by the Commission that is currently studying the entire problem and due to report by July 1.

Mr. President, I would hope that this legislation might be considered by the Railroad Retirement Subcommittee of the Labor and Public Welfare Committee and by the Commission on Railroad Retirement Benefit.

By Mr. SCHWEIKER:

S. 3588. A bill to establish a Federal Radiation Protection Agency, to transfer certain functions of the Atomic Energy Commission and other departments and agencies to such Agency, and for other purposes. Referred, by unanimous consent, to the Joint Committee on Atomic Energy; and, if and when reported by that committee, to the Committee on Government Operations.

RADIATION PROTECTION ACT OF 1972

Mr. SCHWEIKER. Mr. President, I introduce, for appropriate reference, a bill to establish a Federal Radiation Protection Agency, to transfer certain functions of the Atomic Energy Commission and other departments and agencies to such Agency, and for other purposes.

The purpose of this legislation is to provide this Nation with a sound national policy and single focus with regard to radiation protection. It is vitally needed now, especially because the American public is confused and concerned about actions taken by various Federal and State agencies in this area.

Let me point out that this legislation is not designed to hamper the development of nuclear power as a source of energy. We have a serious energy crisis in this country, and we must make use of all possible sources of energy to meet our needs for the future. This legislation is designed to protect our citizens from the unsafe or improper use of radiation, both as an energy source, and for medical and research purposes. It is not designed to discourage the development of nuclear power for uses which are beneficial to our interests.

A potpourri of Federal agencies now regulate a variety of radiation protection activities under numerous laws designed for specific purposes. In addition, one of these agencies, the Atomic Energy Commission has the dual role of regulating and promoting this potentially hazardous industry called "atomic energy."

Let us take a look at the situation:

The Atomic Energy Commission, in its dual role of regulator and promoter of the peaceful use of the atom, has not adequately demonstrated the capability of performing that particular job. A case in point is the uranium mining and milling problem. Recently, hearings by the Joint Committee on Atomic Energy were held on this issue, but action should have been taken many years ago to prevent the problem. The AEC has had no responsibility for the exposure of thousands of individuals, both uranium miners and those unfortunate individuals who have had their homes, businesses, and schools built on top of uranium tailings.

The prestigious American Public Health Association, comprised of over 23,000 public health professionals from Federal, State, and local governments, from schools and universities, and from many health related organizations, passed the following resolution at its annual meeting in Minneapolis on October 13, 1971. The resolution is entitled "Conflict of Interest in the Atomic Energy Commission" and reads as follows:

> Our citizens have become increasingly concerned and knowledgeable regarding problems of regulating environmental quality. Public interest groups have been alarmed to learn of environmental and consumer protection programs administered by agencies whose orientation is to promote or protect a given industry rather than the interests of the public. A prime example of this conflict of interest exists within the Atomic Energy Commission, whose mission by Congressional mandate includes both the promotion and development of nuclear energy and the protection of the public from radiation hazards. This conflict of interest has weakened the credibility of this agency in its responsibility for the protection of the public.
>
> The APHA recommends that all radiation protection activities of the Federal Government be consolidated in a single Federal agency which is focused on consumer protection and public service and which is not responsible for promotional activities.
>
> The APHA commits itself to support of legislative action and other steps that may be indicated to insure discontinuance of the conflict of interest within the AEC; enter into coalitions with appropriate environmental and conservation groups; and convey its convictions and intentions to those responsible.

I would note in passing that the Radiological Health Section of APHA is composed of professional radiation protection personnel from all of the Federal agencies involved and from State radiation protection programs, in addition to numerous individuals from industry and education.

Why should the regulatory and promotional functions of the Atomic Energy Commission be separated? Let us take a look at the organizational chart of the Atomic Energy Commission to determine where the funding goes and which divisions are responsible for promotion or regulation of nuclear power.

Generally, the promotional division of the AEC comes under the General Manager. Surprisingly, all of the radiation protection and safety grants of the Atomic Energy Commission are funded through the promotional division. The regulatory staff has no money for safety research and development grants. Generally, those grants go through the Division of Reactor Development and Technology, a part of the promotional end of the AEC.

The Division of Biology and Medicine is part of the promotional side of the AEC.

The Division of Operational Safety is on the promotional side.

The Division of Waste Management and Transportation, which is responsible for the handling of radioactive waste products from nuclear powerplants, is on the promotional side.

The Division of Nuclear Education and Training is on the promotional side.

The Division of Applied Technology, which handles the Plowshare program concerned with the development of peaceful uses of nuclear power, is on the promotional side.

Yes, even the Division of Environmental Affairs is on the promotional side of the AEC.

Recently, there has been considerable publicity about the failure of a mockup of the emergency core cooling system.

Although the Atomic Energy Commission intends to do a scaleup of this system to about one-sixth of full size, it is anticipated that this model will not be operational until about 1976. In the meantime, other reactors will continue to operate without adequate testing. Previous experimentation with a small model indicated that the emergency core cooling system might not operate properly. If there had been a separation of the promotional and regulatory sides of the Atomic Energy Commission, perhaps the emergency core cooling system would have been properly developed to begin with.

Although the Atomic Energy Commission has recently announced a reorganization, the reorganizing has occurred only within the regulatory division. In other words, the conflicts of interest I have pointed out still remain within the Commission.

Other Federal agencies having responsibility for radiation protection are as follows:

First. The Department of Health, Education and Welfare's Bureau of Radiological Health. This agency has had no dual role, but until 1968, when legislation was passed giving the Bureau responsibility for electronic product radiation safety, it had no legal authority to regulate any area of radiation protection. Even now, under the 1968 legislation, the standards apply to product approval only and may not really affect the individuals who use the product, especially in the area of X-ray protection. The Bureau has, however, been a constant source of support and assistance to the States in implementing a national response to overall radiation safety.

Second. The Environmental Protection Agency. When this agency was created, it pulled together all environmental radiation activities of the Bureau of Radiological Health, a few officials of the AEC, and the personnel and functions of the now defunct Federal Radiation Council. It appeared that the purpose of the President's directive was to remove the environmental radiation standard-setting responsibility from the AEC and place it in an independent agency. However, since that time, no standards have been issued by EPA, and the AEC has revised its regulations concerning radioactive effluents in spite of the EPA role.

Third. The Department of Labor. Under the recently passed Occupational Health and Safety Act, all radiation exposure of workers is now covered, excluding those individuals working under an AEC license. The Department of Labor unfortunately has very few individuals with radiation protection experience.

Fourth. State radiation control programs. State programs in radiation protection date back to the early 1930's, long before there was any Federal activity in this field. In its report, dated May 1971, entitled "Report of State and Local Radiological Health Program-Fiscal Year 1970," the Bureau of Radiological Health of the Department of Health, Education and Welfare offers a complete summary of State programs.

Variations in State programs are recognized due to the number, types, and location of radiation sources, the density of the population, and the levels of actual or potential radiation exposure. Since 1951, a total of 46 States have enacted specific laws for regulating ionizing radiation. The remaining four States have assumed regulatory responsibilities under general public health laws. During fiscal 1970, State and local agencies spent over $7 million for radiation control activities. However, this has decreased slightly from a previous high of $7.4 million at a time when such activities should be increasing. This is a direct result of the financial problems encountered by most State governments. A total equivalent of 470 professional and semiprofessional personnel were employed full time in State and local programs. However, the total number has increased by only 8 percent since 1965.

State activities include inspection and regulation of all users of ionizing radiation. Since the 1968 Federal legislation, some States have increased their activities in the nonionizing radiation protection area, also. Since over 90 percent of the unnecessary and harmful manmade radiation exposure of the population of the United States is a direct result of exposure for medical purposes, and medical X-ray use is increasing at a tremendous pace, most States have concentrated on programs to reduce this exposure. Dr. Karl Z. Morgan, Director of Health Physics at Oak Ridge National Laboratory, has stated that population exposure could be reduced by a factor of 10 and has offered recommendations on methods of accomplishing this. He has suggested that the Federal Government exert leadership in implementing a national program of training and certification of all users of medical and dental X-ray equipment. He recommends that the State enforce such certification programs, and that all new X-ray equipment be designed under Federal control.

In addition to X-ray exposure, only the States have authority to license and regulate the use of radium. There is no regulatory activity in the Federal Government governing the use of radium or X-rays in Federal installations.

Under the Atomic Energy Act, the AEC was authorized in 1958 to turn over to the States certain licensing and regulatory responsibilities. Since that time, only 23 States have entered into agreements with the AEC to assume this responsibility. Pennsylvania, a major State with over 1,000 AEC licenses, and a State which has one of the best radiation protection programs in the country, has not become an agreement State solely because of the increased costs involved. Pennsylvania has estimated the increased cost for agreement to be in excess of $100,000 per year.

At the recent AEC sponsored "agreement States" meeting, the States strongly urged the AEC to request an amendment to the Atomic Energy Act to provide for Federal assistance in this program area.

The other area of deep State involvement is environmental radiation surveillance, especially around nuclear reactor facilities. No Federal agency has assumed any real responsibility for such activity. The AEC has relied upon the information submitted as a result of the utilities' surveillance programs. Recently, the AEC has entered into contracts with a few States to provide to the AEC the results of the States' independent programs. Pennsylvania became the first State to sign such a contract. However, the $10,000 per year contract does not cover more than one-tenth of the cost of Pennsylvania's surveillance program. The Environmental Protection Agency is also considering a similar contractual arrangement with the States, but again it is questionable whether the funds will be adequate.

It is interesting to note that the AEC does not accept any responsibility for performing off-site monitoring but will not allow the States to set environmental radioactivity release levels. Recently, the Supreme Court upheld a lower court decision in the Northern States Power against State of Minnesota case that only the AEC has the authority to regulate the discharge of radioactive material from a nuclear plant. Last June I introduced a bill, S. 2050, to permit the States to set their own standards as long as they are stricter than the Federal standards.

Commissioner James T. Ramey of the U.S. Atomic Energy Commission has periodically discussed the need for a separate regulatory agency. In a speech, November 29, 1971, he said:

> In any consideration of a separate agency, one, of course, also has to consider the alternatives. Does one want to put (the new agency) under the Department of Health, Education and Welfare? the Federal Power Commission? the Environmental Protection Agency? or perhaps in some sort of hybrid agency?

My response is that a new, separate Federal agency is needed. At the present time there is no national policy, national direction, or national organization which can effectively focus all of the available resources to provide this Nation with a proper radiation protection program. The legislation I am introducing today will set up the mechanism to accomplish this.

Here is what the Radiation Protection Act of 1972 would do:

First, it would provide for a coordinated Federal-State program of radiation control to minimize the American public's exposure to radiation.

However, nothing in the legislation would prevent a State or local government agency from establishing and carrying out its own radiation control program, providing such program is consistent with the purposes of the legislation. In no event would any State or local agency be permitted to establish radiation standards which are less restrictive than those established by the Administrator of the Federal Radiation Protection Agency. This approach is consistent with my bill, S. 2050, which permits the States to set their own standards as long as they are stricter than the Federal standards.

The Administrator is directed to enter into cooperative agreements with State radiation control agencies to carry out the regulatory provisions of the act.

Any such agreements may permit the partial or complete transfer of regulatory responsibility from the Federal Government to the States, and this depends on the competence of the individual State to handle such responsibility. The Administrator would make an annual review of all State programs and report his findings to the Joint Committee. Also, the Federal Government would provide funds on a matching basis to carry out this program.

Second, it would separate the health and safety regulatory activities of the Federal Government with regard to atomic energy and radiation protection from the promotional activities. In essence, it would take the regulatory functions of the Atomic Energy Commission from that Commission and place them in a new Federal Radiation Protection Agency.

These provisions are consistent with the recommendations of the American Public Health Association I cited earlier. There has been increasing criticism in recent years of the fact that the Atomic Energy Commission both regulates and promotes atomic energy. This situation should be changed, because it amounts to a built-in conflict-of-interest which the Atomic Energy Commission simply cannot avoid.

Third, it would establish a Congressional Joint Committee on Atomic Energy and Radiation Protection. This amounts to a broadening of the existing authority of the Joint Committee on Atomic Energy.

At the present time, the Joint Committee is responsible for problems relating to the development, use, and control of atomic energy. This legislation would add to those responsibilities authority over the protection of the public health and safety from radiation.

Fourth, it would transfer radiation protection regulatory and selected research functions from other agencies and departments of the Federal Government to the Federal Radiation Protection Agency. The regulation of the use of atomic energy and byproduct materials would be transferred from the AEC. Functions of the Labor Department relating to the protection of employees or the public from radiation would be transferred. In addition, radiological health functions of the Department of Health, Education, and Welfare would go to the new agency, as would radiation protection functions of the Environmental Protection Agency.

Fifth, it would permit the Federal Government to establish minimum standards of licensure or certification of all users of radiation.

Sixth, it would provide for Federal-State agreements and cooperation relating to provisions of the legislation.

Seventh, it would authorize the President to establish a Radiation Advisory Council of Federal Agencies to review standards established by the Federal Radiation Protection Agency and to give the new Agency advice and suggestions on such standards.

Eighth, it would establish a National Radiation Advisory Committee made up of members of Government, affected users, including industrial and medical users, and the general public. The function of the National Radiation Advisory Committee would be to undertake an annual review of Federal and State radiation control programs and to provide a report to the Federal Radiation Protection Agency.

Ninth, the Administrator of the Federal Radiation Protection Agency would be authorized to establish the following by regulation:

First, minimum National Radiation Exposure Standards for occupational and nonoccupational exposures;

Second, minimum national requirements for the education, training and experience for persons utilizing radiation sources;

Third, minimum national standards controlling the use, possession, ownership, manufacture, storage, handling, import or export, or transfer of all radiation sources; and

Fourth, radiation control standards, subject to the approval of the President, for all Federal facilities.

Tenth, I should point out that the bill would not apply to the military uses of atomic energy, nor is it intended that any regulations established by the Agency would control the specific dosages of radiation prescribed by medical doctors.

Mr. President, I ask unanimous consent that the text of the Radiation Protection Act of 1972 be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Radiation Protection Act of 1972".

FINDINGS

SEC. 2. The Congress hereby finds and declares that in the national public interest—

(1) a coordinated Federal-State radiation protection program should be established to provide for the overall effective protection of the health and safety of the public;

(2) Federal radiation control programs should be consolidated to implement the program;

(3) the health and safety regulations of atomic energy and radiation should be separated from the promotional aspects;

(4) State radiation control programs should be strengthened;

(5) Federal-State agreements, cooperation and mutual assistance are essential to effectively use all available national resources to carry out the program.

(6) the authorities and duties of the present Congressional Joint Committee on Atomic Energy should be broadened to include expanded radiation protection activities, and therefore, the title of the present Committee should be changed to the Joint Committee on Atomic Energy and Radiation Protection;

(7) the Federal Radiation Protection Agency, established pursuant to this Act, should keep the Joint Committee on Atomic Energy and Radiation Protection fully and currently informed with respect to activities authorized under this Act;

(8) the Federal Radiation Protection Agency should have responsibility and authority for establishing Federal regulations for the control of radiation in all Federal facilities;

(9) the Federal Radiation Protection Agency should be responsible for establishing minimum national standards for radiation protection;

(10) the Federal Radiation Protection Agency should establish minimum national requirements for licensing, including education, training, and experience, for persons utilizing radiation sources.

PURPOSE

SEC. 3. It is therefore the purpose of this Act to provide for .a coordinated Federal-State program of radiation control to minimize the radiation exposure of the American public; to separate the health and safety regulatory activities of the Federal Government with regard to atomic energy and radiation protection from the promotional activities to provide for a Congressional Joint Committee on Atomic Energy and Radiation Protection; to transfer those radiation protection regulatory and selected research functions from other agencies and departments of the Federal Government to a Federal Radiation Protection Agency; to establish minimum standards of licensure or certification of all users of radiation; and to provide for Federal-State agreements and cooperation relating to the provisions of this Act.

DEFINITIONS

SEC. 4. As used in this Act—

(1) the term "Agency" means the Federal Radiation Protection Agency;

(2) the term "Administrator" means the Administrator of the Federal Radiation Protection Agency;

(3) the term "Joint Committee" means the Congressional Joint Committee on Atomic Energy and Radiation Protection; and

(4) the term "radiation" includes all ionizing and nonionizing radiation.

FEDERAL RADIATION PROTECTION AGENCY

SEC. 5. (a) There is established in the executive branch of the Government an independent agency to be known as the "Federal Radiation Protection Agency."

(b) There shall be at the head of the Agency the Administrator of the Federal Radiation Protection Agency, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates in title 5 of the United States Code.

(c) There shall be in the Agency a Deputy Administrator of the Federal Radiation Protection Agency, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate provided for level III of the Executive Schedule Pay Rates in title 5 of the United States Code. The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

TRANSFERS TO AGENCY

SEC. 6. (a) Effective thirty days after the date on which the appointment of the Administrator is confirmed by the Senate there are transferred to the Administrator—

(1) all functions of the Atomic Energy Commission which the Director of the Office of Management and Budget determines relate primarily to the regulation of the use of atomic energy or byproduct materials, as defined in the Atomic Energy Act of 1954;

(2) all functions of the Secretary of Labor which the Director of the Office of Management and Budget determines relate primarily to the protection of employees or the public generally from radiation;

(3) all functions of the Secretary of Health, Education, and Welfare which remained with the Secretary pursuant to section 2(9)(iii) of Reorganization Plan No. 3 of 1970; and

(4) all functions of the Administrator of the Environmental Protection Agency which

were transferred to the Administrator pursuant to section 2(3)(ii)(C) and section 2(6) of such Reorganization Plan.

(b) The Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this section by any other officer, or by any organizational entity or employee, of the Agency.

(c) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Administrator by this section as the Director of the Office of Management and Budget shall determine shall be transferred to the Agency at such time or times as the Director shall direct.

(d) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

(e)(1) Subject to such requirements as the Civil Service Commission may prescribe, any commissioned officer of the Public Health Service (other than an officer who retires under section 211 of the Public Health Service Act after his election but prior to his transfer pursuant to this paragraph and paragraph (2)) who, upon the day before the effective date of subsection (a), is serving as such officer (A) primarily in the performance of functions transferred by such subsection to the Administrator, may, if such officer so elects, acquire competitive status and be transferred to a competitive position in the Agency; or (B) primarily in the performance of functions determined by the Secretary of Health, Education, and Welfare (hereinafter in this subsection referred to as the "Secretary") to be materially related to the functions so transferred, may, if authorized by agreement between the Secretary and the Administrator, and if such officer so elects, acquire such status and be so transferred.

(2) An election pursuant to paragraph (1) shall be effective only if made in accordance with such procedures as may be prescribed by the Civil Service Commission (A) before the close of the 24th month after the effective date of subsection (a), or (B) in the case of a commissioned officer who would be liable for training and service under the Military Selective Service Act of 1967 but for the operation of section 6(b)(3) thereof (50 U.S.C. Ap. 456 (b)(3)), before (if it occurs later than the close of such 24th month) the close of the 90th day after the day upon which he has completed his 24th month of service as such officer.

(3)(A) Except as provided in subparagraph (B), any commissioned officer of the Public Health Service who, pursuant to paragraphs (1) and (2), elects to transfer to a position in the agency which is subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code (hereinafter in this subsection referred to as the "transferring officer"), shall receive a pay rate of the General Schedule grade of such position which is not less than the sum of the following amounts computed as of the day preceding the date of such election:

(i) the basic pay, the special pay, the continuation pay, and the subsistence and quarters allowances, to which he is annually entitled as a commissioned officer of the Public Health Service pursuant to title 37, United States Code;

(ii) the amount of Federal income tax, as determined by estimate of the Secretary, which the transferring officer, had he remained a commissioned officer, would have been required to pay on his subsistence and quarters allowances for the taxable year then current if they had not been tax free;

(iii) an amount equal to the biweekly average cost of the coverages designated "high option, self and family" under the Government-wide Federal employee health benefits program plans, multiplied by twenty-six; and

(iv) an amount equal to 7 per centum of the sum of the amounts determined under clauses (i) through (iii), inclusive.

(B) A transferring officer shall in no event receive, pursuant to subparagraph (A), a pay rate in excess of the maximum rate applicable under the General Schedule to the class of position, as established under chapter 51 of title 5, United States Code, to which such officer is transferred pursuant to paragraphs (1) and (2).

(4)(A) A transferring officer shall be credited, on the day of his transfer pursuant to his election under paragraphs (1) and (2), with one hour of sick leave for each week of active service, as defined by section 211(d) of the Public Health Service Act.

(B) The annual leave to the credit of a transferring officer on the day before the day of his transfer, shall, on such day of transfer, be transferred to his credit in the Agency on an adjusted basis under regulations prescribed by the Civil Service Commission. The portion of such leave, if any, that is in excess of the sum of (i) 240 hours, and (ii) the number of hours that have accrued to the credit of the transferring officer during the calendar year then current and which remain unused, shall thereafter remain to his credit until used, and shall be reduced in the manner described by subsection (c) of section 6304 of title 5, United States Code.

(5) A transferring officer who is required to change his official station as a result of his transfer under this subsection shall be paid such travel, transportation, and related expenses and allowances, as would be provided pursuant to subchapter II of chapter 57 of title 5, United States Code, in the case of a civilian employee so transferred in the interest of the Government. Such officer shall not (either at the time of such transfer or upon a subsequent separation from the competitive service) be deemed to have separated from, or changed permanent station within, a uniformed service for purposes of section 404 of title 37, United States Code.

(6) Each transferring officer who prior to January 1, 1958, was insured pursuant to the Federal Employees' Group Life Insurance Act of 1954, and who subsequently waived such insurance, shall be entitled to become insured under chapter 87 of title 5, United States Code, upon his transfer to the Agency regardless of age and insurability.

(7) (A) Effective as of the date a transferring officer acquires competitive status as an employee of the Agency, there shall be considered as the civilian service of such officer for all purposes of chapter 83, title 5, United States Code, (i) his active service as defined by section 211(d) of the Public Health Service Act, or (ii) any period for which he would have been entitled, upon his retirement as a commissioned officer of the Public Health Service Act, to receive retired pay pursuant to section 211(a)(4)(B) of such Act; however, no transferring officer may become entitled to benefits under both subchapter III of such chapter and title II of the Social Security Act based on service as such a commissioned officer performed after 1956, but the individual (or his survivors) may irrevocably elect to waive benefit credit for the service under one such law to secure credit under the other.

(B) A transferring officer on whose behalf a deposit is required to be made by subparagraph (C) and who, after transfer to a competitive position in the Agency under paragraphs (1) and (2), is separated from Federal service or transfers to a position not covered by subchapter III of chapter 83 of title 5, United States Code, shall not be entitled, nor shall his survivors be entitled, to a refund of any amount deposited on his behalf in accordance with this section. In the event he transfers, after transfer under paragraphs (1) and (2), to a position covered by another Government staff retirement system under which credit is allowable for service with respect to which a deposit is required under subparagraph (C), no credit shall be allowed under such subchapter III with respect to such service.

(C) The Secretary shall deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, on behalf of and to the credit of such transferring officer, an amount equal to that which such individual would be required to deposit in such fund to cover the year of service credited to him for purposes of his retirement under subparagraph (A), had such service been service as an employee as defined in section 8331(1) of title 5, United States Code. The amount so required to be deposited with respect to any transferring officer shall be computed on the basis of the sum of each of the amounts described in paragraph (3)(A) which were received by, or accrued to the benefit of, such officer during the years so credited. The deposits which the Secretary is required to make under this subparagraph with respect to any transferring officer shall be made within two years after the date of his transfer as provided in paragraphs (1) and (2), and the amounts due under this subparagraph shall include interest computed from the period of service credited to the date of payment in accordance with section 8334(e) of title 5, United States Code.

(8) A commissioned officer of the Public Health Service who, upon the day before the effective date of subsection (a), is on active service therewith primarily assigned to the performance of functions described in paragraph (1)(A), shall, which he remains in active service, as defined by section 211(d) of the Public Health Service Act, be assigned to the performance of duties with the Agency, except as the Secretary and the Administrator may jointly otherwise provide.

ADDITIONAL FUNCTIONS

SEC. 7. In addition to carrying out the functions transferred pursuant to section 6, the Administrator—

(1) shall establish by rules and regulations—

(A) minimum national radiation exposure standards for occupational and non-occupational exposures;

(B) minimum national requirements for education, training and experience for persons utilizing radiation sources, and such requirements may include provisions for certification or licensing, or both; and

(C) minimum national standards controlling the use, possession, ownership, manufacture, storage, handling, import or export, or transfer of all radiation sources;

(2) may make studies and conduct research into radiation effects, radiation biology, radiation protection techniques, and methods of strengthening State programs relating to the purposes of this Act;

(3) shall conduct, consistent with the provisions of section 7, a program of inspection and enforcement to implement standards, certification, and licensing programs established pursuant to this Act;

(4) shall establish, subject to the approval of the President, standards for radiation control in all Federal facilities; and

(5) may make grants and enter into contracts as are required to carry out the provisions of this Act.

FEDERAL-STATE RELATIONS

SEC. 8. (a) Nothing in this Act shall be construed to prevent a State or local Government agency from establishing and carrying out a radiation control program, providing such program is consistent with the purposes of this Act. In no event, however, shall any such agency establish radiation standards which are less restrictive than those established by the Administrator.

(b) The Administrator shall endeavor to enter into cooperative agreements with State radiation control agencies to carry out the regulatory provisions of this Act. Such agreements may allow for partial or complete transfer of regulatory responsibility from the Federal Government to the States, consistent with the program competency of each State. The Administrator shall be responsible for conducting an annual review of all State programs under such agreements, and shall make a report with respect thereto to the Joint Committee. Under the terms of such an agreement, the Administrator shall provide funds on a matching basis in order to carry out the purposes of this Act.

ADVISORY COUNCIL AND COMMITTEE

Sec. 9. The President is authorized to establish a Radiation Advisory Council of Federal Agencies to review, prior to promulgation and thereafter, standards and other requirements established pursuant to section 7(4) of this Act. Such Council shall include representatives from the Departments of Health, Education, and Welfare, Defense, Labor, and Transportation, the Atomic Energy Commission, and such other agencies as the President may determine.

(b) The Administrator shall establish a National Radiation Advisory Committee and shall consult such Committee with respect to the promulgation of any standards under this Act. The Committee shall also undertake an annual review of Federal and State radiation control programs and provide a report to the Administrator. The Committee shall be appointed by the Administrator and composed of fifteen members, each of whom shall be technically qualified by training and experience in one or more fields of science or engineering applicable to atomic energy or radiation protection. The membership shall include—

(1) five members selected from governmental agencies, including three from State radiation control agencies;

(2) five members selected from the affected users, including industrial and healing arts users; and

(3) five members selected from the general public, of which at least one shall be a representative of organized labor. The Committee shall meet at least annually. Members of the Committee who are not officers or employees of the United States shall, while attending meetings or conferences of the Committee or otherwise engaged in the business of the Committee, be entitled to receive compensation at a rate fixed by the Administrator, but not exceeding $100 per diem (including travel time), and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized in section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently. Payments under this subsection shall not render members of the Committee officers or employees of the United States for any purpose.

EXEMPTIONS

Sec. 10. Nothing in this Act, or in standards or regulations established pursuant thereto, shall apply to—

(1) the military aspects of atomic energy or radiation source use activities;

(2) the activities of such persons in the healing arts which are declared exempt by regulation of the Administrator; and

(3) such other activities as the Administrator may determine, upon application or his own initiative, to be of no significant risk to the health or safety of the public.

ADMINISTRATIVE PROVISIONS

Sec 11. In addition to any authority vested in him by other provisions of this Act, the Administrator, in carrying out his functions, is authorized to—

(1) prescribe such regulations as he deems necessary governing the manner in which his functions shall be carried out;

(2) appoint employees, subject to the civil service laws, as necessary to carry out his functions, define their duties, and supervise and direct their activities;

(3) utilize from time to time, as appropriate, experts and consultants, including panels of experts, who may be employed as authorized in title 5 of the United States Code;

(4) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized in title 5 of the United States Code for persons in the Government service employed without compensation; and

(5) make other necessary expenditures.

JOINT COMMITTEE ON ATOMIC ENERGY AND RADIATION PROTECTION

Sec. 12. (a) The Congressional Joint Committee on Atomic Energy is redesignated as the "Joint Committee on Atomic Energy and Radiation Protection.

(b) The Administrator shall keep the Joint Committee fully and currently informed with respect to all of the activities of the Agency and shall forward to the Joint Committee in January of each year a complete report in writing with respect to such activities during the previous calendar year and containing his recommendations for any revision of this Act, or other legislation.

(c) The Joint Committee shall make continuing studies of the activities of the Agency and of problems related to the protection of the public health and safety from radiation. All bills, resolutions, and other matters in the Senate or the House of Representatives relating primarily to the administration of this Act or the protecting of the public health and safety from radiation shall be referred to the Joint Committee.

PENALTY FOR VIOLATION OF REGULATIONS

Sec. 13. Whoever willfully violates, attemps to violate, or conspires to violate any regulation established pursuant to this Act shall, upon conviction thereof, be punished by a fine of not more than $10,000 or by imprisonment for not more than ten years, or both.

APPROPRIATIONS AUTHORIZED

Sec. 14. There are authorized to be appropriated to the Administrator for carrying out the provisions of this Act $10,000,000 for the fiscal year beginning July 1, 1972, and thereafter such sums as may be necessary.

SEPARABILITY

Sec. 15. If any provision of this Act, or the application of any such provision to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that this bill introduced by Mr. Schweiker be referred to the Joint Committee on Atomic Energy and that if and when reported, it be referred to the Committee on Government Operation for its consideration of subject matters therein falling within its jurisdiction.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. COOPER (for himself and Mr. Randolph):

S. 3589. A bill to amend the Highway Safety Act of 1966, title 23, United States Code, section 401 et seq. Referred, by unanimous consent, to the Committee on Public Works; and, if and when reported by that committee, to the Committee on Finance.

By Mr. COOPER:

S. 3590. A bill to authorize appropriations for the construction of certain highways and public mass transportation facilities in accordance with title 23 of the United States Code, to establish an urban transportation program, and for other purposes. Referred, by unanimous consent, to the Committee on Public Works; and, if and when reported by that committee, jointly to the Committee on Banking, Housing and Urban Affairs, the Committee on Commerce, and the Committee on Finance.

FEDERAL-AID HIGHWAY AND MASS TRANSPORTATION ACT OF 1972

Mr. COOPER. Mr. President, as ranking minority member of the Public Works Committee, I am pleased to introduce the administration's highway bill—the Federal-aid Highway and Mass Transportation Act of 1972—a bill to implement the Department of Transportation's 1972 highway needs report.

I wish to join the Senators who have already praised the Secretary of Transportation for his constructive proposals for reorganizing Federal assistance to urban transportation. I believe the suggested departure from past programs, advanced after extensive study by the Department of Transportation, will make a significant contribution to congressional deliberations on transportation problems and their solutions.

The bill I am introducing would make two major changes in existing highway programs and proposes several less comprehensive modifications.

The major innovation in the bill is the creation of a Single Urban Fund which would consolidate funding for existing Federal urban transit and highway capital programs and would be financed out of the Highway Trust Fund.

With respect to provisions for transportation outside urban areas, the bill would continue, with some modifications, the existing Federal-aid primary and secondary highway systems, with authorizations at approximately the present level. In addition, the bill proposes a General Rural Transportation Fund—less comprehensive than the Single Urban Fund—for flexible use of Highway Trust Funds for different forms of rural surface transportation, including projects currently carried out under categorial programs.

The bill provides for authorizations for the interstate system, based on an estimated completion date of 1980. In any year, no State with portions of the interstate still to complete would be apportioned less than 0.5 percent of the total interstate apportionment for that year, or the amount needed to complete their part of the system, whichever is less. Thus, some States with little left to complete may finish their part of the interstate before 1980.

I know that there are objections to this bill. Many in Congress and on the outside are concerned that either the highway program with its long history of recognized achievements, or the newer, evolving Federal program to assist mass transit, will experience inadequate funding as a result of the new proposal. I believe it is important that the administration's proposal be laid before the Committee on Public Works so that testimony in highway hearings may be directed to its provisions.

I have discussed this matter with Senator RANDOLPH, chairman of the Committee on Public Works. We open hearings on 1972 highway legislation on Wednesday, at which time Secretary Volpe will appear. We are looking forward to hearing his testimony.

Mr. President, I am also introducing the administration's Highway Safety Act of 1972. I ask unanimous consent that the letters of transmittal for both the Highway and Mass Transportation Act and the Highway Safety Act be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., April 21, 1972.
Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Department of Transportation has prepared and submits herewith as a part of the legislative program for the 92d Congress, 2d Session a draft of a proposed bill "To authorize appropriations for the construction of certain highways and public mass transportation facilities in accordance with title 23 of the United States Code, to establish an urban transportation program, and for other purposes," together with a section-by-section analysis of the bill.

The proposed bill, entitled the "Federal-Aid Highway and Mass Transportation Act of 1972," would implement the recommendations contained in the 1972 Highway Needs Report which was submitted to the Congress on March 14, 1972. In brief, the bill would establish a new urban transportation program for financing urban mass transportation and highway projects, at the option of State or local authorities, beginning in fiscal year 1974; make funds available to the State and local governments for planning of future highway and mass transportation projects best suited to meet their specific needs; establish a rural general transportation program to finance capital investments for surface transportation systems and facilities outside of metropolitan areas; and realign the Federal-aid primary and secondary systems to make those systems conform more closely to their functional use.

The provision for modal flexibility in State and local investment under the proposed urban transportation program is a recognition of both the severity and complexity of the urban transportation problems that confront our metropolitan areas today. Only by the proper combination of highways and transit modes can we hope to make progress against urban congestion. We believe that the States and localities, based on their increased awareness of local priorities and values, must be given more flexibility in determining the proper mix of capital investments for their own urban transportation program. Similar reasoning has led to the provision, albeit on a lesser scale, of the same kind of flexibility for transportation investments in rural areas. I firmly believe that it was to develop exactly this kind of program, innovative in concept and intermodal in scope, that Congress established the Department of Transportation.

In the proposed realignment of the Federal-aid highway program, present plans for completion of the Interstate System would not be disturbed except for the rate of funding and the completion date. It now appears that the system cannot be completed until 1980. Therefore, the bill proposes that Interstate authorizations be phased down from $4.0 billion to $3.250 billion annually for fiscal years 1974 and 1975, to $3.0 billion for fiscal year 1976, and that additional authorizations of $3.0 billion annually for fiscal years 1977, 1978, and 1979 and $1.257 billion for fiscal year 1980 be provided in conformity with the 1972 Interstate Cost Estimate. The bill would authorize the Secretary of Transportation to make interstate apportionments for the fiscal year ending June 30, 1974, and June 30, 1975, for expenditures on the Interstate System using the apportionment factors which are contained in the 1972 Interstate Cost Estimate. The bill authorizes any State which has not completed Federal funding of the Interstate System within its boundaries to receive at least one half of one per centum of the total Interstate apportionment for each of the fiscal years 1974 and 1975 or an amount equal to the actual cost of completing such funding, whichever amount is less.

Because of the four-year extension of time for completion of the Interstate System, it will be necessary to submit cost estimates in 1974 for making apportionments for fiscal years 1976 and 1977, and in 1976 for making apportionments for fiscal years 1978 and 1979 and a final estimate in 1978 for making an apportionment for the fiscal year 1980. Section 105 of the bill would further authorize the appropriation of funds for the fiscal years 1974 and 1975 for (1) the new urban transportation and rural general transportation programs established by sections 113 of the bill, (2) the Federal-aid primary system and the Federal-aid secondary system, and (3) certain other Federal-aid highways.

The bill contains authorizations for the Highway Beautification Program under sections 131, 135, and 319(b) of title 23, United States Code, and amends the 10 percent penalty provisions of the Highway Beautification Act of 1965 by extending the prohibition against billboards on the Interstate and primary systems to all advertising signs and displays if the advertising or informative content can be seen from the main traveled way of these systems. This change is necessitated by the increased construction of "giant billboards" 661 feet from the right of way, thereby undermining the effectiveness of the current law.

The training program authorized by section 140(b) of title 23, United States Code, is extended through fiscal years 1974 and 1975.

Section 108 amends the advance acquisition provisions of title 23 to extend the present seven-year limitation for advance acquisition to ten years. Increasing numbers of States are experiencing difficulty in meeting this limitation because of environmental considerations, relocation difficulties, etc. It should also be noted that the advance acquisition authority would also apply to acquisitions for mass transportation projects through the application of the provisions of section 604 of the bill.

Section 109 would remove any doubt as to the legality of the conference method of research by authorizing the Secretary to use this method of research under 23 U.S.C. 307(a).

Inasmuch as funds will be necessary for research and planning by States and localities under the new urban transportation program established by section 113 of the bill, section 307 of title 23 is further amended to permit funds apportioned to the Governor of a State under section 603(b) of the new chapter 6 of that title to be used with the approval of the Secretary, and at the Secretary's discretion with or without matching State or local funds, for certain research and planning.

Section 111 of the bill amends the effective date of the increase in the Federal share provided for in section 108(b) of the Federal-Aid Highway Act of 1970. This amendment permits all obligations incurred after June 30, 1973, pursuant to the bill, to be subject to the 70 per centum Federal share whether or not they relate to authorizations for appropriations for fiscal year 1974 and later.

In order to implement the recommendations of the 1972 Highway Needs Report, the bill would add a new chapter 6 to title 23, establishing a new urban transportation program and a rural general transportation program. The urban transportation program would consolidate into a new program the existing urban highway and mass transit programs (with the exception of the Interstate highway program and the research, development and demonstration program of the Urban Mass Transportation Administration), and would be financed from the Highway Trust Fund. The bill would supplant the need for authorizing additional contract authority for capital grants under the Urban Mass Transportation Act of 1964, and all future requests for such authority would be made under this new legislation. Under the proposed bill, the first fiscal year in which contract authority is available for mass transportation projects is 1974. Since contract authority under the Urban Mass Transportation Act will not be exhausted by that time, contract authority for mass transit projects will be available for fiscal year 1974 from both the new legislation and the Urban Mass Transportation Act. Funds for administrative expenses and the conduct of research, development and demonstrations associated with the mass transit program would continue to be requested under the Urban Mass Transportation Act of 1964, and the Urban Mass Transportation Administration would continue as the agency with prime responsibility in this area.

The new urban transportation program would consist of capital investments for highway systems and for facilities and equipment for urban mass transportation within metropolitan areas. A comprehensive transportation plan is required for each metropolitan area. The bill contemplates the formation of a consortium within each metropolitan area comprised of units of general purpose governments. The consortium would develop this comprehensive plan, including an annual program of projects. Where such consortia are not formed, the plan and program for the metropolitan area involved would be developed by appropriate local elected officials in cooperation with the Governor. The Secretary of Transportation would be empowered to approve or disapprove in whole or in part a metropolitan area's comprehensive transportation plan and annual program of projects. However, the intention of the Department would be to use this power sparingly with respect to the particular projects contained in the annual program. It is not contemplated that, in the ordinary course of events, this power would be used to override particular project selection decisions on the part of State and local officials. Primarily, the Department would exercise this authority to insure compliance with general requirements in areas such as civil rights, labor practice safeguards, and the environment.

The bill establishes a number of requirements respecting the formation of consortia. First, the appropriate State Governor or Governors would designate the units of general purpose government eligible for participation in a consortium, and these units must represent one hundred percent of the population of a State within the metropolitan area involved. If State law does not permit the voluntary establishment of consortia by local units of general purpose government within four years of enactment of this legislation, 15 percent of the funds apportioned to the Governor under section 603(d)(2) shall be retained by the Secretary for uses permitted under his discretionary fund. Secondly, the units designated by the Governor which elect to form the consortium must represent 75 percent of the total population of the metropolitan area. Each consortium would be required to have planning authority for all urban surface modes of transportation and authority to develop the annual program of projects required for metropolitan areas. The bill does not require consortia to have power to implement the plans and projects they formulate, although it is anticipated that, particularly as time passes, consortia would increase their activities in this area. In this connection, it is expected that consortia would rely heavily on State highway departments for implementation of their highway projects.

The bill establishes a new rural general transportation program and continues in revised form the existing primary and secondary Federal-aid highway systems. The rural general transportation program will consist of capital investments for surface transportation systems and facilities outside of metropolitan areas (including highways not on the Federal-aid systems), railroad facilities and rolling stock, and mass transportation facilities and equipment. These projects would be initiated by the State Governors or their designees, subject to the approval of the Secretary.

Of the funds authorized to be appropriated for the new urban transportation program, 40 percent would be apportioned directly to the consortium established in each metropolitan area, or in the absence of a consortium, to the Governor of the State or States in which the metropolitan area is located, for use in that metropolitan area, in the ratio which the population of the metropolitan area bears to the total national metropolitan area population. Another 40 percent of the funds would be apportioned to the Governor of each State in the ratio which its metropolitan area population bears to the total national metropolitan area population. The remaining 20 percent of the funds would be retained by the Secretary to be used in his discretion for urban mass transportation projects selected on an individual project basis. These would include such projects as reserved bus lanes for highways and rapid rail systems.

Funds authorized to be appropriated for the new rural general transportation program would be apportioned to the Governor of each State in the ratio which the population outside of its metropolitan areas bears to the total national population outside of the metropolitan areas. No State would receive less than one third of one per centum of the total sum apportioned to all the States for the Federal-aid primary system, Federal aid secondary system, the rural general transportation program, and that portion of the urban transportation program apportioned to the Governor of each State. The bill also provides that the sum of the total apportionments to a State (including apportionments to consortia) for the urban transportation program, the rural general transportation program, and Federal-aid primary and secondary systems for each of the fiscal years 1974 and 1975 is not to be less than total funds apportioned to the State for fiscal year 1973 for the Federal-aid primary and the Federal-aid secondary systems, for extensions of the Federal-aid primary and Federal-aid secondary systems within urban areas, the Federal-aid urban system, and the TOPICS program.

Provision is made in the bill for the deduction each year of an amount not exceeding three and three-fourths percent of all the sums authorized for the urban transportation and rural general transportation programs for the administrative expenses associated with carrying out those programs and for carrying out research authorized by subsections 307(a) and (b) of title 23, United States Code.

The bill also provides that after making the above deduction for administration and research, and the deduction under 23 U.S.C. 104(a), the Secretary shall set aside two percent of the remaining funds apportioned for the urban transportation and rural general transportation programs and of the funds apportioned under section 104 of title 23, United States Code, for purposes of activities under section 134(a), the research and planning programs in section 307(c), and the planning requirement of the urban transportation program set forth in section 601 (c). The sum set aside would be apportioned to the Governor of each State in the ratio in which the total apportionments to that State and its metropolitan areas under section 23 U.S.C. 104(b) and for the new urban transportation and rural general transportation programs bear to the total apportionment to all the States and the metropolitan areas for those purposes. In addition recipients of funds under 23 U.S.C. 104(b) (4) and (5) and new sections 603(d) and (e) may use one and one-half percent of their apportionment for these purposes. The bill then sets forth additional guidelines for determining the amounts which may be devoted to the comprehensive planning conducted in metropolitan areas and for planning programs under section 307(c).

The bill provides that administrative and other provisions of chapters 1, 3, and 5 of title 23 that are applicable to Federal-aid primary highways shall also apply to the new Federal-aid urban system and to the funds authorized to be appropriated to carry out the new programs except when otherwise determined by the Secretary. It also specifies that all urban mass transportation capital improvements are to be subject to the labor protection requirements of section 13(c) of the Urban Mass Transportation Act of 1964 and special requirements with respect to the elderly and the handicapped.

Section 114 of the bill amends 23 U.S.C. 103, which defines the requirements of the Federal-aid systems, by providing new requirements for such systems after June 30, 1974.

Section 114(d) amends the provision added by the Federal-Aid Highway Act of 1970, relating to removal of Interstate System segments, and extends the existing dates respecting substitution of alternative segments and removal. On July 1, 1973, the Secretary would be required to remove any segment for which a State has not notified him that it intends to construct such segment. However, a substitution may be made prior to July 1, 1974, of an alternative segment. Any segment for which a State has not submitted by July 1, 1974, a schedule of expenditure of funds for completion of such segment or an alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and for which the State has not provided the Secretary with satisfactory assurances that such schedule will be met, would be removed from designation as a part of the Interstate System.

Section 115 of the bill amends 23 U.S.C. 104(b)(4) relating to apportionment formulas for the Federal-aid primary system and the Federal-aid secondary system by providing that after June 30, 1973, funds for these systems will be apportioned as follows: one third in the ratio that State population bears to total population; one third in the ratio which the square root of State area bears to square root of areas of all States; and one third in the ratio which public road mileage in each State bears to total public road mileage in all States.

Section 118 of the bill amends the Urban Mass Transportation Act of 1964 to permit the appropriation of funds under that Act for administering urban mass transportation activities authorized by the new chapter 6 of title 23, U.S.C. Also the provision of the Act relating to planning and design of facilities to meet special needs of the elderly and the handicapped is amended to authorize the Secretary to establish standards for design and construction of such facilities. Further the Secretary could not approve a capital assistance project for construction or acquisition of new urban mass transportation facilities or equipment unless he determined the project met such standards or unless he found in writing that the responsible public body had taken alternative actions to insure that the elderly and handicapped had reasonable access to urban mass transportation service.

We recommend enactment of this draft bill which will insure the orderly continuation of our highway programs so vitally important to the welfare and defense of the Nation and which will combine mass transit and highway funding from the Highway Trust Fund in order to best meet the transportation needs of the Nation. The innovative programs which we are proposing will provide a transition from the present program, with its major emphasis on the Interstate System, to the programs for the 1980's when the Interstate System will finally be completed.

The proposed bill does not contain authorization levels for the road programs of the Department of the Interior. These authorizations are currently under review and will be submitted separately shortly.

Please note we have enclosed a draft environmental statement on the proposed legislation. It is transmitted in accordance with section 10(c) of the guidelines of the Council on Environmental Quality for statements on proposed Federal actions affecting the environment. The schedule of hearings on highway legislation for 1972 did not allow adequate time for completion and submission of the final text of the environmental statement and comments thereon. The draft statement is being circulated and a final statement, together with comments, will be submitted upon completion of the circulation process.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the President's program.

Sincerely,

JOHN A. VOLPE.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., April 21, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Department of Transportation is submitting for your consideration and appropriate reference a draft bill "To amend the Highway Safety Act of 1966, title 23, United States Code, section 401 et seq."

Since the enactment of the Highway Safety Act of 1966, the Department has issued 16 safety standards to guide the efforts of the States in solving the problems of highway safety. In addition, the Department had conducted manpower training programs, and developed and demonstrated new techniques for improving highway safety. This combined Federal-State effort is beginning to show benefits. Despite substantial annual increases in the number of drivers, vehicles and in total vehicle miles, the rate of highway deaths per 100 million miles driven has steadily declined and the number of annual deaths has stabilized. Yet much remains to be done. Nearly 300,000 persons have lost their lives in highway accidents since the passage of the Act; 55,000 persons died during last year alone.

The purpose of this legislation is to amend the Act to improve the Department's effectiveness in preventing highway accidents and deaths and injuries resulting therefrom. This legislation would require the States to incorporate in their comprehensive and annual work programs all programs designated by the Secretary as national emphasis programs. The Secretary would be authorized to designate as a national emphasis program any program that would deal with a national highway safety problem and had the potential for significantly reducing highway accidents, and deaths and injuries resulting therefrom. A national emphasis program would consist of minimum requirements for measures drawn from one or more of the uniform standards. Such measures would be required to be incorporated in the comprehensive and annual work programs of the States whose on-going efforts in that subject area were deficient.

To emphasize the need for maximizing the effectiveness of the State comprehensive programs, this legislation would clarify the Secretary's authority to promulgate a standard on planning, administration and evaluation of such programs. It would also expressly require, as a precondition to Secretarial approval of a State program, that the program provide for extensive planning, administration and evaluation measures. This requirement will help ensure that each State properly synthesizes its measures for implementing all of the standards into a single, cohesive program for the reduction of highway deaths and injuries.

This legislation would amend section 402 so that subsection (a) would contain only substantive program requirements and subsection (b) would contain only administrative requirements. This would be accomplished by deleting the paragraph in subsection (b) relating to driver education while retaining the requirement in subsection (a) for a driver education standard. The driver education requirements in subsection (b) have been incorporated into Highway Safety Program Standard No. 4, 23 CFR 204.4.

To clarify and standardize the procedures and criteria for determining the public road mileage to be used as a basis for apportioning Federal assistance under section 402, this legislation would add a requirement that such mileage be determined as of the end of the calendar year preceding the year in which the funds are apportioned and be certified by the Governor of the State and subject to approval by the Secretary.

The Act presently requires the Secretary not to apportion any funds to a State which is not implementing a program approved by him. The unapportioned funds are to be redistributed to the implementing States. This legislation would improve the effectiveness of the penalty by giving the Secretary more flexibility in assessing it. The Secretary would be authorized to withhold all or a portion of a State's highway safety funds for the non-implementation of an approved program. If the State remedied its failure within a specified period of time it would receive the full amount of funds due it. Otherwise, the withheld funds would be redistributed to the other States.

The Act provides that section 402 Federal funds may not be used for purposes authorized under section 403. This provision has created confusion about the intent of the statute with regard to the expenditure of section 402 funds for purposes which are authorized by both sections. To clarify the statutory intent, this legislation would expressly authorize the use of such funds for manpower training programs, and for demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths and injuries resulting therefrom.

This legislation would increase the Secretary's flexibility in implementing section 403 by expressly authorizing him to perform any of the research and development activities authorized by that section through the giving of grants. Presently, the giving of grants under section 403 appears to be limited to training projects for highway safety personnel.

To spur the States to increase their funding commitment to highway safety activities and to develop new approaches to reducing highway fatalities and injuries, this legislation would authorize the Secretary, in his discretion, to award grants under section 403 to States which he determined to have made significant progress in carrying out the purposes of the Act. The total amount of such grants in any fiscal year would be limited to $5,000,000.

The legislation would authorize the Secretary to transfer, where he deemed it to be in furtherance of the purposes of the Act, equipment purchased for section 403 demonstration projects to participating State and local governments. This authority would be especially important where the equipment had become an integral part of a project that a State seeks to continue as part of its section 402 program. An example of such equipment would be communications equipment purchased for demonstration projects for emergency medical services that would otherwise have to be replaced, possibly through the use of section 402 Federal funds, if the State were to continue such services.

The Act expressly provides that the Secretary and the Federal Highway Administrator shall be members of the National Highway Safety Advisory Committee. To reflect the joint administration of the Act by the National Highway Traffic Safety Administration and the Federal Highway Administration, this legislation would expressly add the Administrator of the former Administration to the Committee membership.

Multi-disciplinary accident investigation teams, acting under present authority, have had difficulty in persuading witnesses and parties to accidents to provide information necessary to the conduct of their research. This legislation would protect these persons by prohibiting the use of investigation team accident reports as evidence and would thereby facilitate obtaining the accident information.

The Act requires that the annual report on the administration of the Act be submitted by March 1 of the following year. However, some of the data necessary for the reports are typically unavailable for analysis until after that date. In order to provide adequate time for the preparation of a complete, comprehensive report, this legislation would change the submission date to July 1.

Full financing of the Highway Safety Act out of the Highway Trust Fund is appropriate since the cost of insuring the safe operation of highway transportation is properly considered an integral part of the cost of that mode. Consequently, this legislation would authorize the appropriation of $150,000,000 for fiscal year 1974 and $220,000,000 for fiscal year 1975 out of the Trust Fund for the carrying out of section 402 of the Act by the National Highway Traffic Safety Administration. For carrying out this section by the Federal Highway Administration, there would be authorized to be appropriated out of the Trust Fund $30,000,000 for fiscal year 1974 and $30,000,000 for fiscal year 1975.

This legislation would authorize the appropriation of such funds as are necessary out of the Trust Fund for carrying out section 403 of the Act by the National Highway Traffic Safety Administration. For carrying out sections 307(a) and 403 by the Federal Highway Administration, there would be authorized to be appropriated out of the Trust Fund such funds as are necessary.

After a careful examination of this proposed legislation, the Department has concluded that no significant environmental impact would result from its implementation.

We urge the prompt introduction and early enactment of this legislation.

The Office of Management and Budget has advised that the enactment of this proposed legislation would be in accord with the program of the President.

Sincerely,

JOHN A. VOLPE.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by Mr. COOPER and Mr. RANDOLPH to amend the Highway Safety Act of 1966, title 23 of the United States Code, be referred to the Committee on Public Works and if and when reported, that it be referred to the Committee on Finance for consideration of any subject matter therein within its jurisdiction.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by Mr. COOPER to authorize appropriations for the construction of certain highways and public mass transportation facilities in accordance with title 23 of the United States Code, to establish an urban transportation program, and for other purposes, be referred to the Committee on Public Works and if and when it should be reported from the Committee on Public Works, it be referred jointly to the Committees on Banking, Housing and Urban Affairs, Commerce, and Finance for consideration of any subject matter therein falling within their respective jurisdiction.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 926

At the request of Mr. BENTSEN, the Senator from Delaware (Mr. BOGGS) was added as a cosponsor of S. 926, a bill to amend section 620 of title 38, United States Code, to extend the length of time community nursing home care may be provided at the expense of the United States.

S. 2854

At the request of Mr. BURDICK, the Senator from New Jersey (Mr. CASE) and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 2854, a bill to amend title 28, United States Code, relating to annuities of widows of Supreme Court Justices.

S. 3044

At the request of Mr. HUMPHREY, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 3044, a bill to amend the Civil Rights Act of 1964 in order to prohibit discrimination on the basis of physical or mental handicap in federally assisted programs.

S. 3146

At the request of Mr. BENTSEN, the Senator from Colorado (Mr. ALLOTT) was added as a cosponsor of S. 3146, a bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons; to provide for advance educational assistance payments to certain veterans; to make improvements in the educational assistance programs; and for other purposes.

S. 3338

At the request of Mr. TALMADGE, the Senator from Colorado (Mr. ALLOTT) was added as a cosponsor of S. 3338, a bill to amend title 38, United States Code, to increase the rates of compensation for disabled veterans, and for other purposes.

SENATE JOINT RESOLUTION 122

At the request of Mr. BURDICK, the Senator from Nebraska (Mr. HRUSKA) was added as a cosponsor of Senate Joint Resolution 122, to create a Commission on Revision of the Federal Court Appellate System of the United States.

SENATE JOINT RESOLUTION 217

At the request of Mr. MCGEE, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of Senate Joint Resolution 217, a joint resolution to create an Atlantic Union delegation.

SENATE JOINT RESOLUTION 229

At the request of Mr. ALLEN, the Senator from Nebraska (Mr. HRUSKA) was added as a cosponsor of Senate Joint Resolution 229, a joint resolution to name the FBI building now under construction the J. Edgar Hoover Building.

ADDITIONAL COSPONSORS OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 56

At the request of Mr. HUMPHREY, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of Senate Concurrent Resolution 56, relating to the abandonment of railroad services.

OLDER AMERICANS ACT—AMENDMENT

AMENDMENT NO. 1184

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. HUMPHREY submitted an amendment intended to be proposed by him to the bill (S. 3364) to amend the Older Americans Act of 1965 to promote and maintain the health of senior citizens through the authorization of a comprehensive program of home health services, and for other purposes.

ORDERLY TRADE IN IRON AND STEEL PRODUCTS—AMENDMENT

AMENDMENT NO. 1185

(Ordered to be printed and referred to the Committee on Finance.)

Mr. BROCK submitted an amendment intended to be proposed by him to the bill (S. 2365) to provide for orderly trade in iron and steel products.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 835

At the request of Mr. PERCY, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of amendment No. 835, intended to be proposed to the bill (H.R. 1), a bill to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

AMENDMENT NO. 955

At the request of Mr. STEVENSON, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of amendment No. 955, intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

AMENDMENT NO. 1173

At the request of Mr. GOLDWATER, the Senator from Alabama (Mr. ALLEN) was added as a cosponsor of amendment No. 1173, intended to be proposed to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

ANNOUNCEMENT OF PUBLIC HEARINGS ON THE PROPOSED ACTION ACT OF 1972—S. 3450

Mr. CRANSTON. Mr. President, I announce, for the information of Senators and the public, that open hearings by the Special Subcommittee on Human Resources, of which I am chairman, of the Labor and Public Welfare Committee on the proposed Action Act of 1972 (S. 3450) and domestic programs of Action have been scheduled for Friday, May 12, 1972, commencing at 9:30 a.m. in room 4230 of the New Senate Office Building. Subsequent hearings will be scheduled over the following several weeks, the second day to be on Friday, May 19.

On Friday, the subcommittee will receive testimony from the Honorable Joseph Blatchford, Director of Action, the volunteer agency which administers the Peace Corps, VISTA, the foster grandparents program, the retired senior volunteer program—RSVP, and the SCORE/ACE program; the Honorable FRANK THOMPSON, Jr., Congressman from New Jersey; Doug Richardson of the National VISTA Alliance; and Mr. Rudolph T. Dansteadt, assistant to Nelson Cruikshank, president of the National Council of Senior Citizens. Members of the committee and the public are urged to attend the opening session of these hearings addressing the future director of the Federal Government's involvement in domestic volunteer programs.

Any person or organization desiring to present testimony or file a statement for the RECORD relating to these hearings should contact Jonathan R. Steinberg, counsel to the subcommittee.

SENATOR RANDOLPH BELIEVES SENATOR COOPER'S INTRODUCTION OF THE ADMINISTRATION'S HIGHWAY LEGISLATION PROVIDES BASIS FOR SEARCHING EXAMINATION—HEARINGS BEGIN WEDNESDAY, MAY 10

Mr. RANDOLPH. Mr. President, the Senator from Kentucky (Mr. COOPER), the esteemed ranking minority member of the Committee on Public Works, has placed before the Senate proposals of the administration for revising the Federal aid highway program. These proposals call for substantial and fundamental changes in the national highway program.

The administration's recommendations are concerned not only with the day-to-day operations of the highway program, but reflect basic philosophic changes on the role of the highway program in our total transportation system.

Recommendations of such far-reaching nature as those placed before the Senate are the products of extensive evaluation of our transportation needs and should be neither accepted nor rejected without a searching examination of their implications. I recognize that changing conditions in the United States today have brought about the need for a new approach to transportation. On many occasions, I have discussed the necessity to achieve a balanced transportation system in which all modes of movement are considered with respect to the contributions they can make to such a system.

Highways, subways, buses, railways, airways, and water transportation can no longer be viewed independently. It is in this context that the Committee on Public Works will undertake its consideration of proposals introduced by the Senator from Kentucky and those introduced by other Members of the Senate.

The Subcommittee on Roads, under the responsible chairmanship of the Senator from Indiana (Mr. BAYH), will begin its hearings on all of these proposals tomorrow, Wednesday, May 10, 1972. The subcommittee will hear testimony from a number of witnesses representing a cross section of interests and viewpoints on the transportation needs of our country. The first witness will be Secretary of Transportation John A. Volpe. I anticipate reviewing in detail with him the legislation that has been introduced today.

NOTICE OF HEARINGS ON FEDERAL COURT JURISDICTION

Mr. BURDICK. Mr. President, as chairman of the Judiciary Committee's Subcommittee on Improvements in Judicial Machinery, I wish to announce the continuation of hearings on S. 1876 pertaining to the civil jurisdiction of the Federal courts.

The subcommittee will consider Federal question jurisdiction and jurisdiction of three-judge courts. The scheduled witnesses are Judge Henry Friendly, Chief Judge of the Second Circuit Court of Appeals, Prof. Charles A. Wright, and Judge J. Skelly Wright, U.S. Court of Appeals, District of Columbia Circuit.

The hearings will be held on May 16, 17, and 18 beginning at 10 a.m.

Those who wish to testify or submit a statement for inclusion in the record should communicate with the Subcommittee on Improvements in Judicial Machinery, 6306 New Senate Office Building (extension 5-3618).

ANNOUNCEMENT OF OPEN HEARINGS BY SUBCOMMITTEE ON PARKS AND RECREATION

Mr. ALLOTT. Mr. President, I ask unanimous consent to have a statement prepared by the distinguished Senator from Nevada (Mr. BIBLE) in connection with committee hearings printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BIBLE

Mr. President, I wish to announce for the information of the Senate and the public that open hearings have been scheduled by the Subcommittee on Parks and Recreation at 10:00 A.M. on May 22, in room 3110, New Senate Office Building, on the following bills:

S. 1497, to authorize certain additions to the Sitka National Monument in the State of Alaska, and for other purposes.

S. 459, to provide for the establishment of the Puukohola Heiau National Historic Site, in the State of Hawaii, and for other purposes.

S. 2908, to authorize a study of the feasibility and desirability of establishing a unit of the national park system in order to preserve and interpret the site of Honokohau National Historical Landmark in the State of Hawaii and for other purposes.

ANNOUNCEMENT OF RESCHEDULING OF HEARINGS ON EXTENSION OF VOCATIONAL REHABILITATION ACT

Mr. CRANSTON. Mr. President, I announce, for the information of Senators and the public, that the hearing previously scheduled for May 11 on H.R. 8395 and bill amending the Vocational Rehabilitation Act has been postponed until Monday, May 15, due to the scheduling of an executive session of the full Committee on Labor and Public Welfare for Thursday morning. The administration witnesses originally scheduled to appear on May 11 will be the only witnesses at Monday's hearing beginning at 10 a.m. in room 4232, New Senate Office Building.

I also announce that a second day of hearings will be held at 1:30 p.m. on Thursday, May 18.

ADDITIONAL STATEMENTS

SUPPORT FOR THE PRESIDENT BY AMERICA'S YOUTH

Mr. BROCK. Mr. President, the Nation's young people are very much in support of the President's recent steps to end the conflict in Vietnam.

I am extremely heartened by the comments by many young leaders and, with your permission, would like to share these comments with my colleagues and have them read into the RECORD.

Harry McNaught, president of Boy's Nation, said:

> The President has made a decision which had to be made. He took a step which had to be taken. I support him now with this decision and will support him in the coming days and weeks when this decision will be tried and tested. The overwhelming majority of young people I have talked to do strongly support this decision as a courageous act to end the war.

Howard Twilley of the Miami Dolphins said:

> It was a tough decision, the type that is not politically expedient. I wouldn't want to be the one to have to make it, but it was a good, courageous decision.

Former Miss America and actress Mary Ann Mobley said:

> I admire President Nixon's courage. It's about time we stood up for what's right. I approve fully of his actions as I believe that this latest drive was timed for this political year, but they never believed the President would have the courage and determination to respond in this manner. He had no other choice. I know the people of this land will stand behind him 100%.

Linda Beene, national president of Future Business Leaders of America, said:

> Young people support this courageous decision and know the President did what he thought was right for the country. I feel young people will rally in support of their President when he and the country need it most.

Gary Hughes, president of Vocational-Industrial Clubs of America, said:

> Not only young Americans, but all Americans will agree with what the President has done. Now is the time when the President needs the support of the country and I wholeheartedly support these moves.

Linda Blue, youngest city councilman in Denver, Colo., said:

> I think young people are able to perceive a difference between guerrilla war and brutal and naked aggression . . . young people will see it makes abundant sense to deny the North Vietnamese the war-making material that could be used against the South Vietnamese refugees. I think they will feel the President has taken a very courageous stand to eliminate the tools of war and thus bring the conflict to an end.

Don Sundquist, Young Republican National Federation Chairman said:

> The President's action in Vietnam to halt the free flow of supplies to the invading North Vietnamese Army took courage and determination. It is this kind of courage that young people support and I join with all young Americans in supporting the President in this difficult time.

Bob Kasten, Jr., chairman of the Wisconsin Young Voters for the President Committee, said:

> As Chairman of the Young Voters for the President in Wisconsin, I know I join with young people throughout our State in applauding the President's decision and courageous action to bring about a just and lasting settlement of the conflict in Vietnam. In the past several months I have learned enough about politics to know that this decision was not a simple one for him to reach and that his courageous action is based on much more than political considerations. As a volunteer in the President's Re-Election effort, I can assure him that I and members of our organization here will redouble our efforts to support his decision.

Miss Teenage America, Janene Forsyth, said:

> I really believe the President has looked at every possibility. He could have easily gotten out for political advantage, but he is really concerned about the problem. I was most impressed with his courage and certainly support him to the fullest extent.

Miss Texas, Brenda Box, said:

> Bravo, bravo! We should have done it long ago. The President could not have done anything greater.

Mike Dively, State representative from Michigan and Chairman of the White House Conference on Youth Followup Committee, said:

> What the President has done required a tremendous amount of courage which will bring us, once and for all, a decision in Indochina. This is a very positive, decisive step, an act of political courage—one which will bring us substantially closer to peace.

Sherry Shealy, South Carolina State representative, age 21, said:

> The President is taking steps that few would dare take. It's a courageous act by a courageous man to insure a generation of peace.

And Westchester County Youth Advisory Council Chairman Jeffrey Volk, said:

> The President tonight took an unprecedented and courageous step towards finally realizing a true and effective peace in Southeast Asia in his remarks to the Nation. It is clear that the United States is proceeding with all deliberate speed towards achieving a just peace to this very tragic conflict. It has also become apparent that the only party holding up progress towards this end is those in control in Hanoi. The time has come for the youth of the Nation to unite behind the President in his efforts to achieve a generation of peace. I am sure the youth of Westchester County will join with me in supporting the President's actions tonight and in urging their peers to take similar action.

OIL PIPELINES: TRANS-ALASKAN VERSUS TRANS-CANADIAN

Mr. PROXMIRE. Mr. President, last Sunday's Washington Post contains a most perceptive and most damaging analysis of the Interior Department's impact statement on the trans-Alaskan pipeline.

Even the minimal analysis buried under the masses of verbiage in the impact statement showed that a trans-Canadian pipeline made far more economic and environmental sense than does the proposed trans-Alaskan pipeline. However, we do need more information about the trans-Canadian pipeline and I think the Interior Department would be derelict in its duty if it made a decision on the trans-Alaskan pipeline without that information.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE DARKNESS AT THE END OF THE PIPELINE

(By C. Robert Zelnick)

(NOTE.—Any point along the southern two-thirds of the proposed pipeline route could be subjected to an earthquake of magnitude greater than 7.0 on the Richter scale, and it is almost a certainty that one or more large-magnitude earthquakes will occur in the vicinity of this portion of the proposed route during the lifetime of the pipeline. Strong ground motion and large ground displacement accompanying such an earthquake could damage—even rupture—the proposed pipeline.

In the event of a pipeline rupture, 14,000 barrels of oil could leak out during the time required for pump station shutdown and valve closure. After shutdown and valve closure, up to an additional 50,000 barrels of oil would drain from the pipeline at some localities.—Final Environmental Impact Statement Proposed Trans-Alaska Pipeline.)

Among those who care about such things, the conviction runs deep that the battle over the trans-Alaska pipeline has become the Interior Department's Vietnam. Ill-conceived from its inception, fraudulently purveyed, divisive in its political repercussions and disastrous in its consequences, the project has little to recommend itself other than the enormous quantity of resources already poured into its accomplishment.

Yet Interior continues to see light at the end of the pipeline. That it will issue the right-of-way needed by the Alyeska Pipeline Company—a consortium of seven oil industry giants—to cross federal lands in Alaska seems a foregone conclusion. On March 20, the day his department released its massive "final" impact statement—which conceded every significant ecological objection ever voiced against the 789-mile Prudhoe Bay-to-Valdez route, Interior Secretary Rogers C. B. Morton promised a decision "within about 45 days." Eight days later, after meeting with Morton, Peter Flanigan and other administration officials to express his country's desire "for the construction of a Mackenzie Valley pipeline," Donald S. Macdonald, Canada's Minister of Energy, Mines, and Resources, told reporters at a Washington news conference: ". . . I had the impression that, with so much effort and study invested in the trans-Alaska pipeline, that it rather looks as though they would be giving that priority in their consideration."

Actually, as Morton conceded in an appearance on the "Today" show the morning after Interior released its report, his department could not have decided anything with finality within 45 days. Since April, 1971, Interior has been blocked by an injunction issued by the federal district court in Washington from issuing the permit. Two weeks advance notice is required, during which time Judge George L. Hart Jr., will have to satisfy himself that Interior has complied with the National Environmental Policy Act of 1969. The act requires a complete statement of the consequences of any agency action "significantly affecting the quality of the human environment," plus a thorough examination of alternative courses.

Hart, a model of judicial self-restraint, is expected to rule for Interior. The Wilderness Society, Friends of the Earth, and the Environmental Defense Fund—the three environmental group plaintiffs—would then probably appeal to the more assertive U.S. Court of Appeals, with the loser, in all likelihood, taking the case to the Supreme Court. The ultimate result is almost certain to be a landmark decision in environmental—or, for that matter, administrative—law.

THE CHOICES

The nub of the social issue involved is not whether Alaskan oil should be brought to market. Rather, the choice is between an 1,800-mile overland route, 1,500 miles of which would traverse Canada's Mackenzie Valley, and a shorter land route from Prudhoe Bay to Valdez, with the oil then moving via tankers to ports on the U.S. West Coast. The nub of the legal issue is whether Interior has considered the Canadian alternative to the degree necessary to satisfy the environment law, and whether, regardless of Interior's diligence, the evidence of favoring the Canadian route is not so overwhelming as to make any right-of-way grant through Alaska a clear abuse of administrative discretion.

Environmentalists are convinced that the Mackenzie Valley route is superior, in part because it involves a single pipeline corridor rather than two, and that should Morton decide otherwise, they can beat him in court. They maintain that abundant support for their position can be found in Interior's own impact statement of March 20. The stakes are high. The pipeline project would be the largest undertaking in the history of private enterprise. The oil industry claims to have invested almost $100 million to date in studying the Alaskan terrain and in procuring pipe and construction materials. That figure, even if exaggerated, is a mere pittance compared to the profits they expect to reap from the venture.

The known oil field in the Prudhoe Bay area—three giant pools running inland from a 40-mile stretch along the Beaufort Sea and covering an area the size of Massachusetts—exceeds 10 billion barrels. This, however, is only a fraction of what the industry eventually hopes to find. Forty billion barrels is a more realistic estimate. In September, 1969, an assortment of producers paid Alaska more than $900 million for the privilege of looking for more North Slope oil. A barrel of oil sells for about $3.25 on the West Coast, more in the Midwest and East.

NO "GOOD" WAY

Despite years of study and volumes of "stipulations" designed to protect the environment, there remains no "good" way of running 2 million barrels of oil a day through 48 inches of pipe at a temperature of 145 degrees Fahrenheit over and under a vast stretch of Arctic wilderness. You have to begin by building gravel service roads and air strips large enough to accommodate the big Hercules aircraft. You must find more gravel for 12 camp sites and 6 pumping stations, each 50 acres; this means gouging about 50 million cubic feet of gravel out of riverbeds and off the tops of hillsides along the way. Stream siltation and land erosion are the inevitable results. Some 350 streams would be crossed by the route. Many are spawning grounds for salmon and grayling. Oil spills can be a problem there. They can be even more of a problem if the oil gets carried out to the Beaufort Sea and trapped under the ice. Then the oil becomes a permanent part of the marine ecology.

If you decide to bury the pipe all the way, its heat melts the permafrost, causing slides and differential settlement, eroding the support for the structure and eventually causing a break. When you are forced to build part of it on stilts, you erect a barrier that blocks caribou and other migrating animals and subjects the line to greater risks of surface damage. When you dig a ditch to catch expected oil spills, the ditch becomes a moat, entrapping other animals.

Your service road extends civilization where it has never reached before. The construction activity, the planes landing and taking off and the helicopters hovering overhead frighten bear and caribou, rare birds and sheep. When these move to other areas, they die or cause other animals to die. The ecological balance in the Arctic is fragile. In the winter, a caribou uses almost all its energy just staying alive. A single timberwolf can exhaust and kill the stoutest buck in the herd. So can a bulldozer.

What we get in return for the partial destruction of our nation's largest wilderness area is more oil, a lot of natural gas, the corresponding need to spend fewer U.S. dollars buying foreign sources of energy, and, arguably, a mild, temporary improvement in our national defense posture. This latter case has been stated so often and with such apparent conviction by both the Interior Department and the oil industry that one wonders how we would have survived had not the Prudhoe Bay field been discovered in 1968. Statistical projections provide a clue.

THE EARTHQUAKE PROBLEM

By 1980, the United States is expected to be using about 22 million barrels of oil daily and producing some 10.4 million barrels, excluding what is to be drawn from the North Slope. Part of our expected deficit can be made up by importing an estimated 4 million barrels a day from nations in the Western Hemisphere. The rest will have to come from Indonesia and the Middle East.

Alaska's 2 million barrels daily could reduce this dependency somewhat for about five years. After that, our demand is expected to so outstrip domestic production that North Slope oil will be of little strategic value. In the case of a minor outbreak in the Middle East, say between 1980 and 1985, the benefit is obvious. But if the problem were big and with Russia, an exposed pipeline can offer small comfort to our military strategists. Prudhoe Bay is only 600 miles from Siberia.

While conservationists—at least those involved in the pipeline battle—accept the reality that 10 billion to 40 billion barrels of oil are going to find their way to market, they believe that even if oil was the only resource involved and even if big tankers weren't needed for the remainder of the Alaskan route, the Canadian route, while longer, is preferable. For one thing, the Alaskan area involved is renowed for its extreme seismic activity. In the past 70 years, some 23 major earthquakes have clobbered the terrain over and under which the Alaskan pipeline would go; any one of the quakes could have caused a catastrophic break in the pipe. Valdez itself, where a 900-acre, 510,000-barrel-capacity "tank farm" is planned, is a "new" city, about four miles northwest of its predecessor. The "old" Valdez was substantially washed into the sea as tidal waves of up to 170 feet rolled ashore following the great Alaska earthquake of 1964.

The route through Canada poses no comparable seismic problems. It has fewer miles of unstable soil and more existing roads, even railroads. From Edmonton, the proposed Canadian terminus, existing pipelines now extend both to the Midwest (Chicago) and the West Coast (Seattle). Certainly less environmental damage is involved in expanding existing facilities or building parallel facilities than in constructing new ones.

THE GAS LINE

The relative merits of one land route versus another, however, are matters about which a court is unlikely to substitute its judgment for that of an administrative agency with admitted expertise in the field. But what about *two* land routes versus one land route? Environmentalists claim that this is the fatal legal weakness in Interior's position. Buried, almost lost in the department's six-volume statement, and totally lacking from its consideration of alternatives to the Alaska route, is the acknowledgment that "at some time during the operation of the proposed trans-Alaska pipeline, it would become necessary to transport to market the natural gas that would be produced with the Prudhoe oil."

Indeed it would. In fact, it is estimated that 26 trillion cubic feet of gas are under the Prudhoe Bay fields waiting to be developed with the oil. Moreover, Interior says, "route selection and construction procedures would be similar to those for an oil pipeline but with some simplifications resulting from reduced pipe weight and lower operating temperatures."

Yet logistics militate against the likelihood of a trans-Alaska gas pipeline. The gas would have to be liquefied at Valdez prior to shipment. Interior estimates that operational costs of a liquefaction plant would run to half a billion dollars a year. Additionally, there are only about a dozen liquefied natural gas tankers operating in the world, while some 20 to 40 would have to be built to handle the Valdez traffic alone. Thus, Interior concludes, "A gas pipeline across Alaska appears to be a remote possibility because of the problems involved in shipment from the southern terminus; a gas pipeline through Canada to the Midwest seems to be much more feasible."

Of the various Canadian possibilities, Interior leans toward the Mackenzie Valley, noting, "The Mackenzie River is a valuable artery for use in the construction of a trans-Canada gas pipeline. Good all-weather roads and some railway mileage also exist, and existing winter trails would be valuable at the right time of the year." So much does Interior favor the Canadian route when it comes to natural gas—where neither oil industry prestige nor money is on the line—that in March Secretary Morton set aside a 300-mile corridor on federal lands in northern Alaska along the route the natural gas would travel from Prudhoe Bay to Fort McPherson atop the Mackenzie Valley.

If Interior is a bit circumspect about confessing that, in effect, it plans to grant two rights-of-way instead of one, it is far less bashful in assessing the environmental impact of 41 oil-laden tankers as they steam between Valdez and West Coast ports. Here, in fact, the report takes on a quality of terrifying candor, much like Yukio Mishima standing on the balcony, coldly describing the act of harikari he is about to perform.

The sea journey poses exceptional hazards, particularly for the crews of oil tankers. Port Valdez is a 3-mile-wide, steep-walled glaciated fjord that extends east-west about 14 miles. It narrows to less than a mile before dumping out into the Valdez Arm section of the 2,500-square-mile Prince William Sound. The coastline is rocky and treacherous, not entirely free of icebergs and blasted by frequent gale-force winds. A special pilot must guide each vessel through the narrow neck of the port.

The area, moreover, is one of extreme seismic activity. Prince William Sound was the epicenter of the 1964 Alaskan earthquake during which, as Interior notes, "74 lives were lost mainly as a result of submarine landslides, sudden large-scale tectonic displacements, destructive waves, and, to a lesser extent, vibration of structures."

From Prince William Sound the tankers would run into the Gulf of Alaska and down the foggy northern Pacific coast. "During the cool months," Interior says, "the Gulf has the highest frequency of extratropical cyclones in the Northern Hemisphere." From October through February, it is rocked by waves of 12 feet or better about 20 per cent of the time. Moreover, "the 1964 Alaskan earthquake was but one of a large number of earthquakes of moderate and high intensity that have occurred in or near the Gulf of Alaska, and there is no geologic basis to assume that other equally devastating earthquakes will not occur in the near future."

"REHABILITATING" BIRDS

Plans call for about 10 per cent of the tankers to pass through the narrow Strait of Juan de Fuca—where again navigational hazards will require the assistance of a pilot—and into the 40 miles of beautiful waterway known as Puget Sound, a recreational haven for 2 million Americans and Canadians. The remaining vessels would head for San Francisco, Los Angeles and points further south.

Again, seismic dangers will be extreme. Interior recalls that "on April 13, 1949, an earthquake with an intensity of 7.1 on the Richter scale and an epicenter between Olympia and Tacoma resulted in approximately $25 million damage to the Puget Sound area. More recently, on April 29, 1965, an earthquake of slightly less intensity (6.5) with an epicenter between Seattle and Tacoma caused an estimated $12.5 million damage to the Seattle area. These are the two largest of the numerous earthquakes that have occurred in this region during the last hundred years; the level of seismic activity has increased substantially during the last few decades."

Interior estimates that if the performance of the oil tankers on the Valdez run was no better than the world-wide average, we can anticipate spills averaging 384 barrels a day, or about 140,000 barrels a year. Better vessels may reduce these numbers somewhat, but the damage per spill would likely exceed the world-wide average since "large spills in the area would be more difficult to contain, clean up and restore because of the distances from sources of ships and cleanup gear and the generally limited manpower in the region."

Interior details the impact all this filth would likely have on the huge salmon runs of the Northern Pacific, and how it would probably impede, and perhaps wipe out, fishing in the Port Valdez-Prince William Sound area, where the coastal waters are today as pristine as any on earth. On a cheerier note, while chronicling the devastating effect an oil spill might have on the many rare migratory bird species that inhabit Alaska-Canadian coastal areas during certain months, Interior records for posterity Alyeska's pledge to "rehabilitate" those birds belonging to endangered species. The term seems peculiarly appropriate. In this forgiving society we "rehabilitate" drunkards, junkies, whores and others who have gone astray. Clearly the murres, murrelets, loons, grebes, albatrosses, gulls, terns, ducks, geese and shore birds who fall victim to the oil industry's determination to bring its goods to market along the route it deems best are out of step with the natural order of things and gravely in need of "rehabilitation." Unfortunately, only about one in seven of the poor creatures doused in the San Francisco Harbor spill a year ago lived long enough to profit from the experience.

SHOCKING OMISSIONS

If the six volumes of Interior's report dealing with the environmental impact of the combination overland-tanker route contain some shocking revelations, the three-volume economic analysis shocks by what it fails to disclose. Simply stated, a careful reading of Interior's economic analysis provides no clue as to why Alaskan crude should go to the West Coast in the first place, certainly none justifying an iota of increased environmental risk.

The West Coast is second only to the Southwest in the production of petroleum. It will not need any Alaskan crude for the next few years, will not be able to absorb 2 million barrels a day from the North Slope until well into the 1980s, and, if as expected, Alaskan production increases to 5 million barrels a day, the West Coast will not be able to absorb the surplus during the life of the pipeline.

Thus, even ignoring the greater hazard of the tanker route from Valdez, it is nonsense to say, as Secretary Morton did on his March 21 "Today" show appearance, that "if the pipeline went through Canada and if it ended up in the middle of the country, you would then have to bring oil into the West Coast by tanker. So the same amount of oil would be arriving by tanker."

The West Coast simply does not need as much oil as Alyeska wants to provide. And, if it did, the obvious source would be the Southwest or Canada, a fact Canadian minister Macdonald has been pressing upon his Washington counterparts without apparent success. On April 19, for example, Macdonald was questioned in the Ottawa House of Commons by David Anderson, a Vancouver MP active in the battle against Alaskan tanker traffic, as to whether Canada was willing to supply the United States with enough oil to compensate for the anticipated additional two years it would take to complete the trans-Canada route. Macdonald's reply:

"Both in my discussions with Secretary Morton and other officials of the United States administration in Washington and recently with Secretary Rogers last week, I made it perfectly clear that Canada was prepared to supply additional quantities of oil to the United States not only for a two-year period, but a longer period, and that this would be facilitated by their lifting their quota system."

Would Alyeska, assuming a right-of-way is granted for the trans-Alaska pipeline, then be stuck with a $2 billion to $4 billion Edsel, given the bearish West Coast market for Alaskan crude? A few energy economists believe so and have privately expressed surprise that the oil industry has been able to maintain so united a front on the issue while both the East and Midwest hunger for additional crude oil. More probably, Arco and British Petroleum, the two companies with the biggest positions in the pipeline, would be able to trade their excess crude to Japan in exchange for Japanese rights to Middle East oil, rights purchased long in advance. The Middle East crude oil could then be sold at a good profit on the East Coast, bailing the two companies out of their predicament but making an utter shambles of any national defense arguments for trans-Alaska route.

WINNING IN THE COURTS?

There is a reasonable chance that the environmentalists will utlimately prevail in the courts. Perhaps they will persuade the courts that Interior's failure to consider adjacent oil and gas pipelines rendered its statement procedurally inadequate. Perhaps they will win an even more significant point by forcing Interior to abide by the results of its own research, thus introducing important substantive requirements, as well as procedural ones, into the environmental law.

Interior, meanwhile, hopes that its "final" impact statement on the trans-Alaska pipeline will at last get the environmental monkey off its back. From the outset it seems to have regarded the environment statute as an unwelcome encumbrance to a predetermined course.

Two years ago the department attempted to grant the oil consortium a right-of-way to build a service road adjacent to the pipeline, arguing, incredibly, that the road and the pipeline were unrelated. Its impact statement on 31 miles of gravel carved into the middle of Alaska's wilderness totaled four pages, and became the subject of the court injunction still in effect.

Interior's second attempt at compliance with the environmental law was a bit more sophisticated, but not much. Its multivolume "draft" impact statement, produced in January, 1971, during the interregnum between the Hickel and Morton secretaryships, was basically a collection of data and arguments compiled by Alyeska itself. In that report, the department found it unnecessary either to consider the impact of tanker traffic from Port Valdez to the West Coast or to assess the feasibility of a trans-Canada pipeline route. Even today, Secretary Morton can be heard arguing from time to time that consideration of the Canadian alternative is superfluous because "no application for a Canadian route is pending." Since the 1965 *Scenic Hudson* case, however, federal courts have held that an administrative agency charged with protecting the environment has a duty to consider alternatives not placed before it by the parties. It cannot only "sit as an umpire blandly calling balls and strikes," the court found. In any event, Interior's 1971 statement was sufficiently derelict so that even the Corps of Engineers in its formal comment warned that the department had failed "fully to comply with the letter and spirit of the Environmental Policy Act."

SCARCE STATEMENT

The Justice Department, fighting the pipeline case for Interior in court, has also shown a greater zest for adversaria than guardianship of the public domain. Last summer, more than a year after the first lawsuit was filed, Justice tried unsuccessfully to remove the case from the District of Columbia to the friendlier confines of the U.S. District Court in Anchorage, Alaska. This past April, when MP Anderson and several Canadian residents of the Puget Sound area sought to intervene in the case, Justice opposed the motion.

Now we have Interior's third attempt at compliance with the environmental act. Legally, the department hopes that by confessing the devastating results of its proposed action, it can achieve what it failed to get by denying those results in its two earlier efforts. Politically, it appears anxious to present the public with a *fait accompli*. In the weeks since March 20, only seven copies of the impact statement have been made available to the public without cost in six cities across the entire "lower 48" states. For others, the volumes cost $42.50 a set. Faced with a demand for public hearings, Under Secretary William Pecora claimed that "a public hearing would be a circus" and would "interfere with a more thoughtful and rational analysis of this complex document."

"Clearly the department has not tried to encourage hearings or informed debate," complained the Christian Science Monitor on May 2, in what might pass as the editorial understatement of the year. The Monitor went on to wonder "how much 'thoughtful and rational analysis' the Interior Department has itself given to the study." Before too long the federal courts may themselves be wondering the same thing.

* * * * *

The salmon resource south of Prince William Sound to California, which yields an annual harvest of $58 million, would be exposed to the threat of spills offshore or in the approaches to Prince William Sound, Puget Sound and San Francisco Bay. Herring eggs and larvae appear particularly vulnerable to the effects of oil pollution and the Prince William Sound herring fishery would be adversely affected by oil pollution associated with the terminal operation as well as by accidental spills. The vulnerability of claims, oysters, and other shellfish to oil pollution has been demonstrated and the evidence indicates that a large part of the shellfish resource in Port Valdez could suffer adverse effects. Commercial and recreational harvest of shellfish in Port Valdez could be restricted and perhaps lost entirely for unknown lengths of time due to a combination of lower quantity and quality, the conflict between fishing operations and vessel traffic, and possible closure to fishing due to the health hazard of tainted products. Also it is likely that the commercial and recreational harvest of Dungeness crabs in Port Valdez would be lost as a result of normal terminal operations.—Final Environmental Impact Statement Proposed Trans-Alaska Pipeline.

Crude oil in concentrations as low as 0.3 mg/l is extremely toxic to fresh water fish.

Numerous studies of accidental oil spills have shown that crude oil and distilled petroleum products are toxic to plants. Data from Alyeska studies show that tundra species are killed where parts of the tundra plants are coated with Prudhoe Bay crude oil. Oil-caused loss of vegetation in areas underlain by ice-rich permafrost would result in its degradation and erosion of the soil.

Oil spilled in tanker casualties or transfer operations would affect the marine ecosystem to an extent that would be determined by many variable factors. The salmon and other fishery resources of Prince William Sound would be especially vulnerable to such spills. Over the long term, however, persistent low-level discharge from the ballast treatment facility and tank cleaning operations at sea could have a greater adverse effect than could short-lived larger spills.—Final Environmental Impact Statement Proposed Trans-Alaska Pipeline.

* * * * *

Because of the scale and nature of the project, the impact would occur on abiotic, biotic, and socioeconomic components of the human environment far beyond the relatively small part (940 square miles out of 572,000 square miles of land area) of Alaska that would be occupied by the pipeline and oilfield.

Virtually all activities related to pipeline and road construction have a potential to cause erosion through watershed disturbance.

The frequency, volume, and location of potential spills from the proposed system cannot be modeled or predicted with the available information.—Final Environmental Impact Statement Proposed Trans-Alaska Pipeline.

ADDRESS BY U.S. PATENT COMMISSIONER ROBERT GOTTSCHALK

Mr. **SCOTT**. Mr. President, several weeks ago, U.S. Patent Commissioner Robert Gottschalk spoke to the Pittsburgh Patent Law Association. I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE NATION'S NEEDS AND THE SCOTT AMENDMENTS

(Address by the Honorable Robert Gottschalk, Commissioner of Patents)

The Constitution, you will recall, contemplated that Congress would establish a patent system to promote the progress of the useful arts.

I have long held a deep conviction that our patent system, so established, is sound in principle, morally right, and desperately important—and that we are all under a heavy obligation to make as sure as we can that the system functions effectively, as the founding fathers intended.

We had an open house at the Patent Office two weeks ago, on a Sunday afternoon. It was an all-time first. It was a great thing to see our Patent Office people—of all grade levels, and all ages, professionals and non-professionals alike—come and bring their families. One of our objectives, of course, was to help bring home to all of them the nature of our work and a sense of our mission—and some appreciation of the many contributions we have made over the long course of our history.

The thought struck me rather forcefully that afternoon that while there are today a great many Government agencies—and while we're not the biggest by a long shot—none are older than we are, and very few, in the long view, have been more important than we have.

There is no question that, from the very beginning, our patent system has been a vital factor in the growth and the progress of this country. To me it's particularly important to realize this at this time—because, as I see it, our country is facing today a challenge greater than any that has confronted it in perhaps more than a century—a challenge to our national stature, our industrial and commercial leadership, our quality of life and our social progress.

You'll recall that some years ago the launching by the USSR of "Sputnik" had a tremendous impact on this country. It gave us a jolt. It did a lot to stimulate and reshape the thinking here about education, technology, and many aspects of our national life.

Our response was dramatic. There was a great upsurge in technological activity, and, literally, we shot for new highs. We put men on the moon. We really made history at a terrific clip.

Well, it seems to me that we are facing today something that I think of personally as Sputnik II. We've had another shock, another rude awakening. We have another challenge.

We've come to realize, as the President put it, that we're no longer "running against the clock"—today we're running against very real competition. And unless we're successful in this new contest, the very things that we have taken so often for granted, as basic and inherent in what we think of as the American way of life, will be lost to us.

We've taken for granted our progress, convenience, high standards of living, and superiority across the board.

We're no longer justified in making those assumptions. We're no longer wise, if we pursue our activities on the basis that we're way out front—when the facts indicate that we are not. We've got to recognize the reality of the challenge and its seriousness—and react properly to it.

I think this is of great interest to all of us here tonight—and this certainly includes my colleagues from the Department of Commerce, who are concerned not just with the patent area, but the broader aspects of trade generally.

What we've got to realize is that it's only as we compete effectively internationally, that we can regain the kind of economic advantages that we have enjoyed in the past. It's from those economic advantages that we have been able to derive the pleasures and the comforts, and the social progress, which have come to be so important in our way of thinking about life in this country.

In all of this, the patent system must play a vital role. The patent system must be effective in helping to meet that challenge.

It was very heartening to me to find in the President's Message to the Congress of March 16th on Science and Technology, that he had this to say, in the context of improving the climate for innovation:

"There are many ways in which the Federal Government influences the level and quality of private research and development. Its direct supportive efforts are important, but other policies—such as tax, patent, procurement, regulation, and antitrust policies—also can have a significant effect on the climate for innovation.

"We know, for instance, that a strong and reliable patent system is important to technological progress and industrial strength. The process of applying technology to achieve our national goals calls for a tremendous investment of money, energy, and talent by our private enterprise system. If we expect industry to support this investment, we must make the most effective possible use of the incentives which are provided by our patent system."

Now as I'm sure you are all aware, the Administration is determined to do everything possible to support the role of technology and the patent system in meeting this challenge. Secretary of Commerce Peterson has so committed himself on, to the best of my knowledge, every occasion when he has spoken publicly, since he became Secretary, and also on several occasions before he did.

He has stressed the importance of technology. He has stressed the importance of patents and patent policy.

It's in that environment that we are doing our job in the Patent Office today. It's with a sense of purpose and mission which has always been present, but which has never been more important, more keenly felt, than it is at this time.

I've had a long time interest in what might be called the commercial aspects of patent activity—licensing, for example. To me one of the great things about the patent system is that it draws on every talent that each of us has. It affords each of us an opportunity to be effective—doing what we like best, and what we can do best.

The dissemination of technical information by means of patents is a basic necessity, if progress is to continue. But the actual application, on a commercial scale, of what does result from the innovative act—from the process of invention—depends upon far more than technology alone. The skills of business and management are called into play.

Even so, none of this, in the majority of situations, would mean a thing if it were not for the fact that our patent system, as we have known it, provides the incentive—to which the President referred—to invest in the very risky, and very costly, development work that is necessary to translate the crude form of a new invention into something which is commercially salable, commercially usable.

It's only as that process occurs successfully—it's only as new processes are adopted, and new products enter the market place—that the progress of the useful arts really materializes.

This is why we have chosen the type of patent system we have. The inventor would be rewarded by a bonus or a prize—but these alone would provide no such incentive for the commercialization of new ideas. They would not provide the kinds of incentive and support that our patent system provides.

So it seems to me that it's very important to have the engineer and the scientist at one end of the spectrum, the businessman at the other end of it, and the patent system available and functioning effectively to bridge the gap between them.

The new term, of course, is "technology transfer"—and this is what it's all about. What that really means to me, and I think to most people nowadays, is that what exists in the pure technological state is translated into terms of practical commercial reality.

It's only as the entire process is complete and effective in all its phases—innovation, transfer and application—that we can achieve the national goals to which the President is referring.

Now against that background, let me suggest this. As I've often said—and as you would, I am sure, agree—I regard a sound patent system as dependent upon a sound Patent Office. But a sound Patent Office alone is not enough. Other elements are involved. The courts are involved, the bar is involved, the public is involved, other government agencies are involved, and the Congress is involved.

Unless each of the actors in this total drama understands what the play is about—unless we're guided by the same script, toward the same objectives—we may not achieve the results toward which the founding fathers pointed with that Constitutional provision. We've got to be sure that we don't work at cross purposes, and cancel out each other's efforts.

We've got to stop, I think, some of the circular conversation which has been so costly in terms of diverting our attention from the real objectives and needs of the system.

There's a great deal that can be said about what ought to be done, I think, in each of these areas.

I'd like, however, to direct my remarks this evening to the area of patent licensing.

The success of the entire patent system, of course, is predicated on the assumption that patents are worth having. Often, patents are worth having only if they may be licensed or assigned.

Freedom and certainty for a patent owner in licensing, or otherwise transferring, his patent rights are vitally important to the functioning of the patent system. The greater this freedom and certainty, the greater the incentives to invent and invest in the commercialization of new inventions, and to license others to use the new technology.

The converse, however, is equally true: the impairment or loss of effective licensing substantially negates the incentives, and the effectiveness, of the patent system. And in view of the challenges we are facing today with respect to our technological leadership, I feel this is a matter of grave national concern, which commands our urgent attention.

A week ago yesterday, for example, the Secretary of Commerce discussed the continued deterioration in our trade position, in testimony before the House Subcommittee on Science, Research and Development. Our overall balance of trade showed a deficit in 1971 for the first time since 1893. Among the factors contributing to this deficit, Secretary Peterson pointed out that our performance in the generation of new technology has been lagging relative to other countries.

We need to use, with maximum efficiency, every means at our disposal for stimulating development and commercialization of new technology.

Unfortunately, for some time now the right of patent owners to utilize their patent rights and inventions has been under attack. In recent years, there have been many questions raised as to the freedom of patentees to license or otherwise transfer their patent rights.

This has come about through so called case-by-case development of the law; and has been intensified by many speeches and writings highly critical of existing practices. The result has been that great uncertainty now exists concerning patent licensing.

The hearings before the Senate Subcommittee on Patents, Trademarks, and Copyrights in May of last year brought this out most clearly.

One witness said:

"At present, there is great confusion and uncertainty as to the legality of certain patent licensing practices under the Anti-trust laws as present construed."

Another stated:

"The resultant problem is that there is a tremendous turmoil and uncertainty in this country as to what are the values of patent rights and what you can do with regard to licensing your patent on a reasonable basis."

Many others testified to the same effect. Several gave striking examples from their own experiences as to how this uncertainty has discouraged development and commercialization of patented inventions.

It was to arrest the further development of the trend in judicial decisions toward restriction of the patentee's rights—and to restore a sense of stability and confidence with respect to the licensable nature of patent rights—that the Scott Amendments were introduced.

You will, of course, recall that when these Amendments were introduced by the senior Senator from Pennsylvania, he noted that your Association approved them in principle.

The Department of Commerce also believed, and continues to believe, that there is an urgent need for *statutory* clarification and stabilization of national law and policy with respect to the licensing of patents. We recommended to the Senate Subcommittee, in May 1971, statutory provisions along the same lines as the Scott Amendments.

What happened, of course, is well known to most of you. The Amendments were vigorously opposed by the Department of Justice and others.

Last October, the Senate Subcommittee reported out the McClellan bill, S. 643, without any patent-antitrust amendments. Since that time, there has been continuing discussion of the Amendments, and the possibility that they might receive further consideration in the Congress.

I certainy hope they will—for the Scott Amendments would provide the greater certainty and stability with respect to patent licensing which are so sorely needed today.

They would provide these by clarifying the legitimacy of a number of commonly-used license provisions, and codify the "rule of reason" of the 1926 *General Electric* case, which is already the prevailing test for judging the legality of licensing arrangements.

The Amendments would make no significant changes in prevailing patent laws.

The opponents of the Amendments have insisted that they would effect major changes in existing laws. In my opinion, these charges are entirely unfounded.

I believe the fundamental reason for opposition to the Scott Amendments is that the critics want the law to be developed by the courts on a case-by-case basis; and many times, in repetitive rhetoric, they have strongly urged that point of view.

I submit that this is wrong. The public interest would be far better served by—and it urgently requires—clarification of the patent-antitrust relationship through legislation.

Let's consider a few examples of what's been happening under the case-by-case approach.

Defendants in patent litigation continue to raise the "exorbitant royalty" defense that was recognized in the *American Photocopy* case* in 1966—although it certainly is not prevailing law, and has been expressly rejected in subsequent cases. Even the Government raised the exorbitant royalty defense in the recent *Carter Wallace* litigation in the Court of Claims.

Nevertheless, in opposing the Scott Amendments, the Department of Justice subsequently testified, at the Senate hearings, that legislation on this subject was unnecessary, because the defense has been adopted by the Courts in only a single case.

In the absence of legislation, this issue may continue to be litigated, and some other court may well decide to condemn "exorbitant royalties." That such developments are not unlikely, and by no means impossible, is abundantly clear from what happened in the wake of *Lear*.

Following the unfortunate dicta in the *Lear* case, the business community was shaken by the district court decision in *Painton*. That decision would have abolished protection for trade secrets, and threatened to wipe out a large part of the favorable balance of payments—of over a billion dollars annually—that the United States enjoys from licensing technology abroad.

Even the Justice Department agreed that this decision had gone too far.

But when Painton was reversed by the court of appeals, Justice took the position that this reversal itself served to demonstrate that no legislation was necessary; and that the litigating process in the courts could be relied upon to properly control and regulate the development of such legal doctrines. Fortunately, however, the Senate Subcommittee did approve a modified version of section 301 of the McClellan bill, which should spare future litigants the burden of having to reexamine the Painton case in other district courts.

The recent decision in *Troxel* v. *Schwinn*, in the Western District of Tennessee, involved a specifically different legal doctrine, but it pointed up the same general problem with the dramatic impact and destructive potential of an atomic bomb. In ruling that the licensor of a patent later found to be invalid must refund all royalties he had ever received, this decision blasts away basic concepts of contract law and equity, and threatens to vitiate the entire concept of licensing as a means of promoting the commercialization of inventions.

---

*American Photocopy v. Rovico, Inc., 359 F 2d 745 (7th Cir. 1966). In overturning a preliminary injunction, the Court of Appeals held that excessive royalties was a triable issue.

It appears to me that such erratic decisions are occurring with increasing frequency, making the need for clarifying and stabilizing legislation ever more urgent. Particularly in this time of national trial and challenge—as the President has pointed out—we need the incentives of a "sound and reliable" patent system. We can therefore hardly afford the dangerous luxury of further delay.

There are obvious dangers and defects in the case-by-case approach, which ignores the cumulative effects of the uncertainty, expense and delays involved—in leaving it up to the courts to set policies and directions of the law, in areas which the legislature is far better qualified to handle.

The greatest danger, of course, is the debilitation and destruction of confidence in the patent system to perform its Constitutional mission of promoting the progress of the useful arts. The erosion of that confidence has been under way for some time. It continues and gains new impetus with each new decision such as those I have mentioned.

The basic question, it seems to me, is whether—as a matter of national policy—we are willing to stand by and permit that process to continue, or whether it is to be arrested, and our patent system permitted to function effectively—in accordance with present law, but freed of the spectre of continued harassment and confusion which has been draining its vitality and force.

This case-by-case approach would permit that process of erosion to continue. The enormous litigation expenses that are so imposed on patent owners are not only destructive, but discriminatory as well—for the individual inventor and the small company are in no position to engage in such litigation over protracted periods.

Resolution of patent-antitrust issues on a case-by-case basis could take years. Moreover, without some statutory guidance—such as the Scott Amendments could provide—there might never be any real stability in the law relating to patent licensing.

Some have argued that the proposed legislation would result in even more litigation than the case-by-case approach. Naturally, any legislation in such a complex area will cause some problems in interpretation with respect to particular fact situations. I think it is unreasonable to say, however, that trail markers in the forest will not aid the traveller.

One of the most insidious but important consequences of case-by-case development is this: that it leads many patent owners—fearful of ex post facto rulings of the courts—to sacrifice the full potential of their patents, as happens when they follow very conservative legal advice.

Proponents of case-by-case development—and conservative counsel, as well—are fond of quoting the famous statement by Justice Louis Brandeis, about walking near the edge of a precipice:

"[You] may stumble on a loose stone, you may slip and go over; but anyone can tell you where you can walk perfectly safely within convenient distance of that precipice. The difficulty which men have felt generally in regard to the Sherman law has been rather that they have wanted to go the limit than that they have wanted to go safely."

But it seems to me that in the patent-antitrust area, no one can, any longer, be sure where the precipice is. Furthermore, it keeps shifting.

In this situation, a patent owner is constrained to stay very far back from the precipice, in order to have at least some feeling of safety. If he stays back too far, he will not obtain as much benefit from his patent as he otherwise would. And if he then finds patents less valuable—which would hardly be surprising—he will have less incentive to invent or to invest in the development and commercialization of new inventions.

This is certainly contrary to national interest.

Both the patent laws and the antitrust laws represent expressions by the Congress of public policy adopted in the national interest. Neither such basic national policies, nor the striking of a balance to reconcile differences or apparent conflicts between them, should be left for determination by lawyers and the courts in adversary proceedings.

The Congress is the only proper body for dealing with such basic and complex socioeconomic issues.

I believe that our national interests and needs now urgently require an expression of national policy with respect to the patent-antitrust relationship—and that such policy should be determined and enunciated by the Congress.

JUSTICE FOR COAL MINERS

Mr. HUMPHREY. Mr. President, the recent approval by the Senate of the conference report on the Black Lung Benefits Act of 1972 was an action of vital importance to a major sector of American labor that for too long has known only misery and poverty as the reward for hazardous work that has left them disabled. I jointly sponsored and strongly supported this bill in the strong belief that several hundred thousand coal miners and their dependents have a right to the extended and guaranteed benefits it provides, in the name of basic human justice. I now urge President Nixon to reverse his past opposition to this vital legislation and to sign it into law without delay.

In this legislation Congress has completed the essential work to establish basic rights for mineworkers that was begun 3 years ago in the Coal Mine Health and Safety Act.

The passage of the Coal Mine Health and Safety Act of 1969 was an historic event in its rejection of the economic theory that a coal worker's worth lie only in his hard labor, but that upon being disabled by the harsh conditions of that labor he is to be discarded on the slag heap. In that legislation, Congress demanded that effective measures be taken to end critical health and safety hazards in coal mine working conditions. Congress addressed not only the destruction of life in mine explosion disasters, but also the disabling of life and slow death afflicting thousands upon thousands of miners with the chronic chest disease, pneumoconiosis, or black lung, caused by the accumulation of fine coal dust particles in the human lung. And Congress established a system of benefit payments and minimum compensation standards for miners and the widows of miners who had been totally disabled by that disease.

But it has become clear that more extensive measures are required toward balancing the justice of compensation against the profound injustice of sacrificed lives and health in the production of the critical energy source of coal. The filing of 356,857 benefit claims has sharply underscored the fact that the problem is much more serious and widespread than originally expected. But a claim denial rate of more than 50 percent across the Nation indicates that countless miners and their survivors remain the victims of policies wrongly limiting eligibility for these benefits. And totally excluded from any benefits are the children orphaned by the death of a miner and his wife. Moreover, if a miner had pneumoconiosis, but was not currently receiving benefits and had not filed an application under present law, his widow and children are denied any compensation if he died from a rock fall or a heart attack or any other cause not immediatley related to the disease itself. Finally, we now know that there is a far broader range of respiratory and pulmonary impairments disabling thousands of miners; yet, because they have no X-ray evidence of black lung—an admittedly imperfect means of diagnosing the disease itself—they are denied benefits.

These denials are morally wrong. It is time to demand that the law provide the greater measure of justice that was intended. It is time to lift from miners and their families the burden of proof of eligibility under present sharply limited tests and policies, by broadening the definition of total disability and by establishing a presumption that miners with 15 years experience who are disabled by a respiratory or pulmonary impairment are disabled by pneumoconiosis.

It is time to extend the periods of responsibility for acceptance of claims and payments of black lung benefits, instead of telling thousands upon thousands of disabled miners or their survivors facing the despair of a poverty level existence. that simply because no claim was filed by the end of 1971, they can only expect benefit payments through 1976, if their State fails to enact a satisfactory, permanent program of workmen's compensation.

It is time to assure that Social Security disability benefit payments, rather than being "offset" or cut back by black lung benefits, are combined with those benefits in their full amount to provide a disabled miner and his family with a decent level of income.

And it is time to send the added injustice of discrimination by mine operators against miners who are developing black lung.

All these critically important actions have now been taken with the passage of the Black Lung Benefits Act of 1972.

I also strongly support the establishment, under this Act, of a $30 million program of medical research and the operation of fixed-site and mobile clinical facilities for the analysis, examination, and treatment of respiratory and pulmonary impairments in active and inactive coal miners. Miners critically need this help, and need to have it immediately at hand. Therefore, I urge that this program be made fully operational as soon as possible.

The Nation owes a long overdue debt to its mineworkers. Let us begin now to make the payments required by justice.

IMPLEMENTATION PROCEDURES FOR ALASKA NATIVE CLAIMS ACT

Mr. STEVENS. Mr. President, on Wednesday, April 12, 1972, in 37 Federal Register No. 71 at page 7204, a short notice appeared, amending the new regulations under part 43h to subchapter F, chapter I, of title 25 of the Code of Federal Regulations. This new part 43h was originally published in the Federal Register on March 17, 1972, at 37 F.R. 5615.

I have made it a practice to place in the CONGRESSIONAL RECORD each of the several announcements the Department of the Interior has published concerning implementation procedures for the Alaska Native Claims Settlement Act. I therefore, ask unanimous consent that changes be printed in the CONGRESSIONAL RECORD, as well.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

TITLE 25—INDIANS

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Subchapter f—enrollment

Part 43h—Preparation of a Roll of Alaska Natives

Applications, appeals, preparation, and approval of roll; correction

The document adding a new Part 43h to Subchapter F, Chapter I, of Title 25 of the Code of Federal Regulations, published in the FEDERAL REGISTER on March 17, 1972, at 37 F.R. 5615, is corrected by changing "appeals from adverse decision" to "appeals from adverse decisions" in item number 9 of the preamble, "5 U.S.C. 533" to "5 U.S.C. section 553" in the last paragraph of the preamble, and "as Native as any village or group" to "as Native by any village or group" in § 43h.1(g).

HARRISON LOESCH,
Assistant Secretary of the Interior.

APRIL 6, 1972.

[FR Doc. 72-5556 Filed 4-11-72;8:47 am]

THE GENOCIDE CONVENTION: SUPPORTED BY MAJORITY

Mr. PROXMIRE. Mr. President, the Genocide Convention should have been ratified by the U.S. Government over a quarter of a century ago. Our neglect has been shameful.

However, now all obstacles standing in the path of ratification have been removed. The distinguished Senator from Pennsylvania (Mr. SCOTT) has introduced implementing legislation, and, at long last a majority of Senators have signed an appeal to bring the Treaty for the Prevention and Punishment of Genocide to the floor for consideration.

Mr. President, a recent editorial in the New York Times, one of the most respected newspapers in this country, endorsed the treaty and concluded by saying:

> It is inconceivable that the Senate once more will pass up this opportunity to reaffirm principles so rooted in American law and the American conscience.

All of us in the Senate must work to make our commitment to peace stronger than words. We must move immediately to ratify the Genocide Treaty.

I ask unanimous consent that the New York Times editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE CRIME OF GENOCIDE

Determined that such horrors as Hitler's deliberate and systematic attempt to destroy an entire people will never be repeated with impunity, the United Nations General Assembly on Dec. 11, 1946, unanimously affirmed that "genocide is a crime under international law." Two years later the Assembly unanimously approved the text of a Convention on the Prevention and Punishment of the Crime of Genocide.

The Genocide Convention has been in force now for more than two decades. It has been ratified by 75 nations—but not by the United States Government, which was the prime mover of the original resolutions.

This American delinquency is a national disgrace. It impedes the development of international law, to which the United States has long been committed, and raises disturbing questions at home and abroad about American devotion to human justice. The opposition, which so far has blocked Senate ratification of the Convention, is based, as the Senate Foreign Relations Committee has noted, on irrational, self-deprecating fears ". . . as if genocide were rampant in the United States and this nation could not afford to have its actions examined by international organs . . . as if we as a people don't trust ourselves and our society."

Prodded by a bipartisan coalition led by Senators Javits, Scott, Church and Proxmire, 51 Senators have signed an appeal to bring the Convention to the floor for a vote. It is inconceivable that the Senate once more will pass up this opportunity to reaffirm principles so rooted in American law and the American conscience.

BYELORUSSIA AND LITHUANIA

Mr. HUMPHREY. Mr. President, the people of Byelorussia and Lithuania have achieved their sense of independence and an organized form of government in the latter part of the ninth century, A.D. Even in their infant stages of national conscience and sovereignty, they exhibited the same pride, the same sense of identity, the same sense of independence and the same love of freedom they have now lost but aspire to reconquer again.

The history of these two nations is a parallel and rich one. To be sure, it is a saga of men, women, and children seeking self-determination, seeking their own national culture, their own sense of identity and above all, their rightful and equal place in the community of nations.

In that best spirit whereby nations live side by side and peacefully, the people of Lithuania and Byelorussia in the 14th century created a new state composed of their respective territories known as the Grand Duchy of Litva.

Such cities as Minsk, Vilnius, and Smolensk became the centers of culture and commerce. In 1517, Dr. Fraciasak Skaryna translated and published the Bible into the Byelorussian language, making the Byelorussian nation the third—after the German and Czech—to have a printed Bible in their native tongue. The Grand Duchy adopted the Byelorussian language as the official language of the state and passed laws mature in equity and justice.

With the weakening of Poland—a traditionally friendly nation—the nations of Lithuania and Byelorussia in the 17th and the 18th centuries became increasingly subject to the influence of the czarist Russia and gradually disappeared as sovereign nations.

But their great spirit for national identity and freedom could not be broken even in subjugation or even worse in the remote and bitter cold lands of Siberia. Continual movements of political liberation and a sense of national identity could not be destroyed—they continued through religion, language, and close and traditional family life.

Although subject to many years of influence from Russia, the national sense of identity became a reality when the all-Byelorussian Congress met in December 1917, in the city of Minsk, and on that historical—and for all Byelorussians, unforgettable date—the 25th of March 1918, proclaimed the Byelorussian Democratic Republic with a constitution guaranteeing all human rights.

Indeed, at least, they were free. This optimism was short lived. Although recognized by several foreign nations as a sovereign state, that freedom proved to be momentary, for, only a short time after this victory of nationalist feeling, independent Byelorussia was militarily suppressed by the Red army.

The fate of their brothers in Lithuania is similar. After the end of the First World War, the nation of Lithuania became a sovereign state, recognized by the entire community of nations and participating in all international organizations. In 1940, the invading Red army made ashes of the Lithuanian national struggle.

Despite their tragic fate, if we take into account the history of these two proud and generous nations, the final chapter in their struggle for freedom is yet to be written.

I join all mankind in sympathy—but more—in tribute to their great and just struggle for freedom.

FOREIGN FISHING OFF U.S. COASTS

Mr. STEVENS. Mr. President, according to the National Marine Fisheries Service report on foreign fishing off U.S. coasts, the number of vessels sighted off the U.S. coasts increased for the fifth consecutive month to over 650, or 100 vessels more than in February 1972. Most of the increase was due to increased Japanese fishing effort off Alaska where a total of 330 Soviet and Japanese vessels now fish. I have been informed by the National Marine Fisheries Service that two Korean vessels are fishing for groundfish today.

An editorial entitled "U.S. Fisheries Threatened," published in the Washington News, states:

> Meanwhile, as Washington dawdles, fleets of modern fishing vessels from the Soviet Union, Poland, East Germany, Bulgaria, Spain, Japan, Italy, Norway, Canada, Romania, and Cuba are working off the U.S.

The editorial suggests that we should move promptly to control fishing in a 200-mile-wide zone off our coasts.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington News, Apr. 25, 1972]

U.S. FISHERIES THREATENED

The United States should move promptly to control fishing in a 200-mile-wide zone off its coasts.

If it does not, the country's nearby sport and commercial fishing grounds will be devastated by fleets of foreign ships with no interest in conservation.

In this hemisphere, the United States is one of the few coastal nations that has not claimed a 200-mile territorial limit or the right to regulate fishing within that distance.

Ecuador, Peru and Chile did so as far back as 1952. Ten Latin American countries now assert 200-mile limits. The latest is Brazil, South America's largest state, which has extended its control out from 4,500 miles of coastline. Mexico is about to do the same off its 6,250 miles of coasts.

Washington's refusal to accept the limits has caused trouble with hemispherical neighbors and inflamed their nationalism. Last year, for example, little Ecuador alone seized 51 American tuna boats and fined them a total of $2.5 million for fishing without licenses in its 200-mile zone. (Incidentally, that's not bad for a declare-your-own foreign aid program.)

The administration is putting its hopes in an International Law of the Sea Conference to be held next year. Preliminary meetings for the conference have gone badly. Latin America is not apt to accept less than a 200-mile limit, no matter what the conference recommends.

It's often argued that the United States must shun such a limit out of fear that other countries would close vast stretches of ocean and international straits to American naval vessels. We don't buy that argument.

In wartime, an enemy will try to close straits and disrupt shipping regardless of any law of the sea. In peacetime, it certainly is possible to separate the issues of fishing zones and freedom of navigation.

Meanwhile, as Washington dawdles, fleets of modern fishing vessels from the Soviet Union, Poland, East Germany, West Germany, Bulgaria, Spain, Japan, Italy, Norway, Canada, Romania and Cuba are working off the U.S.

THE ECONOMIC EXPANSION ORGANIZATION ACT OF 1972

Mr. RIBICOFF. Mr. President, economic issues—the loss of jobs, continuing inflation, and our mounting trade deficit—have all become increasingly worrisome problems for Americans. And for good reasons. We are in an economic mess that does not show much promise of getting any better.

Changes in the American economy resulting from Government decisions come faster and harder in the 1970's than ever before. We can no longer take it for granted that the market economy will automatically take care of them.

Our mounting trade and balance-of-payments deficits combined with a persistent 6-percent unemployment rate at home have caused many Americans to doubt our future in the world economy. More and more of our Nation's business, labor, and political leaders are recognizing that the same old economic policies and remedies will not work. The shift in recent years by organized labor from its traditional free trade stance to a more protectionist one, and the introduction of legislation which would severely restrict imports and the activities of American companies abroad, are important warning signals that the United States can no longer afford to pursue its traditional policies without coming to grips with the painful reality of its 5 million unemployed workers.

The pressures generated by our serious unemployment problems are affecting decisionmaking in other areas of concern. Political and economic effects of job losses in a particular region have been reflected in the allocation of defense contracts and other Government business on an ad hoc basis. Too often, Defense Department procurement policies are a matter of assigning contracts on a basis of "Whom do we have to take care of now?" instead of "Who can give us the best product at the lowest cost?" Similarly, opposition to antipollution programs in certain industrial areas has been based on the expected unemployment that would result. Strong pressures for imposing severe trade restriction have been created due to losses of jobs in certain hard hit industries.

These influences on defense and foreign policy decisions are not in the interests of this Nation. But high unemployment is not good for Americans either. What is needed are fair, practical, timely adjustment mechanisms to respond to unemployment and noncompetitive industries on a national basis.

I believe that the Economic Expansion Organization Act of 1972 offers such mechanisms. The act has been drafted and I will introduce it as soon as technical points are resolved. By providing timely assistance to workers, and firms, the programs I propose will strengthen communities and contribute to the vitality of the American economy. At the same time, we must develop safeguards to insure that this assistance will not perpetuate mismanagement and subsidize noncompetitive, outmoded areas of economic activity nor create worthless worker retraining programs. Certainly the Government's loans to Lockheed and Penn Central contained no guarantee that these floundering corporations would again become competitive.

The serious doubts that now surround the American economy are relatively new. As we embarked upon the 1960's, many worried about finding meaningful jobs. Now, as we embark upon the seventies, most people are content to find jobs, period. Americans used to be able to afford the luxury of worrying about the quality of work, for it was assumed that the opportunity for work would always be there. Now that assumption no longer holds—not for factory workers, not for skilled technicians—not even for Ph. D.'s.

Too much of the industrial and technological capacity of the United States is standing idle while the Nation is in desperate need of refurbishing and rebuilding. America's lakes, rivers and streams become more and more polluted every year. Our air grows more foul. Cities are decaying. Physically, the country seems to be running down while millions of hands remain idle.

We have men and women so knowledgeable and innovative that they can plan and carry out trips to the moon and back; yet, these same men and women now lack job security, if they are employed at all.

We have the most advanced technology in the world; yet we are not mounting successful attacks to clean our lakes, purify our air, rebuild our cities or provide adequate public transit for commuters.

Most of our goods are still sought and imitated throughout the world; yet we are increasingly buying more foreign products than we sell abroad.

In short, our economic and social institutions—both public and private—have failed. They have failed to generate sufficient technological growth, failed to allocate priorities designed to keep the American economy dynamic and finally, failed to create jobs for 5 million Americans who are seeking work.

We have no systematic way to encourage industries to develop along lines with high social priority and a high degree of future success. Much talk is heard about the need to convert from a wartime to a post-Vietnam peacetime economy. The key to any successful defense conversion program will be the assumption by the Government of the responsibility for allocating civilian priorities. Only then will the present dislocations in private industry be eased. And only then will long-term commitments be made by industry to convert to new areas of production.

Technology—our command of it, our use of it—will determine whether or not America will remain competitive internationally and maintain a viable, growing economy.

The main problem in maintaining the technological advantage we now hold is keeping ahead of the competition. Staying out front will require not only a high level of ongoing research and development programs by private industry, but the teaching of the new skills required by labor to perform new tasks.

Actually, we have little choice. We must take the risks and pay the price. The production of high technology content products must be "our bag." Last year the U.S. trade surplus represented by high technology products was more than $9 billion. Compare that figure with one more than $6 billion deficit in other manufactured goods. It is clear, then, that high technology is our strength in the world economy.

The signs all point to a continuing U.S. potential for remaining competitive in high technology content exports in the foreseeable future. We must insure that we continue this trend and develop new products for the future. Accordingly, the Federal Government must encourage industry to invest in more high technology. In the long run it is the surest investment we can make.

I am pleased that the budget for fiscal 1973 calls for a 15-percent increase for civilian research and development amounting to $700 million. Significantly, the economic report of the President also stressed two experimental programs which will be initiated to stimulate R. & D. investments and applications by private firms.

This is welcome news. But it is only a start. We still need new institutions and concrete programs to give us the time needed to reshape our economy and transform theories and vague goals into realities.

Effective interim solutions must be found to east the economic dislocation that will inevitably result in changes in Federal spending patterns and in the conversion of noncompetitive industries.

But when we speak of economic dislocations, we are also talking about people, their families and their communities. Economic theories are impersonal. They do not face up to the human problems involved in the dislocation of people. Too often the "people factor" is written off by economists as frictions, which are presumed to be absorbed in the long run. As the British economist Keynes said:

> In the long run, we are all dead.

Whether someone loses his job because of frictional or any other kind of employment, he and his family are in desperate circumstances.

It may be argued that if a worker loses his job in a noncompetitive industry, he is still free to seek work elsewhere. But what does this freedom mean in human terms? How do you expect a 52-year-old draftsman who has lived in Bridgeport all his life to take his family and move them to Phoenix tomorrow, then perhaps to California a year or so later—and afterwards to Maine?

The concept of providing adjustment assistance to both companies and workers is not a new one. It was first dealt with legislatively in the 1962 Trade Expansion Act. But actual experience to date with this legislation shows that it is too restrictive, too infrequently granted, and invariably help comes too late to be of use. Critics of the existing program are correct in calling this kind of aid "burial assistance."

For workers the assistance was supposed to come in the form of extra unemployment benefits, and retraining and relocation money. For companies the law specified loans and technical advice and tax help in modernizing their present product lines or moving them into new ones. But 10 years after these laws were placed in the books, the actual record of accomplishment is pathetic. Only 20,000 workers have been helped temporarily, and only two companies, a shoe manufacturer and a barber chair producer, have received any substantial assistance from the Government. Two industries and 17 individual companies did manage to survive the blizzard of paperwork necessary to pass the injury test set forth in the law but, to date, nothing useful has been done to help them.

One piano manufacturer in New York who sought adjustment assistance has claimed that every time he sent another batch of figures to Washington to prove his company had been injured, the bureaucracy responded by asking him for more figures. He said that this had been going on for almost a year. This is tragic. If a company was really on the brink of going out of business and had to wait that long for help—it would definitely be out of business.

Adjustment assistance as it was conceived 10 years ago was obsolete the day it was enacted. The law demands that recipients of assistance prove a direct relationship between injury due to tariffs and imminent financial ruin before relief can be granted. Such a requirement renders the current adjustment aid as practical as buying life insurance against being trampled to death by a herd of musk oxen in midtown Manhattan. The emphasis today must be put on spotting in advance those industries and companies which are running into trouble. Then government can usefully assist before the company is a financial basket case—and it can enroll workers into training programs before their skills become obsolete.

The Government must anticipate problems and identify industries likely to become uncompetitive. In turn, assistance must be practical—and quick. Otherwise, we will always be in a position of doing too little, too late.

The AFL–CIO has estimated that foreign competition has cost American workers approximately 700,000 jobs between 1966 and 1969. The chairman of the Zenith Radio Corp., who testified before my Subcommittee on International Trade, asserted that 47,000 jobs have been lost to imports in the electronics industry between 1966 and 1970. The American Footwear Manufacturers Association's estimates are that imported footwear products have wiped out 76,250 job opportunities. While these figures have been vigorously disputed by those who argue that growth in exported related industries makes up the slack, job losses in some of our biggest industries pose a real challenge. And this is also a challenge that we in the Congress are also being asked to face up to by our constituents.

Another aspect of our unemployment problem which has endangered great resentment is the "runaway mill" phenomenon—the movement abroad of American production facilities. The key is cheaper labor costs. As Americans are attracted to cheaper foreign goods, many of our industries have not been able to meet the competition.

What can I tell a 50-year-old workman who loses his job after 21 years because his employer, the Royal Typewriter Co. decides to move from Hartford to Hull, England, because labor costs there are only one-third those in Connecticut? What can we do for him and his counterparts around the country—and their communities? Right now, other than providing unemployment compensation and sympathy there is very little we can do.

Fresh ideas and new concepts are needed if we are to provide realistic, humane answers to these questions. New directions in public policy are needed if we are to meet the challenges posed to our Nation's economic well-being both from within and without.

The Economic Expansion Act offers speedy, practical assistance to workers and industries while encouraging innovation and adaptation for the future. The goals of this act are admittedly ambitious. But we must do no less if we are to avoid trade wars, economic decline and persistent unemployment. This proposal would:

Facilitate the economic adjustment of firms and communities adversely affected or threatened by Government policies and decisions;

Increase productivity, strengthen the economy, and thereby improve the competitive position of the United States in the world economy;

Aid in the modernization of the American economy;

Stimulate technological progress;

Reduce unemployment;

Maintain viable industrial enterprises in areas of unemployment.

At present we have only bits and pieces of offices and agencies and departments planning and administering programs dealing with economic conversion, adjustment assistance, training and job placement. Also lacking is a single high level body to spot in advance those industries and companies which are or will be soon facing serious difficulties, and to identify the priority areas for economic activity in the next 5, 10, or 20 years. There is no early warning system for labor when jobs are in danger. There is no way of helping firms before they are in desperate straits, or retraining workers before they are lining up for unemployment compensation checks. Under this act an independent Economic Priorities Commission, with its own staff made up of industry, labor and cabinet representatives will perform those needed functions. In addition, it will advise the new administration set up under the act in the types of training and other assistance needed.

Workers today who lose their jobs not only lose their weekly paychecks, they are also denied pension rights and health benefit plans. These plans and benefits would be maintained. Workers laid off only a few years short of retirement often face the most difficulty finding new jobs. They, therefore, would be able to begin receiving full retirement benefits at the time they are laid off.

Too many of our manpower training programs are teaching skills for jobs that no longer exist or that will not be offered in a particular locale. Training programs must be geared to specific jobs which will be available when the training is ended. Moreover there is little point to training a worker in New York for a job that exists only in California.

Smaller companies experiencing financial difficulty need more than low-cost loans. They should also be able to get expert technical advice and concrete suggestions as to how to remain competitive and how to switch to new product lines. R. & D. seed money should be available for private projects. At the same time their employees should be trained to perform the new skills needed in the new operations. Interim emergency financing should be available to these companies pending approval of longer run loans.

Shifts in Government expenditures and programs have caused great dislocation in the economy and have created serious pockets of employment throughout the country. Where this occurs the Government must attempt to remedy these situations by providing the kinds of assistance provided for in the act.

The effects of workers, industries, and communities by decisions to relocate facilities now vary. Some companies relocate in a humane, gradual way. Others seem oblivious to the human considerations. This act would not inhibit relocation plans by management. But it will offer companies intending to leave a community realistic incentives for remaining. If they still decide to move elsewhere in the United States they would be required to offer a displaced worker a similar job at the new facility at a comparable salary. This is fair and reasonable. In addition, the costs of moving workers and their families should be borne by existing adjustment assistance provisions and the companies.

If the companies seek to go abroad they would do so only if the full range of Government assistance offered is inadequate to insure profitable operations within a reasonable period of time. Failure to meet both of these requirements would subject companies to having to defray the costs of assistance to their laid off employees. These particular provisions should allay the fears of workers and communities that they will be left in the lurch by companies concerned only with their own immediate interests. Yet a company would still have the freedom to relocate elsewhere if it demonstrates its good fatith and sound reasons for leaving.

Other instances where eligibility for assistance under this act may be determined are where increased imports of competitive articles result in substantial unemployment, and where shifts in Government spending have caused layoffs, such as in the defense and aerospace industries.

A concrete example of how this legislation might apply is furnished by the planned departure of the Royal Typewriter Co. from Connecticut.

A number of years of operating losses were recorded at this Hartford facility, Litton Industry, which had taken over Royal Typewriter Co., decided to move the Hartford production facilities to Hull, England. The move involves a loss of some 2,600 jobs in the Hartford area. I discussed this decision with representatives of both Litton and Royal Typewriter. They explained that labor comprised approximately 50 percent of the total cost of production, and that the labor costs in Hull, England were only one-third of those in Hartford.

If this legislation had been in effect, both the company and the laid off workers would have been eligible for assistance. The workers would have been able to begin collecting roughly 85 percent of their previous wages and their health benefits would continue. Those within 3 years of retirement would have been able to retire at full benefits. The younger workers would have been able to enroll in new or existing training programs to guarantee their employment upon completion of these training courses either at Royal or elsewhere, preferably in the Hartford area. The Royal Typewriter Co. could either accept loan assistance, technical advice, retraining of some of its labor force and other benefits in order to continue operating in Hartford, or it could still go abroad.

If it chose the latter course it would have to prove to the satisfaction of the administrator of this act that the assistance offered would not have enabled it to become profitable within a reasonable time. If the company failed to offer such evidence, it would be liable for one-half of the costs involved in the various assistance given its displaced workers.

In sum, my proposed legislation embodies a new approach to deal with the new problems facing us in 1972. It involves a coordinated attack by the Federal Government, with the emphasis on early warning, and speedy, unencumbered help for workers. The focus is on readaptation and retraining in order to best utilize our technological, managerial, and manpower resources.

It should be emphasized that my legislation is linked to those areas where the Government has a direct responsibility as a result of its own public policy decisions.

Enactment of the legislation I have outlined will enable us to anticipate change instead of dealing only with its effects. It will enable our trade negotiators at the projected 1973 trade talks with our major trading partners to negotiate with greater confidence and in a more relaxed mood. It will enable working people to feel more confident of their jobs. The Economic Expansion Organization Act of 1972 will offer both labor and industry a means of improving their respective economic positions while contributing to the overall health and vitality of our Nation.

The technical wording of the bill is now being completed, and it will be introduced shortly. I welcome the comments and suggestions of all interested parties in perfecting my legislation, and I will also welcome cosponsors.

I ask unanimous consent that a description of the substance of each title of this proposed legislation be printed in the RECORD.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

ECONOMIC EXPANSION ORGANIZATION ACT OF 1972

DESCRIPTION

Title I—Reorganization

This title deals with the transfer within the Federal Government of the functions of existing agencies to the newly-created Economic Expansion Administration.

This new Administration will be in the Commerce Department. The Administration will absorb all or parts of the following existing offices:

1. Portions of the Manpower and Development Training Administration of the Labor Department;
2. Functions of the Economic Development Administration in the Department of Commerce relating to economic adjustment;
3. The Research Applied to National Needs program of the National Science Foundation;
4. Office of Economic Adjustment, DOD;
5. Functions of the Arms Control and Disarmament Agency concerned with the economic effects of reduced military spending;
6. Adjustment Assistance functions of the Tariff Commission and Labor Department;
7. Some functions of the Small Business Administration, and,
8. Other relevant Federal entities.

The Administrator will be the Chief Executive of the Administration. He will be appointed by the President, have appropriate deputies and be at the same executive level as other Administrators. He will be authorized to establish and support training institutions and to certify existing institutions. Wherever possible he will coordinate his activities with local and state bodies.

A new Commission is to be created, with appropriate staff support appointed by the President composed of nine members, three from labor, three from industry, and the Secretaries of Commerce, Treasury and Labor with the Secretary of Commerce as Chairman. The Commission will study and determine economic priorities in civilian areas and establish guidelines to assist the Administration in determining those areas of economic activity towards which programs under the Act should properly be directed. The Commission will also suggest new measures for conversion and adaptation of defense or noncompetitive facilities to areas of greater economic viability and productivity.

The Commission will also identify in advance specific areas of economic activities and industries which are becoming inefficient and noncompetitive and consult on a confidential basis with these companies, and invite applications to the Administration for benefits under the Act. It will also make recommendations as to the disposition of Federal R&D funding to various areas of economic activity.

Title II—Assistance to Workers

Present adjustment assistance mechanisms to assist unemployed workers under provisions of the Trade Expansion Act of 1962 will be expanded by:

Increasing the amount and availability of benefits to displaced workers by placing a 60 day time limitation on a final determination of eligibility with immediate interim benefits to be provided at the discretion of the Administrator. The percentage of the average wage rate in a particular industry used as a basis for benefits to recipients will be raised by 85%. Benefits shall be paid contingent upon participation by the beneficiary in retraining and other programs under this Act. They will also be available during the period between movement from one job to another or a retraining program to a job.

The Administration will assume the costs of continuation of health and retirement programs for workers in retraining programs and provide for speeded up retirement, pension, and social security benefits for otherwise eligible displaced workers who are within three years of retirement under their previous coverage.

Other existing benefits under the TEA, such as moving costs, will continue to be paid.

Individual workers, groups of workers and unions will be eligible to make applications for benefits and participation in the training programs.

Workers still employed but who can demonstrate to the satisfaction of the Administrator that they are threatened by loss of employment in the future will be eligible for retraining programs. The Administrator to his best ability will offer retraining programs teaching skills needed for the priority areas of economic activity provided for in Title IV and skills needed in the same locale or region.

All the foregoing programs of assistance will supplement existing unemployment insurance, adjustment assistance, and general relief programs wherever possible, and in no instance will exceed the amount of compensation previously paid to an individual worker.

Title III—deals with assistance to companies

Companies deemed eligible for assistance under the criteria set forth in Title IV of the Act will be entitled to make application for for the following forms of assistance from the Administration:

Interim financing pending the approval of longer term loan assistance;

Loan terms more favorable than existing commercial rates;

Technical assistance and plans for product conversion;

Research and development assistance for projects approved by the Administration creating new employment opportunities, including grants and contracts to private companies to create new jobs; and

Retraining for some or all of its workers to perform new skills needed in its new approved operations.

In addition, the Administrator may from time to time recommend specific tax benefits for participating companies whose particular circumstances warrant such preferential treatment. The Administrator will also seek to gain the cooperation and assistance of local communities and states in assisting companies to retain production facilities, as well as developing programs of technical assistance to communities enabling them to absorb the effects of economic dislocation.

All, or some, of the above assistance may be granted at the discretion of the Administration even if partial relief is available under existing statutes and remedies designed to protect firms from various forms of injurious import competition.

Title I——Eligibility requirements for assistance

The Administrator will be responsible for determining the eligibility of workers and companies. A company or worker of class will be deemed eligible when the Administrator determines that unemployment in a region or locality cannot be eliminated within a reasonable period of time, and when, in addition to this requirement, any one or more of the following criteria are met:

—when a company intends to relocate an important portion of its productive facilities at a single plant to a location outside of the U.S. or its territories and possessions;

—when substantial unemployment at a particular plant or in an industry results from increased imports of competitive articles;

—when changes in government procurement patterns and in federally-supported programs create substantial unemployment in a particular plant or industry; and

—whenever in the Administrator's judgment the unemployment is a result of policy decisions of the U.S. Government.

Another portion of Title IV deals with the defraying of the costs of assistance by companies under certain circumstances.

A company relocating facilities elsewhere in the U.S., or in its territories and possessions, and otherwise eligible under this Act, will be required to make payment to the Administration of a sum equal to one-half of the costs of workers retraining and other assistance provided to its displaced workers if the company fails to offer the right of first refusal of employment at its new location to all its workers at a wage and benefit rate equal to at least the previous levels.

A company relocating its facilities from a domestic location to a location outside of the U.S. or its territories and possessions shall make the same payment of one-half of the costs to the Administrator if the Administrator finds that the company's failure to apply for all or some of the assistance provided under this Act was unreasonable and not warranted by unusual circumstances or the absence of adequately skilled labor at its old location.

In no case would a company seeking to relocate facilities abroad be liable to make such payments if it can demonstrate that the assistance offered under the Act would be insufficient to enable it to operate profitably within a reasonable period of time.

INTERDICTION IN THE VIETNAM WAR

Mr. FONG. Mr. President, the continuing refusal of Hanoi either to negotiate an end to the war in Vietnam or to halt its invasion has forced the President as Commander in Chief to take further steps to protect the 60,000 American military support personnel in South Vietnam and to prevent a Communist takeover of South Vietnam by force.

The American people should rally around the President in his efforts to bring the costly and inflammatory war in Vietnam to the earliest possible termination with honor and hope for all sides.

As President Nixon told the Nation last night, it would be politically easy for him to order immediate withdrawal of the remaining U.S. forces in Vietnam.

But President Nixon knows that to turn tail and run would not bring the peace we all long for. It would not insure the return of our men who are prisoners of war in North Vietnam. It would not bring an end to the bloodshed in South Vietnam. It would not enhance the chances for world peace.

Therefore, the President is endeavoring to bring an end to the North Vietnamese invasion of South Vietnam by choking off the inflow of war materiel and interdicting the supply lines that feed the attack that jeopardizes our 60,000 American troops and that endangers the 17 million people of South Vietnam.

The mining of Haiphong Harbor is a measure I have long advocated. By affording 3 days' notice to ships of third countries supplying war machines to North Vietnam through this and other ports, the United States has given fair warning to those who insist on fueling outright aggression and armed invasion.

At the same time, the United States is giving Hanoi yet another opportunity to "cool it" in Vietnam and engage in meaningful talks on a cease-fire and a return of POW's.

In view of the President's offer to withdraw all U.S. forces within 4 months after an internationally supervised cease-fire and after return of POW's at a ratio of 10 enemies for 1 American, it is senseless for Hanoi to continue the bloodletting in Indochina.

Should Hanoi agree to a cease-fire, it would spare its people, who have already suffered more than 800,000 men killed in this war, further loss of its husbands, fathers, and sons. The leaders of North Vietnam could then assume the posture of peacemakers.

This same mantle of "peacemaker" could fall upon the leaders of the Soviet Union, who now stand exposed as condoning the use of the major weapons they supply, not for defense of North Vietnam, but for invasion of a neighbor.

I regret very much that the leaders of North Vietnam persist in waging war against their neighbors. I regret very much that they cannot perceive a greater place in history for themselves by sparing their own people further suffering and by offering their young men a better future than war.

I regret very much that the leaders of the Soviet Union cannot—or will not—confine their military assistance to defensive purposes and that the Soviet leaders cannot—or will not—exert influence on the leaders of North Vietnam to agree to a cease-fire and prisoner exchange.

I regret very much that Hanoi, Moscow, and Peking persist in supporting the rule of force over the principles of self-determination, territorial integrity, and peaceful settlement of differences.

All those who deplore, as I do, the more than 20,000 civilians casualties in South Vietnam and the more than 700,000 South Vietnamese rendered homeless by the wanton and indiscriminate bombing and shelling of towns and cities by the North Vietnamese invaders should today be exerting pressure on Hanoi and the Soviet Union to accept the cease-fire and prisoner exchange offer of President Nixon.

Those other nations of the world which, for these past 6 weeks, have remained silent in the face of North Vietnam's invasion had better wake up. The entire world has a stake in events in Vietnam. If a confrontation of superpowers is to be avoided, these other nations must now become active and vigorous in trying to arrange an internationally supervised cease-fire and prisoner exchange in Vietnam.

What is at stake now is not just the safety of U.S. men still in South Vietnam and U.S. prisoners of Hanoi, though they are uppermost in our minds. What is at stake now is not just the Presidential election in the United States next November.

What is at stake may well be world peace itself.

So those who have been on the sidelines far too long, those who have avoided even a role of moral suasion to end the Vietnam invasion, those who think "It can't happen to us" had better wake up. The bell that tolls in Vietnam may already be tolling for them.

Every nation and every people in the world who believe they should have the right to determine their own destiny without outside interference.

Every nation and every people who believe they have the right to retain their territorial boundaries and to defend against those who would take their territory by force.

Every nation and every people who want the world to avoid a confrontation of the superpowers should now exert the force of moral suasion toward acceptance of President Nixon's cease-fire and prisoner-exchange proposal.

To do otherwise may well jeopardize their own future.

One cannot help drawing the parallel with the tragic years before World War II, when nations turned aside as Hitler invaded one nation after another. The consequence of indifference was not peace but World War II.

Mr. President, our men in Vietnam are showing great courage. Our President is showing great courage.

Now let all Americans—and all peace-loving people in the world—show similar courage in standing up against brutal aggression and in insisting on a cease-fire, internationally supervised, and a prisoner-of-war exchange in Vietnam.

MAGNIFICENT CHOICES FOR SPLENDID AMERICAN AWARDS

Mr. HUMPHREY. Mr. President, the times in which we exist prove daily that we must employ a continuing sensitive adjustment on all fronts, economic, social, political, and psychological in our new and promising relationships with the peoples of the world.

Helping America travel that direction are some splendid Americans. I call them that because they are doing a magnificent job of contributing to the survival of new countries in Southeast Asia, countries which are being ripped apart by war.

These splendid Americans I am talking about were honored for their outstanding achievements in the field of human endeavor at the Thomas A. Dooley Foundation Seventh Annual Splendid American Awards dinner at the Plaza in New York City on March 29, 1972. This fine event coincided with the 10th anniversary of the foundation which is dedicated to aiding the beleaguered peoples of Laos, Vietnam, Cambodia, and Nepal.

I am genuinely pleased that the Honorable Perle Mesta, former Ambassador to Luxembourg; Lowell Thomas, world-famous explorer and news commentator; and Mr. and Mrs. DeWitt Wallace, of the Reader's Digest, were honored for engendering a splendid American image abroad. Their individual efforts and concern in promoting true friendship and humanitarian endeavor among peoples of the world for the poor, battered human beings who are refugees in Asia are recognized through these awards which were presented by William J. Lederer, author of the book "The Ugly American" and vice chairman of the Dooley Foundation.

The recipients are great people, and I admire them. The Reader's Digest, one of our largest circulation magazines of considerable influence, and its founders, Mr. and Mrs. De Witt Wallace, were honored for special efforts in making known to the world the continuing efforts of the foundation to keep moving the late Tom Dooley's medical work in Asia.

I call attention, too, to the telegram I dispatched to Samuel F. Pryor, my good friend and former Pan American Airways executive on March 29:

> Please convey my warmest congratulations to the recipients of the Splendid American Award: the Honorable Perle Mesta, Mr. Lowell Thomas, and Mr. and Mrs. De Witt Wallace of the Reader's Digest.
>
> I also applaud the stewardesses from the 29 national and international airlines for the voluntary services so generously given to the Dooley Foundation programs in Southeast Asia. Sincerely, Hubert H. Humphrey.

The story of the foundation does not stop with the great work of such concerned Americans as Perle Mesta, Lowell Thomas, and the tremendous communication offered by Mr. and Mrs. Wallace through the Reader's Digest. There is more. It is the story of young people, the stewardesses of our U.S. and international airlines, who make it possible for these dedicated young girls to spend their vacations, with free travel contributed by Pan American Airways, in Southeast Asia, giving their compassion and personal attention to the anguished poor, the homeless, the helpless, in these Asian countries. It means that the Tom Dooley Foundation 50- to 100-bed hospitals and jampacked refugee centers in these countries get lots of Americans and world citizens involved at a personal level, without any significance to politics or religion. It shows that young Americans care and want to help alleviate the grief and suffering of war by millions of underprivileged who face each day with little hope of any real medical care in their lifetimes.

Sam Pryor, who has won the Splendid American Award previously, has traveled to Southeast Asia and witnessed for himself the destruction, the poverty, the disease. He continues to work, more determined than ever, for the Dooley Foundation and the people in those faraway lands. He is a splendid American, no doubt about that.

I was not able to go to the Splendid American Awards dinner in New York but there were a lot of people thinking of that affair and what it means to the spirit of Tom Dooley. Vice President Spiro T. Agnew wired:

> My warmest congratulations go to Mrs. Perle Mesta, Mr. Lowell Thomas and Mr. and Mrs. De Witt Wallace of *The Reader's Digest Magazine* for having been selected to receive the 1972 Splendid Americans Awards presented by The Thomas A. Dooley Foundation. The conviction that each of us shares a responsibility for bettering our nation and our world is a precept on which America has grown. The outstanding individuals we honor here tonight have carried forth this spirit by promoting good will and understanding both at home and throughout the world. Paying tribute to their positive and patriotic efforts is a pleasure I share with the members of this distinguished Foundation as well as with all Americans. Best wishes. Sincerely, Spiro T. Agnew.

Senator Jacob J. Javits also addressed the foundation with a telegram. It read:

> It is a pleasure to extend greetings to all attending the Splendid American Awards Dinner of the Thomas A. Dooley Foundation and to join you in honoring Perle Mesta, Lowell Thomas and Mr. and Mrs. DeWitt Wallace of *The Readers Digest*. My only regret is that I am unable to attend and personally extend my warmest regards and respects to these outstanding Americans. But I hope this message expresses my most sincere sentiments. I wish also to take this opportunity to commend The Thomas A. Dooley Foundation for their outstanding humanitarian and medical services to the people of Asia. Indeed, you lessen their suffering. Special regards also to Edward Carlson and Samuel Pryor. Jacob J. Javits, USS.

His Holiness, the Dalai Lama of Tibet, also sent word to the foundation dinner. His communication read:

> The contribution made by Lowell Thomas through his travels in various parts of the world have helped to create better understanding among different peoples and we particularly remember his contribution in making the Tibetans and their case known to the world. Therefore on this occasion when the Dooley Foundation is honoring him we too, wish him the very best. The Dalai Lama.

All this recognition for an extraordinary foundation is richly earned. It is providing medical help, guidance, leadership and striving to eliminate disease, neglect, and in its own tremendous way, a peace across the lands.

The man who took the flag from the hands of the fallen and legendary Dr. Tom Dooley is a man who I know enjoys guiding the foundation, his hospitals with the stewardess volunteers, the civilian volunteers, his magnificent medical staff. He has our prayers and the continuing contributions of people all over the world.

Dr. Verne Chaney knows the face of war.

He was a battalion and regimental surgeon with the 2d Infantry Division in Korea; in fact, one of the most highly decorated doctors of the war with the Silver Star, the Bronze Star for Valor, the Croix de Guerre, and Purple Heart among his medals. He was at Heartbreak Ridge and was wounded himself by mines rigged to the enemy dead. This man later treated Eskimos in Labrador and Newfoundland and later natives in Haiti before working with the late Dr. Albert Schweitzer in Africa and eventually joining the late Dr. Tom Dooley's programs in South and Southeast Asia. He's traveled far to help mankind.

There is no doubt in my mind that Dr. Verne Chaney typifies the most splendid American of all. He is helping other people get well and live. He is giving the people of south and Southeast Asia another chance. He is doing what is necessary. These stewardesses and his medical staff are doing what is necesary. They teach public health eyeball to eyeball. They use puppet shows, they teach English, they care for people in hospitals, leprosariums, and orphanages. They are splendid Americans, each and every one.

Dr. Chaney says that:

> The tragic flaw in our society today is that we have developed a pattern of evading truth and reality. This is true whether we talk about war, politics, poverty or problems of the developing world. Each and every one of us is becoming an island progressively insulating and protecting ourselves from the unpleasant truths about us. One of those truths is the staggering health needs of 90% of the earth's population on whom is annually spent less than $2.00 per capita. Good physical and mental health is the common denominator to every equation of human endeavor. The goal of the Dooley Foundation is to pursue answers to at least some of the problems in bringing a better quality of life to the less privileged of the world.
>
> Problem-solving can only be achieved by our return to truth.

Dr. Chaney is a wise man. God bless men like him and those who follow in his footsteps.

RUMANIANS CELEBRATE THE 10TH OF MAY

Mr. PROXMIRE. Mr. President, the 10th of May is the national holiday of the Rumanian people, commemorating three great events in Rumanian history.

On May 10, 1866, Charles, Prince of Hohenzollern-Sigmaringen, a scion of the southern and Catholic branch of the Prussian royal family, was proclaimed Prince of Rumania in Bucharest. With the coronation of Charles I, years of internal rivalry and unrest were ended, and the principality entered a period of tranquility.

Eleven years later, on May 10, 1877, the Rumanians allied with the Russians to defeat the Turkish Sultan. With the end of the Russo-Turkish War, Rumania proudly proclaimed her independence from the aging Ottoman Empire. This proclamation of independence, fought for on the battlefields, was consummated in 1878 when the Congress of Berlin granted Rumania official recognition as an independent state.

The third great event in Rumanian history to fall on the lucky 10th of May came just 4 years after independence. In 1881, Charles I was crowned, by the will of the people, the first King of Rumania. The principality was elevated to the rank of a kingdom, and Rumania entered a period of prosperity lasting over 6 decades.

For over 100 years the people of Rumania have proudly celebrated the momentous achievements of the 10th of May. But today these courageous people must restrain their joy as their day of independence goes unrecognized by the Communist regime. Therefore, it is only fitting that we, who are fortunate to live in the free world, help to commemorate Rumania's national holiday. While we cherish our own liberty we salute the people of Rumania who silently celebrate their own past struggle for independence.

THE FATE OF THE USIA

Mr. HUMPHREY. Mr. President, I want to join Senators who supported the McGee amendment to restore those funds which had been cut from the USIA budget.

I am not one who is for high budgets for the sake of high budgets, any more than I am for the sake of slashing expenditures just for the sake of slashing them. In the case of the USIA budget as reported by the Committee on Foreign Relations, I was uncertain of the reasoning for the committee's action. I would have hated to see an arm of our foreign policy, which has been so constructive in the past, be weakened without sufficient justification. I would have hated to see an institution like the Voice of America, a universally respected and widely listened to American advocate throughout the world, be reduced to a plaintive murmur. VOA reaches an audience of roughly 50 million weekly. No one forces the listeners to turn on their radio stations to a VOA program, but the original authorization bill might have forced them to turn it off.

Had we so completely lost our perspective as to think that a radio station, and the other media work of the USIA, are a dangerous provocative weapon which raises hostility throughout the world?

The USIA certainly has faults, but these can be corrected without budget slashing. The main thing is that the USIA is a spokesman abroad for this Nation and the effort to sustain America's image must not be neglected—the U.S. story must be told. For these reasons, I opposed the reductions in the committee bill, and strongly supported Senator McGee's amendment.

I ask unanimous consent that an editorial from the Washington Post on the "Sad Story of the USIA" be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

The USIA's Sad Story

The United States Information Agency, whose mission is telling America's story abroad, is having more than a little trouble telling its own story on Capitol Hill. The Foreign Relations Committee voted 9–4 to cut its $200 million budget request to $155 million, a major one-year stroke. The full Senate is to vote on the authorization soon.

Now, some whisper that the cut is Senator Fulbright's revenge: over his protest, and in plain violation of the law, a USIA film made for foreign exhibition was screened on a domestic political show. On that show, the filmmaker, Bruce Herschensohn, called Mr. Fulbright "naive and stupid." He then resigned, unrepentant, and was given the agency's highest award by its director, Frank Shakespeare.

In fact, we do not doubt that Mr. Fulbright was reacting first of all, and openly, to USIA's refusal to provide the committee with its "country program memoranda." These papers probably would have served the agency's budgetary purposes handsomely but they were withheld by Mr. Nixon in order to protect his position, in this and larger matters, on the issue of executive privilege. In the near background, of course, was Mr. Shakespeare's well publicized intent—offensive, and properly so, to Mr. Fulbright—to make USIA an arm of militant anti-Communism in a period otherwise ostensibly dedicated to detente.

The point is that Foreign Relations wielded its axe "in large part," as its report ackknowledged, to force the President's hand on executive privilege. It slashed USIA's media programs an even 30 per cent across the board, without any real effort to judge them on their merits or even to discover whether they actually bore the political imprint of Frank Shakespeare. We note, with some astonishment, that the material in the committee report bearing on program merits came exclusively from a study made in 1953.

Especially distressing to us were the bites taken out of the Voice of America. Its newscasts, which American commercial media are in no position to duplicate—a point of legitimate concern to Mr. Fulbright—have retained their reputation for professionalism through the Shakespeare years. Such broadcasts express a central and continuing American interest in the open international flow of information and ideas. They would be reduced now to a weekly 454 hours, just behind Albania's 480, though, to be sure, ahead of Portugal's 440. (The Russian figure is 1903.)

We are not without sympathy for congressional efforts to extract from the executive branch enough information to make legislative oversight more meaningful. If Mr. Nixon had taken a more relaxed and respectful view of legitimate congressional requirements, he would not now have a good share of his foreign-information programs being held hostage in the Foreign Relations Committee. The Fulbright-Shakespeare chemistry, to say nothing of the Fulbright-Nixon chemistry, is not exactly good. Moreover, USIA has long been recognized as ripe, overripe for reform. At the least, a sage director would have engaged in some preemptive budget-cutting of his own.

As these various questions, particularly executive privilege, are worked out, however, it seems to us essential that the Congress should provide itself with the materials for selective judgment on the USIA's various programs before cutting them indiscriminately with a single swing of the axe.

THE NATURAL GAS SHORTAGE

Mr. STEVENS. Mr. President, the issue of whether or not we will construct a trans-Alaska pipeline to bring this Nation's oil to American markets is one which touches us all. It is not just an Alaska-oriented question.

For technical reasons, the oil must be taken from the ground before the natural gas. So before we can meet the shortage which exists throughout the Nation, and right here in Washington, we must provide for the North Slope oil.

Nothing brings an issue closer to home than to find that one's job or business depends on it.

The current issue of Flamette, the employee's publication of the Washington Gas Light Co., contains a front-page editorial about the natural gas shortage. It states clearly that the future of Washington Gas and its employees depends on a reliable source of supply of fuel, and the construction of trans-Alaska pipelines is vital in meeting this goal.

I ask unanimous consent that the article be printed in the Record.

There being on objection, the article was ordered to be printed in the Record, as follows:

About the Natural Gas Shortage—You Can Help

The future of each of us here at Washington Gas is, of course, tied to our Company's ability to continue to provide our present customers with both a dependable supply of natural gas and reliable service. The Company also must be able to look to a future with an assured supply of fuel that is adequate to allow growth through a constant, reasonable addition of new customers.

Of vital importance to the meeting of these goals are the development of the Northern Alaskan oil and gas finds and the construction of trans-Alaskan pipelines to bring these sorely needed fuels to the continental U.S.

Recently, on the nationally televised "Today" program, Secretary of the Interior Rogers C. B. Morton asked for letters from the American people expressing their opinions on the issuance of a permit to build a trans-Alaskan oil pipeline. Currently an injunction issued two years ago by a Federal Court prevents the Secretary from issuing such a permit. Members of the organizations which obtained that injunction have been vigorous letter writers and are likely to continue to be so in accepting Secretary Morton's invitation to express their opinion.

Concern about the ecological impact of the construction of the pipeline has been expressed by those who oppose it. Our Company and our industry are equally concerned, but they believe that plans for the pipeline include those safeguards needed to provide a safe system. They believe, too, that the environmental benefits of the clean energy (low sulphur oil and clean natural gas) that will come from the development of the Northern Alaska gas and oil finds will greatly offset any minimal adverse effect on the vast Alaskan wilderness.

Our first-hand knowledge of the current gas supply situation right here at our own Company certainly emphasizes for us just how vital is our Nation's need—now—for these supplies of gas and oil available from

Northern Alaska. It is essential then that a permit for the trans-Alaskan pipeline be issued promptly so that the availability of these energy supplies to us can become a reality.

Here, then, is the opportunity for you to take a personal hand in shaping your future, as well as that of your Company and your Nation. Express your views today in a letter addressed to:

The Honorable Rogers C. B. Morton, Secretary of the Interior, Washington, D.C. 20240.

Certainly, too, your senators and your congressmen also would appreciate knowing your views on this vital matter.

MICHAEL JOHNSON: LABOR'S ACTIVIST FOR RELIEF AND RENEWAL

Mr. HUMPHREY. Mr. President, on March 26, 1972, it was my privilege to attend a Histradrut dinner in Philadelphia, Pa., honoring Michael Johnson, executive vice president of the Pennsylvania AFL–CIO.

Mike is one of those remarkable and deeply committed human beings whose work for the benefit for people in need merits the respect and gratitude of history and offers the promise of home in the future. I treasure his personal friendship. But I value equally the inspiration of his determination and drive. To use Mike's self-descriptive words:

> I was infected with a nagging, persistent, and almost pervasive notion that the time lost in helping those in need of help was time lost forever.

He is impatient with poverty, with sickness, with the denial of educational opportunity for a child or youth—as we all ought to be, when there is so much that can and must be done now to address these critical problems.

Michael Johnson has been honored by the establishment of a scholarship program in his name in connection with the outstanding programs of the Israel trade unions, through Histradrut, to accomplish, in Mike's words, an "almost unbelievable reclamation of human life." Receiving major support from the American Jewish community, these programs have provided vital health, education, and social welfare resources and services to people long condemned to a life of denial.

Mr. President, I ask unanimous consent that the remarks of Michael Johnson on this important occasion be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY MICHAEL JOHNSON, HISTRADRUT DINNER, SUNDAY, MARCH 26, 1972, PHILADELPHIA, PA.

Tonight, many generous, indeed lavish, things have been said about me—and my role in the area of my chosen activity—the Labor Movement. To suggest that I am not deeply touched would be less than forthright. For even if all of that which has been said were to be untrue, I have relished so much hearing it said.

After all—I know something about these testimonial dinners, having attended so many as a member of the audience and in several instances having helped to produce them on behalf of other honorees and meritorius causes.

But I am human, and as such I probably am vulnerable at least on the score of wanting a lifetime of activity in the labor scene not to go unnoticed.

Accordingly, I offer profound thanks on behalf of my family and myself for these generous, personal tributes desperately hoping that at least some of the compliments are true.

And with respect to those wonderful things said by those who have preceeded me, anything which may be true certainly applies not to me alone—but to the very many who in my admittedly long career have made possible any and all of the accomplishments credited to me. For I have since learned that it takes many hands, many hearts, many minds and the courage of the many to accomplish anything on behalf of people. My good fortune is that I have been permitted by a kind fate to play a small role in this great drama.

Permit me, however—a personal observation—since I am being singled out here tonight—the expression of a personal creed which may not again have the opportunity to articulate.

What I believe in and what I have worked for are not essentially so different from the beliefs and aspirations of others. I have shared with so many of you a dream that life should be made better for many who have been ill-fed, ill-housed, and ill-clothed.

But a long time ago I was infected with a nagging, persistent and almost pervasive notion that the time lost in helping those in need of help was time lost forever; that the weeks and months lost in bringing health care to the sick and infirm were never to be regained; in fact, every single day lost to the youth who needs meaningful education and preparation for a productive happy life is irretrievable and that in the face of such deprivation, this youth is incontrovertably limited to fewer and fewer opportunities to rise from the mire of disadvantage in which he finds himself engulfed.

At the same time there grew in my heart and mind an unshakable conviction that every man, every woman and every child had a God-given right, a birthright if you will, to fulfill himself to the utmost of his own potential. And that anything that prevented such fulfillment was a wrong—an unjustice—and yes, a crime.

Thus, I have been driven to seek immediate and meaningful action—to spurn delay as an enemy of the people—and to reject gradualism as a fraud which breeds failure, deception and at best a guarantee that the unjustice will remain.

Perhaps some of my colleagues and others can better understand my own impatience and unwillingness to settle for a token or a symbol of the total task which needs to be done today.

For I have been seeking, with your help, to bring new hopes to those entrapped by a deep, deadening poverty from which they cannot escape; I have been struggling together with so many of you to liberate multitudes from the bonds of pervasive ignorance from which they appear unable to free themselves—to unchain those fettered by shackles of illness and disease which appear to have become their inevitable fate.

For all of them I have wanted—and still want today—the immediacy of relief and renewal which are clearly available and possible in a society so highly capable of man-wrought miracles.

And because our human failures have not remitted, and so much more needs to be done—I can tonight only pledge and rededicate those diminishing energies and abilities, which I still retain, to the task of seeking for today the solutions which others may be willing to schedule for tomorrow.

In Israel, where so much has happened—all oriented toward the development of the single individual—where thousands have been virtually rescued from unspeakable demonstrations of man's inhumanity to man—where so many other thousands have been transplanted from cultures, centuries old, stepped in deprivation, hunger and denial as a way of life—I have perceived movement toward human reclamation as astonishing as the transformation of arid, barren desert lands into fertile gardens.

I see, in Israel, the same unwillingness to settle for gradualism, for tokenism; an unwillingness to do tomorrow that which could and should be done today.

And in this awesome, almost unbelievable reclamation of human life—of the individual himself—I know the role which Israeli Trade Unions—through Histradrut—have played.

Can I be less than overwhelmed by the knowledge that now a small portion of this great effort through a scholarship program shall bear my name?

I am therefore doubly grateful for your collective generosity in not only tendering to me such high acknowledgment this evening—but in associating my own name and identity with the sacred effort to help young Israeli men and women to fulfill themselves as a right of birth and being alive.

Finally, with these words I hope that many who have been dealt with harshly, in my hurried anxiety to accomplish something today rather than tomorrow, will soften their judgments. I ask your forebearance.

And as I close, let me borrow a prayer from my grandfather—a gentle, profound scholar—who, as you took leave of him, would say:

"May the good Lord permit you to depart in peace—May He permit you to return in Peace. And may he ordain that when you do return—you will once again find me here."

Sholom!

THE PLIGHT OF SOVIET JEWRY

Mr. TAFT. Mr. President, last Tuesday I placed a telephone call to a young Jewish Russian citizen in Moscow—Gavriel Shapiro. Mr. Shapiro has been trying to get an exit visa to go to Israel for the past year and one-half. He is 27 years old and a graduate chemical engineer from the Moscow University. Since applying for an exit visa, he has been forced to take four different jobs, and each time his employer learns of his desire to go to Israel, he is fired from his job. In our telephone conversation, Mr. Shapiro recounted several alarming factors to me.

On Thursday, April 27, 11 activist Jews, including Shapiro, all of them scientists, were told to report immediately for induction into the Red Army. They feel that this is a move by the Soviets to remove them from Moscow during the President's visit. Each had asked previously for a meeting with the President, or his representative, so that they could apprise him of the current situation of Soviet Jewry. Shapiro and nine others are officers in the Soviet Army reserve. Mr. Shapiro has passed his army physical and has been told he would be called into the service "as the need arises." On Thursday, April 27, he and the others wrote a plea to U.N. Secretary General Kurt Waldheim telling of their current plight and appealed to Waldheim and others for help. Since last Friday, Shapiro and 13 others have gone into hiding. Each day others are added to the list.

The father, Jacob Shapiro, in daily conversations from Moscow, has recounted to a trusted constituent of mine the terror the family has been under-

going since last Friday. The Shapiro family has been visited at all hours of the night and harassed constantly by telephone-calling from representatives of the Soviet militia as well as the KGB–Soviet secret police. The elder Shapiro was warned by the authorities that if his son does not report for active military duty at 9 o'clock tomorrow morning he will be immediately placed on trial, prosecuted, and sentenced to 7 years of hard labor in Siberia.

In a telephone conversation yesterday, Shapiro's father released a letter addressed to the Senate of the United States. This plea was written by him in behalf of the 13 other parents and wives of these brave men. I ask unanimous consent that Mr. Shapiro's letter and an article published in the Washington Post this morning be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

To: The U.S. Senate

GENTLEMEN: Agents of the KGB are undertaking a treacherous campaign to terrorize all the young Jewish men with higher education who have presented documents to go to Israel. They will be inducted into the Soviet Army.

The police brought military induction notices to my son, Gavriel as well as to thirteen others. These notices stated that these young men must report immediately to their regional military committees. The police are presently looking for these young men all over Moscow and have been coming to our apartment at all hours of the night looking for my son who has already gone.

The situation is very dangerous for these young men. They are threatened with imprisonment for up to seven years. These fourteen young men are struggling for emigration—today and the future.

It is necessary to take the most effective action in their defense. Trials must be prevented.

World! Do not be silent!

JACOB SHAPIRO.

P.S.—Please convey my message to President Nixon and to Mr. Kurt Waldheim.

ELEVEN SOVIET JEWS HIDE TO AVOID GOING TO ARMY

(By Robert G. Kaiser)

MOSCOW.—Eleven young Jews, several of whom hoped to stage a demonstration during President Nixon's visit to Moscow, later this month are in hiding to avoid being called into the army, Jewish sources here report.

All 11 Jews are scientists in their late 20s and 30s, all have applied for permission to emigrate to Israel and all have been denied that permission, these sources say. They are regarded as activists in the Jewish movement here.

In Washington, a spokesman for the Washington Committee for Soviet Jewry said that telephone calls to the Soviet Union disclosed a similar pattern of pressure on Jewish activists in a number of cities outside Moscow.

[In Tallin, Estonia, and Kauna's, Lithuania, two men were unexpectedly called to military duty, while a Jewish activist in Sverdlovsk had gone into hiding the spokesman said.]

Alexander Y. Lerner, a professor whose 28-year-old son is one of the 11, said the group included many of the most useful members of the Jewish protest movement, as well as those "who are brave enough to make some manifestation during President Nixon's visit."

Four of the 11 had actually applied for official permission to stage a demonstration during the Nixon visit carrying signs reading "Let my people go."

A group of Jews including Lerner wrote Mr. Nixon asking to meet him here. Lerner said that he didn't really think this would be possible, but he does hope to meet a member of the presidential party in Moscow.

STRANGE SITUATION

He also says there will be a public demonstration while Mr. Nixon is here, but other Jewish activists say there will be no demonstration, because that could only lead to trouble. Activist Jews in Moscow often disagree on tactics.

News of the 11 men hiding from the army is already well known in activist Jewish circles in America and Europe—a fact which reveals something about the strange situation in which Jewish protesters here now find themselves.

Russian Jews got the news to the West by long-distance telephone. "Every day," Lerner explains, "I get calls from Los Angeles, Chicago, Florida, New York—everywhere . . . Today, I heard from Ohio, New York, London—twice from London—Canada."

The callers are Jewish activists in those cities, who apparently have no trouble getting through Soviet switchboards to talk to dissident Jews here. Lerner is only one of many Jews receiving these calls.

This correspondent first learned of the 11 Jews in hiding in a telegram from The Washington Post in Washington. Americans who had been talking to Moscow by phone contacted The Post.

These phone calls suggest the dependence Soviet Jews often feel on the outside world. This sense of dependence has grown since the small band of dissident Jews here learned that President Nixon was coming to Moscow May 22, "President Nixon must help us," Lerner said.

He also criticized the Voice of America for not carrying enough news about Jewish dissidents in the Soviet Union.

SMALL GROUP

The 11 young men in hiding are part of a relatively small group of Soviet Jews who have been denied permission to emigrate to Israel because of their jobs, educations or both. (Generally, emigration continues at a fast rate. More than 9,000 Soviet Jews have left for Israel so far this year.)

Lerner, a small, chain-smoking man of 58 who speaks English with a gravelly voice, is one of these himself. An expert on cybernetics with an international reputation and a dozen books to his credit.

* * * Lerner says he was told by Soviet authorities "We cannot give such a gift (as him) to Israel . . .

Lerner has been refused an exit permit three times since last fall when he first applied—and lost his job.

Others who have been denied exit visas include former employes of sensitive organizations, or others who had access to state secrets. This has been literally interpreted, so that some former Aeroflot pilots, for instance, have been denied visas.

POLISH CONSTITUTION DAY

Mr. HUMPHREY. Mr. President, in May of 1959, I had the privilege to address some 100,000 Americans of Polish descent in the city of Chicago during the commemorative services observing the 168th anniversary of the Polish Constitution.

Again, I join all Americans of Polish descent in recognition of that historic event of May 3, 1791—an event significant to all mankind.

To the Poles and their descendants, this is the national holiday, for it recalls a priceless heritage of humanitarianism, tolerance and democratic principles conceived by the people of Poland at the time when most of Europe lived under unconditional tyranny.

The May 3, 1791, Constitution was the first liberal constitution in Europe and only second in the world, after the Constitution of the United States. Following the American pattern, it established three independent branches of government and secured all the basic human rights which we so dearly hold in the United States.

Neither partition nor persecution has been able to stamp out the flame of liberty in the hearts of the Polish people. Their struggle for justice and freedom will continue in Poland and elsewhere in the world, just as 200 years ago when those two great Poles—Generals Kosciuszko and Pulaski—contributed so much to our great cause and to the success of Washington's armies.

Poland has been called a pioneer in European liberalism. Certainly, freedom-loving peoples everywhere in the world must take satisfaction and inspiration from this passage in the Constitution of May 3, 1791:

> All power in civil society should be derived from the will of the people, its end and object being the preservation and integrity of the state, the civil liberty, and the good order of society, on an equal scale and on a lasting foundation.

Freedom-loving people everywhere deeply regret and abhor the fact that almost two centuries later this great document is not a living reality for the Polish people. Nonetheless, the Constitution of Poland of 1791, so much like our own charter, stands today as a beacon of light and hope in the darkness and pessimism of Soviet oppression.

While I now salute the authors of this great document of liberty—men like Potocki, Kollotaj, Malachowski, Niemcewicz and Krasinski—above all, I salute the people of Poland everywhere.

CHROME IMPORTS FROM RHODESIA

Mr. McGEE. Mr. President, this week the Senate is expected to decide whether we will revoke our action taken last fall, action which allowed this country to violate a United Nations ban on chrome imports from Rhodesia.

At the time the Senate approved section 503 of the Military Procurement Act of 1971, a number of us opposed such a move in that we felt it was ill-advised for us to become an international lawbreaker. In addition to turning on an old ally—Great Britain—we were in a position of alienating the black African nations by our action.

Last Thursday, May 4, Bishop Muzorewa, of Rhodesia, was in our Nation's Capitol rallying support on behalf of my amendment to the State Department-USIA authorization bill which would turn around last fall's action by this body.

In a statement issued by the Bishop, he raised some very poignant and soul-searching questions. The bishop stated that his people were:

> Asking you to place moral weight, of this great nation, on the side of human freedom

> international law and order by reinstating the sanctions against Rhodesia.

The bishop further stated:

> America has never been a colonialistic power in Africa. She has eliminated the cruel system of slavery and moves every day toward complete commitment to a non-racial society. We do not think the action to break the U.N. sanctions against Rhodesia is supportive of Human Rights. The action of your government to break sanctions and to begin to import chrome was a severe blow to our struggle for freedom.
>
> Economic sanctions provided us with the only tool we have in our non-violent Christian struggle for a free Rhodesia. We ask that you help us and in the process contribute to the moral rearmament of Rhodesia and the U.S.

Bishop Muzorewa represents the voice of moderation in his people's struggles in Rhodesia. If a nonviolent approach to his people's problems is to continue then this country cannot take actions which can only lead to promoting an atmosphere of violence. I believe the action of the Senate last fall only served to hasten the day when the Africans of Rhodesia feel that violence is their only solution. And we must assume much of the blame, should that day ever come, unless we take immediate steps to redress a wrong and ill-advised decision on our part.

I ask unanimous consent that Bishop Muzorewa's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF BISHOP MUZOREWA, MAY 4, 1972

> The Rhodesian government proclaims to the world that it is "preserving civilized standards." It compares its declaration of independence in 1965 to that of the American Colonies in 1776. But we all know that the difference is that America was seeking for freedom, but over there intention was to enslave the Africans. What are the "civilized standards" which are being preserved in Rhodesia today? Here they are:
>
> The 5% of the population which is white maintains total political control over the 95% of the population which is black.
>
> Whites elect 50 members of Parliament while Africans elect 8 under a highly restrictive franchise, and the other 8 are elected by chiefs.
>
> Every African opposition party formed in the last 14 years has been banned.
>
> Hundreds of Africans have been arrested, placed in detention centers indefinitely under laws that allow for no trial, no statement of charges, and no appeal.
>
> Thousands have been imprisoned under a wide range of vague laws that are interpreted to cover almost any kind of behaviour. For example, Section 24 of the Law and Order Maintenance Act of 1962 states that any person who "behaves in a manner which is likely to make some other person apprehensive as to what might happen . . ." can be imprisoned for up to ten years.
>
> Half the land, 45 million acres, is reserved for the use of a small number of white farmers, while Africans are assigned to the other half, located in dry or mountainous areas.
>
> Thousands of unemployed compete for jobs that provide only a bare subsistence averaging $26 a month while whites average $300 a month.
>
> The government spends an average of $30 a year for African education while it is spending $300 for white children, per child a year.
>
> The greatest tragedy of all is the crippling of human dignity by a system that constantly denies the sacred value of the individual.
>
> The 5½ million blacks who live as aliens and as 3rd class citizens in the land of their birth along with a few white allies continue to challenge the call upon the free world, especially American people, to support them in their struggle for freedom. This nation has traditionally stood for democracy, freedom and the dignity of man.
>
> We are asking you to place moral weight of this great nation on the side of human freedom, international law and order by reinstating the sanctions against Rhodesia.
>
> America has never been a colonialistic power in Africa. She has eliminated the cruel system of slavery and moves every day toward complete commitment to a non-racial society. We do not think that the action to break the U.N. sanctions against Rhodesia is supportive of the ideals of the American Bill of Rights or the U.N. Declaration of Human Rights. The action of your government to break sanctions and to begin to import chrome was a severe blow to our struggle for freedom.
>
> Economic sanctions provided us with the only tool we have in our non-violent Christian struggle for a free Rhodesia. We ask that you help us and in the process contribute to the moral rearmament of Rhodesia and the U.S.
>
> All intelligent people know that the struggle for freedom everywhere is serious and strenuous, and even prolonged. But we believe that a government by the consent of the majority of the people is inevitable in our country. Would the U.S. want to be counted as having been on the side of oppression and minority rule? If there should be demand of reparation would the U.S. not be embarrassed if she was one of the nations asked to make restitution for having participated in any way in the oppression of a once hopeless people?
>
> The hands of the clock of Rhodesia are pointing toward freedom. Would America set those hands back? I do not believe so. We ask that you all help us by imposing strong economic sanctions on Rhodesia now.

THE PRESIDENT'S CHOICE OF INTERDICTION

Mr. TAFT. Mr. President, President Nixon has made a courageous choice. It is one best calculated to bring about a negotiated settlement of the war and to offer the best chance for longer range peace in Southeast Asia and stable relations between the world powers.

The cynical disregard of peace overtures made by the United States and South Vietnam on the broadest basis, accompanied by the continued raw aggression of North Vietnamese forces, necessitated the confrontation brought about by the President's chosen course of action, and all Americans should back him in it.

Obviously, the strong support and approval of the Soviets has been and continues to be essential to the current North Vietnamese invasion. That invasion had eliminated any possibility of peace without subjugation and elimination of the South Vietnamese.

The only alternative available to the President, other than the utter abandonment of millions to whom we have made a de facto commitment, would be to provide counterweapons such as medium or heavy tanks and long range artillery. This we have avoided because it would bring about an escalation of the war.

The choice of interdiction by the President is within the clear authority to defend American forces and those of our allies. It should signal to the Russians that a negotiated settlement must be sought. As the President pointed out, it also represents the best chance we have of obtaining a return of our war prisoners.

I believe it is now up to the Russians to join with us in a responsible role to bring about an end to the flow of war materials and of hostilities in both North and South Vietnam. The progress made recently in other meetings with the Soviet Union indicates a good chance that it can succeed.

JOBS FOR YOUTH: COMPREHENSIVE ACTION DEMANDED

Mr. HUMPHREY. Mr. President, the recent adoption by the Senate of the second supplemental appropriations bill, H.R. 14582, as amended, included a vitally important response to the critical problem of extensive youth unemployment in the poverty areas of our cities.

In a highly commendable action, the Senate Committee on Appropriations had recommended a supplemental appropriation of $247 million for manpower training services, including $223.9 million for the Neighborhood Youth Corps summer job program. This is the largest supplemental ever recommended by the committee for this vital program. providing for 947,928 job opportunities on a 9-week basis for poor youth in America's cities.

I strongly urge that Senate and House conferees on this appropriations measure sustain the action of the Senate in approving these additional funds to meet serious needs of the cities and to provide badly needed jobs and income for several hundred thousand young men and women. And I urge the administration to assure the full-scale operation of this essential summer job program without delay.

The Senate action goes far toward meeting the level of available and required jobs for youth that has been documented by the National League of Cities and the U.S. Conference of Mayors—almost 1 million wage-earning slots, but on a 10-week basis as the program has been operated prior to last summer. It had been my privilege to join with Senator JAVITS and 25 other Senators in supporting this urgent request by these national urban organizations before the Senate Appropriations Subcommittee on Labor and Health, Education, and Welfare and Related Agencies, and I am gratified that the committee fully recognized the merit of our strong appeal.

This level of need that can be effectively met by our cities compares directly with the administration's proposal simply to maintain last year's level of work opportunities, under the New York City summer program, of 609,300 slots and on the shorter basis of 9 weeks. It was only under intense congressional pressure that the administration agreed to increase appropriation requests to achieve this level of jobs for youth last year, although it was short of the goal initially called for by Senators NELSON, JAVITS, myself, and others. Since then, the administration has not hesitated to take full credit for increasing the level of job opportunities for youth over that of previous years.

I would welcome this new-found pride of accomplishment by the executive branch in this area of serious human need. But I am deeply concerned that this administration may still be failing to recognize that simultaneously there has been an escalation in the crisis of unemployment among America's youth, particularly among young persons in the urban and rural ghettos of poverty.

THE CRISIS OF YOUTH UNEMPLOYMENT

The rate of joblessness among teenagers stands at a disastrous level of 17.9 percent—more than three times the national level of unemployment that itself is economically and morally unconscionable. But the crisis of joblessness has been felt most sharply among nonwhite youth under age 22, living in poverty neighborhoods, where the unemployment rate has soared to 34.3 percent and to 42 percent among young black men aged 16 to 19.

Now, this is the problem as it already exists. But what about the millions of young men and women, presently in high school or college, who will be looking for temporary or permanent jobs this summer? And what action is being taken now to enable an expected 3 to 4 million young persons each year over the coming decade to find full-time work?

It has been estimated that 2.3 million high school graduates and college students will be looking for temporary jobs this summer. Consider the impact this will have on the 1.3 million youth and 400,000 Vietnam-era veterans looking for a steady job right now. Then add to this cadron another 1.2 million high school and college graduates this June who will be seeking permanent employment.

Even the staggering rate of unemployment among black youth in the urban ghetto does not tell the full story of frustration, despair, and lives crippled by the denial of regular work opportunities at a decent wage, in our areas of poverty.

Two disturbing indicators that this is a problem of major proportions have been sharply focused in recent weeks in surveys by the Census Bureau and by the staff of the Senate Subcommittee on Employment, Manpower, and Poverty, of the unemployment situation in low-income neighborhoods in 51 of our larger cities. First, it is estimated that the true unemployment rate in these neighborhoods—adding those seeking full-time work or discouraged in their search for jobs—is nearly double the high level of 9.6 percent reported for 1971 by the Bureau of Labor Statistics.

Second, the subemployment rate—a more accurate indicator of the actual depression economy existing in the city ghetto of poverty, reflecting not only those out of work, but also those who have given up trying to do better than their ill-paid, part-time jobs, and full-time workers paid less than $4,000 a year—may be over 30 percent. One out of every three families lives in poverty, for lack of decent-paying jobs in the area, and two out of three families earn less than what the Government has defined as a "low adequate budget" of $6,960 per year.

YOUTH IN POVERTY: NEIGHBORHOOD YOUTH CORPS JOB PROGRAM REFORMS

Last year, I undertook an important new initiative to meet the critical need of jobs for young men and women handicapped by the double barriers to opportunity—racial and economic discrimination. It has been my privilege, as Vice President and Chairman of the President's Council on Youth Opportunity, to work directly with State Governors and city mayors in launching vital new programs to overcome these barriers throughout the Nation. Out of this extensive firsthand experience with the harsh reality of lives crippled by poverty, I was determined that more could and should be done.

Therefore, in April 1971, in testimony in the Senate on the economic opportunity amendments bill, S. 2007, I proposed a fivefold expansion of the Neighborhood Youth Corps out-of-school program to provide for 250,000 job opportunities. And I called for a reorientation of this program to involve teenage youth in vital projects of community improvement and public services. I emphasized the importance of enabling our young people to work directly in creating a more livable, decent environment in depressed neighborhoods, as, for example, in projects to develop and maintain parks and playgrounds, to clean up streets and vacant lots, and to provide recreational programs for children and other community services. And I insisted that this be a comprehensive program to genuinely help teenagers who have dropped out of school, by also providing them opportunities to continue their education to obtain good jobs at a decent wage.

The antipoverty bill subsequently passed by the Senate included a provision for an additional authorization of $500 million to create 100,000 more work and training opportunities in the New York City out-of-school program. But the administration not only vetoed this bill, but also reduced enrollment slots in this program to 49,000 in its budget request for fiscal 1973.

I firmly believe that Congress must reverse such inexcusable, regressive actions by this administration in the face of critical human needs across this Nation. We must not continue to deny hundrens of thousands of young people vital opportunities to make something worthwhile of their lives.

A MAJOR EXPANSION OF PUBLIC SERVICE JOBS

We must also launch a frontal assault on substantial unemployment afflicting younger and older workers alike. That is why I have introduced the Employment Opportunities Act of 1972, S. 3365, to provide for more than five times the level of public service jobs currently created under the Emergency Employment Act. The provision of 148,000 jobs under this act, when more than 5 million Americans are out of work, has been almost meaningless in addressing the crisis of youth unemployment. Only some 12 percent of these jobs are held by young people under age 21.

The time has come for the Federal Government to become the employer of first opportunity, to restore the confidence of the people and their hope in America's future. What this administration must recognize is that the immediate need across America is for jobs—jobs that are of vital importance to our communities struggling to provide adequate public services; jobs to restore hope and confidence; jobs to stimulate consumer purchasing power; jobs to enable thousands upon thousands of families to obtain food and clothing, health care, and to rebuild the savings wiped out over 3 year of recession.

But we must also act decisively to help the young person facing a summer of uselessness and continued poverty, often moved by the senselessness of this enforced idleness to accept the equally less violence of the youth gang.

We waste one of our most vital national resources when we leave on the street corner the youth with a vision, a commitment, a determination to know a better life for himself and his community, and to work toward the achievement of a more just and decent society.

AMERICANS FOR DOMESTIC DEVELOPMENT

I have proposed the establishment of a major new service corps, Americans for domestic development, to utilize the idealism and impulse for service of Americans of all ages to meet the human needs of the Nation. We must make the decade of the 1970's a decade of dynamic domestic development. We need to concentrate not only on the problems of poverty in America, but on the countless unmet domestic needs that the present administration has neglected—needs in education and health care, in conservation and recreation, in crime prevention and the rehabilitation of drug abusers, in child day care and tutorial programs, in helping hard-pressed local governments design and execute a wide range of programs for people.

We need a service corps that can address these problems through locally based and effectively organized projects, with Federal assistance and constructive monitoring of operations. Members of A.D.D. would be allowed to serve in communities where they live and where they want to make a contribution, and this contribution can be on a full-time or part-time basis. They should also participate in the decisionmaking levels of Government.

Such a service corps can enable young people to be effectively involved in ongoing programs to address the problems I have outlined, and to earn a decent income. There are thousands of important tasks that young people can and should be performing, because they have skills and direct experience as well as commitment: work as hospital assistants, teacher aides, camp counselors, and recreation program directors, or manning information centers on community services and contacting appropriate Government agencies to get help for people in need, or counseling other youth and working with street groups, and undertaking vital environmental improvement projects in both the city and rural areas.

The Americans for Domestic Development program can be tied in with my proposal for the expansion and reorientation of the Neighborhood Youth Corps job programs to provide not only extensive opportunities for job training that is relevant to the current labor market, and for work experience at a decent wage, but also remedial education services and flexible programs for continued education for youth who have dropped out of school.

We should also provide Federal assistance to help meet the operational costs of locally organized programs to provide young people with odd-job employment opportunities. Many programs of this kind are already being run by the National Alliance of Businessmen, community action agencies, Jaycees, city governments, and the Urban League. Federal assistance toward meeting direct program operation costs, can enable these programs to meet the needs of many more thousands of youth seeking part-time employment. This assistance would be tied to the requirement of the maintenance of this local effort, and the assurance of safe working conditions and a fair wage in the private-sector jobs that these programs locate for young people.

EDUCATIONAL ASSISTANCE FOR AMERICA'S INVISIBLE YOUTH

But it is also high time that Federal leadership focus attention on the needs of America's invisible youth—the more than 8 million young Americans not in college, but in factories, on farms, in offices, or at home. They should now have a fair share in the educational subsidies and privileges enjoyed by college students. I have proposed a Federal program of scholarship funds and educational loans so that these young men and women who must work by day can attend night courses at a community college or university.

I firmly believe that education beyond high school in America is a right—not a privilege. It is essential if a young person is to improve his employability skills and compete effectively in a changing labor market that is demanding ever higher qualifications.

INTERNS FOR POLITICAL LEADERSHIP ACT

We must also now enable youth to be directly involved in the decisions and operations of all levels of government as part of a higher education that is relevant and comprehensive. Working as interns in the offices of elected officials in local and State government, and at a reasonable rate of compensation during this work experience, they can learn at firsthand the strengths and problems of government that must strive to be both representative of and responsive to the people. Directly participating in the policy-determination process and in the provision of services to constituents, they will obtain a firsthand experience by which to evaluate their career plans. And government will benefit greatly by the experience of the commitment and innovative thinking of youth.

It was for these reasons that I introduced the Interns for Political Leadership Act last year, to establish such programs in cities and State capitols across the Nation. This legislation has subsequently been passed by the Senate, and provides a model of what I believe must be done if youth are to believe that they have a direct voice in American democracy. City councilmen and State representatives have expressed their full approval of the results of pilot programs in numerous areas, at the same time noting a serious need for this assistance.

MAXIMUM USE OF DEFENSE TRAINING FACILITIES

Finally, I believe that an immediate examination must be made of further job training resources for Vietnam-era veterans and young men and women—resources purchased with Federal tax dollars but not being fully utilized. For example, we should look to the full utilization of Department of Defense training facilities, equipment, staff, and programs, for job training and work experience, as the military need for these facilities and programs is reduced or terminated.

Why could not these facilities be shared with or leased by State and local governments for job training centers for younger and older workers, with program costs being shared by the Federal Government? Various pilot projects of this nature have been undertaken over recent years—as, for example, in Job Corps programs—but much more can and should be done on a sustained basis.

I suggest that the Department of Defense, while retaining ownership of these facilities where necessary to the national defense, be enabled to undertake appropriate contracting and regulatory procedures for the transfer or sharing of these governmental assets with State and local governments, both to promote the employment of military personnel in transition to civilian status, and to enable unemployed persons in the surrounding region to learn new skills where serious shortages exist in the labor market.

NATIONAL LEADERSHIP DEMANDED

All these proposals represent vital new directions that I am determined to see taken in meeting the critical need of youth for jobs—jobs with a purpose, jobs that need to be done to strengthen the economy and improve our communities, and jobs that must be provided now.

The need for action is urgent. The demand for decisive national leadership to address the crisis of youth unemployment should no longer be avoided.

THE ANTIDRUG DRIVE

Mr. HUGHES. Mr. President, on March 28, 1972, the New York Law Journal publish an article entitled "Kennedy: Antidrug Drive Needs Total Effort," written by the Senator from Massachusetts. The statement clearly outlines the urgency of our national drug abuse epidemic, and it explains why the Nation must begin immediately to eliminate the sickening tragedies caused by the abuse of narcotics and other drugs. As chairman of the Subcommittee on Alcoholism and Narcotics, I am pleased that Senator Kennedy has expressed his concern and interest in this terribly vital national issue.

I ask unanimous consent to have printed in the Record the statement of Senator Kennedy published in the New York Law Journal of March 28, 1972.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Kennedy: Antidrug Drive Needs Total Effort

(By Edward M. Kennedy)

America in the 70's is a drug society. To get to sleep we pop a pill. To wake up we take another pill. Headaches, colds, aches and pains are compelling reasons for taking more drugs. We take drugs to control our birth rate and we take drugs to keep from eating too much. We even have rituals for taking certain drugs so that we don't realize or look upon them as drugs. During the coffee break we get our daily intake of caffein; cigarettes satisfy our passion for nicotine, and the cocktail party meets our demand for alcohol.

Ordinarily, most of these drugs are totally safe. Aspirin and coffee surely don't pose a health threat under normal use. While birth control pills may have side effects, they, too, are generally safe. Other drugs are perhaps safe in limited use, but some are easily subject to abuse, like alcohol. Some drugs, though inherently dangerous and destructive even in ordinary use, like nicotine, are still somewhat controllable and pose little threat to the stability of society. But, the building crescendo about a drug epidemic concerns a singularly lethal and debilitating drug—heroin. And the widely broadcast concern about an epidemic is stimulated by the mounting toll of lives that heroin ruins.

NONE ARE SPARED

Heroin addiction and abuse are everywhere. Parents in the comforting affluence of Beverly Hills complain as much as mothers whose children are forced to play in the squalor of South Chicago. In Washington, D.C., one fifth of all young men between twenty and twenty-four are estimated to be heroin addicts. Experts claim that New York City, the nation's drug capital, has more than 100,000 addicts. Wesley Uhlman, the Mayor of Seattle, believes there may be as many as 2,000 addicts in his city. Medical authorities put the number of addicts at 5,000 in Phoenix.

Heroin is a plague ravaging all of our citizens. People are filled with terror at home and in our streets because the victims of heroin stalk the urban byways for money and goods to sate their craving. Each of us is in danger of becoming a casualty of the frenzy of the addict stealing for his habit. In a community of two million citizens, at least $200 million is "ripped off" each year to support heroin addiction. In 1970, more than 2,000 deaths were caused by drugs. And the average age of users keeps dropping each year.

What can we do about this epidemic? Can it be stopped before it gets out of hand? Or, is it out of hand already? As I see it, there are two alternatives. We can panic. In our panic we will only produce cosmetic changes that are superficial and insincere. Or, we can really seek to resolve the basic causes of the problem.

HEROIN AND GUNS

In a startlingly ironic way, the widespread abuse of heroin compares with the nationwide mystique for guns. Today, fear, apprehension, mistrust, anguish and pain are the dreaded products of our nation's history with firearms. In early times guns were a necessity. They were used to claim a new nation; to establish a new life. Thus, through the years America has nurtured and worshipped the "power of the barrel." Today, guns are still an integral part of our society. But they are so abused and misused that among the nations of the world, America stands in the bloodiest pool of deaths by gunfire.

We have somehow managed to weave into the fabric of our new world culture a similarly mystical dependence upon drugs, so that the switch from caffein to codein or from nicotine to marijuana is really no switch at all. Rather, it is quite a predictable outcome for a population that insists on making life seem like a perpetual happy holiday where a pill cures all.

So far, even the way we have tried to deal with the drug problem is not unlike our approach to the gun problem. "Guns don't kill, people do" cry the critics of gun controls. Upon that kind of misguided philosophy we have enacted a plethora of laws to punish people who maim, intimidate or kill with guns. But we have devised no effective method to control the availability of these deadly devices that caused 10,200 murders in 1970.

CUT OFF THE SOURCE

Shamefully, and perhaps blindly, America has adopted a singularly unenlightened policy about the misuse and abuse of narcotics. Our national, and indeed our local, policies dealing with narcotics substances seem to be founded on the notion that "heroin doesn't steal, people do." And so, we have acted to lock up the user, while the flow of heroin and other narcotics remains almost unabated. Let's cut off the supply at the source and pursue drug traffickers relentlessly.

In July, 1969, the Administration announced its "commitment" to combat the drug menace. That announcement included all the right words about a balance of law enforcement, education, rehabilitation, and research. But two days later, when the Senate received the Administration bill, it was one dimensional. That bill was all enforcement and no rehabilitation, no research and no education. Moreover, the Administration blocked attempts of those of us who sought to add these other three dimensions. And so it is, that we seem doomed to suffer from the full visions of the past when dealing with the modern threat of a narcotics epidemic.

We seem compelled to continue believing that it is proper to place anyone who has had anything to do with drugs in jail. But what good is it to arrest drug users if we don't have the facilities to deal with them and if they are going to end up back on the streets and back on drugs. We do the same with those arrested for gun crimes. They also wind up back on the streets with a gun back in their pocket.

NATIONAL SUICIDE

To those who take the position that guns will always be with us, I submit that we must sustain an unending campaign to redevelop the proper role of firearms in our lives because the current place that guns have in American life is tragically and needlessly destroying the quietude of our family and community life. At the same moment, if we are to accept the claim that narcotics will always be a part of our life, then we must also seek to develop its proper role in our society. Unless we do so, there may be a gruesome nationwide contest to eradicate ourselves with either a shot of heroin or a shot of lead.

Yet, it seems clear that we have a chance to halt the madness of drug abuse, even though the problem continues to grow at a staggering rate. Our most important task, however, is to recognize that the answer is as complex as the problem. It is not sufficient just to seek the elimination of heroin or other narcotics from our society. We must devise a fundamentally rational and coordinated attack so that new people will be prevented from getting caught up in the heroin morass; those who are already part of it must be rescued, and others whose greed contributes to the spread of the problem must be effectively deterred.

Drs. Dupont and Katon, in Washington, D.C.'s narcotics treatment program, call for a national commitment to end the current spread of narcotics abuse. They warn that even with a well-structured treatment program there is a particularly cruel problem to be faced.

"When a program is functioning well, the heroin addicts will come and come and come," they said. "There won't be enough money to treat them all. The program must either establish a waiting list or dilute services to an unacceptable level. The involved physician will be forced into the role of program advocate and contender for inadequate public or private funds. He will begin to fight with national granting programs such as the National Institute of Mental Health and the Office of Economic Opportunity. He will do battle with his local and state government. He will compete for funds with other health programs. The reason for this is as obvious as it is tragic: nowhere in the country has the leadership fully grasped addiction and nowhere is enough money available."

Obviously, the only sensible answer is to pursue the drug problem with the same persistence that plunged us into justifying blowing up the tiny island of Amchitka, or building gigantic aircraft that refuse to fly, like the C-5A. But, to do that will involve a commitment on the part of all of us to think with open minds and to act with sense and balance.

I am privileged to serve on the Senate subcommittees—the Judiciary subcommittee to Investigate Juvenile Delinquency and the Labor and Public Welfare subcommittee on Alcoholism and Narcotics—which are jointly responsible for the development of programs on drug dependence and drug abuse. On the basis of my experience on these subcommittees, and with information I have obtained as chairman of the Health subcommittee, it is clear that we must and can develop a comprehensive approach to the drug problem.

In 1970, I joined with Senator Harold Hughes and other members of the Labor and Public Welfare Committee to introduce an amendment to the Controlled Dangerous Substances Act that would have established a new "National Institute for the Prevention and Treatment of Drug Abuse and Drug Dependence" in the Department of Health, Education and Welfare. That amendment provided for the emplacement of a centralized system to control government drug problems.

Prevention, education, training, treatment, rehabilitation, and non-enforcement related research would all be in one highly visible place. The system would have a mandate to ensure that the federal drug effort is effectively utilized; it would make sure that all government programs are funded and it would coordinate the many existing projects with each other.

THE ESSENTIAL COMPONENTS

Through testimony received by our committees we know that the three dimensions of research, rehabilitation and education are essential components that must be available to complement any aspects of enforcement that are implemented to stem the appalling increase in drug abuse. I firmly support adequate enforcement procedures that will seek out and prosecute importers, illegal manufacturers, distributors and others, who make big business and big profit from destroying lives with heroin. It is clear that enforcement is ineffective when it operates without the benefit of adequate treatment, education or research. For those who are users, but not pushers, the emphasis should be prevention and rehabilitation, not simply throwing them in jail.

Dr. Vincent P. Dole, the renowned pioneer in methadone treatment procedures recognizes two elements in resolving an addict's dependence on heroin.

First, the users craving for heroin must be eliminated at the same time that moves are taken to end the criminal activity required to finance his habit.

Second, society demands that the individual replace his social defects with socially productive work, like returning to school, seeking job training or job placement and reestablishing a "normal" family life.

But, says Dr. Dole, to insist that success in social rehabilitation should be the measure of efficacy of methadone treatment is like basing the efficacy of insulin treatment on the diabetic's ability to get a job rather than basing it on the ability of insulin to control blood sugar.

DECISION MUST BE MADE

Again, as with our attitude toward guns, we tend to be more concerned about affecting the behavior of users than with eliminating the source of the problem. Heroin should never enter this country. Since it does, let's offer help to those who become slaves to its power. It makes no sense to wait until a person has already become a drug abuser before trying to do anything about him. We must decide what it is we need to know about the causes, mechanisms and potential cures of drug abuse. And then we must stimulate and finance the best and quickest research. Right now our research is haphazard and reactive. Dissemination and analysis of results are slow and slipshod.

We must have an education program which prepares parents and children to handle the challenges and temptations which drugs present. These efforts must be honest and straightforward. They must not deceive, or they will be ignored. They must not merely frighten, they must explain. They must admit lack of knowledge where there is a lack of knowledge, and describe risks where there are risks. Legislation presently pending in the Senate that is designed to strive to meet these goals will hopefully be approved in this session of the Congress.

MANY THINGS TO BE DONE

There are so many things that need to be done. We could identify large numbers of addicts through analysis in our general jail intake process. We can tap the boundless dedication and energy of ex-addicts—who want to help cure new addicts, and have done so successfully. We can experiment more broadly with methadone which seems to hold great promise for allowing many addicts to resume normal lives, if used under proper controls. And we can do something about the tragic lack of bed space in detoxification facilities so that we can begin to work on addict's vocational, emotional, financial, and other problems in a drug-free environment. Obviously, the same rehabilitation approach is not the best one for all drug abusers. We must develop a whole matrix of approaches to match the cure with the individual problem.

I am hopeful that the direction of the Commission Report on Marijuana Usage, along with new legislation will begin to establish the national commitment that has been talked about for so many years.

J. EDGAR HOOVER

Mr. HUMPHREY. Mr. President, J. Edgar Hoover has been for better than 40 years one of the central figures of our time—a man of unquestioned ability, personal integrity, and professional competence.

The FBI bears the mark of his strong personal leadership. Few men in our time have made such a strong impact on

American public life. Presidents without regard to party have placed their trust and faith in him and the organization that he directed.

Inevitably, a man of such strong will and powerful position was subject to controversy. His dedication to the Nation and the law will be living monuments to his illustrious career. In his death the Nation has lost a great patriot and an outstanding public servant.

SPACE AGE TECHNOLOGY SPURS AMERICAN EXPORTS

Mr. CURTIS. Mr. President, one of the points that received emphasis at this year's hearings on the NASA authorization for fiscal year 1973 was the importance of high technology exports in America's balance of trade. The aerospace industry alone provides some $4 billion in exports annually while only some $350 million are imported. Advanced technology developed through the military programs and NASA are largely responsible for our balance of trade surplus in this area.

What does this mean in terms of jobs?

It is a fact, that each $1 billion of aerospace exports represents jobs for some 60,000 to 65,000 of our fellow Americans—and this is a conservative estimate.

Moreover, space-age technology has contributed to American preeminence in the field of electronics. During the hearings on NASA authorization, Dr. Fletcher, the Administrator, made this statement:

> We have moved on to the next step beyond transistors, integrated circuits and large-scale integration, because of the technology. . . .

An example of what Dr. Fletcher was talking about appears on page 86 of the NASA fiscal year 1973 hearings held before the Senate Committee on Aeronautical and Space Sciences. It is an article entitled "Technology—Turning the Tables on Japan," published in Business Week for March 4, 1972.

The article describes how the rapid development of the semiconductor in the United States has turned the electronic calculator business upside down. The market for low cost calculating machines has been Japanese dominated over the past few years. Now, however, with new technology, the United States is expected to capture a substantial portion of this market—a portion that could be worth $500 million to American manufacturers.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Business Week, Mar. 4, 1972]

TECHNOLOGY—TURNING THE TABLES ON JAPAN

U.S. CALCULATORS OVERWHELM THE JAPANESE IN A NEW MASS MARKET FOR THE MACHINES

Technology is changing the electronic calculator business so fast that no one seems able to keep track of what's going on—least of all the Japanese producers who only last year had a stranglehold on the market. The rapid development of advanced semiconductor devices in the U.S. has turned the business upside down. American manufacturers, industry leaders say, will dominate the U.S. market this year and may even snap up parts of foreign markets.

Five developments over the last few months have produced this rapid turnaround:

U.S. semiconductor makers are mass producing devices that combine all of a calculator's electronic circuits on one tiny semiconductor chip. This is driving the retail price of a calculator below $100, a point at which a mass consumer market will open up for the first time.

U.S. calculator makers have pushed assembly time down to as little as 15 minutes per machine. This wipes out the Japanese manufacturers' biggest cost advantage: low labor rates.

The Japanese makers are stuck with huge inventories of last year's costlier models, and they are confused about how to compete in the radically changing U.S. market. Some of them are likely to set up U.S. assembly operations in the U.S., but most have not made their decisions yet.

The market is polarizing into a mass market for the low-cost consumer units selling through retail stores and a higher-priced market for complex technical and programmable models whose suppliers emphasize service.

A horde of newcomers is moving into the industry. Because labor costs and parts prices have been pushed down so far, just about anyone can put together an "all-American" calculator today for about $40. But competition for the low end of the market is intense, and margins are shrinking fast.

At stake in all this is a U.S. market worth $300-million to $400-million a year—and one that is expected to grow by at least 10% to 15% a year. Growth will be far larger if the mass consumer market for calculators develops as expected.

TURNABOUT

But it is the U.S. share of the market that has everyone in the business excited. "We expect U.S. companies to get 70% of the calculator market in the next few years," says Leigh Brite, president of Eldorado Electrodata Corp. That would give U.S. producers the same share that Japanese makers held last year. Charles Kovac, marketing vice-president of North American Rockwell Microelectronics Co., the largest supplier of calculator circuits, looks for U.S. producers to capture the dominant market position from the Japanese this year, and he is convinced that the mass market for low-cost machines will develop in 1972.

Domestic producers built only 175,000 of the 800,000 machines sold in the U.S. last year, Kovac estimates. This year, he says, sales will jump to 1.5-million machines, and the U.S. will build 950,000 of them. Nearly half of the total, or about 700,000, will be low-priced models, says Kovac, and 500,000 of these will be U.S.-made.

NOW THERE ARE TOO MANY JAPANESE PRODUCERS, CRUSHED BY A HIGH-COST INVENTORY

It is too soon to tell just who will gain the most from the growing U.S. slice of the calculator business. Some oldline office equipment makers are trying to adjust: Monroe is building more of its own calculators in South Carolina and Burroughs Corp. is beginning to build its own machines in France. But the polarization of the business puts the squeeze on them. The low-overhead assemblers selling direct to retailers are likely to dominate the consumer market and eventually take over more of the office calculator business, while the more complex machines will demand new skills in customer applications and support.

But whoever gains most, the current upheaval is a dramatic change from the past, when the Japanese, with the help of a U.S. invention—the transistor—ran away with the American market for radios and black-and-white TV sets. By 1970, the same fate had befallen the calculator business. The key to the electronic calculator is the U.S.-developed metal-oxide-silicon (MOS) solid-state technology. With large-scale integrated circuits (LSIs), producers can cram thousands of transistors into a silicon chip just one-tenth of two-tenths of an inch square. Using these chips, which they bought from U.S. suppliers, the Japanese killed the U.S. electromechanical calculator industry in just a few years.

Now the Japanese are caught in a squeeze. There are too many Japanese producers, with too much capacity. Their labor costs are rising, and the realignment of currencies puts them at an even greater disadvantage in the U.S. market. The gain made by American producers in cutting the labor in assembly of calculators compounds their problems.

INVENTORIES

Hanging over the Japanese are huge inventories that started building up last fall. There are probably about 2-million machines—more than a year's supply—in worldwide inventory. The shadow of this inventory is even blacker because new machines are coming on the market at less than the wholesale price of the calculators that the Japanese have in the warehouse. Sharp Corp., which had been turning out 40% of the Japanese calculators cut its production last fall by 40% to 40,000 units a month, says Kanji Ishii, a director of the company.

The competitive environment has changed, too. "American companies have caught on and are scrambling for a piece of the market," says NR Microelectronics' Kovac. "Our circuit makers and calculator manufacturers are talking to one another now, whereas in 1969 only the Japanese were interested in making the investment." The U.S. producers are also selling directly to retailers and taking much lower margins. "If the Japanese manufacturers want to sell here, they'll have to manufacture here," says Earl Gregory, vice-president of Electronic Arrays, Inc.

One Japanese producer is already assembling calculators in the U.S. In a joint venture with a U.S. group called Omron Systems, Inc., Omron Systems is making 10,000 calculators a month in plants in Mountain View, Calif., and Tijuana, Mexico. Others may follow. "They're all talking about it," says Bernard Jacobs, president of Omron Systems.

OPENING A LEAD

Only a couple of years ago, before U.S. solid-state circuit technology began its latest spurt, many people predicted that the Japanese would soon close the gap. Today, though most knowledgeable observers believe that the U.S. producers still have a two-year technological lead over the Japanese and that the chances of holding it are good.

The U.S. began this jump when Mostek Corp. announced a year ago that it was producing a single LSI chip containing all the logic circuits for a four-function, 12-digit calculator. By fall, Texas Instruments had its single-chip calculator circuit in production, and half a dozen companies had already designed calculators to use it. TI was then quoting a price of under $20 apiece for large orders. Last year, Sharp was paying an estimated $40 for four chips that did essentially the same job in its most popular machines.

Prices have fallen fast. One manufacturer is now paying about $10 each for the TI chip in quantities of 100,000. He expects the price to sink to $5 by the end of the year.

The price slide may dissuade the Japanese from spending heavily to make their own MOS/LSI calculator chips. "Prices have eroded so much that at this point it is not too attractive to get into the market," says Berry Cash, Mostek's marketing vice-president. "The Japanese have barely started producing their own calculator circuits in quantity," he says, "but we're down the learning curve."

PRICE WAR

The newcomers to the calculator business are also under intense price pressure. "The low end of the market is suicide," says Jerry Wasserman, who follows the calculator business for Arthur D. Little, Inc. "The $100 calculator," he adds, "is going to drive more companies into bankruptcy than you can shake a stick at."

STORES ARE RACING TO BE FIRST WITH A BATTERY-MODEL CALCULATOR FOR HOME USE

Some have had a taste of trouble already. Last fall, a small New Jersey outfit called Ragen Precision Industries, Inc., agreed to deliver 20,000 pocket calculators for $75 each to Alexander's, the New York department store chain. Deliveries were to start in mid-January, and the store was going to retail the units at $100. Alexander's does not have its calculator yet, and Ira Lopata, Ragen's president, says that production was delayed seven weeks because his company had to completely rework one of the two logic chips. Competitors had been dubious about the deal because, as one of them says, Ragen "picked two undeveloped technologies"—liquid crystal displays and complementary MOS circuits.

But Alexander's still wants to be first to sell a battery-powered pocket calculator with keyboard for under $100, and late this month it will start retailing a model somewhat similar to the Ragen unit. The supplier, Rapid Data Systems & Equipment, Ltd., of Toronto, was virtually unknown until last week, when several stores announced they had ordered its first calculator. Over the past month, Rapid Data has shown its machine to only a handful of retailers, yet by last week the company had $7-million worth of orders. Alexander's will buy 20,000 at $62.50 each. Montgomery Ward & Co. has signed up for $3-million worth.

ON THE MARKET

Rapid Data is buying all parts for the units from U.S. suppliers, and has driven some hard bargains with them. A $10 price for a single-chip circuit was too much for him, says Ralph Data's President Clive Raymond. "We got a better price from Mostek," he notes. Litronix, Inc.; a small but fast-growing California company, is supplying the eight-digit, solid-state light-emitting idode display for close to $1 a digit, less than one-fifth what it would have cost a year ago. Rapid Data is in production and plans to deliver 80,000 calculators by June.

The only other battery-powered pocket calculator now selling for $100 is in Alden's spring catalogue. It is made by Litton Industries' Monroe Div. at a plant in Lexington, S.C., for the Royal Div. However, it uses a stylus and entry board instead of the usual pushbutton keyboard and, because of this, it has met some buyer resistance. Alexander's, for instance, tried the machine but did not order it.

Sears, Roebuck & Co. says it is holding off ordering a small machine to bear a Sears brand name until there is less "chaos in the industry." But word in the calculator business is that Sears will start getting deliveries of a new low-cost calculator in July from NR Microelectronics. Kovac of the NR division says only that "we think we will sell 250,000 liquid crystal displays" for consumer calculators, this year. But another NR official adds: "We're selling the displays as part of a calculator for which we have large-volume orders for 1972 delivery."

IMPACT

The new solid-state technology is having its greatest impact right now on these low-cost calculators, but it will soon start influencing the design—and the price—of the bigger machines that have built-in memories or printers, or and can be programmed for various jobs. Some of the newcomers to the business are talking of building calculators with memories for less than $200 by next summer. Rapid Data plans to start showing prototypes of a printer-calculator in about a month, and Raymond asserts that the machine will sell for $250 when it goes on the market later this year.

Some of the big, old-line calculator makers—the ones that originally ignored the inroads of the Japanese—have their doubts about such claims. "I'll believe it when I can buy one," says an official of one of these companies. But by then it may be too late for him to counterattack.

Mr. CURTIS. Mr. President, since these hearings on March 14, two other items have appeared in Business Week describing how America is forging ahead in markets previously dominated abroad thanks to new technology. One of them is intriguing because of its title, "Swiss Watchmakers Buy American"; the other shows how America may once again be a strong producer of watches for the mass market.

I ask unanimous consent to have these two articles printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SWISS WATCHMAKERS BUY AMERICAN

Watchmaking could be the next market where U.S. technology helps rebuild business lost to other countries over the years. Solid-state electronics, which is helping the Americans regain a dominant position in calculators, now holds promise for watches.

The Swiss watchmakers, who still dominate the worldwide market, have been working hard to develop electronic watches in competition with the U.S. and Japanese models that are already available. Next month at the Basel Fair, several Swiss watchmakers will be introducing all solid-state digital watches. But their electronic "movements" will come from a small Princeton (N.J.) company—Optel Corp.—and the Swiss will end up building just the cases.

Optel says it has $10-million in orders to produce more than 250,000 movements from seven companies, including the Swiss firms of Société des Garde-Temps, which owns Waltham Watch Co., and Omega, Glycine & Althus, and Buttes. Waltham will announce its watch next week.

The new watches, which display the time with four numbers instead of the traditional hands, will retail at $150 to $200 and will begin appearing in U.S. and European stores by late summer.

Optel is gearing up for full production by July and expects to deliver between 20,000 and 100,000 movements by yearend. Its movements consists of low power complementary MOS integrated circuits, a quartz crystal time base, and a liquid crystal four-digit time display. Optel developed and is building the liquid crystal watch face, and it is buying the circuits, which it designed, from several U.S. semiconductor companies.

THE MARKET

"Digital readouts are not going to replace the conventional analog watches entirely," says Zoltan J. Kiss, Optel president. But he figures they should gain a "substantial portion" of the worldwide business, estimated at $3-billion annually.

Electronic watches account for only a tiny fraction of the 170-million watches now being sold annually. But, they "are getting about 90% of the attention," claims John Bergey, director of research and development for the Hamilton Watch Co., whose $2,100 Pulsar wristwatch is just getting into distribution this month. Introduced last December, the Bulova Watch Co.'s $395 Accuquartz has a quartz crystal base, with traditional hour, minute, and second hands driven by a tuning fork. A full line starting at $250 will be offered later this year.

Major U.S. companies have been studying the digital liquid crystal display watches, but none has announced plans to introduce one. The Swiss-based Ebauches Electronics also will put out an electronic watch with a digital display later his year, and so will Japan's Seiko, using technology similar to Optel's.

THE QUALITY

The biggest problem in liquid crystal display development has been a maximum life of 10,000 hours. Optel says it has gotten around this by using a hermetic seal, preventing moisture and chemical contamination. It has also overcome another liquid crystal problem—an electroplating effect causing discoloration. The company gives an 18-month guarantee on the digital display to the watch companies, which in turn will provide the traditional one-year warranty to customers.

By combining its liquid crystal display with the complementary MOS circuits, Optel has minimized power consumption to a point where a standard battery will last for one year. Hamilton's Pulsar is also guaranteeing one-year battery life, but its light-emitting-diode display requires more power and the one-year life depends on the watch owner's pressing a button to light the display 25 times a day.

Electronic watches offer far greater accuracy than traditional mechanisms. Optel says its watch will be set to an accuracy of 15 seconds a year. Bulova's Accuquartz is listed at a one to two seconds a week accuracy, while Hamilton's Pulsar has a five-second-a-month guarantee.

ELECTRONIC WATCHES FOR THE MASS MARKET

The worldwide watch industry is on the brink of a radical shakeup, and what will cause it is the arrival of the solid-state electronic watch priced for the mass market. Semiconductor integrated cricuits and a quartz crystal make up the works of these watches, and a liquid crystal digital display takes the place of conventional hands. What makes their impact on the market so formidable is that all of their parts can be mass produced and the labor cost of assembling them is minimal. By 1975, it may be possible to put together the new watches for about $10.50 each—and to retail them for less than $50.

All the new technology is coming from U.S. electronics companies. It has started to stir up the conservative, slow-moving watch industry, and within the next couple of years it may reshape its whole structure. The Swiss, who make the bulk of the world's watches and who until recently dismissed any threat to their mass market, are doing a swift aboutface. This week, at the big watch fair in Basel, the Swiss introduced the first solid-state watches with liquid-crystal displays. But the major parts, and in most cases the entire works of the watches, were made in the U.S.

Electronic watches of all types are likely to take over most of the U.S. market by the end of the decade, and the U.S. is the biggest single market for Swiss-made watches. Thus, the Swiss watchmakers will have to revamp their industry—or risk losing much of the business to U.S. electronics producers. The Swiss companies would have little hope for the long run if they were to import U.S.-made electronic movements, add a case to them, and re-export them under their own brand names.

Some U.S. electronics companies may also plunge into the watch business themselves, making complete watches and selling them to retailers. That should throw the traditional U.S. watchmakers into an uproar, too.

DO SOMETHING FAST

To turn out the solid-state electronic watch that it displayed this week at Basel, Ebauches S.A., the giant Swiss watch components maker, had to go to Texas Instruments, Inc., for the digital display and integrated circuits.

Says one U.S. electronics maker: "The pressure was on Kurt Hubner [technical head of Ebauches Electronics] to do something fast."

Eight other Swiss watchmakers got the entire works for the solid-state models they showed at the fair from Optel Corp., a small Princeton (N.J.) company. And one of them will even assemble watches for the U.S. market in St. Louis.

Japanese watchmakers may face the same kind of problem as the Swiss. Japan's top watch producer, Seiko Watch-K. Hattori & Co., said earlier this year it would have a solid state digital watch ready to sell at less than $400 by this fall. But U.S. electronics producers are supplying the circuits and displays for these, and they say that the Japanese company is still six to 12 months away from production.

U.S. watchmakers are trailing the Swiss in announcing their own solid-state digital watches, though they have been busy with other electronic models that use a quartz-crystal time base. Bulova Watch Co. has small quantities of its Accuquartz on the New York City market, selling for $395, and expects to have a $250 model ready for nationwide sales by yearend. Timex Corp., after talking about it for three years, is finally selling its quartz-crystal watch with a pin-lever mechanism for $125.

But the new solid-state watches promise to bring prices far below any of these. Says Victor K. Kiam, president of Benrus Corp.: "They could be a golden opportunity for U.S. watch companies." And Larry Prigozen, president of Elgin's Time Products group, expects the result will be "some reversal of watchmaking back to the U.S. in the next year or two." Today, half of the watches sold in the U.S. are imported, and only a minuscule number of U.S.-made watches are exported.

Their predictions, though, are cautious compared to the shifts in the world market foreseen by the dozen or more electronics companies now making solid-state watch circuits and displays. "There's no question" that the U.S. will gain a large part of the world's watch component business as a result of the new technology, says Henry J. Boreen, chairman of Solid State Scientific Devices Corp. His company is working with Swiss and Japanese, as well as domestic, watchmakers on the circuits. Boreen predicts that the solid-state watches will "put 50,000 Swiss out of work."

STARTING TO SHIP

Aside from Optel, Microma Universal, Inc., of Mountain View, Calif., also is selling complete "movements" (the solid-state watches actually have no moving parts) to watchmakers. "There's a chance for an American company to become the Ebauches" of the electronic watch business, says Microma's marketing director, Donald Rogers. Switzerland's Ebauches is now the world's largest maker of watch components, but, says Rogers, "no watch company" will dominate in electronics.

Optel will ship the first production runs of its solid-state movements in July, and claims orders for 250,000 movements worth $10-million.

Waltham Watch Co., owned by Swiss watch companies, will use the Optel movement in its Walchron watch, which will be in national distribution by the end of the year, priced at about $185. Microma says it will ship its first 1,000 movements to a U.S. watch company by early summer, and expects that it can build more than 25,000 of them this year.

Motorola, Inc., though not assembling units, is selling kits of the major parts to producers who believe consumers will want electronic watches with conventional faces, not digital displays. The first watch on the market using a Motorola kit is a $250 model made by Swiss-based Girard Perregaux. Motorola is making only small quantities of the kits now, but it may get the price below $20 if it can sell them in large quantities.

NEWCOMERS

The semiconductor makers like to point out the similarities between the electronic watch and the electronic calculator. Japanese producers took away the calculator market in the late 1960s by using low-cost labor to assemble U.S. made integrated circuits. But calculator production is returning to the U.S. because new American technology has vastly reduced labor content, wiping out the Japanese advantage. And the bulk of the reborn U.S. calculator business is winding up in the hands of industry newcomers. Whether this happens with electronic watches "depends on how aggressively the major companies pursue their opportunity,'' says Gene McFarland, IC marketing manager at Texas Instruments. "If they don't, small companies may get the business," he adds.

Microma is out to test that idea. It will announce in June that it plans to put a case around its solid-state movements and sell a complete watch to retailers, with a suggested tag of $125.

John Bergey, research director at Hamilton Watch Co., agrees that some electronics companies will try to break into the business, but he feels they will succeed only if they can get the retail price under $70. Benrus' Kiam says the private-label watches would run up against the watch companies' brandname advantage.

While nearly all of the watch industry is now pretty much agreed that electronic quartz watches will take the market away from mechanical movements once they become price competitive, there is a split on whether consumers will accept the digital display. Bergey sees rapid acceptance because of the large number of digital clocks being sold. He predicts that by 1980 "virtually all electronic watches will be digital because solid state will be the cheapest way to go."

SAFEGUARDING THE LOWER ST. CROIX RIVER, MINN. AND WIS.

Mr. MONDALE. Mr. President, the lower St. Croix River, bordering Minnesota and Wisconsin, has received national acclaim for its outstanding natural qualities. It is one of the few remaining unspoiled rivers located near a large metropolitan area. But this beautiful stretch of water is in immediate danger of being ruined by uncontrolled commercial exploitation.

The Senator from Wisconsin (Mr. Nelson) and I introduced a bill (S. 1928) to save the lower St. Croix River from irreparable destruction by designating it a component of the National Wild and Scenic Rivers System. For more than 8 years, Congress has been actively considering such designation for the lower St. Croix. The Senate passed legislation on two occasions in the past which would have established a lower St. Croix National Scenic and Recreational Riverway. However, enactment by the House, was deferred pending the findings of a joint Federal-State-local task force created to determine the suitability of the river for such designation. The task force completed its report last October and concluded that the lower St. Croix met every criteria for Federal protection.

A large bipartisan coalition of public officials in Congress and in the States of Minnesota and Wisconsin have enthusiastically endorsed S. 1928. It has the support of local residents and environmental groups who understand that this is the only workable means to safeguard the river.

It therefore came as a shock to everyone concerned with the river, when the Department of the Interior announced at an April 14 Senate hearing that it would oppose this essential measure. The Department's report contradicted the findings of the joint study team and disputed the authoritative recommendations of State and local government officials. Since Interior's position was presented in a brief written statement delivered to the committee just a few minutes before the hearing began, many of us are anxious to obtain an explanation for this negative stance, and a reconsideration of the bill in light of the pursuasive evidence for congressional enactment.

But people in Minnesota are more convinced than ever, that the Senate and House of Representative should not delay implementation of the proposal. Local residents, State government officials, local public agencies and conservation groups are urging swift congressional approval of the bill.

Letters have been pouring into my office since the April 14 hearing, reaffirming the extraordinary public support for action by Congress to preserve the lower St. Croix. People from Minnesota are also writing to officials at the Interior Department and to the Senate Interior Committee pressing for affirmative steps to save the river.

I would like to share with Senators a small sample of the correspondence I have received on this issue. It is persuasive evidence of the support for moving ahead now toward a favorable vote on S. 1928.

Mr. President, I ask unanimous consent that the following documents be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

State of Minnesota,
House of Representatives,
April 12, 1972.

Hon. Walter F. Mondale,
U.S. Senate
Washington, D.C.

Dear Senator Mondale: I am writing in regard to the hearings before the Senate Interior Committee relative to the Lower St. Croix National Scenic River Bill, which is to be heard on April 14.

It is obvious to those of us in the Metropolitan area of Minnesota that private development along the beautiful St. Croix River is a real and immediate threat to the recreational and scenic value of that area and to the Metropolitan area of Minnesota. In the strongest possible terms, I want to urge you to have this bill approved by the Interior Committee without further delay so that it may receive approval by the full Senate in the near future. I know that your sentiments are the same, but I hope that all others concerned on the committee will be aware of this real threat.

I hope that the form of this bill will also include such matters as regulations of the size of boats and motors and provide for supervision of such regulations. There is considerable bank erosion in this river which could cause it to be unusable, even for recreational purposes, if this trend were to continue. Likewise, there is an increasing use of the river by canoeists, swimmers, and fishermen, whose safety and enjoyment is diminished and even threatened by large power boats using the river.

I believe that federal legislation would be most appropriate, inasmuch as this is an inter-state river, in order to come to grips with these matters as well as preserving the scenic and recreational values of the river.

If there is anything further that you feel the residents of this area can do in order to see that this bill is adopted into law, I hope that you will let me know.

Yours very truly,

Fred C. Norton,
State Representative.

Straus Knitting Mills, Inc.,
St. Paul, Minn., April 19, 1972.

Hon. Walter F. Mondale,
U.S. Senate, Washington, D.C.

Sir: Recently there was an Editorial in the Minneapolis paper concerning opposition of the U.S. Interior Department to designate the Lower St. Croix River as part of the National Wild and Scenic Rivers Systems.

A spokesman for the Interior Senate Subcommittee said the Lower St. Croix River does not possess "unique, nationally significant" characteristics. He suggested that the 52 miles from Taylors Falls to Prescott can be protected adequately by the States and by Local Units of Government.

Right now a proposal is before the city of Hudson, Wisconsin by private developers to put up high rise apartments.

I am not convinced that the local municipalities are capable of avoiding the economic pressures of private developers.

I ask you to do everything in your power to enlist the aid of your colleagues to protect this river in its natural state as it is one of the most beautiful recreational areas in the whole country.

With best wishes, I am

Sincerely,

Anthony M. Straus,
General Manager.

State of Minnesota,
Office of the Governor,
St. Paul, Minn., April 19, 1972.

Hon. Walter F. Mondale,
U.S. Senate, Washington, D.C.

Dear Fritz: Enclosed is the testimony presented for me by Robert L. Herbst, Commissioner of the Department of Natural Resources, on April 14, 1972, before the Senate Committee on Interior and Insular Affairs, Subcommittee on Public Lands, concerning S.F. 1928, the Lower St. Croix Act of 1971.

It is apparent that the U.S. Department of the Interior opposes our position on adding the lower 52 miles of the St. Croix to the Scenic River Waterway System. The States of Minnesota and Wisconsin are in complete agreement on the necessity of adding this portion of the river to the portion already designated as part of the Scenic River Waterway System. Your support of our efforts to convince the Interior Department of the value of our proposal will be much appreciated.

With warmest personal regards.

Sincerely,

Wendell R. Anderson.

Litton E. S. Field,
Saint Paul, Minn., May 1, 1972.

Walter F. Mondale,
U.S. Senate, Old Senate Office Building, Washington D.C.

Dear Senator Mondale: We strongly urge that the St. Croix River be kept in its natural, scenic state rather than to be unprotected and overrun by commercialism and real estate developments, etc., which will surely be inevitable should the department oppose inclusion of the Lower St. Croix.

This area is one of the very few scenic spots left in the Eastern Minnesota-Wisconsin region that is appealing and enjoyable for residents of the area, as well as for weekend sightseers.

I strongly oppose the actions taken by Harrison Loesch and hope and trust that my feelings are shared by the majority and that the Lower St. Croix may be saved.

Respectfully yours,

Litton E. S. Field.

Scandia, Minn., *April 20, 1972.*

Secretary of Interior,
Department of the Interior,
Washington, D.C.

Dear Mr. Secretary: Read in the *St. Paul Pioneer Press*, 4/15/72, of the decision by your department not to set aside the lower half of the St. Croix River (located on the Wisconsin-Minnesota border) for protection. Am very disappointed with this decision as I feel the only way to save its scenic beauty. natural resources, and recreational facilities is to protect this area NOW!

As a resident of Scandia, Mn., a community located on the lower St. Croix, I feel quite confident when I say there is much natural scenery here worth saving. I was born in Polk County, Wisconsin, and as a child a special favorite of mine was picnicking, hiking, and swimming in the Interstate Parks at Taylors Falls and St. Croix Falls. Especially nice were the boat rides through the Dalles and exploring the unusual rock formations.

Since then I have spent many enjoyable hours swimming, fishing, boating, and canoeing on the river in the Osceola, Ws., and Hudson, Ws., areas, never ceasing to be amazed at the relaxed and leisurely pace of the river as it flows between its majestic banks which harbor so many unique rock formations and quiet forests. It seems a shame if the hills surrounding the river basin should ever lose their lovely green splendor in summer, or their brightly hued magnificence of autumn (which is the highlight of the entire year) or their gleaming white, icy elegance of winter. They are comparable to the Cumberlands of Tennessee and the Ozarks of Missouri.

As far as the historical significance of the lower half of the St. Croix River is concerned, the following two volume publication might point out additional information on this subject: Easton, A. B., editor: *History of the St. Croix Valley*, Cooper, Chicago, 1909.

I hope that my letter will help influence you to re-evaluate this decision and that sometime in the near future the lower St. Croix will be part of the same protected area as the upper St. Croix.

Very truly yours,

Mrs. Carl Rasmussen.

Minnesota Conservation Federation,
Hopkins, Minn., April 19, 1972.

Assistant Secretary Harold Loesch,
U.S. Department of the Interior,
Washington, D.C.

Dear Mr. Loesch: The Minnesota Conservation Federation has long supported state and federal studies and recommendations leading to the designation of the St. Croix River from its source to its confluence with the Mississippi as a wild and scenic river.

The effort was taken by the Minnesota Conservation Federation to preserve and protect the environmental and aesthetic characteristics of this pristine stream for future generations.

Three agencies of the U.S. Department of the Interior and the states of Wisconsin and Minnesota have recommended such designation to the Secretary of the Interior. Senator Mondale introduced legislation to establish its designation as a wild and scenic river.

On April 14, Assistant Secretary of the Interior Harold Loesch announced that the Department of the Interior has withdrawn its support of this designation.

This was done arbitrarily without prior counsel with state, citizen, and Congressional groups supporting such designation and in apparent opposition to three U.S. Department of the Interior agencies which have recommended such designation.

The Minnesota Conservation Federation now asks for an immediate Congressional investigation of the Department of the Interior's unilateral and arbitrary action in withdrawing its support; and that the investigation provides for public hearings in Minnesota and Wisconsin at which time any and all citizens, groups, and agencies interested in the future use and wise management of the lower St. Croix may appear and make their views known.

Sincerely,

Al Farmes,
Chairman, Legislative Committee.

April 10, 1972.

Hon. Walter F. Mondale,
U.S. Senate,
Washington, D.C.

Dear Senator Mondale: Thanks for your letters of December 15th and April 3d relating to the St. Croix River.

As a lifetime resident of Minnesota, a Senior Citizen, and a long time member of that enthusiastic group of St. Croixites, I am writing to urge your continued and strong support of the efforts to include the lower St. Croix in the National Wild and Scenic Rivers System.

I want this beautiful stretch of waterway to be seen and enjoyed by future generations of potential lovers of the St. Croix. I hope we meet with success on this most important environmental venture.

Thank you for your efforts.

Sincerely yours,

Louise W. Gilfillan.

SLOPPY JOURNALISM

Mr. McGEE. Mr. President, this morning's Washington Post contains an interesting article entitled "A Case of Sloppy Journalism."

The author is Russel Nye, a professor of English at Michigan State University. Mr. Nye's article deals with his efforts since 1968 to determine, through the media, how many war resisters had fled this country to seek refuge in Canada.

The author noted that over a 2-year period newspaper and television reports on draft evaders and deserters in Canada had varied from 10,000 to 100,000. He further noted that this was " a margin of error that ought to have stirred a twinge of doubt in some newspaperman's breast somewhere. Most striking in the stories was the almost complete lack of plain legwork."

I think Mr. Nye's observations concerning this particular area of reporting raises some poignant questions about the quality of journalism we in this country are confronted with, at times. Such incidents demand that the media do a little "soul-searching" in an effort to live up to the responsibilities that come with our first amendment guarantees.

I ask unanimous consent that Mr. Nye's article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, May 9, 1972]

A CASE OF SLOPPY JOURNALISM

(By Russel B. Nye)

When it comes to facts, I have never really trusted newspapers very much. A youth spent in what Colonel Robert R. McCormick used to call "Chicagoland," reading the *Tribune*, and 25 years of historical research have convinced me that newspapermen are highly fallible sources of information. When I heard Martin Nolan of *The Boston Globe* remark confidently on television (October 24, 1971) that there were "over 50,000 war resisters in Canada," I thought he might really know. The figure seemed to me important, so I wrote to Nolan, asking his source.

Nolan's reply was not helpful. He cited James Reston Jr. who had used the 50,000 figure in *The New Republic* without attribution. Newspapermen quoting other newspapermen arouse my suspicion, so I thought I'd look it up, especially when that 50,000 began turning up all over the media.

I began in 1968. That year a writer in *The Progressive* thought there were "at least 10,000 draft evaders in Canada. *U.S. News and World Report* gave estimates varying from 300–400 to 25,000. Edmund Taylor, in a well-researched article in the soon-to-be-defunct *Reporter*, cited a *New York Times* estimate of 4,000; another by a Toronto anti-draft group of 10,000; and Canadian press estimates of 14,000 up. *The Atlantic*, using the Toronto group's figure, came up with 3,000–10,000.

In 1969 amazing things happened. The *New York Times* in April settled for "several thousand" draft evaders in Canada. In December, however, it raised that to 60,000 on the basis of estimates from the Toronto draft-resisters' group—a number soon to be enshrined in the American press. That the figure represented a spectacular increase of 56,000 over the 1968 news report bothered nobody at the *Times*, while CBC's "Public Eye" program, perhaps carried away by the *Times*, also estimated 60,000.

In 1970 things settled down a bit, but not for long. The *Times* shifted its estimate to 6,000–60,000 (a delightfully flexible figure, I thought) as well as quoting an "independent estimate of 20,000." The Toronto group (which used 10,000 in 1968) now placed the number at 60,000 (the *Times* again?) which other papers dutifully printed. Stewart Alsop, in *Newsweek*, fixed for no discernible reason on 25,000–30,000. Roger Williams, of the Toronto group, used the *Times'* 60,000 but insisted that "qualified observers" calculated "many more than that." (This seemed to me an interesting situation, in which draft evaders in Canada quoted the *Times* which quoted draft evaders in Canada.)

Vance Garner, of the Montreal Resisters' Council, entered the field with a statement that there were 14,000 draft-age landed immigrants "here now," a figure I found impossible to derive from any known Canadian immigration reports. He escalated things further by claiming that there were actually "three to four times that many "*illegally* in Canada, i.e., 42,000-56,000. A staff worker for the Clergy and Laymen Concerned About Vietnam told the press that there were 60,000 draft evaders in Canada (once more the *Times*), a figure which included 30,000 in Toronto alone.

The year 1971 was wilder. *Newsweek* cited 50,000–70,000, doubling what their man Alsop said a year before. *Parade*, apparently quoting the Clergy and Laymen group, said there were 30,000 in Toronto. The Toronto *Globe and Mail*, for its part, chose 30,000-100,000. Mike Wallace on "Sixty Minutes" used a new Montreal Resisters' estimate of 100,000, noting that it was perhaps inflated, but offering no alternative. Nolan, citing Reston, and Reston, citing nobody, said "over 50,000."

The most curious statistics of 1971, however, appeared in Rogers Williams' book, *The New Exiles*, which had few footnotes and no bibliography. Williams on different pages cited both 40,000 and 60,000 (the *Times* again!) for 1970. On another page he put the number in mid-1967 at 5,000-6,000, representing an increase of 34,000-55,000 in less than three years, certainly one of the least-noticed mass migrations in modern history. On two other pages he reported 25,000 evaders and deserters *legally* in Canada, and on yet another page, by adding wives and children, he got the number (legal or illegal?) to 50,000-60,000. Finally, at the close of his study, he increased this to 50,000-100,000.

1972 may be a banner year for inflation. *Newsweek* led off in January with "75,000, mostly in Canada," while David Brinkley, with oracular finality, made it 75,000-100,000. Senator Robert Taft, in an interview given to *The Los Angeles Times* news service, estimated there are "about 20,000 of these men in Canada." Since Senator Taft, who has initiated legislation, and Brinkley, who was commenting on it, differ by 55,000-80,000, the variance seems significant. They can't both be right.

In January, Gannett News Service used the figure "60,000-100,000," which strikes me as having a generous margin of built-in error. In February, UPI settled on 70,000. The last four references I have seen in January and February, 1972, choose 70,000.

What emerges from all this, and I have not by any means exhausted examples, is clear evidence of extremely sloppy journalism. Newspaper and television reports on draft evaders and deserters in Canada have, over those two years, varied from 10,000 to 100,000, a margin of error that ought to have stirred a twinge of doubt in some newspaperman's breast somewhere. Most striking in the stories was the almost complete lack of plain legwork. I found no journalist who had consulted easily obtainable Canadian immigration figures, and with one or two exceptions, none who had researched the realities of Canadian immigration laws. One cannot, as Alsop wrote, simply walk across the Canadian border and "fade into the economy," or, as *Newsweek* misleadingly implied, gain landed immigrant status simply by asking at the border. Canadian embassy and consular sources that have no ax to grind will, if asked, estimate about 10,000 American draft evaders in Canada (about the same number of Canadians have volunteered for the U.S. Army), but nobody asks them.

As for me, I trust the press no more than before, nor do I have any more information than before. I don't know how many draft evaders there are in Canada or elsewhere, but in the light of the growing debate over amnesty, I'd like to know as accurately and honestly as possible.

PRESIDENT NIXON OFFERS ENEMY GENEROUS TERMS

Mr. BROCK. Mr. President, the President has offered the enemy generous terms if they will end the war peacefully. He has made it very easy for them to walk that path.

What is new in his policy is that he has made it harder for them to pursue the course on which they have been traveling, the course of force.

The choice is clear: confrontation or negotiation. The choice now is theirs to make.

There is a choice for us, as well. The world is watching to see whether the American people will give their President the united support which is the surest way to lasting peace.

I believe the American people will come through again, as they always have come through in the past—by expressing their support in a way which no other country can possibly misunderstand.

REVENUE SHARING

Mr. BAKER. Mr. President, on April 26, 1972, the Committee on Ways and Means of the House of Representatives reported H.R. 14370, the State and Local Fiscal Assistance Act of 1972. The bill would return to State and local governments certain federally collected revenues, to be used by those governments for general purposes.

The distinguished Senator from Minnesota (Mr. HUMPHREY) has long been among the most articulate and persuasive proponents of revenue sharing. I also have advocated the concept of revenue sharing for many years, and I am the principal sponsor in the Senate of S. 680, President Nixon's general revenue-sharing proposal.

Senator HUMPHREY and I have agreed that it would be a constructive gesture on our part to introduce in the near future, as a Senate bill, the bill reported by the Ways and Means Committee. While each of us might have some individual reservations about parts of that bill, we believe that the bill should formally be before the Senate. Senator HUMPHREY and I intend to address letters to every Senator, soliciting their cosponsorship of the bill. As soon as we have received responses from those letters, we will introduce the bill.

We strongly believe that who authors revenue sharing legislation, or which political party gets any credit that might accrue, is secondary to providing the fiscal relief necessary to the hard-pressed States, counties, and cities of this land.

A CONGRESSIONAL INVESTIGATION OF THE SUNSHINE MINE DISASTER IS CALLED FOR

Mr. CHURCH. Mr. President, the recent fire at the Sunshine Mine in Kellogg, Idaho, has been in national news for a week.

We know that 18 bodies have been brought out of the mine. Seventy-five men are still unaccounted for. An undetermined number of those 75—press reports indicate at least 17 more, or a total of 35 men—are known dead, but rescuers have been unable to bring their bodies out of the mine. With each passing moment the hopes for the other missing men dwindle. It is a tragedy of immense proportions.

Governor Andrus of Idaho was on the scene personally immediately and made all the facilities of the State government available. He has asked the President of the United States that a disaster designation be declared for the Kellogg area, a request which I fully support.

There is no way that we can bring those who are dead back to life. There is no way we can assure the safe return of those still missing. We can, however, give the closest study to why this disaster happened.

I have recently written to the distinguished chairman of the Committee on Labor and Public Welfare (Mr. WILLIAMS) and asked that a full congressional investigation of the Sunshine disaster take place. We should find out why this disaster happened, what changes may be necessary in our mine safety laws and in enforcement procedures of the Bureau of Mines. The Senate should do all in its power to assure that a disaster of these proportions does not happen again.

I grieve with the wives and children of those miners who have died. I join in the prayers of all Idahoans for the safe return of those still trapped, and assure them that I will do everything possible to see to it that the Sunshine Mine disaster is fully investigated by the Senate of the United States.

Mr. President, I ask unanimous consent that my letter to Senator WILLIAMS, Governor Andrus' telegram to President Nixon requesting disaster area designation, my letter to President Nixon supporting Governor Andrus' disaster-area-designation request, and newspaper articles describing the Sunshine fire be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

TELEGRAM TO THE PRESIDENT REQUESTING A DECLARATION OF A MAJOR DISASTER

President RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Idaho's people deeply appreciate your personal expression of sympathy and concern for the continuing tragedy at the Sunshine Silver Mine in Northern Idaho.

To insure that the full spectrum of federal assistance is made available, I respectfully urge that you make a Declaration of a Major Disaster for the Coeur d'Alene Mining District, Shoshone County, Idaho.

The following information is submitted to support this request:

A severe fire of unknown origin, and at this time in an unknown location in the nation's largest silver mine has taken the lives of thirty-two miners. The fate of another fifty miners still trapped within the maze of tunnels is unknown. The welfare of all people affected by the fire is of major importance to Idaho.

State and local, as well as private resources, are committed to their maximum extent. Resources of neighboring states have also been committed in an attempt to overcome this disastrous situation.

Damages to private property involved cannot be estimated at this time. Impact on the entire area could be and would be disastrous if the findings of specialist teams now at the scene are such that closure of the mine was mandatory. The Sunshine Mine is a major source of income for the area and the local economy would be shattered by a closure order at this mine.

All state and local government resources capable of providing assistance will continue to be utilized.

Pursuant to Section 1710.31, Federal Disaster Assistance Regulations, I certify that the total of expenditures, obligations and resources utilized by the State of Idaho for disaster relief purposes for all disasters during the 12-month period immediately preceding this request, and for which no federal reimbursement has been or will be received, exceeds $350,000.

CECIL D. ANDRUS,
Governor of Idaho.

U.S. SENATE,
Washington, D.C., May 8, 1972.

Hon. RICHARD NIXON,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: The Sunshine Mine disaster is a tragedy with which you are already familiar. I need not review in this letter what has already been prominently portrayed in the media for a week.

Idaho's Governor Andrus has recently called upon you most urgently for assistance to the Kellogg area. His telegram of May 5 delineates the problems which are now being faced and may be expected in the future in this part of my State.

Mr. President, I urge that you give his request for disaster assistance early and favorable consideration. The loss of life at the Sunshine Mine can never be lessened but the Federal Government can and should lend every possible assistance to assure that the burden upon the wives, families, community and State be eased as much as possible.

Sincerely,

FRANK CHURCH.

MAY 8, 1972.

Hon. HARRISON A. WILLIAMS,
Chairman, Senate Labor and Public Welfare Committee, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The immense proportions of the disaster that has occurred at the Sunshine Mine in Kellogg, Idaho, need hardly be described to you. At least eighteen dead have been brought out of the mine and another 75 are unaccounted for, lost in a labyrinth of tunnels a mile below the ground.

There is no way we can restore the eighteen known dead to life again or even assure the safe recovery of those still missing, but we can ask why this disaster happened and what, if anything, could have prevented it. The Senate can review the mine safety law to see what changes may be necessary to assure that a tragedy of these proportions will never again happen in a metal mine.

It is my view, Mr. Chairman, that the Senate Labor and Public Welfare Committee should begin, at the earliest possible time, a complete investigation of the entire Sunshine Mine tragedy. The investigation should examine the adequacy of present mine safety laws with a view toward the strengthening of enforcement procedures and penalties for noncompliance.

With best wishes,

Sincerely,

FRANK CHURCH.

[From the Washington Post, May 9, 1972]

RESCUE HOPES DIM; COUNT OF MISSING MINERS RISES TO 58

(By Leroy F. Aarons)

KELLOGG, IDAHO, May 8.—Hopes dimmed today for the rescue of possible survivors in the Sunshine Silver Mine as a series of setbacks frustrated the five-day-old search efforts.

For the first time, a company official expressed pessimism during one of the frequent press briefings, usually dominated by upbeat forecasts and reports of progress.

"There is still a chance to get some people out," said ashen-faced mine manager Marvin Chase, "but I can't say I am as optimistic as before."

Chase also announced updated figures on the dead and missing. He said there had been 93 people underground, not 82 as originally anounced. Thirty-five are known dead, leaving 58 unaccounted for, not 47 as originally thought.

FACTORS LISTED

The downturn of fortunes in the rescue effort, said Chase, was caused by the following factors:

The intensity of the fire that broke out last Tuesday morning has increased, not decreased, making it so hot below that rescue teams had trouble putting their hands to their airpacks. By early morning, the increased smoke had forced rescuers to abandon efforts to reach a main power line at the 3,700-foot level which would activate a lift down to the trapped miners, some 1,500 feet below that.

Instead, workers were seeking to reach an auxiliary power line on the less-smoky 3,100-foot level in the hope it would be sufficient to operate the lift.

A leak has occurred in compressor lines that were feeding air to work spaces deep in the mine which survivors may have been depending upon as a lifeline. The leak dropped the air pressure one third from 70 pounds per square inch to 27.

"Is that enough to sustain life?" Chase was asked.

"It depends on the number of people tapping the line," he answered.

As the more conventional rescue efforts faltered, attention turned to what some people had considered a gimmicky approach—the effort by Federal Bureau of Mines personnel to lower a manned rescue capsule to the trapped miners.

Chase, who earlier had been skeptical of the effort, said, "It certainly is a far more important hope than it was before. It may turn out to be the major effort."

PROBE ASKED

Meanwhile, the postmortem on the mine disaster drew more comment. Frank McKee, Western regional representative of the United Steelworkers, which represents the miners, called for a congressional investigation into conditions in the entire non-ferrous metal mining industry.

USW officials charged that a similar disaster could have happened in any hard rock mine in the country.

They accused the Bureau of Mines, which makes safety inspections of mines under the 1966 metallic-and-nonmetallic mine, health and safety law, of "coddling" the owners. They said most federal inspectors are drawn from the ranks of mine management and tend to overlook violations.

They also said the Bureau of Mines has refused to support union demands that employers permit a union safety representative to accompany inspectors.

More broadly, USW officials said that the 1966 law, which provided for advisory boards to establish safety standards, had been watered down when management and public agency representatives on the boards ganged up against labor representatives.

ACCUSATIONS MADE

Also today, J. Davitt McAteer, a consultant for Ralph Nader's Center for the Study of Responsive Law, who spent three days examining safety aspects of the Sunshine disaster, accused the company and the state and federal government of a "conscious disregard" of the hard-rock miner.

The company, said McAteer, "failed to take even the most basic precautionary measures to prevent the disastrous effect of this fire." The Federal mine safety act, he said is "totally inadequate" and the Bureau of Mines' "narrow interpretation of the power under the law is recklessly disregarding the miners' health and safety."

McAteer, who has written a study of coal mine safety in West Virginia, called for a federal and state safety probe of every non-coal mine in the country, as well as a congressional investigation.

As McAteer prepared his statement and Chase received word that the casualty list was 93 not 82, Sunshine president Irwin P. Underweiser was being interviewed on company finances by wire service reporters.

Underweiser told the Associated Press that insurance would protect his company from loss should the mine have to be shut down for a period of time. In fact, said Underweiser, "we may even make a profit on the closure."

SHORTAGE SEEN

Since Sunshine mines one-fifth the silver in the country, Underweiser explained, a temporary shutdown could create a shortage, forcing silver prices up as much as 10 per cent an ounce.

Underweiser became president 18 months ago during a corporate shakeup. In 1971 he consolidated the firm's holdings but this forced the company to absorb a $1.1 million loss—roughly half of it due to a sharp decline in silver prices.

And, at the compound near the mine's mouth, relatives waited for the six straight day, shaken by the latest news, but still determined. Perhaps they were remembering the oldest of miners' traditions: "No matter if I am alive or dead, if I am in there someone will come and get me."

[From the New York Times, May 9, 1972]

Hopes Dim for 58 Trapped in Mine

Kellogg, Idaho, May 8—Hopes dropped today for 58 miners who have been trapped for almost a week by a fire in the Sunshine Silver Mine.

The fire that first broke out last Tuesday flared up again, choking the mine with a new surge of smoke and lethal gas. This development was a sharp blow to the rescue teams, which have had to battle a series of setbacks, including power failures, leaky bulkheads and faulty ventilation equipment.

Last night, Marvin C. Chase, general manager of the Sunshine Mine, announced that 11 more men were trapped underground than the management had originally thought, or a total of 93.

Of these, 35 are known dead, and 58 are listed as missing. But even the most optimistic officials do not think more than a handful are alive, if any.

AIR SYSTEM FAULTY

Mine officials reported today that the compressed air system had apparently sprung a leak. This system had been carrying fresh air deep into the mazelike tunnels of the mine, in the hope that some miners were still alive.

Some air was still getting through, but the pressure had dropped to one-third of what it had been.

A somber grief seeped through this small community in north Idaho like the chill rain that pelted the bare hills and the gray, dirt-streaked buildings of the country's largest silver mine.

The best chance for reaching the trapped men seemed to be a torpedo-like capsule imported by the Federal Bureau of Mines. The Bureau is hoping to lower the capsule and a two-man crew down an airshaft that has been kept clear of smoke.

INQUIRIES DEMANDED

Meanwhile, critics of the Sunshine Mine and the Federal Bureau of Mines attacked the mine's safety program, and called for investigations of the disaster, the worst ever to strike Idaho's hard rock mining industry.

Davitt McAteer, an associate of Ralph Nader, concluded a three-day investigation by calling the deaths at Sunshine "unnecessary" and laying the blame to "corporate negligence and bureaucratic complacency." The mine, he said, "did not prepare" its employes to cope with a flash fire.

Mr. McAteer called upon the Bureau of Mines and the State of Idaho to conduct an emergency inspection of all mines in the state. He also urged the Senate Labor Committee and the House Interior and Insular Affairs Committee to investigate the tragedy.

Both the Bureau of Mines and the Sunshine company refuse to make any comment while investigations are in progress. The bureau is collecting depositions here in Kellogg for its examination of the fire.

"CODDLING" IS CHARGED

Officials of the steel workers union, which represents the Sunshine miners, denounced the Bureau of Mines. They accused the bureau of "coddling" the mining industry and of softening safety standards under pressure from industry lobbyists.

"It's not just safety, but the whole question of health," J. P. Mooney, a union staff representative, said. He charged that the bloodstreams of 44 per cent of the workers in local smelters registered unsafe levels of lead or cadmium.

Representatives of all union locals in this mining district met here late yesterday, and many of the men agreed with Keith Collins, a miner at the Sunshine, who said, "There ain't no such thing as a safe mine."

"Working in a mine," Mr. Collins said, "Is like walking in front of a truck and saying it's safe because the truck didn't hit you."

COMFORTING FAMILIES GRIMMER

Like many surviving miners, Mr. Collins has been trying to comfort the families of the missing men. But that task is growing grimmer. "I'm working so hard to keep their hopes up, when I have none myself," he admitted.

More than 50 friends and relatives continued to maintain their vigil at the mine entrance, huddling under makeshift plastic shelters and warming themselves on portable gas heaters.

For a week now, this community has been riding a roller coaster of hope and despair, but the rain seems to have injected a mood of realism, according to local clergymen on the scene.

"Physical exhaustion and the passage of time have caused a plateau now," said the Rev. Roland Schleuter of the United Church of Christ. "People are not actively churning up their anxiety. It's a holding action on their part."

"There's a feeling that it's been so long," the Rev. Burley Herrin added. "They're saying, "I might as well be prepared for the worst, but I still can't give up all hope.' "

PRESIDENT NIXON'S CHOICE

Mr. YOUNG. Mr. President, I believe that President Nixon had little choice but to make the decision he did to mine the harbors of North Vietnam and bomb their railroad and other supply lines, accompanied by his new and generous peace offer.

North Vietnam is receiving abundant military equipment and supplies of all kinds from Russia. Unfortunately, the Russian tanks and many of their other weapons are superior to anything we have.

South Vietnam is being overrun, and many thousands of refugees are being killed. A bloodbath such as occurred in North Vietnam when the Communists took over in 1954 is fast becoming a possibility. Unless this drastic action was taken, there might well have been a decisive defeat of South Vietnamese forces, endangering our troops and their withdrawal.

Undoubtedly President Nixon's decision was hastened by Hanoi's recent insulting, arrogant responses to our peace offers in Paris. The President's new offer makes possible a quick and honorable final solution to this tragic war by withdrawing all of our troops within 4 months after the return of all of our prisoners of war, and the acceptance of an internationally supervised cease-fire.

PRESIDENT NIXON'S DRAMATIC ANNOUNCEMENT

Mr. McGEE. Mr. President, President Nixon's dramatic announcement last night, that the seacoast of North Vietnam is now mined, is a very dangerous and even frightening new step on his part.

However, before we make a final assessment of this latest development in Southeast Asia, I would urge all of us to give the President the chance to proceed in playing out his very mixed series of events that are all laced together—events like the negotiations going on in preparation for the meeting in Moscow, like the feelers and conversations in Paris, and like the dialog in Peking.

Only the President himself really knows what has been said or what we have been led to believe in these several exchanges. Likewise, only the President knows what is required to protect America's bargaining position and the chances for a successful summit meeting in Moscow.

That is why I believe it is still important for us in Washington, and particularly Members of this body, to hold our fire. We can raise our doubts and express our fears. But I believe that we in the Senate ought to maintain a low profile and ought to restrain our rhetoric.

Only the President is Commander in Chief of our Armed Forces. His latest decision is but another act in what has been a very long and frustrating war for this country. And, according to the President, this latest action is designed to hasten the peace. We should give him the opportunity and the room to operate in the context of this latest development.

Mr. President, we do not help the situation at all by pretending to be Presidents ourselves. I would level one additional bit of counsel for my good friends and colleagues who are aspiring to the office of President of the United States. In my judgment, it is unwise to claim what you would have done if you had been in the White House this week because you are not there. There is all the difference in the world between running for President and being President. This latest decision relative to the war in Southeast Asia rests squarely on the shoulders of the President. He bears the ultimate burden for the rightness or wrongness of this decision.

So what I am saying is that we can well afford to be cautious about what we say for the next few days or even the next few weeks as the President pursues this very delicate and potentially dangerous development in our relations in Southeast Asia.

PRESIDENT NIXON'S ACTIONS IN VIETNAM

Mr. HRUSKA. Mr. President, President Nixon has taken his actions in Vietnam as the quickest and safest way to insure the security of our troops and to attain a durable peace in Indochina.

Protection of American lives is of the highest priority. There is no merit in arguing whether American soldiers should have been there or not. They are there and they must be protected. No self-respecting nation would do less.

The President's terms are generous and fair. He has set a date for withdrawal of our forces, contingent only on return of our prisoners and a cessation of fighting. Thus he proposes what the aggressors and his critics at home have long been demanding.

There are risks involved in this course of action, it is true. But what are the alternatives? Failure to act endangers 65,000 American lives, and we simply cannot incur that risk.

His language could not have been plainer. He is not escalating the conflict. He is protecting our own troops. This is no more than any other nation would do in the same circumstances.

No one deplores the necessity of those actions more than the President does. He has taken them with full knowledge of the risks involved.

In my opinion, we would run a much greater risk if we followed any other course. If a confrontation with Russia or other Communist nations results, it will not be our responsibility. We have made it clear we seek no such confrontation. If the other side persists in seeking one, then we would have to face it sooner or later. It is eminently better to make our position clear immediately and avoid possibility of miscalculation by our enemies.

Let us not forget that the Soviet Union would also face grave risks in a direct confrontation. They have just as great a stake in peace as we do. They have just as many reasons to settle this long and terrible struggle peacefully.

In the final analysis, it is, as the President says, namely, that there really were no feasible alternatives. Our first consideration must be protection of our troops and return of our prisoners.

All Americans should support him in those objectives. It is my hope they will do so.

THE NIXON ADMINISTRATION'S MISMANAGED ECONOMIC POLICIES

Mr. HUMPHREY. Mr. President, on April 22, in a report to the 1972 Democratic Platform Committee, the Economic Affairs Committee of the Democratic policy council reviewed the Nixon administration's mismanaged economic policies.

The record shows that those policies are responsible for "accelerated inflation, rising unemployment, the first recession in a decade, a staggering loss of production, the first international trade deficit in many decades, and a forced reduction in the international value of the dollar."

Prepared under the chairmanship of Gardner Ackley, and vice chairmanship of Walter W. Heller, both former chairmen of the Council of Economic Advisers, the report is the fifth in a series of issue papers to be released by Democratic National Chairman Lawrence F. O'Brien, under a new convention procedure recommended by the O'Hara Commission.

This report is one of several developed by regional hearings held by committees of the Democratic policy council, of which I have had the honor to be chairman. The views and recommendations contained in this economic report are those of the members of the Committee on Economic Affairs.

Chairman O'Brien has pointed out that we do not presume to speak for anyone in the Democratic Party other than those who directly had a role in the preparation of these reports, but, we are confident that these views will be afforded the most serious consideration by the platform committee members in writing the 1972 Democratic platform.

Other reports to be released include education, freedom of information, farm income, women's political power, housing, national regional development policy, the urban crisis, intelligence and security, the environment, consumers, and international affairs.

Mr. President, I ask unanimous consent that the complete text of the report of the committee on economic affairs be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

ISSUES AND ALTERNATIVES IN ECONOMIC POLICY

NIXONOMICS

The economic record of the Nixon administration

Judged by any objective standard, the economic policies of the present administration have been a dismal failure, as even Mr. Nixon was forced to admit in his abrupt turnabout last August 15.

The administration came into office with bright promises of assuring prosperity, halting inflation, and strengthening the international position of the dollar. Instead, it achieved accelerating inflation, rising unemployment, the first recession in a decade, a staggering loss of production, the first international trade deficit in many decades, and a forced reduction in the international value of the dollar.

Let's look at the sorry record of Nixonomics—a record of economic policy misjudgment and mismanagement so bad it must be seen to be believed:

Jobs. From the preceding eight Republican years, the Kennedy Administration inherited a legacy of 5 million workers, or 7 per cent of our labor force, unable to find jobs. Eight Democratic years succeeded in reducing unemployment to 3.3 per cent—the lowest level since the Korean War. Three Nixon years scuttled this achievement; all during 1971, five million or more were again jobless, and the unemployment rate had zoomed to 6 per cent. Unemployment exceeded 10 per cent among non-whites, and 17 per cent among teen-agers.

Inflation. This increase in joblessness was the deliberate and purposeful Nixon prescription for curbing inflation. But inflation, far from being restrained, accelerated. Consumer prices had risen 4.2 per cent in 1968, not a good record. Yet, an unemployment rose, so did the rate of inflation. Prices increased 5.4 per cent in 1969, 5.9 per cent in 1970 and, despite the "freeze" in August, 4.3 per cent in 1971.

Production. As Nixonomics took hold, our economy turned slack and sluggish. Between 1969 and 1971, total U.S. output (Gross National Product in constant prices) increased only 2 per cent. Total *industrial* output in 1971 was actually 3.8 per cent *lower* than in 1969. In contrast, between 1961 and 1968 total output had increased at an average rate of 5.1 per cent a year, and industrial production at an average of 6.7 per cent per year.

In the last quarter of 1968, 87.2 per cent of our industrial capacity was being utilized. In the last quarter of 1971 use of capacity had plummeted to 74.0 per cent, a low unequalled since the Republican recession in 1958.

Operating the economy below full employment during 1970 and 1971 has already cost us $128 billion loss of potential output. By election day, the loss will have reached $175 billion. During 1973, it will reach and surpass $1,000 per capita.

Profits. Business profits declined sharply throughout the Nixon Administration. As a percentage return on stockholders' equity, corporate profits in 1970 were lower than in any year since the recession year 1961. And 1971 showed only a modest recovery.

Take Home Pay. For those at work, even the sharp wage increases of recent years have barely kept up with rising prices, while lagging production has cut the average working week and held down workers' incomes. For a fully-employed factory worker with three dependents, average "real" take-home pay in 1971 was no higher than in 1968.

Dollar Devaluation. The U.S. balance of payments has steadily deteriorated. We experienced an adverse balance of merchandise trade in 1971 for the first time in many decades, nearly $3 billion. Our total foreign deficit in 1971 approached $30 billion. Dollar devaluation and suspension of convertibility were the inevitable results.

Fiscal Blunders. The fiscal record of this administration verges on the unbelievable. Because its fumbling policies retarded rather than stimulated recovery, the resulting loss of revenue has produced by far the largest budget deficits since World War II. In fact, the total deficit of the four Nixon years will amount to about one-third of the aggregate deficits of all the preceding years in our history. A record has also been set for miscalculations; never before have revenue estimates been so far in error. Yet another record has been set in the manipulation of budget figures to make them look good and to justify policies than cannot be justified.

THE THEORY OF THE OLD "GAME PLAN"

The disastrous outcome of Nixonomics stems directly from the notorious "game plan". It was anchored in the stubbornly held belief that the only effective way to curb inflation is to tighten the screws on the economy until rising unemployment will limit wage advances, and dwindling markets will hold down prices. As soon as he took office, the President sharply rejected any extension of the efforts of the Kennedy and Johnson Administrations to obtain the support of labor and business in moderating their wage and price objectives in the overriding public interest—a virtual invitation for wage and price increases.

The Republican formula sought to check inflation solely by retarding economic growth and creating unemployment—with the inevitable cost in terms of human distress and social unrest. Retarded growth and rising unemployment were achieved—only too successfully—but the expected tradeoff failed to materialize: even in recession, price increases did not slow down, they sped up. Conceivably, if the screws were turned down long and hard enough to cause a real depression, inflation would be retarded; but even the Nixon Administration could not contemplate so high a price.

As serious a mistake as it was to adopt this "game plan", much less forgiveable was the protracted failure to recognize that it was not working. The February 1971 Economic Report proclaimed that the year would be one of rapid recovery. It set a target for GNP that was almost universally recognized as wholly unrealistic (given the policies adopted), even by some of Mr. Nixon's own economic advisers. When Bureau of Labor Statistics officials commented, as they had always been expected to do, on significance of the disappointing economic statistics the Bureau was releasing, the reaction was not to take a hard look at what was happening but rather to muzzle the officials whose interpretations were honest but distasteful. When the Democratic Congress granted the President the authority to control prices and wages directly, he condemned such controls, and kept insisting that he would never use the authority—up to the final days before his abrupt confession of failure last August.

THE NEW ECONOMIC POLICY

Confession of error, though belated, is at least a step in the right direction. But the delay was costly, and we will pay the penalty for years to come. The bankrupt course of clamping down on the economy, while letting inflation rage unchecked, contributed largely to the swollen budget deficits of 1972 and 1973, and clearly aggravated the deterioration of our balance of payments and the collapse of the dollar. The failure to take firm steps earlier to hold down rising prices led directly to the very large wage increases in key industries in 1970 and 1971, which workers demanded and received to keep pace with soaring living costs. This failure has already guaranteed higher costs and selling prices in the years ahead, further impairing the competitiveness of American products on international markets.

Even when Mr. Nixon finally decided to use the price-wage authority the Congress had given him, and took the drastic steps that had become necessary on dollar devaluation, his fiscal policies retained the traditional Republican dias. Instead of concentrating on raising consumer purchasing power, he persisted in the "trickle down" theory. The tax package he proposed in August would have given business $5 billion in tax relief from an investment credit, on top of $3½ billion of "depreciation reform" granted earlier the same year. The Democratic Congress managed to boost the benefits to consumers a little, to pare the investment credit to $3½ billion, and to make the depreciation reform less generous. But the entire $5½ billion of business tax benefits would have provided a far more effective stimulus had it been made directly available to the consumer. So would the $2½ billion cut in excise taxes on automobiles, if spread throughout the community rather than limited to new car buyers. Moreover, Mr. Nixon proposed to cancel most of the fiscal stimulus from tax cuts by a $4¾ billion cut in federal spending.

His policies were thus quite unable to create the millions of new jobs needed to absorb the annual growth of our civilian labor force, plus the additional millions of jobs needed if we are to move back toward full employment. Even under the New Economic Policy, job creation has barely kept pace with labor force growth, and unemployment remains close to the intolerable 6 per cent. Only in July 1972 has Mr. Nixon finlly tried to pump up expenditures, through the largest annual increase in federal spending since World War II, in a desperate but inadequate effort to get the unemployment rate moving down by election day. He hopes, of course, that the voters will not recall how many jobs his policies cost the nation.

Although the patriotic cooperation of nearly everyone made the wage-price freeze a 90-day success, Phase II has been a disappointment right from the start.

The Pay Board, in particular, has been given no clear policy guidance, and flounders in a morass of inconsistent rulings which run the gamut from apparent inequity to excessive generosity. The Price Commission strives earnestly to carry out its poorly-defined mandate; but it has not been given resources adequate to do a good job across the board, and it has not had the sense to concentrate them intensively on the areas that are most critical and sensitive. It has adopted an unduly generous policy of passing through cost increases with full markups, and is approving substantial price boosts by big business which are clearly inconsistent with its goal of limiting price increases to 2½ per cent by year end.

The Department of Agriculture now estimates that grocery prices will rise 4½ per cent in 1972. Coupled with continuing sizeable increases in the prices of services, this alone would raise the Consumer Price Index by nearly 3 per cent even before taking account of rising prices of non-food commodities that represent 40 per cent of total consumer expenditures.

On the unemployment front, the Council of Economic Advisers hopes for a reduction of 5 per cent by year-end; but this too seems most unlikely given the rapid increase both of our labor force and of labor productivity. A drop of the unemployment rate even to 5½ per cent may be difficult to achieve by a program that relies on hopes rather than action. The most urgent task confronting us is to create more jobs; yet the administration accepted the Public Service jobs program enacted by the Democratic Congress only reluctantly, and has scornfully rejected the Reuss proposal for really substantial job creation.

A DEMOCRATIC PROGRAM FOR PROSPERITY

So much for the sad record of three Nixon years. What is needed for the future, to lift us out of the present morass and, in President Kennedy's words, to get America moving again? We cannot afford an administration dedicated to the proposition that 4½ million workers need not find jobs in our economy. The earliest possible restoration of full employment must be our paramount goal, and a 4 per cent unemployment rate our minimum objective. What should be the Democratic program for recovery and stabilization? Some answers seem very clear; others will need careful and continuing study, which will take account of the needs and aspirations of all of our people, of the opportunities now open to us, and of the best technical knowledge of economists and other experts.

Fiscal policy

In good measure, the adoption and unswerving pursuit of a sound and equitable fiscal policy is the key to steady prosperity and growth. Unlike Republicans, Democrats have long been aware that budget deficits are essential when the economy is operating below its potential (although the huge Nixon deficits expected for 1972 and programmed for 1973 would have been unnecessary if more timely and more effective action had been taken earlier to expand the economy). But now that a Republican administration has finally embraced deficits—and even "full-employment" deficits—when the economy is lagging seriously, there should remain no significant political opposition to using taxes and the budget flexibly and constructively to sustain prosperity.

Yet just as there need be no fear of deficits as such in times of economic slack so we must recognize that sound fiscal policy may require substantial surpluses in times of prosperity. Not "balancing the budget", but deciding when deficits or surpluses are needed, how big, and how to achieve them constitute the real problems of fiscal policy.

It is not our task to deal with the question of priorities within any given total of budgetary expenditures. Here we address ourselves to three other questions related to fiscal policy.

1. OBTAINING NECESSARY FISCAL FLEXIBILITY

For fiscal policy to provide the necessary support for a steadily expanding economy that will fully use but not overstrain its available productive resources, means must be available promptly to offset the inevitable tendencies for fluctuations in the private demand for goods and services. This requires some combination of flexible variation of tax rates and/or budget expenditures.

Tax flexibility. Many economists believe that the President's Budget should each year routinely propose a uniform percentage surcharge—positive, negative, or zero—on all personal income and profits taxes. The direction (plus or minus) and the size of the proposed surcharge would be adjusted to the proposed size of the expenditure budget, the net impact of tax changes proposed for other reasons, and the expected state of the private economy.

In almost every year of the past decade, some tax rate change has been proposed for stabilization purposes. Now it is clear that the rate change must be considered a routine question for every budget. And, unless tax rate changes proposed for other reasons happen to provide the right amount of stimulus (given proposed expenditures and the state of the economy), this annual proposed change should take the form of a positive or negative surcharge on income taxes.

Some economists further propose that the President be delegated limited discretionary authority (subject to Congressional veto) to impose a positive or negative surcharge in case unexpected changes occur in the rate of budget expenditures or in the strength of the private economy after Congress has acted for that year on taxes and on the size of the budget. It is probably too early to conclude that this authority is necessary until we have further experience with the success of systematic once-a-year adjustments.

Expenditure flexibility. Congress needs to develop some better means than it now has to consider each year and to determine whether the total size of the President's proposed budget is appropriate in view of what it may expect to enact in the way of tax rate changes. Thereafter, it needs to have some better means than now exists to see to it that the collection of separate appropriation bills it enacts will permit expenditures of the total size that it has previously determined was appropriate.

Failing such better means Congress must accept the exercise of Presidential discretion to withhold appropriated funds—or to release funds previously withheld—whenever the private economy appears to shift from a previously expected path and previously enacted tax rate or spending changes therefore become clearly inappropriate. The fact that the present incumbent has used such discretion arbitrarily and unwisely does not negate the principle. Perhaps some formal authority should be provided—authorizing (and limiting) the President's power in these respects.

Automatic flexibility. In addition to the expenditure flexibility that arises from discretionary changes in the budget, there is now an increasing degree of automatic flexibility in expenditures, lifting them when the economy is slack and curtailing them when it booms. In addition to unemployment insurance and welfare programs, there is now—on Democratic initiative—a program of public service employment which automatically turns off as full employment is restored. This program needs to become a permanent feature of our stabilization policy. An even more powerful program of automatic stabilization would arise from Democratic proposals for a "cyclical" form of revenue sharing with cities and states, under which the federal government would cushion state and local governments from the revenue losses that arise from the failure of the national economic policy to maintain a prosperous and steadily expanding economy.

2. Appropriate size of the total budget

Conservatives perennially fear that federal budgets, even if soundly financed, have an inevitable tendency to expand without limit; and that the budget is already—or is always about to become—"too big" for the health of the economy. The fact is that the federal budget can be as big as it needs to be, so long as its financing is soundly adapted to the needs of the country.

Still, the total budget should be no bigger than it needs to be to achieve the nation's objectives. Thus, Democrats can be and are as interested as are Republicans in curbing waste and inefficiency in government, in promptly abolishing or altering old programs the need for which has changed, and in making sure that new programs are so designed as to achieve their objectives with the minimum necessary expenditure of public funds.

In recent years, new methods of budgetary evaluation have been introduced by both Democrats and Republicans. These should be continued and strengthened. Moreover, government reorganizations to improve efficiency and eliminate waste need to be the constant concern of both the Executive Branch and the Congress.

For the future, it is quite possible that substantial new expenditure programs to solve urgent social problems will emerge from the reexamination of the nation's needs and priorities which Democrats seek. These may call for a permanent enlargement of federal revenues. If this is the case, we should not hesitate to undertake the necessary expenditure programs, up to the point at which the social value of public expenditures no longer exceeds—at the margin—the social value of the private expenditures which would be foregone through the enactment and collection of equitable taxes necessary to pay for those expenditures. Judgements of this kind are basically economic; but they can only be made and must be made through our democratic political processes.

3. *Tax policy*

Tax reform. Whether or not significant growth of government expenditures is required, in excess of the growth of revenues from present tax sources and at present tax rates, tax reform is urgently needed. If none, or only some, of the increased revenues from tax reform should be needed, tax *rates* can be reduced. If, as is probable, more revenues are needed, the *first* source of these revenues should be from tax reform. Indeed, it appears that far-reaching reform could easily pay for almost any foreseeable increase in expenditures that may become necessary.

Tax reforms will obviously be resisted by groups now enjoying the benefits of the loopholes and inconsistencies in our tax structure; and at least some of this resistance will stem from legitimate concerns. Painless reform is not possible; the issues involve the relative weights accorded to the claims of special groups and that of the broad public interest; often the two are closely interrelated. Most present tax concessions were provided not capriciously, but with significant social or economic objectives in mind.

But many of these objectives have lost their force in today's world, and all merit careful reexamination. It is certainly not tolerable that some of the very wealthy pay no federal income taxes; that others of the rich pay much less than their appropriate share; that the poor and many with middle incomes have no comparable avenues of shelter; and that—at any income level—people with the same incomes but derived in different ways pay unequally the costs of government. The Nixon Administration has promised tax reform proposals, but they remain conspicuous by their absence.

Recent testimony by experts before the Joint Economic Committee has demonstrated that the individual and corporate taxes—the nation's best and most progressive tax sources—are badly in need of reform. At given present rates and income levels, a comprehensive reform would yield more than $70 billion in additional revenue from the individual income tax alone. Such a reform would, in effect, treat all sources of income equally, including realized capital gains and interest on state and local bonds; would limit depletion allowances to actual cost; and would eliminate most of the itemized deductions and the rate advantages of income-splitting for married couples. This would obviously allow massive across-the-board cuts in income tax rates, as well as a considerable expansion of spending.

Less drastic proposals might include: Revision of the capital gains tax; further reduction of depletion allowances; improvement of the minimum tax; elimination of unnecessary deductions; and revision of the tax treatment of the family. In addition, repeal of the recently-authorized liberalization of depreciation allowances seems appropriate. A combination of several of these reforms could well remove any need either for new tax sources of for the raising of tax rates, for some considerable period.

New tax sources. If significant tax reforms cannot be enacted, or if extremely large increases in federal revenues are needed—for example, to increase the role of federal financing in public education—new federal taxes will inevitably be considered.

The Nixon Administration has floated a trial balloon—but as yet no formal proposal—for an across-the-board Value Added Tax (VAT), similar to that now imposed in most of Western Europe. It is, in effect, a national sales tax. Its revenues would be transferred to local jurisdictions, primarily for educational purposes, thus relieving the excessive burden now borne mainly by property taxes. No matter how structured, however, such a tax would be inherently regressive in the top brackets, further eroding the relatively limited progressive element that exists in our present combined federal, state, and local tax structure. Economists differ as to who bears the burden of the property tax, now the principal source of education funds. But even if the property tax is somewhat regressive, substituting one regressive tax for another seems hardly the best way of achieving the desired objective. Even moderate reform of our federal income tax structure could achieve the same revenue objectives much more equitably. And if still further federal revenues were needed—or if tax reform were blocked—a modest increase in personal and corporate income tax rates, now well below 1963 levels, would be preferable to a national sales tax.

Monetary policy

We regard it imperative that monetary and fiscal policies be closely coordinated. Inappropriate monetary policy can frustrate our objectives as readily as ill-conceived fiscal policy; the two must move hand in hand. The view—still held by some Republican economists—that monetary policy should move independently, and merely aim at a constant rate of increase of money supply (however defined) has now been clearly discredited. Adequate growth of the money supply is important; but so are interest rates. Unduly high interest rates, such as those achieved during the first two years of Nixonomics, retard economic growth and can have a catastrophic impact on major sectors of the economy, especially construction. The rate of growth of money supply, however measured, cannot be governed by any simplistic formula, but must be constantly adjusted to the changing needs of our economy. And interest rates must not be allowed to rise to levels inconsistent with those needs.

Wage and price policy

Mandatory limitations on wages and prices imposed under the Phase I freeze and the Phase II controls, were made necessary by the failure of the original Nixon game plan. Phase II, however, is working only imperfectly and often inequitably, and certainly requires immediate and extensive changes. However, at best, mandatory controls provide no long-term solution to the problem of inflation. Our economy cannot operate either efficiently or equitably for any extended period under rigid controls of this type.

If Phase II controls are adapted so as to operate effectively during the remainder of 1972, most of the need for widespread compulsory controls should have ended by a year from now. Thus the real problem for Democratic policy is the kind of longer-term price and wage restraint that must follow Phase II.

Our own post-war economic history, and that of other western nations, shows clear evidence of an endemic inflationary bias, with periods of creeping inflation followed by periods of more rapid price rise, such as that since 1968. This tendency always becomes stronger as full employment is approached.

Because the system that is needed to control creeping inflation at high employment must be thought of as essentially permanent, it must be a flexible system which will not distort economic development. And it must rest basically upon the consent and participation of those whose wages and prices are controlled, a consent which can only derive from a sense that the system operates equitably, yet can achieve the reasonable overall price stability which the interests of both labor and management require as well as the welfare of the community generally.

The agents of such a system must have specified authority that can only derive from legislation. The design of that legislation, and the creation and preservation of the necessary atmosphere of mutual trust and confidence among the several economic interest groups necessary to the success of such a program must be considered a major responsibility of a Democratic President and Congress.

International economic policies

The recent currency revaluations had probably become inevitable in good part because of the failure of Nixonomics. They should contribute substantially to the improvement of American competitiveness in international affairs.

By the same token, however, the reduced value of the dollar, along with the expected further reforms of the international monetary system, should remove most of the pressures for quantitative import controls, whether mandatory or "voluntary." We must avoid, at all costs, the neo-isolationism that seeks to insulate our markets from legitimate foreign competition. This is essential to protect the consuming public from excessive prices. It is essential, also, to foster the gradual readjustment of our economy to changing domestic and world conditions, and to guide each nation's productive activities into those lines of production in which it has comparative advantage or, at least, equality. Only through this kind of international division of labor can the economic welfare of citizens of every country—including our own—be maximized, and the economic development of poorer nations assured. We recognize that world competition—like domestic competition—may have disruptive impact on some industries, but the answer should be found in adequate programs of "adjustment assistance," not in building arbitrary barriers that would only set off a train of reprisals to the injury of all.

We must, at the same time, continue our efforts to induce our trading partners to treat our exports equitably. The objective of maximizing world trade cannot be achieved by us alone; we must expect other countries to treat our international trade as fairly as we treat theirs. A major initiative in the reciprocal reduction of trade barriers on a worldwide basis is long overdue, continuing the constructive tradition followed by Presidents

Roosevelt, Truman, Kennedy and Johnson, interrupted only under the Nixon Administration.

These objectives will be possible only if international monetary reform succeeds in permitting increased flexibility of exchange rates. The Nixon Administration's efforts toward monetary reform have essentially continued along lines initiated under two Democratic Presidents; they need to be carried forward aggressively and pushed to fruition in the several years ahead.

THE WILD PET TRADE: A NEED FOR CONTROLS

Mr. CRANSTON. Mr. President, I was delighted to have the privilege of testifying recently before Representative DINGELL's House Subcommittee on Fisheries and Wildlife Conservation regarding the merits of proposed legislation to protect and preserve rare and endangered animal species. My own bill, the Nature Protection Act—S. 249—which would prohibit the hunting, capturing, killing, taking, transporting, selling, or purchasing of any species of fish or wildlife which is in danger of becoming extinct, is currently being considered by Representative DINGELL's subcommittee during the course of its deliberations on the general problem of endangered species.

An excellent article on one facet of this problem, the importation of exotic animals for the pet trade, was published recently in the Los Angeles Times. Mr. President, I ask unanimous consent that the article by Eugene Linden, entitled "The Wild Pet Trade: A Need for Controls," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE WILD PET TRADE: A NEED FOR CONTROLS

(By Eugene Linden)

(NOTE.—The importing and sale of wild animals as pets has come under attack in recent years as part of increased public interest in the environment. But as long ago as 1940 the United States ratified a treaty with other Western Hemisphere nations aimed at protecting wildlife. Legislation to put this country in full compliance with the treaty was never passed, however.

(To satisfy the requirement, Sen. Alan Cranston (D-Calif.) has introduced a bill in this session of Congress that would prohibit the "hunting, capturing, taking, transporting, selling or purchasing" of any rare or endangered animal. The Nixon Administration has proposed a similar measure.

(In California, Assemblyman John Burton (D-San Francisco) has proposed a bill, scheduled for hearing Monday, that would ban importation of nondomesticated mammals into the state for resale by pet shops. An earlier version of the bill passed the Assembly in 1970 but did not get through the State Senate.)

The harvesting and sale of wild animals as pets has become an unfortunate adjunct to the growth of the conservation movement. The idea that buying a monkey, wolf, viper or jaguar as a pet fosters or expresses love of nature runs counter to the ecological spirit conservationists have been trying to encourage, yet Americans now spend $20 million to $30 million on such animals annually. The pet industry avidly services and encourages this demand.

I started to investigate the pet industry while I was working for former Rep. Richard L. Ottinger (D-N.Y.) in 1970. The first thing I learned was that if you are willing to pay, it is simple to purchase any animal, endangered or not, dangerous or not, legal or not, with no questions asked.

My telephone inquiries of pet dealers around the country produced offers of lions, jaguars, mountain lions and cheetahs. Only once was I asked whether I knew how to handle such animals.

A pet dealer in Florida offered to sell me an untamed, full-grown mountain lion, and when I asked whether it was dangerous he said, "No, just keep it away from livestock." (I told him I had children.)

The pet industry is virtually unregulated in what it can sell and to whom. Far from exercising self-control, it has abused its freedom: (1) by selling as pets animals impossible to domesticate, impossible to keep alive in captivity, or dangerous and thus defrauding the public; (2) by transporting wild animals with inhumane provisions for their health and foisting them on the public with duplicitous statements about care and feeding and thus comitting the wild animal imported as a pet to a short life of misery before death due to mishandling; and (3) by playing a cruel numbers game in the collection of wild animals.

Up to 10 animals die for every one that makes it to the pet store and uncounted breeding mothers are killed to harvest the young. In some cases habitat and nesting areas are destroyed in order to collect animals for sale.

Apart from my inquiries of the larger pet dealers around the country, I made several calls to pet shops randomly selected from the Manhattan telephone book and asked if I could buy a proboscis monkey. All tried to convince me to buy various exotic monkeys they had in stock, and two of the shops promised that if I left a $50 deposit they could get me one.

Further questions revealed that both these people were aware that the proboscis monkey is almost extinct and that deportation from Malaysia has been banned. The cheetah, too, is endangered in almost all of its habitat, but I had no trouble locating a pet dealer who would sell me one. There was no way of knowing whether the cheetah had been illegally exported.

Besides procuring exotic animals, pet stores regularly advertise monkeys, falcons, ocelots, owls and rattlesnakes as perfect educational pets for the family. Because most exotic animals die quickly in captivity, the stores generally only stock the hardier cats and monkeys and order other animals as they are requested.

Both in advertisement and at the time of sale the pet stores consistently misrepresent wild animals to potential customers on such matters as an animal's suitability as a pet, the care and handling it requires, and the chances of its survival.

Such deceptions are most common in the selling of monkeys. Joe Davis of the New York Zoological Society says that almost any monkey sold as a pet will die within a year and that some of the monkeys sold in pet stores cannot even be kept alive in zoos.

A common reason for death is that human respiratory ailments prove fatal to monkeys. Aside from this vulnerability, the monkey makes a bad pet because it is virtually impossible to housebreak. Finally, many monkeys, after infancy, establish their standing in their age groups by fighting with other adolescents. If a monkey grows up in a family of children, it often assumes the children are other monkeys and will start to pick fights with them.

Tens of thousands of monkeys are sold each year with little warning about these and other problems the owner will encounter, nor the misery the monkey will suffer.

John Perry of the Washington Zoo claims that every month five or six people call in with lions or tigers they have purchased that are getting too big to handle. It seems absurd to have to confront the idea of people buying lions as pets, but there is a huge trade in middle-sized cats—many untameable, and some endangered.

The most commonly purchased middle-sized cat is the ocelot. It can be a good companion, but it needs lots of space and lots of exercise. The ocelot grows to 60 pounds and, to get exercise in an apartment, will pretend that drapes are trees, couches are rocks, and will soon reduce an apartment to rubble. Any big cat requires constant attention and cannot be left alone even for a weekend.

And then there was the New York woman who was savagely bitten by her own timber wolf in the heart of Manhattan. The timber wolf, incidentally, is nearly extinct in the 48 contiguous states.

By the time the owner discovers the truth about his unmanageable, deadly, huge, squalorous, sickly, or dead pet, it is too late. He cannot get his money back from the pet store, which, in most cases will not even take the animal back and resell it; zoos will not take it; friends won't either. The only choice open to the owner who keeps a wild animal alive long enough for it to become a nuisance is to have it destroyed.

The suffering that occurs once the animal is in the buyer's home is still minor compared to the cruelty and wholsesale deaths that occur in getting wild animals to the pet shop.

The exotic pet trade almost exclusively deals in animals that are "harvested" when they are young. Nursing kittens or cubs of any species are very delicate. Ed Baker, who formerly ran the Interior Department station at New York's Kennedy Airport, claims that it is inhumane and often fatal to ship any animal while it is nursing.

Most of these young are harvested by shooting the mother. In the case of certain American monkeys, not only is the mother destroyed, but the nesting trees, necessary for continued reproduction of others in the species, are destroyed as well.

No matter what pious statements wholesalers make about harvesting precautions, the native who goes out to get the animal does it the easiest way, and this is by killing the parents, and/or by destroying its habitat. For every cute cub bought out of some misguided love of nature several cubs are denied birth because the mother has been killed.

Moreover, Katherine Cisin of the Long Island Ocelot Club estimates that for every ocelot kitten that survives acclimation at an individual's home, 10 die during shipping, the sojourn in the pet shop, or during the initial period of acclimation.

Because animals are salable only while they are cute and young, hundreds of cubs are doomed so that a few will arrive alive. The consumer who buys a cub or kitten unknowingly sets in motion a vortex of destruction that involves 10 times the number of animals he purchases.

Mishandling in the home is only the final link in a chain of inhumane treatment that begins when the animals are captured. Monkeys are jammed 20 or 30 at a time into tiny cages with the expectation that many will die in transit.

I visited the animal shelter at Kennedy airport where workers removed dozens of dead monkeys from cages that had just arrived. Leopards and other cats are often boxed in cages so small that they cannot stand up. Often animals have to make 36-hour journeys with no food.

Add to this rough handling, terrifying noises, sudden temperature changes, and, in the case of young animals, no mother for comfort and protection, and it becomes obvious why so many animals cannot survive the trip to the pet shop.

The total sales of wild animals amount to less than 2% of the pet industry's annual receipts. This trade is attractive because the sale of an exotic animal promises quick, large profits, and because the animals, when displayed, often lure customers into pet shops where they may make a more ordinary purchase.

However, this trade is no way essential to the pet industry. Its uncontrolled continuation means unchecked destruction of habitat, untold cases of cruelty and senseless animal deaths, the depletion of interesting and valuable species, and misery for the buyer who purchased his animal in misleading circumstances.

By the time a wild animal gets to the local pet shop it is too late to enforce laws concerning the sale of wild animals. The simplest and most enforceable remedy would be to ban or restrict the importation of all wild animals except those approved for unrestricted importation by a panel of zoologists. Such an approved list could be subject to nonlegislative amendment as the Endangered Species List is now.

Exemptions could be allowed should an organization or individual demonstrate a need to import the animal and the resources to care for it. Similarly the trade in domestic wild animals could be controlled by acts governing interstate commerce. Measures such as these would be an inexpensive and simple way to help end a cruel and unnecessary trade.

ADMINISTRATION AGAIN LIMITS EXPANSION OF FOOD PROGRAMS FOR CHILDREN AND THE NEEDY

Mr. HUMPHREY. Mr. President, the administration is again playing budgetary politics with our Federal child nutrition and emergency food service programs.

As most Senators will remember, last year we had almost a constant go-around with the administration and the Department of Agriculture with regard to appropriate funding for the school lunch and breakfast programs, followed by similar battles concerning food stamp programs regulations and funds.

The administration this year is now taking a hold-the-line position regarding funding these programs. While their budget requests for fiscal 1973 are about what they were in fiscal 1972, the costs for operating these programs have risen. Holding the line on total budget outlays for these programs will likely result in a net reduction in child participation. It also will deprive other children who have not participated from doing so. And for others, it may mean fewer benefits or higher costs to participate.

Mr. President, the American School Food Service Association has compiled an analysis of the administration's child nutrition budget for fiscal year 1973, which I ask unanimous consent to have printed in the RECORD. I also ask unanimous consent that the statement of Josephine Martin, chairman of the legislative committee of ASFSA, be printed at this point in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

CHART NO. 1.—ANALYSIS OF CHILD NUTRITION BUDGET—FISCAL YEAR 1973

	USDA 1972 current estimate (in thousands)	USDA 1973 budget estimate (in thousands)	ASFSA 1973 budget request (in thousands)	1973 meal estimate (in millions)		Assistance level per meal (in cents)	
				SFS	USDA	SFS	USDA
1. Cash grants to States for meal reimbursement:							
School lunch—Sec. 4	$252,000	$274,000	$447,000	25.0	25	10.0	6.1
Free and reduced	545,000	587,500	612,212	8.0	[1] 7.7	42.8	42.8
School breakfast	31,000	33,000	53,600	1.5	1.42	20.0	13.0
4. Cash grants to States for—							
Nonfood assistance (equipment)	16,110	16,110	[2] 85,000				
State administrative expense	3,500	3,500	10,000				
Nonschool food program	49,000	49,000	75,000				
Total	896,610	963,110	1,282,812	(=386,000)			

[1] All ASFSA estimates based on 178.8 school days.

[2] Estimates of need by State school food service directors. Recommend budget for 1973 fiscal year with carryover authority.

ADMINISTRATION LIMITS EXPANSION OF FOOD PROGRAMS

(Statement of Josephine Martin)

I am Josephine Martin, and I am administrator of the school food service programs for the Georgia Department of Education. I am here today representing the American School Food Service Association, an organization of 47,000 members.

I wish to thank the committee for this opportunity to testify on the appropriations for child nutrition programs in fiscal 1973. This is also the first chance I have had to officially thank you for the increase in funds for the 1972 FY which the Congress authorized in November, and I now do so. Those additional funds have opened our eyes to the potential of child nutrition programs if they were adequately funded. Hungry children can not learn; one way to improve education is improved child nutrition programs.

I shall speak only briefly, and ask that several charts and tables which support my testimony be inserted in the record.

The position of the American School Food Service Association can be summarized in these points:

The budget which the USDA has submitted, and which forms the basis of your actions on appropriations, is inadequate:

It does not tell the Congress what is happening in the program;

It will not provide children in school and out with the nutritional services they need;

It does not support the States and the local school districts in their efforts to respond to the problems and needs of children and families in their community.

We humbly ask that the Congress make a new start in child nutrition by adopting a funding program which will:

First, attack the general need for greater fiscal support in the child nutrition program, a problem which inflation has caused;

Second, strengthen new programs in child nutrition which are designed to meet new needs in the community;

Third, support the States by permitting them to make the decisions as to how problems in the State and community should be met;

Fourth, adopt fiscal and budgetary management procedures which will encourage the States and communities to adequately serve the nutritional needs of children.

To do these things, the American School Food Service Association asks that this committee and the Congress adopt a 9-point fiscal program to:

1. Increase appropriations by $386 million, rather than the $67 million requested by the USDA.

2. Raise the general reimbursement rate per meal for lunches to 10 cents, while providing an additional 42.8 cents per meal for lunches served free or at a reduced price.

3. Provide an average 20 cent per meal reimbursement for all meals served at breakfast.

4. Increase the funds available for nonfood assistance to $86 million rather than the $16.1 requested by the USDA.

5. Increase the non-school food program budget to $75 million.

6. Authorize Chief State School Officers to determine the allocation of research and development funds provided under the program for the States.

7. Appropriate funds to begin planning for the submission of a child nutrition budget at least 12 months in advance of the actual appropriation.

8. Adequately support the administrative costs of child nutrition programs for the States. Congress has made 10% of the funds appropriated to the States for nutrition programs for the aged available for administration. Title I (ESEA) makes 1% of the funds available for State Administration.

9. Provide funds for nutrition training and surveys that will permit the States to develop means of using school food service as a nutrition education laboratory.

We make these requests because we believe the child nutrition programs are being starved for financial support. We recognize that the USDA in its testimony said that progress is being made in these programs, and that this progress will continue under the budget proposed by the Department.

We have carefully analyzed the data submitted by the USDA for the fiscal 1973 budget, and we find a number of items which raise a question as to how realistic an appraisal you have received of the performance and need in child nutrition programs.

For example, the explanation of the budget indicates that 8.4 million children can be served each day next year with free or reduced price meals. However, the USDA budget will only allow 7.6 million children to be reached each day of the 178.8 day school year; the program should be serving upward of 8 million or more.

Similarly, the overall level of participation seems to be geared to serving 27.5 million children, when in fact the budget is based on reaching 25 million children.

In our proposal we have adjusted the USDA budget figures to reflect the actual, and not the inflated performance goals on a daily basis. If this statistical inflation is taken out of the budget, and the projected goals for fiscal 1973 are compared to the current performance level of the program, then an entirely different and more accurate picture emerges.

The fact is that the child nutrition programs are in trouble, and the budget you have been given by the USDA does not address itself to the needs we face in the States. Let me cite a few examples:

1. The school lunch program has stopped growing. Since October the number of students served on a daily basis has leveled off at about 22.8 million, and the figure has not changed appreciably from one month to the next. A survey conducted among State directors in preparation for this testimony indicates that at the proposed level of reimbursement, the program will serve only 23.1 million students a day next year, or only slightly more than in this school year. (chart No. 2) We should not be satisfied with serving only 25 million of the 43 million children in school, but with the resources we are given, we can not even attain this minimal goal.

We believe that several trends are operating which trap the school lunch program at this plateau, including:

a. Schools are dropping out of the lunch program even as others join because more school boards are unable or unwilling this year to make up program deficits;

b. More needy children are being added to the program, but the number of paying children has declined sharply in the past year;

c. The cost of food, materials and labor is going up, and the quality of meals is declining. USDA figures show an increase of 8.5 cents per meal over the past two years.

The later trend is not new. The USDA found in a 1965 survey that about a third of the lunches were below the type A Standard. This affects acceptance, as does the fact that a typical school lunch menu today contains more carbohydrates than I would prefer.

However, when the paramount consideration is cost, the menu must substitute bulk for quality nutrients. For this reason we find the recent increases in food prices are especially troublesome. These increases, combined with a standstill lunch budget, leaves the school lunch operators with only two alternatives, each worse than the other. Either way program growth will not be resumed.

We can develop less expensive menu patterns, but only by serving more "depression" style meals; or we can increase the price of the existing meal.

We do not want to raise lunch prices, for a very simple reason: The child who will be forced out of the program will be those whose parents are blue collar and moderate income salaried workers, families who are not poor but who struggle to live on an income that doesn't stretch anymore to meet rising costs. In other words, the average man who feels that he is carrying more than his share of the burden already will be hurt the most.

2. We also believe that the USDA budget fails to recognize that schools and communities are developing new and better ways to meet the nutritional needs of the children. The USDA, for example, told the Congress recently that the breakfast program would be used only to supplement the lunch program. Yet, everyone who has been in schools recently would know the breakfast program is rapidly becoming a permanent and complimentary nutritional service to the lunch program. Senator Herman E. Talmadge stated two weeks ago, "What goes into a child's stomach from a school breakfast or lunch can be as important as what goes into his head from textbooks—I would like to see the breakfast program operated on the same basis as school lunch—available where needed for all needy children."

Other programs are also expanding. As a result of federal legislation in child care and development, the number of child care centers has grown dramatically. In the past two years, the number of programs served through the nonschool food program has increased from 1,400 centers to over 5,000. The budget proposed by the USDA, however, will **not** support the demand for additional programs (1,500–3,000) requested by the States.

We are told further, as you have been told, that a major goal of child nutrition programs is to provide food service within three years in all schools which are unable to serve meals to children. Yet, the USDA is proposing no further increase in funds to pay for equipment and materials. The recent American School Food Service Association survey indicates that only 52% of children are expected to have lunch in 1973. Many schools can not increase meals because their facilities are totally inadequate to prepare and serve food to more children.

These are some of the reasons we are requesting the Congress to raise the overall child nutrition funding level to $1.3 billion for fiscal 1973. The budget proposed by the USDA is inadequate; it will not enable the States to increase the level of nutritional services for children in their school and community.

For comparison purposes, let me refer you to chart I in the attachments to my statement. This sets down the amounts requested by the USDA as against the recommendations of the States.

Our recommendations are based on a careful evaluation of program needs by the State school food service directors. We regret that the USDA figures do not reflect the recognized needs of those who operate programs; we would prefer to come before the Congress with major differences in funding needs resolved. Unfortunately, we have not been consulted on fiscal and budget questions in any major way, even though PL 91–248 mandated that the States and the USDA undertake a far greater responsibility in child nutrition.

We have, in comparison to the USDA, miniscule planning resources. Within the limits of these resources, however, we have attempted to bring you our best assessment of the need.

That need, simply put, is for an appropriation of $1.3 billion in cash grants to States for child nutrition, or an increase of $386 million over fiscal 1972 funding levels. If it is allocated as we recommend, then we believe the lunch program can re-establish a growth pattern, that schools and communities can begin to utilize the new programs that changing times require and the States can perform as full partners in programs to improve the nutritional health of children.

Without your help, however, there is little reason to hope these goals can be achieved.

Thank you for the privilege of testifying before your committee today, and I will be happy to respond to your questions.

Cost Analysis and 1973 Participation Estimates School Lunch, Breakfast, and Nonfood Assistance

(Summary prepared from information submitted by school food service directors, March 1972)

Average total cost per lunch:

Actual cost of food (cash outlay) per lunch, $0.2862.

Value of commodities per lunch, $0.0832.

Actual labor cost per lunch, $0.1979.

Other expenses per lunch, $0.0613.

Total cost to produce a lunch, $0.6286.

Average total cost per breakfast:

Actual cost of food (cash outlay per breakfast), $0.1560.

Value of commodities per breakfast, $0.0327.

Actual labor cost per breakfast, $0.0671.

Other expenses per breakfast, $0.0192.

Total cost to produce breakfast, $0.2750.

What do you anticipate will be the total number of meals you expect to serve in FY 73 for each of the following categories? [1]

Total lunches served (including free/reduced cost lunches, 4,331,097,338.

Total free/reduced cost meals, 1,410,540,218.

Total breakfast, 268,019,210.

What do you anticipate will be your nonfood assistance needs for FY 73 for: (42)

No program schools, $28,700,000.

Program schools, $57,335,000.

Mr. HUMPHREY. Mr. President, one of the areas where the administration intends to hold the line on additional outlays is nonfood assistance. Senators will note that the ASFSA analysis shows that the administration is planning to ask for only $16 million for fiscal 1973, the same as for this fiscal year, whereas ASFSA is requesting that $85 million be appropriated for this purpose. Thousands of schools in this Nation are without any food programs for their children today because they lack cafeteria or kitchen equipment to prepare or serve the food provided through them. This need of course is the greatest in the poorest of school districts.

Mr. President, I want the RECORD to show that I fully and strongly support ASFSA's request for increasing our Federal child nutrition budget beyond what the administration has asked for. In a nation where we expend billions to limit the production of food, we cannot play budgetary politics with funds needed to make our food abundance available to our children and those who are economically disadvantaged.

Another matter I wish to comment on is the administration's withholding of funds appropriated by Congress to finance the emergency food and medical services program of OEO.

Senators may recall that 1971 legislation authorizing the extension of the OEO contained funds earmarked for the emergency food and medical services, and that the Senate Appropriations Committee report for fiscal year 1972 contained a directive that funds be spent for emergency food and medical services. Unfortunately, the fiscal year 1972 budget request for emergency food and medical services was reduced by the Office of Management and Budget to only $3.5 million—$42.2 million was spent for this important program in fiscal year 1971. Even action taken to provide an additional $20 million in the regular appropriation for fiscal year 1972 failed to secure the release of these funds. Subsequently, 42 Senators wrote to the President to urge continued support for the emergency food and medical services; that letter received a negative reply.

The Senate last week passed the Second Supplemental Appropriations Act for fiscal year 1972 (H.R. 14582). That bill contained an expansion of funds for emergency food and medical services. Without these funds the 700 projects that are now in operation are likely to be reduced to 150. These programs, as most of us know, consist of supplemental food programs for pregnant women and young infants, food growing cooperatives, research into intestinal parasites, and more effective school lunch administration.

Mr. President, in that H.R. 14582, as passed by the House contained less money for the emergency food and medical services program than the Senate, I want to urge the Senate conferees that they insist on the Senate amounts. We must, as I said before, stop playing budgetary politics with the lives and health of our Nation's children—especially the poor who have no alternative sources of help to turn to.

---

[1] 178.8 average school days per year.

THE COST OF FOOD

Mr. BROCK. Mr. President, much has been said recently about the cost of food. Everybody is pointing the finger at everybody else as the culprit behind the rising grocery bill.

I do not pretend to have a simple answer to this complex problem. I would, however, like to call the Senate's attention to a recent editorial in one of my State's newspapers. The editorial, I feel, sheds a light on some of the factors behind the rising cost of food.

Headlined "Why Food is High," the editorial, published in Paris, Tenn.'s Post-Intelligencer, explains that "Food on the farm is not food on the table" and gives examples of some of the cost pressures between the farm and the table which are affecting today's prices.

Mr. President, I ask unanimous consent that editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Why Food Is High

Of great concern to the average American housewife in recent weeks has been the rising cost of food in stores and markets across the country. Much has been said and written on the reasons why food prices are up, and why the gap between the price the farmer receives for his product and the price the consumer has to pay in the store. There is a certain amount of confusion about prices and what causes them to fluctuate.

Most food stores are genuinely supporting the government's objectives of stabilizing prices and holding down the cost of living. But the store or market is caught in a price squeeze too, and it must pass along to consumers at least some of the higher prices it has to pay for the items it sells.

Food retailers are under two types of controls affecting prices. They are permitted under Phase II to vary prices up or down as their wholesale costs fluctuate, so long as their price increases do not exceed a certain percentage markup. Secondly, their rates of profit must be held at a level no higher than that earned during any two of the last three fiscal years.

Even so, there are some basic reasons why prices have gone up. Most canned goods have been substantially increased since the first of the year, and we refer to the wholesale increases . . . the cost of the canned goods to the retailer. Fresh fruits and vegetables are uncontrolled and subject to wide variations depending on current supply and growing conditions.

Increased packaging costs can cause retail food prices to go up. Paper bags, we are told, have gone up 10 per cent since the beginning of Phase II. Beef carcasses purchased from processors by retail markets have zoomed, causing beef prices to go up sharply. Wages, taxes and most every other cost of doing business have also increased since wage-price restrictions went into effect and transportation costs have gone anywhere but down.

There are just a few examples of why food prices are up. Food on the farm is not food on the table. A lot goes on in between.

The retail grocer would much rather sell you a grade A beef roast at 69 cents a pound than at $1.19. But he has got to make a profit to keep his doors open. The problem is the high cost of packaging, canning and processing food from the time it's harvested until it goes on the grocer's shelf. Until those costs can be reduced, the price of food will remain high.

NURSING HOME FIRE

Mr. PERCY. Mr. President, this weekend a fire swept through the Carver Convalescent Home in Springfield, Ill., killing 10 patients and seriously injuring 31 others. Ironically, the nursing home had been inspected for fire safety precautions only 2 days prior to the fire. Officials are now investigating the cause of the fire, which remains undetermined.

Mr. President, although the cause of this fire may be open to question, it is clear that we bear a heavy responsibility for maintaining close and constant surveillance of the conditions which exist in nursing homes across the country. The Springfield tragedy should serve as a forceful reminder to us of this responsibility.

On Sunday of this weekend I made unannounced visits to a number of nursing homes in the Chicago area. During my visits, I asked the residents directly what they would do in case of fire. A high percentage—too high, in my opinion—of the residents responded that they had no idea whatever how to proceed in case of fire. In addition, I found that immobile patients are kept in areas from which they could not readily escape—even with the assistance of someone else—and that the fire extinguishing equipment itself is so heavy and cumbersome that the people who would need to use it could not possibly do so with any ease.

According to the Senate Aging Committee staff, nursing homes are No. 1 among unsafe places to live. In light of this reputation, I believe that nursing home operators and State inspectors would be well advised to review immediately the adequacy of their own fire safety programs and procedures.

Mr. President, I ask unanimous consent that newspaper articles giving information on this nursing home fire be printed in the Record:

There being no objection, the items were ordered to be printed in the Record, as follows:

[From Chicago Today, May 8, 1972]

Nursing Home Fire Probed

Springfield, Ill.—State fire and public health officials meet here today to study the safety violation record of a Springfield nursing home where fire killed 10 elderly patients.

The death toll at the Carver Convalescent Center climbed to 10 yesterday when a woman died of burns.

Nine other patients were killed in the Saturday fire.

The 31 other residents suffered either burns or smoke inhalation.

Dr. Franklin Yoder, director of the Illinois Public Health Department, said an inspection of the provisionally certified home on March 30 revealed several deficiencies that constituted a fire hazard. He said a followup investigation last Thursday showed "most major deficiencies had been corrected."

Among the deficiencies cited in March were no evacuation plan in case of fire, no emergency lights at exits and lack of proper firefighting training for personnel.

State Fire Marshal Joe Patton was to meet with Yoder and representatives of the public aid and mental health departments. About 90 per cent of the patients at the center were on public aid, Patton said.

Dr. Byron Weisbaum, a Springfield opthalmologist and owner of the two-story home, said many of the patients were recently released from Jacksonville State Hospital and a facility for the mentally retarded at Lincoln.

Yoder's office issued the nursing home a one-year provisional license last August.

The cause of the blaze has not been determined.

"I don't know if we'll ever come up with a cause because the home is so badly burned," Patton said.

[From the Chicago Tribune, May 8, 1972]

Percy Seeks Probe of Fire at Rest Home

(By Pamela Zekman)

Sen. Percy [R., Ill.] yesterday criticized the lack of fire drills in Illinois nursing homes and said he has asked the National Fire Protection Association to conduct an investigation into the blaze Saturday in a Springfield convalescent center.

Meanwhile, state fire and public health officials said they have called a meeting today to investigate alleged health and safety violations at the nursing homes.

State Fire Marshal Joe Patton said he will meet with Dr. Franklin Yoder, state public health director, and representatives of the Public Aid and Mental Health Departments.

The blaze claimed its 10th victim yesterday, with the death of Mrs. Cleo Evans, 77. Mrs. Evans was critically burned in the fire Saturday. Thirty others were injured in the blaze.

QUESTIONS PATIENTS

Percy, on a whirlwind tour of four North Side nursing homes, questioned patients in detail about fire prevention programs. He said that he has yet to visit a home that holds regular fire drills. Patients told him they did not know what they would do in case of a fire.

"I guess I'd trust in God," said Mrs. Alice Burns, a 2d floor resident of the Birchwood Beach Home, 7364 N. Sheridan Rd., who is confined to a wheelchair. "He's busy, I know, but that's all I could do."

Percy blamed nursing home operators for not adhering to existing legislation that requires regular fire drills. "The tragedy is that these patients are mostly immobile, making the drills particularly important," he said.

HOME UNLICENSED

Percy said he was shocked to find 76 patients living in the 109-bed Kenmore House home, 5517 N. Sheridan Rd., which has been operating without a license for a year.

The home lost its license in the wake of Tribune Task Force and Better Government Association disclosures of filthy conditions there and a cost-saving device whereby the former owner fed patients on scraps uneaten by their fellow patients.

The new owner, Mel Angell, said the state has refused to place new patients in the home until it obtains a new license, but has not removed the existing patients.

FINDS IT "LUDICROUS"

"It seems ludicrous to me that these people, for the rest of their lives, could be in this home, even tho it has no license," Percy told Angell. "I am perplexed about why these patients weren't transferred."

It was Percy's second visit to Kenmore House, and the second time he found the home in the midst of a "paint-up, fix-up campaign." He said that the change in the home was "dramatic."

THE MINING OF HAIPHONG

Mr. KENNEDY. Mr. President, if the decade of death and devastation we have brought to Vietnam has taught us any single lesson, it is the lesson that the road to peace is not the road of wider war.

And now, because President Nixon has once again so clearly failed to learn that lesson, the United States and the world community of nations have this morning entered a new and far more deadly and dangerous era in the war.

In 1968, 4 years ago this spring, in the fourth year of his Presidency, Lyndon Johnson began to take the first real steps offering the fragile hope that America could find its way out of Vietnam. Now it is 1972, and by some cruel irony, in the fourth year of the Presidency of Richard Nixon, in spite of all the promises we have heard to end the war, we have witnessed one of the most drastic steps America has ever taken in the entire history of the war.

Now we begin to see the ultimate horror of the President's policy on the war and the chain of events he has set in motion. Let there be no mistake about it. The mining of Haiphong is an escalation of a completely different order of magnitude from any we have known before in Vietnam. For the first time in the history of the war, an American President has brought us into a clear and ominous confrontation with the Soviet Union on Vietnam. It is not just American troops on the battlefield, but American cities and the lives of 200 million American people here at home who are now being gambled by the President in his decisions on a war 10,000 miles away. No conceivable American goal in Indochina can possibly justify that risk, and I urge the President to pull back from the nuclear brink toward which he has begun to lead us all.

To me, the mining of Haiphong is a senseless act of military desperation by a President incapable of finding the road to peace. Again and again in the tragic history of American involvement in Vietnam, President Johnson wisely resisted the siren call of the military planners for the mining of Haiphong. Now, President Nixon has succumed to that foolhardy proposal, and the mines are being dropped.

In a sense, the dropping of the mines is the most vivid demonstration we have yet had of the total failure of the President's plan to end the war in Indochina and the bankruptcy of his plan for peace. For years, we have known the vast international risks of mining Haiphong, and the negligible military benefit it can bring on the battlefields of South Vietnam.

What sense does it make to challenge the Soviet Union in the coastal waters of Indochina, when we ought to be challenging the North Vietnamese at the peace table in Paris?

What sense does it make to mine Haiphong in North Vietnam, when weeks and months will pass before the action can have any possible effect on the offensive in South Vietnam?

What sense does it make to block a harbor from the sea, when years of bombing have never been able to block the supplies moving overland from North Vietnam to the south?

What sense does it make to adopt a military course of action on the war with a maximum of potential confrontation with the Soviet Union and a minimum potential gain in Indochina?

It never had to be this way. After tens of thousands of American lives have been lost and tens of billions of dollars have been spent, after hundreds of thousands of North and South Vietnamese have been killed, after millions of civilian victims have felt the awful horror of the war, the world is ready for peace in Indochina, and all the President can find to give is war.

And now, because of our blindness on the war, more Americans and more North and South Vietnamese troops will die, more innocent men and women and children will be killed, more American prisoners will be taken, and all our hopes for reconciliation with the Soviet Union are placed in jeopardy.

I yield to none in my condemnation of the invasion from the North. But I also know that the way to the peace table lies clearly at the entrance to the conference table in Paris, not at the entrance to the harbor of Haiphong. So long as we have a President who is imprisoned by the war, so long as we have a President whose only reflex is the sort of knee-jerk belligerence and aggression we heard last night, so long as we have a President whose only real goal is the pursuit of the phantom of military victory on the battlefield, we shall never have peace in Indochina.

THE SECURITIES INDUSTRY AND THE INVOLVEMENT OF ORGANIZED CRIME

Mr. PERCY. Mr. President, I had the opportunity today to present to the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs, some of the findings of the Permanent Subcommittee on Investigations, Government Operations Committee, relative to our recent hearings on the securities industry and its infiltration by organized crime. I felt that the facts we were able to uncover by our investigations clearly show that the heavy annual loss of securities in this country can be attributed to the easy availability of paper certificates for theft and the movement of those securities through illegal channels by members of organized crime and those connected with organized crime.

The full testimony which is available in the committee's hearing record describes in considerable detail the statements of five major witnesses, all felons, our subcommittee heard who had been convicted of securities-related offenses.

Because I feel that this matter is of such domestic economic consequence and that each Member of the Senate will find the Government Operations Committee hearings of interest, I will summarize our findings and my recommendations.

There is a growing, serious problem in the financial community which baffles even the most expert bankers and stock brokers of Wall Street. That problem is the increasing theft of private and Government securities. Statistics compiled by the National Crime Information Center indicate that in 1970, $227,397,837 in securities was actually lost due to theft. Even more alarming is the fact that losses for the first half of 1971 were more than double what was lost in all of 1970. The stock brokerage industry estimates that $1.2 billion in securities are either stolen or missing and that the bulk of them are being utilized in illegal operations throughout the world.

The theft and counterfeiting of securities is therefore not just a problem of serious domestic economic consequence but it has international repercussions as well.

The Permanent Subcommittee on Investigations of the Government Operations Committee initiated a series of hearings last year on organized crime. Our first investigations dealt with the infiltration of organized crime in the securities industry. Our findings help to reveal the nature and extent of securities thefts and the extensive involvement of organized crime.

In my longer statement for the record, I describe in detail the activities of five major witnesses our committee heard who had been involved in securities thefts. All are convicted felons, either serving or having served sentences for securities-related thefts.

Two of the witnesses, Robert Cudak and James Schaefer, furnished valuable information as to the easy availability of paper securities. In a rather intriguing fashion, Cudak and Schaefer related how they got into the securities thefts. Robert Cudak first took a job as a ramp man at JFK International Airport. He soon noticed that there was almost no security of mail transfers, or Railway Express and air freight shipments. With the aid of his partner, Schaefer, and several other thieves, Cudak began an extensive operation of taking jewels, cash, stocks, bonds, and other valuables from the terminal areas of 15 major airports in the country. Cudak's share of the theft ring was approximately $1 million, with more than $79 million being taken from JFK alone.

Neither Cudak or Schaefer were members of organized crime. However, through their mob connections, they were able to fence their loot. At least four of 11 fences whom Cudak named in testimony before our committee were known by law enforcement officials to be prominently engaged in organized crime.

In the early days of Cudak's activities, he and his associates failed to recognize the value of securities. Later they found ways to convert the securities to cash, principally through the mob, and the theft of securities became a significant part of their operation.

The testimony of Cudak and Schaefer revealed two important facts. Because securities are represented by a negotiable paper, there frequently exist opportunities where these physical documents are subject to theft. The lax security at airports offers one excellent example. With paper securities we encounter a sizable risk of theft.

Second, Cudak and Schaefer helped our committee document the fact that organized crime plays an integral role in securities thefts. Without that involvement, stolen or counterfeit securities might not be as easily fenced. For the mob, its involvement appears to be in fencing the stolen items, rather than actually stealing them. They are the go-betweens.

The other three principal witnesses our subcommittee heard were men who associated with the mob in order to convert counterfeit or stolen securities into cash. They were Vincent Teresa, Edward Wuensche, and Michael Raymond.

Vincent Teresa, at the time he appeared before our committee, was serving a 5-year sentence for possession and transportation of stolen securities. Although a great deal of his operation in stolen securities was accomplished through mail robberies and airport robberies, Teresa testified that the bulk of his early thefts were accomplished by "inside jobs," within brokerage houses. Teresa testified that he looked at or handled $25 to $30 million in stolen securities during his operation.

Another aspect of his involvement was Teresa's ability to arrange loans based on stolen securities or bonds. The collateralizing of loans in this fashion became a lucrative business.

Vincent Teresa's testimony brought out a well-known aspect of securities thefts—that they are frequently used to collateralize loans with legitimate banking institutions. The operation is apparently successful because bankers do not have an established system whereby securities that are presented are checked against fraud and illegal possession.

Edward Wuensche's testimony had much in common with that of Teresa. His was also a kind of "white collar crime." He related to the subcommittee that he resold securities through brokerage firms, placed or caused to be placed stolen securities in banks as collateral for loans, and took stolen securities outside the United States for placement in foreign banks and financial institutions. Again, there was heavy involvement by members of organized crime.

Not only was Wuensche able to "market" his stolen merchandise through "friendly unsuspecting bankers," but he found little difficulty in utilizing foreign institutions as well.

Michael Raymond, the third confidence man, was one of the most valuable witnesses ever to appear before our committee. He developed a technique of using payment guarantee bonds. Stolen securities were used as collateral for payment of bonds. During the 6 years he was involved in stolen securities operations, Raymond personally saw or knew about $100 million of stolen securities. He pointed out that organized crime cannot operate without the complicity of so-called honest, aboveboard persons and institutions.

Several recommendations may well be drawn from the sworn testimony we received from convicted felons.

First. Security procedures should be tightened. A bank must always check with a transfer agent whenever a client not known to the bank requests a loan. Stocks not in the borrower's name should automatically be checked.

Second. Continuous audit practices should be closely supervised and controlled.

Third. Greater care should be taken in the screening of personnel hired by banks and brokerage firms.

These are all administrative remedies, however. There is obviously a role that the Congress can and should play.

In the testimony before this committee as well as my own subcommittee, there appears to be widespread support for immobilizing securities and eventually moving toward a "certificateless society." I certainly agree with this objective, inasmuch as it is possible to achieve.

As I pointed out in our hearings, one of the most difficult aspects of the change will be in educating the public and enabling them to "live" without the physical evidence of their investment.

Although some will argue that the potential for fraud in a computerized system of bookkeeping is just as real as with paper certificates, I feel that with careful planning and oversight by the Congress and the executive branch that the threat can be reduced if not eliminated. It might be necessary for a person to have the option of owning paper securities. It may also be necessary to maintain paper certificates for international transactions for a greater length of time than in the domestic market.

But it seems clear that the present system not only encourages theft but is cumbersome, time consuming, and inefficient.

I believe that as we move to set up a national securities depository, a National Commission on Uniform Securities Laws as outlined in S. 2551 would be valuable to study and recommend new uniform State laws.

A national depository for securities seems to be inevitable. Centralizing the handling of securities in one locale, such as New York, will have disadvantages, however, as the Midwest Stock Exchange has testified. The Midwest and west coast must play an important role as active partners in any new system.

I urge the committee to approve legislation that will make the transition to computerized securities deposits as free of fraud as possible, with appropriate Federal control by the Securities and Exchange Commission. I should carefully study whether the holding of paper certificates should be optional.

Special attention should be devoted to the transaction of securities in foreign markets. The United States should take steps to negotiate agreements with foreign countries for tighter control of transactions and initiate steps toward immobilizing securities. Since the Foreign Relations Committee, on which I serve, plans an extensive study of multinational corporations and international financing, I believe that this is one possible area we might be able to explore further in that committee.

REPRESSION IN SAIGON

Mr. CRANSTON. Mr. President, I invite the attention of the Senate to two articles published recently in the New York Times and the San Francisco Chronicle on the current state of "democracy" in South Vietnam. The notion that President Thieu's dictatorship in Saigon is "democratic" simply because it is anti-Communist is ludicrous.

How long must we go on serving the interests of a government which relies on arrests, censorship, and torture to silence its critics? Is this government part of the so-called free world? Why do those who support the bombing of Hanoi and Haiphong rail against what they call "Communist tyranny" while political prisoners languish in Saigon jails?

On March 22, Mrs. Ngo Ba Thanh, a graduate of Columbia University, a leading critic of the war, and a victim of asthmatic attacks for the last 6 months, was carried to a military court in Saigon on a stretcher. The charges accused her of having engaged in "activities harmful to the national security," having organized an "illegal organization," and having distributed printed matters that "undermine the anti-Communist potential of the people." These McCarthyite proceedings reflect the political thinking of a dictatorship. And as for undermining the supposedly anti-Communist potential of the people, we have plenty of contrary proof that the real culprits are those who plot the perpetuation of this drawn-out war and those who pursue the policies of the corrupt and dictatorial Thieu government. The morale of South Vietnamese troops is at a new low. Describing the fall of Hoaian, for example, the Washington Post of April 21 quoted a lieutenant colonel as saying:

> They didn't patrol. They didn't go out and look for the enemy . . . It just wasn't a good job.

In the end, an American adviser watched the last government troops drop their weapons and flee.

Meanwhile, in Saigon, student leaders continue to be jailed and tortured. Eighty to 100 students face charges similar to those leveled against Mrs. Thanh. Those who accurately denounced last October's so-called election as a farce now face torture and beating.

Mr. President, these scandals were discussed in two recent articles, one in the New York Times of March 22, and one in the San Francisco Chronicle of April 8. I ask unanimous consent that the articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, Mar. 22, 1972]

Trial of Ailing Critic of Saigon Regime Is Postponed

Saigon, South Vietnam, March 22.—Mrs. Ngo Ba Thanh, a leading critic of the Saigon Government and the war, who has been in prison and has been suffering asthmatic attacks for six months, was carried to military court in downtown Saigon on a stretcher today to face charges of having engaged in activities harmful to national security.

But the trial was postponed indefinitely after a doctor testified before the filled court that Mrs. Thanh was in critical condition and in need of immediate medical attention. Mrs. Thanh, a 40-year-old lawyer, suffered what appeared to be an asthmatic attack as she lay on the stretcher at the courthouse entrance waiting for the trial to begin.

LAWYER SEEKS RELEASE

Mrs. Thanh was arrested Sept. 18 after participating in an anti-Government demonstration led by a former lower house deputy, Ngo Cong Duc. Mr. Duc was not arrested then but was later convicted in absentia of having left the country illegally. The demonstration was called to protest the uncontested presidential election held on Oct. 3, in which President Nguyen Van Thieu was reelected.

Nguyen Long, Mrs. Thanh's lawyer, has been calling on the authorities for Mrs. Thanh's release because of her poor health which, he asserts, is directly related to prison conditions.

Mrs. Thanh is a key figure in several peace groups here. The small, energetic woman, who holds a degree from Columbia University in New York, has met many visiting United States Congressmen in the last several years to tell them of the position of President Thieu's opponents.

According to her lawyers, Mrs. Thanh has been charged with three offenses—having engaged in "activities harmful to the national security," having organized an "illegal organization," and having distributed printed matters that "undermine the anti-Communist potential of the people."

Mrs. Thanh heads a group of Vietnamese women called the Vietnamese Women's Movement for the Right to Live. Her lawyers, however, vigorously deny that she is guilty of any crime.

"She came to a demonstration and was arrested while others were not," one of her three lawyers, said. Another added that all charges against her were ungrounded and that they were "only excuses for her arrest and detention."

Shortly after arriving on a stretcher before the regional area military field court, Mrs. Thanh appeared to suffer an asthmatic attack. With sweat dripping from her pallid face, she choked and coughed, and her breathing grew rapid.

A doctor arrived minutes later and injected Mrs. Thanh with tranquilizers and a heart stimulant after it appeared, briefly, that her respiration and heart had stopped.

The doctor pleaded with five judges, military officers, for the woman's immediate release for treatment at a nearby civilian hospital. "Mrs. Thanh is in very serious condition," he said. "Her heartbeat is up and down. She can die at any moment."

The judges recessed for 30 minutes before announcing that the woman's trial would be postponed indefinitely to allow her appropriate medical treatment. However, they added that she must be returned to prison.

[From the San Francisco Chronicle, Apr. 8, 1972]

Saigon Students Bloody Protest

(By Thomas C. Fox)

Saigon.—Ten high school and university students, charged with illegal political activities, disrupted their first day in court last week by slashing their wrists and chests and shouting anti-government slogans.

The students, on trial for "engaging in activities harmful to the national security," were the first of scores arrested in the past five months to come to trial. The government charges against the students stem from their activities during the presidential campaign last autumn in which Nguyen Van Theiu was the only candidate.

Student protests have been on the rise during the past few weeks as several more student and faculty members have been arrested for political activities. Demonstrations have broken out in Hue and Saigon and ended in tear-gassing confrontations with riot police.

RAZOR

The trial was brought to an abrupt end when one of the students, Le Van Nuoi, the 20-year-old chairman of the Saigon Student High School Association, pulled out a razor, slashed open several arteries in his arm, and began to write anti-government slogans on the courtroom wall. As military police watched in disbelief, other students on trial slashed their chests and arms and chanted slogans calling Thieu a military dictator and the Saigon regime a puppet government.

Relatives watching the trial screamed out in horror as they tried to reach their sons. The judges hurriedly left the room by a side door.

Le Van Nuoi's mother, in tears, said that her son was only demanding peace and an end to the war. Fifty Buddhist monks who were refused entrance to the trial demonstrated on the streets near the courthouse.

Immediately before the courtroom demonstration began, the five military judges ruled that former Vice President Nguyen Cao Ky must appear in court to substantiate the students' claim that their activity was carried out at his request. The prosecution charged that the students had torn down posters of President Thieu.

FIVE MONTHS

The demonstration was finally broken up when military police grabbed the students and forcibly pushed them outside to a prison truck. They were then hauled to the prison where they have been awaiting trial for the past five months.

Several of the students are reported to be in critical condition after their courtroom slashings, but no substantiation has been available.

The ten students were the first to come to trial of an estimated 80 to 100 student leaders the government is holding on charges of having violated the national security clause of the Vietnamese constitution.

PRESIDENT NIXON'S DANGEROUS STEP

Mr. MUSKIE. Mr. President, President Nixon told us last night that his policy in Indochina has failed, and that in order to redeem it he is escalating American military involvement.

The mining of North Vietnamese harbors and the bombing of railroads into China are hostile acts clearly directed against the Soviet Union and China. By taking these actions, the President is jeopardizing the major security interests of the United States. The planned Moscow visit and the SALT talks now have an uncertain future. Efforts to move toward detente with the Soviet Union and China have been put in jeopardy. We now risk losing more in 1 day because of this act than could ever have been gained in the President's policies in Vietnam were a complete success.

This dangerous step is not the way to end the war, protect our troops, or gain the return of our prisoners. It is not the road to peace.

By relying on the purely military policy of Vietnamization—intended to equip the South Vietnamese to continue the war—the President not only has failed to end American involvement in the war, but has also reduced chances for a negotiated settlement. By withdrawing troops before coming to a settlement, we have lost bargaining leverage to obtain the release of our prisoners or the protection of our withdrawing troops. The President is now trapped by his own failures, and faced with a series of unpleasant options. He chose the worst option of all—escalation which is both dangerous and desperate.

I have urged for some time that the President offer to withdraw all American forces from Indochina in exchange for an agreement to return our prisoners and the guaranteed safety of our withdrawing troops. The President has yet to make this simple, straightforward offer. I urge him to do so in order to end the American involvement in this senseless war and move us away from the brink of international disaster.

OLDER AMERICANS AND THE RAMIFICATIONS OF MEDICAL ADVANCEMENTS

Mr. PERCY. Mr. President, a constituent of mine, Mr. Theodore Pickard, of Chicago, recently brought to my attention a most interesting and thought-provoking article on the problems created by medical progress for our aging population. The article appeared in the April 7, 1972, issue of Medical World News, and it implies that while we have made considerable technological and medical advancements to prolong life, we have not necessarily enhanced the quality of elderly life.

As the article points out, the number of people over 65 has been increasing at a rate of three times that of our general population growth. The fastest growing of all population groups is the over-75 group. By the year 2030, the elderly population is projected to rise from 20 million to 48 million—out of which 16 million will have reached age 75.

These statistics and our medical successes should make us pause and consider whether or not the "extra" years will be meaningful, enjoyable ones.

The article in Medical World News is worthy of the attention of the Senate. I, therefore, ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Problems Created by Medical Progress

"If you go into medical practice, you're going to be doing a lot of geriatrics—whether you like it or not," forecasts Duke University's Dr. John Nowlin to a group of medical students. "If you do like it, the work day will be a lot shorter," adds the assistant professor of community health sciences and member of Duke's Center for the Study of Aging and Human Development.

Many doctors are doing a lot of it right now: "Some 40% of the patients of the internist are older people, and they take 60% of his time," reports Dr. Martin B. Loeb, director of the University of Wisconsin School of Social Work.

Dr. Nowlin was apprising his group of future physicians of an awesome medical, social, and economic fact: The number of Americans over age 65 will continue to increase well into the next century. And Dr. Loeb puts his finger on the significance of this fact to physicians: more elderly people, more medical care. Consider these statistics:

The number of people over 65 has been increasing at three times the rate of general population growth. It now stands at 9.9% of the population, just over 20 million persons, of whom 11.6 million are women.

About one third of these people are past 75. During the 1960s, the number of the over-75 group increased 37.1%, compared with a rate of 13% for those between 65 and 75. The over-75s are the fastest growing of all population groups—unless it be the centenarians, whose number in recent years has increased from 12,000 to 13,000, according to Social Security Administration figures.

Assuming a relatively constant mortality rate and a declining birth rate, the Bureau of the Census expects the proportion of the population over 65 to rise to 16%. Thus, if in the year 2030 the population totals 300 million, there would be 48 million such oldsters, 16 million of them past 75.

A 65-year-old woman now has an expectancy of about 16 additional years, a man about 13 years.

Small wonder that the British gerontologist, Dr. Alexander Comfort of University College, London, warns the insurance companies to look to their actuarial tables. "They have not yet realized that by the year 2000 we may blow the bottom out of their statistics," he says. "Let's try for once to do the social thinking before the thing hits us."

But until medicine can control the aging and death of the human cell itself, doctors will not create a race of Methuselahs. Even if medicine could eliminate all deaths from heart disease, this would add only four years and ten months to adult life. Solving the basic problems of cancer would add only 18 months, says Dr. Carl Eisdorfer, director of the Duke center and professor of medical psychology.

Nevertheless, the astounding progress of medicine in the past several decades has helped more and more people to live to become "old folks." But that very progress has raised a significant question: Has medicine served or enhanced the "quality" of elderly life? In Dr. Comfort's view, the aim of gerontology is "to prolong adult vigor, not life itself. Even if you conquer one cause of death, there's always another cause waiting in the wings.

"One of the best indexes of vigor," he says, "is the ability to stay alive as a pedestrian. There is a signal correlation here. You have to be able to see and hear and make decisions to cross a busy street. You have to be able to jump out of the way of a car and to recover if it hits you. If we can just keep you healthier longer, you'll be run down at a later age."

Or, as the Greek adage adopted as a slogan by the American Health Foundation, Inc. puts it, the aim is "to help people die young—as late as possible." The AMA's Committee on Aging calls it maintaining "positive health."

Who are these "old people"? By the definition of the Social Security Act and of corporations that force employees to retire, they are people who have passed their 65th birthdays. But this is a legal and social definition; it bears no necessary relationship to medical reality. In this difficult area, medicine and sociology are hopelessly intertwined.

"As far as we know, nothing says, biologically, that at age 65 somebody shouldn't be as active as he was at 55," says Dr. Eisdorfer, "as long as we have a strategy that is oriented toward keeping him healthy. It doesn't have to be that he runs down at age 65; this concept that he does is one of the real problems."

That concept forces many people to retire at age 65, a fact to which many others object. "People who say nobody should ever retire are always intellectuals who never retire anyway, except to write books," notes Dr. Comfort wryly. "If you ask a miner or an auto worker, you might get a different answer."

As a matter of fact, someone did ask retired members of the United Automobile Workers in 1965 and did get a different answer. The UAW and other studies, says Cornell University's sociologist Gordon F. Streib, show that when many "older workers are given the opportunity and an adequate pension, they decide to retire earlier than the normal retirement age. While some may use this as an opportunity to try out a second career, many simply retrench in their financial demands and prefer to take it easy."

A study of over-65, noninstitutionalized men by Dr. Ethel Shanas, a University of Illinois sociologist, found that three out of ten of them were still working. Only a third of those who had retired had done so because of employer compulsion. The others knocked off because of such reasons as poor health, the job was "too exhausting," or "I just didn't want to work any longer."

Clearly, from the older person's point of view, there should be an option to retire or not, depending upon his desires and abilities. In the Soviet Union, says Dr. Roger O. Egeberg, special assistant to the President for health affairs, a person arriving at retirement age has that choice, provided there is a place where his skills can be utilized, and in that labor-short country, there almost always is. If one continues to work, he draws both full pension, and full pay. "This," says Dr. Egeberg, "makes you the richest person in the family and, believe me, it helps the rest of them to like you."

About three quarters of the over-65s have at least one chronic illness; about half have two. Yet most are not disabled. "Most retired men are functioning well," says Dr. Shanas. "Two thirds report no limitations in their capacity to carry on the ordinary activities of daily life." She adds, "While poor health may cause retirement, retirement apparently does not cause poor health."

Despite the fact that the aged account for 24% of hospital patient-days, they clearly are falling far short of the medical care they need. Though their illnesses are both more prevalent and more severe than those of younger people, they average only about one more physician visit per year, says Dr. Erdman B. Palmore, a sociologist in Duke's division of medical psychology, in a paper that is soon to appear in *Postgraduate Medicine*. He cites a Chicago study of 1,900 Old Age Assistance recipients, fewer than 20% of whom had "good health." Yet two thirds had not talked to a doctor or a nurse in the previous three months; 76% of them should have been taking daily medication, but the majority did not. Analyzing other data, Dr. Palmore found that among every 100 aged poor persons, 40 health aids—such as dentures, eyeglasses, crutches—were needed, but not owned. He adds grimly that the self-reported figures are probably underestimates, since many old people are not aware that they could be helped by such aids.

The major barrier in the way of health care for these people is the dollar sign. In 1969, the median income for an aged family was 48% of that of younger families; one out of four old persons lived below the government-set poverty line; more than half of all older families had incomes below $4,800.

Wasn't Medicare supposed to take care of all that?

Since Medicare became effective on July 1, 1966, the premium for Part B coverage has risen 87%; about 15% of Medicare recipients cannot afford to pay it at all and thus have no coverage for doctor bills. The Part A deductible has risen from $40 to $68. A report of the Senate Special Committee on Aging calculates that a beneficiary who in 1966 had an operation that cost $400 in surgical fees, and who spent 21 days in a hospital, plus 60 in an extended care facility, would have been out of pocket $396, including his Part B premium. In 1971, the same episode would have cost $563.60.

"Medicare covers only 43% of the medical expenses of its beneficiaries," says Walter C. Newburgher, second vice president of the National Council of Senior Citizens. "Because of medical inflation, the other 57% costs him more today than the whole bill would have been before Medicare. He is actually more out of pocket now than he was then. This is why we're now going as hard for a national health insurance system as we once did for Medicare."

"The implication for the practicing physician is that he should not assume that Medicare has dissolved all the financial barriers between him and his patients or potential patients. He should be aware of possible resistance to treatment based on limited income," says Dr. Palmore.

There are still other barriers between doctor and aged patient. Simply getting to and from the doctor's office may be one. Who will chauffeur Grandpa? "If older people don't have a support system, there's a problem," says Dr. Eisdorfer. "If they do, there's difficulty in the family. How many people want to spend half their time playing nursemaid to mom or dad? But if they don't, they feel guilty. They're trapped," declares the head of the Duke center.

The aged are less educated than the young; they are more likely to rely upon quacks and nostrums. They may be too uninformed to recognize or evaluate serious symptoms: A study of aging at Duke, for example, showed that 44% of patients who were rated by physicians as being in "poor health" themselves described their health as good or excellent. "The physician should be particularly sensitive to such fears, denials, and lack of understanding of principles of health and medicine that he mistakenly assumes everyone knows," says Dr. Palmore. "Special patience and extra efforts at education and information of aged patients may be required."

Perhaps an even more important barrier between the doctor and the older patient is the attitude of the physician himself who frequently—not to say typically—doesn't enjoy working with the aged. The unesthetic nature of the task is perhaps one of the least of many reasons. Internist Nowlin, working both in Duke's student health service and in its geriatric program, sees the contrast between examining young and old daily in practice.

"I look for different things in each," he says. "I look on a physical examination as an interesting way to get to know people. With older people, I'm interested in their broad attitudes, their memories, their philosophies. No, I'm not attracted by the elderly but they tell me fascinating things. Also they have more problems, and it's gratifying to make more observations and track down more symptoms. With the kids, I'm interested in what they're doing. Which is more fun? I just can't find much difference."

A more important problem, as many see it, is that doctors, being human, reflect the society of which they are a part. Ours is youth-oriented, placing small value on old people. "It's a 'no-deposit, no-return' policy," says Dr. Eisdorfer grimly. "We place small worth on the things they have to give—wisdom, memories," agrees one of the Duke psychiatrists, Daniel T. Gianturco.

Society demands a return for its money. At a Duke conference last year, William E. Oriol, staff director of the Senate Special Committee on Aging, quoted a Nixon Administration official as saying that "programs for the elderly resulted in very little 'payoff.' "

"This was a reference to the fact that a man of 65 obviously has less longevity than a boy of 12 and therefore investment in youth would result in more 'payoff'," Oriol went on. "But why should such a choice have to be made? Why not recognize the importance of providing what aid is needed to help all Americans live independent, fulfilling lives, no matter what their ages?"

But doctors do make that choice. The quick, busy, intense young practitioner, impatient with the slow responses of the old lady to treatment and all too conscious of the crowded waiting room outside, may often be tempted to send her on her way with, "What do you expect at your age?"

"He's not responding as a physician, but as a layman in this society," says Dr. George L. Maddox, professor of medical sociology at Duke "This is not because of any simple-minded hostility toward old people. He's not so much adbandoning them as he is concentrating somewhere else, and I suspect it's easy to make him feel guilty about that." Adds Dr. Gianturco: "There's a sense of achievement when a doctor helps a 20-year-old who has 55 years to live that some do not find in helping a 70-year-old with three or four to go," Payoff, again.

Doctors reflect society in other ways as well. A great many people, for example, think that sex among older people is somehow distasteful, immoral, or amusing, though Masters and Johnson and others have shown that there are few physiologic reasons why it shouldn't be enjoyed well up into old age. "Some people give up sex for the same reason they quit riding a bicycle," says Dr. Comfort. "Either they haven't got a bike or they think it looks ridiculous."

A physician who shares that attitude can hardly help but let old patients down, and some do. As part of Duke's study of aging, old widows and widowers were asked about sexual activity. A surprisingly high number of men admitted to continued enjoyment; almost no women did so. Dr. Palmore suspects that the figures may be skewed. He wonders whether examining physicians listed no activity for the women because in many cases they were too embarrassed to ask the nice little old lady whether she was still having sexual relations. She couldn't! She looks just like Grandma!

Seeing Grandma in an old patient troubles the doctor in another way. Dr. Maddox believes. "Like the rest of us, he has mixed feelings about his own parents, about old people. A young person says he sees something attractive about an old one, a reminder of his mother, but there is also something threatening—something of his parents' fate and of his own fate to come. Put this together with all the other things, and you've got trouble asking anybody to work in geriatrics on a sustained basis."

Heavy among those other things, of course, is the whole weight of the physician's training—to cure the illness, heal the wound, save the life. "We are traditionally exposed to sick people and we tend to think that everybody who is old is sick," says Duke geriatric psychiatrist Alan D. Whanger, one of only eight practitioners in that subspecialty. "But doctors are not obliged to cure everybody, and we have to come to terms with that situation."

The confusion between aging and sickness really bothers Dr. Eisdorfer. He recalls an incident that occurred when he was interning under Dr. Eugene A. Stead, Jr., then Duke's chief of medicine. Another intern reported that the eyegrounds of a 63-year-old mild diabetic were normal. Dr. Stead asked, "What do you mean? If you'd seen this in a 16-year-old boy, would you say it was normal?"

"He wasn't arguing," Dr. Eisdorfer says. "The condition was within normal limits. But there's a confusion between two kinds of normality—the statistical and the pathological. The statistician says what's frequent is normal, but to the pathologist normality has to do with function.

"Everybody says old people normally deteriorate. We've been studying cognitive decline and we've looked very carefully at a group we followed from 65 to 75. They *didn't* decline unless they had hypertension, and then they did decline. Forget the research part: What's really important is that this is another example of the confusion between what is normal and what exists.

"If you go to a TB sanatorium, you'll find that it's normal to have tuberculosis, and the staff is deviant. You know that's nonsense, yet among the aged we accept disease as if it were perfectly all right because it's 'normal.' Physicians haven't really gotten that concept, but it's so important in the care of people. You don't diagnose what you don't see. There are a lot of so-called normal things about the old that are in fact contributing to their loss of function. Why should old people lose function? It doesn't have to be."

Yet another stereotype that the Duke study has shown to be false is that "you can't teach an old dog new tricks." Old people can learn new things quite well if the material is not presented too rapidly. But over their lives they have experienced many failures and for fear of failing again they usually do not respond rapidly. A physician who does not understand this—or who accepts the false stereotype—may betray impatience when what the patient really needs is understanding.

Deeply ingrained in the physician both by temperament and by training is the need for achievement. Nothing is sweeter to his ears than the voice of a patient saying, "I feel better, Doctor. Thank you." That, probably even more than the prospect of money and social success, is why he chose his profession in the first place, says Dr. Maddox, who calls it "the satisfaction of rescue fantasies."

With the chronically ill aged, that satisfaction does not come immediately. It is not a matter of days or weeks, but of a much longer time, so many doctors shy away. "One of the most popular things to do at an outpatient clinic is to refer the old patient back at a time when someone else will have to see him," says Dr. Eisdorfer. "That's exactly the kind of thing that prevents anybody from developing a sense of achievement. It's a self-fulfilling circle: "We don't work with them, they don't get better, so we say, 'See? You can't work with them.' "

Doctors, like other people, don't like to be losers. "Physicians have a very bad record with the aged, with alcoholics, with drug abusers, and they know it, so these aren't viewed as desirable patients," says Dr. Maddox. "Doctors are expected to rise above their feelings, but it's clear they don't always do it. Some patients they like, some they don't. They work hard not to show such preferences, but feelings come out from time to time. The patient who is an unlovely person, who doesn't get well, doesn't appeal to the rescue fantasies, demonstrates very quickly to the doctor, 'You can't help me.' But the doctor is in the helping business, and if he can't do that why play?"

Mature physicians generally seem more sympathetic to the aged than do younger ones, perhaps because they themselves are beginning to share some of the problems. Also the doctor will not abandon someone he has cared for for many years simply because the patient has grown old. But if the aged patient outlives his physician, he may have difficulty finding another to take him on.

Nowhere does the distaste for the aged show itself more clearly than in the abandonment of those who are in retirement and nursing homes. Although the inmates of these places constitute less than 5% of the aged, they are the neglected outcasts of society. Dr. Eisdorfer recalls the deaths of some old people in a nursing home fire and asks, "Is that the worst thing that could happen to them? Or is it still worse to be one of the half million who woke up that morning *wishing* they were dead?"

Obviously old people would not lie in nursing homes with green, suppurating wounds if they had adequate medical care, but once again the profession seems to reflect the society of which it is a part. "We could play the *mea culpa* game and we do have responsibility to care for these people, but the neglect is not unique to medicine," declares Dr. Eisdorfer. "We have cut these people out of much of the community and only recently have we begun to think about bringing them back in. Maybe the recycling idea has caught on."

Surely it is needed. "When people are isolated from their normal environments, no longer see their friends and loved ones, no longer contribute to society, they regress and die," says Dr. Amos N. Johnson, family practitioner of Garland, N.C. "I have actually seen old people in a reasonably healthy condition who, when put away in the isolation of custodial care facilities, totally lose interest in life. They refuse to communicate, refuse to eat, become totally bedridden, waste away, and die. This is a disease process called 'isolation,' and should be so designated on the death certificate."

Dr. Leonard E. Gottesman, associate professor of psychology at the University of Michigan, agrees. He cites studies showing that half of all those old people admitted to mental hospitals, nursing homes, and homes for the aged die within three years of admission. Those in mental hospitals have a death rate four times as high as people of the same age outside. He suggests that disabled or uncomfortable people are more capable of community living than we think and that it would be better for them. And he hits the core of the matter when he says: "Are programs for the institutionalized elderly molded more by political and economic considerations than by concern about rehabilitation of the elderly? The answer is yes."

The physician has a responsibility in this, says New York psychiatrist Alvin I. Goldfarb. "If these institutions are to provide good custodial care, they must provide comprehensive medical care. Good custodial care actually is long-term continuous or intermittent intensive medical care."

The "warehousing" of old people in mental hospitals has not stopped. To some extent the "inventory" has been shifted elsewhere. "Old people used to be about 30% of inpatient admissions," says Dr. Eisdorfer. "It runs a little less now because states like New York have just declined to admit them. They tailor the statistics by their admission procedures. So these people wind up staying at home or dying in the 'community'—which means nursing homes. They're not in the state hospitals anymore, so we've 'cured' the problem."

If the problem hasn't been cured, many of the patients can be. Chronic brain syndrome (CBS) may well be the most frequent misdiagnosis in medicine. Dr. Egeberg told a recent conference on aging in New York that some years ago in California he and Dr. Lester Breslow tried an experiment in rehabilitation with 100 patients, 40 of whom were held to have CBS. "We thought we'd see what a little interest and love would do," he says.

"We got the nurses and other people to try caring for them in a different and personal way. At the end of a year, only about nine patients had CBS. The rest were attempting independent living in various ways. Some even went outside in groups and lived in apartments. I'd like to see us bring older people back into society, and I know it can be done." Others have tried similar experiments with similar results.

The CBS diagnosis is "vastly overdone," says Duke's Dr. Whanger, who also heads a geriatric psychiatric unit at the local state hospital. "About 50% of our state hospital patients do have it, but this doesn't mean that they have to stay in the hospital. We generally try to get them out, to make the hospital an active treatment center. We generally discharge about 60% within four months," reports the geriatric psychiatrist.

"Not all of these people are well by any means. What's best? For some, long-term care is the best we can come up with. For others, there's episodic care, which can prevent corrosion in a lot of households. We can go too far in letting the family give up all responsibility. It's grossly unfair to expect the doctor to do all of this. Society must do its share, and the individual patient has the right to express his own preference."

If the individual is terminally ill and in pain, that preference may be for death. To grant that wish may offend the physician's most deeply held religious and ethical beliefs; it certainly cuts across the grain of his whole training, professional career, and sacred oath. From the time of Hippocrates until very recently, the issue was clear-cut. The physician battled death until he lost.

But now?

A man tells of his aunt whose whole life had centered around her religion. She became old, ill, and was in pain. "She began to pray for her death, but her prayers were not answered," he says. "Hope turned to disappointment, disappointment to resentment, resentment to anger. For the last three years of her life, she cursed God for not letting her die—cursed the God who had been the center of her life! I can never forgive her doctor for that."

Yet what is the doctor to do? Many patients in the old woman's plight would have been grateful to him if he left a bottle of pills at the bedside and said, "Remember not to take more than one of these every four hours. If you take five at once, they will kill you." But if a religious old woman will not kill herself, most would agree that it is not the physician's task to do it for her.

The dilemma can become even more exquisite when the question is how long to continue heroic measures to keep the patient alive. "I'm sure that in young men there is something of the Faust—a sheer fascination with demonstrating how long you can keep someone 'alive' under the hardest circumstances, says Dr. Maddox. But after a while this gives a perceptive physician pause. Does what we're doing make sense from anybody's point of view? He will be acutely aware, too, that this is being done at the cost of the economic prostration of a family."

Doctors search their souls for an answer to this question. The AMA's Judicial Council meets this month for a think session to discover an approach to it. But it is clearly not a question that medicine alone can answer; society must provide the final answer, and the patient, too, has the right to be heard.

Indeed, society has answered it in a few specific instances. In two separate recent cases, hospitals in Florida and Wisconsin went into court asking that they be allowed to impose heroic treatment upon old women who had refused it. In both cases, the courts held that the patients realized what they were doing and were within their rights in refusing treatment. The day after the decision in her case was handed down, the Florida woman died, it is to be hoped in peace and dignity.

But what of the patient who is not competent to make a decision? Clarence A. Bettman is not. He is 79, kept alive by a pacemaker, and, according to his wife, "turning into a vegetable." She refused to give permission to Dr. William A. Gay Jr. to replace the pacemaker's worn-out battery at New York Hospital. Dr. Gay asked for a court's authority to proceed and he won. Entirely aside from the moral and ethical aspects of the matter, Dr. Gay also had a legal problem: Had he not replaced the battery, it is conceivable that he could have been charged with murder through negligence.

A few thoughtful people, anticipating the possibility of a fate like Bettman's, make their wishes known in advance. One is Duke's Dr. Stead, who wrote a document that achieved wide local fame (see box on page 47). The Euthanasia Educational Fund, Inc. in New York has a "Living Will" form in which the signer asks to be allowed to die in the event of illness from which there is no reasonable expectation of recovery. More than 20,000 people have signed it, and requests for the form come into the fund's office at 250 W. 57 St. at the rate of 50 a day.

Such a request is not legally binding upon anyone, though at least it has the merit of answering one question that might otherwise trouble the doctor's conscience. But ultimately the boundaries that determine how far a physician may go in granting wishes of this kind will have to be drawn by legislatures, not by the ethics committees of medical societies.

"Doctors don't know any simple way to resolve this conflict of values because society doesn't know either," points out Dr. Maddov. "They resent having people to say to them, 'All right, you guys, say something clever.' Doctors are no more clever than anybody else about these issues."

Despite the steadily growing number of geriatric patients and the new problems they present, we are doing precious little of Dr. Comfort's "social thinking before the thing hits us." Federal spending on gerontological research and training today is less than it was in 1961 (though Dr. Comfort is "optimistic enough to think that we'll be modifying the rate of aging long before we know how we're doing it").

Though much of the doctor's attitude toward aging patients is shaped in the medical school and though much of his practice will be among aged patients, geriatrics and gerontology are not in sight at most schools. Dr. Joseph T. Freeman, a Philadelphia internist and past president of the Gerontological Society, made a study of the subject for the Senate Special Committee on Aging. He found no reference whatever to aging in the 1969–1970 catalogues of 51 out of 99 schools.

Only 22 schools offered clinical instruction as part of the general course structure, 15 offered some by special designation, and nine offered elective courses. There were research programs in only 15 schools. Out of more than 20,000 faculty members, 15 had primary titular identification in the field of aging. Only one school—Duke—has a training program in geriatric psychiatry. In another section of the Senate study, the list of 262,151 doctoral dissertations on all subjects produced between 1934 and 1968 was scanned. Of these, 667, or 0.25%, dealt with problems of aging.

There are not many doctors who advocate the establishment of geriatrics as a specialty. The clinical problems are not all that different; very little disease is the exclusive property of the old. Drug reactions are different and some problems need special handling, but the necessary information can be acquired with relative ease. What is most needed, some say, is to develop a new attitude among physicians, including greater flexibility in their thinking.

Sociologist Loeb says that his doctor refused to prescribe for him a drug that, though indicated, he feared might have a carcinogenic potential. "Doctor, I'm 72 years old," Dr. Loeb said. "How long would it take for that cancer to develop?" He argues that there is no reason why carcinogenic or addictive drugs should not be given to old people if they are needed. Dr. Heinz E. Lehmann, McGill University psychiatrist, would like to see someone develop a "happy pill" that would keep the very old euphoric and out of depression. He wants it to be an intoxicant that would produce feelings of gratification without the many drawbacks of alcohol.

Another psychiatrist suggests that we could solve the problem of many old women by permitting bigamy after the age of 65. Dr. Comfort notes that "an old man dies if there's no one to cook his meals; an old woman does too if she has no one to cook for."

Can a new attitude be developed in medical school? The Duke people believe that it can, at least for a substantial number of students, and they will be giving it the old college try in a year's time. As Dr. Whanger puts it: "Those things we don't know much about we tend to steer clear of. We get uncomfortable or anxious or uncertain. We hope that by teaching people more about these problems from the beginning they'll feel more comfortable and competent in dealing with them." So Duke is developing a training program at all levels, which will include putting students, interns, and residents into nursing homes for important periods of time and moving toward establishing a model nursing home system.

The Duke people are also seeking a change in federal government policy. "Part of the problem is that too much of the money medical schools get is categorical and there's been no category for training people to work with the old," says Dr. Maddox. "We have asked the Administration on Aging and other appropriate divisions of HEW to review their policies. Now we know HEW is asking itself whether we've discovered an area that's fallen between the chairs and the answer is we sure have. I think we will get some clarity, and that will be a step forward."

Some experts see stormy times ahead. Says Dr. Loeb: "You go to the doctor with a pain in your leg. He looks and says, 'I can't see anything wrong. What do you expect?' People aren't going to take that kind of stuff any longer." The Senior Citizens' Newburgher sounds very determined indeed when he talks about "senior power" and points out that there are a lot of votes over 65. When the cover of this issue of MWN was described to Dr. Eisdorfer, he shook his head in irritation: "That's just what's exactly wrong. The old person is no longer going to be a little old lady sitting there passively waiting for whatever somebody chooses to give her. That person is getting to be angry and aggressive, demanding, "What are you doing for me?"

Where does this leave the physician? Says Dr. Maddox: "If medicine is vulnerable, it's not so much because doctors behave differently than other people as it is that we expect leadership from them. The profession has not really come to terms with that question. The first leadership it provided was positively harmful—its opposition to Medicare, saying the health care of the old was no problem. The doctors came out of that one looking as though they weren't terribly smart.

"Is it not agreed that people in nursing homes need care? The medical profession should be asking how we can get it to them. Why doesn't the county Society make a survey of its nursing homes and announce publicly that it will find a way to take care of those people?

"We have the right to expect them to show some foresight in this area, some recognition of the size of the problem. If you're going to play leadership, you've got to lead."

A PHYSICIAN'S INSTRUCTIONS ON FINAL CARE

A major problem in management of the terminal or "vegetable" patient is determining what he himself would want done. His relatives may want to let him die, but even if the physician is inclined to agree, there is the possibility that the patient may be aware of what is happening and be lying there in mute, motionless outrage at what is to be done—or not done—to him.

To resolve any such doubts that might someday arise in his own case, a noted Duke University professor of medicine wrote the following, with copies to be filed by his wife and his attorney:

> If I become ill and unable to manage my own affairs, I want you to be responsible for my care. To make matters as simple as possible, I will leave certain specific instructions with you.
>
> In event of unconsciousness from an automobile accident, I do not wish to remain in a hospital for longer than two weeks without full recovery of my mental faculties. While I realize that recovery might still be possible, the risk of living without recovery is still greater. At home, I want only one practical

nurse. I do not wish to be tube-fed or given intravenous fluids at home.

In the event of a cerebral accident, other than a subarachnoid hemorrhage, I want no treatment of any kind until it is clear that I will be able to think effectively. This means no stomach tube and no intravenous fluids.

In the event of a subarachnoid hemorrhage, use your own judgment in the acute stage. If there is considerable brain damage, send me home with one practical nurse.

If, in spite of the above care, I become mentally incapacitated and have remained in good physical condition, I do not want money spent on private care. I prefer to be institutionized, preferably in a state hospital.

If any other things happen, this will serve as a guide to my own thinking.

Go ahead with an autopsy with as little worry to my wife as possible. The anatomy crematory [at the medical school] seems a good final solution.

THE PACIFIC AQUEDUCT SYSTEM OF INTERCONTINENTAL WATER TRANSFER

Mr. MOSS. Mr. President, about 10 days ago I spoke at some length on the Senate floor on the subject of intercontinental water development. I suggested that Canada, the United States, and Mexico all begin gathering the data, and doing the homework, that would make possible in the near future full discussions of the various proposals offered by Canadians and Americans for coordinated water development on the continent. I asked that meanwhile the three nations "keep their options open."

Coincidental with my Senate discussion, there appeared in the Denver Post an article on one of the intercontinental water transfer plans I mentioned—the Pacific aqueduct system—which has been developed by Lewis Gordy Smith, an independent water resources consultant, an adviser to the Federation of Rocky Mountain States, and a former employee of the U.S. Bureau of Reclamation.

The Smith concept would bring water from the Frazier River Valley of Western Canada down into the Columbia River in Washington, and thence through California and Nevada and into the Colorado River at Lake Mead. Arizona would benefit directly, and so particularly would the Mojave Desert region of southern California.

The Rocky Mountain region, while not directly receiving water from the Pacific aqueduct system, would be indirectly assisted since more water for southern California and Arizona from other sources would relieve the pressure on the Colorado River, and could allow more of its streamflow to be used by upstream States. Pending oil shale development in Utah. Colorado, and Wyoming will require vast quantities of water. Development of oil shale resources will help head off the energy crisis facing us. So the Smith plan would be beneficial to much of the West, although not as beneficial to all States as the NAWAPC concept, which I have been suggesting, or to some other concepts sponsored by other Americans and Canadians. But it is important that we consider all proposals which have been offered.

Mr. Smith discusses his proposal also in terms of the need for more water for the expansion of our present towns and cities and populations, and the necessity of planning for the habitation in the future of the many wide open spaces between the Pacific coast and the Rocky Mountains. He makes some good points.

I ask unanimous consent that his article, which is entitled "United States Could Drink from Canadian Streams—Maybe," published in the Denver Post on April 1, 1972, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Denver Post, April 30, 1972]

THE UNITED STATES COULD DRINK FROM CANADIAN STREAMS—MAYBE

(By Lewis Gordy Smith)

Population growth is pressuring Americans into solving a problem that was seldom mentioned a generation ago.

It is a problem dealing with the distribution of people: How to provide settings for day-to-day living that harmonize with the environment, that provide a measure of dispersal, instead of increasing clusters of inhabitants in continually-expanding urban ant hills.

One of the keys to solution of the problem is water—particularly in the West.

Today the environmental aspects of water development projects loom large in people's minds—and rightly so. But it would be folly to let this concern foster declining interest in large-scaled water supply projects.

There are a number of wide open spaces between the Pacific Coast and the Rocky Mountains which would be eminently suitable for human habitation if water were available. Water for homes, for businesses and small industries, for irrigation.

The need is growing, and although present supplies could be used more effectively, a strong case can be made for studies which would lead to an increase in present supplies by tapping areas of known surplus.

In addition to the need to supply new water to new communities, there also is a need to improve many existing water resource projects in the West which are in trouble because of the decreasing quality of their present supplies.

One way to meet some of these needs is to build a Pacific aqueduct system which would alleviate some of the escalating water problems in California, Nevada, and Arizona, and indirectly benefit the Upper Colorado River Basin States of Colorado, Utah, Wyoming and New Mexico. It would also assist in our water delivery and water quality problems with Mexico.

The concept looks to the ultimate tapping of the Fraser River in British Columbia, and diversion of some of its surplus water into the Columbia River. The water would then be diverted from the Columbia, through central Oregon, across the northeastern tip of California, thence along the western edge of Nevada headed for the Colorado River at Lake Mead, with several branch lines enroute.

The main purpose of the Fraser-Columbia project would be to provide replacement for water which might be diverted southward from the Columbia. Because of large tracts of potentially productive lands in the Columbia Basin, which will require more water in the future, it is quite improbable that agreements can be made to obtain diversions of Columbia River water without prior arrangement for replacement.

One can understand past reluctance of the Columbia Basin states to entertain ideas of exporting Columbia River water to the south when they see the enormous potential in their region for development based on more widespread use of existing water resources.

For example, in the state of Washington, and extending into northern Oregon, lies one of the most extensive lava plateaus in the world, bounded by the Cascade mountains on the west and the Rocky Mountains on the east.

This plateau, generally known as the Columbia Basin, lies mostly in the cup of the great bend of the Columbia River. On the comparatively flat top of this region of ancient lava flows, a desert-type condition prevailed until large-scaled irrigation and power development projects were begun on the Columbia.

Under the Columbia Basin Project of the U.S. Bureau of Reclamation, approximately 513,000 acres were brought under cultivation between 1948 and 1972. It is estimated that more than 30 million acres of potentially irrigable land remain in the area.

Water for the entire basin is available from the Columbia and Snake Rivers through pump-lifting and new systems of distribution channels. Many new cities will sprout in the region as a necessary part of the continuing agricultural development. Thus, the strong determination of those in the region to safeguard their water for the future is well-founded.

The Fraser-Columbia diversion would involve international agreements with Canada, and more specifically with the province of British Columbia. Agreements on joint studies with British Columbia should be sought early in any serious consideration of a Pacific aqueduct system; such agreements are believed to be politically feasible.

At the imagined point of diversion, near Hope, B.C., at the head of the Fraser estuary, the river will have performed all of its in-basin functions except those of the estuary which are primarily navigational, and would be little affected by a diminution of flow. The availability of water for export would be enhanced if the Fraser were ultimately developed for power, as has been discussed recently by Canadian power interests.

Thus the benefits to British Columbia from the sale of water, which now flows unproductively to the sea from this point, might be such as to overcome any objections, and make the concept politically acceptable.

Water could be lifted from the Fraser, almost at sea level, over the Cascades and into the Columbia through a series of reservoirs in an over-the-hill pump-storage power arrangement. Most of the pump lifting on the uphill side would be accomplished during off-peak hours of an interconnected power system, and most of the power generation on the downhill side would occur during the peak hours to gain a higher value of the generation.

By means of a water artery extending from the Columbia River to Lake Mead on the Colorado river, with several branch lines, new water could be placed in those areas of the Pacific region which have growing water quality problems. This could also provide water to potentially habitable lands enroute. The aqueduct system would enhance all of the existing and planned water transfers in the Pacific region including the existing Metropolitan Aqueduct from the Colorado River to southern California; the All-American Canal from the Colorado River to the Imperial and Coachella Valleys in southern California; and the authorized Granite Reef Aqueduct of the Central Arizona Project to carry water from the Colorado River to the Phoenix and Tucson areas of Arizona.

The main water line would traverse an area in Oregon known as the Great Sandy Desert, which covers about 7,000 square miles and is sparsely populated. This region could be developed agriculturally to support many more people, and the water supplied to it by the aqueduct could be considered as part of Oregon's normal entitlement from the Columbia.

The proposed main line also would cut across the northeastern tip of California, near Goose Lake, and it would be a simple matter to extend a branch into the headwaters of the Pit River which joins the Sacramento River system above Shasta Reservoir. More water down the Sacramento could assist in solving some of the problems which have led to much controversy in the San Francisco Bay region and in the delta region of the Central Valley of California.

The Central Valley is the seat of one of the largest agricultural empires in the West, nurtured by an attractive climate combined with large-scaled water management.

Agriculture in the valley is sustained by pumping from ground water and, since 1951, supplemented by transfers of surface water from the more abundant northern arm of the valley to the southern.

While water management has vastly improved the agricultural and population-carrying capacities of the Central Valley, and has the potential for supporting even further increases, there is another side to the coin—that of the reduced quality of water in the natural drainage systems resulting from water use. This happens in any consumptive water use whatever and wherever: It means, for the water returned, an increase in the dissolved solids—the various so-called mineral salts, which are not normally removed in water treatment except in special costly cases.

Drainage water, with its reduced quality, is brought by natural channels to the delta region. Here the dissolved solids and other forms of pollution tend to concentrate. This pollution buildup is relieved only by the ability of the natural channels to flush the pollutants from the delta sloughs into the Pacific Ocean.

As population and industry grows in Central Valley and the delta region, the dissolved mineral content of the waters of the delta will increase. This must be dealt with. The more fresh water that is diverted southward from the delta and used agriculturally in a way that adds to dissolved mineral buildup of the return water, the less able is the remaining flow of the Sacramento and the San Joaquin Rivers to flush the dissolved solids to the sea, and the greater the tendency for the delta to become a mineralized sink—unless other ameliorative steps are taken.

The delta water problems could be alleviated in part by placing more water into Sacramento System: For this reason consideration should be given to a branch from the proposed Pacific aqueduct system main line as it passes near the vicinity of the headwaters of Pit River. Water placed in the Pit River could be considered as replacement for water diverted southward, with the proposed Peripheral Canal forming an important link in this system.

The most direct route for conveying aqueduct water from northeastern California to Lake Mead (the main destination on the Colorado) would be an alignment generally paralleling Nevada's western boundary with California.

Here in the rain shadow of the Sierra Nevadas lie many open, desert-type valleys which are ideally suited for habitation except for a lack of year-round water. These valleys are well suited geologically and topographically for construction of a buried aqueduct, although several lift stations would be required along the route.

Thus the state of Nevada could come to play an important role in absorbing part of the nation's increasing population if the water line were to pass down its western flank. The aqueduct could become the axis of a new north-south development corridor—with development conforming to modern concepts of environmental quality.

Not many can say they enjoy the environment and ecology of the natural, unwatered desert except as they pass through it or limit their visits. But the time will come when desert regions which can be supplied with water must be made to accommodate future populations as part of a national program. It is better to convert the deserts than to invade the mountainous areas.

For example, a branch off the main line of the proposed Pacific aqueduct could be extended down Owens Valley to replace water now diverted to the city of Los Angeles. It would revive the valley agriculturally, and also provide more water for the Mojave Desert region.

The main would extend, finally, to Lake Mead, which is becoming a man-made mineralized sink, similar to such natural sinks as the Great Salt Lake in Utah, the Salton Sea in California and the Carson Sink in Nevada.

Under conditions where lakes in a desert climate lose a good part of the inflow by evaporation or when the evaporation exceeds the rainfall, even though these lakes have outlets, the mineral salts left behind tend to accumulate and the body of water tends to approach mineralized sink conditions.

This is what is happening to Lake Mead, and obviously anything which affects the quality of its water affects the lands served by aqueducts extending from the Colorado River downstream from the lake.

What about conditions one or two hundred years from now if nothing is done to rescue all the lands and people using lower Colorado River water from this overdose of salt? Here is a situation with serious national repercussions, a case of slow creeping disaster.

Dilution of the mineralized waters by importation of higher quality water may be part of the solution to the problem. Extracting some of the salts upstream and carting them to the sea may be a burdensome part of the answer. But dilution by imported water would also have another beneficial effect—it would add to the supply available.

Under the Colorado River Compact of 1922, the upper basin states are required to release an average of 7.5 million acre-feet annually on a 10-year basis, at Lee's Ferry below Glen Canyon Dam. To date this requirement has imposed no great burden on the upper basin states, but it will do so increasingly in the future as Colorado, Wyoming and Utah turn to their vast supplies of coal and oil shale to assist in the nation's supply of energy.

Conversion of these fossil fuels to petroleum or gas will require large amounts of water which will be evaporated to the atmosphere. Thus, while these upper basin states are remote physically from the imagined Pacific aqueduct system, they could benefit from it by being credited through it, under a national water augmentation project, with some of the water they are now required to pass on downstream under law.

A possible technological limitation of the Pacific aqueduct system concept is the large blocks of energy required both to build the system, and to operate the various pump lifts along the way, in an era of growing concern over a possible energy crisis.

The validity of the aqueduct concept may hinge somewhat on breakthroughs for new forms of abundant energy such as hydrogen fusion power, or power from the heat of the earth's interior.

Here is the case of a multi-state, multi-regional water and power problem that will require a multi-state and even an international approach. The problems are gigantic, and they require solutions in the same proportion.

THE AGED

Mr. PERCY. Mr. President, the New York Times recently published an article on the isolation of aged nursing home patients and the need for better rehabilitation programs, written by Jay Nelson Tuck, national correspondent for Medical World News.

As the article points out, society tends to put people aside when they reach the age of 65, and the medical profession itself tends to favor younger patients over the old. Geriatrics is considered a depressing specialty. In the catalogs of 51 out of 99 medical schools, there was no mention whatever of the care of the elderly. Among more than 20,000 medical school faculty members, only 15 were identified primarily with the field of aging, according to a recent study prepared for the Senate Special Committee on Aging.

Mr. President, I wish to bring this article to the attention of Senators, particularly Senators CHURCH, RIBICOFF, MOSS, and FONG, who have worked tirelessly to improve conditions in nursing homes.

I ask unanimous consent that Mr. Tuck's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE AGED: TO WAKE UP WISHING YOU WERE DEAD

(By Jay Nelson Tuck)

"Perhaps the majority receive adequate care," Senator Abraham Ribicoff said recently. He emphasized the word "perhaps." Then he went on: "But thousands of others spend their waning days in neglect, despair, filth, boredom and unsafe conditions."

The Connecticut Democrat was talking about the million Americans—a little under 5 per cent of the nation's over-65 population—who serve out their lives in nursing homes. The Senate Finance Committee is currently considering Social Security amendments, already passed by the House, that would loosen requirements for nursing homes—and Senator Ribicoff seeks to keep standards high. And further, he wants to set up pilot programs that would keep the elderly out of institutions and in the community.

The basic problem with nursing homes is what Dr. Carl Eisdorfer, director of Duke University's Center for the Study of Aging and Human Development, calls our "no deposit, no return" feeling about old people. Society tends to put them aside when they reach 65, and the evidence is that the medical profession shares that tendency.

Doctors, perhaps even more than the rest of us, do not like to be losers. The whole weight of their training and professional life calls for winning—to cure the sick; to save the life. But elderly persons, with ailments that can only be eased or managed, and with the certainty of death—the ultimate defeat for the physician—lying ahead, do not offer instant rewards.

The care of the elderly is usually neglected in the physician's training. A study made for the Senate Special Committee on Aging found no mention whatever of the subject in the catalogues of 51 out of 99 medical schools. Among more than 20,000 faculty members, only 15 were identified primarily with the field of aging. Sharing a general social and psychological bent away from the old, doctors tend to avoid the nursing home.

"If medicine is vulnerable, it's not so much because doctors behave differently than other people as it is that we expect leadership from them," says Dr. George L. Maddox, professor of medical sociology at Duke. "Is it not agreed that people in nursing homes need care? The medical profession should be asking how we can get it to them. Why doesn't the county medical society make a survey of its nursing homes and announce publicly that it will find a way to take care of these people? If you're going to play the leadership game, you've got to lead."

Meanwhile the aged languish. "When people are isolated from their normal environments, no longer see their friends and loved ones, no longer contribute to society, they regress and die," says Dr. Amos N. Johnson, of Garland, N.C., past president of the American Academy of Family Physicians.

"I have seen old people in a reasonably healthy condition who, when put away in the isolation of custodial care facilities, totally lose interest in life. They refuse to communicate, refuse to eat, become totally bedridden, waste away and die. This is a disease process called 'isolation' and should be so designated on the death certificate."

The fundamental problem is summed up in a question asked by Dr. Leonard E. Gottesman, associate professor of psychology at the University of Michigan: "Are programs for the institutionalized elderly molded more by political and economic considerations than by concern about rehabilitation of the elderly? The answer is yes."

In Senator Ribicoff's view, the efforts to loosen standards for nursing homes is a case in point. And the likelihood of a political backlash of any consequence from nursing home residents is minimal.

Two years ago there was a fire in a nursing home called Harmar House, in Marietta, Ohio, in which the building escaped serious damage, but a carpet burned with such heavy smoke that 32 of the 46 residents died. "Is that the worst thing that could happen to them?" asks Dr. Eisdorfer. "Or is it still worse to be one of the many who woke up that morning wishing they were dead?"

NEW ADMINISTRATION CHILD-FEEDING PROPOSAL MAY RESULT IN FEWER—NOT MORE—NEEDY CHILDREN BEING FED

Mr. HUMPHREY. Mr. President, over he weekend the President proposed to increase the funding levels for summer feeding programs and the school breakfast program by $44.5 million. He proposed no additional funds for the school lunch program. In addition, he proposed new national eligibility standards for free and reduced price lunches which many urban State and metropolitan city school food service officials said would likely sharply reduce the number of needy children served by the program.

The new proposal would raise summer program funds this year to $50 million, or $25 million more than what Congress has already appropriated. I not only welcome this particular move, but wish it had even been more. The U.S. Conference of Mayors stated in testimony on April 10, 1972 before the Senate Nutrition Committee that the Nation's cities could "effectively utilize" some $52.4 million for this summer's feeding program if the money were made available. The President's proposal concerning this program comes very close in meeting that goal.

Funding for the breakfast program under the administration's new proposal would be increased to $52.5 million or almost $20 million more than is proposed in the administration's fiscal year 1973 budget request. However, it is interesting to note that the administration itself admits, in its own figures, that they do not intend to spend all of the funds Congress appropriated last year for the breakfast program this fiscal year. I have, therefore, to conclude that the administration's future spending intentions concerning the program are as questionable as their figures on how many schools are ready to start a breakfast program. The President, in his message, says that 3,000 more schools have asked for a breakfast program, yet last month the Food Research and Action Center, in a survey of State school food service directors, found that there were 22,000 schools desiring to start this program, if adequate funds were made available.

Under the income eligibility standards proposed by the President for school lunch, the national floor would be set at an equivalent of $4,110 annual income for a family of four. States could exceed the national level only by 15 percent in setting income eligibility levels for serving a free lunch, and by 30 percent in setting eligibility for reduced price lunches.

Furthermore, the administration would stop the present method of apportioning school lunch funds among the States. Present legislation requires a formula based on a combination of performance and need, and the administration would replace this system with a procedure to reimburse the States on a per meal served basis.

State officials indicate that under current procedures USDA already is employing a meals-served formula. They report that USDA applies the need-plus-performance formula only on funds appropriated from general revenue sources. These funds are now exhausted in most States, primarily because the Congress did not appropriate all school lunch funds from general revenue. However, Congress did authorize in Senate Joint Resolution 157 the dollars needed this year out of section 32 funds to "provide a rate of reimbursement which will assure every needy child of free or reduced price lunches during the fiscal year ending June 30, 1972." These revenues are taken from duties levied on imports and given to the Secretary of Agriculture to spend. The section 32 money assigned to the school lunch program is paid out to the States only after the general revenue lunch funds are spent and as States earn them by serving lunches.

Assistant Secretary of Agriculture Richard Lyng told the press over the weekend that he hoped the new proposal would add another million to the 7.6 million free or reduced cost meals served on a daily basis in the program in recent months. However, no additional funds would be made available under this new proposal to the States for the lunch program other than those requested by the administration for fiscal year 1973 which are based on reaching a million fewer needy children than Lyng cited.

State and local school food officials have indicated that urban areas, where eligibility levels have been set to reflect higher living costs would likely be hit very hard by the new eligibility standards now being proposed by the administration. In New York, for example, an estimated 200,000 children would likely lose their free lunch by the imposition of these new standards.

The most serious problem facing States and local school districts is that school lunch funding levels next year will not provide any higher per meal reimbursement than is being paid this year. And as Josephine Martin, director of Georgia's School Food Services, said last month in testimony before the Congress:

> The national school lunch program is failing to grow or expand at present reimbursement rates.

The administration proposal to now change the reimbursement formula could reduce lunch funds in a number of States, primarily those with greater numbers of low income families and which are serving proportionately more lunches to needy children. These States are mostly in the Southeast region and in those regions with large intercity areas where low income children live.

Mr. President, you will recall last September we were faced with a similar effort by the administration to change the reimbursement formula. At the time we were forced to legislate a minimum 40-cent reimbursement rate on lunches for needy children for this school year coupled with an average 6-cent payment on all lunches. Since the administration, in its new proposal, fails to mention what reimbursement rates it plans to establish, we must assume—based upon its figures relating to expected participation next year, that the reimbursement rate will be the same or lower than what it is now. And furthermore, Mr. President, this new proposal suggests that we are being asked once again to trust the administration, through its regulations, to implement the congressional mandate to provide every needy child with a free or reduced price lunch. After the battles we had with the administration last year with its regulations pertaining to both school feeding and food stamp programs I find that prospect particularly distasteful.

The administration has made it all too clear, in both of those actions, that they prefer "cold promises to hot lunches." They again are making it obvious that they want the stomachs of needy and hungry children to fit their national budgets, instead of the reverse, which Congress has repeatedly insisted upon. Even now, the administration's new proposal to put more funds into the summer feeding and breakfast programs is coming at a time when Congress has begun considering legislation to raise funding levels for child nutrition programs. What the administration is now proposing regarding the summer and breakfast programs has already been embodied in legislation now pending before Representative CARL PERKINS' committee in the House.

The administration's proposal to increase funds for the purchase and installation of food service equipment for those schools not having, or that are in need of improving, such facilities also leaves much to be desired. The administration proposal regarding these funds would actually stretch out the use of funds made available for this purpose. If the President is really serious about helping the almost 60,000 schools needing such assistance, he would have asked Congress to appropriate the $60 million this year he proposed to spend over 3 years, with a provision that these funds can be carried forward if unspent. He could then earmark $40 million for equipping schools which now do not serve lunch and authorize $20 million for improving food service facilities in existing programs.

Mr. President, I have grave misgivings about this new administration proposal regarding our Nation's child nutrition programs. Although I plan to reserve my final judgments concerning the proposal until I have had an opportunity to carefully examine the administration's implementing legislation, it would appear that the President's statement is just more "self-serving rhetoric to cover a further retreat from the promise he gave the Congress and the Nation in 1969 to 'put an end to hunger' in the United States."

Finally, I should like to point out that the administration's proposal fails to meet the comprehensive test that I think is called for in meeting our Nation's total child nutrition needs. It fails to include:

An outreach program to encourage families to make use of the free or reduced price lunch and breakfast programs;

A nationwide nutrition education program within our schools;

A career program for training new food service personnel and upgrading existing professional levels;

A proposal for improving supplemental feeding for infants, preschool children and low-income pregnant women; and

A new emphasis on medical research to discover how nutrition relates to health, especially as it relates to the physical and mental development of our very young.

Last year I introduced the Universal Child Nutrition and Nutrition Education Act, S. 2593, which would provide a national program of meeting the nutrition and nutrition education needs of our Nation's schoolchildren. It would guarantee every schoolchild, regardless of income, of at least one free hot meal per day, and thereby put an end to the economic caste system which now prevails in our current school feeding system. It would also put an end to the patchwork program we are now forced to work with and it would provide for the urgently needed nutrition education program to help equip our future populations with adequate knowledge to make intelligent decisions regarding the relationship between good nutrition and good health.

Mr. President, in a Nation such as ours, with over a trillion dollar economy and agriculture capable of producing an overabundance of nutritious food, we cannot rest until every needy, hungry child or citizen is provided with an adequate nutritious diet. In my over 20 years of national public service, I have always been dedicated to meeting that objective and I intend to continue my pursuit of that objective until it is fully met.

PRESIDENT NIXON'S FIRM STATEMENT

Mr. FANNIN. Mr. President, I fully support President Nixon in his determination to resolve the Vietnam situation just as quickly as is possible. His decision was not easy to make, but he had few acceptable alternatives. The Communist escalation of the war has put our forces in grave peril.

We as a nation have interests and commitments all over the world. America is the bastion of the free world; we cannot sink into isolationism, retreat to our own shores, and forfeit on our obligations to the cause of freedom.

President Nixon made a firm statement—not an ultimatum, but a strong declaration of our very limited objectives to protect our own troops and halt the North Vietnamese invasion of South Vietnam.

He made a generous offer. For the first time, the President has set a firm withdrawal date. He has agreed to have all American troops out of Vietnam 4 months after these conditions are met:

First. Release of American prisoners of war.

Second. Agreement on an internationally supervised cease-fire.

If they will not agree to these two conditions, then it should be unmistakably clear to every American and to everyone in the world that the North Vietnamese and their allies will settle for nothing less than the military conquest of South Vietnam and the forceful imposition of a Communist regime.

The alternatives thus are reduced to two for America: stand fast or surrender.

We would not be in this present critical situation in South Vietnam if the Congress had given the strong support to the President which should go to any President in time of crisis. Instead, political opponents have sought to undercut his position at every turn, and this has encouraged the enemy to fight on.

I would hope that we can find the united support that will demonstrate that America is not about to renege on its international obligations. President Nixon has drawn the line and we must support him or the future is terribly bleak for our Nation and the free world.

HUMPHREY URGES EARLY ACTION ON FISCAL RELIEF TO STATES, CITIES, AND COMMUNITIES

Mr. HUMPHREY. Mr. President, I am pleased to join the Senator from Tennessee (Mr. BAKER) in sponsoring the State and Local Fiscal Assistance Act of 1972.

Our cities are caught in a dilemma. On one hand, there are great demands on the cities for basic services. On the other, the revenue so necessary to support a high quality of these basic services just has not been available. The results are predictable. Cities are in a financial bind as never before. Townships, medium-size boroughs, and small communities suffer a similar fate. Many of our political subdivisions have reached their financial limit.

This financial bind has made direct Federal fiscal assistance to States, cities, and communities critically necessary.

I have been a supporter of revenue sharing since the idea first surfaced in the 1960's. It was a good idea then. It is an even better idea now.

Last year in testimony on my legislation, S. 241—the Humphrey-Reuss revenue-sharing bill before the Senate Subcommittee on Intergovernmental Relations, of which the distinguished Senator from Tennessee is a member—I once more stated my support for immediate enactment of revenue sharing.

I want to make that pledge again today.

The financial assistance measure approved by the Ways and Means Committee incorporates the fundamental minimums I believe necessary for effective revenue-sharing legislation.

It does include substantial fiscal relief—a beginning figure of $5.3 billion, split $1.8 to the States and $3.5 to the communities. The funds are allocated on the basis of need. The legislation does have strong antidiscrimination provisions. It does have innovative provisions for the Federal collection of State income tax; and the categories for expenditures are broad and explicit.

Mr. President, I hope that the Senate will act expeditiously on this legislation.

The mayors of our cities and communities want it.

The Governors of our States want it.

The people of the Nation want it.

It must be passed.

THE NAVAL BLOCKADE ON NORTH VIETNAM

Mr. STEVENSON. Mr. President, Keyes Beech, of the Chicago Daily News, has been covering the fighting in Indochina since the Vietnamese war against the French—probably for longer than any other American journalist. His views of the President's May 8 escalation were printed in today's issue of the News. They should be of interest to the Members of the Senate, and I ask unanimous consent that this be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A STAGGERING GAMBLE

(By Keyes Beech)

President Nixon's decision to impose a naval blockade on North Vietnam is the act of an angry and desperate man. He has, in effect, matched Hanoi's all-out offensive to conquer South Vietnam with his own last roll of the dice.

It is a staggering gamble.

He is risking a bigger war to win a small war. He is telling the Russians—and the Chinese—they cannot deliver arms to North Vietnam but that the United States can and will deliver arms to South Vietnam.

In doing so he has invited a confrontation with the world's two great Communist powers at a time when he was moving toward an accommodation with them.

Moreover, by a single stroke, he is attempting to achieve a victory that has eluded the United States and its allies for more than a decade.

He could—although the possibility is remote—get away with it. Neither China nor Russia wants to go to war over Vietnam. But it seems inconceivable that the two Communist giants, competing as they are for Hanoi's allegiance, can afford to accept Mr. Nixon's ultimatum.

Regardless of the response from Moscow and Peking, there can be no doubt what

> Hanoi will do. For the hard and faceless men who run North Vietnam there can be no turning back. They write their own ticket. They accept aid but they do not take orders from Moscow or Peking.
>
> Over the long haul, it is possible the blockade could reduce Hanoi to military impotence—if Mr. Nixon can make it stick. But there is little or no prospect that it will stop Hanoi's current offensive.
>
> It is easy to believe the Communists when they say they have stockpiled enough war material to continue their offensive. And, in any case, it takes weeks or months for war supplies unloaded at Haiphong to reach the fighting front.
>
> There is nothing new about Mr. Nixon's decision to bomb the two rail lines linking Hanoi with China. That was done during the '60s. An estimated 50,000 Chinese soldier-laborers were sent into North Vietnam to keep the rail lines open. They were withdrawn when the bombing ended in 1968.
>
> But in imposing a naval blockade—although Mr. Nixon was careful not to use that word—the President took a course that Lyndon Johnson shyed away from in 1967.
>
> That I know from personal experience. During an interview with Mr. Johnson in May, 1967, I asked him if he intended to bomb Haiphong.
>
> "I'm not going to say whether I will or whether I won't," said Mr. Johnson. "An awful lot of good people come in here and tell me that's what I ought to do.
>
> "But sure as Hell if I did, one of our pilots would drop a bomb down the smokestack of one of those Russian ships out there in the harbor. And next morning, after Russia had declared war, all those good people who wanted me to bomb Haiphong would come in and say:
>
> " 'Mr. President, that ain't what we meant at all.' "

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, which will be stated.

The legislative clerk read as follows:

> A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1175 of the Senator from Mississippi (Mr. STENNIS).

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair.

The motion was agreed to; and at 1:23 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 1:35 p.m., when called to order by the Presiding Officer (Mr. HUGHES).

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

Mr. GRAVEL. Mr. President, I seek recognition. I will be talking on a matter germane. What is the matter before us?

The PRESIDING OFFICER. The pending matter before the Senate is the amendment of the Senator from Mississippi (Mr. STENNIS), No. 1175 to the pending bill, S. 3526.

NATIONAL SECURITY STUDY MEMORANDUM NO. 1

Mr. GRAVEL. Mr. President, I think what I have to say is very germane to that subject, because it deals with our involvement in Southeast Asia, and at the same time it deals with what the President of the United States reported to the American people concerning the course of action he has chosen to undertake in South Vietnam.

Mr. President, I attempted some time back to release a study to the U.S. Senate because I felt its information to be very important with respect to the decisionmaking that was taking place in the White House with regard to the American policy that we face today. I hurriedly, after last night's decision, have gone over that study.

It is interesting to note that whenever we have a study like this, one can always find new material in it, and he can find in it something that is even more relevant today than before. I tried to look for material that was related directly to the blockade of Haiphong and the other ports.

I think there was something that was left unsaid in the President's statement yesterday as he began to escalate toward a possible confrontation with the Soviet Union—and we should not talk only about the Soviet Union. I think we should begin to talk about China, which, of course, borders Vietnam.

But in this National Security Study Memorandum No. 1, the question was asked, What would be the effects of blockading all of the naval ports of North Vietnam? The answers are very clear, I have the answers, and I would like to bring them forward now to this body and to the American people since they are so relevant to what the President proposed in his message.

The answer from the State Department is:

> To begin with, it must be noted that in practical terms it would be impossible to deny all imports by sea. Even if the one principal port (Haiphong) and the two secondary ports (Cam Pha and Hon Gai) were closed, there would still be twelve minor ports as well as numerous coastal transshipment points suitable for over-the-beach offloading. Lightering operations would permit an indeterminate amount of supplies to enter North Viet-Nam from the sea.

Lighterage may be something that some of my colleagues are not familiar with, but it is something that we in Alaska, not being blessed with developed ports on our coastal areas, are familiar with. Basically, the west coast of Alaska is supplied entirely by lighterage.

To think that a blockade of North Vietnam would be successful is incorrect, based not only on my domestic experience in Alaska, but based on the experience of the Secretary of State and the entire State Department.

An answer from the CIA on the same subject—and I am quoting it—is as follows:

> Strikes in August, 1967 against the Hanoi-Dong Dang rail line were effective in stopping through service for a total of only ten days. Strikes during this period against the highways that parallel the Dong Dang line showed no insignificant or sustained reduction of capacity. The Hanoi-Lao Cai rail line capacity, after destruction of the Viet Tri bridge, was maintained at 700 tons per day by use of a rail ferry. If more capacity had been required, however, there is every reason to believe that additional facilities would have been installed at this location to restore the through capacity of the line.

I continue:

> In addition to the overland capacity, an airlift from Chinese airfields could potentially provide a means for importing a large volume of high-priority goods.

Now, this is a new element that has not been mentioned in any dialog that I have heard with respect to our tactics in Southeast Asia. That is the possibility of an airlift. Certainly we pioneered that concept. We were able to supply all of West Berlin with an airlift for in excess of a year, with almost unlimited tonnage. Do we believe, by any stretch of the imagination, then that an airlift could not similarly be used in Hanoi, Haiphong, or any other place in North Vietnam? Such an airlift could come from places in the Soviet Union, or from places in China.

Continuing:

> Moreover, total interdiction of seaborne imports would be difficult because shallow-draft lighters could be used to unload cargo from ocean-going ships anchored in waters outside the mined major harbor areas.

In other words, the President can put his mines around these ports, but the ships from Sweden and the Soviet Union could anchor out there and lighter the cargo in on sampans with very shallow draft. And according to the CIA, they can bring in all the goods that they need to wage a war and to keep their nation going through this process.

I repeat:

> Moreover, total interdiction of seaborne imports would be difficult because shallow-draft lighters could be used to unload cargo from oceangoing ships anchored in waters outside the mined major harbor areas. Large numbers of small coastal ships and junks could move cargoes from ships diverted to southern Chinese ports of Fort Bayard, Canton.

In other words, the goods could be sent to China, loaded on to sampans, and brought right to the beaches.

There is a note to this quotation which reads:

> Interdiction of the lines of communication between Hanoi and the China border could not be sustained at the level that was achieved in the southern Panhandle of North

> Vietnam during August through October 1968 for a number of reasons. The multiplicity of modes and transport routes in the North would make it necessary to sustain interdiction at a larger number of points than in the Panhandle. Air defenses in the North—aircraft, missiles, and antiaircraft artillery—make air attacks less accurate and also more costly in terms of U.S. air losses.

Mr. President, this is the CIA:

> We believe it is unlikely that either B-52s or Sea Dragon forces could be brought to bear in an interdiction campaign in the North.

What they are saying is that they believe that an air blockade, essentially bombing, and a sea blockade will not work. This is what was told the President of the United States in 1969.

Now let us move to another one of the President's distinguished advisers. That, of course, is the Defense Department, the office of the Secretary of Defense. I quote:

> It has been estimated that a minimum of 6,000 attack sorties per month would be required against the two rail lines from China.

That is just the two rail lines, 6,000 sorties. These are sorties that would have to be diverted from South Vietnam, that are supposed to be defending the safety of American troops. These sorties would have to be taken from there and moved to the north. I quote further:

> Even at this level of effort, the North Vietnamese could continue to use the rail lines to shuttle supplies if they were willing to devote sufficient manpower to repair and transhipment operations. Interdiction of the road system would be still more difficult. Since the bombing halt north of 19° in April 1968, North Vietnam has repaired all major road and railway bridges, constructed additional bypasses and alternative routes and expanded the railroad capacity by converting large segments from meter to dual gauge truck. These improvements would make even more difficult prolonged interdiction of the overland lines of communication.

I continue to read:

> We currently fly approximately 7,000 sorties per month against two primary roads in Laos without preventing throughput truck traffic.

Let me repeat: At this point, in 1969, we were flying 7,000 sorties on two primary roads in Laos, which is a lot tighter funnel than the whole breadth of North Vietnam, which borders the Chinese border, and the conclusion was that it was done without preventing thoughput truck traffic.

> The road network from China has 7-10 principal arteries and numerous bypasses. Finally, the monsoonal weather in NVN would make it difficult to sustain interdiction on the land lines of communication. Poor visibility would prevent air strikes during 25-30% of the time during good weather months and 50-65% of the time during poor weather months.

This is the end of the quotation from the Defense Department's advice to the President of the United States in 1969:

> Thus, it is not possible to give a definitive amount to the question of how much war-essential imports could come into NVN if sea imports are denied and a strong air campaign is initiated.

Here we have the entire intelligence might, the entire intelligence gathering system of the United States, to which was posed the question in 1969, in a situation exactly as it exists today. Let me repeat, that situation as it existed—and for the benefit of the press, so that they will not have to wait until the RECORD is printed tomorrow, I will read it again, more slowly and articulately. This is the conclusion of the Office of the Secretary of Defense:

> Thus, it not possible to give a definitive amount to the question of how much war-essential imports could come into North Vietnam if sea imports are denied and a strong air campaign is initiated.

We have initiated a mighty air campaign. Now the President tells us we are going to initiate a naval blockade. Both items were considered here, and what we found out, what the intelligence department told the President of the United States, was that they do not know what is going to happen.

They just do not know. They do not know because quite obviously the record is abundantly clear that this type of activity will have no appreciable military effect on the conduct of the war.

If that is best advice the President of the United States has received, obviously any American must ask himself in good conscience, "Then why is the President of the United States doing this?"

Again last night we heard the rhetoric, the unbelievable rhetoric about the arrogance of North Vietnam.

What is more arrogant than the superpower of the world pointing to a little nation of 18 million people and saying, "We are going to envelop you in a steel curtain that won't permit you to get anything in to survive, whether it is food or whether it is military strength."

What could conceivably be more arrogant than that? I think that arrogance can only be matched by the abysmal stupidity of thinking, in the face of this information which I have just laid before the Senate that it could possibly have any military effect.

So I think the arrogance is ours, the arrogance of thinking that we can go into that country and dictate what its people will have in the way of a government and the way its people will live.

I think that if we truly believe in the doctrine of self-determination, then quite obviously we should withdraw the American forces and let these people decide—whether it be by force of arms or by election—what kind of government, what kind of society they want. I do not think we have any moral right to go there and do it for them and to go there and do it under the guise of friendship and agreements. We do not honor our agreements any more than any other country honors its agreements. We did not honor our agreements with Pakistan.

If I can depart, to define what is going on today in this country, it can be defined very simply. We saw it exhibited by the President of the United States yesterday on TV, when he called upon all Americans to stand behind him in a united effort because of the possible shame that would come from losing. The Chief Executive did not know how to win this thing, and quite obviously he does not know how to lose it, either, because it takes a certain grace, a certain strength of character, to lose and to get out.

The reason why we are there today, and the only thing holding us there today, participating in this carnage, this carnage that has taken place between Asians, that we are abetting, that we are fostering, and that we are permitting, is a machismo, a sense that we are better than anybody else, a male attitude that we cannot lose. It is to nurture this national machismo that the President pursues this policy.

How much greater strength of character would it reveal for the President to stand up and say, very simply, "We have tried everything." I do not expect him to take my view and admit that we have made a mistake. I think that takes a greater depth of character than we now have in the leadership of this country. But I am not asking that we admit a mistake. All I am saying is that he just stand there and say:

> We have tried everything we can. We have given these people four times as much aid as the North has received from its Communist associates. We have given them total air cover, we have given them sea cover, and yet they do not want to win. The best they can do is put to rout and pillage their own areas and rape their own women. We have tried everything. We are just going to leave. We have done everything honorable men can do, and we are just going to leave. We wish it were not that way. We wish they wanted to fight for their own country, but apparently they won't, so we will just leave.

In my mind, the President of the United States could do that. He could do that with honor. It would not look like a defeat. But, of course, he cannot do that, he will not do it, because he feels that it would be dishonorable to "lose this war."

Nobody questions for a moment that if we want to win the war we can win it. Just load up the B-52's with hydrogen bombs, and we can obliterate the countryside, we can obliterate the country, and plant the American flag. We can plant Old Glory on that devastated land and say we won the war. Obviously, we do not have the moral depravity it takes to win the war; and since we do not have the moral depravity to win, why do we not have the moral courage to recognize that we cannot win it? Why do we not just get out?

I have tried to get these documents in the RECORD. The areas that I quoted today were not quoted previously on this floor or in the newspapers. But the actions of the President last night and the policy of this country make this study relevant, more relevant day by day.

I do not know what the Republican minority will do to thwart the efforts to get these documents printed in a normal, formal fashion. All I have done is to come before the Senate to ask Members to read the documents and then make a decision. I have heard that they may censure me because I have not gone through a normal, formal process. That type of saber rattling has not intimidated me, is not intimidating me today, and is not going to intimidate me tomorrow. The minority uses a mechanistic approach deliberately to thwart this body from coming to a vote or going through the committee process to make a determination.

I must say that it is not the entire minority, because the distinguished Senator from New York (Mr. JAVITS), a very fine Republican, is trying to work out a very deliberate method by which we can make a decision as to whether or not these documents should be released. But if that method is thwarted, then I would promise you that I will come to the floor and move that the clerk read it. Then we will have an up-or-down vote, and let the Senate go on record as to whether or not it wants to be party, like the Chief Executive of this country, to keeping information from the American people.

What is so secret about the information I have just released? What was so secret? Did it involve any troop movements? Two weeks ago, I heard Secretary of State Rogers talk about a division moving down from North Vietnam. That is battle information. That is a good deal more secret than what I have talked about. The secrets I have released right now are opinions based upon a collection of facts that a certain policy would not work.

Quite obviously, the reason why this administration wants this secret is that it is the policy they have undertaken. It is very embarrassing to undertake a policy and to have studies in the files that show the policy is not going to work; because then the very simple question is asked: Why does the Chief Executive undertake a policy that his intelligence sources say will not work? I can only say that it is male machismo, a sense that we have to prevail, that we are the super power of the world. I can only conclude by saying that with the policy enunciated by the President of the United States, he shows himself and this Nation to be not the superpower of the world but the bully of the world.

I yield the floor.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. GRAVEL. I am happy to yield.

Mr. GRIFFIN. For the record, I came into the Chamber during the middle of the Senator's presentation. Do I correctly understand that the quoted portions of his statement today were from the so-called Kissinger paper which is classified and which the Senator from Alaska was going to read on a prior occasion but which was not read?

Mr. GRAVEL. Yes. In answer to the question of the assistant minority leader, I quoted—and I have sent him copies of these papers—from pages 175, 228, 535. Yes, I quoted verbatim, and I repeated it so the press could hear it loud and clear.

Mr. GRIFFIN. I am sure the press heard it. I imagine that they were up there before the Senator began his speech.

Mr. GRAVEL. I want to correct my colleague. I saw only one member of the press when I came into the Chamber.

Mr. GRIFFIN. How is that document classified?

Mr. GRAVEL. I presume that document is classified "secret." In fact, I have every reason to believe it is classified "secret." I know it is classified "secret."

Mr. GRIFFIN. The transcript of the several closed sessions of the Senate have been made public, so I am not revealing anything, but it was my understanding that the Senator from Alaska had decided not to try to put this material into the RECORD, pending consideration by the Senate of a resolution offered by the Senator from New York (Mr. JAVITS). Is the Senator from Alaska now disregarding that? Perhaps I should say "understanding," because I think that was the impression that his colleagues received during the closed session.

Mr. GRAVEL. If I may enlarge upon that, I can recall clearly what I stated. During the closed session we talked of secrecy. I was impressed with the way my colleagues seemed to be absorbing the new information. Then it was suggested by the Senator from New York and the Senator from Idaho (Mr. CHURCH) that they offer a resolution to develop a format through a committee process whereby we could declassify this. At that time I said I was so impressed with that good will that I would not press to insert these documents in the RECORD. I have restated it. I believe the Senator from Michigan was here when I said that I will not press to put the documents in the RECORD. I said I would wait and see what would happen in the committee, because the Senator from Nebraska (Mr. HRUSKA) indicated that this matter should go to the Committee on the Judiciary. I do not know that the leadership has made a decision whether it will go to the committee. If it is to go to the committee and we are talking about 60 days or a 6-month delay, as stated here today, I said that at that time I will, as soon as I am convinced that I am being thwarted by the mechanistic tactics of the minority leadership, move to have the clerk read them and have an up-or-down vote.

However, today, I felt that, since the President of the United States launched this Nation on a radical and dangerous course of action, I would quote precisely from the study those portions which dealt with the course of action he is now undertaking.

Mr. GRIFFIN. In other words, having indicated to the Senate in closed session, the proceedings of which now have been made public, that the Senator from Alaska would not go forward and put this classified information into the RECORD, he has now decided this afternoon to put portions of it into the RECORD, notwithstanding that indication to the Senate.

Mr. GRAVEL. That stretches it a little bit. I did not make a compact in secret session. I had not even seen the resolution the Senator from New York was going to put in. So obviously I had reservations on that.

What I said on the floor was that I was impressed with the good will of this body and the desire to develop a method by which to declassify this. That good will has already been sabotaged by the statement of Senator HRUSKA who was also here at the time.

Mr. GRIFFIN. It rather appears that the Senator from Alaska is not willing to await any action by the Senate, I take it, as to whether the Senate would——

Mr. GRAVEL. I have already said I will wait.

Mr. GRIFFIN. Well, I take it, he is going to go ahead at his own pace.

Mr. GRAVEL. No, no. I do not know whether the President will appear tonight and announce some other policy so that "page 255" will be made bankrupt. I think I have an obligation to the American people, if the President chooses to make this 3-year-old study relevant, point by point, to let the American people have the information that he has. He is not even listening to his own intelligence community.

Mr. GRIFFIN. I believe the record is clear as to what the Senator from Alaska has done today, and I am not inclined to carry this colloquy any further. It will be up to the Senate, of course, particularly the majority of the Senate, to decide whether the Senator from Alaska is acting within the rules of the Senate and within the rules of good taste.

Mr. GRAVEL. Let me add to that, that I have heard a lot about the rules of the Senate and good taste. That is sabre rattling. That is cage rattling.

What have I done? Have I broken a rule?

I am standing here as a U.S. Senator informing my constituents in Alaska and the people of this Nation about something the President has done.

Have I talked about the number of bombers?

Have I talked about the number of troops?

What are we doing, playing fun and games here?

Human lives are at stake. We are going to bomb these people. That blood will be on our hands. Yet we stand here and just talk about possibly violating some Senate rules.

What Senate rules?

What spirit of the Senate?

This body is a body of communication. We come here as Senators to debate. We come here as Senators to inform the American people.

So, what have I done? Have I done anything wrong?

I wish the Senator from Michigan would stand up and make clear his implied threat that the majority should do something. There is no problem. I am communicating. I think my colleagues on the majority side in greater numbers are beginning to realize that we hold no allegiance to a security stamp placed on it by the President of the United States. We have as much responsibility to the people of this country as has the President of the United States.

What gives him the prerogative of a greater love of life than I? None at all.

I do not impugn his patriotism. Why should my patriotism be impugned? That is what is being impugned—not only my patriotism but also my ability to read and interpret the rules.

I submit that I am interpreting the rules a lot better than most of the membership of this body.

All I am doing here today is informing the American people, in a democracy, of the consequences of a policy that has been undertaken, a policy of unbelievable consequence, because we are playing "chicken" with one of the greatest powers in the world. We are saying, "If you Russians dare to send a ship into Haiphong, we are going to blow it out of the water."

If that is not a serious danger to world peace, I do not know what is.

What is this body supposed to do?

Sit back and just enjoy the air conditioning here and let one man—when we are 535 elected representatives of the people—decide to push this Nation to the brink of a confrontation?

Are we supposed to do nothing about it—particularly when every Senator here has the study in his office and can go to his office and read it and can read the pages where it speaks of the conclusion of the intelligence community that they do not know what will happen with this policy.

Since when do we undertake a policy as dangerous as this, when we do not know what will happen?

Not only do we press the Soviet Union into a confrontation but we also press China into one.

I am quick to applaud the President for his trip to China and I am quick to applaud his trip to Moscow because I think, genuinely, if we can negotiate a SALT agreement and develop a detente, then Richard Nixon will have accomplished something substantive and something of benefit for all of us. But I am not going to let him threaten his good works with stupid works. That is what I am going to try to expose, because like any other human being, he can do some bad things as well as good things. He has done some good things. He is doing some bad things right now.

I think that the duty of the party out of office is to criticize, to point out, to give alternatives, and let the American people decide who is effecting or who could effect the best kind of policy for this country.

Fortunately, that decision will finally be made this coming November.

But what will happen between now and this coming November?

How many people will die because we refuse to recognize that our allies in South Vietnam have neither the fiber nor the desire to defend themselves?

How many people do we have to kill before we find that out?

Can we not say that we have tried and walk away from it?

Of course we can.

The only problem is, it seems to be an ego problem to some people in this country. I can frankly say that I do not think the American ego can be traded off in loss of life. I really do not. I think that this Nation can build its character by saving lives.

To stand up and talk about peace when we are really killing people is totally schizophrenic. That, of course, is the problem with our policy today. It is totally schizophrenic.

RECESS SUBJECT TO CALL OF THE CHAIR

Mr. GRAVEL. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and, at 2:08 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 5:20 p.m., when called to order by the presiding officer (Mr. ALLEN).

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT ON ADMINISTRATION OF THE FEDERAL RAILROAD SAFETY ACT OF 1970—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. ALLEN) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Commerce:

To the Congress of the United States:

I transmit herewith the First Annual Report on the administration of the Federal Railroad Safety Act of 1970 (P.L. 91-458, of October 16, 1970), as required by Section 211 of that Act. The report covers the period October 16, 1970 through December 31, 1971.

RICHARD NIXON.

THE WHITE HOUSE, *May 9, 1972.*

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. ALLEN) laid before the Senate a message from the President of the United States submitting the nomination of John Y. Ing, of Hawaii, to be a Governor of the U.S. Postal Service, which was referred to the Committee on Post Office and Civil Service.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the concurrent resolution (S. Con. Res. 41) authorizing the printing of the report of the proceedings of the 45th biennial meeting of the Convention of American Instructors of the Deaf as a Senate document.

The message also announced that the House had agreed to the amendments of the Senate to bill (H.R. 8083) to amend title 5, United States Code, to provide a career program for, and greater flexibility in management of, air traffic controllers, and for other purposes.

The message further announced that the House insisted upon its amendment to the bill (S. 1736) to amend the Public Buildings Act of 1959, as amended, to provide for financing the acquisition, construction, alteration, maintenance, operation, and protection of public buildings, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. GRAY, Mr. KLUZYNSKI, Mr. WRIGHT, Mr. HARSHA, and Mr. GROVER were appointed managers on the part of the House at the conference.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

AMENDMENT NO. 1186

Mr. CHURCH. Mr. President, on behalf of the distinguished Senator from New Jersey (Mr. CASE) and myself, I send to the desk a perfecting amendment, and ask that it be read.

The PRESIDING OFFICER. The amendment will be read.

The amendment was read as follows:

On page 38, lines 5 and 6, strike out "after December 31, 1972,".

On page 38, line 6, immediately after "for the purpose of" insert "maintaining, supporting, or".

On page 38, line 7, strike out ", subject to" and insert in lieu thereof "four months after reaching".

Mr. CHURCH. Mr. President, I am not going to press for a vote at this time. Out of courtesy to all Senators who would be interested in the effect that the adoption of the perfecting amendment would have, I want to make the RECORD tonight, so that the full case will be available for Senators to review in the morning.

I ask unanimous consent that the perfected Church-Case amendment, might appear at this point in the RECORD.

There being no objection, the language was ordered to be printed in the RECORD, as follows:

TITLE VII—TERMINATION OF HOSTILITIES IN INDOCHINA

SEC. 701. Notwithstanding any other provision of law, none of the funds authorized or appropriated in this or any other Act may be expended or obligated for the purpose of maintaining, supporting, or engaging United States forces, land, sea, or air, in hostilities in Indochina, four months after reaching an agreement for the release of all prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.

Mr. CHURCH. Mr. President, my friend and colleague the able and distinguished senior Senator from New Jersey (Mr. CASE) and I issued a statement today regarding the perfecting language that has been offered to the Church-Case amendment, and, with the Senator's permission, I would like to read that statement into the RECORD. The press release read as follows:

Concern over the President's announcement of the mining of North Vietnamese ports and stepped-up air activity has tended to obscure moves the President has made toward ending American participation in the war.

In our view, the President has announced terms that correspond essentially to the formula which many critics of the war have called for over the past two years: namely, a prompt termination of our involvement in the war upon the release of American prisoners.

This is very close to the Case-Church amendment which is a part of the State Department Authorization bill now pending in the Senate. We have long sought to have Congress share with the President the responsibility for bringing an end to our part in the conflict in Vietnam. Therefore, it is our intention to amend the Case-Church amendment to conform to the four month period that the President has now indicated is sufficient time for effecting a total American withdrawal. It is our hope that this effort to give statutory support to a prompt American withdrawal in return for our prisoners will be backed by both Houses of Congress.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. AIKEN. I was wondering whether any consideration was given to the welfare of the refugees in South Vietnam in the event North Vietnam overcomes that part of the country. Do we agree to let North Vietnam take over control of the people of South Vietnam?

Mr. CHURCH. We have not taken issue here with the position of the President in that respect. He said very clearly last night that if our prisoners are released and a cease-fire is entered into, he will withdraw the balance of American forces from Indochina within 4 months and would leave the settlement of the Indochinese war to the people of that country. In other words, our position in that respect is identical to that taken by the President.

Mr. AIKEN. Does the amendment call for a cease-fire?

Mr. CHURCH. The amendment does not call explicitly for a cease-fire. It calls for the cessation of our involvement in the war within the 4-month period the President prescribed upon an agreement for the release of our prisoners of war.

Mr. AIKEN. But it does not say anything about disarming the people of South Vietnam?

Mr. CHURCH. Indeed not and, as the Senator knows, I would strongly oppose any efforts to disarm.

Mr. AIKEN. That is what I wanted the Senator to say because that is, in my opinion, the big stumbling block to any agreement.

Mr. CHURCH. Yes, indeed.

Mr. AIKEN. I think the amendment has been greatly improved, but my principal concern, I might say, has been about the slaughter which would inevitably take place should we agree to all the terms insisted upon by North Vietnam. I would estimate that the slaughter would be about four times what it was in Bangladesh.

Mr. CHURCH. I addressed myself to that very point in a lengthy speech I gave to the Senate on Friday. I said in that speech I did not think the President could honorably accept a settlement of that war which would consciously overthrow the present South Vietnamese regime and substitute in its place a Communist-dominated regime. I think the Senator and I are very close to an understanding, and I hope it might be possible for him to support the amendment in its new form.

Mr. AIKEN. What would be the name of the amendment—the Case-Church-Mansfield-Byrd-Nixon amendment?

Mr. CHURCH. I would prefer to call it the Case-Church-Aiken-Mansfield amendment. I would hope that the Senator would find it possible to support it.

Mr. AIKEN. I would say 4 months sounds much better than 2 months after our election in November.

Mr. CHURCH. I agree.

Several Senators addressed the Chair.

Mr. CHURCH. May I yield first to the distinguished cosponsor of the amendment?

The PRESIDING OFFICER (Mr. TUNNEY). The Chair would inquire of the Senator from Idaho if he wants his amendments to be considered en bloc.

Mr. CHURCH. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. What was the request?

The PRESIDING OFFICER. That the three parts of the amendment be considered en bloc. They address different sections of the bill.

Is there objection? The Chair hears none, and it is so ordered.

Mr. AIKEN. Mr. President, may I ask the Senator one other question? Was any consideration given to the President's request for a cease-fire with international supervision, or will the Senator from Idaho tell us what he thinks about it?

Mr. CHURCH. Yes. The best way for us to complete the American withdrawal would be with a cease-fire, and I hope very much that Hanoi agrees to that proposition. We have not included it in the amendment because we did not think it was essential to the basic formula of the release of the prisoners and the completion of the withdrawal in 4 months. I understand why the President asks for it; Hanoi would be well advised to agree to such a cease-fire.

Mr. AIKEN. The Senator will recall that the reason there never was any election after 1956 in Vietnam was that North Vietnam insisted on having the election supervised by the ICC—which they completely controlled—and the United States insisted that it be supervised by the U.N. The result was that there was no election. But all Communist states today have normal diplomatic relations with and recognize two Vietnams. They have normal diplomatic relations with North Vietnam and the so-called National Liberation Front which the Communists consider to be the governing body of South Vietnam.

Mr. CHURCH. I thank the Senator very much for his observation.

I am happy to yield now to the Senator from New Jersey.

Mr. CASE. Mr. President, I do not think much more of an explanation is necessary about the amendment the Senator from Idaho and I have introduced. I am very happy to join with the Senator. I am happy indeed that the President has come forward with a proposal that seems to us in all honesty to be very close to our own amendment. This is the single thing we want to recognize. So far as I know, the President has made a clear assertion of his intention, once certain conditions are met, to end, and to end completely, American military involvement in Southeast Asia and to withdraw, within 4 months, all American troops. It is this complete ending of American participation in the war the Senator from Idaho and I want particularly to accept as a fine move toward the goal for which we have been working for a long time. I am very happy to join in the modification of the amendment in order to bring it closer to the position announced by the President.

Nonetheless, I cannot refrain from expressing my disapproval of the President's decision to mine North Vietnam's ports and block shipping.

For the last 7 years this course has been considered by our leaders too reckless and too dangerous. I know of no American interests or commitments which justify this risk.

Mr. CHURCH. I thank the Senator very much. Congress should assume some responsibility for our withdrawal policy by writing this kind of provision in the law. We would not only fortify the credibility of the President, it would enhance the prospect for its success, too. It would make clear both to the American people and the rest of the world that, once satisfactory agreement has been reached for the release of our prisoners of war, Congress stands ready to cut off further funds to finance any further engagement in hostility in Indochina with American forces months after that agreement on the prisoners is entered into.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. CHURCH. I am happy to yield to the distinguished Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I want to compliment and commend the distinguished Senator from Idaho and the distinguished Senator from New Jersey for what I consider to be one of the most constructive amendments ever presented to this body. It fits in very well with the statement of the President as to his willingness to end American military involvement in Indochina contingent upon an agreement for the release of our prisoners of war and those missing in action. More importantly, this amendment asserts the power of Congress, and it places responsibility for this action directly on Congress, as well as on the Executive.

It represents a sharing of responsibility with the President. I supported this particular amendment in the Democratic caucus because I felt it was much more important than a mere resolution criticizing or disapproving the President's message of May 8 insofar as it related to military escalation in Indochina. I supported, nevertheless, the resolution of disapproval of the military escalation because I feel very strongly that it is fraught with danger and will not contribute to the settlement of the war. The Congress should express its opinion in this regard. But the amendment introduced by the Senator from Idaho and the Senator from New Jersey represents responsible and, I hope, effective action by Congress.

It shows the Congress can do something. We can end the war. We could do it by cutting off the funds. But we seek to do it responsibly, because no Member of this body would want to take such action as the cutting off of funds, without the release of the prisoners of war or agreement thereon and on an accounting for all Americans missing in action.

Let me also add, Mr. President, that I strongly support and urge upon the President that he go to the United Nations Security Council and ask for action there for a cease-fire on the part of all parties in Vietnam and throughout Indochina. I recognize that administrations present and past have been very reluctant to do this. The United Nations Security Council in May 1972, however, is different than it was 2 years ago, 5 years ago, or even a year ago. Mainland China is now a member of the Security Council. So is the Soviet Union.

What is needed in Vietnam or Indochina now is an end to the killing, an end to the slaughter, an end to the war, and a cease-fire ought to be high on the agenda. The President has endorsed it. I urge that he accept the offer of the Secretary-General of the United Nations to be of assistance. I urged him to do this on April 7 and think that subsequent developments make it even more imperative today that we work through the U.N.

I understand that the Soviet Ambassador to the U.N., Mr. Malik, today has met with the Secretary General. I would hope that we would not be second in line to seek the good offices of the U.N. I do hope that we would be first to pursue this possibility for peace, or at least for the implementation of a cease-fire. I would further suggest that in our proposal for action by the Security Council on a cease-fire in Indochina we lay before the Security Council in detail our proposals for the withdrawal of all American forces, along the lines now described by the President, and that we accept international supervision of that withdrawal, just as we would insist upon international supervision by the United Nations of the cease-fire. Once these steps were taken, I would hope that we would also urge the United Nations to undertake some form of economic assistance of at least an emergency nature to help that beleaguered area of the world, which today is filled with tragedy and human suffering.

This, I think, is the minimum that this country ought to pursue. The President has ordered the mining of the Harbor of Haiphong. I do not agree with this action. I think it is dangerous, fraught with uncertainty and unbelievable dangers. In contrast to this kind of action, there is no danger in pursuing the cause of a cease-fire. There is no danger in going to the United Nations, taking full account of whatever limitations it may have. There we can confront the Soviet Union and China with our willingness to negotiate, with our willingness to have a cease-fire, and with our willingness to withdraw our forces, all under international supervision.

I raise my voice here today, Mr. President, just as I have continued to do in the past, but this time in recognition of the grave proportions which the present crisis has now assumed. I urge the President that he direct his appropriate representative to go to the Security Council, through the Secretary-General, and ask for an emergency meeting of the Security Council to seek a cease-fire or to pursue every possibility for it to make certain that the cease-fire be internationally supervised.

Mr. CHURCH. Mr. President, I thank the distinguished Senator from Minnesota for his generous remarks about the amendment, and I wish to associate myself with his proposals relating to the United Nations.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. CHURCH. I am happy to yield again to the senior Senator from Vermont.

Mr. AIKEN. Let me again compliment the authors of this amendment for the revision they have made. I have been very, very worried for the last few days, or weeks, as far as that goes, over this world situation. I think that the changes made represent a very considerable step toward the restoration of sanity and safety in international affairs. I believe we have been on the verge of one of the greatest crises that we have encountered for a long, long time. I believe Russia has to accept much of the blame for that. We have had a contest, apparently, to see who could come the nearest to the brink without falling over, and we were getting very, very close to it. Now I hope that we can put aside some of our other thoughts and work together.

Mr. President, we must work together. The two sides of the aisle here must work together, and the legislative branch must work with the executive branch, and vice versa, if we are to come out of the predicament we have found ourselves in without unprecedented disaster. So I do hope we can lay aside some of our other differences.

I think the election of a President is incidental to the world situation today. Personally, I have tried to support our Presidents, when they are right. We all have experienced misrepresentations in the news media from time to time, with different representatives of that great profession sometimes getting their own thoughts instead of those of the one being interviewed into their stories; but on the whole, most of the reporting has been very good.

I think we have made progress today. I hope that Russia and the other countries involved will cooperate fully in the effort to solve this situation, and, as the President says, without any shame being put on anyone.

That is what I feel, and that is what I hope that we will all work for. This situation can be cleared up. It must be cleared up.

Mr. CHURCH. Mr. President, I want to tell the Senator how much I appreciate his remarks.

The senior Senator from Vermont and I have stood together in the past in some rather tough battles in the Senate. We have tried to find a responsible role for Congress to play in the formulation of national policy. That is what the Senator from New Jersey (Mr. CASE) and I are striving to do now. We do not want to write a law that conflicts with what the President has said with respect to the release of our prisoners of war and the termination of further hostilities, but to write a law that conforms with that proposition and backs it up with the power of the purse. In so doing, Congress shares with the President the joint responsibility for bringing us out of this war.

Mr. AIKEN. I think that what the President said last night about the restoration of peace is the finest part of his speech, and one of the finest statements he has made in a long, long time.

Mr. CHURCH. A great deal of attention has been focused upon the escalation of the war. I disagree, as I think the Senator knows, with the military action the President decided to take. But the one thing that has been overlooked is that in the same speech he made a proposition for peace that needs to be given closer attention, not only by this body, but also by Hanoi and by Moscow and other parties to the conflict.

The purpose of this amendment is to add credibility to that proposition by writing it into law and backing it up with the power of the purse.

Mr. AIKEN. As I said some months ago about the situation involving India, Pakistan, and Bangladesh, there is blame enough to go around. There is also credit enough to go around, if we seek it.

Mr. GRIFFIN. Mr. President, will the Senator from Idaho yield to me for the purpose of some clarification?

Mr. CHURCH. I yield.

Mr. GRIFFIN. Following along in the tone and spirit of the colloquy between the distinguished Senator from Idaho and the distinguished Senator from Vermont, certainly this is a time when we need cooperation between the several branches of the Government. We do not really need congressional one-upmanship or political one-upmanship.

I was pleased this morning, as I turned on the television, to listen to and watch the distinguished Senator from Idaho refer to the President's latest proposal, in which the President said that if the enemy would release our prisoners and we could get an internationally supervised cease-fire, we would withdraw our forces from Vietnam within 4 months; and the distinguished Senator from Idaho told the American people this morning that he thought that was, in effect, a good proposal, and he believed that the North Vietnamese should accept it. Am I substantially quoting the Senator correctly?

Mr. CHURCH. Yes. I said I hoped that Hanoi would accept it.

Mr. GRIFFIN. Then, is the so-called perfecting amendment that the distinguished Senator from Idaho and the distinguished Senator from New Jersey have offered the same as—is it consistent with the President's proposal last night, or does it involve some one-upmanship?

Mr. CHURCH. There certainly is no one-upmanship involved, in practical terms. It is not possible to one-up the President; it never has been done in my experience in politics.

Mr. GRIFFIN. Is this new amendment identical then to the President's proposal of last evening?

Mr. CHURCH. No. The proposal is not identical to the President's, but neither is it in conflict with it.

Last night the President put the proposition that if North Vietnam would release the prisoners of war and agree to a cease-fire, he, in turn, would withdraw the remainder of our forces within 4 months.

Mr. GRIFFIN. And this morning the Senator from Idaho favored the President's proposal. Is that correct?

Mr. CHURCH. Yes.

I am not here at this point to quibble with the President's proposition. He is putting to Hanoi the best proposition he can. Naturally, he would like to have a cease-fire; that would permit the withdrawal of the remainder of our forces under conditions of dignity and safety.

The essence of the President's proposal, however, is the release of the prisoners and a termination of further participation within a 4-month period. I do not think we could write a law so specifically as to bind the President in every particular. For instance, we do not know what counteroffer Hanoi might make.

Mr. GRIFFIN. It looks as though a counteroffer is already being made here in the Senate.

Mr. CHURCH. No. We want the President to have such flexibility as he needs.

Would the Senator from Michigan, for example, turn down an offer by Hanoi tonight to release our prisoners of war tomorrow in exchange for a commitment on our part to withdraw the remainder of our forces within 4 months? If that were just the proposition Hanoi put to us, would the Senator from Michigan turn it down, saying, "No. The American prisoners can continue to stay in jail. That is not satisfactory, because Hanoi has not agreed to a cease-fire requirement"?

In other words, we are not trying to straitjacket the President in such a way that the law is written in too confining a manner. We are taking the essence of the President's proposition. As we see that, the essence is releasing American prisoners of war, and within 4 months, there will be no further American forces in or over Indochina. Those are the two important pillars of the proposition, and those are the two pillars we have incorporated in this amendment.

Mr. GRIFFIN. Mr. President, will the Senator yield further?

Mr. CHURCH. I yield.

Mr. GRIFFIN. Frankly, I am disappointed that the Senator from New Jersey and the Senator from Idaho would come in with a new proposal that leaves out one of the two important conditions that were incorporated in the President's proposal.

I attribute the best of motives to my colleagues, but is it really expected that the enemy would accept the President's proposal, as the Senator from Idaho urged Hanoi to do on television this morning, when this afternoon he comes in with a different proposal that cuts the President's offer in two—and leaves out half of it? It seems to me that the bargaining with the enemy is being done here in the Senate.

Mr. CHURCH. We are not doing the bargaining for the President, and our proposition in no way undercuts the President.

Mr. GRIFFIN. The Senator's proposal leaves out the cease-fire.

Mr. CHURCH. We are proposing an enactment that has the end effect of cutting off funds. That is a legislative function. That is a power that belongs just to Congress. I am sure that had the Founding Fathers not written the Constitution 200 years ago they never would have thought of vesting the power of the purse exclusively in Congress. No doubt that power, too, would now be confined to the Executive. But the Constitution as written provides Congress the power of the purse.

The end result of this amendment, if enacted, would be this: Once agreement is entered into on the release of American prisoners of war, then, 4 months after that agreement has been reached, no further funds would be available for purposes of engaging American forces in further hostilities in Indochina.

We are attempting to legislate here by using the power of the purse. No provision is in conflict with the essence of the President's own proposition; if we were to enact our proposal, it would add credibility to the President's proposition. Perhaps more important, Congress would have found itself, rediscovered its responsibilities, and backed up the proposition with the power of the purse.

That is what we undertake to do; it is consistent with the objective of the President. There is no part of this amendment in conflict with the President's own proposal.

Mr. GRIFFIN. Of course, it is not in conflict, so far as it goes, but the Senator's amendment leaves out the very important provision that there must be agreement to an internationally supervised cease-fire. I see no great problem in legislating a trigger provision that would include agreement for an internationally supervised cease-fire as well as release of our prisoners of war.

Mr. President, at this point, for the record, I should like to read a pertinent portion from the President's speech of last night—that portion when he said:

> Once prisoners of war are released, once the internationally supervised ceasefire has begun, we will stop all acts of force throughout Indochina. And at that time we will proceed with a complete withdrawal of all American forces from Vietnam within four months.

This morning the Senator from Idaho indicated his approval of the President's offer as I have read it and urged the enemy to accept it. If an amendment were offered to his amendment which would add appropriate reference to the internationally supervised cease-fire condition, would the Senator from Idaho support such an amendment, as he did in effect this morning?

Mr. CHURCH. First, I cannot support any amendment until I see it in writing——

Mr. GRIFFIN. Assuming that it would be.

Mr. CHURCH. Yes——

Mr. GRIFFIN. To carry out its purpose——

Mr. CHURCH. And second, while I have expressed the position that I hope that the North Vietnamese will accept the proposition and accede to a cease-fire, I would not want to write an amendment in such a binding way as to deprive the President of the flexibility he needs and would want in negotiating with Hanoi.

The Senator from Michigan cannot prophesy what may happen next week or several weeks after, what kind of counteroffer Hanoi might want to make or how the President might respond to that counteroffer.

I do not want to write the amendment in such a way as to tie his hands, even to the particulars of his proposition last night. I want to reach through to the essence of that proposition—the release of our prisoners of war and the withdrawal of all our forces within 4 months——

Mr. GRIFFIN. Even though there were no cease-fire?

Mr. CHURCH. If the President may want to modify his own position on the cease-fire. The essence is to get our prisoners of war released and all our Armed Forces withdrawn.

Mr. GRIFFIN. Under the Senator's amendment, funds would be cut off whether or not the President agreed——

Mr. CHURCH. We would cut off funds only after the 4-month period that the President himself has indicated is sufficient for an orderly withdrawal of all our forces.

Mr. GRIFFIN. The Senator has modified the President's offer by leaving out one important condition——

Mr. CHURCH. The Senate cannot modify an offer to the enemy. Congress cannot negotiate a cease-fire. That is within the hands of the Executive.

Mr. GRIFFIN. I would agree with the Senator.

Mr. CHURCH. Let there be no misunderstanding from this colloquy. The one thing Congress can do is to control the expenditure of public funds. This is what we seek to do, but we seek to do it in conformity with the President's own proposition, that once the prisoners of war are released, he is prepared to withdraw the balance of our forces within a 4-month period. That certainly is the way the amendment should be written. That is the form in which I hope the Senate will adopt it.

Mr. GRIFFIN. Would it be unfair to say that the Senator from Idaho will not agree himself, this afternoon, to the proposal he urged the enemy this morning to accept?

Mr. CHURCH. No. I think that misstates the proposition. I did and do urge Hanoi to accept the President's proposal.

Mr. GRIFFIN. I know that the Senator did. I heard the distinguished Senator.

Mr. CHURCH. I hope that Hanoi will, but I cannot prophesy what Hanoi will do. I cannot foresee what counteroffer Hanoi will make. I am sure that the President would want to take into consideration any proposal or counter proposal, or any response that Hanoi may make to this offer on his part. Therefore, it seems to me that we should not be too specific in writing the law but we should look to the essence of the proposition which, as I say, is the release of our prisoners of war and the withdrawal of the balance of our forces within a 4-month period.

Mr. GRIFFIN. I would observe most respectfully—I do not know how the Senate will go or how it will work its will—that the chances the enemy would accept the President's proposal have diminished within the past half-hour when the amendment was offered.

Mr. CASE. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I am happy to yield to the Senator from New Jersey.

Mr. CASE. Mr. President, only on that one point, I must suggest that our amendment which conforms at least with the spirit and, we think, the substance of the President's proposal has not diminished anything. Our amendment existed several weeks ago when the Foreign Relations Committee approved it 9 to 1. Thus, it was already a part of the bill now being considered by the Senate. We have now changed it because the President has said that 4 months was sufficient time to complete American withdrawal from Indochina. I do not think, therefore, that our revised amendment has in any way hurt the cause of peace or increased the obduracy of the North Vietnamese.

This is not the first time we have proposed this amendment. We are just renewing and adding to our past efforts. We are attempting to make our amendment conform more closely to the position that the President has announced.

Mr. GRIFFIN. Mr. President, will the Senator from Idaho yield there?

Mr. CHURCH. Let me first respond to the Senator from New Jersey by saying that I concur completely in his remarks. I think that the effect of the amendment, if adopted and enacted into law, will enhance the prospects that we will get our prisoners back and bring our part in this war to a close, because it would back up that proposition with a declaration on the part of the Congress of the United States and make it clear that once our prisoners are released there would be no money available for further participation in the war at the end of the 4-month period.

I can think of nothing better calculated to enhance the prospects of success. So I disagree completely with the Senator from Michigan.

Mr. CASE. I do, too. The Senator is right, that this would have the weight of the legislative branch as well as the executive branch behind the offer. Certainly, to that extent, it would be a more solid offer than a statement made by the President alone.

Mr. CRANSTON. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I yield.

Mr. CRANSTON. First, I should like to respond to the point under debate, to say that I would be delighted, and I am sure the Senator from Idaho and the Senator from New Jersey would be delighted, if the peace proposals offered by the President of the United States last night were to be accepted—the cease-fire, the exchange of prisoners, and the orderly withdrawal of our troops. That is a fine offer, and if it can be accepted, that would be wonderful. We would all be delighted.

When we realistically consider what the other side is most apt to accept, however, I think we have to ask whether they are willing to accept a cease-fire when they are doing very well without one. The insistence on the cease-fire would complicate what we are seeking to achieve and what, hopefully, the President wishes to achieve. This simple amendment, as revised and offered by the Senator from New Jersey and the Senator from Idaho, follows the President's statement that we could be out within 4 months. It has been revised in accordance with his stated position of last night, but its terms are subject only to the release of our prisoners of war rather than to an internationally supervised cease-fire in addition to the prisoners of war. This amendment is probably the simplest, most straightforward, most direct, and most rapid way to end our involvement in the war.

If I may, I should like to comment on one other aspect of the current situation, that is, what the President has said and what transpired this afternoon at the Democratic caucus.

The President has spoken many times of the "invasion" of South Vietnam by the North. I do not believe that "invasion" is the correct term to describe what has occurred. In the caucus this afternoon, the junior Senator from Alabama offered a resolution, the purport of which was to condemn the "invasion" of South Vietnam by North Vietnam.

I proposed an amendment to strike the word "invasion" and substitute the word "incursion." My reason for doing that was that invasion, to me, is the word used to describe an act of international aggression launched by one independent country against another independent country. I do not believe that is the proper, precise description of what has occurred in Southeast Asia.

Supporters of President Nixon repeatedly refer to North Vietnam and South Vietnam as if they were two independent nations. Although the United States did not sign the Geneva agreements of 1954, we emphasized that the two areas of Vietnam were not to be regarded as two separate countries. That was stated repeatedly by President Eisenhower at that time. Richard Nixon was then Vice President.

The Geneva agreements contained a provision for elections by 1956. The Diem government never held them, and we never pressed for them. President Eisenhower, as I recall, said in his memoirs that the reason we did not press for them was that there was some reason to believe that Ho Chi Minh would win the election.

Point 6 of the declaration of the Geneva Conference said:

> The military demarcation line is provisional and should not in any way be interpreted as constituting a political or territorial boundary.

At the time, the President of the United States said of the Geneva agreements:

> The United States will not use force to disturb the settlement.

The U.S.'s position at that time was stated as follows:

> In the case of nations now divided against their will, we shall continue to seek to achieve unity through free elections supervised by the U.N. . . .

That statement referred to Vietnam, North and South, as an example of "the case of nations now divided against their will." That statement referred to a single Vietnamese nation as well as to other nations.

It was for that reason that I suggested the substitution of the word "incursion" for "invasion." The word "incursion" does not have the same international connotations. My motion was agreed to by the caucus. Thereupon the Senator from Alabama (Mr. ALLEN) withdrew his motion, and there was no vote on it.

Incidentally, the word "incursion" was the word I took from President Nixon. That was the word he used to describe the movement of American troops into Cambodia. Given the record of that particularly historic event, I think "invasion" might well have been the correct word. However, I am trying to use the President's word, "incursion," to describe what happened in the recent case of North Vietnam and South Vietnam.

Having said all that, let me say one other thing. My action in offering that amendment in the caucus is not in any way intended to condone violence. There is a strong feeling of abhorrence on the part of this Senator from California, and on the part of many other Democratic Senators from other States, at the violence, the hostilities, and the use of military power by the so-called Government of North Vietnam against the people and the so-called Government of South Vietnam.

I deplore any violence. I deplore those hostilities. I deplore it when any nation or group resorts to violence in its relations with another nation or group.

It is for that reason that the caucus went on record as criticizing the actions and the hostilities as represented last night by the President of the United States.

There are those who have said that those who oppose the President's policy never condemn the actions of North Vietnam. I condemn those actions, and I know that many other Senators who also oppose the policies of the President also condemn the actions of North Vietnam. We do not support violence wherever used, except in self-defense. I think that the violence we have resorted to and that the North has resorted to—and I think in many instances the violence that the South has resorted to in South Vietnam—is not for the purpose of self-defense.

Mr. President, I yield the floor.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1187

Mr. ROBERT C. BYRD. Mr. President, I submit an amendment in the second degree to the Church-Case perfecting amendment, No. 1186, which I ask the clerk to report.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an amendment to the Church-Case amendment, No. 1186, in the second degree as follows:

After the word "reaching" insert "cease-fire and".

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, may we have order? I will state the program for tomorrow.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. I will state the program for tomorrow, such as I can foresee.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the two leaders tomorrow under the standing order there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, and that at the conclusion of that period for the transaction of routine morning business the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow would seem to be as follows:

The Senate will convene at 12 o'clock noon. After the two leaders have been recognized under the standing order there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes, at the conclusion of which the Chair will lay before the Senate the unfinished business, S. 3526, to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

The pending question at that time will be on the adoption of the amendment in the second degree, No. 1187, offered by the junior Senator from West Virginia (Mr. ROBERT C. BYRD) to the Church-Case perfecting amendment No. 1186 to the language in S. 3526 proposed to be stricken by the Stennis amendment No. 1175.

May I inquire of the Chair if my statement is correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. The Senate should anticipate further debate on the pending question and there possibly could be rollcall votes tomorrow. Of course, tabling motions are in order at almost any time, and rollcall votes could occur thereon. Conference reports, being privileged matters, of course, can be called up at almost any time if and when ready.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and at 6:26 p.m., the Senate adjourned until tomorrow, Wednesday, May 10, 1972, at 12 noon.

NOMINATION

Executive nomination received by the Senate May 9, 1972:

John Y. Ing, of Hawaii, to be Governor of the U.S. Postal Service for the remainder of the term expiring December 8, 1972, vice Elmer T. Klassen, resigned.

EXTENSIONS OF REMARKS

THE LOSS OF LIBERTY IN ROME DURING THE DAYS OF CICERO

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, May 9, 1972

Mr. HARRY F. BYRD, JR. Mr. President, a recent edition of the Charleston, S.C., News & Courier included an interesting editorial describing the loss of liberty in Rome during the days of Cicero.

The conditions which Cicero attacked would seem to have some parallels in modern America.

I ask unanimous consent that the editorial, entitled "Ancient History," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Farmville Herald, April 26, 1972]

ANCIENT HISTORY

One of the few reliable voices of conservatism in North Carolina comes over WRAL–TV. The speaker is Jesse Helms. Recently Mr. Helms was quoting Cicero, who lived a couple of thousand years ago. Sensing that Rome was about to fall on account of corruption in government, Cicero told the Roman Senate:

"We are taxed in our bread and our wine, in our incomes and our investments, on our land and on our property, not only for base creatures who do not deserve the name of man, but for foreign nations, for complacent nations who will bow to us and accept our largess and promise to assist us in the keeping of the peace—these mendicant nations who will destroy us when we show a moment of weakness or when our treasury is becoming bare. We are taxed to maintain legions on their soil . . . We keep them in precarious balance only with our gold . . . They take our very flesh, and they hate and despise us."

The Senators rejected Cicero's warning. Rome decayed. Liberties disappeared. In his second oration, Cicero said:

"I tell you that freedom does not mean the freedom to exploit the law in order to destroy it. It is not freedom which permits the Trojan Horse to be wheeled within the gates. He who espouses tyranny and oppression is against (his country). He who plots against established authority and incites the people to violence is against (his country)."

The Roman Constitution contained a reference to the "general welfare of the people." Cicero warned the Senators not to misinterpret "welfare." Under that phrase "all sorts of excesses can be employed by lusting tyrants to make us all slaves." The politicians of Rome snickered, and proceeded to use the treasury to buy the political support of the masses.

Tiring of such talk, Rome banished Cicero. At the end of his trial, he said:

"You have succeeded against me. Be it as you will. I will depart. For this day's work, Lords, you have encouraged treason and opened the prison doors to free the traitors. A nation can survive its fools . . . But the traitor moves within the gates freely, his sly whispers rustling through all the alleys, heard in the very halls of government itself . . . He rots the soul of a nation; he works secretly and unknown in the night to undermine the (fundamentals of a nation); he infects the body politic so that it can no longer resist."

Rome fell. It was a long time ago. Who cares today?

QUEEN ISABELLA DAY, 1972

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Tuesday, May 9, 1972

Mr. HARRY F. BYRD, JR. Mr. President, the Honorable Linwood Holton, Governor of Virginia, recently proclaimed the observance of Queen Isabella Day in honor of the Spanish monarch who was so instrumental in promoting the voyages of discovery to the New World.

This tribute to Queen Isabella was most appropriate. I ask unanimous consent that the text of Governor Holton's proclamation be printed in the Extensions of Remarks.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
Richmond, Va.

QUEEN ISABELLA DAY 1972

The five hundred and twenty-first anniversary of the birth of Queen Isabella of Castile, wife of Ferdinand of Aragon, will be observed on April 22, 1972.

In honor of this intelligent and resolute Queen, whose support made possible the great discovery of the New World in 1492, April 22 has been designated Queen Isabella Day.

I bring the attention of all Virginians to the significance of the voyage that opened North and South America to settlement and development.

LINWOOD HOLTON,
Governor.

THE DEMOCRATIC COMMITTEE ON COMMITTEES

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mrs. GRIFFITHS. Mr. Speaker, at this time, I would like to insert in the RECORD a letter written by my colleague, the Honorable JULIA BUTLER HANSEN, describing the role and function of the Democratic Committee on Committees. The candid remarks of Congresswoman HANSEN on the process of making committee assignments in the House are a good lesson in politics:

APRIL 13, 1972.

DEAR MISS OSBORNE: Thank you so much for your letter of April 1 to Mr. Bennett, although I don't know what your conversation with him was.

As you are well aware, the House Democratic Committee on Reform and Review last year discussed the Democratic Committee on Committees which is now part of Ways and Means. This was discussed pro and con and suggestions were made that we separate the Committee on Committees from the Committee on Ways and Means, which I admit seems the logical and positive way to do it. However, in politics you are dealing with actual facts and it was not possible to achieve such a radical departure at the last session, and I am not sure when it would be possible because this Ways and Means Committee, which is also the Committee on Committees of the Democratic Members, are all elected by the Democratic Caucus from varying Whip districts. They are an extremely representative group and, as you can readily see from glancing at the membership, they make up all segments of the country with some degree of balance.

We did provide a reform, however, that after a person had written to his or her Whip Member for a place on a committee, the person had another avenue, as indicated by the enclosed recommendations adopted by the Committee. Then all Members who are appointed to committees must be voted on by the Democratic Caucus and they are not voted on carte blanche but any person can be singled out for a vote.

Frankly, I do not believe the Committee is very autocratic. They listen, discuss, and vote. The Member representing a region presents the names of his or her people for committees. Sometimes when there are contesting members for the same spot, there is lively discussion. You would have to get the tenor of this discussion, though, from people like Mr. Mills, Mrs. Griffiths, Mr. Ullman, Mr. Carey, et cetera. Nothing could be more democratic than the procedure they follow for they are elected by the Democratic Caucus, and there is no limit to the number of those candidates for nomination.

I don't think there is any secret discussion about people aspiring to committees but when they discuss personalities I presume they don't broadcast their discussions. It has never seemed good taste in anyone's judgment to discuss fitness or how many support and so on, but on that, again, you would have to go to Mr. Mills or members of that committee.

The committee-making process is the most important single process in Congress for the lowest ranking member can eventually become the chairman of a committee. It is important to Congressional careers, it is important to the Nation, and I feel that the Ways and Means Committee acting as the Committee on Committees has been tremendously responsive in the last three years to membership wishes. It is impossble to satisfy every one of 253 people. Sometimes there are not committee vacancies, and sometimes there are.

And there have been people chosen for certain committees who wanted something else, yet I have lived to see the time that if those people had taken the committee offered them they could have been more influential there than on the committees they chose. I give you an example. When I came to Congress there was no vacancy on Public Works, and I was urged to take Interior. This became a great blessing in disguise because from the Interior Authorizing Committee, after two years' service, I moved to Appropriations Committee and I now head the Appropriations Subcommittee on Interior and Related Agencies. Yet from the standpoint of personal background, desire, seniority and so forth I could have been very miffed about being a member of Interior rather than Public Works. I am so grateful that I had sense and humility enough to take Interior.

There is no process in Government that is perfect because when you are dealing with 253 kings it is not possible to design 253 equal crowns, and that, unfortunately, is what many people in the media think we can do. There are not 253 chairmanships; there are not 253 committees. But for long-range durability and with all its imperfections, I feel that the Committee on Committees does a reasonable job.

One comes to Congress as a neophyte without much experience in Federal affairs. Most candidates for Congress are great speechmakers. In a large proportion of times these Members have no particular background or in-depth knowledge of the day-to-day Federal operations beyond one or two places where they may have acquired some information.

Usually those people coming to Congress for the first time are primarily devoted to keeping themselves in Congress and getting the best committee job that will give them votes. Their coming to Congress is not based upon their prior background knowledge unless that has been an instrument of their political success. The media often overlooks this particular facet. Political jobs are intensely political and this is the very intention of our form of government. Judges which are nonpolitical, supposedly, are set aside in a category but those who are to reflect the opinions of those they represent must understand the questions and ramifications of representation or it ceases to become representative government. The House of Representatives with its two-year term of office is probably the most dedicated to political reality and therefore a Member, in selecting committees, is convinced he or she should serve on a certain committee because "it will be good for my reelection".

My conviction has always been that regardless of where you are called to serve, if you have intelligence and dedication to your Nation, you can do a creditable job. When I served in my State Legislature, it was always necessary for senior members to take some rather obscure committee positions so that the newly-elected members could have a chance to get reelected. I served on committees that looked so uninviting and unimportant that younger members rejected them at once, yet in each instance these so-called unimportant committees proved to be in the end powerful and timely, dealing with immensely intricate subjects as well as giving me a wider knowledge of my State Government.

I am happy to serve on any committee and always will be. I am one of those strange people who believes that my seat in Congress is not as important as my Government is, and the strength of my Nation is more important to me than my individual reelection, but I realize you have to live a few years before you arrive at this philosophical viewpoint.

I think all Members should be thoughtful in requesting their committees and they should evaluate them in the terms of what they can contribute to the National understanding. It is vital to a committee's operation and to the width of congressional scope that knowledgeable people contribute from the wealth of their own understanding and knowledge. The accomplishments of any Congress can be no greater than the total contribution of its Members.

I hope I have answered your questions and I trust that if you care to have any further discussion with me you will please feel free to do so.

Sometimes as I read articles in our media, I am so disappointed at the lack of, shall I say, documentary knowledge on the part of the writer. The Government often ends up being twisted all out of shape not really deliberately but by lack of the writer's plain down-to-earth practical knowledge of what it is like to be an elected official and confronted with the problems of that official. Satisfying the media and the people as well as having the desire to be reelected and including the average individual's personal ambitions require the wisdom and judgement of Solomon and there aren't very many Solomons in the political world. There are far more orators.

Perhaps I have been too frank, but when one has served a great many years in public office, the geatest luxury is frankness rather than purely political answers. At the end of this year I will have completed 35 years of elected public office in a wide variety of times and governmental divisions—municipal, state and federal—so it is with some degree of knowledge and a great understanding as well as a great love for my Colleagues and their problems that I speak.

With my warmest personal regards, I am

Yours most sincerely,

JULIA BUTLER HANSEN, M.C.

NIXON'S FAITH IN NATION AND PEOPLE NEVER WAVERS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

NIXON'S FAITH IN NATION AND PEOPLE NEVER WAVERS

President Nixon arises from his bed every morning to face two certainties: he will be attacked in the "Eastern establishment press" (i.e. the New York Times and the Washington Post); and before the day is gone he will be thoroughly raked over by the vocal Democratic majority in Congress, all duly reported and commented upon.

This goes on day after day with only occasional lapses. Eight out of 10 newspaper columnists and TV commentators will fill in any embarrassing gaps so that there is a ceaseless din of criticism. And, if by chance there should be a lull, spokesmen of organized labor fill the void.

Measurers of public opinion, however, find that President Nixon is doing fairly well with the public at large, but that reaction can be only faintly sensed in the daily flow of news, comment and political hyperbole.

President Nixon proceeds with doing what he thinks is required, desirable or expedient without respect for the clamor, exasperation, and complaint that he knows will immediately follow.

The two outstanding recent examples are his stated position opposing forced busing of school children and the resumption of large scale bombing in Vietnam.

President Nixon measures the reaction to such actions in entirely different terms than those who turn upon him a torrent of disapproval, which sometimes turns into abuse.

He is not intimidated, nor is he depressed by the overwhelmingly critical atmosphere which surrounds him in Washington. He does not despair, as did Lyndon Johnson, of uniting the American people, nor is he personally hurt as was Johnson by cruel judgments on his character and style.

The "very good year" of 1972, on which he relied, is beginning to materialize. Time has confirmed many of his other judgments. Though he has altered course in rather dramatic ways, the end he has in mind remains in sight. It is in this same mood that he evidently judges with confidence the outcome of renewed military activity, criticized as "brinksmanship."

President Nixon has quite evidently judged that the Soviet Union will not retaliate militarily for the risk to its ships in Haiphong harbor. Nor, he has judged, will China conclude that the air and sea war near her borders endangers Chinese security. An additional factor may be that China's vital interests are not necessarily advanced by a Russian success in Vietnam.

These are critical judgments and it must be conceded they contain elements of risk. The President's confidence in taking such risks was increased by his use of the 6th Fleet in the Mediterranean to warn Russia of the possible consequences of threats to Israel, and a similar but more limited showing of naval force in the India-Pakistan War.

The operation in Vietnam, of course, is of far greater magnitude, but involves the same Nixon finding that the credibility of the use of force becomes necessary under extreme circumstances and when the security of American forces is endangered.

Mr. Nixon is on safest ground when time permits the wisdom of his dramatic moves to be proved out.

In the months between now and the election the wisdom of his action, or lack of it, will become more apparent.

He continually demonstrates, however, that he will take action which is politically risky in the present atmosphere, on the general principle that the rightness of what he does will ultimately be recognized.

This maddens his critics. He knows what they will say and pays no attention to them, either before or after his actions.

For some it is a puzzle to know which is the real world, the clamor of criticism which envelopes President Nixon in Washington, or the calm assuredness of his actions which seek their support elsewhere over the country. On Mr. Nixon's part, there seems to be no doubt.

THE SECOND LOOK AT THE PIPELINE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ASPIN. Mr. Speaker, I would like to include in the RECORD today another editorial from a distinguished newspaper, the Detroit Free Press, calling for new public hearings on the proposed trans-Alaska pipeline and noting both the economic and environmental advantages of a trans-Canadian route.

The New York Times, the Washington Post, the Christian Science Monitor, the Boston Globe, and now the Detroit Free Press have strongly criticized the Interior Department for not holding public hearings on their final environmental impact statement and for apparently advocating a trans-Alaska pipeline. It is hard to see how the Interior Department will be able to decide in favor of an Alaska pipeline when the weight of logic is so overwhelmingly against it.

Those of my colleagues interested in the Alaska pipeline issue will, I hope, find the Detroit Free Press editorial to be informative. It follows:

[From the Detroit Free Press, May 6, 1972]

SECOND LOOK AT THE PIPELINE

Sen. Robert Griffin was on target in urging the administration to withhold the go-ahead signal for the proposed trans-Alaskan pipeline.

A pipeline carrying oil from the rich north slope will almost certainly be built, but as Mr. Griffin and other Republican senators have noted, evidence now points to a cross-Canada route as the most advantageous, both economically and environmentally.

Oil companies favor the shorter Alaskan route from Prudhoe Bay to the port at Valdez, with ships delivering the oil to West Coast ports. That route would be inexpensive in terms of dollars, but the environmental costs could be astronomical.

A natural gas pipeline is going to be built through Canada anyway, and the same route could be used for oil, reducing the dollar cost to within 30 cents a barrel of that of the Alaskan route.

Some two-thirds of the proposed Alaskan route is through areas of major earthquake zones and, even with planned emergency shutdown procedures, as much as 2.6 million gallons of oil could escape from a pipeline break. And a "minor leak" (less than 31,500 gallons a day) would be practically undetectable, according to Interior Department studies. Some may call that minor, but it could be disastrous to the fragile Arctic environment.

In addition, estimates of accidental discharge at sea run as high as five million gallons per year.

The overland Canadian route would obviously avoid the damage to the marine environment and the chance of pipeline breaks would be greatly reduced, since that route avoids earthquake zones.

Although oil companies are poised and ready to begin work on the pipeline, there is really no hurry. The oil will certainly be needed in the future, but there is time to take a much more thoughtful look at the dangers involved before plunging ahead with what could be an ecological disaster.

PUBLIC BROADCASTING ACT OF 1972

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BROWN of Ohio. Mr. Speaker, in the next week or so the Public Broadcasting Act of 1972 will be before the House for consideration. The Corporation for Public Broadcasting authorization bill, H.R. 13918, calls for spending levels of $65 million in fiscal year 1973 and $90 million in fiscal year 1974. In his budget request for fiscal year 1973 President Nixon included $45 million for public broadcasting—a $10 million increase over fiscal year 1972.

During this past year there has been substantial debate within Congress, the public broadcasting community, the administration, and the press regarding the structure and future Federal funding for public broadcasting. I am sure the discussion will continue when H.R. 13918 comes before the House. Mr. Speaker, I ask consent that this April 29, 1972, article by Bruce E. Thorp from the National Journal, be printed in the RECORD so that my colleagues can get an up-to-date reading on where the public broadcasting issue stands.

The article follows:

MEDIA REPORT/WHITE HOUSE STATIC OVER STRUCTURE, FUNDS KEEPS PUBLIC BROADCASTING PICTURE FUZZY

(By Bruce E. Thorp)

The folks who gave the nation *The Great American Dream Machine* are in trouble with an important viewer.

The viewer is President Nixon, and what he does not like is the way public broadcasting's own dream machine has developed since passage of the Public Broadcasting Act of 1967 (81 Stat. 365).

Mr. NIXON has not spoken personally on the issue; his views are relayed through Clay T. Whitehead, director of the White House Office of Telecommunications Policy. (*For a report on OTP, see Vol. 3, No. 7, p. 338.*)

Whitehead, who is charged with drafting legislation for long-term financing of public programs, has not done so because, he says, public broadcasting is too centralized.

Too much authority for funding and programming is concentrated in the Corporation for Public Broadcasting, a private, nonprofit company set up by the 1967 act, says Whitehead, and too little control has been left to individual stations, which were supposed to be the heart of the system.

Shows offered by the Public Broadcasting Service—the public stations' network—dominate the system according to Whitehead, and public-affairs shows in turn, dominate PBS scheduling.

Whitehead said in a recent interview, "They want to be something different from what anyone thought they were going to be."

Industry leaders dispute Whitehead's charges. They say they have followed the intent of the Carnegie Commission on Educational Television, which recommended federal funding of public broadcasting in 1967, and of Congress.

Whatever imbalance there may be in the system, they argue, comes mainly from inadequate federal financing.

With less money than they anticipated,

CPB officials have used it to develop their network first, putting the money where it will do the most good. As federal funds increase, they say, so will development of local stations and local programming.

The larger philosophic controversy has been focused on a financial conflict over long-term funding for public broadcasting.

The Carnegie Commission originally proposed that the industry be given federal funds outside the annual appropriations process.

But the 1967 Congress left it to future Congresses and Administrations to devise such a plan, and it has not yet been done.

Whitehead says that unless the industry structure is made to conform to what was envisioned, "permanent financing will always be somewhere off in the distant future."

Stymied in its effort to obtain long-term funding, the industry is putting its energies into support of a two-year authorization initiated by Rep. Torbert H. Macdonald, D-Mass., chairman of the House Interstate and Foreign Commerce Subcommittee on Communications and Power.

The bill, HR 13918, has cleared the full Commerce Committee with only two dissents and it could be approved early in May.

In the meantime, both the industry and the Administration have been moving quietly toward changes that may resolve the controversy,

The industry has taken steps to give local stations a greater voice in system funding and programming, which could go far toward satisfying the Administration's complaints.

The Administration has been preparing a list of five persons to be appointed soon by the President to the 15-member CPB board of directors.

Assuming confirmation by Congress, Mr. Nixon would have his first real majority on the board, which presumably would begin to reflect his views.

FUNDING AND POLITICS

The Carnegie Commission proposed that public broadcasting receive its federal money from a special trust fund.

The fund could be fed by an excise tax on new television sets, the commission said, estimating that a 5-per cent levy would produce $100 million a year at a cost of not more than $2.50 a year per set during the useful life of even the most expensive receiver.

The commission argued for permanent funding to insulate public programming from government involvement.

"The commission cannot favor the ordinary budgeting and appropriations procedure followed by the government in providing support from general funds," it said. "We believe those procedures are not consonant with the degree of independence essential to public television."

However, in creating the corporation, Congress purposely omitted a permanent or even long-range funding plan, saying that it needed more study. Since then, the industry has depended on annual appropriations.

The result has been less money than the commission envisioned and a situation that the commission expressly hoped to avoid: political wrangling over public broadcasting.

White House: Whitehead said in an interview that once the current disagreement over industry structure is settled, consideration should be given to funding for at least three years but no more than five.

"But it's not just a question of how many years the authorization is for," he said. "You want to have some kind of a scheme so that, if it's a three-year plan, every three years you don't have to re-fight the battle."

The authorization could be renewed almost automatically, Whitehead said. "It should present no problem, whatever, assuming that they're doing what is reasonably expected."

But, Whitehead emphasized, it is vital to address the important, long-range questions—such as those OTP has raised about industry structure—before a long-range plan is adopted.

Whitehead, speaking for the Administration, said that he opposes permanent funding as "bad public policy."

"I think an institution like the corporation ought to be answerable to the Congress," he said. "They ought not to be harassed and harangued every year; they ought not to be harassed and harangued, period, if they're doing a reasonably good job."

"But I think that being answerable over a period of time for their general performance is good. There ought to be an opportunity to review their broad, over-all performance. How much of what kinds of programs have they had? How useful are they?

"Those kinds of questions are legitimate questions, and the corporation, as long as they're using public funds, ought to have to answer those questions from time to time."

Industry: Members of the public broadcasting industry are torn between the kind of funding plan they would like to see and the kind they think is politically feasible.

Macy—CPB president John W. Macy Jr. said that even a five-year plan probably would require annual appropriations from Congress, and therefore would be no more than "an interim approach."

"I'm still hoping that we can make an effective case for some form of income that is going to be independent of the annual appropriations process," he said.

Macy said it is an executive-branch responsibility to find the right plan.

"The Congress has been looking to the Administration from the time the act was passed in 1967—both the Johnson and the Nixon Administration—for a plan for long-range financing," he said. "Without a plan, we're just half of what was intended."

Harley—William G. Harley, president of the National Association of Educational Broadcasters (NAEB), said few local station executives believe they ever will get permanent funding.

"Three years I think we may be able to get," he said. "And I'm not altogether sure that that would be so bad. The Congress feels it must have an oversight responsibility for the expenditure of public funds, and if the committees involved behave responsibly and do not attempt to delve into operational matters and individual programs, the general-accountability factor is one that we should be perfectly willing to face up to."

Taverner—Donald V. Taverner, president and general manager of station WETA-TV, the public station in Washington, D.C., said there is no way to insulate the industry from government when it must apply for funds annually.

The ideal, he said, would be dedicated funds, independent of the appropriations process. But Taverner, who was president of the National Cable Television Association in 1970 and 1971, said he doubted that public broadcasting ever would escape dependency on Congress.

"I happen to think that insulation from the government is almost impossible," he said. (*For a report on Taverner and the NCTA, see Vol. 3, No. 33, p. 1706.*)

PHILOSOPHIC BATTLE

The argument between the Administration and the industry is over the balance of funding, programming and content control between the public network and local public stations.

It built up privately for nearly a year, during which time Whitehead's OTP and the directors of the corporation tried—and failed—to agree on a bill to be submitted to Congress.

Miami: On Oct. 20, 1971, Whitehead made public OTP's complaints about the industry.

Speech—He told public broadcasters who had gathered in Miami for an annual convention of the NAEB that the Administration opposed the centralization developing in the industry.

"To us, there is evidence that you are becoming affiliates of a centralized, national network," he said.

He said that programming was dominated by the CPB and the PBS, instead of by local stations, as intended by the commission and Congress.

He said that public stations were playing the same rating game that commercial broadcasters play.

"Once you're in the rating game, you want to win," Whitehead said. "You become a supplement to the commercial networks and do their things a bit better in order to attract the audience that wants more quality in program content."

The corporation, he said, was jeopardizing the ability of local stations to serve community needs with local programming by aiming for national impact and putting the goal of permanent financing above all others.

"Do any of you honestly know whether public broadcasting—structured as it is today and moving in the direction it seems to be headed—can ever fulfill the promise envisioned for it or conform to the policy set for it?" he asked. "If it can't, then permanent financing will always be somewhere off in the distant future."

Witherspoon memo—John P. Witherspoon, CPB director of television activities, sent station managers a memorandum Nov. 5 in which he accused Whitehead of having injected politics into public broadcasting.

Quoting Whitehead's comment about permanent financing. Witherspoon said:

"That statement, coming from Dr. Whitehead—a man who has been charged by the President to come up with a long-range financing plan for public broadcasting, and who speaks for the Administration in telecommunications matters—says in straightforward language that until public broadcasting shows signs of becoming what this Administration wants it to be, this Administration will oppose permanent financing. . . .

"Until Miami, CPB could honestly say that our relations with government had been free of political influence in the affairs of public broadcasting."

Goldberg—In a March interview, Henry Goldberg, senior attorney in the OTP general counsel's office, said the Miami speech—which Goldberg said he helped draft—"was not an ultimatum—not at all. If it had not been so widely misunderstood, it would be funny."

The OTP complaint was that the local public broadcasting stations did not know in what direction their system was heading and the language in Whitehead's speech meant that they could not expect to get permanent funding until their direction was better known, Goldberg said.

Whitehead "was not saying anything new," Goldberg said. "What CPB did was to cry 'political foul,' and that, to me, was a copout."

Funding balance: One of the Administration's complaints about public broadcasting is that a small percentage of CPB funds has gone to local stations and the bulk to national programming.

In fiscal 1971, when CPB resources totaled $27.8 million (including $23 million in federal funds), the corporation used 14.1 per cent for community-service grants to local stations. It used 64 per cent for national programming.

In fiscal 1972, when resources have climbed to $39.7 million (including $35 million in federal funds), CPB is sending 15 per cent to the local stations and is using 71.6 per cent for national programming.

President Macy pledged a year ago that in the future the corporation would give at least 30 per cent of its federal funds to local stations. The CPB's proposed budget for fiscal 1973, when the corporation hopes for total resources of $70 million (with $65 million from the federal government), provides that 28.6 per cent of the total money (and 30.8 per cent of the federal money) will go to local stations and 60 per cent to national programming.

Scalia—Antonin Scalia, general counsel of the OTP, said in an interview that the 1971 and 1972 figures show the "disproportionate investment in national facilities" that has been made since the CPB began.

He said that when he began studies for the OTP a year ago, it was apparent that the trend in public broadcasting was more and more toward national development at the expense of local stations.

"At least it was time to sound the alarm," he said.

Scalia acknowledged that the corporation now seemed to be planning to provide increasing amounts to local stations, but said, "I would think that the emphasis should have come sooner."

To ensure that local stations are given an adequate share of federal funds, he said, the Administration has been trying to include a fixed formula in its proposed funding legislation.

"All we're trying to do is give them a bare minimum," he said.

He noted that Macy's pledge was for an aggregate amount and that there was no guarantee that every station would get enough money.

Scalia said he was against setting a fixed percentage for stations, anyway. As total funds go up, the percentage should go up, he said, because national expenses should level off and the number of local stations should increase.

Rebuttal—Macy said that the disproportionate spending of the past has resulted from the CPB's trying to get the most for its limited money.

"We have not been able to give the stations as much financial support as we would have liked," he said. "It was our belief that the increased (local) funding had to be deferred until we had met the mandate of having the interconnection and providing a broader range of quality programming than had existed prior to the establishment of the corporation."

Program balance: The Administration also is critical of the balance between nationally originated and locally originated programs seen on local stations.

OTP—In an interview, Whitehead amplified the criticism of his Miami speech:

"You've got to have the network," he said. "But nobody foresaw—and, in fact, the legislative history makes it very clear that it was not intended that there be—what is called a fixed-schedule network."

He said the commission and Congress suggested connecting stations so that national programs could be fed to and exchanged among local stations for use as they saw fit.

Whitehead said that last year the CPB and PBS spent $2 million on promotion, much of it to advertise a national, fixed-time program schedule. That "puts tremendous pressure on the local station to carry the network (live)," Whitehead said. "That just was never the intent. It was never intended that there be a monolithic, centrally controlled network."

Industry response—Public broadcasters defend their present practices on two grounds: lack of sufficient funds to use the network differently and the importance of national programing to local stations and to the system.

Hartford N. Gunn, Jr., president of the Public Broadcasting Service, said that two-thirds of the public television stations on the network have neither equipment nor staff to record PBS programs for later showing. One-third have no color-recording machines, he said.

Those local stations, he said, must broadcast national programs live or not at all.

Chalmers H. Marquis, executive vice president of the NAEB, said that stations would need three $100,000 color videotape machines to use the system Whitehead's way—one to record network and local programs, one to play them back for broadcast, and one for backup.

The NAEB's Harley said that national programs have enriched local schedules and helped draw attention to and support for public stations.

"We never really got into the public consciousness until we got into an interconnected system," Harley said.

Marquis defended advertising as an important device in gaining an audience for local as well as national programs.

"Every program has an intended audience," he said. "Unless people know it's on, it's a total waste.

"Getting the word out is the biggest single problem the stations have, aside from just staying alive."

Public-television promotion, he said, is not the same search for a mass audience that is made by commercial television, but an attempt to "hit most of the people in a community once each week."

A 50-per cent "weekly circulation"—in which one-half of the television sets in a market would be tuned at least once to the public station over a week's time—would be very good for most local stations.

The most outspoken defender of the PBS network has been James Day, president of the Educational Broadcasting Corp. in New York City. In that job, he heads station WNET-TV and its affiliated national production center.

Before the PBS was found, Day's National Educational Television (NET) was the prime producer and distributor of national programs for the public television industry.

Day freely admits that the PBS is a centralized network and argues that it should be.

"Originally conceived as a distribution mechanism for programs, it has evolved into a fourth network; we shouldn't be ashamed of that fact," he told the Western Educational Society for Telecommunications in San Francisco on Feb. 28.

"It is absurd to attempt to carry decentralization into that part of the public-television equation that is national programming," he said.

Control: Administration officials say that too much control is exercised by the corporation in funding programs and by the PBS in deciding what shows go on the network.

Public broadcasters deny the charge. They argue that the CPB is not involved in programming and that the PBS is controlled by station managers so that the stations decide what the network offers.

Administration—Scalia, addressing the telecommunications conference in San Francisco on March 1, complained that last year more than 90 per cent of prime-time programming on public television came from six national production centers.

"And even more distressing than the small number of production sources is the apparently growing tendency toward centralization of program decision making by CPB," he said.

In a later interview, Scalia said that corporation and PBS officials play an active role in initiating programs supposedly produced by independent production centers.

"Ask around how often the initiative comes from CPB itself," he suggested. "How often do they say, 'What we need is a program on thus and so'?"

Henry Goldberg of Scalia's office supported the charge.

"I don't think it's fair to say that these are six independent producers and CPB is just giving them money," he said. The system, he said, is "one production entity with six studios."

Industry response—Hartfod Gunn agreed that the PBS plays an active role in coordinating the work of more than 20 producers who supply shows for the network. "It's our job to pull together the program schedule for the stations," he said.

Gunn also admitted that CPB approval of programming is necessary for approval of financing. "They in fact have the purse strings," he said. "PBS decides what should go into the schedule, but the man with the money has the final word."

However, Gunn said, he could not recall a major series that had been turned down by the CPB. "Generally, they approve the programs which we say are required to meet the needs of the system," he said.

Gunn said the PBS is responsive to the ideas of local station personnel. The PBS board of directors is dominated by station managers, he said, and he has constantly tried to give managers more say in what the network does.

John Macy disagreed with the OTP charge that program initiative comes from the top. "Most of the program ideas have been generated by the production centers," he said.

He said the program ideas generally flow up to the corporation for funding and, once produced, go out to the PBS for national distribution.

"In no sense is there a national program determination at a central point," Macy said. "The ideas are coming in from many different points."

James Day holds a view on network program control that falls outside those of both major adversaries.

Day's complaint is not that national programming is too centrally controlled but that the control comes from station managers—who are professional broadcasters—rather than from true public representatives.

He told the San Francisco conference that some way should be found to "place the control and policy of PBS in public hands."

Once that is done, network control over programming should increase, he said.

Local stations, represented by the NAEB, have mixed feelings on the general issue of centralization. Harley said that some views expressed by Whitehead in Miami had long been held by local broadcasters.

"I suppose, in a kind of a simplistic way, the stations feel that the corporation and any spin-off agencies that it creates are to be service agencies for the stations," he said.

"Some of the conflict has come with those who have been in charge of these agencies who tend to look at it from the other way around, as though they were an end to themselves, so to speak, and that the stations were a part of this centralized structure."

Harley said he remembered a press release from either CPB or PBS referring to local stations as "outlets," a term that local public stations detest. He said that the term "affiliates" is hardly better. Stations, which regard themselves as the heart of the system, do not like the term "network," either, Harley said, and prefer to call the station hookup an "interconnection."

But Harley took exception also to the way the OTP has criticized the system and brought the issues out into the public.

"The thing that Mr. Scalia and Mr. Whitehead have refused to recognize is that this is a whole brand-new enterprise," he said "We're just putting the pieces together, and though we may be critical and we're concerned, we're not about to tear the thing down."

ACCOMMODATIONS

Several changes in the structure of public broadcasting have been made or promised in recent weeks. The changes could serve to cool Administration criticism, although industry officials deny that was its purpose.

Generally, the changes will give stations more control in the operation of the system, or in other ways further decentralize decision making and authority.

CPB: The corporation's board of directors, meeting in Anaheim, Calif., March 17 and 18, ordered a series of actions that a CPB information memorandum said was "designed to strengthen and improve the working relationships between noncommercial broadcasting licensees and the board and staff of the corporation."

Budget preparation—The board adopted a formal procedure to assure station managers a voice in preparing the CPB budget and disseminating funds to stations.

A panel of station managers, still to be named, will make budget recommendations to the CPB staff and will review budget proposals before they are submitted to the federal government. After Congress appropriates funds, the panel will review the adopted budget before any funds actually are distributed.

The panel will have an even greater voice in recommending corporation community-service grants to stations.

More meetings—The board also promised that board members would visit local stations more often in the future, would hold two formal meetings a year with station managers and that station managers would attend regular board meetings more often.

PBS: The Public Broadcasting Service, headed by Gunn, also took steps last month to broaden participation in its operations.

Expanded board—The PBS board of directors voted to increase its own membership from 11 to 19. The new board, whose date of formation still is undecided, will have 12 station representatives (compared with six now) and six public members (compared with two now). To present members the president of CPB and the president of the Educational Broadcasting Corp. in New York City, no longer will be on the board.

Evaluation panel—The board also decided to establish a 12-member evaluation panel to review the network's over-all presentation of public-affairs programing. The review will be made periodically, perhaps once a year, of programs already sent to stations. They also will occasionally preview controversial programs.

Ten members will be professional journalists from across the country and two will be public representatives from the PBS board. They will look at public-affairs programming in terms of adequacy, fairness, professionalism and similar qualities.

Coordinator—James C. Lebrer, news director of public television station KERA-TV in Dallas, was named by the board to the new position of public-affairs coordinator. He will seek to avoid duplication of public-affairs programs by the many production centers that offer shows to the network. He also will screen public-affairs programs before distribution.

Standards—Finally, the board adopted a series of journalism standards and guidelines that had been drawn last November by an advisory board headed by Elie Abel, dean of the Columbia University Graduate School of Journalism.

The standards stress fairness, balance, objectivity, technical accuracy and coverage of unorthodox as well as accepted ideas.

Constitution: In a speech to public television executives in Washington on April 4, John Macy called for a "constitutional convention" to help guide the industry.

He saw it as a "series of sessions which would gather the best minds from within our industry to define clearly the organizational structure, forms of governance and priority purposes of public television to guide us through 1977 and beyond."

He said they could be coordinated with separate meetings of a special industry task force to formulate a proposal for long-range financing.

"The need for a 'constitution' . . . has been well demonstrated in this past year." Macy said, "when our internal stresses and strains sometimes reached painful proportions."

Planning, he said, is especially important because of public broadcasting's dependence on federal funds.

"As we receive more and more federal dollars—or maybe I should say before we receive long-range federal financing—we must build a complete case justifying that expenditure of the public's money," he said.

Assessment: Macy's statement sounded much like those that have emanated from the White House in recent months, and it is a sign that the major adversaries in the public broadcasting dispute are moving together.

Lamb—Brian P. Lamb, assistant to the OTP director, said, "We're thinking much more along the same lines than we were six months ago." But he said the OTP still does not feel that the major issues have been resolved.

Macy—Macy maintained that the recent changes had been planned for a long time, and that they are part of an evolution in public broadcasting.

Furthermore, he said, "I think that basically Mr. Whitehead is supportive of public broadcasting. I think the areas of difference are far less than has generally been publicized."

Gunn—The PBS's Gunn said also that his board's recent changes had long been planned and were designed to put controls in the system.

"The public and the Administration have a right to know how the system operates," he said.

Referring to the evaluation panel, he said, "There have got to be people reviewing our activities. We prefer to have it done by professionals rather than by politicians."

Harley—The NAEB's Harley said that the power and importance of local stations had become more appreciated by Congress and the corporation in recent weeks.

"I think this has all been very healthy," he said.

LEGISLATION

Several public broadcast funding bills are before Congress, one of them already headed for the House floor.

The two most important bills were introduced by Democrats shortly after Whitehead's Miami declaration that the Nixon Administration would not soon ask for long-range financing.

Magnuson-Pastore: The first funding bill, S. 2765, was introduced on Oct. 28 by Sens. Warren G. Magnuson, D-Wash., and John O. Pastore, D-R.I. Magnuson is chairman of the Senate Commerce Committee, to which the bill was referred. Pastore is chairman of its Communications Subcommittee.

The bill merely would extend for one year the present authorization for the corporation, which totals $35 million in federal funds. An aide to Pastore said the bill was introduced to force some response from Congress and the Administration.

Without such a bill, the corporation would be left without any spending authority after June 30.

Macdonald bill: A much more ambitious bill was introduced Nov. 16 by Rep. Macdonald.

His original bill, HR 11807—which by now has been modified substantially by committee action and reintroduced as HR 13918—would have extended the authorization of the corporation for five years. Spending levels would have started at $65 million in fiscal 1973 and risen to as much as $160 million by fiscal 1977.

Macdonald introduced his bill after consultation with corporation officials, who considered it a major step toward long-range funding.

The bill contained many of the very features that Whitehead had said the Administration did not want.

Budget request: On Jan. 24, President Nixon committed himself to extending the authorization of the corporation for at least a year. In his budget request for fiscal 1973, he included $45 million for public broadcasting, a $10-million increase over fiscal 1972.

Administration officials have pointed to that increase in requested funds as proof that Mr. Nixon supports the concept of public broadcasting.

Hearings: The House Communications Subcommittee held hearings on public broadcasting on Feb. 1–3. Only Whitehead opposed the Macdonald bill.

Killian—An important witness, from the industry' standpoint, was James R. Killian Jr., who was the chairman of the Carnegie Commission and who now serves as vice chairman of the CPB board of directors.

That experience made Killian uniquely qualified to comment on the Administration charge that public broadcasting had developed in a manner not intended by the commission.

His testimony delighted corporation officials.

"In my view," Killian said, "public broadcasting has moved ahead steadily in the spirit of the Carnegie Commission recommendations and in accord with the wise provisions of the Public Broadcasting Act. . . .

"At all times the corporation has sought to honor the autonomy, independence and diversity of local stations while evolving those guidelines and leadership principles which are its corporate responsibility under the Public Broadcasting Act."

Killian, who is chairman of the corporation for the Massachusetts Institute of Technology, said he was disappointed that Congress has neither funded the corporation at the level the commission had suggested nor established a trust fund.

"It was the view of the Carnegie Commission—and I still strongly support this view—that the trust fund and the corporation are jointly essential to the insulation of public broadcasting from the dangers of political control," he said.

Killian urged the committee to approve HR 11807.

In an interview after the hearings, John Macy said that as long as Killian and others approved of CPB's operations, he was not so concerned about Administration disapproval.

Macy testimony—Macy also urged enactment of the Macdonald bill. He said that while he still favored permanent financing, the bill would be an improvement over the present annual funding.

"I cannot stress enough the importance of public broadcasting's knowing where its next year's dollars will come from," he said.

In addition, he said, "if public broadcasting is to rise to its full potential, it clearly needs to be freed of all potential of outside interference, and this freedom cannot exist in an insecure financial atmosphere."

Burch—Dean Burch, chairman of the Federal Communications Commission, said his agency does not consider itself expert on the funding of public broadcasting.

He said that FCC jurisdiction over the industry does not cover financing but is limited to the same areas as in commercial broadcasting, including licensing of stations and enforcement of the fairness doctrine.

Burch did call for long-term financing for public broadcasting, however, and said the commission supported HR 11807.

Asked by Macdonald whether he or Whitehead spoke for the Nixon Administration on the bill, Burch said that Whitehead was the spokesman.

Whitehead testimony—Whitehead told the subcommittee that the Administration opposed all CPB bills being considered. In specific reference to HR 11807, he complained that the funding was too high and that there was no guarantee that a certain amount of money would pass through the CPB untouched on its way to local stations.

"It would heighten the local stations' sense of autonomy and independence if they had available a stable source of funds of a known quantity, as a matter of statutory right and not CPB discretion," he said.

Whitehead said the Administration favored a one-year extension of CPB's authorization. A bill to achieve that, HR 13007, was introduced Feb. 7 as the Administration bill.

It provides for up to $45 million in funds for fiscal 1973, but requires that $15 million be passed on to local stations by the CPB in accordance with a formula set out by the bill. Each local television station would receive a minimum grant of about $50,000.

CPB position: Spokesmen for the public broadcasting industry, noting the strong bipartisan support given the Macdonald bill so far, said they do not expect the Administration to fight the bill very hard.

"The Administration has more important things to do than fool around with this damn bill," said WETA's Taverner. "I don't think they're going to make an overt effort to oppose this bill."

But industry leaders are not taking the bill's passage for granted. They have been urging station managers and even public broadcasting viewers and listeners to lobby for the bill.

COMMITTEE ACTION

The Macdonald subcommittee and then the full committee approved a bill soon after the hearings ended.

Although HR 13918 pledges dollars over fewer years than the original Macdonald bill, it still was a victory for the broadcasters and a defeat for the Administration.

Provisions: HR 13918 authorizes spending by the corporation of up to $65 million in fiscal 1973 and $90 million in fiscal 1974.

The original Macdonald bill, HR 11807, would have authorized CPB spending for five years, with the first two years at the same levels as those in HR 13918.

Both versions called for appropriations to be placed in a new Public Broadcasting Fund before transfer to the CPB. The fund would have little effect at first, but it could be a step toward the Carnegie Commission's trust fund.

Both versions also contained a requirement that the corporation pass on to local stations at least 30 per cent of the money it receives from the fund. There is no formula, as there is in the Administration bill.

The final committee bill called for a change in the makeup of the CPB board so that five of the 15 members would represent stations. All present members are public representatives.

The final version also called for up to $25 million for facility grants to stations in fiscal 1973—an increase of $10 million over present law. Facilities grants are distributed by the HEW Department.

Revisions: Almost all of the revisions of Macdonald's original bill came in subcommittee executive sessions.

"We went in there very closely divided," Macdonald said. "However, I accepted some amendments from the Republican side which I think didn't do any injustice to the bill."

Asked whether the changes were made to accommodate the Administration, Macdonald said:

"The only compromise was on the period of funding. I had put five years in the first bill because that is what the corporation wanted. But I told them I wasn't going to hold out for five. I held out for three—as strongly as I could."

Because he was concerned that Republican members would damage the bill, he said, he settled for two years.

"But that's the only real compromise," he said. "There was no compromise in the amount of funding. There was no compromise, either, about the composition of the board. It just seems to me that someone should have thought of that a long time ago."

Macdonald said Rep. Clarence J. Brown, R-Ohio, first proposed the change in board membership. (On Feb. 1, Brown had introduced a bill, HR 12808, that would have curtailed the authority of the corporation.)

Rep. Robert O. Tiernan, D-R.I., also endorsed the idea, MacDonald said. (Tiernan, whom public broadcasters consider in ally, had introduced in April a five-year funding plan, H.R. 7443.)

"Brown's amendment started it, Tiernan polished it and, in modesty, I re-polished it and we came out with the thing that you see now, which Brown agreed to," Macdonald said.

"That's a strengthening compromise," he said. "It wasn't a compromise to the Administration. It was a compromise to get in a good idea. I just wish it had been in my original bill."

Votes: The final vote in the subcommittee on March 16 was 8–1, with only Rep. James M. Collins, R-Tex., dissenting. Seven of the eight (Rep. Goodloe E. Byron, D-Md., is the exception) listed themselves as cosponsors of the reported bill, an indication of strong bipartisan support.

The full committee approved the bill with just two minor amendments.

One change, proposed by Rep. James T. Broyhill, R-N.C., would limit annual salaries of CPB officers and staff to executive level 1—Cabinet rank—which now is $60,000. Present officeholders would be exempt, however, so that Macy's $65,000 salary—the only one at CPB above the limit—could continue. Performers and other personnel in the rest of the industry would not be affected.

The other amendment came from Brown. It stipulates that none of the money granted by CPB to local stations under the 30-per cent formula could be used for facilities. That would ensure its use for programming and other operating expenses.

Committee approval came on a voice vote. Macdonald said he heard only one dissent, but when the committee report was issued April 11, Reps. Collins and John G. Schmitz, R-Calif., included dissenting views.

LEGISLATIVE PROSPECTS

With such strong committee support, HR 13918 has an excellent chance of passing the House.

"I'm sure there will be amendments on the floor to weaken it by reducing the money or keeping it to one year," said William E. Duke, public affairs director for CPB. "If I had to bet, though, I'd bet it would come out pretty much as it is now."

Jim Karayn, president and general manager of the National Public Affairs Center for Television (NPACT), said that in the past "the House has always been our difficult place to get legislation—not the Senate."

This year, he said, there seems to be a "backlash" to Administration criticism of public broadcasting that might help the bill in both the House and Senate.

Karayn said he was more confident of getting multi-year funding now than he was two months ago.

Administration: The Nixon Administration still is against the Macdonald bill, even in its revised form.

"We think it ought to be one year," Whitehead said. "Two years would just take away any pressure to come up with a long-range financing plan."

When asked where the pressure was being applied, he said, "It's on Congress, and it's on the Administration, and it's on CPB."

Whitehead explained that his office had two major complaints about the first Macdonald bill that remain valid with the revised version: the funding is too high and there is no minimum guarantee for each individual station.

Macdonald: Rep. Macdonald said that he found it incredible that Whitehead still opposed the bill.

"Is he blind enough not to see that he's in a lost cause?" Macdonald asked. "I don't think they can come out and say they're for it after they've attacked it all over the country. But if they've got any sense—you know, they've had two defeats, subcommittee and full committee, why should they risk a third on the floor?

"I personally, from 18 years experience on the Hill, would be surprised at their political judgment if they choose to fight this bill.

"I have no qualms in saying it will pass the House anyway, whether they oppose it or not."

Senate: There are no signs that public broadcasting has much to worry about in the Senate.

"I have discussed the committee bill with key Members of the Senate, and they have raised no objections," Macdonald said.

If the bill does go over to the Senate—and even if it does not—hearings are certain to be held by the Senate Commerce Subcommittee on Communications, headed by Pastore.

An aide to Pastore, who did not want to be identified, said he expected the Senate committee to wait and see what happens in the House. Although Magnuson and Pastore have their own bill, S. 2765, pending in committee, they would prefer not to hold hearings until the committee could consider a House-passed bill, the aide said.

"If the House fails to go ahead, you may find us moving very rapidly," he said. "But right now, it's foolish for us to go ahead with a hearing on our bill and the Administration bill, when the House has already cleared its own bill through its committee."

The aide said that Magnuson and Pastore "have been chief proponents of public broadcasting since its inception," and that they might very well favor the two-year and other provisions of the House bill. He said they would not take a stand, however, until the bill is before them.

Lobbying: Not wanting to take anything for granted, leaders of the public broadcasting industry have been asking their associates to contact their House and Senate Members to urge passage of the legislation.

Donald Taverner said he has been encouraging his station's board of directors to lobby for the bill. They have unique opportunities to do so because of their location in Washington, he said.

"I've been telling them. 'Don't write to these Senators. Have cocktails with them. Go to parties with them.'"

John Macy told a convention of public television managers in Washington on April 4 that they also should try to get more grass-roots support for the industry.

"I continually hear the complaint from our often-tested friends on Capitol Hill that one of their most difficult problems is that Members of Congress rarely hear from the audiences of public broadcasting."

"We must find ways to inform our viewers that this is vital if public broadcasting is ever going to receive the level of federal support it needs," he said.

New effort—At a closing session of the convention, those attending discussed the possibility of organizing representatives of local-station boards for a new lobbying effort.

Hartford Gunn of PBS said these board members, who usually are prominent community leaders, could form "a blue-chip effort" toward the industry's funding goals.

There was some hesitation about establishing a new, formal organization within the industry, but the station representatives all seemed to agree that their board members could be an important new resource for lobbying.

Macy said the idea would be pursued further with station boards.

Fortune cookie—In what has become a traditional joke between the two men, William Harley of the NAEB handed Macy a Chinese fortune cookie just before the conference closed April 6.

Macy opened it and read its message to the conference:

"It is well to remember that a House united guarantees nothing in the Senate."

The Quarrel Over Public Affairs

Should federal money be used to pay for public-affairs programming on public television?

That question was raised by Clay T. Whitehead, director of the Office of Telecommunications Policy, in an interview broadcast by National Public Radio on Jan. 12 and the subject has been debated ever since.

Whitehead: "There is a real question," Whitehead said, "as to whether public television, particularly I guess really the national federally funded part of public television, should be carrying public affairs and news commentary, and that kind of thing, for several reasons.

"One is the fact that the commercial networks, by and large, do, I think, quite a good job in that area. . . .

"Another consideration is that we have a very strong tradition in this country that the press and the government stay at arm's length, that they keep apart from each other. So that when you're talking about using federal funds to support a journalism activity, it's always going to be a subject of scrutiny."

Broadcaster response: Those remarks, by an official who speaks for the President on telecommunications matters, were enough to disturb public broadcasters more than anything Whitehead already had said about them.

Day—James Day, president of the Educational Broadcasting Corp. (which includes WNET) in New York City, told a meeting of fellow public broadcasters in San Francisco on Feb. 28 that "if we permit Dr. Whitehead to operate on the body of public television and remove its vital organs of news and current affairs and opinion, it will not be worth our time to keep the body alive. . . .

"I find his recommendation that public television not compete with commercial television in the area of news and public affairs so patently ridiculous that it virtually answers itself. When one realizes that commercial television devotes a scant 2 per cent of its prime time to news and public affairs in a country where self-government is dependent upon an informed electorate—whose people when polled cite television as their principal source of information—the only wonder is that the present Administration would permit itself to be identified with such a ridiculous and self-serving position."

Macy—John W. Macy, Jr., president of the Corporation for Public Broadcasting, said in an interview: "We have the obligation to deal with the issues of our time in public broadcasting. This should be done in a form of video and audio journalism that is different and distinctive from that offered by the commercial broadcaster . . . .

"I feel that it was clearly intended that there be public-affairs programming . . . . I feel that this is part of our mission."

Harley—William G. Harley, president of the National Association of Educational Broadcasters, said, "We simply must have (public-affairs programming). It is very important that public broadcasting address itself to matters of great public concern. We're bound to get criticism, but this is the constant price of freedom in a democracy."

Whitehead rebuttal: In an interview, Whitehead said that his remarks were misinterpreted.

"I never questioned whether public affairs ought to be carried on public television," he said. "The only thing I have questioned was the extent to which federal funds ought to be used for public affairs on public television. And I was really thinking only about the controversial political type of public affairs.

"I have just simply raised the point that to the extent you're using federal funds to produce programming that is highly controversial politically, then you've got to expect that you're going to receive attention in the media, and that Congressmen, Senators, and so forth, are going to focus attention on the thing.

"I think that the way to put it is simply that the public television people shouldn't be surprised if they find themselves in the middle of controversy when they do controversial programming."

A Growing Audience for Public TV

Public television is becoming more visible every year.

During fiscal 1971, which ended last June 30, the number of regular weekly viewers rose from 33 million to 39 million. The number of weekly viewers—those who tune in to a public station at least once a week—was 24 million two years earlier.

PBS: A major reason for increased viewing has been the national programming offered since 1970 by the Public Broadcasting Service. PBS now serves 219 noncommercial television stations with programs produced by local stations and national production centers, most of which are affiliated with local stations.

Radio: There are more than 500 public radio stations in the United States, mostly on the FM band. Only about one-fourth of them, however, qualify as "full-service" stations, carrying a complete broadcast schedule. Most of the others offer limited services to university campuses.

On April 20, 1971, National Public Radio began operating as the first live national network of public radio stations. At the moment, 135 stations are served by NPR.

CPB: Public radio and television stations are funded by governments, schools and nonprofit organizations at the national, state and local levels. The federal government share of funding is channeled primarily through the Corporation for Public Broadcasting, which was established by Congress in 1967 to assist in the development of public broadcasting in the United States.

The corporation also provides money to the PBS and NPR networks.

The corporation this year has a budget of nearly $40 million, which includes $35 million from federal appropriations. By the end of the fiscal year, CPB expects to have spent $25 million for the production and distribution (through PBS) of national television programs, $3 million for the production and distribution (through NPR) of national radio programs, and $8 million for development and support of local radio and television stations.

The remaining $3 million will be used for administrative expenses for CPB itself, for planning, research and evaluation programs.

Next year's budget level still is unknown because Congress has not acted on CPB appropriations, but the corporation expects to increase its support of local stations by several million dollars.

Controversy: The Nixon Administration does not approve of the way CPB has been channeling funds, and would like to see much more money—as much as one-half of the CPB budget—going to local stations.

So far the Administration complaints have been directed primarily toward the funding of public television, where, of course, the vast majority of the dollars go.

White House Motives

When the Office of Telecommunications Policy, as a spokesman for the Nixon Administration, began its open criticism of public broadcasting last fall, unattributed references began to appear both in the general and trade press assigning sinister motives to the White House.

The attacks came, the stories said, because the President and his staff react strongly against the views of Sander Vanocur, a former NBC television newsman, who was hired last September as a senior correspondent for the National Public Affairs Center for Television (NPACT).

Or, they said, it was because public broadcasting was beginning to siphon off viewers from commercial stations, which depend so heavily on mass audiences for advertising revenues.

Finally, some Administration critics said that the OTP attacks were aimed at protecting the President's chance for reelection in November, which could be hurt by national, prime-time coverage of political issues on public stations to an extent not even approached by commercial broadcasters.

Industry denial: During extensive interviews over the past two months, however, no public broadcaster would make such an accusation, even on a not-for-attribution basis. John W. Macy Jr., president of the Corporation for Public Broadcasting, went out of his way to avoid making this kind of allegation.

Macy was read the following quotation attributed to an unnamed "prominent public broadcasting figure" in the Feb. 17 issue of *Newsday:* "I am convinced that the White House is determined to eliminate all news and public affairs broadcasting in public TV . . . They believe that national news and public affairs on public television are too independent and too critical to be allowed to continue unmolested."

Macy responded with a laugh and said: "You're not going to get any confirmation of that from me. They've not said that to me, and I don't take what I read in the paper very seriously."

He said that he takes OTP criticism "at face value" and just tries to answer each individual charge as it comes up.

William E. Duke, CPB public affairs director, was asked if he thought the Nixon Administration was out to destroy public broadcasting.

"Sometimes it seems that way to me," he said, laughing. "But I can't believe it." He said the situation is aggravated, however, by the industry's "phenomenal success" and high visibility. "When you're not very successful, you have an easier time of it," he said.

OTP denials: When the question of political motivation was raised with Administration officials, they vehemently denied any such purpose.

Vanocur issue—The thought that Administration criticism is based partly on NPACT's hiring of Vanocur at $85,000 a year is "hogwash," said Antonin Scalia, OTP general counsel. "We were at loggerheads (with the industry) before I even heard of Vanocur."

Commercial competition—Scalia also denied that his office's criticism was based at all on fears that public broadcasting was taking away audiences from the commercial system. The audience shares of public stations still are small, he said, and may be comprised mostly of people who would not be watching any television if it were not for the public stations.

"I don't think they're a threat at all to advertising-supported television," Scalia said. "It's foolish to think that our position has anything to do with a threat to commercial broadcasting. I've never had a commercial broadcaster express to me a fear of any threat."

Reelection drive—OTP director Clay T. Whitehead was asked to respond to suggestions that the Administration opposes public broadcasting because a highly active and highly visible public television system could be a detriment to President Nixon's reelection.

"I think the best way to respond to that," he said, "is to say, first, that it's not true, and, second, to offer my personal observation that I don't think public television is going to elect or not elect the President in '72. . . . I don't think it's that big a factor."

PUBLIC BROADCASTING AND CONGRESS' INTENT

In developing his arguments that public broadcasting has become too centralized at the expense of station autonomy, Clay T. Whitehead, director of the Administration's Office of Telecommunications Policy, relied heavily on the legislative history of the Public Broadcasting Act of 1967 (81 Stat 365).

Three documents provide most of this history—the final report of the Carnegie Commission on Educational Television, released Jan. 25, 1967; Senate Report 222, issued May 11, 1967; and House Report 572, issued Aug. 21, 1967.

Although these documents stress a need for national leadership and services in public broadcasting, they emphasize more than anything a need for strong local stations. They encourage the development of interconnections to link all stations together, but they call for a network much different from those now operated by commercial broadcasters.

There still is strong disagreement between Whitehead and public broadcasters about whether the intent of the study commission and of Congress actually is being followed, but the excerpts quoted below show what that intent was in the areas of station autonomy, interconnection and public affairs.

STATION AUTONOMY

"The local stations must be the bedrock upon which public television is erected, and the instruments to which all its activities are referred."—Carnegie report

". . . It should be remembered that local stations are the bedrock of this system and as such must be responsive to the needs and desires of the public which they serve. It is not intended, therefore, that these stations be mere conduits for the productions of other stations or other outside sources."

"We wish to state in the strongest terms possible that it is our intention that local stations be absolutely free to determine for themselves what they should or should not broadcast."—Senate report

". . . Local stations shall retain both the opportunity and responsibility for broadcasting programs they feel best serve their communities. Similarly, the local station alone will make the decision whether or not to participate in any interconnection arrangements, be it state, regional or national. . . .

"In the same manner that the bill strives to insulate the corporation (Corporation for Public Broadcasting) from governmental control, the bill provides and the committee intends to see to it that the local educational broadcasting stations conduct their operations without corporation interference or control."—House report

INTERCONNECTION

"Ordinary networking of taped or filmed programs, inseparably linked with the concept of the single signal, appears to the commission to be incompatible in general with the purposes of public television. It presupposes a single audience where public television seeks to serve differentiated audiences. It minimizes the role of the local station where public television, as we see it, is to be as decentralized as the nature of television permits. . . .

"The commission consequently proposes that public television look to interconnection primarily as a device for the distribution of programs. . . . There would be no expectation that the programs would be immediately rebroadcast by the local station (although of course there would be nothing to prevent such use). Instead, the local station manager would be expected to record those programs he might later use, ignoring the rest.

"We wish to make it clear that what we recommend here is an attitude toward interconnection and not a rigid set of procedures. Beyond any doubt, public television must be fully prepared to use live networking when the occasion warrants. . . . What we recommend is simply that the ordinary use of the system be for distribution rather than networking."—Carnegie report.

"Although the fundamental concept of the noncommercial educational broadcasting system envisions strong local stations and hence de-emphasizes networking as we know it in commercial broadcasting, interconnection will play a crucial role. We, therefore, expect that the corporation will develop a policy on interconnection which will reflect its primary purpose of program distribution while also recognizing that occasions will arise where live or simultaneous broadcasting will be warranted."

"The corporation would use the interconnection facilities to distribute and transmit programs at all hours but each station would be required to make its own decision as to what program it accepts and broadcasts and at what time. . . .

"Fears were expressed (in the hearings) that if the corporation was given this authority it would tend to develop a fixed schedule, network-type operation and thus the local station would be placed in a difficult position to control effectively its broadcast schedule."—Senate report.

"Even with respect to live simultaneous broadcasts, local stations will have the absolute discretion to decide if such programs will be carried at the time the corporation has arranged for their transmission, at some other time, or not at all."—House report.

PUBLIC AFFAIRS

"Major theatrical and musical productions, documentaries on subject of national concern or which require a national approach, programs dealing on a national scale with public affairs or with news commentary, are immediately appropriate (for national production centers)."—Carnegie report.

"Particularly in the area of public affairs your committee feels that noncommercial broadcasting is uniquely fitted to offer in-depth coverage and analysis which will lead to a better informed and enlightened public."—Senate report.

THE BEAUTY OF GREAT SMOKY MOUNTAINS NATIONAL PARK

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DUNCAN. Mr. Speaker, once again the magnificant natural beauty displayed in the Great Smoky Mountains National Park is attracting a record number of visitors. Tennessee is blessed by the clear streams and beautiful foliage which abounds in this park. A summer trip to these mountains will be a memorable adventure for the entire family.

Mr. Speaker, I insert the following:

[From the Knoxville Journal, May 4, 1972]

PARK VISITS SOAR

GATLINBURG.—A total of 530,000 persons visited Great Smoky Mountains National Park during April, bringing the total for this year to 1,104,200, park headquarters reported Wednesday.

The total for April is 18 percent over the 447,900 visits reported in April, 1971, and visits this year are 30 per cent greater than the 847,400 recorded during the same period last year.

JOHN LORD O'BRIAN RECALLS HOOVER'S EARLY DAYS

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DULSKI. Mr. Speaker, as our Nation pays deserved tribute to the great public service of J. Edgar Hoover, for nearly a half century head of the Federal Bureau of Investigation, it is interesting to read the nostalgic observations of a distinguished citizen who helped Mr. Hoover obtain his first job with the FBI.

John Lord O'Brian, a Washington attorney who still calls my home city of Buffalo, N.Y., his home, was in the Justice Department when Mr. Hoover entered public service. Mr. O'Brian's own career includes considerable Government service over the years.

His affection and respect for Mr. Hoover is well outlined in an interview with the able Washington correspondent for the Buffalo Courier-Express, Peter C. Andrews. As part of my remarks, I include the text of his May 3 article.

The article follows:

BUFFALONIAN STIRS NOSTALGIA, PAYS TRIBUTE TO FBI CHIEF

(By Peter C. Andrews)

John Lord O'Brian, 97, the man who helped J. Edgar Hoover get his job with the Federal Bureau of Investigation, said "there never was a more faithful public servant" when informed of Hoover's death Tuesday.

"He started with no background at all and built a tremendous organization," said O'Brian who headed the War Emergency Division of the Justice Dept. during World War I when Hoover came to work for the division.

"He was just out of law school (George Washington Law School)—which he had attended at night—and I took him on my staff. It was in the fall of 1917, and I was immediately impressed with the tremendous worker he was. He used to work nights and Sundays, and was not a publicity artist," O'Brian said.

O'Brian, a native of Buffalo, now the senior partner of the Washington law firm of Covington and Burling, is in Buffalo visiting his family here. He was informed of Mr. Hoover's death by phone and expressed great sorrow at the loss of his long-time friend.

CLOSE RELATIONSHIP

"I last saw him a few years ago," said O'Brian, "but we always retained a close relationship. He used to pay me compliments in the interviews he gave," O'Brian added, although there had been no official relations between them after World War I.

O'Brian said one of Hoover's greatest achievements was that soon after taking over as FBI chief he persuaded Congress to allow him to establish the fingerprinting center which has been invaluable ever since.

Hoover received his appointment to the FBI from Harlan Fisk Stone, President Coolidge's first attorney general, who later became a justice of the U.S. Supreme Court. He was acting on the recommendation of then Secretary of Commerce Herbert C. Hoover, who later became president. The two Hoovers were not related. Secretary Hoover had heard about J. Edgar Hoover through O'Brian.

FBI IN SORRY SHAPE

The FBI was in sorry shape when Hoover was appointed acting director, May 10, 1924. The first two directors, A. Mitchell Palmer and Henry M. Daughterty, had been noted mainly for their "Red Raids," in which they rounded up persons suspected of being undesirable and shipped them out of the country. There existed a lively traffic in pardons and liquor permits. Some FBI agents at that time had criminal records.

The man who directly preceded Hoover, William J. Burns, a well-known private detective, turned the agency into a sort of private police, gathering evidence against enemies of the Harding administration. Burns resigned about the time of the scandals involving the Harding administration.

O'Brian said Hoover's work with the Justice Dept. during his seven years there dealt primarily with the enemy alien registration section, working on sedition and internment cases. This dealt with civil law, as opposed to military law, O'Brien explained. Hoover always retained an active interest in alien activities during his 48-year tenure as FBI head.

Upon his appointment to the FBI, Hoover immediately set about correcting the conditions he found. Within a few months, he had discharged all questionable employees and set about establishing a reputation of integrity for the FBI that has remained untarnished since.

A DRAG?

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ZWACH. Mr. Speaker, one of my favorite newspaper columnists is a farm housewife, Margery Burns, who writes for a number of rural weekly newspapers in our Minnesota Sixth Congressional District.

There is more good commonsense in Mrs. Burns' writing than is usually found in such columns.

A typical example is the column about farm prices which appeared in the April 27 issue and which I hope all of my colleagues read.

Mr. Speaker, I insert Margery's column in the CONGRESSIONAL RECORD so its good sense can be shared by the thousands of people who read the RECORD. The column follows:

A DRAG?

Can you imagine anyone coming out with the ridiculous statement that the government should reduce "inflationary farm price support levels?" Yet that is exactly what Mrs. Abzug, U.S. Representative from New York, came out with the other day when she testified before the Price Commission.

Where in the world did a member of Congress ever get that idea that present price supports are inflationary? And where in the world are the farm lobbyists who should be giving her the right facts about agriculture?

Why hasn't Mrs. Abzug and others like her been given the information that in the past 20 years wages have gone up 340%, business dividends have gone up 300%, while farm prices increased only 7%? And in the past 20 years, U.S. Senators and Congressmen salaries went up 240%; meat cutters wages went up 166%; beef sold for $35 in 1951 and $32 in 1971, while at the supermarket it sold for $78 in 1951 and $104 in 1971. Today it's much higher than that in the supermarkets.

A few weeks ago, the Giant Food, Inc., had ads in newspapers in the east saying "Meat prices are high and from all predictions will remain high. Beef is near the highest level since the end of the Korean War. Why are they so high? It begins at the source: Livestock prices were not and are not now controlled under the present economic program. Less meat is reaching the market. Prices from our suppliers have skyrocketed. Because of all these reasons you will find higher prices on almost all fresh meats. We consumers can help bring prices down. Buy less meat. Use other forms of protein. Buy something else.

That ad was false, but the worst part was that it helped drive down prices for farmers.

Then—in a statement by the same Giant Food Stores to their stockholders, they say, "Financially, Giant achieved record sales in fiscal 1971 of $476.9 million. Costs, however, continued to rise sharply as a result of inflation as evidenced by a labor contract settlement which boosted wages 13%." And, strangely, livestock prices as the "source" of rising costs are never mentioned in this report as the reason for the Giant Foods' higher costs.

Isn't it too bad that some food chains try to put the blame for higher food prices onto the farmers? Probably they used this trick because they know that farmers won't speak up with one voice on anything.

Isn't it too bad too many people in Washington keep trying to force lower prices on farm products? Back in 1963, Paul Goodman, sociologist, wrote, "It is now the settled policy of our government to get seven million more farm folk off the land since they are economically a drag."

Isn't it too bad that people here in Minnesota aren't aware that if farmers get parity prices for their products it would be the same as giving every town a million dollar industry?

Isn't it too bad that all farmers and all rural people don't fight along side each other to put the rural economy back together again?

Farmers a drag?

VIETNAM

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ERLENBORN. Mr. Speaker, President Nixon's critics are likely to overlook the most important part of the President's television speech of Monday evening. The world, I trust, will study carefully the President's proposal to North Vietnam.

In return for the release of our prisoners of war and a cease-fire, he offered to withdraw all our forces from Vietnam in 4 months. He attached no political conditions. This is by far the most generous and most conciliatory offer that has been made.

The mining of North Vietnamese harbors and the destruction of North Vietnamese rail lines is a risky course. I am not happy about it, any more than President Nixon is. I am even less happy, however, about the aggressive activities of the Soviet Union in supplying an abundance of weapons to North Vietnam; and I despise the irresponsibility of Hanoi in its desperation to win militarily.

The Hanoi forces have struck at a time when our troops are almost out of Vietnam. President Nixon's detractors say he should order the remaining 65,000 men home at once.

If the President were to follow their politically inspired advice, there is a great risk that the South Vietnamese Army and Government would collapse. Then our troops—perhaps a third or a half of them—might be massacred by superior numbers of North Vietnamese troops before they could board ships or planes for evacuation.

Hence, whatever reservations I may have about the program upon which the President has decided, I have much greater doubts about the wisdom of the Nation's listening to those who are eager to play politics in a moment of American travail.

MORE ON RACIAL DISCRIMINATION AND LEAA FUNDS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. RANGEL. Mr. Speaker, on March 30 I charged that the Law Enforcement Assistance Administration of the Justice Department had dispersed nearly $1.5 billion—with no strings attached—to State planning agencies and local police departments at a time when some of these very agencies and departments remain the breeding ground for racial discrimination.

I indicated that a major reason for the disrespect for "law and order" found in the black community is that the police themselves are seen using the badge as a weapon for corruption and discrimination. Part of the solution is to hire more black law enforcement officers and to increase minority group representation in the State and local planning agencies where the decisions are made.

I have introduced H.R. 14239, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to require that State planning agencies receiving LEAA funds submit a State affirmative action plan to overcome the effects of past racial discrimination. My bill would also eliminate the current prohibition against racial quotas currently in the LEAA law. Finally, this bill would require the Justice Department to conduct civil rights compliance reviews before a grantee or subgrantee could receive these Federal funds.

Fortunately, groups outside of Congress have been active in their efforts to correct the obvious deficiencies in the current LEAA procedures.

The Lawyers' Committee for Civil Rights under Law has made an exhaustive review of the way LEAA funds are spent. The committee has also been involved in law suits to challenge the systematic exclusion of blacks from police departments and State planning agencies.

Messrs. Raymond Marcin and William Taylor, of the Center for National Policy Review of Catholic University Law School, have recently filed a petition for the adoption of regulations to force LEAA to meet its constitutional obligation to prevent racial discrimination. The petition, filed on behalf of the Leadership Conference on Civil Rights, the Afro-American Patrolmen's League, the National Spanish Speaking Coalition, the NAACP Legal Defense and Educational Fund, Inc., and the Native American Legal Defense and Education Fund, Inc., suggests there be a regulation to prohibit discrimination in the composition of State planning agencies charged with the responsibility of distributing the funds to local departments. The petition also recommends that there be a regulation requiring a civil rights compliance review before a grant be awarded LEAA money. Instead of seeking compliance through a law suit—the speed and success of which depends largely upon the diligence of the Justice Department and the disposition of a particular judge—LEAA should use a more effective and efficient mechanism, administrative proceedings calling for a fund cutoff if compliance cannot be obtained. The petition also calls for a clear delineation of the duties of LEAA's Office of Civil Rights Compliance, with deadlines for the investigation and resolution of complaints received by LEAA of discrimination. State planning agencies should also be required to include provisions in their State plans for affirmative steps to hire more minority personnel. Finally, the petition recommends changes in the regulations to prevent sex discrimination and to alter minimum height requirements which discriminate against other racial and ethnic minorities.

I commend to your attention both the petition for regulatory change submitted by the Leadership Conference on Civil Rights and the preliminary report of the Lawyers' Committee for Civil Rights under Law on civil rights enforcement in the expenditure of LEAA funds:

[Before the U.S. Department of Justice Law Enforcement Assistance Administration, Washington, D.C.]

PETITION FOR REGULATORY CHANGE

Come now the Leadership Conference on Civil Rights, the National Spanish Speaking Coalition, the N.A.A.C.P. Legal Defense and Educational Fund, Inc., the Afro-American Patrolmen's League and the Native American Legal Defense and Education Fund, Inc., and, under the authority of subsection (e) of section 553 of title 5 of the United States Code, petition the above named the Honorable John N. Mitchell, the Honorable Jerris Leonard, the Honorable Richard W. Velde and the Honorable Clarence M. Coster to amend certain regulations of the United States Department of Justice Law Enforcement Assistance Administration and prescribe certain new regulations as more fully set forth below.

Whereas, court and administrative proceedings involving allegations of discrimination in the employment practices of agencies receiving financial assistance directly or indirectly from the United States Department of Justice Law Enforcement Assistance Administration are pending before United States District Courts in Alabama, California, Connecticut, the District of Columbia, Georgia, Massachusetts, Mississippi and Pennsylvania and before state fair employment practices commissions in California, Connecticut, Indiana, Kansas, Massachusetts, Missouri and Pennsylvania, reflecting a national problem of employment discrimination in criminal justice systems; and

Whereas, on or about December 31, 1970, the above named the Honorable John N. Mitchell, the Honorable Richard W. Velde and the Honorable Clarence M. Coster, in recognition of the national problem of employment discrimination in criminal justice systems, prescribed certain regulations purporting to require nondiscrimination and equal employment opportunity within the federal financial grant systems of the United States Department of Justice Law Enforcement Assistance Administration; and

Whereas, the Law Enforcement Assistance Administration has a constitutional duty to assure that the federal funds which it distributes are not used to subsidize racially discriminatory practices, which duty is more fully set forth in the attached memorandum; and,

Whereas, such regulations fail to meet the requirements of the Constitution and laws of the United States and otherwise contain certain deficiencies and inadequacies as more fully set forth in the attached memorandum,

Now, therefore, the above named petitioners respectfully pray that:

(1) A new section be prescribed prohibiting discrimination in the appointment or selection of members of state planning agency, regional planning unit, and local planning or coordinating council boards.

(2) A new section (similar to 41 CFR 60-2.10(d), the pre-award compliance regulation of the Office of Federal Contract Compliance) be prescribed (a) requiring each applicant for federal financial assistance under title I of the Omnibus Crime Control and Safe Streets Act of 1968 or title I of the Omnibus Crime Control Act of 1970 to include in its application such information concerning its employment practices and the employment practices of each of its subgrantees as the Administration may require; (b) providing for a pre-award compliance review of such employment practices by the Administration within six months prior to the award of any grant under the said acts, and (c) requiring a finding of compliance on the part of each such applicant and subgrantee with subpart D of part 42 of title 28 of the Code of Federal Regulations on the basis of such a pre-award compliance review as a condition of eligibility for any such grant.

(3) Subsection (a) of section 42.206 of title 28 of the Code of Federal Regulations be amended to delete the provision prescribing a preference for invocation of judicial as opposed to administrative remedies and to insert in lieu thereof a provision requiring the prompt invocation of administrative funding termination procedures along with appropriate judicial remedies.

(4) A new section be prescribed (a) setting forth the information required to be included in a complaint of employment discrimination, (b) prescribing the duties of the Office of Civil Rights Compliance with respect to the investigation of complaints and (c) prescribing deadlines for completion of the investigation and informal resolution phases of complaint processing.

(5) Section 42.203 be amended by inserting a new provision (similar to 41 CFR 60-2.10, the Affirmative Action Program regulation of the United States Department of Labor) requiring grantees and subgrantees to develop, under LEAA Office of Civil Rights Compliance supervision, and implement affirmative action plans to assure minority group persons full and equal employment opportunities within police court and correction agencies.

(6) A new section (similar to 29 CFR 1606.1, the minimum height regulation contained in the United States Equal Employment Opportunity Commission's National Origin Guidelines) be prescribed prohibiting the granting of any federal financial assistance under the Omnibus Crime Control and Safe Streets Act of 1968 or the Omnibus Crime Control Act of 1970 to any applicant or grantee who uses or any of whose subgrantees use any minimum height requirement for employment eligibility unless the grantee convincingly demonstrates that the requirement is necessary for the performance of the work involved.

(7) Sections 42.201(a) and 42.203 be amended by inserting the word "sex" along with "race, color, creed or national origin."

(8) A new section be prescribed requiring correctional agencies to take steps to assure equal employment opportunities whenever a federally assisted correctional facility is proposed to be located in an area where minority group persons do not reside.

Petitioners further request a hearing and the opportunity to present evidence and oral argument in support of the above petition.

Dated at Washington, D.C. this 9th day of December, 1971.

[Before the U.S. Department of Justice Law Enforcement Assistance Administration, Washington, D.C.]

MEMORANDUM IN SUPPORT OF PETITION FOR REGULATORY CHANGE

INTRODUCTION

The Law Enforcement Assistance Administration of the United States Department of Justice (LEAA) was created by title I of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law 90-351). Under that Act, LEAA's role was defined as that of a partner with state and local governments to aid them in the reduction of crime and the improvement of the nation's criminal justice system. Under this partnership concept, LEAA provides both financial and technical assistance to aid state and local governments in the improvement and modernization of their entire criminal justice system—police, corrections and courts. (U.S. Code Congressional and Administrative News 1970, vol. 3, p. 5805, 5806.)

Appropriations to LEAA for fiscal years 1969, 1970, 1971 and 1972 totaled $63 million, $268 million, $529 million, and $1.15 billion, respectively. Authorization for fiscal year 1973 is $1.75 billion. (P.L. 91-644, section 7(8)). By far the largest amounts of LEAA's funds are spent on block action grants to states. (LEAA 1970, U.S. Dept. of Justice, p. 2.) Action grants are used for a variety of purposes: To improve training for police and corrections personnel, to purchase new equipment for police, to hire more police personnel, to improve anti-crime patrols and techniques, to develop more effective crime prevention programs, to conduct programs to inform the public on steps they can take to enhance their safety, to improve police-community relations, to improve court systems for speedier and fairer processing of cases and to improve corrections programs for the rehabilitation of inmates. (U.S. Code Congressional and Administrative News 1970, vol. 3, p. 5807.)

Contemporaneously with the creation of LEAA, the National Advisory Commission on Civil Disorders identified deep hostility between police and ghetto communities as a primary cause of civil disorders and recommended an intensification of efforts to recruit more Negro police personnel, equal employment reviews of police department promotion policies, nondiscriminatory assignments of police personnel and community relating programs and training for police. (Kerner *et al.*, Report of the National Advisory Commission on Civil Disorders; 1968; ch. 11.) Later, in 1969, the United States Commission on Civil Rights found that police departments had discouraged minority persons from joining their ranks by failure to recruit effectively and by permitting unequal treatment on the job, including unequal promotional opportunities, discriminatory job assignments, and harassment by fellow workers. (U.S. Commission on Civil Rights, For All the People . . . By All the People, 1969; p. 120.)

Despite this massive commitment of federal funds in the context of the concerns outlined in the Kerner and Civil Rights Commission reports, LEAA's early activities with respect to its civil rights responsibilities were marked by chaos and paralysis. The Civil Rights Commission reported in October of 1970 that LEAA was, at that time, the only federal agency with a significant Title VI program which did not have an agency civil rights office. In addition, the Commission remarked that LEAA had not yet developed a civil rights compliance reporting system and was blatently understaffed for Title VI responsibilities. (U.S. Commission on Civil Rights, Federal Civil Rights Enforcement Effort, p. 205, 208, 218.) In pointing to LEAA's failure to issue equal employment opportunity regulations (subsequently issued, *infra*), the Commission noted two internal Justice Department memoranda, one from the Civil Rights Division urging the adoption of such regulations and one from the Office of Legal Counsel concluding that LEAA possessed the authority to do so. (*Id.*, p. 189) Reflective of the confusion which seems to have infected LEAA's early civil rights efforts, and possibly accounting for some of the delay in LEAA's issuance of equal employment opportunity regulations, was an inconsistency of opinion within the Justice Department itself as to whether the employment practices of LEAA's grantees and subgrantees were subject to Title VI of the Civil Rights Act of 1964. On July 10, the Office of Legal Counsel concluded that Title VI was inapplicable. (Rehnquist, Proposed LEAA Regulations on Equal Employment Opportunity, p. 5.) But on October 23, 1970, the Office for Title VI stated that LEAA's programs of federal aid were covered by Title VI and focused specifically on discrimination in recruiting, hiring, assignment and promotion of police officers as a main problem. (Ewald, Title VI Enforcement Practices in Major Federal Programs, p. 67.) There is some indication that LEAA's early civil rights paralysis was due to a desire to avoid confrontation with law enforcement agencies. (Sellers, Background Material for the Reluctant Guardians: A Survey of the Enforcement of Federal Civil Rights Law; Collected for the A. Philip Randolph Institute; Dec. 1969; p. 1-66.) For whatever reason, LEAA's equal employment opportunity regulations were not published until December 31, 1970.

LEAA'S EQUAL EMPLOYMENT OPPORTUNITY REGULATIONS

LEAA's equal employment opportunity regulations appear at 28 CFR 42.201 *et seq.* The claimed authority for their issuance is 5. U.S.C. 301 and Section 501 of the Omnibus Crime Control and Safe Streets Act of 1968. Section 301 of Title 5 of the United States Code is a part of the Administrative Procedure Act and authorizes the head of an executive department to prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. Section 501 of the crime control act is LEAA's general rulemaking authority.

The purpose of LEAA's new regulations is stated to be the enforcement of the provisions of the Fourteenth Amendment by eliminating discrimination on the grounds of race, color, creed, or national origin in the employment practices of state agencies or offices receiving financial assistance from LEAA. Covered are the employment practices of planning agencies (though not their composition, see p. 5, *infra*), law enforcement agencies and other agencies or offices of states or units of general local government administering, conducting or participating in any program or activity receiving financial assistance from LEAA. (28 CFR 42.201.) Applicants for LEAA funds are required to provide nondiscrimination assurances and to obtain nondiscrimination assurances from their governmental subgrantees, contractors or subcontractors. (28 CFR 42.204.) Recipients are required to submit compliance reports. (28 CFR 42.205.) Provisions also require periodic compliance reviews and authorize complaints to be filed by any person who believes himself or any specific class of individuals to be subjected to discrimination. (28 CFR 42.107 incorporated by reference in 28 CFR 42.206.) Compliance with the regulations is seen as being obtained by one of two means, termination of or refusal to grant or to continue funding or other means authorized by law, with a clearly stated preference for the latter. (28 CFR 42.206 and 42.108 (c) and (d).) The regulations also contain a prohibition against construing any provision as requiring recipients to adopt percentage ratios, quota systems or other programs to achieve racial balance or to eliminate racial imbalance. (28 CFR 42.203.)

LEAA'S REGULATIONS AND THE RACIAL COMPOSITION OF PLANNING BOARDS

All LEAA planning and block action grants are channeled through state planning agencies. State planning agencies receive and distribute by far the largest portion of LEAA's funds. (See LEAA 1970, ch. 1). Despite the central and significant role played by state planning agencies in LEAA's grant delivery systems, LEAA's regulations contain no provision prohibiting racial discrimination in the board composition of such agencies, and that omission seems to have been intentional.

On October 23, 1970, the Justice Department's Office for Title VI, in a memorandum addressed to Jerris Leonard, then head of the Civil Rights Division and now Administrator of LEAA, advised Mr. Leonard that one of the main problems of racial discrimination in law enforcement agencies receiving federal assistance was lack of representation of minority groups in planning agencies. (Ewald, Title VI Enforcement Practices in Major Federal Programs, p. 67.) Mr. Leonard, in a letter addressed to the Chairman of the Senate's Judiciary Committee declared, in March of 1971, that LEAA's equal employment opportunity regulations were not intended to apply to the appointment or selection of members of state planning agency supervisory boards.

The problem of discrimination in the appointment of selection of members of state planning agency boards is far from speculative. In the summer of 1969, a suit was filed in the United States District Court for the Southern District of Mississippi challenging the makeup of the Mississippi Commission on Law Enforcement and the State Division of Law Enforcement Assistance and containing the serious allegation that racial discrimination in the appointment of those agency boards has resulted in the racially discriminatory allocation of LEAA benefits. The complainants claim that Negroes have been intentionally excluded from the Commission. (*Allen* v. *Mississippi Commission on Law Enforcement* (S.D. Miss. Civil No. 4487).) In his March, 1971 letter to the Chairman of the Senate's Judiciary Committee, LEAA's Administrator indicated that he believed that the questions raised in the *Allen* case were serious ones, but that neither LEAA nor the Civil Rights Division had conducted an investigation of the complaints in the case or discussed with the Governor of Mississippi the racial composition of the state agencies involved in the suit. What LEAA had done, however, since the filing of the *Allen* case, was to entrust to the state agency boards, whose allocations of LEAA funds had been challenged as racially biased in that case, more than two million dollars in grants. (LEAA 1970 Grants and Contracts, p. 1.)

LEAA'S REGULATIONS AND PREAWARD COMPLIANCE REVIEWS

LEAA's equal employment opportunity regulations contain no requirement for preaward compliance reviews, not even for substantial grants. Other federal agencies conduct such reviews. The Office of Federal Contract Compliance, which implements the provisions of Executive Order 11,246 has required pre-award compliance reviews for contracts involving one million dollars or more. (41 CFR 60-1.20(d).)

There are no cogent reasons why, when the federal government exerts its responsibility to avoid subsidizing racially discriminatory practices by means of the pre-award compliance review procedure in the area of contract compliance, it should not employ similar means in the area of grants. Indeed, since a grant is essentially a gift of money, the analogy would seem to apply *a fortiori*. If government agencies are required to conduct pre-award compliance reviews before they can purchase a million dollars worth of goods or services from a contractor, such agencies ought certainly to be similarly required to conduct pre-award compliance reviews before they give a million dollars outright to a grantee.

In 1970 alone, block action grants in excess of one million dollars were given by LEAA to thirty-six state planning agencies and planning grants in excess of one million dollars were given to two state planning agencies. In three additional states the planning and block action grants added together totaled more than one million dollars. (LEAA 1970 grants and contracts, p. 1.) As was pointed out in the introduction, budgetary authorization for LEAA for the fiscal year 1973 reflects a sharp increase, and presages substantial increases in monies available for block action grants.

Indicative of the need for some sort of preaward compliance procedure is a situation involving the Washington, D.C., Metropolitan Police Department. On April 10, 1970, a lawsuit was filed in the United States District Court for the District of Columbia by several Negro members of the Metropolitan Police Department against their employer alleging discrimination in the promotion procedures of the department. *Davis* v. *Washington* (D.D.C. Civil No. 1086-70). On May 1, 1970, LEAA gave more than a million dollars to the District of Columbia Criminal Justice Planning Agency for approximately one thousand additional police officers for the Metropolitan Police Department. (LEAA 1970 grants and contracts, p. 75.)

Similarly, more than two million dollars was given to the Mississippi Division of Law Enforcement Assistance during 1970 while suits were pending contesting the racial composition of the Mississippi Commission on Law Enforcement (the *Allen* case discussed *supra*) and charging the Mississippi Highway Safety Patrol with systematic exclusion of Negroes. (*Morrow* v. *Crisler* (S.D. Miss. Civil No. 4716).) With reference to the

Mississippi Highway Safety Patrol (which, according to the court's findings in the *Morrow* case, has never employed a Negro patrolman throughout its entire history) LEAA's grants during 1969, 1970 and 1971 have totalled more than a quarter of a million dollars, according to a letter from John E. Brown, Grants Manager, Division of Law Enforcement Assistance, Jackson, Mississippi.

There are other pending lawsuits in federal courts charging police departments with employment discrimination: *Allen* v. *Mobile* (S.D. Ala.; March, 1969; Civil No. 5409–69–p). *Castro* v. *Beecher* (D. Mass.; Sept. 1970; Civil No. 70–120–W). *Pennsylvania* v. *O'Neill* (E.D. Pa.; Dec. 1970; Civil No. 70–3500). *Emeryville Citizens* v. *Neary* (N.D. Cal.; May 1970; Civil No. C–71 940–WTS). *Leonard* v. *Columbus* (N.D. Ga.; June 1971; Civil No. 15–14). *Penn* v. *Stumpf*, 308 F.Supp. 1238 (N.D. Cal. 1970). *Cintron* v. *Vaughan* (D. Conn.; Dec. 1969; Civil No. 13,578). In addition many complaints charging police departments, courts or correction agencies with discrimination are presently pending with state fair employment practices commissions: *Coleman* v. *Missouri State Penitentiary* (March, 1970; No. E–3/71–2696; Missouri Commission on Human Rights). *Blanks* v. *St. Louis Metropolitan Police Dept.* (Sept., 1971, No. E–9/71–3092; Missouri Commission on Human Rights). *Selders* v. *Shawnee County* (July, 1971; No. 891–71; Kansas Commission on Civil Rights). *Alonzo* v. *Kansas Law Enforcement Training Center* (June, 1971; No. E64–71W; Kansas Commission on Civil Rights). *Massachusetts Commission Against Discrimination* v. *Massachusetts Dept. of Public Safety* (Nov. 1970; No. 70–258–R/C/NO; Massachusetts Commission Against Discrimination). *Martin* v. *Indiana State Police* (March, 1970; No. 01450; Indiana Civil Rights Commission). *Hunter* v. *Pennsylvania State Police* (Nov., 1969; Pennsylvania Human Relations Commission). *Pennsylvania Human Relations Commission* v. *Penn Hills Police Civil Service Commission* (June, 1971; Pennsylvania Human Relations Commission). *Fuller* v. *Hartford Police Dept.* (Aug., 1969; FEP 102–1; Connecticut Commission on Human Rights and Opportunities). In none of the jurisdictions involved in any of the above complaints has LEAA made any pre-award civil rights compliance review prior to its issuance of grants.

We do not claim that the allegations of any or all of the above named lawsuits or complaints still pending are true or that any of the LEAA grants referred to above were in fact used to subsidize racial discrimination. We do submit that LEAA bears a responsibility to assure that no funds which it distributes are used to finance racially discriminatory practices and that, in giving large sums of money to agencies which have been publicly accused of engaging in racially discriminatory practices without first inquiring into the validity or lack of validity of these accusations, LEAA is not discharging that responsibility. In this context, it is noteworthy that the United States District Court for the Southern District of Mississippi, in its decree of Sept. 29, 1971, enjoining the Mississippi Highway Safety Patrol from continuing its racially discriminatory employment practices, found that since January 1, 1968, 197 persons, all white, have been hired as Mississippi Highway Patrolmen and that since June 1969, the Department of Public Safety and its Highway Safety Patrol, according to exhibits filed in the case, had been the recipients of federal financial assistance in excess of $30,000 for training and other purposes pursuant to the provisions of the Omnibus Crime Control and Safe Street Act of 1968. (*Morrow* v. *Crisler;* Civil No. 4716; Memorandum of Judge Nixon.) Mississippi's Division of Law Enforcement Assistance grants manager however, has acknowledged the amount to be in excess of a quarter of a million dollars. (*Supra,* p. 8.)

LEAA'S REGULATIONS AND THE PREFERENCE FOR JUDICIAL REMEDIES

LEAA's equal employment opportunity regulations contain a clearly stated preference for judicial remedies for racial discrimination:

"[W]here the responsible Department official determines that judicial proceedings (as contemplated by section 42.103(d)) are as likely or more likely to result in compliance than administrative proceedings (as contemplated by section 42.108(c)), he shall invoke the judicial remedy rather than the administrative remedy . . ." (28 CFR 42.206)

Although the wording of the regulation seems to leave open the possibility of "administrative proceedings," i.e. funding cut-offs, under an appropriate set of circumstances, statements by LEAA's administrator have made it clear that the funding cut-off possibility is too remote for serious consideration. In his letter to the Chairman of the Senate's Judiciary Committee, the Administrator stated that he did not believe the Constitution absolutely bars the provision of federal funds to a police agency which failed to provide equal employment opportunity and that he did not favor withholding of funding as a means of enforcing compliance. More significant perhaps than the judicial preference itself is the "rather than" tenor of the regulation, i.e. LEAA's indication that it will consider court proceedings *instead of* funding cut-off proceedings. In this respect, LEAA's regulatory preference for judicial procedures runs counter to the admonition expressed by the United States Commission on Civil Rights with respect to Title VI compliance sanctions:

"(T)he mechanism of judicial enforcement, intended to be used in addition to the administrative procedure leading to fund termination, is currently being used instead of the administration procedure, thus further weakening the force of Title VI." (United States Commission on Civil Rights; Federal Civil Rights Enforcement Effort, 1971, p. 265.)

If a duty exists on the part of the federal government not to subsidize racial discrimination in its funding programs, then certain specific responsibilities arise independent of judicial actions. Once the granting agency becomes convinced that a grantee is practicing racial discrimination, it can no longer, without fault or complicity, renew the grant. Similarly, once a grantee has been adjudicated guilty of practicing racial discrimination, a specific responsibility arises on the part of the granting agency to recover any funds which were used to subsidize the racially discriminatory practices.

LEAA'S REGULATIONS AND THE HANDLING OF COMPLAINTS

LEAA's regulations contain requirements for prompt investigations and attempts at informal resolutions of complaints. (28 CFR 42.107(d) and (d) incorporated by reference in 28 CFR 42.206(a).)

A recent memorandum of an Administration of Justice Specialist within the Community Relations Service of the United States Department of Justice has pointed to some difficulties involving the investigation and informal resolution sections of LEAA's regulations and LEAA's procedures for handling complaints in general. With reference to LEAA's lack of action on a complaint of employment discrimination filed by the Chicago based Afro-American Patrolmen's League against the Chicago Police Department, the memorandum observes:

"LEAA has not articulated standards that would determine racial imbalance in a law enforcement agency, nor has LEAA articulated how it will process civil rights complaints, nor has it formulated the necessary administrative papers which would give some guidance as to what information is expected from a complainant. LEAA has not determined who would make the investigation of a complaint. LEAA has not formulated standards that would require a law enforcement agency to adopt programs that would eliminate discrimination in policies and practices." (Petterson, Memorandum on Afro-American Patrolmen's League Complaint of Discrimination by the Chicago Police Department; August 4, 1971)

Indecision and lack of action in the processing of complaints of employment discrimination, lack of guidance as to what information is expected of a complainant and confusion as to who is to investigate complaints, all can, and predictably will, have a chilling effect on the filing of complaints by persons who have been subjected to employment discrimination. Such defects can be remedied by a clear delineation of responsibilities and a more detailed description of the complaint procedure in the regulations.

LEAA'S REGULATIONS AND AFFIRMATIVE ACTION PLANS

As to Mr. Petterson's concern that LEAA has not articulated standards that would determine racial imbalance in a law enforcement agency, it should be pointed out that LEAA's regulations (28 CFR 42.203) as well as its establishing legislation (42 U.S.C. 3766 (b)) contain provisions prohibiting requiring the adoption of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency. However, the Civil Rights Commission has observed that there is a clear distinction between action to achieve racial balance and action to eliminate overt practices of discrimination in employment. (Federal Civil Rights Enforcement Effort, 1971, p. 189.) LEAA is nowhere prohibited from requiring affirmative action plans to assure minority group persons full and equal employment opportunities. Affirmative action programs involve sets of specific and result-oriented procedures to which an employer commits himself to apply good faith efforts (41 CFR 60–2.10), and need not involve percentage ratios or quota systems. Indeed LEAA's involvement in the affirmative action approach would seem to be mandated in light of such cases as *Morrow* v. *Crisler, supra,* which challenged the failure of a large state police department in a state with a substantial nonwhite population ever in its history to have employed a nonwhite trooper. The U.S. Commission on Civil Rights has long advocated the inclusion of an affirmative action requirement in federal grant systems. (U.S. Commission on Civil Rights, For All The People . . . By All The People; 1969; p. 130).

The Office of State Merit Systems of the United States Department of Health, Education and Welfare has suggested a variety of methods for use by state and municipal governments in structuring affirmative action programs to produce equal employment opportunity for minority persons without reference to percentage ratios, quota systems and the like. (U.S. Dept. of HEW, an Equal Opportunity Program For State And Local Government Employment; July, 1970.)

LEAA'S REGULATION AND MINIMUM HEIGHT REQUIREMENTS

The United States Equal Employment Opportunity Commission has, in its National Origin Guidelines, prohibited employers from using minimum height requirements when they operate to deny a class of persons equal employment opportunities and are not necessary for the performance of the work involved. (29 CFR 1606.1.) As the EEOC does not have jurisdiction over state or municipal employment, its National Origin Guidelines are not applicable to police, court or correction agencies. Recently the Advisory Commission on Intergovernmental Relations, in its report on State-Local Relations in the Criminal Justice System found that:

"Unduly restrictive height and weight qualifications . . . effectively bar many potential recruits—sometimes from specific minority groups—from police service." (Advisory Commission on Intergovernmental Relations. State-Local Relations in the Criminal Justice System: August, 1971; p. 165.)

It is generally conceded that persons of Mexican and Puerto Rican ancestry, American Indians, and persons of Oriental descent are, as classes, shorter in physical stature than Anglo-American. Accordingly, these groups are disproportionately disadvantaged by the imposition of height requirements for public employment. The issue is whether such requirements are necessary for the performance of the work involved. Even a cursory examination of the existing minimum height requirements of the various state and municipal police departments would seem to cast considerable doubt on arguments in favor of the requirement. The United States Marine Corps, for example, is able to function with a minimum height requirement of five feet for standard enlistment. The following breakdown from the State of New Mexico further illustrates the point:

Department and minimum height requirement

State Police, 5'9".
Albuquerque, 5'8".
Santa Fe, 5'7".
Las Cruces, 5'8".
Clovis, None.
Farmington, None.
Gallup, None.
Bernalillo County, 5'7'.
Dona Ana County, 5'10".
Santa Fe County, None.
Roswell, 5'7" (5'6" if well developed).
Hobbs, 5'8" (5'6" if well developed).
Carlsbad, 5'8" (5'6" if well developed).
Artesia, 5'7" (5'6" if well developed).

(Memorandum from the Director of the New Mexico Governor's Policy Board for Law Enforcement; January 25, 1971.)

It is difficult to argue that the citizens of Santa Fe County, where there is no minimum height requirement, are receiving less adequate performance from their policemen than the citizens of Dona Ana County, where there is a 5'10" minimum height requirement. And it is clearly irrational that individuals who are 5'7" in height and otherwise qualified can become policemen in Santa Fe, Clovis, Farmington, Gallup, Bernalillo County, Santa Fe County, Roswell, Hobbs, and Artesia, but not in Albuquerque, Las Cruces, Dona Ana County and Carlsbad and not with the State Police.

The New Mexico situation can be viewed as a microcosm of the situation across the nation—a patchwork of agencies with no minimum height requirements, with high minimum height requirements, with flexible minimum height requirements. Such a situation is patently unfair to the many minority group citizens throughout the United States who as a class are shorter in physical stature than Anglo-Americans and whose eligibility to pursue a career in law enforcement consequently depends upon the accident of their residence combined with an inherited physical trait.

Although LEAA was made aware of the discriminatory impact of minimum height requirements as long ago as February of 1971 by the United States Commission on Civil Rights, no response has been formulated as yet.

LEAA'S REGULATIONS AND SEX DISCRIMINATION

LEAA's regulations are intended to eliminate discrimination on account of race, color, creed and national origin. No mention is made as to discrimination on account of sex. If LEAA had invoked Title VI of the Civil Rights Act of 1964 as authority for the issuance of its equal employment opportunity regulations, the omission of the category "sex" would have been understandable, since title VI extends only to discrimination on account of race, color and national origin. LEAA has not invoked Title VI as its authority, however, and has indicated that the purpose of its regulations is to enforce the provisions of the Fourteenth Amendment. (28 CFR 42.201(a).) The Fourteenth Amendment has been held to prohibit discrimination on account of sex. (*Reed* v. *Reed*, 40 Law Week 4013; U.S. Supreme Court, November 22, 1971). The omission by LEAA of the category "sex" is particularly curious when one notes the fact that LEAA enlarged the Title VI list of categories by adding "creed."

Other *federal* protections against sex discrimination in employment in criminal justice systems do not exist. Title VII which prohibits discrimination on account of sex exempts states and their political subdivisions (therefore criminal justice systems) from its coverage and Title VI which potentially covers criminal justice systems does not prohibit discrimination on account of sex.

Some *state* fair employment practices commissions, however, have jurisdiction over both discrimination on account of sex and criminal justice systems. A survey of the pending cases before such state commissions suggests that sex discrimination in state and local criminal justice systems is perceived to be a problem in a number of jurisdictions. *McClanahan* v. *Hartford Police Dept.* (May 1970; FEP–SEX 26–1; Connecticut Commission on Human Rights and Opportunities). *Alston* v. *State Police Dept.* (Sept., 1971; FEP–SEX 44–1; Connecticut Commission on Human Rights and Opportunities). *Verdini* v. *North Branford Police Dept.* (Aug., 1971; FEP–SEX 47–3; Connecticut Commission on Human Rights and Opportunities). *McAllister* v. *Colorado Division of Juvenile Parole* (Colorado Civil Rights Commission). *Anonymous* v. *Massachusetts Correctional Institution* (Aug., 1971; No. 71–EMP–212–C/S; Massachusetts Commission Against Discrimination). *Anonymous* v. *Boston Penal Institution Dept.* (July, 1971; No. 71–EMP–233–C/S; Massachusetts Commission Against Discrimination). *Rouse* v. *Nebraska Commission on Crime and Law Enforcement* (Sept., 1971; Nebraska Equal Opportunity Commission).

LEAA'S REGULATIONS AND CORRECTIONAL FACILITY LOCATIONS

In 1970 the Crime Control Act was amended to authorize LEAA to make construction grants to states for correctional institutions. (P.L. 91–644). Under the amendment, the state's comprehensive plan which is submitted to LEAA must include satisfactory assurances that the state is engaging in "projects and programs to improve the recruiting, organization, training, and education of personnel employed in correctional activities." (*Id.*, sec. 6.) In addition, LEAA has the duty to prescribe, by regulation, basic criteria for correctional facility construction grant applicants. (*Ibid.*)

In the aftermath of the Attica tragedy, one of the factors widely cited as exacerbating tensions is the existence of prison populations that are composed primarily of minority group persons and are supervised by correctional forces that are almost exclusively white. It has been reported that, although 68 percent of the inmate population in the state's correctional institutions is nonwhite (black and Puerto Rican), whites hold 93.8 percent of all staff positions in the correctional system. (New York Times, Sunday, October 24, 1971, p. 74.) The state's correctional facilities are mostly located in rural areas (e.g. Attica, Auburn, Clinton, Elmira, Dannemora, etc.). This is in contrast with New York City's correctional system in which blacks and Puerto Ricans account for nearly half the staff. (*Id.*) Officials of the state correctional department at Albany have explained that the remoteness of many of the state facilities from centers of black population is a primary reason for the dearth of minority group employees. (*Id.*)

The issue then is whether the location of correctional facilities in rural areas is in itself a sufficient excuse for the absence of minority staff, and whether LEAA has an obligation to assure that steps are taken by state officials to deal with this problem. We take no position on whether or not it is sound policy to locate correctional facilities in rural or suburban areas. But we do maintain that one of the problems of any such location is the provision of equal employment opportunities.

The location of institutional facilities, particularly government facilities, has been recognized as having civil rights implications in the area of equal employment opportunities. (S. 1283, the Government Facilities Location Act of 1971, introduced by Senator Ribicoff.) The General Counsel of the United States Equal Employment Opportunity Commission has taken the position that corporate relocations to suburban areas where minority group workers do not reside constitutes a violation of Title VII of the Civil Rights Act of 1964 unless the corporation has taken steps to assure equal employment opportunity. (Hebert, *et al.*; Memorandum to William H. Brown III, Chairman, EEOC, on Employment Discrimination by Relocation of Plant and Corporate Headquarters; July 7, 1971.)

If, as New York state correctional officials have indicated, the locations of correctional facilities pose special problems for the recruitment of minority group employees, and LEAA possesses a statutory responsibility to require correctional agency programs to improve recruitment, then the regulations to implement that responsibility should address the problems associated with correctional facility locations. The United States Court of Appeals for the Fourth Circuit has recently ruled that LEAA *must* consider the environmental impact of a proposed Virginia prison facility before providing funds for its construction (*Ely* v. *Velde* 40 Law Week 2275; Nov. 8, 1971), observing that the provisions of the Safe Streets Act must not be read "so broadly as unnecessarily to undercut solutions adopted by Congress to preserve and protect other societal values, such as the natural and cultural environment." (Quoted from The Washington Post, November 10, 1971.) LEAA should, by regulation, require correctional agencies to take steps to assure equal employment opportunities whenever a federally assisted correctional facility is proposed to be located in an area where minority group persons do not reside.

Examples of appropriate steps to assure equal employment opportunities in such relocations have been provided by EEOC's General Counsel. They include: (1) The institution of special recruiting efforts in the nearest areas of minority residence; (2) the payment of commuting and moving expenses, as well as assistance in the search for housing, and (3) the establishment of goals for minority employment to reflect the proportions of minorities at the original location. (Herbert, *et al.*, Memorandum, *supra*, at p. 13, 14.)

POINTS AND AUTHORITIES

The Law Enforcement Assistance Administration has an affirmative constitutional duty to prevent discrimination by its grantees and subgrantees.

A. That the strictures imposed upon states by virtue of the Equal Protection Clause of the Fourteenth Amendment apply to the federal government by virtue of the Due Process Clause of the Fifth Amendment has not been seriously doubted since *Bolling* v. *Sharpe*, 347 U.S. 497 (1954).

B. The government, whether federal or state, may be held responsible for the discriminatory conduct of others if it has become involved in assisting or supporting the activities of the party which has discriminated. *Cooper* v. *Aaron*, 358 U.S. 1 (1958). *Burton* v. *Wilmington Parking Authority*, 365 U.S. 715 (1961). *Green* v. *Kennedy*, 309 F.Supp.

1127 (D.D.C. 1970), appeal dismissed 398 U.S. 956 (1970). Thus, even though private discriminatory conduct does not ordinarily abridge the Fourteenth Amendment, a constitutional violation is established if ". . . to some significant extent the State in any of its manifestations has been found to have become involved in it." *Burton* v. *Wilmington Parking Authority, supra,* at 722. Similarly, "State support of segregated schools *through any arrangement, management, funds, or property* can not be squared with the [Fourteenth] Amendment's command that no State shall deny to any person within its jurisdiction the equal protection of the laws." *Cooper* v. *Aaron, supra,* at 19. (Emphasis supplied). Even such indirect aid as the granting of a tax exemption for private racially segregated schools is sufficient to meet the test. *Green* v. *Kennedy, supra.*

C. A right of action lies against the Federal government to restrain the government from supporting racially discriminatory practices. *Gautreaux* v. *Romney,* ——— F2d ——— (7th Circuit, September 10, 1971). *Hicks* v. *Weaver,* 302 F.Supp. 619 (E.D. La. 1969). *Green* v. *Kennedy, supra.* Cf. *United States* v. *Frazer,* 317 F.Supp. 1079 (M.D. Ala. 1970). In *Gautreaux* and *Hicks,* HUD was held, under the Due Process Clause of the Fifth Amendment, to be jointly responsible with public housing authorities for the latter's discriminatory practices. The *Frazer* case dealt with racial discrimination in the administration by the State of Alabama of a galaxy of federally financed grant-in-aid programs, including Old Age Assistance, Medical Assistance for the Aged, Aid to Families with Dependent Children, Maternal and Child Health and Cripple Children's Services, Child Welfare Services, Aid to the Blind, Aid to the Permanently and Totally Disabled, Hospital Survey and Construction, Comprehensive Health Planning and Publice Health Services, Unemployment Compensation, Work Experience and Training and Civil Defense. In issuing its injunction, the Court observed that—

"The interest of the United States in these federally financed programs is not substantial, rather it is so considerable that the Government, through its duly constituted officials, including the Attorney General of the United States, has a constitutional obligation to eliminate racial discrimination in their operation. Failure on the part of any of these governmental officals to take legal action in the event that racial discrimination does exist would constitute dereliction of official duty." (317 F.Supp. at 1084).

CONCLUSION

The problem of employment discrimination in the criminal justice systems of the nation is widespread. A 1970 Justice Department memorandum focused on the scope of the problem:

"The main problems of racial discrimination in law enforcement agencies receiving federal assistance are lack of representation of minority groups in administrative positions, in planning agencies, and on citizen advisory boards; discrimination in recruiting, hiring, assignment, and promotion of police officers; racially discriminatory policies of providing protection for citizens; racially discriminatory law enforcement practices; and racially discriminatory practices regarding pardons, paroles, and correctional institutions." (Ewald, Title VI Enforcement Practices in Major Federal Programs; October 23, 1970; p. 67.)

Concern for the problem, however, is also becoming widespread and has manifested itself in the formation throughout the country of organizations of minority group policemen, such as Chicago's Afro-American Patrolmen's League, Washington, D.C.'s Brotherhood of Policemen and Citizens, San Francisco's Officers for Justice, Newark's Bronze Shield, Cleveland's Shield Club, Dayton's Black Police Association and the Guardians of New York, Hartford, Pittsburgh, Philadelphia, Indianapolis and Detroit. In the wake of Attica, the Ossining Brotherhood of New York State Correction Officers is making efforts to organize black correction officers through the state. Recently, a National Conference of Minority Police was founded in St. Paul, Minn., and LEAA itself has recently funded a Center for Criminal Justice Agency Organization and Minority Employment Opportunities at Marquette University's Law School.

LEAA's response to the problem, however, has, except for the funding of the Marquette Center, been less than vigorous. Last month, the United States Commission on Civil Rights declared:

Overall, LEAA's civil rights performance has been grossly inadequate. The Office of Civil Rights Compliance continues to be severely understaffed. Moreover, LEAA's compliance program is virtually nonexistent, with the exception of an occasional complaint investigation. The importance of the anticipated issuance of a compliance report form is diminished by the apparent lack of planning on what will be done with this information once collected." (U.S. Commission on Civil Rights, the Federal Civil Rights Enforcement Effort: One Year Later; November, 1971; p. 149.)

It is clear that, one year after their enactment, LEAA's equal employment opportunity regulations are not working. Complaints are not being processed satisfactorily, according to the U.S. Commission on Civil Rights:

"The focus of LEAA's compliance program thus far has been on processing of complaints, but even here LEAA's performance has been inadequate. For example of the 18 complaints LEAA received during the second half of Fiscal Year 1971, which relate to employment or Title VI matters, twelve are still pending. In one case LEAA is awaiting information from a recipient concerning its allocation of funds in order to respond to a complaint it received 5 months earlier." (*Id.* at 146.)

LEAA's compliance review program seems to be in severe disarray:

"LEAA's compliance program has not noticeably improved since this Commission's October 1970 report. LEAA still has not conducted a satisfactory Title VI or equal employment opportunity (EEO) compliance review. At this juncture, LEAA has not even determined precisely what aspects of its programs are covered by Title VI." (*Ibid.*)

Moreover, the Civil Rights Commission is still awaiting LEAA's reply to its August, 1971, communication in which it requested that LEAA conduct a compliance review of a state with a 45 per cent black working age population and a state highway patrol which is less than one per cent black. (See: South Carolina Council on Human Relations, Black Employment in Selected Agencies of South Carolina State Government, May 7, 1971.)

LEAA, which was put in the unique position of funding a national effort to improve the criminal justice system, now finds itself uniquely equipped to influence the employment practices of some 40,000 state and municipal police, court and correction agencies. That its equal employment opportunity regulations be positive, assertive and effective is essential to any effort in this regard.

[Lawyer's Committee for Civil Rights Under Law]

CIVIL RIGHTS ENFORCEMENT

Civil rights enforcement at LEAA, in the words of Roy Wilkins, Chairman of the Leadership Conference on Civil Rights and head of the NAACP, is "a glaring and blatant disregard for the laws of this land." The LEAA enforcement unit, headed by attorney Herbert Rice, is understaffed and underbudgeted.[1] More importantly, LEAA has defined the authority of the unit narrowly and has issued an inadequate set of anti-discrimination regulations that fail to give full force to the mandate of Title VI of the Civil Rights Act of 1964.

LEAA hands out millions of dollars annually to a wide range of criminal justice agencies. These agencies are fast-growing segments of the public service labor market and as such they present significant employment opportunities for minorities. Lax civil rights enforcement has the effect of denying these opportunities. Equally important are the operations and practices of the agencies themselves in dealing with minority individuals and communities. For many minority persons the police are one of the few governmental agencies with which they have constant contact; for others, particularly youth, unfair treatment by courts and corrections agencies is a common experience. The massive federal funding has created an opportunity for federally induced reform that prior to LEAA was lacking. LEAA has the power and the responsibility to make certain that the grantees of federal anticrime funds take steps to correct all forms of discriminatory practices. Unfortunately, the record to date shows that LEAA is not fulfilling this responsibility.

The Problem: (A) *Employment Discrimination: A Growing Job Sector Closed to Minorities.*

Of the three major agencies in the criminal justice system—police, courts and corrections, the only reliable employment figures concern the police. The Bureau of the Census has estimated that in 1970 federal, state and local governments employed approximately 538,000 persons for police protection functions.[2] This represented a 4.7% increase in employment over the previous year, a rate of growth considerably higher than most segments of the public sector.

There are no reliable figures on police hiring discrimination against minority group members. Systematic statistics simply are not kept (and LEAA's statistic section has not allocated any of its $4,600,000 budget to this purpose). Estimates of civil rights groups suggest that nationwide, less than 12% of police force members are black or Spanish-speaking persons.[3] Of this number a very small portion are in management or policy-making positions. Some indication of the extent of racial discrimination in law enforcement agencies is provided by the number of lawsuits and administrative proceedings pending against such agencies. In January 1972 there were at least 15 such proceedings, challenging recruitment, testing, promotion and other practices.

The situation in regard to women is even worse. The Police Foundation has estimated that there are approximately 6,000 policewomen (around 1%) in the United States and that most of these women are hired to do jobs considered traditionally "feminine," such as working with juveniles or female prisoners, typing and clerical work or switchboard duties. Police departments often have quotas for women and/or special entrance requirements, such as higher educational requirements.[4]

Even where police departments have conducted widely publicized campaigns to recruit minorities, the minority staff on the force remains small relative to the overall population of the area being served. In Washington, D.C., 73% of the population is black. After a massive recruitment drive in 1970 which brought in 2,000 police and brought the force to a full authorized staff of 5,100[5] blacks constituted only 37% of the force. Critics—including litigants in a federal dis-

---

Footnotes at end of article.

trict court complaint[6]—alleged that discriminatory tests excluded black candidates from consideration for police posts and that out-of-city recruiting was encouraged to counterbalance recruitment in heavily black Washington.[7]

In Chicago in a complaint filed by the Afro-American Patrolmen's League and now under investigation by LEAA, it is alleged that in a city whose population is 33% black, only 17% of the police force is black.[8] The recruitment figures, however, show that future prospects are worse: of the last 600 recruits hired, less than 10% were black.[9] The complaint charges that the Chicago Police Department systematically discriminates in testing, medical examinations and hiring as well as in promotional policies of black and minority group candidates.

In the areas of courts and corrections, there are even fewer accurate figures available. Persistent efforts by journalists have uncovered some indicators. A Washington *Post* reporter estimated that non-whites comprise 40–50% of the nation's prison populations (although only 12.5% of the total population); prison guards, however, are 95% white.[10] The New York *Times* reviewed the New York State prison facilities and determined that 68% of the inmate population was Black and Puerto Rican, but that 93.8% of the total prison staff was white. At Attica State Penitentiary, the scene of a recent tragedy, the inmate population was 85% Black and Puerto Rican, but the staff of 380 officers included only one person somewhat broadly identified as "Black or Spanish-speaking."

As far as the courts are concerned, the National Bar Foundation estimates that of some 20–25,000 judges in the United States, 280, or around 1% are Black. There are no similar nationwide figures for other minorities. Among federal judges, however, as of early 1972 there were 7 women on the bench of a total of 636 judges; only one of these was on a circuit court of appeals.

B. *Agencies of the Criminal Justice System Discriminate Against Minorities.*

A number of studies have documented the fact that minority persons, are processed through the criminal justice system in greater numbers than their percentage of the population. A study of the Boston courts completed by the Lawyers' Committee for Civil Rights in September 1970 showed that although the Black population of that city is only 16.3%, Blacks constituted 53% of the caseload of the city's criminal courts. The predominance of Blacks in the system could be explained by greater criminality among that group. However, figures on the treatment of minorities once they are in the system indicate that the overrepresentation is due, in substantial part, to racial discrimination. Of all those involved in the criminal justice system, minorities tend to receive harsher treatment whether it involves the initial decision to arrest, the decision concerning the charges to be levied, the decision whether to grant or deny bail, the imposition of sentences or the determination to grant probation or parole. For example, in an area where the figures are easy to calculate, the imposition of capital punishment, it has been shown that although Blacks comprise 10% of the population between 1930 and 1966, they accounted for 54.5% of those persons executed for capital crimes.[11] It is, of course, impossible to correlate with exactness the relationship between the composition of the staff of criminal justice agencies and the treatment meted out to minority persons or minority neighborhoods. However, it is clear beyond dispute that white dominated police forces have in the past been unsympathetic to cultural characteristics of the minority populations they serve and consequently deal with minority persons in harsher terms. Similarly, it is evident that the tensions created by corrections facilities located in all white communities and staffed by white guards, inhibit and retard any rehabilitative effect the institutions may have.

LEAA's Role. LEAA has belatedly begun to deal with problems related to employment discrimination. It has not, however, even attempted to face the problem of discriminatory actions in the operations of criminal justice agencies.

The LEAA program was in operation for almost two years before a civil rights compliance office was established. Despite the fact that a number of Presidential Commissions had documented problems of discrimination, LEAA distributed massive sums of money in FY 1969 and FY 1970, particularly to police departments, with no consideration of civil rights problems or issues.

In July 1970, the Office of Legal Counsel of the Department of Justice issued a legal position letter justifying the two years of inaction by declaring that Title VI of the Civil Rights Act of 1964 was not applicable to the employment practices of LEAA grantees and subgrantees.[12] Almost immediately, the U.S. Commission on Civil Rights criticized the letter as an "overly narrow view" of LEAA's authority with respect to employment practices.[13] Specifically, the Commission pointed out that LEAA was "The only Federal agency with a significant Title VI program which does not have an agency civil rights office." A month later, on October 23, 1970, a third opinion—from the Justice Department Office for Title VI, addressed to Jerris Leonard in his capacity as Assistant Attorney General for the Civil Rights Division—argued forcefully, and apparently convincingly, that LEAA programs were covered by Title VI.[14] Regulations were finally issued—two years after the passage of the Safe Streets and Omnibus Crime Control Act—on December 31, 1970.[15]

In November, 1971, the Civil Rights Commission re-examined LEAA's civil rights compliance program and concluded that no substantial progress had been made.[16]

"LEAA's compliance program has not noticeably improved since this Commission's October, 1970 report. LEAA still has not conducted a satisfactory Title VI or equal employment opportunity (EEO) compliance review. At this juncture, LEAA has not even determined precisely what aspects of its program are covered by Title VI."

Although LEAA has emphasized its role in the processing of complaints against grantees, the Commission noted,[17]

"Even here LEAA's performance has been inadequate . . . of the 18 complaints . . . received during the second half of Fiscal Year 1971 . . . 12 are still pending. In one case, LEAA is awaiting information from a recipient concerning its allocation of funds in order to respond to a complaint it received five months earlier."

THE REGULATIONS

The regulations promulgated by LEAA prohibit certain discriminatory employment practices by planning, law enforcement and other agencies administering, conducting or participating in any program receiving LEAA funding, but they echo Sec. 518 of the Omnibus Crime Control and Safe Streets Act in declaring that—

"Nothing contained in this subpart shall be construed as requiring any such agency or office to adopt a percentage ratio, quota system or other program to achieve racial balance or to eliminate racial imbalance."

Grantees must provide assurances that they will comply with the nondiscrimination regulations, and must submit compliance reports. LEAA is required to make periodic compliance reviews and receive complaints of discrimination. LEAA has the power to terminate or refuse a grant, or to continue funding and use a judicial remedy; the regulations state a clear preference for the judicial remedy.

The LEAA regulations have been challenged as deficient by Catholic University's Center for National Policy Review[18] for the following reasons:

1. The regulations contain no provision prohibiting racial discrimination in the compoistion of the boards that formulate policy and make fund distribution decisions for the state planning agencies. The absence of minority representation in planning agencies was raised in the October 1970 Ewald memorandum, and in a suit challenging the composition of the Mississippi Commission on Law Enforcement . . . proceedings for a finding of discrimination.

* * * * *

LEAA has taken the position that pre-award reviews and possible grant denials based thereon, would interrupt law enforcement activities. This is doubtful since LEAA contributions represent only a small percentage of overall criminal justice expenditures. Further, there is less interruption from withholding a new grant initially than from a court order to suspend funding once a program is underway. LEAA sees no difficulty in giving financial support to police departments, courts or correctional institutions while litigation is pending challenging such agencies with employment discrimination.

3. Although the regulations appear to allow both fund cutoffs and judicial remedies in instances of discrimination, both Leonard and Herbert Rice have made it clear their distaste for fund cutoffs. Rice told us that "fund cutoffs hurt everyone—Blacks included." Mr. Rice felt that in most cases, agencies did not "intend" to discriminate, and that the real problems that faced his office were contained in "antiquated" personnel forms and tests. He told us that "cultural bias may be quite innocent" in job testing, and that his office would be most useful in providing "technical assistance" to reform first through persuasion, then through lawsuits. He would continue to offer "technical assistance" during the course of the suit. And, of course, no fund cutoff would occur except as a part of a court at the end of the litigation. The most important goal is "to keep LEAA money flowing to the grantee to fight crime in the streets."

4. Although the regulations contain requirements for prompt investigations and attempts at informal resolutions of complaints, LEAA has issued no guidance to complainants as to what information they must or should produce. Commenting on this situation, the Justice Department Community Relations Service said:[19]

"LEAA has not articulated standards that would determine racial imbalance in a law enforcement agency, nor has LEAA articulated how it will proces civil rights complaints, nor has it formulated the necessary administrative papers which would give some guidance as to what information is expected from a complainant."

5. Although section 518 of the Safe Streets Act prohibits a percentage ratio or quota system requirement with regard to minority hiring, there are other methods available for eliminating racial discrimination, such as affirmative action plans, that are not required by the regulations. The Center for National Policy Review pointed out that "[a]affirmative action programs involve sets of specific, result-oriented procedures to which an employer commits himself to apply good faith efforts (41 CRF 60–2.10), and need not involve percentage ratios or quota systems." As a model, they referred to the non-quota or ratio method for insuring equal employment opportunity, suggested to state and municipal governments by HEW in July 1970.[20]

LEAA's interpretation of Sec. 518 necessarily places a heavy enforcement burden on private litigants—instead of the government. In our interview with Jerris Leonard, he suggested that Sec. 518 of the Safe Streets Act bars any affirmative action to eliminate

---

Footnotes at end of article.

discrimination by grantees. Leonard called Sec. 518 "very debilitating" to civil rights enforcement and suggested that some private civil rights organization challenge its constitutionality. He would not, however, ask Congress to remove the debilitating language from the law.

6. The regulations do not prohibit employers from using minimum height requirements. Such requirements tend to discriminate against persons of Oriental, Mexican and Puerto Rican ancestry.

7. The regulations do not prohibit sex discrimination.[21]

THE STAFF AND ITS OPERATIONS

A. Staff—LEAA has made only minimal attempts to establish an effective and adequate civil rights compliance staff to process complaints. The civil rights compliance office presently has four authorized professional positions. Three additional professionals have been temporarily assigned to it; next years' budget requests four more slots. Although Leonard and Rice state that the limited staff constrains their enforcement ability, they are unwilling to request more than the four new positions because they are "not sure it would do any good." Most LEAA grant funding functions are being absorbed by beefed-up regional offices, but none of the regional offices will have a civil rights compliance officer out of a staff of approximately 26 persons. Instead, the national office will rely on reports filed by the LEAA audit staff, who in turn, will review the work of state auditors. The civil rights compliance office will, therefore, be dealing with data three levels from its source, collected by an overworked auditor whose primary concerns are fiscal.[22]

The chief compliance officer is an attorney who formerly was in (non-civil rights related) private practice; his attitude toward compliance problems and his appreciation of the various forms of discrimination is sometimes naive. For example, Rice told an NAACP representative[23] that it was very difficult to get agencies of state and local government to adopt nondiscriminatory hiring policies because "you are asking them to do something they have never had to do." The NAACP representative called this an "exhumed version of the community opposition theory which was a prevalent excuse several yeras ago for school districts that did not want to desegregate."

The Office of Civil Rights Compliance, at Mr. Leonard's direction, has taken steps to increase minority hiring within the LEAA offices themselves. Leonard has established a quota for all federal and regional offices, he has instructed them to reach one-third minority staffing. Reports from most of the regions indicate that this level is being met, although in a number of regions, minority hiring appears to be limited to lower level positions.[24]

B. Administrative Action to Reduce Discrimination—To improve minority police recruitment, the LEAA has given Marquette University a $390,000 two-year grant from Institute funds to provide technical assistance to state and local law enforcement agencies in recruiting minorities. The Marquette grant provides assistance only at the request of the police department or on the order of a court. To date, the Institute has assisted 11 "major police or civil service" departments. The executive director of the project, Stanley Vanagumas, indicated that requests from police departments had been slow in coming but that in any case, the center's level of funding dictated limited involvement.[25] In some cases, departments requested assistance because of the threat of lawsuits; in other cases, he felt, they did so because it was "good public relations," or "commonsense." Mr. Vangumas felt it was too early to see if the center's advice has actually improved minority hiring conditions.

A $300,000 fifteen-month grant has been given to the Urban League, from the Office of Civil Rights' Compliance Technical Assistance budget. The grant will be operational April 1, 1972, will be used to encourage minority recruitment in two police departments and one correctional agency. Although the locations of these agencies had not been selected as of the date of this report, Rice indicated that they would be chosen from among the eight "Special Impact" cities. The remaining funds from the civil rights compliance office technical assistance budget will be spread among a number of projects, including financing a three-man panel that has been designated to investigate the charges of the Afro-American Patrolman's Leagues against the Chicago Police Department. (see p. 4–5 *supra*.)

Beyond these three efforts, the primary focus of the Office has been the drafting of a compliance form for grantee police departments. Failure to file the form will be an act of "non-compliance" but will not affect the flow of LEAA funds. Leonard and Rice believe that compliance forms will be promptly completed and returned. When the police compliance form is completed [as of the date of this report, the form was still in draft], Rice will begin work on the corrections/courts grantee form. Grantees will be required to file on alternate years because, "if everyone filed each year, there would be a hell of a lot of forms to look at."

The information will be data processed.[26] No decision has been reached concurring the use of the data once processed. Rice says that data processing should produce compliance generalizations and "exception" reports, so that LEAA knows where the most difficult problems are. Its further value will be "the publicity thing, i.e., to impress on the grantee that he should do more. Mr. Rice thinks that the data will have to be examined before they decide more precisely what to do with it. In any event, neither Leonard nor Rice plan to use the data as a basis for pre-award grantee reviews. Rice believes he has "had good luck in resolving disputes in an amicable way" and believes that discrimination problems can be resolved in most cases by discussion. He believes that if compliance data shows that a state "looks bad" he can convince them to change. Complaints against intransigent grantees will be referred to the Justice Department's Civil Rights Division for suit.

C. Court Action—Despite LEAA's "preference" for judicial remedies, it has to date taken part (through the Civil Rights Division) in only four cases, all of them brought by private organizations.[27] In each case, its role has been a limited one. In one of these, the Alabama Highway Patrol case, the Department intervened at the order of District Court Judge Frank Johnson. How the Department came to intervene in the other cases is a matter of some conjecture.

CONCLUSIONS

The Civil Rights Commission recommended that programs subject to Title VI have the certain minimum compliance activities. LEAA does not meet these minimum standards. Specifically, LEAA does not conduct systematic on-site reviews of recipients civil rights compliance progress; LEAA has conducted short training sessions for federal auditors but has not provided them with written comprehensive guidelines for compliance reviews; LEAA does not conduct—and has expressed an intention never to conduct—preapproval compliance reviews of any sort; LEAA has not set specific limits on the time permitted for voluntary compliance, and will not use fund-cutoff as a tool of its civil rights compliance effort. Finally, LEAA insists on using litigation as a substitute for fund termination proceedings, rather than as a mechanism to effect such proceedings. LEAA has set in motion a system of reporting systems to collect data on racial and ethnic participation in recipient's programs; however, the system will not be even partially functional until this summer—four years after the program was created.

In terms of administrative set-up, as well, LEAA fails to meet the Civil Rights Commission standards. The Compliance Office now reports directly to the Administrator, Mr. Leonard,[28] but its chief officer is at a grade level—GS–15—which is below that of LEAA program administrators. As the Civil Rights Commission pointed out:[29]

"While the effectiveness of an agency civil rights director is not necessarily a function of his grade, more often than not, his or her ability to deal with program people on an equal basis is affected by this."

The Civil Rights Commission felt that the compliance officer must participate fully in key agency policy decisions. At LEAA, the Office of Civil Rights Compliance is somewhat cutoff from LEAA policy making. For example, the Director was not involved in Leonard's significant decision to require ⅓ minority hiring. Nor has he or his staff had a discernible impact on other aspects of the program such as the Institute of Law Enforcement and Criminal Justice. The Institute has funded virtually no research on the discriminatory treatment of minorities by police agencies, the courts or corrections institutions despite the great need for such research.

The Commission also noted in 1970 that most agencies with major Title VI programs had decentralized compliance enforcement to the agencies' field offices. Only LEAA and the Veterans Administration continue with centralized operations in which compliance activities are conducted by headquarters personnel. Although the commission noted some advantages to centralization it also pointed out the danger that in a centralized situation, the Title VI staff would not be "sufficiently knowledgeable about the programs and that liaison with program administrators would be jeopardized." Because LEAA's movement to regionalization has been quite recent, judgments about the effect on civil rights compliance may be premature; nevertheless, we note the discrepancy between the rhetoric justifying regionalization and LEAA's decision to keep civil rights compliance functions centralized in Washington.

LEAA has made some limited attempts to deal with employment discrimination. It has not yet begun to deal with the difficult problems of discriminatory treatment of Blacks and minorities by the criminal justice system.[30]

FOOTNOTES

[1] For FY 1972 it has a salaries and administrative costs budget of $148,784 and a technical assistance budget of $690,450.

[2] US Dept. of Commerce, Bureau of the Census, Public Employment in 1970, GE 70 No.).

[3] Faced with inadequate statistics, the Kerner Commission chose to examine minority employment in 28 selected police departments. They found that 7,046 of 80,621 police were nonwhite or around 9%. (Kerner Commission, 1968, at p. 169.) In the same departments, the Commission compared the percentage of nonwhite officers to nonwhite population in the city, and the number of nonwhite sergeants, lieutenants, and captains to officers. Nonwhites were decidedly underrepresented in all these categories.

[4] The Police Foundation also found that if women attend the same police academy as do policemen, they are often encouraged to skip physical training classes, or to skip class to type letters or documents. Some depart-

ments do not allow women to take promotional examinations, or to take them only when a "women's" position opens up. They are often not provided uniforms—a situation that policewomen feel not only causes them to be excluded from certain police activities, but also causes them embarrassment for example when they are publicly seen with uniformed policemen who are accused of "fooling around on the job." (p. 30 report). [The source of these materials is *Women in Policing*, by Catherine H. Milton, Police Foundation Publication] The Washington, D.C. Police Department, under a Police Foundation grant, is shortly going to assign women to patrols, and compare their performance to those of men doing the same job in order to determine whether any differences in fact exist. The authors of this study suggested that sex discrimination would also be found in the courts, in prosecutors offices, and in most correctional occupations.

[5] 1,954 officers were appointed; at the end of this drive, the Washington force was at its full authorized strength for the first time since World War II.

[6] Davis v. Washington, D.C. D.C. Cir. Ct. No 1086–70.

[7] As of August 13, 1971, black officers in Washington were:

Rank:	*Black*	*Other*
Chief		1
Asst Chief		3
Dept Chief	2	5
2nd Specs	2	20
Captains	6	32
Lts	13	114
Sergs	54	375
Dept Sergs	5	37
Detect	5	29
Plain Clo	141	169
Dsk Sergs	7	55

[8] A partial list of federal and state proceedings charging police departments with employment discrimination compiled by the Center for National Policy Review includes: Allen v. Mobile (S.D. Ala, March 1969; Civil No. 5409–69–p). Castro v. Beecher; Pennsylvania v. O'Neill (E.D. Pa.; Dec. 1970; Civil No. 70–3500). Emmeryville Citizens v. Neary (N.D. Cal.; May 1970; Civil No. C–71 940–WTS). Leonard v. Columbus (N.D. Ga.; June 1971; Civil No. 15–14). Penn v. Stumpf, 308 F. Supp. 1238 (N.S. Cal. 1070). Cintron v. Vaughan (D. Conn.; Dec. 1969; Civil No. 13, 578). Complaints charging police departments, courts or correction agencies with discrimination presently pending with state fair employment practices commissions include: Colemann v. Missouri State Penitentiary (March, 1970; No. E–3/71–2696; Missouri Commission on Human Rights). Blanks v. St. Louis Metropolitan Police Dept. (Sept., 1971, No. E–9/71–3092; Missouri Commission on Human Rights). Selders v. Shawnee County (July, 1971; No. 891–71; Kansas Commission on Civil Rights). Alonzo v. Kansas Law Enforcement Training Center (June, 1971; No. E64–71W; Kansas Commission on Civil Rights). Massachusetts Commission Against Discrimination v. Massachusetts Dept. of Public Safety (Nov. 1970; No. 80–258–R/C/No; Massachusetts Commission Against Discrimination). Martin v. Indiana State Police (March, 1970; No. 01450; Indiana Civil Rights Commission). Hunter v. Pennsylvania State Police (Nov., 1969; Pennsylvania Human Relations Commission). Pennsylvania Human Relations Commission v. Penn Hills Police Civil Service Commission (June, 1971; Pennsylvania Human Relations Commission). Fuller v. Hartfort Police Dept. (Aug., 1969; FEB 102–1; Connecticut Commission on Human Rights and Opportunities).

[9] As of date of the complaint [June 16, 1971] Blacks were significantly underrepresented in upper echelon department positions:

	Total	*Blacks*
Exempt rank positions*	78	7
Captains	94	1
Lieutenants	299	13
Investigators	1,222	97
Youth officers	226	46
Sergeants	1,335	126
Women	89	15

*Positions above rank of captain, appointed by Superintendent of Police; the Complaint alleges that none of the Blacks in this category influence or make policy.

[10] Ben H. Bagdekion, Washington Post, *The Drive for Inmates*, Report 2/5/72, p. 1.

[11] In Florida, for example, during 1930–1966, 285 men were found guilty of rape; of these 133 were white men. Less than 5% of the whites received the death penalty. Of the 152 convicted men who were Black, however, 35% received the death penalty. For example, Blacks who lived in the Bedford-Stuyvesant community expressed their dissatisfaction with the effectiveness of local law enforcement efforts, to the 1967 Crime Commission. They testified that the tensions between the police and the community are a result, in part, of police toleration of narcotics traffic in the ghetto, the small number of Black patrolmen stationed in Black neighborhoods, inefficient handling of emergencies by local precincts, lack of respect toward Black citizens, and inadequate levels of patrol of Black neighborhoods. Other citizens substantiated these findings, see for example, *Philip H. Ennis, Field Surveys II, Criminal Victimization in the United States: A Report of National Survey*, The National Opinion Research Center, University of Chicago, May, 1967.

[12] William H. Rehnquist, Proposed LEAA Regulations on Equal Employment Opportunity, Memorandum to Richard W. Velde and Clarence M. Coster, July 10, 1970.

[13] Federal Civil Rights Enforcement Effort, A Report of the United States Commission on Civil Rights, 1970, at p. 576 (hereinatfter Civil Rights Commission Report, 1970.)

[14] Thomas R. Ewald, Title VI Enforcement Practices in Major Federal Programs: Memorandum to Jerris Leonard, Oct. 23, 1970.

[15] 28 CFR 42.201, *et seq.*

[16] The Federal Civil Rights Enforcement Efforts: one year later, November 1971, the US Civil Rights Commission, p. 146.

[17] The Federal Civil Rights Enforcement Efforts: one year later, November 1971, the US Civil Rights Commission. p. 146.

[18] In late 1971, the Center filed an administrative appeal from LEAA, requesting a redraft of the regulations to meet the requirements of Title VI.

[19] Patterson, Memorandum of Afro-American Patrolmen's League Complaint of Discrimination by the Chicago Police Department, August 4, 1971.

[20] U.S. Department of HEW, an Equal Opportunity Program for State and Local Government Employment; July, 1970.

[21] Ray Marcin of the Center for National Policy Review informed us on Thursday, February 24, 1972 that Rice had agreed to outlaw sex discrimination through the EO regulations, and to use guidelines to ban minimum height regulations.

[22] The compliance office has conducted two day-and-a-half training sessions for the national audit staff and plans training courses for state auditors. The GAO and others have pointed out that a 38-man audit staff is inadequate to do proper fiscal audits for a program the size of LEAA.

[23] Letter of Phyllis McClure to Mr. John Buggs, Acting Director, U.S. Civil Rights Commission, November 18, 1971.

[24] On January 4, 1972, LEAA had a total of 188 employees with classifications GS–13 or higher. See the Block Grant Programs of the Law Enforcement Assistance Administration, Part 2, Hearings of the Legal and Monetary Affairs Subcommittee of the House Committee on Government Operations, October 5–7, 1971, at p. 711. Of this number, there were eight Black employees at a GS–13 level or above and only one Spanish-speaking and one Indian employee at that level.

[25] Several small city departments have requested assistance. The Center feels its resources are too limited to fill the requests but hopes eventually to put out a manual for such cities.

[26] No data is expected until "at least" next summer (1972).

[27] The Civil Rights Commission reported: "The Justice Department intervened (sic) in May of 1971 long after the suits were initiated (in July and September of 1970) as a result of a great amount of external pressure put on the Department to take some action against the discriminatory employment practices of law enforcement agencies. The Federal Civil Rights Enforcement Effort: One Year Later. The United States Commission on Civil Rights, November 1971, at p. 147.

[28] Formerly, the Compliance officer reported to the General Counsel.

[29] November, 1971 report at 145.

[30] The NAACP representative who interview Rice concluded:

"It was clear from my interview that not only was the agency way behind in even establishing mechanisms for civil rights compliance but that more importantly that agency's conception of the substantive standards for civil rights is appaling." (McClure Letter)

DISCRIMINATION AGAINST THE MENTALLY ILL

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. WALDIE. Mr. Speaker, almost 10 percent of the American population is touched by the tragedy of mental illness.

Yet despite this pervasive problem, which has never been fully considered or attacked by the American Government, recent plans for comprehensive health care completely omit any plan for treatment of the mentally ill.

I have favored the development of National systems of health delivery programs as a matter of right for all national citizens.

The mentally ill are entitled, and may be in greater need, of the same right—the right to acquire decent, effective medical attention without risking exorbitant financial loss.

The following correpsondence and article comes from Mr. Irving Chase, president of the National Association for Mental Health, Inc. The article was printed in a recent bulletin of the association.

Both statements effectively make the case for greater congressional consideration for the mentally ill.

The items follow:

THE NATIONAL ASSOCIATION
FOR MENTAL HEALTH, INC.,
Arlington, Va., April 28, 1972.

The Honorable JEROME R. WALDIE,
Cannon House Office Building,
Washington, D.C.

DEAR MR. WALDIE: The National Association for Mental Health, with over one million members, is most alarmed that intentionally or inadvertently mental illness provisions are excluded or nearly so, in many models of proposed National Health Insurance legislation, including that of the Administration. Why are the mentally ill systematically discriminated against in National Health Insurance? The common answer rests only on myth; i.e., the claim that mental illness coverage is too costly. The facts are that insurance for mental illness is *not* costly. The attached studies of this subject all substantiate that mental health illness in health insurance coverage does not create excessive charges against health insurance programs.

We very much appreciated your support of our organization's continuing advocacy on behalf of the Community Mental Health Centers Program. In particular, your quick and effective response to our alert last December concerning National Institute of Mental Health funds frozen by the Administration stands as a clear example of the degree of commitment which Members of Congress have toward improving the lot of the mentally ill.

Once again, the National Association for Mental Health is requesting your active involvement and support in the single most important crisis in the battle against mental illness in this nation. For the consequences of continued discrimination against mental illness in National Health Insurance will ultimately affect the lives of 20 million Americans and their families.

What do we urge? We urge you to write to us, indicating your support for the inclusion in National Health Insurance of coverage for all of the services given in community mental health centers. We will make your position known to Members of Congress who have introduced (or are planning to introduce) National Health Insurance legislation and to the general public.

We look forward to hearing from you.

Sincerely,

IRVING H. CHASE,
President.

Enclosure.

A MODERN MYTH: INCLUDING COVERAGE FOR MENTAL ILLNESS IN INSURANCE PLANS CAUSES RATES TO SKYROCKET

(Taken from testimony given by Irving H. Chase, president, National Association for Mental Health, before the House Ways and Means Committee on November 2, 1971)

Myths die hard, Mr. Chairman, and I would like to talk briefly today about a modern myth, which, while not yet dead, is beginning to show evidence of terminal illness. I am speaking of the long-held belief that including coverage for mental illness in insurance plans causes rates to soar. It is an important myth, and its influence is readily seen in proposals for National Health Insurance. It is a dangerous myth. It's leading those who introduce legislation for National Health Insurance to omit coverage for mental illness entirely or to limit it sharply.

INTENT OF THE TESTIMONY

Mr. Chairman, the intent of this testimony is to give information regarding the following: 1) insurance for mental illness is *not* costly; 2) community mental health centers are effectively treating mental illness; 3) the focus of any program of National Health Insurance should be to facilitate the development of community mental health centers.

MENTAL ILLNESS IS INSURABLE

The Health Insurance Plan (HIP) of Greater New York has analyzed its experience in providing outpatient and inpatient psychiatric treatment—with no upper limit on the number of services and with no cost to the patient—to the more than 60,000 subscribers in its Jamaica Medical Group.[1] During a three-year period, the average annual utilization for psychiatric consultation was 11.4 per 1,000 or 1.1%. The rate for those who had consultation plus at least one treatment visit was 8.3 per 1,000 or .8%. During the demonstration project, 949 patients were accepted for treatment and 16,264 mental health services were provided. Of those services, 88% were individual services to patients alone or to patients with members of their families, 11% were group health therapy services, and 1% were psychological testing.

The above figures indicating modest utilization of mental health services under HIP coincide very closely with figures reported by Group Health Insurance of New York and for the United Automobile Workers program. Group Health Insurance recorded a utilization of 7.5 per 1,000 for adults age 20 and over during the period of their study, while the first year utilization of the United Automobile Workers was 6.6 per 1,000. The 88% figure for individual therapy reported by the Health Insurance Plan nearly coincides with a 93% figure reported by Group Health Insurance and a 91% figure reported by the United Automobile Workers.

Basing their actuarial assumptions on the experience during service to the demonstration project, the Health Insurance Plan has established a premium rate for mental health services of $.90 per month for a one person family, $1.80 per month for a two person family, and $2.70 for a family of three or more persons. This averages about $7.50 per person per year when the distribution of family size is considered. For this premium, and without additional charge, individual, family, and group therapy is provided in one of three HIP Mental Health Service offices with no upper limit set on the number of treatment services. Hospital treatment is also provided as well as drugs prescribed in the course of therapy.[2]

The above rates are based on the following assumptions, all of which are high when compared to the studies just described: 1) the average annual utilization rate will reach a level of between 1½ to 2% per year; 2) the average number of services will be about 15 services per year for each patient treated; 3) group therapy services will constitute about 10% of all mental health services provided; 4) the proportion of inpatient mental health services will increase from about the 4% found in the demonstration project to about 10%.

In a recent study of insurance for mental illness by the American Psychiatric Association, it was found that about 80% of those people who have insurance for *physical* health care also have insurance for *mental* health care. While recognizing that mental illness coverage is often meager, this should lay to rest once and for all the question of whether insurance coverage for mental illness is feasible. How could it not be feasible when it is so widespread?[3]

COMMUNITY MENTAL HEALTH CENTERS—A VIABLE APPROACH TO THE TREATMENT OF MENTAL ILLNESS

The Community Mental Health Centers Act of 1963 provided federal matching monies for the development of mental health centers, which are mandated to provide five basic services including inpatient, outpatient, partial hospitalization, education-consultation, and emergency services to population areas not less than 75,000 nor more than 200,000 residents.

The Act was amended most recently in 1970 when it was broadened and extended to June 30, 1973.

In 1969, one out of ten patient-care episodes in mental health facilities in the United States took place in community mental health centers. At that time, there were 205 community mental health centers in operation, making services available to approximately 10% of the United States population. At the present time, there are 452 funded centers; when in full operation these centers will make services available to approximately one-fifth of the population.

Though many factors influence change in the utilization of mental health services, the introduction of community mental health centers has been one of several significant factors in the remarkable decrease in recent years in the resident population of state mental hospitals. The decrease in resident population between 1969 and 1970 was the largest to date, a drop of 35,000 patients, or 10%. In a recent sample of centers, about half reported they were effecting a decline in the use of the state mental hospital serving their catchment areas. This was in spite of the fact that when centers first begin operation, they have a pronounced case-finding effect. Before they have adequate resources to provide treatment services, they tend to increase temporarily admissions to state hospitals. The areas in which state mental hospital admissions continue to grow are alcoholism and drug addiction, where practices of law enforcement have large influence. However, it's important to note that community mental health centers are beginning to serve significant numbers of alcoholics and drug abusers. In 1969, 7% (18,000) of total admissions to community mental health centers were alcoholics, and 2% (4,500) were drug addicts.

NATIONAL HEALTH INSURANCE SHOULD FACILITATE THE DEVELOPMENT OF COMMUNITY MENTAL HEALTH CENTERS

Mr. Chairman, I want to make one point very clear Enactment of "National Health Insurance" presents at once an opportunity and a threat, for, depending on its terms, it can act as a powerful stimulant to the development of comprehensive community mental health centers, or it can result in their economic starvation. Stimulation of growth will result if compensation for treatment in these settings is given favorable terms. Starvation will occur if a National Health Insurance program is adopted with little or no mental health coverage, followed by withdrawal of existing federal financing of comprehensive community mental health centers.

CONCLUSION

From the foregoing, it is abundantly clear that: 1) services given in community mental health centers can be covered by insurance at a very modest cost; 2) mental health centers have already demonstrated their value as an indispensable community resource for the treatment of mental illness.

Myths die hard, and misinformation, once accepted as fact, is difficult to dispel. The attitudes and practices used by those holding prejudice against the mentally ill are well-known. Those people, however, are not the real obstacle in the struggle to assure the inclusion of mental health provisions in National Health Insurance programs. The true enemy is the widespread acceptance of misinformation and adherence to myths about the cost of insurance for mental illness held by many sincere and concerned citizens and public officials. Our organization is pledged to bring the facts before the public and our elected officials, so that they may judge the case on its merits.

---

[1] Fink, R.: "Financing Outpatient Mental Health Care Through Psychiatric Insurance," Mental Hygiene, April 1971, Volume 55, No. 2.

[2] Ibid

[3] Myers, Evelyn S., Coordinator, Psychiatric Care Insurance Coverage, American Psychiatric Association: "Coverage of Mental Disorders Under Insurance Plans," September 24, 1971.

REACTIONS TO COMMUNIST INVASION

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SCHERLE. Mr. Speaker, since the North Vietnamese brutally invaded South Vietnam over a month ago, and President Nixon took the necessary measures to both protect American lives and prevent a Communist takeover of that country, there have been some strange reactions. Instead of denouncing the Communist invasion, some in this country have expressed their outrage at President Nixon.

The moral myopia of at least two of these bizarre reactions is interestingly recorded in a story this week in the Republican National Committee's weekly publication, Monday.

For those who are interested, I insert the article into the RECORD:

THE MASSACHUSETTS LEGISLATURE, EIGHT COLLEGE PRESIDENTS AND THE NORTH VIETNAMESE INVASION: DARKNESS AT THE END OF THE TUNNEL-VISION

Since the massive North Vietnamese invasion of South Vietnam over a month ago and President Nixon's firm response to the Communist aggression, there have been some peculiar reactions. A couple of the more myopic and close-minded responses to this series of events in Southeast Asia are a resolution passed by the Democrat-controlled Massachusetts State Legislature and a statement signed by the Presidents of eight Ivy League institutions of higher learning.

The resolution adopted by the Massachusetts legislature calls on the U.S. Congress to adopt legislation setting a date for complete U.S. withdrawal from Southeast Asia. The resolution, among other things, condemns "the most recent stepped-up bombing of the people and territory of North Vietnam" calling it a "dangerous escalation" of the U.S. role in Indochina. No mention is made of the North Vietnamese invasion of South Vietnam.

PRESIDENTS IGNORE INVASION

The statement signed by the Presidents of Brown, Columbia, Cornell, Dartmouth, Harvard, Massachusetts Institute of Technology, Pennsylvania, Yale and Princeton, deplores "the bombing of North Vietnam and its civilian population" and calls for American withdrawal from "this brutal war."

The Presidents voice their support for Americans of all ages to find "non-violent, constructive outlets" for the expression of their views but they specifically "do not condone coercive actions by individuals or groups seeking to impose their particular convictions or concerns on others." The Presidents say nothing about the coercive actions of the North Vietnamese in their attempt to impose, by military force, their convictions and concerns on the South Vietnamese.

In an attempt to try and find out what it is about the North Vietnamese invasion of South Vietnam that makes it so unremarkable, *Monday* spoke with Massachusetts State Sen. Jack Backman, who drafted the resolution passed by the legislature, and Princeton President Robert Goheen.

WHY IS INVASION IGNORED?

Why is there no mention of the North Vietnamese invasion of South Vietnam in your resolution? *Monday* asked Sen. Backman. "I don't need to, uh—I don't need to, uh—uh, give you any—you know—." replied Backman. Why was the invasion ignored? *Monday* persisted. Backman explained that the war has been going on for a long time, has never been legally declared, and that he has filed his own brief against it in court. Besides, he continued, since the invasion took place 10–15–20 years ago "you can't really talk about an invasion of last week." What we are really talking about, he said, is a "civil war conflagaration (sic)."

Do you consider what North Vietnam did to South Vietnam an invasion? *Monday* asked. "I only talk about the resolution as we put it. We're for immediate withdrawal from South Vietnam—I don't know if it was an invasion." At this point *Monday* read Sen. Backman Webster's Third New International Dictionary definition of invasion.*

Why was the invasion ignored? *Monday* tried again. "Look, if you want me to submit a statement I'd be happy to. The resolution speaks for itself," Backman said. How would you characterize North Vietnam's sending three divisions across the DMZ into South Vietnam? *Monday* asked hoping that perhaps a rephrasing of the question might expedite matters.

VIETNAM IN INDOCHINA

"I conceive of the Vietnam conflict as involving a nation in Indochina," Blackman explained. "One where we (yes, we) have inappropriately intervened, a place where we (yes, we) have caused deaths of over 50,000 Americans and over 1,000,000 inhabitants of this unfortunate country."

But what about the invasion? *Monday* asked.

"It's part of a continuing conflict in Vietnam, that unfortunate nation."

Do you deplore what North Vietnam has done?

"I deplore the war that is going on."

And so it went for some 20 minutes with Sen. Backman concluding with a challenge by Sen. Backman to *Monday* to come to Boston and debate "and let the public decide."

PRINCETON PRESIDENT GOHEEN

Princeton President Robert Goheen was a little more responsive but only slightly so.

Why was the North Vietnamese invasion of South Vietnam neither mentioned nor alluded to in your statement? *Monday* asked.

"We were not concerned with the invasion as such but rather the continuing U.S. involvement in the war which to us is self-defeating and wrong," he replied.

How ingenuous is it to deplore U.S. bombing of North Vietnam without at least addressing yourself to the reasons for such actions?

DUCKS QUESTION

Goheen ducked the question and again asserted his own opposition to the U.S. role in Vietnam.

Did the subject of the North Vietnamese invasion come up at all in your conference call with the seven other university presidents?

Saying he was not certain, Goheen replied: "Yes, it did—as I recall—but it did not take any great amount of our time."

---

*A hostile entrance or armed attack on the property or territory of another for conquest or plunder; an attack on a person; assault; an inroad of any kind; as an entry into or establishment in an area not previously occupied; the introduction or spread of something hurtful or pernicious; a penetration or occupation by an outside force or agency; encroachment, intrusion.

MINING HAIPHONG HARBOR

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BOB WILSON. Mr. Speaker, every military leader serving on the Joint Chiefs of Staff over the past 7 years has recommended all or part of the action announced by President Nixon yesterday. If this action had been taken a few years ago, Vietnam would be only a memory.

A prophetic statement by one of our respected military leaders, Adm. U. S. Grant Sharp, was made a few days ago. I include as a portion of my remarks the report on Admiral Sharp's speech as carried in the San Diego Evening Tribune on April 22, 1972:

RUSS WOULD ONLY PROTEST IF UNITED STATES MINED HAIPHONG, SAYS RETIRED PACIFIC CHIEF

(By Robert Dietrich)

The Soviet Union would make a major protest if the United States carried out plans to mine Haiphong harbor but would not intervene in the Vietnam war, the former U.S. commander in the Pacific predicted yesterday.

Adm. U. S. Grant Sharp, USN, ret., who directed all U.S. forces involved in the war from 1964 to 1968, said in an interview here, "I always favored a mining operation."

Sharp was at a San Diego Navy League council luncheon to introduce a recently released Soviet film documentary on Russian military capabilities.

I don't see the Soviet Union intervening at all, even if North Vietnam was on the verge of a military collapse," he said.

"I think the Russians would have a somewhat stronger reaction to our mining the harbor now than in 1965 when I proposed it.

"They would have thought little of it then. After all, they consider mining a great capability of their's."

Defense Department officials said earlier this week that mining was under consideration despite the number of Soviet and other third-nation ships that use the harbor.

Sharp said mining the harbor to seal off seaborne war supplies was an authorized act of war under international law.

"Mining is much simpler than a blockade," he said. "We talked about blockading in 1965, but felt the Gulf of Tonkin could become a trap for our ships."

Former president Lyndon B. Johnson would not authorize the mining or blockade plans drawn up by Sharp and his staff.

Sharp recalled that the U.S. Navy mined Haiphong early in World War II, effectively stopping Japanese use of the harbor for the rest of the war.

The admiral said his plans to knock out North Vietnam by massive air and naval attacks on Hanoi's war-making facilities were also curtailed by Johnson.

"I think President Nixon was very courageous in authorizing the recent air raids on Hanoi and Haiphong," Sharp said. "I hope he doesn't stop there."

Sharp said North Vietnamese power plants, communications lines, warehouses, and factories must be hit continuously.

"If Hanoi wants us to stop the bombing, all they have to do is stop their aggression in South Vietnam. It's as simple as that."

The Russian military documentary, entitled "I Serve the Soviet Union," was based on a Soviet military exercise held in October 1967 to mark the 50th anniversary of the Russian Revolution.

In this introduction, Sharp said that 1967 war game was the largest ever held anywhere.

It showed Soviet hardware such as naval antiship missile, heavy tanks that swim underwater and other weapons systems that have not yet come into Western arsenals.

"We very badly need to convince Congress that we need to modernize our own forces if we are not to be totally surpassed by the Soviets," Sharp told the Navy Leaguers.

FINANCIAL CRISIS IN HIGHER EDUCATION

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SHOUP. Mr. Speaker, Dr. Norman E. Taylor, research director for the University of Montana foundation program, Missoula, Mont. presented the following paper at a recent national conference.

May I recommend to my colleagues that they reflect on his most valid points as we debate the many forms of Federal assistance to Higher Education that come before us.

SPONSORED PROGRAMS' CONTRIBUTION TO THE FINANCIAL CRISIS IN HIGHER EDUCATION

Last winter in a talk before a group of state legislators and businessmen, I started my remarks by saying:

As everyone knows, when a grant is awarded to the (University of Montana), it is given to a particular professor; the overhead money is comparable to a profit (and parenthetically should be made available immediately to finance a football stadium or returned to taxpayers as an offset to property taxes); and the salary payments to individual researchers from grant monies are paid as extra compensation.

Nearly everyone "knows" these statements are true. Of course, all of them are false. It is unfortunately the case (for those who are persuaded otherwise) that neither the tenacity of one's beliefs nor the frequency of their assertion can alter the facts. As a famous American humorist and philosopher once said: "The problem with most people is not ignorance, rather that so much of what they know just isn't so."

The prevalence of the opinions cited can be illustrated again from the lead paragraph of a news story published last August (in the Missoulian):

"The day after the announcement I started getting calls from real estate brokers, car salesmen and boat dealers. At first I couldn't figure it out," said a University of Montana professor.

The announcement was a press release indicating that he had received a grant of $100,000 from a federal agency to do research.

"Then it dawned on me," he continued. "People actually thought that money was mine to spend."

To keep the record straight (in Montana), all research and training grants or contracts with any sponsor are made *by* the institution, not the individual who may have written the proposal. Second, faculty opinion to the contrary, overhead is not a simple markup over total costs. Sponsors, and especially the federal agencies, may be flawed in different respects but they are not careless. The indirect cost rate is agreed to by the federal auditors and in fact set by them in most instances. Third, salary payments to investigators provided by grants are paid in lieu of state compensation, unless the individual is not under contract.

WHAT IS THE PROBLEM?

On many, if not most, campuses sponsored program activity is partly responsible for the financial crunch in higher education—not a solution to it.

Let me illustrate some ways in which institutions, either directly or indirectly, find their scarce resources committed (or worse, unintentionally diverted) to sponsored programs in actual support expenses:

1. Certain sponsors require cost sharing (ex., National Science Foundation, Department of Health, Education, and Welfare).

2. Many programs, especially training grants, require matching cost participation by the grantee (ranging from token to dominant support).

3. Some projects require maintenance of effort (i.e., no reduction of the institution's rate of support as long as the program is funded), no matter what legislatures or development officers may have done to your budget.

4. Some grants involve a commitment to continue programs well into the future, after the sponsor withdraws his support.

5. Indirect cost reimbursement rates are lower than actual expenditures; with a perfect management information and accounting system one could obtain full reimbursement for general institutional expenses. Since most instiutions do not enjoy this status, to some degree then our imperfections amount to a subsidy of the federal government or other sponsor.

6. Typically, budget support for higher education responds slowly, if at all, to the demands of externally-funded projects. Yet, new or expanded programs require teaching and research space and they attract students with an associated need for dormitory and dining room service, and so forth. The causal relationship is seldom made explicit.

7. If sponsored program participation is simply added to the duties of the faculty they may be exploited to the detriment of the instructional program. But, if new staff are authorized they must be provided office and laboratory space, general supplies and equipment support, secretarial service, and so on, beyond what is funded by the grant.

8. Many predictable grant support expenses are *not* authorized by the sponsor's guidelines. These may include equipment, travel, library acquisitions, publications, renovation, construction, equipment installation and operating costs. When they are essential to the project, they must be charged to departmental budgets or to the physical plant or some other account.

9. Pre- and post-grant expenditures are frequently crucial to a project yet they do not occur during the period of the grant and are not allowable as charges against it. Examples of these are recruiting, travel, consulting and proposal writing expenses; similarly, the costs of surveys, duplication, and evaluation after the project has been terminated are other examples.

SOME HAZARDS OF GRANTSMANSHIP

Embarrassing and costly situations that may develop can be illustrated by the following:

1. One institution, as a consequence of its eagerness to gain visibility by identifying with a prestigious research activity, acquired (as a by-product when sponsor support ceased) three tenured faculty members. The multi-year project required the employment of three associate professors. They were overlooked when the time for AAUP tenure notice expired. On termination of the grant the college had three costly professors on its payroll with no approved degree or curriculum to absorb their teaching skills.

2. Another college was happy to receive a grant for the acquisition of a very sophisticated piece of laboratory equipment. After installation it was discovered that a $12,000-a-year technician was needed for its operation.

3. Administrators are quick to discover that faculty members, however brilliant in their own disciplines, cannot always be relied upon for counsel in other matters. The kind of professor I am referring to is perhaps not unlike the individual described in this quotation (from a student evaluation in the Boston University 1971 Course Evaluation Book):

"The lectures were complicated by the fact that Professor X had trouble communicating. To his credit, however, an overwhelming majority of the respondents (41% of the class) felt that Professor X was adequately prepared and did allow time for questions. Despite his preparation, his lectures were considered from horrible to fair. Fortunately, however, he never had much of an audience to bore. As a matter of fact, the only time there was any type of showing was during the exams. [Professor X] was hired too late and too mediocre. Some men are born mediocre, some men achieve mediocrity, and some men have mediocrity thrust upon them. With Professor X it has been all three. Even among men lacking all distinction he inevitably stands out as a man lacking more distinction than all the rest, and people who meet him are always impressed by how unimpressive he is."

I suppose every campus has a Professor X or two. He is the one who, in negotiation with sponsors and having to pare expenditures to meet the funds available, blithely (and improperly) agrees to strike indirect costs from the budget as not being a real expense. He is also the one who proudly announces to the administration and the press how he has mesmerized a donor and is to receive for his department a computerized widget. The following week he sends the president a budget request for $50,000. He needs hard-wiring to the computer, a 440-volt line, a re-engineered floor to carry the weight, air conditioning, and lead shields for radiation protection. This is the first mention of these considerations.

4. On the other hand, there are also certain hazards in relationships with grantor personnel. The federal grant administrator can be too cooperative; he wants you to succeed and he wants to be helpful. But, he cannot speak for the auditors who are "going by the book." The institution itself must be responsible for understanding and administering the guidelines of the agency. Your friendly contact in Washington may be quite willing to approve the exception that you request. If he does, be certain it is in writing and in advance. When the expenditure is questioned under audit and disallowed two years later, you discover that your friend is now a consultant to the Peace Corps in Chile. No one else remembers the conversation.

PLAYING THE GAME, OR 2 PLUS 2 EQUALS 3

It is commonly accepted that there are two basic categories of costs incurred when sponsored programs are initiated—direct and indirect costs. Direct costs normally would include: salaries, fringe benefits, consumable supplies, equipment and facilities, renovation and construction, travel, publication, and similar items.

Indirect costs (i.e., those not readily identifiable with a particular research or training program) might include: general university expenses, central and departmental administrative expenses, research administration, library, and the physical plant operating and maintenance expenses. Indirect cost rates on a given campus vary according to the function (research vs. training), the location (on or off campus) and by virtue of special negotiated agreements.

However, there are at least two other cost categories that institutions have chosen to ignore that can be just as important as the ones cited. The first is opportunity costs, i.e., the lost values of those functions that are less well supported or foregone because university resources are pledged to support sponsored programs. They are overlooked because they are arbitrary and abstract.

The second additional category is the real costs that are incurred in addition to direct and indirect costs that are seldom calculated by research administrators. These are the costs of faculty time (and the frustration) in writing proposals that do not get funded and the price paid for the diversion and fragmentation of collegial goals. These are evidenced by student disenchantment with poorly prepared and delivered lectures, and the unavailability of faculty for counseling and by faculty unrest when grantsmen are given merit for shallow, pedestrian, sponsored program participation. Regents and legislators and taxpayers are unhappy when they perceive muddled or contradictory aspirations and activities inconsistent with the university's own proclaimed goals and talents.

Higher education reaps a harvest of discontent when it fails to define its mission and to be discriminating, instead opting for any project that will pump new dollars into administrative coffers (the fund-raiser syndrome).

It is a sad truth that when you enter into a partnership with the federal government, you inevitably discover that it has 51 percent of the voting rights. Administrative effort is frittered away in the supervision of projects, from department chairmen all the way to the president of the institution. Faculty resources are dissipated in reconciling time and effort reports to federal requirements. Staff time is endlessly preoccupied with exist interviews, responses to disallowances and exceptions, reviewing costs with auditors, and in locating equipment and acquiring title to it.

Supervisory talents are spread thin in maintaining records to justify indirect costs, in providing transactions evidence for the audit trail, and in preparing and explaining policy manuals in endless meetings and missionary efforts for the enlightenment of the faculty. There are real costs for inefficiency, crowding, complexity and in controlling "the great program director," who answers only to God. And these are *internal* matters which are fairly straightforward to cope with.

In addition there are numerous exogenous variables which are seldom predictable and to which one can only react. Such factors include the imposition of a ceiling on expenditures by a sponsor, changes in the annual rate of support for a program, seemingly campricious cancellation of traditional activities and the addition of new programs. These costs are reflected in personnel turnover, hundreds of dollars spent for newsletters and reference materials to keep up with changes, graduate student drop-outs for lack of support, and dislocations caused by frequent space reassignment and equipment relocation.

The cynics among you will recall Murphy's Law which states that: If something can go wrong, it will. I would like to add a corollary which might be conveniently (and modestly) referred to as Taylor's Quantification Equation (of Murphy's Law). It could be expressed thus:

$$\mathrm{DEG}+\mathrm{IC}=\mathrm{n}\cdot\mathrm{TPC}/\mathrm{n}+1$$

Here, DEG means direct expenses of the grant; IC stands for indirect costs; and, TPC signifies total project costs. One can see that TPC will always exceed the value of DEG and IC. For the inexperienced or inefficient administration a possible value for n could be less than five; for the sophisticated institution n could be quite large, possibly over twenty-five (bearing in mind our full-cost discussion).

WHY PLAY THE GAME?

The answer is easy and direct. The benefits are greater than the costs. The academic professional in many disciplines is trained and motivated and may even be required to do research. More and better research is possible from sponsor support.

The dedicated teacher is anxious to improve his techniques, to innovate, and to share his experience and knowledge with a wider audience. More and better teaching is possible from sponsor support.

The pressures to take higher education to the community are understood and accepted by facilities. Many are eager to participate in decisionmaking and problem-solving process. More and better public service is possible from sponsor support.

Externally financed research is a major source of support for graduate programs. It provides for graduate student employment. Research is part of the learning process for students and faculty alike. It can give breadth and depth and discipline to the mind.

For many universities any respectable research effort must be financed from nonappropriated sources. Often one cannot attract a desired faculty member without a positive research environment.

Sponsored programs do purchase equipment and supplies which are available for instructional uses when contracts are completed. They can provide summer employment for faculty which often is not guaranteed, with no drain on state or local dollars. They often pay for travel to national meetings which otherwise would not be attended or would require institutional funds. They can purchase library resources and cover the high page costs of prestige publications.

In summary then, participation in sponsored programs is justified when the activities undertaken are consistent with the institution's goals and functions, when the opportunity costs are considered and deemed acceptable, and when the magnitude of other real costs (which determine the value of n in the equation) are both anticipated and reasonable.

REFERENCES

Boston University 1971 Course Evaluation Books. (American Association of Higher Education *College and University Bulletin*, December 1, 1971).

Barrett, Sharon. Research grants go into research, not the researcher's pocket. *The Missoulian*, August 23, 1971.

MANKIND: ABLE CUSTODIAN OF WILDLIFE?

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. WHITEHURST. Mr. Speaker, four articles in separate sections of the Thursday, May 4, 1972, edition of the Washington Post, reveal the need for animal protection legislation. Indeed, the callous, inhumane treatment inflicted on helpless animals is one of the international tragedies of our time. The suffering caused by man is not necessarily intentional. The extinction of species and other mishandling of wildlife can be a side effect from other efforts, such as removing habitat for lumber, housing developments, or manufacturing.

There are examples, however, when the intent of man has been to apply his intellect and technology to the deliberate extinction of a species.

These two actions, unwitting inhumane treatment resulting from the housekeeping activities of man, and intended, direct cruelty through the application of knowledge, are well stated in the four articles printed at this point in the RECORD. The articles follow:

A CHILLING INDICTMENT OF WILDLIFE LOSS

(By Robert Barkdoll)

Out of a House Appropriations subcommittee has come a chilling indictment of man's inhumanity to fish, fowl and his fellow mammals.

It all started when the subcommittee, after hearing of the threat to the California condor, now reduced to a flock of 60 birds, asked the Interior Department for a report on those wildlife forms that have disappeared in the past 100 years or so.

The report called the roll of more than 50 species that once flourished on America's share of the planet and are now gone. And over and over again the cause of death was given as:

"Indiscriminate killing . . . overhunting . . . destruction of forest habitat . . . alteration of environment by modern man."

The committee learned of the threat to the California condor from Dr. Joseph P. Linduska, acting director of the Bureau of Sport Fisheries and Wildlife. His brief testimony on the condor's "extremely critical" situation summed up the fate that has overtaken many of the new-extinct species.

The condor is confined largely to the Sespe Condor Sanctuary in Los Padres National Forest. Near the sanctuary's nesting and feeding grounds is in 1,880-acre corridor known as the Hopper Ranch, now owned by land speculators.

"There has been talk of developing it as farmettes and even a motorcycle club has talked about going in there and using it," Linduska said.

"If there is one thing condors will not tolerate it is human intrusion and particularly the type of disturbance that would go with this sort of activity."

"Should the type of development mentioned occur on Hopper Ranch the condors would indeed be in sad shape."

What he meant was that the condors would be in the same shape as the plains wolf, the sea mink, the Labrador duck, the deepwater cisco of the Great Lakes, or any of the other species his agency found extinct.

Here is the way the agency reported on the fate of some of the extinct mammals, birds and fishes:

Badlands bighorn, North and South Dakota. Extinct in 1910. Reason—overhunting.

Caribbean monk seal. Caribbean and Gulf of Mexico. Probably extinct in early 1950. Reason—indiscriminate killing.

Plains wolf. Great Plains. Probably extinct in 1926. Reason—eliminated to protect livestock.

Mauge's parakeet. Puerto Rico. Extinct about 1892. Reason—destruction of forest habitat.

Lanai thrush. Lanai Island, Hawaii. Extinct in 1931. Reason—alteration of environment by modern man, probable avian disease from introduced birds and spread by introduced mosquitoes. Predation by introduced rats, cats, and mongooses hypothetical.

AMERICA'S WAR ON MOUNTAIN LIONS

(By Lewis Regenstein)

The mountain lion—*Felis concolor*—is the largest cat in North America. Known as pumas, cougars, and panthers, they once had the widest distribution of any mammal in the western hemisphere and perhaps the world, ranging throughout North and South

America. Now, only pitifully small remnant populations survive in the United States, mainly in the west; and these are rapidly and intentionally being wiped out.

One of the mountain lion's most famous characteristics is its eerie mating "screams." Histories of early American communities record complaints of the residents being kept awake at night by these shrieks; and Theodore Roosevelt commented that "certainly, no man could listen to a stranger and wilder sound."

Like coyotes and other predatory animals, mountain lions are extremely valuable in maintaining nature's law of natural selection and the survival of the fittest. In preying on deer and elk, lions fed primarily on the lame, the weak, and the old, thus keeping the herds healthy. They also keep the deer and elk on the move during winter, thereby reducing overgrazing and the resultant heavier death toll by starvation. The lion's concurrent diet of rats, mice, rabbits, and even grasshoppers and other insects and rodents also plays an important role in nature's balance.

The mountain lion was once abundant throughout the eastern United States, yet it has now been almost completely extirpated from this region. But recent and increasingly frequent sightings of the eastern cougar—until recently considered extinct outside of Florida—have led the U.S. Department of Interior to consider giving nominal protection to the animal by changing its official status to "endangered."

At the same time, the Interior Department's Division of Wildlife Services is continuing its relentless pursuit of the western cougar, which is already reduced to dangerously low levels and may itself soon be threatened with extinction. The killing of the lions by federal agents is done at the behest of western sheep and cattle ranchers, who claim to suffer rare but occasional livestock losses from predative lions. Because of the blame imputed to a few individual animals, the wrath of a powerful government agency has been brought to bear on an entire species.

The lion's decline is in part demonstrated by the greatly reduced numbers of lions that Interior is able each year to poison, trap, gas, shoot, or otherwise kill. In 1963, for example, about 300 lions were killed and tabulated by Departmental agents. No one knows how many were poisoned, wandered off to die in remote areas, and were never found. By 1970, the toll had dropped to less than half: only 121 were killed and recovered; and last year, Interior claimed credit for only 80 lions. In its defense, the Department claims—with some justification—that the reduced "body count" also results from a recently adopted requirement that written justification be given for each lion killed; but there is no argument over the fact that the killing will continue.

Interior's recent and widely praised decision to curtail the poisoning on public lands of such predatory animals as coyotes, eagles, and bears will not appreciably diminish the pressure on the mountain lion, since most are "taken" by traps and hunters using dog teams. An Interior Department press release of March 22, 1972, quotes unnamed Departmental officials as "emphasizing" that "control of predators on the nation's *federally owned lands* (emphasis added) is continuing . . . trapping, shooting, and denning (destroying the young in their dens) are still being carried out by the Fish and Wildlife Service and state, local, and private cooperators." No mention was made of the fact that a trap commonly used in such operations is the steel-jaw, leg-hold trap. Animals languish in these devices for days at a time; and the pain is so acute that the victim will often chew off its own leg in order to escape.

The removal of cougar bounties and the animal's elevation to "game" status in most western states has been nailed as an important step forward in conserving the species. However, the lions are now being wiped out not by bounty hunters but by "sportsmen." Using dogs they chase exhaust, and tree the lion, after which it is shot by the brave hunter. In 1970, for example, in the state of Washington alone, hunters shot 300 lions, a toll amounting to over one-fourth of the state's estimated population of 1,100 lions. The annual "trophy harvest" in Arizona exceeds 200 animals.

With a mere 4,000-6,500 mountain lions at most officially estimated to remain in the continental United States, it is obvious that time is quickly running out on this magnificent creature.

No alarm bell will ring when the last mountain lion is shot or trapped to death. As with the blue whale, the species will quietly, undramatically disappear into oblivion.

It is difficult to understand why our government has declared war on the mountain lion. There do not appear to be more than one or two—if any—verifiable cases of lions attacking humans. Indeed, lions are so shy that they are seldom seen even in areas where remnant populations exist. They do, however, manifest an odd curiosity toward man. They frequent campsights and follow hikers, circling around them or climbing a ledge to watch them pass below. Author Edward Abbey, writing in Life magazine, tells of an incident in which a park ranger encountered a mountain lion lying on a trail and tried to coax it toward him. Before being scared away by the sudden appearance of other men, the lion seemed to respond and hesitatingly approached the ranger. "Apparently," writes Abbey, "they bear no malice toward us."

DOG PELT COATS TO BE MADE

PRETORIA, SOUTH AFRICA, May 3.—Van de Sandt de Villiers Smit, who caused an uproar recently by his plans to make fur coats out of dog pelts, said today he is considering exporting dogs for slaughter to avoid proposed legislation.

The government has promised legislation banning the slaughter of dogs for commercial purposes.

"If the government does pass the legislation, then I will simply do as I have promised—kill the dogs outside South Africa, and then bring the skin back," Smit said.

ANIMALS' DEATHS TO BE PROBED

MILAN, May 3.—Magistrates said today they are investigating the deaths of 21 animals left without care at Linate Airport during a long holiday weekend.

The district attorney's office said it was checking if there was a case for charges of cruelty to animals. Investigators said the dead animals included two leopards, 12 mynah birds, four owls and three hawks. They were part of a shipment of animals imported from Thailand by the owner of a miniature zoo located in a Milan subway station.

The animals arrived Saturday and were held for two days in a deposit at Linate Airport, waiting for a veterinarian to check their health and clear them for import. The veterinarian failed ot show up, investigators said, because his contract did not require him to work during the long weekend, which included Sunday and May Day.

These articles are four more instances of the need for animal protection legislation. Congress can be of great help, even internationally, through passage of legislation currently pending in the House of Representatives. Permit me to briefly outline some of these bills.

H.R. 14648 extends Federal law relating to the care and treatment of animals and birds in pet stores and zoos, and increases protection of animals in transit. It sets minimum standards for pet shops and zoos wherever interstate commerce is involved, and increases coverage of the Animal Welfare Act so that more animals can benefit from effective measures to stop abuse and neglect. Hobby breeders of cats and dogs are excluded. The bill has been referred to the Committee on Agriculture.

H.R. 14316, the omnibus animal protection bill, has three sections. Title I creates in the Treasury a fund for endangered wildlife—FEW—to be financed through sale of a sportsman stamp to those hunting, trapping, or fishing on land controlled by the Federal Government. Moneys would be divided between the Federal Government and the States to carry out protection programs for endangered or threatened species of wildlife. Title II broadens protection of the national emblem law to include hawks, owls, and other raptors including the condor, unconditionally prohibiting their slaughter. Title III prohibits importing any species of wildlife threatened with extinction. It also forbids taking any animal by inhumane methods. Specifically barred is skinning alive, and the use of steel-jaw traps. The bill has been referred to the Merchant Marine and Fisheries Committee.

H.R. 12096 requires the Secretary of the Interior to make a comprehensive study of the timber wolf. The study recommendations and suggested legislation is due January 1, 1976. The study would investigate the wolf's distribution, migration, population, effects of hunting, disease, pesticides, and food shortages on the animal. The information would be used to develop conservation measures for the wolf. The bill has been referred to the Merchant Marine and Fisheries Committee.

H.R. 12095 calls for a comprehensive study of mammals in the northern regions of the United States and adjacent high seas to be made by the Department of the Interior, due January 1, 1976. Animals to be studied are the polar bear, seal, walrus, sea otter, and related species. Information gathered would lead to adequate conservation measures and humane treatment for the mammals.

H.R. 9200 would bring common carriers of animals and transportation terminals under the Animal Welfare Act. It would govern the transport of animals to prevent loss, injury, and death suffered during shipment, and require that animals be accounted for at all times by the transporter. The bill has been referred to the Committee on Interstate and Foreign Commerce.

H.R. 7077 amends the Horse Protection Act to include bovine animals, protecting all bovine and equine animals from "soring" for performance purposes. The bill has been referred to the Committee on Interstate and Foreign Commerce.

H.R. 6803 creates a National Zoological and Aquarium Corporation to regulate standards for zoos and aquariums across the Nation. A national accreditation established by the corporation would insure the safety and well being of animals in captivity. The corporation would also financially aid zoos and aquariums to meet its standards, award grants to facilitate needed construction of animal buildings or structures, and establish training programs for professional staffs. The bill has been referred to the Committee on House Administration.

House Concurrent Resolution 296 authorizes the Federal Government to take steps determining if new research methods can be developed to eliminate the direct or indirect use of animals in its research projects. The bill has been referred to the Committee on Science and Astronautics.

In the international field several areas of humane treatment can be improved through congressional action.

House Joint Resolution 1179 calls for a moratorium on killing polar bears by establishing a treaty with the Soviet Union, Canada, Denmark, Norway, and other interested nations. The bill has been referred to the Committee on Foreign Affairs.

House Concurrent Resolution 232 asks the United Nations to establish international humane standards for animals. It urged the U.N. to initiate establishing an international criteria for determining endangered species of wildlife, a list of endangered species, and international standards for the treatment of animals in transit or other captivity. The bill has been referred to the Committee on Foreign Affairs.

House Concurrent Resolution 77 authorizes establishing a international convention between the United States, Canada, Japan, and Russia to regulate the harvesting of fur seals in the Bering Sea. The present method of taking the seals is by brutally clubbing the animals to death. The bill has been referred to the Committee on Merchant Marine and Fisheries.

Mr. Speaker all of this legislation is urgently needed. Animals cannot speak for themselves to express their misery or cruelties inflicted upon them, but there are eloquent spokesmen for them, as reflected in nearly daily articles in newspapers, and information in magazines, newsletters, and broadcast media, who show us the inhumanity of man. I want to encourage them all to renew their efforts. Much has been accomplished to protect animals and conserve wildlife, but so much more remains to be done.

All the legislation above, while needed, is only in a proposed status. Wildlife cannot speak for it, only man can do that. Only man can insure wildlife survival. Accepting the responsibility or not, he is its caretaker. What kind has he been? More importantly, what manner of caretaker will he become?

"DELTA QUEEN"

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. HUNGATE. Mr. Speaker, I know many Members will be interested in the continuing life and times of the 1928 river vessel, the *Delta Queen,* which continues to operate thanks to this Congress' granting her an exemption from regulations and safety standards. The following Associated Press story appeared in the May 6–7, 1972, St. Louis Globe-Democrat:

CINCINNATI.—The riverboat Delta Queen was ordered seized just before noon today by federal authorities on a suit by a Cleveland firm that claims Green Lines, Inc., owes it $85,000 for installation of sewage equipment.

U.S. District Court Judge David S. Porter ordered the U.S. marshal to "arrest" the riverboat and its captain and hold them for a hearing June 5.

The action was taken after a suit was filed by Seapax, Inc., of Cleveland. The firm claims it installed antipollution equipment of the Delta Queen at New Orleans between December, 1971, and May, 1972, and has received no payment.

The suit asked the court to order the ship condemned and sold for payment of the $85,000.

Donald M. Horn, U.S. marshal for the Southern District of Ohio, and Deputy Marshal Eugene Smith were sent to board the boat.

It had just been welcomed home by Ohio Gov. John J. Gilligan, U.S. Sen. Robert Taft, Jr. and other dignitaries.

Taft had planned to ride the Queen to the Kentucky Derby at Louisville. The boat was to return Sunday night to begin its first cruise of the season to New Orleans on Monday.

Perhaps, in the interest of nostalgia, the Congress will wish to appropriate $85,000 to release the *Delta Queen* from Federal custody.

I would, of course, oppose such an appropriation as I opposed an exemption of this vessel from the safety regulations required of all other ships.

The apparent failure to pay for necessary antipollution sewage equipment is more interesting in view of the testimony given this Congress on September 27, 1967, by an official of the company:

Q. Has the operation of the *Delta Queen* been profitable?

Mr. MUSTER. During the past 5 or 6 years it has been increasingly profitable each year and is operating now very successfully.

Our projections show that the *Delta Queen* successor can operate break even at about 60 percent of capacity. It may be even a little lower than that. We may be able to get it down to about 55 percent. On that basis, if we were to operate, as we are now, at about 92 to 95 percent—really it is just a shame how much money we could make.

In the months intervening, before we are besieged for another extension to exempt her from safety laws, I urge my colleagues to study the hearings.

I have followed the boat's career and will offer further articles to highlight just how much of the *Delta Queen*'s operation is nostalgic and how much is bilge water.

THE U.S. CHAMBER OF COMMERCE ON OUR SERIOUS FISCAL SITUATION

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. MAHON. Mr. Speaker, my attention has been called to a statement by the U.S. Chamber of Commerce in regard to the serious fiscal situation facing this country. It is imperative that we get our fiscal house in better order. The statement is quite provocative and should be widely read. It follows:

STATEMENT BY THE CHAMBER OF COMMERCE OF THE UNITED STATES

The cost of government is literally eating the country out of house and home. In 1970, Americans spent $14 billion more for government than for food, shelter, clothing and new cars combined.

Isn't it scary that the cost of government increased by 67% from 1958 to 1971? That's almost twice as much as the cost of consumer items. Uncontrolled Federal spending looms as a continuing threat to the economy. The inevitable results are government deficits, inflation, increased taxes.

What to do? We suggest to the President and Congress—put government on a strict diet. Set up strict spending guidelines. Exercise strict controls on the Federal budget. As a start, we recommend five reforms:

PROJECT ALL MAJOR SPENDING OVER A 5-YEAR PERIOD

Show total costs as well as detailed spending. Such projections should list separately both actual spending and spending that has been authorized but not yet spent. Then Congress and the taxpayers will have a yardstick for measuring new and continuing programs. The costs of new programs initiated in the 1960's incerased 300% during the first five years. If the taxpayer knows the future costs, he will think twice about the true worth of the program.

EVALUATE ALL SPENDING PROGRAMS AT LEAST ONCE EVERY 3 YEARS

Determine their need and effectiveness and see what costs can be eliminated. This is zero-based budegting, which means that an appropriation for a program must be justified from scratch. If needed it should be reenacted. If not, eliminated. As it stands now, almost $175 billion of the proposed $247 billion budget for Fiscal 1973 would be spent automatically—about $2,650 per family.

PILOT TEST EVERY PROPOSED MAJOR FEDERAL PROGRAM

See if it will work before full-scale operations are funded. If it works, then and only then should Congress put it into nationwide operation. This procedure will avoid many expensive projects that look good on paper but don't solve the problem. As Senator Abraham Ribicoff said in urging that the proposed Family Assistance Plan be pilot-tested: "Right now we have 168 programs at a cost of $31 billion to alleviate poverty, and we've got more poverty in this country than we had last year."

DESIGNATE A JOINT CONGRESSIONAL COMMITTEE TO EVALUATE THE FEDERAL BUDGET IN TERMS OF PRIORITIES

Today no committee is responsible for the total budget picture. The Federal budget is a thing of bits and pieces—a scrambled multibillion dollar jigsaw puzzle. Each committee has a favorite piece and tries to squeeze it in somehow. No committee evaluates the budget in terms of balancing tax receipts and expenditures. Excess costs are simply added to the national debt. A total review by one committee, to be made public, could help balance the budget.

SUBJECT SPECIAL FEDERAL PROGRAMS, SUCH AS SOCIAL SECURITY, MEDICARE AND HIGHWAYS TO THE DISCIPLINE OF CONTROLLED SPENDING JUST AS OTHER TAX-SUPPORTED PROGRAMS ARE

There are over 800 trust funds, which do not come under the annual appropriations review. An annual look might change priorities substantialy as times change.

These five points can bring the budgetary process under control. Until the American public insists on steps like these, election results will be meaningless. What's needed is millions of Americans talking to their friends, neighbors, colleagues and public officials about ways to bring spending under control.

For further background write to: The Chamber of Commerce of the United States, Washington, D.C. 20006.

OPPOSITION TO FAIR LABOR STANDARDS ACT

HON. ALBERT H. QUIE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. QUIE. Mr. Speaker, the House of Representatives will be voting on H.R. 7130, amendments to the Fair Labor Standards Act, later this week. Title III of this bill contains some extensive trade policy provisions to which I am opposed. I would like to call to the attention of my colleagues the serious effects this legislation could have on our entire foreign economic policy. Today, I received a letter from Secretary Laird outlining the opposition of the Department of Defense. The Education and Labor Committee has also received letters from the Departments of State and Commerce and the Office of the Special Trade Representative, voicing strong opposition. I am inserting these letters for the benefit of other Members.

SECRETARY OF DEFENSE,
Washington, D.C., May 8, 1972.

Hon. ALBERT H. QUIE,
House of Representatives,
Washington, D.C.

DEAR MR. QUIE: Reference is made to H.R. 7130, 92d Congress, a bill "To amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that Act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes."

The Department of Defense is particularly concerned with Title III of the bill entitled, "Relief for Domestic Institutions and Employees Injured by Increased Imports from Low-Wage Areas." Section 30(c) of Title III would delete subsection (e) of 29 U.S.C. 204 and substitute therefor new subsections (e) and (f). Subsection (f) would provide that contracts over $10,000 to be performed outside any State for goods, supplies, articles or equipment to be used within a State, shall require that persons employed under the contract be employed on terms and conditions which are "not substantially less favorable" to such persons than those which would be required under the Fair Labor Standards Act if the contract were to be performed within a State. The contractor must also make reports and keep such records as will enable the Government to assure that he complies with such requirements.

Under Section 301(c) of the bill, Defense contracts apparently would require overseas suppliers to pay wages "not substantially less" than wages required to be paid in the United States under the Fair Labor Standards Act. Aside from the ambiguity inherent in this requirement, we are apprehensive that the effect of such a requirement could be to foreclose the Department of Defense from access to most foreign sources where wage rates tend to be substantially less than in the United States. The percent of our supplies which are bought from overseas sources is very small in relation to that which we purchase domestically. There are, however, some requirements which cannot be obtained from domestic sources, and it is essential that the way be left open to those sources unhampered by preclusive contractual requirements. These include:

Items which are not available in the U.S. such as certain new technology items, e.g., the British developed HARRIER aircraft. The DoD does not intend to duplicate the expense of developing such new technology items when they are available from a foreign source, and are suitable for U.S. defense needs. Also, the DoD frequently needs to buy one or more copies of a weapons system or subsystem for testing in the U.S.

In any logistic situation, there is always the need to have authority available to buy from any source in an emergency, whether a full scale national emergency or a one-time natural catastrophe. However, the bill does not provide for these contingencies.

For a number of years, the DoD has been selling military equipment to its allies in the interests of the common defense. In recent years these sales have been running at approximately $2–$3 billion. Frequently, countries who are willing to procure several hundreds of millions of dollars of U.S. defense equipment insist upon and are provided limited and selective opportunities to bid on U.S. defense procurements on a competitive basis. While these offsetting procurements may increase in the near future due to various undertakings which have been and are being negotiated with allies of the U.S., they will continue to represent no more than about 1% of the value of annual U.S. foreign military sales, or about $25 million annually.

Various steps have been taken during and since World War II to coordinate U.S.-Canada economic efforts in the mutual defense of the North American continent. These steps involve greater integration of military production, standardization of military equipment, dispersal of production facilities, and availability of supplemental sources of supply.

During the Vietnam War, Canada provided DoD with many urgent requirements, including certain electrical and navigational equipment and supplies. Over a 12-year period, the U.S. has procured approximately $2.8 billion worth of supplies from Canada. Over 100 Canadian suppliers have executed agreements to provide certain critical defense items in the event of an emergency. The bill would prevent DoD from obtaining these supplies from Canada under this long-standing program.

The purpose of Section 301(c) is apparently to prevent the displacement of U.S. workers and the disruption of working conditions among U.S. industries by foreign firms which extend to their workers lower wage rates and less favorable benefits than those available to U.S. workers under the Fair Labor Standards Act. However, under the bill, contracts with foreign firms would have to contain the requirements of new subsection (f) under Section 301(c) of this bill even if no U.S. firms or workers would otherwise be affected by the procurement. The only effect of this requirement in some cases, therefore, would be to hamper severly the procurement of necessary defense materials without corresponding benefit to domestic labor.

Also, compliance by foreign contractors with other United States statutorily required conditions of employment, such as child labor laws and overtime laws, may well be required under this section. These U.S. labor laws may well conflict with those in foreign countries.

It should be noted that, through the Buy American Act, and our implementing regulations, the Department of Defense already extends a significant favorable advantage to domestic sources relative to foreign sources. This advantage generally takes the form of adding a 50% price differential to foreign bids for evaluation purposes. In addition, other statutory provisions such as the "Berry Amendment", a provision of the annual Department of Defense Appropriations Act, precludes the purchase by this department of certain foreign produced supplies except under very limited circumstances.

Authority is already provided under the Trade Expansion Act of 1962 for an investigation of a situation wherein it is alleged that national security interests may be adversely affected because of imports. The Office of Emergency Preparedness is responsible for such investigation and for obtaining appropriate advice from all Executive Agencies, including the Department of Labor. Recommendations for possible Presidential action are made as a result of this investigation.

There is substantial doubt as to the enforceability of the requirements of new subsection (f) under Section 301(c) of H.R. 7130. There is no means to compel compliance by a foreign firm with the pertinent provisions of the contract, once it is awarded. Presumably, the only sanction would be contract termination. This, of course, can be a most undesirable sanction because of the delay and cost which results in re-procuring from another source. Also, it is not clear whether under this bill it would be sufficient for procuring offices to rely on the foreign contractor's representation of compliance, or whether an investigation, evaluation and verification procedure would have to be established. If the latter, the administrative burden in terms of cost and time could be quite heavy, and result in long delays in procurement of vital defense supplies.

In short, Section 301(c) of the bill would create serious problems in defense procurement, and it is doubtful that it would benefit U.S. labor or industry to any appreciable degree with respect to defense procurement. In fact, this department is of the view that this legislation could result in retaliatory measures by other countries to substantially reduce purchases of U.S. military equipment, thereby adversely affecting hundreds of thousands of U.S. jobs, and increasing the unfavorable U.S. balance of payments. Furthermore, such a broad measure could invite retaliatory measures by foreign governments against U.S. firms engaged in commercial export enterprises, thereby adversely affecting the health, efficiency and well-being of U.S. workers.

In addition to the aforesaid objections to the provisions of Title III of H.R. 7130, it appears that this bill would have substantial effect on the cost of Department of Defense nonappropriated fund activities by raising their costs of operation by many millions of dollars. This could run counter to current efforts to make military service more attractive so as to enable an end to the draft.

Thus, for the reasons stated above, the Department of Defense is strongly opposed to the enactment of Title III of H.R. 7130.

Similar letters are being sent to Congressmen Carl Albert, Albert H. Quie, Gerald R. Ford, Carl D. Perkins, H. Allen Smith, and William M. Colmer.

Sincerely,

M. R. LAIRD.

MAY 12, 1971.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Department of State has been informed that legislation, namely H.R. 7130, has been introduced for the purpose of amending the Fair Labor Standards Act of 1938 and has been referred to the Committee on Education and Labor for consideration. One of the amendments, embodied in Title III of the bill, would empower the President to increase duties or impose quotas whenever he found, on the basis of an investigation and report by the

Secretary of Labor, that United States workers and the economic welfare of communities were being adversely affected by imports of articles produced in foreign countries under working conditions and wages below those specified in the Fair Labor Standards Act. A second amendment, also in Title III would require foreign manufacturers to comply with the Fair Labor Standards Act in supplying goods for public use.

The Department of State recommends against enactment of legislation, such as Title III of H.R. 7130, inasmuch as the tariff adjustment and other adjustment assistance provisions of the Trade Expansion Act of 1962 already prescribe a procedure which can be evoked to provide relief to domestic industries, firms and workers from severely injurious import competition. Moreover, this Department considers that any modification of tariff concession negotiated under the trade agreements legislation should be made in a manner consistent with the standards and procedures established by Title III of the Trade Expansion Act of 1962.

In brief, the Trade Expansion Act procedures require the Tariff Commission, upon the application of an industry, firm or group of workers, to conduct an investigation, including a public hearing, to determine whether a rise in imports attribute in major part to trade agreement concessions, is causing or threatening serious injury. In making its determination the Commission must take into account all relevant economic factors, including the idling of productive facilities, inability to operate at a level of reasonable profit, and unemployment or underemployment, and report its findings to the President. Upon an affirmative finding of the Commission, the President is empowered to impose additional restrictions on imports and provide special assistance to effected firms and workers.

Moreover, the Trade Expansion Act procedures make provision for the effective representation of the interests of American wage earners. Any certified or recognized union may petition the Commission to institute an investigation and may submit briefs or testify in public hearings before the Commission. Wage earners also have full opportunity to present their views to the Secretary of Labor and other members of the Trade Expansion Act Advisory Committee which advises the President regarding all aspects of trade policy, importantly including reports to him by the Tariff Commission under the tariff adjustment and other adjustment assistance provisions of the Trade Expansion Act.

In addition, other existing legislation, including Section 22 of the Agricultural Adjustment Act, the Antidumping Act of 1921, and Section 303—the countervailing duty provision—of the Tariff Act of 1930 prescribe complementary procedures which can be evoked to curtail injurious imports.

The proposed amendment seems to be based on the premise that labor cost differentials should be equalized to afford relief to domestic industries, firms, and workers. However, the fact that labor costs are lower in other countries does not necessarily mean that imports from them are harmful. Labor costs are only one of several elements which enter into the price of an article and price is not the only factor affecting sales. For example, the price of raw materials, fuel, power, capital and credit, the skill of workers and management and the efficiency of manufacturing facilities all have important effects. In addition to price, such other factors as financing arrangements, delivery, freight costs, quality, packaging, channels of distribution, consumer preference and product service have an important bearing on sales of foreign made articles. If labor costs were the principal determinant of a country's competitive position, low wage articles could always undersell high wage articles in international trade. Yet, despite the fact that United States industry pays the highest wage rates in the world, the United States is the world's largest exporter, shipping nearly $42 billion worth of goods produced in all sectors of the American economy abroad in 1970, much of it to countries where wages are substantially lower.

Since American labor standards are considerably higher than in most foreign countries, the proposed amendment seems to envisage large scale restrictive action against imports. Any reduction in United States imports on such a scale would inevitably invite retaliatory restrictions by the affected foreign countries. Reduced imports would be followed by lower American exports and many jobs among the more than two million United States workers producing for export would be jeopardized. The United States balance of payments would be weakened. The net effect of the amendment would be to damage the American economy and United States foreign economic relations.

Although the proposed amendment does not single out any particular articles and does not allude to any specific supplying country, the export products of the less developed countries—located in all parts of the globe and constituting the great majority of free nations—would probably be affected. The less developed countries must expand their foreign exchange earnings through increased trade if their economies are to become viable without indefinite recourse to foreign aid. The United States has taken a leading role in encouraging other developed countries to reduce barriers to imports from less developed countries. The proposed amendment would be interpreted by the developing countries as restricting rather than expanding their access to one of their important markets.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

David M. Abshire,
Assistant Secretary for Congressional Relations.

Department of Commerce,
Washington, D.C., May 17, 1971.

Hon. Carl D. Perkins,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.

Dear Mr. Chairman: These comments are submitted for your consideration with respect to title III of H.R. 7130, a bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that Act to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes.

In essence, title III would authorize the President to take appropriate action against foreign goods when the Secretary of Labor, after investigation and hearings, finds that imports are causing or substantially contributing to serious impairment, or threat of impairment, to the health, efficiency, and general well-being of any group of workers in the United States, and the economic welfare of the communities in which they are employed.

The Department of Commerce does not favor enactment of title III of H.R. 7130.

The actions of the United States takes to restrict its imports directly influence the policies of other countries toward U.S. exports, particularly with regard to retaliatory measures. This is an important consideration recognized in section 4(e) of the Fair Labor Standards Act which provides for studies of employment effects of foreign trade. Some three million U.S. jobs depend upon exports. Therefore, any restrictive action with regard to imports must be considered in the context of overall U.S. trade policy and procedures for dealing with the general problem of import competition.

The Department believes that the problem of foreign import competition and the effects of such competition on labor, the communities in which affected firms are located, and domestic trade can be better handled in the framework of existing legislation and procedures.

Under the provisions of title III of the Trade Expansion Act of 1962, escape clause relief to domestic industries in the form of increased tariffs or other import restrictions is available following a Tariff Commission investigation, as is adjustment assistance to firms and groups of workers found to be seriously injured by imports. For example, imports of certain types of sheet glass, pianos, and rugs are currently subject to temporary escape clause rates of duty. Several firms producing shoes, pianos, glass, and barber chairs have been certified as eligible to apply for adjustment assistance. In numerous cases over the past year, the President has certified workers injured by imports as eligible to apply for adjustment assistant. Additional avenues of relief to U.S. firms and workers are contained in other laws, such as section 204 of the Agricultural Act of 1956, the Antidumping Act of 1921, and various provisions of the Tariff Act of 1930.

The President has requested two comprehensive studies to examine in depth the complex issues involved in import competition, one by the Tariff Commission and the other by the Commission on International Trade and Investment Policy. The findings of these studies would provide a more solid basis for any further legislative action which may be needed with respect to the objectives envisaged in title III.

Title III of H.R. 7130 would also levy certain requirements on contractors manufacturing or furnishing materials, supplies, articles or equipment in the case of a contract to which the U.S. is a party or under which payment is to be made from Federal grants, loans, or loan guarantees. Presumably, these requirements would preclude the acquisition of goods made outside any State with the use of labor paid less than U.S. minimum wages. There are substantial difficulties inherent in measuring wages, benefits, and conditions. In addition, in many cases imposing the requirements of title III might be construed as raising a non-tariff barrier which would invite retaliation. Such action would also be inconsistent with current U.S. efforts to obtain reduction or removal of such barriers to trade on a worldwide basis.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

Sincerely,

William N. Letson,
General Counsel.

Office of the Special
Representative for
Trade Negotiations,
Washington, D.C., May 12, 1971.

Hon. Carl D. Perkins,
Chairman, Education and Labor Committee, House of Representatives, Washington, D.C.

Dear Mr. Chairman: We understand that H.R. 7130, a bill "To amend the Fair Labor Standards Act of 1938," is being considered by your Committee. Among other things, the bill would amend Title III of that Act to provide new authority to restrict imports into the United States. In view of the foreign trade policy questions raised by those amendments, we ask that the Committee consider the comments of this Office as set forth in this letter. As indicated, those comments are limited to that section of H.R. 7130 which would amend Title III of the Fair Labor Standards Act.

The proposed amendment in section 301(c) of Title III would add a subsection (e) which would give the President new, additional authority to restrict imports. This authority could be exercised when the Secretary of Labor finds that the economic welfare of a group of workers or the community in which they are employed is seriously impaired or threatened in whole or in part by competition from foreign goods produced under labor conditions inferior to those established for U.S. workers by the Fair Labor Standards Act.

This amendment is objectionable on several grounds. Under existing legislation, the President already has broad powers to curtail imports to safeguard the interests of American companies and labor. Examples of such authority include the Trade Expansion Act (Sections 232, 351 and 352), the Anti-dumping Act of 1921, the Agricultural Act of 1956 (section 204), and the Tariff Act of 1930 Sections 303, 307 and 337). The Administration is on record in favor of liberalization of some of the existing safeguard provisions. It has either initiated or supported specific proposals which would benefit American workers both directly and indirectly, but without the adverse effects that would follow in the wake of the restrictions proposed in H.R. 7130.

Only a small fraction of the world's labor force outside the United States enjoys wages and working conditions equal to the minima of the Fair Labor Standards Act. The proposed amendments could therefore lead to sharp restrictions on a broad range of our imports. The stimulus that would be then given to inflationary pressures is clear.

Such restrictions as are proposed in Title III of H.R. 7130 could also adversely affect our exports. Other countries might well take counter-measures against U.S. exports in the face of what they could consider to be an unreasonable U.S. action. In addition, our exports could suffer due to loss of purchasing power by countries whose export sales to the United States were restricted. Reduced production for export would eliminate jobs in American industry and agriculture, and jeopardize efforts to improve our balance of payments. The net impact on U.S. economy could be substantially adverse.

Title III of H.R. 7130, moreover, focuses entirely on comparative labor standards as the determinant of our competitive position in international trade. This emphasis greatly oversimplifies any competitive situation. For example, many of our leading exports originate in industries whose workers earn well above the average U.S. wage. Lower wage and labor standards are not necessarily the principal determinant of success. Sound management, the skill of production workers, adequacy of capital and credit or prices of raw materials and fuel are also important factors. Nor is price always the sole consideration in a purchaser's choice among suppliers. Quality, advanced technology, service, transportation charges or consumer preferences, often outweigh price.

Another serious set of difficulties would arise in attempting to administer this amendment. Would the restrictions it authorizes, for example, be imposed only on imports from the country or countries found to have lower labor standards? If so, this would involve a major departure from the most-favored-nation principle and could lead to wholesale violations of our international commitments to provide, in general, equal customs treatment to imports.

The problems of fair and reasonable administration would be further compounded if we attempted to vary the degree of restriction in proportion to the estimated gap between U.S. standards and those in the different supplying countries. The largest penalties would then fall on the poorer countries, frustrating not only their development plans but also key elements of our own foreign policy objectives. On the other hand, if restrictions were levied uniformly on all imports, they would penalize countries with higher labor standards.

The investigation required by the Secretary of Labor under Title III of H.R. 7130 would pose major factual, as well as administrative problems. The requirement that he make international comparisons of wage rates and benefits involves such problems as determining the appropriate monetary conversion factors to use. Compensation practices abroad, moreover, often are rooted in social as well as economic systems quite different from ours. The required comparisons would, therefore, also have to consider many other relevant differences—in taxation, government services, and fringe benefits provided by employers. Much of this information is not now available in the detail required. Its acquisition would necessitate sizeable budgetary supplements.

Section 301(c) of H.R. 7130 would further amend Section 4 of the Fair Labor Standards statute by adding a new subsection (f) which would impose restrictions on government procurement and on any procurement financed in whole or in part by Federal funds. It would require that employment under any such contract performed outside of a State shall be on terms and conditions not substantially less favorable than the Act requires within the State. It further requires that, wherever a contract is in excess of $10,000, the individual contractor be held responsible for compliance with these conditions.

These amendments are objectionable on several grounds. They would drastically modify existing rules and regulations on direct government procurement—conditions which have been established by the Congress and implemented in very detailed and carefully drafted regulations by Executive Branch agencies. They should not be now amended without a full and thorough examination of their effects and implications.

Second, the proposals go beyond existing regulations and extend the new requirements to contracts made by others, including private parties, under which payment is to be made in whole or in part from Federal grants, loans, or insured or guaranteed loans. This extension would constitute an enormous broadening of the scope of existing procurement regulations and would affect a vast number of programs and activities without full understanding of the consequences. At the least, extension of these restrictive requirements could be expected to disrupt all such activities and would in all probability increase their budgetary costs.

Third, the provision that each individual contractor be responsible for compliance in each activity involving more than $10,000 is an onerous one. It would require each contractor to ascertain the conditions under which any materials are prepared or any manufacturing conducted in a foreign country and to compare them with the conditions which prevail here for similar products. Although the Bill's language is not specific, it would also appear to include any components incorporated in a finished product. These conditions are clearly beyond the reasonable capabilities of any individual contractor. Moreover, Federal agencies would be faced with difficult, if not impossible, administrative responsibilities in insuring that their contractors had actually complied with the proposed provisions.

Finally, by imposing new obstacles to procurement by Federal agencies and by expanding their coverage, the amendment would seriously undermine the current international efforts to reach a code of fair and equitable public procurement practices. One important purpose of this effort is to insure that U.S. exporters have the opportunity to compete for public procurement in other countries on the same basis as do their foreign competitors. To add a series of additional, restrictive requirements to the terms and conditions of public procurement in the United States, especially requirements whose scope and effects are as broad and imprecise as those proposed, would erect a serious obstacle to this effort.

For the foregoing reasons, this Office is strongly opposed to the proposed amendments to Title III of the Fair Labor Standards Act.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

CARL J. GILBERT,
Special Representative.

THE HUMAN VALUE OF WORK—WILLARD WIRTZ ON MANPOWER POLICY

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. O'HARA. Mr. Speaker, in mid-March, the Department of Labor held a meeting commemorating the 10th anniversary of the enactment of the Manpower Development and Training Act. As is always the case wherever and whenever he speaks, one of the outstanding addresses at that conference was delivered by the Honorable Willard Wirtz, a great former Secretary of Labor, and one of the real fathers of MDTA. I insert Willard Wirtz' eloquent and thoughtful remarks at this point in the RECORD:

REMARKS BY WILLARD WIRTZ

Mr. Secretary, Commissioner Marland, Mac Lovell, Ladies and Gentlemen: The Committee has asked particularly that these remarks include something about the beginnings of the Manpower program. Wanting to oblige, I have refreshed my recollection from the Book of Genesis. I recall it roughly as follows:

We said in the beginning, let there be full employment, and there was full employment. And we saw that this was good, and the evening and the morning were the first day.

Then the economists said, let there be a firmament in the midst of the waters so that there will be no inflation, and let the firmament divide the waters which are under 4% unemployment. And so we called the 4% firmament full employment, yea even though it meant 3 million people "looking for work and unable to find it." But we saw that this was good, and the evening and the morning were the second day.

Then we said, let the hard core unemployed be gathered together into one place and let them be trained in a Concentrated Employment Program, which was thereafter called Job Opportunities in the Business Sector because it permitted an acronym. (Laughter.) And we saw that was good, and the evening and the morning were the third day.

Then we said, let there be lights in the firmament, and we turned on two lights: a newer light which we called the Manpower Administration to rule over the day, and an older light which we called the Employment Service to rule over the night. (Laughter.) And we saw that that was good; well, pretty good. And the evening and the morning were the fourth day.

Then we decided that three lights would be better than two, and there was created the

Office of Economic Opportunity. And we declared war on poverty. And that was the evening and the morning of the fifth day. So on the sixth day we rested, having put in our forty hour week. We had started something we didn't know how to finish, and there were even some to claim that we had started something we didn't know how to beginnish. (Laughter.)

Thus endeth the reading from the Book of Genesis. There will be readings this evening from the Book of Job. (Laughter.) And tomorrow morning, Revelations. (Laughter.)

I'm glad you took it that way. I had worried about treating too lightly some things that are important to so many people in this room, and to so many others who aren't here and whom we now hardly think of in connection with this program. I think of course of John Kennedy, of Arthur Goldberg—of their contribution to the architecture of this program—and Joe Clark, and Elmer Holland, and the others on the Hill; and of a great many people in this room. That history is best treated lightly, because it would be hard to treat it seriously. Yet you know how much it means to a great many of us, and you know how much it means to me.

One other historical footnote may also seem more self-deprecatory than the circumstances warrant, and yet it releates to what I have in mind to say.

The American College Dictionary has this definition of Manpower: "1. The power supplied by the physical exertion of man or men. 2. A unit assumed to be equal to the rate at which a man can do mechanical work, community taken as one-tenth horsepower."

So far as I can recall, none among those "present at the creation" even had a dim sense of our double-barreled baptismal blunder. It wasn't simply that we chose a name which engraved for all time on the record our porcine male chauvinism. More than that, we took as the name for this program a word, "Manpower," which by deriving directly from "Horsepower" perpetuates the emphasis on the behalf that labor is a unit of production.

As I try to think back over those ten years and ahead to the next ten, to think either of those things which gave great satisfaction or of those things which could have been done differently or can be done differently in the future, I'm impressed with the realization that they all relate to the other half of the truth—which is that work is an essential human value.

I don't know whether it is so in itself. I suppose that a "work ethic" apart from a rational "life ethic" would be, the Puritans to the contrary notwithstanding, only whatever it takes to inspire working as effectively as a tenth of a horse. And yet Work . . . doing something . . . however we want to put it . . . is, probably, along with Love and with Learning, among the essential human values. I'm not enough of a philosopher to understand this. I only know that I associate whatever professional satisfactions there may have been with the fact of having tried terribly hard and being very tired at the time. I think it is true that Work . . . doing . . . is as important a piece of business as there is in the composition or whatever this is we call life.

It is a fair appraisal of the first decade of the Manpower policy that it did produce a greatly increased consciousness of the human value of work. What had been before essentially a feeder system of labor into the economy, which took both the supply and the demand as given, has at least started to become instead an instrument for serving the human purpose of work. We have come very close in these ten years to establishing at least the elemental principle that there is a human right to the opportunity to work and that this includes a right to be prepared for work. If there aren't jobs, we now say there had better be. If there isn't preparation, we say there had better be. To a very considerable degree, in these ten years, the individual rather than the labor market has become the given. That's quite a ten years' work.

But if anybody thinks that this program has gone as far as it is going to go in this direction, he or she better get out of the way before he or she gets run over.

There has been an initiative taken in these ten years which has a momentum about it which is still only half, probably less than half, realized. The authentic tradition of the Manpower policy has become that the human values in work as a life function do have priority over the economic interests in labor as a unit of production. The dictionary definition to the contrary notwithstanding, "Manpower" has become in these ten years not a shorthand expression for one tenth part of horsepower, but rather a shorthand expression for the power of man and woman to do and thereby to be.

Rhetoric? I don't mean it that way. I mean it rather as a statement of a tough, uncompromising position on issues as basic and important as any before the country today.

About, for example, what we mean by "full employment."

There are two issues here. One is whether when we say full employment, we mean full employment or whether we mean full employment minus whatever degree of unemployment somebody says is necessary to keep an uncontrolled economy on a level keel.

The parlaying through two administrations of the economists' Phillips Curve and the politicians' euphemism about "cooling off the economy" would be enjoined by the Federal Trade Commission if it were used in the advertising on a patent medicine that ought to be labeled "Poison," or at least "Horsepower Policy." (Applause.)

I didn't hear much, frankly, about full employment this morning. It is time for the architects, the people in this room, to make it plain that when we say "full employment," there is no fine print, that what we mean by "full employment" is the full employment of every single person who wants to work and is able to do it, and that that includes everybody. None of this business about accepting 5% unemployment . . . or 4%.

If there has to be 2% "frictional" unemployment to cover people moving at any particular time from one job to another, all right. But anything above that is our fault, and something which we ought to correct. It is time to reassert the belief in full employment.

This country is getting dangerously close to a view that unemployment is a price of peace, of technological advancement, and of economic stabilization. We can't afford that nonsense as part of the exercise of the responsibility of leadership. It needs to be said plainly that if war . . . not just a war, but war . . . were stopped completely, and if we were then simply to undertake to give the people of this country the education and the health which we can provide, if we were simply to undertake to clean up our air and our water, if we were simply to replace the cobwebs of concrete which are choking the cities of this country with the urban transit systems which represent the minimum of ecological sense . . . if we were to do just those things, we would have a manpower shortage in this country. People need to be reassured about that.

This would unquestionably present some other problems. I don't suppose there can be full employment in the sense we are talking about it here, without different priorities. Or without more planning. I'm not sure that there can be this degree of full employment without discipline which goes beyond self-discipline. It probably means paying more taxes instead of higher prices. It may very well mean giving up our competition with Russia in the stratospheric pole vaulting event. It may mean deciding to put some different things first. This may not be congenial political doctrine. But this country is ready to face whatever issues arise from putting full employment in the first place instead of someplace else on down the line.

The other full employment issue is whether we mean full employment in the horsepower or in the human power sense. I make the point, I hope with Jim Hodgson's indulgence, by drawing unduly on expired authority.

I announce here this noon, on the third Thursday of the month, that the national unemployment rate, adjusted not according to the changing seasons but according to the underlying ideals of civilization, is 57%. We just dropped the decimal point.

I regret that there will be no opportunity to explain this at a press conference. (Laughter.) But as you have perhaps suspected, what I have done is simply to take as the base for employment or unemployment the full potential of the human race. I suspect that 57% figure for the under-use and non-use of the human potential is low, that if we could define employment and under-employment according to what is inside of us and what we *could* do, the unemployment rate is more than 57%.

Some other changes will be covered in subsequent announcements. I have requested the Commissioner of the BHS, that's the Bureau of Human Statistics . . . what's one more change among friends (Laughter) . . . to investigate a problem which has been bothering some of us for some time. The Commissioner tells me that he has been troubled, too . . . since a visit the other day by two women. One is the mother of five children, the other the wife of a Secretary of Labor. They wanted to know, just as a matter of information, how what women do from day to day . . . and 15 hours a day . . . is counted in the employment statistics. The Commissioner had to go through the exercise of explaining to them that the only employment which is counted is that which is brokered through what is still quaintly called "the labor market." This means of course that it leaves out what all of the unliberated women in the country are doing. The Commissioner's two guests didn't find that explanation wholly satisfactory.

Those of use who have the largest reason to be proud of that particular indicator, who have put so much of ourselves into making it the instrument it is, are in the best position to say to the country that there ought to be another *social* indicator which goes along with it.

The real development of full employment in any "human power" instead of "horsepower" sense depends upon the establishment of social indicators which, while not so precise as the economic indicators, will fulfill a comparable function. Indeed, if I could pass a single law, I suppose it would be that one which languishes up there on the Hill right now, S. 5, in the last two sessions of the Congress, the Full Opportunity and National Goals and Priorities Act. You always know that if something of this sort can be reduced to an acronym which sounds like a breakfast food, it *is* a breakfast food. This isn't that kind of bill. This is the bill Senator Mondale has tried so hard to push. It would establish a Council of Social Advisers with authority and responsibility comparable to that of the Council of Economic Advisers, and a joint Senate-House committee with responsibility comparable in the social area to that of the Joint Economic Committee. Two administrations now have done a shameful job of sabotaging that particular piece of legislation.

You wonder what it is in the chemistry of democracy, or in the genes of the press, that means we all get so excited about whether a piece of alleged autobiographical manuscript was fake or real, or even about the relationships of corporations with government, but that virtually no attention is paid to the travails of something as important as S. 5. I can't say too strongly how essential it seems to me to the idea of a "human power" program, that social indicators be developed as fully as the circumstances permit.

I want to mention only briefly another testing in this second decade of the meaning and mettle of a "human power" policy. Under Secretary Veneman raised the point this morning. It has to do with the control of technology, with the relationship of machine and man.

I guess I think the single most authentic prophesy in the history of American social, political, and economic thought was Thorstein Veblen's prediction, 80 years ago, that the one problem which would probably present the critical testing of a free democracy would be society's control over what he then called "scientific invention." This seems to me as near the heart today of Manpower policy in a "human power" sense as any matter could be. Advancing technology . . . "automation" . . . means more jobs, not fewer jobs. But the new jobs are different from the ones the machines replace, and probably in other plants, other areas. At the end of this first decade of manpower policy, the displacement of people by machines is still left largely to the forces of the marketplace, and to a collective bargaining procedure which can't handle this situation because the problem arises within a particular bargaining jurisdiction, but the answer lies someplace else.

I would wish that when we consider the problem of the prevention of crippling nationwide strikes we could also address the basic problem which causes most of those strikes, which has to do with the replacement of people by machines.

If there were more time I would like to propose a Technological Displacement Act, which would recognize that this problem must be met through action as a community, and that it cannot be met effectively through collective bargaining alone. If we are going to provide a tax incentive to manufacturers for putting in what will usually be labor-saving equipment, we could properly require the use of half of the gains from the change to buy up the job rights of the people who are displaced and to support a national training program to give them access to new jobs.

Another provision of a Technological Displacement Act would create a National Leave of Absence Program under which every member of the work force would be entitled as a matter of right to a two-year leave of absence at whatever point he or she wants to take it during his or her working career. The two-year leave of absence would be paid for at 75 to 100% of the individual's current earning rate. It would be used to go back and pick up education or training, whatever that individual wants to do with it. A system very much like this was adopted in 1969 in Germany and last year in France. It makes good sense. Instead of simply paying out unemployment benefits, there are payments from the unemployment insurance fund to permit somebody whose job is about to be taken by a machine to go back and take the training for some other job which is coming up. We need something of that sort.

We need, too, the Technology Assessment Act, which the House did pass last Fall, and which would provide for some kind of assessment of the implications of new technological development.

* * * * *

To have stood away for a while, from any operational responsibility for the Manpower program, so that this first decade can be viewed in perspective, is to realize increasingly what could be only partially sensed in the midst of its administration: which is that a rational Manpower policy will have to develop as part of a broader Manpower-Education policy.

Education and Work are . . . or ought to be . . . reciprocal life functions. It seems almost certain that the decade now opening will be characterized by the recognition that a Manpower policy designed to serve both the needs of the economic system for the right kind of Labor and the needs of the individual for meaningful work will be closely inter-related with Educational policy.

Take the glaring, incriminating fact, properly emphasized in the new Manpower Report which has been distributed here today, of a 16-to-19 year old unemployment rate of 17% . . . with a rate more than double that among those at the triple "disadvantage" of being young, female, and black. This most acute and serious of all unemployment problems won't be met unless and until it is recognized as at least fully as much an "educational" as a "manpower" problem.

I question, frankly but without wanting under the circumstances of this occasion to argue the point, the efficacy of meeting this situation by establishing "a special lower youth minimum wage to help overcome employers' reluctance to hire inexperienced young workers." That doesn't seem to me to go to the heart of it—but rather to compound the mistake we make by having a lower minimum wage for people in "sheltered work shops," when they are the ones who need an adequate minimum wage the most.

I agree, incidentally, with Vivian Henderson's suggestion this morning that we are letting this phrase . . . "disadvantaged" . . . lead us off into some wrong answers. This is true in the case of physically and mentally handicapped workers. It is true in the case of the disabled veterans—for whom, so far, we have come up with answers which may salve our conscience a little but which don't satisfy either our obligations or the maimed young men's needs. It is true when . . . as Vivian was suggesting . . . we use "disadvantaged" as a euphemism to help us out of recognizing that the people we are talking about are those who are black or are Chicanos and as such the victims of the fallout of discrimination and bigotry. And it is true if we misconceive of the million-and-a-quarter unemployed 16-to-19 year olds as being at a disadvantage which a lower minimum wage alone would cure—which is not, I recognize, what the Manpower Report says.

The general youth unemployment situation clearly warrants emergency measures, although emergency measures too often become excuses for not doing something more basic.

There ought to be a Youth Service Act—without the "Selective." There ought to be a Service Board in every community, a board to which young people could go to talk with someone about what they are going to do next. We don't realize the extent to which, almost suddenly, the function of the family has virtually disappeared as far as the employment guidance function is concerned. We don't realize the implication of the fact that many young people named Miller, or Miner, or Mason, or Carpenter, or Cartwright, or Baker, or Barber, or Smith, or Shepherd, or Sawyer or Fowler, or Farmer—their names reflecting the fact that the whole training placement and employment process used to be within the family—will now have four or five different jobs during their own lifetimes and will enter employment through a totally impersonal process. It would help make up for that disappearance of this family function if there were youth service boards, career development boards, whatever you want to call them, in every community in the country.

There ought to be, too, a National Service Act, not just to meet the needs of those we presently call "disadvantaged" but for all of those young people for whom more school is not the right answer at the particular moment. There is apparently no disagreement about this as a matter of principle, but only a concern about the costs. Let's declaim, before it's gone, half of that Viet Nam peace dividend and put it into a national service program.

But that would be only one possible piece of an Education-Work policy. I know, incidentally, and respect fully, the argument that the roots of unemployment, particularly youth unemployment, reach way down through institutionalized education and beneath it into what is happening in the family structure and in the society in general. Recognizing that, though, let me simply suggest some of the items on an agenda of relating education to work, and work to education—with what would seem to me clear promise of improved effectiveness.

I suppose *Serrano vs. Priest* is the most important single Manpower decision in the past ten or twenty years. That's the decision in California which provides, in effect, that every child is entitled to an equality of education as far as the financing of it is concerned.

Commissioner Marland has referred to the concept of Career Education which is being developed in the Office of Education. It seems to me to make total and complete good sense to find out more than we now know about what people are going to be doing, and then to use that information in one way or another in the educational system. Under Secretary Veneman talked this morning about our getting away from the elitism which led to the training of all children for a college experience most of them wouldn't ever have and which some of them don't want and wouldn't use. The leaders of American education are attempting to reshape Education in the light of a further appreciation of "Manpower" policy and needs. We whose particular responsibility is "Manpower" should be responding to that in the most affirmative way.

Dr. Evans spoke briefly this morning about the "work-study" and "cooperative education" programs. He was so kind as to mention The Manpower Institute. We are trying there to develop what we are calling an "Education-Experience-Exchange" concept, with the thought that there are various ways of inter-relating the education and work experiences and that a variety of options ought to be developed and afforded on as effective a basis as possible. We will be claiming no patents, for this is increasingly familiar territory; and yet there is obviously, so far, more rhetoric than machinery.

The community college development is obviously important here, and only the limitations of time excuse my not going further into that.

I guess I think that the "continuing education" concept represents the single most fertile, promising, and so far virtually undeveloped frontier of Manpower-Education policy.

It seems to me unlikely that the essential "participatory" element in a democratic society could be preserved much longer if we were to continue to proceed on the fallacious assumption that people can learn enough by way of formal education or institutionalized education at the start of life to get us all the rest of the way on through. With knowledge expanding at the rate it is, there is as much reason for compulsory education for people at age 45 as there used to be for children at ages 6 to 16. It can't be very long before we recognize that with knowledge expanding this fast, we have simply got to make arrangements for a constant renewal of education . . . fitting education in with experience . . . abandoning this ridiculous idea we have grown up on, and some of us are now growing old on, that life is to be divided into three time traps: education, work, and then retirement. That doesn't make sense.

How about two years' compulsory education for every woman at the time she reaches 40 or her youngest child goes off to college? Sure, that's just bargaining. Let's settle on two years of *free* education at about that time in life. And then let's go on to talk about what it would mean to the whole work process, and the whole education process . . . to the *life* process . . . if everybody were to be entitled to "sabbaticals" of one kind or another here and there along the line.

I have said too much to be discreet, too little to be persuasive; but my time is up. Nothing said here has been intended as critical. I have said a good many times in the last three years that one Secretary of Labor at a time is enough—which is a qualitative as well as a quantitative judgment. And if anything said this noon has sounded critical you will know that I know that it involves something I had a chance at and didn't do anything about.

Just one note in conclusion. If anything said here seems to suggest any conflict between an emphasis on the human quality of the Manpower program and its economic quality, let me make it completely clear that I see no such conflict. If our objective were solely to devise those means by which we could improve the labor feeder system as far as the economy is concerned, we would properly concentrate most of all on seeing to it that people are in the jobs they want to be in and are qualified to fill. The most effective Manpower program . . . in straight economic terms . . . will be one which includes the purpose of achieving the largest possible meaningfulness as far as the human being is concerned.

The superior opportunity of those of us in the Manpower program is to make it the authentic tradition of Manpower policy that the whole truth is that while Labor is an essential element of production, Work is an essential human value.

VIETNAM

HON. RALPH H. METCALFE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. METCALFE. Mr. Speaker, two steps which the President announced last evening in his speech to the Nation on Vietnam have far greater international consequences than anything done so far in this war.

No administration before this has mined the entrance to North Vietnamese ports. This action was rejected once by Mr. Nixon as being too provocative. It was also rejected by President Johnson during his administration. The possibility of confrontation with the Soviet Union has increased with this act; and further, the order which the President gave to "cut off to the maximum extent possible" rail, and all other communications, raises the risk of a confrontation with China.

Several weeks ago this administration, which had led the American people to believe that the war was finally winding down, intensified the bombing over Vietnam, thereby indicating that the policy of Vietnamization was a failure.

Now, not only does this administration continue this intensified bombing of the North, but it goes further and pursues a course of action which increases the risk of a possible international confrontation.

I regret that the President has pursued this course and further, I condemn it because of the possibility of confrontation with the Soviet Union in an area which is not vital to the interest of the United States.

I support the President in his stated policy of total withdrawal; but he has been saying this for 3 years, and we are still there, still fighting, now mining. I do not support these latest actions of the President.

I think that the President might better accomplish our total withdrawal if he would accept the offer that the Secretary General of the United Nations made on April 24, and that, is to use his office for negotiation of the Vietnam conflict.

A. PHILLIP RANDOLPH HONORED

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. HALPERN. Mr. Speaker, a great American was recently honored by the AFL–CIO. The president emeritus of the Sleeping Car Porters, Mr. A. Phillip Randolph was presented with the Murray-Green Award for Public Service. I was quite impressed by the presentation made by Mr. Todd Duncan at the awards dinner, and I wanted to share the article, "I See A World," published in the AFL–CIO News, with my colleagues and the American public. The activities and public service performed by Mr. Randolph should be commended and applauded by every American. Not only am I proud to insert this presentation in the RECORD but I sincerely hope he receives further thanks from a grateful union membership. Mr. Randolph has set an example for participation within the democratic system which should be emulated by every political and economic leader in this country. His farsightedness and courage are examples of the dedication of union members everywhere.

The article follows:

[From the AFL–CIO News, Apr. 22, 1972]

RANDOLPH RETAINS HIS VISION OF FREEDOM, EQUALITY, PEACE

At the dinner marking the presentation of the Murray-Green Award to A. Phillip Randolph, Todd Duncan, famed actor and singer, read to the audience from Randolph's own writings and speeches. This is a part of Duncan's reading:

"I see a world where thrones have crumbled and kings are dust, where the aristocracy of idleness have perished from the earth. I see a world without a slave. Man at last is free. Nature's forces have by science been enslaved—lightning and light, wind and wave, frost and flame, and all the subtle forces of earth and air are the tireless toilers of the human race.

"I see a world at peace, adorned with all forms of art with music's myriad voices thrilled, while lips are rich with words of truth and love. I see a world where no exile sighs, no prisoner mourns, where work and worth go hand in hand, where the poor girl trying to make bread with a needle, the needle which has been called the asp for the breast of the poor, is not driven to the desperate choice of crime or death, of suicide or shame.

"I see a world without the beggar's outstretched palm, the miser's heartless stony stare, the livid lips of lies, the cruel eyes of scorn, the piteous wail of want.

"I see a race happy and fair, devoid of disease of flesh or brain, married harmony of form and function, and as I look, life lengthens, joy deepens, and over all in the great dome, shines the eternal star of human hope."

Thus, more than 30 years ago, tonight's honoree—A. Phillip Randolph—outlined his vision of a world of equality, freedom and peace.

Throughout his long career, when others exhorted the Negro to revolution, revolt and separatism, Randolph called for reform within America's democratic system:

"One must always remember that the progress made by the American Negro has been accomplished within the framework of democratic institutions. Such tools as freedom of speech, press, and assembly are powerful and necessary weapons to a people plagued by continuous Jim Crow practices. Neither fascism on the right nor communism on the left can offer to the Negro any hope of economic, political or social freedom. . . .

"Democracy with all its illnesses offers the only real source for adjusting the political, economic, and social problems of an oppressed people.

"Admittedly very incomplete and with maladjustments all around us, the job is big. But the task is not hopeless. It is rather encouraging. To those of us who have dedicated our lives to the unfinished work of democracy there can be no more noble undertaking."

A. Phillip Randolph spoke most eloquently, however, of the need to strengthen the historic Negro-labor alliance he helped to forge.

Speaking to his fellow delegates at the 1963 AFL–CIO convention, he said:

"Let each of us individually and unequivocally embrace the Negro's struggle for freedom, and the labor movement will rise to its full moral stature. Let us do this, and when labor's rights are threatened, you will see an outpouring of black Americans into the streets in defense of those rights, as they have taken to the streets in defense of their own rights.

"Let us so implement this resolution that the day will come and not be far off when the white steelworkers of Birmingham will take the hands of black children in the crusade to redeem the South.

"Let us so implement this resolution that the mill workers of Danville will join the struggle for civil rights in that beleaguered city—so that white unemployed miners in West Virginia and Tennessee will march arm-in-arm with their black brothers to transform their bleak hills into flourishing countrysides.

"In the last analysis, my brothers and sisters, the essence of trade unionism is social uplift. The labor movement traditionally has been the only haven for the dispossessed, the despised, the neglected, the downtrodden, and the poor. We must pledge our lives to the social revolution which will bring all of them into labor's crusading fold—into the pale of dignity and economic well-being.

"This is labor's ultimate faith. This is the basis of labor's program. This is the challenge before us. This is the task to which we must now rededicate ourselves."

Looking back over a long and dynamic career, Randolph told the guests at his 80th birthday celebration:

"In my life I have tried to abide by the principles of democracy, nonviolence and integration, but there are some today, particularly among our black youth, who would question the validity of these principles in our on-going struggle. I urge them to reconsider their position and to engage with me in a reaffirmation of these fundamental principles. We must reject confrontation, and together reaffirm the necessity for democratic means of political protest. We must reject violence, and together reaffirm the power and the wisdom of nonviolence. And we must reject racial separatism and together, with the conviction that one day our nation can cease to be divided within itself, reaffirm our abiding faith in integration. We cannot reject these principles without also denying ourselves the possibility of freedom.

"Salvation for the Negro masses must come from within. Freedom is never granted; it is won. Justice is never given; it is exacted. But in our struggle we must draw for strength upon something that far transcends the boundaries of race. We must draw upon the capacity of human beings to act with humanity towards one another. We must draw upon the human potential for kindness and decency. And we must have faith that this society, divided by race and by class, and subject to profound social pressures, can one day become a nation of equals, and banish white racism and black racism and anti-semitism to the limbo of oblivion from which they shall never emerge."

The voice, as you've heard, is mine, but the words are the words of A. Phillip Randolph. They are the words of hope, and like Phil, they belong to all Americans.

UNION BRIDGE CELEBRATES CENTENNIAL

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BYRON. Mr. Speaker, May 12, 13, and 14, the town of Union Bridge in Carroll County, Md., will celebrate its 100th birthday. This event will commemorate the receipt of its charter from the Maryland General Assembly in 1872.

The celebration will begin with a colorful parade on May 12. On May 13, a house and garden tour, antique sale, and flea market will be held. For May 14 a band concert and speeches are scheduled. The celebration will close on Sunday with a community musicale.

Union Bridge is a quiet lovely town that has a most distinguished history. I would like to add my voice to those who are proud of Union Bridge's achievements and to wish all a happy and successful celebration.

THE GREAT YOUTH MARATHON

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. FRASER. Mr. Speaker, Carl T. Rowan and David M. Mazie are both former Minneapolitans, familiar with the city I represent here in the House. In the May 1972 Reader's Digest an article they wrote originally for the Christian Herald appeared in condensed form.

During May the Young World Development Division of the American Freedom From Hunger Foundation will sponsor over 200 "Walks for Development" in U.S. cities. As Rowan and Mazie point out:

> These are not anti-establishment demonstrations. Rather, they are for something: to dramatize the issues of poverty and underdevelopment, and to raise money to help get at the causes of these conditions.

Mr. Speaker, I am pleased that the 1971 Minneapolis Walk was featured in the article I place in the RECORD.

My constituents responded to the need for money and for understanding last year as they responded again this year—with vigor and enthusiasm. Over 45,000 walked this past weekend in Minneapolis. We need these walks for both reasons—money and understanding—and I know there will be again this year wide congressional support for them.

In addition to the Mazie-Rowan article I also place in the RECORD a brochure, "Development? It's Why We Are Walking" by Joe Kimmins, education director of the American Freedom From Hunger Foundation.

[From the Reader's Digest, May 1972]

THE GREAT YOUTH MARATHON

(By Carl T. Rowan and David M. Mazie)

She trudged along the parkway, shoulders drooping, each step taken as gingerly as if it were on a bed of nails. A gray sweatshirt was tied around her slender waist, and a pair of dirty sneakers dangled around her neck under blond pigtails. Miles ahead and behind, thousands of other young people tramped along the streets and parkways of Minneapolis and St. Paul, Minn. A few were limping; some had plopped down to rest or to examine blistered toes.

As the barefoot blonde and two friends hobbled past one stalled group, a boy called out, "Two miles to go. You gonna make it?" The girl winced a little with the next step, but her green eyes brightened, and she nodded confidently. "Sure we will. It hurts, but it feels good."

Millions of young people are experiencing that same bittersweet feeling now as they march in "Walks for Development" the world over. These are not anti-Establishment demonstrations. Rather, they are for something: to dramatize the issues of poverty and underdevelopment, and to raise money to help get at the causes of those conditions.

Walks for Development are not new. They go back to the early 1960s, when the U.N. Food and Agriculture Organization (FAO) appealed to European students to help raise money to fight world hunger. The students came up with an off-beat idea: a long hike over a preset route, for which each participant would get sponsors to pledge money from a few cents to a few dollars for every mile he walked.

The technique reached the United States in 1968 under the auspices of the Young World Development (YWD) division of the American Freedom from Hunger Foundation, Inc., a private nonprofit group backed by business, labor and agriculture leaders. Some 3500 persons took part in a "hunger hike" in Fargo, N.D., and Moorhead, Minn., raising nearly $24,000. During the next two years, 195 U.S. Walks for Development earned $3 million.

Other organizations were quick to adopt the idea. Teen leagues, environmental bodies, associations for the mentally retarded, the March of Dimes, the hospital ship SS. *Hope* and other groups now sponsor similar walks. But the biggest is YWD's Walks for Development.

Last year, on the second weekend in May, YWD hikers set out in 212 U.S. cities and towns and in 40 foreign nations. Through sunshine and driving rain, they covered 25- to 40-mile routes in small bands (50 people and one dog took part in Maquoketa, Iowa) and giant ones (105,000 in Buffalo, N.Y., 210,000 in the Chicago area). Ten members of one family participated in Idaho Falls, Idaho. One youngster navigated his course on stilts; another, with a broken ankle, on crutches. Several crippled persons "hiked" in wheelchairs, and in De Kalb, Ill., a blind man walked the entire route with his Seeing Eye dog.

The ambassador of Upper Volta walked in Knoxville, Tenn., in appreciation of that hike's contribution to a water-well project in his country. Edward Akufo-Addo, then president of Ghana, led marchers in his nation. Pope Paul VI greeted 80,000 Italian hikers in St. Peter's Square. Villagers from a town in northern Italy that had been damaged by an earthquake came to Rome to walk and repay what others had done for them in their time of need. All totaled, some 640,000 persons hiked in the United States, and an estimated three million overseas. Americans logged more than 12 million miles, and raised more than $4 million.

In Minneapolis, on Walk Sunday, some 35,000 participants began to pour into Parade Stadium at sunrise. Most were teen-age, white, middle-class. But there were also blacks, Indians and Mexican-Americans. Over the thump of a rock band, they shouted greetings and compared walk cards, which recorded the sponsors (usually friends, relatives and businessmen) that each hiker had obtained. The cards also provided a map of the 31-mile walk route and listed the nine checkpoints where they would be validated. "I signed up everybody in the neighborhood—got 37 sponsors," boasted one boy. "I'm worth $2.60 a mile," a friend countered.

A dozen or so teen-agers near the speakers' stand were beaming happily as the throng poured into the Minneapolis streets. They were the core of the hundreds of young volunteers who had put the walk together. A few adult advisers helped, and the Freedom from Hunger Foundation offered guidelines, but for the most part this walk was the kids' own production. Making the participants aware of the crucial challenges in the world and the need to do something about them is a part of the whole experience. "I learned more working these few months than I would have in a year of school," said Lisa Young, the 18-year-old walk chairman. Lisa hiked in the first Twin Cities Walk in 1969, and through it discovered that poverty was not something confined to Harlem or India. "We've got it right here in Minnesota and the Twin Cities—migrant-worker camps, bad housing and hungry people. It really hit me hard." So she volunteered to work on the next walk, and was named chairman for 1971.

At first the walkers filled the Minneapolis four- and six-lanes streets from curb to curb. But, as the day wore on, the river of marchers narrowed to a stream that wound along the sidewalks and parkways from Minneapolis to St. Paul and back to Minneapolis. A logistics committee had selected the route, making certain it passed through poor as well as plush areas, and arranging for trash containers along the way. Scores of persons on the route opened their hearts and houses. A newspaper columnist set up the "Irving Avenue Footbath"—a dented washtub filled with cold water. Other homeowners put out signs inviting the marchers to "come in and use the bathroom or call home." At the various checkpoints, members of church circles, the League of Women Voters and other organizations passed out sandwiches and cold drinks. Red Cross workers patched up blisters. Hikers who were byond repair or too tired to go on waited for "toe trucks"—cars cruising the route to take them to Loring Park, the end of the walk.

Among the happiest walkers were a group of Catholic sisters marching beneath a banner that read "Project Discovery." "Discovery," a community-run, experimental elementary-school system sponsored by six inner-city St. Paul parishes, was one of the ten projects chosen to share the nearly $250,000 collected from the Twin Cities Walk.

All proceeds from Walk for Development are divided three ways. Fifteen percent goes to the American Freedom from Hunger Foundation for educational activities and administrative expenses. The rest is split equally between domestic and international anti-poverty projects, with each local walk organization choosing its own beneficiaries. Programs that benefit from YWD hikes around the country include the International Institute of Rural Reconstruction, CARE, Partners of the Alliance (an organization working to relieve poverty in Latin America); domestic projects for migrant workers, Indians, blacks and other minorities; and day-care centers and neighborhood health clinics.

There is more to a Walk for Development than raising money, however. As vital a goal is the arousing of public concern for the pervasive hunger and poverty of the world and their relationship to illiteracy, disease and unemployment. Michael McCoy, an 18-year-old Minneapolis high-school senior when he was U.S. youth chairman for the 1971 walks, puts it this way: "Contributing to poverty projects is good, but charity does little to eliminate the causes of poverty. What is really needed is a long-term program to inform American people that it is in their immediate national interest for social and economic justice to be more widespread around the world."

The walks have become a catalyst for a variety of educational and community programs. In Madison, Buffalo, Minneapolis and several other cities, high-school curricula now include segments on international development. A full-scale course was started at the University of Minnesota. The Freedom from Hunger Foundation furnishes booklets, films, recording and other resource material, and local groups organize workshops, church and club discussions and "development libraries."[1]

In the Twin Cities last May, 3000 walkers crossed the finish line by 6 p.m. That number had swelled to 10,000 four hours later. At 10:30, cars were sent out to round up those still out walking, many of whom pleaded to be allowed to finish. Strangers a dozen hours before had become "sole brothers," united by blisters and a common cause.

Watching proudly at the finish was Lisa Young. The cold and sore throat that she had been fighting for a week had caught up with her around the 12-mile point. She had a temperature of 101° and a voice that was reduced to a squeak. But the tears in her eyes as she hugged friends and croaked a cheer for each new arrival were tears of happiness.

She was not the only one deeply moved by what was happening. Police assigned to Loring Park found themselves caught up in the spirit. One 25-year veteran took $15 out of his pocket and bought hamburgers for hungry youngsters who were waiting for rides home. And Capt. Rollo Mudge, watching the stragglers troop in—footsore, weary, but proud—declared: "With all the stuff we hear about today's kids, you see this bunch, breaking their backs, and there isn't one I can say I don't love. I don't think there's one I've ever had trouble with, but even if there were, I'd pat him on the back now. We can quit worrying when kids do what they did today."

Development?—It's Why We're Walking

(By Joe Kimmins, education director, American Freedom from Hunger Foundation)

Students take courses in it. Government agencies around the world carry the word in their titles. The U.N. has named two decades for it. People, millions of them around the world, "walk" for it. It is said to be something that will occur someday, and something that is happening now. Some nations are described as having achieved it. Some critics say that a commitment to it is a first step toward military involvement—yet it has been called "a new name for peace." So, what is it? What is development?

All the talk about "development" has something to do with a general suspicion that it has become uncertain that human society will survive. And this threat to survival, this sense of gathering apocalypse, is no longer founded, necessarily, on a fear of atomic war. Instead, we have become afraid that we will be destroyed in peacetime—that we will rot if we don't explode.

There are so many contradictions in the world of the 1970's. There is abundant wealth, yet the poor are with us in unprecedented numbers, up to two-thirds of humanity. More people are better fed, yet there are more hungry and malnourished than ever before in man's experience. The world has never had so many goods, so much productivity—nor so much unemployment around the world. People who live in hovels, never to leave the slums they were born in, can see TV images of their fellow men walking on the surface of the moon. Our cities climb the skies—while they decay and go bankrupt at the same time. Even the President of the United States, richest of all lands, was moved to complain that *"never has a nation seemed to have had more and enjoyed it less."*

Yet, despite the despair that comes from contemplating these insanities, there is reason for hope. Man can move faster, communicate farther, and produce more efficiently than he ever had reason to dream. Computerized technology holds out the promise that drudgery need exist no longer. The United Nations has held together for twenty-five years. The possibilities for massive famine are greatly reduced. Racism, while hardly addressed sufficiently as a worldwide issue, is at least acknowledged. Imperialism is unpopular. Even economic growth for its own sake is at last being questioned as a valid national objective. As Buckminster Fuller has said, *". . . if you can go to the moon and under the arctic ice, you can make the world work."*

MAKING THE WORLD WORK IS THE STUFF OF DEVELOPMENT

Three great fears persist to plague mankind, and to restrain whatever sense of optimism there is. The rich still unfulfilled even in material abundance are nevertheless afraid that they will lose it or have it taken away. The poor, although unsure of the rewards of material wealth, nevertheless fear that they will never have it, and thus be denied the chance to decide for themselves if they *want* to keep it. And rich and poor alike, the common men, fear that their international political leadership is playing an increasingly irrelevant game of power politics that can save nothing but destroy everything.

Men are afraid that the future holds only more of the past. That trends will not, cannot, be changed. That there is but one future, and that the shape of it is out of the control of man. That the world is bungling along, inevitably, irresistibly, inexorably, toward no specific goal at all.

Yet, there is absolutely no reason why the future cannot become exactly what we want it to be. The world's wealth can be shared more equitably among earth's people. Men and women can work in dignity, at what they want to do. People everywhere can feel a part of their society, responsible for their own governance, free to choose their own way of life. Man can live in harmony with nature. Governments can co-exist and cooperate; nations can live in peace. That is one dream of the future. There is no reason why it cannot be fulfilled.

GIVING A DESIRABLE SHAPE TO THE FUTURE, AND GETTING THERE, IS THE STUFF OF DEVELOPMENT

Then there are the young. Some of them fear that today is as bad as possible, tomorrow will be worse, and there is nothing left to do but to give up, drop out. They have lost hope.

Others dream of an alternative future, different from that which extrapolates from the recent past—but they have decided that it will only come about when the current, intolerable, unworkable reality is destroyed. They have lost trust.

RESTORING HOPE AND TRUST IS THE STUFF OF DEVELOPMENT

But restoring trust, restoring hope—these do not happen without a workable dream. Shaping the future, and getting there, will not come about without making tough decisions. Making the world work requires that *people* work—hard. These requirements must be met if "development" is to become a living process with visible results—and not remain a game of definitions played by macroeconomists and technobureaucrats.

Development is too important a process to be left to "development experts." In their fascination with economic growth—their rhetoric of concern for the common man notwithstanding—and in their obeisance to a conventional wisdom derived from experience with highly productive, industrialized economies, their vision of the future has become far too narrow and too self-defeating to be allowed to dominate. Many of these professionals have forgotten, and others actually exacerbate, the worst of the obscenities and injustices that disfigure the world.

Defining development, committing nations to its goals, and fulfilling its concepts with authentic progress in the interest of the common man, must become the work of dedicated citizens everywhere. The world is in too sad a shape to allow otherwise.

If committed citizens will dedicate themselves to fulfilling these responsibilities—to dream a livable future, to make the decisions necessary to get there, and to work to acomplish it—then development becomes the most honored concept, the noblest profession, of mankind.

This is what the Walk for Development is all about. We seek to rally those who intend to make it impossible for the world to die for lack of an undefined dream, for a lack of courage to make the decisions we must, or for selfishness that prevents us from living together.

Development is the new word for peace.

THESE ARE THE ISSUES OF DEVELOPMENT—A CHECKLIST FOR THE SEVENTIES

Development is not so much a word seeking definition, as it is a process whose results determine the shape of the future, and a challenge to be fulfilled by action and commitment. Development is change for the benefit of human life and society. It is a revolution of hope, in the spirit of possibility.

---

[1] For additional information, write to the American Freedom from Hunger Foundation, Inc., 1717 H St., N.W., Washington, D.C. 20006.

What is possible to achieve in the 1970's? What can we, the human race, achieve in this decade towards the goal of global development?

We can reduce military expenditures.

These are currently rising faster than the world's population or the Gross World Product. The decay of the world's large cities, the pollution of our environment, the inadequacies of the world's schools, housing, medical care, and transportation and communications systems compel us to stop this waste. Money alone—diverted from unproductive military arms production—will not cure the world's ills; but without money we cannot develop human society to its potential.

We can assure an adequate income for every family and for every nation, through an equitable distribution of work opportunities and world trade. Families require income for adequate food, clothing, shelter, and education. Nations require income to build the institutions necessary to provide a decent life for their people. A rational distribution of world trade—allowing a fair share of world production to all nations—would contribute as much to realizing these needs as any other single step. The opportunities exist now to take this step—which would be an authentic "great leap" for mankind.

We can feed the world's population.

One of the world's most intolerable insanities is the prevalence of overeating as a health problem for some affluent nations while most of mankind suffers protein and caloric malnutrition. Two billion people are hungry or malnourished—an estimated 12-15 million Americans among them. To provide a minimally sound diet for the current world population requires the immediate doubling of world food production. The technology and resources exist to do it.

We can come to live at ease with—and be enriched by—our own and the world's diversity of people and cultures.

Basic to many of the divisions between peoples and nations is fear of people, practices, and values that are different from our own. What we come to value properly, we cannot fear. Welcoming—rejoicing in—adverse styles of life, thought and social organization can evolve a global set of values under which the rich are free to contribute to development without extracting cultural pollution as the price of their help, and the poor are aware that they bring currency of great value to their transactions with the world. Openness to individual, cultural, racial, and national diversity can draw us closer together in the knowledge of our human likeness.

The world's education systems have much of the responsibility for creating cultural values and for shaping the form and content of human communication. They must respond to the challenge of development with new standards for the education process, welding traditional intellectual components with human and emotional ones in order that students may acquire a strong sense of personal and social responsibility required to build a better world.

We can reverse the degradation of the house of man; earth and its environment.

Preserving the environment is an international challenge for which the affluent nations have prime responsibility, just as they do for having threatened to destroy it in their headlong rush toward industrialization and urbanization. Unless we cease environmental destruction and degradation—especially as perpetuated by the affluent nations—global development will become a pointless dream. We can reduce growth of the world's demands upon nonrenewable resources, harness population growth where it is excessive, and show stricter care for nature's delicate ecological balance—and we must.

This is not an exhaustive list of development issues, but rather is intended to suggest what kinds of opportunities for action exist now which, it taken, will increase the chances for the survival of human society. Man needs a sense of hope to remain noble. To address these development issues—to seek global development—will give him that hope. I will give Man a future.

THE MAN BEHIND AGNEW

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. VAN DEERLIN. Mr. Speaker, Patrick J. Buchanan, a special assistant to President Nixon, is credited with some of the pithier phrases used by our Vice President in lambasting the press.

To say the least, Mr. Buchanan, a former newspaperman, has some remarkable ideas about the role of journalism in our society. To him, reporters were somehow closer to the people in the good old preguild days when their pay and benefits left something to be desired. At the same time, Mr. Buchanan, feels that even though news media emoluments have improved, the more conservative young people are likely to opt for careers in business in order to "make themselves a great big bundle of money." That says something about youthful idealism.

Mr. Buchanan also believes in "antitrust type action" to make network news departments straighten up and fly right—an intrusion that would be beyond anything suggested by even so dauntless a critic as Mr. Agnew.

This White House aide is so outspoken, in fact, that perhaps the public interest would be served if speeches in which he had taken a hand were labeled as such—just so we would know what we were getting.

Mr. Buchanan unburdened himself last week on "Thirty Minutes With—," an interview program sponsored by the National Public Affairs Center for Television. The transcript of the program follows:

Thirty Minutes With—

Guest: Patrick J. Buchanan, Special Assistant to the President.

Interviewer: Elizabeth Drew.

Announcer. *Thirty Minutes With . . .* Patrick J. Buchanan, Special Assistant to the President, and Elizabeth Drew.

Mrs. Drew. Mr. Buchanan, you're not only a speech writer for the President, but you prepare the summaries of the news for him. How would you characterize how the press is handling let's say what's currently going on in Vietnam?

Mr. Buchanan. Well, at the present time, with the situation really ambiguous, and the South Vietnamese in difficult straits, I think they're doing a fairly accurate job right now. I can't say that however for the initial press coverage of the invasion. It seemed to me frankly that some of the reporters up along the DMZ were really declaring a defeat for the ARVN before one had really occurred.

They were declaring a defeat frankly, before Hanoi declared a victory. So, but I think at the present time——

Mrs. Drew. What do you mean they declared a defeat, what did they say?

Mr. Buchanan. Well in the descriptions——

Mrs. Drew. I didn't see that.

Mr. Buchanan. Well in the descriptions of the enemy offensive, here's what the enemy had. Was using something like a most massive artillery barrage of war, massive cross DMZ invasion with armor and artillery, new Soviet tanks larger than anything we've given the South Vietnamese in armor. And quite naturally, under this kind of invasion, you would fall back from the fire base. And this was being portrayed in the media at that time as a major disastrous defeat for the South Vietnamese, which at that time it was not.

Mrs. Drew. Why do you think they did it?

Mr. Buchanan. Well I think, I think there's some validity to the allegation that so many reporters have—a number of reporters are against the war, they're in the war zone. A number of them have predicted defeat and disaster for so long, that these tend to become in their own minds, self fulfilling prophesies. So that when the attack occurred, this was the way they reacted.

I think a similar situation, if you go back to the Tet Offensive, which Don Oberdorfer described in his book, "Tet," which was an excellent book. That was in effect a military disaster of major proportions for the North Vietnamese. Their entire Viet Cong infrastructure was almost destroyed.

Subsequent to that offensive of course, their activity at the Viet Cong level really subsided, and we were given a good deal more time for the ARVN to build up. But, psychologically in the United States, it was portrayed as a disaster, it was used in the media, and with some degree of legitimacy I suppose to——

Mrs. Drew. And you don't, you don't think it was?

Mr. Buchanan. As a military, no the——

Mrs. Drew. For the North Vietnamese.

Mr. Buchanan. Oh, the Tet Offense was a military disaster.

Mrs. Drew. For the North Vietnamese. How are they doing so well now then, if that was such a disaster?

Mr. Buchanan. Well see, the entire Tet Offensive was used—was the Viet Cong, which was the local communist infrastructure. Which raised up in the cities, exposed itself, presumably to take control of South Vietnam at that time. And within a month and a half it was utterly destroyed. Now this was their whole guerrilla base.

What you have now is not a guerrilla war, you have a conventional war with the North Vietnamese. Twelve of their 13 divisions are outside of their country, 10 of them are in South Vietnam, one is heading into South Vietnam, one of them is being pulled out of Laos presently, and presumably to be moved into South Vietnam.

You've got a conventional invasion on the part of the North Vietnamese now, along the line of the North Korean invasion of the South.

TREND OF THE TIMES

Mrs. Drew. Let's go back to the reporters you were talking about. You said that they have a kind of self fulfilling prophesy.

Mr. Buchanan. Uh-huh.

Mrs. Drew. Why, why would they do that. Why would they have any stake in giving the bad side of events?

Mr. Buchanan. Well I think the—it has a great deal to do with the trend of the times. Within the intellectual community, the Vietnam War subsequent to '64 and '65, has become first an object of controversy. And then, for a number of members of the media, the object of contempt.

And they feel, and a number of them said, that it's an immoral war. Others of them have said there's nothing over here worth fighting for. And this has had its influence on some of the younger journalists, a lot of whom are sent over into the Vietnam war zone.

I mean you can watch—I remember in the Laotian Offensive, one particular reporter, rather than discussing the offensive and how it was doing itself, spent most of his time taking photographs of refugees who were being taken out of the war zone, and following them to where they were being taken care of.

And focuses on these things tend to have a really debilitating affect on the American public, whose support is essential for the war.

Mrs. DREW. Do you think that the current focus on the refugees and the flights from the northern part of South Vietnam are accurate reflections of what's happening?

Mr. BUCHANAN. I think the present situation, from what you've seen and from everything you've seen and hear, there are major military reversals taken by the South Vietnamese, in Quangtri and those areas. And yeah, I would think that would tend to be an accurate reflection of what the situation is now.

Mrs. DREW. Are there any other areas or issues in which you think the press has been unfair, or inaccurate in its treatment?

Mr. BUCHANAN. Well, I would hesitate to use unfair, because that's a judgment as to their motivation. And I would hestitate to use inaccurate because a thing can be accurate without being complete. I would tend to use——

Mrs. DREW. All right, you use your term.

Mr. BUCHANAN. —bias.

Mrs. DREW. Bias.

Mr. BUCHANAN. Take for example the situation on busing. I think you'll find that if you took a poll of the American people, that 90 percent, or 85 percent, or 80 percent of the American people were opposed to busing to achieve a racial balance. The Administration is opposed to that. And yet when the President—

Mrs. DREW. So are most of the courts, aren't they. They aren't ordering busing—well, we won't get into the details of court orders—

Mr. BUCHANAN. Well we can get into that, but it makes a legitimate point—

Mrs. DREW. Yeah.

Mr. BUCHANAN. Right after the President's speech, they had some commentators on one of the networks. And they were expressing their hostility to the President's idea, and one of them said point blank this is not constitutional. And the media shows that they show on busing, they tend to go out and try to show how busing works, and there's a great emphasis on that. And I think there's an alienation of the—again, not to use everyone in the media, but much of the media, from the point of view of the American people, and from of course the policies of the Nixon Administration.

INSTANT ANALYSIS

Mrs. DREW. Well do you think the media should not have commentators on after the President speaks?

Mr. BUCHANAN. No, let—oh, after the President speaks? In my judgment, instant analysis, what the Vice President referred to as instant analysis, should be stopped. When the President delivers a speech such as he did the other night on Vietnam, he's taken a great deal of time and put it into the text. He's said precisely what he wants to say. He appeals not only to the reason, but to the emotions of the American people. And he leaves an effect with the American people, and as President he's got the right to do that.

But just as soon as the President's off, to have someone come on the air and say, well there's nothing new in this, let's recap what he said, and let's go into an analysis on what all this means. To me, I think they're infringing on the prerogatives of the President to lead the American people.

Now those three commentators on CBS for example, came on right after the President's address on Vietnam. If they had come on, if instead of trying to piggyback on the President's address—there was a report right after the President concluded which said, CBS commentators will have an analysis in a half hour, then they wouldn't have had any audience. No one would have paid any attention to them. But they piggybacked behind the President's address to try to reconstruct in their words, which the President made perfectly clear in his own words, and to me this is the problem. And I don't think it should go on, frankly.

Mrs. DREW. When do you think the analysis is proper?

Mr. BUCHANAN. Of a speech?

Mrs. DREW. Um-hum.

Mr. BUCHANAN. Well, in a speech where the President's making a direct appeal to the American people to try and unite them behind their policies, in my judgment he's got a right to do that.

Mrs. DREW. I don't think anybody is arguing he doesn't.

Mr. BUCHANAN. What I say is that these instant analyses, and like they did after the November 3rd, 1969 speech. To bring on a hostile witness like Mr. Harriman and have him try to discredit what the President said immediately, that's unfair and that's illegitimate. If they said the President's concluded his address, at 11 o'clock tonight we'll have our analysis, and let the American people have a chance to let it sink in what the President said, and how the President expressed himself. Let them decide for themselves, they're fairly intelligent people.

They don't need Mr. Sevareid or Mr. Rather or Mr. Mudd, or some of the others, to tell them precisely what the President said or what it all means.

Mrs. DREW. So you wouldn't mind if the analysts came on later without getting a free ride off the Presidents audience—

Mr. BUCHANAN. Not in the least. And when they come on, as long as there's balance, that's right.

FEWER NEWS CONFERENCES

Mrs. DREW. Now, the President can come on the air just about any time he wants and—

Mr. BUCHANAN. Rightly so.

Mrs. DREW. —and President Nixon has used this privilege more than any of his predecessors. But he doesn't have press conferences. Why shouldn't he be subject to questioning by the press on the part of what he is doing?

Mr. BUCHANAN. Well let's, I don't—my judgment is, it's the President's decision himself, frankly.

Mrs. DREW. Yeah. Well I just wondered your——

Mr. BUCHANAN. As a former journalist, when the President comes in he makes a determination, I think, of what are his best methods of communicating with the American people. As you say, the President goes on prime time probably more than some other presidents, to directly address them. Maybe the times demand that.

Mrs. DREW. More than any.

Mr. BUCHANAN. Maybe the times demand that. He's had a number of press conferences, a number of televised press conferences. Not as many as Johnson or Kennedy, but I think the choice of how and where he communicates with the American people is the President's business. And no constitutional rights of the American people—I mean of the press are violated by his not holding any——

Mrs. DREW. No, I don't——

Mr. BUCHANAN. Quota of press conferences.

Mrs. DREW. I don't think anybody's saying that either.

Mr. BUCHANAN. And——

Mrs. DREW. They would just like an opportunity to ask him questions.

Mr. BUCHANAN. Well, I mean I think that desire's legitimate on their part, but I don't think that desire creates any imperative on the part of the President to hold press conferences with any particular regularity.

Mrs. DREW. Do you think there's a general problem of bias on the part of the press?

Mr. BUCHANAN. Yes, I do.

Mrs. DREW. Why?

Mr. BUCHANAN. Well——

Mrs. DREW. Why do you think the bias is there?

Mr. BUCHANAN. Well, there's a number of theories or arguments. I think one reason is the nature and the character of the individual that comes into journalism today. About say 30 or 40 years ago, the kind of person that would go into newspaper work, before the Guild and everything, it provided adequate income.

Generally it was someone right out of the community who shared the values and sentiments of the broad base of the American people. But now, with the pay that is in journalism—which is very good frankly, even far better than it was when I started 10 years ago—the kind of young fellow that's attracted into journalism—first of all he feels a desire, he's sort of a world changer. Secondly, he's got the kind of pay and the kind of prerogatives and privileges and in the media, that are far above what the average citizen gets. Third, he's probably better educated.

He comes out of the colleges and universities, and increasingly out of the better colleges and universities, and he tends to develop I think, a mind set of those types of individuals. And they share certain biases, just as conservatives like myself would share certain biases.

WHY SO FEW CONSERVATIVES?

Mrs. DREW. Why aren't there more conservative journalists?

Mr. BUCHANAN. Well, conservatives, mainly—frankly I think they tend to take their, they take America as basically a good country. It doesn't need a great deal of change in their judgment. And the thing they'd like to be doing, most of them who are talented and intelligent, they move into areas like business and finance and things like that. And they make themselves a great bundle of money and they're very successful in those areas.

But younger people who tend to be liberals, show up in your journalism schools. I know at Columbia when I was there, there must have been three or four out of a class of about 80, who were conservatives I would say. And there's probably one or two left.

Mrs. DREW. Well what you're really saying, Mr. Buchanan, is that the people who go into journalism are not professional. I mean everybody has biases, or opinions would be another word for that I suppose. So the question is whether they're able to do their job in a professional manner. In other words, not have these opinions show up in what they do.

I'd like to sort this out with you a little further.

Mr. BUCHANAN. Sure.

Mrs. DREW—because, as you know there are two functions. The columnist and commentators. We put them in a box and say that's opinion. And then there are the reporters. Do you think that the reporters, the ones that you watch covering the President, are not professional?

Mr. BUCHANAN. No, no I wouldn't say that at all. I would say the majority of them are liberal, but I wouldn't even, in terms of the White House Press Corps, I wouldn't say they weren't objective. I don't want to name names, but I know reporters that covered us in campaigns in '68 for example, who I know are personally liberals. They'll sit down and argue with you late at night, they'll argue about issues and they'll disagree with you 100 percent down the line. But you don't get that reading their copy.

And there's a number of reporters who—objectivity, despite what Mr. Brinkley said, is possible on the part of journalists. But at the same time I think even the journalists themselves are recognizing, and at the AP Conference they talked about advocacy journalism. And some of the critics of the biases in the media, like Teddy White and Irving Kristol for example, and Ken Crawford, and people like this, are within the media themselves. And they agree that there's a problem with advocacy journalism, especially among younger reporters who are puting in their own opinions more and more in the news columns.

Mrs. DREW. Well let's get back to the coverage of the President, which is your department. Do you think the coverage of the President is biased?

Mr. BUCHANAN. Well, I wouldn't say, I wouldn't make a blanket statement like that. I would say that if you take, by and large you can make a general statement about two networks, two major news magazines, and the two major newspapers in the country. The coverage of his Administration is biased.

Mrs. DREW. The papers being the—

Mr. BUCHANAN. Post and the Times.

Mrs. DREW. Post and the Times. The networks being—

Mr. BUCHANAN. Okay, we'll let that go.

Mrs. DREW. CBS and NBC, I would guess from the speeches of officials of that.

Mr. BUCHANAN. I would think so, um-hum.

Mrs. DREW. ABC is not?

Mr. BUCHANAN. Well I would think, I think ABC, in my judgment, makes a much more conscientious effort to present some sort of balance. It's seen in their commentary; they've got Harry Reasoner and Howard K. Smith, who very often disagree with one another.

But on NBC you've got Brinkley's Journal, which is not pro Administration exactly. You've got Eric Sevareid, and neither of them—

Mrs. DREW. He's CBS, but anyway.

Mr. BUCHANAN. He's CBS. I say, you've got one on CBS and one on NBC, and nobody comes on after—

Mrs. DREW. And the reporters from those networks and those newspapers who cover the President are biased?

Mr. BUCHANAN. No. You're saying "cover the President" now.

Mrs. DREW. Yeah, I'm talking about White House——

Mr. BUCHANAN. I'm talking about the coverage of the Administration, coverage of the entire Administration.

Mrs. DREW. All right, yes. Okay.

Mr. BUCHANAN. They're biased in the sense—not that they're necessarily out to hatchet the President and not be objective, but in terms of the questions they ask, the issues they're concerned with, the reports they present, they tend to have a liberal bias. They tend to—

AN EXAMPLE OF BIAS

Mrs. DREW. Can you give me examples of what they do, like that's in their copy, let's say, of a bias?

Mr. BUCHANAN. Sure, let's—let's—let's take an example of the President's one Presidential Press Conference where there seemed to be—they claimed to have the President on the rope. Now what was the question they were asking? It was one month after the so-called May Day demonstrations when the kids were going to shut down the city and the police wrapped them up and took them all out to Kennedy Stadium there and—

Mrs. DREW. And other places, yeah.

Mr. BUCHANAN. And incarcerated them for the evening. Now this was a month after the story was over, and the question got down to a point on whether they should have had arrest cards made out for each of them on which—in which event the police said, well we couldn't. They'd have closed down the city, they'd have been successful, so we had to herd them, you know.

But the—at the President's press conference this was one time four straight questions were asked of the President and yelled, you don't think their Constitutional rights were violated? And four straight—and frankly it was—the performance was embarrassing, I felt, for the national press corps. And yet look at what the question was.

Now you take—let's say if the President cut OEO appropriations in half or if he doubled them, now if the President went out and said, well we're going to double OEO appropriations this year, well let's see, well you know, there would be no real pressing concern on the President doing this, you know. Where's it going, where's the money going wrong.

But if he cut it and he went out there and that Washington press corps or even the White House press corps, Mr. Ziegler would be on the ropes for about 45 minutes. Why is he doing this, Ron? That's the predisposition on the part of the National press corps in my judgment, many of them, to support action on the part of the federal government—centralized action, spending of funds to get rid of poverty. And that's a—it's a liberal bias now.

Mrs. DREW. Does it show up in what they write?

Mr. BUCHANAN. I don't think you can help but have it show up in what someone writes. Now if I'm as a conservative going to go see an anti-war demonstration, for example, then I'm going to have certain biases. I'm going to be looking out and seeing if there's any provocation of the police, say, before the police use their clubs, et cetera.

And a liberal might say, well these are—these are basically—go with the viewpoint these are basically idealistic young kids out here who are demonstrating against the war.

And I might say, well I'd like to find out who's funding this, see, so we would go with different biases and we would write different stories. And all I would want to see on the networks, frankly, is—no one wants to take Mr. Sevareid off the air. But what I would like to see is maybe some instant analysis of what he had to say, or maybe the next night someone come on after Mr. Brinkley's been on and say, well what David Brinkley said here is ridiculous because these are the facts and figures, and he was wrong on this.

Or put Mr. Buckley, William F. Buckley, on one night and Eric Sevareid the next. And I think if the networks seriously don't soon make a conscientious effort to move conservatives and people with a viewpoint of Middle America, so to speak, as they have moved blacks on to the networks, then you're going to find increasing alienation from Middle America and increasing disposition to do something about it.

Mrs. DREW. Who would do something about it?

Mr. BUCHANAN. Well, look at it this way. It's—what you have is a—in effect, people of a single point of view who have controlled, in effect, decision-making power over the news and information—the ideas and information that one half the American people receive. Half the American people say they get their primary sources of news and information in network television from Washington and abroad.

Now, that to me is far more a fact—that an ideological monopoly might be determining what goes on as news and ideas—is of far more concern to me, frankly, in a democracy than whether, say, General Motors is making all my automobiles. Because the ideas and information you get in a democratic society is the basis for your decision-making.

Mrs. DREW. Well, what could be done about this?

Mr. BUCHANAN. Well, I think that—that those two networks mentioned, the major networks, should make, as they have for blacks, make a conscientious effort to get on newsmen and to get on commentators who have—if—if—if Brinkley says that objectivity is impossible, then damnit, let's have ourselves someone with a conservative bias to match Mr. Brinkley's liberal bias.

ANTI-TRUST APPROACH

Mrs. DREW. Yeah, and—but you said—what I wanted to pick you up on is you said that if they don't do it, somethign would—should be done about it. What could be done about it by whom, outside their own actions?

Mr. BUCHANAN. Well, my own view is I think—this is a personal view—is that a monopoly like this of a group of people with a—a single point of view and a single political ideology, who tend to continually freeze out opposing points of view and opposing information, that you're going to find something done in the area of anti-trust type action, I would think.

Mrs. DREW. On—on television news?

Mr. BUCHANAN. It would take a—well, on—on the networks I would think.

Mrs. DREW. Uh-huh.

Mr. BUCHANAN. But here's the thing. There's nothing—there's nothing going on now. There's not a program or plan for that now, but what I would suggest to the networks, although they may not think it's true, that they're—they're moving into a position now much like Mr. Carnegie and his—when he had his coal mines and his steel mills combined. And he said, well you're trying to interfere with my right to make money, just as Mr. Sevareid and the others say we're trying to interfere with the people's right to know. Now that's nonsense. But I think they're moving into a point where the American people are going to make demands, demands that could be reflected in legislative action.

Mrs. DREW. Now what—what would it be, though? You—the Government has filed anti-trust suits against the networks for——

Mr. BUCHANAN. Well that's just testing out the theory, that's all.

Mrs. DREW. For entertaining—making—producing programs, as well as showing them. But what kind of legislation or anti-trust action could there be to deal with what you perceive to be this problem?

Mr. BUCHANAN. Well, I don't think there's—under the present situation I don't think there's anything. I mean there's—I don't think there's any anti-trust legislation which deals with ideological or monopoly of ideas.

Mrs. DREW. So there'd have to be some legislation?

Mr. BUCHANAN. But you see, I mean, here's the thing. Television is—is something new. It would have to be something different and something advanced.

Mrs. DREW. Uh-huh.

Mr. BUCHANAN. But it seems to me that—that the overriding imperative is that the—that the American people get a balanced representation of viewpoints and that their news come—not come—their primary news source not come primarily from one—one point of view.

Mrs. DREW. So we'd have to—you'd have some new kinds——

Mr. BUCHANAN. You'd have to have some new kinds—

Mrs. DREW. Of legislation, and it would cover that.

Mr. BUCHANAN. And some new thoughts, but I—I think I'd be looking for it myself, although I'm sure the Administration is not right now.

Mrs. DREW. Not as of this time.

Mr. BUCHANAN. Maybe I'm a—

PULITZER AWARDS ANNOY

Mrs. Drew. Are you, by the way, disturbed that the Times got the Pulitzer Prize for—

Mr. Buchanan. Well——

Mrs. Drew. Printing the Pentagon Papers and Jack Anderson got it for printing the Pakistan Papers?

Mr. Buchanan. Well, let me say as a—I'm a graduate of the Columbia School of Journalism, which gave out the awards for those two Pulitzer Prizes, and I think it's appalling that they gave them to the New York Times and Jack Anderson. What kind of lesson is that, really, for young journalists right now? What's he told to do?

What he's told to do, in effect, is—is if you can get a hold of some secret documents, if you can seduce some miserable government employee to give you an NSC security memorandum and then you run it on your—in your column, you can get a Pulitzer Prize.

Now what did—now what did Jack Anderson do to get that Pultizer Prize? Conceivably Jack Anderson could have opened his mail one morning and someone—bureaucrat out there to, say, to undercut the Administration's policy in Asia, or to undercut Dr. Kissinger personally for whatever motive. Anyhow someone who violated his trust sent this—could have conceivably sent this along to Jack Anderson, and he could have picked it out of his mail and run it in his column. Now does that entitle him to a Pulitzer Prize? That's not what they used to be given for.

And so I think, as I say, I think the—the Columbia—the awards were—those two awards were atrocious.

Mrs. Drew. The—your former supervisor I guess he was, Mr. James Keough, has written a book.

Mr. Buchanan. Oh, yeah.

Mrs. Drew. And he talked about—he quoted George Washington as saying that the press perpetrated outrages on common decency. I've—ever since I've been in Washington I've—

Mr. Buchanan. Uh-huh.

Mrs. Drew. Never seen a White House that liked the press it got. So what's—what's new about all this?

Mr. Buchanan. Well I mean—I think you wouldn't use the term like and dislike.

Mrs. Drew. Felt that it was covered in the manner it would like to be covered.

Mr. Buchanan. Well let me say—if you talk to some of these—I say if you talk, you have to—you can't make—and if I have, I didn't mean to—make blanket judgments on every individual in the White House press corps and the National press corps and the like. You can talk about increasing tendencies, I think, is legitimate. But as for like and dislike, some of the press guys—I'm an ex-journalist myself. And as far as personal company is concerned, there—there——

Mrs. Drew. No, I meant coverage.

Mr. Buchanan. These are——

Mrs. Drew. I wasn't talking about you like them that much, or drink with them.

Mr. Buchanan. You mean the problems of coverage? I think what we got now is something that moves really——

Mrs. Drew. Because of the——

Mrs. Buchanan. That moves beyond because of the—you know——

Mrs. Drew. Yeah.

Mr. Buchanan. The adversary culture and the like. Yeah. I think it's something that really moves beyond. Here's—for awhile what you had was the party press, you know, papers belong to parties. That was bad. Then you had yellow journalism, but there's a period in between that when—when—when—I think when the American press was really more in its heyday.

THE PRESIDENT'S DAILY DIGEST

Mrs. Drew. I wanted to ask you—we don't have too much time left.

Mr. Buchanan. Uh-huh.

Mrs. Drew. These news summaries—summaries of the news coverage that you prepared for the President. Without getting the details of how many clips you clipped—

Mr. Buchanan. I don't blame you.

Mrs. Drew. Well it would take longer than we have. What do these tell him about the coverage?

Mr. Buchanan. Well, what they tell him basically because of the tremendous variety of magazines and newspapers and things we get, it gives him a view of what the journalists are saying all over the country—

Mrs. Drew. Do you describe the stories or—oh, excuse me.

Mr. Buchanan. On format, style—You both describe and you take direct quotes and—

Mrs. Drew. Would you say that X wrote an unfair story about it or—

Mr. Buchanan. No, no, no. If you get a story—here's the thing. The only place where you can—where you tend to—to say that—reflect what it was is a place where you can't pick out the quotes or—is frankly on television, television news.

Mrs. Drew. Uh-huh.

Mr. Buchanan. If you have—let's say we have I. F. Stone's Weekly or we used to, or New York Review of Books or—on the left, and Battle Line on the right and these other things, what you do is you tend to say we were, you know, the Administration is really getting raked over the coals by X, and then you give them a few samples.

Mrs. Drew. Uh-huh.

Mr. Buchanan. And condense that down. And the purpose of the whole thing is the President when he came in—he didn't want to get all his news and information, frankly, out of what he read in the Washington papers, or what he saw on the networks. And so he said, listen, we'll set up a news summary, and we want to get—I want to know what they're saying in Texas, what they're saying in Arizona, what they're saying in the state of Washington. I want to know what all their magazines are saying. Not just Time and Newsweek, but publications on the left, conservative publications on the right, and—

Mrs. Drew. But of a television news show you would say—you say you do have to characterize the presentation. What might you tell him that they say?

Mr. Buchanan. Well, see, the thing is—well you would say it's—for example all three networks, you know. All three networks led tonight with eight minutes of—

Mrs. Drew. All three other networks.

Mr. Buchanan. Sorry. All three networks, major networks—we incidentally cover those other shows. We tape them and then what comes in the day.

Mrs. Drew. Is somebody watching us?

Mr. Buchanan. They will be, I think, if this goes on at night, it'll probably be taped and then someone'll write a report on it tomorrow. And if I do badly, then I'll talk to them.

But here's—

Mrs. Drew. You get a right of rebuttal that we don't.

Mr. Buchanan. Huh? No, no, I'm just—I'm just jesting. They write the report up. But go ahead.

Mrs. Drew. You were going to tell me how—how you might describe a television news—

Mr. Buchanan. Well you'd let him know the—major thing he would need to know is what the public's going to be thinking is a lot of television's going to put on the air. Now you take last night. I saw some footage from this British journalist at UPI—

Mrs. Drew. Yes.

Mr. Buchanan. And it was really dramatic footage and—

Mrs. Drew. Yes.

Mr. Buchanan. And I didn't see the networks, but I saw a ten o'clock news show—

Mrs. Drew. Yes.

Mr. Buchanan. I understand it was on one of the networks.

Mrs. Drew. CBS.

Mr. Buchanan. So we would lead then, as we did in this morning's news summary which I sent over to the President and marked it myself. We had something like seven pages single space on Vietnam leading in with the networks, the amount of time they would give, the impact this was making, the kind of footage that's on, you know.

Mrs. Drew. You're giving judgments, too, though, aren't you? That this is—

Mr. Buchanan. Well not necess- —I mean there's—there's an element of judgment—

Mrs. Drew. Yeah.

Mr. Buchanan. In handling TV. Less so—

Mrs. Drew. Yeah.

Mr. Buchanan. When you can merely simply take a quote out of Time and put it in there.

Mrs. Drew. Uh-huh.

Mr. Buchanan. But you're saying, you know, the situation from television looks extremely gray. You see troops, you say—you might take that example. You see troops riding along packed on trucks retreating. It appears to be a somewhat disorderly retreat. The wounded are left lying by the side of the road. And say this is the—this is frankly what's going on the air. And then you if you make the judgment column, what's the impression of it.

Mrs. Drew. What does the President read in newspapers, magazines, books?

Mr. Buchanan. Well his books, he gets books from a variety of sources. Bill Safire is one of them. I think I would be another. Pat Moynihan used to be another.

He has what we call weekend reading, which is we take articles which are in length and depth out of things like Commentary and the magazines like that. We'll take and mark these up if they're particularly interesting or important articles like the—you know the New Republic piece by Bikel a couple of years ago on desegregation. It was really a—it was a seminal piece and we marked that up and got it in to the President. We did—these come out of mainly thought journals like Commentary, sometimes National Review and New Republic. The editorial pages of the Wall Street Journal often has a—

Mrs. Drew. Thank you, Mr. Buchanan. We have run out of time.

Mr. Buchanan. Uh-huh.

Mrs. Drew. Thank you very much.

Mr. Buchanan. Okay.

CAPT. JAMES B. WHITE

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. YOUNG of Florida. Mr. Speaker, the city council of the city of St. Petersburg, Fla., on April 20, adopted a resolution expressing concern over the fate of Capt. James B. White, who has been missing in action in Southeast Asia since November 24, 1969, and who is the brother of Ed White, one of three astronauts who lost their lives when their Apollo capsule fatally exploded on the launch pad.

It should be pointed out that through this resolution, Captain White has been chosen as a symbol representing concern for all prisoners of war and men missing in action in Southeast Asia, and I would, therefore, like to bring to the attention of my colleagues the sincere concern felt for the plight of these men and their families by the citizens of the largest city in my congressional district. The resolution follows:

[No. 72-202]

A Resolution Relating to Prisoners of War and Men Missing in Action in Southeast Asia; Adopting James B. White, Missing in Action

Whereas, Many men of the United States Armed Forces have become prisoners of war or are listed as missing in action in Southeast Asia while fighting to protect the basic freedoms of their nation and the free world; and

Whereas, These men have fought for their country in the highest ideal of courage and patriotism; and

Whereas, There currently exists and has existed in the past an inhumane treatment of these Prisoners of War and their families, causing unbearable suffering and hardship; and

Whereas, This treatment is in violation not only of every standard of human decency but also in violation of the Geneva Convention; and

Whereas, Those responsible must know that the United States and the Free World abhor such violations; and

Whereas, We know that individualized efforts for some of these brave men have proven successful in obtaining information pertaining to their well-being;

Now, therefore, be it resolved by the City Council of the City of St. Petersburg, Florida, that the City of St. Petersburg does adopt James B. White, missing in action, and does urge all residents and businesses of this city to use all means at their disposal to secure information regarding the well being of this brave American, and to assist his family who has waited so long to know his fate.

Adopted at a regular session of the City Council held on the 20th day of April, 1972.

MARGINAL WORKERS AND THE MINIMUM WAGE

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SCHERLE. Mr. Speaker, an enlightening editorial which appeared recently in the Nevada (Nevada, Iowa) Journal illustrates the devastating effect that a 25-percent increase in the minimum wage could have on the employment of students, handicapped, older workers, partially employed, and others who might choose to work part time. I urge my colleagues to take the time to read this editorial.

It Ain't All Good

There's a bill in Congress now for the raising of the minimum wage from $1.60 to $2.

At first glance, the measure might appear to be realistic. Inflation has certainly made it impossible for anyone to sustain a family on $1.60 an hour.

Such a move would be welcomed, too, by people who are now in the lower pay brackets. Raising the minimum wage to $2 per hour would result in a quick pay increase for those below $2 now and would almost certainly have an eventual effect on all other wages.

That, in fact, is one of the arguments that opponents of the bill raise against it—that the $2 raise is inflationary and will spiral all wages and then all prices, becoming self-defeating.

Surveys of small business across the United States indicate that moving the wage to $2 will force many businesses to totally eliminate jobs they offer today.

There is a great deal of marginal labor force in this country—students, part-time help, handicapped, older people partially employed, and others, who might choose to work at jobs that are not of the full-time breadwinning variety.

And, whether or not you believe in women's lib, the hike in minimum wage will affect women most of all—for women make up the greater part of the nation's part-time or piecework labor force.

In the end it will be students, women and the handicapped who will be most affected.

The DECA organization of students employed as part of their school training, is encouraging citizens to write to their Congressmen and urge that they vote against this bill.

THE RED OFFENSIVE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the Record, I include the following editorial:

The Red Offensive

Sen. George McGovern apparently is the first to meet the hopes of the North Vietnamese Communists by declaring that the new Red offensive proves the Vietnamization program is a failure and that the war "is a hopeless venture."

It is exactly this kind of reaction from America's liberals which has encouraged the Communists to continue their slaughter, and to persist in their war.

America's liberals, notably the men of most influence, members of the Senate, have some brutally frank talk coming to them.

They have hampered the war effort unceasingly; they have done nothing to help end it. They are in large measure responsible for the loss of South Vietnamese territory just south of the Demilitarized Zone for which thousands of Americans, three years ago bled, suffered and died.

Yet, the pressure was put on the President, and the American people by the militant so-called "peace" groups, the parlor pinks and the American Reds, to withdraw all American forces, and even, incredibly, to tell the world, and the enemy, just when Americans would be withdrawn, so that they in fact would be at the mercy of the enemy.

Last Summer, Mr. Nixon replied to these critics. He said then that it would endanger American forces to tell the enemy withdrawal dates.

Mr. Nixon said at that time there was fear the Communists would launch a heavy offensive just as American strength grew weak. He said the plans had called for a gradual withdrawal of American forces over several years, to give the South Vietnamese Army time to train and become more capable of defending the country.

But, the radicals and the liberal senators persisted.

The liberal senators have had a major role in pressuring the administration to give full information on withdrawal of U.S. forces.

Well, much of that information has been given. The withdrawal has been speeded up beyond the good judgment of the government.

And, today, the Reds are moving their invasion deep into South Vietnam. They are justifying all the charges made against Hanoi and the invasion gives the lie to every American liberal who has chosen to denounce his country and stand with the enemy in the torture of South Vietnam.

The enemy offensive probably is aimed at influencing American liberal opinion, an effort to convince this country we must settle only on the enemy's terms.

If the Communists win this maneuver, the Red flag may be on the march throughout the world within the next few years.

The U.S. made our first official peace offer to Hanoi in July, 1965. Repeated offers have been made since. All have been rejected or ignored. As Mr. Nixon said, the North Vietnamese used the Paris peace talks only for propaganda while we were seeking peace.

The Reds want this country to betray South Vietnam. They know that such a craven act would not only throw Southeast Asia to the Communists, but it would destroy the honor, the power and the strength of the United States by a destruction of morale unequaled in American history.

THE BIRTHDAY OF HARRY S. TRUMAN

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BEGICH. Mr. Speaker, yesterday, May 8, 1972, represented the 88th birthday of Harry S. Truman, 33d President of the United States. A man of humble beginnings, President Truman proved the credibility of the "American dream" by reaching the pinnacle of power.

His Presidency, spawned in a time of crisis, Harry Truman responded with a responsible, compassionate foreign policy. The Marshall plan, the point four program, and the Truman doctrine were all directed at the preservation of a free society through foreign aid and development rather than military action. Never before or since has an American President met a desperate world need with such effective means as to restore security and stability to the free world.

Reaching the age of 88 is a milestone in any man's life. For some it means complete inactivity, but Harry Truman remains abreast of political issues and maintains a voracious interest in national and international affairs.

In tribute to Mr. Truman, I would like to wish many more very happy birthdays, and insert an article by Harry F. Rosenthal of the Associated Press, which appeared in the May 7 edition of the Washington Sunday Star:

Truman at 88: Bound to His Home and Books

(By Harry F. Rosenthal)

Independence, Mo.—He is an old man now without the privileges of other old men.

The park bench in the sun, the small talk with others of his time and memories are denied Harry S. Truman. Nearly 20 years out of the White House, he is revered as Mr. President, but restricted as Mr. Citizen.

He knew it would come. "I still don't feel like a completely private citizen and I don't suppose I ever will," he said once. "It's still almost impossible to do as other people do, even though I've tried. You can't always be as you want to be after you've been under those bright lights."

Tomorrow, another birthday, his 88th.

His friends will gather, as they always do at the Hotel Muehlebach to lunch, to praise, and to light candles on heart-shaped petits-fours.

For the seventh straight year they'll raise glasses of sherry in toast to an empty, high-backed leather chair. Truman, the man who always loved cronies, comaraderie and good conversation is too feeble to be there.

Age has built a wall around Truman, isolating him from his friends, making him a prisoner of his house.

His appearance is a shock to those who remember his ebullient good health as president. He looks drawn and thin, pitifully frail. His false teeth give him trouble and slur his speech. His eyes, always weak, look enormous behind thick lenses. He hears badly.

"But his mind is clear as crystal," said H. Roe Bartle, a former Kansas City mayor and one of the few friends who see him regularly. "He keeps abreast of the times, rarely reminisces. He wants to talk about what happened yesterday and what may happen tomorrow."

Others confide that he has mental lapses, that he "overreacts like a crotchety old goat"—not unusual for a man Truman's age. But they hasten to stress the amount of reading he does and his awareness and interest in the world today.

"YOU SEE THAT CHICKEN-HAWK FACE"

"On every current event he's got an opinion of what we ought to do and why we ought to do it," Bartle said. "He talks about legislation before the Congress. He'll get down to little minute things. He never calls a man by name like you and I do. For instance, Hubert Humphrey. He'll say 'Sen. Hubert Humphrey, the former vice president.' He always gives the title. It is always an indication of respect for the title that he holds."

Thomas Hart Benton, the distinguished artist, painted Truman's portrait last year. "The old man looks better as an old man than he did as a young man," said Benton, himself 83. "You get that fat off of him and you see that chicken-hawk face and also his sensitivity. You would never think of Harry Truman as being sensitive, but he is—when he's not fat and bothered with all the defenses a politician has to put up with. You didn't ever see the real man, you saw only the mask."

But Truman's sister, Mary Jane, said a little sadly: "I don't know. He doesn't look a thing like he used to. He always had a full face and always looked so well. He takes a miserable picture now, he's so thin. And he's always taken such a nice picture."

The Benton portrait, standing on an easel in the lobby of the Harry S. Truman presidential library, dismayed employes at first. It shows a white-haired old man engrossed in a book held in gnarled, arthritic fingers. The shirt collar and suit are loose. About all that's familiar is the hawk nose, made more prominent by the lines in Truman's face. Like all Benton paintings, it's scrupulously detailed.

"He's a skull now," said Benton. "You can see the man without the jowls and the fat. He has no need now to put on an act, any kind of public act. So he relaxes now. He's a very interesting old man."

The association between the artist and Truman began in 1960 when Benton painted "Independence and the Opening of the West," a 495-square foot mural, in the lobby of the library. "We got to be pretty good friends," Benton said. "This is an amazing thing for an artist and a politician. Harry Truman and I are two men who can sit in a room alone and drink a glass of whisky and feel at ease. You know what I mean? Now there is no other politician I can do that with—none of them."

Benton had tried to paint Truman in 1963, when the former president still went to the library daily—something he hasn't done since 1965. Truman posed willingly, Benton said, but "I was constantly interfered with by office workers. The women wanted him to look like Clark Gable and the politicians . . ." Benton's hands went up in exasperation. "I finally told him, 'I can't do this,' and he let me off the hook. Then last year we got to talking about that effort. We were laughing about that and I said, 'Hell, why not try again?' and he said why not. So I did this painting and I'm glad I waited because it's more interesting."

The artist made four trips to the Truman home for sketches, then painted in his garage-studio in Kansas City. "Mrs. Truman saw it and said, 'That's him,' " says Benton. "What the hell more do you want?" Does Truman like it? "Bess does," Benton replies. "That's enough."

The things that please Bess have always been enough for Truman. She was his childhood sweetheart, the aristocratic athlete whom the bookish farm boy Truman wooed and won; she was the only girl he ever dated and loved; she was his secretary in the Senate; she was his unobtrusive confidante and supporter when he was president. Now 87 herself, still doing most of the shopping, cooking and housework, she is with him constantly, zealously guarding his privacy.

" I don't think she likes to leave Harry too much," said Mary Jane Truman. "There's always somebody on hand, but at his age, you know, he might get up and fall. There has to be somebody in the house."

Privately, some of their friends say she protects him too much, keeping away people who might brighten his days. But they respect her wishes and the calling list is small.

"I think they're lonely," said one friend. "Truman is a crony man and there are no more cronies." And another friend: "There's no question he's got to be protected at every moment. Lonely? Undoubtedly. I would hate to be in his position. He's used to people and contacts in the world." And Mary Jane, with sisterly concern: "Even our family doesn't go as often. I think it's better not to."

SENATOR GRAVEL PAYS A VISIT

Charles Hipsh, the president of a Kansas City bank, is a weekly visitor, along with his brother, Sam. "He's never expressed loneliness," Charles Hipsh said. "He always seems to welcome you with open arms when you come there. And Mrs. Truman—she makes you feel like you're the president instead of visiting the president."

Says Bartle: "The president has good days and he has bad days. If it's a bad day and I want to bring somebody out, * * * there faster than any 300-pound guy you ever saw."

Recently Bartle and Sen. Mike Gravel, D-Alaska, shared a speaker's platform. Gravel said he had always wanted to meet Truman. With only a few minutes' notice to the Trumans, Bartle took him to Independence. "We walked in and Mr. Truman, with a twinkle in his eyes, said, 'Yep, I'll tell you, you've been a good senator,' " Bartle recounted. "And he knew the legislation Gravel had voted for, where he had not cast his ballot and where he'd been negative. Well, it overwhelmed me. Now why should a man who is 87 years old study the records of senators so he knew what he voted for and what he voted against?"

Gravel also had something to tell Truman. In the '50s, when the expresident was visiting New York, Gravel was studying at Columbia University and driving a cab part-time. "You were taking your morning walk," he told Truman. "I drove very slowly, up to the curb and stuck my hand up and said, 'Good Morning, Mr. President, it's good to see you.' And you turned to me and said, 'Young man, you look good to me, just make something of yourself.' " After the visit, Gravel commented: "I never forgot. He was just as friendly to me when I was just a cab driver. He didn't know then that I would be a senator from Alaska."

The story illustrates a facet of Truman that his sister probably knows best. "Harry has always been down to earth, being president never changed him any," she said. "As Mama said, just be in the key of B-natural, and that's what all of us have always been. We didn't pretend anything we were not. He had experienced enough; he knew what people were up against."

Miss Truman is a gentle lady you instinctively call Miss Mary Jane. She'll be 88 in August. "I'm younger than Harry," she said demurely. She never married and lives alone in a small brick house in Grandview, not far from the old Truman farm, now the site of a large, undistinguished shopping center called Truman Corners. She still drives her own car and often makes the 30-minute trip to visit her brother. His visits to her, when the weather is nice, are probably the longest trips Truman makes these days.

"I dont think anyone ever had two better brothers than I had," said Miss Mary Jane. "I think he married later than he would have because he thought he'd have to look after Mama and me."

Her living room is filled with pictures of Harry, their brother Vivian, who died in 1965; and her mother, who lived to be nearly 95. She talked of their childhood.

"The boys both had diphtheria and I was sent to grandmother's so I didn't have it. Harry was paralyzed for almost a year. He had started to school and was in the second grade, or maybe the third. I wheeled him around in my baby buggy for close to a year. I remember Mama telling about how it happened. We were at the dinner table and he took a drink of milk and it all come out of his mouth. His tongue was paralyzed. They went after the doctor, who said he'd been expecting it because Harry was so weak. That's the way it started that he read so much."

A HEAVY READER FROM AGE 14

Truman learned to read when he was about 4. "From then on I read everything I could get my hands on," he wrote once, "histories and encyclopedias, and everything else. Before I was 12 I had read everything Mark Twain had published up to that time." The home library on the Truman farm was thought to be the largest private collection in town.

The reading habit begun young and nurtured through life has served Truman well in his old age. Bartle who reads 300 books a year says he is overwhelmed with the books Truman has in his home.

"In the field of history" said Bartle, "I think he's the best read man I've ever known. He can tell you every war that was fought, who the generals were and where the decisive battles took place. It can overwhelm people to realize that this man has retained his memory, that he does have knowledge and he's always right."

From the reading room of the 105-year-old Truman home—it was built by Bess's grandfather—he can look out on busy 15th Street, renamed Truman Road, the main highway to Kansas City 15 miles west. In it is the huge chair shown in Benton's painting. Bookshelves are floor-to-ceiling on three sides and over the window of the fourth.

And even that's not enough to satiate his reading appetite. On many a day, the Trumans' light green Chrysler will pull out of the driveway on the North Delaware Street side of the house. Truman, clasping a cane between his knees, will be in the front passenger seat next to retired police Lt. Mike Westwood. Mrs. Truman is in back.

With a Secret Service car discreetly behind, they'll drive the few blocks to the Independence Public Library, where Mrs. Truman gathers an armload of books. The well-stocked, well-patronized library has rows of shelves filled with publications of the Daughters of the American Revolution, but on a recent day, only four books on Truman, including his two volumes of memoirs. The only reminder that this library is in a former president's home town is a small picture, high on one wall, showing Truman bending down to listen to his aged mother.

THE BUSING QUESTION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DERWINSKI. Mr. Speaker, the Chicago Tribune's perspective page of April 13 carried an article by Martin Mayer, the author of "Where, When, and Why, Social Studies in American Schools" from which this article was excerpted.

Mr. Speaker, since the busing question remains before us and is, in fact, a major concern of citizens throughout the country, I feel that this article is very pertinent and I insert it into the RECORD:

BUSING: THE SHAM OF INSTANT EQUALITY

(By Martin Mayer)

When I was chairman of a New York City local school board a few years ago, our district had a busing project that brought children in the lower grades from their East Harlem homes to the greater achievements of Yorkville.

It was a small, complicated project, involving joint PTAs for the sending and receiving schools, new academic programs to short-circuit teachers' beliefs about what children should be able to do at this level, a little rigging of the test scores reported to the teachers.

The project did some good—not much, but some—and except for a handful of sophisticated Puerto Rican parents who hated to see the best black pupils go out of their schools [the Puerto Ricans wouldn't bus] it was popular in East Harlem.

Nevertheless, after one board meeting I was approached by a politically oriented caucus, not so much angry as nasty, demanding an end to asymmetry. Fortunately, they phrased their position in a way that invited a snappy answer: "Why," they demanded, "is it always our children that ride the bus?" I said, "because they're disadvantaged. One of their disadvantages is that they ride the bus."

I report as a matter of fact that in my remaining two years as a local board chairman neither the argument nor the demand was heard again. Truth hurts; but it answers real questions.

THE CASE FOR BUSING

The case for busing children to schools that their parents and the world at large believe to be better schools is an overwhelmingly strong case. The case for busing children to schools that their parents and the world at large believe to be poorer schools is an extremely weak case.

There is some reason to believe, on the basis of the Coleman Report, that the children of low-income, ill-educated parents will on the average do somewhat better in school if they are exposed to the more invigorating air of classrooms dominated by the children of higher-income, better-educated parents. The same report gives evidence [much less frequently cited] that children from more fortunate homes will on the average do worse in school if they are a minority group in classrooms where the air is that of the slums.

Even elected legislatures cannot change this fundament of social existence—and do not try, because in the process of writing law legislators typically look forward to the probable effects of what they do.

The notion that courts can write such laws and make them stick should not be entertained for a minute by anyone seriously interested in improving society. Judges have neither the resources nor the habits of mind to predict intelligently the results of their decisions; they are hired and trained to look backward, toward the facts of a given case.

SERRANO VERSUS PRIEST

A recent issue of the Office of Economic Opportunity magazine Opportunity featured an article on the legal service office that fought and won the case of Serrano vs. Priest, which held that the financing of schools by local property taxes was unconstitutional because it deprived residents of poorer districts of equal educational opportunities.

The lawyer in charge of the case speculated that it might turn the whole country around—it parents could not hope that by working hard and making money and moving to the suburbs they could do something special for the future of their children, then they might stay in the cities and stop being racists.

But the difference between successful and unsuccessful schools is not usually money—in fact, the equalization of educational expenditures thruout New York State would reduce the per-pupil budget in New York City. And even if Serrano vs. Priest were responsive to the real problems, the idea that so fundamental a drive as the desire to give one's children, a better break can be frustrated by a court decision—or, indeed, should be frustrated in a healthy society—is ultimately not only proposterous but [if I may say so without offense] childish.

We have lived thru an extraordinarily dispiriting decade in education. A great deal that in the Kennedy days we had believed could be done quickly now seems long, dreary years away. The failure of university administrations to think thru the nature and extent of their resources has loaded higher education with a burden of transparent fakery that has made at least secret Jensenists of most faculty and of more students than anybody cares to admit.

Of the remedies proposed in the early 1960s, only two remain plausible: full-time institutional control of students from educationally hostile neighborhoods [i.e., boarding school, or, in later life, the Army: Project 100,000, little noticed, has educated more dropouts than all the school systems put together]; and tutorial assistance [by nonprofessionals, paraprofessionals or older students; each-one-teach-one produces better measurable results than group instruction in the hands of any but the best teachers].

IMPACT OF HEAD START

The educational impact of Head Start has been invisible; the educational impact of community control, bilingualism, and race pride, has been fairly consistently negative, the educational impact of integration has been fairly consistently positive, but minor. Even in the best integrated situations, the difference in academic achievement between the middle-class white eighth-grader and the black welfare eighth-grader is likely to be three years, and such gaps cannot be concealed.

The brief period in which blacks felt themselves honestly equal to whites is coming to an end all over the country, in self-resegregation and despair, largely because of the stress placed on education. The horror is perceived by radicals, who seek to exercise it by abandoning schools altogether. The educators themselves, reviving their Uriah Heep attitudes of 20 years ago, ask again whether it's really so important that all children learn to read.

Much of this seems to me genuinely tragic. There is no reason to believe that we cannot, in segregated or integrated situations, bring much more of the low-income population to a level of reasonable competence in reading—if we remember competence is our target.

And there is every reason to believe that the slum child who does not go to school, or does not have demands made upon him there, will be doomed to a disastrous life in this or any other society. It is the tone of the school, not the simple physical presence of middle-class children that must be credited with the gains Coleman found from integration. Since the late 1960s, we have been sacrificing that tone everywhere, with appalling results.

NEED BETTER TESTS

We need tests that measure more aspects of human ability than are now measured by our intelligence, aptitude, and achievement tests. On the social front, we need ways to insure that middle-class blacks get the rewards of having made it, and we need maximum feasible opportunity for upward mobility in occupation, residence, and education.

But the best that can be given is opportunity; the burden will continue to rest on the Negro community, because there is no way to transfer it. Governments cannot legislate and courts cannot mandate results. It may well be, as I had occasion to observe a decade ago, that the benefits of major educational effort can be gathered only by the children of those who participate in the effort; but the effort is worth making.

The lawsuits and committee reports and books calling for instant equality must be seen for what they are: attempts to avoid making the effort. To the extent that they also seek to punish society for not doing what cannot be done even with effort—and there is a great deal of purely punitive purpose behind much of what the activist lawyers are attempting—they will be fearfully counterproductive. They already are.

REGULATING THE DISPOSAL OF WASTES RESULTING FROM HIGHWAY CONSTRUCTION

HON. CHARLES W. SANDMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SANDMAN. Mr. Speaker, with my distinguished colleague from Delaware (Mr. DU PONT) I am today introducing legislation designed to regulate the disposal of wastes resulting from highway construction.

This bill has a necessarily narrow, but essential, purpose as I am particularly concerned when such wastes are disposed of by dumping them into the oceans or our Nation's navigable waters.

The legislation, an amendment to the Federal-Aid Highway Act, would require the consent of the Governor of a State potentially affected by the dumping of said wastes in the State's waters or adjacent to the State's waters.

Without that consent, no Federal payment could be made under the Federal-Aid Highway Act for the highway construction work.

I ask our distinguished colleagues in the House to support this legislation. Similar language is being introduced in the other body by the two distinguished Senators from Delaware; the Honorable J. CALEB BOGGS and the Honorable WILLIAM V. ROTH.

Full text of the legislation follows:

A bill to amend the Federal-Aid Highway Act, 23 U.S.C. 121 and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 121 of Title 23 of the United States Code is amended to add a new subsection (f) as follows:

"(f) No payment shall be made under this chapter for that part of the cost of construction related to the production or transportation of any materials to be deposited or discharged into the navigable waters of the United States, the waters of the contiguous zone, or the oceans unless such deposit or discharge has been approved by the Governor of the State (1) in which the navigable waters where such deposit or discharge will occur, or (2) contiguous with that portion of the waters of the contiguous zone or the ocean where such deposit or discharge will occur. This requirement shall be supplementary to any requirements under the Federal Water Pollution Control Act, as amended, or the Marine Protection Act, as amended."

SWIFT ENACTMENT NEEDED

The need for swift enactment of this legislation, Mr. Speaker, is obvious. And a current situation that has potentially disastrous consequences for the New Jersey and Delaware seashore resorts is the perfect example for this need.

Ten days ago, I received an anonymous telephone call designed to alert me to an obscure legal advertisement for bids by the procurement department of the city of Philadelphia.

The bids, to have been received 1 week ago today, were for removal of some 2 million cubic yards of sewage sludge from several stagnant lagoons located in the right-of-way of Interstate Highway 95 in southwest Philadelphia.

I immediately contacted Philadelphia Water Commissioner Carmen Guarino for details. He confirmed that "disposal at sea" was one of three acceptable options for disposing of the sludge, according to the specifications for bids.

Naturally, I issued a statement condemning the plan and announced I would fight it with public pressure and both in Congress and in U.S. District Court, where I have had to appeal twice on similar occasions to prevent ocean dumping of pollutants from Pennsylvania.

Philadelphia Mayor Frank Rizzo, Gov. Milton Shapp and others were urged to intervene.

Tuesday morning, the city procurement office withdrew the offer for bids pending "further study of possible pollution problems."

INITIAL SKIRMISH WON

We had won an initial skirmish merely by being alert and courtesy of an anonymous tip, but the need for disposal of the sludge remains and it is known that they have still got their eye on the ocean off my home at Cape May.

I am extremely distressed that we face another entire summer of ocean dumping. The reason is no secret; the House-Senate conferees have failed for over 4 months to iron out differences between the two versions of the Marine Protection Act which will regulate and eventually eliminate ocean dumping—H.R. 9227.

This is an inexcusable delay, Mr. Speaker. No jurisdictional dispute is so important as to deserve such an intolerable delay. I urge that the conferees make an extra effort toward agreement as it is my congressional district most seriously threatened by the ugly practice of ocean dumping.

The legislation I have introduced today should be enacted in addition to the Marine Protection Act, which has already overwhelmingly passed both Houses of Congress but remains stuck in the conference.

This additional restraint on the ocean disposal of highway construction wastes needs to be taken up promptly to be effective on the Philadelphia sludge case, now at hand.

As background, Mr. Speaker, I ask that four brief news accounts of this case be inserted in the RECORD. The articles follow:

[From the Philadelphia Inquirer, May 1, 1972]

SANDMAN WARNS PHILADELPHIA AGAINST BARGING SLUDGE

(By Tom Madden)

Rep. Charles W. Sandman Jr. (R., N.J.) said Sunday he plans to block Philadelphia from dumping sewage sludge in the lower Delaware Bay.

He said the city is planning to receive bids for disposal of 2 million cubic yards of sludge. It now stands in seven lagoons near Philadelphia's Southwest sewage treatment works. It must be disposed of because the lagoons are in the right-of-way of Interstate Highway I-95, now under construction.

The city's Procurement Department had planned to receive bids Tuesday for disposal of the sludge but postponed the bidding because of questions about specifications.

Procurement Commissioner Otto R. Winter said, "We're going to take another look at specifications because we didn't know whether they were clear enough."

Winter said he did not know where the sludge eventually will be dumped, but that it probably will go out to sea. Sludge disposal, he said, "has always been put out to bid."

Sandman says the successful bidder would be given options of barging the sludge to sea or disposing of it through incineration or some form of land disposal.

"I don't care what they do with it, so long as it isn't dumped in the Delaware Bay or the Atlantic Ocean near the New Jersey resort beaches," he said.

Sandman obtained court restraining orders twice last year to stop similar ocean dumpings. He said he will do so again, if necessary.

Ocean dumping of pollutants is still legal. A Sandman bill to ban the practice has been passed in both houses of Congress but is tied up in a joint conference committee.

The committee has been unable to iron out differences during meetings for four months.

Sandman is urging elimination of the ocean dumping option in messages to Mayor Frank Rizzo, Gov. Milton Shapp, the Pennsylvania Department of Transportation, and the Federal Environmental Protection Agency.

[From the City Press, May 2, 1972]

PHILADELPHIA EXPECTED TO REJECT SLUDGE BIDS

CAPE MAY.—Rep. Charles W. Sandman, Jr. said Monday he believes there is a "50–50 chance" the city of Philadelphia will not accept bids today involving barging of two million cubic yards of sewage sludge to sea.

The Philadelphia Procurement Department is scheduled to open bids today for disposal of the sludge by one of four means: incineration, land disposal, use as fertilizer or barging to sea for possible dumping 12 miles off the coast here.

The sludge now stands in seven lagoons near Philadelphia's southwest sewage treatment works and must be disposed of because the lagoons are in the right-of-way of Interstate I-95, now under construction.

Sandman said he will seek a court injunction if necessary to prevent the sludge from being dumped off the coast.

However, since the possibility of dumping the sludge was made known, Sandman said, pressure from him and others has made Philadelphia reconsider the option of ocean disposal. He said the city probably "won't be hasty about issuing the bids and we have reason to believe there's a good chance that the option will be eliminated."

Sandman said he sent telegrams to Mayor Frank Rizzo, Gov. Milton Shapp, the Pennsylvania Department of Transportation and the U.S. Environmental Protection Agency, "urging elimination of the ocean dumping option."

According to Sandman, "The intent of Congress to stop ocean dumping is clear," even if it has so far failed to enact a law against it.

He said an ocean dumping bill he sponsored last year has been in joint House-Senate Conference Committee for the last four months.

Last year Sandman twice secured restraining orders in U.S. District Court to stop similar ocean dumping operations. Sandman said he is prepared to file suit this week to prevent the Philadelphia sludge from being dumped in the ocean.

Last year, 122 million gallons of sludge from Philadelphia, Camden and Bridgeton were dumped about 12 miles southeast of Cape May.

Sandman urged those concerned about the dumping to write Mayor Rizzo or Gov. Shapp

---

[From the Millville Daily, May 2, 1972]

FIGHTS PLANS TO DUMP SLUDGE

Congressman Charles W. Sandman (2nd, NJ) is organizing his forces once again to fight plans by Pennsylvania sources to pollute the Atlantic Ocean near here again.

This time, it's some 2 million cubic yards of sewage sludge from Philadelphia that Sandman doesn't want dumped in the ocean.

On Tuesday (May 2nd) bids for disposing of the sludge are scheduled to be received by the City Procurement Department.

The sludge now stands in seven lagoons near Philadelphia's Southwest sewage treatment works and has to be disposed of because the lagoons lay in the right-of-way of Interstate Highway (I-95) now under construction.

Congressman Sandman revealed here Saturday that the successful bidder thus is being given three options of how to dispose of the sludge: by barging it to sea; by incineration; or by some land disposal means.

Sandman says he doesn't care what is done with the sludge as long as it isn't dumped in the waters of the Delaware Bay or the Atlantic Ocean near the New Jersey resort beaches.

Ocean dumping of pollutants still may not be illegal even though a bill Sandman proposed to ban the practice has passed both houses of Congress overwhelmingly. A House-Senate Conference Committee has been unable to iron out differences during meetings over the past four months.

The Congressman contends that the intent of Congress to stop ocean pollution is clear. Therefore, he says, the ocean dumping option of the sludge disposal contract should be cancelled.

[From the Evening Bulletin, May 3, 1972]

BIDS CANCELED FOR DUMPING SLUDGE AT SEA

The city yesterday canceled bids on contracts to remove 400,000 gallons of sludge to make way for construction of the Delaware Expressway in Southwest Philadelphia.

Managing Director Hillel S. Levinson ordered the action so that "further study could be made of possible pollution problems."

The sludge, in lagoons near the Southwest Water Pollution Control plant at 80th st. and Penrose ave. was to have been shipped by barge 12 miles off the South Jersey coast and dumped.

RESIDENTS OPPOSED

Protests were raised by some Jersey shore residents, particularly U.S. Rep. Charles W. Sandman, Jr. (R-2d Dist) who feared the sludge may pollute off-shore areas and possibly the beaches.

The lagoons are to be emptied at the state's expense, although Philadelphia will do the work.

Carmen Guarino, water commissioner, said the "digested sludge" should pose no problem to the ocean environment. About half of it is sand and the remainder is inorganic matter, he said.

USE AS FERTILIZER

"If we could dry it (the sludge), it could be used as humus for fertilizing gardens," Guarino said, "But we have no outlet to make fertilizer of it."

Fels Institute and Jefferson Hospital have conducted studies of the ocean dumping area and a preliminary report shows no adverse environmental effects, Guarino said. The city currently barges and dumps sludge at the site twice a week.

"For 10 years we've been barging sludge to sea," Guarino said.

COSTLY PROCESS

If the 400,000 gallons can't be dumped, the city will have to find alternative methods to dispose of it. All other ways are more costly than dumping it at sea, Guarino said.

"Barging it is about one-third the cost of any other method," he said. "We could burn it in incinerators, but we would have to build incinerators and we would still have the cost of disposing of the ashes.

Levinson said new bids would be asked once the city reviews the pollution situation.

NATIONAL ENERGY

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ROSTENKOWSKI. Mr. Speaker, national energy crises have become such an expected part of each summer that we have invented a new word to describe them—brownouts. Once again our Nation's largest metropolitan areas can look forward to crucial power shortages this summer. These shortages are not easily solved, especially under present conditions. While so many people clamor for results, we have yet to develop a truly comprehensive policy toward the production of power. An editorial in the Christian Science Monitor of May 8 will illustrate my point.

The article follows:

FOR A NATIONAL ENERGY POLICY

Another summer of brownouts is already predicted for the United States. Chicago, Miami, and New York are likely to be hardest hit during the long hot spells as some 45 new generating plants have been delayed in coming into service for various reasons, including challenges by environmentalists.

Part of this continuing energy crisis springs from the astronomical growth in demand: the United States, with one-sixteenth of the world's population, now consumes one-third of the available energy. Demand has doubled in the last 20 years, and is expected to double again every 10 years until the year 2000.

The energy crunch highlights the lack of a national energy policy. The United States is one of the few countries that does not place overall responsibility for fuels and energy with a single agency. Instead, 61 federal agencies, commissions, and committees of Congress have their fingers in the energy pie.

Fuel policies abound, often with conflicting ends. The price of natural gas has been artificially depressed, stimulating demand while discouraging further exploration; nuclear power research has been fostered while development of other energy technologists and synthetic fuel lags; fuel consumption rather than conservation has been encouraged, forcing greater and greater imports of oil; wasteful uses of premium, clean fuels have been allowed; and environmental goals are drawn up which conflict with meeting energy demands.

Not that there isn't widespread recognition of the need for a comprehensive national energy policy. Indeed there has been a rare agreement amongst members of the White House, Congress, the federal agencies, energy producers, and even environmental and consumer groups.

Despite this accord, each group tends to begin its own investigation into the nature of the energy crisis. Positive, coordinated action toward legislation is likely to be months, even years away.

One hopeful sign was President Nixon's proposal in the 1971 State of the Union message to reorganize the 12 executive departments into eight, including a single Department of Natural Resources. This would pull together many of the fuel functions sequestered away in various Washington offices. But little headway has been made since the original proposal. A Ford Foundation study, just announced, should help put the energy policy issue into focus.

Whatever policy finally emerges, it is likely to contain some of the recommendations now being proffered by authorities in the field:

These sources of supply should be built upon healthy and diable domestic fuel industries, but where these supplies are not sufficient, diverse foreign sources should be developed so as not to jeopardize national security.

Free open-market competition should be allowed between the various energy sources, and where possible, regional disparities in cost and supply should be eliminated.

The paramount development of domestic energy resources, including Alaska and the outer continental shelf, should be conducted with maximum environmental protection.

National policy should work to provide the country with an adequate supply of energy for both short- and long-term needs at the lowest costs possible.

All nonessential energy consumption should be discouraged.

Large-scale commitments for research and development of new technologies are required to meet future energy requirements.

It is to be hoped that not too many more summers will pass with their usual brownouts, fuel shortages, and yet another spate of studies, before the federal government steps in to forge what is already clearly necessary—a national energy policy.

BLACK POWDER

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DINGELL. Mr. Speaker, title XI of the Organized Crime Control Act of 1970, Public Law 91–452, which the Congress persuaded itself was sorely needed to curb domestic bombings, has been a colossal failure. I voted against the passage of that law, and our experience with that legislation has largely justified my doubts.

It has not appreciably inhibited bombings, if only because powerful explosives are easily concocted from everyday, commonly available materials such as garden fertilizers.

Rather, the principal effect of title XI has been to make it extremely difficult for persons who shoot antique muzzle-loading muskets in such colorful events as the famed North-South skirmish to obtain sufficient quantities of highly refined grades of black powder.

Serious shortages caused by the act's arbitrary limitations on sale and transportation of black powder to very small quantities have threatened the very survival of this traditional sport in which thousands of persons participate. Particularly vexatious is the failure to make any meaningful distinction between bulk blasting powders unsuitable for use in antique firearms, and the expensive, uniformly granulated powders these old guns require.

It is ironic that the shooting grades of black powder—indeed, even crude homemade black powder unsuitable for firearms—are rarely used by domestic terrorists.

I insert at this point in the RECORD two tables prepared from reports compiled by the International Association of Chiefs of Police, showing that more than 96 percent of the bombs discovered by law enforcement authorities in the United States in a recent 18-month period used explosives other than black powder, and that, in a State-by-State breakdown, many States reported no black-powder bombs at all.

The tables follow:

A STATISTICAL SUMMARY OF BOMBINGS AND BOMB DEVICE FILLERS USED BY BOMBERS IN THE UNITED STATES

	Number	Percent
Bombings in the United States for the period of July 1, 1970–June 30, 1971:[1]		
Total number of bomb devices (all types)	2,352	100.0
Total number of black powder devices (homemade and commercial sporting)	96	4.1
Total number of devices employing materials other than black powder	2,256	95.9
Bombings in the United States for the period of July 1, 1971-Dec. 31, 1971:[2]		
Total number of bomb devices (all types)	1,489	100.0
Total number of black powder devices (homemade and commercial sporting)	53	3.55
Total number of devices employing materials other than black powder	1,436	96.45
Bombings in the United States for the period of July 1, 1970–Dec. 31, 1971:[3]		
Total number of bomb devices (all types)	3,841	100.0
Total number of black powder devices (homemade and commercial sporting)	149	3.87
Total number of devices employing materials other than black powder	3,692	96.13

---

[1] Morton, Jane P., and Persinger, Gary S., "Bombing in the United States: July 1970–June 1971," International Association of Chiefs of Police Research Division. Gaithersburg, Md.

[2] "December 1971 Summary Report on Bombing in the United States," International Association of Chiefs of Police Research Division. Gaithersburg, Md.

[3] Sources Nos. 1 and 2, combined to give totals for an 18-month period.

A "state by state" summary of blackpowder used for bomb device fillers by bombers in the United States during the period of July 1, 1970 through December 31, 1971 [1]

Alabama	1	Nebraska	0
Alaska	0	Nevada	0
Arizona	15	New Hampshire	0
Arkansas	0	New Jersey	5
California	46	New Mexico	0
Colorado	2	New York	5
Connecticut	2	North Carolina	1
Delaware	0	North Dakota	0
Florida	5	Ohio	6
Georgia	2	Oklahoma	0
Hawaii	1	Oregon	1
Idaho	1	Pennsylvania	4
Illinois	14	Rhode Island	0
Indiana	3	South Carolina	0
Iowa	0	South Dakota	0
Kansas	5	Tennessee	0
Kentucky	0	Texas	2
Louisiana	2	Utah	0
Maine	0	Vermont	0
Maryland	3	Virginia	2
Massachusetts	1	Washington	1
Michigan	8	West Virginia	0
Minnesota	4	Wisconsin	0
Mississippi	0	Wyoming	0
Missouri	7	Washington, D.C.	0
Montana	0		

[1] International Association of Chiefs of Police Research Division, Gaithersburg, Maryland.

The total number of devices employing blackpowder for a bomb filler is 149 for the eighteen month period of July 1, 1970 through December 31, 1971.

AN AMERICAN EMPEROR

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BOLAND. Mr. Speaker, President Nixon's new tactical approach to the Vietnam war—mining North Vietnam's harbors, "interdicting" any Soviet ships that might dare the mine fields, bombing the railways and supply routes that thread out of China into North Vietnam—risks a direct confrontation with the Soviet Union. Nixon, in effect, has thrown down the gauntlet, defying the Soviet Union to challenge his will. It is an exercise in brinksmanship wholly unparalleled in the history of the Vietnam war. It could conceivably lead to nuclear war, even more conceivably to the introduction of Chinese or Soviet "volunteers" into the conflict. And all the minor triumphs of American diplomacy over the past decade—the SALT talks, the European detente, the rapprochement with China, the summit conference still gamely scheduled for later this month—could vanish before our eyes.

No one—Mr. Nixon himself is hardly an exception here—can deny the manifest peril of his actions.

I want to emphasize, Mr. Speaker, that this decision was not thrust upon President Nixon as part of the legacy bequeathed him by his predecessors in the White House. It was Mr. Nixon's decision and his decision alone. Both Presidents Kennedy and Johnson, themselves confronted with what military leaders earnestly called the "necessity" of quarantining North Vietnam, dismissed it as too dangerous—indeed, as a flirtation with disaster.

What I find particularly unsettling—in fact, what I find almost incredible—is that President Nixon took a step of such magnitude without consulting the Congress. Tom Wicker, writing in today's New York Times, points out that—

> When Mr. Nixon in his majesty chose to speak to the American people last night about his intentions in Southeast Asia, it was an act of *noblesse oblige* as well as an exercise in self-justification. Nothing in the law required him to confide in a single citizen; and although it was true that he spoke only after three hours of consultation with his primary national security associates, it is well known that these officials more nearly ratify than form Presidential judgments.
>
> Has it come to this, then, that it lies within the sole province of one man, unlimited by law or opinion, whether elected by landslide or hair's breadth, to decide without let or hindrance how the military power of the United States shall be used even in a situation his own policies have done much to create?

Wicker argues, even more chillingly, that President could unleash our nuclear arsenal:

> Sensible or not, he [President Nixon] *could* order nuclear warfare tomorrow and no man could stop him, unless the military chose to revolt—hardly a desirable alternative.

Inch by inch, bit by bit, the Congress has surrendered its legitimate constitutional role in shaping foreign policy and in overseeing the Armed Forces, giving the White House what is akin to carte blanche in such vital matters.

As you know, Mr. Speaker, I have introduced legislation to restore the Congress authority—legislation substantively identical to the Javits bill already passed by the Senate.

Like everyone else in this Chamber, I pray that President Nixon's decision will ultimately lead to the cease-fire and withdrawal he cited in his television address last night.

I pray that the principal rationale behind his decision is to shield the garrison force of 60,000 American troops still lingering on in South Vietnam, rather than to salvage the tattered remains of the "Vietnamization" program.

But, Mr. Speaker, whatever the results of his decision, it is clear that the Congress must reassert its right to take part in key policy decisions of such monumental significance.

The White House must never again shun the elected representative of the American people.

For the benefit of my colleagues, I put in the RECORD the full text of Mr. Wicker's column:

AN AMERICAN EMPEROR

(By Tom Wicker)

"No One Knows," said the headline in The New York Times, "What He Might Do." And indeed, no one, including Secretary of State William Rogers, summoned home from Europe for a National Security Council meeting, could know what President Nixon might decide upon as antidote in the current crisis in South Vietnam. The press has described admiringly the range of explosive options open to him; members of his Administration had been hinting darkly of the terrible vengeance this unchecked Caesar might choose to wreak upon something abstract known only as "Hanoi" or "the enemy"; but the decision to mine North Vietnamese harbors was Richard Nixon's and Richard Nixon's alone.

And when Mr. Nixon in his majesty chose to speak to the American people last night about his intentions in Southeast Asia, it was an act of noblesse oblige as well as an exercise in self-justification. Nothing in the law required him to confide in a single citizen; and although it was true that he spoke only after three hours of consultation with his primary national security associates, it is well-known that these officials more nearly ratify than form Presidential judgments.

Has it come to this, then, that it lies within the sole province of one man, unlimited by law or opinion, whether elected by landslide or hair's breadth, to decide without let or hindrance how the military power of the United States shall be used even in a situation his own policies have done much to create? Is that what the Constitution means, when it says that the President shall be Commander in Chief of the Armed Forces?

As to the first question, there seems little doubt that the answer is yes. Just last year, for instance, Congress passed an amendment to the Military Procurement Authorization bill which declared it to be the policy of the United States to bring to an end "at the earliest practicable date" all military operations in Indochina, subject only to the release of all American prisoners of war.

What was President Nixon's reply to that? Upon signing the measure on Nov. 17, he declared flatly that the amendment was "without binding force or effect and it does not reflect my judgment about the way in which the war should be brought to an end." It would not change his policies, he said, and in fact "legislative actions such as this hinder rather than assist in the search for a negotiated settlement."

Such high-handedness is not unique to Richard Nixon. The greatest of Presidents, Abraham Lincoln, interpreted the Presidential "war powers" so broadly that he repeatedly overrode both Congressional wishes and military advice; and since his actions saved the union, history generally accounts him strong and wise for having done so. But Lincoln was literally waging war for national survival, in a situation in which there was no precedent for anything that has followed—least of all a deliberate act of Presidential policy such as Vietnam.

Mr. Nixon, in contrast, now relies almost exclusively upon the Commander in Chief's power to protect the lives of American soldiers as constitutional justification for whatever he might choose to do in Southeast Asia; yet, it is arguable that American soldiers are in jeopardy primarily because Mr. Nixon's own policies have kept them in Vietnam. So the mere act of putting troops into a place, or keeping them there, which is in itself a Presidential decision, becomes the Presidential justification for any other Presidential action he may choose to take.

Mr. Nixon has not, for example, resorted to the use of nuclear weapons in Southeast Asia; nevertheless, mining the North Vietnamese harbors risks nuclear confrontation with the Soviet Union. This was not inevitable, but the President's choice. Sensible or not, he could order nuclear warfare tomorrow and no man could stop him, unless the military chose to revolt—hardly a desirable alternative.

Since the authors of the Constitution could not foresee the nuclear era, they could have had no intent to lavish upon the President that degree of power; indeed, almost every other line of the document they produced suggests the extent to which they mistrusted unchecked power, whether vested in an executive or in a people's assembly.

Richard Nixon need not be psychoanalyzed or even mistrusted in order to perceive that that mistrust was well founded; for as he went on the air last night, it was terrifyingly true that no one knew what the President would do, that no immediate means of influencing his judgment was at hand, that no real way existed to stop him from following some apocalyptic course. He was in that moment as true an emperor as ever existed and scarcely more accountable; a people who wanted peace could still be given war at his dictate; and what good would it do to vote him out of office six months from now if the world were an ash, or "the enemy" had been obliterated in his honor?

SENATOR McGOVERN'S PROPOSALS FOR ECONOMIC REFORM

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. KASTENMEIER. Mr. Speaker, Senator George McGovern, alone among all the presidential candidates, has proposed specific reforms for the Nation's economic system. In doing so, he also has challenged the present administration's contention that further improvements in our tax structure are impossible, and Senator McGovern has developed programs designed to obtain greater equity in our Federal tax system.

Hobart Rowen, the distinguished economist who writes for the Washington Post, recently analyzed the McGovern economic proposals, and I wish to direct the attention of my colleagues to the Rowen article which appeared in the May 7, 1972, Washington Post.

The article follows:

McGovern Tax Program: Strong Medicine

(By Hobart Rowen)

Sen. George McGovern has raised some hackles as well as eyebrows with proposals for a wholesale reform of the tax system that would also result in a massive "re-distribution" of income.

For some, like Republican economist Pierre Rinfret, the McGovern program "is really socialism." If McGovern gets in, Rinfret told a Chamber of Commerce session here last week, "you ain't seen nothing yet." Rinfret claimed that McGovern aide Frank Mankiewicz had said "the government will do all the investing" if private incentive is dried up by higher taxes on business.

The Rinfret rhetoric aside, there can be little doubt that McGovern's thorough-going income-redistribution proposals have been worrying many people, now that he is a leading presidential contender.

The "Establishment" Democratic economists, for example, think he's gone too far. "It's only campaign talk—I hope," says a noted economist of the Kennedy-Johnson era. He fears that McGovern's proposed corporate tax changes "would crack the stock market wide open."

There are three major elements in the McGovern tax reform program which have been reported only sketchily in campaign speeches, but which are outlined (more as goals than detailed proposals) in a McGovern statement placed in the Congressional Record on April 7:

1. Because the corporate tax structure has been eroded, through bonanzas like the investment credit, McGovern would raise another $9 billion in corporate taxes this year and ultimately, $17 billion annually beginning in 1973.

2. Instead of plugging one individual tax loophole at a time, he would put on an effective minimum tax. (In 1969, 20,000 persons earning more than $20,000 each paid no taxes, including 56 making $1 million or more.)

3. He would adopt the "negative income tax" idea to replace welfare payments, placing further tax burdens on those earning over $12,000 to provide "income grants" to those earning less.

The latter provision is the most controversial of the three basic elements of the McGovern program, because it would be designed to "re-distribute" about $43 billion a year from the richer to the poor. And in combination with the other proposals, it is strong medicine, probably too strong.

Yet, it deserves careful analysis, because there is increasing evidence that the gap between the rich and the poor in this country is getting bigger, rather than smaller. Establishment Democrats who have been making noises about tax reform all these years should argue with the details—even the reasonability—of parts of the program, but not the over-all thrust and objective.

In respect to corporate taxes, many of the best academic tax-reformers would much rather see a good capital gains tax (tax capital gains at ordinary rates when transferred as gifts or at death), leaving the corporate tax structure pretty much alone (plugging depletion loopholes and such, of course).

But McGovern would "end the dismantling of the corporation income tax" by restoring the rate to 52 percent from 48 per cent, and cancelling depreciation allowances and investment credits given to business since 1960. (This is in stark contrast to President Nixon's astonishing statement at the Connally ranch last Sunday that "I strongly favor not only the present depreciation rate but going even further than that, so we can get our plants and equipment more effective.")

On the personal tax side, McGovern would by-pass specific loopholes, and tackle the various tax shelters in toto by a clever formula: over $50,000, an individual would have to pay 75 per cent of the rate which would have applied if he didn't have the benefits of loopholes.

For example, suppose an individual had $25,000 in tax-free income over a $50,000 salary. Under existing tax laws, he would escape about $14,000 in taxes on that $25,000—taxes he would pay if the $25,000 income were all taxable, say in salary.

McGovern's proposal would recapture 75 per cent of the $14,000—or about $10,000 of it.

In respect to inheritance taxes, McGovern would allow an heir to keep only 23 per cent of estates valued over $500,000 (but there would be somewhat more liberal treatment when the estate contains a wholly-owned proprietorship). This would be a drastic increase: the present 77 per cent rate doesn't begin until $10 million.

But in addition, McGovern promised, if elected, to submit to Congress a "negative income tax" plan, to substitute for the present welfare program. Every man, woman and child would get $1,000 annually from the government. The tax system would be set with something like $12,000 as the "break-even" point for a family of four. Those at or below the poverty level would keep all of the government grant; between $4,000 and $12,000, taxes would eat away increasing amounts of the grant. Over $12,000, higher taxes would take back all of the grants—and then some.

The exact arithmetic is still vague and even contradictory, but McGovern in the statement inserted in the April 7 Congressional Record speaks approvingly of one version proposed by Prof. James Tobin of Yale that would take $43.1 billion from those above the $12,000 income level, and redistribute $14.1 billion to those in the poverty ranks, and $29 billion to those between poverty and $12,000.

Actually, the tax rates set out by McGovern in the Record would not be high enough to shift that much income. The combination of the tough minimum tax, plus the tax rates needed to support the $1,000 grants would clobber high-middle and upper income families.

McGovern has already dropped his original notion of taxing inheritances over $500,000 at 100 per cent. The whole program needs further modification, and as the senator himself has said, ideas on the negative income tax "require full examination by the best economic talent available."

To devise a good "income maintenance" plan is tricky: the cost must be acceptable, the poor must get enough out of it, and the non-poor must not get so much that there is a strong disincentive to work.

The full implication of the McGovern tax reform program are probably not well understood in the well-to-do suburbs where he has had great voter appeal. What the senator is proposing is not just a "soak the very rich" program, but to raise the taxes of great numbers of families with moderate incomes.

The minimum income tax he proposes would hit hard at those who make $50,000 and over each year—the wealthiest 400,000 or so out of 76,000,000 taxpayers. But the "minimum income grant" will bite progressively hard at those over the $12,000 level.

There is no doubt that McGovern's economic re-distribution program, like his defense-reduction and education-support programs are radical. This is not said in a pejorative way. Where Nixon has stressed an economic trickle-down theory, with tax benefits slanted to business, McGovern has moved sharply the other way, not only to narrow the gap between the rich and the poor, but to enhance the strength of public investment at the expense of the big corporations.

Had Nixon not pushed tax cuts for business, and then talked of a national sales tax under the guise of the "value-added-tax" formula, a radical tax program to redistribute the wealth wouldn't have had the political clout that both Governor Wallace and McGovern have found that it has.

Since McGovern has made redistribution of income a real issue in this campaign, it is interesting to note the observation of a very nonradical banker-accountant, Tilford Gaines, that some method of re-distributing income is necessary because today's affluent society fails to create enough jobs for everybody.

Gaines, senior vice president and economist of the Manufacturers Hanover Trust Co. in New York, in his April bank letter, shows that jobless rates in recent years would have been much higher except for two circumstances: more young people are staying in school for longer periods; and more adults are receiving public assistance.

The fact seems to be that manpower requirements of our high-powered society are being steadily reduced. Gaines cites Norbert Wiener's conclusion back in the '40s that "the major problem for the United States would become one of determining how to distribute our production among workers and nonworkers rather than the old economic problem of how to produce enough to satisfy needs and wants . . ."

"The final conclusion that suggests itself is that the rapid growth of people receiving welfare assistance in recent years is not a temporary problem or one that is likely to be solved. It is, instead, a reflection of the prospect that concerned Prof. Wiener, namely, that in an economy that does not create enough jobs, it is necessary to find ways to redistribute income to those who are not needed."

McGovern's tax redistribution pitch, therefore, makes a good deal of economic sense, even if some of the details are yet to be fully defined and explored. Some changes are necessary, because not everyone in the middle-income brackets is a "fat cat." But the program is an attempt to come to grips with a problem that this society must face: how to shift some of its wealth, peaceably, from the more affluent to the less affluent. During the campaign it will be called socialistic and worse, and McGovern the politician will settle for less than McGovern the reformer is demanding. The handwriting for change is on the wall.

PRESIDENT NIXON'S RECKLESS ESCALATION OF VIETNAM WAR

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BINGHAM. Mr. Speaker, President Nixon's drastic and reckless escalation of the Indochina war is the act of a dictator who is no longer willing to abide by the Constitution of the United States. As such, it is a devastating blow to the American tripartite system of government.

The Members of Congress will overwhelmingly affirm that the President should have consulted with the Congress before taking steps that not only risk a far wider more devastating war, but will isolate the United States in the world as never before. Such prior consultation with the Congress before new acts of war are launched has been demanded by every segment of the Congress, including those who have supported the war in Vietnam.

Only yesterday, concerned by the President's recall of Secretary Rogers from Europe, I urge Mr. Nixon in the strongest terms to consult with the Congress—at least with the Foreign Relations and Foreign Affairs Committees—before initiating any new escalation.

Why did the President fail to consult with the Congress in this situation? He had ample time to do so and there was no need for secrecy. The answer, I believe, is clear: He failed to consult with the Congress because he knew he would not have had the approval of the Congress for the steps he wanted to take.

Now he has sought to present the Congress and the American people with an accomplished fact and to plead for support. He might have had the right to do this if the decision had been reached openly, in the American manner, and with the approval of the majority of the Congress. But he has no right to make this plea under the circumstances. Since he failed to consult the Congress, he cannot expect congressional support. Perhaps he will have it from some members of his own party, for he has put them on the spot. But the overwhelming majority of the Democrats and at least some Republicans will, I am sure, refuse to go along.

When President Johnson first ordered attacks on the North, he at least had the authority of the Tonkin Gulf resolution. And Mr. Johnson, even in the darkest hours of the 1967 Tet offensive, never embarked on the dangerous measures Mr. Nixon has now undertaken.

Today, the Tonkin Gulf resolution has been repealed and Mr. Nixon's action has no color of authority. His excuse is that the escalation is necessary to protect the 60,000 American troops who remain in Vietnam. Yet the President admitted in the same address that the 60,000 could be withdrawn safely if they were withdrawn promptly. So the excuse falls to the ground.

What, then, are the real reasons for the President's actions, actions that seem to pass the bounds of all reason?

First of all, he seems stubbornly determined to try to protect the discredited regime of President Thieu. He says we must not let our friends down. But how far is it reasonable to attempt to preserve "our friends" when the results of the recent fighting show how little popular support the Thieu regime really has? The highly trained South Vietnamese troops, well armed with American weapons and protected by overwhelming American airpower, nevertheless collapsed before the numerically inferior North Vietnamese forces.

Mr. Nixon's demeanor in his address last night suggested another, and even less worthy motive for his action: sheer anger—anger at the North Vietnamese for making a shambles of his much vaunted Vietnamization program, anger at the North Vietnamese for not accepting his peace proposals, anger at the Soviets for supporting their allies as we have supported ours, anger at the prospect of being the first American President to lose a war.

If only Mr. Nixon could rise above his personal feelings of frustration and hurt pride and rise to the heights that General De Gaulle did when he realized the French could not succeed in Algeria. De Gaulle gained stature by accepting defeat in Algeria, he did not lose stature. And the basic force that confronted France in Algeria and confronts the United States in Vietnam is the same: the overwhelming, unstoppable force of nationalism.

The most absurd aspect of the President's new position is that North Vietnam is now the only "enemy." No longer can he say as L. B. J. used to do, that the real threat is Communist China, and that if we do not stop the aggression of international communism now, we will be fighting on the beaches of Hawaii and California before long—and Nixon no longer even attempts to say that. Only Hanoi is the villain, and Hanoi is to be cruelly punished for trying to free the Vietnamese people from foreign domination. And at what a cost.

We cannot yet know the full measure of the cost. But we know it will be high—even in terms of Mr. Nixon's own dreams of improved relations with China and the Soviet Union—and it may indeed be catastrophic.

The Congress must find a way to stop this insane escalation of a hated war before it is too late. Since the President has seen fit to ignore the expressed desires of the Congress, the Congress must use what power it has, the power of the purse: the funds must be cut off.

Impeachment might also be a possibility. But in this dark hour of our Nation's history and much as I deplore the presence of Richard Nixon in the White House, I do not want to see SPIRO AGNEW in his place.

SENATOR GRAVEL ATTACKS SECRECY IN GOVERNMENT, URGES CONGRESS TO EXERCISE ITS LEGITIMATE POWER AS A COEQUAL BRANCH

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. MOORHEAD. Mr. Speaker, hearings by the Foreign Operations and Government Information Subcommittee on Government secrecy and the security classification system last Wednesday, May 3, produced a most eloquent and succinct statement on the broad dimensions of the problem of excessive government secrecy that has been the hallmark of the Nixon administration.

The statement, emphasizing the threat of secrecy to our representative system of government, was presented by the distinguished Senator from Alaska (Mr. GRAVEL), who has been in the forefront in the fight against secrecy-minded Executive bureaucrats.

So that all Members may be fully informed on this vital issue, I include at this point the text of Senator MIKE GRAVEL's remarks and excerpts from the colloquy of the hearing transcript.

The material follows:

HEARING TRANSCRIPT

Mr. MOORHEAD. Our next witness is the very able and outstanding Senator from Alaska, Mike Gravel.

Senator Gravel has been in the forefront in the flight against government secrecy in connection with the Pentagon Papers last summer and currently with the so-called Kissinger Papers involving the 1969 review memorandum of the National Security Council on the Vietnam War.

We are very pleased to have you with us here this afternoon, Senator.

You may proceed, sir.

TESTIMONY OF THE HON. MIKE GRAVEL, A UNITED STATES SENATOR FROM THE STATE OF ALASKA

Senator GRAVEL. Mr. Chairman, you are certainly no more pleased than I am, because I consider it an honor to come before this Committee. I think that this is the only Committee in the entire Congress that has faced up to this problem which I have now come to believe and feel very deeply is the most important problem facing our democracy today. I think the cocoon of secrecy that we have woven over the years, particularly since the Second World War, is what has permitted us to go into Vietnam, permitted us to waste not only our blood, our young people, but also to waste our economic fiber. To what degree I don't think we will ever know. I think only history can judge that.

I personally feel that our democracy is under assault, assault in a very unique way and in a very evolutionary way, and unless we can turn the tide we will lose the system of government we presently enjoy. And the single item that will be responsible for this loss of government, this great experiment at self-government here in the United States, will be secrecy itself and nothing more, nothing more complex than that, because secrecy is anathema to democracy. It is that fundamental.

You can't ask people to go vote—and in our society the person who votes is supposed to be the final word—when secrecy prevails. It is a government of the people, by the people, for the people, so they have to give the final word. Quite obviously they can't vote intelligently or exercise their franchise with any efficacy if they don't know what they are voting about, and that depends upon the amount of knowledge they have.

Now, if that knowledge is spoon fed to them so they will arrive at preconceived conclusions, then obviously you develop a type of government that becomes first an autocracy and from there a dictatorship.

When I read the Pentagon Papers I came to a very different conclusion than has normally been reported in the press. The conclusion I came to was that Harry Truman, who I admire greatly, Dwight Eisenhower, the great paternal figure of our society, Jack Kennedy, Lyndon Johnson and Richard Nixon, all of these Presidents who were party to the mistake of Vietnam, were not evil men, they were the best that our society could produce.

But I have asked what went wrong, and the Pentagon Papers are a classic in pointing out what went wrong. All of these great men were human beings and subject to the cliche we all know, and that is that power corrupts, and absolute power corrupts absolutely, regardless of the quality of the individual, whether good or bad. And that is exactly what happened, and it is the story of the Pentagon Papers and decision making over the last 25 years with respect to our participation in Southeast Asia.

American people were not privy to the decision-making process and what information they were privy to was digested and spoon fed to them so they would reach a preconceived conclusion.

Obviously we can't survive following that course in the foreign affairs area. We have other areas of our society that are in similar danger. The energy area is also shrouded in the cocoon of secrecy with respect to the peaceful use of the atom. This is wrong.

We see a broad cynicism and a frustration in the American people that at this point in history knows no bounds. The only way to bring these people into participation is to inform them and let them share, share in the decision-making process.

How can they agree or disagree with the President if they don't know what he is doing? How can they agree or disagree with me as a Senator or you as a Congressman if they don't know what we are doing? If we can do something shrouded under the cloak of secrecy then they can't give their approbation or disapprobation.

Mr. Chairman, there are generally two arguments made for the need of secrecy. One is that we need secrecy to conduct our foreign policy and, two, we need secrecy to conduct our activities relating to our national defense.

Taking the latter matter first. The Congress in its wisdom saw fit to pass the Freedom of Information Act in 1966. In fact it was a distinguished member of the House who carried the day for that legislation, Congressman Moss. That legislation had one exclusion and it is tragic that that exclusion was accepted and tolerated by the Congress. Because what it said was: It is important for you Americans to know what goes on in the Interior Department, Commerce Department, FCC, CAB, but when it comes to knowing something about activities related to our defense, you have no right to know about that, it is too important for you to find out about.

What greater paternalism can exist than for an elected official to say that this is too important for you to know what is going on—we will tell you what is going on, you trust us.

Of course, that is exactly the situation we have had in our defense posture since the Second World War, and it is only in the last three years we have had any criticism at all of the untold wealth that has been spent on that defense posture.

We have spent over a trillion dollars since the Second World War with little or no criticism from the Congress and no criticism at all from the American public, who are supposed to be the beneficiaries of this trillion dollars which has been spent.

Well, I submit that the very old cliche of Clemenceau in the First World War that war was too serious a matter to be left in the hands of generals and admirals should be altered to say that the survival of mankind, because of our technological ability to destroy, is too serious a matter to be left in the hands of the elected politicians. And I consider myself an elected politician, so I do not say that with decision. I simply say it with the recognition of the fact I am a human being and I can err, and one of the things that stops me from erring is the discipline forced upon me by my constituents when they know what I am doing. I think that is a vital principle that we have to adhere to.

There is some need for secrecy. There is a need for secrecy in what we call order of battle information, OB.

If I as a member of Congress, on the floor of the Senate or in a speech in a committee, were to release the schedule of the picket duty of our Polaris submarines in the Pacific, I think that would be treasonous, because I think any normal person would realize that would place us in a danger. It doesn't take a four star general to realize that would be treasonous, that would be wrong. But the decision to order that submarine to unload its payload on some target in the Soviet Union is a political decision, and that is a decision that should not be made in secret, and that is a decision that should be made in dialogue with and under the scrutiny of the American people because it will involve the lives of every single American if that decision is made.

So there is the uniqueness of the activities related to national defense. At one level, at a lower level, we need secrecy: but at a higher level we should not have secrecy because that involves the implementation of much of the information that is held secret.

That, in my opinion, suffices with respect to the argument on national defense.

With respect to the argument on foreign policy, if the President of the United States, as he has done, travels to Peking, I think it is proper and will always be that way that his discussions will be private. Privacy has to be respected in the individual case; it involves our personal freedom, and it has to be respected.

Privacy is needed. And so Richard Nixon was entitled to as much privacy as anybody in talking with Mao Tse-tung and Chou En-lai, but if he arrived at an agreement that binds this country to anything, that agreement should be made public because it involves public policy. It should be made public for the very simple reason that we have to be able to say "Mr. President, we either agree or disagree." If we don't know the deal that was cut or agreement made, how can we agree or disagree? We have no way of doing this.

When it comes to the exercise of foreign policy, our ambassadors and the President are entitled to their normal privacy as individuals, but if they make an agreement that binds this government it should be open to public scrutiny.

Mr. Moorhead. That is what the Founding Fathers intended when they required treaty ratification by the other body.

Senator Gravel. No question at all. In fact our Founding Fathers even underscored it more heavily than that. They instituted the Congress as the adversary to the executive. They were afraid of the state. The pattern of development at that point in history would have been a parliamentary system, but they feared a parliamentary system because they feared the legislative arm would succumb to the executive arm. So they set up adversaries.

Forces have since taken over our society, have taken over both the executive and the Congress, and we have succumbed to the executive in any case, and we no longer act as adversaries.

I have been fighting this battle in the Senate with respect to our duty as legislators, and in most cases I think that is a secondary duty. Our first duty as elected officials is to be a conduit of information to the people who elect us. How can they meet their responsibilities without being informed? We have that job.

The members of the Fourth Estate, the press, have this job, but we have it equally as much as they do.

The other facet of the foreign policy argument is that we need secrecy because some of the countries we are dealing with do not want their people to know what is going on. I take a very simple view, and that is if my country, the leadership of my country, is cutting a deal with the leadership of another country, and that other country doesn't want its people to know what is going on, then I don't think my country should be cutting those kinds of deals with those kinds of people. I believe in self determination, and a lot of Americans have died for this principle of self determination for other nations, and if the people in this country can't have the right of self determination to approve or disapprove what their leaders are doing, then I don't think we should be making secret deals with those leaders. I think if we would change our foreign policy and didn't do that we would have an interesting occurrence; many of our present friends in the world—most of them outside of Western Europe—are dictators. The reason why we clutch these dictators to our bosom is because it is so easy to make secret deals with them.

They offer stability that many of the nations in the Third World do not offer, and I think if we would adhere to the principle in our foreign policy of not tolerating secrets, we would see our nation revector its foreign policy and attach itself to the countries we should be attaching ourselves to, to the democracies.

I could go through many examples of what has happened with secrecy. I think the most insulting, and one that was approved by the courts, was the recent Amchitka case where we detonated a five megaton bomb in Alaska. What the Defense Department and the AEC did was really a conspiracy of the vilest sorts. They took the environmental statements that had nothing to do with detonation of the bomb, and took a folder like this and put the environmental statements in between the folder and closed the folder and marked it secret and said, "We can't give it to you."

How idiotic to expect that the environmental consequences to my state have anything to do with the national defense posture. It was an insult.

What was even more insulting was that 35 members of the Congress had the guts to go to court and sue to get this material and were denied it. Members of the House of Representatives, who control the lifeblood of the AEC, were not permitted to see what the AEC was doing. In other words, the House could turn around and vote the funds out of existence and these people wouldn't live. They voted the funds and asked them what is going on and they can't be told what is going on.

To what depths have we fallen in this democracy that we in the Congress sit back like school children until somebody tells us what to do?

I have just released these papers, NSSM–1, to my colleagues. I have received a number of letters from my colleagues saying they don't want to read it. In fact one senator from a very large state sent me back a note saying, As soon as I opened this up I immediately saw it was classified information, I closed it and I am sending it back to you, Mike, because I won't read it until somebody gives me the authority to read it.

What is that senator saying? That senator is saying there must be somebody up on high that tells us what we are supposed to do.

Congressman Moorhead, you and I and all of the members of the House and all of the members of the Senate, together with the President and the Vice President, are the people who are supposed to run this country. Everybody else is appointed as a result of our power. So if some members of the Senate feel that they have no authority to inform themselves, think to what level they have elevated this classification of documents—to the point of worship, to the point that they have abandoned their total authority to somebody who has a rubber stamp, who has an ink pad and puts a stamp on a piece of paper. How totally tragic.

If that were the case, when I was 23 years old I had more power than you, sir, and than I hold today, because when I was 23 years old I was a top secret control officer in a counter-intelligence corps, I had safes full of classified documents and I classified documents top secret. According to some senators they wouldn't be able to read my material. I would have been more powerful at 23 years old as a bright, spanking, bushy-eyed Second Lieutenant than I am today as a U.S. Senator. And that is exactly where a good number of my colleagues in the Senate stand today.

Cowering under the fear, thinking that some smart person or some idiot hidden somewhere in the crevices of our bureaucratic system can tell them what they can or cannot read. It is idiotic. In fact, it is shameful, and we should cry over it, because this nation has had a policy that has gone wild, that has cost us human lives and cost us our wealth. And the reason why it has gone wrong is that the people have not had a grip on it. And I think what you have been working for, and what I have been working for, is to return the government to the people. We are not saying this as a cliche. We are proposing a concrete method of how to do it, and that is to rip down the shroud of secrecy, let the people in, let them see what is going on in their government.

It may be uncomfortable for you and me on occasion, but I am willing to risk that discomfiture for the great decision making that will take place. The people in this country won't be right 100 percent of the time, and that is why a lot of leaders say we can't trust the people. They might make a mistake. I would rather trust to the mistakes of the people than trust to the mistakes of the elected leadership of the country, because we have seen those mistakes, and we have seen what happened. I think we have to go back to the people.

Mr. Chairman, I have gone afield from my prepared statement and I would like to ask that it be inserted in the record at this point. I close by underscoring the fact that when we tolerate secrecy we abrogate the most important check and balance of our system, the check and balance that was brought to us by the genius of our Founding Fathers. Our Founding Fathers weren't all that great. They didn't have the perspicacity and intelligence to recognize the existence of women or black people. But they did have the great sensitivity to recognize the abuse of power, and they were able to define the use of power and protect from the excesses of power, and this they did by setting up checks and balances.

I think our task is to return to that system of checks and balances, and the best way of all is, of course, to let the people share in our democratic process.

Thank you, Mr. Chairman.

Mr. MOORHEAD. Thank you. I am also rather glad that you departed from it because I think that the statement we have just heard is not only the most eloquent that has been presented to this Subcommittee, it is the most eloquent that I have heard in any Committee or any place I have heard statements made.

I think really the people of Alaska are very fortunate to have you as their Senator speaking up for their rights and I think that the people of our country are very fortunate to have you as the champion of the people's right to know. I just can't tell you how much I appreciate your statement, sir.

Senator GRAVEL. Thank you, Mr. Chairman.

Mr. MOORHEAD. I do believe that we are getting away from the fundamental proposition of Abraham Lincoln, that of government of, by and for the people. If the people don't have information about what their government is doing in their name, it can't be government of the people; if the people don't have information it can't be government by the people, and pretty soon it isn't going to be government for the people. So that you are hitting right on target and I certainly congratulate you on this statement.

Most of our hearings this week have been on the subject of classification. Later, we are going to get into the subject of Executive privilege. In your prepared statement you say if the excesses of government classification are outlandish, the abuses of Executive privilege are outrageous. Then you point out that they act without the discipline of Congressional review, the benefit of Congressional advice, or the need for legislative enforcement.

Do you have any other comments or personal experiences on this subject that you would like to share with the Subcommittee?

Senator GRAVEL. I think the experience of all of us is very extensive with respect to Dr. Kissinger, who is essentially operating as the Secretary of State in the conduct of foreign affairs the Congress as a result of this is prevented from making inquiries into the activities of foreign policy, and there is no question there is a propensity on the part of the Chief Executive to exercise foreign policy from his perspective.

I would only hope that Chief Executives, and that hasn't been the pattern in the past, would recognize the benefit to foreign policy to go through the painful criticism generated by the Congress and by specialists throughout the country, both in and out of the academic community. But all of that is precluded when we can't even in our official constitutional roles ask questions to the people who are doing it; we can't ask the President and we can't ask the people who are effecting it for the President.

Mr. MOORHEAD. Even in the field of settlement of antitrust cases we seem to have the Justice Department out of the picture and the White House handling it.

Senator GRAVEL. It is an unbelievable practice, and I think that certainly the Executive is most at fault. I think we in the Congress are partially at fault ourselves. I think it is part of human nature that when you become part of the establishment, which we are, you find easy ways to protect your actions. One of them, of course, is an extensive view of our privacy or Executive privilege, but the Chief Executive abuses it most particularly in the conduct of foreign affairs.

Mr. MOORHEAD. There have been an exchange of letters between Presidents Kennedy, Johnson and Nixon with my able predecessor in the Chair, Congressman John E. Moss of California. I would like to submit these letters to you for your thoughts. Sometime you may want to provide for the hearing record. Your thoughts as to whether these letters would form a basis for some legislative action which the Congress might take, as suggested in your testimony, to codify or legislate the idea of Executive privilege.

Senator GRAVEL. I would be happy to study these letters with you, and I am sure they will add to my knowledge. I deeply appreciate it.

Mr. MOORHEAD. I was intrigued by your reference to the famous Lord Acton quotation that "power corrupts and absolute power corrupts absolutely." That is the situation today. We don't have shared powers—shared by the Executive with the Congress, and shared with the people. I think if Executive power were shared with the Congress it would end up being shared by the people because the Congress, particularly Members on our side of the Capitol, have to be very close to the people or we will no longer be their representatives in Congress.

Senator GRAVEL. Well, because of our role as conduits of information, that is one of the reasons why the Executive doesn't give information to the members of Congress: they don't trust us. We are considered blabber mouths, and we are, and we are supposed to be.

That is, our task is to inform our constituents so that we can either seek answers or seek the benefits of their criticism, and, of course, that is the reason why the Congress has been insulted by the Executive. They know what should be done and they obviously know what the people should be told.

We see this in many activities of government. The PR approach.

I will give you one example which I felt was very difficult to criticize. I was invited to a military briefing in Colorado by the Air Force. They were inviting 10 or 20 of the leading citizens of Fairbanks, Alaska. Now, Fairbanks, Alaska is way up there and they were taking them down, flying them down, living very luxuriously, and briefing them on the threat to this nation. Since when is a General, one or four stars, I don't care since when is he in charge of briefing citizens in this country as to what the Communist threats are? That is our job. His job is to follow our orders as we put forth the policy for the defense of this country. His job is not to define what the threat is to this country. We are able to do that. But that is not what goes on. Millions of dollars are being spent in PR fashion for the military to instruct civilian elements of our communities as to what the threat is. So I get a letter from one of my constituents asking me, Senator Gravel, why weren't you there to get briefed by this General. What he told us was really great stuff. We have got a real problem in this world with the communists.

Senator GRAVEL. Can you imagine any group of Senators getting together, Congressman, and calling over a General so the General can tell us what the skinny is on how we are threatened by the Communists?

That is the scenario that develops, and I think there are reasons for great concern. That trip cost a lot of money. I don't begrudge constituents in Alaska taking a great trip from Fairbanks to Colorado. I would love to fund the money to have them all from Alaska move around the United States, but if we are talking about the number of dollars that we have and the best use of those dollars, I must say that I don't think that that is a good expenditure of money for my people in Alaska.

Mr. MOORHEAD. You wouldn't begrudge it if it were people from my state of Pennsylvania?

Senator GRAVEL. I think you yourself may have priorities other than paying for your constituents to travel to Alaska to see my military bases. We may have housing for our poor people. We might want to make more money available for more education. But that is just the type of errosion that takes place in our prerogatives, and we let it happen.

I am not critical of the Executive because they have stolen anything from us. They didn't steal anything from us, we gave it to them. We gave it to them in the laws—in the laws that we passed and the laws that we didn't pass. And I think that what is at hand in your activities is to take back some of these prerogatives. Let them classify what they want for their use—that is privacy. We in the Congress can classify what we want for our use. I would hope in both cases we would keep it to a minimum. But if the press gets hold of some of their secrets and some of our secrets and thinks it should get out to the American people, then I applaud the press for that.

I can't help but draw the comparison: we had a Pulitzer Prize for the New York Times and Pultizer Prize for Jack Anderson, and I didn't get any Pultizer Prize for what I did. I am a little jealous. But I think what has been noted here with these Pultizer Prizes is that these people in the fourth estate have done a great service to our democracy, and I think that that is the job of the media, rather than sitting around playing pinochle waiting for something to happen. They should be clawing at us all the time trying to find out what we are doing and then evaluating what we do, right or wrong.

Mr. MOORHEAD. I remember Speaker Rayburn always said "never overestimate the amount of information the people have, but never underestimate their intelligence." But, of course, you have to have some information on which your intelligence can work.

One thing that has come up on several occasions in these hearings is what I will call either the power of the Congress to declassify documents classified by the Executive or, phrasing it another way, is the executive department's classification stamp on a document merely advisory to the Congress and not binding at all on us?

Senator GRAVEL. No question it is advisory. If I see a document that is classified top secret and I don't think it is top secret information, I shouldn't be bound by that stamp on that piece of paper for one second.

I posed a question in dialogue on the Senate floor with one of my colleagues, who takes a very radically different view than I. I posed the question this way:

Supposing in your state there was a camp, a piece of ground one hundred acres or so, surrounded by a barbed wire fence and inside of the camp they killed people and had ovens, and they would cook the remains of those people. Now suppose the existence of that camp were classified top secret. I asked the senator if he would feel compelled morally to release this information to the American people if that document fell in to your possession? He couldn't answer that question because he felt that he had a greater obligation to the classification of secrecy than to the immorality of the dastardly act. And how can we as Americans looking back at the people who lived in Munich, not 40 kilometers from Dachau, say, Why didn't you gentlemen do something about what was going on there? Some of you had to know about it. And, of course, some Germans did know about it. But obviously the existence of Dachau was a top secret in Germany. But now we look upon them, we look down our nose at them and say why didn't you have the moral fiber to stand up and make it public. Of course nobody did because they lived in fear, because they obeyed and worshipped the false God of secrecy; and we do the same thing.

If I released to any American a document that had had top secret on it, something would happen emotionally to us. Somebody has a secret. And we feel bound by it. The classification is, as so ably stated by Mr. Florence, a routing, it is a determination, it is an inhouse determination, and it is used excessively inhouse. Much too compulsively. That is why I think our role in legislation can be to, one, contract the perimeters of where it is used, either in the Congress or in the Executive, because it is excessively used in both places. In that contracted area we should then establish the rules where we can declassify if we choose.

Now, I take an extreme position and I don't know if we will be able to get the Congress to go along with the whole of it. I think each member when he is elected to office should respond to his own conscience as to what should be made public and what not. Maybe our colleagues will come to that point and, if so, then the law that should be passed will be very small indeed. You won't need a great deal of pages to give that kind of license, to set out where we draw the line.

Well, right now we are silly enough to draw the line on the other side of ourselves and leave two hundred thousand people out there to decide what you and I are going to find out, and we are supposed to run the country. I think the line should be drawn on this side, and that we should reserve this right. If you and I in the depths of our conscience feel the American people should know something, we should be entitled to tell the American people.

There have been a couple cases in history, for example, the Sandy case in Britain, right during the Second World War. A member of the Parliament, House of Commons, released the air defense of Britain. This was before the blitz. This is a very serious thing. He wasn't castigated by the Parliament and he wasn't sent to jail, because he was defended by none other than Winston Churchill and Clement Atlee. They felt the risks involved must be taken if you are to have a real democracy. And obviously this person didn't mean to do any harm.

We have an example in the United States. Burton K. Wheeler, just prior to Pearl Harbor, released a whole bunch of information related to our air force. Actually, the low quality of our air force. A person could say as a result of this the Japanese probably felt more secure in their plan to attack us. Nothing happened to Burton Wheeler because Pearl Harbor happened shortly thereafter and his actions were totally justified.

I look at the Espionage Act and I think this Espionage Act goes just far enough. The Espionage Act states very clearly that if you give out information—it doesn't talk of secret, top secret and confidential—it says information that you think will injure your country, obviously you are being a traitor. But if *you* give out information that *he* thinks will injure the country, but *you* think will help the country, then why should we do anything to you? You are acting in good conscience, doing what you think you should be doing. If the 537 people who are elected to run this country have not been vested with that power and that responsibility; then what do we vest our elected officials with?

So I think that in the final analysis any law we pass should leave it up to the individual elected person.

Senator Goldwater, the day after I released the Pentagon Papers, made a statement which I think was a very unfortunate statement. That was that I should have my top secret clearance removed. Now, this goes to the heart of the matter of what we are talking about. We are going to write a law and we are going to say what you can release and what you can't release. Now what we are saying is that it is the Congress that permits you to have the power that you have, and that is not so. It is not the Congress. It is the people who elected you to office, Mr. Chairman, that gave you the power. Not your colleagues in the House.

It is the people who elected me to the Senate in Alaska that have given me my top secret clearance, not the FBI or not my colleagues in the Senate. They have no right to sit and make a judgment as to what I can communicate to my constituents, right or wrong. That judgment must rest with me as an elected official and it must rest with each one of our elected officials.

That is a Constitutional responsibility we have. And as soon as we try to abrogate this right by defining it we are going to find ourselves in a maze we can't get out of. Because you may look at a document, you may look at a piece of information and say it is secret, and I may look at it and say I don't think it is secret. How do we recognize the difference? We try to reconcile it by establishing a law. But what will happen, that law will be used to protect not the secret but will be used to protect our egos, our incompetence.

That is what happened in the Executive. Secrecy is not used to protect our national defense posture, it is used to protect the egos of public officials, and with that act you sow the seeds of our own destruction. So if there is a risk, and there is, there is a risk you are going to elect some idiot to high office and he is going to do some bad things. But you know something? We have been living under that risk ever since this nation was founded, and we have had our share of idiots in high office that have done bad things, and we have paid a price for that, and we are going to continue to pay a price for that, but that is exactly the problem of representative government.

We can't solve that problem. All we can do is hope that the quality of people that are being represented improves so that they can improve the quality of the people they choose to represent them. And that is the evolutionary process. We can't legislate good. We can only hope that good will come about in the climate that we provide. You can't legislate to keep secrecy because it is a subjective determination. So all you can do is hope that the judgment exercised by the people who hold high office will be a good judgment. What you can do is hope in a democracy; the minute you try to force you don't have a democracy anymore.

BILL OF RIGHTS FOR LAKE MICHIGAN

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DINGELL. Mr. Speaker, the year to date has not provided a great deal of encouragement to those of us especially concerned about protecting and revitalizing our environment. First, there was the decision by the administration to reject a program recommended by the Environmental Protection Agency which would have made saving the Great Lakes a national priority. Then, when the President delivered his environmental message to Congress, there was not even a mention of the Great Lakes. The antipollution agreement the President signed with Canada not long ago was a step forward, but it did not go far enough. The same can be said for the Water Pollution Control Act passed by Congress—it could have been and should have been tougher.

There is a gap developing—between what Government says it will do about pollution and cleaning up the Great Lakes and what Government actually is doing about it. In the State of Illinois, there is a movement underway to close that gap. State Representative Robert Mann of Chicago has proposed a bill of rights for Lake Michigan, a bill of rights that would protect the lake and its adjoining shoreline and prevent it from becoming a dead sea like Lake Erie. It is an unprecedented proposal, a comprehensive proposal that may set an example for the rest of the Nation, especially those other States that share the wealth of Lake Michigan.

On May 1, 1972, my colleague from Illinois, Congressman Abner J. Mikva, testified in support of Representative Mann's bill. His testimony indicates the scope of the problem and how the bill of rights will help solve it. Congressman Mikva lives less than half a mile from Lake Michigan—in Evanston—and the welfare of the lake and our environment has been of special concern to him for 20 years. I commend his testimony to my colleagues and include it at this point in the Record:

TESTIMONY OF CONGRESSMAN ABNER J. MIKVA

Mr. Chairman, it is a special privilege to appear before this Subcommittee of the Illinois Senate this afternoon, and I would like to thank you for giving me the opportunity to testify. Having been a member of the state legislature for 10 years before going to Congress, I can appreciate the time and effort that must go into these hearings, and I know the members of the Subcommittee appreciate the importance of public hearings. By holding them in Chicago, you are providing a vital public service, because what is at stake here is a vital public resource: Lake Michigan. When it comes to saving the Lake—and we are at a point where we either will save it now or we will lose it permanently—the proposals must be real, not rhetorical.

I support the Bill of Rights for Lake Michigan. Its medicine is strong, but very necessary. Let me tell you why. The United States is the most technologically-advanced country in the world, and it is the most prosperous. Chicago on Lake Michigan is a symbol of that prosperity. The business, the industry, the people living together—it's all here. But that prosperity has not come without a price. In the process of developing industry and bringing people together in the cities, we have come perilously close to destroying the environment.

Consider this: in the most prosperous and technologically-advanced country in the world, there is a river so contaminated with volatile industrial discharges and chemicals that it is a fire hazard. There is a lake, one of the Great Lakes, that has become a dead sea—fit only for the scavenger fish, sludge worms and algae which seem to thrive on municipal and industrial waste. What has happened to Lake Erie has not happened to Lake Michigan—yet. But the death watch has started, and unless we can do something to stop the inexorable process of pollution and decay, Lake Michigan also will become a dead sea where there is no swimming, no recreation, no life.

Today and at its next hearing, the Subcommittee will hear a great deal of testimony about what is happening to Lake Michigan. The scientists and environmental experts will come to talk about eutrophication and bacterial growth and Biochemical Oxygen Demand (BOD) and water turbidity.

I am here neither as a scientist nor an environmental expert, but I live less than a mile from Lake Michigan in Evanston, and I can see what is happening to it. My neighbors can see it, and so can yours. They are beginning to realize something: Lake Michigan is being poisoned. Slowly but surely, it is dying—losing its oxygen and vitality—and slowly but surely, the quality of life for the millions of people who live around the Lake is deteriorating.

When municipal and industrial waste is dumped into the Lake, it begins to decay and steals oxygen from the water. The process occurs with such intensity that, in effect, Lake Michigan is being strangled. U.S. Steel, the North Shore Sanitary District, Abbott Labs—every industry and every municipality that dumps something into the Lake helps pull the noose a bit tighter. The results should not be surprising. Every year, more beaches are closed because there is too much bacteria in the water. Every month, the water is stained and fouled with some new strain of pollutant and more sewage and, every day, the Lake yields a bit more of its life to the pollution of progress.

Five hundred years from now, historians probably will find it rather ironic. In the cities of medieval Europe, the people dumped human waste and garbage into the streets. We have come a long way in the last four centuries. Now, we dump it into the Lake. The last few years have seen the beginning of a new national consciousness of the problems of the environment. Despite that however, we are losing ground in the battle against pollution. Lake Michigan is dirtier today than it was five years ago. We still are spending more time and money polluting the Lake than we are spending to revitalize it. We must change that. We must begin to repay our debt to the environment—a debt that compounds with every gallon of sewage and waste dumped into Lake Michigan, a debt that threatens the very quality of our lives. Enacting the Lake Michigan Bill of Rights can be the first installment on that debt. And we will continue to owe a debt to Rep. Robert Mann for his leadership and for promoting the Bill of Rights for the Lake.

For the very real threats that face the Lake and its adjoining land, the Bill of Rights has some very real proposals. After all the pollution conferences and hearings, after all the special programs, the one thing Lake Michigan has not had is a total and unequivocal commitment to clean water. The Bill of Rights provides that commitment in no uncertain terms: "The state of Illinois should be at the forefront of the effort to enhance and maintain a high standard of water quality for all of Lake Michigan" (sec. 3 F). It is a commitment that our neighboring states, industry, municipalities, and even the federal government have failed to make. The state of Illinois must take the bold action necessary to save the lake if only because no one else is.

The failure of our society and our government to face up to the problem of pollution is a sad and troubling story. Late last year, for instance, the Administration turned down a $141.3 million request from the Environmental Protection Agency to assign "national priority" to the fight against pollution in the Great Lakes. In his recent environmental message, the President did not even mention Lake Michigan or the other Great Lakes and, just a month ago, the House of Representatives passed a new Water Pollution Control Act which carries some strong provisions, but stops short of that total commitment. With the Lake Michigan Bill of Rights, the state legislature has an opportunity to fill a "credbility gap," a gap between what government says it will do about pollution and what government actually does about it.

Ironically, another threat to Lake Michigan lies in the very number of agencies and programs—local, state and federal—that are supposed to attack water pollution. There are so many standards and so many areas of overlapping responsibility and jurisdiction that we end up with a piecemeal approach. Pollution becomes a thousand separate incidents instead of the one very menacing threat that it is. Each separate incident, each violation, does not seem much when taken alone. But they add up, and they will eventually overwhelm a system that concentrates on the parts instead of the whole. The Bill of Rights provides the anti-pollution umbrella that we have needed for so long.

It treats Lake Michigan and its adjoining shoreland and waterways as a "comprehensive natural resource unit which must be considered from a total environmental perspective" (sec. 3D). That approach has never been tried before. The Bill of Rights proposes a total waste management program that looks at the whole and not just at the individual parts. It almost does away with the need for conflicting standards because it forbids the pollution of Lake Michigan (sec. 4C). The idea is not complicated, and perhaps that is why we have overlooked it for so long.

The Bill of Rights deals with the current problems of Lake Michigan, but it also prepares for the future. Unlike most of the present anti-pollution programs, it is much more than treatment—it provides for prevention. That is especially important in view of the "plans" for a major airport in Lake Michigan. I am convinced that would seal the ecological fate of the Lake, and the Bill of Rights makes it clear that approval for such a project would not be possible. In one section (4E), it requires the consent of the city government, the state legislature, and the governor for any "impoundments or fill of the waters of Lake Michigan." The value of Lake Michigan as a natural resource extends far beyond the city limits, the county line, or even the state line. The Bill of Rights insures that no one can tamper with it unless it is in the people's interest.

That is another intriguing aspect of the Bill of Rights. It is not just a Bill of Rights for the Lake, but a Bill of Rights for the people who live around it, for our children who will raise their families around it.

The commission that drafted the Bill carried the name "Lake Michigan and Adjoining Land Study Commission." "Adjoining Land"—even the title conveys the notion that it will do little good to save the Lake, if the people cannot get to it and enjoy it. The Bill of Rights, in section 4 and 5, protects that right of the people for the first time, declaring "the highest and best use of the land abutting on Lake Michigan in Illinois is declared to be for open space, park and recreation purposes."

This part of the bill is especially timely because, in the last few months, there has been a great deal of controversy about building along Lake Michigan. Whether it is for a high-rise apartment or a sports stadium, the land along the Lake is prime land. It is a natural tendency to want to "develop" it, I suppose, in the finest Chicago tradition of building. But that takes us back to something I mentioned earlier about the cost of progress and development. We can have industrial and commercial wealth and environmental wealth, as well, in many instances—as long as industry and government try to stop pollution and clean up what we have spoiled. But there are times when we cannot have both, when the expansion of commerce and industry can be had only at the expense of the environment and the people's wellbeing. In "developing" the lakefront, we are faced with such a choice: more prosperity or a better environment. We cannot have both this time, and I think it is clear which one we must choose. The Bill of Rights will help us.

The Bill of Rights brings some other new concepts to the field of water pollution control. It is going to keep us all honest. No longer will a municipality or an industry be able to say it is going to do something about pollution and then forget to do it. Our track record has not been good in this respect but, with the Bill of Rights, it will have to change. The development of the Illinois Central air rights in Chicago is a good example of that. 35-thousand people are going to be living there some day, and there is not going to be much more than a postage stamp's worth of park space and open land for them. There was supposed to be 144 acres of open land, but somehow it became deferred and brushed aside. The building and construction is not being deferred, of course. With a Bill of Rights for Lake Michigan and the people who live around it, that would not happen.

For the last few minutes, we have talked about the threat of pollution to Lake Michigan and how the Bill of Rights can help prevent it from being fatal. There are many other aspects of the problem that deserve attention—priorities, for example, and how it ought to be more important to save the Lake than to build a cross-town expressway—but other witnesses no doubt will cover that area. I would like to conclude by emphasizing how important I think the Bill of Rights is—so important that it may represent our last clear chance to save Lake Michigan.

You might be interested in something President Nixon said in his 1971 environmental message to Congress:

"As our nation comes to grips with our environmental problems, we will find that difficult choices have to be made, that substantial costs have to be met, and that sacrifices have to be made. Environmental quality cannot be achieved cheaply or easily. But, I believe the American people are ready to do what is necessary."

That was well put, and I think all of us would agree that the American people are ready to do what is necessary. But it seems that the federal government and many of our industries and municipalities are not quite ready yet. That leaves the state of Illinois.

If this state is not willing to help make those difficult choices and sacrifices now, if the state legislature is not willing to make a total commitment to saving Lake Michigan, then it will not make much difference what we decide to do 10 years from now. By then, I'm afraid, it may be too late. By then, Lake Michigan will be a dead sea, and it will have died a long and lingering death—from an illness that might have been cured had it not been for the indifference and inactivity of the people and the public officials in a position to help. That is the prospect that faces us, and that is the reason the Lake Michigan Bill of Rights should be enacted.

Last week, the U.S. Supreme Court handed down a significant decision in the case of *Sierra Club* v. *Morton*. The Club had sued the Department of the Interior to stop what many of us consider the environmentally disastrous "development" of the Mineral King Valley area of California's Sierra Nevada Mountains by Walt Disney Enterprises. The court ruled in favor of the government, deciding that the Club did not have "legal standing" to file the suit. In his dissent, Mr. Justice Douglas offered a new approach to legal protection of the environment and I think it's appropriate here to quote a few lines from his opinion: "The problem is to make certain that the inanimate objects, which are the very core of America's beauty, have spokesmen before they are destroyed. The voice of the inanimate object, therefore, should not be stilled."

The Bill of Rights will give Lake Michigan a voice in the years ahead, a voice that can be heard loud and clear and clean, and we will all be the better for it.

Thank you.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

RESPONSIBILITY OF EDUCATORS

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DUNCAN. Mr. Speaker, the ability to influence our young people is a most marvelous gift. At the same time, this ability carries with it an awesome responsibility.

At the universty level, professors have the responsibility to instill in our young people that ours is a society of law. While our laws are made by men, no man is above the law.

Professors and administrators who, by their words and actions, fail to convey this basic democratic principle to our youth have surely earned the contempt of a society governed by law.

The following article which appeared in the Knoxville News-Sentinel on May 2, 1972, discusses the responsibility our educators have to the youth of this Nation:

"I'M THE LAW" VIEWS HURT EDUCATION

(By Henry J. Taylor)

When Professor Leslie A. Fiedler of the State University at Buffalo was arrested and convicted some time ago, City Judge H. Buswell Roberts called a spade a spade.

In sentencing Fiedler and his wife Margaret for maintaining premises (their campus house) where marijuana was used, Judge Roberts said to the professor:

"You have the minds of thousands of young people in your care. They look to you for example. This gives you great influence. It imposes on you a special responsibility. This includes not only academic excellence but a high standard of personal conduct. What you as a professor say and do establishes for your students the norms of permissible behavior. Therefore, the penalty for the abdication of that responsibility must be severe."

Totally aside from the matter of marijuana, startled Professor Fiedler shouted that he is his own judge and mouthed all the old wheezes which proclaim, in effect, that "I am the law," that "bad laws ought to be broken," and that the violator should decide which laws are bad.

This is a root of much of the campus uproar we see in resurgence today.

OUTSIDE SOCIETY

Where has the "I am the law" element's search for institutional destruction and systematic pandering to permissiveness taken us? They have left us with the consequences against which we are struggling today.

Is the dissenting professor, youth or any other citizen who insists that the draft, the drug, the arson or other laws are unjust, immoral or inapplicable to him entitled to live by his own view? If so, by what authority?

What Italian philosopher-statesman Benedetto Croce called "the religion of liberty" is a demanding creed. And it should be obvious to all of us, as it was to Judge Roberts, that no democratic society can accommodate the claims of the Fiedler ilk.

Equally obvious, no democratic society can accept the ilk's "aristocracy of conscience" (whatever that means), "the autonomy of the individual," etc., and remain workable.

Throughout all time there have been people who serve their own convenience, or cowardice, or selfishness, or something by dressing up their own desires in the clothes of a higher cause. Yet no society of consent can live that way, and no other society would care enough about the rights of a nonconformist to consider it.

DEMOCRACY MISAPPLIED

Accepting the proposition of the Fiedlers would make concord within society impossible. The number of individual Fiedlers and groups who claim their own superior virtue would boil society as a whole into a totally unworkable, insecure mess—the name for which is anarchy.

As distinguished Eugene V. Rostow, former dean of Yale Law School, has remarked: "Even the most tolerant of societies cannot ignore indefinitely war against it waged by individuals or groups."

This country has not yet made the Fiedler breed into kings by divine right, nor are we likely to.

Moreover, while education is the jewel in the crown of democracy, a proper university is not a democratic machine.

This is not its legitimate administrative purpose nor is it a desirable or workable goal. And the academic infatuation with the sacrosanct word democracy, along with the mistaken acceptance of that goal by university trustees and presidents, is a wellspring from which much of the muddleheadedness flows. No wonder destroyers can make monkeys out of so many of our university administrators.

MANAGEMENT IS VITAL

Certainly, nothing should be left undone that would nurture, encourage and vitalize administrative-faculty-student communications. Great improvements—badly needed—are possible in this required area.

An "ivory tower" complex is always a problem in a university or other institution. But enlightenment is one thing; authority is another.

Nothing works without management. The duty of management is to manage. University trustees and presidents have no right to follow the line of least resistance by ducking out of that duty. In organizations you find good management. You also find bad management, which should be ousted. But the need for responsible management is undeniable.

Do not underestimate national dangers from the Fiedler breed. Judge Roberts was as right as can be. This self-aggrandizing cabal is responsible for its share of today's threat to our educational system. And the muddleheaded among our university administrators must take the blame.

END THE WAR NOW

HON. BERTRAM L. PODELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. PODELL. Mr. Speaker, our worst fears have now become reality. Now, instead of just accidentally hitting Russian and Chinese ships, we are hitting those ships on purpose. When will this madness end?

This Congress can create a quarter of a trillion dollar budget; this Congress can establish programs calling for massive social change; this Congress can take 25 to 75 percent of a person's income; why is this Congress unable to end the war?

A few weeks ago, I pleaded for an end to the war. The statement was prophetic. The "tomorrow" of that statement is today—we have no choice but to end the war.

Mr. Speaker, I respectfully offer my remarks of April 18, 1972, to this body for reentry into the RECORD, in the hope that we shall finally vote for peace; as follows:

Mr. PODELL. Mr. Speaker, for some time, we have all known that the President was taking his time getting us out of Indochina. With one excuse after another, Mr. Nixon has been proceeding with a now familiar routine of procrastination.

Several weeks ago, I along with several of my colleagues, introduced a final end-the-war bill. That bill would terminate funds for all military operations and bombing in Indochina and do so immediately.

At the time the end-the-war bill was introduced, we were told it was not necessary. None of us can believe that now.

We woke up yesterday to read that U.S. forces bombed Hanoi and Haiphong. The end-the-war bill then became a necessity for peace and the eventual freedom of our POWs.

We woke up this morning and read that four Russian ships were hit by U.S. bombs. The end-the-war bill is even more than a necessity.

At the very height of the Cuban missile crisis—when all the world was a moment from a nuclear holocaust—not a scratch was made on Russian ships. But today, this administration has learned to swagger easily under the nuclear threat.

We may wake up tomorrow to read that there is no more choice.

We used to believe we were fighting for democracy. But Vietnam is not a democratic France overrun by the Kaiser. Vietnam is not a democratic England facing Nazi rockets. Vietnam is not a democratic Israel surrounded by petty, fanatical tyrants. Vietnam, North and South is dictatorship.

There are no moral principles in this war. Besides that, we now know from this administration's policies throughout the world—from ITT to China, from tax reform to Indochina—that morality is not its first concern.

So let us discuss the pragmatic side. In all the years the strategy of "bombing them back to the Stone Age" has been tried, it has failed. The more we bomb, it seems, the more it fails. When will Mr. Nixon learn?

Mr. Speaker, every day that the current Indochina policy continues, we wreck not only five Asian nations, but our own Nation as well.

Every bomb that falls on Hanoi rips our society apart—while it only damages their factories.

I am sure that Mr. Nixon is bent on proving that we can defeat North Vietnam. I have no doubt that in the long run we can destroy them. But in the process, we will also destroy everything that is worth fighting for in this country. We will destroy our peace, we will destroy our freedom, we will destroy our POW's, we will destroy our youth.

Mr. Speaker, the President has never called upon us to declare war in Indochina. Well, let's send him a message. Let us declare peace in Indochina.

TITLE III OF H.R. 7130

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. GIBBONS. Mr. Speaker, tomorrow we will be considering H.R. 7130, the proposed fair labor standards amendments.

A number of us in the House are deeply concerned about title III of this bill, a "sleeper" provision that is an ill-designed attempt to deal with trade issues which are under the jurisdiction of the Ways and Means Committee.

When H.R. 7130 comes to the House floor, we will seek to have title III stricken from the bill.

I know that a number of individuals and organizations have been contacting their Congressmen to alert them to the dangers of title III and to ask them to oppose this measure on the House floor.

For the record, I would like to insert a couple of the telegrams and letters of opposition to title III which have come across my desk in the past several days:

NATIONAL OFFICE MACHINE
DEALERS ASSOCIATION,
Des Plaines, Ill., May 8, 1972.

MEMORANDUM TO MEMBERS OF CONGRESS

The National Office of Machine Dealers Association, an organization of 2,600 members located in all fifty States, urges you to vote against Title III of the Minimum Wage Bill, H.R. 7130, tentatively scheduled for House floor action on May 10 and 11.

The extreme protectionist and Buy American provisions of Title III would penalize federal, state, and local governmental units both in terms of availability and price. Tax dollars would be wasted and even more pressure would be placed on already strained budgets.

Enactment would also disrupt our trade relations, invite retaliation against U.S. exports, and cripple United States efforts, through negotiation, to arrive at internationally accepted standards for government procurement. Other negotiations with the aim of removing impediments to United States exports would be severely handicapped.

Another part of Title III would give the President unprecedented and unlimited authority to control imports. The President already has the authority to provide protection against injurious imports under the escape clause, the Antidumping Act, and other statutes in which the Congress has set forth appropriate standards and criteria for such action.

Passage would create substantial damage and unemployment in our industry. About 80,000 jobs created by office machine dealers would be directly affected.

We would greatly appreciate your opposition to this provision.

MICHAEL L. MCWILLIAMS,
President.

Hon. SAM M. GIBBONS,
Rayburn House Office Building,
Washington, D.C.:

This is to voice strong opposition to title III of H.R. 7130, which comes up for debate on the House floor May 10 and 11.

This title would, in effect, prevent the use of Federal funds—directly or indirectly—to produce any products in which even a single component was made outside the United States. The added cost to the American taxpayer could amount to billions of dollars over the next few years.

Furthermore this provision would defeat its intended purpose of expanding domestic employment. It would in reality jeopardize thousands of American jobs by inviting retaliation against American-made goods abroad. In turn this would diminish the Nation's opportunity to regain a favorable balance in its international trading.

We want you to know that Continental can, as a concerned corporate citizen of your district, believes this title is not in the public interest and is inconsistent with U.S. policy of negotiating non-tariff barriers.

ROBERT S. HATFIELD,
Chairman of the Board, Continental Can Co.

ST. PETERSBURG, FLA.,
May 5, 1972.

Hon. SAM M. GIBBONS,
Rayburn House Office Building, Washington, D.C.:

Title III of the minimum wage bill (H.R. 7130) would authorize the President to impose import restrictions whenever the Secretary of Labor deems that imports are impairing the health, efficiency, or the general well-being of any group of workers of the community.

Enactment of H.R. 7130 with the foreign minimum wage proviso intact would:

(1) Lead to a drastic reduction of imports if exercised by the President, since few if any countries, including those with which the U.S. has maintained strong trade relations over a number of years, have minimum wage requirements within the intent of H.R. 7130,

(2) Invite trade retaliation by those countries whose imports to the U.S. might be affected by presidential exercise of authority contained in H.R. 7130,

(3) Seriously jeopardize the current U.S. balance of payments posture, since it would degrade the ability of those nations that purchase U.S. goods to continue such purchases, to the extent that their purchasing power is a function of their ability to export goods to the U.S.

The President already has broad authority under various existing laws to regulate imports which have adverse impact on American industry. H.R. 7130 focuses solely on cost of labor as the criterion for determining whether the President should invoke its provisions, totally disregarding the host of other factors—cost of materials, skills of management, productivity, costs of capital, etc.—which are of equal impact in international trade competition.

In short, the provision of H.R. 7130 concerned with minimum wage requirements of foreign manufacturers is unwarranted, unnecessary, and potentially damaging to America's trade position in the world marketplace. Furthermore, if enacted it could place in serious jeopardy international efforts now under way to establish a code of fair and equitable public procurement practices.

I strongly urge you to vote against inclusion of the foreign minimum wage requirements contained in H.R. 7130.

R. F. MURPHY,
Vice President and General Manager, Aerospace Division, Honeywell, Inc.

AMERICAN ASSOCIATION
OF UNIVERSITY WOMEN,
Washington, D.C., May 8, 1972.

Hon. SAM M. GIBBONS,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN GIBBONS: H.R. 7130, if enacted, would amend the Fair Labor Standards Act by extending its coverage and by increasing the minimum wage under the Act.

The American Association of University Women is in full sympathy with these purposes and therefore supports H.R. 7130 as it was reported out of the Education and Labor Committee with one exception of Title III. We particularly applaud extension of the equal pay for equal work provision of the Act to workers employed in executive, administrative or professional capacity or in the capacity of outside salesmen.

H.R. 7130 is of particular interest to us in AAUW since a large proportion of those workers to which H.R. 7130 will apply are women. Many of the women who work at the lowest level of the wage scale act as heads of families or use their earnings to augment minimal household budgets. It seems to us in AAUW that the provisions of Titles I and II, increasing minimum wage levels and extending coverage, will be a step in the direction of breaking the chains of the poverty which breeds illiteracy, ill health, malnutrition and crime.

The part of the bill which we oppose is Title III, Relief for Domestic Institutions and Employees Injured by Increased Imports from Low-Wage Areas. We believe this country's trade policy is a very complicated, many sided problem with economic and political implications which cannot properly be handled in a minimum wage bill. Although we support efforts to aid workers whose jobs and livelihood are threatened by imports from low wage areas, we do not believe the remedies proposed in Title III are the solution to the troubles of these workers.

Under Title III the very people H.R. 7130 is designed to help, the poor, would be denied access to the low cost imports they need. The curb on inflation imposed by competition would be eliminated. Consumers would be denied the right of choice which they now enjoy in the open market.

Under the restrictions of Title III any school which uses Federal funds under any of several federally aided education programs could be restrained from buying imported scientific equipment from abroad or even erasers from Japan! Therefore, we urge deletion of Title III and full consideration of trade policy and trade adjustment programs and problems at later date.

But we also urge immediate enactment of Titles I and II as reported from the House Education and Labor Committee and without restricting amendments.

Sincerely,

Mrs. Sherman Ross,
Chairman, Legislative Program Committee.

National Council of Farmer Cooperatives,
Washington, D.C., May 5, 1972.

Hon. Sam M. Gibbons,
U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

Dear Congressman Gibbons: The National Council of Farmer Cooperatives is greatly concerned about the threat to American farm exports and to world trade which is posed by Title III of the proposed "Fair Labor Standards Amendment of 1971" (H.R. 7130).

The sweeping import restrictions of Title III could set off very disruptive or disastrous repercussions in our world trade patterns. While we too are concerned with unfair import competition in several of our economic sectors, we should use more sophisticated techniques for dealing with these rather than the crude sledgehammer tactics of Title III.

In the interest of American farmers and the national welfare, we urge your vigorous opposition to Title III of H.R. 7130.

Sincerely yours,

Bob Hampton,
Director of Marketing and International Trade.

FIRE SAFETY RECORD IN NURSING HOMES APPALLING

HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. KEATING. Mr. Speaker, I was deeply grieved upon receiving the news last Sunday morning that another nursing home fire had broken out, this time in Springfield, Ill. It was almost 10 weeks ago that a similar tragedy struck in my own congressional district, resulting in the loss of 10 lives. This most recent tragedy in Springfield provides us with yet another grim reminder that many nursing homes throughout the United States do not have adequate fire safety devices.

Altough the Carver Convalescent Center in Springfield had been provisionally certified by State fire inspectors 2 days before the fire, nine persons were killed and 32 others were injured in the blaze. I do not pretend to have any knowledge of what caused the fire. Nor am I in a position to levy the blame for this recent tragedy on any particular person or unit of government.

Nevertheless, there is one aspect about fire safety in our country's nursing homes which remains abundantly clear: The record is appalling. National Fire Protection Association records show that since 1961, there have been 34 multiple fire deaths in nursing homes in which three or more lives were lost, with an overall total of 283 deaths. This is an average of more than eight persons per fire and an average of more than three fires per year.

Moreover, even though there seem to be few reliable statistics on the number of fires in nursing homes in which one or two persons have lost their lives, the American Nursing Home Association has estimated that there may be as many as 500 single death fires in nursing homes each year.

In an effort to assure that Federal Responsibilities in these matters are met, I presented to Congress a package of three bills on February 29 of this year. This legislative program would, in essence, accomplish the following objectives:

First, it would require that intermediate care facilities, by far the most fire-prone of any class of nursing homes, meet the same fire safety standards required of extended care facilities and skilled nursing homes certified under the medicare and medicaid programs;

Second, it would authorize the Federal Housing Administration to guarantee the loan of funds to any nursing home facility for the expressed purpose of purchasing fire safety equipment; and

Third, it would require, as a condition of eligibility for the reciept of funds under section 232 of the National Housing Act and title VI of the Public Health Service Act, that nursing home facilities be in conformity with the provisions of the Life Safety Code, or that they be striving to meet the code's fire safety standards.

The time to act on these proposals is now. We cannot sit back idly and wait for tragedy to strike again. Our older Americans have been victimized by neglect for too long, and nothing less than a total commitment to their safety and well-being is needed to confront the problems of fire safety in America's nursing homes.

In closing, Mr. Speaker, it would be worthwhile to recall the words of Mr. Richard E. Stevens, director of engineering services of the National Fire Protection Association, when testifying before the House Special Studies Subcommittee of the Committee on Government Operations:

Why do facilities for the care and housing of the elderly have such a poor fire record? Fire experience in places where the elderly are housed and cared for indicates that the elderly present a special and unique fire problem. They are responsible for a significant number of fires due to the physical and mental circumstances which accompany old age. In addition, their reaction to the discovery of fire does not necessarily suggest to them the need to alert other occupants of the buildings or to save themselves. In a fire, the elderly are not only more helpless than the average person trapped by fire but they are often transfixed by the emergency, even refusing to leave their quarters and resisting efforts to remove them from the building. Having been taken out of the building, the elderly are apt to return to the burning structure.

The characteristics, which I believe are most applicable to the discussion here, have occurred time after time in fire emergencies where patients are non-ambulatory or are heavily sedated or strapped in their beds.

Mr. Speaker, I would like to insert into the Record at this point a newsclipping from the Washington Post, which describes in some detail known events surrounding the fire:

[From the Washington Post, Sunday, May 7, 1972]

Nine Die in Nursing Home Fire

Springfield, Ill., May 6.—Nine persons were killed and 32 injured early today in a fire that destroyed a provisionally certified nursing home that had been checked by state fire inspectors two days earlier.

The fire broke out on the second floor of the Carver Convalescent Center and rapidly spread through the two-story frame structure. The cause was not determined at once.

Dr. Franklin Yoder, director of the Illinois Public Health Department, said the center operated on a provisional license and had facilities for 52 persons. He said 41 persons resided there at the time of the fire.

Yoder said state fire inspectors had checked the building Thursday. He said he has not seen the inspectors' report.

Spokesmen at Memorial Hosptial in Springfield reported nine persons were dead on arrival at the hospital. Eight others were treated for smoke inhalation and two persons were placed in the hospital burn unit. St. John's Hospital admitted 22 persons.

Mayor William Telford of Springfield said the fire was the "worst disaster" in terms of death in the history of Springfield.

In Washington, a presidential fire-control panel said the White House was "deeply distressed" about the fire.

The statement by the National Commission on Fire Prevention and Control said it "would like to know if the center had smoke or fire detectors in operation. We would like to know also about their evacuation plans and the condition of the wiring in the center."

DO YOU KNOW THE CAPTIVE NATIONS? WHO'S NEXT—SOUTH VIETNAM?

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DERWINSKI. Mr. Speaker, this July 16 to 22 will mark the 14th observance of Captive Nations Week, which our Congress provided for in Public Law 86–90 signed by President Eisenhower in July 1959. Since the law was passed, nothing has changed as to the basic captivity of nations and peoples in Central Europe, in the Soviet Union, Asia, and Cuba. This is a constancy of international life that we must realistically face up to. Our implosive involvements with transient domestic problems will not erase this basic fact of the world, nor will the temporary diplomatic blandishments of Moscow and Peking, the two imperialist centers of the world conceal the stark reality of one-third of humanity under totalitarian Red rule. Indeed, no amount of self-involving rhetoric and myopic activity can becloud this massive fact. As the scientist Jean Henri Fabre aptly put it, "One observation is worth a thousand theories."

WHO'S NEXT?

The real question in the minds of millions today is who is next on the long list of captive nations? Prepared by the National Captive Nations Committee in Washington, D.C., the captive nations list was published last fall in the Reader's Digest and is incorporated in the comprehensive and penetrating article written by Dr. Lev E. Dobriansky of Georgetown University on "Do You Know the Captive Nations?" The article appears in the scholarly journal on East Europe and Asian problems, The Ukrainian Quarterly. Widely known for his incisive institutionalist analyses of the U.S.S.R., Dr. Dobriansky, who also authored the Captive Nations Week resolution, advances concepts in the captive nations analysis that enable us to understand accurately and meaningfully the imperial structures in both the U.S.S.R. and Red China. On the eve of this 14th observance of Captive Nations Week, I urge every American to familiarize himself with the illuminating contents of this article:

DO YOU KNOW THE CAPTIVE NATIONS?

(By Lev E. Dobriansky)

How well do you know the captive nations? The question posed in the title of this article is surely not purely academic, but rather points to a broad field of politico-economic analysis which basically underlies the issues of our national security and graded opportunities for a more productive domestic development. With the sound historical perspective that the captive nations analysis provides and some measure of logical reflection, it is not difficult to fundamentally relate the foremost issues of our day, such as Vietnam, inflation, national priorities, the Cold War or diminution of it and so forth, to the aggregate existence of the captive nations and their exploitation by the two imperial seats of Red power, Moscow and Peking. With some imaginative thinking, one need only logically ponder the question "If there were no captive nations and the principle of national freedom were to reign from the Danube to the Pacific, particularly among the nations in the USSR and Red China, what would be the importance, scope and even the reality of some of these problems?" The answer to this question is really simple, depending on how well you know the captive nations and their exploited utility in the world designs of both Moscow and Peking.

Speaking from broad experience on this basic subject, the writer would submit that well over 75 per cent of our Americans, in high places as well as low, can scarcely recite all the dominant captive nations in Eurasia. The concept itelf seems to elude even those familiar with most of these nations. Recently, a courageous and outstanding defector from the USSR observed, "I was deeply shaken when I came here by the fact that people in the West scarcely understand the real nature of the Soviet system and of Communism as a whole."[1] Quite appropriately, Kuznetsov asks, "Are You All Deaf?" If this cultural deafness applies to our understanding of the Soviet Union alone, how much deeper is it with regard to the captive nations in the aggregate? Despite the politico-economic climate in which we find ourselves today, marked by widespread confusion as to the priorities of our national needs and requirements, it would be of salutary intellectual worth for a Gallup or Harris poll to be run on the primary question posed here. As suggested above, the results would very likely indicate the near-absence of any casual relationship between the reality of the captive nations in toto and our predominant domestic problems. Deafness can result from an exaggerated self-implosiveness, and the risks of disaster grow accordingly.

Objectively, whether we like it or not, whether we want to face it or not, the massive reality of the captive nations exists. No amount of Party disagreements between Belgrade and Moscow, Prague and Moscow, Moscow and Peking and so forth can overshadow this basic reality; nor can the grown indifference in our country and in most Western countries, similarly gripped by cultural deafness, conceal this prime reality. The Communist regimes, even in so-called progressive Yugoslavia and its recent nationalism crisis, suppress the free nationalism of the underlying populations and in varying degree exploit their economic and other resources in behalf of the different courses taken toward the attainment of world communism. If an honest and open captive nation by captive nation survey were made—as urged in the House of Representatives for over a decade by Representatives Daniel J. Flood and Edward J. Derwinski—this truth on the indomitable force of free nationalism in the Red Empire and its composite politico-economic ramifications would undoubtedly have the most salutary effects both here in the United States and behind all the curtains of the Red Empire. That is, again, if we are ready to face the truth and do what must be done in behalf of it.

FULBRIGHT AND CONSERVATIVE ELEMENTS ON CAPTIVE NATIONS

Now, if you don't know all the major captive nations, don't be disheartened by it. Simply resolve to get to know them and what they signify for our personal and national being. After all, if you were prone to ask the chairman of the Senate Foreign Relations Committee the small initial question, you would receive a very vague and misleading answer. For example, in an exchange with Senator Fulbright, the writer was confronted with this on the nature of a captive nation: "I suppose, if you want to go that far, we are holding Texas in subjection, too, because we took her from Mexico, but I do not think we want to go into that."[2] A Texan who knows the history of his area should react viscerally to this askewed comprehension. It is most interesting to witness Fulbright using the same specious argument that Khrushchev and the Russians did in 1959 after the passage of the Captive Nations Week Resolution in Congress.[3]

In effect, Texas a captive nation like Ukraine! On this score, when the truly heroic Bruce Herschensohn, director of the USIA Motion Picture and Television Service, branded Fulbright's views as "very simplistic, very naive and stupid," he was somewhat understating the case.[4] Concerning the captive nations and their strategic importance to our national security, Moscow and Peking and their respective Red associates couldn't have a better disinforming spokesman than Senator Fulbright. His article on "In Thrall to Fear" in the January 10, 1972 issue of the *New Yorker* magazine is a hallmark in pseudo-intellectual disinformation conducing to the propagandistic benefit of our prime enemy, in the Soviet Union. A gem of Fulbright's thoughts is, for example, the following: "The notion that a country is 'lost' or 'gone' when it becomes Communist is a peculiarly revealing one. How can we have 'lost' a country unless it was ours to begin with—unless it was some part of an unacknowledged American imperium?"[5] The Senator, it seems, never heard of national self-determination.

Significantly, too, in many conservative circles you'll find a dearth of knowledge regarding all the captive nations. In recent years relatively little, if anything, has appeared on the collective subject in such conservative publications as the *National Review* and *Human Events*, and as to a commanding comprehension of the captive nations in the USSR and Red China, these and others have never really attained to it. For instance, in the case of the latest North Vietnamese invasion of South Vietnam, it is neither revealing nor technically accurate to hold that the "enemy in this instance is quite clearly the Soviet Union . . ."[6] That Moscow has long supported Hanoi's aggression against the Republic of Vietnam is a matter of objective record; that the captive non-Russian nations in the USSR are responsible for this and other aggressions on the part of imperialist Russian Moscow is, even by implication, totally erroneous. Inexorable events, if not reason itself, will in time force us to recognize the prime enemy in Soviet Russian imperio-colonialism, but to cite in transient style "Russian-made tanks" rolling across the Vietnamese DMZ[7] or the "unreasonableness of Moscow in not paralleling our peaceable policies for detente and universal tranquility"[8] is patently not enough. What is required is a full understanding and appreciation of the cumulative history of the captive nations, which impinges upon Vietnam, Israel, Chile and elsewhere, and continually focusing our sights on the strategic and tactical global maneuvers of our prime enemy in Moscow, which precisely can be said to have initiated through conquest and expansionist influence the very history of the captive nations since 1918.

THE PAST LIVES IN THE PRESENT AND FORMS THE FUTURE

As many recall, the U.S. Congress passed in July 1959, the Captive Nations Week Resolution, which President Dwight D. Eisenhower signed into Public Law 86-90. The measure designates the third week of every July as Captive Nations Week and calls upon the President to issue a "proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world."[9] A careful reading of the Presidential proclamations since 1959 will show a progressive watering-down of their content in the light of the Congressional resolution. In essence, to bargain with and progressively appease the Red dictators, particularly those in Moscow, our principled position toward the captive nations has been subjected to steady erosion.[10] However, despite this official executive tendency, the Week has been strongly supported in Congress and perpetuated in most of our major cities. In short, the past lives in the present and forms the future—in this case, chiefly for the reason that the captive nations still remain very much captive and, as present developments indicate, their family stands to increase in the years ahead.

One outstanding aspect of the annual Captive Nations Week observance is the degree to which it has taken hold in the free Asian countries. From the Republic of Korea down to Australia the Week has been consistently

---

Footnotes at end of article.

and prominently observed. The most impressive annual observance usually takes place in the Republic of China. Clearly, the moral of all this is that, like the behavior of individuals, nations whose very existence is directly threatened, tend to show a more compassionate and realistic concern for those which at one time tasted the fruits of national freedom and economic self-determination. What has perpetuated the Week in our country has, of course, not been similar circumstances of direct threat but rather the persistent moral idealism and vision of those who have upheld the Week since its inception in 1959. There can be no doubt that when the factor of national threat becomes more discernible to our people, as it undoubtedly will, the full meaning and historic significance of the Week will soar.

Both the domestic and international dimensions of the Week's observance have received the support and coordinating efforts of the National Captive Nations Committee in Washington, D.C. The committee was founded in 1959 on the basis of the Congressional resolution. Before his retirement as Speaker in the House of Representatives, the Honorable John W. McCormack paid special tribute to the committee in his remarks on the floor of the House on July 15, 1970. He declared: "A special tribute is in order, I feel, to the National Captive Nations Committee of Washington, D.C., who for 12 years have spearheaded this annual observance of Captive Nations Week." As a clearing house on captive nations' subjects, NCNC has pursued purely educational undertakings once it was established on the basis of the Congressional resolution. Its work has been in complete conformity with the spirit and content of the resolution.

As a matter of fact, the full story of the past twelve years and more has yet to be written in toto. The period is replete with diverse and rich experiences, extending from Khrushchev's outbursts against the resolution and the Week to current involvements here and abroad. For example, in the period ahead it will be most interesting to see in this presidential election year the positions taken by both major parties on the captive nations issue. NCNC and its cooperating committees in the field have always and necessarily assumed a non-political, bipartisan position. However, their output has been utilized by various different groups, including our major political parties. In an excellent article on the subject, one of NCNC's executive members raises the question, "Does anyone know what exactly is the policy of the United States toward the Captive Nations?"[11] She states that "our official legislative position on the Captive Nations remains as stated in Public Law 86–90, the Captive Nations Resolution, approved on July 17, 1959." As she rightly points out, the question is one of foreign policy, and the "Republican Party has always supported liberation for the Captive Nations—rather than accommodation with their captors." For instance, the Republican Platforms from 1952 to 1968 clearly show this. Will the 1972 Platforms of the two Parties strongly enunciate the "official legislative position" on the captive nations? This will be a further test of our political morality, idealism and principle in this so-called era of negotiations.

THE CAPTIVE NATIONS—WHO'S NEXT?

For the past decade political and economic developments on both sides of the Red curtains have well justified raising the question "Who'll be next on the long list of captive nations?" Whether one analyzes the USSR and its politico-economic preparations for dominant global power, the continued sway of the Brezhnev doctrine in Central Europe, the growing divisions in Western Europe and in our country, or the perilous policies we're pursuing in Asia and elsewhere, there is no solid development for one to point to with any hope that another free nation will not fall into the already large family of captive nations. When some of us believe the Cold War has ended, that Moscow and Peking have renounced their respective world ambitions, that Vietnam is a sorry mess of no global importance, not to mention other current myths, the general acceptance of these illusions will more than guarantee the subsequent addition of more independent nations to the long list.

Last year *The Reader's Digest* published the list of captive nations issued by the National Captive Nations Committee. Historically accurate and powerfully meaningful, this list and the *Digest's* comments we reproduce here for the reader's compact understanding of this massive reality that feeds the global strides of Soviet Russian imperio-colonialism and Red Chinese ambitions:[12]

WHO WILL BE NEXT?

Today the communists still pursue their 50-year policy of relentless expansion. And they still back that policy with merciless genocidal practices. This year we've seen the exposure of a communist plot to begin bloody revolution among our next-door neighbors in Mexico. And we've seen the Dalai Lama cry out to the world that the Reds "... launched a veritable reign of terror. Tibetans of all classes are beaten, humiliated, tortured, or killed. . . ." *Who will be the next to fall?*

People or Nation:	*Year of Communist Domination*
Armenia	1920
Azerbaijan	1920
Byelorussia	1920
Cossackia	1920
Georgia	1920
Idel-Ural	1920
North Caucasia	1920
Ukraine	1920
Far Eastern Republic	1922
Turkestan	1922
Mongolian People's Republic	1924
Estonia	1940
Latvia	1940
Lithuania	1940
Albania	1946
Bulgaria	1946
Serbia, Croatia, Slovenia, etc., in Yugoslavia	1946
Poland	1947
Rumania	1947
Czecho-Slovakia	1948
North Korea	1948
Hungary	1949
East Germany	1949
Mainland China	1949
Tibet	1951
North Vietnam	1954
Cuba	1960

As shown in my current work, those who ask the perennial question, "The Captive Nations—Who's Next?" do so not in the form of any cynical query bereft of hope and optimism but rather with a fixed eye upon the dominant forces at work in the world and a realistic appreciation of the changes transpiring in various parts of the globe.[13] For instance, despite the different changes of the past two decades on whatever plane, who can rationally deny the constancy of Moscow's enemy-like hostility toward the U.S. and its allies? Who can deny the constancy of captive nations reality? Or does it take another Czecho-Slovakia to re-sharpen our perceptions.

Yes, who's next—South Vietnam, the Republic of China, Cambodia, Laos, Israel, Bolivia or Chile? Each of these and others, like Bengladesh, are promising targets for Moscow's and Peking's long-term designs. In South Vietnam, where at this writing the republic is under siege by Hanoi and its prime backer, Moscow, the time is past for an Asianization policy as against simply a Vietnamization one. Several years ago NCNC stood almost alone in this country in its advocacy of Asianization of the conflict in Vietnam, a practical policy of free Asian solidarity in winning the war and permitting the systematic withdrawal of American ground forces.[14] It is fervently hoped that the Vietnamization policy will succeed, but if by a combination of factors we should in effect surrender in this critical area, through compromise for a coalition government which many an East European nation experienced, the fate of the Republic of Vietnam will have been sealed. Whatever the outcome in Vietnam, its great lesson in history will be our demonstrated incapacity to engage adeptly in Red-sponsored political warfare, extending from Vietnam to Paris and the streets and campuses of America. Our usual reliance on technological and economic superiority will in future conflicts have even less impact as the war-oriented economies of Eastern Europe and the USSR advance.

If the possible addition of South Vietnam to the long list of captive nations is clear, and all that this would imply in reduced American global leadership and the fates of Laos and Cambodia, the similar danger engulfing the Republic of China is not at the moment equally clear. Yet any detailed analysis of what has transpired over the past year in our relations with Red China would offer ground for sufficient justification in raising in this respect the question "Who's next?" In terms of global power shifts the only sound reason for our change in policy is to be found in the Sino-Russian conflict and the need to prevent the application of the Brezhnev doctrine to Red China. Ping-pongism, trade lures, cultural intercourse and other superficialities are mere frostings on the global power cake. That the road ahead in our dealings with Peking is a treacherous one is to state the obvious. Like the Russians, the Red Chinese totalitarians display every intention of capitalizing on their new outlets for purposes of political warfare in southeast Asia, the Mideast, Africa and Latin America. In the midst of all this, the future of the Republic of China looks dim. To smugly hold that the two Chinas will have to settle it themselves is fundamentally a way of prescribing the addition of ROC to the captive nations list. Plainly, in terms of cumulative captive nations analysis these are only two of the "possibles" resulting from our policies that are pragmatically shaped in line with domestic politics and world realities.

UTILITIES IN THE CAPTIVE NATIONS ANALYSIS

On record, no analysis has been more disconcerting to our totalitarian enemies than the captive nations one. Its detailed content can be found in numerous works, and its outlines were portrayed in a Congressional reprint last year.[15] Common sense would rule that there must be something in it if Moscow, Peking and their minions find the analysis so disturbing. The fact is that there are numerous utilities in the analysis which enable us to assess critically the transient, day-to-day events, the spectaculars on the global front, and the over-all drifts in the world situation with flexible perspective and historically-based criticism. The analysis provides a structure of thought and many productive concepts that is found wanting in too many political and economic analyses of our world.

As seen in the captive nations list, countries and nations which have been taken over by totalitarian communist parties are the captive nations. Despite certain minor or more essential differences, as between the nations in Yugoslavia and Romania and those in the USSR, the concept substantially reflects the expansion of the captive nations family from 1918 to present times or, in other words, a succession of communist takeovers in some five decades. Quite advantageously, the concept is basically a genetic analytical

---

Footnotes at end of article.

one, and explains on the basis of cumulative historical causation the fundamental point of how the Red Empire came to be what it is in the phenomenal span of a little over fifty years. The productive utility of this concept can only be appreciated by reading the usual textbook or some treatise which is completely unaware of the earliest Soviet Russian takeovers in Byelorussia, Ukraine, Georgia, Armenia and elsewhere. This indicator is enough to suggest the scope of the writer's knowledge and comprehension. A survey of books and commentaries in the West on the occasion of the 50th anniversary of the Bolshevik revolution was an eye-opener in this respect. An impressive number identified the event with the founding of the Soviet Union, which historically was made possible by Moscow's initial series of conquests. Put another way, this valuable concept expresses the domino fact, not theory, of the successive cumulation of captive nations over a relatively short period of time and lays the foundation for the realistic question "Who's next?"

Emerging from this concept, which deals with captive nations in the aggregate—in Central Europe, in the USSR, Asia and Latin America—is the more exclusive concept spotlighting the "nationalities" in the two basic imperial complexes within the Red Empire, namely the Soviet Union and Red China. In the wake of events this past year, further concentration on both Red China and the USSR will unquestionably underscore the fruitful utility of this working concept. During Nixon's spectacular in Red China one couldn't have gathered from most press reports that Red China is a multinational state, containing some 60 million non-Chinese nationals. Although of less proportion, by nature it is an imperial complex similar to the USSR. It seems that at least one writer on the trip was somewhat aware of this composition.[16] Plainly, without this basic concept founded on fact, it is impossible for one to attain to any working appreciation of the forces of economic imperialism and exploitation, not to mention blunt or subtle colonialism, in the respective non-Russian and non-Han areas of the USSR and Red China.

Curiously, in their political warfare, both Moscow and Peking are vividly aware of these phenomena and employ them against each other. "The nature of Soviet revisionist social-imperialism, just as that of US imperialism, will never change" is a repeated argument from Peking.[17] Moscow retorts continually in kind. It appears that Red China has even gone to the extent of urging Ukrainians, particularly the three million in the Amur River Valley and Vladivostok areas, to unite against russification and work toward a free and independent "Socialist People's Republic of Ukraine." [18] Thus, from our vantage point, the crucial importance of this concept of non-Russian nations in the USSR and non-Han nations in Red China cannot be too strongly emphasized. With reference to the USSR and the US, to speak, therefore, in this vein, "Thus, our two nations have substantial mutual incentives to find ways of working together," is clearly misguiding.[19] There is too much at stake not to appreciatively grasp the fundamental thought that the USSR has never been, is not now, nor ever will be a nation. If the Red Chinese totalitarians can understand this, why can't we? Without doubt, the sheer force of events in this decade will compel us to accept this basic "nationalities" concept.

A third concept that has been developed in captive nations analysis is the poltrade concept, which predicates the opportunities and uses of economic exchange on political considerations and objectives. The writer first advanced this instrumental concept in hearings before the Senate Foreign Relations Committee in 1965. In an article on "Needed: A Realistic East-West Trade Policy" in the June 1969 issue of *Reader's Digest*, the late Senator Everett M. Dirksen accepted the idea and urged its advancement. The concept can be specifically applied to the captive nations or to our global involvements vis-a-vis Moscow and Peking. In any case, it would have some impact upon the underlying captive peoples, an adverse one if not properly measured and guarded. It appears that the East-West trade policy of the Nixon Administration embraces the essence of the poltrade concept. As the preceding one, here too, the concept is fraught with immense potentialities and uses as concerns the captive nations, for better or for worse, depending on the quality, magnitude and timing of the trade use.

THE ROAD AHEAD FOR THE CAPTIVE NATIONS

Now, what are the prospects, what is the road ahead for the captive nations? It should be evident from the foregoing analysis that, in whatever form, the captive nations in the aggregate cannot but play an increasingly decisive role in the world situation. Though many Americans have become apathetic toward the predominant issue, the issue of national freedom and its consequences for world freedom still is the over-all issue of our world. It exists in fire in Vietnam, it was expressed in Bengladesh, it grips Israel, it concerns patriotic Chileans, and it is aflame in the soul of every captive nation from the Danube to the Pacific and over to Cuba. The spirit of moral obligation and commitment toward all the captive peoples should be enough to motivate all free peoples, particularly us Americans, to pray and to work in behalf of their freedom, and thus in behalf of our own. Considering the moral state of America today, among parts of its youth, religious establishments and educational institutions, this no longer is a safe and easy assumption. Prudent, rationally calculated self-interest is also necessary. National dishonor in Vietnam, Moscow's attainment of military superiority, economic regress in world markets, and further moral decline in our nation can easily reduce us to a second-class power, and with our striking incapacities in the art of political warfare, it is no frightful exaggeration to state that we, too, would become a fitting candidate for the captive nations list.

Fortunately, there are forces within our country and in other parts of the world, particularly behind the Red curtains, which tend to preclude such a linear outcome. It is not possible here to recount all of these, but with direct relation to the captive nations, the following recent developments are indicative of the forces and counter forces at work:

(a) *The Derwinski Challenge in the United Nations.*

As reported in papers across the country, the speeches delivered at the U.N. last fall by the Honorable Edward J. Derwinski of Illinois rocked the delegates from the Red states. On November 15 and again on December 9, the U.S. Representative in the U.S. Delegation dwelled on Soviet Russian imperio-colonialism, highlighting Moscow's forcible annexation of the Baltic states—Estonia, Latvia and Lithuania. As the Congressman put it, "We must be ever mindful of those proud nations which have lost their freedom in this period as well as those brave peoples everywhere who are denied national dignity and the right of self-determination." [20]

The able Representative has long supported the captive nations in their quest for freedom. As pointed out, his credentials as an experienced member of the House Foreign Affairs Committee and chairman of the American delegation in the Inter-Parliamentary Union were widely recognized at the U.N.[21] The importance of his action in the U.N. is seen in the pointed reminder he delivered to the Red delegates of America's unyielding concern for the captive nations. The Congressman set a precedent that should be repeated in every U.N. Assembly meeting.

(b) *The Shakespeare Innovation.*

One of the most significant innovations in the Nixon Administration was made by the Honorable Frank Shakespeare, the director of the United States Information Agency. The very able head of the USIA issued this past March a directive to abolish the use of such nonsensical terms in the Agency's reportings as "the Soviet nation," "The Soviets" and the like. "Soviet nation," he wrote, "is semantical absurdity. There is no 'Soviet nation' and never will be." The directive is completely well-founded on historical and demographic grounds. It fully recognizes the bonus advantage given to Moscow in using terms that conceal the reality of captive nations in the USSR such as Lithuania, Latvia, Byelorussia, Ukraine, Armenia and others. Very simply and very accurately, if you refer to the multinational state, use "the USSR"; if to the specific nations and peoples involved, use their names.

Though it didn't meet with his liking, Senator Fulbright couldn't offer any substantive objection to the directive other than to blurt out that it was released at an inopportune time when the President is preparing for his trip to Moscow. The facts are that this notable innovation was long overdue, and the timing of it was perfect for if the Russian totalitarians respect anything other than power, it is also knowledgeability. The Fulbright reaction to the apt Herschensohn characterization of him is measured by the chairman's attempt to reduce USIA funds by about 23 per cent. In combined hours and language broadcasts, the Voice of America lags well behind Moscow's and Peking's radios, and even behind Egypt. If anything, the USIA budget should be increased well over 25 per cent, but here, too, Fulbright, who is under the illusion that the Cold War has ended, displays his insularity concerning the nature of the world struggle.

About the silliest commentary on Shakespeare's directive appeared in the column by Russell Baker.[22] Harping on poet William Shakespeare's questioning of a name, the writer states, "Shakespeare (Frank) obviously dislikes the Soviet Union and believes that it can be hurt if we refuse to call its residents by the name of its choosing. What's in a name?" The writer misses the point completely, for an Irishman doesn't want to be known as an Englishman, nor an Israeli an Arab, nor a Lithuanian a Russian or, absurdly, a soviet; nor would Baker relish to be called Jackass. If he knew his capitive nations, he would know that even the term USSR is not of the choosing of over half the population. National identity is a powerful force.

(c) *The Invincible Force of Nationalism.*

The deadliest and invincible force challenging the tenure of Red dictatorships is nationalism. Analytically, any treatment of this recurring force behind the Red curtains necessarily means the captive nations in their struggle for freedom and independence. Over the past two decades it was observed at work in Georgia, Ukraine, Hungary, East Germany, Poland and Czecho-Slovakia. This history of East European nationalism is well documented and must not be forgotten because it is persistent and continuous, and will resurge when practical opportunity will permit. After all, the whole meaning of the Brezhnev doctrine is the suppression of nationalist undercurrents.

For the past three years the force of nationalism in Ukraine has taken the form of cultural rights demands in tune with the provisions of the USSR constitution. The widespread cultural repression and the arrest of intellectuals by Moscow, including **Valentyn Moroz, Eugene Sverstiuk, Ivan** Dzyuba and scores of others, indicate the ferment in that captive nation. Recently, in Yugoslavia, Croatian nationalism surged forward, threatening the Tito regime and resulting in numerous high-level arrests. It is a certainty that when Tito passes from the scene, a formidable resurgence of national-

---

Footnotes at end of article.

ism will occur in Yugoslavia and pose a delicate problem for Moscow and its attempted application of the Brezhnev doctrine.

(d) *Radio Free Europe and Radio Liberty.* At a time when pressures for economic freedom, religious revival and critical expression are mounting in Eastern Europe and the need for greater information from the outside world is more pressing than ever, the two radio Stations Radio Free Europe and Radio Liberty clearly are more necessary than ever before. In fact, the time is now to expand the facilities of both and increase their funding. Instead, what do we find but further strokes of Fulbright obstructionism, aimed at the elimination of the two highly effective stations. Budgetary cutbacks have already led to the closing of the Institute for the Study of the USSR maintained by Radio Liberty in Munich. The institute's educational output consistently had the stamp of excellence.

By all performance, RFE has served the captive peoples of Central Europe well and sustainingly, as RL has those in the USSR. Virtually, the only opponents to the existence of the two stations are the Red totalitarians and Messrs. Fulbright and the senile Cyrus S. Eaton. It's little wonder that Fulbright has to lean on Eaton for a statement on the issue, which is studded with misinformation and twisted argument.[23] Here is a specimen on spurious argument: "Let us ask ourselves how we would feel if the Soviets set up a special station in one of our neighboring countries in an attempt to arouse the American citizenry, or some racial or ethnic segment of it, against its government and media." It's quite evident that Eaton has no comprehension of the captive nations and still less of the difference between totalitarian Red imperialism and democratic freedom. Any sensible person would place far greater weight on the words of a Solzhenitsyn who, with reference to RL, has said, "If we learn anything about events in our own country, its from there."[24]

On the eve of the Fourteenth Observance of Captive Nations Week (July 16–22), it would do well for every intelligent American to ponder the chief points raised here—the politico-economic pressures for freedom behind the Red curtains, the fixed, massive reality of the captive nations, the dominant concepts of the captive nations analysis, the unaltered devotion of both Moscow and Peking to global political warfare, the critical decision of America to maintain its world leadership, and the real need for expanding, not contracting, VOA, RFE and RL. Mistakes in these areas will certainly be paid for heavily by us in the future. To avoid these mistakes, prepare yourself to answer in the affirmative the basic question "Do You Know the Captive Nations?" For as Dr. Joseph M. A. H. Lun, NATO's Secretary General, soundly has pointed out: "To the Communists detente means the exploitation of the peaceful instincts of the West, while waiting and working patiently to gain access to political power; in short, continuing the struggle by all means short of war." In other words, preparing other nations for the captive nations list.

FOOTNOTES

[1] A. Anatoli Kuznetsov. "Are You All Deaf?" *America*, Philadelphia, April 20, 1972.

[2] *Consular Convention With The Soviet Union*, Hearings, Senate Committee on Foreign Relations, 1967, p. 185.

[3] Nikita S. Khrushchev. "On Peaceful Coexistence," *Foreign Affairs*, October 1959, pp. 6–7.

[4] "Criticism by USIA Aide Fuels Feud With Fulbright," *The Evening Star*, Washington, D.C., March 29, 1972.

[5] "In Thrall to Fear," *Congressional Record*, January 19, 1972, p. 242.

[6] E.g. William F. Buckley, Jr. "Where Else Won't Vietnamization Work?" *The Evening Star*, April 15, 1972.

[7] Senator James L. Buckley. "Five Options for Viet Nam Victory," *Human Events*, April 22, 1972.

[8] Robert Keatley, "Why the Russians Aren't 'Reasonable,' " *The Wall Street Journal*, April 14, 1972.

[9] Tenth Anniversary of the Captive Nations Week Resolution 1959–1969, USGPO, 1969, p. 2.

[10] See a documented account of this story in the writer's book *The Vulnerable Russians*, Chapters 1–5, New York, 1967.

[11] "Are We For The Captive Nations Or Their Captors?" *The Phyllis Schlafly Report*, Alton, Ill., January 1972.

[12] "Who Will Be Next?" *The Reader's Digest*, October 1971, p. 122.

[13] Lev E. Dobriansky. *U.S.A. and The Soviet Myth*, Old Greenwich, Conn., 1971, pp. 141–179.

[14] See "Asianization—Not Vietnamization—Is The Winning Concept," *Congressional Record*, vol. 116, pt. 18, pp. 24504–24506.

[15] *The Captive Nations Scorecard*. Remarks of Hon. Edward J. Derwinski, May 4, 1971, USGPO, pp. 6–7.

[16] E.g. Henry S. Bradsher. "Minority Groups in China Are Losing Rights, Identity," *The Evening Star*, May 4, 1971.

[17] "On Summing Up Experience," *Red Flag*, Peking, March 14, 1969.

[18] "Ukrainian National Front," *Neue Zuricher Zeitung*, July 4, 1971.

[19] *Foreign Policy Message From the President of the United States*, House Document 92–53, GPO, 1971, p. 122.

[20] "Derwinski Attacks Soviet Baltic Rule," *Los Angeles Times*, November 5, 1971.

[21] William Fulton. "Derwinski's Merits for World Envoy Post Seen as Unique," *Chicago Tribune*, October 6, 1971.

[22] "What's in a Name, Shakespeare?", *The Evening Star*, Washington, D.C., March 30, 1972.

[23] *Congressional Record*, April 10, 1972, p. 11935.

[24] *The Washington Post*, April 3, 1972, p. A17.

REALLY SETTING THE RECORD STRAIGHT ON THE TRANS-ALASKA PIPELINE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ASPIN. Mr. Speaker, my distinguished colleague, the gentleman from Alaska (Mr. Begich) charged in the May 4 Record that a recent statement of mine concerning the availability of the environmental impact statement on the trans-Alaska pipeline—April 27, 1972—was "inaccurate and misleading." Mr. Begich placed both my statement and an answer from the Interior Department in the Record. Unfortunately, my colleague from Alaska did not see fit to check out the facts. Many of the points contained in the Interior Department statement, which Mr. Begich maintained to be true, simply were not. Both my statement and the Interior Department "fact sheet" are printed below:

The Alaska Pipeline Environmental Impact Statement Is Very Scarce

The Speaker. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 10 minutes.

Mr. Aspin. Mr. Speaker, I am very concerned that the environmental impact statement on the proposed trans-Alaska pipeline has been virtually hidden from public scrutiny. I am sure that many of my colleagues will be interested in knowing that only seven copies of this important impact statement are available for public inspection in the lower-48 States. In fact, there is not one impact statement publicly available for 3,000 miles. There is not one impact statement publicly available in New York, Chicago, Milwaukee, or Detroit. In fact, there is not one copy available between Washington, D.C. and San Francisco.

Not only that, but the Interior Department is charging $42.50 for the 9-volume environmental and economic study of the Alaska pipeline and its alternatives. And, even if you are willing and rich enough to be able to afford the $42.50 price tag, it may take almost 1 month to obtain a copy of the impact statement.

For instance, in one case, it took the lawyers for the three environmental groups who are suing to prevent construction of the Alaska pipeline, 28 days to obtain several copies of the impact statement. On March 24, these lawyers asked for the copies, but were told they were out of print and would not be available for another 2 weeks. Three weeks later, on April 14, they were told that the impact statements were still not ready. They finally received part of their order on April 21. Thus, it took these lawyers—who have been integrally involved in the Alaska pipeline issue for over a year and a half—almost a month to get hold of these copies, which they wanted to distribute to others for comment. It is quite relevant to note that Secretary of the Interior Rogers Morton stated when the impact statement was released that a decision might be made at the end of a 45-day period, which means that these lawyers spent almost two-thirds of that period futilely searching for some copies of the 3,550-page impact statement.

Saying that Interior's treatment of the public has been shabby in this case is being kind to the Department. First, Interior refuses to hold public hearings on the basis that hearings would constitute "a circus," in the words of Under Secretary William Pecora. Then the Interior Department announces that it is sending the impact statement for a mere $42.50, and delays the distribution of these copies for as long as 1 month in some cases. And, to top it all off, the Department only provides seven publicly available copies for over 200 million people.

If there were a conscious conspiracy to prevent public scrutiny of the impact statement, it couldn't be accomplished much more effectively than this.

It is also important to note that the Council on Environmental Qoulity, to whom all comments on the impact statement are submitted, has so far received only five or six comments from private individuals on the Alaska pipeline impact statement. This was an unusually low number. I am just waiting for the Interior Department to say: "Aha, this shows that the public is satisfied with the impact statement." The real reason, of course, for the lack of public statement is that the Department has made the impact statement virtually invisible.

I believe very strongly that the Interior Department is truly concerned with allowing the public affair opportunity to comment on this vitally important environmental impact statement, it will agree to postpone its decision on the Alaska pipeline for at least 2 more months. In the interim it should, of course, make the impact statements much more available for public inspection and should also assure that those willing and able to buy the impact statement are able to get them much more quickly than is presently the case.

Fact Sheet—Department of the Interior

1. The Final Environmental Impact Statement on the Trans-Alaska Pipeline as proposed was the most lengthy and detailed im-

pact statement ever prepared. Consisting of 6 volumes and 3 supplemental volumes, it totals over 3.800 pages. The statement was the result of approximately 175 man years of work during the past year. It is the most thorough and lengthy impact statement ever published.

2. Congressman Aspin received a complete set of the 9-volume statement. Over two dozen complete sets of the 9-volume statement were distributed to certain members of the House and Senate.

3. March 20, 1972, was the date on which the Department of the Interior released the final environmental impact statement on the proposed pipeline. On that date, in accordance with the provisions of the National Environmental Policy Act, 10 copies were delivered to the Council on Environmental Quality.

4. On the same date, 102 copies of the 9-volume statement were made available to the press.

5. Ten copies of the entire statement were given on March 20, 1972, by the Department of the Interior to the lawyers for the three environmental groups who are suing the Department concerning the pipeline. These lawyers were given preferential treatment.

6. Congressman Aspin did not mention that the lawyers were given 10 free copies on March 20, 1972. But Congressman Aspin claims that the lawyers spent almost a month "futilely searching for some copies of the 3,500 page impact statement." While leading one to believe the lawyers could not get copies, Congressman Aspin failed to mention that the lawyers had been given ten free copies on the first day of issue.

The Department of the Interior did not sell the statement. The statement was sold by the National Technical Information Service of the U.S. Department of Commerce and by the Government Printing Office. The cost for all nine volumes (3,800 pages) was $42.50. The Department of the Interior sold no copies.

8. Congressman Aspin alleges that only seven copies of the statement are available for public inspection in the lower 48 States. Of the 2,460 copies printed, 585 were for Depository Libraries, 265 were for sale by the National Technical Information Service, and another 1,000 were for sale by the Government Printing Office. And in addition, copies were sent free to several environmental and public interest groups. Also, copies were provided to the media and to elected officials, all of which are public.

9. There were three printings of the 9-volume document. The first printing (March 20, 1972) provided 625 copies for special distribution such as the Council on Environmental Quality, the press, conservation groups, other government agencies and officials, Alaskan offices, and the Congress. Of that 625, 174 complete sets and 172 copies of Volume I went to the National Technical Information Service for public sale. The second printing (April 7) provided 225 complete sets to the National Technical Information Service for public sale. The third printing (April 17) provided 585 complete sets for Government Printing Office distribution to its depository library system and 1,000 complete sets for GPO sales stock.

I would like to go through each of the nine points in the Interior Department statement and analyze their accuracy and relevance in relation to my statement.

First. This has no relevance in relation to my statement except to suggest that because of the complexity and length of the impact statement public hearings should have been held and more time provided for analysis of the impact statement.

Second. It is true that I did receive a copy of the impact statement. But I did not receive a copy from the Interior Department. In fact, the Interior Department refused to supply me with a copy even though they of course knew of my deep concern and involvement in this issue.

Third. This is also clearly irrelevant. The basic point of my statement was to suggest that the Interior Department had failed to make the impact statement sufficiently available to the public. It seems somewhat odd that the Interior Department wants a pat on the back for supplying 10 copies to another Government agency.

Fourth. Again, my point was that they did not make the impact statement available to the public, not to the press. In fact, it is interesting to note how thorough the Interior Department was in getting copies of the impact statement to the press. It is unfortunate that it did not attempt with an equal amount of zest to make the impact statements available to the public.

Fifth and sixth. This is apparently an intentional distortion. I clearly said in my statement that these lawyers wanted these copies "to distribute to others for comment." Indeed, it is odd that Interior is bragging about supplying the lawyers with 10 copies since the lawyers originally asked for 40 copies and since it took so long for them to even purchase the additional copies that they were actually forced to Xerox off parts of the impact statement. The Interior Department also fails to mention that it was not its magnanimity that caused it to agree to supply the lawyers with 10 copies since it knew that the district court would force them to supply the lawyers with a certain quantity of copies.

Seventh. While it is true that the National Technical Information Service was responsible for selling the impact statement, it was the Interior Department that contracted with NTIS to sell the impact statement. It remained the Interior Department's responsibility to see that the impact statements were adequately distributed to the public at a reasonable price; $42.50 hardly seems to be a reasonable price. Moreover, it was the Interior Department that set the time limit of only 45 days for comments on the impact statement to be received by the Department. Even if it were impossible to get the impact statements to individuals who were willing to pay for them within 30 days—which I strongly doubt—it was the Interior Department that had the authority to extend the time for comments to be submitted. This they have repeatedly refused to do.

Eighth. I clearly said in my statement that only seven copies were publicly available for inspection in the lower 48 States. I challenge the Interior Department, or Mr. BEGICH, to disprove this statement.

Ninth. Nothing here contradicts anything I said.

In short, Mr. Speaker, I would hope that in the future the Interior Department and my colleague from Alaska will be more careful before issuing statements filled with distortion and inaccuracies.

THE ENERGY CRISIS—A SIGN OF OUR SHORTSIGHTEDNESS?

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. RONCALIO. Mr. Speaker, recently much has been made of the impending energy shortage in this country. By the end of this century, it is widely predicted that most or all of our natural resources, such as oil and gas, will be depleted. It will take some 1 million years to replenish them. Thus, this country, as we have known it and know it now as a world leader and a major power, will face extinction if something is not quickly done to correct a situation which shortly will cripple us.

Foreign trade can be no substitute for for native strength, as the decline of England has made abundantly clear. Even if the supply of oil and gas from the Near East should be unending, there is no guarantee that it could not be abruptly shut off at the whim of small Arab powers or of the Soviet Union itself. As odd, as much an echo of science fiction as this may sound, our continued existence as a power to be reckoned with, but moreover as a country strong and wealthy enough to support our people, may shortly depend upon our discovering absolutely new and as yet untried sources of energy. This is not my suggestion alone, but also that of several renowned experts and inventors, such as the famous R. Buckminster Fuller. In a recent speech before the students of the University of Colorado, Fuller suggested some of the ways in which this might be done. Not only must we devise new energy sources, but we must create ways in which the energy we do use might be used sparingly and might also be conserved. A student, Dennis D. Matewski, was so inspired by Mr. Fuller's speech, that he wrote an extended account of it for The Denver Post of last Sunday. It is my pleasure to insert this account, as well as the imaginative suggestions from Mr. Fuller which it contains, into the RECORD at this time.

TOOLS TO OVERCOME ENERGY CRISIS

TO THE DENVER POST: Recently, people have become aware of the impending energy crisis, and writers like Peter Drucker have pointed out that energy is necessary to eliminate the pollution problems, causing more pollution etc. Reports out now remind us that by the year 2000, all natural gas and oil reserves will be depleted and the United States will have nothing but coal as an energy source. People are talking about compromising our "high" standard of living to save on these valuable resources.

I think it's about time we looked at this from a more comprehensive point of view. It is in our specialization and lack of imagination that we are planning our doom and/or retreat to a less progressive world.

Buckminster Fuller has dedicated his life to charting the world's resources and has found there is enough to go around; and if these resources are used efficiently, everyone in the world can be put on a higher standard of living than any of us now know. Below are some of the thoughts he shared with CU students on April 15. Considering the way people are talking about these problems, I feel it's worth passing on.

People talk about pollution. The universe has no pollution. It is totally regenerating. Specialization produces pollution. For instance a mining business extracts minerals and produces tailings that are waste because that company doesn't make that product, but that same mineral is probably being mined by someone else, someplace else, at very great expense.

Power plants spew out huge amounts of sulfur into the air. Yet it is fact that the amount coming from the stacks in concentrated form, is the exact same amount that is mined to satisfy the world's sulfur needs.

Heat loss is based on surface area, so the more efficiently a structure covers something, the less energy is required to heat or cool it. Take a motorcycle engine, which is air cooled. It has a large surface area created by fins to get rid of excess heat. If you really wanted to be efficient you would use spikes because they have even more surface area exposed The needles of pine trees do this in hot climates.

Speaking of spikes and heat transfer, the best air-cooled engine in the world is New York City. Fuller has calculated that if he would put a 2.5 mile diameter dome over Manhattan, and completely heat and air condition it, the surface area exposed to adverse conditions would be 80 times less than at present, meaning that it would take 80 times LESS energy to heat it than at present—80 times Think of the saving in fossil fuels! This saving would pay for the dome in three years! Then we talk about not enough to go around!

That brings us to the fuel crisis. Just what kinds of fuels are we talking about? There are two kinds, Fuller like to think of them as "income" and "capital" resources. Capital resources, such as natural gas, oil, fossil fuels, etc. cannot be replenished without millions of years. These should be used sparingly.

Why not research our income resources to harness them because they will never be diminished due to their regenerating principles. Income resources include the wind, sun, waves and gravity. The energy of a hurricane for one minute is greater than that of the total stockpile of nuclear weapons of both the United States and Russia combined. Yet, has any research been done to harness this power? No.

A good example of doing more with less is copper wire. At first it could transmit one voice, then four, then sixteen, until now it carries thousands. The Trans-Atlantic cable took tons and tons of copper, now a single satellite does many, many times more work using an infitesimally small amount of copper, the rest being available for recycling. Seventy-five per cent of all copper ever mined in the world is in circulation today, being reused and re-melted, always to a more efficient use.

It seems that our whole problem lies in our unwillingness to try something new or explore other alternatives. Instead of turning on the ship's seepage pumps, we are hanging over the edge watching it sink! Maybe this is why Fuller wrote a book called, "Utopia or Oblivion: the prospects for humanity."

DENNIS D. MATESKI.

BOULDER.

BRINKSMANSHIP IN VIETNAM

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. UDALL. Mr. Speaker, today I issued a statement dealing with the serious developments in Vietnam which I would like to share with my colleagues. In addition, I wanted to call their attention to an excellent column by Tom Wicker in today's New York Times. I insert both these items at this point in the RECORD:

STATEMENT OF REPRESENTATIVE MORRIS K. UDALL

Mr. Nixon has embarked on an unwise and extremely dangerous game of brinksmanship without the slightest attempt to comply with the Constitutional requirement of Congressional action. I think—and hope I am wrong—it will turn out very badly for all of us and for the world. I hope the Soviets show more restraint and judgment than we have, but the matter is in grave doubt.

No President should take the world into the shadow of nuclear war except for the most pressing and overriding considerations of national security. But no such considerations are involved in Vietnam. He asks a major world nuclear power and its ally to accept an ultimatum of a kind we and he would instantly reject.

And for what? As nearly as I can determine the main things at stake are to save prestige and face for the President, and to keep a corrupt Saigon government in power.

There is great confusion in Mr. Nixon's logic. On one hand he tells us that peace in the Middle East, in Europe and elsewhere depend on the Russians and North Vietnamese bowing to our ultimatum that the Saigon government shall not fall. In the next breath he tells us that if they'll accept dictation of terms from us and return the prisoners we'll completely withdraw in 4 months, after which presumably the Vietnamese themselves can depose Mr. Thieu.

And to complete the illogic his previous statements imply that unless the adversary meets our terms we'll withdraw 20,000 more ground troops by July 1st!

I call on the President to pull back from this reckless escalation before it is too late, and to take the Congress into his confidence. All of us got into this miserable war together (Democrats and Republicans). Together we can find a way out.

AN AMERICAN EMPEROR

(By Tom Wicker)

"No One Knows," said the headline in The New York Times, "What He Might Do." And indeed, no one, including Secretary of State William Rogers, summoned home from Europe for a National Security Council meeting, could know what President Nixon might decide upon as antidote in the current crisis in South Vietnam. The press has described admirably the range of explosive options open to him; members of his Administration had been hinting darkly of the terrible vengeance this unchecked Caesar might choose to wreak upon something abstract known only as "Hanoi" or "the enemy"; but the decision was Richard Nixon's.

And when Mr. Nixon in his majesty chose to speak to the American people last night about his intentions in Southeast Asia, it was an act of *noblesse oblige* as well as an exercise in self-justification. Nothing in the law required him to confide in a single citizen; and although it was true that he spoke only after three hours of consultation with his primary national security associates, it is well-known that these officials more nearly ratify than form Presidential judgments.

Has it come to this, then, that it lies within the sole province of one man, unlimited by law or opinion, whether elected by landslide or hair's breadth, to decide without let or hindrance how the military power of the United States shall be used even in a situation his own policies have done much to create? Is that what the Constitution means, when it says that the President shall be Commander in Chief of the Armed Forces?

As to the first question, there seems little doubt that the answer is yes. Just last year, for instance, Congress passed an amendment to the Military Procurement Authorization bill which declared it to be the policy of the United States to bring to an end "at the earliest practicable date" all military operations in Indochina, subject only to the release of all American prisoners of war.

What was President Nixon's reply to that? Upon signing the measure on Nov. 17, he declared flatly that the amendment was "without binding force or effect and it does not reflect my judgment about the way in which the war should be brought to an end." It would not change his policies, he said, and in fact "legislative actions such as this hinder rather than assist in the search for a negotiated settlement."

Such high-handedness is not unique to Richard Nixon. The greatest of Presidents, Abraham Lincoln, interpreted the Presidential "war powers" so broadly that he repeatedly overrode both Congressional wishes and military advice; and since his actions saved the union, history generally accounts him strong and wise for having done so. But Lincoln was literally waging war for national survival, in a situation in which there was no precedent and which does not provide a precedent for anything that has followed—least of all a deliberate act of Presidential policy such as Vietnam.

Mr. Nixon, in contrast, now relies almost exclusively upon the Commander in Chief's power to protect the lives of American soldiers as constitutional justification for whatever he might choose to do in Southeast Asia; yet, it is arguable that American soldiers are in jeopardy primarily because Mr. Nixon's own policies have kept them in Vietnam. So the mere act of putting troops into a place, or keeping them there, which is in itself a Presidential decision, becomes the Presidential justification for any other Presidential action he may choose to take.

Mr. Nixon has not, for example, resorted to the use of nuclear weapons in Southeast Asia; fortunately, there is no sensible military rationale for doing so. Nevertheless, the fact that the President has not so chosen does not alter the fact that it *was* his choice; sensible or not, he *could* order nuclear warfare tomorrow and no man could stop him, unless the military chose to revolt—hardly a desirable alternative.

Since the authors of the Constitution could not foresee the nuclear era, they could have had no intent to lavish upon the President that degree of power; indeed, almost every other line of the document they produced suggests the extent to which they mistrusted unchecked power, whether vested in an executive or in a people's assembly.

Richard Nixon need not be psychoanalyzed or even mistrusted in order to perceive that that mistrust was well founded; for as he went on the air last night, it was terrifyingly true that no one knew what the President would do, that no immediate means of influencing his judgment was at hand, that no real way existed to stop him from following some apocalyptic course. He was in that moment as true an emperor as ever existed and scarcely more accountable; a people who wanted peace could still be given war at his dictate; and what good would it do to vote him out of office six months from now if the world were an ash, or "the enemy" had been obliterated in his honor?

A LETTER FROM VIETNAM

HON. GLENN R. DAVIS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DAVIS of Wisconsin. Mr. Speaker, I recently received this letter from a young man who is one of the many not unaware nor taken in by the machinations of a few opinion leaders in this country. His insight comes not only first hand but of being of immigrant stock from an Eastern European country, who has had direct knowledge of what Communist aggression is all about. The letter follows:

Dear Glenn: As you can see, I am still in sunny Saigon observing with increasing dismay what our news media report about Vietnam and the attitude of some of our lawmakers.

You know Glenn, I was having dinner in a Saigon restaurant just last Saturday night when a Viet Cong detonated a plastic charge within a few meters of my table. After I collected myself and went home, I turned on the television to relax only to be informed about our glorious Senators Kennedy and McGovern berating the President for trying to help repel the North Vietnamese invasion. After that they showed pictures of demonstrations in the U.S. against the bombings of North Vietnam. I was rather disgusted. I can not understand what is happening to our country and how the people back home and, even supposedly responsible legislators, can be so blind to what is going on. To us, who are in Saigon, because we believe that communist aggression must be opposed, that is all very discouraging. It is amazing that no one seems to oppose all the killing the NVA has done to the South Vietnamese.

PTA WORKS TO IMPROVE READING ABILITY

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SCHWENGEL. Mr. Speaker, one out of four students on a nationwide basis have significant reading deficiencies; 25 million jobholders may be denied advancement, because they have reading weaknesses. About one-half of the unemployed youth between the ages of 16 and 21 are functionally illiterate. Dropout students and juvenile offenders are often poor in reading skills, and literally millions of older elementary and secondary students cannot read above fourth-grade level.

These statistics are cause for serious concern. The reading ability of our students has long been a concern of parents and teachers throughout our Nation. The National PTA has designed a project, called RISE, to improve reading ability through the use of volunteers in the classroom, giving help to individual children under the guidance and instruction of the teacher.

There are three basic reasons for a child's failure to learn to read adequately: First, he does not know how to improve; second, he lacks the necessary skills; and third, he does not want to improve. Parents and teachers have accepted their responsibility to provide constructive learning situations for elimination of all these obstacles.

Project RISE will help to assure every student the opportunity to acquire the necessary reading skills to effectively participate in our society. Volunteers will be people in the community who are interested in helping children, PTA members, and others concerned. Materials have been prepared by members of the faculty of the reading program at Indiana University. The friendly, personal attention will hopefully provide the intimate contact necessary to develop lagging reading skills. The volunteers, however, will not be considered instructors. They will provide the needed extra help for teachers in the following ways: First, relieving teachers of nonteaching duties by serving as an extra pair of hands, eyes, et cetera; second, supplementing the work of the classroom teacher; third, building a better understanding of school problems among citizens; fourth, providing 1-to-1 or small group relationships between the child and the volunteer; and fifth, enriching the opportunities for reading growth.

This innovative program is a step in the direction of better reading skills for all students by concentrated effort in the schools. But Project RISE will also encourage direction in the home, where over 50 percent of a child's development occurs, by educating parents to the need for improved reading ability.

A laudable program, Project RISE deserves the support of parents and educators everywhere. With continued emphasis, we will be able to correct the all-too-prevalent reading deficiencies among our elementary and secondary school children. Job opportunities will be enhanced and personal participation in Government increased.

For recognizing the problem and taking initiative, the PTA deserves much credit. Success for this program merits our help and contribution.

LORETTA FLEMING RETIRES AS MANAGER OF PENNSYLVANIA BUREAU OF EMPLOYMENT SECURITY

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. McDADE. Mr. Speaker, it is not possible to be in Washington for more than 5 minutes without learning that this Government functions because there are competent and dedicated civil servants who patiently do the work that must be done, who seek little recognition, whose career is a commitment to the excellent functioning of Government, so that the Government may more properly serve the people. And what is true of the Federal Government is certainly true of the government of each State.

In Scranton, Pa., Miss Loretta Fleming has announced her retirement after 34 years with the Pennsylvania Bureau of Employment Security. Here is, indeed, the very personification of the excellent civil servant, devoted to her work far beyond the mere concept of holding a job, but rather committing her life to that most vital part of our American life—the securing of employment for those in need of work, so that they might raise their families in decency and dignity.

I have had many occasions to contact Miss Fleming when my constituents came to me for help in securing employment. She was unfailing in her attention to every request. I knew each time that the problem was in the hands of one who would do everything humanly possible—and a little more—to solve it.

I know that every Member of this House will join me in commending Miss Fleming for her devoted years of service to mankind. If our governments function well, they do so through the tireless devotion of such people as Miss Fleming. She has served all of us, and served us in an outstanding manner.

With your permission, Mr. Speaker, I insert in the Record an article from the Scranton Tribune which details somewhat her career with the Bureau of Employment Security:

With Employment Service 34 Years—Miss Fleming Retires as Manager of Pennsylvania Bureau of Employment Security

Loretta Fleming, distaff manager of Scranton office, Pennsylvania Bureau of Employment Security, has concluded a career with that agency which started back in 1938. In that span of 34 years she saw and participated in major changes in what started out concerned primarily with paying jobless benefits and steering the "best qualified" job applicants to employers.

Miss Fleming, who resides at 1240 Wyoming Ave., Exeter, and who was Scranton BES manager since March of 1967, officially ended her long service with the bureau as of last Friday but emphasized she "intends to keep on being active so long as I have good health and stamina."

Holder of a degree in education earned at Bloomsburg State College, plus post graduate work at Columbia University, she joined the employment service during its initial stage after two years with the Department of Public Assistance.

During her association with the service she handled a variety of jobs at Nanticoke, Pittston local offices and as an occupational analyst with the district office, then based in Wilkes-Barre, before succeeding the late Stanley Simrell as Scranton office manager. She also was temporary manager of the Youth Opportunity Office six months while it was getting started in Scranton.

Miss Fleming said most of her time with the BES was spent on the "employment side," although as Scranton office manager she also was in charge of the related unemployment compensation program.

Asked about the changes in the program over the years, Miss Fleming said there has been great and valuable expansion from something which began "just as an office for paying jobless benefits and finding jobs."

Elaborating, Miss Fleming said: "No longer is BES just an agency filling job orders and paying out benefits. Now we are engaged in "fitting applicants to jobs and getting employers to find slots for those in need of employment.

"When we first started it was the policy to send the best qualified . . . the 'cream of the crop' . . . to employers placing job orders. But we found there were jobs going begging while lots of people were unemployed. We realized that we had to retrain people and that employers had to be interested in helping find places for job seekers who didn't possess all the skills."

Miss Fleming said she finds great satisfaction in her career since it was progressively more concerned with "helping people qualify for employment rather than writing them off if they lacked skills."

While stressing "there are always people who take advantage," Miss Fleming said that for the vast majority of people on the rolls "it is not pleasant to be unemployed."

She said her immediate plans are indefinite, although travel is always appealing and she wants to do "useful things."

It was reported Jack Fox, assistant office manager, will be designated as acting manager of the Scranton BES office.

THE ADMINISTRATION AND THE WAR

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. RIEGLE. Mr. Speaker, the following two articles are thoughtful and accurate. They deserve careful attention, so I insert them in the RECORD at this point:

JUDGMENT ON WAR: DUMBFOUNDING INCOMPETENCE

(By William F. Buckley, Jr.)

What I want to know is: Why have we known so little? Why have we misjudged so gravely? I ask the questions at this point, clinically, without prejudice to any future right to give way to anger.

One week ago the President of the United States told the entire country and the entire world that the invasion of South Vietnam would be repulsed, that that was the solid military judgment of Gen. Creighton Abrams.

Today the South Vietnamese are almost everywhere in tatters, the millions of pounds of bombs we continue to dump over North Vietnam and much of South Vietnam appear to be about as related to stopping the North Vietnamese offensive as underground atomic explosions in Amchitka. One province is gone, another teeters at the brink, the refugees swarm out of the cities in such numbers as the Chinese did during the 30s fleeing the Japanese, the South Vietnamese army falls apart, whole regiments and divisions become nothing more than journalistic abstractions. Why didn't we know? Anticipate it? Warn against it?

There are many cases to be made against President Nixon, but let us confine ourselves to the one that says simply: With all his experience, with his knowledge of the dozen times his predecessor ventilated an optimism which proved to be inopportune to the point of being macabre, what did he do to overhaul the means by which he got his information?

Is it the fault of Gen. Abrams, who was there before President Nixon was elected? What is the nature of Abrams' misestimates: Was it on the morale of the South Vietnamese that he guessed wrong? If so, why did he guess it wrong? Did he make enough allowances, in his estimates, for the morale factor? If not, why not? Did the Defense Department probe the matter, or simply accept the estimates of the commander in the field? Did the CIA contribute to the estimate? When, early in Nixon's term, the CIA advised that Vietnamization would not work, were its arguments confuted, if so by whom, using what arguments, what analysis?

Or was it the military strength of North Vietnam that we misestimated. The President told us that it was last October that we discovered that the enemy was preparing for a great offensive. Indeed: Did we know on what scale the enemy was preparing? Did our intelligence services perform usefully? Did we weigh the amount of equipment being off-loaded from the Soviet freighters? Did we know the nature of the materiel? Did we infer the uses to which it would be put? Did we organize our defenses, given the assumptions, competently?

There are many things to be focused upon in the next weeks, having to do with the consequences of what is happening in Vietnam, but one of them surely is the dumbfounding incompetence of our calculations. We have been made to sound like Nicholas II, confidently advising the court that the imperial navy would knock out Japan in three weeks.

How many other mistakes, and miscalculations, have we made, are we relying on? As we have sat in Helsinki playing poker, have we proceeded on the basis of information put together by the same people who put together the information on which we have relied in Vietnam? President Thieu has gotten around to firing a couple of generals. Will we?

Do we need to completely revamp our intelligence system? What about the State Department? And of course the Army.

There are a lot of people who, after assimilating the loss of South Vietnam of those South Vietnamese who fought because we told them on network TV that we would never let them go down, are going to ask the hard technical questions, and they are not going to spare the army, indeed they may very well not spare the commander-in-chief and I'm not so sure they should.

HISTORY UNHEEDED: STILL DARKNESS IN THE TUNNEL OF VIETNAM

(By Flora Lewis)

WASHINGTON.—President Nixon has once more appealed to the people of the United States to unite behind his Vietnam policy. He spoke of "this final challenge," though obviously there is no kind of pledge from Hanoi that it won't launch another offensive next fall or next spring—if South Vietnam weathers the current heavy fighting.

He did not repeat his previous frequent assessment that the war "is winding down." Nor did he repeat statements that America's goal is limited to safe repatriation of troops and prisoners and self-determination for South Vietnam.

On the contrary, the President appeared once more to escalate America's war aims, as he escalated the air war in response to Hanoi's escalated attacks on the South. "Our overall goal," he said, is "insuring South Vietnam's survival as an independent country."

This is a good deal more than "self-determination" or a "reasonable chance," especially since the 1954 Geneva Accords, which Nixon said Hanoi has now violated, explicitly provided for reunification of Vietnam and explicitly said the line between north and south was only a military demarcation line, under no circumstances to become a political border.

Ruling out union of North and South, whether by self-determination, political maneuver or military action, is only an apparent expansion of U.S. objectives, however. Sometimes the aim has been masked by other words, sometimes it has been stated openly.

Nonetheless, it has been the care of Washington's unchanged policy through the Eisenhower, Kennedy, Johnson and Nixon administrations. The differences, in each phase of the war, have been in each administration's view of the best means of pursuing that goal.

Nor has there been any change in Hanoi's goal during all that time, only sporadically varying ways of seeking it.

President Nixon's biggest switch has been to build up the South Vietnamese armed forces, withdraw American infantry and shift America's combat role from dogged jungle sweeps to electronic air war.

"Vietnamization has proved itself sufficiently," he said recently, that "we can continue our program of withdrawing American forces," taking out another 20,000 troops by July 1.

It is the numbers game again. On April 7, 1971, the President told the nation on TV, "Tonight I can report that Vietnamization has succeeded," because of the "success" of the Cambodian and Laotian operations.

But the Defense Department's spokesman now discloses that from March 2 to April 20, 1972, U.S. Navy manpower off Vietnam increased by 23,000 to a total of 38,000, and Air Force manpower in Thailand increased by 2,000 to 34,000. These figures can be misleadingly low, because Defense has a habit of assigning men on "temporary duty" and not counting them in the published force levels, although they are regularly replaced so that in fact they represent a steady increase in force.

Complete or not, this is at least 25,000 additional men committed to the Vietnamese war, more than the new withdrawal total.

NUMBERS GAME

As President Nixon points out, though, he will have taken 500,000 men out of Vietnam itself by July 1, three-and-a-half years after he took office. That is one-half year longer than it took President Johnson to put them in, building ports and bases and barracks as they arrived.

The casualty numbers game is the most painful of all. The President said they have been reduced by 95 percent and no doubt there are accurate ways of presenting the figures to produce that comparison.

However, a total of 45,713 Americans have been killed in action in Vietnam, through April 22 of this year. Of those, 15,200—about one-third—were killed after Jan. 1, 1969.

There is another category of American deaths related to the war (not to speak of Vietnamese deaths) which Defense calls "non-hostile" and which are listed separately. These may be from accidents, disease or even deaths in hospitals outside of Vietnam after evacuation of the wounded. Defense lists a total of 10,136 since the war started, of which 4,013—some 40 percent—were since Nixon took office.

In place of assuring a "winding-down war," the President has called on the country "to respond to this final challenge." With echos of Neville Chamberlain one year before the start of World War II, he has offered "not only peace in our time, but peace for generations to come."

Meanwhile the war goes on. The deaths mount. The participants are replaced. And the basic goals, in Washington and Hanoi, remain both unchanged and flatly contradictory.

It is the same old tunnel and there is still no light, only the same old administration hope that somehow North Vietnam can be forced to quit.

IOWA OPPOSES FRAGMENTATION OF STATE

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SCHWENGEL. Mr. Speaker, the Federal Reserve Board has issued a formal policy statement directing the Federal Reserve banks to extend check-clearing arrangements to wider areas. This will greatly enhance check-clearing time and its resultant other benefits.

Iowa is in the possible position of being split between two Federal Reserve banks. Recently, the Iowa State Legislature, in House Concurrent Resolution 132, opposed such a split and urged the needs of the business interests of the State as a whole be considered before any split is made.

The resolution follows:

House Concurrent Resolution 132

Whereas, the Board of Governors of the Federal Reserve System has issued a formal policy statement directing the Presidents of the Federal Reserve Banks to extend check clearing arrangements into larger zones of immediate payment and establish other regional clearing arrangements wherever warranted by the need for more expeditious and economical check handling; and

Whereas, the Federal Reserve Bank of Chicago, which serves the Seventh Federal Reserve District including Iowa, has established objectives to implement these directives including the establishment of a regional check clearing facility in Des Moines, Iowa; and

Whereas, the establishment of a regional check clearing facility in Des Moines will be valuable to Iowans because of the employment of additional persons in the Des Moines area, the reduction of check clearing time, and providing the business community with more funds because of faster check clearing with the result that more businesses may be attracted to the central region of Iowa; and

Whereas, in developing the plans to implement the directives of the Board of Governors of the Federal Reserve System, consideration is being given to dividing Iowa between two Federal Reserve Districts which might have the effect of fragmenting the state of Iowa; and

Whereas, such fragmentation would be disadvantageous to the business communities of Iowa if not implemented with due consideration to the needs of individual economic areas within the state of Iowa, now therefore,

Be it resolved by the House of Representatives, the Senate concurring. That the General Assembly strongly urges the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of Chicago not to detract from the beneficial aspects of their objectives by fragmenting the state of Iowa into different Federal Reserve Districts, or if some fragmentation is necessary because of the economic characteristics of certain regions of the state of Iowa, the needs of the business interests of the state as a whole be carefully considered and only those areas of the state which have a distinct definable economic interest in areas outside of the state be joined to such areas; and

Be it further resolved, That a copy of this Resolution be forwarded to each member of the Iowa Congressional delegation in order that each such member can inform the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of Chicago of the concern, interest, and position of Iowa citizens in regard to the pending changes in the Federal Reserve System.

We, William H. Harbor, Speaker of the House and Roger W. Jepsen, President of the Senate, hereby certify that the above and foregoing Resolution was adopted by the House of Representatives and the Senate of the Sixty-fourth General Assembly, Second Session.

Roger W. Jepsen,
President of the Senate.
William H. Harbor,
Speaker of the House.

THE PEOPLE'S VOICE IS HEARD

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. YOUNG of Florida. Mr. Speaker, more than 101,000 people in the Eighth Congressional District of Florida responded to my second annual districtwide questionnaire. The district is made up of people from nearly every section of our great Nation, and their views on some of the issues confronting America will be beneficial to all of us in Congress.

To insure that the survey was fairly worded, I secured the assistance of Premack & Associates, a St. Petersburg polling and market research firm, to draft the questions. I believe the results gave me extremely accurate information on how the people feel about various issues—Gallup, for example, samples only 1,600 persons nationwide for his highly respected survey.

Here, for the benefit of my fellow Congressmen, are the results of the opinion survey—figures rounded off to the nearest tenth of a percent:

1. Should employees of the Federal Government be given the right to strike? Yes—14.5%; No—81.7%; No opinion—3.7%.
2. Would you be in favor of a government financed guaranteed annual income for everyone? Yes—19.7%; No—76.2%; No opinion—4.0%.
3. Do you believe property taxes for schools should be partially replaced by a Federal value-added tax (similar to a sales tax)? Yes—41.7%; No—50.1%; No opinion—8.6%.
4. Do you believe the news media should have the right to publish or broadcast secret government information dealing with national security? Yes—11.1%; No—86.2%; No opinion—2.6%.
5. Should amnesty be granted to young men who fled the country to escape the draft? Yes—9.8%; No—87.5%; No opinion—2.6%.
6. Would you favor a national program of no-fault auto insurance? Yes—86.6%; No—11.5%; No opinion—1.6%.
7. Do you support President Nixon's strategy in Southeast Asia? Yes—69.7%; No—28.2%; No opinion—1.6%.
8. Would you support the bill now pending before Congress to raise the legal limit on alcohol in candy from ½ to 8½%? Yes—11.6%; No—87.2%; No opinion—1.0%.
9. Do you believe that President Nixon's trip to China was beneficial? Yes—82.8%; No—15.4%; No opinion—1.7%.

I AM A REACTIONARY!

HON. PAGE BELCHER

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BELCHER. Mr. Speaker, I would like to take this opportunity to insert the enclosed article which appeared in the Tulsa Daily World on April 4, 1972, written by Patricia Young. I believe that this represents the sentiments of a great many people in this country.

The article follows:

I Am a Reactionary!

(By Patricia Young)

Just for the record—and without apology—I am a reactionary! I react to sin and sadism, riots and revolution, gutlessness and Godlessness; to philosophies and sophistries which seek to destroy those values which make a country great, and which fashioned the very fabric of civilized mankind.

I react to dancing the permissive polka with those who would whirl me all the way to Hell while whispering that "God is Dead" and that the Devil is nothing but a myth. Yes, I am a reactionary: I react to those ministers who would convert my church into a hootenany hall or a political forum.

Yes, I'm a reactionary. I react to the emasculation of my Faith in the name of humanistic togetherness; I react to those who would seek to destroy my love for the Holy Bible, and my loyalty to the flag, and my esteem for the police.

I react to charges that I am personally guilty for other people's failures—as if I personally poured liquor down the alcoholic's throat, or peddled the heroin, or mugged a little old lady, or created the slums, or invented The Bomb!

I react to the glorification of the welfare state as a substitute for working for a living. I react to stupid kids who turn to pot and away from pink lemonade. Yes, indeed, I am a reactionary! I react to those who advocate The Pill instead of purity, and demonstrations instead of dedication, and desire over discipline, selfishness instead of sacrifice. I react to those who constantly prate about "rights" but who don't give a darn what's right.

I react to the portrayal of my friends in America as "Fascist beasts," and to those who regard Communist dictators as Santa Claus. I react to those who consider love as nothing more than sex, and who contend that "art" is a film showing an unmarried couple in bed together. Yes, sir, I react to order to promote surrender, and who are so in love with themselves that they would destroy all values except their "right" to be against everything.

I'm a reactionary, yes I am: I react to the stupid sentimentality of amateur-do-gooders who, like carved wooden monkeys, see no evil, speak no evil, and hear no evil—even when it runs riot with a shotgun, Molotov cocktail or plastic bomb. Oh, do I ever react! I react to the phonies who would re-write Little Red Riding Hood to have her "rehabilitate" the wolf while screaming "hate-monger" at the woodsman coming to her rescue.

You'd better believe I'm a reactionary. In my book, it's time all responsible adults began reacting instead of suffering the insults, inconveniences and intimidations of a noisy minority who would sacrifice their own freedom—and ours—on the altar of atheistic materialism.

If the majority will just begin reacting, the kooks and the creeps would soon crawl back under their rocks, and this tired old world would have time to bind its wounds and regain its sense of humour.

JUDGE-OCRACY

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. LENT. Mr. Speaker, in recent years, I have viewed with alarm the increasing involvement of the courts of our land in legislative affairs. On May 4, Ira L. Cahn, publisher of the Massapequa, N.Y., Post, wrote an editorial on "judge-ocracy," which describes two court decisions regarding zoning regulations established by local legislative bodies. I believe Mr. Cahn has coined a new word in the lexicon of politics to describe the alarming phenomenon of increased court involvement in legislative affairs.

So that my colleagues may have the benefit of Mr. Cahn's views, I am including them in the Record at this point:

Judge-Ocracy

(By Ira L. Cahn)

Two court decisions that could affect the quality of life in the Massapequas and other suburban areas were reported in the daily press this week. One, in New Jersey, voided a township's zoning ordinance on the ground that it led to economic discrimination against persons with low and moderate incomes. The other, in New York State, upheld the right of suburban towns to set aside vacant land for future governmental use such as schools and parks.

We hope the New Jersey decision is overturned by higher courts because if it isn't, control of zoning will pass from elected town boards and other legislative bodies to the courts. For much the same reason in reverse, we hope the New York ruling stands, since it could tend to nullify the effect of the sweeping New Jersey edict.

Our interest in these decisions is more than academic. The Town of Oyster Bay will soon go to trial over the zoning challenge instituted by the NAACP. The outcome of that trial could determine whether local control can survive in the suburbs.

We read some time ago that the United States was fast becoming a judge-ocracy. We're beginning to agree.

CITIZENS RESPOND TO QUESTIONNAIRE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ARCHER. Mr. Speaker, in order to achieve constructive changes in our laws and policies, it is important that the people make their views known to their representatives in government; but all too often they do not. Thus, I was quite pleased that so many citizens in my district responded to a questionnaire I mailed to them last month.

The poll covered some of the significant issues confronting Congress and the Nation this year. I was encouraged to learn that there are many thousands of people in my district who are concerned enough about these issues to take the time to answer the questionnaire. And by doing so, they are a great help to me as their Representative in Congress.

I think their opinions will also be of interest to my colleagues, so I hereby submit the results of the questionnaire for inclusion in the RECORD:

[In percent]

Do you think the wage-price controls benefit you?

Yes	52.7
No	42.8
No response	4.5

2. Do you support the President's policy in Southeast Asia?

Yes	65.2
No	29.0
No response	5.8

3. Do you think the U.S. financial contribution to the United Nations should be reduced?

Yes	75.6
No	20.3
No response	4.1

4. Do you support the idea of a national value-added (sales) tax?

Yes	16.2
No	75.6
No response	8.2

5. Do you support development of the Addicks-Barker Reservoirs as a major recreational park and wildlife preserve?

Yes	81.6
No	10.9
No response	7.5

6. Do you favor U.S. recognition of Communist China?

Yes	67.0
No	27.1
No response	5.9

7. Do you favor forced busing of school children to achieve a racial balance?

Yes	5.6
No	93.0
No response	1.4

8. Would you favor amnesty for draft evaders and deserters?

Yes	13.4
No	84.2
No response	2.4

9. Do you think the death penalty should be abolished?

Yes	21.1
No	76.1
No response	2.8

10. Do you favor the legalization of marijuana?

Yes	23.5
No	72.8
No response	3.7

11. Would you favor the establishment of a national health insurance program?

Yes	37.6
No	54.5
No response	7.9

RESOLUTIONS OF THE TANANA CHIEFS CONFERENCE—AN ALASKA NATIVE REGIONAL CORPORATION

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BEGICH. Mr. Speaker, the Alaska Native regional corporations recognized in the Native Claims Settlement Act are continuing to develop and take an active role in the public affairs of the State of Alaska. Most of the regional corporations recognized in that act were in existence and functioning long before the settlement legislation was passed, and the Tanana Chiefs Conference was one of those having a long and responsible history. So that my colleagues can understand some of the issues, and some of the progress in this area of Alaska, I am inserting a number of the resolutions passed at a recent meeting of the Tanana Chiefs:

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72–46

Whereas, the Village of Telida has no Post Office, and

Whereas, the Village of Nikolai is just a Star Route Post Office with only one mail run per week in the summer and two in the winter, and

Now therefore be it resolved, that Upper Kuskokwim Native Association has gone on record to request the Post Office Delivery to establish a Post Office in the Village of Telida and establish a United States Post Office in Nikolai with two mail runs per week year round.

Be it further resolved, that the Tanana Chiefs Conference go on record to support these member villages actions.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72–52

Whereas, Tanana Chiefs Conference supported Resolution 72–15 in regards to extention of the Holly Cross Airport, and

Whereas, there is a need for an adequate road to be built from the City of Holy Cross to the airport at Fat Johns Slough, and

Whereas, these two projects could be combined,

Now therefore be it resolved, that Tanana Chiefs Conference supports the village of Holly Cross for the above mentioned.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72–58

Whereas, the State of Alaska has laws governing the taking of game in Alaska, and

Whereas, the State of Alaska has repeatedly failed to carry out such laws, and

Whereas, the State of Alaska's failures have resulted in endangering Alaskan Native's subsistance living, and

Whereas, the United States Conference Committee stated that Congress "Expects both the Secretary of The Interior and the State of Alaska to take any action necessary to protect the subsistance needs of the Natives."

Let it hereby be resolved, by the Tanana Chiefs Conference duly assembled the 16th day of March, 1972, take the appropriate steps necessary to assure continued subsistence living for Natives.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72–59

Whereas, there is a 25 mile limit set on all Native Villages for Wolf hunting by airplanes, and

Whereas, the present laws on Wolf hunting, with airplanes, are not presently strictly enforced,

Now therefore be it resolved, that the State of Alaska Fish & Game *strictly* enforce the existing 25 mile limit, and

Be it further resolved, that a person owning more than 1 plane be limited to a *total* of 10 Wolves.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72–60

Whereas, the Public Health Service Dental Teams are not being fully utilized in Fairbanks and outlying rural areas within the Tanana Chiefs Conference, and

Whereas, some days only a few patients show up after a full booking of patients, and

Whereas, the Native people realize the great need of additional dental teams for the Tanana Service Unit, and

Whereas, we realize true statistical data possibly would not be conveyed to a Public Health Service employee as it would to an independent Native party,

Now therefore be it resolved, that Public Health Service Contract out to the Tanana Chiefs Native Organization for a survey to be made immediately.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72–63

Whereas, fishing licenses are currently being sold at Tatalina Air Force Base, and

Whereas, it is desirable that these licenses be sold at private business establishments for the purpose of bringing in business to the local merchant.

Now therefore be it resolved that the Alaska State Fish and Game be charged wtih investigating the possibility of changing the location of license outlet.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72-65

Whereas, the Iditarod Trail is a historical trail, and

Whereas, this trail is growing over and becoming unidentifiable, and

Whereas, this trail runs through the village areas of Takotna, McGrath, Medfra, Telida, and Nikolai, and

Whereas, the people of Alaska are concerned about this trail and its historic value,

Now therefore be it resolved, that the Upper Kuskokwim Native Association request that the State and Federal Governments take necessary action to brush this trail out, use manpower from this area and implement the necessary programs,

Be it further resolved, that the Tanana Chiefs Conference go on record in supporting these member villages action.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72-68

Whereas, Alaska State Public Health Service in their Satellite Radio Communications between Villages and Urban Areas is lacking in many villages, and

Whereas, Satellite Radio Communications have proven to be quite successful with regards to health problems and many other problems, to those villages that now have such Satellite Radio Communications, and

Whereas, It has been brought to the attention of the Tanana Chiefs Conference that there are many villages waiting for this service,

Therefore be it resolved, that the Tanana Chiefs Conference supports this stand that the Public Health Service in their 1973 fiscal budget includes Satellite Radio Communications for those villages not currently served.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72-73

Whereas, there is ninety miles of State of Alaska road net work in the Takotna Village Area, and

Whereas, these roads are deteriorating and have long been neglected by low funding in the State Budget for maintenance and improvement, and

Whereas, there is great future potential for recreation, historical, and mining interests to strengthen the economy of the area,

Now therefore be it resolved, that the Upper Kuskokwim Native Association to strengthen the economy and recreation interest of its area hereby request that the State of Alaska make a study for further development on this road net work,

Be it further resolved, that the State look into the possibility of extending this road net work to the nearby Village of McGrath,

Be it further resolved, that the Tanana Chiefs Conference in conference now assembled go on record in supporting these member villages requests.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72-91

Whereas the Tanana Native Community is without any type of fire protection and fires have destroyed homes there,

Now therefore be it resolved by the Tanana Chiefs Conference that it support Tanana's request for fire fighting equipment and the implementation of fire protection in Tanana.

Adopted April 5, 1972.

TANANA CHIEFS CONFERENCE—BOARD RESOLUTION 72-93

Whereas, communication is of vital importance in linking the Tanana Native Community with other areas both within Alaska and outside, and

Whereas, mail service is a primary communication medium,

Now therefore be it resolved that the Tanana Chiefs Conference support Tanana's request for more frequent and efficient postal services and for protection against the backlogging of mail.

Adopted April 5, 1972.

SUPERINTENDENT SCOTT DEFENDS SCHOOL COMMITMENT TO WELFARE MARCH

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. STOKES. Mr. Speaker, the welfare march held here on Saturday, March 25, 1972, has had some disturbing repercussions. The central theme of the march has been obscured by the furor over the support given by Superintendent Scott and the District of Columbia School Board. The march focused on the administration's callous disregard for the needs of poor children. The White House and the administration supporters reacted defensively by attacking Superintendent Scott, School Board President Marion Barry, and the members of the board. This was a diversionary tactic.

The reaction was a natural one for an administration which had proposed H.R. 1, the welfare restraint bill. Defending President Nixon, whose basic theme on the welfare issue is getting the cheaters off the rolls rather than feeding the hungry, is difficult. Only an administration which had so completely failed to live up to it promise to reform the welfare system would be vulnerable to such a march.

The superintendent and the board endorsed the march and permitted distribution of leaflets about it to schoolchildren. Children were given letters explaining the march to their parents and permission slips for parents to sign if they chose to allow their children to participate. The administration charged the superintendent and the board with manipulation of children. Coming from an administration which had just resumed the massive, indiscriminate killing of women and children by the bombing of North Vietnam, this was ludicrous.

Mr. Speaker, this controversy has brought threats to cut appropriations for the District and predictions that the President and some Members of Congress will now resist legislation to provide home rule. In providing for the distribution of the leaflets, Superintendent Scott was carrying out the mandate of the elected members of the school board. As elected public officials should, the board considered an important issue, took a stand on it, and provided for the effectuation of that policy. The citizens of the District must look for leadership to the few officials whom they are permitted to elect, Delegate FAUNTROY and the school board. Those officials courageously and aggressively supported the march and are to be commended, not condemned, for their action.

Mr. Speaker, I want to express my strong support for Delegate FAUNTROY, Superintendent Scott, Board President Marion Barry, and the other members of the school board who have been so unjustly maligned.

In order to further clarify the record on this issue. I insert here the eloquent statement issued by Superintendent Scott on March 27, 1972:

QUALITY EDUCATION AND PUBLIC SCHOOLS

Quality education in a democratic society requires that the educational process relate directly to helping all individuals and groups live constructively together. While it stresses the attainment of certain very fundamental skills, the school must also demonstrate an equal concern for the individual's capacity and right to work and play with other members of society, whatever their race, religion, sex, or social and economic condition. In a world where men are geographically close but socially distant, the schools have a clear commitment: to help produce a climate in which democracy works.

Quality education has to do with the output of those educational institutions whose policies and practices contribute significantly to the intellectual, physical and psychological preparation of individuals for effective and satisfying participation in society. When applied specifically to black Americans, quality education designates the qualitative efforts of those institutions which provide major assistance to black people in fulfilling their need to alter (in legitimate ways) those elements of the social structure that will promote equal opportunity for all.

In keeping with the basic tenets of our democracy, the schools have a responsibility to reform society as well as to perpetuate it. By their very nature and intent the schools must be involved in the identification and resolution of societal problems and issues as they appear at the local and national levels. While the schools must not promote a partisan politics—advocating one political party over another—they must nevertheless participate in the exploration of current issues and ideologies in order to help create an informed public.

The integrity and viability of this democratic, pluralistic society depend in large measure on the effectiveness of our schools as agents of social consciousness and reform. With regard to the resolution of problems that deny individuals their rights as citizens, the schools must vigorously work toward actualizing our Constitutional principles and thus give substance to the American Dream. If the schools are relegated to the role of passive observers of social injustice, they cease to serve the interests of all Americans.

The rights of dissent and freedom of speech must be actively preserved in our schools. It is in the best interest of this country that the schools expound and exercise our democratic principles in the context of day-to-day experiences. The schools are far too fundamental to the hopes and aspirations of millions of citizens to be deterred from one of its major tasks: that of helping turn the promises of democracy into realities.

NATIONAL MONUMENT TO THE NAVY SEABEES

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. GOLDWATER. Mr. Speaker, today the question of a national monument to the Navy Seabees comes to the floor. I would like to speak in support of the monument.

The naval construction force, commonly called the "Seabees" was born in March of 1942. They were needed then, as they are now, as a mobile, versatile engineering force, capable of performing diverse construction tasks under great duress.

During World War II, the Seabees were responsible for a major construction effort in the Pacific, building 111 major airstrips, 441 piers, 2,558 ammunition magazines, 700 square blocks of warehouses, enough hospital space for 70,000 patients, tank storage for 100 million gallons of fuel, and enough housing for 1,500,000 men. Their ability to work under the most harsh, severe conditions made them rightful heroes in the eyes of the American public.

During the Korean war, the Seabees made the Inchon landing and positioned pontoon causeways in advance of the troops, working under heavy enemy fire and strong tides. They built a "couldn't be done" airfield for damaged aircraft, which was aptly titled "Operation Crippled Chick." They were given 35 days to do that job, and they completed it in 16.

Between the Korean and Vietnam wars, the Seabees concentrated on peacetime construction; they built the Marine Corps air facility on Okinawa using modern precast concrete construction that was copied by private industry. They built a floating drydock in Holy Loch, Scotland, for the Polaris submarine fleet. They constructed the Cubi Point naval airstrip in the Philippines by cutting a mountain in half and filled a mile-long section of Cubi Bay with blasted coral; a task equal to the construction of the Panama Canal.

More recently in Vietnam, the Seabees have been the backbone of the construction effort. Admiral Moorer, the Chairman of the Joint Chiefs of Staff called their work in Vietnam the "largest single construction project in the history of the world." The Seabees built camps for the Marines, Army, Navy, and Air Force, equal to a city with a population of half a million people, including all utilities, sanitation facilities, and roads. They built half a million linear feet of taxiways and runways, 4 million square miles of warehouse space, and for every mile of road they built, they also built 100 feet of bridges.

To their credit, the Seabees also have civic action units in underdeveloped countries in Southeast Asia, Micronesia, and other countries of the free world; they build and teach the natives to build water systems, sanitation facilities, roads, schools, hospitals, and orphanages. They are the "Peace Corps" of the military, and they do their job quietly, without fanfare, with dedication and professionalism.

A monument in the Nation's Capital to these earnest, hard-working, quietly heroic men is the very least we can do by way of tribute for years of selfless service.

ELEVEN SOVIET JEWS HIDE TO AVOID GOING TO ARMY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. EILBERG. Mr. Speaker, in today's edition of the Washington Post there is an article with the headline, "11 Soviet Jews Hide to Avoid Going to Army." It has a Moscow dateline and it was written by Robert G. Kaiser.

The article states that 11 Jews in their late twenties and thirties, all of whom are scientists, have gone into hiding to avoid being forced to go into the army.

They are being drafted at this late age because they have applied for permission to emigrate to Israel. Four of the 11 are leaders of the Zionist movement in Russia and have applied for permission to demonstrate during President Nixon's planned visit to Moscow later this month.

This method of "dealing with the Jewish problem" is not new to Russia. during the reign of the czars Jewish boys were "drafted" for 20 years as one method of destroying the Jewish community in Russia.

The article also mentions the lack of news about Jewish dissent in Russia in the Voice of America broadcasts to that country.

The only chance the 2.5 million Jews in Russia have for freedom is the weight of world opinion on their side. This was clearly demonstrated when the Jews convicted in the farcical Leningrad trials had their sentences commuted after protests poured in from around the world.

Yet, today, our Government seems to be doing less and less to support the Russian Jews. For a year now a group of Congressmen has been trying to convince the USIA to broadcast programs to Russian Jews in Yiddish.

These requests have been answered with only the flimsiest excuses for not making these broadcasts.

The fate of the Russian Jews rests in our hands and we must do more if we are going to help them.

At this time I enter into the RECORD Mr. Kaiser's article which describes the worsening plight of these people.

ELEVEN SOVIET JEWS HIDE TO AVOID GOING TO ARMY

(By Robert G. Kaiser)

MOSCOW.—Eleven young Jews, several of whom hoped to stage a demonstration during President Nixon's visit to Moscow later this month are in hiding to avoid being called into the army, Jewish sources here report.

All 11 Jews are scientists in their late 20s and 30s, all have applied for permission to emigrate to Israel and all have been denied that permission, these sources say. They are regarded as activists in the Jewish movement here.

[In Washington, a spokesman for the Washington Committee for Soviet Jewry said that telephone calls to the Soviet Union disclosed a similar pattern of pressure on Jewish activists in a number of cities outside Moscow.

[In Tallin, Estonia, and Kauna's, Lithuania, two men were unexpectedly called to military duty, while a Jewish activist in Sverdlovsk had gone into hiding the spokesman said.]

Alexander Y. Lerner, a professor whose 28-year-old son is one of the 11, said the group included many of the most useful members of the Jewish protest movement, as well as those "who are brave enough to make some manifestation during President Nixon's visit."

Four of the 11 had actually applied for official permission to stage a demonstration during the Nixon visit carrying signs reading "Let my people go."

A group of Jews including Lerner wrote Mr. Nixon asking to meet him here. Lerner said that he didn't really think this would be possible, but he does hope to meet a member of the presidential party in Moscow.

STRANGE SITUATION

He also says there will be a public demonstration while Mr. Nixon is here, but other Jewish activists say there will be no demonstration, because that could only lead to trouble. Activist Jews in Moscow often disagree on tactics.

News of the 11 men hiding from the army is already well known in activist Jewish circles in America and Europe—a fact which reveals something about the strange situation in which Jewish protesters here now find themselves.

Russian Jews got the news to the West by long-distance telephone. "Every day," Lerner explains, "I get calls from Los Angeles, Chicago, Florida, New York—everywhere . . . Today, I heard from Ohio, New York, London—twice from London—Canada."

The callers are Jewish activists in those cities, who apparently have no trouble getting through Soviet switchboards to talk to dissident Jews here. Lerner is only one of many Jews receiving these calls.

The correspondent first learned of the 11 Jews in hiding in a telegram from The Washington Post in Washington. Americans who had been talking to Moscow by phone contacted The Post.

These phone calls suggest the dependence Soviet Jews often feel on the outside world. This sense of dependence has grown since the small band of dissident Jews here learned that President Nixon was coming to Moscow May 22 "President Nixon must help us," Lerner said.

He also criticized the Voice of America for not carrying enough news about Jewish dissidents in the Soviet Union.

SMALL GROUP

The 11 young men in hiding are part of a relatively small group of Soviet Jews who have been denied permission to emigrate to Israel because of their jobs, educations or both. (Generally, emigration continues at a fast rate. More than 9,000 Soviet Jews have left for Israel so far this year.)

Lerner, a small, chain-smoking man of 58 who speaks English with a gravelly voice, is one of these himself. An expert on cybernetics with an international reputation and a dozen books to his credit, Lerner says he was told by Soviet authorities: "we cannot give such a gift (as him) to Israel . . ."

Lerner has been refused an exit permit three times since last fall when he first applied—and lost his job.

Others who have been denied exit visas include former employes of sensitive organizations, or others who had access to state secrets. This has been literally interpreted, so that some former Aeroflot pilots, for instance, have been denied visas.

U.S. BOMBING: AN ENVIRONMENTAL DISASTER

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ROSENTHAL. Mr. Speaker, the bombing war the United States has conducted and is continuing to wage during the course of our involvement in the tragic and senseless war in Vietnam has been on a scale unprecedented in the annals of history.

In the 7-year period from 1965 to 1971, the area of Indochina was bombarded by 26 billion pounds of munitions, which is approximately double the total used by the United States in all the theaters of World War II. Of the 26 billion pounds, 21 billion were exploded within South Vietnam, the nation we are ostensibly aiding and protecting. For the area and people of Indochina as a whole, U.S. bombing, from the air, the ground and from ships at sea, represents an average of 142 pounds of explosives per acre or, to put it another way, 584 pounds for each man, woman and child.

The incessant U.S. bombing of Indochina has had baneful effects both on the ecology of Southeast Asia and on the health and welfare of the people themselves.

Craters now pocket every area of South Vietnam like a lunar landscape, decimating forests, swamps, fields, paddies, roads, villages, hamlets and—worst of all—human lives. How many millions of innocent persons have been driven from their homes, maimed, and even killed by American bombs?

The number of craters produced in the past 7 years Indochina by American bombardment totals 26 billion, covering a total of 423,000 acres.

This campaign will have an impact that will outlast the troops and the fighting. It is a legacy of famine and disease and destruction.

Fertile soil has been displaced, promoting erosion; the removal of vegetation and humans has made the area in and around craters permanently barren, and the deep craters have made many areas impassable for travel.

The impact of cratering on agriculture has been substantial. Unexploded munitions buried in the ground have deterred many farmers from attempting to reclaim rice paddies or other farmlands and, of course, in many places the land can no longer support any form of agriculture.

In addition, many of the craters have penetrated the water table and remain filled with water during much or all of the year and have thereby become breeding grounds for mosquitos and other insects, greatly increasing the hazards of malaria, dengue fever and other diseases.

The timber industry is another casualty of American saturation bombing of Indochina. The heavy shelling and bombing has either destroyed the trees outright or riddled the timber with shrapnel making the cutting of the wood hazardous, and subsequently resulting in the weakening of the trees through infection by wood-rotting fungi.

In recent days we have heard that U.S. planes have begun bombing the dams and dikes of North Vietnam. This threatens the food supply for hundreds of thousands of persons now and for years to come.

The military effect of the bombing campaign may have been negligible—it certainly did not prevent or halt the current North Vietnamese innovation—but there can be no doubt about the environmental impact—that has been widespread and disastrous.

Mr. Speaker, I would like to call to the attention of my colleagues an article in the May 1972 issue of Scientific American by Arthur H. Westing and E. W. Pfeiffer entitled "The Cratering of Indochina." This article discusses in great detail the longterm ecological effects of the massive physical alteration of the terrain in Indochina caused by U.S. bombing.

The article follows:

THE CRATERING OF INDOCHINA

(The countries of the area are pitted with an estimated 26 million bomb and shell craters. What are the long-term ecological effects of this massive physical alteration of the terrain likely to be?)

(By Arthur H. Westing and E. W. Pfeiffer)

The unprecedented use of herbicides on a massive scale as an instrument of war in Vietnam has prompted several studies of the probable long-term effects of these chemical agents on the land of Indochina. Much less attention has been paid to the effects of the tearing up of the land by bombing and shelling. Yet the released tonnage statistics alone suggest that these effects must be sizable. In the seven-year period from 1965 to 1971 the area of Indochina, a region slightly larger than Texas, was bombarded by a tonnage of munitions amounting to approximately twice the total used by the U.S. in all the theaters of World War II.

During three tours of war zones of Indochina to assess damage done to the environment by herbicides, we became increasingly conscious of the ubiquitous scarring of the landscape by bomb and shell craters. From the air some areas in Vietnam looked like photographs of the moon. How would this cratering of the land affect life and the ecology in Indochina when its people attempted to pick up normal living after the war? It seemed that the physical alteration of the terrain by bombing might have created long-range problems fully as serious as those produced by the defoliation campaign (which had attacked more than five million acres of forest and cropland in Vietnam). In order to initiate investigation of the crater problems, the two of us went to Vietnam for a preliminary study in behalf of the Scientists' Institute for Public Information in August, 1971. From the U.S. Department of Defense we collected the limited information that was available to the public about the expenditures of munitions in Indochina. Then in the field we surveyed bombed areas on the ground and from the air (in helicopters) and interviewed many people, including farmers, lumbermen and other persons who had observed various effects of the bombing on the land, the economy and various occupations.

In the seven years between 1965 and 1971 the U.S. military forces exploded 26 billion pounds (13 million tons) of munitions in Indochina, half from the air and half from weapons on the ground. This staggering weight of ordnance amounts to the energy of 450 Hiroshima nuclear bombs. For the area and people of Indochina as a whole it represents an average of 142 pounds of explosive per acre of land and 584 pounds per person. It means that over the seven-year period the average rate of detonation was 118 pounds per second. These average figures, however, give no indication of the actual concentration; most of the bombardment was concentrated in time (within the years from 1967 on) and in area. Of the 26 billion pounds, 21 billion were exploded within South Vietnam, one billion in North Vietnam and 2.6 billion in southern Laos. The bombardment in South Vietnam represented an overall average of 497 pounds per acre and 1,215 pounds per person; the major part, however, was focused on two regions: the five northern provinces and the region around Saigon.

Craters pock every area of South Vietnam: forests, swamps, fields, paddies, roadsides. Certain areas, notably the "free fire," or "specified strike," zones, show severe cratering. We personally observed large areas that had been subjected to intensive transformation of the landscape in Tay Ninh, Long Khanh, Gia Dinh, Hau Nghia and Binh Duong provinces around Saigon and Quang Ngai, Quang Tin and Quang Nam provinces of the northern part of the country. And of course the concentration of craters is particularly marked in areas such as the demilitarized zone (DMZ) between North Vietnam and South Vietnam and the supply trails in southern Laos.

We were able to visit on foot an area in the Mekong Delta that had been until fairly recently a free-fire zone. The area was near the hamlet of Hoi Son about 30 miles south of My Tho. Farmers were being resettled there on their previously fought-over land because senior officials considered the region fairly secure. (The degree of security became evident during our stay when U.S. aircraft were observed rocketing and strafing only a few miles away.) Several families that had left the area a decade earlier because of the fighting were interviewed, and they took us to three craters that they said had been made in 1967. The craters had probably been produced by 500-pound bombs dropped by fighter-bombers. Each crater was about 30 feet in diameter, filled with water, and at the time of our visit was about five feet deep in the center. The entire immediate area had been a rice paddy, but during the years when no cultivation had occurred, the rice had been replaced by a very tall reed, genus *Phragmites*, which surrounded the crater at a distance of 10 to 20 feet. Growing from the rim of the craters and into the reeds was a species of relatively short grass, *Brachiaria*, and a taller grass, *Scirpus*. The farmers were growing seed rice near the craters and were plowing under the reeds and grasses in preparation for planting rice. It was obvious that they could not use the cratered areas for rice cultivation because the water was much too deep. The only apparent solution was to bring in soil from elsewhere, but this was obviously not practical.

We also observed at close hand many craters on the flat terrace lands northwest of Saigon that had previously supported an evergreen hardwood forest. In this area the craters generally contain no water during the dry season, so that their natural history is considerably different from the history of the craters of the Delta region that are permanently filled with water. The craters were very numerous in this area; there was at least one every 100 feet. Each crater was 20 to 40 feet across and five to 20 feet deep. There were many generations of craters from different air strikes. The most recent ones were bare of vegetation but contained some rainwater. (We observed these craters in the wet season.) In the older craters a few sprigs of grass, probably *Imperata*, were sprouting in the center. As the craters age grass grows radially, eventually covering the bottom to meet vines trailing down from the peripheral vegetation. There is some filling of old craters with soil washed down from the sides, but this is limited because old craters almost completely covered with grass were still five to 10 feet deep. They thus became permanent features of the landscape.

From the data available to us on the quantity of munitions expended we calculated tentative estimates of the total area by cratering and other damage to the land. For these estimates we had to make some very free and general assumptions. For example, we assume that about half (by weight) of the total amount of munitions employed in Indochina consisted of bombs, shells and other missiles that would produce craters. We assume further than on the average each of the crater-producing missiles was equivalent to a 500-pound bomb and formed a crater 30 feet in diameter and 15 feet deep, displacing 131 cubic yards of earth. (A large proportion of the cratering has been produced by B–52 bomber raids; each of these big planes typically carries 108 500-pound bombs.) We also estimate that the fragments from each crater-producing missile were spread over an area of 1.25 acres.

On the basis of these assumptions (some of which are supported by actual measurements) we estimate that the number of craters produced in Indochina by the bombardments from 1965 to 1971 totaled some 26 million, covering a total area of 423,000 acres and representing a total displacement of about 3.4 billion cubic yards of earth. The area of missile-fragment spread totals 32.6 million acres, if we disregard overlap. Again we note that South Vietnam has borne the brunt of this damage. In the period mentioned (through 1971) South Vietnam is estimated to have received about 21 million craters, covering all together about 345,000 acres, and to have had millions of acres contaminated by missile fragments, even allowing for overlap. The total area of the country is 42.8 million acres.

Let us now examine some specific effects, for the present and for the future, of this massive application of "landscape management" by high explosives. There is evidence from previous wars that the effects will be long-lasting. A decade after the end of World War II the craters of heavily shelled areas on Okinawa were still barren of vegetation and reddened by rusting shell fragments. On Eniwetok craters were clearly in evidence two decades after the war. Four decades after World War I vegetation in the Negev desert of Israel outlined the craters from that war, and even in France's Verdun area many of the World War I craters are still clearly visible and in some cases to this day are devoid of vegetation.

To begin with, we can see that the displacement and scattering of soil and subsoil from the craters in Indochina have given rise to harmful physical consequences. (Over the seven years the displacement of soil by bombardment in Indochina proceeded at a rate of nearly 1,000 cubic yards of soil per minute.) In hilly terrain the tearing up of the soil promotes erosion. In Indochina, where some of the soil is vulnerable to laterization (hardening to a bricklike state), the removal of vegetation and humus may make the area and around craters permanently barren. At the least it has resulted in colonization of cratered regions by weedy, worthless grasses and shrubs. Furthermore, the deep craters have made many areas almost impassable for travel.

Many of the craters, particularly in the Delta and coastal regions, have penetrated the water table and remain filled with water during much or all of the year. They have thereby probably become breeding grounds for mosquitoes, greatly increasing the hazards of malaria and dengue fever for the population. Reports by military authorities indeed confirm that "malaria has been causing increasing concern in Vietnam" and has spread to previously unafflicted areas.

The impact of cratering on agriculture has been substantial. Farmers in South Vietnam, notably in the Mekong Delta, have been reluctant or unable to attempt to reclaim rice paddies or other farmlands that have been pocked by craters. One of the important deterrents is the presence of unexploded munitions buried in the ground. A number of farmers have been killed by the detonation of such shells or bombs by their plows. Moreover, the ubiquitous missile fragments in the ground cut the hooves of the water buffaloes used as draft animals, causing infection and death of the animals. The unexploded bombs and shells lying about in the soil of Indochina are known to number several hundred thousand. Bombing has also disrupted rice-growing in Indochina by breaking up many of the intricate irrigation systems, and in some areas near the seacoast it has opened the land to encroachment by salt water.

The timber industry of South Vietnam, potentially one of the most important elements in the region's predominantly agricultural economy, has been particularly hard hit by the bombing. It has catastrophically slashed the values of the once prime timberlands northwest and northeast of Saigon, for example. The heavy shelling and bombing have damaged the trees in three ways: outright destruction, riddling of the timber by missile fragments and subsequent weakening of the trees through infection by wood-rotting fungi.

The forests have been bombarded by ordnance so intensively that the trees are filled with metal shards; one mill-owner told us that four out of five logs he receives have metal in them. Although the sawmill operators make laborious efforts to chop out the pieces of metal, they are only partly successful, with the result that they have a high rate of destruction of their saw blades by still embedded metal. In trees left standing the missile-fragment wounds provide ready entry for fungal rot. In some tree species the rot progresses so rapidly that if they are not harvested immediately after the metal attack they soon become almost worthless. Apparently the main South Vietnamese timber trees lose about 50 percent of their value in two or three years from this cause. Rubber trees are particularly susceptible to the fungal rot initiated by missile-fragment wounds; they become so weakened that they are felled by any high wind. A French official of a rubber plantation told us he had lost 80 percent of his trees within two years after a bombardment of his plantation.

Loggers in the battle zones of South Vietnam find that the damaging of timber by munitions is causing them a loss of more than 30 percent in the price received for the logs (although the severance tax remains the same). In addition the profusion of craters impedes the hauling of their logs to the mill. Often they must cut the logs to a short length (instead of the desirable 90 feet that is possible under normal circumstances) to allow sufficient maneuverability to skid them around the craters. During a survey in a high-flying helicopter of a mountain forest near Da Nang we saw many craters on the mountainside and along the ridges with severe accompanying erosion; they had been produced by a single B–52 raid about a year and a half earlier. We also observed another significant type of damage: large areas of the forest had been burned out, apparently by incendiary attacks with napalm, white phosphorous and flares.

Bombardment and defoliation are by no means the only methods used by the U.S. military in its struggle with vegetation in Indochina, Beginning in the mid–1960's a vast program of systematic forest bulldozing has been developed. The employment of massed tractors organized into companies for extensive forest clearing had apparently replaced the use of herbicides to deny forest cover and sanctuary to the other side. The effectiveness of the tractors, called Rome plows, is in some ways clearly superior to that of chemicals and is probably more destructive to the environment. When we visited a land-clearing operation in August, 1971, we watched about 30 such plows (20-ton Caterpillar tractors fitted with massive 11-foot-wide, 2.5-ton plow blades and with 14 tons of armor plate) scrape clean the remaining few areas of the Boi Loi Woods northwest of Saigon. We learned that in the 26 days prior to our visit the company had cleared 6,037 acres. Four other companies were also in operation and these five units had cleared a total of 750,000 acres as of August, 1971. We visited an area that had been plowed several years previously and it had regrown to cogon grass (*Imperata*), making further successional stages to the original hardwood forest very unlikely.

A study by U.S. agents has determined that about 10 percent of the agricultural land of South Vietnam has had to be abandoned because of the destruction wrought by bombardment and other weapons used in this war. It has been a war against the land as much as against armies. Indeed, it appears that one of the main strategies of our military effort has been to disrupt and destroy the social and economic fabric of rural, agricultural Vietnam in order to drive the peasant population into areas under central control and to deprive the guerrilla enemy of a power base.

Only about 5 to 8 percent of the U.S. bombing missions in Indochina have been directed at tactical military targets, that is, in direct support of troops. The rest of the bombing missions are described as "harassing" or "interdiction" attacks. They are also referred to as strategic bombing missions. Whereas the targets of strategic bombing in World War II were the factories, port cities, railroads and so forth of the enemy, in the Indochina war the strategic targets are the land and forests of Indochina because they give cover and sanctuary to the other side. It is important to note here that whereas factories, ports and other man-made sources of production can be rapidly rebuilt, as demonstrated in Europe and Japan, it is doubtful that many of the forests and lands of Indochina can be rehabilitated in the foreseeable future.

From 1966 on the B–52's carried out incessant attacks on a schedule of almost daily missions. From an altitude of 30,000 feet, where they are usually unheard and unseen from the ground, they have been sowing systematic destruction. A typical B–52 mission, comprising seven planes on the average, delivers 756 500-pound bombs in a pattern that saturates an area about half a mile wide and three miles long, that is, nearly 1,000 acres. Thus on a schedule of four or five missions per day of seven sorties each, such as was followed during 1971, the B–52's alone were creating about 100,000 new craters each month. Unfortunately the release of air-war data is now severely restricted.

The cumulative impact of the munitions attack on the land has to be seen to be grasped fully. Reports by military observers speak of the landscape's being "torn as if by an angry giant," and of areas of the green delta land's being pulverized into a "gray porridge." Our brief survey has only suggested some of the grim consequences for the present and future life of the inhabitants of Indochina. Still to be assessed are the effects of the persisting bombardment on the people's habitations, on the animal life and general ecology of the region. The damage caused by the large-scale disorganization of the environment may be felt for centuries.

Meanwhile the steady bombardment and shattering of the land, shielded from the Western world's view and concern by the wide Pacific Ocean and the supposed "winding down" of the war, goes on with no end in sight.

Senator Gaylord Nelson of Wisconsin has introduced in the Senate a bill to provide for a study by the National Academy of Sciences "to assess the extent of the damage done to the environment of South Vietnam, Laos and Cambodia as the result of the operations of the Armed Forces of the United States . . . and to consider plans for effectively rectifying such damage."

Senator Nelson declared:

"There is nothing in the history of warfare to compare with [what we have done in Indochina]. A 'scorched earth' policy has been a tactic of warfare throughout history, but never before has a land been so massively altered and mutilated that vast areas can never be used again or even inhabited by man or animal. . . . These programs should be halted immediately before further permanent damage is done to the landscape.

"Our program of defolioation, carpet bombing with B-52's and bulldozing . . . did not protect our soldiers or defeat the enemy, and it has done far greater damage to our ally than to the enemy.

"The cold, hard and cruel irony of it all is that South Vietnam would have been better off losing to Hanoi than winning with us. Now she faces the worst of all possible worlds with much of her land destroyed and her chances of independent survival after we leave in grave doubt at best."

TITLE VII OF THE CIVIL RIGHTS ACT AND SEX DISCRIMINATION IN EDUCATIONAL INSTITUTIONS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. FRASER. Mr. Speaker, the Association of American Colleges—AAC—has issued a concise 3-page summary of title VII of the Civil Rights Act as it impinges upon sex discrimination in educational institutions. The memorandum is a product of the project on the status and education of women at the AAC headed by Bernice Sandler. Dr. Sandler is assisted in this project by Rebecca Stanley and Francelia Gleaves.

This April 1972 memo on title VII is the best brief look at the title which I have seen. It is reprinted below in its entirety:

Title VII of the Civil Rights Act and Sex Discrimination in Educational Institutions

Background: Title VII of the Civil Rights Act of 1964, which forbids discrimination in employment on the grounds of race, color, religion, sex or national origin, was amended in March 1972 to include educational institutions.

To whom does title VII apply? All educational institutions, both public and private, with 15 or more employees. All employees are covered, including those subject to State and local civil service laws. Institutions are covered regardless of whether or not they have any Federal funds. Title VII also covers labor organizations (collective bargaining unions) and employment services.

What does the law require? Title VII makes it unlawful to discriminate in:

Recruitment, hiring, firing, layoff, recall; wages, terms, conditions or privileges of employment; classifying, assigning or promoting employees; extending or assigning use of facilities; training, retraining or apprenticeships; opportunities for promotion; sick leave time and pay; vacation time and pay; overtime work and pay; medical, hospital, life and accident insurance coverage; optional and compulsory retirement age privileges; receiving applications or classifying or referring for employment; and printing, publishing or circulating advertisements relating to employment; that express specifications or preferences based on sex.

Religious exemption: Religious educational institutions are exempted with respect to the employment of individuals of a particular religion to perform work for that institution. It does not exempt such institutions from the prohibition of discrimination based on sex (or race, color and national origin).

Who enforces title VII? The Equal Employment Opportunity Commission receives and investigates charges of discrimination. In certain states that have fair employment laws that provide sanctions similar to those in Title VII, EEOC, automatically defers investigation of charges to the state agency for 60 days. (If deferred, at the end of the 60-day period, EEOC will handle the charges unless the state is actively involved in the case. EEOC may grant an additional 300 days to the state for further handling of the case. About 85% of deferrred cases return to EEOC for processing after deferral.)

Power of enforcement: After investigation the Commission attempts conciliation. Should this fail, the Commission has the power to bring civil action against a private institution in the appropriate Federal District Court. Due to an ambiguity in the law as it relates to public institutions, it is not yet clear whether the Commission or the Attorney General will file suit in all situations which involve public institutions. Aggrieved individuals may initiate suits against institutions when the Commission or the Attorney Attorney General has not done so (see next section).

Private right to sue is guaranteed: If the aggrieved party is not satisfied with EEOC's actions, the aggrieved party is guaranteed the right to sue privately in court for damages. (Under the Executive Order, legal opinion differs as to whether or not there is a private right to sue; under Title VII, a private right to sue is guaranteed in the law.)

What the courts can do: After a preliminary investigation, the Commission or the Attorney General may ask the Court for a temporary restraining order or other order granting preliminary or temporary relief.

If conciliation is not effective, EEOC or the Attorney General can bring civil suit against the employer, labor union or employment agency. When a case in court is decided in favor of the aggrieved individual, the court may order all or any of the following:

1. Enjoin the respondent from engaging in such unlawful behavior.
2. Order affirmative action as may be appropriate and "other equitable relief."
3. Order reinstatement of hiring of employees with or without back pay.
4. Award back pay (but no more than up to two years prior to the filing of a charge with the Commission). Interim earnings are subtracted from back pay awards.

Who can file a complaint: Charges can be filed by or on behalf of any person claiming to be aggrieved, or by a member of the Commission.

"Pattern or practice" complaints: Individuals claiming to be aggrieved or a member of the Commission can file class complaints charging a pattern or practice of discrimination.

Time limits for filing a complaint: Charges must be filed within 180 days after the alleged unlawful act has occurred.

Notification of charges: A copy of charges filed must be given to the party charged with discrimination within ten days of filing.

Record keeping: All institutions must keep and preserve records relevant to the determination of whether unlawful practices have been or are being committed. The Commission is empowered to request such information.

Confidentiality requirement: Charges are *not* made public by the Commission, nor can any of its efforts during the conciliation process be made public by the Commission and its employees. However, should court proceedings be initiated by the Commission or the Attorney General, records may be made public. The aggrieved party and the respondent are not bound by the confidentiality requirement.

Prevention of harassment: Employers are forbidden to discriminate against any employee or applicant because he or she has opposed any unlawful employment practices, or because he or she has filed charges, testified or participated in any action under Title VII.

What is a bona fide occupational qualification (BFOQ): In some limited instances, a job may be limited to one sex provided the employer can prove that sex is a "bona fide occupational qualification." The Commission and the courts have construed BFOQ's very narrowly. Jobs may be restricted to members of one sex:

For reasons of authenticity, such as actress or model; because of community standards of morality such as lingeree sales clerk or restroom attendant; and in jobs in the entertainment industry where sex appeal is an essential qualification.

Jobs may not be restricted on the basis of sex for any of the following reasons:

Assumptions related to the applicant's sex, e.g. some or most members are unable or unwilling to do the job; preference of co-workers, employers, clients or customers; the job has traditionally been restricted to members of the opposite sex; the job involves heavy physical labor, manual dexterity, late or night hours, work in isolated locations or unpleasant surroundings; physical facilities are not available for both sexes; and the job requires personal characteristics not exclusive to either sex such tact, charm, or aggressiveness.

Relationship to the executive order: Executive Order 11246 as amended (which covers institutions with Federal contracts) is still in effect. In institutions with federal contracts, parties can file charges, simultaneously under the Executive Order and under Title VII. The Office of Federal Contract Compliance (Department of Labor) *, which has policy jurisdiction over the Executive Order, and the Equal Employment Opportunity Commission, which has jurisdiction over Title VII, coordinate in such instances.

Additional information: EEOC Sex Discrimination Guidelines as well as other information can be obtained by writing: Equal Employment Opportunity Commission, 1800 G Street, N.W., Washington, D.C. 20506.

POLISH CONSTITUTION DAY

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DULSKI. Mr. Speaker, this year marks the 181st anniversary of the Polish Constitution, adopted on May 3, 1791.

By that action, the Polish people established a principle of government which is one of the proudest achievements of Polish history.

People of Polish extraction everywhere, including Polish-Americans, pause on this occasion each year to reflect on their proud ancestry. In my home city of Buffalo, N.Y., the observance was held on Sunday, May 7, as a joint effort of Polish-American organizations in our community.

---

* The Department of Health, Education and Welfare does the actual investigations of educational institutions covered by the Executive Order.

It began with a parade of veteran, fraternal, civic, and student groups to St. Stanislaus Roman Catholic Church where the pastor, Rev. Msgr. Peter J. Adamski, P.A., celebrated the mass and delivered the sermon. During the afternoon, there was a well-attended program in the auditorium of the former Bishop Colton High School.

The Polish Constitution was adopted just 3 years after the U.S. Constitution was ratified. Thus the association of the United States with Poland over the years is very logical and has been very close.

Poland has not been as fortunate as has our Nation in preserving its independence, but the Polish people have not lost their faith that one day they may be able to live in the independence which they spelled out nearly two centuries ago.

ESTABLISHMENT OF A PLANT MATERIALS CENTER IN ALASKA

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BEGICH. Mr. Speaker, I rise today to call attention to a very important bill, now before the Alaska State Legislature.

The bill, authorized by State Representative Jalmar Kerttula, would establish a Plant Materials Center that would conduct research and programs crucial to the maintenance of Alaskan ecology. Production of conservation materials for revegetating sites damaged by construction activities, recovering burned over areas, and improving winter range for wildlife are some of the short-term goals. In the long run, the center will focus in on development of new agricultural areas and vegetating erosion areas for their conservation.

I believe that the plant materials center is a demonstration of Alaskan environment awareness and a desire to maintain a balance between development of natural resources and protection of the environment. I think that the Alaska State Legislature deserves a vote of confidence for this demonstration of concern, and I call upon my colleagues to take notice and lend their support.

A memorandum by Representative Kerttula explains the bill, and the bill itself follows:

MEMORANDUM FROM REPRESENTATIVE JALMAR KERTTULA

The center has a considerable degree of urgency in view of accelerated growth and construction. However, the additional functions it would serve are by no means unimportant. The first function would be best described as the production and propagation of "conservation materials" suitable for best revegetating sites damaged by construction activities. It would also be helpful in recovering burned over areas, and hopefully improving winter range for wildlife.

Again, there are both short term and long term returns to this type of program, initially we have tended to emphasize the short term and deemphasize the long term returns. The early years of operation are based almost entirely on production of agronomic materials for farm, conservation, and revegetation use since we have the most experience in these fields. I believe the Center will rapidly become involved in other types of plant materials such as forestry plants, woody species for ornamentals and conservation purposes, and possible fruit species and disease-free planting stocks. Other agencies of the state government will wish to participate directly in the program since highways, airports, and other disturbed sites need hardy native materials for revegetation and soil stabilization.

In synopsis the Plant Materials Lab essentially takes environmentally adaptable seeds and develops the product in field tests to significant quantities (i.e. 5 to 10 acre plots). The seed is then turned over to commercial market for development by private industry. Present immediate applications are development of:

(1) Hardy strains for erosion areas.

(2) Ornamentals.

(3) Economically valuable agricultural strains.

[In the House by the Finance Committee]

HOUSE BILL NO. 8—IN THE LEGISLATURE OF THE STATE OF ALASKA, SEVENTH LEGISLATURE—SECOND SESSION

A bill for an act entitled "An Act establishing a plant materials center; and providing for an effective date"

Be it enacted by the Legislature of the State of Alaska:

*Section 1. AS 03 is amended by adding a new chapter to read:

CHAPTER 65—PLANT MATERIALS CENTER

Sec. 03.65.010. Establishment of Plant Materials Center. The Department of Natural Resources, in cooperation with the University of Alaska Agricultural Experiment Station, shall establish and maintain a plant materials center.

Sec. 03.65.020. Purpose of Center. The objectives of the plant materials center, in cooperation with the University of Alaska Agricultural Experiment Station, are to

(1) assemble, evaluate, select and increase plant materials needed in soil and water conservation, agriculture and industry, and maintain genetic purity of these materials;

(2) increase promising plant materials for field scale testing;

(3) test the promising materials in field plantings on sites that represent soil and climatic conditions not found at the center;

(4) maintain and provide for increase of basic seed stocks of plant materials for agricultural and conservation interests;

(5) make seed and plant materials available (for a fee if necessary) in such a manner as to avoid monopolistic control of basic request, accept and receive from federal, state and nongovernment sources financial and other aid and assistance, including personnel and equipment, for the construction, equipment, maintenance and operation of the center.

Sec. 03.65.080. Payments and Vouchers. Appropriations made by the state for the construction, maintenance and operation of the center shall be expended upon vouchers approved by the department in the manner prescribed by it.

*Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.

SHOOTING CRAPS WITH AMERICAN DESTINY

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. RONCALIO. Mr. Speaker, last night President Nixon again demonstrated to the American people that his "path to peace" is one of disregard for public sentiment.

Only 19 days after Democratic Members of the U.S. House of Representatives adopted the precedent setting Indochina resolution calling for adoption of a bill which would set a date for terminating all U.S. military involvement in and over Indochina—views long before adopted by th U.S. Senate—our President has determined unilaterally to ignore the wishes of the very people who put him in office, and the representatives of the people.

He has turned instead to his military hawks who have been urging moves to end the war faster by a sea blockade since the Presidency of Lyndon Baines Johnson who had the good sense to reject such proposals on the grounds that they might well force a confrontation with the Soviet Union, not in Vietnam, but with some action in Korea, Turkey, Iran, the Middle East, and Berlin—places where the Soviet Union can better control the degree of crisis.

In accepting the advise of the military, President Nixon has chosen to ignore equally reputable guidelines by the CIA which has determined that a sea blockade "would be widespread but temporary, simply because the North Vietnamese could bring in supplies by small reed ships with equal results within 2 or 3 months.

President Nixon is clearly gambling. By his own admission last night he stated that "he could be wrong." He continued that if he was wrong, only he is responsible, and nobody else.

What the President has failed to recognize is that it really does not make much difference if it is his decision or someone else's—that what really counts is that the decision was made—and the possible ramification that are being forced on the people of this Nation.

President Nixon has rejected the cry for immediate withdrawal on three principles: First, it would leave the Vietnamese helpless; second, it would jeopardize the release of our POW's; and third it would endanger world peace.

The decisions announced last night—the mining of all entrances to North Vietnamese ports within international waters—continued air and naval strikes against military targets—cutting off rail and all other communications—and interdiction of delivery of supplies by U.S. forces—is certainly not going to be of any assistance whatsoever toward obtaining release of POW's. It is certainly not going to stabilize world peace. There is even a great deal of doubt that it will have any effect on helping the South Vietnamese, for the CIA contends we cannot cut off supplies for more than 3 months, and there are reports that the North Vietnamese already have adequate supplies and equipment in the south to continue their drive.

The determination of the most powerful nation in this world to pound a small, underdeveloped nation into submission, to acceptance of ideologies and a way of life alien to that land, by the killing and injuring of 1,000 noncombatants per week, has never been a pretty picture. And the picture gets uglier with each move that is made toward shooting-in-the-dark attempts to hasten the end of the war so that it will not be an issue in the fall of 1972.

The move by the House of Representatives just last month to finally join with the Senate in setting a withdrawal date is long overdue. I am hopeful that the President's message last night will spur both bodies into immediate and decisive action to set a withdrawal date—to turn our attention and our vast resources to the many and pressing needs of the United States of America.

President Nixon has asked the American people to hold him accountable for actions in Vietnam. I am hopeful they will take his request to heart and do so.

SOCIAL SECURITY PAYMENT CENTER FOR RICHMOND, CALIF.

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. WALDIE. Mr. Speaker, for a number of years I have been attempting to obtain for Richmond, Calif., in my congressional district, the site for a proposed Social Security Payments Center.

There is no question in my mind that the area recommended by the city of Richmond is the most strategic—and will be a tremendous boost to this model city inasmuch as the center would be located in a depressed downtown area, giving employment to 2,000 people.

I should like to submit the enclosed editorials from the Oakland Tribune of October 14, 1971, and the Richmond Independent on April 21, 1972, giving impetus to my arguments on behalf of the site selection to be made in favor of Richmond. These articles follow:

[From the Oakland (Calif.) Tribune, October 15, 1971]

PAY CENTER FOR RICHMOND

If the Department of Health, Education, and Welfare is to follow President Nixon's criteria for locating new federal office facilities, Richmond should be given strong consideration for the proposed regional Social Security Payment Center.

The President issued an executive order in February, 1970 requiring that in picking a site consideration be given to the "impact a selection will have on improving social and economic conditions in the area."

Although a pay center which would house 2,500 workers in a 400,000 square foot building would have a substantial impact on any community, Richmond probably could stand to gain the most from its presence.

Location of the pay center in Richmond would be of considerable social benefit to that city and its large minority population because it would add job prospects in an area of high unemployment.

The city's decaying downtown, long suffering from the exodus of many customers and, hence, businesses to outlying areas, would receive an economic breath of life from an influx of people who would work and do business at the center. In addition, the center could even be responsible for attracting new commercial enterprises.

The city has offered HEW a choice 10-acre site in its 107-acre redevelopment project which was established with $18 million in federal and local funds in the heart of the downtown area.

By building the center in Richmond, HEW would be greatly enhancing an area in which the Federal Government already has a substantial investment.

The city feels the huge pay center would add impetus to development of this valuable property as a major complex of office buildings. Total development of the 107 acres would put the now virtually barren land back on the tax rolls.

The new Bay Area Rapid Transit station within several hundred feet of the site offers easy access to both commuting workers and the public. In addition, 2,000 parking spaces would be available.

The Richmond site appears a most logical location for the pay center in terms of its positive social and economic impact on the area.

RICHMOND THE RIGHT CHOICE FOR SOCIAL SECURITY CENTER

It's an election year and political winds are blowing up a controversy over the location of the new 2,000 employe Bay Area Social Security payment center.

Preliminary Congressional and Social Security reports have all favored Richmond as the most suitable location for the new building. San Francisco and Oakland were also in the running, but did not meet the criteria outlined by the Executive branch for new federal construction. Oakland has gracefully bowed out.

And The Oakland Tribune has given its unequivocal support to Richmond as the site for the new building.

However, San Francisco Congressman Phillip Burton has decided to muddy the water with politics. Burton's staff has admitted that according to current federal criteria for site selection. Richmond offers the best location. Even so Burton is seeking to stall action on a decision in the Social Security administration in order to reopen the site selection process with new criteria.

The Executive branch of the government has ordered that new federal facilities be placed in areas where there is the opportunity to make maximum social and economic impact. What better criteria could the federal government adopt in its building program Congressman Burton?

And what person, with any knowledge of San Francisco and Richmond, would argue that there is any comparison in the relative impact the new center would have on the two communities?

In San Francisco it would be another big building in an already crowded city.

In Richmond, it would serve as a major economic catalyst in redevelopment of the seriously depressed downtown area. Richmond desperately needs a dramatic and substantial boost for the downtown. Location of the new building here employing 2,000 people would mark a definite turning point toward a new Richmond.

We trust that the Nixon administration and the federal bureaucracy will stand firm against the last minute political pressure from San Francisco and choose Richmond as the site for the new center.

PEACE—A TWO-WAY STREET

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following editorial:

PEACE—A TWO-WAY STREET

Whether the "Harrisburg 7" defendants had been convicted or acquitted, justice would have been suspect in the end. The mob of radical activists who swarmed around the courthouse and environs in the last two weeks was a shameful spectacle.

American courts have banned news photographers, they even have forbidden news pictures of defendants within a block or so of the courthouse, lest justice be influenced.

But in Harrisburg, the state's laws were flouted by the radicals putting the pressure on the public and the court to free the accused. Religious services even were held in front of the courthouse, along with parades and speeches, pressure which had only one purpose, to influence the court and the jury.

It is a ridiculous evasion of the truth to say that such demonstrations, such pressure do not carry influence upon justice, that they do not affect the delicate balance of the scales.

Only the most dedicated, the most unusual jurors, one may expect, will set aside fears of reprisals of some kind in the face of such fanatical displays as were presented by the backers of the Harrisburg defendants.

It does nothing for the peace of mind of the American public to read that six of the Harrisburg 7 planned to go back into radical activism at once with an anti-war demonstration at a defense plant at nearby York.

There is a nauseating misplaced fervor in all this that sooner or later must cause a violent revulsion of feeling in America. While these people are aiding the cause of the enemies of America with their protests here, the Communists, 40,000 strong, have invaded South Vietnam and neighboring nations, slaughtering right and left.

All the time the Paris delegation of Reds was mouthing propaganda and denouncing America—denunciations in which so many Americans shamefully participated—they were planning this offensive. Current evidence shows this Red drive has been planned ever since the American radicals and liberals went on the rampage to denounce their own country for the war.

People who swarm in this country to attack their own land utter never a word of criticism of the war initiated by the Communists, the slaughter by the Reds!

As the chairman of the U.S. Joint Chiefs of Staff said several days ago, the only thing required to end this slaughter in Vietnam is for the Communists to go back home.

It is time indeed for Americans to brand for what they are, traitors, who find no fault in the enemy, but denounce their own country so unjustly.

There has been too much apathy, too much uninformed tolerance of the forces twisting and trying to destroy America, too much indifference to the people who see the war only through the eyes of the enemy, who distort responsibility and justice, not to mention loyalty and common decency.

There is an unctuous self-righteousness about the people who clamor for the spotlight on their eagerly-sought "martyrdom," and who, in their misplaced efforts, encourage the enemy to go about his business of crushing freedom in the world.

Today's world is a world at war—a war started and waged by the Communist forces of international revolution.

The free world has been suffering endless pressure and assault since World War II ended.

Too many people in this country do not seem to realize that world peace is a two-way street, that it takes two sides to make a war and the same two sides to make peace.

Peace simply cannot be achieved, or aided, by a unilateral sitdown and disarmament.

The people who ignore this are—whatever their intentions—helping America to commit national self-destruction.

THE MISSING MIRV

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. FRASER. Mr. Speaker, in an April 28 Christian Science Monitor article, Herbert Scoville, Jr. described how the Department of Defense used the scare crow of a Soviet MIRV threat to frighten off congressional support for cutting back strategic weapons programs. Mr. Scoville calls this "a classic case of the misuse of intelligence to promote expenditures for new weapons."

This House should "go to school" on the MIRV episode described by Scoville. We must look closely at the strategic weapons spending proposed this year such as ULMS—the undersea long-range missile system—and then provide only what is essential for the national security.

The Scoville essay follows:

[From the Christian Science Monitor, Apr. 28, 1972]

THE MISSING MIRV

By Herbert Scoville, Jr.

The Soviet MIRV threat is a classic example of the misuse of intelligence to promote vast expenditures for new weapons. (MIRVs are multiple missile warheads which can be aimed at separate targets.) Three years after the first cries of alarm over an imminent Soviet MIRV capability, defense officials are now only saying that the Russians have the necessary technological base to develop MIRVs.

In 1969, the danger of a first strike against our Minuteman ICBMs from the large Soviet SS–9 missiles armed with MIRVs was used to justify going ahead with the Safeguard ABM. Then, President Nixon referred to Russian tests since 1968 to triplet reentry vehicles (MRVs) with a "footprint" or impact pattern which could be made to match the layout of three Minuteman silos. This same song was repeated for two years whenever the Red menace was needed to pry loose from reluctant congressmen money for new weapons.

In 1971, however, a leak to the press at last gave the public an inside view of the validity of DOD "interpretations." Analysis of the Soviet MRV tests did not substantiate the theory that the impact patterns of the triplet warheads could be varied, i.e., the "foot print" could not be changed to step accurately on more than one pattern of Minuteman silos. This less fearsome interpretation was held, it seems, by most intelligence analysts from the beginning. Our previous policies had been based on an improbable "worst case analysis." In his February, 1972, report to Congress, Secretary of Defense Laird conceded that the Russians have probably not yet tested a MIRV system and that there had been no new tests of even an MRV system for the SS–9 since the fall of 1970.

One might have thought that this was the end of the MRV and its "footprint." After all, the U.S. has had MRVs on its Polaris missiles since 1962, and they are not first-strike weapons. But no, on March 6, speaking to the Veterans of Foreign Wars, Secretary Laird reported that the Russians were deploying about 100 missiles with MRVs (no mention of this was made three weeks earlier to the more savvy congressional committees). When queried by the press, he played down the difference between MRVs and MIRVs, implied that this was unimportant semantics, and again gave the impression that the Russians could vary the "footprint" of their MRVs. Thus, the fears of the public, unfamiliar with details of the past history, were once again aroused by the MRV threat.

However, two weeks later, on March 21, Dr. Foster, the top Pentagon weapons scientist, reporting to the Senate Armed Services Committee, reversed the field once again. The lack of even MRV tests since 1970 now suggests to Dr. Foster that the Russians may have canceled or curtailed the SS–9 triplet program, possibly in favor of a new missile which has not even yet been tested for the first time. If this is true, a Soviet first-strike threat against Minuteman is delayed (Dr. Foster mentioned early 1980's or beyond)—or postponed indefinitely since it was recently reported that the Soviets had not initiated any construction of new silos for more than six months.

So goes the MIRV threat—first you see it in all its fearsome trappings, then as you dig deeper it fades into the future. Now it recedes to the '80's. Certainly, as President Nixon says, the Russians have the technological base to develop MIRVs if they choose to move in that direction and if they are not prevented by an arms limitation agreement. (Strangely, the administration has never made a serious effort to control MIRVs at SALT). But today there is no concrete evidence that the Russians are far down the MIRV road. Although they could start testing tomorrow, it would be several years before they had a fully developed MIRV and many more before they could deploy a system that could threaten our Minuteman deterrent.

Meanwhile the public has been the victim of a hoax, fed by a blatant misuse of intelligence designed to scare it into approval of large new weapons programs. Not only does this result in a waste of billions of dollars, but it frequently leads to a decrease in security because we buy weapons designed against the wrong threat. We are seeing today a repetition of the same tactics in the request for nearly one billion dollars for a new missile submarine—ULMs, when even the nature of the danger to the present Polaris-Poseidon system is unknown. The time has come for honesty in our national security programs as well as in our national political structure.

AMENDMENT TO THE FAIR LABOR STANDARDS AMENDMENTS OF 1972

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. ANDERSON of Illinois. Mr. Speaker, at the appropriate time during our consideration of the Fair Labor Standards Amendments of 1972, I plan to offer the following amendment:

AMENDMENT

An Amendment to the Amendment in the Nature of a Substitute, H.R. 14104, Introduced by Mr. Erlenborn, to be offered by Hon. John B. Anderson of Illinois: Page 2, line 13. Strike out "$2 an hour" and insert in lieu thereof the following: "$1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972, and not less than $2 an hour thereafter".

Page 2, line 19. Strike out "$1.80" and all that follows through paragraph (b) and insert in lieu thereof the following: "$1.70 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972, not less than $1.80 an hour during the second year from such effective date, and not less than $2 an hour thereafter."

AMENDMENTS TO THE FEDERAL WATER POLLUTION CONTROL ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. DINGELL. Mr. Speaker, on April 26, 1972, the Environmental Protection Agency called together representatives of the States, environmental organizations, and others in an effort to win their support for early enactment of a water pollution control bill. Earlier on April 22, 1972, EPA issued a press release in which EPA's Assistant Administrator for Enforcement and General Counsel, warns that EPA's "water pollution control program will be imperiled" unless Congress "acts promptly" to resolve differences between the House and Senate bills. EPA's release states that:

> Attention has focused on the *differences* between the two bills. In reality the *similarities are far more important.* (Italics supplied.)

Apparently, these two events were the opening effort on the part of the administration to convince environmentalists and State officials that a new water pollution bill should be enacted, no matter what form it takes.

At the meeting, EPA officials were surprised to learn, I am told, that these representatives did not share EPA's view that a bill, in any form, is essential. Environmentalists do not buy the idea that the similarities between the House and Senate bills are far more important than the differences. Possibly this is because they recall the administration's efforts last November and December to delay passage of a strong Senate bill, to lobby for major changes in that bill, and to insist that the House hold hearings on the Senate-passed bill. They also recall the efforts in March by industry lobbyists, aided by the administration, to have the House pass its much weaker bill, H.R. 11896, without any amendments. They also note that many legislative weeks remain before Congress will adjourn.

Yes, there are many similarities between the two bills. But, unfortunately, they do not exist in what might be termed the "gut" provisions—those dealing with establishment of effluent limitations, enforcement, permits, and citizen participation. There the differences are, in fact, far more important than the similarities.

The April 22 news release also quotes the EPA Assistant Administrator for Enforcement and General Counsel, as stating:

> The real need is *to achieve legislation now*. It would be a tragedy if we lost the opportunity to obtain a good bill because of a failure to agree on *details*. (Italics supplied.)

I am amazed at this attitude of EPA. Do they mean that the Senate conferees and environmentalists and State officials should capitulate on these so-called details and accept a weak House bill just so the administration can boast to the public that new water pollution control amendments have been enacted in 1972?

Since 1956, Congress has amended the Federal Water Pollution Control Act four times—1961, 1965, 1966, and 1970. Although these amendments were helpful in some respects, they were largely cut-and-paste revisions of a weak and largely ineffective law. They did not face the real issue—namely, the issue of eliminating—not merely abating—water pollution wherever possible. Those amendments skirted that issue.

It was not until this time that Congress squarely faced the issue of eliminating versus abating water pollution. This is the principal difference between the House and Senate versions of the amendments to the Federal Water Pollution Control Act of 1956 pending in conference. This is the detail that the conferees must work out when they meet beginning this week.

My colleague, HENRY S. REUSS, and I, joined by more than 40 other Members of the House, a few weeks ago sought to have the House adopt the 20th century concept of the Senate bill (S. 2770)—to eliminate pollution through the use of best available technology wherever possible from our waterways—rather than the 19th century abatement concept of the House bill (H.R. 11896). We believed then, and now, that unless the Congress adopts this pollution elimination concept, it probably would be better to enact no bill at all, but merely pass a continuing resolution and let the 93d Congress take a fresh look at the problem. We want strong and effective legislation along the lines of the Senate bill. A weak bill would be equal to no bill at all.

There are many excellent provisions in the House-passed bill. But there are also many provisions in that bill that are designed to perpetuate the abatement theory. For example, the House bill:

States, in section 102, that EPA should establish a national research program for the prevention and abatement of pollution;

Continues the archaic concept of beneficial uses of water, whereby the stream is used to treat wastes rather than requiring that the polluter eliminate or adequately treat the wastes;

In attempting to retain the outmoded and unenforceable system of water quality standards of the receiving waters, and to integrate that system into the new system of effluent controls at the source, the House bill lets the States establish maximum daily waste loads allowable for a waterway—in other words, it continues the old assimilative capacity theory that a stream can be used to treat wastes up to an established limit;

Authorizes EPA to defer to 1978 the requirement that point sources must comply with effluent limitations;

Instead of requiring pollutors to apply the best available technology to their wastes by 1981, it simply calls for a 2-year study by the National Academy of Sciences, and leaves it to some future Congress to enact that requirement;

Requires that all point sources of pollutants, other than publicly owned treatment works, must achieve, not later than January 1, 1976, effluent limitations requiring the use of the best practicable control technology currently available. This sounds fine, but it is drastically undermined by the committee report's definition of the term "currently available," as a control technology demonstrated as viable at the time of commencement of actual construction of the control facilities, with no provision for review and updating of this technology at any time. Thus, it appears that a pollutor who began construction of his control facility in 1971 using the best practicable control technology of that time would have that technology grandfathered until Congress changes the law by adopting some supposedly stricter standard after the NAS study;

Adds a new and subjective economic test in the setting of Federal standards of performance for any facility discharging pollutants that is constructed more than 90 days after enactment of this legislation;

Gives EPA total discretion to decide whether or not to initiate a civil action to require compliance with an abatement order when a violation of permit conditions or effluent limitations takes place;

Does not provide criminal sanctions against polluters who fail to comply with an EPA order;

Ties EPA's hands by refusing to give that Agency power to issue subpenas in enforcement actions;

Gives pollutors immunity until 1976 from prosecution, except in an emergency that threatens the health of persons, either under the Refuse Act of 1899 or this legislation, if they merely file applications for permits;

Allows EPA to transfer the permit program to a State long before the State has established effluent limitations, standards of performance, and other basic requirements under the act;

Takes away from EPA its present authority to review and, where appropriate, disapprove discharge permits, once administration of the permit program is transferred to a State;

Provides that industrial pollutors who discharge wastes into a publicly owned waste treatment system—rather than directly into a waterway—need not apply for any permit;

Severely limits a citizen's ability to require enforcement of the law, by establishing vague, ambiguous, and unwise tests to establish the citizen's standing to sue a pollutor or EPA's Administrator:

Limits EPA's emergency powers under the bill to those instances where the health, but not the welfare, of persons is endangered by a pollution source or combination of sources;

Deletes a Senate provision which prevents a pollutor from obtaining court review of EPA's action in promulgating effluent standards, performance standards, et cetera, in civil or criminal enforcement proceedings later instituted by EPA against the pollutor, despite the fact that both the House and Senate bills provide an opportunity for such review within 30 days after such promulgation; and

Deletes a provision in the Senate bill that specifically provides that stricter water quality requirements of a State shall be set forth in the certifications provided in section 401 of the bill and shall become a condition of any Federal license or permit for which the certification is required.

These are some of the major deficiencies in the House-passed bill that, if enacted, would continue the Federal water pollution program in the style of the 19th century. It would reenact the same old pollution-as-usual approach that has prevailed in the United States for many years. That approach is remarkable in that it has served to perpetuate pollution, rather than to reduce and eliminate it. Under that approach, our Nation's waters have been further degraded. A 1972 EPA report, "The Economics of Clean Water," states that "water pollution increased from 1970 to 1971."

We have the opportunity today to shift from this old approach to a modern and, in the long run, less costly approach of pollution elimination. We have tried the old way. It has not worked. Let us try a new way that shows greater promise.

Mr. Speaker, at this point I insert in the CONGRESSIONAL RECORD a document—dated April 15, 1972—prepared by EPA and marked "Official Use Only" which I have just obtained. It is entitled "Comparison of Major Provisions Between S. 2770, Passed By The Senate on November 2, 1971, H.R. 11896, Passed By The House On March 29, 1972, and Comments." I commend it to the attention of my colleagues. I feel certain that, after you read it, you will discern an alarmingly negative attitude at EPA for anything that is progressive in this field. I certainly hope that Mr. Ruckelshaus will disassociate himself from this document.

The comparative follows:

Amendments to the Federal Water Pollution Control Act—Comparison of Major Provisions Between S. 2770, Passed by the Senate on November 2, 1971, "H.R. 11896," Passed by the House on March 29, 1972, and Comments

(NOTE.—Sections refer to House bill)

S. 2270, PASSED BY SENATE, NOVEMBER 2, 1971	"H.R. 11896," PASSED BY HOUSE, MARCH 29, 1972	COMMENT
1. Goals and Policies (Section 101) The objective of the Act is "to restore and maintain the chemical, physical, biological integrity of the Nation's waters." Six national policies directed toward the achievement of that goal are identified as follows: (1) the elimination of discharge of pollutants into waters by 1985; (2) wherever attainable, an interim goal of water quality which would support fish, wildlife, and recreation by 1981; (3) the prohibition of discharge of toxic pollutants in toxic amounts; (4) Federal financial assistance would be provided to communities for construction of waste treatment facilities; (5) regional waste treatment management programs to be developed by the States; and (6) a major research and demonstration effort to develop necessary technology.	*1. Goals and Policies (Section 101)* The objective provided in the Senate bill is retained. Of the six national policies identified in the Senate bill, the first two—the "no-discharge of pollutants by 1985" policy and the "fish, wildlife, and recreation by 1981" policy—would not be identified as "national policies" but as "goals." Actions in implementation of the 1981 and 1985 goals will not be pursued until the National Academies of Sciences and Engineering complete a study of the economic, social and environmental costs and benefits involved in achieving such goals, and until Congress evaluates the recommendations of the Academies and takes further legislative action.	*1. Goals and Policies (Section 101)* We oppose the 1985 policy in the Senate bill as unnecessary, undesirable, and uneconomic. We oppose the 1971 policy in the Senate bill as inappropriate for many bodies of water. We agree with the House bill's elimination of the 1981–1885 policies as the basis for legally binding rgulatory action at this time. The study of the feasibility and desirability of the no discharge goals and future consideration and action by the Congress before such requirements are imposed is highly desirable.
2. Standards (Sections 301–305) Standards would be established and implemented in three phases: (a) during phase 1, the period from 1972 to 1976, effluent limitations based on "best practicable treatment" to be required of industrial dischargers and any more stringent requirements under Federal or State water quality standards as necessary to achieve ambient water quality for the beneficial use identified in such standards. "Secondary treatment" would be required of municipal facilities. (b) During phase 2, the period from 1976 to 1981, "best available technology" would be required of industrial dischargers, and following a public hearing and a determination of the costs and benefits involved, more stringent limitations needed to achieve ambient water quality to support identified beneficial uses. Best practicable technology would be required of municipal dischargers after a consideration of the costs and benefits of alternative treatment techniques. (c) During phase 3, the period from 1981 to 1985, presumably more stringent limitations would be imposed directed toward the achievement of the "no-discharge" goal. However, requirements for phase 3 effluent limitations are not explicit.	*2. Standards (Sections 301–305)* Effluent limitations based on best practicable treatment currently available or a greater degree of treatment as necessary to achieve ambient water quality to accommodate beneficial uses identified in water quality standards would be required of industrial dischargers. Water quality standards for interstate waters would be retained and water quality standards for intrastate waters would be reviewed and approved. These standards (as well as "best practicable treatment" requirements) would form the basis for effluent limitations. The 1976 deadline can be extended up to 2 years if existing implementation plan or physical or legal obstacle so dictate. Requirements and limitations beyond 1976 would not be imposed until study and report on the costs and benefits involved in achieving the 1981 and 1985 goals have been considered by the Congress and until it takes affirmative legislative action. Provides that use by industrial dischargers of "best *available* technology" as distinguished from "best practicable" during period 1972–1975 will preclude imposition of more stringent requirements for a 12-year period or for the period of rapid amortization (5 years).	*2. Standards (Sections 301–305)* We object to effluent limitations based on technology better than "best practicable treatment," which are not addressed to ambient water quality considerations as the Senate bill would impose in phases 2 and 3. We agree, however, that "best practicable technology" should be required of industrial dischargers and that any more stringent limitations should be imposed only when ambient water quality considerations require. This is the approach in the House bill. We agree with the retention and expansion of water quality standards, as the House bill would provide. We agree with the provision for extension for good cause.
3. New Source Performance Standards (Section 306) "Best available control technology" would be required of all new industrial discharge sources, unless it can be demonstrated that the social and economic costs of achieving standards exceed the social and economic benefits.	*3. New Source Performance Standards (Section 306)* "Latest available demonstrated control technology" would be required of all new industrial discharge sources.	*3. New Source Performance Standards (Section 306)* We are in essential agreement with this requirement, which corresponds to a provision in the Administration's bill. We prefer the House Committee bill approach whereby "best available technology" is that which is *"demonstrated."*
4. Enforcement (Section 309) Present enforcement procedures involving "enforcement conferences and 180-day notices to violators of standards preliminary to court action would be eliminated. A system of administrative orders and civil and criminal legal actions, administrative fines, civil and criminal penalties, and emergency powers would be provided.	*4. Enforcement (Section 309)* Similar to the Senate bill.	*4. Enforcement (Section 309)* We are in essential agreement with the enforcement provisions of the bills, which correspond closely to the Administration's bill.
5. Toxic and Pretreatment requirements (Section 307) Toxic substances would be identified and effluent limitations including prohibitions, as appropriate, would be established by the Administrator. Requirements for the pretreatment of industrial waste which if untreated prior to the discharge into the municipal system would either pass through or adversely affect the functioning of such system would be established by the Administrator.	*5. Toxic and Pretreatment requirements (Section 307)* Similar to the Senate bill.	*5. Toxic and Pretreatment requirements (Section 307)* We are in agreement with the provisions of the bills with respect to pretreatment requirements.

6. *"Clean Lakes Provisions"* (*Section 314*) States would be required to identify their lakes according to eutrophic conditions and to establish procedures to control and restore polluted lakes. $300,000,000 would be authorized to be appropriated for this program.	6. *"Clean Lakes Provisions"* (*Section 314*) Same provisions as Senate bill, but authorizes $250,000,000.	6. *"Clean Lakes Provisions"* (*Section 314*) We are opposed to a separate approach for lakes as distinguished from other bodies of water. No separate technology exists necessitating such separate approach. This problem could be dealt with under national programs of effluent limitations and treatment facility construction.
7. *Thermal Pollution* (*Section 316*) No distinction is made between thermal discharges causing pollution and other pollutant discharges.	7. *Thermal Pollution* (*Section 316*) Comprehensive studies of the effects and methods of control of thermal discharges, including consideration of costs, benefits, environmental impacts and methods to minimize adverse effects and maximize beneficial effects of thermal discharges, would be required. Separate regulations relating to the control of thermal discharges would be required.	7. *Thermal Pollution* (*Section 316*) We agree that the study of thermal discharges should be continued and accelerated. However, we question whether separate effluent limitations should be required for thermal discharges, for which "best practicable" control technology could not be required across the board.
8. *Waste treatment facility construction in title II*	8. *Waste treatment facility construction in title II*	8. *Waste treatment facility construction in title II*
(a) Authorization (Section 207) $14 billion for fiscal years 1972 to 1975 would be authorized for Federal financed assistance for waste treatment facility construction.	(a) Authorization (Section 207) $18 billion for fiscal years 1973–1975 would be authorized for Federal financial assistance for waste treatment facility construction.	(a) Authorization (Section 207) The 1971 "needs" survey in the view of EPA identifies a need of approximately $14 billion.
(b) Federal Share (Section 202) A basic Federal share of 60% is provided. The Federal share may be increased to 70% if the State "matches" with 10%.	(b) Federal Share (Section 202) A basic Federal share of 60% would be provided. The Federal share may be increased to 75% if the State "matches" with 15%.	(b) Federal Share (Section 202) We are opposed to a Federal share in excess of 55%. Substantial State and local matching is necessary to insure economy and cost effectiveness.
(c) Allocation of Funds (Section 205) Allocation of construction grants funds is based on population ($400,000,000 is "earmarked" for the District of Columbia waste treatment plant).	(c) Allocation of Funds (Section 205) The allocation of funds to the States is based on identified waste treatment construction grant needs. These needs are identified in a "needs" list resulting from a 1969 survey of States and municipalities. (To use '71 survey in Conference).	(c) Allocation of Funds (Section 205) We oppose the population allocation approach taken in the Senate bill. We favor an allocation of construction grant funds based on needs as the House bill would provide, but the "needs" list incorporated in the House bill is out of date. We prefer a formula to calculate "needs."
(d) Reimbursement (Section 206) "Reimbursement" of funds expended by States and localities to prefinance the Federal share with Federal funds was not available during the period 1966–1971 would be provided. However, reimbursement would be at the new 50% Federal share rather than the previously authorized, i.e., 30%–40%–50%. Reimbursement to States and municipalities for projects constructed without full Federal financial support authorized during the period 1956–1966 would be available at a 30% Federal share.	(d) Reimbursement (Section 206) Reimbursement for the period 1956–1966 is the same as that in the Senate bill. Reimbursement for the period 1966–1972 would be at the rate of Federal share authorized at the time construction of projects was initiated (30%–40%–50%).	(d) Reimbursement (Section 206) We oppose "reimbursement" for projects constructed during the period 1956–1966. No promise or inducement was made upon which reimbursement would now be carried out. "Reimbursement" for this period represents a windfall. We object to the Senate bill provisions for reimbursement for the period 1966–1971 as being in excess of amounts originally authorized for grants for such projects. We agree with the reimbursement provisions of the House Committee bill for the period 1966–1972. Only the House bill provides reimbursement for projects for which construction was initiated after June 30, 1956 without Federal support.
(e) User charges (section 204) Municipalities would be obliged to collect user charges from recipients of waste treatment services to pay the costs of constructing, operating and maintaining waste treatment facilities. Industrial user charges allocable to the Federal share of the capital costs of construction would be returned to the U.S. Treasury.	**(e) User charges (section 204)** Municipalities would be obliged to collect user charges from recipients of waster treatment services to pay the costs of constructing, operating and maintaining waste treatment facilities. Industrial user charges allocable to the Federal share of the capital cost of construction would be retained by the municipalities to provide for future needs.	(e) User charges (section 204) We agree with the provisions of the House Committee bill which essentially corresponds to the Administration's proposal.
(f) Storm and combined sewers and collection systems (sections 211 and 212) Storm and combined sewers and collection systems would be eligible for Federal financial assistance.	(f) Storm and combined sewers and collection systems (sections 211 and 212) Storm and combined sewers and collection systems would be eligible for Federal financial assistance.	(f) Storm and combined sewers and collection systems (sections 211 and 212) We are opposed to the inclusion of storm and combined sewers in the program at this time in view of the lack of mature municipal plans for such projects; the demands upon the limited resources of the construction industry involved and accelerating inflation that would result. We are opposed to the inclusion of collection systems under this program. Grants in support of such systems are available under HUD authority.
(g) Grant v. Contract (Section 203) Federal financial assistance would be available through contracts with States and municipalities. Contract authority could reach into future years' allocations.	(g) Grant v. Contract (Section 203) Same provisions as Senate bill.	(g) Grant v. Contract (Section 203) We are opposed to the contract approach to financing. We favor the grant approach, which necessarily involves the safeguards of the annual budgetary appropriations process.

AMENDMENTS TO THE FEDERAL WATER POLLUTION CONTROL ACT—COMPARISON OF MAJOR PROVISIONS BETWEEN S. 2770, PASSED BY THE SENATE ON NOVEMBER 2, 1971, "H.R. 11896," PASSED BY THE HOUSE ON MARCH 29, 1972, AND COMMENTS—Continued

S. 2770, PASSED BY SENATE, NOVEMBER 2, 1971—Continued	"H.R. 11896," PASSED BY HOUSE, MARCH 29, 1972—Continued	COMMENT—Continued
(h) Regional Planning and Management (Section 208)	(h) Regional Planning and Management (Section 208)	(h) Regional Planning and Management (Section 208)
Areawide waste treatment management plans would be developed and management agencies established by the States.	Essentially the same provisions as the Senate bill.	We oppose these provisions.
5% of construction funds to be available by contract.	$450 million of Federal financial assistance would be authorized for the first three years of this program.	Although we favor regional waste treatment planning, the provisions of the bills fail to take into account activities of other governmental levels and fail to provide for consistency with such activities and with other planning.
9. Permits (Section 402)	*9. Permits (Section 402)*	*9. Permits (Section 402)*
A Federal permit program would continue essentially the same Federal permit program now underway pursuant to the Refuse Act. Permits embodying the appropriate effluent limitations would be required of all industrial and municipal discharges.	Generally the same provisions as the Senate bill.	We agree that a clear legislative base for the Federal permit program now underway is desirable.
The permit-issuing authority may be delegated to the States which meet the requirements of Federal guidelines.	Permit-issuing authority may be delegated to the States prior to the promulgation of Federal guidelines, in which case each State permit would be subject to Federal review.	We do not favor the permit-by-permit Federal review of State permits as the Senate bill would provide.
No State permit may issue until the Administrator approves or waives.	No Federal review or approval of State-issued permits unless a State affected by permit issued by another State requests.	
10. Citizen Suits (Section 505)	*10. Citizen Suits (Section 505)*	*10. Citizen Suits (Section 505)*
Persons may bring civil action against any person or governmental entity in violation of effluent standard or limitation or order of Administrator. May bring action against Administrator for failure to perform non-discretionary act.	Similar provisions. "Citizen" is defined to mean one from the geographic area and directly affected or groups of persons actively engaged in the administrative process relating to the question in controversy.	

Mr. Speaker, I call attention to several very interesting "comments" and "non-comments" in this document.

First, the comment that EPA is opposed to increasing the Federal share for waste treatment works to more than 55 percent. EPA contends that "substantial State and local matching is necessary to insure economy and cost effectiveness."

This sounds like it was written by the penny-pinching Office of Managament and Budget, or at least under the direction of OMB.

Second, the EPA comparison describes the different versions in the two bills concerning citizen suits and the issue of standing to sue, but no comment is forthcoming from EPA as to which version is preferred by EPA.

This matter of citizen suits and standing is of great importance to all citizens and environmental organizations. Where does EPA stand on this issue? Does that Agency side with those in industry who seek to curtail citizen suits? I hope not.

EPA needs help. Citizen participation would be welcomed by EPA. Citizen suits provide such participation. I urge that EPA publicly support the Senate version which leaves the question of standing to the courts, where it belongs.

Finally, the EPA document fails to comment on the so-called Baker amendment—a major attempt to weaken the National Environmental Policy Act of 1969. It does not note the differences between the two versions of the NEPA amendment. Most importantly, once again it fails to indicate where EPA stands on this amendment to NEPA.

Environmentalists are seeking to save EPA. I support them in this effort. But I think we must look closely at the so-called Baker amendment which, I understand, was initially offered for what appeared then as environmentally sound reasons. It is clear now, however, that the amendment is not sound, and I urge that the conferees abandon it entirely.

At this point I insert an article from the New York Times:

[From the New York Times, May 7, 1972]

PASSAGE OF FEDERAL WATER POLLUTION BILL SESSION IS DOUBTED

(By E. W. Kenworthy)

WASHINGTON, May 6.—Differences in the House and Senate water pollution control bills are so fundamental that passage of legislation this session is in doubt.

The fate of the legislation will be determined by a conference committee that will begin next week to go over the House and Senate measures.

Much rides on the final product. One is the Federal share for sewage plans. The Administration asked $6-billion for three years. The Senate bill authorizes $14-billion, the House bill $18-billion.

Without a bill, cities could still get Federal grants under a continuing authorization such as has been in effect since the old law expired in June, 1971. But the rate of Federal funding would be only $2-billion a year.

The differences in money in the two bills are believed to be subject to compromise. More difficult to adjust are basic differences on pollution controls and many provisions in the House bill that the Senate conferees and environmental organizations regard as loopholes for industry.

Fearful that there may be no legislation, officials of the Environmental Protection Agency have been meeting the last two weeks with representatives of environmental groups, urging them to use their influence to get a compromise.

John R. Quarles, the agency's general counsel, and Gary Baise, its legislative liaison, have been insisting that the "similarities" in the two bills "are far more important" than the differences and assert that it would be "a tragedy" if the bill were lost because of a failure to agree "on details."

So far, the conservation groups have not been receptive to these arguments. They say that the Administration, including E.P.A.'s administrator, William D. Ruckelshaus, strenuously opposed the Senate bill and organized industrial opposition to it.

The environmental organizations believe that they are being asked to support a "compromise" that would be essentially the same as the House bill.

Following are a few of the differences that could result in a deadlock:

PERMIT SYSTEM. Both bills would abolish the system, based on the Refuse Act of 1899, under which the Army Corps of Engineers must give a permit, subject to E.P.A. approval, for dumping wastes into navigable waters. They provide that the states shall issue such permits to industries if they are in compliance with the effluent limitations imposed by the 1972 Federal act.

However, the Senate bill gives E.P.A. the authority to veto a state permit. The House bill would allow such Federal veto only where a downstream state was adversely affected by and objected to another state's permit.

The Senate Public Works Committee and environmental groups contend that the E.P.A. veto is necessary to insure that states do not give permits to industries not meeting effluent standards. An E.P.A. document, marked "official use only," puts the agency's position in these words, "We do not favor the permit-by-permit Federal review of state permits."

Furthermore, the Senate bill includes in its definition of "discharge" for which permits must be obtained those pollutants that an industry may put into a public waste treatment system. The House bill deletes such industrial pollutants discharged into public sewers.

The effect of this deletion, environmentalists contend, is to free such industries of the requirement for a discharge permit.

Pollution-dilution. The Senate bill states that water shall not be stored in a reservoir to release for diluting pollution downstream when this is a substitute for "adequate treatment" of the industrial waste "at the source." It says further that the need for such water quality storage shall be determined by the E.P.A. administrator.

The House bill, by contrast, requires that "consideration" be given to the pollution-dilution in the planning of any reservoir by the Army Corps of Engineers or the Bureau of Reclamation of the Department of the Interior. It further states that the need for such water quality storage be determined by these two agencies, with "the advice" of the E.P.A. administrator.

The Senate committee and environmental groups oppose the House provision for two reasons. First, they contend that industry wants pollution-dilution because it is obviously cheaper for it than treating wastes at the source.

Second, they contend that the corps and the Bureau of Reclamation favor pollution-dilution because it gives them one more argument for constructing dams—an added "benefit" to balance out a cost-benefit ratio that might otherwise be too heavily weighted on costs to justify the project.

Citizen-suits. The Senate bill provides that any person can file a suit against alleged violators of the act. The House bill requires that, to have standing to sue, a person must come from the "geographic area" where the alleged violation occurred and also have "a direct interest" in the violation.

It further provides that no organization, such as the Izaak Walton League, can file suit unless it has been actively engaged in administrative proceedings—for example, hearings on a permit for a nuclear power plant—from the outset.

While the above differences are important, the showdown in the conference committee is likely to come on the basic questions of control and enforcement.

Under the old law, states get water quality standards, subject to E.P.A. approval, for a lake or stream. The standards take into account the so-called "beneficial uses" of the waterway, which might range from swimming to serving as a receptacle for industrial wastes. Consequently, the standard was based on the estimated capacity of the receiving water to "assimilate" wastes.

CAB'S PROMOTION OF THE AIR FREIGHT FORWARDING INDUSTRY

HON. CHARLES W. SANDMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. SANDMAN. Mr. Speaker, very little has been recorded concerning the Civil Aeronautics Board's promotion of the air freight forwarding industry.

Some excellent insight into this situation is provided in an article that appeared in the January edition of the Journal of International Law and Economics, which is the Law Review of George Washington University's National Law Center here.

Author of the article is Allan J. Kam of Fort Lee, N.J. He is also managing editor of the Law Journal at GWU where he will graduate this year with a law degree.

Mr. Kam is a graduate of Drew University with a major in political science, is an honor student, and has long been active in New Jersey political and civic affairs.

For those who desire insight into a little known field of Government influence, I commend Mr. Kam's article to you and ask that it be reprinted in the RECORD in full:

[From the Journal of International Law and Economics, January 1972]

REGULATION BY CIVIL AERONAUTICS BOARD PROMOTING THE AIR FREIGHT FORWARDING INDUSTRY

(By Allan J. Kam)

INTRODUCTION

For the last quarter century, the Civil Aeronautics Board (CAB) has promoted the air freight forward industry by careful regulation and oversight to a point where it now appears to be on the verge of dominating small parcel airfreight in both the domestic and international markets. An analysis of CAB decisions demonstrates that the Board has favored air freight forwarders over their competition, the direct carriers (airlines) and surface carriers. Before it is possible to understand the CAB's decisions in the field of air freight forwarding, it is necessary to understand the nature of the air freight forwarding industry and where the CAB derives its power to regulate it.

NATURE OF AIR FREIGHT FORWARDING INDUSTRY

An air freight forwarder assembles goods which are to be shipped by air and consolidates these goods into cargoes for transport by direct carriers. The forwarder receives the consolidated cargo on arrival, and divides and distributes the goods from the airport to their destinations. Thus, although not actually owning or operating aircraft the forwarder makes flight arrangements and provides local ground delivery.

The existence of the air freight forwarding industry is economically justified because the forwarder is in a position to consolidate small individual packages of many small customers into larger packages (containers) and then secure a lower rate per pound from the direct air carrier than the individual customer could secure for his small package. The forwarder must extract its profit from the difference between the amount of money that it charges the customer and the amount that the direct carrier charges the forwarder. In addition to providing lower costs to the public than the direct air carriers do, the forwarder generally provides more expeditious ground service.

STATUTORY BASIS FOR CAB REGULATION

Air freight forwarders are considered "indirect air carriers" within the meaning of § 101(3) of the Federal Aviation Act of 1958[1] (hereinafter "the Act"), 49 U.S.C. § 1301(3), and as such are regulated by the Civil Aeronautics Board. They are exempt from obtaining the CAB's certificate of public convenience and necessity under § 401 of the Act. Nevertheless forwarders are required to obtain operating authorizations (formerly letters of registration) from the CAB.[2] Unlike authorizations of direct carriers, operating authorizations of forwarders are not limited by routes to given cities, except that they are domestic or international. However, separate authorizations are required for domestic and international service, pursuant to the procedures of CAB Economic Regulations 296 and 297, respectively, and a single forwarder may hold both a domestic and an international authorization.

Not only are forwarders exempted from obtaining the certificate of public convenience and necessity (and all of its certification requirements under § 401[3]), but they are also exempted from the heavy regulation of the Interstate Commerce Commission (ICC) to which surface carriers are subject. The ICC's authority over air freight is limited by § 203(b) of the Interstate Commerce Act[4] to the exclusion of surface transportation "incidental to transportation by aircraft," which has generally been interpreted by the CAB's "rule of thumb" as within twenty-five miles of the airport or its city's limits.[5] Two recent decisions of the CAB to extend the limitation under § 203(b) (7a) considerably beyond twenty-five miles met with resistance from the ICC,[6] which previously had not exercised its authority to, in effect, veto § 203(b) (7a) authorizations of the CAB.

Footnotes at end of article.

DOMESTIC AUTHORIZATIONS

Until 1948 the Railway Express Agency (REA) was the sole indirect air carrier. REA had been engaged in both the rail and air express business prior to the passage of the Civil Aeronautics Act of 1938. A 1941 CAB decision[7] held that air freight forwarders are "air carriers" within the meaning of that term as stated in § 1(2) of the Civil Aeronautics Act of 1938 (the predecessor to § 1(2) of the Civil Aeronautics Act of 1938 (the predecessor to § 101 of the Federal Aviation Act of 1958), and are therefore covered by the regulatory provisions of that Act. The CAB granted REA a § 1(2) exemption, which temporarily relieved REA from the requirements of § 401(a) to the extent necessary to permit REA to engage in transportation of property by air under the air express contracts then existing without obtaining a certificate of public convenience and necessity.[8]

In 1948 the CAB held a comprehensive investigation to determine whether forwarders should be authorized and, if so, by what procedures. As a result of this investigation and over the strenuous objections of the direct air carriers, the CAB decided in *Air Freight Forwarder Case*[9] to grant temporary authorizations for five years, which were renewed "indefinitely in 1955.[10] By this renewal, the CAB clearly established that air freight forwarding would be a permanent and important part of the larger air cargo industry.

INTERNATIONAL AUTHORIZATIONS

In a 1950 proceeding similar to its domestic counterpart two years earlier, the CAB issued to several applicants five-year authorizations to operate as indirect air carriers in overseas and foreign shipments.[11] Again the technique of authorization was the exemption rather than the certificate of public convenience and necessity. Economic Regulations 297, 14 C.F.R. § 297, was promulgated, establishing and regulating a classification of air carriers designated as "international air freight forwarders." The authority granted in the 1950 proceeding was renewed for an "indefinite" period in 1958[12] with a form of authorization similar to that granted to domestic air freight forwarders.

Although the domestic and international authorization regulations[13] are somewhat similar, one difference is that the international forwarder is permitted, under certain circumstances, to act as the agent of the direct air carrier.[14]

INTERMODAL CONTROL AND INTERLOCKING RELATIONSHIPS

Control of an air freight forwarder by any carrier or party controlling a carrier is prohibited by § 408 of the Act, unless approved by CAB. Under § 408, a control relationship will be approved by the CAB upon application and after a public hearing unless it is inconsistent with the public interest or unless it is so monopolistic as to restrain a third-party air carrier. A 1960 proviso to § 408 eliminated the requirement of a public hearing under certain circumstances.[15] An alternative proviso to avoid a public hearing was added in 1969.[16] The latter proviso permits the CAB to expeditiously handle air freight forwarder acquisition applications notwithstanding the general requirement[17] that a public hearing be held where an acquirer obtains ten percent or more ownership of an air carrier. In the last two years this proviso has been relied upon extensively by the CAB.[18] Under § 409 an interlocking relationship will be approved by the CAB upon a showing that the public interest will not be adversely affected by the relationship.[19]

In *Air Freight Forwarder Authority,*[20] the CAB disapproved the applications for authorizations as air freight forwarders of several interstate motor carriers, the majority of which were household goods carriers. It was decided as a matter of policy that "air freight forwarding is best promoted by enterprises whose prime economic activity is that of [air] freight forwarding." The CAB felt that the position of the applicants, if they were granted air freight forwarder authorizations, coupled with their ICC authority as interstate motor carriers, would be "pregnant with conflicts of interest," and this conflict would also exist for those applicants seeking authorizations as international air freight forwarders. The CAB also concluded that the same problem existed with respect to applicants seeking approval of control and interlocking relationships between air freight forwarders and long distance motor carriers pursuant to §§ 408 and 409.

A public hearing was held before a CAB Examiner in 1963 essentially to reconsider the conclusion reached two years earlier in Air Freight Forwarder Authority. As a result of the Examiner's findings, the CAB decided[21] the following year that to exclude surface (motor) carriers from air transportation would violate the legislative intent of Congress in enacting § 408:

"... if Congress had intended to exclude all surface carriers from ... air transportation it would have said so specifically in the statute. To the contrary ... Section 408(b) ... requires approval of their applications upon a showing that their services would promote the public interest."[22]

The CAB authorized air freight forwarding by motor carriers of household goods holding ICC certificates as long-haul household goods movers. These five-year authorizations were to terminate on July 9, 1969, as were several similar authorizations that were later issued. The CAB also granted several authorizations, that were limited to the forwarding of "used household goods." Subsequently almost fifty more household goods companies applied for authorizations to operate as air freight forwarders of household goods, but on October 8, 1968, the CAB declared a moratorium on the processing of such applications.[23]

In March of 1969 the CAB decided to undertake a general investigation of air freight forwarding of household goods.[24] This investigation was timely because of the forthcoming expiration of existing authorizations and the desirability of considering the authorization of new forwarders. The extensive Initial Decision of the CAB Examiner, served on December 15, 1970, found that most of the applicants were capable of performing air transportation as domestic and international air freight forwarders and should be granted authorization for both.[25] Some of these authorizations would be conditioned upon CAB approval of common control and interlocking relationships. The matter is still under consideration by the CAB, which granted petitions for discretionary review subsequent to the issuance of the Initial Decision. Among the issues to be decided by the CAB[26] is whether the distinction between general commodities and household goods should be retained; if not, the CAB must consider the implications resulting from this further liberalization of the "free-entry" policy into the air freight forwarding industry.[26]

Until 1967 the general policy of the CAB had been to prohibit the entry of large surface carriers or affiliates into the air freight forwarding industry where conflicts of interest could arise which would result in diversion of traffic from air to surface transportation and thus deprive the air freight forwarders of promotional incentive.[27] This prohibition was in keeping with the CAB's general policy of promoting air freight forwarding by admitting independent applicants who were not associated with surface carriers; a partial exception to the policy, as discussed above, was the admission of surface carriers insofar as they transported household goods.

Recently, the CAB has changed its policy to one of inclusion. "[T]he Board believes that its policy should ... be one of granting authorizations ... rather than, one of protecting existing forwarders from competition."[28] This change began in 1967 with the "Long Haul Motor Carrier Case,"[29] where two motor carriers applied for domestic and international air freight forwarding authority and two others requested similar authorizations through interlocking relationships with subsidiaries. The CAB took this opportunity to review its policy regarding applications of long-haul motor carriers of general commodities requesting entry into the air freight forwarding field. The CAB granted the requested authority to the applicants for an experimental five-year period. In doing so, the CAB noted that the

"[E]conomies of the dynamic air cargo industry have changed drastically since. . . restrictions were first evolved ... the applicants' entry will not lead to the ills which persuaded the [Civil Aeronautics] Board to deny forwarder authority to some motor carriers in the past.

"[T]his decision should increase the intermodal carriage of air freight by air and truck."[30]

Upon appeal by several air freight forwarders, the United States Court of Appeals for the Second Circuit vacated the CAB's order and remanded the case for further findings. Judge Friendly, speaking for the court, noted that the CAB's decision was deficient in that there was an ambiguity as to whether the CAB had established a policy of entry for all truckers desiring air freight forwarding authorizations or had merely granted the applications that were then under consideration. The court added that if the former was the correct interpretation, then the CAB had inadequately considered the effect on existing forwarders.[31] Nevertheless, the court recognized that even the existing record might "be sufficient for the [Civil Aeronautics] Board to initiate a properly controlled experiment in the authorization of truckers as air freight forwarders, with the limitation on numbers and the reporting and other requirement [that] an experiment would be expected to entail."[32] In response to the court's decision, the CAB invited the parties to file briefs regarding the action which the CAB was directed to reconsider.

In April of 1969 the CAB issued a thirty-seven page opinion which discussed the relevant issues and basically reiterated its previous order.[33] In its new order the CAB granted authority to the three applicants who had previously received authority in the 1967 order which had been judicially vacated. The CAB emphasized that it was granting only the applications before it and not passing upon any others. Long-haul carriers, defined as a carrier that hauls 500 miles or more from the air terminal,[34] will not be granted air freight forwarding authority routinely—each applicant will be required to make an affirmative showing that its operations are in the public interest.[35]

The objecting forwarders went back to the Court of Appeals, petitioning Judge Friendly to set aside the three authorizations approved in the 1969 Order and to terminate the rule-making proceedings as contrary to the court's prior mandate.[36] However, the court recognized that the CAB's 1969 Order was carefully worded. The petitioners' request to terminate the CAB's rule-making procedure regarding proposed regulations governing long-hauling truckers' applications for air freight forwarding authority was dismissed as premature.[37] The objecting forwarders then petitioned the United States Supreme Court for a writ of certiorari, which was denied in 1970.[38]

Recently, in *Southern Pacific-Santa Fe Air Freight Forwarder Case,*[39] the CAB approved the applications of two large rail-controlled systems which included motor carriers to engage in air freight forwarding. The CAB Examiner, in reviewing relevant Board decisions, noted that prior to 1948 there had been no Board precedent or policy prohibiting rail-controlled enterprises from engaging in air freight forwarding, either directly or through affiliates. In 1948 the CAB denied the application of rail affiliates for domestic authorizations,[40] but in 1955 it granted such authorizations to two railroad affiliates.[41] Furthermore, in 1949 the CAB awarded an applicant international authority[42] which has renewed indefinitely in 1958.[43] And in 1969 the CAB reviewed its policy with respect to entry of long-haul surface carriers into the air freight forwarding industry and stated its policy standards for authorization.[44] These standards were applied to the Southern Pacific and Santa Fe applications.[45]

SUMMARY AND CONCLUSIONS

The CAB authorized air freight forwarding in 1948 over the vigorous protests of its competition, the direct air carriers. By renewing operating authorizations for an indefinite period in 1955 (domestic) and 1958 (international), the CAB determined that the air freight forwarding industry would be an integral part of the air freight services available to the public. By prohibiting control and interlocking relationships, the CAB shielded the infant industry from possible relegation by surface carriers. But as the industry grew, the CAB's policy evolved toward a realization that such protection from the surface carriers is often undesirable, and that the growth of the now-mature industry can be promoted in many cases by intermodal control and interlocking relationships.

Although some authorizations have been revoked due to failure of the forwarder to operate the authorized service for two consecutive years,[46] nevertheless the industry is growing steadily,[47] and by all indications will play an increasingly significant role in domestic and international business.

FOOTNOTES

[1] 72 Stat. 731(1959), 49 U.S.C. §§ 1301–1542 (1964), *formerly* the Civil Aeronautics Act of 1938. The predecessor to § 101(3) was § 1(2) of the Civil Aeronautics Act of 1938.

Section 101(3) of the Federal Aviation Act defines an air carrier as "any citizen of the United States who undertakes, whether directly or indirectly ... to engage in air transportation: Provided, That the Board may by order relieve air carriers who are not directly engaged in the operation of aircraft in air transportation from the provisions of this chapter to the extent and for such periods as may be in the public interest." For judicial determinations of what constitutes an "indirect air carrier," *see* Airborne Freight Corp.

v. Civil Aeronautics Board, 258 F.2d 210 (D.C. Cir. 1958), and Railway Express Agency, Inc., v. Civil Aeronautics Board, 345 F.2d 445 (D.C. Cir. 1965).

[2] To obtain CAB authorization, the prospective forwarder files an application for operating authorization with the CAB's Bureau of Operating Rights. The filing fee is $275. The Bureau studies the application to determine if it is accurate and if the forwarder is capable of performance for which the authority is sought. If there are no complications, the forwarder files tariffs (rates) with the CAB, and the operating authorization is issued.

[3] Federal Aviation Act of 1958, § 401, *formerly* Civil Aeronautics Act of 1938, § 401.

[4] 49 U.S.C. § 303(b) (7a) (1964).

[5] The ICC, not the CAB, has the ultimate authority to determine which motor vehicle transportation is in fact "incidental to air transportation" within the meaning of § 203) b) (7a) of the Interstate Commerce Act, 49 U.S.C. § 303(b) (7a). *See* Note, Administrative Law—*Indirect Air Carriers—Interagency Conflict*, 32 J. AIR L & COM. 273(1966). In 1953 the ICC set the guideline that motor vehicle transportation "is incidental to air transportation" for the purposes of § 203(b) (7a) when the motor transportation is limited to a bona fide collection, delivery, or transfer service within a reasonable terminal area of the air carrier as distinguished from a connecting carrier line-haul service, and that a reasonable terminal area of the air carrier was found to be that established by the air carriers in their tariffs [fees] filed with the CAB [Hazel Kenny Extension—Air Freight Case, 61 M.C.C. 587(1953)].

The ICC assumed that the CAB would refuse to accept any tariffs of air freight forwarders which prescribed an unreasonable terminal area. The CAB, in turn, adopted a "rule-of-thumb" definition of a reasonable terminal area: within twenty-five miles of the airport. This "rule-of thumb" was codified in 1966 in CAB Economic Regulation 222, 49 C.F.R. §§ 210.44, 404.1, and 14 C.F.R. § 222(1966). In Economic Regulation 222, 14 C.F.R. § 222, the CAB manifested its belief that the air freight forwarders should be permitted "a reasonable amount of freedom . . . to establish pick-up and delivery service . . . vital to prevent stifling . . . of air cargo transportation." At times, this would require authorization for places more than 25 miles from air terminal of its city's limits. The CAB acknowledged the ICC's ultimate authority to determine what constituted service "incidental to transportation by aircraft," but expressed the hope that the ICC would "give appropriate weight to the [Civil Aeronautics] Board's findings that the contemplated services are truly air cargo pick-ups and delivery in nature." Until the summer of 1970 the ICC always upheld the CAB's judgment.

In Motor Transportation of Property Incidental to Transportation by Aircraft, ICC Reports MC-C-3437, decided July 28, 1970, served August 18, 1970, the ICC refused the extensions of the area "incidental to transportation by aircraft" within the meaning of § 203(b) (7a) to points well beyond twenty-five miles from the airports of Atlanta and Indianapolis; in the latter, the place in question was Terre Haute, more than sixty miles from Indianapolis. Prior to this decision the CAB had authorized, by the approval of 13 air freight forwarders applications, 227 tariffs for places more than 25 miles from their respective air terminals. Thirty-nine of these places which the CAB deemed within the "incidental to transportation by aircraft" exemption under § 203(b) (7a) were more than seventy miles from the relevant airport or city limits.

The CAB has not processed exemption applications under Economic Regulation 222 for more than a year. This is because of the ICC holding in Motor Transportation of Property Incidental to Transportation by Aircraft, *supra*. According to Vernon Nightingale, Transportation Industry Analyst at the CAB, the ICC & the CAB are now in the process of negotiating a new standard for § 203(b) (7a) exemptions.

[6] Motor Transportation of Property Incidental to Transportation by Aircraft, *Id.*

[7] Railway Express Agency, Grandfather Certificate Case, 2 C.A.B. 531(1941).

[8] C.A.B. Order No. 941(1941).

[9] Air Freight Forwarder Case, 9 C.A.B. 473(1948). The CAB decision was upheld in court over the vigorous protests of the direct air carriers (the airlines), American Airlines v. C.A.B., 178 F.2nd 903 (7th Cir. 1949).

[10] Airfreight Forwarders Investigation, 21 C.A.B. 536(1955); Supplemental Opinion and Order Reconsideration, 23 C.A.B. 376 (1956); Second Supplemental Opinion and Order on Reconsideration, 30 C.A.B. 13 (1959); Air Freight Forwarder Case, 9 C.A.B. 473(1959).

[11] Air Freight Forwarder Case (International). C.A.B. 182(1949).

[12] International Airfreight Forwarder Investigation, 27 C.A.B. 658(1958). This 1958 C.A.B. Order renamed the international industry the "air cargo consolidator(s)," but the following year the name was changed back to "international air freight forwarder(s)." Supplemental Opinion and Order on Reconsideration, 30 C.A.B. 13(1959).

[13] Economic Regulation 296 and 297.

[14] See Puerto Rican Forward Co., Inc., Max Margolin and Henry v. Kantzer, C.A.B. Order E–24820(1967).

[15] Federal Aviation Act of 1958, § 408(b) (3rd proviso).

[16] *Id.* at § 408(a) (5) (proviso).

[17] *Id.* at § 408(a) (5).

[18] *See* Century Air Freight, Inc., Howard Cohen, and James Cirami, C.A.B. Order 71–6–18 (adopted June 2, 1971), Docket #21808 (mimeo), p. 3, n. 6 and orders cited therein.

[19] *See* Barnet International Forwarders, Inc., and Barnet International Air Freight Corp., Application for Interlocking Relationships, 23 C.A.B. 760 (1956); and Lifschultz Air Freight, Control and Interlocking Relationships, 25 C.A.B. 732 (1955).

[20] C.A.B. Order E–16474 (1961). Prior to this proceeding, several control and interlocking relationships between forwarders and *small surface* carriers had been approved by the CAB on a seemingly ad hoc basis. *See, e.g.,* Air Freight Forwarder Case, 9 C.A.B. 473 (1948).

[21] Airfreight Forwarder Authority Case, 40 C.A.B. 673 (1964). In a related matter that was consolidated into this proceeding, the CAB approved control and interlocking relationships involving a domestic and international air freight forwarder, limited to the movement of household goods and a long-haul motor carrier of household goods; a similar application was also approved the following year in Van-Pack Acquisition of U.S. Van Lines, 42 C.A.B. 838 (1965).

[22] 40 C.A.B. 673, 715 (1964).

[23] C.A.B. Order 68–10–32.

[24] Order 69–3–43, Docket 20812, instituted primarily to determine whether (1) outstanding authorizations for air freight forwarding of household goods and used household goods should be renewed, and if so for how long; (2) additional (new) applications should be approved (i.e., authorized); (3) the authorizations referred to in (1) and (2) should be restricted; and (4) interlocking and/or control relationships should be authorized for such applicants. The proceeding was to be known as the Household Good Air Freight Forwarding Investigation.

[25] The Initial Decision specified which of the applicants should be granted authorizations. Two applications, Greyhound Van Lines and International Sea Van, were denied outright by the C.A.B. Examiner. The former was vigorously opposed by the Air Freight Forwarders Association (which opposed all the applications), mainly because of Greyhound's activities in the field of aeronautics: a Greyhound subsidiary is the country's leading supplier of jet aircraft to U.S. airlines by lease, and therefore would be in a position to exert substantial leverage on the airlines, which could result in preferential treatment for air shipments which it forwards.

[26] *See* Motor Carrier Airfreight Forwarder Investigation, *infra*.

[27] The CAB, through delegated authority in its Bureau of Economic Regulation, articulated this policy in Telstar Air Freight, Inc., Control and Interlocking Relationship, C.A.B. Order E–22479 (July 27, 1965) at 2. The policy was reviewed in C.A.B. Order 69–4–100 (1969).

[28] Motor Carrier-Air Freight Investigation, C.A.B. Order 69–4–100 (on remand), mimeo (1969), at 3–4.

[29] Motor Carrier-Air Freight Forwarder Investigation, C.A.B. Order E–25725 (1967), vacated 391 F. 2d 295 (2nd Cir. 1968); further proceedings, C.A.B. Order 69–4–100 (1969), review denied 419 F. 2d 154 (2nd Cir. 1969), cert. denied 397 U.S. 1006 (1970).

[30] C.A.B. Order E–25725.

[31] ABC Freight Company v. Civil Aeronautics Board, 391 F. 2d 295 (2nd Cir. 1968).

[32] *Id.* at 307.

[33] C.A.B. Order 69–4–100.

[34] 14 C.F.R. 244.2. *See also* 14 C.F.R. 296.1 (d) *re:* domestic forwarders; 14 C.F.R. 297.1 (e) *re:* international forwarder; and 14 C.F.R. 399.20(b) *re:* policy statement.

[35] For precisely what the applicant must show, *see* 14 C.F.R. 296.83 *re:* domestic forwarders; 14 C.F.R. 297.63 *re:* international forwarders; and 14 C.F.R. 399.20 *re:* policy statement.

[36] ABC Freight Company v. Civil Aeronautics Board, 391 F. 2nd 295 (2nd Cir. 1968).

[37] 419 F. 2d 154 (2nd Cir. 1969).

[38] 397 U.S. 1006(1970).

[39] C.A.B. Order 70–10–100(1970).

[40] Air Freight Forwarder Case, 9 C.A.B. 473 (1948).

[41] Air Freight Forwarder Investigation, 21 C.A.B. 536, 544 (1955).

[42] Air Freight Forwarder Case (International), 11 C.A.B. 182, 197 (1949).

[43] International Airfreight Forwarder Investigation, 27 C.A.B. 658 (1958).

[44] Motor Carrier-Air Freight Investigation, C.A.B. Order 69–4–100, on remand (1969).

[45] C.A.B. Orders 70–10–99 and 70–10–100 (mimeo), at 75–80.

[46] *See* Wings and Wheels Express, Inc., and American Shippers, Inc., Enforcement Proceeding, 33 C.A.B. 577 (1971) (revocation for violations); Schulman, Inc. et al. International Airfreight Forwarder Investigation, 36 C.A.B. 110 (1962) (authorization approved despite past violations); Air Cargo Division of Frederick Henjes, Jr., Revocation, 37 C.A.B. 780 (1963) and Bar San Aircargo, Inc., 43 C.A.B. (1965) (revocations for nonperformance); and Airsembly Forwarders, Inc., C.A.B. Order E–20430 (1964) and Universal Air Freight Corporation, C.A.B. Order E–15282 (1960), E–18917 (1962), 70–1–156 (1970) (recision of revocations of authority).

[47] C.A.B. figures as of September 30, 1971, show that there are 228 air freight forwarders, of which 39 hold only domestic authorization, 37 hold only international authorization, and 152 hold both domestic and international authorizations.

SENATE—*Wednesday, May 10, 1972*

The Senate met at 12 noon and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

"Drop Thy still dews of quietness,
'Til all our strivings cease;
Take from our souls the strain and stress,
And let our ordered lives confess
The beauty of Thy peace."

O Lord, our God, bring peace to our troubled souls that we may be instruments of Thy peace among the nations. Rule over the deliberations of this body for the good of the people, the peace of the world, and Thy glory.

In the name of the Prince of Peace. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 10, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. ALLEN) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the concurrent resolution (S. Con. Res. 54) to print additional copies of hearings on "War Powers Legislation," with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

H.R. 4383. An act to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes; and

H.J. Res. 55. Joint resolution proposing the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the Seabees of the U.S. Navy.

The message further announced that the House had agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 483. Concurrent resolution providing for the reprinting of a House document entitled "Report of Special Study of Securities Markets by the Securities and Exchange Commission";

H. Con. Res. 530. Concurrent resolution to reprint brochure entitled "How Our Laws Are Made";

H. Con. Res. 545. Concurrent resolution authorizing the printing of additional copies of hearings on "American Prisoners of War in Southeast Asia, 1971—Part 2" by the Subcommittee on National Security Policy and Scientific Developments; and

H. Con. Res. 552. Concurrent resolution to provide for the printing of the Constitution of the United States together with the Declaration of Independence.

HOUSE BILL AND JOINT RESOLUTION REFERRED

The following bill and joint resolution were each read twice by their titles and referred, as indicated:

H.R. 4383. An act to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes; to the Committee on Government Operations.

H.J. Res. 55. Joint resolution proposing the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the Seabees of the U.S. Navy; to the Committee on Rules and Administration.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were severally referred to the Committee on Rules and Administration:

H. Con. Res. 483. Concurrent resolution providing for the reprinting of a House document entitled "Report of Special Study of Securities Markets by the Securities and Exchange Commission";

H. Con. Res. 530. Concurrent resolution to reprint brochure entitled "How Our Laws Are Made";

H. Con. Res. 545. Concurrent resolution authorizing the printing of additional copies of hearings on "American Prisoners of War in Southeast Asia, 1971—Part 2" by the Subcommittee on National Security Policy and Scientific Developments; and

H. Con. Res. 552. Concurrent resolution to provide for the printing of the Constitution of the United States together with the Declaration of Independence.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, May 9, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, under "New Reports," will be stated.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The second assistant legislative clerk proceeded to read sundry nominations in the National Oceanic and Atmospheric Administration.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

AUTHORIZATION FOR PRINTING ADDITIONAL COPIES OF HOUSE REPORT 92-911

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 688, House Concurrent Resolution 557.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk read as follows:

H. Con. Res. 557, authorizing the printing of additional copies of House Report 92-911.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

DEPARTMENT OF THE TREASURY POSITIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 749, H.R. 13334.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill, H.R. 13334, to establish certain positions in the Department of the Treasury, to fix the compensation for those positions, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was ordered to a third reading, was read the third time, and passed.

PORTS AND WATERWAYS SAFETY ACT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 8140.

The ACTING PRESIDENT pro tempore (Mr. Allen) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 8140) to promote the safety of ports, harbors, waterfront areas, and navigable waters of the United States, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MANSFIELD. I move that the Senate insist upon its amendments and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore appointed Mr. Magnuson, Mr. Long, Mr. Hart, Mr. Griffin, and Mr. Stevens conferees on the part of the Senate.

ORDER FOR RECOGNITION OF SENATOR MANSFIELD AND SENATOR SCOTT AT 2 P.M. TOMORROW TO MAKE A REPORT ON THEIR MISSION TO CHINA

Mr. MANSFIELD. Mr. President, I ask unanimous consent, notwithstanding the rule of germaneness, if it does apply tomorrow, that I be recognized at approximately 2 p.m. tomorrow to make a report on the Scott-Mansfield mission to China.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I ask unanimous consent that, under the same conditions, following the speech of the distinguished majority leader, I may be granted 1 hour to make a report to the Senate on the Mansfield-Scott mission to China.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, reserving the right to object——

Mr. MANSFIELD. The first unanimous consent request has already been granted.

Mr. STENNIS. I know. My only objection is that perhaps sufficient notice has not been given on this matter. I believe that every Senator would appreciate having his office called and notified about this. I am very much interested in it myself.

Mr. MANSFIELD. They have been notified, I assure the Senator, but I am not at all sure they will all show up to listen. [Laughter.]

Mr. STENNIS. I thank the Senator very much. I have no objection, of course.

Mr. SCOTT. Mr. President, I think that our reports should be made on tomorrow, Thursday, in order to make a prompt report to the Senate, before we are called upon to say too much to the press generally.

While my report may or may not be ready on Thursday, and I may decide to make it on Friday, I have reserved time to follow that of the distinguished majority leader. I have the feeling that his report, in view of the way in which we worked together, will be one of considerable depth and will have been compiled with excellent research assistance and will reflect the deeply contemplative nature of the distinguished majority leader.

My own report may be, perhaps, more in the nature of a summary of impressions and, possibly, some commentary and some recommendations. After all, 800 million people are too great a number to be accounted for in 1 hour, or 2 hours. The most populous nation in the world cannot be encapsulated in two speeches. But we will do our best to give a fair impression of two Senators who were honored by the Premier of China, Chou En-lai, with an invitation to visit his country.

I will say at this time only that we were received with the utmost correctness and courtesy, and that we were treated considerately and with cordiality. I have never seen a schedule more efficiently compiled and executed. We were able to move freely, to observe freely, and to comment candidly. We will go into more of that tomorrow.

Mr. MANSFIELD. All I want to say is that I agree with every word the distinguished Republican leader has just said.

It was a trip of great interest. It was educational. We tried to keep it in low profile. We did. We had two press conferences. We issued a brief press statement when we came out of Canton by rail to Lowu on the Hong Kong border, and another one when we arrived.

So we hope that what we have learned will be of benefit to our colleagues because we went to look, to listen, and to learn and we arrived at some conclusions.

Mr. SCOTT. I thank the distinguished majority leader. I may add that yesterday morning we did, pursuant to our undertaking, confer with the President of the United States and each of us submitted to him a confidential report in writing, and we made our oral report.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

MR. NIXON'S BRINKMANSHIP

Mr. SYMINGTON. The last paragraph of an editorial in the New York Times of this morning reads as follows:

> Mr. Nixon is pushing the country very near to a constitutional crisis; Congress can yet save the President from himself and the nation from disaster.

The action taken yesterday in a caucus of the Democratic Members of the Senate would appear to confirm this warning.

I ask unanimous consent that this editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Mr. Nixon's Brinkmanship

> In ordering the closing of land and sea supply routes to North Vietnam by American military action, President Nixon is taking a desperate gamble that alters the entire nature of the war, that risks the fundamental security and deepest interests of the United States for dubious and tenuous gains, and that runs counter both to Congressional mandate and to the will and conscience of a large segment of the American people.
>
> The mining of the harbors of North Vietnam poses a direct challenge to the Soviet Union and other arms suppliers to Hanoi that could quite possibly escalate into a confrontation between the world's two great superpowers. Only the gravest threat to the security of the United States could justify such a challenge, as was indeed the case in the Cuban missile crisis. But Vietnam is not Cuba; and there is no conceivable American interest at stake in Indochina today as there was in Cuba to warrant the risk—and the escalation—the President has so clearly undertaken.
>
> Let us grant that the North Vietnam Communists are infuriatingly—even insultingly—intransigent in the negotiations at Paris and are stubbornly aggressive in the field, as indeed they are. Let us grant that the United States still has a commitment to support to the death the present Saigon Government as representative of South Vietnamese democracy—a commitment which, if it ever existed, has surely been long ago fulfilled. Let us even grant—contrary to fact—that President Nixon's Vietnamization program has been a success and that all that is needed is a little more time and a few more arms to bring Hanoi's belligerence to a halt. Granting all these hypotheses, what possible good could President Nixon's present escalation-cum-confrontation accomplish?
>
> Even if the closing of the ports by mining and the interdiction of land routes by renewed extensive bombing should succeed in their goals without retaliation by the Soviet Union and China, the resultant cutoff in supplies could not materially affect the outcome of the present North Vietnam offensives in the South.
>
> In any case, the bulk of North Vietnam's military supplies enter not from the sea but

from China via road and rail. The entire history of deep interdiction of supply routes, from World War II to the present, demonstrates its ineffectuality. At most, therefore, Mr. Nixon's orders would simply tend to move Soviet supplies back to the trans-China route and shift the balance of influence in Hanoi a little more toward Peking.

This semi-blockade policy is both spurious and impractical; and it is difficult to understand how the President and his advisers, given the history of the war, can genuinely believe in it either. But to explain it, as the President did in his television address Monday night, as a means of protecting the American troops still remaining in Vietnam strains credulity to the breaking point. In fact, it is painfully obvious that Mr. Nixon's escalation of the conflict, including the stepped-up bombing of the North in reprisal for the Northern successes in the South, only increases the peril of American ground troops in Vietnam while obviously raising with every air raid the potential number of American prisoners held by Hanoi.

The President's risky action Monday evidently signals a decision to intensify and enlarge American military involvement in the war from sea and air, with all the attendant risks accompanying such escalation. The President is in fact leading the country down precisely the road—though by different means—that President Johnson did in 1965. The difference is that President Nixon has the benefit of these last seven years' experience. Yet, like the Bourbons, he seems to have forgotten nothing and learned nothing.

Even the peace offer included in Mr. Nixon's speech has a specious ring to it. He tells Hanoi that if it agrees to an internationally supervised cease-fire and returns the American prisoners, the United States "will stop all acts of force throughout Indochina" and will be out of Vietnam "within four months." On the face of it, this sounds as though Mr. Nixon were at last cutting all ties with the Saigon Government, for there is no mention of any political condition whatsoever. But given Hanoi's present military successes, there is little incentive to North Vietnam to accept a cease-fire now; and while Mr. Nixon specifically promises American withdrawal from Vietnam within a short period, he does not promise withdrawal from the neighboring states, leaving the implied threat of American force and American power still hanging over the peninsula.

By his rash and precipitate action, President Nixon is not only risking military confrontation with the Soviet Union over an issue that is not and never has been vital to the security interests of the United States; he is also risking the almost equally dangerous collapse of the painfully built progress toward a genuine diplomatic detente, as it is already taking form in the SALT agreements and would surely be further advanced by the now-threatened Moscow summit conference.

By his action, President Nixon is also inviting Soviet retaliation, if not in East Asia, then in other sensitive parts of the globe. By his action, he is unwittingly encouraging the Soviet hawks. By his action, he is incurring the possible speedy dissolution of the thin and delicate relationship just painfully constructed with Peking. By his action as well as his rhetoric, he has dug the United States deeper into the hole from which it had for four years been trying to extricate itself in Indochina.

And by his action he has clearly defied the Congress if not the Constitution. This may turn out to be the most dangerous of all the ominous aspects of Mr. Nixon's present course. The Congress of the United States last year resolved that it was "the policy of the United States to terminate at the earliest possible date all military operations of the United States in Indochina. . . ." Mr. Nixon said at the time that the resolution was "without binding force or effect and it does not reflect any judgment about the way in which the war should be brought to a conclusion."

But now Mr. Nixon has in effect defied the expressed will of the Congress by replying to North Vietnamese escalation with more escalation—an old, familiar and demonstrably useless course of action. His dangerous and unnecessary resort to semi-blockade and massive bombing in a futile search for military victory in an undeclared war repudiated by a large section of the American people can only weaken the country internally and discredit it abroad.

The only recourse now is in the hands of Congress. It still has the Constitutional power to curb and control the Executive. While it is an extremely distasteful action, under the circumstances Congress still can regain it * * * along the general lines of the Church-Case amendment in the Senate. It can shut off funds for all further military operations after return of the prisoners and after a certain date, either in Indochina as a whole or, as a more limited restraint, above the North Vietnam panhandle.

Mr. Nixon is pushing the country very near to a Constitutional crisis; Congress can yet save the President from himself and the nation from disaster.

THE WAR, GOLD, AND THE DOLLAR

Mr. SYMINGTON. Mr. President, there is much comment about the recent heavy escalation by this administration of the war in Vietnam from the standpoint of the political and military implications; but little comment about what said escalation is doing and will do to our economy.

Yesterday gold sold on the London market at $54 an ounce.

The press explained this unprecedentedly high price as a lack of adequate supply to meet demand; but there was a day when we talked with pride of the fact the dollar was "as good as gold."

Now we know any such statement is no longer justified. This administration has already raised the price of gold from $35 to $38 per ounce—theoretical, because no longer is there convertibility—and we know that this estimated new value bears no relationship to the deteriorated purchasing power of the dollar.

It would seem important for every American to realize that if these present policies continue, even further devaluation is inevitable.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Subsequently, this order was changed to provide for the Senate to convene at 11:30 a.m. tomorrow.)

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW AND LAYING BEFORE THE SENATE THE UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately after the two leaders have been recognized, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Commerce, without amendment:

S. 2988. A bill to authorize the appropriation of $250,000 to assist in financing the Arctic Winter Games to be held in the State of Alaska in 1974 (Rept. No. 92-788).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MAGNUSON (by request):

S. 3591. A bill to amend title 14, United States Code, to authorize involuntary active duty for Coast Guard Reservists for emergency augmentation of regular forces. Referred to the Committee on Commerce.

By Mr. STEVENS:

S. 3592. A bill to amend section 6334(a) of the Internal Revenue Code. Referred to the Committee on Finance.

By Mr. EAGLETON (for himself, Mr. STEVENSON, and Mr. TUNNEY):

S. 3593. A bill to increase the compensation of the Chairman, Vice Chairman, and other members of the District of Columbia Council. Referred to the Committe on the District of Columbia.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 3594. A bill providing for Federal purchase of the remaining Klamath Indian Forest. Referred to the Committee on Interior and Insular Affairs.

By Mr. SCHWEIKER (for himself and Mr. SCOTT):

S. 3595. A bill to authorize the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pa. Referred to the Committee on Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MAGNUSON (by request):

S. 3591. A bill to amend title 14, United States Code, to authorize involuntary active duty for Coast Guard Reservists for emergency augmentation of regular forces. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend title 14, United States Code, to authorize involuntary active duty for Coast Guard Reservists for emergency augmentation of regular forces, and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 14, United States Code, is amended by adding the following new section at the end of chapter 21 thereof:

"§ 764. Active duty for emergency augmentation of regular forces

"(a) Notwithstanding the provisions of any other law and for the emergency augmentation of regular Coast Guard forces at times of serious natural or man-made disaster, accident, or catastrophe the Secretary may, subject to approval by the President and without the consent of persons affected, order to active duty of not more than 30 days a year from the Coast Guard Ready Reserve any organized training unit; any member or members thereof; or any member not assigned to a unit organized to serve as a unit.

"(b) A reasonable time, under the circumstances of the domestic emergency involved, shall be allowed between the date when a Reserve ordered to active duty under this section is alerted for that duty and the date when he is required to enter upon that duty. unless the Secretary determines that the nature of the domestic emergency does not allow it, this period shall be at least two days.

"(c) Active duty served under this section—

(1) may, in the discretion of the Secretary, satisfy all or a part of the annual active duty for training requirement of section 270 of title 10, United States Code;

(2) does not satisfy any part of the active duty obligation of a member whose statutory Reserve obligation is not already terminated; and

(3) entitles a member while engaged therein, or while engaged in authorized travel to or from such duty, to all the rights and benefits, including pay and allowances and time creditable for pay and retirement purposes, to which he would be entitled while performing other regular active duty."

SEC. 2. The analysis of chapter 21 is amended by adding therein:

"764. Active duty for emergency augmentation of regular forces."

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., April 26, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill,

"To amend title 14, United States Code, to authorize involuntary active duty for Coast Guard Reservists for emergency augmentation of regular forces."

The proposed bill would authorize the Secretary of the department in which the Coast Guard is operating to order members of the Coast Guard Ready Reserve to active duty for periods of not more than 30 days to assist in the performance of Coast Guard missions during and following major natural or man-made disasters, accidents or catastrophes.

Domestic emergencies such as hurricane Camille in 1969 are of such sudden and vast proportion that every available federal, state and private resource must be utilized for the saving of life and property and for initial rehabilitative efforts. It goes without saying that Coast Guard and other resources in and around affected areas, though taxed to an ultimate limit, do not have a response capability commensurate with the need for assistance. It is for such situations that this Department seeks the authority to augment regular forces with members of the Coast Guard Reserve.

We are, of course, aware that heretofore the statutory and accepted mission of the reserve components of the Armed Forces has been principally limited to training for wartime mobilization. The proposed bill does not disturb that basic concept. It is our view that the anticipated peacetime utilization we propose supports rather than impairs that training objective. Motivation which is so vital to effective training and so inherently difficult to instill with training that may never be used should be significantly enhanced by a member's greater expectation of using his training to advantage. With regard to specifics of training it should be borne in mind that the Coast Guard's peacetime mission is synonymous with a part of its wartime role.

Of equal importance in justifying the authority we seek is the greater economic efficiency which will ensue. Everyone is aware of the current national concern over ecological matters and how funds may be made available properly to combat problems such as pollution of the sea by oil. Part of the answer lies in better utilization of existing resources. The Coast Guard Reserve is such a resource. A massive oil spill requires rapid and massive response perhaps to preclude a massive ecological disaster.

Enactment of the proposed legislation would not result in an immediate requirement for additional funds. We would expect at the outset to utilize existing resources until some experience can be gained on the degree and the cost of this utilization of the Coast Guard Reserve. Ultimately the usual budget and legislative procedures would be a constraint on the continuing degree of utilization.

It would be appreciated if you would lay this proposal before the Senate. A similar proposal has been submitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposed legislation to the Congress.

Sincerely,

JAMES M. BEGGS,
Acting Secretary.

By Mr. STEVENS:

S. 3592. A bill to amend section 6334(a) of the Internal Revenue Code. Referred to the Committee on Finance.

Mr. STEVENS. Mr. President, I am today introducing a bill which would exempt salary or wages in an amount of $450 per month for the head of a family or $300 per month for an individual from levy for nonpayment of Federal taxes.

Many people throughout the country have been faced with severe hardships because there is no present provision in the Internal Revenue Code to exempt any amount of a person's salary or wages from levy for the nonpayment of taxes.

Under the law as presently written, the Internal Revenue Service has no authority to levy on less than 100 percent of a person's take-home pay. This is not to say that it would not be possible for the IRS to accept less under a specific arrangement; however, under the law, it is the Internal Revenue Service's position as I understand it that any levy that does attach must attach to the full amount of the employee's take-home pay.

In order to permit taxpayers to retain a minimal amount of wages or salary upon which to live, I have introduced this bill.

Because the bill is brief, I believe it will be necessary to provide specific guidelines to Congress in order to indicate my intent as the author of this legislation. Such guidelines will serve two purposes: They will assist the Senate and House committees in their considerations of this bill and also serve as the basis for the Internal Revenue Service in applying the law.

First, the exemption is stated in an amount per month rather than an amount per week. I realize that many people are paid on a biweekly or weekly basis and that weekly wages may be involved in tax levies more often than monthly wages. However, many pay periods are made on a bimonthly or other basis, not easily statable in weekly figures.

Second, it is my specific intent that the Director of the Internal Revenue Service should have the discretion as to whether to exempt, first, the first earnings for that month, up to the exempt amount, or, second, to prorate such exemption for the month in question. He is to make such a choice based upon the equities of the case. Such a decision is presently permissible under the proposed regulations under section 6334(a)(8) which permit the District Director to make "arrangements" with a taxpayer to establish a prorated amount for each pay period which shall be exempt from levy (36 F.R. 19035).

Third, I intend that the amount exempt from levy under this bill is to be reduced by any amount exempt from levy under section 6334(a)(8).

Fourth, I intend that this exemption should apply whether or not any other member of the household is employed in addition to the head of the household.

Fifth, I intend that at the discretion of the Internal Revenue Service, the amount exempt from levy may be apportioned among several salaries or allocated entirely to one salary in the case of a taxpayer who is employed by two or more employers. This is the position the Internal Revenue Service has taken in the proposed regulations to be promulgated under section 6334(a)(8). See 36 Federal Register 19035.

Sixth, I intend that there be no carry-over of the exemption from one pay period to another. The amount exempt from levy for 1 month should not be increased by the amount exempt for the preceding month merely because the taxpayer did not work in such preceding period.

Seventh, I intend that the Internal Revenue Service may prescribe by regulation general rules relating to the circumstances under which money deposited in a checking account or savings account—or which is traceable to other property acquired—loses its identity as salary or wage exempt from levy. In certain cases it is possible that a taxpayer may utilize a checking account for the payment of his household expenses. In such a case, the purpose of this legislation would be frustrated if levy were permitted to be made upon the account immediately after the money is deposited. On the other hand, taxpayers should not be able to shield funds indiscriminately by accumulating them in a bank account. This problem is one that is solvable by regulation.

For the information of my colleagues and the general public, I ask unanimous consent that this bill be printed in its entirety in the Congressional Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) In General.—Section 6334(a) of the Internal Revenue Code (26 USC 6334(a)) (relating to enumeration of property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(9) salary or wages in an amount of $450 per month for the head of a family or $300 per month for an individual."

(b) Effective Date.—This amendment shall apply to levies made 30 days or more after the date of enactment of this Act.

By Mr. HATFIELD (for himself and Mr. Packwood):

S. 3594. A bill providing for Federal purchase of the remaining Klamath Indian Forest. Referred to the Committee on Interior and Insular Affairs.

Mr. HATFIELD. Mr. President, today I am introducing legislation to require the Secretary of Agriculture to purchase 135,000 acres of Klamath Indian timberland. I am pleased that my colleague, Senator Packwood, is joining me in this effort, and I would point out that on Monday, this same legislation was introduced in the House of Representatives by Congressman Al Ullman, and he was joined by all the members of the Oregon delegation: Wendell Wyatt, John Dellenback, and Edith Green. The House bill is H.R. 14840. The entire Oregon delegation, in both Houses, urges that this valuable property be purchased by the Federal Government. In addition, Oregon's Governor, Tom McCall, has supported this effort.

This purchase would add approximately 15 percent to the existing Winema National Forest, which was created by a purchase of much of the original Klamath Indian Forest land some years ago.

This purchase would cost in the neighborhood of $52 million, but I believe it to be a wise investment by the Government. Not only could this land be managed by the Forest Service in a wise and astute manner, but even more pressing is the alternative that is present. A longtime Washington-based correspondent for several Oregon newspapers expressed his thoughts, that I think are worthy of serious consideration. A. Robert Smith wrote in his column on April 26 that:

> The basis for the forecasts of exploitation of the remaining Indian timber if the federal government doesn't buy it, is that private purchasers would be compelled to cut and sell timber rapidly to recover their investment because the price is too high to permit it to be harvested slowly on a sustained-yield basis.

This fear has caused alarm to many Oregonians.

The beneficiaries of purchase by the Government would be the Klamath Indians, as well as the general public. Increasing recreational pressures, many from other States, would allow wise utilization of this land for the benefit of all American vacationers and travelers who visit this section of Oregon.

Mr. PACKWOOD. Mr. President, the bill that Senator Hatfield and I are introducing here today is identical to a proposal on the House side, introduced by Representatives Dellenback, Green of Oregon, Ullman, and Wyatt. It seems to me a pity that the Oregon delegation must resort to such a bill as to direct the Secretary of Agriculture to purchase prime, scenic timberland within national forest boundaries, when the Federal Government already has the authority to do so.

Under provisions of the Klamath Termination Act, as amended, the Federal Government is authorized to purchase the 134,960 acres. Pursuant to the above act, title to the property of the remaining members of the Klamath Indian Tribe was conveyed to the U.S. National Bank of Portland, Oreg., for operation and management in accordance with the management trust agreement. This agreement contained provisions allowing the beneficiaries of the trust to terminate the trust. At an election in 1969, the beneficiaries favored termination.

The trustee is required under the Termination Act to first offer the property to the Indians, if they do not purchase, then to the Federal Government. On July 29, 1971, the trustees by letter offered the property for sale to the Forest Service for $51,360,731, subject to adjustment, if any, as of the acceptance date to reflect growth and cutting. The trustees gave the Forest Service until July 2, 1972, to either accept or reject the offer.

Forest Service indicated its interest in acquiring the scenic timberland, adding it to the Winema National Forest to be managed on a multiple-use, sustained yield basis. Forest Service felt the 1958 amendment to the Termination Act provided for sale of any portion of the approximately 135,000 acres. That section is as follows:

> If at any time any of the tribal lands that comprise the Klamath Indian Forest and that are retained by the tribe are offered for sale other than to members of the tribe, such lands shall first be offered for sale to the Secretary of Agriculture, who shall be given a period of twelve months after the date of each such offer to purchase such lands. No such lands shall be sold at a price below the price at which they have been offered for sale to the Secretary of Agriculture, and if such lands are reoffered for sale they shall first be reoffered to the Secretary of Agriculture. The Secretary of Agriculture is hereby authorized to purchase such lands, subject to such terms and conditions as to the use thereof as he may deem appropriate, and any lands so acquired shall thereupon become National Forest lands subject to the laws that are applicable to lands acquired pursuant to the Act of March 1, 1911 (36 Stat. 961), as amended.

Mr. President, I have been aware of the interests in this land since 1969, and have frequently communicated with the Forest Service, and I know they are interested in acquiring the land. Upon notices from the bank a year ago, I pursued this matter with the Forest Service and the White House again, and was assured that purchase by the Forest Service was under consideration. Forest Service was definitely interested in purchasing.

Only recently did the Oregon delegation and Governor McCall become aware of how critical this was—OMB—the Office of Management and Budget—announced its decision not to purchase this property. The 135,000 scenic acres will go on public market in July of this year.

Oregonians are deeply and understandably upset. Telephone calls and letters have been pouring into the Oregon delegation from the people at home. I have had telephone conversations with the White House, have sent wires and letters to the White House, the Secretary of Agriculture and the Secretary of the Interior, urging the administration to seize this opportunity to protect this vast acreage from rape. It seems certain that if this vast natural resource is not purchased by Forest Service, then it is threatened by clear-cutting and commercial exploitation. This seems poor exchange for the opportunity of both doing something for the Indians as well as protecting our forest lands.

If the Oregon delegation is to respond properly to this crises, then the bill we have put forth in the Congress appears to be our only route.

Mr. President, I ask that editorials from some of our Oregon papers be printed in the Record at this point.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Oregonian, Apr. 26, 1972]

KLAMATH FOREST NOW SEEMS LOST TO DEVELOPERS UNLESS PUBLIC STARTS "SOUNDING OFF"

(By Phil Cogswell)

Washington.—For about $51 million the federal government could buy 135,000 acres of scenic timberland in Southern Oregon—the Klamath Indian Forest.

Instead, unless public or congressional pressure forces the administration to change its mind before June 30, the land apparently will be put up for sale to private companies.

Federal officials have announced that although the land would be a desirable purchase for addition to the Winema National Forest, the government prefers to spend available money for high use recreation sites in the East near the large centers of population.

In short, the Klamath Indian Forest didn't have a high enough priority.

Rep. Al Ullman, D-Ore., whose district contains the Klamath lands, was the most aggressive supporter over the past year for federal purchase and he has become the loudest critic of the decision not to buy the property.

"It has the making of the grossest land

and forest exploitation of anything that's happened in our generation, and yet the administration with full authority to act is sitting down and letting it happen," Ullman said.

Ullman and other supporters of the federal purchase fear that the land will be bought up by private firms or high intensity logging and recreational homesite development rather than for use as a perpetual forest managed or sustained yield techniques.

While federal purchase has been supported by Oregon congressmen over the past year, it has not become the sort of public issue that could lead the government to modify its priorities.

There appears to have been a general assumption that the government would buy the property—especially since experts agreed it was well worth the money.

Thus, while there were letters sent and meetings with administration officials the Klamath issue stayed out of the limelight.

Oregon Gov. Tom McCall, who as a television newsman did a documentary on the Klamath issue in 1958, said he had thought the government was going to purchase the land until the decision to the contrary was announced.

National conservation groups—which could have made something of the issue—also were silent.

"I don't think anybody's clamored for it—that's the problem," said Barbara Holliday, an aide to Sen. Bob Packwood, R-Ore., for environmental affairs.

"We've been concerned since 1969, but no body seemed interested in it."

The Klamath Indian Forest gained public and congressional attention in 1958—the time of then-newsman McCall's documentary—when the government terminated the tribal status of the Klamath Indians and broke up their reservation.

At that time, some tribal members voted to sell their lands immediately. Others declined and held onto approximately 135,000 acres. It is their land which is at the center of the new controversy.

In the face of fears that the pine forest would be dumped on the open market for exploitation, Congress authorized the land to be managed in trust for the benefit of those Indians. Congress also specified that if the Indians decided to end the trust arrangement, the U.S. Forest Service would have one year to buy the forest if it wanted at market value.

In 1969, the Indians voted overwhelmingly to terminate the trust and receive payment for the land. The authorization for the Forest Service to buy the land expires June 30, and the trustee—U.S. National Bank of Oregon—has indicated it will then put the land up for sale to the highest bidder.

Several lumber companies are believed interested in the property.

So is Gov. McCall, who has ordered state officials to see if there is some way the state could buy the land, but no clear method has emerged. The State of Oregon doesn't have $51 million sitting around ready to be spent.

Rep. Ullman believes the best chance for public ownership of the forest is for so much public pressure to be generated that the administration would change its mind.

He emphasizes that the administration "has the full authority under the law to make the purchase" without any additional congressional action being required.

Sen. Packwood also has urged that the federal mind be changed.

In a telegram to President Richard Nixon, Packwood said if the Forest Service is not allowed to buy the lands, "they are in danger of being destroyed forever."

Federal purchase also apparently is advocated by at least some of the Klamath Indians, who want an Indian-run corporation to manage the forest.

What the public wants done with the forest land—some of which lies along picturesque rivers and is described by Ullman as "magnificently beautiful"—might be revealed over the next two months, if the public begins expressing an opinion at all.

[From the Eugene (Oreg.) Register-Guard, Apr. 26, 1972]

RAPE OF THE LAND

Refusal of the federal government to buy a large parcel of Indian forest land in Klamath County is nothing short of an outrage. It's an example of poor resource management and, in the long run, of poor business judgment.

Involved are 135,000 acres of timber land north of Klamath Falls. If the federal government does not buy it, private timber operators will. Edward P. Cliff, retiring chief of the Forest Service, says the nature of the timberland is such that a private owner could not afford to harvest it on a sustained yield basis. Only the government could do that. This means that in private hands the acreage would soon become a wasteland like much other land in that part of the state.

It is in the long-range public interest to see the land logged in such a way that it will continue to produce timber, on a predictable basis, forever. It is, moreover, a chance for the federal government to make some money. Acquisition of timber land is less an expense than an investment. The cost, $52 million, is not great as government expenses go. Over the years it would be more than recovered. An administration that prides itself upon its concern for environmental quality should consider that aspect of the proposed purchase.

Mr. Cliff says the administration's refusal to buy the land is based on the philosophical belief that the government owns too much of the nation's land already. That might be a good argument if the proposal were to buy Times Square or Eugene's Mall. It is not a good argument, however, when applied to resource management.

The Oregon congressional delegation is unanimous in urging the government to buy the land. The Forest Service wants it as part of the Winema National Forest. If this fine land is turned over first to timber companies who will cut out and get out, and then to real estate developers, the Nixon administration will have been party to an outrageous rape of a natural resource.

[From the Oregonian, Apr. 27, 1972]

UNITED STATES URGED TO BUY KLAMATH LANDS

(By Phil Cogswell)

WASHINGTON.—Two Oregon congressmen—Republican Wendell Wyatt and Democrat Al Ullman—said Wednesday they are giving strong consideration to introducing legislation that would direct the federal government to buy the Klamath Indian forest land in Southern Oregon.

The congressmen are seeking to reverse a government decision not to purchase the 135,000 acres of timberland valued at $51 million.

Congress has authorized the government to purchase the property—which had been operated in trust for the benefit of the Klamath Indians—but that authorization expires June 30. The land then could be sold to private companies.

Wyatt and Ullman said they thought their legislation would have a chance of passage by Congress but agreed it would mean a difficult fight.

"I think it's possible but I wouldn't want to underestimate the difficulty," Wyatt commented.

"We well know it's a tough road, but we also feel that saving this tremendous block of land is a dramatic enough conservation issue and has such wide-ranging political implications that if it's properly understood we can get the support to move the bill," Ullman said.

The two congressmen said they hope to meet with other members of the Oregon delegation next week to seek additional support for the proposed legislation.

The proposal being studied by Wyatt and Ullman is a seldom-used process that would bypass the appropriations committees and direct the secretary of agriculture to enter into a contract to buy the property.

The congressmen are meeting with key members of interior and appropriations committees to explain their position and create an atmosphere for speedy passage of the legislation.

"We're still at the point of doing an analysis of both the legislative and political situations," Ullman said.

The government decision not to buy the Klamath Indian forest has raised fears among members of the Oregon delegation that the land will be bought by private firms for intensive logging and other types of development.

"I think that urgent measures are necessary to keep it from falling into the hands of developers," Wyatt commented.

Ullman said he still hopes "the administration will see the light of day and use existing authorization to buy the forest land.

[From the Oregon Statesman, Salem, Oreg., Apr. 22, 1972]

WHITE HOUSE SAYS "NO" TO PURCHASE OF KLAMATH INDIAN LAND

(By A. Robert Smith)

WASHINGTON.—The Nixon Administration has handed Oregon Democrats a political issue by deciding, against the advice of the entire Oregon congressional delegation, not to purchase a $52 million stand of Klamath Indian timberland.

Rep. Al Ullman, D-Ore., was quick to label the decision a "giveaway" to private timber interests.

The Forest Service had strongly recommended federal purchase, according to Edward P. Chieff, chief of the Forest Service. But the White House Office of Management and Budget decided "in view of the present fiscal situation, the administration just can't approve it," the Forest Service was informed.

This wasn't surprising to the Forest Service, in view of the rejection last November by the White House of another land acquisition the Forest Service wanted to make in New Mexico, a half million acre tract for some $23 million.

If the Klamath Indians who want to sell this timber put it up for private purchase, who will buy it—and what will be the consequences?

There are reports that Japanese interests are taking a look at this timber.

Japan has been the principal market for some years for logs from the Pacific Northwest. Three years ago Congress restricted the amount of log exports to Japan from federal timberland because of complaints from domestic loggers who claimed the exporters were driving up the price of logs by high bidding.

This restriction didn't affect sale of logs from private timberlands nor from the forests of Washington State. Crown-Zellerbach, Weyerhauser and Washington State have done a brisk business in log exports to Japan for some years.

Sen. Bob Packwood, R-Ore., has obtained congresssional hearings in May and June on the entire log export situation to explore possible changes in the law, to consider everything from dropping the export limitation to applying it to logs from both private as well as public forests.

Packwood Friday sent President Nixon a telegram urging him to reverse the decision so that the Klamath timber is not "in danger of being destroyed forever."

"Let us join in doing something for the Indians as well as conservation," Packwood concluded.

Rep. Ullman took a more partisan approach Friday, blasting the decision as "the biggest resource giveaway of the decade."

"This has the makings of the greatest land and forest exploitation of any time in our generation and yet the administration with full authority to act is just sitting by and letting this happen," Ullman added.

The Eastern Oregon lawmaker hopes to create a public clamor against the private sale of the timber so as to influence the White House to reverse the decision.

"Where in hell are all the conservation and environmental groups? asked Ullman. "Why aren't they moving to help save this resource?'

The entire Oregon congressional group and Gov. Tom McCall favored federal purchase. The 135,000-acre tract would represent a 15 per cent increase in the existing size of Winema National Forest, which was created a decade ago by purchase of timberland from the majority of the Klamath Tribe when they elected to terminate federal supervision over their affairs and resources.

The basis for the forecasts of exploitation of the remaining Indian timber if the federal government doesn't buy it, is that private purchases would be compelled to cut and sell timber rapidly to recover their investment because the price is too high to permit it to be harvested slowly on a sustained-yeld basis.

By Mr. SCHWEIKER (for himself and Mr. SCOTT):

S. 3595. A bill to authorize the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pa. Referred to the Committee on Public Works.

SAVING PRESQUE ISLE

Mr. SCHWEIKER. Mr. President, I introduce for myself and the distinguished senior Senator from Pennsylvania (Mr. SCOTT), a bill to authorize the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pa.

The purpose of this legislation is to extend the authority for Federal participation in the Presque Isle Cooperative Beach Erosion Control project for a period of 5 years. The legislation also authorizes $3,500,000 to support the work necessary on this important project.

Federal participation in the Presque Isle Beach Erosion Control project was originally authorized by the 1960 River and Harbor Act, Public Law 86–645, for a period of 10 years. That authority existed from 1961 to May 1971, when it expired.

Presque Isle State Park and its beaches are considered a statewide resource in Pennsylvania, and truly are a national resource as well. About 4 million people enjoy the area annually. For many years, attempts have been made to control erosion at these beaches. Such attempts, however, have been ineffective and temporary in nature. Winter storms, particularly this year, have taken a heavy toll. It is essential that immediate steps be taken to provide protection for the peninsula.

Over the past several months, I have been corresponding with Col. Ray S. Hansen, District Engineer of the Army Corps of Engineers, Buffalo district, which has jurisdiction over Presque Isle. In April, I wrote Colonel Hansen urging that public hearings be held in Erie on the Presque Isle erosion problem in early May. Colonel Hansen responded by scheduling hearings in Erie for June 2, at which corps representatives will have an opportunity to review the current condition of Presque Isle and to hear from the many members of the Erie community who have suggestions and ideas as to how to handle this tragic erosion problem.

I have asked Colonel Hansen how the Federal Government can be of assistance to the residents of Erie and the many tourists who use Presque Isle State Park and its recreation facilities. I am advised that in order for the Corps of Engineers to actively work on the area, it will be necessary to obtain an extension of Federal participation in the project beyond the expiration date which occurred in May 1971. The extension would permit Federal participation in emergency restoration of beach areas that may be required to protect park facilities from severe damage and provide useful and attractive bathing areas until more permanent modifications can be authorized and constructed. This is exactly what my legislation would do. This legislation would authorize Federal participation to a maximum of 70 percent of the cost of improving public park areas. Presque Isle State Park meets all the criteria for 70 percent participation and the cost of work done on the cooperative project for the 10 years prior to 1971 has been shared on that basis, with 30 percent State participation.

Mr. President, recently a petition bearing nearly 66,000 signatures appealing for permanent erosion control at Presque Isle State Park was presented to Pennsylvania Gov. Milton J. Shapp and Hon. Herbert Fineman, speaker of the house of representatives. The petition was presented by David DeHaven, vice president of the Pennsylania State Federation of Sportsmen's Clubs, Robert Zawadzki, president of the Northwest Pennsylvania Duck Hunters Association, which initiated the idea for the petition, and James A. Ketcham, vice president of marketing for the First National Bank of Pennsylvania, headquartered in Erie. The petition was originally presented to Erie County Representatives Robert E. Bellomini and Bernard Dombrowski who later, along with Representative Wendell R. Good, presented it to Speaker Fineman. Later, these representatives, along with Erie Representative Forest W. Hopkins, presented the petitions to Governor Shapp in his executive offices. Representative David Hayes has also worked closely with me on this problem.

Many organizations and individuals have also contacted me about Presque Isle. Thus, the residents of the Erie area have shown their sincere concern both to State and Federal representatives about the need to undertake an emergency restoration of the beach areas.

Mr. President, Presque Isle State Park is simply too valuable to Pennsylvania and to the Nation to permit continued erosion to take place. There is an increasing demand for recreation by our citizens, and we must take all necessary steps to preserve this area which, as I pointed out previously, is enjoyed by 4 million people a year. I am sure that my colleagues will agree with me that this is an area well worth saving. I am certainly hopeful of early and favorable action on this legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the authorization for the beach erosion control project for Presque Isle Peninsula, Erie, Pennsylvania, as provided in section 101 of the River and Harbor Act of 1960 (74 Stat. 480) is reinstated and extended, under the terms existing immediately prior to the termination of such authorization, for a period of five years from the date of enactment of this Act, or if the review study of such project being carried out by the Secretary of the Army is not completed prior to the end of such period until such study is completed and a report thereon submitted to the Congress.

SEC. 2. There is authorized to be appropriated not to exceed $3,500,000 to carry out the provisions of this Act.

Mr. SCOTT. Mr. President, I am delighted to join my distinguished junior colleague from Pennsylvania (Mr. SCHWEIKER) in the introduction of a bill authorizing the reinstatement and extension of the authorization for the beach erosion control project for Presque Isle Peninsula in Erie, Pa.

Several months ago, I urged the U.S. Army Corps of Engineers to expedite their projected restoration plans so that Federal funds would be available. I indicated that I would seek to include the project in next year's Federal budget.

The Presque Isle State Park in Erie is tremendously important to the Commonwealth of Pennsylvania as an outstanding water recreation area. Severe storms which hit the beach late last year caused extensive damage to the access highways and to the shore protection facilities. I have carefully examined a series of excellent aerial photographs of the area and can see quite clearly the extent of this damage. It will certainly cost several million dollars to restore the beach and park area to its original condition.

The great need for the Schweiker-Scott proposal is evident. Authority for Federal participation in the Presque Isle project expired 1 year ago. This new authorization will extend the government's participation and will authorize the expenditure of $3.5 million. As I said several months ago, the citizens of Erie and the Commonwealth's entire northwest region deserve a first-rate water recreation area. The beach must be restored. I urge the Congress to consider favorably this proposal.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 887

At the request of Mr. EAGLETON, the Senator from California (Mr. CRANSTON) and the Senator from Illinois (Mr. Stevenson) were added as cosponsors of S. 887, a bill to amend the Public Health Service Act to provide for the establishment of a National Institute of Gerontology.

S. 3070

At the request of Mr. Thurmond, the Senator from Colorado (Mr. Allott) and the Senator from North Dakota (Mr. Young) were added as cosponsors of S. 3070, a bill to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations, to provide for such veterans a certain priority in entitlement to hospitalization and medical care.

S. 3148

At the request of Mr. Bayh, the Senator from Minnesota (Mr. Mondale) was added as a cosponsor of S. 3148, a bill to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

S. 3262

At the request of Mr. Curtis, the Senator from Idaho (Mr. Jordan) was added as a cosponsor of S. 3262, a bill to amend the Occupational Safety and Health Act of 1970.

S. 3302

At the request of Mr. Pearson, the Senator from Hawaii (Mr. Fong) was added as a cosponsor of S. 3302, a bill to amend the Airport and Airway Development Act of 1970 in order to make certain airports where the landing area is owned by the United States or an agency thereof eligible for assistance under such act.

S. 3416

At the request of Mr. Thurmond, the Senator from South Carolina (Mr. Hollings), the Senator from Colorado (Mr. Dominick), the Senator from Oregon (Mr. Hatfield), the Senator from California (Mr. Tunney), the Senator from Washington (Mr. Magnuson), the Senator from Oklahoma (Mr. Harris), and the Senator from Colorado (Mr. Allott) were added as cosponsors of S. 3416, a bill to preclude POW's and MIA's from losing accumulated leave upon return.

S. 3538 AND S. 3539

At the request of Mr. Bayh, the Senator from Texas (Mr. Bentsen), the Senator from Tennessee (Mr. Brock), the Senator from Indiana (Mr. Hartke), and the Senator from Idaho (Mr. Church) were added as cosponsors of S. 3538, a bill to amend the Controlled Substances Act to require identification by manufacturer of each schedule II dosage unit produced; and S. 3539, a bill to amend the Controlled Substances Act to move certain barbiturates from schedule III of such act to schedule II.

SENATE RESOLUTION 300—SUBMISSION OF A RESOLUTION AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON EQUAL EDUCATIONAL OPPORTUNITY

(Referred to the Committee on Rules and Administration.)

Mr. MONDALE submitted the following resolution:

S. Res. 300

Resolved, That Senate Resolution 247, Ninety-second Congress, agreed to March 6, 1972, is amended as follows:

(1) In subsection (a) of the first section, strike out "May 31, 1972" and insert in lieu thereof "June 30, 1972".

(2) In section 2, strike out "$104,000" and insert in lieu thereof "$, ".

(3) In section 3, strike out "May 31, 1972" and insert in lieu thereof "June 30, 1972".

FOREIGN RELATIONS AUTHORIZATION ACT—AMENDMENTS

AMENDMENTS NOS. 1188 AND 1189

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted two amendments intended to be proposed by him to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

AMENDMENT NO. 1191

(Ordered to be printed and to lie on the table.)

Mr. BROOKE submitted an amendment intended to be proposed by him to the bill (S. 3526), supra.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1190

(Ordered to be printed and referred to the Committee on Finance.)

Mr. NELSON. Mr. President, I introduce today an amendment to H.R. 1 that would greatly strengthen the emergency assistance provisions of the welfare program.

The purpose of emergency assistance is to provide money or services to poor people for short periods of time when the failure to provide such assistance would result in destitution. For instance, in Oklahoma, emergency assistance is now available in the following situations:

> Loss of employment or illness; natural or man-made disaster; loss of a relative who has been responsible for support and/or care; garnishment of wages; and foreclosures which would deplete the family's capital resources from which essential income is derived.

Currently, emergency assistance is optional with the States, and only 24 of them have a program. In September 1971, only 10,912 families were receiving emergency assistance nationwide, and the annual cost of the program was only $20 million. The scope and coverage of the program have been kept down by numerous restrictions, particularly the fact that only 50 percent of the cost is borne by the Federal Government.

Mr. President, I ask unanimous consent that a table showing the number of families receiving emergency assistance and the amount of payments by State for September 1971 be printed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

EMERGENCY ASSISTANCE: FAMILIES RECEIVING ASSISTANCE AND AMOUNT OF PAYMENTS, BY STATE, SEPTEMBER 1971 [1]

State	Number of families			Amount of assistance payments			
				Total			
	Total	AFDC money payment cases	Other	Amount	Average per family	Maintenance	Medical care
Total [2]	10,912	5,079	5,833	$1,650,825	$151.29	$1,570,160	$80,665
Alaska	65	35	30	13,720	211.08	1,233	12,487
Arkansas	149	36	113	3,923	26.33	3,674	249
Kansas [3]	3	0	3	621	(4)	621	0
Maryland	1,880	1,780	100	336,532	179.01	336,532	0
Massachusetts [5]	1,578	498	1,080	242,863	153.91	238,840	4,023
Michigan	2,202	2,062	140	332,860	151.16	281,087	51,773
Minnesota [5]	198	15	183	54,645	275.98	49,764	4,881
Montana	10	6	4	1,033	(4)	984	49
Nebraska	306	80	226	13,704	44.78	13,673	31
New Jersey [6]	2,500	100	2,400	$440,000	$176.00	$440,000	0
New York [7]	64	64	0	41,003	640.67	41,003	0
Oklahoma	316	29	287	55,231	174.78	55,231	0
Oregon	414	2	412	20,638	49.85	16,144	$4,494
Rhode Island	56	0	56	20,211	360.91	20,221	0
Utah	99	99	0	4,469	45.14	4,469	0
Vermont [6]	157	96	61	18,440	117.45	15,766	2,674
Virgin Islands	1	1	0	168	(4)	168	0
Washington	494	34	460	32,589	65.97	32,589	0
West Virginia	305	142	163	12,388	40.62	12,384	4
Wyoming	115	0	115	5,707	50.32	5,787	0

[1] All data subject to revision. Such emergency assistance authorized to needy families with children under title IV-A.

[2] Data incomplete; see footnotes 5, 6, and 7.

[3] Represents data for August; September data not available.

[4] Average payment not computed on base of fewer than 50 families.

[5] Data incomplete.

[6] Estimated by State.

[7] Does not include New York City.

Mr. NELSON. Mr. President, passage of the President's family assistance plan would greatly increase the need for a strong emergency assistance program. For instance, consider the process of determining eligibility. Unlike present law, there is no requirement in H.R. 1—as approved by the House—that eligibility be determined within 30 days of application. Moreover, the House bill specifically insists on a more rigorous eligibility test than is made presently.

Surely, people cannot be allowed to starve while their eligibility for assistance payments is being determined. Indeed, those who are pushing for a more rigorous test of eligibility should be willing to provide emergency assistance so that the eligibility determination does not proceed at the expense of the recipient.

Under H.R. 1, provision is made for payment of up to $100 to families applying for benefits, but this is clearly inadequate. The $100 may be totally insufficient—particularly if the family is large and if the determination of eligibility is lengthy. Moreover, the emergency payment must then be deducted from subsequent payments—assuming the applicant proves to be eligible—which can only lead to a future financial crisis.

H.R. 1 also differs from current law in its treatment of past income. At present, eligibility is based on current need. But under H.R. 1, the welfare department would look at the applicant's income over the preceding 9 months. If the preceding 9 months' income exceeds a certain amount, the applicant might be ineligible for benefits for up to 9 months—until his past year's income had dropped below the critical level. Without getting into the merits of this provision, it should be obvious that some form of emergency payments will be required if the applicant is without funds and his income over the preceding 9 months makes him ineligible for payments under the family assistance plan.

Finally, H.R. 1 differs from current law in not providing for special needs. At present, in addition to his basic benefit, the welfare recipient can normally apply for money to pay for unusual expenses: new shoes for the children, a winter overcoat, an ice box, and so forth. The States currently receive Federal matching for such payments. But under H.R. 1, provision is made for the basic grant, and no more. The special needs would have to be financed wholly by the States.

This amendment would make four important changes in the emergency assistance program:

First, it would broaden the program to every State.

Second, it would encourage the States to use this form of assistance by increasing the Federal contribution from 50 percent of the cost to 75 percent—the same percentage employed for the other social services. This was the recommendation made by the administration in 1967 when the emergency assistance program was first proposed and enacted.

Third, it would provide assistance to single people and childless couples facing destitution. Currently, these cases are handled by the State general assistance programs which are financed 100 percent by State and local governments.

Fourth, it would make emergency assistance available for up to 60 days, rather than 30 days as at present. The need for this change would be particularly compelling if eligibility determinations under H.R. 1 take over a month. But the argument goes far beyond that. As Under Secretary Wilbur Cohen told the Finance Committee in 1967, when the administration recommended the 60-day limit:

> There are many kinds of cases in which there is disorganization in the family. There may be alcoholism, there may be mental illness, there may be serious physical illness, or simply lack of education. The children may have to be placed with some other relative, or they may have to be placed in an institution. They may have to be placed in foster care. They may have to go to a court.
>
> Thirty days does not seem to be a sufficient time to allow the administrative agency, the courts, or the family to make the adjustment. What we are really asking is for a longer period of time that would permit the State welfare agency to undertake handling that child in that family in a responsible way. I would say somewhere between 60 and 120 days would cover a very large proportion of the cases.

Mr. Cohen reiterated his support for an extension of coverage from 30 to 60 days in his testimony to the Finance Committee this year.

These changes would greatly strengthen and expand emergency assistance. The additional cost to the Federal Government is estimated at about $120 million in 1973, and about $170 million annually when title IV of the bill goes into effect. The program would continue to be administered by the States—along with the other social services—because the decisions involved are largely discretionary.

The changes advocated here will provide considerable fiscal relief to State and local governments. At the present time, emergency cases that are not covered by the AFDC program almost invariably fall under the general assistance program, which is supported 100 percent by local funds. In Wisconsin, general assistance is administered by the counties and municipalities, and is financed wholly out of the property tax.

In the absence of a beefed up emergency assistance program, passage of the family assistance program will force the States increasingly to fall back on general assistance. This could result from delays between application and processing of the first check, the carryover of income from the preceding 9 months, or the failure to cover special needs. And expansion of general assistance will simply shift a major part of the welfare burden back to local governments and taxpayers.

A strong emergency assistance program would also contribute to lower welfare costs in the longer run. In his testimony before the Finance Committee this year, Wilbur Cohen described this case:

> The husband dies leaving a woman with, let say, three or four children and there has to be a complete readjustment in that life. The woman may have to sell her home; she may have to move in with some other relatives. There may be a long period of illness that used up all the resources of the family. She may have to be retrained to go to work. There may be—if it was a workmen's compensation case—there may be controversy over the settlement. I believe that in the death cases if you were to make a nonrecurring payment to the woman so that she could move or do whatever she felt was in the best interests of herself or her children rather than paying her, let's say, $200 a month, which does not enable her to make the big shift that she needs. You could probably get her off the welfare rolls faster. Instead of her being on the rolls 3 years she might only be on a year and a half or two if she could make the adjustment she felt was in her and her children's best interest.
>
> Let's say the mother comes in and says, "I would be willing to go out and live with my elder son or my brother-in-law or my sister," and she needs a $200 or $300 transportation payment or she has got to do something to sell her home or pay her medical bills, I think it is not realistic or put it this way, if you just say to her, "Well, we will put you on welfare for $200 a month." It does not give her the financial opportunity to make that adjustment that I think is necessary and, therefore, I think you should have this concept of the nonrecurring single payment, and also for the disabled person.
>
> Now, a disabled person many times might want to make an adjustment in where he lives or what he has done, and I believe the concept in section 529 of a nonrecurring payment would be well worth the cost and reduce the welfare costs in the long run.
>
> The Chairman. In other words, you have got a lot of successful families where there is a very severe temporary emergency created by the death of the husband and where that family will probably be able to readjust and get by without much help, but they are going to need help for a year or so?

Mr. President, I ask unanimous consent that a summary of my amendment, an explanation of the cost estimates, several letters endorsing the amendment, and the amendment itself be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

Description of Emergency Assistance Amendment

The amendment would make four changes in the emergency assistance program (presently in section 406 e of the Social Security Act). It would:

1. make it a mandatory program in every state;

2. lengthen the period during which emergency assistance could be received in any year from 30 days to 60 days. The amendment would also make assistance available for up to two periods in a year, instead of one (as at present);

3. provide coverage for single people and childless couples facing destitution. Under the amendment, coverage for these new groups would begin when title IV of the bill goes into effect; and

4. increase the federal matching for emergency assistance from the present 50 percent to the Medicaid percentage. At such time as title IV of the bill goes into effect, the federal matching would become 75 percent, or the Medicaid matching, whichever is higher.

Cost Estimates for the Emergency Assistance Program

Currently, 24 states have an Emergency Assistance Program. In 1973, the estimated coverage for this program is about 30,860 families per month, which is 370,320 families per year.

These states include 44.59 percent of the national AFDC caseload. If this program were mandated nationwide, we should expect at least 460,180 new cases, which comes to a total of 830,500 cases all together.

The average monthly payment in 1973 is $138.25. Thus, using the current eligibility requirements with the program mandated nationwide, we could expect a total cost of $114,817,000.

If we assume that the period of eligibility will be extended from one thirty day period to two thirty day periods, then the costs may be increased by 50 percent. This would involve a total cost of $172,225,000.

If, in addition, the program is extended beyond families with children to include childless couples and single individuals, then the costs of the program may again be increased by 50 percent. This would involve a final cost of $258,336,000.

Under these assumptions, the federal cost of the proposal in the first year would be $146,994,000 (56.9 percent of $258,336,000). The federal cost would increase when title IV becomes effective due to an increase in the federal matching to 75 percent or the Medicaid percentage, whichever is higher. The federal cost of a flat 75 percent would be $193,754,000; the federal cost of the proposal would be only a little higher since only five of the smaller states have Medicaid percentages above 75 percent.

ESTIMATED FEDERAL AND STATE SHARES OF EMERGENCY ASSISTANCE PROGRAM—FISCAL YEAR 1973

[Dollars in thousands]

	Federal matching formula (percent)	Federal	State
1. Current program	50.0	$25,599	$25,598
	[1]56.9	29,131	22,066
	75.0	38,398	12,799
Total cost		51,197	
2. Current program: extended nationwide (increase cost 124 percent)	50.0	57,409	57,408
	[1]56.9	65,331	49,486
	75.0	86,113	28,704
Total cost		114,817	
3. Current program: extended nationwide increase to 60 days (increase costs by 50 percent)	50.0	86,113	86,112
	[1]56.9	97,996	74,229
	75.0	129,169	43,056
Total cost		172,225	
4. Current program: extended nationwide increase to 60 days include individuals and childless couples (increase costs by 50 percent)	50.0	129,168	129,168
	[1]56.9	146,994	111,344
	75.0	193,754	64,582
Totalc st		258,336	

[1] This figure is the weighted average Federal participation rate based on caseload figures for the current Medical Assistance matching formulas in each state.

Department of Health and
Social Services,
Madison, Wis., May 1, 1972.

Mr. Paul Offner,
℅ Senator Nelson, U.S. Senate Office Building, Washington, D.C.

Dear Paul: I appreciate receiving the draft of Senator Nelson's amendment to H.R. 1 concerning emergency assistance.

The measure is desirable for several reasons:

1. Under H.R. 1 both federal benefits and any state supplements must be flat grants. Some additional device, such as emergency assistance, is needed to take care of the unique and special needs of some families.

2. Wisconsin does not have an emergency assistance program now, so many unique needs must be met by counties or municipalities. Since there is neither state nor federal matching of such costs and no standard setting, there is great variation across the state in the meeting of such needs. Some local units can finance a fairly decent program, and others cannot. Some approach the problem with a fairly generous attitude and others are more restrictive.

3. The program would partially relieve the property tax of one burden, i.e., some general relief, it now must bear.

4. The measure would provide immediate help when needed by a financially needy family applying for H.R. 1 benefits. The provision for advancing $100 to be deducted from the first federal check is of no real benefit to a destitute family.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

Frank Newgent,
Administrator,
Division of Family Services.

University of Michigan,
School of Education,
Ann Arbor, Mich., May 4, 1972.

Senator Gaylord Nelson,
Senate Office Building
Washington, D.C.

Dear Senator Nelson: I have reviewed the draft of the amendment to H.R. 1 relating to emergency assistance which Paul Offner sent me.

I wholeheartedly endorse the objectives of the amendment.

The amendment generally follows the specifications of the proposal which I supported, on behalf of the then Administration, in 1967.

It would enable the States, in my opinion, to meet a wide variety of problems in a flexible and compassionate manner.

Sincerely,

Wilbur J. Cohen,
Dean.

Amendment No. 1190

On page 447, between lines 5 and 6, insert the following new section:

EMERGENCY ASSISTANCE

Sec. 530. (a)(1) Section 406(e)(1) of the Social Security Act is amended by striking out "for a period not in excess of 30 days" and inserting in lieu thereof "for not more than two periods (neither of which shall be in excess of 30 days)".

(2) Section 402(a) of such Act is amended by inserting immediately before the period at the end thereof the following: ", and (24) provide for the furnishing of emergency assistance (as defined in section 406(e)) in accordance with regulations of the Secretary (which regulations shall (i) provide for the furnishing, to children and families eligible therefor, of such food, clothing, housing, utilities, and other items specified by the Secretary, as may be needed, (ii) establish criteria for establishing eligibility for, and the extent to which, emergency assistance will be provided, and (iii) prescribe the conditions under which, and the extent to which, recipients of such assistance will be liable for the repayment thereof)".

(3) The amendments made by the preceding provisions of this subsection shall be effective in the case of months beginning after the month in which this Act is enacted, but notwithstanding any other provision of part A of title IV of the Social Security Act, no State plan which has been approved under such part prior to the effective date of such amendments shall, on account of failure to comply with the requirements of section 402 (a) (24) of such title (as added by this subsection), be deemed to have failed to comply with the requirements of such title if such State plan complies with such section 402 (a) (24) not later than the first day of the 6th month following the month in which this Act is enacted.

(b) Effective in the case of expenditures, under State plans approved under part A of title IV of the Social Security Act, made after the date of enactment of this Act and prior to the effective date of title XXI of the Social Security Act (as added by section 401 of this Act), section 403(a)(5)(A) of such Act is amended by striking out "50 per centum" and inserting in lieu thereof "the Federal medical assistance percentage (as defined in section 1905)".

(c) As of the effective date of title XXI of the Social Security Act (as added by section 401 of this Act), title XI of the Social Security Act (as amended by other provisions of this Act) is further amended by adding at the end thereof the folowing new section:

"EMERGENCY ASSISTANCE

"Sec. 1126. (a) Notwithstanding any other provision of this Act, no State shall be eligible for payments pursuant to title V, or title XIX, or part A of title IV, with respect to expenditures under any State plan approved by the Secretary under such title (or such part A) for any calendar quarter, unless such State has in effect a State plan for emergency assistance approved by the Secretary under this section.

"(b)(1) Any such State plan shall be designed to provide services and financial assistance necessary to avoid destitution of families or individuals as a result of sudden desertion, sickness, fires, natural disasters, or similar causes.

"(2) Any such State plan shall (A) provide that emergency assistance under the plan will not be provided to any family or individual for more than two periods (neither of which shall be in excess of 30 days) in any 12-month period, and (B) provide for the furnishing of emergency assistance in accordance with regulations of the Secretary (which regulations shall (i) provide for the furnishing, to families and individuals eligible therefor, of such food, clothing, housing, utilities, and other items specified by the Secretary, as may be needed, (ii) establish criteria for establishing eligibility for, and the extent to which, emergency assistance will be provided under State plans, and (iii) prescribe the conditions under which, and the extent to which, recipients of such assistance will be liable for the repayment thereof.

"(c) The Secretary shall, from the funds appropriated to carry out this section, pay (in accordance with regulations) for each quarter to each State which has an approved plan under this section an amount equal to 75 per centum, or if greater, the Federal medical assistance percentage (as defined in section 1905), of the amounts expended during such quarter as emergency assistance under its State plan, and of the amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of such plan.

"(d) There are hereby authorized to be appropriated such sums as may be necessary to enable the Secretary to make the payments to States authorized by this section."

(c) On and after the effective date of the amendment made by subsection (b), there shall be no further requirement that any State having a plan approved under part A of title IV of the Social Security Act provide, in such plan, for the furnishing of emergency assistance, and no Federal payment shall be made under such part A on account of expenditures incurred in any such plan in providing emergency assistance thereunder.

TAX REFORM ACT OF 1969—AMENDMENT

AMENDMENT NO. 1192

(Ordered to be printed and referred to the Committee on Finance.)

Mr. ALLOTT. Mr. President, on November 12, 1971, I introduced S. 2851, a bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions. As I stated at that time, my purpose is to grant certain homes for the aged and underprivileged the same privileged status extended to hospitals.

Mr. President, so that my colleagues may be provided with background on this subject matter, I ask unanimous consent that my introductory remarks of November 12 be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

By Mr. ALLOTT:

S. 2851. A bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions. Referred to te Committee on Finance.

Mr. ALLOTT. Mr. President, I send to the desk a bill for appropriate reference. This bill amends the Internal Revenue Code of 1954 with respect to certain charitable contributions. My purpose in introducing this legislation is to grant certain homes for the aged the same privileged tax status extended to hospitals. My deliberations convince me that there is insufficient justification for any other treatment. The Tax Reform Act of 1969 made numerous changes in the exempt organization area. Albeit, much tax reform was needed to correct abuses that arose in connection with private foundations. Under the current law, many charitable homes providing long-term care for the aged and underprivileged are classified—by definition—as private foundations.

The adoption of this bill will relieve these homes of the burdens imposed upon private foundations by the 1969 Tax Reform Act—mainly the 4-percent excise tax on investment income and the minimum distribution requirements.

At first blush, the provisions contained in the Tax Reform Act of 1969 appeared to be reasonable obligations, even for the most charitable of institutions. But indepth study reveals that they will lead to the eventual depletion of the assets of these charitable organizations. Let me explain why. These homes for the aging are usually classified as operating foundations under the Internal Revenue Code. They use their investment income, often supplemented by fees charged to the recipient of the care, to meet their operating costs. It is a known fact that operating costs, especially those in the area of long-term care are constantly on the increase. Most of the homes that have come to my attention have been in existence for many decades and in most instances exercise a conservative investment philosophy. They have chosen to accept a lower yield in order to maximize growth potential, to make allowances for future years—hedging against inflation, if you will. Siphoning off of the top 4 percent—section 4940—plus mandating that an amount equal to 4 percent of their assets be disbursed each year—section 4942—really hurts. Most Senators know the difficulty in obtaining growth investments that yield 4 percent. In order to avoid the penalties contained in the Internal Revenue Code, these homes must dip into their capital in order to meet their minimum disbursement requirements.

Last year, I introduced S. 4435, a narrowly structured bill granting similar relief to the Myron Stratton Home of Colorado Springs, Colo. It had come to my attention that the 1969 provisions could lead to the eventual demise of the Myron Stratton Home, which provides long-term care for poor children and disabled elderly persons—without charge. I therefore introduced remedial legislation inasmuch as I could not tolerate the siphoning off of money from the operations of this home, a home the benefits of which have been known to me personally for many years—the housing, feeding, and care of underprivileged children and elderly citizens.

In the past year, my research has uncovered other homes for the aged which likewise are affected to their serious detriment—and, in my judgment, to society's detriment—by the Tax Reform Act of 1969. At this point, I wish to recognize and thank the American Association of Homes for the Aging for their cooperation in my research. Homes for the aging located in: Massachusetts, Pennsylvania, Nebraska, Kentucky, Missouri, Delaware, New York, Ohio, and California—and Mr. President, I suspect in many other locations—have their very existence threatened by these tax provisions.

These nonsectarian organizations, by and large have been in existence for many, many years and are able to offer long-term care services at a reduced cost because of the existence of an endowment, the income from which is used to offset operating costs; thereby reducing the cost of care to the residents/recipients. If they were church affiliated—performing the same function—they would not be classified as a private foundation, and would not be subject to these deleterious tax provisions. Why discriminate when we are talking about care for the aged?

At a time, Mr. President, when the Congress is laboring to increase social security benefits, increase medicaid and medicare benefits, increase Federal retirement benefits, and increase the number of subsidized housing units for the elderly, we cannot permit these organizations to be penalized under our tax laws. The dissipation of resources dedicated to such a social good must be terminated. Certainly we do not want to foist upon the taxpayers burdens heretofore borne by eleemosynary organizations. We must eliminate this "penalty" imposed upon those organizations. In all likelihood, Mr. President these are the only organizations which provide an absolutely necessary community service—which I might add, has been hit the hardest by rising costs—that of providing long-term care of the aged at a reduced fee for those who are least able to pay.

Mr. President, in my 17 years of service in the U.S. Senate, I have learned, among other things, that when the Congress enacts sweeping legislation, such as the Tax Reform Act of 1969, oversights are inevitable, provisions are enacted which in later years are discovered to cause certain inequities, and in my judgment this has happened in the instant case. This situation is an example of treatment which was not contemplated by the Congress when the Tax Reform Act of 1969 was enacted.

Mr. ALLOTT. Mr. President, subsequent to my introduction of this bill, three identical bills have been introduced in the House of Representatives. Following in order of introduction of legislation, are the names of those Congressmen who have given their support to this legislation: Congressman BROTZMAN; Congressman BETTS; and Congressman BURLESON. Also, since that time, I have been expanding my search for organizations which are in need of the relief provided by this legislation. I can now report to my colleagues that homes in the States of: Louisiana, Ohio, Oklahoma, New York, California, Illinois, Connecticut, Pennsylvania, Colorado, and Washington, D.C., are in need of this aid.

My purpose in offering today this amendment in the nature of a substitute is to respond to the constructive comments I have received. In enacting the amendments to chapter 42 of the Internal Revenue Code in the Tax Reform Act of 1969, one of the things that the Congress recognized was a need to prohibit unreasonable accumulations of capital by charitable organizations. In operating a home for the aged, one must certainly exercise a conservative investment philosophy geared to growth of the investment portfolio to guard against the rising cost of providing lifetime care. In fact, the minimum distribution requirements contained in chapter 42 of the code are too stringent as they apply to this group of organizations because of their need to hedge against future costs. In order to be responsive to this concern, however, I have decided to add the following language to assure that a minimum portion of an organization's investment assets are devoted to the charitable purpose:

> . . . and which normally makes qualifying distributions (within the meaning of section 4942(g) (1)) directly for the active conduct of such purpose or functions in an amount not less than 3 percent of the amount described in section 4942(e) (1) (A),

Mr. President. As I have previously indicated, I believe the effects of the Tax Reform Act of 1969, as they apply to this group of organizations were unintended by the Congress. I sincerely hope that the Finance Committee will take positive action to remedy this inequity.

I ask unanimous consent that the text of my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 170 (b) (1) (A) (iii) of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following: ", or an organization which on or before May 26, 1969, and continuously thereafter to the close of the taxable year operated and maintained as its principal purpose or function facilities for the long-term care, comfort, maintenance, or education of resident permanently and totally disabled persons, elderly persons, needy widows or children, and which normally makes qualifying distributions (within the meaning of section 4942 (g) (1)) directly for the active conduct of such purpose or functions in an amount not less than 3 percent of the amount described in section 4942 (e) (1) (A),"

(b) The amendment made by subsection (a) shall take effect on January 1, 1970.

FEDERAL AID HIGHWAY AND MASS TRANSPORTATION ACT OF 1972—AMENDMENT

AMENDMENT NO. 1193

(Ordered to be printed and referred to the Committee on Public Works; and, if and when reported by that committee, jointly to the Committee on Banking, Housing and Urban Affairs, the Committee on Commerce, and the Committee on Finance.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (S. 3590) to authorize appropriations for the construction of certain highway and public mass transportation facilities in accordance with title 23 of the United States Code, to establish an urban transportation program, and for other purposes.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 1183

At the request of Mr. BROOKE, the Senator from Wisconsin (Mr. NELSON)

was added as a cosponsor of amendment No. 1183, intended to be proposed to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

NOTICE OF HEARINGS ON S. 3148—THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1972

Mr. BAYH. Mr. President, as chairman of the Subcommittee to Investigate Juvenile Delinquency, I wish to announce hearings on S. 3148, the Juvenile Justice and Delinquency Prevention Act of 1972. This bill is designed to improve the quality of juvenile justice in the United States and to provide a comprehensive, coordinated approach to the problems of juvenile delinquency.

These hearings have been scheduled for May 15 and 16, 1972, at 10 a.m. The hearings will be held in room 2228, New Senate Office Building.

Those who wish to file statements for inclusion in the record of the hearings should contact Ms. Mathea Falco, staff director and chief counsel of the subcommittee at 225-2951.

NOTICE OF HEARING ON SENATE JOINT RESOLUTION 106

Mr. BAYH. Mr. President, I wish to announce that the Subcommittee on Constitutional Amendments of the Judiciary Committee will hold a hearing on Senate Joint Resolution 106, proposing an amendment to the Constitution of the United States with respect to the reconfirmation of judges after a term of 8 years.

The hearing will be held on Friday, May 19, 1972, and will begin at 10 a.m. in room 318, Old Senate Office Building. Persons wishing to submit written statements for the record in connection with this Joint Resolution are requested to contact Mr. Michael Helfer, Assistant Counsel, Subcommittee on Constitutional Amendments, Room 300, Old Senate Office Building, Washington, D.C. 20510.

CANCELLATION OF BUS SUBSIDY HEARINGS

Mr. EAGLETON. Mr. President, the Committee on the District of Columbia had scheduled a hearing for Thursday, May 11, 1972 on the need for a subsidy for the D.C. Transit Co. in place of an increase in bus fares, it being the committee's understanding that an increase in bus fare from 40 to 50 cents per ride will go into effect on May 25, 1972. The day before yesterday, the House of Representatives, by a vote of 270 to 50, disapproved of such a subsidy. Accordingly, it does not appear that any useful purpose could be served by the Senate District Committee's holding a hearing at this time.

In April of 1970 the Senate passed a bill authorizing a public takeover of the operation of D.C. Transit, a course of action which is presently being discussed in the community. However, that bill was never acted upon in the House of Representatives. I am sure that I speak for the committee and for the Senate when I say that we would again be willing to consider such legislation were the House of Representatives to indicate that they looked with favor upon such legislation. However, without such an indication it appears that any action by the Senate would be futile.

NOTICE OF INVESTIGATIVE HEARINGS ON BARBITURATE ABUSE

Mr. BAYH. Mr. President, I wish to announce that the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary is continuing its investigative hearings on barbiturate abuse on May 17, 1972.

The subcommittee began this investigation with hearings December 15 and 16, 1971 on the extent of barbiturate abuse and the legitimate uses of these dangerous drugs. On May 2 and 3, 1972 the subcommittee heard testimony from police officials and others on the illegal diversion of legitimately produced barbiturate materials and pills illicit barbiturate traffic; and law enforcement responses to the diversion and illegal distribution of these dangerous substances.

On May 17 we will hear testimony from several district attorneys representing various regions of the country. They will focus on aspects of illicit barbiturate traffic and prosecutorial efforts to deal with the barbiturate problem.

The hearings will begin at 10:00 a.m. on May 17 in room 2228 New Senate, Office Building. Any person who wishes to submit a statement for the record should notify Mathea Falco, Staff Director and Chief Counsel of the Subcommittee at 225-2951.

ADDITIONAL STATEMENTS

SENIOR CITIZENS' MONTH

Mr. GURNEY. Mr. President, I think it is only proper that we in the Senate should, along with the President, take the lead in promoting national awareness of the needs and wants of the retired American.

It is, therefore, most fitting that the President has proclaimed the month of May as "Senior Citizens' Month," and I hope that we in the Senate can do our part in translating the words of the proclamation into action.

For instance, we have a massive social security and medicare reform bill which should soon be reported to the Senate floor for action. We have a number of bills in the Post Office and Civil Service Committee which would improve and update the retirement system for the Federal retiree. The Armed Services Committee has a body of legislation which would bring the military retirement system more into line with today's needs. We have legislation in the Labor and Public Welfare Committee which would improve and regulate private pensions. Lastly, we await the report of the Commission on Railroad Retirement, so that Congress can legislate on its recommendations affecting railroad retirees. Our senior citizens have worked hard in expectation of an enjoyable and dignified retirement. Now they look to us to fulfill that promise.

Mr. President, this year should indeed be a year of action for our elderly Americans who have done so much to make America great. I would like this year, the year following the White House Conference on Aging, to be the year we get all this legislation onto the Senate floor for action now.

I ask unanimous consent that the President's proclamation declaring May to be Senior Citizens' Month be printed in the Record.

There being no objection, the proclamation was ordered to be printed in the Record, as follows:

A Proclamation: Senior Citizens' Month, 1972

There are certain landmark years in every individual's life—memorable, significant years of advance and achievement.

This year offers promise of becoming a landmark year in the lives of America's 21 million older citizens.

In December 1971, I met with 3500 delegates to the White House Conference on Aging. I told the delegates that I did not want their recommendations to gather dust on storeroom shelves. And I promised to join them in making 1972 a year of action for older Americans.

Since that time, we have been reviewing those recommendations—and a number of action steps have already been taken. For example, we have increased the budget for the Administration on Aging tenfold. I have signed into law a new national nutrition program for older people. We are working to ensure that needed transportation services are included in service projects for the elderly. Programs to involve older people in voluntary service to others are growing. And we are moving forward with other, earlier efforts—such as our campaign to reform nursing home care and our program to provide hundreds of information centers for older persons at the local level.

All of these endeavors complement our basic program for improving the income position of the elderly. If the Congress approves my recommendations for reforming and expanding social security and other income maintenance programs, the income of older Americans would be increased by some $5.5 billion annually.

Of course, there is much that remains to be done. One important challenge is to help all our people develop a new attitude toward aging, one which stops regarding old Americans as a burden and starts regarding them as a resource. For such an attitude will not only contribute to the dignity of life for older Americans, it will also give our country the immense benefit of their skills and their wisdom.

Now, therefore, I, Richard Nixon, President of the United States of America, do hereby designate May 1972 as Senior Citizens Month. The theme for this month is action now.

I urge officials of government at all levels—national, State, and local—and of voluntary organizations and private groups everywhere, to give special attention during this period to the concerns of the elderly, so that it may truly be a high point in a year of action for older Americans.

I also urge each individual American to use this month as a time to make a personal commitment to action on behalf of older people—so that the last years may be among the best years for all of our countrymen.

In witness whereof, I have hereunto set my hand this second day of May, in the year of our Lord, nineteen hundred seventy-two, and of the Independence of the United States of America the one hundred ninety-sixth.

Richard Nixon.

THE FORTHCOMING GAS SHORTAGES

Mr. HANSEN. Mr. President, one would think, in view of the dire warnings of forthcoming gas shortages in Washington and other cities of the North and East, that Congress would be making some positive efforts toward alleviating a situation that could quickly become a crisis.

But rather than doing what could and should be done on legislative proposals now pending in both the House and Senate, we hear a chorus of demands from Democratic presidential candidates as well as other Senate and House Members for further cuts in the oil depletion allowance and other disincentives to an industry already hard pressed for the earnings and capital necessary to explore and drill for vitally needed domestic oil and gas.

There is also the sanctity of contract gas bill still languishing in committees of both the House and the Senate. While not the final answer to realistic producer wellhead natural gas prices, the act would at least be a step in the right direction and would give gas producers assurance that once a contract had been certified by the Federal Power Commission, the price agreed on could not at some later date be lowered.

Additionally, legislation is now pending that would decontrol the wellhead price of newly discovered natural gas as well as another bill to free all natural gas from Federal price regulation. In my opinion, the Natural Gas Act was never intended to fix the wellhead producer price.

Federal Power Commission regulation of wellhead price came about by edict of the U.S. Supreme Court in the Phillip's case of 1954 and was upset by an act of Congress a few years later. That bill, however, was vetoed by President Eisenhower, because of the impropriety of lobbying activities by a representative of an oil company.

The unrealistically low wellhead gas prices imposed during the 1960's, beginning with area rate ceilings have, in my opinion, been mainly responsible for our dwindling gas reserve posture and resultant gas shortage as demand for this cleanest and most convenient fuel runs far ahead of the discoveries necessary to supply the market.

In addition to legislation, the Federal Power Commission on its own initiative has proposed a procedure that would enable producers to apply for higher wellhead rates for newly discovered gas and is intended to encourage long-term, large volume dedications of new supplies of natural gas to the interstate market and stimulate and accelerate domestic exploration of the Nation's natural gas reserves.

Under present FPC wellhead pricing regulations—even after a substantial increase last year—gas sold intrastate not under FPC control brings far higher prices than gas committed to the interstate system. But even so, gas-producing States such as Louisiana and Wyoming are hard pressed for gas for new or expanding industry because of the growing demand.

In Ohio, all gas produced in the State is sold and used in the State at wellhead rates, about double the FPC rates in Louisiana, Texas, and Wyoming.

In Boston and New York, plans are underway to import liquified natural gas at rates not only double but triple the price of domestic natural gas delivered to the distributors in those cities.

Yet a former Chairman of the Federal Power Commission, under whose jurisdiction such unrealistically low producer prices were enforced, now denounces the FPC proposal as outrageous.

It is strange, indeed, that he and others now question the validity of information on gas reserves furnished by the industry, although such information apparently was considered reliable as long as the industry was able to produce enough gas to satisfy demand.

Also, in one breath the industry is charged with its inability to furnish more gas 3 years after several FPC decisions seeking to stimulate the discovery of more gas reserves. Actually, the only realistic increase was approved last year.

And in the second breath, the industry's accusers say that higher prices—"disciplines of the marketplace"—would make no difference anyway, because it would take 1 to 5 years to get new products on the market, "no matter what the price."

So a number of companies continue plans to import Algerian and other foreign liquified natural gas to the east coast and manufacture synthetic gas from naptha or crude oil at three times the cost of the delivered price of natural gas while those who have been largely responsible for the unrealistically low prices paid to domestic producers of natural gas insist on continued bargain rates to the consumer—even though gas is the only fuel so regulated.

Mr. President, the Columbia Gas System, Inc., which operates in a number of States including this area has published an excellent summary of the energy crisis and their proposal for an action program to help to correct the national energy crisis.

I fully agree with their conclusion that the Nation's economy, in fact the whole level of our civilization, will suffer, unless affirmative action is promptly and incisively taken.

Mr. President, I ask unanimous consent that the Columbia "Action Program" be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

AN ACTION PROGRAM TO HELP CORRECT THE NATIONAL ENERGY CRISIS

(Proposed by: The Columbia Gas System, Inc.)

Although this Action Program is directed to correcting the gas shortage, it will alleviate the total energy crisis by contributing, directly and indirectly, to adequate supplies of other energy—nuclear, coal, oil, and electricity.

NATIONAL ENERGY CRISIS FACTS

1. The welfare of the nation and its citizens is directly dependent upon an adequate availability of energy fuels.

2. The nation is in the beginning stages of an energy crisis with increasing shortages of all forms of energy.

3. The situation is worsening day by day and unless the public recognizes the problem and urges government to cooperate with industry for early solution, it could go from crisis to disaster as early as the winter of 1973–74. Industries could be shut down because of lack of energy, resulting in great unemployment, homes and commercial establishments could be without sufficient energy for their daily needs.

4. The day of low cost energy is past. The prices of all forms of energy must increase sharply if the nation is to have the supplies it needs. Congress, the Administration and the public must be prepared for such higher energy costs and greater efforts must be exerted to conserve energy by stopping wasteful practices.

These facts are evident from an abundance of studies and official energy reports. They lead to the inescapable conclusion that early development of adequate supplies of energy must have the highest priority among our national goals.

Following first in summary and then in detail is an Action Program for achieving such priority as to gas, which presently provides almost one-third of the nation's energy needs and is already unable to meet current demands.

EXPLANATION

I. Domestic Exploration and Development Must be Greatly Expanded:

For the last four years more gas has been used in the lower 48 states than has been found. This trend must be reversed as quickly as possible.

A. Producer Rates:

The Federal Power Commission should allow substantially higher rates than those presently in effect to insure an expanded exploratory program on the North American Continent. The Administration, as well as Congress, and the public must understand the inevitability of the increasing cost of exploration.

Under heavy pressure from consumer representatives, the FPC set the price for producers' natural gas at levels which have proved to be not only below its economic value but wholly inadequate to justify exploratory efforts. This underpricing perhaps more than any other single factor is the basic cause of the gas shortage today. It had a twofold result—it increased demand for gas and its discouraged exploration for gas to meet such demand. Thus, between 1956 and 1971, the number of exploratory wells drilled declined over 50% leading directly to an inadequate development of new reserves.

New reserves will also be costly since the less costly reserves have already been developed. The cost of offshore wells and deeper wells is of a different magnitude (in 1969—average onshore well—$68,726; average offshore well—$559,309; average cost of Alaskan well—$2,087,000!). The capital requirements of the petroleum industry (oil and gas) in the 1971–1985 period for exploration, development and production needed to meet U.S. demands is over $100 billion.

We urge immediately substantially higher producer rates. In recognition of the severe gas supply shortage, the Federal Power Commission has proposed in its Rule-making at Docket R–441 a procedure whereby prices higher than existing area rates can be paid for gas. This is a major procedural step toward achieving the objective of higher producer rates.

We urge that in an orderly but relatively manner the Federal Power Commission phase out the concept of "vintaging" of gas, i.e., different prices for old gas and new gas.

Until such time as vintaging of gas prices has been phased out and higher field prices can be realized, we urge FPC to permit pipelines to continue to assist in financing "development" of gas reserves.

B. Lease Sales:

The amount of federal land made available for exploratory efforts must be substantially increased, both in the Gulf of

Mexico and on the continental shelf off the Atlantic Coast. Federal lease sales must be held more frequently with greater areas of land involved.

Lease sales in the Gulf of Mexico must involve a minimum of 450,000 acres annually through the balance of the decade if there is to be any hope of even holding production of gas from that area at its present level. As older fields in the Gulf decline in production, new fields must be developed to replace their production. Expanding delivery of gas from offshore waters will require a program of leasing in the Atlantic and the first steps must be taken in the near future to provide necessary lead time for exploration and development.

It is urged that the Department of Interior relax its efforts to maximize bonuses received for leases and implement the President's pledge to make more public land available for exploration. Currently there is a contradiction of federal policy—keep prices of gas low, but obtain high prices for leases.

C. Sanctity of Contract Legislation:

Congress should pass the bills now before it which will: first, assure producers that approved contract prices and other economic terms of contracts will not subsequently be changed by Federal Power Commission order; and, second, set more realistic standards for determining gas prices. These measures (H.R. 2513 and S. 2467), known as the Sanctity of Contract bills, can contribute significantly in providing the economic incentive that producers must have to undertake costly drilling programs.

This comprehensive legislation is responsive to the great need to assure producers of their contract prices, the lack of which assurance is a substantial deterrent to producers; this lack is compounded by the fact that under present conditions a producer whose rate has been retroactively reduced has no choice but to continue the sales he committed to make at a higher rate. This legislation has widespread industry support; it has widespread Congressional support; it has strong support from the Administration. Its prompt enactment would remove significant barriers in fixing realistic rates and encouraging sales to interstate pipelines. It is an essential part of a total program for increasing incentives for exploration and production of gas. This legislation is needed to attract desperately needed amounts of natural gas to the interstate market. Without it there will be increasing inequities in the distribution of available gas and inefficiencies in its use by encouraging intrastate, as distinguished from interstate, sales.

II. Nonhistoric Sources of Gas Must be Made Available Promptly:

Historic domestic sources of gas cannot fully satisfy the nation's growing requirements. Therefore, the prompt development of nonhistoric sources of gas is essential.

A. Oil and Gas from Alaska:

Construction of the trans-Alaskan oil line must be permitted to move forward at the earliest possible date. Not only is the high quality oil from the North Slope of Alaska needed to supplement present domestic supplies, but the gas associated with this oil must be added to the nation's supply total by the latter half of this decade. The gas from Alaska cannot be produced until oil production begins, so that the line needed to bring out the oil must be built. Only after this work begins can the project of constructing a gas pipeline from the area get under way. Both projects will be extremely costly and require some four to five years to complete. The environmental benefits of the clean energy to come from development of Northern Alaska oil and gas will far offset any possible minimal adverse impact on the vast Alaskan wilderness.

The gas industry will also need assistance and cooperation from the national administration and Federal Power Commission to make possible the delivery of gas by pipeline from Alaska through Canada to the lower 48 states.

B. Import Policies for LNG and Synthetic Gas Feedstocks:

Practical import policies for liquefied natural gas (LNG) and feedstocks for synthetic pipeline quality gas should be promulgated as soon as possible. There are problems of national security and balance of payments, which can and must be reconciled with the fact that synthetic pipeline quality gas and LNG are the quickest means of expanding the nation's gas supply.

C. Coal Gasification Research and Development:

Research and development of the gasification of coal must be pursued vigorously in the years immediately ahead. Coal gasification offers one of the most promising sources of gas in the 1980's and thereafter. Thus, adequate funds should be appropriated each year for coal gasification research. The existing joint industry-government program for accelerating the construction of pilot plants for gasification of coal should be funded promptly. The industry portion of $10 million for the first year of the program has already been committed; the government portion of $25 million for the next fiscal year is still pending before Congress.

This appropriation should be approved promptly and measures taken to assure continuation of the funding in the future.

D. Joint U.S.-Canadian Energy Board:

The National Administration should seek to create as soon as possible a joint U.S.-Canadian Energy Board to help coordinate programs which would make Alaskan and Canadian natural gas available to the United States market. The joint Board should be a clearinghouse for expediting all matters necessary for the development and delivery of such gas.

III. Clarification of the National Environmental Policy Act:

The National Environmental Policy Act (NEPA), passed in 1970, had as its objective the improvement of the environment and quality of life. *This objective must be achieved*. However, because of the vague standards set forth in NEPA and because of unwieldy procedures often used by administrative agencies to implement the Act, the initial actions under NEPA have paradoxically obstructed efforts to supply the American people with clean burning natural gas. The result is not only a serious imbalance between the ecological and energy needs of the nation, but, in the ultimate analysis, an imbalance between different environmental considerations. Congress should promptly review the Act, including current administrative and judicial interpretations thereof, and amend the Act to clarify certain of its provisions and administrative procedures.

Recent Court decisions and dissents to those court decisions point up the need for Congressional review so that environmental considerations will be placed in their proper perspective in terms of the nation's overall goals. Indicated procedural requirements have already delayed many needed energy projects, and unless modified, they could delay many more for indeterminate periods.

As NEPA is interpreted and administered, any private citizen can in effect stall in the courts virtually any energy project, without regard to the directness of his interest in the project, the need of vast numbers of others for it, or the added costs inherent in such delay. The Alyeska Pipeline, needed to bring oil and gas from North Alaska to the lower 48 states, and the Southern Louisiana Offshore lease sales, particularly needed to maintain existing gas service to the northeastern states, are tragic examples of how the nation's severe energy shortage is hostage to procedural exploitation of NEPA by environmental activists of limited perspective.

IV. A Department of Natural Resources:

The President's Departmental reorganization Program, contained in his Message to Congress dated March 29, 1971 and embodied in S. 1431, should be enacted; amended, however, in accordance with S. 1025, to include the Environmental Protection Agency in the Department of Natural Resources.

The objective of organizing federal efforts more effectively is essential to needs of the 1970's. The cause of much malfunction of government machinery is the fragmented structure for solving the complex problems confronting the nation. This is particularly true with respect to energy problems.

There are over 60 federal agencies sharing responsibility for gas and oil matters. The result is a lack of overall energy direction; e.g., (a) contrary to the overriding need for providing incentives for exploration, the Interior Department's federal lands leasing policies are designed to maximize the bonuses paid to the government with the dual adverse effect of increasing the cost of gas to producers and so to consumers, and of draining away from producers capital they could better use in exploration and development, (b) the contrast between enormous research funds appropriated for civilian atomic energy and the relatively trifling funds for coal gasification and other mineral research, (c) the absence of well-defined policy as to importing supplemental gas, such as LNG and feedstock for synthetic gas, and (d) the lack of any priority for energy needs in fixing national goals.

A single Department of Natural Resources would enhance the possibility of broadening the scope and accelerating the industry-government research effort beyond the present coal gasification efforts.

The proposed amendment placing environmental administration in the new Department is essential so that all environmental factors can be recognized and evaluated as part of a natural resource program. Inclusion of this function in the new Department will permit such evaluation in a more orderly fashion and in a manner consistent with national goals.

Current studies looking toward sound energy programs for our nation are now under way in both Houses of Congress. It is essential that such studies promptly concentrate on necessary governmental actions, such as those proposed in this document, to alleviate the growing energy crisis. A single Department of Natural Resources could more efficiently and effectively implement the Action Programs developed from such studies.

V. Timely Response in the Administrative Process:

The Administrative Process has not and is not responding quickly enough. For example:

The Permian Basin Proceeding, instituted in 1961, was not completed for nearly seven years. A second layer of proceedings is now in process.

The Southern Louisiana Area Rate Proceeding, also instituted in 1961, was decided in early 1969, but at that time it was clear that the prices arrived at were inadequate and the Commission initiated AR69–1 to determine a new price. It took over two years for the Commission to fix a new price. This price is already wholly inadequate.

Efforts to correct the gas supply situation are being thwarted by delay. No one would deny the right of due process, but neither should anyone be permitted to exploit the adversary process for tactical reasons unrelated to the merits, which is now possible in view of the virtually unlimited rights of interventon, hearings, and judicial review. Congress, the National Administration, Administration agencies, and the Courts must help establish procedures for quickly considering, reconciling or resolving the conflicting interests of all parties in the energy scene. Administrative procedures must be streamlined so as to provide fair consideration of all points of view without thwarting completely the timing of programs and projects directed to correcting the gas supply situation.

In line with this suggestion, Congress should resist introducing further conflict and delay such as are inevitably involved in the enactment of various provisions of the Consumers Protection Act.

THE OVERALL ENERGY SITUATION

While the shortage is becoming dramatically clear as to natural gas, it is by no means limited to natural gas.

(a) Natural gas which in 1971 provided 33% of the nation's energy requirements is not available in sufficient volume to meet today's demands, and its reserves are increasingly deficient to meet new demands. FPC Staff Report No. 2 shows a natural gas shortage of 0.9 trillion cubic feet in 1971, projected to 9 trillion in 1980 and to 17 trillion in 1990.

(b) Oil which in 1971 supplied 44% of the nation's energy needs is also in short supply. The nation is increasingly dependent on foreign oil imports, with all its related uncertainties.

(c) Coal in 1971 supplied 18% of our energy needs. While the nation has substantial reserves, environmental requirements limit their utilization. Substantial research and development programs are needed to develop new technology to make these vast reserves available, e.g., coal gasification and programs to remove pollutants so coal can be used directly. Such projects are long-term, so coal cannot be counted on as an immediate or short-term alternative to other energy fuels.

(d) Hydropower provided about 4% of energy needs in 1971 and is being counted on to continue to supply an even smaller portion of total energy needs in the future.

(e) Nuclear energy, which in 1971 provided less than 1% of our energy needs, is being counted on to provide a substantial portion of the nation's future energy needs, but not significantly so before around 1985; in the meantime it is already far behind schedule and more costly than expected because of environmental delays.

It is thus clear that energy in any of its forms is in short supply. Unless we face up to the problem immediately, the more than 41 million present customers of natural gas (roughly equivalent to 150 million users), and many prospective new consumers, including householders and employees of businesses that depend upon gas, will find their service and jobs increasingly endangered. As the same situation applies or soon will apply to all energy fuels, the nation's economy, in fact the whole level of our civilization, will suffer, unless affirmative action is promptly and incisively taken. The American people can no longer take for granted, and they must recognize they can no longer take for granted, an adequate supply of energy.

April 20, 1972.

If you desire further information on any of the specific elements of this Program, write: Action Program, c/o The Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807.

SUPPORT FOR RICHARD KLEINDIENST

Mr. PEARSON. Mr. President, I support the nomination of Richard Kleindienst as Attorney General of the United States.

The individual charged with implementing the law of the land holds a unique responsibility under our system of government, one which inspires the hopes and confidence of a law-abiding and freedom-loving people. The Attorney General is also charged with the major responsibility of assuring the safety and individual rights of all Americans, an obligation which is of vital and immediate importance to each citizen.

Finally, the Attorney General is responsible for implementing the policies of his superior, the President of the United States. In this regard, Mr. Kleindienst is uniquely qualified, having served under the President as Deputy Attorney General since 1969.

Mr. President, in analyzing the qualifications a nominee brings to this office, I believe it is incumbent upon the Senate to examine as closely as possible his integrity, his honesty, and his beliefs. The Judiciary Committee, after two sets of exhaustive hearings, the second of which the nominee himself requested, has determined that Richard Kleindienst satisfactorily meets the standards by which an individual appointed to such a high office is judged. I support this decision, and I believe the Senate will stand behind the President in approving this nomination.

RUSSIA: THE REAL ESCALATOR OF THE WAR

Mr. BELLMON. Mr. President, the Soviet Union has been playing an extremely dangerous game of world psychological warfare throughout the history of the Vietnam war, particularly in recent months. While pretending to be for peace in Europe, at the same time the Russians have been largely responsible for the war in Southeast Asia.

The overwhelming force with which the current North Vietnamese offensive was launched is clearly a result of the vast quantities of modern, sophisticated Russian weaponry with which the North Vietnamese have been supplied, including infrared antiaircraft rockets which have been withheld prior to this invasion.

Mr. President, the Soviet Union must bear the responsiblity in this offensive and must now bear the responsibility of a Moscow-Washington confrontation. It is regrettable that at a time when a productive summit meeting seemed possible that the Russians have chosen to enter into a dangerous gamble.

They have presumably measured the risks, of jeopardizing an East-West detente, of reaching agreement in the strategic arms limtation talks, of American support for the Bonn-Moscow treaties, and of acquiring Western industrial technology that the Soviet Union needs.

Mr. President, last Monday evening the President of the United States announced to the American people new steps to be taken to counter the North Vietnamese offensive. These steps included interdiction of rail and truck transport and the mining of harbors in North Vietnam to deny the enemy a safe haven for receiving war materials from its allies. The most significant decision lies in the decision to mine entrances to the harbors. The President indicated that of all the options available, these measures were the only ones that could be taken.

President Nixon's bold move has caught the Russians with their pants down and exposed their duplicity. They must now either opt for peace in Southeast Asia or for a return to cold war conditions in Europe.

Mr. President, while President Nixon has been withdrawing American troops and lessening the military capability of South Vietnam, the Russians have escalated the supply of war materials and introduced larger, longer-range, more sophisticated tanks, artillery and other offensive military hardware in North Vietnam. While the United States has been working for peace, the Russians, through their North Vietnamese puppets, have been furthering the war in Southeast Asia.

It should be obvious by now to the American people and to the world that Russia, not the United States, is the real escalator of the war in Vietnam.

Thanks to the courageous action of a President determined to achieve peace in Vietnam, the world now sees a new animal—the two-faced Russian bear.

Mr. President, it is highly encouraging to me to note the support that has been forthcoming for the President's decision from my home State of Oklahoma.

In Tulsa, Western Union reports that more than 700 telegrams mostly supporting the President, had been sent to Washington within 3 hours of President Nixon's announcement.

Mrs. Barbara Fieszel, of Tulsa, Okla., State coordinator for the National League of Families of American Prisoners and Missing in Southeast Asia, is quoted in published reports as saying she was "real encouraged" by President Nixon's stand. She said she believed that if the American public stands behind the President, "Hanoi will listen."

Editorial comment from Oklahoma newspapers also has been favorable toward the President's position.

Mr. President, I ask unanimous consent that the editorials be printed in the RECORD.

There being no objection, the editorials ordered to be printed in the RECORD, as follows:

[From the Tulsa Tribune, May 9, 1972]

NIXON BITES THE BULLET

Richard Nixon made a great speech last night. It was the speech, not of a politician, but of a President.

He has elected to pursue a course that could cost him many millions of votes in a war-weary nation. He has turned his back on easy surrender, even though such a course might be politically profitable since he would join in a policy which his leading opponents think will pay ballot box dividends.

He has looked into the future, beyond the alluring short-term advantages of bug-out and give-away. He understands the great lesson of the 20th century, that Munichs produce holocausts, that where totalitarian aggression succeeds greater totalitarian aggression inevitably follows.

This is a dangerous moment. The blockade of North Vietnam is a direct challenge to the Soviets. At best, Moscow will erupt with furious words. At worst, Russia will try countermeasures on the high seas.

But, having offered to give everything which we could give with honor, and having been answered in the screaming rhetoric of those who are determined to win by raw conquest, the door to negotiation had been slammed shut, and we faced the option of total collapse or more vigorous response.

Mr. Nixon chose the hard and rocky path that, hopefully, leads to sunny uplands, rather than the easy, downward path that heads for the quagmires.

Whether Americans elect to uphold his courage is not yet known.

But last night he upheld his solemn oath of office.

[From the Tulsa Daily World, May 10, 1972]

Nixon's Bold Decision

We support President Nixon's move to mine the harbors of North Vietnam and to continue the bombing of strategic targets in the North.

The President explained, and every American should fully understand that there are risks involved in this new development in Indochina. But since when has there ever been a risk-free alternative for the United States in Indochina? Certainly, there has been no simple and easy way out since President Nixon inherited the mess from his predecessors. His task all along has been to weigh one risk against another.

Mr. Nixon must surely have been tempted many times to merely throw up his arms, yield to his enemies in North Vietnam and their supporters in the United States and quietly walk away. Let the North Vietnamese aggression succeed. Forget about the millions of South Vietnamese who took us at our word that we would help them if they would try to defend themselves from tyranny.

This would have been tempting, indeed, for a President who could have declared with some justification that the war was mismanaged, messed up and possibly lost before he took office. But it would not have been without risk to our remaining forces in that part of the world. Certainly, it would not have been without risk to status as a world power, or as some might phrase it, our national honor.

Instead the President has chosen the hard road. He has gambled his political life on a courageous move to protect our remaining forces in Indochina, to keep the pressure on an enemy that holds hundreds of American prisoners as hostage and to keep our word to our allies in Southeast Asia.

We hope it works. We hope it will not result in a new deterioration of our cautious but continuous efforts toward nuclear arms controls. We trust the North Vietnamese will finally understand that the American people are not going to accept international humiliation as casually as Sens. McGovern, Kennedy and Fulbright would have them believe.

In any event, we back President Nixon who has the guts to stand up for his country.

THE IMPACT OF OSHA

Mr. HANSEN. Mr. President, on numerous occasions I have asked to be recognized in order to call the attention of the Senate to the impact which the Occupational Safety and Health Act is having on the American people.

While the intent of the law is good, the extremely complex and cumbersome rules and regulations implementing the act have led to confusion and fear. Employers read these lengthy rules and regulations, and although some are unnecessary or irrelevant to the health and safety of employees in that particular workplace, the employer is faced with complying with the rules and regulations or with being cited and penalized by a Department of Labor inspector during the first visit to his business.

I am not convinced that Congress or the Department of Labor are fully aware of the true impact which these occupational safety and health rules and regulations are having.

Janet F. Clark, of Cheyenne, Wyo., in a brief letter to me, does an outstanding job of expressing just what is going on throughout our country. Janet Clark, the mother of three boys and the sole support of her family, works for Mr. Dwain McCard, a small businessman who runs McCard Construction, Sand, and Gravel.

Mrs. Clark is worried about the loss of her job.

Mr. President, I ask unanimous consent that Clark's letter of April 19 to me be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

April 19, 1972.

Senator Cliff Hansen.

Dear Sir: I am writing in regards to your Health and Safety Act. This law is the most dictatorial, unfair, unjust, unnecessary law possible.

I am Secretary-Bookkeeper for McCard Construction, Sand and Gravel and thanks to your ignorant law I am just about out of a job along with others employed by Dwain McCard. I have overheard countless numbers of conversations from other Construction Companys who are faced with the same possibility of closing up completely as there is no way a small company can comply completely to your laws. We have a shop and office which are very suitable to work in. Everything is going fine, they have had one accident in 20 years which your safety laws would not have helped anyway (a smashed finger in a truck tailgate). According to this Safety Act we are completely illegal, which is very unjust as long as our employees do not complain and we do not have accidents other than a scraped finger now and then who is to say we are not safety minded. We are not a big company but pay a payroll of $28,319.29 and paid over $8,000.00 in taxes last year.

If our Employers are forced to close up only because of this law you will be faced with a great number of unemployed people for a very unnecessary reason.

I just hope something can be done about this before its too late and were all out of jobs. I am the sole support of my three boys and my job is very important to me.

Sincerely:

Janet F. Clark.

TERRESTRIAL IMPACT OF TRANS-ALASKA PIPELINE

Mr. PACKWOOD. Mr. President, while the final Environmental Impact Statement filed by the Department of the Interior on the proposed Alaska pipeline has not been easily accessible to the general public, and no forum for public debate has been granted or encouraged by the Department, I believe opposing views should be heard. For that reason, I ask unanimous consent to have printed in the Record a part of volume II, "Terrestrial Impact—Comments on the Environmental Impact Statement for the Trans-Alaska Pipeline," compiled by the Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth. The statement, by Dr. Thomas J. Cade, Cornell University, is a review of the Final Environmental Impact Statement on the proposed Trans-Alaska pipeline, as it relates to birds.

There being no objection, the comments were ordered to be printed in the Record, as follows:

Comments on the Environmental Impact Statement for the Trans-Alaska Pipeline

(Compiled by: The Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth)

REVIEW OF "FINAL ENVIRONMENTAL IMPACT STATEMENT PROPOSED TRANS-ALASKA PIPELINE" AS IT RELATES TO BIRDS, BY TOM J. CADE

My name is Dr. Thomas J. Cade. My professional qualifications and experience in Alaska are as folows. I hold a Ph.D degree in vertebrate zoology and ecology from the University of California, Los Angeles, and I am currently Professor of Ornithology in the Section of Ecology and Systematics and Research Director of the Laboratory of Ornithology at Cornell University. I first knew Alaska in 1949 as a student at the University of Alaska, where I received my bachelor's degree in 1951. I have done ecological field work on St. Lawrence Island, the Seward Peninsula, in the Alaska Range, along the Yukon River, and I have spent fourteen summers since 1952 working on the Arctic Slope. My research work in northern Alaska has resulted in the publication of more than 20 scientific papers on the ecology of land vertebrates in Alaska, mainly dealing with birds.

This critique of the *Impact Statement* reviews Interior's estimate of environmental impact by the trans-Alaska pipeline from four complementary perspectives, as follows: (1) Failure of the statement to indicate what the environmental savings would be, with respect to birdlife, of a combined transportation corridor for oil and gas pipelines through Canada, (2) failure to give any real estimate of risk involving the bird populations inventoried in the *Impact Statement*, (3) failure to evaluate the distinctive characteristics and unique values of the bird populations along the pipeline route and along the marine transportation route, and (4) failure to recognize the integral roles that bird populations play in the functioning of ecosystems.

1. *The question of alternative routes.*—Since the *Impact Statement* clearly points out that the trans-Alaska oil pipeline would inevitably be followed by the construction of a gas pipeline through Canada, the Nation is actually faced with the need for an evaluation of the relative impacts of a combined gas and oil corridor from northern Alaska through Canada versus separate corridors for oil and gas. The *Impact Statement* makes no such comparison.

As pointed out in Vol. 2 of the *Impact Statement*, there are more than 350 species of birds known to occur in Alaska and adjacent waters. At least 194 of these species occur along the proposed pipeline right-of-way, and an unspecified number of others—chiefly oceanic and aquatic birds—exist in large aggregations along the tanker route from Prince William Sound south.

Avifaunas of major concern are the following: (a) The waterfowl, marine birds, and shorebirds of the Beaufort Sea region, where the barrier islands, reefs, sandspits, and beaches adjacent to Prudhoe Bay constitute a major nesting and migratory habitat for many thousands of birds. Such habitats are particularly vulnerable to oil spills into the sea. (b) The tundra-inhabiting birds of diverse kinds that nest along the Sagavanirktok River, especially such relatively rare species as Whistling Swans, Yellow-billed Loons, Gyrfalcons, and Peregrine Falcons; (c) the boreal forest birds south of the Brooks Range, especially those in the Yukon River basin; (d) the birds of the Copper River, the lower reaches of which comprise one of the major areas for waterfowl and especially the Trumpeter Swan, which has made a dramatic comeback after having been greatly reduced in numbers 30 years ago; (e) the birds of the Lowe River, which is an important habitat for Bald Eagles, among others. Finally, (f) the extremely rich and in many ways unique marine and waterbird fauna—pelagic feeders—of Prince William Sound and the coastal waters of southeastern Alaska and British Columbia along the tanker route. Past experiences with oil spills at sea indicate that these pelagic birds, more than any others, would be subject ot hazards from transporting oil out of the Prudhoe field by the proposed route.

If one adds to these impacts on birdlife the comparable impact of constructing a gas pipeline from Prudhoe Bay through Canada by some route along the Mackenzie Corridor, then additional, separate and distinct populations of some 250 species of birds would be subject to some degree of hazard just within the tundra and taiga regions transected by the gas line to Edmonton. As far as terrestrial birds are concerned, the impact would at least be doubled by having separate routes for gas and oil. The most important point is that, except for possible spills or leaks that might reach the Beaufort Sea from a pipeline, an Arctic Alaskan-Canadian route for gas and oil would *not subject any major marine ecosystem to the dangers of oil pollution*. Secondly, although the Mackenzie River valley shelters major habitats for Arctic and Subarctic birdlife, including significant numbers of nesting pairs of the endangered Peregrine Falcon, there are no bird species that are peculiar to the region or found nowhere else in North America, as there are in Alaska and its coastal waters. In Arctic Alaska, for example, a number of Asiatic species reach their eastern limits of breeding distribution — Rufous-necked Sandpiper, Curlew Sandpiper, Yellow Wagtail, Arctic Warbler, Red-spotted Bluethroat, among other. Furthermore, the pelagic birdlife of the Bering Sea and North Pacific region is distinctive, and a high percentage of the species are endemic to these waters, especially members of the family Alcidae.

An Arctic Alaskan-Canadian route also makes most sense in terms of long range, continental strategy for the conservation of nature and the wise use of resources. Major oil discoveries in the Canadian Arctic will also require transportation corridors for development. If the Mackenzie Corridor should prove to be strategic for several major fields, then both economy and esthetics dictate the use of one corridor rather than multiple corridors.

Of the several possibilities that have been suggested for reaching the Mackenzie Corridor with a pipeline from Prudhoe Bay, it is my conclusion, which is based on considerable knowledge of the regions and avifaunas involved, that a direct route across the Arctic Slope from Prudhoe Bay to Fort McPherson is preferrable to any other and would cause the least impact on bird populations and other wildlife, notwithstanding the fact that more than half of this route in Alaska would cross through the Arctic National Wildlife Range. The protected status of the Arctic Wildlife Range should not blind the Nation to the fact that the proposed trans-Alaska pipeline route would place in jeopardy far more and, in many places, far richer natural habitats and wilderness areas than exist in the Wildlife Range. In fact, the Arctic Wildlife Range has practically no exceptional or unique natural values in its northern foothills and narrow coastal plain sections. The great natural assets of the Wildlife Range lie from the north front of the Brooks Range—the Shubelik and Richardson Mountains—southward across the divide into the tributary drainages of the Porcupine River. It is in these portions of the Wildlife Range, rather than along the coast, that a pipeline and road would have a major impact on the wildlife and on scenic wilderness values.

2. *Estimates of risk and hazard to birdlife.*—Although Vol. 2 of the *Impact Statement* devotes considerable space to inventories of the "bird resources" along the pipeline route (but not along the tanker route, except for Fig. 22, p. 162, which shows the location of some of the major seabird nesting colonies), Vol. 4 deals very lightly with estimates of impact on bird populations along the pipeline route, only 5 pages including one page of references. The marine tanker route and problems of oil spills at sea are given 14 pages. Spills along the tanker route are certainly the most serious dangers to consider as far as potential hazard to birdlife is concerned.

There can be little doubt that the recent history of massive bird kills from oil spills at sea would be continued along this tanker route, for it is impossible to ship oil by sea with no loss to the environment. The waters from Prince William Sound to Seattle are extremely rich in birdlife, especially during the winter months after the birds have left their nesting colonies with the young of the year and lead a more strictly pelagic existence. These birds include many unique species such as the Yellow-billed Loon, the Slender-billed Shearwater, the Fork-tailed Petrel, and Black Brant, many other geese and ducks, jaegers, gulls, and terns, and some 12 species of auks (family Alcidae). Many of these species are narrowly restricted in their ranges to the coastal waters of Alaska and British Columbia, and a large oil spill such as occurred with the *Torrey Canyon* disaster could destroy a major segment of the population of a whole species.

3. *Uniqueness and special values of the birdlife that would be affected by the pipeline and tanker route.*—The Impact Statement inventories Alaskan birdlife in some detail, but it fails to place Alaskan birds in perspective with respect to continental or worldwide distributions of bird species. It fails to evaluate any of the unique, distinctive, or special attributes of the birdlife that would come under the impact of the pipeline and tanker route. Several points have already been made in this regard and will only be enumerated here: (a) The Arctic Slope of Alaska constitutes the only true, high arctic tundra environment within the territorial limits of the United States and nowhere else within our borders does a true Arctic avifauna exist; (b) the Alaskan Arctic is a breeding ground for a number of Asiatic species that are not found anywhere else in North America; and (c) the pelagic seabirds of Alaskan and British Columbia coastal waters—particularly species of the family Alcidae—constitute one of the most massive aggregations of bird populations anywhere in the world. For sheer numbers of individuals, for diversity of species, and for degree of endemism no other marine avifauna occupying a region of comparable size can compare with the avifauna of the Bering Sea and North Pacific.

The *Impact Statement* singles out the Peregrine Falcon for special consideration in several places, because it is an "endangered species." In 1970 the Bureau of Sport Fisheries and Wildlife contracted Dr. Clayton M. White and Mr. J. H. Streater to do a helicopter survey of the pipeline route for nesting birds of prey, particularly the Peregrine.

Their work was done in the nesting season between 15 July and 11 August; they found six active falcon nests along the route, but they may have missed some others, particularly any that failed before the young hatched or fledged. Since then, portions of the route have been changed, and the State of Alaska considers that this survey provides inadequate information regarding the current status of raptor populations along the proposed pipeline route (Vol. 2, p. 183). Certainly additional details about the nesting sites of birds of prey and the denning sites of carnivores are badly needed in order to obtain a true estimate of impact on predator populations and in order to project schedules for construction and other work in ways that would cause the least disturbance to these vulnerable and shy animals. This is but one example of the kind of detailed information that is still lacking for a meaningful assessment of impact.

4. *The role of birds in the functioning of ecosystems.*—Most birds are either secondary or tertiary consumers, basically predators of one sort or another; only a few species are primary consumers, feeding directly on materials produced by plants. The effects of oil pollution or other man-induced disturbances on the food base of insectivorous and carnivorous birds could have far-reaching deleterious effects on their populations. On the other hand, the removal of large numbers of birds by oiling or other hazards associated with production and transport could change the niche relationships of species at the lower trophic levels of the ecosystem with unpredictable and possibly drastic results. For example, the loss of large numbers of pelagic seabirds could change the niche relations and population densities and distributions of the aquatic organisms (fish and crustaceans) on which they feed. The *Impact Statement* fails to treat the inter-relationships of organisms that make up ecosystems that would be affected by oil development in Alaska or to consider impact at all in terms of possible disturbances to the many negative feed-back or regulatory mechanisms that constitute what is usually referred to as "the balance of nature."

Conclusion.—From the standpoint of impact on birdlife, an alternate route from Arctic Alaska through Canada for both oil and gas appears highly preferable to a trans-Alaska oil pipeline and a separate gas line through Canada. If a trans-Alaska pipeline is to be constructed at all, it should be deferred until a great deal more specific data are at hand on the locations of aeries of predatory birds such as Peregrines, Gyrfalcons, and Golden Eagles, and on important nesting grounds for such species as swans, loons, geese, and cranes—large, shy birds that will be most vulnerable to development. Such information could be obtained in about two summers of intensive field work. Surveys to date have been extremely superficial.

As the proposal now stands, the 361 miles of haul road north of the Yukon River would become a part of the State of Alaska Highway System with full public access. The same is true for three proposed permanent airfields. These two stipulations for the pipeline project are by far the most dangerous features for the future of wildlife and wilderness in northern Alaska. They far outweigh the actual gross destruction of habitat that would result from construction and the potential environmental damage from oil leaks or spills. These two stipulations mean the uninhibited entry of people into a fragile wilderness. They mean additional development by private enterprise of the messy sort that can be seen along the Alaska and Richardson highways. How rapidly such development occurs in today's world is readily evident along the new highway between Anchorage and Fairbanks, where filling stations, lodges, laundromats, and all sorts of little establishments sprang up over night and began degrading the natural environment even *before* the highway was open to traffic! Alaska north of the Yukon River should be saved from this fate. If there must be a road and airfields north of the Yukon River, they should remain under federal control and they should be kept as limited public access facilities. There is no other way to keep the northern wilderness and wildlife in their present state of natural perfection.

Some of my friends argue that the appreciation and recreational use of wilderness requires man's presence and therefore some access is necessary. The question is one of "degree" of access, of restraints on modes of travel, habits of living, and types of activities. Aldo Leopold placed the problem of wilderness use in its correct perspective over 20 years ago, when he said: "Recreational development is a job not of building roads into lovely country, but of building receptivity into the still unlovely human mind." (*A Sand County Almanac*).

IN SIGHT—A DRY POTOMAC RIVER

Mr. BEALL. Mr. President, one day in the not too distant future, unless proper steps are taken now, the District of Columbia and its surrounding environs will face a crisis of the highest proportions—a dry Potomac River. Soon, with mathematical certainty, our demand will outdistance the capability of the river to supply us with the water we so crucially need. Already that day has theoretically occurred on paper. On September 10, 1966, the water flow in the river at Great Falls fell to a low of 388 million gallons a day, before it reached the first of the area's water intakes. Then, last summer, on July 17, those same intakes drew 402 million gallons per day from the river. One needs only to compare these two figures to realize the enormous problem facing the metropolitan area.

Washington has found itself caught in this coming crisis in spite of the fact that it is located in one of the most water rich areas of the Nation. On an average day, the Potomac contains approximately 7 billion gallons. Yet, all of this water flows by, unhindered by dams, on its way to the sea. As a result, while other cities develop plans for reserve supplies of water, the District remains almost totally dependent on the presumed abundance of its river, a supply that is woefully inadequate for the rising demands of the coming years.

The answer lies in the construction of facilities that will conserve our vital resource. I have in the past supported efforts to build dams, such as the Sikes Bridge Dam on the Monocacy River above Frederick, Md., and the Verona Dam at Staunton, Va., that will enable the metropolitan area to meet the increasing needs of its people. Soon, the Senate Committee on Public Works will begin hearings on these projects, and it is my every hope that the committee will give them early and favorable consideration. Five to 11 years are needed to build a dam, so time is indeed of the essence.

Mr. President, the Washington Sunday Star of May 7, 1972, published an article by John Fialka which illuminates the possible catastrophic consequences should action not be initiated soon. I ask unanimous consent that this fine piece be printed in the RECORD, so that Senators may have the opportunity to study its conclusions.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DRY DOOMSDAY—THE DAY THE WATER RUNS OUT

(By John Fialka)

One day soon, a day coming with a mathematical certainty, the Potomac River will run virtually dry.

It will most likely be a hot summer day in a period of prolonged drought. At first, Washington suburban jurisdiction won't feel the crisis because they have some water storage capacity.

But the District of Columbia will be in serious trouble.

At best, Washington has a 12-hour reserve supply of water. After that, parts of the system simply will have to be shut off to supply water to more vital areas. Some sink taps, toilets and fire hydrants will be empty.

This waterless doomsday already has occurred—on paper. On a hot day in 1966, Sept. 10, the flow in the river above Great Falls fell to a new low of 388 million gallons a day (mgd) before it reached the first of the area's water intakes.

Last summer, on July 17, another hot day, those intakes drew 402 mgd from the river. Another record.

Engineers from a variety of local and federal agencies concerned with the problem are now praying that these conditions will not coincide on one day this summer.

They say the crisis is inevitable. It could occur sporadically in the 1970s. It will happen frequently in the 1980s, when the area's daily appetite for water is expected to soar to above 900 mgd.

The crisis is so near that the engineers are now considering making Washington one of the first major cities in the world to recycle water from its own sewage system.

They are already preparing the hardware for drawing water from the upper end of the Potomac estuary, parts of which are grossly polluted.

This use of treated estuary water could begin under emergency conditions this summer, although the U.S. Army Corps of Engineers is still conducting research on how to identify and kill the large concentrations of viruses it believes exist in the estuary, which is the same body of water that receives most of the area's sewage.

How did Washington get into this predicament?

The Capital is located in one of the most water-rich areas of the nation. On an average day, the Potomac has about 7 billion gallons in it, or, as one engineer put it, "enough water for the whole East Coast."

But all of this largess flows by, unhindered by dams, from the tributaries into the Potomac, over Great Falls and Little Falls, and into the river's broad estuary, where it sloshes back and forth under the influence of the tides on its way to the sea.

While other cities have planned to store water—Baltimore has a one-year reserve supply, New York City has a three-year supply—the Washington area is still dependent on the presumed abundance of its river.

The Metropolitan Area Council of Governments estimates that 75 percent of the area's present and future water the Washington Suburban Sanitary Commission, which supplies Montgomery and Prince Georges Counties; Washington Aqueduct, operated by the Corps of Engineers, which supplies the District, Arlington and Falls Church; and the city of Rockville, Md. Water authorities for Fairfax City and Fairfax County, which also supplies Alexandria, obtain most of their water from impoundments on Goose Creek and Occoquan River.)

It is not that the Washington area suffers from a lack of planners. The water supply has been one of the most planned, argued, calculated and arbitrated problems among all of its urban concerns.

Specifically, the question of whether to dam the Potomac may be the oldest standing political feud in Washington.

And it is not that the Corps of Engineers, which is responsible for collecting and purifying the District's water, hasn't tried.

In 1948 it presented Congress with an ambitious plan to discipline the Potomac with a series of massive hydroelectric dams.

The proposal was attacked by a small army of farmers, conservationists and friends of the coal mining industry and, eventually, was shelved.

In 1963 the corps gave birth to a new $500 million plan for a system of 16 dams on the upper Potomac and its tributaries. These, the corps said, would provide water for fishing, swimming, boating, for municipal water supplies, and for flushing sewage down the Potomac during low water levels.

The presentation of the plan was the occasion for one of the area's all-time great civic hearings. More than 1200 people jammed an auditorium, most of them to complain about dams.

At that point, CITPERCON, the Citizens Permanent Conference on the Potomac, a heterogeneous coalition of conservation groups, farm groups, labor unions, garden clubs, canoeists and citizen associations, formed to keep a constant watch on proposals to tamper with the Potomac.

Every two years since then, CITPERCON has clashed with the corps when Congress prepares its ominbus water resources authorization bill, which has been described as a huge "pork barrel" of dam projects for individual representatives.

Only one of the 16 dams has been authorized by Congress. It is the Bloomington Dam, about to be constructed near Keyser, W. Va., on the North Branch of the Potomac.

Plans for the others have been repeatedly torpedoed by CITPERCON and other conservationist-minded groups who have argued that the Potomac is "The National River," and should be preserved in its natural, unfettered state.

Over the years, the corps has performed a slow, grudging retreat from its original plan, cutting the request to six dams and, most recently, to two.

In Senate hearings to be scheduled this month or in early June, the corps will ask for funds to construct a dam on the Middle River near Staunton, Va., and to dam the Monocacy above Frederick, Md., at a point called Six Bridge.

According to Gen. Kenneth B. Cooper, deputy director of civil works for the corps, the two dams were picked because they have generated the most local enthusiasm from among the 16.

"Frankly, we picked the ones where we have the most backing. It's a start anyway," he said, noting that the corps still hopes to build 6 of the original 16.

Washington is the only place in the world where the corps is charged with purifying a metropolitan water supply. The dams, Cooper believes, are vitally needed to supplement the Potomac flow during dry spells.

"Normally we try not to be specific advocates for projects," the general said, referring to the corps' repeated battles with CITPERCON. "Here we are in a little bit different position."

"They (the conservationists) are not responsible for the final quality of the water," he added. "We are."

Thinking about the one dam that has been authorized irritates Dr. Spencer Smith, the chairman and registered lobbyist for CITPERCON, who is proud of the group's record. "I still don't know how that got through. It was a fluke, that's all."

Smith, a former administrator for the Office of Price Administration during the Truman era, estimates that CITPERCON can get support from 20,000 people in times of crisis, when letters opposing dams have been known to shower down on key committee members.

Driving through much of Virginia and Maryland to pass out leaflets and speak at citizens meetings, he has worn out two station wagons in ten years.

I've grown old testifying against this thing," he said.

This year, the battle is continuing. On April 5, a spokesman for CITPERCON appeared before Junior Jaycees of Waynesboro, Va., which was holding a forum on the proposed dam near Staunton.

In working paper CITPERCON left the Jaycees, it pointed out that the major beneficiary of the dam would be the Washington area water supply system.

"Have local residents really considered the fact that they are being asked to sacrifice farms, fields and a free-flowing river for the benefit of an area more than 100 miles (as the crow flies) distant?" the working paper asks.

"In the case of Washington, D.C., it is entirely possible that by the time the Verona Dam at Staunton is completed, technology will have been developed to provide for the recycling of waste water," it adds.

Smith and other CITPERCON spokesmen also have attacked the Corps' claim that localities near the dams will be able to use reservoirs for recreation. They point out that in the late summer, when water is needed for Washington, the level of the reservoirs will be lowered, leaving wide stretches of parched, cracked mud to greet fishing and boating enthusiasts.

Smith blames most of the local enthusiasm for dams on potential contractors, land speculators and recreational lobbyists, including the "fishing tackle lobby."

He has repeatedly argued that it would be much cheaper for Washington to take water from the Potomac Estuary, which begins just below Chain Bridge.

"Once they (the Corps) argued that it (the estuary) was saline. We brought in an expert and showed that the salt water didn't begin until below Ft. Belvoir."

Recently, Smith has been wondering about the latest reason for the Corps' reluctance to pipe water from the estuary: possible contamination from viruses.

I've had an almost Pavlovian response up to this time. Whatever they say, you look for the gimmick. I usually find it. But I hope that some day, if they ever come in with a legitimate reason, I'll see it," he said.

Smith believes the Corps is growing weary of the battle, but it is obligated to continue proposing dams every two years because of local support generated from previous years.

"It's too bad you can't get them the hell out of the way so you can plan for the area," he added.

Late this spring, the Corps and CITPERCON will come before a Senate subcommittee like two aged pugilists who have studied and battered each Council of Governments and a team of other over the years.

This year the metropolitan area's other business and civic leaders, being organized by the Metropolitan Board of Trade, will be backing the Corp's plan.

'We have no selfish interest in this at all," said William G. Russell, head of the Board of Trade's effort. "We just think it is too bad when a city has come to the point where it has to drink water from its own sewage system."

While the battle continues, there is mounting evidence that it has lasted so long that the dams are no longer feasible as an immediate solution to the problem.

It takes from five to eleven years to build a dam, according to the Corps. Assuming Congress approves the Staunton and Six Bridge dams this year, it could be 1980 before they are built.

Projections made by the federal Environmental Protection Agency and by the District's Department of Environmental Services, show the area is likely to have water shortages before that.

And according to a recent report by EPA, the two dam projects being pushed by the Corps would provide the smallest proportion of water for Washington.

Because of the distance of the dam from the city, Washington would have to anticipate a water crisis at least two weeks in advance. It would take that long for extra water to reach the city from the nearest reservoir, the one behind the proposed dam at Six Bridge.

Water from the Bloomington dam, which has the most storage capacity, would take 28 days to reach Washington. The dam will not be ready until 1977, at the earliest.

Furthermore, according to a study released by the District's Department of Environmental Services, assuming the Bloomington dam and the other two dams pending before Congress are built and operating by 1980, the area will face another water crisis by 1984 because of the continuing increase in water use.

Finally, assuming that three dams will be built to protect Washington's supply of fresh water, there may be still another problem. Montgomery County, weary of fighting with the District and Prince Georges County over where it should pump its sewage, has let it be known that it is looking for locations for one or two sewage treatment plants on the Potomac, above the District's water intakes.

The county has assured interested parties that the plant or plants will provide the most up-to-date form of tertiary treatment, which means an effluent of almost drinking water quality.

If and when the waterless doomsday approaches, area governments have agreed upon a water restriction plan, which will go into effect when the flow in the river drops to within 100 mgd of the demand.

At that point, voluntary controls will be suggested, including the curtailment of lawn sprinkling and car washing. When the flow decreases to within 50 mgd of demand, the controls will become mandatory.

The Corps' Gen. Cooper is somewhat optimistic about the restrictions:

"People could paint rings on their bathtubs, reminding them to use only so much water, they could take Navy showers (using water only for final rinse). You could cut consumption quite a bit."

What if water rationing doesn't work and the engineers do not come up with a safe way of purifying water from the estuary or of recycling water from the Blue Plains sewage treatment plant?

All the agencies who "planned" Washington's water supply system including Congress, the Corps of Engineers, area governments and an assortment of conservationists, have not come up with an answer to this question.

There is an obscure hint in one engineering study of the problem that the matter may then rest upon the whim of even a more powerful agency:

"This situation is now. There is no margin of safety except that as may be provided by heavenly benediction in the form of . . . rainfall . . ."

COMMISSION ON REVISION OF FEDERAL APPELLATE SYSTEM

Mr. HRUSKA. Mr. President, yesterday the Senator from North Dakota (Mr. Burdick), the chairman of the Subcommittee on Improvements in Judicial Machinery, added this Senator as a cosponsor of Senate Joint Resolution 122, a joint resolution to create a Commission on Revision of the Federal Court Appellate System of the United States. Hearings on this matter opened yesterday and will continue all week. This is a most important proposal to insure the effective functioning of the Federal judicial system, and I am grateful to Senator Burdick for his action.

As the size of the U.S. courts of appeals grows and the number of cases filed therein takes dramatic jumps yearly, the need for a reexamination of the structure and functioning of these very important institutions becomes more paramount. The figures tell the tale most effectively: while judicial personnel in these courts climbed from 78 to 97, or 24 percent, in the 10-year period 1961–71, the number of cases filed jumped from 4,204 to 12,788, or 204 percent. Filings per judge increased from 54 in 1961 to 132 in 1971, or a 144-percent increase. While these judges have been working with extreme diligence to meet the increased caseloads, the end result—a perfectly predictable one—has been that the number of cases pending at the end of 1971 was a 288-percent increase over the number pending at the end of 1961.

Some assistance must be given these judges if the judicial business of this Nation is to function effectively and quickly.

More is obviously needed than a simple realinement of the geographic structure of the several circuits. While some—notably the Fifth and the Ninth—may be too large, none of the existing circuits is in a position to absorb with facility a large increase in caseloads. My own State of Nebraska is a member of the Eighth Circuit, one of the medium-sized circuits in this country, with eight judges. It happily is the one with the smallest caseload per judge, 89 in 1971. However, this represents a 154-percent increase over 1961. Filings in the Eighth Circuit increased 189 percent during this period, from 246 in 1961 to 713 in 1971; there was a 21-percent increase in 1971 alone. Quite obviously, the Eighth Circuit is an exceedingly busy one which would be greatly handicapped by the addition of new case sources.

The solution is therefore not simply to readjust the makeup of the circuit courts, but to probe deeper into some of the procedural aspects of the question. No one would want to suggest that litigants should be restricted in their rights of appeal from decisions of the Federal district courts, but some changes may be possible which would provide alternative procedures or forums, or other reforms, which would serve to lighten the circuit court caseload. In addition, changes in the internal manner in which the circuit courts decide their cases might be a fruitful area for reform.

Senate Joint Resolution 122 encompasses all of these matters within its scope. Senator Burdick's joint resolution would create a 12-member Federal Court Appellate System Revision Commission with authority to: First, study the present division of the United States into the several judicial circuits; second, study the problems attendant upon prehearing screening of appeals, en banc hearings, intracircuit and intercircuit disparity in interpretation of Federal law, and other appellate procedures and problems; third, study the present and anticipated caseloads of these circuits, the workloads of the judges, the time required for appellate review, and the alleviation of the problems arising therefrom by redividing the United States into several judicial circuits or by restructuring the appellate court system, or by other feasible court reforms; fourth, study the problems arising from present and anticipated caseload of the

Supreme Court and the possible alleviation of these problems; fifth, study other areas of court reform related to the problems specified herein; and sixth, recommend to the President, the Chief Justice of the United States, and Congress such alternative changes in the appellate court system of the United States as may be most appropriate for the expeditious and effective disposition of the present and anticipated caseloads of Federal appellate courts, consistent with fundamental concepts of fairness and due process.

I would hope that such a Commission would examine all of these subjects before reporting its recommendations back to Congress.

TRIBUTE TO MRS. J. L. HARGRAVE

Mr. THURMOND. Mr. President, one of South Carolina's few women mayors is Mrs. Jessie Blackwell, of Bennettsville, S.C. Her achievements as the top-elected official of that town have been numerous, and I have said so on many occasions.

It has come to my attention that Mrs. Blackwell shares her talents with other members of her family. I learned recently that her sister, Mrs. J. L. Hargrave, has been named to receive the Distinguished Teacher Citizen Award which is presented annually by the South Carolina Educational Association.

This award cites Mrs. Hargrave's many activities and contributions in civic, educational, and religious activities.

Mr. President, I wish to take this opportunity to express my admiration for this lady and to commend her for her fine record which led to this award.

An article reporting Mrs. Hargrave's receipt of this award appears in the April 27 issue of the Marlboro Herald-Advocate, of Bennettsville, S.C. I ask unanimous consent that the article, entitled "Mrs. Hargrave Is Honored Teacher Citizen," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MRS. HARGRAVE IS HONORED TEACHER CITIZEN

The Civic Education Committee of the SCEA presented the Distinguished Teacher Citizen award to Mrs. Ellen M. Hargrave at the annual meeting of the South Carolina Education Association.

This citation includes activities in civic, education and religious areas.

She was notified on April 13 that she was one of four finalists. Dr. Claude Kitchens, past president announced Mrs. Hargrave's name at the meeting.

Mrs. Hargrave, choral director and teacher of arts and crafts in Hartsville Junior High, is a charter member of Alston Wilkes Society for rehabilitation of parolees and their families, president of Marlboro County Heart Association, pianist of Bennettsville Lions Club, and member of Hartsville Music Study Club.

Her membership in the state, local and national education associations and delegate to Representative Assembly for two years are included in education activities. She has served as Hartsville ACT president for three years.

St. Paul's Episcopal Church of Bennettsville has recently employed her as organist and choir director, although she is a member of First Presbyterian Church.

"I have always been very interested in politics and could hardly wait until I became twenty-one so that I could vote. Never have I missed one election in many years. The evaluation sheet had me list the ways in which I helped in local, state, and national elections. I've driven voters to the polls, made telephone calls, acted as a poll watcher, and also a tabulator. One of my hobbies is politics," remarked Mrs. Hargrave enthusiastically.

A holder of Bachelor of Music degree from Flora Macdonald College, she served as director of music for five years at Leadership Training School for Presbyterian women.

"Teaching is a wonderful experience and I love to see the changes that take place in my students, a kind of metamorphosis.

I will admit that the rockbeat is somewhat difficult but we learn from each other; the students teach me and I'm willing to try to learn but it is hard sometimes. My heart swells with pride when young people decide to become teachers," added Mrs. Hargrave.

Principal Fred Staton commented, "Mrs. Hargrave believes in democracy. I see it in her classes because she recognizes her students as individuals and listens to their suggestions concerning planning and work. As building representative, she has displayed a concern for new teachers and also for our profession."

POSSIBLE ENVIRONMENTAL DAMAGE BY OIL-LADEN TANKERS

Mr. PACKWOOD. Mr. President, last week I brought to the attention of Senators the editorial, published in the Christian Science Monitor, which questioned the wisdom of not allowing public hearings on the environmental impact statement filed by the Interior Department on the proposed trans-Alaska pipeline. Today, I invite the attention of Senators who may have missed it to an article entitled "The Darkness at the End of the Pipeline," written by C. Robert Zelnick, and published in the Washington Post of Sunday, May 7, 1972.

As a Senator from the west coast, who cherishes Oregon's beautiful coast, Mr. Zelnick's analysis of that portion of the environmental impact statement pertaining to possible environmental damage caused by oil-laden tankers as they move from Valdez to the west coast ports struck fear in my heart.

Mr. Zelnick further questions the wisdom of the proposed route thusly:

> Would Alyeska, assuming a right-of-way is granted for the trans-Alaska pipeline, then be stuck with a $2 billion to $4 billion Edsel, given the bearish west coast market for Alaskan crude? A few energy economists believe so and have privately experssed surprise that the oil industry has been able to maintain so united a front on the issue while both the East and Midwest hunger for additional crude oil.

Mr. President, I could go on pulling out the challenging statements made by Mr. Zelnick which must cause anyone reading his article to pause and reflect on the future ramifications of the currently proposed route, but I would prefer to share his entire article with Senators who may have missed it. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE DARKNESS AT THE END OF THE PIPELINE

(By C. Robert Zelnick)

Among those who care about such things, the conviction runs deep that the battle over the trans-Alaska pipeline has become the Interior Department's Vietnam Ill-conceived from its inception, fraudulently surveyed, divisive in its political repercussions and disastrous in its consequences, the project has little to recommend itself other than the enormous quantity of resources already poured into its accomplishment.

Yet Interior continues to see light at the end of the pipeline. That it will issue the right-of-way needed by the Alyeska Pipeline Company—a consortium of seven oil industry giants—to cross federal lands in Alaska seems a foregone conclusion. On March 20, the day his department released its massive "final" impact statement—which conceded every significant ecological objection ever voiced against the 789-mile Prudhoe Bay-to-Valdez route, Interior Secretary Rogers C. B. Morton promised a decision "within about 45 days." Eight days later, after meeting with Morton, Peter Flanigan and other administration officials to express his country's desire "for the construction of a Mackenzie Valley pipeline," Donald S. Macdonald, Canada's Minister of Energy, Mines, and Resources, told reporters at a Washington news conference: ". . . . I had the impression that, with so much effort and study invested in the trans-Alaska pipeline, that it rather looks as though they would be giving that priority in their consideration."

Actually, as Morton conceded in an appearance on the "Today" show the morning after Interior released its report, his department could not have decided anything with finality within 45 days. Since April, 1971, Interior has been blocked by an injunction issued by the federal district court in Washington from issuing the permit. Two weeks advance notice is required, during which time Judge George L. Hart Jr. will have to satisfy himself that Interior has complied with the National Environmental Policy Act of 1969. The act requires a complete statement of the consequences of any agency action significantly affecting the quality of the human environment," plus a thorough examination of alternative courses.

Hart, a model of judicial self-restraint, is expected to rule for Interior, The Wilderness Society, Friends of the Earth, and the Environmental Defense Fund—the three environmental group plaintiffs—would then probably appeal to the more assertive U.S. Court of Appeals, with the loser, in all likelihood, taking the case to the Supreme Court. The ultimate result is almost certain to be a landmark decision in environmental—or, for that matter, administrative—law.

THE CHOICES

The nub of the social issue involved is not whether Alaskan oil should be brought to market. Rather the choice is between an 1,800-mile overland. route, 1,500 miles of which would traverse Canada's Mackenzie Valley, and a shorter land route from Prudhoe Bay to Valdez, with the oil then moving via tankers to ports on the U.S. West Coast. The nub of the legal issue is whether Interior has considered the Canadian alternative to the degree necessary to satisfy the environment law, and whether, regardless of Interior's diligence, the evidence favoring the Canadian route is not so overwhelming as to make any right-of-way grant through Alaska a clear abuse of administrative discretion.

Environmentalists are convinced that the Mackenzie Valley route is superior, in part because it involves a single pipeline corridor rather than two, and that should Morton decide otherwise, they can beat him in court. They maintain that abundant support for their position can be found in Interior's own impact statement of March

20. The stakes are high. The pipeline project would be the largest undertaking in the history of private enterprise. The oil industry claims to have invested almost $100 million to date in studying the Alaskan terrain and in procuring pipe and construction materials. That figure, even if exaggerated, is a mere pittance compared to the profits they expect to reap from the venture.

The known oil field in the Prudhoe Bay area—three giant pools running inland from a 40-mile stretch along the Beaufort Sea and covering an area the size of Massachusetts—exceeds 10 billion barrels. This, however, is only a fraction of what the industry eventually hopes to find. Forty billion barrels is a more realistic estimate. In September, 1969, an assortment of producers paid Alaska more than $900 million for the privilege of looking for more North Slope oil. A barrel of oil sells for about $3.25 on the West Coast, more in the Midwest and East.

NO "GOOD" WAY

Despite years of study and volumes of "stipulations" designed to protect the environment, there remains no "good" way of running 2 million barrels of oil a day through 48 inches of pipe at a temperature of 145 degrees Fahrenheit over and under a vast stretch of Arctic wilderness. You have to begin by building gravel service roads and air strips large enough to accommodate the big Hercules aircraft. You must find more gravel for 12 camp sites and 6 pumping stations, each 50 acres; this means gouging about 50 million cubic feet of gravel out of riverbeds and off the tops of hillsides along the way. Stream siltation and land erosion are the inevitable results. Some 350 streams would be crossed by the route. Many are spawning grounds for salmon and grayling. Oil spills can be a problem there. They can be even more of a problem if the oil gets carried out to the Beaufort Sea and trapped under the ice. Then the oil becomes a permanent part of the marine ecology.

If you decide to bury the pipe all the way, its heat melts the permafrost, causing slides and differential settlement, eroding the support for the structure and eventually causing a break. When you are forced to build part of it on stilts, you erect a barrier that blocks caribou and other migrating animals and subjects the line to greater risks of surface damage. When you dig a ditch to catch expected oil spills, the ditch becomes a moat, entrapping other animals.

Your service road extends civilization where it has never reached before. The construction activity, the planes landing and taking off and the helicopters hovering overhead frighten bear and caribou, rare birds and sheep. When these move to other areas, they die or cause other animals to die. The ecological balance in the Arctic is fragile. In the winter, a caribou uses almost all its energy just staying alive. A single timberwolf can exhaust and kill the stoutest buck in the herd. So can a bulldozer.

What we get in return for the partial destruction of our nation's largest wilderness area is more oil, a lot of natural gas, the corresponding need to spend fewer U.S. dollars buying foreign sources of energy, and, arguably, a mild, temporary improvement in our national defense posture. This latter case has been stated so often and with such apparent conviction by both the Interior Department and the oil industry that one wonders how we would have survived had not the Prudhoe Bay field been discovered in 1968. Statistical projections provide a clue.

THE EARTHQUAKE PROBLEM

By 1980, the United States is expected to be using about 22 million barrels of oil daily and producing some 10.4 million barrels, excluding what is to be drawn from the North Slope. Part of our expected deficit can be made up by importing an estimated 4 million barrels a day from nations in the Western Hemisphere. The rest will have to come from Indonesia and the Middle East.

Alaska 2 million barrels daily could reduce this dependency somewhat for about five years. After that, our demand is expected to so outstrip domestic production that North Slope oil will be of little strategic value. In the case of a minor outbreak in the Middle East, say between 1980 and 1985, the benefit is obvious. But if the problem were big and with Russia, an exposed pipeline can offer small comfort to our military strategists. Prudhoe Bay is only 600 miles from Siberia.

While conservationists—at least those involved in the pipeline battle—accept the reality that 10 billion to 40 billion barrels of oil are going to find their way to market, they believe that even if oil was the only resource involved and even if big tankers weren't needed for the remainder of the Alaskan route, the Canadian route, while longer, is preferable. For one thing, the Alaskan area involved is renowned for its extreme seismic activity. In the past 70 years, some 23 major earthquakes have clobbered the terrain over and under which the Alaskan pipeline would go; any one of the quakes could have caused a catastrophic break in the pipe. Valdez itself, where a 900-acre, 510,000-barrel-capacity "tank farm" is planned, is a "new" city, about four miles northwest of its predecessor. The "old" Valdez was substantially washed into the sea as tidal waves of up to 170 feet rolled ashore following the great Alaskan earthquake of 1964.

The route through Canada poses no comparable seismic problems. It has fewer miles of unstable soil and more existing roads, even railroads. From Edmonton, the proposed Canadian terminus, existing pipelines now extended both to the Midwest (Chicago) and the West Coast (Seattle). Certainly less environmental damage is involved in expanding existing facilities or building parallel facilities than in constructing new ones.

THE GAS LINE

The relative merits of one land route versus another, however, are matters about which a court is unlikely to substitute its judgment for that of an administrative agency with admitted expertise in the field. But what about *two* land routes versus one land route? Environmentalists claim that this is the fatal legal weakness in Interior's position. Buried, almost lost in the department's six-volume statement, and totally lacking from its consideration of alternatives to the Alaska route, is the acknowledgment that "at some time during the operation of the proposed trans-Alaska pipeline, it would become necessary to transport to market the natural gas that would be produced with the Prudhoe oil."

Indeed it would. In fact, it is estimated that 26 trillion cubic feet of gas are under the Prudhoe Bay fields waiting to be developed with the oil. Moreover, Interior says, "route selection and construction procedures would be similar to those for an oil pipeline but with some simplifications resulting from reduced pipe weight and lower operating temperatures."

Yet logistics militate against the likelihood of a trans-Alaska gas pipeline. The gas would have to be liquefied at Valdez prior to shipment. Interior estimates that operational costs of a liquefaction plant would run to half a billion dollars a year. Additionally there are only about a dozen liquefied natural gas tankers operating in the world, while some 20 to 40 would have to be built to handle the Valdez traffic alone. Thus, Interior concludes, "A gas pipeline across Alaska appears to be a remote possibility because of the problems involved in shipment from the southern terminus; a gas pipeline through Canada to the Midwest seems to be much more feasible."

Of the various Canadian possibilities, Interior leans toward the Mackenzie Valley, noting, "The Mackenzie River is a valuable artery for use in the construction of a trans-Canada gas pipeline. Good all-weather roads and some railway mileage also exist, and existing winter trails would be valuable at the right time of year." So much does Interior favor the Canadian route when it comes to natural gas—where neither oil industry prestige nor money is on the line—that in March Secretary Morton set aside a 300-mile corridor on federal lands in northern Alaska along the route the natural gas would travel from Prudhoe Bay to Fort McPherson atop the Mackenzie Valley.

If Interior is a bit circumspect about confessing that, in effect, it plans to grant two rights-of-way instead of one, it is far less bashful in assessing the environmental impact of 41 oil-laden tankers as they steam between Valdez and West Coast ports. Here, in fact, the report takes on a quality of terrifying candor, much like Yukio Mishima standing on the balcony, coldly describing the act of harikari he is about to perform.

The sea journey poses exceptional hazards, particularly for the crews of oil tankers. Port Valdez is a 3-mile-wide, steep-walled glaciated fjord that extends east-west about 14 miles. It narrows to less than a mile before dumping out into the Valdez Arm section of the 2,500-square-mile Prince William Sound. The coastline is rocky and treacherous, not entirely free of icebergs and blasted by frequent gale-force winds. A special pilot must guide each vessel through the narrow neck of the port.

The area, moreover, is one of extreme seismic activity. Prince William Sound was the epicenter of the 1964 Alaskan earthquake during which, as Interior notes, "74 lives were lost mainly as a result of submarine landslides, sudden large-scale tectonic displacements, destructive waves, and, to a lesser extent, vibration of structures."

From Prince William Sound the tankers would run into the Gulf of Alaska and down the foggy northern Pacific coast. "During the cool months," Interior says, "the Gulf has the highest frequency of extratropical cyclones in the Northern Hemisphere." From Octobed through February, it is rocked by waves of 12 feet or better about 20 per cent of the time. Moreover, "the 1964 Alaskan earthquake was but one of a large number of earthquakes of moderate and high intensity that have occurred in or near the Gulf of Alaska, and there is no geologic basis to assume that other equally devastating earthquakes will not occur in the near future."

"REHABILITATING" BIRDS

Plans call for about 10 per cent of the tankers to pass through the narrow Strait of Juan de Fuca—where again navigational hazards will require the assistance of a pilot—and into the 40 miles of beautiful waterway known as Puget Sound, a recreational haven for 2 million Americans and Canadians. The remaining vessels would head for San Francisco, Los Angeles and points further south.

Again, seismic dangers will be extreme. Interior recalls that "on April 13, 1949, an earthquake with an intensity of 7.1 on the Richter scale and an epicenter between Olympia and Tacoma resulted in approximately $25 million damage to the Puget Sound area. More recently, on April 29, 1965, an earthquake of slightly less intensity (6.5) with an epicenter between Seattle and Tacoma caused an estimated $12.5 million damage to the Seattle area. These are the two largest of the numerous earthquakes that have occurred in this region during the last hundred years; the level of seismic activity has increased substantially during the last few decades."

Interior estimates that if the performance of the oil tankers on the Valdez run was no better than the worldwide average, we can anticipate spills averaging 384 barrels a day, or about 140,000 barrels a year. Better vessels may reduce these numbers somewhat, but the damage per spill would likely exceed the worldwide average since "large spills in the area would be more difficult to contain, clean up and restore because of the distances from sources of ships and cleanup gear and the generally limited manpower in the region."

Interior details the impact all this filth would likely have on the huge salmon runs of the Northern Pacific, and how it would probably impede, and perhaps wipe out, fishing in the Port Valdez-Prince William Sound area, where the coastal waters are today as pristine as any on earth. On a cheerier note, while chronicling the devastating effect an oil spill might have on the many rare migratory bird species that inhabit Alaska-Canadian coastal areas during certain months, Interior records for posterity Alyeska's pledge to "rehabilitate" those birds belonging to endangered species. The term seems peculiarly appropriate. In this forgiving society we "rehabilitate" drunkards, junkies, whores, and others who have gone astray. Clearly the murres, murrelets, loons, grebes, albatrosses, gulls, terns, ducks, geese and shore birds who fall victim to the oil industry's determination to bring its goods to market along the route it deems best are out of step with the natural order of things and gravely in need of "rehabilitation." Unfortunately, only about one in seven of the poor creatures doused in the San Francisco Harbor spill a year ago lived long enough to profit from the experience.

SHOCKING OMISSIONS

If the six volumes of Interior's report dealing with the environmental impact of the combination overland-tanker route contain some shocking revelations, the three-volume economic analysis shocks by what it fails to disclose. Simply stated, a careful reading of Interior's economic analysis provides no clue as to why Alaskan crude should go to the West Coast in the first place, certainly none justifying an iota of increased environmental risk.

The West Coast is second only to the Southwest in the production of petroleum. It will not need any Alaskan crude for the next few years, will not be able to absorb 2 million barrels a day from the North Slope until well into the 1980s, and, if as expected, Alaskan production increases to 5 million barrels a day, the West Coast will not be able to absorb the surplus during the life of the pipeline.

Thus, even ignoring the greater hazard of the tanker route from Valdez, it is nonsense to say, as Secretary Morton did on his March 21 "Today" show appearance, that "if the pipeline went through Canada and if it ended up in the middle of the country, you would then have to bring oil into the West Coast by tanker. So the same amount of oil would be arriving by tanker."

The West Coast simply does not need as much oil as Alyeska wants to provide. And, if it did, the obvious source would be the Southwest or Canada, a fact Canadian minister Macdonald has been pressing upon his Washington counterparts without apparent success. On April 19, for example, Macdonald was questioned in the Ottawa House of Commons by David Anderson, a Vancouver MP active in the battle against Alaskan tanker traffic, as to whether Canada was willing to supply the United States with enough oil to compensate for the anticipated additional two years it would take to complete the trans-Canada route. Macdonald's reply:

"Both in my discussions with Secretary Morton and other officials of the United States administration in Washington and recently with Secretary Rogers last week, I made it perfectly clear that Canada was prepared to supply additional quantities of oil to the United States not only for a two-year period, but a longer period, and that this would be facilitated by their lifting their quota system."

Would Alyeska, assuming a right-of-way is granted for the trans-Alaska pipeline, then be stuck with a $2 billion to $4 billion Edsel, given the bearish West Coast market for Alaskan crude? A few energy economists believe so and have privately expressed surprise that the oil industry has been able to maintain so united a front on the issue while both the East and Midwest hunger for additional crude oil. More probably, Arco and British Petroleum, the two companies with the biggest positions in the pipeline, would be able to trade their excess crude to Japan in exchange for Japanese rights to Middle East oil, rights purchased long in advance. The Middle East crude oil could then be sold at a good profit on the East Coast, bailing the two companies out of their predicament but making an utter shambles of any national defense arguments for trans-Alaska route.

WINNING IN THE COURTS?

There is a reasonable chance that the environmentalists will ultimately prevail in the courts. Perhaps they will persuade the courts that Interior's failure to consider adjacent oil and gas pipelines rendered its statement procedurally inadequate. Perhaps they will win an even more significant point by forcing Interior to abide by the results of its own research, thus introducing important substantive requirements, as well as procedural ones, into the environment law.

Interior, meanwhile, hopes that its "final" impact statement on the trans-Alaska pipeline will at last get the environmental monkey off its back. From the outset it seems to have regarded the environment statute as an unwelcome encumbrance to a predetermined course.

Two years ago the department attempted to grant the oil consortium a right-of-way to build a service road adjacent to the pipeline, arguing, incredibly, that the road and the pipeline were unrelated. Its impact statement on 361 miles of gravel carved into the middle of Alaska's wilderness totaled four pages, and became the subject of the court injunction still in effect.

Interior's second attempt at compliance with the environmental law was a bit more sophisticated, but not much. Its multi-volume "draft" impact statement, produced in January, 1971, during the interregnum between the Hickel and Morton secretaryships, was basically a collection of data and arguments compiled by Alyeska itself. In that report, the department found it unnecessary either to consider the impact of tanker traffic from Port Valdez to the West Coast or to assess the feasibility of a trans-Canada pipeline route. Even today, Secretary Morton can be heard arguing from time to time that consideration of the Canadian alternative is superfluous because "no application for a Canadian route is pending." Since the 1965 *Scenic Hudson* case, however, federal courts have held that an administrative agency charged with protecting the environment has a duty to consider alternatives not placed before it by the parties. It cannot only "sit as an umpire blandly calling balls and strikes," the court found. In any event, Interior's 1971 statement was sufficiently derelict so that even the Corps of Engineers, in its formal comment, warned that the Department had failed "fully to comply with the letter and spirit of the Environmental Policy Act."

SCARCE STATEMENT

The Justice Department, fighting the pipeline case for Interior in court, has also shown a greater zest for adversaria than guardianship of the public domain. Last summer, more than a year after the first lawsuit was filed, Justice tried unsuccessfully to remove the case from the District of Columbia to the friendlier confines of the U.S. District Court in Anchorage, Alaska. This past April when MP Anderson and several Canadian residents of the Puget Sound area sought to intervene in the case, Justice opposed the motion.

Now we have Interior's third attempt at compliance with the environmental act. Legally, the department hopes that by confessing the devastating results of its proposed action, it can achieve what it failed to get by denying those results in its two earlier efforts. Politically, it appears anxious to present the public with a *fait accompli*. In the weeks since March 20, only seven copies of the impact statement have been made available to the public without cost in six cities across the entire "lower 48" states. For others, the volumes cost $42.50 a set. Faced with a demand for public hearings, Under Secretary William Pecora claimed that "a public hearing would be a circus" and would "interfere with a more thoughtful and rational analysis of this complex document."

"Clearly the department has not tried to encourage hearings or informed debate," complained the Christian Science Monitor on May 2, in what might pass as the editorial understatement of the year. The Monitor went on to wonder "how much 'thoughtful and rational analysis' the Interior Department has itself given to the study." Before too long the federal courts may themselves be wondering the same thing.

PLAY THE GAME STRAIGHT

Mr. PROXMIRE. Mr. President, the Hartford, Conn., Times resently told its readers in an editorial about the waste inherent in a memo from Admiral Zumwalt. That memo ordered the Navy to get money spent before the end of the fiscal year.

The editorial gave special attention to a quotation from David Packard, former Deputy Secretary of Defense, which read:

> It will be a very major disaster to the country if we cannot get the military-industrial complex to play the game straight. Until and unless we can stop this attitude, we are going to continue to waste the taxpayers' dollars, get less defense for the dollars we spend.

The Hartford Times was very kind, and accurate, in saying that the quotation "sums up Senator Proxmire's efforts of the last 5 years."

Mr. President, I ask unanimous consent that the editorial of April 21 and an article of April 16 be printed in the Record

There being no objection, the items were ordered to be printed in the Record, as follows:

Senator Proxmire

A bouquet to Senator William Proxmire (D-Wisconsin) for his persistent efforts to uncover and reverse wasteful methods in defense procurement.

His latest disclosure, for instance, was a memorandum sent by Admiral Zumwalt, Chief of Naval Operations, to his subordinates in naval procurement, urging them hurriedly to spend up fiscal year appropriations in order not to jeopardize Congressional appropriations for the following year.

The memo suggested settling disputed claims for payment without waiting for detailed examination (despite consistent experience that contractors overstate their claims for extra-cost payments); use of unpriced purchase orders (a practice the Navy theoretically frowns on), and other short-order procedures to get money spent.

In the course of digging into the memo, Senator Proxmire called attention to a recent speech by David Packard, former deputy secretary of defense, at the time he received the Forrestal Award. One passage is worth quoting at length; it sums up Senator Proxmire's efforts of the last five years:

"It will be a very major disaster to the country if we cannot get the military-industrial complex to play the game straight. Until and unless we can stop this attitude, we are going to continue to waste the taxpayers' dollars, get less defense for the dollars we spend."

GRUMMAN, LITTON

A few days later, Senator Proxmire heard testimony that a General Accounting Office study showed the Navy's new Grumman F-14 jet fighter (which is now running $16 million per airplane) may not be significantly better than the F-4 ($3 million per airplane) it is designed to replace.

On the heels of that announcement, Grumman Aircraft announced it is losing money on the first 48 F-14s it is building, and cannot build the next 48 it is contracted to produce unless the price is renegotiated—and that the price needed to produce the 313 planes planned would require an extra $545,000,000. That's a cool half-billion.

And at almost the same time, the House Armed Services Committee was told that Litton Industries is losing money on its billion-dollar contract to build five assault ships, and is seeking $400 million more.

Which is what the skeptics expected when a loan guarantee was voted to bail out Lockheed Aircraft: Bail one huge company out of its own business inefficiencies, and the line will quickly form.

LET'S DO MAKE ONE THING CLEAR

(By Charles A. Betts)

I had a surprise phone call recently from Sen. William Proxmire, Wisconsin Democrat. Sen. Proxmire has spent a great deal of time and energy on investigating the Defense Department, with a special eye on spending, waste and questionable procurement practices.

Proxmire said he was calling because he had just conducted hearings that he said disclosed an incredible pattern of disregard of the tax dollar by the Navy.

And why me? Well, he thought we would want to know about his hearings—and we do indeed—because the Electric Boat Division in Groton figured in them.

What particularly outraged the Senator—and me, too, I admit—was a memo from Admiral Zumwalt, Chief of Naval Operations, to his procurement people to, as Proxmire put it, hurry up and spend up to the hilt this year so we can have more funds to spend next year.

Another Proxmire target is the Navy's penchant for quick settlement of claims from contractors that end up costing the taxpayers more millions.

Finally, the senator took a dim view of the Navy's allowing Electric Boat a profit of $28 million on an investment of a little over $52 million.

"Why," asked Proxmire, "is the Navy allowing such high profits? Again, do you (a Navy witness) intend to do anything to remove excessive profits?"

Your income tax deadline is tomorrow. I thought the Navy's spending saga might be particularly interesting to you as you survey this year's tax bite.

As for me, I wish the Senator happy hunting.

PRESIDENT NIXON'S CHILD NUTRITION PROPOSALS

Mr. PERCY. Mr. President, I welcome and applaud President Nixon's initiatives in the field of child nutrition. I believe this administration, with the strong support of Congress, has made great strides toward the goal of eliminating hunger and malnutrition from our country.

In recent weeks the Select Committee on Nutrition and Human Needs, on which I serve as the ranking Republican member, has held hearings on both the nonschool summer food program for needy children and the school breakfast program. In the understandable absence of the chairman, Senator McGOVERN, these hearings were ably presided over by the senior Senator from California (Mr. CRANSTON) and the senior Senator from Michigan (Mr. HART), respectively.

These hearings, I believe, demonstrated very clearly the success of these programs in reaching and feeding the needy. The hearings also demonstrated the readiness of many communities throughout the country to expand the reach of both the summer program and the school breakfast program.

President Nixon has acted responsibly and forthrightly in the face of the overwhelming evidence presented in these hearings. In doing so he adds greatly to the administration's record in expanding and improving the range of feeding programs. If future hearings indicate an unmet need, then I am sure President Nixon will again act creatively to meet it.

The President has requested an additional $25 million for the summer program this year. This increases the total for the program to $50 million and will in effect permit funding of all applications now on hand. In city after city across the country significantly more children will receive the benefits of this vacation time substitute for the school lunch program. We estimate that the program should reach a total of 1 million more this year than last.

For the school breakfast program the President has requested an additional $19.5 million to allow some 3,000 more schools serving perhaps an additional 600,000 children to participate in the program during the next school year. These schools are ones ready to implement the program, according to State plans submitted to the Department of Agriculture.

I urge the Appropriations Committee to act favorably on the President's budget amendments.

The record of achievement is clear. In 4 years we have gone from $1.5 to $50.5 million for the summer non-school-food program and from 100,000 participants to over 2 million. In 4 years we have gone from $5.5 to $52.5 million for school breakfasts and from 200,000 participants to about 1 million participants. We can take pride in this record as we can take pride in the concurrent expansion of the food stamp and school lunch programs.

The President has also submitted a major piece of legislation revising the school lunch and school breakfast programs. This is a complex bill and I reserve judgment on it until I have had an opportunity to study it in detail. Without hesitation, however, I share the basic goal of the legislation—to expand and improve Federal efforts to provide food for needy children.

President Nixon's initiatives have drawn wide attention in the press. I ask unanimous consent that several news stories be incorporated in the RECORD at this point.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 8, 1972]

NIXON TO SEEK SCHOOL LUNCH REFORM, ASK $44.5 MILLION MORE FOR CHILD NUTRITION

WASHINGTON.—President Nixon today will ask Congress for more money to feed needy children and for an incentive-based system for allocating school lunch funds among the states.

The White House over the weekend released a presidential statement outlining a three-part legislative proposal that is being sent to Capitol Hill today. The legislation asks $44.5 million in additional funds for child nutrition programs, besides reforming the way school lunch money is parceled out to the states.

To expand a program that provides meals to needy children in cities during the summer, Mr. Nixon requested an additional $25 million for the fiscal year starting July 1, raising to $50.5 million the amount earmarked for this purpose in the coming fiscal year. The amount budgeted for the current fiscal year is $20.1 million.

The President said the extra money for the summer feeding program would enable the government to support all the applications that meet eligibility criteria.

The President also asked for an additional $19.5 million to extend the school breakfast program to another 3,000 schools in the coming fiscal year. That amount would raise proposed fiscal 1973 spending on subsidized breakfasts to $52.5 million, about double the current year's $26.5 million.

SALE OF MORE LOAN ASSETS

To prevent these extra outlays from raising the overall Agriculture Department budget for the coming year, Mr. Nixon directed the department to offset the $44.5 million total by other action. The offset will be achieved by the sale of more loan assets of the Farmers Administration than initially budgeted; for federal budget purposes, sales of assets are treated as reductions in outlays rather than as revenues.

The proposed change in the school lunch aid system affects a politically sensitive program in which previous Nixon Administration proposals for change have caused controversy. Last year, faced by a balky Congress, the administration abandoned an attempt to change eligibility rules for the program that critics said would have prevented many needy children from participating.

Mr. Nixon proposed in his statement that Congress adopt a "performance system" for allocating school lunch money. Such a system, he said, would "establish an incentive for states to insure that all needy children will be fed." Mr. Nixon said that "under the performance system, the more pupils served in a state, the more federal assistance it receives."

The new system, which is intended to reflect increases in participation by the states, would replace an allocation formula based on population, poverty and other factors.

NEW ELIGIBILITY STANDARDS

The proposed legislation also would set new eligibility standards for both the lunch and breakfast programs. The rules would require free lunches for any child from a family below the official poverty line (currently $4,110 for a family of four) and would permit states to serve free meals for pupils from families with incomes up to 115% of the poverty standard.

In some states, children from poverty-level families currently pay part of the lunch cost, up to 20 cents a meal, rather than receiving the food free.

The proposed legislation also would establish an eligibility standard for reduced-price lunches—those costing the pupil up to 20 cents. Children from families with incomes up to 130% of the official poverty level would be eligible for the reduced-price lunch.

The Nixon proposals on eligibility are less generous than those outlined in bills sponsored by some liberal Democrats, and a Senate Agriculture Committee source said specialists would want to look closely at the potential impact of the complex new formulas in the administration proposal.

[From the New York Times, May 7, 1972]

Nixon Seeks More for Pupil Meals; He Acts on Breakfast and Summer Lunch Programs

(By Robert B. Semple, Jr.)

Washington, May 6.—President Nixon announced today that he would ask Congress next week to provide extra money for the summer lunch and school breakfast programs for needy children.

The move, which caught some of his opponents on Capitol Hill by surprise, drew immediate praise from even so resolute a critic of the Administration's nutrition programs as Senator George McGovern, Democrat of South Dakota, whose hunger committee had been pressuring Mr. Nixon to take precisely the step he took today.

In Albany, Governor Rockefeller said that the President's announcement was "good news for New York State." He said that the new Federal aid would increase substantially the effectiveness of the State's own lunch program, which is budgeted for the 1972–73 fiscal year at $2.5-million.

State officials said that New York State could obtain as much as $10-million from the new program.

Mr. McGovern and another contender for the Democratic Presidential nomination, Senator Hubert H. Humphrey of Minnesota, expressed fears that some of Mr. Nixon's other recommendations, aimed at basic structural changes in the program, might result in more money being spent to feed fewer children.

Under the Administration's new proposals, spending for the summer feeding program for needy children would more than double this summer to a new level of $50.5-million. The number of children participating would also double, by the Administration's estimates, from 1.1 million to 2.1 million.

[From the Washington Post, May 7, 1972]

United States Lunch Fund Rise Is Sought

(By Carroll Kilpatrick)

President Nixon announced yesterday that he would ask Congress this week for an additional $44.5 million to "expand and improve" the food-for-needy-children program.

In a statement, the President said he would propose legislation to:

Revise and reform the school lunch and school breakfast programs to simplify and improve federal funding procedures and provide incentives for state participation.

Provide an additional $25 million for a total of $50.5 million to be allocated for feeding needy children in the cities this summer.

Provide an additional $19.5 million for a total of $52.5 million to extend the school breakfast program to $3,000 additional schools in the coming school year.

The President said he had directed Secretary of Agriculture Earl L. Butz to cut expenditures in other areas by $44.5 million, so that the increased spending does not affect his overall budget.

At a White House news conference, Butz denied that the increased spending was due to criticism of administration policy by Sen. George S. McGovern (D-S.D.), who has said the program is not being expanded rapidly enough or covering all who should be receiving free lunches.

Two Democratic presidential hopefuls responded that the President's plans, while good in some areas, would deny food to millions of children.

Sen. Hubert H. Humphrey (D-Minn.) said it would "remove nearly 2 million children from the school lunch program because of inadequate funding" and unrealistic eligibility standards.

It contains no additional funding, Humphrey said, just the "$1.4 billion . . . the President proposed in January . . . Again, the President is serving up cold promises instead of hot lunches."

McGovern said that while "more funds are being requested, they are not sufficient to make up for the funds authorized by Congress but unspent by the administration over the past several years."

"There are still at least 3 million children who are poor but who are not receiving the free lunch guaranteed to them by the President and by the Congress two years ago," he said.

Assistant Secretary of Agriculture Richard E. Lyng said about 8 million children now receive free lunches and that the number should be raised to cover another 1 million.

But Lyng said the ideal figure might never be reached because some schools do not wish to cooperate. The new rules the President will propose in the legislation are designed to stimulate increased school participation in the program.

The President said that "in the last three years, with the cooperation of the congress, we have made immense strides toward reaching" the goal he set three years ago "to put an end to hunger in America."

He said the budget he submitted in January allocated "nine times as much money for food stamps and seven times as much money for school lunches for needy children as was allocated in fiscal year 1969."

[From the Chicago Tribune, May 7, 1972]

Nixon Asks Free Lunch Expansion

Washington, May 6.—President Nixon said today that he will send Congress a three part program Monday to reform and expand the federal program of feeding needy children.

The legislative package will include:

A proposal to revise the present school lunch and breakfast programs for needy children to provide incentives for expanding the program and to keep a closer check on dollars spent.

A request for an additional $25 million for a summer program providing meals to disadvantaged children this summer.

A request for an additional $19.5 million to expand the breakfast program to an additional 3,000 schools beginning in September.

URGES SPEEDING LIMIT

In a statement today, Nixon said he has directed Secretary of Agriculture Earl Butz to reduce his outlays by the additional $44.5 million asked so that federal spending will not increase due to the program.

Nixon's legislation would establish a minimum and maximum income eligibility for federal reimbursement of free or reduced meals. The law now states that either free or reduced price lunches may be served to children from families below the poverty level.

The new legislation would require free lunches to be served children from such families [$4,110 in 1973 for a family of four] with the states free to offer such lunches to children from families whose income is up to 115 percent of the poverty level.

The states then could offer reduced price lunches to children from families whose income is up to 130 per cent of the poverty level.

DOUBLES AMOUNT AVAILABLE

Nixon said the $25 million being asked for the summer program will increase to $50.5 million the amount available for the program. Last year $20 million was spent on the summer program.

The $19.5 million asked for an expansion of the program for next year will bring to $52.2 million the cost of the school year program, he said. This compares with $31 million budgeted for the current school year.

One of the most important aspects of the legislation, according to the President, "would substitute a performance system for the traditional apportionment system in allocating federal funds for both the school lunch and breakfast programs. Under the performance system, the more pupils served in a state the more federal assistance it receives."

RUMANIAN INDEPENDENCE

Mr. BROOKE. Mr. President, once again we are called upon to observe the occasion of Rumanian Independence Day.

The 10th of May should be a joyous day, for it marks the triple anniversary of the founding of the Rumanian dynasty, the inauguration of the first king of Rumania, and the proclamation of independence from the Ottoman Empire.

How grateful we should all be if this May the 10th marked the independence of that brave land and people from the Soviet Empire as well. All of Rumania's people are not completely free. But those of us who live in the free world, and can commemorate this date, should keep alive its meaning and its promise, and extend to all the peoples of Rumania our admiration for their courage and our share in their great faith.

UNANSWERED QUESTIONS ABOUT TRANS-ALASKA PIPELINE

Mr. PACKWOOD. Mr. President, several Senators and many Members of the House are joining their efforts to bring before the public the many unanswered questions surrounding the proposed trans-Alaska pipeline. We have not preferred this means of making public this critical information, but it appears to be the only alternative left to us.

At a press conference in Washington yesterday, conservation groups announced they had forwarded to Secretary Rogers Morton a four-volume compilation of 56 separate studies by environmental scientists, engineers and economists. Those individuals all worked without compensation, under the strict 45-day time limitation placed by the Interior Department to analyze the official environmental impact statement. Mr. President, so that the entire Congress may be aware of the significance of the 56 separate studies done by the abovementioned scientists, engineers, and economists, I ask unanimous consent that the letter to Secretary Morton, transmitting those documents, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CENTER FOR LAW AND SOCIAL POLICY,
Washington, D.C., May 4, 1972.
Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: The attached comments, together with those forwarded under separate cover by our colleagues Dienelt and Stoel, represent the culmination of a very hectic period in which our clients, The Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth, were compelled, because of your default, to assume primary responsibility for public dissemination of the *Final Environmental Impact Statement, Proposed Trans-Alaska Pipeline.* Your totally unrealistic 45-day deadline, the price you placed on the Impact Statement ($42.50), and the Statement's inaccessibility to the public not only hampered our efforts but appear to have been designed to discourage public contributions to the decision-making process.

It is indeed ironic that whereas the oil industry's highly paid consultants have had virtually unrestricted access to your staff for almost three years, the public's experts, working at great personal sacrifice for no remuneration other than the satisfaction of their sense of civic responsibility, have been allotted 45 days to search for, digest, and comment upon your Impact Statement. The time-honored public hearing process in which these public experts might be questioned in depth about their conclusions (and, hopefully, the oil company and Interior experts on theirs) has been cavalierly dismissed by your Under Secretary as a "circus."

Apart from our still-valid objections to this project under the public land laws, we do not believe that either the procedures you have established or the Impact Statement you have released comply with the provisions of the National Environmental Policy Act. The Impact Statement contains much new material that was not mentioned in your earlier statement of January, 1971. To cite but one of many examples, the oil companies' Project Description—which you once described in awe as constituting some 120 pounds of technical data—was not even made available to the public until August, 1971. This alone requires that your latest Impact Statement be opened up to public hearing and comment.

Apart from the moral imperative that you do, given your role as trustee of the public lands, you are in our judgment required to do so as a matter of law. But, however you interpret your legal obligations, we would hope that the comments we are submitting will convince the President and you that it would be irresponsible to issue permits for the Trans-Alaska Pipeline at this time.

For your convenience, the comments we have received have been divided into four general areas: (1) Technical, (2) Terrestrial Impact, (3) Marine Impact, and (4) Economics, National Security, and Systematic Evaluation and Balancing of Alternatives (submitted under separate cover). Because of the unrealistic time pressures you have placed on us, the divisions are not inclusive, with many experts making contributions in more than one area. Time constraints have also prevented us from attempting anything more than the most general synthesis of the comments we have received. But, what follows are at least some of the highlights of those comments.

GENERAL SUMMARY

While many valid points are made by the various experts, a few general threads run through the comments.

First, insufficient information now exists on which to base a rational decision. The Interior Department and the oil companies are partially responsible for this regrettable situation because they have failed over the past three years to establish a systematic approach to the problem. The Impact Statement addresses itself neither to the steps that right now be taken to fill some of the more significant gaps nor to the risks of proceeding in the face of so many unknowns. (You may find the comments of Blumer, Brandt, Curry, Hakala, Warner, Gray, Thomson, Hickock, Henshaw, Cade and Cronin particularly helpful in this regard). And, what is even more distressing, on many occasions the Impact Statement uses these gaps as a camouflage, fails to make full use of the information that *is* available, and presents the reader with a needlessly vague array of non-conclusions. (Here, comments of Brandt, Curry, Warner, Milgram, and Vagners may be helpful).

Second, the Impact Statement is a passive document that blandly accepts at face value the fundamental premises of the oil companies. (We invite your attention to this regard to the comments of Donnelan and Chapin, both of whom have worked on this project for the oil companies, and Brandt, Curry, Cronin and Gray). Moreover, the Impact Statement scrupulously avoids discussion of the practical problems that will be faced *in the field* if this project is approved. You may be especially interested in the comments of John Hakala, a former employee of yours, who had an unparalled opportunity to observe first-hand what pipeline construction has done to the once beautiful Kenai Range. (The comments of Brandt, Lewellan, Curry, Wenk, Hickok, Vagners, and the Arctic Company may also be useful to you in this regard).

Third, the Stipulations that you have publicly described as giving you unprecedented control over this project are, on the whole, so vague and imprecise as to be meaningless for the terrestrial portion of the route, and non-existent for the potentially disastrous marine leg of the project. The experts find that the proposed Stipulations do not contain enforceable standards either for the Authorized Officer or for the oil companies. (The comments of Hakala, Brandt, Curry, Henshaw, Wenk, Vagners, Milgram, Warner, Hedgpeth, Foster, Brumm and Blumer may also be useful to you in this regard).

Fourth, alternatives (particularly a common transportation corridor through Canada's MacKenzie Valley, but also other routes, a suspended pipeline system (Brown), a railroad (Rice), etc.) were not adequately explored and considered, nor was the total impact of the project realistically evaluated. (This thread runs through virtually every comment we have received, and is developed in greater depth in the fourth volume of these comments). As we read the Impact Statement, the only argument now seriously put forward in favor of the Alaskan route over a combined oil-gas transportation corridor through Canada is that the Alaskan route could be completed two to four years earlier. But, much of this delay is due to the short-sightedness of your Department in adamantly concentrating its efforts from the very beginning on the oil companies' proposals.

TECHNICAL COMMENTS

The following comment by Lewellan aptly summarizes his conclusions, as well as those of Brandt, Curry, Donnellan, and Gray:

"The Impact Statement largely accepts the engineering proposed, and fails to deal with either practical engineering problems, or misplaced theory."

Brandt, Chairman of the Department of Mechanical Engineering, University of California at Davis, concludes that contrary to the oil companies' publicity barrage, the steel pipe, purchased in haste almost three years ago, is not of "exceptional quality." It is merely a common, low-alloy steel without any unusual properties. The pipe has not been designed in accordance with the "highest engineering standards." Rather, at the oil companies' insistence, the Interior Department has (1) accepted as the governing standard a code that was never intended to apply to the unusual environmental conditions found in Alaska, and (2) permitted the oil companies to exceed the requirements of that Code. Do you realize that the pipe has been so under-designed that we already know that it will wrinkle?

Brandt's critique takes on added significance in view of Curry's comments regarding the serious hydrological deficiencies in the oil companies' design (and the equally serious failure of your Impact Statement to disclose the doubts expressed about the project by your own experts, including Mayo, Emmett, and Childers) and the oil companies' failure even at this late date to accurately locate and design for potentially active faults along their proposed route. Equally troubling questions are raised by Gray regarding the probability of slope failure due to inadequate identification of critical areas and erroneous design criteria. Finally, Donnellan, speaking from his experience with Alyeska, casts serious doubts upon the basic engineering premises of the entire project, concluding that the very first principles of permafrost construction have been violated.

All of these reviewers foresee large stresses being placed on the pipeline by unique natural forces which occur suddenly and which are difficult to guard against except at the design stage. The Impact Statement's failure to come to grips with these problems is especially mystifying since your own Technical Advisory Board, under the chairmanship of Dr. Frederick Sanger, raised a number of fundamental technical questions as far back as September, 1971. For the most part, these questions have not yet been answered by the oil companies. A partial summary of these questions and the oil companies' responses to date is contained in Mr. Barnes' submission. One would have expected the Impact Statement to have done at least as much as Mr. Barnes has done.

Similarly, the comments of Thomson and Chapin indicate much more realistically than does the Impact Statement the implications of the failure of the oil companies' revegetation programs. The implications are substantial not only insofar as the integrity of the pipeline is concerned, but also because of their far-reaching impacts on the ecosystem.

TERRESTRIAL IMPACT

The Impact Statement fails entirely to analyze or even describe the irreversible deterioration of wilderness that would be caused by pipeline construction. In their statements, Wheatland and Dufour demonstrate that the Impact Statement ignores the commonly accepted, objective definitions of the term "wilderness," fails to place in perspective the exceptional wilderness values that will be destroyed by this project, and makes no attempt to establish the value to society of maintaining these areas as wilderness.

Moreover, the treatment of the project's impact on fish (Warner, Curry, Dickman), wildlife resources, and birds along the route is woefully deficient.

Every wildlife expert who has furnished us comments (Henshaw, Clough, Underwood, Hakala, Clark-Shon) finds that the pipeline as currently designed will prove a disaster to a broad range of animals. They point out that negative results of tests performed by the oil companies' own consultants on the effect of the pipeline on caribou migration are neither mentioned nor analyzed in the Impact Statement. All agree that the design proposed for much of the northern portion of the route is intolerable and that revised stipulations and design are prerequisites to the granting of any permit. None can understand why there should be two pipeline routes—one through Alaska and the other through Canada—which will more than double the disastrous impacts on wildlife.

These views are shared by the ornithologists who have reviewed the Statement. The bird resources that will be damaged by the pipeline itself are immense. But, when one adds to that damage the even more severe destruction that will be caused by the totally unnecessary marine transport leg and the second pipeline route through Canada, the potential impact is truly staggering. The statements of Cade, Paulsen, Warner, and White identify four principal deficiencies in the Impact Statement's treatment of these incomparable bird resources: (1) Failure to indicate what the environmental savings would be of a combined transportation corridor for oil and gas pipelines through Canada; (2) failure to give any realistic estimate of the risk of the project to the bird populations that are inventoried in the Statement; (3) failure to evaluate the distinctive characteristics and unique values of the bird populations along the pipeline route and along the marine transportation route, and (4) failure to recognize the integral role that bird populations play in the functioning of the delicate Arctic ecosystem.

MARINE IMPACT

The comments on marine impact are especially significant because this is an area of impact—at least as it relates to the still-pristine waters of Prince William Sound and the Northeast Pacific—that could be totally avoided by an all-land route through Canada. The comments of Warner, Hedgepeth, Foster, Hickok, Duxbury, Codispoti, and Morrow are especialy troublesome. As they indicate, the drafters of the Impact Statement have in essence thrown up their hands in despair and have avoided making any conclusions about what the potential impact of this project may be on marine resources. Yet, is that not the very purpose of an *Impact* Statement?

The lengthy descriptive material in Volume 3 is not used in Volume 4 to elucidate the potential impacts of this specific project. The Impact Statement acknowledges many of the vast gaps of information concerning the effect of oil on marine life and birds, but fails to acknowledge the significance of those gaps.

Warner discloses that there was readily available to your staff a study of an oil spill in Chedabucto Bay, Nova Scotia, that would have served as a useful model for simulating possible impacts in Prince William Sound, but was not, apparently, reviewed by your staff.

Blumer, Hedgpeth, Foster, Kohn, Hickock, Warner and Duxbury describe the types of research that could—and must—be done in order for you (and us) to have any idea of what damage this project will inflict on marine life. If the research they recommend is not carried out prior to the issuance of permits it will be impossible to monitor the effect which this oil transportation is having on the environment. Consequently, there will be no way of determining if intolerable pollution limits are being approached or surpassed. As Blumer, Hedgpeth, and Foster ask, why does the Impact Statement contain no standards as to what might be an "acceptable" level of marine pollution in connection with this project? Apparently, once a decision is made to go ahead with the project any level of pollution is acceptable, so long as the oil keeps flowing. Blumer suggests a manageable, short-term project that could, at least, give some indication as to what an acceptable level of pollution might be. As he points out, the methodology he suggests is not substantially different from that proposed by your Department in connection with possible oil shale development.

In almost every area of its treatment of problems related to marine transport, the Impact Statement studiously avoids concrete analysis. As is so often true of the Impact Statement as a whole, it accepts the fiat of the oil companies as to what the components of the system will be. We are given a sketch of the navigational equipment that the oil companies propose to use, but no indication of what the environmental risks are of its use and how those risks might be lessened by use of alternative equipment (Wenk, Milgram, Vagners, Codispoti, Duxbury, Arctic Company).

Why does the Impact Statement create the misleading impression that industry will be able to design and implement effective oil spill contingency plans? There are no such effective plans and there will be none in the reasonably foreseeable future (Milgram, Vagners, Warner, Hickok). As Cronin—Chairman of the Corps of Engineers Task Force on the Ecological Aspects of Deep Port Creation and Supership Operations—asks, why does the Impact Statement accept the oil companies' plans to discharge effluent into Port Valdez from its tanker ballast treatment facility? Why is there no analysis of a treatment facility that would be contamination free? Why is there no discussion of the possibility of using tanker ships incorporating bladders that would separate ballast water from oil residue? (Milgram, Cronin, Vagners, Wenk)?

And, as Wenk, Vagners, Crutchfield, and Flajser ask, where is the discussion of the hazards of single hull and single bottom tankers, the ability of supertankers to negotiate either Valdez Narrows or Rosario Strait, or the limitations of Harbor Advisor Radar systems that were so strikingly reflected in the the collision of two tankers in the San Francisco Harbor in early 1971?

The Impact Statement blandly represents that nine supertankers of the 250,000 dwt class will be used to carry North Slope oil to destination ports. But, there are currently no U.S. harbors capable of accommodating ships of this size. What are the environmental (and economic) implications of the substantial dredging of existing harbors or construction of entirely new deep port facilities to accommodate them? In fact, the Impact Statement does not even tell us where these supertankers will off-load (Wenk, Cronin).

Devanney, Wenk, Crutchfield, Vagners, Flajser, Codispoti, and The Arctic Company demonstrate that the key estimate contained in the Impact Statement of the quantities of oil that might be spilled as result of tankership accidents is a meaningless figure and by no means a "worst case." This casualty analysis did not even attempt to take into account the specific conditions for the marine transport system which is supposed to be the subject of the Impact Statement.

Finally, risk of damaging the marine environment is aggravated by the lack of authority to regulate every aspect of the marine transport system including ship traffic in ports, dumping of dirty ballast at sea, avoidance of adverse weather conditions, mandatory training of ship crews, and ship inspection. As mentioned before, this situation is compounded further by the non-existence of stipulations governing marine activities.

CONCLUSION

The comments we have summarized have, on the whole, been made by individuals who do not desire to be placed in the role of adversaries. Most would have welcomed the opportunity to participate in the process, rather than submit post mortems on a process from which they have been largely excluded. Warner has most clearly expressed the obvious discomfort that he and his colleagues are experiencing:

"At the outset I wish to state unequivocally that I very much regret the necessity of having to review the Impact Statement in this particular fashion. The existing circumstances and pattern of events surrounding this issue have forced scientists into the unwanted and undesirable role of adversaries. This is an inefficient and damaging use of the processes of science, and should be avoided at all costs in the future. Science and scientists function best in an atmosphere of open give and take, where issues are debated, data exchanged, and solutions sought in an arena of common interest and concern."

The experts whose comments we have summarized do not necessarily share the views of The Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth on the pipeline. Many have forwarded courtesy copies of their comments to us solely because we were the source (and in most cases the only source) through which copies of the Impact Statement were available to them. All would have preferred, we are sure, to have been more directly a part of the process.

Respectfully submitted,
DENNIS M. FLANNERY,
SAUNDERS C. HILLYER,
JAMES N. BARNES,
Attorneys for The Wilderness Society, Environmental Defense Fund, Inc., Friends of the Earth
KENNETH KAMLET,
Legal Intern.

EXORBITANT FUNDING INCREASE FOR UPPER COLORADO RIVER BASIN

Mr. PROXMIRE. Mr. President, yesterday the Senate passed legislation authorizing an increase in funding of $610 million to continue work in the Upper Colorado River Basin by the Bureau of Reclamation.

In 1956 the Secretary of the Interior requested and received the authority to spend $760 million to begin construction of storage units, power transmission facilities, and associated projects along the Colorado River Basin. At that time the Congress understood that additional funds might be required to complete the project. Now we are told that the only way to "finish the job" is to appropriate an additional $610 million, an 85 percent increase in funds.

Any authorization contemplating the expenditure of more than half a billion dollars should merit careful scrutiny by Congress and be approved only when the cost/benefit ratio indicates positive action. However, the House Committee on the Interior held only 1 day of hearings on the request before approving the authorization and passing it on to the Senate. The Senate Interior Committee held no hearings at all before approving this authorization for more than half a billion dollars. The Senate passed the bill 2 legislative days after it was reported. Is this the kind of careful consideration which the taxpayer deserves?

Nowhere in the Senate committee's meager seven-page report is there any cost/benefit analysis. Nowhere is there any indication that the Government and the taxpayers are getting value for their money. What degree of productivity or constructive service are we getting out of our past expenditure that merits an additional commitment of this magnitude? The essential figures are missing from the report, and it is impossible to make an intelligent assessment of this authorization without them.

What the report does say is that of the $610 million authorized by the committee, estimates indicate that over the next 5 years only $352,195,000 will be required to meet the construction schedule. This means that the Senate is authorizing the appropriation of funding for a project without even considering a second look after 5 years.

Certainly an authorization of this size deserves more than the scant attention of Congress. It deserves more than 1 day of hearings and it demands more in the way of documented support. Too much money flows all too freely from the pockets of the taxpayer, via administration spending, and we should scrutinize this and every other request that comes before us as if each dollar came from our personal savings.

NORTH SLOPE OIL WILL NOT BE EXPORTED TO JAPAN

Mr. STEVENS. Mr. President, it has been alleged that Alaska's North Slope oil might be exported in great quantities to Japan once the trans-Alaska pipeline is built. Several factors, however, make it improbable, if not impossible, that any North Slope oil will ever go to Japan.

There is little question that west coast States will be able to use all of the oil produced on the North Slope once the trans-Alaska pipeline is built. In the Environmental Impact Statement, the Department of the Interior has estimated that the crude oil deficit in 1980 is District V—west coast States—will be between 1.6 and 2.6 million barrels per day with a middle projection of 2.1 million barrels per day. If previous experience with crude oil demand can be used as a guide, the middle, or more likely, the high projection will turn out to be closer to reality than the low projection. If that is indeed the case, there is no question that all the oil from the trans-Alaska pipeline would go to the west coast. Certainly, there would be no business incentive to make sales to Japan so long as anything like current prices prevail. Los Angeles prices for crude oil are currently some 75 cents to a dollar per barrel over Japanese prices.

This is, of course, the same basic business reason that has prevented American crude oil from being exported in recent years: American crude oil is higher in cost than Middle East crude oil and cannot compete pricewise in the world market. It is also important to remember that there is now in the United States a critical and growing shortage of domestic crude oil.

Only assuming that the low deficit projection on the west coast should prove true will there be any excess oil available for shipment to any area outside District V. No more than 100,000 to 300,000 barrels per day would be available under these circumstances, and that for only a very brief time, say 1980–82. None of that excess would go to Japan because of the projected deficits in the southern part of our Nation. Besides that, the amount or even the existence of any such excess is so speculative at this time that it would not be possible for any company to make plans for specific foreign sales.

The erroneous assumption that there might be an excess of North Slope oil available for export was, apparently, based on the fact that the ultimate capacity of the proposed trans-Alaska pipeline will be 2 million barrels per day. If pipeline construction were to start next year, the pipeline could be completed in 1976 with an initial capacity of 600,000 barrels per day.

All of this amount will be required on the west coast.

Within 2 years, 1978, the capacity of the pipeline could be brought to 1.2 million barrels per day, and if the actual throughput was at capacity—and it may not be—the west coast could still use all of the oil.

By 1983, the pipeline capacity could be at 2 million barrels per day, and there is no doubt that the west coast will be able to use the full amount.

With these realistic circumstances, there is absolutely no reason for anybody to believe that North Slope oil could be sent to Japan.

THE FEDERAL MINIMUM WAGE

Mr. FANNIN. Mr. President, we will soon take up legislation to increase the Federal minimum wage.

Such an increase at this time will do great harm to our economy because it will further fuel inflation and erode America's ability to compete in the world marketplace.

And this legislation is a cruel hoax on the poor because it will make their economic lot worse, not better. They will find not only higher prices, but fewer jobs.

Mr. President, the Scottsdale Daily Progress ran a very good editorial on this subject on April 25, 1972. I ask unanimous consent that this editorial be reprinted in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A PUSH FOR INFLATION

The President and all the politicians have been calling for checks on inflation. Yet Congress, without Administration opposition, is considering a big new push for inflation.

Under consideration is a bill which would raise the minimum wage to $2 by 1974.

Somehow the politicians think that the wage and price boards can hold down inflation, yet they would raise the minimum wage by 25 per cent.

This would push all other wages up, and in turn there would be another big round of price increases.

In addition to speeding inflation, the measure would add to unemployment. Business would hesitate to hire unskilled and young workers for $2 per hour. And higher wages would speed up automation, which would reduce the number of available jobs.

The proposal is hard for politicians to oppose in an election year. But its passage would be irresponsible and would wreak havoc with the United States' economy.

DRUGS, NARCOTICS, AND GUNS

Mr. KENNEDY. Mr. President, the anguish caused by the separate tragedies of drug abuse and firearms deaths is sorrowful. But the human disaster created by a combination of those two are devastating.

Thomas Thompson, in Life magazine on May 5, recounted the terribly heartrending story of a 17-year-old boy who was murdered by his father because drugs had turned the boy's life into a series of nightmarish episodes that his parents could not comprehend. The boy had become a victim of our society's inattention to the widespread use of barbiturates.

On the one hand, this is a story that castigates our society for failing to produce adequate treatment for those who suffer from the abuses of drugs and narcotics. We force fathers like George Diener to turn to the police for help with addicted youngsters because we have refused to produce a network of effective treatment centers.

Locking up a youngster on drugs is like putting handcuffs on a victim of heart disease. Communities like the ones the Dieners live in simply are not equipped to cope with the problem of drug abuse. On the other hand, this is a saga that needs to be told so it will not be repeated in the homes of other Americans.

America allowed young Richie Diener to succumb to drug abuse because we have refused to squarely face the problem in its proper perspective. We have not taken the steps required to eliminate the misuse of narcotics and other drugs.

For young Richie, America resolved the problem of drug abuse through our historic inability or unwillingness to resolve the problem of widespread firearms ownership. Because we have not yet established the proper role of firearms in our society, guns are too often involved in acts of passion.

Young Richie is dead today not because he misused drugs, but because a gun was at hand at the time when his parents were frightened, bewildered, and desperate. George Diener fired the gun that killed his son. But America has made it convenient and easy for too many Americans to own firearms.

Young Richie is now part of the statistic that totals over 10,000 U.S. deaths each year caused by firearms.

What would have happened had the gun not been around? What is to happen now to the life of Richie's parents and to his younger brother?

Mr. President, it is this kind of tragedy that easily gets tucked away in statistical accounts and is soon forgotten. But, if we intend to prevent other families from that kind of suffering then let this tragedy stimulate our concern to eliminate drug abuse and to establish effective the proper sale of firearms in our society.

I request unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THIS FATHER LOVED HIS SON BUT HATED WHAT HIS SON BECAME: THE END WAS NIGHTMARE—RICHIE

(By Thomas Thompson)

This is the story of a terrible thing that happened between one decent man and the son he loved. It took place on a Sunday afternoon in a fine lemon-colored house on a maple-lined street hard in the middle of the American dream. The woman who was wife to the man and mother to the son could only stand by as an agonized witness.

Seventeen years ago, on June 6, 1954, their first child, a son, was born to George Edward Diener and his wife, the former Carol Ring. They had been childhood sweethearts in Brooklyn on a row of houses which Carol remembers as "like the ones you see at the beginning of *All in the Family*." When people would ask later how they met, George Diener would grin. "I was lazy," he would always say. "I fell for the girl next door."

During their five-year courtship Carol finished high school and became a receptionist on Wall Street. But George dropped out and joined the merchant marines at 16, hoping to catch a piece of the tail end of World War II. He sailed the seas for seven years before Carol suggested—firmly—that if he wanted her to marry him, he would have to settle down and stay at home.

Carol was petite and red-haired and willful, like her Scotch and English ancestors. She was proud of her family history and paid a genealogist to trace her line back to a 16th-century Norman knight. George countered by tracing his line, which went back, he said, only as far as a saloon in Ridgewood, N.J. about 1916. Carol also joined the DAR and hung the membership certificate on the living room wall. Efficient and good with money, she paid the bills and kept up the cramped apartment they took in Queens.

George Diener was a muscular, compact fellow with thick and dark wavy hair. If you saw him in a bar, you would notice the U.S. flag tattoo on his strong arm, affixed there by a drunken tattooist in the Bowery when George was only 15. He had a Jimmy Cagney air about him. You would guess he had been a scrapper as a kid, maybe a welterweight boxer. He always seemed uneasy at rest. In conversations his eyes would dart about a room, his hands chopping the air. He was never one to sit at home on Sunday and watch the games. "I only like things that I can *do*," he would say. Much more to his liking was a hike in the woods or a day of target practice at an indoor pistol range. He was a good enough marksman to be rated expert.

They named their first son George, after his father, but to distinguish between the two, the child quickly became known by his middle name, Richard. Soon he was Richie. He was a fine son, wtih a lustry cry and bright red hair. George Diener adored him.

When Richie was 2, George's new job as salesman for a food company required him to travel each day the far reaches of Long Island, from Huntington to Orient Point, stopping in on hundreds of grocery stores and restaurants, persuading them to stock his brands of coffees, teas and spices. He longed to move his wife and son from the congestion of a city apartment out into the land. How could a man who had seen the sun turn the white cliffs of Dover gold at dawn, how could a man who had traded a carton of cigarettes to an Eskimo for six huge lobsters in Greenland raise his own boy on the anonymous floor of an apartment house?

There was no literature in George Diener's life, no poetry, not even great ambition. Like most men, he was willing to settle for ordinary dreams: a woman, some money, a house with land that is owned, trees, work that does not paralyze the mind, recognition. And, above all, sons. A son is the mirror image, the blank piece of paper before our inkblots soil it, the continuation of life. There is joy in a daughter, but there is power in a son.

George and Carol chose East Meadow in the heart of Nassau County, Long Island, once a place of potato farms but after World War II the definitive example of exploding suburbia. To the young couple who had grown up in Brooklyn, there was a delicious feel of newness about East Meadow. The houses were new and painted warm pastels, the people young and industrious and—like the Dieners—politically conservative. Policemen and firemen from the city were buying and moving in, and aircraft workers, and union men who took off their hard hats and turned to pruning rose bushes. East Meadow was 98% white. The sea was near, near enough to catch a breeze in summer. There seemed to be a boat in every other driveway. And everybody agreed the schools were excellent.

They lived for five years in the first house, and when a second son, Russell, appeared, it was time to move to a larger one. George had always wanted a basement to store his tools and do his home carpentry. On Longfellow Avenue, they found just the house, with a spacious wooded backyard and room for a pool.

Carol remembers that Richie was never happy in the new house. "There was only one other little boy on the block, and he moved away, and there were only girls around then." Richie was chubby and hated it when the girls called him "Fatty." He took refuge, found friends, in animals. Carol had had a Boston terrier named Boots who died when Richie was very small. He loved the dog so much that she bought another one for him, which he also named Boots. There followed a skunk, a rabbit, a crow, hamsters, gerbils, fish, alligators, a coati, even a boa constrictor that grew to five feet and suddenly vanished within the house. It was never found.

AT 15, RICHIE'S LIFE BEGAN TO COME APART

George encouraged his son's interest in animals. The father had always preached reverence for any form of life. "George wouldn't even let me step on a spider," said Carol. "He said spiders did more important work than people, and when I found one in the house I'd get Richie to pick it up and take it outside." When Richie wanted books on animals, his father bought them by the dozens. Richie became almost expert in animal diseases and he personally doctored all of his pets. The squirrels in his backyard would spring onto the new redwood deck and wait for their friend to feed them peanuts by hand when he got home from school.

Even when he lost his childhood fat and grew into a well-built lad of 5'8", 145 pounds, with strong legs and a muscled chest, Richie had no interest in sports. George encouraged him to try wrestling, Carol suggested football and baseball. "But he always refused," his mother said. "He was so insecure. He told me that if he ever got on a team and made a mistake that caused his side to lose, he couldn't be able to stand it."

Nevertheless, for the first 15 years of his life, Richie was a satisfying, average boy, very much a part of George's ordered life. The father recognized Richie's insecurity—but what 15-year-old is secure, anyway? He accepted his son's preference for animals over human friends, tolerated his periods of moodiness, his silences, his middling grades, his occasional breaking of midnight curfew on Saturdays. None of these particularly alarmed his parents: they seemed the classic problems of any adolescent.

When the first real trouble appeared in the summer of 1970, it was therefore as startling as a crack of lightning on a clear night. Twice Richie had been away to summer camp, but on this, his third session, Carol received a long-distance telephone call. Richie had become disruptive and belligerent with the counselors. And he had been caught smoking marijuana. Could his father come immediately and get him?

On the long drive back from the Adirondacks, George questioned his son. Richie said it was only "the first, maybe the second time" he had ever tried grass. "All the kids were doing it," he said. "Some brought it up, and others found it growing wild in the woods." He promised never to use it again.

The next year, when Richie was a junior in high school, his grades tumbled. He took the nature books and animal pictures that used to decorate his room and put them in his closet. "This is what my son used to be," his father said one day to a visitor, pointing to the forgotten books. "And this is what he is now." His arm swept the room in bewilderment.

Richie had transformed his room into a lair of the counterculture. Ticket stubs from rock concerts were pinned to the window ledge. Black light cast an eerie glow on replicas of rock stars. A game called "Feds 'n Heads" was pinned to the wall. When Richie lay in bed, he could look directly ahead at several bizarre and frightening drawings, grotesque demons, creatures with bulging eyes, hair tossed by electrical storms, hands of reptiles. One such creature sat in a bathtub of blood, holding a dagger.

Richie had discovered a tiny space, some six feet long, behind a panel at the back of his closet. He put a cheap mattress in it and took to lying there to escape his parents' calls. George found the secret place in May 1971 and decided to dismantle it. He came across a small cube of something brown wrapped in aluminum foil, neatly hidden behind a picture. "What is this?" he demanded of his son. Richie answered that it was hashish he was keeping for a friend. Then he said it was only mud that somebody was passing off as hashish. Whatever, George threw it out.

Not long after, Carol found a sandwich bag full of marijuana in Richie's room and threw that out too. This time the boy freely admitted that it was his. Moreover he was furious at his mother for what she had done. Carol tried to discuss the matter with him calmly. If he opposed her cigarette smoking, why did he smoke marijuana?

"Because the other kids do," he would say, or "Because I want to, that's why," or, shyly, almost a mumble, "Because it helps me talk to girls." Carol found a book in his room, *How to Talk to Girls*. Richie was undeniably shy. His longtime friend Sue Bernstein, whom he had dated since he was 14, said it took Richie three years to get up the courage to kiss her goodnight.

When Richie turned 16, the changes came faster. Carol and George learned that he had become a heavy user of marijuana and hash—and more, though they would not discover this for some time. He began staying out until 2 a.m. on weekends, two hours past his curfew. He told his parents never to enter his room, and if they did, there would be a yelling row. He rarely joined them for dinner. "I'm just not hungry," he would say, but Carol could see the haunting red eyes and hear his tongue tripping over the words, new profane words, that rushed out of the boy who had been so quiet so long.

HEAVILY INTO SECONAL, HE FAILED EVERY SUBJECT

Richie now had friends, disturbing ones. He began running with an East Meadow boy who was on probation for using marijuana and who was suspected of dealing in heroin. Ironically, Carol learned, Richie had met the boy on a Methodist Church retreat. For a time, Richie had been active in church, and he had been confirmed when he was 15. The new friend, whom we will call Eddie, tried to interest Richie in heroin. Apparently he refused. "Richie said he wasn't going to stick any needle in his body. No way," said one of the friends.

George discovered that he now could not talk to Richie without yelling at him, and the boy yelled back. When George ordered him not to see Eddie, and to be home at a certain hour, and to stop using foul language, Richie disobeyed every order. Finally

George took his son to Family Court and charged him with being incorrigible. "I don't want him to have a police record, but he's only 16 and all the proceedings are secret," he told Carol. After the session in court, Richie suddenly changed. He found a summer job at Burger King and began saving money to buy a car. George Diener informed the court of his son's improvement and the case was dismissed.

Last October, a severe case of bronchitis developed into pneumonia and Richie stayed home from school for three weeks. He fell behind. He failed *every* subject the first quarter. Carol was upset because on his Scholastic Aptitude Tests for college he had scored well. When Richie returned to class in November, Carol received a call from the assistant principal. Richie was ill. Could she come and pick him up?

When Carol arrived at the assistant principal's office, Richie "was very talkative, his eyes were red and heavy. He was abusive," she told George that night. "He cursed me and everybody else." Carol talked privately that morning with the nurse. "Richie told me he took some pills on the school bus, but he insisted they were pills the doctor gave him for pneumonia," the nurse said. But her voice was skeptical.

"Do you think it was something else?" Carol asked.

The nurse nodded.

The "something else" was Seconal. The kids called them "downs" or "goofers" or "reds." With all the horror stories about heroin and speed, somehow Seconal has not received much attention. It is a powerful barbiturate, a mental depressant used as a sleeping pill. Tens of millions are manufactured every year in America. Marilyn Monroe died from an overdose of them. So have countless others. In the late 1960s, kids discovered that Seconals produced a quick and curious feeling, an hour of dreamy lethargy.

"If you become dependent upon Seconals," explains one New York doctor, "you actually *need* the drug to function, just as an alcoholic needs a drink first thing in the morning. Without Seconal, a dependent person becomes nervous, jittery, agitated. Withdrawal from Seconal is more severe than withdrawal from heroin." Because Seconal is a depressant which interferes with nervous transmissions from the central nervous system, it can so affect the brain's functions that one can become hostile and aggressive.

The market for Seconal thrives, particularly in high schools. A Nassau County narcotics officer said that the dangerous pills can be bought in the corridors or bathrooms or lunchrooms of "any school in this district, including parochial ones." They sell for prices ranging from 25 cents each to three for a dollar. "The kids like them because they are cheap, clean—no needles—and plentiful," said the New York doctor. "They don't think they are addictive. But God, are they ever. They don't think they are dangerous. I wish word could get around that at least six Long Island kids have died in the past year from Seconal abuse."

Last autumn, Richie began using Seconal heavily. He told one girl that he had a bottle of 100 pills, that he was tempted to sell them, but he thought he would keep them for his own use. "Why don't you stop doing drugs?" said the girl. "I can," answered Richie. "Anytime I want. I just don't want to stop right now."

FATHER AND SON RAGED AT EACH OTHER

No one could say for certain why Richie became so deeply involved with drugs. One "perhaps" was his being thrown into a massive high school with 3,000 students and wanting desperately to be accepted. When a shy, socially insecure youngster discovers that drug use will admit him to at least one circle, however pathetic that circle may be, the temptation can be great.

There were other signs that Richie was pleading, in his way, for status and friendships. He became an expert on rock music, not the standard Fillmore East pop groups, but obscure ones which Richie would "discover" and tell his friends about. He fretted constantly about his appearance. He took at least two showers a day and his clothes had to be clean and freshly pressed. Detesting his tight, curly red hair, Richie spent hours in front of the mirror attacking it. Finally he went to a barber and had it straightened. "Now it looks like a Brillo soap pad," he said in despair. He announced he was going to grow an Afro, which did not please his father.

His childhood nickname of "Fatty" was replaced by the time he was 17 with a new one, "The Kid." He hated this name so much that he once bloodied a friend's nose for calling him that. But when the fight was over, he invited the friend to come by his house anytime and listen to music. He told all his friends that. "Whenever the light in my room is on, that means come on in," he said. "I really mean it."

There were many signs that Richie was not totally comfortable in the drug world. He very carefully divided his friends into "straights" and "heads" and he never mingled the two. One of the straights, a boy who did not use drugs or even smoke pot, described this period of Richie's life: "We all knew Richie was doing drugs—a really heavy pill scene—but he'd never bring anything with him when he went out with us. He wouldn't take the chance of getting us busted along with him. I think he respected our way of life."

Once last summer Richie had arrived at Jones Beach with a group of "heads." A hundred yards away were two couples who were "straights." Richie waved at the couples, then started walking toward them. But midway he stopped. He glanced back at his "head" friends, then looked forward toward the others. Finally he sat down on a dune mid-distance between them, not able to commit to either side.

By Christmas last the rupture between George and his son became complete. They passed each other silently in the house. Occasionally anger would flash and they raged at one another. But George had decided that he could no longer deal with Richie. Perhaps Carol could achieve something. As long as she talked to the boy quietly, gently, he would listen. And promise. And go out and break his promise.

Late at night. George and Carol would lie in bed and search their lives for reasons. Carol assured her huband that it was not his fault. He had tried in his brusque, do-as-I-say way to interest Richie in scuba diving or in becoming a marine biologist. "What did I do wrong?" George would say, not content with his wife's murmurings. "What did I do wrong?" He had built up the walls of his life so that he knew exactly who he was, what he believed and where he belonged. That his son had no ambition, that his son lay in his room listening to loud music with confusing lyrics, that his son had covered his boyish face with a scraggly red beard and long shaggy red sideburns and was letting his hair grow in the directions of a windstorm was more than he could understand.

George was growing more and more politically conservative. He grouched often about welfare abuses, a "no-win" policy in Vietnam, and how "'liberal' to me is a dirty word." It was not difficult for him to affix part of the blame for Richie's troubles on these villains. "It's this permissive liberalism," he told Carol. "The kids do just what they want because they know the courts won't punish them." Indeed, there had recently been a large narcotics raid on a house in the neighborhood which involved several arrests. But, George raged, "the pushers were back on the streets the next day." Carol agreed. She also felt Richie's school was partly to blame. "He has *three* free periods to do just what he wants," she said. "He can leave the campus or buy drugs or go into the bathroom and smoke pot. The teachers are afraid to go to the bathroom because they know what's going on in there."

On Christmas Eve, Richie was in his room and Carol went to call him. The house was full of relatives and it was time to open gifts. She opened his door and the smoke of marijuana assaulted her. "Put that out immediately," she said. "Everybody is waiting for you so we can open the presents." Richie shook his head. He would not join the family celebration. "I think he was so possessed of guilt," Carol told George later, "that he couldn't bear to face all those people who loved him. He couldn't let them see him stoned."

George Diener's ordinary dreams were being menaced in other areas. The taxes on his house had originally been $300 a year. Now, in less than seven years, they had quadrupled. Even though George and Carol together earned $15,000 a year, there was rarely enough money for an evening out. Carol liked good restaurants, but the best George could normally do was hamburgers at McDonald's. Crime seemed to be encircling him. The house across the street was robbed, then one behind him, finally his own—in broad daylight. Because he worked part-time as a night security guard, George had a police permit for two pistols. One of them was taken by the afternoon burglar and the house was ransacked. Even though many of the parents in the Dieners' circle of friends knew their own children were using drugs, it was rarely discussed. Perhaps it should have been. District Attorney William Cahn publicly estimated that 75% of the youth in his county had at least experimented with marijuana and/or pills.

George worked ten hours at one job and often at another, he coached Little League baseball and was a committeeman with the Boy Scouts, but he had to come home from labor and civic endeavor to discover his own son stoned and red-eyed and mute. "Jesus God in Heaven, what's happening to us?" he would cry.

During one of their flashes of anger which was the only way they communicated anymore, George grew so exasperated that he snapped to Richie, "All right son, you believe in the law of the streets. You believe strong is best. Put up your dukes."

Richie looked at his father in surprise: his hands were closed into fists. Richie picked up a piece of chain to defend himself. George, perhaps remembering his own Brooklyn street days, perhaps thinking he could "slap some sense into the boy," threw a roundhouse punch at his son. It exploded on his cheek. For days Richie had an angry, swollen bruise on his face. Later George apologized, but Richie did not accept it.

George began to suspect that his son was not only using drugs but selling them. He told Carol that the only way to find out for sure was to tap the family telephone. If his suspicious were true, he wanted to stop the business before it grew larger. Carol was reluctant at first—"How can we spy on our own child?" she said—but George insisted. He installed the bug secretly, but Richie found out and told his friends.

One girl friend remembers those days: "I'd call up Richie and I'd start off the conversation by saying, 'Hi there, Mr. Diener,' or 'Hello, Tape,' and we'd talk in code so he couldn't dig anything anyway."

But before Richie discovered the tap, George heard things that staggered him. His son seemed a budding expert at the art of "ripping off." The boy's telephone conversations with friends were peppered with requests to "front me," which George learned was a plea for enough money to buy, say, a half pound of marijuana which might cost as much as $100. Richie then broke it down into "nickels" and "dimes"—$5 and $10 sandwich bags—and sold it. Usually he sold an ounce that was either short-weighted or mixed with oregano.

George and Carol's younger son Russell was taking medication prescribed by a doctor, and Richie bragged on the telephone of stealing some of the pills and selling them to friends. He told one girl that his customers were "dumb kids, like only 13."

George also heard, on the tapped phone, that Richie was developing enemies who had discovered they were being cheated. "Richie told one contact that he was unable to sell a big batch of marijuana because he had ripped off so many customers that nobody trusted him anymore," George told Carol. "He says that people are out to get him, but he isn't worried because he will shoot them. Or stab them."

The police of Nassau County knew Richie was a marijuana user, but they did not know he was a large-scale dealer. "The pattern is typical," said one narcotics officer. "If a kid gets some grass, he sells it to friends at small profit and keeps his own use going. A lot of kids even *give* it away. It seems to be an element of social status, of making and keeping friends."

One day toward the end of 1971, Richie came home stoned, his eyes red, his speech fast but slurred. George challenged him once more. "I have done everything I know to do," said the father. "I have tried to reason with you, I have forbid you to see kids who take dope. I have asked you to stay home, I have taken you to Family Court, I have cried, I have told you I love you, I have told you I'll do anything in my power to find you help. Your mother and I cannot talk to you any more. So this is the way it's going to be. You're going to stay home Friday and Saturday nights if I have to lock you in your room."

Richie made a counterproposition. "I promise to stop doing drugs," he said slowly, "I really do promise . . . if, IF you'll let me go out with the kids on weekends and drink beer."

George answered quickly. "As much as I want you to stop taking drugs, I can't bargain with you. You're only 17, and I can't give you permission to go out and drink."

Richie began to yell. He shouted, as children so often do, "You don't love me! You don't understand me!"

"Of course we love you," Carol put in softly.

"You never even wanted me," Richie raged. "The only reason I'm here is that you two were fooling around one night. I didn't ask to be born."

George blew up. He hit his son in the mouth and blood gushed out. Richie took the blood from his mouth and flung it against the wall of the living room. While George watched the blood trickle down, Richie rushed out into the night.

Once again, George Diener took his son to Family Court, and this time Richie endured two sessions with a psychological counselor. After the second meeting, the counselor told Carol that he was going on a two-week vacation and when he returned, he would resume his work with Richie. "When the counselor returned," said Carol, "he called me and said he had been promoted, that another man would take over Richie's case. This new man would call me and make an appointment. I never heard from them again."

On Feb. 12, a Sunday, Richie was in a Walgreen's drugstore at the huge Roosevelt Field Shopping Center. The manager noticed him loitering near the drug counter and suspected him of shoplifting. He told Richie that he would have to stay until the police came to investigate. A punch-up occurred in which, according to the manager, Richie threw a display basket and a wooden table at him, tried to choke him with his necktie, and kicked him in the knee. The manager charged Richie with assault and a trial was set for Feb. 28. It was Richie's first arrest.

Two days later, Valentine's Day, George was working at home. The school called. Richie had been expelled for fighting and cursing at a teacher. George waited for his son to come home. He dreaded the confrontation. Richie pulled up in front of the house with a carload of friends. They noticed George's car in the driveway and hurriedly sped on. George knew that they would not come in with him as long as he was there, so he got into his car and drove away. Some time later he circled back and, sure enough, the boys were inside the house. George made a decision. He telephoned the police and asked them to raid his own son's room. "I thought that maybe if Richie was arrested, it would scare him out of it," he told Carol later.

When the police arrived and searched the room, there was no marijuana. The boys were only drinking. After the police had left, and after George had ordered the boys out, Richie began to scream at his father. George yelled back. It was the same ground they had gone over a hundred times before. Only this time Richie seized a pair of scissors (gold ones which his mother had once used to make elaborate Halloween costumes for him) and threatened to kill his father.

George checked his clenched fists and left the house. Richie called his mother at the junior high school where she worked in the cafeteria and sobbed into the telephone. "I must be crazy," he said. "I just tried to kill my father." Carol's mind raced. She figured this, at last, was Richie's cry for help. "You're not sick," she said. "You're just tired. Lie down on your bed and rest and I'll come home."

GEORGE GOT HIS PISTOL FROM THE BEDROOM

She telephoned a relative who put her in touch with a community health psychiatrist. The psychiatrist gave Richie a preliminary "screening" and told Carol that, yes, he would take the case, but that he would have to wait until the Walgreen incident was disposed of in court. Since that trial was only two weeks off, Carol felt the delay could be borne.

Toward the end of the week Richie had a conference with the principal of East Meadow High. If Richie agreed to stop using drugs and stop cutting classes he could come back on probation.

"The next week was almost miraculous," according to Carol. "Richie was a changed boy. He stayed in at night. He did his homework. He was sweet to me. He was our boy again. I think he realized this was his last chance. That Friday afternoon—I would learn later—a big shipment of drugs hit the school. Richie bought some pills. A lunchroom lady spotted him and some other kids and told them she was turning in their names to the office. Richie probably felt this was the end."

On Friday night, Feb. 25, Richie went to a Long Island bar called Ryan's which is popular with young people. In New York State, the legal drinking age is 18. Police raided Ryan's that night and checked ID cards. Richie had none. He and a few others were taken to the police station, questioned and released. This was Richie's second arrest.

On Saturday, Richie, oddly mute and peaceful, asked his mother to drive him to a girl friend's house. She agreed. Four hours later when he returned home, Carol suspected he had been smoking marijuana. But she said nothing. That night, Richie and two friends, two "straight" friends, went out and—for a few happy hours—played in the snow.

The next noon, Richie asked his mother if he could borrow the car. Carol had forbidden him use of the car but, as she remembers: "He had been acting so nice all week that I gave in. In fact, I made a bargain with him. 'If you stay this way,' I said, 'I'll give you my old car rather than trading it in on a new one as I had planned. You'll have to find a job to pay for the insurance.' " Carol watched as Richie happily left. She had always "lived with hope." She thought her lectures were getting through to him. Maybe.

Richie and a friend went to a local hamburger shop. As they left, Richie backed his mother's car into another one. There was negligible damage to both, but the other car's owner telephoned George and Carol. Assured that their son was not hurt, they waited for him to come home with an explanation. Richie had taken some Seconals. He pushed the car up to 60 mph on a quiet residential street in his neighborhood. Suddenly a tire blew out and the car bounced across the street, hit a station wagon, careened into a yard and knocked down a fence. Neither Richie nor his friend was hurt, but the car was destroyed.

George was summoned to the scene, and he told his son they would discuss the accident later. Richie went home while George stayed to discuss insurance matters with the police.

At 4 p.m. George and Carol sat down at the dining room table with Richie to talk about the accident. Carol had told George that it must be a calm meeting with no raised voices. But Richie seemed strangely remorseless. "You don't act the least bit sorry," said Carol. Finally she spoke sharply. "Don't you realize you just totaled my car? Besides that, you could have killed somebody! You could have killed yourself!"

Richie raised his head and looked through the glass patio door to the yard. "Maybe that would have been even better," he said softly.

George remained silent during the dialogue. But he was shaking his head sadly. Richie noticed this. "That's right," the boy shouted, "shake your f---ing head."

Trying to avoid another scene, George rose and left. He went to his basement shop and began working on his salesman samples, sorting out broken packages and returns.

Richie and his mother continued to talk, but the boy kept jumping up and making telephone calls. Finally Richie went into his room, flipped on a rock tape, and shut the door. Carol took her younger son to a bowling alley and returned half an hour later. Richie came out of his room and his mother gasped. He was staggering. His eyes were red slits. He slurred his words. "What in God's name have you taken?" she cried. He confessed that he had taken four Seconals.

Ignoring her, Richie made a date on the telephone with a friend for 6:30. He hung up and shouted at Carol. "And don't go down in my room when I'm gone and look for pot."

"You're in no condition to go anywhere," said Carol. Richie began to walk past her. Suddenly he fell over a chair and onto the floor.

The two crashes—boy and chair—brought George racing up from the basement. Now Richie was standing up. He saw his father. "Did you tell the cops at the accident scene that I was on dope?" he cried.

George did not want to talk to the boy in this condition. He turned without speaking and started out. Richie ran after him. "Answer me! Answer me! I asked you a f---ing question," the boy shrieked, "and I want a f---ing answer!"

Richie's face was so contorted, his body so quivering with rage that George felt he and his wife were in physical danger, the kind that could not be handled with parental authority or even with fists. This was the last scene of the long painful drama and all the emotions were out. All reason was gone.

"SHOOT" RICHIE CRIED—"GO AHEAD, SHOOT"

George went to his bedroom to get his pistol. The .32 was hidden behind a night stand. Weeks before, Carol had urged George to conceal it. She had been afraid that Richie would find the gun in a heated moment and use it on them as they slept. On the taped telephone calls, George had heard his son brag of being ready to shoot or stab any dissatisfied customer who was out to get him. And more than once Richie had shouted at George, "I'll get you . . ."

George tucked the .32 into his belt. He walked down the stairs into the basement.

Richie appeared on the stairs leading to the cellar. Unsteadily he made his way down. He saw an ice pick on a work bench and picked it up. When he was 15 feet from his father, Richie raised it and cried, once more, "I want an answer! Answer me!"

George's answer was to take the gun from his belt and to point it at his first-born son. Perhaps this would frighten him. Perhaps this would send him away.

Richie threw out his arms like a crucifix. "You've got your ——— gun. Go ahead and use it." The boy walked slowly toward his father. When he was five feet away, the ice pick trembling in his hand, George cocked the .32. Richie stopped and flung out his arms once more. "Go ahead. . . . Shoot!"

Richie dropped his arms and somehow the ice pick fell to the floor. George lunged forward, grabbed his son by both shoulders, and kicked the ice pick into a corner. Carol had appeared by this time, paralyzed with fear. Richie broke loose from his father and rushed upstairs, shouting behind him, "I'm going up to get the scissors." He rushed past his mother. "Oh my God! What can we do?" Carol moaned.

"I don't know," George answered. "Maybe he won't come back down."

While they waited in the cellar, George and Carol could hear Richie rummaging in the kitchen above their heads. He pulled out a drawer too far and it crashed to the floor, utensils rattling about like hailstones on a metal roof.

Instantly the boy appeared at the head of the stairs with a steak knife in his raised hand. George pushed his wife behind him and faced his son. With each step he took down the stairs, Richie cried, "Shoot! Use your gun!"

George's finger trembled on the trigger. The frustrations of his life were suddenly telescoped. His seed had produced a son, but the son was no longer his. The son was a million miles away. The son was a childman with a beard, with a knife, with obscenities on his lips, with drugs in his brain.

What God spared Abraham from doing to Isaac, what the makers of myth and literature could scarcely even imagine, George Diener at last did.

He fired.

The bullet tore directly into Richie's heart. He slumped backward onto the stair in a sitting position. He brought his young hands to his chest and he saw his blood. He was puzzled. He stood straight up and raised the knife again. Now its handle was soaked with the life draining from him.

Incredibly, George Diener fired again. This time the bullet went wide, screaming past his son and ripping a hole in the wall of the house that had been George's dream.

Richie sat down and toppled forward, down the stairs, onto the cement floor.

George grabbed Carol and pushed her up the stairs to the living room. He called the police and an emergency ambulance number.

He went back downstairs. Richie was quiet. He was not moving. George touched his throat. There was no pulse.

Slowly he dragged himself up the stairs.

George went to his wife and knelt beside her chair. "He's dead. I've killed our son. Can you ever forgive me?"

Then they sat and cried and waited for the police.

Several things quickly happened.

They carried out Richie's body in a canvas sack. An autopsy disclosed that his vital organs contained six times the amount of Seconal given by doctors in a therapeutic dose.

George was arrested and charged with murder, but he pleaded self-defense and the grand jury did not indict him. The police *did* want to know why George, an expert marksman, shot to kill, rather than to wound. "All I could think of was that if I only wounded the boy, he would come back and kill Carol and me," he answered. "There had been so many threats."

George vowed to lead a community war against drugs, in particular barbiturates.

The night before the funeral, many of Richie's friends went to the funeral home to pay their respects. George thanked most of them for coming, although he would not even speak to some he considered part of Richie's "head" crowd. In particular Eddie, who was sobbing almost hysterically. Carol was shocked to see that more than one of the young mourners came to the funeral parlor stoned.

When Richie's friends looked at him in the casket, they were stunned to see that his beard has been shaved off, his sideburns trimmed and raised, his hair neatly, forever cut. Sue Bernstein, his longtime friend, said that Richie looked "exactly the way he looked when I first met him, when he was 14, before the trouble started."

There was criticism of the barbering, but George dismissed it. "This is the way I wanted Richie to look," he said. And the father, at last, had his way.

Lately George has taken to going into Richie's room and shutting the door and stretching out on the bed. It is his way of getting through one sleepless midnight. There are others to come.

And the father, at last, had his way.

A PAPER ON AMNESTY

Mr. THURMOND. Mr. President, Ed Bell III is currently a student at Wofford College, Spartanburg, S.C. During the past winter, Ed worked in my Washington office as an intern.

While serving as an intern, Ed researched and prepared for me a paper entitled "The Question of Amnesty." The paper deals with the issue of granting amnesty to draft evaders and deserters from the armed services.

Amnesty has been advocated by some and criticized by many. The Subcommittee on Administrative Practice and Procedure, of which I am a member, recently held hearings on administrative amnesty. Polls across the country have upheld President Nixon's stand on this matter, with which I also concur. Amnesty should not even be considered until our men who are being held as prisoners of war are returned, and then each case should be considered on its own merits.

Mr. President, Ed Bell has prepared a most commendable discussion on the question of amnesty which I recommend to the Senators. I ask unanimous consent that his paper be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

THE QUESTION OF AMNESTY

(By Ed Bell, III)

In the last several years there have been over 70,000 young men who have dodged the draft during the Vietnam war and have fled to exile in Canada, Sweden, or other countries. Most of them, an estimated 50,000, are in Canada. With the War now winding down, pressure is mounting for a general amnesty for these fugitives and an official policy of forgiveness for their crimes.

The rationale for this is that the war was immoral and unjust, or at least unpopular, and that therefore the continued separation of these young men from their families and homeland is also unjust. A few even say that it was the federal government which acted criminally.

The amnesty question is a thicket of thorny moral issues. One school would interpret amnesty as a generous pardon from the state for youthful transgressions. Others insist that it is the government, not the exiles, that should be seeking pardon.

Under legislation introduced by Ohio Senator Robert Taft, Jr., those who have fled the United States to avoid the draft could come back without fear of prosecution—if they agree to a three-year tour of duty in the military or in some other designated federal agency, such as the Public Health Service, VISTA, etc.

Those already serving prison terms for resisting induction would get the same choices. As much as two years of their prison time could be deducted from their three-year obligation.

The Ohio Republican may have served well if he precipitated a clearer understanding of the amnesty question.

Most simply, amnesty will involve release of the more than 500 draft resisters now in our federal jails, immunity from prosecution for the 70,000 or more refugees from the draft who are living as exiles in Canada and other nations and freedom for the 9,500 soldiers either serving sentences in military stockades or confined there awaiting trial for violation of the military code. Ironically, the word "amnesty" comes from the Greek word for forgetfulness.

On the other hand, amnesty is not really a way of bringing potentially valuable citizens back home, even though some people try to present it, as such, to blunt emotional resistance to the idea. Men who fled to escape military service are not likely to be useful candidates for that service, even if they have a change of heart. It would be foolish to say that all or even most of those who have refused service have done so with high moral purpose.

Among those who fled were acknowledged cowards and those who would shirk their responsibilities whatever the circumstances. But even if they were all motivated by philosophical and moral objections, they cannot be let off with nothing more than the inconvenience of living in Canada for two or three years. It would be a gross injustice to all those who stayed and did their duty or served their time.

Moreover, is it fair to send 500 men to jail for draft evasion and then forgive 70,000 others simply because the law could not reach them? The jailed men at least had the courage of their convictions.

Thus the argument against amnesty shades into one based, really, on equity: how do you justify letting dodgers and deserters off scot-free when other young men in the same situation have, usually against their wishes, gone off to fight and sometimes die?

Perhaps an amnesty requiring a period of alternative service in VISTA, hospital work or other community efforts might satisfy the claims of equity. But still, any amnesty seems to some a bit like changing the rules after the game has begun. And if there are (alternative service) government jobs available, we must first fill them with American men who served their country in the military. So many of Vietnam War Veterans are unemployed and we should give them any available government job supported by loyal Americans' taxes before any draft dodger who has refused to serve his country.

Another practical question is who should be eligible for amnesty—only draft evaders or should it extend also to deserters, and perhaps even to war criminals such as First Lt. William Calley and roughly 5,000 other United States troops now confined to stockades for offenses in Vietnam? And when should amnesty be declared—immediately, or after American troops are finally withdrawn from Vietnam?

Senator Taft says the legislation he has introduced would not apply to those who deserted after they were in service. Technically, there may be a difference, but not morally.

The question of amnesty is, of course, a controversial one; consequently the measure drew immediate opposition. At a subsequent news conference Senator Richard S. Schweiker (Rep., Pa.) expressed his distaste by saying that "an awfully lot of men faced up to their responsibilities" under the draft law and "some of them died in doing so."

President Nixon commented that "it would offend the most rudimentary sense of justice to pardon some men for avoiding the draft at a time when others are still being sent off to fight."

Senator John Stennis, head of the Senate Armed Services Committee, fears a general amnesty now would set a dangerous precedent that would be remembered in the event the United States ever faces another emergency requiring military mobilization.

Several others, including his own-state's senior senator, William B. Saxbe (Rep., Ohio), have taken sharp exemption to Taft's proposal.

Saxbe, for instance, was quoted in one newspaper as calling draft evaders "A bunch of dogs" who deserved jail rather than amnesty.

"I'm not yet ready to forgive and forget that these evaders have skipped service while thousands of others served and died. They made their bed, let them lie in it."

Among his Senate colleagues, Taft has found only one so far, Senator Frank Moss (Dem., Utah), willing to join him on the bill.

Many others in the public eye either avoid comment or go soft on the matter. By way of illustration of softness, take the stand of Senator McGovern, who is an avowed presidential hopeful. He predictably has called for amnesty with no questions asked for draft evaders, and leniency for those who fled in uniform.

Senator McGovern seeks historical precedent for his case by recalling that Abraham Lincoln granted amnesty after the Civil War "even to those who fought against the Union cause." The Senator's implication that what he is proposing is somehow similar to what Lincoln did is at odds with the facts and appears that the former South Dakota professor of political science has not read the Lincoln amnesty proclamation. Lincoln did not let draft dodgers or deserters go unpunished. True, many Confederate soldiers were freed to return to their homes. But this was a dispensation to a defeated enemy in the tradition of honorable war. Mr. Lincoln did pardon deserters, but only on the condition that they return to their units within 60 days and serve for the remainder of their enlistment plus a period of time equal to their desertion. Thus, for McGovern to couch his amnesty proposal in rhetoric about bringing people together when in fact the enactment of such a plan might well create severe new divisions in the country is, to say the least, anomalous.

Appeals like this one tend to be stigmatized as the crying of liberals and bleeding hearts. It seems that McGovern would rather be President than to be right. Fortunately, the South Dakotan is not President. By my reckoning he won't be, either.

Of paramount importance is the matter of priorities. The first should be to end United States participation in the war in Vietnam and complete the withdrawal of American troops. To grant amnesty to draft evaders while draftees are still fighting and dying in Vietnam would be an intolerable distortion of fair and reasonable values.

McGovern overlooks that, whatever they thought of the war, hundreds of thousands of young Americans fulfilled their obligations to their country and accepted military service, more than 50,000 of them losing their lives as a consequence. They have been taken forever from American life and any consideration given the draft skip-outs certainly must take this into account.

The families of men lost in the war are not likely to react sympathetically to a general pardon for those who sinfully dodged their obligation. The country owes these families a debt it never can repay.

Other thousands sought the status of conscientious objectors and served as medics or otherwise gave of their time. Still others, while disagreeing with the war and this nation's laws, were willing to pay the price of that disagreement by going to jail.

American prisoners of war, captives of the North Vietnamese or the Vietcong, also rate consideration. It should be unthinkable to welcome draft evaders home while POWs are languishing in Communist prison camps.

The wounded and the disabled who have come home from Vietnam, many with missing limbs or lost eyesight or both, require the government's continuing attention. It is essential hospital facilities and rehabilitation programs be adequately financed. A country that seeks to be fair and just to draft evaders should first be sure it is doing all that fairness and justice demand for those who did not refuse their government's call and have made personal sacrifices.

To be considered, too, are the draft dodgers who did not run away but stayed with the courage of their convictions and served jail terms. The Taft bill would grant immediate freedom to the 500 or so draft dodgers now in jail, with credit given for time served, but what about those who already have served their full terms? Is amnesty to favor those who fled the law at the expense of those who did not?

It is frequently said in defense of draft evaders who fled the country that they opposed the Vietnam War on grounds of conscience and morality. For those who choose neither to fight nor to run out, but to serve, there is the honorable way in the status of conscientious objector. But for each who is earnest in his conviction, there are many more who would pose as conscientious objectors. Last year there were 100,000 applications filed for that status 19,000 were granted—less than one in five.

If political, sociological or philosophical views or merely personal moral codes are not, by United States Supreme Court definition, legal grounds for the role of conscientious objector, surely high-tailing across the Canadian border, as an estimated 50,000 did, deserves no consideration.

In addition to the Canadian ex-patriates, more than 7,000 men were charged with draft evasion from 1965 to 1970. The average sentence of 4,042 convicted was almost three years. To grant amnesty to the draft dodgers would be to profane the memory of those who chose, distasteful and dangerous though it was, to do their duty.

A fundamental question of public morality is raised by the effects of the act of evasion. Loyalty is the heart of the question for many Americans who staunchly believe that every citizen, like it or not, has a basic duty to his country that he must perform or else be branded a renegade. Those who ran away from the draft, in broad terms, caused other law-abiding countrymen to go to war in their places.

Draft quotas are not simply reduced when prospective draftees refuse to serve. Substitutes are called.

When Congress considers an amnesty bill, at some appropriate time in the future after all our troops and prisoners of war have returned from Vietnam, the details will need to be weighed carefully.

It may be difficult to justify, for example, the trade-off proposed by Senator Taft that would make three years of post-war military or civilian service equitable to two years of war-time service. The latter entails a risk of being wounded or killed, in addition to the hardships of combat duty. If prospective draftees are to have the option of sitting out wars and serving later, even on a ratio of three years to two, that is not very fair to those who are willing to serve their country when it needs them instead of when it does not. They did not fulfill an obligation others accepted, despite their personal feelings.

The tragedy of America's unwise involvement in the Vietnam War plus the mistake to commit them under the unrealistic restrictions imposed by civilian planners who did not understand the horrors of war will not be made any less tragic by showing compassion for the exiles.

As long as we have fighting men in Vietnam defending our country against Communism; as long as there are any POW's held by the North Vietnamese, and as long as it is an honor and a privilege to serve your country, there should not be any amnesty for those who deserted their country. Somewhere along the line more young people have to find a heart in America.

SPACE SHUTTLE

Mr. MONDALE. Mr. President, the Miami Herald of April 12, 1972, contains an article on NASA's proposed Space Shuttle, written by Peter N. James. Mr. James, a space-system analyst, was employed until recently at Pratt and Whitney's Florida Research and Development Center. During his employment, he planned and analyzed aviation and military space systems, including the Shuttle and other recoverable space vehicles.

According to Mr. James:

> The space shuttle program as currently conceived by NASA is not in our national interest. NASA's space shuttle expenditures thus far run into the millions of dollars and a good percentage of these expenditures has been wasted because of poor planning and impatience to get the program under way. There is no evidence to indicate that things will improve, while there is supporting evidence to indicate things are getting worse.

Mr. James believes that congressional approval of the Shuttle at this point will contribute "to one of the most wasteful and poorly planned, dead-ended multibillion dollar space age boondoggles of this century."

The Senate will soon be faced with a crucial vote on the Shuttle. I urge all Senators to give careful consideration to Mr. James' arguments, keeping in mind that his views are based on 9 years of experience working in the space program.

Mr. President, I ask unanimous consent that Mr. James' article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

We Must Reorganize or Postpone It

(By Peter N. James)

Former Space-System Analyst, Pratt and Whitney's Florida Research and Development Center

Most citizens and Congressmen are not aware that the space shuttle program is in deep technical trouble due to bizarre planning decisions by NASA officials.

Support for the program is righteously based on the idea that low cost space transportation systems must be good and we must forge ahead in space. Unfortunately, what the shuttle ideally represents and what is being offered are two different things.

Another problem area is that the public and Congress have been led to believe that "low cost transportation" means a "low cost national space program." Unfortunately these terms are not synonymous.

The space shuttle program as currently conceived by NASA is not in our national interest. NASA's space shuttle expenditures thus far run into the millions of dollars and a good percentage of these expenditures has been wasted because of poor planning and impatience to get the program under way. There is no evidence to indicate that things will improve, while there is supporting evidence to indicate things are getting worse.

The urgency to get this program under way at the risk of developing the wrong system cannot be justified. We are talking about a multi-billion dollar, 20-year program (7–10 years development and approximately 10 or more years of operation).

It is time to stop and either get reorganized or consider the project at a later date. Congressional support of this program in fiscal 1973 without advisory guidelines and restraint will endorse NASA's "sketchy" space shuttle record and in my opinion will contribute to one of the most wasteful and poorly planned, dead-ended, multi-billion dollar, space age boondoggles of the century.

By late 1970, the logic that prevailed within the industry was that the shuttle had to be sold to Congress and the public, or the future of the space industry was in jeopardy.

Official spokesmen began promoting the shuttle, hoping to convince Congress and the public that the shuttle had to be built on the grounds that it would reduce space costs.

Numerous cost studies appeared, showing the advantages of reusable shuttle-type systems over expendable systems. While most studies emphasized cost savings if a space shuttle were developed, few studies made it clear that the total annual space expenditures for this nation in the shuttle era would be considerably greater than NASA's current space expenditures.

Congressional resistance to increased space expenditures during 1970 dictated that the projected total cost of our national space program not be publicized as frequently as in the past, so as to not scare off any supporters of our space program. The emphasis was to be on cost savings, rather than on total cost. All planning to date was based on an integrated space program. Suddenly, for political expediency officials were talking about delaying some programs and breaking up the integrated space program concept to make it more palatable to Congress. The logic that prevailed was: Let's get the shuttle approved first, then the rest will follow. If we lose the shuttle, we lose everything anyway.

After reading the record and testimony on the U.S. space shuttle program, I concluded that members of the Senate were not given sufficient background information to intelligently assess the program.

NASA witnesses, for example, presented the official NASA Headquarters position, which did not reflect the raging controversy and serious differences in expert opinion within NASA and private industry over the shuttle program. Witnesses against the shuttle program—mostly scientists—presented information from the scientific point of view.

The missing testimony was from the aerospace engineers and systems analysis who have been studying reusable launch vehicles for almost a decade. Generally speaking, these persons cannot surface their inner feelings about the space shuttle program as currently conceived by NASA or criticize their government publicly without jeopardizing their jobs and careers.

Shuttle cost estimates: Predicting cost estimates only several years in advance is a very difficult task, let alone a span of almost 20 years. Modern day examples of cost overruns include the C–5 military jumbo jet transport and the F–111 fighter aircraft. And these systems were developed only a few years ago.

To justify the shuttle, however, cost estimates must show a span of approximately 20 years, due to the 7–10 year development cycle and the 10–15 year operational cycle. On a statistical basis one would expect to find just as many high cost estimates as low estimates.

The record shows that aerospace cost estimates—regardless of the reasons—have characteristically been biased on the low side. Projecting costs 20 years in advance—and I've seen this done on numerous shuttle projects—is essentially equivalent to President Harry Truman in 1949 estimating the cost of landing men on the moon and bringing them back home safely in 1969; and Truman would have made his calculations based on the technology of the 1940's. In other words, while shuttle cost estimates must be made over approximately a twenty-year period, we should place these estimates in the proper context.

By mid-1971 NASA had undertaken measures to make the shuttle acceptable to Congress on a dollar basis. Plans for developing a space station were deferred. The grandiose plans of an expedition to Mars, lunar orbiting space stations, lunar bases, and logistic support missions for manned space activity were shelved. These developments were construed within the engineering community as a bad planning decision by NASA. The original integrated national space program envisioned by the Space Task Group and other officials in 1969 was being dismembered. The programs that once were used to justify the shuttle during 1969 and 1970 were either cancelled or deferred. Against all cost principles, the shuttle is being presented to Congress on its own merits and tied in with payload cost savings.

The dilemma the engineering community faced was as follows: A space shuttle would probably be "cost-effective" relative to any throw-away launch vehicle if a large number of launches were required. However, if a large number of launches were required it meant that we would dramatically increase the number of payloads launched into orbit relative to our current launch rate. Because the cost of payloads has a significant influence on the total cost of our national space program, the cost of our space program would increase dramatically.

And if people are not willing to support a costlier space program, then it would not be cost-effective to develop the space shuttle. It is impossible to launch more payloads than we are currently launching without significantly increasing annual space expenditures. In short, we know that the shuttle can only be justified if our nation commits itself to a large space program—in excess of what we are already doing. So the option for the 1970's is to either maintain a status quo without a shuttle or greatly increase space expenditures to accommodate an aggressive space program with a shuttle.

The shuttle was originally conceived as part of an integrated total national space program. Everyone agrees that low cost space transportation is needed if we are to pursue an aggressive manned and unmanned space program for the next two decades. Most shuttle design studies conducted during 1969 and 1970 proceeded on the assumption that annual space expenditures during the '70's and especially the '80's would greatly exceed current expenditures. This assumption was necessary to justify the shuttle on an economic basis.

In other words, the cost savings from low cost space transportation systems would not reduce current annual space expenditures; they would help keep down the costs for a greatly expanded space program. The cost for a greatly expanded space program—even with low cost transportation systems—would be considerably more than we are currently spending in space, and this is mostly due to the exorbitant costs to design and develop payloads. It costs $50,000 to $200,000 per pound of payload: spacecraft or satellites to be launched.

Because Congress authorizes space expenditures, the public and Congress participate in the planning of our space program. Congressmen who do not favor a greatly expanded national space program, regardless of their reasons, should vote against the shuttle. To support a shuttle program at this time and then withdraw this support at a later date, when costs escalate, would be wasteful. I would rather see this money spent on health and education than on a dead-end program.

For the space shuttle to have a chance—even if it is technically and economically feasible—it must have strong support throughout its duration. It is fairly obvious that the shuttle as presently conceived does not have this support—even within the engineering community. Unfortunately, the shuttle program has been separated from the concept of a total national space program to make it palatable to Congress. Such an approach is no longer cost effective by any stretch of the imagination.

It is worth repeating what NASA learned in 1969: "The lesson is that we need to develop our concepts of low cost transportation within the context of a total national space program rather than in the more limited context of launch vehicle and transportation alone."

For our country to develop an effective low cost space transportation system let us recognize that three conditions must be met:

(1) The space transportation system must be an inseparable part of a total national space program.

(2) We must plan better than we have in the past.

(3) We must spend considerably more on space on an annual basis during the next two decades than we are currently spending.

NASA's space shuttle program does not satisfy conditions 1 and 2 above, and NASA has not made it clear to Congress and the public that condition 3 was always a prerequisite for the space shuttle to be an economic success regardless of technological considerations.

I urge Congress not to support the space shuttle program as currently conceived and propose that a one year moratorium be declared with the idea of considering the space shuttle program for fiscal 1974. As the rocket engine program for the shuttle's orbiter stage requires a long time to develop. I would recommend that it be retained as a separate entity with minimum funding until fiscal 1974, when a go-no go shuttle decision can be made.

A one-year moratorium would allow NASA to get reorganized, solve its internal differences, and start with a clean slate. It would also give our country the benefit of "in-house" studies by aerospace corporations (i.e., studies conducted at the corporation's expenses). Many corporations invested a great amount of time and money into studying shuttle configurations, but have had their ideas suppressed by NASA's intervention and initiation of premature detailed design studies.

If the shuttle goes down the drain, the organization itself falls. NASA is trying to hurry the shuttle through to keep it alive. I'm in favor of giving NASA the funds to stay alive, but let's not blow it on the shuttle until they've done more homework.

NOMINATION OF RICHARD G. KLEINDIENST TO BE ATTORNEY GENERAL

Mr. TAFT. Mr. President, in February the President of the United States nominated Richard G. Kleindienst to be Attorney General.

More than 2 months later, we are still awaiting an opportunity to act on that nomination. Now, after 24 days of hearings by the Judiciary Committee, this matter has not come to the Senate floor. Now, following not one but two endorsements of this nominee by the committee, we delay in giving the President the Cabinet member of his choice, and we delay in giving permanent leadership to the Department of Justice.

I support the President's selection as a matter of personal conviction and confidence in the man named, both as to character and ability. But no matter what one feels in this regard, we are remiss in carrying out our responsibilities so long as we fail to take Senate action on this nomination.

In the last 2 months the business of the Judiciary Committee has been unduly delayed; hearings on legislative matters have been scheduled only to be postponed with inconveniences to witnesses. In addition, Acting Attorney General Kleindienst has performed admirably under constant pressure while carrying the responsibility for both the Office of the Attorney General and that of the Deputy Attorney General as well.

Mr. President, I see no reason to justify further delay. I respectfully urge that the Senate confirm the nomination of Richard Kleindienst now. The hearing record justifies it; the need for an Attorney General requires it; and responsibility in the execution of our constitutional authority demands it.

RUMANIAN INDEPENDENCE DAY

Mr. ALLOTT. Mr. President, today is a great day of celebration for Rumanians everywhere.

The three events commemorated on May 10 attest to the great history and continuing vigor of the Rumanian people.

On May 10, 1866, the Rumanian dynasty was founded, thereby giving the Rumanian people a source of unity and independence.

On May 10, 1877, the Principality of Rumania proclaimed her independence from all remaining ties to the Ottoman Empire.

On May 10, 1881, Charles I was crowned King of Rumania. The Rumanian nation enjoyed six subsequent decades of health and sovereignty.

Sovereignty was ended when the Soviet Union's imperialism washed over Rumania. But the vigor of the Rumanian people has withstood the yoke of Soviet domination. And Rumanians everywhere join today with all men of good will in pledging renewed dedication to the cause of Rumanian independence.

LONG ISLAND SOUND STUDY

Mr. RIBICOFF. Mr. President, the New England River Basins Commission is at present completing its first full year of its study of the future of Long Island Sound. When completed, this study will offer the first complete inventory of the Sound's resources and a comprehensive plan for preserving them.

While I was disappointed by the administration's budget proposal last year, the $1.6 million requested for fiscal year 1973 represents a growing awareness on the part of the Government of the seriousness of the dangers facing the Sound.

This morning I testified in support of that request before the Senate Appropriations Subcommittee on Public Works. I ask unanimous consent that my statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR ABE RIBICOFF

I am pleased to be here this morning to support the budget request for the New England River Basins Commission's Long Island Sound study. It is clear from the size of this request that the notion of cleaning up and preserving Long Island Sound is an idea whose time has come.

Just two short years ago, we were holding hearings in Connecticut trying to convince the government that by saving Long Island Sound, we would be preserving a great national resource.

But today the government, which is rarely out front in anything, has come over to our side with enthusiasm and is supporting my request for full funding of this important project. The Administration has sent to the Congress a request for the coming fiscal year of $1.6 million for planning the restoration and preservation of the Sound.

This budget request represents a realistic appraisal of our problems in the Sound and the money needed to map out a program to solve them.

Long Island Sound holds a unique position among this nation's natural resources. It is really the first urban sea—a thin offshoot of the Atlantic Ocean which is surrounded by the most densely populated and heavily industrialized area of America.

The Sound is used and abused in many ways by the 12 million residents of Connecticut and New York who live along its shore. For some it is a prime recreation area—a place to swim, sail and fish. For the commercial fishermen and oystermen, it is a place to earn a living. Unfortunately, the Sound is also a sewer for municipal wastes, a dumping ground for dredged materials and an important sea lane frequented by oil tankers and freighters. In a sense, Long Island Sound represents the full spectrum of man's impact on a marine environment—it is a living laboratory in which we can see what the future holds for our other waterways. Because the Sound is the first urban sea, it is crucial that a prompt and complete study be made of the many demands made on it and plans formulated for its future.

The deteroration of the Sound is the result of public indifference and bureaucratic confusion. With jurisdiction over the Sound shared by innumerable counties and municipalities, two states and 18 federal agencies, we have never been able to develop a single picture of the Sound's environment. That is why I introduced legislation calling for an intergovernmental study of the area. In April, 1970 in response to my proposals, President Nixon by Executive Order enlarged the jurisdiction of the New England River Basins Commission to include all of the Sound and the land on Long Island's north shore which drains into it.

The Commission's study team, based in New Haven, Connecticut, is now near the end of its first full year of study. I have been informed that the study is going well and is keeping close to the original timetable. It is therefore particularly important that this productive pace be maintained by appropriating all the funds necessary.

To illustrate the urgency of the situation, I would like to list some of the events affecting the Sound which first occurred in the last year.

To begin with, the Environmental Protection Agency scheduled a meeting in New Haven to discuss the Sound's water quality and develop steps to improve it. The EPA, however, forgot to invite the New England River Basins Commission, the one agency supposedly studying the problem. After I brought this astonishing oversight to EPA's attention, the Commission was included in the proceedings.

In June I learned that the Federal Aviation Administration had awarded a $390,000 contract to determine the feasibility of building a jetport—or "wetport" as some described it—in the middle of the Sound. For anyone familiar with the Sound's fragile environment, it was almost impossible to comprehend how the FAA could even consider such an undertaking. Fortunately, after some discussion with the FAA, I was informed that the Sound was no longer being considered as a possible location.

In July, I received reports of mysterious drilling off Guilford, Connecticut. Many residents of that area had attempted to find out what was happening, but were unable to get a straight answer from anyone. Finally, they called my office for help. My staff made inquiries with the State of Connecticut, the Army Corps of Engineers and the Coast Guard but each denied authorizing the drilling. Later I learned that the Coast Guard had indeed authorized a private construction company interested in building a liquid natural gas terminal to take core samples in a section owned by the United States.

On another occasion Connecticut town officials, after hearing rumors of an oil depot being built on Long Island, asked my office for assistance. We learned that a Long Island firm was planning to modernize its present oil terminal and that, following, the usual procedure, the New York Office of the Corps of Engineers had notified other New York towns. Connecticut, however, is in the New England District, so none of its shore towns were informed of a project which could affect them all. Because the Sound is divided between the two Corps Districts, I asked that, in the future, notices of pending activities on each shore be sent to the appropriate officials on both sides.

In January a nine month old oil tanker split in half in Port Jefferson, New York harbor. Fortunately, the tanker had just been emptied, but that accident only served to emphasize the dangers facing the Sound. The danger became real on March 24 when another tanker ran aground off New London, Connecticut, spilling 80,000 gallons of oil.

There have been some steps in the right direction. At my request, the Navy, which once discharged its submarine wastes into the Thames River, now has hooked into the local sewage system. In addition, the Pfizer Company has agreed to stop using the Sound as the dumping ground for the fermentation residues from its Groton, Connecticut plant.

This list of events makes clear the need for the New England River Basins Commission study. Until it is finished there will be no real unified effort to save the Sound. Once the study is completed and a single plan developed, the problems in and around the Sound such as sewage disposal, land use planning, shipping lanes, and more, will be considered with one goal in mind—reversing the present deteriorating trend and preserving Long Island Sound for present and future generations.

I know the Committee shares my concern for the future of this area of our country and hope that it will approve in full the Administration's request.

WILDLIFE CONSERVATION—CONCURRENT RESOLUTION OF SOUTH CAROLINA HOUSE OF REPRESENTATIVES, CONCURRED IN BY THE SOUTH CAROLINA SENATE

Mr. THURMOND. Mr. President, on April 27, 1972, the South Carolina General Assembly passed a concurrent resolution endorsing marine mammal legislation which would establish programs based on principles of sound resource management and in cooperation with wildlife agencies of States with an interest therein. This resolution clearly sets forth the position of the South Carolina Legislature on this important area of wildlife conservation.

Mr. President, on behalf of my colleague from South Carolina (Mr. Hollings) and myself, I ask unanimous consent that the concurrent resolution, endorsing the concept of marine mammal legislation, be printed in the Record.

There being no objection, the concurrent resolution was ordered to be printed in the Record, as follows:

A Concurrent Resolution

Endorsing legislation by the Congress of the United States providing for sound resource management of marine mammals and the cooperation with wildlife agencies of states with an interest therein

Whereas, due to the thrust of civilization many wildlife species have been and continue to be exploited by man; and

Whereas, one form of response has been to ban the taking of all wildlife whether for scientific, sport, or commercial interest; and

Whereas, the total protection of all wildlife without independent consideration would constitute a threat to the balanced preservation of man, species and a serious obstacle to the development of international cooperation; and

Whereas, there are presently pending certain legislative proposals in the Congress of the United States to ban the taking of marine mammals and

Whereas, due to the interdependence between marine mammals and their environment, flexible programs based on principles of sound resource management must be continued and expanded if marine mammals are to thrive and prosper; and

Whereas, under basic conservation practices of mainland in wildlife population which permit maximum sustainable yield, the interest of wildlife and man can be compatible, now, therefore,

Be it resolved by the House of Representatives, Senate concurring:

That the General Assembly fully endorses marine mammal legislation which would establish programs based on principles of sound resource management and urges that any such national policy on marine mammals be conducted in close cooperation with state wildlife agencies in the case of those marine mammals which reside within lands and waters of the State and it opposes legislation which would ignore scientific management methods.

Be it further resolved that each member of the South Carolina Congressional Delegation be urged to assist in the enactment of marine mammal legislation founded upon principles of sound resource management for the good of the marine mammal resource.

NATIONAL SCHOOL BOARD AWARDS PROGRAM

Mr. MOSS. Mr. President, nothing is more uniquely American than our local boards of education who accept the challenge of maintaining and extending an educational program which meets the needs of their own communities. Upon them is lodged the ultimate responsibility to establish the physical facilities, the curriculum, and hire the teachers to provide our youth with the skills and concepts necessary to exist in society.

I was privileged today to attend the national schools board awards program sponsored by the Association of Classroom Teachers, the National Educational Association, and the Thom McAn Shoe Co. This program recognizes the outstanding accomplishments of local school boards that are working cooperatively with the teaching profession to improve public education in their communities.

I pay tribute today to the Granite School District Board of Education, Salt Lake City, Utah, for its national first place award for school systems with enrollments of over 70,000 students. This is the second time in as many years that a Utah school board has been honored for outstanding service. Last year the Tooele Board of Education received the national first place award for systems with enrollments of over 6,000, but less than 70,000. This signal achievement speaks most highly for Utah boards of education.

Faced with the overwhelming problem of not having an adequate program for the district's handicapped and disadvantaged children, the Granite Board of Education received its first-place award for initiating a special education program culminating in a rehabilitation center which treats children who are disadvantaged or who are mentally, physically, or emotionally handicapped. A cooperative program was begun with the Utah State Department of Vocational Rehabilitation, and the Utah State Health Department to provide an adequate program for the students of Granite school district. The program has expanded from 10 teachers for 150 students to 279 teachers for 5,226 students in 1971. The program also provides specialized staff which diagnoses and evaluates the problems of students, and provides vocational instruction and special classes designed to assist them to cope with special disabilities.

The Granite Education Association is to be highly commended for its program which creates a means for assisting handicapped students to develop maximum potential skills to better serve their fellowman and themselves.

Mr. President, it is especially fitting today that we recognize the vital role of local boards of education in our Nation's school system.

FOUR CORNERS REGIONAL COMMISSION

Mr. FANNIN. Mr. President, the Four Corners Regional Commission is a relatively small agency with a very big job. The Commission is helping a vast area of Arizona, New Mexico, Colorado, and Utah in its economic development.

Despite an inadequate budget, the Commission has been having an impact.

Stan Womer, the Federal cochairman of the Commission, has been doing an outstanding job.

Recently newspapers in Phoenix and Albuquerque carried articles which demonstrate the ingenuity of Womer and Commission Aid Kenneth Hamilton.

Through their efforts, the effect of the Federal funding for the Four Corners Commission has been multiplied.

In addition, they are putting to use surplus Government property which otherwise would have deteriorated while costing storage fees.

Mr. President, I ask unanimous consent to have printed in the Record articles from the March 16, 1972, Albuquerque Tribune and the April 19, 1972, Phoenix Gazette.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Albuquerque Tribune, Mar. 16, 1972]

Womer Has Gilt-Edge Touch in Dealing in "Junk"

(By Seth Kantor)

Washington.—Stanley Womer, federal cochairman of the Four Corners Regional Commission, is known affectionately around the Commerce Department as "The Junkman."

Womer runs the agency charged with supplying development aid to most of the counties in New Mexico, Colorado, Arizona and Utah—an area involving 8.2 per cent of the nation.

But the Four Corners Commission has been provided $6.8 million to do its job this fiscal year and, as New Mexico Gov. Bruce King puts it, "that's many millions of dollars too little to get any kind of real job done."

SUCCESSION OF LEADERS

In the four years that Four Corners has been at work there has been a succession of four co-chairmen.

They have found it anywhere from hard to impossible to create jobs and boons to the economy in a widespread area of people out of work.

But Womer has discovered a system that routes government surplus goods from various parts of the nation's West into the hands of the needy in the Four Corners region.

FOR INSTANCE

For instance, Womer's agency discovered that there were 170 miles of useless steel irrigation pipes piled up in California.

The pipe had been ordered several years ago by the government for use in Vietnam. But then the government found itself with a surplus and the pipes were stacked up with no place to go.

Womer could have them for $200,000—the freight costs for getting the pipes shipped to New Mexico, where they could be used for the massive Navajo Irrigation Project.

The Navajos put up $50,000 and the Bureau of Indian Affairs (BIA) put up $150,000 to swing the deal. "which saved the BIA at least $3 million in having to purchase new pipes for the project in New Mexico," said Womer.

ANOTHER EXAMPLE

Probably the most dramatic example of what Womer's office has pulled off in his role as "junkman," has occurred in recent weeks.

That's when Kenneth Hamilton, a key aide to Womer in Washington, discovered the Army had 158,000 unwanted steel posts, worth $207,500, stockpiled in Utah.

The posts are the kind that screw into the ground. They are used for barbed-wire emplacements in combat areas.

At the same time Hamilton located surplus steel submarine nets—the kind used to safeguard American shores from Japanese underwater attack during World War II—piled up at Stockton, Calif.

LED TO TALKS

That led to talks with the Agriculture Department in Washington, and a decision to string hundreds of miles of the nets on stakes in Utah to eliminate severe land erosion problems that have been caused by flooding in the washes for as far back as man can remember.

In time the protected land can be made useful.

The Agriculture Department is "very excited about it," Womer reports, and Agriculture Secretary Earl Butz is expected to visit Utah, to see a demonstration of how the "Womer Fence" works.

OTHER OPERATIONS

Most of the Four Corners surplus material operations are on a much smaller scale.

For example, outmoded electronic testing equipment in Los Alamos, and unwanted government desks and chairs at the nuclear labs there, have found their way into vocational school classrooms through Womer's office.

Last week, the Four Corners Commission picked up 1,247 amplifiers from Hill AF Base, Utah, to be distributed to vocational schools in the four states. Their value is $256,000.

WATER SYSTEM

There's the little town of Elizabeth, Colo., in need of a water system.

Hamilton located three unused 25,000-gallon liquid oxygen tanks at a Titan missile site in Colorado. Last week, the $330,000 worth of tanks were assigned to do the job in Elizabeth.

Chama had struggled for years without a doctor. Finally the town raised several thousand dollars to finance the arrival of a young physician. But medical supplies were lacking.

Womer's office located a baby respirator for $500 and a resuscitator-inhalator for $1,800 in a General Services Administration (GSA) warehouse in San Francsico. The Four Corners Commission made the needed supplies a grant to the town of Chama.

STRETCHES BUDGET

Womer went to this post 18 months ago. In time he discovered that if he could get his hands on goods gathering dust in federal warehouses he could stretch his limited spending budget.

For about a year, the commission operated as a "finder"—located surplus material and advising other agencies, such as the BIA, about it.

Not long ago Womer received formal authority from Commerce Secretary Maurice H. Stans for the commission to act as an independent federal agency, to deal in surplus properties.

In effect, Womer has a license to wheel and deal in millions of dollars worth of surplus government material now.

NOT A PUTDOWN

They aren't razzing him anymore about being the "Junkman" of the Commerce Department.

Since Feb. 23, the four other regional commissions in the nation have been authorized to deal in surplus goods, as a result of Womer's growing success.

A key aide to Womer's gilt-edged touch with the junk is Hamilton, a white-haired veteran of 36 years in the federal service.

Hamilton spent most of his life in government as a procurer of needed material for the post office department in the Western states before joining Four Corners early in the Nixon administration.

GOVERNOR CITES ACHIEVEMENTS—FOUR CORNERS CHAIRMAN PRAISED

Governor Williams today praised Stan Womer, cochairman of the Four Corners Regional Commission, for initiating new systems that have made available government surplus goods to needy areas in Arizona, Colorado, New Mexico and Utah.

The commission is charged with supplying aid and developing jobs in underdeveloped areas in the four states.

"Womer has developed a system that routes government surplus goods from various parts of the West into the hands of the needy in the Four Corners region," Williams stated.

Womer was an executive assistant to Williams prior to taking the commission post 18 months ago.

He recently received permission from Maurice H. Stans, commerce secretary, for the commission to act as an independent agency in dealing with surplus properties.

Womer located 170 miles of steel irrigation pipe stock-piled in California and paid the freight cost to ship the pipe to the Navajo Indian Reservation.

The massive Navajo Irrigation Project is under way, and the acquisition of the pipe saved the Bureau of Indian Affairs approximately $3 million.

Another of Womer's acquisition projects involved 158,000 steel posts and stock-piled submarine nets which were shipped to Utah to help eliminate land erosion problems.

The town of Elizabeth, Colo., needed a water system, and Womer procured three unused 25,000-gallon tanks at a Titan missile site in that state. The town now has a water system at a much reduced cost.

Williams said that due to Womer's efforts other similar regional commissions around the nation now have authority to deal in surplus property.

TRAGEDY IN ULSTER—XV—THE WIDGERY REPORT ON THE KILLINGS IN LONDONDERRY

Mr. KENNEDY. Mr. President, it is with a deep sense of shock and disbelief that I have read the official report submitted recently by Lord Chief Justice Widgery of Great Britain, in connection with his inquiry into the 13 persons killed by British paratroops in Londonderry on bloody Sunday last January 30.

The best face that can be put on the report is that it is simply another count in the long and constantly expanding indictment of British blindness over Ulster, a lemming-like reaffirmation of the theme that the government is always right, a companion to the tradition established by such other inadequate inquiries as the Compton report on torture in the internment camps, and the Scarman report on the behavior of the Protestant constabulary and B-specials in the 1969 riots. At worst, the Widgery report is a calculated and cold-blooded cover-up for the behavior of British soldiers responsible for the wanton killing of innocent unarmed civilians.

Perhaps the cruelest statement in Lord Widgery's report is the sentence on page 38 that begins his summary of conclusions:

> 1. There would have been no deaths in Londonderry on 30 January if those who organized the illegal march had not thereby created a highly dangerous situation in which a clash between demonstrators and the security forces was almost inevitable.

Those few words, given such symbolic prominence in the report as conclusion No. 1, speak volumes about Lord Widgery's approach to the entire inquiry.

In a sense, we in the United States have heard it all before, from American Widgeries investigating American tragedies.

Two years ago last Thursday, at the height of demonstrations over the American and South Vietnamese invasion of Cambodia, four young college students fell dead on the playing fields of Kent State University in Ohio, killed in a hail of bullets fired by the Ohio National Guard. Later, an official Ohio investigation exonerated the National Guard from all responsibility, and blamed the tragedy on the students for engaging in a violent demonstration.

You might as well say that there would have been no killings at My Lai, if only the Vietnamese civilians had not been present in that tragic hamlet.

But in the months and years that have passed since Kent State and My Lai, we have learned, I think, that no amount of official whitewash can conceal the true horror of events like those at Kent State or My Lai, and the same is true of Londonderry.

"Res ipsa loquitur," as the lawyers say—"The thing speaks for itself." When unarmed men and women are shot dead in a confrontation with armed soldiers, the clear and overwhelming likelihood is that the soldiers are at fault for using excessive force. Only the most compelling circumstances of mortal danger to the troops could possibly justify resort to the use of deadly force. There were no such circumstances at Kent State. There were none at My Lai. And, so far as the Widgery Report proves, there were none at Londonderry.

It is not my purpose here to offer a full critique of the Widgery Tribunal. I have not seen the many volumes of the transcript of the hearings that took place at Coleraine, or of the closing arguments at the Royal Courts of Justice in London. But on its face, the report itself contains so many obvious inadequacies and inconsistencies, and demonstrates so clear a bias in favor of the paratroops in so many places, that it demands rebuttal and further investigation. Only in this way can the truth of Bloody Sunday at last emerge, and justice be done for the victims of the tragedy and the people of Northern Ireland.

Several aspects of the Report demonstrate the flaws:

The frame of reference of the Widgery Tribunal was too narrow, since it was concerned only with the immediate circumstances of time and space surounding the Derry killings. No effort was made to document the reputation and prior conduct of the paratroop regiment in Northern Ireland, even though numerous earlier allegations of brutality and misconduct had been made against the regiment. In fact, other British Army units had actually requested that the paratroops be recalled from Ulster, in order to prevent further deterioration in the relations between the Army and the civilian population. Thus, the Widgery Report does nothing to quell the view that the tragedy of Bloody Sunday was the culmination in a series of brutal confrontations between civilian demonstrators and a trigger-happy battalion of paratroops.

On the crucial question of whether the paratroop battalion exceeded its orders in launching the arrest operation that escalated into the killings—paragraphs 26–30 of the report—Lord Widgery accepts the sworn evidence of the three top officers in the chain of command that the order for the operation was properly given and received.

To reach this conclusion, Lord Widgery had to surmount two inconvenient facts. First, the brigade's official minute-by-minute log of events and messages contained no such arrest order. Indeed, it contained a flatly inconsistent order. This fact is simply dismissed by Lord Widgery as a case of a mistake by the log keeper in interpreting and recording the order actually given. Yet, the Tribunal failed to call the log keeper to give evidence on this vital point.

Second, the arrest order in question does not appear "in the verbatim record of wireless traffic on the ordinary brigade net." This fact is explained away by Lord Widgery on the ground that the ordinary brigade net was not secure against eavesdropping, and so a secure wireless link was used for "this one vital order"—the order for the arrest operation.

The report is at its worst—paragraphs 86–88—in dealing with the nail bombs found on one of the 13 victims, Gerald Donaghy, the only victim on whom any weapons were found. According to the evidence, after Donaghy was shot, he was examined by a local doctor in the Bogside and then by an army medical officer who pronounced him dead. Later, while his body lay in a car at the military post, four nail bombs, each the size of a beer can, were found protruding from his pockets. Although admitting the likelihood that the bombs should have been noticed by the two doctors or by Donaghy's friends, Lord Widgery concludes, nevertheless, that the bombs were events in question. With a straight face, Lord Widgery states:

> The alternative explanation of a plant is mere speculation. No evidence was offered as to where the bombs might have come from, who might have placed them, or why Donaghy should have been singled out for this treatment.

On the question of "Who fired first?" Lord Widgery resolved the massive conflict of evidence between the military and civilian witnesses by concluding that the initial shots came from the demonstrators. Why should the soldiers lie, he asks—as he puts it—paragraph 54—in the wide-eyed tone of military innocence so prevalent throughout the report:

> The soldiers' initial action was to make arrests and there was no reason why they should have suddenly desisted and begun to shoot unless they had come under fire themselves. If the soldiers are wrong, they were parties in a lying conspiracy which must have come to light in the vigorous cross-examination to which they were subjected.

At one point, in a passage obviously designed to portray the events as a continuing exchange of gunfire between the troops and demonstrators, Lord Widgery states—paragraph 95:

> I would not be surprised if in the relevant half-hour as many rounds were fired at the troops as were fired by them." But, as we know, thirteen civilians were killed on Bloody Sunday, and thirteen more civilians were wounded, yet there was not a single casualty among the troops. Lord Widgery simply concludes that "The soldiers escaped injury by reason of their special field-craft and training.

The last conclusion, conclusion No. 11, states baldly that "there was no general breakdown in discipline," and goes on to note how hard it is for a soldier always to act "wisely, as well as bravely and with initiative." Yet, three conclusions earlier—in conclusion No. 8—Lord Widgery states that, at least in Glenfada Park, where four of the killings took place, including the killing of Gerald Donaghy, the "firing bordered on the reckless." In the body of the report—paragraph 85—Lord Widgery amplifies this conclusion by finding that:

> The balance of probability suggests that at the time when these four men were shot the group of civilians was not acting aggressively and that the shots were fired without justification.

That is the closest Lord Widgery ever comes to suggesting that some of the shootings were indiscriminate. It does not take a criminal lawyer to draw the conclusion that if the firing by the soldiers bordered on the reckless, then the deaths that resulted from the firing bordered on murder. Nor, given Lord Widgery's own findings on the events in Glenfada Park, does it take much imagination to understand why a few nail bombs might have been planted on Gerald Donaghy's body, or why Donaghy "might have been singled out for this treatment."

Overall, perhaps the most distressing result of the Widgery Report is the congenital bias it demonstrates in favor of the Government's position. Again and again in recent months, we have seen the inability of British justice to deal fairly and impartially with the tragic events unfolding in Northern Ireland. The Compton Report, the Scarman Report, the midnight session of Parliament called last February to reverse an inconvenient high court decision on the power of the troops—these and other events show that in Ulster's years of crisis, the proud tradition of British justice is perennially apt to bend to political expediency and the prevailing official winds of the moment.

The terrible events of "Bloody Sunday" are perhaps the single greatest tragedy in the entire 3 years of the present crisis in Northern Ireland. Surely, a report by Lord Widgery that was both fair and seen to be fair could have done much to win the confidence of the Ulster minority, and to restore the balance of justice in Northern Ireland, especially in these critical days for Prime Minister Heath's new initiative and Mr. Whitelaw's mission.

As it is, there is little hope or optimism that can be gleaned from the Widgery Report. Inevitably, the role of the troops has now become even more difficult, the goals of direct rule have been made more elusive, and unnecessary new fuel has been added to the burning sense of alienation of the minority.

Perhaps the feeling of hopelessness is best summarized in a letter I received last weekend from a Mr. Harry M. of Belfast:

Mr. M. wrote:

> I enclose for your information a copy of the Widgery Report into the killing of thirteen civilians in Derry on "Bloody Sunday."
>
> When you have read the report, I'm sure you will agree with me when I say that Irish Catholics are lucky that Widgery (himself an ex-British Army Major) did not also find that the thirteen committed suicide

Mr. President, I ask unanimous consent that the Widgery Report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT OF THE TRIBUNAL APPOINTED TO INQUIRE INTO THE EVENTS ON SUNDAY, JANUARY 30, 1972, WHICH LED TO LOSS OF LIFE IN CONNECTION WITH THE PROCESSION IN LONDONDERRY ON THAT DAY

(By the Right Honorable Lord Widgery, O.B.E., T.D.)

PART ONE: INTRODUCTION

Appointment of tribunal

1. On Sunday 30 January 1972 British soldiers opened fire in the streets of Londonderry. Thirteen civilians lost their lives and a like number were injured; their names are listed in Appendix A. On the following day I accepted an invitation from Her Majesty's Government to conduct a Tribunal of Inquiry into these events. Both Houses of Parliament adopted a Resolution in the following terms on 1 February:

"That it is expedient that a Tribunal be established for inquiring into a definite matter of urgent public importance, namely the events on Sunday 30 January which led to loss of life in connection with the procession in Londonderry on that day."

In order to ensure that the powers vested in the Tribunal would extend to transferred matters under the Government of Ireland Act, 1920, as well as to matters reserved to Westminster, a Resolution in identical terms was adopted in both Houses of the Northern Ireland Parliament. The Home Secretary, The Right Honourable Reginald Maudling, signed a Warrant of Appointment on 2 February. The Warrant declared that the Tribunals of Inquiry (Evidence) Act, 1921 should apply to the Tribunal and that the Tribunal was constituted as a Tribunal within the meaning of that Act. A Warrant of Appointment in identical terms was signed by the Governor of Northern Ireland, Lord Grey, on 4 February. The Secretary to the Tribunal was appointed on 6 February and left at once for Northern Ireland. Meanwhile the Treasury Solicitor's Department had already started taking statements from witnesses in London.

Terms of reference

2. The terms of reference of the Inquiry were as stated in the Parliamentary Resolutions and the Warrants of Appointment. At a preliminary hearing on 14 February I explained that my interpretation of those terms was that the Inquiry was essentially a fact-finding exercise, by which I meant that its purpose was to reconstruct, with as much detail as was necessary, the events which led up to the shooting of a number of people in the streets of Londonderry on the afternoon of Sunday 30 January. The Tribunal was not concerned with making moral judgments; its task was to try and form an objective view of the events and the sequence in which they occurred, so that those who were concerned to form judgments

would have a firm basis on which to reach their conclusions. The Tribunal would, therefore, listen to witnesses who were present on the occasion and who could assist in reconstructing the events from the evidence of what they saw with their own eyes or heard with their own ears. I wished to hear evidence from people who supported each of the versions of the events of 30 January which had been given currency.

3. I emphasised the narrowness of the confines of the Inquiry, the value of which would largely depend on its being conducted and concluded expeditiously. If considerations not directly relevant to the matters under review were allowed to take up time, the production of the Tribunal's Report would be delayed. The limits of the Inquiry in space were the streets of Londonderry in which the disturbances and the shooting took place; in time, the period beginning with the moment when the march first became involved in violence and ending with the deaths of the deceased and the conclusion of the affair.

4. At the first substantive hearing I explained that the emphasis on the importance of eye witnesses did not exclude evidence such as that of pathologists. Nor did it exclude consideration of the orders given to the Army before the march. The officers who conceived the orders and made the plans, including those for the employment of the 1st Battalion of the Parachute Regiment, would appear before me.

Choice of location

5. My original intention was to hold the Inquiry in Londonderry, since if it were held anywhere else the people of Londonderry might be inhibited from giving evidence. For reasons of security and convenience I reluctantly concluded that other possibilities would have to be considered; and several were. In the end I decided on Coleraine, which had these advantages: it was only about 30 miles from Londonderry, to which it was linked by a good train service; and the County Hall, which the Londonderry County Council kindly put at my disposal, was admirably suited to the job. Nowhere else in the area, except in the City of Londonderry itself, was a suitable building available. The Council Chamber, in which the Tribunal sat, contained an adequate public gallery, so that there was proper accommodation for the public, who, with the Press, were admitted to the hearings.

Sessions of the tribunal

6. The first substantive hearing of the Tribunal was held on 21 February and I continued to sit in Coleraine until 14 March. During these 17 sessions 114 witnesses gave evidence and were cross-examined. The witnesses, who are listed in Appendix B, fell into six main groups: priests; other people from Londonderry; press and television reporters, photographers, cameramen and sound recordists; soldiers, including the relevant officers; police officers; doctors, forensic experts and pathologists. After all the evidence had been taken three further sessions were held in the Royal Courts of Justice in London on 16, 17 and 20 March, at which I heard the closing speeches of Counsel for the relatives of the deceased, for the Army and for the Tribunal.

Representation of relatives' interests

7. Initially there was some doubt as to whether the residents of Londonderry would be prepared to come and give evidence at the Tribunal at all. This was a matter of some concern. As the Army was to be represented by leading Counsel it was highly desirable that other interests should be represented on the same level so that cross-examination of the Army witnesses should not devolve on Counsel for the Tribunal alone. In the event this need was met by my granting legal representation to the relatives of the deceased and to those injured in the shooting, whose interest in the matter embraced that of the citizens of Londonderry generally.

Sources of evidence

8. A large quantity of material had to be examined. As has been mentioned above, the number of witnesses called was 114; but a much larger number of statements, roughly double that number, was taken, all of which were considered in arriving at a decision as to the witnesses to be called. This was in addition to the statements taken from the soldiers by the Royal Military Police on the night of 30 to 31 January. The Northern Ireland Civil Rights Association collected a large number of statements from people in Londonderry said to be willing to give evidence. These statements reached me at an advanced stage in the Inquiry.

In so far as they contained new material, not traversing ground already familiar from evidence given before me, I have made use of them. Seven of the wounded appeared before the Tribunal and gave evidence. I did not think it necessary to take evidence from those of the wounded who were still in hospital. A particularly valuable feature of the evidence was the large number of photographs taken by professional photographers who had gone to Londonderry to cover the march*. Since it was obvious that by giving evidence soldiers and police officers might increase the dangers which they, and indeed their families have to run, I agreed that they should appear before me under pseudonyms. This arrangement did not apply to senior officers, who are well known in Northern Ireland. Except for the senior officers, the individual soldiers and police officers are referred to in my Report by the letter or number under which they gave evidence in the Tribunal.

PART TWO: NARRATIVE

Londonderry: The physical background

9. The City of Londonderry, second in Ulster only to Belfast in size and importance, lies on both banks of the River Foyle. The events with which the Tribunal was primarily concerned took place on the west bank, and indeed wholly within an area about a quarter of a mile square, bounded on the north by Great James Street, on the east by Strand Road, Waterloo Place and the City Wall, on the south by Free Derry Corner and Westland Street and on the west by Fahan Street West and the Little Diamond. (Free Derry Corner is the name popularly given to the junction of Lecky Road, Rossville Street and Fahan Street.) This area, which is shown on the plan at Appendix C and is in the north-east corner of the Bogside district, is overlooked from the south-east side by the western section of the City's ancient Walls, which encircle the old heart of the town and which have major significance in Orange tradition because of the successful defense of Londonderry against James II; and from the west by the Creggan, a largely new district built on rising ground. Creggan and the old town look at one another across the Bogside.

The Bogside and Creggan are predominantly Catholic districts, their population amounting to about 33,000 out of a total population in the City of Londonderry of about 55,000. The Bogside contains a number of old terraced houses and buildings, many of them derelict or nearly so; but also a large number of new blocks of flats and maisonettes. The small area with which the Tribunal was concerned lies on flat ground at a meeting point of old and new buildings. William Street is now largely derelict; and Chamberlain Street is an older street of terraced houses. Eden Place and Pilot Row do not contain any buildings at all; they are merely the sites of former streets which have been completely cleared of buildings. All the flats so frequently mentioned in evidence—the Rossville Flats, Glenfada Park, Kells Walk, Columbcille Court, Abbey Park and Joseph Place—are very modern buildings. The Rossville Flats consist of three blocks each of about 10 storeys high. The others are all low blocks. A notable feature of the area is that it contains a number of large open spaces which have been cleared of buildings, on both sides of William Street and of Rossville Street, as well as the courtyards and the open spaces arising from the layout of the new blocks of flats.

Security Background: Events in Londonderry during the previous 6 months

10. The Bogside and the Creggan, the Republican views of whose people are well known, were the scene of large scale rioting in 1969 and have suffered sporadic rioting by hooligans ever since. In the early summer of 1971 a good deal of progress had been made towards restoring normal life. The Royal Ulster Constabulary was patrolling almost everywhere in the area on foot, the Army was little in evidence, the hooligan element had been isolated and the IRA was quiescent. At the beginning of July, however, gunmen appeared and an IRA campaign began. Widespread violence ensued with the inevitable military counter-action. Nevertheless at the end of August it was decided, after consultation with a group of prominent local citizens, to reduce the level of military activity in the hope that moderate opinion would prevail and the IRA gunmen be isolated from the community.

11. From the end of August to the end of October an uneasy equilibrium was maintained. In a conscious effort to avoid provocation in the Army made itself less obvious. Though parts of the Bogside and Creggan were patrolled, no military initiative was taken except in response to aggression for specific search or arrest operations. The improvement hoped for did not, however, take place. The residents of the Bogside and Creggan threw up or repaired over 50 barricades including the one in Rossville Street which figured prominently in the proceedings of the Inquiry; frequent sniping and bombing attacks were made on the security forces; and the IRA tightened its grip on the district. Thus although at the end of October the policy was still one of passive containment, sniping and bombing had become increasingly common in virtually the whole of Londonderry west of the River Foyle. The Royal Ulster Constabulary had not operated in he Bogside and Creggan since June or July. Apart from one Company location at the Blighs Lane factory in the centre of the area, all military posts were located round the edges of the district. So the law was not effectively enforced in the area.

12. At the end of October, 8 Infantry Brigade, within whose area of command the City of Londonderry lay, was given instructions progressively to regain the initiative from the terrorists and reimpose the rule of law on the Creggan and Bogside. Hooligan activity was to be vigorously countered and arrest operations were to be mounted. As a result, a series of operations was carried out in the Bogside and Creggan at battalion strength with the object of clearing barricades, making arrests and searching premises about which intelligence reports had been received. These operations hardened the attitude of the community against the Army, so that the troops were operating in an entirely hostile environment and as time went on were opposed by all elements of the community when they entered the Bogside and Creggan. The Army's static positions and observation posts were fired on and a large number of youths, many of them unemployed, gathered daily at the points of entry

---

*Reference is made in subsequent paragraphs to certain of these photographs, which are not, however, published as part of the Report.

into the areas which were guarded by troops in order to attack them with stones and other missiles. Many nail and petrol bombs were thrown during these attacks. Gunmen made full use of the cover offered to them by the gangs of youths, which made it more and more difficult to engage the youths at close quarters and make arrests. The Creggan became almost a fortress. Whenever troops appeared near there at night searchlights were switched on and car horns blazed. The terrorists were still firmly in control.

13. Early in 1972 the security authorities were concerned that the violence was now spreading northwards from William Street, which was the line on the northern fringe of the Bogside on which the troops had for some considerable time taken their stand. Bombing and arson attacks on shops, offices and commercial premises were taking place with increasing frequency in Great James Street and Waterloo Place. The local traders feared that the whole of this shopping area would be extinguished within the next few months. A few figures will show the serious threat not only to the commercial areas of the City but also to the lives of the security forces. From 1 August 1971 to 9 February 1972 in Londonderry 2,656 shots were fired at the security forces, 456 nail and gelignite bombs were thrown and there were 225 explosions, mostly against business premises. In reply the security forces fired back 840 live rounds. In the last two weeks of January the IRA was particularly active. In 80 separate incidents in Londonderry 319 shots were fired at the security forces and 84 nail bombs were thrown at them; two men of the security forces were killed and two wounded. The Londonderry Development Commission has estimated that between 1 August 1971 and about the middle of February 1972 damage amounting to more than £6 million was inflicted in Londonderry. Since then there has been further heavy damage.

14. At the beginning of 1972 Army foot patrols were not able to operate south of William Street by day because of sniper fire, although the Army continued to patrol in the Bogside at night and to enter by day if there was a specific reason for so doing. There were no foot patrols by day during January. The hooligan gang in Londonderry constituted a special threat to security. Their tactics were to engineer daily breaches of law and order in the face of the security forces, particularly in the William Street area, during which the lives of the soldiers were at risk from attendant snipers and nail bombers. The hooligans could be contained but not dispersed without serious risk to the troops.

15. This was the background against which it was learned that, despite the fact that parades and processions had been prohibited throughout Northern Ireland by law since 9 August 1971, there was to be a protest march in Londonderry on Sunday 30 January, organised by the Northern Ireland Civil Rights Association (NICRA). It was the opinion of the Army commanders that if the march took place, whatever the intentions of NICRA might be, the hooligans backed up by the gunmen would take control. In the light of this view the security forces made their plans to block the march.

The Army plan to contain the march

16. The proposed march placed the security forces in a dilemma. An attempt to stop by force a crowd of 5,000 or more, perhaps as many as 20 or 25,000, might result in heavy casualties or even in the overrunning of the troops by sheer weight of numbers. To allow such a well publicised march to take place without opposition however would bring the law into disrepute and make control of future marches impossible.

17. Chief Superintendent Lagan, the head of the Royal Ulster Constabulary in Londonderry, thought that the dangers of interfering with the march were too great and that no action should be taken against it save to photograph the leaders with a view to their beng prosecuted later. His opinion was reported to the Chief Constable of Northern Ireland and to the Commander 8 Infantry Brigade (Brigadier MacLellan) who passed it to General Ford, the Commander Land Forces Northern Ireland. The final decision, which was taken by higher authority after General Ford and the Chief Constable had been consulted, was to allow the march to begin but to contain it within the general area of the Bogside and the Creggan Estate so as to prevent rioting in the City centre and damage to commercial premises and shops. On 25 January General Ford put the Commander 8 Infantry Brigade in charge of the operation and ordered him to prepare a detailed plan. The plan is 8 Infantry Brigade Operation Order No. 2/72 dated 27 January.

18. The Brigade Commander's plan required the erection of barriers sealing off each of the streets through which the marchers might cross the containment line. Though there were 26 barriers in all, the Inquiry was concerned with only three:

No. 12 in Little James Street;
No. 13 in Sackville Street;
No. 14 in William Street.

The barriers, which were to consist of wooden knife rests reinforced with barbed wire and concrete slabs, were to be put in place early in the afternoon of 30 January. At some of them, notably at barrier 14, an armoured personnel carrier was placed on either side of the street close behind and almost parallel with the barrier to reinforce it and to give the troops some cover from stone throwing. Each barrier was to be manned by the Army in platoon strength with representative RUC officers in support. (Photograph EP2/2 by Mr. Morris of the *Daily Mail* and photograph EP27/3 by Mr. Donnelly of the *Irish Times*). The troops at the barriers were to be provided by units normally under command of 8 Infantry Brigade. The following troops and equipment were to be brought in as reinforcements and reserves:

1st Battalion Parachute Regiment (hereafter referred to as 1 Para);

1st Battalion Kings Own Border Regiment;

2 Companies of the 3rd Battalion Royal Regiment of Fusiliers;

2 water cannon.

19. The Operation Order provided that the march should be dealt with in as low a key as possible for as long as possible and indeed that if it took place entirely within the Bogside and Creggan it should go unchallenged. No action was to be taken against the marchers unless they tried to breach the barriers or used violence against the security forces. CS gas was not to be used except as a last resort if troops were about to be overrun and the rioters could no longer be held off with water cannon and riot guns. (These guns, which fire rubber bullets, are also known as baton guns; and the rubber bullets as baton rounds.)

20. Under the heading of "Hooliganism" the Operation Order provided:

"An arrest force is to be held centrally behind the check points and launched in a scoop-up operation to arrest as many hooligans and rioters as possible."

This links up with the specific task allotted to 1 Para which was in the following terms:

"1. Maintain a Brigade Arrest Force to conduct a scoop-up operation of as many hooligans and rioters as possible.

"(*a*) This operation will only be launched either in whole or in part on the orders of the Brigade Commander.

"(*b*) ———

"(*c*) ———

"(*d*) It is expected that the arrest operation will be conducted on foot.

"2. A secondary role of the force will be to act as the second Brigade mobile reserve."

21. The Operation Order, which was classified "Secret", thus clearly allotted to 1 Para the task of an arrest operation against hooligans. Under cross-examination, however, the senior Army officers, and particularly General Ford, were severely attacked on the grounds that they did not genuinely intend to use 1 Para in this way. It was suggested that 1 Para had been specially brought to Londonderry because they were known to be the roughest and toughest unit in Northern Ireland and it was intended to use them in one of two ways: either to flush out any IRA gunmen in the Bogside and destroy them by superior training and fire power; or to send a punitive force into the Bogside to give the residents a rough handling and discourage them from making or supporting further attacks on the troops.

22. There is not a shred of evidence to support these suggestions and they have been denied by all the officers concerned. I am satisfied that the Brigade Operation Order accurately expressed the Brigade Commander's intention for the employment of 1 Para and that suggestions to the contrary are unfounded. 1 Para was chosen for the arrest role because it was the only experienced uncommitted battalion in Northern Ireland. Other experienced units were stationed in Londonderry as part of the normal content of 8 Infantry Brigade, but being committed to barrier and other duties they were not available for use as an arrest force. The arrest operation was vigorously carried out. At the end of the afternoon 54 people had been arrested by 1 Para, about 30 of them by Support Company.

23. Another unjustified criticism of General Ford was persisted in throughout the Tribunal hearing. It was said that when heavy firing began and it became apparent that the operation had taken an unexpected course, the General made no attempt to discover the cause of the shooting but instead washed his hands of the affair and walked away. This criticism is based on a failure to understand the structure of command in the Army. The officer commanding the operation was the Commander 8 Brigade, who was in his Operations Room and was the only senior officer who had any general picture of what was going on. General Ford was present on the streets of Londonderry as an observer only. Although he had wireless equipment in his vehicle he was not accompanied by a wireless operator when on foot. When the serious shooting began the General was on foot in the neighbourhood of Chamberlain Street and had no means of knowing what was going on. Nothing would have been more likely to create chaos than for him to assume command or even to interfere with radio traffic by asking for information. Instead he did the only possible thing by going at once to an observation post from which he could observe the scene for himself.

The march as it happened

24. The marchers assembled on the Creggan Estate on a fine sunny afternoon and in carnival mood. At first amounting to some hundreds only they toured the estate collecting additional numbers as they went and eventually the total may have been something between 3,000 and 5,000 people. At their head was a lorry carrying a Civil Rights Association banner and travelling upon the lorry were some of the leaders of the march. (Mr. Donnell's photograph EP27/1.) The marchers did not move in any kind of military formation but walked as a crowd through the streets, occupying the entire width of the road, both carriageway and pavements. The marchers, who included many women and some children, were orderly and in the main good humoured. (My

Peress's photographs EP25/1 and EP25/3). When in due course they appeared at the west end of William Street it was obvious that their direct route to the Guildhall Square lay along William Street itself and that the march would come face to face with the Army at barrier 14 in that street.

At this stage it became noticeable that a large number of youths, of what was described throughout the Inquiry as the hooligan type, had placed themselves at the head of the march; indeed some of them were in front of the lorry itself. (Mr. Morris's photograph EP2/1.) Some relatively minor exchanges took place between these youths and the soldiers manning the barriers which the march passed on its way to William Street, but nothing of real consequence occurred until the marchers reached the barriers in Little James Street and William Street. When the leaders of the march reached the junction of William Street and Rossville Street the lorry turned to its right to go along Rossville Street and the stewards made strenuous efforts to persuade the marchers to follow the lorry. It is quite evident now that the leaders of the march had decided before setting off from the Creggan Estate, that they would take this course and thus avoid a head-on confrontation with the Army at the William Street barrier.

25. However, this change of direction was not acceptable to a great many of the marchers. The stewards' attempts to divert the march were greeted with jeers and cat-calls. In the event although large numbers of non-violent marchers were persuaded to turn to their right into Rossville Street a substantial number, not all of them youths, continued into the cul-de-sac created by the William Street barrier. The television films made by the BBC and Independent Television News show graphically how this crowd approached to within touching distance of the barrier itself. (Mr. Grimaldi's photograph EP26/2.) The pressure of the crowd from behind was heavy and a densley packed mass formed at the barrier, which was manned by men of the Royal Green Jackets. The television films taken from behind the troops at the barrier show that the conduct of these soldiers was impeccable, despite the ugly situation which developed. The films show at least one middle-aged man making some attempt to move the barrier aside.

Had other members of the crowd followed his example, the results might have been disastrous. A steward managed to divert this particular man from his intention. There is a very illuminating view in the television films of the packed crowd standing at the barrier spitting and shouting obscenities at the troops behind it. If the crowd had made up their minds to make their way through the barrier by sheer force grave injuries must have been suffered both by civilians and soldiers; but happily this point was never reached. After a time the movement of the crowd at the rear reduced the pressure on those at the front in William Street and the crowd in front of the barrier began to thin out somewhat. The hooligans at once took advantage of the opportunity to start stone-throwing on a very violent scale. Not only stones, but objects such as fire grates and metal rods used as lances were thrown violently at the troops in a most dangerous way. (Mr. Grimaldi's photographs EP26/5 and 6.) This scene was observed by millions on television on the night in question and I have myself seen it replayed on three occasions.

Some witnesses have sought to play down this part of the incident and to suggest that it was nothing more than a little light stoning of the kind which occurs on most afternoons in this district and is accepted as customary. All I can say is that if this in any way represents normality the degree of violence to which the troops are normally subjected is very much greater than I suspect most people in Britain have appreciated. The troops responded with controlled volleys of rubber bullets but this was in some degree countered by the hooligans bringing forward an improvised shield of corrugated iron behind which they could shelter from the bullets. (Mr. Morris's photograph EP2/3 and Mr. Grimaldi's EP26/4.) Accordingly a water cannon which had been held in reserve was brought up behind the barrier and proceeded to drench the hooligan crowd with water coloured with a purple dye.

Unfortunately, from the soldiers' point of view, a canister of CS gas thrown by a member of the crowd happened to explode underneath the water cannon incommoding the crew who were not wearing their gas masks. The water cannon was therefore withdrawn for a few minutes and rubber bullets were fired again with little more effect than on the previous occasion. When the gas had cleared from the water cannon it was brought forward a second time and used upon the crowd to some effect. At about 1555 hours the troops appeared to be reaching a position in which they might disperse the rioters and relieve the pressure upon themselves. (Mr. Grimaldi's photograph EP26/7.) It was at this point that the decision to go ahead with the arrest operation, for which 1 Para was earmarked, was made.

The launching of the arrest operation

26. Since the tactics of the arrest operation were to be determined by the location and strength of the rioters at the time when it was launched, the Brigade Order left them to be decided by Lieutenant Colonel Wilford Commanding Officer of 1 Para. He had three Companies available for the arrest operation: A Company, C. Company and Support Company, the latter being reinforced by a Composite Platoon from Administrative Company. (A fourth Company had been detached and put under command of 22 Light Air Defence Regiment for duties elsewhere in Londonderry.) In the event these three Companies moved forward at the same time. A Company operated in the region of the Little Diamond and played no significant part in the events with which the Inquiry was concerned. C Company went forward on foot through barrier 14 and along Chamberlain Street, while Support Company drove in vehicles through barrier 12 into Rossville Street to encircle rioters on the waste ground or pursued by C Company along Chamberlain Street. The only Company of 1 Para to open fire that afternoon—other than with riot guns—was Support Company.

27. Before the wisdom of the order launching the arrest operation is considered it is necessary to decide who gave it. According to the Commander 8 Brigade and his Brigade Major (Lieutenant Colonel Steele) the operation was authorised by the Brigadier personally, as indeed was envisaged in the Brigade Order. The order for 1 Para to go in and make arrests was passed by the Brigade Major to the Commanding Office 1 Para on a secure wireless link, ie one which was not open to eavesdropping. This link was used because the arrest operation depended on surprise for its success and it was known that normal military wireless traffic was not secure. The Commanding Officer 1 Para confirmed that he received the order and all three officers agreed that the order was in terms which left the Commanding Officer free to employ all three Companies.

28. During the Inquiry however it was contended that the Brigadier did not authorise the arrest operation and that it was carried out by Lieutenant Colonel Wilford in defiance of orders or without orders and on his own initiative. The suspicion that Lieutenant Colonel Wilford acted without authority derives from the absence of any relevant order in the verbatim record of wireless traffic on the ordinary Brigade net. This omission was due to the use of the secure wireless link for this one vital order, as mentioned in the previous paragraph.

29. Other circumstances which suggest that 1 Para moved without orders are less easily explained. The Brigade Log, which is maintained in the Brigade Operations Room and is a minute by minute record of events and messages, regardless of the method of communication used, contains the following entries:

"Serial 147, 1555 hours from 1 Para. Would like to deploy sub-unit through barricade 14 to pick up yobbos in William Street/Little James Street."

"Serial 159, 1609 hours from Brigade Major. Orders give to 1 Para at 1607 hours for one sub-unit of 1 Para to do scoop-up op through barrier 14. Not to conduct running battle down Rossville Street."

Serial 159 is identified by the Brigade Major as recording the Brigadier's instruction for 1 Para to move; but its terms are inconsistent with the employment of three Companies. (A sub-unit is a Company.) Further, the Brigade Operation Order said that it was expected that the arrest operation would be conducted on foot and that the two axes of advance were likely to be towards the areas of William Street/Little Diamond and William Street/Little James Street, ie the Order did not contemplate the use of Rossville Street as an axis of advance; and whatever the prohibition of a "running battle down Rossville Street" was intended to imply it at least suggests that a penetration in depth at this point was not intended. It has been contended that the Brigade log shows *prima facie* that the only action which 1 Para was authorized to carry out was the limited one for which permission had been sought in the message recorded in Serial 147. This view is supported by the evidence of Chief Superintendent Lagan, who was in the Brigadier's office at the relevant time and who formed the impression that 1 Para had acted without authority from the Brigadier.

30. It is understandable that these circumstances have given rise to suspicion that the CO 1 Para exceeded his orders, but I do not accept this conclusion in the face of the sworn evidence of the three officers concerned. I think that the most likely explanation is that when the Brigade Major gave instructions to the log keeper to make the entry which appears as Serial 159 the latter mistakenly thought that the order was a response to the request in Serial 147 and he entered it accordingly.

Should the arrest operation have been launched at all?

31. By 1600 hours the pressure on barrier 14 had relaxed. There were still 100 to 200 hooligans in the William Street area but most of the non-violent marchers had either turned for home or were making their way down Rossville Street to attend a meeting at Free Derry Corner where about 500 were already assembled. (Still of Army helicopter film EP 29/16.) On the waste ground between the Rossville Flats and William Street there was a mixed crowd of perhaps 200 which included some rioters together with marchers, local residents, newspapermen and sightseers who were moving aimlessly about or chatting in groups. (Mr. Tucker's photographs EP 28/1 to 4.) This was the situation when Commander 8 Brigade ordered 1 Para to move forward and make arrests.

32. In the light of events the wisdom of carrying out the arrest operation is debatable. The Army had achieved its main purpose of containing the march and although some rioters were still active in William Street they could have been dispersed without difficulty. It may well be that if the Army had maintained its "low key" attitude the rest of the day would have passed off without further serious incident. On the other hand the Army had been subjected to severe stoning for upwards of half an hour; and the

future threat to law and order posed by the hard core of hooligans in Londonderry made the arrest of some of them a legitimate security objective. The presence of 1 Para provided just the opportunity to carry this out.

33. In view of the large numbers of people about in the area the arrest operations presented two particular risks: first, that in a large scale scoop-up of rioters a number of people who were not rioters would be caught in the net and perhaps roughly handled; secondly, that if the troops were fired upon and returned fire innocent civilians might well be injured.

34. Commander 8 Brigade sought to minimise the first risk by withholding the order to launch the arrest operation until the rioters and the marchers were clearly separated. But this seperation never really happened. At 1607 hours when 1 Para was ordered forward a substantial crowd remained on the waste ground between the bulk of the rioters who were in William Street and the bulk of the marchers who had either reached Free Derry Corner or gone home. The Brigade Commander, who could not see the area at all, relied mainly upon information from an officer in a helicopter, which information may have been incomplete. The Brigade Commander in giving evidence told me that he had considered the possibility that if a shooting match developed there would be risk to innocent people but he described this risk as "very bare". On the whole he considered that the arrest operation was essential in the interests of security and gave the order accordingly. Whether the Brigade Commander was guilty of an error of judgment in giving orders for the arrest operation to proceed is a question which others can judge as well or better than I can. It was a decision made in good faith by an experienced officer on the information available to him, but he underestimated the dangers involved.

The first high velocity rounds

35. Shortly before 4 o'clock, and before the Paras had moved across William Street, two incidents occurred there involving the firing of high velocity rounds. Although they are not of particular importance in the context of the afternoon as a whole, they are interesting if only because their circumstances can be ascertained with a fair degree of certainty. The officers of 1 Para had previously been engaged in the morning on reconnaissance of various routes that could be used if the Battalion were called upon to move forward and make arrests in the area of Rossville Street and William Street. Obviously the Battalion could move the barriers and go through them; but at one time it was thought that they might wish to enter William Street somewhat to the west of Little James Street in order to outflank the vacant land at "Aggro Corner" (the corner of William Street and Rossville Street). The Company Commander of the Support Company found a route over a wall by the side of the Presbyterian Church which he considered might be useful for this purpose, but which was obstructed by wire. Accordingly he sent a wire-cutting party to make this route usable if required. Whilst some soldiers from the Mortar Platoon were cutting the wire a single high velocity round was fired from somewhere near the Rossville Flats and struck a rainwater pipe on the side of the Presbyterian Church just above their heads. A large number of witnesses gave evidence about the incident, which clearly occurred, and which proves that at that stage there was at least one sniper, equipped with a high velocity weapon, established somewhere in the vicinity of the Rossville Flats and prepared to open fire on the soldiers.

36. The Company Commander of Support Company had sent a number of men forward to cover the wire-cutting party. Some of these men established themselves on the two lower floors of a three storey derelict building on William Street, just to the west of some open land near the Presbyterian Church. They had not been there very long before their presence was noticed by some of the youths who were throwing stones in Little James Street (Mr. Donnelly's photograph EP 27/2), a substantial party of whom shifted their attention to the soldiers in the derelict building. A hail of missiles was thrown at these soldiers. After a time Soldier A fired two rounds and Soldier B fired three rounds. There is no doubt that this shooting wounded Mr. John Johnson and Mr. Damien Donaghy. Evidence from civilians in the neighborhood, including Mr. Johnson himself, is to the effect that although stones were being thrown no firearms or bombs were being used against the soldiers in the derelict building. Having seen and heard Mr. Johnson I have no doubt that he was telling the truth as he saw it. He was obviously an innocent passer-by going about his own business in Londonderry that afternoon and was almost certainly shot by accident. I have not thought it necessary to take a statement from Mr. Donaghy, who was injured more seriously and was still in hospital when I finished hearing evidence. I am quite satisfied that had he given evidence it would have been in the same sense as that given by Mr. Johnson.

37. What then is the explanation of this incident from the Army side? Soldier A, a Corporal, described the incident as follows. He was on the middle floor of the building. From the window he saw some young men, who were hanging around after the main body of the march had passed, start throwing stones and bottles at the soldiers on the ground floor, some of whom replied with rubber bullets. He then saw two smoking objects, about the size of a bean can, go sailing past the window; and heard two explosions, louder than the explosion of the rubber bullet guns. As the two smoking objects went past the window he shouted 'Nail bombs' as a warning to the men on the ground floor. His platoon sergeant called back an order that he was to shoot any nail bombers. He then saw, about 50 yards away on the other side of the road, a man look around the corner and dart back again. The man reappeared carrying an object in his right hand and made the actions of striking a fuse match against the wall with his left hand. When he brought his two hands together Soldier A assumed that he was about to light a nail bomb, took aim and fired at him. His first shot missed, so Soldier A fired again immediately and this time saw the man fall. Other people at once came out from the side of the building and dragged the man away.

38. Soldier B's description of the incident was in similar terms. He was on the ground floor of the building with his Platoon Sergeant and three other soldiers of the Platoon. A group of about 50 youths was throwing stones at them, undeterred by shots from the two baton guns which the soldiers had with them. Some of the stones came through the window space. He heard the explosion of two nail bombs on the waste ground to the left of the building, but did not see them in flight because he was putting on his gas mask at the time. He noticed one man come out from the waste ground across William Street carrying in his right hand a black cylindrical object which looked like a nail bomb. With his left hand he struck the wall with a match. Thinking that the man was about to light the nail bomb, and that there was no time to wait for orders from his Platoon Sergeant, Soldier B took aim and fired. As the first shot had no effect, he fired two more shots, whereupon the man fell back and was dragged away by two of his comrades. Under cross-examination Soldier B agreed that the wearing of a gas mask made it more difficult to take proper aim.

39. I find it impossible to reach any conclusion as to whether explosive substances were thrown at these soldiers or not. Mere negative evidence that nail bombs were not seen or heard is of relatively little importance in a situation in which there was already a great deal of noise. Baton rounds were being fired from the barrier in Little James Street nearby and there were other distractions for the various witnesses. Having seen Soldiers A and B vigorously crossexamined I accept that they thought, rightly or wrongly, that the missiles being thrown towards them included a nail bomb or bombs; and that they thought, rightly or wrongly, that one of the members of the crowd was engaged in suspicious action similar to that of striking a match and lighting a nail bomb. The soldiers fired in the belief that they were entitled to do so by their orders. Whether or not the circumstances were really such as to warrant firing there is no reason whatever to suppose that either Mr. Johnson or Mr. Donaghy was in fact trying to light or throw a bomb.

Support company in action

40. An ammunition check on return to barracks showed that Support Company of 1 Para had, in the course of 30 January, expended 108 rounds of 7.62 mm ammunition. This is the ammunition which is used in the SLR rifle, with which all ranks in the Company were armed, except three who had submachine guns. Some of the men carried, in addition to the SLR, a baton gun or baton. The only other weapon with which the Company was equipped that day was the Browning machine gun on a Ferret scout car. No Browning or sub-machine gun ammunition had been used. Five rounds of 7.62 mm ammunition had been fired by Soldiers A and B as already described in paragraph 36 above and one had been ejected unfired by a soldier in clearing a stoppage in his rifle. The remaining 102 rounds were fired by soldiers of Support Company in a period of under 30 minutes between 1610 and 1640 hours. About 20 more rounds were fired by the Army in Londonderry that afternoon, but not by 1 Para and not in the area with which the Tribunal was primarily concerned.

41. Support Company advanced through barrier 12 and down Rossville Street in a convoy of 10 vehicles. A photograph taken very shortly afterwards shows the Guildhall clock standing at 10 minutes past 4 (EP35/20). In the lead was the Mortar Platoon commanded by Lieutenant N, comprising 18 all ranks and travelling in two armoured personnel carriers (APCs, colloquially known to the Army as "Pigs"). Next came the Command APC of the Company Commander (Major 236) with a Ferret scout car in attendance. Following Company Headquarters came two empty APCs belonging to the Machine Gun Platoon. The men of this Platoon had been detached earlier and did not rejoin the Company in time to take part in the arrests. The two empty APCs were followed by two soft-skinned 4-ton lorries carrying the 36 all ranks of the Composite Platoon, commanded by Captain SA8. The rear was brought up by two further APCs carrying the Anti-Tank Platoon, which consisted of Lieutenant 119 in command and 17 other ranks.

42. According to Major 236 his orders were simply to go through barrier 12 and arrest as many rioters as possible. As the rioters retreated down Rossville Street he went after them.

43. The leading APC (Lieutenant N) turned left off Rossville Street and halted on the waste ground near to where Eden Place used to be. The second APC (Sergeant O) went somewhat further and halted in the courtyard of the Rossville Flats near the north end of the western (or No. 1) Block. The Platoon immediately dismounted. Soldier P and one or two others from Sergeant O's vehicle moved towards Rossville Street but the remainder of the Platoon started to make arrests near to their vehicles.

44. Meanwhile the remainder of Support Company vehicles had halted in Rossville Street. The Company Commander (Major 236) says that his command vehicle came under fire so he moved it with his scout car in attendance to the north end of No. 1 Block of the Flats to obtain cover. The soft-skinned vehicles of the Composite Platoon halted under cover of buildings at the south-east corner of the junction of William Street and Rossville Street, where the troops dismounted. The Anti-Tank Platoon's vehicles halted behind the 4-ton lorries and the men of that Platoon dismounted and moved to Kells Walk. Some of these men were to appear later in Glenfada Park. The Composite Platoon Commander deployed half of his men to the east in support of the Mortar Platoon, the other half to the west in support of the Anti-Tank Platoon.

45. Thereafter Support Company operated in three areas which require separate examination: the courtyard of the Rossville Flats; Rossville Street from Kells Walk to the improvised barricade; and lastly the area of Glenfada Park and Abbey Park.

(a) The activities of Mortar Platoon in the courtyard of the Rossville Flats

46. As soon as the vehicles appeared in William Street the crowd on the waste ground began to run away to the south and was augmented by many other people driven out of Chamberlain Street by C Company (Army helicopter stills EP29). Some of the crowd ran along Rossville Street on the west side of Block 1 of the Flats, whilst the remainder ran into the courtyard on the north side of the Flats themselves. The crowd ran not because they thought the soldiers would open fire upon them but because they feared arrest. Though there was complete confidence that the soldiers would not fire unless fired upon, experienced citizens like Father Daly recognized that an arrest operation was in progress and wished to avoid the rubber bullets and rough handling which this might involve. One of the photographs taken by Mr. Tucker from his home in the central block of the Rossville Flats shown clearly what was happening at this stage. However, careful study of the photograph (EP28/5) shows that many of the crowd remained under cover in the doorways of the Flats or remained facing the vehicles to see how far they would come.

47. The APCs of Mortar Platoon penetrated more deeply than was expected by the crowd, which caused some panic. The only means of escape from the courtyard was the alleyway between Blocks 1 and 2 and that between Blocks 2 and 3, both of which rapidly became very congested. As soon as the vehicles halted the soldiers of Mortar Platoon began to make arrests. (Photographs EP24/1 to 4 and EP33/1 to 4 by Mr. Coleman Doyle of the Irish Press). But within a minute or two firing broke out and within about the next 10 minutes the soldiers of Mortar Platoon had fired 42 rounds of 7.62 mm ammunition and one casualty (John Duddy) lay dead in the courtyard.

48. This action in the courtyard is of special importance for two reasons. The first shots—other than those in William Street referred to in paragraphs 35 to 38—were fired here. Their sound must have caused other soldiers to believe that Support Company was under attack and made them more ready than they would otherwise have been to identify gunmen amongst the crowd. Secondly, the shooting by the Mortar Platoon in the courtyard was one of the incidents invoked by those who have accused the Army of firing indiscriminately on the backs of a fleeing crowd.

49. I have hear a great deal of evidence from civilians, including pressmen, who were in the crowd in the courtyard, almost all to the effect that the troops did not come under attack but opened fire without provocation. The Army case is that as soon as they began to make arrests they themselves came under fire and their own shooting consisted of aimed shots at gunmen and bomb throwers who were attacking them. This issue, sometimes referred to as "Who fired first?", is probably the most important single issue which I have been required to determine.

50. A representative sample of the civilian evidence is as follows:

(i) *Father Daly* was in the area out of concern for some elderly parishioners who lived there. Having seen the Army carry out arrest operations before on the waste ground he did not think that the vehicles would travel beyond Eden Place. He did not run away until he saw that they were coming further and he was accordingly at the back of the running crowd. He overtook John Duddy as he ran. He heard a shot and looking over his shoulder saw Duddy fall. He saw no weapon in Duddy's hands. Father Daly ran on and after a few yards he heard a "fusillade of gunfire", a "huge number" of shots which he recognized as live bullets; so he dived to the ground. He was convinced that all the shots came from behind and thought that the rest of the crowd also believed this to be the case. Apart from one civilian with a pistol he saw no weapon in other than Army hands. When asked if he had seen any shooting from the roof of the Rossville Flats he answered "I do not think that I am qualified really to say. I cannot say that I looked up there that evening. I certainly was not aware of the sound of anything coming from there."

(ii) *Mr. Simon Winchester, a Guardian* reporter, was walking caross the open ground to the north of Rossville Flats when he met a crowd of people moving away from the William Street area towards Free Derry Corner. He decided to go with the crowd. A very short time later a number of armoured vehicles swept in along Rossville Street and the crowd started running. Some ran along Rossville Street towards Free Derry Corner, others towards the exits between the three blocks of the Rossville Flats. Mr. Winchester heard a number of shots, probably less than 10, coming from behind him. He dropped to the ground, as did everyone else. In the ensuing panic and confusion he saw an injured man, bleeding profusely from the leg. Mr. Winchester did not see or hear any nail bombs or petrol bombs, nor see any weapons other than those carried by the Army. He did not hear firing other than that which he attributed to Army rifles until after he had made his way through to the south side of the Rossville Flats. He came away from the Bogside that day with the impression that he had seen soldiers fire needlessly into a huge crowd.

(iii) *Mrs. Mary Bonnor,* who lives in the central block of the Rossville Flats, said that from her flat she saw a crowd running towards the Rossville Flats from William Street followed by two armoured vehicles. Some soldiers jumped out. One of them knelt down and pointed his gun; another, firing from the waist, shot a boy in the back. Mrs. Bonnor said that she heard no shots until the soldiers shot the boy (John Duddy). That was the first shot she heard.

(iv) *Mr. Derrick Tucker,* who is English by birth and has served in the Royal Navy and the Royal Air Force, also lives in the central block of the Rossville Flats. From his flat he saw people start to run and shout as the armoured vehicles drove up Rossville Street. Soldiers at once jumped out and adopted firing positions beside their vehicle. One of them started firing towards the landings of the flats in Rossville Street. Mr. Tucker saw the shooting of John Duddy and of Michael Bridge, who was injured in the leg. He estimated that the interval between the soldiers getting out of their vehicles and starting to fire was between 30 seconds and two minutes. During that time he heard no explosions nor any firing directed at the soldiers. The only firing he heard was of gas canisters and rubber bullets at the junction of William Street and Rossville Street. He said that he felt sickened and degraded by the action of the British Army against unarmed civilians.

(v) *Mr. Joseph Doherty,* who lives in the Creggan, ran away when he saw the Army vehicles moving up Rossville Street. As he did so he saw some soldiers coming out of the end of Chamberlain Street. One of these soldiers fired a round into the ground in front of the crowd, so Mr. Doherty ran towards the alleyway between the blocks of flats. Looking back he saw the same soldier in the same position fire an aimed shot at someone he could not see. The shot into the ground was the first shot of the day of which he was aware. He did not see shooting at any stage, or hear nail bombs at any time.

(vi) *Mr. Francis Dunne,* a Londonderry schoolteacher, said that he was drifting across the open ground in front of the Rossville Flats towards Free Derry Corner. He was just short of Eden Place when the crowd on the open ground, which was very large, probably some hundreds, began to run. He ran too, as far as the north end of Block 1 of the Rossville Flats. From there he saw the armoured vehicles driving in. He made for the alleyway between Blocks 1 and 2 and found it jammed with people. Up to that stage he was not aware of any shots. He saw three soldiers along the back of the houses in Chamberlain Street and heard firing start. He saw the soldier at the front fire. Those three soldiers were not being molested, though some youths were throwing stones towards the end of Block 1. The front soldier fired at and hit a tall fair-haired young man. Mr. Dunne saw that the alleyway through the flats was no longer jammed and went through it. His impression was that shots were coming through the alleyway towards him (ie from the direction of the soldiers) and he realised that live bullets were being fired. He was certain that there was no firing at the soldiers from the Rossville Flats as he ran across the courtyard towards the flats. Neither were there any nail bombs. He was convinced that as the soldiers came in and immediately afterward there could not have been fire on them from the Rossville Flats without him knowing about it.

51. Evidence from the Army side about the shooting in the courtyard came from Major 236, Lieutenant N, Sergeant O and each of the soldiers who had fired in that area. Although the entire action took place in an area barely 100 yards square the general confusion appears to have been such that, like the civilian witnesses, soldiers spoke only to their immediate and personal experience.

(i) *Major 236* halted his command vehicle in Rossville Street (photograph EP23/5) and said that as he and his driver dismounted a burst of about 15 rounds of low velocity fire came towards them from the direction of Rossville Flats. They immediately moved the vehicle to a position at the north end of Block 1 in order to obtain cover from the shooting. There was, he said, continuous firing for the next 10 minutes. He saw seven or eight members of the Mortar Platoon firing aimed shots towards the Flats but he could not see what they were firing at. He said that these soldiers were under fire.

(ii) *Lieutenant N* on leaving his vehicle was faced by a man throwing stones whom he tried to arrest but failed as the strap of his helmet broke. He then moved towards Chamberlain Street where he was faced by a hostile crowd and fired a total of three shots above their heads in order to disperse them. (Photograph EP2/4 shows him so doing.) He then fired one further round at a man whom he thought was throwing a nail bomb in the direction of Sergeant O's vehicle. By this time the relevant firing in the courtyard was over and he had seen nothing of it.

(iii) *Sergeant O,* with 10 years' experience in the Parachute Regiment, had returned from a training course in Cyprus that very morning. When his vehicle halted he said that he and his men began to make arrests but were met with fire from the Rossville Flats. He thought that the fire came from four or five sources and possibly included some high velocity weapons. He saw the strike of bullets four or five metres from one of the members of his Platoon. He and his men returned to his APC to secure their prisoners and then spread out in firing positions to engage those who had fired upon them. Sergeant O fired three rounds at a man firing a pistol from behind a car parked in the courtyard. The man fell and was carried away. He fired a further three rounds at a man standing at first floor level on the catwalk connecting Blocks 2 and 3, who was firing a fairly short weapon like an M1 carbine. The flashes at the muzzle were visible. Sergeant O caught a glimpse of Soldier S firing at a man with a similar weapon but his view was obscured by people "milling about". The Sergeant returned to his vehicle, but later fired two more rounds at a man whom he said was firing an M1 carbine from an alleyway between Blocks 2 and 3. He later saw Soldier T splashed with acid and told him that if further acid bombs were thrown he should return fire. He heard Soldier T fire two rounds and saw another acid bomb which had fallen. Sergeant O described the firing from the Flats as the most intense that he had seen in Northern Ireland in such a short space of time.

(iv) *Private Q*, after dismounting from his vehicle, was being stoned and so took cover at the end of Block 1 of the Rossville Flats. There he heard four of five low velocity shots, that is to say shots fired by someone other than the Army, though he could not say from what direction. Shortly afterwards he saw a man throwing nail bombs, two of which simply rolled away whilst another one exploded near to the houses backing on to Chamberlain Street. He shot at and hit the man as he was in the act of throwing another nail bomb. That bomb did not explode and the man's body was dragged away.

(v) *Private R* heard one or two explosions like small bombs from the back of Rossville Flats. He also heard firing of high and low calibre weapons. He noticed a man about 30 yards along the eastern side of Block 1, who made as if to throw a smoking object, whereupon Private R fired at him. He thought he hit him high up on the shoulder, but was not certain what happened to the man because he was at that moment himself struck on the leg by an acid bomb thrown from an upper window in the Flats. A few moments later R saw a hand firing a pistol from the alleyway between Blocks 2 and 3. R fired three times, but did not know whether he made a hit.

(vi) *Private S* said that he came under fire as soon as he dismounted from his vehicle. The fire was fairly rapid single shots, from the area of the Rossville Flats. He dodged across to the back of one of the houses in Chamberlain Street, from which position he saw a hail of bottles coming down from the Flats onto one of the armoured vehicles and the soldiers around it. He fired a total of 12 shots at a gunman or gunmen who appeared, or reappeared, in front of the alleyway between Blocks 1 and 2 of the Flats. The gunman was firing what he thought was an M1 carbine. He thought that he scored two hits.

(vii) *Private T* heard a burst of fire, possibly from a semi-automatic rifle being fired very quickly, about 30 to 45 seconds after dismounting from his vehicle. It came from somewhere inside the area of the Rossville Flats. He was splashed on the legs by acid from an acid bomb and noticed a person throwing acid bombs about three storeys up in the Flats. On the order of his Sergeant he fired two rounds at the acid bomb thrower. He thought that he did not score a hit.

(viii) *Lance Corporal V* heard two explosions, not baton rounds or rifle fire, before his vehicle stopped. As soon as he jumped out he heard rifle fire and saw several shots spurting into the ground to his right. He thought that this fire was coming from the alleyway between Blocks 1 and 2 of the Rossville Flats. He saw a crowd of about 100 towards the end of Chamberlain Street who were throwing stones and bricks. Corporal V moved further forward and shot at and hit a man about 50 or 60 yards away from him in the act of throwing a bottle with a fuse attached to it.

52. A number of soldiers other than those of 1 Para gave evidence about the opening of fire. Captain 028, a Royal Artillery officer attached to 1 Para as a Press Officer, saw the leading vehicle struck by a round before it came to a halt and saw a man open fire with a sub-machine gun from the barricade as the soldiers jumped out of their vehicles. A few minutes later, during the gun battle, he saw a man armed with a pistol come out from the south end of Block 1 of the Rossville Flats, and another man with a rifle at a window in the Flats. Lieutenant 227 of the Royal Artillery, who was in command of an observation post on the City Walls, heard two bursts of automatic fire from the Glenfada Park area after the arrest operation had begun and before he had heard any other sort of ball ammunition. He subsequently heard three or four pistol shots from the Rossville Flats area. Gunner 030, who was in a slightly different position on the City Walls, saw a youth fire five or six shots with a pistol from the south-east corner of the Rossville Flats courtyard in the direction of Rossville Street. This was before 030 heard any fire from the Paras. Later on he heard a burst of automatic fire and saw a man with a machine gun running in Glenfada Park.

53. There was also a considerable body of civilian evidence about the presence of gunmen in the Bogside that afternoon, including some to the effect that they were the first to open fire. Father Daly saw a man armed with a piston fire two or three shots at the soldiers from the south end of Chamberlain Street. Mr. Dunne saw the same gunman. Father O'Gara saw a youth armed with a pistol fire three shots at the soldiers from Kells Walk. Both these episodes took place after the soldiers had opened fire. Mr. Donnelly, a photographer of the Dublin newspaper the *Irish Times*, heard a single revolver shot in William Street 20 minutes before the Paras appeared on the scene; and Mr. Capper, a BCC reporter, heard a single revolver shot fired from the crowd he was with at Kells Walk in the direction of soldiers in William Street. He heard this shot after the shooting of Mr. Johnson and Mr. Donaghy in William Street, but before the Paras moved into Rossville Street.

Mr. Beggin, a BCC cameraman, who went through the William Street barrier with soldiers of C Company and watched the soldiers of Support Company crossing the open ground in front of the Rossville Flats, heard a number of shots fired apparently from the Flats before the soldiers themselves opened fire. Mr. Phillips, Mr. Seymour, Mr. Wilkinson and Mr. Hammond, members of an Independent Television News team, who also went through the William Street barrier behind the Paras, all heard machine gun fire as the soldiers went across the open space. They also heard single shots but were not unanimous as to whether or not the automatic fire came first.

It has been established that the troops did not use automatic weapons. So though the ITN men were not able to throw much light on the question of who fired first, their evidence did add considerable weight to the probability that the soldiers were fired on very soon after getting out of their vehicles. After the initial firing at the Rossville Street barricade, Mr. Mailey, a resident of Londonderry and a free-lance photographer, heard three shots of a much lower calibre than that of the Army's weapons. Mr. Winchester of the *Guardian* heard a single rifle shot from the direction of the Little Diamond some time before the Paras came through the barriers. A few minutes later and still before the Paras appeared, he saw youths clearing people away from an entrance to Columbeille Court in a manner which suggested to him that they were clearing a field of fire for a sniper. After he had reached the south side of the Rossville Flats he heard some low calibre fire in answer to the Army's fire and also some automatic fire from the general direction of the Flats.

Mr. Winchester and Mr. Wade of the *Daily Telegraph* were fired at by a gunman armed with a low calibre weapon, possibly a .22 rifle, as they made their way out of the Bogside at the end of the afternoon after the main shooting was over. Mr. Bedell, a Londoner who was on holiday in Northern Ireland, was present at the meeting at Free Derry Corner. From there he saw the armoured vehicles arrive in Rossville Street and heard firing. Some minutes later he saw several cars drive down from the Creggan. About two dozen men armed with rifles and automatic weapons got out, dispersed amongst the flats on the north side of Westland Street and fired about 50 rounds at the soldiers. When the gunmen withdrew, Mr. Bedell saw a crowd of about 50 civilians surround and give cover to one of the gunmen who had been separated from the main body, so that he was able to rejoin the others in safety. Mr. Kunioka, a Japanese student at the London Film School, saw a man armed with a rifle in Westland Street.

54. To those who seek to apportion responsibility for the events of 30 January the question "Who fired first?" is vital. I am entirely satisfied that the first firing in the courtyard was directed at the soldiers. Such a conclusion is not reached by counting heads or by selecting one particular witness as truthful in preference to another. It is a conclusion gradually built up over many days of listening to evidence and watching the demeanour of witnesses under cross-examination. It does not mean that witnesses who spoke in the opposite sense were not doing their best to be truthful. On the contrary I was much impressed by the care with which many of them, particularly the newspaper reporters, television men and photographers, gave evidence. Notwithstanding the opinion of Sergeant O I do not think that the initial firing from the Flats was particularly heavy and much of it may have been ill-directed fire from pistols and like weapons. The soldiers' response was immediate and members of the crowd running away in fear at the soldiers' presence understandably might fail to appreciate that the initial bursts had come from the direction of the Flats. The photographs already referred to in paragraph 47 confirm that the soldiers' initial action was to make arrests and there was no reason why they should have suddenly desisted and begun to shoot unless they had come under fire themselves. If the soldiers are wrong they were parties in a lying conspiracy which must have come to light in the rigorous cross-examination to which they were subjected.

(b) The action in Rossville Street

55. When the vehicle convoy halted in Rossville Street the Anti-Tank Platoon and one half of the Composite Platoon deployed to their right in the vicinity of the flats known as Kells Walk. From this point it is possible to look due south down Rossville Street to the rubble barricade in that street and beyond it to Free Derry Corner. (Mr. Morris's photograph EP 2/8.) The distance from Kells Walk to Free Derry Corner would be of the order of 300 yards. A considerable number of rounds was fired from Kells Walk in the direction of the barricade, at which at least four of the fatal casualties occurred.

56. It will be remembered that when the vehicles entered Rossville Street a densely

packed crowd of perhaps 500 people was already assembled round the speakers' platform at Free Derry Corner and that the arrival of the soldiers caused some of the crowd on the waste ground also to run towards Free Derry Corner.

57. The barricade in Rossville Street running across from Glenfada Park to Block 1 of the Rossville Flats had fallen into disrepair and was only about three feet high. There was a gap to allow a single line of traffic to go through but there were also reinforcements of barbed wire on wooden knife rests. (Mr. Coleman Doyle's photograph EP 24/12). Although it would present no great obstacle to an athletic young man it would be a significant one to a crowd of people fleeing in panic down Rossville Street. Perhaps the most ugly of all the allegations made against the Army is that the soldiers at Kelis Walk fired indiscriminately on a large and panic-stricken crowd which was seeking to escape over the barricade. The principal witness to support this allegation was Mr. James Chapman, a civil servant who had previously been a regular soldier in the British Army with the rank of Warrant Officer Class 1. He had been a resident of Londonderry for 36 years, 30 of them in the Bogside itself. He lived at No. 6 Glenfada Park, so that his sitting room window directly overlooked the Rossville Street barricade.

He described how the main crowd of marchers, which he estimated at 5 to 6,000, had passed peacefully down Rossville Street before the soldiers' vehicles appeared. When the armoured personnel carriers appeared and the rest of the crowd began to run some 50 to 100 soldiers deployed from their vehicles and according to Mr. Chapman immediately opened fire into the crowd trying to flee over the barricade. Mr. Chapman is reported as having said in a television interview on 3 February "I watched them shooting indiscriminately into a fleeing crowd of several thousand people, not just as some people say a few hundred hooligans." In fairness to Mr. Chapman there may have been some confusion here and at the Inquiry his estimate of the crowd crossing the barricade was of the order of 200 to 300. He maintained, however, that the Army fired indiscriminately upon the backs of that number of people who were scrambling over the barricade in an effort to escape and that no firearms or bombs were being used against the soldiers at that time.

58. Mr. Robert Campbell, the Assistant Chief Constable of the Renfrew and Bute Constabulary, who was observing the scene from the City Wall, gave a very different account of events at the barricade. He could not see the entry of the vehicles but he had a clear view of part of the barricade in Rossville Street and of the whole of the area to the south of it down to Free Derry Corner (RUC photographs EP 1/1 to 5). He described how people streamed through the barricade on their way to the meeting at Free Derry Corner, but he also observed a group of demonstrators who detached themselves from the main crowd and remained close to the barricade from which they threw stones and other missiles in the direction of the Army vehicles. Mr. Campbell described their stone throwing as very active. After a time he heard automatic fire from the direction of the Rossville Flats. As this did not deter the stone-throwers he assumed that the rounds did not go near them. The automatic fire was followed by a single high velocity shot which caused them to take cover. Within two or three minutes however the militants were throwing stones again. Then came a cluster of 10 or 12 high velocity rounds which finally scattered them, leaving three or four bodies lying at the barricade. Father O'Keefe, a lecturer in philosophy at the University of Ulster in Coleraine, gave a version of this incident which supported Mr. Campbell rather than Mr. Chapman. He said that when the armoured personnel carriers arrived the bulk of the marchers had already moved to Free Derry Corner. He held back to make contact with friends and when the soldiers arrived he was part of a group of 25 to 30 people standing near the Rossville Street barricade. Whilst he and others took cover behind the gable end of the Glenfada Park Flats, some five or six remained at the barricade and he had the impression that stones were being thrown. (Mr. Malley's photograph EP 32/1.) He said that the soldiers opened fire on the people at the barricade and he saw one of them hit and three bodies on the ground. At the end of his evidence I put Mr. Chapman's account to him:

"Q. One witness has told me that when the soldiers fired and hit the three young men standing at the barricade of whom you speak at that time 100 or 150 people were trying to make their way over and through the barricade in order to get to Free Derry Corner and that the three who were shot were shot as they were endeavouring to climb over the barricade. I take it that that is not the picture as you saw it?

A. That is not the picture I have at all."

Mr. Ronald Wood, an English born citizen of Londonderry, who had served in the Royal Navy, also spoke of 30 to 40 people near the barricade, some of whom were throwing stones. Mr. Donnelly, an *Irish Times* photographer, spoke of a thin line of about 20 youths and men behind the barricade. (His photographs EP 27/6 to 9.) Further, the pathologist's evidence about the four young men who were casualties at the barricade, namely Kelly, Young, Nash and McDaid, was that they were not shot from behind.

59. I am entirely satisfied that when the soldiers first fired at the barricade they did not do so on the backs of a fleeing crowd but at a time when some 30 people, many of whom were young men who were or had been throwing missiles, were standing in the vicinity of the barricade.

60. It was not alleged that the shots fired in Glenfada Park, which are dealt with in paragraphs 83 to 85 below, constituted firing on the backs of a fleeing crowd. But it was alleged that the crowd at Free Derry Corner was so fired on. What really happened at Free Derry Corner is clear because the evidence is almost all one way. If the line of fire from Kells Walk to the Rossville Street barricade is projected southward it comes dangerously close to Free Derry Corner. (Photograph EP 2/8.) When the soldiers began to fire at the barricade the crowd around the speakers' platform, though agitated by the sound of the shooting, did not immediately break up. A second burst however caused the crowd to fall flat on their faces and at the next lull in the firing they quickly dispersed. There is no evidence that any soldier deliberately fired at this crowd. Lord Brockway, who was attempting to address the meeting at the time, acknowledged as much. No one in this crowd was injured, though some of the shots aimed at the barricade which missed their mark may have come uncomfortably close.

PART THREE: RESPONSIBILITY

61. Having dealt with the allegations of a general character made against the conduct of 1 Para on 30 January I turn to consider the conduct of the individual soldiers who fired and the circumstances in which the individual civilians were killed.

62. The starting point of this part of the Inquiry is that 108 rounds of 7.62 mm ammunition were expended by members of Support Company. The Browning gun on the Company Commander's scout car was not fired nor were the three sub-machine guns. No shots were fired by the other Companies of 1 Para. I have no means of deciding which soldiers fired or how many rounds each fired except the evidence of the soldiers themselves. According to that evidence the allocation is as follows:

	Rounds
Corporal A	2
Private B	3
Private C	5
L/Corporal D	2
Corporal E	3
L/Corporal F	13
Private G	6
Private H	22
L/Corporal J	2
Sergeant K	1
Private L	4
Private M	2
Lieutenant N (4 plus 1 ejected unfired)	5
Sergeant O	8
Corporal P	9
Private Q	1
Private R	4
Private S	12
Private T	2
Private U	1
L/Corporal V	1
Total	108

The Army case is that each of these shots was an aimed shot fired at a civilian holding or using a bomb or firearm. On the other side it was argued that none of the deceased was using a bomb or firearm and that the soldiers fired without justification and either deliberately or recklessly.

63. To solve this conflict it is necessary to identify the particular shot which killed each deceased and the soldier who fired it. It is then necessary to consider the justification put forward by the soldier for firing and whether the deceased was in fact using a firearm or bomb. It has proved impossible to reach conclusions with this degree of particularity. In two instances a bullet was recovered from the body, so that the rifle, and thus the firer, was positively identified. But several shots fired by the same rifle cannot be distinguished from one another and there is no certainty that a bullet hit the person at which it was aimed and whose conduct had caused the soldier to fire.

64. Another difficulty is that there is no certainty that the known casualty list is exhaustive. According to the Army evidence at least 25 civilians were hit, possibly more, of whom five or six were hit whilst firing from buildings or doorways. The Army's estimate of the number hit corresponds closely to the total number of known dead and wounded. But all the known dead, and all the wounded who gave evidence or about whom evidence was given, were hit in the open. Furthermore some of those whom the Paras were confident they hit (eg the man hit by Sergeant O behind the Cortina car in the forecourt of the Rossville Flats) cannot be identified with any of the known dead or wounded. In addition, soldiers of the Royal Anglian Regiment and the Royal Artillery believe that they hit six or seven gunmen on whom they returned fire in other parts of Londonderry on 30 January; and nothing more is known about these casualties. There is a widely held belief that on some previous occasions when shots have been exchanged in Londonderry, casualties amongst the IRA and their supporters have been spirited away over the border into the Republic. Even a remote possibility that this occurred on 30 January increases the difficulty of trying to match a soldier's account of why he fired with other evidence of the conduct of an individual deceased.

A. Were the deceased carrying firearms or bombs?

65. Mr. Campbell, the Scottish police officer, and a substantial number of soldiers gave evidence that they heard nail bombs exploding. The civilians were at one in denying that there were such explosions. I did not conclude that some of the witnesses were necessarily lying on this point. Soldiers under attack, or expecting to be attacked, might well be quick to identify as nail bombs

bangs otherwise unexplained. Conversely the civilians, hearing bangs at a time of confusion and panic and to the accompaniment of shouts and other loud noises, might be just as quick to attribute the bangs to the Army. Although a number of soldiers spoke of actually seeing firearms or bombs in the hands of civilians none was recovered by the Army. None of the many photographs shows a civilian holding an object that can with certainty be identified as a firearm or bomb. No casualties were suffered by the soldiers from firearms or gelignite bombs. In relation to every one of the deceased there were eye witnesses who said that they saw no bomb or firearm in his hands. The clothing of 11 of the deceased when examined for explosive residues showed no trace of gelgnite. The two others were Gerald McKinney, whose clothing had been washed at the hospital and could not be tested, and Donaghy, in the pockets of whose clothing there had, on any view, been nail bombs and whose case is considered later.

66. The only other relevant forensic test applied to the deceased was the so-called paraffin test. When a firearm is discharged minute particles of lead are carried by the propellant gases. The particles carried forward through the muzzle may be deposited over a distance of 30 feet in front of the weapon. Some gases escape from the breach however, and deposit lead particles on the hands or clothing of the firer. This phenomenon is particularly marked with revolvers and automatic weapons and with bolt-action rifles if the bolt is withdrawn after firing. If swabs are taken from the firing hand of a man who has fired such a weapon they may be expected to show an even distribution of minute lead particles on the back of that hand and between the forefinger and thumb. Such a deposit, if not otherwise explained, is strong if not conclusive evidence of firing.

67. Before such a conclusion is accepted other possible sources of the lead contamination must be examined. Among these are: (*a*) being close to someone else who is firing; (*b*) being within 30 feet of the muzzle of the weapon fired in one's own direction; (*c*) physical transfer of lead particles on contact with the body or clothing of someone who has recently fired a weapon; (*d*) the passing at close range of a bullet which has been damaged by contact with a hard substance and which may spread lead particles from its damaged surface; (*e*) direct contact with lead in, say, the trade of a plumber or whilst loading a firearm.

68. In deciding whether lead found on a subject's hand or clothing should be attributed to his having fired a weapon or to some other cause much depends upon the pattern of the deposit itself. The characteristic of lead deposit from a weapon is an even distribution of minute particles, whereas the deposit from the handling of a body or object contaminated with lead is more likely to be in the form of a smear. According to the expert evidence of Dr. Martin of the Northern Ireland Department of Industrial and Forensic Science and Professor Keith Simpson a concentration of minute particles on the hand creates a "strong suspicion" that the subject has been firing.

The deceased considered individually

John Francis Duddy

69. Age 17. He was probably the first fatal casualty and fell in the courtyard of Rossville Flats. (Mr. Grimaldi's photographs EP 26/12, 13 and 14.) As already recounted (paragraph 50(i)) he was seen to fall by Father Daly. Mrs. Bonnor and Mrs. Duffy both spoke of seeing a soldier fire at him. According to Mrs. Bonnor he was shot in the back. In fact the bullet entered his right shoulder and travelled through his body from right to left. As he ran he turned from time to time to watch the soldiers. This fits in with Father Daly having overtaken him while running and explains the entry wound being in his side. No shot described by a soldier precisely fits Duddy's case. The nearest is one described by Soldier V who spoke of firing at a man in a white shirt in the act of throwing a petrol bomb, but Duddy was wearing a red shirt and there is no evidence of his having a bomb. His reaction to the paraffin test was negative. I accept that Duddy was not carrying a bomb or firearm. The probable explanation of his death is that he was hit by a bullet intended for someone else.

Patrick Joseph Doherty

70. Age 31. His body was found in the area at the rear of No. 2 Block of Rossville Flats between that Block and Joseph Place. His last moments are depicted in a remarkable series of photographs taken by Mr. Peress which show him with a handkerchief over the lower part of his face crawling with others near the alleyway which separates No. 2 Block from No. 3 (EP 25/7, 8, 9, 11 and 12.) He was certainly hit from behind whilst crawling or crouching because the bullet entered his buttock and proceeded through his body almost parallel to the spine. There is some doubt as to whether he was shot when in the alleyway or at the point where his body was found. On the whole I prefer the latter conclusion. If this is so the probability is that he was shot by Soldier F, who spoke of hearing pistol shots and seeing a crouching man firing a pistol from the position where Doherty's body was found. Soldier F said that he fired as the man turned away, which would account for an entry wound in the buttock. Doherty's reaction to the paraffin test was negative. In the light of all the evidence I conclude that he was not carrying a weapon. If Soldier F shot Doherty in the belief that he had a pistol that belief was mistaken.

Hugh Plus Gilmore

71. Age 17. Gilmore died near the telephone box which stands south of Rossville Flats and near the alleyway separating Blocks 1 and 2. According to Miss Richmond he was one of a crowd of 30 to 50 people who ran away down Rossville Street when the soldiers appeared. She described his being hit just before he reached the barricade and told how she helped him to run on across the barricade towards the point where he collapsed. A photograph of Gilmore by Mr. Robert White (EP 23/9A), which according to Miss Richmond was taken after he was hit, shows no weapon in his hand. The track of the bullet is not constant with Gilmore being shot from directly behind and I think it likely that the statement of Mr. Sean McDermott is more accurate on this point than the evidence of Miss Richmond. Mr. McDermott put Gilmore as standing on the barricade in Rossville Street when he was hit and in a position such that his front or side may have been presented to the soldiers.

72. Gilmore was shot by one of the soldiers who fired from Kells Walk at the men at the barricade. It is impossible to identify the soldier. Gilmore's reaction to the paraffin test was negative. There is no evidence that he used a weapon.

Bernard McGuigan

73. Age 41. This man was shot within a short distance of Gilmore, on the south side of No. 2 Block of the Rossville Flats. According to Miss Richmond a wounded man was calling for help and Mr. McGuigan, carrying a white handkerchief, deliberately left a position of cover to attend to him. She said that he was shot almost at once. Other civilian witnesses confirmed this evidence and photographs of McGuigan's body show the white handkerchief in question. (Mr. Peress' EP 31/2 and 3 and EP 25/18.) Although there was some evidence that the shot came from Glenfada Park, which means that the soldier who fired might have been Soldier F, another possibility is that the shot came through the alleyway between Blocks 1 and 2. I cannot form any worthwhile conclusion on this point.

74. Although the eyewitnesses all denied that McGuigan had a weapon, the paraffin test disclosed lead deposits on the right palm and the web, back and palm of his left hand. The deposit on the right hand was in the form of a smear, those on the left hand were similar to the deposits produced by a firearm. The earlier photographs of McGuigan's body show his head uncovered but in a later one it is covered with a scarf. (Mr. Grimaldi's EP 26/25.) The scarf showed a heavy deposit of lead, the distribution and density of which was consistent with the scarf having been used to wrap a revolver which had been fired several times. His widow was called to say that the scarf did not belong to him. I accept her evidence in concluding it is not possible to say that McGuigan was using or carrying a weapon at the time when he was shot. The paraffin test, however, constitutes ground for suspicion that he had been in close proximity to someone who had fired.

John Pius Young

75. Age 17. This young man was one of three who were shot at the Rossville Street barricade by one of the cluster of 10 to 12 shots referred to by Mr. Campbell (paragraph 58 above refers). (Mr. Malley's EP 23/4. Mr. Mailey said that two men fell immediately after he took this photograph.) Young was undoubtedly associated with the youths who were throwing missiles at the soldiers from the barricade and the track of the bullet suggests that he was facing the soldiers at the time. Several soldiers, notably P, J, U, C, K, L and M all said that they fired from the Kells Walk area at men who were using firearms or throwing missiles from the barricade. It is not possible to identify the particular soldier who shot Young.

76. The paraffin test disclosed lead particles on the web, back and palm of the left hand which were consistent with exposure to discharge gases from firearms. The body of Young, together with those of McDaid and Nash, was recovered from the barricade by soldiers of 1 Para and taken to hospital in an APC. It was contended at the hearing that the lead particles on Young's left hand might have been transferred from the hands of the soldiers who carried him or from the interior of the APC itself. Although these possibilities cannot be wholly excluded, the distribution of the particles seems to me to be more consistent with Young having discharged a firearm. When his case is considered in conjunction with those of Nash and McDaid and regard is had to the soldiers' evidence about civilians firing from the barricade a very strong suspicion is raised that one or more of Young, Nash and McDaid was using a firearm. No weapon was found but there was sufficient opportunity for this to be removed by others.

Michael McDaid

77. Age 20. This man was shot when close to Young at the Rossville Street barricade. The bullet struck him in the front in the left cheek. The paraffin test disclosed abnormal lead particle density on his jacket and one large particle of lead on the back of the right hand. Any of the soldiers considered in connection with the death of Young might equally well have shot McDaid. Dr. Martin thought that the lead density was consistent with McDaid having handled a firearm, but I think it more consistent with his having been in close proximity to someone firing.

William Noel Nash

78. Age 19. He also was close to Young and McDaid at the Rossville Street barricade and the three men were shot almost simultaneously. The bullet entered his chest from the front and particles of lead were detected on the web, back and palm of his left hand with a distribution consistent with his having used a firearm. Soldier P (who can be seen in Mr Mailey's photographs EP 23/7 and 8; he is

looking up the alleyway in No. 7) spoke of seeing a man firing a pistol from the barricade and said that he fired four shots at this man, one of which hit him in the chest. He thought that the pistol was removed by other civilians. In view of the site of injury it is possible that Soldier P has given an accurate account of death of Nash.

79. Mr. Alexander Nash, father of William Nash, was wounded at the barricade. From a position of cover he saw that his son had been hit and went to help him. As he did so he himself was hit in the left arm. The medical opinion was that the bullet came from a low velocity weapon and Soldier U described seeing Mr. Nash senior hit by a revolver shot fired from the entrance to the Rossville Flats. The soldier saw no more than the weapon and the hand holding it. I think that the most probable explanation of this injury is that it was inflicted by a civilian firing haphazardly in the general direction of the soldiers without exposing himself enough to take proper aim.

Michael Kelly

80. Age 17. Kelly was shot while standing at the Rossville Street barricade in circumstances similar to those already described in the cases of Young, Nash, and McDaid. The bullet entered his abdomen from the front which disposes of a suggestion in the evidence that he was running away at the time. The bullet was recovered and proved that Kelly was shot by Soldier F, who described having fired one shot from the Kells Walk area at a man at the barricade who was attempting to throw what appeared to be a nail bomb. (Kelly is probably the man lying on the ground in Mr. Mailey's photograph EP 32/2. It is probably he who is being carried in Mr. Donnelly's EP 27/10; and certainly his body round which the crowd is clustered in Mr. Mailey's EP 23/10 and 11.)

81. The lead particle density on Kelly's right cuff was above normal and was, I think, consistent with his having been close to someone using a firearm. This lends further support to the view that someone was firing at the soldiers from the barricade, but I do not think that this was Kelly nor am I satisfied that he was throwing a bomb at the time when he was shot.

Kevin McElhinney

82. Age 17. He was shot whilst crawling southwards along the pavement on the west side of No. 1 Block of Rossville Flats at a point between the barricade and the entrance to the Flats. The bullet entered his buttock so that it is clear that he was shot from behind by a soldier in the area of Kells Walk. Lead particles were detected on the back of the left hand and the quantity of particles on the back of his jacket was significantly above normal, but this may have been due to the fact that the bullet had been damaged. Dr. Martin thought the lead test inconclusive on this account. Although McElhinney may have been hit by any of the rounds fired from Kells Walk in the direction of the barricade—eg by Soldiers L and M, who are to be seen in Mr. Morris's photograph EP 2/8—it seems probable that the firer was Sergeant K. This senior NCO was a qualified marksman whose rifle was fitted with a telescopic sight and who fired only one round in the course of the afternoon. He described two men crawling from the barricade in the direction of the door of the flats and said that the rear man was carrying a rifle. He fired one aimed shot but could not say whether it hit. Sergeant K obviously acted with responsibility and restraint. Though I hesitate to make a positive finding against a deceased man, I was much impressed by Sergeant K's evidence.

James Joseph Wray, Gerald McKinney, Gerald Donaghy and William McKinney

83. These four men were all shot somewhere near the south-west corner of the more northerly of the two courtyards of the flats at Glenfada Park. Their respective ages were 22, 35, 17 and 26. The two McKinneys were not related. Three other men wounded in the same area were Quinn, O'Donnell and Friel. I deal with the cases of these four deceased together because I find evidence too confused and too contradictory to make separate consideration possible. One important respect in which the shooting in Glenfada Park differs from that at the Rossville Street barricade and in the forecourt of the Rossville Flats is that there is no photographic evidence.

84. Four soldiers, all from the Anti-Tank Platoon, fired in this area, namely E, F, G and H. Initially the Platoon deployed in the Kells Walk area and was involved in the firing at the Rossville Street barricade. It will be remembered that at this time some 30 or 40 people were in the region of the barricade, of whom some were engaging the soldiers whilst others were taking cover behind the nearby gable end of the flats in Glenfada Park. (Mr. Mailey's photographs EP 23/10, 11 and 12.) Corporal E described how he saw civilians firing from the barricade and then noticed some people move toward the courtyard of Glenfada Park. He said that on his own initiative he accordingly led a small group of soldiers into the courtyard from the north-east corner to cut these people off. The recollection of the Platoon Commander (Lieutenant 119) was somewhat different; he said that he sent Soldiers E and F into the courtyard of Glenfada Park to cut off a particular gunman who had been firing from the barricade. The result in any event was that Soldiers E and F advanced into the courtyard and Soldiers G and H followed shortly afterwards. In the next few minutes there was a very confused scene in which according to civilian evidence some of the people who had been sheltering near the gable end of Glenfada Park sought to escape by running through the courtyard in the direction of Abbey Park and the soldiers fired upon them killing the four men named at the head of this paragraph. Soldiers E, F and G gave an account of having been attacked by the civilians in this group and having fired in reply. Soldier H gave an account of his activities with which I deal later. From the forensic evidence about a bullet recovered from the body it is known that Soldier G shot Donaghy. It is clear that the other three were shot by Soldiers E, F, G or H. Although several witnesses spoke of having seen the bodies there was a conflict of evidence as to whether they fell in the courtyard of Glenfada Park or between Glenfada Park and Abbey Park. The incident ended when the 20 to 30 civilians remaining in the courtyard were arrested on the orders of the Platoon Commander, who came into Glenfada Park just as the shooting finished.

85. In the face of such confused and conflicting testimony it is difficult to reach firm conclusions but it seems to me more probable that the civilians in Glenfada Park were running away than that they were seeking a battle with the soldiers in such a confined space. It may well be that some of them had been attacking the soldiers from the barricade, a possibility somewhat strengthened by the forensic evidence. The paraffin tests on the hand swabs and clothing of Gerald McKinney and William McKinney were negative. Dr. Martin did not regard the result of the tests on Donaghy as positive but Professor Simpson did. The two experts agreed that the results of the tests on Wray were consistent with his having used a firearm. However, the balance of probability suggests that at the time when these four men were shot the group of civilians was not acting aggressively and that the shots were fired without justification. I am fortified in this view by the account given by Soldier H, who spoke of seeing a rifleman firing from a window of a flat on the south side of the Glenfada Park courtyard. Soldier H said that he fired an aimed shot at the man, who withdrew but returned a few moments later, whereupon Soldier H fired again. This process was repeated until Soldier H had fired 19 shots, with a break for a change of magazine. It is highly improbable that this cycle of events should repeat itself 19 times; and indeed it did not. I accepted evidence subsequently given, supported by photographs, which showed that no shot at all had been fired through the window in question. So 19 of the 22 shots fired by Soldier H were wholly unaccounted for.

86. A special feature of Gerald Donaghy's case has some relevance to his activities in the course of the afternoon although it does not directly bear on the circumstances in which he was shot.

87. After Donaghy fell he was taken into the house of Mr. Raymond Rogan at 10 Abbey Park. He had been shot in the abdomen. He was wearing a blue denim blouse and trousers with pockets of the kind that open to the front rather than to the side. The evidence was that some at least of his pockets were examined for evidence of his identity and that his body was examined by Dr. Kevin Swords, who normally worked in a hospital in Lincoln. Dr. Swords' opinion was that Donaghy was alive but should go to hospital immediately. Mr. Rogan volunteered to drive him there in his car. Mr. Leo Young went with him to help. The car was stopped at a military check-point in Barrack Street, where Mr. Rogan and Mr. Young were made to get out. The car was then driven by a soldier to the Regimental Aid Post of 1st Battalion Royal Anglian Regiment, where Donaghy was examined by the Medical Officer (Soldier 138) who pronounced him dead. The Medical officer made a more detailed examination shortly afterwards but on neither occasion did he notice anything unusual in Donaghy's pockets. After another short interval, and whilst Donaghy's body still lay on the back seat of Mr. Rogan's car, it was noticed hat he had a nail bomb in one of his trouser pockets (as photographed in RUC photographs EP 5A/26 and 27). An Ammunition Technical Officer (Bomb Disposal Officer, Soldier 127) was sent for and found four nail bombs in Donaghy's pockets.

88. There are two possible explanations of this evidence. First, that the bombs had been in Donaghy's pockets throughout and had passed unnoticed by the Royal Anglians' Medical Officer Dr. Swords, and others who had examined the body; secondly that the bombs had been deliberately planted on the body by some unknown person after the Medical Officer's examination. These possibilities were exhaustively examined in evidence because, although the matter is a relatively unimportant detail of the events of the afternoon, it is no doubt of great concern to Donaghy's family. I think that on a balance of probabilities the bombs were in Donaghy's pockets throughout. His jacket and trousers were not removed but were merely opened as he lay on his back in the car. It seems likely that these relatively bulky objects would have been noticed when Donaghy's body was examined; but it is conceivable that they were not and the alternative explanation of a plant is mere speculation. No evidence was offered as to where the bombs might have come from, who might have placed them or why Donaghy should have been singled out for this treatment.

B. Were the soldiers justified in firing?

89. Troops on duty in Northern Ireland have standing instructions for opening fire. These instructions are set out upon the Yellow Card which every soldier is required to carry. Soliders operating collectively—a term which is not itself defined—are not to open fire without an order from the Commander on the spot. Soldiers acting individually are generally required to give warning before opening fire and are subject to other general rules which provide *inter alia:*

"2. Never use more force than the *minimum* necessary to enable you to carry out your duties.

"3. Always first try to handle the situation by other means than opening fire. If you have to fire:

"(*a*) Fire only aimed shots.

"(*b*) Do not fire more rounds than are absolutely necessary to achieve your aim".

The injunction to fire only aimed shots is understood by the soldiers as ruling out shooting from the hip—which they in any case regard as inefficient, indeed pointless—except that in a very sudden emergency, requiring split second action, a shot from the hip is regarded as permissible if it is as well aimed a shot as the circumstances allow.

90. Other stringent restrictions apply to soldiers who have given warning of intention to fire. But the rule of principal significance to the events of 30 January is that which contemplates a situation in which it is not practicable to give a warning. It provides:

"You may fire without warning

"13. Either when hostile firing is taking place in your area, and a warning is impracticable, or when any delay could lead to death or serious injury to people whom it is your duty to protect or to yourself; *and then only:*

"(*a*) against a person using a firearm against members of the security forces or people whom it is your duty to protect; or

"(*b*) against a person carrying a firearm if you have reason to think he is about to use it for offensive purposes."

The term "firearm" is defined as including a grenade, nail bomb or gelignite-type bomb.

91. Though no-one has sought to criticise the spirit and intention of these orders, it would be optimistic to suppose that every soldier could be trained to understand them in detail and apply them rigidly. Even if he could, the terms of Rule 13 leave certain questions unanswered and, perhaps, unanswerable:

(i) In the conditions contemplated by Rule 13, is fire to be opened defensively and restricted to that which is necessary to cause the attacker to desist and withdraw, or is he to be treated as an enemy in battle and engaged until he surrenders or is killed?

(ii) In the like conditions, is fire to be withheld on account of risk to others in the vicinity who are not themselves carrying or using firearms? Suppose that in a crowd of youths throwing stones one is identified as holding a nail bomb. Is the soldier then to hold his fire because of risk to those who are only throwing stones?

(iii) When hostile fire is taking place how certain must the soldier be in identifying an object as a firearm? From the front a camera with a telescopic lens may look very much like certain types of sub-machine gun. A television sound recordist holding his microphone aloft could well be taken for someone about to throw a nail bomb. Faced with such a situation does the soldier wait or does he give himself the benefit of the doubt and fire?

92. Furthermore, anomalous situations could arise from the Yellow Card's definition of a firearm. Although the definition does not embrace the petrol bomb, the soldier is authorised to fire against a person throwing a petrol bomb, but only after due warning and if petrol bomb attacks continue and if the thrower's action is likely to endanger life. There is no specific mention of other types of missile, including acid bombs. However, the soldier is authorised to fire, after due warning, *"against a person attacking* . . . if his action is *likely to endanger life,*" or "if there is no other way" for the soldier to protect himself or others "from the danger of being killed or seriously injured". So it would presumably be in order under the Yellow Card rules for a soldier to fire on a person hurling bricks or acid bombs or pieces of angle iron from high up on a tall building, but only after giving due warning, which it might not be easy to give.

93. Many people will be surprised to learn that it is not open to the soldier to give warning by firing warning shots. As has already been seen, the soldier is required to "fire only aimed shots". Whilst the Yellow Card does not in terms forbid a soldier hard pressed by an advancing mob to fire over their heads, to do so is certainly a breach of the orders. The justification put forward for this somewhat surprising provision is that hooligans would rapidly note and take advantage of the regular firing of shots meant to pass harmlessly by; the carrying of firearms would cease to deter.

94. Soldiers will react to the situations in which they find themselves in different ways according to their temperament and to the prevailing circumstances. The more intensive the shooting or stone-throwing which is going on the more ready will they be to interpret the Yellow Card as permitting them to open fire. The individual soldier's reaction may also be affected by the general understanding of these problems which prevails in his unit. In the Parachute Regiment, at any rate in the 1st Battalion, the soldiers are trained to take what may be described as a hard line upon these questions. The events of 30 January and the attitude of individual soldiers whilst giving evidence suggest that when engaging an identified gunman or bomb-thrower they shoot to kill and continue to fire until the target disappears or falls. When under attack and returning fire they show no particular concern for the safety of others in the vicinity of the target. They are aware that civilians who do not wish to be associated with violence tend to make themselves scarce at the first alarm and they know that it is the deliberate policy of gunmen to use civilians as cover. Further, when hostile firing is taking place the soldiers of 1 Para will fire on a person who appears to be using a firearm against them without always waiting until they can positively identify the weapon. A more restrictive interpretation of the terms of the Yellow Card by 1 Para might have saved some of the casualties on 30 January, but with correspondingly increased risk to the soldiers themselves.

95. In the events which took place on 30 January the soldiers were entitled to regard themselves as acting individually and thus entitled to fire under the terms of Rule 13 without waiting for orders. Although it is true that Support Company operated as a Company with all its officers present, in the prevailing noise and confusion it was not practicable for officers or NCOs always to control the fire of individual soldiers. The soldiers' training certainly required them to act individually in such circumstances and no breach of discipline was thereby involved. I have already stated that in my view the initial firing by civilians in the courtyard of Rossville Flats was not heavy; but the immediate response of the soldiers produced a brisk and noisy engagement which must have had its effect on troops and civilians in Rossville Street. Civilian, as well as Army, evidence made it clear that there was a substantial number of civilians in the area who were armed with firearms. I would not be surprised if in the relevant half hour as many rounds were fired at the troops as were fired by them. The soldiers escaped injury by reason of their superior field-craft and training.

96. When the shooting began every soldier was looking for a gunman and he was his own judge of whether he had identified one or not. I have the explanation on oath of every soldier who fired for every round for which he was required to account. Were they truthfully recounting the facts as they saw them? If so, did those facts justify the action taken?

97. Those accustomed to listening to witnesses could not fail to be impressed by the demeanor of the soldiers of 1 Para. They gave their evidence with confidence and without hesitation or prevarication and withstood a rigorous cross-examination without contradicting themselves or each other. With one of two exceptions I accept that they were telling the truth as they remembered it. But did they take sufficient care before firing and was their conduct justified, even if the circumstances were as they described them?

98. There were infringements of the rules of the Yellow Card. Lieutenant N fired three rounds over the heads of a threatening crowd and dispersed it. Corporal P did likewise. Soldier T, on the authority of Sergeant O, fired at a person whom he believed to be throwing acid bombs and Soldier V said he fired on a petrol bomber. Although these actions were not authorised by the Yellow Card they do not seem to point to a breakdown in discipline or to require censure. Indeed in three of the four cases it could be held that the person firing was, as the senior officer or NCO on the spot, the person entitled to give orders fcr such firing.

99. Grounds put forward for identifying gunmen at windows were sometimes flimsy. Thus Soldier F fired three rounds at a window in Rossville Flats after having been told by another soldier that there was a gunman there. He did not seem to have verified the information except by his observation of "a movement" at the window. Whether or not it was fired by Soldier H a round went through the window of a house in Glenfada Park into an empty room. The only people in the house were an old couple who happily were sitting in another room. In all 17 rounds were fired at the windows of flats and houses, not counting Soldier H's 19 rounds.

100. The identification of supposed nail bombers was equally nebulous—perhaps necessarily so. A nail bomb looks very much like half a brick and often the only means of distinguishing between a stone-thrower and a nail-bomber is that a light enough stone may be thrown with a flexed elbow whereas a nail bomb is usually thrown with a straight arm as in a bowling action.

101. Even assuming a legitimate target, the number of rounds fired was sometimes excessive. Soldier S's firing of 12 rounds into the alleyway between Blocks 1 and 2 of the Rossville Flats seems to me to have been unjustifiably dangerous for people round about.

102. Nevertheless in the majority of cases the soldier gave an explanation which, if true, justified his action. A typical phrase is "I saw a civilian aiming what I thought was a firearm and I fired an aimed shot at him." In the main I accept these accounts as a faithful reflection of the soldier's recollection of the incident; but there is no simple way of deciding whether his judgment was at fault or whether his decision was conscientiously made. Some of the soldiers showed a high degree of responsibility. Examples of this are the experienced Sergeant K, already referred to, and the 18 year old Soldier R. At the other end of the scale are some of the soldiers who fired in Glenfada Park in the circumstances described in paragraphs 83 to 85 above. Between these extremes a judgment must be based on the general impression of the soldiers' attitudes as a whole. There is no question of the soldiers firing in panic to protect their own skins. They were far too steady for that. But where soldiers are required to engage gunmen who are in close proximity to innocent civilians they are set an impossible task. Either they must go all out for the gunmen, in which case the innocent suffer; or they must put the safety of the innocent first, in which case many gunmen will escape and the risk to themselves will be increased. The only unit whose attitude to this problem I have examined is 1 Para. Other units may or may not be the same. In 1 Para the soldiers are trained to go for the gunmen and make their decisions quickly. In these circumstances it is not remarkable that mistakes were made and some innocent civilians hit.

103. In reaching these conclusions I have not been unmindful of the numerous allegations of misconduct by individual soldiers which were made in the course of the evidence. I considered that allegations of brutality by the soldiers in the course of making arrests were outside my terms of reference. There is no doubt that people who resisted or tried to avoid arrest were apt to be roughly handled; but whether excessive force was used is something which I have not investigated.

104. There have also been numerous allegations of soldiers firing carelessly from the hip or shooting deliberately at individuals who were clearly unarmed. These were all isolated allegations in which the soldier was not identified and which I could not investigate further. If, and insofar as, such incidents occurred the soldier in question must have accounted for the rounds fired by giving some different and lying story of how they were expended. Though such a possibility cannot be excluded, in general the accounts given by the soldiers of the circumstances in which they fired and the reasons why they did so were, in my opinion, truthful.

SUMMARY OF CONCLUSIONS

1. There would have been no deaths in Londonderry on 30 January if those who organised the illegal march had not thereby created a highly dangerous situation in which a clash between demonstrators and the security forces was almost inevitable.

2. The decision to contain the march within the Bogside and Creggan had been opposed by the Chief Superintendent of Police in Londonderry but was fully justified by events and was successfully carried out.

3. If the Army had persisted in its "low key" attitude and had not launched a large scale operation to arrest hooligans the day might have passed off without serious incident.

4. The intention of the senior Army officers to use 1 Para as an arrest force and not for other offensive purposes was sincere.

5. An arrest operation carried out in Battalion strength in circumstances in which the troops were likely to come under fire involved hazard to civilians in the area which Commander 8 Brigade may have under-estimated.

6. The order to launch the arrest operation was given by Commander 8 Brigade. The tactical details were properly left to CO 1 Para who did not exceed his orders. In view of the experience of the unit in operations of this kind it was not necessary for CO 1 Para to give orders in greater detail than he did.

7. When the vehicles and soldiers of Support Company appeared in Rossville Street they came under fire. Arrests were made; but in a very short time the arrest operation took second place and the soldiers turned to engage their assailants. There is no reason to suppose that the soldiers would have opened fire if they had not been fired upon first.

8. Soldiers who identified armed gunmen fired upon them in accordance with the standing orders in the Yellow Card. Each soldier was his own judge of whether he had identified a gunman. Their training made them aggressive and quick in decision and some showed more restraint in opening fire than others. At one end of the scale some soldiers showed a high degree of responsibility; at the other, notably in Glenfada Park, firing bordered on the reckless. These distinctions reflect differences in the character and temperament of the soldiers concerned.

9. The standing orders contained in the Yellow Card are satisfactory. Any further restrictions on opening fire would inhibit the soldier from taking proper steps for his own safety and that of his comrades and unduly hamper the engagement of gunmen.

10. None of the deceased or wounded is proved to have been shot whilst handling a firearm or bomb. Some are wholly acquitted of complicity in such action; but there is a strong suspicion that some others had been firing weapons or handling bombs in the course of the afternoon and that yet others had been closely supporting them.

11. There was no general breakdown in discipline. For the most part the soldiers acted as they did because they thought their orders required it. No order and no training can ensure that a soldier will always act wisely, as well as bravely and with initiative. The individual soldier ought not to have to bear the burden of deciding whether to open fire in confusion such as prevailed on 30 January. In the conditions prevailing in Northern Ireland, however, this is often inescapable.

APPENDIX A: LIST OF DEAD AND INJURED

Dead

Patrick Joseph Doherty.
Gerald Donaghy.
John Francis Duddy.
Hugh Pius Gilmore.
Michael Kelly.
Michael McDaid.
Kevin McElhinney.
Bernard McGuigan.
Gerald McKinney.
William Anthony McKinney.
William Noel Nash.
James Joseph Wray.
John Pius Young.

Injured

Michael Bradley.
Michael Bridge.
Patrick Campbell.
Margaret Deery.
Damien Donaghy.
Joseph Friel.
John Johnson.
Joseph Mahon.
Patrick McDaid.
Daniel McGowan.
Alexander Nash.
Patrick O'Donnell.
Michael Quinn.

APPENDIX B: LIST OF WITNESSES

Civilians from Londonberry and Area

Mrs. M. Bonnor.
J. G. Bradley.
M. P. Bridge.
J. Carr.
J. Chapman.
J. Doherty.
Mrs. I. Duffy.
F. P. Dunne.
J. Friel.
J. Gorman.
W. V. Hegarty.
J. Johnson
F. Lawton.
Mrs. M. McCartney.
G. McCauley.
C. McDaid.
P. McDaid.
Mrs. B. McGuigan.
A. Nash.
P. O'Donnell.
W. O'Reilly.
J. W. Porter.
M. Quinn.
Miss G. F. C. Richmond.
R. M. Rogan.
Brother F. B. Sharpe.
J. Stevenson.
D. T. Tucker.
R. A. Wood.
H. L. Young.

Priests

Father D. Bradley.
Father E. K. Daly.
Father J. Irwin.
Father M. McIvor.
Father V. A. Mulvey.
Father T. O'Gara.
Father T. M. O'Keefe.

Other Civilians

L. Bedell.
Lord Brockway.

Press and Television Reporters, Photographers, etc.

P. E. C. Beggin.
J. D. Bierman.
D. Capper.
B. Cashinella.
C. Cave.
J. A. Chartres.
C. J. Donnelly.
C. Doyle.
F. Grimaldi.
R. E. Hammond.
C. Haslett.
N. Kunioka.
W. J. Mailey.
J. P. Morris.
G. Peress.
D. Phillips.
G. W. H. K. Seymour.
D. S. Tereshchuk.
N. H. Wade.
P. F. Wilkinson.
S. B. A. Winchester.

Soldiers

Major General R. C. Ford, CBE.
Brigadier A. P. W. MacLellan, MBE.
Lieutenant Colonel M. C. M. Steele.
Lieutenant Colonel P. M. Welsh.
Lieutenant Colonel D. Wilford.
A, B, C, D, E, F, G, H, J, K, L, M, N, O, P. Q, R, S, T, U, V, Y, AA, SAP, 015, 028, 030, 104, 119, 127, 138, 150, 201, 227, 236.

Police officers

Assistant Chief Constable R. G. Campbell.
Chief Superintendent F. Lagan.
Superintendent S. McGonigle.
Police Constable H. B. McCormac.
Police Constable J. Montgomery.
PN7.
PN93.
PS34.

Doctors, forensic experts and pathologists

Dr. D. J. L. Carson.
Dr. T. K. Marshall.
Dr. J. Martin.
Dr. J. R. Press.
Prof. K. Simpson.
Dr. P. J. K. Swords.

APPENDIX C [(MAP OF AREA) OMITTED]

APPENDIX D: LEGAL REPRESENTATIVES

1. *Counsel for the Tribunal:* Mr. J. Stocker QC, Mr. L. Read, Mr. T. W. Preston (instructed by the Treasury Solicitor).

2. *Counsel for the Ministry of Defense:* Mr. E. B. Gibbens QC, Mr. M. Underhill (instructed by the Army Legal Services).

3. *Counsel for the next of kin of twelve of the deceased and for the injured:* Mr. McSparran QC, Mr. R. C. Hill (instructed by Mr. C. Napier on behalf of the next of kin and by Mr. B. McCluskey on behalf of the injured).

4. *Counsel for the Londonderry priests:* Mr. W. McCollum QC, Mr. P. Mooney (instructed by Messrs. Maxwell & Co.).

5. *Counsel for Mr. S. B. A. Winchester:* Mr. G. P. M. Gibson (instructed by Messrs. Johns, Elliot and Wallace).

6. *For Independent Television News:* Mr. C. F. B. Winder of Messrs. Biddle and Co.

SMOKERS SEPARATED FROM NONSMOKERS UNDER ICC ORDER

Mr. SCHWEIKER. Mr. President, the Interstate Commerce Commission has decreed that beginning April 17 separate seating for smokers and nonsmokers must be provided on interstate buses.

This represents a significant victory for nonsmokers who have sought this kind of regulation for years.

On February 28, 1972, I introduced S. 3249, a bill to require airplane, buses, and trains to set aside special seating areas for smokers. I introduced my legislation partly because earlier this year the U.S. Surgeon General found that nonsmokers are significantly affected by the smoke generated by smokers. Thus, the problem has gone far beyond being a matter of inconvenience or irritation to nonsmokers. It is clearly a matter of health.

The problem, of course, is that nonsmokers have in the past had no control over their breathing of smoky air. You do not have a choice of whether to breathe or not, and on a crowded airplane, train or bus, even with air conditioning, the air can get pretty polluted.

I believe the question of whether to smoke or not should be a matter of individual choice. But, those who choose not to smoke should not be made to breathe smoke generated by others against their wishes.

For that reason, my bill does not ban smoking entirely. It simply requires that all airplanes, trains, and buses do what the ICC has ordered buses to do after I introduced my bill. Several airlines have done this on a voluntary basis already. I might add, however, that the bus owners have not supported this idea. Not only did they fight the ICC proposal, but it is reported that the National Association of Motor Bus Owners plans to appeal it to the courts.

I am encouraged by the action of the ICC. But, I strongly believe that my legislation, which would apply across-the-board, is necessary. The fact that the bus owners intend to fight the ICC order is clear evidence that legislation is needed. I hope the Senate will act soon on my bill.

Mr. President, I ask unanimous consent that the ICC regulation adopted, and a Philadelphia Inquirer article of March 31, 1972, be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

ICC Puts Smokers in Rear of the Bus

Washington.—In a victory for Ralph Nader, the Interstate Commerce Commission has cleared the way for rules separating smokers from non-smokers on interstate buses, despite opposition from bus owners.

That means that starting April 17, smokers must sit in the back 20 percent of the bus unless bus owners are successful in their plans to appeal for a delay, first to the commission and if necessary to the courts.

It also means non-smokers have won another round in their fight to clear the air around them.

Last month, a public health professor at Tulane University sued National and Delta Airlines in Small Claims Court in New Orleans, charging he "suffered eye and nose irritation and headache" from tobacco smoke while flying those lines.

Last month, too, Sen. Richard S. Schweiker (R., Pa.) introduced a bill which would require planes, trains and buses to set aside special sections for smoking. Rep. C. W. (Bill) Young (R., Fla.) has a similar bill pending in the House and hopes for hearings before the House Interstate and Foreign Commerce Committee during this session.

The National Association of Motor Bus Owners plans to appeal on grounds that ICC lacks jurisdiction over such matters. The association has just lost a move seeking reconsideration for those reasons at the commision level.

ICC denied its petition, saying "that no sufficient or proper cause appears for reopening the proceedings."

Nader originally asked that smoking be banned from buses altogether, saying they "are inadequately ventilated and, as a consequence, contain tobacco smoke in noxious quantities."

The ICC rule does not apply to charter buses because this service involves "voluntariness."

Regulation Adopted

SEC. 106.1 PROVISION FOR SEPARATE SEATING FOR SMOKERS AND NONSMOKERS ON INTERSTATE PASSENGER CARRIERS BY MOTOR VEHICLE

(a) All motor common carriers of passengers subject to part II of the Interstate Commerce Act, which desire to permit smoking of cigars, cigarettes, or pipes, shall, where smoking on passenger-carrying motor vehicles is otherwise permitted by law, provide a smoking section, consisting of a number of seats in the rear of the passenger-carrying motor vehicle, not to exceed 20 percent of the capacity of the said vehicle. Except as otherwise permitted under paragraph (b) of these rules, smoking of cigars, cigarettes, or pipes shall not be permitted in any portion of the motor vehicle other than the smoking section required by (1) above.

(b) The provisions of paragraph (a) shall not be construed to apply to charter operations performed by motor common carriers of passengers subject to part II of the Interstate Commerce Act.

(c) In the event of any unusual circumstances arising under paragraph (a), the operator (driver) of the motor vehicle involved (or other carrier employee) may exercise reasonable discretion to the extent permitted by the carrier, by making minor modifications in the special seating sections established by paragraph (a) in order to assure the comfort of all passengers and the provision of safe, adequate, and expeditious transportation service.

114 M.C.C.

VIETNAM VETERANS NEED INCREASED UNEMPLOYMENT BENEFITS

Mr. EAGLETON. Mr. President, this morning's Washington Post reminds us that although Vietnam veterans claimed almost one-fourth of the new jobs created in the past 12 months, their unemployment rate remained at 8.6 percent, well above the national average.

Despite the considerable efforts being made on behalf of the returning veteran to try to aid him in employment, the fact remains there are 340,000 veterans still without work. This is only 12,000 fewer unemployed veterans than when I introduced my bill, S. 1741, last May 3—more than a year ago—which would have provided increased unemployment benefits for our veterans.

I recently received a letter from the student body president of the University of Tennessee, Charles Huddleston, transmitting a resolution in support of S. 1741 and urging that it be enacted. I ask unanimous consent that the letter, the resolution, and this morning's Washington Post article entitled "U.S. Seeks Jobs for Veterans" be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the Washington Post, May 9, 1972]

United States Seeks Jobs for Veterans

Although Vietnam veterans claimed almost one-fourth of the new jobs created in the nation during the past 12 months, their unemployment rate remained at 8.6 per cent, well above the national average, the administration said yesterday.

President Nixon ordered Labor Secretary James D. Hodgson to continue for another year the Jobs for Veterans program began almost a year ago.

"I regard this effort as of the highest priority in federal manpower and training programs," Mr. Nixon said in a letter to Hodgson.

Hodgson reviewed for newsmen the results of the program during the first year. He said one of its most difficult targets was to overcome "a public indifference to the obligation we owe to Vietnam-era veterans."

Hodgson said Vietnam veterans accounted for a net increase of 538,000 jobs in the 12-month period that ended April 30. That was almost 25 per cent of the 2.2 million increase in total employment throughout the nation.

Despite the advances, there were 340,000 veterans without work, 8.6 per cent of the total in the work force, down from 9.7 per cent a year ago, but still above the national average of 5.9 per cent.

Knoxville, Tenn.,
April 14, 1972.

Senator Thomas Eagleton,
Senate Office Building,
Washington, D.C.

Senator Eagleton: The enclosed Resolution was passed by the Student Senate at the University of Tennessee, Knoxville, April 4, 1972.

We felt it would be of interest to you.

Sincerely,

Charles Huddleston,
Student Body President.

Resolution

Whereas: 5 million Vietnam-era veterans have come back to America and have ended up looking for unemployment assistance, including 95,000 Vietnam veterans in Tennessee alone and several hundred at U.T.;

Whereas: Many of these veterans, including a number of GI Bill students at U.T. have "lost" their earned unemployment benefits because of an obscure one-year-drawing limitation ("benefit year") in Tennessee law, and believing that veterans need more financial assistance while looking for jobs or completing school;

Whereas: U.S. Senator Thomas Eagleton of Missouri introduced a bill on May 3, 1971 (S. 1741) to provide for Vietnam-Era Veterans' Supplementary Unemployment Compensation, for 52 weeks at $75 per week; but the bill is still in the Senate Committee on Labor and Public Welfare;

We the Student Senate of the University of Tennessee, Knoxville, do hereby respectfully request Labor and Public Welfare Committee Chairman Harrison Williams to hold hearings on S. 1741, and urge Sens. Howard Baker and William Brock to help procure such hearings on S. 1741.

In addition, we respectfully request that Governor Winfield Dunn, and the U.T. area's State Representatives, Richard Krieg and Victor Ashe, do all within their influence to extend the one-year Tennessee limitation on ex-servicemen's unemployment compensation to *two years* (similar to Maine, California, et al), with a retroactive provision back to 1965, the year the Vietnam War began, so as to reimburse several thousand Vietnam vets who "lost" their earned benefits, due to poor Claims Office information and trying to get an education on the GI Bill (unable by law to draw unemployment simultaneously); and to end present confusion and discrimination in the Unemployment Compensation Act.

THE PORNOGRAPHY OF VIOLENCE

Mr. SAXBE. Mr. President, many people feel that organized crime is becoming a phenomenon of the past. Numerous nations are free of it as are entire regions of this country. However, the recent assassination of Mafia Chief Joseph Gallo jolts us back to reality. Today, organized crime penetrates broad segments of American life. However, the Cosa Nostra can thrive only when and where the public tolerates it. Organized crime syndicates provide goods and services desired by the consuming public—narcotics, prostitutes, loan sharking, and gambling. These are consensual crimes.

The American public not only supports the Mafia, we also find its leaders amusing and admirable and the heroes of recent literary works. The shooting of Joseph Gallo blends fact with fiction. Gallo served as the inspiration for the book and the movie, "The Gang That Couldn't Shoot Straight." The plot deals with the rivalry between the south Brooklyn gang led by Kid Sally Palumbo and the Mafia establishment. They slaughter one another with every means at their disposal. The attempted comedy is funny, I suppose, to those capable of laughing at shooting, stabbing, blowing up, and strangling. The subject matter is even less amusing when it becomes reality and a four-gun battle takes place in a public restaurant.

Following the shooting of Gallo, an onlooker standing across from Umberto's Clam Bar in Little Italy was reported to comment that—

> It's just like *The Godfather*. They filmed it down the block, you know. Yeah, Corleone [the crime chieftan played by Marlon Brando] got hit right over there.

The plot of "The Godfather" revolves around gang warfare, and the names of the leading characters might well be Genovese, Gallo, and Profaci. People are currently flocking to see this movie which portrays a family that uses guns, axes, garrotes, and fear to achieve dominance over the entire Mafia in the United States. It is intended to shock, and it does. But what truly is frightening about "The Godfather" is the reaction of the spectators. I could not help feeling despondent when the audience laughed at the sight of a Hollywood film producer waking up to find the severed head of his prize race horse staring blindly at him and cheered at the sight of Michael Corleone shooting a police captain and a rival Mafioso in a restaurant. The heroes of "The Godfather" scorn law as impotent, and they create and administer their own code of ethics. They share a conviction that street justice is preferable to the justice practiced in the courts. And the audience loves it.

History and culture are expressed in literature. What will future generations say of our society when they read "The Godfather" and "The Gang That Couldn't Shoot Straight"? Our culture not only tolerates violence, we glorify violence. We must commit ourselves as a nation to exposing the true character of violence and to supporting more positive values. This is why I have joined with 12 other Senators in introducing the Omnibus Criminal Justice Reform Amendments of 1972.

THE FBI IN PERSPECTIVE

Mr. HRUSKA. Mr. President, it seems very likely that the Federal Bureau of Investigation, one of the Nation's most effective and most respected organizations, may become a common topic of political discussion in the months ahead.

Such an occurrence will be particularly unfortunate, because the FBI is, as it was during Mr. Hoover's long and dedicated tenure, a professional organization. As such, it should not be, nor was it embroiled in partisan politics.

I know those of us in this body are united in the hope that the agency, during the period of transition which it must now undergo, will be spared the discomfort of being dragged into partisan political debate.

In this connection, the eminent Washington Columnist Richard Wilson has written a timely and interesting column which places the national role of the FBI into the proper perspective.

The article capsules clearly and concisely the role of the FBI in the entire scheme of national law enforcement. It also points up the problems which the Acting Director, L. Patrick Gray, will have to face as he takes over the reins of the organization which knew only one Director for nearly five decades.

Mr. Wilson's column is worthy of our attention. It should be particularly noted by those who in an election year will be faced with the temptation to make political capital of the agency.

I ask unanimous consent, Mr. President, that the text of Mr. Wilson's column as it appeared in Monday's Washington Star under the headline, "Coming Dispute on FBI Put in Perspective," be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

COMING DISPUTE ON FBI PUT IN PERSPECTIVE

(By Richard Wilson)

The role of the FBI in the general scheme of things in the nation has always been exaggerated. It is not a national police force. Its jurisdiction is circumscribed.

By far the greater responsibility for law and order resides in state, local and other federal agencies. The latter includes the United States Secret Service as well as numerous federal enforcement agencies operating in conjunction with the Justice Department's Criminal Division.

Of the $2.3 billion budgeted for 1972–73 federal anti-crime programs, $330 million, or less than one-sixth, is directly for the FBI.

These facts are recited in an effort to put into perspective a kind of hysteria which will soon evidence itself on how the post-Hoover FBI shall be run, who shall head it, and what its philosophy shall be.

The hysteria rises from one major source, those who imagine that the FBI is or will soon become a secret police used for political repression. This bugaboo is regularly paraded in Congress and the liberal community, which must now be astounded by the statement of Interim Director L. Patrick Gray that he has as yet discovered no secret files or dossiers, a la the European secret police, on political figures and prominent Americans.

If Gray finds no such incriminating files in the future, he will have destroyed the cherished convictions of thousands of liberals and radicals that they are under constant surveillance. Their megalomania and status will have undergone a shattering deflation with the disclosure that the FBI did not even think it worthwhile to tap their telephones.

In fact, the FBI is very exclusive, having in operation about 50 telephone taps in national security cases at any particular time on the scores of millions of phones in the country. In view of the politically inspired violence and threats of violence in the era of dissent and the many bombings and depredations, a figure of 50 wiretaps (actually 36 in 1970) does not seem out of proportion.

Gray has undertaken, as one of his first responsibilities, dispelling such distrust of the FBI as was based on hatred of Hoover. He tries to appear in the role of a reasonable and accessible official who will effect changes in style if not in substance, contrasting with Hoover's adamancy and remoteness.

This may be useful in the beginning but in the end Gray will have to undertake, because he is required by law to do so, the type of inquiries which made Hoover so unpopular in radical intellectual circles. These inquiries extend to college campuses where dissent crosses the perilous boundary into overt action against the government, and to the ghettos where the creed of armed violence challenges established authority.

If Gray receives reports of plots to blow up the Capitol, or destroy its heating system, or to kidnap prominent federal officials, he will have to look into them, regardless of how juries have reacted to such charges in the past.

And if such inquiries result in renewed charges that the FBI is an agency of political repression, Gray will have to live with it, as did Hoover—having at the same time the general support of the vast majority.

If Gray is looking for an example of how to extract a leading government agency from the field of controversy, he might examine the tactics of the U.S. director of intelligence, Richard P. Helms.

CIA Director Helms, before he ascended to a higher role, managed to extricate the CIA from a position of prominence which did not become it.

CIA is managing to keep out of the news, except in those cases where it might be expedient to let it be known that it was not entirely in agreement with the Defense Department.

Otherwise, very little is heard anymore of the CIA's shadier side, although it stretches credulity to believe that this agency has abandoned an active role in shaping the world's affairs.

A mild manner and lowered profile has aided Helms, and something like this may be valuable in the case of the FBI now that it is no longer necessary to support the Hoover personality cult.

If Gray succeeds he may become the permanent director of the FBI, although that would depend to a great extent on Nixon's re-election.

THE MASSIVE NEW BOMBING OF NORTH VIETNAM

Mr. KENNEDY. Mr. President, it now appears that the outrage of the President's decision to mine Haiphong is being compounded by massive new bombing over North Vietnam.

According to current press reports, waves of American bombers are raining down new death and destruction on

Hanoi, Haiphong, and other parts of North Vietnam, and the port of Haiphong is undergoing heavy American naval bombardment. It appears that this Nation is now engaged in the most massive bombing and bombardment in the entire history of the war.

We know the outcry in the Nation against the raids 3 weeks ago on Hanoi and Haiphong. Can it be that the President is using the present national outcry over the mining of Haiphong as a cover for a saturation bombing of the North, bombing that in any other circumstances would be condemned by every American citizen and every nation of the world?

Where is our compassion, our mercy, our respect for human life? How can we possibly justify this descent into pure brutality, this scorched earth policy against North Vietnam?

History may well condemn this terrible new bombing—as a cruel retaliation against North Vietnam for the continuing reverses being suffered by the army of South Vietnam on the battlefield—as though, somehow, a systematic infliction of excruciating punishment on countless civilian victims in North Vietnam can turn the tide of battle in the South. To me, any possible strategic value of such bombing is vastly overwhelmed by the terrible price in human life that is being exacted of innocent men and women and children, whose families and home and schools and hospitals are being obliterated minute by minute by American bombs and shells, all because they happen to be located in the vicinity of a road or rail line of some supposed importance in the movement of supplies.

The President who speaks of a generation of peace is now in the process of bringing us the bloodiest days in the history of the war. I yield to none in my condemnation of the invasion from the North, but how can we close our eyes to the daily massacre of innocent noncombatants, or to the mortal danger for thousands of American fliers who may be killed or wounded or taken prisoner as the raids continue?

ALASKAN OIL PIPELINE

Mr. BROCK. Mr. President, while I am very much aware of the potential energy crisis in this country and agree that there are compelling reasons for building the Alaskan oil pipeline as soon as possible, there are also compelling environmental, security, and economic advantages favoring a Canadian route.

The environmental advantages of the Canadian alternative must be weighed. The most important of these include the avoidance of seismically active regions, terminal, and tanker operations in Valdez and crossing the Alaska Mountain Range.

Mr. S. David Freeman, who, until September 1971, served as Assistant Director for Energy and the Environment in the Office of Science and Technology, effectively refutes, in a letter to Secretary Morton, the argument that delay of construction of the trans-Alaska pipeline would seriously threaten our national security. I ask unanimous consent that the letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Bethesda, Md.,
May 2, 1972.

Re: Comments on Trans-Alaskan Oil Pipeline and Alternatives

Hon. Rogers C. B. Morton,
Secretary, Department of the Interior,
Interior Building, Washington, D.C.

Dear Mr. Secretary: I am submitting my personal comments on the pending applications for the Trans-Alaskan Oil Pipeline because the decision will make such a lasting imprint on the shape of this nation's energy policy, as well as the quality of the environment.

The central comment which I made—and it is crucial to your decision—is that the Canadian alternative is not only environmentally superior and economically more attractive but that it would materially strengthen our national security as compared with the Trans-Alaskan alternative.

The Canadian route would provide the incentive and the means for marketing the vast oil resources of the Canadian North, as well as the Alaskan oil, and thus lessen our future dependence on insecure Eastern Hemisphere sources.

Any decision to grant a permit for the Trans-Alaskan route in the name of national security would be a mistake which would throw away a unique opportunity to strengthen our secure supplies of energy by opening up all of North America to the early development. The Impact Statements issued by your Department to date have failed to spell out these opportunities for strengthening the security of U.S. energy supply.

There is no longer any serious question that the Canadian alternative is environmentally superior. It skirts the intense earthquake zone in Alaska, eliminates water transportation and consequent oil spills in the Pacific, avoids the unplanned development and probable desecration of the Alaskan North, and by occupying the same right-of-way as the natural gas pipeline causes far less damage to the land than would the Trans-Alaskan route.

Neither is there much doubt as to which route can most economically transport the oil to the U.S. markets where it is most needed. I have made no independent cost calculation but your Department's own figures confirm that the "Transportation Costs" for the Canadian route are lower to Chicago and New York (Table C–2, p. C–17, Vol. 1–Summary). Even to the West Coast your Department's finding is that "Data does not exist to definitely state the relative efficiencies of TAPS and McKenzie Valley pipeline system." Moreover, the transportation costs for the Trans-Alaskan route may include a large federal subsidy for the tankers to move the oil from Valdez to the West Coast. The Impact Statement reveals no information on this point.

The Canadian alternative will deliver Alaskan oil to the markets in the Midwest and the East, where it is really needed, at a lower cost than the Alaskan route and may even result in savings to the taxpayer as well.

National security—those magic words which mean so much but often reveal so little—thus emerges as the only consideration advanced to override the obvious superiority of the Canadian route on environmental and economic grounds.

The vagueness of the term national security makes it essential that we define its meaning and then examine each alternative in light of that definition. The most recent authoritative definition of national security in this context was set forth in President Nixon's Cabinet Committee Report on the Oil Import Question as:

"Protecting military and essential civilian demand against reasonably possible foreign supply interruptions that could not be overcome by feasible replacement measures in an emergency." (Section 115, p. 8.)

Imported oil is, of course, not an automatic threat to our national security and the Administration has recently rejected the notion that a certain "peril point" existed as an absolute ceiling on the percent of U.S. oil consumption we could safely import at any given time.

It is crucial to any discussion of national security to recognize that Canadian oil is considered secure (the Oil Import Question Section 335b, p. 94, p. 362.) It is imports from insecure Eastern Hemisphere nations which are said to pose a threat to our national security. The gravest danger lies not in this decade when Eastern Hemisphere imports are relatively small but rather in the 1980's when most oil companies now project that about half of U.S. supply will be imported from the Eastern Hemisphere.

Prudhoe Bay, where oil has been discovered in Alaska, is located near the Western edge of a large number of petroleum provinces to the southeast in Canada. Reliable, conservative estimates are that the Canadian Arctic contains some 44 billion barrels of oil resources, about the same as the estimates for the entire oil resources of Alaska.[1]

Total oil resources for Canada are estimated at over 100 billion barrels, not to mention the over 300 billion barrels in the Canadian Tar Sands. It is therefore of prime importance to our national security that we encourage the exploration and development of the rich petroleum resources in Canada, as well as those in the United States, and thus lessen our reliance on less secure imports from the Middle East.

Building a pipeline "land-bridge" from Alaska down the MacKenzie river valley would be the strongest possible measure to further the exploration and development of secure North American petroleum. It would thus succeed in strengthening our security of supply for the decades ahead by lessening our dependence on Arab petroleum and by bringing secure supplies to the areas most vulnerable, the East and Midwest.

The Trans-Alaskan route, rather than moving through the oil country in Canada, would go away from it. It would fail to provide the incentive and means for developing the Canadian oil and bringing it to U.S. markets. It would only tap the Alaskan oil and direct it toward the West Coast market which is not large enough to consume all of it. Meanwhile, the large oil resource in the Canadian North would lie undeveloped for lack of a pipeline to market.

It might be suggested that if there is so much oil in Canada a Canadian pipeline will also be built. But if Trans-Alaska is approved it will dampen the incentive for exploration in the Canadian North and no one can be sure when, or if, the Canadian oil would even reach U.S. markets. Perhaps some day this would happen but in the intervening years the United States security of supply would suffer. And of course if a Canadian line is to be built anyway, why not bring the Alaskan oil along the same route now and avoid the grave threat to the environment of Alaska and the North Pacific?

The Canadian alternative would provide a pipeline corridor to bring all available North American oil and natural gas to the large U.S. markets in the Midwest and the East. It could thus add several million barrels of oil per day to U.S. supplies over and above the Trans-Alaskan route in the 1980's.

In addition, as the Impact Statement found, a land-based pipeline through Canada provides a safer route than the tankers from Alaska to the West Coast in the event of hostilities or natural disasters.

---

[1] DeGolyer and McNaughten. Report on Estimates of Additional Recoverable Reserves of Oil and Gas for the United States and Canada, June 1969, p. 17, 27.

The national security thus very much favors the Canadian alternative in the decade of the 1980's and beyond when the projections suggest the East Coast and Midwest will otherwise be heavily dependent on insecure Eastern Hemisphere imports. The only national security consideration that could be considered as negative for the Canadian alternative would be if there were a problem during the relative short period of 2 to 4 years in the late 1970's when in theory Alaskan oil might be available through Trans-Alaska while the Canadian line may not yet be completed.

This consideration, even if it required more imports from insecure Eastern Hemisphere sources during the period would be outweighed by the positive advantage of large Canadian supplies beginning in 1980 that would avoid much larger imports from these same sources.

The delay however poses no threat to our nation's security by any stretch of the imagination. This is true because, as we shall show, the delay doesn't pose any threat to "military and essential civilian demand" and in any event there are "feasible replacement measures" for the Alaskan oil during the period in question.

There are a promising variety of alternatives that make clear there is no "national security" problem posed by the delay:

(1) *Military Needs*. To place in perspective the quantities of oil which Alaska would supply, they would be about 4 percent of our total energy consumption when full capacity of 2 million barrels per day could be achieved. It would represent less than 10 percent of our total oil supply even if the delay stretched out 4 years to 1980. No one even claims the military needs for oil would be in question. Military needs are a small fraction of oil consumption and could not be affected by a delay in the Alaskan oil.

(2) *Imports from Canada*. Alaskan oil could be replaced with additional imports from Canada until the Canadian pipeline is completed. The Impact Statement contains information that 2 million barrels per day of additional oil from Alberta in Canada could be obtained at a cost (not price but cost) of $1.65 per barrel. (Vol. I—p. F–g). In addition to the oil resources in Alberta, new projects to produce oil from the Canadian Tar Sands could be completed in the late 1970's if it were clear there was a U.S. market for the oil.

Canada has the resources to replace the volumes of oil that TAPS claims it would supply in the years until the pipeline corridor through Canada is completed. And the Canadian government has recently assured the U.S. government that it would be willing to supply the U.S. with additional quantities of oil (Statement by Canadian Minister of Energy and Resources, April 9, 1972).

(3) *Increased Domestic Production*. Domestic production of oil could be increased substantially to replace the Alaskan oil during the several years of potential delay by price increases or other measures to permit secondary and tertiary recovery of oil wells, if that became necessary to meet essential civilian demands. Recovery, which averages only 30 percent in reservoirs could be doubled if measures were taken to cover the added costs. Thus, if a decision were made now that the national security really required additional domestic oil in the late 1970's, secondary and tertiary recovery could supply the oil.

(4) *Stand-By Reserves*. The government could decide to enlarge the petroleum reserves it now owns and provide stand-by capacity in the needed amounts so that essential civilian supplies would be met in an emergency. One such reserve—Elk Hills—already exists with a capacity of 350,000 barrels per day.

(5) *Additional Imports*. There are ample supplies of oil available for purchase from friendly nations that could replace the Alaskan oil for the 2 to 4 year period of possible delay. Venezuela, Iran, Indonesia, and other nations have proven to be secure suppliers. Equador and Peru are promising new sources for the West Coast market. In combination they could easily supply the oil to replace TAPS for this limited period. Diversifying the imports from a variety of nations combined with an enlarged stockpile for emergencies would make imports a most secure alternative from a national security perspective.

(6) *Conservation of Energy*. It is quite plain that "military and essential civilian demand" for energy could be met without the Alaskan oil for several more years if we began to practice what we are preaching about energy conservation. A government policy of saving energy could easily reduce demand by the 4 percent of total energy which the Alaskan oil would supply during the interim. The national security is not going to be endangered if we fully insulate our homes and buildings, use smaller cars, drive and fly less, and use more mass transit.

A decision to conserve the 5 to 10 percent of our oil supply in question is a perfectly feasible, even attractive, alternative that would lessen our dependence on Arab oil in the decade of the 1980's and thereby greatly strengthen our national security. In fact a combination of energy conservation and opening up all of the Arctic North to development offers the best available prospect of lessening our dependence on Arab oil and thereby maintaining our national security of energy supply in the decades ahead.

The notion that we can't afford to wait for the completion of the Canadian energy corridor is thus a false notion that is detrimental to obtaining a secure source of energy for the United States in the 1980's.

The Canadian government has now openly committed itself to expediting the Canadian route. Environmentalists have endorsed the Canadian route. I urge you, in the name of environmental protection and national security, to announce that the Trans-Alaskan route will not be approved and that you will cooperate with the Canadian government in expediting an energy corridor across Canada to deliver the natural gas and oil from our Alaskan and Canadian North to the United States.

Sincerely yours,

S. David Freeman.

ENERGY AND OIL SHALE

Mr. MOSS. Mr. President, recognizing that new sources of clean fuels must be found to offset the deficits in useful U.S. energy supplies, the "Oil Daily" sponsored a Forum on Synthetic Energy—the Immediate Outlook. The forum met on May 4, in New York City. My administrative assistant represented me at the conference where top executives from the energy industries spoke on such pressing topics as "Meeting the Energy Crisis": "Present Day Technology in the Production of Substitute Natural Gas;" "Nuclear Energy"—"Present Prospects," "Growth, Energy, and Oil Shale;" "Oil and Gas from Coal;" "Crude from Tar Sands;" and "Costs and Economics of the Energy Crisis."

I was particularly interested in the address delivered by Morton M. Winston, president of the Oil Shale Corp., TOSCO participates in the Colony Development Operation with Atlantic-Richfield Co., Sohio-Petroleum Co., and the Cleveland Cliffs Iron Co. in a joint venture for shale oil production. It is estimated by the Department of Interior that there are some 80 billion barrels of oil shale producing 30 gallons or more per ton recoverable by modern mining methods in the Piceance Basin of Colorado, Utah, and Wyoming. This is approximately twice the present domestic crude oil reserves, exclusive of Alaska.

In western Colorado, some 250 miles from Denver, the Colony Development Corp. has maintained a research development facility designed to mine and process up to 1,000 tons of shale per day. Recently, the announcement was made as to the successful establishment by field operations both of the technology and required environmental safeguards for oil shale development. Plant operations were terminated on April 28.

Now, in his address, Mr. Winston made the promising announcement that final economic analysis for the commercial development of oil shale will be in hand about the year's end, and that TOSCO expects the first commercial production of shale oil in the United States to begin in the calendar year 1976. Mr. Winston stated it will take approximately 3 years from commercial decision to put the first plant on stream but that it is expected the plant will have the capacity to produce approximately 50,000 barrels per calendar day of shale oil products. He also stated that, assuming the first commercial plant is in operation in 1976, a target of 1 million barrels per day of production by 1985 is not unreasonable.

Mr. President, I have conducted numerous hearings on the problem of oil shale development, and am most hopeful that the long-awaited day is at hand for commercial development for our Nation's oil shale reserves. Commencement of oil shale commercial production by 1976 will have significance far beyond the contribution of so many daily barrels of a new product. It will signify that the viability of the U.S. oil shale reserves is now established and the world's largest known hydrocarbon reserves will have been opened to use. Because of the significance of Mr. Winston's remarks, I ask unanimous consent that address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

An Address by Morton M. Winston

My subject, "Growth, Energy, and Oil Shale" might be subtitled, in this age of renewed interest in silent films, The Mad Projectionist.

The kaleidoscopic rate at which industry and public awareness of energy shortage has lately grown, brings to mind the mad, magic accelerations of the Keystone Cops. The old projectionist made life faster and funnier than it really was; the Mad Projectionist, with his dazzling array of worsening statistics, makes it seem only as disturbing as it really is.

So much has been said recently about deficits in useable United States energy supplies, that a detailed repetition of the statistics before an audience such as this would be pointless. A few highlights show the way. Among the most recent is the Department of

Interior's revision of near-term forecasts. The Office of Oil and Gas, as you all doubtless know, revised sharply downward its forecast of United States oil production for 1975, and so predicted that in that year 36.5% of petroleum liquids will come from foreign sources.

Longer range, there are of course some differences in view; but it seems to make little difference, in measuring urgency, whether our net reliance on imports of petroleum liquids in 1985 threatens to be 57 or 58%, as the National Petroleum Council and the Office of Oil and Gas have recently projected, or only 50% as in some other estimates; 15 million daily barrels or "only" 12 million. Any such magnitude of reliance on foreign supplies must mean heavy involvement with insecure sources. For the foreseeable future, such involvement therefore means deep uncertainty about the reliability of supply, and virtual certainty of its steadily increasing cost.

Today the East Coast, which has for some time been heavily dependent on foreign supplies, has already become significantly dependent on the Eastern hemisphere. That dependence must in due course spread.

In addition to the obvious resulting problems of increasingly grave petroleum-related deficit in international trade- and payments-balances, such sharply increasing dependence on insecure energy supplies can be—perhaps already is—a restraint on domestic investment in new capital facilities. It is therefore a factor tending sharply to arrest growth.

Surely then it is the Mad Projectionist who picked this time for a public debate concerning the need to *limit growth*: The Keystone Cops were fond of running backwards. The problem ahead of us is how to maintain at least that orderly minimum growth which is necessary to meet the imperative expectations of our enlarging population. That problem would persist even if means were immediately found to slow the national birthrate materially.

To maintain orderly growth in the face of large deficits in useable domestic energy supplies we must accomplish three objectives:

The first is to learn to live for a time with genuine insecurity about the cost and reliability of energy. We must learn to anticipate and digest the obvious cost of higher energy prices, and the less obvious one of energy interruptions. An early training ground is perhaps already at hand in industrial gas interruptions.

Second, as a nation we must provide leadership in the framing of international institutions which hold the promise of providing equitable, reliable and peaceful means of allocating the world's energy resources to end uses.

Finally, we must buy time for these achievements, by a maximum domestic effort to slow the rate at which we become energy-dependent on others. It is in buying that time that oil shale has a significant role to play.

I would like to talk to you briefly about three aspects of oil shale: First, the present status of oil shale development; Second, the economics of shale oil production, which involves a brief consideration of the nature of shale oil and shale oil products; and Third, the contribution which a developing oil shale industry may be expected to make to energy needs in the foreseeable future.

I. PRESENT STATUS OF DEVELOPMENT

In brief: The development and field demonstration of the TOSCO II System for oil shale production is complete; final economic analyses are underway and will be in hand about year-end; consideration of the first commercial shale oil project will be before us at that time, and TOSCO expects that the first commercial production of shale oil in the United States will begin in the calendar year 1976.

These briefly summarized results are the product of long labors. TOSCO participates with Atlantic Richfield Company, the Operator who joined in 1969, Sohio Petroleum Company and The Cleveland-Cliffs Iron Company in a joint venture for shale oil production. In the course of the venture, TOSCO's 25-ton per day pilot plant at Denver has been scaled up to a 1,000-ton per day, semi-works plant and mine at Parachute Creek. Those facilities have been extensively utilized since their completion in 1965, and particularly since 1969, when Atlantic Richfield joined the program as Operator.

A few days ago, on April 25, 1972, Arco announced the "successful establishment by field operations both of the technology and the required environmental safeguards" and stated that semi-works operations would therefore shortly be shut down. Plant operations were actually completed on April 28; mining field work will continue for a few more weeks.

Process design and operability, and environmental safeguards have now been fully demonstrated in extensive engineering and field operations costing, from the inception of TOSCO's process development, more than $55 million. Final economic evaluations of full-scale commercial production will, as I have said, be in hand before year-end.

In field work since 1964, long before it was customary, increasingly intensive attention has been given to maintenance of environmental quality in commercial development. Protection of air and water quality, safe and esthetically satisfying disposal of solid residues, revegetation, protection of forage, and a host of other objectives have been defined. For each objective, technologically satisfactory solutions have been designed. We have carried out extensive demonstrations in field operations. We expect to satisfy every reasonable environmental inquiry.

It will take approximately three years from commercial decision to put the first plant on-stream. We expect that it will have the capacity to produce approximately 50,000 barrels per calendar day of shale oil *products* from the selected reserves for approximately 20 years. The jointly owned reserves of our Venture will support approximately 225,000 barrels per day of production. TOSCO and other venture participants have separate reserves holdings as well.

II. ECONOMICS

The first plant we expect to build will be more than a shale oil production facility, and in reviewing economics, even in general terms, that fact needs some explanation. The raw or crude shale oil first produced by the TOSCO II System is a 25° API gravity, 0.7% sulfur and 1.7% nitrogen crude oil, clean and transportable, and amendable to all of the normal forms of crude oil processing.

The producer of crude shale oil has all of the normal options for further processing, utilizing conventionally available refining processes. In our first project we expect to utilize net gas produced from the retorting operation for upgrading in the field and to produce and market not crude oil, but petroleum products.

There are many product options, but two are front runners in TOSCO's economic analyses. One is the production of approximately 28,000 daily barrels of premium quality fuel oil, containing less than .01% sulfur and .25% nitrogen—virtually no-sulfur fuel; and 22,000 daily barrels of non-aromatic naphtha, ideal for Synthetic Natural Gas production. In quantity, naphtha production from a single shale oil plant of the contemplated size would supply virtually the entire feedstock requirement of the largest single-train SNG units yet proposed. In longevity, security and uniform quality of supply, shale oil naphtha will be unique in the domestic market.

The fuel oil, we believe, complies with all present and foreseeable environmental specifications. Under present law governing fuels specifications it has premium value, since it is a desulfurizing agent, permitting use of higher sulfur materials by blending to meet specifications. The blend can be with higher-sulfur residual fuels or other liquids, or even with high-sulfur, mid-western coals for utility boiler use.

Moreover, with presently available desulfurizing technology, the differential value of "no-sulfur" shale fuel oil will increase if and when sulfur emissions specifications are decreased, since as you know, the unit cost of sulfur removal increases sharply as removal of the last fractional amounts is sought.

To the buyer, the advantage of no-sulfur fuel is of course its dependable availability as a clean fuel supply regardless of changing specifications; and that utility is further increased by our ability to forecast the production life and level over twenty years with a degree of accuracy not customary in conventional production operations.

The second alternative is an attractive process variation of the first. It increases fuel oil production so that it is the entire plant product. A wide range of specification adjustments together with reductions in capital and operating costs is available and is currently under detailed study.

Regardless of the final selection among these product alternatives for the first plant, and there are differences both of cost and value, TOSCO conservatively evaluates the present competitive mid-western market for these end-products at more than $5.10 per barrel.

Almost a year ago TOSCO estimated the capital and operating costs of a commercial plant to produce a premium-grade shale crude oil, a premium product which we evaluated as having plant gate value of between $3.73 and $3.93 per barrel, by comparison with posted field prices in the region and refinery netback values of other crude oils in middle-western refineries. The plant product we are discussing today is a different product; and, as you know, today's markets are materially changed from those of only a year ago, and we are still changing.

A few words about costs may also be useful, although I stress that our final analysis is not yet complete. As product value has increased, so have cost estimates.

A year ago TOSCO estimated the costs of a plant to produce premium shale crude oil. Current estimates on a comparable basis, are higher for three reasons: first, plant facilities are modestly altered; second, additional inflation has occured; and third, substantial allowances for contingencies have been included, above those of earlier estimates. The present cost generalizations that I will mention to you are TOSCO's. I repeat that they encompass the commercial production of liquid petroleum products, not of crude oil. They include operations from mining through the recovery of raw shale oil and upgrading of it into useable products, and all environmental protection systems. Such a plant, designed to process 66,000 tons per day of high-quality ore averaging approximately 36 gallons per ton, will produce approximately 50,000 barrels of products per calendar day without employing, as did prior designs, any purchased fuels other than electrical power. By-products will be coke, sulfur and ammonia.

The capital cost of such a plant, installed and operating, including working capital and substantial allocation for contingencies, is between $4,000 and $5,000 per daily barrel of finished product capacity, depending chiefly on product selection. Total operating cost is less than $2.40 per barrel, including straight line depreciation and by-product credits.

Final product selection and economic evaluation is, as I have said, presently underway, and scheduled for completion before year-end.

This brief summary is intended as a conservative generalization, subject to the details of particular reserves, and to substantial variations of cost and value related to end-product decisions. All costs and product values are expressed in current dollars; and no costs are included for utilization of reserves or for a license to use the TOSCO Processes.

We believe that these finished product costs compare favorably with the costs of equivalent capacity from any new domestic source.

III. OIL SHALE AND FUTURE ENERGY REQUIREMENTS

It is easy to generalize from the mere size of known oil shale deposits of the tri-state area of Colorado, Utah and Wyoming, that shale oil will play an important role in meeting the nation's forward energy requirements. Colorado's Piceance Basin alone has been estimated to contain more than 450 billion barrels in good-quality ore. But the possible timing and the character of that contribution are worth some brief closing discussion here.

First, as to timing. Assuming that the first commercial plant is in operation in 1976, a target of one million barrels per day of production by 1985—approximately 4% of forecast demand—is not unreasonable. We believe that that target is attainable solely by use in the mining, retorting and environmental protection technology that has been demonstrated in our semi-works facilities operations and that will be applied in the first commercial plant. Only adaptation to particular sites would be required.

Whether that goal is attainable depends of course on important matters other than technology. One outstanding matter is governmental policy concerning the availability of a relevant portion of the public domain reserves to supplement reserves now privately owned. There is reason for optimism in the steady progress being made by the Department of the Interior in its Oil Shale Leasing Program. Site selections for the first leaseholds were announced on April 25th; hearings are tentatively scheduled for early summer; and competitive bidding for December of this year.

Of course each additional plant must stand on its own environmental merits; and to achieve such a target production level, close cooperation among industry, local, state and federal governments, private groups, and others having an interest, will be required in order to assure that the related growth of public and private facilities will provide the model for industrial development that this new industry is capable of being. Our own pioneering work with our co-venturers has provided and will continue to provide an invaluable base for the charting of further development.

Whatever production level is achieved by 1985, it may be expected to have the unique characteristic of long life—approximately 20 years per project—and uniform production levels and qualities. It is reasonable to assume that such production will, by normal market action, move preferentially to those consumers who have the most imperative need for security and longevity of supply. Examples, of course, include electric generating and gas distributing companies.

Ultimately the tri-state area reserves can of course make a much larger daily contribution, and it is too early to forecast limits. Improvements in processing and in mining techniques which we have under development, and to which it may be expected that others will contribute, will assure the development of reserves found at greater depth and under more difficult operating circumstances than those which will be utilized initially. Moreover, the Colorado oil shale deposits contain at some locations large quantities of recoverable alumina for which TOSCO has developed and patented recovery processes. Relatively early in the development of shale oil production these and other mineral values will play a significant role, both in determining the rate of increase of production and in relieving our growing national dependence on foreign supplies.

The commencement of commercial shale oil production in 1976 will therefore have significance far beyond the initial contribution of 50,000 daily barrels of new product. The viability of the United States oil shale reserves in contemporary markets will have been established, and the world's largest known hydrocarbon reserve will have been opened to use. With its demonstrated oil shale capacity the United States will have gained time and a more persuasive voice for the framing of workable international energy arrangements.

DIGESTIVE DISEASE

Mr. KENNEDY. Mr. President, the legislation that the Senate cleared for the President's signature last Friday is intended to emphasize the need for a greater Federal effort in a badly neglected area of medical research and training—digestive disease.

The major digestive diseases are: peptic ulcer, ulcerative colitis, hepatitis, cirrhosis of the liver, gallstones, ileitis, infectious diarrhea, cancer of the colon or rectum, and malabsorption.

I would emphasize that we are not speaking of a minor, obscure area of health care. On the contrary, digestive disease chronically afflicts almost 13 million people in this country.

One out of every six illnesses suffered by our people is a digestive disease.

Digestive disease is the major or contributing cause of the hospitalization of over 5 million persons each year. As such, it is the Nation's No. 1 cause of hospitalization, exceeding heart disease, accidents, and even childbirth.

Diseases of the digestive tract include several of the most common forms of cancer which account for about 30 percent of all cancer deaths.

One of the digestive diseases, cirrhosis of the liver, is, by itself, one of the leading causes of death in this country.

Not only is digestive disease marked by high incidence, but it is the No. 2 cause of disability in this country. Some 400,000 people are totally disabled from digestive diseases, while another 800,000 are limited in their ability to work. Each day, digestive disease results in 200,000 absentees from work—the leading cause of absenteeism among men.

Among veterans, nearly 140,000 men receive payments for service-connected digestive disease conditions. This alone costs the Nation $100 million annually.

The total economic cost to the Nation of these diseases is truly staggering. Dr. Thomas Almy, a past president of the American Gastroenterological Association, recently estimated the total cost to be $10 billion per year, based on HEW figures. Just the cost to the American people of surgery for one digestive disease—gallbladder disease—is estimated to be a half billion dollars.

From examining any number of indexes, therefore, it is clear that digestive disease is a very major disease category which is taking a great toll in this Nation in terms of lives, suffering, incapacitation, and economic cost.

The obvious next question is: What can be done to reduce this toll?

The answer, as with most health problems, is more research into the causes of these diseases coupled with an increase in the number of practitioners specially trained to treat the conditions.

In recent years, the National Institutes of Health have been doing relatively little research in the digestive disease area. The NIH Institute charged with the principal responsibility for these diseases, the National Institute of Arthritis and Metabolic Diseases, allocated only about $12 million per year to digestive diseases between 1964 and 1971. For fiscal year 1964, $11.051 million was allocated by the NIAMD for this purpose. By fiscal year 1971, this figure had risen to only $13.069 million—an average increase of just 2.6 percent per year. The cost of conducting biomedical research is conservatively estimated to have increased by at least 5 percent per year over that period, resulting in a substantial net decrease of actual research effort in the digestive disease area.

Fortunately, the Congress increased the NIAMD budget for the current fiscal year by a substantial amount above the administration's request. This resulted in a $3.5-million increase of funds for digestive disease programs—the first real increase in many years. Much more needs to be done, however. Governmentwide, including all the other NIH Institutes and all other Federal departments and agencies, less than $30 million is being spent on digestive disease research and training.

The real crux of the problem, Mr. President, is that digestive disease, despite its enormously high incidence and cost, is buried in the NIH's "catchall" Inspite its enormously high incidence and tis and Metabolic Diseases. The Institute encompasses a total of 11 fields of study: Article, dermatology, diabetes, endocrinology, hematology, metabolism, orthopedics, nutrition, urology and kidney diseases, and gastroenterology—digestive diseases.

What is clearly needed is increased visibility for the important disease category of digestive diseases.

Last year I introduced legislation, S. 305, which would have established a separate National Institute of Digestive Diseases and Nutrition within the National Institutes of Health. The Subcommittee on Health of the Committee on Labor and Public Welfare held hearings in late 1970 on legislation identical to S. 305. After careful consideration, and in recognition of the increased budget requests for digestive diseases programs by NIH, the committee has concluded that now is not the appropriate time for the legislative establishment of a separate Institute. The need for greater visibility remains clear, however.

For this reason, we are in favor of H.R. 13591, a bill passed by the House a few days ago. H.R. 13591 would change the name and the structure of the National Institute of Arthritis and Metabolic Diseases in such a way as to emphasize digestive diseases.

The new name of the Institute would be the National Institute of Arthritis, Metabolism, and Digestive Diseases.

In addition, the position of Associate Director for Digestive Diseases would be established within the renamed Institute.

Finally, the Institute's advisory council would be appropriately renamed and a special digestive diseases committee of the council could be established to advise the Institute Director on matters relating to digestive diseases. This committee would also review applications for research grants relating to digestive diseases.

Mr. President, I would hope that if and when H.R. 13591 becomes law one of the first actions of the new digestive diseases committee would be to sponsor a national conference of medical experts in cooperation with the relevant professional associations to take a close look at the whole digestive diseases field. Such a conference was last held in 1967 and proved to be enormously successful in measuring the scope of the problem and in identifying possible approaches to finding solutions.

We all know it is impossible to predict which specific diseases will be eliminated or alleviated by a program of accelerated biomedical research. However, the prospects for some early successes in the digestive diseases field appear quite good.

For example, there has been a recent, dramatic breakthrough in the area of viral hepatitis—one of the digestive diseases. As a result, it is now possible to identify one of the two types of viruses which cause that disease. This finding has already been put to very practical, life-saving use in the area of blood banking, where hepatitis is often spread through the transfusion process. Many lives are being saved by our new-found ability to detect the one type of virus in blood samples—blood containing such viruses is no longer being used in transfusions. Even more lives will be saved, however, when scientists are able to identify the other type of virus. For this, more research is needed.

Similarly, there has been some dramatic progress made in the field of gallstone control. Researchers at the Mayo Clinic think a way may have been found to "dissolve" gallstones without surgery. Practical application of these findings, however, will require substantially more work.

The list could go on and on. I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a "White Paper" on Digestive Diseases as a National Problem which describes in greater detail the need for additional research in particular areas.

The main point is, however, that scientists in this field are convinced that they are on the verge of some real breakthroughs in research into the causes and cures of the various digestive disease conditions.

H.R. 13591 is intended to give the unglamorous—but critical—digestive disease field the increased visibility and emphasis it needs to reduce the devastating toll taken by these diseases.

I urge Senators to give this legislation their full support.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

DIGESTIVE DISEASE AN UNRECOGNIZED NATIONAL PROBLEM: A REPORT IN THE PUBLIC INTEREST BY THE AMERICAN GASTROENTEROLOGICAL ASSOCIATION, 1967

The American Gastroenterological Association is the nation's oldest society of medical specialists, having been founded in 1897. Its 701 members presently include most of the nation's certified specialists, most of the active research workers, and nearly all of the directors of recognized training programs in digestive disease in the United States.

Its activities heretofore been limited to annual scientific meetings, postgraduate medical education, publication of *Gastroenterology*, its official journal, and the encouragement of cooperative research. Recently its members, concerned by the lack of public recognition of the impact of digestive disease on the nation's health, have sought up-to-date information on this subject and closer liaison with other agencies having related interests. In February 1967 it sponsored, jointly with the National Institute of Arthritis and Metabolic Diseases and the Digestive Disease Foundation, a Conference on Digestive Disease as a National Problem, held at Bethesda, Maryland. There for the first time leading representatives of industry, governmental health agencies, the armed forces, and scientific and educational organizations met to bring together from many sources accurate facts on digestive disease.

To the participants in that conference and the organizations they represented we are intended for many, but not all, of the authoritative data presented in this report. The opinions expressed are those of the American Gastroenterological Association, for which this report has been prepared by Thomas P. Almy, M.D., and fellow members of our Governing Board and its National Liaison Committee.

MORTON I. GROSSMAN, M.D.,
President, American Gastroenterological Association.

Digestive Disease (DD) includes disorders of the stomach, intestines, biliary passages, liver, and pancreas. Their causes are various—infection, cancer, alcoholism, genetic defects, and reactions to life stress.

Half the population of the United States has digestive complaints, and one-sixth of all illnesses are in this category. It causes one-third of all deaths from cancer, and its the leading cause for hospitalization and for inability to work due to illness. The estimated economic loss the nation is $8 billion yearly.

Yet this major national health problem is the special concern of only 2,000 physicians and a smaller number of research workers, and programs to augment this number are lagging far behind the efforts in other fields. DD research receives but 5% of the extramural budget of the National Institutes of Health, much smaller amounts from other federal agencies, and virtually no categorical support from nongovernmental sources,

A survey of the major digestive diseases reveals many urgent needs for new knowledge which can and should be met by larger-scale, better organized research and training at the laboratory bench, at the bedside, and in the community. It is proposed that this effort be organized by the joint actions of professional societies, a national voluntary health agency, and agencies within the federal government made especially responsible for the problems of digestive disease.

I. THE MEASURE OF THE PROBLEM: THE SOCIAL AND ECONOMIC COST OF DIGESTIVE DISEASE (DD)

Prevalence

(1) DD is highly prevalent in our population, accounting for one out of every six illnesses. Here are the facts:

In a sample of 1 million Americans, a health survey revealed that 44% of the men and 55% of the women had *complaints* referable to the digestive tract.[1]

In the same study, 22% of the men and 17% of the women had had *specific digestive diseases*, such as peptic ulcer, colitis, or gallstones.[1]

From a careful study of a cross section of the U.S. population, the National Center for Health Statistics estimates that chronic DD affects 12,800,000 Americans.

Footnotes at end of article.

TABLE I.—NUMBER OF CHRONIC DIGESTIVE CONDITIONS, AND DEGREE OF ACTIVITY LIMITATION, UNITED STATES, JULY 1963–JUNE 1965

[Number in millions]

Condition	Total reported digestive diseases	Persons with no limitation	Persons limited			
			All limitations	With limitation but not in major activity [1]	With limitation in amount or kind of major activity [1]	Unable to carry on major activity [1]
All digestive conditions	12.8	10.8	2.1	0.4	1.2	0.4
Ulcer of stomach	3.5	3.0	.6	.1	.3	.1
Hernia	2.9	2.4	.6	.1	.4	.1
Diseases of gallbladder	1.8	1.6	.2	.06	.15	.04
All other digestive conditions	4.6	3.9	.7	.15	.4	.2

[1] Major activity refers to ability to work, keep house, or engage in school or preschool activities.

Source: Modified from Lawrence, P. S.: Morbidity and Mortality from G. I. Disease, ref. 2.

It is the major cause or contributing cause of *hospitalization* in 5,100,000 persons each year—more than are affected by any other disease category.[2]

TABLE 2.—COMPARISON OF DISEASES OF BODY SYSTEMS AS PRIMARY CAUSES OF HOSPITALIZATION, UNITED STATES, 1964

[In millions]

Condition category	Conditions hospitalized	Days of hospitalization
All conditions	19.7	181.0
Digestive	[1] 3.4	29.4
Respiratory	2.9	16.2
Circulatory	2.0	24.4
Genitourinary	2.0	15.7
Musculoskeletal	1.0	11.0
Impairments	2.2	24.4
All other	6.0	59.9

[1] Data from a national sample of hospitals show that the 1st listed cause of hospitalization constitutes ⅗ of the total digestive diseases entered in the records. Thus about 1,700,000, secondary or contributory conditions should be added, making a total of approximately 5,100,000 per year.

Source: Modified from Lawrence, P. S.: Morbidity and Morality from GI Disease, ref. 2.

Among 500,000 patients referred annually to a group of major medical centers for diagnosis and treatment, DD is the largest single category of disease, accounting for 16% of all patients. The number of patients hospitalized in such centers for DD is 1.5 to 3 times as large as for cardiovascular disease, and 4 times as large as for blood disorders.

TABLE 3.—*Clinic Admissions due to gastrointestinal disease*

[Percent of patients]

Mason	21
Kelsey-Seybold	9.3
Scott-White	17.8
Cleveland	9.5
Lahey	17
Browne-McHardy	14.7
Mayo	18
Average	16

(From Cain, J. C., 1967: Presented at Conference on Digestive Disease as a National Problem, Bethesda, Maryland, February 5, 1967)

DD is of major importance as a cause for confinement in Veterans' Administration Hospitals—about 110,000 patients per year, or 16.9% of all admissions.[3]

TABLE 4.—*Veterans' Administration hospitals—Data from all patients discharged during calendar year 1965*

Patients with Gastrointestinal Disease as the Principal Diagnosis, 59,219.

Patients with Gastrointestinal Disease as an Associated Diagnosis, 50,556.

Total Number of Patents with Gastrointestinal Disease, 109,775.

Total Number of Hospital Patients (All Diseases), 650,000.

Percent of Hospitalized Patients with Gastrointestinal Disease, 16.9%.

(From Bernstein, L., 1967: Ref. 3)

Acute DD, in the form of infectious diarrhea, is currently the most common cause of morbidity in our Army in Viet Nam, with rates as high as 685 per thousand troops.

Yet its frequency has been underestimated, because:

In the examination survey conducted by the National Center for Health Statistics, in which clinical and laboratory tests were used to document both known and unrecognized disease in a representative sample of the population, procedures which would have revealed unsuspected *digestive disease* were *omitted*, as unsuitable for mass application,[2] and

Many cases of active DD, such as peptic ulcer, gallstones, hiatal hernia, and diverticular disease, are not detected for lack of specific symptoms. For example, x-rays of a large group of executives disclosed that 18% had peptic ulcer, but *only half* of these had had *symptoms* of this disease.[4]

Disability

(2) *DD is an important cause of disability due to illness, ranking second among all disease categories, in the U.S. population.*

According to the National Center for Health Statistics, *over 2 million persons* in the United States are wholly or partially disabled by DD.[2] (Table 1).

Each year, Americans spend nearly *300 million man days away from work* (and 116 million in bed) because of acute and chronic DD.[2] (Table 5).

Each day, 190,000 Americans are unable to work because of DD.[3]

TABLE 5.—DISABILITY DUE TO DIGESTIVE DISEASE, UNITED STATES, JULY 1963–JUNE 1965

	Chronic DD	Acute DD	Total
Disability, days per year	245,000,000	52,000,000	297,000,000
Bed-disability, days per year	86,000,000	30,000,000	116,000,000
Number of persons absent from work each day	150,000	40,000	190,000

Source: Modified from Lawrence, P. S.: Morbidity and Mortality from GI Disease ref. 2.

In studies of representative large industries, DD is the *leading cause of disability due to illness* among *male* employees, accounting for nearly one-fifth of all such illnesses. Since these studies excluded illnesses causing absence of less than one week, the total impact of DD on industrial productivity is greater than indicated by these figures.[5, 6]

TABLE 6.—INSURANCE CLAIMS FOR DISABILITY LASTING 7 OR MORE DAYS

[Per 100 persons]

	Annual incidence	Days of disability	Benefits paid	
			Amount	Percent
All causes	10.4	616.7	$7,345	100
Digestive	1.9	81.7	1,261	17
Respiratory	1.8	45.9	694	9
Circulatory	1.6	185.1	1,160	16
Accidental	1.7	69.2	761	10
Neoplasms	.4	22.8	353	5
Other	3.0	212.0	3,116	43

Note: Based on claims of males of all ages.

Source: Modified from Cunnick, Eide, and Smith, ref. 5.

DD is one of the *leading causes of non-effectiveness*, and of days lost from active duty, among our *military personnel*. Even in 1960, over 100,000 days were lost from active duty in the U.S. Army, due to peptic ulcer alone. Outbreaks of viral hepatitis suddenly immobilize entire military units.

Among nearly 2 million disabled veterans, 131,500 (or 6.6%) are disabled by digestive disease.[3]

TABLE 7.—*Veterans' Administration: Service-connected disabilities due to gastrointestinal disease*

Number of veterans with service-connected disabilities	1,993,987
Number of veterans with any degree of service-connected disability due to gastrointestinal disease	131,498
Percent of veterans whose service-connected disabilities are due to gastrointestinal disease (percent)	6.6

(From Bernstein, L., 1967—Ref. 3)

Mortality

(3) *DD, including gastrointestinal cancer, is the third most important cause of death from cancer in the United States; and the total contribution of DD to morality is currently underestimated.*

According to the National Center for Health Statistics, 163,000 deaths in the U.S. each year are attributable to DD as primary cause of death, and an additional 98,000 as a contributing cause.[2]

Such estimates, derived from coding of death certificates, fail to indicate the full significance of chronic digestive diseases as *contributing causes of death,* because of greater emphasis on terminal events likely to involve the circulatory or other systems. Using only the available uncoded information on death certificates related to contributory causes, the frequency of *DD as a cause of mortality* is shown to be *at least 40% higher than official figures.*[2]

31.4% of all cancer deaths are due to cancer of the digestive organs. Cancer of the colon and rectum is the second most common cause of death from cancer in our population.[7]

Economic and social cost

(4) *DD is responsible for tremendous economic loss, amounting to about one percent of our gross national product.*

The total cost of DD in the United States, representing the expenses of medical care, the loss due to disability, and the income loss due to premature death, is calculated at *8.1 billion dollars* annually. Of all disease categories, DD ranks third in causing economic loss, exceeded only by cardiovascular disease and accidents.[8]

TABLE 8.—PROJECTED NUMBER OF DEATHS FROM CANCER AND NUMBER OF NEW CASES IN UNITED STATES, 1967

Site of cancer	Estimated deaths		Estimated new cases	
	Number	Percent	Number	Percent
All sites	305,000	100.0	580,000	100.0
All gastrointestinal	95,900	31.4	131,000	22.6
Stomach	17,500	5.7	20,000	3.4
Colon-rectum	43,600	14.3	73,000	12.7
Pancreas	17,400	5.7	17,500	3.0
Liver and biliary	9,300	3.0	9,500	1.6
Other	8,100	2.7	11,000	1.9
Other sites	209,100	68.6	449,000	77.4
Lung	51,800	17.0	59,000	10.2
Leukemia	14,400	4.7	18,000	3.1
Breast	27,150	8.9	63,600	11.0
Uterus	13,500	4.4	44,000	7.6
Skin	4,600	1.5	90,000	15.4
All other	97,650	32.1	174,400	30.1

Source: Adapted from American Cancer Society, ref.7.

Footnotes at end of article.

TABLE 9.—TOTAL ECONOMIC COST OF ILLNESS, BY DIAGNOSIS, UNITED STATES, 1963

[Amount in millions]

Category	Total	Direct expenditures	Earnings loss from— Morbidity	Earnings loss from— Mortality
Diseases of circulatory system	$20,948.4	$2,267.3	$2,919.7	$15,761.4
Injuries	11,810.6	1,702.8	1,810.7	8 297.1
Neoplasms	10,589.9	1,279.0	850.7	8,460.2
Diseases of digestive system, excluding neoplasms [1]	7,873.3	4,158.7	1,220.1	2,458.5
Diseases of respiratory system	7,412.8	1,581.1	3,166.3	2,665.4
Mental, psychoneurotic and personality disorders	7,276.6	2,401.7	4,624.0	250.9
Diseases of nervous system and sense organs	6,795.4	1,416.4	1,525.5	3,853.5
Allergic, endocrine, metabolic, nutritional diseases	$2,623.1	$902.9	$539.5	$1,180.7
Diseases of genitourinary system	2,559.9	1,210.2	497.8	851.9
Infective and parasitic diseases	2,135.3	501.9	858.0	775.4
Diseases of blood and blood-forming organs	372.6	155.9	41.3	175.4
Miscellaneous	13,138.3	4,952.1	2,988.7	5,197.5
Total	93,500.2	22,530.0	21,042.1	49,927.9

[1] Above figure of $7,800,000,000 for digestive disease includes $2,400,000,000 for expense of dental care; but excludes expenditures for, and indirect costs of, gastrointestinal cancer, estimated at $2,700,000,000. Hence corrected estimate of cost of digestive disease, as defined in this report, is $8,100,000,000 yearly.

Source: Adapted from Rice, D. P., Estimating the Cost of Illness, ref. 8.

The loss to one large corporation, solely, for disability benefits for DD among its employees, is $12 million each year.[6]

Estimated annual cost of DD to the Veterans' Administration is nearly $175 million—$83.7 million for medical care and $91 million for disability payments.[3]

TABLE 10.—*Estimate of Veterans' Administration costs for gastrointestinal disease**

Estimate of per diem costs in hospitals treating patients with gastrointestinal disease	$30
Estimated daily costs for hospital patients with gastrointestinal disease	$229,230
Estimated annual costs for hospital patients with gastrointestinal disease	$83,668,950
Annual payments to veterans for all service-connected disabilities	$1,867,211,000
Annual payments to veterans for disabilities due to diseases of the digestive system	$91,171,000
Percent of all service-connected disability payments due to diseases of the digestive system (percent)	4.9

*Based on 1966 costs, and 1965 hospitalization rates. From Bernstein, L. 1967: Ref. 3.

The economic loss to the U.S. due to *peptic ulcer* alone is calculated at just under *one billion dollars a year*.[9]

(5) *The greatest impact of DD is on the health of men in the middle years of life.* This means illness of the head of the family, the breadwinner, the taxpayer, on whose shoulders the increasing burden of the needs of children and the aged are being placed. Such illness has wider implications for the well being of the family and of the community than can be measured by the indices used above.

II. THE MEASURE OF OUR NATIONAL EFFORT

Manpower

A. Manpower in Gastroenterology: Numbers, Types and Distribution.

1. *For every 100,000 U.S. citizens, there is but one physician specially concerned with DD.*

—A survey in 1966 by the American Medical Association revealed that among 200,000 U.S. physicians, 2004 had a primary or secondary specialty interest in DD.[10] Fewer than this are actually available and fully qualified.

Footnotes at end of article.

TABLE 11.—"GASTROENTEROLOGISTS" AND "CARDIOLOGISTS" IN THE UNITED STATES

	Gastroenterologists	Cardiologists
Total	2,004	7,387
Private practice	1,550	5,739
Full-time hospital	76	377
Full-time academic	158	528
Other	220	743
Certified by specialty boards	537	803

Source: From Clifton, J. A., 1967, ref. 12.

Of this number only 537 had been certified by the American Board of Internal Medicine as specialists in DD.

The remainder include general practitioners, radiologists and even hospital administrators. Only 1550 of the 2004 physicians are in private practice.

24 States have less than 10 physicians specially interested in DD, and 4 states have *none*.[11]

(2) *In comparison with the need and with the activity in other fields, present effort in training of specialists in DD is woefully small.*

In 1966, the number of trainees in DD supported by the National Institutes of Health (141) was less than one-eighth the number in cardiovascular diseases (1146), and 15% less than in blood diseases.[12]

In the average medical school there are 6 full-time teachers in the field of cardiovascular disease, 4 in blood diseases and 3 in DD.

Only 16% of our medical schools have 5 or more full-time teachers of DD in Departments of Medicine, whereas 26% have this number of teachers interested in blood diseases, and 60% have as many in the field of cardiovascular disease.

TABLE 12.—DEPARTMENTS OF MEDICINE OF U.S. MEDICAL SCHOOLS, FULL-TIME STAFF

	Gastroenterology	Cardiology	Hematology
Total	192	395	242
Mean	2.9	6.0	3.6
Range	0–12	1–20	1–10

Source: From Clifton, J. A., 1967, ref. 12.

In the entire nation, 70 full-time teachers of pediatrics apply themselves to cardiovascular diseases affecting children, 45 to blood diseases, but only 4 to DD!

Present teachers of DD are overworked, as average scheduled teaching hours in this specialty are equal to those in cardiovascular disease, and 20% greater than in blood disease.

In contrast to other fields of internal medicine, neurology, and psychiatry, there are *no* national programs, either governmental or privately sponsored, to encourage young physicians to become practicing specialists in DD.

Dollars

B. Dollar Resources for Support of Research and Training in Digestive Disease.

1. *Support by the Federal Government for DD totals less than $30 million annually,* disbursed chiefly through the following agencies.

National Institutes of Health, $22.2 million.

National Institute of Arthritis and Metabolic Diseases, $12.8 million.

Other Institutes, $9.4 million.

Army Research and Development Command, $1.7 million.

Veterans Administration, $1.0 million.

National Science Foundation, $0.6 million.

National Center for Chronic Disease Control, USPHS, $0.25 million.

Navy Bureau of Medicine and Surgery, $0.25 million.

Epidemic Intelligence Service (CDC) $0.5 million.

Total (FY 1966) $26.5 million.

The above figures include all programs and projects in which study of DD is either a major or a minor aim. Included are all projects in overlapping categories, such as cancer or infectious disease.

2. *The only specific intramural program in DD at National Institutes of Health has an annual budget of $140,000, and supports only one permanent physician-scientist.* This represents 1% of the total intramural budget of the National Institute of Arthritis and Metabolic Diseases. To this may be added the cholera project of the National Institute of Allergy and Infectious Disease, three GI cancer projects at the National Cancer Institute and five projects at the National Institute of Dental Research.

(3) Support of DD from non-governmental sources is meager.

There is as yet no nationally organized voluntary health agency devoted to the broad problems of DD—an indicator of the *lack of public awareness,* over many years, of the importance of DD to the nation's health and economy. The Digestive Disease Foundation though wisely arranged and currently expanding, cannot now provide major financial support.

There are *no large philanthropic foundations* for which DD is a major field of interest.

Support from *industry* has been largely for applied research and development.

Thus, the pharmaceutical industry estimates that $18.5 to 37 million (5 to 10% of their annual $370 million expenditure for research and development) is related to products useful in DD . . . but little of this is devoted to original research or to the training of physician-scientists. Neither the *major industries*, which sustain high losses from absenteeism caused by DD, nor their *disability insurance carriers* have yet moved to support extramural research into the causes of these losses.

In summary, our national effort in Digestive Disease is held back by shortages both of manpower and of funds. This health problem, which accounts for about one-sixth of the total disease experience of our population, and which causes economic loss equal to about 1% of the gross national product, is being attacked by only 2000 physicians and receives but 5% of the total extramural research support of NIH, with much smaller contributions from other agencies.

III. THE STATE OF OUR KNOWLEDGE

Recent progress in our knowledge of important digestive disorders has been impressive in some instances, but generally uneven. The diseases briefly discussed below have been selected to illustrate the great variety of problems encountered in this field, and to indicate ways in which an augmented national effort would probably yield socially and economically useful results.

Peptic ulcer

Is a chronic disease known to afflict about *10 million* Americans, yet we are probably detecting only half of those affected.

Is most common in *men* between the ages of 20 and 60.

Costs the nation just under *one billion dollars* a year.

We know that the formation of ulcer requires acid and pepsin secretion by the stomach, and that excessive acid and pepsin secretion is a cause of ulcer in some patients, and that one important stimulus for the secretion of acid is the hormone, gastrin. In the last few years this hormone has been isolated, chemically identified, and synthesized. Other important stimuli derive from the nervous system.

We know that in many other patients with ulcers, the stomach does not secrete excessive quantities of acid. *We believe*, from fragmentary evidence, that these patients have a reduced capacity to resist the erosive action of gastric juice on their own stomachs.

We have many unanswered questions; for example:

(1) Can we chemically synthesize a "tailor-made" compound, to antagonize gastrin, or can we favorably alter the activity of the nerves? If so, possibly we could "turn off" gastric acid secretion for limited periods, almost at will, and save many lives threatened by perforation or hemorrhage from peptic ulcer.

(2) Can we identify clearly the mechanisms by which the normal stomach defends itself against erosion by acid, and learn how to strengthen their defenses?

(3) In the causation of peptic ulcer, what is the relative importance of genetic factors, of smoking, of drugs such as aspirin, and of psychological stress? Clear answers might make possible an intelligent campaign for prevention of the disease by the techniques of genetic counseling, health education in schools, and/or mental hygiene programs.

(4) Which of the commonly used methods of treatment for peptic ulcer are truly effective? Diet? Antacids? Anticholinergic drugs? Which of the surgical procedures we now employ yields best results, and when is surgery necessary? The answers to these simple but vexing questions can be obtained by methods we now possess, but would require a well-organized, large scale, expensive effort.

Ulcerative colitis

Is only moderately prevalent in our population (about 1 in 1000)—but for the individual affected and his family it is devastating physically, emotionally, and financially. Among several hundred patients with colitis coming to the Mayo Clinic the average expenditure for the care of the disease is about $3,000 per year.

We are able to recognize the disease with increasing accuracy both clinically and pathologically.

We are able in most instances to reduce the severity of the disease with steroid hormones, but not to shorten its course.

We lack fundamental knowledge about its natural history and its epidemiology, and we have no secure knowledge of its cause.

For further progress *we need:*

(1) continued studies of the relation between the human host and the microbes normally present in his colon.

(2) better definition of antigen-antibody reactions in the colonic wall.

(3) studies of the nonspecific responses to injury of the colonic mucosa.

(4) studies of genetic, psychological, and dietary influences on this disease.

Hepatitis

Occurs in two clinical forms, serum hepatitis (following injection of blood or blood serum) and infectious hepatitis.

24,000 cases of serum hepatitis occur annually in the United States with a death rate of 12%.

50,000 cases of infectious hepatitis are reported each year; because of the large number of unreported cases the true frequency is probably about half a million.

Both are clearly transmissible diseases, but their infectious agents have escaped identification.

The persistence of infectious hepatitis is an important sanitary problem, comparable to typhoid fever as it was 50 years ago. In military units, epidemics of hepatitis are a major cause of noneffectiveness.

The persistence of serum hepatitis is a deterrent to the full effective use of blood products in surgery, following injuries, and for other important purposes.

We have a great deal of knowledge about the clinical picture of hepatitis and laboratory tests useful in its recognition. *We know* that it is infectious. *We have* partial knowledge of its epidemiology and of methods of prevention.

We need:

(1) to isolate the causative agents

(2) to develop a vaccine

(3) to develop specific diagnostic tests

(4) to develop better means of killing the causative agent in human blood and other biological products

(5) to determine the duration of the carrier state in patients recovering from the disease

(6) to study the conditions under which hepatitis, even in the absence of jaundice, will lead to chronic liver injury, or cirrhosis

(7) to improve the treatment of severe hepatitis, with its high mortality from liver failure.

Cirrhosis of the liver

Causes over 23,000 deaths per year in the United States, and is the third most important cause of death in men in the fifth decade of life.

Has increased progressively in frequency in the U.S. population during the last 30 years.

We know that the frequency and severity of cirrhosis is strikingly related in the U.S. to the consumption of alcohol, and we have direct experimental evidence that alcohol damages the liver.

We know, however, that only one out of 11 chronic alcoholics develops cirrhosis; that the disease is common in other countries among whole populations which for ethnic or religious reasons abstain from alcohol; and that the frequency of cirrhosis in nonalcoholics in our own population is likewise increasing.

We need:

(1) extensive epidemiologic studies of variables other than alcohol which may be related to cirrhosis—particularly nutritional deficiency, toxins, infections, and genetically determined metabolic abnormalities.

(2) to develop agents which will regulate the regeneration of the liver after injury, and to identify the causes of carcinoma of the liver in persons with cirrhosis.

(3) a method of early detection of the alcoholic who is likely to develop cirrhosis, so that he may be singled out for intensive treatment.

(4) a better understanding of the biochemical basis of hepatic coma and of renal failure in liver disease.

(5) to overcome the obstacles to successful transplantation of the liver in man.

(6) to extend our knowledge of the causes of cirrhosis in children.

Gallstones

Is a condition affecting about 15 million United States citizens.

Occurs in 15% of all persons (and 20% of all women) aged 55 to 64.

Is responsible for medical care expenses estimated at over *0.5 billion dollars annually*.

Has jeopardized the health of four of our last six Presidents, each of whom has required surgical removal of his gallbladder.

We know that gallstones are more common in women particularly in those who have borne children. *We know* the frequency of the symptoms and the complications of gallstones, and that they are usually symptomless in the early stages of the disease.

We know that gallstones can be produced in animals by a chemically altered constituent of normal bile.

We need:

(1) to study the biophysical mechanisms underlying gallstone formation.

(2) to detrmine the relationship of human gallstones to chemical changes in the bile acids brought about by intestinal bacteria.

(3) to study possible alterations in these factors produced by sex hormones and by pregnancy.

(4) to study the relationship of diet and obesity to gallstones in man.

(5) to determine the prevalence of gallstones in American Indians; and if this is truly increased, to seek correlation with identifiable genetic and environmental factors, including those mechanisms mentioned above.

(6) to conduct an extensive survey to detect the presence of gallstones in a relatively young and outwardly healthy population, and to carry out a controlled clinical trial of elective cholecystectomy for the truly "silent" gallstones thus discovered.

Infectious diarrhea

Is highly prevalent as a cause of absence from work in civilian life and of noneffectiveness in the Armed Forces.

Has a diversity of microbial causes, most of which are difficult to identify rapidly enough to direct urgently needed therapy, and only some of which are susceptible to antibiotic drugs.

We have important new methods for the control of cholera, derived from well organized research. In addition to the application of sanitary measures indicated by earlier knowledge of its mode of transmission, we know that mortality and morbidity can be drastically reduced by the intensive administration of intravenous fluids and by the use of antibiotics. The recent discovery and partial isolation of a soluble exotoxin of the cholera vibrio has brought us within sight of a truly effective cholera vaccine or toxoid.

We need to learn more about the specific and nonspecific mechanisms responsible for types of acute diarrhea more common in the United States than is cholera—for example, those due to salmonella and staphylococcus organisms (and their toxins) and to viruses—with a view to the development of more effective symptomatic and curative treatment.

Cancer of the colon and rectum

Is the most common form of internal cancer in the United States—estimated frequency, 73,000 new cases per year.

Is second only to cancer of the lung as a cause of deaths from cancer (43,600 deaths per year, or 1 out of every 7 cancer deaths).

Is more prevalent in the United States than in most other countries of the world, and is slowly increasing. Persons immigrating to the United States from areas of low prevalence soon develop the disease with increased frequency, suggesting an important environmental influence here.

We have fairly simple and effective diagnostic measures for fully developed lesions. Two-thirds of all colon cancers can be seen through a sigmoidoscope. *We know* that the frequency of colonic cancer is increased, and that the tumor develops at an earlier age, in patients with multiple polyposis or with long standing idiopathic ulcerative colitis. *We need:*

(1) further epidemiologic studies of the disease from the points of view of genetic influences and of environmental factors such as diet, smoking, laxatives, and other drugs.

(2) A satisfactory understanding of the comparative suceptibility to carcinoma of the small and large intestine, and of various locations in the large bowel. To this end, extensive knowledge of the kinetics of cell populations, of mutations within epithelial cells, and of enzyme synthesis at various ages, will be required.

(3) to settle the controversy regarding the precancerous nature of colonic polyps, from the point of view of case finding and clinical management.

(4) A controlled trial of various surgical procedures, including cautery and cryosurgery, in rectal lesions—Is permanent colostomy necessary?

Malabsorption

The picture of starvation, in the peoples of countries less fortunate than ours, always gives rise to the thought that it can no longer happen here. *But it does:* In a small but unfortunate group of Americans we recognize the wasted limbs, the sunken eyes, the bloated belly, the sore mouth, the rickets that spell *famine.* Having plenty of food, they cannot absorb it from their intestine—they have *malabsorption.*

Malabsorptions is caused by a great variety of diseases affecting the small intestine, and in the last fifteen years extraordinary progress has been made in their recognition and their treatment, as the result of well-supported clinical and laboratory studies. For example:

We know that an important cause of malabsorption, celiac sprue, is due to abnormal sensitivity of the intestine to partially digested cereal protein, specifically the gliadin protein of wheat and other grains; that elimination of these grains from the diet will *usually* lead to complete recovery of the patient.

We know that other cases of malabsorption and diarrhea are due to incomplete digestion of milk (lactose), because of specific lack of lactose-splitting enzyme in the small intestinal lining; and that elimination of milk and milk-products will relieve this condition.

We know that excessive growth of certain bacteria in the small intestine, the result of sluggish emptying of the bowel due to disease or surgical operations, will interfere with the absorption of fat and of Vitamin B_{12}; and that the resulting malnutrition of the patient can be alleviated by certain antibiotics, and in some instances by surgical relief of stasis in the intestine.

Yet many important questions remain regarding the underlying mechanisms of these conditions, and much needs to be learned about many other diseases causing malabsorption. *We need to know:*

(1) Whether celiac sprue is due to an allergy to wheat products, or to an inherited enzyme defect.

(2) The cause of the great prevalence among Negroes of intolerance to milk products, and the means of relieving this.

(3) The mechanism by which alcohol ingestion leads to chronic pancreatitis, an important cause of malabsorption.

(4) The cause of the chronic inflammatory diseases of the small intestine, such as regional enteritis and Whipple's disease.

(5) The factors which control the growth of cells in the lining epithelium, a tissue which is constantly replacing itself, and atrophy of which leads to striking impairment of absorption.

(6) The best dietary management of persons who have lost much of their intestine through surgical removal.

A NATIONAL PROGRAM FOR THE CONTROL OF DIGESTIVE DISEASE

1. Leadership and organization: This should involve the closely coordinated efforts of:

A. Leading professional societies: The American Gastroenterological Association, the American Association for the Study of Liver Disease, the American Society for Gastrointestinal Endoscopy, the Society for Surgery of the Alimentary Tract, the American College of Gastroenterology, and others.

B. A National Voluntary Health Agency concerned specifically with digestive disease, and broadly representative of scientists and concerned laymen.

C. A permanent administrative body responsible for the continuing stimulation, review, and coordination of all NIH activities in the field of DD.

2. Broad objectives:

A. *Increase skilled manpower* in the field of DD, through—

Support of medical school faculty members to provide research training in relevant basic disciplines and fields of clinical investigation.

Enlargement of existing support for research trainees, both pre- and post-doctoral.

Greatly augmented programs of clinical training, including support for both trainors and trainees.

Training of epidemiologists, clinical pharmacologists, and behavioral scientists with special interest in DD.

Continuing education for physicians through regional medical programs, formal courses, pamphlets, and other media.

Public education with respect to DD, as an aid in future recruiting.

B. Promote large scale cooperative research programs in relatively underdeveloped fields.

Prevalence and epidemiology of DD. Collaboration needed with National Center for Health Statistics, National Center for Chronic Disease Control, Communicable Disease Center, American Cancer Society, State Health Departments, and the Armed Forces. Prospective studies of DD should be planned in collaboration with industry and with labor union health organizations.

Clinical Trials of drugs and surgical procedures. Develop large scale cooperative trials, in concert with Food and Drug Adiminstration, Pharmaceutical Manufacturers Association, and other agencies.

Life stress and Digestive Disease. Needed is a coordinated effort by physiologists and clinical investigators, neuro-physiologists, behavioral psychologists, and human ecologists, to plan and execute interdisciplinary research in DD, and to train investigators to competence in two or more of these fields.

C. Intensification of ongoing *basic and disease-oriented research,* with special reference to:

1. *Peptic Ulcer,* and related aspects of the function of the stomach:

Clarify the electrical and chemical events occurring as concentrated acid is secreted by living stomach cells.

Study effects of changes in blood flow to the stomach on formation and healing of ulcers.

Expand the breakthrough in the molecular biology of scretion; develop antagonists to gastrin, and study effects of secretin and other compounds in suppressing acid secretion; seek abnormal forms of pepsin and other enzymes.

Determine significance of heredity and various factors in the environment (smoking, diet, emotional stress, aspirin and other drugs) by epidemiological studies.

2. *The small intestine,* and diseases affecting it:

More information on the movements of ions across the intestinal membrane, including the basic conditions of absorption, disturbance of which may cause diarrhea.

Learn the mechanisms by which certain foods cause malabsorption in susceptible persons—e.g. cow's milk in many Negroes, wheat in patients with celiac disease or sprue.

Search for the cause of chronic inflammations of the intestine, such as regional enteritis.

Define the manner in which ordinarily harmless bacteria, acting on components of bile in the small intestine, cause malabsorption, and may cause liver and gallbladder disease.

3. *Diseases of the Colon:*

Study the interaction between man and his colonic microbes—effects due to toxins, to antigen-antibody reactions, to chemical changes produced by bacteria, which are relevant to ulcerative colitis and other diseases.

Determine the significance of genetic, dietary, and other influences on colonic cancer, diverticulitis, and ulcerative colitis, by epidemiological studies.

Study the behavior of newborn infants and young children, and follow them for many years, to explore suspected correlations between parent-child interactions and the later development of ulcerative colitis and other bowel disorders.

4. *Liver Disease:*

Isolate the agents causing hepatitis, and use them for development of a vaccine, for specific diagnostic tests, for precise recognition of carriers of the disease, and for reduction in the risks of blood transfusion.

By both epidemiologic and laboratory studies, define the importance of factors leading to chronic liver disease—dietary deficiency, alcohol, drugs, pesticides, industrial toxins, fungi, and metabolic abnormalities. Special attention should be paid to causative factors in children.

Study influences upon growth and regeneration of the injured liver for the ultimate purpose of prevention of liver cancer.

Improve the medical treatment of advanced liver disease, especially its complications of coma and uremia.

Remove the obstacles to successful transplantation of the liver.

5. *Gallstones:*

By epidemiologic studies, determine the relationship of genetic factors, diet, obesity, pregnancy, and other factors to the frequency of gallstones.

Study the physical and chemical changes in the liver and gallbladder which affect the formation of stones, including the absorption of ions, chemical alteration of bile acids, and the motility of the organ.

6. *Pancreas:*

Seek the causes of pancreatitis, and the exact mechanisms by which it develops:

genetic factors, alcohol, gallstones, and other influences.

Expand our knowledge of the control of pancreatic secretion, as the basis of effective treatment of pancreatitis. Exploit the recent synthesis of secretin by preparing and testing specific antagonists to this hormone. Develop synthetic pancreozymin, another pancreatic stimulant, as well as its antagonists.

FOOTNOTES

[1] Hammond, E. C.: Some preliminary findings on physical complaints from a prospective study of 1,064,004 men and women. Am. J. Publ. Health 54, 11–22 (Jan.) 1964.

[2] Lawrence, Philip: Morbidity and mortality from gastrointestinal disease. Presented to Conference on Digestive Disease as a National Problem, Bethesda, Maryland, February 5, 1967.

[3] Veterans Administration, Office of VA Controller, Reports and Statistics Service; also The Annual Report, Administrator of Veterans Affairs, 1966. Cited by Bernstein, L., at Conference on Digestive Disease as a National Problem, Bethesda, Maryland, February 5, 1967.

[4] Dunn, J. P., & L. E. Etter, 1962: Inadequacy of the medical history in the diagnosis of duodenal ulcer. New England J. Med. 266: 68.

[5] Cunnick, W. R., K. A. Eide and N. Smith: The Metropolitan Life Insurance Company disability claim study of digestive diseases. Presented to Conference on Digestive Disease as a National Problem, Bethesda, Maryland, February 5, 1967. See also: Statisical Bulletin, Metropolitan Life Insurance Company 48:10–11 (April) 1967.

[6] Stone, Richard W.: Disability from digestive disease among employees of American Telephone and Telegraph Company. Presented to Conference on Digestive Disease as a National Problem, Bethesda, Maryland, February 5, 1967.

[7] Deaths projected by Epidemiology and Statistics Department, American Cancer Society, from cancer mortality data from U.S. National Vital Statistics Division. Cited by Hammond, E. C. at Conference on Digestive Disease as a National Problem, Bethesda, Maryland, February 5, 1967.

[8] Rice, Dorothy P., 1966: Estimating the cost of illness. Health Economics Series Number 6. U.S. Public Health Service Publication No. 947–6. U.S. Government Printing Office, Washington, D.C.

[9] Blumenthal, I. S., 1967: Social cost of peptic ulcer. *Gastroenterology,* in press. See also, Blumenthal, I. S., Research and the ulcer problem. The Rand Corporation, R–336–RC, June, 1959.

[10] Green, F. W., Division of Scientific Activities, American Medical Association, Chicago, Illinois. Personal communication to Dr. James A. Clifton.

[11] Data from Medical Mailing Service, Inc., 426 South Clinton St., Chicago, Illinois.

[12] Clifton, J. A., 1967: Manpower in Gastroenterology. *Gastroenterology* 53:353, August.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The ACTING PRESIDENT pro tempore. As this time, in accordance with the previous order, the Chair lays before the Senate the unfinished business, S. 3526, which the clerk will please read by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

MODIFIED AMENDMENT NO. 1187

Mr. ROBERT C. BYRD. Mr. President, on yesterday I offered an amendment in the second degree to the Church-Case amendment which is in the nature of a perfecting amendment to the language proposed to be stricken by the amendment by Mr. STENNIS.

At this time I send to the desk a modification of my own amendment in the second degree, and ask that it be stated by the clerk.

The ACTING PRESIDENT pro tempore. The clerk will please read the modification.

The assistant legislative clerk read the modification, as follows:

> On page 1, after the word "reaching" insert "an internationally supervised cease-fire and".

Mr. ROBERT C. BYRD. Mr. President, overnight I thought about the amendment I had offered rather hurriedly and impromptu yesterday afternoon just before the Senate adjourned. I felt that the verbiage therein was rather vague and that it should be more precise, and I reviewed the President's speech, which he had made on television the night before. I noted that he himself used the words "internationally supervised cease-fire," and I thought that I should modify my amendment to bring it into conformity with his words and also to make it more precise and less ambiguous than the language I had previously offered.

Mr. STENNIS. Mr. President, will the Senator yield for a question in the nature of a parliamentary inquiry?

Mr. ROBERT C. BYRD. Yes. I yield the floor, Mr. President.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. STENNIS. The question is, Just what is the pending matter, the pending business most immediately before the Senate?

The ACTING PRESIDENT pro tempore. The pending question is the amendment by the Senator from West Virginia (Mr. ROBERT C. BYRD), as modified, to amendment No. 1186, the Church-Case amendment, modifying language sought to be stricken from the bill by amendment No. 1175 by the distinguished Senator from Mississippi (Mr. STENNIS).

Mr. STENNIS. I thank the Chair. I think the Chair has spoken very clearly.

The amendment offered by the Senator from Idaho and the Senator from West Virginia goes to the language, in effect, of the present section in the bill that my amendment seeks to strike.

The ACTING PRESIDENT pro tempore. Would the Senator state his inquiry again?

Mr. STENNIS. I say, as I understand it, the language of the amendment of both the Senator from Idaho and the Senator from West Virginia seeks to change language presently in the bill as reported.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. STENNIS. The very section which my amendment seeks to strike.

The ACTING PRESIDENT pro tempore. And the language that remains after those amendments have been disposed of would then be the language which would be sought to be stricken by the amendment proposed by the Senator from Mississippi (Mr. STENNIS).

Mr. STENNIS. The language which is left.

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Mississippi would seek to strike from that section of the bill whatever language was in that section after the amendments were acted upon.

Mr. STENNIS. Whatever language is left after action on the amendments will become the language my amendment seeks to strike.

The ACTING PRESIDENT pro tempore. Yes, whatever is left in that section of the bill.

Mr. STENNIS. Is any other amendment presently in order to the language of the amendment of the Senator from Idaho and the Senator from New Jersey as proposed to be amended by the Senator from West Virginia?

The ACTING PRESIDENT pro tempore. Not at this time; only after the disposition of it would another amendment be in order.

Mr. STENNIS. I thank the Chair.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:30 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until 2:30 p.m. today.

The motion was agreed to; and at 1:23 p.m. the Senate took a recess until 2:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. BUCKLEY).

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TALMADGE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WITHDRAWAL OF A NOMINATION—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. BUCKLEY), as in executive session, laid before the Senate a message in writing from the President of the United States, withdrawing the nomination of Louis Patrick Gray III, of Connecticut, to be Deputy Attorney General.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9292) entitled "an act to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes.

ESTABLISHMENT OF VOLUNTEERS IN THE NATIONAL FORESTS PROGRAM

Mr. TALMADGE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1379.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1379) to authorize the Secretary of Agriculture to establish a volunteers in the national forests program, and for other purposes, which were on page 2, line 12, strike out "provision" and insert "provisions".

On page 3, line 1, strike out "$200,000" and insert "$100,000".

On page 3, line 4, strike out "of 1971" and insert "of 1972".

Mr. TALMADGE. Mr. President, the House, on May 1, passed S. 1379 with two technical amendments and an amendment reducing the appropriation authorization from $200,000 annually to $100,000 annually. I have checked with Senators MILLER and BELLMON, who had expressed views in committee with respect to the $200,000 authorization, and am advised that neither of them has any objection to agreeing to the House amendments. The $100,000 authorization was recommended by the Department of Agriculture.

I move that the Senate concur in the House amendments.

The motion was agreed to.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of all Senators? May we have order in the Senate? I do not wish to proceed until the Senate is in order.

The PRESIDING OFFICER. The Senate will be in order.

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The Senate continued with the consideration of the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the distinguished Senator from Kentucky (Mr. COOPER) will very shortly offer a number of amendments to the bill, provided the pending amendment can be temporarily laid aside. It is my further understanding that the distinguished Senator from Indiana (Mr. BAYH) is willing to agree to consider en bloc all those amendments with the exception of two.

Then it is my understanding that it is their desire that there be a vote—possibly a rollcall vote—on each of the remaining two amendments. Consequently, the unanimous-consent request which I shall now propound will take into consideration this situation, as I have understood it to be.

Mr. President, I ask unanimous consent that the pending question before the Senate, to wit, the amendment of the junior Senator from West Virginia (Mr. ROBERT C. BYRD), be temporarily laid aside for not to exceed 1 hour and 30 minutes; that, in the meantime, the distinguished Senator from Kentucky (Mr. COOPER) be recognized to offer his amendments to which I have already referred; that the time on each of the two amendments to be offered by Mr. COOPER—which are to be excepted from the en bloc request, and any substitutes therefor or perfecting amendments—be limited to 30 minutes, to be equally divided between the Senator from Kentucky (Mr. COOPER) and the Senator from Indiana (Mr. BAYH); that upon the final disposition of those amendments, the Senate then return to the consideration of the pending question, the amendment by the junior Senator from West Virginia (Mr. ROBERT C. BYRD).

The PRESIDING OFFICER. Is there objection?

Mr. BAYH. Mr. President, reserving the right to object, and I shall not object——

Mr. ROBERT C. BYRD. Will the Chair kindly indulge me briefly?

Mr. President, I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, let me make sure that we all are in agreement with what we have just entered into.

The pending question will be laid aside temporarily for not to exceed one hour and a half. The total time consumed on the discussion of all the amendments and substitutes, together with perfecting amendments, if there be such, will be 1 hour. Thirty minutes is allotted to each of the two amendments on which there apparently will be separate votes. With a 15-minute rollcall vote on each, if such should occur, this would just consume one hour and a half. If we need an extra few minutes, we will hope to get it.

Mr. COOPER. Mr. President, reserving the right to object, we have taken care of every issue we can anticipate. Suppose another Senator desires to offer an amendment.

Mr. ROBERT C. BYRD. If any Senator should offer an amendment thereto, he would have to wait until all time on the amendment had been yielded back or had expired. He would then have the right to offer an amendment, but there would be no time for debate of his amendment. He would merely get a vote thereon.

I ask the Chair whether I am correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. COOPER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. COOPER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? Will the Chair instruct staff members to take their seats, unless they are consulting with a Senator?

The PRESIDING OFFICER. Staff members will clear the aisles and return to the lounges.

Will the Senator from Kentucky send his amendment to the desk?

The amendment will be stated.

The assistant legislative clerk read as follows:

On page 12, strike out line 4 and insert in lieu thereof the following:

"(1) Informal procedures for the resolution of grievances in accordance with the purposes of this part, shall be established by agreement between the Secretary and the organization accorded recognition as the exclusive representative of the officers and employees of the Service. If a grievance is not resolved under such procedures within 60 days, a grievant shall be entitled to file a grievance."

On page 13, line 13, beginning with the period, strike out through the period in line 18 and insert in lieu thereof the following "from a roster of 12 independent, distinguished citizens of the United States well known for their integrity who are not officers or employees of the Department, the Service, or either such agency, agreed to by the Secretary and such organization. Such roster shall be maintained and kept current at all times. If no organization is accorded such recognition at any time during which there is a position on the board to be filled by appointment by such organization or when there is no such roster since no such organization has been so recognized, the Secretary shall make any such appointment in agreement with organizations representing officers and employees of the Service."

On page 14, line 2, strike out "at the same rate" and insert in lieu thereof a comma and the following: "for each day they are performing their duties as members of the board (including travel time), at the daily rate".)

On page 14, between lies 8 and 9, insert the following: "The members of the board shall elect, by a majority of those members present and voting, a chairman from among the members for a term of two years."

On page 14, line 9, before "The", insert the following: "In accordance with this part, the board may adopt regulations governing the organization of the board and such regulations as may be necessary to govern its proceedings."

On page 14, line 21, strike out "six" and insert in lieu thereof "eight".

On page 15, line 19, before the period, insert the following: "unless the board finds such interrogatory irrelevant or immaterial".

On page 17, line 14, after "relevant" insert "and material".

On page 17, line 19, before the period, insert the following: "and which shall be made a part of the record of the proceeding".

On page 18, line 3, strike out "in the case of a grievance not relating to the" and insert in lieu thereof "and determines that relief should be provided that does not directly relate to the".

On page 18, line 8, strike out "and" the second time it appears and insert in lieu thereof "or".

On page 18, line 9, strike out "in the case of a grievance relating to any such" and insert in lieu thereof "and determines that relief should be granted that directly relates to any such".

On page 18, line 17, after "recommendation," strike "only" and add "upon the record of the hearing or."

Mr. COOPER. Mr. President, the pending business may be found on page 11, beginning with line 9, Foreign Service Grievances.

I will not take much time to discuss the section, except to say that this legislation arose out of a tragic event which occurred last year, when a member of the Foreign Service committed suicide. His family and others including members of the Foreign Service attributed it to the fact that he had not been able to pursue grievance procedures in the Department of State. After that sad event, Senator Bayh, Senator Scott, and I, and others introduced a bill providing for the establishment of a grievance procedure for the Department of State. I said on the floor at the time the bill was introduced that I did not agree with all its provisions, but that I joined as a cosponsor because I thought a grievance procedure should be established and that due process should be assured.

The Committee on Foreign Relations held 2 days of hearings. After that, because I was interested in the bill, I consulted with Senator Bayh almost continuously since that time, to see if we could reach agreement on a bill which would provide a just and impartial grievance procedure. In addition, Mr. Miller of my staff consulted with members of the staff of Senator Bayh. I know that they discussed the details of a grievance procedure with the affected parties, members of the Foreign Service, the State Department, and the respective employee groups such as AFSA and AFGE.

In addition to reviewing their drafts while we were considering this matter, I have talked with representatives of the State Department, with representatives of the Foreign Service, with representatives of the union, and with lawyers who have been employed in grievance cases now in process, in addition to hearing and studying the evidence before the committee.

The section before the Senate is not supported by the Department of State, and some members of the Foreign Service have some objections to some portions of the section.

My interest, as a former judge, was in assuring that members of the Department of State shoulde be provided with a grievance procedure, and that the procedures assured them of full due process.

In this procedure we provide for the definition of a grievance. We provide that the grievants have the right to present their cases to the grievance board after informal procedures have been exhausted, which, by formal measures, will attempt to resolve any issue.

With respect to grievances other than promotion, assignment to posts, and selection out—which is really separation from the service— the decision of the grievance board will be final. In the case of selection out—that is, separation from the service—or assignment to posts or promotion, the board shall make recommendations ot the Secretary, who shall make findings and report to the grievance board. But even in that case, the grievant has a right to go to the courts under the Administrative Procedure Act, with appeal to the district court of the District of Columbia.

I appreciate very much the work that has been done by Senator Bayh and his staff and their willingness to work together with my staff and me. Their purpose and ours was to provide a just and fair grievance procedure. We have not agreed on everything but we have, I think, written a fair and just procedure. So the amendment which I sent to the desk to amend the section as reported by the committee—there are 12 amendments—the Senator from Indiana (Mr. Bayh) and I have agreed on all of the amendments except amendment 2 and amendment 12.

I ask unanimous consent that I may place in the Record an explanation of these amendments.

There being no objection, the material was ordered to be printed in the Record, as follows:

First, this provides for the establishment of an informal procedure for the resolution of grievances. These procedures to be worked out by agreement between the employee representative and the Department. If a grievance is not resolved within 60 days, a grievant shall be entitled to file a grievance.

Second, this provides that in the event that the two members of the board cannot agree upon a third that the "third" member shall be appointed by agreement between the two from a roster of twelve appointed by agreement between the employee organization and the Secretary—a roster which shall be kept current.

Third, this provides for payment of members of the board who serve on a less than fulltime basis.

Fourth, this provides for the election of the chairman of the grievance board.

Fifth, this provides that the board may establish its own rules and regulations as may be necessary for effective functioning.

Sixth, this provides for two months for informal procedures and six months for filing a formal grievance.

Seventh, this permits the board to limit interrogatory to relevant and material evidence.

Eighth, this provides that the material provided by the Department to a grievant shall be relevant and material.

Ninth, this classifies (A) on P. 18 that relief shall be provided that does not directly relate to promotion assignment or selection out.

Tenth, this strikes "and" and inserts "or".

Eleventh, this clarifies how "relief" should be granted in cases directly related to promotion, selection out or assignment.

Twelfth, this provides that the Secretary may reject a recommendation of the board upon the record of the hearings.

Mr. COOPER. Mr. President, I ask unanimous consent that the amendments, with the exception of No. 2 and No. 12, be considered and agreed to en bloc.

The PRESIDING OFFICER (Mr. Buckley). Without objection the amendments are considered and agreed to en bloc.

Mr. COOPER. Mr. President, now, Mr. President, I send to the desk amendment No. 2—which is No. 2 on the first page of the amendment—and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. COOPER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record at this point.

The text of the amendment is as follows:

On page 13, line 13, beginning with the period, strike out through the period in line 18 and insert in lieu thereof the following "from a roster of 12 independent, distinguished citizens of the United States well known for their integrity who are not officers or employees of the Department, the Service, or either such agency, agreed to by the Secretary and such organization. Such roster shall be maintained and kept current at all times. If no organization is accorded such recognition at any time during which there is a position on the board to be filled by appointment by such organization or when there is no such roster since no such organization has been so recognized, the Secretary shall make any such appointment in agreement with organizations representing officers and employees of the Service."

Mr. COOPER. Mr. President, I assume that we are now on controlled time?

The PRESIDING OFFICER. The Senator is correct.

Mr. COOPER. Mr. President, this amendment deals with the establishment of the panel, the board which will consider grievances. It is an important matter.

After considering a number of proposals, the committee agreed upon this—it was not my proposal but the committee thought it was all right—and that was that the elected representative of the Foreign Service should nominate one member of the panel. The Secretary should nominate the second member of the panel, and then the two should agree on the third member. In the event they could not agree, then the language of the section as the bill now stands provides that the Chief Judge of the Court of Appeals of the District of Columbia should select the third member.

I must say, I did not like that at the time. After due consideration, it seemed to me it was wrong, for these reasons: First, that the judiciary should not be concerned with the administrative procedures of the executive branch. Second, as this amendment for fair grievance procedures provides for an appeal to the ultimate decision of the court, the appeal would go first to the Court of Appeals of the District of Columbia, and that would seem to be a conflict.

So I am offering this substitute language, which provides, similarly, that the one member shall be named by the elected representative of the Foreign Service Association—with respect to USIA and AID; and that the Secretary of State shall recommend the second member of the panel, and that, if these two do not agree on a third, then, these two members shall select the third member from a roster, agreed to by the Secretary and the employee representative and kept current, of 12 distinguished citizens of the United States, well known for their integrity and independence, who are not officers or employees of the Department, the Foreign Service.

I will discuss briefly—and if I am wrong the Senator from Indiana will correct me, Senator Bayh's substitute language—that the panel shall be made up of persons chosen from the Association of Arbitrators of the United States.

Mr. President, I oppose his proposal to substitute, to appoint these members from the Arbitration Service, for this reason: I have no complaint at all to make about the integrity of the members of the Arbitration Association, but their main purpose and experience is to arbitrate labor disputes. They arbitrate disagreements arising out of collective bargaining agreements between management and labor, in which they are very proficient, I am sure, but that is not the experience that would be required in this kind of work. The Foreign Service of the United States is a peculiar service. I will say that it is peculiar or unique in two ways, peculiar or unique in the ordinary sense of the words, and peculiar in the way that the Senator from Indiana (Mr. Bayh) speaks of it as a group somehow set apart.

The purposes of the Foreign Service are designed to promote and assist in the development and execution of the foreign policy of the United States. Members of the Service are required to undertake specialized training, education, and discipline. This board will be dealing with every possible kind of grievance which affects their lives in the future, particularly with regard to three important points: The question of their promotion; the question of their assignment to posts; and the question—which to them, I suppose, is the most terrible decision of all—the question of selection out, which means separation from the Service.

Today, because of existing provisions, they may be separated at a comparatively young age and be unable, at that age, to find suitable work which will be rewarding and will fit their capabilities. I hope that can be changed so that these people can be retained to serve a full career.

I would hope that the Senate would recognize there are differences of opinion, passing on the delicate questions and the labor-management questions, and that it will accept this amendment. We both, Senator Bayh and I, labored on this for months. But in my view, I believe that we have to trust someone. The main argument made against my proposal for selecting a third board member, is that perhaps the Foreign Service representative will come under the influence of the Secretary. He will be elected by the Foreign Service Association employees who represent them. I assume they are honorable men in the Foreign Service who make up the employee groups. I assume that the Secretary of State is honorable. With the intent of Congress so specifically expressed here that due process must be provided, I cannot understand the position nor do I accept the view that there is hardly anyone we can trust within the Foreign Service system itself.

I have said that my effort has been to assure due process. I think that the bill now, as amended, and with this section in it for the selection of the board, will achieve that purpose. So that is my position.

I oppose the Bayh amendment and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BAYH. Well, Mr. President, as a Member of this body who does not have the good fortune to serve on the Foreign Relations Committee, some may ask, what is the Senator from Indiana doing involved in this? I became involved some time ago, when a constituent of mine by the name of Thomas came to my office with the following story:

He had had a perfect record and excellent reports for a number of years until suddenly he was about to be selected out—or fired—after not having been promoted over the prescribed period of time. After investigation, Mr. Thomas found that his selection out was caused by a clerical error; his favorable reports had been misfiled in another man's dossier. And for this reason he had not been promoted. Instead, he was about to be selected out.

My Mr. Thomas brought this to the attention of the State Department. I gather that the State Department absolutely refused to reconcile the matter. They continued with their process of firing or selecting out Mr. Thomas.

This was a man who had dedicated his whole life to nothing but the Foreign Service of his country, who had a wife and children. He had his profession ruined and had no way of appealing the grievance. Even a Member of the U.S. Senate could not be heard in the State Department in an effort to try to get this matter reconciled. This frustration built up in Mr. Thomas' head until he finally took his own life.

The State Department is the only Department of our Government that does not have some vehicle for appealing grievances such as this.

As a result of this, I introduced, along with two or three of my colleagues, S. 2659 last June. I have been working with the Committee on Foreign Relations for passage of this bill for nearly a year now: and the State Department has been working equally hard to kill the bill.

On Monday, April 17, the Committee on Foreign Relations approved an amendment to the State Department authorization bill designed to establish an independent grievance board, and to provide the framework of a grievance procedure with accompanying basic guarantees of due process for employees of the Foreign Service. The committee amendment is generally parallel to S. 2659. I commend the committee for its willingness to take action on this bill after countless delays by the Department of State in negotiating its own final grievance procedures with the employee organizations, Senators Fulbright, Cooper, and Case have been especially interested in the problem and have all contributed to the amendment as reported by the committee.

On the whole, I am in support of the committee amendment and urge the Congress to approve this legislation to protect foreign service officers from a system which, until the introduction of S. 2659, had granted only one hearing in 15 years. The amendment provides such basic guarantees as the right to a hearing, the right to representation at all stages of the proceeding, the right of access to documents relevant to a grievant's case, the right of a transcript of the hearing and cross-examination of witnesses, and the right to call witnesses under the supervision of the Department. Most important, the board's findings and recommendations are binding on the Department of State with narrow exceptions. None of these provisions are guaranteed under the Department's interim grievance procedures now in operation.

In spite of my general support for the committee action, I do believe that one change is absolutely essential to insure that the grievance board established by this legislation is as independent and judicious as possible. As a result of last minute confusion, the committee approved one change which I believe would seriously undermine the integrity and independence of the grievance board. As approved, the board consists of a panel of three members, one of whom shall be appointed exclusively by the Secretary, one by the employee's union, and one by the other two members.

Unfortunately, this procedure would result in a highly political board, rather than a judicial body, all of whose members are independent and neutral. I believe further amendment is needed to insure the board's complete independence and impartiality. Secondly, there is no assurance that the appointees would be experienced arbitrators, conformable with the difficulty of making judgments in highly complex, sometimes acrimonious disputes.

Finally, since the officials of the labor unions are Foreign Service officers themselves, vulnerable to the approval or disapproval of the office of personnel in the Department, they would be subject to subtle pressure from that office while choosing the second member of the board. Since the Department has traditionally had the power to influence not only the employee bargaining agent but even the board itself, it would be especially unwise to risk continued influence of this kind. Without true independence on the part of the board, the bill is totally meaningless and no other procedural protections can be of any value.

Mr. President, I wish to bring the attention of the Senate to an editorial which appeared in the April edition of the American Foreign Service Association's journal, indicating that concern about the impartiality of the board is a real and widely recognized problem. The Association represents 7,500 Foreign Service employees and is generally expected to be elected as the exclusive bargaining agent for foreign service employees. The editorial concludes:

> If this system is to succeed and if we are to realize our goal of effective co-determination, the Board must enjoy the full confidence of both the Foreign Service and Agency leadership. It can no longer be the prestigious rubber stamp for management decisions that it had been in the past. It must speak with its own voice and its procedures must be impartial.

My amendment is designed to preclude these potential difficulties without depriving the Department and the employees' union of their desire to choose one member of the board. The amendment provides that all three members so chosen shall be chosen from a "recommended list of at least 15 arbitrators submitted by the American Arbitration Association." The Association's National Panel of Arbitrators is a highly respected and experienced group of men and women who have an unquestioned understanding of the guarantees of due process and of the necessity of impartiality.

I respectfully suggest to my friend, the Senator from Kentucky, that I must take issue with him when he talks about this panel being nothing but a labor-management panel in the traditional sense of arbitration boards.

I have investigated the matter carefully. They have done some rather sophisticated investigating for the Department of HUD. They have worked out grievance and arbitration machinery for settling tenant-management disputes. They have resolved disputes between American businessmen and foreign businessmen. In a number of instances they have handled small claims, and medical malpractice suits have been arbitrated by them. They are illustrious figures from all over the country. Many of them are professors. I think that perhaps one-eighth of them must be chosen from the public sector. It is not a traditional type panel. For instance, of the 6,658 general labor-management arbitration cases administered by AAA during 1971, 18 percent were in the public sector—that is, the parties were agencies of the Federal, State, or local governments one one side, and organizations of the employees on the other. In December 1970, Chief Justice Warren Burger praised the American Arbitration Association as "a great institution" which has been helping courts divert to private forums cases "that should not come to judges at all.

I urge the Senate to approve my amendment and then to pass legislation desperately needed in the State Department. It has now been over a year since the State Department secured for the Foreign Service an exemption from the President's labor-management Executive Order 11491. It has been 1 year and 1 week since the death of Charles Thomas, and 10 months since I first introduced a grievance bill. And yet the Department still has not begun the process of negotiating its own grievance procedures as an alternative to Executive Order 11491. My office has received letters from all over the world about this issue. In fact, conference in Africa. I do not know how many Foreign Service officers came up to me and said: "Senator Bayh, how is that grievance bill coming along?" We have had letters from all over the world. Yet, what has been the response from the Department? The Department has spent thousands of taxpayers' dollars distributing speeches and letters against Congressional action. Indeed, a petition signed by only 300 officers was sent to all Foreign Service employees—estimated at 10,000 persons. This petition was supposed proof of the general opposition to the legislation. And yet the employee groups, AFSA and AFGE as well as the ACLU has supported the legislation. I would like to put in the Record at this time a copy of the Washington Post editorial entitled: "A Grievance Law for Diplomats." This editorial points out that this amendment would provide the only truly equitable chance for a Foreign Service officer to have a grievance involving neither the Secretary of State nor the aggrieved parties. Each party would come in there equally and would choose one party of the 15, not related to either of the parties.

Mr. President, I ask unanimous consent that the editorial and a letter from the Washington office of the American Civil Liberties Union be printed at this point in the Record.

There being no objection, the editorial and letter were ordered to be printed in the Record, as follows:

[From the Washington Post, May 3, 1972]

A Grievance Law for Diplomats

The Foreign Service continues to be Washington's most troubled bureaucracy, and its troubles are now being brought, once again, to the floor of the Senate. The immediate issue is legislation to establish a new and independent grievance procedure for Foreign Service officers and the other employees of the foreign relations agencies. The Department of State strongly opposes this legislation, arguing with considerable justice, that it has already corrected the worst abuses of the recent past. Unfortunately, the temper within the Foreign Service has become sufficiently distrustful and bitter that administrative reorganization by the State Department alone cannot cure it. What the Department has given, some of its employees fear, the Department can take away. These employees are entitled to legislation guaranteeing that the Department will apply its rules fairly, and will provide a right of appeal to an impartial referee. Both the American Foreign Service Association and the American Federation of Government Employees, the two chief organizations representing these employees, support the legislation now before the Senate. It is high time for Congress to enact it.

Grievances mainly involve, as one might expect, promotions and firings. These matters can be handled fairly smoothly in a corps of stable size and rank. But the State Department has been cut back about 20 per cent over the past five years, resulting in many firings of officers well into middle age, too old to change careers easily but too young for pensions. Mr. Macomber, the deputy secretary of state for management, has put a stop to the wholesale purges of people in mid-career. But the White House apparently believes that too many officers are clustered in the upper ranks of the Foreign Service, suggesting that there will be few promotions in coming years. The cuts in both positions and promotions has exacerbated all the familiar questions of fair play. The Foreign Service, like most other American institutions, is divided over questions of the proper limits to dissent. And those questions have a special edge in an organization whose business involves political analysis. What one man considers creativity may seem insubordination to another, and personnel disputes often revolve around precisely that distinction.

The Department, under Mr. Macomber, has made a series of important improvements in the personnel system recently. A grievance panel has been set up under a professional arbitrator, Mr. Simkin, former head of the Federal Mediation and Conciliation Service. Employees are now given access to their personnel files. The old up-or-out firing system, which works well in the military services but badly in diplomacy, has been suspended. The Department says that it is prepared, in principle, to support grievance legislation.

But it argues that the bill before the Senate is much too broad. The bill's supporters, in contrast, say that it is limited to issues of due process, and would only require the Department to follow its own rules. The senators sponsoring the bill can perhaps make their intentions on this point explicit in the floor debate. The next question is who shall be the judge. The present bill suggests a three-seat panel, with one seat filled by the person bringing the complaint, one by the Department, and one by agreement or failing agreement by the Court of Appeals here. In this instance, Senator Bayh's amendment seems preferable. He proposes filling all three ing agreement by the Court of Appeals here.

The malaise in the Department goes a great deal deeper than the personnel rules. The Department is, in fact, going through one of its periodic bad times, and bad times for the Department are bad times for the men and women who have committed their careers to it. Many of their traditional responsibilities have been carried off to Dr. Kissinger's office at the White House, or to the Treasury. The Vietnam war has churned up all of the basic questions of foreign policy, and the organizations that deal with it. But the Department and its sister agencies have an unusual proportion of first-rate people, highly trained and highly specialized. They are not dispensable to this country's central purposes. At a time when policy disputes are profound and vehement, grievance legislation can reassure these valuable people that their own superiors will deal with them equitably in their personal careers.

American Civil Liberties Union,
Washington, D.C., May 5, 1972.

Hon. Birch Bayh,
Old Senate Office Building,
Washington, D.C.

Dear Senator Bayh: The American Civil Liberties Union supports the amendment to the State Department authorization bill approved by the Committee on Foreign Relations which will establish a grievance procedure for employees of the Foreign Service. We support as well your amendment, No. 1145, which will insure the independence of the grievance board to be established. We believe that this grievance system will preserve the flexibility which the Foreign Service requires in its selection and promotion process, while at the same time substantially improving the likelihood that those decisions will be fairly and rationally made.

The right of every employee to access to grievance procedures, with the opportunity for a full and fair hearing, should be fully established as a basic principle of our government. For ours is the government of a free people, and, as Mr. Justice Frankfurter so aptly observed, the history of freedom has largely been the history of the development of fair procedures. Perhaps in a primitive society, with few people, freedom can exist without fair procedures. In a large, complex, modern society, it is impossible. Without fair procedures, each individual is subject to the whims and caprices of those in power, and cannot defend his rights and liberties.

We understand, of course, that special considerations may have to apply in connection with supervision, evaluation, promotion or discharge of Foreign Service employees. The Foreign Service is a demanding discipline, charged with a difficult and delicate task. There is no reason, however, why the decisions which are made, by whatever standards may be appropriate to the particular circumstances of the Foreign Service, should not be subject to review before an impartial body after opportunity for full hearing and inquiry. Indeed, the lack of fair procedures for consideration of employee grievances, as well as appeals from adverse actions raises grave questions under the due process clause of the Fifth Amendment to the United States Constitution. See *Greene* v. *McElroy*, 360 U.S. 474 (1959); *Goldberg* v. *Kelly*, 397 U.S. 254 (1970); *Bell* v. *Burson*, 402 U.S. 535 (1971); *Clackum* v. *United States*, 296 F. 2d 226 (Ct. Cl. 1960); and *Bland* v. *Connally*, 293 F. 2d 852 (D.C. Cir. 1961).

The State Department has opposed this legislation, saying that they are working on the establishment of procedures in this area. As you indicated in our floor statement on April 20, 1972, a year has passed "since the State Department secured for the Foreign Service an exemption from the President's labor-management Executive Order 11491" and "yet the Department still has not begun the process of negotiating its own grievance procedure." 118 Cong. Rec. S6463 (daily ed., April 20, 1972). Moreover, the Department's interim grievance procedures are wholly inadequate.

The amendment which the Senate will consider today guarantees such fundamental safeguards as the right to a hearing, the right to representation at all stages, access to all relevant documents, the right of cross-examination, the right to call witnesses under the control of the Department and a right to a transcript. Taken together, these guarantees provide a measure of procedural due process of law heretofore unavailable. None of these rights are guaranteed by the Department's interim procedures.

Fair procedures will benefit not only the individual employees. Such procedures will also assist the Foreign Service in assuring itself that its decisions are sound and rationally based, and in reviewing and improving its operations. The improvement in morale among employees which must result from the availability of fair grievance procedures can only redound to the benefit of the Service as a whole.

It is our hope that the Congress enacts this legislation as quickly as possible so that we prevent future tragedies, such as the death of Charles Thomas which first focused public attention on this problem. We commend you for the role you have taken in this important effort.

Sincerely,

HOPE EASTMAN,
Acting Director.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. FULBRIGHT. Mr. President, it has just been brought to my attention that a letter has been circulated by the Department. It is my understanding that in the circulation of that letter they do not make mention of the committee report.

Mr. BAYH. I believe the Senator is correct.

Mr. FULBRIGHT. The letter gave only their point of view.

Mr. BAYH. There reportedly have been 15,000 copies of that letter sent out. My proposal proposes the kind of morale building insurance they need in the State Department.

Mr. FULBRIGHT. Mr. President, I supported the committee version. I thought that it was mutually satisfactory. However, since that time I understand that it is not satisfactory and that both the proposal of the Senator from Indiana and the proposal of the Senator from Kentucky is different from that in the committee bill as reported.

Mr. BAYH. The Senator is correct.

Mr. FULBRIGHT. Mr. President, I have received not only the letter from the Department but also a letter signed by six members of the Foreign Service, whose names I do not feel that I should have printed in the RECORD, because of possible criticism from their superiors. The letter takes issue with the letter from the Department itself—that is, as being representative of the entire Foreign Service.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD both of the letters, the letter from the six members of the Foreign Service, together with the letter from the Secretary, and enclosing another letter from the Under Secretary.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., April 29, 1972.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Senate Foreign Relations Committee.

DEAR MR. CHAIRMAN: I have read Section 109(A), "Foreign Service Grievances", of the Senate Authorization of Appropriations Bill (S. 3526) which has been reported out by the Senate Foreign Relations Committee. As presently written, this section of the bill poses a number of problems which give me the most serious concern.

I am not alone in the view that the legislation would cause difficulty for the Foreign Service. The enclosed correspondence from Ambassador U. Alexis Johnson, which includes the views of over 300 Foreign Service personnel currently assigned to the Department, points out some of the principal areas of difficulty. I have now concluded that legislation setting forth general principles for a grievance procedure along the lines discussed in Ambassador Johnson's letter would be desirable at this time. Accordingly, I have instructed officers of this Department to consult the appropriate members of Congress for the purpose of developing such legislation which would be better suited to the needs of the Foreign Service and the Department than that presently contained in S. 3526.

I seek your cooperation in developing a program designed to strengthen and improve the Foreign Service of the United States.

Sincerely,

WILLIAM P. ROGERS.

UNDER SECRETARY OF STATE,
Washington, D.C., April 29, 1972.

Hon. WILLIAM P. ROGERS,
Secretary of State.

DEAR MR. SECRETARY: I have received a letter, a copy of which is attached, signed by over 300 Foreign Service personnel which registers their deep concern over the Foreign Service grievance legislation now pending in the Senate. I have been asked by the signers to assist in "having the Department discuss acceptable alternative legislation with the Congress."

As you know, there has been wide discussion among Foreign Service personnel, especially among those assigned to Washington, of the problem of handling grievances. There was a meeting April 27 which filled the International Conference Room. It was a reasoned and penetrating discussion of the problem, with all shades of opinion represented. A clear consensus was evident that grievance legislation is desirable. Further, it was clear that a substantial number of people believe that the Department of State should work with the Congress to develop acceptable legislation. The letter to me includes a statement of principles, which the signers believe should be incorporated in grievance legislation for the Foreign Service.

I have had conversations within the past ten days with various Foreign Service Officers which lead me to conclude that a broad consensus does indeed exist favoring the adoption of grievance legislation at this time. I personally believe that such legislation properly drafted is desirable.

Therefore, I recommend that you authorize the Department to develop a position on, and seek to work out with the appropriate committees and Members of the Congress, legislation generally reflecting the principles set forth in the enclosed letter. In addition, in order that the members of the Senate may have before them the views of this substantial group of personnel (which I might note are also subscribed to by three former Presidents of the American Foreign Service Association, including myself) during the consideration of the legislation now before the Senate, I suggest that you transmit a copy of this letter and its enclosure to the Chairman of the Foreign Relations Committee, as well as to the Chairman of the Foreign Affairs Committee.

I am sure that your approval of these recommendations would be welcomed by the overwhelming majority of the Foreign Service.

Respectfully yours,

U. ALEXIS JOHNSON.

DEPARTMENT OF STATE,
Washington, D.C., April 28, 1972.

U. ALEXIS JOHNSON,
Under Secretary for Political Affairs, Department of State, Washington, D.C.

DEAR MR. AMBASSADOR: We, the undersigned Foreign Service Officers and employees, are writing to you, as the senior officer in the Service, to register our deep concern over certain legislation pending in the Congress. We refer to Section 109(A) "Foreign Service Grievances" of the Senate Authorization of Appropriations Bill (S. 3526) which we understand has been approved by the Senate Foreign Relations Committee and is shortly to be reported out to the full Senate. We would like to enlist your aid in having the Department discuss acceptable alternative legislation with the Congress.

We unreservedly approve of the adoption of legislation to provide for modern grievance procedures for the Foreign Service. Indeed, we attach a statement of principles for grievance legislation which we believe will protect employee rights more effectively. These principles could form the basis for substitute legislation or for the amendment of Section 109(A).

We oppose the amendment in Section 109(A) because it provides in our view an unworkable system which potentially could infringe upon the rights and working conditions of the great majority of foreign service employees. Specifically, we consider these provisions of Section 109(A) to be its most serious flaws:

1. The legislation provides no safeguards for preserving the integrity of merit promotion as determined by impartial selection boards. Section 109(A) could permit promotion as a redress for any grievance which the board might sustain. We endorse without qualification the right of those aggrieved in the judgment of reasonable men to have appropriate redress but we cannot support procedures so loosely drawn that individual rights under strict merit promotion are threatened.

2. The language of Section 109(A) is so broad that its provisions could be invoked to suspend and discredit substantive policy formulation and implementation. We support without qualification the right to differ in the formulation of policy and the premise that U.S. policy will be the stronger when forged by honest argument, but we do not believe this should be the subject of grievance procedures.

3. As presently worded Section 109(A) provides that virtually every administrative act of the Department, e.g., assignments, promotions, allowances, merit awards and indeed all personnel policies, would be a potential subject for grievance. We therefore believe there should be built into the system safeguards to preclude its capricious use in such a way as to disrupt the operations of the Department and adversely affect the rights of the great majority of Foreign Service employees.

Finally, we note that the legislation deprives the Secretary of State of substantial authority over the grievance procedures for the agency for which he is otherwise totally responsible. We believe that a fair and impartial system as outlined in our statement of principles will safeguard the rights of all Foreign Service employees.

In sum, the statement of principles which we propose insures the establishment of a system to provide prompt, fair and just resolution of grievances under guarantees of due process. It provides for the implementing regulations to be drawn up after discussion by management and employees under Executive Order 11636.

Mr. Ambassador, we respectfully urge your personal consideration of the foregoing.

Respectfully yours,

——— ———.

STATEMENT OF PRINCIPLES TO BE INCORPORATED IN GRIEVANCE LEGISLATION FOR THE FOREIGN SERVICE

1. The Secretary shall ensure the development and implementation of a system for the prompt, fair and impartial consideration and the just resolution of grievances by officers and employees of the Foreign Service in accordance with Executive Order 11636. Such a system shall include the establishment of an impartial board appointed by the Secretary with the concurrence of the employees' exclusive representative.

2. In addition to the formal mechanisms established under the grievance legislation, there should be available fair and responsive informal procedures for prompt resolution of employee complaints.

3. A grievance shall mean any matter of concern or dissatisfaction to an employee resulting from denial of due process, discrimination, or mismanagement but excluding—

(a) The substantive aspects of foreign policy; or

(b) The general management policies of the foreign affairs agencies (which would be reserved for consultation between management and the employees' exclusive representative).

4. The grievance procedures shall ensure due process for the officers and employees of the Foreign Service by guaranteeing to them the following rights:

(a) To be free from any restraint, interference, coercion, discrimination or reprisal because of filing a grievance, appearing as a witness, or other involvement in a grievance proceeding;

(b) To have a formal evidentiary hearing before a grievance board; to be present at any hearings and to be accompanied by counsel or other representatives of their own choosing at every stage in a grievance proceeding;

(c) To call and examine witnesses in their behalf at the hearings before the board and to cross-examine all other witnesses;

(d) To have access to relevant information from the files and personnel of the foreign affairs agencies, including access to all evidence considered by the board;

(e) To have any hearing before the board transcribed verbatim and to have access to the transcript.

DEPARTMENT OF STATE,
May 5, 1972.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Senate Foreign Relations Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary of State recently wrote you on behalf of over 300 Foreign Service personnel expressing the view that Section 109 (A), Foreign Service Grievances, of the Senate Authorization of Appropriations Bill (S. 3526) "poses a number of problems" which raise his serious concern. We wish to state that such views in no way represent our own, and as Foreign Service Officers currently on assignment to the Department, we heartily endorse the Committee's action in proposing the establishment of a grievance system for the Foreign Service—a system independent of the Department's own management officials. We believe that the Department of State has compiled a poor record of denial of due process, perpetuation of the practice of favoritism, and outright mismanagement of personnel matters requiring now that Foreign Service personnel be given access to a system of impartial review of valid grievances.

We take issue specifically with the Statement of Principles attached to the letter referred to above, where, in paragraph (1), the establishment of a system to include "an impartial board appointed by the Secretary" is urged. In our view, such a board would by definition be open to the same pressures from management officials, free to act with the same secrecy, and able to operate with the same lack of accountability as the Department's previous grievances hearing mechanisms, and could therefore not be impartial.

We find no merit, furthermore, in Ambassador Johnson's statements that the proposed legislation "provides no safeguards for preserving the integrity of merit promotion", that its provisions "could be invoked to discredit substantive policy formulation", and that "every administrative act of the Department . . . would (become) a potential subject for grievance".

The present promotion and selection-out system has been notable for its failure to establish clear standards by which to judge merit in individuals. Without opening up promotion and selection-out to truly impartial review, we can see no way that it can be improved. One need look no further than almost any current issue of a national newspaper to see evidence of the bitterness which the injustices perpetrated by the Department on its own personnel have caused. If there had been a system of impartial, outside review of at least a few of the Department's egregious acts of mismanagement of its personnel, much of this bitterness might well have been more constructively channeled.

We believe that the proposed legislation would have no obvious effect on substantive deliberations of policy, aside, perhaps, from allowing such issues to be deliberated by officers free from the extreme pressures of group thinking and cronyism which the present system encourages. In our minds, the raising of such a spectre to inveigh against an open grievance system appears to be nothing more than the creation of a straw man, which smacks of the same deviousness characteristic of some of the Department's more unfortunate personnel actions.

As to the third objection, that "every administrative act" would be subject to grievance, we believe that there is no valid reason for concern. Other departments of the executive branch appear not to suffer from the unwarranted intrusion of grievance boards in every administrative act, and, in our view, Foreign Service personnel are at least as responsible and serious as the employees of the Commerce, Labor, Justice, Defense and other Departments. The proposed legislation is quite precise in limiting the powers of a grievance board to appropriate matters, and offers ample safeguards to prevent an illegal assumption of power.

Though not mentioned in the Secretary's letter, the Department reportedly is concerned about the proposed legislation leading to grievances being filed by Foreign Service personnel objecting to assignments, especially assignments to undesirable posts. At present, the process operates in secret, which causes many persons to suspect that their assignments are determined on other than merit considerations. Thus, given no change in the way assignments are made, some assignments might well become the subject of grievances. On the other hand, the Department could, without changes in legislation, publicize lists of forthcoming vacancies in the Foreign Service, keep public minutes of assignment panels' operations, and publicize assignment panel decisions (these documents are now classified). An open system such as this, would, in our view, engender much more confidence in the assignment process, which would in turn inevitably lead to few insubstantial grievances being filed.

It is our firm belief that Foreign Service personnel are mature and rational professionals with no unrealistic expectations that every job the Service assigns them will be ideal. They have every right to expect that they will be able to compete openly and fairly for vacancies, and that decisions regarding their assignments will be demonstrably on merit rather than friendship or special privilege. If the proposed legislation served to "open up" the assignment process, as we believe it would, its long-run effect would be to remove much of the doubt, mistrust and uncertainty that characterizes the present system.

In our opinion, the basic issue being argued by the Secretary and Ambassador Johnson is whether the Foreign Service should continue its elitist tradition of "special relationships" and exclusive privilege, or become, in the words of some officials critical of the proposed legislation, "just like the Civil Service". These special privileges have been, for most of the Foreign Service, special devices to perpetuate unfair and discriminatory personnel practices. We feel strongly that the Foreign Service should be able to enjoy the same right that other government employees have: the right to effective redress of legitimate grievances. We need no less, and the nation we serve needs no less to make our organization the effective instrument it could be.

Respectfully yours,

JOHNNIE CARSON.

Mr. FULBRIGHT. Mr. President, I must say that if we seek an opinion of the members of the Foreign Service, it strikes me that they ought at least make available the report of the committee so that it gives both points of view and the argument and an enlightened reaction to their point of view. I should think that would be fair.

Mr. BAYH. I certainly agree. Along these same lines I would like to include an exchange of letters I have had with the Department of State. The Department has spent about $8,000 of taxpayers' money to distribute all over the country a one-sided analysis of departmental reform—with emphasis on grievance procedures. I ask unanimous consent that a copy of these letters be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., March 16, 1972.

MR. PAUL E. AUERSWALD,
Director, Office of Media Services, Department of State, Washington, D.C.

DEAR MR. AUERSWALD: I have noted with interest your letter of February 7, 1972, copy attached, transmitting a press release "Change in Foggy Bottom: An Anniversary Report", which is the text of a recent speech to State Department employees by Deputy Under Secretary William B. Macomber.

Your letter of February 7 also indicates that the mailing list to which this latest speech was mailed at taxpayers' expense has previously received reports concerning administrative developments in the Department of State.

As you know, there has been a great deal of controversy surrounding the question of grievance procedures in the Foreign Service, and a number of Mr. Macomber's assertions have already been challenged by interested observers. Therefore, I would appreciate receiving from you the following data:

1. The nature of recipients contained in the mailing list in terms of their affiliation, profession, etc., in general categories;

2. The reasons these particular persons were chosen as recipients of this particular type of release;

3. The total numbers of recipients for each of the mailings indicated in your February 7 letter;

4. The total cost of such mailings, broken down by postage, printing costs, and personnel costs for each of the mailings;

5. The authority in terms of the foreign policy interests of the United States government for the Bureau of Public Affairs of the Department to undertake such mailings at the taxpayers' expense; and

6. The extent to which the Office of Media Service sought to obtain the employees' point of view so as to guarantee a balanced discussion. Would the State Department send a similar mailing containing the anniversary report of an employee group such as AFSA?

I would appreciate an expeditious reply to these questions for use during consideration of the Foreign Service Grievance Bill, S. 2659, of which I was an original sponsor.

Sincerely,

BIRCH BAYH,
U.S. Senator.

DEPARTMENT OF STATE,
Washington, D.C., February 7, 1972.

The enclosed press release "Change in Foggy Bottom An Anniversary Report" is the text of recent remarks made by Deputy Under Secretary William B. Macomber on the occasion of the second anniversary of the launching of the Department's Management Reform Program.

Since you were among those on our mailing list who previously received copies of the summary report on this program, and a six-month progress report we believe you may find this latest status report of interest.

PAUL E. AUERSWALD,
Director, Office of Media Services.

DEPARTMENT OF STATE,
Washington, D.C., April 7, 1972.

Hon. BIRCH BAYH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAYH: I am replying to your letter of March 16 to Mr. Paul E. Auerswald concerning our mailing of a press release, "Change in Foggy Bottom: An Anniversary Report," the text of a speech by Deputy Under Secretary Macomber.

The Department of State maintains mailing lists of individuals and organizations (including some Members of Congress and Congressional staffs) who have asked to receive our publications, news releases, and other materials concerning U.S. foreign policy and the activities of the Department of State. We believe the Department's program of management reform is a matter of importance and concern to all such students of our foreign relations, and that indeed we have an obligation to inform them about it.

Accordingly, when Mr. Macomber's initial report on this reform program was released in December 1970, we reprinted a summary of it and distributed the summary version to our basic mailing list of approximately 11,000. In addition, we sent about 339 courtesy copies to others within government and outside it who in our judgment would want to have them and could make good use of them—primarily colleges and universities with international studies programs and members of the National Academy of Public Administration. We also sent some of these same people (not all for economy reasons) his six-month report on progress in instituting the reforms, and still later his January 26, 1972, speech reporting on the first year's progress.

Answers to the specific questions raised in your letter follow:

(1) These mailings were sent to persons in the following categories who have asked to be placed on our mailing lists: officers of national and local non-governmental organizations; media representatives; members of various Department of State advisory committees; retired Foreign Service Officers; Public Members, past and present, of our Foreign Service Selection Boards; librarians, administrators, and other interested officials of various government agencies; educators; the offices of some Members of Congress and Congressional committees; and other miscellaneous individuals on our mailing lists. Not all of these categories received the second and third mailings.

(2) As indicated, the recipients of these mailings are on our mailing lists because they have asked to receive such materials. The only exceptions were the 339 mentioned above who received courtesy copies because we felt they would be particularly interested.

(3) As indicated, the summary of the Management Reform Program was sent to 11,042 recipients. For reasons of economy, the six-month report was sent to only 6,193 of these recipients and the one year report to 6,766 of them. (The difference in numbers between the second and third mailings reflects changes in the lists in these particular categories during that period.)

(4) I am enclosing a breakdown of the total cost per mailing as requested.

(5) During the annual budget hearings, the Congress is informed about the Department's public affairs activities, in as much detail as the appropriate committees request. The appropriation "Salaries and Expenses" provides: "This appropriation item provides funds for the formulation and execution of the foreign policy of the United States, including the conduct of diplomatic and consular relations with foreign countries, conduct of diplomatic relations with international organizations, public information and related activities." More broadly, of course, we like virtually all government agencies feel that our substantive responsibilities, and indeed our system of government, imply an obligation on our part to help the public keep informed of our activities.

(6) Our responsibility, as we have long understood it, is to make known the Administration's foreign affairs policies and activities. A broader responsibility woud not only be a departure from long-established, and we believe sound, policy, but would also be beyond the reach of our modest information resources. We recognize, as you do, how important it is that the views of citizen groups, Members of Congress, and other interested parties, about the Department and its policies and programs, be available to the American people; but we have serious reservations as to whether the Department has the authority or the competence to assume this function, or to determine which among the diversity of viewpoints other than its own should be presented, and how. We believe that interested persons should, and do, look to the private groups themselves, the mass media, the Congressional Record, Congressional committee prints and the Members themselves for these views.

If you would like further information about this subject, please do not hesitate to call on me.

Sincerely,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

QUESTION NO. 4—BREAKDOWN OF TOTAL COSTS PER MAILING

Postage:*	
A. Summary report	$1,877.14
B. 6-month report	919.04
C. Anniversary report	2,050.77
Total postage	4,846.95

* Based on monthly cost factor determined by mail count 1 day per month; cost factor varies greatly from month to month ($0.17 for A, $0.1484 for B, $0.3031 for C).

QUESTION NO. 4—BREAKDOWN OF TOTAL COSTS PER MAILING—Continued

Printing:	
A. Summary report	$1,708.00
B. 6-month report	197.00
C. Anniversary report	550.00
Total printing	2,455.00
Personnel costs:	
A. Summary report	170.53
B. 6-month report	96.74
C. Anniversary report	105.49
Total personnel cost	732.76

Mr. BAYH. I do want to express my deep appreciation to the chairman of the committee. There have been so many weighty problems requiring full attention, particularly the ever-troubling question of this war, that this particular matter might seem rather trival. I appreciate the time you have given this legislation.

Mr. FULBRIGHT. Mr. President, I do not profess any expertise on this at all. I did attend the hearing. I was seeking some way that I thought would be mutually satisfactory to the employees, because the management of the Department would not be satisfied with anything but their complete domination of the procedure. I can understand how anyone having control of any organization would wish to have discretion as to their employment practices.

Mr. BAYH. Mr. President, I send to the desk my substitute for the amendment of the Senator from Kentucky.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

Strike out the entire amendment and insert in lieu thereof the following:

In the second sentence of subsection 692 (2) (A), strike out the words "The board shall consist of a panel of three members," and insert in lieu thereof the following: "The board shall be appointed from a recommended list of at least fifteen arbitrators submitted by the American Arbitration Association, and shall consist of a panel of three members,".

On page 13, line 18, after the period insert the following:

If no employee organization is accorded recognition as the exclusive representative, the Secretary, in agreement with the major employee organizations, shall appoint the Board from the recommended list submitted by the American Arbitration Association.

Mr. COOPER. Mr. President, I express my appreciation to the chairman of the Foreign Relations Committee.

With all of the other difficult issues before the committee, the Senator from Arkansas (Mr. FULBRIGHT) gave a great amount of time during the hearings and in markup in an effort to reach a procedure that he thought would be fair to the State Department and to others.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. BAYH. Mr. President, how much time do I have remaining? I wish to yield to my friend, the Senator from Utah.

The PRESIDING OFFICER. The Senator from Indiana has 3 minutes remaining.

Mr. BAYH. Mr. President, I yield the 3 minutes to my friend, the Senator from Utah.

Mr. MOSS. I thank my friend from Indiana. I rise to support his substitute amendment.

Last year, the Nation's conscience was stirred by the tragic circumstances surrounding the death of Charles W. Thomas, a career officer in the U.S. Foreign Service. A veteran diplomat, Thomas was brutally "selected out" of the State Department, largely on the basis of a misfiled competence report. His career ruined, denied the opportunity to appeal his case, or even to receive an annuity for his family, he took his own life.

"Selection out" is unfortunately not the only area in which the State Department has shown a traditional disregard for the basic concept of "due process." There have been countless examples in the Department's history where foreign service personnel were refused even the rudiments of a fair hearing. In a recent case, a diplomat was denied access to the very documents which were being used against him. In another, a female officer, who saw herself a victim of sex discrimination, found she had no means of appeal. The Secretary's decision was, as always, irreversible.

Mr. President, today the Senate takes up action on long-overdue legislation aimed at establishing independent grievance procedures for Foreign Service personnel.

Under section 109 of the Foreign Relations Authorization Act, employees and officers of the State Department or its related agencies would be permitted to appeal all "adverse actions" regarding "selection out," promotion or assignment.

I have long advocated the creation of just such a board, one that is truly independent. On October 6, 1971, I introduced S. 2662, a bill which also provided for an "adverse action appeals board" but one that is entirely outside of the State Department. I believed then and will continue to believe that a genuine, effective appeals board could never be established under departmental auspices. It is an illusion to believe that employees of the Department can really be independent of the powerful forces that operate there.

For this reason, I am glad to support Senator BAYH's amendment, which I believe will strengthen the grievance board's independence substantially.

S. 3526 provides for the establishment of a three-member board composed of "independent, distinguished citizens of the United States, well known for their integrity, who are not officers or employees of the State Department or its related agencies." Unfortunately, the bill does not go far enough to insure the board's complete "independence." It does little to insulate the members from State Department Establishment influence. Under section 109, one of the three members would be appointed by the Secretary of State. The second, by the "employee organization recognized as the exclusive representative of the officers and employees of the Service." The third, would be appointed by the first two. In such a framework, with departmental influence falling heavily on the employees' representative, the board's independence could be extremely short lived.

Senator BAYH's amendment, however, would require that all members of the board be selected from a list of 15 nominees submitted by the American Arbitration Association, thus guaranteeing an added measure of objectivity.

Representatives of the State Department have, of course, already begun to rail against this measure, but these are the same voices which rejected the S. 3526 provision itself. They argue that any congressional action is premature.

Premature in relation to what? On only one occasion in the past 15 years has the State Department granted a hearing to an aggrieved officer, and then only after a painfully slow process of negotiation. How long must the people wait for justice?

Other State Department apologists argue that "interim grievance procedures" have already been instituted. They fail to point out, however, that the Department took no action whatever, even in the wake of the tragic Thomas case, until after this legislation had been introduced. They also fail to recognize the difference between an employee's statutory right to an adverse actions appeal and a mere regulation, which would inevitably have to rely on the Department's discretion.

Mr. President, we can wait no longer for the State Department to "put its own house in order." We can no longer allow the careers of our trusted diplomats to be ruined by error, prejudice or reprisals. Due process of law must replace outmoded establishment thinking. Congress must move decisively to provide the procedural safeguards which will make the State Department and its related agencies a truly competitive career service, one that is worthy of our Nation's best minds and most devoted professionals.

Mr. COOPER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 7 minutes remaining.

Mr. COOPER. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. Under the precedents of the Senate, the Senator does not have enough time remaining to suggest the absence of a quorum. The Senator can yield back his time and then suggest the absence of a quorum.

Mr. COOPER. I must say I never heard of the ruling before, but I am sure the Parliamentarian knows much more than I do about the precedents of the Senate.

The PRESIDING OFFICER. The Senator may yield back the remainder of his time and then suggest the absence of a quorum.

Mr. COOPER. I thank the Presiding Officer.

Mr. President, I would like to make clear for the Members of the Senate who are present that this section is a great advance. Prior to 2 months ago there were no effective grievance procedures in the Department of State. There was no regularly institutionalized, just grievance procedure. In the last several months, the State Department has instituted some procedures, and according to some reports they work satisfactorily.

If this bill is passed, and if this section is left in the bill by the House, it will mark a very unusual event: The State Department will be the only department or agency of Government for which Congress has provided full and unpartial grievance procedures.

There is one minor exception, and that is the Board of Corrections in the Department of Defense, and even under the Civil Service Act, there is no similar grievance procedure. So this is a major step forward in the provision of due process for the Department of State employees. I want to make that clear.

I believe that the substitute which has

been offered should be rejected. I do not wish to denigrate or derogate the expertise of the arbitrators in the arbitration association, but in reading all of their literature, they are chiefly called upon in connection with labor-management disputes. The grievance procedure will provide a means to examine questions of omission by members of the Department, misjudgment of facts which require experience, and judgment in the practical matters that pertain to the Foreign Service. I think the grievance panel we have provided for would assure that result.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. COOPER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator does not have enough time remaining to suggest the absence of a quorum.

Mr. COOPER. I yield back my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COOPER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FONG. Mr. President, as the ranking minority member of the Senate Committee on Post Office and Civil Service for over 12 years and having been involved in Federal employee personnel legislation for those many years, I have great interest in section 109 of S. 3526 and particularly subsection 10.

Subsection 10 would give the grievance board of the Foreign Service broad powers to suspend any personnel action within the State Department which might be connected to an action pending before the grievance board.

Subsection 10 reads:

> If the Board determines (A) the Department is considering any action (including, but not limited to, separation or termination) which is related to, or may affect, a grievance pending before the board and (B) the action should be suspended, the Department shall suspend such action until the board has ruled upon such grievance.

Such broad powers given to a three-member grievance panel are unprecedented in Federal personnel procedures and are highly questionable. This provision strikes at the heart of personnel management within the State Department. Furthermore, whenever such procedures have been tried in private industry they have proved to be completely unworkable and have been abandoned.

Although the Foreign Service is completely outside the general Federal civil service, I believe a brief comparison of the grievance procedures allowed by the U.S. Civil Service Commission is in order.

Most Federal employees are entitled to appeals on adverse agency actions both at the agency level and to the Civil Service Commission. The adverse actions which may be appealed are removals, suspensions for more than 30 days, leave without pay, and reduction in rank or pay.

The Civil Service regulations on appeals include: First, the right of an employee and employee representatives to comment on the appeals systems and propose changes to them; second, the requirement that appeals systems must be published and made available to employees and their representatives; third, the employee must be notified of his right to appeal but the time of appeal is limited to 15 days after the effective date of the adverse action; fourth, the employee and his representative are assured of freedom from restraint, interference, coercion, discrimination or reprisal, and must be allowed a reasonable amount of time to prepare his appeal; fifth, the appellate review must be made by an official who is at a higher organizational level than the person who made the adverse decision; sixth, the employee has the right to appeal through his agency or to the Civil Service Commission; however, if he appeals through his agency system he may appeal to the Commission (a) after he receives the decision from his agency appeal or (b) after 60 days if he has not received a decision on his agency appeal; and seventh, if the employee first appeals to the Civil Service Commission, he forfeits his right to appeal through his agency system.

The preceding is a brief résumé of the appeals and grievance procedures allowed most Federal employees.

It must be pointed out that the grievance procedures allow management to continue its operations and limits the types of personnel actions from which an employee may appeal.

If a grievance appeal is decided in favor of the employee, corrective action can be made retroactive. No suspensions of personnel actions are ordered by the appellate body until after the action is adjudicated. At no time are the agency operations ordered suspended.

Subsection 10 of section 692 in the present bill could bring operations of the State Department to a grinding halt because of the suspension authority given to the grievance board. Staffing of positions, reassignments to posts, and any other personnel actions contemplated by the Secretary could be stopped until a final decision by the board was handed down.

It is obvious that if this authority were exercised by the board with any frequency, the State Department function would be seriously disrupted.

Subsection 10 is an open invitation to any employee to try to enlist the grievance board in a type of blackmail bargaining with management of the Foreign Service over any personnel action which the employee does not find to his liking. Proposed promotions, new recruitment, changes in space or location of offices, post assignments, any number and types of grievances could be the basis for the board's ordering the State Department to suspend its contemplated personnel actions.

It gives to the Foreign Service employees much more than is given to the non-Foreign Service Federal employees as far as grievance appeals are concerned. It may be that the wisdom of the Congress will determine that these broader grievance rights for Foreign Service employees are necessary. However, the enactment of subsection 10, I believe, would seriously undermine the right of the Secretary of State to operate and manage the State Department in the manner he believes to be in the best interests of our country.

Mr. DOMINICK. Mr. President, section 109 of the bill before us, S. 3526, would establish a statutory grievance procedure for the Foreign Service. I understand that there is a good deal of support for providing by law that such a procedure be required. I am concerned, however, that this bill contains so much detail better left to regulations, including a number of detailed provisions which were not in S. 2023 or S. 2659 and therefore not considered in hearings. I wish to call the Senate's attention to several provisions in particular which to me create serious problems.

For example, the bill, in paragraph (6) of what would become section 692 of the Foreign Service Act, states that in considering the validity of a grievance the proposed grievance board shall have access to security records of the grievant and of his rating or reviewing officers, but paragraph (7) does not permit the furnishing to the grievant of these security records which may have been critical to the decision. The wisdom of permitting even the board unlimited access to security files raises grave doubts, but surely all would agree it is a lack of basic due process to permit the board to rely on those files in making its decision and for the employee not to know what that information is so he could possibly rebut it.

Paragraph 10 of the same section authorizes the grievance board to suspend any action proposed by the Department of State when the board determines that action is related to or may affect a pending grievance. I can understand suspending the separation of an employee who has filed a grievance based upon his separation, but what if the complaint is about the fact that other officers in a class were recommended for promotion and the complainant was not? Should the board be able to suspend the submission of the whole promotion list until the complainant's grievance is decided? If he is complaining about not getting an assignment, should the board be able to prevent anyone else from taking that assignment?

The problem here seems to result at least in part from the very sweeping description of what constitutes a grievance. Paragraph (1)(B) of the basic section says a grievance is "any claim of injustice or unfair treatment" which arises from "employment or career status, or from any actions, documents, or records, which would result in career impairment or damage, monetary loss to the officer or employee, or deprivation of basic due process."

It is difficult to conceive of any significant action in administration or operations which could not be at least claimed to have one or another of these effects.

I am not aware of any other agency which has such a wide range of day-to-day operations that can be made the subject of grievances, much less made the subject of a formal hearing by an outside board.

Another major point is that there is no provision in this bill for informal resolution of grievances. Almost without exception grievance procedures negotiated with employee organizations inside or outside the Government require an attempt at informal settlement before moving to the formal stage. Under the interim procedures now in operation for the Foreign Service only 21 of the 61 cases upon which informal review has been completed have since been filed as formal grievances. I do not believe that the Department of State should be denied the opportunity to informally resolve grievances and to avoid incurring the expense and delay of a formal hearing in all cases.

Also, it is not clear to me how some fairly basic procedural provisions of the bill would operate in practice. Paragraph (1)(A) of proposed section 692 permits former employees to be grievants and paragraph (11) gives the Board authority to order such relief as, in its unfettered discretion, it may deem proper. Only in cases related to promotion, assignment or selection out would the Secretary of State have authority to reject the order, and then only where the foreign policy or security of the United States would be adversely affected. Thus the board might find that a number of former employees were wrongly selected out and direct that they be reinstated. This could result in the displacement of other officers from assignments or from their promotion to a higher class, which would in turn be grievable by them. If this retroactive feature is necessary, there should be positive authority to provide monetary recress as an alternative to reinstatement so as to avoid an ever-widening circle of grievances.

Mr. President, the foregoing is but a partial catalog of the defects of the grievance section of S. 3526 as I see them. Some might be curable—or at least containable—if the proposed grievance board were judicial in character and sophisticated in the requirements of a professional foreign service and the demands of the proper execution of the foreign policy of the President—any President—of the United States in the late 20th century. But the board created in this bill is a monstrosity. It would consist of a self-proliferating series of adversary three-man panels, with only one appointed by the Secretary of State. A second will be appointed by an employee organization and, failing agreement of these two on a third member—shown by experience to be the most likely probability—the third to be appointed by—of all people—the Chief Judge of the U.S. Court of Appeals for the District of Columbia Circuit, presently Judge Bazelon. I noticed in the CONGRESSIONAL RECORD for April 28 that the State Department's judgment is:

> Given the adversary relationship of the other two Board members, the Judge's appointee will probably be the decisive figure on the Board. Because of the extraordinary scope of the Board's authority, the practical effect of this legislation would be to give the Judge's appointee a paramount role to that of the Secretary of State in much of the direction of the Foreign Service.

Mr. President, in my opinion this section of the bill is unacceptable and should be rejected out of hand.

Mr. COOPER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the amendment.

Mr. ALLOTT. Mr. President, will the Chair please state the question?

The PRESIDING OFFICER. The question is on the amendment in the nature of a substitute offered by the Senator from Indiana to the amendment offered by the Senator from Kentucky.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), the Senator from Rhode Island (Mr. PASTORE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. ELLENDER) is absent on official business.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from Georgia (Mr. GAMBRELL).

If present and voting, the Senator from Minnesota would vote "yea" and the Senator from Georgia would vote "nay."

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Wyoming (Mr. HANSEN) and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOK) is detained on official business.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 26, nays 58, as follows:

[No. 178 Leg.]

YEAS—26

Anderson
Bayh
Bible
Burdick
Byrd, Robert C.
Church
Cranston
Eagleton
Fulbright
Hart
Hartke
Hughes
Inouye
Kennedy
Magnuson
McGovern
Mondale
Montoya
Moss
Nelson
Pell
Proxmire
Ribicoff
Stevenson
Symington
Tunney

NAYS—58

Aiken
Allen
Allott
Baker
Beall
Bellmon
Bennett
Bentsen
Boggs
Brock
Brooke
Buckley
Byrd,
Harry F., Jr.
Cannon
Case
Chiles
Cooper
Cotton
Curtis
Dole
Dominick
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hatfield
Hollings
Hruska
Jackson
Javits
Jordan, N.C.
Jordan, Idaho
Long
Mansfield
Mathias
McGee
Metcalf
Miller
Packwood
Pearson
Percy
Randolph
Roth
Saxbe
Schweiker
Scott
Smith
Spong
Stafford
Stennis
Stevens
Talmadge
Thurmond
Tower
Weicker
Young

NOT VOTING—16

Cook
Eastland
Ellender
Gambrell
Gravel
Hansen
Harris
Humphrey
McClellan
McIntyre
Mundt
Muskie
Pastore
Sparkman
Taft
Williams

So Mr. BAYH's amendment in the nature of a substitute for Mr. COOPER's amendment was rejected.

Mr. COOPER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order limiting time now be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The question is now on agreeing to the amendment offered by the Senator from Kentucky (Mr. COOPER).

The amendment was agreed to.

Mr. COOPER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, what is now the pending question?

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment offered by the Senator from West Virginia (Mr. ROBERT C. BYRD).

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, if I may have the attention of Senators, there will be no more votes today. The pending question is on agreeing to the amendment of the junior Senator from West Virginia (Mr. ROBERT C. BYRD), and that question will remain pending the rest of today.

There will not be any further transaction of business today, but Senators may wish to debate the pending question.

Mr. STENNIS. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. STENNIS. As I understand, the Senator has said there will be no more votes today. May I ask if there will be any further unanimous-consent requests presented today?

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will resume their seats. Staff members will retire to the rear of the Chamber, or withdraw.

Mr. ROBERT C. BYRD. Mr. President, in response to the question of the distinguished Senator from Mississippi (Mr. STENNIS), there will be no unanimous-consent requests made today with respect to limitation of time on the pending question before the Senate. It might be possible, however, to work out an agreement on another bill, which has nothing to do with the pending business, in an effort, possibly, to expedite other legislative business. But so far as the unfinished business and the pending question before the Senate are concerned, there will be no unanimous-consent requests agreed to today.

Mr. STENNIS. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHURCH-CASE FUND CUTOFF AMENDMENT DEFECTIVE

Mr. FONG. Mr. President, the amendment offered yesterday by the senior Senator from Idaho (Mr. CHURCH) and the senior Senator from New Jersey (Mr. CASE), amendment No. 1186, has two fatal defects.

As proposed, the amendment would read as follows:

> TITLE VII—TERMINATION OF HOSTILITIES IN INDOCHINA
>
> SEC. 701. Notwithstanding any other provision of law, none of the funds authorized or appropriated in this or any other Act may be expended or obligated for the purpose of maintaining, supporting, or engaging United States forces, land, sea, or air, in hostilities in Indochina, four months after reaching an agreement for the release of all prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.

The first fatal defect is that the amendment would cut off all funds for U.S. forces in Indochina, not 4 months after release of all prisoners of war held by North Vietnam, but 4 months after "reaching an agreement for the release" of all prisoners.

Suppose an agreement is reached for the release of all prisoners of war. The Church-Case time limit of 4 months would then begin to run, from the time the agreement is reached. The North Vietnamese could stall and stall and stall and 4 months could go by without their releasing even one of our prisoners of war. Yet the sponsors of this amendment would prohibit the U.S. Government from using any funds whatsoever—not a dime, not a cent—to try to enforce the agreement and obtain the release of our prisoners of the Indochina war.

Mr. President, despite the differences in views in the Senate of the United States, I have been under the impression that all Senators and all Members of the House of Representatives want to see all American prisoners of war returned in safety to their homes and families.

If my impression is correct, then this amendment should be rejected out of hand, unanimously. For this amendment would endanger the return of American prisoners of war. It would not make it easier to obtain their return.

On the contrary, it may very well mean our prisoners of war will continue to be held hostage by the North Vietnamese.

Our best hope for obtaining the release of these prisoners is to take total U.S. withdrawal from Vietnam contingent on release of the prisoners of war.

If the American people knew what this amendment entails, they would be outraged.

For the American people know full well the record of the North Vietnam Communists when it comes to agreements—whether they be understandings like the 1968 understandings to stop shelling South Vietnam's towns and cities in exchange for our cessation of bombing military targets in North Vietnam—or whether they be agreements like the Geneva Agreements of 1954, which North Vietnam has violated over and over again.

The American people are too realistic to be taken in by a proposal that would require U.S. withdrawal from Vietnam, based solely on an "agreement" for the release of U.S. prisoners.

The American people want the men released.

To say—as this amendment does—that America cannot spend a nickel or a dime or even a penny 4 months after an agreement for release is obtained even to enforce that agreement or to insure the safety of these men is sheer folly. It is downright dangerous. It plays into the hands of Hanoi.

The Senate should reject this amendment out of hand.

The second fatal defect of the Church-Case amendment is that it fails to require any cease-fire as a condition to the cutoff of funds for U.S. forces in Indochina.

Let me just draw a picture of what could happen when no cease-fire is required.

After an agreement is reached for the release of all prisoners of war, North Vietnam could continue its invasion of South Vietnam. Suppose the battle situation at the end of 4 months after the POW agreement—when the fund cutoff would apply—is such that U.S. forces could not be safely withdrawn. This amendment would prohibit use of any funds in behalf of U.S. Forces in Indochina. Any men left—not only in Vietnam, but anywhere in Indochina—would have to be abandoned.

Under the Church-Case amendment, the President as Commander in Chief would be prohibited from using any funds whatsoever to try to insure the safety of those men still in Indochina 4 months after an agreement is reached for release of all prisoners of war.

So, Mr. President, we could find ourselves in the pretty pickle of neither having obtained the release of our prisoners of war nor of being able to insure the safe withdrawal of American forces in Indochina.

If the American people knew what this amendment could do, I do not believe they would stand for it. I believe there would be such an outcry throughout the length and breadth of this land that the amendment would be withdrawn.

I hope the news media will cooperate in educating the people of this country of the boobytraps built into this amendment.

This amendment as it now stands would give the enemy the upper hand. It would encourage him to stall past the expiration date of the 4-month cutoff. It would encourage him to prolong the battle and the bloodshed after agreement on the prisoners of war is reached, so that our 60,000 American men still in Vietnam could well be faced with a Dunkirk disaster.

Now, Mr. President, an amendment to the Church-Case amendment was offered yesterday by the distinguished majority whip (Mr. ROBERT C. BYRD) in an effort to make the Church-Case amendment more palatable.

The Byrd amendment No. 1187 would make the fund cutoff effective 4 months after "an internationally supervised cease-fire" and an agreement for the release of all prisoners of war.

Mr. President, even if the term "cease-fire" is interpreted to mean a genuine cease-fire with no further shooting by any party in Vietnam, the Byrd amendment does not remedy the Church-Case amendment defect which fails to insure the return of our prisoners of war.

I believe what the American people want—and the least we should insist upon—is the actual return of our prisoners of war and an internationally supervised cease-fire, a real cease-fire, where South Vietnam will be left alone and where there would be no more fighting between North and South Vietnam.

Mr. President, at this very crucial time when the President of the United States has offered to withdraw all U.S. forces 4 months after an internationally supervised cease-fire and release of all prisoners of war, the Senate should not jeopardize the chances for peace by approving these amendments pending before us.

North Vietnam has not even responded to the President's offer. Yet the Senate by this amendment would be injecting a new offer to North Vietnam.

I have already indicated some ominous consequences that could very well result from the Church-Case amendment even if amended by the Byrd amendment.

Why should the Senate risk encouraging Hanoi to wait and see whether the Senate will undercut our President?

Why should the Senate risk giving Hanoi the upper hand in the present serious situation?

I urge the sponsors of the Church-Case amendment to withdraw their amendment at this very crucial time. If they do not, then I urge the Senate to reject it decisively.

Mr. President, I hold in my hand a

release by the Opinion Research Corp., with headquarters in Princeton, N.J., and I should like to read it:

Three out of every four Americans (74%) support President Nixon's decision to mine the harbor of Haiphong and every other port along the coast of North Vietnam. Only 21% are opposed to the President's dramatic decision Monday night.

Almost an identical number—75% of the American people—support the President's proposal to withdraw all American forces from South Vietnam, within four months after the return of our POWs and an internationally supervised cease-fire.

These are the results of a national opinion survey taken on Tuesday, May 9 after the President's announcement of Monday night. The survey was taken by the Opinion Research Corporation of Princeton, New Jersey.

The results of this survey are based on 702 telephone interviews conducted among a nationwide representative sample of persons 18 years of age and over.

Below are the questions as asked and the results:

"To make sure that the supplies do not reach the North Vietnamese the President has taken the following actions;

(A) Mined all North Vietnamese harbors;

(B) Having United States forces prevent any supplies from reaching North Vietnam by sea;

(C) Cut off all rail and other communications in North Vietnam to the extent possible;

(D) Continued air strikes against military targets in North Vietnam.

Do you support the President's actions or don't you?"

Yes, support the President, 74 percent.

No, don't support the President, 21 percent.

No opinion, 5 percent.

President Nixon, in his speech Monday evening, agreed to stop all military action in Vietnam and to withdraw all U.S. troops within four months as soon as our prisoners of war are released and an international cease-fire has been established in Indochina. Do you agree or disagree with the President's position?"

Agree with the President's position, 75 percent.

Disagree with the President's position, 17 percent.

No opinion, 8 percent.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Buckley). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECRETARY LAIRD'S REMARKS AT PRESS CONFERENCE

Mr. BAKER. Mr. President, this morning Secretary Laird gave some very salient and some very significant points in connection with the war in Southeast Asia.

The five points he made in the opening remarks at the press conference are, I believe, useful to our record and deliberation on the matters at hand.

I ask unanimous consent that the summarization of these five points be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Memorandum for Correspondents,
May 10, 1972

Here is Secretary Laird's opening remarks at today's press conference:

I want to make five points before taking your questions:

One: As I meet with you today, U.S. air and sea forces are fighting Communist aggression in Southeast Asia.

Two: South Vietnamese forces are at this moment holding fast in a very difficult ground combat situation caused by the massive Communist invasion across the DMZ. The South Vietnamese face additional attacks by an enemy that has been made possible by the heavily supplied equipment of new and modern types which is being used in South Vietnam supplied by the Soviet Union for the first time this year.

Three: General Abrams will continue our troop withdrawal program directed by the President of the United States. We have brought home 500,000 Americans, and we will meet or beat the President's goal of 49,000 Americans in country by July 1, 1972.

Four: The President has presented the most forthright and generous peace offer at any time in history. If the enemy agrees to an internationally supervised ceasefire and the return of our prisoners of war, we will withdraw our forces in Vietnam within four months.

This will bring an end of the war and the return of our prisoners. It will allow us to continue the movement toward a generation of peace which is the goal of all Americans and is a goal of the Nixon Doctrine Foreign Policy which is supported worldwide by our National Security Strategy of Realistic Deterrence.

Five: The American people always have supported our President when Americans are endangered and the cause of freedom has been threatened. This is no time for quitters or for a lot of talk about "instant surrender." I don't think the American people want to clamber aboard some sort of a bug-out shuttle. I think they join the President and me in supporting General Abrams and our men and in opposing Communist aggression.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PETITION BY 333 IDAHOAN COLLEGIATES FOR ENDING WAR

Mr. CHURCH. Mr. President, students in large numbers across the Nation are petitioning their Government to cease our bombing strikes over Vietnam and to end totally—land, air, and sea—U.S military intervention in the war in Indochina. These young people are unable to see what vital American interest is being served by engaging in war on behalf of one side of the current civil conflict in Vietnam so far from home.

Three hundred and thirty-three Idaho students recently petitioned me about our ongoing involvement in Indochina. Mere grade-school children when their older brethren began their opposition to our intervention on Saigon's behalf, these new collegians believe our Government has a weak cause. I agree with them.

Now that young people have been given the franchise, perhaps the White House will listen seriously and respond to their entreaties.

Mr. President, I ask unanimous consent that the following petitions from two Idaho colleges be printed in the Record:

There being no objection, the petition was ordered to be printed in the Record, as follows:

We, the undersigned, are weary of this immoral, illegal, and genocidal war in Indochina, and demand that this recent and continuing escalation of the war be stopped now.

Mr. CHURCH. Mr. President, I ask unanimous consent that the names of these students appear in the Record.

There being no objection, the names were ordered to be printed in the Record, as follows:

List of Signers

Edwin Allen
Connie Anderson
Jacqueline M. Anderson
Richard K. Anderson
Tom Anderson
Patty Arnold
Dan Ascuera
Ron Ascuera
Wendy Asher
Helen Athey
Bessie M. Baker
Rachel E. Baker
Waldo E. Baker
Patty Baldwin
S. C. Baldwin
Gregory C. Banks
Faye A. Barry
Ann Marie Beasley
Debbie Benefiel
Carole Bennett
Harriet Berenter
Christine Bergin
Ted R. Beumeler
Marsi Bigelow
Noel Black
Vickie Black
Elizabeth R. Blackshear
Douglas Bland
David R. Blase
John Blaye
Betsie Block
Franklin H. Blood
Mike Boitano
Cindy Bonner
Greg Boos
Beth Bowler
Bruce Bowler
Jeannette Bowman
Sharon Brandon
Eve Brassey
Robert Bratz
Danny Bronson
Cindy Brooks
Karl Brooks
Dave Brou
Karen Brown
Phoebe Bryant
Gaye Bunderson
Tim Bundjard
John Burch
Larry Burke
Nancy Burke
Kini Burt
Denese Buschnell
Larry Capener
Sally Caperton
Elaine Chappell
Lori Clay
Elizabeth Clements
Charles J. Coates
Robert J. Coats
Sharon Colby
Ken Cole
Ted Comstock
Judith T. Cook
J. M. Cooper
Orville Cope
Alan Couch
Noel Counsil
Larry Coupe
Pamela Cowart
Randene E. Craig
Charles Crist
Victoria B. Croft
Wayne Crosby
Kathy Crosser
Chris Crowley
Marilyn Curtis
Cliff Dahm
Marvin Daniels
Frank Davis
Shelley Davis
Tom Davis
Daryl Dazey
E. Marilyn Dazey
Denny Dean
Barbara Deur
Timothy Doty
Debra Douglas
Phyllis J. Driver
Mike Duval
Clyd Eagan
Lena B. Eagan
Jennifer Eastman
Christian H. Eismann
Anda Elliott
Olive J. Elliott
Richard G. Elliott
Rose Evans
Cindy Farris
Pamela Fonshill
Kerry N. Forwood
Peggy French
Barbara L. Gale
Tonia Garcia
Georgene Garland
Charles Gerdes
James F. Gibson
Tom Gibson
Jude Gill
Peggy Gledhill
Richard Goetsch
Jill Goodman
Margaret Gordon
Tom Gorman
Michelle Grace
Beth Greeley
David Green
Jane Green
Pam Green
Alice Greenfield
Ruth Griggs
Gail Groefsima
Dan Grogg

Michael E. Grubb
Frank Gursansley
James E. Hadden
Joni Hadden
C. Larry Hagen
Chris Halgerman
Dayle Ann Hall
Miriam Hamm
Walter Hammerle
Eddy Hammerquist
Jean Hansen
Cindy Hardy
Nancy Harris
Bill Hart
Kay Hart
Beth Hassler
Bill Hathaway
Laurel E. Heacock
Randall J. Heen
Karlos Henry
Patrick Henry
Terri Hiatt
Randy Hickman
Carlene Hietala
Mark Hietala
Paul Hietala
Linda Higby
Mary Higdem
Roger Higdem
Bryan Hinker
Dennis Holmes
Susan Holtz
Charmian Lou Hooban
Robert Howell
Ravic Huso
Richard Hutzter
Deborah Jackson
Thomas B. Jackson
Bob Jarboe
Jennifer Jatten
Claire Jemmett
Steven Jensen
Joe Jodgkins
Joan Johnson
Paul Johnson
Bill Johnston
Jennifer Johnston
Steve Johnston
Eric Johnstone
Mary L. Jordan
Margaret Jorgensen
Chuck Kennedy
John H. Killen
Kristi Kitchen
Kevin Klein
Gary Knapp
Paul Koloski
Marjorie Kondo
Kris Kristner
Lynn La Force
Stan Lake
Pat Lammiman
Mark Lane
Robert Lassen
Jan Lawler
Stephen Longe
Gary Low
Willard H. Low
Linda Lundquist
Madeline MacKnight
Molly Major
Teena Marchek
Deborah P. Marshall
J. D. Marshall
Bill Maser
Hal McAlister
Maureen McBride
Terry McKay
Pam McKenzie
Ray Melville
Ron Migel
Rick Milbington
Auro Milesi
Martell L. Miller
Robert Miller
Joan Mogensen
Michael Molay
Roger Montgomery
Bob Moody
Alan Moore
E. K. Morehouse
Lynn Morgan
May Morris
Chris Mueller
Carolyn Mugar
Pam Myers
John Myhre
Sue Naugler
Michael Neville
Jeff Niblock
Teri Norell
Ruth Norris
Mike Nugent
Laurie O'Reilly
Maurie O'Reilly
Evelyn Pardo
Cathy Parson
Donna Parson
Ruth Patterson
Lary Peabody
Vikki Pepper
Jan Peterson
Joyce Peterson
Kris Peterson
Bob Piper
Margaret Pittman
Connie Pluth
Jack Pommerening
Kathy Poncy
Rick Price
Richard Pullman
Alan Purcell
Rich Puryear
Beldor Ragsdale
Jennifer A. Ralston
Paul L. Ralston
Susan Randall
Bryce Reynolds
Gayle Reynolds
Nancy Rhodes
Kirby Richey
Linda Robb
John A. Roberts
Jon Robertson
Steve Romans
Patrick Romey
Teri Rynearson
Gloria Saltzman
Kathy Sandstrom
Bill Sayre
Lois J. Sayre
Ralph M. Sayre
Sue Schaefer
Cindy Schlafly
Susi Schlafly
Blossom M. Schlanger
Lucille Schmidt
Greg Schmitz
Suzy Schwalbe
Cynthia Scott
Lee Scott
Carolyn Elaine Selzer
Jim Shadle
Daniel Sharratt
Evelyn M. Sharratt
R. D. Sharratt
Douglas Shenk
Bill Silvers
Bradley Chisholm Smith
Brent Smith
Paul Smith
Jim Smithers
David B. Sovereign
Thomas A. Spalding
Ellen Spano
Steve Spanzler
Peggy Steeves
Thomas Steeves
Heather Stein
Brian Stepanian
Rick Stolz
John Stubblefield
Will Summers
Suz Swanson
Stephanie Tedderson
Keith Thomas
Nancy A. Thomas
Howard Thompson
Hans Tiefel
Stephanie Tovey
Russell L. Traughber
Tom Turner
Willie Uhrig
Roger Utter
Sandra Van Wormer
William Wallace
Michell Wanick
Bernice Webster
Gary Webster
Nancy Weeg
Stephen C. Weeg
Sarah Wells
Roland Wermers
Jayne Widmayer
Richard A. Widmayer
Grant K. Wiese
Eva Willey
Jim Willhite
Jerry Williams
Margaret Williams
Paul Douglas Williams
Paula Wilson
Steve Wilson
Brian Winslow
Tim Woodward
Sharon Wyne

McGOVERN IN THE WHITE HOUSE

Mr. CHURCH. Mr. President, certainly one of the most delightful columnists in this town of pundits is the Washington Star's Mary McGrory. To say that her writing is incisive, intelligent, and straight to the point is, if anything, to understate her talents.

Her recent column entitled "Life Under President McGovern" is a case in point. Just how would America fare under our colleague (GEORGE McGOVERN) as President? Very well indeed.

To quote Miss McGrory:

> It is entirely possible that he would decentralize and de-militarize the country. It might become a very nice place to live.

Mr. President, I commend this column to my colleagues and ask unanimous consent that it be reprinted at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LIFE UNDER PRESIDENT McGOVERN

(By Mary McGrory)

The week before the Massachusetts primary, Boston's genial mayor, Kevin White, was anatomizing for the out-of-town press the impending wipe-out of his candidate, Ed Muskie.

Suddenly he interrupted himself:

"Say, what kind of a president would George McGovern make?"

It was a question that Mayor White, in common with millions of his fellow Americans, never thought he would be asking. Now that the tortoise has worked up to a brisk trot, people are beginning to wonder.

If George McGovern runs the country the way he is running his campaign, it will be a brand-new America, nothing like the one Richard Nixon has been presiding over.

The first and most obvious change, of course, would be a sharp rise in the traffic of youth in and out of the White House. And a probably corresponding drop in the average age of presidential assistants.

McGovern likes young people, and with reason. They were almost his entire campaign, for a long time. They'll be the ones most entitled to Oval Room audiences, the state dinners and juicy appointments, like the county chairmen of old.

McGovern's other favorite politico is former Sen. Ernest Gruening of Alaska, who is 84, which would bring the average up a bit.

McGovern probably will be more accessible to the Congress than the present White House incumbent. It wouldn't take much. McGovern served a long time on Capitol Hill. He seems genuinely to believe in the constitutional process.

Besides, it might be fun to have them in just to hear them explain again how they had figured out how poor a horse he was compared to their favorite, Sen. Muskie.

He will surely be more available to the press than the man in the White House now. McGovern owes the press just as little as he does the political establishment, but he is a most forgiving man. All he read about himself for the first 14 months of his long march was that his candidacy was a joke. Even so, he has promised press conferences every two weeks.

He might even have in George Gallup and Louis Harris, the pollsters, and tell them how to get more accurate results, like the McGovern canvassers. He's tough on issues, but not on people.

He would be little given to secrets and surprises. As a candidate, he had all the privacy of a welfare applicant, and early on he learned the advantages of disclosing the contents of his purse. There would be no question of his not telling the Congress about his intention to invade an Asian country, since he wouldn't invade one anyway.

It also is doubtful he would send emissaries on secret missions. He's much more of a broad-daylight man. Besides, he doesn't seem to think of himself as a foreign policy expert like some other people who could be mentioned.

His foreign policy, along with his domestic policy, seems to be based on certain fixed principles like live-and-let-live. No dominos, no balance-of-power, no quirks or hangups about giants, pygmies and nightmares.

McGovern probably would decentralize the government. In his campaign, local managers were given all the decision-making powers, regardless of age and previous experience. In New Hampshire, Wisconsin and Massachusetts, his head men were 27, 25 and 23 years old respectively. They had the final say on expenditure of time and money.

Imagine how a man like that would treat governors.

The Joint Chiefs of Staff, on the other hand, might feel less cozy. He probably wouldn't see them until after they had made the $30 billion budget cuts he outlined for them.

It could be that the first six months of his administration would be fairly quiet while he went about thanking the country. Never was there such a campaign for thank-yous. One New Hampshire veteran, David Aylward, went to Wisconsin and kept lashing his canvassers out into the snow, with the result that they did not write their handwritten thank-you notes to people for opening the door to them.

He sent a list of 10,000 names back to New Hampshire McGovernites and they sat down and wrote to the Wisconsin voters to thank them for being alive. One can hear the sound of ceaseless scratching of pens if their man should get to the White House.

It is entirely possible that he would derancorize, de-centralize and de-militarize the country. It might become a very nice place to live.

THE PROPER USE OF POWER

Mr. CHURCH. Mr. President, the growth in the power and authority of the Presidency has been an object of extended discussion by myself and others in the Senate during the last several years. The dilemmas and paradoxes of Presidential power have been observed during this time as has the temperament and attitudes of those who have occupied this powerful office in our time.

Mr. D. J. R. Bruckner recently wrote a thoughtful article about this subject that was published in the May 8 editions of the Washington Post.

I particularly commend Mr. Bruckner's concluding passage:

> A President is bound to sense approval abroad; he owns more destructive power than anyone in the world. But at home his people retain the notion that the power derives from them and, while they may admire, even

fear, a man who uses it ruthlessly, they will respect only one who is seen clearly to use it rightly, openly and with great restraint.

I find this is an admirably stated opinion and I ask that the entire article be printed in the RECORD at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW DOES A PRESIDENT WIN RESPECT FOR HIS OFFICE?

(By D. J. R. Bruckner)

NEW YORK.—On April 26, Mr. Nixon said: "No man who sits here has the right to take any action which would abdicate America's great tradition of world leadership or weaken respect for the office of President of the United States." He has found his office respected abroad, he said. But his problem is at home where his office certainly has suffered a decline in respect.

The problem preceded him. In 1968 President Kennedy was murdered in the streets and in 1968 his brother, running for president, was murdered in a hotel. President Johnson was elected in 1964 by a huge majority, on a peace platform, and four years later, steeped in futile war, he could not run again for office; he could not even travel safely in his own country. Mr. Nixon was elected in 1968 by a minority in a nation divided by war, aggravated by protest, frightened by inflation, terrified by urban rioting, a somber nation filled with funerals of dead soldiers; and Mr. Nixon promised to end the war "honorably."

In performance, a president's office is largely what he decides it will be, and Mr. Nixon's management of the office is sometimes impressive. Time has helped him too. The nation is less volatile now than it was when he came to office. But respect eludes him, at home. And what he has found abroad may be only awe or fear in the face of power, not respect. He himself said it, to John Connally's friends in Texas on Sunday: "In the final analysis, what is really on the line is the position of the United States as the strongest nation in the world."

Mr. Nixon is now pictured as a fatalist of sorts in his efforts to do what he thinks is necessary to preserve the power of his office and country. Well he might be. Many presidents in trouble have made personal pitches for respect and sympathy, and they have seldom found a response. In the structure of this government respect may be a presidential prerequisite, but respect is also required from a president—for the people, the laws, the other office of government. A president must give a little to get a little.

In 1968, Mr. Nixon campaigned for law and order. He won from Congress laws providing no-knock searches, preventive detention and increased wire-tapping and bugging. These erosions of personal protection from government power have not reduced crime or fear, however. He has appealed rightly for respect for law officers. But his administration failed to prosecute anyone in the killing of four students at Kent State University in 1970. It failed to prosecute Chicago police in the killing of two Black Panthers in 1969. It failed to prevent the FBI from using paid informers, who have been exposed in several cases as provocateurs. It continues to prosecute pot peddlers, but it has given Jimmy Hoffa a presidential pardon.

In 1970 rampageous hard hats were received at the White House, but Mr. Nixon denounced riotous student war protesters as "bums" and he personally praised Washington police for arresting 10,000 people in the midst of a protest, in total disregard of legal and constitutional protections. The administration is pursuing war protesters with grand juries all across the nation, but it has dropped or fudged prosecution of men accused of atrocities in Vietnam and has buried its own investigations of these crimes in secrecy.

For three years the administration has tried to circumvent court orders on school integration, and the President is now threatening to whip up a constitutional amendment unless Congress gives him a dubious law against busing. He has tried to appoint to the Supreme Court men patently unqualified and has reproached the Senate for exercising its constitutional mandate in rejecting them, just as he has bitterly rejected further advice from the American Bar Association after it disagreed with his choices.

A passion for secrecy has cost this administration a lot of respect. The White House staff is shrouded in presidential privilege. When a senator reveals secrets about past decisions in the war, his staff is subpoenaed before a grand jury. Decisions on the war are made without notice to Congress, and members of Congress who criticize them are accused by administration mouths of aiding the enemy. When the media reveal secrets or criticize decisions, the White House launches a campaign to destroy credibility of the media, while the President uses, dominates, the broadcast media as no chief executive has ever done. The Treasury refuses to let Congress audit a 250 million dollars public loan to Lockheed. When the administration's hidden relations with business are uncovered—as in the current ITT investigation—the evasions and contradictions of officials must make people wonder whether the government's business is secret because, in Bacon's words, it "cannot be known" or because it is "not fit to utter."

A president is bound to sense approval abroad; he owns more destructive power than anyone in the world. But at home his people retain the notion that the power derives from them and, while they may admire, even fear, a man who uses it ruthlessly, they will respect only one who is seen clearly to use it rightly, openly, and with great restraint.

STRONG SUPPORT FOR 20 PERCENT SOCIAL SECURITY INCREASE

Mr. CHURCH. Mr. President, in a few weeks the Senate wil consider the omnibus social security-welfare reform proposal, H.R. 1.

This bill, in my judgment, is one of the most important measures to be considered during the 92d Congress.

On many key provisions affecting the elderly, there is already widespread agreement, including:

Cost-of-living adjustments to make social security benefits inflation-proof;

Liberalization of the retirement test;

Full benefits for widows, instead of only 82½ percent as under present law;

An age-62 computation point for men;

A new special minimum monthly benefit for persons with long periods of covered employment;

Extension of medicare coverage for the disabled; and

Elimination of the 3-year requirement to enroll in part B of medicare.

But, several issues must first be resolved before the Senate votes on final passage of H.R. 1. One of the major unresolved questions is:

What should be the size of the social security increase? And this, of course, is a fundamental issue for millions of older Americans.

H.R. 1, as approved by the House of Representatives, would only provide a 5-percent increase.

However, this boost would not even keep pace with the rise in the cost of living since the effective date of the last social security increase.

Even more important, adding a couple of dollars every year or two to the small monthly social security checks of the elderly can never offer an effective solution for their massive retirement income problems.

Today nearly 5 million older Americans—one out of every four persons 65 and older—fall below the poverty line. If the "hidden poor" are counted, this number swells to 6.3 million, more than 30 percent of the entire aged population.

What is needed now is a sizable social security benefit increase to provide a foundation for genuine economic security for older Americans. A few weeks ago, Representative WILBUR MILLS and I introduced legislation to authorize a badly needed 20-percent boost in benefits.

This measure, alone, could eliminate poverty for nearly 2 million persons, and without the necessity of resorting to welfare.

Equally significant, this proposal has already generated strong support from senior citizen organizations, experts in the field of aging, and most important, the elderly themselves. Forty-nine other Senators have joined me in sponsoring this legislation. An excellent example of this support occurs in the May edition of Senior Citizen News.

Mr. President, I commend this article to the Members of the Senate, and ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATE APPROVAL APPEARS CERTAIN FOR 20 PERCENT SOCIAL SECURITY INCREASE

WASHINGTON, D.C.— Senate approval of a 20 per cent across-the-board Social Security increase appeared certain as this issue of *Senior Citizen News* went to press.

Forty-eight Senators of both major parties agreed to co-sponsor legislation that would raise from 5 to 20 per cent the amount of the Social Security increase incorporated in House-passed Social Security and welfare bill known as House Resolution One (H.R. 1).

Two other Senators declined to co-sponsor the legislation but said they would vote for a Social Security increase of 20 per cent.

Fifty-one Senators comprise a majority of the 100-member Senate.

The legislation seeking a 20 per cent Social Security increase is in the form of an amendment—designated Amendment 999—to H.R. 1.

H.R. 1 was stalled in the Senate Finance Committee at the *Senior Citizens News* publication deadline.

Many reports on H.R. 1 have come out of the closed sessions of the 16-member Senate Finance Committee but these decisions are subject to change any time before the committee takes final action on the measure, National Council President Nelson H. Cruikshank points out.

Senior Citizens News accordingly will discuss the makeup of H.R. 1 only when the committee has concluded its consideration of the measure, Cruikshank stated.

President Nixon insists that a 5 per cent Social Security increase is enough, as was reported in the April issue of *Senior Citizens News*, even though Congressman Wilbur Mills (D., Ark.), Chairman of the taxwriting

House Ways and Means Committee, has stated that a 20 per cent Social Security increase can be enacted with comparatively minor change in the present Social Security financing.

CHURCH AND MILLS SEE EYE TO EYE

A 20 per cent increase for 27 million Social Security recipients is possible because, as a Social Security Advisory Council has pointed out, the Social Security old age trust fund is heavily overfinanced. The Social Security Advisory Council, which was headed by Dr. Arthur Flemming, Special Consultant to the President on Aging and Chairman of the 1971 White House Conference on Aging, made this report a year ago.

This prompted Congressman Mills, regarded as the most knowledgeable Member of Congress on Federal tax matters, and Senator Frank Church (D., Idaho), Chairman of the influential Senate Special Committee on Aging, to introduce bills calling for a 20 per cent Social Security increase.

The Church bills are Amendments 998 and 999 to H.R. 1.

In a speech on the House floor, Congressman Mills said he hoped the Senate Finance Committee would raise from 5 to 20 per cent the amount of the Social Security increase proposed under H.R. 1.

Mills told lawmakers he is confident a 20 per cent Social Security increase, financed as he has proposed, would be soundly financed because it is based on the recommendations of the Social Security Advisory Council.

"This (the Mills) bill provides a very substantial increase in Social Security benefits in a way that does not impose an undue tax burden on covered workers and in a way that assures that Social Security will continue to be financed on a conservative and actuarially sound basis," Mills declared.

Mills' bill calling for a 20 per cent Social Security increase contains an improvement long sought by the National Council of Senior Citizens, namely, a provision broadening the Social Security payroll tax base from the present $9,000 in wages and salaries to $10,200 a year for 1972 and to $12,000 a year for 1973 with automatic adjustment of the tax base to keep it in line with increases in earnings levels after 1973.

The Social Security payroll tax, as presently constituted, hits hardest those workers with low or moderate incomes.

Broadening the tax base, as proposed by Congressman Mills, would make this tax fairer and more equitable, National Council President Cruikshank points out.

Moreover, broadening the tax base, as proposed, would enable workers in the upper income brackets to collect larger Social Security benefits upon retirement, he notes.

WHY THE SOCIAL SECURITY SURPLUS

The overfinancing of the Social Security old age trust fund, as determined by the Social Security Advisory Council, is the consequence of an unrealistic statistical projection of income from the Social Security payroll tax. This is known as the actuarial assumption governing Social Security financial policy.

The present assumption is that wages and salaries subject to the Social Security payroll tax will remain level in the years ahead.

The Social Security Advisory Council has recommended that this assumption be changed to reflect the likelihood that wages and salaries subject to the Social Security payroll tax will rise in coming years as they have in the past.

Should Congress accept the actuarial assumption recommended by the Social Security Advisory Council, it would no longer be necessary to pile up a huge cash surplus in the old age trust fund and benefits would be increased 20 percent with no substantial change in the present Social Security tax rate, Congressman Mills, National Council President Nelson H. Cruikshank and other experts in the field of social insurance maintain.

URGED BY WHITE HOUSE CONFERENCE

Cruikshank, an internationally recognized expert on Social Security and social insurance, called attention to the over-financing of the Social Security old age trust fund in a statement prepared for the Senate Finance Committee last January (see February 1972 *Senior Citizens News*).

The National Council President cited the Social Security Advisory Council's findings in a discussion of the 25 per cent Social Security increase recommended by the White House Conference on Aging and likewise urged by the National Council.

However Congress decides to meet the cost of raising Social Security benefits—whether by adopting the rising earnings actuarial assumption sought by the Social Security Advisory Council or by some other method of financing—a substantial Social Security boost is imperative if the suffering and hardship endured by millions of older Americans is to be alleviated, Cruikshank told the Senate Finance Committee.

Americans 65 or over are 10 per cent of the U.S. population but comprise 25 per cent of the U.S. poor, Cruikshank noted.

This is because of the ever-widening gap between what the elderly receive in retirement income and what they were able to earn on the job, Cruikshank told lawmakers.

Older Americans have already waited nine months for action on Social Security legislation—the House of Representatives passed H.R. 1 last July—while Congress was voting tax cuts for corporations and business amounting to a whopping $8 billion a year, the National Council spokesman told lawmakers.

"Speaking for the 3,000,000 members of the National Council of Senior Citizens and, I feel sure, for many more millions of older Americans, I respectfully call upon the Administration and Congress to enact a 20 per cent Social Security increase immediately," Cruikshank pleaded.

SENATORS WHO SUPPORT A 20-PERCENT SOCIAL SECURITY INCREASE

Here are the Senators who have agreed to co-sponsor Amendment 999 to House Resolution One (H.R. 1), the House-passed Social Security and welfare bill.

Senator Frank Church (D., Idaho), Chairman of the Senate Special Committee on Aging, told *Senior Citizens News* these Senators have notified him they wish to co-sponsor Amendment 999 to raise from 5 to 20 per cent the amount of the Social Security increase incorporated in H.R. 1. In addition to Senator Church, the supporters of Amendment 999 are:

Birch Bayh (D., Ind.); Alan Bible (D., Nev.); J. Caleb Boggs (R., Del.); Edward W. Brooke (R., Mass.); Robert C. Byrd (D., W. Va.), Senate Majority Whip;

Howard W. Cannon (D., Nev.); Clifford P. Case (R., N.J.); Alan Cranston (D., Calif.); James O. Eastland (D., Miss.); Thomas P. Eagleton (D., Mo.);

Mike Gravel (D., Alaska); Fred R. Harris (D., Okla.); Philip A. Hart (D., Mich.); Vance Hartke (D., Ind.); Mark O. Hatfield (R., Ore.);

Ernest F. Hollings (D., S.C.); Harold F. Hughes (D., Iowa); Hubert H. Humphrey (D., Minn.); Daniel Inouye (D., Hawaii); Henry M. Jackson (D., Wash.);

Jacob Javits (R., N.Y.); Edward M. Kennedy (D., Mass.); John L. McClellan (D., Ark.); Gale W. McGee (D., Wyo.); George McGovern (D., S.D.); Thomas J. McIntyre (D., N.H.);

Warren Magnuson (D., Wash.); Mike Mansfield (D., Mont.), Senate Majority Leader; Charles M. Mathias (R., Md.); Lee Metcalf (D., Mont.); Walter F. Mondale (D., Minn.);

Joseph M. Montoya (D., N.M.); Frank E. Moss (D., Utah); Edmund S. Muskie (D., Maine); Gaylord Nelson (D., Wis.);

Bob Packwood (R., Ore.); John O. Pastore (D., R.I.); Claiborne Pell (D., R.I.); Abraham Ribicoff (D., Conn.);

Jennings Randolph (D., W. Va.); Mrs. Margaret Chase Smith (R., Maine); Adlai E. Stevenson (D., Ill.); Richard S. Schweiker (R., Pa.); John J. Sparkman (D., Ala.);

Strom Thurmond (D., S.C.); John V. Tunney (D., Calif.); Harrison A. Williams, Jr. (D., N.J.).

Senators who declined to co-sponsor Amendment 999 but who promised to vote for a 20 per cent Social Security increase are: William Saxbe (R., Ohio) and Robert T. Stafford (R., Vt.).

MANY AMERICANS SUPPORT THE PRESIDENT

Mr. GRIFFIN. Mr. President, I listened with interest to the statement by the distinguished Senator from Idaho (Mr. CHURCH) and his reference to the fact that there are young people in colleges who object to and oppose the President's action announced on Monday night. I am very aware of this opposition, and I certainly agree that those Americans who oppose the President should be listened to and have the right to register their opposition and their opinions.

It is also important, however—even though a question of this kind should not be decided by an opinion poll—that we not overlook the fact that there are many Americans who are not demonstrating—who are not waving signs—who support the President of the United States. They do so because they believe his policy is the quickest way to peace.

Mr. President, I have a news release issued today by the Opinion Research Corp., based in Princeton, N.J. This polling organization has completed a telephone survey, following the President's message on Monday night, which involved 702 telephone interviews.

One question asked was as follows:

> To make sure that the supplies do not reach the North Vietnamese the President has taken the following actions:
>
> (A) Mined all North Vietnamese harbors;
>
> (B) Having United States forces prevent any supplies from reaching North Vietnam by sea;
>
> (C) Cut off all rail and other communications in North Vietnam to the extent possible;
>
> (D) Continued air strikes against military targets in North Vietnam.
>
> Do you support the President's actions or don't you?

Seventy-four percent of those interviewed in this telephone survey indicated that they support the President, and 21 percent indicated that they do not support the President. Five percent indicated they had no opinion.

Mr. President, I call attention again, as I did yesterday, to the comment made by a distinguished American who is very much interested in retiring President Nixon from the White House in November. I refer to George Meany. At this critical point in our history, George Meany reacted to the President's Monday night speech by saying:

> In this time of crisis, with 60,000 lives at stake, I think the American people should back up the President irrespective of politics or other considerations.

Mr. Meany has set a very good example, I would suggest. It is with a great deal of sadness and disappointment that others are not following Mr. Meany's example, but have chosen instead to play politics with the President's efforts to end the war in Vietnam. They have undercut his efforts to negotiate a settlement with the enemy by offering the enemy different—more liberal—peace terms than the President has offered.

Surely, we all want to end this war. We can have differences of opinion as to which is the best way to achieve that goal. But when we put the enemy in the position of having to decide whether it is better to negotiate with this President, or to wait until after the election and perhaps deal with another President who offers more liberal terms—it seems to me that the action of thus offering the enemy more liberal terms at this critical time has the effect of prolonging the war and making it more difficult for the President to end it.

Mr. President, I yield the floor.

A UNANIMOUS-CONSENT AGREEMENT—TIME LIMITATION ON H.R. 14070

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at such time as the Senate proceeds to the consideration of H.R. 14070, a bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, there be a time limitation thereon of 2 hours, the time to be equally divided between and controlled by the distinguished manager of the bill, the Senator from Nevada (Mr. CANNON), and the distinguished ranking minority member, the Senator from Nebraska (Mr. CURTIS); provided further that the time on any amendment thereto, with the exception of an amendment by the Senator from Minnesota (Mr. MONDALE), be limited to 1 hour, the time to be equally divided between the mover of such amendment and the distinguished manager of the bill; provided further that with respect to the Mondale amendment, there be a time limitation of 3 hours thereon, the time to be equally divided between and controlled by the able Senator from Minnesota (Mr. MONDALE) and the able manager of the bill; provided further that the time on any amendment to an amendment, debatable motion, or appeal be limited to 30 minutes, to be equally divided between the mover of such and the manager of the bill; provided further that if the manager of the bill should be in favor of any amendment, debatable motion, or appeal then the time in opposition thereto be under the control of the distinguished Republican leader or his designee.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. GRIFFIN. Mr. President, reserving the right to object, I want to indicate I have had an opportunity to check this request with the distinguished Senator from Nebraska, the ranking minority member of the committee (Mr. CURTIS), and I wish to ask the distinguished majority whip whether it is his intention, even though he did not incorporate it in his request, that the bill probably will be taken up tomorrow.

Mr. ROBERT C. BYRD. Yes, it is.

Mr. GRIFFIN. Is it also his intention—I cannot recall if it is included in the request—that time on the bill can be allocated to any particular amendment?

Mr. ROBERT C. BYRD. I did not include that in my request, but I shall do so at the suggestion of the distinguished assistant Republican leader.

Mr. President, I ask unanimous consent that time under control of Senators on the bill may be yielded to any Senator on any amendment, debatable motion, or appeal.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, following the close of routine morning business, the Chair lay before the Senate H.R. 14070; that the pending question and the unfinished business, S. 3526, be temporarily laid aside; that at 2 p.m. the distinguished majority leader be recogized in accordance with the previous order to make his report on his recent trip to the Republic of China; that the distinguished Republican leader also be recognized to make his report, as has previously been agreed to; that at such time as those two leaders have completed their reports and their colloquies with other Senators in reference thereto, the Senate then return to the consideration of H.R. 14070; and that the unfinished business, S. 3526, continue to be temporarily laid aside until the disposition of H.R. 14070 or until the Senate completes its business tomorrow and adjourns, whichever is the earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR 2-HOUR LIMITATION ON BROOKE AMENDMENT TO H.R. 14070

Mr. GRIFFIN. Mr. President, I have just been notified by the distinguished Senator from Massachusetts (Mr. BROOKE) that he has an amendment on the space authorization bill, and while he believes that it will not take 2 hours, I have been requested by the Senator to inquire as to whether we could provide for a 2-hour limit on his amendment. It would be my expectation that all of that time would not be used.

Mr. ROBERT C. BYRD. Yes.

Mr. President, in response to the inquiry and request of the assistant Republican leader, I ask unanimous consent that with reference to the NASA authorization bill there be a time limitation on one amendment by the distinguished Senator from Massachusetts (Mr. BROOKE) of not to exceed 2 hours, with the time to be equally divided and controlled by Senators in accordance with the order previously entered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous-consent agreement is as follows:

Ordered, That, effective on Thursday, May 11, 1972, at the conclusion of routine morning business during the consideration of the bill H.R. 14070 (NASA authorization) debate on any amendment (except an amendment by the Senator from Minnesota (Mr. Mondale) which shall be limited to 3 hours and an amendment by the Senator from Massachusetts (Mr. Brooke) which shall be limited to 2 hours) shall be limited to 1 hour and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 30 minutes, to be equally divided and controlled by the mover of any such amendment or motion and the Senator from Nevada (Mr. Cannon): *Provided*, That, in the event the Senator from Nevada (Mr. Cannon) is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or some Senator designated by him.

Ordered further, That, on the question of the final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Nevada (Mr. Cannon) and the Senator from Nebraska (Mr. Curtis): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

ORDER FOR ADJOURNMENT TO 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 11:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 11:30 a.m. After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes.

At the conclusion of routine morning business, the Chair will lay before the Senate Calendar Order No. 747, H.R. 14070, the NASA authorization bill, with the unfinished business, S. 3526, being temporarily laid aside. There is a time agreement of 2 hours on the NASA authorization bill, with 1 hour on any amendment, with the exception of an amendment by Mr. BROOKE, on which there is 2 hours, and an amendment by Mr. MONDALE, on which there is 3 hours, with 30 minutes on any amendment to an amendment, debatable motion, or appeal.

At 2 p.m. tomorrow the distinguished majority leader will be recognized, and, for the time being, action will be suspended on the bill (H.R. 14070). The majority leader and the minority leader will then proceed to deliver their reports to the Senate with respect to their visit to the Republic of China. It is anticipated that the reports of the two leaders will consume circa 2 hours, and then, at the conclusion of the speeches by the two leaders and such colloquys as they wish to enter into, the Senate will return to the consideration of H.R. 14070, the NASA authorization bill.

There will be rollcall votes tomorrow afternoon on the NASA authorization bill following the discussions by the two leaders with respect to their recent journey.

The Senate will encounter a long day tomorrow. It is anticipated that action will be completed on the NASA authorization bill, even though the hour might be reasonably late tomorrow when that occurs.

The unfinished business—with the pending question on the amendment No. 1187, as modified, by the junior Senator from West Virginia—will remain in a temporarily set-aside status throughout the day tomorrow until the close of business tomorrow or until the final disposition of the NASA authorization bill, whichever is the earlier. So no action is contemplated on the unfinished business on tomorrow, at least until after H.R. 14070 is disposed of. Incidentally, by way of explanation, I have been advised that the House of Representatives will act on the NASA appropriation bill on May 22 or 23. Senator ELLENDER, chairman of the Senate Appropriations Committee, wishes to act quickly thereafter to bring the bill to the Senate floor. It is necessary, therefore, that the Senate act soon on the NASA authorization bill. The distinguished manager of the bill, Senator CANNON, asked that the bill be taken up and disposed of tomorrow. It appears that unless the bill were to be disposed of tomorrow, action on the bill would probably be delayed until about May 22. For these reasons, the leadership has agreed to bring the NASA authorization bill up tomorrow, with the understanding that it will be disposed of tomorrow and will not further delay the resumption of debate on the unfinished business, S. 3526.

ADJOURNMENT UNTIL 11:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11:30 a.m. tomorrow.

The motion was agreed to; and, at 4:44 p.m., the Senate adjourned until tomorrow, Thursday, May 11, 1972, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 10, 1972:

IN THE ARMY

The following-named person for reappointment to the active list of the Regular Army of the United States with grades as indicated, from the temporary disability retired list, under the provisions of title 10, United States Code, sections 1211 and 3447:

To be major general, Regular Army, and major general Army of the United States:

Stoughton, Tom R., [redacted]

IN THE NAVY

The following-named officers of the Navy for temporary promotion to the grade of rear admiral in the staff corps indicated subject to qualification therefor as provided by law:

MEDICAL CORPS

Philip O. Geib
Edward J. Rupnik
Donald L. Custis
William J. Jacoby, Jr.

DENTAL CORPS

Wade H. Hagerman, Jr.
George D. Selfridge.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 10, 1972:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be lieutenants

Robert F. Buckley
Thomas J. Stephens, Jr.
Melvin N. Maki
Joseph G. Woods

To be lieutenant (junior grade)

Richard A. Shiro

WITHDRAWAL

Executive nomination withdrawn from the Senate May 10, 1972:

DEPARTMENT OF JUSTICE

Louis Patrick Gray III, of Connecticut, to be Deputy Attorney General, vice Richard G. Kleindienst, which was sent to the Senate on February 15, 1972.

HOUSE OF REPRESENTATIVES—*Wednesday, May 10, 1972*

The House met at 12 o'clock noon.

Dr. Jack P. Lowndes, president, Home Mission Board, Southern Baptist Convention, and pastor, Memorial Baptist Church, Arlington, Va., offered the following prayer:

Let not your heart be troubled. You believe in God.—John 14:1.

We thank You, our Father, that You have given us another day and another gift of time. Today we pray for those whose time is spent here in looking after the welfare of our Nation. Give to them guidance in using the gifts they have and give to them strength as they seek to make a useful contribution to the life of our Nation and our world.

Be, we pray, with the Speaker of this House. We are thankful that he has been given another year of life. May Thy blessings be upon him on this his birthday as he begins another year of life and service.

Help us all this day to fulfill our responsibilities to our fellow men and to You. In Thy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 13435. An act to increase the authorization for appropriation for continuing work in the Upper Colorado River Basin by the Secretary of the Interior.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make a statement.

The Chair has received intelligence from the police force and other responsible authorities that there will be disturbances in the gallery today. On the basis of this information and their recommendation the Chair has ordered that the galleries be closed to the public for the time being.

HAPPY BIRTHDAY, MR. SPEAKER

(Mr. STEED asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEED. Mr. Speaker, it is my great honor and privilege and pleasure on behalf of my fellow Oklahomans and all of my colleagues here in the House to convey our best wishes to our fine Speaker on this, your birthday, and to say "Happy birthday, Mr. Speaker."

HAPPY BIRTHDAY, MR. SPEAKER

(Mr. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOGGS. Mr. Speaker, I would like to concur in the remarks of the distinguished gentleman from Oklahoma in wishing you a very happy birthday.

I know, as well as any man, the very heavy burden you carry and the manner in which you execute your responsibilities with a sense of fairness and dedication at all times.

Mr. Speaker, many, many happy returns of the day on this, your birthday.

Mr. GERALD R. FORD. Mr. Speaker, will the distinguished majority leader yield?

Mr. BOGGS. I am delighted to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I concur wholeheartedly in the sentiments which have been expressed both by the gentleman from Oklahoma (Mr. STEED) and the gentleman from Louisiana on this, your birthday.

Speaking for us, one and all, we wish you a very, very happy birthday and the best wishes for many more to come.

We think you have been a fine speaker. [Applause, the Members rising.]

The SPEAKER. The Chair was talking about demonstrations in the gallery and not on the floor.

NATIONAL MICROFILM WEEK

(Mr. CONABLE asked and was given permission to extend his remarks at this point in the Record.)

Mr. CONABLE. Mr. Speaker, 20 Members of the House of Representatives today joined me in sponsoring a resolution calling upon the President to proclaim the week of September 24 as "National Microfilm Week." The resolution is identical to House Resolution 1148 which I introduced, along with Congressman Frank Horton, on April 10. I am hopeful that the interest expressed in National Microfilm Week by these additional cosponsors will facilitate consideration of the bill in the Judiciary Committee.

The purpose of the resolution is to recognize the ever-increasing role of microfilm in our society and acknowledge the accomplishments of an industry and technological system which has revolutionized information gathering and dissemination in a way that has affected everyone's life. This significant role was detailed in a statement I made on page 11986 of the April 10 Congressional Record.

Designation of the week of September 24 as National Microfilm Week would be a fitting tribute to this important industry and I urge early consideration of this resolution.

NOT DOVES, BUT HAWKS FOR THE OTHER SIDE

(Mr. SCHMITZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SCHMITZ. Mr. Speaker, I am sure that all of us who were present recall vividly the disturbances in the House gallery yesterday in connection with the President's decision to mine North Vietnamese harbors. Being on the floor at the time, I watched and listened attentively, fully expecting that the most revealing facts about what happened would not be reported in the press.

And they were not. Just as I had anticipated, the questions from newsmen yesterday and the stories they wrote which appeared in the press today—for example, see page A10 of this morning's Washington Post—conveyed the usual picture of peaceloving "doves," pacifistic "war protesters." Carefully omitted was any reference to the slogans I personally heard them shouting: "Victory to the NLF—National Liberation Front"—and "Power to the people!" The meaning of the first is obvious. The second is a well-known Communist rallying cry.

Nor was any mention made of the fact that as they were being ushered out, many of them gave the Communist clenched-fist salute.

Mr. Speaker, those demonstrators in our gallery yesterday were no doves. They were hawks for the other side.

POWER TO THE PEOPLE

(Mr. RONCALIO asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, let me say to my good friend, the gentleman from California (Mr. Schmitz), that the slogan, "Power to the people," is not necessarily a Communist slogan. It was the slogan that moved George Washington, Thomas Jefferson, and other founders of this Government. This Government stands for power to the people, and it also stands for government by the people. We are the true revolutionaries, not the Communists. In these trying days we should be reminded of these basic American virtues that other governments take from us.

CONFERENCE REPORT ON H.R. 9212, BLACK LUNG BENEFITS ACT OF 1972

Mr. PERKINS. Mr. Speaker, I call up the conference report on the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the statement.

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. GROSS. Mr. Speaker, reserving the right to object, I take it the gentleman will take ample time to explain the conference report?

Mr. PERKINS. That is correct.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

(For conference report and statement, see proceedings of the House of May 4, 1972).

The SPEAKER. The Chair recognizes the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I am pleased to present to my colleagues in the House today the conference report on the Black Lung Benefits Act of 1972 (H.R. 9212). Today's action culminates a long and careful consideration by the Congress of the administration of title IV of the Federal Coal Mine Health and Safety Act of 1969 and the impact of that title on compensating miners who have been totally disabled or who have died from pneumoconiosis or so-called black lung.

It became apparent after a year's operation of title IV that because of strict and, in some instances, incorrect interpretations, many disabled miners whom we intended to benefit from the black lung provisions of the 1969 act were being denied disability payments. It became obvious in our studies that there were matters which had not been taken into account in the original passage of title IV that in all equity and justice should now be corrected.

Illustrative of one of these inequities is the fact that title IV in the existing law permits augmented payments to a widow on account of the dependent children of a miner who died from pneumoconiosis. It did not, however, provide for payments to dependent children of a miner where there was no surviving widow. Hence, under the existing law, these double orphans are not entitled to benefits. This tragic oversight was one of the inequities with which we dealt in H.R. 9212 when it passed the House of Representatives by a rollcall vote of 312 yeas to 78 nays on November 10, 1971.

Mr. Speaker, I believe that the conference just concluded has maintained essentially the major thrust and intent of the House-passed legislation with possibly one exception which constituted the major difference between the House and Senate on H.R. 9212. In outlining for my colleagues at this point in the conference agreement, I will begin with this, the most difficult problem for the conferees to resolve.

This major conference difference resulted from the fact that the House-passed bill extended Federal responsibility for the payment of pneumoconiosis claims fully through the year 1973 and partially for the year 1974. Under existing law, full Federal responsibility ended on December 31, 1971, and the Federal Government under existing law assumed responsibility in 1972 only for those claims filed in 1972 and then only for the payments due that year. Claims subsequent to those filed in 1972 and the continuation of payments after 1972 were to be assumed by the States through State workmen's compensation laws under part C.

Contrasted with the House provision, the Senate amendments extended full Federal responsibility only through the year 1972 with partial Federal responsibility through 1973. The conference compromise extended full Federal financial responsibility through June 30, 1973, with partial Federal responsibility during the 6-month period beginning July 1, 1973, extending through December 31, 1973.

Both the House- and Senate-passed bills extended coverage to miners disabled with pneumoconiosis from work in mines other than underground mines. Likewise, both versions of the legislation precluded the denial of claims based solely on the results of negative X-ray findings. Consistent with the practice in social security cases, it permitted the Secretary of Health, Education, and Welfare to certify benefit payments directly to the dependents where it is deemed advisable and desirable to do so.

These matters, of course, were retained in the conference.

Part C of existing law deals with compensating miners where death or total disability was due to pneumoconiosis after the Federal responsibility is ended, when State workmen's compensation laws assume this responsibility. Under the existing law, part C would have terminated on December 30 1976. Under the House-passed bill, this termination date was extended to December 30, 1978. The Senate amendments by contrast made part C permanent. The conference compromise extended part C to December 30, 1981.

The Senate amendment permitted dependent parents of a deceased eligible miner to succeed to such miner's benefits if there is no surviving widow or child. Under this Senate provision where there was no surviving dependent parent, surviving dependent brothers and sisters may succeed to such miner's benefits. On the basis that the conferees did not wish to make the black lung benefits payments provision less equitable than State workmen's compensation laws, the House conferees receded to the Senate with an amendment that in order for such class of beneficiaries to qualify they must have been wholly dependent on the miner and not just receive one-half of their support from the miner for at least 1 year prior to his death as provided in the Senate amendment, and further—must have resided in the miner's household for 1 year prior to the miner's death. The House amendment to the Senate provision further provided that in case of a surviving brother he would not receive benefits after the age of 18 and if a student after age 22 unless the surviving brother became disabled before the age of 18 or was disabled at the time of the miner's death. With respect to the case of a surviving sister or brother the House amendment to the Senate provision provided that no benefits would be paid to her or him if he or she married or received support from his or her spouse.

Inasmuch as the conferees determined that the objective of the Senate amendment to permit dependent children to file claims for augmented benefits in their own right could be achieved through appropriate regulations issued by the Secretary, the Senate amendment directly permitting this was deleted.

The bill that passed the House on November 10 required the elimination of the practice of offsetting social security disability insurance benefits of miners where the claimant also received black lung benefits. The Senate amendment by contrast limited such offsetting to 100 percent of former earnings. The House provision was directed at the administrative practice of interpreting the black lung benefits provisions as a workmen's compensation law when in actual fact the congressional history of the law itself did not support such a finding. The Senate receded to the House provision in this respect.

As I have stated, both the House and Senate versions of this legislation have provisions precluding the denial of a claim based solely on negative X-ray findings. These provisions address themselves to the problem posed by large numbers of miners who have totally disabling respiratory conditions or who died from such a condition but cannot establish by any degree of medical certainty that such condition was attributable to pneumoconiosis—even though their records indicated extensive employment in an underground mine.

In this connection, the Senate amendment to the House bill added a provision which established a rebuttable presumption of pneumoconiosis where a miner was employed 15 years or more in a mine where such miner has or had a totally disabling respiratory or pulmonary impairment.

Because of the difficulty of establishing precisely the existence or nonexistence of the disease, pneumoconiosis, by other than biopsy or autopsy, the House receded to the Senate with an amendment that in effect provided that such presumption shall not apply to part C unless all of the 15 years' employment in a coal mine occurred entirely before July 1, 1971. The significance of this date is that this is the date under existing law when coal dust particles in an underground mine must be reduced to the 3-milligram level, a level in which all of our present evidence indicates that the danger of contracting this disease will be eliminated.

Also adopted by the conference was a provision contained in the Senate bill but not the House bill that a miner is totally disabled when pneumoconiosis prevents him from engaging in gainful employment requiring skills comparable to his regular work in the mine.

A Senate amendment also altered the definition of pneumoconiosis to include sequelae of the disease. The Senate receded to the House on this point with the understanding of the conferees that in the administration of the program under existing law benefits are now provided for total disability due to the sequelae of pneumoconiosis.

The Senate amendments require that final regulations to part C to implement any amendments be promulgated and published no later than the fourth month following the enactment of H.R. 9212. The House bill did not contain any provision of this nature. The House receded with an amendment requiring publication no later than the sixth month following enactment.

In connection with the difficulties of establishing the existence of the disease, pneumoconiosis, to which I have previously alluded, the Senate had an amendment not contained in the House bill authorizing research facilities for the analysis, examination, and research related treatment of miners' occupational, respiratory, and pulmonary impairments. Such research, in my judgment, is essential if we are to be able to adequately treat and detect this disease at an early stage and make accurate medical determinations with respect to coal mine related respiratory diseases. Because the amendment had cost-reducing implications and because the amendment is essential to develop appropriate treatment of miners now suffering from this disease, the House receded to the Senate.

Also adopted in the conference was a Senate amendment requiring employers to provide medical benefits to employees under part C. Such a provision is required under State workmen's compensation laws. This provision was adopted by the House conferees.

Mr. Speaker, these are the major provisions of the conference agreement with the Senate, and in conclusion, let me leave these thoughts with my colleagues. The necessity for the legislation which we conclude today arises out of an effort to write into the law what we intended to do in the enactment of title IV of the Coal Mine Health and Safety Act of 1969. At that time I expressed, which thoughts were shared by many of my colleagues, the Nation's great debt to those miners who have supplied our vital coal at a cost that no man should have to bear by himself. That miners with the dreaded black lung disease should be forgotten by their Nation is intolerable. That present law is operating inequitably to deny benefits to disabled miners, their widows, their surviving children, and their surviving dependents is unfortunate and an administrative and legislative oversight.

No one can appreciate the years of sacrifice that these workers have extended in the interest of providing this Nation with essential energy sources in times of urgent national crisis and in times of expanding domestic need—unless one has, as I have, gone into the underground mines and can appreciate the ardors of the miners' employment life. I urge my colleagues to join me today in overwhelming approval of the conference report which is just, fair, and consistent with the House action on November 10 in passing this legislation by the vote of 312 ayes to 78 nays.

Mr. Speaker, in bringing back this conference report today on H.R. 9212, the Black Lung Benefits Act of 1972, Members of this body, the Nation, and disabled coal miners owe a deep debt of gratitude to the many legislators who have worked long and diligently to make title IV of the Coal Mine Health and Safety Act of 1969 equitable and just.

In this vein, I wish to extend my deep and sincere appreciation for the diligent work of the gentleman from Pennsylvania (Mr. Dent) who chaired the subcommittee in which the legislation which I introduced was originally considered, to the members of that subcommittee, Mr. Hawkins, Mrs. Mink, Messrs. Burton, Clay, Gaydos, Ford, Biaggi, Mazzoli, Pucinski, Brademas, Erlenborn, Bell, Esch, Landgrebe, Hansen, Steiger, and Kemp, and to the many Members of this body who provided helpful information and strong support in its passage.

Mr. ERLENBORN. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I rise in opposition to the conference report, H.R. 9212. As may be noted by the Members, the three Republican conferees, the minority conferees, have not signed the conference report, and we do oppose the adoption of the conference report, as we opposed passage of H.R. 9212 in the House.

Mr. Speaker, I do not suppose there are many issues that come before the

House with the kind of emotionalism that is endemic to this type of legislation. A few years ago, as a result of an unfortunate coal mine disaster, there was great impetus given to the passage of coal mine safety legislation, and concurrently with that attention was called by coal miners, ex-coal miners, and by the press to the problem of those who suffer from pneumoconiosis or black lung disease. Consequently the two were tied together in the Coal Mine Health and Safety Act.

Coal mine health and safety, of course, we are all for. To make the mines more safe and more healthy for the coal miners was and is imperative. But with the passage of that act we also enacted this new program for the compensation of those who suffered from pneumoconiosis. At the time we considered that, it was stated that this would be a temporary responsibility of the Federal Government. Compelling arguments were made that it would be impossible to assess the cost of those benefits to the various employers of coal miners who may have been working in the coal fields for the last 30, 40, or 50 years.

It was argued that time must be given to the States to allow them to amend their compensation acts to cover pneumoconiosis, but we were assured that this would be just a temporary Federal responsibility to pick up the backlog. That bill provided, that as of January 1 of 1973, the States through workmen's compensation and more importantly the employers, the coal mine operators, would then take on the burden of compensating those who suffered from this occupational disease, as do most other employers, through State workmen's compensation, bear the burden of compensating those who incur diseases as a result of their employment.

There was unfortunately an inadvertent oversight in the drafting of that act a few years ago. We extended compensation to the totally disabled miners, and we extended compensation to his widow should he be deceased, and we increased the compensation for the miner or for his widow to take into account the minor children or dependent children that they have to support, but unfortunately, we overlooked the case where both the coal miner and his widow may be deceased, and there would be dependent children who should be eligible for these benefits, but they have no mother or father receiving benefits, and under the act that is the only way they can get the benefits. This was an unfortunate oversight.

Then last year, when the gentleman from Kentucky introduced a bill to extend the benefits to the so-called double orphans, I immediately agreed this was the only fair and equitable thing to do, but unfortunately this necessity of covering the double orphans has now been used as a vehicle to extend the Federal responsibility, and thereby remove that operator responsibility for lifetime benefits for coal miners who qualify for benefits in the next 18 months.

Mr. PERKINS. Mr. Speaker, will the distinguished gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Kentucky.

Mr. PERKINS. First, let me state when I reintroduced this bill, this H.R. 9212, as I recall, not only did we take care of the double orphans, but also we endeavored to eliminate other inequities in the same piece of legislation. We were prompted by the fact that in some areas 75 percent of the claims may have been paid, and in other areas, 75 percent were denied. In order to provide a sufficient period of time to eliminate these inequities we postponed the State takeover and extended the Federal responsibility for 2 additional years.

So the original bill had in it postponing the State takeover for 2 years in order to do equity to these diseased coal miners who had been discriminated against by earlier construction of the act. In addition, the States had not made the necessary arrangements to assume this responsibility, it would have been folly for the Committee on Education and Labor to stand idly by and let a situation of this type develop without extending the Federal responsibility to make sure that justice was administered to those in reality disabled from black lung. The 2-year extension was, therefore, no afterthought.

Mr. ERLENBORN. I thank the gentleman for his contribution.

The gentleman has just repeated what he said on the floor before, and I can only answer as I answered before, that anyone who filed a claim under the act as it is today and felt he was improperly treated, had his right to appeal, and that was not affected and would not be affected by the extension of the Federal responsibility.

I might call attention to a communication I received from the Department of Health, Education, and Welfare, the Social Security Administrator, Robert M. Ball, in January of this year, in which he addressed himself in part to this question of claims that were denied. He says:

> About 160,000 claims have been denied because the evidence did not show that the requirements of the law were met. About 100,000 of those denied have thus far requested reconsideration of their claims. Over 60,000 reconsideration decisions have been completed and every effort is being made to speed up final decisions on the remainder, consistent with assuring full reexamination of each applicant's claim.

Anyone who felt aggrieved by denial of his claim had these appeal rights. The appeals were being processed.

Extending the Federal responsibility has no effect on those people who had their claims denied. It is those who will file claims and have claims approved after January 1, 1973, for the next 18 months thereafter, who will become the lifetime responsibility of the Federal Government. They should be the responsibility of the coal mine operators, just as other businesses pay for the costs of accidents and industrial diseases suffered by their employees.

This bill can only be described as a bailout for the coal industry. It is relieving them of the burden of paying hundreds of millions of dollars—in fact, billions of dollars that they otherwise would have been required to pay.

Let me call attention to a memorandum dated May 3 from the Social Security Administration, Lawrence Alpern, Deputy Chief Actuary. In this he tells us the cost of this conference report that is pending and on which we will soon be able to make a decision.

The SPEAKER. The gentleman from Illinois has consumed 10 minutes.

Mr. ERLENBORN. Mr. Speaker, I yield myself an additional 5 minutes.

Over the period of 1972 to 1981 the Federal share of the cost of this bill, over and above the present cost of legislation on the books, will be $4,215 million.

The coal mine operators under this bill, when they take the responsibility under part C, will have some $2 billion. There are some negative figures in this chart, which indicates the amount they are being specifically relieved of under the cost they would have borne under the present legislation.

So it is quite clear that some $4 billion will come out of the Federal Treasury that would not otherwise come out of the Treasury as a result of the passage of this bill, and a good part of that is money to be spent out of the Treasury that otherwise would have been spent by the coal mine industry. We are bailing them out. That is all we can say about this bill.

In addition, we are also changing the ground rules for determining who should get compensation. It was quite clear we intended to give compensation to those who suffered from pneumoconiosis. That was described and defined in the bill. Now, because there are those who have claims denied, who cannot prove they have the disease, this conference report would impose on the administration of this act a presumption that anyone with any difficulty in breathing, any respiratory ailment, who worked in a coal mine for 15 years, has pneumoconiosis. It is a rebuttable presumption, yes, but how rebuttable? The only way medically one could rebut it is by the use of X-rays that have no showing of pneumoconiosis, yet this conference report before us rules out the use of the X-ray as a means of disproving that the person has pneumoconiosis.

In effect, by adoption of this conference report, should it become law, we will be extending benefits to anyone who worked in the coal mines who has a respiratory ailment whether or not he has pneumoconiosis.

Throughout the conference report the bill passed by the House—and it was a bad bill—was made worse by adoption of the Senate provisions.

Amendment No. 32. The House bill required the eliminating of offsetting social security disability insurance benefits of certain miners. It has no limitation. The Senate put in a 100 percent limitation.

What does this mean? Under the present act anyone getting pneumoconiosis compensation is treated the same as one getting payments under State workmen's compensation. If they are entitled also to social security disability, the social security disability payments are reduced to take into account the fact that they are getting pneumoconiosis benefits. The House bill would have removed this limitation entirely. The Senate bill was at least somewhat more reasonable. It said the combination of pneumoconiosis benefits and social security disability benefits should total no more than 100 percent of what the man was making when he was employed full time.

Now, that does seem fair, does it not? Let the man get compensation equally to what he was earning when employed full time. Was the conference satisfied with this? No. They took the limitation off so that the one getting the compensation may get more than he got when he was employed full time.

Why, I ask you, should the man get more in compensation than he got when he was employed full time? Yet that is what the conference decided we should do.

Mr. PERKINS. Will the gentleman yield to me?

Mr. ERLENBORN. The gentleman has his own time. Mine is restricted. I am afraid I cannot yield.

The term "total disability" has been redefined as a result of the action of the conference, but it is not redefined in the same way as defined for the administration of the Social Security Act in their disability compensation. We have made it more liberal for the coal miner.

I might ask you, as I did before when we were considering the bill on the floor of the House, what equity is there to the coal miner who has a broken back as a result of a roof fall and is totally disabled getting less in compensation benefits than his fellow worker who has difficulty breathing because of pneumoconiosis? And yet that is the result of this conference report.

The SPEAKER. The time of the gentleman has expired.

Mr. ERLENBORN. Mr. Speaker, I yield myself an additional 5 minutes.

In addition to that, Mr. Speaker, in resolving the differences, as I have mentioned, we have extended the definition so that it will include for all intents and purposes all disabling respiratory and pulmonary impairments and not just black lung disease.

We have eliminated, as I mentioned, the X-ray as the sole means of rejecting a claim. The weight of the medical evidence is, short of a biopsy or a postmortem, you have to develop it through the use of the X-ray in diagnosing the disease.

We have invaded again, as our Committee on Education and Labor has so often done, the jurisdiction of the Committee on Post Office and Civil Service. We are in this conference report mandating a rate for hearing examiners under this procedure of GS-16. As I understand it, that is even higher than other hearing examiners get doing similar work.

We have an open-ended authorization, as was contained in the Senate bill, and the House again receded to the Senate for an open-end authorization for title IV of the bill.

Mr. Speaker, in sum, what we have done is to take a bad bill as it passed the House and made a worse bill out of it.

We have extended the benefits to those who do not have the disease that we meant to compensate. But the most important thing, I think, is we put an unconscionable burden on the Treasury of the United States to make these payments which when they are made should be made by the coal mine industry.

I was sad that in the House consideration of this bill the leaders of that industry did not join in with their voices in opposing this legislation. They did not because they were getting a 2-year bailout. They were saving billions of dollars as a result of the Federal Treasury taking a responsibility which was rightfully theirs. As a result of the conference report, this is still true.

Now, they were a bit worried. The Senate went a little bit farther than the House did. It looked like they would be under the same burdens as the Federal Treasury when we used the presumption that any man working 15 years in the mines would be presumed to have the disease if he had a pulmonary impairment. It was strange to see some of our friends in the conference scramble for a while in order to try to help the industry out on this phase, and they did. We do not use the same presumption for the coal mine operator as we do for social security when we are making payments out of the Treasury.

So, we have sweetened this up a little more for the coal mine operators by giving them a little less of a burden when it becomes their responsibility.

Mr. Speaker, this is a bad conference report. It represents an unconscionable raid on the Treasury of the United States. It is unfair to others engaged in work in the coal mining industry who have suffered injuries and disability but who are entitled to equity.

It is, really, the first step, as I said before—and I am more convinced now—toward a Federal takeover of workmen's compensation which has worked well as a State-operated compensation system.

Mr. Speaker, I reserve the balance of my time, and ask for the defeat of this conference report.

Mr. DENT. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. KOCH).

CLOSING OF THE HOUSE GALLERIES TODAY

(Mr. KOCH asked and was given permission to proceed out of order.)

Mr. KOCH. Mr. Speaker, I would like to pose a question to the Speaker.

This is my fourth year in the House and during all of that time we have had a number of problems, but we have never, to the best of my knowledge, closed the public galleries.

I am distressed today that the public galleries have been closed.

I ask the Speaker whether he would not direct the galleries to be opened.

If there are people who engage in behavior that cannot be tolerated, I assume the Capitol police are capable of handling such a matter.

The SPEAKER. Is the gentleman making a parliamentary inquiry?

Mr. KOCH. I am, Mr. Speaker.

The SPEAKER. The Chair will read the rule to the gentleman:

> He, being the Speaker, shall preserve order and decorum and in case of disturbance or disorderly conduct in the galleries or in the lobbies may cause the same to be cleared.

The Speaker has received information from what he regards as responsible authorities, including the Capitol police, that there is danger of disturbances and recommends that the Chair not permit the galleries to be opened for the time being.

The Chair reluctantly accepted this advice.

Mr. KOCH. I respectfully ask the Speaker to reconsider this. I do not think it is helpful to the House to close the galleries.

The SPEAKER. The Chair has answered the gentleman's question.

Mr. DENT. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. MORGAN).

Mr. MORGAN. Mr. Speaker, in 1969 Congress took the sorely needed first steps toward recognizing black lung disease as an occupational disease and providing for compensation to diseased miners and their widows. Title IV of the Federal Coal Mine Health and Safety Act of 1969 has as its purpose the elimination of the threat of black lung as well as to provide benefit payments and minimum compensation standards for miners and their widows who had been totally disabled by black lung disease. But during the 2 years since the passage of the Coal Mine Health and Safety Act of 1969, shortcomings of title IV have become obvious.

The current law, while providing for claims based on totally disabling pneumoconiosis as diagnosed by use of a chest X-ray is insensitive to the fact that the miner is easy prey for other respiratory ailments which may be brought on by his working conditions. H.R. 9212 returns to the original intention of the 1969 act to recompense the totally disabled miner for mine-related disease by recognizing other forms of respiratory disease besides black lung as cause for disability under certain conditions of employment.

In addition, this act of 1972 recognized the inadequacy and injustice of the present tests for the existence of black lung disease and the tests which determine if a miner is totally disabled. Experience has proven that a single roentgenogram does not always detect the existence of black lung—especially if the disease is in its early stages. As of April 30, 1971, 58 percent of miners' claims nationwide had been denied on the basis of this often inconclusive diagnostic tool, a single chest X-ray.

The tests used to determine degree of disability are unjust and are not particularly suited to black lung disease. One-third of the black lung claims are denied because total disability was not proven by a test which measures the ability to breathe air into the lungs, while the problem created by black lung is not inability to inhale, but the inability to transfer oxygen from the inhaled air to the blood.

H.R. 9212 would alleviate these shortcomings of title IV by prohibiting the denial of a claim solely on the basis of an X-ray, and by assuming the presence of pneumoconiosis in a person who has worked 15 or more years in a coal mine and has respiratory or pulmonary disability. The bill also calls for the modification of the definition of total disability to permit claims upon an inability to work at a mining job in which the miner was employed over a substantial period of time.

Besides this expansion of coverage, H.R. 9212 seeks to expand compensation eligibility to orphans of deceased miners as well as to dependent parents, brothers, or sisters, and to allow a widow to claim benefits if her husband was totally disabled by pneumoconiosis at time of death, even though it may not have been the cause of death.

As originally conceived, title IV provided for a shared responsibility of bearing the cost of paying benefits. Full Federal responsibility for new claims now must be extended. At the time the bill was being considered, the estimate of the cost of these provisions to the Federal Government ranged from $4 to $100 million per year. But experience has proven the actual cost was grossly underestimated and actually approaching $500 million per year—five times the highest original estimate. Because the incidence of the disease is much greater than previously thought and the cost proportionally greater, and because of the expansion of coverage provided for in this bill, it is right that the dual responsibility for payment by industry and Government be adjusted so as to remain equitable and to provide necessary additional time for the States to provide for an adequate workmen's compensation system.

In consideration of the improvements which this bill would make on the Federal Coal Mine Health and Safety Act, I urge the House to approve this bill and provide our miners and their dependents the compensation to which they are entitled. The 1969 act was a start, but because of its flaws it should not stand also as the end product. We must recognize its shortcomings and act to correct them by passing the conference report.

Mr. DENT. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, this is an historic occasion, believe me.

My grandfather, God rest his soul, and my father, God rest his soul, were in touch with their Congressmen years and years ago on this very question.

This is not something thought up all of a sudden.

This is no attempt to harangue or raid the Federal Treasury because of some long-haired character with a gimmick; indeed not.

Mr. Speaker, unless you are born and raised, as I have been in the anthracite coalfields of Pennsylvania and as the gentleman from Pennsylvania (Mr. DENT) has been in a soft coal—the bituminous mining area—or the hard coal, the anthracite mining area, you are not able to completely understand the problem. We are not sure that bituminous is even coal, but I will be kind today, but for the purpose of this debate it is coal. We never always wore shoes in the coal fields. We were born and raised in these areas and we know this problem from long sad experience.

Mark this. The gentleman who just left this well indicated or tried to say that this is a boon for the operators; this is a gesture to help the coal operators.

You go to any barrom, church, picnic, or corner store in my district or Mr. DENT's district or Mr. PERKINS' district and try to tell them that PERKINS, DENT, and FLOOD are down here as mouthpieces for coal operators, they will say you are out of your cottonpicking mind. Imagine! They have been against this for a hundred years. Imagine us being any mouthpiece for the coal companies and you are crazy. This will help people who cannot assume the burden of proof.

The opponents say let them prove they have black lung, or if they are dead, let their widows prove that they died of black lung.

They demand: Where is the evidence? Where are the hospital records? Where are the X-rays, huh? "OK, prove it and we pay it."

Dear God.

You should have seen those hospitals, or the things that went by the name of hospitals, and the doctors who were on the company payrolls going around with a horse and buggy. What records? What evidence? Those doctors did not keep records even of the feed they gave to their horses, let alone the kind of records demanded by social security, and the experts today of evidence of what we in the hard coal fields then called miner's asthma, or hard coal asthma, better called black lung today in both the hard and soft coal fields.

Records? X-rays? There are doctors who are members of the medical profession in this House who will tell you—and I am not an amateur on X-rays myself, God forbid, and I am sure that you know, that in England, Germany, and Japan—in fact, all over the world it has been established in these countries X-rays do not conclusively show this condition. And we have thousands of cases paid out by social security with additional letters submitted and additional evidence when available where the X-rays are not infallible, they are not the sole and infallible proof.

This is unfair. This is not right medically, historically, or any other way; they must have a chance to present additional evidence other than a mere X-ray about these difficult conditions.

That is all this bill does on this point, permits additional evidence, nothing else.

And then over the years, the other lung conditions, emphysema and heart condition—why, the death certificates say in thousands of these cases, "heart condition." The guy's heart stopped.

Now, is that not something? His heart stopped, and he died. Is that not extraordinary? But the hospital records and the death certificates say "heart attack, heart attack." That is the end of that.

How silly can you get? He died, his heart stopped. Yes, he died from the heart stopping, but did you ever see some of these people try to breathe? You should be in my neighborhood. Men who went to high school with me who worked in the mines—and I never worked in the mines, I worked outside as a track layer—but I have seen them spit out their guts and die because they could not breathe—sure their hearts stopped.

This is historic. My congratulations to the committee, to the Senate, and to this House.

Mr. Speaker, the conference report to accompany H.R. 9212 which comes before this body today is nothing less than historic, and I would maintain that it brings benefits not only to those long-suffering coal miners and their families, but to the entire Nation.

In supporting this conference report, I am thinking not only of those miners disabled by "black lung." I am thinking not only of those who are made widows and orphans at an early age. But rather I am thinking of all of us who use the products of their labors underground. When we turn on a light, when we need medication, when we forge steel, when we do a thousand other things derived from coal, we should keep in mind that these miners deserve the full measure of equity under the law that is possible—Mr. Speaker, I am convinced that this measure before us today provides that "full measure of equity."

When the provisions of the bill before us today are closely examined, it is clearly shown that progress has been made in the light of more than 2 years of experience in providing benefits to disabled miners and relief to their families. With the adoption of the following provisions, those benefits will be more just, and the relief more complete:

First, by broadening the definition of disability, the bill recognizes the debilitating nature of black lung disease. Many times I have seen men out of work because they could not catch their breath, even while sitting down—yet under the law as it now stands they are not classified disabled—this must end.

Second, the bill will eliminate the X-ray as the sole test of whether a victim has pneumoconiosis. It has long been shown by medical authorities that the X-ray is not infallible and indeed it is usually inaccurate when it comes to detecting early signs of the disease. I have seen men who worked as miners in the dustiest part of the mine for many years, and who were hardly able to move about from black lung—yet under the law as it now stands, their negative X-ray excludes them from the benefits of the law—this must end.

Third, the bill will presume a miner to have pneumoconiosis if he has worked in the mines for 15 years and after that period of time is shown to be disabled from a pulmonary or respiratory disease. I have seen men who worked in the mines for 30 years—and many of those years at the "face" which is the dustiest part—and who took one-half hour to climb a flight of steps—yet under the law as it now stands, there was no assumption that they were suffering from the disease—this must end.

Mr. Speaker, by the adoption of this conference report today, no longer will we throw the burden of proof upon the miner who has had his life and, in most cases, his lungs impaired by his work. Now is the time to give the miner a fair hearing and due process in the filing of his claim. The sole object of the bill in this broadening of the law is to give each and every coal miner fair judgment on whether or not he did in fact suffer from this disease.

Furthermore, by extending coverage to orphans and in certain other cases dependents, this bill recognizes what those of us who live in coal mining areas have known for a long time—black lung disease takes the lives of miners at an early age. By demanding fully equity for these men, we must provide full protection to their families.

In conclusion, I would like to thank the distinguished gentleman from Kentucky (Mr. Perkins) the chairman of the Education and Labor Committee as well as the gentleman from Pennsylvania (Mr. Dent) the chairman of the Subcommittee on Labor for their consistent hard work and judicious consideration of this bill. I have worked with them for years, every coal miner and their families also thank them as they will us for the adoption of this conference report.

Mr. DENT. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. Burton).

Mr. BURTON. Mr. Speaker, we have all heard much of this debate in the three previous times this House has voted on this measure. We are all aware of the enormous contributions made by the distinguished chairman of the Committee on Appropriations on Labor, Health, Education, and Welfare, our distinguished colleagues, the gentleman from Pennsylvania (Mr. Flood) who has effectively assured that the policy of this House was fully funded by this subcommittee, the full committee, and the Congress.

We are aware of the enormous concern of the gentleman from Kentucky (Mr. Perkins) the chairman of our full committee, and the gentleman from Pennsylvania (Mr. Dent), the chairman of our subcommittee, to see that all of these lung functions having to do with work in the coal industry be given some rcompense for having acquired this dread disease. And the performance of the gentleman from Pennsylvania (Mr. Dent) in the entire history of this law has been nothing less than incredibly exemplary. He has been a veritable mountain of strength and forcefulness for the coal miner and his family.

Mr. Speaker, we are really painfully reminded of the stubborn and willful continued opposition of our ranking minority member. But this legislation is beyond all that and has passed continually with bipartisan support, and it will pass again today because the legislation has merit.

It was our colleague, our ranking member on the subcommittee, the gentleman from Illinois (Mr. Erlenborn) who just a few years ago supported legislation suggesting that the Federal Government have 7 full years of full responsibility. He remembers that. I remember that. Maybe most of us have forgotten it. Perhaps he did it for a ploy. Perhaps he did it because he meant it—but he did do it.

Mr. Speaker, I take it if the gentleman from Illinois was serious to us that we should get into the business of helping industrial accidents like broken backs and roof falls—but if the gentleman is serious, I will join with him on an amendment to move into the workmen's compensation field.

The long and short of it is that this bill is a midpoint and very essential between the House-passed bill and the Senate-passed bill. It was signed by most, if not all, of the Senate conferees and by an overwhelming majority of the House conferees. It is going to be approved by an overwhelming majority of this House.

Mr. ERLENBORN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. Saylor).

Mr. SAYLOR. Mr. Speaker, I rise in support of the conference report on H.R. 9212, the Black Lung Benefits Act of 1972. This act will provide for the correction of several serious deficiencies in the Federal Coal Mine Health and Safety Act of 1969. Public Law 91-173 was signed into law on December 30, 1969 with the primary purpose of protecting the health and safety of the Nation's coal miners. Title IV of the act is entitled "Black Lung Benefits" and deals with the provision of benefits, in cooperation with the States, to coal miners who are totally disabled due to black lung disease and to their surviving dependents. While it was the intent of Congress in enacting the Coal Mine Health and Safety Act, and particularly with regard to title IV of the act, to attempt to provide some belated recognition of the terrible cost to miners' health as a result of years of mining, we have learned in the past 2 years that a number of problems have adversely affected this intent.

First, we have learned that we seriously underestimated the extent of black lung disease within the population of the miners of this country. Original estimates have been exceeded almost fivefold. This has produced some problems in the processing of claims and has had some effect on the completion of the task of determining eligibility and for shifting responsibilities to industry within the time frame originally specified.

Second, we learned that the provisions which were intended to provide benefits to disabled miners are not being provided to about half of the miners and their dependents who have filed claims for benefits. This disparity in the assignment of benefits seems to be at least partially due to the difficulty which many miners or their dependents are having in providing the necessary proof of the cause and extent of disability. There seems to have been too much dependence during the processing of claims upon the admittedly less than foolproof X-ray determination of the degree of lung impairment. There has been sufficient attention given to the evidence of prolonged unemployability, family doctor's records, and local witness statements regarding a claimant's extent of disability. There has been particular difficulty on the part of dependent's claims when records of the death of the spouse are not adequate to furnish specific data on the extent of black lung disease. I am sure that you realize how difficult it must be to try to reconstruct a health record within families where the visit to a doctor is an uncommon event. Testimony given at the various hearings on H.R. 9212 continues to emphasize the pride of work evidenced by the coal miners of this Nation. These men only quit when they are physically unable to work. To disregard the record of disability and unemployability solely on the basis of a specific size of a mark on an X-ray is to deny the facts of life in a coal miner's work environment. The decision to award benefits should be realistically based upon a composite of factors derived from detailed examination of the occupational history, clinical examinations, employability, and with the X-ray use as a guide during the interpretation of the preceding forms of evidence.

Third, in the act of 1969 was the provision which resulted in an interpretation that benefits could only be paid to miners or to their widows. The surviving children have no basis for claim for benefits. H.R. 9212 provides for a correction of this deficiency by providing for benefits for dependent children or for dependent parents, brothers, or sisters; however, it would have been a better bill had the committee written an age limitation for brothers and sisters.

We have come a long way in the past 2 years but the problem of improving the environment of the working coal miner and assisting in his care after disablement is not completely solved. We have a commitment, enacted in law, to assist the miners of this country. Progress is being made toward the improvement of the work environment. We need to insure that some comfort is provided for the disabled miners in return for their sacrifices in securing vitally needed fuel resources. We need to insure help for the disabled miners in the care of their dependents who also suffer when the miner is disabled from an occupationally derived respiratory impairment.

H.R. 9212 will correct these serious deficiencies in existing law. By extending full Federal support of benefits, the miner will have assurance of continuing benefits and the States and industry will be better able to assume their responsibilities for providing benefits. The bill will provide statutory authority for the utilization of all relevant evidence submitted by the claimant and will include the provision that no claim for benefits under the bill shall be denied solely on X-ray. Since tests of a desirable accuracy are not available for the determination of the degree of impairment due to black lung or other occupationally derived respiratory disease, the bill also authorizes the Secretary of the Department of Health, Education, and Welfare to develop tests and devices as necessary to detect and evaluate pulmonary and respiratory impairment.

The Secretary will also be authorized to construct clinical treatment facilities for miners with lung impairments.

In response to recommendations from several sources the bill will also protect the miner against discrimination in employment as a result of pneumoconiosis. In addition, the bill also provides for several improvements in administrative procedures and extends benefits to surface coal miners under certain circumstances.

I think that all of these changes are necessary and are actually a clarification and refinement for the most part of the original intent of the act of 1969. As with most complicated and innovative legislation, application frequently reveals deficiencies and amendment is required to insure equitable achievement of objectives. H.R. 9212 provides for the changes necessary to provide benefits to the coal miners of this Nation and to their dependents. I urge you to approve this bill.

Mr. ERLENBORN. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Speaker, at the time that this House passed the Coal Mine Safety Act, I was one of those who was a part of the effort on both sides of the aisle in wanting to insure that pneumoconiosis should be compensated.

That black lung provision was retained and the provision is now a part of the law of the land. Thus, black lung compensation is not the issue here.

I served as a conferee on this bill, H.R. 9212, on the question of what to do about extending black lung compensation, and I did not sign the conference report. I did not do so, I must say in all honesty, reluctantly because there is no question that the eloquent gentleman from Pennsylvania (Mr. FLOOD) portrays well the suffering of those who have this disease.

But, I think there are on balance substantive questions which can and should be raised about the wisdom of the House extending, as this legislation does, the Federal responsibility. It is for an 18-month period. The Social Security Administration estimates in the period from 1972 to 1981—$4 billion plus for part B in terms of cost to the Federal Government and slightly over $2 billion for part C.

I am fearful that when the 18-month period expires we may find States and industries and coal miners back here asking for a further extension of the Federal responsibility.

The House bill provided 2 years and the Senate a year and thus the 18-month extension is at least superior to the House bill.

But even with that, I think it would be inadvisable for the House this afternoon to adopt this conference report.

There are two other questions which legitimately can be raised about this legislation. The first is that which was mentioned by the gentleman from Illinois in his remarks which, in effect, is that the other body receded and accepted the House version on the limitation of payments. The House had an opportunity when it considered the bill to adopt the amendment offered by the gentleman from Wisconsin (Mr. BYRNES). It turned that amendment down. It should have adopted that amendment.

But the conference committee I think made a mistake in not adopting the Senate provision. I am sorry the Senate receded. The result is it is possible for an individual to be compensated at a rate higher for disability than he could earn when he is working in a coal mine.

The other question, of course, is that which relates to the definition of disability and the extension of that definition. I am fearful it will establish a precedent which will haunt this House in later years when we get into questions such as brown lung rather than just black lung. And just as sure as we debate and argue about this conference report today there will be pressure on the part of many in this body on behalf of their constituents who consider themselves to have a disease every bit as serious as pneumoconiosis and come here and press their cases on an equity basis. I am afraid that equity does not rest with this conference report. Therefore, I reluctantly did not sign it, and I urge a vote against adoption of the conference report.

I yield back the remainder of my time.

Mr. DENT. Mr. Speaker, I yield myself 7 minutes.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. DENT. I am happy to yield to the distinguished majority leader.

Mr. BOGGS. Mr. Speaker and Members of the House, I take this time to commend the gentleman from Pennsylvania, the gentleman from Kentucky, the gentleman from California, and all the others who worked on this legislation. As the gentleman from Pennsylvania (Mr. FLOOD), said earlier, this is indeed a historic piece of legislation, and I hope that the House will adopt it by an overwhelming vote.

Mr. DENT. Mr. Speaker and Members, I do not intend to take any time to try to prove or convince the House that this is a worthwhile piece of legislation. The House itself declared that to be a fact when it passed this legislation with such an overwhelming vote. The arguments today should be on those particular points that have been raised as to whether this legislation goes beyond that which the House considered.

The only points that are in question are those related to the issue of cost. The same social security office which gave the figures to my worthy opponents on the other side, of $4 billion for one section of the bill, which would be part B, and between $2.5 and $3 billion for part C, just 3 weeks ago, issued an earlier estimate in which they had $7,600,000,000 for part B alone. We now have five sets of estimates from the very same office, signed by the same individual. That is the same group which gave me the estimate of $40 million when the first bill was passed.

If you remember, I said to you, "This is an estimate from the social security office contained in a letter to Congressman DOMINICK DANIELS of $40 million." At that time I made you one promise. I promised this House that if we would pass that bill and keep in the bill the criteria for dust a maximum of 2 milligrams, effective 1972, December 1, that we would eradicate the cause of black lung. We have reached a 3-milligram level in 85 percent of the mines in this country, over the opposition of the operators and over the opposition of experts, and in 75 percent of the mines we have reached a 2-milligram level.

I said to you that as the years went by there would be a diminishing cost. And what is the record? What is the diminishing cost? We have here a set of records that will, I am sure, prove my promise to this House. This is also from the same office. This year the estimate is that in 1973, $989 million in benefits will be paid under the provisions of this act.

And, then it reduces. In 1974, it is estimated to be $441 million, and on down to the end of the legislation in 1981 when the estimated cost is $300 million, or exactly one-third of the cost for 1973.

Why is this? As I told the Members when I begged Congress to pass the legislation but not to pass the black lung benefits unless also we passed the dust levels, it is because I wanted to make sure we would have no new cases of black lung in this country, and we will not have any new cases of black lung. The only cases that will be paid for will be those which have been contracted in the dusty mines prior to the 1971 3-milligram dust standards.

In the foreseeable future there will be no more payments, and there will be no more black lung; and this is possible because the Members of the House believed me when I appealed to them to make it a Federal responsibility, because there is no way we can make this an operator responsibility.

A period of time is required for pneumoconiosis to develop into fatal injury. In almost every coal area of the country the miners move from one town to another and from one mine to another. There is no place where we can put the responsibility. That is why we are giving 18 more months in which to decide how many more miners will come under the act.

Why do we do that? We do it for the simple reason that under the old rules which prevailed in the coal mining towns, the only doctor available was the company doctor, and the companies refused to admit or to recognize such a thing as a respiratory disease contracted in the coal mines. So in every coal mine death prior to 4 years ago, when the States of West Virginia, for instance, and Virginia and Kentucky, and about 8 years ago the State of Pennsylvania took action, it was ruled that every coal mine death was either pneumonia or emphysema or heart condition or heart attack or something entirely removed from any kind of association with coal dust.

So we say in this law that any miner who worked 15 full years in a coal mine prior to June 30, 1971, and has a pulmonary or respiratory disability, is presumed to have had black lung. However, it is a rebuttable presumption. If he claims black lung and if it is shown there is no connection between his disability and his work in the mine after other examinations and evidence, then it is shown that he has no pneumoconiosis.

What we are saying is that over 50 percent of these miners have been turned down, including the widows. Let us take a few practical cases. Mr. Jones worked in the mines for 39 years. He is dead. Mrs. Jones claims compensation as his widow. She is turned down, because Mr. Jones is supposed to have died from an attack of pneumonia.

Now Mrs. Smith's husband worked in the mines 37 years, in the same mine.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, I commend the gentleman from Pennsylvania for the statement he is making on black lung and for his work on black lung.

Mr. DENT. So Mrs. Smith, whose husband worked in the coal mine 37 years died in a city away from the coal mining community, and his death certificate states he died from a pulmonary disease. So we are saying it was impossible for a miner to work 37 years in a coal mine in the predust standard days not to be afflicted with pneumoconiosis.

The English, with 30 years of records, have said that no miner could work 25 years in a mine without having pneumoconiosis or black lung.

So we had to take the body of knowledge from the English. In the first bill I made it a rebuttable presumption of 10 years. They have turned down some 50 percent. So we only extended it to cover the same body of people we had covered before and for the same reasons.

I beg the Members to give support to this legislation. I would now like to go into a rather comprehensive and cogent presentation of the conference report.

Mr. Speaker, I join my distinguished colleague from Kentucky today not only in speaking in favor of the conference report on H.R. 9212, the Black Lung Benefits Act of 1972, but also in emphasizing its importance to all miners and their families throughout this great Nation of ours.

At the outset, I want to commend the chairman (Mr. PERKINS) for the exemplary job which he did in conference to develop a fair and equitable compromise with the conferees of the other body. Might I also laud our counterparts there as well as conferees on our side who supported the position of this body. I believe it is a job well done, a job which will withstand the test of time.

This legislation is considered requisite not only by the conferees but by both Houses of Congress. In this context, let me review the voting. The House passed its legislation by an overwhelming 312–78 vote on November 10, 1971. Our colleagues in the other body unanimously passed their amendments 5 months later by a 73–0 vote. The conferees, realizing the overwhelming need for this legislation, worked hard to set aside personal differences and the differences in the two bills to get a fair and equitable compromise and it was done in 2 days. In turn, the other House immediately passed the conference report, doing it by another unanimous vote—this time without even the formality of a rollcall. I find it hard to imagine that the House of Representatives can do anything less, realizing that the miners of America desperately need this legislation.

Why do they need it? Simply, these miners, their widows, and their orphans need this bill to bring justice and equity to a law which, for all its merits, unfortunately does have flaws. After 2½ years of experience with this law, we feel that we have been able to pinpoint those legislative and administrative weaknesses and provide amendments which make the essential improvement. And, might I add that we have seen the defects not through the eyes of the Federal Government but through the eyes of the miners and their widows themselves. We have seen it through the eyes of Mrs. Keroy Andreas from Luzerne County, Pa., whose husband spent 22 years in the mines and survived only by means of an oxygen tent, yet she cannot receive benefits; through the eyes of the 80-year-old West Virginia man who worked in the mines for over 35 years and is now bedridden and immobile, yet isn't considered totally disabled under the law; and through the now blank eyes of Charles Howell, who was twice turned down for black lung benefits but whose autopsy later showed that he did indeed have pneumoconiosis before he died.

If ever a bill came from the people, this one did.

And, we in the House of Representatives must not forget the people this bill will effect; we must not forget the human side of this long and, more often than not, poignant story. We must not forget how coal miners worked and literally died to provide the fuel so that this country might grow strong. We must not forget the misery and suffering that they and their families endured both during the time while they worked and the time while they slowly, painfully rotted away with the dreaded black lung. Since I have been in Congress, and long before, we have remembered the farmers, we have remembered the cotton growers, we have remembered the banks, the railroads, and so many others with large sums of money and legislation. But, only in 1969 did we remember the coal miner. Are we going to forget him now, now when we can help him just a bit more?

The conferees have agreed upon historic legislation, fair and equitable in every way. Before pointing out the major provisions of the conference agreement, let me say that all of the provisions embodied in the House bill are contained in the conference report in some form.

The House bill extended retroactive black lung benefit coverage to the orphan children of miners, thereby correcting a tragic oversight of title IV—"Black Lung Benefits"—of the 1969 law. This coverage is contained in the conference report.

The House bill permitted the Secretary of Health, Education, and Welfare to certify dependent benefits directly to dependents in those cases where the Secretary believed it was in the best interests of the dependents to do so. This provision is in the conference report.

The House bill applied certain procedures of the Social Security Act to the black lung benefits program, and these procedures are incidentally incorporated into the conference agreement.

The House bill required the elimination of the practice of reducing social security disability insurance benefits on account of black lung benefits, and this provision is contained in the conference report.

The House bill extended benefit coverage to surface coal miners, and the conference agreement retains that coverage.

The House bill prohibited the denial of a black lung claim solely on the basis of the results of a negative X-ray, and that prohibition remains in the conference agreement.

Finally, the House bill extended the black lung benefits program for 2 years across the board. The conferees agreed on an 18-month extension with regard to full Federal responsibility for claims, a 6-month "swing" period during which Federal responsibility is temporary, and the eventual termination of the program after 1981.

But there are often important provisions in the conference report, Mr. Speaker, provisions which were contained in the amendments made by the other body, and provisions which have great merit.

Total disability under existing law is determined according to regulations of the Secretary of Health, Education, and Welfare. As administered, if a disabled miner has the capacity to work at any job, no matter how menial or far away from his home, he is not now considered to be totally disabled, and is, therefore, not eligible for black lung benefits. Under the conference report, if pneumoconiosis prevents a miner from engaging in gainful employment requiring skills comparable to his work in a mine, he will be considered totally disabled.

One of the most prevalent complaints against existing law and its interpretation involved the inability of miners or their widows to establish the existence of black lung, even though the miner was clearly totally disabled or had died with the disease. The House bill, as I noted earlier, precluded sole reliance on the X-ray. The conference report, however, further provides that when a miner worked 15 years or more in an underground coal mine, or in comparable conditions on the surface, when such miner had a negatixe X-ray and when such miner had a totally disabling respiratory or pulmonary impairment, he is given the benefit of a rebuttable presumption that he was disabled due to pneumoconiosis. The agreement limits such claims under part C of the program to those in which the 15 years of employment took place prior to July 1, 1971—the date by which all coal mines were required to meet the 3.0-milligram dust standard prescribed by the Federal Coal Mine Health and Safety Act of 1969.

Existing law limits beneficiaries to miners, their widows, and children. The House bill, as stated earlier, extended benefits to orphans. The conference report further extends such benefits, where there is no widow or child who survive the miner, to wholly dependent parents. If there are no such parents, then benefits may accrue under certain conditions to wholly dependent brothers and sisters, if any.

Under existing law a widow, if she is to claim black lung benefits, must show that her miner-husband died from black lung or a respiratory disease. The conference agreement provides that a widow may also claim benefits if her husband was totally disabled by pneumoconiosis at the time of his death. Then, if the miner was so disabled, the widow may claim benefits regardless of the cause of death. This same provision is extended to claims by orphans.

Application of current law in effect

limits evidence which may be used to support a claim for benefits. The conference report requires the consideration of other evidence such as additional medical tests, affidavits, and clinical and work history.

The conference report also contains a significant provision that applies all sections of part B—Federal responsibility—including amendments to the act, to part C—State and operator responsibility—where such provisions may be appropriately applied. The part B provision relating to the social security disability insurance affair, however, is not applied to part C. And the application of the part B 15-year rebuttable presumption is applied to part C in the limited sense that it relates to situations when the work took place prior to July 1, 1971.

There are other provisions in the conference report, and I believe I have highlighted the major ones. Our final provision is of considerable significance, however, and that is the requirement that the Secretary of Health, Education, and Welfare notify all claimants under title IV of changes in the law and that their claims will be reviewed.

Mr. Speaker, there will be those who will oppose this legislation for one reason or another. But, they will be the same ones who have opposed it from the beginning. They are the ones who are callous enough to think in terms of dollars when the legislation is aimed at salvaging some small part of a human life wrecked by a terrible disease. They are the ones who say billions for defense, billions for farming, billions for industry—yet they refuse to allow a few dollars a month for a poor miner whose lungs are infested with black lung.

I have been in the little coal mining towns; I have seen the people there; I have talked with them. I know that no amount of money can fully compensate them for their suffering. Yet, the small sum which we can provide can help to ease their burdens.

And so, I ask you today to speed this legislation on its way to becoming law. We have remembered 164,000 miners and their widows to this date, but there are still those who have been denied, those who have claims as valid, as just, as deserving as the claims of those who are now receiving benefits. Lest we not forget them, we must pass the Black Lung Benefits Act of 1972.

Mr. Speaker, I would be remiss if I did not make special mention at this point—and in closing—of the tremendous contribution of the gentleman from California (Mr. BURTON), as always, he has devoted uncommon attention and concern to the plight of our Nation's coal miners and their families. And in doing so, he is justly entitled to the credit and gratitude he has been accorded.

Mr. ERLENBORN. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of the conference report.

Mr. BEVILL. Mr. Speaker, I rise to offer my support for the conference committee report on amendments to the Coal Mine Health and Safety Act of 1969, title IV, the Black Lung Benefits Act of 1972.

I wish to congratulate and thank the conferees for the expeditious manner in which they handled this report and I must say that I am very pleased with the results of their efforts.

Mr. Speaker, it is my hope that the House will now immediately give approval to this important measure so that the President may sign it into law without delay. Enactment of these amendments will be a major step toward the resolution of an enormous debt which the people of this Nation owe to our coal miners who have been so important in the economic growth of our great Nation. Fifty-four percent of our energy comes from coal and its reserves are expected to continue to play a most important part in our energy needs for the next several hundred years.

One of the provisions of the compromise version which I especially favor is the provision which states that claims will no longer be turned down solely on the basis of a negative X-ray. This change will insure that all diagnostic tools, such as pulmonary function tests and others which may reveal individual differences in disease effects, shall also be a part of the determination for the award or denial of benefits.

The conference committee also adopted the Senate version which provides that where a miner has worked 15 years or more in an underground mine, or in a comparable condition on the surface, where such a miner had a negative X-ray and where such a miner had a totally disabling respiratory or pulmonary impairment, he is given the benefit of a presumption that he was disabled due to pneumoconiosis and this presumption will hold unless it can be proven otherwise.

The compromise version of the bill also includes a provision identical to a provision in my bill, H.R. 8783, which would extend coverage under the act to include surface miners. Anyone who has spent time around a tipple or places where there is a large accumulation of coal dust, knows that it is possible to contract the disease without having actually worked all of the time required underground.

Both bills extend title IV benefits coverage to orphan children, with such coverage made retroactive to December 30, 1969.

The bill would also extend benefits of the program to dependent parents, brothers and sisters of a miner with black lung if the relative was totally dependent on the miner and lived in his home. Benefits to a sister would terminate if she marries, and a brother would qualify only if he is under 18 years of age, or if he is a student or disabled.

Federal responsibility for payments would be extended until July 1, 1973.

The present law provides that a widow, if she is to claim black lung benefits, must show that her miner husband died from black lung or a respiratory disease. Under the compromise version we are now considering, that widow may also claim benefits if her husband was totally disabled by pneumoconiosis at the time of his death, regardless of the cause of death.

Since the original Federal Coal Mine Health and Safety Act of 1969 has had thousands of claims submitted which were denied under the old provision, it is particularly good to see the automatic review provision. This requires the Secretary of Health, Education, and Welfare to inform all claimants under the original law of the changes made by the Black Lung Benefits Act of 1972. Also, to inform them that their prior claim will be automatically reviewed under the new law without the need to submit additional applications. As many of these disabled miners and widows are up in years this will reduce the effort they might otherwise have to exert to receive their proper benefits.

Mr. Speaker, I feel, very strongly, that this is a good bill. These amendments will help make the Federal Coal Mine Health and Safety Act more responsive to the needs of our miners, their widows and dependent children.

I urge your support and favorable consideration.

Mr. HECHLER of West Virginia. Mr. Speaker, the coal miners and their families throughout the Nation are grateful that at last the Congress is bringing a greater measure of justice to those who have been deprived of their hard-earned compensation for pneumoconiosis by the narrowly restrictive rules of the Social Security Administration. I should like to take this opportunity to commend our colleagues, the Honorable CARL PERKINS of Kentucky and the Honorable JOHN DENT of Pennsylvania for their yeoman efforts in bringing this legislation to the floor. Even more particularly, I want to register the highest praise for the Senator from West Virginia, the Honorable JENNINGS RANDOLPH, who spearheaded this legislation through the other body. Senator RANDOLPH not only was able to include a number of liberalizing amendments during consideration of the bill in the Senate, but he also held very significant field hearings in Beckley, W. Va., and in Pennsylvania, during the course of which very helpful testimony was elicited from coal miners, disabled miners, and widows. From these hearings emerged significant changes and improvements in the legislation to help bring justice to miners, widows, and their families.

When the President signed the Federal Coal Mine Health and Safety Act of 1969 on December 30, 1969, he included a veiled threat that the black lung compensation provisions violated States' rights and should be interpreted narrowly by the Social Security Administration. I believe it was this statement by the President, and subsequent attempts by the Social Security Administration to interpret the law too rigidly, that deprived thousands of deserving miners and widows of their rightful claims. Now if the President dares to veto this conference report, he will bring down on his head the massed anger of the coal miners of this Nation. So I trust the President will sign this important piece of legislation immediately.

Mr. YATRON. Mr. Speaker, in 1969 Congress took the sorely needed first steps toward recognizing black lung disease as an occupational disease and providing for compensation to diseased miners and their widows. Title IV of the Federal Coal Mine Health and Safety Act of 1969 has as its purpose not only the provision of benefits to the victims of pneumoconiosis, but also the elimination of the threat of the disease for all future generations. But during the 2½ years since the passage of the act, shortcomings in the measure have become obvious.

In supporting this conference report, I am thinking not only of those miners disabled by "black lung." I am thinking not only of those who are made widows and orphans at an early age. But rather I am thinking of all of us who use the products of their labors underground. When we turn on a light, when we need medication, when we forge steel, when we do a thousand other things derived from coal, we should keep in mind that these miners deserve the full measure of equity under the law that is possible. Mr. Speaker, I am convinced that this measure before us today provides that full measure of equity.

When the provisions of the bill before us today are closely examined, it is clearly shown that progress has been made in the light of more than 2 years of experience in providing benefits to disabled miners and relief to their families. With the adoption of the following provisions, those benefits will be more just, and the relief more complete:

First, by broadening the definition of disability, the bill recognizes the debilitating nature of black lung disease. Many times I have seen men out of work because they could not catch their breath, even while sitting down—yet under the law as it now stands they are not classified disabled. This must end.

Second, the bill will eliminate the X-ray as the sole test of whether a victim has pneumoconiosis. It has long been shown by medical authorities that the X-ray is not infallible and indeed it is usually inaccurate when it comes to detecting early signs of the disease.

Third, the bill will presume a miner to have pneumoconiosis if he has worked in the mines for 15 years and after that period of time is shown to be disabled from a pulmonary or respiratory disease. I have seen men who worked in the mines for 30 years—and many of those years at the "face" which is the dustiest part—and who took one-half hour to climb a flight of steps. Also, one-third of the black lung claims are denied because total disability was not proven by a test which measures the ability to breathe air into the lungs, while the problem created by black lung is not inability to inhale, but the inability to transfer oxygen from the inhaled air into the blood. Yet under the law as it now stands, there was no assumption that they were suffering from the disease. This must end.

Besides this expansion of coverage, H.R. 9212 seeks to expand compensation eligibility to orphans of deceased miners as well as to dependent parents, brothers or sisters, and to allow a widow to claim benefits if her husband was totally disabled by pneumoconiosis at the time of death—even though it may not have been the cause of death.

If ever a bill came from the people, this one did. And, we in the House of Representatives must not forget the people this bill will affect; we must not forget the human side of this long and tragic story. We must not forget how coal miners worked and literally died to provide the fuel so that this country might grow strong. We must not forget the misery and suffering that they and their families endured both during the time while they worked and the time while they slowly, painfully suffer from this disease.

Mr. Speaker, it is my hope that the House will now immediately give approval to this important measure so that the President may sign it into law without delay. Enactment of these amendments will be a major step toward the resolution of an enormous debt which the people of this Nation owe to our coal miners who have been and continue to be so important in the economic growth of of our great Nation. Fifty-four percent of our energy comes from coal and its reserves are expected to continue to play a most important part in our energy needs for the next several hundred years.

H.R. 9212 will correct these serious deficiencies in existing law. By extending full Federal support of benefits, the miner will have assurance of continuing benefits and the States and industry will be better able to assume their responsibilities at a later date. I feel that these changes are necessary and that they clarify the actual intent of the act of 1969. H.R. 9212 provides the necessary changes in the law which miners and their dependents so rightfully deserve. I urge that the House approve this bill.

Mr. ERLENBORN. Mr. Speaker, I have no further requests for time, and I reserve the remainder of my time.

Mr. DENT. Mr. Speaker, I have no further requests for time.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 275, nays 122, not voting 34, as follows:

[Roll No. 141]

YEAS—275

Abbitt
Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Tenn.
Andrews, Ala.
Annunzio
Aspin
Aspinall
Baker
Baring
Barrett
Begich
Bennett
Bergland
Bevill
Biaggi
Biester
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Byron
Caffery
Carey, N.Y.
Carney
Carter
Casey, Tex.
Celler
Clausen, Don H.
Clay
Collins, Ill.
Conyers
Corman
Cotter
Coughlin
Culver
Curlin
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellums
Denholm
Dent
Derwinski
Diggs
Dingell
Donohue
Dorn
Dow
Drinan
Dulski
Duncan
Dwyer
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, William D.
Forsythe
Fountain
Fraser
Fulton
Fuqua
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gubser
Gude
Hagan
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Harvey
Hathaway
Hawkins
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hungate
Hunt
Ichord
Jacobs
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Kee
Koch
Kyros
Latta
Leggett
Link
Long, La.
Long, Md.
Lujan
McClory
McCloskey
McCormack
McDade
McDonald, Mich.
McFall
McKay
McKinney
McMillan
Madden
Mahon
Mailliard
Mallary
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Mikva
Miller, Ohio
Minish
Mink
Mollohan
Monagan
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Konski
O'Neill
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Powell
Price, Ill.
Pucinski
Purcell
Quillen
Railsback
Randall
Rees
Reid
Reuss
Riegle
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ryan
St Germain
Sandman
Sarbanes
Saylor
Schneebeli
Schwengel
Seiberling
Shipley
Shoup
Sikes
Sisk
Skubitz
Smith, Iowa
Snyder
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Stephens
Stokes
Stratton
Stuckey
Sullivan
Symington
Thompson, N.J.
Udall
Ullman
Van Deerlin
Vanik
Veysey
Vigorito
Waggonner
Waldie
Wampler
Whalen
Whalley
White
Whitten
Widnall
Williams
Wilson, Charles H.
Wolff
Wright
Wyatt
Yates
Yatron
Young, Tex.
Zablocki
Zion
Zwach

NAYS—122

Abernethy
Andrews, N. Dak.
Archer
Arends
Ashbrook
Belcher
Bell
Betts
Blackburn
Bow
Broyhill, Va.
Burleson, Tex.
Byrnes, Wis.
Cabell
Camp
Carlson
Cederberg
Chamberlain
Chappell
Clancy
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conte
Crane
Daniel, Va.
Davis, Wis.
Dellenback
Dennis
Devine
Dickinson
Downing
du Pont
Edwards, Ala.
Erlenborn
Esch
Fisher
Flynt
Ford, Gerald R.
Frelinghuysen
Frenzel
Frey
Goldwater
Griffin
Gross
Grover
Haley
Hall
Hansen, Idaho
Hosmer
Hull
Hutchinson
Jarman
Jonas
Jones, N.C.
Keating
Kemp
King
Kuykendall
Kyl
Landgrebe
Lennon
Lent
Lloyd
McClure
McCollister
McCulloch
McEwen

McKevitt
Mann
Martin
Mayne
Michel
Mills, Md.
Minshall
Mizell
Montgomery
Poage
Poff
Price, Tex.
Quie
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rousselot
Ruppe
Ruth
Satterfield
Scherle
Schmitz
Scott
Sebelius
Shriver
Smith, Calif.
Smith, N.Y.
Spence
Springer
Steiger, Ariz.
Steiger, Wis.
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Vander Jagt
Ware
Whitehurst
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Wyman
Young, Fla.

NOT VOTING—34

Anderson, Ill.
Ashley
Badillo
Bingham
Blanton
Brooks
Chisholm
Clark
Dowdy
Edmondson
Eshleman
Galifianakis
Gallagher
Hastings
Hays
Howard
Keith
Kluczynski
Landrum
Macdonald, Mass.
Miller, Calif.
Mills, Ark.
Mitchell
Murphy, N.Y.
Passman
Podell
Preyer, N.C.
Pryor, Ark.
Rangel
Rodino
Scheuer
Slack
Stubblefield
Tiernan

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Hays with Mr. Anderson of Illinois.

Mr. Rodino with Mr. Hastings.

Mr. Clark with Mr. Eshleman.

Mr. Brooks with Mr. Mitchell.

Mr. Slack with Mr. Gallagher.

Mr. Tiernan with Mr. Mills of Arkansas.

Mr. Howard with Mr. Keith.

Mr. Ashley with Mr. Macdonald of Massachusetts.

Mr. Kluczynski with Mr. Stubblefield.

Mr. Podell with Mr. Landrum.

Mr. Blanton with Mr. Scheuer.

Mrs. Chisholm with Mr. Galifianakis.

Mr. Murphy of New York with Mr. Passman.

Mr. Edmondson with Mr. Badillo.

Mr. Miller of California with Mr. Rangel.

Mr. Bingham with Mr. Preyer of North Carolina.

Mr. CASEY of Texas and Mr. HARSHA changed their votes from "nay" to "yea."

Mr. COLMER and Mr. BOB WILSON changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 7130, FAIR LABOR STANDARDS AMENDMENT OF 1971

Mr. MADDEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 968 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 963

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7130) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that Act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and said substitute shall be read for amendment by titles instead of by sections. It shall also be in order to consider without the intervention of any point of order the text of the bill H.R. 14104 if offered as a substitute for the committee amendment in the nature of a substitute. At the conclusion of the consideration of H.R. 7130 for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Indiana is recognized for 1 hour.

Mr. MADDEN. Mr. Speaker, I yield 30 minutes to the gentleman from Nebraska (Mr. MARTIN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 968 provides an open rule with 3 hours of general debate for consideration of H.R. 7130 to amend the Fair Labor Standards Act of 1938. The resolution provides that it shall be in order to consider the committee substitute as an original bill for the purpose of amendment, that the bill shall be read for amendment by titles instead of by sections and that it shall also be in order to consider without the intervention of any point of order the text of H.R. 14104 if offered as a substitute for the committee amendment in the nature of a substitute.

The purposes of H.R. 7130 are to provide an increase in the minimum wage rate, extend benefits and protection, and establish procedures for the relief of domestic industries and workers injured by increased imports from low-wage areas.

At the present time, the law covers approximately 45.5 percent of the wage and salary workers in the United States.

Industries covered are agriculture; mining; contract construction; manufacturing; transportation and communication facilities; wholesalers; retailers; finance, insurance, real estate; services, excluding domestic help; Federal, State, and local governments.

H.R. 7130 extends coverage to preschool center employees, domestic service employees, conglomerate employees, and to additional Federal, State, and local employees.

The bill provides: A minimum wage of $2 an hour, effective January 1, 1972, for nonagricultural employees covered by the act prior to the 1966 legislation; $1.80 an hour, effective January 1, 1972, for nonagricultural employees covered by 1966 and 1971 amendments, and $2 an hour, effective January 1, 1973.

Agricultural employees covered will receive $1.50 an hour, effective January 1, 1972, and $1.70 an hour, effective January 1, 1973.

Agricultural employees in Puerto Rico and the Virgin Islands will receive two 16-percent increases, effective January 1, 1972, and January 1, 1973.

A special industry committee will be established to recommend wage rates for employees newly covered by this legislation within the United States.

STUDENT EMPLOYMENT

The bill authorizes the employment of full-time students at wages below the regular minimum wage in any occupation other than those deemed particularly hazardous. The student minimum wage would be set at $1.60 an hour—$1.30 in agricultural employment—or not less than 85 percent of the applicable minimum wage, whichever is higher. The bill provides for a certification procedure under which the Secretary of Labor must certify that the student will only be employed on a part-time basis and that the employment of the students will not be used to displace job opportunities for others.

The bill sets forth procedures to restrict foreign imports from low-wage areas and provides that any employer who knowingly employs an alien who is in the United States illegally, or in an immigration status in which such employment is not authorized, shall be guilty of a misdemeanor. If convicted, he would be subject to a maximum penalty of $1,000 or 1 year, or both, for each alien involved.

Mr. Speaker, the last time the Fair Labor Standards Act was amended was in 1966 when it increased the minimum wage to $1.60 per hour. At that time the amendments also extended coverage to certain workers, including 536,000 agricultural employees and certain public employees, such as hospital workers.

In 1966 the so-called poverty level for hourly wage earners was $3,200 per year for a family of four. Due to inflation, the annual income for subsistence for a family of four is now about $4,500. Using the $4,500 standard, today's wage of $1.60 per hour buys less than the $1.25 minimum wage bought in 1966. The bill now under consideration has been pending in the House Education and Labor Committee and in the Rules Committee for almost 13 months. This bill was reported out of the Education and Labor Committee by a vote of 26 to 7. The arguments used by some Members that this is an inflationary bill certainly cannot apply to a group of workers who have not had an increase in pay since 1966. In the last 3 years the cost of living has gone up 16½ percent. The hourly wage people over the Nation have certainly been penalized by the fantastic raise in the cost of living, without any increase in wages to meet these extremely high prices of the last 4 years.

Mr. Speaker, I urge the adoption of

the rule in order that the legislation may be considered.

Mr. MARTIN. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. RHODES).

(By unanimous consent, Mr. RHODES was allowed to speak out of order and to revise and extend his remarks.)

BIPARTISAN SUPPORT OF PRESIDENT NIXON REQUIRED

Mr. RHODES. Mr. Speaker, in a lead article in the Christian Science Monitor of today, Godfrey Sperling, Jr., points out the fact that in the present Vietnam crisis, President Nixon has certainly not received the support of Democratic leaders, as President Kennedy received Republican support in the 1962 Cuban missile crisis. Mr. Sperling is imminently correct.

The criticism of President Nixon's' action by leaders of the Democratic Party, particularly in the other body, is both loud and strident. One of them criticizes the President's latest attempt to end the Vietnam war by saying:

> His course is filled with unpredictable danger. This is a serious escalation of the war.

Another describes it as "flirtation with world war III." Others are equally outspoken in their criticism.

Actually, what did the President do in establishing his new policy? First, he told the Russians and the North Vietnamese that they could have peace if they would only do two things. No. 1, that they would cease firing at their neighbors, and No. 2, that they would release our prisoners of war. Actually, a prominent Democratic Member of the other body, perhaps in an unguarded moment, intimated that this was exactly what the Democratic doves had been trying to get President Nixon to do all along.

Actually, who can be against this new proposal? The consensus of Americans has long been that we should leave South Vietnam as soon as possible, provided we secure the return of our prisoners of war. We have no desire to leave our South Vietnamese allies to disaster, but we feel that the Vietnamization process has been in effect long enough so that they should be able to stand up to the enemy which desires to end their independence, if they ever will possess that quality. Therefore, the time has come for us to get out of this war which two Democratic Presidents blundered into, but only if we secure the return of our prisoners.

President Nixon has acted to inhibit the invasion of the North Vietnamese troops in South Vietnam, not merely because of his concern for the future of South Vietnam, but for the overwhelming concern he feels for the safety of the American troops remaining in that beleaguered country. The idea of getting those troops out of Vietnam while the bullets are still flying is both naive and dangerous. President Nixon's enemies apparently desire American troops to be withdrawn in an aerial Dunkirk of some proportion which they cannot describe nor imagine. This, the President is not willing to do. Therefore, a cease-fire is, and must be, a part of the proposal we make for ending our participation in this unfortunate war.

President Nixon has told the Russians and the North Vietnamese that their freedom of resupply will be inhibited, in ways which are perfectly legal and which will be effective if they continue their invasion. It is up to them as to whether they desire to run the risk of the type of confrontations which always occur when ships are sunk by mines or by bombing.

All Americans should remember this. The North Vietnamese and the Russians started this invasion. We did not. The type of American who automatically reacts to every situation by screaming loudly that his country is wrong is to me unworthy of bearing the name of American citizen. Our country has been wrong at times in the past, and we will probably be wrong in the future. But, we are right quite often, too. I say to my colleagues in the leadership of the Democratic Party, particularly in the other body, that their cacophony of disunity does nothing to serve the purpose of peace. I doubt that in the long run it will be good politics, although they obviously think that it is and will be. Americans have never cared for carping criticism, made for political advantages.

The Democratic presidential candidates have tried too long to obtain political advantage by attacking the conduct of the Vietnamese war. Let them try for a change to help the President end the war by showing that Americans are united behind the objectives which President Nixon has most recently enunciated. I doubt that anyone who sincerely desires to end this conflict can be against the Nixon proposals. If they are, it would be interesting to see a complete outline of the amendments they would suggest.

Mr. Speaker, I am reminded of the great contrast which the conduct of President Nixon at the time of the Cuban missile crisis in 1962 bears to the type of treatment he is now receiving from leaders and presidential candidates of the Democratic Party. At that time President Nixon was involved in a contest for the governorship of the great State of California. When the Cuban missile crisis arose, Mr. Nixon stopped his own campaign, and bought television time at his own expense to ask the people of the country to back the President of the United States in that moment of crisis. The solidarity displayed by the Republican leadership at that time probably had as much to do with the success of the negotiations with the Russians as any other single factor.

I call now upon the leaders of the Democratic Party, including the presidential candidates, to accord President Nixon the same type of support that he gave President Kennedy. They should bear in mind that at some time in the future a Democratic President may again need support in a national crisis. If it should be one of the present crop of Democratic candidates, I doubt that his standing would be too secure in making a plea for unity.

This is a time to close ranks behind the President. I have today introduced a "sense of the Congress" resolution, stating that the Congress agrees with our withdrawal from Vietnam 4 months after a cease-fire and release of our prisoners. Adopting this would hasten the end of the war by assuring North Vietnam and Russia that Americans really are united, and that in spite of the loud rhetoric of disunity they have heard, they really cannot win this war in Washington.

The article referred to follows:

[From the Christian Science Monitor]

NIXON LACKS UNITY OF J. F. K. CUBA CRISIS

(By Godfrey Sperling, Jr.)

WASHINGTON.—Comparison of the new Nixon confrontation with Soviet Russia and the Cuban missile crisis of 1962 shows a clear difference of domestic political response.

President Kennedy had leaders of both parties solidly behind him; Democratic leadership in this election year—including party chairman Lawrence F. O'Brien and the leading presidential candidates, Sens. Hubert H. Humphrey and George McGovern—is critical of Mr. Nixon's move in Vietnam.

Elsewhere, the wholehearted, near-saturation support that President Kennedy evoked seems unlikely today, simply because large segments of the public have lost interest in the United States remaining in a war that has become pointless to both hawks and doves.

Yet, there has been considerable evidence of a widespread and perhaps majority backing for the President's efforts to wind down the war. It is therefore reasonable to conclude that this support will rally behind the President in this moment of crisis.

Mr. O'Brien, in addition to saying that the President had made a mistake, told a breakfast group of reporters that there was now a clear possibility that Mr. Nixon would decide to drop out as a presidential candidate, just as Lyndon Johnson did four years ago.

Perhaps the President knew, when he made his grave decision, that he would not be able to count on a show of bipartisanship in this immensely risky venture.

But in taking this negative tack, the Democratic leaders are also courting public displeasure and, perhaps, political disaster, should the President prove successful.

In fact, one could argue that the Democratic leaders now have taken a position where they will lose no matter what ensues:

1. Should the President be able to persuade Soviet Russia to pull back and let him pursue his new objectives in Vietnam, then Mr. Nixon will doubtless score a victory that is bound to materially improve his prospects for re-election in the fall.

2. But should the U.S. fail in this endeavor—and here "failure" could be written in several different versions, all bad—the President's critics will be the losers, too, simply because as individual citizens they will suffer from the defeat.

Undoubtedly these Democrats see some alternative possibilities, if Mr. Nixon's judgment proves to be bad but not fully disastrous, or if their own criticism becomes an asset at the ballot box.

In any event, at this writing it is difficult to tell how deeply and intensely Congress now will debate the President's decision.

Discussion there will be, with Messrs, Humphrey and McGovern leading the way. But members of Congress are still waiting, with wet finger to the wind, to determine the extent of public dissent.

Will it stir the campuses and the public the way the Cambodian incursion did?

How far will dissent go beyond the relatively mild reaction to the bombing of the north, including Haiphong and Hanoi?

Or will there be a substantial public rallying behind the President because of the sobering implications of his actions?

Further—and most important—what will Moscow's reaction be to the new U.S. tactics?

Again, as this is being written, these questions have not been answered with any finality. And, quite possibly, it may take several days before Congress and an anxious public knows precisely what is in the wind.

Mr. GERALD R. FORD. Mr. Speaker, since the days when he was baseball's greatest hitter with the Boston Red Sox, Ted Williams has been known by friends and foes alike as a man who minced no words. And I am pleased to note that Ted is still "telling it like it is" today.

Commenting on President Nixon's most recent efforts to bring a speedy end to the war in Vietnam, Ted Williams put it the way most Americans would have—

> Nixon had to do it, regardless of the consequences. We have 60,000 guys over there we have to protect.

As most people will recall, Ted was a crack Marine fighter pilot in both World War II and the Korean war, and he knows what it is to be in the military service of one's country.

Mr. Speaker, as a one-time and perhaps overrated football player in my college days, I appreciate hearing these words of support for the President from one of America's greatest athletes. My colleagues Bob Mathias, "Vinegar Bend" Mizell, and Jack Kemp—all great athletes in their own right—join me in this appreciation.

We feel Ted Williams' straight-talk comments on the President and his critics reflect that honesty and patriotism which has characterized both our athletes and the great body of the American people. I include excerpts from a Washington Post article on his remarks in the Record:

Pundit Ted Williams Splinters Nixon's Critics

(By George Minot, Jr.)

Thoughtful Americans everywhere were talking today about President Nixon's decision to mine North Vietnam's ports.

Ted Williams was no exception. The manager of the Texas Rangers, the old Washington Senators, was lobby-sitting in the Lord Baltimore Hotel, sweating out the rain which eventually washed out his night game with the Orioles.

"Nixon had to do it, regardless of the consequences. We have 60,000 guys over there we have to protect," said Williams, the firebrand Marine fighter pilot of World War II and the Korean conflict.

"He's the greatest President of my lifetime," added Williams, who once caused a stir when he questioned President Truman's "guts."

Williams cut across party lines by praising Franklin D. Roosevelt as "great" but his opinion of the leading Democratic hopefuls was less than laudatory. "Those four guys make me puke," he fumed, "and you can put that in your column."

Obviously mellowing in his middle years, the manager did not further identify the "four guys."

In the view of the last .400 hitter, "Nixon always makes the right decision. At least he makes the effort." When someone questioned him about the reaction of the Soviet Union to the mining, Williams shot back: "I'm not afraid of the Russians."

Williams' staunch defense of the Chief Executive came as no surprise to anyone who had visited Williams' old office in RFK stadium. Mr. Nixon's photograph hung over the couch. . . .

Mr. HÉBERT. Mr. Speaker, as chairman of the Armed Services Committee, my support for the President's conduct of the Vietnam situation is well known. I believe he has done an outstanding job with the unholy mess he inherited.

Irresponsible rhetoric by Members of both parties have contributed greatly to the prolonging of the war, and this rhetoric has again emerged in response to the President's decision to mine the harbors of North Vietnam's ports and bomb land supply arteries.

The President, in my opinion, has displayed indefatigable courage in his dedication in quest of peace. He has followed a consistent course and has kept every pledge. He has done everything anybody could possibly do to bring peace with honor.

I care not what course others may take or for what reasons, because I once again give my hand and heart to our President in meeting the enemy head-on and refusing to budge or cow before international bandits who are guilty of invassion and escalation of the war which America wants ended and the prisoners of war returned to their loved ones at home.

There is no other course of honor open to the President except the one he has chosen to take. Any other action would be akin to surrender and disgrace and is not acceptable to the majority of the American people, who I am confident stand behind the President.

I was most pleased to note the editorial stand taken by the New Orleans Times-Picayune with regard to the President's action. It shows a responsibility in journalism that some of the country's "prestige papers," and I borrow those words because I see nothing prestigious about certain "big name" papers, could emulate.

Therefore, I am inserting the editorial at this point in the Record.

[From the Times-Picayune, May 10, 1972]

Nixon and Vietnam: Tense Game Ends

President Nixon's selection from the alternatives he listed as before him Monday evening was properly strategic, directed toward Moscow and Peking where flexibility still exists, rather than tactical, aimed at Hanoi, where none obviously does at this point.

Mining North Vietnam's harbors, sealing its coast with patrols and "taking out" the rail supply lines within North Vietnam are not expected to have an immediate effect on the current northern offensive in South Vietnam, but they will affect Hanoi's future prospects.

Concurrently, the moves force on Moscow and Peking—Hanoi's suppliers and, embarrassingly, at the same time new partners of the United States in a global strategic pas de trois—decisions that will also affect either the progress or the settlement of the war.

It is obvious that we are in the final stage of this long war. There is every evidence that the North Vietnamese offensive is a final burst banking on justifying more of the support its major backer, Moscow may be tiring of providing and without which it may not be able to continue large-scale operations.

On our side, Mr. Nixon's offer to withdraw completely within four months if the other side honors a supervised ceasefire shows that our eyes are fixed on an end, not a continuation.

So the ready slogan-word "escalation" is of no use in judging the President's end-game strategy. The new moves have long lain in our options kit, and it is to be assumed that the groundwork for their possible use was laid by the President in Peking last December and by presidential adviser Henry Kissinger in Moscow last month. They amount to unignorable signals to Russia and China to help get this thing over with so we can move on to more important and more controllable aspects of our wider relations.

And, we believe, the signals must be credible on the other side. Mr. Nixon is not the unknown quantity President Kennedy was at the time of the Cuban missile crisis. The Communist leaders—who are not Khrushchevs, either—have seen him in determined action.

The Vietnamization program was for us a step back from total commitment that required the loss of some face, though cosmeticized by elaborate argument and upbeat rhetoric. The equivalent is now being demanded of Moscow and Peking. They should take their medicine, as they can with no greater damage, and let the world avoid, in Mr. Nixon's grim phrase, a "slide down the dark shadows of a previous age."

Mr. MARTIN. Mr. Speaker, I yield myself 15 minutes.

Mr. Speaker, House Resolution 968, as the gentleman from Indiana has explained, provides for an open rule with 3 hours of debate on H.R. 7130.

It further provides that H.R. 14104 is in order to be offered as a substitute to the committee bill.

What are the purposes, Mr. Speaker, of this legislation? Primarily to amend the minimum wage law, which currently is $1.60 an hour. The Congress has this power. There is no question about that. But when you raise wages, and this is a 25-percent increase, Mr. Speaker, you also should increase productivity, and if labor does not produce more they are unproductive, as far as management and business is concerned. The Congress cannot increase productivity; that has to come from the individual himself.

This 25-percent increase in wages, which would take effect immediately, would add to our problems of inflation, and add to our problems on the increase in the cost of living.

Let us go into detail somewhat about this legislation. The current minimum wage is $1.60 an hour for nonagricultural employees with certain exemptions. In agriculture it is $1.30 an hour.

This legislation would provide that those who came under the act under the 1961 amendments would be increased immediately from $1.60 an hour to $2 an hour. Those employees who came under the 1966 amendments would be increased immediately from $1.60 an hour to $1.80 an hour, and 1 year later to $2 an hour. In agriculture, the increase immediately would be from $1.30 per hour to $1.50 an hour, and 1 year later to $1.70 an hour.

Mr. Speaker, the fact that increases in minimum wages have a rippling effect all up the line has conclusively been proven by the events of the past, when this act has been amended. Let me give you a concrete illustration:

In 1966, when the minimum wage was increased from $1.25 an hour to $1.60 an hour, shortly after that action was taken by the Congress the Committee on Ways and Means, under the able leadership of its chairman, the gentleman from Arkansas (Mr. MILLS), reported out legislation to set up the medicare program. Mr. MILLS, in testifying in behalf of that legislation before the Committee on Rules, had set forth in the report in detail the projected expense of medicare over the first, second, third, fourth, and fifth years. I questioned the gentleman quite closely as to these projected costs in the future, and he advised me that these figures had been compiled by his staff in cooperation with experts downtown in the proper departments, as well as the Congress, and throughout the country, and that he was sure that he had plenty of money figured in his projections to take care particularly of hospitalization costs.

In addition to this, the gentleman from Arkansas (Mr. MILLS) assured me he had a 5-percent cushion over and above these figures.

The Congress had just passed the amendments to the minimum wage law increasing from $1.25 to $1.60 an hour and bringing hospitals and nursing homes under its provisions for the first time.

What was the result? Hospital costs went up very rapidly and abruptly primarily because of this increase in the minimum wage. The projected medicare figures that the Committee on Ways and Means had come up with were completely in error. As a result, the Congress had to take further action to call for increased payments into this program to take care of this tremendous increase in hospitalization costs.

This came about directly because of the increase in the minimum wage in 1966.

The committee bill, H.R. 7130, also provides for increased coverage of almost 6 million people. It includes coverage for the first time of Federal, State, and local government employees to the tune of 4,479,000 employees plus the overtime provisions of the act.

Domestic employees are also covered for the first time under this legislation and they are estimated to number 1,139,000 people.

I have here a statement of the distinguished chairman of the Committee on Post Office and Civil Service who testified 2 or 3 weeks ago before the Committee on Rules in opposition to this particular section of the act which brings Federal employees under the provisions of the Fair Labor Standards Act.

I want to quote in part from the testimony of the gentleman from New York (Mr. DULSKI), the chairman of the committee, and I am quoting from his testimony before the Committee on Rules:

> Section 201 of the bill will extend coverage of the Fair Labor Standards Act to include all employees of the Government of the United States.
>
> The amendments would make the Government of the United States an employer within the meaning of the Fair Labor Standards Act. I assume that means all three branches of the Government of the United States—the executive, judicial, and legislative. Under such circumstances, I also assume—

Get this point—

> That overtime pay would be required for overtime work by nonsupervisory employees of the judicial branch and of the legislative branch, including employees in a Member's office.

These are the words of the gentleman from New York (Mr. DULSKI).

His statement continues:

> I asked the Civil Service Commission for a report. Chairman Hampton replied by letter dated March 7, 1972, that the Civil Service Commission strongly recommends that the Federal Government not be covered as an employer under the Fair Labor Standards Act. The Commission urged that the bill be amended to strike out references to the United States in redefining the terms.
>
> Most Federal employees are entitled to overtime compensation under the provisions of subchapter V of the chapter 55 of title 5, United States Code. These provisions are administered by the Civil Service Commission. The Fair Labor Standards Act provisions are administered by the Secretary of Labor.

Then Mr. DULSKI asks:

> Who is to make the decision as to which will be the greater benefit—the Civil Service Commission or the Secretary of Labor?

He goes on to point out that there is a differential in grades and so forth as to how this will apply with regard to overtime, which further complicates the situation.

He concludes his remarks that he is opposed to this section and intends to offer an amendment or to have an amendment offered to delete this section from the bill itself.

Let us go on with some other provisions of this bill and I will quickly cover this part.

Five exemptions which have been removed from the bill before us are the overtime provisions affecting agricultural processing employees, transit system employees, nursing home employees, sugar processing employees and maid and custodial employees in hotels and motels.

Exemptions for overtime to a certain extent have been eliminated from these categories.

Let us take the student exemption as the next point in the bill. This legislation has made it extremely difficult for business to hire full-time students on a part-time-work basis who do not work more than 20 hours a week. Under the present act, full-time students who are part-time employees, may be hired at 85 percent of the minimum wage. This is set up on a basis of the number in an establishment in 1961. An establishment is one store. If the business has come into existence since 1961 the Secretary of Labor has the power to allow a certain number of student employees.

But under this bill—and this is not noticed by very many people—the committee has changed the word "establishment" to "employer."

Now, what would that do? A large chain store, such as Safeway, A. & P., J. C. Penney Co., or any chain store, would be allowed only four student employees under the provisions of this bill. The word "four" is right in this legislation. To get additional student employees they would have to go to the Secretary of Labor and prove to the Secretary of Labor that by giving a job to a student on a part-time basis it would not interfere with full-time employment for an adult. This would be a cumbersome process, and one which would probably not be very successful in the long run. It is a very dangerous provision in the committee bill.

In addition, the committee has included 21 exemptions in 21 different businesses and industries, to which the student exemption would not apply.

Let us go on to section 213, another bad provision in the bill. This would prohibit for the first time a State employment agency from assisting in the placement to an employer who pays less than the minimum wage. What does that mean? The exemption for coverage in a retail store is $250,000. In other words, a store that does not do at least $250,000 in sales is exempt from the act. That is under the present law and would be continued under the bill before us. So this means that under section 213 a State employment agency could not refer a person for a job to a retail store which was not paying the minimum wage. This is true, Mr. Speaker, in many, many areas of the country, particularly in your small towns, in your small businesses, the "papa and the mamma" stores that may have one additional employee to help. This would create real hardship on these people, and it would prohibit State employment agencies from referring a person to them when they seek additional help in their business.

Let us go on to title III. This is one of the most dangerous titles in the entire bill and it concerns imports. It provides that in any contract over $10,000 in which Federal funds are involved, either directly or indirectly, that no materials may be purchased that come from a foreign country whose minimum wage is not up to the United States, whose fringe benefits for labor are not up to those that our labor receives in this country. By "fringe benefits" I talk about additional benefits in the way of health and hospitalization insurance, paid vacations, sick leave, and so on, those things that are negotiated in practically every labor contract in this country.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, in view of the gentleman's statement that he has just completed, in view of the trouble we have had with the GATT Agreements, the variable tariffs, the exportation of our products to the Common Market, and others, how in the name of reason could this resolution No. 968 state that part of its purpose is "to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes"?

Many of us have known for years that our only problem is our high standard of living, our high cost of production, and our high cost of labor in competition in free trade around the world, and I do not see how we can accept such a rule, let alone one that waives points of order against a substitute printed in the bill.

Mr. MARTIN. In my opinion, title III will have exactly the opposite effect.

Let me continue in regard to title III. I have called attention a moment ago that this was probably the most dangerous title or section in the entire bill. Let me expand on that point.

First of all, how is the bill worded? It is made mandatory. The word "shall" is used. Let me read from the bill on page 45 a sentence or two:

> Upon the request of the President, or upon resolution of either House of Congress, or upon application of the representative of any employee organization in a domestic industry, or upon application of any interested party, or upon his own motion, the Secretary of Labor shall—

And it is made mandatory—

> promptly make an investigation and make a report thereon not later than four months after the application is made . . .

Then on down later, in the next paragraph, again quoting from the bill, we see:

> In the course of any such investigation the Secretary or his delegate shall—

Again we see the word "shall"—

> hold hearings, giving reasonable public notice thereof, . . .
>
> "(3) Should the Secretary find, as a result of the investigation and hearings, that an imported product is or likely will be sold in competition with like or competitive goods produced in the United States under such circumstances, he shall promptly report his finding to that effect to the President.

Again we see the word "shall."

Then on line 8, page 46, from the bill we see—

> The Secretary shall immediately make public his findings and report to the President, and shall cause a summary thereof to be published in the Federal Register.
>
> "(4) Upon receipt of the report of the Secretary containing a finding that an imported product is or likely will be sold in competition with like or competitive goods produced in the United States under such circumstances, the President shall—

Again we have the word "shall"—

> take such action as he deems appropriate to remove such impairment or threat of impairment, in addition to any other customs treatment provided by law.

This $10,000 mentioned in here in contrast is where the Federal funds are involved either directly or indirectly. We can construct a house with FHA or VA loans, and where FHA is guaranteeing the loan, that is indirect, that contract would come under this, and no foreign product could be used.

Let me quote from some letters I received in opposition to this. I have one from the American Association of University Women, who support the legislation involved, but they do not support title III. I quote from their letter to me dated May 8, 1972:

> The part of the bill which we oppose is Title III, Relief for Domestic Institutions and Employees Injured by Increased Imports from Low-Wage Areas. We believe this country's trade policy is a very complicated, many sided problem with economic and political implications which cannot properly be handled in a minimum wage bill. Although we support efforts to aid workers whose jobs and livelihood are threatened by imports from low wage areas, we do not believe the remedies proposed in Title III are the solution to the troubles of these workers.
>
> Under Title III the very people H.R. 7130 is designed to help, the poor, would be denied access to the low cost imports they need. The curb on inflation imposed by competition would be eliminated. Consumers would be denied the right of choice which they now enjoy in the open market.
>
> Under the restrictions of Title III any school which uses Federal funds under any of several federally aided education programs could be restrained from buying imported scientific equipment from abroad or even erasers from Japan!

The American Farm Bureau Federation opposes the legislation. In a letter of May 10, 1972, the president of that federation says:

> We further submit that title III of the bill is a drastic proposal, which would have disastrous consequences for the producers of export commodities.

There are exports of billions of dollars each year to foreign countries.

I quote from a letter from the League of Women Voters of the United States addressed to the Honorable OGDEN REID, a copy of which was mailed to me.

> We oppose title III itself and its inclusion in the minimum wage bill. Granting new presidential authority to erect trade barriers could arouse hostility toward United States international economic policies at a time when we are trying to restore confidence in our international monetary role. Furthermore, it could work to the disadvantage of many of the same working people that the minimum wage legislation is designed to help, including those in export industries.

The League of Women Voters of the United States is opposed to title III.

Last, let me quote from a letter of May 8, 1972, addressed to the ranking minority member of the Committee on Rules, the gentleman from California (Mr. SMITH):

> Under Section 301(c) of the bill, Defense contracts apparently would require overseas suppliers to pay wages "not substantially less" than wages required to be paid in the United States under the Fair Labor Standards Act. Aside from the ambiguity inherent in this requirement, we are apprehensive that the effect of such a requirement could be to foreclose the Department of Defense from access to most foreign sources where wage rates tend to be substantially less than in the United States.

Secretary of Defense Laird goes on to quote some examples. Let me read one or two.

> Items which are not available in the U.S. such as certain new technology items, e.g., the British developed HARRIER aircraft. The DoD does not intend to duplicate the expense of developing such new technology items when they are available from a foreign source, and are suitable for U.S. defense needs. Also, the DoD frequently needs to buy one or more copies of a weapons system or subsystem for testing in the U.S.
>
> In any logistic situation, there is always the need to have authority available to buy from any source in an emergency, whether a full scale national emergency or a one-time natural catastrophe. However, the bill does not provide these contingencies.

And I read a few words from Secretary Laird's letter with respect to trade with Canada:

> Various steps have been taken during and since World War II to coordinate U.S.-Canada economic efforts in the mutual defense of the North American continent. These steps involve greater integration of military production, standardization of military equipment, dispersal of production facilities, and availability of supplemental sources of supply.
>
> During the Vietnam War, Canada provided DOD with many urgent requirements, including certain electrical and navigational equipment and supplies. Over a 12-year period, the U.S. has procured approximately $2.8 billion worth of supplies from Canada. Over 100 Canadian suppliers have executed agreements to provide certain critical defense items in the event of an emergency. The bill would prevent DOD from obtaining these supplies from Canada under this long-standing program.

Title III, Mr. Speaker, is one of the most dangerous sections of this entire piece of legislation and should be removed from the bill.

I want to call attention very briefly to the substitute which will be offered by the gentleman from Illinois (Mr. ERLENBORN) and the gentleman from Minnesota (Mr. QUIE) of the Committee on Education and Labor, which has been made in order. This bill would eliminate all these changes in the present law, would eliminate title III, and would provide for approximately the same increase in the minimum wage as the committee bill does, but in addition it would go much further in regard to assisting students in receiving part-time work.

I oppose this legislation.

Mr. MADDEN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, I take this time to present for the RECORD, so that the Members of the House will have them, the amendments that I promised the Committee on Rules I would present dealing with the time of effectiveness of the act.

Since the act was to be effective on January 1, we moved that up to the first day of the first calendar month which begins more than 30 days after the date of enactment or July 1, 1972, whichever comes first.

Then we changed the second raise to make that 1 year later, or July 1, 1973.

These amendments which I offer for the RECORD are offered so that the Members may read them in their entirety when the CONGRESSIONAL RECORD is before them tomorrow.

I do not want to take up too much of your time, but I would like to remind the gentleman from Nebraska that on September 28, 1967, along with 339 other Members of this Congress, he voted for a proposal essentially similar to title III. It was passed by a vote of 340 to 29.

The whole fight against this bill is centered upon title III. Now, what does title III do? All it does is give the opportunity to a community or other affected party to go before the Secretary of Labor when an installation, a manufacturing or producing installation, in that community is shut down, liquidated or, in better words, annihilated and when it says that it was closed because of the impact of imports. That community can then go before the Secretary of Labor and ask for a study. On the basis of what? On the basis of injury. That is all it does.

Then the findings have to be a matter of fact. Then it goes to the President. At that point we will have about as much authority with the President and as much pressure on him as we have now, which is none. This is only an act of Congress; it is not a constitutional provision. We have abdicated our constitutional authority with regard to currency, trade, and other things, and the President does as he pleases.

If he feels at that time that that community was injured, he can institute under these provisions the relief that is necessary for that particular industry or plant.

What we are doing is removing the basket category approach which is now before the Tariff Commission. Every injury case that goes to the Tariff Commission today is not considered on the basis of the wage content; it is considered on the basis of the earnings of the industry. When they shut down the Braeburn Steel Co. in Pennsylvania, they did not consider the Braeburn Steel Co.'s ability to compete, but they considered only the entire steel industry's ability.

That is the only, only, job-giving installation in that whole community, and it is over 90 years of age. So that is what they are objecting to. Who is objecting to it? The multinational corporations.

ITT is the strongest opponent of this piece of legislation than any other group in America, and who have they reached? Maybe, the beneficiaries of the generosity of ITT and the other fat cats.

Mr. MARTIN. Mr. Speaker, will the gentleman yield briefly?

Mr. DENT. I would be happy to yield to the gentleman from Nebraska.

Mr. MARTIN. The gentleman said that the large corporations and the big fat cats——

The SPEAKER. The time of the gentleman from Pennsylvania has expired.

Mr. MADDEN. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. MARTIN. The gentleman said that the large corporations and the big fat cats were the only ones opposed to title III of this bill.

I have previously quoted from letters from the American Association of University Women, the League of Women Voters, the Department of Defense, the American Farm Bureau, who are all in opposition, and I hope the gentleman does not put them in that category.

Mr. DENT. And, the American Farm Bureau, of course, does not have much influence exerted upon it such as from Corn Products International, ITT, and others.

Mr. MARTIN. Will the gentleman yield further?

Mr. DENT. Give me some time and I will be glad to yield. If you will give me more time I will stay here the rest of the day.

However, this is a vital question that this Congress will have to answer for sooner or later.

Just this week General Motors announced for the first time that its diesel engines are going to be moved to Great Britain.

A committee of this House on electrical equipment just this week recommended dropping the Royal typewriter as permissible equipment in the offices of the Members of Congress and the Royal Typewriter Co. has moved from its legendary home in Connecticut completely out of the country.

Perhaps, it might have been because of labor. I am not taking total labor, as such, into consideration under title III. I am taking in part the labor cost that has been mandated by the Congress of the United States.

Insofar as labor is concerned, at no time in the history of this Nation—at no time in the history of this Nation—has there ever been a time where the American wage had any less differential than it has today. Yet, when the wage earner was earning 15 cents an hour in 1932 and 1933, the European wage was 2 cents an hour. So, the differential has always been there.

Mr. Speaker, as I have earlier stated, I will offer a series of perfecting amendments to the committee bill for the purpose of modifying timetables prescribed by the bill in accord with the present, and to correct certain deficiencies in the reported language. I hope to offer these amendments *en bloc* tomorrow if provided the opportunity. At this point I would like to describe and, where necessary, discuss the amendments. I am including them in the RECORD to follow my remarks so that all Members may have advance notice and understanding of their import. I am also including in the RECORD at the conclusion of my remarks a copy of the committee bill as it would be amended by my amendments.

Briefly, my amendments—

Change the citation of the legislation from the "Fair Labor Standards Amendments of 1971" to the "Fair Labor Standards Amendments of 1972."

Change the effective date of the legislation from January 1, 1972, to the first day of the first calendar month which begins more than 30 days after the date of enactment, or July 1, 1972, whichever occurs first.

Change the date of the initial increase in the minimum wage rate from January 1, 1972, to the effective date of the legislation—within 60 days, as discussed above.

Change the date of the second increase in the minimum wage rate, where applicable, from January 1, 1972, to 1 year after the effective date of the legislation.

Change the date of the application of the overtime revisions in the bill applicable to transit employees and seasonal industry employees from January 1, 1972, to the effective date of the legislation.

Change the date of the application of the minimum wage provisions to "Other Employees in Puerto Rico and the Virgin Islands" from January 1, 1972, to the effective date of the legislation. The percentage wage increases required are made applicable 60 days after the effective date.

Make other technical and perfecting changes in the Puerto Rico-Virgin Islands provision to clarify the application of the percentage wage increases against the most recent wage orders, clarify the application of the percentage wage increases against the most recent wage order where subsidies are involved, and provide that the minimum wage rate in the islands will not exceed that applicable in the United States.

Apply section 208—Employment of Students—of the bill to the relevant minimum wage rates in Puerto Rico and the Virgin Islands.

Apply section 213—Employment Referrals by Public Employment Service Agencies—of the bill to the relevant minimum wage rates in Puerto Rico and the Virgin Islands.

Make other minor technical improvements in the bill.

Mr. Speaker, the material earlier referred to follows:

AMENDMENTS TO H.R. 7130, AS REPORTED—REVISION OF EFFECTIVE DATE AND OTHER PERFECTING AMENDMENTS

Page 18, line 15, strike out "1971" and insert in lieu thereof "1972".

Page 19, line 3, strike out "effective January 1, 1972,".

Page 19, line 15, strike out "1971, effective January 1,"; insert "during the first year from the effective date of the Fair Labor Standards Amendments of 1972" immediately after "hour" in line 16; strike out "effective January 1, 1973," in line 16; and insert "thereafter" immediately before the period in line 17.

Page 19, line 22, strike out "effective January 1, 1972,"; insert "during the first year from the effective date of the Fair Labor Standards Amendments of 1972" immediately after "hour" in line 22; strike out "effective January 1, 1973," in line 23; and insert "thereafter" immediately before the period in line 24.

Page 20, line 20, insert "6(b)(4)," after "6(a),".

Page 21, strike out line 1 and all that follows down through and including line 16 on page 28 and insert in lieu thereof the following:

"(2)(A) In the case of any such employee who is covered by such a wage order and to whom the rate prescribed by subsection (a) would otherwise apply, the following rates shall apply: Except as provided by paragraph (8), the rate or rates applicable under the most recent such wage order issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, increased by 25 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (6). The increased rate or rates prescribed by this subparagraph (or if such rate or rates are superseded as authorized by this subparagraph, the superseding rate or rates) shall take effect sixty days after the effective date of the Fair Labor Standards Amendments of 1972.

"(B) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment under paragraph (6) of a special industry committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by subparagraph (A). Any such application shall be filed before the effective date of the Fair Labor Standards Amendments of 1972.

"(3) (A) In the case of any employee employed in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5 and to whom the rate or rates prescribed by subsection (b)(4) would otherwise apply, the following rates shall apply:

"(i) Except as provided by paragraph (8), the rate or rates applicable under the most recent such wage order issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, increased by 16 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the

Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (6). The increased rate or rates prescribed by this clause (or if such rate or rates are superseded as authorized by this clause, the superseding rate or rates) shall take effect sixty days after the effective date of the Fair Labor Standards Amendments of 1972.

"(ii) Beginning one year after the effective date of the increase prescribed by clause (i), not less than the highest rate or rates (including any increase provided under clause (i)) in effect on the day before the effective date of the rate or rates under this clause under a wage order covering such employee, increased by an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order, covering such employee, issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972 pursuant to the recommendations of a special industry committee appointed under section 5, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (6).

"(B) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment under paragraph (6) of a special industry committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by clause (i) or (ii) of subparagraph (A). Any such application with respect to any rate or rates provided for under clause (i) of subparagraph (A) shall be filed before the effective date of the Fair Labor Standards Amendments of 1972, and any such application with respect to any rate or rates provided for under clause (ii) of subparagraph (A) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the increase prescribed by such clause.

"(C) Notwithstanding subparagraph (A) or (B) of this paragraph, in the case of any employee employed in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5 and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the following rates shall apply except as otherwise provided in this subparagraph:

"(i) Except as provided by paragraph (8), the rate or rates applicable under the most recent such wage order issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, increased by (I) the amount by which such employee's hourly wage is increased above such rate or rates by the subsidy (or other income supplement), and (II) 16 per centum of the sum of the rate or rates under such wage order and such subsidy (or income supplement). The increased rate or rates prescribed by this clause shall take effect sixty days after the effective date of the Fair Labor Standards Amendments of 1972.

"(ii) Beginning one year after the effective date of the increase prescribed by clause (i), not less than the highest rate or rates (including the increase provided under clause (i)) in effect on the day before the effective date of the rate or rates under this clause under a wage order covering such employee, increased by an amount equal to 16 per centum of the sum of the rate or rates applicable under the most recent wage order, covering such employee, issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972 pursuant to the recommendations of a special industry committee appointed under section 5 and the amount by which such employee's hourly wage is increased above such rate or rates by the subsidy (or income supplement).

Notwithstanding clause (i) or (ii) of this subparagraph, the minimum wage rate for any employee described in this subparagraph shall not be increased under such clause (i) or (ii) to a rate which exceeds the minimum wage rate in effect under subsection (b)(4).

"(4)(A) In the case of any employee who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5 and to whom this section was made applicable by the amendments made to this Act by the Fair Labor Standards Amendments of 1966, the following rates shall apply:

"(i) Except as provided by paragraph (8) the rate or rates applicable under the most recent such wage order issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, increased by 12.5 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (6). The increased rate or rates prescribed by this clause (or if such rate or rates are superseded as authorized by this clause, the superseding rate or rates) shall take effect sixty days after the effective date of the Fair Labor Standards Amendments of 1972.

"(ii) Beginning one year after the effective date of the increase prescribed by clause (i), not less than the highest rate or rates (including any increase provided under clause (i)) in effect on the day before the effective date of the rate or rates under this clause under a wage order covering such employee, increased by an amount equal to 12.5 per centum of the rate or rates applicable to the most recent wage order, covering such employee, issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972 pursuant to the recommendations of a special industry committee appointed under section 5, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (6).

"(B) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment under paragraph (6) of a special industry committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by clause (i) or (ii) of subparagraph (A). Any such application with respect to any rate or rates provided for under clause (i) of subparagraph (A) shall be filed before the effective date of the Fair Labor Standards Amendments of 1972, and any such application with respect to any rate or rates provided for under clause (ii) of subparagraph (A) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the increase prescribed by such clause.

"(5) Except as provided in section 5(e), in the case of any employee employed in Puerto Rico or the Virgin Islands to whom this section was made applicable by the amendments made by the Fair Labor Standards Amendments of 1972, the Secretary shall, as soon as practicable after the date of enactment of the Fair Labor Standards Amendments of 1972, appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, in accordance with the standards prescribed by section 8, to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b)(5). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation, but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1972.

"(6)(A) The Secretary shall promptly consider any application duly filed under paragraph (2)(B), (3)(B), or (4)(B) for appointment of a special industry committee and may appoint such a special industry committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (2)(A), (3)(A), or (4)(A), as the case may be, will substantially curtail employment in the industry with respect to which the application was filed. The Secretary's decision upon any such application shall be final. In appointing a special industry committee pursuant to this paragraph the Secretary shall, to the extent possible, appoint persons who were members of the special industry committee most recently convened under section 8 for such industry. Any wage order issued pursuant to the recommendations of a special industry committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (2)(A), (3)(A), or (4)(A), as the case may be. If a wage order has not been issued pursuant to the recommendation of a special industry committee appointed under this paragraph prior to the applicable effective date under paragraph (2)(A), (3)(A), or (4)(A), the applicable percentage increase provided by paragraph (2)(A), (3)(A), or (4)(A) shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application for appointment under this paragraph of a special industry committee and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

"(B) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to special industry committees appointed under this paragraph. The appointment of a special industry committee under this paragraph shall be in addition to and not in lieu of any special industry committee required to be convened pursuant to section 8(a), except that no special industry committee convened under that section shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary, by a special industry committee appointed under this paragraph, to be paid in lieu of the rate or rates prescribed by paragraph (2)(A), (3)(A), or (4)(A), as the case may be.

"(7) The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee appointed under section 5.

"(8) Notwithstanding any other provision of this subsection, effective on and after sixty days after the effective date of the Fair Labor Standards Amendments of 1972, the wage rate of any employee in Puerto Rico or the Virgin Islands which is subject to paragraph (2), (3), or (4) of this subsection shall be not less than 60 per centum of the wage rate that (but for this subsection) would be applicable to such employee under subsection (a) or (b) of this section."

Page 31, line 2, strike out "Effective January 1, 1972, paragraph" and insert in lieu thereof "Paragraph".

Page 32, line 22, strike out "Effective January 1, 1972, sections" and insert in lieu thereof "Sections".

Page 33, line 5, strike out "Effective January 1, 1972, section" and insert in lieu thereof "Section".

Page 35, line 17, insert after "higher," the following: "(or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the otherwise applicable rate in effect under section 6)".

Page 38, line 13, insert after "higher," the following: "(or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)(3))".

Page 42, line 1, insert after "agriculture" the following: "or section 6(c) in the case of an individual to be employed in Puerto Rico or the Virgin Islands in employment not described in section 5(e)".

Page 49, strike out lines 20 and 21 and insert in lieu thereof the following:

(f) Section 8 is amended (1) by striking out "the minimum wage prescribed in paragraph (1) of section 6(a)" in the first sentence of subsection (a) and inserting in lieu thereof "the minimum wage rate which would apply under subsection (a) or (b) of section 6 but for section 6(c)", (2) by striking out "the minimum wage rate prescribed in paragraph (1) of section 6(a)" in the last sentence of subsection (a) and inserting in lieu thereof "the otherwise applicable minimum wage rate in effect under subsection (a) or (b) of section 6", and (3) by striking out "prescribed in paragraph (1) of section 6(a)" in subsection (c) and inserting in lieu thereof "in effect under subsection (a) or (b) of section 6 (as the case may be)".

Page 52, strike out lines 12 through 18 and insert in lieu thereof the following:

SEC. 501. (a) Except as provided in sections 104(a), 202(b), 202(c), 205(c), and 205(d) of this Act, the effective date of this Act and the amendments made by this Act is—

(1) the first day of the first calendar month which begins more than thirty days after the date of the enactment of this Act, or

(2) July 1, 1972,

whichever occurs first.

(b) Notwithstanding subsection (a), on the date of enactment of this Act the Secretary of Labor is authorized to prescribe necessary rules, regulations, and orders with regard to this Act and the amendments made by it.

COMMITTEE PRINT—SHOWING TEXT OF COMMITTEE AMENDMENT TO H.R. 7130 AS REVISED BY EFFECTIVE DATE REVISION AND OTHER PERFECTING AMENDMENTS

SHORT TITLE; REFERENCES TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1972".

(b) Whenever in this Act (other than in section 401(j) thereof) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the section or other provision amended or repealed is a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

TITLE I—INCREASE IN MINIMUM WAGE

NONAGRICULTURAL EMPLOYEES

SEC. 101. (a) Section 6(a) (29 U.S.C. 206(a)) is amended by striking out "(a) Every employer" and all that follows through paragraph (1) and inserting in lieu thereof the following: "(a) Except as provided in this section, every employer shall pay each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, at a wage rate of not less than $2 an hour."

(b) Such section is amended by adding after paragraph (5) the following new paragraph:

"(6) If this section was made applicable to such employee by the amendments made to this Act (other than section 18 thereof) by the Fair Labor Standards Amendments of 1966 or the Fair Labor Standards Amendments of 1972 not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972; and not less than $2 an hour thereafter."

AGRICULTURAL EMPLOYEES

SEC. 102. Paragraph (5) of section 6(a) is amended to read as follows:

"(5) If such employee is employed in agriculture, not less than $1.50 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972; and not less than $1.70 an hour thereafter."

GOVERNMENT, HOTEL, MOTEL, RESTAURANT, AND FOOD SERVICE EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 103. Section 5 (29 U.S.C. 205) is amended by adding at the end thereof the following new subsection:

"(e) The provisions of this section, section 6(c), and section 8 shall not apply with respect to the minimum wage rate of any employee employed in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands, (2) by an establishment which is a hotel, motel, or restaurant, (3) by any other retail or service establishment if such employee is employed primarily in connection with the preparation or offering of food or beverages for human consumption either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs, or (4) by an establishment described in section 13(g). The minimum wage rate of such an employee shall be determined in accordance with sections 6(a), 6(b)(4), 6(b)(5), 7, 13, and 14 of this Act."

OTHER EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 104. (a) Effective on the date of enactment of this Act, section 6(c) is amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2)(A) In the case of any such employee who is covered by such a wage order and to whom the rate prescribed by subsection (a) would otherwise apply, the following rates shall apply: Except as provided by paragraph (8), the rate or rates applicable under the most recent such wage order issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, increased by 25 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (6). The increased rate or rates prescribed by this subparagraph (or if such rate or rates are superseded as authorized by this subparagraph, the superseding rate or rates) shall take effect sixty days after the effective date of the Fair Labor Standards Amendments of 1972.

"(B) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment under paragraph (6) of a special industry committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by subparagraph (A). Any such application shall be filed before the effective date of the Fair Labor Standards Amendments of 1972.

"(3)(A) In the case of any such employee employed in agriculture who is covered by such a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5 and to whom the rate or rates prescribed by subsection (b)(4) would otherwise apply, the following rates shall apply:

"(i) Except as provided by paragraph (8), the rate or rates applicable under the most recent such wage order issued by the Secretary before such the effective date of the Fair Labor Standards Amendments of 1972, increased by 16 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (6). The increased rate or rates prescribed by this clause (or if such rate or rates are superseded as authorized by this clause, the superseding rate or rates) shall take effect sixty days after the effective date of the Fair Labor Standards Amendments of 1972.

"(ii) Beginning one year after the effective date of the increase prescribed by clause (i), not less than the highest rate or rates (including any increase provided under clause (i)) in effect before such date on the day before the effective date of the rate or rates under this clause under a wage order covering such employee, increased by an amount equal to 16 per centum of the rate or rates applicable to under the most recent wage order covering such employee, issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972 pursuant to the recommendations of a special industry committee appointed under section 5, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry commmittee appointed under paragraph (6).

"(B) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment under paragraph (6) of a special industry committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by clause (i) or (ii) of subparagraph (A). Any such application with respect to any rate or rates provided for under clause (i) of subparagraph (A) shall be filed before the effective date of the Fair Labor Standards Amendments of 1972, and any such application with respect to any rate or rates provided for under clause (ii) of subparagraph (A) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the increase prescribed by such clause.

"(C) Notwithstanding subparagraph (A) or (B) of this paragraph, in the case of any employee employed in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5 and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the Government of Puerto Rico, the following rates shall apply except as otherwise provided in this subparagraph:

"(i) Except as provided by paragraph (8), the rate or rates applicable under the most recent such wage order issued by the Secretary before such the effective date of the Fair Labor Standards Amendments of 1972, increased by (I) the amount by which such employee's hourly wage is increased above such rate or rates by the subsidy (or income supplement) and (II) 16 per centum of the sum of the rate or rates under such wage order and such subsidy. The increased rate or rates prescribed by this clause shall take effect sixty days after the effective date of the Fair Labor Standards Amendments of 1972.

"(ii) Beginning one year after the effective date of the increase prescribed by clause (i), not less than the highest rate or rates (including the increase provided under clause (i)) in effect on the day before the effective date of the rate or rates under this clause under a wage order covering such employee, increased by an amount equal to 16 per centum of the sum of the rate or rates applicable to under the most recent wage order covering such employee, issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972 pursuant to the recommendations of a special industry committee appointed under section 5 and the amount by which such employee's hourly wage is increased above such rate or rates by the subsidy (or income supplement).

Notwithstanding clause (i) or (ii) of this subparagraph, the minimum wage rate for any employee described in this subparagraph shall not be increased under such clause (i) or (ii) to a rate which exceeds the minimum wage rate in effect under subsection (b)(4).

"(4)(A) In the case of any such employee who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5 and to whom this section was made applicable by the amendments made to this Act by the Fair Labor Standards Amendments of 1966, the following rates shall apply:

"(i) Except as provided by paragraph (8), the rate or rates applicable under the most recent such wage order issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, increased by 12.5 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (6). The increased rate or rates prescribed by this clause (or if such rate or rates are superseded as authorized by this clause, the superseding rate or rates) shall take effect sixty days after the effective date of the Fair Labor Standards Amendments of 1972.

"(ii) Beginning one year after the effective date of the increase prescribed by clause (i), not less than the highest rate or rates (including any increase provided under clause (i)) in effect on the day before the effective date of the rate or rates under this clause under a wage order covering such employee, increased by an amount equal to 12.5 per centum of the rate or rates applicable to the most recent wage order covering such employee, issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972 pursuant to the recommendations of a special industry committee appointed under section 5, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under pargaraph (6).

"(B) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment under paragraph (6) of a special industry committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by clause (i) or (ii) of subparagraph (A). Any such application with respect to any rate or rates provided for under clause (i) of subparagraph (A) shall be filed before the effective date of the Fair Labor Standards Amendments of 1972, and any such application with respect to any rate or rates provided for under clause (ii) of subparagraph (A) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the increase prescribed by such clause.

"(5) Except as provided in section 5(e), in the case of any employee employed in Puerto Rico or the Virgin Islands to whom this section was made applicable by the amendments made by the Fair Labor Standards Amendments of 1972, the Secretary shall, as soon as practicable after the date of enactment of the Fair Labor Standards Amendments of 1972, appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, in accordance with the standards prescribed by section 8, to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b)(5). The rate or rates recommended by the special industry committee shall be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation, but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1972.

"(6)(A) The Secretary shall promptly consider any application duly filed under paragraph (2)(B), (3)(B), or (4)(B) for appointment of a special industry committee and may appoint such a special industry committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (2)(A), (3)(A), or (4)(A), as the case may be, will substantially curtail employment in the industry with respect to which the application was filed. The Secretary's decision upon any such application shall be final. In appointing a special industry committee pursuant to this paragraph the Secretary shall, to the extent possible, appoint persons who were members of the special industry committee most recently convened under section 8 for such industry. Any wage order issued pursuant to the recommendations of a special industry committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (2)(A), (3)(A), or (4)(A), as the case may be. If a wage order has not been issued pursuant to the recommendation of a special industry committee appointed under this paragraph prior to the applicable effective date under paragraph (2)(A), (3)(A), or (4)(A), as the case may be, the applicable percentage increase provided by paragraph (2)(A), (3) (A), or (4)(A) shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application for appointment under this paragraph of a special industry committee and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly, to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

"(B) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to special industry committees appointed under this paragraph. The appointment of a special industry committee under this paragraph shall be in addition to and not in lieu of any special industry committee required to be convened pursuant to section 8(a), except that no special industry committee convened under that section shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary, by a special industry committee appointed under this paragraph, to be paid in lieu of the rate or rates prescribed by paragraph (2)(A), (3)(A), or (4)(A), as the case may be.

"(7) The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee appointed under section 5.

"(8) Notwithstanding any other provision of this subsection, effective on and after sixty days after the effective date of the Fair Labor Standards Amendments of 1972, the wage rate of any employee in Puerto Rico or the Virgin Islands which is subject to paragraph (2), (3), (4), or (5) of this subsection shall be not less than 60 per centum of the wage rate that (but for this subsection) would be applicable to such employee under subsection (a) or (b) of this section."

(b)(1) The last sentence of section 8(b) (29 U.S.C. 208(b)) is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following: "except that the committee shall recommend to the Secretary the minimum wage rate prescribed in section 6 (a) or (b), which would be applicable but for section 6(c), unless there is substantial documentary evidence, including pertinent unabridged profit and loss statements and balance sheets for a representative period of years, in the record which establishes that the industry, or a predominant portion thereof, is unable to pay that wage."

(2) The third sentence of section 10(a) (29 U.S.C. 210(a)) is amended by inserting after "modify" the following: "(including provision for the payment of an appropriate minimum wage rate)".

TITLE II—EXTENSION OF COVERAGE; REVISION OF EXEMPTIONS

FEDERAL AND STATE EMPLOYEES

SEC. 201. (a)(1) Subsection (d) of section 3 (29 U.S.C. 203) is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee and includes the United States or any State or political subdivision of a State, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization."

(2) Subsection (r) of section 3 is amended by inserting "or" at the end of paragraph (2) and by inserting after that paragraph the following new paragraph:

"(3) in connection with the activities of the Government of the United States or of any State or political subdivision of a State,".

(3) Subsection (s) of section 3 is amended—

(A) by striking out "or" at the end of paragraph (3),

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and

(C) by adding after paragraph (4) the following new paragraph:

"(5) is an activity of the Government of the United States or of any State or political subdivision of a State.".

(b) Section 13(b) (29 U.S.C. 213(b)) is amended by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or" and by adding after that paragraph the following:

"(20) any employee of a State or political subdivision of a State engaged in fire protection or law enforcement activities."

(c) Subsection (b) of section 18 (29 U.S.C. 218) is amended to read as follows:

"(b) Notwithstanding any other provision of this Act (other than section 13(f)) or any other law, any employee employed in a Federal nonappropriated fund instrumentality shall have his basic pay fixed or adjusted at an hourly wage rate which is not less than the rate in effect under section 6(a) and shall have his overtime pay fixed or adjusted at an hourly wage rate which is not less than the rate prescribed by section 7(a)."

TRANSIT EMPLOYEES

Sec. 202. (a) Paragraph (7) of section 13 (b) (29 U.S.C. 213(b)) is amended by inserting immediately before the semicolon the following: "and if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(b) Effective January 1, 1973, such paragraph is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(c) Effective January 1, 1974, such paragraph is repealed.

(d) Section 7 (29 U.S.C. 207) is amended by adding at the end thereof the following new subsection:

"(k) In the case of an employee of an employer engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, whose rates and services are subject to regulation by a State or local agency, in determining the hours of employment of such an employee to which the rate prescribed by subsection (a) applies there shall be excluded the hours such employee was employed in charter activities by such employer if (1) the employee's employment in such activities was pursuant to an agreement or understanding with his employer arrived at before engaging in such employment, and (2) if employment in such activities is not part of such employee's regular employment."

NURSING HOME EMPLOYEES

Sec. 203. (a) Paragraph (8) of section 13(b) is amended by striking out "any employee who (A) is employed by an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises" and the remainder of that paragraph.

(b) Section 7(j) (29 U.S.C. 207(j)) is amended by inserting after "a hospital" the following: "or an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises".

SUGAR EMPLOYEES

Sec. 204. Paragraph (15) of section 13(b) is amended by striking out ", or in the processing of sugar beets, sugar beet molasses, sugarcane, or maple sap, into sugar (other than refined sugar) or syrup".

SEASONAL INDUSTRY EMPLOYERS

Sec. 205. (a) Sections 7(c) and 7(d) are each amended—

(1) by striking out "ten workweeks" and inserting in lieu thereof "seven workweeks",

(2) by striking out "fourteen workweeks" and inserting in lieu thereof "ten workweeks", and

(3) by striking out "ten hours" and inserting in lieu thereof "nine hours".

(b) Section 7(c) is amended by striking out "fifty hours" and inserting in lieu thereof 'forty-eight hours".

(c) Effective January 1, 1973, sections 7(c) and 7(d) are each amended—

(1) by striking out "seven workweeks" and inserting in lieu thereof "five workweeks", and

(2) by striking out "ten workweeks" and inserting in lieu thereof "seven workweeks".

(d) Effective January 1, 1974, sections 7(c) and 7(d) are repealed.

DOMESTIC SERVICE EMPLOYEES EMPLOYED IN HOUSEHOLDS

Sec. 206. (a) The Congress finds that the employment of persons in domestic service in households directly affects commerce because the provision of domestic services affects the employment opportunities of members of households and their purchasing activities. The minimum wage and overtime protection of the Fair Labor Standards Act of 1938 should have been available to such persons since its enactment. It is the purpose of the amendments made by subsection (b) of this section to assure that such persons will be afforded such protection.

(b)(1) Section 6 is amended by adding after subsection (e) the following new subsection:

"(f) Any employee who in any workweek is employed in domestic service in a household shall be paid wages at a rate not less than the wage rate in effect under section 6 (b)(5) unless such employee's compensation for such service would not, as determined by the Secretary, constitute 'wages' under section 209 of the Social Security Act."

(2) Section 7 is amended by adding after the subsection added by section 202(d) the following new subsection:

"(l) Subsection (a) shall apply with respect to any employee who in any workweek is employed in domestic service in a household unless such employee's compensation for such service would not, as determined by the Secretary, constitute 'wages' under section 209 of the Social Security Act."

(3) Section 13(a) is amended by striking out "or" at the end of paragraph (13), by striking out the period at the end of paragraph (14) and inserting "; or", and by adding at the end thereof the following:

"(15) any employee who is employed in domestic service in a household and who resides in such household."

EQUAL PAY FOR EQUAL WORK

Sec. 207. (a) The portion of section 13(a) preceding paragraph (1) is amended by inserting "(other than section 6(d) in the case of paragraph (1) of this subsection)" immediately after "section 6".

(b) It is the intent of Congress that, notwithstanding any other provision of law, the remedies provided by section 16 of the Fair Labor Standards Act of 1938 shall be available to any employee against an employer who violates section 6(d) of such Act.

EMPLOYMENT OF STUDENTS

Sec. 208. (a) Subsections (b) and (c) of section 14 (29 U.S.C. 214) is amended to read as follows:

"(b) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide for the employment, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 or not less than $1.60 an hour, whichever is the higher, (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6) of full-time students (regardless of age but in compliance with applicable child labor laws) in any occupation other than—

"(1) occupations in mining,

"(2) occupations in manufacturing,

"(3) occupations in warehousing and storage,

"(4) occupations in construction,

"(5) the occupation of a longshoreman,

"(6) occupations in or about plants or establishments manufacturing or storing explosives or articles containing explosive components,

"(7) the occupation of a motor vehicle driver or outside helper,

"(8) logging occupations and occupations in the operation of any sawmill, lathmill, shingle mill, or cooperage stock mill,

"(9) occupations involved in the operation of powerdriven woodworking machines,

"(10) occupations involving exposure to radioactive substances and ionizing radiation,

"(11) occupations involved in the operation of power-driven hoisting apparatus,

"(12) occupations involved in the operation of power-driven metal forming, punching, and shearing machines,

"(13) occupations involving slaughtering, meat packing or processing, or rendering,

"(14) occupations involved in the operation of bakery machines,

"(15) occupations involved in the operation of paper products machines,

"(16) occupations involved in the manufacture of brick, tile, or kindred products,

"(17) occupations involved in the operation of circular saws, band saws, or guillotine shears,

"(18) occupations involved in wrecking, demolition, or shipbreaking operations,

"(19) occupations in roofing operations,

"(20) occupations in excavation operations, or

"(21) any other occupation determined by the Secretary to be particularly hazardous for the employment of such students. Such special certificate shall provide that such students shall, except during vacation periods, be employed on a part-time basis (not to exceed twenty hours in any workweek). The Secretary may not issue any special certificate under this subsection for the employment of a student by any employer if the issuance of such special certificate will cause the number of students employed by such employer under special certificates issued under this subsection to exceed four, unless the Secretary finds the employment of such student will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection. If the issuance of a special certificate under this subsection for an employer will not cause the number of students employed by such employer under special certificates issued under this subsection to exceed four, the Secretary may issue a special certificate under this subsection for the employment of a student by such employer if such employer certifies to the Secretary that the employment of such student will not reduce the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection.

"(c) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide for the employment, at a wage rate not less than 85 per centum of the wage rate in effect under section 6(b)(4) or not less than $1.30 an hour, whichever is the higher (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)(3)) of full-time students (regardless of age but in compliance with applicable child labor laws) in any occupation in agriculture other than an occupation determined by the Secretary to be particularly hazardous for the employment of such students. Such special certificate shall provide that such students shall, except during vacation periods, be employed on a part-time basis (not to exceed twenty hours in any workweek). The Secretary may not issue any special certificate under this subsection for the employment of a student by any employer if the issuance of such special certificate will cause the number of students employed by such employer under special certificates issued under this subsection to exceed four, unless the Secretary finds the employment of such student will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection. If the issuance of a special certificate under this subsection for an employer will not cause the number of students employed by such employer under special certificates issued under this subsection to exceed four, the Secretary may issue a special certificate under this subsection for the employment of a student by such employer if such employer certifies to the Secretary that the employment of such student will not reduce the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection.

(b) Section 14 is further amended by adding at the end the following new subsection:

"(e) The Secretary may by regulation or order provide that sections 6 and 7 shall not apply with respect to the employment by any elementary or secondary school of its students if such employment constitutes, as determined under regulations prescribed by the Secretary, an integral part of the regular education program provided by such school."

(c) Section 4(d) (29 U.S.C. 204(d)) is amended by adding at the end thereof the following new sentence: "Such report shall also include a summary of the special certificates issued under sections 14(b) and 14(c).".

EMPLOYEES OF PRESCHOOL CENTERS

SEC. 209. (a) Sections 3(r)(1) and 3(s)(4) are each amended—

(1) by inserting "preschool center," immediately after "elementary or secondary school,"; and

(2) by striking out "or school" and inserting in lieu thereof "preschool center, or school".

(b) Section 13(a)(1) is amended by inserting "or preschool centers" immediately after "elementary or secondary schools".

LAUNDRY AND CLEANING ESTABLISHMENTS TO BE CONSIDERED SERVICE ESTABLISHMENTS FOR CERTAIN PURPOSES

SEC. 210. In the administration of sections 7(i) (relating to commission employees) and 13(a)(1) (relating to executive and administrative personnel and outside salesmen) of the Fair Labor Standards Act of 1938, establishments engaged in laundering, cleaning, or repairing clothing or fabrics shall be considered service establishments.

MAIDS AND CUSTODIAL EMPLOYEES OF HOTELS AND MOTELS

SEC. 211. Section 13(b)(8) is amended by inserting after "employee" the first time it appears the following: "(other than an employee of a hotel or motel who is employed to perform maid or custodial services)".

EMPLOYEES OF CONGLOMERATES

SEC. 212. Section 13 is amended by adding at the end thereof the following:

"(g) Subsection (a) (other than paragraph (1) thereof) and subsection (b) (other than paragraphs (1), (2), and (3) thereof) shall not apply with respect to any employee employed by an establishment (1) which controls, is controlled by, or is under common control with, another establishment the activities of which are not related for a common business purpose to the activities of the establishment employing such employee; and (2) whose annual gross volume of sales made or business done, when combined with the annual gross volume of sales made or business done by each establishment which controls, is controlled by, or is under common control with, the establishment employing such employee, exceeds $5,000,000 (exclusive of excise taxes at the retail level which are separately stated)."

EMPLOYMENT REFERRALS BY PUBLIC EMPLOYMENT SERVICE AGENCIES

SEC. 213. No public employment service agency may assist in the placement of any individual (other than an individual with respect to whose employment section 14 applies) with an employer who will pay such individual at a wage rate less than the wage rate in effect under section 6(b)(5) (or section 6(b)(4) in the case of an individual to be employed in agriculture or section 6(c) in the case of an individual to be employed in Puerto Rico or the Virgin Islands in employment not described in section 5(e)). Each such agency shall (1) keep current a list of each job which is offered at a location within the area served by the agency and which is offered by the United States or by any other employer who is provided Federal funds to pay all or part of the compensation for such job; and (2) make such list available to each individual seeking employment through the agency.

EMPLOYMENT OF ILLEGAL ALIENS

SEC. 214. Section 4 (29 U.S.C. 204) is amended by adding the following new subsections after the subsections added by section 301(c):

"(g) Any employer subject to this Act, including any person acting as an agent of such employer, who knowingly employs any alien who is in the United States in violation of law or in an immigration status in which such employment is not authorized, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both, for each alien in respect to whom any violation of this subsection occurs.

"(h) Any contract subject to the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act), the Act of June 30, 1936 (41 U.S.C. 35–45, known as the Walsh-Healey Act), or the Service Contract Act of 1965 (41 U.S.C. 351–357) shall contain, in addition to the provisions required by such Acts, a provision by which the contractor agrees not to employ in the performance of such contract any alien who is in the United States in violation of law or in an immigration status in which such employment is not authorized. Any violation of such contract provision will be subject to the penalties provided in such Act, as well as in this Act.

"(i) Neither the Secretary nor the Attorney General shall, by rule or regulation, grant any general exemption to, or waiver of, this provision, with respect to any class of employers or employees."

TITLE III—RELIEF FOR DOMESTIC INSTITUTIONS AND EMPLOYEES INJURED BY INCREASED IMPORTS FROM LOW-WAGE AREAS

RELIEF FOR DOMESTIC INSTITUTIONS AND EMPLOYEES INJURED BY INCREASED IMPORTS FROM LOW-WAGE AREAS

SEC. 301. (a) Subsection (a) of section 2 (29 U.S.C. 202) is amended to read as follows:

"(a) The Congress finds that the existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers and the unregulated importation of goods produced by industries in foreign nations under such conditions (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce."

(b) Section 2 is further amended by adding after subsection (b) the following new subsection:

"(c) It is further declared to be the policy of this Act, through the exercise by Congress of its power to regulate commerce among the several States and with foreign nations, to provide for the regulation of imports of goods in such manner as will correct and as rapidly as possible eliminate any serious impairment or threat of impairment to the health, efficiency, and general well-being of any group of workers in the United States and the economic welfare of the communities in which they are employed from conditions above referred to in the industries providing them employment in which increased imports are a substantially contributing factor."

(c) Section 4 (29 U.S.C. 204) is amended by striking out subsection (e) and inserting in lieu thereof the following:

"(e)(1) Upon the request of the President, or upon resolution of either House of Congress, or upon application of the representative of any employee organization in a domestic industry, or upon application of any interested party, or upon his own motion, the Secretary of Labor shall promptly make an investigation and make a report thereon not later than four months after the application is made to determine whether any product is being imported into the United States under such circumstances, due in whole or in part to the fact that such foreign goods were produced under conditions such as those referred to in subsection (a) of section 2 of this Act which are causing or substantially contributing to serious impairment or threat of impairment to the health, efficiency, and general well-being of any group of workers in the United States or to the economic welfare of the community in which any such group of workers are employed.

"(2) In the course of any such investigation the Secretary or his delegate shall hold hearings, giving reasonable public notice thereof, and shall afford reasonable opportunity for interested parties to be present, to produce evidence, and to be heard at such hearings.

"(3) Should the Secretary find, as a result of the investigation and hearings, that an imported product is or likely will be sold in competition with like or competitive goods produced in the United States under such circumstances, he shall promptly report his finding to that effect to the President. The Secretary shall immediately make public his findings and report to the President, and shall cause a summary thereof to be published in the Federal Register.

"(4) Upon receipt of the report of the Secretary containing a finding that an imported product is or likely will be sold in competition with like or competitive goods produced in the United States under such circumstances, the President shall take such action as he deems appropriate to remove such impairment or threat of impairment, in addition to any other customs treatment provided by law.

"(f) In the case of any contract—

"(1) which is for the manufacturing or

furnishing of materials, supplies, articles, or equipment,

"(2) which is an amount exceeding $10,000,

"(3) which is to be performed outside any State, but is for goods, supplies, articles, or equipment to be used within a State, and

"(4) to which the United States or any agency or instrumentality thereof, any territory, or the District of Columbia is a party or under which payment is to be made in whole or in part from loans or grants from, or loans insured or guaranteed by, the United States or any agency or instrumentality thereof,

such contract shall require (A) all persons employed by the contractor in carrying out the contract to be employed on terms and conditions which are not substantially less favorable to such persons than those which would be required under this Act if the contract were to be performed within a State, and (B) the contractor to make such reports, in such form and containing such information, as may be required to enable the contracting agency (or such other Federal agency as the President may designate) to insure that the contractor complies with provisions of the contract required by this subsection, and to keep such records and afford such access thereto as such agency may find necessary to assure the correctness and verification of such reports."

TITLE IV—TECHNICAL AMENDMENTS

CONFORMING AMENDMENTS

Sec. 401. (a) Section 3(s)(1) is amended by striking out "during the period February 1, 1967" and all that follows down through "and beginning February 1, 1969,".

(b) Section 6(a) is amended—

(1) by inserting before paragraph (2) the following:

"(b) In lieu of the wage rate prescribed by subsection (a), every employer shall pay each of his employees (described in a paragraph of this subsection) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages, at the following rates:";

(2) in paragraph (2), by striking out "(2) if" and inserting in lieu thereof "(1) If" and by striking out the semicolon at the end and inserting in lieu thereof a period;

(3) in paragraph (3)—

(A) by striking out "(3) if" and inserting in lieu thereof "(2) If",

(B) by striking out "in lieu of the rate or rates provided by this subsection or subsection (b),", and

(C) by striking out "paragraph (1) of this subsection;" and inserting in lieu thereof "subsection (a).";

(4) in paragraph (4)—

(A) by striking out "(4) if" and inserting in lieu thereof "(3) If",

(B) by striking out "paragraph (1) of this subsection" and inserting in lieu thereof "subsection (a)", and

(C) by striking out "; or" and inserting in lieu thereof a period; and

(5) by redesignating paragraphs (5) and (6) (as amended by sections 101(b) and 102) as paragraphs (4) and (5), respectively.

(c) Subsection (b) of section 6 (as in effect on the date of enactment of this Act) is repealed.

(d) Section 6(e) is amended to read as follows:

"(e) Notwithstanding the provisions of section 13 of this Act (except subsections (a)(1) and (f) thereof), every employer providing any contract services under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351–357) or to whom subsection (a) of this section is not applicable, wages at a rate not less than the rate provided for in such subsection."

(e) Section 7 is amended by striking out "(1)" and paragraph (2) in subsection (a).

(f) Section 8 is amended (1) by striking out "the minimum wage prescribed in paragraph (1) of section 6(a)" in the first sentence of subsection (a) and inserting in lieu thereof "the minimum wage rate which would apply under subsection (a) or (b) of section 6 but for section 6(c)", (2) by striking out "the minimum wage rate prescribed in paragraph (1) of section 6(a)" in the last sentence of subsection (a) and inserting in lieu thereof "the otherwise applicable minimum wage rate in effect under subsection (a) or (b) of section 6", and (3) by striking out "prescribed in paragraph (1) of section 6(a)" in subsection (c) and inserting in lieu thereof "in effect under subsection (a) or (b) of section 6 (as the case may be).

(g) Section 13(b) is amended by striking out "(1)" in paragraph (13).

(h) Section 13(e) is amended by striking out "6(a)(3)" each place if occurs and inserting in lieu thereof "6(b)(2)".

(i) Section 16(d) is amended by striking out "6(a)(3)" and inserting in lieu thereof "6(b)(2)".

(j)(1) Section 5341(a) of title 5 of the United States Code is amended by striking out "206(a)(1)" and inserting in lieu thereof "206(a)".

(2) Section 303(a)(2) of the Consumer Credit Protection Act (15 U.S.C. 1673(a)(2)) is amended by striking out "6(a)(1)" and inserting in lieu thereof "6(a)".

(3) Section 2(b)(1) of the Service Contract Act of 1965 (41 U.S.C. 351(b)(1)) is amended by striking out "6(a)(1)" and inserting in lieu thereof "6(a)".

(4) Section 610–1(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2951(a)) is amended by striking out "6(a)(1)" and inserting in lieu thereof "6(a)".

UPDATING AMENDMENTS

Sec. 402. (a) Sections 3(m), 4(b), 4(c), 4(d), 5, 6(b)(1) (as so redesignated by section 401), 7(e)(3), 7(g)(3), 8(a), 8(b), 8(e), 8(f), 11, 15(a)(1), 15(a)(2) and 16(c) are each amended by striking out "Administrator" each place it occurs and inserting in lieu thereof "Secretary".

(b) Section 10(b) is amended by striking out "Administrator's" and inserting in lieu thereof "Secretary's".

(c)(1) Sections 3(l)(2) and 12(b) are each amended by striking out "Chief of the Children's Bureau in the Department of Labor" and inserting in lieu thereof "Secretary".

(2) Section 3(l)(2) and the last sentence of section 3(l) are each amended by striking out "Chief of the Children's Bureau" each place it occurs and inserting in lieu thereof "Secretary".

(3) Section 9 is amended by striking out "Administrator, the Chief of the Children's Bureau," and inserting in lieu thereof "Secretary".

(4) Section 11(b) is amended by striking out "and the Chief of the Children's Bureau".

(d) Section 4(a) is amended by striking out ", and shall receive compensation at the rate of $15,000 a year".

(e) Section 4(b) is amended—

(1) by striking out "civil service laws" and inserting in lieu thereof "provisions of title 5 of the United States Code governing appointments in the competitive service"; and

(2) by striking out "Classification Act of 1923, as amended" and inserting in lieu thereof "provisions of such title relating to classification and General Schedule pay rates".

(f) The section heading for such section is amended by striking out "ADMINISTRATOR" and inserting in lieu thereof "ADMINISTRATION".

(g) Section 13(a)(1) is amended by striking out "Administrative Procedure Act" and inserting in lieu thereof "provisions of subchapter II of chapter 5 of title 5 of the United States Code (relating to administrative procedure)".

(h) Section 13(b)(9) is amended by striking out "Bureau of the Budget" and inserting in lieu thereof "Office of Management and Budget".

TITLE V—EFFECTIVE DATE

EFFECTIVE DATE

Sec. 501. (a) Except as provided in sections 104(a), 202(b), 202(c), 205(c), and 205(d) of this Act the effective date of this Act and the amendments made by this Act is—

(1) the first day of the first calendar month which begins more than thirty days after the date of the enactment of this Act, or

(2) July 1, 1972,

whichever occurs first.

(b) Notwithstanding subsection (a), on the date of enactment of this Act the Secretary of Labor is authorized to prescribe necessary rules, regulations, and orders with regard to this Act and the amendments made by it.

Mr. MADDEN. Mr. Speaker, I yield 15 minutes to the gentleman from Mississippi (Mr. Colmer).

(Mr. COLMER asked and was given permission to revise and extend his remarks.)

Mr. MARTIN. Mr. Speaker, will the gentleman yield to me just briefly?

Mr. COLMER. I would be happy to yield to the gentleman from Nebraska.

Mr. MARTIN. I want to correct one statement made by the gentleman from Pennsylvania when he alluded to legislation similar to title III as contained in this bill a few years back.

This was not exactly the same as title III wherein here it provides a minimum wage mandatorily to the cutoff and use of supplies manufactured in foreign countries under contracts of over $10,000.

It was not at all the same thing as contained in this bill.

Mr. DENT. Mr. Speaker, if the gentleman from Mississippi will yield to me, I want to state that that is only an application of a law that was passed by this Congress years ago when we passed the Walsh-Healey Act where we included everybody whether covered by the minimum wage law or not, and made them all comply the same as covered employers were compelled to comply with.

Mr. COLMER. Mr. Speaker, we have been hearing a great deal about the most recent action of the President of the United States in Vietnam. We have heard very little about a very important matter here that we propose to consider under this rule—a domestic matter that, in the judgment of this humble person, is even more important than the Vietnam situation.

Now, the Vietnam situation is serious, and I do not mean to minimize it at all. The President has taken a calculated risk there, but I am not going into that. I have said in the well of this House time after time, in my humble service here, that I fear more what we are going to do to ourselves in this country, and to our cherished form of government, than I do about communism or any foreign invasion or attack.

This in my judgment is a perfect illustration of what I have been trying to say. We are going to come out of the Vietnam situation in some way, but here we are adding to our domestic problems.

What are the two chief domestic problems that this country faces today? No. 1, inflation, ruinous inflation. No. 2, unemployment.

Now, this bill is captioned something about—and I do not have it in front of me right now—a fair labor standards bill that would up the pay of another minority group. Maybe it should be entitled "A bill to accentuate, speed up ruinous inflation, and to add to unemployment," because in my judgment that is exactly what this bill is going to do.

Oh, we shed crocodile tears and other types of tears, political and otherwise, about the poor man, and we raise the flag about the fat cats, and try to make the contrast. Do you know who this bill is going to hurt most? It is going to hurt the very people you are talking about trying to help, the poor, the black, and the underprivileged. It is going to hurt them from two approaches: one, by the inflation that it is going to bring about—and I do not care what anybody says, you cannot tell me, when you put that much additional money into the market, that it will not add to inflation.

It is going to make them pay more for what they have to purchase. Many of those are in this fringe group. They are the ones that this bill is supposed to help—a lot of them are going to lose their jobs.

Additionally, for instance, under this bill a woman, a working woman, one of these underpaid women is going to be forced to pay $2 an hour—the same $2 an hour that she would get under the provisions of the bill to the babysitter that she is going to have to pay back home to look after the children that she has left there.

Does that make sense?

I repeat—the people who are going to be hurt the most are the very people that they talk of helping. Of course, we want to see these people prosper and we want to see these people better off. But let me say to those of you who may be interested, and I do not say this for any self-serving purpose—but I happen to come from that type of stock—I started out at 10 years of age working for 50 cents a day, 12 hours a day. I worked my way through high school and college and so on. My father was a skilled laborer. I know something about this. My sympathy is with those people, but I do not want to aggravate the situation. Of course, I realize that if we do not stop inflation that the wage-price spiral is going to continue. These people are now suffering from inflation but we do not improve the situation by continuing to feed the fires of inflation.

Now there are some people who think there is political hay to be made out of this legislation. Here we are in an election year, they think, and we are going to get another minority group lined up for this party or against that party or vice versa.

It is not going to do any such thing. There is not a Member of this House who is going to profit politically by this. Certainly, my party, the leadership of which has been pressing for this legislation, is not going to gain anything by it either.

If this thing continues, and I am just repeating what I have said on this floor before—this ruinous inflation, if it continues, then this poor woman and this poor man that you are talking about is going to have to take a wheelbarrow load of money to the market to bring back an armful of groceries.

We have seen it happen in other countries and we do not want it to happen here.

Now I know I should not say what I am going to say. I know that it is not popular. But, I recall back when I was a student studying history that a great English historian by the name of Macaulay—and you are familiar, of course, with some of his works—made a strong prophecy. He wrote to a friend here in America some time after we had adopted our cherished American Magna Charta, the Constitution. In part, he said:

> Your constitution will not work. It is a beautiful article.

He said:

> Your constitution is all sail and no anchor. The day will come in your country when you will have your Manchesters and your Birminghams just as we have in this country and the demands of the working class will become so great that your politicians will not be able to resist and you are going to lose your beautiful constitution.

I hope he was wrong, but I have seen so many demands—not only labor but other organized minorities, acceded to by our leaders, that I am deeply concerned.

This country has been and is being ruled by organized minorities. Of course, I am not talking about the black minority alone. I am talking about minorities generally that become organized.

There is only one answer to it and that is that the unorganized majority must organize to resist the organized minorities.

There is so much I could say about this bill if time permitted. But let nobody vote for this bill under the mistaken idea that he is going to profit politically by it in the long run—no individual and no party—because sometime there is going to be a day of reckoning. We see signs of it now in the primaries that have been held. There is going to be a revolt of the people against what they now term the establishment. A taxpayers' revolt is on the way.

Mr. Speaker, before I close these remarks, which I fear will fall on the deaf ears of the few now in the Chamber, I would like to say something about the proposed Erlenborn-Fuqua-Quie substitute, for, I am a practical as well as idealistic person. I realize that in this election year with the strong forces behind this increase provided in the proposed legislation that there is going to be a bill passed. Therefore, when it appeared that we would not be able to hold the bill in the Rules Committee, I conferred with some of these gentlemen and urged a compromise substitute. The Rules Committee made this Erlenborn-Fuqua-Quie bill in order. When the bill is considered in the Committee of the Whole these gentlemen will explain the provisions of their bill. In brief, it would limit the coverage to existing legislation removing State, county, and municipal governments from the coverage contained in the Dent bill. It has other advantages which, as I stated, will be explained. While the substitute is an improvement over the committee bill, it still would add to inflation and unemployment. While I expect to support this substitute in the Committee of the Whole for basic reasons I have stated, I could not support it on final passage. Moreover, Mr. Speaker, I am deeply concerned that even if we pass this substitute that the now more liberal body of Congress, the Senate, will pass an even more objectionable bill. Should this happen, as I fear it will, we will then be faced by the conferees from the House yielding to the conferees from the Senate.

The bill should not pass, certainly not at this time, when the administration is endeavoring to hold the line on inflation.

Let it be noted further, that the guidelines of the President's Wage and Price Control Board limits increases to 5½ percent, while this bill raises the increase to 25 percent. In other words, the Congress would by passing this bill place itself in direct conflict with the President's efforts to curb inflation.

Mr. Speaker, I love this country. I want to see this form of government that gave my father, a laboring man, and gave me, a poor boy, an opportunity to advance, to improve our lot in life. Let us not destroy that.

I know that election is important. I know many people prize these seats most highly. But each and every one of you is expendable. At the most you are here only a comparatively few years. But this Government, conceived by our forefathers, the system that has made this Nation the envy of the world, is not expendable.

Mr. MADDEN. Mr. Speaker, I yield myself 3 minutes.

I admire the gentleman from Mississippi for his efforts as a young man. He quoted that he received 50 cents a day in grade and high school, but he did not say that in those days you could buy a hamburger for 5 cents, a movie for 5 or 10 cents, and you could ride a streetcar for a nickel, but today the cost of living is 10 times that price.

Bear this in mind: It has been 4 years since these people, some of them with families, have been working for $1.60, and the cost of living has gone up 16½ percent in the last 3 years. That is not the fault of those families who are living on a $1.60-an-hour wage that they are asking for an increase. It is the fault of the executive department, not the Congress.

I remember that in December 1969 this Congress passed an anti-inflation bill giving the President absolute power as soon as he signed it to stop the increase in prices, wages, rents, et cetera. But he allowed that anti-inflation bill to remain on his desk for 22 months until he announced his famous "Price Freeze" last August. The poor families that earn $1.60 an hour had to suffer by these rises in prices while that bill laid in the White House for 22 months. It is not their fault that they are asking for $2 an hour—a 40-cent-per-hour increase. The Wall Street Journal last month quoted the fabulous profits of our banks, supermarkets, oil companies during 1971 and the first quarter of 1972. Those profiteers are the direct cause of inflation and the high cost of living.

The wage families have to meet this inflation that has been caused primarily in the last few years. I turned on the radio when I was home a month ago, and the announcement came over the air that six oil companies received a 5-percent increase in gasoline and oil prices. Eighty percent of the conglomerates who apply to President Nixon's phase II Price Control Commission receive an OK on their applications.

The supermarkets have raised their prices. I know of one in Maryland that raised their prices three times last year. How is the family with the man earning $1.60 an hour going to meet that increase unless the man gets a raise? So I do not understand why there is such a hue and cry about this bill going to cause inflation because the low-wage people are going to be raised from $1.60 to $2 per hour. The man who is paid $1.60 an hour has to raise his family and educate his children.

Next December, 3 years will have passed since the Congress gave the President full power to control inflation—to curb prices, wages, rents, et cetera.

The conglomerates, supermarkets, profiteers have had a field day for 3 years.

This minimum wage bill will give the $1.60-per-hour families a small boost to meet the high cost of living.

This wage hour bill should be enacted without crippling amindments.

The SPEAKER. All time has expired.

Without objection, the previous question is ordered on the resolution.

There was no objection.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 338, nays 57, not voting 36, as follows:

[Roll No. 142]

YEAS—338

Abbitt
Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashley
Aspin
Aspinall
Baker
Begich
Bell
Bennett
Bergland
Bevill
Biaggi

Biester
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Bray
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Byron
Caffery
Carey, N.Y.
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Celler

Chamberlain
Chappell
Clancy
Clausen, Don H.
Clay
Cleveland
Collier
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Curlin
Daniel, Va.
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Denholm

Dent
Derwinski
Devine
Dickinson
Diggs
Dingell
Donohue
Dorn
Dow
Drinan
Dulski
Duncan
du Pont
Dwyer
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Pelly
Garmatz
Gaydos
Giaimo
Gibbons
Goldwater
Gonzalez
Goodling
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gude
Halpern
Hamilton
Hanley
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Harsha
Harvey
Hathaway
Hawkins
Hechler, W. Va.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Hosmer
Howard
Hull
Hungate
Hunt
Ichord
Jacobs
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Kee

Kemp
King
Koch
Kuykendall
Kyl
Kyros
Leggett
Lennon
Lent
Link
Long, La.
Lujan
McCloskey
McClure
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McKinney
Madden
Mailliard
Mallary
Mann
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Metcalfe
Mikva
Miller, Calif.
Miller, Ohio
Minish
Mink
Minshall
Mizell
Mollohan
Monagan
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
Nix
Obey
O'Hara
O'Konski
O'Neill
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Poff
Powell
Price, Ill.
Pucinski
Quie
Quillen
Railsback
Randall
Rarick
Rees
Reid
Reuss
Rhodes
Riegle
Roberts
Robinson, Va.
Robison, N.Y.
Roe

Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarbanes
Satterfield
Saylor
Schneebeli
Schwengel
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Spence
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Ariz.
Steiger, Wis.
Stratton
Stuckey
Sullivan
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thompson, N.J.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Veysey
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NAYS—57

Abernethy
Andrews, Ala.
Ashbrook
Belcher
Betts
Blackburn
Bow
Brinkley
Brown, Ohio
Buchanan
Burke, Fla.

Burleson, Tex.
Byrnes, Wis.
Cabell
Camp
Clawson, Del
Collins, Tex.
Colmer
Conable
Crane
Davis, Wis.
Dennis

Edwards, Ala.
Fisher
Flynt
Gettys
Griffin
Gross
Hagan
Haley
Hall
Hammerschmidt

Heckler, Mass.
Hutchinson
Jarman
Jonas
Landgrebe
Latta
Lloyd
McClory
McMillan

Mahon
Martin
Michel
Mills, Md.
Montgomery
Poage
Price, Tex.
Purcell
Scherle

Schmitz
Scott
Sebelius
Smith, Calif.
Snyder
Stephens
Thomson, Wis.

NOT VOTING—36

Badillo
Baring
Barrett
Bingham
Blanton
Brooks
Chisholm
Clark
Dowdy
Downing
Edmondson
Eshleman
Galifianakis

Gallagher
Gubser
Hastings
Hays
Hébert
Horton
Keith
Kluczynski
Landrum
Long, Md.
Macdonald, Mass.
Mills, Ark.

Mitchell
Passman
Podell
Preyer, N.C.
Pryor, Ark.
Rangel
Rodino
Rousselot
Scheuer
Stokes
Stubblefield

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Hays with Mr. Horton.
Mr. Hébert with Mr. Rousselot.
Mr. Barrett with Mr. Eshleman.
Mr. Brooks with Mr. Gubser.
Mr. Macdonald of Massachusetts with Mr. Keith.
Mr. Rodino with Mr. Hastings.
Mr. Stubblefield with Mr. Gallagher.
Mrs. Chisholm with Mr. Galafianakis.
Mr. Blanton with Mr. Passman.
Mr. Mills of Arkansas with Mr. Downing.
Mr. Kluczynski with Mr. Landrum.
Mr. Badillo with Mr. Baring.
Mr. Podell with Mr. Mitchell.
Mr. Long of Maryland with Mr. Scheuer.
Mr. Clark with Mr. Bingham.
Mr. Edmondson with Mr. Rangel.
Mr. Preyer of North Carolina with Mr. Stokes.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUR OF MEETING TOMORROW

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 o'clock tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

FAIR LABOR STANDARDS AMENDMENTS OF 1971

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7130) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7130, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Kentucky (Mr. PERKINS) will be recognized for 1½ hours, and the gentleman from Minnesota (Mr. QUIE) will be recognized for 1½ hours.

The Chair recognizes the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the bill H.R. 7130 which the House is considering today is designed to implement the policy of the Fair Labor Standards Act of 1938. This bill provides an increase in the minimum wage rate, extends the protection of the act to many groups of workers not currently covered, and establishes procedures for relief for domestic industries and workers injured by imports from low-wage areas.

The policy of the Fair Labor Standards Act is to correct, as rapidly as practicable, the labor conditions detrimental to the maintenance of the minimum standard of living necessary for the health, efficiency, and general well-being of workers. The first statutory minimum wage was set at 25 cents an hour with provision for gradual step-by-step increases to 40 cents an hour by 1945. The act also established a special overtime rate of 1½ times the employee's regular hourly wage which was to be paid for work done in excess of a standard workweek. The law provided for a 44-hour workweek initially which was reduced to 40 hours a week in 1941. Four times since 1938 the Fair Labor Standards Act has been amended, in 1949, 1955, 1961, and 1966. Each time the minimum wage was increased. Coverage has been expanded twice.

The most recent amendments to the act occurred in 1966 when the Congress increased the minimum wage to $1.60 an hour and added approximately one-half million workers to the list of those coming under the protection of the act. At the time the Congress adopted the $1.60 figure in 1966, however, it was barely enough to provide an income above what was then defined by the Government as the poverty level. A $1.60 per hour is only $3,200 a year—provided the worker is fortunate enough to be employed full time and year round.

In the meantime millions of working Americans had suffered from the increase in prices and the extended period of inflation that has occurred and still continues. Due to the inflation the annual income for subsistence for a family of four is about $4,000. A $1.60 an hour buys less today than the $1.25 minimum wage provided before the 1966 amendments.

In the respect this Nation today is faced with a situation that is as tragic as it is disgraceful. Nearly two-thirds of the 25 million poor in America are members of families headed by a worker in the labor force. Somewhere in excess of 40 percent of the poor families with children in this country are headed by full-time workers. To put it another way—more than one-quarter of the poor and more than 30 percent of the children growing up in poverty are in families headed by a full-time, year-round worker whose wages are so low that his or her family is impoverished. The economists and social workers have coined a new phrase recognizing the pervasive existence of this tragic phenomenon: the "working poor." These are people who work hard at useful jobs contributing to the welfare of the Nation. These are people struggling to achieve self-reliance, to maintain their economic independence and to maintain their dignity. These are people who cannot support their families though they are working full time and sometimes more than full time on more than one job. These are people who are not paid a subsistence wage. These are people who are all too often forced to go on welfare in order to survive.

That there are "working poor" in America today is a tragedy. That they exist in the numbers they do is shocking. That, basically, is what this bill is all about. We propose to do something about the "working poor"—to reduce their number, to remove as many of them from poverty as we possibly can.

This bill would increase the minimum wage immediately to $2 an hour for most nonagricultural workers and $1.50 an hour for those few agricultural workers who are covered. The wage increases for agricultural workers as well as for nonagricultural employees covered by the 1966 and 1972 amendments come in two steps so as not to take final effect until January 1, 1973, at $1.70 an hour.

One of the traditional charges inevitably leveled against proposed increases in the minimum wage, especially during periods of prolonged inflation, is that these increases will further aggravate the inflation. A corollary argument, and one just as erroneous, is the charge that increases in minimum wage rates bring about unemployment. A spokesman for the U.S. Chamber of Commerce, Dr. Richard S. Landry, administrative director of the economic analysis and study group, was at some pains to disassociate the Chamber from the argument that minimum wage increases were inflationary and he said "We do not contend * * * that the minimum wage is inflationary. * * * Inflation is not caused by minimum wages." No responsible economic study has ever demonstrated that any of the previous increases in the minimum wage has had an adverse effect on the economy generally. Neither the value of the dollar nor the level of employment has been adversely affected. Our national economy has never had difficulty in absorbing minimum wage rate increases. Then Secretary of Labor George P. Shultz in 1970 told the Congress that "there was continued economic growth during the period covering the third phase of the minimum wage and maximum standards established by the Fair Labor Standards Amendments of 1966."

The Congress itself has recognized that wage increases at the poverty level do not have an inflationary effect in voting to exclude the "working poor" from the phase II controls of the Economic Stabilization Act. The principle that the workingman should have a fair and adequate wage is one that has been endorsed by every President since Franklin Roosevelt, including Harry Truman, Dwight Eisenhower, John Kennedy, Lyndon Johnson, and President Nixon.

We in the Congress can no longer remain indifferent to the plight of the poor, particularly the "working poor," for whose benefit this bill was drafted.

The need for H.R. 7130, which we are discussing today, is compelling. And it deserves our support. As I said before, today's minimum wage of $1.60 an hour buys substantially less than the $1.25 an hour minimum wage bought in 1966. If the cost of living were applied to the 1966 amendments, today's minimum wage would substantially exceed $2 an hour. If the Congress had voted the same wage increases for employees under the protection of the Fair Labor Standards Act that it has voted civil service employees, the minimum wage rate would not be approximately $2.18 an hour.

What the committee is proposing to do, therefore, in this bill is modest. It will not have adverse effects on the economy. It will, on the other hand, provide substantial and necessary benefits to the most needy and the most deserving of the Nation's workers.

TITLE I—INCREASE IN THE MINIMUM WAGE

The bill, H.R. 7130, in title I provides an immediate increase in the minimum wage from the present $1.60 an hour to $2 an hour for the more than 34 million nonagricultural employees covered by the Fair Labor Standards Act prior to the 1966 amendments, and the approximately 700,000 Federal employees brought under coverage by the 1966 amendments. The 10 million nonagricultural employees who were newly covered by the 1966 amendments and those who are newly covered by title II of this bill are given an increase to $1.80 an hour immediately. That amount is to be raised to $2 an hour in January, 1973.

There is an immediate increase in the minimum wage rate for the 535,000 agricultural employees who were brought under the 1966 amendments and who are presently covered at $1.30 an hour. Their minimum will be raised to $1.50 immediately and to $1.70 in January, 1973.

Under this bill for the first time hotel, motel, restaurant, conglomerate and public employees in the Virgin Islands and Puerto Rico, and government employees in Puerto Rico and the Virgin Islands are to be treated like their counterparts in the United States. Percentage increases in the minimum wage rates for other employees in Puerto Rico and the Virgin Islands who are presently covered by the Act are also provided.

TITLE II—EXTENSION OF MINIMUM WAGE AND REVISION OF EXEMPTIONS

The bill extends both minimum wage and overtime coverage to Federal, State and local public employees not presently coming under the Act. Similar new coverage is provided domestic household employees—those residing in the household are exempt—preschool employees and employees of conglomerates.

By modifying, reducing or repealing

the overtime exemptions additional overtime coverage is provided to transit employees, employees of nursing homes, seasonal industries, sugar processers, and maids and custodial employees of hotels and motels.

The equal pay provisions, prohibiting discrimination in pay between men and women doing the same work, are expanded to include executive, administrative and professional personnel and outside salesmen.

A new approach toward the treatment of students is provided. The bill authorizes the employment of full-time students at work paid for at less than the regular minimum wage in any occupation other than those which are particularly hazardous. The proposed student minimum wage is set at $1.60 an hour—$1.30 an hour in agriculture—or not less than 85 percent of the applicable minimum wage, whichever is the larger. There must be certification to the Secretary of Labor that employment of the student will not result in the displacement of job opportunities for others and that the employment is to be on a part-time basis only except during summer vacations.

There is a prohibition against public service employment agencies assisting in the placement of individuals at jobs which pay less than the minimum wage. Penalties are provided for the willful employment of illegal aliens.

TITLE III—RELIEF FOR DOMESTIC INSTITUTIONS AND EMPLOYEES INJURED BY INCREASED IMPORTS FROM LOW-WAGE AREAS

The bill authorizes a new procedure under which restrictions may be placed on foreign goods competing unfairly with those manufactured in this country. As a result of a Presidential request, a resolution of either of the Houses of the Congress, the application of a labor union representative or any other interested party, or upon his own motion, the Secretary of Labor within 4 months must investigate and report as to whether or not an imported product is having adverse effects. If the Secretary makes such a finding, the President is required to take such actions "as he deems appropriate." That is, he may impose higher tariffs or import quotas or take other action under the GATT—General Agreement on Tariffs and Trade. The nature of the Secretary of Labor's findings must be that the foreign import was produced under substandard labor conditions and is threatening the well-being of American workers or the economic well-being of a community.

In closing I can only echo the thoughts of the Speaker in his letter to all of us dated April 17, 1972, when he indicated that we have a moral obligation to act on behalf of these workers and their families who cannot attain an adequate standard of living under the existing statutory minimum wage.

Mr. QUIE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, beginning with the amendments to the Fair Labor Standards Act made in 1949, modifications in that statute have followed an almost regular and predictable time schedule. Following the 1949 amendments, extensive and significant revisions were made in 1955, 1961, and most recently in 1966. Now, in 1972, the measure is again before us, thus once more closely adhering to the customary pattern of allowing intervals of about 6 years to elapse before initiating legislative activity to bring about additional major changes in the law.

There is an acceptable logic to this pattern, at least with respect to the level of the minimum wage. Over a period of years it is to be expected that the upward thrust in the general level of wages throughout the economy as a whole, in the cost of living, and in the forces making for inflation require some corresponding increase in the statutory minimum wage. Since its enactment, the minimum has always been raised, and we are now deciding whether to lift it once again. Some of us in the Labor Committee on this side of the aisle feel that such an increase is presently justified and for that reason we have incorporated in our substitute bill a minimum wage schedule virtually identical to that in the committee bill.

I know there are some among us who feel that the proposed minimum jumps too high too fast. But I am reasonably confident that a majority of the Members of the House do believe that some increase is necessary precisely because of the steady upward movement in the level of wages generally, in the cost-of-living, and in the inflationary situation, although many of us see signs that all of these factors are slowly but definitely being brought under control by reason of the administration's policy.

However, each time that Congress has raised the minimum, it has also broadened the coverage of the act, and simultaneously, narrowed or diminished or even wholly eliminated some of its important exemptions, particularly those exemptions from the law's requirement that covered employers pay a premium wage of time and one-half the regular rate of pay for each hour of overtime work. What must be emphasized in connection with such amendments is the absence of some or all of the considerations which justify the increase in the minimum wage. In fact, it is my opinion that the reasons assigned for changes of this kind by their proponents usually do not bear close examination. The present committee bill is no exception in this respect.

Thus, for example, the committee bill would place almost 5 million employees of the State, local, and Federal governments under the minimum wage and overtime requirements of the act with certain minor exceptions. Of this huge number only 119,000 were receiving less than $1.80 per hour 6 months ago, and 167,000 less than $2, and none of these were employees of the Federal Government. With respect to premium overtime pay all Federal civil service employees making less than $12,150 per year receive time and one-half in overtime pay. Many State and local government employees receive similar or equivalent overtime compensation. Nevertheless their employers would all be subject to inspection, investigation, and to the recordkeeping requirements of the law with all the costs an burdensome procedures and inconveniences which these impose. There are no valid reasons justifying this particular expansion of coverage.

There are other examples of provisions in the committee bill which similarly are unrelated to the question of the adequacy of a statutory minimum wage, and which are not only unnecessary but affirmatively harmful to important segments of the economy. These are too numerous to describe here so I will merely enumerate several of them leaving it to some of my colleagues to treat them in concrete detail during the further course of this debate. Among those unneeded and undesirable provisions in the committee bill are the reduction and eventual repeal of the overtime exemptions now applicable to seasonal industries, agricultural processing industries, local transit industries, immediate repeal of the overtime exemption in the sugar processing industry, and the extension of the overtime pay requirement to maids and custodial employees of hotels and motels. The approval by the House of our substitute bill would eliminate these proposed changes in the existing law while retaining the minimum wage provisions and schedules of the committee bill.

However, there are several modifications which would be made by the committee bill which I wish to discuss at greater length because they are national in scope and significance, and affect our economy as a whole and not solely a particular industry. The first of these is the so-called "youth differential" in the minimum wage requirement. Present law permits payment of a minimum wage at less than the statutory rate. It is permissible only under the following conditions:

First. To full time students for part-time work—not in excess of 20 hours per week—except during vacations and holidays.

Second. It may not be less than 85 percent of the otherwise applicable minimum, and may be paid only in agriculture, and in the retail and service industries.

Third. The number of full-time students employed at the lower rate may not be a larger percentage of the employer's work force than prevailed in certain designated previous years.

Fourth. The employer must secure for each student to be employed at the lower rate a certificate from the Secretary of Labor that the employer has complied with all of these conditions and that such employment will not create a substantial probability of reducing the number of job opportunities for persons other than such students.

The extremely limited applicability of this youth differential provision plus the redtape imposed on the employer resulted in extremely limited use of the provision by employers since its enactment to recruit young workers. However, despite such failure the program did constitute a recognition by the Congress of the sad plight of our young people in their efforts to get jobs and the need for legislation designed to induce employers to hire them in greater numbers.

The provision on the youth differential in the committee bill is a continuing recognition of this need and the failure to meet it which has grown far more devastating in the 6 years since 1966. The unemployment rate for young people has grown to three times the national unemployment rate. For the inner city poverty areas the figure is about five times the national rate, and for black youngsters almost eight times as high. These ratios are frightening in their social implications, and constitute a self-evident demonstration of the absolute and immediate necessity for an effective solution. The committee bill does nothing to furnish such a solution. In a somewhat different form, using different language, it provides a youth differential which in substance is well nigh indistinguishable from the impotent provision in the existing law. The different form and language are merely a facade which attempts to conceal that the limitations imposed on utilizing the youth differential are just as rigirous and inhibiting as they have been since 1966.

Our substitute, on the other hand, eliminates most of these limitations and establishes a program for encouraging the employment of young people, which even on its face makes it apparent that it would be effective in inducing many employers to hire the young and the inexperienced which the existing law has not done and the committee bill will not do.

The substitute permits payment of 80 percent of the minimum wage, but not less than $1.30 in agriculture and $1.60 in all other industries, these two rates being those prescribed by the existing law. Such employment is not limited to particular industries but is permissible in all industries except in instances subject to the applicable child labor laws. Nor is it limited to full-time students doing part-time work. Any full-time student under 21 years of age and any youth—student or not—under 18 may be employed at the youth differential wage rate for either full- or part-time work. And finally no burdensome redtape is imposed on the prospective employers of these young workers. The substitute merely requires the Secretary of Labor to promulgate standards to insure that this youth differential program will not create a substantial probability of reducing the job opportunities of persons other than the young. As I have said, the substitute bill even on its face offers a powerful inducement to employers to hire young people who would otherwise be jobless.

Mr. Chairman, I come now to the second major question involved in the pending legislation. This is title III of the committee bill which deals with our foreign trade. Title III provides that at the request of the President, the Senate, the House, any domestic labor union representative, any "interested" party, or the Secretary of Labor, upon his own motion, must make an investigation—which must include public hearings—to determine whether any commodity is being imported that was produced under labor conditions less favorable than those in the United States. If the Secretary finds that such commodity is competitive with a domestic product and threatens to impair the well-being of any group of American workers or the economic welfare of the community in which they are employed, he must report this finding to the President who must remove the threat of such impairment by appropriate action in addition to any appropriate action provided by the existing customs laws.

Title III further provides that certain requirements must be included in any contract to which the United States or any of its agencies, instrumentalities, or territories, or the District of Columbia is a party, or under which payment, in whole or in part, is to be made from grants or loans from, or loans insured or guaranteed by the United States or any of its agencies or instrumentalities, and first, which is for manufacturing or furnishing materials, supplies, articles or equipment; and second, which is an amount exceeding $10,000; and third, which is to be performed outside of the United States but is for goods, supplies, articles, or equipment to be used in the United States.

Such contracts must require that all persons employed by the contractor in carrying out the contract be employed on terms and conditions which are not substantially less favorable than those which would be enjoyed under the Fair Labor Standards Act by employees if the contract were to be performed by them in the United States. Furthermore, the contract must require such contractor to make reports needed by the contracting Government agency to insure compliance with these provisions of the contract, and to keep the records and provide the access thereto as the agency finds necessary to assure the correctness and verification of such reports.

The objective of title III of the committee bill is clearly to protect domestic industry by reducing imports without regard to any causal factors—other than labor costs—which may be, and frequently are, responsible for the inability of some American enterprises to compete efficiently in our domestic markets. The broad language of title III makes it apparent that the President may, and in some situations even must, impose higher tariffs or import quotas, and there is no limitation in the language to preclude his imposing a total embargo on particular imports. As all of us know, only a very small percentage of foreign workers enjoy wages and working conditions that would meet the minimum standards required by the Fair Labor Standards Act. Thus, the vast scope of title III and the potential weightiness of its impact are painfully visible.

I shall not dwell on the disastrous consequences to our own economy and the severely adverse repercussions in our relations with the rest of the world which title III would bring about if it were enacted. I shall leave the amplification of these terrifying considerations to others among my colleagues who feel as strongly as I do that the tragic consequences and repercussions inherent in this provision must be avoided.

I would like to point out, however, that quite apart from any question on the merits of the proposals embodied in title III, it is my firm conviction that they have no place in a bill to amend the Fair Labor Standards Act. Moreover, I strongly suspect that they are not properly within the jurisdiction of our Education and Labor Committee. They are designed to modify our international trade policy in substantial and significant respects and, rightfully, should be dealt with by the legislative committee which has not only the jurisdiction, but the experience and the expertise as well, to handle measures in this area of legislation. It is not without interest that the AFL–CIO, despite its constant attention to every development which affects or might affect American labor, has taken the position that the kind of problem that title III professes to solve should be handled separately from proposals that are basic amendments to the Fair Labor Standards Act and that fall wholly within the essential framework of that statute. Our substitute bill properly includes no amendment which deals with international trade and if enacted would result in no change in our policy in that field of existing law.

Mr. Chairman, I believe that I have made it clear that the enactment of the committee bill would not be in the best interests of our youth, our State and local governments, our international trade, and our relations with other nations.

I have touched briefly on its adverse impact on a number of industries of great importance to our national economy and the welfare of our people. I urge you to read my insertions in the Record yesterday May 9 on pages 16448 to 16450 including letters from Secretary of Defense, Mr. Laird, Assistant Secretary of State Mr. Abshire, General Counsel of the Department of Commerce, Mr. Yetson, and Mr. Gilbert, Special Representative for Trade Negotiations. As I have indicated, other Members of this body will discuss each of these provisions of the committee bill pointing out in specific detail and by concrete and objective analysis why they are harmful in all of these respects. The substitute bill contains none of these defects. It amends the existing law by increasing the minimum wage, by establishing a program which will result in increasing the job opportunities of our unemployed youth particularly those from the inner city hard core and minority groups, and provides for a few limited and modest changes to correct several of the inequities in the present law. In all other respects it leaves the Fair Labor Standards Act unchanged. I strongly urge the Members of the House to support the substitute bill.

DENIAL OF USE OF PUBLIC SERVICE EMPLOYMENT AGENCIES—(SEC. 213, COMMITTEE BILL)

Mr. Chairman, I would like to also comment on a provision in the committee bill which in addition to having a seriously adverse impact on the economy is both shockingly inequitable and a devious attempt—and I use the phrase advisedly—to broaden the act's applicability of the minimum wage provisions without appearing to do so directly.

As all of us know, the minimum wage requirements of the Fair Labor Standards Act are not universally applicable to all employees in the national work force. Thus, with a few exceptions, the act does not cover the employees of an enterprise whose gross business is less than $250,000 a year nor the family member employees of a "mom-and-pop" establishment. Furthermore, the act specifically exempts from its minimum wage requirements the following classes of employees:

First. Outside salesmen.

Second. Employees of retail and service establishments having an annual dollar volume of sales which is less than $250,000, even if such establishment is part of an enterprise having a larger volume of sales.

Third. Employees of certain categories of amusement or recreational establishments.

Fourth. Employees engaged in certain segments of the fishing industry.

Fifth. Employees of certain types of small, local newspapers.

Sixth. Employees of motion picture establishments.

Seventh. Employees of certain small independent telephone companies.

Eight. Employees in certain activities of the forestry and lumbering industries if the number of employees of the particular employer is less than nine.

Nine. Employees employed in the growing and harvesting of shade-grown tobacco who are also engaged in certain aspects of the processing of such tobacco.

Ten. Employees in agriculture employed by an employer who did not during any calendar quarter of the preceding calendar year use more than 500 man-days of agricultural labor which is equivalent to approximately six full-time workers.

Eleven. Employees delivering newspapers to the consumer.

Twelve. Employees in Puerto Rico who are not covered by the statutory minimum wage rates applicable to the mainland United States but are subject to a special procedure for establishing minimum wage rates which heretofore have always been lower than the corresponding mainland rates.

Mr. Chairman, I have enumerated these categories of employees to whom the statutory minimum wage rate is not applicable to demonstrate that they constitute a not insignificant segment of the American labor force. No attempt was made during the deliberations of either the subcommittee or the full committee to repeal the act's provisions which make them immune from the minimum wage requirement. They were never even referred to during the discussions on expanding the scope of the minimum wage requirements, and thus there never was an opportunity to examine the pros and cons of doing so—the question was simply never raised.

Nevertheless the bill as reported includes a provision set forth in section 213 which in practical effect narrows the exemption or immunity from the minimum wage requirement of the law for every one of the work categories which I have enumerated. Section 213 provides that no public employment service agency may assist in placing any job seeker with an employer who will not pay such job applicant at least the applicable minimum wage rates which must be paid by employers who are covered and non-exempt from the wage provisions of the statute.

In other words, this section is designed to pressure employers to pay the statutory minimum rate even though they are not required to do so under the law. Thus, the immunity from the wage requirement which the act confers on employers in the categories I have already enumerated would be nullified in whole or in part to the extent that these employers depended on the public employment service agencies for obtaining members of their work force.

Moreover, the public employment service agencies have been established in each State including Puerto Rico and the District of Columbia under Federal law and their function is to provide job vacancy referral service for job seekers and for all employers seeking workers subject to certain conditions which are equally applicable to all employers. They are financed from public funds and play an important role in helping to place job seekers particularly in the unskilled and low-wage categories. Nevertheless, section 213 would deny access to these services to an employer who is not required by law to pay the minimum wage and thus penalize him despite the fact that in so doing he is not violating either the Fair Labor Standards Act or the requirements of the Federal statute establishing the public employment service agencies or for that matter any other Federal law. No clearer case of gross discrimination can be imagined.

And finally, by denying access to the public employment service agencies to such employers, job seekers who need their services would find their job opportunities seriously curtailed, and the section would thus result in aggravating the existing problem of unemployment and all of the other problems associated with it, such as a decline in productivity, a rise in the costs of production, and an increase in the replacement of workers by machinery.

It should be further emphasized that the section is discriminatory with respect to employees as well as employers. The unskilled and low-wage job seekers who resort to the public employment service agencies certainly do so, among other reasons, because there is no fee or charge for the service, unlike the private employment agencies. Thus it handicaps these job seekers in contrast to the more skilled, and hence more affluent applicants who feel they can afford to pay the fees of private employment agencies which generally have the listings of the better jobs. And although the public agencies are not legally limited to listing only unskilled and low-paying job vacancies, as a matter of fact most openings of this kind are listed with the public and not the private employment agencies. Thus, many job seekers would be denied knowledge of job opportunities which they have the best chance of getting. I, therefore, strongly urge that section 213 of the committee bill be eliminated.

Mr. NELSEN. Will the gentleman yield to me?

Mr. QUIE. I yield to my colleague from Minnesota.

Mr. NELSEN. I would like to ask the distinguished gentleman a question relative to the procedure followed by the Hormel Co., which guarantees their employees an annual wage which, under some provisions of law, would be in conflict to some proposals that have been before us. Under the present legislation which you are proposing and advocating, would their plan be interfered with in anyway?

Mr. QUIE. The gentleman is referring to section 7(b)(2) of the Fair Labor Standards Act?

Mr. NELSEN. Yes.

Mr. QUIE. And, that is the protection for the guaranteed annual wage, not changed either by the committee bill or by the substitute.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. QUIE. Mr. Chairman, I yield myself 1 additional minute.

The CHAIRMAN. The gentleman from Minnesota is recognized for 1 additional minute.

Mr. QUIE. Therefore, that exemption which they have enjoyed through the years and which has been primarily of benefit to the employees of the Hormel Co. and their employers who are an enlightened group of individuals who utilized the guaranteed annual wage and wish it protected and its integrity maintained.

Mr. NELSEN. Yes. It is my understanding that both labor and management insist or request that this be retained and I thank the gentleman for his response.

Mr. QUIE. I thank the gentleman for the interest which he has shown in the welfare of his newly found constituents.

Mr. DENT. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman and members of the Committee of the Whole House on the State of the Union, I do not suppose there is much difference in the discussions that are going on today and those that took place in 1937, in 1947, in 1961, in 1966, and in this year of our Lord 1972.

Mr. Chairman, before getting into my discussion of the provision of this bill, I would like to yield to the distinguished gentleman from Virginia (Mr. ABBITT).

Mr. ABBITT. Mr. Chairman, I appreciate very much the gentleman, my dear friend from Pennsylvania, yielding to me at this time.

Mr. Chairman, this matter which is before the House today is of vital concern to many people.

Mr. Chairman, much has been said here regarding the bill before us and referred to as the committee bill and the so-called Erlenborn-Fuqua bill. In addition, we have heard much about the Anderson amendment to the Erlenborn substitute.

I support the Anderson amendment wholeheartedly and I would like to say here and now that if that amendment is defeated, I expect to propose another amendment to the Erlenborn or substitute bill. In my opinion, both the committee bill and the substitute bill go entirely too far so far as the minimum wage is concerned. Even the Erlenborn bill goes too fast. My amendment will be on page 2 and simply strikes out lines 5 through 22 and, in plain language, provides that the minimum wage as we define it in both bills will start at not less than $1.70 an hour during the first year from the effective date of the Fair Labor Standards Act; $1.80 during the second year from the effective date of the act; $1.90 during the third year from the effective date of the act; and $2 during the fourth year. This simply means that there will be a four-step increase and thereby to some extent a cushion for the employers of the Nation and giving them some opportunity and some time to prepare for the increased cost of production by the increased minimum wage measure.

In my opinion, to increase the minimum wage for most employers from $1.60 to $2 in one step is entirely too drastic and will work too much of a hardship upon industry and especially the retailing industry.

Consider the effect of such an increase on the economy, which cannot afford a 25-percent hike in payroll costs without setting off another costly inflationary spiral. The Cost of Living Council has established a 5.5-percent wage and salary guideline for phase II of the economic stabilization program.

All of the proposals before you would increase wages far in excess of the guideline—and the least we can do is try to stick to them as closely as possible. My amendment is simple, easy to understand and would establish minimum wage increases in line with the economic stabilization program. The amendment would increase the minimum for everyone now covered as follows: $1.70 first year after effective date; $1.80 second year after effective date; $1.90 third year after effective date; and $2 fourth year after effective date.

These increases stay within the bounds of the economic guidelines. They will help retail workers who now earn close to the Federal minimum—these are the lesser skilled or marginal employees—if the increases proposed by my colleagues are enacted, you can expect that some of these borderline workers will be dropped—and add to the Nation's unemployed.

Mr. Chairman, under the rules of the Price Commission, a retailer's markup is frozen. Thus, he cannot pass through increased labor costs in the price of his goods. Competition is so tough in retailing that the retailer probably would not raise prices even if he were permitted to do so. The net result—a drop in profits, and fewer employees. Self-service retailing would become even more widespread, and customer dissatisfaction along with it.

Any legislated increase of more than the 10 cents a year provided for in my amendment would raise havoc with the economy, and retailing in particular. Any increase in the minimum—no matter how small—means an increase in all wages, including the higher skilled labor force in retailing. Economists have identified this as the "ripple effect." Thus, whatever rate we establish in this body would create a wage increase throughout the entire retail work-force. The larger the increase in the minimum, the greater the ripple effect along the way.

I urge you to vote for my amendment. We must project increases in the minimum wage in harmony with the economy. Ten cents a year does so. It is fair to the employer and to the employee. It is fair to the Nation—to our economic well-being. It will help create new jobs among the disadvantaged and those possessing lesser skills; it will put the brakes on the cost-push spiral that precipitated the economic mess we are now in. The Nation needs it. The amendment is as follows:

AMENDMENT TO H.R. 14104

Page 2, Strike out Lines 5 through 22 and substitute the following language:

SEC. 101. (a) Section 6 (a) (29 U.S.C. 206 (a)) is amended by striking out "(a) Every employer" and all that follows through paragraph (1) and inserting in lieu thereof the following: "(a) Every employer shall pay each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, not less than $1.70 during the first year from the effective date of the Fair Labor Standards Act of 1972; $1.80 during the second year from the effective date of the Fair Labor Standards Act of 1972; $1.90 during the third year from the effective date of the Fair Labor Standards Act of 1972; and $2.00 during the fourth year from the effective date of the Fair Labor Standards Act of 1972.

Mr. DENT. Mr. Chairman, in the early days of the factory system in this country there were no Federal or State laws regulating wages, hours of work, or even child labor. Workers were usually required to work for low wages from sunup to sundown. Men, women, and children also worked at their labors for 12, 14, and 16 hours a day. Children as young as 7 years of age were employed in factories for long hours a day. I, myself, started to work at the age of 7 years and worked 8 hours a day for 88 cents.

So, my interest in this legislation comes from a long, long line of experience.

The evil effect of such long hours upon the factory worker, especially upon women and children, eventually became so obvious that after a bitter battle this Nation established a 10-hour day, as well as Government regulation for hours which women and children could work in factories.

There was no early Federal legislation regarding wages.

The first attempt of the Federal Government to govern wages occurred in 1840. In that year, President Van Buren established a 10-hour day which covered workers in Navy industries.

In 1888 an 8-hour day was established for employees at the Government Printing Office.

In 1912 the 8-hour day was extended to all workers employed under contracts to which the Government was a party.

That is part of what I am trying to do with the very much disturbed discussions under title III.

In 1912 they recognized the necessity for workers employed under contract engaged in by the Federal Government. This group of legislators in this country over the past decade has allowed persons who do not come under the jurisdiction of the Government of the United States to violate the concept that was passed in 1912.

In 1907 Congress enacted the hours of service law, the law prohibiting trainmen in interstate commerce from remaining on the job longer than 16 consecutive hours. In 1916 the Adamson Act cut this down to 8 hours. There was no law covering private industry until the passage of the National Recovery Act of 1933, and there are Members of this Congress who voted for that legislation at that time. In that act an attempt was made to establish a law that would, among other things, put a floor under wages of, and a ceiling on the hours of most industrial workers. However, the act was declared unconstitutional. Then in 1937 President Roosevelt asked the Congress to pass a law setting Federal minimum wages for workers in interstate commerce.

During the debates on this legislation both the Senate and the House passed, in one form or another, safeguards against low-priced imports. So title III is not anything new.

The history of title III goes back to the very beginnings of the awakening of the conscience of the Congress of the United States to the necessity for regulating hours and wages for the workers in America.

From 1912 to 1937 the conscience of America was awakened to the fact that regulations establishing a set of standard wages and hours of labor could not be passed without giving to those who were covered, the employers and the employees, protection against imports. This was as important then as it is now.

It passed the Senate and came over to the House. The House rejected it. Then the House passed its version: it went over to the Senate, and the Senate rejected it—and I am told that some of the persons who today are fighting this legislation are prompted by the same interests that fought it in 1912, 1937, 1947, 1961, and 1966.

You know, just a few years ago, in 1961, in this Congress of the United States I introduced an amendment. It was passed by this Congress, and it is still part of the law; that amendment has the main features of title III and is in the fair labor standards law today. The Secretary of Labor at this moment has the right to investigate.

In 1967 the Congress by a vote of 340 to 29 passed House Resolution 478, which was exactly title III as it is composed in this legislation. Seven Members of the U.S. Senate on both sides of the aisle have reintroduced that legislation in this term of the Congress.

Why? Why? Because we have no right to force an employer to pay a wage that could militate against his ability to produce in competition within the United States of America. Even under the old act of 1912 it was recognized that American wages at that time were approximately 80 cents a day, but foreign wages were anywhere from 6 to 11 cents a day.

They recognized the differential would militate against an employer covered by the minimum wage.

We are not taking into consideration

any of the negotiated wages in America. We are only covering that portion of the wage level in America that we, the Congress of the United States, make mandatory.

It has been said that title III is the worst feature of the act. Members of this Congress, this is the saving feature of this act. Thousands upon thousands upon thousands and heading into the millions upon millions upon millions of workers are being deprived of the opportunity to earn a living at even a minimum wage level because American industry is running away from its obligations under this law and is creating production facilities outside of our borders and shipping these products back to the United States. They are being comingled with American-made products and sold to the public at the same cost and the same price as the so-called high priced American merchandise.

The CHAIRMAN. The gentleman from Pennsylvania has consumed 10 minutes.

Mr. DENT. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, go into any store in your area and buy a product. Nothing distinguishes it from an American-made product. On some items that you open up, you will find maybe inside a little paper sticker that falls off. You all know the story of the napkins in our dining room downstairs. The local service contractor brought into our dining room napkins, brand new, right off the ship from Hong Kong. They were produced under the most unsanitary conditions in the world and were placed on the tables of Members of Congress and their guests in the other dining rooms. The gentleman from Ohio (Mr. HAYS) was notified. I was notified by a couple of kindly gentlemen here who thought I ought to know. Mr. HAYS dismissed the contractor and employed a new contractor; and we are now getting American-made napkins that are made under sanitary conditions for $10,000 a year less than what we were paying for Hong Kong napkins made by labor paid 6 cents an hour.

You cannot wish away the problems in this country. There is an attack that will be made on my provision in this act that 85 percent of the minimum wage be paid to school students—full time during the summer and part time during the school year. They are going to open it up, they say, to create more jobs. The only way you are going to create more work for the youth of this country is to have more work for the adults. You have got to have jobs throughout the economy.

From 1966 to December 31, 1971, American manufacturing jobs in America were diminished by 545,000. But, service jobs in America in the mercantile industry, wholesale and retail, increased 17 percent.

The jobs in the transportation and other service industries increased 27 percent.

What does this mean to you? It means that the products were there to be sold and it means that they were bought—but they were not manufactured here.

To those of you who come from a rural area and have upon occasion had the opportunity to even milk a cow or to watch one milked—you will remember that from time immemorial, any person who milked a cow sat on a three-legged stool.

Why? Because the floor in a barn is uneven, and a four-legged stool will not sit squarely on an uneven floor. But the three-legged stool will find its level.

Did you every try to milk a cow with a two-legged stool? I am telling you, if you do, you are in for a long pull because you are going to have to milk it lying down flat on your back.

What have we done? The economy of this country was built on a three-legged-stool economy. The production in agriculture, the production in industry, and the production in mining is one leg of the stool. The second leg of that stool is the distribution of the products made by the production facilities. The third leg of that stool is the consumption. Consumption depends upon production; production depends upon distribution; distribution depends upon consumption, and you can go all over this economy of ours for 100 years——

The CHAIRMAN. The time of the gentleman has expired.

Mr. PERKINS. I yield the gentleman from Pennsylvania 5 additional minutes.

Mr. DENT. You can go all over this country with the smartest economists in this country and you will find no other formula. But what have we done? We are destroying the leg of that stool known as production, and we are building up the legs of the stool known as distribution and consumption, so the stool is getting lopsided, and we are going to find ourselves lying on our backs trying to milk this cow of ours.

For 12 years I have told this House, for 12 years I have documented time after time, page after page, what was happening in our economy. I made predictions as far back as 1958 and 1959, and I was laughed at by every Member of this Congress and by every economist in the United States. But who now can laugh? Who can laugh now? Who can laugh today?

Pick up any newspaper. Here is one just out yesterday: "Monessen Plant to lay off 1,200 people." What does that mean? It means the plant facility is gone, and the Wheeling Pittsburgh Steel Co. says very, very emphatically that is due to imports unrestricted. This is what happens!

Why do I want title III? I want you to go home, when you defeat me, if you do, on title III, and you tell your city fathers that you are taking from them the right to ask the Secretary of Labor on their own initiative to make a study of the impact of imports and the wages paid for the imports related to the minimum wage law of this country. Why? I will tell you why: Under the Reciprocal Trade Agreement, the Kennedy round, we have established relief—for whom? For the employee who lost his job because of imports. For the factory or the plant that has lost its capacity and has had to shut down. We give them damages. Now I want the community in which I live and you live to have the same right to ask for damages to the same extent and to the same amount that they have lost on taxation that is needed to pay for the bonded indebtedness of their schools, their sewers, their streets, their libraries, and their other obligations in that community.

That is what I want, and this is the only way we can get it: Title III. It is not a fair trade or protectionist thing.

Oh, I admit I am a protectionist. I believe with Sam Rayburn that if it is American, it is worth protecting. Maybe that is why some of us served a great number of years of our lives in the military service of our country. I was protecting not only the government this country has, but also the right of a worker in this country to be protected in his job and the right of an investor to be protected in his investment. That is what I am asking for.

The time will soon come when this voice will be stilled and will not be heard, but some other voice will come up, and at that time I assure the Members they will not have to shout from the housetops. A mere whisper will be heard clear across this land, and then it will come back and haunt every one of the Members.

Mr. Chairman, we are not here today to complete an essential act of justice for so many of America's workers. Were we to undertake that task, we would be advocating legislation increasing the Federal minimum wage rate to an amount greater than $2 an hour and extending its coverage to more than 6 million employees.

Instead, we are proposing a bill that must be considered modest by any measure.

The legislation before us was initially considered nearly 2 years ago. Hearings began on July 17, 1970, and continued for 17 days during that year and for 7 additional days during the following year. The General Subcommittee on Labor of the Committee on Education and Labor commenced discussion and markup sessions on July 21, 1971, and on September 30—by a vote of 9 to 2—reported H.R. 7130, as amended, to the full committee. On October 14—by a vote of 26 to 7—the committee ordered reported the legislation before us. H.R. 7130 was ultimately reported on November 17. And then 6 months passed before the bill was finally cleared for floor action this week.

Mr. Chairman, that represents a long period of time from start to the present. Much of that time was expended in formulating a bill that, although not meeting every objective, did provide some semblance of justice for the millions of working poor in our Nation. But the unrelenting passage of time without action on this legislation soon began to erode even that effort and we are now debating a proposal that might be generally described as "too little, too late." Yet, it does have its saving virtues and, in reality, remains urgently needed. And it also has its detractors.

Let me now focus on both points.

Mr. Chairman, H.R. 7130 amends the Fair Labor Standards Act of 1938—one of the Nation's basic labor laws. The first statutory minimum wage was established at 25 cents an hour and was made applicable to all employees, not specifically exempted, who were engaged in commerce or in the production of goods for commerce.

Amendments to the law were enacted in 1949, 1955, 1961, and 1966. We now have a minimum wage rate of $1.60 an hour applicable to about 45 million nonfarmworkers, and a rate of $1.30 an hour applicable to about 535,000 farmworkers. Over 16 million workers in our labor force, who might be brought within the wage and hour protections of the act, are not in fact covered.

The bill before us proposes to increase the minimum wage rate to $2 an hour—$1.70 an hour for farmworkers—in graduated steps, and to extend minimum wage coverage to an additional 6 million workers. The bill accords different applications of the proposed increases depending upon when employees were first covered by the act.

More than 34 million nonsupervisory employees are at work in establishments covered prior to the 1966 amendments and have been subject to the $1.60 minimum wage rate since February 1, 1968. For these employees, and the nearly 700,000 Federal employees covered by the 1966 amendments, the bill proposes an increase in the minimum wage rate to $2 an hour effective January 1, 1972.

When the bill was reported, Mr. Chairman, the proposed timetables for bringing into effect the increases were realistic. Because of the delay, however, it is necessary fcr us to modify those dates. Accordingly, I will offer an amendment to invoke the $2-an-nour rate for the pre-1966 and Federal employees on the first day of the first calendar month which begins more than 30 days after the date of enactment of this legislation, or July 1, 1972, whichever occurs first. For all intents and purposes, we are talking about an effective date of July 1.

Mr. Chairman, I would like to address myself at this point to the urgency of such a proposed increase and to the myths which traditionally surround any such discussion.

We are trying to maintain some semblance of comparison between the earnings of a full-time minimum wageworker and the poverty level of income. Nearly two-thirds of the 25 million poor in America are members of families headed by a worker in the labor force. About one-quarter of the poor—and more than 30 percent of all children growing up in poverty—are in families headed by a full-time, year-round worker whose wages are so low that his family is impoverished. An increase in the minimum wage rates to at least $2 an hour would enable a full-time worker to earn approximately $4,000 a year—closer to the poverty threshold.

It is not insignificant that today's minimum wage of $1.60 buys less than the $1.25 minimum wage bought in 1966; or that, if a cost-of-living mechanism had been incorporated into the 1966 amendments to the act, today's minimum wage rate would exceed $2 an hour. Moreover, if the same wage increases Congress has voted civil service employees since 1966 had been applied to the minimum wage rate, that rate would now be $2.18 an hour.

Now for the myths, Mr. Chairman. One of the traditional charges against proposed increases in the minimum wage rate—especially during periods of prolonged inflation—is that such increases further aggravate the inflationary trend. I am pleased to note that a spokesman for the U.S. Chamber of Commerce, in testimony before the Senate Subcommittee on Labor on related legislation, did not associate that organization with the charge. At that time, Dr. Richard S. Landry, administrative director, economic analysis and study group, U.S. Chamber of Commerce, said in response to a statement by the chairman of the subcommittee:

> We do not contend, unlike some of the witnesses that appeared before you apparently, that the minimum wage is inflationary. Quite the opposite. Inflation is not caused by minimum wages.

In actual fact, inflation adversely affects the lowest income worker—including minimum wage earners—more harshly than any other. He is its sorriest victim.

As one witness testified:

> We do not believe any employed workers should be forced to go on welfare in order to survive.
>
> These people work hard at useful jobs; struggle to maintain their economic independence and self-dignity; and attempt to achieve self-reliance against overwhelming odds. Yet they are paid less than a subsistence wage.

I subscribe to this witness' conclusion that the "simplest, most direct, and least expensive way to eliminate most poverty is to modernize the Fair Labor Standards Act."

Another charge against proposed increases in the minimum wage rate is that such increases create unemployment. Members of Congress who are confronted with updating the minimum wage from time to time have long recognized that there would be a demand for information on the employment effects of minimum wage legislation. In the 1955 amendments to the act the Congress added a new section requiring the Secretary of Labor to make an annual appraisal of the economic effects of the legislation. Since that time, the Department has prepared reports on the effects of the successive increases in the minimum wage. The recurring theme running through these reports—prepared in all administrations—has been that wages of workers at the lowest end of the wage scale have increased and there have been no adverse employment effects.

The 1970 report of the Secretary, in focusing on the employment effects of the 1966 amendments, stated:

> There was continued economic growth during the period covering the third phase of the minimum wage and maximum hours standards established by the Fair Labor Standards Amendments of 1966. Total employment on nonagricultural payrolls (seasonally adjusted) rose in 28 out of the 32 consecutive months between January 1967 and September 1969. In the most recent 12-month period, employment climbed 3.2 percent, from 68.2 million in September 1968 to 70.4 million in September 1969. Employment rose in all major nonagricultural industry divisions in the 12-month period between September 1968 and September 1969. In the retail, services, and State and local government sectors—where the minimum wage had its greatest impact in 1969, since only newly covered workers were slated for Federal minimum wage increases—employment rose substantially.

In the 1971 report of the Secretary is historical data on the relationship between the minimum wage and average hourly earnings. As the report states:

> Minimum wages have been traditionally compared to gross average hourly earnings of production workers in manufacturing for purposes of evaluating the efficacy or desirability of changes in the level of the FLSA minimum, or of assessing the effects of legislative changes.

With respect to this comparison, the report concluded that:

> The relationship between the minimum wage and average hourly earnings or average hourly compensation varies, depending upon whether account is taken of changes in coverage. Although the minimum wage has been increased substantially, its ratio to earnings has been largely eroded by gains in average hourly earnings between the periods of increases in the minimum wage. *Consequently, the ratio of the minimum wage to average hourly earnings or to average hourly compensation per man hour is now lower than it was in 1950, when the 1949 amendments went into effect.* (emphasis added)

I think it clear, Mr. Chairman, that the suggested adverse employment effects of minimum wage increases are existent only in the minds of those who constantly decry our activity in this area. Moreover, I think it abundantly clear that the minimum wage earner is now economically worse off than he was years ago and further, that the promise of past increases has become bankrupt in the face of the economic realities of today.

Mr. Chairman, over 11 million nonsupervisory employees were covered under the minimum wage provisions of the act by the 1966 amendments. For these employees—except the Federal and agricultural employees then covered—the bill would increase the minimum wage rate to $1.80 an hour effective January 1, 1972, and to $2 an hour effective January 1, 1973. The bill would require the same minimum wage rate application to those employees brought within the coverage of the act by the 1971 amendments now under consideration. I will offer an amendment to postpone those increases so that the $1.80 rate will become effective on the first day of the first calendar month which begins more than 30 days after the date of enactment of this legislation, or July 1, 1972, whichever occurs first.

The 1966 amendments extended the minimum wage protection of the act to an estimated 535,000 employees employed in agriculture. The present minimum wage rate for such employees is—and has been since February 1, 1969—$1.30 an hour. The bill proposes to increase that rate to $1.50 an hour effective January 1, 1972, and to $1.70 an hour effective January 1, 1973. I will offer an amendment to postpone those increases so that the $1.50 rate will become effective on the first day of the first calendar month which begins more than 30 days after the date of enactment of this legislation, or July 1, 1972, whichever occurs first.

I am not anxious or pleased to offer these timetable amendments, Mr. Chairman, but I do recognize the political realities of the moment. I regret that this legislation has been so delayed that we find it necessary to compromise the modest timetable proposed by the reported bill. We have thereby effected an injustice on the thousands of working poor who look to us as their bargaining agents and economic protectors.

While on the subject of the proposed wage increases, Mr. Chairman, I find it necessary to comment on statements that this legislation somehow exceeds the President's wage-price guidelines—whatever they may be.

A raise in the minimum wage is not in conflict with the Pay Board's 5.5 percent guideline on wage increases. Congress in passing the 1971 amendments to the Economic Stabilization Act of 1970 made a provision specifically exempting the working poor. The law explicitly states:

> § 203(d) Not withstanding any other provision of this title, this title shall be implemented in such a manner that wage increases to any individual whose earnings are substandard or who is amongst the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor.

The Cost of Living Council has ruled that wage increases up to $1.90 per hour need not be governed by the Pay Board's 5.5 percent guideline. Nevertheless, this guideline in no way reflects congressional intent in exempting the "working poor." On March 11, 1972, Chairman PATMAN, in emphasizing legislative intent, said that Congress intended to set the line for incomes of the working poor at $6,900 per year, which comes to about $3.35 per hour.

Furthermore, there is ample material both in the report of the House Banking and Currency Committee—House Report 92–714—and in the debate on the floor of the House to support this point. Since the conference committee accepted the House language, these are the sources relevant to congressional intent. On page 5 of the House report, the committee states:

> This section forbids the President, under the authority granted by this title, from regulation or otherwise restricting the wages of the working poor or persons whose earnings are otherwise substandard. It is the intention of the Committee that this exemption from control apply to all *persons* whose earnings are at or below levels established by the Bureau of Labor Statistics* in determining an income necessary to afford adequate food, clothing and shelter and similar necessities.
>
> *Note that the report states "all persons" and that the law states "all individuals." Nevertheless, the Cost of Living Council derived the $1.90 figure by dividing the $6,900 figure by 1.7 workers per family. Thus, the CLC based its figure on family income rather than individual income. This is directly contrary to the intent of Congress.

As of December 21, 1970, the BLS "lower level" budget figure—that is the minimum income level needed to afford adequate food, clothing and shelter and similar necessities to an urban family of four—was $6,960. Now, over a year later, this "lower level" budget figure surely exceeds $7,000. That is $3,000 more than the earnings of a man working full time at a wage rate of $2 an hour.

Congressman WILLIAM RYAN, who offered the amendment to exempt the working poor in committee, was the main speaker in favor of the provision on the floor of the House. In the debate on December 10, 1971, he emphasized that the guideline for the working poor should be somewhere between $3 and $3.50 an hour, or $6,000 and $7,000 a year. He stated:

> There is certainly ample precedent for a low-paid worker exemption from wage restraints during a period of economic stabilization . . .
>
> (The War Labor Board of World War II) specifically exempted from any control any wage increases for workers whose earnings were at or below 50 cents an hour. . . . Using a similar approach today would exempt from controls any union or nonunion worker with hourly earnings of over $3.00 to $3.50 an hour. . . .
>
> The plight of low-paid workers certainly warrants an exemption of their wages from restraints during economic stabilization. There are, indeed, millions of families and individuals in this country whose incomes, derived from decent, steady employment, fall below the most meager estimate of what is required for an acceptable standard of living. According to figures released in May of this year (1971), there are some 16 million families in this country who have incomes of less than $7,000. In addition, some 11 million individuals have incomes of less than $6,000.

It is clear that congressional intent was to exempt working people who earned less than about $6,000 or $7,000 a year. Therefore, any increase in the minimum wage to $2 an hour easily falls within the guideline as intended by Congress.

Yet, a 5.5-percent increase in an hourly wage of $1.90 only yields an hourly wage rate of $2. Therefore, any person who makes $1.90 an hour now could receive a raise to $2 an hour and still keep the raise within the Pay Board guidelines as they are now applied, notwithstanding the fact that they are being applied contrary to the intent of Congress.

Those who challenge this legislation with the contention that it exceeds wage guidelines, Mr. Chairman, simply have no foundation for their arguments. It is irrelevant and should be quickly dismissed as such.

There are also those who contend that minimum wage increases create the necessity for wage increases above that level. They call this phenomenon the "rippling" effect. Available evidence, however, indicates that this belief is more illusory than real.

In the 1968 Department of Labor report on the economic effects of the act, special attention was directed to this question.

The Department concluded with respect to the initial coverage of hotels and motels, that:

> Almost all of the wage increases granted covered workers were concentrated at the lowest end of the wage structure, less than $1.05 an hour. There was little evidence of secondary or indirect wage increases to maintain wage differentials.

With respect to the coverage of eating and drinking places, the report stated:

> There was little evidence of wage increases being granted to workers already earning the minimum wage in order to maintain differentials. Increases were concentrated at or within 5¢ of the applicable minimum rate.

Mr. Chairman, the bill before us does more than merely propose increases in the minimum wage rate. Sections 103 and 104 of title I incorporate rather comprehensive and equitable provisions relative to the coverage of employees in Puerto Rico and the Virgin Islands. I will offer an amendment to those provisions making that timetable consistent with the mainland schedule of increases. The amendment will also contain necessary perfecting provisions.

Section 201 of the bill permits the extension of minimum wage and overtime coverage to Federal, State, and local public employees.

Section 202 reduces and ultimately repeals the overtime exemption for any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway or carrier are subject to regulation by a State or local agency.

Section 203 amends the overtime exemption for nursing home employees to require overtime compensation for hours worked in excess of 8 in any workday and 80 hours in any 14 consecutive day work period.

Section 204 repeals the overtime exemption for employees engaged in the processing of sugar beets, sugar beet molasses, sugarcane, or maple sap, into sugar or sirup.

Section 205 reduces and ultimately repeals the overtime exemption for employees in seasonal industries and agricultural processing.

Section 206 extends minimum wage and overtime coverage to certain employees employed in domestic service in a household. In this regard, it is important to extend coverage to the full extent that such employment affects the employment opportunities of members of households and their purchasing activities. This is the finding for the basis of coverage and the relationship to commerce.

Section 207 in part applies the sex discrimination in employment prohibition of section 6(d) of the act to any employee employed in an executive, administrative, or professional capacity, or in the capacity of outside salesman.

Section 208 contains comprehensive provisions with respect to the employment of students rates less than the applicable minimum. This represents a modification of existing law, but the use of the term "employer" in this section is not intended to expand the scope of the meaning beyond that given "establishment" under existing law in terms of identifying a business entity. Section 208 also provides that the Secretary of Labor may, by regulation or order, waive the minimum wage and overtime provisions of the act with respect to a student employed by his elementary or secondary school, where such employment constitutes an integral part of the regular education program provided by the school. In this connection and with a view to clarifying our intent in this provision, I submit the following correspondence:

FEBRUARY 28, 1972.

Congressman JOHN DENT,
House of Representatives, Rayburn Building, Washington, D.C.

DEAR CONGRESSMAN DENT: In my letter of February 17, 1972, I referred to your amendment to the Fair Labor Standards Act relating to handicapped students. Your reply of February 24, indicated that you were unaware of your activity in this area.

I refer specifically to HR 7139 which you introduced and which was reported out of the House Committee on Education and Labor.

Section 208 states: "Secretary of Labor may waive minimum wage and overtime provisions of the Fair Labor Standards Act with respect to a student employed by an elementary or secondary school where such employment constitutes an integral part of the regular educational program provided by the school."

Perhaps you are unaware of the implications of such a provision, but I can assure you that the vocational education personnel are viewing this within the context as I related in my letter; as it applies to handicapped students that are enrolled in a work program sponsored by the school system.

If upon reconsideration of this item, you feel that this is not in the best interest of the handicapped students and does provide a threat to community workshops, perhaps as a sponsor of this legislation you will use your good offices to have Section 208 eliminated.

Thank you for your interest and continued advocacy on behalf of the handicapped.

Sincerely,

LEONARD WEITZMAN,
Executive Director.

MARCH 10, 1972.

Mr. LEONARD WEITZMAN,
Executive Director, Vocational Rehabilitation Center, Pittsburgh, Pa.

DEAR MR. WEITZMAN: This is in response to your letter of February 28, 1972, regarding section 208 of H.R. 7130.

That provision of the bill does not, in any way, do what you suggest. It was narrowly drawn to relieve some few school systems—primarily religious-oriented—from the burden of paying their students at the minimum wage rate for work performed for the school which is integral to the regular educational program. As an example, I would point to the educational programs of schools operated by Seventh Day Adventists. Part of that regular educational program involves manual labor and other occupational activities provided by the schools. Under existing law, and without the provision contained in section 208, those students would be covered by the minimum wage provisions of the Act. The Committee bill (H.R. 7130) recognizes the potentially counter-productive current application, and added section 208 as a measure of relief. Yet, even in taking that step the Committee Report contains the following directive:

The Committee urges the Secretary (of Labor) to be diligent in determining that the employment is in fact an integral part of the regular education program and that this provision is not used to circumvent the requirements of the statute.

The statute's application to handicapped workers is prescribed in its section 14(d). That section is not affected whatsoever by section 208 of the bill. Existing law therefore, will continue to apply in the case of such workers.

I hope this response has clarified our action and that you will be assured of what I have described.

Sincerely yours,

JOHN H. DENT, *Chairman.*

APRIL 4, 1972.

Congressman JOHN H. DENT,
House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN DENT: In response to your letter of March 10, 1972, concerning the interpretation of Section 208 of H.R. 7130, I sought the guidance of individuals more knowledgeable than myself about legislative matters and they had difficulty in delineating what could be encompassed in Section 208 from that which is covered by Section 14(d).

Their feeling was that school-work programs for the handicapped involving employment by the school in a workshop or on other jobs would more closely fit the language of Section 208—"such employment constitutes an integral part of the regular educational program provided by the school"—than would the type of employment provided by the Seventh Day Adventists schools. The work aspect of the school-work program for the handicapped is clearly an integral part of the educational program.

While I am pleased to learn that you intend this provision to be restricted, it appears to me that neither the language of the bill nor the comment cited in the report reflects such restriction. To insure that the intentions of the bill reflect your specific concerns, it would be helpful if you would put the substance of your letter to me in the record either by incorporating it in the debate on the floor of the House when this bill is taken up or in the report that accompanies the bill upon enactment. This then could become part of the legislative history and could be used as a basis for interpreting this section as narrowly as you intend.

As I indicated to you in earlier correspondence, vocational educational personnel in certain states are already looking upon Section 208 to grant them relief from compliance with the requirements of the Fair Labor Standards Act. I hope that you will not inadvertently be a party to such an abuse and will take corrective action so that this amendment would accomplish what you expect.

Sincerely yours,

LEONARD WEITZMAN,
Executive Director.

APRIL 13, 1972.

Mr. LEONARD WEITZMAN,
Executive Director, Vocational Rehabilitation Center, Pittsburgh, Pa.

DEAR MR. WEITZMAN: Thank you for your letter of April 4, in further reference to section 208 of H.R. 7130.

I will be pleased to incorporate into the House debate on the bill my interpretive letter of March 10. The intent of the amendment will than be a part of the legislative history.

Your continued interest is very much appreciated.

With kindest regards, I am

Sincerely yours,

JOHN H. DENT, *Chairman.*

Section 209 permits the extension of minimum wage and overtime coverage to employees of preschool centers.

Section 210 clarifies certain administrative procedures regarding laundries and cleaning establishments.

Section 211 extends overtime coverage to maids and custodial employees of hotels and motels.

Section 212 precludes the availability of the minimum wage and overtime exemptions of section 139 of the act—except in certain employment situations—to conglomerates with an annual gross volume of sales made or business done in excess of $5 million.

Mr. Chairman, on this point I would direct Members' attention to the committee report and its discussion of the provision and the conglomerate phenomenon. I hasten to remind my friends from essentially agricultural areas that this provision in the bill should be fontly embraced by them as a proper response to the conglomerate takeover of family farms and the rural life.

Section 213 relates to the conduct of employment referral and listing activities at public employment service agencies.

Section 214 relates to the employment by an employer subject to the act of an alien who is in the United States in violation of law or in an immigration status in which the employment is not authorized. It also provides that any contract subject to the Davis-Bacon Act, Walsh-Healey Act, or Service Contract Act, shall contain an additional provision by which the contractor agrees not to employ any such alien in the performance of the contract.

Title III, Mr. Chairman, I am proud to say, is in this legislation because I initiated it and enough of my colleagues have to date been impressed with its essential validity. It belongs in this bill. It is as integral to the consideration of labor standards as the minimum wage rate itself.

The first part of title III is not new matter to this body. In fact, it is virtually identical to H.R. 478, a bill I introduced in 1967, which passed the House by the not-so-narrow margin of 340–29.

In order that there be no misunderstanding as to its impact and intent, I refer Members to the discussion of title III in the committee report and to the following explanation, which I have offered to all who have sought it:

We are asked to consider an amendment to the Fair Labor Standards Act which will complete the basic design for this, the most important of the Federal bulwarks to the standard of living of our people. On the obligation and ability of the employers of America's working men and women to pay a rising minimum wage and overtime pay for hours worked in excess of the statutory maximum depends the welfare not only of our working men and women in establishments engaged in interstate commerce, but of the other Americans in service or governmental employment whose livelihood is indirectly dependent upon the payrolls of our goods producing, wealth creating enterprises.

When the Congress enacted the Fair Labor Standards Act in 1938 it recognized that the existence of substandard labor conditions in the industries engaged in commerce in this Nation would be detrimental to the maintenance of a minimal acceptable standard of living required for the health, efficiency, and general well-being of American workers. In that act, the Congress prohibited the shipment in interstate commerce of goods produced in establishments whose rates of pay or hours of work failed to meet the standards specified in the act. The Congress made it a crime for such goods to be even introduced into interstate commerce.

In the 1938 act, the Congress faced the fact that a Gresham's law of labor conditions and of workers' living standards, applied to interstate commerce. The poor labor conditions would drive out the good. Goods produced below normal cost because made with underpaid, overworked labor would undersell goods produced at or above normal cost because of the cost-price advantage of the former in competing with the latter. Without a nationwide floor under wages and a ceiling over hours, the force of competition in the marketplace would bring all labor standards to the same low level, and dry up good-paying, high-standard-of-living jobs.

For this reason, the Congress in its statement of policy in the 1938 act declared it to be its purpose through the exercise of the power to regulate commerce among the several States and with foreign nations to eliminate such conditions. Congress alone has the power to regulate interstate and foreign commerce under our Constitution. Congress alone could take the initiative to protect the standard of living of American workers through the regulation of commerce in such a way as to safeguard wages, hours, and jobs.

The Fair Labor Standards Act, as enacted in 1938, had, however, a serious loophole which in time would permit such a rising tide of goods produced under substandard conditions to move in interstate commerce that the purposes and benefits of the act for American working men could be destroyed. That loophole concerned imports. Though the Congress made it a crime for domestic producers to produce and introduce goods into interstate commerce in violation of the labor standards expressed in the act, it failed to provide machinery to prevent the very same evil from occurring from a foreign source. Though indeed the act refers to the exercise by Congress of its power to regulate foreign commerce as part of the means to be used to correct and eliminate the threat to American living standards for our working men and women, the specific prohibitions in the act, and the machinery for enforcement of the act failed to include imported goods, made abroad under labor conditions which failed to meet the minimum requirements of the Fair Labor Standards Act.

The logic of the act is blind to the origin of the goods. The evil which the act seeks to eliminate is the impact on wages, hours, and employment itself when goods produced under fair standards for labor must compete in our markets with goods produced at lower cost because labor is paid less than a minimum wage, or forced to work in excess of our maximum hours without the payment of overtime. This detrimental impact occurs without regard to the origin of the goods which are produced by underpaid, overworked labor. If it is necessary or appropriate to outlaw as contraband goods produced in this country under substandard labor conditions, it is equally necessary or appropriate to outlaw as contraband goods produced in foreign nations under labor conditions which fall below our federally imposed standard which are sought to be imported into the United States.

It is drastic to speak of outlawing the importation of foreign produced goods which violate our minimum labor standards. We shrink from imposing penalties on foreigners as absolute as the strictures we lay on our own citizens who engage in this country in the production of goods. We need not embargo the domestic goods produced under substandard labor conditions. We can protect the standard of living of our working men and women, and thus be faithful to the national policy and purpose expressed in the Fair Labor Standards Act if we eliminate at the border the price advantage of foreign produced goods which results from the payment by foreign producers of wages below our statutory minimum and from the failure of the foreign producer to pay at minimum wage rates overtime at our time and a half standard for hours worked in excess of 40 per week. Members of this body know that typically American industries pay average rates of wage earnings to their workers which exceed our statutory minimum. We need not eliminate the entire difference between average hourly earnings of American working men and women and those of foreign workers. We can close the loophole in the Fair Labor Standards Act if we provide machinery for closing the gap, as reflected in the landed costs of imported goods, between foreign wages and our statutory minimum wage and maximum hours.

It is not necessary that we create machinery for the automatic adjustment of landed costs of all imported goods to eliminate the competitive advantage resting with such goods as a result of the substandard labor costs incurred in their production. It will be sufficient if we proceed selectively with regard to those particular imported goods which our capable and well-informed Labor Department finds on the basis of an investigation to be causing or substantially contributing to impairment or threat of impairment to the standard of living, or health, efficiency, or general well-being of any group of workers in the United States or the welfare of the community in which they live or are employed.

Thus under such a minimal, moderate approach to completing the plan of regulation of the movement of goods in commerce which has been implied in the Fair Labor Standards Act from the start, we will be doing justice—long delayed—to American working men and women, without requiring foreign producers to accept anything like the categorical burdens which we impose on American producers-employers.

The bill which we are considering today represents just such a moderate step in closing the loophole in the Fair Labor Standards Act which is being exploited so vigorously by low-wage foreign producers. Indeed, I regret to remind the Members of this body, this loophole is being exploited by U.S. business corporations which have created productive facilities at an increasing pace in low-wage foreign countries in order to remain competitive with goods produced for the American market in such countries by foreign business firms. Gresham's Law of the poor currency driving out the good never found a more striking parallel than the impact of substandard labor conditions reflected in low-wage cost foreign goods on the welfare of American working men and women through the exportation of their jobs to foreign shores.

It is common knowledge, and the exhaustive hearings conducted by the General Subcommittee on Labor have confirmed, that America's basic industries, including our most technologically advanced industries, have directed an increasing proportion of their new capital investment in the creation of facilities abroad rather than in the United States. Chemicals, electronics, machinery, metals, shoes, textiles—call the roll of American industry, and you will find the largest firms have already taken the step of investing abroad in order to secure for themselves the labor cost advantage which they have been unable to compete against in the United States because of this serious loophole in the Fair Labor Standards Act.

In a moment I shall review some of the facts which demonstrate the need for this bill. First, let us discuss what the bill actually provides, and how the machinery it creates would be intended to operate.

The bill consists of a statement of policy, a procedure for applying that policy to specific cases, and a delegation of authority to the President to take appropriate action to deal with each specific case found to meet the criteria for action set forth in the bill.

First, as to the policy. The bill would amend the statement of policy section of the Fair Labor Standards Act in two respects. These do not change the policy stated in the act: they merely complete or round out the present implied, but not clearly stated, policy of the act in regard to imports. The bill states that "the unregulated importation of goods produced by industries in foreign nations" under labor conditions detrimental to the maintenance of the minimum standard of living necessary for the health, efficiency, and general well-being of American workers causes or contributes to the evils of spreading substandard labor conditions, burdening commerce, fostering unfair competition, leading to labor disputes and interfering with the orderly and fair marketing of goods in commerce which the Fair Labor Standards Act seeks to correct and eliminate.

After amending the general finding set forth in the act as I have just described, the bill would add to the act a further declaration of policy that the Congress, through its power to regulate interstate and foreign commerce, seeks to provide for the regulation of imports in such manner as will correct, and as rapidly as possible, eliminate any actual or threatened impairment of the health, efficiency, and general well-being of any group of workers in the United States and the welfare of their communities in which increased imports are a substantial contributing factor. In other words, it is our policy to accomplish through the selective regulation of imports found to be impairing the standard of living of American workers, the same objectives which we now seek to accomplish by the outright embargo which the Fair Labor Standards Act imposes on domestically produced goods which have a comparable effect on workers' living standards. This further statement of policy necessarily incorporates the enumeration of evils now set out in the act which the Congress finds to be a consequence of the movement of goods in commerce which were produced under substandard labor conditions.

Let me recap and simplify somewhat the elements of this policy statement. Since these elements become the criteria for action by the Secretary of Labor and the President, it is important that we understand just how they are intended to be a series of alternative tests for determining when the Secretary and the President are expected to act. These criteria are the primary standard and intelligible principle which the Congress would lay down as a rule for the use of the delegated authority for Presidential action.

First. There must be increased imports. This obviously requires a comparison of the level of imports in a recent period with the level in an earlier, representative period.

Second. The increased imports must be a substantially contributing factor to a serious impairment or threat of impairment to the standard of living of a group of workers, or to the community in which they are employed. The words "substantially contributing factor" are intended to avoid the heavy burden of proof which has been required by the Tariff Commission under the adjustment assistance provisions of the Trade Expansion Act of 1962.

"Substantially contributing factor" therefore means that imports have had some influence in contributing to the economic distress or hardship affecting a group of workers or their community, but the imports need not be the major factor in causing such distress or hardship.

Third. A serious impairment or threat of impairment of the standard of living of a group of workers or of the economic welfare of their community must be found. This impairment or threat of impairment may be shown either directly or indirectly. As far as the workers are concerned, the impairment is shown directly when there is evidence of a loss of employment, of a failure of the work force to grow as where imports capture all or virtually all of the growth in the domestic market, a loss of earnings as where workers must forego wage increases because of the economic distress of the domestic industry to which import pressures contribute, or where workers lose overtime or premium pay because of a slackness of demand for domestically produced products to which the increased supply from foreign sources has contributed.

As far as the community is concerned, economic impairment is shown by the loss of purchasing power represented by either an absolute reduction in the work force, a curtailment of the workweek of the workers, or a failure of the payrolls in the community to grow in pace with other sectors of community economic activity because of the pressures exerted by rising import competition on the ability of the producers concerned to increase wage payments at a comparable rate, or because future growth in output is transferred by the producers concerned to foreign soil.

As far as both the workers and the community are concerned, impairment or threat of impairment of their welfare is shown indirectly under the congressional finding where as a result of the rising volume of low-cost foreign produced goods, there is market disruption. The sale in the United States of goods produced abroad under labor conditions below our minimum wage or at hours exceeding our maximum necessarily constitutes an unfair method of competition if that failure to conform to our labor standards results in lower costs and lower prices that domestic producers cannot compete with and still recover their full production costs and a reasonable profit. Furthermore, the sale of imported goods under such circumstances necessarily results in disruption of our markets, thus preventing the orderly and fair marketing of domestic and foreign goods in commerce.

The workers and the community are also harmed when an increasing volume of imported goods produced at low cost by workers whose wages are below our minimum, and who are compelled to work in excess of our maximum hours without the payment of overtime, or of overtime equal to our statutory time-and-a-half formula, influences domestic producers to transfer some of their productive capacity abroad. This is shown by investment in productive facilities overseas, or by contractual arrangements to bring foreign goods into the United States under the domestic producer's brand names. In this type of situation, which is becoming all too common, the imports are a contributing factor to the spread of the foreign substandard labor conditions among the workers engaged in producing such goods in the United States. This results from the loss of jobs, or the retarding of future growth in jobs with the related loss of opportunity for advancement which growth always brings, and the curtailment of growth always retards, or from the diminishment of wage rate elasticity and the bitter labor disputes which inevitably result when management feels itself under constraints in wage negotiations which impede the establishment of wage rates which are objectively fair and comparable to wages paid similar skill levels in unaffected industries.

A community suffers impairment of its economic welfare when increasing imports contribute to the reduction of production, the transfer of jobs to other localities, the closing down of production facilities, and the retraining and relocation of workers. When the industry leaves town, if the workers remain it often occurs that they are unable to find employment at rates of pay commensurate with their former occupation. Their loss of earning power injures the community through diminished circulation of money through the service establishments of the community, through the erosion of the tax base which support local governmental services, and through the inability of the workers to contribute to economic growth of the community.

When the workers leave town, perhaps assisted in doing so by the retraining allowances and relocation allowances which we have provided under so-called adjustment assistance programs, the community suffers an absolute loss of payroll inputs to the circulation of money so vital to the welfare of service industries. Schools, churches, and other cultural resources of the community feel the impact of these developments. The tax base is eroded, real estate values decline, and the difficulty which communities now experience in raising essential operating revenues is increased. The credit rating of communities is impaired by this type of occurrence, and they have correspondingly greater difficulty in financing capital improvements to provide essential services, be they hospital, school, fire, police, or welfare.

If the displaced workers chose to remain in the community left behind by a runaway industry, or made an industrial ghost town as so many small communities in this Nation have become when the local manufacturing plant, food processing center, or mining facility is closed down, the community's obligations increase, as welfare payments and the ultimate cost burden of coping with increasing numbers of poor, culturally deprived citizens is enlarged.

Next, let us consider how the machinery which would be created by the bill is intended to operate.

1. A union, a firm, an industry association, or a town, city, county or other community organization would file a written request with the Secretary of Labor asking him to investigate to determine whether a product or group of products is being imported in increasing quantities under such circumstances as to contribute substantially to actual or threatened impairment of the standard of living of the workers producing the product or group of products in the United States, or to the economic welfare of their community or communities.

2. The Secretary would publish a notice of the request and of his investigation into the matter in the Federal Register. His notice would inform interested parties of the date or dates on which he or his delegate would hold public hearings on the matter, and of the right of interested parties to be present at the hearings, to produce evidence and to be heard. It is intended that these hearings be promptly scheduled in view of the overall limits of 4 months imposed on the Secretary's investigation.

3. In his investigation, the Secretary shall determine—

(a) If imports of the product or group of products have increased by a significant amount in comparison with a representative period;

(b) If the increase in imports originated in a country or countries whose producers of the product or group of products in question pay wages below the United States minimum wage, or require their workers to work more than our weekly maximum of 40 hours without being paid time and a half for overtime;

(c) If the product or products in question of foreign origin are exported to the United States at a landed cost, duty paid, U.S. port, which is significantly below the price at which the like or competitive domestic product is normally sold in comparable wholesale quantities;

(d) If the difference between the landed cost of the imported products or product and the normal wholesale price of like or competitive domestic goods reflects substantially the disparity between the average wage payment in the foreign industry and the U.S. minimum wage;

(e) If the workers producing the domestic goods like or competitive with the imported product or group of products which is the subject of the investigation have suffered or are threatened with impairment of their standard of living, as shown by the existence of any one of the following conditions:

(i) A decline in employment;

(ii) Failure of employment in the sector of production affected to grow at a comparable rate to the growth of domestic consumption of the product or products in question;

(iii) A decline in earnings;

(iv) Failure of earnings to grow at a rate comparable to the growth experience in related but unaffected lines of commerce;

(v) A transfer of any significant amount of productive capacity from the United States to foreign soil by U.S. producers, whether through direct investment in foreign facilities, or through contractual arrangements for the production abroad and importation into the United States of the product or group of products in question under U.S. producer brand names, or for distribution by U.S. producers; or

(f) If the community or communities in which the affected group of workers is employed or in which they reside have suffered or are threatened with impairment of economic welfare, as shown by the existence of any one of the following conditions;

(i) A decline in wage payments to any significant number of workers employed or residing in the community;

(ii) An absolute loss of employment at establishments located within or near the community which provide employment normally for residents of the community;

(iii) A static level of wage payments, or of employment in comparison with trends in related but unaffected lines of commerce;

(iv) The closing of productive establishments located within or near the community which normally provided employment for residents of the community; or

(v) The transfer of productive operations in any significant degree from the community by business firms having an establishment in the community to foreign soil through the acquisition of facilities, investment in facilities, or contractual arrangements for the production of goods abroad for distribution by the U.S. firm in the United States which were formerly supplied by production from an establishment in or near the community; and

(g) If increased imports of the product or group of products are a substantially contributing factor to the conditions established by an affirmative finding under the questions presented at (a) through (e), or (a) through (d) and (f).

4. If the Secretary's findings under questions 3 (a) through (g) are in the affirmative, he is required to promptly report a finding to the President that the imported product or group of products are a substantially contributing factor to a serious impairment or threat of impairment to the health, efficiency, and general well-being of the affected group of workers and to the economic welfare of their community or communities. He shall make public his findings and report to the President and publish a summary of them in the Federal Register.

5. Upon receipt of the Secretary's report containing the above-described finding, the President shall take action to remove the impairment or threatened impairment. The action contemplated is intended to consist exclusively of customs action, either the imposition of quantitative limitations, an increase in the applicable tariffs, or the use of a tariff quota to subject further increases in imports to higher duties. The amount of duty increase or the quantity of imports to be permitted under quota are intended to be sufficient to remove the actual or threatened impairment by bringing the rate of increase of imports into line with a fair share of future growth in the market in the United States. On occasion it will also be appropriate by quota to roll imports back to a level which restores the standard of living of the affected group of workers and the economic welfare of their communities which had been impaired by excessive and rapidly increasing

imports. Such a rollback could be accomplished by an absolute quota, or in appropriate cases, by a tariff quota in which increased duties would be keyed to a trigger point designed to restore imports and domestic products to the relationship in the U.S. market which existed prior to the onset of the increased import volumes which contributed to the impairment of the welfare of the workers and their communities.

It has become customary when any legislation is considered in the trade area offering a possibility for tariff increases or the imposition of quotas for the State Department or its spokesmen in the Congress, to raise an objection on the ground that the exercise by the Congress of its constitutional duty to regulate foreign commerce will violate the General Agreement on Tariffs and Trade. It would not be surprising if someone raised such an objection to this bill. Let me, therefore, treat briefly, but adequately I believe, the GATT question.

Members of this body understand, I am sure, that the constitutional prerogatives of the Congress cannot be foreshortened by an executive agreement. So any commitment in GATT which might stand in the way of this legislation is of no moment as a barrier to the Congress working its will on this legislation.

Further, the Congress has repeatedly specifically refrained from expressing any approval of the GATT. It stands today as it did in 1947 as merely an executive agreement which has never been ratified by legislation nor as a treaty.

But there is no need to return to these basic considerations to deal with the State Department's favorite gambit in these matters. The fact of the matter is that the enactment by the Congress of this provision will not in and of itself raise any duty, withdraw any tariff concession, or impose any quota. These events surely would become possibilities if this provision is enacted, but they would occur only when, in the future, some labor organization or other interested party invoked the remedy provided by this bill, and secured a favorable finding of the Secretary of Labor and action by the President.

The General Agreement on Tariffs and Trade itself contains several provisions under which actions taken under this provision would be consistent with, and not in violation of GATT.

First, and foremost, article 28 of GATT provides two independent bases for the withdrawal of a tariff concession by the United States, and other member nations too, for that matter. It provides, first, that at 3-year intervals, just prior to the anniversary date of tariff concessions, any member country has an absolute right to withdraw completely or modify any concession which it has granted in GATT tariff negotiations. Other nations have invoked this provision; the United States has yet to do so.

Second, article 28 of GATT provides that any nation may withdraw or modify a tariff concession at any time because of special circumstances. A number of U.S. industries have petitioned the executive branch to modify U.S. tariff concessions on selected products under this provision of GATT, but thus far these requests have been denied. In explanation of this refusal to exercise an unqualified right under GATT, the executive branch has stated that it is policy to do so only under extraordinary circumstances. One such circumstance, according to the executive branch, is to deal with the situation created by judicial decision or by legislation. Thus, the executive branch acknowledges that it has a means within GATT, and consistent with our undertakings under GATT, to increase tariffs selectively by modifying or withdrawing tariff concessions for special circumstances such as compliance with legislation. Should the President determine to increase the tariff on a product or group of products which are the subject of a favorable finding by the Secretary of Labor on an application filed under the pending legislation, article 28 of GATT is available to enable the President to proceed without violating our GATT commitments.

Of course, if this legislation is enacted, it is possible that in the course of time the President may determine to modify or withdraw concessions at times which coincide with the unqualified right of the United States to do so at the 3-year intervals which mark the assured life of tariff concessions under GATT. These concessions are not permanent you know, they have an assured life of 3 years, and are extended automatically for a new 3-year period unless just prior to the termination of the 3-year period a nation exercises its unqualified right to modify or withdraw particular concessions.

The General Agreement on Tariffs and Trade also contains at article 19 as escape clause providing in substance that a member nation may modify or withdraw a concession when it is found that increased imports have resulted in actual or threatened injury to a domestic industry. One species of serious injury is a loss of employment, or of earnings of workers, either absolute or relative, much as the criteria of impairment of the standard of living of workers in the pending legislation contemplate. Accordingly, the United States could, if it wished, proceed under the GATT escape clause to modify or withdraw tariff concessions determined by the President to be necessary to remove the impairment of workers' standard of living or of the economic welfare of their communities under the procedure of the pending legislation.

The President would also be empowered under this legislation to select bilateral or multilateral trade agreement negotiations with affected supplying countries as the "action he deems appropriate to remove such impairment or threat of impairment." If the nations whose exports to the United States are impairing the standard of living of U.S. workers agree to restrain their exports in a manner likely to remove the impairment, the fact of agreement between the United States and the affected nations would prevent a violation of GATT from occurring.

The significance of the pending legislation, therefore, is that it gives the President special authority to deal with situations which his most knowledgeable Cabinet officer with responsibility for labor standards and the welfare of American working men and women advises him require his action, if the public policy of the Fair Labor Standards Act is to be achieved. Once the President acts under this legislation, the procedures exist under which he can do so with due regard to U.S. rights and obligations under GATT.

Mr. Chairman, I have presented the above outline to fully express our intent with regard to this provision. Although the Secretary of Labor will, quite appropriately, establish additional procedures and regulations in accordance with proper and effective administration of the provision, we would not want the heretofore stated basic tenets violated in any fashion.

The need for this provision, Mr. Chairman, is amply spelled out by the reams of testimony recorded in public hearings.

As for its propriety, may I again refer to the committee report. One can easily see that we are invoking a procedure implied in the substance of the Fair Labor Standards Act, and stated in the legislative history of the act. We are fulfilling the act's basic declaration, and following the actions of so many who first considered the act. We are also consistent with similar provisions found in the National Industrial Recovery Act. Finally, we are amplifying an existing provision of the Fair Labor Standards Act. In all respects, our action today is only a belated recognition of something intended so long ago.

Mr. Chairman, the second part of title III also amends section 4 of the act to impose requirements in the case of certain contracts financially supported in whole or in part by the public. It is adequately explained in the committee report, and requires essential compliance with the provisions of the act on the part of contractors manufacturing or furnishing materials, supplies, articles, or equipment in an amount exceeding $10,000.

Mr. Chairman, title IV of the bill contains conforming and updating amendments.

Title V prescribes the effective date of the bill as January 1, 1972. As I have stated earlier, I will offer an amendment changing the effective date to the first day of the first calendar month which begins more than 30 days after the date of enactment of this legislation, or July 1, 1972, whichever occurs first.

Mr. Chairman, I will not close with any impassioned pleas for this legislation. If its obvious merits do not strike responsive chords in the hearts of my colleagues, it is already too late and too futile for me to try.

Rather, I will take my place at the manager's table and listen with wonder as some of the bill's detractors initiate their wholesale onslaught with arguments invoking every conceivable ill. And I will do my literal best to defend this modest proposal with reason and compassion; all the while trying to comprehend what it is that drives men to deny to their brothers some small place in the sun.

The CHAIRMAN. The gentleman from Pennsylvania consumed 20 minutes.

Mr. ERLENBORN. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, I rise in opposition to H.R. 7130 and in support of the substitute, H.R. 14104.

I would like in the few minutes that I have to go through the committee bill, H.R. 7130, and point out the provisions that are in that bill which I consider to be unwise, and while I am doing this, I would like to have the Members bear in mind that the substitute, H.R. 14104, does mainly two things.

It has only two major provisions, so that these other things I will be describing to the Members are not contained in the substitute bill.

The substitute bill does two things. We have adopted for all intents and purposes the wage rate section, title I of the committee bill. In drafting the substitute we have agreed that it would be equitable at this time to have a fair increase in the minimum wage. We felt that the committee bill increase was not unreasonable. So there is no basic difference between the two bills in that area, particularly since I understand that the dates for the step increases will be amended by the majority, by the committee members in the committee bill so that they will be consonant with the steps that are provided in the substitute.

So that is one provision of the substitute.

The other is a provision that is a workable youth differential that will encourage private industry to provide jobs full time and part time in that area of highest unemployment—that is, the youth in our country.

There is a present differential in the law. It is unworkable and has been proven unworkable. Very few certifications are made and very few young people are hired as a result of that differential. The committee in its youth differential makes the bad provisions of the present law worse. It is just a great deal of hogwash, eyewash. It will not provide any additional jobs for young people. It will discourage their employment.

So the substitute has those two major provisions, an increase in the minimum wage rate, and a workable youth differential.

Others will be discussing the youth differential during the debate, but I might mention that studies have shown that such a youth differential will encourage employment of youth where we have high rates of unemployment. I have in my hand a letter dated May 8 from the future business leaders of American, Phi Beta Lambda, Inc., which is a group of young people who would be affected by the youth differential. This letter is an endorsement of the provisions of the substitute, H.R. 14104.

Now I will get to the committee bill and those provisions of the committee bill which are not contained in the substitute, which I consider to be unwise.

The committee bill proposes an extension of coverage for the first time of both minimum wage rates and overtime to all Federal, State, and local employees. Let us just examine that for a moment. One or two examples, I believe, would be helpful in understanding this.

Your city no doubt has workers who are required during periods of emergency to clear the roads of snow or to do whatever is necessary, perhaps in a storm to clear fallen limbs from trees, and to do other emergency type of work. Generally, cities and counties, for their State highway workers, provide compensating time off, by the State or local employer, when those employees do have to work these overtime hours in emergencies. The committee bill would say, "No longer can this be done, and if it is the local employer will have to pay time and a half or double time provided in the Fair Labor Standards Act."

There is no hint here as to where the county or State government would get the funds to meet this new budget requirement, but we are going to make this imposition upon them.

What would its application be to Federal employees? I believe one of the most telling blows in this bill, so far as we personally are concerned, which may make us somewhat sympathetic to the State and local employee situation, is that the committee bill extends this overtime coverage to all Federal employees.

The gentleman from North Carolina (Mr. HENDERSON) from the Committee on Post Office and Civil Service, testified before the Rules Committee, and the Labor Department sent me a letter verifying his interpretation, that this means we in our own offices will have to keep records and to pay overtime to our own employees, our secretaries, and our aides; and, if the House should work more than 40 hours in a week, which we do on some occasions, we would have to pay that overtime and keep all those records for the employees of the House.

Again, there is no hint as to how we would be able to work these impositions into our budgets. Who is to keep the records as to the time worked by the employees? I am not certain. The bill is not quite clear. Who is subject to the criminal penalties if one fails to pay that overtime? I am not certain whether the Member is, or perhaps the Clerk of the House. The bill is not quite clear on that.

In several places in the bill there is an attempt to tamper with existing law. At the present time, transit employees are allowed a certain exemption for overtime work. Transit workers have a unique sort of obligation. They must work during the rush hours in the morning and the rush hours in the afternoon, and this extends over a period of more than 8 hours. Often they have time off in the middle of the day, and work split shifts.

Very often they are given an opportunity of taking on charter work during the middle of the day, to fill in that time. And often they work more than 40 hours a week.

We can talk about imports, as the gentleman from Pennsylvania (Mr. DENT) does, and I have sympathy for those facing imports. But if there is any industry in this country which has trouble and if there is any industry which is sick, it is the transit industry. Do we know any of them that is not asking for a State or Federal subsidy to keep its head above water? Here in the District of Columbia the transit system in this area was before the House just this week asking for such a subsidy. How are they going to survive if the committee bill removes this overtime exemption as it proposes to do?

Nursing home employees at the present time have an exemption so that they may work 48 hours a week without the imposition of overtime. We have had a great deal of complaint, I am sure all of us, as to the cost of medical care and particularly the cost of nursing home care for the aged and the ill. The repeal that is contained in the committee bill can do nothing but drive up these already very high costs of nursing home care.

Then we have the seasonal and agricultural employees. I have seen no real evidence as to what changes have taken place since the Congress in its wisdom put these exemptions for overtime for seasonal employees in the law.

Those who work in the sugar industry—and I am sure some of my colleagues who represent those areas will want to discuss that with the House—at the present time have an exemption so that during the harvest season when they have to get out there and get the sugar beets picked or have to cut the sugarcane they will be able to work the hours necessary in order to get the job done. The overtime exemption is limited in time and scope, and I see no reason why it should be repealed.

The same is true in other seasonal employment such as the canning industry and fishing industry. The committee bill proposes to phase out and eliminate all of them.

Then it proposes to extend the coverage to a new group, namely, the domestic service employees. At the present time some of our people who are employed in this area as domestic servants are those who have the lowest skills and would find employment the most difficult. Obviously, increasing their wages for the first time by imposing a Federal minimum standard on their wages for the first time will discourage these people. Housewives will be required to keep the copious records that the Labor Department requires to prove that they paid the minimum. I am not certain they would get any credit—and they probably would not—for paying the correct payment for the carfare for the young lady to come to the house to perform the work. They would have to keep the records to prove that overtime was paid if it was warranted. I do not see how the commerce clause of the Constitution can be so stretched as to include the maid working in the private home as one who is in or who affects interstate commerce. How can that maid in the home be in or be affecting interstate commerce?

And where does the Congress get the authority to interfere in that relationship?

Employees of preschool centers would come under coverage of the minimum wage for the first time. This can do nothing but affect domestic employees who are able to maintain their employment by keeping their children in a kindergarten or preschool center. It will drive up the cost of that so that it will not be possible for them to hold their jobs.

So, with one hand we say we are imposing on your employer the Federal minimum wage so that you will get more money, but on the other hand we say that if your kid is in a preschool center, we are taking it away from you.

Mr. Chairman, the next section I want to talk about is section 212, which probably many of you have heard about.

This was not the subject of hearings. Section 212 was added by amendments after the hearings. It was so poorly drafted and thought through that even before the committee reported it out some of the most glaring defects were shown.

It refers to the so-called conglomerates. The only place it refers to conglomerates is in the title of the section, and it never repeats the word again in any of the operative sections.

Many of us know there are, but I am not certain we have a very good definition of what is a conglomerate. There is no such definition contained in the section. What the provision did in the first instance was to say that if a farmer decided that during the winter months when he was not able to farm he would like to go down South and run a hamburger stand, that he then came under the definition of those who would be affected by section 212 because it would be one ownership of two diverse businesses. And there was no other test of it. The farmer owned a farm and a hamburger stand. He owned two diverse businesses under one ownership and one control and therefore, although neither the farm nor the hamburger stand were individually touched by the Fair Labor Standards Act, he would be required to pay the minimum wage, because section 212 would say that both of them have to pay it.

That is how ridiculous that provision was when it was drafted. When I called this to the attention of the committee as to how it was drafted, the committee decided they would have to change it. So, they put a figure of $5 million of gross income from the numerous businesses under one control or ownership as a further test as to who would be affected.

Mr. Chairman, this bill makes little or no sense. For instance, if you have a family business that has acquired a number of diverse establishments—perhaps, they have a small retail establishment here and a gas station there or whatever it might be and if they are fairly successful, they may have spread throughout the State or several different States, if one is a small establishment they are not covered by the Fair Labor Standards Act, but the mere fact is that it would require each one of them to pay the minimum wage. This may be a small retail establishment, say, with $100,000 gross income. The sum of $250,000 is the standard for the test in the act for coverage at the present time, and it is competing with like businesses in that town.

What makes it different in its competitive position? It happens to be owned by someone who owns a drycleaning establishment or service station in another town.

Mr. Chairman, I do not see any logic or reason to impose a minimum wage on that establishment merely because of that common ownership.

I thought that section 212 was one of the most inequitable, but, maybe, section 213 will take the cake in this regard.

This says to the employer who is following the law, who because he is not covered by the Fair Labor Standards Act, is not required to pay the minimum, that he cannot use the U.S. Employment Service to get employees.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. ERLENBORN. Mr. Chairman, I yield myself 5 additional minutes.

The CHAIRMAN. The gentleman from Illinois is recognized for 5 additional minutes.

Mr. ERLENBORN. It says that the U.S. Employment Service that is using taxpayers' dollars and trying to find employment for those who are unemployed, you cannot refer anyone to a job that is paying less than the minimum wage, even though the employer is not required to pay the minimum wage.

This situation would be, I think, an attempt to impose a minimum wage on those who Congress has otherwise decided should not have that imposed upon them.

Mr. Chairman, one section of this bill, I think, invades the jurisdiction of the Judiciary Committee. They are, and have been, working for some time on the problem of employment of illegal aliens, and there are other Members who will address themselves to this question. However, this would put the burden on the housewife employing the babysitter to make sure that she was not an illegal alien or else the housewife would be faced with the problem of a possible fine or imprisonment.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. Yes, I yield to the gentleman from Michigan.

Mr. O'HARA. That is not the way the bill came over from the administration. However, we took out the provision to put the burden on the employer to ascertain whether or not the employee was an illegal alien. That was in the administration bill, but we deleted that part of the administration bill.

Mr. ERLENBORN. I thank the gentleman for his contribution.

Mr. Chairman, let me conclude by addressing myself to title III.

The gentleman from Pennsylvania (Mr. DENT) would have us to believe that this is nothing more than what he sponsored and what passed the House sometime in the past.

As has been pointed out in debate under the rule, this is not true.

They are really two sections, two operative sections, contained in title III.

One is this demand on the Secretary of Labor to conduct a survey and make findings and then it imposes the obligation to take action.

The other is the more horrendous. It has been described somewhat in debate, somewhat already today, but in essence what it says is that wherever the Federal dollar goes, whether it be by way of a grant, subsidy, or whatever it may be—FHA, Veterans' Administration—the loans and grants we make to operate the Elementary and Secondary Act, as we all know Federal funds are all-pervasive throughout our economy, this bill says we will use the meat-ax approach of saying you cannot buy anything that is manufactured overseas.

There is no way to make this fit our economy and our needs. There is nothing in this that says that if your college or your high school needs scientific equipment that is not manufactured in the United States that they can then buy it overseas. There is no quota that says a reasonable amount will be allowed in the United States. There is nothing that says that your police department or the Defense Department, that violently objects to this, if they need something that is available overseas, that they can get it. This is truly the meat-ax approach. This just shuts the doors to imports without any mechanism available that will meet the varying circumstances that we will be faced with. It does not give any time lag for this economy in order to develop the production capabilities to supply the imports that are coming in.

This is the most unwise of many unwise provisions in the committee bill.

I want to just reiterate that we do not in the substitute do any of these things. We have a reasonable increase in the minimum wage. We have a workable youth differential.

Mr. Chairman, I would just take a minute to mention three minor amendments in the substitute. One has to do with newsboys. This was brought to our attention by the gentleman from Kentucky (Mr. SNYDER). They are now under the provisions of the Federal Labor Standards Act allowed to work without the imposition of overtime, a minimum amount of overtime. They do it on a piecework basis when they deliver newspapers.

Recently the Labor Department has ruled that Shopping News are not the same as regular newspapers, so they do not have that same exemption. We have extended the exemption so that they will be construed as formerly.

Another has to do with an economic problem which was brought to our attention by the gentleman from Pennsylvania (Mr. SCHNEEBELI). It has to do with husbands and wives who work at the Hershey Orphanage, where they have separate homes for children, and the husband and wife live in the home and take care of a limited number of children. Under the recent ruling of the Labor Department they are required to keep copious records each time they get up in the middle of the night to take the temperature of a child, or to give that child an aspirin. And, as I understand the gentleman from Pennsylvania (Mr. DENT) he agrees that that is not a proper thing. These people get $10,000 or more, plus board and room, and we would relieve them of those reports.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

Mr. ERLENBORN. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, the last of these amendments is called the "High-Earner Exemption" and, as I understand it, the gentleman from Kentucky (Mr. MAZZOLI) is particularly interested in this, and he had separate views in our report of the committee, and this provides a limited overtime exemption for the small retail establishment during periods where they have a great demand, say, during the Easter sales period, or the Christmas sales period, and it really will treat these small retail establishments in much the same fashion as the larger establishments are treated under the law today. And, by the way, such a provision was in the bill as originally introduced by the gentleman from Pennsylvania (Mr. DENT).

Mr. Chairman, I hope the committee bill is defeated by the adoption of the substitute bill, and I ask for the support of the House in accomplishing that.

Mr. DENT. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. DANIELS).

Mr. DANIELS of New Jersey. Mr. Chairman, the committee bill we are considering today, H.R. 7130, is a moderate proposal. It proposes to increase the wage rate of workers covered by the act prior to 1966—the majority of whom have not had a wage-rate increase since February 1, 1968—to $2 an hour. Those employees covered by the 1966 and

1971 amendments to the act would receive an increase to $1.80 an hour within 60 days after enactment, and $2 an hour 1 year later.

The proposed increases will enhance the purchasing power of the working poor which has been seriously eroded by inflation, enabling them to purchase a few more necessities. This still falls short of providing the maintenance income as established by the Bureau of Labor Statistics. But it will be of some assistance financially, and is long overdue.

There are some who charge that this bill will cause unemployment. Such traditional prophesies which accompany each minimum wage increase have been successively refuted by studies of minimum wage effects by the Department of Labor. In referring to the effect of the minimum wage increases provided by the 1966 amendments to the act, the Secretary of Labor noted:

> Although the economic indicators just noted (continually rising prices) increased at a fairly rapid rate in the year in which the Federal minimum wage for the newly covered group was raised 15 cents, it is significant that employment in retail trade and services—the industries where the newly covered group is largely concentrated and hence most likely to manifest some impact from the wage increase—fared better than industries unaffected by the statutory escalation in the minimum wage.

So much for minimum wages and unemployment.

With regard to the wage rate increases and the phase II guidelines, let me point out that the persons who will receive these increases are specifically exempt from the wage controls of the Economic Stabilization Act. And, the Pay Board has ruled that persons earning less than $1.90 as hour are not within its purview.

The committee bill also revises and gradually phases out certain overtime exemptions in the act, so as to extend overtime protection to many additional employees. I feel these revisions are appropriate and necessary.

Mr. Chairman, I should like also to endorse wholeheartedly the student employment provision of the committee bill. This provision will enable employers to hire students—part time up to 20 hours a week during school sessions and full time during school vacations—at 85 percent of the applicable minimum wage or $1.60 an hour, whichever is higher. This is much preferable to the so-called youth minimum which is to be offered as a substitute. Proponents of the youth minimum wage have yet to produce evidence that such a subminimum wage rate will actually increase job opportunities for youth. Even the special report of the Secretary of Labor on this subject failed to find any relationship between youth employment or unemployment and the minimum wage.

Over the years, Mr. Chairman, I have participated in many debates regarding minimum wage increases. Each time opponents have raised false cries of "unemployment," "inflation," and so forth. But, the results of each increase—increased employment in industries affected, greater demand for goods through increased earning power, and general economic growth—have consistently refuted these charges.

Almost 52 million workers will benefit from enactment of this bill. For the vast majority, we are their only negotiators for better wages and working conditions. Mr. Chairman, we cannot, in good conscience, abrogate our responsibility to them.

Mr. Chairman, I would like to ask the gentleman from Pennsylvania a question prompted by a telegram from a constituent deeply concerned about the effect of the legislation on New Jersey's very active summer hiring program for underprivileged high school students. Can the gentleman tell what effect, if any, this bill, H.R. 7130, will have on that program?

Mr. DENT. I will say to my good friend that the bill will not inhibit the program in any way. Although the bill would require State and local governments to pay public employees at not less than the applicable minimum wage rate, the special provisions relating to student employment would be available to his State government. And the underprivileged students he is understandably concerned about could continue to be employed.

Mr. DANIELS of New Jersey. The gentleman is assuring me then, that New Jersey's summer hiring program for underprivileged high school students should not be adversely affected by the bill.

Mr. DENT. I am and I give you those assurances.

Mr. DANIELS of New Jersey. I think it is important at this particular time to establish the legislative intent of section 208.

I think the RECORD should show the congressional intent of the proposed changes.

Therefore, I would ask the gentleman this question. It is your intent, is it not, to build on, to enlarge the opportunities of student employment in the present law and to simplify or eliminate the certificate procedure?

Mr. DENT. It is our intent, of course, to try to simplify the procedures so that more student employees would be hired. A part of that intent will be accomplished through the simplification of the certification procedures.

Mr. DANIELS of New Jersey. I thank the gentleman.

I would like to raise two additional points.

First, when the number "four" is used in section 208 referring to four students, you mean this to be four in each establishment rather than in each enterprise?

Mr. DENT. The gentleman is correct. We used the term "employer" rather than "establishment," because the latter term has come to be a word of art within the context of the Fair Labor Standards Act in referring only to retail or service activities. But we intend that "employer" is a single business entity, just as "establishment" is. This is consistent with our effort and your desire to expand student employment opportunities.

Mr. DANIELS of New Jersey. So, therefore, the use of the word "employer" is not intended to limit the opportunities for afterschool employment of full-time students?

Mr. DENT. No; that interpretation is placed upon it by those who would like to perpetrate a fraud.

Mr. DANIELS of New Jersey. Finally, I would like to ask this question.

The elaborate description of base period use of students month by month in periods prior to coverage in 1961 and in 1966 has been eliminated by section 208 of the committee bill, but I do understand that it is not intended to reduce the rights of employers with base year records to employ their full quota of students at the special student rate, provided, of course, that such employment will not curtail employment for full-time employees?

Mr. DENT. The bill repeals the old quota system under existing law. We found it to be cumbersome and inhibitive. We have substituted vastly simplified certification procedures and I cannot imagine any employer who qualified under existing law for student certification not qualifying under the bill's procedures to at least the same extent.

What we are trying to do is to see to it that the reduced wage employee is a student, a bona fide student, and not somebody who belongs in the full labor market.

We do not want a substandard wage being substituted for the minimum wage simply because of age. This is exactly what the substitute does in essence and in practice.

Mr. DANIELS of New Jersey. I thank the distinguished gentleman and I want to compliment him for the work he has done on this bill.

Mr. Chairman, I support the bill wholeheartedly.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Mr. Chairman, I believe it is imperative that we delete title III because, in my opinion, its provisions do not belong in a minimum wage bill, and if included, would have very serious effects, both internationally and domestically.

It is not within the jurisdiction of the Education and Labor Committee to legislate foreign trade policy. Our members do not deal on a continuous basis with these problems and, therefore, are not in a position to realize the repercussions of piecemeal legislation such as title III. Furthermore, it would be an unwise precedent, I think, for Congress to give the Executive this kind of unlimited and uncontrolled power in dealing with import competition. The bill does not provide any definitions or guidelines for the Secretary of Labor or the President on which to base their investigations, recommendations, and decisions. For instance, how does one make relevant comparisons of working conditions? What constitutes "serious impairment to the health, efficiency, and general well-being" of any group of workers, or to the economic welfare of the community? How does one pinpoint the causes of impairment? To accurately make these determinations would create an administrative nightmare and necessitate sizable budgetary supplements for the Labor Department. Passage, at this time, would completely undermine all efforts of the administration to effect the monetary and trade reform measures it has been promoting during the past year.

The international implications of this

legislation would be disastrous. The Departments of State and Commerce and the Office of the Special Trade Representative have all submitted letters to our committee voicing strong opposition to title III. Even Mr. Andrew Biemiller of the AFL–CIO testified before our committee that issues dealing with international trade and investment should be handled separately from the minimum wage bill.

If enacted, title III would virtually cut off all imports, public and private, since no country, with the exception of Canada in some instances, enjoys wages, working conditions, or a standard of living comparable to that in the United States. Encompassing restrictions of this type would surely signal protectionism to our trading partners and lead to retaliation against U.S. exports. Since exports create more jobs than imports displace, such action would adversely affect many of the 2.7 million Americans currently employed in export-related jobs.

The extreme "buy American" procurement provisions would undoubtedly cause foreign governments to retaliate with "buy domestic" provisions of their own. Governments are important buyers in all countries, and are frequently the best customers of high-technology products. Since U.S. companies are most competitive in this area they are very likely to be the biggest losers in any escalation of domestic supplier preference schemes. Our aircraft industry and various machinery industries could be especially hard hit by this kind of action.

The most industrially advanced country in the world should be able to adjust to import competition without going into economic isolation. The current administration, more than any other, has effectively used the import restrictive powers it has at hand to safeguard the interests of American companies and workers. Cooperative efforts toward a comprehensive trade policy can expand these measures further, but singular unwise actions on the part of Congress may take us back to the Smoot-Hawley days and no one will gain.

I would also like to point out—as forcefully as I can—that title III is highly inflationary legislation. It would substantially affect the cost of production of many of our industries and raise prices to consumers on a massive scale. Without realizing it, the average American family already pays between $200 and $300 years as a hidden subsidy for import quotas and other trade restrictions.

Our State and local governments, already struggling with large budget deficits, would also be deprived of the price and quality advantage of foreign goods. The "Buy American" provisions would prohibit every recipient of Federal dollars, whether through grants, loans, insurance or guarantees, from purchasing supplies and equipment abroad. Hospitals, schools, offices, housing projects, transportation systems, and power generating plants, to name a few, would all be affected.

I do not believe that any Member of this House, if he looks closely at the provisions of title III and considers the effects they would have, would not agree that it is bad legislation.

NOTES ON TITLE III, H.R. 1733—FAIR LABOR STANDARDS ACT

THE PROVISIONS

Title III is in essence an extreme "Buy American" proposal. It establishes procedures for the relief of domestic industries and workers injured by increased imports from low-wage areas. Under the bill, any interested party could apply to the Secretary of Labor to make an investigation in order to determine whether specified imports produced under labor conditions below those of minimum U.S. standards, are causing or threatening to cause "serious impairment" to the "health, efficiency, and general well-being" of workers or their communities in the United States. If such impairment, or its threat, were so determined or reported, the President would be empowered to "take such action as he deems appropriate."

The title—4(f)—also provides in effect that domestic and public contracts could not incorporate items manufactured abroad under work conditions "substantially less favorable than those required under the Fair Labor Standards Act—FLSA."

THE IMPLICATIONS

First. The criteria whereby imports could be determined eligible for restriction could be applied to virtually all imports inasmuch as relatively few foreign workers enjoy wages and labor conditions comparable to FLSA standards.

Second. The bill would give the President almost unlimited power to restrict imports—power that has not been sought or desired by the executive branch. This would also set a dangerous precedent of the Congress granting the Executive an unlimited power without the usual limits on the use of that power.

Third. The bill would violate U.S. international commitments in the General Agreement on Tariffs and Trade—GATT—and the Organization for Economic Cooperation and Development—OECD—as well as several bilateral treaties. Accordingly, other countries would feel justified in applying retaliatory sanctions against U.S. exports and foreign investments. It would also seriously impair U.S. attempts to negotiate away prevailing trade barriers—foreign cooperation to that end would be unlikely in light of new U.S. trade barriers such as title III.

U.S. relations with developing countries would be particularly hard hit by enactment. These are the countries that would be the first to be affected—and are also those with which U.S. foreign policy considerations are most delicate. The effect of U.S. restrictions on their vital export industries would be to turn them further away from this country.

Fourth. Enactment would greatly encourage protectionists seeking still more extensive controls and restrictions.

Fifth. Government procurement would be severely affected. Many key items, involving unique foreign processes and innovations, would be denied to government contracts. The alternatives would not only be higher costs but a diminution of quality. Also, the United States has long been pushing for an international code on government procurement in order to promote U.S. exports—the bill would destroy these efforts. The bill is also vague on the requirements for acceptable procurement practices, providing no guidelines for certification. Also, no sanctions are spelled out, so that the Congress does not know in detail what it is being asked to vote on.

Sixth. A major effect of the bill would be to spur inflation by removing effective foreign competition from the U.S. economy—competition that is as beneficial to the consumer as it is to the total economy by forcing the application of American resources to their most efficient and productive ends.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I am particularly concerned about the effects that protectionist proposals, such as are contained in title III, would have on U.S. foreign policy. I am afraid enactment of title III would cause irreparable damage not only to our own trade, but to our relations with all our friends and allies. These provisions would have far-reaching implications on world trade. They would adversely affect the economic health, political strength, and eventually quite possibly have an adverse effect on the security of the entire free world.

Yet, despite these broad implications, there have been no hearings on this legislation, either in the Foreign Affairs Committee or the Ways and Means Committee. There has been no "input" or evaluation regarding the impact of these provisions on our overall trade policy or on our foreign relations.

Under such circumstances, approval of title III would be irresponsible action on the part of the Congress and dangerous to our national interests.

Last August, major steps were taken by the administration to protect the dollar and to reverse the declining competitive position of the United States in world trade. The first phase of the administration's effort came to a successful conclusion in December. At that time, in the so-called Smithsonian Agreement, the United States and other major trading nations negotiated a historic realinement of currency values.

As a result, American exports received a competitive price advantage ranging from 10 percent to 19 percent. At the same time the price of imports purchased by the United States was raised by an equivalent amount. The purpose of this action by the administration was to give the United States a substantial new competitive advantage in world trade. By the same token, it represented significant concessions by our principal trading partners. In the negotiations, it was clearly understood on all sides that no disruptive action would be taken so the revaluation would be allowed the necessary time to have an effect.

If Congress should now enact title III, under the guise of minimum wage legislation, we would completely negate the intent of the Smithsonian Agreement. We would also generally undermine the President's other trade and monetary initiative. Also, through the OECD, the United States is currently engaged in international negotiations on the liberalization of public procurement practices. This is a high priority item for the United States since foreign procurement of U.S. goods far exceeds U.S. Government procurement of foreign goods. If title III is passed, the United States will have to call off these negotiations, after actively pursuing them for the past year. If this should happen, our friends abroad would undoubtedly feel that the United States has dishonored major commitments to them, and that we have acted in bad faith. They would almost certainly retaliate against American interests.

How they would retaliate is unknown, but almost surely they would erect equivalent trade restrictions against U.S. exports. American farmers would have to expect a sharp decline in their $7 billion yearly foreign sales of soybeans, wheat, feedgrains, cotton, tobacco, and other farm products. American manufacturers of airplanes, machinery, chemicals, computers, automotive products, and dozens of other manufactured items, would lose export business. This would mean that we will lose income and jobs. Every American port and port city will feel the effects, as well as American trucking companies, railways, and airlines.

That is just the immediate form of retaliation—the beginning of an economic donnybrook in which the United States and its trading partners would all be losers.

Even more serious, in the long run, however, is that this could lead to the breakdown of the free world into mutually exclusive and rival trading blocs—one centered around the EEC and including most of Europe, Africa, and the Middle East—another might consist largely of the United States, Canada, and Latin America—and a third could be composed of Japan and the Asian nations.

I am especially concerned about the possibility of such a development because, in today's world, international economic matters have become the most important political issues among nations of the free world. As a result, threats to or a breakdown of the international trading system will translate themselves into significant political trends as well. Instead of the existing cohesion and aggregate strength of the free world today, we would have economic and political rivals in these new European- and Japanese-led blocs.

The ultimate danger then, of title III is that it could start a chain reaction abroad that would shatter the political and security relations of the free world, as well as the economic ties.

When we weaken and fragment the combined strength of the free world, we also drastically reduce the President's bargaining power vis-a-vis the U.S.S.R. and China. Whether in seeking to pursue a detente toward a lasting peace, or in attempting to head off possible new aggressions by these powers, we would find ourselves leading from weakness rather than from strength. And our best hopes for peace might well be lost in the process.

Perhaps this sounds dramatic, but I assure you that these are vital considerations in considering the proposed title III. American foreign relations are far too important and far too delicate at this moment to be endangered by attaching such unwise restrictions on international trade to a minimum wage bill.

Mr. DENT. Mr. Chairman, I yield 10 minutes to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I thank the chairman of the subcommittee for yielding to me.

Mr. Chairman, as a cosponsor of H.R. 14104, a substitute for the minimum wage bill, H.R. 7130, reported by the Education and Labor Committee, I would like to address my remarks to the provisions of the substitute generally, and, more specifically, to the provision which I feel is the most important of all; the youth differential.

The substitute measure would increase to $2 the minimum wage for nonagricultural workers covered before the 1966 amendments. This increase would take effect 30 to 60 days after enactment. Those nonagricultural workers covered for the first time by the 1966 amendments would be increased first to $1.80 effective 30 to 60 days after passage, and to $2 effective 1 year thereafter. Agricultural workers would be raised to $1.50 effective 30 to 60 days after passage, and to $1.70 effective 1 year later.

It appears to me that these increases are in keeping with sound fiscal policy and are only fair to the millions of workers covered under the Fair Labor Standards Act. The value of the dollar has been substantially eroded by inflation and is working a serious financial hardship on the workingman.

Upward adjustments in the minimum wage have taken effect in 1950, 1956, 1961, and the two-step increase of 1967–68. On these occasions the rate was raised to a level equal to about 55 percent of average hourly earnings of production and nonsupervisory workers in private nonfarm industries. A new increase was generally enacted after the rate had drifted below 50 percent of average hourly earnings of production and nonsupervisory workers in private nonfarm industries. In June 1970, when average hourly earnings rose above $3.20, the minimum wage again dropped below the 50-percent level. While the $1.60 minimum wage, in 1967 dollars, represented $1.56 in February 1968, it had shrunk to $1.31 by July 1971. In contrast, average hourly earnings increased between the two dates from $2.72 to $2.81 in 1967 dollars.

The problem is, however, that the Education and Labor Committee has not contented itself with reporting out a bill designed to remedy the effects of inflation but has piled on the measure fiscally unsound and ill-timed attempts at solving a broad spectrum of virtually unrelated matters. The committee bill contains amendments ranging from public employment agencies to import controls. Ironically enough, these provisions are cloaked in a bill that is supposed to rectify the serious problems facing the American workers as a result of inflation. The bill, if enacted, would have the countereffect of bringing increased financial woes to this group.

On the other hand, the substitute measure goes immediately to the question of minimum wage increases and provides viable solutions. There is no change from present law for overtime pay requirements, child labor provisions, tips, import injury, or a raft of other areas in which the committee bill has invaded. The substitute measure then generally holds the line as to the present law except for the minimum wage increases. This is not true, however, in the increasingly serious area of youth unemployment.

In general, the substitute provides for employment of youths under age 18 and full-time students under age 21 at wage rates not less than 80 percent of applicable minimum or $1.60 an hour—$1.30 an hour in agriculture—whichever is higher. Such employment must be in accordance with applicable child labor laws, and subject to standards by the Secretary of Labor to insure that the employment does not create a substantial probability of reducing the full-time employment opportunities of other workers.

The 1966 amendments to the act included provisions—sections 14 (b) and (c) permitting the payment of wage rates below the applicable statutory minimum to full-time students for part-time work. This permission is narrowly limited in scope and subject to a number of rigorous prerequisites. The act provides that—

First. The permissible wage may not be less than 85 percent of the otherwise applicable minimum.

Second. The only nonfarm occupations in which the lower student rate may be paid are those in retail or service establishments.

Third. The full-time student may be paid the lower rate for not more than 20 hours of work per week except during school vacation periods.

Fourth. The number of full-time student hours which may be paid for at the lower rate is limited to a percentage of the work hours of the employer's total work force which percentage is the same as that which prevailed in the establishment during a preceding period, or where records are not available to determine such previous ratios the same percentages for other similar establishments in the area during the designated periods.

Fifth. As a condition for paying the lower rate, the Secretary of Labor must first issue a certificate for each such student employee indicating that the employer is complying with the foregoing conditions and requirements. Moreover, prior to issuing the certificate the Secretary must find that such employment will not create a substantial probability of reducing the full-time employment opportunities of persons other than students to be employed at the lower rate.

The initial inquiry must be whether there is a relationship between the Federal minimum wage and the unemployment rate of young people. A report entitled "Youth Unemployment Minimum Wages," was compiled by the Bureau of Labor Statistics and outlines several studies which show adverse effects of the minimum wage. "The Brozen study relies upon changes in the unemployment rates before and after changes in the Federal minimum. In the eight instances when the Federal minimum was changed, the seasonally adjusted unemployment rate of 16- to 19-year-olds was lower the month before the change than the month the change became effective in six instances, higher in one case, and the same in the other. The Burns study is based on unpublished regressions relating the unemployment rate of teenagers, to the unemployment rate of adult males and to the minimum wage as a percent of average hourly earnings in manufacturing. He found a significant relationship between minimum wages and the unemployment rate of teenagers, especially so in the case of Negro teenagers. The Easley-Fearn study related the unemployment rate of teenagers in various age-sex-color-school enrollment groups to the unemployment rate of adults, the proportion of teenagers in the labor force, and a set of dummy variables for each statutory minimum wage level applicable to a particular period of time. The results indicated that both the level and coverage of the minimum wage law had significant adverse effects on the unemployment of teenagers, especially so in the case of Negro teenagers."

The reasons for this relationship between minimum wage increases and higher youth unemployment are speculative. It would appear that most employers are less willing to hire inexperienced and less productive young people than older, more productive workers, even when older workers have to be paid higher wages. It is clear that when young and inexperienced workers must be paid the same wage as a more productive and experienced worker, marginal jobs will be phased out rather than filled with the younger worker.

An article which recently appeared in Nation's Business reported on the hiring practices of the Dean & Barry Co. paint store in Urbana, Ohio, and I would like to read this account into the RECORD:

> The Dean & Barry Co. paint store in Urbana, Ohio, doesn't hire part-time teen-age help any more.
>
> But it used to.
>
> So did all the other 39 Dean & Barry retail stores. Now only the larger ones do.
>
> "Most of our paint stores are in small, county-seat towns," says Robert S. McKay II, president.
>
> "In the summer, almost all used to hire high-school boys. They stocked shelves, swept up and did other chores.
>
> "We used to pay them $1 to $1.25 an hour.
>
> "Usually, they worked full time in summer. The rest of the year, they worked a few hours after school and on Saturday. Maybe 10 to 15 hours a week. They were just extra, supplemental help.
>
> "Then the minimum wage law made us pay them $1.60 an hour. So we stopped hiring most of them. That took away about 15 to 20 jobs.
>
> "But the smaller stores just couldn't take the tab."
>
> In Chicago, the same law has helped dry up job opportunities for other young people.
>
> Carson, Pirie, Scott & Co., a giant Chicago department store, used to hire several hundred of them to fill summer jobs.
>
> "We hired girls for our College Boards, for example," says C. V. Martin, board chairman. "They were sort of assistant clerks, models and fashion coordinators. We hired boys for jobs like stock boy or to work at our soda fountain.
>
> "But we didn't have nearly as many this summer as we did before.
>
> "One factor is the economy. But another is the minimum wage. It's just too high for these marginal, non-adult jobs."
>
> He adds: "It's a tragedy, on two counts.
>
> "Not only do young people lose the chance to earn some money. They also miss an opportunity to learn what it is to work in a department store—and perhaps decide they'd like to become merchants.
>
> "It was kind of a vocational training."

There are several reasons why the reduction of job opportunities affects teenagers more than adults. For one thing, most teenagers, especially those just beginning work, are unskilled. The unskilled are usually the first to be let go because their work is the least essential. Second, most teenagers have little work experience. This makes them less desirable to an employer than an equally skilled adult who has worked before and has learned to adjust to a discipline of the regularity of work. The lack of skill and work experience on the part of many youth imply substantial training costs for any firm desiring to make permanent employees of these youths. A higher minimum wage would prevent youths from offsetting these high training costs with lower initial rates. As a result, youths are often hired only to meet temporary demands and are laid off during slack periods. Finally, most teenagers attend school, and thus work for them means part-time work. Unfortunately, part-time jobs are easiest to eliminate because they often provide the least essential services to the employer.

The youth differential is designed to preserve existing jobs and to create new jobs. The unadjusted rate for teenagers is around 20 percent. The inner city poverty areas showed increases in unemployment from 23.3 percent in the first quarter of 1971 to 28.5 percent in the second. For those areas' black teenagers, the unemployment rate was ever worse—from 34.2 percent in the first quarter to 39.1 in the second. In the poverty neighborhoods of the Nation's 100 largest cities, the teenage unemployment rate was 20 percent in 1968, substantially above the national average of 12.7 percent. Only 100,000 unemployed 16- to 19-year-olds, one-eighth of the U.S. total, lived in these poverty neighborhoods. However, Negro youngsters were a disproportionately large concentration. About one-third of all unemployed Negro 16- to 19-year-olds lived in these 100 poverty neighborhoods; the comparable proportion was only one-fifteenth for white teenagers. From 1948 to 1962, the ratio of the teenage jobless rate to that for persons 25 and over fluctuated between 2.7 and 3.5. Beginning in 1963, the divergence increased markedly. In that year, when the teenage jobless rate rose to 17 percent, the ratio increased to 4 to 1. Since 1963, the gap has continued to widen going well over 5.5 to 1.

The minority views on H.R. 7130 was signed by my distinguished colleagues, ALBERT QUIE, JOHN N. ERLENBORN, MARVIN L. ESCH, EDWIN D. ESHLEMAN, WILLIAM A. STEIGER, EARL F. LANDGREBE, ORVAL HANSEN, EARL B. RUTH, and JACK F. KEMP. I would like to excerpt from this excellent statement to illustrate the glaring deficiencies of the committee bill's treatment of the youth differential:

The committee bill replaces the existing wholly ineffective youth differential wage program with a program which even the most cursory glance reveals as equally ineffective. It retains most of the significant defects of the present law; to wit, it applies only to full-time students for part-time work, requires precertification by the Secretary of Labor, contains a potential limitation on the numbers which may be employed by each employer at the lower rate, and although it does not in specific terms limit such employment to retail, service, and agricultural occupations, it does so in fact by excluding from the program a long list of occupations. These include work in mines, factories, warehouses, storage, construction, longshoring, explosives, products containing explosives, plants storing the same, motor vehicle driving, logging, certain power driven machines, slaughtering, meat packing, bakery machines, brick and tile factories, wrecking, demolition, roofing, excavation, et cetera and other occupations determined by the Secretary to be hazardous for students. The provision for a lower minimum rate in the committee bill would do little or nothing to help in securing any significant number of jobs for our unemployed youth.

First of all, it is limited to part-time jobs of which there are relatively few. Moreover, even the supply of these would be further diminished because of the limitation on the number of students whom each employer may pay at the lower minimum rate. Moreover, the certification requirements with their accompanying red tape which each employer must meet as a condition of securing a certificate permitting the payment of the lower rate would have the same effect of discouraging employers from applying for certificates as prevails under the youth differential provisions of the existing law. And, finally, payment at youth rate would be prohibited in a base segment of the American economy, with the remaining segment extending very little beyond the "retail and service" sector to which the lower youth rates are confined under the ineffectual existing law.

But equally, and probably even more important than the extremely small number of youth jobs which the committee bill would open up, is the limitation that only full-time students—in part-time jobs—may be paid the lower rate. Unemployment among full-time students is not "the heart of the matter." Full-time students seeking work do not make up the great bulk of the young people who virtually spend all day loitering on the streets of the inner-city, and whose joblessness has become one of the gravest social problems of our time.

We do not deny that many full-time students encounter serious financial problems in their attempts to complete their education, and that more job opportunities should be available to them to help them in reaching that goal. And in recognition of that need, we support making the differential minimum wage program applicable to them. But the provisions in the committee bill allegedly designed for that purpose are, as we have pointed out, so restricted that they will prove no more helpful than the provisions that they will replace in the present law.

We favor unlimited access to employment in all segments of our economy to full-time students under the age of 21, with no discouraging certification procedures attached. We do not even see the need for limiting these opportunities to part-time jobs for the simple reason that the overwhelming majority of full-time students could scarcely hold a full-time job and simultaneously cope successfully with their school studies. In the rare situation where the need of the student is so great that he feels that he must have a full-time job in order to continue his education, and that he can manage his studies successfully while holding such a job, we see no reason for prohibiting him from doing so. This limitation in the committee bill obviously is not designed to protect the student—its purpose is clearly to throw an obstacle in the way of his getting a full-time job because the limitation applies only if he is to receive the low youth minimum rate. If the employer is willing to pay him the applicable higher regular minimum rate, then the apparent concern for the well-being of the full-time student vanishes and there is no legislative barrier to his being so employed, even if he should choose to work long hours of overtime at the regular higher minimum rate.

But what is most absurd about the provision in the committee bill is its exclusion from the permission to pay the lower youth minimum of a long list of occupations, allegedly on the ground that they are hazardous for students.[2] A full-time student, 19 years of age for example, is endangering his own safety or health if he works in one of these occupations at the lower rate, but his work miraculously ceases to be hazardous if he is paid the higher regular minimum wage. The absurdity is so evident, that the professed concern for the health and safety of the student can only be regarded as a device to conceal its real purpose, which is substantially to deny not only full-time but even part-time jobs to unemployed youth. The more one examines the youth differential wage provisions in the committee bill, the more difficult it becomes to believe that helping unemployed youngsters get jobs was even a minor consideration in the inclusion of these provisions.

Under the Fair Labor Standards Act as presently written there are provisions limiting, and in many instances completely prohibiting, the use of child labor by employers to whom the act applies—see section 3 (1) and (12)—of the act. These sections prohibit, first, the employment of children under 16, and second, of children between the ages of 16 and 18 in any occupation found by the Secretary of Labor to be particularly hazardous for children between such ages. However, the Secretary may permit employment of children between 14 and 16 except in mining and manufacturing if and to the extent that he determines that such employment is confined to periods which will not interfere with their schooling and to conditions which will not interfere with their health and well-being.

Now it is interesting to note that the list of occupations enumerated in the committee bill and in which payment of the lower youth wage is prohibited, is lifted almost verbatim from the regulations listing the occupations which the Secretary of Labor has found to be hazardous to children—there is no mention of students—and in which the employment of children is completely prohibited. Inasmuch as the committee bill places no age limit on the full-time students who may be paid the lower minimum wage, the result is another absurdity, to wit, that a full-time student over the age of 18, even a graduate student aged 23, 24, 25 or even older, is prohibited from performing in jobs which are determined by the Secretary of Labor to be hazardous only for children under 18, but which apparently cease to be hazardous for a full-time student if the applicable regular minimum and not the lower youth minimum is being paid to such student. However, the committee bill specifically retains the existing prohibitions on the employment of child labor (as does our own counterproposal), although the language of the committee bill treats full-time students as adults if they are paid the full minimum wage but as children if they receive the lower youth minimum, and this without regard to their actual age.

If it is assumed despite appearances that there is some degree of rationality in the committee's provisions on a youth differential wage rate, it must be sought not in the provisions themselves but in their inevitable effects which obviously reflect their purpose. These seem to be to make it as difficult as possible for young people to secure not only full-time jobs but part-time employment as well.

Our counterproposal, as noted above, permits payment of the lower youth minimum to full-time students under the age of 21, with no limitation to part-time jobs only, no restrictions on type of occupation—except as prohibited or restricted by the applicable child labor laws—no limitation on the number which an employer may employ at the lower youth rate, and with no requirements of governmental certification and the inevitable burdensome redtape which always accompanies official certification requirements. But even this proposal, which is both liberal and realistic, deals with only a part of the youth unemployment problem. Full-time students seeking work are far fewer in number than the many thousands of jobless youngsters who inhabit the poverty areas of the inner city. A large proportion of these youngsters are black; a sizable segment belongs to other minority ethnic groups.

The overwhelming majority of these young people, frequently frustrated, desperate, and hostile, have ceased to be students, and most of them have no intention of continuing or resuming their education. They constitute the category so often referred to as "drop outs," who need jobs, who in the words of the Twentieth Century Fund report quoted above "want the opportunity to support themselves and live useful lives."

The committee bill ignores them completely. It is precisely these youngsters whom it is most difficult to induce employers to hire, who are most in need of being hired. Every legitimate inducement which will encourage employers to give them jobs must be invoked. The other more important part of our counterproposal, therefore, includes a provision permitting employers to employ any youngster under the age of 18 at the lower minimum wage rate for youth if the employment is not forbidden by the applicable child labor laws. The nonstudent status of such youngsters is immaterial.

The only other conditions attached to our counterproposal for a youth wage differential for youth under 18 and students under 21 is that the Secretary of Labor promulgate regulations to insure that these differential youth wage hirings will not create a substantial probability of reducing full-time employment opportunities for workers and job seekers who are neither young people under 18 or full-time students under 21.

Labor leaders have been generally critical of a youth differential because it could result in the displacement of working family heads. Although there is some competition between youths and adults for the same jobs, careful analysis suggests that the youth differential will not have a substantial impact on this competition. The differential applies to those youths who are least likely to compete with adults; namely, those under 18 and full-time students under 21. Most of these youths are seeking temporary summer work or part-time jobs during the rest of the year. There will be some competition between members of this group and women who are seeking part-time work only. However, the low-skill level, lack of work experience and high turnover rate characteristic of youths will counter any advantage they may derive from the lower differential. The following chart shows the occupational distribution by sex, of those over 20, those 18 and 19 years old and those 16 and 17 years old:

TABLE I.—OCCUPATIONAL EMPLOYMENT BY AGE AND SEX, 1971 ANNUAL AVERAGES (PERCENTAGE DISTRIBUTION)

	20 years and older			18 and 19			16 and 17		
	Total	Male	Female	Total	Male	Female	Total	Male	Female
Professional and technical	15.0	14.5	15.7	3.4	3.3	3.5	1.4	1.2	1.8
Managers, officials, and proprietors	11.8	15.6	5.5	1.1	1.6	.6	.3	.5	.2
Sales workers	6.2	5.8	6.7	8.5	6.1	11.5	10.2	8.2	13.0
Clerical workers	16.7	6.6	33.6	25.9	9.3	45.6	13.3	6.1	23.2
Craftsmen and foremen	13.6	20.8	1.4	6.2	10.8	.6	2.6	4.1	.6
Operatives	16.5	18.1	13.8	19.1	26.6	10.0	10.4	14.8	4.3
Nonfarm laborers	4.3	6.4	.8	12.6	22.1	1.2	17.2	28.4	1.8
Private household workers	1.6	.1	4.1	2.1	.1	4.4	10.2	.7	23.5
Other service workers	10.8	7.3	16.7	17.0	13.6	21.1	26.6	24.8	29.1
Farmers and farm managers	2.3	3.4	.3	.2	.4	.1	.2	.3	.1
Farm laborers and foremen	1.4	1.4	1.4	3.9	6.1	1.3	7.6	11.2	2.6

Youths, particularly those 16 and 17 years old, tend to have markedly different occupation patterns than adults. This is consistent with the idea that there are many jobs in our economy that are essentially designated as jobs for teenagers and others that are designated as jobs for adults and that there are only limited areas of competition between the two groups.

The Office Education Association, a vocational organization with the purpose of promoting competence in occupations, has provided me a copy of a resolution which was adopted by 2,000 young people at their national leadership conference. The association represents a total membership of 37,000. I would like to read the association resolution into the Record at this time:

> Office Education Association Resolution
>
> Whereas Congress is considering the youth differential to the minimum wage bill, and
>
> Whereas we, the Office of Education Association, want to increase jobs for the youth, and
>
> Whereas we want to keep inflation at a minimum,
>
> Therefore be it resolved that the youth differential wage rate be included in the minimum wage legislation.

The essence of the youth differential is summed up quite well by Prof. Paul A. Samuelson, of Massachusetts Institute of Technology, when he questions the effect of the minimum wage law on black youth. "What good does it do for a black youth to know that an employer must pay him $1.60 an hour—or $2, if the fact that he must be paid that amount is what keeps him from getting a job?"

I, therefore, ask my colleagues to join me in voting in favor of H.R. 14104, the substitute for the minimum wage bill, H.R. 7130, reported by the Education and Labor Committee. Prudent minimum wage increases, coupled with the "youth differential" as set forth in the substitute bill, are sound answers to serious economic ills.

Mr. ERLENBORN. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin (Mr. Steiger).

Mr. STEIGER of Wisconsin. Mr. Chairman, I shall support the Erlenborn substitute and the Anderson amendment to the Erlenborn substitute.

Mr. Chairman, at the outset I want to discuss a more fundamental problem than the concept of coverage and the minimum wage.

I could not help but be impressed when I read not very long ago a book by Charles Stewart and John Peterson entitled "Employment Effects of Minimum Wage Rates" which was published in 1969. Here is a part of what they wrote:

> Why has the question of the effects of minimum wage rates gone unresolved so long? There appear to be two major reasons. One is the high degree of emotionalism in the debate, arising largely from the reformer's and the partisan's zeal. Reformers tend to see the goal of achieving minimum social standards through federal wage laws solely as a question of will, and not of means. Businessmen may question the costs, and economists may question whether the approach really produces the intended result of aiding the poor. But reformers impatiently brush aside these objections as technical—or as evidence that opponents of minimum wage rates do not share concern for the needs of the poor.
>
> Emotions are also inflamed by the economic self-interest of protagonists, with the conflict of economic interests often camouflaged in the language of class warfare. Wage minimums commonly are said to protect oppressed workers against employer abuses. Actually the conflict is primarily between competing employers, competing worker groups within low-wage industries or competing geographic regions. The slogan, "stopping unfair competition," suggests what long has been a major political motivation behind minimum wage laws:

Mr. Chairman, I think the point made in that short paragraph is important in terms of the consideration by the Congress at this time of the committee-reported bill.

That bill, I think, would be a serious mistake.

The gentleman from New Jersey (Mr. Frelinghuysen) and the gentleman from Michigan (Mr. Esch) have both discussed in detail title III of this bill. I would suggest there is one other factor which must be considered in deciding whether or not to accept the committee-reported bill, and that factor is competition. Stifling competition can seriously disrupt the ability of groups, individuals, companies, and workers to function in our economy; moreover, it can do serious damage to those who are employed.

I think it inappropriate for the House to pass the committee-reported bill and for that reason I am going to support the Erlenborn substitute.

There are, Mr. Chairman, some other problems in the committee-reported bill which are solved by the Erlenborn substitute.

For example, in the individual views attached to the committee report, a number of us question the phasing out of the partial overtime exemption for employees of the regulated local transit companies.

A further provision of that section of the committee bill would repeal the exemption entirely on January 1, 1974. We think this exemption should be retained. Unusual conditions exist in public transit employment. Hours of employment cannot be made uniform because of factors not subject to the control of the employer, such as public demand and street and weather conditions. Imposition of the 40-hour-week overtime standard would result in increased operating costs at a time when there is ample documentation that gross revenues are down and operating losses are up. Further financial stress is likely in many areas to result in fare increases or reductions in service. For those who depend on public transportation, the repeal of this exemption could cause real hardship.

Mr. Chairman, I have received a communication from a transit union asking that we eliminate the overtime exemption. This I understand, but I could not help but be impressed by an article which appeared in the Oshkosh Daily Northwestern earlier this year which states in part as follows:

> The Milwaukee and Suburban Transport Corporation may very well be the only urban bus system in the State to have operated in the black during 1971.

Mr. Chairman, at the time we go back into the House I shall ask unanimous consent to have the full news report included as a part of my remarks. I think that it tells the story effectively and also explains a major problem of the committee-reported bill as it stands at the present time.

The news report follows:

> Most State Bus Systems Were in Red for Year 1971
>
> A survey by the state Department of Transportation of urban mass transit trends during 1971 concludes that the Milwaukee and Suburban Transport Corp. "may very well be the only urban bus system in the state to have operated in the black during 1971."
>
> According to the report, there are now 22 Wisconsin cities with local bus systems. The DOT report asserted "The outlook for 1972 is for an intensification of local efforts to maintain urban mass transportation systems."
>
> It said "In many communities the central question has shifted from 'Should we maintain a mass transit system?' to 'How can we improve the quality and efficiency of our transit system?' "
>
> There are six cities—Madison, Duluth-Superior, Kenosha, Ashland, Janesville and Stevens Point—which have public bus systems.
>
> Eleven cities—Oshkosh, Appleton, Fond du Lac, Manitowoc, Sheboygan, Rice Lake, Eau Claire, La Crosse, Watertown, Beloit and Wausau—have private bus companies which receive city subsidies.
>
> Green Bay, Marinette-Menominee, Milwaukee, Waukesha and Racine have private bus lines which receive no subsidies.
>
> The Madison and Green Bay system had by far the largest deficits. The Madison system lost $744,000 counting depreciation, during 1971 and the Green Bay bus operation had a deficit of $220,000.
>
> The losses in the other cities ranged from $75,000 in Eau Claire to $300 in Stevens Point. The Marinette-Menominee system broke even.
>
> The City of Oshkosh paid a subsidy of $12,000 to City Transit Lines in 1971. The subsidies paid to private operators in other cities ranged from $40,000 in Eau Claire to $2,400 in Watertown. Six of the cities with subsidies paid more than Oshkosh did.
>
> According to the DOT, City Transit Lines had a deficit of $5,000 last year, in addition to the $12,000 subsidy paid by the city.
>
> In the other cities with public bus systems, the Janesville bus operation lost $50,000, while Duluth-Superior had a deficit of $30,000 and Ashland a loss of $8,800.
>
> In Kenosha, the city's private bus company terminated bus service on Feb. 15, 1971, and a locally organized public commission started operation of a public bus service on Sept. 7.
>
> The adult cash fare in Oshkosh, 30 cents, was about average for the 22 bus systems. The fares for urban service ranged from 20 cents in Ashland and Watertown to 50 cents in Manitowoc.
>
> The fares were generally cheaper in cities with public systems. The Duluth-Superior system was the only public bus operation with a base adult fare of more than 25 cents.
>
> Oshkosh had 1,008,858 bus passengers during 1971, ranking it third in the state in the number of passengers carried, behind Madison and Milwaukee. The number of passengers carried in Oshkosh was 9.8 per cent lower than in 1970, compared with the statewide drop in riders of 9.4 per cent.
>
> Every city in the state, with a population

over 25,000 except for some Milwaukee suburbs, has a locally-operated bus system. But there was a big variation among these cities in the per capita ridership. Only 84,595 passengers were carried in Beloit and 37,325 in Manitowoc last year.

On the other hand, La Crosse reported 908,659 passengers and the Eau Claire system carried 869,452 passengers.

The figures reported by the bus companies don't show any definite correlation between the size of fares and amount of a bus system's operating losses and the number of passengers carried.

Only two bus operations in Wausau and Madison, reported that they carried more passengers in 1971 than in 1970. The increases were attributed to promotional efforts and improved bus service. In Wausau, a public transit commission is in the process of taking over the bus line, with the aid of a federal grant.

In Rice Lake, which didn't submit complete figures on its 1971 passenger business, the DOT reported, "Recent improvements seem to be paying off for the Rice Lake Bus Co. In one week alone (Dec. 13–19), adult passengers increased by 60 per cent over the previous week. New bus stops in outlying areas, city-purchased bus stop signs, strict adherence to the new bus schedule and newly printed schedules are some of the factors responsible for the increased ridership."

Mr. Chairman, in addition to that problem, there continues to be a need and a justification for the agricultural processing and seasonal industry exemption. It has been in effect since 1938. Unavoidable seasonality of supply and highly perishable commodities continue to make lengthy processing days absolutely essential. Conditions also mandate the location of plants in sparsely populated rural areas where shortages of seasonal labor during peak processing periods make it very difficult for employers to find sufficient labor to operate on a basis of 8-hour shifts. Overtime is the only answer. The imposition of a statutory premium for all overtime under these conditions is not only inequitable, but is ineffective in achieving the purpose of spreading work and reducing unemployment.

The precarious economic condition of the canning industry, for example, is well documented. The National Canners' Association reports that according to the 1967 census of manufacturers the number of establishments canning fruits and vegetables decreased 25 percent, from 1,630 in 1958 to 1,223 in 1967. Many canners will find it impossible because of their economic and geographic situation to operate without the present limited exemption for penalty overtime. If the raw product cannot be handled as it comes to the canning plant, much of it will be wasted, and delay in packing will reduce the quality of the canned product.

This is another reason why the Erlenborn-Fuqua substitute ought to be adopted. It would remove that inequitable provision found in the committee-reported bill.

A part of the Erlenborn-Fuqua substitute, which was found in the original Dent bill at the time it was introduced, H.R. 7130, is the so-called high-earners amendment. The Men's Wear Retailers of America, a national trade association representing some 4,000 independent men's wear merchants who operate in nearly 7,000 stores throughout the United States, state that this high-earner's amendment "is a chief legislative aim of our membership" and it is something with which I have worked with the gentleman from Illinois (Mr. ERLENBORN) in an attempt to insure that we do provide that a high-earner's exemption become part of the law.

This simple solution makes available to smaller employers their most qualified salespeople during their peak 7 weeks of the year, and only during a 7-week period. It applies only to the first 8 hours' work in any week beyond 40, and it does require the regular rate to be at least twice the applicable legal minimum. Only 56 hours of exempted overtime work in any one year would be available to employees who qualify.

I urge the House to support this relatively minor change in order that we have more equitable treatment for the small businessman.

Mr. Chairman, if I may, let me turn now to some other basic questions relating to that provision in the Erlenborn-Fuqua substitute bill which would provide for a youth differential. Many letters have come to my office from people in the State of Wisconsin and the Sixth District, and they relate some very important stories as to what will result if we do not consider the problems facing teenagers in the employment market. For example, one letter says:

> We have been in the retail . . . business for the past 24 years. We employ 21 to 24 part-time young men as carry-outs and stock boys. If this new law is put into effect—

And they are referring to the Dent bill—

> We will be forced to lay off all but six of these young men.

I am struck by further information which has come to my attention as a result of actions taken by groups active in this field. For example, the Future Business Leaders of America—Phi Beta Lambda, Inc.—is an organization of young people who are preparing for future responsible positions in business, has written the following:

> We urge you to support the "youth differential" concept as embodied in the Erlenborn substitute in order that more jobs and job training opportunities will be available to the youth work force of America.

Mr. Chairman, at the proper time I shall ask unanimous consent to include the full text of that letter so that it might be available to the members of the committee in their consideration of this question.

The matter referred to follows:

WASHINGTON, D.C.,
May 8, 1972.

Hon. WILLIAM A. STEIGER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: Future Business Leaders of America-Phi Beta Lambda is an organization of young people who are preparing for future responsible positions in business. Our membership is composed of the young people you hear little about—the responsible, hard-working youth of today who are working to build our country's strength and glory.

We are currently very interested in legislation soon to be acted upon by the Congress. Representative John Erlenborn has introduced H.R. 14104, an Administration supported minimum wage substitute to the Dent bill (H.R. 7130). This substitute will be offered next week if the minimum wage bill is taken before the House at that time. A basic provision of the Erlenborn substitute involves a "youth differential" which has the full support of not only the Administration, but also other major organizations representing the interests of young workers.

As we understand Mr. Erlenborn's bill, the "youth differential" would operate as follows: the current $1.60 minimum wage would be retained for (a) young workers under 18, and (b) full-time students under 21.

We urge you to support the "youth differential" concept as embodied in the Erlenborn substitute in order that more jobs and job training opportunities will be available to the youth work force of America.

If we can be of any assistance to you or your staff in relation to this matter, please feel free to call on me or my staff.

Sincerely yours,

O. J. BYRNSIDE, Jr.,
Executive Director.

Beyond that, the Office Education Association held its national convention recently in Columbus, Ohio. The Office Education Association is a 6-year-old association with 37,000 members, primarily secondary and post secondary students involved in business skills and office education.

The OEA passed a resolution as follows:

> Whereas the Congress is considering a "youth differential" to the Minimum Wage bill, and
>
> Whereas the Office Education Association wants to increase jobs for the youth, and
>
> Whereas we want to keep inflation at a minimum
>
> Now therefore be it resolved that the "youth differential" wage rate be included in minimum wage legislation.

Mr. Chairman, these indications of support by groups of young people, are very significant indications of the thought and support that ought to be given by the House for this purpose.

There are other people who have written me—a man who operates a woodworking company in the Sixth District in Wisconsin.

That letter is as follows:

SHEBOYGAN, WIS.,
May 8, 1972.

Hon. WILLIAM E. STEIGER,
House Office Building,
Washington, D.C.

DEAR BILL: I am writing as a private citizen about the legislation concerning minimum wages.

As you know, I operate a woodworking company, making frames for upholstered furniture. It has always been our policy to hire several retired (over 65) woodworkers who work part time each year until they reach the maximum allowed under social security regulations.

We also employ part time student workers. Most of these people work for 1.60 to 1.70 per hour. They comprise about ⅓ of our work force and ¼ of our man hour output.

Before the last two increases in minimum wages we employed two full time men to load and unload lumber by hand at minimum wages. They were not intelligent enough to work any other place in the shop. With the second last increase, we dropped them and used a fork lift to do their work.

After the last increase, we dropped a man who was employed to fire our furnace using scrap lumber. Now we have a gas boiler and a hauling service hauls our scrap to the city incinerator. (They like the wood.)

> Since wages and lumber amount to 80% of our costs a raise in minimum wages will force us to raise our prices and we will look for younger men to replace the slower older ones.
>
> When you talk about hard core unemployables, the constant raising of minimum wages have frozen these people out of industrial jobs. In summer time we hire vacationing students, but at a $2.00 per hour level, we would look for someone with better qualifications.
>
> I think a raise in minimum wages would negate the preachings we hear from Congressmen about hiring the poor man on relief and holding down prices. The latter two are much more important than raising minimum wages.
>
> Sincerely,
>
> ERNEST A. LUTZE, Jr.

That letter, Mr. Chairman, among others clearly indicates that there has to be recognition by the Congress of this problem facing employers, teenage employees, and if we do not adopt the Erlenborn substitute, we will do a disservice to the employability of those who at present time are in need.

Women, teenagers, nonwhite, and particularly nonwhite teenagers are especially hard hit. Before 1956, when the minimum wage was 75 cents, the quarterly unemployment rate among nonwhite teenagers ranged between 13 and 18 percent, several percentage points above the rate for whites. However, within 2 years, after the minimum wage went up 33 percent, the unemployment rate for white teens rose to 14 percent while the rate for nonwhite teens jumped to 27 percent. Since then, three more increases in the minimum have been introduced. And the nonwhite teenage unemployment rate has risen to over 30 percent, more than twice that for whites.

These are a number of reasons one might advance to explain the advantages of the substitute for the committee bill.

On balance, it seems to me, the best course of action available to the House tomorrow and the cleanest and most equitable way of handling this problem and providing for an increase is to adopt the Anderson amendment to the Erlenborn substitute and then adopt the Erlenborn substitute. As a result, we defeat the committee reported bill and go on about our business to effectively and efficiently raise the minimum wage and at the same time recognize the problems inherent under the minimum wage and particularly the problems involved in the question of youth employment.

Mr. Chairman, I urge the adoption of the substitute to the committee reported bill.

Mr. DENT. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan (Mr. O'HARA).

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. O'HARA. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. The gentleman from Michigan, earlier in a colloquy with the gentleman from Illinois, indicated that the provision on aliens had been something submitted by the administration. Could the gentleman clarify that statement for me, because I must admit I do not recall any such bill submitted by the administration and I would be interested in knowing to what you refer.

Mr. O'HARA. It is my intention to do so in my remarks.

Mr. STEIGER of Wisconsin. I thank the gentleman.

Mr. O'HARA. Mr. Chairman, I take this time to comment on section 214 of the pending bill—a section which I offered in the committee, and which, I feel, ought to be able to become law without serious controversy, since it embodies a proposal which enjoys the support of the administration, was adopted in committee without dissenting vote, and which only seeks, in effect to encourage greater respect for the spirit and letter of the law among a very small group of employers.

Section 214 would make it an offense, punishable by fine or imprisonment, knowingly—and Mr. Chairman, I repeat the word "knowingly"—to employ an alien who is in the country illegally, or who is in the country in an immigration status which makes such employment illegal.

A few remarks about what this bill does not do are in order, since there has been significant misunderstanding about its thrust.

This section does not seek to place any restriction on the alien that the law does not already put there. If an alien is in the United States illegally, he is subject to the penalties of existing law. This is already the case, and section 214 does not change it in any way.

This section does not subject to any legal penalty the employer who unwittingly hires an alien who is in the country illegally, or whose employment is illegal under the circumstances of his admission. Such an employer, who has not "knowingly" employed such an alien, is unaffected by this proposal. Neither does the employee have any obligation to ascertain an employee's immigration status.

The offender against whom this language is directed is the employer—and we have a few of them in this country—who exploits the illegal alien; who, in so doing, depresses wages and working conditions for every resident worker, and especially for the lawfully resident alien, and who under present law, runs absolutely no risk.

Here is how it works under present law.

One of these employers will hire an illegal alien. He may promise him anything—but he may well give less than he promised. In any event, he will probably pay him less than the minimum wage law requires. He will, in many cases, fail to cover the employee with social security, workmen's compensation, health insurance or the other protective devices which the law, Federal and State, may require—and the employee is totally powerless to do anything about it. If the employee makes any gesture of complaint, the employer can make an anonymous call to the Immigration Service—and the employee, already victimized by his employer—pays all of the penalty. The next morning, the employer hires another illegal alien and the process begins again.

The illegal alien is the victim. The lawfully resident alien, or the native-born citizen, is the victim because the wages and working conditions in jobs to which he may aspire, are held down through the competition from illegals. The employer shares none of the risk.

Section 214 of the pending bill will not end this practice altogether. But it will give the immigration and naturalization people a tool which they can use to crack down on known and blatant offenders among employers.

Some of us have been told that section 214 is discriminatory in its effect, that it will victimize particular groups of lawful residents, especially those of Latin-American and Caribbean antecedents.

Mr. Chairman, let it be said that it is precisely these Americans who are now the chief victims of the wage and working condition deflation that is permitted and encouraged by that gap in existing law which allows the unscrupulous employer to simultaneously exploit the illegal alien and use the labor of that illegal to bludgeon further into poverty and oppression Americans of the same ethnic strain who live on this side of our borders.

The language of section 214, Mr. Chairman, was taken directly from the H.R. 2328 administration immigration bill, introduced by the distinguished gentleman from Ohio (Mr. MCCULLOCH). I did not include all the provisions of that bill, because of the persuasive arguments of civil libertarians. The original bill contained a provision which would have established a presumption that the employer was "knowingly" employing such an alien if he had failed to make an effort to establish the job applicants immigration status. This provision is not in section 214, and I would have to oppose its inclusion. If it were in the law, then, indeed, the job applicant of, let us say, the Mexican-American community, no matter if his family has lived on this side of the border since there was a border, could be required to show "proof of citizenship" while some Irish cousin of mine, fresh off the boat from Cork, might not.

This flaw in the original bill was pointed out in the committee, by, among others, the distinguished gentleman from New York (Mr. BADILLO), and the gentleman from California (Mr. BURTON), and that particular language was stricken from the amendment before it was offered in the committee.

We have, I think, avoided the likelihood of utilizing this section in a racially or ethnically discriminatory fashion. We have done so, to be sure, at the cost of making the purpose of the law a little harder to attain. But that is a sacrifice I believe, as a civil libertarian, we were obliged to make.

I have discussed this legislation with some of the outstanding spokesmen for the Mexican-American community. I have discussed it, for example, with Cesar Chavez and other officials of the United Farm Workers. They agree, that the illegal alien has been at one and the same time the victim and the tool of exploitive employers who would like nothing better than to end once and for all efforts to bring decent wages and working conditions to agriculture. And Cesar Chavez has indicated to me that he supports section 214 of H.R. 7130.

The Subcommittee on Immigration of the House Judiciary Committee, under the very able leadership of the distinguished gentleman from New Jersey (Mr. RODINO) has also grappled with this problem—in greater detail and at greater length than has the Education and Labor Committee. And Mr. RODINO's subcommittee has emerged with an excellent bill, H.R. 14831, which would amend the Immigration and Nationality Act to the same end that section 214 would amend FLSA.

Section 14 of Mr. RODINO's subcommittee bill differs in detail from section 214 of H.R. 7130, but not in objective, and not in its effect. Mr. RODINO's bill in addition to making some conforming amendments in the Immigration Code, would also make illegal the knowing employment of an illegal alien. Unlike my section, Mr. RODINO's bill would give an offending employer a citation on his first offense, a fine on his second, and a jail sentence on his third or subsequent offense. Let me say frankly that I would be delighted to accept Mr. RODINO's section 14 as a substitute for my own section 214, if it is so offered.

It is, of course, my earnest hope and my expectation that all of the Rodino bill will be given expeditious and favorable handling by the Rodino subcommittee and by the full Judiciary Committee. It contains a great many provisions of great importance in addition to the provision dealing with the employment of illegal aliens. But since we have the vehicle before us for the speedy consideration of the present section 214, since we have the endorsement of the objective by the chairman of the Immigration Subcommittee, and by the administration, then I suggest we should move ahead with what we have, get it on its way toward the statute books, and then let the Committee on the Judiciary come up with a further refined version—which I, for one, will almost certainly support.

Let us look, very briefly at the magnitude of the problem this legislation is aimed at meeting. The figures and findings I mention below are from "The Border Crossers" a splendid study by the Transcentury Corp. prepared for the Department of Labor in 1970 by Mr. David North—who is a recognized expert on questions of immigration impact on the labor market.

According to North's study—which was limited to the Mexican border—something like a third of the total border crossing labor force in the border counties is composed of illegals.

Most border crossers, the illegal and the legal, according to North, do unskilled work, with the largest single occupation being farm work. This is particularly true, North finds, for the illegals.

Says Mr. North:

> The predominance of the evidence suggests that the border crossers have, in fact:
>
> A. Taken jobs which otherwise would be filled by residents of the United States.
>
> B. Depressed wages by their presence in already loose labor markets.
>
> C. Tended to reduce the likelihood of union organization.
>
> D. Tended to encourage border county residents to seek work elsewhere in the Nation as agricultural migrants.

Mr. Chairman, in my capacity as chairman of the Subcommittee on Farm Labor, I know something about the fearful conditions which confront migrant agricultural workers. As informed citizens, I think we all know something of those conditions. And the effort to alleviate those conditions is a bipartisan one. The Labor Department, for example, has announced a multimillion dollar program to help move agricultural migrants out of migrancy into a way of work and life that is less characterized by grinding poverty, instability, and powerlessness.

If this is the case, Mr. Chairman, how long can we continue to condone a situation which actually encourages people to become migrants? How bad must the presence of border crossers, especially illegal border crossers, make things if residents actually choose to go into migrancy as an alternative?

David North's report, after showing that wage levels, unemployment levels, and the absence of effective benefits from other labor protective legislation, decreases almost in direct ratio to the distance you come north of the border, makes the following understatement:

> It is our belief that the influx of close to 100,000 border crossers into the border counties and the departure of some 100,000 farm workers and their dependents from these same counties must have a relationship to each other.

North's study, of course, is 2 years old. The figures he used mostly dated to 1967, when unemployment rates, along the border and elsewhere, were lower than they are now. But the generalizations he draws from his careful study will stand up today. There are a great number—inherently, of course, an unknown number, of illegal aliens working within our borders. They are taking jobs away from others who have a better right to those jobs because they are here legally. The illegals are depressing wages and working conditions for the legal residents—and the illegals are not themselves really benefiting from these practices. The only real beneficiary—the one figure in this whole sordid story who has everything to gain and nothing to lose is the unscrupulous employer who knowingly employs the illegal alien—not out of compassion, not out of some sense that the alien should get a better break—but because he can use the illegal alien without any risk to himself and laugh at the laws so painfully put on the books to protect working men and women.

Section 214 of H.R. 7130, Mr. Chairman, would not put an end to this business—how I wish it would. All it will do, and it is little enough under the circumstances—is to make that unscrupulous employer share some of the risk which his employees and the legal resident workers who are vying with them for jobs, must now share among themselves.

I urge the approval of the section and of the bill of which it is a part.

Mr. ERLENBORN. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, there are many elements in H.R. 7130, the Fair Labor Standards Amendments of 1971. Each is important. Nevertheless, I believe that dangers inherent in title III of the bill are so important as to overshadow all of the other elements of the bill.

Title III gives enormous power to the President to control imports through quotas or other means. Perhaps the authority is sufficiently hazy so it will not work, but, nevertheless, title III establishes an intent of Congress that I believe this Congress strongly opposes. By including the import quotas and the buy American features into the minimum wage bill, the committee has guaranteed my opposition to the bill.

I strongly support the Erlenborn substitute for the principal reason that it eliminates title III from the bill. I realize that there will be other attempts to eliminate title III. I am not persuaded that those attempts will be successful, and therefore feel that it is essential to vote for the Erlenborn substitute.

For over a decade it has been clear that the United States no longer dominates international trade. In order for U.S. goods and services to compete effectively in foreign markets, we must be able to compete in as free an international trading environment as possible. Establishment of quotas by ourselves will invariably bring a raising of barriers in those areas which are our principal markets. By passing title III we can only contribute to our own disadvantage and eventual destruction.

The Treasury Department, Secretary Connally, the Department of State, and the White House through its special trade representatives and trade negotiators have been doing effective work in trying to put our dollars in equilibrium and to negotiate the reduction or removal of other trade barriers abroad. The passage of title III would be absolutely devastating to our efforts to improve our balance of trade.

Our negotiators have succeeded in getting agreement on the reduction of the value of the dollar and in allowing other currencies like the yen and the mark to rise in greater proportion than our direct devaluation of the dollar. Our trading partners have understood the difficulty of our position.

In addition to agreeing to devaluation, both the Europeans and the Japanese have agreed to certain reduction of barriers already. Further, we are preparing for continued negotiations in the 1973 rounds at GATT. While little progress has been made to the north in Canada, a considerable amount of improvement has been made in the European Common Market Community and in the Far East.

All of this would be destroyed by title III. Even though title III is couched in restrained terms which simply sound like an offer of job security to certain employee groups, the real effect of the legislation would not be restrained. Its effects would be inflammatory and the reaction to it would be swift.

Title III takes a meat ax approach toward the problem of protecting jobs. Because it does not consider the whole picture, it is surely discriminatory. Primarily, it discriminates against the farmer who must have foreign markets to prosper. In my own State, agriculture is by far the largest industry. Imposition of quotas could be far worse than an industrial recession or even a drought in Minnesota.

Nationally, one-quarter of every harvested acre in this country goes to export. Agriculture has been the bellwether of our foreign trade. This country could not stand for any reduction in agricultural markets abroad. Quite to the contrary, we must expand these markets. Export sales now amount to about 30 percent of cash receipts for all U.S. crops sold. Any protectionist effort by the Congress would severely harm the agricultural industry.

Another segment of our economy which would be immediately affected is that which relies on technology. In my district, we have a strong computer industry.

Sales overseas are important to the growth of these companies, who in the last 2 years have been adversely affected by defense and space cuts. We have enough unemployed engineers and technicians in my district. We do not need any more. Especially, we need no more caused by protectionism and retaliation thereto.

Title III has to be considered "back door" legislation. First, it does not have anything to do with minimum labor standards. Worse, the jurisdiction for foreign trade does not lie within the Education and Labor Committee. Title III has literally been stolen from the Ways and Means Committee which should have the experience and competence to handle this question. There are a sufficient number of bills pending before the Ways and Means Committee on this subject so that it is not necessary at all for the Education and Labor Committee to attach title III to the minimum wage bill.

The inexperience of Education and Labor to handle these problems is manifested in the general, vague and hazy language of title III. It is also manifested in the single-shot approach to the very difficult problem of providing job security to the employees of this country.

If we pass this bill including title III, the following will be the results:

First. U.S. international trade policy will be disrupted and reversed.

Second. Wasteful military procurement will be promoted.

Third. An international trade war will be started.

Fourth. GATT and other treaties and agreements will be violated.

Fifth. Consumers will pay higher prices.

Sixth. Inflation will be increased.

Seventh. Agricultural markets abroad will be threatened.

Eighth. Competition will be suppressed.

Ninth. Farmers will be discriminated against.

Tenth. Efficient industries will be discriminated against.

Eleventh. Inefficient industries will be protected.

Twelfth. Purchasing power (markets) abroad will be reduced.

Thirteenth. "Back door" protectionism will be established.

Fourteenth. The Ways and Means Committee jurisdiction will be usurped.

Fifteenth. On-going trade negotiations will be undercut.

Sixteenth. The benefits of devaluation will be negated.

Seventeenth. Unlimited quota power will be given to the executive.

Eighteenth. Total job opportunities in the United States will be reduced.

These defects, in my judgment, completely overshadow the advantages and the disadvantages of the minimum wage sections of the bill. I strongly support the Erlenborn amendment and any other amendment which includes the elimination of title III. This may be one of the most important votes of the 92d Congress. In the long run, our ability to compete in world markets will determine the general welfare of the people of this country. I urge my colleagues not to stifle our ability to compete through the passage of title III. Instead, I urge them to support the Erlenborn amendment and give this country a chance to restore its balance of trade and build new jobs through the development of greater exports.

Mr. ERLENBORN. Mr. Chairman, I yield 10 minutes to the gentleman from California (Mr. VEYSEY).

Mr. VEYSEY. Mr. Chairman, I thank the gentleman from Illinois for yielding this time to me.

Mr. Chairman, I rise in support of the Erlenborn-Anderson substitute to the committee bill. I would like to just mention some general problems I see in H.R. 7130, the committee bill, and then explain the critical importance of the sugar exemption.

Even before 1966, when the last change in the minimum wage bill was enacted, an economic parasite called inflation was eating away the purchasing power of the dollar at an intolerable rate. That erosion persisted until President Nixon, against his normal inclinations, was forced to take drastic steps to slow it. The public overwhelmingly supports the President's lead on this issue, but it remains to be seen if we in Congress, having authorized the President to take such actions, will allow it to work.

There is no question but that the inflation of the last few years indicates a need to make an adjustment in the current minimum wage rates. But an immediate 25-percent increase as proposed by the committee bill cannot be justified at a time when it is touch and go as to whether or not the inflation in our economy can be restrained. There is no way to reconcile this increase with the painful but necessary 5.5-percent guidelines issued by the Wage Board.

The minimum wage is the base against which thousands of other jobs are pegged. When the minimum wage is raised for unskilled and semiskilled workers these other jobs will also be upgraded to retain a differential that recognizes the difference in skill and experience. The compounding effect of these wage increases will generate a flood of price increase requests big enough to sink the whole phase II program. It will be impossible to resist this pressure on prices.

Now there are plenty of people who for ideological and partisan reasons would not mind seeing the President's program fail and I am far from happy with a controlled economy myself. But Mr. Chairman, the present alternative is economic collapse and chaos. I cannot believe the difference between the minimum wage rates proposed by the committee bill and those offered by the Erlenborn-Anderson substitute justify this risk.

But aside from the actual wage rates proposed in the committee bill there are serious problems with the structure and coverage of H.R. 7130.

I am concerned, for example, over the lack of an effective differential for young people. As I said in my additional views in the committee report, young people everywhere need above all else to relate to the real world of work. They need the opportunity to develop self-reliance and job skills. An effective youth differential can provide this opportunity—but the committee bill only continues the present intentionally self-defeating approach..

By limiting the differential to students, H.R. 7130 discriminates against young people who cannot afford to go to school and who obviously need the job more than the student who has a galaxy of Federal assistance programs available to him.

This discrimination is compounded by the prohibition against public employment agencies referring job seekers to jobs paying less than the minimum wage. If we are serious about helping young people enter the job market the substitute offered by Mr. ERLENBORN is essential.

A second specific problem I see in the committee bill is the extension to nursing home employees. This provision alone will substantially increase the monthly cost for several thousands of my constituents who live in these homes. Of all the classes of people who can ill afford to pay more, nursing home residents and their families are probably at the top of the list.

But Mr. Chairman, the provision of this act which I specifically want to bring to the attention of my colleagues is the repeal of the exemption for sugar workers.

Sugar is a basic and indispensable commodity. It is essential to the preparation of almost every food product we eat. The price of sugar has been carefully kept at very reasonable levels under the general regulations of the Sugar Act. We should know what we are doing before we raise the price of sugar since raising the price of this basic ingredient will lead to disproportionately higher food prices for consumers everywhere.

The committee bill proposes to raise the price of sugar by requiring the payment of overtime during the harvest. On its face this sounds reasonable enough. The idea behind overtime after all is to provide an incentive to spread work out to more people and to prevent fewer people from working longer.

But when there is no way to avoid having to do a huge job in an extremely short period of time this incentive becomes a severe and unfair penalty.

Both sugar beets and sugarcane are extremely sensitive to changes in the weather. Too much heat, a storm, a rain or a frost stops their growth or the harvest and the plants then consume their own sugar. In the event of unseasonable weather thousands of acres of beets or cane may have to be harvested literally overnight. The same thing happens during normal harvesting. Once the plant is cut it deteriorates rapidly and must be processed immediately.

There is no possible way to avoid around-the-clock harvesting and processing of this crop. Forcing the payment of overtime would more than double the cost of the harvest and raise the price of everything we eat. The exemption for sugar harvesting and processing, which is present law and retained in the Erlenborn substitute, is appropriate and necessary. It affects a declining number of workers at the present time but its revocation would raise the cost of living for every one of our constituents.

Mr. Chairman, this question is vital to the sugar industries in California, Hawaii, Colorado, Louisiana, Florida, Texas, North and South Dakota, Utah, Idaho, Wyoming, Michigan, Minnesota, New York and Oklahoma. I ask my colleagues to support the Erlenborn substitute which would retain the exemption.

Mr. DENT. Mr. Chairman, I yield 5 minutes to the gentleman from Allegheny County.

Mr. GAYDOS. Mr. Chairman, I wish to thank my friend and colleague and the chairman of the committee for yielding me this time to enable me to make some observations.

We have had three of our colleagues, and all three are members of this subcommittee, come down into the well and raise all kinds of questions regarding title III. I have heard references to retaliation from foreign countries. I am assuming they are speaking of West Germany, Luxembourg, France, Italy, and the group of countries which form the Common Market. I am assuming they also include Japan.

Those of us who have kept a very sharp eye on trade problems as they affect our individual districts and our country generally will try to go into some of the history.

We feel that title III is important and should be in the bill. The question was raised whether it should be rightfully before the Committee on Ways and Means. That is fine. There is legislation before that committee, but they are doing nothing about it. The question is do we have jurisdiction? Yes, we do. Proof of this is found in the Trade Expansion Agreement in 1962, better known as the Kennedy Trade Expansion Act, which has been fully implemented recently, in the last month, and which has another 6 months before it can be fully concluded, with arrangements made during negotiations in what they now refer to as GATT—Congress gave authorization by legislation to the administration to carry on these negotiations. Unquestionably and fundamentally the right remains here in the Congress to do exactly what my good friend from Pennsylvania wants to do under title III.

Anybody who has studied the world trade situation knows that since the beginning of man every major conflict was fought because of trade. That was the underlying factor. Economic trade. In fact, when we first established our country, during the revolution, an important factor that brought that on was the problem of trade between the States, and internationally.

We cannot wait for an indefinite period of time until some committee in this House takes action in this very vital area.

Mr. Chairman, I do not want to spend my time going into detail on the voluntary arrangement which the State Department recently announced. I do not want to talk about the last 3 years of the voluntary arrangement, which did not work and as a result of which we had lost many industries.

In my district we have the Westinghouse Electric Co. which makes water wheel generators. They have been sold to Italy and have had a market there for years. As recently as 3 months ago the product that they manufacture was excluded by the Government of Italy through a new device used to get around the GATT agreement. We call these nontariff barriers, and the device is called an equalization tax.

I want to ask my friend from Pennsylvania whether or not under title III as it appears in the bill, we would not be doing the same thing that Italy, West Germany and France do today under the guise of an equalization tax which, as I understand it, is a tax imposed by these governments, regardless of the agreement which is in effect—GATT. That when they put it into effect it is tantamount to placing an additional retail cost onto a generator manufactured in this country. This is done primarily and specifically for the purpose of bringing the retail cost of that generator up to equal the cost for a like generator which is manufactured in Italy.

I would like to ask the gentleman if he would explain the differential or the similiarity between what he is trying to do in title III and what these countries are doing under the guise of nontariff barriers.

Mr. DENT. In response to the question of the gentleman from Pennsylvania, I must say that all of us who are left here already have our mind made up.

However, I want to make a statement to you and you think about it for a minute.

There is not a single trading partner of the United States anywhere in the world, that allows a single American product to be landed and sold in the bloodstream of their commerce at a price less than the parity cost and selling price of their own product.

We on the other hand sell agricultural products or export them at a cost of $4 billion in subsidy which is paid by the American people——

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. DENT. Mr. Chairman, I yield the gentleman 5 additional minutes.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 5 additional minutes.

Mr. DENT. This is done at a parity of the world parity production cost and yet we must sell our products in foreign countries. Our manufactured products at their local parity cost anywhere this Nation prices the products at our parity of cost and our production, in the agricultural field are paid for at a parity between 85 percent and 95 percent the closing down of American industry and agriculture will continue and because of this equalization tax—and there are other taxes under the so-called barriers—there are barrier taxes plus the fact that they have all kinds of equalization taxes as well as over-the-border taxes.

Now, let me read you a statement, not made by me, but made by the executive vice president of the First National Bank of Chicago in his speech and presentation on the international competitiveness of U.S. banks and the U.S. economy.

This to me is the most astounding and frankest admission of anyone in such a powerful and knowledgeable position to make in this day and age in the face of the attitude of this Government, and I quote:

> However, there is strong evidence to suggest that the United States is going out of the manufacturing business; and if we abdicate the manufacturing function, we will also lose the related skills of design and technology.
>
> As our relative position in manufacturing erodes, so will our position in services, because many service industries are directly dependent upon a broadly based manufacturing economy.

This suggestion which seeks to take care of it, speaking through the thinking of an international bank is that we should bring in the know-how and we would have to have a reverse flow of technology and marketing and know-how to the United States.

He goes on to say:

> Our marketing is no better—and sometimes worse—than our competition's. As our relative position in manufacturing erodes, so will our position in services, because many service industries are directly dependent upon a broadly based manufacturing economy. Many customers tell us that the United States is not presently a good place to invest in manufacturing; and if the choice is either to make a product or buy the product, the decision will almost always be to buy.

Industry will always buy that product if it is more profitable. That is exactly the reverse and opposite to the attitude of every other nation on the face of the earth. You talk about retaliation, the only products they buy are the products they need. They do not buy any that they do not need. They do not allow their people to buy automobiles that cost less than what they can make them for in their country. I am telling you that whatever this House does, no one can change it. I know of the pressures from those who are producing goods under trade agreements that are so well established in the United States of selling those products back in the United States at the same price as they are selling their own American domestic-made products. I am telling all of you that I was in France when De Gaulle put the embargo on the American chickens. When he did that was he interested in the consumers who were paying 80 cents a pound for those chickens? No, he was not. And what did he do? He put an embargo on those American chickens that were being sold to the French people for 19 cents a pound. Was he worried about destroying the French or whether his consumers would be able to get a Hong Kong necktie, or a Hong Kong shirt made by 6-cent-an-hour labor? Not at all. He was worried about the strength of the French franc. And so long as you allow these things to cut away at our products, we are in danger. We are trying to restore this country, but we cannot do so so long as we continue to destroy the American dollar, and the American machines.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

Mr. DENT. Mr. Chairman, I yield 5 additional minutes to the gentleman from Pennsylvania (Mr. GAYDOS).

Mr. GAYDOS. Mr. Chairman, I thank the gentleman for yielding me this additional time, and I wish to commend the chairman of the subcommittee for his very fine in-depth and complete comprehension and understanding of the trade problem.

Let me just refresh our colleagues' memories regarding the recent balance of payments deficit of last year, which happens to be on the minus side of $2 billion. Since 1965 and on, we had a surplus of $7 billion, and we are now as of last year $2 billion on the minus side. We have switched around, and changed our balance of payments, by a total of $9 billion.

Now, if that does not excite somebody, or this body, then I do not know what is necessary in order that we can jar some action on this serious problem. Someone asked why we did not let the Committee on Ways and Means handle this matter. We cannot wait that long. We cannot wait if the Committee on Ways and Means is going to be subjected to all the pressures that come from the international and multinational corporations, that come from different business people, that come from franchises, that come from the importers, that come from 200 or more of the 1,000 leading corporations who have over 50 percent of their investment assets overseas. And these are the source of a lot of pressure. If we are going to wait we are going to be in a most difficult trade situation.

I do want to reiterate that the voluntary arrangement which has recently been announced by the State Department leaves much to be desired. It leaves economic areas that are unaided such as geographical distribution of products, and in addition they should make some reference to the fact that our speciality steels should have extra consideration in this agreement. We were burned last year, in fact, the past 3 years. The import quotas for last year provided under the voluntary arrangement for about 16 million tons, plus. Last year we imported 18.3 million tons of steel.

The State Department is now using these voluntary arrangements which are not bilateral agreements in other trade problems. They are just letters of intent, not binding, no sanctions, no penalties. They are using it in the textile industry, and as I understand they are looking at the possibility of using this type of voluntary restraint arrangement in the heavily penetrated electronics industry.

I can go down a list of literally thousands and thousands of industrial activity in this country that are already functioning at 50 percent less than they did over the last 5 years.

We do not manufacture Christmas tree bulbs. That may seem to be very unimportant, but it is indicative again that we are in trouble when we cannot buy that which is so meaningful to our people.

You can go into other areas, for instance, costume jewelry—costume jewelry is not manufactured in this country. You can talk about light bulbs, recording machines, typewriters, calculators, and everything imaginable.

This is the problem referred to by the Secretary of the Treasury Connally who said it directly during the recent dollar devaluation—this country is in trouble. He said it. So has the administration. President Nixon in his announcement on the recent voluntary steel arrangement said finally—this is the answer and we are going to help "preserve jobs."

All the while, while we are talking about this problem—the administration and the Secretary of Commerce and the State Department tell us it is not a big problem. They tell us—you do not want to set off a trade war or trade retaliation where nobody gains.

Gentlemen, I think my chairman agrees with me—we must try to keep attuned to these particular problems, because it is affecting his glass industry and my steel industry where we make practically 35 percent of all the steel in the country.

I do know this. We already are in a war and I think we have lost most of the battles. I hope we do not lose the war.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman.

Mr. DENT. Last week the President of the United States ordered to open up a reduction of the glass tariff, a reduction under the previously agreed GATT agreement.

At the same time that was done, I learned of an agreement negotiated by the State Department, the United States with Russia. You have a whole list of products that are going to be imported from Russia to pay for the $3,200,000,000 worth of production machinery to be sent to Russia, financed by the United States, and to be repaid by Russian products from those plants, plate glass made by the latest development in the float process and glass from this most modern process into the United States at a cost far below our ability to achieve. This is the end of the already weakened glass industry.

There will not be a glass industry in this Nation in 5 years.

Mr. GAYDOS. I thank the gentleman. I want to close with these two observations.

First. Nobody advocates a closed door policy that is not consistent with international trade. Nobody is advocating that. We are asking for fair trade.

Second. Take a look at this section—title III. I think here are the mechanics of doing something. You cannot sit doing nothing. Here is an opportunity of doing something that other countries are already doing.

This equalization tax is a good example. They are doing what title III purports can be done by this Congress, if we want to take action in a very vital area.

We are not asking for anything other than this.

For our free traders, and we have many in that group—this is not an anti-free trade legislation at all. This is fair trade legislation that is badly needed.

I hope at least we leave some impression with some of our colleagues that this is a serious problem as indicated by our present trade deficit and by the administration's admissions. A start must be made somewhere along that line. Here is a good place to start.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. ZWACH).

Mr. ZWACH. Mr. Chairman, I want to address myself especially, very briefly, to the agricultural aspects of this legislation. As a farm producer and as a farmer, I am tremendously concerned. This is my first major contact with minimum wage legislation at the Federal level. I am very disappointed that there is a distinction between payment to farm labor and to other types of labor. If that is an implication, which I think it is, that countryside labor is being treated less favorably than other segments of our economy, then I am even more dismayed.

I prepared an amendment to this legislation to firm up farm supports so that we could pay the same minimum wage as every other group. As a farmer, I do not want to pay less to people than is paid to others. I want to be able to pay the same amount.

I would like to ask the gentleman from Pennsylvania (Mr. DENT) what is the background of a discrimination against farm labor in this minimum wage legislation?

Mr. DENT. I will say to my dear friend that I agree with every word he has said. Up to 1966, the last piece of legislation I put through, it was impossible to cover farm products in any sense. When this later bill was introduced, H.R. 7130, with section 102, when we introduced that piece of legislation I made the minimum wage in the bill equal to the industrial minimum wage. A substitute by a well-known Republican who is famous for substitutes changed that.

Mr. ZWACH. I wish to come to grips later in this Congress with fair supports for the economy of countryside America, and at that time I would gladly sponsor legislation to make the pay to farm workers equal to that. We want fair income. We also want to pay fair wages. We want America to be equal across the board.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. ZWACH. I yield to the gentleman from Pennsylvania.

Mr. DENT. You will find me right with you in your fight. I want you to know that my district is about 40 percent rural and they are men just like you. They do not want any favors. They want to pay their workers and they want to participate in the economy. They want exactly what others in this country require—a decent parity price for their product.

Mr. ZWACH. I thank the gentleman. Mr. Chairman, I would like briefly to address myself to title III of the bill. I would like to say very frankly and very sincerely that it is not as simple as just sloughing off title III from this bill and everything will be rosy in America. People talk about agriculture needing an elimination of title III. I want to say right here that in the world economic market Japan has high tariff walls against U.S. agriculture. In the economic market of Europe—and this is almost unbelievable—the tariff, if you please, against feed grains is 130 percent ad valorem. Think of that. One hundred and thirty percent ad valorem. Talk about us erecting some barriers. There they really have barriers. Support for corn in the European market to the producer is in the area of $2.40 a bushel. So the barrier levied against corn is $1.20 a bushel.

Mr. Chairman, our Nation's agriculture would feed the world if we had so-called free trade. We are that fiercely competitive, productive and economic. So the question is not merely one of the elimination of title III.

I would like to say to this committee very seriously that if the 1970's go with regard to world trade the way the 1960's went, we are not going to have any great 1980's and 1990's. We are not going to have a great future, and the problem that the gentleman from Pennsylvania raises is a very serious problem. It needs full and careful discussion. Thankfully, for the first time, agriculturally, in a long time agriculture is on the front burner with regard to world relations and world trade, and that is because of our bad balance of trade. We are the one hope that could shortly help to alleviate some of that situation.

But it is a serious matter. We cannot sweep it under the rug. We have to come to grips with it. Labor, employers, coupon clippers, the general public of America have got to come to grips with this problem if we are going to go forward to a great future for our country.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise today in strong support of H.R. 7130, the Fair Labor Standards Amendments. I believe that one word in the title of this bill should be occupying a foremost position in our thoughts—the word "fair." We must not forget that we are dealing not only with figures but also with people—people who are faced with a continuing struggle for sustenance. The decision is one we cannot make dispassionately.

H.R. 7130 would increase the minimum wage from $1.60 to $2. for nonagricultural workers, and from $1.30 to $1.70 for agricultural employees, by January 1, 1973. The bill would also extend the coverage of the Fair Labor Standards Act to several previously neglected groups of workers. In addition, the bill would provide special incentives to employers to hire full-time students as part-time workers.

There are those who argue that a jump from $1.60 to $2 per hour comprises a raise of 25 percent, far above the Pay Board's recommendation of 5.5 percent. Therefore, the argument continues, the measure is vastly inflationary. I fail to see the logic of this position. First of all, the Pay Board has ruled that wages beneath $1.90 per hour will not be considered by the Board. The reason for this is because those wages are low enough that even a sizable increase would not be considered inflationary. Therefore, if we use $1.90 as our base figure, and then raise those wages to $2 we have a raise of less than 5.3 percent. I do not see how this percentage can be considered inflationary even to the Pay Board. Secondly, this wage increase is designed to compensate for the relative loss in buying power due to the inflationary spiral. The people who will benefit from the wage increase will still have a very low standard of living. The increase in buying power that will result will not produce appreciable further inflation.

The special provisions for full-time students are also worthy of our support. The committee bill would allow fulltime students to work for not more than 20 hours a week for 85 percent of the effective minimum wage or $1.60—$1.30 for agricultural workers—whichever is greater. This provision was not designed to be used to advantage by unscrupulous employers who could dismiss regular, higher paid employees in favor of cheaper, student labor. The substitute bill, on the other hand, provides for a lower wage for all youth, so long as the lower paid youths do not replace or cause the dismissal of other workers. I fail to see the logic behind this substitute suggestion. The proponents of this provision argue that this would increase employment for youths who have been hard hit by the present recession. To them I can only suggest that if they really were in favor of reducing unemployment among our youth they should support the several job-creating measures now pending before Congress. A lower pay rate for all youth will not appreciably lessen unemployment among that age group.

I believe that H.R. 7130 is a fine example of productive, well thought-out legislation. My colleagues on the House Education and Labor Committee, especially Hon. CARL PERKINS and Hon. JOHN DENT, deserve our congratulations and support.

Mr. CLAY. Mr. Chairman, the need to increase the minimum wage and provide this coverage to some 16 million additional people is a matter of urgency.

The present minimum wage of $1.60 an hour passed by Congress in 1966 is no longer adequate. A worker earning $1.60 an hour receives an annual salary of $3,200 which is far below the Government's poverty level. An increase to $2 an hour would only bring this working class group to the 1970 poverty level. How can any Member of this body deny people the minimum standard by which they can survive. Nearly two-thirds of the 24 million poor in this country are members of families headed by a worker in the labor force.

Suggestions that this bill is inflationary are groundless. Minimum wage earners do not create or contribute to inflation—instead, they are its principal victims.

One of these groups among the victims is the domestic household workers. We, in this House, have the opportunity to extend the minimum wage coverage to domestics and to correct the intolerable conditions under which they are forced to live.

The overall picture of the domestic household worker is a dismal one. Domestic employment has declined from 2.5 to 1.5 million in the last decade while the need for household workers has more than doubled. With low wages and long hours there is no incentive for persons to seek domestic work.

The statistics reveal the median annual income for a full-time domestic worker is $1,800 per year. In 1969, 81 percent of all these workers earned incomes amounting to less than $2,000 and 57 percent earned less than $1,000 after even all forms of social insurance and public assistance payments had been included. It is amazing that those on welfare under the administration's proposed meager reform plan would fare better than the domestic workers.

Poverty is not the only problem facing the American domestic worker. The majority of these workers rarely receive any fringe benefits, such as paid vacations, sick leave, and health insurance. These benefits are taken for granted by all others in this country's labor force. In many cases, an employer may not only refuse or neglect to deduct social security from the worker's paycheck, but may fail also to contribute the employer's share as required. If this matter were left to the States to correct nothing would be done—for only three States have taken steps to bring household workers under their minimum wage laws.

Two-thirds of all these workers are black and many of the remaining third are from other minority groups. Although passage of this single bill will not change the attitudes of an entire Nation toward domestic workers—it will be a first step in saving this occupation and bringing dignity back to those in it.

I urge my colleagues who have the power to effect such a change to vote for an increase in the minimum wage, and an extension of the minimum wage coverage to domestic household workers as well as the other millions of workers who have been excluded from protection of this law. I also urge my colleagues to reject all of the attempts which seek to undermine and weaken the intent of this bill.

Mr. BRASCO. Mr. Chairman, we are once again faced with the necessity of insuring that millions of American workers receive wage justice. The Fair Labor Standards amendments we are considering have been brought to the floor by the Education and Labor Committee in response to a very real need.

Many American workers are being hurt economically by a variety of economic factors prevailing in the economy. For one, the freeze on wages has hurt many of the people who must labor for minimal wages. Prices have risen astronomically, while their wages have remained either frozen or fixed by other factors in the economy. As a result, very real hardships have been worked on them, and it is vital that we insure that there is some relief offered by raising the minimum wage. This it is in our power to do, and by supporting the committee measure we can do exactly that.

Many groups of American workers have been harmed by imports of cheap goods made by even cheaper labor abroad. It is a very real fact of life in this country that practically every industrial district in the Nation contains some industry or another which has sustained severe economic damage because of this state of affairs. Title III of this measure is designed to redress that imbalance for affected workers by government assistance.

It is also true that the lower paid worker in this country, harmed most by the freeze and fixed minimum wage, is the most silent and the one who suffers the most. If the American middle class has been hurt so badly, as we have been given ample evidence of in recent months, the impact upon the lower income worker who often toils for the minimum, is far worse. He has no choice of steak or hamburger. For him and his family, it is often a question of eating or not. Such a state of affairs a nation such as ours cannot tolerate. Stable, middle-class workers in almost every State of the Union have watched helplessly as foreign imports have devastated their industries. Many a closed factory across this country is mute evidence of their eventual fate, and the number grows constantly. Untrammeled free trade is a costly indulgence, in spite of the arguments of many academics.

The economic necessities confronting us and millions of American workers require affirmative action on this measure raising the minimum wage.

Mr. COTTER. Mr. Chairman, I believe the debate on H.R. 7130 today indicates some very basic differences in approach to our Nation's economic problems. Many Members argue that the minimum wage increase should be spread over a number of years; others argue that it should not be increased at all. I believe that this aspect has an unreal quality about it. The $2 minimum wage would give the head of a family the grand total of $4,160 per year.

This yearly total means that working men or women, receiving a $2 minimum wage, will be at or below the poverty level. Take my own district. In a recent study by the Bureau of Labor Statistics, the Hartford area was the third most expensive area in the Northeast. The annual low income budget for a family of four was $7,920. The middle income budget was $12,027. This is what it costs to live. How do these figures compare to the $2 minimum which gives the worker $4,160, before the deduction of taxes and social security. Not very well.

Further, it is estimated that, for an average family of four on welfare, payments in Connecticut would amount to $4,068 per year, excluding free medical coverage. It can be seen from this figure that even with this minimum wage a person could get more on welfare. What this suggests is that the minimum wage has not kept pace with the cost of living.

This modest increase in the minimum wage, only up 15 cents from the Connecticut State minimum wage of $1.85, is not unreasonable.

I am sensitive to the issue that an increase in the minimum wage will create more unemployment. I feel the preceeding figures indicate that working men and women in my district cannot sustain themselves with any less. Indeed, in talking with many constituents, I find very few who are receiving less than the proposed new $2 minimum wage.

Therefore, Mr. Chairman, I will support this provision to increase the minimum wage and extend coverage, and I will oppose all efforts to modify the sections dealing with minimum wage.

I have more serious reservations about title III of the bill. Title II provides extraordinary power to the President to impose quotas and tariffs. The President is to go this drastic route when the Secretary of Labor discovers some adverse effects on U.S. markets by foreign products. The criteria are very vague, but the latitude given the President is very great. This is a very grave weakness.

The problem of overseas competition is a very complex and serious problem. In my own district we have had examples of companies moving overseas to get into cheap labor markets. The social concern of such companies is dulled by their all-consuming passion for profits. Workers who have labored for years are shunted aside by these companies.

On the other hand, our county of Hartford is the 13th leading county in the amount of U.S. exports. This means that there are thousands of jobs tied to overseas trade in my district. I am fearful that the imprecise allocation of authority under title III will lead to a trade war that will not end the flight of U.S. jobs overseas, but will create havoc with the work force tide to our export industries.

Therefore, I will oppose title III. Overseas trade deserves independent and careful analysis and should not be tied to this bill. I believe my own approach to the problem of overseas competition, embodied in the Cotter Job Protection bill, offers a more realistic and effective means to end unfair international trade.

Basically, my bill calls for a repeal of the U.S. tax loopholes which encourage corporations to move overseas. One current tax provision requires taxation of overseas investment only after such investment is returned to the United States. This encourages American businesses to keep their money and jobs overseas. I believe this should be repealed. Further, the unnecessary tax credit for overseas taxes should be removed and the overly generous depreciation allowance for foreign assets be rewritten to discourage exporting U.S. jobs.

A key feature in my bill is to prevent unfair trade practices. At the point, I agree with the objective, but not the method of title III. I believe that "dumping of goods," that is selling in the United States at lower prices than are available in the country of origin, is unfair and should be stopped immediately. My proposal does not place the burden on the Secretary of Labor, who already has too many duties, but revitalizes the Tariff Commission and requires complete and forceful action within 4 months when there is a violation of the Anti-Dumping Act. Further, the definition of "injury" to be applied by the revitalized Tariff Commission would include consideration of the impact on employment and working conditions.

The language of title III is vague and I can conceive that it will lead to a trade war that will cost U.S. jobs and also tremendously increase the cost of goods for consumers. However, I believe the Congress should give consideration to legislation to end tax loopholes for U.S. businesses moving overseas and the Tariff Commission should be upgraded to enforce sanctions against nations using unfair trade practices.

In conclusion, I will support H.R. 7130, but will not vote for title III.

Mr. LLOYD. Mr. Chairman, you cannot solve the problem of inadequate income by passing a law, anymore than you can change the weather by passing legislation to prohibit the wind. This legislation is politically motivated. There is nothing wrong with such a motive, of course, inasmuch as it is our responsibility to reflect the views of our constituency, but it has about as much chance of reaching a worthy objective as the hound chasing the rabbit at the dog races.

The committee bill is shamelessly inflationary and will be reflected through increased costs in increased prices, harmful to all, and especially harmful to those living on low income.

By not making reasonable student exemptions, the committee bill is unrealistic. With student exemptions as proposed in the Erlenborn-Quie substitute and in the Anderson stretchout, the harm resulting from the bill will be reduced, but not eliminated.

The best argument for the bill is that inasmuch as minimum wage legislation is the law of the land, it is only reasonable that the minimums reflect inflationary increases, just as we do in salaries, social security, and the rest. But since the minimum wage concept is unfair, harmful, and unrealistic in solving economic problems of our lower paid and unemployed citizens, I see no reason to bring the charade up to date.

One of the worst aspects of minimum wage legislation is that the burden falls disproportionally and unfairly upon those least able to pay. That is the smaller employer. The smaller employer is generally the nonunion employer. The large employer, the union labor employer, is aided, of course, because of the added burden upon his smaller competitor. If the smaller competitor finds it more difficult to exist and is forced nearer the point of extinction, then well and good for the larger employer who is already under the control of union wages, and well and good for the union too, because it expands the business of the union employer and thus the jurisdiction of the union. Thus is forged the involuntary marriage of the labor union and the labor union employer which has all the force of a conspiracy backed by law to force the smaller employer to the wall.

As the burden upon the smaller employer gets heavier—for his forced increase in minimum wages must be reflected in similar increases throughout his entire labor force—the weaker becomes his ability to give employment to the youth who want to get started in work and the more difficult it becomes for the smaller employer to give extra part-time work to neighbors and townspeople. Thus, unemployment increases among employees of the smaller employers at the grassroots and must be made up by the large employer dealing with organized labor. Eventually, under the trend encouraged by this legislation, we will not have to have any minimum wage legislation because the only employers left will be the giant employers with the giant labor union who will not need the help of this kind of legislation any more to knock off their smaller, nonunion competitors.

Mr. **BYRNE** of Pennsylvania. Mr. Chairman, for more than a year the House Education and Labor Committee under the astute leadership of Chairman PERKINS and the subcommittee headed by my colleague from Pennsylvania, Mr. JOHN DENT, have labored hard to report a bill amending the Fair Labor Standards Act of 1938. It has been a long, rough journey for the subcommittee members and the full committee. But today we are happy to see that their efforts have produced a bill that deserves the support of every fairminded legislator who is concerned with both the welfare of his country and the millions of people who toil to make it the best possible place in which to live, work, and play.

H.R. 7130 now before us has been long overdue on this floor. It no doubt will provoke much debate both for and against, and this will be done with all good intentions by those who view the issue of minimum wages and labor standards from different perspectives. However, several factors must be emphasized in this debate—factors that can stand hard scrutiny by those opposed to all or some of the provisions of this bill.

The overriding argument supporting early passage of H.R. 7130 is the simple fact that it is an attempt to help poverty workers. Yes, it is an attempt to help those workers in Government, on farms, and in private industry who are paid wages at levels determined by our own Government to be inadequate to meet today's basic needs. It is an attempt to help these workers keep abreast of the rest of the economy.

Mr. Chairman, H.R. 7130 will do little more than raise the earnings of millions of workers to a level closer to the amount necessary to just maintain the standard of living for an average family of four prescribed by the last statutory amendments to the Fair Labor Standards Act in 1966. Let me emphasize that the increases proposed by this bill do not establish minimum subsistence levels for a family of four but merely narrow the gap between existing minimums and an adequate income level.

The $2-per-hour minimum proposed in H.R. 7130 for nonagricultural workers and the $1.70-per-hour minimum reached after 3 years for farmworkers employed by operators who meet the requirements of the bill are being criticized as proposals that will exert inflationary pressures on the economy.

Mr. Chairman, inflation and high unemployment have been with us for far to long, and without the impact of a minimum wage law. It should be obvious to us that forces are involved in inflation and unemployment that have little, if anything, to do with an increase in the minimum wage. Let us not foresake the millions of low-paid workers in the United States on the strength of a fallacious argument. The total wage bill for the increases in the minimums proposed in H.R. 7130, including raising the minimum and extending coverage for farmworkers who are just starting to be accepted as equals in the labor marketplaces of America, is just a tiny fraction of the existing wage fund.

From an economic point of view there is little argument to refute the contention that the increased purchasing power generated by the raise in the minimum wage for those now receiving less than the proposed minimums will far outweigh the alleged "inflationary" effects of a higher minimum wage.

Mr. Chairman, the problems of inflation and high unemployment are not going to be totally solved nor aggravated by this bill. However, its positive effects are too powerful to forgo. In addition, studies of the historical effects of past minimum wage laws on unemployment, be it for youths or adults, have consistently found that an increase in the minimum wage alone has not seriously aggravated unemployment.

Mr. Chairman, all the arguments against H.R. 7130 derive not from the effects of a higher minimum wage, but from the effects of a sluggish economy with a built-in high level of structural unemployment that has taken a serious toll in jobs and purchasing power among those least able to cope with imperfections in the labor market. A concerted effort on the part of all segments of our economy to put our country back on the track to full employment and reasonable price levels and a steady rate of growth will negate all the arguments against this bill. It is therefore nothing more than good logic to include H.R. 7130 among all the other efforts being made to move our economy out of its slump. By providing the great mass of workers at the lower end of the salary structure with a means to keep pace with the rest of the economy, the fight we are waging against poverty, against unemployment, and against deteriorating living standards for millions of presently excluded workers will be well on its way to victory. I call on my colleagues to act with a combination of compassion and good economic sense and vote for passage of H.R. 7130.

Mr. **SMITH** of Iowa. Mr. Chairman, the subject of appropriations for health matters has been mentioned.

As a member of the subcommittee which recomemnds these appropriations, I have had an opportunity to follow very closely the various health proposals, the recommendations of the administration for each of the programs and the appropriations process for the last several years.

It is true that at the present time there are more worthy applications available for basic research compared to the dollars that have been available to pay for them than was the case in many previous years. However, there is another matter in which I am particularly interested and that is the matter of adequate personnel for the delivery of health care. Basic research is important, but it is also important to have the people who can carry it forth. The greatest shortage of health care in this country is in the field of preventive health. It seems obvious to me that the only way we can make the substantial increases of availability of preventive health care that we need is to somehow reform the delivery system so that physicians can legally delegate to nurses and nurse practitioners and qualified health allied personnel some of the responsibility which will permit the physicians to oversee and deliver a big increase in health services. A more adequate supply of nurses happens, in my opinion, to be a key to better health care; but, the attention being given to the need for more qualified nurses in Federal legislation and appropriations in my judgment is not adequate.

In addition to the need for funds to expand nursing schools and financial aid for the students there is a problem of financing existing schools, many of which are financed through and add on to hospital bills. Hospitals which operate diploma schools usually add $2 or more per day to the cost of the room. Since some hospitals do not have these nursing schools, it is unfair to the patient that happens to choose those hospitals, because the nurses trained in those hospitals will also work in hospitals which do not support a diploma school. The financing for the education of other health personnel is not paid for in this manner and I do not think we should continue to expect such a burden on hospitals to finance the education of nurses. It seems to me that financial aid for the education of nurses is not only important, but also should be shifted to the same kind of financial programs that we have for other health personnel.

The budget proposal does not adequately consider the importance of these facts and I am going to do what I can to help change the situation.

Mr. **FRASER**. Mr. Chairman, I rise in support of the deletion of title III from H.R. 7130. Title III is not minimum wage legislation. It is foreign trade legislation with far-reaching implications for U.S. foreign relations.

Title III is a highly protectionist measure. It will, if passed, adversely affect U.S. relations with her trading partners. United States national security depends upon our good relations with some of these same nations.

Title III would inevitably lead—as its author clearly intends—to imposition of a whole range of import quotas on dozens of products. It would also certainly lead to retaliation against U.S. exports. This means that an estimated 2.7 million American jobs in export industries would be affected. Many of them would be lost.

Reducing imports in this way would not improve our balance of payments or balance of trade. As we restrict imports, we would lose exports, and we and our trading partners would be dragged into a downward spiral of retaliation and counter-retaliation which would mean a trade war.

No one can predict where such a war would lead, but its effects would probably not be limited to economic damage. The close political ties and security alliances that bind us to our friends, and that in many cases are already strained, could very well be shattered in a trade war. This is hardly the way to achieve a stable and secure world.

Trade wars and shattered alliances are not the province of a minimum wage bill. We should not be determining U.S. foreign policy in this way and at this time. We should give ample opportunity in public hearings for close examination by expert witnesses of the effects of title III on America's foreign relations.

It would be unthinkable that this House would risk doing serious and perhaps lasting damage to U.S. relations abroad in such an offhand fashion. Mr. Chairman, our only responsible course of action is to eliminate title III or to refer it to the Committee on Ways and Means for further hearings.

Mr. BADILLO. Mr. Chairman, I am pleased to rise in support of H.R. 7130. This modest but long overdue measure will not only increase the minimum wage but will also extend the coverage of the Fair Labor Standards Act to some 6 million additional workers—4.9 million in Federal, State, and local government and 1.1 million household domestics. In addition it will provide a minimum salary level to our seriously underpaid agricultural employees.

More than 5 years have passed since the Fair Labor Standards Act was last amended. During this period we have witnessed rampant inflation and soaring taxes. The purchasing power of the dollar has been seriously reduced and raising the Federal minimum wage to even a basic level of $2 per hour is urgently required on the basis of simple economic facts. Government statistics reveal that, with the cost of living rising some 25 percent during this 5-year span, the $1.60 per hour minimum wage adopted in 1966 has been virtually destroyed and today's $1.60 minimum wage buys less than $1.25 bought in 1966. The present minimum wage fails to even approach the federally defined poverty level of a family of four of $3,944.

Frankly I doubt whether a $2 per hour minimum will be sufficient. A full-time worker earning this salary will be grossing just barely more than the poverty level but, taking into consideration deductions for taxes and social security, he again falls below this level. In the city of New York a family of four receive just about the same amount—approximately $3,700—on welfare.

The $1.60 minimum wage became effective in February 1968. It has been estimated that a minimum wage of $1.95 per hour would have been needed on January 1, 1972, merely to equal the purchasing power of the present minimum. In January 1973 a $2.03 per hour minimum has been calculated to be necessary to provide the same buying power of the February 1968 $1.60 minimum salary. Thus, the $2 minimum established by this measure will do little more than update the present minimum wage and it will unfortunately have little impact on millions of wage earners.

The Bureau of Labor Statistics has estimated that, for the New York City metropolitan area, the lowest budget for the cost of family consumption for a family of four is $6,104 per annum. To meet this very basic level would require an hourly salary of $2.95. However, the total budget for a family of four rises to $7,578 when you include social security contributions, income taxes, and similar additional payments.

It should be clear, therefore, that we must enact even this essentially inadequate figure of $2 an hour just to catch up with the rising cost of living and general inflationary spiral. We simply cannot afford to delay any further and I am hopeful that we will soon see another and more substantial increase in the minimum wage in order that millions of Americans can earn a decent and living salary and properly provide for their families.

Although I am pleased that the minimum wage floor for our hard-pressed and virtually ignored agricultural workers is to be raised to $1.50 in the first year and to $1.70 in the second, H.R. 7130 perpetuates the indefensible discrimination against these men, women, and children. I can see no justification for continuing to maintain this artificial gap between the agricultural and industrial minimum wages. At the currently maximum of $1.70 level, an agricultural worker, heading a family of four, will be receiving a salary substantially below the national poverty level. Unfortunately, this measure seriously shortchanges the farmworker and denies him the equal treatment to which he is entitled. As a member of the Agricultural Labor Subcommittee I am particularly distressed that this ill-conceived policy is being pursued, as our hearings over the past several months into issues affecting farmworkers and their families have revealed the many and varied problems which they are experiencing—the substandard housing, inadequate health care programs, lack of full and equal educational opportunities for their children, the borderline working conditions, and their frequent exploitation by certain unscrupulous employers. Our farmworkers—both stationary and migrant—deserve much better than what this legislation has to offer and I share the hope of my subcommittee chairman (Mr. O'HARA) that the farmworker will soon gain real parity and equality under the Fair Labor Standards Act.

One of the most commendable portions of H.R. 7130 is section 201, which permits the extension of minimum wage and overtime coverage to Federal, State, and local public employees. This action is long overdue and I am pleased that the Education and Labor Committee has given proper recognition to the thousands of men and women who are so important in delivering essential governmental services at all levels.

Opponents of this provision claim that the coverage of public employees will create severe hardships on State and local governments. I do not believe the facts support this charge. Labor Department statistics indicate that the nationwide increase in the weekly wage bill required by a $1.80 minimum would only be 0.33 percent. On a regional basis this figure breaks down as follows: In the Northeast the increase would be the same, 0.33 percent; in the South, 0.45 percent; in the North Central, 0.23 percent; and in the West a mere 0.11 percent. Governmental studies clearly demonstrate that the fiscal impact on State and local governments resulting from extension of minimum wage coverage to their employees would be insignificant at the $2 level and would, therefore, be obviously significantly less at the $1.80 level set under the first-year coverage period established by H.R. 7130.

Aside from the economic arguments for including public employees, there is also the important issue of simple justice. Public employees furnish essential services to the community and they deserve equal protection under the law. Furthermore, the wages of public employees vary greatly by region and FLSA coverage will help to equalize the disparities in earnings. The Congress now has the opportunity to end the present discrimination against public employees and section 201 deserves our fullest possible support.

During consideration of this legislation by the Education and Labor Committee last year a considerable degree of controversy arose over the manner in which workers in Puerto Rico were to be treated. Because of the importance of this issue 2 days of hearings were held in San Juan on May 7 and 8, 1971, to obtain firsthand information on the serious economic problems being experienced by the island and to secure as much data as possible on the affects of the inclusion of Puerto Rico under the minimum wage.

In the case of the hotels, motels, and related facilities, claims were made that there would be serious repercussions if the owners had to pay their workers the same wages as workers performing similar tasks on the mainland receive. However, the hotel owners' representatives never furnished us with proof that such economic problems would, in fact, occur.

Through the courtesy of the able subcommittee chairman (Mr. DENT) I participated in the hearings conducted on April 22, 1971. At that time I expressed my particular concern about statements involving the hotel industry. I inquired as to why the hotel rates in Puerto Rico are higher than they are even in New York when they do not pay the minimum wage and no taxes. I used as an example the Americana Hotel in New York City which is operated by the same management—Loew's Hotels, Inc.—as the Americana Hotel in San Juan. The New York City Americana has to pay Federal, State, and city taxes, all of which are very high. In addition, it pays above the minimum wage. Nevertheless, there is no evidence that the room rates are any higher in New York than in Puerto Rico, in spite of the fact that the New York hotels have to bear the burden of these additional expenses. As a certified public accountant I was anxious to examine the hotels' financial statements in order to secure the facts and to ascertain that, if conditions were as bad as the hotel industry claimed, whether it was due to the question of labor. On at least three separate occasions I asked for such statements and at no time were they furnished. In one instance the hotel industry attempted to prove that room rates were lower in Puerto Rico than in New York City, but this data was based on summer rates. As I noted, we are not so naive here in Congress not to be aware that the peak tourist season is not during the summer. Thus, in the absence of any visible and substantive proof that some economic hardship will be worked on the hotel industry, there is simply no justification for not extending the same minimum wage to hotel, motel, and related workers in Puerto Rico as is received by the same type of employees on the mainland.

Section 104 provides for two 12.5-percent increases in the most recent wage order applicable to nonagricultural workers in Puerto Rico and two 16-percent increases in the most recent wage order applicable to Puerto Rican agricultural employees. Aside from providing for special industry committees to recommend minimum wage rates for newly covered employees, this section further provides that no wage rate for covered employees will be less than 60 percent of minimum wage rate applicable to counterpart employees on the mainland.

It is indeed tragic that a special exception must be made for Puerto Rico and that workers there are to be paid less than those on the mainland, even though they are performing the same type of work. Such a situation can only exist because of the serious economic problems besetting the island and the apparent lack of any meaningful initiatives to cope with them. I once again call upon both the Nixon and Ferré administrations to undertake a thorough investigation of the island's economic condition with a view toward developing a comprehensive economic development program which will insure that the standard of living of American citizens living in Puerto Rico can be comparable to that of American citizens living on the mainland. This program would spur the efforts currently being made by Fomento and would assist in actively working to promote the island's economic development and to close the current gap which exists between the labor force and the labor market, thereby curtailing the continued migration of Puerto Ricans to the mainland in search of employment. A dynamic economic development plan is essential if Puerto Rican workers are to receive fair and just treatment under minimum wage legislation and I again pledge to exert all possible efforts to assist the Commonwealth in developing and implementing such a program. The AFL–CIO executive council has recognized the present inequity and has urged that the same minimum wage protection for workers in Puerto Rico as on the mainland be afforded. It is imperative that we work toward this goal with all possible speed and dedication.

While I strongly support the passage of this essential legislation, H.R. 7130 contains two provisions which I find most objectionable and which should be deleted without hesitation. Title III of this bill, relating to imports, represents protectionism at its most extreme form. This ill-conceived provision threatens to precipitate a renewal of the trade wars we experienced during the 1920's, to isolate the United States from foreign markets, to work a serious hardship on the American worker, and to needlessly exacerbate already strained relations with a number of countries, particularly our trading partners in Latin America.

I want to make it clear that we should provide reasonable protection to our domestic labor force and appropriate aid to workers whose jobs and livelihoods are threatened by imports from low wage areas. However, the provisions of title III will not accomplish these goals and its many negative aspects far outweigh any attempts to afford protective treatment. Title III represents a drastic and negative modification of established U.S. international trade policies and seriously violates the spirit, intent, and very letter of GATT and a number of other international economic and trade agreements. It would also have serious domestic repercussions by denying to consumers the right of choice they now have in the open market and to bar many people, especially the poor, access to low cost imports. Statistics clearly demonstrate that there is more employment from exports rather than the loss of jobs from imports and, as the Labor Secretary has aptly noted, the net effect would be to reduce rather than increase employment opportunities in this country. This is an inflationary provision which represents an inefficient manner in which to protect industries and jobs.

The "Buy American" requirements of title III would virtually eliminate both National and State Government procurement from foreign sources, thereby reducing competition, permitting higher prices and squandering tax dollars.

Title III simply contains too many loopholes, grants the President unlimited power to restrict imports, establishes unwise precedents by the Congress, and is potentially damaging to the political and economic interests of the United States overseas. Our country just cannot afford to run the many risks inherent in this section, and I am hopeful that commonsense will prevail, and that we will expunge this regressive title.

Finally, section 214—pertaining to the employment of illegal aliens—will create a severe and unnecessary hardship for many people in New York and the whole Northeast area. Further, it will help to perpetuate discriminatory treatment against the Spanish-speaking and other minority groups, and will bar employment opportunities to large numbers of legitimate workers.

Our colleagues must realize, Mr. Chairman, that the problem of illegal alien employment not only applies to the use of Mexicans in the Southwest. The imposition of these provisions nationwide will create considerable hardship on Puerto Ricans, Cubans, and other Spanish-speaking as well as on Italians, Greeks, and other persons who either have some trace of an accent in their speech or may otherwise present the appearance of not being a citizen or resident alien. The section 214 requirement will become nothing more than a convenient excuse not to hire certain minority and ethnic group members. Also, as I have previously observed, the term "illegal alien" has become a code word for the Spanish-speaking and a good many innocent people in New York, New Jersey, Connecticut, and other east coast and Northeast locations will be victimized as they are already bearing the brunt of the campaign of half-truths and innuendos. Section 214 will simply serve to fan the flames of prejudices and misunderstanding, and will needlessly increase tensions in the Puerto Rican, Chicano, Cuban, Dominican, and Latin American communities. I am hopeful these discriminatory features will be deleted.

The Fair Labor Standards Amendments of 1971 are urgently needed, Mr. Chairman. With a few exceptions, to which I have already addressed myself, it is basically sound legislation which I am proud to have had some part in shaping. Not only must we extend minimum wage and overtime protection benefits to millions of workers not presently enjoying them, but we must recommit ourselves to the goal of improving the income, level of living, and general well-being of our lowest paid workers, in both the public and private sector. Much more must be done in terms of further extending the FLSA's coverage and in providing a meaningful, living wage to every American. However, H.R. 7130 is an important and vital step, and I urge our colleagues to resist any ill-conceived efforts to water down or otherwise weaken it in any form.

Mr. DANIELSON. Mr. Chairman, I rise to support the bill, H.R. 7130 to revise and amend our Federal minimum wage law.

The minimum wage under existing law, in most instances, is $1.60 per hour. If a person were to work 40 hours per week for a full year of 52 weeks, this would provide him with an annual gross income of $3,328. More realistically, if he were to take a few days off, or catch a cold, he would work 40 hours per week for 50 weeks and earn a gross income of $3,200. As we all know, there are deductions from gross income, for social security and unemployment insurance and the like, so that his take-home pay would be considerably less.

This means that the statutory minimum wage leaves a worker far below the official poverty level as set by the Federal Government. That level for a family of four, calculated at July 1970 prices, amounts to $3,951. The povery level is not a good test of adequate income, however. Realizing this fact, the Bureau of Labor Statistics has developed a "lower living standard" instead. The BLS considers $6,960 a year to be the minimum income level needed to afford adequate food, clothing, and shelter to an urban family of four. An income of $3,200, produced by the present minimum wage, is $3,760 below the BLS "lower living standard."

I find it difficult to understand how anyone who knows these facts can oppose the present bill. The inadequacy of the present law is demonstrated, not only by the facts I have just stated, but by the additional fact that nearly two-thirds of the 25 million poor in America are members of families headed by an employed worker in the labor force. About one-quarter of the poor, and more than 30 percent of all children growing up in poverty, are in families headed by a full time, year around, worker whose wages are so low that his family is impoverished. These are appalling facts to consider at a time when there is so much talk about lifting people out of poverty.

We constantly hear the cry, "Let's take people off of welfare and put them to work." And I agree. But, Mr. Chairman, is it realistic to have people who need welfare while they are holding down full-time jobs? A person who works full time should earn a wage which would at least raise him to the "poverty level."

I realize that there are a few shameless economic malingerers who would rather be on welfare than holding down a job, but I am convinced that most Americans are not in that category. The least we can do, and this would be sound economic policy, is to have a minimum wage which will enable an American worker to earn more through his efforts than he would receive if drawing welfare for himself and his family.

The announced policy of our Fair Labor Standards Act, which includes the minimum wage law, is to eliminate labor conditions "detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers." To meet this policy the wages of the working poor must be raised. Even at $2 an hour, the original goal of the present bill, a full-time worker, who works 40 hours a week for 50 weeks a year would earn a gross wage of only $4,000 a year. Just above the 1970 poverty level and nearly $3,000 below the Labor Department "lower living standard" figure.

The suggestions that a minimum wage increase is inflationary and not in line with the Pay Board's general standard of 5.5 percent wage increases, are groundless. In passing the 1971 amendments to the Economic Stabilization Act of 1970, the Congress made a provision specifically exempting the working poor. Section 203(d) of the 1971 amendments explicitly states:

> Notwithstanding any other provision of the title, this title shall be implemented in such a manner that wage increases to any individual whose earnings are substandard or who is amongst the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor.

Further, in the committee hearings on this bill, Dr. Richard Landry, Administrative Director of the Economic Analysis and Study Group of the U.S. Chamber of Commerce, testified, and it is reported at page 17 of the committee report, that—

> We do not contend, unlike some of the witnesses that appeared before you apparently, that the minimum wage is inflationary. Quite the opposite. Inflation is not caused by minimum wages.

And, Mr. Chairman, that is patently true. Minimum wages and minimum earnings are not, they never have been, and they never will be inflationary. They are what is needed to keep body and soul together. They are mere subsistence. They are dedicated to the elementary needs of man for food, clothing, and shelter.

And, in closing, Mr. Chairman, while we are discussing minimum wages, subsistence, and 5.5 percent wage increase guidelines on the one hand, and inflation on the other, I would like to share with you an object lesson on these important subjects, a sort of obligato to the cries of fear of inflation and respect for 5.5 percent wage guidelines. In the magazine Business Week dated March 25, 1972, there appeared a story which shows how the top layer of our economic structure lives. In an understatement of the decade, the story was captioned, "Pay for Top Jobs Moves Up Briskly." Here is what they had to say:

> PAY FOR TOP JOBS MOVES UP BRISKLY
>
> Early returns on top executive pay for 1971 are paralleling the rise in corporate profits and show an impressive recovery from the recession days of 1970. A business week survey of 25 company proxy statements shows salaries moved up 9.7%, about three times the percentage a year earlier.
>
> Total compensation, including bonuses and other incentive pay, moved up 7.5%. That increase, while significantly ahead of 1970's gain of 2%, still trails the rise in straight salary payments. The gap indicates that executives are still leaning toward straight cash rather than deferred pay arrangements, reflecting changes in the 1969 Tax Reform Act.
>
> The picture may not be as bright for 1972 if top management follows the spirit of the Pay Board's 5.5% ceiling on wage and salary increases. And though the Pay Board's hold down was not in force when 1971 salaries were set, some executive bonuses may have been affected, since they are normally decided on at year end.
>
> With fatter paychecks, most industrial chieftains easily stayed ahead of inflation. The Consumer Price Index rose only 4.3% from 1970 to 1971 in comparison with the nearly 10% rise in top-executive salaries. Faring much worse were the armies of white collar workers that the top men command. Over-all business and professional salaries increased by only 2.1%.
>
> COMPENSATION
>
> Leading the gainers in salary hikes was Avco Corp. President James R. Kerr, who moved from $120,000 in 1970 to $214,993 in 1971. Though Kerr was promoted to chief executive during the year, he still has to recoup financially from a pay cut in 1970. In 1969, when Avco was flying high, he drew $250,000 as its president.
>
> A. Paul Fontaine, who retires on Apr. 1 as Bendix Corp. chairman, tallied a 40.1% salary boost last year. He rounded out his pay package with a $100,000 bonus, identical to the one he received in 1969. This skyrocketed his total 1971 compensation by 130% over 1970 because Bendix meted out no bonuses to its top four officers that year.
>
> Executives whose pay did not change include Chrysler's Lynn A. Townsend and U.S. Steel's Edwin H. Gott. On the downside of the pay ledger was RCA Corp. Chairman Robert A. Sarnoff. His compensation dipped 26.7% when the $100,000 bonus he received in 1970 was not repeated in 1971.

Mr. ERLENBORN. Mr. Chairman, I have no further requests for time. I reserve the balance of my time.

Mr. DENT. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read by titles the amendment in the nature of a substitute recommended by the Committee now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*
>
> SHORT TITLE; REFERENCES TO ACT
>
> SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1971".
>
> (b) Whenever in this Act (other than in section 401(j) thereof) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the section or other provision amended or repealed is a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–209).

Mr. DENT. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair (Mr. BOLLING) Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7130) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. DENT. Mr. Speaker, I ask unanimous consent that all Members have 5 days to extend their remarks and include extraneous matter on the bill H.R. 7130 under consideration today.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROFITS AND PROFIT MARGINS MERIT SPECIAL ATTENTION

(Mr. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKBURN. Mr. Speaker, a recent Wall Street Journal article dealing with the profits and profit margins merits special attention. Any number of commentators and candidates are crying for tough controls on profits and profit margins. As the Journal article points out, the average American citizen has heard these cries so often that he generally takes for granted that profits are too high.

But what are the facts? According to the Journal article total disposable personal income in this country rose from $511 billion to $741 billion in the past 5 years, up 45 percent, while corporate profits went from $49.9 billion in 1966 to $47.6 billion in 1971, down 4.6 percent. Looking at projected totals for 1972, the Journal reports that personal income will have risen 50 percent since 1966, while corporate profits will be up only 0.4 percent. Though profits have risen nearly $9 billion above the 1970 recession low, they had previously fallen by that amount while personal income continued to climb. Corporate income is today approximately at the same level as 6 years ago, although inflation has given the dollar less purchasing power.

As for profit margins the official yardstick is that prepared by the Federal Trade Commission and the Securities and Exchange Commission. In 1950 the average profit margin after taxes for all manufacturing corporations per dollar of sales was 6.4 cents. In the mid-1960's, profit margins stood at approximately 5.5 cents. Today, profit margins are only slightly over 4 cents. At the end of 1970, margins had shrunk to 3.6 cents on the dollar, the lowest level since 1947, when margin records were first kept.

What about prices? Compared to 1965, the average wholesale price of finished manufactured products as of February 1972 is up 21 percent, while the average hourly wage of manufacturing production workers is up 42 percent, or twice the price rise.

Mr. Speaker, the American economy cannot function without adequate profits and profit margins. For those who desire a healthy American economy, the record on profits and profit margins in the second half of the 1960's is a disturbing one. We must be concerned with maintaining a healthy economic climate which will create jobs for American workers and our decisions must be based on facts, not on politically inspired fiction.

SUPPORT FOR VOICE OF AMERICA

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker. I am sure the majority of my colleagues will join with me in applauding the action of our colleagues in the Senate last week when they voted by an overwhelming majority to restore some $45 million in funds authorized for the U.S. Information Agency for fiscal year 1973. I feel that the Members of the other body acted wisely and prudently in overriding the arbitrary decision reached mainly by the chairman of the Senate Foreign Relations Committee.

Had the cut in USIA funds been allowed to remain, it would have meant a drastic reduction in the efforts of the highly competent employees we have at the Voice of America. The cut would have meant that the United States, which is already at a disadvantage in international radio broadcasting, would be that much further behind.

Mr. Speaker, at present, VOA broadcasts approximately 780 hours weekly in 35 languages. This compares to 1,903 hours weekly in 84 languages by the Soviet Union, 1,304 hours weekly in 38 languages by the Peoples Republic of China, and 1,022 hours weekly in 33 languages by Egypt. So we can see by this that even under present funding, VOA is far behind our main competitors in the ideological war. Had USIA's budget been cut by $45 million as proposed by Mr. FULBRIGHT, then VOA would have been forced to cut its broadcasting to only 454 hours weekly in just 11 languages. Such a large reduction would have meant that the United States was saying to the rest of the world that we are no longer interested in spreading the philosophy of democracy to men and women in other nations. We would have also been saying that we are no longer interested in providing the people under Communist domination with a fair and impartial accounting of world events, which is exactly what the Voice of America has been doing for almost 20 years.

Mr. Speaker, a Soviet journalist, Nikolay Ivanovich Zhiveynov, said it better than I could when he observed:

> The VOA attempts to be the first to respond to a particular event in international life and the first to evaluate it. It must be acknowledged that it does it well.

Mr. Speaker, I look forward to further outstanding work by the dedicated personnel at the Voice of America and salute them for their efforts in spreading the message of freedom throughout the globe.

TWO HIGH SCHOOL ROTC UNITS FROM LAREDO, TEX., WIN SECOND AND THIRD PLACES IN NATIONAL DRILL TEAM COMPETITION

(Mr. KAZEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. KAZEN. Mr. Speaker, I wish to report with pride that two high school ROTC units from Laredo, Tex., competing here in Washington in the recent national drill team competition, won second and third places. It was their first appearance in this event, which has been won for some years by Xavier High School in New York City.

The Martin High School Singing Cadets were the runners-up in the competition, and the Nixon High School Drill Team was third. One of the fine young men from Martin, Cadet Lt. Jesus Gonzalez, was chosen "outstanding cadet of the Nation."

In these days when patriotism seems out of date to some young men and the benefits of ROTC training are doubted by others, Laredo maintains its pride in a high school program that began 28 years ago. Boys who were trained at Martin and Nixon High Schools responded to the country's call in World War II, Korea, and Vietnam.

When the two 1972 Laredo drill teams placed first and second in statewide competition, the school board held a special meeting to approve the trip to Washington. After the long bus ride from the banks of the Rio Grande to the banks of the Potomac, these teams entered the Saturday competition with only 4 hours' rest and performed splendidly. I am also proud to report that they drew admiring reports on their conduct outside the competition, and career officers here in Washington tell me they hope these Laredo teams can qualify to compete again next year.

The Martin ROTC is commanded by Cadet Col. Fernando Cerna, with Jesus Gonzalez as lieutenant. Other members of that team are Juan Abrego, Hugo de la Pena, Javier Villasenor, Jaime Delgado, Enrique Castro, Juan Meza, Dagoberto Longoria, Jose Luis Gonzalez, Daniel Holquin, Jose Benavides, Julio Delgado, Daniel Gomez, Humberto de Hoyos, Rene Rayos, George Pompa, Mario Gallegos, Raul Garcia, and Rodolfo Ramirez.

The Nixon drill team is headed by Cadet Capt. Guadalupe Saldana. Others on that team are Juan Alonzo, Javier Alvarado, Oscar Barrera, Jose Caballero, Jesus Cantu, Mario Dominguez, Eleazar Eggers, Gilberto Garza, Hilerio Gonzalez, Oscar Gonzalez, Pablo Gonzalez, Peter Hernandez, Jose Hinojosa, Jose Juarez, Alfredo Nunez, Jose Palacios, Alfonso Perez, Jose Reyna, Reynaldo Sanches, and Raul Nunez.

I am sure the young men of these teams would agree that credit should go, too, to their military instructors, first Lt. Francisco J. Montemayor as ROTC director for the Laredo Independent School District, Sgt. Miguel Saenz (ret.) and Sgt. Roberto Flores at Martin High School, and Sgt. Alfredo D. Lopez at Nixon High School. Col. Roberto Flores directed the ROTC program until last year, when he became assistant principal at Martin high, and Mateo Trevino, Jr., is a civilian in charge of military property.

While I point with pride to these two Laredo ROTC units, I am also pleased to call attention to another group of Nixon students, a group of young ladies known as the Golden Spurs. Their presentation of Mexican-American folk and modern dances is well known in Texas, but they recently extended their range with a guest appearance in Beverly Hills, Calif., and Disneyland.

Members of the traveling group are Elsa Barrera, Laurie Carrejo, Debra Garcia, Selma Garcia, Laura Garza, Patsy Haynes, Olga Laurel, Eliza May, Carmen Miranda, Berta Ramirez, Maria Elena Ramos, Annie Salinas, Laura Salinas, Araceli Sanchez, Patricia Schipper, Alicia Velasquez, Laura Villarreal, Becky Cathey, Maureen Gardner, and Mrs. Estela Kramer, director.

MR. HOOOVER—A GIANT BUT NOT INDISPENSABLE

(Mr. DEVINE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DEVINE. Mr. Speaker, the future

of the FBI continues to be the subject of considerable conversation and speculation as a result of the recent death of its longtime Director, J. Edgar Hoover. I think it is important to realize however, that the FBI is an organization composed of professional men and women who will continue to perform their responsibilities with the highest efficiency regardless of who occupies the position of Director. Contrary to the belief of some, the FBI was not a one-man organization—it was an organization of some 20,000 individuals, each dedicated to contributing their very best in carrying out the awesome responsibilities assigned to this organization. The death of J. Edgar Hoover was a tremendous loss to the FBI—such a death would be a tremendous loss to any organization—but the principles which Mr. Hoover forged live today and they will continue to live as probably the greatest monument to J. Edgar Hoover.

Mr. Speaker, David Lawrence, who knew Mr. Hoover well and who has watched the FBI grow through the years, wrote a most timely column which appeared in the Evening Star of May 8, 1972, under the caption "FBI Isn't a One-Man Organization." I think it would benefit all in this body to read this fine column and insert it here in the Record.

[From the Washington Evening Star, May 8, 1972]

FBI Isn't a One-Man Organization

(By David Lawrence)

Although J. Edgar Hoover rightfully deserves all the praise and tributes that have been given him since he died last week, there are some members of Congress who have the mistaken impression that the Federal Bureau of Investigation he headed somehow is a one-man organization.

The story of how the FBI operates is not generally known because its activities are necessarily secret. But its functions can be described. There are 8,600 agents throughout the United States, with 500 sub-offices which are under the direction of 59 field divisions. It often happens that as many as 15 sub-offices work on one case, controlled from one field division. In fact, the whole FBI is a big organization, which must work under close supervision and tight security. Inspection is frequent and a staff is maintained to do this through every field office.

The bureau is a model in government and has proved so effective that other departments have studied it so that various phases of its organization may be incorporated in their own operations.

The truth is, the FBI is self-sustaining, and Hoover made it so. While a new director who has a knowledge of the system and a familiarity with the work that is being done will be needed, the FBI itself can keep functioning through its offices because it has administrative officials below the rank of director who can oversee what is being done.

The chief objective of the FBI is to detect the perpetrators of crime or to conduct investigations to prevent the commission of crimes wherever possible. Many a police and law-enforcement body in this country knows a good deal about the efficiency of the FBI and the assistance it provides through its records and laboratories.

In Congress, however, there are some who feel that the files of the FBI should be examined to see that documents are not retained which are injurious to anybody. The FBI could not carry on its work if the information gathered by its agents were furnished to congressional committees for publication.

J. Edgar Hoover came into office as director of the Bureau of Investigation in 1924, and this writer recalls the emphasis that was placed upon his appointment because in the preceding years there had been irregularities and much criticism of the bureau. It did not take long for Hoover to become known to the public as a tough and incorruptible fighter against crime. Again and again he demonstrated that the FBI could be an effective instrument in the war against criminals and subversives.

The general feeling among the executive in the FBI is that the present organization will go on under a new leadership and that no substantial change will be necessary in the existing setup. Cooperation with local and state police will be continued, particularly in connection with crimes committed by those who cross state lines, as this is a federal offense.

The FBI under Hoover has never been a partisan of any administration and served every president faithfully. It has not taken any part, directly or indirectly, in political campaigns or the contests of candidates. The FBI sticks strictly to handling problems that are arising in greater numbers than ever today. It not only furnishes information to federal, state and local governments but works also with the Central Intelligence Agency in matters that relate to foreign governments and possible conspiracies of an international nature.

An acting director of the FBI—L. Patrick Gray III—has been appointed, and in time there will be a permanent director. Meanwhile, officials of the bureau are working just as hard as ever under the existing system. They feel that they can prove that the organization can carry out its objectives, though there is prevalent a sense of sadness that the leader of the last 48 years has passed away.

People in the FBI are much impressed by the fact that Hoover was honored by having his body lie in state in the Rotunda of the Capitol and that the President of the United States attended the funeral, along with many prominent persons from all branches of the government and from the nation.

PRESIDENT NIXON'S DECISION ON VIETNAM

(Mr. GOLDWATER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GOLDWATER. Mr. Speaker, I firmly support President Nixon's decision to stop the supplies that enable the North Vietnamese Communists to continue their massive offensives.

This is a positive move to end the war in Vietnam and return our men, particularly the prisoners of war, to their homes and families.

While there is room for responsible criticism of the President, the irresponsible and treacherous attacks by some Democratic presidential hopefuls cannot be condoned. George McGovern is the greatest single offender. He has every right to voice responsible criticism, but not the kind of knee-jerk rhetoric he is now uttering.

McGovern's comment, and Senator Edward Kennedy's concurrence, that the President is flirting with world war III is the same brand of scare tactic that was used in 1964 against my father. You might remember the television spot used by the Democrats that showed a little girl picking a daisy in a field, the next scene was the awesome blast of a hydrogen bomb.

That kind of terror tactic is just as repulsive now, as it was 8 years ago.

I have always supported reasonable dissent, but it is time we all put away personal ambitions and support the President of all the American people. The President has demonstrated truly great leadership by putting any political desires second to the welfare of our country and the 17 million people of South Vietnam. The only real hope the Communists have is if some American politicians continue to attempt to divide America.

President Nixon has offered the North Vietnamese leadership cult immediate peace at the conference table. But the enemy has shown utter contempt at every overture he has made.

Now let us band together as one American people and give the President a chance to end this war he did not start. An end that will leave the Southeast Asian continent free from Communist terror.

HEALTH PROGRAMS NEED SUPPORT OF CONGRESS

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, in the very near future, we in the House, will be presented the appropriation bill for the Department of Health, Education, and Welfare. Hearings have been concluded on the health aspects of that legislation.

There are two pressing issues which I wish to bring to the attention of my colleagues. First is the recent and alarming exercise of power which is being exerted by the Office of Management and Budget upon legislation.

I cannot recall one person in all of the Federal Government, nor one voice from the private sector or the medical community who has not at some time echoed the call of a health crisis.

This Congress and the one before it and many throughout the decade of the 1960's responded to that call of crisis by passing good, sound, reasonable law in the health field. We continued just last year with the National Cancer Act and the Health Manpower Assistance Acts.

And I could count the dissenting votes to those and most other measures on the fingers of my hands. The Congress did and is responding.

But the Office of Management and Budget is perverting our institutions and in effect is relegislating our health laws by using the purse strings to strangle health programs. I am weary, and I think the Congress is weary of this usurpation of the powers of the Congress to legislate by accountants who view human suffering in terms of dollars and cents and the intentions of the Congress as minor considerations.

By controlling the money flow, OMB in effect establishes priority which may or may not agree with the intent of the law itself. And I think the time has come for the Congress to reassert itself in this area.

Secondly, the cut which OMB has imposed upon the health programs in general dangerously threaten the programs themselves.

Let us look at some of the differences between what came out of the Congress and what has come out of OMB.

Last year the entire Congress was involved in an important and difficult study of how to improve the health manpower situation. For if this Nation is ever to solve the crisis in health, we first must solve the manpower problem. For manpower is the basis of all health. Without doctors and nurses and allied personnel, nothing works.

Members of this House submitted 50 pieces of legislation designed to produce more manpower and help the shortage. The end product was the Comprehensive Health Manpower Training Act of 1971 and the Nurses Training Act of 1971. The legislation was geared to producing the needed 50,000 physicians and 150,000 nurses by 1978.

The authorizations were prudent and realistic and some in the medical and academic communities said we did not allow enough money. But I feel that the legislation we passed was good.

The President signed this into law, stating that the goal we set was a good and reasonable one and that the law would go far to help the health crisis.

The law requires our medical schools to enroll 10 percent more students each year, provides a capitation grant on a per-student, per-year basis, and funds for building the facilities needed to teach and train these people. The same was true for the Nurses Training Act.

The total cost for 4 years of education for a medical student is estimated at between $40,000 and $80,000. The Congress, through the capitation formula, attempted to aid—not completely finance—this student education by allocating $11,500 for the 4-year period. The people at the budget cut this to $8,200 for physicians. The nursing capitation came to only $250 per year in our authorization legislation and the budget cut this in half to $125.

Mr. Speaker, it is estimated that only slightly more than one-third of all students applying for medical school will be accepted in the 1972–73 school year. This represents at 10-percent drop from the 46-percent acceptance level of the 1970 school year. This does not represent the progress which our legislation promised. And with miserly financing proposed by OMB, we will continue to slide backwards instead of making progress.

The impact of OMB's meat-ax type of cutback can be seen best by the overall figures in this legislation. The Congress authorized more than $1.3 billion for fiscal year 1973. OMB requests $438.7 million.

An exceedingly alarming and dangerous trend is also evident in this legislation as it comes back from OMB. There is not one new dollar, not one new penny for construction of medical and dental schools, or for expansion there. The only money available is $72 million carry-over funds from fiscal year 1972. And this thinking carries throughout the health budget.

The accountants have eliminated all construction funds from the National Institutes of Health right on through the colleges to community mental health centers and finally to the granddaddy of health services—the Hill-Burton Hospital Act itself.

Hill-Burton authorization is $417.5 million. The budget asks for no money for construction of hospitals and public health service centers. It requests no money for modernization, it asks for no money for emergency rooms. There is only $85 million, $70 of which is for outpatient and $15 million for rehabilitation.

OMB is saying in effect, "No more Hill-Burton construction program. Phase it out.

"Drug addiction and alcoholism are skyrocketing, but we are not helping build places to treat them. No more community mental health centers, stop construction. We demand that medical schools take in 10 percent more students, but no new money to build the classrooms and laboratories you need to train these people. Do it on your own."

It is very clever to define the problem—drug addiction, mental illness, alcoholism, lack of beds and hospitals, a need to renovate and modernize existing hospitals, a lack of doctors and nurses—and then turn your back on the problems. But I consider it the height of irresponsibility on the part of the Office of Management and Budget to even propose this type of financial trickery.

The Congress authorized more than $157 million for hospitals, and another $90 million to modernize outdated buildings, and $85 million for long term care facilities. OMB is telling the Congress that it wishes not to implement these portions of law. OMB is telling the Congress that it is overriding our decision that construction funds are needed, and thus in effect, OMB is choosing to superimpose its thinking over that of the Congress.

Taking briefly some of the other health projects which are under the financial ax at OMB, I would point out that the Health Services and Mental Health Administration, the health delivery arm, is budgeted for a $72 million cut, not from authorized figures, but from the actual 1972 budget level.

The National Health Service Corps, designed to send medical help to areas where there is no health service, was authorized for $30 million and OMB has cut that to $8.4 million.

Formula grants to the States under the comprehensive health services or partnership for health program, were cut from the authorization of $165 to $90 million.

Even the National Cancer Act which rallied total nonpartisan support in the Congress, has come under the budgetary knife. Our promise for an all-out attack on this killer has been cut back some $100 million from the authorized level despite the President's own personal support for the program.

There have been modest increases for the National Heart and Lung Institute. But this, combined with the increases in cancer, have come at the expense of all other institutes doing research on the diseases of mankind. The increase of these other institutes is only 3.3 percent, not enough to even cover the inflation in the general economy. This means that research programs for dental health, neurological disease and stroke, arthritis and metabolic disease cannot even keep pace with expenses.

Mr. Speaker, the Office of Management and Budget is practicing the cruelest form of false economy by cutting back in the area of health. For it is false economy not to provide a $2 measle vaccination to prevent an unborn child from the possibility of mental retardation which will cost $100,000 of lifetime care.

It is false economy not to provide for control programs which would detect and prevent cancer or heart attacks when to do otherwise would be to send a victim into $125 a day intensive care units in hospitals.

We as a nation are spending $70 billion annually for sickness, disability, and death. More than two-thirds of the people in the labor force had one or more chronic conditions and as a result, during 1 year alone, 250 million workdays were lost because of illness of persons 17 years of age and older. And these facts are not to discount the sufferings attached to ill health.

I would like to include a breakdown of financial outlays which Dr. Michael DeBakey worked out which point out the lack of budgetary priority which health is receiving:

> We expend about $400 per person for defense, $125 per person for the Vietnam war, $40 per person for highways, $30 per person for space exploration, but as little as $7 per person for all medical research. Our tax dollar priorities seem ever more imprudent when we consider that it cost our Nation $70 billion—7 percent of our gross national product—last year to support all health activities, an amount exceeded only by the cost of our defense activities.

In other words, our lack of knowledge of health matters costs us about $315 per person, but we have been willing to spend only about $7 per person on medical research to help rid ourselves of this economic burden. Mental health services cost our Nation $4 billion, or $20 per person, but we spend only 70 cents per person on mental health research. Hospital, nursing home, and physician care, along with drugs and other health services and supplies, cost more than $6 billion for heart disease alone—$30 per person; yet we allocate less than $1 per person for heart research.

I would like to make one last point. We have heard OMB's response to our request for adequate funding in the health area. They point to a total health budget of $86.6 billion, an increase of $10.4 over fiscal year 1972. Here again we find a juggling of figures which is impressive on first sight.

But of that $86.6 billion, $60.8 billion comes directly from trust funds specifically committed to the social security and medicare programs.

The actual commitment to human resources is $28.7 billion, an increase of only $1.3 billion over last year's budget. Of this $28.7 billion, $20 billion, or four-fifths, will be expended for medicare or medicaid programs and the operation of

Federal medical programs for the armed services, the Veterans' Administration and other Federal beneficiaries.

Only $5.5 billion, one-fifth of the total, will be expended for programs aimed at changing and improving the health conditions of our Nation as a whole.

I sincerely hope that my colleagues will study the results of what OMB has done to the health programs which the Congress has passed in order to meet the existing crisis in health. To reverse these massive cutbacks in health programs is our only hope if we are to take the initiative in reversing the slide of health in America today. And it is the only way which we can honestly cast a vote for improving the health and the health conditions in our respective districts.

We have passed good health laws. If properly funded, we will improve the quality of our constituents. But if we allow OMB to compromise our commitment, then we will not be meeting our responsibility to the American people.

Mr. MILLS of Arkansas. Mr. Speaker, during the 92d Congress the Committee on Ways and Means has given careful and exhaustive attention to the vast and complicated problem of delivery of the highest quality of medical care to all of our citizens. In hearings extending over many weeks our committee has heard the health crisis described by representatives of all major groups interested in the health problem, including organized labor, the medical community, voluntary health organizations, the business community, and many citizens groups.

Speaking before several hundred physicians in Milton, Mass., several weeks ago I stated that:

> The cost of delivering adequate medical care to the American people is one of the Nation's number one problems. We are concerned especially for low- and middle-income persons, because even financially comfortable citizens can be destroyed financially by the cost of long-term catastrophic illness.

I am aware that in 1971 the Congress passed landmark legislation for a massive attack upon cancer, which claims the lives of 350,000 American citizens each year and is our second biggest killer. Its key provision calls for the establishment of 15 highly sophisticated cancer research centers where our great cancer scientists can pursue the knowledge which I believe will eventually lead to the conquest of this disease, which has cursed mankind since 4,000 B.C. I voted for this bill, including the increased authorizations for its purposes.

In recent weeks I have had several extended discussions with Dr. Edmund Klein, one of the country's great cancer researchers, who is currently pursuing his work at the Roswell Park Memorial Institute for Cancer in Buffalo, N.Y.—the oldest cancer reserach organization in the United States. Dr. Klein notes in a very thoughtful memorandum he sent tc me:

> Current Federal legislation in the cancer field is primarily oriented toward research. There is a great need for building the present state of the art and the advances that are rapidly being brought about in the cancer field from the research center to the bedside of the patient.

Dr. Klein and his colleagues see no reason why a sizable number of beds in existing institutions and in the new institutions to be created under the 1971 legislation cannot be devoted to general care for cancer patients. We are all for expanded research knowledge, and we read daily of new breakthroughs against cancer, but what good is this to a patient with one of the more common forms of cancer which does not fall within a new research category?

The Congress will soon consider legislation already passed by the other body, and which has recently been testified to and endorsed by leading medical specialists from all over the country before the committee headed by the gentleman from Florida. This legislation would create a similar research attack upon heart disease, which claims the lives of 1 million Americans each year. The emphasis is again upon the research patient, and this is proper.

However, these illnesses—particularly heart disease and cancer—can be enormously expensive and a tremendous burden upon the patient and his family. I want to assure the gentleman from Florida that I want to work with him and others in the coming months in arriving at a solution to making these new research breakthroughs against the Nation's two biggest killers—heart disease and cancer—available to every American of whatever stations in life. We all know there are gaps in our present health insurance structure which need the attention of the Congress.

I include the following:

WHAT ARE THE FACTS ON CANCER?

Cancer will strike one out of every 4 Americans until new preventions and cures are found. One in 6 deaths will be from cancer this year.

43,928 Americans died in Vietnam (January 1, 1961 to October, 1970). Cancer killed 3 million in the same period.

In spite of these appalling facts, this year we are only spending, per citizen: $380 for National Defense, $17 for Foreign Aid, $15 for Space Investigation, $2.16 for one Apollo Moon Mission (Apollo 16) and only $1.60 for cancer research.

The cure and prevention of cancer will save millions of lives, eliminate untold suffering and yield enormous benefits to the economy of our country.

HOW DO CANCER DEATHS IN THE UNITED STATES COMPARE WITH DEATHS FROM OTHER CAUSES?

	Date	Number
Cancer deaths (United States).	1970	330, 840
Auto accident deaths	1970	53, 430
Cancer deaths (United States).	1970	330, 840
Polio deaths (worst year)	1952	3, 300
Cancer deaths (United States).	1970 alone	330, 840
World War II deaths	4 years	291, 557
Cancer deaths (United States).	1970 alone	330, 840
Korean war deaths	3 years	33, 629
Cancer deaths (United States).	1970 alone	330, 840
Vietnam war deaths	Jan. 1, 1961, to October 1970.	43, 928

Source: National Health Education Committee, Inc., New York. April 1972.

Mr. HASTINGS. Mr. Speaker, I would like to use my limited time to speak of communicable disease control and drug and alcohol abuse.

Many of the diseases that take thousands of American lives each year could be controlled, indeed eradicated, through broader application of techniques and cures already perfected. We know the causes of communicable diseases, so we know how to prevent them. We can treat them effectively. Therefore, funds for the control of these diseases can be spent with guaranteed results.

Unfortunately, we do not always act on the basis of that knowledge. All of us here can recall the relief felt nationwide in the mid-1950's when it became apparent that polio—the horrible disease that killed 3,300 Americans in 1952—could be wiped out through vaccines. There was similar relief more recently when effective vaccines were developed to prevent measles.

Yet just last month the American Medical Association, in full-page ads that ran in major newspapers, warned of threatened epidemics of both polio and measles in some central-city and rural areas—simply because the people have not been getting the vaccine. Surely there can be a greater effort, including a greater Federal investment, to protect our people from diseases we already know how to prevent.

Tuberculosis killed 5,560 Americans in 1970, and there were 37,137 new cases of the disease. In parts of New York City that year the death rate from tuberculosis was 135.9 per 100,000 persons—nearly eight times the national rate. But the disease is widespread. Although TB rates are highest in large cities, more than half of all new cases appear in areas of less than 100,000 persons.

We now know how to treat tuberculosis effectively, primarily through drug therapy. It takes time, usually from 18 to 24 months of medication, but it cures the patient. Despite this, TB control programs throughout the Nation are having difficulty for the first time in years, all because Federal funds for their support are running out. The New York City Commissioner of Health has been notified by the Department of Health, Education, and Welfare that project grant funds for tuberculosis control programs will not be available after the end of fiscal year 1972. Surely the Congress can somehow see to it that these essential programs are continued.

Venereal disease, now so widespread, is like tuberculosis in that it can be controlled through known treatment programs. All that is needed is continuous treatment, and favorable results can be predicted with certainty. Effective treatment of most venereal disease is not expensive, but it must be made available.

In February of this year the Department of Health, Education, and Welfare released a report saying that the Nation's greatest drug problem is alcohol abuse. According to this report, alcoholism afflicts 9 million Americans and costs the Nation about $15 billion annually. Alcohol is the cause, directly and indirectly, of nearly half of all arrests in the United States each year and of 28,000 deaths on the Nation's streets and highways.

The administration announced a full-scale attack on alcoholism, but unfortunately such an effort is not reflected in the proposed budget for fiscal year 1973. For example, the recommendation of formula grants to the States is only $30 million, whereas Congress has authorized $80 million. For alcoholism project grants the administration has recommended $50 million, or $10 million more than fiscal year 1972 appropriation. However, some 250 alcoholism programs formerly operated by the Office of Economic Opportunity have been transferred to the National Institute on Alcoholism; these new programs will cost an additional $16 million in the coming year. Surely adequate funds can be made available to combat alcohol abuse.

There are between 300,000 and 400,000 users of hard drugs in the United States. Acknowledging this most destructive sort of drug abuse, Congress recently enacted the Drug Abuse Office and Treatment Act of 1972. The new law requires all community mental health centers to provide specialized drug abuse programs, and many of the 389 operational centers are planning to initiate these programs in fiscal year 1973. However, the National Council of Community Mental Health Centers estimates that the administration's budget request would permit continuation funding for all grants previously funded and would allow for 70–80 new grants. The Council therefore recommends that in order to deal effectively with drug abuse and narcotics addiction the administration's proposed funding of $93.4 million should be increased to $160 million.

I think it is important for Members of Congress to examine these programs and their proposed budgets carefully in the days immediately ahead. By acting wisely, by providing adequate funding for important programs, we can protect the health of many more Americans.

Mr. MATSUNAGA. Mr. Speaker, I commend the distinguished gentleman from Florida (Mr. ROGERS) for the leadership he has assumed in improving our Nation's public health services. The dean of the School of Public Health of the University of Hawaii, Dr. Edward O'Rourke, has recently expressed deep concern over the inadequate funding levels of the 1973 budget for public health training. I am referring to the $49 million that is authorized under sections 306 and 309 of the Public Health Services Act for traineeships, training grants and formula grants for public health training. Only $21 million, which is less than one half of the authorized amount, has been requested by the administration.

What the administration apparently fails to realize is that the authorized funding would constitute an investment in the graduate training of health personnel who would serve in a wide variety of positions, primarily in public agencies and voluntary health organizations, in the delivery of personal health services, in the control of the environment, and in the administration of the health delivery system.

There are only 18 schools of public health in this vast country of ours, and they serve as a national resource in meeting the needs of our entire country for trained public health personnel. The schools are:

University of California, Berkeley.
University of California, Los Angeles.
Columbia University.
Harvard University.
University of Hawaii.
Johns Hopkins University.
University of Illinois.
University of Loma Linda.
University of Michigan.
University of Minnesota.
University of North Carolina.
University of Oklahoma.
University of Pittsburgh.
University of Puerto Rico.
University of Texas.
Tulane University.
Yale University.
University of Washington.

The inadequate funding for public health training has had disastrous results. Programs affecting 563 students have been curtailed for lack of funds. Almost 50 faculty positions were eliminated last year because of financial difficulties. The outlook for next year is not any brighter. The schools will be forced to vacate some 70 faculty positions next year unless funds for public health training are increased above the 1973 budget request.

In the school year 1971–72, there were 6,294 applicants to schools of public health. Only 3,000 could be admitted. With more adequate financial assistance under public health training a total of 4,000 students could have been admitted.

Let us not repeat the mistakes of the past. Instead, let us make an adequate investment in public health training so that we can give meaning to the concept that our citizens, as citizens of this great country, are entitled to good health services.

Mr. CONTE. Mr. Speaker, I want to commend the gentleman from Florida on his thoughtful statement.

I am particularly disturbed by the low figure for alcoholism. For fiscal 1973 the administration recommends $97,533,000 for the budget of the National Institute on Alcoholism. The claim is made that this is an increase of $10 million over last year, but in actual fact it is not, because the $10 million is money to cover the existing 250 alcoholism projects transferred this year from OEO to the National Institute on Alcoholism. In actual fact it is a cut, because an additional $6 million for OEO alcoholism projects have been approved since the President's budget was submitted and these will also have to be financed out of the limited $97 million budget of the Alcoholism Institute.

I am somewhat puzzled by all of this because in February of this very year top officials of the Department of Health, Education, and Welfare appeared at a press conference to announce a massive new attack on alcoholism. At that conference they released a report to the Congress stating that the Nation's top drug problem was alcohol abuse. In the 120 page report to the Congress there were references to the 9 million alcoholics in the country. The cost to our economy exceeding $15 billion a year, and the tremendous death toll which alcohol abusers cause on the Nation's highways each year—50 percent of all fatalities.

Under the Pioneer Comprehensive Alcohol Abuse Act passed unanimously by the Congress in 1970, the key section of the legislation authorized formula grants to the States to plan and develop statewide treatment and rehabilitation programs to take the alcoholics out of the jails and off the streets and get them into decent treatment facilities.

Although $80 million was authorized for this legislation (P.L. 91–616) for formula grants to the States in fiscal 1972, the administration recommended no funds. Fortunately, the Congress disagreed and appropriated $30 million in formula grants to the 50 States. Most of the States have completed the comprehensive alcoholism plans required by the law, and the National Institute on Alcoholism estimates that full funding of these plans worked out over many months of planning and public hearings will require at least $250 million in fiscal 1973. Yet the administration, despite all of the evidence, recommends $30 million—the same amount as the Congress appropriated for fiscal 1972.

My own State of Massachusetts can serve as an illustration. If the administration recommendation is sustained, we will receive only $718,000 to provide treatment services for an estimated 300,000 to 400,000 alcoholics. However, if the fully authorized amounts in formula grants to the States of $80 million is appropriated for fiscal 1973, Massachusetts will receive a little more than $2 million.

The same situation faces our community mental health center program. Our Labor-HEW Appropriations Subcommittee noted in last year's report that for the first 2 years of the 3-year renewal of the original 1963 Community Mental Health Centers Act, the administration recommended no moneys. The Congress, led by our committee, reversed this decision and appropriated $15 million. However, the Office of Management and Budget allowed the National Institute of Mental Health to spend only $5.2 million of this appropriation in fiscal 1972. It recommends no new moneys for fiscal 1973. This, as many outstanding mental health experts pointed out in testimony before our subcommittee this year, will lead very shortly to the killing of the mental health center program, and my State will be deeply affected by this.

The administration is following the same policy in regard to staffing of community mental health centers. Last year, if we had sustained the administration recommendation, 65 centers in all parts of the country which had raised the required matching money would not have opened their doors. Our subcommittee added $30 million to save these 65 centers.

For fiscal 1973 the administration recommends the exact same sum as the Congress appropriated last year, although it was aware of new amendments to the basic Community Mental Health Centers Act requiring higher matching Federal percentages for centers in poverty areas. According to the administration's own guidelines, 55 percent of the centers are serving poverty and low-income areas. The administration claims that under its fiscal 1973 budget, it will be able to open 22 new centers in the coming year. I fail to see how this can be done with the same recommendation as in fiscal 1972 and with the requirement of increased Federal matching money in poverty and other areas.

But even taking the administration at its word, the funding of 22 new centers will be the lowest number started since the original legislation proposed by President Kennedy and unanimously adopted by the Congress in 1963. The National Institute of Mental Health estimates that at least 120 new centers will have to be opened each year in order to reach the goal of 1,600 to 2,000 new community mental health centers by 1980, as envisioned in the 1963 congressional legislation.

In the first 4 years of the centers staffing program, we came close to the 1963 goal. However, in fiscal years 1970 and 1971 we dropped back to an average of 33 centers a year; in fiscal 1972 the increased appropriation initiated by our Labor-HEW Subcommittee had to be used to fund grants approved in the prior year, and now we face for fiscal 1973 a situation in which every mental health expert testifying before the committee this year has stated that not one single additional community mental health center can be opened in fiscal 1973.

As a member of the Labor-HEW Appropriations Subcommittee, I will do my utmost to see that adequate funding for alcoholism and mental health programs is provided in the fiscal 1973 appropriations bill.

Thank you, Mr. Speaker.

Mr. CAREY of New York. Mr. Speaker, I want to commend the gentleman from Florida (Mr. ROGERS) and his colleagues who serve on the Subcommittee on Public Health and Environment for their leadership in the field of health. They will recall that we enacted the so-called "partnership for health" legislation some years ago.

That act authorized funds for States and communities to assist them in comprehensive health planning and the provision of public health services. In actuality, the partnership has failed dismally because the Department of Health, Education, and Welfare has refused to adequately fund the formula grants to States under the authority of section 314(d) of the PHS Act. Seventy percent of these funds for public health services must be spent at the local level.

The 1973 budget request for section 314(d) funds is $90 million, the same level appropriated in 1972 and 1971. For 1973, however, the authorization is $165 million.

I do not know why it is that HEW is distrustful of the States when it comes to funding health programs. Although the Department is requesting $75 million less than the authorization for formula grants to the States it is requesting $179 million for project grants under section 314(e)—a funding level that is $22 million over the $157 million that is authorized.

We all know how dear to the hearts of the health bureaucrats are project grants. With project grants the Feds can dictate to the States and communities the development and operation of public health programs.

We see the same performance with respect to other health programs. In the case of alcoholism, for example, HEW is requesting only $30 million of the $80 million authorized for formula grants but $48 million of the $50 million authorized for project grants.

The Federal investment in section 314 (d) funds under the so-called partnership for health program is approximately 5 percent of the total expenditures of State and local government units. I do not call that much of a partnership.

Mr Speaker, the health budget for 1973 offers no prospects for progress to those afflicted with mental illness or developmental disabilities. It is not even a standpat budget because it would reduce funds to a level below 1972 for these two programs.

No funds at all have been requested for the construction of community mental health centers in 1973. This year there is $15 million available. There is no increase for the staffing of community mental health centers and so no additional centers will receive staffing assistance next year. If we are to take care of the backlog and move the program forward, a minimum of $60 million should be added to the meager request of $135 million for staffing assistance.

The $44.4 million that is requested for grants for the developmentally disabled in 1973 is $5 million below the amount appropriated in 1972. Only $21.7 million would be available for grants to the States even though more than $100 million is authorized to be appropriated. This improvident approach to a national problem is demeaning to a health-minded nation such as our United States. Surely we can afford to do better than this.

I do not know how much influence the Department of Health, Education, and Welfare has in the formulation of the budget for health programs. I find it hard to believe that the Department with responsibility for health would condone budget cuts in the fields of mental illness and developmental disabilities. Perhaps the legislation to establish a separate Department of Health should be enacted if the House of Health is not to deteriorate through something less than benign neglect.

To illustrate the impact of these programs in my own city, I point out that in fiscal year 1971, New York City received over $14 million in project grants for the developmentally disabled out of a total of $188 million spent nationwide. We cannot suffer any budget cuts in these already modest sums for such effective and worthwhile programs.

Mr. SYMINGTON. Mr. Speaker, I want to call attention to the administration's recommendation for the National Institute for Arthritis and Metabolic Diseases for fiscal year 1973. The recommendation for $159 million—less than $6 million over the amount appropriated by the Congress last year is plainly inadequate. Since the administration itself has admitted that the cost of the medical research rises at a rate of about 10 percent a year the fiscal 1973 recommendation is, in reality, a cut. This Institute encompasses some of the most common and disabling illnesses in the United States today. For example, arthritis and rheumatic diseases head the list of chronic diseases in the United States in 1972. Arthritis alone afflicts some 17 million Americans at a cost to the economy of $2 billion a year.

Mr. Speaker, I am most interested in the Institute's mandate in the field of the so-called digestive diseases. Into this category fall such disorders as peptic ulcer which afflicts one in every 10 American adults; cirrhosis of the liver, the fourth most common cause of death of adults in this country; gallbladder diseases and a whole host of additional digestive diseases. Such disorders comprise major or contributing causes of hospitalization for more than 5 million Americans each year and cost the national economy an estimated $8 billion.

I am pleased that the Institute has recently designated an assistant director for digestive diseases. This is a step in the right direction, but it is not enough. In addition, the current Congress has passed legislation to change the name of the National Institute of Arthritis and Metabolic Diseases to the National Institute of Arthritis, Metabolism and Digestive Diseases. We must place much greater emphasis upon this whole host of digestive diseases which kill and cripple so many Americans today.

Only the research advances of the last decade have admitted light to this dark corner of the Nation's health. The control of gout is but one of a number of significant achievements. Ongoing research has uncovered promising new departures. Continuation of momentum at this point is essential for exploiting opportunities to deal positively with the Nation's major chronic and debilitating diseases. Therefore, increased funding for this Institute is needed to expand the fight against these diseases.

Mr. KYROS. Mr. Speaker, I would like to discuss a budget consideration that I believe to be critical, funding for maternal and child health services. Since the inception of the program in 1935, maternal and child health service grants have provided Federal aid to the States for the development and expansion of services for promoting the health of mothers and children, especially in rural areas and areas suffering from severe economic distress. The State maternal and child health programs have been involved with programs that prevent disease; they have conducted health education programs; they have been in the forefront of directing outreach programs.

States receiving formula grants for maternal and child health services combine Federal money with State and local moneys to provide prenatal and postpartum care for mothers, including family planning services; visits from public health nurses before and after babies are born to help mothers care for their babies; well child clinics where mothers can bring their babies and young children for examinations and immunizations, and a place where mothers can get competent advice on child nutrition, disease prevention, child rearing, and so on. Special programs to help prevent mental retardation and programs related to teenage pregnancy are among other specific areas administered by maternal and child health services.

Perhaps maternal and child health programs were created before their time, for only now are the above activities recognized as being necessary ingredients of a comprehensive health program. Yet at this time, when we as a society have these services in child health, we are not come to recognize the important role of funding them to the level required.

Also of concern are the special projects for maternity and infant care, and the children and youth projects established under title V of the Social Security Act. These programs were designed to provide high quality maternity care to low-income, high-risk patients, and comprehensive health services to newborn infants and children.

It has been said that poverty is perhaps the most significant single contributing factor which affects infant survival. Women living in poverty become pregnant earlier, become pregnant more frequently and at shorter intervals and continue childbearing until much later in life than middle-class women. Medical complications are more common, and high-risk factors are more prevalent in low-income women. All these conditions are associated with an unfavorable pregnancy outcome, and they contribute substantially to infant mortality rates.

Maternal and infant care projects have significantly reduced infant mortality among our innercity, low-income population. The programs have been successful in breaking into the poverty cycle at a point that shows real promise. By providing interconceptual care, and maternity care, maternal and infant care projects have reduced the frequency of premature and low-birth-weight babies. Infant care has allowed for the detection and treatment of handicapping conditions, preventing crippling in later life. Family planning services, offered in the context of improving maternal and child health, allow a low-income mother to space her children so that they can be amply provided for. With a better start in life, maternity and infant care babies may be able to interrupt the cycle of welfare dependence, limited education and illegitimacy, and make a better life for themselves and their children.

Children and youth projects provide comprehensive health services to school and preschool children in areas where low-income families are concentrated. Forty-one percent of those registered were under 1 year of age, 57 percent were ages 1 to 9. The impact of these projects toward improving the quality of life for the children of this Nation are borne out in data reflecting the decrease in illness among children served, a 50-percent decrease in the number of children requiring hospitalization, and a reduction in the length of stay of hospitalization.

These special projects are of utmost importance in protecting the Nation's greatest resource—our children. Funding for all phases of maternal and child health services, however, have been inadequate over the years. I urge my colleagues to consider the importance of these programs when considering appropriations for health services in 1973.

Mr. ROY. Mr. Speaker, in the brief time available I would like to make a few comments as one of the Members of Congress who is also a physician.

This Nation's general condition of health is not so good as it should be, certainly not when you consider the general prosperity of our citizens. The people of nations less wealthy than ours are healthier than our people.

In the past two decades, the death rate in the United States has declined by about 2 percent and the average American's life expectancy has increased by over 2 years. That is all right, so far as it goes, but it is not the complete story.

Of all the Americans who die each year, about two out of five die from diseases of the heart, and the death rate from heart disease is increasing. About one in six dies from cancer, and one out of every four Americans will be stricken by cancer. More than one death in 10 is caused by some type of stroke. Influenza and pneumonia may kill 75,000 Americans a year. It is estimated that 20 million Americans suffer from mental or emotional illness of one form or another, but severe enough to require psychiatric treatment; many of them do not get that treatment. The Department of Health, Education, and Welfare recently estimated that 9 million Americans are alcoholics, and it put the cost of their alcoholism at $15 billion a year.

How do we improve the state of the Nation's health?

We in Congress can begin by providing more support than the Nixon administration has proposed for many health programs in the fiscal 1973 budget. In a lot of cases this means simply that congressional appropriations should come somewhat closer to congressional authorizations.

For example, the authorization for manpower programs in the medical, dental, and related health professions is $938 million, but the administration recommends just $331 million. The Nurse Training Act of 1971 authorized $296 million for fiscal 1973, but the administration is requesting only $122 million. The administration would put an end to most grants for the construction and modernization of health facilities. The proposed increase to $432 million for the National Cancer Institute, as welcome as it is, remains nonetheless at $100 million below the amount so recently authorized by Congress.

By increasing funds for these and other important health programs, Congress cannot, of course, bring about an immediate and dramatic improvement in the overall health of the Nation. Such change takes time, just as complete recovery from a serious illness takes time.

But by failing to provide significant increases, Congress certainly will not hasten the day of better health for all Americans. And by failing to provide adequate funding now, for fiscal 1973 programs, Congress will miss a crucial opportunity to make this Nation as healthy as it deserves to be.

Mr. KUYKENDALL. Mr. Speaker, title V of the Social Security Act provides that special project grants may be made to provide comprehensive health services to school and preschool children in areas where low-income families are concentrated. Throughout the Nation 98 percent of those children registered in these projects are under 9 years of age. Currently there are 59 children and youth projects located in 30 States and the Virgin Islands.

These programs are having a tremendous impact toward improving the quality of life of our young children in low-income urban and rural areas. I am pleased to share with my colleagues the advantages being derived by many of my constituents through the children and youth program located in Memphis. I wish to include in the RECORD at this time a brief abstract of the children and youth project in Memphis, prepared by David H. James, Jr., M.D., of the University of Tennessee College of Medicine, department of pediatrics:

THE IMPACT OF A CHILDREN AND YOUTH PROJECT ON THE NEED FOR IN-PATIENT HOSPITAL CARE

(By David H. James, Jr., M.D.)

The Memphis Children and Youth Project serves approximately 3,500 infants and children from low-income families that reside in four census tracts of the northwestern portion of the city. During the first full year of operation (1968), there was a need for 200 individual hospital admissions, requiring 964 hospital days. By the third year (1970), the number of hospital admissions had decreased to 80 and the number of hospital days to 267. During this latter, 42% of the admissions were for medical problems and 58% for surgical procedures. This percentage distribution is the same as that experienced by the private practice sector of the Memphis community in 1970.

The average length of hospitalization for the Children and Youth Project patients dropped from 4.8 days in 1968 to 3.3 days in 1970. This compares with an average hospital stay in 1970 of 3.8 days for patients of the pediatric age group in the Memphis private practice sector.

It is concluded that the Memphis Children and Youth Project has brought about a marked decrease in the need for hospitalization for infants and children in the Project area. It is further concluded that, after three years of operation, the types of problems requiring hospitalization and the length of stay in the hospital are the same for those infants and children served by the Project as for those served by the private practice sector of the Memphis community.

Mr. Speaker, the Appropriations Subcommittee on Labor-HEW is now involved in deliberations on the maternal and child health budget. I encourage my colleagues to bear in mind the estimated need and the benefits to be derived of these programs when we begin consideration of the health budget for fiscal year 1973.

Mr. ASPIN. Mr. Speaker, the American working man and woman is increasingly cynical about the political process. Next to tax reform there is no other issue today which more excites working people than the cause of worker safety and health. Congress passed a strong law—the Occupational Safety and Health Act of 1970—to make jobs safer and healthier. But we have failed to back this up with money. The Nixon budget for fiscal 1973 provides a paltry $4 million for occupational health research which comes to a miserable 8 cents for every one of the 57 million workers covered by the law. Millions of workers today are bombarded by dangerous noise, dust, fumes, gases, and chemicals which impair health and shorten lives—in clear violation of the new worker safety and health law. We must, and we can, make sure that the talent and resources of the Federal Government are available to research the causes of ill health inflicted by occupations.

The Coalition for Health Funding has suggested that Congress appropriate no less than $10 million for occupational health research, so that millions of our fellow citizens will be liberated from the curse of lung, skin, and heart diseases caused by health hazards on the job.

Mr. Speaker, the AFL–CIO Industrial Union Department has been a leader in seeking strong implementation of the new health and safety law and in urging Congress to grapple with the dangers of health hazards. I ask unanimous consent that a recent article about the IUD's evaluation of the safety and health law be included in my remarks:

[From Occupational Safety and Health Reporter, Bureau of National Affairs, May 4, 1972]

IUD Charges Labor Department With Half-Hearted Enforcement of OSHA

"Half-hearted enforcement policies" of the Department of Labor in the field of occupational health and safety are subjecting an unknown number of workers to "needless and highly dangerous contact with cancer producing substances," Peter Bommarito, chairman, Industrial Union Department Safety and Health Committee (AFL–CIO), charged April 28.

Bommarito, also president of the United Rubber Workers, led a group of officers of unions affiliated with the IUD to meetings with Elliott Richardson, Secretary of Health, Education, and Welfare, and James D. Hodgson, Secretary of Labor, on the first anniversary of the Occupational Safety and Health Act.

"The Occupational Safety and Health Act was a major milestone in the long effort of American workers to win badly needed protection from illness and injury at their place of work," Bommarito said. "We have made a little progress in the past year. We would have made much more if the Department of Labor had applied the legislative intent of the Congress to its enforcement of this law. Unfortunately a year's experience reveals that the Department of Labor seems smugly content with half-hearted enforcement policies, which fall short of what is needed to give workers the kind of health and safety protection spelled out in the law."

The IUD is particularly concerned that "these lackadaisical policies" of the department have permitted many workers to have needless and highly dangerous contact with cancer-producing substances, Bommarito said. "Asbestos is one of these cancer breeding materials. Six months ago, the IUD demanded an emergency standard on asbestos, after medical scientists reported the beginning of an epidemic of asbestos-produced cancer. At Manville, N.J., there are estimates of 50 cases of mesothelioma, as asbestos caused body cancer, and perhaps 500 cases of lung cancer. The Department of Labor, having promulgated emergency standards on asbestos, has taken no action on its own."

BETA-NAPHTYLAMINE

Beta-Nephthylamine is a particularly notorious cancer producing chemical, against which the Labor Department seems unwilling to move, Bommarito said. "We know that this product was being produced in Pennsylvania until the state government a few years ago stopped it," he said. "It was being produced in Augusta, Ga., by a subsidiary of the Synalloy Corporation, and by another division of the same company in Spartanburg, S.C., from 1953 until the company halted manufacture on its own decision just a few weeks ago." The company probably halted manufacture because of IUD complaints, he said.

"The fact that two states permitted their citizens to work in close contact with these dangerous materials does not surprise us, because the various states have a poor record in the field of industrial health and safety," Bommarito said. "But since April 28, 1971, the Department of Labor has had authority to force the company to discontinue production of this cancer producing material. Not only did the department fail to act under the general duty provisions of the law, but it declined to adopt standards for the control of beta-Naphthylamine and several related and similarly dangerous materials."

LABOR DEPARTMENT INACTION

"All we have gotten from the Department of Labor is promises and delays," Bommarito said. "Meanwhile, until the company stopped producing the materials, some 120 workers in each of the two plants were subject to dangerous contact with this killer material. No one knows how many people altogether have been exposed to this chemical, which causes tumors of the bladder."

These cases symbolize our dissatisfaction with the administration and enforcement of the Act," Bommarito said. "We have many other grievances. We believe that the Department of Labor has belittled the nature of the threat to health in industry, that it has delegated far too much authority to the states, and that it has constantly set its sights too low, in terms of budget and enforcement policy."

The Occupational Safety and Health Administration has denied access of interested groups to information vital to the administration of the law, and its enforcement apparatus is clogged with red tape and needless paper work, Bommarito said. "It has tended to belittle the role of the unions and their members in helping make the workplace more safe and more healthy."

The National Institute for Occupational Safety and Health should be upgraded, Bommarito said, so that it can more effectively carry on its work of research, education, and evaluation of hazards, important functions in job safety and health. "If NIOSH were to be moved from the Department of Health, Education, and Welfare to the Department of Commerce, as President Nixon's reorganization plan would provide, we fear the effectiveness of this agency would be torpedoed," he said.

"On this first anniversary of OSHA, we call upon the Department of Labor to make this law the effective enforcement instrument that it was intended to be," Bommarito said. "The working people of America have a right to this protection under the law," he said, and "we mean to keep working at this problem until they get it."

OTHER TOXIC SUBSTANCES

The case of beta-Naphthylamine is less well known than asbestos, the IUD said. "It is one of a group of cancer causing chemicals so lethal that the American Conference of Governmental Industrial Hygienists, whose members include the official hygienists of 45 states, has warned that no exposure or contact with them is considered safe."

The group includes: 2-Acetylaminofluorene, 4-Aminodiphenyl, Benzidene and its salts, Dichlorobenzidene, 4-Dimethylaminoazobenzene, 4-Nitrodiphenyl, N-Nitrosodimethylamine, and beta-Propiolactone.

Standards for four of these substances were promulgated under the Walsh-Healey Act, the IUD said. Not only did OSHA fail to act under the general duty clause of the Act, it consciously did not adopt standards for the control of these compounds.

Congress intended for the standards under Walsh-Healey to be adopted under OSHA, the IUD said. "It was also the intent of Congress that the Secretary set emergency standards for recognized hazards such as those represented in the entire list of nine. Neither has been done. The IUD feels strongly that action should be taken."

LEGAL CHANGES

Employers are attempting to have the Act changed to exempt small employers, an idea opposed by the IUD because many of the worst offenders are small, Jacob Clayman, IUD Administrative Director, said. The IUD does not recommend any legal changes because the law is only one year old.

Organized labor only recently recognized that death and injury are not a necessary part of the job, Clayman said. There is a growing crescendo of worker concern for safety and health. Ralph Nader's report failed to recognize all that has been done in recent years by organized labor, he said. The Act itself is the product "lock, stock, and barrel" of the labor movement, he added.

The IUD is concerned that NIOSH is low down on the HEW "totem pole," Clayman said. NIOSH needs more people and more effective people. Only one criteria document has been produced so far, and that was after IUD insistence. The projected production of eight or nine more documents this year out of the 12,000 toxic substances listed, is an example of the "stumbling, fumbling pace that has already been set," he said.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may revise and extend their remarks in the body of the Record on the matter of health appropriations.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

THE PRESIDENT SHOULD VISIT JAPAN

The SPEAKER. Under a previous order of the House, the gentleman from Indiana (Mr. Hamilton) is recognized for 10 minutes.

Mr. HAMILTON. Mr. Speaker, there is an urgent need to repair our relations with Japan. The deterioration that has occurred during the past year has many causes, but a major source of friction has been our Government's propensity for unilateral action on matters of vital concern to the Japanese. It is essential to overcome the mistrust which the administration's actions have created in Tokyo. The most effective way to do so would be for the President to visit Japan.

Symptomatic of what is wrong with United States-Japanese relations is the postponement for the second time of Presidential Adviser Henry Kissinger's trip to Tokyo. Japanese leaders had been looking forward to learning from Dr. Kissinger more about American diplomatic strategy in Asia and in the world at large. While Mr. Kissinger's reasons for remaining in Washington at this time are understandable, there can be no doubt that United States-Japanese relations have received a further setback.

Clearly our relationship with Japan is the key to our hopes for building an enduring peace in Asia. Japan's devotion to democracy, its success in building a free and stable political system, its remarkable economic progress, and its importance to our foreign trade make it our natural partner in the Far East.

These are considerations we have tended to overlook recently when we have been concentrating on opening up a dialogue with China. However, China's potential for exerting a positive influence on international affairs is hardly comparable to that of Japan. China is economically weak and preoccupied with its internal development. Most important, there does not exist the mutuality of interest between the United States and China that makes the prospects of United States-Japanese cooperation so promising.

We are in danger of losing the benefits of a close and cooperative relationship with Japan. We are doing so because our Government has failed to consult with the Japanese on matters of crucial importance to their own security and well-being.

It is with respect to China that the administration has shown the greatest disregard for Japanese sensibilities. The Japanese are deeply concerned about developments that affect their giant neighbor. Yet, we gave them no advance notice of our plans to broaden contacts with the People's Republic. We informed Prime Minister Sato only 10 minutes before announcing President Nixon's plan to visit Peking.

After the visit, our Government again showed that it did not appreciate Japan's special interest in China. To report on the Peking talks, we sent to Tokyo State Department officials who were not even present at President Nixon's key meetings with Mao Tse-tung and Chou En-lai. The Japanese felt they were being slighted, and they said so publicly.

A further blow to United States-Japanese relations came when our Government acted without warning to suspend dollar convertibility and force a revision in international exchange rates. We then added to Japanese resentment by our heavy-handed pressure for revaluation of the yen and by our bulldozer tactics in negotiating an agreement limiting Japanese textile exports to the United States.

The Japanese have also been perplexed by the Nixon doctrine, with its emphasis on maintaining international order through a balance among the world's five major powers--the United States, the Soviet Union, China, Western Europe, and Japan. Japanese leaders increasingly recognize that their country's growing economic strength means it must undertake greater international responsibilities. However, they must cope with a public that is wary of international involvements because of the traumatic experience of World War II, and they fear that we expect Japan to play a more active military and diplomatic role than is politically feasible at this time. Furthermore, since they have based their defense policy on the alliance with the United States, they are concerned about the implications of reduced American military power in Asia.

Because Japan has made cooperation with the United States the foundation of its foreign policy since World War II, our apparent lack of concern for legitimate Japanese interests has been a source of national humiliation to the Japanese. Our attitude is even more galling at a time when Japan is growing rapidly in economic power and self-confidence. The Japanese are increasingly sensitive to indications that we accord Japan a subservient status, and they are looking for signs that we are willing to treat them as full and equal partners.

Japanese alienation can only be harmful to our interests. If Japan feels insecure because of doubts about its alliance with the United States, it might feel called upon to build up its own military power and even develop a nuclear capability. Our failure to consult with Prime Minister Sato has weakened his authority, and further such slights could shake popular confidence in Japan's democratic institutions. Aggravation of United States-Japanese economic rivalries could deal a crippling blow to world trade and might lead Japan to turn its energies toward developing a regional economic hegemony in the Far East.

Japan is now at a crossroads. Some Japanese leaders are convinced that recent U.S. actions show that Japan must widen its diplomatic options and reduce its association with the United States. Nevertheless, there are signs that the Japanese Government still prefers a close relationship with the United States, if that is attainable. It has recently taken steps to incrase American-Japanese contacts through student exchanges and visits by parliamentary groups, scholars, and businessmen, in the hope that this may enhance American understanding of Japanese concerns and sensibilities.

Close cooperation is certainly in the interests of both countries. Japan still needs our help in providing for its own defense, both nuclear and conventional. A stable, prosperous Japan is essential to our hopes for lasting peace in Asia. Both countries want to maintain the trade from which each derives such great benefits.

We need to start now to dispel the distrust that has grown up between the United States and Japan. A Presidential visit would give real impetus toward building a constructive relationship. It would symbolize our concern for Japan and our recognition of the key position it occupies in Asia. It would provide an opportunity to overcome the misunderstandings generated by our China initiative, since the Japanese could hear from President Nixon personally about his talks in Peking. Most important of all, a President visit is the best way to demonstrate that we desire to treat Japan as a full and equal partner whose friendship and cooperation we consider essential in the effort to build a better world.

CORRECTIONAL MANPOWER AND EMPLOYMENT ACT OF 1972

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. ESCH) is recognized for 15 minutes.

Mr. ESCH. Mr. Speaker, today I have joined with Congressman DOMINICK V. DANIELS, chairman of the Select Subcommittee on Labor, in reintroducing the Correctional Manpower and Employment Act of 1972. This bipartisan bill is cosponsored by 38 Members of the House.

Mr. DANIELS and I originally introduced the correctional manpower bill on March 9, 1972, as H.R. 13690. We are pleased that so many of our colleagues have joined us in sponsorship of this important initiative. We invite further support from other Members who are concerned with changing our correctional institutions from schools of crime to genuine institutions of correction.

The annual cost of crime in America is staggering. Both the direct and indirect costs of crime have become an unnecessary burden upon Americans and every effort should be made to eliminate this waste of economic and human resources.

The direct cost of crime is unconscionable. Shoplifting losses ranged from 1 to 5 percent of retail sales, and retailers are spending approximately $1.5 billion for prevention equipment and services. Cargo and baggage losses from interstate transportation and travel total in the millions of dollars each year, while crimes attributable to drug abuse costs approximately $5 billion annually.

In addition to these more obvious costs of crime, there are equally high indirect costs. Lost wages, medical and related expenses for the victims of crime, as well as the immeasurable loss to the economy due to the reluctance and fear on the part of individuals to "go downtown," are just some of the most visible indirect costs. The total cost for maintaining criminal justice systems, for all levels of government, is estimated to be approximately $6 billion a year. A further indirect cost of crime comes about from the cost of maintaining correctional institutions. Our prisons are made all the more costly because of the high rate of recidivism which plagues our inmate population.

There are approximately 6 million arrests annually. Federal and State correctional institutions have approximately 200,000 inmates, with some 80,000 being released each year. In addition, local jails contain nearly 200,000 prisoners. Short sentences in local jails result in a high turnover rate for their inmate population. There are approximately 1 million adults and juveniles under the authority of correctional agencies which are outside formal penal institutions on either parole or probation.

An effective manpower training program for criminal offenders requires a high impact utilization of an extremely flexible delivery system. They must be capable of serving offenders inside correctional institutions as well as presentencing and post-release programs.

The average sentence served by offenders in Federal institutions is only 19.7 months. This means that the effectiveness of manpower training is even more critical if any inroads are to be made upon recidivism. Relevant training must be given the offender in a limited period of time. Nothing less than a comprehensive, concentrated manpower program can adequately train inmates or counteract the prison environment and the stigma of "offender" status placed upon ex-offenders in such a relatively brief period.

The correctional manpower bill is designed to provide immediate specific assistance to all correctional agencies in combating recidivism through an improved manpower training and employment opportunities program for offenders. A truly comprehensive proposal must also include consideration for the upgrading of correctional personnel employed by the various correctional agencies in supervising, training and counseling the offenders.

In 1971 there were over 120,000 employees working for correctional institutions and agencies. States employ 73 percent of these personnel, local governments 20 percent, and the Federal Government 7 percent. A profile of correctional employees indicated that 83 percent are male with a median age of 42.8 years; 87 percent are white; and the median length of employment in corrections is 8.8 years. Recent studies also indicate that the educational level of correctional personnel who deal directly with the inmate on a day-to-day basis is low, especially in State and local correctional institutions.

The final report of the Joint Commission on Correctional Manpower and Training summarizes existing recruitment methods, which amply states the critical need for reform in the area of correctional personnel:

> Recruitment of correctional personnel is ordinarily carried out in an uncoordinated and haphazard manner. Most applicants seem to be of the drop-in, write-in, or referred-by variety. Correctional agencies seldom seek applicants actively, and there is no one established mode of entry into the correctional system.

The correctional manpower bill provides for grants to correctional agencies for recruitment and training programs as well as programs to improve the morale and effectiveness of correctional personnel.

I am hopeful that our proposal will go a long way toward improving our correctional system. I am convinced that our approach will mean significant savings in future years.

SETTLEMENT OF EMERGENCY LABOR DISPUTES IN THE TRANSPORTATION INDUSTRY

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. HARVEY) is recognized for 5 minutes.

Mr. HARVEY. Mr. Speaker, as I am sure you are aware, I have introduced legislation on numerous occasions during the past year to create permanent mechanisms for the settlement of emergency labor disputes in the transportation industry. This legislation has received the bipartisan support of 76 cosponsors. Yesterday, I sent these Members a letter outlining a few of the events that have occurred since the Subcommittee on Transportation and Aeronautics of the House Committee on Interstate and Foreign Commerce voted 6 to 5 to defeat this legislation early in March.

It is clear from the facts that our Nation is currently facing several potential emergency transportation disputes. The dock workers have threatened a walkout because the Pay Board has reduced their settlement; two Presidential emergency boards, which expire on May 31, have been unable thus far to settle disputes between the Penn Central and the United Transportation Union and between the sheet metal workers and all the railroads, making the threat of a major rail strike very real indeed.

Clearly, unless this Congress faces its responsibilities to the American people and passes emergency strike legislation soon, the Nation will face renewed and crippling transportation strikes. Conceivably, the docks and the railroads could be shut down simultaneously, and the President will be forced to seek ad hoc, back-to-work legislation for the 10th, 11th, and 12th time in 8 years. While such action might eliminate the visible symptoms, it will not solve the problem for long. We need permanent legislation, and we need it now. Without it, the Nation will face one crisis after another, and Congress will be forced to consider even more ad hoc legislation.

I would like to share this letter with all Members of the House. I hope, when they read it, they too will understand the pressing need for permanent strike legislation. I insert this letter at this point in the RECORD:

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 9, 1972.

DEAR COSPONSOR: It has been more than two months since the Transportation and Aeronautics Subcommittee of the House Interstate and Foreign Commerce Committee voted down, 6–5, our proposal to establish permament transportation emergency strike legislation. I would like to bring you up to date on the events that have occurred since that vote and to inform you of potential transportation strikes that are currently facing the nation.

(1) The Pay Board only yesterday reduced the settlement of the East and Gulf Coast longshoremen, just as they had previously trimmed the West Coast contract. In its action, the Pay Board cut the International Longshoreman's Association wage settlement from 12.1% to 9.8%. Prior to the Pay Board decision, the ILA had threatened a renewed strike if their contract was reduced, and the West Coast longshoremen have indicated that they would support this walkout with one of their own. Thus, the nation could face a complete dock shut down within the next few days.

(2) The President, on March 31, created Presidential Emergency Boards under the Railway Labor Act to postpone, for 60 days, two threatened rail disputes. One, which is considered the more serious, involves the Sheet Metal Workers and the railroads and their dispute over wages and work rules. A Presidential Board has recommended a 42% pay increase, similar to that received by other rail unions and agreed to by the railroad management; the Sheet Metal Workers, on the other hand, are demanding a 52% increase.

The second dispute involves the United Transportation Union and the Penn Central Railroad. This dispute centers on the Penn Central's efforts to reduce the size of its train crews, a move the railroad claims will save it $100 million annually. UTU officials, however, say that such trimming will cost the union 6,000 jobs. Both rail disputes could result in a railroad strike as early as June 1.

(3) The Senate Labor Committee has been moving ahead in its attempt to report out some form of permanent strike legislation. Senators Jacob Javits and Robert Packwood have been working actively to reach a compromise solution, and Senator Harrison Williams, the Committee Chairman, has promised that a bill will reach the Senate floor by the end of May. The Senate Committee has been considering many of our alternatives, and I will continue to keep you posted on major developments in the other body.

(4) On March 15, I took a special order to discuss Emergency Strike legislation on the House floor (page 8516). More than 25 colleagues joined in this special order and I hope we were successful in making members of the House aware of the grave situation this country faces if emergency strike legislation is not adopted in the very near future.

Again, let me thank you for your support. I will keep you informed on future developments in this very vital area.

Sincerely,

JAMES HARVEY,
Member of Congress.

THE 14TH AMENDMENT AND HUMAN LIFE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, last week a colleague inserted in the RECORD a lengthy collection of arguments favoring unlimited abortion. The clamor for unrestricted abortion involves much more than a single issue. Already some groups and individuals have gone beyond abortion on demand to calling for abortion as a means of population control and some even suggest euthanasia or mercy killing for the aged. The entire critical question of the right to life is at stake.

I believe that the recent cry for unlimited legalization of abortion, like that for legalization of marihuana, is an abdication of our responsibility to find valid solutions to the problems of society which make these measures seem acceptable alternatives. We are in effect "copping out" on a tough situation. We are in effect also saying that if a problem cannot be controlled, if an ill in society is prevalent or has a degree of acceptability, if "everyone is doing it," we might as well make it legal. Then it can be crossed off our list of problems to be solved and go on to something else. This path leads only to moral bankruptcy.

Mr. Speaker, many of us here in Congress were shocked to see billboards last year only two blocks from the Capitol advertising abortion services in New York State. No one can deny the need for therapeutic abortions under defined conditions, but I believe the present New York State abortion law, which permits abortion virtually on demand, should be revised. In New York State alone in 1971, abortion deaths totaled approximately 250,000 or 685 per day, five times more deaths than have occurred in the entire Vietnam war.

Respect for life must be a basic tenet of our society if we are to survive. Since even doctors cannot agree when life becomes present, it is apparent that if the constitutional rights of the unborn are to be protected, much more research is urgently needed concerning the life-and-death issue of abortion.

Mr. Speaker, in the April 15 issue of America, Paul R. Gastonguay discusses the facts which legally determine whether the human embryo is a human being and thus protected by the fifth and 14th amendments of the U.S. Constitution. I commend this article to the attention of my colleagues. I also include for the Record an outstanding research paper, "Modern Science and the Human Fetus," by James N. Devlin and some distinguished academicians and medical doctors from the University of Buffalo:

The 14th Amendment and Human Life

(By Paul R. Gastonguay)

(Note.—Paul R. Gastonguay, an assistant professor of biology at Stonehill College, North Easton, Mass., is the author of "Evolution for Everyone," a book to be published this fall by Bobbs-Merrill.)

In a decade massively, and somewhat in panic, devoted to the establishment of personal freedom where freedom has been denied, large numbers of American citizens have become convinced that the right to abortion should be one criterion of a true democracy.

This growing attitude exploded in 1967, when the state of Colorado enacted the first liberal abortion law, allowing abortions for expanded therapeutic reasons. But the original regulations and restrictions advocated by abortion proponents themselves have now been almost completely overruled, leading to nontherapeutic abortion on demand in several of our states.

One question emanating from this rapidly growing movement—a movement growing, unfortunately from a legal point of view, almost solely under the momentum of emotion—is in immediate need of an answer. Is the human embryo or fetus a human being? This is, legally, the one question that must be answered first and foremost: it must become known if the human embryo or fetus is indeed a member of the human species, thus entitled to the benefits of the 5th and the 14th Amendments of our Constitution.

To answer this question, people of varying professions and training have resorted to countless avenues. And because any attempt to define any living thing, other than via the field of biology, must be subjective, there has resulted a panorama of definitions. As a consequence, an embryo is now considered human in some states, and not in others. Further, the actual time of onset of human life is legally different in our different states—in some, the human embryo is said to become human at 12 weeks of development: in others, at 14; or at 16, 24 and so on. One state, Oregon, ties the event to a specific day, at 150 days of development. Clearly, either state lines affect the onset of humanity and of subjection to constitutional rights, or else we are terribly and perilously confused.

The criteria utilized to attempt to define this time range from conception, to implantation, to the first heart beat, to the onset of brain wave activity, to quickening, to viability. Yet no one knows what any such parameters really mean—if and how they delineate "human" life from "nonhuman" life. A legislator may arbitrarily select a time—14 weeks of pregnancy, 24 weeks, or the like—then if he encounters too much resistance to the initial form of his bill he, again arbitrarily, reduces the time for permissible abortion by a few weeks. Such a toss-up for the sake of the legislative success of a bill is purely subjective, and without any scientific and factual bases.

What then is factual? What does mankind know, beyond any doubt, about the process of human development? When does human life begin?

1. To define "human" by any criteria other than biological is to base ourselves on speculation, faith or subjectivity; and all such approaches are, by definition and admittedly, unprovable. As individuals, we may of course believe in any such criteria; but they must not be utilized in the legal wheels of a democracy.

2. The human conceptus, at whatever stage of development, is "living," by any definition of science. The question is then whether this living creature belongs to the human species or not, i.e., is it "human" life?

3. All living things—rose bushes, frogs, spiders, birds, apple trees or people—are classified under "species" by the biologist. For example, the tadpole, or frog "fetus," belongs to the species "frog," and to no other.

4. It is in part the hereditary make-up of any animal or plant that provides it with its traits—its form and appearance, its behaviors, likes and dislikes—and it is by analysis of such traits that the biologist then classifies an animal or a plant as being a member of a given species.

5. The human conceptus, from the time it is one-celled to the time it dies, perhaps some 70 years later, has the hereditary make-up, the genes, that characterize it as belonging to the species *homo sapiens*, and to no other. Biologically speaking, the one, provable, basic difference between man (at the stage of the fertilized egg, or at any other stage in development, before or after birth) and any other living species of animal or plant is the gene make-up of his cells. All other biological differences result from this one basic difference.

6. The "human" genes described above bring about human traits, subject to environmental effects—a "human" liver, a "human" brain, a "human" set of behaviors, a "human" umbilical cord—*in successive stages.* The reproductive organs become functional at about age 12, and cease in the female at about age 45. Body growth ceases at about age 20. Bed-wetting ceases at some time prior to age 2. Some teeth grow at about age 1, and fall at about age 5. Necessary heart wall closures and lung expansion occur at the time of birth. Brain activity begins at about 6 weeks of development. Heart action begins at about 25 days of development. Cell division begins a few hours after conception. Clearly then, a "human" life consists of progressive stages of development, biological and psychological, in part initiated and controlled by the hereditary make-up of all cells in this organism. Some such traits are not evident in the early embryo, some are not evident in the nine-month fetus; some are not evident in the new-born child; some are not evident until puberty; some are not evident until the menopause.

If we are to define "human" life at all, therefore, we must resort to facts. And, unfortunately perhaps, the only facts that are legally indisputable at this time are in the realm of biology. The human embryo, fetus, baby, child, teen-ager, adult, old man are all members of one species, because of their genetic make-up. To assert that constitutional privileges apply only to certain stages of this long process of development and maturation is to be speculative and uncertain. Such uncertainty is reflected in our legal apparatus in many ways. The unborn is granted privileges of inheritance, of suing for injury, of guardianship; yet he is denied the privilege of life in hundreds of thousands of instances. It would seem that the only recourse is to interweave our Constitution's intent with biological reality, and not limit the right to life only to those stages of human development that we can see and readily recognize as our offspring.

At one time, the baby was not considered human until birth. Later, as artificial incubation became possible, the time was set at eight months. Later, the magic transformation was set at seven, then six and a half months, as incubation became more efficient. Such arbitrary definitions, dependent on the availability of new machines, in effect mock the Constitution.

To say that one day or one week constitutes the difference between "human" life and "nonhuman" life is to be conveniently arbitrary. Such would be acceptable if no facts were available. But there are facts; biology provides them.

Modern Science and the Human Fetus

(By James N. Devlin, 1971)

(A summation of facts and experimental data, firmly established by modern science, which fully support the principles of continuity of life and continuity of species.

(Because of these principles, abortion must be classified as the act of taking the life of an existing human being.

(Author: James N. Devlin, B.S. Physics. Consultants: Richard Weber, Ph. D., prof. of Anatomy, University of Buffalo; James C. Dunn, MD., Surgeon and Associate Clinical Prof. of Anatomy, University of Buffalo; Chester A. Glomski, Ph. D., MD., Assistant Prof. of Anatomy, University of Buffalo; Joseph A Tomasulo, Ph. D., Asst. Prof. of Biology, Canisius College; Sarah M. Camiolo, Ph. D., Bio-Chemistry.)

I. Two distinct states exist in the life cycle of every species, the haploid and diploid. The *haploid state* consists of sperm or egg cells containing one-half of the organism's total chromosomes, and serving the chief purpose of transmitting the species genetic code. These cells are produced by a process called meiosis. The haploid cells unite, one from each parent at fertilization to form *one complete* diploid cell,[1] with *one* nucleus containing *one complete* set of chromosomes typical of the species and forming at that *instant* a unique new being.[2] This *diploid state* consists of living, reproducing, growing cells, dividing by a process called mitosis. This state forms a single, unified, cohesive entity called the organism and participates in a single unified and continuous process called life.[3]

II. The number of chromosomes in a nucleus is the same in *all* the cells in *all* the normal members of the same species.[4] The embryo at fertilization becomes a member of his species, the species of his parents. All the chromosomes are present from conception and contain the information necessary to build a complete organism.[5]

III. The Watson-Crick model of base pair-

Footnotes at end of article.

ing DNA structure is sufficiently supported by X-ray diffraction patterns, chromatography, electrophoresis, electron micrographs, radio-active tracer studies, Ion exchange, etc.[6] as to be considered a valid model for the genetic code.[7]

IV. The DNA code sequence totally identifies the embryo of each and every species.[8] This code sequence is chemically related to the proportions of nucleotides (bases) that constitute the code (see table 1). These proportions are easily determined through common laboratory techniques.[9] The ratio of the bases Adenine and Thymine to the bases Guanine and Cytosine respectively, (see table 2), completely determines the species membership of any cell or group of cells.

A/G or T/C is unique to a particular species. The cell is a living entity it is the nucleic acid that identifies it as a member of a certain species.[10]

V. The genetic code for the twenty amino acids has been determined. (see Tables 3 and 4). Out of these amino acids are built all the enzymes and proteins that exist now or have ever existed (figure 4a).[11] All enzymes and proteins of a particular species are unique to that species[12] [13] [14] [15] [16] [17] and are an expression of its own genetic code (figure 4b).

VI. The popular myth that the embryo is a part of or an extension of the mother's body is untenable in the light of present day knowledge. It is a being in its own right because its genetic code [18] contains a random assortment of 23 chromosomes from each parent (figure 5) making its characteristics unique. [19] [20] Mother and fetal circulations are independent, neither continuous nor contiguous, a fact known since the sixteenth century, (Arantius).[21] [22] [23] [24] Almost never does mother and baby have the same blood type. In fact in certain instances the fetus must undergo a total blood transfusion because anti-bodies in the mother's own blood may kill it. The fetus has its own unique immunological response. Organ transplants between mother and child are as difficult as they are between any two unrelated individuals.

Indeed, if the fetus were an extension of the mother, containing her genetic code, all of her children would be identical and would look exactly like her. They would also be of the same sex, since the female carries no Y chromosome.

VII. No evidence exists nor is there any known experiment to show that the organism [25] in question, i.e. (the human embryo) is at any time undefined or undergoes a change of species.[26] [27] [28] This would involve a spontaneous change in its genetic code, and it has been established clearly, that the unique code of every individual exists from the moment of fertilization, until the natural death of the mature adult.[29] Similarly, there is no evidence that could substantiate that life begins at any time other than the moment of conception.[30] The myth that the fetus is simply a mass of tissue cannot be substantiated.

Specialized tissue cells only link with identical tissue cells, and from the onset of differentiation, we find many different kinds of tissue cells working together as a *single organized* and *ordered system,*[31] acting in concert toward a single goal, SURVIVAL. It is a system and behaves as a system, not as a collection of independent components. Even the sex of this tiny organism is already determined. It is ridiculous to speak of "he tissue" or "she tissue." In reality we can speak only of *he* or *she*.[32] [33] [34] [35]

VIII. The foregoing facts firmly establish two principles, 1—the continuity of life, and 2—the continuity of species.

1. Continuity of life. The cellular development process begins with the first cell division and continues until the organism dies. There is no discontinuity in the diploid state of any organism.[36] [37] [38] [39] [40] [41] [42] [43]

2. Continuity of species. The basic nature of the individual remains constant throughout the life of the organism. The organism belongs only to that species that is determined by its own genetic code and this code never changes.[44] [45] [46] [47] [48] [49] [50]

The liberalized abortion law ignores all of this evidence because it denies that the embryo is a human being. Denying the human nature of the fetus is in direct contradiction to all the factual data of modern science.

Many scientists may feel, for *personal* reasons, that taking the life of an innocent human being is justifiable, but they cannot in any way deny that it is a human being.

The question of taking the life of an *innocent human being* without due process may be a matter for the courts to decide, but there can be no doubt that it is a *human life* that is at stake. The taking of an innocent human life is the classical definition of murder.

TABLE I. SUMMARY OF MOLECULAR GENETICS

1. Sequence of amino acids in protein molecule is determined by sequence of bases in region of a particular nucleic acid molecule.

2. (A) The 4 bases in the DNA (desoxyribonucleic acid) molecule are: Adenine, thymine, guanine, and cytosine.

(B) In RNA (ribonucleic acid), uracil is substituted for thymine.

3. There are approximately 20 amino acids, which constitute the building blocks of protein.

4. The sequence of bases that determine the structure of the 20 amino acids occurs in triplets. There are a total of 64 triplets.

5. Triplets in the RNA molecule are situated on short RNA strands called messenger RNA.

6. A triplet codes one amino acid and is known as a codon.

7. In general, more than one triplet codes each amino acid.

8. The code is probably universal, being much the same in all living organisms.

9. Substitutions of certain amino acids in the protein chain account for variations among different species.

TABLE 2.—RATIOS OF A/G AND T/C (MOLAR)—ANIMALS

Man (thymus)	1.47	1.75
Ox (thymus)	1.29	1.43
Sheep (spleen)	1.26	1.36
Goat (sperm)	1.31	1.30
Horse (spleen)	1.29	1.37
Rat (bone marrow)	1.34	1.39
Salmon (sperm)	1.43	1.43
Trout (sperm)	1.32	1.36

TABLE 3.—*Amino acid—RNA code words*

Alanine—GCA, GCC, GCG, GCU.
Alginine—AGA, AGG, CGA, CGC, CGU, CGG.
Asparagine—AAC, AAU.
Aspartic acid—GAC, GAU.
Cysteine—AGC, AGU, UGA, UGC, UGU.
Glutamic acid—GAA, GAG.
Glutamine—CAA, CAG.
Glycine—GGA, GGC, GGG, GGU.
Histidine—CAC, CAU.
Isoleucine—AUA, AUC, AUU.
Leucine—CUA, CUC, CUG, CUU, UUA, UUG.
Lysine—AAA, AAG.
Methionine—AUG.
Phenylalanine—UUC, UUU.
Proline—CCA, CCG, CCU.
Serine—AGA, AGC, AGU, UCA, UCC, UCG, UCU.
Threonine—ACA, ACC, ACG, ACU.
Tryptophan—UGG.
Tyrosine—UAC, UAU.
Valine—GUA, GUC, GUG, GUU.
Punctuation marks—UAA, UAG.

NUCLEOTIDES (BASES)

A=Adenine (Adenylic Acid).
U=Uracil (Uridylic Acid).
C=Cytosine (Cytidylic Acid).
G=Guanine (Guanylic Acid).

TABLE 4.—*The building blocks of life*

6 letters—
Elements:
1. Carbon
2. Hydrogen
3. Oxygen
4. Nitrogen
5. Sulfur
6. Phosphorus
Combine to form 10 monosyllables—
Molecules:
1. Methane
2. Ammonia
3. Water
4. Hydrogen Sulfide
5. Carbon Dioxide
6. Hydrogen Cyanide
7. Carbon Disulfide
8. Acetylene
9. Formaldehyde
10. Ethylene
Combine to form 15 polysyllables—
Groups:
1. Methyl
2. Hydroxyl
3. Amine
4. Thiol
5. Carbonyl
6. Disulfide
7. Carboxyl
8. Amide
Rings:
1. Benzene
2. Furane
3. Pyrrole
4. Imidazole
5. Indole
6. Pyrimidine*
7. Purine*
Combine to form 22 words—
Amino acids (see Table III).
Combine to form millions of sentences—
Proteins.

*Two very special groups are the pyrimidine and purines for these are the nucleotide bases DNA and RNA.

DNA (RNA): Purines: Adenine, Guanine/Pyrimidines: Thymine, Cytosine (Uracil).

FOOTNOTES

[1] "The Structural and functional unit of most living matter is the cell. It is a matter of observation that all cells are produced by other cells and that in the daughter cells the same structures are reproduced as were found in the parents cells."—"Cells," E. H. Mercer—Doubleday Anchor, 1962.

[2] "—All organisms, however large and complex they may be when full grown, begin life as but a single cell. This is true of the human being, for instance, who begins life as a fertilized ovum."—"The Genetic Code," Isaac Asimov—1962 (Page 20).

[3] "The cell is the unit of life, and although an organism may be made up of many trillions of cells, all the properties and characteristics of the organism can be traced back to the functions and activities of one group of cells or another, or some combination of groups."—"The Genetic Code," Isaac Asimov—1962 (Pages 18–19).

[4] "Most Somatic cells (body or vegetable cells) are diploid. Thus the nucleous of each body cell in a man or a woman, contains 46 chromosomes. The diploid chromosome number of the privet plant is also 46. This does not make privet cells human—it is the nucleic acid content that counts, not the chromosome number in itself. Each chromosome in the monoploid set is identifiable by its length and shape. Its nucleic acid controls particular traits in the organism. Since body cells are diploid each chromosome has a matching partner."—"Biology, an Inquiry into the Nature of Life"—Weinburg Allyn and Bacon, Inc.—1971 (Page 352).

[5] "You are composed of trillions of cells now, but at one time in *your* life *you* were just one single cell."—"You and Your Cells," Leo Schneider, Harcourt, Brace and World Inc.—1964 (Page 101).

[6] Contributors to DNA theory: 1953—Dr. James D. Watson—Biology—DNA model. 1953—Dr. Francis Crick—physics—DNA model. Fifties—Dr. Linus Pauling—Chemist—Theorized genetic code. Forties—Dr. Maurice Wilkins—Biochemist—X-Ray analysis of DNA. 1960—Dr. George Gamow—Physicist—proposed amino acid code. 1957—Dr. Arthur Kornberg—Chemist—Synthesis of DNA in laboratory.

[7] "DNA has been established as the genetic material because the Watson-Crick model provides an adequate explanation for duplication, mutation, and control of cellular activity."—"Fundamental Concepts of Biology," Nelson—Robinson—Boolootian. John Wiley and Sons, Inc.—1970 (Page 244).

[8] "The nucleic acid are the same in all living things; it is merely the differing sequence of nucleotides that spell out the differences among species and individuals." "The Language of Life," George and Muriel Beadle (Page 30).

[9] "Rebirth of liquid chromatography"—Dr. Robert E. Leitch and Dr. J. L. Kirkland—Industrial Research—August, 1970 (Page 36).

[10] "DNA has been called the secret of life. Actually DNA is only a chemical, though a remarkable one. It is never alive, except as a part of a living cell."—"Biology, An Inquiry into the Nature of Life," Weinberg.

[11] "DNA determines the nature of every living organism from the amoeba to man."—"The Genetic Code," Isaac Asimov—Signet Science Library, 1962 (Back cover).

[12] "An enzyme capable of catalyzing a particular reaction may be present in the cells of wolves, octopi, moss, and bacteria, as well as in our own cells. And yet *each of these enzymes,* capable though it is of catalyzing one particular reaction, *is characteristic of its own species*. They may all be distinguished from one another."—"The Genetic Code," Isaac Asimov—1962 (Page 28).

[13] "Even these (tissue: collagen, actomycin; proteins: Hemoglobin), however differ from one species to another. It is possible to produce antibodies to components of human blood, for instance, which will react only with human blood.—We can summarize it all by saying that each species has its characteristic proteins and enzymes; that each individual has them; that each cell has them."—"The Genetic Code," Isaac Asimov—1962 (Page 30).

[14] "The order of the amino acids in a polypeptide chain is peculiar to each protein and is responsible for its specificity; consequently, the assembly of all the specific proteins in a cell characterizes and distinguishes it from all other cells."—"Cells: Their Structure and Function," E. H. Mercer. Doubleday Anchor.

[15] "Individual Genes are not seen themselves but their presence is known by the presence of their products—enzymes."—"Human Gene Maps: A First Step Toward Genetic Engineering." (Describing work of Dr. Frank Ruddle of Yale U), by Barbara J Culliton. Science News—Vol. 98—Aug. 29, 1970.

[16] "It is possible to measure the dissimilarity (immunological distance) between two proteins. Results of such tests show that the albumins of homosapiens, chimpanzees, and gorillas differ from each other, in terms of immunological distance, by about 6 units, while those of homosapiens and Rhesus monkeys differ by about 38 units."—Drs. A. C. Wilson and V. M. Sarich, University of California (as reported in Industrial Research).

[17] "After the union of these two cells, a series of chemical events unfolds. All the information that is needed to ensure that a fertilized egg will develop physically into an authentic member of the parent's species must be present in that tiny and wonderful unit of matter. If the baby animal is to have fur rather than feathers, at its conception a sequence of chemical reactions is started that will lead to fur making rather than feather making. Each species possesses its own peculiar set of enzymes and hormones, even though some remarkable similarities exist, especially at the coenzyme level. Feathered creatures have different enzyme systems that generate the proteins of feathers from basically the same set of amino acids. Whatever the genetic message may be, whether a set of instructions to develop as a cowbird or a set to develop as a cow, it very likely concerns the generation of a distinctive enzyme system."—"Principles of Physical, Organic and Biological Chemistry," John R. Holum. John Wiley and Sons—1969.

[18] "It is, then, a reasonable guess that no two persons alive (identical twins excepted) carry the same genes. Every human being is a carrier of a unique, unprecedented, and probably unrepeatable gene complex."—"Evolution, Genetica, and Man," Theodosius Dobzhansky. John Wiley and Sons—1961 (Page 34).

[19] "Biologists now know that every species of living thing has its own characteristic number of chromosomes."—"The Cell, Life Science Series," John Pheiffer. Time Inc.—1964 (Page 57).

[20] "Probably the greatest biological advantage of sexual reproduction is the increased variability that results from uniting the hereditary material of two organisms. This creates a truly new organism, similar but never identical to either parent."—"Fundamental Concepts of Biology," 2nd Ed.—Nelson, Robinson and Boolootian. John Wiley and Sons, Inc.—1970 (Page 179).

[21] "The body of the unborn baby is more complex than ours. Before he is born the baby has several extra parts to his body which he needs only so long as he lives inside his mother. He has his own space capsule, the amniotic sac. He has his own lifeline, the umbilical cord, and he has his own root system, the placenta. *These all belong to the baby himself* not to his mother. They are all developed from his original cell."—"The Secret World of a Baby," Day and Liley, 1968 Random House.

[22] "The belief that the blood of the pregnant mother is transmitted to the child in the womb, and thus becomes a part of the child, is ancient and wholly erroneous. Blood does not normally pass from the mother to the fetus. The blood cells of the mother are far too large (.0003 inch in dia.) to be able to pass through the placenta and so are the blood cells of the fetus. The fetus manufactures its own blood, and the character of its various blood cells, both structurally and functionally, is demonstrably different from that of either of its parents. These facts should forever dispose of the ancient notion that is so characteristically found among non-literate peoples, that the blood of the mother is continuous with that of the child."—"Human Heredity," Ashley Montague (Page 71). World Publishing—1963.

[23] "Now the embryo's own blood, circulating in the umbilical cord, removes the embryo's wastes to be disposed of by the mother. It brings food, oxygen, hormones, and other materials supplied by the mother. The exchange of materials takes place in the massive placenta, which is formed partly of maternal and partly of embryonic tissues. Here maternal and embryonic blood supplies circulate in two sets of villi separated by membranes. Materials diffuse across the membranes, or across by active transport. The embryo's freshened blood flows back through the cord. Generally blood from the two systems does not mix."—Biology, An Inquiry into the Nature of Life," Stanley Weinberg (Page 377). Allyn and Bacon, Inc.—1971.

[24] "A baby can be type A if the father is type A but mother is B. Baby can be A if father is A but mother is C. A baby can be B if father is B but mother is A, and a baby can be B if father is B but mother is C."—"As shown in Heredity," Universal Standard Encyclopedia Funk Wagnalls Unicorn Publisher—1955 (abridged) (Page 4298).

[25] "That, in fact, is precisely what the word "organism" means, an organized living entity, moreover, an *organized* living entity that functions to maintain organization and is opposed to all states or disorganization. Orderly and organized development is brought about as a result of the communication of the coded information contained in the living "tapes", the chains of DNA molecules. The genes are, as it were, the paragraphs in which the words or sentences are the nucleic acids."—"Human Heredity," Ashley Montague—(Page 34). World Publishing—1963.

[26] "An embryo of a higher animal is never basically like any other animal, only like the embryo of the latter." "In other words, the development of the embryo does not reproduce for our benefit the portraits of the near or remote ancestors."—"Evolution, Genetics and Man," Theodosius Dobzhansky (Page 238). John Wiley and Sons—1961.

[27] "In fish most of the gill-slit structure develops into gills and gill slits in the adults. The embryos of amphibia, reptiles, birds, and mammals also have gill slits, but these do not develop into gills (except in some of the amphibians). In later development, parts of these structures become modified into parts of the ear and parathyroid and thymus glands."—"Fundamental Concepts of Biology" (page 279). Nelson-Robinson-Boolootian. John Wiley and Sons—1970.

[28] "Early human embryos resemble those (embryos) of other vertebrates. They have the tail and the coat of embryonic hair common to other mammals. They have the same gill slits as fish embryos. But human beings are not fish; they never have actual gills, and they do not go through a fish stage. What embryos inherit from their ancestors is information concerning development. Human and fish embryos both have gill slits because both inherit the information that produces them."—"Biology, An Inquiry into the Nature of Life" (page 382). Weinberg. Allyn and Bacon, Inc.—1971.

[29] "The human species, Homosapiens (Latin homo, man; sapiens, wise), as well as every other living species, owes its existence to the fact that living organisms are able to make copies of themselves. These copies reproduce themselves into other copies, and in this way the species maintains its specific character, generation after generation. We say then that there is an *inbuilt specificity in the basic structure of every organism*, that the manifest characteristics of an organism, the phenotype, consist of an exact sequence of amino acids in protein—the genetic constitution, the genotype, consisting of a corresponding sequence of nucleotides in DNA. The little girl who when asked by her teacher, "What is it that an elephant has that no other animal has?" replied, "Little elephants," was of course, perfectly correct in terms of genetics, although the teacher wanted an answer in terms of anatomy. The reason that elephants have little elephants and not little animals of other sorts is because its information contained in the elephants genes is coded in such a manner as to produce copies of themselves."—"Human Heredity," Ashley Montague (page 45). World Publishing—1963.

[30] "The tissues of a wound not only grow when needed; they stop growing as soon as healing is completed. This illustrates another major feature of tissue development, an influence which is at work not only during embryonic existence but throughout the course of life. In the shaping of new organs and in replenishing the tissues of organs already formed, the phenomenom of growth is under strict control at every stage.—The study of cell development does not stop with the embryo or even with the shaping of the adult organism; it includes the *full sweep of*

life from beginning to end."—"The Cell," Life Science Library (Page 107).

[31] "The nervous system, the body's complex communications network, starts to develop during the third week." "Growth," Life Science Library (Page 46).

[32] "The two in the cell of a female are alike and are known as X—chromosomes. The two in the male cells are not alike; one is an X chromosome, as in the female, but its partner is different in shape and is termed a Y—chromosome. The four chromosomes segregate during meiosis and recombine at fertilization . . ."—"Fundamental Concepts of Biology" (Page 206). Nelson—Robinson—Boolootian. John Wiley and Sons—1970.

[33] "If the chromosome is an X, a female *has been conceived*. If it is a Y, a male *has been conceived*."—"Growth," Life Science Library (Page 15).

[34] "Any fertilized egg, or zygote, resulting from a union of sperm and egg, will have received either an X or a Y chromosome from the sperm and always an X chromosome from an egg."—"Human Heredity," Ashley Montague (Page 34). World Publishing Company—1963.

[35a] "Although the infants sex is determined at the moment of conception, the reproductive system does not begin to develop until the second month. Once it does, however, progress is so rapid that the differences between the sexes are unmistakable by the time the embryo has become a fetus."—"Growth: Life Science Library" (Page 55). Tanner and Taylor, Time Inc.—1965.

[35b] "Even the multitude of complex, special cells which make up the body of a human being are reproduced from the *continued* division of cells *all* of which originally came from a single cell; the fertilized egg, or ovum."—"The Science of Life" (Page 139). Lois Darling. World Publishing Company—1961.

[36] "Each new life must somehow inherit a *complete* set of instructions for its form and function."—"The Science of Life" (Page 140). Lois Darling. World Publishing Company—1961.

[37] "The majority of our group could find no point in time between the union of sperm and egg or at least the blastocyst stage, and the birth of the infant at which point we could say that this was *not a human life*:—the changes occurring between implantations, a six-week's embryo, a six-month's fetus, a one-week-old child, or a mature adult *are merely stages of development and maturation*."—First International Conference on Abortion, Washington, D.C.—October, 1967.

[38] "The microscopic blob of jelly called the cell is a remarkable entity. The most remarkable thing about it is the very fact that it is alive—not with a murky primordial glow, but as fully and vibrantly alive as a tiger, or an oak tree. In a remarkable miniaturization of life's functions, the cell moves, grows, reacts, protects itself and even reproduces."—"The Cell", Life Science Library (page 16).

[39] "The uniting of two gametes is only the first step in the formation of any complex animal or plant. From worm to man, what begins as a simple cell capable of replication through mitosis must differentiate into the specialized cells which constitute and control the organs of nervous and muscular function, circulation, absorption, and excretion. The architect and engineer of organismic structure is the hereditary material which controls the heritage of a species and directs the operation of each individual organism.

"DNA is the primary constituent of chromosomes and is now accepted as the basis of gene activity. The major function of genes in the non-reproducing cell is the production of enzymes which regulate cellular structure and function through their initiation and control of chemical reactions. Gene activity also controls the differentiation of structure which occurs in multicellular organisms. Again this process is carried out through enzymatic activity. Genes not only produce these enzymes, they also regulate their production so that only appropriate reactions occur at specific times. This control mechanism, which lies at the basis not only of self-regulation, but also of differentiation in organisms all of which contain exactly the same genes in every cell. It is this regulatory mechanism which makes it possible for an undifferentiated zygote to develop into the total organism made up of an array of highly specialized organs."—"Evolution and Human Behavior," Alexander Alland, Jr., American Museum Science Books—1967.

[40] "Cells are organisms and entire animals and plants are aggregates of these organisms arranged according to definite laws. All subsequent investigations into the role of the cell were launched from this solid base line experimentally established by Schleider and Schwann."—"The Cell," Life Science Library (Page 9).

[41] "Every human being starts off as a fertilized egg."—"Human Heredity," Ashley Montague (Page 23). World Publishing Company—1963.

[42] "It has been calculated that only about 44 divisions are necessary to bring into being the number of cells present at birth, and only four more divisions are required to bring about the adult number. At fertilization *you* weighed about fifteen 10 millionths of a gram; at birth (if you were a seven pound baby) *you* weighed 3,175 grams. In the nine months from conception to birth *you* increased *your* weight 2 billion times. Adults weigh about 50 billion times as much as *they* weighed at fertilization."—"Human Heredity," Ashley Montague (Page 25). World Publishing Company—1963.

[43] "Cleavage consists of the first divisions of the zygote, which are carried out with little intervening time. The number of cells greatly increases but the total amount of protoplasm remains the same as it was in the zygote.—Differentiation, the specialization of cells and tissues, occurs with morphogenesis. In fact, the two are parts of the same process of development and we separate them only for descriptive purposes."—"Fundamental Concepts in Biology."

[44] "Most animals conform to the basic life cycle plan shown." (See Figure 1). "Here a haploid egg and sperm nucleous unite to form a diploid zygote. The zygote matures into another gamete forming generation and so the life cycle continues."—"Fundamental Concepts in Biology" (Page 184).

[45] "Sexual reproduction, as we have seen, is characterized by the uniting of two haploid nuclei which brings together hereditary material (DNA) from two parent organisms. The result, a zygote, then develops under the control of this DNA material. It will not be identical to either parent but instead will be a new, and in a sense, unique organism. Consider for a moment the differences between children of the same parents and you can gain some notion of the concept of individual differences. On the other hand, the zygote invariably develops into something quite similar to its parents. We can predict with certainty that dogs will produce puppies and human beings will beget human beings."—"Fundamental Concepts in Biology" (Page 193).

[46] "Every living cell is the result of the division of a pre-existing cell. All the cells of a human being, for example, result from the repeated division of a single cell, called the zygote, which was formed at conception."—"Heredity," Encyclopedia (Page 4292).

[47] "A human being begins his existence when a spermatozoon fertilizes an egg cell.—Indeed, the human body, whether an embryo or adult, tranforms food not merely into human flesh but into an individual who resembles his parents and relatives more or less closely."—"Evolution, Genetics, and Man" (Pages 10–11).

[48] —life arises only from pre-existing life."—"Evolution, Genetics, and Man" (Page 16).

[49] "Every species of organism reproduces itself."—"Evolution, Genetics, and Man" (Page 23).

[50] "Species, on the other hand, are genetically closed systems, since they exchange genes rarely, or not at all."—"Evolution, Genetics, and Man" (Page 165).

[51] "The development of the organism is due to all the genes acting together in concert. All the genes which the organism has interact with the environment, and in so doing they make the fertilized egg develop by stages into a fetus, an infant, a child, an adolescent, an adult, an old man or an old woman, and finally a cadaver."—"Evolution, Genetics, and Man" (Page 35).

FEDERAL FOOD PROGRAMS FOR NEEDY CHILDREN

The SPEAKER. Under a previous order of the House, the gentleman from Minnesota (Mr. Quie) is recognized for 15 minutes.

Mr. QUIE. Mr. Speaker, yesterday Chairman Perkins of the Committee on Education and Labor introduced for himself and for Mr. Pucinski and myself a bill—H.R. 14872—designed to carry out the President's recommendations for expanding and improving the operation of the National School Lunch Act and the Child Nutrition Act of 1966. Today, I am joining with additional colleagues in reintroducing this legislation. I am certain that many other Members on both sides of the aisle will wish to be associated with the legislation at some stage in its consideration.

On May 6 President Nixon in a statement very concisely outlined the purposes of this bill and certain other steps he is taking to expand Federal food programs for needy children. The President said:

> I shall propose to the Congress next week a three-part program to expand and improve Federal efforts to provide food for needy children.
>
> First and most important, I shall submit a comprehensive school nutrition bill to revise and reform the present school lunch and school breakfast programs—so that incentives will be provided for expanding these programs and so that each dollar spent on them will do more good.
>
> Second, I will also ask that an additional $25 million be allocated for feeding needy children in our cities this summer.
>
> Third, I will request an additional $19.5 million to extend the school breakfast program to some 3,000 additional schools in the coming year.
>
> In order to maintain budget discipline, I have directed the Secretary of Agriculture to offset these added expenditures by an equal amount—$44.5 million—in other areas so that the department's outlays will not be increased by this decision.
>
> At the same time, I am instructing the Secretary of Agriculture to work with States and cities to improve local program administration in order to eliminate the severe mismanagement that marred these programs in some cities last summer.
>
> The additional $19.5 million for the school breakfast program would bring total funding for this program in the coming school year to $52.5 million, compared to $31 million in the school year now ending. This new money would make it possible to accept applica-

tions from all the schools indicated in State plans of operation as potential candidates for establishing breakfast programs.

It was just 3 years ago, on May 6, 1969, that I sent to the Congress my first message on hunger and malnutrition. I noted in that message that America has long shared its bounty with hungry peoples in all parts of the globe, but that now "the moment is at hand to put an end to hunger in America itself. For all time."

In the last 3 years, with the cooperation of the Congress, we have made immense strides toward reaching that goal. For example, the budget I proposed last January allocated 9 times as much money for food stamps and 7 times as much money for school lunches for needy children as was allocated in fiscal year 1969.

My new proposals would allow us to improve even further on our record of accomplishment. I urge the Congress to give early and favorable consideration to these important measures.

Mr. Speaker, there follows a section-by-section analysis of the bill:

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section of the bill amends section 3 of the National School Lunch Act.

The change proposed by the bill would merge the separate appropriation authority for special assistance (now set forth in section 11 of the Act) with the appropriation authority for food assistance (now set forth in section 3 of the Act).

Other sections of the bill propose that Federal funding of both the section 4 and section 11 phases of the school lunch program be changed to a "performance" basis, i.e., that States would be guaranteed a specified average payment under section 4 for each lunch served and an additional average payment under section 11 for each free and each reduced price lunch served. A merging of the appropriation authorities for food assistance and for special assistance would add flexibility to the Federal funding structure without affecting the specified level of assistance to be guaranteed under each phase of the program.

It is intended that the annual appropriation request under the merged authority would indicate the estimated portion of the appropriation to be expended under each phase of the program, based upon the levels of the guaranteed payment and the projected number of total lunches and free and reduced price lunches to be served. The actual portion expended under each phase, however, would depend upon the actual number of total lunches and of free and reduced price lunches served.

SECTION 2

This section of the bill amends section 4 of the National School Lunch Act which currently specifies how available food assistance funds will be apportioned to the States. Section 4, as amended by the bill, would contain the special provisions of the Act concerned with the section 4 phase of the program: (1) the method of distributing funds to States; and (2) the purpose for which the funds are to be expended (moved from section 8 of the Act). Under the bill, the use of section 4 funds would not be limited to the cost of obtaining food. Such payments would be a general contribution to the schools' cost of operating a school lunch program. The method of distributing section 4 funds to States would be changed from an "apportionment" basis to a "performance" basis.

Under the present Act, an annual appropriation is authorized for section 4 purposes, to be apportioned to the States on the basis of a formula which takes into account the relative number of lunches served in each State in a prior period (two years prior to the year in which the funds are apportioned) and the relative need of the State as measured by its per-capita income. Each State then establishes per-meal rates of section 4 assistance to schools within the State, based on its apportioned share of the available funds for the fiscal year and the projected number of lunches to be served in that year.

The use of a "relative need" factor in the distribution of section 4 funds was of most relevance prior to the time additional special assistance funds were provided to help finance free and reduced price lunches in all schools under the P.L. 91-248 amendments to the Act. Additionally, the use of past participation data in the formula, in effect, penalizes those States most in need of reaching additional schools. As a result, interstate differences in the per-lunch rates of section 4 assistance have become more a function of the apportionment formula than of a sound Federal financing structure. P.L. 92-153 was designed to partly alleviate this problem by overlaying the statutory apportionment formula with authority for the distribution of additional food assistance funds on a performance basis—assuring all States a minimum average payment of 6 cents per lunch in food assistance in the fiscal year 1972.

This bill proposes to permanently amend the National School Lunch Act by replacing the "apportionment-formula" method of distributing the funds with a "performance" method. Under it, each State would be guaranteed a prescribed average section 4 payment for each lunch served to children.

The bill would require the Secretary of Agriculture to prescribe and announce the level of the guaranteed average per-lunch payment (called National average basic payment in the bill) for each fiscal year. In submitting fiscal year budget requests, it is contemplated that the Secretary would inform the Appropriation Committees of the level of the guaranteed average payment upon which the budget request was based and that the Appropriations Committees would review the appropriateness of the proposed level in reporting out the Department's annual appropriation act for consideration by the Congress.

In no event would the annual amount of section 4 funds made available to a State be less than the amount of section 4 funds it received in the 1972 fiscal year.

Within the funds made available under the guaranteed average basic payment, each State educational agency would retain its present authority to adjust per-lunch rates of section 4 assistance for individual schools, within a maximum rate established by the Secretary for all States. A number of State educational agencies, for example, point out that it is desirable to provide higher rates of section 4 assistance to secondary schools because, on the average, teen-age children should be served lunches containing larger portions than those contained in the lunches served to younger elementary-age children.

SECTION 3

This section amends section 5 of the National School Lunch Act which now authorizes a program of nonfood (equipment) assistance for schools.

The program authorized by section 5 has not been funded since 1947. However, the Child Nutrition Act of 1966 does authorize an equipment assistance program and this bill proposes changes in that authority to increase its effectiveness. This bill, therefore, would eliminate an authority that has been inoperative and is no longer needed.

Section 5 of the Act, as amended by this bill, would bring together existing provisions of the Act concerning agreements between USDA and State educational agencies and methods of paying Federal funds to States—provisions that now appear in portions of sections 7 and 11 of the Act. In moving these provisions to section 5 of the Act, no substantive changes are proposed. However, in making payments of section 4 and section 11 funds to States, the Department of Agriculture would need to take into account that section 8 of the Act, as amended by this bill, would authorize States to disburse funds to schools on either an advance or reimbursement basis.

SECTION 4

This section of the bill amends section 6 of the National School Lunch Act which is concerned with certain direct Federal expenditures under the program.

It was necessary to make technical changes in the language of section 6 in view of other provisions of the bill which place sections 4 and 11 funding on a performance basis. It is intended that the Secretary would request a single appropriation to cover the specified direct expenses but the request would indicate the estimated use of the requested sums for (1) Federal administrative expenses; (2) for nutritional training and surveys; and (3) for direct food procurement.

SECTION 5

This section of the bill amends section 7 of the National School Lunch Act which now principally deals with the matching of Federal school lunch funds by funds from sources within the State. Since 1956 each dollar of Federal section 4 assistance funds was required to be matched by $3 of funds from sources within the State (including payments made by children for fully paid or reduced price lunches). P.L. 91-248, effective for fiscal year 1972, required that State revenues constitute a certain percentage of the matching funds. The 3 to 1 matching requirement has been eliminated and the matching out of State revenues has been applied as a percentage of payments to States under sections 4 and 11 of the School Lunch Act and section 4 of the Child Nutrition Act of 1966. The changes proposed are designed to clarify certain areas of the matching requirement that are unclear, or have proved to be unworkable under present law, and to alleviate developing problems with the requirement for State revenue matching when State educational agencies administer the school-lunch program in nonprofit private schools.

Under the bill, States would place in jeopardy full payments made to them under sections 4 and 11 of the School Lunch Act and section 4 of the Child Nutrition Act if they failed to meet the matching requirement. If, for example, a State was determined by the Secretary to have met only 90 percent of its required matching from State revenue, the State would be required to repay 10 percent of all the school lunch and breakfast funds paid to it for that fiscal year.

Since under the bill all matching would be met out of State revenues there would be legal barriers to including payments of Federal funds to nonprofits private schools in determining the State's matching requirement. The matching requirement, therefore, only applies to public schools. To complete the restructuring of the matching requirements, the special matching provisions in the last sentence of section 9 of the Act—which now apply only to nonprofit private schools in which the program is directly administered by the Department of Agriculture—would be eliminated.

The bill also recognizes that the proposed performance basis for funding the program would mean that State Legislatures could not know, at the beginning of the fiscal year, how much State revenue would need to be appropriated each year to meet the matching requirement. To alleviate this problem, the bill provides that the amount of State revenue matching would be calculated upon the previous year's use of Federal funds under sections 4 and 11 of the School Lunch Act and section 4 of the Child Nutrition Act.

The proposed bill also changes the language of the present Act concerning the guidelines to be used by States in expending the State matching revenues. The present language of the Act is designed to provide that each participating school should receive the same proportionate share of such State funds as it receives of the Federal funds made available to the State under the food and special assistance phases of the lunch program, the breakfast program, and the program of nonfood assistance. Operating experience since the passage of P.L. 91–248 has indicated that this is a wholly impractical requirement. A State cannot really insure such a use of State revenues unless it withholds their distribution until after the end of the fiscal year. More importantly, this requirement could render questionable such desirable uses of State revenues as the provision of funds to local school systems to permit such systems to hire supervisory personnel or the reserving of some State revenues for the exclusive use of needy schools.

SECTION 6

This section amends section 8 of the National School Lunch Act which now provides for agreements between State educational agencies and schools to which section 4 funds are to be disbursed.

The bill provides that the agreements would cover the disbursement of both section 4 and section 11 funds and would authorize State educational agencies to disburse such funds to schools on either an advance or reimbursement basis. Currently, the Act authorizes only the reimbursement basis and this is an especial hardship on the school serving a very high percentage of free and reduced price lunches. The bill contemplates that the Federal regulations issued by the Secretary would prescribe the general procedures under which State agencies could make the newly authorized advance disbursements. It is intended that such advances would be reasonably related to the expected payments to be earned by the schools for the number of lunches that would be served: that within each fiscal year the amounts advanced would be periodically adjusted, based upon monthly claims submitted by schools for the actual number of lunches being served; and that the advance-and-settlement cycle would be completed within each fiscal year for which advance payments are made to a school.

Under this bill, the provisions now set forth in section 8 of the Act, which deal with the type of assistance authorized under section 4 of the Act, would be moved to section 4.

SECTION 7

This section of the bill amends section 9 of the National School Lunch Act. Section 9 of the Act now: (a) Prescribes the nutritional standards to be established under the program; (b) sets forth provisions with respect to the service of free and reduced price lunches; and (c) outlines other program requirements concerning nonprofit operations, utilization of Federally donated foods, etc. The bill reorganizes the numerous provisions of the section into three subsections. The new subsection 9(a) deals with the nutritional standards and its provisions have not been changed. The new subsection 9(b) deals with the service of free and reduced price lunches and the bill makes substantive changes in these provisions. The new subsection (c) deals with a number of miscellaneous program requirements.

Under the changes in section 9 proposed by this bill, the Secretary of Agriculture would continue to prescribe an income poverty guideline and it is intended that such a guideline generally conform with the Poverty Index published by the Bureau of the Census. The Secretary's poverty guideline would be the minimum Federal mandatory eligibility standard for a free lunch. Currently, such guideline is the minimum mandatory standard for a free or reduced price lunch.

The bill also establishes guidelines under which States may elect to establish income eligibility standards for free lunches and reduced price lunches at levels higher than the mandatory minimum Federal standard.

Each State educational agency would prescribe the income guidelines, by family size, to be used by schools within the State in determining those children eligible for a free lunch. It is intended that a State could establish a single set of family-size income guidelines for use by every school within the State or the State could establish a range of family-size income guidelines within which each school could elect the specific income guidelines it would use. By family size, the income guidelines established by the State educational agency for free lunches could not be more than 15 percent above the Secretary's income poverty guideline.

Under the bill, schools could elect to also offer lunches at a reduced price to children from families with incomes above those that would qualify for free lunches. If the school elects to serve reduced price lunches, the income guidelines for eligibility, by family size, shall be no more than 30 percent above the Secretary's income poverty guideline. The price of such a reduced price lunch could not exceed 20 cents, the limitation now set forth in the Act.

Currently, schools are mandated to consider a third factor in their eligibility standards, i.e., the number of children in the family attending school or service institutions. State officials have almost uniformly reported the complexity of a three-factor eligibility standard makes it difficult both to explain the required standard to local school officials and to insure that families fully understand their children's eligibility. The use of a two-factor formula—income and family size—is deemed to be equally effective in reaching needy children.

The bill would require the Secretary of Agriculture to announce each year's income poverty guideline no later than May 15 of the preceding fiscal year in order to provide States with a desirable leadtime in which to prescribe their income guidelines for free and reduced price lunches and to inform schools of any changes in the guidelines. Once announced, the poverty guideline could not be reduced by the Secretary for the fiscal year for which it is effective.

SECTION 8

This section amends section 10 of the National School Lunch Act which deals with the direct Department of Agriculture administration of the school lunch program in nonprofit private schools when State law prohibits the State educational agency from assuming responsibility for the program in such schools.

The changes made in this section of the bill are those required to place the funding of both the section 4 and section 11 phases of the program on a performance basis for those nonprofit private schools for which the Department of Agriculture has direct responsibility.

SECTION 9

This section amends section 11 of the National School Lunch Act which deals with the special assistance phase of the program.

The section 11 special assistance phase of the program would be placed on a performance basis for Federal funding paralleling the method proposed for section 4 funds under the bill. Each State would be guaranteed an average payment for each free lunch served in a fiscal year and for each reduced price lunch served. As in the case of section 4 funds, the bill contemplates that the level of the guaranteed average payments (called National average free lunch payment and National average reduced price lunch payment in the bill) would be determined under the annual appropriation progress.

Although the total amount of the special assistance to be paid to a State in a fiscal year would be determined by the use of two National average payments (one for free lunches and one for reduced price lunches), it is not the intent of the bill that the State agency would be required to use the funds earned under the free-lunch average payment for free lunches and those earned under the reduced price lunch average payment for reduced price lunches. The State agency would have the authority to use the funds earned by the State under section 11(a) of the Act to vary rates of special assistance for free and reduced price lunches for the schools within the States as it deems will best accomplish program purposes, within national maximum per-lunch rates of special assistance payments established by the Secretary for all States.

Because of the revisions made by the bill in other sections of the Act (sections 5, 7, 8, and 10), subsections (c) through (g) of the present section 11 are no longer needed. The present subsection 11(h) would be redesignated as subsection 11(c).

SECTION 10

This section amends subsection (d) of section 12 of the National School Lunch Act which deals with the definition of terms used in the Act.

The definition of "State" is amended to extend the school-lunch program to the Trust Territory of the Pacific Islands which currently is eligible only for the Special Food Services Program for Children, and section 32 and section 416 food donations. The definitions of "nonfood assistance," participation rate," and "assistance need rate" are eliminated because they are no longer used in the Act as it would be amended by this bill.

SECTION 11

This section of the bill amends section 14 of the National School Lunch Act which establishes a National Advisory Council on Child Nutrition.

The bill would enlarge the membership of the Council by five persons. Two of the new members would represent those who are concerned with program operations and supervision at the local level—one from a rural school system and one from an urban school system. One of the new members would be the parent of a school-age child, who is intended to reflect the views and experiences of parents who take an active part in local organizations concerned with elementary and secondary school programs, especially school food service programs. The fourth and fifth new members would be students, one of whom would be eligible for a free or reduced price lunch.

SECTION 12

This section of the bill revises section 4 of the Child Nutrition Act which authorizes the operation of a school breakfast program.

Under the bill, the breakfast program authority would be permanent.

The principal change in the program proposed by this bill is to authorize a "performance" method of funding—paralleling that proposed in the bill for the school-lunch program. However, Federal funding of the breakfast program would be carried out under one account rather than the two accounts (section 4 and section 11) proposed for the lunch program. The funds made available to schools would be for the general support of the program.

Each State would be guaranteed an average payment for each breakfast served by participating schools (called the National average breakfast payment in the bill). Average payments would also be guaranteed for each breakfast served free or at a reduced price (called the average free breakfast payment and the average reduced price breakfast payment in the bill). As is the case for section 4 and section 11 school lunch assistance, the level of these guaranteed payments would be determined during the annual appropriation process. Within maximum Federal prebreakfast rates for basic free and reduced price assistance, the States would retain authority to vary rates of assistance between individual schools.

Under the provisions of section 4(e) of the Act, as amended by this bill, schools would be required to use the same eligibility standards for free and reduced price lunches and breakfasts and observe the same conditions concerning the public announcement of such standards and the use of a "statement-type" application.

SECTION 13

This section amends section 5 of the Child Nutrition Act of 1966 which authorizes a program of nonfood (equipment) assistance for needy schools with no, or grossly inadequate, equipment.

The bill would increase the authorized annual appropriation to a maximum of $20 million for each of the fiscal years 1973, 1974, and 1975, and would authorize a maximum of $10 million for each fiscal year thereafter. Currently, $15 million is the maximum authorization for the fiscal year 1973, and thereafter the annual maximum is $10 million.

The increase in the level of the authorized annual appropriation would be accompanied by a new provision that would reserve 50 percent of the sums annually appropriated for the exclusive use of needy schools without a food service during the three fiscal years 1973–75. It is not the intent, in establishing this reserve, to include as a school without a food service a newly constructed school which is replacing a school (or schools) which was serving food.

The 50 percent of funds so reserved in the three fiscal years will be apportioned among the States on the basis of the enrollment in schools without a food service in the various States. If a State cannot use its share of the funds reserved for no-program schools, it will release the unneeded amounts for reapportionment to other States which can use additional funds for such schools. If there are unexpended funds out of this reserve at the end of a fiscal year, it is the intent that such unexpended funds be similarly reserved for use by no-program schools when carried over into a succeeding fiscal year under the authority of section 3 of this Act.

Thus, there would be an increased emphasis on using nonfood assistance funds to bring needy no-program schools into the lunch or breakfast program in the next three fiscal years. Thereafter, the level of the maximum annual appropriation would be decreased and the appropriations would be apportioned on the basis of the relative number of lunches and breakfasts served in the various States.

The bill continues the provision that funds from sources within the State shall finance 25 percent of the cost of the equipment acquired under this program. A change in the wording of this provision has been made to make it abundantly clear that this 25 percent provision is to be applied on a statewide basis—not school-by-school. This clarification gives States flexibility in obtaining the required State or local contribution, making it possible for the State agency to pay 100 percent of the acquisition costs when, in the opinion of the State agency, such a payment should be made. In addition, the Secretary is authorized to waive the matching requirement for any portion of the funds made available for the exclusive use of no-program schools in circumstances of unusual need.

SECTION 14

Section 14 of the bill amends section 7 of the Child Nutrition Act of 1966 which deals with Federal funds for State administrative expenses.

When the Act was passed, the program of section 11 school lunch assistance was confined to selected needy schools and the new child feeding programs—breakfast, nonfood, and the nonschool program (section 13 of the National School Lunch Act) were limited programs, largely pilot in nature. This bill, therefore, makes language changes to reflect the need to generally strengthen State supervision and technical assistance to schools and institutions participating in all child nutrition programs.

In providing Federal funds to States it is the intent that the Secretary of Agriculture utilize such funds in a manner he deems will best increase and strengthen such State supervisory activities and provide an incentive to States to accept intrastate administration of all child nutrition programs in all eligible schools and institutions.

SECTION 15

This section of the bill amends section 10 of the Child Nutrition Act of 1966 which, among other things, authorizes State educational agencies to use up to one percent of their apportionment of program funds for developmental projects.

With the elimination of the "apportionment-formula" method of distributing school lunch and breakfast funds to States, an alternate method was necessary to determine the annual amounts of program funds State educational agencies could be authorized to use for developmental projects. Under the bill, the Secretary could authorize States to fund developmental projects out of the funds made available to them under the guaranteed average payment for school lunches and school breakfasts and the funds apportioned to them for nonfood assistance in an amount which represents one percent of the funds utilized by the States under these authorities in the preceding fiscal year.

SECTION 16

Subsection (a) of this section of the bill is intended to correct a drafting oversight in previous legislation.

Under the provisions of section 11 of the Child Nutrition Act (and section 13 of the National School Lunch Act), the benefits provided to children under the school breakfast program, the nonfood assistance program, and the special food services program are not to be considered to be "income or resources" for purposes of taxation, welfare, and public assistance programs. Inadvertently, this prohibition was not extended to benefits derived from the school lunch program and the bill proposes language changes to make clear that school lunch benefits also are subject to such a prohibition.

Subsection (b) of this section would change the definition of State to extend the child nutrition programs authorized under this Act to the Trust Territory of the Pacific Islands.

CHAPLAIN MARK R. THOMPSON—REAR ADMIRAL—U.S. NAVAL RESERVE

The **SPEAKER**. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

Mr. **McDADE**. Mr. Speaker, it is a truism known to anyone who has ever had any relations with the Armed Forces of America that the Chaplain Corps has given service to this country which is immeasurable. There is no place into which we send our Army, our Navy, our Marine Corps, or our Air Force, that these brave men of God do not go. They are with the first waves that land on the beaches. They are with the paratroopers when they jump in combat. They sail the high seas with our Navy.

Occasionally there comes a man who stands out with distinction even among these most distinguished men. Such a man is Rev. Mark Thompson, D.D., who has just been promoted to the rank of rear admiral, Chaplain Corps, U.S. Naval Reserve, filling the only slot for a rear admiral as a chaplain in the Naval Reserve.

Dr. Thompson is a graduate of Washington and Jefferson College in Washington, Pa. He worked briefly as the assistant dean of students at that college before entering the Princeton Theological Seminary, from which he was graduated in 1944.

He entered service in the U.S. Navy in that year and served with distinction during the next 2 years, after which he became chaplain at Lafayette College in 1952. He returned to service with the U.S. Navy in that year and continued on active duty until 1958. He returned to the civilian ministry in that year, and has shown the same immense devotion to the members of his church, and indeed to all the people of our community as pastor of Westminster Presbyterian Church in Scranton.

To recite the work of Dr. Thompson would be impossible. To catalog only a few of his commitments is almost overwhelming. He has served as chaplain of our Naval Reserve center. He has also served on the staff of the Chaplains School in Newport, R.I.

He has served on the planning and advisory commitee on Scranton Neighbors; as president of the United Churches of Lackawanna County; as president of the Library Association of Scranton; as a founder and member of the board of directors of Geneva House; as a director of the Scranton-Lackawanna Human Development Agency; as chairman of the Interpretation and Stewardship Committee on the Lackawanna Presbytery; as a member of the general council of the Senate of Pennsylvania; a member of the National Missions Committee; a member of the Scranton Central City Pastors staff; a member of the Building Committee of Scranton Public Library; a member of the boards of directors of the Family Service, the United Cerebral Palsy, and the regional YMCA.

This is, indeed, a picture of the complete man of God, and we are more than fortunate to have him serving the people of our region with so great a distinction.

I know that all of my colleagues here in the House of Representatives join me in offering the warmest congratulations to Dr. Mark R. Thompson, who has now become Rear Adm. Mark R. Thompson. Every one of us in our area of Pennsylvania are enormously proud of this just distinction which has been conferred upon Dr. Thompson. I would suspect, however, that the proudest of all are his wife, Jean, and his children, Mark Jr., John, Scott, Robert, Robin, and Ross.

THE FEDERAL ROLE IN EDUCATION: A REPORT TO THE FOURTH DISTRICT OF KANSAS

The **SPEAKER**. Under a previous order of the House, the gentleman from

Kansas (Mr. SHRIVER), is recognized for 10 minutes.

Mr. SHRIVER. Mr. Speaker, the Labor-Health, Education, and Welfare Subcommittee of the House Committee on Appropriations, on which I serve, has now completed hearings on the fiscal year 1973 budget requests for the departments and agencies for which we are responsible.

More than a thousand pages of the printed record of these deliberations are devoted to the U.S. Office of Education. As our subcommittee now begins final consideration of these education budget requests and prepares recommendations for appropriations, perhaps it would be well to review the growing Federal role in our educational system.

Our Nation now spends in the neighborhood of $94 billion annually for education, or 9 percent of our gross national product. This is $16 billion more than the fiscal 1973 defense budget, which is funded entirely by the Federal Government.

The Federal Government has requested $15.7 billion in fiscal 1973 for education—an increase of over $12 billion in the past decade. Of this $15.7 billion, $6.3 billion is for elementary and secondary education—a fivefold increase since 1963. Federal support for higher education has risen $5.8 billion and is now over four times the 1963 level.

Twenty Federal agencies have requested fiscal 1973 funds for over 100 separate education programs. The most visible programs are those of the U.S. Office of Education, which account for roughly one-third of the total. Other major Federal efforts include the health manpower programs of the National Institutes of Health, the veterans educational programs, the manpower training activities of the Department of Labor, the Indian education programs of the Department of the Interior, and the college housing programs of the Department of Housing and Urban Development.

As a member of the Appropriations Committee and specifically of the Labor-Health, Education, and Welfare Subcommittee, I have supported the growth in funding for these programs.

Mr. Speaker, I represent a district and a State which has for years placed a high priority on education. The State of Kansas ranks fourth of all 50 States in terms of the literacy rate. Our State ranks 10th in the average number of school years completed by our adult population. Kansas ranks eighth from the top in the pupil-teacher ratio.

Growing Federal assistance has been an important contributor to this record. During the 1970–71 school year, Federal education funds for Kansas under the Office of Education elementary and secondary programs alone totaled more than $22 million. Of this total, the Fourth Congressional District received nearly $5 million.

While relatively small in terms of overall education expenditures in my district, these funds resulted in a significant saving for local taxpayers. In one school system, the property tax levy would have to be raised by more than 30 mills if it were not for this Federal assistance. In the city of Wichita, an increase of 4½ mills would be necessary.

These Federal funds are important, and they represent a wise investment in our Nation's future. It is becoming obvious that the Federal role in education financing must increase and improve administratively in the years to come.

In March of this year, the President's Commission on School Finance released its report to the President entitled: "Schools, People and Money—The Need for Educational Reform." American education has perhaps been "researched" and "reformed" more than any institution in our society, usually with only marginal results. At the same time, this Commission did present some worthwhile observations and recommendations.

First and foremost, the Commission recognized the basic need for more money for our schools. The report states:

> We recognize that money builds schools, keeps them running, pays their teachers, and, in crucial if not clearly defined ways, is essential if children are to learn.

While this might seem elementary to those administrators and teachers most directly involved in our schools, I am glad to see the Commission reminding the education bureaucracy in Washington of this fact.

The Commission has strongly recommended, for both constitutional and practical reasons, that the States bear the primary responsibility for designing, financing and implementing educational reform. The role of the Federal Government should be to provide the financial incentives for innovation at the local level, not to force untested new techniques on local school officials who know better.

In the past, education research has produced disappointing results when compared to medical and scientific research. One reason for this might be that education research does not succeed in the laboratory as well as the others. It must be done in the classroom by experienced teachers who deal with the problems of teaching a child every day. The Federal Government should encourage this practical research.

What form should this Federal support take in the future? We know that the percentage of education costs furnished by the Federal Government should and will rise. In the process we must find more effective ways of offering this assistance.

With our subcommittee's encouragement, the Office of Education is now redesigning all of its programs to focus on career education. Today, 40 percent of our high school graduates do not go on to higher education. More attention must be given throughout elementary and secondary education to prepare these students to offer productive and needed skills to prospective employers.

The President has proposed the initiation of education renewal grants to selected school districts to enable them to consolidate their Federal grant applications into one coordinated package. One of the more appealing aspects of this renewal would be the establishment of local education extension agents patterned after the effective and popular agricultural extension program. These agents would provide a way to spread information concerning successful education research.

To help States and cities meet emergency education and other funding needs promptly, the House will soon consider general revenue sharing legislation. Under the bill reported by the House Ways and Means Committee, the Fourth District of Kansas would be allocated over $8.6 million for the first year of this 5-year program. Special education revenue sharing has also been proposed, but no action is expected on it this year.

Mr. Speaker, these are just a few of the possible avenues being examined as routes to future Federal assistance to education. This is not to say that our education system is doing poorly now; it is not. More of our young and adult population are being served than ever before. A higher proportion of elementary and secondary school students now complete 12 years of schooling than ever before. Greater numbers and a higher percentage of high school graduates enroll in college and other postsecondary institutions than ever before. Our colleges and universities are now producing more graduates with bachelor, master, and Ph. D. degrees than ever before. Bachelor degrees have doubled in the last 10 years; master and Ph. D. degrees have tripled.

Not only are more students receiving more education, but for the majority they are receiving a better education. Curriculums at all levels, from elementary through graduate school, are more varied, more intensive, and of higher quality. Teachers and school administrators are receiving more and better training than ever before as well as more retraining to update their knowledge and skills.

As we look to the coming years, these gains will provide solid footing for further improvement. The Federal Government will be spending more on education; it must spend better, also. With the consultation and advice of our local educators, Congress can design workable methods to channel this money to the local schools and colleges while avoiding the redtape and controls which have limited the effectiveness of Federal aid in the past.

THE BICYCLE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 10 minutes.

Mr. HALPERN. Mr. Speaker, today, 35 of my colleagues in the House and Senate joined me on a bicycle trip around the Capital. This is the second year in a row where Members of the House and Senate actively participated in the celebration of Bikecology Week—although this year we are celebrating 1 week late.

Besides the joy of riding a bicycle, those who participated in today's "Tour du Capitol" sincerely believe that the bicycle is an effective alternate means for transportation that causes no pollution and is a healthful way to exercise.

It is estimated that 60 percent of our

automobile trips in the United States are for distances less than 5 miles. For thousands upon thousands, there should be the possibility of substituting the bicycle for the automobile in many of these shorter trips.

The buildup of exhaust emissions increases the pollution of the atmosphere and impairs our health each day. Reduction of the congestion of traffic and also of the improvement of our own lives by having cleaner air are two important advantages in addition to a more flexible transportation system which bicycles offer. As you must realize, the bicycle offers an efficient nonpolluting and helping alternative to the automobile as a means of commuting to school, shopping, and recreational transportation. It is in our national interest to promote a transportation system that places less strain on our environment, while focusing public attention on the individual and community benefits that can be derived from bicycling. This idea has been enhanced by the proclamation of this week, May 1–7, 1972, as the National Bikecology Week.

Cities are also becoming involved. New York City has banned automobiles from Central Park on weekends and holidays during daylight hours and set up suggested bike routes for commuters in Manhattan.

Boston, Chicago, Washington, D.C., San Francisco, Omaha and Lincoln, Nebr., Syracuse, N.Y., Milwaukee, and Miami have set up in-city bike routes. Other cities have held official "Bike to Work" days, and citizen "bike lobbies" are springing up across the Nation.

Private business and industry are also adapting to the trend. Let me cite a few examples. A suburban bank has "peddle-in" teller windows at its branches. A major car rental company is now leasing bicycles in 14 cities around the country. Commercial garages in the Nation's big cities are beginning to provide space for commuter and in-city cyclists. A fashionable New York department store has bike racks available for shoppers; and Ford's Theater, in Washington, D.C., advertised a special admission price for those who wished to "bike in" to the theater, and provided racks for parking.

There are some 15,000 miles of bike paths, including the 332-mile Wisconsin bikeway. San Francisco has opened the Golden Gate Bridge to cyclists and New York City is investigating ways to make the bicycle a viable alternative to current modes of transportation. John Volpe, stated that he "is excited" about bicycles and he has expressed his attention to make Washington, D.C. a model city for bicycles.

Perhaps the best known example of intracity bicycle transportation network is the one instituted in Davis, Calif., in 1966. In the city of 24,000, there are approximately 18,000 bicycles. Bicycles on one of the heavily traveled streets in Davis, represented 40 percent of the vehicles. During rush hour, 90 percent of all bicycle riders were adults. The major reason for the success of the bicycle is the existence of a safe, carefully designed bicycle commuter system.

The bicycle gives the average American a new pastime in traveling, not only to work and recreation, shopping, and visiting in his own community, but also for short sightseeing trips, and camping trips as well as, possibly vacation trips.

These preliminary steps are good. But they stress more than ever the need for this legislation particularly as the "bicycle explosion" continues. This year the bicycle industry will surpass the automobile industries in terms of units sold with expectation of 10 million bike sales up from 8.5 million sales in 1971. One third of the purchases were for adults, more than doubling the bicycles purchased by adults in 1970. This increase in itself demonstrates the growth of the bicycle as a means of transportation. It is estimated at this time that there are 80 million bicyclists in our country, doubling the figure of a decade ago. Also, it is estimated that 200 cities featured bikecology events during last week.

There are, throughout the country, many organizations which spend much time and effort to promote cycling for health, safety, and pleasurable reasons. One such organization is the League of American Wheelmen.

Among the many fine publications sponsored by LAW is a brief history of the cycling movement in America. In celebration of bikecology, I would like to insert into the RECORD a recent article by LAW in hopes that my colleagues in the House will find it as interesting and fascinating as I did:

THE LEAGUE OF AMERICAN WHEELMEN

Once upon a time, there lived an organization called the League of American Wheelmen. It was an institution which played a vitally important part in fostering and promoting the cycling movement in America.

When cycling was very young it needed care, encouragement, and protection. The L.A.W., as the League was commonly called, fought for the right of wheelmen to use the public streets and highways. It started the good roads movement in the late 1880's. It opened the parks and drives to cyclists. The objects of the League were to promote the general interests of bicycling, to ascertain, defend and protect the rights of wheelmen, and to encourage and facilitate touring.

In the early 1880's a bicycle touring wave hit the United States. Wheelmen began to venture on long tours into strange parts of the country. The League established a touring bureau to furnish information as to routes, maps, etc. Members were asked to send in detailed information regarding their routes. Each state Division gathered information relating to its own roads, and many of the Divisions published road books. Hotels which granted reduced rates to League members were listed, together with railroads which carried bicycles as baggage. It was the League, by the way. that finally forced the railroads to make this concession.

Starting its second decade with a membership of over 18,000, the League enjoyed a truly remarkable growth. In 1893 there were close to 40,000 members. Then the well-remembered bicycle boom started. Fashion set its stamp of approval on cycling and everybody wanted a bike. The cycle industry expanded tremendously. In 1895–96 there were about 300 bicycle factories. Production reached a top of nearly 2,000,000 bikes in 1897. League expansion kept pace with the cycle trade until the membership soared to an all-time high of 102,636 in 1898. Many famous people whose names have become part of our nation's history were members of the League, including Orville and Wilbur Wright, Commodore Vanderbilt and Diamond Jim Brady.

Then the bubble burst! The public, excepting the real cycling enthusiasts, turned from the bikes to the new "Horseless Carriage," and bicycle production dwindled along with the cycle industry. The League lost membership drastically, and by 1902 only 8,629 remained. Each year more members deserted the sinking ship. The League did not cease to function, however, and was carried on through the efforts of its secretary, Abbot Bassett, until 1942.

Once upon a time may seem like eternities ago. Yet today, right now, cycling in America is struggling through a period closely paralleling the time when L.A.W. was organized. The industry has reached an all-time high. Millions of bicycles are being bought yearly by a health and recreation oriented public. Higher incomes and increased leisure time along with the need to escape the hectic pace of modern society has led to a rediscovery of the delights of cycling.

The problems facing today's cyclists are very similar to those which faced the League in 1880: Denial of right-of-way, expanding freeway systems, and the menace of the "Horseless Carriage" has multiplied millions of times over.

One of the greatest assets of the League was its influential power as a large collective body. All the members working together achieved more than if the same individuals had worked separately or without a common goal.

The first case affecting the rights of the Wheelmen with which the L.A.W. dealt was the Haddenfield (New Jersey) Turnpike case. The Pike Company refused to allow bicycles on the Pike. The League proposed making a test case and supported the Philadelphia Club in starting suit. The company backed down and revoked its anti-cycling policy.

In 1879 the New York Board of Commissioners exluded bicycles from Central Park. The L.A.W. decided to take the case to court. For eight years the struggle went on, and finally, in 1887, the "Liberty Bill" was signed by Governor Hill revoking all laws discriminating against bicycles and established the rights of wheelmen to ride on any parkways, streets, or highways in the State of New York. Many states soon followed with the passing of similar bills.

The L.A.W. fought and won many cases in which drivers had crowded cyclists off the road or had deliberately run them down.

Now, after many years of inactivity, the League is being reorganized. During the early months of 1964, Joe Hart, one time officer of the national League of American Wheelmen and active cyclist with the Columbus Park Wheelmen, set out to promote a reunion of former Chicago Council League members. With the help of Ben Altman of the Wandering Wheelmen and Art Clausen of the Ramblers, the reunion was a complete success.

But most important, the revival of the national organization was initiated. A national convention was held on July 2 and 3, 1965 in Chicago, at which time Joe Hart was elected President of the L.A.W., which office he held until June 23, 1968 at which time, during the L.A.W. National Rally in Marion, Indiana, Hartley Alley of Bloomington, Indiana was elected President.

The League has tripled its membership since its reactivation, the present number being over 5000! It has much to offer bicyclists—tour information, maps, the L.A.W. Bulletin which is published monthly, a Directory of members throughout the U.S., Canada, Germany, Viet Nam, decals, and patches.

Mr. Speaker, for years the automobile industry has sold the American public on the proposition that the car is indispensable to our way of life. We have been assured that the speediest and most convenient form of transportation has four wheels and a gas engine.

However, the pleasures promised by Detroit's advertisements seem to have eluded those of us who use the clogged arteries of our cities. Precious minutes of our lives are wasted in bumper-to-bumper traffic while we do battle with exhaust fumes and other frustrated drivers.

Hopefully, Mr. Speaker, we can learn by our mistakes. Despite the advances made in automotive technology, the fastest and surest way to travel in our cities remains the bicycle. Frederic Moritz of the Christian Science Monitor has written an article in which he thoroughly shatters the myth of the automobile. The statistics given in the following article should impress even the most performance-minded commuter:

Which Way to Work? Bikes Versus Cars—Cyclists Win the Day

(By Frederic A. Moritz)

Boston.—Red lights, stalled morning traffic, and six stubborn cylinders sputter beneath the hood of my dusty old Dodge Dart. . . . Close behind, a sleek, 10-speed Raleigh racing bike breathes down my rear view mirror.

Suddenly the smooth pedaling competition streaks past—for the sixth time—on the drizzly, 10-mile run from this reporter's suburban home to his Boston office. Down Massachusetts Avenue the two-wheeler zips to victory with a snappy 23-minute run—12 minutes shorter than my motorized 35-minute crawl.

Meanwhile, all across town the story is repeated as Boston's great Bicycle Marathon pits 25 carbound commuters against 25 eager cyclists. Sponsored by Boston's newly established Association for Bicycle Commuting, the race carries an unmistakable message: "For getting to work, bikes are just as practical and speedy as cars."

The message came through clearly as bicycling teachers, office workers, and professors beat out lawyers, secretaries, and reporters clinging timidly to their steering wheels.

From Boston's surrounding towns—Somerville, Newton, Cambridge, Belmont, and Watertown—the message was the same as two-wheelers passed autos on commuting runs averaging five miles long.

The bikes claimed 21 proud victories, leaving only 3 for the cars—with one race tied. Biking commuters averaged 17-minute runs. Stop-and-go autos settled for a 24-minute average.

Earlier that morning it looked a little more hopeful for this reporter and his car. The 10 miles in from Somerville through Cambridge was the longest heat of the race—winding and tricky with pot holes enough to slow down the delicate wheelrims of any 10-speed racer.

The competition: 24-year-old Jeffrey Bernstein, a Bostonian mime with the newly organized Merriam-Webster Pocket Mime Circus.

7:15 a.m.—He stumbles up my steps, fresh but perspiring after 10 miles of pedaling north from his Boston apartment. (For all 25 heats, cyclist challengers were dispatched to the doorsteps of their automobile defenders.)

7:32—The race begins. A quick swivel launches cyclist and wheels back toward Boston, while a lumbering Dart—stuck between two parked cars—bucks and heaves to face south.

7:33—Churning pistons zoom car ahead for a 30-second lead, quickly muzzled by a wet, wheezing stall. Two-wheeler disappears around the corner.

7:34—Bike looms back into view as (grinding into second) car hits 20 miles an hour up the hill toward Tufts University.

7:35—Car pulls to a halt at red light lineup. Cyclist leisurely pulls astride.

7:36—It's neck 'n neck, bike and auto, until a Davis Square jam-up brakes the car. One more stall. Cyclist scoots around the edge.

And so it goes. Car stops for street-crossing dog pack. The two-wheeler darts between.

Car halts behind a stalled wide-beam tractor truck. . . . Cyclist disappears down the right lane.

Car gains on the straightaways—but loses in the jams.

Suddenly at 7:55 sharp, the cyclist disappears while car idles behind still one more red light.

Just 17 minutes more it takes. . . . I jostle to a parking spot . . . and find Jeff Bernstein lounging at my office door.

The message is clear: Buy a bike.

Mr. Speaker, one of the tragedies of modern living is that too few Americans take the time to experience the beauty of their country personally. We seem to be content with catching quick glimpses from an altitude of 30,000 feet or from a freeway speed of 60 miles an hour.

Bicycling, in addition to its ecological benefits, provides a most enjoyable way to discover the people and places of an America which is often overlooked. Bill Mason wrote a charming article in Newsday describing the experiences of a group of young New Yorkers on a recent bike tour of Long Island. I am inserting this in the Record in the hope that more people will decide to trade their cars and crowded highways for an afternoon of bicycling. The article follows:

Great Day For a Ride in "Some" Hampton

(By Bill Mason)

Southampton—Nearly 700 city-dwellers invaded the village on bicycles yesterday, but no one seemed to mind. "They're happy to come, and the village isn't unhappy to see them," one resident said.

Two of the cyclists, most of whom were teenagers, became so tired that they couldn't finish the route they'd taken and missed their special train back to New York. Officer Allan Sandlenski of the town police loaded them, bikes and all, into his squad car and rushed them to the next train. He was happy to do it, he said. "We like to have people come out. It's not only good for city people, but it's good for local people to meet others," the officer said.

The occasion was the 28th Long Island bike tour, organized by the New York Council of American Youth Hostels. One is held each spring and fall. "People need to get away. It's nice out here," said 16-year-old Wendy Blackstone of the Bronx.

The routes the riders were to take were indicated on maps they carried, and arrows were painted on the streets in white paint. The round-trip routes, 15 and 25 miles in length, were mapped out but many riders disregarded the maps and chose their own paths through the countryside.

The two 15-year-old girls who missed the special return train blamed strong headwinds that slowed them down. Muller put them on the next train, but not before each made a call home. "It's Cathy," one said. "Put Mommy on . . . Daddy? We just missed the train. I don't know: I'll leave it (the bicycle) here. We're in East Hampton. Or Southampton. Or some Hampton."

But most of those who took the ride knew where they were, and said the trip was "fantastic," that the Hamptons were "beautiful country" and that, all in all, "it was a great place and a great day for riding."

Bob Kociszewski, owner of the Southampton Restaurant, said, "I think they come here more for a ride than a drink, but there's no problems with them. Take a look out there. They didn't dirty the area or anything. They're happy to come, and the village isn't unhappy to see them."

THE PENSION TRANSFER ACT

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. Anderson) is recognized for 10 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, today I am reintroducing my Private Pension Transfer Act with an additional six cosponsors, thus bringing to 37 the total number of House cosponsors of this legislation. In essence, this is a very modest measure which would exempt from income taxation pension benefits transferred from one retirement plan to another within a year. At the same time, I think this is an important step in the direction of portability—of preserving and protecting the pension rights of an employee moving from one job to another. While my bill does not require an employer to accept the transferred pension funds of a new employee, it does give the employee the incentive to reinvest those funds where transfer arrangements exist. As the law now stands, the tax on benefits withdrawn from a plan, regardless of whether they are transferred to a new plan, is a disincentive to the accumulation and preservation of retirement savings.

Mr. Speaker, I am encouraged by the fact that this week the House Committee on Ways and Means is holding hearings on pension reform legislation. The central focus of these hearings is on the administration's Individual Retirement Benefits Act, H.R. 12272, which would provide new tax incentives for retirement savings by employees who are not covered by employer-financed plans or who are inadequately covered by such plans, minimum standards for the vesting of benefits under qualified pension and profit-sharing plans, and increased deductions for contributions to the retirement plans of the self-employed. On Monday of this week, I testified before the Ways and Means Committee in support of both the administration bill and my own pension transfer legislation.

At this point in the Record I include the full text of my testimony and an article by Mr. Norman H. Tarver from the March 1972, issue of Best's Review entitled, "Preservation of Pension Benefits." In addition to summarizing the administration's pension legislation, Mr. Tarver makes some further recommendations with respect to protecting transferred pension benefits. He would provide the employee with several options for preserving his benefits if portability arrangements do not exist with his new employer. While this recommendation does go a step further than my own bill suggests, I do think it is worthy of serious consideration by the Ways and Means Committee as it proceeds with its deliberations on this subject.

Testimony of the Honorable John B. Anderson

Mr. Chairman and members of the committee, I am grateful for this opportunity to testify on tax proposals affecting private pension plans. You are to be commended on holding these hearings on this matter of increasing interest and concern to millions of Americans, and I am hopeful that you will be persuaded to report legislation in this session of Congress.

The main focus of these hearings is on H.R. 12272, "The Individual Retirement Benefits Act," introduced by the chairman and ranking minority member of this committee at the request of the Administration on December 14, 1971. Briefly stated, this bill provides a minimum vesting standard to preserve the pension rights of employees, encourages independent savings for retirement or supplements to employer-financed plans through tax deductions, and increases the incentive for the self-employed to establish pension plans for themselves and their employees, again through tax deductions. I do not want to take the committee's time by restating the persuasive arguments for this measure which were so eloquently expounded by the Treasury Department spokesman earlier today. Suffice it to say, I enthusiastically endorse this legislation and have, in fact, introduced an identical bill in H.R. 14133.

Today I particularly want to outline to the committee a measure which I recently introduced which relates to another key area of private pension plan reform. That bill is H.R. 14470, the Private Pension Transfer Act, which I originally introduced on April 19 of this year, and reintroduced with a bipartisan group of over 30 cosponsors on April 27. This measure is aimed at aiding pension "portability," that set of arrangements whereby a worker can accumulate pension credits from job to job and eventually combine them into qualification for a single pension. The portability of pension credits become more pertinent as our economy becomes more and more dependent on continuing shifts in manpower needs and as our society develops the most mobile labor force in history. While continuous service with an employer should be rewarded with concomitant benefits, we should still be careful not to tie workers so tightly to a single pension arrangement that a retirement system serves to immobilize our working populace.

The Private Pension Transfer Act would amend the Internal Revenue Code of 1954 to allow employees to withdraw their retirement credits upon leaving a job and reinvest them in a new annuity plan without those credits being subject to income tax. The present law penalizes employee mobility and discourages the maintenance of retirement programs by taxing funds withdrawn from such programs, whether or not they are reinvested in another retirement system.

There is a solid precedent in our tax laws for this kind of reinvestment in kind. We allow persons who sell their homes for a profit and reinvest their gain in a new house within a year to have that gain exempt from income tax. We can apply the same principle to transferred retirement credits and permit them to be invested in kind without a tax liability—to move as the worker moves. If our goal is encouraging the maintenance of sound annuity programs, such a tax exemption for transferred credits would offer a new incentive towards that end.

H.R. 14470 is flexible in its treatment of those transferred credits—the "lump sum distribution." An employee can decide to reinvest only part of his lump sum payout within a taxable year and pay tax only on that amount not reconverted into a trust. The Act provides for priority tax treatment of the amounts transferred which are not reinvested in a new pension: they would first be taxed as capital gains—up to the amount of the distribution that is defined as capital gains—and then as regular income. As with present law, that part of the lump sum distribution that is the employee contribution is exempt from taxation.

The bill also contains a provision under subsection (b) (page 4) which provides for the appropriate tax treatment of previously exempt amounts which are again distributed in a lump sum payout. This provision is designed to prevent an employee from achieving tax advantages by jumping from trust to trust.

The Pension Trust Branch of the Internal Revenue Service, which aided me in the formulation of this legislation, assures me that this change in tax law would most benefit the wage earner in the $5,000 to $15,000 salary range, the skilled and semi-skilled laborer least able to bear the taxation of what he deems is rightfully his—his pension credits. One kind of worker most likely to benefit by this tax exemption would be one whose company may be planning a relocation, merger, or change in ownership. Likewise, a worker on a union pension arrangement shifting to a new job within the union structure but under a new employer—such as is commonly the case with auto workers—would qualify for the exemption.

Being a new exemption, the provision carries with it a certain amount of revenue loss. Unfortunately, it has been impossible to come up with an estimate for such a loss, given the present income tax reporting requirements. The Internal Revenue Service was asked to produce such an estimate, but was not able to do so since retirement credits as an income source are not reported as a line item in tax filing. Even so, I think we can assume that the revenue loss would be minimal, and that the loss, balanced against the remedied inequity, would be worth sustaining.

This bill does not create portability! It simply allows a shift of money between plans without taxation where portability already exists. It commands no employer to accept a new employee's lump sum credits, yet I would hope it gives an impetus to employers to accept transferred pension credits and to make adequate provision for them. The Act implies no coercion of businesses or unions; any pension arrangement achieved by an employee is his to make. It is not conceived so employees could go job-hopping until they worked the best annuity scheme; it aims to encourage the free flow of labor and the continuity of pension credits.

Mr. Chairman, H.R. 14470 is a modest measure, a prelude to the much more difficult issue of portability, that far more thorny question which the House will be considering at a future time. But I would hope that we could take this modest step now, and it seems to me that this could be consistently incorporated in the Individual Retirement Benefits Act proposed by the Administration. I would therefore urge this committee to give serious consideration to amending H.R. 12272 by including my Private Pension Transfer Act as a new provision. I am sure I am joined by my 31 cosponsors in making this request, and at this point in the hearing record, I would like to include a full listing of those cosponsors:

Mr. Bingham, Mr. Broyhill of North Carolina, Mr. Collins of Illinois, Mr. Conte, Mr. Danielson, Mr. Derwinski, Mr. Dow, Mr. Frenzel, Mr. Gallagher, Mr. Garmatz, Mr. Grover, Mr. Halpern, Mr. Hammerschmidt, Mrs. Hicks of Massachusetts, Mr. Hosmer, Mr. King, Mr. Leggett, Mr. McCormack, Mr. Mathis of Georgia, Mr. Mikva, Mr. Moss, Mr. Quillen, Mr. Randall, Mr. Robinson of Virginia, Mr. Scott, Mr. Smith of New York, Mr. J. William Stanton, Mr. Symington, Mr. Thone, Mr. Horton, and Mr. Gude.

[From Best's Review (Life/Health Insurance Edition), March 1972]

PRESERVATION OF PENSION BENEFITS

(By Norman H. Tarver)

In December 1971, President Nixon submitted a statement to the Congress in which he requested that certain reforms be made in the Internal Revenue Code in respect to the private pension plan system. This statement was submitted shortly after the conclusion of the 1971 White House Conference on Aging and contained these paragraphs:

"Self-reliance, prudence and independence are qualities which our Government should work to encourage among our people.

"These are also the qualities which are involved when a person chooses to invest in a retirement savings plan, setting aside money today so that he will have greater security tomorrow. In this respect, pension plans are a direct expression of some of the finest elements in the American character. Public policy should be designed to reward and reinforce these qualities.

"Older persons have spoken eloquently about the need for pension reform, especially at the White House Conference on Aging. . . . It is clear that our efforts to reform and expand our income maintenance systems must now be completed by an effort to reform and expand private retirement programs."

FIVE BILLS SUBMITTED

Immediately following submission of this statement, five bills were submitted, three to the House (HR 12272, HR 12302, and HR 12337) and two to the Senate (S 3012 and S 3024), which bills were referred to committees of the House and the Senate. At the time this is being written (early February), no action has been taken on any of the bills.

Bills HR 12337 and S 3024 would amend the disclosure laws and are of no concern to us in this article. Bills HR 12272, HR 12302 and S 3012 are identical and are of interest insofar as this article is concerned. For convenience, I'll refer to only HR 12272 hereafter. This bill would amend the Internal Revenue Code to provide for the following:

(a) Deduction from the gross income of an employee in respect to his contributions to a qualified plan of his employer.

(b) Deductions from the gross income of an employee in respect to his contributions to an individual retirement savings plan (in the bill called "qualified individual retirement accounts" and in this article called "QIRA plans").

(c) Mandatory vesting according to a so-called "Rule of 50."

In this article, I would like to discuss only certain aspects of QIRA plans and to submit some suggestions in respect to them and in respect to pension and profit-sharing plans in general. First, though, I would like to submit a few thoughts regarding the social philosophy behind the private pension plan system.

Retirement Philosophy—As a fundamental principle, I believe that every taxpayer and spouse should be encouraged to accrue during their income-earning years savings of sufficient magnitude that they will be able throughout their retirement years to maintain a standard of living reasonably related to the standard they had maintained in their income-earning years.

The universal retirement income provided by Social Security will, of course, provide a basic and integral part of such savings. Also, although the preceding paragraph speaks of savings accrued by the taxpayer and spouse, such savings would include savings put aside for them by their employer.

Retirement savings are comprised of funds taken out of today's income by an employer or an employee or both that are permitted to accumulate to the employee's retirement date. To paraphrase the President, such savings are monies set aside today so that the employee and his spouse will have greater security tomorrow.

Not only should the law encourage the accumulation of reasonable savings but also the law should encourage the preservation of as much of these savings as possible until needed for retirement income.

Philosophically it makes no difference whatsoever whether the funds set aside to accumulate are from employer income or employee income. Therefore, any encouragement provided by the government for the preservation of accumulated funds should apply equally to both kinds of funds.

To sum up, if it makes sense socially to encourage the accumulation of savings through tax incentives, then it makes equal sense socially to encourage the preservation of those savings through tax incentives.

Portability—The expression "portability" is much used these days by Congressional and governmental persons concerned with pension reform legislation. It is also much used by all persons actually involved in private pension plans, such as pension consultants, insurance companies, banks, employers, employees and officials of labor unions. To each of these various persons, "portability" seems to mean something different. I would like to suggest a definition that can be used in general discussions. At any rate, "portability" has the following meaning in this article.

I suggest that portability means the preservation of pension benefits that have become vested in an employee at the time he terminates participation in a qualified plan. Such plan may be a pension plan, a profit-sharing plan or a Keogh (HR 10) plan. Where and how the preservation of vested benefits takes place is irrelevant to the definition: the vested benefits may be preserved where they have accumulated or they may be transferred and preserved elsewhere. "Portability" is thus nothing more or less than the preservation of vested benefits.

Normally, "vested benefits" is defined as the portion of the benefits derived from an employee's contributions to a qualified plan that have become non-forfeitable to an employee terminating participation in a qualified plan. In this article, I am using "vested benefit" to include not only such portion but also all of the benefits derived from the employee's contributions for which he has received tax deductions.

SECURING PORTABILITY

This is the definition of "portability" that I feel should be used as a basis of discussion for all pension reform legislation. Having accepted this definition, we can then proceed to consider the ways and means of securing portability and the problems that must be solved.

Limited Preservation—Bill HR 12272 would amend the Internal Revenue Code so as to encourage the preservation of some of the accumulated employee funds, but not all. Moreover, it would not encourage the preservation of accumulated employer funds. I recommend that HR 12272 be amended to provide equal treatment for all accumulated vested benefits.

The encouragement for preservation that is included in HR 12272 takes the form of permitting a distribution from one QIRA plan to be transferred to another QIRA plan without taxation in the process, even though the transferred funds may pass through the hands of the taxpayer enroute.

Under the bill, the transfer must occur within 60 days after the distribution from the original QIRA plan.

This transfer feature is covered in Section 3(b) and (c) of the bill and in the wording proposed for new Sections 408(b)(1) and 72(p)(1). This transfer provision is to be commended, but I feel that it does not go nearly far enough.

Proposals for Preservation of Benefits—I propose that the Internal Revenue Code be amended to permit and encourage the transfer in as many ways as possible of as much as possible of the vested benefits arising out of employer contributions as well as those arising out of employee contributions.

SOCIALLY DESIRABLE

From a social point of view, it is highly desirable for an employee terminating participation in a pension plan or a profit-sharing plan and becoming entitled to a vested benefit to preserve as much as possible of this benefit somewhere so that it will be available to provide pension benefits when he retires. Rather than taxing a vested benefit at the time of termination (as is now the situation if it is received in any form other than as an annuity contract, immediately or deferred), it would be very desirable socially to encourage preservation by permitting transfers of benefits and encouraging them by not taxing such benefits currently. The theory of constructive receipt should not apply to transferred (preserved) benefits, even though they may pass through the hands of the terminating employee on the way to being preserved.

Moreover, from a social point of view, it makes no difference whether the benefit that is preserved is the whole or only a part of the vested benefit. It is just as important socially to encourage the preservation of a part of a benefit as it is to encourage the preservation of the whole. Therefore the relief from immediate tax should apply to whatever part is preserved. To encourage preservation, the terminating employee should not be forced to choose to preserve all or none. This means that the favorable tax treatment now available to a "total distribution" under Section 72(n) of the Code should be made available to whatever part of the benefit is actually taken in a lump sum and not preserved.

I would go even further by suggesting that the transfer feature should be available for any part of any distribution regardless of whether such distribution results from termination of service cr from some other cause, such as termination of a plan. Moreover, the favorable tax treatment provided under Section 72(n) should be available for any part of any distribution even though the distribution does not result from a termination of employment. This would mean amending Section 72(n)(1)(B) to including termination of a plan as well as separation from service. Plan termination is discussed at more length below.

Practical Application—I suggest that before HR 12272 becomes law it should be amended to permit and encourage transfers from any one of the following types of plans to any other of them:

(a) Qualified pension plan.
(b) Qualified profit-sharing plan.
(c) Keogh (HR 10) plan.
(d) QIRA plan.
(e) Tax-deferred 403(b) plan.

CONSEQUENCES OF SUGGESTION

This would mean, for example, that under the law any part of any benefit vesting in an employee under a qualified pension plan could be transferred into a Keogh plan or a tax-deferred 403(b) annuity or a profit-sharing plan. For that matter, there is no reason why the vested benefit could not be broken up and transferred into two or more of the various types listed above. Each one provides for deferment of tax so that it does not matter where the vested benefit is transferred to and preserved.

Some pension plans do not provide for vested benefits to be removed from them in event of terminations of employment. Under such a plan, preservation of a vested benefit would take place in the plan where it accumulated. I am not suggesting that the law should require that a plan must provide for a transfer of a benefit from it, but that the law should permit and encourage such a transfer.

WIDE RANGE OF VEHICLES

Under HR 12272, a wide range of vehicles would apparently be permitted for QIRA plans. Proposed Section 408(a)(3) would permit contributions to a QIRA plan to be "held in trust for, or in the custody of, a bank—, a credit union—or other person who demonstrates to the satisfaction of the (IRS) that the manner in which he will hold or have custody of such assets will be constant with the requirements of [Section 408(a)(3)]." In addition, Section 408(b)(3) would permit contributions to be deposited in a common trust fund. Although Section 408(a)(3) could perhaps be expanded to be more specific as to the vehicles available for QIRA plans, I believe that the proposed wording would permit the use of at least the following vehicles, provide suitable restrictions are placed on their use:

(a) Annuity contracts.

(b) Life insurance policies involving a savings element (i.e., cash value).

(c) Mutual fund shares, providing they are held under the terms of a document that effectively controls the disposition of the shares.

(d) Trust company or bank certificates.

(e) Credit union certificates.

(f) Face amount certificates.

(g) Regular bank savings accounts with S & Ls would probably not be suitable; however, it is likely that the banks and the S & Ls could develop vehicles that would contractually impose the required restrictions and would thus be suitable.

(h) United States government bonds.

This would mean that, insofar as the life insurance industry is concerned, a terminating employee could choose to put his vested benefit in any one of the following:

(1) A fixed annuity contract issued by any one of probably several hundred life insurance companies.

(2) A variable annuity contract issued by any one of probably several dozen life insurance companies.

(3) A wide variety of cash value life insurance policies issued by any one of probably several hundred life insurance companies.

(4) A fund plan or contract based on equity investments issued by any one of hundreds of mutual fund companies.

Moreover, the employee could probably choose various combinations of these vehicles.

Timing of Transfer—Under the proposed Section 72(p)(1) of HR 12272, the transfer from one QIRA plan to another must be made within 60 days of the date of the distribution from the original QIRA plan. This restriction seems to be unnecessarily tight. If a taxpayer received a distribution near the end of his taxable year, it would appear that he would have to transfer it in that taxable year even though there may be much fewer than 60 days left. If he did not make the transfer in the taxing year, then when he later makes the transfer in the next taxable year (but still within the 60-day period) he would have to file a revised tax return for the preceding taxable year. I suggest that the taxpayer should be permitted to make the transfer at any time within the taxable year of the distribution or within a 60-day period following the end of such taxable year.

APPLY TO ALL TRANSFERS

If the Internal Revenue Code is amended as suggested above to permit transfers from any one of the various plans listed to any one or more of such plans, then I suggest that the same period should be available to the full range of permissible transfers.

Such freedom of timing for making transfers is certainly desirable from a social viewpoint. This is another encouragement that could be granted, and it could be granted without tax loss to the government.

Termination of Plan—Sections 402(a)(1) and 403(a)(1) of the Internal Revenue Code provide that any distribution made to anyone under a qualified plan is taxable to him in the year of distribution. However, if this distribution is a total distribution and if it is in respect to an employee's death or termination of employment, an income-averaging option under Section 72(n) is available to the recipient of the distribution.

A corollary of this provision for an optional method of taxation is that, if the distribution does not result from a termination of employment but from a termination of a plan, the special income-averaging option in Section 72(n) is not available.

Quite frequently, a termination of a plan and a termination of employment result from the same cause and are in essence parts of the same event. Moreover, the question of which action (termination of plan or termination of employment) occurs first is little more than a technicality and in many cases an accidental and unconsidered technicality.

EQUAL TAX TREATMENT

From a social point of view, I suggest that in many (if not all) cases of plan termination, the same tax treatment should be granted to a distribution as for a distribution in case of termination of employment.

QIRA Plan Qualification—Proposed new Section 408 sets down a list of requirements that a QIRA plan vehicle must comply with in order to be qualified. These requirements are much like those imposed on a self-employed individual under a Keogh plan. The new Section 408 does not specify by what means the restrictions are to be imposed on or incorporated in any QIRA plan vehicle. In fact, as mentioned above, it gives very little indication as to what type of vehicle can be used, although the vehicles listed above would seem to be acceptable.

It would seem wise for the life insurance industry to start giving consideration immediately to what vehicles should be used and how the restrictions should be embodied in them. I suggest that the industry study the procedures that have been used in Canada since 1957 when "Registered Retirement Savings Plans" (RSPs) were introduced. An RSP is very much like a QIRA plan and must be restricted in much the same way.

Under the Canadian procedure for RSPs, any life insurance product that has a cash value can be registered (qualified). The basic insurance contract is applied for, issued and paid for in the normal way. To convert the contract into an RSP, the following steps are taken:

(a) The policyholder signs an amendment to the contract that imposes on its provisions the requirements specified for an RSP. A copy of this amendment is attached to the contract and becomes an integral part of it. A draft of this amendment form has been previously submitted to and approved by the government.

(b) The insurance company maintains a file of all RSPs and informs the government periodically of the details of the RSPs newly registered. In effect, the insurance company acts as the agent of the government in performing the registration.

(c) The insurance company issues a special certificate to the taxpayer once a year informing him of the portion of the premium that is an RSP contribution and the portion (if any) that is life insurance cost. This cost is determined only once on a level premium basis rather than yearly as required under PS 58. This method saves considerable cost and is much more understandable and satisfactory to the taxpayer.

(d) The taxpayer claims his RSP contribution as a deduction on his tax return and attaches a copy of the certificate in (c) to substantiate it.

(e) At retirement, the insurance company issues a form to the taxpayer informing him of the amount of the distribution that he must include in his gross income and sends a copy of it to the government.

If a Canadian taxpayer receives a distribution from a qualified plan of any sort (pension plan, profit-sharing plan, RSP) and wishes to preserve it, he may deposit it (or any part of it) in an RSP. The procedure is to include the full distribution as income on his tax return and then to claim a deduction under (d) above for whatever part of it is used as a contribution for an RSP. In order that this transfer privilege will not interfere with the amount of the contribution limits imposed, a special form is signed by the taxpayer and copies of it are filed with the government and the insurance company. This form gives information respecting the source and amount of the transferred funds.

Special Fund—Senator Javits' Bill S2 would provide for a "Special Fund" to be established by a Pension Commission to receive vested benefits transferred out of qualified plans. In Ontario, the Pension Benefits Act, 1965, (which served as the original model for Bill 2) contains a provision that would permit the establishment of a "Pension Agency" that would be quite similar to the "Special Fund." However, no such Pension Agency has been established and there is little or no reason for one to be established. In Canada, a vested benefit from a registered (qualified) pension plan or a registered profit-sharing plan can be transferred to another registered plan or to an RSP or the vested benefit may be retained in the plan where it developed.

Because the vehicle used for a Canadian RSP can be any one of a very wide range of vehicles quite similar to the range described above, there has been no reason for a Pension Agency to be established. As a matter of fact, the very wide range of choices available to a terminating employee serves his needs far better than would the transferring of his vested benefits to a Pension Agency or Special Fund.

Conclusion—The time has come for a re-examination and re-assessment of the philosophy behind the several sections of the Internal Revenue Code on which the private pension plan system is based. Although the existing sections of the Code do provide certain incentives to encourage the accumulation of retirement savings, those sections and the administration of them by the Internal Revenue Service are unduly concerned with limiting the so-called "tax loss" entailed in them, with the result that the accumulation and preservation of the savings are considerably hampered.

As proposed by President Nixon, the existing sections of the Code should be reformed and expanded. Such reforms should be based on the philosophy of aiding in every fashion reasonably possible the accumulation and preservation of retirement savings. The Code should be reformed to facilitate to the utmost such accumulation and preservation rather than to limit them. This change from "limiting" to "facilitating" would admittedly require considerable change in philosophy.

ENCOURAGE SELF-RELIANCE

If the suggestions discussed above were incorporated in the law and in the procedures adopted by the Internal Revenue Service, then I submit that the government would indeed be working to encourage the citizens of the United States to develop the qualities of self-reliance, prudence and independence that President Nixon advocated in his statement to the Congress.

IMPROVEMENT OF CHILD NUTRITION PROGRAMS

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. Bell) is recognized for 15 minutes.

Mr. BELL. Mr. Speaker, I am pleased to join Mr. Quie and other colleagues in introducing today legislation to amend the National School Lunch Act and the Child Nutrition Act of 1966. This legislation will provide States and schools with a sounder base to undertake both short- and long-range plans to extend and improve school food service. As ranking Republican on the General Subcommittee on Education, which handles this subject, I am particularly pleased by the President's initiative.

The legislation I am cosponsoring is one part of a three-part child nutrition initiative announced by President Nixon earlier this week. In addition to this legislation, the President has sent budget amendments to the appropriations committees doubling the amount of funds available for summer feeding programs this summer and requesting additional funds for school breakfasts in the coming year so that an additional 3,000 schools may participate in that program. These are initiatives which I am sure we all approve and applaud.

The legislation I am cosponsoring will reform school lunch and breakfast funding. The outdated method of distributing a fixed amount of lunch and school breakfast funds to States each fiscal year, by apportionment formula, will be replaced by a performance method of funding. It would provide States a predictable basis on which to develop and expand these two programs. Under the performance method, States will be guaranteed an average payment for each lunch or breakfast served during any fiscal year, with additional special payments for lunches or breakfasts served free or at a reduced price.

The level of the guaranteed average per-meal payment to States will be determined under the annual appropriation process.

No State will receive less in section 4 lunch funds, or section 11 lunch funds, or school breakfast funds, than it received in the fiscal year 1972.

The authority for the breakfast program will be made permanent, paralleling the permanent authority for the lunch program.

Systematic guidelines will be established under which States and schools establish eligibility standards for free and reduced price lunches. There will be a minimum-maximum income range, by family size, within which States and schools could establish their standards. Standards for school lunches and breakfasts would be identical.

The authority for equipment assistance to needy schools will be increased to $20 million for each of the fiscal years 1973–75; thereafter, the annual authorization would be $10 million. To increase emphasis on bringing lunch and breakfast programs to needy schools without a food service, 50 percent of the funds made available in 1973–75 will be reserved for the exclusive use of such schools. The Secretary of Agriculture would be authorized to waive the State or local matching requirement for that portion of these reserved funds used to buy equipment for schools in circumstances of severe need.

The legislation would also simplify present matching requirements, and give State legislatures more lead time to plan by relating matching to the previous year's expenditures.

States will have permissive authority

to disburse school lunch and school breakfast funds to schools on an advance or a reimbursement basis. Only a reimbursement basis is now authorized for school lunch. This authority for advance payments is already authorized for the school breakfast program.

Finally, the school lunch, school breakfast, and nonfood assistance programs are extended to the Trust Territory of the Pacific Islands. The Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa already are eligible.

It is just 3 years ago that President Nixon sent his Hunger Message to Congress. Since then there has been dramatic progress in both family-feeding and child-feeding programs. The number of participants in the food stamp program has more than trebled. The number of children reached with a free or reduced price lunch has gone from 3.5 million in March 1969 to 8.3 million in March 1972. Funding for these programs has increased sharply.

The legislation I am introducing will continue the welcome and necessary improvement of our child nutrition programs, improvement in which both the Congress and the executive branch have played major roles.

VIEWS CONCERNING THE PRESIDENT'S POLICY IN SOUTHEAST ASIA

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. HEINZ) is recognized for 15 minutes.

Mr. HEINZ. Mr. Speaker, I rise to express my views concerning the President's recent announcement on U.S. foreign and military policy in Southeast Asia.

There can be no doubt that President Nixon's Monday night announcement represents a substantive and dramatic change in this Nation's conduct of the war in Vietnam. It also represents, quite predictably, a response to the deteriorating military and political situation in South Vietnam brought about by North Vietnam's determined invasion and all-out offensive. With American forces present in South Vietnam, I am sure that no President, irrespective of his intentions or attitude toward the war, could ignore these dramatically changed circumstances and take no action whatsoever.

However, I have deep concern, and many questions, about whether the President's recent actions can be successful in bringing the Vietnam conflict to an end.

I am especially concerned that the President made no indication about how the political future of South Vietnam would be determined subsequent to a cease-fire and the withdrawal of American troops. I raise the question whether or why it is realistic to expect that the North Vietnamese will agree to a cease-fire and a return of our prisoners of war, even with the United States pledged to a 4-month withdrawal, without knowing at the same time what political process will be used to decide the future political fate of South Vietnam, and whether or to what extent that political process and the resulting State brought about will be free from outside or third party intervention.

There is also the question of what we may expect to gain and lose as a consequence of the military actions undertaken. It is by no means certain that the mining of Haiphong and other ports and the interdiction of communications, arms and strategic supplies will be successful in lessening North Vietnam's offensive effort in the south or in compelling the North to accept the President's proposal.

During President Johnson's administration, Defense Secretary McNamara determined that the intensive bombing of the North in 1967 and 1968 was not successful in bringing North Vietnam to the bargaining table. While there are today differing military circumstances and logistical requirements, I am not convinced that there is much chance that the mining and air strikes undertaken by this country will effect and bring about a North Vietnamese change of heart that will lead to successful negotiations.

I am also concerned about the effects on and the results concerning what we hope to achieve with the Soviet Union and the Peoples Republic of China. It is acknowledged that most of North Vietnam's military material is supplied by the Soviet Union, and that nearly 90 percent of the total tonnage of supplies into North Vietnam is transported from or through China by surface conveyance. This being the case, it is difficult to see how the mining of Haiphong and other North Vietnamese territorial waters can substantially reduce the flow of arms and other strategic materiel without the agreement of one or the other of these two powers.

Moreover, it is impossible to comment on our relations with these major and essential suppliers of military equipment to the North without wondering how this Nation's military actions against North Vietnam will effect the President's own initiatives to establish relations with China, achieve strategic arms limitations and meet with the Soviet leaders in Moscow.

While it is conceivable that the administration had some form of prior understanding with Moscow or Peking concerning the situation in North and South Vietnam, the Congress has no objective evidence nor supporting statements from the administration to this effect.

As a Member of the U.S. House of Representatives, I also am concerned that we in the Congress should play our necessary and constitutional role in determining so fundamental a question as that of war or peace. Our involvement in Vietnam has lasted far too long—in fact nearly an entire decade—for the Congress not to seek substantially more information on our policy and its full implications. We must do this if we are to discharge our basic constitutional responsibilities. It is my hope that the vast majority of my colleagues share this view and will join in seeking the answers to these and other pertinent questions concerning the new turn in U.S. policy in Southeast Asia.

On April 21, 1972, I joined with a bipartisan group of 12 Senators and 69 Congressmen to ask to meet with the President to discuss the developing situation in Southeast Asia as soon as possible and well in advance of the President's trip to Russia. I believe this meeting is needed more than ever, and I hope that President Nixon will agree to this meeting at the earliest possible date. I also invite and call upon all those sincerely interested in ending this war, including those who consider themselves loyal supporters of the President, to support this particular effort to discuss frankly and openly with the President these considerable and serious questions.

Mr. Speaker, I express these concerns and ask these questions as one who has been and remains opposed to our involvement in the Vietnamese war. Since coming to Congress, I have supported every responsible effort to end the war. For example, I voted, on November 17, 1971, to amend the defense appropriation bill, H.R. 11731, by calling for a specific date for withdrawal of all U.S. forces in Indochina subject to release of all American POW's, and proposing a July 1, 1972 cutoff date for money to support the maintenance of U.S. military forces and action in Indochina.

I do certainly and most sincerely hope that President Nixon will bring about urgently and quickly an end to the Vietnamese war without congressional action. But I must frankly state, on the basis of the information available to me as I speak today, and in the absence of answers to the questions I have raised, that I see no other responsible course but to continue to support, with my vote and voice, the establishment by the Congress of any reasonable "date certain" for withdrawal from Vietnam necessarily contingent on the return of our American prisoners of war.

THE PRESIDENT'S DECISION

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 10 minutes.

Mr. WOLFF. Mr. Speaker, the President's decision of Monday night means that we have now taken a grave and ominous risk, not for peace, but for war. What he was saying, without saying it all, was there is no hope for peace, there is only the threat of a wider, infinitely more difficult conflict. What Mr. Nixon proved, without attempting to prove it, was no light at the end of the tunnel, only an unending darkness.

What the President announced Monday night, although one will find no reference to it in his speech, is the end of Vietnamization. What he revealed, although that was surely not his intention, is the complete failure of a program that at its best was nothing more than the coining of a new phrase to mask an old policy. Vietnamization was destined to fail, because it depended ultimately, not upon American military might, but rather the will of the Army of South Vietnam to make war, and they have no will for war.

I understand very well the President's reluctance to talk about the failure of Vietnamization. It was offered to the American people with the promise, if not the pledge, of great success. Like Mr. Nixon's "secret" plan, which did so much to help elect him President, Vietnamization bore the hope of bringing peace to Southeast Asia. But last night, in one of this country's most precarious moments, the illusion of Vietnamization was destroyed forever and Americanization becomes now the order of the day.

In the new Nixon war plan, Vietnamization must now be set aside as a failure. Never mind that Vietnamization cost this Nation over $75 billion. Forget that we lost an additional 20,000 American lives. Put out of your mind the added division it brought to the people of this country. Now, reeling as we and the world are from the complete collapse of Vietnamization, we must now demand a change in the President's policy that will bring American men home, all of them, from POW's to the soldier on the front line.

The war we now wage threatens more than just the people of Vietnam it threatens the peace and stability of the world. It cannot continue. It must be stopped. Our involvement must end.

THE NEED TO INCREASE THE PROPOSED HEALTH BUDGET FOR 1973

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I share the concern expressed by my colleagues with the proposed health budget for fiscal year 1973.

In my position on the Ways and Means Committee, I have recently heard many witnesses speak to our Nation's health needs. The committee hearings on national health insurance impressed me with the urgency of improving the delivery of health care to those that need it.

One step that could be taken now in preparation for the future is to better finance the education of health professionals so that those schools can increase their enrollments now.

The administration's budget request for nursing education is one section where it is easy to see the folly of the budget planners. They propose a cutback of $22 million. There is no new money requested for construction, yet schools must increase enrollments to be eligible for capitation money. I do not need to remind many of you that we still need an additional 400,000 RN's to meet the needs by 1975.

Capitation grants, the only money that goes to the nursing school itself for general support, is budgeted at only 40 percent of the authorization.

Student loans, scholarships, and traineeships are supposed to remain at last year's and the year before levels when the schools had to turn down hundreds of qualified students for nursing, because they did not have the necessary funds to meet students' needs.

The nurse traineeship program is one that must be increased if hospitals and health agencies are to have the nursing leadership needed to provide quality care to the people.

In addition to the lack of support for schools and students for the Nurse Training Act programs, the administration's budget request would also cut back on NIMH funds for nursing education. On one hand we hear that capitation will decrease the need for NIMH support and then we see that only the 40 percent of authorization as I mentioned before, is being requested for the capitation program. It just does not make sense.

The HEW recently released a very interesting report on "Expanding the Scope of Nursing Practice." It is interesting reading for it shows how easily nurses can take on additional responsibilities for health care. After reading the report, it is especially hard to understand why so little consideration for nursing education is given in the HEW budget.

If this House shares my concern for the Nation's health, we will see to it that the health programs get the support needed and that nursing schools will not be required to cut enrollments at this crucial time.

HEALTH MANPOWER

This country is well able to provide better health services to its people than is now the case for some groups of its citizens. In order to do that job we must have enough well-qualified health personnel. Last year this House enacted the Comprehensive Health Manpower and the Nurse Training Acts of 1971. Those pieces of legislation were very carefully costed out and the able chairman of the Health Subcommittee, Mr. PAUL ROGERS of Florida, made sure that the authorizations were not inflated. Schools must increase their enrollments to be eligible for basic support.

Last year we heard from medical, dental, optometry, podiatry, veterinary, and pharmacy schools that many of them were facing serious financial difficulties and that some were likely to have to close if more adequate Federal support was not soon forthcoming.

Now we have seen and studied the proposed budget for health for 1973. Health manpower fares very badly in that budget. There is no sign of progress in spite of the full recognition of need.

The sections of the health manpower budget most in need of increases are capitation, construction, and student aid programs. How can these schools increase enrollments when there is no money requested for construction? Where are the students to be taught? Money this House appropriated for this year is not being released. Instead, it will be carried over for next year. Planning for construction takes time. A school's carefully planned building budget ready to go now will cost thousands more next year and even more the following year. We need the student space now not 10 years from now.

There is absolutely no increase requested for scholarships for any of the health professions. Yet those with children in college today know that costs are increasing every year both for tuition and living expenses at a very rapid rate. If we appropriate only what has been requested we will be actually decreasing the number of dental, pharmacy, medical, and other students in the health field. How can we urge schools to recruit low-income students, provide costly medical programs for some, and yet put forward a health budget such as the one we have pending.

Without realistic support to the schools themselves through the capitation grant mechanism the financial distress is only going to increase.

Health manpower is a national resource, therefore, the Federal Government must face its responsibilities. We must also recognize the need for the health of the Nation to be one of our top priorities.

THE BIA AND OFF-RESERVATION INDIANS

The SPEAKER. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER), is recognized for 10 minutes.

Mr. FRASER. Mr. Speaker, today there are hundreds of thousands of American Indians in cities, in rural areas, and an State reservations who are supposedly ineligible to receive services from the Bureau of Indian Affairs because of certain restrictive eligibility policies adopted by the BIA's parent agency, the Interior Department.

Until now, the Department has maintained that the Bureau can directly serve only those Indians living on or near Indian trust land. This policy is not based on congressional intent, however, as an examination of basic Indian legislation shows.

The Bureau of Indian Affairs, itself, has just completed a new study of eligibility policies which concludes that the concept of trust responsibility extends to all tribal Indian people regardless of where they live.

More specifically, the study proposes an extension of BIA services to 36,000 native California Indians whose treaties with the Federal Government have never been ratified, and to 3,000 Indians living on State reservations in nine Eastern and Southern States. Limited education and job placement aid is proposed for approximately 200,000 Indians living in urban areas. The Bureau also recommends that its staff be authorized to assist urban Indians to obtain services from other Government agencies.

Fifty-nine House Members recently wrote to Secretary Morton endorsing the proposal that BIA services be extended to these off-reservation groups.

A copy of our letter follows:

MAY 9, 1972.

Hon. ROGERS MORTON,
Secretary, Department of Interior.

DEAR MR. SECRETARY: Today there are thousands of American Indians throughout the United States, in our cities, in our rural areas, and on so-called state reservations who are supposedly ineligible to receive services from the Bureau of Indian Affairs because of a restrictive eligibility policy adopted by the Department of the Interior. This policy, most recently stated in a January, 1971 memorandum from your Department, holds that the federal government, through the Bureau of Indian Affairs, can directly serve only those Indians living on or near Indian trust land.

This edict has no basis whatsoever in law, however. An examination of the 1921 Snyder Act, the basic authorizing legislation for Indian services, shows a congressional intent to appropriate monies "for the benefit, care and assistance of Indians throughout the United States." There is nothing in the legislation to indicate that it means anything less than it says—"Indians throughout the United States."

In fact, the Bureau has always provided services to off-reservation Indians and continues to do so today. But it must do so in an off-hand manner because the fiction persists that the Bureau is authorized to serve only reservation Indians.

Mr. Secretary, we submit the time has come to end this fiction. The Bureau of Indian Affairs has just completed a new eligibility study partly in response to previous inquiries on this question from many of our offices, and has submitted it to your office for final approval. It concludes, as we have concluded, that the concept of trust responsibility extends to *all* Indian people, regardless of where they reside. We urge you to approve and adopt this study's recommendations, and thereby bring the Department of Interior policy in line with the law, the unmet needs of America's off-reservation Indians, and President Nixon's own commitment to a "new and balanced relationship between the United States government and the first Americans."

Specifically, the study recommends that eligibility be extended to three main groups of off-reservation Indians—urban, rural and state reservation. It should be noted from the outset that the underlying and proven premise of these recommendations is that the Bureau of Indian Affairs is the government agency best suited to understand and deal with Indians and Indian problems. The study does not, as some in the Department have charged, contemplate a doubling of the Bureau's budget or expanded services at the expense of current reservation services. The new off-reservation initiatives are in no way intended to diminish the Bureau's continuing responsibilities to the 480,000 Indians living on or near trust land.

The small additional cost of these new initiatives is not nearly as important as the resolve of the Department of Interior to take a firm position with regard to those terminationists who still do not understand President Nixon's words of July, 1970, when he said, ". . . we have turned from the question of *whether* the Federal Government has a responsibility to Indians to the question of *how* that responsibility can best be fulfilled . . ."

Have we really turned from that question as long as half of America's Indians are denied Indian services?

There are only 800,000 Indians in the whole country. It is not a question of dollars. It is a question of commitment.

We feel, as this study recommends, that Bureau services for urban areas should include higher education scholarship assistance, special education, and job placement, since almost all Indians in the cities can trace their migration there to the encouragement provided by a federal policy or program. We support the conclusion that the Bureau be allowed to take an advocacy role on behalf of urban Indians with other federal agencies. This would be especially important in the effort to fulfill President Nixon's commitment to create urban Indian centers. The current inadequacies of urban services, on the part of both the Bureau and other federal agencies, cannot be overemphasized.

We support the conclusion that eligibility be officially extended to rural off-reservation Indians, such as those in California. From 1851 to 1853 the federal government negotiated eighteen treaties with the California Indians. Relying on the treaties, thousands of Indians left their homelands and moved to the promised reservations. However, these treaties were never ratified. The Indians were left homeless. They could not stay where they were and they could not return to their homes because non-Indians had moved in and taken over. As a consequence, only a small number of California Indians live on reservations.

In addition, the BIA has a regulation stating that Johnson-O'Malley funds are primarily used for school districts with large blocks of tax free Indian lands. However, the original Committee report stated that the Johnson-O'Malley program was intended primarily to aid "those states in which tribal life is largely broken up and in which Indians are to a considerable extent mixed with the general population."

We feel that off-reservation as well as on-reservation Indians should benefit from the Johnson-O'Malley program, in accord with the original intent of Congress.

We support the conclusion that Bureau of Indian Affairs services be extended to the abandoned "state reservation" Indians such as the Passamaquoddy of Maine and the Iroquois of New York who by the accident of not having signed a federal treaty are being denied much needed federal services.

As Congressmen we believe that the time is ripe for taking a bold step forward on behalf of all Indian people. We are all too familiar with the statistics on life expectancy, suicide, literacy rates and the generally disastrous living conditions brought on by years of neglect, exploitation and mistreatment. Because of the limited number of people involved, here is a situation where so few new dollars could do so much.

We must first, however, bring Department of the Interior policy in line with the law which recognizes the problem as one which affects "Indians throughout the United States." If that happens, we are optimistic that the House and Senate Appropriations Committees will look favorably upon requests made by the Department for extended services to non-reservation Indians. We pledge our full support, and hope we have yours.

Sincerely,
Representative James Abourezk.
Representative Bella S. Abzug.
Representative Brock Adams.
Representative Glenn M. Anderson.
Representative Herman Badillo.
Representative Nick Begich.
Representative Alphonzo Bell.
Representative Edward G. Biester, Jr.
Representative Richard Bolling.
Representative William Clay.
Representative George W. Collins.
Representative James C. Corman.
Representative Ronald V. Dellums.
Representative Frank E. Denholm.
Representative John G. Dow.
Representative Don Edwards.
Representative Marvin L. Esch.
Representative Donald M. Fraser.
Representative Bill Frenzel.
Representative Barry M. Goldwater, Jr.
Representative Ella Grasso.
Representative Michael Harrington.
Representative William D. Hathaway.
Representative Henry Helstoski.
Representative Joseph E. Karth.
Representative Robert W. Kastenmeier.
Representative Edward I. Koch.
Representative Peter N. Kyros.
Representative Arthur A. Link.
Representative Paul N. McCloskey, Jr.
Representative John Y. McCollister.
Representative Mike McCormack.
Representative Spark M. Matsunaga.
Representative Lloyd Meeds.
Representative Ralph H. Metcalfe.
Representative Abner J. Mikva.
Representative Patsy Mink.
Representative Parren J. Mitchell.
Representative John E. Moss.
Representative David R. Obey.
Representative James G. O'Hara.
Representative Roman Pucinski.
Representative Thomas M. Rees.
Representative Henry S. Reuss.
Representative Donald W. Riegle, Jr.
Representative Robert A. Roe.
Representative William R. Roy.
Representative Edward R. Roybal.
Representative Philip E. Ruppe.
Representative William F. Ryan.
Representative Paul S. Sarbanes.
Representative James H. Scheuer.
Representative John H. Terry.
Representative Charles Thone.
Representative Lionel Van Deerlin.
Representative Jerome R. Waldie.
Representative Charles H. Wilson.
Representative Sidney R. Yates.
Representative Phil Burton.

MORE FUNDS TO FIGHT HEART DISEASE

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. YATES) is recognized for 5 minutes.

Mr. YATES. Mr. Speaker, the President recommends only $255 million for the National Heart and Lung Institute for fiscal 1973—an increase of only $23 million over the amount appropriated by the Congress last year.

I cannot understand the rationale of this recommendation. Heart disease has reached epidemic proportions in this country killing 1 million Americans a year. By the end of the present decade, it will have claimed 10 million lives—and a high percentage will be in the vulnerable age bracket of 40–55 years. Mainly because of heart disease, America trails 17 other countries in the world in the longevity of its male population.

The American Heart Association estimates that the medical costs for heart disease alone exceeds $6 billion a year—$30 per person—yet the President's budget for fiscal 1973 allocates approximately $1 per person for research into the No. 1 cause of death in this country.

Mr. Speaker, I am happy that last year, on congressional initiative, we passed a comprehensive piece of cancer legislation. Under the authority of that new legislation, the President recommends $432 million for fiscal 1973. I would not spend a penny less in the fight against cancer—in fact, the President's recommendation for the National Cancer Institute for fiscal 1973 is $100 million lower than authorized under the 1971 Cancer Act.

I want more money for cancer, but I want more money for heart disease, too. I am pleased that both Houses of the Congress are currently engaged in considering legislation to lift the authorizations for the National Heart and Lung Institute; but as a practical matter, this proposed legislation will not affect the fiscal 1973 budget.

Mr. Speaker, I commend the gentleman from Florida (Mr. ROGERS) for his critcism of the administration's inadequate medical research recommendations. Significant increases certainly on the order of $100 million should be added to the appropriations for the National Heart and Lung Institute to show our determination to cut down this massive killer.

EXTRICATING THE UNITED STATES FROM THE VIETNAM WAR

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. Howard) is recognized for 5 minutes.

Mr. HOWARD. Mr. Speaker, when are we going to extricate ourselves from Vietnam?

How many more American lives must be sacrificed to protect a corrupt government in Saigon which apparently has very little support from its own people.

Mr. Speaker, on Monday night when the President addressed the Nation, much of what he said, I thought, was shocking.

But I do not think we can or should overlook the fact that the President indicated he wants to get all of our American troops out of Vietnam as soon as possible.

I am sure that supporters of the President will argue that the President means just that and that they are hopeful that we in the Congress will pass appropriate legislation to extricate this great country from this most unpopular war.

Some opponents of the President may argue that the President really does not want to withdraw all of our forces from Vietnam. Some might say that if we pass this legislation and all our troops are out of Vietnam by election day, then the President will benefit greatly.

And so what?

I cannot think of anything more important than getting all of our American servicemen out of Vietnam and getting all of our prisoners of war home.

Mr. Speaker, today I am introducing in the House a bill which is being offered in the Senate as an amendment to the Foreign Relations Authorization Act of 1972 by Senators Clifford P. Case of New Jersey and Frank Church of Idaho. This language will accommodate the President's stated wish to get out of Vietnam and it will satisfy many of us who feel that we have already been there too long.

I also plan to introduce this language in the Democratic Caucus in the form of a resolution. Identical language has been approved by the Democratic Caucus in the Senate.

The war has dragged on too long. It has been costly in American lives and it has denied many Americans better housing, better transportation, and a host of other services have not been properly funded, because of the cost of the war.

The sooner we get our American servicemen safely out of Vietnam and the sooner we get our prisoners of war returned, the better off this Nation will be.

MORE ON TITLE III OF H.R. 7130

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. Gibbons) is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, many of us have been speaking out in recent weeks about the fact that title III of H.R. 7130—authorizing rigid import and procurement restrictions—would not only fail in its avowed purpose of protecting American industries and workers but would also have disastrous effects on the welfare of American consumers and on our international economic and political relations.

None of us dispute the fact that title III is designed to meet the real problem of economic dislocations, but we take strong issue with its approach to these problems.

Significant efforts are already underway in the administration and in Congress to deal with whatever economic problems may be related to imports. More needs to be done in these areas, including the vigorous promotion of international fair labor standards by the United States. But there is little doubt in my mind, and in the minds of many of my colleagues, that there is no purpose to be served by title III. In fact, approval of title III would be a giant step backwards for us in terms of both workers and consumers and in our efforts in behalf of economic and political cooperation among nations.

Because all too little attention has been given to the issue of consumer welfare in connection with the discussion of title III, I was pleased to learn that the Consumer Education Council on World Trade has issued a "consumer alert" on title III as "a serious blow to every consumer in the country."

I would like to insert at this point in the Record the text of the press release which was issued by the Council on this important matter:

"Consumer Alert" Sounded on Dent Amendment; "Would Be Serious Blow to Every Consumer in the Country", Says Consumer Spokesman

Washington, D.C., May 9, 1972.—A "consumer alert" was sounded here today by the chairman of the recently-organized Consumer Education Council on World Trade.

Mrs. Doreen Brown, chairman of a consumer coalition of national, well-known public-service groups, said that "the Dent Bill now before Congress should concern every consumer in the country." She added that "the bill is of particular interest to consumers in that, unknown to 99% of the American public, it incorporates protectionist legislation into the body of a minimum wage bill." She explains that "the intent and effect of Title III of H.R. 7130 (known as the Dent Bill), which will be debated in the House of Representatives starting Wednesday, May 10, would be to sharply restrict imports, which would in turn raise consumer prices on both imported and on domestically-produced goods."

CONSUMER INTEREST NOT CONSULTED IN SHAPING BILL

Mrs. Brown termed as "misleading for consumers" when such an important and complex subject as foreign trade is legislated simply as an appendage to a minimum wage bill. Moreover, she said: "To the best of my knowledge, no consumer representatives have even testified on Title III of this bill, nor on the inevitable inflationary effect it would have."

DENT AMENDMENT WOULD RESTRICT IMPORTS FROM ALMOST ALL COUNTRIES

Title III, said Mrs. Brown, would provide for erecting import quotas or tariffs whenever imports from countries with lower wages than those of the U.S. were believed to threaten any U.S. workers or communities. "Worded so loosely", she said, "this bill could very well mean that practically all imports from every country except Canada would be subject to restriction. Prices would rise sharply as a result of this elimination of competition and consumers would find themselves paying a hidden subsidy to the special interests who hope to benefit from protectionism." It is for these reasons that the CECWT is circulating information material on this legislation to its cooperating organizations.

COUNCIL FORMED TO INFORM, ASSIST CONSUMERS

The Consumer Education Council on World Trade, which was officially formed only last month, serves in an educational capacity to its cooperating organizations (see following list). It has already published a pamphlet in which it said that the average American family currently pays from $200 to $300 yearly for various import restrictions, and warned that additional protectionist legislation (such as the Dent amendment) could bring this total up to $500 to $600 per family annually.

Cooperating organizations of the CECWT include:

National Council of Churches.
American Association of University Women.
National Farmers Union.
Consumers Union of the U.S.A.
National Council of Catholic Laity.
National Council of Jewish Women.
Y.W.C.A. National Board.
United Church of Christ.
National Council of Negro Women.
Americans for Democratic Action.
Church Women United.
Washington Office, Y.W.C.A. National Board.
United Presbyterian Church.
Cooperative League of the U.S.A.
Japanese-American Citizens League.
National Federation of Settlements and Neighborhood Centers.
U.S. Catholic Conference.

IS NADER CLEAN?

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DEVINE. Mr. Speaker, the news media gives much space to Ralph Nader and his enthusiastic information seekers. Particularly, Nader's announced in-depth probe of the Congress is getting much copy.

The following UPI story out of Los Angeles is interesting, and if true, perhaps would suggest Mr. Nader put his own house in order before he investigates the people's House:

Ralph Nader Sued By Sole Contest Entrant

Los Angeles.—It probably had to happen. Someone is suing Ralph Nader for allegedly concealing facts, withholding funds and engaging in misrepresentations to save money.

Donald Gordon, a lawyer, said yesterday he had filed suit against Mr. Nader, John Esposito, a Nader aide and a Nader organization, the Center for Study of Responsive Law.

Mr. Gordon said that as a law school senior at the University of Southern California in

1970, he entered an 80-page paper, with 196 footnotes, in a contest sponsored by the Center on the theme of corporate responsibilities over and above carrying on business. A first prize of $750 was offered.

When he failed to hear from the contest officials, and never heard of any winners, he wrote the center, Mr. Gordon said. Eventually he received a letter from Mr. Esposito saying there were so few entrants the contest had been cancelled, he said.

More letters followed, including some from his law school dean and later from the senior partner of his law firm, since by then he had graduated.

Eventually, Mr. Esposito admitted that Mr. Gordon was not one of a few entrants, but the only entrant, Mr. Gordon said. Mr. Gordon pressed on. Being the only entrant, he had to be the winner, he argued, demanding the $750 prize.

Later Mr. Esposito said Mr. Gordon's paper was terrible, but he hadn't been told that didn't want to hurt his feelings, Mr. Gordon said.

Instead, Mr. Gordon filed suit for $4,750—the amount of the prize plus $4,000 punitive damages.

ADMINISTRATION HEALTH BUDGET UNACCEPTABLE

(Mr. O'NEILL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. O'NEILL. Mr. Speaker, one of our highest national priorities in America today is adequate Federal financing of health programs. We need to secure a level of Federal funding that is commensurate with our urgent national needs in health. The cost of health care continues to soar while the quality of health care continues to decline. Too many Americans receive inadequate health care services because of insufficient facilities and high cost.

The administration's budget for NIH and HSMHA for fiscal year 1973 does not allow for innovation or sufficient growth of the critical health programs which have been authorized by Congress. I believe that the administration's health budget for fiscal year 1973 clearly provides unacceptable Federal financing of essential health programs. Huge differences exist between the administration's budget and the amount that Congress has authorized.

Let us look at a couple of examples where the administration has proposed inappropriate cutbacks for fiscal year 1973. I am sure my colleagues recall last year the congressional passage of the Comprehensive Health Manpower Training Act of 1971 and the Nurse Training Act of 1971 in which we established new programs for the support of health education through NIH. The intent of these two laws was to reduce the critical shortage of adequately trained personnel in the medical profession. Administration's fiscal 1973 budget for the entire health manpower program under NIH amounts to $533.6 million, which has been reduced by nearly two-thirds of the total authorization or estimated need. In nursing, Congress authorized $82 million for fiscal year 1973. The administration's budget recommends only $33 million, and capitation grants for schools of medicine, dentistry, osteopathy were reduced by the administration from the $213 million that Congress found necessary to about $138 million. How can medical training schools expand their pool of trained medical and paramedical personnel and consequently expand the whole range of health services with no more support than this meager administration request?

Let us look at the allocation for mental health programs. The administration will allow less than two-thirds of the full authorization or need for the combined mental health program of HSMHA. In the critical area of health services delivery through HSMHA programs, the administration is recommending only three-fourths of the billion dollars authorized for that program. Preventive health services which includes infectious diseases control would be cut by $85 billion, under the administration's budget. For the third consecutive year, the administration will allow no increase in formula grants to States with comprehensive health services. While the authorization for this program is $165 million, the administration request for fiscal year 1973 is only $90 million.

Let us look at one of the most vital areas to our Nation's health—the area of construction and modernization of health facilities. This area is just as underfunded in the administration's budget as the areas of manpower and health services. I find that the administration's budget for construction grants is totally unacceptable for fiscal year 1973. Congress authorized $250 million in construction grants for medical, dental, and related health professions for schools and training facilities. Do you know what the administration has recommended in this budget? Absolutely nothing. In other words, the administration is telling the American people that there will not be any funds for fiscal year 1973 for construction of medical schools, hospitals, community mental and health centers.

The Hill-Burton program, an important project in my area for hospital construction grants, would be phased out. For several years, citizens of my State have benefited from hospitals and clinics which were constructed from Hill-Burton funds. Total construction grants for hospitals and public health centers would be reduced from the authorized $157.5 million to zero. Authorizations of $85 million for long-term care facilities and another $90 million to modernize outdated buildings have been all cut by the administration to zero.

It seems to me that in order to improve our national needs in health care, we need to renew our obsolete urban hospital facilities. Professional estimates claim that ultimately $12 billion will be required to modernize these medical centers of our large cities. Yet for fiscal year 1973 the administration has cut modernization grants from $90 million authorized by Congress to zero. This irresponsible reduction in urgently needed modernization grants is inexcusable.

My colleagues will also recall that last year Congress launched an all-out attack on cancer, a disease which kills annually 323,000 Americans, which is 5½ times the number of Americans killed yearly in automobile accidents. For fiscal year 1973, Congress authorized $532 million for the National Cancer Institute. The administration however recommends only $432 million. Nearly 40 percent of American deaths each year are from heart disease. The administration recommends $255 million for the National Heart Institute. Congress estimated the needs of the Institute to be $80 million above this administration's level.

For all remaining research programs of NIH, research programs for dental health, arthritis and metabolic diseases, neurological diseases, the administration has recommended increases of only 3.3 percent above the fiscal year 1972 levels. That increase is half of the annual inflation rate for health research.

Mr. Speaker, I believe that the reductions in the health budget show a lack of commitment by the administration to improve essential health care programs in this country. Far too many critical health programs will receive unacceptable Federal funding if the administration's budget stands. The administration has ignored our recommendations. It is now up to the Congress to alter the President's health budget in order to provide adequate Federal financing of needed health programs.

END THE WAR

(Mr. SNYDER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SNYDER. Mr. Speaker, today I introduced a House concurrent resolution which I believe expresses the best prospects for peace in Southeast Asia and which I do not hesitate to label an "End the War" resolution.

The wording follows:

> *Resolved by the House of Representatives* (*the Senate concurring*), That it is the sense of the Congress that a complete withdrawal of all American forces from Vietnam should be accomplished within four months after—
>
> (1) the establishment of an internationally supervised ceasefire throughout Indochina, and
>
> (2) the release of all American prisoners of war held as a result of the present conflict in Southeast Asia.

As will be readily observed, the two conditions which are contained in the resolution are identical to the two set forth by President Nixon in his broadcast address to the Nation on Monday night, May 8.

The central reason I have for introducing this resolution at this time is that—if it is passed—it will represent the determination of both Houses of Congress to bring the debilitating Vietnam conflict to an end rapidly and with honor.

It says to the Communists that the U.S. Congress is united with the American people in declaring for peace and an end to American involvement in Vietnam—but also that the Communists must do their part to bring about this result too. It also says to the President that we fully expect him to meet the 4-

month withdrawal deadline which he indicated would be his course when and if the two conditions were met.

Mr. Speaker, the sagacity and commonsense of the proposal contained in the President's message—and in the wording contained in this resolution—are underscored by the results of a poll taken on Tuesday, May 9—the day after the President's address—by the Opinion Research Corp. It showed that, with regard to the President's pledge of a 4-month withdrawal date contingent upon the satisfaction of the two conditions, 75 percent of the American people support the President's action—while only 17 percent disagree.

Another index of the widespread support which this concept has engendered is the fact that—within half an hour of the time I began circulating the draft of the resolution on the floor today—24 of my colleagues had signed in cosponsorship and a number of others had asked to.

I am sure that most of my colleagues here in the House will want to join me—and the American people—in presenting a united front for peace—and for the end of the war.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Rangel (at the request of Mr. O'Neill), for today, on account of official business.

Mr. Rooney of New York, for Wednesday, May 10, 1972, after 5 p.m. on account of meeting of Regents of the Smithsonian Institution.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Peyser) and to revise and extend their remarks and include extraneous matter:)

Mr. Esch, for 15 minutes, today.

Mr. Harvey, for 5 minutes, today.

Mr. Kemp, for 15 minutes, today.

Mr. Quie, for 15 minutes, today.

Mr. McDade, for 5 minutes, today.

Mr. Shriver, for 10 minutes, today.

Mr. Halpern, for 10 minutes, today.

Mr. Anderson of Illinois, for 15 minutes, today.

Mr. Bell, for 15 minutes, today.

Mr. Heinz, for 10 minutes, today.

(The following Members (at the request of Mr. Link) and to revise and extend their remarks and include extraneous matter:)

Mr. Gonzalez, for 10 minutes, today.

Mr. Wolff, for 10 minutes, today.

Mr. Burke of Massachusetts, for 10 minutes, today.

Mr. Fraser, for 10 minutes, today.

Mr. Yates, for 5 minutes, today.

Mr. Howard, for 5 minutes, today.

Mr. Gibbons, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Roush and to include extraneous matter.

Mr. Bevill (at the request of Mr. Perkins) to extend his remarks prior to the vote on the conference report on H.R. 9212.

Mr. Rhodes, and to include an editorial from the Christian Science Monitor.

Mr. Gerald R. Ford, immediately following the remarks of Mr. Rhodes, and to include an article from the Washington Post.

Mr. Hébert to follow the remarks of Mr. Rhodes while speaking out of order on House Resolution 968 and to include extraneous matter.

Mr. Colmer to revise and extend the remarks he made on House Resolution 968.

Mr. Dellums, immediately following the debate on Fair Labor Standards Act in the Committee of the Whole today.

(The following Members (at the request of Mr. Peyser) and to include extraneous matter:)

Mr. Conte.

Mr. Whalen.

Mr. Zwach.

Mr. Derwinski in four instances.

Mr. Frey.

Mrs. Heckler of Massachusetts.

Mr. Esch.

Mr. Hastings.

Mr. Scherle.

Mr. Devine.

Mr. Carter in two instances.

Mr. Nelsen.

Mr. Bob Wilson.

Mr. Wyman in two instances.

Mr. McClory.

Mr. McCloskey in two instances.

Mr. Kuykendall.

Mr. Schmitz in two instances.

Mr. Halpern in three instances.

Mr. Hammerschmidt.

Mr. Broomfield.

Mr. Lloyd.

Mr. Kemp in two instances.

Mr. Hutchinson.

Mr. Horton.

Mr. du Pont.

Mr. Grover.

Mr. Shoup in two instances.

(The following Members (at the request of Mr. Link) and to include extraneous matter:)

Mr. Rosenthal in 10 instances.

Mr. Ullman in 10 instances.

Mr. Hagan in three instances.

Mr. Rarick in three instances.

Mr. Rogers in five instances.

Mr. Rooney of New York in three instances.

Mr. Symington in three instances.

Mr. Eilberg in 10 instances.

Mr. Wolff in two instances.

Mr. Gallagher.

Mr. Hébert in two instances.

Mr. Hungate in four instances.

Mr. Dingell in three instances.

Mr. Fraser in five instances.

Mr. Edwards of California in three instances.

Mr. Howard.

Mr. Begich in five instances.

Mr. Dulski in five instances.

Mrs. Griffiths.

Mr. William D. Ford in two instances.

Mr. Diggs in three instances.

Mr. Murphy of New York in three instances.

Mr. Corman in two instances.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8083. An act to amend title 5, United States Code, to provide a career program for, and greater flexibility in management of, air traffic controllers, and for other purposes; and

H.R. 9212. An act to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes.

ADJOURNMENT

Mr. LINK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, May 11, 1972, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1964. A letter from the Acting Secretary of Agriculture, transmitting a report on the administration of the Animal Welfare Act of 1970; to the Committee on Agriculture.

1965. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to further amend the U.S. Information and Education Exchange Act of 1948; to the Committee on Foreign Affairs.

1966. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to amend the joint resolution providing for membership and participation by the United States in the South Pacific Commission; to the Committee on Foreign Affairs.

1967. A letter from the Assistant Secretary of the Interior, transmitting a copy of a proposed contract with IIT Research Institute, Chicago, Ill., for a study of "Metallic and Nonmetallic Mining in the United States," pursuant to Public Law 89–672; to the Committee on Interior and Insular Affairs.

1968. A letter from the Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Battelle Memorial Institute, Pacific Northwest Laboratories, Richland, Wash., for a research project entitled "Characteristics of Attached Radon-222 Daughters," pursuant to Public Law 89–672; to the Committee on Interior and Insular Affairs.

1969. A letter from the Chairman, Railroad Retirement Board, transmitting the Annual Report of the Board for fiscal year 1971; to the Committee on Interstate and Foreign Commerce.

1970. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide for a change in the titles of the NASA Associate Administrator positions listed under level V of the executive schedule, and to add three more such positions to such schedule; to the Committee on Post Office and Civil Service.

1971. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Public Works and Economic Development Act of 1965, as amended; to the Committee on Public Works.

Received From the Comptroller General

1972. A letter from the Comptroller General of the United States, transmitting a report on the examination of financial statements of the Government Printing Office for fiscal year 1971, pursuant to 44 U.S.C. 309; to the Committee on Government Operations.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DANIELS of New Jersey (for himself, Mr. Esch, Mr. Meeds, Mr. William D. Ford, Mr. Scheuer, Mr. Biaggi, Mrs. Grasso, Mrs. Hicks of Massachusetts, Mr. Quie, Mr. Forsythe, Mr. Peyser, Mr. Clay, Mr. Bell, Mr. Hansen of Idaho, Mr. Kemp, Mr. Frenzel, Mr. Galifianakis, Mr. Córdova, Mr. Roy, Mr. Railsback, and Mr. Broyhill of North Carolina):

H.R. 14880. A bill to provide for the comprehensive development of correctional manpower training and employment, and for other purposes; to the Committee on Education and Labor.

By Mr. DANIELS of New Jersey (for himself, Mr. Esch, Mr. Harrington, Mrs. Abzug, Mr. Gude, Mr. Rangel, Mr. Pepper, Mr. Fascell, Mr. Danielson, Mr. Nedzi, Mr. Anderson of Tennessee, Mr. Wydler, Mr. Mikva, Mr. Cleveland, Mr. Addabbo, Mr. Hicks of Washington, Mr. Charles H. Wilson, Mr. Podell, Mr. Heinz, Mr. Fraser, Mr. Davis of Georgia, and Mr. Hillis):

H.R. 14881. A bill to provide for the comprehensive development of correctional manpower training and employment, and for other purposes; to the Committee on Education and Labor.

By Mr. ANDERSON of Illinois (for himself, Mr. Begich, Mr. Brown of Michigan, Mr. Coughlin, Mr. Davis of Georgia, Mr. Matsunaga, and Mr. Ware):

H.R. 14882. A bill to amend the Internal Revenue Code of 1954 to provide that employees receiving lump sums from tax-free pension or annuity plans on account of separation from employment shall not be taxed at the time of distribution to the extent that an equivalent amount is reinvested in another such plan; to the Committee on Ways and Means.

By Mr. ASHBROOK:

H.R. 14883. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

By Mr. ASPIN (for himself, Mr. Andrews of North Dakota, Mr. Begich, Mr. Brown of Ohio, Mr. Burton, Mr. Casey of Texas, Mr. Collins of Illinois, Mr. Danielson, Mr. Edwards of California, Mr. Findley, Mr. Hawkins, Mrs. Heckler of Massachusetts, Mr. Heinz, Mr. Koch, Mr. Kyros, Mr. Mitchell, Mr. Pryor of Arkansas, Mr. Rosenthal, Mr. Stratton, Mr. Waldie, and Mr. Wolff):

H.R. 14884. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. BEGICH:

H.R. 14885. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BRADEMAS:

H.R. 14886. A bill to amend the Education of the Handicapped Act to provide for improved opportunities for handicapped persons, and for other purposes; to the Committee on Education and Labor.

By Mr. CELLER:

H.R. 14887. A bill to amend the Internal Revenue Code of 1954 to provide an additional exemption of $750 for certain individuals who are apartment dwellers or who otherwise rent their principal residence; to the Committee on Ways and Means.

By Mr. FRASER (for himself, Mr. Dow, Mrs. Abzug, Mr. Badillo, Mr. Biaggi, Mr. Bingham, Mr. Brademas, Mr. Buchanan, Mr. Cotter, Mr. Danielson, Mr. Dellums, Mr. Frenzel, Mrs. Grasso, Mr. Gude, Mr. Harrington, Mr. Helstoski, Mr. McCloskey, Mr. Matsunaga, Mr. Moss, Mr. O'Hara, Mr. Pike, Mr. Rees, Mr. Scheuer, Mr. Seiberling, and Mr. Waldie):

H.R. 14888. A bill to establish a commission to investigate and study the practice of clear-cutting of timber resources of the United States on Federal lands; to the Committee on Agriculture.

By Mr. FREY:

H.R. 14889. A bill to amend the Controlled Substances Act to provide increased penalties for distribution of heroin by certain persons, and to provide for pretrial detention of such persons; to the Committee on Interstate and Foreign Commerce.

By Mr. GALLAGHER:

H.R. 14890. A bill to amend titles 5 and 28 of the United States Code, and the Omnibus Crime Control and Safe Streets Act, with respect to the position and duties of the Director of the Federal Bureau of Investigation, and for other purposes; to the Committee on the Judiciary.

By Mr. GARMATZ (for himself, Mr. Clark, Mr. Lennon, Mr. Mailliard, Mr. Pelly, Mr. Grover, Mr. Keith, and Mr. Steele):

H.R. 14891. A bill to amend title 14, United States Code, to authorize involuntary active duty for Coast Guard Reservists for emergency augmentation of regular forces; to the Committee on Merchant Marine and Fisheries.

By Mrs. GRASSO (for herself, Mr. Cotter, Mr. Giaimo, Mr. McKinney, Mr. Monagan, and Mr. Steele):

H.R. 14892. A bill to amend section 109 of title 38, United States Code, to provide benefits for members of the armed forces of nations allied with the United States in World War I or World War II; to the Committee on Veterans' Affairs.

By Mr. KEITH:

H.R. 14893. A bill to amend title XVII of the Social Security Act to provide financial assistance to individuals suffering from chronic kidney disease who are unable to pay the costs of necessary treatment, and to authorize project grants to increase the availability and effectiveness of such treatment; to the Committee on Ways and Means.

By Mr. LINK:

H.R. 14894. A bill to amend chapter 15 of title 38, United States Code, to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations; to provide for such veterans a certain priority in entitlement to hospitalization and medical care; and for other purposes: to the Committee on Veterans' Affairs.

By Mr. PEPPER:

H.R. 14895. A bill to amend chapter 44 of title 18 of the United States Code to limit the availability of guns not suitable for lawful sporting purposes; to the Committee on the Judiciary.

By Mr. PERKINS (for himself and Mr. Quie):

H.R. 14896. A bill to amend the National School Lunch Act, as amended, to assure that adequate funds are available for the conduct of summer food service programs for children from areas in which poor economic conditions exist and from areas in which there are high concentrations of working mothers and for other purposes related to expanding and strengthening the child nutrition programs; to the Committee on Education and Labor.

By Mr. QUIE (for himself and Mr. Perkins):

H.R. 14897. A bill to provide that in the administration of the School Lunch and Child Nutrition Act, the Secretary of Agriculture shall, within limits which he will prescribe, permit the operation of certain food vending machines in participating schools where the proceeds of such operations go to organizations sponsored or approved by the school; to the Committee on Education and Labor.

By Mr. QUIE (for himself, Mr. Ashbrook, Mr. Bell, Mr. Erlenborn, Mr. Dellenback, Mr. Esch, Mr. Eshleman, Mr. Landgrebe, Mr. Hansen of Idaho, Mr. Forsythe, Mr. Veysey, Mr. Kemp, Mr. Peyser, and Mr. Carlson):

H.R. 14898. A bill to amend the National School Lunch Act and the Child Nutrition Act of 1966; to the Committee on Education and Labor.

By Mr. ROGERS (for himself, Mr. Kyros, Mr. Preyer of North Carolina, Mr. Symington, Mr. Roy, Mr. Nelsen, Mr. Carter, Mr. Hastings, Mr. Monagan, and Mr. Robison of New York):

H.R. 14899. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to assure that the public is provided with safe drinking water, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROUSH:

H.R. 14900. A bill to amend the Internal Revenue Code of 1954 to raise needed additional revenues by tax reform; to the Committee on Ways and Means.

By Mr. ROUSSELOT:

H.R. 14901. A bill to modify ammunition recordkeeping requirements; to the Committee on Ways and Means.

By Mr. RUNNELS:

H.R. 14902. A bill to authorize the conveyance of certain lands to the New Mexico State University, Las Cruces, N. Mex.; to the Committee on Interior and Insular Affairs.

By Mr. SIKES (for himself, Mr. Derwinski, Mr. Wyatt, Mr. Duncan, Mr. Kuykendall, Mr. Mathis of Georgia, Mr. Leggett, Mr. Bevill, Mr. Kemp, Mr. Cleveland, Mr. Montgomery, and Mr. Carter):

H.R. 14903. A bill to authorize the Secretary of Agriculture to develop and carry out a forestry incentives program to encourage a higher level of forest resource protection, development, and management by small nonindustrial private and non-Federal public forest landowners, and for other purposes; to the Committee on Agriculture.

By Mr. UDALL (for himself, Mr. Begich, Mr. Coughlin, Mr. McCloskey, and Mr. Roy):

H.R. 14904. A bill to regulate State presidential primary elections; to the Committee on House Administration.

By Mr. VEYSEY:

H.R. 14905. A bill to amend the Tariff Schedules of the United States to apply to fresh grapes imported between May 1 and June 30 of each year the same rate of duty as applies to grapes imported between February 15 and March 31; to the Committee on Ways and Means.

H.R. 14906. A bill to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, and for other purposes; to the Committee on Ways and Means.

By Mr. VEYSEY (for himself, Mr. Teague of California, Mr. Bell, Mr. Del Clawson, Mr. Hanna, Mr. Hosmer, Mr. McFall, Mr. Pettis, Mr. Rees, Mr. Talcott, Mr. Van Deerlin, and Mr. Bob Wilson):

H.R. 14907. A bill to provide an emergency operating loan program for farmers whose poultry is slaughtered in order to avoid the spreading of exotic avian newcastle disease, and to authorize the Secretary of Agriculture to buy surplus eggs from such farmers; to the Committee on Agriculture.

By Mr. DOW (for himself, Mrs. Abzug, Mr. Anderson of Tennessee, Mr. Buchanan, Mr. Burton, Mr. Collins of Illinois, Mr. Denholm, Mr. Drinan, Mr. Halpern, Mr. Helstoski, Mrs. Hicks of Massachusetts, Mr. Mikva, Mrs. Mink, Mr. Mitchell, Mr. Moorhead, and Mr. Sarbanes):

H.R. 14908. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 with respect to the effective date of the non-Federal share of the costs of certain programs of that act, and for other purposes; to the Committee on the Judiciary.

By Mr. HÉBERT (for himself, Mr. Arends, Mr. Byrne of Pennsylvania, Mr. Charles H. Wilson, Mr. Nichols, Mr. Brinkley, Mr. Aspin, Mr. Gubser, Mr. Hunt, and Mr. Whitehurst):

H.R. 14909. A bill to amend section 552(a) of title 37, United States Code, to provide continuance of incentive pay to members of the uniformed services for the period required for hospitalization and rehabilitation after termination of missing status; to the Committee on Armed Services.

By Mr. HELSTOSKI:

H.R. 14910. A bill to amend the Public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. LUJAN (for himself, Mr. Dickinson, Mr. Byrne of Pennsylvania, Mr. Charles H. Wilson, Mr. Nichols, Mr. Brinkley, Mr. Aspin, Mr. Gubser, Mr. Hunt, and Mr. Whitehurst):

H.R. 14911. A bill to amend titles 10 and 37, United States Code, to authorize members of the Armed Forces who are in a missing status to accumulate leave without limitation, and for other purposes; to the Committee on Armed Services.

By Mr. McCLOSKEY:

H.R. 14912. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain amounts received by attorneys from the representation of indigent persons; to the Committee on Ways and Means.

By Mr. MOLLOHAN:

H.R. 14913. A bill to permit the State of West Virginia to obtain social security coverage, under its State agreement entered into pursuant to section 218 of the Social Security Act, for policemen and firemen in certain cities, and to validate certain past coverage for such policemen and firemen; to the Committee on Ways and Means.

By Mr. SHOUP:

H.R. 14914. A bill to amend section 318 of the Communications Act of 1934; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE of Texas (for himself, Mr. Byrne of Pennsylvania, Mr. Charles H. Wilson, Mr. Nichols, Mr. Brinkley, Mr. Aspin, Mr. Gubser, Mr. Hunt, and Mr. Whitehurst):

H.R. 14915. A bill to amend chapter 10 of title 37, United States Code, to authorize at Government expense, the transportation of house trailers or mobile dwellings, in place of household and personal effects, of members in a missing status, and the additional movement of dependents and effects, or trailers, of those members in such a status for more than 1 year; to the Committee on Armed Services.

By Mr. BOB WILSON:

H.R. 14916. A bill to authorize equalization of the retired or retainer pay of certain members and former members of the uniformed services; to the Committee on Armed Services.

H.R. 14917. A bill to authorize the military Secretaries to determine family housing facilities under their jurisdiction to be inadequate as public quarters and permit their voluntary occupancy by military personnel with dependents at a charge less than the occupant's basic allowance for quarters; to the Committee on Armed Services.

H.R. 14918. A bill to provide the Secretary of the Interior with authority to promote the conservation and orderly development of the hard mineral resources of the deep seabed, pending adoption of an international regime therefor; to the Committee on Merchant Marine and Fisheries.

By Mr. CONABLE (for himself, Mr. Boggs, Mr. Smith of New York, Mr. Corman, Mr. Betts, Mr. Karth, Mr. Frelinghuysen, Mr. Thompson of New Jersey, Mr. Erlenborn, Mr. Dorn, Mr. Gubser, Mr. Helstoski, Mr. Conte, Mrs. Abzug, Mr. Steiger of Wisconsin, Mr. Esch, Mr. Kuykendall, Mr. Williams, Mr. Kemp, Mr. Lent, and Mr. McKinney):

H.J. Res. 1193. Joint resolution to provide for the designation of the week which begins on September 24, 1972, as "National Microfilm Week"; to the Committee on the Judiciary.

By Mr. HOWARD:

H.J. Res. 1194. Joint resolution providing for the termination of hostilities in Indochina; to the Committee on Foreign Affairs.

By Mr. PATTEN:

H.J. Res. 1195. Joint resolution relating to sudden infant death syndrome; to the Committee on Interstate and Foreign Commerce.

By Mr. RHODES:

H. Con. Res. 608. Concurrent resolution declaring the support of Congress for the President's call for the return of all American prisoners of war and an internally supervised cease-fire throughout Indochina; to the Committee on Foreign Affairs.

By Mr. SNYDER (for himself, Mr. Erlenborn, Mr. Anderson of Illinois, Mr. McDade, Mr. Veysey, Mr. Thompson of Georgia, Mr. Hammerschmidt, Mr. Dickinson, Mr. J. William Stanton, Mr. Widnall, Mr. Nelsen, Mr. Kuykendall, Mr. Keating, Mr. Brown of Ohio, Mr. Young of Florida, Mr. Frenzel, Mr. Zwach, Mr. Miller of Ohio, Mr. Smith of New York, Mr. Hansen of Idaho, Mr. Baker, Mr. Collier, Mr. Don H. Clausen, Mr. Frelinghuysen, and Mr. Winn):

H. Con. Res. 609. Concurrent resolution expressing the sense of the Congress with respect to the withdrawal of all American forces from Vietnam; to the Committee on Foreign Affairs.

By Mr. CONYERS (for himself, Mrs. Abzug, Mr. Ryan, Mr. Dellums, and Mrs. Chisholm):

H. Res. 976. Resolution impeaching Richard M. Nixon, President of the United States, for abuse of the Office of President and of his power as Commander in Chief of the Armed Forces by ordering the mining of all North Vietnamese ports and the massive aerial bombardment without discrimination as to the lives of civilians in Indochina, and for other high crimes and misdemeanors within the meaning of article II, section 4 of the Constitution of the United States; to the Committee on the Judiciary.

By Mr. SNYDER (for himself, Mr. Erlenborn, Mr. Anderson of Illinois, Mr. McDade, Mr. Veysey, Mr. Thompson of Georgia, Mr. Hammerschmidt, Mr. Dickinson, Mr. J. William Stanton, Mr. Widnall, Mr. Nelsen, Mr. Kuykendall, Mr. Keating, Mr. Brown of Ohio, Mr. Young of Florida, Mr. Frenzel, Mr. Zwach, Mr. Miller of Ohio, Mr. Smith of New York, Mr. Baker, Mr. Collier, Mr. Don H. Clausen, Mr. Hansen of Idaho, Mr. Frelinghuysen, and Mr. Winn):

H. Res. 977. Resolution expressing the sense of the House of Representatives with respect to the withdrawal of all American forces from Vietnam; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ABBITT:

H.R. 14919. A bill for the relief of George W. Spring, Jr; to the Committee on the Judiciary.

By Mr. CELLER:

H.R. 14920. A bill for the relief of George Apcar; to the Committee on the Judiciary.

By Mr. DIGGS:

H.R. 14921. A bill for the relief of Mr. Ates Tanin and his wife, Fatma Sevgi Tanin, and his son, Turan Tanin; to the Committee on the Judiciary.

By Mr. SARBANES:

H.R. 14922. A bill for the relief of Mr. Candido Bueno; to the Committee on the Judiciary.

By Mr. YATRON:

H.R. 14923. A bill for the relief of Michael Joseph Wendt: to the Committee on the Judiciary.

By Mr. HUNGATE:

H. Res. 978. Resolution to refer the bill (H.R. 14813) for the relief of Henry D. Espy, James A. Espy, Naomi A. Espy, Jean E. Logan, and Theodore R. Espy to the Chief Commissioner of the Court of Claims: to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

PENSION PROTECTION NEEDED

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Wednesday, May 10, 1972

Mr. GRIFFIN. Mr. President, recently the Detroit Free Press published an article by Ralph Orr, which illustrates and explains in very human terms the need for pension protection legislation such as the bills S. 2485 and S. 2486, which I have introduced.

I ask unanimous consent that the article published on April 24, and entitled "Pension Dreams of Clare Worker Vanish With Job," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PENSION DREAMS OF CLARE WORKER VANISH WITH JOB

(By Ralph Orr)

CLARE, MICH.—Arlon Laughlin is 44, has put in 20 years with his employer and had banked on Social Security and a company-funded pension plan seeing him through his sunset years.

But Chandler-Evans Inc. is closing its plant here and has shut the door on his dream.

Laughlin now faces not only the prospect of trying to find a job in a labor market that puts a premium on youth, but finds that his 20 years of pension equity have gone down the drain.

"They tell me I'll get $667 in severance money and that's all," he said. "I get no vested rights to a pension. I'm worried, man."

The plight of Laughlin and other Chandler-Evans workers is an example of the fate befalling thousands of American workers in the current business recession.

Pension plans that they had thought were as sound as a Federal Reserve bank are turning out to be pieces of paper with little future value.

Angry workers and their unions are pressuring Congress for an end to a decade of talk about reform, and for legislation to protect workers against underfunded, poorly written and poorly regulated pension plans.

Most complaints are coming from people in smaller plants like the Chandler-Evans works. The company makes fuel units for jet engines.

Chandler-Evans, a division of Colt Industries of Hartford, Conn., bought out the old Holley Carburetor Co. three years ago.

Employment at Holley peaked at 1,800, but the work force had dropped to 300 by late 1968 and with the cutbacks in the aerospace program is now down to 116.

The plant is to be shuttered June 1 for good, and the machinery moved to Hartford.

Along with the business, Chandler-Evans inherited a pension program that Holley had negotiated with an independent union, the Clare-Employes Association.

For workers like Laughlin and George Dost, also a 20-year worker at age 44, the plan has some fish-hooks.

Chandler-Evans workers at Clare were to get vested rights to a pension on reaching the age of 45 and having 10 years of service. Vesting establishes the right of a worker to a pension if the place at which he works remains in business.

Post and Laughlin both have 20 years of credited service, but are only 44. They will get, instead of vested rights, severance pay in accordance with terms in the pension plan.

But it is possible for a man who went to work for Holley 10 years ago at age 36 to get deferred vested rights to a pension even though he now is only 46.

This means that even if he goes to work for another firm, he will be entitled to a pension check from Chandler-Evans, however small, when he retires.

Laughlin, who worked twice as long, will get a severance check for $667, based on $35 per year of service, less lost time resulting from layoffs. And he is bitter about it.

"It just doesn't seem right," he said. "That was my money that went into the pension fund. If it hadn't been put there, I would have had it in wages. This way, I'm getting less than $700 for 20 years of sweat."

The vesting terms were ratified by his union. He acknowledges that. "It still isn't right," he contends.

Sen. Robert Griffin, R-Mich., agrees. He has introduced a bill to guarantee full vesting for workers with 10 years' service under plans in operation at least 10 years.

But similar bills have been introduced before and never have come out of committee.

A companion Griffin measure would create a pension reinsurance fund to guarantee a worker's equity and his pension rights if a pension fund went broke or the company folded. This safeguard would be similar to federal insurance covering bank depositors.

Both UAW President Leonard Woodcock and his predecessor, the late Walter Reuther, long advocated this protection. But Congress has not bought it.

The status of the Chandler-Evans pension fund came up for discussion at a union meeting in Clare last week.

Actuarial figures given the union attorney, Edward Paul of Grand Rapids, showed assets last Jan. 1 of $909,500 or 82.8 percent of the funding needed to cover a possible liability of $1,097,800.

The assets are divided equally between stocks and bonds held in trust by a Detroit bank.

The value of the assets has dipped to as low as 68 percent of potential liability due to actions in the stock market.

Paul admitted that the fund—now paying out $41,600 annually to 53 workers already retired, an average of $785 per retiree—might be in trouble if the stock market "went to hell."

Richard J. Fritz, Detroit attorney for the firm, said the fund is in excellent shape.

He said the company had proposed a liberalized severance plan that could make the fund even more sound.

While the pension agreement provides only for severance at the rate of $33 for each year of service, Chandler-Evans has suggested a graduated scale of benefits ranging as high as $160 a year for the 59-year-old worker.

Such a worker, with 20 years of service, thus could draw $3,200 in severance pay, but would forfeit his pension rights.

If enough workers figure that a bird in the hand is worth two in the bush and opt for severance pay, the pension fund would be that much more sound.

"It could reach the point where it is funded 100 percent," Fritz said.

"We have told the union that if that is the case and if there is a surplus, we would bargain about the disposition of that surplus, pending federal approval."

This might make it possible to improve the fortunes of workers like Laughlin and Post, he said.

The ultimate salvation for Laughlin, Post and others would be enactment of federal "portability" provisions enabling them to take their pension credits with them to their next job.

But most experts believe that such legislation will have to wait until Congress has done something about reinsurance and vested rights.

Right now, Arlon Laughlin would settle for his vested rights.

EXPANSION OF THE ALASKA WATER LABORATORY

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. BEGICH. Mr. Speaker, operating as a research effort of the Federal Environmental Protection Agency for the study of cold region environmental management, the Alaska Water Laboratory represents a big step in the direction of improving and maintaining the environment. This research program is essential for the responsible development of the 49th State, and is the only one of its type operated by the Federal Government. As a result, there is a large dependence on the Federal Government to maintain this facility. It is strange that while the Alaskan people are demonstrating their awareness of environmental problems, by requesting an expansion of the Alaska Water Laboratory, the Federal Government moves very slowly.

I find this strange because it is the very same Government that is presently seeking to protect the Alaskan environment by halting development of north slope oil. There would be a greater congruency if somehow a steady philosophy could be maintained. Alaskans are asking for the chance to develop the natural resources of the State responsibly. In order to do so they need the cooperation of all Federal agencies and facilities. They also need the support and advice of this Congress.

I submit into the RECORD at this point a joint resolution of the Alaska State Legislature entitled Senate Joint Resolution No. 69—relating to increased cold stress research at the Alaska Water Laboratory:

ALASKA STATE LEGISLATURE, 1972

SENATE JOINT RESOLUTION NO. 69—RELATING TO INCREASED COLD STRESS RESEARCH AT THE ALASKA WATER LABORATORY

Whereas the Alaska Water Laboratory is the only research laboratory of its kind now operated by the federal government of the United States for study of cold region aspects of environmental management; and

Whereas cold climate influences on water, air, land and other resources and the criteria, methodology, equipment and planning, construction and maintenance operations associated with wise management of such resources in cold climates is mostly undefined; and

Whereas it is apparent from the limited information available that cold stress is a significant influence on the factors and systems necessary to maintenance of a quality environment throughout a major part of North America including several of the states and is a vital influence especially in environmental management in Alaska; and

Whereas both the citizenry of Alaska and the nation have reached a depth of concern and effort in instituting and maintaining measures essential to sound management and protection of the environment never before achieved in our nation;

Be it resolved by the Alaska Legislature that research effort of the Federal Environmental Protection Agency at the Alaska Water Laboratory at Fairbanks, Alaska be greatly increased and expedited to bring the level of cold region research activity at the Alaska Water Laboratory into reasonable relationship with the goals and needs of Alaska and the nation.

Copies of this resolution shall be sent to the Honorable Richard M. Nixon, President of the United States; the Honorable William D. Ruckelshaus, Administrator, Environmental Protection Agency; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Nick Begich, U.S. Representative, members of the Alaska delegation in Congress.

Passed by the Senate April 10, 1972.

JAY S. HAMMOND,
President of the Senate.

WEST CHESTER BOYS CHOIR IN INTERNATIONAL FESTIVAL

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Wednesday, May 10, 1972

Mr. SCHWEIKER. Mr. President, recently the boys choir of the Church of the Honly Trinity, West Chester, Pa., was invited to participate in the Graz International Youth Music Festival, to be held in Graz, Austria, from July 11 through July 15, 1972.

I am delighted by the honor which has been bestowed upon West Chester, Delaware County, and the State of Pennsylvania, by this invitation. I am confident that the boys choir will be outstanding ambassadors of good will for America, and that their appearance at the International Youth Music Festival will be a success.

An article describing the boys choir invitation was published in the West Chester Daily Local News on April 14, 1972. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD. as follows:

BOYS CHOIR GETS INVITATION

If a group of West Chester choir boys can find a few angels, they will be spending at least a week this summer in Europe. singing at a music festival.

An invitation to take part in the Graz (Austria) International Youth Music Festival in July has already been sent to the Boys Choir of the Church of the Holy Trinity in the county seat.

If the young singers make the trip, they will be one of 30 musical groups to participate in the week-long festival. Included are choirs, choruses, orchestras and bands from North America, Western Europe and Scandinavia.

The Holy Trinity Choir is one of only three U.S. boys choirs invited.

Hosting the festival is the Youth Department of the Styrian Provincial Government, Republic of Austria. Graz, the host city, is nestled in the Styrian Alps and dates back to the 12th Century.

The Holy Trinity invitation came in January to Mrs. Jane Adams Moore, the choir director.

At that time, the trip seemed out of the question, as costs would run about $13,000 for air transportation, lodging and meals for the 28 boys and their chaperones.

However, the enthusiastic choir director and some of the boys' parents didn't give up on the possibility of making the trip. Parents meetings were scheduled, and after a final session with the church vestry this week, it was decided to make every effort to send the choir to Graz.

The parents, working through Ralph Zaayenga, church music committee chairman, have pledged a substantial portion of the money needed, but the total figure has not been reached. No church funds will be used to make the trip, but a number of activities have been planned by the choir and parents.

Included are a pancake breakfast from 8 a.m. to noon, May 13 at the parish house; a car wash at Knox's Car Wash, E. Market street, from 9 a.m. to 4 p.m. May 20; and a concert at the church at 7:30 p.m., June 17. A dinner dance is also in the planning stage for May 6.

Day of decision for the boys is June 10. If, on that date, the additional money needed is raised, the trip is on. A lack of funds then means the trip will be postponed for a year.

The Boys Choir of the church is part of a larger Men's and Boys' Choir which was founded at Holy Trinity in 1891. There are currently 37 boys, aged 7–15, singing. Another 15 men make up the entire choir.

Some of the younger boys will not make the proposed trip because of the probable hectic schedule such a festival entails.

Concerts are not new to the Holy Trinity boys. During the past 18 months they have performed at the White House Rose Garden, the capitol rotunda in Harrisburg, the New York Civic Opera House, the State Museum Building Auditorium and a number of churches and organizations in three states. During the holidays the boys also sing in area nursing homes.

All of their concerts include both sacred and secular music, and their recent presentations have featured Gilbert and Sullivan's operetta, "Trial by Jury."

Much of the concert work is done by a select group of about 20 of the "older" choir members who have formed the Trinity Choir Boys.

First and foremost, the choir is a church choir, and the boys normally rehearse about five hours a week for the Sunday service. However, that time is now being extended and some strange European folk songs are finding their way into the Holy Trinity repertoire.

If enthusiasm alone can make a dream come true, the boys choir will be winging its way to Austria come July 10 for the week-long musical event.

If the trip becomes a reality, the 28 boys will be ready to "make a joyful noise . . ." in the storied old city of Graz.

EXPORT-IMPORT PROBLEMS

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. HUNGATE. Mr. Speaker, in these days of export-import problems, perhaps we would learn from these suggestions given the British upon entering the Common Market.

[From Punch, Apr. 19, 1972]

AND HOW DO I SELL THIS TO THE COMMON MARKET?

Easy. You simply remember that, for sales convenience, Europe is now divided into six marketing zones of ascending size and importance. Start at the bottom and work up, as you acquire confidence and off-load your product. Go first to the smallest which is known as

LUXEMBOURG

Do not, whatever else you do, suggest that Luxembourg is small. Most reps try to fit Luxembourg in between a Belgian breakfast and Dutch tea. Fatal. Turn up for your appointment twenty-four hours late, disheveled, explaining that you have been wandering round the Duchy, lost, trying to find the place. Drop into your conversation phrases like "as tiny as Liechtenstein" or "of course, I've never been to France myself."

When asked for details about the product, stress that you intend to make Luxembourg the springboard for your continental operations. If, translation being what it is, they deduce that you make springboards, encourage them. Sooner or later they will reveal what they really want, at which point you reveal that that's what you make, in aerosol packs. Hint ever so gently that your spray-on product makes things that little bit bigger.

Send them a postcard saying that you have been disappointed by the smallness of

BELGIUM

In Brussels, you will be surprised to find that they have been told along the grapevine that you make spray-on springboards. Smile, shrug and say "Ah, ces Luxembourgeois!"

Market research among the Belgian consumers at their favoured purchasing point (Folkestone) reveals that they will buy anything as long as it is cheaper than at home. Does this invalidate your mission? Not at all. Simply add stickers saying DIRECTEMENT DE FOLKESTONES and charge what you like.

When asked for details about your product, profess absolute secrecy in case the specifications should leak to their great rival.

HOLLAND

The Dutch, as the consumers of Holland are known, speak perfect English and resent it if you try to speak Dutch, which suggests they are not part of the international scene.

As the Dutch are unusually conscious of cleanliness, health and safety standards, stress that your product is non-toxic, lead-free, non-staining, colourless, safe for children and absolutely non-injurious to tulips. Demonstrate this by producing an aerosol, spraying it into the air and saying, "You see?"

When, despite respect for Britain, you are asked for details concerning your product, launch into broad Cockney. Say: "Well, blimey, that's a right teaser and no fooling, search me, governor, you've got me over a barrel; pull the other one, it's got bells on". No self-respecting Dutchman will admit he doesn't know what you've said, so chalk up your order and move on to the most challenging area so far,

ITALY

Psychological analysis of the Italian consumer reveals that he divides his time between loving his mother, fearing his wife and pinching English girls, which casts no light at all on the potential of aerosol packs in the Italian market, though it certainly suggests new theories concerning the mysterious smile on the face of the Mona Lisa. In fact, rather than discuss your banal product, why not launch into a sophisticated discussion of Leonardo da Vinci? Not only will this distract Italian buyers from the details of your product, it will also draw attention to the most famous Italian of all time who was in addition undeniably queer, which will by implication call into question your buyer's virility.

If he should wish to change the subject, switch to Michelangelo, that enthusiast of young boys. If you cannot then play on his outraged manhood with a large order, you should not be a salesman.

If you are asked for details of your product, you have only to hint at the possibility of increased potency, and/or the preservation of Renaissance canvases. Get your order signed and move on to

FRANCE

Ah, the French! This race so indomitably urbane, this example of humanity which knows no bounds to the possibility of ultimate improvement, which admits no theoretical hindrance to the limitless soaring of the human spirit, this nation which actually talks this sort of meaningless rubbish given a fraction of the chance.

Luckily, they have one Achilles heel. They are a sucker for the idea of the English upper class in a way which the English lower classes have long since learned to resist. All you have to do is suggest that your product produces a spray-on Milord effect, and you are home and quick-drying. The scent of English lawns . . . the soft embrace of Scottish tweeds . . . the gentle touch of fox-hounds . . . the misty appeal of Wellington boots . . . the old-fashioned flavour of public school floggings . . . That's what the Froggies are after.

Plus, of course, a hint that during the war you suffered dreadfully from . . .

GERMANY

Where you can safely drop a hint that if only England and Germany had been on the same side, things would have been over by 1942. Because if there's one marketing zone in Europe which resembles England, it's Germany, with the same emphasis on pragmatic virtues, hard-headed experience and practical knowledge of the world. What makes it difficult to admit this, naturally, is that Germany has made much better use of such qualities in the last twenty-five years, and we have tended only to pay lip service to them.

Nevertheless, lip service can be a trump card. Thanks to the Americans, English is now the language of international commerce, and you can sway the Germans by explaining to them that your product is . . .

Ein Tip-Top Spray-On Produkt . . .

Das Super Long-Term Aerosol Effekt . . .

Der Wunder-Trendy Skin-Food . . .

Ein Anti-Sovietisches Kalorie-Frei Gentlemen's Overkoat . . .

LETTER FROM THE FRONT

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. McCLORY. Mr. Speaker, in connection with the invasion of South Vietnam by regular forces of the North Vietnamese military, it would seem well for us to reflect carefully on a letter received from an American serviceman in Vietnam. This letter from Sgt. John A. Kukowski and signed by 35 other men of the 1st Platoon, Charlie Company, 2/1 196th Infantry Brigade, appeared in the Saturday, May 6th issue of the Washington Post under the title "Letters to the Editor."

This letter from the field of battle is most informative regarding the significance of American bombing strikes in behalf of the safety of the American troops which remain in Vietnam. The letter follows:

The men of the 1st platoon, Charlie Company, 2/1 196th Infantry Brigade, have been reading about the situation on the home front. While sitting around on our defensive perimeters the night of April 21st, we grunts decided to let the people back in the world know how we feel about the college demonstrations in favor of halting the bombing in Vietnam.

We appreciate the American people's support in trying to bring us home, but we think they're going about it in the wrong way.

Here are a few reasons why we think they're wrong:

First, halting the bombing could mean unnecessary involvement of American troops.

Second, the bombing strikes are doing an outstanding job of halting the enemy and destroying their resupply;

The third, and most vital reason to us for not stopping the air raids and bombing strikes would be enlarging the chances of us not coming home alive.

By writing this letter, we hope the veterans will understand and back us in our beliefs.

Sgt. JOHN A. KUKOWSKI.

Vietnam.

THE MINES OF MAY

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. SYMINGTON. Mr. Speaker, in assessing the President's decision to mine the harbors of North Vietnam, one is compelled to review his objectives and make a guess as to whether and to what extent this initiative contributes to their attainment. His short-term goals would include return of our prisoners, reduction of the threat to our remaining forces, and a possible cease-fire permitting the South to regain its composure. But even his short-term hopes are not confined to our Indochina involvement. They include also the keeping of his date in Moscow for the SALT talks, the success of those talks, and no break in the spirit of his journey to Peking. His long-term objectives would include a general reduction of East-West tensions, particularly in such recurrent trouble spots as Berlin and the Mideast, a favorable climate for more positive and practical expressions of detente, such as coadventures in space, environmental technology, world food management, and great power cooperative aide to the third world—in short, a transition from the cold war psychology of confrontation to a new era of conversation ushering in a "generation of peace." The foregoing list is by no means exhaustive, but illustrative of the reasonable hopes of America which have been articulated by no President more frequently or fervently than the incumbent. One cannot second guess history or the blue pencil with which it marks our papers. But I cannot see why President Nixon should expect to score well on any of the suggested tests. Even bringing Hanoi back to the conference table in the brooding presence of a stymied Soviet Union, a stung China, and a wondering world, would seem a victory of doubtful proportions and duration. The "threat to our troops" argument has finally become a self-fulfilling prophecy. For the longer they remain as hostages to a bankrupt policy, the closer they are brought to answering for it.

The credibility of our national resolve is certainly another objective of both long- and short-term significance. It must be treated separately due to the simple fact that we must not automatically equate the Nation's resolve with Mr. Nixon's resolve. To put it another way, his latest initiative may at best be a well-intentioned but misguided expression of the true national resolve—one which would have been better expressed by early recognition that the political future of Vietnam, North and South, was neither subject to permanent U.S. manipulation, nor vital to permanent U.S. interests. Such a recognition, let us say, in 1969, by a newly elected President, could have led to the formulation of a more modest goal than continuing forceable restraint of the north by escalated attrition culminating in fire and sulfur. I doubt the greater part of the American people can contemplate with pride or satisfaction bringing to heel a small and somewhat ascetic Asian country, much less decimating its infrastructure, and millions of acres of friendly territory to make the point; and even less, challenging our principal nuclear adversary in the process. A withdrawal date in return for American prisoners of war might have proved a useful basis for discussion 20,000 American lives and $50 billion ago. The very magnitude of our sacrifice in this struggle tells something, too—and something ominous—about the "credibility" of our deterrent to aggression. Having spent so much blood and treasure in this little corner of the world and devalued both the dollar and the national self-respect in the process, what reserves can we be expected to summon up for the truly important contests that could lie ahead? Who would believe that we have such resources or the will to use them? So I conclude by hoping that Hanoi will submit to the President's terms and that neither the Soviet Union nor Red China will consider the matter of sufficient importance to take immediate offense. But I would also observe that if this was indeed one of the contingencies of the "secret plan," then it is a part of the secret I wish we could have kept to ourselves. Perhaps the plan dissolved into improvisation. And who among us has not, at some time, in a fit of frustration at the world's strange ways, wished to fling an egg into the fan of history? Judging from conversations overheard in Washington and across the country, many of us would yield to that impulse. But that should be the difference between us and the Presidents we elect.

APPRECIATION DAY FOR MRS. MARGARET DAVIDSON

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. EDWARDS of California. Mr. Speaker, May 21 has been set aside as Appreciation Day for Mrs. Margaret Davidson of San Jose, Calif. As a native of San Jose and representative of that city here in Washington, I would like to add my voice to those of Mrs. Davidson's many friends back home in appreciation of her many fine efforts in behalf of the community.

Mrs. Davidson, a member of San Jose's black community for a number of years, has served the city well in many positions. As a member of the legislative and human relations committee of the PTA and second vice president of the Santa Clara PTA she has served the cause of human rights and combined this service with a concern for the young students of Santa Clara County. As a member of the board of the Family Service Association and a volunteer driver for the American Red Cross she has personally been a part of the effort to help families throughout the area. Mrs. Davidson has also been a volunteer for Agnew State Hospital, is a member of the Garden City Women's Club and has been State chairman for the California Association of Colored Women's Clubs.

Mrs. Davidson has not enjoyed good health for the past year and the community has sorely missed her prodigious energy. I commend the Appreciation Day Committee for their efforts to bring Margaret Davidson the recognition she deserves and I want to add my thanks to those of the entire community for the service she has rendered over these many years.

RUMANIAN INDEPENDENCE DAY

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. BROOMFIELD. Mr. Speaker, on this day 95 years ago the country of Rumania achieved independence. For Rumanians all over the world, May 10 is a day of special significance. It is a day which serves as inspiration and hope for Rumanians who now must live under the shadow of foreign domination.

Historians tell us, Mr. Speaker, that Rumania has traditionally been viewed as a crossroads in the power politics and wars between the East and the West. As such, throughout history the Rumanian people have always been at the mercy of more aggressive, expansionist nations which have used their homeland as a pivot from which to carry through on their schemes of expansion.

Squeezed between two overwhelmingly powerful forces, Rumania has long been a pawn in the power plays of its neighbors. Indeed, it was only when two powerful nations, Turkey and Russia, were occupied in war in the Balkans, that Rumania finally achieved true independence 95 years ago.

Freedom and liberty were welcomed in 19th century Rumania with general rejoicing. Her people had just reason to celebrate because although Rumania is one of the oldest countries, it had never before tasted true independence.

Unfortunately, time would prove that this freedom was to be but a brief respite from oppression. At the end of World War II, Soviet troops occupied Rumania, installed a puppet government, forced the abdication of the country's leaders and snuffed out any semblance of independence.

Thus, once again, Rumania struggles against tyranny. Once more while others enjoy freedom and liberty, Rumania must persevere against foreign rule, must continue to suffer the degradation of her basic rights.

However, Mr. Speaker, let there be no thought that the Rumanian people have resigned themselves to their plight, that they are satisfied with anything less than complete independence. On the contrary, the urge for liberty still burns deep, ready to explode and light the way out from under the yoke of foreign control.

Mr. Speaker, I, for one, will never accept the proposition that any people or nation will settle for less than the basic rights that they as men rightfully deserve. Freedom, independence, liberty, and equality may only be symbols yet, they represent the fullfillment of the hopes and dreams of all mankind. They are not divisible. One can not have partial freedom or liberty. In short these values can never be bargained for or compromised.

Rumanians, like all people of the captive nations of Eeastern Europe, realize that they are being forced to endure the oppression of foreign rule. They are a brave people. Centuries of foreign rule have not extinguished their desires for self determination.

Mr. Speaker, I, therefore, commend the brave people of Rumania who still strive for freedom and I sincerely hope that in the days ahead their patience will be rewarded by a return of those freedoms which they first won some 95 years ago.

BREA-OLINDA HIGH SCHOOL DEDICATION

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. SCHMITZ. Mr. Speaker, recently, I received a letter from one of my constituents, Mrs. Carole Hanson, giving thanks for dedicating Brea-Olinda High School to her husband, Capt. Stephen Hanson, a U.S. Marine Corps aviator, missing in action since he was shot down over enemy territory on June 3, 1967. I am proud that Brea-Olinda has become the first high school in the Nation to dedicate itself and its student body to keeping alive the memory of a brave American whose fate is still unknown. Despite the fact that Mrs. Hanson is about to cross the threshold of not seeing or knowing the status of her husband for 5 long years, she still has the courage to give thanks to that minority in this Nation who have proved that they still care. I am proud that the people of the new congressional district which I hope to represent did this for Captain Hanson, yet I am sick at heart that so many in the rest of this Nation stand by and watch, for the first time in America's history, so that the wives of these men, some 1,600 of them, have to fight for their husbands' freedom. This is a national disgrace, and I, for one, shall not settle for anything less, than a full accounting of all 1,600 of these men. Mrs. Stephen Hanson's letter follows:

EL TORO, CALIF.,
April 20, 1972.

Congressman JOHN G. SCHMITZ,
Longworth House Office Building,
Washington, D.C.

DEAR JOHN: Forgive me for being so late in thanking you for being at the Brea-Olinda High School Dedication to Steve, and for your outstanding remarks on that occasion. I appreciate your taking time from a busy schedule to participate in an event that was most personal to me. Also, by your presence, you clearly demonstrated your interest in the students and their activities.

The Vietnam conflict has brought about many "firsts" and while my paramount concern is with the plight of the POW/MIA's, I do feel that Brea-Olinda High School and the Student Body are deserving of the highest recognition possible for being the first school in our nation's history to make such a dedication to a man who we do not know is living or dead.

I would be very grateful if you could give them such credit and recognition. Also, much praise is due Mrs. Susan Gaede for her work in helping them to make their Dedication an overwhelming success, as well as the Brea school officials for their cooperation.

Again, many, many thanks for your interest and support; I will continue to count on it in the long days ahead.

Best regards,

CAROLE (Mrs. STEPHEN) HANSON.

RUMANIA'S INDEPENDENCE DAY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. DERWINSKI. Mr. Speaker, although today is Independence Day for Rumania, most of the real celebrating will take place here in the United States. It will be carried on by Americans of Rumanian extraction. Many of them came here from Rumania, while others are the descendants of immigrants therefrom.

While they and their friends celebrate with music, speeches, picnics, merrymaking, and religious observances, their thoughts will inevitably turn to the people living in Rumania. The inhabitants of that nation will merely observe the occasion, as they can hardly be expected to rejoice when the independence for which their forefathers fought and died is now but a memory.

Rumania, which was for a long time a part of the Ottoman Empire, had been theoretically independent since 1859, when Alexander Cuza became Prince of both Moldavia and Wallachia, but a meaningful separate existence was not achieved until 1881. Czarist troops invaded Rumania, with that country's acquiescence, when war broke out between Russia and Turkey. Rumania entered the conflict on the side of Russia and proclaimed its independence from Turkey.

In 1881, Carol I, a member of the royal

house of Hohenzollern-Sigmaringen, who had ruled Rumania since Cuza's forced abdication in 1866, became its king. Independence lasted for six decades, but the country's freedom ended during World War II.

Rumania survived the hellishness of nazism, but the Communists moved in after World War II. The Communists have been firmly in control of the nation for a quarter of a century. Agriculture has been collectivized, industry nationalized, and religious organizations subjected to state control.

Mr. Speaker, as we pause in our deliberations this afternoon and rejoice with our fellow Americans of Rumanian stock, let us not forget their kinsmen in the land of their ancestors. Let us unite our prayers with theirs and ask the Supreme Ruler of the nations to speed the day of freedom for Rumania and its people.

PROPERTY TAX REBELLION

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. ZWACH. Mr. Speaker, it is elementary that when we have government we must have taxes and the more government we have, the higher our taxes become. Government exists on taxes. The more the people ask of their government, the more taxes the government asks of the people.

However, we have reached a point where taxes are becoming an awesome burden on our people. This relates especially to property taxes.

I commend to my colleagues and the thousands of others who read the Congressional Record, a discussion of property taxes which appeared in the editorial columns of the Morris Sun, in our Minnesota Sixth Congressional District, which, with your permission, I hereby insert into the Record:

Property Tax Rebellion

"Taxation without representation" was the spark that fired the tinder of the American Revolution. Now, nearly 200 years later, taxation threatens to once again ignite rebellion—a taxpayers' rebellion against the property tax. President Nixon has called the property tax ". . . one of the most oppressive and discriminatory of all taxes."

The magazine Business Week has presented a history of the property tax and an analysis of its growing inequities that have led to court actions such as that in New Jersey where the operation of the property tax as a way to finance education was held illegal under the New Jersey Constitution. The property tax has been the principal means of financing local government. In the beginning, it was a reasonably equitable tax. As Business Week states: "There was a time in U.S. history when the property tax did make a great deal of economic sense. In Colonial days, wealth meant farmland, buildings, livestock, jewelry—items that could be seen and touched. The property tax then was a levy on wealth, and people could accept it as such because real wealth was a good proxy of a person's ability to pay a just amount for services rendered by society."

Today, the story is far different. Tangible property is no longer necessarily a measure of wealth. Today, people have stocks, bonds, savings accounts and other intangibles often worth far more than their real estate. In other words, the mere ownership of a home or property is no indication of wealth or the ability to pay a progressively higher property tax.

In another respect, the property tax of today is far from fair. Its benefits bear little relation to its burden. In his book, "The Politics and Economics of State-Local Finance," economist L. L. Ecker-Racz writes, "Since we now move about freely, the beneficiaries of today's education, health, or welfare expenditures financed by the property owners of one community are tomorrow likely to be residents of another community. For this reason, it is neither logical nor fair to continue to distribute the cost of education and welfare services in proportion to the assessed value of property to which people happen to hold title."

The sheer growth of the property tax, aside from its inequities, is a primary source of taxpayer resentment. Business Week reports that the property tax brings in some $40 billion a year—double the total of a decade ago and rising by nearly 10 per cent a year. Sixty per cent of the property tax burden falls on the homeowner and 40 per cent on business. In some states, the tax has risen far more rapidly than the national average. In California, property taxes have climbed by 147 per cent in the last decade. Not only is the property tax inequitable in present-day society, but it is also regressive. It has accelerated the deterioration of inner-city neighborhoods by penalizing property improvements. Property tax levies have developed a vicious cycle. Cities desperate for funds boost property tax rates. Each increase drives more businesses and homeowners away. Thus, the tax base narrows, and remaining property taxpayers are left with an even heavier burden.

Property tax relief—and reform—are now recognized as essential. But with the outgo of government at all levels soaring, the prospects of any real tax relief, property or otherwise, looks anything but promising. Plans for a national sales tax and other schemes to make taxes less offensive and confiscatory will no doubt run into stonewall opposition from affected groups. In the long run, a relative slowdown in the expansion of government services, benefits and subsidies must accompany tax relief. Whatever happens, however, with regard to the general spending level of government, recent court decisions as well as the mood of property taxpayers makes changes in the tax system a virtual certainty.

For two centuries, U.S. citizens have demonstrated a willingness to pay taxes in support of government. They are now demonstrating once again the spirit of independence that rejects infringement upon fundamental rights—including that of property ownership.

RUMANIAN INDEPENDENCE DAY

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. SCHERLE. Mr. Speaker, over a 100 years ago today, the Rumanian people took the first step towards national independence and, within the same generation, Rumania's sovereignty was acknowledged by all Europe. For more than a century, Rumanians have revered the 10th of May as the symbol of their freedom as a nation.

Unfortunately, it is only a symbol today, for Rumanians no longer enjoy the independence they traditionally celebrated on May 10. This proud and freedom-loving people has been reduced to satellite status by the might of Russian imperialism. Only in exile and in secret can they commemorate the anniversary of their national sovereignty.

But they have not forgotten the meaning of the 10th of May, nor should we, secure in the blessings of liberty, neglect to pay tribute to their courage and tenacity. However assiduously the Communist rulers of Rumania try to eradicate this holiday from the national consciousness, they will never succeed. And though the great majority of Rumanians cannot voice their sentiments, they will undoubtedly be grateful for our recognition of their sacred national tradition.

Let us then join the silent millions behind the Iron Curtain in honoring this day, the 10th of May, as the birthday of Rumanian independence and a reminder that freedom everywhere is threatened when freedom anywhere is denied.

RUMANIAN INDEPENDENCE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. DINGELL. Mr. Speaker, the Rumanian National Committee and Rumanians everywhere in the free world observe the 10th of May as the national holiday of the Rumanian people since it is that day which marks three significant events leading up to the achievement of the nation's independence.

On May 10, 1866, Charles, Prince of Hohenzollern-Sigmaringen, was proclaimed Prince of Rumania and founded the Rumanian dynasty.

Eleven years later, on May 10, 1877, during the turmoil of the Russo-Turkish War, the principality of Rumania, until then nominally a vassal of the sultan, proclaimed her independence and severed her ties with the Ottoman Empire. The Rumanian Army, as an ally of Russia, fought for its independence on the battlefields south of the Danube and played a significant role in defeating the Turkish forces.

Another 4 years elapsed after Rumanian people proclaimed their independence and a further step was then taken when they raised their country to the rank of a kingdom. On May 10, 1881, Charles I was crowned, by the will of his people, King of Rumania, and a prosperous era, which lasted over six decades, opened for the nation.

During all of those years and up to the present time, Rumanians have cherished and revered the 10th of May as their national holiday. It remains the symbol of their permanency and perseverence through many hardships and trials in their efforts to reach the goal of freedom.

The freedom which Rumanians have sought for so long is still denied to them by the Communist regime. However, it is the hope of Rumanians throughout the world that freedom shall be restored to their homeland.

CHAMBER OF COMMERCE PRESIDENT'S MESSAGE

HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. ULLMAN. Mr. Speaker, American business faces serious challenge in demonstrating responsiveness to the many problems facing American society. The Chamber of Commerce of the United States has always played a key role in the past, and must continue to do so in the future. The president of the Portland, Oreg., Chamber of Commerce, Carl M. Halvorson, has thoughtfully articulated goals for the chamber of commerce to meet the needs of American business in the seventies. I commend the editorial that follows to the attention of all Members:

PRESIDENT'S MESSAGE

The Chamber of Commerce of the United States was created in 1912 to serve as the voice of the American business community on national issues. It has had an illustrious career. Its voice has gone out loud and clear on many occasions. Dedicated, thoughtful and self sacrificing individuals have devoted countless hours of work, at great personal expense, in service as officers, directors and committee members of the organization.

Over the past 60 years the Chamber has been generally well received by the Congress and the Executive branch. A respected, talented staff has ably supported the activities of the officers and the board of directors.

However, with a constantly expanding federal government complex, quickly changing institutions of government, strongly entrenched lobbying forces representing organized labor, and newly emerging powerful lobby groups it is time to re-evaluate the position and structure of the National Chamber to ascertain whether or not we have the most effective organization possible to represent us in Washington.

Inherent in such evaluation must be an awareness that voice is not the only measure. Effective structural power in action is most important.

The National Chamber has about 40,000 individual firm memberships as well as some 3800 trade associations or similar organizations, including local Chambers of Commerce, of which our Chamber is one. A local chamber member is not a member of the National unless he holds a separate membership in that organization.

Over the past several years there has been no structural relationship between the national governing board of 50 men and the general membership. The power structure of the National Chamber is self perpetuating. The president and other officers are elected by the board. The president annually appoints a nominating committee consisting of board members, which duly gives its report to the board. Whereupon the board elects its own membership. The directors usually serve the maximum period allowed, three 2-year terms. Virtually all board members and officers are eminently successful business leaders representing the larger corporate interests of the nation, or in some cases, they are astute, prestigious men from the professions. The individual prestige of these men, or the corporate interests they represent, is such that they are accepted as peers in any group.

The inherent weakness in the present form of organization is that there is no reasonable route of input into the decision making process of the National Chamber for almost 100 percent of the membership. For that group National Chamber activities are a spectator event and not one of participatory involvement.

The Chamber purports to represent an underlying constituency of over 3 million individuals and firms but generates only about two thousand delegates at its annual meeting in Washington. Groups with a minute percentage of the Chamber's constituency generate far greater attendance because the organization in question has a personal vitality to the participant and he knows that he can contribute ideas and muscle. These organizations generate power totally out of proportion to membership numbers because they are interested in and do have direct participation of the membership.

There are a great number of actions that could be instituted by the National Chamber to make its membership part of the action. Some such programs might be:

1. Expand the present board structure to a much greater size, preferably at least 750 individuals, with the principle representation coming from the 3800 associations in the membership, including representation of all sizes of business and inclusion of minorities and other pressure groups in the structure.

2. Retain an executive committee to handle affairs of the association between meetings of the board and propose policies to the board.

3. Create regional alliances of the business community so that we truly have local, regional and national representation.

4. Create a logical line of progression within the overall structure so that participants can feel that they are making a contribution in a viable atmosphere, and that singular achievement can be recognized on its merits.

5. Associate and relate the committee structure and activity of local chambers and those of the great trade organizations of America into the committee work of the National Chamber, always recognizing that the great issues that will really make a difference in our national postures are infinitely more uniting to the business community than they are devisive.

6. Carefully program, and then coordinate a workable action group in political and social affairs from the fabric of our constituency.

7. Provide for an infusion of democracy into all levels of National Chamber activity.

The great power potential of the American business community cannot be marshalled by an oligarchy in which the democratic process is not allowed to function. The present cabal of power effectively insulates the National Chamber from its constituency and consequently the real potential power of the organization is unrealized.

NEW ROSWELL CANCER CENTER NAMED FOR DR. JAMES GRACE

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. DULSKI. Mr. Speaker, the new cancer drug center now under construction at Roswell Park Memorial Institute in Buffalo, N.Y., was commemorated Monday in honor of the late Dr. James T. Grace, Jr., institute director when the project was being developed.

The purpose of the James T. Grace, Jr. Cancer Drug Center is to provide a major facility for basic research and training in the various areas of pharmacology that are related to chemotherapy in general, and cancer therapeutics in general.

New forms of treatment will be sought and developed toward human application.

Young investigators, graduate students, clinical fellows, and scientists from both the local community and elsewhere will have an opportunity for advanced training in the biochemical and pharmacological approaches to therapeutics.

Clearly, the new cancer drug center at Roswell Park is going to play a vitally important role in the national drive to find a cure for cancer, a drive given leadership and support as a result of the landmark legislation enacted with my strong support last winter.

Roswell Park, now in its 74th year of operation, has been a leader in cancer research over the years. It has an outstanding staff which is making the maximum use of the facilities which have been developed and expanded.

Dr. Grace came to Roswell Park in 1957 as chief cancer research surgeon, amassing an impressive record of achievements during his service with the institute of which he became assistant director in 1959 and director in 1967.

At the peak of his brilliant career, and at the age of only 48, the life of Dr. Grace ended last August after he had been in a coma for more than a year following an automobile accident which claimed the life of his wife.

The construction of the James T. Grace, Jr. Cancer Drug Center was made possible through the joint participation of Federal, State, and private resources, representing an outstanding example of cooperation among these three sectors of the economy.

Based upon the scientific productivity of the institute's Department of Experimental Therapeutics at Roswell Park, an application to the National Institutes of Health resulted in funding of $1,815,000 in 1967 for construction of the six-story structure.

Matching funds were obtained from the State of New York in the amount of $1,596,000, plus $708,000 from private sources. Construction began in April 1971 and the building is expected to be ready for occupancy in the spring of 1973.

Dr. Gerald P. Murphy, director of the institute succeeding Dr. Grace, presided at the commemoration program and Dr. Hollis S. Ingraham, commissioner, New York State Department of Health, was principal speaker. Dr. Ingraham also represented Governor Rockefeller, whose plans to be present had to be canceled due to other State obligations.

I was honored to be present on the platform and Dr. Murphy also introduced County Executive Edward V. Regan, Charles R. Diebold, Alfred H. Kirchhofer, and Elmer Lux. The president of Niagara University, Very Rev. Kenneth F. Slattery, C.M., gave the invocation.

The commemoration of the cancer drug center to the honor of Dr. Grace is a deserved tribute to a dedicated physician, surgeon, cancer researcher, and administrator who contributed so much during his too-short span of life that others may survive the scourge of cancer.

Mr. Speaker, as part of my remarks, I include the text of the brief speech by Dr. Ingraham, also a synopsis of the career of Dr. Grace:

SPEECH BY DR. HOLLIS S. INGRAHAM

Three-quarters of a century ago, the State of New York planted a seed here, when it gave Dr. Roswell Park a grant of $10,000 to seek the causes of cancer.

From that first seed has grown the impressive living, vital entity that is Roswell Park Memorial Institute.

It is an entity that is still growing, both in its physical dimensions and its scientific and humane accomplishments.

Today, we mark still another area of that growth as we name this new cancer drug center in honor of the late Dr. James T. Grace, Jr., former institute director.

That initial grant in 1897 was not only the forerunner of this vast cancer research and treatment center.

It was also the beginning of New York State's commitment to medical research in general, a commitment that has repeatedly demonstrated its worth as State health department scientists have opened new doors to knowledge.

No other State has compiled as long or as successful a record of achievement in laboratory, clinical and epidemiological investigations.

Scientists at our Division of Laboratories and Research developed cardiolipin, discovered nystatin, identified the Coxsackie viruses, and have many other research breakthroughs to their credit.

Only last week, two staff members reported development of a quick laboratory procedure for the diagnosis of gonorrhea.

Here at Roswell Park, as we all know, researchers established the association between cigarette smoking and lung cancer, developed anti-leukemic drugs, made major contributions to tumor immunology, revealed that viruses induce cancer in animals—the roster of the institute's research accomplishments is too long to recite here.

Dr. Grace himself, whom we honor today, made notable contributions to the search for evidence that would indicate a possible cause-and-effect relationship between viruses and human cancer, especially leukemia.

In 1964, he and associates grew human leukemia cells outside the human body for the first time, which allowed other laboratories throughout the world to quantitate and corroborate work in this area of research.

Four years later, he reported that his studies had suggested, though not proved, the possibility of a link between some viruses and some forms of human cancer.

It is a tribute to investigators like Doctor Grace and colleagues—and to the farsighted leadership and encouragement that Governor Rockefeller's administration has continued to provide to the State health department's research efforts—that the Institute will play a large part in the Federal Government's cancer research program.

Roswell Park has been named the program's national coordinator for prostate cancer studies, and its director, Dr. Murphy, has been appointed to the President's advisory committee for the national cancer program.

So, on many fronts, the search for knowledge of cancer continues.

Cancer poses a complexity of problems, and there are many avenues of approach to possible solutions that must be explored.

In this new James T. Grace, Jr., Cancer Drug Center, research investigators, graduate students, clinical fellows and other scientists will receive advanced training in the biochemical and pharmacological approaches to cancer treatment, and will seek to develop new forms of treatment.

Perhaps, some day, important answers to some of the riddles of cancer will come from this very building.

That is our fervent hope of the day.

THE LIFE OF DR. JAMES T. GRACE, JR.

Born in Troy, Ala., Dr. James T. Grace, Jr., received his bachelor of science degree from Yale University in 1945 and his medical degree from Harvard Medical School in 1948.

After an internship and assistant residency in surgery in St. Luke's Hospital, Chicago, he did private practice for a year, then served as a flight surgeon with the Air Force. He later completed his residency in surgery at Vanderbilt Veterans Administration Hospital, Nashville, Tenn., from 1953–57, when he came to Roswell Park as chief cancer research surgeon. The next year he became chief of the gastrointestinal and soft tissue surgical services.

Dr. Grace distinguished himself as one of America's leading men of science searching for the possible role of viruses in causing human cancer, especially leukemia. In 1964 he and his associates grew for the first time in a laboratory, human leukemia cells outside the human body. This allowed other laboratories throughout the world to quantitate and corroborate work in this area of research.

Four years later Dr. Grace announced that studies have suggested, but not proved, the link of virus(es) to some forms of cancer. He maintained interest in this area of research, particularly until his accident. He was director of the Institute's viral oncology as well as chairman of Health Research, Inc., which receives and allocates non-state funds for cancer research. He was assistant Institute director of Roswell Park from 1959 until becoming director in 1967.

In 1959, the U.S. Junior Chamber of Commerce named him one of the nation's 10 outstanding young men of the year, and the Buffalo Junior Chamber of Commerce awarded him its 27th Annual Gold Key Award. The Buffalo Evening News in 1960 named him one of the area's outstanding citizens. In 1961 he was presented the Billings Medal of the American Medical Association and in 1965, the WGR Radio Community Service Award for Outstanding Contributions in the Field of Science and Medicine. The University Club of Buffalo named him "Scientist of the Year" in 1969.

In 1969 and 1970, Dr. Grace was one of the outstanding spokesmen who pioneered for a national cancer program. On the wall of Roswell Park Memorial Institute hangs a bronze tablet with a quotation from Dr. Grace's last major address supporting a national cancer program at the 1970 National Crusade of the American Cancer Society in Chicago:

"If I had my choice between a moon walk and the life of a single child with leukemia—I would never glance upward!"

JAMES T. GRACE, JR., CANCER DRUG CENTER

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. KEMP. Mr. Speaker, Dr. James T. Grace, Jr., of Buffalo, distinguished himself as one of America's leading men of science while working at the Roswell Park Memorial Institute of Cancer Research. On March 8, 1970, a tragic automobile accident claimed his life as well as his wife's.

On Monday, May 8, 1972, a new building at the Roswell Institute was commemorated to the memory of Dr. Grace and will be known as the Grace Cancer Drug Center.

My distinguished colleague, Hon. THADDEUS DULSKI, attended that dedication and in an extension of remarks for today, will also include in the RECORD the remarks of Dr. Gerald P. Murphy, director of the Institute and Dr. Hollis S. Ingraham, Commissioner of the New York State Department of Health. Congressman DULSKI has long had an active interest in the cancer program of Roswell Institute and is to be commended for his support of these critical programs.

Mr. Speaker, one of the important events of my first term in Congress was to submit testimony on cancer research before the House Subcommittee on Public Health and Environment of the Committee on Interstate and Foreign Commerce. The hearings were held at Roswell Park in October of last year.

In my testimony I pointed out the following:

Mr. Chairman, it is especially appropriate that this hearing concerning the conquest of cancer be held here at Roswell Park Memorial Institute, the world's oldest and one of the largest cancer research centers.

Although the Institute is not in my District, many of my constituents owe a debt of everlasting gratitude to Roswell Park for its programs in cancer research, education, and service to cancer patients. Nobel Prizewinners, Doctors Carl and Gerty Cori did some of their early work on carbohydrate metabolism here. Staff members, specialists in their fields, combine research activities with teaching in the State University of New York at Buffalo Graduate School (of which Roswell Park Memorial Institute is a division) and with the direction of training programs, such as the Research Participation Program in Science. The 2,000-person Institute staff includes 150 M.D.'s, 150 Ph.D.'s and approximately 500 assisting scientific workers. Basic research is conducted in biology (genetics, microbiology, entobiotics, hematology, immunology, physiology, endocrinology), chemistry (immuno-chemistry, biochemistry, organic chemistry), physics (radiation physics, biophysics, crystallography), and biostatistics.

I would like to include for the record, a folder outlining the outstanding activities now underway at Roswell Park Memorial Institute.

We are all acutely aware of cancer's grim statistics. Last year cancer killed eight times as many Americans as have been killed in Vietnam during the past 6 years. Over 16 percent of all deaths in the United States are caused by cancer and this dread disease ranks second on the list of the Nation's five greatest killers:

Cause of Death:	*Deaths in 1969*
Cardiovascular Disease	1, 008, 990
Cancer	323, 330
Cerebrovascular Disease (Stroke)	206, 030
Accidents	113, 150
Influenza and Pneumonia	70,120

Today, out of this nation's 204 million people, some 52 million are currently destined to be victimized by cancer. Out of those 52 million—34 million will eventually die of some form of cancer—half of them under age 65.

Deaths from cancer have risen as follows over the past twelve years:

Year:	Deaths
1960	267,627
1961	273,502
1962	278,562
1963	285,362
1964	289,577
1965	296,588
1966	303,736
1967	310,983
1968	317,000
1969	323,000
1970	329,000
1971 est.	335,000

The American Cancer Society reports that in 1971 alone, approximately 975,000 Americans will require medical care for this disease.

None of us can escape a closeness to tragedy of such magnitude.

Definite progress has been made in raising the overall cure rate for all types of cancer. Over 40 years ago, the rate of cure was one out of five. Today, it is somewhere around one out of three. I am told that imaginative programs in research, education, and service—such as those at Roswell Park Memorial Institute—could improve these fearsome odds if we mount a greater national effort. According to the American Cancer Society, the cure rate could be brought to 1 in 2 with earlier and better use of the diagnostic methods and treatments already available. Over 106,000 cancer patients will probably die in 1971 who might have been saved by earlier and better treatment. Further alleviation of the cancer patient's suffering and an increased cure rate are already available if our society is willing to accept the challenge—and to pay the cost.

Information on the economic impact of cancer is presently incomplete. The Panel of Consultants on the Conquest of Cancer reports that an estimated $1.5 billion was spent on medical care for cancer in 1969 and that indirect costs of cancer—such as those derived from loss of earnings and the like—bring the figure to over $15 billion for that year.

I am enclosing for the record a summary of man's progress against cancer over the past 35 years as presented in a table prepared by the American Cancer Society.

The annals of sports are full of examples of young men and women who were cut down in the prime of their careers.

I sadly recall the case of Ernie Davis, the great All-American running back from Syracuse. When the Cleveland Browns obtained Ernie in a trade for Bobbie Mitchell, sportswriters and football fans expected that the high-flying Browns would be as tough as any team in the National Football League. But Ernie succumbed to an unforgiving opponent before he had a chance to suit up.

Babe Zaharias was as tough and courageous on the clay courts as any woman who ever swung a tennis racket before cancer took her life.

More recently there was Freddy Steinmart of the champion Texas Longhorns. The curtain came down on his bright future when cancer forced the amputation of his leg.

The list of victims, young, and at the height of their careers, is all too familiar.

The President demonstrated the level of his concern last January 22nd—when, during his State of the Union Message—he requested the Congress for an appropriation of $100 million dollars.

"The time has come in America," Mr. Nixon said, "when the same kind of concentrated effort that split the atom and took man to the moon should be turned toward conquering this dread disease."

"Let us," he declared, "make a total national commitment to achieve this goal."

Mr. Chairman, I agree wholeheartedly with this commitment and although I am not convinced—at this time—that we can set a timetable for a cancer cure, it should not be said that we in Congress do not care enough to make the same effort to conquer this terrible disease as we did to reach the moon.

Let me remind you that cancer killed eight times as many Americans last year alone than have been killed in Vietnam during the past six years.

Last year, the Federal government spent an average of $110 for each person for defense—but only 89 cents per person to cure or curb cancer.

I am not saying we do not need to provide for our national defense and other important needs. But I do share the opinion of many that the time has come for a reappraisal of priorities.

I feel there is a real need for more Federal funding for the crusade against cancer so that Roswell Park Memorial Institute and others can carry on and expand their vital work.

The Chairman and members of the Subcommittee are to be commended for scheduling this hearing in Buffalo at Roswell Park Memorial Institute.

I feel that the efforts of this Subcommittee to achieve meaningful legislation in the conquest of cancer will bring us closer to the day when cancer will join polio as a disease no longer to be feared.

Thank you.

Mr. Speaker, I want to point out that the construction of the Grace Cancer Drug Center was made possible through the joint participation of Federal, State, and private resources. Furthermore, in the appropriations hearings that were released yesterday, I was pleased to note that one of the major increases in health services funding was for cancer research—$92 million. It was also gratifying to read of the increases for sickle cell research.

These two major research areas are actively pursued by a dedicated and experienced staff at Roswell. I am sure that in the years ahead, the Grace Cancer Drug Center will contribute to the betterment of mankind—a fitting memorial indeed for the late Dr. Grace.

At this point I included portions of the testimony of the hearings before the Appropriations Subcommittee on Labor, Health, Education, and Welfare.

PORTIONS OF THE TESTIMONY OF THE HEARINGS

BALANCING OF INCREASES AND REDUCTIONS IN HEALTH BUDGETS

Mr. FLOOD. Looking at the total figures, your budget looks even more conservative than the Office of Education budget. The total for Health Services and Mental Health Administration actually goes down from $2.29 billion to $2.22 billion. The total for the National Institutes of Health goes up very, very little, from $2.17 billion to $2.18 billion. If you think this is not a standstill budget, as these totals indicate—if the totals are misleading, we would like to hear your explanation.

Dr. DUVAL. Mr. Chairman, I would make two points and then after that, as many as you want n.e to make as further confirmation. The growth in the capacity of our three health agencies to spend money in 1973 over 1972 is actually $600 million in terms of outlays.

Second, the growth in programs between 1973 and 1972 amounts to $4846 million. The reason that you have correctly noted that the net or aggregate gain is only $13 million is because we have offsetting decreases of $472 million which have already been explained as nonrecurring items or reflect a change in philosophy in regard to construction. In program growth it is a growing budget.

Let me add, the program growth of which we are most proud in this budget include FDA, $77 million; drug abuse, $15 million; comprehensive health planning, $16 million; regional medical programs, $31 million; HMO's, $33 million; maternal and child health, $13 million.

Mr. FLOOD. Put that whole list in the record.

Dr. DUVAL. All right.

(The information follows:)

Major increases

	Millions
FDA	77
Drug abuse	15
Comprehensive health planning	16
RMP	31
HMO's	33
Maternal and child health	13
Lead-based paint	2
Occupational safety and health	3
Family planning services	49
Indian health	22
Comprehensive health services programs	21
Diseases control	5
Other HSMHA	30
Cancer research	92
Heart research	22
Child Health Institute	10
Health manpower (excluding construction)	20
Other institutes	15
Other NIH	10
Total	486

Dr. DUVAL. We would submit that is a growing budget and a vigorous and dynamic budget.

Mr. FLOOD. During the past year there has been a terrific amount of interest generated in three medical problems that most Members never heard of 3 years ago. Sickle cell anemia, lead-based paint poisoning, and sudden infant death syndrome or "crib death." Tell us what you were doing this year and what is planned for next year.

SICKLE CELL ANEMIA

Dr. DUVAL. With respect to sickle cell disease, in 1971 we had spent an identifiable $1 million on sickle cell disease. Beginning to recognize the problem in 1972, we moved that up to $10 million, and in 1973 we are moving that again up another $5 million to $15 million. This will make it possible for us to increase the amount of money that is in research so that every reasonably promising lead can be explored with regard to preventing the disease and treatment. We will also expand the portion of the population that can be reached by surveys, screening, and so forth, for sickle cell problems.

Mr. FLOOD. Is education part of your program?

Dr. DUVAL. Yes, sir; it is. I suspect that maybe you have seen some of the spot announcements on television.

Mr. FLOOD. That is right.

Dr. DUVAL. We are trying to reach the black community. We are making it possible through programs of this type to reach more and more individuals for genetic counseling and such treatment as may be necessary if they have had the overt disease.

With regard to sudden infant death syndrome——

Mr. MICHEL. Before you leave that, isn't it true that if both parents have the sickle cell trait it is practically a foregone conclusion that their offspring are going to have it?

Dr. DUVAL. I think that it would be a mathematical probability. The point is that, if both parents had it, it would seem to work out to about a 50-percent probability. I think it is 50 percent. If one parent has it, is about one chance in four.

Mr. FLOOD. Mendelian law applies. Generation after generation?

Dr. DUVAL. Yes, sir. It is recessive so the trait may not show, but it is always there.

Mr. SMITH. I think when one parent has

it there is one chance in four the child would have it.

Dr. DuVal. Yes; this refers to the trait, not necessarily the disease.

Mr. Smith. I thought you were talking about the anemia.

Dr. DuVal. I wouldn't want that misunderstood.

EXPANSION OF CANCER EFFORT

Mr. Flood. Tell us about the operations of the National Cancer Institute now and prior to the enactment of the Cancer Act of 1971. How significant are these differences in your opinion?

Dr. DuVal. The basic differences are twofold. There has been a massive increase in the authorized dollar level for the cancer effort. This expansion will take place for the most part during the next year or so through contract rather than through the grant and intramural programs. Certain administrative changes have been made, including the establishment of a White House panel, and an 18-man advisory board. Fort Detrick will be operated under contract as a cancer center. This operation will be——

Mr. Flood. But is it underway, it will be executed, and nobody is stalling.

Dr. DuVal. That is correct. The expenditures are already occurring. The process for the Fort Detrick is under way and we will have closed that contract by May or June. We will be on site working by July. The three-member panel already has been named. The 18-member board will be announced today.

INCOME DISTRIBUTION STATISTICS: WHAT DO THEY PROVE?

HON. SHERMAN P. LLOYD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. LLOYD. Mr. Speaker, one of our more controversial economic conundrums is whether or not the distribution of income in this country has become more equitable over the last 20 years. The subject has such political and emotional connotations that it is quite difficult to come to any rational conclusion in public discussions. A recent study by Professors Lester Thurow and Robert E. B. Lucas and published by the Joint Economic Committee shows how hard it is to reach an informed judgment by economic analysis as well.

In releasing the study, Senator William Proxmire, the committee chairman, said, "the spread between the poorest and richest categories has widened considerably as real income has grown" between 1949 and 1969. The Senator apparently feels the income distribution in this country has become more inequitable.

Noted economic columnist, Prof. J. A. Livingston reaches the opposite conclusion. In an article coauthored with William K. Marimow, Professor Livingston presents evidence that the poor have in fact gained relative to the rich over the last two decades. The disagreement arises because they are different ways of measuring changes in income distribution. While the available evidence does not prove that our income distribution has become more equitable over the last 20 years, neither does it prove it has grown worse.

As a restraint to unjustified conclusions on this issue, I insert the article by J. A. Livingston and William K. Marimow which appeared in the April 16 edition of the Philadelphia Sunday Bulletin at this point in the Record:

Proxmire Report Exaggerates Rich-Poor Disequality

(By J. A. Livingston and William K. Marimow)

Do the rich get richer and the poor get poorer? The headlines say emphatically "Yes":

Income Gap in U. S. Doubles in 20 Years—Philadelphia Evening Bulletin.

Everyone has more to spend, but the gap between the rich and the poor is widening—Business Week.

Rich-Poor Pay Gap Widens, Study Shows—Philadelphia Inquirer.

But are those headlines accurate or a distortion?

The headlines, and others like them, were derived from a study—"The American Distribution of Income: A Structural Problem." It was prepared primarily by Prof. Lester C. Thurow, of the Massachusetts Institute of Technology, for the Joint Economic Committee. Sen. William Proxmire (D-Wis), chairman, released it March 19 with a statement to the press.

Thurow declares that in the postwar period "everyone's income—male, female, majority, minority, rich, and poor—has been rising at approximately the same rate, leaving their ratios [relative shares] unaffected.

"As average incomes have risen, however, real income gaps have expanded when measured in constant dollars. Where the real income gap was $10,565 between the average income of the poorest and richest quintile [20 percent] of the population in 1949, it was $19,071 in 1969."

A FUNDAMENTAL QUESTION

The Proxmire press release declared: "The spread between the poorest and richest categories has widened considerably as real income has grown."

That's true arithmetically. But relatively, the poorest fifth has gained on the upper fifth. Its share of aggregate income has increased slowly—very slowly. But it has increased (chart).

The following table shows the share of aggregate pre-tax income of (a) the lowest 20 percent of families (b) the highest 20 percent of families and (c) the very rich—the 5 percent of families with topmost income:

[In percent]

Year	Lowest 5th	Highest 5th	Very rich [1]
1947	5.0	43.0	17.2
1949	4.5	42.8	16.9
1950	4.5	42.3	17.3
1955	4.8	41.6	16.8
1960	4.9	42.0	16.8
1965	5.3	41.3	15.8
1969	5.6	41.0	14.0
1970	5.5	41.6	14.4

[1] Top 5 percent of families.

The table raises a fundamental question: How should disparity be measured?

It shows that the income shares of the very rich and the highest 20 percent of families diminished between 1949 and 1969, whereas the share of the poorest fifth of families increased from 4.5 percent of total income to 5.5 percent.

THUROW'S STATEMENT

Stated differently, the aggregate income of the poorest fifth in 1949 was 10.5 percent of that of upper-fifth families. By 1969, the aggregate income of the poorest fifth had climbed to 13.7 percent of the upper fifth.

By Telephone, Prof. Thurow justified his approach: "Oftentimes, you will hear commentators say that the distribution of family income has remained roughly constant in the postwar period. If you look at relative shares, that statement is basically true, and there may even have been some slight improvement among those in the lowest income bracket.

"If you look at absolute dollar differences, however, income gaps have widened rapidly. There's no one method for measuring inequality in income which is universally acceptable."

But is the dollar gap a valid approach? On the basis of our calculations, the average income of a family in the upper fifth increased from $11,800 to $22,000 between 1949 and 1969. That's a gain of 86 percent. The average income in the lower fifth went from $1,250 to $3,000—an increase of 140 percent.

Disequality exists. The upper-fifth average family could buy 9.4 times the economic satisfaction—goods and services—as the poor family in 1949. In 1969, it could buy 7.4 times. This implies a decline in disparity—not an increase. Yet, the rich live much, much better than the poor. But to use an Orwellianism, less better than 20 years ago.

IMPROBABLE RESULT

As Prof. Thurow points out, the dollar difference has bulged from $10,550 to $19,000. But that's the arithmetic of the initial disparity.

Suppose A had an income of $2,000 and B an income of $5,000. A's income increases 100 percent to $4,000, and B's increases only 60 percent to $8,000. The dollar gap has widened from $3,000 to $4,000, but there's no doubt that A has narrowed the equality gap.

This device produces a stacked and improbable result. The income of the lower fifth families would have had to increase by 800 percent from 1949 to 1969 to maintain dollar-gap equality with the upper fifth. That would have been almost six times the actual 140 percent increase.

The disequality between the rich and poor in the United States requires no statistical refinement. The bare figures on income—how much does the average rich family have per year, how much does the average poor family have—are sufficient.

The study published by the Joint Economic Committee is not appropriate to the facts or the temper of the times. It duped the press, and perhaps even Sen. Proxmire.

RUMANIA'S INDEPENDENCE DAY

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. WHALEN. Mr. Speaker, today is the most revered national holiday for the people of Rumania. It marks the attainment of that country's independence and the founding of the Kingdom of Rumania.

Although now a satellite of the Union of Soviet Socialist Republics, Rumania preserves the commemoration of this significant date because it celebrates three great events in her history. On May 10, 1866, Prince Charles of Hohenzollern-Sigmaringen, was proclaimed Prince of Rumania, in Bucharest. Eleven years later, on May 10, 1877, the Principality of Rumania severed her bonds with the Ottoman Empire, until then whose vassal she nominally had been. On May 10, 1881, Charles I was crowned King of Rumania by the will of his people.

Despite the cynical attempt by the Soviets to divert the national focus to May 9, the anniversary of the Russian victory, the citizens of that once prosperous free nation continue to celebrate in their hearts the 10th of May as do Americans the Fourth of July.

Mr. Speaker, I am pleased to rise on this occasion to pay tribute to the spirit of free Rumania. Her travails reinforce our own awareness of how valuable the system of unfettered democracy is. The irons of oppression remain. Unlike the persistent yearning of man for true liberty, they can rust and turn to ashes.

RUMANIAN INDEPENDENCE DAY

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. BRAY. Mr. Speaker, this is the 106th anniversary of the Rumanian nation. In observance of the day, I insert the following, from my book "Russian Frontiers: From Moscovy to Khrushchev," published in 1963:

RUMANIA

Russian conquests in Rumania are not new. Rumania has known Russian aggression thirteen different times, the earlier occupations often under the guise of protection of the Christian faith. In the Russian war with Turkey in 1877, Rumania, to assist Russia, signed a convention with her to allow Russian troops to pass through Rumania. Article II of the convention is as follows:

"In order that no inconvenience should result for Roumania from the fact of the passage of the Russian troops through her territory, the government of his Majesty, the Emperor of Russia, pledges himself to maintain and to make respected the political rights of the Roumanian state, such as derived from the internal laws and the existing treaties as well as to maintain and defend the present integrity of Roumania."

Russia entered Rumania pursuant to the above convention and, once in the country, she violated Rumanian confidence and demanded and received the Rumanian state of Bessarabia by the Treaty of Berlin, which terminated the Russo-Turkish War in 1878. It should be noted that this acquisition was not from an enemy, but from a friend and ally that had assisted Russia in the war. Russia again used secrecy and subterfuge sixty-eight years later in forcibly taking territory from Rumania. Russia and Germany, by a secret treaty of June 22, 1940, agreed that Russia would be allowed to take over two provinces from Rumania as soon as Russia desired to do so. After the fall of France in June, 1941, Russia took advantage of this secret agreement with Germany and gave Rumania only three days to yield these provinces. Russia did not even wait for these three days, but invaded Rumania one day before the three-day deadline and brutally mistreated the Rumanian people.

Russia was forced out of the Rumanian territory by the oncoming German army after Germany had invaded Russia. As the German tide began to recede, the Russians followed the Germans into Rumania and on April 3, 1944, in order to quiet the fears of the Rumanian people as to Russia's intentions, Molotov pledged noninterference in Rumanian affairs as follows:

This statement makes clear to the Rumanian people that the Soviet government declares that it does not pursue the aim of acquiring any part of Rumanian territory, or of changing in whatever manner the existing social order of Rumania.

In order to lull the fears of the Rumanians, Molotov further said, on August 25, 1945:

The Soviet Union does not intend to appropriate any part of Rumania, or to change the established social regime in that country, or furthermore, in any way whatsoever the independence of Rumania.

This promise was, of course, violated in the usual Russian manner. The Red Army proceeded to loot, rob, murder, and rape in Rumania to a degree that threw the entire country into terror. The Rumanian-Communist Party at that time, according to Ana Pauker, Rumanian Communist leader, numbered less than a thousand. The Communist Party took over the press and radio. However, all Russian ruses to overthrow the government in Rumania failed; and Russia finally imposed Soviet control by an impressive display of military force. Russia would not allow the American members of the Rumanian Joint Control Commission to travel in Rumania or become informed of what Russia was doing there. Our members were merely figureheads. Over a quarter of a million Rumanians were sent to Russian concentration camps. Rumania is still held in the Russian orbit by Soviet armed might.

NATIONAL SOIL CONSERVATION WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. DERWINSKI. Mr. Speaker, may I point out to the Members that we are this week celebrating National Soil Conservation Week. Certainly, the interest that many Members have exhibited and the legislative material that entered into this show that the concern of Congress is quite significant.

I am especially pleased that the Homewood-Flossmoor Star, one of the outstanding publications serving suburban Cook County, Ill., carried an editorial in the April 30 issue on the subject of conservation. I insert the editorial in the Record.

CONSERVATION WEEK

Environment and ecology, once seen only in dictionaries, are now household words. They are, of course, part of the new vocabulary that has evolved as part of stepped-up local, state and national efforts to prevent further despoilation of our national resources.

Although seemingly new concepts, actually the two words related to an activity that has been a national concern for many years—soil and water conservation.

In Illinois the main thrust of this concern is provided by the state's 98 soil and water conservation districts. In the south suburban area, activities in this field are the responsibility of the Will-South Cook county soil and water conservation district, which was organized in 1946.

The district belongs to and supports the National Association of Conservation Districts, which represents more than 3,000 county districts and their state associations.

It provides residents with help in conservation planning, with help in resource conservation and development, with technical services, soil information, consultative service and flood prevention assistance.

In his annual report to the membership, district chairman William H. Stelter notes that improving the environment is an "extremely important and complex problem."

"The costs are going to be high," he stated. "Much research needs to be done, and it cannot be done overnight."

As part of its program, the district is coordinating area activities planned in connection with National Soil Conservation week, May 7–14, the theme of which is "Creative Conservation."

So here we have two more words enlisted in the continuing battle to conserve the environment, and they provide an important message.

VIETNAM ARMAGEDDON

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. ROSENTHAL. Mr. Speaker, President Nixon's decision to mine Haiphong Harbor and bomb transportation links from China, is an act of recklessness without parallel in American history. This reescalation, this "brinksmanship," make violent acts of protest against the war—acts which I strongly disapprove—seem innocent by comparison. When one weighs the potential risk of this decision against the possible benefits, one can only conclude that it is an act of unmitigated desperation and vindictiveness.

The blockade and bombing are not a defense of this Nation's most vital interests—and Mr. Nixon knows it. They will not turn the tide of battle in the South—and Mr. Nixon knows it. They will not free our POW's—and Mr. Nixon knows it. They will not end the war—and Mr. Nixon knows it.

The President has broken his promise to end the war; he has demonstrated the shallowness of his Vietnamization policy; he has betrayed the trust of the American people and dashed the hopes of all people for peace in the world.

Let us all hope and pray that there are not Nixon-like leaders in Moscow and Peking who value the "honor" of Russia and China over the lives of men, women, and children.

Mr. Speaker, this week's issue of Newsweek contained an interesting analysis of "What Went Wrong in Vietnam: The Fallacies in U.S. Policy." I insert it at this point in the Record:

WHAT WENT WRONG IN VIETNAM: THE FALLACIES IN U.S. POLICY

INTELLIGENCE

In its efforts to outguess the North Vietnamese, the U.S. has employed an impressive array of intelligence-gathering equipment—computers, reconnaissance aircraft, even electronic sensors that can detect enemy soldiers moving through jungles and along darkened trails. Yet for all this modern wizardry, American intelligence repeatedly has misjudged Hanoi's capabilities and intentions. Even when the North Vietnamese were gearing up for their current offensive, the Nixon Administration clung to the belief that the Communists were incapable of inflicting real damage on South Vietnam. Asked in November if the Communists could mount a major campaign in the near future, Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff, replied, "They would not have the capacity or the capability for an operation such as you describe." And that same month, Mr. Nixon said, "The enemy doesn't have the punch that it had."

The reason for this massive failure of U.S. intelligence is not hard to find. "After the allied invasions of Cambodia and Laos," reported Newsweek's Pentagon correspondent, Lloyd Norman, "the U.S. military kidded themselves into believing that the Communist supply caches and logistics system had been badly damaged if not wrecked." The penchant for self-delusion did not end there. Months ago, captured enemy documents clearly indicated that Hanoi was planning an offensive for February or March. Said one U.S. official: "Some people in the Pentagon laughed when the attacks didn't come when we predicted." Even after the North Vietnamese began their offensive on Easter Sunday—backing up their infantry with 130-mm. artillery pieces, missile and rocket launchers, anti-aircraft guns and no less than 500 tanks—Pentagon officials predicted that the Communists would run out of supplies by mid-May. Yet as the fighting raged into its sixth week, there was no sign that the Communists were short of materiel. They poured 6,000 rounds of artillery shells into Quang Tri city in one three-day period and blasted An Loc with up to 1,000 shells a day. Now, Administration officials ruefully concede that Hanoi might be able to sustain such attacks for months.

The American intelligence network was equally inept at assessing Communist tactics. While the U.S. command believed that some sort of Communist offensive was in the works, it clung to the view that the assault would come in the central highlands—not across the Demilitarized Zone. And even when that judgment proved dramatically wrong, official optimism still prevailed.

Perhaps the biggest surprise of all was the appearance of massive numbers of North Vietnamese tanks in South Vietnam. "The electronic sensors," said a top U.S. intelligence analyst, "did not always pick them up, and they showed up in South Vietnam in places where they were least expected. The enemy had widened the roads and built more roads to enable the movement of tracked vehicles. Some were seen on the trails, but no one estimated the numbers that finally showed up."

Whether the faulty analysis of North Vietnam's capabilities was the result of wishful thinking or honest mistakes will be debated for years. But the fact is that Hanoi's successes to date raise serious questions about the way American military intelligence is gathered—and the way U.S. political leaders interpret the data they receive. It is an ageless military maxim to "know your enemy." But the U.S. appears to be singularly unable to understand either the mind or the determination of the North Vietnamese despite the abundance of information American intelligence has gathered over the years. And even when the Administration's advisers have been on target with their assessments of Hanoi's abilities and goals, their advice often has been ignored. That combination of shortcomings could turn out to be a formula for disaster for American foreign policy.

BOMBING

The sobering spectacle of Communist tanks and heavy artillery operating deep inside South Vietnam raises serious questions about the ultimate effectiveness of U.S. air power in Indochina. But despite that, President Nixon has clung to his conviction that massive American bombing attacks can stem the Communist tide. In his nationally televised report two weeks ago on the renewed fighting in Vietnam, Mr. Nixon warned that U.S. air strikes "will not stop until the invasion stops." Officially, the Administration offered the explanation that the bombing was designed to aid the South Vietnamese forces and protect remaining American troops. But privately, some American officials suggested that the bombings might take on another, more ominous, character—that of pure punishment. As one State Department officer declared last week, "The President feels he has been abused personally by North Vietnam's current offensive."

In a sense, wider bombing raids are the only realistic option available to the President as a means of blunting Communist military assaults. There are too few American combat troops remaining in South Vietnam to be effective against Hanoi's forces, even if Mr. Nixon wanted to order the available GI's back into the ground war. In addition, Mr. Nixon can point to the fact that U.S. tactical bombing has achieved some short-term results during the current Communist offensive. American air strikes on North Vietnamese troop positions in the south have inflicted severe casualties on Hanoi's forces and have reportedly destroyed scores of Communist tanks. Moreover, the air campaign in the north has no doubt diminished Hanoi's capability to launch subsequent attacks in the future and has taken a harsh toll in terms of military matériel held in reserve.

Yet the weight of evidence over the years suggest that much of America's bombing has been in vain. Shortly after he took office, Mr. Nixon received National Security Study Memorandum No. 1, a secret report that strongly indicated that bombing had not played a decisive role in Vietnam. Yet only a week before Hanoi initiated its current offensive, U.S. officials were still claiming that bombing had interdicted more than 98 per cent of the supplies North Vietnam had tried to move down the Ho Chi Minh Trail in the previous four months. When the attack began, however, the Communists swarmed into South Vietnam behind the very equipment—tanks, artillery and rockets—that the U.S. claimed to have destroyed. And since the offensive began it has become clear that, like strategic bombing, close air support of ground troops also has limited utility—at least when the ground forces involved lack the will to fight. Despite hundreds of U.S. air strikes against enemy troop concentrations north of Quang Tri, for example, the North Vietnamese seemed to have little trouble capturing that provincial capital.

Still, the U.S. continues to view air power as something close to the ultimate weapon. When a U.S. Air Force officer in Saigon was questioned recently about the effectiveness of the bombing campaign, he replied, "I wouldn't know about that, but we have 'smarter' bombs and new, improved sensors now." And as if to emphasize beyond any doubt its heavy reliance on bombing, the Administration last week sent yet another attack aircraft carrier into action off the Vietnamese coast.

In short, the President seems determined to meet the new challenge in Vietnam with an old policy—and one that has always been of questionable wisdom. That air power plays a significant role in modern warfare, no one can deny. But to imply that it can somehow serve as a substitute for adequately trained and motivated ground forces flies in the face of military history.

VIETNAMIZATION

Few of his foreign programs can be more important to Richard Nixon than Vietnamization. And none has received more Presidential pats on the back. A year ago, Mr. Nixon flatly stated, "I can report that Vietnamization has succeeded." In the months that followed the President repeatedly lauded the Army of the Republic of Vietnam (ARVN) and insisted that Vietnamization was working—even though it had never really been put to the test. But inevitably the test came—and whether the ARVN will pass or fail remains a moot question. Though some ARVN units have fought gallantly, other South Vietnamese troops fled the battle of Quang Tri in panic, deserted in droves, abandoned their wounded and, in Hue, even turned on their own comrades.

Technically, the White House has been correct in saying that the ARVN has the capability to stand alone. The South Vietnamese armed forces both out number and outgun their Communist adversaries—and enjoy the luxury of almost unlimited air support. Perhaps it was with this in mind that Defense Secretary Melvin Laird confidently predicted last January that the South Vietnamese forces would win "75 percent or more" of the battles in the event of a Communist offensive. Yet since the current offensive began, Saigon's forces have failed to score a conclusive victory in any major battle. The best they have been able to do is to hold tenuously to the provincial capital of An Loc north of Saigon, which admittedly has been a considerable achievement in the face of intensive and continuous Communist artillery barrages. But even at An Loc, the ARVN has had to abandon its attempts to destroy the North Vietnamese troops that are still besieging the town.

Somewhat surprisingly, Pentagon officials now openly admit that the Vietnamization program "hangs by a few threads." Perhaps the fatal flaw in Vietnamization has been the inability of the United States to instill in the South Vietnamese soldier the esprit and determination necessary to take on Hanoi's highly motivated and tightly disciplined troops. It was relatively easy for the United States to hand out the rifles, the artillery, the attack planes and the tanks that the ARVN lacked—something the U.S. did in a $10 billion crash program. But last week, when more U.S. tanks arrived in South Vietnam to replace those lost to the Communists, one U.S. official in Saigon snapped, "For Christ's sake, they don't need more damn equipment. They need some guts."

There is considerably more to the problem than that, however. What the ARVN primarily needs are honest and efficient commanders. And in South Vietnam's corrupt and nepotistic military establishment, such men have always been in short supply. "There are many people here in important jobs who are unequal to the task," said one South Vietnamese official last week. "The one thing the Americans could not bring in from their arsenal was leadership."

The Nixon Administration's misplaced confidence in the ability of the ARVN is hard to comprehend. In seven years of intimate and painful involvement in Vietnam, U.S. military leaders had every opportunity to perceive and correct the shortcomings in the South Vietnamese forces. But, as NEWSWEEK's Saigon bureau chief Nicholas C. Proffitt reported last week: "The Administration could not see the flaws in Vietnamization because of self-imposed blinders. Since Vietnamization, as defined by President Nixon, is the last American option in Vietnam, it simply had to work. The only alternative would be to admit that the Administration has failed. When this attitude at the very top is so ill-concealed, it is inevitable that it will filter down, and subordinates will don a matching set of blinders. Nice things do not happen to the careers of men who fail to see the emperor's new clothes." In the case of Vietnamization, the Nixon Administration apparently saw what it wanted to see and believed what it hoped would prove true. The result has been that a policy designed by the President to extricate the United States from the war has become a policy that threatens to prolong the agonizing and costly American involvement in Indochina.

TRIBUTE TO COACH JIM WILSON

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. HUNGATE. Mr. Speaker, I would direct to the attention of the House the following article paying tribute to a great coach and teacher upon his retirement after 36 years as an educator:

Cotton Helps Bobcat Fans Honor Coach Jim Wilson

"By doggies, you shouldn't have done it, but you did, and I like it," long-time BGHS coach-teacher James A. Wilson said at the conclusion of his "night" during the annual BGHS athletic banquet Friday night.

"You make me wish I'd retired five years ago," continued Mr. Wilson, who will retire at the end of this school year after a teaching and coaching career at BGHS which started in 1936.

Coach Wilson was honored by the R–1 Bobcat Boosters at the banquet at which the high school's athletes in basketball, football, track and cross-country and members of the Pep Squad also were honored.

SOME 500 HEAR COTTON

Featured speaker for the dinner was Lowell "Cotton" Fitzsimmons, a former basketball star on Wilson-coached teams and graduate of BGHS who now coaches the Phoenix Suns in the National Basketball Association.

Some 500 persons attended the annual athletic banquet. Additional Bobcat fans and friends of Mr. Wilson attended the awards program after the dinner.

Bobcat Booster President Al Crowley was master of ceremonies for the program and Patricia Fitzgerald, president of the BGHS Pep Squad gave the welcome. The Boosters and Pep Squad jointly sponsored the banquet.

WILSON'S "DAY," TOO

Coach Wilson's night at the Bobcat banquet came on his "day". Friday was designated as "James A. Wilson Day" in Bowling Green by the City Council.

And the things they did that pleased the retiring coach—make that coach and math teacher, because, he said, "I love to teach math about as much as I loved teaching basketball—included telling stories about Mr. Wilson and his coaching principles by the men who played for him or coached with him and presentation of gifts to Mr. Wilson and his wife by the Boosters.

"NOT AMUSING" COTTON

Phoenix Sun coach Fitzsimmons has several "Coach Wilson stories" to tell, although he had denied in the beginning that he would do so.

"Nothing he did to me at that particular time was very damn amusing," said Cotton, who played on Mr. Wilson's 1948–49 team that the BGHS coach called his best.

Cotton had been introduced by Mr. Crowley, who wound up by saying that "the only thing he knows is how to win."

Fitzsimmons, who had a 258–78 record coaching at Moberly Junior College and Kansas State before running up a 97–67 mark in two years with Phoenix, put himself down immediately.

NOT THAT HOT?

"If I'd done as well as Al said," the pro coach noted wryly, "you'd have seen me on tv Wednesday night instead of the Lakers."

He was sorry that his team wasn't in the NBA play-offs, of course. But, he said his Suns had the distinction of having beat the play-off finalist New York Knicks four out of five meetings this season and were the only team to beat the Los Angeles Lakers twice.

The BGHS grad turned coach talked to his audience of athletes, parents and fans about the thing he's gained from sports. He made it clear that a lot of this knowledge started when he played for Coach Wilson.

LESSONS IN ATHLETICS

The first lesson, Cotton said, was learning "to compete."

"This in all honesty, is what life is all about."

Another important lesson was learning that "you don't quit, you just can't quit, because you'll have your opportunities. There's always a chance."

He also spoke of the discipline that an athlete learns in athletics. A winner must have desire, determination and will power, he said seriously.

"Self-discipline is one of the great things you have to have in athletics and in life and this was taught to me at Bowling Green High School."

HAVE TO PAY

And, Coach Wilson's former player said, the most important thing he learned at BGHS was that "rules are made . . . they are made to be broken and bent. But you have to learn to pay for them when you break them.

"And I had a good teacher in that, believe me," he added quickly.

He told about escapades in which he and teammates had broken—or at least badly bruised—the Bobcat coach's rules. But every time Coach Wilson came out ahead of his boys.

"You could bend his rules a little bit," Cotton said, "and he'd live with you. But you couldn't break the principles or integrity he had."

"THANK YOU, COACH"

Cotton would up by condensing the spirit of the recognition right into one sentence: "Thank you, Coach, for the great job you've done."

Reports by the current BGHS coaches on their programs, and recognition of the 1971–72 Bobcat athletes, came next on the program.

The Booster president called R–1 Supt. Murry Smith forward and presented him with a $750 check from the club to help finance new, permanent bleachers for the BGHS football field.

Then Mr. Cowley got the program down to the final, not-all-serious business of paying tribute to Mr. Wilson.

OVATION FROM CROWD

"By doggies," he said, using Coach Wilson's favorite phrase, "Today is Coach Wilsons Day." The crowd agreed by giving Mr. Wilson a standing ovation, after which Mr. Crowley presented him with the City Council's resolution making it official.

Cotton Fitzsimmons was called back to present a plaque to Mr. Wilson "in recognition for outstanding loyalty to BGHS." He praised the retiring coach for his "fantastic, unbelieveable record" of 458 wins against 206 losses in 22 years of coaching.

That brought another ovation for Mr. Wilson.

COACH'S PLAYERS

After having all the men in the audience who had played for Mr. Wilson stand up, Mr. Crowley called on one of them, Philip Bibb, to read a letter from another member of Coach's great 1948–49 squad, Tommy Russell.

Then Gene Hall, who also teamed with Fitzsimmons, Russell, Perry Watkins and W. H. Quisenberry on that team, was introduced to present a color portrait of Mr. and Mrs. Wilson to the couple .

Argil Ellison, current BGHS basketball coach and athletic director, came next. He noted that Coach Wilson considered himself quite a fisherman, "but has a lot of trouble catching them."

On behalf of the Bobcat Boosters, Mr. Ellison presented Mr. Wilson with an electric trolling motor and boat trailer for his fishing boat.

SERIOUS MOMENT

Speaking seriously for a moment, Mr. Ellison also praised the retiring teacher. "He puts forth an example as it should be."

Obed Hall Jr., in the audience, just happened to have a trailer hitch with him in the audience and brought that up to go with the motor and trailer.

The Boosters also presented Mrs. Wilson with a bouquet of red roses.

Then Mr. Wilson, himself, got to speak to his friends, starting out with that familiar "By Doggies. . ."

He called the night's program "gratifying but said the honors actually should be for the "fine athletes" who'd played for him. "I only held the rein. They were a great bunch to work with."

THREE PARTNERS

Paying tribute to Mrs. Wilson—"I have a lot of compassion for coaches' wives—he said: "I'd had three great partners in my life . . . my wife since 1928, my Lord and Bowling Green."

With them, he went on, "I've always felt everything would turn out alright. And it has."

Mr. Wilson spoke of the satisfaction he'd had in coaching, and in teaching math, saying the best part was "these young men" he'd worked with.

He spoke briefly about some of them. Coach got the best of Cotton Fitzsimmons and Gene Hall again. Referring to the tales they'd told about him that night, he said "I don't know how they've done so well when their imagination is so great and their memory is so poor."

Mr. Wilson wound up thanking the fans and BGHS students by saying "A coach couldn't have found a better town than Bowling Green."

The program closed with the Pep Squad leading the audience in singing the school song.

IT IS OUR DUTY TO SUPPORT THE SAFE WITHDRAWAL OF OUR MEN

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. CARTER. Mr. Speaker, I opposed our entrance into the war in Vietnam, because it was not consistent with commonsense, with supply lines 11,000 miles long; with the contiguity of China and Russia to the North Vietnamese; and with 70 percent of the Vietnamese, according to Eisenhower's book, sympathizing with Ho Chi Minh.

As a member of the Speaker's Committee of Fourteen to visit Vietnam in 1966, I was the only man of the 14 who said, "No, Mr. President, you are not winning the war in Vietnam."

Many of you Members here today who were on that committee remember the very night on which this was said. However, I never castigated the President of the United States. I opposed the policies which sent our men to Vietnam, but I supported the men who were there.

Approximately 500,000 of those men have been withdrawn; 60,000 more remain. In addition, 40,000 Korean troops are there at our request.

The President has agreed to a complete withdrawal in 4 months, subject to release of our prisoners of war and to the effective supervision of an international commission.

It is our duty to support the safe withdrawal of those men according to the policies of our administration. Such means as are necessary must be taken.

If we do not make commoncause to save the good old ship of the Union on this voyage; nobody will have a chance to pilot her on another voyage.

SECOND BALTIC INFORMATION CONFERENCE

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. ROONEY of New York. Mr. Speaker, recently 200 leaders of Lithuanian, Latvian, and Estonian organizations met in Washington at the Second Baltic Information Conference of North America. These leaders, representing more than one million Americans of Baltic descent, told of the brutality and slavery that have been the way of life in Lithuania, Latvia, and Estonia for more than 30 years of Soviet Russian occupation. At the Washington meeting a resolution was adopted which should remind us all that there are still many millions of people enslaved and denied their birthright of freedom by Red Communist oppressors.

Mr. Speaker, I recommend to my colleagues the reading of the resolution passed at the Second Baltic Information Conference of North America and under unanimous permission heretofore granted me I include it in the RECORD at this point.

RESOLUTION

Two hundred leaders of Lithuanian, Latvian and Estonian organizations, representing over one million Americans of Baltic descent, met at the Second Baltic Information Conference of North America, held in Greater Washington on April 15th and 16th, 1972. At this conference, sponsored by the Joint Baltic-American Committee, sixteen prominent speakers revealed many shocking facts about conditions in the Soviet-occupied Baltic States.

This resolution was accepted and urgently submitted to The President of the United States, The Secretary of State, The Advisor to the President on Foreign Affairs, Members of the Congress of the United States, and other prominent Americans.

Whereas, Estonians, Latvians and Lithuanians are proud of their long history, their distinct languages, and their own customs, and for several thousand years they were free and independent people,

Whereas, in 1918, Estonia, Latvia and Lithuania became free democratic Republics, and exactly 50 years ago (on July 28, 1922) they were recognized as sovereign nations by the United States Government,

Whereas, before World War II, the Baltic States had non-aggression treaties with the Soviet Union, yet these treaties were violated in June 1940, when the Soviet Union attacked, forcefully occupied and illegally annexed Estonia, Latvia and Lithuania,

Whereas, this unjustified occupation and annexation of the Baltic States has not been recognized by the United States and by a great number of other free countries,

Whereas, the Soviet Union has deported or killed nearly twenty-five percent of the population of the Baltic States, and recently has intensified the attempts at russification of these people, and also the Baltic people are denied their basic human rights to religious freedom, freedom to select employment, freedom of speech, freedom of press, and fair trials,

Whereas, the Baltic people, including Baltic Jews and other minorities, have been persecuted and imprisoned for their attempts to emigrate or to join their families in the Free World, and yet regardless of the humanist manifestations by the Soviets, there are still thousands of Baltic people in Soviet prisons and Siberian forced labor camps,

Whereas, colonialism is rapidly declining in the Free World with many new nations gaining independence, still at the same time, the Soviet Union continues to expand its boundaries and continues its colonialism in the formerly independent Baltic States,

Whereas, the United States Congress has recognized the sad situation in the Baltic States, and has unanimously passed *House Concurrent Resolution 416*, supporting the rights of the Baltic people for self-determination, now therefore be it

Resolved, that the President of the United States carry out the will of Congress as contained in the *House Con. Resolution 416* (1965) to bring the question of the Baltic States to international forums and demand the withdrawal of the USSR military and civilian from Latvia, Lithuania and Estonia,

Resolved, that the President of the United States demand that the Soviet Union stop Russian influx, persecution and genocide of the Baltic people, restore their right to religious freedom, emigration, and selection of employment, and release all political prisoners (such as Simas Kudirka family, and thousands of others) from hard labor camps in Siberia and elsehwere,

Resolved, that the President request that all maps published by the United States governmental agencies delineate the free Baltic States in their original boundaries, with a footnote explaining that their military occupation and forced incorporation into the Soviet Union has never been recognized by the United States,

Resolved, that the Secretary of State produce "Background Notes" on the Baltic States as a source of information for federal agencies, educators, schools, librarians and general public, and that all U.S. Government publications and lists of the nations of the world include the names of Latvia, Estonia and Lithuania as separate entities,

Resolved, that the participants of this Conference support extension of information to the captive nations by the Voice of America, and demand that Radio Free Europe and Radio Liberty broadcast in the Baltic languages,

Resolved, that peace cannot be brought by ignoring the cries of suffering people, and the world needs reminding that "Those who deny freedom to others deserve it not for themselves" (Abraham Lincoln).

WASHINGTON MONUMENT

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. CARTER. Mr. Speaker, under leave accorded, I am including as a part of these remarks, the subjoined, descriptive verse of the Washington Monument, written by Maurice H. Thatcher, now the oldest surviving exmember of this Chamber.

I regard the poem as being of the highest value. The subject, which is a difficult one, is in this instance aptly and poetically described.

This verse, I believe, just about concludes Mr. Thatcher's series in dealing with National Parks and Monuments which he has visited throughout a long life.

The author has written many poems of merit dealing with Isthmian subjects—including the Panama Canal—national parks units—the Mayflower Pilgrims—and other worthwhile themes. By these prosodic efforts, he may have well earned a laureateship in all these categories. To say the least, the fact that he yet is able to write verse of this character is worthy of our admiration and respect. His intellectual gifts and interests seem unabated. If he survives to the last of next October, he will be—as I understand the facts—the oldest man who has served in Congress.

Also, under leave accorded, I am including herewith two poems about Mr. Thatcher's beloved Commonwealth, and my own. The first, "Kentucky—A Tribute," is self-explanatory, and the other, entitled, "Home Coming Song," is explained by the footnote.

The poems follow:

WASHINGTON MONUMENT

(By Maurice H. Thatcher)

A giant shaft which crests within the skies;
Simple, massive, it rises from the earth—
A fitting tribute to one whose fame defies
Time's septic touch! It looms in lofty worth
In witness of the deeds of Washington—
Who, with wisdom, courage, and zeal supreme,
Led tattered forces in the war he won—
Thus vitalizing Freedom's ancient dream.
The great memorial tops the busy scenes
of the Nation's Seat. Like a monitor
It speaks, in sum, by plain, effective means,
What is portrayed in walled exterior.
Long may it dure for all to understand
This mighty symbol in a favored land!

KENTUCKY: A TRIBUTE

(Read by him at the close of his speech at a banquet given him by Kentucky friends at the Galt House in Louisville, on May 2, 1910, following his appointment by President Taft as a member of the Isthmian Canal Commission).

Kentucky, O Kentucky,
Thy fame hath travelled far;
In all the mighty civic sky
There is no brighter star.

We love thee for thy Lincoln,
George Rogers Clark and Clay;
For Boone and all the master folk
Who made thine early day.

We love thee for thy holy past,
For all thou art to be;
Our prayers and tears, our true hearts' blood
Are consecrate to thee.

Thou has no pallid virtues
To sap thy mighty soul,
Thy faults are those of vigor
That needeth but control.

Thy strength, thou yet shall curb it,
And guide with easy rein;
Thenseforth thy history may be
Without a scar or stain.

O, thou has known the shame and cross,
And dark Gethsemane;
Thou, too, has known transfigured heights
Where God communed with thee.

The wars have wrought their ravage,
Red hast thou run with gore,
Yet, virtue springs from struggle,
And blesseth evermore.

The golden urn of history
Is filled with sacred dust
Of men and women dying here
For causes great and just.

Kentucky, O Kentucky,
Thy children hold thee dear;
Pour out the ointment of thy love
On all who bideth here!

Almighty Spirit, Father, God,
We kneel and pray to Thee,
Bless this Thy State, and these, Thine own,
And keep us just and free!

KENTUCKY HOME-COMING SONG*

KENTUCKY'S CALL TO HER ABSENT SONS AND DAUGHTERS

I am calling, calling, calling, O my children, I am calling,
I am calling you in welcome, I am bidding you to come;
As a hen her brood doth gather when evening shades are falling,
I would gather you at June-tide in the Old Kentucky Home.
From the Northland and the Southland, from the Eastland and the West,
From the continents and islands, from all the ends of earth,
I am calling you, my children, to the Motherland of Rest,
To the place which gave you nurture, to the spot which gave you birth.

RESPONSE OF THE ABSENT ONES

We are coming, Mother, coming,—your call we shall obey;
Whatever be the journey, your love shall light the way;
We shall meet in glad reunion beneath your summer skies,
And be again the children of an earthly Paradise.

CALL

You have scattered, O my children, you have scattered far and wide;
You have ventured, you have struggled in the spirit which is mine;
You have wrought in faith and honor—I view your works with pride,
And I call you hither, children, to the old, familiar shrine.
O, come you back, my loved ones, and tarry for a while;
Touch once more your native soil, and all your strength renew;
My gates are inward swinging, home faces are a-smile,
And hearts of home are throbbing welcome unto you.

RESPONSE

We are coming, Mother, coming—swift-winged, from everywhere,
To greet old friends and kindred, and your dear love to share;
In your mountains and your valleys we shall mingle and commune,
In the green and bloom and fragrance of the ever-blessed June.

---

*(EDITOR'S NOTE.—Once a Kentuckian, always a Kentuckian. The Blue Grass State has a "Home-Coming" every twenty years or so, attended by thousands of loyal "expatriates." Another such event is scheduled for the fortnight, June 16th to 29th, 1924, and elaborate plans are being made to entertain, in thorough-going Kentucky hospitality, the hosts of widely-scattered sons and daughters who will then return, for a brief visit and reunion in the Old Kentucky Home.)

HEALTH MAINTENANCE ORGANIZATIONS

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mrs. GRIFFITHS. Mr. Speaker, in order to correct the inadequate, nonsystem of health care delivery in the United States, we must develop a truly comprehensive health care system in which our health care resources are properly allocated, and our Nation's citizens provided with the health care they so desperately need. On May 4, Dr. Martin Barr, dean of the College of Pharmacy of Wayne State University, testified before the Subcommittee on Health and Environment of the House Interstate and Foreign Commerce Committee on the subject of Health Maintenance Organizations. In his testimony, Dr. Barr stressed the importance and the necessity of the role of the pharmacist in comprehensive health care and health maintenance organizations—a view with which I fully concur.

I urge my colleagues to read Dr. Barr's testimony:

DR. MARTIN BARR'S STATEMENT

MAY 4, 1972.

Mr. Chairman and members of the Subcommittee, my name is Martin Barr. I am dean of the Wayne State University College of Pharmacy in Detroit. I also serve as chairman of the Task Force on Health Care Costs, Organization, and Delivery of Services of the Comprehensive State Health Planning Council of the State of Michigan and as chairman of the Mayor's Advisory Committee on the Rehabilitation of Narcotic Addicts in the City of Detroit.

This statement is submitted in behalf of the American Association of Colleges of Pharmacy, membership of which consists of all 74 accredited schools and colleges of pharmacy in the United States and Puerto Rico. More than 2,500 full-time and part-time teachers are engaged in the instruction of approximately 20,000 students working toward a professional pharmacy degree and 2,200 students in various graduate programs.

With me is Mr. William J. Skinner, the Assistant Executive Secretary of the American Association of Colleges of Pharmacy. Mr. Skinner is a pharmacist and an attorney.

Pharmaceutical educators are vitally interested in comprehensive health care and in health maintenance organizations. They are placing increased emphasis in their pharmaceutical education programs on the preparation of pharmacists who are capable of providing a humanistic, patient-centered (clinical) service as part of the total health service team contributing to optimum patient care. I will attempt to illustrate this important role of pharmaceutical practitioners in health maintenance organizations later in my presentation by describing some of our service and educational programs at Wayne State University which serve to sensitize and prepare our students for those new roles which society requires and demands of them. Many colleges of pharmacy have similar types of service and educational programs but I am discussing those of my college as I am naturally most familiar with them.

From my discussion, I believe that you will see clearly that most pharmaceutical educators would favor the comprehensive health services offered by H.R. 11728 introduced by Congressman Roy and other members of his subcommittee. I have studied H.R. 11728 as well as H.R. 5615 and I find the latter provides little assurance that comprehensive health services will be established, although they are not prohibited by it.

A clearly stated purpose of both H.R. 5615 and H.R. 11728 is to correct the maldistribution of health services in rural and inner city areas. We submit that it will be a short sighted effort, if health programs arising from such leigslation result in providing *traditional* medical services. We would suggest that both H.R. 5615 and H.R. 11728 should include one most important requirement—that of a total interdisciplinary health effort on behalf of our citizens, and this includes patient-centered pharmaceutical services. Unless this is accomplished and we do integrate the services of all health professions on behalf of our citizens, health care will, for the most part, remain fragmented and inefficient and not in the best interest of the public.

Secretary Richardson of the Department of Health, Education, and Welfare indicated in his testimony before you on April 11 that "it is essential to protect the public interest in the cost and quality of HMO services." We agree fully with the Secretary's statement; we disagree about its meaning.

We agree that HMO's will provide alternative methods to finance and deliver health services. To a large extent, health care as practiced today is crisis oriented. We believe that there is much that can be done by pharmacists to prevent health problems from arising.

Pharmacists educated 10, 20, or 30 years ago were not specifically instructed to provide the kinds of preventive care I am speaking about, but many have done it for years with no remuneration and little recognition. Pharmaceutical education has tackled the missing ingredients in our service component and our graduates are being guided toward increasing services to the public and the health team.

Some of our experiences in Detroit will explain what is needed, if drug regimens are to be given with optimum results. For example, in a February 1970 study of 100 patients patronizing a combination community pharmacy-diagnostic laboratory, an incidence of 20.7 per cent possible drug-diagnostic test incompatibilities were detected as a result of patients taking medications known to be incompatible with the diagnostic test prescribed. In an April 1970 study, the charts of 100 nursing home patients were received and it was noted that each patient received an average of nine different medications during a six-month study period. A maximum of 20.7 per cent possible drug-drug interactions was detected through the chart review.

As a result of three drug utilization studies in a health maintenance organization program I will describe later in this statement, it was ascertained that many patients with chronic conditions are not taking their digitalis preparations, oral hypoglycemic agents or isoniazid therapy correctly. It appears that in the past the health professionals involved have apparently not sufficiently emphasized the importance of taking prescribed medication as ordered nor stressed the necessity of returning promptly for prescription refills.

A study of 36 patients on isoniazid for tuberculosis prophylaxis revealed that only 8 patients (22.8 per cent) had been taking their medication properly. A second study of 51 patients for whom digitalis was prescribed revealed that only 28 patients (54.9 per cent) had been taking their medication properly. A third study of 76 patients on oral hypoglycemic agents revealed that only 57 (75 per cent) had been taking their drugs correctly.

Systems were developed which improved prescribed prescription utilization most significantly; thus pharmacist involvement contributed to the health of patients and hopefully kept some of them out of hospitals.

One of our students functioning in an HMO program is about to publish a very interesting finding about the effectiveness of pharmacists counseling a group of 25 essential hypertensive patients over a six-months period. The patients obtained prescription renewals monthly at which time the pharmacist asked questions about the patients' drug use, reminded the patient of the dose schedule, and encouraged compliance. They were also reinforced as to their physician's directions concerning diet, etc. This procedure contributed to a significant reduction in the average diastolic blood pressure to a normotensive level in the group. There was an approximately four-fold increase (from 5 to 19) in the number of normotensive patients in the counseled group as compared to an approximate two-fold decrease (from 11 to 5) in a non-counseled control group of 25 patients.

The above examples illustrate how pharmacists, clinically educated and trained can protect the public interest in the cost and quality of HMO services. Some people say this service is not necessary, others would lead you to believe that the drug prescribers handle it, but neither are true. Proper drug therapy, followed through to a conclusion, is the only way to rationally prescribe drugs. The Task Force on Prescription Drugs and studies in Detroit convince me that the pharmacist must play a major role in drug therapy if we desire optimum health care.

All of the HMO bills direct attention to persons in medically underserved areas. These areas exist for many reasons including lack of money to attract or to support health professions, unattractive surroundings and lack of health knowledge on the part of those who are underserved. Therefore the Federal, state, and local governments will develop and pay for health care programs with tax dollars. In some cases, these HMO programs may be the only opportunity for care. That is, it will be the HMO or no real health care as now.

If it is wise for government to provide health care, and I believe it is, then it is wise for government to recognize that effective treatment and prevention of disease requires the services of persons who are knowledgeable about drug use and misuse. I believe the pharmacist is prepared to assume a greater service role. The pharmacist's education, especially the emphasis on clinical pharmacy, brings him into contact with the future members of the health-care team. While in school, the pharmacy student shares experiences and knowledge with medical, nursing, dental, social work, and other health students. It is our hope that such educational experiences will lead to reliance on the pharmacist's skills and drug knowledge by the other members of the health team. Where they do not, it is incumbent upon the pharmacist to exert his influence to guide the other health team members in proper drug use for the patient's welfare.

We have heard much about a health team. The fact is that this is a generally nonexistent concept except in certain isolated instances. It is a goal more than an accomplishment. It is interesting to note, however, that when the health team is used properly, the result is a more efficient use of various talents and a marked improvement in health care.

The efficiency I speak about is the result of physicians delegating tasks to persons having adequate, sometimes superior, knowledge, and skills in certain health tasks, as well as more time. The physician remains primarily responsible by overseeing the entire health care process. In order to increase the utilization of pharmacists, nurses, social workers, and other health personnel, health professions schools should be educating their students to rely on the expertise of their fellow health professionals. This can be done best by including in their curricula, clinical education involving the full health care team on a truly interdisciplinary basis.

In the great majority of clinical experiences provided, students are placed in direct contact with other members of the patient-care team in a hospital setting in order to develop an insight into disease processes and their treatment and to learn modern concepts of a pharmacist's role in total patient care. The students participate in patient rounds at which time they become sensitized to the patient as a human being with all his social, emotional, and economic problems; observe and discuss the major disease entities; develop expertise in drug therapy regimens and the methodology of optimum drug choice; learn to take patient drug admission histories and how to take part in patient discharge consultations as they concern their drug regimens; learn to utilize medication profiles and adverse drug reaction systems for monitoring such things as drug-drug, drug-food, and drug-laboratory test incompatibilities; and develop expertise in in-service clinical education programs for other health professionals.

Clinical experience is received by students in most pharmacy schools. We believe this will markedly demonstrate to all health professions students that true team work benefits patient care.

Now I would like to discuss the service and education programs of the Wayne State University College of Pharmacy including its role in an HMO, hospitals, community pharmacies, and extended care facilities.

Our College of Pharmacy has been increasingly active in the last few years in participating in various ways in a significant number of varied types of health programs and institutions in the community. Not only does the College contribute to the quality of life in the community by such participation, but it is able by careful planning to utilize these health care programs and institutions as important educational sites for the clinical instruction of the students. This combination of service and education is of crucial importance to the College and its curriculum, and its students, and has an impact on present pharmacy practitioners and other health care providers, and most importantly, it has positive effects for the society as a whole.

It is by means of such clinical service and educational experiences that pharmacy students learn how to apply their basic knowledge to health care. They learn how to cooperate with other health practitioners as well as patients of different socio-economic types in the case of such patients. And most importantly, they learn about the services society needs or desires, problems found commonly in patients, the significance of problems or potential problems to patients' health, and how such problems or potential problems can best be solved or avoided by pharmacist involvement.

MODEL NEIGHBORHOOD COMPREHENSIVE HEALTH PROGRAM, INC. (AN HMO)

In 1969, a nonprofit community corporation known as the Health Council of the Model Neighborhood began planning a comprehensive health care program designed to take responsibility for a designated and enrolled population of residents of the Model Neighborhood in Detroit. What eventually developed with the consummation of a contractual agreement with a health care provider group known as Model Neighborhood Comprehensive Health Program, Inc. (MNCHP, Inc.) to provide designated services for a specific number of enrollees at a specified yearly cost on a prepayment basis. The provider group agreed to establish a facility and to provide ambulatory medical care and other health services or to arrange with other providers and community resource groups to provide specialized or hospital care on a subcontractual basis to the enrolled population. For example, community hospitals within the Detroit Medical Center corridor were contracted with for in-patient care and emergency room care and specialized out-patient services. Pharmaceutical services were to be provided by and through community pharmacies in the Model Neighborhood as part of a systematized delivery and financial mechanism.

The MNCHP presently makes available comprehensive health care services to about 9,500 enrolled citizens. Modern and comprehensive health care services await the citizen at the clinic including services in the area of general and specialty medical, surgical, pediatric, obstetrical, and mental health services; rehabilitative services; diagnostic testing; social work services; hospitalization followed by convalescent and home care; nutritional; pharmaceutical; and emergency services, including ambulance service. Health care items such as immunizations, eye examinations and eye glasses as well as prosthetic appliances are also provided although dental services have not as yet been included.

Having been awarded the Health Council contract to provide comprehensive health services, MNCHP, Inc., a nonprofit health services corporation directed by Dr. Thomas M. Batchelor, approached the Wayne State University College of Pharmacy requesting it to provide a specific program assuring optimum pharmaceutical services to the Model Neighborhood enrolled population. It was the goal of the College in developing its proposal to develop a type of pharmaceutical service which would reach every age bracket and need of the population within the Model Neighborhood area. This goal was to be accomplished by developing a program to provide a broad spectrum of pharmaceutical and health related services, including the provision of prescription and nonprescription drugs by participating pharmacies, and by the development of a program for monitoring the provision of pharmaceutical services to the community.

At the present time, pharmaceutical services in the MNCHP program are being provided by seven participating community pharmacies; patients have the opportunity to select the pharmacy closest to their home. This is in contrast to most other health care programs throughout the country which utilize on-site pharmacies.

The College believes it has an obligation to assist and motivate participating community pharmacies to continuously upgrade services to a level where they are comprehensive, dignified, and accessible. Furthermore, the College believes that as a social institution its obligation to the profession and to the public that supports its existence is to assist participating community pharmacies not only through continuing education programs but also through involvement in the creation of innovative pharmaceutical service programs and providing on-site consultation to pharmacy practitioners.

The responsibility of the College of Pharmacy in overseeing the pharmaceutical services program was formalized through a contract between MNCHP and the College of Pharmacy. Specifically, there were three major provisions in the contract:

1. The appointment of a College of Pharmacy faculty member as a full-time director of pharmaceutical services for MNCHP.

2. The utilization of community pharmacies for the provision of pharmaceutical services to the enrolled Model Neighborhood population.

3. The development of a Model Cities Pharmaceutical Services Advisory Committee.

The Director of Pharmaceutical Services for MNCHP is a full-time faculty member of the College of Pharmacy who has as her role to identify the pharmaceutical needs of

MNCHP enrollees and to develop, coordinate, and continuously update programs evolving from established needs. The services provided by the director include the function of identifying from among thirty community pharmacies located within the Model Neighborhood area those pharmacies which desire to cooperate in the program and which are willing to meet the requirements for participating community pharmacies by developing of patient profiles and providing drug incompatibility information so that potential drug incompatibilities may be detected and prevented.

Functions of the Director of Pharmaceutical Services in the Health Center include the following:

1. Serving as a member of the Comprehensive Health Care Group and participating in the planning and provision of health-care services with the medical, nursing, and social work staffs of this group.

2. Acting as a drug consultant to other members of the Comprehensive Health Care Group within the clinic and aiding in the identification of the pharmaceutical needs of the enrollees.

3. Updating programs based on the needs of both enrollees and Health Center staff.

4. Providing pharmaceutical consultation services both at the Health Center and in homes to enrollees in regard to personal drug-related problems.

5. Maintaining an inventory of biological and parenteral drugs used in the Health Center.

6. Developing a monthly pharmacy bulletin concerning recent pharmacological advancement in the field of pharmacology and the latest developments in the pharmaceutical program of the Center for distribution to the Health Center staff and other professionals.

7. Assisting in the planning and implementation of a resident agent educational and training program.

8. Preparing monthly statistical reports reflecting the nature and volume of pharmaceutical services provided by MNCHP.

9. Representing MNCHP at pharmaceutical meetings and other health related professional meetings.

Functions of the Director of Pharmaceutical Services in the participating pharmacies including the following:

1. Orienting and assisting the participating pharmacists in the use of the drug-interaction file.

2. Coordinating the provision of prescription and drug-related services to the enrolled population in the participating pharmacies.

3. Assisting participating community pharmacists to provide drug education programs to neighborhood residents within the community closest to each participating pharmacy.

4. Regularly visiting the participating pharmacies to determine the quality of pharmaceutical services provided and developing methods to assure high quality pharmaceutical services offered to Health Center enrollees.

In developing comprehensive pharmaceutical services, the emphasis of concern for each patient begins at the moment of his entry into the system. A patient drug history is taken by the clinic admission clerk for each new patient. One copy of the form goes with the patient to the community pharmacy selected by the patient to serve as his family pharmacy and the second drug history form is retained as a permanent part of the patient's record. Every effort is made to encourage patients to select a participating pharmacy close to his home so that the patient and pharmacists will establish a close relationship which will foster genuine consultation services.

The responsibility of the participating community pharmacies in providing pharmaceutical services is to provide the following services:

1. Consultation services to enrolled citizens on both prescription and nonprescription medications.

2. Development of a patient medication profile for each patient assigned to a participating pharmacy.

3. Utilization of the medication profile cards for use in drug surveillance provided by the College of Pharmacy for the detection and prevention of adverse drug reactions.

4. Participation in drug use and abuse education programs for citizens living within the area assigned to the participating community pharmacy.

5. Submission of monthly reports on patient services provided and a willingness to participate in professional audits conducted by the Director of Pharmaceutical Services.

It is expected that eventually participating pharmacists will form a Model Cities Pharmaceutical Services Corporation which would consider cooperative methods which could further the efficacy of MNCHP. At the present time, participating pharmacists are reimbursed for the cost of all drugs dispensed and, in addition, a designated professional fee per prescription order filled.

We are most pleased with our relationship and service contributions to MNCHP. The educational advantages obtained by participating in this program are exceptional.

MNCHP is a health maintenance organization (HMO). As such, it has given our students and faculty the opportunity to function and learn as part of a pre-pay comprehensive health care program, working as part of a full interdisciplinary health care team.

Some other interesting educational experiences at MNCHP include the roles of the pharmacist in making home visits, the special medication problems of senior citizens, the role of the pharmacist in family planning programs, and the role of the pharmacist in insuring the optimum administration of prescribed drugs by patients.

Permit me to discuss some advantages of home visits. As a result of such visits, many poisonous products were found in homes in places that are easily within the reach of children. Soaps, detergents, and bleaches were found stored on kitchen floors. Shampoos, shaving lotions, aspirin, and various other drugs were frequently left in the bathroom within easy reach of children. The visiting pharmacist was able to make suggestions which probably reduced the likelihood of accidental poisonings in the homes visited.

Through home visits, pharmacists identified many problems unique to senior citizens. Frequently this age group is found to be confused about the importance of taking medications properly, medications are often found to be improperly stored in the home. In one instance an almost totally blind 81 year old woman had removed her prescription drugs from their containers and stored them in egg compartments of her refrigerator, labeling each compartment with nail polish. Because of the constant exposure to air and moisture, many of the drugs were found to be disintegrated. The patient had devised this technique of identifying her prescription drugs because of her inability to read the small print on her prescription containers. Patients have been found who continue to take previously prescribed medications even when they have new prescriptions of identical or similar medication.

HOSPITALS

The College of Pharmacy of Wayne State University is privileged to have working relationship for clinical instruction of its students with 12 hospitals at the present time. It is at these hospitals that pharmacy students at our College learn first hand about the whole person, disease processes, and drug therapy, and how to communicate with members of the health care team and the patient. The College of Pharmacy, in varying degrees, provides pharmaceutical services to some of these institutions. Permit me to discuss our service contributions to one hospital, Detroit General Hospital.

Three years ago, at the request of the administration of Detroit General Hospital, an institution caring mostly for Detroit's inner city residents, the College carried out an in-depth study of the existing pharmaceutical program at that institution and submitted a proposal for the development of an optimum pharmaceutical service system. This proposal was accepted by the administration of the hospital and by the City Council of Detroit. The City Council approved the expenditure of over $300,000 for the construction of the hospital pharmacy and the administration of our University approved the appointment of an outstanding hospital pharmacist to our staff to serve as the director of pharmaceutical services at the hospital. The director of pharmaceutical services has now been in charge of the pharmaceutical program of Detroit General Hospital for over a year and construction of the pharmacy has begun.

This pharmacy and the services emanating from it, once fully developed, will be a most important educational site for our students and faculty. In the meantime, because of the fine working relationship between our College and the hospital, Detroit General Hospital has become a most important clinical education site for our students. This hospital is the major teaching facility for our School of Medicine, indeed its faculty serves as the staff of the hospital, and this advantage has made it possible for us to develop clinical education programs at the hospital quite rapidly.

The College is also providing service at the hospital at the same time it utilizes its facilities for educational purposes. Indeed both go together. In one ward, for example, a team including a physician, nurse, social worker, and pharmacist (from our College) are developing an interdisciplinary care program which is proving most exciting. Such a team is also staffing an out-patient clinic at the hospital. The educational advantages of these programs are obvious. In addition, the College was successful in obtaining a Regional Medical Programs grant to study medication distribution systems at the hospital, and data from this study are already proving most useful. The College has also joined in instituting a Drug Information Center at the hospital for the benefit of its staff and the community.

EXTENDED CARE FACILITIES

Our College has had the opportunity of aiding in the service programs of several extended care facilities in the Metropolitan Detroit area. The special medication problems that exist in these chronic care institutions are obvious to those in health care.

Our students have the opportunity to consult with the administrators of these facilities, to make rounds on the nursing units where they review patient records, and to answer drug-related questions from physicians and nurses. Students prepare clinically oriented pharmacy bulletins for distribution to the personnel in the extended care facilities. Of special significance is the role played by our students and faculty in further enhancing the nursing staff's understanding of drugs and drug problems as well as drug-control systems. Several clinical research projects have been completed in these facilities which have contributed to the improvement of the patient-care programs.

COMMUNITY PHARMACY

Our College utilizes 12 community pharmacies in the Metropolitan Detroit area for clinical instruction, and it contributes in various ways at the same time to the improvement of services in these places. We consider this a very important part of our clinical program. While there is a great need for patient-oriented pharmacists in institutional practice, there is even greater need for such pharmacists in community practice.

As in hospitals, the intent is to provide experiences which not only will assist future practitioners to serve at their greatest potential but also to affect students in such a way that they more easily will acquire the intellectual and moral strengths to make correct value judgements in the provision of consultation services. To this end, students are assigned to community pharmacies wherein they will be provided with the opportunity to offer consultation services to individuals and families in regard to prescriptions, nonprescription medications, and surgical supplies and appliances, and where they can assist in the development and use of patient profiles.

All types of pharmacies are utilized for clinical instruction purposes. In independent general type pharmacies, students receive prescription orders from the patients and consult with them both before and after the prescription orders are dispensed. In a chain pharmacy, located in a disadvantaged area, students become acquainted with the health problems of the poor as well as in gaining insight into the economic, social and psychological problems of the disadvantaged.

Several community pharmacies servicing extended care facilities are also utilized for clinical experiences. The experiences students are exposed to are summarized in the previous section.

Several community pharmacies with diagnostic laboratories associated with them provide a unique opportunity for students to become familiar with the types and significance of tests used in diagnosing a variety of clinical conditions. Such facilities also give students the opportunity to correlate prescription orders with diagnostic test orders.

Students also have the opportunity of undertaking clinical experiences in community pharmacies specializing in surgical and health-related items. Such experiences provide the opportunity to become familiarized with a large number of health and surgical supplies and accessories, to consult with patients on these items, and to assist in the provision of home care services.

DRUG PREVENTION, TREATMENT, AND REHABILITATION PROGRAMS

The College has been most active in a variety of ways in contributing to drug prevention, treatment, and rehabilitation programs in the Metropolitan Detroit area.

In recent years, our pharmacy faculty and students have been most active in presenting preventive education programs to many segments of the community, and this service role has served as an important educational experience for those who contributed.

The College has also had involvement in drug treatment and rehabilitation programs. One pharmacy student is presently participating as a member of a methadone maintenance program and is analyzing what new roles pharmacists can play in such programs. In another methadone maintenance program, our students are about to begin a study of the utilization of nonprescription medication by patients in the program in an effort to determine what influence such utilization has on the effectiveness of the maintenance regimen and the patients' rehabilitation.

DRUG INFORMATION SERVICES

The College has assisted pharmacists in the development of patient profile systems and, for this purpose, has prepared and made available a set of medication profile cards on approximately 50 medications for use in drug surveillance. These deal with about 60 per cent of the most widely used prescribed medication agents. These medication profile cards are periodically being enlarged and updated. The first cards printed represent months of arduous research on the part of certain members of the College of Pharmacy faculty in developing a reliable set of drug surveillance guidelines from a horrendous compilation of often contradictory and unreliable adverse drug reaction literature which has been published over the past several years. The College recognizes that there are many factors which must be considered before communicating a potential adverse drug reaction to a prescribing physician and for this reason has carefully designed the format of the medication profile cards to include a section on the apparent clinical significance of reported reactions.

This medication profile system has been used by many pharmacists in the Metropolitan Detroit area, as well as throughout the country, as an aid in the monitoring of prescribed medications. The College considers this a significant service contribution to the profession. Students utilize this system in our College and are able to obtain better clinical instructional experiences in the various participating community and hospital pharmacies because of their availability and use by pharmacy personnel in these facilities.

Mention has previously been made of the Drug Information Center instituted at Detroit General Hospital with the cooperation of the College.

OTHER PROGRAMS

In addition to the service education experiences previously described, brief mention will be made of several other similar activities with which our College has been or is becoming involved.

Project PRESCAD (Preschool, School, and Adolescent Children) financed by Federal, state, and local governments, serving approximately 75,000 registered disadvantaged children in Detroit. It is a comprehensive health program. Our College has been asked to participate in the program concerning pharmaceutical services, and we are making final arrangements to do so.

Metropolitan Hospital in Detroit operates a hospital and four out-patient clinics as health facilities caring for approximately 70,000 individuals enrolled in a prepay comprehensive health program. Our College is beginning to become active in this program and this will offer to our students another site for learning of the potential for the delivery of patient-centered pharmaceutical services in an HMO.

Our University is presently completing plans for an ambulatory University Clinic Building which will be a service and education center in the Detroit Medical Center. Part of the structure will service families as an HMO; another part will be devoted to specialty care. Our College will have responsibility for the pharmaceutical services in this structure. Such services will be delivered as part of an interdisciplinary care program. It will provide an excellent educational site for the clinical instruction of our students.

Finally, I would like to mention briefly our experimental clinical internship program which is presently being undertaken by 13 volunteer fifth-year students. This program consists of 400 hours experience for which academic credit is given and which is creditable toward the internship experience requirement for licensure in Michigan. Students in this program divide their time between clinical experiences in various institutions and community pharmacies on a rotating basis. Each student undertakes about 12 such experiences in an academic year, each experience ranging from a minimum of 12 hours to a maximum of 60 hours. Institution practice experience includes such services as: intravenous additive services, out-patient services, unit-dose dispensing, educational inservice programs, discharge consultations, monitoring for drug incompatibilities, drug information services, adverse drug reaction reporting, and admission drug histories. Community practice experience includes consultation services (both prescription and nonprescription medications), extended care services, health maintenance organizations, health care accessories and appliances, and diagnostic laboratory services. All experiences are on a one student-one perceptor basis. Students who complete this total 400-hour program are eligible to take the Michigan Board of Pharmacy examinations 3 months earlier than is presently the case. Our experience with this program has been exceptional; we could not have predicted that it would be as successful as it has been. We intend to increase the number of students in the program next year.

SUMMARY

I have attempted to discuss the importance of clinical education to present and future pharmaceutical education and practice and the mutual advantages of colleges of pharmacy cooperating with health care programs, especially HMO's, on a service and education basis. Our College has indeed been fortunate in developing a significant number of such relationships. I would suggest that all colleges of pharmacy do likewise. It is absolutely essential if colleges of pharmacy are to make their curricula relevant and in keeping with the needs of society. Faculties and students must become involved in the planning and implementation of modern pharmaceutical services in hospitals, extended care facilities, community pharmacies, and in health maintenance organizations, and, above all, in innovative urban area programs, where the need is so great. Only through involvement in such programs can we prepare pharmacists to serve as well-acclimated members of the patient-care team. To say that we understand the pharmaceutical needs of our citizens and yet never to have observed or helped organize the supply of those needs, limits our effectiveness in developing educational programs and pharmaceutical services which are relevant and in keeping with the needs of the public.

In conclusion, I wish to reemphasize the support of pharmaceutical educators for health maintenance organizations as proposed by H.R. 11728. We would plead that the importance of an interdisciplinary health team effort in its program, including patient-centered pharmaceutical services, be recognized and required as part of any health maintenance organization. If we are going to provide health care service programs to our citizens, we must make available *true* comprehensive health care service programs. This means that patient-centered (clinical) pharmaceutical services must be provided by HMO's. Only in this way can we assure proper drug use and true health maintenance.

Mr. Chairman, I appreciate the opportunity to appear before the subcommittee, and I invite you to visit us in Detroit at your earliest convenience for an on-site explanation of my testimony.

A LAWYER'S DILEMMA

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. HUNGATE. Mr. Speaker, following the study of press, congressional, and other ethical problems, the following article seems relevant:

A LAWYER'S DILEMMA

(By William Raspberry)

What should be a defense attorney's chief concern: justice, or the best possible break for his client?

There are two answers to the question, one easy, the other agonizingly difficult. If the question is whether a defense attorney should try to win acquittal for a guilty client, the answer is easy and affirmative. It hardly amounts to a serious question, in fact.

But ask another question: What does a lawyer do when the surest way to win freedom for his innocent client is to plead him guilty?

That's the question more and more lawyers in Washington and elsewhere are having to answer in these days of crowded court dockets and plea bargaining.

Thomas Fay, a lawyer who has done a good deal of defense work, largely on behalf of indigent clients, gives an example of the dilemma.

"Take the case of a man arrested on a narcotics charge after a clearly illegal search. Well, one of the things you learn through experience is that some local judges are not going to suppress the illegal evidence, even though it may get thrown out on appeal.

"So you go to trial, the judge convicts your man and he gets one to three, or maybe two to six. A year and a half later, the appeal is heard, the lower court is overturned and your man goes free. But he's already served a year and a half.

"Now you take the same case and you plead him (guilty) and—particularly if it's a first offense—your man will very likely get zero time. Probation."

The same sort of thing can happen even if there is good reason to believe the client will be acquitted by a lower-court jury. The time an innocent defendant spends in jail awaiting scheduling of his jury trial may be far greater than the time he would get in exchange for a guilty plea. Not that one can ever be truly certain of acquittal by a jury.

So what's the ethical thing for a lawyer to do? According to Fay, the ethical problem is further complicated by money.

"The private (court-appointed) attorney who pleads all his clients can make much more money than the guy who goes to trial most of the time," Fay says.

The reason is simple. The rates paid under the Criminal Justice Act are $20 an hour for out-of-court time and $30 an hour for in-court time, with an effective maximum of $1,000 per case. (Vouchers for more than $1,000 may be approved by the chief judge of the U.S. Court of Appeals, but almost never are.)

So, after a time, a lawyer's diligence starts to cost him money. And when it also holds the possibility of costing his client time in jail, you've got a nice little ethical dilemma.

There's one further complication: Guilty pleas do not automatically result in short-time or no-time sentences.

"Some lawyers have pleaded large numbers of people to armed robbery," says Fay. "I've pleaded relatively few. The reason is that if the prosecutor feels certain that you won't go to trial in any case, he'll offer less in exchange for a plea.

"Why should he offer anything for what you were going to give him anway?"

So, Fay spends a lot of time preparing cases for trial. And although he wins about half these cases, he does so at a heavy price.

Last year, he earned $7,331.38 under the Criminal Justice Act for his defense of indigents, although he spent about two-thirds of his time on those cases.

Maybe he should have been a doctor.

PRESERVE CONGRESSIONAL CEMETERY

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. HOGAN. Mr. Speaker, the interment of the late J. Edgar Hoover in the historic Washington Parish Burial Ground, better known as the Congressional Cemetery, some 30 acres of ground on the north banks of the Anacostia River, just northeast of Pennsylvania Avenue at the circle dedicated to Commodore Joshua Barney, serves dramatically to remind all America of the value of this site to the Nation at large.

Washington Parish was founded in 1794: Its first and only formal house of worship—Christ Church on Capitol Hill—was built in 1807. Extraordinarily rich in history and beauty alike, Christ Church can boast of association in its earliest days with many great Americans.

The cemetery itself, at 18th and E Streets SE., has been in use almost since Christ Church was built. It is operated by the vestry of Washington Parish. Originally established by a group of private citizens in 1807, it was officially turned over to the church in 1812.

From its beginning, it became known as the resting place of Senators, Representatives, and executive officers. In 1816 Congress recognized this semiofficial status by selecting 100 burial sites for Members of Congress and providing Christ Church with financial assistance for the reservation of a section of the cemetery for interment of Government officials. Henceforth, the ground became popularly known as the Congressional Cemetery.

For many years, the cemetery was the site of interment for some of the most distinguished Americans in our history.

At one time 16 Senators and 68 Members of the House were buried there. Twelve bodies of Congressmen have since been removed to burial grounds in their home States.

H.R. 14339, introduced by the gentleman from Pennsylvania (Mr. SAYLOR) would provide for Congressional Cemetery to be administered by the Secretary of the Interior as part of the park system of the National Capital. The problem of preservation of this historic site ought to be the concern of the Nation and of the Congress, acting in behalf of the people. Congressional Cemetery is a precious part of our heritage in this city and in the Nation, and I urge that we assume our rightful responsibility for its protection and preservation.

I can think of no more fitting tribute to J. Edgar Hoover, the great American most recently laid to rest in this hallowed ground.

TAX REFORM A PRIORITY

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. ROUSH. Mr. Speaker, all of the major revolutions in the history of western civilization for the past 400 years, including the American Revolution, have been caused in part, and most often in large part, by burdensome, unequal taxation policies.

Yet here we are in 1972, as Representatives of the American taxpayers, still expecting people to accept a system of taxation based on milking the middle class and the poor while largely exempting the wealthy, under the aegis of providing incentives to investment and production.

Despite the improvements in the Tax Reform Act of 1969, there were still 394 persons with 1970 adjusted gross incomes in excess of $100,000 who paid no tax. And figures indicate that 2 percent of the people in the United States receive 22 percent of the income and pay less than 10 percent of the taxes.

How can this be? Simply by the way our tax laws are constructed.

The fact is that dollars earned from wages and dollars resulting from the sale of stocks or from investment in local bond issues or oil business ventures, are not taxed the same. In a society that emphasizes the value and importance of work, earned dollars are taxed at a higher rate, effectively, than investment dollars because the tax law provides for special exemptions and incentives for those with money. These are "loopholes" or a form of welfare for the wealthy in the form of special capital gains treatment, oil depletion allowances, tax exemptions for State and local government bonds, to name but a few.

The result is not only unequal, unfair taxation, but a considerable drain on the Treasury to the point where there has been discussion of some additional kind of national tax to supplement the income tax.

Because I think our present tax law unfair to many of our citizens and because we already face a staggering deficit, I am today introducing a bill which would reduce in some cases, eliminate in others, special "loopholes" that make tax evasion legal.

The bill I am introducing would tax capital gains on property transferred at death or by gift; tax interest on State and local bonds—with a compensating Federal subsidy to States and localities—tax income of foreign subsidiaries of U.S. corporations when earned rather than when remitted to the United States; and tighten up the minimum tax provision—which was supposed to eliminate the situation whereby some wealthy individuals pay zero in taxes— reduce the oil depletion allowance to 15 percent and make drilling costs for oil a capital investment deduction only. In future years this will represent a saving of approximately $6 billion per year.

If these and other changes in the tax law could be passed, I believe the American taxpayer would finally be on the way to real equity; that the American taxpayer would receive the break he deserves. That would be a real revolution.

PERSECUTION OF SOVIET JEWS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. WOLFF. Mr. Speaker, the persecution of Soviet Jews continues. A story in today's Washington Post documents one more aspect of that persecution. It concerns 11 young men wanted by the Soviet police for induction into the army.

What crimes have these 11 young men committed? None really; they simply want to live in Israel. The Soviet Government refuses to grant them the right of leaving Russia. They are hounded by the police and threatened with imprisonment. These 11 young Jews, now in hiding from the police, face prison terms up to 7 years if found. It is not likely that they can escape the agents of the KGB.

I raise this issue today in the hopes that our Government can do something to help these young men. To save them from an uncertain fate at the hands of the Soviet secret police. These young men are scientists, they want out of Russia. They wish to practice their profession in Israel, in a free land with free people. Thousands of other Soviet Jews have been permitted to leave, why not these 11 men?

The Soviet officials do not want them to leave because they are scientists. They want their skills in Russia, rather than Israel. But of what good are 11 men whose commitment lies not to the Soviet Union, but to the State of Israel? Eleven men who no longer wish to be citizens of the Soviet Union, but who wish—in the best sense of the term—to go home. It may be difficult for the Soviet Government to part with these 11 men, but in the name of decency, they must.

The father of one of the young men, Mr. Jacob Shapiro, has written a letter that I think the Congress and the people should read. In his letter, Mr. Shapiro says:

MAY 8, 1972.

GENTLEMEN: Agents of the KGB are undertaking a treacherous campaign to terrorize all the young Jewish men with higher education who have presented documents to go to Israel. They will be inducted into the Soviet Army.

The Police brought Military Induction Notices to my son, Gavriel, as well as to 13 others. These notices stated that these young men must report immediately to their Regional Military Committees. The Police are presently looking for these young men all over Moscow, and have been coming to our apartment at all hours of the night looking for my son, who was already gone.

The situation is very dangerous for these young men. They are threatened with imprisonment for up to seven years. These 14 young men are struggling for emigration. . . . Today's. . . . and the future's.

It is necessary to take the most effective action in their defense. Trials must be prevented.

World! Do not be silent!

JACOB SHAPIRO.

P.S.—Please convey my message to President Nixon, and to Mr. Kurt Waldheim.

INTERNATIONAL HIGH SCHOOL BAND FESTIVAL

HON. EDWARD HUTCHINSON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. HUTCHINSON. Mr. Speaker, during the week of July 11 to 16, high school bands from 51 nations of the world will be in Vienna, Austria competing in the First International Band Festival. Participation in the festival is by invitation only.

I am very pleased to inform my collegues that the St. Joseph High School Band of St. Joseph, Mich., is one of the 30 U.S. bands invited to take part in this international music festival.

The people of St. Joseph, Mich., which is within the Fourth Congressional District, are rightfully proud of this group of 116 bandsmen and their director, Robert Brown. We know that the St. Joseph High School Band will be outstanding representatives of American youth and we are extremely pleased that they have received this recognition.

The trip to Europe climaxes many months of preparation on the part of the students and their parents. For when it was announced that the band had been invited, it was determined that the school system could not provide the funds necessary for financing the trip.

In true American spirit, the band members and their parents determined that they would set to the task of raising the money needed to participate in the festival this summer.

It was estimated that the venture will cost some $70,000. In order to raise this large amount, the band conducted a variety of projects. The St. Joseph City Commission granted permission for the bandsmen to conduct a door to door broom sale. There were dances, spaghetti dinners, the sale of Christmas ribbons, band concerts, and other projects—all with the same goal—finance the trip to Europe.

The drive to raise the money gained the support of the community as government officials, business firms, and industry joined in backing the projects of the band.

On July 5 the band and their sponsors will depart from Detroit for Amsterdam and the beginning of a 3-week experience that will provide them with an opportunity to foster good relationships and international understanding among youth of many nations.

Mr. Speaker, I include a series of articles on the St. Joseph High School band from the St. Joseph Herald Press:

[From the St. Joseph (Mich.) Herald Press, May 8, 1971]

ST. JOSEPH BAND INVITED TO VIENNA FESTIVAL

St. Joseph High school students, and especially its marching band and symphonic orchestra members, today are celebrating an invitation to the International School Band festival set for Vienna, Austria in July of 1972.

Whether the band goes to Europe is another matter, said Robert Brown, director, the important thing is the recognition of the band as a fine musical organization.

Senior High school Principal James Heathcote, who announced the news in a school wide broadcast yesterday afternoon, said: "even to be considered shows the efforts they put out is a reward for the excellence and discipline they have gone through."

Brown said the invitation came from Dr. Warren Freeman of Winnetka, Ill., chairman of the International School band festival in the midwest. The recommendation to invite the St. Joseph band came from Dr. William D. Revelli, director of the University of Michigan bands, according to Brown.

"I was just bowled over," said Brown over the invitation. He has two weeks to indicate to the festival committee if the band will attempt to raise the travel funds and go to Austria.

"It could turn into a very valuable community project," he said. "I was elated because I feel this recognition is long overdue the band. Going back to the days of John Howard, (Brown's predecessor) I feel we have one of the finest instrumental programs, certainly the most balanced, in the state," Brown said.

The St. Joseph band has a string of 24 straight Division I ratings in district music festivals—longest string of any band in the area, Brown said.

Brown said he had no idea how much it would cost to transport the band to Vienna and spend a week there. But he felt confident the funds could be raised. He estimated he would take 75 of the best musicians of his band of 120.

"The reputation of our instrumental program has traveled to the point where Dr. Revelli felt he was making a good recommendation. This was a complete surprise to me and I'm so happy the kids are getting recognition, Brown said.

[From the St. Joseph (Mich.) Herald Press, May 11, 1971]

ST. JOE BOARD SAYS BAND CAN GO TO VIENNA

St. Joseph High School band can accept an invitation to compete in the International Band festival at Vienna, Austria in July, 1972 but members will have to raise their own travel funds.

St. Joseph school board last night at Upton Junior high congratulated the bandsmen on the honor of receiving the invitation, said it was sorry it didn't have funds to help send the band but gave its blessing for the bandsmen themselves to try to raise funds.

Figuring $300 per student and about 100 in the party the bandsmen need to raise $30,000, Supt. Richard Ziehmer said.

[From the St. Joseph (Mich.) Herald Press, Oct. 9, 1971]

ST. JOSEPH BAND ADVENTURE IS ON

"Operation Vienna Bear," the St. Joseph high school marching band trip to Vienna, Austria, is underway after 97 per cent of the band parents voted to support the project.

The band is seeking $70,000 to fly the 108 members of the band to Vienna for the International School Band festival next July.

A steering committee headed by Edward Schalon and including Howard Brink, Herb N. Milnikel and Theodore E. Troff, is studying various fund raising plans.

MUST PAY WAY

The St. Joseph school board last May said the band could accept the invitation to attend the International Band Festival but would have to raise its own travel funds.

Band Director Robert W. Brown and the Band and Orchestra Parents studied the project for months. At a series of meetings it was decided to attempt to raise the funds necessary for the trip if parents of band members would pledge to pay up to $400 of the $675 per student.

This would cover a three-week trip and three countries.

All band members would go abroad, including those who parents could not afford to pledge the full amount per student.

It was this program that parents voted 97 per cent to support.

Sixty-five bands have been invited from the United States. Bands from 50 countries will be competing in the ancient city of Vienna.

Five Michigan high school bands have been invited. In addition to St. Joseph they are Roseville high school band, Waterford-Kettering high school band of Drayton Plains; Redford high school band of Detroit and Mona Shores high school band of Muskegon.

Dr. William D. Revelli, retired director of bands at the University of Michigan will serve as musical director of the festival. It was Dr. Revelli who recommended the St. Joseph band be invited.

The International Music festival brings together the youth of 50 countries with varying socio-economic backgrounds, different languages, religions and is designed to foster international understanding, Revelli told Brown.

The prospect of a trip to Europe has already caught the imagination of the community, Brown said. The St. Joseph high school class of 1971 donated $239.45 to the drive.

LIONS GIVE $100

Director Brown recently spoke to members of the St. Joseph Lions club on the music program, mentioning only briefly the trip to Vienna because it had not been approved by parents, and a member of the Lions Club gave him $100 for the fund.

The band will literally "work like slaves" to raise funds for the trip. As soon as the leaves begin to fall, bandsmen will schedule a work day similar to the one they usually hold in the spring. Another project will be a broom sale on the idea that everyone could use a new broom.

[From the St. Joseph (Mich.) Herald Press, Oct. 12, 1971]

Tale of the Vienna Brooms

(By Bill Rush)

A request for St. Joseph high school band members to conduct a door to door broom sale starting Oct. 20 to raise funds for a trip to Vienna, Austria, was approved last night by the St. Joseph city commissioners.

Mayor W. H. "Duke" Ehrenberg proclaimed Oct. 17 to 23 as "Operation Vienna Bear" week in recognition of the band project.

Commissioners also adopted an amendment to the city's traffic ordinances and approved a special use permit for Memorial hospital to build a professional medical building on Niles avenue.

The Vienna trip was approved by the St. Joseph school board last May with the band members to attend the International Band Festival in Vienna next July.

Ray Goodman, president of the band parents, told the commissioners the fund raising project will kick-off Oct. 20 at 5:30 p.m. in downtown St. Joseph. About 50 adults and students will divide into three groups and canvass homes on State street, Lake boulevard and Main street. A pep band will accompany each group.

Goodman said the groups would sell brooms in other areas of the city on suceeding days and are planning other projects of a similar nature.

[From the St. Joseph (Mich.) Herald Press, Dec. 21, 1971]

Help the Band

Fred Milnikel is convinced members of the St. Joseph High School band will find the trip to Europe next summer an enriching experience and he's backing his idea with bows.

Milnikel of 911 Jones street, St. Joseph, is a retired Laboratory Equipment Corp. employe and has traveled to Europe several times.

He said he can't give a lot of money but he gives the band a lot of his time making gift wrapping bows.

The band was given four bow making machines through the courtesy of Jack Hadley of Dixon Beverage, St. Joseph, and a committee immediately set up a system of placing boxes in various places.

Milnikel has taken over the task of making enough bows to keep the boxes filled.

Using the machine and a pair of scissors he can turn out about 400 bows an hour. Band members take the boxes of bows and fill one bag with 10 four-inch bows and another with four 5½-inch bows with two hanks of ribbon. A bag of bows costs $1. "Buy Ribbon and Bow, Help the Band Go" proclaims the displays in a dozen places.

In addition to the displays bandsmen have been canvassing the district offering the bags for sale. They report reception to the bow offering as excellent.

Herb Milnikel, a nephew of Fred Milnikel, and chairman of the project, has a machine at his house. Harold Berk and Ed Schalon, who is general chairman of Operation Vienna Bear, also turn out bows.

Bows can be purchased at the Hilltop branch of the F&M bank; Lambrecht's Party store; Gersonde's Recreation; One-Hour Martinizing; Froehlich's Little Super; Continental Beauty Salon; Don Shoes; and Milady's all in St. Joseph.

New locations for the bow boxes are Flagship restaurant at Holiday Inn, St. Joseph; Doubleday Bros. in Benton Harbor and the Clark Equipment Co. in Buchanan.

[From the St. Joseph (Mich.) Herald Press, Oct. 22, 1971]

Bank Aids St. Joseph Band Trip

Farmers & Merchants National bank made its formal debut in St. Joseph today and became an instantaneous Good Neighbor.

The bank presented a surprise $1,000 check to help launch the St. Joseph high school marching band on its trip to Vienna next July for the International Band Festival.

F&M President Richard Willard bestowed the gift to mark the opening of F&M's seventh bank in Berrien county. The branch is at the southwest corner of Hilltop road and Washington avenue in St. Joseph township on the edge of the St. Joseph city limits.

The permanent building replaces a temporary mobile unit which served F&M customers during construction.

Willard said in presenting the check to Atty. Theodore Troff, representing Band and Orchestra Parents, and Director Robert Brown:

"We're nearby and neighborly. We want people to know we're part of the St. Joseph community and want to participate in worthwhile civic projects.

"We think the band trip to Vienna is a remarkably fine project—good for the bandsmen, a tribute to the school and a chance to increase St. Joe's image as a progressive city."

The band has launched a campaign to raise $70,000 to pay for the trip to Vienna.

[From the St. Joseph (Mich.) Herald Press, Jan. 26, 1972]

St. Joseph Band Will Go To Europe

St. Joseph High school band expects to be playing about half the free time it has in Europe, Director Robert W. Brown told parents, chaperones and bandsmen yesterday.

But he could not be more specific because Dr. Warren S. Freeman, executive director of the International School Band Festival, couldn't make it through a midwinter storm to St. Joseph yesterday. Dr. William D. Revelli, the retired University of Michigan band director, who is the festival musical director, also had to reschedule his trip to St. Joseph.

The two festival leaders will come to St. Joseph sometime after Feb. 19, Brown said in the latest word from the two men, and spend the whole day here.

Brown offset the bad news that Dr. Freeman would miss the meeting by announcing that "our Vienna fund drive is now around $16,000." The goal for the trip is $70,000.

The $16,000 total includes donations received this week including a $50 gift from the Berrien County Sheriff's deputies and $500 from Peoples State Bank. The bank's gift was scheduled to be presented at the formal opening of the Scottdale branch, but five degree below zero cold prevented the band from playing and appearing in person.

Brown is awaiting the concert schedule. He said yesterday that it will fit into the general itinerary laid out for the St. Joseph band that calls for the following schedule:

July 5—Leave Detroit.

July 6—Arrive Amsterdam, clear customs, drive into city.

July 7—Sightseeing in Amsterdam and The Hague.

July 8—Drive to Rhineland in Germany. (Part of trip will be by boat.)

July 9—Drive to Munich.

July 10—Arrive in Vienna.

July 11—Preparation for festival.

July 12—Orientation day (some sightseeing and bandsmen will visit giant amusement park.)

July 13—Marching band parade, individual concerts in the evening.

July 14—Bands perform for rating.

July 15—Marching band competition in Vienna stadium, concert competition in Vienna State Opera house.

July 16—"Great Day of the Bands Program," with parade and massed band concerts and awarding of certificates and trophies.

July 17—Drive to Salzburg.

July 18—Sightseeing in Salzburg.

July 19—Drive to village of St. Anton via Innsbruck.

July 20—Sightseeing Austrian Alps.

July 21—Drive to Lucerne area in Switzerland.

July 22—Sightseeing in Lucerne area.

July 23—Drive to Heidelberg, Germany.

July 24—Sightseeing in Heidelberg.

July 25—Drive to Brussels, Belgium.

July 26—Drive to Amsterdam and board planes for Detroit.

Brown said he hoped the schedule would permit sightseeing one day and a concert appearance on another. He said the primary reason for taking the band to the festival was to show Europeans the quality of public school musical instruction as conducted in America.

Brown also said the band so far has operated on the theory that if one goes everybody goes and all are expected to volunteer for work that must be done. He said he recognized conflicts can arise. So far the cooperation has been 100 percent, he noted.

The St. Joseph band will have 140 in its Vienna party—116 bandsmen and 24 adults.

EDITOR WRITES POETRY

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. EILBERG. Mr. Speaker, many of us have talents, either natural or developed, which we waste on frivolous activities or do not use at all.

Mrs. Marilyn Krantz, the editor of the Northeast Weekly and Bulletin, which serves part of my district in Philadelphia, has a great ability to use the English language effectively.

In addition to editing an excellent newspaper, she uses this talent to write poetry which clearly indicates her feelings on important issues which confront us. Mrs. Krantz' poems also help to give the rest of us insight into these problems so our own decisions can be made more easily.

Three of these poems deserve special recognition. The first, "Without A Law," was written in honor of Law Day, U.S.A., which was celebrated on May 1.

The second, "Not My Boy," gives an excellent picture of why our battle against drug addiction is failing so terribly, and the third, "A Voice From America," describes the hopes and prayers of Jewish people around the world for the 2.5 million Jews who are imprisoned in Russia.

At this time, with the unanimous consent of my colleagues, I enter these three poems into the RECORD:

WITHOUT A LAW

(By Marilyn Krantz)

Should you be prone to knock the laws
And consider them a pain,
Here's a thought: Without a law
What would folks have to gain?

Suppose you awoke one morning
To find the world devoid of law!
You might rejoice, then soon recoil
At what you heard and saw . . .

You'd be rid of those lawmakers
With their "wiles and ways," it's true;
You'd be rid of democracy
And our justice system, too.

Thieves, murderers and rapists
Would have a free hand, city-wide;
Without the threat of punishment
There'd be no cause for them to hide!

The home you bought and paid for:
You could never really own it.
A signed contract would be worthless
If one party should disown it.

And if someone had cheated you,
To whom would you complain?
Without a law, there'd be no courts.
Your loss would be a culprit's gain.

Your neighbors could spill leaves or trash
On your lawn, from sun to sun;
Without a law for it to be
Against, what could be done?

And if a bully threatens you
Because you're "different" than he,
Has he the right? Without a law,
Who's to say it cannot be?

Ah, true, our laws do sometimes seem
Too complex and too many;
Yet wouldn't it be worse, my friend,
If there weren't any!

"NOT MY BOY!"

(By Marilyn Krantz)

Oh, hello, Sally, come on in—
I've been meaning to give you a call,
But I haven't had a minute . . .
Been busy with my club work, and all . . .
Am I going to the meeting
On Drug Abuse, tonight?
What meeting? . . . Oh, I remember . . .
It was in the paper, that's right.
Isn't it an awful problem!
I hear it's getting worse each day!
Something should be done about it—
Something drastic, and right away!

Did you hear about the youngster
Down the street, whats-her-name's son?
Barely in his teens, and an addict!
You'd think his parents could have done
Something to prevent the problem . . .
I wonder if it was neglect . . .
Some people don't know how to handle
Their kids properly, I suspect.

Of course, I don't need to worry . . .
My boy would never touch the stuff,
We give him love and understanding
And we've guided him well enough.
Oh, we've looked for signs, of course,
As any parent would, these days.
Yet we're sure he won't fall victim
To such foolish, perilous ways.

Am I going to the meeting
On Drug Abuse? I'd love to go,
But I have my card-game tonight,
And I can't miss that, you know.
I do hope something's accomplished
To help the youth in our neighborhood!
Someone ought to find a solution,
And quickly . . . they really should!

Excuse me a moment, Sally,
There goes my phone . . .
I'll be right there . . .
Hello . . . yes, this is his mother . . .
It's the police? My son is where?
What's that you say? Oh, heavens!
No, not my boy . . . it couldn't be! . . .
And you found stuff in his possession?
Impossible! You're sure? Dear me! . . .
Yes, officer, I'll be right down,
I don't know what to do or say,
It must be all a big mistake . . .
Yes . . . I'll be there
Rightaway.

A VOICE FROM AMERICA: TO THE SOVIET JEWS

(By Marilyn Krantz)

To our Jewish brothers and sisters
In the Soviet, who are denied
Equality, goes our assurance
That we walk ever by your side.

Know this: your chains of oppression
Weigh heavy on us, too—
In the spirit of Brotherhood
Our hearts protest for you.

May the courage of the Maccabees
Be with you every day,
And the voices of Free People
Bring you hope along the way.

May you gain strength in knowing
That from a distant land
Folks are lifting up their voices
And reaching out their hand.

That people of all faiths cry out,
To let the Kremlin leaders know
They must let the Jewish people
Live as Jews, or let them go . . .

To a land where men are free
To live and worship as they choose,
Whether they be Protestants
Or Catholics or Jews.

COMPUTATION OF MILITARY RETIRED PENSION

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. BOB WILSON. Mr. Speaker, I am today introducing legislation embodying the President's compromise recomputation proposal.

This bill would permit those retired prior to January 1, 1971, to recompute their retired pay at age 60 if they have had less than 25 years of service and at age 55 with more than 25 years of service.

For more than 100 years military retired pay was computed as a percentage of the current pay of active-duty personnel. Men were recruited and continued their military service with the clear understanding that their retired pay would be tied directly to active-duty pay. In 1958 and 1963, however, Congress broke faith with our retired military when the time-honored retirement formula was changed. Since 1963, increases in retired pay have been based upon a rise in the consumer price index, regardless of the substantial number of raises received by active-duty personnel during the past decade.

Each retired member's pay is based at present upon the pay scale at the time of his retirement. Thus, we now have many situations with retirees of the same grade and years of service—and the same hardships endured—drawing considerably different rates of pay, dependent upon the date of retirement. Men enlisted and reenlisted in the military service over the years on the assurance of the pre-1958 retirement system. They were promised that, although active-duty pay was low, meaningful retired pay would help offset the economic difference between civilian and military compensation. Although the military retired pay system is not contributory, military men do in fact contribute to their retirement by accepting lower active-duty pay.

The President's compromise proposal has resulted from extended study by a special interagency committee. Although it may not go as far as many of us had hoped, the President's compromise is the most practical solution at the present time in view of the fiscal realities of retired pay expenses. A great deal of publicity has been given to the staggering cost of retired pay in the coming decades and, because of this, it appears that we have reached a stalemate in terms of congressional action. I, too, am concerned about Government spending, but feel in this instance that the Government and the Congress have a moral obligation which we cannot shirk. Military retirees have been waiting many long years for action to correct the present retired pay inequity. Now that we have a concrete proposal, endorsed by President Nixon, before us, I hope that meaningful consideration can begin this year.

SENATOR McGOVERN ON GREECE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. EDWARDS of California, Mr. Speaker, on April 22, 1972, a paper was read at a Harvard teach-in on Greece. The paper was a statement by Senator GEORGE McGOVERN on the occasion of the fifth anniversary of the dictatorship in Greece.

I am pleased to insert in the RECORD this statement of position on an important issue by the generally acknowledged leading candidate for the Democratic presidential nomination.

It has Senator McGOVERN's unmistakable mark of honesty, clarity and good sense. The position paper follows:

SENATOR McGOVERN ON GREECE

The foreign policy of the Nixon Administration is bankrupt. We are losing friends all over the world. The romantic pageantry of Presidential diplomacy cannot obscure the fact that the majority of mankind looks upon us with suspicion and fear.

The way we are handling the Greek dictatorship is symptomatic of this state of affairs. For the sake of dubious short term security interests we have permitted the consolidation of a neofascist regime, which has been poisoning our relations with the democratic nations of the Atlantic Alliance for the last five years. To the freedom-loving peoples of Europe the imposition of totalitarianism on a member of the Alliance is a profound anomaly. Unfortunately it is no longer an anomaly for the foreign policy of the United States.

It would have been a simple matter, particularly for a President who believes in personal diplomacy, to explain to the little dictator in Athens that he is making continued close relations between the two countries impossible. This would not constitute interference in the internal affairs of Greece. It is what is happening in Greece now, that by impeding the smooth operation of the Alliance interferes with the internal affairs of the other allies.

Besides, we should put to rest the canard that whatever happens inside Greece is the exclusive business of the Greek people. In this day and age of technological police states it is absurd to expect the Greek people, or any people in a similar predicament, to assert their rights successfully.

The recent crisis fomented by the Papadopoulos regime in Cyprus is a good example of the irresponsible manipulations indulged in by Governments which are not answerable to the will of the people. It would have been impossible for a parliamentary government in Greece to embark upon such an adventure.

There are also alarming reports that the Greek junta has been implicated in a plot to bring about a right-wing dictatorship in Italy, by helping to finance and train a neofascist terrorist underground.

The Nixon Administration in the spirit of its simplistic Real-Politik, has chosen to ignore the ideological nature of the Greek dictatorship. It has, in consequence overlooked the connection between the ideas and actions of this regime, and has accepted it as a viable ally instead of realizing that it represents a major threat to the interests of the United States in the Mediterranean.

GLOOM AND DOOM

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. WOLFF. Mr. Speaker, the President's decision of Monday night means that we have taken a grave and ominous risk, not for peace, but for war. What he was saying, without saying it, was there is no hope for peace, there is only the threat of a wider, infinitely more difficult conflict. What Mr. Nixon proved, without attempting to prove it, was no light at the end of the tunnel, only an unending darkness.

What the President announced, although one will find no reference to it in his speech, is the end of Vietnamization. What he revealed, although that was surely not his intent, is the complete failure of a program that at its best was nothing more than the coining of a new phrase to mask an old policy. Vietnamization was destined to fail because it depended ultimately, not upon American military might, but rather the will of the Army of South Vietnam to make war, and they have no will for war.

I understand very well the President's reluctance to talk about the failure of Vietnamization. It was offered to the American people with the promise, if not the pledge, of great success. Like Mr. Nixon's secret plan, which did do much to make him President, Vietnamization bore the hope of bringing peace to Southeast Asia. But Monday night, in one of this century's most precarious moments, the illusion of Vietnamization was destroyed forever and Americanization becomes now the order of the day.

In the new Nixon war plan, Vietnamization must now be set aside as a failure. Never mind that Vietnamization cost this Nation over $75,000,000,000. Forget that we lost an additional 20,000 American lives. Put out of your minds the added division it brought to the people of this country.

Now, reeling as we and the world are from the complete collapse of Vietnamization, we must now demand a change in the President's policy that will bring American men home, all of them, from the POW's to the soldiers on the front lines.

The war we now wage threatens more than just the people of Vietnam, it threatens the peace of the world. It cannot continue. It must be stopped. Our involvement must end.

RED CHINA: SOURCE OF KILLER DRUGS—II

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. SCHMITZ. Mr. Speaker, A. H. Stanton Candin, in "Red China's Narcotics Warfare" soon to be published, said:

> From the guerrilla warfare base in Yunnan province in Communist China, their heroin becomes a long range intercontinental ballistic missile aimed at the addict target in Los Angeles, California, who will inflict the deadly wound of heroin on himself with a needle in the arm. That missile is part of the psycho-chemical warfare being conducted today against the United States.

In his book, "The Murderers," former U.S. Narcotics Bureau Chief Harry Anslinger declared:

> A prime "target area" in the United States was California. The Los Angeles area alone probably received 40 per cent of the smuggled contraband from China's heroin and morphine plants.

And of the heroin transmission belt in the United States, Anslinger said:

> The syndicate crowd does not object to dealing with the Reds, as long as the profits are big in terms of dollars.

In 1971 our soldiers in Vietnam were being introduced to 95 percent pure heroin at $10 for a shot, which, according to Dr. George F. Solomon—Modern Medicine, September 20, 1971—"roughly translates into a $200-per-day habit at home." And the heroin in the United States is only 40-percent pure. This means that, to satisfy his habit, the GI hooked on Chinese Communist—CHICOM—heroin has to inject the diluted heroin directly into his veins, which makes him a "mainliner." As all specialists in drug addiction know, cure of a "mainliner" is almost impossible. According to Col. Donald B. Peterson, former consultant in neuropsychiatry, Army Forces Far East, a GI can acquire the habit by consistently taking the drug for just 30 days.

Commanders Digest, the official guideline for military officers, reported in its June 24, 1971, issue that 164 drug-induced deaths occurred in the military in 1970, as the CHICOM drug offensive got underway. Almost 20,000 drug abuse offenders were disposed of under the Uniform Code of Military Justice in 1969 and 1970, while 18,744 more received administrative discharges for drug abuse during these same 2 years. An official study conducted in the Americal 23d Division found that in October and November 1970 heroin use in the division ran from 9 to 14 percent, with 27.2 percent of the division on some type of illicit drug. The study concluded that "the heroin problem is increasing."

The effect of the CHICOM drug traffic emanating from Asia was summarized as follows from official Government sources in a recent issue of Justice magazine:

> The United States has the largest heroin addict population in the world;
>
> At least five Americans die every day as a result of narcotics abuse—significantly more than the number now being killed by the Communist enemy in Vietnam;
>
> Up to 50 per cent of all metropolitan area property crimes stem from the addict's need to support his habit;
>
> The United States consumes about five to six tons of heroin illegally each year. That amount of heroin is distilled from 50 to 60 tons of opium.

But the only reaction here in Washington so far is to spend upwards of $300 million on the transmission belt running through Thailand, Burma, Laos, Hong Kong, Macao, Saigon, and other points in Asia and through U.S. pushers to the drug user, rather than cutting off the traffic at its source or even acknowledging that source. It is claimed that an expenditure of $1 million in Washington, D.C., alone, together with treatments such as the new opiate drug methadone, will bring about a $5 million reduction in criminal activity. So the plan is to counter one opium derivative—heroin—with another—methadone. But for years researchers and doctors sought the cure for a disease by getting at the source. What is the matter with cutting off the source of CHICOM drug traffic and saving not only billions in money, but far more important, the lives and the souls of an estimated more than half a million drug addicts, thereby helping to make sure that fewer instead of more of our sons and daughters will be "hooked"? No American parent can now afford to assume that it cannot happen to his family. As Anslinger says in the chapter from his book, "The Murderers," entitled "A Girl Who Died":

> The most sickening—and terrifying—form of addiction in my experience, is that of the teen-agers, both girls and boys . . . the primary targets of the pushers, the most easily seduced. Young, unsure, unhappy, maladjusted in many cases, terrified of being called "chicken" by their side alley friends, growing up in homes that are not homes, with parents that are not parents, and with discipline that is not discipline, they seek escape. Girl or boy, this is a familiar pattern—the dream-flooded highway to extinction.

The girl who gave Anslinger the title for this chapter followed that highway to extinction. She died at 18 years of age, after having made herself a prostitute to satisfy the habit of the heroin made from the poppy grown predominantly in the fields of Red China.

MEMO ORDERS DECEPTION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. ASPIN. Mr. Speaker, American officials have been ordered to distort the truth about the success of the Vietnamization program according to a confidential memo that I made public yesterday.

The memorandum written by Brig. Gen. James A. Herbert last September, passes on to American officials in the field of Vietnam orders from the deputy commander of American forces in Vietnam requiring officials in the pacification program to develop 10 or 12 indicators that reveal the success of Vietnamization.

It would be one thing to request a summary of reports, but it is clearly dishonest to demand that U.S. officials fabricate evidence to prove the success of Vietnamization.

General Herbert's memorandum and the orders from MACV constitutes direct order to deceive top U.S. officials.

The memorandum directs U.S. officers to demonstrate that we have established conditions that give Vietnam a chance to choose its own future course and create a military establishment that will "be difficult to destroy by military actions."

General Herbert's memo and orders from Saigon demand officials to paint a rosey picture of Vietnam's military capabilities. This is in stark contrast to the battlefield reports which reveal that the South Vietnamese are being routed.

In face of the present situation, these orders for optimistic reports and predictions dramatically illustrate the deceptive nature of our present policy.

It is dishonest reports that first got us involved in Vietnam and its the same deception that has kept us there too long.

The memo follows:

REVISION OF MACV COMMAND BRIEFING

(Sept. 18, 1971)

1. *Purpose.* To task CORDS Directorates for input to revision of MACV Command Briefing.

2. *Discussion.* DEPCOMUSMACV has directed a revision of the MACV Command Briefing.

a. An outline of the proposed revision is at Inclosure 1.

b. The thrust of the briefing is progress made in the Republic of Vietnam.

c. The briefing is intended to stand alone, separating from the CORDS 1971 Community Defense and Local Development Briefing.

d. The period covered will be from Tet 1968 to the present, but can cover earlier dates, where necessary or required.

e. Overall security classification will be SECRET.

3. *Requirements.*

a. CORDS is primarily tasked for input on items listed in Inclosure 2. The CORDS directorate(s) responsible for compiling the script for that item is designated in parenthesis following the item.

b. Other MACV staff elements have been tasked for input on subjects which are of CORDS interest. These staff elements can be expected to closely coordinate with CORDS directorates. However, to preclude possible omission of vital CORDS data in the briefing, CORDS directorates will submit information on the items in Inclosure 3 which are assigned to other staff elements.

c. Topics within the purview of War Victims Directorates and Chieu Hoi Directorate are not addressed in the enclosed outline. The significance of these programs is such that this office will recommend inclusion. Therefore, it is desired that both directorates submit material which reflects progress in their respective programs.

d. Submit material in narrative form (briefing script), with accompanying graphics requirements or photographs to Director, RAD, NLT COB 10 September 1971. All graphics requirements must be submitted in finalized format for production to avoid necessity for changes.

e. Since the entire briefing will be one hour, all inputs should be as succinct as possible and make maximum use of well designed graphics aids.

f. Address any questions to MAJ Miller, Reports Branch, RAD, telephone: 4720.

JAMES A. HERBERT,
Brigadier General, USA, Deputy ACofS, CORDS.

OUTLINE OF NEW COMMAND BRIEFING—SEPT. 5, 1971

Staff Assignments

I. Introduction:

a. Purpose.

b. Content.

II .The Changed Nature of the War:

a. Allied military successes—Tet 68 to Present.

b. Declining US involvement.

c. Changing role of RVNAF.

III. The Enemy's Strategy:

a. Direction from Hanoi.

b. Organization (COSVN, Fronts, etc.)

c. Broad objectives in SEA (will include discussion of objectives in Cambodia and Laos).

d. Elements of the enemy system:

(1) Main Force Units—NVA.

(2) Local Force Pnits—VC.

(3) VC Infrastructure.

(4) Rear Service Units.

(5) Supply and Infiltration Systems.

(6) Shadow Supply System.

e. Will return to the elements of the enemy system later and discuss Allied countermeasures to each item.

IV. Allied Objectives and Organization to Counter Enemy Strategy:

a. Allied Objective.

b. Drawdown of US Forces Since 1969 (Show this graphically by showing US and ARVN AOs in 1969 at start of drawdown and lift off colored flips to show graphically the decline of US responsibility and a concurrent increase of ARVN responsibility. Then show statistically the reduction in maneuver battalions and other combat forces.)

c. Current Role and Major Unit Composition of US Forces:

(1) Current role (Combat support and advisory).

(2) Strength in terms of major combat elements.

d. Vietnamese Political/Military Organization: (Province, District, Military Region).

e. Vietnamese Military Forces: ("Before and After" comparisons where feasible).

(1) ARVN Divisions: Growth, training, experience (have weathered some big battles), problems.

(2) RF: Growth, training, experience, problems.

(3) PF: Growth, training, experience, problems.

(4) PSDF: Growth, training, experience, problems.

(5) National Police: Growth, training, experience, problems.

(6) VNAF: Growth, training, experience, problems.

(7) VN Navy: Growth, training, experience, problems.

V. Now return to discussion of Enemy Strategy and Allied Countermeasures (display slide showing elements of enemy system and highlight each as the countermeasures are discussed):

a. Main Force Units, ARVN/VNAF Counter, Operations.

b. Local Force Units, RF/PF/PSDF Counter, Operations.

c. VC Infrastructure, RF/PF/National Police.

d. Rear Service Units, ARVN/RF Counter, Operations.

e. Supply and Infiltration Systems, Ground-Air-Navy Integrated Interdiction System, Impact of Cross-Border Operations.

f. Shadow Supply System, Involvement of VN People plus continuous search for caches.

VI. Other Elements of Allied Strategy in Addition to Pure Countermeasures:

a. Promoting Political Stability:

(1) VN Government withstood Tet 68.

(2) Withstood full mobilization.

(3) Hamlet Evaluation Statistics (A through V. Before and After.)

(4) Now have leaders in hamlets, villages and provinces.

(5) No prognosis for future. Will have to wait and see.

b. Economic Development:

(1) Agricultural Development—land reform—miracle rice—pig and poultry production.

(2) Industrial Development.

c. Education—military and civil.

d. Road Construction.

e. Communications Network.

f. Security—"Before and After" data on terrorist acts, attacks by fire, ground contacts, casualties.

VII. US Forces—Trends and Problems:

a. Drawdown continues:

(1) Orderly withdrawal.

(2) Continued combat, logistical, advisory support for RVNAF.

(3) Maintain balanced force appropriate to changing mission at each stage of withdrawal.

(4) Primary combat support now by air and naval firepower.

b. Problems:

(1) Security of US installations.

(2) Retrograde of large tonnages.

(3) Drugs.

(4) Animosity of some VN factions.

VIII. Develop ten or twelve high impact indicators "that say persuasively that much progress has been made; that our effort has not been a fruitless venture; that we have helped to establish conditions and build systems that at least give the Republic of Vietnam an opportunity to choose its future course of events. Final thought should be that a strong, broadly-based military establishment has been created in RVN that will be difficult to destroy by military action. Whether RVN can withstand subversion and political dissention remains to be seen and is a matter that only the Vietnamese people and their leaders can resolve.

PRIMARY CORDS, TASKS

1. Vietnamese Political/Military Organization at Province, District, Military Region, Village and Hamlet; see para IV d of outline. (PP & P on political and TSP on military)

2. Allied countermeasures; see para V b. J2 will input strategy of local force units. TSD will input RF/PF-PSDF counter operations. (TSD)

3. Allied countermeasures; see para V c. J2 will input VC infrastructure strategy. TSD will submit PF/PF counter operations; PHD

will submit National Police counter/operations. (TSD and PHD)

4. Promoting Political Stability; see para VI (1 thru 5) of outline.

a. How did VN government withstand Tet 1968? (PP&P)

b. How did VN withstand full mobilization? (PP&P)

c. Hamlet Evaluation Statistics (Tet and after). (RAD)

d. Narrative on leadership in hamlets, villages, and provinces. Statements reflecting on quality of leadership and how many hamlets, villages have held free elections. (RAD)

e. Statement on the future. Would a prognosis be valid? Should we comment that we will have to wait and see? (RAD)

5. Civilian education; see para VI c. (PP&P)

6. Security, Tet and after data on terrorist acts, attacks by fire, ground contacts, casualties; see para VI f. J3–05 will cover attacks by fire, ground attacks, and casualties. CORDS will provide supplemental input on terrorist incidents. (RAD)

7. Develop high impact indicators that show progress; see para VIII. (All addresses)

OTHER ITEMS OF CORDS, INTEREST

1. VC Infrastructure: see para III d (3). (PHD)

2. Allied objectives; see para IV a (PP&P)

3. Vietnamese Military Forces growth, training, experience and problems; see para IV e (TSD (2), (3), (4); PSD (5))

4. Economic development; see para VI b (1 and 2) of outline. The DCofS, EA, has primary action. PP&P should provide USAID input. (PP&P)

5. Animosity of some VN factions; see para VII b (4). (PSG)

LAW DAY U.S.A.

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. HUNGATE. Mr. Speaker, I would call attention to an article in the Monroe City, Mo., News concerning Law Day, U.S.A. 1972. The author is a distinguished member of the Missouri Bar from Hannibal, Mo.

The article follows:

[From the Monroe City (Mo.) News, May 4, 1972]

LAW DAY U.S.A.

Dictatorship is the most discredited and outmoded form of government in man's history. It denies the sanctity of the individual, employs brute force, and a secret police system to maintain the power of the ruler or ruling clique. Since the beginning of organized society and the development of States and Nations, man's struggle has been to escape the tyranny of Ceasars, Czars and Kings who claimed Divine Rights and recently an assortment of Hitlers, Stalins and Castros. The quest for freedom has found its greatest measure of success in this social experiment we call the United States of America. Under the terms of our written Constitution we govern ourselves by a "Rule of Law". This is the touch stone which lifts us from anarchy and protects us from tyranny. Our elected leaders govern within the limits of office circumscribed by law, their jurisdiction is defined. We have woven into the fabric of our law the tradition and lessons of the Decalogue, Magna Charta, the Anglo-Saxon Common Law and similar milestones in the history of the law. We now accept, as self evident truth, that sovereignty lies in the individual. Government is not the source of power. It is a creature of limited powers which it receives from the governed. We organize our society on the foundation of the written constitution, it is the supreme law of the land and under its protection we evolve and prosper. Thus, it is a "Rule of Law" and not the whim of man or dictator that guides and protects us. Under this system we attain the exquisite balance of the individuals needs for self expression and societies needs to control unbridled lust of the selfish and arrogant. With the "Rule of Law" as our protector, we need no "Berlin Walls" nor "bamboo or iron curtains". However, the naked agression of the North Vietnamese in 1972 demonstrate the need for vigilance and determination to protect for ourselves and freedom loving people everywhere, the right to self determination. The captive people of the world, flee from East Berlin, Cuba and wherever they can find the means to escape to the free world and to nations which subscribe to the "Rule of Law". It is distressing that some figures in government would be willing to retire into isolationism and resort to puerile apologies for the ruthless agression of dictatorship.

To foster a clearer understanding and universal acceptance of the "Rule of Law" a most cherished possession and worth defending for all people. "Law Day U.S.A." was established by presidential proclamation and is now observed under joint resolution of the congress.

The 1st day of May is set aside to encourage Americans everywhere to celebrate "Law Day U.S.A." The purposes of this special day are: (1) To Foster respect for law and understanding of its essential place in American life; (2) To encourage citizen support of law observance and law enforcement; (3) To advance equality and justice under law (4) To point up the contrast between freedom under law in the U.S. and governmental tyranny under communism."

We of the Missouri Bar Association and the American Bar Association hope that the great purposes of Law can serve as a mighty impetus to the goal of respect and obedience to the "Rule of Law".

ALBERT L. RENDLEN,
Attorney At Law.

RUMANIAN HOLIDAY

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. CONTE. Mr. Speaker, following World War II the Rumanians, whose country borders the U.S.S.R., submitted to a Communist regime. On May 9 they were forced to observe the anniversary of Russian defeat of nazism in the country.

Instead of observing this holiday, the Rumanian people should be allowed to commemorate a more meaningful occasion. Today, May 10, is the 90th anniversary of the establishment of Rumania as a free kingdom.

The Rumanians have a history and heritage to be proud of. Despite the presence of Communist rule, the Rumanian Government has maintained independent ties with several Western nations. We have seen them vote in the United Nations—often times differently than the Soviet Union. Cultural exhibitions from Rumania are seen regularly in countries in the Western World.

Ninety years ago the Rumanians declared their independence from the Ottoman Empire. Since then, these brave people have been subjected to differing militaristic forces and today they still are not free.

On this memorable holiday, let us hope that the courageous Rumanians will soon regain their complete freedom and one day be able properly to celebrate their day of independence.

POWER POLITICS REALISTIC

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. MICHEL. Mr. Speaker, while any President expects to be criticized from time to time, it occurs to me that a good deal of the criticism presently being leveled at President Nixon as to his policy in Vietnam borders on the irresponsible. An editorial appearing in the May 7, 1972, edition of the Peoria Journal Star discusses the concept of power politics, President Nixon's application of it, and some of the criticism leveled at it. I include the text of the editorial in the RECORD at this point:

POWER POLITICS REALISTIC

Nixon's sober recitation of his Vietnam policy and what is happening there, how he interprets it, and what he is determined to do about it present the classic presidential attitude toward power politics.

It is based on recognition that power politics exists on the world scene, that it is being zealously practiced in powerful Red world capitals, and that the most disastrous way to deal with such a reality is to surrender to its pressures.

Like it or not, power politics is the "only game in town."

This is not a new view of the crux of the problem of peace.

Winston Churchill tried to persuade the western world to such a view when many of us were college students—and failed, until Hitler proved it for him. (Then, he was elevated to power too late to avert the world wide conflagration that consumed 40,000,000 human beings.)

It was the keystone of the policies of President Harry S. Truman, of President Dwight Eisenhower, of President John F. Kennedy, and of President Lyndon Johnson in regard to foreign policy and the quest for peace—as has often been pointed out in specific regard to Vietnam.

Now, it is quite possible that President Nixon is wrong, is in error, in his view.

It is quite possible that Truman, Eisenhower, Kennedy, Johnson and Nixon have ALL been wrong in their approach to resist power politics with power politics, and their conviction that a "contract" must be kept and both ends of the bargain maintained or there is not even a structure for peace.

It is also possible that the avid critics scrambling for the White House and the college protesters are in error in THEIR view that renouncing power politics and throwing ourselves on the mercy of the erstwhile enemy would melt his heart . . . and we'll all live happily ever after.

It is even possible that McGovern's Carthaginian foreign policy would be a helluva mistake.

We are all mortal and all imperfect, and the record of quite a few thousand years demonstrates that none of our theories is PERFECT.

But that is not the point.

It is patently an unjustified slander, to characterize Nixon's presentation, a reasoned outline of the classic presidential attitude toward aggression, as "political trickery designed to save Nixon's face and their (GOP) jobs." . . . as that noble knight, Sen. George McGovern promptly did.

Whatever else McGovern may be "elevating," it is not the level of the political rhetoric of a campaign that already had George Wallace going pretty good.

If Nixon had said anything new there might be a basis, at least, for suspecting it as "political trickery."

But it is hardly an excusable piece of campaign oratory, hardly a moral practice of moralizing about others, when it is NOT new. If it is "trickery," Churchill was a trickster, Truman a trickster, Ike a trickster, Kennedy a trickster, and Johnson a trickster.

One always recognizes the possibility of error in human affairs, but it is downright indecent to pretend that these men did not BELIEVE in facing the facts of the "natural laws" of power. To dismiss that view as "trickery" is intellectually bankrupt, morally reprehensible, and political muck-rakery of the worst sort.

It is not "discussing the issues." It is cheer-leading for the left-wing and Hanoi party line! It is rank demagoguery. It makes Agnew sound like a statesman, by comparison!

WHERE THERE'S A WHEEL THERE'S A WHEE!

HON. SEYMOUR HALPERN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. HALPERN. Mr. Speaker, few issues in recent years have disturbed the conscience of America more than the urgent need to revitalize our environment. Urban congestion and pollution have been recognized as enemies so dangerous to the quality of American life that their elimination is truly a great national cause.

Last week was "Bikecology Week," and each of us was given a welcome opportunity to make an individual effort to save our country's environment. This morning I led a contingent of my colleagues on a bike tour around the Capitol. This, I am certain, will demonstrate that bicycling is a more healthful alternative to the endless streams of automobiles which strangle our highways and contaminate the air we breathe.

Michael Pousner recently wrote an article in the New York Daily News which captures the enthusiasm of the many New Yorkers who have willingly switched to the bicycle as their mode of travel. Mr. Speaker, this is a most persuasive representation of citizens who have made the decision to fight for their country's ecological health, while they cycle for a more invigorating life. The article follows:

WHERE THERE'S A WHEEL, THERE'S A WHEE!

(By Michael Pousner)

It's hotpants and hot-pink tulips, baseball (however belated) and barbecues. It's spring.

In New York City, spring also heralds the annual outbreak of bikeamania, characterized by a penchant for lightweight foreign bikes.

But if bikeamania is a disease, it's also a cure—a quick-working antidote for the urban blahs.

Let Lindsay and the Rock kvetch over budget cuts, and let the cost of living take off like a moonbound Apollo. What do you care as you navigate your flashy blue Italia past the daffodils and joggers and into the E. 72d Street turn in the Central Park roadway? It all seems so far away as you shift your Chiorda into low to scale one of Staten Island's massive hills.

And the 1972 outbreak of bikeamania is pretty much summed up by the timeless rhyme: "Something old, something new, something borrowed, something blue."

What's old is the bike boom itself. At some local stores sales have doubled each year since 1969, and there's every indication that again will be the case.

But there's something new, too. Events in ensuing weeks will wheel in the pedal-pushing season in fine style:

On Sunday, a guided bike hike through Central Park's upper reaches will commemorate Frederick Olmstead's birthday, Olmstead being the designer of Central Park.

Also on Sunday, American Youth Hostels Assn. will dust the soot from urbanites' eyes with a daylong bike hike to the Hamptons. Sorry, but this one's long sold out.

On May 17, a number of city-sponsored activities will usher in annual night bike riding in Central Park, and on May 20, the Parks Council is sponsoring a tour of Prospect Park.

Ongoing bike activities now include Bike to Work each Thursday (leave 59th and Fifth at 8 a.m.) sponsored by Bike For a Better City, and day and weekend bike trips conducted by the youth hostels group.

Also, on some of the city's "safer" arteries, 200 green signs have been placed indicating designated bikeways recommended for street cycling.

Then there's a permanent transfiguration of the Central Park roadway, which has been made two ways for cyclists.

Whereas once you had to slink off the bike path, or worse, be seen WALKING your bike up the hill starting at E. 72d street, now all you have to do is turn around and go DOWNhill, a grin splitting your face as you gulp up block after block in an effortless coast.

Fortunately, the complement of bike patrollers, those selfless guardians of parks rights-of-way, has been increased this year, and many were in evidence Sunday, forestalling what I feared would be the inevitable bumper-car-type collisions under the new setup.

And in the Bronx, bicyclists will reign supreme on spring and summer Sundays all along the four-mile length of the Grand Concourse meridian—except when the Yanks are playing.

Also new are the many more racks and garages accomodating bikes around town—a 50% increase in capacity. New sites vary from Gimbels East to several Broadway liquor stores which belie the adage about "drinking and driving." A full list of the new sites will be available in a new city cycling guide to be issued next week by the Parks Council, a private, pro-bike group.

What are the new trends in biking?

Bike trend-spotters, a burgeoning breed, notice an increasing preference for 10-speed cycles. Sal Corso, owner of Stuyvesant Bicycles, the city's largest bike store, is selling as many 10-speeds as three-speeds, whereas a couple of years ago the former were only a luxury.

The boom has lowered the prices, however. The serviceable three-speed Hercules that Gene's Discount Bikes sold last year for $65 was knocked down to $55 this spring and sold out immediately.

Meanwhile, bike and department stores are getting on the clothing-for-bicycling bandwagon. The compleat biker can wheel out of Stuyvesant Bikes this year in a hand-woven, form-fitting, red-white-and-blue jersey with pockets (for sunglasses), special biking shorts (seat reinforced), biking shoes, helmets, gloves, caps and shoulder bag—all for around $100—the price, strangely enough, of a workmanlike 10-speeder.

Also "in" is the two-bike person. A fellow who never could dream of owning two cars can satisfy his acquisitiveness with a couple of bikes—a collapsible one "for the road" and a conventional one for the city.

There is even some evidence that the tandem, the classic "bicycle built for two," is making a comeback, along with the bike Lotharios, who never really retired. These dashing young men on their flying Schwinns prove there's more to biking than shifting gears.

What's "borrowed"? Your brand new $600 red-spangled Lejeune with its super-cool Compagniollo gears is borrowed (permanently) if you leave it unwatched for a fraction of a second. Bike Shops estimate that 20% of sales represent replacement of stolen cycles.

To prevent this, there now seem as many bike security devices as there are bikes, including the case-hardened steel "super-lock" sold at many stores for around $20, and a bike alarm which can mummify a would-be thief.

For the first time, bike insurance is being offered at about $9 for the first $100 of purchase price and proportionally less expensive from there up.

Finally, what's "blue"? You are. According to Bike for a Better City, the vocal pedal power group, the city's new bikeways plan encourages cycling on Manhattan arteries without providing a smither of protection other than bland assertions that the more bikers there are, the safer they'll be. Tell that to those cables and truck drivers who look upon bikers as interlopers.

At one time officials let it leak out that the city was going to set off exclusive bike lanes. Since then, though, the city has continually back-pedaled.

Harriet Green of Bike for a Better City contends that thousands more people would bike to work if they had well-marked lanes flanked by wooden horses to ride along.

Even failing that, it's obvious that the jingling bike bell has become, like the voice of the turtle and the cry of the ump, a sure harbinger of spring.

LOS ANGELES LAKERS GREATEST PRO TEAM IN HISTORY

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. CHARLES H. WILSON. Mr. Speaker, I would like to extend my heartiest congratulations to the Los Angeles Lakers, the new National Basketball Association world champions. With their 114 to 100 win over the New York Knicks on Sunday, the Lakers capped an incredible season. It was a season that saw the Lakers dominate basketball as few other teams have ever dominated any sport.

During the regular season the Lakers posted 69 victories, an NBA record. This included a fantastic 33-game winning streak, which is a record for any major league professional team. In the playoffs, the Lakers continued to show their strength by beating the strong Chicago Bulls and the two previous world champions, the Milwaukee Bucks and the New York Knicks. During the playoffs, the

Lakers lost only three out of the 15 games with these powerful teams.

Jack Kent Cooke, the owner of the Lakers, has managed to assemble a group of athletes that were a rare and extremely rich blend of talent, courage, and a desire for excellence. They displayed a degree of discipline and poise that made them a devastating champion. Certainly one of the real catalysts to the Lakers success was the acquisition of Coach Bill Sharman. Coach Sharman and his able assistant, K. C. Jones, took a team that had finished second seven times, and helped them to develop that extra bit that made them a champion. They were greatly responsible for the amazing team play that the Lakers became so well known for. Certainly the Lakers have a wealth of talented individuals, but it was not one or two individuals who were responsible for their victories. Rather, each player, both starter and reserve, played a major role is assuring each Laker victory.

Certainly Wilt Chamberlain, the Laker captain, deserves a special bit of praise. Playing with a bone chip in his hand, this gifted giant scored 24 points grabbed 29 rebounds, and blocked 10 shots in leading the Lakers to their final victory. For this exhibition and his play throughout the playoffs, he was named the most valuable player of the series. "Mr. Clutch," Jerry West, made his usual brilliant contribution to the team despite a short shooting slump, and Gail Goodrich, the other half of the NBA's most potent backcourt combination, turned in a great performance that has become commonplace for him. Jim McMillan, who replaced Elgin Baylor as the Laker starting forward, and Happy Hairston, one of the league's leading rebounders, made major contributions to the victory as they had done all year long. And, of course, the reserves, who play such an important role in any championship team, played consistently whenever called upon. Keith Erickson, Pat Riley, Leroy Ellis, John Q. Trapp, Fynn Robinson, and Jim Cleamons all gave the needed spark when the regulars faltered. And some special mention should be made about the trainer, Frank O'Neil, who did a tremendous job of keeping the Lakers unusually healthy through the long and tiring NBA season.

I hope that my colleagues here in the House of Representatives will join with me in congratulating the Los Angeles Lakers, a team that Owner Jack Kent Cooke and all the people of the Los Angeles area, can truly be proud of.

LOUIS PERINI, A GREAT MAN

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mrs. HECKLER of Massachusetts. Mr. Speaker, Louis R. Perini was a gentleman who inspired the admiration of all who knew him—and of all who knew his work. Both the monuments he raised in steel and stone and the monuments of civic and charitable progress serve as a lasting testimonial to his works in this world. I should like to share with my colleagues the words of the Boston Globe at the passing of this notable citizen of the Commonwealth of Massachusetts, who contributed so much to innovation in the field of housing and public building throughout the course of his distinguished career.

As one who not only knew Louis Perini and respected him, I want to extend my deep sympathy to his family.

The article from the April 17, 1972 issue of the Boston Globe follows:

Braves Ex-Owner, Contractor, Louis Perini, in Florida

Louis R. Perini, who took over his father's small construction firm in Framington at age 21 and helped make it a major international builder, died yesterday at Good Samaritan Hospital in West Palm Beach, Fla. He was 68.

The chairman and president of Perini Corp., whose interest in baseball led to his company's acquisition in 1943 of the old Boston Braves in the National League, had been ill since just before last Christmas, according to a family spokesman.

Born in Framington, Mr. Perini began carrying water for the men in his father's construction crews when he was six years old. When his father, Bonfiglio Perini, died in 1924, Mr. Perini became president of the firm.

Under his leadership, what had been a smaller highway and dam building enterprise grew into one of the largest firms in the nation performing heavy, highway, marine and pipeline construction. The company was active on four continents.

Two brothers joined Mr. Perini in the family business—Charles B. Perini, vice president, and Joseph R. Pirini, treasurer.

Besides its home office in Framingham, the company has offices in San Francisco, Seattle, New York City and West Palm Beach. There are five affiliated companies in Canada and a separate company, Perini International AG, which handles overseas operations.

His father and mother both emigrated from Italy. Louis was the ninth of 14 children, 10 of whom lived. In 1926 he married Florence Gardetto, daughter of another contractor from Milford.

Besides his wife, he is survived by three sons, David B. Perini of Dover, Albert J. Perini of Cohasset, and Louis R. Perini Jr. of West Palm Beach, Fla.; four daughters, Mrs. Charles Field of Scituate, Mrs. Francisco Iglesias of Framingham, Mrs. Francis Murphy Jr. of Wellesley, and Mrs. Julio Vega of Puerto Rico; four sisters, Mrs. M. Nicoli, Mrs. Lawrence Piotti, Mrs. Edward Kavanaugh and Mrs. Samuel Guarino, all of Ashland, and 38 grandchildren.

Visiting hours for relatives and friends at the Doherty Funeral Home, 477 Washington st., Wellesley, will be from 1 to 5 p.m. and 7 to 10 p.m. tomorrow and Wednesday. A private funeral Mass for family and relatives will be celebrated at 11 a.m. Thursday at St. Paul's Church, 500 Washington st., Wellesley.

Mr. Perini lived for many years in Boston. Last year he bought a home in Scituate.

He became President of the Boston Braves baseball club in 1946 and was cited by the Sporting News in 1953 as the "number one major league executive." His "courage and foresightedness" in transferring the club's franchise to Milwaukee "not only resulted in the club establishing a new National League attendance record, but paved the way for future franchise changes . . . by breaking a precedent of more than half a century," the baseball paper said.

The Braves moved from Milwaukee to Atlanta in 1962. Mr. Perini was a director of the club at the time of his death. The Perini Corp. retains a 10 percent interest in the team.

The construction trade publication Engineering News-Record twice nominated Mr. Perini as the man of the year, in 1966 and 1967.

Mr. Perini also had wide charitable and civic interests. He helped develop the "Jimmy Fund" for the Children's Cancer Research Foundation in Boston, which he served as a trustee.

William Koster, executive director and vice president of the foundation, yesterday said he was "deeply saddened . . . As president of the Boston Braves baseball club (Mr. Perini) was one of the prime movers in the founding of the Jimmy Fund."

He was also chairman of the board of DASA Corp., an electronics firm in Andover, a director of ISI Mutual Funds in San Francisco, and a member of the Engineers Club and the Algonquin Club of Boston and the Twenty-Nine Club of New York City.

He received honorary degrees from Boston College and St. Anselm's College, Manchester, N.H., and served both schools as a trustee. He also received honorary degrees from Holy Cross College, Worcester, and Lesley College, Boston, and was a fellow of Brandeis University.

In 1961, he was one of three Greater Boston men honored by the northeastern region, National Conference of Christians and Jews, for "building brotherhood among the one family of man under God."

In a message to his construction executives, he once wrote: "With reference to time, and what we can all get from time, every human being starts each day from scratch and with an equal share. . . . What you do with yours, and what I do with mine, will have more bearing than any single thing I know in deciding the measure of satisfaction we can get out of life."

REDS INVADE AMERICAN POLITICS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. DERWINSKI. Mr. Speaker, as the debate over the situation in Southeast Asia predictably escalates, we should keep in mind the very obvious efforts of the North Vietnamese to exploit the political atmosphere in the United States.

This point is well made in the Thursday, April 27, editorial of the San Diego Union which is as appropriate this week in the light of congressional discussions as it was at the time it was written.

The editorial follows:

Extraordinary Letter: Reds Invade American Politics

The extraordinary letter sent by the Viet Cong foreign minister to members of the U.S. Congress should remove any doubt that the Communists have picked 1972 for a direct invasion of the American political process just as surely as they have picked this year for a do-or-die military sweep into South Vietnam.

Mme. Nguyen Thi Binh deserves precisely the sharp rebuke which her flagrant breach of international propriety has received from the White House. It is members of Congress themselves, however, who should rise in a body to express their indignation at this patent attempt by a foreign official to use them as tools for attaining Communist objectives in Southeast Asia.

Mme. Binh attacks President Nixon's determination to stand by South Vietnam in the face of the invasion as "an adventurous path fraught with unpredictable consequences." This might better be applied to her own venture into our politics. The consequences could well be a final awakening by leaders of both our political parties to the fact that the people most eager to keep the "Vietnam issue" alive in this American election are the North Vietnamese and the Viet Cong themselves.

The Binh letter is the most bold and arrogant example so far of how the Communists are trying to influence political thinking in the United States to smooth their way for conquest in Asia. They have stepped up or scaled down the level of fighting at propitious moments to correspond with our national mood as they read it through anti-war demonstrations and the rise and fall of debate on Vietnam.

They used the offer of negotiations to gain a bombing halt in 1968, and since then have played cat-and-mouse with our delegation drawn to Paris by the lure of peace and the hint of release of our prisoners of war. Now, when they needed only to stand quietly by and await the total withdrawal of our troops, they elected to launch a full-scale invasion of South Vietnam in the hope of humiliating the Americans on the eve of our national elections.

It may be a sign of desperation that has prompted Mme. Binh to insinuate herself directly into our Congress. The North Vietnamese have poured virtually everything they have into South Vietnam, and the South Vietnamese have made them pay in blood for every inch of land that they have gained. Communists have failed in three weeks of intensive fighting even to capture the major cities that would give them an opportunity to symbolize a "victory."

North Vietnam and the Viet Cong know their only real victory would come with the total desertion of South Vietnam by the United States. They can achieve this only if controversy over our Vietnam policy is stirred and kept at a boil. Members of Congress, especially those who are candidates this year, should open their eyes to deliberate attempts from outside our country to weaken the resolve of the American people at this crucial moment in the Vietnam struggle.

ASSISTANT HEW SECRETARY SPEAKS TO WASHINGTON WORKSHOPS CONGRESSIONAL SEMINAR

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. ESCH. Mr. Speaker, at a recent session of the Washington Workshops Congressional Seminar here on Capitol Hill, Assistant Secretary of Health, Education, and Welfare, Mrs. Patricia Reilly Hitt, delivered an important statement on the duties and responsibilities which we, as legislators and executive departmental personnel, have to the people of this Nation. I am pleased to bring Mrs. Hitt's speech to the attention of my colleagues:

HOW GOVERNMENT WORKS—AND DOES NOT WORK

(By Mrs. Patricia Reilly Hitt)

INTRODUCTION

This year of 1972 will mark a major new milestone in American politics, with 18-year-old voters for the first time casting their ballots for a President and the Congress.

So, the importance of such seminars as this one is greater than ever before. I want you to know that I greatly appreciate the opportunity to be with you today as you concentrate on learning how our Government works.

In looking at the comprehensive program outlined for you and at the list of distinguished people who will be speaking to you, I feel that this subject will be more than adequately covered.

Therefore, I want to speak to you today about what many consider to be the most serious problem facing Government at all levels today—the crisis of confidence the American people are feeling in Government.

PUBLIC CONFIDENCE IS LACKING

There are many recent indications that public confidence in Government is lacking:

First, only about one-third of American citizens indicate satisfaction with the way this Nation is being governed, according to a February 1972 Gallup poll.

Second, in early 1971, another Gallup poll showed urgent public concern about national unrest and leadership. Many of those polled felt that governmental leaders were not trying hard enough to solve the problems the country faces.

Third, a survey last fall by the *Washington Post* showed that our political system faces a crisis of confidence, with voters complaining that public officials are unresponsive, unpredictable, and untrustworthy.

Fourth, a recent Harris poll indicated that the public believes—by a 65 to 25 percent margin—that "only a few men in politics are dedicated public servants." They also believe—by an 81 to 11 percent margin—that most elected officials promise one thing and do something different once in office. Almost 60 percent believe that most politicians take graft. Harris poll results over a period of more than 4 years reveal a diminishing trust in politics and politicians.

Americans have never been overly trusting of government, but still, something is very much amiss when surveys show a continuing decline in the percentage of those expressing a degree of trust in their government.

"Let's face it," President Nixon said in his State of the Union address in 1971, "most Americans today are simply fed up with government at all levels. They will not—and should not—continue to tolerate the gap between promise and performance in government."

WHY IS CONFIDENCE LACKING?

Now no single political party—and neither the executive branch nor Congress—is exclusively responsible for this crisis in confidence which has been growing for a number of years. Over the years, both branches and both parties have at times let their rhetoric outrace reality.

Actually, there are several reasons for the people's lack of confidence in government, and I would like to examine at least five of them in detail.

NOT PART OF SYSTEM

First, few people really feel a part of the political system. They feel that the system has passed them by—and that they no longer have an impact on decisions. People no longer see a clear relationship between what they think, support, and work for—and what actually happens. They doubt the responsiveness of the system—and, as a result, the number of nonvoters increases.

The United States, the leader of the free world and the world's greatest democracy, lags far behind many other free countries in voter participation.

Any public official is familiar with the remark, "What difference does it make whether I vote or not it doesn't seem to do any good." A favorite story of many politicians is about the lady who responded to the question about why she did not vote by saying that she did not want to encourage any of the candidates.

In the 1968 presidential election, 31.8 million people voted for Richard Nixon, 31.3 million for Hubert Humphrey—but 47 million—or 40 percent of the electorate—*did not vote at all.*

And, the number of nonvoters has been increasing sharply—from 39 million in 1960 to 43 million in 1964 to 47 million in 1968. If this trend continues, in 20 years we will have from 70 to 90 million nonvoters in an election for President.

NOT THE WHOLE TRUTH

Second, people believe that government officials—elected and appointed—do not tell them the whole truth. This apparent inability of political leaders as a whole to "come clean" with the public is another reason for their distrust of government. Anxious to espouse popular rather than effective solutions, politicians are strong on rhetoric, weak on candor, and skillful at half truths.

As an example, the Pentagon papers of last June jolted public confidence in the utterances of the leaders of the previous administration. Those papers demonstrated that Government did not act in a manner to earn the confidence of the people. While policy-makers were involved in raging debates over the Vietnam conflict, very little of it surfaced. The American people, who had the most at stake, were given little or no opportunity to understand the stakes, the difficulties, and the options.

When elected leaders hesitate to deal with the difficult issues of the day with candor and honesty, the opportunity for the dialogue upon which a democracy depends is denied.

Soaring rhetoric by public officials often contributes to the lack of candor. In their enthusiasm for a proposal—and in an effort to sell it—their words ensnare them into exaggerations. All of us in public life should know by now that poverty, discrimination, and polluted water will not yield to fancy words.

And we should focus on the really pertinent question of whether we are willing—or able—to provide the resources—both human and material—over a long period of time to achieve our exalted goals.

GOVERNMENT TOO BIG

Third, Government has become too big for understanding or efficiency. Government is no longer plain, simple, and intelligible. Its vastness defies comprehension—it baffles and confuses people. Not understanding it, they do not have confidence in it.

And no wonder!

The Federal Government spends a quarter trillion dollars a year—employs one out of every 16 working Americans—administers one-third of the Nation's land—occupies over 42,000 buildings—consumes over 1 trillion pieces of paper a year—and operates according to 12,000 pages of laws.

No one expects it to run as smoothly as the neighborhood grocery, but—even making allowances—the public sees too much bureaucratic confusion, delay, and general mismanagement.

SECRECY

Fourth Government operates too secretly. Any reasonable person recognizes the necessity of secrecy in Government in a number of situations—including intelligence information, diplomatic negotiations, military plans, and secret weapons. But secrecy has been a way of doing business in Washington for many years. The people do not like secrecy—or a government that practices it. Part of this secrecy often is the inaccessibility of public officials.

Government is responsible only if the decisionmakers are accessible to the people and accountable for their decisions. Many top policymakers simply are not accessible or accountable to the people in any direct way.

Also, in their conduct of the public's business, congressional leaders as well are often inaccessible to the public.

Distinctive marks of democracy are its commitment to an open society, and the assumptions that policy can be improved by steady public examination and debate.

Few things should be immune from public scrutiny and criticism, because only by such examination and criticism can mistakes be corrected.

GREATER EXPECTATIONS

Fifth, and finally, people expect more of Government. Their standards of performance for integrity, efficiency, accountability, responsiveness, and results have soared. People expect Government to solve most problems and—when action does not come or is ineffective—they become critical because their expectations are not met.

As the gap between the people's expectation and the Government's performance widens, distrust of Government escalates.

Many people have lost confidence in Government because they feel that their Government does not give them a fair shake. Often they are right. Our laws are full of provisions that result in special treatment for special interests. All of these special provisions are not detrimental. But there are enough of them to arouse growing feelings among more and more Americans that their Government is not as "fair" as it ought to be.

MOST INFLUENTIAL

This last point—the "expectations gap"—I feel is the most profound and far-reaching source of our frustrations and disappointments. Compare for the moment the ever-widening distance between authorizations of the Congress for HEW and the actual appropriations. In 1964, the difference was $200 million. In the current year, authorizations for HEW exceed appropriations by $6 billion. Pending legislation is likely to add another $9 billion to our spending authority—and this at a time when our budget deficit may total $38 billion in the current year.

Authorizations to spend are rightfully viewed by the public as promissory notes, signed by Congress and made payable to the people. Failure to make good these promissory notes cannot help but breed disillusionment and discontent.

But the wide divergence between authorizations and appropriations is only a part of what could be called "untruth in legislation."

Another type is characterized by the kind of legislation that purports to find solutions to problems by simply creating a new agency of government—with the end result often being a further confusion of lines of responsibility and authority, a further fragmentation of services. Into this category fall current proposals that would create separate departments of health and education—or create a national institute of gerontology—or establish a separate product safety agency to replace the Food and Drug Administration.

Still another type of legislative overpromise is that which appears to grant government broad new authority to attach problems—but which, in fact, confers no additional authority whatsoever. An example was the Environmental Education Act of 1970, through which Congress authorized the commissioner of education to sponsor seminars, institutes and internships at colleges and universities to teach about environmental problems.

Legislation for a worthy cause? Certainly. But worthwhile legislation? Hardly. For the fact was—and is—that the Commissioner of Education already possessed the authority newly invested—or in this case, reinvested—in him.

Those of us in the executive branch cannot control what is done by the legislative—the Congress. But there is a great deal which we, as civil servants, can do—and are doing—to restore confidence in government.

Having diagnosed the illness, I maintain that a cure is possible. And this cure—in my opinion—is comprised of three, co-equal parts.

LIMITED PROMISES

First, government must carefully limit its promises to its capacity to perform. Government must give the people the information they need to make reasoned choices. We must, in short, "Come clean" with the people. And we must trust *their* ability to deal with the hard choices that a shortage of resources imposes.

As a chief executive whose election was in part a result of citizen distrust of government generated by the "credibility gap" of the 1960's, President Nixon was determined that his administration would carefully refrain from promising more than it could reasonably expect to produce.

He pledged his utmost effort to bridging the credibility gap, and I believe he has delieved on that pledge.

Under this administration, there have been no grandiose promises that poverty would or could be eliminated in short order—or that 100 percent employment was just around the corner—or that, by tomorrow at the latest, problems that have beseiged this society and other nations for centuries would be finally laid to rest with a stroke of the Presidential pen on new legislation, or approval of massive new expenditures from public coffers described as bottomless.

He has even vetoed legislation which—while politically very popular—promised much more than it could ever deliver. A case in point is the child-care bill.

The whole debate on this issue began when the administration offered what it felt was sorely needed legislation designed to provide high-quality child care for those mothers on welfare who could hold jobs—who could break the dependency cycle if only they could be assured their children were in good hands while they worked.

But the child-care bill acted upon by the Congress provided a network of child care centers covering most of the population—and did it in a way that made it an administrative monstrosity that could conceivably cost $20 billion a year.

The American public—treated to a panoply of promises about child care—was one more misled. Congress, having made the promises, then imposed conditions that made the promises impossible to fulfill.

TRUE COSTS

A second necessary component of the cure also involves truth. It involves leveling with the people about the true cost of worthwhile programs that various groups promote. It means putting to rest the simplistic shibboleth that all we need to do to create utopia here and now is to "reorder our priorities."

To a degree you might find surprising, our priorities have shifted during the past three years. During this period, outlays for human resources programs have increased by 63 percent while total budget outlays grew by only 28 percent.

And in the budget for fiscal year 1973 beginning on July 1, human resources spending will be 45 percent of all expenditures, while defense spending will total only 32 percent. This exactly reverses the spending priorities of only three years ago—when the defense share was 45 percent and the human resources share was only 32 percent of the 1968 budget. The 1973 budget marks the first time in history that the Department of Health, Education and Welfare's share exceeds that of the Department of Defense.

But despite this rather dramatic, even drastic reordering of military-domestic priorities, domestic problems remain unsolved—for the most part because major issues remain unresolved.

We have not—as a nation—focused sharply enough on the need to choose among the literally thousands of competing claims on our national tax resources. Moreover, in far too many instances, we refrain from closely examining the actual cost of satisfying these claims.

Let's look at a list of widely accepted goals:

Day care services for children who need them but whose families cannot afford them;

Fulfillment of the objectives of the right to read effort;

Homemaker services, mental retardation services, and vocational services for all who need them;

Good compensatory education for every disadvantaged child.

These programs—however worthy—represent just a partial listing of what many people would regard as "top" priorities.

They don't touch on cleaning up the environment—or improving mass transportation—or revitalizing our cities—or on the scores of other priorities that appear high on each individual's—or each organization's—agenda for government.

Yet to meet even those limited goals, we would have to increase our tax revenues by nearly $28 billion—a sum equivalent to about one-eighth of the current Federal budget—and even then we have no assurance that these vast outlays would prove sufficient.

Also, we must make sure the public understands that solutions to all problems are not possible immediately. They must be made to realize that choosing to move strongly forward on one front necessarily means holding the line on another front—or even at times, retrenching a bit.

BETTER UTILIZATION OF RESOURCES

Third, and finally, we must better utilize the resources at our command. We must eliminate the waste, the duplication, and the inefficiencies that dilute and diminish our efforts, often destroy our incentives, and dreadfully damage our institutional credibility.

Without considering at this moment the duplication in programs between State and local governments and the Federal Government, there are many examples of the fragmentation of responsibility that exists on the Federal level alone.

Nine different Federal departments and twenty independent agencies are now involved in some aspect of education.

Three departments work to help develop water resources.

Four agencies in two departments are involved in managing public lands.

Six agencies in three departments administer Federal recreation areas.

President Nixon has set about to reorganize the internal structure of government to make it more receptive to the needs of the American citizen. In the early days of his administration, many reforms were accomplished by direction of the President or by Executive order.

But under the tripartite system of government assured under the Constitution, the President himself can only accomplish so much in the way of reorganization or reform.

After a time, the President laid before the Congress his plans for further, more extensive reforms in which he would have to have the cooperation and consent of the Congress.

Everyone is now familiar—at least in name—with some of the President's proposals for reform;

Reform of our welfare system;

Reform of our taxing and expenditure structure through revenue sharing; and, in fact,

Reform of the overall framework of the executive branch of the Federal Government.

This last is perhaps the most far-reaching proposal for reform in this century. However, at this point the Congress has not completed action on any of these reforms.

EXECUTIVE REORGANIZATION

This executive branch plan recommends that the Departments of State, Treasury, Defense, Justice, and Agriculture continue as basic units of the Cabinet, but that all other departments be consolidated and rearranged into four.

Under this plan, the executive branch would be modernized to deal comprehensively with modern-day national needs.

It would give us a department of human resources to deal with the concerns and needs of the people; a department of community development to bring assistance to the people's urban and rural community needs; a department of economic development to promote the Nation's prosperity and develop jobs and businesses; and, a department of natural resources to look after our physical environment and the preservation and balanced use of our natural resources.

Executive reorganization *should* be the most popular domestic proposal of the administration—since it would make the Federal Government more responsive to the needs of the people. It has been given little publicity, however, after its initial proposal by the President.

As President Nixon said recently:

"Good men and good money can be wasted on bad mechanisms. By giving those mechanisms a thorough overhaul, we can help restore the confidence of the people in the capacities of their government."

CONCLUSION

Confidence in our government can be restored. As I have tried to point out, the prime responsibility for such restoration rests with the branches of the government themselves.

But there is room—indeed, there is grave *need*—for all of us in this great effort. It has been true of democracies through the ages that the effectiveness of government is directly proportionate to the degree of citizen interest and citizen participation.

Government can be relevant.

It can be an effective device for meeting critical citizen needs.

It can function as it should—as an extension of the people's will.

Whether it does or not is dependent on our willingness to demand relevancy—to demand efficiency—and to demand truthfulness—and to back up our demands with a commitment to make representative democracy function as it should.

IMPEACHMENT PROCEEDINGS INSTITUTED AGAINST THE PRESIDENT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. CONYERS. Mr. Speaker, today, a resolution of impeachment of the President of the United States, Richard M. Nixon, was introduced for myself and Representatives BELLA ABZUG, SHIRLEY CHISHOLM, RONALD DELLUMS, and WILLIAM RYAN.

The waging of an undeclared war in Southeast Asia has reached its most dangerous height with President Nixon's announced decision to mine all entrances to North Vietnamese ports, and to otherwise interdict by use of naval force shipments to these ports, as well as engage in massive aerial bombardment.

This tactic has been considered in detail and expressly rejected on several earlier occasions by a previous administration.

Yesterday a number of our colleagues joined with us to say:

This act of war is a clear violation of President Nixon's oath of office. It usurps the constitutional authority of Congress, and also violates section 602 of the Military Procurement Act enacted last year, which declares the termination of the Indochina war to be a matter of national policy. * * * It is clear that the President will not end the war and that therefore, we must end his Presidency. We call on the people of America who so desperately want peace to exercise their right and their duty to petition their Government for redress.

Today we feel impelled to action. The resolution of impeachment has been carefully drafted and soberly considered. It appears below with a thoroughly documented memorandum of law prepared by the Lawyers Committee on American Policy Toward Vietnam:

H. RES. 976

Whereas Article II, section 4 of the Constitution of the United States provides: "The President, the Vice-President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery or other high crimes and misdemeanors"; and

Whereas Article I, section 2, paragraph 5 of the Constitution of the United States provides: "The House of Representatives * * * shall have the sole power of impeachment"; and

Whereas, Richard M. Nixon, President of the United States from January 20, 1969 to the present time has known that this House and the Senate of the United States have at no time declared war against the Democratic Republic of Vietnam, the National Liberation Front, the sovereign state of Cambodia, or the sovereign state of Laos, pursuant to Article I, section 8, clause 11, of the Constitution of the United States which provides: "The Congress shall have power * * * to Declare War"; and

Whereas Richard M. Nixon has committed the acts hereinafter set forth, which constitute high crimes and misdemeanors within the meaning of the Article II, section 4 of the Constitution of the United States:

ARTICLE I

1. On January 20, 1969, Richard M. Nixon executed the oath of office of President of the United States, solemnly swearing that "I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect and defend the Constitution of the United United."

2. From January 20, 1969 to the present time, Richard M. Nixon has known that this House and the Senate of the United States have at no time declared war against the Democratic Republic of Vietnam, the sovereign state of Cambodia, or the sovereign state of Laos, pursuant to Article I, section 8, clause 11, of the Constitution of the United States, which provides: "The Congress shall have power * * * to Declare War," and has nevertheless committed the acts, including acts of war, hereinafter specified.

3. On January 12, 1971, after enactment by the Congress, Richard M. Nixon approved Public Law 91-672, section 12 of which repealed the Southeast Asia (Tonkin Gulf) Resolution, Public Law 88-408, approved August 10, 1964, withdrawing and terminating any power which may have been granted under such Tonkin Gulf Resolution to the President respecting the use of the Armed Forces of the United States in Southeast Asia.

4. On November 17, 1971, after enactment by the Congress, Richard M. Nixon approved the Military Procurement Authorization Act for Fiscal Year 1972, Public Law 92-156.

5. Section 601 of the said Act, known as the Mansfield amendment, in pertinent part declares it to be "the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina, and to provide for the prompt and orderly withdrawal of all United States military forces at a date certain, subject to the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces."

6. Section 601 called upon the President "to implement the above-expressed policy by initiating immediately the following actions:

"(1) Establishing a final date for the withdrawal from Indochina of all military forces of the United States contingent upon the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.

"(2) Negotiate with the Government of North Vietnam for an immediate cease-fire by all parties to the hostilities in Indochina.

"(3) Negotiate with the Government of North Vietnam for an agreement which would provide for a series of phased and rapid withdrawals of United States military forces from Indochina in exchange for a corresponding series of phased releases of American prisoners of war, and for the release of any remaining American prisoners of war concurrently with the withdrawal of all remaining military forces of the United States by not later than the date established by the President pursuant to paragraph (1) hereof or by such earlier date as may be agreed upon by the negotiating parties."

7. On November 11, 1971, Senator John Stennis, Chairman of the Senate Armed Services Committee, in commenting on section 601 prior to its enactment, stated to the Senate: "* * * for the first time we now have as a proposed law, language which makes our withdrawal from Indochina 'the policy of the United States,' rather than the sense of the Congress as contained in the previous version. For those who supported the Mansfield amendment, I would urge that they closely consider the meaning of this change in language. As a policy matter it binds the Congress and the President of the United States." CONGRESSIONAL RECORD, Vol. 117, pt. 31, P. 40792.)

8. On November 17, 1971, upon approving Public Law 92-156 by affixing his signature thereto, and despite the will of the Congress in enacting section 601, Richard M. Nixon stated: "Section 601 expresses a judgment about the manner in which the American involvement in the war should be ended. However, it is without binding force or effect, and it does not reflect my judgment about the way in which the war should be brought to a conclusion. My signing of the bill that contains this section, therefore, will not change the policies I have pursued and that I shall continue to pursue toward this end."

9. On February 16, 1972 the United States District Court for the Eastern District of New York ruled in *DaCosta* v. *Nixon*, 72 Civil Action 207 (John F. Dooling, D.J.), that: "When the bill embodying Section 601 was passed by the Congress and approved by the President's signature it established 'the policy of the United States' to the exclusion of any different executive or administration policy,

and had binding force and effect on every officer of the Government, no matter what their private judgments of that policy, and illegalized the pursuit of an inconsistent executive or administration policy. No executive statement denying efficacy to the legislation could have either validity or effect."

10. Despite the foresaid enactment into law of the said section 601, Richard M. Nixon ordered the following actions:

(1) On March 23, 1972, broke off the negotiations in Paris with representatives of the Democratic Republic of Vietnam and the National Liberation Front;

(2) From March 24, 1972, to April 26, 1972, refused to return to said negotiations;

(3) On May 4, 1972, broke off again said negotiations, suspending them indefinitely;

(4) Since April 1972, escalated the air war in Indochina to levels unprecedented in the history of warfare, and on May 8, 1972, without prior consultation with or consent of the Congress, announced that he had ordered the mining of all North Vietnamese ports and the interdiction by United States forces of rail lines and other communications entering the Democratic Republic of Vietnam.

11. By refusing to declare a final date for the complete withdrawal of all United States forces in Indochina, as called for by section 601 of Public Law 92-156, by insisting upon his Vietnamization policy, and by intimating that a residual military force would be left in South Vietnam until such time as the Democratic Republic of Vietnam and forces allied with that Government acceded to his demands for the release of American prisoners of war, a cease-fire, and new elections under a caretaker government controlled and administered by Nguyen Van Thieu, Richard M. Nixon jeopardized the security of the United States.

12. By reason of the aforesaid acts, Richard M. Nixon has arrogated to himself the power to declare war and the power "to make Rules for the Government and Regulation of the land and naval forces," which are committed by Article I, section 8, clauses 11 and 14 of the Constitution solely to the Congress, and has, in violation of his oath as President of the United States, of section 601 of Public Law 92-156, of the Charter of the United Nations, and of principles of the Law of Nations, to the detriment of the national interest, at the cost of prolonging the retention of American prisoners of war, and at the risk of confrontation with the Governments of the Union of Soviet Socialist Republics and the Peoples Republic of China, caused untold killing and maiming of American military personnel and the people of Indochina and inflicting death and destruction upon the innocent civilian populations of said region, and he has committed and is guilty of high crimes and misdemeanors within the meaning of Article II, section 4 of the Constitution of the United States.

ARTICLE II

13. From January 20, 1969 to the present time, Richard M. Nixon, in violation of

(a) his oath of office to preserve, protect and defend the Constitution of the United States,

(b) Article I, section 8, clauses 11 and 14 of the Constitution of the United States, which assign solely to Congress the powers to declare war and to make rules for the government and regulation of the land and naval forces of the United States,

(c) Section 601 of the "Military Procurement Authorization Act for Fiscal Year 1972, Public Law 92-156, declaring it to be "the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina",

(d) Section 12 of Public Law 91-672, the Congressional repeal of the Gulf of Tonkin Resolution, which withdrew and terminated any power which may have been granted by such Gulf of Tonkin Resolution to the President, and

(e) The Charter of the United Nations, to which the United States is a signatory, and which is therefore part of the supreme law of the land, which obligates the United States to refrain from the unilateral use or threat of force in its international relations, and which obligates the United States to settle inernational disputes by peaceful means,

did willfully and intentionally cause and direct the Armed Forces of the United States to continue to engage in military hostilities and to continue to carry on a war against the territory and people of South Vietnam, the Democratic Republic of Vietnam, the sovereign state of Cambodia, and the sovereign state of Laos, all without a declaration of war by the Congress of the United States pursuant to Article I, section 8, clause 11 of the Constitution.

14. By reason of the aforesaid acts, Richard M. Nixon has arrogated to himself the power to declare war and the power "to make Rules for the Government and Regulation of the land and naval forces," which are committed by Article I, section 8, clauses 11 and 14 of the Constitution solely to the Congress, and has, in violation of his oath as President of the United States, of section 601 of Public Law 92-156, of the Charter of the United Nations, and of principles of the Law of Nations, to the detriment of the national interest, at the cost of prolonging the retention of American prisoners of war, and at the risk of confrontation with the Governments of the Union of Soviet Socialist Republics and the Peoples Republic of China, caused untold killing and maiming of American military personnel and the people of Indochina and inflicting death and destruction upon the innocent civilian populations of said region, and he has committed and is guilty of high crimes and misdemeanors within the meaning of Article II, section 4 of the Constitution of the United States.

ARTICLE III

15. From January 20, 1969, to the present time, Richard M. Nixon has caused and directed the Armed Forces of the United States to engage in acts of terror against the civilian population and of devastation of the territory of Indochina, to kill and wound hundreds of thousands of innocent civilians by means of aerial, land, and naval bombardments directed against non-combatants, the designation of "free fire zones," "harassment," and "interdiction" fire, indiscriminate use of anti-personnel bombs, napalm, and defoliants, to drive innocent civilians from their homes into squalid refugee camps, and to commit other similar acts, all in violation of

(i) "the supreme law of the land," pursuant to Article VI, clause 2 of the Constitution of the United States, as embodied in the Hague Convention No. IV of 18 October 1907, Respecting the Laws and Customs of War Land (36 Stat, 2277, Treaty Series 539); Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (T. I. A. S. 3365); Hague Convention No. IX of 18 October 1907, Concerning Bombardment by Naval Forces in Time of War (36 Stat. 2351; Treaty Series 542); Geneva Convention for the Amelioration of the Condition of the Wounded and Sick of Armies in the Field of 27 July 1929 (47 Stat. 2074; Treaty Series 847), to which the United States is a signatory.

(ii) the Law of Land Warfare embodied in United States Field Manual 27-10, and

(iii) the laws of civilized society, including crimes against peace, crimes against humanity, and war crimes, agreed upon in "The Principles of International Law Recognized in the charter of the Nuremburg Tribunal" adopted unanimously by the first General Assembly of the United Nations at the initiative of the United States.

16. By reason of said acts in violation of the said laws and principles, Richard M. Nixon is guilty of high crimes and misdemeanors within the meaning of Article II, section 4 of the Constitution of the United States,

Resolved, that Richard M. Nixon, President of the United States ought to be, and he hereby is impeached by this House, and further

Resolved, that the Speaker appoint a Committee of Managers on the part of the House, and further

Resolved, that a message be sent to the Senate to inform them that this House has appointed managers to conduct the impeachment of the President of the United States, and have directed the said managers to carry to the Senate the articles agreed upon by this House, as contained in this resolution, to be exhibited in maintenance of their impeachment against Richard M. Nixon, and that the Clerk of the House do go with said message, and further

Resolved, that the articles agreed to by this House, as contained in this resolution, be exhibited in the name of the House and of all the people of the United States, against Richard M. Nixon, President of the United States, in maintenance of the impeachment against him of high crimes and misdemeanors in office, and be carried to the Senate by the managers appointed to conduct the said impeachment on the part of this House.

MEMORANDUM OF LAW ON IMPEACHMENT

(By Lawyers Committee on American Policy Towards Vietnam)

The conduct of President Richard M. Nixon, since the enactment of the Mansfield Amendment (Title VI) to the Military Procurement Authorization Act of 1971, and the adoption of the "National Commitment Resolution" of June 25, 1969, and since the repeal of the Gulf of Tonkin Resolution on December 31, 1970 as well as the continued prosecution of the Southeast Asian war in utter disregard of the governing Nuremberg Principles affecting the conduct of war, made President Nixon culpably guilty of "high crimes and misdemeanors" warranting the presentation of a bill of impeachment by the members of the 92nd Congress.

The members of the 92nd Congress, and particularly the new generation of Congressmen who harbor such a close kinship for the families of the 50,000 casualties, the more than 300,000 wounded and, yes, the 35,000 drug addicts, have an opportunity to render their country a service which only members of the House of Representatives can render.

In consistent disregard of the popular will, the decisions of the Congress to end the war in Vietnam and all his protestations of peace to the contrary, the President of the United States has ordered a massive escalation of the war against the Vietnamese people. An estimated additional force of 150,000 Americans are manning the heavily augmented air and naval forces to rain death and destruction on North and South Vietam. The resultant casualties to Americans in fatalities, wounded and maimed, missing and prisoners of war may be expected to mount. Hints of use of atomic weapons have been heard. A new war of vast proportions is under way without authority or approval of the Congress of the United States.

It is a clear fabrication to argue that this vast military operation is required to protect American withdrawal when more Americans are being exposed to danger by being moved into combat. The best protection for withdrawal of American forces is immediate withdrawal from all zones of danger. Nor has the President the authority to pursue a new war in support of the corrupt and tyrannical

Thieu regime. In fact his actions are in gross violation of two Congressional enactments:

1. The Mansfield Amendment—Title VI of the Military Procurement Authorization for 1972, (P.L. 92–156) Section 601,

2. Repeal of the Gulf of Tonkin Resolution of December 31, 1970: and his conduct is also contemptuous of the intent and purpose of National Commitments Resolution of June 25, 1969. He outrages both national and international opinion as set forth in the Nuremberg judgments and the principles of the United Nations.

Under the Constitution, the Congress has the power to check excesses of Executive power. Judge John F. Dooling, Jr., in his decision in the *Orlando v. Laird* case in the U.S. District Court for the Eastern District of New York, recited many instances in the past that Congress had passed "repeated amendments to the Selective Service Act", and laws affecting Veterans' Benefits for the "period of the war" and finally concluded: "But it is idle to suggest that the Congress is so little ingenious or so inappreciative of its powers *including the power of impeachment*, that it cannot seize policy and action initiatives at will and halt courses of action from which it wishes the national power to be withdrawn . . .

"That, however, is simply a charge of Congressional pusillanimity . . .

"The Constitution presents the Congress with the opportunity for it, but it cannot compel the making of unpopular decisions by the members of Congress."[1] (Emphasis supplied.)

Some members of Congress have already begun to despair. Some have, among themselves, reflected on the issue of impeachment. Still others have given expression to the extant power vested in the House of Representatives to discipline officials guilty of political crimes.

Under our Constitution history the House of Representatives—the popularly elected branch of government—is the last rampart in the defense of the rights of the people.

Persons subject to impeachment are set forth in Article II Section 4 of the Constitution. It provides that "The President, Vice President and all civil officers of the United States shall be removed from Office on Impeachment for, or Conviction of Treason, Bribery or other high Crimes and Misdemeanors."

Between 1797 and 1936 eleven impeachment trials were conducted to final decisions. The two most important ones were that of Associate Justice of the Supreme Court, Samuel Chase (1805), and that of President Andrew Johnson (1868), the remaining nine were United States Federal Judges, one senator and a Secretary of War. In the case of the senator no action was taken because he was not subject to impeachment. The final decisions in the remaining ten impeachment trials were six acquittals and four convictions.[2]

"High Crimes and Misdemeanors"

(As considered at the Philadelphia Constitutional Convention of 1787—The source material for this section is "Debates on the Adoption of the Federal Constitution at Philadelphia in 1787; as reported by James Madison and revised by Janathan Elliot Vol. V, Philadelphia: J. B. Lippincott & Co. 1861.)

The fifty-five members who wrote the Constitution, met in Philadelphia in secret sessions between May and September 1789. The records of their deliberations that did come down are sparse and the discussions by them of the section dealing with the "removal of officials" is quite limited. It was a fact, however, that the delegates met after a long war which ended the abuses of a tyrannical king and the need of avoiding the return of a "king" was prominent in their minds and hearts.

What follows is a day by day discussion of the section dealing with the conditions for impeaching a government official.

On *May 29, 1787*, a draft for a "Plan for a Federal Constitution" was presented by Charles Pickney. Article VIII of this plan provided that the President "shall be removed from his office on impeachment by the House of Delegates, and conviction in the Supreme Court, of treason, bribery or corruption." (p. 131)

On *June 2*, during the debate on that section, Mr. Dickinson moved "that the executive be made removable by the national legislature, on the request of a majority of the legislatures of the individual states." "The happiness of this country, in his opinion, required that considerable powers be left in the hands of the states." Mr. Sherman contended, "that the national legislature should have the power to remove the executive at pleasure." (p. 147)

On *June 13, 1787*, this summary power of removal was rejected and a motion was made to substitute the following language "and to be removable on impeachment and conviction of mal-practice or neglect of duty." (p. 190)

On *July 20, 1787*, during the debate, it was observed by Col. Mason that "No point is of more importance than that the right of impeachment should be continued." (p. 340) Dr. Franklin was for retaining the clause . . . it would be the best way, therefore, to provide in the constitution for the regular punishment of the executive, where his misconduct should deserve it, and for his honorable acquittal, where he should be unjustly accused." (pp. 340–41)

James Madison immediately added to Dr. Franklin's conclusion that he "thought it indispensable that some provision should be made for defending the community against the 'incapacity, negligence, or perfidy of the Chief Magistrate'" (p. 341).

"Mr. Gerry (at the same session), urged the necessity of impeachments. A good magistrate will not fear them. A bad one ought to be kept in fear of them. He hoped that the maxim would never be adopted here, that the chief magistrate could do no wrong." (p. 341)

"Mr. Randolph" observed, "the propriety of impeachment was a favorite principle with him. Guilt, wherever found, ought to be punished. The executive will have great opportunities of abusing his power, particularly in time of war, when the military force, and in some respects the public money, will be in his hands. Should no regular punishment be provided, it will be irregularly inflicted by tumults and insurrections." (p. 342)

On *August 6, 1787*, the report of the Committee of detail was submitted and a printed copy being at the same time furnished to each member. Article 9, Section II concerned itself with the duties, powers and responsibilities of the President of the United States of America and provided in part that "He shall be removed from his office on impeachment by the House of Representatives, and conviction, in the Supreme Court, of treason, bribery, or corruption." (p. 380)

On *September 4, 1787*, as the Convention was drawing to a close, a Committee of Eleven was created to whom sundry resolutions were referred for additions and alterations. This Committee inserted in the section dealing with impeachment the following change. "The Senate of the United States shall have power to try all impeachments, but no person shall be convicted without the concurrence of two thirds of the members present." But this Committee of Eleven made a further alteration to wit "He shall be removed from office on impeachment by the House of Representatives and conviction by the Senate for *treason or bribery*." (p. 507)

On *September 8, 1787*, the Committee of Eleven resumed its work. The clause referring to the Senate, the trial of impeachment against the President, was taken up. Col. Mason Observed "Why is the provision *restrained to treason and bribery only*? Treason, as defined by the Constitution, will not reach many great and dangerous offenses. . . . Attempts to subvert the Constitution may not be treason as above defined . . . it is more necessary to extend the power of impeachment." Col. Mason moved to add after "bribery" "or maladministration." This was seconded by Mr. Gerry. Mr. Madison then observed, "So vague a term will be equivalent to tenure during the pleasure of the Senate." Col. Mason thereupon withdrew "maladministration" and submitted "other high crimes and misdemeanors against the State." On the question thus altered the vote was Ay 8 No 3 (p. 528) The delegates to the Convention signed the Constitution on September 17, 1787.

What constitutes "high crimes" has eluded most authorities on constitutional law and the English Common Law. Pollack and Maitland, in their definitive "History of English Law" (Vols. I and II) devote a chapter (Crime and Torts), of more than one hundred pages, to an inquiry into crimes. There is much consideration of "petty treason" and "high treason". High treason covers forgeries, the making of counterfeit money and clipping of coin (Vol. II p. 511). But what constitutes "high crimes" has eluded these writers.[3]

During the trial of Supreme Court Justice Samuel Chase for impeachment, a reference was made to Blackstone's commentaries: at one point in the argument it was urged, "Let us try judge Chase by this test, 'A crime or misdemeanor' (says judge Blackstone) 'is an act committed or omitted, in violation of a public law either forbidding or commanding it.' This general definition comprehends both crimes and misdemeanors, which properly speaking, are mere synonimous terms."[4]

The writers of commentaries, historians and text writers on the constitution, have, each in his own way, attempted to answer the inquiry "what are impeachable offenses".

Kent in his *Commentaries* concluded that "The president, as well as all other officers of the United States, may be impeached by the house of representatives for treason, bribery, and other high crimes and misdemeanors. . . ." If then "the president will use the authority of his station to violate the constitution or law of the land, the house of representatives can arrest him in his career by resorting to the power of impeachment."[5]

Story, in his treatise *On the Constitution*, answered the inquiry of what are impeachable offenses as follows: "The only practical question is, what are to be deemed high crimes and misdemeanors? Now, neither the Constitution nor any statute of the United States has in any manner defined any crimes, except treason and bribery, to be high crimes and misdemeanors, and as such impeachable."[6]

"Congress have unhesitatingly adopted the conclusion that no previous statute is necessary to authorize an impeachment for any official misconduct . . . It seems, then, to be the settled doctrine of the high court of impeachment that, though the common law cannot be a foundation of a jurisdiction not given by the Constitution or laws, that jurisdiction, when given, attaches, and is to be exercised according to the rules of the common law; and that what are and what are not high crimes and misdemeanors is to be ascertained by a recurrence to that great basis of American jurisprudence (see Jefferson's Manual, Sec. 53, title, *Impeachment*, pp. 29 to 31).[7]

Cooley, in his *Principles of Constitutional Law*, defines impeachable offenses as follows: "The offences for which the President or any other officer may be impeached are any such as in the opinion of the House are deserving of punishment under that process. They are not necessarily offences against the general laws . . . It is often found that offences of a very serious nature by

---

Footnotes at end of article.

high officers are not offences against the criminal code, but consist in abuses or betrayals of trust, or inexcusable neglects of duty . . .[8]

Pomeroy, in his treatise *"Constitutional Law,"* discusses the grounds of an impeachment at some length. In essence his estimate is that the President or Vice President who has "knowingly and intentionally violated the express terms of the Constitution, or of a statute which charged him with an official duty . . ." is impeachable. He then lists specific instances which make the President culpable. The following two instances have direct bearing on President Nixon's culpability:

(1) The "President has the sole power to carry on negotiations with foreign governments. Congress may not dictate to him, or restrain him, much less make any kind of diplomatic intercourse on his part an indictable offence. But by a rash, headstrong, wilful course of negotiation carried on against the best and plainest interests of the country, although without any traitorous design, he might plunge the nation into a most unnecessary and disastrous war. For such an act he would be impeachable."

(2) The "President as Commander-in-Chief has the sole power to wage war. Congress may not dictate to him the campaigns, marches, sieges, battles, retreats, much less make any method of conducting the actual hostilities an indictable offence. But if his conduct was something more than a mere mistake in the exercise of his discretion, although not an adhering to the enemies of the United States giving them aid and comfort, he might, by a stubborn and wilful persistence in his plans after their failure had demonstrated their futility, bring defeat, disgrace, and ruin upon his country. For such an act he would be impeachable. Many more instances might be given, but these are sufficient for illustration."[9]

Pomeroy in discussing the grounds of an impeachment makes the pointed observation that "Narrow the scope of impeachment, and the restraint over the acts of rules is lessened." He concludes his observations in the following significant language: "The phrase 'high crimes and misdemeanors' seems to have been left purposely vague; the words point out the general character of the acts as unlawful; the context and the whole design of the impeachment clauses show that these acts were to be official, *and the unlawfulness was to consist in a violation of public duty which might or might not have been made an ordinary indictable offence."* In Pomeroy's estimate the grounds for impeachment is that "The importance of the impeaching power consists, not in its effects upon subordinate ministerial officers, but in the check which it places upon the President and the judges."[10] (emphasis supplied)

The impeachment of President Andrew Johnson

President Abraham Lincoln, even before his death, had approached "Reconstruction" in a constitutional and charitable manner. President Lincoln was prepared to recognize a seceded state when 10% of the population had taken an oath to uphold the Constitution. The radicals in Congress were opposed to this procedure and when President Johnson attempted to enforce Lincoln's policy of reconciliation, they organized their opposition.

Pursuing the Lincoln policy, President Johnson granted general amnesty to all participants in the rebellion who took an oath of allegiance to the United States. Soon after the reorganization of the Southern States, under Lincoln and Johnson, they enacted the "Black Codes." Under these codes, Negroes could be held as vagrants and in assigning them to the highest bidder to work off the fines, a new form of slavery was being reestablished. The reaction in the North to the "Black Codes" was crystalized by Horace Greeley who said that the South would not "stop short of the extermination of the black race" and the "Chicago Tribune" wrote, "that men of the North will convert the State of Mississippi into a frog-pond before they will allow any such laws to disgrace one foot of soil in which the bones of our soldiers sleep and over which the flag of freedom waves."[11]

After the 1866 midterm election, the struggle between the Radical Republicans in Congress and President Johnson became acute. A series of Reconstruction Acts were passed; and all were passed over President Johnson's veto. Finally, in March 1867, Congress passed the Tenure of Office Act which prohibited the President from removing officeholders except with the consent of the Senate.

President Johnson thereupon removed Secretary of War, Edwin Stanton. Secretary Stanton refused to resign, the radicals claiming that Stanton's removal was without the consent of the Senate. On March 2, 1868, the House of Representatives adopted a resolution impeaching President Johnson, charging him, in eleven articles, of "high crimes and misdemeanors." The first nine charges were concerned with President Johnson's violation of the Tenure of Office Act. The tenth charge accused him of attacking Congress with "inflamatory and scandalous harangues" and with intent "to bring into disgrace, ridicule, hatred, and contempt the Congress of the United States."

President Johnson escaped impeachment by a single vote. But by the filing of the bill of impeachment, the crisis that confronted the country at that time was overcome. The Radicals regained control of the legislative and the executive branches. The Reconstruction program in the South was reconstituted. The "Black Codes" were eliminated. The Fourteenth Amendment was adopted and the civil rights of Negroes, for at least a decade, were assured (1868–1877).

Of the eleven impeachments that went to trial and which are referred to above, the impeachment of President Andrew Johnson is the principal trial—because of the very nature of the office held by Andrew Johnson—that has a critical bearing upon the contemplated impeachment of President Richard M. Nixon.

GROUNDS FOR THE IMPEACHMENT OF PRESIDENT RICHARD M. NIXON

The publication of the Pentagon Papers by the New York Times and the Washington Post have already demonstrated the conditions under which the United States became involved in the Southeast Asia war and we will not burden this memorandum with more than reference to it.

The "Nixon Edition" of the Pentagon Papers, we must assume, will expose the present Administration's shortcomings and irregularities but in this section we will address ourselves to the specific grounds for the impeachment of President Richard M. Nixon.

The 91st Congress, soon after President Nixon's inauguration (on Feb. 4, 1969) began consideration of the "National Commitments" Resolution" introduced on that day by Senator William J. Fulbright. This resolution was agreed to on June 25, 1969. It reads in part: *"Resolved,* That (1) a national commitment for the purpose of this resolution means the use of the Armed Forces of the United States on foreign territory, or a promise to assist a foreign country, government, or people by the use of the Armed Forces or financial resources of the United States, either immediately or upon the happening of certain events, and (2) it is the sense of the Senate that a national commitment by the United States results only from affirmative action taken by the Executive and Legislative branches of the United States government by means of a treaty, statute or concurrent resolution of both Houses of Congress specifically providing for such commitment."[12]

In the face of this clear expression of the sense of the United States Congress President Nixon, on April 30, 1970 informed the American people that "in order to avoid" a wider war and keep down the "casualties of our brave men in Vietnam" he had ordered American troops to invade Cambodia. In the same address he declared that the invasion of Cambodia was indispensable to the withdrawal of our troops and that if we escalate our efforts in Cambodia it would aid our program of Vietnamization.

One week before the Cambodian invasion, Secretary of State, William P. Rogers testifying before a Senate Committee stated: "We have no inclination to escalate. Our whole inclination is to de-escalate. We recognize that if we escalate and get involved in Cambodia with our ground troops, that our whole program (Vietnamization) is defeated."[13] Either President Nixon elected to disregard his own secretary's conclusion that we do not intend to escalate or there was deliberate deception. In the words of Professor Richard B. Morris of Columbia University, "Instead of candid communication between the executive and Congress we have had unparalleled doubletalk, evasion and concealment." (*New York Times* April 13, 1972)

The Cambodian invasion, constituted a "high crime" warranting impeachment. His action was personal in character since his own Secretary of State appeared to be unaware of his plans for the invasion of Cambodia and the act was a high crime because it constituted a commitment of the Armed Forces of the United States on foreign territory without the approval of Congress.

The *second* "high crime" of which President Nixon is guilty, is the invasion of Laos. The Gulf of Tonkin Resolution Repeal was passed on December 31, 1970, and signed by President Nixon on January 12, 1971. This act of Congress terminated any war-making authority vested in the President. Laos was invaded in February, 1971. President Nixon, in signing the repeal of the Gulf of Tonkin Resolution, was aware that his powers to wage war without the approval of Congress would constitute a high crime. And the commitment of air power in support of the South Vietnamese forces without the approval of Congress was in contravention of the "National Commitments" Resolution which forbids the commitment of "Armed Forces", without Congressional action. As a result of the illegal invasion of Laos the admitted losses by the Department of Defense in that undertaking included 174 Americans killed in action, 1,027 wounded, 42 missing in action and in addition 107 helicopters and planes were lost and hundreds more were damaged by enemy gunfire.

At no time prior to February 8, 1971 or thereafter has the Congress of the United States declared war against Laos pursuant to Article I, Section 8, Clause II of the Constitution of the United States. The U. S. participation with unlimited air support constituted a "high crime" justifying impeachment.

The *third* "high crime" of which President Nixon was guilty was that his renewal of massive bombardment of North Vietnam was in flagrant violation of Title VI (Section 601) of the Military Procurement Authorization Act for 1972 (P.L. 92–156).[14] This law stated in essence that it is "the policy of the United States" to terminate at the earliest practicable date all military operations of the United States in Indochina and provide for the prompt withdrawal of all American forces subject to only one condition, the release of all American prisoners of war. To implement this policy the statutes called upon the President to "initiate immediately" certain actions: to set a final date for withdrawal of all American forces, to negotiate with the Government of North Vietnam for an agreement providing for "a series of phased and rapid withdrawals" of United States forces in exchange for a corresponding series of releases of American prisoners of war.

Commenting on Section 601 (known as the Mansfield Amendment), prior to the en-

---

Footnotes at end of article.

actment of P.L. 92–156 (Cong. Rec., Nov. 11, 1971, p. 18288) Senator Stennis said: "Mr. President, the Mansfield amendment in this bill in my opinion is far stronger than the one finally adopted as part of the Selective Service Law. It is true that the House did not agree to a specific date. However, for the first time we now have as a proposed law, language which makes our withdrawal from Indochina 'the policy of the United States', rather than the sense of the Congress as contained in the previous version. For those who supported the Mansfield amendment, I would urge that they closely consider the meaning of this change in language. As a policy matter it binds the Congress and the President of the United States." [15]

Nevertheless, the President, upon signing the Act made the following statement: "Section 601 expresses a judgment about the manner in which the American involvement in the war should be ended. However, it is without binding force or effect and it does not reflect my judgment about the way in which the war should be brought to a conclusion. My signing of the bill that contains this section, therefore, will not change the policies I have pursued and that I shall continue to pursue toward this end." [16]

On February 16, 1972, Judge John F. Dooling of the U.S. District Court for the Eastern District of New York in *DaCosta* v. *Nixon,* 72 Civil Action 207 ruled on these two conflicting interpretations of the legal effect of Section 601. Judge Dooling agreed with Senator Stennis; holding that: "When the bill embodying Sec. 601 was passed by the Congress and approved by the President's signature it established the policy of the United States to the exclusion of any different executive or administration policy and had binding force and effect on every officer of the government no matter what their private judgments of that policy, and illegalized the pursuit of an inconsistent executive or administration policy. No executive statement denying efficacy to the legislation could have either validity or effect." [17]

Judge Dooling's decision was affirmed by the Court of Appeals for the 2nd Circuit without opinion, on February 23rd, 1972. This decision unless reversed by the Supreme Court is indisputable that the administration's current policy is illegal.

Finally, in light of the Nuremberg and Tokyo trials, "there are reasonable grounds for regarding Mr. Nixon as responsible for criminal conduct under each of the three categories of offenses charged to the defendants in those trials" to wit, *Crimes against peace, War Crimes* and *Crimes against Humanity*. Professor Richard A. Falk, Milbank Professor of International Law at Princeton University, has arrived at these conclusions in his article entitled, "Why Impeachment".[18]

Professor Falk states: "Mr. Nixon has been, in my judgment and in the judgment of other international law experts, guilty of continuing wars of aggression in Vietnam and Laos and of initiating an aggressive war against Cambodia (1970) . . . The periodic resumption of bombardment against North Vietnam since Nixon took office in situations other than self-defense is a direct violation of the UN Charter. . . ." In urging President Nixon's guilt, Professor Falk declares "It is worth recalling that the Nuremberg Judgment emphasized Crimes against Peace as the fundamental offense: 'To initiate a war of aggression, therefore, is not only an international crime; it is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole.'"

In considering President Nixon's guilt of "War Crimes", Professor Falk resolved that "Specifically Mr. Nixon has relied upon saturation bombing by B–52 bombers against undefended villages and inhabited areas, has employed antipersonnel weapons, toxic chemicals and napalm, . . ."

Professor Falk concludes his "Why Impeachment" theses with the affirmation that, "Some might argue that 'international crimes' are not the sort of 'high crimes' that the Constitution contemplated as forming the basis of impeachment proceedings. But surely the Constitution is flexible enough to embrace a range of activities that endanger national, even human, survival and have long been reduced to legal form. International law has been developing on this subject over the life of the Constitution, largely, as I have indicated, at American initiative. Our domestic courts since the last century have applied international law to domestic controversies." Professors Kent, Story, Cooley and Pomeroy have been quoted above on the question of High Crimes and Misdemeanors, and it seems clear that in their opinion the Constitution envisaged the acts of President Nixon as high crimes under Article II, Sec. 4.

A PROJECTED BILL OF IMPEACHMENT OF PRESIDENT NIXON

The mere filing of the Petition for the Impeachment of President Richard M. Nixon will in itself establish the power and responsibility of the members of the House of Representatives to act in behalf of the people when the Judiciary and the Executive have been found derelict and delinquent in the fulfillment of their responsibilities. The American people are now confronted by the continuance of an illegal war in Indochina by an Executive no longer empowered by Congress to do so (repeal of the Gulf of Tonkin Resolution) on the pretext that our security compels such participation.

The members of the 92nd Congress constitute a free and unfettered body of spokesmen for the people at this moment in history. Whatever self-imposed limitation fettered the 91st and 90th Congresses, the members of the 92nd Congress are, to be sure, free of it. The election of freshman Congressmen displacing old and entrenched members of the House of Representatives is particularly conspicuous in the 92nd Congress. Thirteen women were elected and the young Congressmen who replaced House members of long standing, points directly to the changes that have taken place during the 5-year Vietnam war period. Congressman Paul N. McCloskey Jr. has adverted, in an address on the floor of the House, to "Impeachment as a check on the Presidential abuse of power."

Judge John F. Dooling Jr., in his decision quoted above in the Orlando vs. Laird case, refers to "Congressional pusillanimity" and that Congress is not "inappreciative of its powers, *including the power of impeachment.*"

It is also important to note that the grass roots do not shy away from the use of impeachment as a means to terminate President Richard M. Nixon's abuse of power. The *Harvard Law Record* for May, 1971, reports that a "petition was signed by 400 students and three faculty members, Vern Countryman, Charles R. Nelson and Derrick A. Bell Jr. asking for the impeachment of President Nixon." [19]

Our examination of the original records of the Philadelphia Constitutional Convention records procedure anent the removal for "high crimes and misdemeanors" as well as the original records of the President Johnson impeachment proceedings disclose that offenses with which President Johnson was charged were essentially of a minor character. President Johnson was charged with violation of the Tenure of Office Act, in removing Secretary of War Stanton; an act, whose constitutionality President Johnson intended to test. The Bill of Impeachment charged that President Andrew Johnson had made speeches "with intent to bring into disgrace, ridicule, hatred, contempt and reproach the Congress of the United States."

It is submitted that if Congress was justified in filing a bill of impeachment against President Johnson in 1869, then the members of the 92nd Congress are not only justified in filing a Bill of Impeachment against President Nixon, but would actually be obliged to do so. Whereas and President Johnson was essentially chargeable with misdemeanors, President Richard M. Nixon is chargeable with "high crimes" in a more positive way. The invasion of Cambodia in violation of the National Commitments Resolution and the spending of American lives in that venture constituted a "high crime" of a most serious kind warranting removal. President Nixon also "wasted" the lives of scores of members of the Air Force when he committed air-military support in the invasion of Laos without the consent of Congress.

More recently, on April 14, 1972, he renewed the bombardment of North Vietnam and included Hanoi, Haiphong, and the second biggest port, Than Hoa. In the current invasion, the United States used an armada of 200 planes, including 17 B–52 bombers. These rained explosives on petroleum depots and warehouses and returning pilots reported major damages with many fires and secondary explosions. The massive raids by B–52s are undertaken at altitudes greater than 30,000 feet and it is inconceivable that they can direct their bombs at such heights to military targets with any degree of accuracy. Thousands upon thousands of civilian casualties have resulted and bombs have hit hospitals, orphanages and schools. In the first three weeks of the current bombings 16 U.S. planes, 20 helicopters have been lost and nine crewmen have been killed, eleven wounded and 42 missing. (Newsweek, May 1, 1972), pp. 49–52.

Not only are these renewed raids in violation of our own laws but in blatant violation of the:

(A) Hague Convention No. IV, Annex, Regulations Respecting the Laws and Customs of War on Land 18 October 1907, Article 25, which reads as follows: "The attack or bombardment, *by whatever means,* of towns. villages, dwellings, or buildings which are undefended is prohibited." and

(B) Hague Convention No. IX Concerning Bombardment by Naval Forces in Time of War 18 October 1907, Article 1, "The bombardment by naval forces of undefended ports, towns, villages, dwellings or buildings is forbidden. A place cannot be bombarded solely because automatic submarine contact mines are anchored off the harbor." (emphasis supplied)

In addition to the Hague Convention, we of course have comparable provisions in the Geneva Convention of July, 1929 (47 Stat. 2074 Treaty Series 847) and Geneva Convention August, 1949 (T.I.A.S. 3365) to which the United States is a signatory, and the U.S. Field Manual which embodies the Law of Land Warfare (36 Stat. 2277, Treaty Series 539).

President Nixon was inaugurated in January 1969. His earliest commitment was a proclamation that he would —— to terminate Vietnam hostilities and bring peace to that part of the world. On June 25, 1969, less than six months later, the U.S. Senate adopted a resolution, quoted above, the essence of which was "that it is the sense of the Senate that a national commitment by the United States results only from affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both houses of Congress specifically providing for such commitment".

President Nixon committed American military forces on three specific occasions: (1) In ordering the Cambodian invasion, he did not consult or secure the consent of Congress, thus violating the Constitution; (2) In February 1971 his commitment of armed forces in support of the Laos invasion with-

---

Footnotes at end of article.

out Congressional action violated the Constitution and lacked Congressional affirmative in view of the earlier repeal of the Tonkin Gulf Resolution; (3) In April 1972 he committed unrestrained naval and air forces for the bombardment of North Vietnam, singling out particularly as targets Hanoi and Haiphong, in violation of the Constitution and the express terms of the Mansfield Amendment to the Military Procurement Authorization Act (Title VI; Sec. 601).

President Nixon's commitment of armed forces vis-a-vis the invasion of Cambodia in 1970, the aerial invasion of Laos in 1971, and the re-escalation of the air and naval war over North Vietnam—all done without the affirmative action or even the knowledge of the Congress—constituted "high crimes and misdemeanors" within the purview of Article II, Section 4 of the Constitution, warranting the presentation of a Bill of Impeachment.

Respectfully submitted.

WILLIAM L. STANDARD,
JOSEPH H. CROWN,
Cochairmen, Lawyers Committee on American Policy Towards Vietnam.

FOOTNOTES

[1] *Orlando* vs. *Laird*, 317 Supp. 1013, p. 1019.

[2] Committee of the Judiciary, "Legal Materials on Impeachment"—Special Subcommittee on H. Res. 920, August 11, 1970, pp. 4–5.

[3] *The History of English Law* by Frederick Pollack and Fredric William Maitland. Cambridge U. Press, England, 1911 at Vol. II, p. 511.

[4] Trial of Samuel Chase, Impeached for High Crimes and Misdemeanors—Taken in short-hand by Samuel H. Smith and Thomas Lloyd, Washington City, 1805, printed by Samuel H. Smith.

[5] Kent, *Commentaries, Vol. I,* 1826 edition, pp. 270–271.

[6] Story, *On the Constitution* (5th edition 1891), Sec. 796, p. 580.

[7] Idem. Sec. 799, p. 583.

[8] Cooley, *Principles of Constitutional Law,* 4th Edition (1931) Sec. 9, p. 205.

[9] Pomeroy, *Constitutional Law,* Third edition, Sec. 719, pp. 484–485.

[10] Idem. Sections 725, 726 pp. 498–491.

[11] Carmen and Syrett, *A History of the American People*, Alfred A. Knoph, New York, Vol II, p. 22.

[12] S. Res. 85, 91st Congress, 1st Session.

[13] Life Magazine, 5/22/70, p. 36, Clark Clifford, "Set a Date in Vietnam. Stick to It. Get Out."

[14] See Hon. James Aboruzek, Congressional Record and Extension of Remarks, April 19, 1972, E4012.

[15] Cong. Red., Nov. 11, 1971, p. S18288.

[16] Weekly Compilation of Presidential Documents, Nov. 22, 1971, p. 1531.

[17] Idem.

[18] Richard A. Falk, "Why Impeachment" The New Republic, May 1, 1971 p. 13.

[19] *Harvard Law Record*, May 6, 1971 p. 4.

LAWYERS COMMITTEE ON AMERICAN POLICY TOWARDS VIETNAM

Hon. Wayne Morse, Honorary Chairman.

William L. Standard, Co-Chairman.

Joseph H. Crown, Co-Chairman.

Carey McWilliams, Vice-Chairman.

Malcolm Monroe, Vice-Chairman.

Aaron M. Diamond, Secretary-Treasurer.

Robert L. Boehm, Chairman, Executive Board.

Harold I. Cammer, Vice-Chairman, Executive Board.

William Meyers, Director of Organizational Activities.

Hoch Reid, Director of Research.

CONSULTATIVE COUNCIL

Richard A. Falk, Chairman, Milbank Professor of International Law, Princeton University.

Richard J. Barnet, Co-Director, Institute for Policy Studies, Washington, D.C.

Anthony A. D'Amato, Professor of Constitutional Law, Northwestern University School of Law.

Tom J. Farer, Professor of Law, Rutgers University School of Law.

John H. E. Fried, Professor of Political Science, City University of N.Y.

John H. Herz, Professor of International Relations, City University of N.Y.

Stanley Hoffman, Professor of Government and International Law, Harvard University.

Philip C. Jessup, Former Judge, International Court of Justice.

Wallace McClure, Lecturer on International Law, Universities of Virginia, Duke, Dacca, Karachi.

Donald W. McNemar, Professor of Government and International Law, Dartmouth College.

Saul H. Mendlovitz, Professor of International Law, Rutgers University School of Law.

Lynn H. Miller, Professor of Political Science, International Relations, Temple University.

Richard S. Miller, Professor of Law, Ohio State University College of Law.

Hans J. Morgenthau, Albert A. Michelson Distinguished Service Professor of Political Science and Modern History, University of Chicago.

Vel Nanda, Professor of International Law, University of Denver College of Law.

William G. Rice, Professor of International Law, University of Wisconsin Law School.

Lawrence R. Velvel, Professor of Law, University of Kansas School of Law.

Burns H. Weston, Professor of International Law, University of Iowa College of Law.

Quincy Wright , 1965–1970), Professor Emeritus of International Law, University of Chicago.

ACADEMIC FREEDOM AND THE NEW NAZIS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. DERWINSKI. Mr. Speaker, in the Chicago Tribune's Perspective Page of Sunday, May 7, the distinguished academician, S. I. Hayakawa, commented on the attitude which threatens academic freedom as exhibited by present day campus radicals.

I believe this to be an especially thought-provoking and timely commentary and I insert it into the RECORD:

[From the Chicago Tribune, May 7, 1972]

ACADEMIC FREEDOM AND THE NEW NAZIS

(By S. I. Hayakawa)

Not too long ago threats to academic freedom were all from outside the university—from reactionary business interests, anti-Communist witch-hunters, and patriotic societies suspicious of intellectuals.

Today the situation is reversed. Ever since the fall of 1964 when the University of California at Berkeley capitulated to the gangster tactics of dogmatic zealots of the Left, the greatest threats to academic freedom have come from within—from students, from faculty activists who egg them on, and administrators who knuckle under to their demands.

The latest sad story comes from Sacramento State College. Last November Dr. William Shockley, Nobel physicist who believes that Negroes may be genetically inferior to whites and continues to ask support for research into the genetic determinants of intelligence, was invited by Dr. Carole W. Barnes, associate professor of sociology, to speak to her class. The meeting was so disrupted by black students that the talk was canceled.

PROFESSOR IS CRITICIZED

You might think that the faculty, to whom academic freedom is well-nigh sacred, might call for the punishment of the students who by violent means forced the cancellation of Dr. Shockley's talk. What happened instead is that the college's Racial Discrimination Commission, consisting of faculty, students, and staff, criticized Prof. Barnes for having invited Shockley to speak and recommended that she not be permitted in the future to teach her course in intercultural relations.

Under pressures such as these, President Bernard L. Hyink reprimanded Dr. Barnes for having invited Dr. Shockley and urged her, according to William Trombley in the Los Angeles Times, to consider withdrawing from the class. [She refused, bless her heart!]

What a sell-out! Imagine a war in which the captain of a unit puts up a fight for his country, suffers a setback, and is reprimanded by his commander in chief for having fought at all!

An especially spineless response to the black student disruption was that of John Livingston, acting dean of arts and sciences. "The completely free reign of ideas is not such an absolute value that it overrides all others," he is quoted as saying. "[It] has itself become a kind of disguised institutional racism. . . An invitation to Shockley to speak is simply an assault on black dignity."

What rubbish! The free play of ideas may not be an absolute value that overrides all others in business, the military, or the church—or even in family life. But it is fundamental to a democratic society—that's what the First Amendment is all about—and it is essential to the intellectual life of a university.

Furthermore, there is profound racism in Livingston's remark that an invitation to Shockley to speak is "an assault on black dignity." How fragile does he think black dignity is ?

Every nonneurotic Negro I know, whether professional man, businessman, or domestic servant, is unperturbed by Dr. Shockley. "Let him test his theories," they say. "We'll do all right." It is only the insecure blacks—and the condescending liberal whites who believe in black inferiority but won't admit it—who do not want Dr. Shockley's theories discussed or tested. If they are sure that there are no genetic differences in intellectual potential, why don't they welcome a test of the theory so that that particular ghost may be laid to rest once and for all?

CLASSES ARE DISRUPTED

Shockley's classes in electrical engineering at Stanford have been disrupted by white radicals. Prof. Arthur Jensen's classes at Berkeley and Prof. Richard Hernstein's at Harvard have been under consistent attack because they have raised the same questions as Shockley. The students come not to dispute or refute them, but to shoot them down.

Academic freedom is sharply under attack from young Nazis, both white and black. They are given support by middle-aged knuckleheads who above all are afraid of being called reactionary or racist.

So it's rising Nazism all over again. We cannot afford to forget that the Hitler Youth Movement was full of starry-eyed idealists, like the Students for a Democratic Society, tired of the slow, difficult process of democracy, like the SDS, impatient for a regenerated and purified world.

President Hyink—Bernie, my friend—please don't let them do this to you. Fight back. Not for Shockley, but for all the geniuses and nuts who constitute our beloved academia.

WYDLER FIGHTS JET NOISE

HON. JAMES R. GROVER, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. GROVER. Mr. Speaker, a recent story in the Long Island Press of March 26 by the outstanding Washington correspondent, Dick Seelmeyer, praised my colleague from Long Island, JACK WYDLER. Congressman WYDLER has long been a leader in the fight against jet noise and that is a subject about which many people talk and only a few produce results. The article speaks for itself, and it follows in its entirety:

CONGRESSIONAL ACCOMPLISHMENT: MYTH AND REALITY

(By Dick Seelmeyer)

WASHINGTON.—The shrill months quickly descending upon us undoubtedly will be filled with all sorts of political bunk on behalf of candidates of both parties, whose voter appeals will be based greatly on the plea that "our party needs me in Washington."

The real fact of congressional accomplishment has almost nothing to do with political party divisions. Like it or not, the seniority system—in both parties—is the real key to having any power in Washington. Persuasion and personality may compensate somewhat when it comes to the larger national goals, but in the basic "gut" issues so important in any congressional district, the real motivating factor is common regional needs and goals, not political philosophy.

As a brief example, consider the accomplishment last week by Rep. John Wydler, Garden City Republican, in convincing the House Science and Astronautics Committee to include in its bill his amendment to provide the National Aeronautics and Space Administration with $41 million to conduct a crash jet aircraft retrofitting (anti-noise) program.

To anyone living in the metropolitan area who has watched the jet aircraft noise problem becoming worse each year, and has watched federal programs set up to deal with it wither away months of precious time, there is little need to be told of the importance of the program to the northeastern section of the United States.

But Wydler is a member of the minority party and could not have muscled the measure through committee, had not a majority of its Democratic members cooperated.

And since Wydler is experienced enough to know that authorization is meaningless without the money to implement a program, his first move was to seek help from two influential members of the appropriations committee, both Democrats.

Reps. Joseph Addabbo of Ozone Park and Edward Boland of Massachusetts listened and nodded approval. Both of them, like Wydler, have for years sought every available means of fighting aircraft noise. They considered Wydler's proposal innovative and workable.

Without their help, Wydler's plan would have simply been words on paper. Now, when it is finally passed the program will be armed with monetary "teeth" and should advance the fight against jet noise by several years.

It is doubtful that Wydler or Addabbo or Boland ever gave a moment's thought to the fact the measure was a bi-partisan effort: it became a good way of resolving an irritating problem, and each did what he could.

That spirit of working for the common regional good is far more widespread than public statements and press releases would have people think. Obvious restrictions are always present, of course, as in instances where redistricting throws two incumbents together. At that point each man is on his own, and congressional colleagues of both parties are studiously careful not to interfere.

But in day-to-day operations, members of Congress are much more concerned with helping their home areas than in scoring points for the party.

SIGHTS AND SOUNDS OF WAR IN HANOI

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. McCLOSKEY. Mr. Speaker, yesterday's San Francisco Chronicle contained an on-the-scene report of the results of our bombing in North Vietnam the previous day. The story describes a situation which should cause grave concern to all of us in light of the almost universal view that no more American lives should be risked in Vietnam. To kill others, particularly Vietnamese civilians, in a war in which we ourselves are no longer willing to die is a tragic distortion of our once-respected goals of life, liberty, and the pursuit of happiness.

The article follows:

SIGHTS AND SOUNDS OF WAR IN HANOI

(By Joel Henri)

HANOI.—Houses in central Hanoi shook under the impact of bombs dropped by American aircraft yesterday in what appeared to be a violent attack on areas around the capital.

The rumble of a long series of explosions could be heard even by people who had sought refuge in underground shelters.

From outdoor observation posts, the explosions—wave after wave at five-minute intervals for 35 minutes—could be heard very clearly.

TARGETS

Still unconfirmed reports said the targets included the small commune of Phe Xuyen some 20 miles from Hanoi.

I spent the previous night at Phu Xuyen. Nothing in the locality except perhaps a small rail and road bridge could constitute a military target.

Phu Xuyen was a target of the United States Air Force several times during the Johnson administration.

Other unconfirmed reports said the Hao Binh region 25 miles west of Hanoi also was attacked.

Some explosions seemed to have occurred much closer. Rumors which could not immediately be checked said U.S. aircraft dropped leaflets over Hadong commune less than six miles from Hanoi urging the population to evacuate their homes before coming "raids of destruction."

Hadong is devoid of any strategic significance, in the view of observers here. It is a small town with a teacher's training college, a secondary school and agricultural cooperatives for the surrounding area.

In Hanoi, a special plane was expected late yesterday to evacuate staff members of the diplomatic missions of Eastern European countries, including the Soviet Union, who were not considered as "indispensable" for the working of their missions.

FOREIGNERS

Many foreigners, including diplomats and correspondents, who have to remain in North Vietnam, might be evacuated to less dangerous areas in the coming hours.

Prior to yesterday's raids, I visited the bomb-scarred provinces of Thanh Hoa and Nam Ha to the south of Hanoi, where American warplanes have hit schools and hospitals over the past fortnight.

If the raiding F-5 Phantoms were aiming for military targets such as convoys I saw no evidence of it—but together with about a dozen foreign newsmen I saw evidence of what the civilian population has suffered from American bombing.

NIGHT

We left in the middle of the night to avoid and unpleasant experiences with American planes, and set out along deserted Highway No. 1 which leads south to Saigon.

As we pushed south the villages came to life, and the first farm workers set out with their buffaloes for the rice fields. Soon we met our first road traffic: Military trucks loaded with children being taken to safety from the coastal areas.

Frequently we had to wait for the ferries to cross rivers, and beneath the trees, never far from slit-trenches, others were also waiting, some grouped around the small stalls selling coconut milk, bananas and ricecakes.

DISTURBANCE

Watching the groups of peasants standing in the early morning, chatting, it was hard to believe that the threat of war had disturbed the calm flow of their lives—but war has changed this life, and the almost medieval "technology" of rural Asia now co-exists with a modern more mechanical world.

While the ferries are often pulled across the river by hand-made cables, bulldozers are hidden in camouflaged shelters to repair roads damaged by bombs and rockets. Traditional wooden bullock carts pull off the road to let five-ton Chinese trucks and Soviet-built missile trailers pass.

Another indication of this modern world is the frequency with which the word "may-bay"—the Vietnamese for plane—crops up, and the new habit—quickly adopted by all travelers—of glancing up anxiously at the sky whenever one is in the open.

HOSPITAL

At the end of our journey was the Thanh Hoa provincial hospital 75 miles south of Hanoi. The destruction stunned our party.

It was hard to believe that this could have been the result of a mistake. The buildings are surrounded by rice fields. And the hospital has already been attacked before, last December, when the damage was shown worldwide on television.

The latest raid—on April 27—brought a shower of 36 bombs onto the hospital: 12 were giant 2000-pounders, and the rest were anti-tank bombs which penetrated the concrete roofs of the hospital as well as the air-raid shelters, the hospital's chief doctor told us.

In the enormous 45-foot craters and the rubble, the wreckage of operating tables and X-ray equipment could be seen. The death toll was 12—and now the 600-bed hospital has been evacuated to the mountains.

Our next stop was six miles south, in the village of Dong Yen, where five aircraft dived out of the sky to hit the primary school during morning classes. Five bombs fell, leaving 20 dead and 25 wounded. The village is still shocked and silent. In the ruins of the school scattered books, burned and torn, lie among shattered desks. A childish drawing showing the circulation of the heart floats on the water which now fills one of the giant craters.

We looked for the military targets which might have justified the raid—for artillery, radar aerials or machine guns. There was nothing. Just mud and straw huts.

The only "radar" here which gives only a few seconds warning of an approaching raid is supplied by children perched in the branches of trees, who bang on drums and blow whistles to sound the alert.

THE ORGANIZED RESERVE AND NATIONAL SECURITY

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. HAMMERSCHMIDT. Mr. Speaker, the Chief of the Office of Reserve Components recently visited Little Rock to address a meeting of the Arkansas Reserve Officers Association.

Lt. Gen. Harris W. Hollis presented a timely and thoughtful appraisal of the reserve mission and its importance. I respectfully commend it to the attention of my colleagues. The remarks follow:

IF WE WANT TO

(By Lt. Gen. Harris W. Hollis)

Shortly before leaving Washington, I was reminded that Arkansas is unique in having our nation's only diamond mine. A replica of the "Star of Arkansas" was included in a display of reproductions of world-famous gems in the Pentagon concourse. Your state is blessed with a wealth of minerals and other natural resources; yet its true richness remains its people. Our nation has called on this human resource in times of need and has always "mined" a treasure. At the close of World War I almost 64,000 Arkansans were members of our armed forces. As World War II ended, about 200,000 Arkansas sons and daughters were in the military uniform. Many of you were among that number, following paths blazed by your forefathers. We see in those who served and do now serve "Stars of Arkansas" of a different character but nonetheless of a shining hue.

As we flew over the Arkansas River on our way, I saw that miracle of modern engineering that made Little Rock one of the nation's newest inland port cities, a project in which Army Engineers proudly played a role.

My remarks today are concerned with stewardship. That seems to be appropriate on the day when our income tax forms are filed. Now that you and I and millions of other taxpayers have relieved our wallets of sizable amounts to support the processes of government, including the Reserve Components, this seems to be a good time to talk about it; not partisanly, but as pragmatically as I can.

We all know that greater reliance is being placed on the Reserve forces these days. The citizen-soldiers in the Selected Reserve are already on notice to the American people that their units will be the primary augmentation of the active forces in future emergencies.

The Secretary of Defense has underscored this in no uncertain terms.

But yet the point is questioned. How many times have you heard these questions:

"What are Reserve forces for?" "Why do we need them?" "Why must I serve?"

I was reading the other day Will Durant's marvelous history of the Reformation, and I was struck by one recurrent tendency in that period between the Fourteenth and Seventeenth Centuries; namely, a propensity of nations and peoples to resort to armed conflict, conflict arising from competing wills between groups of humans, each intent on a particular purpose. And, while Durant chronicled the violence of that age, he did it against the backdrop of a larger historical frame: a span of man's history between the Fifteenth Century, B.C., and the Nineteenth Century, A.D., during which for every one year of peace that transpired there were approximately thirteen years in which war of some sort occurred.

The record of the Twentieth Century is no less sanguinary: two major conflagrations almost engulfing the civilized world, and limited wars and minor wars by the score in this modern age of man.

And America as a foremost world power has been involved in a number of these.

As we seek disengagement from the war in Vietnam, man hopefully looks anew to a utopian peace.

Well-meaning individuals today, placing their trust in a belief that nonviolent arbitration alone can now solve all our ills, are demanding that war "be outlawed" and that arms be dismantled. The thought of armed force is painful to them. They do not see a need for significant American military power. Rather, they perceive that man can at last have his "Walden Pond" and keep it safe from the wolves, without the use of this power, if one but listen to them. I do not agree with the reasoning, as attractive as it may sound. It is a new and tenuous search for the golden fleece; it is a dream of things that never were. It would be a boon if such could be, but, alas, it is in the nature of man, himself, that war has its origin.

General George C. Marshall, in the aftermath of World War II counselled us about our dreams and our misunderstandings. He finally brought us victory in a war we had to fight, but which might have been prevented had we perceived the realities. He saw the tragic misunderstandings that came from our tendency to think in an absolutist and simplistic way. Recall how we sought refuge in weakness in the Thirties; how we undertook to legislate the outlawing of war, witness the Neutrality Acts; how we made moral preachments in the face of hostile power—all to no avail. We miscalculated and the war came. And one might look at the moral effects on man that these public tendencies wrought; almost 300,000 American dead, and millions of others; more than 340 billion dollars in national treasure expended.

Listen to General Marshall:

"We finish each bloody war with a feeling of acute revulsion . . . and yet on each occasion we confuse military preparedness with the causes of war and then drift almost deliberately into another catastrophe . . . Until it is proved that . . . a solution has been found to . . . (eliminate) war, a rich nation which lays down its arms as we have done . . . (before) will court disaster."

For a while General Marshall was heeded but a retreat into weakness in the late Forties soon tempted North Asian communist powers to assault Korea—and once more we were involved in a war we might have deterred with our power, had we had it.

Between Korea and now our policies have been oriented more to the realities of conflict than before. We have seen, some of us, that instances of non-intervention can be just as immoral, perhaps even more so, than intervention. After all, the Good Samaritan intervened. Would he have been more moral had he not? The problem is not so simple.

But in our frustrations with the latest phase of the struggle, some would draw strained conclusions about America's need to use responsibly its power in this day and age in maintaining justice, political community and order within the world.

Paul Ramsay, that eminent Professor of Religion at Princeton University, in his book, The Just War, reasons eloquently that "Peace and justice are not linked by an invisible hand, nor can political life endure without the use of force"—possibly armed force.

We Americans should know this too and try to avoid the fetters of wishful thinking.

Ours is a world pregnant with the potentiality of conflict; a globe of exploding populations and unsatisfied aims and hopes; an estate of frustrated dreamers and "get-rich-quick" international gamblers. The tensions, the stresses and strains are all around us—in the Far East, in that bridge across three continents, the Near East; in the aspirations of those within the Western Hemisphere—Cuba is a case in point—who would export revolution throughout; in Europe where an uneasy equilibrium of power is juxtaposed between a growing and ambitious complex of Soviet armed force and that of the nations of the free world—where a balance of power favorable to our interests is the keystone of our security in the decades ahead; indeed a must. The potentiality for mischief in these times looms large.

In all of this, George Washington's ancient counsel seems today to be abundantly wise:

"There is a rank due the United States among nations that will be withheld if not absolutely lost by the reputation of weakness. If we desire to avoid insult . . . we must be ready to repel it. If we desire peace, one of the institutions of our rising prosperity, it must be known that we are at all times ready for war."

It is in this context of political reality that the mission of our Reserve Component forces takes on new meaning and new criticality. They are vital to our long term well-being; and the new policies take this into account.

Policies of the past, that bypassed the Reserves, have been discarded. A new challenge has been issued to us. The Reserve Components must be more ready than they ever were before in peacetime.

To get them that way we are moving forward on a broad front.

We are issuing new, modern equipment, including aircraft, reversing the mid-Sixty trend when much of the Reserve equipment, but not the Reserves themselves in meaningful numbers, were mobilized for the Vietnam conflict. Now direct, hands-on training can be accomplished at home station. We are looking anew at our training methods.

More dynamic training is in the mill. We are conducting a series of tests to determine the best ways to increase Reserve Component combat capabilities and to make them available as early as practicable.

Lest you think we have solved our problems, new ones are replacing those the Army has or is trying to solve.

The flood of incoming equipment presents maintenance and security problems.

Increased readiness for these combat units requires close-in training areas.

Not unexpectedly we are having trouble with maintaining our personnel strength. Six years ago the number of enlistees under the six-year Reserve program were large—some motivated by the draft—others filling to 100% the Selected Reserve Force units of that time. These enlistments are being terminated this year—just as we entered a no-draft environment.

An intensified recruiting and retention system has been organized and in the Army National Guard the strength is on the upswing. The U.S. Army Reserve, however, is encountering more trouble.

We are asking Congress for enlistment and reenlistment bonuses—and are planning other benefits. But even this will not fully satisfy the issue.

Admittedly, we have been late getting started in these matters, but let's not kid ourselves—the problem is more profound than that.

Given the way many are thinking, will we be able to man the force? Will we be able, in a no-draft environment, to attract quality youth to our ranks?

There is a lot of criticism of the military these days, some of it justified, much of it not. The armed forces, including the Reserves, have become the symbol of dissatisfaction with aspects of government policy on the part of those who do not like the draft, the war, and who are frustrated with problems in the cities, overpopulation, the environment and the high taxes needed to carry out the affairs of the government. As antimilitary sentiments have grown, opposition in some segments of our society has come to impugn the very legitimacy of the armed forces. And thus our basic relationships are strained. This does not make for good recruiting.

It bears saying at this point that if we are really to achieve the full promise of our democracy today, we will have to pay more careful attention to our civilian-military relationships—and in an informed and sustained way. The ad hoc and kaleidoscopic analysis that dominates so much of our public discussions of this matter in these frustrating times does not greatly encourage balance, perspective, and reasoned outlooks; nor informed opinions.

In the world in which we live this day, an antimilitary emotion is as bad a guide to public policy as is a militarist emotion. The outlooks of all of our citizens ought to be reasonably free of both. When passion runs tyrant to the mind, it is hard for reason to flourish.

While we all want the development of a volunteer, professional army—active, National Guard, Army Reserve—I think we must be careful that we do not permit such an army to be politically alienated from the mainstream by contributing to things that tend to polarize the military from the people at large.

The Reservist must be convinced that the time and efforts he devotes to the Reserve Component units is important, is worthwhile to him and essential to his nation. We in the military must demonstrate these truths to him by our leadership and excellence. Others, too, must help.

I think we all need to take a stalwart view of the matter. I know that many people do. I know that some do not.

As I go about the country, I am from time to time asked the question, "Do you really think the Reserves can perform the mission which the Secretary of Defense has set out for them?"

That is a pertinent question. It is made all the more pertinent when one considers that by 1974 about 45% of the strength of the Army will reside in the Reserve Components. It is pertinent when one considers that about one and a half billion dollars were appropriated for the Army Reserve forces in 1972, and something under two billion is asked for 1973. The question is not only pertinent, the business at hand is serious, very serious.

My answer to that question is "Yes, *if we want to*. If the American people want to." It is more a question of national will than national capability. We have the means. Perhaps a better question to ask is, "Do we want to?" Are we willing each to contribute sincerely to these enterprises in appropriate ways? We should stand up before our mirrors and ask ourselves this. Those of us who have children should ask it of ourselves in recognition that these very children are hostages to the fortunes of tomorrow. They are influenced by our attitudes, our leadership, our goals, our capacity for hard work and sacrifice, our state of energy in pursuit of these goals.

I do not accept the view that the sturdy people of this land cannot do this job. We can do it if we all put our shoulders to the wheel and keep a gleam in our eyes.

We can do it, if the opinion makers and the state, city and county fathers—at large—stress the importance and honorable nature of the task of the citizen-soldier.

We can do it, if the employers throughout the land recognize that their larger interests are served by a program which encourages their employees to participate in the Reserve Component program; if they recognize that moves to discourage the Reservist are shortsighted and dangerous in the longer term.

We can do it if those romantic, 20th Century, Jacobin bent students and their young, affluent instructors in the universities throughout the land, who protest so loudly against the U.S. military, will strive to gain a better understanding of the historical processes and show more open-mindedness about military matters.

War is the foremost social problem of mankind and where else should it receive objective study but on the campuses? For we ought to look to the colleges for reasoned analysis in these matters, not inflamed rhetoric. We need their powers of sound analysis unfettered from the distortions of passion.

We can do the job, if there is a widespread understanding that with our modern equipment, now being delivered, we need places to train—and that our installations and training areas are important to that end. It is paradoxical that some would have these taken away for other uses, at the very time when the government is emphasizing more than ever the role of Reserve forces.

We can do this job, if all of us get our sights lined up on what is really important to us. We hear a lot about priorities these days, and this is appropriate. As for me, I can hardly think of a higher national priority than a program which keeps us free and reasonably safe in a competitive world.

We can get our Reserves ready and strong if we all understand how important it is for each of us first to decide that we *are* going to do it; to decide that the matter is indeed important and must be done.

"The commands of democracy", as Woodrow Wilson said, "are as imperative as its privileges."

I have unbounded faith in the American people, young and old.

When the issues are clear, I believe that they will overwhelmingly want to insure that our powder is dry and our defenses sure. Keeping the Reserve Components strong is part of that sure way.

As they see ahead their freedom worth enjoying, they will surely see it worth defending, and worth perfecting; so that justice, liberty, order, and the pursuit of happiness may be more fully realized—at home and for men of good will everywhere.

THE GREAT FRUSTRATION

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. ALEXANDER. Mr. Speaker, we in Congress daily hear requests from Federal Government agencies and officials, from municipal officials, from county officials, and from State officials. They all want the same thing—more money to carry out their projects and run their government. And, in almost all cases, while we will agree that they do need the money, we also know there is very little in the pocketbook to pass out. It is a frustrating process. In today's RECORD, I am including an article expressing the frustrations of another person who is continually asked for money—the source of our revenue—the taxpayer. He also feels there is very little left in his pocketbook to pass out. And, to this one beleaguered man, it seems that taxes are becoming slowly but surely even more certain than death.

The article follows:

PUT-UPON CITIZEN

(Reprinted From the Pittsburgh Press)

My present financial condition is due to the effects of Federal laws, state laws, county laws, corporation laws, by-laws, brothers-in-law, mothers-in-law, and outlaws that have been foisted upon an unsuspecting public.

"These laws compel me to pay a merchants tax, capital stock tax, excess tax, income tax, real estate tax, property tax, auto tax, gas tax, water tax, light tax, cigar tax, street tax, school tax, syntax, and carpet tax.

"In addition to these taxes, I am requested and required to contribute to every society and organization that the inventive mind of man can organize.

"The government has so governed my business that I do not know who owns it.

"I am suspected, expected, inspected, disrespected, examined, reexamined, required, commanded and compelled until all I know is that I am supposed to provide an inexhaustible supply of money for every known need, desire or hope of the human race. . . .

"The only reason I am clinging to life is to see what is coming next."

TIME TO SOUND TAPS FOR TAPS

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. ASPIN. Mr. Speaker, I would like to include in the RECORD today an excellent analysis by the Sierra Club of the final environmental impact statement on the trans-Alaska pipeline recently released by the Interior Department. Those of my colleagues interested in this important issue will find the Sierra Club analysis informative and interesting. It follows:

TIME TO SOUND TAPS FOR TAPS

The environmental impact statement on the trans-Alaska pipeline system (TAPS) has been released by the Department of the Interior. It lists in great detail the magnitude of the certain and threatened harm to Alaska that would result from the construction and operation of the pipeline and road, the further development of the Prudhoe Bay oil field, necessary marine transport systems from Valdez to other west coast ports, and a probable gas pipeline from Prudhoe Bay through Canada.

These are the problems environmentalists have been hammering away at for three years. Finally, the Interior Department and the Alaska Pipeline Service Company agree they exist. In contrast to an earlier draft environmental impact statement, the final version is much more comprehensive. However, basic information on many problems is still lacking. While attempts are made to quantify the impact the pipeline would have on the environment, this process has not been carried to completion. Potential future uses of threatened resources are not adequately evaluated. Endangered resources are not weighed with reference to what is happening to similar assets elsewhere.

The adverse impacts of this project are many and complex. The most significant admitted by the impact statement itself are:

1. The largest remaining wilderness in the United States would be cut in half and its character forever changed.

2. Public access to northern Alaska would be considerably accelerated, both as a direct and indirect result of pipeline construction and operation. This would threaten the wil-

derness qualities of this area and render difficult the orderly and sensitive growth of potentially valuable developments that could benefit the state for a long time to come.

3. The construction and operation of the pipeline and its associated road, construction pad, and oil field in this permafrost-laden area will be difficult and expensive, and would result in considerable erosion, sliding, drainage pattern change and siltation.

4. Pipeline construction will have a detrimental effect on the vegetation, destroying over 61 square miles of surface cover. Revegetation proves to be exceedingly difficult in the Arctic.

5. Pipeline construction will have a negative effect on freshwater life and on fisheries because of unavoidable siltation.

6. The extensive requirements for construction materials (83 million cubic yards) will place a heavy burden on gravel deposits near the construction right-of-way.

7. Despite all precautions, heat loss from the pipeline would cause significant changes over a wide area, particularly in drainage patterns.

8. The noise and activity of construction would reduce the size of the habitat for several species of large mammals and would indirectly and significantly increase the hunting pressure upon them. Aerial transportation for pipeline operation, maintenance and surveillance would cause continuing disruption.

9. The pipeline itself, elevated for over 50% of its length to avoid problems with permafrost, would create a virtually uncrossable barrier to the migrations of several species of large mammals.

10. Oil terminal operations at Valdez and recipient ports on the west coast would contribute to the degradation of the marine environment, for a series of large and small oil spills are inevitable, as well as water contamination by ballast containing oil. This would be particularly hard on the relatively unspoiled marine environment and valuable fisheries of Prince William Sound.

11. The pipeline and associated systems would directly commit a total of 602,000 acres of Alaskan land to development.

12. There would always remain the threat of inevitable oil spills from the pipeline rupture due to earthquakes, landslides, differential land settlement in unstable soils, various permafrost effects and stream erosion.

13. The siting of several of the pump stations remains in question because of soil instability. Pump station operations would cause industrial-level noise, with unknown effects on wildlife, and they would also emit from 15 to 150 pounds of hydrocarbons per hour into the air to the detriment of delicate Arctic lichens.

14. The pipeline and oil development would be no panacea to the Alaskan economy. The result would be further inflation and continuing unemployment, in spite of the new jobs available in construction, and it would result in a surge in unemployment when pipeline construction is completed. The increased demand for goods and services would place heavy burdens on the Alaskan economy and on the state government in advance of any revenues from oil production.

THE CANADIAN ROUTE

It is clear from the environmental impact statement that *one* route through Canada would be better than the trans-Alaskan route, particularly when a gas route through Canada is part of the plan. However, the Sierra Club believes that neither route would be as desirable as halting North Slope development. A Canadian route would bring North Slope oil closer to where it is most needed, the areas of the country most dependent on outside petroleum sources. It would also be safer from both environmental and physical security points of view, avoiding risky marine transport and the earthquake belt of southern Alaska.

A Canadian route is already under serious consideration by oil consortia and by the Canadian government in connection with oil and gas transport from the Canadian arctic and gas transport from the North Slope. (In reality, a Canadian route is an alternative to two routes—one through Alaska plus one through Canada!)

OIL AND ENERGY

It is a mistake to maintain that an increase in energy consumption is equivalent to improving our well-being. The principles of ecology tell us that unlimited growth in anything is impossible—be it population or energy. We are already straining our energy resources, and we have begun to borrow against an uncertain future. We are depleting our non-renewable energy resources at an alarming rate. We also easily forget that all energy pollutes, and that the more energy we use, the more pollution we create. We are already paying a heavy price in lost land, and dirty air and water.

We need new public policies immediately that call for:

1. using less energy in the future, and using it less wastefully now;
2. developing new, better sources of energy;
3. halting the destruction taking place for the sake of energy—strip mining, loss of wilderness, oil contamination of the marine environment, thermal and air pollution from refineries and power generating plants; and
4. conservation of our dwindling non-renewable energy resources.

The environmental impact statement assumes unlimited growth in energy consumption. However, now is an appropriate time to begin educating the public toward changing their attitudes. At maximum capacity in the 1980s, the pipeline system would be able to deliver only two million barrels of oil per day to the "lower 48" states, yielding only about 4% of our total energy requirement and about 9% of our oil requirement. In the decade until then, we can make up for this amount by developing alternate energy sources and by curtailing growth rates in energy use. Reducing the demand for energy is not going to be easy. A major public commitment to find ways to be less wasteful of energy will be required.

The impact statement also claims that no other energy source can fill our needs as cheaply and as well as oil. This reasoning does not take into account the fact that oil is both a polluting and a non-renewable resource. In the past, the cost of oil did not include the cost of pollution caused by the oil from the time it is pumped from the ground to the time it is used. And because oil is a non-renewable resource, we must include the social cost of having less oil available for the future and the resulting cost of developing substitutes. These environmental costs—pollution and depletion—when added to the price of oil, make us realize that we pay more than we may think. And if we do not take these costs into account, we undersell other energy sources as well.

We are already running short of natural gas. In spite of the fact that peak production is now occurring, natural gas in not available to everyone who would like to use it, and prices are rising. When the peak in oil production is reached, probably within 50 years, it will be accompanied by similar restrictions. Now is an appropriate time to change public policies on oil.

Moreover, the choice is not to find a single, simple substitute for North Slope oil, as the environmental impact statement implies. Rather, the choice is to find a combination of policies and substitutes that will get us beyond our present impasse. There is no single substitute, but we can find the correct combination of policy changes and alternatives. The four billion dollars that would be spent on the pipeline would be better spent in research with more far-reaching and long-term results.

Coal gasification and liquefaction, and nuclear and geothermal power offer short-term alternatives. Nuclear breeder reactors, nuclear fusion, and solar energy offer the prospect of significant amounts of power farther in the future. Processes such as topping cycles and magnetohydrodynamics will allow us to make more efficient use of fossil fuels. Technological advances will allow us to extract more oil from existing fields.

We cannot afford to wait until we run out of oil to develop new, less polluting alternatives. We must make a major commitment now instead of trying to postpone the inevitable by taking needless risks with our environment in an effort to drain what remains of the earth's oil supply.

We take this opportunity to call upon the President to establish a Commission on Energy and the American Future to examine the energy growth of our country and to recommend policies that will carry us not only for decades, but for centuries. Large-scale energy development, like that on Alaska's North Slope, should await the outcome of opportunities to achieve a broader consensus of our society.

IN THE NAME OF NATIONAL SECURITY

Our national security, according to the environmental impact statement, calls for the immediate development of North Slope oil. This argument assumes that it is in the best interest of our country to be as self-dependent as possible, as quickly as possible, in case of the sudden unavailability of oil from the eastern hemisphere. For this reason, the United States has a restrictive oil import policy designed to promote domestic oil development.

We believe this argument is questionable. First, it does not take into account the long-term cost to our national security of a depleted and no longer available domestic oil resource. Second, even at maximum capacity of two million barrels per day, North Slope oil would not make much difference in our dependence upon insecure eastern hemisphere oil which would still amount to about one-third of all oil consumed. Finally, the parts of our country most dependent upon eastern hemisphere oil—the east and the midwest—would benefit only indirectly from Alaskan oil, unless a pipeline through Canada were selected.

Moreover, there are better solution to the problem of "insure" foreign sources of oil as well. These include: (1) a federal program of oil exploration, placing new discoveries in reserve until needed; (2) federal purchase of domestic oil fields; and (3) storage of oil in salt domes and previously depleted oil fields until needed. Storage could be accomplished with less expensive foreign oil, allowing us to remove restrictive oil import quotas. Such reserves could also "buy time" to develop North Slope and offshore fields if we really got into trouble.

WHAT CAN BE DONE

The plan has changed. We know much more. Our view of what constitutes relevant environmental considerations has changed. The basic research carried out by the Department of the Interior and the Alyeska Company will ultimately be of great benefit to business, government, and all citizens. We must compliment them for the amount of time and effort that has gone into these studies. It is true that some environmental problems have been overcome. It is true that everyone has now agreed to take care of the Alaskan environment and to do their best to minimize the harm that would take place. But care and minimization are not enough.

"A country that runs on oil can't afford to run short" says an American Petroleum Institute advertisement. We agree: oil does run America. That worries us. We cannot afford to run short. That also worries us. We have come to depend on oil, but we can lessen that dependence before it is too late. We will run out of oil sooner or later—and the Sierra Club believes it should be later. The use of a non-renewable resource should be difficult. The less that remains, the more difficult it should be to use it. The time has come to end our self-delusion about oil.

The Sierra Club reiterates its demand for a five-year moratorium on pipeline construction. This time should be used for fuller consideration of the alternatives presented in the environmental impact statement.

In the meantime, it is urgently important that concerned citizens write to President Nixon and Secretary of Interior Rogers Morton asking that they delay issuance of the permit until adequate solutions to the environmental problems are found, and to schedule hearings to permit citizen comment on the impact statement. Write or wire:

President Richard M. Nixon, The White House, Washington, D.C. 20500.

Secretary of Interior Rogers C. B. Morton, Interior Building, Washington, D.C. 20240.

REPORT ON ENVIRONMENTAL QUALITY, MAY 1972

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. DINGELL. Mr. Speaker, so that the information therein contained may be available to my colleagues, I include the text of the May 1972 issue of the Council on Environmental Quality's "102 Monitor" at this point in the RECORD:

MORE STATES ENACT ENVIRONMENTAL IMPACT STATEMENT REQUIREMENTS

Last July the *102 Monitor* reported that California, Washington, Delaware, Montana, and Puerto Rico[1] had enacted statutes requiring environmental impact statements on State actions analogous to the statements required on Federal actions by Section 102 (2) (C) of the National Environmental Protection Act (NEPA). Similar provisions have now been enacted by three additional States: Wisconsin, North Carolina, and Indiana.[2] In addition, at least one State, Hawaii, has implemented impact statement requirements through Executive Order.[3] Legislative proposals for comparable provisions are pending in over a dozen States.[4]

Although State requirements continue to be modeled for the most part on Section 102 (2) (c) of the National Environmental Policy Act, a number of differences in approach are evident, particularly with respect to the scope of the impact requirement. The scope of the requirement has been adjusted in at least two ways: first, with respect to the range of actions that will require an impact statement; second, with respect to the entities required to file such statements.

The latter question is resolved in NEPA by making the § 102 requirement applicable to "all agencies of the Federal Government." On the State level the question is whether the requirement should similarly be made applicable to all governmental agencies functioning within the State, or whether distinctions should be drawn, for example, between local and State agencies. Most of the State provisions appear to limit applicability to "agencies of *the State*" without indicating whether this description is intended to encompass governmental units below the highest level. The California Act, however, contains specific provisions dealing with the responsibilities of local agencies,[5] the Puerto Rican Act applies to "all agencies of the Government," and the Washington Act specifically includes "all branches of government of this State, including State agencies, municipal and public corporations, and counties."

One interesting development on the State level in terms of the entities required to file impact statements is the extension of the requirement to certain essentially private activities. The North Carolina Act, for example, provides in a separate section that:

"[t]he governing bodies of all cities, counties, and towns acting individually, or collectively, are hereby authorized to require any special-purpose unit of government and *private developer* of a major development project to submit detailed statements . . . of the impact of such projects." [6]

A similar provision is contained in a separate Wisconsin enactment.[7]

With respect to the range of actions requiring impact statements, most State provisions parallel the Federal requirements in covering "major," environmentally "significant actions. One frequently recurring issue is whether such actions include only projects carried out by the State agency itself, or extend as well to such State "actions" as granting of a license or permit to carry on private activity. The California Act, for example, applies to any State-proposed "project" which could have a significant effect on the environment, and the question of whether the term "project" extends to licensing actions is curretnly being tested in the California courts.[8] Other State Acts exclude licensing activities either explicitly, as in the case of Indiana,[9] or indirectly, as in the case of North Carolina, which limits application of the impact statement requirement to "actions involving expenditure of public moneys for projects and programs significantly affecting the quality of the environment . . ."

In light of the increased interest in State legislation in this area, this issue of the *102 Monitor* reprints the discussion paper developed at a recent State-Federal Workshop on State Environmental Policy Acts, indicating some of the issues that a State might consider in adopting legislation requiring environmental impact statements. The variety of approaches being explored by States in responding to the same environmental concerns which led to enactment of NEPA promises to provide a valuable opportunity for experimentation and exchange of experience in making the governmental decision process more responsive to environmental concerns.

FOOTNOTES

[1] See *102 Monitor*, Vol. 1, No. 5 (July, 1971). For relevant portions of the texts see Appendix A.

[2] See Wisconsin: *Laws of 1971*, chap. 274 published April 29, 1972); North Carolina Environmental Policy Act of 1971, *General Statutes of North Carolina*, chap. 113A; Indiana: Pub. Law 98, *1972 General Assembly Laws* (awaiting publication). The North Carolina Act provides for expiration on September 1, 1973, unless extended. A recently enacted "Virginia Environmental Quality Act" has no provisions for impact statements, the requirement having been deleted in legislative session. See *Va. Code tit.* 10, chap. 16, arts. 1–2, §§ 10–176 to 10–185.

[3] Executive Order, August 23, 1971.

[4] Arizona, Colorado, Connecticut, Florida, Hawaii, Idaho, Illinois, Kentucky, Massachusetts Minnesota, Ohio, Oklahoma and New Mexico are all reported to be considering variations on similar legislation.

[5] See Appendix B.

[6] North Carolina Environmental Policy Act, § 113A–8 (emphasis added). The Act further defines "major development project" to include "shopping centers, subdivisions and other housing developments, and industrial and commercial projects" *Ibid.*, § 113A–9(1).

[7] See Assembly Bill 873 "An Act to Amend 30.19(4), 31.06(3) and to create 23.11(5) of the *General Laws*."

[8] Friends of Mammoth v. Mono County Board of Supervisors (Calif. 3D Civil No. 13255).

[9] Public Law 98, section 6.

WORKSHOP DISCUSSION PAPER: STATE ENVIRONMENTAL POLICY ACTS, MARCH 15–18

The discussion in the workshop focused on problems of drafting and implementing a State Environmental Policy Act. Using the National Environmental Policy Act as an example, and drawing on the experience of States which had passed similar Acts,* a number of issues were raised for consideration by any State proposing to adopt an Environmental Policy Act. These issues were presented in terms of ways in which a State Act might profitably differ from the Federal Act in order to reflect either differences between State and Federal Governments or the results of experience to date under the National Act.

Listed below are the major points raised for consideration, together with a brief report of the workshop discussion on each point. In many cases, the considerations on both sides of an issue were explored without reaching a definite conclusion. In other cases, some form of consensus emerged from the discussion. The following summarizes these results.

ISSUES TO CONSIDER IN DRAFTING A STATE ENVIRONMENTAL POLICY ACT

(1) What differences should be made between State Act and NEPA to reflect State-Federal differences:

(a) Section 101

(i) Should there be the same broad declaration of policy?

It was generally agreed that a broad declaration of environmental policy was desirable. The real problem however, was thought to be one of relating this broad declaration to other specific provisions of law for implementing the policy. An Act which had only a policy declaration, without an "action-forcing" mechanism would probably be ineffective. At the same time in adopting an "action-forcing" mechanism, one should be aware that the policy declaration will affect the obligations which such a mechanism places on governmental units.

(ii) Should there be a definition of environment?"

No views were expressed concerning the desirability of the need to define "environment" in the Act itself. Some members of the workshop indicated, however, that a definition of this term was important at some point in implementing an Environmental Policy Act. One State has developed a list of environmental indices to help define the term. The general problem posed by attempts at definition is the problem of the relationship between "environmental" concerns on the one hand, and more traditional social, economic, and technical concerns on the other. An excessively broad definition of the "environment" would tend to obliterate the distinction among these different concerns, while an overly narrow definition would eliminate legitimate factors from an environmental assessment of a project.

(iii) Is the range of State concerns likely to be broader or narrower than the range of concerns expressed in Section 101(b) (1)–(6).

It was not suggested that the range of environmental concerns would differ for States. It was pointed out that the factors listed in § 101(b) (1)–(6) would be viewed as partially defining the term "environment," thus leading to the problems discussed above. The effect of an action on population patterns was discussed as an example of the range of considerations which probably should be included in an "environmental" analysis.

(iv) Should express provisions be made with respect to public availability of information or public hearings?

---

*See Appendix A.

It was agreed that some provision should be made for public availability of information and public comment.

(b) Section 102

(i) Is the requirement that agencies use a "systematic, interdisciplinary approach" a realistic one when applied to State agencies?

In theory, this requirement is unobjectionable as an expression of the thoroughness with which agency actions should be evaluated. In practice, however, there may be a real problem in securing an adequate budget and staff to make the requirement realistic in every governmental agency. A number of possible solutions to this problem were discussed, including the possibility of using outside contractors, the possibility of drawing on existing expertise in other agencies and the possibility of centralizing the environmental analysis in a single agency. It was suggested that States might wish to supplement the range of expert agencies contacted for comment by including relevant Federal agencies.

(ii) Are there State agency actions which do not have Federal counterparts and which might present unanticipated problems in complying with the impact statement requirements?

Zoning actions and similar land-use decisions do not seem to have a Federal counterpart. Applying an impact statement requirement to all local zoning board decisions, for example, might prove excessively burdensome. Some States may also face problems in applying an impact statement requirement to both State and local agencies (although no such problems have apparently been encountered in the case of California).*

States adopting an Environmental Policy Act should be aware of peculiar local-State relationships under existing constitutions or State laws which may need to be taken into account.

(ii) Is there any reason why the same NEPA section 102(2)(C) procedures should not be used on both the Federal and State levels?

Although this question was not explicitly answered, a number of alternatives to the impact statement process were discussed, including the possibility of replacing the impact statement process requirement with a central agency having environmental veto power (discussed further below), and the possibility of requiring impact statements only when requested by specified agencies. If the decision to follow the impact statement procedure is made, the balance of considerations would favor a State practice similar to the Federal practice.

(2) What differences should be made in a State Act to reflect experience to date under NEPA?

(a) Environmental Impact Statements.

(i) What provisions should a State Act include in order to avoid duplication on a project which represents both Federal and State "action?"

It was generally agreed that duplication should be avoided where both Federal and State agencies are involved in the same project. It is proposed under the California Act, for example, that a guideline be issued to avoid the requirement of two impact statements.

In the course of discussion, other problems were raised in connection with State-Federal involvement in the same projects. It was suggested that thought should be given to which agency—State or Federal—was the most suitable one to prepare an impact statement in cases where Federal involvement was perhaps less than that of the State. It was also urged that thought be given to the problem of projects financed through several Federal agencies (or financed as a result of revenue sharing) in which case, in the absence of specifically defined State responsibility, there may be no environmental assessment at all. Both of these possibilities seemed to indicate a possible need for increased State responsibility in preparing environmental analyses. As State environmental impact statements procedures are evolved, further consideration can be given to the relationship of the State analysis to the analysis required of Federal agencies under NEPA.

Are there major State agency actions which should not be subject to the impact statement requirement (e.g., environmental, protective regulatory actions taken by an agency similar to the EPA).

Two types of actions were suggested as possible candidates for exemption from an impact statement requirement: (1) Environmental protective regulatory activities; and (2) Actions which have only "beneficial" environmental effects.

In opposition to these suggestions, it was pointed out: (1) that both types of activities may have secondary detrimental effects which should be explored in an impact statement; (2) that actions which protect the environment may nevertheless not protect enough; and (3) that decisions as to what is or is not "beneficial" may themselves be suspect.

In favor of the suggested exemptions, it was pointed out that a State which faces difficulties in enacting a completely comprehensive Act, may want to attack the major problems first. These are the problems of "developmental" as opposed to "environmental" agencies, and of "adverse" as opposed to "beneficial" environmental effects.

(iii) Should a new State Act contain provisions explaining how the Act should be applied to actions commenced prior to passage of the Act?

It was generally agreed that a State Act should explicitly address the "retroactivity" problem in order to avoid later confusion. In favor of applying an Act to ongoing programs and uncompleted projects already under way, the Federal experience was cited which requires impact statements for remaining commitments to be taken into account in balancing the environmental costs against the economic and technical gains. In favor of applying an Act only to new projects, the possibility of avoiding confusion and delay of projects already under way was stressed. In choosing among these positions it was suggested that a State should consider the amount of "backlog" projects which will be affected by retroactive application. If the State limits the availability of funds to a given fiscal year, this should also be considered in approaching a "backlog" problem.

(iv) Should a State Act describe the standard of judicial review to be applied under the Act? What standard should courts apply?

A variety of citizen suit provisions were discussed as were various standards of judicial review of agency compliance with State Environmental Policy Act. It was noted that States which had adopted broad citizen suit provisions have not experienced the flood of suits which had been forecast. No consensus emerged, however, concerning the desirability of such provisions. With respect to standards of judicial review, most members seemed to agree that agency decisions should not be subject to *de novo* judicial review, but instead more traditional, limited standards of review should apply. States proposing an Environmental Policy Act should consider whether existing standards of judicial review of administrative action would be applied or whether explicit standards of review need to be spelled out in the Act.

(v) Should an impact statement requirement be extended beyond State agency actions to environmentally significant private actions?

No consensus emerged for extending an impact statement requirement beyond actions taken by governmental units. The general problem was raised of the extent to which a governmental "handle" (i.e. permit, license, etc.) on an otherwise private action should justify or permit complete environmental regulation of the activity. A number of instances were cited in which such authority had been exercised.

(b) Administration of the Act.

(i) Should a State Act create a central agency to prepare and/or evaluate impact statements?

The advantage of a central agency to prepare or evaluate impact statements lies in the possibility of avoiding duplication of effort and of possibly insuring more objective environmental appraisals. The advantage of requiring each agency to prepare the statement lies in the possibility that this will increase the environmental consciousness of the agency. Which choice is preferable is probably best left to the decision of individual States.

(ii) Where should the responsibility for implementation of the Act and issuance of guidelines be located?

It was generally agreed that some check in the form of guidelines or the ability to require impact statements should be located outside the action-agency. The Governor's Office appeared to be a suitable place for locating the responsibility for issuing guidelines. The possibility of creating a central agency with "veto" power was discussed, without reaching a conclusion.

APPENDIX A

1. National Environmental Policy Act, 42 U.S.C. § 4332:

"(2) all agencies of the Federal Government shall—

* * * * *

"(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

"(i) the environmental impact of the proposed action,

"(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

"(iii) alternatives to the proposed action,

"(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

"(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

"Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;"

2. *Cal. Public Resources Code*, §§ 21100, 21104 (West 1970):

"§ 21100. All state agencies, boards and commissions shall include in any report on any project they propose to carry out which could have a significant effect on the environment of the state, a detailed statement by the responsible state official setting forth the following:

"(a) The environmental impact of the proposed action.

---

* See Appendix B.

"(b) Any adverse environmental effects which cannot be avoided if the proposal is implemented.

"(c) Mitigation measures proposed to minimize the impact.

"(d) Alternatives to the proposed action.

"(e) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

"(f) Any irreversible environmental changes which would be involved in the proposed action should it be implemented."

"§ 21104. Prior to the making of a detailed statement, the responsible state official shall consult with, and obtain comments from, any governmental agency which has jurisdiction by law or special expertise with respect to any environmental impact involved."

3. Montana Environmental Policy Act, Montana Session Laws of 1971, Ch. 238 § 4(b) (March 9, 1971):

"(b) all agencies of the state shall

* * * * *

"(3) include in every recommendation or report on proposals for projects, programs, legislation and other major actions of state government significantly affecting the quality of the human environment, a detailed statement on—

"(i) the environmental impact of the proposed action,

"(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

"(iii) alternatives to the proposed action,

"(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

"(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

"Prior to making any detailed statement, the responsible state officials shall consult with and obtain the comments of any state agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate state, federal, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the governor, the environmental quality council and to the public, and shall accompany the proposal through the existing agency review processes."

4. Public Environmental Policy Act, Puerto Rico Session Laws of 1971, Law No. 9 § 4(2) (June 18, 1970):

"All agencies of the Government shall:

* * * * *

"(C) include in every recommendation or report on proposals for legislation and other governmental actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on:

"(i) the environmental impact of the proposed actions,

"(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

"(iii) alternatives to the proposed action,

"(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

"(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

"Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate agencies, which are authorized to develop and enforce environmental standards, shall be made available to the Governor, the legislative bodies, the Environmental Quality Board, and to the public, and shall accompany the proposal through the existing agency review processes."

5. State Environmental Policy Act of 1971, Washington Session Laws of 1971, Ch. 109 § 3(2) (May 10, 1971):

". . . all branches of government of this state, including state agencies, municipal and public corporations, and counties shall:

* * * * *

"(c) Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the environment, a detailed statement by the responsible official on:

"(i) the environmental impact of the proposed action;

"(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;

"(iii) alternatives to the proposed action;

"(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

"(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

"(d) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any public agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, province, state, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the governor, the department of ecology, the ecological commission, and the public, and shall accompany the proposal through the existing agency review processes."

6. Coastal Zone Act, Delaware House Bill No. 300 as amended. (passed June 28, 1971):

§ 7002. *Definitions.*

* * * * *

(c) 'Environmental Impact Statement' means a detailed description as prescribed by the State Planning Office of the effect of the proposed use on the immediate and surrounding environment and natural resources such as water quality, fisheries, wildlife and the aesthetics of the region.

* * * * *

§ 7004: *Uses allowed by permit only.* Nonconforming uses.

(a) . . . manufacturing uses . . . are allowed in the Coastal Zone by permit only . . .

* * * * *

§ 7005. *Administration of this chapter.*

(a) The State Planning Office shall administer this chapter. All requests for permits for manufacturing land uses and for the expansion or extension of non-conforming uses as herein defined in the Coastal Zone shall be directed to the State Planner. Such requests must be in writing and must include . . . (3) an Environmental Impact Statement. "The State Planner shall hold a public hearing and may request further information of the applicant."

* * * * *

7. Wisconsin, Laws of 1971, Ch. 274 (Apr. 29, 1972):

§ 2. *Governmental Consideration of Environmental Impact.*

* * * * *

(2) All agencies of the state shall:

(c) Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the human environment, a detailed statement, substantially following the guidelines issued by the United States Council on Environmental Quality under P.L. 91-190, 42 U.S.C. § 4331, by the responsible official on:

1. The environmental impact of the proposed action;

2. Any adverse environmental effects which cannot be avoided should the proposal be implemented;

3. Alternatives to the proposed action;

4. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

5. Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

6. Such statement shall also contain details of the beneficial aspects of the proposed project, both short term and long term, and economic advantages of the proposal.

7. Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any agency which has jurisdiction or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate agencies, which are authorized to develop and enforce environmental standards shall be made available to the governor, the department of natural resources and the public. Every proposal other than for legislation shall receive a public hearing before a final decision is made. Holding a public hearing as required by another statute fulfills this section.

If no public hearing is otherwise required, the responsible agency shall hold the hearing in the area affected. Notice of the hearing shall be given by publishing a class 1 notice, under ch. 985, at least 15 days prior to the hearing in a newspaper covering the affected area. If the proposal has state-wide significance, notice shall be published in the official state newspaper;

8. North Carolina Environmental Policy Act of 1971, *General Statues of 1971,* ch. 113A:

§ 113A-4. Cooperation of agencies; reports; availability of information.—The General Assembly authorizes and directs that, to the fullest extent possible:

(2) Any State agency shall include in every recommendation or report on proposals for legislation and actions involving expenditure of public moneys for projects and programs significantly affecting the quality of the environment of this State, a detailed statement by the responsible official setting forth the following:

a. The environmental impact of the proposed action;

b. Any significant adverse environmental effects which cannot be avoided should the proposal be implemented;

c. Mitigation measures proposed to minimize the impact;

d. Alternatives to the proposed action;

e. The relationship between the short-term uses of the environment involved in the proposed action and the maintenance and enhancement of long-term productivity; and

f. Any irreversible and irretrievable environmental changes which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any agency which has either jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such detailed statement and comments shall be made available to the Governor, to such agency or agencies as he may designate, and to the appropriate multi-county regional agency as certified by the Director of the Department of Administration, shall be placed in the public file of the agency and shall accom-

pany the proposal through the existing agency review processes. A copy of such detailed statement shall be made available to the public and to the counties municipalities, institutions and individuals upon request.

9. Indiana Public Law 98, 1972 General Assembly Laws:

"All agencies of the State shall . . .

* * * * *

Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(1) the environmental impact of the proposed action,

(2) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(3) alternatives to the proposed action,

(4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(5) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

10. Executive Order, Office of the Governor of Hawaii, April 23, 1971:

* * * * *

The heads of all affected States agencies shall:

* * * * *

(b) Include, in every recommendation or report on proposals for legislation, and any other major State actions or projects utilizing State funds and/or State lands, that significantly affect the quality of the human and natural environment, a detailed statement by the responsible official on (1) the environmental impact of the proposed action, (2) any adverse environmental effects which cannot be avoided should the proposal be implemented, (3) alternatives to the proposed action, (4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (5) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

APPENDIX B

The relative portions of the California Act dealing with local agencies are as follows:

Chapter 4. Local agencies

21150. State agencies, boards, and commissions, responsible for allocating state or federal funds on a project-by-project basis to local governmental agencies for land acquisition or construction projects which may have a significant effect on the environment, shall, unless exempted by formal procedures developed under the provisions of Section 21103 require from the responsible local governmental agency a detailed statement setting forth the matters specified in Section 21100 prior to the allocation of any funds other than funds solely for planning purposes.

21151. The legislative bodies of all cities and counties which have an officially adopted conservation element of a general plan shall make a finding that any project they intend to carry out, which may have a significant effect on the environment is in accord with the conservation element of the general plan. All other local governmental agencies shall make an environmental impact report on any project they intend to carry out which may have a significant effect on the environment and shall submit it to the appropriate local planning agency as part of the report required by Section 65402 of the Government Code.

SOURCES FOR ENVIRONMENTAL IMPACT STATEMENTS

In order to receive more efficient and prompt service, requestors are urged to order draft and final impact statements from the Department of Commerce's National Technical Information Service (NTIS) rather than the preparing agency. Each statement will be assigned an order number that will appear in the *102 Monitor* (at the end of the summary of each statement) and also in the NTIS semi-monthly Announcement Series No. 68, "Environmental Pollution and Control." (An annual subscription costs $5.00 and can be ordered from the NTIS, U.S. Department of Commerce, Springfield, Virginia 22151.)

Final statements will be available in microfiche as well as paper copy. A paper copy of any statement can be obtained by writing NTIS at the above address and enclosing $3.00 and the order number. A microfiche costs $0.95. (Paper copies of documents that are over 300 pages are $6.00.)

NTIS is also offering a special "package" in which the subscriber receives all statements in microfiche for $0.35 per statement.

Statements will still be available for public scrutiny in the document rooms of the various agencies. However, only limited copies will be available for distribution.

Yet another possible source of statements is from the Environmental Law Institute, 1346 Connecticut Avenue, N.W., Washington, D.C. 20036. To order a document, please indicate the Department, date, and ELR Order # (given at the end of each summary). The Institute charges $0.10 per page, and as you will note the number of pages is also given at the end of the summaries. Please enclose the correct amount of money with your order and mark the envelope to the attention of the "Document Service."

SOURCE FOR BACK ISSUES OF THE 102 MONITOR

Because the supply of past issues of the 102 Monitor is not sufficient to meet all requests, a list is provided below indicating where the various issues of the 102 Monitor appeared in the *Congressional Record*. You may wish to order these *Congressional Records* from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($.25 per copy).

Vol. 1, Nos. 1, 2, & 3: Congressional Record (page E 3607) April 28, 1971.

Vol. 1, No. 4: Congressional Record (page E 5151) May 27, 1971.

Vol. 1, No. 5: Congressional Record (page E 6023) June 16, 1971.

Vol. 1, No. 6: Congressional Record (page E 8458) July 28, 1971.

Vol. 1, No. 7: Congressional Record (page E 9483) September 13, 1971.

Vol. 1, No. 8: Congressional Record (page E 10002) September 24, 1971.

Vol. 1, No. 9: Congressional Record (page E 11596) November 1, 1971.

Vol. 1, No. 10: Congressional Record (page E 12213) November 15, 1971.

Vol. 1, No. 11: Congressional Record (page E 13322) December 11, 1971.

Vol. 1, No. 12: Congressional Record (page E 76) January 18, 1972.

Vol. 2, No. 1: Congressional Record (page E 1886) March 2, 1972.

Vol. 2, No. 2: Congressional Record (page E 2409) March 13, 1972.

Vol. 2, No. 3: Congressional Record (page E 3778) April 13, 1972.

ENVIRONMENTAL IMPACT STATEMENTS

(On the following pages are environmental impact statements received by the Council from April 1 through April 30, 1972:)

NOTE.—At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250 (202) 388-7803.

Title, Description, and Date

Agricultural Stabilization and Conservation Service

Final

Cameron, Willacy, Hidago, and Stan Counties, *Texas*. The proposed action would allow a new Continental Cane Sugar Producing Area, of 25,700 acres, in the Lower Rio Grande Valley of Texas. It is intended that the acreage be committed to sugar early in 1972. Sugar production involves considerable burning of the cane to remove trash. A sugar processing plant would be part of the action. Its effluent would be discharged to an existing floodway. Total capital investment of the action is estimated at $28,800,000, including the factory, farms, and farm and transportation equipment. Comments made by EPA. (ELR Order 4117, 73 pages) (NTIS Order PB-206 263-F) 4/4.

Animal and Plant Health Service

Final

1972 *Gypsy Moth Suppression and Regulatory Program*. Proposed USDA cooperation with state agencies in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and Wisconsin to suppress and/or regulate the gypsy moth. Approximately 200,000 acres would be sprayed with carbaryl. Certain beneficial non-target insects and arthropods will be reduced in number; the possibility exists for run-off into area water supplies. Comments made by DOC, HEW, DOI, state agencies, and concerned citizens. (ELR Order 4079, 255 pages) (NTIS Order PB-205 589-F) 3/31.

Farmers Home Administration

Final

O'Brien and Sioux Counties, *Iowa*. Proposed issuance of a $1,900,000 loan to Rural Water System No. 1 in order to develop water resources to serve over 500 rural families in a 170 sq. mile area. Comments made by USDA, EPA, HEW, DOI, and concerned citizens. (ELR Order 4081, 60 pages) (NTIS Order PB-202 790-F) 3/31.

Forest Service

Draft

Multipurpose Brushland Modification on Seven Plant Associations on National Forest Lands, *California*. Proposed reduction of brushland sites, through the use of mechanized equipment, prescribed burning, and herbicides; and replanting with grasses and forbs. The purpose of the action is to mitigate the potential for brush wildfires and subsequent flooding. (ELR Order 4242, 62 pages) (NTIS Order PB-208 373-D) 4/20.

Lolo National Forest, Missoula County, *Montana*. Proposed aerial spray demonstration (in cooperation with the Department of Defense), on approximately 3,000 acres of western spruce budworm infested timber on the Ninemile Range District. Zectran is the agent to be used. One of the project objectives is to test the suitability of using large cargo aircraft as spray planes in forest environment. Some non-target terrestrial and aquatic insects are susceptible to Zectran. (ELR Order 4232, 51 pages) (NTIS Order PB-208, 381-D) 4/19.

Road Construction Program, Kootenai National Forest, *Montana*. Proposed 3-year road construction program, primarily in order to support timber cutting. Approximately 5,000 acres will be stripped of vegetative cover; 40% of this acreage will be permanently removed from vegetative production. Some big game range will be lost. (ELR Order 4238, 28 pages) (NTIS Order PB-208 372-D) 4/20.

Aerial Tramway, Port of Cascade Locks, *Oregon*. Proposed construction of a tramway to a point of land above the Columbia River with a view of the "Great Gorge of the Columbia." Topping and removal of trees will be necessary; the introduction of visitors by a mechanical means to a point of land now seldom visited will affect the ecosystem of the area. (ELR Order 4140, 53 pages) (NTIS Order PB–207 914–D) 4/6.

Rogue River National Forest, *Oregon* and *California*. Proposed implementation of the 10-year Timber Management Plan, which includes construction of access roads, and clearcutting and shelterwood cutting of trees. Siltation of streams because of surface erosion is expected. (ELR Order 4261, 26 pages) (NTIS Order PB–208 577–D) 4/25.

Snyder Hill Planning Unit, Colville National Forest, *Washington*. Proposed implementation of a revised Multiple Use Plan. Approximately 6,500 acres of roadless area would be provided with road and managed for timber, wildlife, aesthetic, and research values. Soil disturbance, erosion, and stream sedimentation will occur due to road construction and logging. (ELR Order 4234, 42 pages) (NTIS Order PB–208 380–D) 4/19.

Final

Cooperative Spruce Budworm Suppression Project, Aroostock and Penobscot Counties, *Maine*. Proposed treatment of 500,000 acres of state and private woodlands with Zectran, in order to suppress the spruce budworm. Nontarget areas and insects will also be affected. Comments made by USDA, DOC, EPA, HEW, state and local agencies, and concerned citizens. (ELR Order 4241, 88 pages) (NTIS Order PB–206 057–F) 4/20.

Siskiyou National Forest, *Oregon* and *California*. Proposed application of the herbicides 2,4–D and 2,4,5–T or atrazine on 11,358 acres in 204 separate tracts. The intent of the action is to reduce vegetative competition to conifer crop trees. The visual impact of the treated tract will be undesirable for several years; temporary harmful effects to aquatic life may result; changes in wildlife habitat will occur, with big game browse area being reduced. Comments made by USDA (ARS), EPA, DOC (NOAA), state and local agencies, and concerned citizens. (ELR Order 4267, 56 pages) (NTIS Order PB–206 404–F) 4/25.

Rural Electrification Administration

Draft

New Madrid Station Unit 2, New Madrid County, *Missouri*. Proposed loan of $72,180,000 to Associated Electric Cooperative, Inc. in order to help finance a 600,000 kw coal-fired steam-electric generating unit. Thermal discharge to the Mississippi River will be 2620 x 10^6 Btu/hr. at full load. (ELR Order 4166, 273 pages) (NTIS Order PB–208 179–D) 4/11.

Soil Conservation Service

Draft

Oliver Bottoms Resource Conservation and Development Project, Sebastian County, *Arkansas*. Proposed installation of 1.4 miles of channel improvement and appurtenant pipe overfall structures for grade stabilization and erosion control on a 521 acre watershed. (ELR Order 4154, 8 pages) (NTIS Order PB–208 044–D) 4/7.

Eagle-Tumbleweed Draw Watershed Project, Chaves and Eddy Counties, *New Mexico*. Proposed watershed and flood control structures, including a floodwater retarding structure, 2 diversions and an outlet channel. Approximately 1229 acres of rangeland would be committed to the project. (ELR Order 4177, 17 pages) (NTIS Order PB–208 176–D) 4/19.

Chicod Creek Watershed, Pitt and Beaufort Counties, *North Carolina*. Proposed construction of 66 miles of stream channel works, 11 rock dams, 30 water control structures, 10 sediment traps, 1 warm-water impoundment, 2 wildlife wetland preservation areas, and land treatment measures. The purposes of the action are watershed protection and flood control. Approximately 576 acres would be lost to the project; five miles of stream fishery habitat would be lost. (ELR Order 4188, 46 pages) (NTIS Order PB–208 299–D) 4/19.

Pickett Creek Watershed, Marion County, *West Virginia*. Proposed conservation land treatment measures construction of one floodwater retarding structure, and 7,030′ of channel work, including levees, floodwalls, and stream channel improvements. Twenty-two residences will be displaced, and 3,500′ of free-flowing stream eliminated, as a result of the action. (ELR Order 4126, 17 pages) (NTIS Order PB–208 385–D) 4/19.

Final

Eden Watershed, Yazoo County, *Mississippi*. The watershed consists of 11,528 acres of delta land and 1,992 acres of bluff hill land. The project consists of conservation land treatment supplemented by one floodwater retarding structure, three grade stabilization and sediment control structures, 25 miles of stream channel enlargement, and 4 miles of new channel. Sixty-six acres will be committed to the project; water quality levels will be decreased because of turbidity. Comments made by Army COE, EPA, HEW, DOI, and state agencies. (ELR Order 4289, 32 pages) (NTIS Order PB–202 301–F) 4/26.

Winters Creek Watershed, Scotts Bluff County, *Nebraska*. Proposed conservation land treatment, and construction of one floodwater retarding structure and 7.2 miles of channel enlargement. Construction of the project will necessitate periodic inundation of 400 acres of grassland which is in the flood pool area; this land is presently considered to be wildlife habitat. Comments made by Army COE, EPA, HEW, DOI, and the Governor of Nebraska. (ELR Order 4266, 20 pages) (NTIS Order PB–208 584–F) 4/25.

ATOMIC ENERGY COMMISSION

Contact:

For Non-Regulator Matters: Mr. Joseph J. DiNunno, Director, Office of Environmental Affairs, Washington, D.C. 20545 (202) 973–5391.

For Regulatory Matters: Mr. Christopher L. Henderson, Assistant Director of Regulation for Administration, Washington, D.C. 200545 (202) 973–7531.

Title, Description, and Draft

Fort St. Vrain Nuclear Generating Station, Weld County, *Colorado*. Proposed issuance of an operating license to the Public Service Co. of Colorado for the Fort St. Vrain Station. The station will utilize a high-temperature gas-cooled reactor and a conventional steam-turbine generator which will generate 842 MWt and 330 MWe. Approximately 1000 curies of gaseous radioactive wastes and 0.04 curie of liquid radioactive waste will be released per year to the environment. (ELR Order 4236, 154 pages) (NTIS Order PB–208 371–D) 4/19.

Marine Yankee Atomic Power Station, Montsweag Bay, *Maine*. Proposed issuance of an operating license to the Marine Yankee Atomic Power Co. for the station. The plant uses a pressurized water reactor with net electrical output of 855 MW. (Salt) cooling water will be withdrawn from the Back River on Montsweag Bay, and discharged to Bailey Cove. These waters are part of the Sheepscot River estuary. Cooling water will be heated to 25° F above ambient, and will enter Bailey Cove (to Montsweag Bay) at 950 cfs; sea worms and soft shell clams in the Cove will be killed. Approximately 350 additional hours of fog per year may result from the operation of the plant. ELR Order 4301, 121 pages) (NTIS Order PB–208 647–D) 4/27.

Indian Point Nuclear Generating Plant Unit 2, Westchester County, *New York*. The plant will have three units, each with a pressurized water reactor. This statement refers to the issuance of an operating license to the Consolidated Edison Co. of New York, Inc., for Unit 2, but considers the environmental impact of simultaneous operation of Units 1 and 2. Another statement will be prepared for Unit 3. The electric output of Unit 2 is 873 MWe. A total of 2600 cu. ft./sec. of water for once-through cooling and service water systems will be drawn from the Hudson River and heated by 15° F prior to discharge through a canal to the River; it has not been adequately demonstrated by the applicant that thermal discharge standards meet New York State criteria; dissolved oxygen levels in discharge water may be reduced to 3 ppm or less—aeration may be required; the operation of Units 1 and 2 with the present cooling system has the potential, because of mechanical, thermal, and chemical (chlorine) conditions, for long term environmental impact on the aquatic biota inhabiting the Hudson River which could result in permanent damage to the fish population in the river, Long Island Sound, the adjacent New Jersey coast, and the New York Bight. (ELR Order 4210, 405 pages) (NTIS Order PB–208 314–D) 4/14.

Vermont Yankee Power Station, Windham County, *Vermont*. Proposed issuance of an operating license to the Vermont Yankee Nuclear Power Corp. for the operation of the Station. The project consists of a single unit boiling reactor with a power rating of 1593 MW(t), which will have a power output of 540 MW(e). The reactor will be cooled by a once-through flow of water pumped from, and returned to, Vernon Pond, an existing impoundment of the Connecticut River. Mechanical cooling draft towers will also be used. Pond water will be heated from 50 to 10° F by cooling water effluent; residue chemicals will be introduced to the pond; radioactive effluents may be released; local air may be contaminated with fog formed by condensed water vapor from the cooling towers. (ELR Order 4192, 209 pages) (NTIS Order PB–208 311–D) 4/14.

Surry Power Station Units 1 and 2, Surry County, *Virginia*. Proposed issuance of an operating permit to the Virginia Electric and Power Co. for the operation of Surry Units 1 and 2. Each unit has a pressurized-water reactor with a power output of 2,441 MWt which will produce 822.5 MWe. Gross capacities, however, are expected to be 2,546 MWt and 855 MWe each. Waste heat of 12 billion Btu/hr. will be dissipated by pumping cooling water from the James River through the station's steam condensers and back into the river. Water from the James will be heated 14° F/gal.; the discharge will be made 5.7 miles upstream from intake in order to minimize thermal effects upon nearby oyster seed beds; fish and plankton will be lost at intake; minor quantities of chemical waste will be discharged to the James; negligible quantities of radioactive gaseous and liquid effluents will be released (ELR Order 4141, 209 pages) (NTIS Order PB–208 049–D) 4/7.

Highland Uranium Mill, Converse County, *Wyoming*. Proposed issuance of an operating license to the Humble Oil and Refining Co. for the Highland Uranium Mill. The mill is a conventional acid-leach, solvent extraction uranium ore processing plant with a capacity of 2000 tons of ore per day. The statement considers the impact of both mining and milling. Approximately 3200 acres will be temporarily (12–14 years) used; 120 million cu. yds. will be removed as overburden from 600 acres in open-pit mining operations; 500–1500 gpm of local ground water will be used in the processing and released back to the environment; stabilized tailings pile will cover 250 acres and consist of 11 million tons of tailings containing solid waste chemicals and low concentrations of radioactive uranium, with by-products; small quantities of chemicals and radioactive materials will be discharged to the environs. (ELR Order 4278, 41 pages) (NTIS Order PB–208 574–D) 4/25.

Final

Liquid Metal Fast Breeder Reactor (LMFBR) Demonstration Plant. The statement is in support of AEC's action to effect the design, development, construction, and operation of the LMFBR Demonstration Plant as part of the overall LMFBR research and development effort. The Demonstration Plant will be a 300 to 500 MW electrical sodium-cooled, fast neutron reactor, designed to produce more fuel than it consumes. It will be constructed and operated under a cooperative arrangement with the nuclear and utility industries. Specific design and location have not yet been chosen; general criteria and LMFBR technology have been used in the preparation of the statement. Comments made by USDA, DOC, EPA, FPC, HEW, DOI, DOT, the state of New York, and concerned citizens. (ELR Order 4189, 411 pages) (NTIS Order PB-200 778-F) 4/14.

Rocky Flats Plant, Jefferson County, *Colorado*. Proposed acquisition of 4,620 acres of additional land surrounding the 2,520 acres presently owned by the AEC. This would provide a 1 to 1.5 mile buffer zone around the 400 acre industrialized area of the plant. The plant is a key facility for the fabrication of plutonium components for nuclear weapons. The land in question is presently utilized for grazing animals; it is on the verge, however, of being developed for residential and industrial uses. The purpose of the action is to minimize the types of problems which often arise from the proximity of industrial facilities to residential communities. The land would become a greenbelt area. Comments made by USDA, DOC, DOD, EPA, DOT, the state of Colorado, and concerned citizens. (ELR Order 4285, 46 pages) (NTIS Order PB-206 081-F) 4/26.

Rio Blanco Gas Stimulation Project, Rio Blanco County, *Colorado*. Proposed simultaneous detonation of three 30 kiloton nuclear explosives, 5000' to 7000' below the surface in a natural-gas-bearing geologic formation underlying a site 27 miles from Meeker, in Rio Blanco County. The purpose of the project is the gathering of data on the feasibility of using nuclear explosions to stimulate natural gas production from low-permeability reservoirs. The action will result in ground motion from the detonations, with architectural damage to nearby structures; release of radioactivity to the atmosphere during production testing of the gas and the possible resultant low-level exposures to some local residents; and entrapment in the gas formations of radioactive materials, at or near the points of detonation. Comments made by USDA, DOC, DOD, EPA, HEW, and the state of Colorado. (ELR Order 4318, 262 pages) (NTIS Order PB-205 782-F) 4/28.

Rover Fuels Processing Facility, National Reactor Testing Station, *Idaho*. Proposed modification of a portion of the existing Idaho Chemical Processing Plant to store and subsequently reclaim usable Rover fuels. Rover fuel, from the joint AEC-NASA nuclear rocket project, contains approximately 2600 kg of highly enriched uranium. The facility would take one acre of land; small quantities of radio active fission products would be released; nonradioactive chemicals would also be released. Comments made by USDA, DOC, DOD, EPA, FPC HEW, DOI, and DOT. (ELR Order 4284, 185 pages) (NTIS Order PB-205 780-F) 4/26.

Power Burst Facility (PBF), National Reactor Testing Station, *Idaho*. Proposed use of an existing reactor in the AEC nuclear safety program. The PBF would be operated with a sudden increase in power level for a short period of time (burst of power) in order to subject test fuel elements to severe operating conditions. Radioactive waste systems have been modified to provide more control over effluent releases. Operation will commence this year. Comments made by USDA, DOC, EPA, HEW, DOI, and the state of Idaho. (ELR Order 4294, 121 pages) (NTIS Order PB-204 915-F) 4/27.

Radioactive Solid Waste Volume Reduction Facility, Los Alamos County, *New Mexico*. Proposed construction of a demonstration facility for reduction of solid radioactive waste volumes. Sorting, compaction, and incineration procedures would be developed for low-level plutonium-contaminated wastes which are presently stored in enclosed trenches. A maximum of 10 grams of plutonium and one millicurie of mixed fission products would be allowed at the facility at one time. Combustibles will be handled; protective measures will therefore be taken to minimize the consequences of fire. Comments made by USDA, DOC, DOD, EPA, HEW, DOI, DOT. (ELR Order 4292, 85 pages) (NTIS Order PB-204 915-F) 4/26.

Plutonium-238 Fuel Fabrication Facility, Savannah River Plant (SRP), Aiken and Barnwell Counties, *South Carolina*. Proposed construction of facilities for converting plutonium-238 oxide into compacted shapes for use as fuel in Radioisotope Thermoelectric Generators (RTG's). RTG's have been used to provide electrical power aboard communication and weather satellites, and on the surface of the moon. Small (less than .01 of one per cent of the Federal guidelines) releases of 238Pu are unavoidable. Comments made by USDA, DOC, DOD, EPA, HEW, DOI, DOT, and the state of South Carolina. (ELR Order 4298, 78 pages) (NTIS Order PB-205 779-F) 4/27.

Radioactive Waste Evaporator and Auxiliaries, Hanford Plant, Benton County, *Washington*. Proposed construction of new facilities at Hanford to process liquid radioactive wastes into solid, retrievable, salt cake form. The three evaporators presently in use are considered to be of inadequate capacity. Approximately one billion gallons of cooling water per year will be released to a surface pond in the nearby desert. There a portion will evaporate and the remainder will percolate to ground water level. This water will contain no radioactivity. Radioactive effluents will be treated before being discharged to an enclosed trench. Comments made by USDA, DOC, DOD, EPA, HEW, and DOT. (ELR Order 4283, 96 pages) (NTIS Order PB-206 083-F) 4/26.

Contaminated Soil Removal Facility, Hanford Plant, Benton County, *Washington*. Proposed construction of a facility which would remove plutonium from an existing closed trench (Z-9). The trench was used between 1955 and 1962 as a subsurface disposal facility for contaminated liquids from the Plutonium Finishing Plant at Hanford. It is estimated that 100 kilograms of plutonium are contained in 1800 cu. ft. of soil. High efficiency filters will allow only an insignificant amount of plutonium to be released to the air. Comments made by USDA, DOC, DOD, EPA, HEW, DOT, and the state of Washington. (ELR Order 4286, 85 pages) (NTIS Order PB-206 084-F), 4/26.

Wagon Wheel Gas Stimulation Project, Sublette County, *Wyoming*. Proposed sequential detonation of five, 100-kiloton nuclear explosives, 9000' to 12,750' below the surface in a natural-gas-bearing geologic formation underlying a site in the Green River Basin 19 miles south of Pinedale and 18 miles east of Big Piney in Sublette County. The purpose of the project is the gathering of data on the feasibility of using nuclear explosions to stimulate natural gas production from low-permeability reservoirs. The action will result in ground motion from the detonations, with architectural damage to nearby structures; release of radioactivity to the atmosphere during production testing of the gas and the possible resultant low-level exposures to some local residents; and entrapment in the gas formations of radioactive materials, at or near the points of detonation. Comments made by USDA, DOC, DOD, DOT, the state of Wyoming, and concerned citizens. (ELR Order 4325, 287 pages) (NTIS Order PB-206 082-F), 4/28.

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230 (202) 967-4335.

Title, Description, and Date

Draft

Expo '74, Spokane County, *Washington*. The project is a proposed international exposition, the theme of which is "How Man Can Live, Work and Play in Harmony With His Environment." The effects of the Expo's structures on noise, air and water quality and waste disposal are discussed. (ELR Order 4131, 126 pages) (NTIS Order PB-208 048-D) 4/5.

DEPARTMENT OF DEFENSE—DEPARTMENT OF AIR FORCE

Contact: Colonel Cliff M. Whitehead, Room 5E 425, The Pentagon, Washington, D.C. 20330 (202 OX 5-2889.

Title, Description, and Date

Draft

Air Force Academy Airmanship Program, Colorado Springs, *Colorado*. Proposed relocation of T-41 training facilities from Peterson Field to the Academy Airstrip. (ELR Order 4090, 115 pages) (NTIS Order PB-207 908-D) 4/3.

Eglin Air Force Base, *Florida*. Proposed outleasing of land to the Gulf Power Company in order to install new 230,000 volt power transmission lines which would back up the existing power net. Approximately 812 acres of land would be required; certain weather conditions would introduce ozone into the atmosphere; some vegetation will be lost. (ELR Order 4111, 20 pages) (NTIS Order PB-207 922-D) 4/4.

Keesler Air Force Base, *Mississippi*. Proposed extension of the runway from 5000' to 6000', in order to accommodate flights by C-9 aircraft. (ELR Order 4184, 15 pages) (NTIS Order PB-208 193-D) 4/13.

Pacific Cratering Experiments (PACE), Eniwetok Atoll, Marshall Islands. Proposed detonation of a series of high-explosive charges at the air-ground interface of selected islands, in order to approximate the effects of nuclear bursts upon hard strategic systems. Craters will be caused by the blasts; chemical and/or radio-chemical contaminants may enter the water. (ELR Order 4229, 63 pages) (NTIS Order PB-208 369-D) 4/19.

DEPARTMENT OF DEFENSE—DEPARTMENT OF ARMY

Contact: Mr. George A. Cunney, Jr., Acting Chief, Environmental Office, Directorate of Installations, Office of the Deputy Chief of Staff for Logistics, Washington, D.C. 20310 (202) OX 4-4269.

Title, Description, and Date

Final

Western Medical Institute of Research, Presidio of San Francisco, *California*. Proposed construction of research facilities for Phase II of the Institute's three phase construction project. Comments made by EPA, HUD, DOI, and local agencies. (ELR Order 4054, 30 pages) (NTIS Order PB-199 312-F) 3/29.

DEPARTMENT OF DEFENSE—DEPARTMENT OF ARMY

Corps of Engineers

Contact: Colonel William L. Barnes, Executive Director of Civil Works, Attn: DAEN-CWZ-C, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314 (202) 693-7168.

Title, Description, and Date

Draft

Small Boat Harbor, King Cove, *Alaska*. Proposed construction of a 1250' long earthfilled dike and a 210' rock groin, and dredging of a 400' long channel and 11 acre anchorage basin. The project would provide protected mooring for resident and transient fishing vessels. Approximately 23.8 acres of marine and waterfowl habitat will be lost to the project. (ELR Order 4287, 26 pages) (NTIS Order PB-208 572-D) 4/26.

Lytle and Warm Creeks, San Bernardino County, *California*. Proposed construction of concrete channel structures, levees, a bypass weir, etc. on Lytle and Warm Creeks in the Santa Ana River. Loss of natural stream-bed areas would result. (ELR Order 4181, 57 pages) (NTIS Order PB-208 194-D) 4/12.

Russian River Basin, Sonoma and Mendocino Counties, *California*. Proposed construction of rip rap, flexible fence, and jacklines at seven sites on the Russian River. The purposes of the action are channel improvement and bank stabilization. Riparian habitat, and Indian and Russian fur trader archeological sites will be lost; the river's potential inclusion in the National Wild and Scenic Rivers System will be affected. (ELR Order 4183, 35 pages) (NTIS Order PB-208 177-D) 4/11.

Santa Paula and Mud Creeks, Ventura County, *California*. Proposed construction of a debris basin and reinforced concrete channels on the two creeks. The purpose of the project is flood control. Some riparian vegetation would be eliminated. (ELR Order 4262, 13 pages) (NTIS Order PB-208 578-D) 4/25.

Norwalk Harbor, Fairfield County, *Connecticut*. Proposed periodic maintenance dredging of the inner 10' entrance channel and basin to authorized dimensions. An estimated 75,000 cu. yds. of sediment would be removed and dumped in an approved spoil area. Temporary turbidity will damage marine ecosystems. (ELR Order 4305, 12 pages) (NTIS Order PB-208 650-D) 4/28.

Beach Erosion Project, Brevard County, *Florida*. Proposed partial restoration and periodic nourishment of 4.8 miles of shoreline, at 2 sites. A total of 1,591,000 cu. yds. of material would be dredged from offshore for use at the sites. Dredging will temporarily degrade water quality, cause the beach to be closed for public use, and destroy benthic animals at dredging and deposit sites. (ELR Order 4280, 49 pages) (NTIS Order PB-208 552-D) 4/26.

Bal Harbour, Dade County, *Florida*. Proposed restoration of an 0.85 mile stretch of beach. Fill would be obtained from an ocean borrow pit 1.5 miles off shore. Approximately 1.8 million cu. yds. would be dredged and filled. Marine life at both dredging and dumping sites will be disturbed and/or destroyed. (ELR Order 4296, 15 pages) (NTIS Order PB-208 575-D) 4/27.

Ana Marie Key, Manatee County, *Florida*. Proposed construction of a beach erosion control project along the Gulf Shore of the Key. Revetment and groins will be constructed, and fill will be dredged and dumped, to provide 75' of additional beach at mean high water along 3.2 miles of shoreline. Temporary turbidity will disturb marine ecosystems. (ELR Order 4297, 40 pages) (NTIS Order PB-208 553-D) 4/27.

Bayou Plaquemine, Iberville Parish, *Louisiana*. Proposed filling of Bayou Plaquemine to an elevation 26' above m.s.l. from west end of closed lock structure to a point approximately 200' west of the Texas and Pacific Railway bridge, preparatory to the construction of Highway 1 relocation fill will be obtained by dredging the Mississippi River Waterway. Several businesses will be lost to the action; a 4(f) statement will be required as public land will be taken. (ELR Order 4080, 127 pages) (NTIS Order PB-207 772-D) 3/31.

Oil and gas exploration, *Louisiana*. Determination of permissibility for a permit to explore for oil or gas or develop production of such resources or other mineral resources in navigable waterways of the Gulf of Mexico. State-owned water bottoms on the Gulf and directly connected thereto are included; inland waterways and those not directly connected to the Gulf are not included; land areas, non-navigable waterways, and privately owned waterways are not included. Granting of such permits would create obstructions to navigation and fishing; temporary turbidity; altered salinity and circulation of marsh areas; possible significant damage to ecosystems as a result of exploration, dredging and disposal, spillage and leakage of petroleum and gas, and burning of wastes and gases. (ELR Order 4175, 81 pages) (NTIS Order PB-208 188-D) 4/11.

Plaquemine Lock Closure, Iberville Parish, *Louisiana*. Proposed construction of an earthen levee, which would permanently close Plaquemine Lock. The purpose of the action is flood control. (ELR Order 4195, 18 pages) (NTIS Order PB-208 298-D) 4/14.

Monroe Floodwall, Monroe, *Louisiana*. Proposed construction of a 1,750' folding floodwall structure on the Ouachita River. (ELR Order 4223, 8 pages) (NTIS Order PB-208 374-D) 4/17.

Wicomico River, Salisbury, *Maryland*. Proposed filling of South Prong of the river with dredge spoil from the North Prong. Hydraulic ecosystems would be disturbed by the dredge and fill operation. (ELR Order 4133, 8 pages) (NTIS Order PB-207 905-D) 4/6.

Yazoo Basin, Delta Area, *Mississippi*. Proposed construction of a pilot study program of bank stabilization works. Types of stabilization works to be considered include vegetation, Gobi-block matting, transverse stone dikes, stone dike tool protection, articulated concrete mats, and other appropriate works. The estimated cost of the project is $9,500,000. Temporary disturbance and damage to streambanks and vegetation will occur. (ELR Order 4174, 59 pages) (NTIS Order PB-208 189-D) 4/11.

Bowie Dam and Lake, Pascagoula River Basin, *Mississippi* and *Alabama*. The statement is a legislative action involving proposed construction, if authorized by Congress, of a multipurpose reservoir, for flood control, water supply, recreation, and fish and wildlife enhancement. An unspecified number of residences will be displaced. Approximately 5,500 acres will be inundated by the project; rare or endangered species for which this serves as habitat include the Bald Eagle, the Perigine Falcon, the Ivory-billed Woodpecker, Bachman's Warbler, and the American Alligator. (ELR Order 4247, 126 pages) (NTIS Order PB-208 468-D) 4/24.

Cold Spring Inlet, Cape May County, *New Jersey*. Proposed dredging of channel and maintenance of jetties, with spoil being dumped in the Atlantic Ocean. Temporary turbidity will disturb marine ecosystems. (ELR Order No. 4249, 12 pages) (NTIS Order PB-208 466-D) 4/24.

Absecon Inlet, Atlantic County, *New Jersey*. Proposed maintenance dredging of the inlet channel for navigational purposes. Temporary turbidity during dredging will disturb marine ecosystems. (ELR Order 4240, 11 pages) (NTIS Order PB-208 377-D) 4/20.

Manasquan River, Monmouth County, *New Jersey*. Maintenance dredging of inlet channel, and maintenance of jetties and bulkheads. Dredged material will be deposited in the Atlantic Ocean. Temporary turbidity will disturb marine ecosystems. (ELR Order 4246, 12 pages) (NTIS Order PB-208 469-D) 4/21.

Monongahela River, Fayette and Greene Counties, *Pennsylvania*. Proposed replacement of existing navigation facilities at Lock and Dam 7, and Lock 8. Increases in turbidity and sedimentation will degrade aquatic environmental quality. (ELR Order 4194, 15 pages) (NTIS Order PB-208 297-D) 4/14.

Cordell Hull Dam and Reservoir, Cumberland River, *Tennessee*. Proposed construction of a dam including a 100 Mw power facility; a spillway; and a 13,900 acre reservoir. The purposes of the project are navigation, hydroelectric power, and recreation. Construction is more than 80% complete; conversion of a 72 mile stretch of stream to a lake will result in the displacement of residents, utilities, roads, and cemeteries. (ELR Order 4110, 20 pages) (NTIS Order PB-207 921-D) 3/31.

Ediz Hook Beach Erosion Control, Clallam County, *Washington*. Proposed rock revetment and beach nourishment of 10,000' of the seaward shore of Eliz Hook. Material from the revetment would come from existing quarries; beach material from a source near Port Angeles. The purpose of the project is to provide protection for Port Angeles Harbor. (ELR Order 4155, 56 pages) (NTIS Order PB-208 046-D), 4/10.

Milwaukee Diked Disposal Area, Milwaukee Harbor, *Wisconsin*. Proposed establishment of a contained disposal area for spoil dredged from Lake Michigan. Forty-four acres of aquatic habitat within the existing harbor would be committed to the plan. (ELR Order 4322, 25 pages) 4/28.

Final

Small Boat Harbor Project, Bethel, *Alaska*. Proposed dredging of a 5100' long access channel and a 1700' long harbor area. The purpose of the project is to provide all-tide access to the harbor. Turbidity from dredging will disturb marine ecosystems; water quality levels will decrease as a result of dredging, concomitant erosion, and the use of outboard motors. Comments made by DOC, EPA, DOI, DOT, and state agencies. (ELR Order 4196, 34 pages) (NTIS Order PB-199 620-F) 4/14.

Blaine Creek, Lawrence County, *Kentucky*. Proposed construction of a dam and other facilities, for purposes of flood control, water quality control, recreation, fish and wildlife enhancement. Approximately 20,800 acres will be committed to the project; 213 residences, 6 churches, 4 commercial buildings, and 93 cemeteries will be displaced. Comments made by EPA, DOI, and one state agency. (ELR Order 4203, 49 pages) (NTIS Order PB-200 941-F) 4/14.

Scituate Harbor, Plymouth County, *Massachusetts*. Proposed dredging of 32 acres in order to provide mooring space for commercial and recreational boats. Temporary turbidity will disturb marine ecosystems. Comments made by USDA, USCG, DOI, state and local agencies. (ELR Order 4198, 22 pages) (NTIS Order PB-202 804-F) 4/14.

Whitman River, Worcester County, *Massachusetts*. Proposed construction of a dam, lake, recreation facilities, and appurtenant structures. The purposes of the projects are flood control, water quality improvement, recreation, and industrial water supply. Twenty-seven residences, one business, and 638 acres will be lost to the project. Comments made by EPA, DOI, state and local agencies. (ELR Order 4202, 140 pages) (NTIS Order PB-208 312-F) 4/14.

Roseau River, Roseau County, *Minnesota*. Proposed channel enlargement and straightening along 43.7 miles of the river; construction of 2 reaches of levee; and a possible 10-mile reach of channel work in Canada to be funded by the United States. Approximately 2400 acres will be lost to the project; the river will be rendered a less desirable habitat for both fish and waterfowl. Comments made by USDA, EPA, DOI, and one state agency. (ELR Order 4199, 41 pages) NTIS Order PB-208 295-F) 4/14.

Minnesota River, Blue Earth and Nicollet Counties. *Minnesota*. Proposed construction of levees, floodwalls, road relocations, interior drainage systems and intermittent ponds. The purpose of the action is flood control. Several residences will be displaced and existing ecosystems eliminated. This is a revised final. Comments made by USDA, EPA, HEW, and state agencies. (ELR Order 4204, 39 pages((NTIS Order PB-208 294-F) 4/14.

Western Unit Flood Protection Project, Billings, *Montana*. Proposed construction of a diversion project along the western edge of Billings in order to intercept flood flows from irrigation and drainage ditches and to direct these flows around developed areas. Sixty-six acres would be committed to the project. Comments made by USDA, EPA, DOI, and state agencies. (ELR Order 4205, 24 pages) (NTIS Order PB-204 575-F) 4/14.

Jefferson River Gallatin County, *Montana*. Proposed construction of an earth filled levee and a drainage collector ditch approximately 14,700' long. The purpose of the project is flood control. Twenty-eight acres would be lost to the action. Comments made by USDA, EPA, DOI, state and local agencies. (ELR Order 4197, 33 pages) (NTIS Order PB-208 296-F) 4/14.

Gallinas River, Las Vegas, *New Mexico*. Proposed clearing of 5,200' of river channel of obstructing vegetation and sediment deposits. The purpose of the action is flood control. Comments made by EPA, DOI, DOT, state and local agencies, and concerned citizens. (ELR Order 4200, 56 pages) (NTIS Order PB-205 199-F) 4/14.

Portsmouth State Park, Ohio River, *Ohio*. Proposed construction of a small boat harbor to accommodate recreational boats. Changes in fish and wildlife habitat, removal of vegetation, increase in stream sediment load, and potential pollution from fuels and lubricants will result. Comments made by USCG, EPA, USDI, and state agencies. (ELR Order 4253, 32 pages) (NTIS Order PB-198 883-F) 4/24.

Flat Rock and Valley View Creeks, Tulsa County, *Oklahoma*. Proposed channelization of 7400' of Flat Rock Creek and 4500' of Valley View Creek. Rip-rap will be used along with concrete and stone lined banks; Valley View Creek will be concrete lined. One residence will be displaced and 38 acres lost to the project; several utilities will be replaced. Comments made by USDA, EPA, HUD, DOI, DOT, and concerned citizens. (ELR Order 4254, 27 pages) (NTIS Order PB-198 847-F) 4/24.

Scappoose Drainage District, Columbia River, *Oregon*. Proposed construction of 2 pumping stations, an interior sublevee, and other modifications to the existing levee system. Twelve acres will be lost to the project; a lowered water table will encourage urban land uses, which are not recommended for floodplain land. Comments made by USDA, EPA, DOI, NOAA, and one state agency. (ELR Order 4258, 89 pages) (NTIS Order PB-198 847-F) 4/24.

Kingstree Branch Flood Control Project, Black River Basin, *South Carolina*. Proposed widening and deepening of an existing canal. Adjacent landowners will lose a portion of their properties to construction and right-of-way. Comments made by USDA, EPA, HUD, DOI, and state agencies. (ELR Order 4255, 35 pages) (NTIS Order PB-206 101-F) 4/24.

Brazos River Basin, Knox County, *Texas*. Proposed construction of a flood control project consisting of a channel, concrete chute, stilling basin, transition section, and bridge replacements. Approximately 60 acres will be lost to the project. Comments made by USDA, EPA, HEW, HUD, and DOI. (ELR Order 4237, 27 pages) (NTIS Order PB-206 460-F) 4/20.

Bonneville Lock and Dam, Columbia River, Skamania County, *Washington*. Proposed construction of an 8 unit second powerhouse at the Bonneville project. The second powerhouse will have the capacity of using 160,000 cu. ft./sec. of water. Total dependable capacity (minus a 22 MW loss at the Dalles) will be 562 MW. It will be necessary, however, to remove the existing town of North Bonneville. Approximately 18 million cu. yds. of material will be excavated and disposed of; 25 acres of wetlands will be lost; the mortality rate of downstream migrant fish will increase. Comments made by USDA, USCG, EPA, FPC, Bur. of Indian Affairs, DOI, NOAA, state, local, and regional agencies. (ELR Order 4190, 204 pages) (NTIS Order PB-202 133-F 4/14.

Mud Mountain Dam, White River, King and Pierce Counties, *Washington*. The dam is an existing 700' long 425' high earth-core rockfill structure. The project would involve a program of lateral bracing and installation of abrasion-resistant steel liner, in order to reduce the frequency of repairs to a 9' outlet. Comments made by USDA, Bureau of Indian Affairs, EPA, NOAA, state and regional agencies and concerned citizens. (ELR Order 4251, 39 pages) (NTIS Order PB-200 931-F) 4/24.

Kickapoo River, Vernon County, *Wisconsin*. Proposed construction of a 3,960' long, 103' high earth-fill dam which would create a multi-purpose (flood control, fish and wildlife production, and recreation) lake. The lake would have a surface area of 1,780 acres, and extend 12 miles upstream. A total of 9,780 acres of land would be committed to the project; 22.5 miles of road and 33 bridges would need to be replaced; 73 families would be displaced. The statement is a revised final. Comments made by USDA, EPA, DOI, state, local, and regional agencies, and concerned citizens. (ELR Order 4130, 540 pages) (NTIS Order PB-204-918-F) 4/19.

DEPARTMENT OF DEFENSE—DEPARTMENT OF THE NAVY

Contact: Mr. Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of the Navy, Washington, D.C. 20350 (202) 697-0892.

Title, Description, and Date

Draft

Naval Submarine Base, New London, *Connecticut*. Proposed dredging in order to deepen and widen 7.5 miles of existing navigation channel on the Thames River and Long Island Sound. Temporary turbidity will affect marine ecosystems at the site of dredging and that of disposal. (ELR Order 4176, 13 pages) (NTIS Order PB-208 175-D) April 10.

Naval Ammunition Depot, Oahu, *Hawaii*. Proposed acquisition of fee title to approximately 1177 acres of land adjacent to the West Lock Branch of the Naval Ammunition Depot. The purpose of the action is to prevent development of land now within the explosive safety zone. (ELR Order 4138, 53 pages) (NTIS Order PB-207 911-D) April 6.

Final

Sanguine System. Sanguine is an Extremely Low Frequency (ELF) communications system. (This statement primarily covers the next four years of development; another environmental impact statement would be provided prior to any requests for authorization to construct an operational system.) The Sanguine System, when constructed and deployed, would provide a survivable (after nuclear attack) and reliable military communication system for U. S. Strategic Forces, particularly submarines. The survivability of a Sanguine System would not only ensure an ability to execute and control strategic forces, but also clearly demonstrate to a potential enemy the requisite credibility of our National Policy which states that the United States will not initiate a nuclear war. Approximately 300 to 500 acres of land, probably in Wisconsin, would be permanently committed to a constructed system. Comments made by USDA, Army COE, EPA, FPC, HEW, Navy, and concerned citizens. (ELR Order 4219, 1021 pages) (NTIS Order PB-199 732-F) 4/17.

FEDERAL POWER COMMISSION

Contact: Mr. Frederick H. Warren Advisor on Environmental Quality, 441 G Street, NW., Washington, D.C. 20426 (202) 386-6084.

Title Description, and Date

Draft

Mitchell Project No 82, Chilton and Coosa Counties, *Alabama*. Proposed approval of an application by the Alabama Power Co. for a renewal permit on its Mitchell Project. The project has a present capacity of 72,500 kw; the applicant proposes to install an additional 80,000 kw. Also included in the present project are a 106' high x 1,264' long dam, and a reservoir of 5,850 acres. (ELR Order 4191, 97 pages) (NTIS Order PB-208 301-D) 4/14.

Rocky River Project No. 2632, Fairfield and Litchfield Counties, *Connecticut*. Proposed approval of an application by the Connecticut Light and Power Co. for its Rocky River Project. The project consists of a 952' long earth dam, 4 dikes, a 5,600 acre reservoir, a steel penstock, and a 3 unit, 32,000 kw powerhouse. (ELR Order 4233, 40 pages) (NTIS Order PB-208 365-D) 4/19.

Project No. 2354, Tallulah and Tugalo Rivers, *Georgia* and *South Carolina*. Proposed approval of the Georgia Power Company's plans to develop recreation facilities at its Project No. 2354, a hydroelectric power plant. Primary development would be at a 300 acre site near Tallulah Falls. (ELR Order 4257, 27 pages) (NTIS Order PB-208 576-D) 4/24.

Lacassine Project, Cameron Parish, *Lousiana*. Proposed construction of 22.1 miles of 30'' pipeline by Michigan Wisconsin Pipeline Co., from Block 71 to its compressor station near Lake Arthur. (ELR Order 4130, 24 pages) (NTIS Order PB-207 926-D) 4/5.

Brainerd Hydroelectric Project, Crow Wing County, *Minnesota*. Proposed approval of an application for a permit by the Northwest Paper Co. to continue operation of the hydroelectric plant and dam. (ELR Order 4126, 26 pages) (NTIS Order PB-207 897-D) 4/5.

Project No. 2692, Macon and Clay Counties, *North Carolina*. Proposed approval of a renewal operating license for the Nantahala Power and Light Company's Project No. 2692. The project consists of 1,042' long, 250' high dam, a 1,605 acre reservoir, a 5.6 mile conduit, two diversion dams, and a powerhouse with installed capacity of 43,200 kw. (ELR Order 4087, 63 pages) (NTIS Order PB-207 901-D) 4/3.

Schoolfield Project No. 2411, Danville, *Virginia*. Proposed approval of an application by the Dan River Co. for Project No. 2411. This is a run-of-river development with a 5,300 kw powerhouse. (ELR Order 4088, 29 pages) (NTIS Order PB-207 907-D) 4/3.

Project No. 2545, Spokane, Stevens, and Lincoln Counties, *Washington*. Proposed approval of a relicensing application by the Washington Water Power Co. for its Spokane River Project No. 2545. The project consists of four developments with a combined generating capacity of 99,200 kw. It is also proposed that one of the developments, the Monroe Street Plant, be reconstructed. (ELR Order 4118, 13 pages) (NTIS Order PB-207 913-D) 4/4.

Final

Liquified Natural Gas (LNG), Everett, *Massachusetts*, and Staten Island, *New York*. Proposed construction by Distrigas Corp. of docking areas and terminal facilities for imported LNG. Dredging operations at the two sites will affect marine ecosystems. Comments made by USDA, Army COE, EPA, DOI, state and local agencies. (ELR Order 4180, 62 pages) (NTIS Order PB-208 178-F) 3/28.

Project No. 2030, Portland, *Oregon*. Proposed approval of an amendment to the license held by the Portland General Electric Company for Project No. 2030, to enable the Company to construct, maintain, and operate a fish hatchery at its Round Butte Powerhouse. The hatchery would return 1,800 steelhead trout and 1,200 chinook salmon to the area annually. (ELR Order 4164, 19 pages) (NTIS Order PB-199 877-6) 4/11.

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Rod Kreger, Acting Administrator, GSA-AD, Washington, D.C. 20405 (202) 343-6077.

Alternate: Mr. Aaron Woloshin, Director, Office of Environmental Affairs, GSA-AD, Washington, D.C. 20405 (202) 343-4161.

Title, Description, and Date

Draft

Parcel A-2, Sewage Disposal Area, Pleasantown, *California*. Proposed use of the area by the Valley Community Services District for holding treated effluent from its sewage treatment plant. Vehicular traffic will increase at the site; breeding of mosquitoes may result. (ELR Order 4168, 12 pages) (NTIS Order PB-208 184-D) 4/11.

Final

Fort Des Moines, *Iowa*. Proposed disposal by GSA of 198 acres of unimproved land. Approximately 95 acres would be assigned to HEW for conveyance to the city of Des Moines for police and fire department training programs; 103 acres would be assigned to the Bureau of Outdoor Recreation for conveyance to Polk County for park and recreation use. Comments made by Senator Miller, Congressman Smith, USDA, EPA, HEW, and local agencies. (ELR Order 4245, 22 pages) (NTIS Order PB-205 446-F) 4/21.

Army Tank Automotive Plant, Cleveland, *Ohio*. Proposed disposal of the 60.17 acre plant for use by the City of Cleveland as a buffer zone adjacent to the Hopkins International Airport. Comments made by DOD, EPA, DOT. (ELR Order 4170, 14 pages) (NTIS Order PB-204 562-F) 4/10.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Contact: Mr. Robert Lanza, Office of the Assistant Secretary for Health and Scientific Affairs, Room 4026 HEWN, Washington, D.C. 20202 (202) 962-2241.

Title, Description, and Date

Draft

Tri-Service Incinerator, Forest Glenn Station, Montgomery County, Maryland. Proposed construction of an 87.5 tons per day capacity incinerator to dispose of trash, animal, and infectious research wastes from Walter Reed Army Medical Center, the National Institute of Health, and the National Navy Medical Center. Twelve acres of land will be committed to the two-furnace project; traffic will increase in the area; emissions will result; sediment from construction will be discharged to a Rock Creek tributary. (ELR Order 4108, 124 pages) (NTIS Order PB-207 898-D) 4/3.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Mr. Richard Broun, Director, Environmental and Land Use Planning Division, Office of Community Goals and Standards, Office of Assistant Secretary for Community Planning and Management, Department of Housing and Urban Development, Washington, D.C. 20410 (202) 755-6193.

Title Description, and Date

Final

Water Treatment Facilities, Custer County. *Oklahoma*. Proposed construction of 5.0 mgd pretreatment and 3.0 mgd demineralization water treatment facilities at Foss Reservoir, near Clinton. Cost of the facilities is estimated at $2,200,000. Waste water and dissolved solids from the plant would be discharged to the Washita River. Comments made by USDA, Army, DOC, EPA, FPC, DOI, state and local agencies. (ELR Order 4139, 76 pages) (NTIS Order PB-204 460-F) 4/6.

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240 (202) 343-3891.

Title, Description, and Date

Bonneville Power Administration

Final

Bonneville Power Administration, *Washington, Oregon, Idaho, Wyoming* and *Montana*. Proposed additions to BPA's electric transmission system, including transmission lines, substations, and related structures; and maintenance of existing facilities. Comments made by USDA, Army COE, AEC, EPA, FPC, DOI, and numerous state, regional, and local agencies. (ELR Order 4201, 726 pages) (NTIS Order PB-202 413-F) 4/14.

Bureau of Land Management

Draft

Proposed 1972 Outer Continental Shelf Oil and Gas General Lease Sale Offshore Eastern Louisiana. Proposed sale of 78 tracts (366, 440 acres) of OSC lands in late summer, 1972. All tracts offered pose some degree of pollution risk to the marine environment and/or adjacent shoreline. (ELR Order 4078, 266 pages) NTIS Order PB-207 792-D) 3/31.

Bureau of Mines

Draft

Strip Mined Area Reclamation and Recreation Center Development, Lackawanna County, *Pennsylvania*. Proposed reclamation of 125 acres of strip mined area by filling with spoils, grading and planting. The project is to be coordinated with one being conducted by the county to provide a recreation area/mining museum. (ELR Order 4077, 52 pages) (NTIS Order PB-207 777-D) 3/31.

Bureau of Reclamation

Draft

Nueces River, Nueces and San Patricio Counties, *Texas*. Proposed construction of an earthfill dam and reservoir on the Nueces, 22 miles upstream from its mouth. The purposes of the project are water supply, recreation, and fish and wildlife enhancement. Approximately 150 families would be displaced; 31,340 acres of wildlife habitat and 21 miles of fish habitat would be inundated; the salinity of the Corpus Christi estuary would be increased; productive capacity and sport fishing potential of the estuary would be decreased; degradation of the estuarine environment and impairment of its values would occur. (ELR Order 4291, 47 pages) (NTIS Order PB-208 581-D) 4/26.

Final

Tualatin River, Washington County, *Oregon*. Proposed construction of an earthfill dam on Scoggins Creek, with an irrigation system, and 2 pumping plants, and a fish ladder at an existing dam on the Tualation River. The purpose of the project is flood control. Twelve miles of trout spawning area will be inundated along with 1,100 acres of private land which serves both for dairy farming and winter range for 150 deer; 12 miles of road and 8 miles of power line will have to be relocated. Comments made by USDA, Army COE, DOC, EPA, EPC, HEW, DOI, DOT, state and local agencies. (ELR Order 4321, 74 pages) (NTIS Order PB-199 327-F) 4/28.

National Park Service

Draft

Cumberland Island National Seashore, Camden County, *Georgia*. The statement refers to a legislative proposal which would establish Cumberland Island as a National Seashore. This action would preserve the Atlantic barrier island and the related estuarine ecosystem complex for public recreation, improvement of environmental quality of life and education and research. (ELR Order 4231, 38 pages) (NTIS Order PB-208 379-D) 4/19.

Springfield National Armory, Springfield, *Massachusetts*. A legislative proposal that the armory be established as a National Historic Site. It is also proposed that adjacent lands owned by the Commonwealth of Massachusetts be subject to development limitations and design control. (ELR Order 4326, 15 pages) (NTIS Order PB-208 651-D) 4/28.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Contact: Mr. Ralph E. Cushman, Special Assistant, Office of Administration, NASA, Washington, D.C. 20546 (202) 962-8107.

Title, Description, and Date

Draft

The Space Shuttle Program. The space shuttle is a piloted, recoverable, reusable space transportation system to provide rapid, easy, economical access to space. The shuttle can carry payloads of up to 65,000 lbs. into orbit and return them to earth; it will replace most present launch vehicles and expand flexibility. (ELR Order 4243, 91 pages) (NTIS Order PB-208 535-D) 4/21.

Final

Apollo Program. The statement considers the environmental impact of the Apollo Program. Comments made by EPA. (ELR Order 4224, 21 pages) (NTIS Order PB-208 366-F) 4/17.

NATIONAL CAPITAL PLANNING COMMISSION

Contact: Donald F. Bozarth, Director of Current Planning and Programming, Washington, D.C. 20576 (202) 382-1471.

Title, Description, and Date Draft

Comprehensive plan for the National Capital, *Washington, D.C.* Proposed modification to the Comprehensive Plan in order to make it conform to the Urban Renewal Area. The proposal involves relocation of the "Uptown Center," realignment of Fort Lincoln Park, etc. (ELR Order 2080, 56 pages) (NTIS Order PB-207 439-D) 3/10.

PACIFIC NORTHWEST RIVER BASINS COMMISSION

Contact: Mr. Robert Vining, Post Office Box 908, Vancouver, Washington 68660 (206) 695-3606.

Titles, Description, and Date

Draft

Willamette River Basin Comprehensive Water and Related Land Resource Study, *Oregon*. Proposed comprehensive development plan based upon estimated basin needs for a future 50 year period. Structural developments would include 52 reservoirs, several major and minor channel works for flood control and irrigation works, etc. (ELR Order 4084, 27 pages) (NTIS Order PB-207 920-D) 4/3.

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Francis Gartrell, Director of Environmental Research and Development, 720 Edney Building, Chattanooga, Tennessee 37401 (615) 755-2002.

Title, Description, and Date

Final

Thomas H. Allen Steam Plant, Shelby County, *Tennessee*. Proposed addition of gas peaking units 17-20 to the Steam Plant, in order to provide additional power SO_2 and NO_x will be emitted; the possibility of oil spillage or leakage will result. Comments made by USDA, DOC, DOD, EPA, FPC, HEW, HUD, DOI, DOT, state and regional agencies. (ELR Order 4114, 40 pages) (NTIS Order PB-199 231-F) 4/4.

Colbert Steam Plant, Cobert County, *Alabama*. Proposed addition of gas turbine peaking units 1-8 at Colbert Steam Plant. SO_2 and NO_x will be emitted; the possibility of oil spillage or leakage will result. Comments made by USDA, DOC, DOD, EPA, FPC, HEW, HUD, DOI, DOT, state and regional agencies. (ELR Order 4109, 41 pages) (NTIS Order PB-200 365-F) 4/4.

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Program Coordination, 400 7th Street S.W., Washington, D.C. 20590. (202) 462-4357.

Title, description, and date

Federal Aviation Agency

Draft

Litchfield Municipal Airport, Montgomery County, *Illinois*. Proposed extension of runway, taxiway and apron, installation of lighting, etc. (ELR Order 4127, 24 pages) (NTIS Order PB-207 916-D) 4/5.

Town of Paris, Edgar County, *Illinois*. Proposed acquisition of land and construction of an E/W runway (75' x 3900'), taxiway, apron, access road, terminal, etc. An unspecified amount of land would be taken by the project; local air, noise and water pollution would increase accordingly. (ELR Order 4160, 44 pages) (NTIS Order PB–208 042–D) 4/10.

Polk County, *Minnesota*. Request for Federal financial assistance to construct a new runway (75' x 3500'), taxiway, install lighting etc. (ELR Order 4116, 25 pages) (NTIS Order PB–207 909–D) 4/4.

Aitkin Airport, Aitkin County, *Minnesota*. Proposed surfacing of runway (3500' x 75'), construction of a taxiway and terminal, and installation of lighting and navigational aids. The crossing of Sissabagamah Creek would be necessary; 16 acres of public land would be taken by the project. (ELR Order 4157, 41 pages) (NTIS Order PB–208 054–D) 4/10.

Warroad Municipal Airport, Roseau County, *Minnesota*. Proposed surfacing of a 75' x 3500' NW/SE runway, construction of a taxiway, apron, etc. (ELR Order 4167, 11 pages) (NTIS Order PB–208 185–D) 4/11.

Jackson Municipal Airport, Jackson, *Mississippi*. Proposed extension of a runway from 6,600' to 8,500'. (ELR Order 4173, 19 pages) (NTIS Order PB–208 192–D) 4/11.

Cleveland Airport, Cuyahoga County, *Ohio*. Proposed acquisition of 44.532 acres at the northeast corner of the airport; construction of a Crash/Fire/Rescue and Maintenance Building, taxiway, and electrical vault and clearance of 40.2 wooded acres. Nineteen families would be displaced by the action. (ELR Order 4171, 12 pages) (NTIS Order PB–208 191–D) 4/11.

Winnsboro Airport, Fairfield County, *South Carolina*. Proposed construction of a basic utility airport adequate for propeller driven aircraft of less than 12,500 lbs. Nineteen acres would be lost to the action. (ELR Order 4169, 33 pages) (NTIS Order PB–208 190–D) 4/10.

Final

Stapleton International Airport, Denver, *Colorado*. Proposed construction of a new N/S runway (200' x 12,000') with connecting taxiways. The relocation of 64th Avenue and the Rocky Mountain Arsenal railroad spur would be necessary; air and noise pollution would increase. Comments made by USDA, Army COE, EPA, HUD, DOI, state and local agencies. (ELR Order 4137, 96 pages) (NTIS Order PB–204 557–F) 4/6.

Baxley Municipal Airport, Baxley, *Georgia*. Proposed extending and widening of an existing runway, to enable the airport to accommodate all propeller aircraft of less than 12,500 lbs. Approximately 10 acres of land will be lost to the clear zone area. Comments made by USDA, EPA, DOT, state and local agencies. (ELR Order 4127, 31 pages) (NTIS Order PB–206 167–F) 4/19.

Pocatello Airport, Power County, ***Idaho***. Proposed extension of runway from 8,248' x 150' to 9,037' x 150', construction of taxiways, installation of lighting, etc. Comments made by USDA, EPA, HUD, DOI, and state agencies. (ELR Order 4136, 38 pages) (NTIS Order PB–204 958–F) 4/6.

Miller Field, Cherry County, *Nebraska*. Proposed extension of one runway and overlay of two others; construction of a hanger, taxiway and a segmented circle; runway marking, etc. Comments made by USDA, Army COE, EPA, HUD, and DOI. (ELR Order 4244, 29 pages) (NTIS Order PB–204 903–F) 4/21.

Albany County Airport, Albany County, *New York*. Proposed extension (from 4500' to 6000') of an existing runway. Six residences would be displaced by the action, which would also necessitate the acquisition of 29.5 acres of land. Comments made by USDA, Army COE, HUD, DOI, DOT, state, local, and regional agencies, and concerned citizens. (ELR Order 4290, 172 pages) (NTIS Order PB–204 026–F) 4/26.

Ashe County Airport, Ashe County, *North Carolina*. Proposed construction of a general utility airport which would accommodate all propeller driven aircraft of less than 12,500 lbs. Twenty-seven acres would be committed to the project. Comments made by USDA, EPA, DOT, state and local agencies. (ELR Order 4295, 26 pages) (NTIS Order PB–206 552–F) 4/27.

Neillsville Municipal Airport, Clark County, *Wisconsin*. Proposed construction of a new airport, including a 60' x 3000' EW runway, a taxiway, an apron, and an access road, etc. Approximately 170 acres would be committed to the project. Comments made by USDA, Army COE, AEC, EPA, FPC, HEW, HUD, DOI, state and local agencies. (ELR Order 4128, 51 pages) (NTIS Order PB–204 576–F) 4/19.

Park Falls Municipal Airport, Price County, Wisconsin. Proposed land acquisition and construction of a 75' x 3200' N/S runway, a connecting taxiway, an apron; low intensity lighting, marking, etc. Air and water quality standards will be affected. Comments made by USDA, Army COE, EPA, HEW, DOI, DOT, state and local agencies. (ELR Order 4187, 38 pages) (NTIS Order PB–204 025–F) 4/13.

Federal Highway Administration

Draft

Proposed General Guidelines for Consideration of Economic, Social, and Environmental Effects of Highway Projects. The statement is the response of the Department of Transportation to Section 109(h) of Title 23, U.S.C. (ELR Order 4163, 27 pages) (NTIS Order PB–208 182–D) 4/11.

S–1078(10), Tehana County, *California*. Proposed construction of a replacement bridge over the Sacramento River, on F.A.S. 1078. Total project length is 0.45 mile, including approaches. A 4(f) statement would be required as land from adjacent county and state parks would be taken. (ELR Order 4086, 23 pages) (NTIS Order PB–207 918–D) 4/3.

U.S. 50, Montrose County, *Colorado*. Proposed construction of 4.25 miles of U.S. 50. Three residences would be lost to the action. (ELR Order 4193, 29 pages) (NTIS Order PB–208 300–D) 4/14.

I–291, Hartford County, *Connecticut*. Proposed construction of I–291, which will serve as a beltway around the city of Hartford, connecting I–91 and I–86. The length of the project varies from 11 to 17 miles (approximately) depending upon the route chosen. The amount of land and number of residences to be committed is not yet known. A 4(f) statement will be filed as city-owned lands would be taken. (ELR Order 4185, 132 pages) (NTIS Order PB–208 180–D) 4/13.

U.S. 98, Polk County, *Florida*. Proposed construction of a new bridge over Peace River and 1.5 miles of approaches on a realigned segment of U.S. 98. An unspecified amount of land will be committed to the project. A 4(f) statement will be prepared as some land involved is city-owned. (ELR Order 4293, 33 pages) (NTIS Order PB–208 582–D) 4/27.

F.A.S. Route 1362, Palm Beach County, *Florida*. Proposed reconstruction of 2 miles of multi-lane divided highway. (ELR Order 4300, 8 pages) (NTIS Order PB–208 535–D) 4/27.

State Route 16, Spalding and Butts Counties, *Georgia*. Proposed reconstruction, possibly on a new location, of approximately 10 miles of S.R. 16 between U.S. 41 and I–75. Several alternate routes are under consideration; each of them would displace some residences and have a detrimental impact upon the Cabin Creek Watershed. (ELR Order 4327, 102 pages) (NTIS Order PB–208 643–D) 4/28.

I–80 Elmore County, *Idaho*. Proposed construction of 7.7 miles of I–80. One residence, one business, and approximately 163 acres of land would be lost to the project, large hillside cuts would necessitate the construction of retaining walls. (ELR Order 4165, 25 pages) (NTIS Order PB–208 186–D) 4/11.

Project EBU–183, U.S. 45, Cook County, *Illinois*. Reconstruction of 4.5 miles of U.S. 45. Three residences and 6 businesses would be displaced by the action. (ELR Order 4115, 51 pages) (NTIS Order PB–207 910–D) 4/4.

Project I–55–6 (80), Will County, *Illinois*. Proposed construction of a combined Safety Rest Area—District State Police Headquarters on I–55. A 4(f) statement is required as land would be taken from Des Plaines Conservation Area. (ELR Order 4120, 51 pages) (NTIS Order PB–207 931–D) 4/5.

F.A.S. Route 28, Ogle County, *Illinois*. Proposed reconstruction of 0.705 mile of F.A.S. Route 28. Eleven acres would be lost to the project. (ELR Order 4235, 87 pages) (NTIS Order PB–208 375–D) 4/19.

Lincoln Highway (U.S. 30), Cook County, *Illinois*. Proposed reconstruction (widening) of 4.6 miles of U.S. 30. Eighteen families and 11 businesses would be displaced by the action. A 4(f) statement will be prepared, as land would be taken from a school yard and playground. (ELR Order 4299, 84 pages) (NTIS Order PB–208 644–D) 4/27.

U.S. 50, Clay, Richland, and Lawrence Counties, *Illinois*. Proposed reconstruction of 40 miles of U.S. 50. The number of residences and businesses displaced depends upon the route decided upon. Some 4(f) land may be committed. Construction is not scheduled until 1977. (ELR Order 4323, 26 pages) (NTIS Order PB–208 646–D) 4/28.

U.S. 50, Marion and Clay Counties, *Illinois*. Proposed reconstruction of 30 miles of U.S. 50. Approximately 25 farm units, 13 to 25 residences, and 1800 acres of land will be committed to the project. (ELR Order 4324, 25 pages) (NTIS Order PB–208, 658–D) 4/28.

Freeport Bypass, F.A.S. Route 401, Stephenson County, *Illinois*. Proposed construction of 18 miles of 4-lane highway. Twenty-six families, one business, and three farm units will be displaced. (ELR Order 4328, 81 pages) (NTIS Order PB–208 652–D) 4/28.

F.A.S. Route S–1095, St. Joseph County, *Indiana*. Proposed reconstruction of a portion of S–1095 at its intersections with 6 railroad lines; 68 residences and 9 businesses would be displaced by the action. (ELR Order 4250, 24 pages) (NTIS Order PB–208 467–D) 4/24.

State Route 331, St. Joseph County, *Indiana*. Proposed reconstruction of a segment of S.R. 331 at its intersection with a rail line. Twenty-nine residences, 5 businesses and one church would be displaced by the action. (ELR Order 4281, 35 pages) (NTIS Order PB–208 573–D) 4/26.

U.S. 151, Linn County, *Iowa*. Proposed construction of 13 miles of U.S. 151 through the cities of Cedar Rapids and Marion. Depending upon which of several alternate routes is taken, between 1,530 and 3,770 persons would be displaced. (ELR Order 4161, 33 pages) (NTIS Order PB–208 045–D) 4/10.

Project S–120, Washington County, *Iowa*. Proposed reconstruction of F.A.S. Routes 595 and 2967 for a total length of 6 miles. A 4(f) statement would be required as some of the land needed is owned by the Iowa State Conservation Commission. (ELR Order 4144, 7 pages) (NTIS Order PB–208 047–D) 4/7.

U.S. 54, Kingman County, *Kansas*. Proposed construction of 9 miles of 4-line U.S. 54, much of it on new location. An unspecified amount of land will be committed to the project. (ELR Order 4239, 10 pages) (NTIS Order PB–208 376–D) 4/20.

U.S. 33 and U.S. 119, Pike and Letcher Counties, *Kentucky*. Proposed reconstruction of 10.49 miles of highway. Approximately 250 acres of land would be lost to the project and approximately 100 residences displaced. A 4(f) statement would be required as school land would be taken. (ELR Order 4265, 44 pages) (NTIS Order PB–208 579–D) 4/25.

Plaquemines, Orleans, and St. Bernard Parishes, *Louisiana*. Proposed construction of 14.8 miles of I-410, a controlled access six-lane highway. Approximately 540 acres of land will be lost to the project; three families will be displaced; four major streams will be crossed. (ELR Order 4096, 50 pages) (NTIS Order PB-207 912-D) 4/3.

I-410, St. Charles Parish, *Louisiana*. Proposed construction of 24.1 miles of six-lane I-410. Thirty-seven families will be displaced, 876.36 acres of land will be lost to the project. (ELR Order 4097, 30 pages) (NTIS Order PB-207 924-D) 4/3.

I-83, Baltimore City, *Maryland*. Proposed construction of 0.7 mile of 6-lane I-83, in the City of Baltimore. Ten residences and 58 businesses would be displaced; there would be acoustic and visual impacts upon adjoining areas. The City Fish Market would probably be displaced. Several historic sites and recreational areas along the route would be displaced, necessitating the filing of 4(f) statements. (ELR Order 4186, 109 pages) (NTIS Order PB-208 181-D) 4/13.

I-95, Baltimore County, *Maryland*. Proposed construction of 5.2 miles of 8-lane I-95, including a tunnel; and 1.0 mile of 6-lane I-395, 0.6 mile of 6-lane City Boulevard and 2.5 miles of 6-lane I-83. An Alternate route is also discussed. An unspecified number of buildings would be displaced. Several 4(f) statements would be prepared as recreational areas and historic sites would be affected, including the Fort McHenry National Monument. (ELR Order 4218, 166 pages) (NTIS Order PB-208 382-D) 4/17.

Project F-10-7( ), Washtenaw and Wayne Counties. *Michigan*. Proposed construction of 12.3 miles of new Interstate quality highway along routes M-14 and I-96. Approximately 195 parcels of land, including wetlands and agricultural areas, would be lost to the action; an unspecified number of homes would be lost; a portion of the Middle Rouge River would be channelled; a 4(f) statement will be required as parkland would be taken. (ELR Order 4121, 52 pages) (NTIS Order PB-207 930-D) 4/5.

Project I-275-7(1)21, Wayne County, *Michigan*. Proposed construction of 6.5 miles of I-275, a 6-lane controlled access highway. An unspecified number of residences and amount of land would be lost to the action; a 4(f) statement is required as parkland would be taken. A high local water table makes the disruption of groundwater systems probable. (ELR Order 4122, 37 pages) (NTIS Order PB-207 929-D) 4/5.

M-24, Tuscola and Huron Counties, *Michigan*. Proposed construction of approximately 15 miles of 2-lane M-24 north of Caro. An unspecified number of residences and amount of land would be lost to the project, depending upon which of several alternate routes is taken. (ELR Order 4158, 40 pages) (NTIS Order PB-208 041-D) 4/10.

Project U-34-1( ), M-53, Macomb County, *Michigan*. Proposed construction of 8 miles of M-53, a 10-lane depressed-freeway urban facility, with a center, (11th) mass-transit lane. An unspecified number of structures and amount of land would be committed to the project. (ELR Order 4159, 37 pages) (NTIS Order PB-208 043-D) 4/10.

N-25, Hitchcock County, *Nebraska*. Proposed construction of a new highway, N-25, to connect U.S. 35 and U.S. 6. Total length of the project is approximately 24 miles, depending upon which of several routes is chosen. Several bridges will be constructed; an unspecified number of residences and amount of land will be taken, depending upon the route. (ELR Order 4178, 20 pages) (NTIS Order PB-208 195-D) 4/12.

Projects F-221(15) and USG-717(2), Lincoln County, *Nebraska*. Proposed reconstruction of U.S. 83, built to expressway standards, as a bypass of North Platte, with a proposed railroad viaduct to the city. An unspecified amount of land would be taken by the action. (ELR Order 4179, 28 pages) (NTIS Order PB-208 196-D) 4/12.

Nebraska L-56C, Lincoln County, *Nebraska*. Proposed reconstruction of a 1.6 mile segment of L-56C, between U.S. 30 and U.S. 80; and the construction of a new bridge over the South Platte River. An unspecified amount of land will be taken by the project; the South Platte River Valley flood plain, with several streams, will be crossed. (ELR Order 4308, 17 pages) (NTIS Order PB-208 654-D) 4/28.

Project 9.8122812, Catawba County, *North Carolina*. Proposed construction of 2.1 miles of new highway between the N.C. 10-16—S.R. 1880 intersection and S.R. 1739. Fourteen residences and 35 acres would be taken by the right-of-way. The possibility of siltation in nearby streams will occur (ELR Order 4089, 20 pages) (NTIS Order PB-207 906-D) 4/3.

U.S. 221, Ashe County, *North Carolina*. Proposed reconstruction of 7.7 miles of U.S. 221, and addition of a curb and gutter. Thirty-three families and one business would be displaced; the possibility of siltation of the New River will exist. (ELR Order 4123, 36 pages) (NTIS Order PB-207 928-D) 4/5.

I-94, Morton County, *North Dakota*. Proposed construction of an interchange on I-94 at the site of the Collins Avenue Separation in the city of Mandan. Three residences and one business would be displaced by the action. (ELR Order 4113, 19 pages) (NTIS Order PB-207 923-D) 4/4.

Project US-1169(3), Cuyahoga County, *Ohio*. Proposed reconstruction of 2.86 miles of S.R. 252. Six residences would be displaced by the action. (ELR Order 4085, 13 pages) (NTIS Order PB-207 899-D) 4/3.

Projects F-673( ) and F-297( ), Hardin County, *Ohio*. Proposed construction of a 4-lane, 8.16 mile-long bypass which would remove routes U.S. 30S, U.S. 68, and S.R. 31 from the city of Kenton. Loss of an unspecified amount of farm land will result. (ELR Order 4128, 24 pages) (NTIS Order PB-207 917-D) 4/5.

Project S-1262(6), Miami County, *Ohio*. Proposed widening of County Road 25A from 2 to 4 lanes, and construction of several bridges. An unspecified amount of land would be lost to the project. (ELR Order 4129, 20 pages) (NTIS Order PB-207 927-D) 4/5.

Project ER-1642(1), Cuyahoga County, *Ohio*. Proposed replacement of a major bridge over the Cuyahoga River. Total project length, including approaches is .8 mile. An unspecified amount of industrial land would be taken by the project. (ELR Order 4134, 11 pages) (NTIS Order PB-207 904-D) 4/6.

Project I-280-2(2), Wood County, *Ohio*. Proposed reconstruction of 6.6 miles of 4 lane I-280 to the latest Interstate standards. Four families, four businesses, and an unspecified amount of land will be lost to the project. (ELR Order 4143, 17 pages) (NTIS Order PB-208 050-D) 4/7.

Project SU-7240(100)C, Tulsa County, *Oklahoma*. Proposed reconstruction of 3.5 miles of Avery Drive from 2 to 4 lanes. A 4(f) statement will be required as right-of-way would be taken from Chandler Park. (ELR Order 4082, 30 pages) (NTIS Order PB-207 773-D) 3/31.

Eighth Street, West Wyoming, Luzerne County, *Pennsylvania*. Proposed reconstruction of 3.2 miles of Eighth Street partially on a new location. Fifty-four families and 14 businesses would be displaced by the action. (ELR Order 4256, 40 pages) (NTIS Order PB-208 470-D) 4/24.

S-21, Greenville County, *South Carolina*. Proposed widening of S-21 (Rutherford Road) from the intersection of U.S. Routes 25 and 276 north for a total distance of 3.81 miles. Seventeen residences and 6 businesses would be displaced by the action. (ELR Order 4248, 13 pages) (NTIS Order PB-208 465-D) 4/24.

Project F-024-3( ), Putnam County, *Tennessee*. Proposed construction of 5.0 miles of S.R. 42. Two streams will be crossed by the project; from 10 to 41 residences will be displaced depending upon which of several alternate routes is chosen. (ELR Order 4142, 17 pages) (NTIS Order PB-208 051-D) 5/7.

State Route 32, Granger County, *Tennessee*. Proposed construction of 8.09 miles of 4-lane S.R. 32. Ten residences and an unspecified amount of land will be lost to the project. (ELR Order 4221, 15 pages) (NTIS Order PB-208 384-D) 4/17.

State Route 24, Davidson County, *Tennessee*. Proposed widening of 0.8 mile of highway from 2 to 4 lanes. Eight residences and six businesses would be displaced by the action. (ELR Order 4319, 17 pages) (NTIS Order PB-208 656-D) 4/28.

Project F-003-4(), Dyer and Obin Counties, *Tennessee*. Proposed construction of 17 miles of new 4-lane highway. Wetland of the Obin River Bottom area will be lost, along with 450 to 500 acres of productive agricultural land. The number of residences displaced will depend upon the route chosen. (ELR Order 4320, 13 pages) (NTIS Order PB-208 637-D) 4/28.

Project F-1128, S.H. 360, Tarrant and Ellis Counties, *Texas*. Proposed construction of 28 miles of S.H. 360, a 4-lane freeway. Approximately 2000 acres and an unspecified number of residences would be lost to the project, depending upon which of several alternate routes is taken. (ELR Order 4153, 35 pages) (NTIS Order PB-208 038-D) 4/7

Loop 499, Cameron County, *Texas*. Proposed construction of highway Loop 499, which would total 6.8 miles in length. Thirteen families and four businesses would be displaced by the action. (ELR Order 4182, 21 pages) (NTIS Order PB-208 187-D) 4/13.

State Highway 71, Fayette County, *Texas*. Proposed reconstruction of 10 miles of S.H. 71 from 2 to 4 lanes. Two families and one business will be displaced; 210 acres of land will be lost to the project. (ELR Order 4222, 30 pages) (NTIS Order PB-208 367-D) 4/17.

I-5, King County, *Washington*. Proposed construction of an interchange on I-5 at South 272 St., 10 miles south of the Seattle Corporate Limits. An unspecified number of residences and amount of land would be taken by the project, depending upon the route chosen. (ELR Order 4307 17 pages) (NTIS Order PB-208 653-D) 4/28.

Project S-0145(4), Washington County, *Wisconsin*. Proposed reconstruction of 3 miles of FAS Route 145. Approximately 16.2 acres of land would be lost to the project. Cedar Creek would be exposed to contamination. A 4(f) statement would be required as land would be taken from a wildlife refuge. (ELR Order 4091, 9 pages) (NTIS Order PB-207 925-D) 4/3.

U.S. 41, Winnebago County, *Wisconsin*. Proposed construction of an interchange at the intersection of U.S. 41 and Breezewood Lane. Three residences and an electric power substation will be displaced by the action. (ELR Order 4220, 24 pages) (NTIS Order PB-208 370-D) 4/17.

Final

Project S-1117 (102), Chilton County, *Alabama*. Proposed reconstruction of 5.2 miles of FAS Route 1117. Comments made by USDA, DOC, DOD, DOI, state and local agencies. (ELR Order 4102, 28 pages) (NTIS Order PB-201 249-F) 4/3.

Project I-65—3(54), Limestone County, *Alabama*. Proposed construction of a rest area on I-65. The project would include parking, water, picnic, sanitary, and tourist information facilities. Comments made by USDA, AEC, Army COE, HUD, DOI, TVA, DOT, state and local agencies. (ELR Order 4124, 43 pages) (NTIS Order PB–207 900–F) 4/5.

I–59, Dekalb County, *Alabama*. Proposed construction of a rest area and welcome station on I-59, 0.5 mile south of the Georgia state line. An unspecified amount of land would be lost to the project. Comments made by USDA, Army COE, AEC, EPA, HEW, DOI, and state agencies. (ELR Order 4207, 43 pages) (NTIS Order PB–208 313–F) 4/14.

Project F–208(33), U.S. 431, Etowak County, *Alabama*. Proposed construction of 1.2 miles of new 4-lane highway, beginning at the end of existing U.S. 431. Sixteen acres of land would be committed to the project; 37 families would be displaced. Comments made by USDA, Army COE, EPA, HUD, DOI, DOT, state, local and regional agencies. (ELR Order 4271, 48 pages) (NTIS Order PB–208 583–F) 4/25.

Project I–759–7(1), Etowak County, *Alabama*. Proposed construction of I–759, the Gadsen Spur, beginning at I–59 and extending 4.57 miles to U.S. 411. The project is intended to serve as a bypass around the Gadsen business district. Forty-six residences and 2 businesses would be displaced by the action. Comments made by USDA, Army COE, EPA, DOI, Navy, DOT, and State agencies. (ELR Order 4274, 44 pages) (NTIS Order PB–208 580–F) 4/30.

F.A.S. Route 414, Kenai Peninsula Borough, *Alaska*. Proposed construction of 9.8 miles of F.A.S. Route 414. An unspecified number of residences and amount of land will be lost to the project. Comments made by USDA, HUD, DOI, DOT, state and local agencies, and concerned citizens. (ELDR Order 4145, 44 pages) (NTIS Order PB–208 040–F) 4/7.

Project S–0525(5), Wasilla, *Alaska*. Proposed reconstruction of 10.2 miles of existing roadway, providing it with a gravel surface and separate bicycle path. Comments made by USDA, EPA, DOI, and state agencies. (ELR Order 4270, 46 pages) (NTIS Order PB–202 795–F) 4/25.

I–40, Navajo County, *Arizona*. Proposed construction of a section of I–40, beginning on U.S. 66 and extending 8.43 miles east. One residence and an unspecified amount of land will be lost to the action. Comments made by USDA, Army COE, EPA, state and local agencies. (ELR Order 4209, 41 pages) (NTIS Order PB–204 465–F) 4/14.

Project U–048–1(5), Highway 9, Conway County, *Arkansas*. Proposed construction of 3.6 miles of 2-lane Highway 9. Three residences would be displaced by the project. Comments made by USDA, DOC, EPA, DOI, Dept. of State, state and local agencies. (ELR Order 4206, 27 pages) (NTIS Order PB–202 424–F) 4/14.

State Highway 138, San Bernardino County, *California*. Proposed construction of 3.9 miles of new 4-lane S.H. 138, much of it parallel to an existing route. Several sites of potential archeological importance would be damaged by the project. Comments made by USDA, EPA, HEW, DUO, DOI, DOT, and state agencies. (ELR Order 4317, 85 pages) (NTIS Order PB–200 022–F) 4/28.

Project S–0016(34), El Paso County, *Colorado*. Proposed construction of 3 miles of new 4-lane highway, built to expressway standards. Four residences would be displaced by the action. Comments made by USDA, DOT, and state agencies. (ELR Order 4316, 82 pages) (NTIS Order PB–203 617–F) 4/28.

Project I–86, Towns of Ashford and Union, *Connecticut*. Proposed reconstruction of I–86 for a length of approximately 7.16 miles. Comments made by USDA, EPA, HUD, DOI, State Dept., state and local agencies. (ELR Order 4101, 101 pages) (NTIS Order PB–201 299–F) 4/3.

Project F–024–2( ), S.R. 80, Palm Peach County, *Florida*. Proposed construction of S.R. 80 along a corridor between S.R. 15 and S.R. 700. An unspecified amount of land would be lost to the project. Comments made by USDA, Army COE, USCG, DOC, EPA, DOI, DOT, state and local agencies. (ELR Order 4147, 44 pages) (NTIS Order PB–202 644–F) 4/7.

Alt. U.S. 19, Pinellas County, *Florida*. Proposed construction of 1.2 miles of multi-lane highway. An unspecified amount of land would be committed to the project. Comments made by USDA, Army COE, EPA, and state agencies. (ELR Order 4264, 47 pages) (NTIS Order PB–202 170–F) 4/15.

Project—F–413 ( ), Morgan Cass, and Schuyler Counties, *Illinois*. Proposed construction of 51 miles of Supplemental Freeway F.A.P. 413, a four-lane, fully access controlled facility. An unspecified number of residences and amount of land will be lost to the project. Comments made by USDA, Army COE, DOC, EPA, FPC, DOT, USCG, and state and local agencies. (ELR Order 4095, 91 pages) (NTIS Order PB–202 073–F) 4/3.

F.A.S. Route 257, La Salle County, *Illinois*. Proposed reconstruction of 10 miles of F.A.S. Route 257. An unspecified amount of land will be required for additional right-of-way; approximately 130, 100 year old sugar maple trees, which line the road south of Harding, will be lost to the project. Comments made by USDA, AEC, EPA, and DOI. (ELR Order 4309, 18 pages) (NTIS Order PB–203 479–F) 4/28.

Project S–296 (5), Shelby County, *Indiana*. Proposed construction of 1 mile of highway to connect with I–74. Comments made by USDA, EPA, HUD, DOI, (ELR Order 4099, 23 pages) (NTIS Order PB–202 176–F) 4/3.

F.A.S. Route 459, Tippecanoe County, *Indiana*. Proposed construction of a bridge and approaches over the Wabash River, north of Lafayette. The present bridge is considered too narrow to be adequate. Comments made by ARMY COE, EPA, DOI, and state agencies. (ELR Order 4215, 42 pages) (NTIS Order PB–203 476–F) 4/14.

U.S. 65, Polk County, *Iowa*. Proposed reconstruction of 3.0 miles of U.S. 65. Approximately 1200′ of creek channel change will be required. Comments made by USDA, EPA, DOI, state and local agencies. (ELR Order 4150, 19 pages) (NTIS Order PB–203 611–F) 4/7.

U.S. 50, Harvey County, *Kansas*. Proposed construction of 2.47 miles of 4-lane U.S. 50, with 4 bridges. An unspecified amount of land would be lost to the project. Comments made by USDA, ARMY COE, EPA, HEW, DOI, state and local agencies. (ELR Order 4214, 33 pages) (NTIS Order PB–199 240–F) 4/14.

I–70, Shawnee County, *Kansas*. Proposed reconstruction of 0.6 mile of I–70 in Topeka. A (small) unspecified amount of land would be lost to the project. Comments made by USDA, ARMY COE, USCG, EPA, HEW, DOI, state and local agencies. (ELR Order 4216, 31 pages) (NTIS Order PB–201 379–F) 4/14.

I–35, Lyon County, *Kansas*. Proposed construction of 10.6 miles of I–35, a 4-lane divided highway with a depressed median and full access control. Approximately 550 acres of land would be committed to the project and 14 farm ponds filled. Comments made by USDA, Army COE, EPA, HEW, DOI, and state agencies. (ELR Order 4313, 41 pages) (NTIS Order PB–200 772–F) 4/28.

Projects S–661 and 612, Floyd County, *Kentucky*. Proposed replacement of Bailey Bridge and reconstruction of 1.10 miles of highway, on KY 1426 and KY 979. Fifteen families would be displaced and 12 acres lost to the project. Comments made by DOC, EPA, DOI, DOT, and one state agency. (ELR Order 4106, 21 pages) (NTIS Order PB–202 011–F) 4/3.

KY 16, (F.A.S. 277) Boone County, *Kentucky*. Proposed construction of 1.04 miles of KY–16, a 4 lane highway, to connect I–75 and U.S. 25. Nineteen acres would be committed to the project; 4 residences would be displaced. Comments made by DOT and State agencies. (ELR Order 4275, 22 pages) (NTIS Order PB–199 629–F) 4/25.

Project S–49( ), KY–70, Hopkins County, *Kentucky*. Proposed reconstruction of 0.7 mile of Arch St. in the city of Madisonville. KY–70 traffic through the city would then be routed to Arch St. Seven residences and one business would be displaced by the action. Comments made by USDA EPA, state and local agencies. (ELR Order 4311, 22 pages) (NTIS Order PB–202 595–F) 4/28.

Project F–918–1(13), Worcester County, *Maryland*. Proposed construction of 1.6 miles of new highway and 0.8 mile of existing highway on U.S. 113. Five residences would be displaced by the action. Comments made by USDA, EPA, HUD, state and local agencies. (ELR Order 4152, 41 pages) (NTIS Order PB–201 502–F) 4/7.

U.S. 41, Marquette County, *Michigan*. Proposed reconstruction (widening) of 4.3 miles of U.S. 41. Two residences would be displaced by the action. Comments made by USDA, Army COE, USCG, EPA, HUD, DOI, DOT, and states agencies. (ELR Order 4272, 46 pages) (NTIS Order PB–204 840–F) 4/25.

I–69 and I–96, Clinton and Eaton Counties, *Michigan*. Proposed construction of approximately 21 miles of I–69, a 6-lane highway, to connect with I–96. An unspecified number of residences and amount of land will be committed to the project, depending upon the route taken. Comments made by USDA, Army, COE, EPA, HUD, DOI, state and local agencies. (ELR Order 4310, 76 pages) (NTIS Order PB–203 107–F) 4/28.

Trunk Highways 12, 23, and 71, Kandiyohi County, *Minnesota*. Proposed rerouting of the three highways to a southwesterly bypass of the City of Willman. The total project length is 10 miles. One farmstead, one residence, one church, and an unspecified amount of land will be lost to the project. Comments made by EPA, Army, COE, HEW, HUD, DOI, OEO, and DOT. (ELR Order 4125, 38 pages) (NTIS Order PB–204 029–F) 4/5.

Project S–6690(1), St. Louis County, *Minnesota*. Proposed reconstruction of 2-lane County-State Aid Highway 13, for a total length of 4.2 miles. One residence, several garages, and 20 acres will be lost to the project. Comments made by USDA, EPA, HUD, and DOI. (ELR Order 4149, 26 pages) (NTIS Order PB–204 966–F) 4/7.

Project SP–0056–1(4) Winston County, *Mississippi*. Proposed construction of 5.5 miles of Miss. Hy. 25, a 2-lane highway with right-of-way for ultimate construction of a 4-lane facility. An unspecified amount of land will be lost to the project. Comments made by USDA, Army COE, DOC, and state agencies. (ELR Order 4146, 13 pages) (NTIS Order PB–199 627–F) 4/7.

I–435, Clay and Platte Counties, *Missouri*. Proposed construction of 15.6 miles of I–435, a freeway standard facility of from 4 to 6 lanes. Seventeen families and an unspecified amount of land will be lost to the project. Comments made by USDA, EPA, DOI, DOT, state and local agencies, and concerned citizens. (ELR Order 4213, 57 pages) (NTIS Order PB–200 329–F) 4/14.

State Route 36, Marion County, *Missouri*. Proposed relocation and reconstruction of 4.8 miles of S.R. 36. Approximately 170 acres would be committed to the project. Comments made by USDA, EPA, HEW, and DOI. (ELR Order 4268, 19 pages) (NTIS Order PB–203 754–F) 4/25.

State Route AC, Buchanan County, *Missouri*. Proposed construction of 1.9 miles of new, 2-lane highway east of St. Joseph. Twenty-four people would be displaced and 50 acres, some of which is wildlife habitat, would be taken by the project. Comments made by USDA, EPA, HEW, HUD, DOI, DOT, and state agencies. (ELR Order 4315, 26 pages) (NTIS Order PB–205 350–F) 4/28.

Project I–80–2(41), Cheyenne County, Nebraska. Proposed construction of 3.0 miles of I-80 and 5.4 miles of N-19. One business and an unspecified amount of land would be lost to the action. Comments made by USDA, Army COE, EPA, HUD, and DOI. (ELR Order 4132, 29 pages) (NTIS Order PB-201 237-F) 4/5.

Project S-1135(2), S.R. 292, Dona Ana County, *New Mexico*. Proposed reconstruction of 1.1 miles of S.R. 292, part of which is located in the city of Las Cruces. Two residences would be displaced by the project. Comments made by USDA, Army COE, EPA, HUD, DOI, DOT, state and local agencies. (ELR Order 4314, 31 pages) (NTIS Order PB-204 843-F), 4/28.

State Route 9, Dutchess County, *New York*. Proposed construction of 1.7 miles of S.R. 9, from 2 and 4 lanes to 6 lanes. Fishkill Creek would be relocated and channelized. A 4(f) statement is required as a historical site (Van Wyck Wharton House) would be affected by the project. Comments made by USDA, FPC, and DOI. (ELR Order 4263, 35 pages) (NTIS Order PB-200 035-F), 4/25.

U.S. 9W, Albany County, *New York*. Proposed reconstruction of the Dibbs Bridge and its approaches, on U.S. 9W. Comments made by USDA, AEC, EPA, FPC, DOT, state and local agencies. (ELR Order 4269, 25 pages) (NTIS Order PB-199 246-F). 4/25.

Project S-453, Cumberland County, *North Carolina*. Proposed reconstruction of 9.1 miles of NC 53-210. Six families and one business would be displaced by the project. Comments made by USDA, EPA, GSA, DOI, state and local agencies. (ELR Order 4107, 36 pages) (NTIS Order PB-201 848-F), 4/3.

Project U.S. 1604, Cumberland County, *North Carolina*. Proposed construction of 8.3 miles of new 4-lane highway. Approximately 25 families and 8 businesses will be displaced by the project; an unspecified amount of land will be taken. Siltation is expected, and the local ground water level will be lowered. Comments made by USDA, DOC, EPA, GSA, DOI, OEO, state and local agencies. (ELR Order 4208, 56 pages) (NTIS Order PB-199 625-F). 4/11.

U.S. 64, Edgecombe County, *North Carolina*. Proposed construction of 13.0 miles of new 2-lane highway. Fourteen families would be displaced and 580 acres committed to the project. Comments made by USDA, Army COE, GSA, HUD, DOI, state and regional agencies. (ELR Order 4277, 43 pages) (NTIS Order PB-201 845-F), 4/25.

Project F-82, LeFlore County, *Oklahoma*. Proposed relocation and reconstruction of 5.4 miles of U.S. 270. Nine families would be displaced and 85 acres taken by the project. Comments made by state agencies. (ELR Order 4092, 18 pages) (NTIS Order PB-199 574-F). 4/3.

Project F-236, Coal County, *Oklahoma*. Proposed reconstruction of 6 miles of S.H. 3. One family would be displaced and 220 acres would be lost to the project. Comments made by DOI and state agencies. (ELR Order 4093, 20 pages) (NTIS Order PB-199 593-F) 4/3.

Project F-180, Garfield and Major Counties, *Oklahoma*. Proposed construction of 20.15 miles of U.S. 60. Twenty-two families, four businesses, and two non-profit organizations will be displaced by the project; 315 acres of grass and farm lands will be lost. Comments made by DOI, and state agencies) (ELR Order 4098, 23 pages) NTIS Order PB-200 759-F) 4/3.

Project S-6012, Payne County, *Oklahoma*. Proposed construction of 2 miles of FAS Route 6012. Thirteen acres of grasslands will be lost to the project. Comments made by USDA, EPA, and state agencies. (ELR Order 4103, 18 pages) (NTIS Order PB-201 849-F) 4/3.

Projects F-152 and F-252, Osage County, *Oklahoma*. Proposed construction of 20.4 miles of U.S. 60, a four-lane highway. Approximately 430 acres would be lost to the project. Comments made by DOI, state and local agencies. (ELR Order 4104, 30 pages) (NTIS Order PB-200 206-F) 4/3.

I-95, Philadelphia County, *Pennsylvania*. Proposed construction of 5 sections of I-95, totaling 2.15 miles in length. It is a fully controlled limited access highway, varying in width from 6 to 10 lanes. An unspecified number of individuals and buildings would be displaced by the action. Comments made by USDA, EPA, HUD, and state agenices. (ELR Order 4151. 76 pages) NTIS Order PB-208 052-F) 4/7.

Traffic Route 219, Somerset County, *Pennsylvania*. Proposed construction of an 8 mile length of 4-lane, limited access Traffic Route 219. The highway will serve as a connector from Maryland, north through Pennsylvania, to New York. Approximately 220 acres and from 30 to 45 residences would be lost in the action. Comments made by DOC, EPA, FPC, HUD, DOI, state and local agencies. (ELR Order 4211, 76 pages) NTIS Order PB-199 623-F) 4/14.

Meeting Street Expressway, Richland and Lexington Counties *South Carolina*. Proposed construction of 3.3 miles of urban highway. Approximately 20 businesses and 125 residences would be displaced by the project. Comments made by Army COE, HUD, DOI, DOT, state, local, and regional agencies. (ELR Order 4105, 31 pages) (NTIS Order PB-200 526-F) 4/3.

Project F-039-1( ), McNinn County, *Tennessee*. Proposed construction of 7 miles of S.R. 30. Six residences would be displaced by the project; several small streams would be crossed. Comments made by USDA, FAA, TVA, state and local agencies. (ELR Order 4148, 44 pages) (NTIS Order PB-208 053-F) 4/7.

Project F-405( ), Houston County, *Texas*. Proposed reconstruction of 6.1 miles of U.S. 287, from two to four lanes. Approximately 147 acres of land will be required by the project; 11 residences, three businesses and one church will be displaced, two lakes, totaling 2.8 acres, will be drained. Comments made by USDA, EPA, HEW, DOT, state agencies, and concerned citizens. (ELR Order 4094, 46 pages) (NTIS Order PB-200 012-F) 4/3.

Park Road 100, Cameron County, *Texas*. Proposed construction of 11.7 miles of 2-lane highway on a 200' right-of-way. The highway would introduce people and vehicles to a totally undeveloped seashore area, and to Padre Island. Damage to existing protective sand dunes would occur; rapid development of the area is expected to result from the project. Comments made by Army COE, EPA, and state agencies. (ELR Order 4119, 19 pages) (NTIS Order PB-203 480-F) 4/5.

I-27, Randall County, *Texas*. Proposed construction of 20.5 miles of I-27, a 4-lane divided controlled access highway. Four residences and approximately 955 acres of land will be lost to the project. Comments made by USDA, DOC, EPA, HEW, DOT, one regional agency, and concerned citizens. (ELR Order 4212, 61 pages) (NTIS Order PB-199 584-F) 4/14.

State Highway 154, Harrison Countv. *Texas*. Proposed reconstruction of 11.7 miles of S.H. 154; 5.6 miles would be on new location. Forty residences and 2 businesses would be displaced by the action. Comments made by USDA, Army COE, EPA, HEW, DOT, state, local and regional agencies. (ELR Order 4260, 41 pages) (NTIS Order PB-202 598-F) 4/25.

U.S. 259, Morris County, *Texas*. Proposed reconstruction, from 2 to 4 lanes, of 2.15 miles of U.S. 259. One business would be displaced by the action. Comments made by USDA, Army COE, HEW, and DOT. (ELR Order 4312, 26 pages) (NTIS Order PB-202 315-F) 4/28.

Project F-037-1 ( ), Whitman County, *Washington*. Proposed construction of 5 miles of new two and four lane limited access highway. An unspecified amount of land will be lost to the project. Comments made by USDA, Army COE, EPA, HUD, DOT, state and local agencies. (ELR Order 4100, 45 pages) (NTIS Order PB-207 915-F) 4/3.

S.R. 97, Chelan County, *Washington*. Proposed construction of 2000' of 2-lane roadway and the relocation of the Swakane Canyon approach. The purpose of the action is to provide a viewing point for Lincoln Rock, a natural formation which resembles the profile of Abraham Lincoln. One half acre of apple orchard will be lost to the project. Comments made by EPA, HUD, DOT, state and local agencies, and numerous concerned citizens. (ELR Order 4217, 75 pages) (NTIS Order PB-208 302-F) 4/14.

State Route 101, Thurston County, *Washington*. Proposed construction of an interchange on S.R. 101. Comments made by USDA, DOC, EPA, DOI, state, local, and regional agencies. ELR Order 4276, 43 pages) NTIS Order PB-204 258-F) 4/25.

State Route 90, King County, *Washington*. Proposed reconstruction of 5 miles of S.R. 90, from 3 to 7 lanes of interstate standards. Approximately 153 acres would be committed to the project; an unspecified number of residences would be displaced; 1.3 million board ft. of timber would be removed from the hillside site; scarring and potential erosion problems along the north side of the upper Snoqualmie River Valley would result. A 4(f) statement is required as the project would affect campgrounds. Comments made by USDA, EPA, HUD, DOI, DOT, and state agencies (ELR Order 4279, 123 pages) (NTIS Order PB-206 869-F) 4/25.

F.A.S. Route 1462, Waukesha County, *Wisconsin*. Proposed construction of 4 new miles of 2-lane F.A.S. Route 1462. The facility will ultimately be rebuilt to 4-lanes. The Fox River will be crossed by the project; an unspecified amount of land will be committed to the action. Comments made by USDA, EPA, HUD, DOI, and state agencies. (ELR Order 4273, 34 pages) (NTIS Order PB-200 394-F) 4/25.

U.S. COAST GUARD

Contact: D. B. Charter, Jr., Commander, U.S. Coast Guard, Chief, Environmental Coordination Branch, 400 7th Street, S.W., Washington, D.C. 20591 (202) 426-9573.

Title, Description, and Date

Draft

Baltimore Harbor Outer Crossing, Baltimore County, *Maryland*. Proposed approval of plans for a high level fixed bridge across the Patapsco River from Hawkins Point, Baltimore City to Sollers Point, Baltimore County. Approximately 80,000 cu. yds. of material would be dredged from the river and disposed in upland containment area. Land would be taken from two public parks—Fort Armistead and Baltimore County Park. (ELR Order 4156, 67 pages) (NTIS Order FB-208 039-4) 4/10.

Edisto River, Colleton County, *South Carolina*. Proposed approval of location and plans for a pipeline bridge across the river. The purpose of the bridge is to carry fossil fuel ash from a steam electrical generating plant to settling basins on the opposite side of the river. Both are properties of the South Carolina Electric and Gas Co. Approximately 400 acres of the Company's land would be committed to the action; some of this is wildlife habitat. (ELR Order 4288, 15 pages) (NTIS Order PB-208 551-D) 4/26.

Ohio River Toll Bridge, Cabell County, *West Virginia* and Lawrence County, *Ohio*. Proposed approval of plans for a high level toll bridge across the Ohio River, from West Virginia State Route 108. Twenty-five residences and six businesses will be displaced by the project. A 4(f) statement will be filed as public land would be taken by the project. (ELR Order 4252, 51 pages) (NTIS Order PB-208 472-D) 4/24.

REGIONAL FEDERAL HIGHWAY ADMINISTRATORS

Region 1* (Conn., Me., Mass., N.H., R.I., Vt., N.J., N.Y., Puerto Rico) Administrator: G. D. Love, 4 Normanskill Blvd., Delmar, N.Y. 12054.

Region 3 (Del., D.C., Md., Pa., Va., W. Va.) Administrator: August Schofer, 31 Hopkins Plaza, Baltimore, Md., 21201.

Region 4 (Ala., Fla., Ga., Ky., Miss., N.C., S.C., Tenn.) Administrator: H. E. Stark, 1720 Peachtree Rd., N.W., Atlanta, Ga., 30309.

Region 5 (Ill., Ind., Mich., Minn., Ohio, Wisc.) Administrator: F. B. Farrell, 18209 Dixie Hwy., Homewood, Ill. 60430.

Region 6 (Ark., La., N.M., Okla., Texas) Administrator: J. W. White, 819 Taylor St., Fort Worth, Texas 76102.

Region 7 (Iowa, Kansas, Mo., Neb.) Administrator: J. B. Kemp, P.O. Box 7186, Country Club Station, Kansas City, Mo. 64113.

Region 8 (Col., Montana, N.D., S.D., Utah, Wyoming) Administrator: W. H. Baugh (Acting), Rm. 242, Bldg. 40, Denver Federal Center, Denver, Colo. 80225.

Region 9 (Arizona, Calif., Hawaii, Nev.) Administrator: S. E. Farin, 450 Golden Gate Ave., San Francisco, Calif. 94102.

Region 10 (Alaska, Idaho, Oregon, Wash.) Administrator: R. M. Phillips, 222 Southwest Morrison St., Portland, Oreg. 97204.

AVAILABILITY OF ENVIRONMENTAL PROTECTION AGENCY COMMENTS ON ENVIRONMENTAL IMPACT STATEMENTS

Appendix I contains a listing of draft environmental impact statements which the Environmental Protection Agency (EPA) has reviewed and commented upon in writing during the period from April 1, 1972, to April 30, 1972, as required by section 102(2)(C) of the *National Environmental Policy Act* of 1969 and section 309 of the *Clean Air Act*, as amended. The listing includes the Federal agency responsible for the statement, the number assigned by EPA to the statement, the title of the statement, the classification of EPA's comments, and the source for copies of the comments.

Appendix II contains a listing of proposed regulations reviewed by EPA during the period from April 1, 1972, to April 30, 1972, under section 309 of the *Clean Air Act*. The listing includes the Federal agency responsible for the proposed regulation, the title of the regulation, the classification of EPA's comments, and the source for copies of the comment.

Appendix III contains definitions of the four classifications of the general nature of EPA's comments. Copies of EPA's comments on these draft environmental impact statements are available to the public from the EPA offices noted.

Appendix IV contains a listing of the addresses of the sources for copies of EPA comments listed in the appendixes.

Copies of the draft environmental impact statements are available from the Federal department or agency which prepared the draft statement or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

SHELDON MEYERS,
Director,
Office of Federal Activities.

Date: May 3, 1972.

---

[*] Conforms to Standard Federal Regions 1 & 2.

APPENDIX I

ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN APR. 1, 1972, AND APR. 30, 1972

Identifying No.	Title	General nature of comments	Source for copies of comments
	ATOMIC ENERGY COMMISSION		
D-AEC-C0041-25	Palisades nuclear generation plant	2	A
D-AEC-C0033-43	Wagon Wheel gas stimulation project, Wyoming	2	A
D-AEC-C0044-14	Surry power station, units 1 and 2	3	A
D-AEC-C0043-25	Enrico Fermi atomic powerplant	1	A
D-AEC-C0042-27	Quad Cities nuclear generating station	2	A
	CORPS OF ENGINEERS		
D-COE-35016-02	Maintenance dredging and jetty repair, Hampton Harbor, Hampton, N.H	2	B
D-COE-35015-05	Maintenance dredging, Guilford Harbor, Conn	2	B
D-COE-50086-08	No. 174 bridge construction, Ass:scunk Creek, N.J	1	C
D-COE-50085-08	No. 173 bridge construction, Crafts Creek, N.J	1	C
D-COE-32329-08	No. 172 Absecon Inlet, N.J., navigation project	1	C
D-COE-32328-08	No. 171 Cold Spring Inlet, N.J., navigation project	1	C
D-COE-32327-08	No. 170 Manasquan River, N.J., navigation project	1	C
D-COE-32320-07	Gowanus Canal navigation improvements, New York	1	C
D-COE-35014-12	Proposed filling of the south prong of Wicomico River Salisbury, Wicomico County, Md	3	D
D-COE-35013-12	Proposed maintenance dredging of the Federal navigation project, St. Catherine Sound, Md	1	D
D-COE-05179-15	Walker Dam project, New Kent County, Va	3	D
D-COE-32041-23	West Tennessee tributaries-Mississippi River and tributaries, Obion and Forked Deer Rivers, Tenn., No. 210	3	E
D-COE-32325-24	Greenville Harbor expansion, Mississippi	2	E
D-COE-32185-18	Little River Inlet, N.C. and S.C	2	E
D-COE-30030-21	Beach erosion control, Brevard County, Fla	1	E
D-COE-30029-21	Partial beach restoration, Bal Harbour, Dade County, Fla	2	E
D-COE-32331-23	Obion and Forked Deer Rivers and tributaries, Harris Fork Creek, Tenn. and Ky	2	E
D-COE-32306-27	Kent Creek, Winnebago County, Ill	2	F
D-COE-32312-35	Atchafalaya River and Bayous Chene, Boeuf and Black, La	2	G
D-COE-36116-35	Monroe floodwall, Louisiana	2	G
D-COE-32319-35	Plaquemine lock closure, Mississippi River and tributaries project, Iberville Parish, La	2	G
D-COE-32320-00	Treasure Island, Mississippi River, Mo	2	H
D-COE-32325-46	Port Heuneme Harbor, Ventura County, Calif	2	J
	DEPARTMENT OF AGRICULTURE		
D-DOA-82031-00	Herbicide control of Big Sage	1	A
D-DOA-89056-00	Water bank program	1	A
D-DOA-82018-01	Cooperative spruce budworm suppression project	2	A
D-DOA-89057-00	Wheat, feed grain and cotton set-aside program	2	A
D-DOA-89062-27	Palzo restoration project, Williamson, Saline and Gallatin Counties, Ill	2	F
D-DOA-36115-35	Town of Coushatta-flood prevention project measure. Twin Valley R.C. & D. project, Louisiana	1	G
D-DOA-41147-48	Clarkdale-Williams Highway, State Route 279, Coconino, Prescott, and Kaibab National Forests, Arizona	1	J
D-DOA-82026-55	Siskiyou N.F. herbicide programs, Oregon	3	K
D-DOA-41189-55	Eis on Coulter Creek Rd., Wenatchee N.F	4	K
D-DOA-60036-54	Mount Bailey winter sports site (Umpqua)	3	K
	DEPARTMENT OF DEFENSE		
D-DOD-52026-CO	Sonic booms	1	A
D-DOD-10018-18	Exotic Dancer V, N.C	2	E
	DEPARTMENT OF THE INTERIOR		
D-DOI-61040-01	Green Lake National Fish Hatchery, MA	2	B
D-DOI-02019-11	Synthane coal gasification pilot plant, Snowden Township, Allegheny County, PA	2	D
D-DOI-01010-11	Demonstration, hydraulic backfilling of mine voids, Scranton, Pa	2	D
D-DOI-89080-14	Federal Mine Health Safety Academy, Beckley, W. Va	1	D
D-DOI-61042-20	Blackbeard Island Wilderness Area, Ga	1	E
D-DOI-62011-21	Chassahowitzka Wilderness Area, St. Petersburg, Fla	1	E
D-DOI-07047-43	Lyman Tarrington 115-Kkv. transmission line, Wyoming	2	I
D-DOI-07012-44	Huntington Canyon generating station, Utah	3	A
D-DOI-89066-48	Proposed Havasu intake channel	2	J
D-DOI-31027-54	Proposed rehabilitation and betterment program, Cascade Irrigation District, Yakima project, Washington	1	K

APPENDIX—Continued

ENVIRONMENTAL IMPPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN APR. 1, 1972, AND APR. 30, 1972—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF TRANSPORTATION		
D-DOT-41135-07	Riverdale Ave. Arterial, Yonkers, Westchester County, N.Y	2	C
D-DOT-41134-07	Genesee Expressway, Livingston and Monroe Counties, N.Y	1	C
D-DOT-50087-C7	South First Street Bridge, Allegany, Cattaraugus Counties, N.Y	1	C
D-DOT-41171-12	Route 50 relocated bridge approaches across Nanticoke River, Wicomico, Md	1	D
D-DOT-41201-11	L.R. 1021, section 3 O.R.X14-2, Allegheny County, Pa	2	D
D-DOT-41202-22	Project S-1755-A Clay-Herron St., Montgomery County, Ala	1	E
D-DOT-41183-20	Lakewood Freeway extension, Fulton County, Ga	2	E
D-DOT-41173-17	U.S. 119, Pikeville-South Williamson Rd., Pike County, Ky	2	E
D-DOT-41157-17	AP. 98-543-5L Pike County, APD 127(29), Kentucky	1	E
D-DOT-41156-21	State Road 435, Orange County, Fla	1	E
D-DOT-41155-18	U.S. 64, Rosman to Brevard, Transylvania County, N.C	1	E
D-DOT-51132-24	Holly Springs-Marshall County Airport, Miss	1	E
D-DOT-51131-20	Thomas-McDuffie County Airport, Thomson, Ga	1	E
D-DOT-51128-20	Fitzgerald Municipal Airport, extend and widen, Georgia	1	E
D-DOT-51127-21	Fort Lauderdale-Hollywood International Airport, Florida	1	E
D-DOT-51122-19	Williamsburg County Airport, Kingstree, S.C	1	E
D-DOT-51121-20	Perry-Fort Valley Airport, Peach and Houston Counties, Ga	1	E
D-DOT-41183-17	Laurel County, Somerset-London Road., Ky	1	E
D-DOT-41180-21	State Road 865, Lee County, Fla	1	E
D-DOT-41179-19	James Island Expressway and South Carolina connecter, Charleston	3	E
D-DOT-41178-21	State Road 45 (U.S. 41) Collier and Lee Counties, Fla	1	E
D-DOT-41174-21	State Road 540, Polk County, Fla	1	E
D-DOT-41107-27	FAP 408, Morgan, Scott, and Pike Counties, Ill	2	F
D-DOT-40819-25	I-696 Freeway, Oakland County, Mich	3	F
D-DOT-51162-25	Kirsch Municipal Airport, St. Joseph County, Mich	1	F
D-DOT-51156-27	Mount Vernon-Cutland Airport, Jefferson County, Ill	1	F
D-DOT-51129-27	St. Louis Airport, St. Clair and Monroe Counties, Ill	1	F
D-DOT-41158-29	State Road 146 (improvement), Muskingum County, Ill	2	F
D-DOT-41145-29	Upgrading Interstate 280, Lucas County, Ohio	1	F
D-DOT-41144-29	State Route 35, Jackson County, Ohio	2	F
D-DOT-41143-26	U.S. Highways 41 and 45, Washington, Wisconsin	1	F
D-DOT-41126-27	FA Routes 12 and 174, Effingham County, Ill	1	F
D-DOT-41110-29	Marion County Road 104-A, Ohio	1	F
D-DOT-41109-27	Elgin-O'Hare Freeway, Cook and Du Page Counties, Ill	1	F
D-DOT-51136-25	Kent County Airport, Michigan	2	F
D-DOT-51166-33	Springdale Municipal Airport, Springdale, Ark	2	G
D-DOT-41184-35	Bayou Plaquemine Waterway, Highway Route 1	2	G
D-DOT-41160-34	Spur 239 from intersection of U.S. Highways 90 and 277, Del Rio, Tex	1	G
D-DOT-41167-38	18-81 F 082-1(14) and (13) Riley and Geary Counties, Kans	1	H
D-DOT-41161-38	U.S. 75 from Kansas R. to U.S. 24, Topeka, Kans	2	H
D-DOT-41196-39	Project U.S. 25, Dunklin County, Mo	1	H
D-DOT-51135-42	Hoven Municipal Airport, Hoven, S. Dak	2	I
D-DOT-51123-00	Golden Valley County Airport	2	I
D-DOT-41164-40	Highway project F-20(1), Montana	1	I
D-DOT-51133-46	Napa County Airport, Napa County, Calif	2	J
D-DOT-41186-48	Interstate Route I-17, Copper Canyon, section AR	2	J
D-DOT-41132-55	FHP 46-4(6), 3(1), Cascade Lakes Highway, Davis Lake bypass, Oregon	2	K
D-DOT-41188-54	EIS on Swamp Creek interchange, Washington	2	K
D-DOT-41236-54	EIS on Olson Pl., S.W., widening, Seattle, Wash	1	K
	FEDERAL POWER COMMISSION		
D-FPC-05052-22	Crooked Creek Project, Clay and Randolph Counties, Ala	3	E
D-FPC-07046-54	EIS on project 2705, city of Seattle, Wash	1	K
	DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE		
D-HEW-81077-16	Model Secondary School for the Deaf, Gallaudet College, Washington, D.C	1	D
D-HEW-81078-39	St. Francis Medical Center, Cape Girardeau, Mo	1	H
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
D-HUD-89064-54	EIS, Seahurst Park, Wash	2	K
	TENNESSEE VALLEY AUTHORITY		
D-TVA-82025-00	Control of Eurasian Watermilfoil	2	A

APPENDIX II

PROPOSED REGULATIONS FOR WHICH COMMENTS WERE ISSUED BETWEEN APR. 1, 1972, AND APR. 30, 1972

Title and number of statement	General nature of comments	Source for copies of comments
DEPARTMENT OF AGRICULTURE		
Trepass—Use of pesticides and chemical toxicants	1	A

APPENDIX III. DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

(1) *General Agreement/Lack of Objections:* The Agency generally:

(a) Has no objections to the proposed action as described in the draft impact statement;

(b) suggest only minor changes in the proposed action or the draft impact statement; or

(c) has no comments on the draft impact statement or the proposed action.

(2) *Inadequate Information:*

The Agency feels that the draft impact statement does not contain adequate information to assess fully the environmental impact of the proposed action. The Agency's comments call for more information about the potential environmental hazards addressed in the statement, or ask that a potential environmental hazard be addressed since it was not addressed in the draft statement.

(3) *Major Changes Necessary:*

The Agency believes that the proposed action, as described in the draft impact statement, needs major revisions or major additional safeguards to adequately protect the environment.

(4) *Unsatisfactory:*

The Agency believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the safeguards which might be utilized may not adequately protect the environment from the hazards arising from this action. The Agency therefore recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

APPENDIX IV. SOURCES FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

B. Director of Public Affairs, Region I, Environmental Protection Agency, Room 2303, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C. Director of Public Affairs, Region II, Environmental Protection Agency, Room 847, 26 Federal Plaza, New York, New York 10007.

D. Director of Public Affairs, Region III, Environmental Protection Agency, Curtis Bldg., 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E. Director of Public Affairs, Region IV, Environmental Protection Agency, Suite 300, 1421 Peachtree Street, N.E., Atlanta, Georgia 30309.

F. Director of Public Affairs, Region V, Environmental Protection Agency, 1 N. Wacker Drive, Chicago, Illinois 60606.

G. Director of Public Affairs, Region VI, Environmental Protection Agency, 1600 Patterson Street, Dallas, Texas 75201.

H. Director of Public Affairs, Region VII, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.

I. Director of Public Affairs, Region VIII, Environmental Protection Agency, Lincoln Tower, Room 916, 1860 Lincoln Street, Denver, Colorado 80203.

J. Director of Public Affairs, Region IX, Environmental Protection Agency, 100 California Street, San Francisco, California 94102.

K. Director of Public Affairs, Region X, Environmental Protection Agency, 1200 6th Avenue, Seattle, Washington 98101.

SUMMARY OF 102 STATEMENTS FILED WITH THE CEQ THROUGH 4/30/72

	Draft [1]	Final [2]	Total [3]
BY AGENCY			
Agriculture, Department of	66	116	182
Appalachian Regional Commission	1	0	1
Atomic Energy Commission	39	40	79
Commerce, Department of	2	7	9
Defense, Department of	5	2	7
Air Force	10	3	13
Army	5	9	14
Army Corps of Engineers	193	328	421
Navy	4	9	13
Delaware River Basin Commission	3	0	3
Environmental Protection Agency	8	14	22
Federal Power Commission	41	7	48
General Services Administration	13	28	41
HEW, Department of	4	1	5
HUD, Department of	9	22	31
Interior, Department of	85	44	129
International Boundary and Water Commission—United States and Mexico	1	4	5
Interstate Commerce Commission	2	0	2
National Aeronautics and Space Administration	13	10	23
National Capital Planning Commission	1	0	1
National Science Foundation	0	2	2
New England River Basins Commission	1	0	1
Office of Science and Technology	0	1	1
Pacific North West River Basins Commission	2	0	2
Tennessee Valley Authority	7	8	15
Transportation, Department of	874	774	1,648
Treasury, Department of	4	3	7
U.S. Postal Service	1	0	1
U.S. Water Resources Council	7	0	7
Veterans' Administration	1	0	1
Total	1,402	1,432	2,834

[1] Draft 102's for actions on which no final 102's have yet been received.

[2] Final 102's on legislation and actions.

[3] Total actions on which final or draft 102 statements for Federal actions have been received.

	Draft [1]	Final [2]	Total
BY PROJECT TYPE			
AEC nuclear development	2	20	22
Aircraft, ships, and vehicles	1	5	6
Airports	56	160	216
Buildings	5	8	13
Bridge permits	12	9	21
Defense systems	3	3	6
Forestry	6	4	10
Housing, urban problems new communities	8	13	21
International boundary	4	2	6
Land acquisition, disposal	10	34	44
Mass transit	3	2	5
Mining	6	2	8
Military installations	12	12	24
Natural gas and oil:			
Drilling and exploration	5	5	10
Transportation, pipeline	9	5	14
Parks, Wildlife refuges, recreation facilities	39	17	56
Pesticides, herbicides	16	15	31
Power:			
Hydroelectric	38	8	46
Nuclear	36	18	54
Other	12	8	20
Transmission	9	9	18
Railroads	2	1	3
Roads	639	563	1,202
Plus roads through parks	159	34	193
Space programs	3	6	9
Waste disposal:			
Detoxification of toxic substances	7	2	9
Munition disposal	2	3	5
Radioactive waste disposal	5	1	6
Sewage facilities	7	10	17
Solid wastes	3	0	3
Water:			
Beach erosion, hurricane protection	7	22	29
Irrigation	18	9	27
Navigation	65	111	176
Municipal and industrial supply	8	4	12
Permit (Refuse Act, dredge and fill)	12	1	13
Watershed protection and flood control	122	276	398
Weather modification	6	5	11
Research and development	15	9	24
Miscellaneous	30	16	46
Total	1,402	1,432	2,834

[1] Draft statements for actions on which no final statements have yet been filed.

[2] Final statements on legislation and actions.

[3] Total actions on which final or draft statements have been taken.

HIGHWAY SAFETY

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. SHOUP. Mr. Speaker, in recent years many of our citizens—and particularly our young people—have begun to question our national priorities and methods of solving great problems. In this time, we have declared national wars on a number of ills, ranging from drug abuse, crime and poverty, to inflation, and environmental degradation.

But there is one nationwide problem which does not command a great deal of national attention, despite the great toll it takes on national resources in losses of life, injuries, and economic losses. I am referring to the national highway death rate, and the need for greater highway safety.

Last year, the National Safety Council estimates 55,000 people were killed on our Nation's highways, over 2 million people suffered disabling injuries, and economic losses totalled $14.3 billion.

We must declare war on this needless loss of life and limb, and make highway safety the national priority it should be.

I do not mean to say that important steps are not being taken now in highway safety improvement. Under the 1966 Highway Safety and Motor Vehicle and Traffic Safety Acts, the U.S. Department of Transportation is implementing an extensive safety program for vehicles, drivers, and highways. Many private sector organizations are also doing fine work.

But the funding and public support for these programs is inadequate compared with the enormity of the problem.

President Nixon's Task Force on Highway Safety recognized the need for national support in its 1969 report, "Mobility Without Mayhem," by recommending that the President declare highway safety as a major national goal; that he issue a special challenge to the Congress for support and the American people for commitment; that he allocate adequate resources to Federal programs; and that Congress appropriate funds for support of the Federal safety program.

Our distinguished colleague from Ohio (Mr. HARSHA) the ranking minority member of the Public Works Committee, recently called on the President to convene a White House Conference on Highway Safety to help mobilize public support for the safety program.

I support the intent of these recommendations, and urge that they be carried out as soon as possible.

My concern for highway safety is based on the unenviable fact that my home State of Montana is one of the unsafest States in the Nation for highway travel.

While the national highway death rate—measured by deaths per 100 million miles of vehicle travel—dropped to an all-time low of 4.7 in 1971, Montana's death rate—the third highest in the country—increased from 6.5 to 6.7.

Looking at another indicator, the population death rate, Montana ranks second in the country with a rate of 46.3 deaths per 100,000 population.

Part of the reason for my State's relative lack of highway safety is the fact that nearly all of our travel is on rural roads, and most safety figures indicate that chances of being involved in fatal accidents are more than twice as great on rural area roads.

However, Montana's death rate is still much higher than most of our neighboring States even with similar travel patterns.

In this regard, I am pleased that the Department of Transportation's National Highway Traffic Safety Administration has identified programs to keep the drinking driver off our highways as a top priority.

At present, there are 35 alcohol safety action projects in various phases of implementation throughout the country, with plans to eventually have a program operational in each State.

I am particularly interested in this program because figures supplied to me by the Highway Users Federation point out that drinking and driving contribute to a high percentage of fatal highway accidents in Montana.

For example, 102 of the 199 driving fatalities registered in Montana in 1969—more than 50 percent—involved drinking to some degree. The total alcohol involvement for all highway fatalities that year was 132 out of 339 fatalities, nearly 40 percent.

I hope that these Federal demonstration programs will help to develop public awareness of the drinking driver problem and develop effective programs for dealing with it.

Another important aspect of the safety problem is improvement of unsafe roadway characteristics.

The 42,500 mile Interstate Highway System, the most modern road network in the world, has been designed to the highest safety standards. As a result, travel on the Interstate is nearly twice as safe as other roads and streets in the Nation. In 1970, for instance, 2.69 million persons were killed per 100 million miles of travel on the Interstate compared to 5.16 on other roads.

These figures indicate that for the safety benefit alone, we must continue to improve and upgrade our highway systems—particularly primary and secondary roads which have become outdated in the last 16 years while emphasis has been on Interstate construction.

In the area of roadway safety, Mr. Harsha' proposed Omnibus Highway Safety Act of 1972, which has the unanimous support of the Public Works Committee, would provide for expanded programs to improve high-hazard highway accident locations, eliminate roadside obstacles which often cause needless death and injury, and provide for a special pavement marking program to increase visibility on rural county and secondary roads and facilitate night time driving.

This legislation (H.R. 13539) would also establish new programs in the areas of public education and support for highway safety, and set higher funding levels for state and community safety grants and safety research and development efforts. It represents an important step forward.

I mentioned earlier the concern of our young people for many national problems—environment, poverty, the war in Southeast Asia. But there is relatively little concern about the fact that motor vehicle accidents are the leading killer of Americans between the ages of 2 and 24.

Nationally, 23 percent of youths 5 to 14 years old and over 40 percent of those 15 to 24 years old who die each year are highway fatalities.

Other figures emphasize the extent of this problem among young people. In 1970, 16,500 persons between 15 and 24 years of age were killed in motor vehicle accidents, a startling percentage of the national total of more than nearly 55,000.

Between 1961 and 1970, while 53,316 Americans were killed in Vietnam, traffic deaths in the 15 to 24 age group totaled 137,900—2.6 times higher than the war's toll.

Obviously, strong steps must be taken at all levels of government and in the private sector to increase support among our youth for traffic safety and improve driver education and licensing programs.

In this area, I am pleased that Secretary of Transportation John Volpe has created a Youths Task Force in the DOT to advise him on methods of involving youth in the traffic safety movement. Through the Highway Users Federation's Auto Dealers Traffic Safety Council, new car and truck dealers try to bring safety into the minds of the very young through various programs, including a safety bug campaign.

These efforts are to be applauded, but both government and industry must do more.

I have touched today on only some aspects of the Nation's highway traffic safety problems, but these are areas which I feel are most important.

Worthwhile steps are being taken, as evidenced by the recent declines in national death figures. I ask that we make highway safety a national commitment, and bring more of our resources into the effort to get the job done—better.

GALLAGHER INTRODUCES LEGISLATION TO CHANGE FBI STRUCTURE AND PURGE FBI FILES

HON. CORNELIUS E. GALLAGHER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. GALLAGHER. Mr. Speaker, I rise today to introduce a comprehensive bill which will alter the structure of the Federal Bureau of Investigation and which will establish a formal means to purge FBI files of irrelevant and harmful data. Let me briefly list what the original legislation I am introducing today will do:

First. Create two coequal Directors of the FBI. One will have sole control over criminal investigations and the other will concern himself exclusively with national security matters.

Second. Each of the Directors shall be limited to only one term of 5 years.

Third. Establish a National Records Review Board with, in the language of my bill:

> The authority to examine all records and documents contained in the files of the Federal Bureau of Investigation and to require the removal and destruction of any information found in such records and documents which in the judgment of the Board is unconnected with legitimate investigative purposes leading to the discovery and prosecution of violators of the laws of the United States.

The limitation on the term of the Director is a necessary first step and I understand that some of my colleagues propose a similar measure. I believe that 5 years is an adequate time for a director to serve. It will be recalled that John Edgar Hoover served as Director for 48 years and that is one-quarter of our National history. No man must ever again be permitted to amass so much personal power in such a sensitive position.

Recent disclosures have made it essential to split the criminal investigation work at the FBI from the national security, counter-espionage function. By having two coequal Directors with distinctly separate responsibilities we not only lessen the power of the "keeper of the files" but we also make it more difficult for the same rationale to be employed in conducting electronic surveillance on a local candy store or a local alderman as is employed in justifying tapping the phone of a foreign embassy. Today, campus activists or political protestors are put in the same category as a spy working for an enemy. This is not only unjust, but it also deliberately sets a torch to the Bill of Rights for, in my judgment, current practice allows an American citizen to be considered exactly the same as a foreign enemy.

All are viewed as a threat to national security, while the Bill of Rights is supposed to differentiate between American citizens and citizens of other countries.

THE NATIONAL RECORDS REVIEW BOARD

Mr. Speaker, by far the most important of the proposals I am offering today is to establish a National Records Review Board. Two members of the Board will be appointed by the Speaker of the House, two by the President of the Senate, and three by the President. In order to emphasize the difference between the Board and what are called study commissions, it might be well if the members appointed by the legislative branch were not Members of the Congress. I recognize that there is some possibility of a constitutional question being raised about the Board, for some might argue that the power the Board would have to order removal of records in the executive branch may violate the traditional separation of powers. However, it is my opinion that the need for the Board is so urgent and so extraordinarily important to our Nation's future, that I offer this proposal in order to begin debate over the issue. Of course, I would hope that the standing committee to which my legislation is referred would begin hearings immediately, for the constitutional complexities posed deserve serious consideration.

I noted with great pleasure that the Democratic Party study group's report to the platform committee addresses the necessity of reforming the Federal Bureau of Investigation. Their proposal for a congressional watchdog committee is a very welcome suggestion, but I do not believe that, in the current situation, the chairman of a standing committee, an existing subcommittee, or even a specially created oversight committee could risk assuming the burden of taming the Federal Bureau of Investigation.

I know personally, Mr. Speaker, that when I told the facts of my blackmail by the FBI to responsible Members of the House when it was happening in 1966 and 1967, each responded as if I were a leper asking to hold his hand. They knew that the same thing could and probably would happen to them if they intervened. Everyone knows the Congress has failed in its oversight responsibilities in the past and that Mr. Hoover did not have to answer a serious question from the Congress in at least the 10 years with which I am familiar. As inviting as the concept of a congressional watchdog is, I believe that it could not be effective in the current climate.

However, after the National Records Review Board has done its work within 18 months, my legislation requires it to "submit a report, with recommendations for legislation concerning future congressional oversight of information gathering by the Federal Bureau of Investigation."

I would hope, of course, that congressional oversight could be mounted immediately but we must all admit that the chances do not look promising.

SEARCH AND DESTROY MISSION THROUGH FBI FILES

I do not propose that the National Records Review Board rent ITT's document shredder and destroy all Federal Bureau of Investigation files. What I do propose is a board composed of renowned civil libertarians who are attuned to modern concepts of civil rights—particularly privacy—and who would have the sound judgment to determine which items of information are irrelevant to legitimate law enforcement aims. The Board should be headed by someone of the stature and integrity of former Chief Justice Earl Warren.

It used to be that very few people dared mention what was in the files of the Federal Bureau of Investigation. Now, men like Jack Anderson and Tom Wicker of the New York Times have been publishing extensive articles attacking the contents of those files. On April 19 of this year, I gave a long speech in which I proved conclusively that FBI files were leaked to Life magazine to form the basis for the ridiculous "body in the basement" story. I demonstrated how the sole author of that lie, Harold "Kayo" Konigsberg, was a captive of the FBI who emulated Scheherazade by spinning out a new falsehood every day and how those stories went directly to the top people in the Federal Bureau of Investigation. It is exactly this kind of thing—believed by Life writers solely because it had come from our chief law enforcement agency—which the Board would expunge. When I proved that this incredible tale was a total lie I was declared expendable because my continued presence in the Congress caused a credibility gap to those who passed out the story, particularly Mr. DeLoach, of the FBI. So I had to be eliminated.

MAYOR ALIOTO'S TESTIMONY BEFORE THE SENATE

Mr. Speaker, in February and March of 1971, the distinguished Senator SAM ERVIN held a crucial series of hearings with his Subcommittee on Constitutional Rights. Those hearings are replete with brilliant and revealing testimony and the penetrating questioning which has made Senator ERVIN the most respected constitutional authority in the Congress. But the most relevant example of what I am talking about today is found during the testimony of San Francisco Mayor Joseph L. Alioto. On pages 502 and 503 of volume I of those hearings, Mayor Alioto refers to a deposition by William Hundley, former Chief of the Organized Crime Section at the Department of Justice. Mr. Hundley was also an attorney for both Look magazine and Life magazine and he describes what he saw in the offices of Life. Mr. Hundley's sworn deposition states:

> I went into his office and he had about a cabinet full of Government documents. I took them out and looked at them. They were FBI reports and I looked at them long enough to satisfy myself that they were authentic FBI reports.

How much more proof could we possibly ask for as to the necessity for a National Records Review Board?

WHAT GOES IN AS GARBAGE COMES OUT AS GOSPEL

Mr. Speaker, there is the accumulated garbage of 50 years in the files of the FBI and as I and many others have demonstrated, what goes in as garbage comes out as gospel. I would envision the National Records Review Board making a search and destroy mission through those files and purging them of meaningless items of hearsay, vindictive attacks by political enemies, sexual innuendo and the outright lies like those of Mr. Konigsberg.

Some might claim that the National Commission on Individual Rights, created by the Organized Crime Act of 1970, obviates the necessity for the Board. During debate on that act, I called the Commission "a pale placebo" and "a puny palliative," and the fact that, as of this very moment, the administration has yet to appoint its own seven members suggests strongly that I was correct. Even if that Commission is not still born, it would still not have the power to order the destruction of records at the FBI.

The National Records Review Board, unlike so many study commissions, would do its job and then disband. It would not spin on endlessly, perpetuating itself and blindly pursuing its own existence and nothing else. Yesterday, on the floor we passed a bill which would cause those commissions to self-destruct in 2 years; the language of my bill self destructs the Board in 18 months. And its report required to be submitted to the Congress could provide a front-line dispatch on what really should be the responsibility of the Congress and the responsibility of the executive in bringing the FBI into line with democratic principles.

There are many examples of the necessity to study the operations of the FBI; for example, a lack of communication between the FBI and the CIA produces, in my judgment, a far more real threat to the national security than the Harrisburg seven ever could. I would hope that the hearings over my bill could explore the many serious questions which have arisen over the Federal Bureau of Investigation's role in democratic society.

CONCLUSION

Mr. Speaker, every single citizen in the United States is threatened by material in FBI files. There is no reason to tell our children to go to school to try to improve themselves and our society if a single act committed in youthful indiscretion or enthusiasm can be an immovable rock in their path. If education is really a passport to a better life, we must not allow the idle trivia at the FBI to be used by an all-knowing, but sieve-like Government to seal the borders to personal happiness and individual self-fulfillment.

A student who protests the war, a black detained for any reason, a woman who forcefully protests sexual discrimination: everyone can be damaged. A Federal job can be snatched away and because of the easy exchange of all this data, they can even affect credit ratings, insurance coverage, or private employment opportunities. We must avoid the clear and present danger of America turning away from its historical role as the home of the second chance. If we do not act now, America may move into a postconstitutional era where it will be a prison of no real chance at all.

Mr. Speaker, I insert a copy of my bill, Tom Wicker's fine article from the New York Times of May 7, an outstanding editorial from the Jersey Journal of May 1, 1972, and a description of the democratic study panel's report from the New York Daily News of May 7, 1972.

H.R. 14890

A bill to amend titles 5 and 28 of the United States Code, and the Omnibus Crime Control and Safe Streets Act, with respect to the position and duties of the Director of the Federal Bureau of Investigation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 532 of title 28 of the United States Code is amended to read as follows:

"§ 532. Directors of the Federal Bureau of of Investigation.

"The President shall appoint, by and with the advice and consent of the Senate, two co-equal Directors of the Federal Bureau of Investigation, one such Director to be the head of such Bureau with respect to all criminal investigatory matters, and one such Director to be the head of such Bureau with respect to the national security responsibilities of such Bureau. Each such Director shall serve no more than one five-year term in such office."

SEC. 2. (a) Section 5313 of title 5 of the United States Code is amended by inserting at the conclusion thereof the following new paragraph:

"(22) Directors of the Federal Bureau of Investigation."

(b) Section 5314 of title 5 of the United States Code is amended by striking out paragraph (44) thereof.

(c) The table of sections of chapter 33 of title 28 of the United States Code is amended by striking out "Director" in the item relating to section 532 and inserting in lieu thereof "Directors".

(d) Title VI of the Omnibus Crime Control and Safe Streets Act of 1968 is repealed.

SEC. 3. (a) There is established the National Records Review Board (hereinafter referred to as the "Board"), which shall consist of seven members knowledgeable with respect to civil liberties, at least some of whom shall be learned in the law. Two such members shall be appointed by the Speaker of the House of Representatives, two by the President pro tempore of the Senate, and three by the President.

(b) The Board shall have the authority to examine all records and documents contained in the files of the Federal Bureau of Investigation, and to require the removal and destruction of any information found in such records and documents which in the judgment of the Board is unconnected with legitimate investigative purposes leading to the discovery and prosecution of violaters of the laws of the United States.

(c) The Board may make such rules and regulations, including provision for the election of a chairman, as it deems necessary to the proper performance of its duties. The Board may hire such staff at such salaries, within the limitation of its appropriations, as it finds necessary to the proper performance of its duties. Each member of the Board shall receive no compensation with respect to his services on the Board, except as provided in section 5703 of title 5 of the United States Code for an individual employed intermittently in the Government service.

(d) The Board shall terminate no later than eighteen months after its first formal meeting, which meeting shall in no case take place later than 3 months after the date of the enactment of this Act, and submit a report, with recommendations for legislation concerning future congressional oversight of information gathering by the Federal Bureau of Investigation, to Congress no later than the date of the termination of the Board.

A Man Whose Like Will Not Be Seen Again

(By Tom Wicker)

Washington.—The death of J. Edgar Hoover brought an end to an era. That has been said of many men but in the case of Mr. Hoover—who, at 77, had been director of the Federal Bureau of Investigation for 48 years—it was really true. The Hoover Era almost exactly spanned the years since the United States emerged from World War I to find itself a world power; and in the half-century that followed, he became one of the few constants in a rapidly changing nation, an endlessly evolving society.

The director's views and values never ceased to reflect the vanished America that had shaped him; but his remarkable combination of bureaucratic and political skills, public relations genius, dictatorial methods and law-enforcement professionalism enabled him to retain unmatched power and status in Washington through Prohibition, Depression, the gangster days of the thirties, World War II, the Cold War, Korea, Vietnam and the radical political activism of the sixties.

Eight Presidents depended on or tolerated him; Congress feared and favored him, from the "red scares" of the early twenties to the trial of Philip Berrigan; and he became the only high public official for whom the Federal retirement rules were specifically set aside so that he could serve on, as it seemed, forever. When his housekeeper found him, one morning last week, slumped by his bed, dead of natural causes, even J. Edgar Hoover's enemies—by whom the truculent old man liked to say he had been "distinguished"—conceded that his like would not be seen again.

For many Americans, that was a relief; but for others, Mr. Hoover's death symbolized the passing of much that they had valued—old-fashioned patriotism; rigid "moral" values; a stern code of authority; a political and social attitude uncomfortable with the strident demands of minorities, young people, liberated women, gays; and a view of "law and order" as the first priority of government. Both for them, and for those others who believed Mr. Hoover had outlasted his time, the question of his successor was a matter of vital importance.

The director, after all, had presided over one of the major agencies of the Federal Government; he had almost unlimited powers over its thousands of agents and its substantial budget; he had custody of its massive accumulation of reports, files, fingerprints, dossiers; he had, by custom and necessity, direct links to any man who might sit in the White House; and thus he had the potential for extending a vast and effective secret police system into the life of virtually every American. J. Edgar Hoover had personally had that potential; the question whether his successor also should have it could hardly be answered without searching study of the way Mr. Hoover had handled it.

The historical record is likely to accord him both good and bad marks. Up to the end of World War II, few officials had earned such esteem, in making an honest, efficient and feared Federal force of what had been a corrupt and sleazy agency; in developing scientific investigative techniques; in the F.B.I.'s effective wars on bank robbery and kidnapping and the gangsterism of Depression days; in its successful counterespionage activities during World War II—in these achievements and more—J. Edgar Hoover compiled a remarkable personal record.

With his flair for publicity—he invented the "Ten Most Wanted" list and shrewdly cooperated in "G-Man" movies and radio programs—he made himself a legend in the nation; and with his masterly bureaucracy, he made himself a fixture in Washington.

But the post-war era brought new problems. Hot war became cold war, in its late Stalinist phase, Communism became the new international threat. Seen as a revolutionary and aggressive ideology, its intrusion from abroad into American life seemed a more formidable "fifth column" than the spies and saboteurs of World War II ever had; and since it was J. Edgar Hoover's F.E.I. that had taken care of the latter, it became the new mission of the G-Men to take on the Communists. But the task was subtly, perhaps fatally different; the Communist threat, if it had any substance at all, was far more a matter of domestic subversion than of foreign agents. Thus it was that the F.B.I. moved into what a group of academic and other specialists on the agency, meeting last year at Princeton, concluded was now its principal concern—domestic political surveillance.

Moreover, Mr. Hoover's public relations techniques, glorifying his agency's mortal combat with the "masters of deceit" in the Communist "movement," probably contributed as much as any other single factor to the virulent anti-Communism of the public and its politicians in the fifties and early sixties; and that public attitude had its effect on government policies, from the non-recognition of Communist China to the fiasco at the Bay of Pigs. Concurrently to those Americans less fearful of the Reds than for their own political institutions, the F.B.I.'s political surveillance came to seem an alarming secret-police threat; in some ways, that fear may have been little more justified than the fear of Communists, but it nevertheless began to undermine confidence in the F.B.I. and in J. Edgar Hoover personally

Despite its front-page warfare on Communism, it also began to be apparent in the late fifties and early sixties that the bureau had been considerably less than alert, eager and effective in protecting the civil right of blacks, and of whites who tried to help them, in the years of upheaval that followed the Supreme Court's order for the desegregation of schools.

President Kennedy had made the reappointment of Mr. Hoover the first order of business after his election in 1960, but Robert Kennedy, arriving at the Justice Department intent on wiping out organized crime, found that the F.B.I. scarcely admitted the existence of organized crime. Students of the agency contend that these deficiencies, too, were to some extent the result of F.B.I. concentration on Communism—which the director considered more of a threat than segregation, and more rewarding in publicity and bigger budgets than organized crime.

During the Kennedy and Johnson Administrations, these defects were to some extent rectified; but as black and antiwar militance became powerful in the sixties, the domestic surveillance of the F.B.I. became more and more extensive.

In recent years, therefore, the director and the F.B.I. he created had become engulfed in controversy, primarily as to the agency's surveillance and Mr. Hoover's personal activities—such as the feud with the Rev. Dr. Martin Luther King and his powerful political opposition to a consular treaty with the Soviet Union.

The director was charged also with letting his agency's general effectiveness slip. Critics thought both were outdated—that the F.B.I. National Academy, for instance, reflecting Mr. Hoover's views, taught little that was relevant to the modern problems of police in central cities. They said F.B.I. agents were overwhelmed by Mr. Hoover's bureaucratic demands and intimidated by his dictatorial discipline.

But J. Edgar Hoover was never charged with being too weak to resist improper political demands; over the long pull, his stewardship of the F.B.I. files was reasonably good—but just flawed enough to suggest the damage that could be done by a weaker or less scrupulous successor. His long career suggests, first, therefore, a replacement with a reassuring public reputation for strength and integrity, as well as one more in tune with the last third of the twentieth century than the first third. Law enforcement experience seems equally necessary, as well as freedom from entangling political commitments.

Whether structural charges in the F.B.I.—for instance, the separation of its counterespionage mission from its crime-fighting function—are also necessary is certain to be a matter of public and political debate. President Nixon implicity recognized the complexity of these questions and the importance of finding a new director in whom the nation can have confidence, when he named Assistant Attorney General L. Patrick Gray as an interim choice, and promised a permanent selection to whoever takes the Presidential oath next January.

Is This Your FBI?

The Federal Bureau of Investigation is getting some serious criticism lately and some people are beginning to wonder why the liberals in Congress, usually ever so alert to pick on J. Edgar Hoover, have been letting opportunities go by.

Rep. Cornelius Gallagher delivered an hour-long speech in Congress recently, the gist of which was that the FBI had hounded him for years because he had refused to go along with a smear campaign against Dr. Martin Luther King Jr. He charged the FBI leaked raw, unsupported files to a magazine to force him out of Congress as punishment for his defiance of its plan against Dr. King.

Proof or disproof of those charges, made on the floor of Congress and off it too, would not affect the outcome of Gallagher's coming trial on income tax charges. But they would seriously affect the FBI.

The principal daily newspaper in neighboring Bergen County, never noted for its softness toward Hudson County politicians, only last week raised the question and wondered why nobody in Congress has bothered to see if what Gallagher said is true. Since Gallagher cited names and times and places, a congressional committee should be able to run down the facts rather quickly—empowered as it would be with the subpoena, prosecution for perjury, and punishment for contempt.

Now another charge against the FBI has arisen during the trial of several former members of Union City's board of education. Two defendants have accused the FBI of setting up State Sen. William V. Musto (who has not been accused of anything) as a target and then trying to make them help "get" him.

Again, this accusation cannot determine in one way or the other the guilt or innocence of any of the accused.

But it is unnerving if the nation's proudest police force is used in a sideline business of bagging political pigeons. Somebody ought to answer the charges and set them at rest. Otherwise, somebody ought to be looking into them.

Dems Panel Asks Tighter Grip on FBI

(By Jeffrey Antevil)

Washington, May 6 (News Bureau)—A Democratic Party study group, charging that the FBI "has gone 50 years without full public accounting, particularly of unjustified political surveillance," called today for tighter control over the bureau by Congress and the White House.

In a report to the party's Platform Committee, the intelligence and security planning group of the Democratic Policy Council said the successor to J. Edgar Hoover, who died Tuesday after nearly 50 years as director of the FBI, should be selected on the basis of his administrative skills, policy-making ability and "sensitivity to human values." He should be chosen, the group added, with the same thoroughness that is required for a Sureme Court appointee.

President Nixon announced Wednesday that he will not name a permanent successor to Hoover until after the November election. Assistant Attorney General L. Patrick Gray 3d was named acting director in the interim.

HEADED BY STEVENSON

The Democratic panel, under Sen. Adlai E. Stevenson 3d (D-Ill.), was sharply critical of the quality of domestic intelligence under the Nixon administration. It also accused the administration of excessive government secrecy, improper political surveillance and attempts to restrain the press.

The Democrats blasted what is called "the untouchable status of the FBI leadership with its painful implications for the unresponsiveness of the FBI either to modern management practices or to a proper concern for the protection of individual rights."

They said attention must be paid at the FBI to "refining selection of surveillance targets and diverting effort from surveillance or intimidation of the innocent."

OTHER REQUESTS

Other major recommendations included:

Remedying the "now abysmal" coordination between the FBI and other intelligence agencies, particularly the CIA, by appointing the attorney general to the National Security Council and requiring joint supervision of intelligence by the executive branch and the council.

Creation of a congressional watchdog committee for the FBI—similar to that now existing for the CIA—including members from the Judiciary, Appropirations and Foreign Affairs committees and other panels concerned with citizen privacy, crime control and government efficiency.

Supervision by the President, acting through the attorney general, over policy and major administrative matters involving the FBI.

PUBLIC BROADCASTING

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. DEVINE. Mr. Speaker, recently there has been a lot of discussion and debate about the future of public broadcasting in this country. The Federal Government first became substantially involved in funding public broadcasting when the Congress passed the Public Television Act of 1967. That act was written primarily from suggestions made by the Carnegie Commission on Educational Television in its 1967 report. Five years later in 1972 this Congress will soon be asked to fund the Corporation for Public Broadcasting for the amount of $65 million in fiscal year 1972 and $90 million in fiscal year 1974. I think it is important for us to go back and take a look at that Carnegie report to see if public broadcasters today are meeting its requirements. In that vein it might be helpful to see what the original architects of the Carnegie Commission think about the direction in which public television is headed today. Mr. Speaker, I now place in the RECORD a 1971 speech given by Arthur L. Singer, Jr., who was instrumental in the establishment of the Carnegie Commission:

THE CARNEGIE REPORT REVISITED

(By Arthur L. Singer, Jr.)

IS THE CPB FOLLOWING THE CARNEGIE COMMISSION RECOMMENDATIONS?

(This address, adopted for publication in the interests of clarity, was delivered June 28, 1971, before the annual Public Broadcasting Development Conference in Boyne Highlands, Michigan. Arthur L. Singer, Jr., was instrumental in the initiation of the Carnegie Commission and now serves as president of the Alfred P. Sloan Foundation. Shephen White, whom Mr. Singer mentions in the first paragraph, drafted the *Carnegie Commission Report on Public Television* and is vice president of the Sloan Foundation.)

These comments are the product of a collaboration between Stephen White and me. Those of you who know both Steve and me will know what the division of labor was. Those of you who don't know us can assign credit for anything you like to me, and blame for anything you don't like to him.

When we were asked to prepare this talk it was suggested that we try to appraise the progress of Public Television in relation to the report of the Carnegie Commission on Educational Television. We were asked to address the question: What kind of match or mismatch is there between the recommendations of the Commission in 1967 and the state of Public Television four years later? Mind you, we were not asked to reevaluate the Commission's recommendations with the benefit of hindsight nor to appraise the progress of Public Television in any general sense. We were simply asked to compare the present course of Public Television with the course charted for it by the Carnegie Commission and to assess the extent of convergence.

It can be argued that mid-1971, only four years after the enabling act, is somewhat too early for the task you have set us. The Corporation for Public Broadcasting, which is the centerpiece of the whole undertaking, is still a young organization. It has not been funded, so far, at anything like the level that the Carnegie Commission recommended, and the insulation from annual Congressional financing, so strongly urged by the Commission, has not yet been provided. But since we have been asked, we can do no less than comply.

I want to be clear that I am not speaking here in any way for the Carnegie Commission nor for its chairman, Dr. James R. Killian, Jr. They spoke for themselves, in their report, and thereupon dissolved. Their report, and only their report, can be attributed to the Commission. So if you will keep in mind that I am speaking here only for ourselves, I will review what we had in mind early in 1965 when we took the first steps that led to the formation of the Commission, summarize where the Commission came out, and compare their recommendations with the state of Public Television four years later.

In 1965 we had in this country a commercial television system that had assumed pretty much a fixed form. It looked then as if nothing much was likely to affect its general shape, short of some kind of social revolution—which didn't look either likely or desirable—or technical revolution—which now begins to look at least possible but is still a little way down the road.

There were two characteristics of commercial television that determined the shape it had assumed. First, by decisions taken back in the 'twenties, long before there was any television, the system was firmly wedded to the advertising industry. Second, because of spectrum scarcity it was wedded to a certain kind of advertising—*mass* advertising. I am not going to belabor these points—they are familiar to all of you and so are the consequences. These two characteristics meant that the television industry was under remorseless economic pressure to maximize audience, minute by minute, over the entire broadcasting day. That meant an almost completely networked system. And it meant, finally, that the appeal had to be to the lowest common denominator of interests and tastes.

It's absurd to try to make a whippingboy out of commercial television. Given the terms under which it was expected to operate, it has done remarkably well. Technically, it is as good as the set-manufacturers allow it to be. It has managed to maintain to a high degree the integrity of its news services, at least at the network level. It has produced on occasion a documentary program like "The Selling of the Pentagon", which in the context of commercial television was a remarkable achievement. And even in its entertainment programming, it manages to squeeze the Bernstein concerts and the Hallmark dramas in between the cracks of its normal structure.

But still, in 1965 there was an inclination to wonder whether television—not commercial television, but *television*—couldn't do better than *that*.

There was also educational television. The reservation of allocations for education had been sold to the Congress primarily on the basis of television's assumed instructional value. Many stations, and particularly those in the larger cities, had moved toward prime-time programming largely because it seemed absurd, with so valuable an instrument at their command, to leave the evening hours open. The Ford Foundation, then as now the most stalwart supporter of the system, had by 1965 largely abandoned its own earlier preoccupations with instruction and was supplying some funds for general programming. But even Ford funds are limited, and for the most part the prime-time programming was made up to bad lectures, scratched films intended to make the viewer expert in the art of Japanese paperfolding, and explorations of art museums in black-and-white.

The Ford Foundation had poured more than a hundred million dollars into educational television, over some fifteen years, but in television a few millions a year is simply not all that much, and the system was desperately poverty-stricken. While the Carnegie Commission was deliberating, the New York station very nearly went off the air. But New York was only slightly worse off than most—every station lived from hand to mouth, happy if it could get a signal on the air every day, and never much mind what the signal said.

The system also remained wedded to its instructional heritage. Most stations, numerically if not in audience reach, were attached to state or municipal educational systems. The leadership of the stations, even the community stations, were largely drawn from the ranks of educators. There is nothing wrong with educators, but they are not the source from which innovative prime-time programming is likely to come. It was not in their training, or in their blood, and if they were not entirely happy with the art of paperfolding, they were certainly not as unhappy as they should have been, and not particularly well-trained or well-disposed to do much about it.

Finally, and this is by no means least important, the system was demoralized. The hard fact was that television instruction—for which the system was created and around which it had organized itself—hadn't turned out to be the rousing success nearly everyone had expected. Far from revolutionizing education, it had barely made a mark on it, and it was by no means certain that even that dim mark was anything to be proud of.

Adding it all together, the system was out at the elbows and without a clear sense of mission. But at the same time it had assets. Perhaps its greatest asset was its ownership of spectrum-space, which in the larger cities tended to be space in the VHF portion of the spectrum. The system had a physical plant—not much of a plant, to be sure, but at least something to be built on. And it enjoyed, in it and around it, the devoted support of a great many dedicated men and women, who in some intuitive fashion perceived its potential.

Irresistibly one could see, in prime-time television, a vacuum that commercial television was not designed to fill, and had moreover no desire to fill, and in educational television an instrument that could be shaped to fill that vacuum. By the time the Commission convened for its first meeting, the Carnegie Corporation was convinced that the Commission should be urged to section off prime-time for instructional television, and devote its energies to this area. (In fact, we toyed with the idea of christening it the Carnegie Commission on Non-Commercial Community Broadcasting.) That concept of the Commission's terms of reference was subsequently adopted. The beast was named Public Television, and the Commission set about trying to determine just what kind of beast it should be.

As usual, the first model that was put forth was that of the British Broadcasting Corporation, an enterprise intended to serve the whole public, independent of advertising and largely independent of Parliament, nationally networked, and under no overwhelming obligation to maximize audience for each and every program it presents. It is, in many respects, an admirable model. It served the British well, in the days when it was all the British had, although apparently it did not give them all the television they wanted, and it continues to serve them well now that it is supplemented by a commercial service.

But as a model for American imitation, it seemed inappropriate. To begin with, it was bluntly elitist, in the sense that in its most glorious days it was directed by people who decided, in the privacy of their own deliberations, just what it was the British public should see on television, and proceeded to provide it. In a country with a long tradition of elitist direction—a tradition of Eton and Harrow Oxbridge—this can work. But to make such a national network palatable either to the American public, or to the American Congress, seemed unlikely.

What is perhaps worse, an American BBC, newly created, would be unlike the original BBC in a most significant sense: it would not be the only game in town. It would have to come into being in competition with commercial television. And where that competition would hurt would be in the search for people of judgment and talent and skills to organize and operate the system. In Great Britain, when BBC-TV came into being, all such men and women who were drawn to television as an exciting new field of endeavor went to BBC or nowhere. In the United States, they have been drawn primarily to commercial television, where the resources and the rewards are so much greater. They have put their judgment and talent and skills to work selling Miller Beer—and sold a great deal of it.

Finally, there was a real question whether a system designed to serve the needs of 50,000,000 people, more or less homogenous, will also meet the needs of 200,000,000 people who make up the most diverse nation-state the world has ever seen. The man who makes program decisons at BBC knows pretty intimately the people he is programming for. His counterpart at an American BBC would have to deal with the demands of many who are total strangers. This fact, too, does much to explain the necessity to seek out, on commercial television, the lowest common denominator.

At the other end of the pole from the American BBC model is what might be called the forthright democratic solution: a system which aimed for maximization of audience. In a Public system, the constraints of the advertiser would be removed. But in all likelihood, they would be replaced by the constraints—probably far worse—of Congress. In the end, such a solution would end up in a television system not substantially different from the commercial system that now exists, for there are really only a limited number of ways to maximize audience on a national network basis, and commercial television had no doubt already found them.

Just for the sake of being complete, there is still another possible solution—the whole system could be turned over to a government agency, which is essentially what has been done in France and what is generally done in a great many other countries. It is an interesting way of doing things, since the system changes every time the government changes. But I think I can safely say that it was never seriously considered. The Commission was unanimously of the view that noncommercial television should be a private system with maximum insulation from the political process and minimum intereference from governmental authority.

What the Commission was led to, in the end, was the concept of a pluralistic system, in which decision-making was widely dispersed. I think this was set forth clearly in the report of the Commission, and yet I have a feeling it has never been fully comprehended. You will forgive me if I take this opportunity to go over it again.

First, the Commission wanted to see many points of program generation. By providing many such points, each closely associated with an operating station, it was hoped that program producers would remain close to their own publics. Each such station might define his public in his own manner: the station in New York might well choose as its primary public the depressed minorities who live in New York; the station in Boston might choose the communities of Harvard and MIT. That would be their business.

Now this would still represent an elitism of a sort: individuals would still be deciding what their publics should see and hear. But the publics themselves would be close at hand, monitoring the process on a day-to-day basis, making their views felt by the closeness of their contact with the station and the people who staff it. Elitism, to be sure, but elitism with some hope of general popular influence, and under some pressure to operate wisely and responsibly.

Next, the Commission wanted each program producer to have access to interconnection. If a station produced a program that it considered might be of general interest or utility outside its own community, it should have the absolute right to offer that program across the board. "Offer" I said, and "offer" is what I mean. I am speaking of interconnection and not of networking.

The other side of this, obviously, is that each station would select its own programs, from its own production and that of other major stations. From national programming as well, but I shall get to that later. I am still at the station level. Hour by hour, what the station would be putting on the air would be what those who ran the station were convinced, in their best judgments, was what their own public should see, or would see, or wanted to see—which are not the same things at all.

Since none of this would be possible unless there were many stations enjoying access to substantial funds, the Commission made the case for substantial funds. It urged that they be as free as possible from Congressional constraints, and believed that local stations explicitly serving local publics might begin to accrue substantial funds from local support.

It envisaged national programming, particularly in the areas of journalism—programming created on the national level for the national audience. It is in journalism that the strongest case can be made for networking—not networking as an economic method of distributing programming, or networking as a convenience, but as a substantive good.

Certainly, the Commission envisaged some networking. But over the whole system, they thought of it as primarily a set of local or regional subsystems, with program generation locally rooted, and program presentation locally determined.

There are serious risks in such an approach. For one thing, it has never really been tried, so there is no one to say it is even workable. For another, it requires strong local leadership, and Public Television, in 1965 at least, was not noteworthy for the strength of its local leadership. Furthermore, it represents the hard way. It is a lot easier to let someone in New York or Washington or Los Angeles decide what it is your public wishes to see, and to just patch in to the network. That kind of system enables the station manager to save his energies for begging money from his public—and he needs all the energy he has, because his public doesn't give a damn about the station anyway. It may care about the Forsyte Saga, but that clearly has nothing to do with the station—it comes from BBC via unseen hands in Boston and Washington.

There are, I repeat, risks to the kind of system proposed by the Carnegie Commission. But they thought they were risks worth taking, and risks that had a fair chance of leading in the end to a successful venture.

The Commission also had ideas about programming, and it turned out, as anyone will recall who read the report, that E. B. White was able to state them succinctly. "It should be," he wrote of Public Television "our Lyceum, our Chatauqua, our Minsky's, and our Camelot." To be more pedestrian in stating what he states so well, programming for Public Television can be thought of as parallel to programming for commercial television, but with the freedom that comes once the constraints of the advertising sponsor and the mass audience are removed. Soap opera and situation comedy and variety shows, and even westerns, can be done on a different plane than the plane of which commercial television has its existence. I don't say a higher plane, because I don't want to get into a discussion of what is meant by higher. Just different.

Let me say what I mean by giving an example. In Hollywood, a few years ago, some people had the notion that the comedic genius of James Thurber was made to order for television. They managed, I don't know how, to sell the idea to a network, and a program called "My World and Welcome To It" got on the air, for one season. I watched it, every so often, because sometimes for a minute or two at a time I could recognize traces of Thurber. But the pressures under which it had to be produced, to meet the very special needs of commercial television, converted it into a slapstick situation comedy, and not a very good one.

There should be a place in television for the comedy of James Thurber. There should be a place where an imaginative producer and writer and director can get it on the air in the form in which they originally conceived it, and not in the form it had to take after going through the pressure cooker of commercial television. There should be a place for "All in the Family" as it was originally conceived—as an exercise in making bigotry look as ridiculous as it is—and not as it has come out, as thirty minutes intended to shock.

This is the hard way to program. It is a lot easier to do journalism, which is a distinguished kind of enterprise but reflective rather than creative. Creative programming calls for artistic talent, and even with that kind of talent it fails more often than it succeeds. It requires creative direction, and creative acting. But without that kind of thing television is doing only half the job that should be demanded of it, and I am not at all sure that the half it is doing—the journalistic half—is the more important half.

Whenever this kind of thing is suggested, people object that it simply won't work—that there isn't enough talent around to allow local production of ambitious programming, and that the quality of the programming would inevitably be so low that no one could possibly be persuaded to watch it. This appears at first glance to be the counsel of wisdom.

To begin with, all talent begins by being local. Only their own fair share of talented people are born and develop in New York and Los Angeles. The rest of the talent you find in those two cities comes from Des Moines and Houston and Seattle. They may in time be attracted to the two great centers of the entertainment industry precisely because they are the great centers of the entertainment industry, but everybody is likely to be better off if they mature in their own home towns first. Public Television can provide for them a means.

Second, the requirement that quality be high is connected somehow with the pretensions and the intentions of the source. This sounds peculiar, but every one of us knows that it is true. A man who will enjoy himself dizzy watching the local high school football game can be heard complaining a few days later that the Super bowl on national TV put on a second-rate performance. The local symphony orchestra sounds great in the town auditorium, but let a few false notes be sounded in Carnegie Hall and the audience begins to walk out.

And of course these two phenomena are not at all disconnected. Unless there is some kind of support for developing talent, or untested performers, the possibility of developing high quality is seriously jeopardized. Providing the opportunity for talent to develop, free from the extreme demands of commercial television, in its own environment and with the initial applause of its own community, insures that the medium will be constantly revitalized. If television at its best is to flourish, there must be a place on television for talent to take hold. No more honorable role for Public Television could be conceived.

The analogy is by no means perfect, but there is something of this in the relationship between Broadway and Off-Broadway. Off-Broadway serves a very special public in New York, mostly young, mostly newly-arrived in the city, largely resident in the immediate neighborhood. It provides what must be considered, in terms of Broadway, entertainment that does not begin to meet the technical standards or in fact many of the other standards of Broadway. But it is essential to the life of Broadway, for from Off-Broadway comes the flow of talent, the flow of ideas, the flow of new techniques, that keep Broadway alive. And Off-Broadway in turn is fed from the high school drama societies and the university drama courses, where quality, whatever that abstract word may mean, is lower still—but the audiences quite as enthusiastic.

So far as television is concerned, the products of local program generation should not be transferred automatically to the complete system, any more than every Off-Broadway play gets to Broadway. Most of them will be locally produced, and locally or regionally enjoyed. But those that are of more than local interest, just because they possess some unique quality, some individual display of virtuosity, some nugget of a notion that merits circulation, can be offered to the system at large and shown wherever a local station manager sees merit in them. Over time the mere existence of this ladder to eminence might be PTV's strength.

As I have said, they were all radical proposals. Then or now, there is no hard evidence that they can be made to work. Although I must say there is some soft evidence. Julia Child, the French Chef, was the creation of WGBH in Boston, aimed directly at the Cambridge community which at that time the station concentrated on. But once she had made her reputation in Boston, and perfected her odd assortment of skills, the program was offered to other stations which snapped it up, and provided ETV with its first starring attraction. Mr. Roger's Neighborhood, created in and for Pittsburgh; Max Morath, playing ragtime for a Denver audience—these were what we remember.

There is even evidence that the same principle applies on a larger scale. The British make two kinds of television program. One is intended for use in Great Britain. The other, called Mid-Atlantic Programming, is deliberately conceived to be merchandisable in both Great Britain and the United States. We see some of both in this country. But it is only the British programming that has made any mark, as everyone in Public Television very well knows. The Mid-Atlantic Programming, almost without exception, comes out insufferable trash.

I have given you a long description of what was embedded in the Carnegie Report. It was a plea for pluralism, a plea for localism, a plea for breadth of attack, a plea for an escape from the ponderousness and the pedagogy that had afflicted most of ETV. That was what they were asking for. How have we come out?

The present system is not pluralistic. It is dominated structurally by the Corporation for Public Broadcasting, the Public Broadcasting Service and the Ford Foundation. What goes on the air on the system, as distinct from purely local production, is what they approve.

When I say "domination," I must make it clear that I do not refer to any kind of editorial domination by any of the three institutions. To my knowledge, editorial control remains vested in the program producer, to the full extent that the centralized structure permits. The Ford Foundation, like any major private philanthropy, is likely to be extremely scrupulous in that respect.

Program production, it is true, is dispersed: there is production in New York and Los Angeles and Boston and Pittsburgh and San Francisco. But that production is financed upon petition to the three major institutions. It is essayed, by them, for its national significance, and put on the entire system, by network, on the basis of their judgment. The local manager is a petitioner, and not an originator. Making his plea for support, he must think not in terms of his own public but in terms of that faceless mass known as the national audience. It is dispersal in name only.

Let me make the distinction clear. What the Carnegie Commission had in mind was a system in which the station in, let us say, Boston, was awarded on the basis of its past performance a substantial sum and advised to produce the best it could for the audience in Boston and New England that it knew it had, or that it wanted to have. There was faith that some proportion of that production would turn out, as Julia Child turned out, to be of such great and wide interest that the entire system, voluntarily and of its own choice, would see that it got on the air. That is not what is happening. Boston is awarded funds on the basis of what Washington and New York think it should be doing. It is not truly a point of program generation; it is a branch office.

Because of that mode of operation—and for other reasons as well—the total system is primarily journalistic. If you are going to make a case for national exposure, on a local basis, you almost have to do it on the basis of journalism, which doesn't really take much creative talent. I can make a case for a journalistic program out of San Francisco simply by listing the people I intend to interview. That case can be judged, more or less, where decisions are made, and support tendered or refused.

The Corporation for Public Broadcasting makes a case for its support of local production—it points with legitimate pride to the local sporting events, and the local town meetings, and the local news that are now being transmitted. For this it is to be only congratulated—it is doing a job that is well worth doing. But this is a circumscribed localism. It is, without meaning any pejorative sense, parochialism—a very worthy and indeed necessary attention to the affairs of the parish. The parish needs attention, which commercial television does not give it. To some degree, and in some places, Public Television, with the help of the Corporation, has begun to do it. It is also, I might add, good and cheap.

But it is also unambitious, and Public Television as a whole should not be entirely an unambitious system. I repeat, it should be our Lyceum, our Chautauqua, our Minsky's, our Camelot, not entirely our weekly meeting of the school board. (Although some day in this country there may be some local meeting of some school board that merits national attention—and the system should be so conceived that it will get it.) I am not for one minute knocking the parochial service that some of the stations now provide. But as Peggy Lee sings, is that all there is?

Let me put all this another way. Public Television has cast itself in the mold of commercial television. It is divided into networked and non-networked programming. The networked programming is every bit as centralized and in its own way as dehumanized as the network programming of CBS or NBC. The non-networked programming is local and parochial. There is virtually nothing in between. And this is exactly what the Carnegie Commission, as I understand it, did *not* have in mind.

I hope it is clear to you that in making these remarks about Public Television, I am not talking about people. These comments are directed to the *structure* that Public Television assumed after the Carnegie Report was issued—a structure that has made subsequent events as inevitable as the rise and fall of the tides. The Carnegie Report considered the advisability of a fourth network, and rejected it as a solution. The Public Television system has assumed the posture of a fourth network, with what are really insignificant variations, and is now operating exactly the way it was assumed, a few years back, a fourth network would. Since this is a public address and not a learned disquisition, it may sound too black-and-white, with not enough grey in it to make it sound real. Let me enter a few qualifications. Public Television has, after all, a great deal to its credit. "Civilisation," and the "Forsythe Saga," and the "First Churchills," and "Sesame Street," to begin with. However, none of these series is really the product of Public Television. The first three came from BBC and were in fact produced for British audiences. The last came from the Children's Television Workshop and was generated from outside the Public Television system. Public Television did not make these programs; it bought them. Well, I can add the drama being produced on a regular schedule by Lew Freedman, and perhaps the "Great American Dream Machine." As it happens, I am not happy crazy about the "Great American Dream Machine" but a great many people are, and you can put my own discontent down to my own deficiencies.

Add to all this the fact that the Carnegie Commission recommended an excise tax on television sets to provide stable financing, and you can see that little of what the Carnegie Commission proposed has indeed come into being. All I can say is that we are not really surprised. Shortly after the report was published, my collaborator in this address wrote an account of the whole matter in the magazine "The Public Interest." I shall quote most of the last paragraph: "The likely outcome," he wrote, "is that the Corporation for Public Broadcasting will be formed, that Ford's Public Broadcasting Laboratory will dominate its program production, and that it will fall into a simple fourth-network operation. Let it at least be clear that if this happens, or if anything much like it happens, the intentions of the Carnegie Commission will have been largely ignored."

I think that quotation sums up our own views today, both in what it says and what it doesn't say. As I said at the beginning, when we were asked to prepare this talk it was suggested that we devote ourselves to matching the performance of Public Television against the intentions of the Carnegie Commission. That we have done, and our conclusion is that there is very little match.

Of course, the Corporation has never had the funds that Carnegie Commission sought for it. It can certainly be argued that the course of action laid out by the Carnegie Commission was contingent on the delivery of real money to the Corporation—money that it has never yet received.

Lacking funds, the Corporation has been forced to select its targets rather than range over the field. It may well be that the Corporation has in mind future developments, when the system approaches maturity, that will bring it closer to the model proposed by the Carnegie Commission. What appears today as a change of purpose may in time be revealed as a matter of phasing.

But the Carnegie Commission recommended against a fourth-network operation, and Public Television is now pretty much a fourth network.

But the more important fact, we truly believe, is that you now have, in the Corporation, a dedicated institution led by able and dedicated people. You have throughout the country a system in being, and men and women who are devoting their careers to making of it everything it might be. You have, in the last year or so, made the entire country sit up and take notice. Let us hope that, whatever the course you may adopt, E. B. White will in the end have made his point after all.

HENRY REGNERY: A CONSERVATIVE PUBLISHER IN A LIBERAL WORLD

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. CRANE. Mr. Speaker, when Henry Regnery began to publish books in 1947 the American intellectual atmosphere was one-sided. It was predominantly liberal, predominantly of the view that government could solve the Nation's problems at home, and that communism represented no threat abroad. Those who challenged this thesis found themselves unable to publish their works and unable to gain a hearing in the Nation's academic and popular journals of opinion.

Seeing a great vacuum to be filled, and sensing the danger to America and to Western civilization if the vacuum remained and the traditional values of a free and democratic society were not articulated, Henry Regnery decided to publish the books which others refused to publish.

Many of the volumes which have borne the imprint of "Henry Regnery and Company," are well known to all Americans who have studied the literature of the past 25 years. William F. Buckley, Jr.'s, first book, "God and Man at Yale," Russell Kirk's first book, "The Conservative Mind," Richard Weaver's, "The Ethics of Rhetoric," Freda Utley's, "The China Story," James Burnham's, "Congress and the American Tradition," all were published by Henry Regnery.

Some of these important volumes made money, and other did not. But Henry Regnery did not go into the book publishing business in order to achieve only commercial success, to pander to popular tastes and popular fads. His goal was the defense of the values which were under attack both at home and abroad, and in the books he has published over the years he became one of the great champions of freedom.

Because of Henry Regnery's courage and vision, conservatism has become an intellectual force to be reckoned with. At the time his publishing company began there were few conservative periodicals in existence. Today such publications as "National Review," "Modern Age," "The Alternative," "The Intercollegiate Review," and a host of others provide eloquent testimony to the force and vigor of the movement of ideas he helped to set in motion.

Last month nearly 200 prominent Americans gathered in Chicago to celebrate the 25th anniversary of Henry Regnery's decision to become a publisher of books.

Discussing this dinner, columnist James J. Kilpatrick noted that—

> Henry Regnery . . . challenged the orchestrated liberalism of the whole book publishing world—not merely the houses themselves, but also the book reviewers, the periodicals, the critics who can make or break a title in the market. Then, as now, the media were dominated by intellectuals hostile to conservative thought. Henry took on the whole crew.

Mr. Kilpatrick wrote that—

> Every faith must have its Henry . . . Someone has to keep the tablets, if only to preserve the possibility of enduring truth against the casual destruction of the passing hour.

I wish to share Mr. Kilpatrick's column, which appeared in the Washington Evening Star of April 20, 1972, with my colleagues. It follows:

HENRY REGNERY, KEEPER OF CONSERVATIVE STORE

(By James J. Kilpatrick)

CHICAGO.—Nearly 200 American writers and teachers, all of them identified with the conservative cause, gathered here in Chicago the other night to honor a benefactor and to renew old bonds. Liberals, of course, have such occasions also; they are indispensable to the keeping of any faith; and they remind us anew of the importance of ritual in the survival of civilized man.

Our own modest consistory was summoned to pay homage to Henry Regnery, founder and chairman of the board of the publishing house that bears his name. Henry is a diminutive fellow, maybe 5-feet-6, slender as a snap bean, but he stands pencil straight and his placid face belies a stubbornness within. His is 60 years old, but in the past 25 years he has not gained a pound or added a wrinkle.

These were the 25 years we recognized last week—the quarter century since Henry, at 35, plunged into the perilous waters of the book publishing business. He set out in Chicago, of all places, to publish books by conservatives, of all people; and for nearly two decades, until Arlington House and the Conservative Book Club came along, Henry and Devin Adair Garrity in New York were the only two such lunatics in the land. Bless them, O Lord!

You have to be a professional writer, perhaps, to understand that invocation fully. The act of writing, in itself, is among the most agonizing occupations ever contrived by man; but to write futilely—to write and not get published—is to know the tortures of the damned. It is like the tree that falls in the desert: Does anyone hear? Without a publisher, a writer is an unstrung fiddle; other instruments are playing. He is mute.

Henry Regnery made it his mission to string us up. He challenged the orchestrated liberalism of the whole book publishing world—not merely the houses themselves, but also the book reviewers, the periodicals, the critics who can make or break a title in the market. Then, as now, the media were dominated by intellectuals hostile to conservative thought. Henry took on the whole crew.

Thus, when it was highly fashionable to praise the Chinese Communists, those agrarian reformers, he published Freda Utley's "The China Story," one of the most powerful anti-Communist works of our time. When progressive education was all the rage, he sought out Mortimer Smith, and thereby introduced in the groves of academe a cool voice of common sense. He breached the very citadels of the Eastern Establishment with Bill Buckley's "God and Man at Yale." In 1967, when liberals ruled the Southern roost, he sought a conservative in Richmond and let the young cock crow.

Most significantly, he discovered in Mecosta, Mich., up in the burnt-woods country, a ruddy little Scot whose pedantic image concealed a quick and lively passion. This was Russell Kirk, teacher and philosopher. His seminal work, "The Conservative Mind," remains after nearly 20 years the one best starting point for an understanding of contemporary conservative thought.

What did Henry glean from his labors? Personal satisfaction, little more. Relatively speaking, he rarely made a dime. In the whole of the 25 years, only a handful of his titles, by the most generous accounting, ever ranked as best-sellers. But he had a wonderful time.

So the clan gathered to pay him honor, and as such ritual proceedings go, this one went very nicely. The preliminary speakers rambled on too long, but Bill Buckley, as principal orator of the evening, was exactly right. He recalled Whittaker Chambers' vivid description of the typical tiny shop on a side street of a great city. Here no customer is ever seen. A curious visitor, wondering what the shop conceals, finds at a dimly lit desk in the rear an old man who lovingly offers a few bolts of handcrafted cloth—fabric not meant to sell, but merely to endure. So, too, Henry, keeper of the conservative store.

Every faith must have its Henry. The liberals have theirs, and I would pay them homage also. Someone has to keep the tables, if only to perserve the possibility of enduring truth against the casual destruction of the passing hour.

Recently, Henry Regnery told a small part of his own story, of how he first entered the publishing world, of the books he has published, the authors he has known, and, after 25 years, what it has meant to him.

He concluded his article by stating that:

> The threat of extinction is now much greater than it was then: those bent on destroying civilization are better organized, and the defenses are weaker. To do what is needed to halt the disintegration of our society requires purpose and intelligence. There won't be any money or glory in it, but we have inherited a great and noble tradition, and it is worth fighting for.

Mr. Regnery's article, which appeared in the October 1971 issue of the Alternative and was reprinted for the occasion of the April 12, 1972, dinner, follows:

Henry Regnery: A Conservative Publisher in a Liberal World

When I first became interested in publishing, we didn't describe ourselves as conservative. What we now think of as of the "conservative movement" received its name and identity with the publication in 1954 of Russell Kirk's *The Conservative Mind*. There had, of course, long been opposition to the dominant liberal ideology, in some cases on a high intellectual level—Weaver's *Ideas Have Consequences*, for example, and Hayek's *Road to Serfdom* had both preceded Kirk's book, but it was *The Conservative Mind* that brought the opposition together, gave it a name, and began the development of a coherent alternative.

When the Henry Regnery Company was organized in 1947, therefore, it was not with the idea of publishing *conservative* books, but books which didn't necessarily fit the liberal ideology which so dominated publishing as to constitute a particularly effective form of censorship. I came into book publishing, however, by degrees, and as a result of my association with Felix Morley and Frank Hanighen in the publication of a Washington newsletter, *Human Events*, which then consisted primarily of a four-page essay on some aspect of foreign policy. Morley and Hanighen had founded *Human Events* in 1944, as World War II was approaching its end; those who could "see things as they were," to which small but distinguished group Morley and Hanighen belonged, were not at all convinced that the victorious conclusion of the war and the policy enunicated by the administration would introduce the era of peace and good will among the nations proclaimed by the official propaganda line. The second issue of *Human Events*, for example, dated 9 February 1944, consisted of an article by Felix Morley called "The Trend Since Tehran," the Tehran Declaration having been signed some three months before by Roosevelt, Churchill and Stalin. While the *New York Times* had greeted the *Tehran Declaration* with the assertion that it "laid the foundations for a new and better order in the world," Morley pointed out that in the eleven weeks that had followed the pious declarations of the big three about "working together in peace," and welcoming all "freedom loving peoples" into "World Family of Democratic Nations," Communist Russia had, without consulting its Western Allies done the following: signed an exclusive "mutual assistance pact" with the Czechoslovak government in exile; by its actions had made it clear that it considered Poland an exclusive Russian preserve; had blasted Pius XII as a profascist; and, finally, had incorporated the formerly independent states of Lithuania, Estonia and Latvia into the Soviet Union.

Human Events, as the war ended, was one of the few publications to point out the dangers of the policy of unconditional surrender, and to remind its readers that a settlement based on hatred and revenge could neither bring peace nor would be in accordance with the traditions and ideals professed by this country. When, therefore, Professor Karl Brandt of Stanford University sought a publisher to bring out an answer to Henry Morgenthau's *Germany Is Our Problem*, which had just appeared and proposed to convert Germany into a "goat pasture," it was quite natural that he should go to the publishers of *Human Events*—no one else, at that time, being even willing to discuss the publication of such a book. Brandt's answer was published by *Human Events* as a pamphet, bearing the same title as the Morgenthau book, and became the first of a series of monthly pamphlets. The series continued for some three years, and included among its authors Felix Morley, John U. Nef, Joseph M. Lalley, Arthur E. Morgan, Clare Booth Luce, William A. Orton, Robert M. Hutchins, Douglas Steere and Frank Chodorov. One book was published during this period under the *Human Events* imprint, a collection of official Communist documents with an introduction by William Henry Chamberlin called "Blueprint for World Conquest." At that time, 1946, when Stalin was referred to as "Good Old Uncle Joe," and any realistic appraisal of Soviet Russia regarded as a particularly obnoxious form of heresy, the publication of the aims and methods of the Communist International created something of a sensation, and, I must say, whetted my appetite to publish more books.

It was becoming increasingly difficult in any case to conduct a publishing operation divided between Washington and Chicago, so in 1947 I decided to go it alone. The Henry Regnery Company began operations that year, but was not incorporated until 1948, taking over the pamphlet series and the remaining stock of "Blueprint for World Conquest." Our first list consisted of three books a study of the phenomenon of Hitlerism by the Swiss philosopher, Max Picard, and two books on allied occupation policy in Germany by the English publisher, Victor Gollancz.

Victor Gollancz was an extremely successful and astute publisher of Jewish background, a member of the Fabian society, and the founder, in the thirties, of the Left Book Club. All of this, however, didn't prevent him from taking an extremely critical view of post-war allied policy in Germany, which he felt was leading to mass starvation, was based on the Nazi doctrine of collective guilt, and was diametrically opposed to every principle the West stood for. His book on this subject, *Our Threatened Values*, was declined by his former New York publisher, who, by the way, had published the Morgenthau book, and somehow he came to me. I published it, along with another book by Gollancz which consisted of his account, with photographs, of several visits to Germany during the first terrible winter following the war. The other book on that list, Max Picard's *Hitler in Ourselves*, was a study of Hitlerism, not as an exclusively German phenomenon, but as an expression of the sickness of the West, which had taken a particularly virulent form in Germany.

To understand what has happened since, one should have some understanding of the general atmosphere of the immediate post-war period. It is probably difficult even for those who experienced it to believe that it could have happened; for those too young to remember, it must seem entirely incredible. What Albert J. Nock said of World War I, that it was a "Liberal's war and a Liberal's peace," was even more true of World War II, at least insofar as this country is concerned. Liberalism reigned supreme and without question; the liberal could believe, in fact, that no other position was conceivable. The war, which represented the triumph of good over evil, had been won. Fascism, militarism and colonialism had been banished from the earth; the Peace-Loving Nations, joined together in San Francisco in a perpetual bond, would preserve peace, protect the weak, and guarantee the rule of democracy—the future seemed assured. It was a beautiful picture and questions about its conformity to the facts of life were not welcome. This, I think, is the explanation of the violent, irrational hatred by the liberals of McCarthy—he has become for them the symbol of the influence that brought their illusions down to earth.

But to get back to book publishing. Another early author of ours was Freda Utley. The daughter of one of the early Fabians, she become a Communist in the early twenties, while a student at the London School of Economics, but some six years in Russia as the wife of a Russian made her about as anti-Communist as one can be. In 1948 she went to Germany as a correspondent. Her strong sense of justice and her scorn of hypocrisy were outraged by what she saw, and the resulting book, *The High Cost of Vengeance*, appeared on our list in 1949. The liberal press, which meant nearly the entire press, still fighting for its illusions, ignored it, but such an influential publication as the *Christian Century* gave it a long and serious review, and it doubtless had some influence on American policy. Miss Utley was the first established author to appear on our list, and a following book of hers, *The China Story*, which we published in 1952, was our first book to make the best-seller lists. This came out just at the time MacArthur was dismissed from his command and when, as a conqueror, the whole subject of Asia, and particularly the loss of China to Communism, was at the center of discussion. Miss Utley was an authority not only on Communism, Communists and fellow travelers, but on Asia as well, and made it her business to put things down as she understood and saw them. Her account of the loss of China couldn't be ignored; it is to the credit of the *New York Times* that it reviewed the book favorably and at length, although Miss Utley blamed the *Times* for helping to create the illusions concerning the Chinese Communists which had disastrously influenced American policy. It was our first real success.

The following year we had another—William F. Buckley's *God and Man at Yale*. Frank Hanighen, who had published a piece on Yale by Buckley in *Human Events*, told me that Bill, who had just graduated, was writing a book along the same general lines. I wrote to him immediately to ask if we might see the manuscript. He replied at once, and a few months later *God and Man at Yale* gave Yale and the entire liberal establishment a shock from which they never recovered. If Bill had been a nobody or the book without basis it could have been ignored, but that wasn't the case—he had been Chairman of the Yale *Daily News*, a member of the debating team, an outstanding student, and, for a time, one of the president's prize exhibits at alumni gatherings, and worst of all, his book was effectively written and based on fact. For nearly a week after the book appeared, one prominent member of the faculty after another in the most ponderous, professorial manner, inveighed against "the book" as it soon came to be called in the Yale *News*; an entire issue of the alumni magazine was devoted to it; a commission was appointed to report to the trustees on its allegations. It was carefully denied, of course, that the commission had anything to do with "the book," which made it all the more apparent that "the book" was the sole reason for its existence. As was to be expected, Yale was completely exonerated in its report. There were reviews everywhere, columns, letters to the editor, interviews, with the author, all any publisher could ask for. Whether the book had any positive influence on Yale is doubtful, Yale's self-esteem at that time being pretty solidly entrenched, but it helped to launch the career of William F. Buckley, Jr., and it gave enormous pleasure and satisfaction to its publisher.

There were, of course, other books—a witty little book on progressive education, *And Madly Teach* by Mortimer Smith which received much attention and was widely read, William Henry Chamberlin's *America's Second Crusade, The German Opposition to Hitler* by the distinguished historian, then at the University of Chicago, Hans Rothfels, several important books in philosophy, including James Collins' *The Existentialists*, which is still in print, to mention only a few. We were having some impact, it seemed, and some of our books had done well, but it wasn't enough to put the operation on a sound financial basis. We needed a "back list," some books which would be steady, reliable sellers—a cook book, for instance, or text books. Our first step in this direction was an arrangement with the Great Books Foundation to publish paperback editions of the books required in their program, paperback editions of the classics being not then available. This seemed highly promising for a time, but the publication of *God and Man at Yale* put a stop to that. Then we decided to try to build up a college text book list, and brought in a retired textbook traveler, Sidney Gair, to put together a list. We did a few books of outstanding quality, but didn't have sufficient capital to put it over. Gair, however, made a great contribution to the firm—he put me in touch with Russell Kirk.

Returning from one of his searches for desirable textbook projects, Sidney told me that a young instructor in English at Michigan State had completed a manuscript he thought I should look at. "He doesn't say much," Sidney said, "is about as communicative, in fact, as a turtle [how Russell has changed], but he has a formidable intelligence, and when he gets behind a typewriter, the results are most impressive." I wrote for the manuscript which, as it happened, had just been rejected by Knopf, and a few days later the very neatly typed manuscript of *The Conservative Rout*, as it was then called, arrived in the mail. I read it during my vacation, and what an inspiring experience that was. We published it the following spring, and after much deliberation called it *The Conservative Mind*. Its impact was immediate, and beyond all expectations. It received leading reviews in the *Times, Herald-Tribune, New Yorker, Saturday Review*, etc. Then *Time* magazine—as a result, I learned later, of a suggestion of Whittaker Chambers—devoted the entire book review section of its 4 July issue to this one book, and mentioned it again in a news story. The young English instructor at Michigan State had become a national figure, and the amorphous, scattered opposition to the overwhelming power of liberalism had received its identity.

The Conservative Mind had an impact which, in the bored and blase atmosphere of the present, is hard to imagine. It was widely read and discussed, for example, in the colleges and universities, and after the reviews came articles—not all, of course, in agreement, but Kirk had launched a concept and established a position which the liberals recognized as a real challenge, and took seriously. There was opposition to Kirk, and from what became the conservative side, opposition particularly to the designation, "conservative." If I am not mistaken, no less a figure than Frank Meyer strongly opposed the adoption of the name "conservative" for the position he felt he represented, but when *National Review* began publication a few months later it described itself as a *conservative* journal of opinion. Kirk had won; we are all conservatives now.

Two authors whom it gave me special pleasure, but no profit, to publish were the South African poet, Roy Campbell, and the English writer, Wyndham Lewis; with them a *Festschrift* for the sixtieth birthday of T. S. Eliot and a book of essays by Ezra Pound, we could feel that we had some connection with the most important group of men writing in English in this century, and writers who had devoted their talent and energy to opposing the disintegration of the values of our civilization. To have known Roy Campbell, a free spirit if ever there was one, was a great privilege. He had been a bareback rider in the circus, fought bulls in Spain and Portugal, served in the Nationalist Army in the Spanish Civil War and the King's Africa Rifles in World War II, baited left-wing poets in London, and with all that, had written some of the most beautiful lyric poetry of this century. But the critics would have none of him—he was violently anti-liberal and therefore for them a fascist, and his books, for all their great quality, have never sold. Lewis was also a difficult author to put over, but his intelligence and the quality of his work are gradually being recognized in spite of the critics. No matter what the critics may say, he is one of the towering figures of this century. As for the book of essays by Ezra Pound, the reviewer in *Commonweal*—a liberal Catholic, for me, is as much an anathema as a liberal Southerner—was outraged. "Who but Regnery would publish such a book?" was his scandalized reaction to this shameful act. I couldn't help but feel, who indeed?

We published many good books after *The Conservative Mind*—Felix Morley's *Freedom and Federalism*, Richard Weaver's *The Ethics of Rhetoric*, James Jackson Kilpatrick's *The Sovereign States*, James Burnham's *Congress and the American Tradition*, two books by William M. McGovern, Willmoore Kendall's *The Conservative Affirmation*, Wilhelm Roepke's *The Humane Economy*—but for me, *The Conservative Mind*, coming as it did after *The China Story* and *God and Man at Yale* was the high point of my publishing career. The unexpected appearance in the fifties of what promised to be a rational, viable alternative to liberalism was followed by the dismal sixties. A society seemingly characterized by Camelot, the "Playboy philosophy" of Hugh Hefner, Bobby Baker, the drug culture, and the contemptible collapse of our once proud universities in face of demands by "the kids" was hardly a favorable atmosphere in which to publish serious books. The drug culture, the kids, and the state of the universities no doubt symbolize the utter collapse of liberalism as a philosophy and a body of ideas, but we must face the fact that the liberals still hold nearly all the positions of influence in our society, and show no sign of being willing to relinquish them.

Perhaps there have been, for the time, enough books about conservatism itself, and there is certainly no need for more books pointing out the mess the liberals have made of things—that should be evident enough. What we do need, I think, is to develop a body of literature of high quality by people of conservative instincts—what, for example, T. S. Eliot undertook to do in his own writing and in his encouragement of others. For this, we need to encourage new talent, and one means, almost the only means, in fact, of doing this, is good periodicals. *Modern Age, National Review, The Intercollegiate Review* and the conservative student publications all perform an important function in this respect, but we also need a monthly of national circulation and of high quality—something on the level of the *Atlantic* or *Harper's* in their better days. I don't mean a conservative magazine; it should be edited by a man of conservative instincts—a man, that is, who takes a positive attitude toward the traditions of Western civilization—but the first consideration should not be conservatism, but quality.

Writing in 1947, in the disillusionment of post-war London Wyndham Lewis wondered if his long fight had been worthwhile. "Today," he said, "I should not write such books at all. People should be allowed to drop to pieces in any way they choose." But then the old fighter went on to say, ". . . Darwin, Voltaire, Newton, Raphael, Dante, Epictetus, Aristotle, Sophocles, Plato, Pythagoras: all shedding their light upon the same wide, well-lit graeco-roman highway, with the same kind of sane and steady rate—one need only mention these to recognize that it was at least excusable to be concerned about the threat of extinction to that tradition." The threat of extinction is now much greater than it was then: those bent on destroying civilization are better organized, and the defenses are weaker. To do what is needed to halt the distintegration of our society requires purpose and intelligence. There won't be any money or glory in it, but we have inherited a great and noble tradition, and it is worth fighting for.

Henry Regnery has helped to keep the fires of civilization still burning. He deserves the thanks and admiration of all Americans and it is to be hoped that he will continue in his important work for many years to come.

AFRICAN-AMERICAN INSTITUTE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. RARICK. Mr. Speaker, capitalist collaboration with the Soviets in Russia and the Communists in Red China may seem contradictory. However, in Africa capitalists have been collaborating with the forces of revolution, violence, and international exploitation for some time. The actions of collaboration by capitalists in Africa are hidden from many Americans by the insinuations that progress is somehow impeded by white minority controlled governments which justifies the use of violence against them.

The violence promoters on the African scene such as the recent spear rattling revolutionary council at Lusaka, Zambia, are all easily traceable to the African-American Institute with offices at the United Nations Plaza, New York City and Washington, D.C. Principal foundations contributing to the African-American Institute according to their publication are the Ford Foundation, Rockefeller Brothers Fund, and Carnegie Corp. According to their material espousing peace, progress, and humanitarian endeavors, all contributions are tax deductible.

I include related articles from the Africa Report, organ of the AAI, and a list of programs and staff assignments follow my remarks:

[From the Africa Report]

THREE MAJOR FOUNDATIONS CONTRIBUTE TO AAI

(By Julien Engel)

The president of the African American Institute, Waldemar A. Nielsen, announced in January receipt of three major foundation as well as private grants totalling more than $1,000,000. The Institute's main offices are at 345 East 46th Street, New York City.

The foundations contributing to the Institute's capital fund are: the Ford Foundation, Rockefeller Brothers Fund, and Carnegie Corporation. In announcing the grants, Mr. Nielsen declared, "These contributions will permit the Institute, as it enters its tenth year, to strengthen its staff and organization, improve its program planning and evaluation, extend its facilities, and develop its long-term fund-raising capacity." The object of these measures, he said, is to equip the Institute as the central private American agency in African-American relations, for the changing and growing tasks that it anticipates in the years ahead.

In its beginning years, the African-American Institute devoted itself to an active information program about Africa in this country and the provision of hospitality and assistance to African students and visitors here. With the onrush of African independence and the relative inactivity of private and official agencies with regard to the education of Africans, the opportunity subsequently arose for the Institute to pioneer in the creation of new programs of student exchange and teacher placement. The rapidly growing volume of its programs is reflected in its budget, which has doubled in each of the last three years, for a curent total of $4,500,000.

At this stage of its development, the Institute's main activities lie in the educational field. These include 14 different scholarship programs ranging from the large-scale ASPAU (African Scholarship Program of American Universities—nearly 500 students from 24-sub-Saharan countries and 214 participating colleges and universities) to the African Wild Life Leadership Foundation program (conservation training for five African students).

Either from its own resources or in association with other American organizations, the Institute now provides full or partial support to about 1,000 African students in the United States. In addition, it has undertaken in recent months to provide scholarship assistance on a trial basis to 150 needy secondary students in East African schools to permit them to complete their schooling. Another program administered by the Institute in this area assists a limited number of refugee students from non-independent territories to further their education, mainly in African institutions. A special school is currently being set up under Institute auspices in Dar-es-Salaam to prepare refugee students for various qualifying examinations.

The aid to secondary school students in Africa reflects a new approach developed by the Institute to mobilize American goodwill on behalf of the continent's youth. American schools and other organizations will raise the funds for the subsidy of needy African students. An average grant of $150 will sustain a student for an academic year. It is anticipated that the formula of educational partnerships will eventually aid many hundreds of promising students and enlist the participation of American schools and groups across the nation.

In association with the Cambridge-based "Books for Africa" program, which it sponsors, the Institute is now actively seeking contributions from American, Canadian, and European publishers and book distributors to help build up the libraries of schools and institutions in both English and French-speaking Africa. Encouraging response has already been received from several quarters. The most recent is a donation of $300,000 worth of carefully selected technical and other relevant titles by Prentice-Hall, Inc.

The development of Africa's mass media is another new area of rising interest to the Institute. Within the past year, it has awarded fellowships and grants-in-aid to 10 African journalism students and practicing journalists for further studies or on-the-job training in the United States and Europe, and to permit some of them to attend the International Press Institute conference in Paris. An American broadcasting specialist was assigned as program advisor to the Ethiopian radio system, with the additional function of mass media advisor to the Institute for East and Central Africa. For African press attaches in Washington, D.C., the Institute developed a four-month weekly public relations seminar.

Plans for the current year include a series of journalism workshops in various parts of Africa to be conducted in cooperation with American newspaper editors and journalism professors, as well as representatives from other media. The Institute hopes in time to become involved in a number of major experiments in applying mass media to educational problems in Africa.

With the new organizational development funds at its disposal, the Institute will aim to become a bridge facilitating an increasing volume of two-way educational, intellectual, and cultural traffic between Africa and the United States. It foresees its role as a general purpose instrument helping to weave a pattern of close and effective relations between educational, civic, and philanthropic bodies in this country and institutions and leaders in Africa. Its concern will be not only to stimulate the flow of assistance and cooperation, but to attempt to bring about a somewhat more rational allocation of efforts and resources in the interest of balanced African development. To this end, the Institute hopes to launch a continuing, comprehensive inventory of all private non-profit activities in the Atlantic Community area relating to Africa.

Mr. Nielsen also announced that the Institute's Board of Trustees has recently added Dr. Robert Goheen, President of Princeton University; John H. Johnson, publisher of *Ebony* and other magazines; and Arthur Krim, President of United Artists' Corporation, to its ranks.

The Institute has been publisher of *Africa Report* (Washington, DC) since the magazine's inception in 1956.

The growth and diversification of the Institute's educational programs have occurred at a time when other educational efforts undertaken by the United States are registering a similar marked expansion. To assure itself of the best advice possible for the guidance of its educational programs and their proper integration with other efforts for Africa, the Institute is now proceeding with the establishment of an Educational Advisory Council to be composed of high-ranking American educators and specialists in Africa education. Among the persons who will serve on this body are Professor Karl Bigelow, Executive Officer of the Institute for Education in Africa and Professor of Education at Columbia University Teachers College; Dr. Gwendolen Carter, Professor of Government at Smith College; Dr. Cornelis de Kiewiet, President Emeritus of the University of Rochester and chairman of the American Council on Education's African Liaison Committee; Dr. James Nabritt, President of Howard University; Dr. Calvin Plimpton, President of Amherst College; and Dr. Judson Shaplin, Associate Dean of the Graduate School of Education, Harvard University.)

[From the Sunday Mail, Jan. 23, 1972]

Official Shocked by ——— Statement

Shocked American officials in Washington are trying to clarify a remark by ——— in Lusaka about the possible fire-bombing of the General Motors Plant in Port Elizabeth which they fear has doomed any chance he might have of again going to South Africa.

The remarks, as originally reported by the Times of Zambia, was interpreted by some officials in Washington as verging on incitement to violence against American property in South Africa. One official called it "disgraceful".

Some doubt has since been cast on whether the controversial ——— actually advocated violence, but so far there is no text available in Washington.

[From the African-American Institute]

AAI Today

The African-American Institute is the major U.S. private agency working to further African development and to strengthen understanding between the United States and Africa.

There are many ways of serving the needs of African development. AAI believes it can be most effective by helping train Africans in needed fields. Projects providing academic education and technical and practical training for key Africans—including, increasingly, projects located *in Africa*—make up most of AAI's program.

As part of its efforts to strengthen understanding between the United States and Africa, AAI offers educators and African experts a first-class journal of current information and analysis, *Africa Report*. AAI also helps Americans with a general interest in Africa to keep in touch through meetings and community activities, and it promotes contacts between African and American leaders through visits by prominent Africans throughout the United States.

Since its founding in 1954, AAI has brought over 2,000 African students to U.S. colleges and universities—of whom a significant number have already returned to Africa to participate in the work of African development. AAI also has provided technical and practical training for some 1,500, in Africa and the United States. It has educated 580 young African refugees from southern Africa at its secondary schools in Tanzania and Zambia. More than 700 African leaders have visited America under programs administered by AAI, and 285 African women have participated in training activities organized by AAI's affiliate, the Women's Africa Committee.

The AAI program is flexible and growing.

To meet growing needs, it has risen in volume from $40,000 annually in 1954 to more than $10 million in 1966.

It has changed to meet changing needs, with some activities dropped as the need for them lessened and others added as the need for them arose.

Most projects carried out by AAI are sponsored and financed by U.S. colleges and universities, private foundations, African governments, the Agency for International Development, or the Bureau of Education and Cultural Affairs of the Department of State—either solely or, in many cases, jointly.

Other AAI activities, like Africa Report, are financed almost entirely by general contributions to AAI, including contributions from private individuals and foundations.

AAI's work is directed by a Board of Trustees of distinguished Americans active in private philanthropy, civil rights, higher education, and business and finance.

AAI maintains its international headquarters in New York; an office in Washington, D.C.; regional offices in Dar es Salaam, Tanzania, and Lagos, Nigeria; and sub-offices in Accra, Ghana, and Lusaka, Zambia. Its U.S.-based staff totals 117. Full-time staff, teachers at AAI's schools, and part-time representatives, located in 34 African countries, number 118.

In the past several years, AAI has tripled its staff and programs, consolidated its structure, and revised its operating procedures for maximum efficiency.

Although it has increased greatly in size and has become more professional in its operations AAI remains committed to the view that an organization's greatest asset is its capacity for sympathetic personal attention to human problems in an increasingly dehumanized world.

OFFICES OF THE AFRICAN-AMERICAN INSTITUTE

UNITED STATES

Headquarters: 866 United Nations Plaza, New York, N.Y. 10017.

Washington Office: 1346 Connecticut Avenue, N.W., Washington, D.C. 20036.

AFRICA

Regional Offices: African-American Institute, P.O. Box 2995, Dar es Salaam, Tanzania.

African-American Institute, P.M.B. 2382, Lagos, Nigeria.

Sub-Offices: African-American Institute, P.O. Box 2192, Accra, Ghana.

African-American Institute, P.O. Box 1631, Lusaka, Zambia.

BOARD OF TRUSTEES

Dana S. Creel, Chairman, Director, Rockefeller Brothers Fund.

Alan Pifer, Vice Chairman, Acting President, Carnegie Corporation of N.Y.

William J. Trent, Jr., Vice Chairman, Assistant Personnel Director, Time Inc.

Morris B. Abram, Partner, Paul, Weiss, Rifkind, Wharton & Garrison.

Dr. Homer D. Babbidge, Jr., President, University of Connecticut.

Mrs. Etta Moten Barnett.

Peter Buttenwieser, Director of Instruction, North Carolina Advancement School.

Mrs. William G. Cahan.

Dr. Gwendolen Carter, Director, Program of African Studies, Northwestern University.

Dr. L. Gray Cowan, Director, African Institute, Columbia University.

Louis G. Cowan, Director, Special Programs, Graduate School of Journalism, Columbia University.

William D. Eberle, President, American Radiator & Standard Sanitary Corporation.

Dr. Robert F. Goheen, President, Princeton University.

Ernest A. Gross, Member, Curtis, Mallet-Prevost, Colt & Mosle.

Harold K. Hochschild, Hon. Chairman, American Metal Climax, Inc.

Philip M. Klutznick, President, Klutznick Enterprises.

Arthur B. Krim, President, United Artists Corporation.

Dr. Vernon McKay, Director, African Studies Program, The Johns Hopkins University.

William R. Cotter, President, African-American Institute.

John B. M. Place, Senior Vice President, Chase Manhattan Bank.

Dr. Emory Ross.

Mrs. Zelia P. Ruebhausen, Chairman, Women's Africa Committee.

Harvey Russell, Vice President, Planning, Pepsi-Cola Company.

Mansfield D. Sprague, Vice President, American Machine & Foundry Company.

Loyd V. Steere.

Mrs. Ronald Tree.

Roy Wilkins, Executive Director, National Association for the Advancement of Colored People.

Dr. Stephen J. Wright, President, United Negro College Fund.

AAI STAFF LISTED BY PROGRAM OR OFFICE OF ASSIGNMENT AS OF OCTOBER 1, 1971

OFFICE OF THE PRESIDENT

William R. Cotter, President.
Mary Wortman, Secretary.
Sarah Stewart Assistant to the President.
Janie M. Davis, Secretary.

Africa Report

John Roberts, Editor.
Nancy McKeon, Editorial Assistant.
Gail Ayinde, Editorial Secretary.

Publications, public information and business manager of Africa Report

Robert Denerstein, Program Officer.
Muriel West, Circulation Manager, *Africa Report* (Washington).

Program advisor on education

James R. Sheffield.
Ajaratu Seray-Wurie, Secretary.

OFFICE OF THE EXECUTIVE VICE PRESIDENT

Walter C. Carrington, Executive Vice President.
Ellen E. Brown, Secretary.

Division of school services

Director (post presently vacant).
Carol Francis, Program Assistant.
Frankie A. Morris, Secretary.

In-Service Training Program

Clifton Collins, Program Director.

Educational Materials Center

Harry Stein, Program Director.
L. Monica Fletcher, Program Assistant.

Travel Programs

Melvin Johnson, Program Director.

Inter-African universities scholarship programme (INTERAF)

Abdul Kabia, Program Director.
Anita Johnson, Secretary.

Field communications

Harry Stein Coordinator.

Southern African Training Program

Harry Stein, Coordinator (New York)

African Women's Committee

Lucille Spence, Chairman
Ellen E. Brown, Coordinator

FIELD OFFICES

Abidjan office

Ousmane Elola, Regional representative
Christine Kouadjo, Administrative Assistant

Program Representatives Reporting to Abidjan Office

Cameroon—Edith Ndiba.
Central African Republic.**
Chad—Jacques Morbaye.
Congo (Brazzaville).**
Dahomey—Bruno Koudjaho.
Gabon—Statia Demers.
Guinea.**
Mali—Christine Coulibaly.
Mauritania.**
Niger—Gabriella Ranzoni.
Senegal—Mrs. Marguerite Vieyra.
Togo—Bruno Koudjaho.
Upper Volta—Fouwemi Andre Kanikehi.

Addis Ababa office

Wilbur Jones, Regional Representative

Program Representatives Reporting to Addis Ababa Office

Algeria.**
Burundi.*
Kenya.*
Libya.**
Malagasy Republic.**
Mauritius.**
Morocco—Irene Edwards.
Rwanda—Rita Rukashaza.
Seychelles.**
Somalia.**
Sudan.**
Tunisia—Mahdi Abdeljaouad.
Uganda—Sylvia Kalule.
United Arab Republic.**

INTERAF office (Accra)

Robert R. Jespersen, AAI INTERAF Advisor.

Lagos office

James T. Harris, Jr., Regional Representative.

Clara Osinulu, Administrative Assistant.

Program Representatives Reporting to Lagos Office

Congo/Kinshasa.*
Equatorial Guinea.**
Ghana—E. Attuquayefio.
Liberia—Ruth Phillips.
Sierra Leone—Olayinka Burney-Nicol.
The Gambia.*

Lusaka office

Edward E. Anderson, Regional Representative.

Program Representatives Reporting to Lusaka Office

Botswana—Janet Hermans.
Lesotho—Seleke Mokose.
Malawi.*
Swaziland.*
Tanzania.*

DEPARTMENT OF EXTERNAL RELATIONS

Frank E. Ferrari, Vice President for External Relations.
Sonjah Chin, Secretary.

New York visitors' program

Judith Brabham, Program Officer.
Lynette Nieves, Program Assistant.

Washington office

Melvin McCaw, Director of the Washington Office.

International Visitors' Program (Washington)

John M. Anspacher, Program Officer.
Glover Lee, Program Officer.
Frances Coble, Program Assistant.
Anne Kuhn, Program Assistant.
Mariellen Procopio, Program Assistant.
Doretha Boyd, Secretary.

African-American Women's Council (Washington)

Director of Student Counselling (post presently vacant).

DEPARTMENT OF FINANCE

A. F. Marchetti, Treasurer/Comptroller.
Rose Herson, Secretary.

Accounting and auditing

Frank C. Belle, Assistant Comptroller.
Helen Willis, Secretary.
Rafael Dayrit, Accountant.
Junie Lalanne, Accountant.
Bruce Saewitz, Senior Clerical Assistant.
Paul Cotto, Clerical Assistant.
Annie M. Wise, Supervisor, Bookkeeping Machine Operator.
Patricia Hagues, Bookkeeping Machine Operator.

General Services

Alphonso Blackman, General Services Manager.
Carl B. McLeod, Senior Multilith Operator.
Rudolph Jones, General Services Assistant.
B. Wayne Oates, General Services Assistant.

Switchboard and Reception

Dora Bell, Switchboard Operator/Receptionist.

Budget administration (financial aspects) and contract auditing

George N. Ellyn, Contracts Coordinator.
Marina Bella, Junior Accountant.
Winston Padmore, Junior Accountant.

Payroll

Mary C. Ryan, Cashier and Paymaster.
Pauline Marshall, Assistant Paymaster.

OFFICE OF THE SECRETARY

Jane W. Jacqz, Corporate Secretary.
Elise Behar, Secretary.

---

* Posts presently covered by regional representative—expected to be filled during current fiscal year.

** Posts presently covered by regional representative—not expected to be filled during current fiscal year.

* Posts presently covered by regional representative—expected to be filled during current fiscal year.

** Posts presently covered by regional representative—not expected to be filled during current fiscal year.

OFFICE OF THE DIRECTOR OF EDUCATION AND PROGRAM BUDGETING

Ronald E. Springwater, Director of the Division of Education and Program Budgeting.

Sonia Garcia, Secretary.

African graduate fellowship program

Barbara A. Rotach, Program Officer in Charge.

Alexandra Simon, Program Officer.

Jill Haas, Program Officer.

Dorothy Davis, Program Assistant.

Linda C. Ireland, Secretary.

American study in Africa program (AMAF)

Abdul Kabia, Program Officer.

Anita Johnson, Secretary.

African scholarship program of American universities (ASPAU)

Cynthia Wise, Program Officer in Charge.

Gilbert K. Sherman, Program Officer.

Eileen Sheehan, Program Assistant.

Southern African student program (SASP)

S. Damon Kletzien, Program Officer.

Sondra Bennett, Program Assistant.

Charlotte McPherson, Program Assistant.

Susan Branigan, Secretary.

Rachel Feldman, Clerical Assistant (also for ASPAU).

Educational program planning and evaluation

Gilbert K. Sherman, Program Officer.

Hazel Bush, Secretary.

Student finances

Heather Monroe, Program Officer.

David Hendricks, Program Assistant.

Non-degree training

Howard Luckett, Program Director.

Ajaratu A. Seray-Wurie.

Program budgeting

George N. Ellyn, Contracts Coordinator.

Personnel and library

Barbara R. Miller, Program Assistant.

RUMANIA'S INDEPENDENCE DAY

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. DULSKI. Mr. Speaker, today is the national holiday of the Rumanian people, marking three great events of its history.

On May 10, 1866, Charles, Prince of Hohenzollern-Sigmaringen, a scion of the southern and Catholic branch of the Prussian royal family, was proclaimed in Bucharest Prince of Rumania, and thus founded the Rumanian dynasty.

It was the successful outcome of the nation's long struggle to acquire the right of electing as its sovereign a member of one of the western non-neighboring reigning families in order to put an end to the strifes and rivalries among native candidates to the throne.

Although suggested as far back as 1857 by the Moldavian and Wallachian Assemblies, it nevertheless was opposed by the Russian and Austrian empires.

On May 10, 1877, during the turmoil of the Russo-Turkish War, the Principality of Rumania, until then nominally a vassal of the Sultan, proclaimed her independence by severing the old and outdated bonds that linked her with Ottoman Empire.

This independence had to be fought out on the battlefields south of the Danube, where the young Rumanian Army, as an ally of Russia, played a noteworthy part in the defeat of the Turkish forces.

The Congress of Berlin of 1878 confirmed Rumania's independence and conferred Europe's official recognition, a bright page in the country's dreary history though marred unfortunately by the loss of Bessarabia.

Another 4 years elapsed after the Rumanian people had proclaimed their independence and a further step was taken as they decided to raise their country to the rank of a kingdom.

On May 10, 1881, Charles I was crowned, by the will of his people, King of Rumania. A prosperous era opened on that day for the nation and continued for over six decades.

During all those years and up to the present time, Rumanians have cherished the 10th of May as their national holiday, the anniversary of happy and glorious events in their history. It remains the symbol of their permanency and perseverance through woes and hardships to reach the ultimate end of freedom and well-being.

The ruthless foreign rule which now oppresses the Rumanian nation has not been able to uproot the people's attachment to the traditional celebration of the 10th of May. In order to try and alter at least its significance, official celebrations were shifted from the 10th to the 9th of May, anniversary of the Soviet victory.

But, though flags are now hoisted on May 9, Rumanians in their captive homeland celebrate in their hearts the following day, awaiting with faith and courage the dawn of new times, when freedom shall be restored to them.

MR. HARRY F. TYLER OF JACKSONVILLE, FLA.

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. FREY. Mr. Speaker, on March 16 a most courageous and patriotic Floridian died.

Mr. Harry F. Tyler, a veteran U.S. Navy officer, served his country valiantly during World War II. He was credited with the sinking of an attacking enemy submarine in South Atlantic waters while operating from an oil tanker. His ship was sunk by another sub accompanying the enemy sub, and he and his crew of 52 men survived in a raft for 4½ days before being rescued by a British ship in 1942 near Trinidad.

He also took part in the invasion of North Africa and numerous other assignments before being transferred to aviation ordnance. There he logged 5,200 flying hours in seaplanes and bombers before his selection to the Naval Photo Intelligence Lab, NAS, Jacksonville, in 1962.

After his discharge from the Navy, he was employed by the Veterans' Administration Loan Guaranty Division of the Jacksonville offices until his recent death.

Having sustained various injuries during the war which resulted in the loss of both legs, Mr. Tyler's drive to succeed was not impaired. He was outstanding in the performance of his job and many other civic duties for the good of his community. This tremendous desire prompted his supervisors at the VA to recommend him for Outstanding Handicapped Federal Employee of the Year in November of 1969. Aside from this he was active in work with returning young veterans, former patron of Orange Park Chapter No. 226, former secretary of the Orange Park Masonic Lodge No. 267, Order of the Eastern Stars and Fleet Reserve No. 126.

Although Mr. Tyler was a double amputee, he possessed a desire to succeed and a personal fortitude to conquer any task at any time, having undergone several operations for circulatory conditions and eventually the amputation of both limbs, his attitude never faltered. He was continually outstanding in the performance of his duties which gave him the VA recommendation award. Living with tremendous pain his determination continued and from 1955 he attended Florida Junior College at various times until his enrollment. He also attended a class with the Society of Real Estate Appraisers.

Regardless of his handicap, Mr. Tyler's achievements are certainly an example for all Floridians and all Americans to follow. To be able to give unselfishly of one's self to accomplish such duties and community activities and living with such a handicap as Mr. Tyler has done should make all of us reevaluate ourselves and want to put more effort forward in achieving such goals. Mr. Tyler never stood behind the scenes or complained about his handicap, but through sheer determination and the use of his remaining faculties rose to achieve many arduous tasks. Florida has truly lost a great American.

NEED FOR MORE HEALTH RESEARCH FUNDS

HON. PIERRE S. (PETE) du PONT

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. DU PONT. Mr. Speaker, I am today to speak for increased funding for health care in the United States. As my colleagues pointed out today, this year's proposed funding levels for health research are wholly insufficient given the magnitude of the tasks that lie ahead.

I am specifically concerned with the need for increased funds for the National Institute of Child Health and Human Development. This Institute faces the formidable job of seeking answers to problems in human reproduction, including the consequences of rapid population growth and distribution, and to problems in child development, including the sudden infant death syndrome and prematurity.

With regard to child development, the budget proposes a small increase with which to fund research on primary causes of infant deaths, such as prematurity which afflicts twice as many of the poor and the black as of the more affluent. It is a minimal amount with which to fund a program dealing with the sudden infant death syndrome which causes approximately 10,000 infant deaths a year.

The same insufficient increase holds true for population research and reproductive biology, also housed within the National Institute of Child Health and Human Development. The budget includes only a $4.7 million increase in this field.

During the hearing I chaired recently as head of the Subcommittee on Population Growth of the Republican Research Committee, it was brought out that last year, less than 38 percent of the new approved applications in this field were funded. Furthermore, less than 26 percent of the new approved training grant applications were funded. Yet in our continued striving for knowledge to improve human health and well being, I believe population research to be vital.

The population sciences offer the opportunity to fill great gaps which exist in our basic scientific knowledge concerning human reproduction; they offer us the means by which to provide American women with desperately needed improved methods of fertility control. Also important, this NICHD program carries the grave responsibility of evaluating existing contraceptives and thereby protecting the lives of the 8½ million women currently estimated to be using the oral contraceptives and the other approximately 20 million American women using other methods of fertility control. Since, admittedly, there is at present no contraceptive method which is safe, effective, inexpensive, and acceptable to all people, I submit that the small amount slated for an increase in population research is dangerously low given the importance of research in protecting the lives of American women, and indeed, ultimately for research which will affect all mankind.

The consequences of such a small investment are disproportionately large. The National Institute of Child Health and Human Development has a history of very small increases in budget. This tradition of smallness is reflected in the fact that it funds almost the lowest percentage of approved applications of any of the research institutes of NIH. This is true of both all research grant applications and of all training grant applications.

These small amounts have discouraged researchers from entering the field of population research, child health, and reproductive biology. The lack of training and fellowship funds, the lack of funds for starting new projects this year—all such factors serve to diminish these research programs, to retard them rather than to cause them to hold the line or merely stabilize. Child health witnesses have urged an additional investment of $10 million alone in the sudden infant death syndrome. Population research advocates have insisted that an investment of no less than $60 million is necessary this year for growth in this field. For this reason I support the efforts of the Coalition for Health Funding in seeking to increase the funds available for the Center for Population Research and the National Institute for Child Health and Human Development.

MR. NIXON'S BRINKMANSHIP

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. RYAN. Mr. Speaker, President Nixon has not only dangerously escalated the war in Vietnam, but has placed the United States in the perilous position of facing a possible direct military confrontation with the Soviet Union and/or China. He has further endangered the lives of the 69,000 American troops still remaining in South Vietnam, as well as the lives of American prisoners of war being held by the North Vietnamese.

The President's action in mining the harbors of North Vietnam and interdicting sea and rail communications contravenes the national policy adopted by Congress in section 601 of the Military Procurement Act of 1971, which called for a termination at the earliest practicable date of all military operations in Indochina.

His continued refusal to consult with the Congress on matters of war led me yesterday to introduce a resolution in the House to impeach the President—House Resolution 975. I made the decision to introduce this resolution only after I became convinced that President Nixon would continue to refuse to observe the limitations that the Constitution places on the warmaking powers of the President. He has subverted the Constitution, and Congress must find a mean to curb him.

The course of action he is pursuing is fraught with dangers far more serious than a deterioration in relations between Moscow, for world peace has been jeopardized with unpredictable consequences.

An editorial that appeared in today's New York Times provides a sharp analysis of the President's rash, misguided, and unconstitutional action. It follows:

> MR. NIXON'S BRINKMANSHIP
>
> In ordering the closing of land and sea supply routes to North Vietnam by American military action, President Nixon is taking a desperate gamble that alters the entire nature of the war, that risks the fundamental security and deepest interests of the United States for dubious and tenuous gains, and that runs counter both to Congressional mandate and to the will and conscience of a large segment of the American people.
>
> The mining of the harbors of North Vietnam poses a direct challenge to the Soviet Union and other arms suppliers to Hanoi that could quite possibly escalate into a confrontation between the world's two great superpowers. Only the gravest threat to the security of the United States could justify such a challenge, as was indeed the case in the Cuban missile crisis. But Vietnam is not Cuba; and there is no conceivable American interest at stake in Indochina today as there was in Cuba to warrant the risk—and the escalation—the President has so clearly undertaken.
>
> Let us grant that the North Vietnam Communists are infuriatingly—even insultingly—intransigent in the negotiations at Paris and are stubbornly aggressive in the field, as indeed they are. Let us grant that the United States still has a commitment to support to the death the present Saigon Government as representative of South Vietnamese democracy—a commitment which, if it ever existed, has surely been long ago fulfilled. Let us even grant—contrary to fact—that President Nixon's Vietnamization program has been a success and that all that is needed is a little more time and a few more arms to bring Hanoi's belligerence to a halt. Granting all these hypotheses, what possible good could President Nixon's present escalation-cum-confrontation accomplish?
>
> Even if the closing of the ports by mining and the interdiction of land routes by renewed extensive bombing should succeed in their goals without retaliation by the Soviet Union and China, the resultant cutoff in supplies could not materially affect the outcome of the present North Vietnam offensives in the South.
>
> In any case, the bulk of North Vietnam's military supplies enter not from the sea but from China via road and rail. The entire history of deep interdiction of supply routes, from World War II to the present, demonstrates its ineffectuality. At most, therefore, Mr. Nixon's orders would simply tend to move Soviet supplies back to the trans-China route and shift the balance of influence in Hanoi a little more toward Peking.
>
> This semi-blockade policy is both spurious and impractical; and it is difficult to understand how the President and his advisers, given the history of the war, can genuinely believe in it either. But to explain it, as the President did in his television address Monday night, as a means of protecting the American troops still remaining in Vietnam strains credulity to the breaking point. In fact, it is painfully obvious that Mr. Nixon's escalation of the conflict, including the stepped-up bombing of the North in reprisal for the Northern successes in the South, only increases the peril of American ground troops in Vietnam while obviously raising with every air raid the potential number of American prisoners held by Hanoi.
>
> The President's risky action Monday evidently signals a decision to intensify and enlarge American military involvement in the war from sea and air, with all the attendant risks accompanying such escalation. The President is in fact leading the country down precisely the road—though by different means—that President Johnson did in 1965. The difference is that President Nixon has the benefit of these last seven years' experience. Yet, like the Bourbons, he seems to have forgotten nothing and learned nothing.
>
> Even the peace offer included in Mr. Nixon's speech has a specious ring to it. He tells Hanoi that if it agrees to an internationally supervised cease-fire and returns the American prisoners, the United States "will stop all acts of force throughout Indochina" and will be out of Vietnam "within four months." On the face of it, this sounds as though Mr. Nixon were at last cutting all ties with the Saigon Government, for there is no mention of any political condition whatsoever. But given Hanoi's present military successes there is little incentive to North Vietnam to accept a cease-fire now; and while

Mr. Nixon specifically promises American withdrawal from Vietnam within a short period, he does not promise withdrawal from the neighboring states, leaving the implied threat of American force and American power still hanging over the peninsula.

By his rash and precipitate action, President Nixon is not only risking military confrontation with the Soviet Union over an issue that is not and never has been vital to the security interests of the United States; he is also risking the almost equally dangerous collapse of the painfully built progress toward a genuine diplomatic détente, as it is already taking form in the SALT agreements and would surely be further advanced by the now-threatened Moscow summit conference.

By his action, President Nixon is also inviting Soviet retaliation, if not in East Asia, then in other sensitive parts of the globe. By his action, he is unwittingly encouraging the Soviet hawks. By his action, he is incurring the possible speedy dissolution of the thin and delicate relationship just painfully constructed with Peking. By his action as well as his rhetoric, he has dug the United States deeper into the hole from which it had for four years been trying to extricate itself in Indochina.

And by his action he has clearly defied the Congress if not the Constitution. This may turn out to be the most dangerous of all the ominous aspects of Mr. Nixon's present course. The Congress of the United States last year resolved that it was "the policy of the United States to terminate at the earliest possible date all military operations of the United States in Indochina. . . ." Mr. Nixon said at the time that the resolution was "without binding force or effect and it does not reflect my judgment about the way in which the war should be brought to a conclusion."

But now Mr. Nixon has in effect defied the expressed will of the Congress by replying to North Vietnamese escalation with more escalation—an old, familiar and demonstrably useless course of action. His dangerous and unnecessary resort to semi-blockade and massive bombing in a futile search for military victory in an undeclared war repudiated by a large section of the American people can only weaken the country internally and discredit it abroad.

The only recourse now is in the hands of Congress. It still has the Constitutional power to curb and control the Executive. While it is an extremely distasteful action, under the circumstances Congress still can regain it along the general lines of the Church-Case amendment in the Senate. It can shut off funds for all further military operations after return of the prisoners and after a certain date, either in Indochina as a whole or, as a more limited restraint, above the North Vietnam panhandle.

Mr. Nixon is pushing the country very near to a Constitutional crisis; Congress can yet save the President from himself and the nation from disaster.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?'

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

ROBERT G. LINDSAY—1896–1972

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. MURPHY of New York. Mr. Speaker, early on Sunday morning, May 7, 1972, Councilman Robert G. Lindsay of Staten Island, N.Y., passed away at St. Vincent's Medical Center. He is mourned by thousands of Staten Islanders and New Yorkers, and his extraordinary career spans more than 52 years in local government—52 years in which Bob Lindsay set an example of responsible political involvement and leadership.

In a front-page story on Monday morning, written by S. S. McSheehy, the Staten Island Advance related the story of Bob Lindsay, and I include it for the RECORD. It describes his early career and his first entry into politics, and it is evident throughout that Bob was first and foremost a champion of the people he served and represented.

Of the many tributes that may be rendered to a man on his passing, it seems to me that none is greater than the expression that "he will be missed."

Bob Lindsay will be missed. The article follows:

COUNCILMAN ROBERT LINDSAY DIES AT 76

(By S. S. McSheehy)

Councilman Robert G. Lindsay, whose service to Staten Island spanned more than half of a century, died early yesterday in St. Vincent's Medical Center, where he had been a patient for the past two months. He was 76 and lived at 1346 Victory Blvd., Sunnyside, although he was a longtime South Shore resident.

Mr. Lindsay had been ill with cancer for the past year, but death was attributed to a heart ailment.

Mr. Lindsay's 52 years of participation in politics taught him one thing: Once you are in office, keep active, be accessible to the public and keep alert.

While this pattern may have led to his illness, it showed Staten Island that the man who was publicly and privately behind the Democratic machine was not just in City Hall to satisfy his own ambitions and fill a gap.

No sooner did Mr. Lindsay walk into City Hall in 1964 than he sized up the situation, met his fellow Council members and formed alliances and established roots with the "in-group." He found a place for himself with the powerful Majority Leader Eric J. Treulich of Queens.

Before the new 37-man Council was a week old, Councilman Lindsay, with the robes of party boss in the closet at home in Eltingville, pushed resolutions to sell Staten Island as a site for an electronics research center, to clean up the waterfront, and to solve the school problems.

For Manhattan-born Robert G. Lindsay, Staten Island was everything. On the Island he was known to all as "Bob" Lindsay, political boss, boxing enthusiast, campaigner, charity worker and astute businessman.

During the 1920s and 1930s, a number of organizations that he belonged to—the Elks, the Knights of Columbus and Democratic clubs—honored him with dinners, "Bob Lindsay Nights" and dances. Hundreds paid him tribute.

Mr. Lindsay came to Staten Island when he was 14 years old. He worked in the old Terra Marine Inn in Huguenot and learned the hotel management business.

In later years he bought the old Collins Hotel at the foot of Nelson Ave. near the Great Kills waterfront. It became Lindsay's Hotel, a meeting place, a popular place. It was torn down in 1937.

But during those years, Mr. Lindsay was active in the Richmond Boxing Club, an organization he founded; the South Shore Protective Association; Richmond Memorial Hospital, and, of course, the management of the Democratic Party.

In 1920 he founded the South Shore Democratic Club, which passed out of activity during the war years. It was revived in 1963 with Lindsay as honorary president. It was a sign that the Lindsay of the '20s was still active, vibrant and respected.

Mr. Lindsay was always considered somewhat of a maverick. In 1930, while secretary to Park Commissioner John J. O'Rourke, he was forced to resign. A champion of the South Shore, he publicly criticized the park boss for leasing two public facilities.

But his independence did not harm him. A year later he was named secretary to Borough President John A. Lynch and two years after that led Lynch's campaign. But after a falling out with the Lynch organization, Mr. Lindsay joined the faction led by former Judge William T. Fetherston.

It was Judge Fetherston, who, in 1934, recommended him for chief deputy U.S. marshal in the Eastern District. The next year Marshal Lindsay led the Fetherston campaign in a colorful, but bitter party primary.

His days as a marshal found him chasing bootleggers, smugglers, counterfeiters and others who violated federal laws.

In 1937 he was interim marshal for the district and when his interim post ended he was cited for "conducting the office in the best manner in history."

In the late 1930s his attempt at getting the party's nomination for sheriff failed. And for the next 15 years or so, Mr. Lindsay devoted most of his time to his shellfish and seafood business.

NEVER LEFT PARTY

Mr. Lindsay never 'left the party." He could not be found in the foreground, but was deeply and firmly entrenched in the foundation.

It was 1955 before he made steps to get up front again. That year he led the Boro-Wide Democratic Committee of Staten Island to unseat County Chairman Jeremiah A. Sullivan.

He then took to campaigning for others. President Kennedy, Mayor Wagner, Borough President Maniscalco, Surrogate Frank D. Paulo were boosted by Mr. Lindsay. And in 1961 it was his turn.

Gathering Island-wide support to his South Shore stronghold, Mr. Lindsay swung the party to his side and by mid-1961 he was assured victory. That September, without a sign of dissent, he took over the reins from former Judge Joseph A. McKinney.

In 1963 hardened campaigner turned to a campaign for Robert G. Lindsay. With opposition within the party growing, Mr. Lindsay remained calm and confident. He won the nomination for councilman-at-large, edging out Thomas J. Russo, a West Brighton lawyer, in the primary.

LEADS CANDIDATES

And that November, at the age of 69, Robert G. Lindsay, with no intra-party opposition, led four candidates in votes to become the first Democratic councilman-at-large under the new City Charter.

The next few years continued to be stormy for the veteran Democrat as intraparty warfare again emerged. In 1966, an insurgent group, formed largely of people previously associated with the regular organization, challenged his leadership by running a candidate against him for the post of state committeeman from the old 58th Assembly District.

In the primary election, Mr. Lindsay was defeated by Thomas R. Sullivan, former chief assistant district attorney and son of a former county chairman. It was a close contest, Sullivan taking it by 170 votes.

The move was viewed at the time as the prelude to a big push to unseat Mr. Lindsay as leader the next year. But in 1967, Sullivan dropped out of the picture, seriously weakening the insurgent forces.

TWO OPPONENTS

James Regan, a South Shore zone leader who had defected from the organization ranks on the basis of his opposition to the endorsement in 1966 of two Republican judges, tried to pick up the pieces.

The opposition to the leader was splintered when Russo, who had been defeated by Mr. Lindsay in the councilmanic primary two years earlier, also entered the race for chairman.

However, the party's public officials rallied behind Mr. Lindsay and at the county convention, Regan, realizing that he didn't have the votes, withdrew from the race. Russo remained in it and was soundly defeated by the incumbent.

Turning his attention to duties in the Council once more, Mr. Lindsay adopted two goals. One was the location of a botanical garden on Staten Island, and for this he obtained the support of Island garden clubs. He eventually succeeded in getting the Park Department to go along with the idea and a committee was formed to select a site.

The other pet project, having less chance of success, was to have the five-cent ferry fare dropped. He contended that the ferry should be free of charge.

In 1969, Mr. Lindsay again was faced with a primary for renomination as councilman at large. This time he was challenged by Assistant District Attorney Jerome M. Neuberger, now vice chairman of the County Committee, and John L. Soldini, a teacher and one of the leaders of the Staten Island Democratic Association.

This time he won easily, drawing 10,755 votes, about 2,500 more than the combined total of his two opponents.

In November, he was reelected in the general election, finishing second to the Republican candidate, Dr. Frank J. Biondolillo. The two top vote-getters from each borough are elected councilmen at large.

In July of 1971, Mr. Lindsay, then a veteran of 50 years of the County Committee, announced that he would not seek another term as leader. He would call it quits after 10 years at the helm of the Democratic County Committee, about eight years longer than most political observers thought he would hold power back in 1961.

He retained his post as councilman, however, until his death.

Mr. Lindsay's wife, Mrs. Katherine L. Lindsay, died in 1965. His son, Robert A. Lindsay, died last October.

Mr. Lindsay is survived by a sister, Mrs. Margaret Allen of Victory Blvd., Sunnyside, and a grandson.

The funeral will be Wednesday from the Oberg-Bedell Funeral Home, Great Kills, with a mass at 10 a.m. in Our Lady Star of the Sea R.C. Church, Huguenot. Burial will be in Ocean View Cemetery.

PRESIDENT'S COMMISSION ON POPULATION GROWTH

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. HOGAN. Mr. Speaker, across the Nation defenders of the rights of the unborn were shocked and dismayed by the recommendations of the report of the President's Commission on Population Growth. After President Nixon had firmly stated that he opposed abortion as a form of population control, the Commission proceeded to advocate abortion on demand.

As an example of how liberalized abortion might proceed in the United States, the Commission proposed abortion laws similar to those in New York. In a logical and sensitive article in the National Review Bulletin, M. Stanton Evans presents the shocking facts of New York's experience since abortion statutes have been eased. Mr. Speaker, I now insert that article into the RECORD:

ABORTION ON DEMAND

The report of the President's Commission on Population Growth is a high-water mark in the current campaign for a national policy of abortion-on-demand.

With remarkable glibness, the majority findings on abortion raise and dismiss the rights of the unborn child, subordinating these to standard abortionist arguments about "the freedom of women to control their own fertility, and . . . freedom from the burdens of unwanted child-bearing." There is no discussion of any freedom of the child in embryo whose life is destroyed, and no reference to the considerable medical evidence that genetically separate life in fact begins with conception. The majority attitude is strictly that of extinguishing life for purposes of social convenience.

The Commission report is a *compote* of liberal demographic attitudes—the exceptions being minority opinions from Vice Chairman Grave Olivarez, Dr. Paul B. Cornely of Howard University, and Rep. John N. Erlenborn (R., Ill.). It is noteworthy that this attack on life should proceed from the liberal-left sector of the political community, the same sector that in other matters has much to say about the value of life and the horrors of taking life through capital punishment and war. This discrepancy is pointed out, to his credit, by Sen. Alan Cranston (D., Calif.), a member of the Commission.

Where abortion is concerned, the life-lovers of the Left turn stonily indifferent. They oppose extinguishing a guilty life in an effort to combat crime, but are more than willing to extinguish innocent lives in an effort at massive social engineering. Asserted concern for the victims of rape, for example, is one of the major emotional ploys of the abortionists. Yet they oppose the use of the death penalty to punish or deter the guilty rapist. They are more than ready to impose a sentence of death on the innocent child who is a product of the act.

The model proposed by the Commission for national edification is the abortion statute adopted two years ago by New York—the alleged showcase of good results under liberalized abortion. It is therefore instructive to see what has happened there under the newly enacted rule of abortion-on-demand. In the first place, we may observe the massive scale on which these abortions have occurred. Between July 1, 1970 and December 31, 1971, no less than 278,122 legal abortions were performed in New York City hospitals and clinics. This is a death toll approximately six times the number of all American lives lost in battle in Vietnam (45,679, as of April 1).

The abortionists, of course, contend that what they are extinguishing is not life, but merely potential life, and that up to some indeterminate point the fetus is not a human person but a thing, and therefore expendable. The standard chosen in New York is the 24th week of pregnancy, and according to the *Wall Street Journal* the thing-hood of the fetus is underscored by using technical terms to describe it—such as "product of conception" rather than "baby." This language is intended to convey "maximum meaning with minimum emotional overtones." Unfortunately for this antiseptic approach, some of the aborted babies are born alive.

Dr. Jean Pakter of New York City's Bureau of Maternity Services said that under the new law more than sixty aborted fetuses have been born showing signs of life. Of these almost all subsequently died; one is living with its parents, and another is hospitalized. Again, for purposes of comparison, this number of live abortions followed by death in New York City alone exceeds the total number of deaths inflicted nationally by capital punishment in any year of the last twelve—the high such number being 56 in 1960. Since 1967, of course, there have beeen no executions at all in the United States. Under the new dispensation, it is wrong to kill convicted murderers but right to kill innocent babies.

Other aspects of New York's abortion experience, ignored by the Commission, are worthy of comment. The majority faithfully repeats the conventional abortionist doctrine—that the poor, black, etc. will be the principal beneficiaries of abortion-on-demand, since the well-to-do can already obtain abortions when they want them. By liberalizing the statutes, we can insure that everyone has equal access to this supposed benefit. The New York record deflates such arguments. The massive death rate, for one thing, indicates that permissive abortion is not being used to deal with statistically insignificant pregnancies involving rape and deformity, but is being employed instead to snuff out lives which are merely inconvenient to their parents.

Moreover, as pointed out last year by *Triumph* Magazine, some 55.5% of the New York abortions have been performed on women from out of state—indicating that people of means have simply traveled to New York to obtain a legal abortion. In the matter of allegedly "helping" blacks, we may add the fact that 74% of the women who had the abortions were white. Also worth citing is the fact that some New York doctors and clinics are making fortunes from the abortion trade. Dr. Byron Gordon of New York Medical College says a "large number" of doctors are making an extra $100,000 to $130,000 a year from abortions, and one doctor made $148,975 for abortions referred to him during a six-week period.

Dr. Gordon is quoted: "You wake up in a cold sweat and say, 'What are you doing? Drop everything and do abortions for two years—and then play around for the rest of your life.'" Somehow, it doesn't sound as if the poor and downtrodden are the real beneficiaries.

SICKNESS IN THE FOURTH ESTATE

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. WYMAN. Mr. Speaker, occasionally the media complains that the Vice President is too tough in his complaint that there is unfairness in reporting or commenting on the doings of the Nixon-AGNEW administration. Yet yesterday's Washington Star contains a column by a member of the fourth estate that illustrates better than anything recently available how hysterically paranoiac has become some of the writing of the anti-Nixon columnists.

Tom Wicker has likened President Nixon to an "American Emperor" crazed with power, undependable, unreachable, and inferentially unfathomable to such as Wicker. Wicker wrote:

> Richard Nixon need not be psychoanalyzed or even mistrusted in order to perceive that mistrust was well founded, etc.

The implication is that somehow the President might throw some "nukes" and incinerate the world.

Mr. Speaker, we have never been more fortunate than to have such a man as Richard Nixon as our American President in these critical days and hours. President Nixon has waited beyond the limitations of reasonable patience to take the long overdue step of acting to cut off supplies to a Communist enemy engaged in an outright invasion by force of arms and endangering thousands of Americans sent there, not by Nixon but by his Democratic predecessor.

Let us be thankful that we have the best trained, best informed, most experienced professionally qualified man in the Presidency that the United States has ever had in all its history. And I for one resent deeply the rantings of a vindictive and myopic columnist suggesting to the minds of thousands that somehow our President is a Caesar or a Nero for doing what it takes to get the Vietnam war over with at long last with honor and with the return of our prisoners.

Wicker's column should be read with care to see in print just how vicious and distorted a columnist can designedly become:

AN AMERICAN EMPEROR DECIDES

(By Tom Wicker)

NEW YORK.—"No one knows," said the headline in the New York Times, "what he might do." And indeed, no one, including Secretary of State William Rogers, summoned home from Europe for a National Security Council meeting, could know what President Nixon might decide upon as antidote in the current crisis in Vietnam.

The press had described admiringly the range of explosive options open to him; members of his administration had been hinting darkly of the terrible vengeance this unchecked Caesar might choose to wreak upon something abstract known only as "Hanoi" or "the enemy;" but the decision to mine North Vietnamese harbors was Richard Nixon's and Richard Nixon's alone.

And when Nixon in his majesty chose to speak to the American people last night about his intentions in Southeast Asia, it was an act of noblesse oblige as well as an exercise in self-justification. Nothing in the law required him to confide in a single citizen; and although it was true that he spoke only after three hours of consultation with his primary national security associates, it is well-known that these officials more nearly ratify than form presidential judgments.

Has it come to this, then, that it lies within the sole province of one man, unlimited by law or opinion, whether elected by landslide or hair's breadth, to decide without let or hindrance how the military power of the United States shall be used even in a situation his own policies have done much to create? Is that what the Constitution means, when it says that the president shall be commander in chief of the armed forces?

As to the first question, there seems little doubt that the answer is yes. Just last year, for instance, Congress passed an amendment to the military procurement authorization which declared it to be the policy of the United States to bring to an end "at the earliest practicable date" all military operations in Indochina, subject only to the release of all American prisoners of war.

What was President Nixon's reply to that? Upon signing the measure on Nov. 17, he declared flatly that the amendment was "without binding force or effect and it does not reflect my judgment about the way in which the war should be brought to an end." It would not change his policies, he said, and in fact "legislative actions such as this hinder rather than assist in the search for a negotiated settlement."

Such high-handedness is not unique to Richard Nixon. The greatest of presidents, Abraham Lincoln, interpreted the presidential "war powers" so broadly that he repeatedly overrode both congressional wishes and military advice; and since his actions saved the union, history generally accounts him strong and wise for having done so. But Lincoln was literally waging war for national survival, in a situation in which there was no precedent and which does not provide a precedent for anything that has followed—least of all a deliberate act of presidential policy such as Vietnam.

Nixon, in contrast, now relies almost exclusively upon the commander in chief's power to protect the lives of American soldiers as constitutional justification for whatever he might choose to do in Southeast Asia; yet, it is arguable that American soldiers are in jeopardy primarily because Nixon's own policies have kept them in Vietnam. So the mere act of putting troops into a place, or keeping them there, which is in itself a presidential decision, becomes the presidential justification for any other presidential action he may choose to take.

Nixon has not, for example, resorted to the use of nuclear weapons in Southeast Asia; fortunately, there is no sensible military rationale for doing so. Nevertheless, mining the North Vietnamese harbors risks nuclear confrontation with the Soviet Union. This was not inevitable, but the President's choice. Sensible or not, he could order nuclear warfare tomorrow and no man could stop him, unless the military chose to revolt—hardly a desirable alternative.

Richard Nixon need not be psychoanalyzed or even mistrusted in order to perceive that that mistrust was well founded for as he went on the air last night, it was terrifying true that no one knew what the President would do, that no immediate means of influencing his judgment was at hand, that no real way existed to stop him from following some apocalyptic course.

He was in that moment as true an emperor as ever existed and scarcely more accountable; a people who wanted peace could still be given war at his dictate; and what good would it do to vote him out of office six months from now if the world were an ash, or "the enemy" had been obliterated in his honor?

REVOLUTIONARIES TO RENAME WASHINGTON MONUMENT "LUMUMBA SQUARE"

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. RARICK. Mr. Speaker, few Americans are ready to suffer further national indignity by having George Washington's Monument in our Nation's Capital renamed "Lumumba Square," even if only for 1 day, and especally under the auspices of revolutionaries. A major force behind this latest affront to the American people is said to be the Interreligious Foundation for Community Organization—IFCO—which is apparently in dire financial straits and feels that by exploiting the American people it can obtain publicity, fame, and wealth.

The IFCO is interrelated to IFCO—Action, one of the plaintiffs in Civil Action 773–72 in the U.S. District Court for the District of Columbia, in support of the Soviet chrome monopoly by seeking to stop importation of Rhodesian chrome, alleging that the law authorizing such importation is in violation of the United Nations Charter, which it seems to feel has replaced the U.S. Constitution.

This is the same Interreligious Foundation for Community Organization reported on pages 17–21 in the 1970 printed hearings of a subcommittee of the Internal Security Committee of the Senate, and entitled "Extent of Subversion in the 'New Left,'" testimony of Robert J. Thoms.

I insert in the RECORD the newsclippings and related documents, including the Senate internal security report and a partial description of the plaintiffs in the lawsuit:

[From the Washington Post, May 10, 1972]

AFRICAN LIBERATION DAY PLANS SET

(By Francis Giles)

The embassies of South Africa and Portugal and the Rhodesian Information Office will be focal points for the May 25 African Liberation Day marches here.

Owusu Sadaukai, chairman of the steering committee for the day's events is expecting about 10,000 demonstrators to show support for the small black guerrilla armies fighting for independence in colonialist southern Africa.

After speeches at the embassies, the marchers will rally at the Washington Monument, which have renamed Lumumba Square for the day after the Congolise President assassinated in 1961.

Imamu Baraka (Leroi Jones), poet and leader of Committee for a United NewArk Amilcar Cabral, leader of the liberation army in Guinea-Bissau; ———. ———), and Amy Jacques Garvey, widow of the Pan-Africanist Marcus Garvey, will be among the speakers that afternoon.

Demonstrations in observance of African Liberation Day are being held throughout the Western world as well as in Africa.

——— ———, ——— ———), Bobby Seale, chairman of the Black Panther Party and Angela Davis, will be among the speakers at the rally to be held in San Francisco.

Georgia state legislator Julian Bond and ———) will speak at the rally being held that day in Toronto.

Rallies set in Antigua, Dominica, Grenada, and Jamaica will feature local speakers and entertainers.

Members of the Congressional Black Caucus have announced plans for a strategy-oriented conference on May 25–26 at Howard University.

The two-day conference is being called to deal with the question of Africa. According to conference chairman ——— it will be a working session, setting priorities on critical African questions and devising legislative, judicial political, community and extra-legal techniques for achieving those priorities.

[From the sixth edition, Encyclopedia of Associations, Volume I, National Organizations of the United States]

INTERRELIGIOUS FOUNDATION FOR COMMUNITY ORGANIZATION

(475 Riverside Dr., Rm. 560, New York, N.Y. 10027, Reverend Lucius Walker, Jr., Exec. Dir. (IFCO), Phone: (212) 870–3151.)

Founded 1967—Members 23—Staff 10. Two representatives from each of 14 religious agencies and denominations in the field of community organization. Provides coordination for members, carries out research, offers information, and provides financial and technical assistance to community organization efforts. Member agencies work in more than 40 cities in the fields of political organization, housing, education, job training, legal aid, and advising in economic development.

Foundation will coordinate their efforts, particularly to help mobilize poor communities to play a greater role in solving their problems.

Committees: Communications; Financial Development; Planning and Strategy; Proposals Advisory; Training. Convention/Meeting: Annual, usually June.

EXTENT OF SUBVERSION IN THE "NEW LEFT"—TESTIMONY OF ROBERT J. THOMS

(Hearings before the Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws of the Committee on the Judiciary, U.S. Senate, 91st Congress, second session, Part 1, January 20, 1970.)

INTER-RELIGIOUS FOUNDATION FOR COMMUNITY ORGANIZATION—IFCO

IFCO is a tax-exempt, non-profit organization located at 211 East 43rd Street, New York, New York. A newsletter, published by IFCO, lists its address at 475 Riverside Drive, New York. This is the same address maintained by the NCC. IFCO is alleged to be an interdenominational organization, but available data indicates it is not restricted to religious organizations.

A membership requirement is a $1,000 minimum donation per year by each member organization. When IFCO was first incorporated, the membership included ten denominations, six of which were NCC member Communions:

American Baptist Home Mission Society—NCC member organization.

American Jewish Committee.

Board of Homeland Ministries, United Church of Christ—NCC member organization.

Board of Missions, Methodist Church—NCC member organization.

Board of National Missions, United Presbyterian Church U.S.A.—NCC member organization.

Catholic Committee for Urban Ministries.

Executive Council of the Episcopal Church—NCC member organization.

Foundation for Voluntary Service.

General Board of Christian Social Concerns, Methodist Church—NCC member organization.

National Catholic Conference for Interracial Justice.

Additional organizations have joined IFCO since the group incorporated. This includes organizations that, in the past, as non-members, received funds from IFCO. Membership entitles each organization to have two representatives on IFCO's Board of Directors to dictate future policy. The additional members are:

	Donation
Black Affairs Council of the Universalist Association	$1,000
California Center for Community Development	1,000
Catholic Committee for Urban Ministries	1,000
Disciples of Christ reconciliation program	1,000
Hope Development Inc., Houston, Texas	1,000
City Wide Citizens Action Committee, Detroit	1,000
Washington, D.C. Capital East Foundation	1,000
National Welfare Rights Organization	$1,000
Milwaukee Northcott Neighborhood House	1,000
Foundation for Community Development, Durham, N.C.	1,000

The following organizations received money from IFCO prior to becoming a member of the organization:

	Donation
National Welfare Rights Organizations	$1,000
City Wide Citizens Action Committee	1,000
Foundation for Community Development, Durham, N.C.	1,000
Capital East Foundation, Washington, D.C.	1,000

In 1966, when IFCO was incorporated, some of the directors and signers on the incorporation papers were identified as having previous NCC affiliation and others were presently affiliated. In 1966, IFCO's Board of Directors included twelve individuals of which eleven had NCC affiliation, either directly, or through their denominations.

Directors:

Harvey Everett—American Baptist Home Mission Society, NCC member organization.

Rev. Ray Schroder—American Baptist Home Mission Society, NCC member organization.

Henry B. Clark—Employed by NCC.

James A. McDaniel—United Presbyterian Church USA, NCC member organization.

D. Barry Menuez—Episcopal Church, NCC member organization.

Rev. Joseph Merchant—United Church of Christ, NCC member organization; and was the Director of the Division of Home Missions for NCC in 1954.

Leon E. Modeste—Episcopal Church, NCC member organization.

Rev. Gary Oaiki—United Church of Christ, NCC member organization.

Rev. Paul A. Stauffer—Methodist Church, NCC member organization.

Rev. George E. Todd—Presbyterian Church USA, NCC member organization.

Rabbi Marc Tanenbaum—American Jewish Committee.

Rev. George H. Woodward—Episcopal Church, NCC member organization.

Incorporation signers were:

Ray L. Schroeder—See above.

James A. McDaniel—See above.

Joseph W. Merchant—See above.

James Brewer.

Harold K. Schultz—NCC employee.

Key individuals in IFCO:

Louis Gothard—Presently, IFCO Assistant Director; was Los Angeles Community Alert Patrol Director.

Lorenzo Freeman—Presently, IFCO Assistant Director, in charge of project evaluation; was Assistant Director of the West Central Organization, Detroit, Mich. The West Central Organization employed Saul Alinsky in a consultant capacity, allegedly paying him $200 a day.

Joseph Merchant—Presently, IFCO Board of Directors; was incorporation signee.

Ray L. Schroeder—Presently, Board of Directors.

Chestyn Everett—Presently, IFCO Field Representative. He was listed in the space provided for husband, wife or guardian, on Ron Karenga's application for U.C.L.A., in December 1961.

Albert B. Cleage, Jr.—Presently, IFCO Board of Directors; was the director for the City Wide Citizens' Action Committee, in Detroit.

Organizations funded by IFCO—Donation

Operation Exodus, Boston, Mass ----- $5,000

Operation Exodus initiated a program to bus ghetto students to outlying schools. When initial funds were expended, the organization filed a suit against the school board. They are demanding the school board to continue the bussing program and assume the responsibility for its funding.

Camden, N.J. Christian Center ------ $2,000

Rev. Amos Johnson, Jr., the Center's director, is employed through the American Baptist Home Mission Society, IFCO member organization. Another organization, the Black People's Unity Movement, holds meetings at the Center. The Black People's Unity Movement has been involved in high school sit-ins, walk-outs, boycotts and general disruptive activities throughout the community. A confidential source states the Black People's Unity Movement is supposed to receive $57,000 from IFCO; however, no funds have been received as yet. Rev. Johnson is an officer of the Black People's Unity Movement.

Chester, Pa. Home Improvement Project ------------------------ $15,004

This organization was subsidized by the United Fund, until the money was withdrawn, due to the political involvement of the project.

Garfield Organization, Chicago, Ill-- $20,000

This organization is a militant, civil rights group. They were active in staging demonstrations against businesses, protesting the businesses selling over-priced and inferior products in the Negro community. Two officers of the organization, Frederick Andrews, the Executive Director, and Edward Crawford, the organizer, were arrested during the disturbance in Chicago, following the death of Martin Luther King, Jr. They are charged with arson, conspiracy to commit arson and burglary.

United Black Community Organizations, Cincinnati, Ohio----------- $44,000

This is a coalition of Negro organizations similar to the Los Angeles Black Congress. The director, Harold Hunt, is described as "the militant of all militants." This organization applies pressure to the establishment demanding additional benefits in welfare and better housing.

East Central Area Council, Columbus, Ohio----------------------- $21,065

This is an all-Negro organization. They have been involved in staging demonstrations, against the establishment. They have demanded changes in school policy and have protested alleged police brutality.

Force, Dayton, Ohio--------------- $26,000

This organization has participated in demonstrations demanding increased benefits for welfare recipients.

California Migrant Ministry-------- $54,000

This organization has involved themselves in the labor dispute between the migrant farm workers and the established farm owners in California. They exert pressure on the farmers in the grape industry, through boycotts, picketing and strikes. The NCC, IFCO, and the Council of Churches in Southern California have all endorsed the activities of the California Migrant Ministry.

City Wide Citizens Action Committee, Detroit, Mich--------------- $85,000

This is a militant organization led by the Rev. Albert Cleage, Jr. The Rev. Cleage embraces the philosophy that "Negro communities should band together for mutual defense and store food stuffs to prepare themselves for the coming invasion of Negro communities by the Whites." The Rev. Cleage sponsored a Black Power Convention at his church. Black Nationalists from throughout the United States, attended the convention, where initial plans for the Republic of New Africa were discussed. Also discussed, was the question of opening discussions with the

United States Government, for settlement of key questions and status under the Geneva Convention for black guerrillas that would swear allegiance to the new government.

West Central Organization, Detroit, Mich ---------- $7,000

The West Central Organization is a coalition similar to the Los Angeles Black Congress. It is described as very militant and has applied pressure against the establishment, demanding better welfare rights and housing. The past director, Lorenzo Freeman, presently an IFCO employee, received his training from Saul Alinsky.

Hope Development Inc., Houston, Tex ---------- $90,000

A militant organization, originally funded by a Federal Grant. They were involved in fund-raising activities which bordered on extortion. The method used was to mail letters to approximately five hundred local business owners. The letters solicited donations, explaining "the firms take funds from the black community work." The letter stated that HOPE represented the black community; therefore, the funds should be returned to them. The businesses were assessed specific amounts from $25 to $500. In some instances, where donations were refused, the businesses were picketed. The matter was investigated by the McClellan Committee; however, no criminal charges were filed.

Community Improvement Alliance, Jersey City, N.J ---------- $64,341

This organization was sponsored and originally financed by the Jersey City Council of Churches, the Community Improvement Alliance and the Black Panther Party share the same headquarters. The Board of Trustees for the Community Improvement Alliance are:

David Bell who is also the finance officer for the Jersey City Black Panther Party.

Beatric Waiss is also one of the most outspoken members of the Jersey City Congress of Racial Equality.

Robert Castle, Jr. has been directly, or indirectly, involved in every major demonstration involving militants and the police in Jersey City, since 1963. A confidential source states that Black Panther Party members are trained in guerrilla warfare at Castle's farm. This farm is in his wife's name.

Joseph Cypress is active in the Black Panther Party and teaches the members Karate.

National Campaign for Political Education, Newark, N.J ---------- $10,000

No record of this organization could be located as being an incorporated organization.

Newark, N.J., Area Planning Association ---------- $2,000

This organization protested the erection of a medical and dental center, stating it was unfair to relocate approximately seven hundred families. Demands were also made on construction companies and labor unions to have one-half of the apprentice and one-third of the journeymen jobs on the medical center filled by non-whites. The director, Junius W. Williams, shared his residence in Newark with Phillip Hutchings, who is a successor to H. Rap Brown, as the director of the Student Non-Violent Coordinating Committee.

Liberty City Community Council, Miami, Fla ---------- $5,000

This is described as a quasi militant organization. The organization attempts to promote trouble or make an issue of police action in their area and they were active in the 1968 racial disturbances.

Farm Labor Organizing Committee, Ottawa, Ohio ---------- $1,000

This is the Ohio counterpart of the California Migrant Ministry. They work through the AFL-CIO and are attempting to organize migrant farm laborers.

Suburban Action Centers, Philadelphia, Pa ---------- $19,000

This organization states its purpose was to "unracist the society." The organization opposed anti-riot legislation, calling it racist and repressive. This position appears to have caused dissention in the community, and according to the director, the organization has lost its effectiveness. He stated, "We learned that confrontation doesn't work without power."

Combat, Steubenville, Ohio ---------- $16,000

This is a Saul Alinsky oriented organization. They participate in demonstrations and civil rights marches, demanding additional welfare benefits. They are aligned with two left-wing organizations, the Communist Action Training Center and the Young Socialist Alliance.

National Welfare Rights Organization, Washington, D.C ---------- $106,212

This is a nation-wide militant welfare organization. Their goals are additional welfare benefits and a guaranteed annual income. They participate in mass marches and civil rights demonstrations.

LOS ANGELES BLACK CONGRESS

IFCO and other participating groups allotted $35,000 to train community organizers. The program would entail four new concepts of community organization:

Teaching basic elements of community organization through an intensive, controlled process within a short period of time.

Forming a network of neighborhood community groups within a political unit, in this case, the state of Ohio.

Wedding community organization skills and techniques to the black movement for identity and self determination.

Training allied groups of white people in the basics of massive community organizations and the methods by which they can support the black community.

Walter Bremond and Ron Karenga will be responsible for training the community organizers.

The following organizations have received grants from IFCO; however, information concerning their activities is not available at this time.

Southwest Georgia Project, Albany, Ga	$5,000
Foundation for Community Development, Durham, N.C	189,742
Poor People's Corporation, Jackson, Miss	1,000
Deep South Education and Research Project, New Orleans	10,000
Afro-American Black People's Federation, Peoria, Ill	3,000
National Communications Network, New York	8,117
Virginia Community Development Organization, Richmond	2,000
Organization of Organizations, Syracuse, N.Y	5,000
Capital East Foundation, Washington, D.C	67,250

The total funds dispersed by IFCO, as covered in this report, amount to $885,831. Of this total, $774,000 was granted to organizations involved in militant, political or labor activities. The remaining may have been used for the same purposes; however, no information is available concerning the activities of these organizations.

The National Black Economic Development Conference ---------- $50,000

IFCO supplied funds and personnel for the conference. It was at this conference that the Black Manifesto was drafted and approved. This manifesto is the document presented to the churches throughout the United States by James Forman and other members of S.N.C.C. demanding $500,000,000 from what he terms "Christian Churches, Synagogues and all other racist institutions" in the U.S.A. A steering committee to implement the demands was proposed and included members of S.N.C.C., Black Panther Party and various other militant organizations.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA—CIVIL ACTION

American Committee on Africa, 164 Madison Avenue, New York, N.Y. 10002, (212) 532–3700; Council for Christian Social Action of the United Church of Christ, 815 Second Avenue, New York, N.Y. 10017, (212) 682–3950; Episcopal Churchmen for South Africa, 14 West 11th Street, New York, N.Y. 10011, (212) 477–0066; IFCO–ACTION, 907 Maryland Avenue, N.E., Washington, D.C. 20003; Southern Africa Committee, 637 West 125th Street, New York, N.Y. 10027, (212) 866–9003; Southern Christian Leadership Conference, 334 Auburn Avenue, Atlanta, Ga. 30303, (404) 522–1420; Zimbabwe African National Union, 310 Parnassus, San Francisco, Calif. 94117, (415) 566–3460; Thomas M. Franck, Edward Weisband, Bert Lockwood, Shirley Fenchel, Joel Carlson, Robert Goldschmidt, Robert Janosik, Nigel Rodley, Diane Flaherty, Antione Van Dongen, as concerned individuals, 6 Washington Square North, New York, N.Y. 10003, (212) 598–2164, Plaintiffs, Versus John B. Connally, as Secretary of the Treasury of the United States, Department of the Treasury, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220, (202) 393–6400; Stanley L. Sommerfield, as Acting Director of the Office of Foreign Assets, Department of the Treasury, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20220, (202) 393–6400; Myles J. Ambrose, as Commissioner of the Bureau of Customs, Department of the Treasury, 2100 K Street, N.W., Washington, D.C. 20226, (202) 964–8195; Foote Mineral Company, Route 100, Exton, Pa., Enterprise-6482; and Union Carbide Corporation, 777 14th Street, N.W., Washington, D.C. (202) 393–7755, Defendants.

COMPLAINT

1. This is an action in which plaintiffs seek:

(a) preliminary and permanent injunctive relief to prevent the importation from Southern Rhodesia of metallurgical chromite and other materials, the importation of which is barred by Resolutions adopted by the United Nations Security Council (232 of December 16, 1966; 253 of May 29, 1968; 314 of February 28, 1972) and further implemented by Executive Orders issued by the President of the United States pursuant to 22 U.S.C. 278c, No. 11322 of January 5, 1967, and No. 11419 of July 29, 1968;

(b) a preliminary and permanent mandatory order directing government officials having authority to seize and impound goods imported into the United States in violation of law, to proceed forthwith to impound metallurgical chromite and other materials which may have been imported into the United States in violation of the foregoing Security Council Resolutions and Executive Orders; and

(c) a declaratory judgment that the General License issued by the Office of Foreign Assets Control of the United States Treasury Department on January 25, 1972 (37 Fed. Reg. 1108) authorizing imports of metallurgical chromite and other materials from Southern Rhodesia is null and void, and is not authorized by the so-called Byrd Amendment (Section 503 Military Procurement Act of 1971, P.L. 92-156); and/or that the Byrd Amendment if construed to authorize the General License is itself null and void.

PARTIES

Plaintiffs

2. (a) *****

Their interests in this litigation are as follows:

(i) The importation of metallurgical chromite and other materials from Southern Rhodesia in violation of the United Nations Security Council Resolutions and Executive Orders issued by the President of the United States contradicts the solemn commitment of the United States to the United Nations as a system for maintaining world peace; and violates the treaties and laws of the United States embodying such commitment;

(ii) ————, these plaintiffs are aggrieved in that the importation of embargoed materials from Southern Rhodesia constitutes a violation of international and domestic law and order, and undermines this nation's commitment to support the United Nations in its fostering the self-determination of colonialized peoples;

(iii) In particular, ————, plaintiffs are further aggrieved by the violation of an embargo which was designed to benefit the subjugated Black majority of Southern Rhodesia. These plaintiffs have organized for the purpose of expressing their serious concern and the concerns of the Black people generally in respect to the policies of this nation both domestically and in foreign affairs as affects the efforts of Black people throughout the world to achieve freedom from subjugation. They have from the beginning of their organization exhibited a special interest in this nation joining in actions of the United Nations to support the efforts of Black people in Africa to free themselves from domination by minority colonial rulers.

(b) Plaintiff American Committee on Africa, (ACOA), is a non-profit organization incorporated in the State of New York. The National Committee of ACOA includes many persons of prominence in the United States, including past and present members of Congress. Its interests in this litigation are as follows:

(i) During the nineteen years of its existence, the ACOA has been the principal organization concerned with unearthing and resisting American participation in the perpetuation of colonialism and racism in Africa, as well as a major coordinator of other groups of like interest.

(ii) It has continuously professed a dedication to upholding international law and justice as they apply to Africa, particularly Southern Africa, and it represents the interest of those Americans who share this goal. It has a special interest in the actions of this nation in respect to the Rhodesian sanction resolution of the United Nations since that is the major issue upon which there is being tested the commitment of the United Nations and of this nation to the efforts of the Black people of Africa to free themselves from subjugation.

(c) Plaintiff Council For Christian Social Action, (CCSA), of the United Church of Christ is the instrumentality established by the United Church of Christ "To study the content of the Gospel in its bearing on man and society, provide and publish information and literature on social issues, cooperate with instrumentalities of the United Church of Christ and with other appropriate bodies in making the implications of one Gospel effective in society, and formulate and promote a program of social education and action for the United Church of Christ" (Paragraph 78, The Constitution of the United Church of Christ.) The membership of the United Church of Christ amounts to approximately 2.2 million people. Its interests in this litigation are as follows:

(i) One of the specific concerns of the CCSA has been the continuation of the immoral and illegal racist minority rule in Southern Africa.

(ii) CCSA has been particularly concerned with any aspects of United States governmental or corporate policy which strengthens such activity violative of international and natural law and the teachings of the Gospel. CCSA is committed to oppose such acts, and considers itself required to do so. CCSA considers that any violation by the United States of sanctions imposed by the Security Council in respect to Southern Rhodesia is directly supportive of illegal racist minority rule in Southern Africa.

(d) Plaintiff Episcopal Churchmen For South Africa, (ECSA), is a non-profit organization incorporated under the laws of the State of New York. Its membership consists of Episcopal laity who serve, by their words and acts, to maintain communication between Southern African and American churches, and to gain support for the Church of South Africa in its fight against apartheid. Its interest in this litigation is as follows:

ECSA, in supporting the struggle against racism in Southern Africa, has consistently declared its opposition to enforced separation of the races as being contrary to the will of God and the nature of His Church. ECSA is equally determined to oppose action taken by the United States which would serve to support racism in Southern Africa. The seizure of power by the white minority in Southern Rhodesia and their subjugation of the Black majority is in the view of ECSA one of the most important manifestations of racism in Southern Africa, and the action of the Security Council in imposing mandatory sanctions was an important world-wide commitment to oppose racism in Southern Africa. ECSA is especially concerned with any action of the United States to undermine that commitment.

(e) Plaintiff IFCO-Action is an unincorporated association related to, but independent of, the Interreligious Foundation for Community Organization, Inc., (IFCO), an ecumenical agency established to support minority communities. IFCO-Action, when established in March 1972, stated its purpose to oppose all legislation and public and private policies which were discriminatory. IFCO-Action, as related to IFCO, is supported by approximately thirteen national church agencies. Its interests in this litigation are as follows:

(i) IFCO-Action has declared its outrage at the Government's continued support of apartheid and white colonialism in Southern Africa, which support constitutes racial discrimination.

(ii) IFCO-Action regards the importation of materials from South Rhodesia by the United States as support by the United States of a racist minority stranglehold on Southern Africa, and a denial of liberation to Black Africans.

(f) Plaintiff Southern Africa Committee, (SAC), is an organization originally established in 1964 for the purpose of addressing itself to the problems of apartheid in the Republic of South Africa. Its membership includes expatriate Southern Africans and Americans who have worked in Southern Africa. Leaders of the SAC have appeared before the United Nations Special Committee on Apartheid, with which they maintain close contact, and the House Subcommittee on African Affairs of the United States House of Representatives. Its interests in this litigation are as follows:

(i) SAC has expanded its activities to include action aimed at changing all United States involvement in Southern Africa which encourages racism and colonialism and seeks to defeat self-determination.

(ii) SAC has also directed campaigns against American firms which do business in Southern Africa and thereby give support to the racist regimes therein to the detriment of its people.

(g) Plaintiff Southern Christian Leadership Conference (SCLC) is an organization of Black ministers and others, originally under the leadership of the Rev. Dr. Martin Luther King, Jr., and presently under that of the Rev. Ralph Abernethy, which has expressed a commitment to justice, social change, and a moral obligation to act in opposition to injustice. The SCLC has actively pursued these commitments in an effort to achieve freedom and equality for Blacks and other minorities in the United States. The SCLC's interest in this case is embodied in its unwavering conviction that the policies and acts of the United States Government toward the Black exploited majorities in Southern Africa is directly related to the struggle of Blacks in America to achieve full equality before the law.

(h) Plaintiff Zimbabwe African National Union (ZANU) is an organization which maintains offices in a number of countries including the United States, and which represents the oppressed Black majority in Southern Rhodesia (Zimbabwe). Its membership consists of Black Rhodesians, some of whom reside in the United States. They are refugees who would be subject to arrest upon their return to their homeland simply because ZANU has been summarily outlawed in Southern Rhodesia. Many of ZANU's leaders are in jail or under detention in Southern Rhodesia. ZANU is recognized and supported by the Organization of African Unity, an intergovernmental organization of African States. ZANU is interested in the instant case in that it contends that a circumventing by the United States of the international economic sanctions against the illegal Rhodesian regime supports an indefinite prolongation of the state of servitude imposed upon its people by the ruling white minority.

(i) Plaintiffs Thomas M. Franck, Director; Edward Weisband, Associate Director; Bert B. Lockwood, Jr., Assistant Director; Shelley Fenchel, Assistant Director; Joel Carlson, Senior Fellow; Robert Goldschmidt, Junior Fellow; Robert Janosik, Junior Fellow; Nigel Rodley, Research Fellow; Diane Flaherty, Junior Fellow; and Antoine van Dongen, Junior Fellow, are administrators and scholars of the Center for International Studies at New York University, 6 Washington Square North, New York, New York 10003. They sue in their individual and not their institutional capacities. They are concerned educators and scholars deeply committed to the promotion of human rights through a system of international law and order. Plaintiffs' interest in this case is as follows:

The importation of chrome and other materials from Southern Rhodesia in violation of United Nations Security Council Resolutions and Executive Orders issued by the President of the United States contravenes the solemn commitment of the United States to the United Nations as a system for maintaining world peace, and also contravenes treaty and domestic legal obligations of the United States. These violations are directly counter to the policies plaintiffs are attempting to promote.

[From the New York Times, Mar. 19, 1972]

BLACK ACTION UNIT TAKES AIM AT BIAS

(By George Dugan)

The Interreligious Foundation for Community Organization, a black-controlled funding group supported by 13 national church agencies, yesterday announced the establishment of IFCO–Action, an independent association pledged to opposing all legislation and public and private policies it deems discriminatory.

IFCO–Action will not be tax exempt. It will attempt to influence government, "politicize" the American people and take "other direct actions."

Because of its status, IFCO–Action will

not be eligible for foundation support, but will seek small, non-tax-exempt donations.

The parent organization has allocated more than $4-million to aid about 150 minority organizations in the United States.

The formation of the new group was announced by IFCO's director, the Rev. Lucius Walker, Jr., at a news conference at the Interchurch Center, Riverside Drive and 120th Street.

APARTHEID "SUPPORT" SCORED

Mr. Walker said IFCO had become "outraged at our Government's continued blatant and deliberate support of apartheid, mass murder and white colonialism in southern Africa."

The IFCO director introduced to the news conference Owusu Sadaukai, the head of the Malcolm X Liberation University, who will be responsible for IFCO–Action's programs and projects. The new group's headquarters will be at 907 Maryland Avenue, N.E., Washington, D.C.

Mr. Sadaukai said IFCO–Action's first task would be to protest shipments of chrome ore from Rhodesia to the United States.

The purpose of the protest is to stop renewed trade with Rhodesia.

Last fall, Congress passed and President Nixon signed a measure that bypassed a portion of the United Nations' 1968 trade sanctions against that nation.

Mr. Sadaukai said the new association would also call upon black and white church leadership to use stockholdings, "moral suasion and power of the ballot to end United States corporate and Government complicity in further genocide."

He also charged that more than 350 American corporations were involved in efforts to strengthen the white economy in South Africa.

"These companies must be made aware that their continued complicity will not be ignored by black people and they will face increasing pressure and action to force a change in their exploitative policies," he said.

[From the Washington Post, Dec. 19, 1970]

INTERRELIGIOUS GROUP FORCED TO SLASH 1971 PROJECT GRANTS

NEW YORK.—After presenting more than $3 million in grants in three years, the Interreligious Foundation for Community Organization (IFCO) has very little money for grants in 1971.

Directors of IFCO voted this week to suspend grant-making during the first quarter of 1971.

The foundation, founded three years ago as a channel for church funds to self-development projects controlled by the poor, says its own poverty in 1971 is the result of substantially decreased pledges from the churches, largely the major Protestant denominations, that formed the foundation.

The only money available for 1971 grants, according to IFCO officials, is a small amount left from funds given to IFCO two and three years ago and designated for specific projects.

To date, the foundation has made 100 grants totalling $3,174,906 to black, American Indian, Mexican-American and white organizing programs.

During the past year, a substantial part of IFCO's budget came from the National Division of the United Methodist Board of Missions, which gave $483,333 in undesignated money and $183,333 for empowerment of black congregations.

Dr. Paul Stauffer, a representative of the United Methodist board, said his agency would give $25,000 for 1971 administration of the foundation but was unsure that a request for $100,000 could be met.

A United Presbyterian official said he had been unable to get "one cent" for 1970 and doubted that his denomination would meet a $100,000 request for the coming year.

The Rev. Lucius Walker Jr., IFCO director, said that "the very denominations which created IFCO have grown cool in their support." The American Baptist clergyman listed several reasons why he thinks IFCO has financial troubles:

Denominations are thinking "we can do better for ourselves (than) IFCO has done for us." Such drives as the United Presbyterian Fund for thet Self-development of People (authorized but not yet operating) were mentioned as potential competitors to interreligious efforts.

The rise of power blocs, such as black caucuses, have drained away funds that otherwise may have gone to IFCO.

IFCO's relations with militant minority groups have resulted in some white backlash, speculated the director.

[From the Washington Post, July 11, 1970]

INTERRELIGIOUS AGENCY AWARDS TOTAL $2,596,936—GROUP MAKES 106 DEVELOPMENT GRANTS

NEW YORK.—The Interreligious Foundation for Community Organization made 106 grants totaling $2,596,936 from September, 1967, through March, 1970.

IFCO was formed in 1967 by Protestant, Roman Catholic and Jewish organizations as an agency to channel funds to community and economic development projects created by deprived groups across the nation.

Twenty grants were made in 1967–68, 45 in 1968–69, and 41 in the first quarter of 1970, an IFCO report said. In addition, the ecumenical agency made 13 training grants and 10 special grants.

Among the latter was one the report said subjected the organization to "the most severe stresses and strains of its young life"—$50,000 for the Black Economic Development Conference held in Detroit during April, 1969.

At that conference James Forman presented the Black Manifesto with its demands for $500 million in reparations from white churches and synagogues.

The ensuing controversy "almost ended the dream-made-reality of IFCO," according to the Rev. Lucius Walker, Jr., executive director of the organization dedicated to supporting self-help projects in minority communities.

Two members of IFCO withdrew—the American Jewish Committee, whose interreligious director, Rabbi Marc Tanenbaum, had served as president of IFCO, and the Presbyterian Church in the U.S. (Southern).

But new members joined—the Board of Missions of the Lutheran Church in America, the American Indian Task Force, the National Committee of Black Churchmen, and others. Begun with nine member organizations, IFCO now has 27, including 12 religious organizations. Its board of directors is formed by two representatives from each member organization.

IFCO refused to disavow the BEDC, but stipulated that its staff members would not serve on the BEDC board and that it would give the BEDC only funds that came in specifically designated for it.

The first significant reduction of denominational pressure, the report stated, came in October, 1969, when the United Methodist Board of Missions—National Division made an undesignated grant of $300,000 for 1970.

Total gifts received by IFCO from all sources since its founding amount to $2,629,457. The largest single contributor was the United Presbyterian Church, which gave $481,787.

Other major contributors included the Episcopal Church ($475,504), United Methodist Church ($340,133), American Baptist Home Mission Societies ($193,756), United Church of Christ ($182,382), and Lutheran Church in America ($118,842).

Non-church groups contributed $668,348.

To counteract white attempts at "cooptation and polarization of black groups," the report states, IFCO initiated moves leading to the formation last year of the National Black Coalition, which formulates strategies and defines roles. The coalition comprises IFCO, BEDC, the Southern Christian Leadership Conference, and the National Welfare Rights Organization.

In the report Mr. Walker described some of the games played on both sides of the struggle over empowerment of minorities. One tactic of church bureaucracies, he said, is "to create a proliferation of mission structures" so that when one becomes too threatening, they can shift to another and still claim to be involved.

"Another denominational ploy," he added, "is to make big promises in the face of confrontation, then renege on those promises when the threat to them lessens. The promises, of course, are widely publicized; the do-nothing result is not."

He quoted a paper published in Kentucky, The Black Rag, which criticized some games played by "the brothers." Those include the "Black Intellectual Game," the "Black Militant Game," and the "Swinger Game."

"Whites do not know when they are being taken or how to apply the principle of self-determination or how to evaluate the trick bags they are put into," Mr. Walker said. "Some whites look for militancy and are, therefore, impressed by the most 'militant-looking' brother, although they are incapable of seeing beyond the dashiki, the Afro, or other external symbols."

He added that the larger problem, however, is the "civil rights establishment game," in which "the older, more established organizations (NAACP, Urban League) claim that only they should receive funds for programs."

[From the New York Times, Dec. 12, 1970]

CHURCH AGENCY FOR MINORITY AID SUSPENDS GRANTS AS GIFTS LAG

(By George Dugan)

The Interreligious Foundation for Community Organization called a three-month moratorium this week on new grants to minority groups.

The Foundation gave as its reason the failure of its supporting denominations to supply sufficient funds for distribution.

The organization was founded four years ago by Protestant, Roman Catholic and Jewish agencies to finance economic-development efforts among minorities. Since then, it has channeled nearly $3 million to black, American Indian, Mexican-American and white community organizations.

The suspension of new grants was approved at a meeting of the foundation's board of directors at the Interchurch Center, Riverside Drive and 120th Street.

ABOUT $40,000 PLEDGED FOR 1971

According to its director, the Rev. Lucius Walker Jr., the interfaith agency has enough money for administration plus "firm commitments" of only $40,000 for the coming year.

Hoped-for grants of $100,000 each from the United Methodist Church and the United Presbyterian Church are nothing more than hopes, Mr. Walker told the 40-member board.

He emphasized that the foundation would continue to handle designated grants as they were received and would administer funds in reserve for purposes already earmarked.

The firm pledges for next year are $20,000 from the Lutheran Church in America and a similar amount from the United Church of Christ.

DENOMINATIONAL WOES

Mr. Walker attributed the foundation's loss of income to tight money within the denominational structures, a feeling among the churches that they can "go it alone" without outside help, and the rise of black caucuses that demand and get financial support.

Dr. George Wiley, head of the National

Welfare Rights Organization, argued against the moratorium.

He told the board that the foundation should continue to make grants during early 1971 so that groups that had hoped for assistance would have time to seek funds elsewhere.

In 1968, the foundation called a black economic conference in Detroit. Out of that meeting arose the controversial Black Manifesto that demanded "reparations" from white churches and synagogues. Shortly thereafter, the American Jewish Committee withdrew its sponsorship of the foundation.

One of the board members called the financial crisis a "cop-out" by the churches. She said she could not believe that America's religious forces were so short of money that they could not find "a couple of bucks" for the poor and disadvantaged.

AN AMERICAN EMPEROR

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. HARRINGTON. Mr. Speaker, the President's recent decision to blockade the ports of North Vietnam offers striking evidence of just how deeply the constitutional form of government has eroded. Unilaterally, the President has undertaken an action, which by any definition of international law, constitutes an act of war.

The blockade of North Vietnam is clearly an act of desperation on the part of a man who is obsessed with the idea of protecting American honor. There is nothing honorable about the death and destruction we are wreaking upon the land and people of Indochina. The concept of a blockade was offered to and rejected by Lyndon Johnson, a man who could hardly be regarded as a man of great restraint, because of the probable ineffectiveness of the military policy and the tremendous dangers that attacking foreign ships, Soviet and Chinese, not to mention British, could entail.

The new Nixon policy could lead us to a direct military confrontation with the Soviet Union. He is playing the dangerous game of nuclear brinksmanship in order to save a corrupt government whose ineptitude and indifference on the battlefield have precipitated this crisis.

Last year the U.S. Congress went on record declaring it to be the policy of the United States to bring to an end "at the earliest practicable date" all military operations in Indochina, subject only to the release of all American prisoners of war.

The President has treated the Congress with arrogance and contempt, rejecting its advice, and informing the leadership of his actions only after they have been implemented. The Congress must reassert its constitutional mandate to declare war, by taking every action possible to prevent the President from waging a war that the Congress is on record as supporting an end to.

Two recent articles, one, an editorial in the Washington Post of May 10, and the other, a column by Tom Wicker of the New York Times, on May 9, place the President's action in historical and constitutional perspective. I recommend them to all Members interested in restoring constitutional government to the United States:

[From the Washington Post, May 10, 1972]

NIXON'S WAR

(Once again the public is not being asked, it is being told; in the great tradition of the Vietnam War, a President has confronted us with a *fait accompli*, carefully concealed in advance by the most artful dissembling, supported by suspect evidence, specious argument and excessive rhetoric. And so, once again, one is left with the sensation of helplessness in the face of a self-renewing war, and in the hands of an administration as incapable as the last of distinguishing between hard decisions and what Mr. Nixon is pleased to call "the easy political path."—From an editorial in *The Washington Post*, May 2, 1970.)

That was our view the day after President Nixon sent American forces on their famous "incursion" into Cambodia and we cite it today out of the same sense of helplessness—a sense that it has all been said before. The same things have been said by the President, and by his critics, after Cambodia and after Laos and after the more recent renewal of the bombing of North Vietnam which has now been followed by Mr. Nixon's latest exercise in withdrawal from Vietnam, the mining of Haiphong and five other North Vietnamese ports, so that you wonder what more there is to say.

Remember at the time of Cambodia, how we would be a "pitiful, helpless giant" if we did not hang in there in Vietnam? "This action is a decisive move," the President said, and we bought it, we must admit, as the action of a barroom fighter in the best tradition of the old West, backing out the door with one last shot at the mirror on the saloon wall to keep everybody's head down. And we bought the Laotian "incursion" on similar terms, assured that this was the end of the line, that the President and the Secretary of State meant it when they said we were "getting out" and that it was "irreversible." We bought it, and a lot of people bought it, when the President quoted General Abrams that "the South Vietnamese by themselves can hack it, and they can give a better account of themselves than the North Vietnamese units." And when the President said that Laos proved the South Vietnamese "without American advisers . . . could fight effectively against the very best troops North Vietnam could put in the field."

That was a year ago, and we went along because Vietnamization had "succeeded" and "the end was in sight," although we did observe at the time that these initiatives are almost never decisive, that "every new initiative of ours has been met by some countermove or another on the part of the enemy; that the North Vietnamese have proved themselves almost infinitely resilient and resourceful; that the enemy is in a position to damage our interests in a rich variety of ways for which B-52s are not necessarily an effective remedy—by stepped-up terrorism, for example, or by merely lying low and buying time, or by a quick grab for all of Laos, or of Cambodia, *or by a drive down through the DMZ* . . ." We add that emphasis, not because we think we were particularly prescient, but because it was so obvious to anyone who had followed the history of this war.

And yet, a year later, here is President Nixon crying about "naked aggression," as if it were something nobody could have foretold and insisting that Hanoi has broken the rules, as if there ever were any. Here he is again renouncing what "from a political standpoint . . . would be an easy choice," and instead lashing back with an action that had been first proposed to President Johnson six years ago, and rejected, and was then warmed over by the Pentagon and served up to Mr. Nixon again in 1969—and again rejected.

This is the first question raised by the President's decision to mine the ports: why is it worth doing in 1972, for the sake of the safety of 69,000 American troops, when our casualties are next to nil, *if it* wasn't worth doing in 1969, when we had more than a half million men in South Vietnam and our casualties were running at the rate of 300 a week. As we all know, from the recently-published Kissinger papers, the President had the advice of a solid and respectable segment of the government, including CIA and much of the State Department, and the Secretary of Defense, that mining Haiphong and bombing the north and piling still greater stakes on the potential combat capability of the South Vietnamese would lead us nowhere in the end; that our intelligence was unreliable and our military estimates almost always too optimistic; that you couldn't get where the President wanted to go from where we were—and still less could you do it while you were withdrawing American troops. And yet the President went along then with the military and the die-hards in the Saigon embassy, and made Vietnam his war. And now he has once again reached into the Pentagon's kitbag for still another "decisive military action to end the war."

Why? The answer almost inevitably has to be, not that the idea of mining North Vietnamese ports has gotten any better with age, but that the situation in Vietnam, on the ground where it counts, has gotten a great deal worse, at Hue and Anloc and Kontum, and within the military power structure that passes for a government in South Vietnam. Somehow the President must have concluded, as President Johnson concluded in March of 1965, that everything would collapse if he didn't do something, and so, in his own way, he too has gone North. It is hard to imagine a more damning indictment of the vaunted Vietnamization program, but that, at this moment, is not the point. For the mines are in the water, and what matters now is wheher the results can by any conceivable measure justify the risks, discussed in a separate editorial below, of rupturing relations with the Soviet Union, and alienating large parts of the rest of the world.

Even assuming the best, it is hard for us to see how the answer could be Yes. The North Vietnamese are no less resilient, no less resourceful and no less resolved than they were two or five or twenty years ago; supplies from somewhere—China if not Russia or a combination of the two—will get through. The offer of a stand-still cease fire is an open invitation for the North Vietnamese to grab quickly, with what men and material they have on hand, for further territorial gains before negotiating—if indeed they negotiate at all. In short, a situation desperate enough to argue for mining the ports cannot be retrieved so easily. Either Hanoi will win a settlement on exceedingly favorable terms or it will fight on. Either way, the outcome is going to be very largely decided by the armies of North and South Vietnam.

And that is really what is so reckless about the President's latest Vietnam initiative. It is not just our degree of reliance on a thoroughly unreliable South Vietnamese army. It is also the over-heated insistence that the fate of the world and the security of this country are riding on that army and on what marginal help it may get from the mining of the harbors of North Vietnam. Whatever may be said about that act itself, there is nothing whatever to be said for Mr. Nixon's compulsion to justify it by piling ever bigger stakes on so marginal an effort to influence the course of a war whose outcome this country has long since lost the capacity to control.

[From the New York Times, May 9, 1972]

AN AMERICAN EMPEROR

(By Tom Wicker)

"No One Knows," said the headline in The New York Times, "What He Might Do." And indeed, no one, including Secretary of State William Rogers, summoned home from Europe for a National Security Council meeting, could know what President Nixon might decide upon as antidote in the current crisis in South Vietnam. The press has described admiringly the range of explosive options open to him; members of his Administration had been hinting darkly of the terrible vengeance this unchecked Caesar might choose to wreak upon something abstract known only as "Hanoi" or "the enemy"; but the decision was Richard Nixon's.

And when Mr. Nixon in his majesty chose to speak to the American people last night about his intentions in Southeast Asia, it was an act of *noblesse oblige* as well as an exercise in self-justification. Nothing in the law required him to confide in a single citizen; and although it was true that he spoke only after three hours of consultation with his primary national security associates, it is well-known that these officials more nearly ratify than form Presidential judgments.

Has it come to this, then, that it lies within the sole province of one man, unlimited by law or opinion, whether elected by landslide or hair's breadth, to decide without let or hindrance how the military power of the United States shall be used even in a situation his own policies have done much to create? Is that what the Constitution means, when it says that the President shall be Commander in Chief of the Armed Forces?

As to the first question, there seems little doubt that the answer is yes. Just last year, for instance, Congress passed an amendment to the Military Procurement Authorization bill which declared it to be the policy of the United States to bring to an end "at the earliest practicable date" all military operations in Indochina, subject only to the release of all American prisoners of war.

What was President Nixon's reply to that? Upon signing the measure on Nov. 17, he declared flatly that the amendment was "without binding force or effect and it does not reflect my judgment about the way in which the war should be brought to an end." It would not change his policies, he said, and in fact "legislative actions such as this hinder rather than assist in the search for a negotiated settlement."

Such high-handedness is not unique to Richard Nixon. The greatest of Presidents, Abraham Lincoln, interpreted the Presidential "war powers" so broadly that he repeatedly overrode both Congressional wishes and military advice; and since his actions saved the union, history generally accounts him strong and wise for having done so. But Lincoln was literally waging war for national survival, in a situation in which there was no precedent and which does not provide a precedent for anything that has followed—least of all a deliberate act of Presidential policy such as Vietnam.

Mr. Nixon, in contrast, now relies almost exclusively upon the Commander in Chief's power to protect the lives of American soldiers as constitutional justification for whatever he might choose to do in Southeast Asia; yet, it is arguable that American soldiers are in jeopardy primarily because Mr. Nixon's own policies have kept them in Vietnam. So the mere act of putting troops into a place, or keeping them there, which is in itself a Presidential decision, becomes the Presidential justification for any other Presidential action he may choose to take.

Mr. Nixon has not, for example, resorted to the use of nuclear weapons in Southeast Asia; fortunately, there is no sensible military rationale for doing so. Nevertheless, the fact that the President has not so chosen does not alter the fact that it *was* his choice; sensible or not, he *could* order nuclear warfare tomorrow and no man could stop him, unless the military chose to revolt—hardly a desirable alternative.

Since the authors of the Constitution could not foresee the nuclear era, they could have had no intent to lavish upon the President that degree of power; indeed, almost every other line of the document they produced suggests the extent to which they mistrusted unchecked power, whether vested in an executive or in a people's assembly.

Richard Nixon need not be psychoanalyzed or even mistrusted in order to perceive that that mistrust was well founded; for as he went on the air last night, it was terrifyingly true that no one knew what the President would do, that no immediate means of influencing his judgment was at hand, that no real way existed to stop him from following some apocalyptic course. He was in that moment as true an emperor as ever existed and scarcely more accountable; a people who wanted peace could still be given war at his dictate; and what good would it do to vote him out of office six months from now if the world were an ash, or "the enemy" had been obliterated in his honor?

RUMANIAN INDEPENDENCE DAY

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. LANDGREBE. Mr. Speaker, I want to call the attention of my colleagues to the celebration of the national holiday of the Rumanian people. Unfortunately, this anniversary of the founding of the kingdom of Rumania is not a happy one. The holiday has been suppressed by the Communist regime which now has control of that country and which is repressing the Rumanian people.

I join the Rumanian people and others in commemorating this day and I pray that someday the Communist yoke will be removed from the people of that nation.

I am happy to include a brief statement on the Independence Day of Rumania supplied me by Mr. Constantin Visoianu, president of the Rumanian National Committee and former Minister for Foreign Affairs of Rumania:

THE 10TH OF MAY: RUMANIA'S INDEPENDENCE DAY

The Tenth of May is the national holiday of the Rumanian people, celebrating three great events of its history.

On May 10, 1866, Charles, Prince of Hohenzollern-Sigmaringen, a scion of the Southern and Catholic branch of the Prussian royal family, was proclaimed in Bucharest Prince of Rumania, and thus founded the Rumanian dynasty. It was the successful outcome of the nation's long struggle to acquire the right of electing as its sovereign a member of one of the Western non-neighbouring reigning families in order to put an end to the strifes and rivalries among native candidates to the throne. This ardent wish, though officially expressed as far back as 1857 by the Moldavian and Wallachian Assemblies—the "Ad-hoc Divans"—convened as a result of the Paris Treaty of 1856, was nevertheless opposed by the Russian and Austrian empires, equally disquieted by the growth in power and prestige of the young bordering nation they both secretly hoped to absorb some day. It was due to unrelenting efforts made and wise steps taken by Rumanian patriots, and also to the constant diplomatic assistance of Napoleon III, Emperor of the French (to whom Prince Charles was related through the Beauharnais and Murat families) that all political obstacles were gradually removed and what was to be the prosperous and glorious reign of Charles I could be inaugurated on May 10, 1866.

Eleven years later, on May 10, 1877, during the turmoil of the Russo-Turkish War, the Principality of Rumania, until then nominally a vassal of the Sultan, proclaimed her independence by severing the old and outdated bonds that linked her with the Ottoman Empire. This independence had to be fought out on the battlefields south of the Danube, where the young Rumanian Army, as an ally of Russia, played a noteworthy part in the defeat of the Turkish forces. The Congress of Berlin of 1878 confirmed Rumania's independence and conferred Europe's official recognition, a bright page in the country's dreary history though marred unfortunately by the loss of Bessarabia, cynically wrenched by Czar Alexander II and his government from the ally who helped them obtain victory over the Turks.

Another four years elapsed after the Rumanian people had proclaimed their independence and a further step was taken as they decided to raise their country to the rank of a kingdom. On May 10, 1881, Charles I was crowned, by the will of his people, King of Rumania. A prosperous era, which lasted over six decades, opened on that day for the nation. Its apex was attained when national unity within the historic boundaries was reached after World War I. The socially progressive country had now become a factor of peace and equilibrium in the South-East of Europe.

During all those years and up to the present time, Rumanians have cherished and revered the Tenth of May as their national holiday, the anniversary of happy and glorious events in their history, in which achievements of Monarchy and people were interwoven. It remains the symbol of their permanency and perseverence through woes and hardships to reach the ultimate end of freedom and well being.

The ruthless foreign rule which now oppresses the Rumanian nation has not been able to uproot the people's attachment to the traditional celebration of the 10th of May. In order to try and alter at least its significance, official celebrations were shifted from the 10th to the 9th of May, anniversary of the Soviet victory. But, though flags are now hoisted on May 9th, Rumanians in their captive homeland celebrate in their hearts the following day, awaiting with faith and courage the dawn of new times, when freedom shall be restored to them.

CRIPPLED CHILDREN'S SERVICES—MENTAL RETARDATION EMPHASIS

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. CORMAN. Mr. Speaker, I would like to bring to the attention of my colleagues a budget consideration that is critical to the future health and productivity of many of this Nation's young children. I am referring to the portion of maternal and child health budget which provides funds to States through formula grants for crippled children's services. Since the original authorization under title V of the Social Security Act in 1935, crippled children's services have provided care to hundreds of thousands of handicapped children. More recently many States have been forced to eliminate services, delay needed services to crippled children, lose program personnel, and freeze vacant positions.

In 1935, when the program was first established, crippled children's services were provided to those youngsters with orthopedic handicaps that were surgically correctable, and very few other types of handicapped children were accepted into State programs. With advances in medical science and preventive medicine, the reduction of cases of poliomyelitis and bone tuberculosis allowed the States to expand their definitions of handicapped to include epileptic children and those with congenital heart defects. Programs now meet the medical needs of children with cystic fibrosis, hemophilia, leukemia, cerebral palsy, hearing defects, and many congenital defects.

Prior to 1963 few retarded children were included in crippled children's programs. The 1963 amendment earmarked funds especially for retarded children and States were able to remove limitations on providing care to such children. Many children who are mentally retarded as well as physically handicapped are now able to qualify for services. In 1969, over 45,000 children with some form of mental retardation received care under crippled children's funds.

Many crippled children's agencies are providing followup care for the large number of children who are handicapped as a result of the worst German measles—rubella—epidemic in U.S. history—1963–65. The children affected in the early months of the epidemic are now of school age and, therefore, the full impact of their defects is now apparent. Some children, thought to be mildly affected at first, exhibit signs of brain damage and have learning problems. The number of severely handicapped children with hearing defects on crippled children's rosters has been increasing.

The original authorizing legislation for crippled children's services decreed that services should be made available to children in all States by 1975. If this commitment is to be fulfilled, there must be a considerable increase in appropriations to allow for program expansion. I would like to encourage my colleagues to join me in asking that funds for Maternal and Child Health Services be increased. Medical care provided to crippled children is only one portion of a very worthwhile overall program designed to improve the quality of life among our Nation's most valuable resource, our young children.

RUMANIAN INDEPENDENCE DAY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. BIAGGI. Mr. Speaker, Americans of Rumanian origin, through the sponsorship of the Rumanian National Committee, commemorate today, May 10, as a triple anniversary of important events in the history of their native land.

On May 10, 1866, the people of Rumania ended internal strife among native candidates to the throne by proclaiming Charles, Prince of Hohenzollern-Sigmaringen of the Prussian royal family as the Bucharest Prince of Rumania.

On May 10, 1878, the Rumanians proclaimed their independence after severing political ties with the Ottoman Empire.

On May 10, 1881, Charles I was crowned King of Rumania, and a kingdom was established by the will of the people. The country prospered for more than six decades.

These three events will forever be observed by devoted Rumanians and families of Rumanian ancestry throughout the world as their cherished national holiday. Austere Communist rule, currently tyrannizing Rumania, has characteristically attempted to change this national commemoration to May 9, the date of the Soviet victory in that country.

But no arbitrary resetting of an anniversary observance, imposed from without on a fiercely proud people, can change the heartfelt sentiments of these people. The 10th of May is an inherent and integral part of all Rumanian history, a holiday as beloved to these people as our own Independence Day of July 4, 1776.

I send my warm wishes to all freedom-loving Rumanians and those of Rumanian ancestry on this traditional national holiday, with the hope that the bonds of servitude currently engulfing their country will soon be broken and liberty restored to their cherished nation.

KENSTON HIGH SCHOOL CHAMPIONS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. VANIK. Mr. Speaker, I would like to take this opportunity to recognize the Kenston High School wrestling team of Chagrin Falls, Ohio, for winning the Ohio State class "A" high school wrestling crown. The championship is the school's first in wrestling, and represents 4 months of determined effort by the school's coaches and athletes.

Coaches of the team were Don Havener, Zinn Gorby, and Bob Mowry. Among the 13 men on the team, were five who qualified and scored points in the State tournament. Ralph Graham won the State championship in his weight class; Albert DiGiovanni and Mike Law were third-place winners in their class while John Althans was a fourth-place winner and Kevin O'Brien a runnerup.

Other members of the team were Jim Pekarek, Dick Cardaman, Tom Lucey, Ed Richards, Kent Walsh, Dave Russell, Ed McCune, and John Strickland.

Coach Havener commented that—

> It was a great pleasure to work with this dedicated group of boys.

I might only add that it is an honor to represent them.

COMMONSENSE LANGUAGE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. MICHEL. Mr. Speaker, a letter sent to me by a good friend and constituent, Mr. Al Fuller, owner of the Peoria Heights Lumber Co., expresses more eloquently than any speech I might make on the subject, the scope of the problems and difficulties confronting small businessmen as they try to cope with the rules and regulations under the Occupational Safety and Health Act of 1970.

If enough of our colleagues were to receive similar letters it would help immensely in getting the law amended to bring some commonsense language into the law that these businessmen could live with.

I insert the text of the letter to be placed in the RECORD at this point:

PEORIA HEIGHTS LUMBER CO.,
Peoria Heights, Ill., May 4, 1972.

HON. ROBERT MICHEL,
House of Representatives,
Washington, D.C.

DEAR BOB: I am writing to you a few facts that concern me. I hope you will study HR 12068 and act with good judgment as you have in the past.

Approximately 20 years ago there were 26 lumberyards in the Greater Peoria Area, now only 4 remain of that 26. Two changed hands and three new cash and carries have started. In Peoria, Carver's and Siegel-Hunt's: Bartonville, Claus Lauterbach—H. E. changed hands. In Peoria Heights, We are left. (How long I don't know). In Aurora, Illinois there were 10 now only 3, possibly going to 2. Its like this all over the state according to the Director of Illinois Lumber and Building Material Dealers Association, Ed Sembell. Ask Sonny Mackemer why he went out.

I know there are many reasons why these yards went out of business, but government regulations, union pressures forced many to retire early and live on their investments, rather than fight the pressures of government costs and controls and union pressures.

I pride myself in being unselfish that profit is not the only motivating factor why I have stayed in business this long. I am a servant to the public. I try to make it easy for the home owner to pick up supplies for repairs and still come out even or a little ahead.

After a severe windstorm in the Peoria Area, we get many calls to fix the roof shingles. Many of these calls come from people who we have done work for or been referred by customers because they know we are honest and will not overcharge. Many times we have sent a carpenter out repairing a few shingles and the charge would be $10.00 to $15.00. We did this because the $50.00 deductible insurance left the owner with the expense. We made a little or no profit and the customer was happy. A large percentage of my customers are retirees or people on fixed income and they appreciated the economy.

Now comes OHSA.

First, I must have specified ladders so I bought one 28′. (Used to be the owner would have one or a neighbor). Now on a roof call with a couple of shingles blown off, out goes the 28′ ladder. This requires a big truck or the pick-up with suitable racks. A union driver must drive the truck (rate $4.62 hr.) a helper, yardman or laborer must go along (rate $4.52 hr.). The carpenter in the meantime drives his car to the job ($8.00 hr.) which includes 51½¢ hr. to pension fund. Because I directed the carpenter to the job, I am now liable if he has an accident and his insurance coverage is not enough—additional expense to me. OHSA says the ladder must be secured to the building, cannot be placed in a driveway unless there is a barricade around the ladder. So the helper goes along to hold the ladder. Union driver or teamster can't do this because of the union rules. Now the carpenter takes the 3 or 4 shingles, cost 45¢, up the ladder and completes the work in 15–20 minutes. He must have a life line or build a scaffold. All three men must wear safety shoes and helmets, more cost.

So that a 15 minute job now becomes 30–45 minutes, be silly to have the truck come back and go out again. So 2 men wait. When the job is finished they bring back the ladder or if we are lucky they may have another job and could proceed on to it and reduce costs. Meantime a truck has been tied up. So that $10–$15 job has now gone up to $40–$50. Who pays, the home owner. The only increase in cost except OSHA standards has been maybe 5¢ for the shingles and a 75¢ hr. raise for the carpenter in the last year. I know some contractors say they won't go out for less than $80.00.

That is bad to comply with such regulations, but the worst is the fear of an inspector. Do you realize a violation on a job I just described could run between $50.00 and $500.00. The record keeping of OHSA requirements and a possible $10,000.00 fine. I know these things were intended to larger employers and I know there are hazards that should be corrected. I'm not saying OHSA is not good but latitude in correcting a situation should be considered. The seminars I have attended indicate the whims of these safety directors can fine you whatever they feel like and go according to the book.

In 26 years of operation, I have carried workmen's compensation with just two accidents, over 270,000 man hours in that time. One fellow jumped off the truck and a ring on his little finger caught the top stake—had to be amputated. Another, a ladder slipped and the employee said he hurt his back. After his settlement, which he agreed years later was in his favor, he continued to work and has for 10 years for other people.

The fear of penalties and my inability in my case (6–8 employees) to send someone to school to learn all of these rules, to have a safety director, first aid director. Why should I have worked and done without to build what I have got today be subject to someone who knows only the book and is out to show his power?

I say again all small business men I have talked to fear the penalties and fines, I don't think Hitler SS Troops were anymore feared. I like others say to hell with it, its not fun being in business anymore. You can't take pride in your work when you know costs are prohibitive due to government regulations. We are intelligent men and my employees are intelligent, they don't work on something unsafe and good judgment has always prevailed on our jobs. Our record attests to that.

I'm sure OHSA is needed in many, many areas but it seems to me it should be helping businessmen with their problems not penalizing them without a chance to correct errors. I know some employees would take advantage of things, but these are a minority. 98% don't want any unsafe conditions for their employees.

Sorry this got so long, hope you can find time to read it.

A very appreciative friend,

AL FULLER,
Owner.

ACCURACY IN MEDIA

HON. F. EDWARD HÉBERT

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 4, 1972

Mr. HÉBERT. Mr. Speaker, Members of Congress are well aware of how a quotation, taken out of context, can be utilized to express a view entirely different from that which was intended.

Since we all have a parochial interest in this technique, I am inserting in the RECORD a copy of a letter from the executive secretary of Accuracy in Media, Inc. which pertains to our former President, General Dwight D. Eisenhower. The letter speaks for itself.

I am also inserting a column which appeared in the May 9 issue of the Washington Post. Written by Russell B. Nye, a professor of English at Michigan State University, it is an excellent commentary on how facts can be distorted:

ACCURACY IN MEDIA, INC.,
Washington, D.C., April 29, 1972.

Mr. ARTHUR H. MOTLEY,
President, Parade
New York, N. Y.

DEAR MR. MOTLEY: *Parade* of April 9, 1972, carried an article by Lloyd Shearer entitled, "'Ike' Warned the World But We Wouldn't Listen." Mr. Shearer began his article with a quotation from an address that President Eisenhower delivered to the American Society of Newspaper Editors in April 1953.

The passage which he chose to quote from this speech described and deplored the high cost of military armament. Mr. Shearer created the impression that this passage was the principal message in Eisenhower's speech. He suggested that it was prompted by the President's frustration with rising defense costs, and he described it as a memorable address. Following the quote from the speech, Mr. Shearer went on to discuss the amounts of money being spent on arms today. He concluded with this statement: ". . . the defense budget of $84 billion for the year is larger than when we had 540,000 ground troops stationed in Vietnam. Good old 'Ike' Eisenhower. He spoke well, but no one listened."

There are at least two serious errors in Mr. Shearer's article. We have not checked all of his figures on world spending on arms, but we have checked his figures for the United States. Defense outlays for the current fiscal year were budgeted at $78 billion, not $84 billion. This is lower than the defense budget in the years 1968 through 1970, when our troop strength in Vietnam was at its peak.

The second error is far more serious. It relates to the implication that Eisenhower's ASNE address was essentially a warning about the folly of spending vast sums on defense, stimulated by the President's frustration with rising defense costs.

We have gone over this speech carefully, and we find that the main message that President Eisenhower conveyed to the newspaper editors was quite different from the theme Mr. Shearer attributed to him. Stalin had recently died and new leaders had assumed power in the USSR. President Eisenhower used this speech to challenge the new leadership to alter the policies that Stalin had pursued that had made it necessary for the West to re-arm and build up military alliances for protection against the aggressive policies of the Soviet Union. He indeed did point out that the burden of arms was a costly one and that the world would be a far better place if we could devote those resources to satisfying other wants. However, far from appearing as a pacifist who was wringing his hands in public about the folly of spending money on arms, Eisenhower pointed out in ringing words that this was a cost we had to bear as long as freedom was threatened.

Speaking of this need and of the behavior of the Soviet Union, Eisenhower said:

"It instilled in the free nations—and let none doubt this—the unshakable conviction that, as long as there persists a threat to freedom, they must, at any cost, remain armed, strong, and ready for the risk of war. It inspired them—and let none doubt this—to attain a unity of purpose and will beyond the power of propaganda or pressure to break, now or ever."

It is ironic indeed that 19 years after these words were uttered Mr. Shearer should extract a passage from this same speech out of context and use President Eisenhower's words in what appears to be an open effort to persuade the American people that the cost of remaining armed, strong and ready for the risk of war is too great for them to bear. This is a magnificent illustration of the lengths to which propagandists are willing to go to achieve their goals, but it is not the kind of journalism that should be practiced by *Parade*.

Mr. Shearer's article is inaccurate in both fact and spirit as a report of what President Eisenhower "warned the world" about in April 1953. He warned the world that it would have to remain armed, at great cost, if the Soviet leaders failed to show by deeds as well as words that they were willing to alter course. He said the test would come in the answers to these three questions:

Is the new leadership of the Soviet Union prepared to use its decisive influence in the Communist world, including control of the flow of arms, to bring not merely an expedient truce in Korea but peace in Asia?

Is it prepared to allow other nations, including those of Eastern Europe, the free choice of their own forms of government?

Is it prepared to act in concert with others upon serious disarmament proposals to be made firmly effective by stringent U.N. control and inspection?

President Eisenhower made it clear that the United States was prepared to call a halt to the arms race if the Soviet Union made it clear by its actions that it would cooperate in creating conditions in which men could live in peace and freedom. But he added: "If we strive but fail and the world remains armed against itself, it at least need be divided no longer in its clear knowledge of who has condemned mankind to this fate."

Mr. Shearer is wrong when he says "we wouldn't listen" to General Eisenhower. Americans listened very well. They watched to see if the Soviet leadership responded to "Ike's" challenge. They saw freedom in Hungary crushed in 1956. They saw Soviet arms and advice promoting war in Southeast Asia. They saw East Germany sealed off by the Berlin wall. They saw no evidence of willingness to agree to arms limitation with stringent inspection. They saw that as we halted the increase in ICBM's the Soviets went on installing these weapons at a furious pace. They concluded that Eisenhower had given good advice. We could not afford to disarm under these conditions. That has been the clear conclusion of Presidents Eisenhower, Kennedy, Johnson and Nixon. Mr. Shearer badly misleads his readers when he suggests that the defense policies followed by these presidents, including Eisenhower himself, ignored the advice that Eisenhower gave in his ASNE speech in April 1953.

We believe that this is a matter of such great importance that you will want to correct the false impression that Mr. Shearer created about President Eisenhower's warning. We urge that you do so. If you wish to do so, you may publish this letter. It would be an excellent corrective to Mr. Shearer's article.

Accuracy in Media, Inc. is a nonprofit, nonpartisan educational organization devoted to improvement of accuracy in news reporting. This is an example of the type of careful, responsible work we do in our effort to keep the public from being misinformed by inaccurate news reporting. We would welcome your support, which could be most appropriately given by responding to the request that Mr. Shearer's error be corrected.

Sincerely yours,
ABRAHAM H. KALISH,
Executive Secretary.

A CASE OF SLOPPY JOURNALISM

(By Russel B. Nye)

When it comes to facts, I have never really trusted newspapers very much. A youth spent in what Colonel Robert R. McCormick used to call 'Chicagoland,' reading the *Tribune*, and 25 years of historical research have convinced me that newspapermen are highly fallible sources of information. When I heard Martin Nolan of *The Boston Globe* remark confidently on television (October 24, 1971) that there were "over 50,000 war resisters in Canada," I thought he might really know. The figure seemed to me important, so I wrote to Nolan, asking his source.

Nolan's reply was not helpful. He cited James Reston Jr. who had used the 50,000 figure in *The New Republic* without attribution. Newspapermen quoting other newspapermen arouse my suspicion, so I thought I'd look it up, especially when that 50,000 began turning up all over the media.

I began in 1968. That year a writer in *The Progressive* thought there were "at least 10,000 draft evaders in Canada, *U.S. News and World Report* gave estimates varying from 300–400 to 25,000. Edmund Taylor, in a well-researched article in the soon-to-be-defunct *Reporter*, cited a *New York Times* estimate of 4,000; another by a Toronto antidraft group of 10,000; and Canadian press estimates of 14,000 up. *The Atlantic*, using the Toronto group's figure, came up with 3,000–10,000.

In 1969 amazing things happened. The *New York Times* in April settled for "several thousand" draft evaders in Canada. In December, however, it raised that to 60,000 on the basis of estimates from the Toronto draft-resisters' group—a number soon to be enshrined in the American press. That the figure represented a spectacular increase of 56,000 over the 1968 news report bothered nobody at the *Times*, while CBC's "Public Eye" program, perhaps carried away by the *Times*, also estimated 60,000.

In 1970 things settled down a bit, but not for long. The *Times* shifted its estimate to 6,000-60,000 (a delightfully flexible figure, I thought) as well as quoting an "independent estimate of 20,000." The Toronto group (which used 10,000 in 1968) now placed the number at 60,000 (the *Times* again?) which other papers dutifully printed. Stewart Alsop, in *Newsweek*, fixed for no discernible reason on 25,000-30,000. Roger Williams, of the Toronto group, used the *Times*' 60,000 but insisted that "qualified observers" calculated "many more than that." (This seemed to me an interesting situation, in which draft evaders in Canada quoted the *Times* which quoted draft evaders in Canada.) Vance Garner, of the Montreal Resisters' Council, entered the field with a statement that there were 14,000 draft-age landed immigrants "here now," a figure I found impossible to derive from any known Canadian immigration reports. He escalated things further by claiming that there were actually "three to four times that many" *illegally* in Canada, i.e., 42,000–56,000. A staff worker for the Clergy and Laymen Concerned About Vietnam told the press that there were 60,000 draft evaders in Canada (once more the *Times*), a figure which included 30,000 in Toronto alone.

The year 1971 was wilder. *Newsweek* cited 50,000–70,000, doubling what their man Alsop said a year before. *Parade*, apparently quoting the Clergy and Laymen group, said there were 30,000 in Toronto. The Toronto *Globe and Mail*, for its part, chose 30,000–100,000. Mike Wallace on "Sixty Minutes" used a new Montreal Resisters' estimate of 10,000, noting that it was perhaps inflated, but offering no alternative. Nolan, citing Reston, and Reston, citing nobody, said "over 50,000."

The most curious statistics of 1971, however, appeared in Rogers Williams' book, *The New Exiles*, which had few footnotes and no bibliography. Williams on different pages cited both 40,000 and 60,000 (the *Times* again!) for 1970. On another page he put the number in mid-1967 at 5,000–6,000, representing an increase of 34,000–55,000 in less than three years, certainly one of the least-noticed mass migrations in modern history. On two other pages he reported 25,000 evaders and deserters *legally* in Canada, and on yet another page, by adding wives and children, he got the number (legal or illegal?) to 50,000–60,000. Finally, at the close of his study, he increased this to 50,000–100,000.

1972 may be a banner year for inflation. *Newsweek* led off in January with "75,000, mostly in Canada," while David Brinkley, with oracular finality, made it 75,000-100,000. Senator Robert Taft, in an interview given to *The Los Angeles Times* news service, estimated there are "about 20,000 of these men in Canada." Since Senator Taft, who has initiated legislation, and Brinkley, who was commenting on it, differ by 55,000–80,000, the variance seems significant. They can't both be right.

In January, Gannett News Service used the figure "60,000–100,000," which strikes me as having a generous margin of built-in error. In February, UPI settled on 70,000. The last four references I have seen in January and February, 1972, choose 70,000.

What emerges from all this, and I have not by any means exhausted examples, is clear evidence of extremely sloppy journalism. Newspaper and television reports on draft evaders and deserters in Canada have, over those two years, varied from 10,000 to 100,000, a margin of error that ought to have stirred a twinge of doubt in some newspaperman's breast somewhere. Most striking in the stories was the almost complete lack of plain legwork. I found no journalist who had consulted easily obtainable Canadian immigration figures, and with one or two exceptions, none who had researched the realities of Canadian immigration laws. One cannot, as Alsop wrote, simply walk across the Canadian border and "fade into the economy," or, as *Newsweek* misleadingly implied, gain landed immigrant status simply by asking at the border. Canadian embassy and consular sources that have an ax to grind will, if asked, estimate about 10,000 American draft evaders in Canada (about the same number of Canadians have volunteered for the U.S. Army), but nobody asks them.

As for me, I trust the press no more than before, nor do I have any more information than before. I don't know how many draft evaders there are in Canada or elsewhere, but in the light of the growing debate over amnesty, I'd like to know as accurately and honestly as possible.

PRO-FAMILY GROUPS ORGANIZE TO BLOCK CHILD DEVELOPMENT PROGRAMS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. RARICK. Mr. Speaker, the more American citizens learn about the details of the insidious child development programs, the more voices of protest that are raised.

Much credit for alerting an increasing number of citizens of this menace to the traditional family unit and child-parent relationship is due to thousands of grassroots organizations all over America such as concerned parents associations, save our children groups, committees for moral education, civic clubs, women's clubs, taxpayers' educational associations, legislative and research councils, and many others.

Faced with no podium to participate in "the great American debate" to change child rearing traditions, these organizations are now shifting the thrust of their activities on the national level from the education of grassroots Americans to viable, nonpartisan political action.

Many of the concerned Americans will be coming to Washington for the National Convention on the Crisis in Education, phase II: The Crisis Invades the Home. The 4-day convention, being coordinated by the National Coalition on the Crisis in Education headed by Mr. and Mrs. Albert Westerfield, of Garden City, Idaho, will be held at the Mayflower Hotel, May 18–22, 1972.

The coordinating organization is a coalition of independent parent groups within the United States whose members believe that the ultimate authority and responsibility for the child must remain with the family. They have joined their efforts in order to preserve the family as the primary unit of our society to preserve and foster the right of parents to obtain the best possible education for their children and to determine their moral and religious training.

Being held simultaneously and jointly with the Phase II Convention on the Crisis Invades the Home called by the National Coalition on the Crisis in Education—NCOCE—is the first annual convention of the Scientific Information and Educational Council of Physicians—SIECOP. SIECOP with national offices in San Francisco, Calif., and Melbourne, Fla., has been the foremost organization of medical doctors and other professionals opposing the Sex Information and Educational Council of the United States—SIECUS—and its programs of introducing sex education into public and private schools. Dr. James M. Parsons, psychiatrist and president of SIECOP, announced in a recent press release that the theme of the SIECOP convention will be "Medical and Psychologic Aspects of Current Social and Educational Trends Affecting the Quality of Family Life."

The main thrust of the phase II convention according to a recent press release of the National Coalition on the Crisis in Education will be to block child-development legislation pending in the U.S. Congress, along with federally funded pseudo-educational programs being introduced into the Nation's schools, is considered as constituting a massive assault on the American family unit.

The parent's viewpoint in the great national debate on this issue called for by President Nixon will take place here in our Nation's Capital May 18–22. These solid citizens are so concerned over the moral and social pollution—pornography, obscenity, permissiveness, abortion, sensitivity training, drug addiction, homosexuality, corruption—which permeates the cities and towns of America; and so alarmed at the regressive, immoral, and communistic proposals emanating from Washington, D.C., that they are coming to their Nation's Capital at considerable expense and inconvenience to themselves and their families so that their voices may be heard loud and clear. The thrust of the message they want us to hear is simply this: Leave us alone.

I am convinced that they represent the viewpoint of the overwhelming majority of parents of this land.

I include several pertinent news releases and a policy statement of the National Coalition on the Crisis in Education and an article by the eminent columnist Paul Scott:

The National Coalition on the Crisis in Education

PRESS RELEASE

"Coalition is the name of the game," said Mr. and Mrs. Al Westerfield of Garden City, Idaho, national coordinators of the National Coalition on the Crisis in Education, a network of parent committees across the nation who will be holding their "Phase II" convention May 18–22, 1972 at the Mayflower Hotel in Washington, D.C.

"Once the purpose of our convention—to block child-development legislation—became clear", the Westerfields continued, "support began pouring in from other national groups with which we have not worked before and which, although their specialized interests are directed to other Crises in our nation, have all agreed that legislation pending in the United States Congress, together with federally-funded pseudo-educational programs being introduced into the nation's schools, constitute a massive assault on the American family unit."

Following the lead set by educational, "social service," and "behaviorially-oriented" organizations lobbying for "such radical programs as Child Advocacy bills which emphasize a child's rights instead of his needs, and propose to put a government mediator between parent and child", the Equal Rights Amendment "which encourages mothers to leave the home and turn their young over to federally-controlled and directed day-care centers" and "permissive abortion laws which arrogantly attempt to preserve the world exclusively for those already born and thus exempted from its death-dealing power", the NCOCE has extended its convention plans to include—and coordinate with—the leadership of other national organizations which recognize and oppose "the Orwellian tendencies now confronting American parents and children," according to the Westerfields.

"Since our inception as a national organization three years ago", they continued, "we have worked to educate the grass-roots Americans. The time for education on the national level is past, however, and the future activities of the NCOCE must be directed toward viable, non-partisan, political action. Local and state committees will now bear the responsibility for continued education of the rest of the public, which is so tragically misinformed by the slogan-slingers, while national leadership, together with that of other organizations, will direct its efforts to lobbying and to influencing legislation on the federal level."

National Organizations Unite To Block Child-Development Legislation

Since the announcement two weeks ago of the *National Convention on the Crisis in Education, Phase II: The Crisis Invades the Home,* to be held May 19–22, 1972, at the Mayflower Hotel in Washington, D.C., mushrooming interest from other national organizations has already required a change in convention planning, according to Mr. & Mrs. Al Westerfield, Coordinators of the cosponsoring National Coalition on the Crisis in Education, headquartered in Garden City, Idaho.

In order to schedule the large number of speakers, and to allow for both joint sessions in areas of mutual concern and separate sessions devoted to the specialized interests of each group, Dr. James Parsons of Melbourne, Florida, President of the Scientific Information & Educational Council of Physicians (SIECOP), the original sponsoring organization, has found it necessary to convene delegates from the medical, psychologic & psychiatric professions into simultaneous convention on *The Medical & Psychologic Aspects of Current Social & Educational Trends Affecting the Quality of Family Life.* Other national organizations are being urged to follow a similar format.

Addressing the Coalition's opening *Parade of Issues* on Friday night, May 19, intended to present an overview of the problems confronting American family life, traditions, and freedoms, and their culmination in pending child-development legislation which the organizations believe is the opening wedge for state control of the child and family, will be the presidents of the Coalition, SIECOP, Unified Concerned Citizens of America, the National Parents' League, Happiness of Womanhood's new League of Housewives division, and the Detroit Education Association, together with the editor and publisher of the Barbara M. Morris Reports, a delegate to the 1970 White House Conference on Children, a former Head-Start Teacher's Aide, and the Headmaster of a traditionally-oriented British Jr. School, who will also participate in an International Forum at a joint session the following morning.

The National Coalition on the Crisis in Education, Coordinator Al Westerfield, SIECOP, Pres. Dr. James Parsons, Lock Drawer No. 249, Melbourne, Fla.

Unified Concerned Citizens of America, Pres. Dr. Mitchell Young, P.O. Box 2510, Texarkana, Tex.

The National Parents' League, Pres. Mrs. Mary Royer, P.O. Box 3987, Portland, Ore.

League of Housewives, Pres. Mrs. Jaquie Davison, 1902 Pacific Ave., Kingman, Ariz.

Detroit Education Association, Pres. Robert Johnson, 8401 Woodward Ave., Suite 209, Detroit, Mich.

Barbara M. Morris Reports, Box 412, Ellicott City, Md.

The National Coalition on the Crisis in Education

PRESS RELEASE

Dr. James M. Parsons, Psychiatrist & President of the *Scientific Information & Education Council of Physicians* (SIECOP) has released the list of speakers for its first annual convention, May 19–22, at the Mayflower Hotel in Washington, D.C. The Convention is being held simultaneously with the *Phase II Convention on the Crisis Invades the Home* called by the *National Coalition on the Crisis in Education* (NCOCE) and will include many joint sessions.

SIECOP, with national offices in San Francisco, Cal.; and Melbourne, Fla., has been the foremost organization of medical doctors and other professionals opposing the Sex Information & Education Council of the U.S. (SIECUS) and its program of introducing sex education into public & private schools. Dr. Parson's council is composed exclusively of medical authorities, although he states "While all ethical specialties are represented, there is some weighting toward psychiatric & pediatric specialists who naturally are most concerned with the training & formal education of children."

Theme of the four day convention will be the *"Medical and Psychologic Aspects of Current Social and Educational Trends Affecting the Quality of Family Life,"* according to Dr. Parsons, and speakers will include *Dr. Rhoda Lorand* of N.Y.C., internationally acclaimed child analyst and author of *Love, Sex and the Teenager; Victor B. Cline,* Ph. D., Psychologist and Assistant Prof. at the University of Utah; *Dr. Richard Seymour,* Psychologist and Internist, California; *Louise F. W. Eickhoff, M.D., D.P.M.* Royal College of Psychiatrists, England; *Thomas P. Millar,* M.D., Child Psychiatrist, Conn.; *Dr. Florence M. Lewis,* Psychiatrist, Calif.; *Dr. Herbert Ratner,* Public Health Director, Oak Park, Ill. and Assoc. Clinical Prof. of Family and Community Medicine, Stritch School of Medicine; *Mary Royer,* M.S., President of the *National Parents' League,* Research Psychologist who developed and perfected the psycho-diagnostic test of child-adjustment, the *Royer Identification Scale; Dr. Collin Cooper,* Asst. Clinical Prof. of Medicine, USC Medical School, California; *Stuart F. Froome,* Headmaster, St. Jude's Jr. School, England, and author of *Why Tommy Isn't Learning; Robert Johnson,* Educator and President of the *Detroit Education Association,* Michigan; *Reul Shinner,* Ph. D., Prof. of Chemical Engineering, City University, New York; *Martha Rountree,* creator and producer of *"Meet the Press,"* and others. Subjects will include sex education, sensitivity training, violence, pornography, drug abuse, abortion, delinquency, and innovative education.

Convention delegates will observe "a certain tinderbox quality when the child advocacy and day care schemes come up," Dr. Parsons predicted. Most good people simply have not been told that these schemes include sensitivity training, which causes mental illness requiring psychiatric treatment in over 10% of participants. *Why legislator-people should want to burden psychiatrists with an overload of innocent little-people who are fine before so-called child care hit them is one matter all ethical professionals will want to look at closely.*

Listening closely to the professional overviews will be the representative leaders of parent-committees across the nation who comprise the NCOCE, together with presidents of some half-dozen other national organizations with varying specialized concerns but all concerned with the assault on the American Family unit.

The National Coalition On the Crisis in Education

PRESS RELEASE

Pointing to the Child Advocacy, Child Day Care/Development; & Child Mental Health programs proposed by federal, state & local governments, Barbara M. Morris, Maryland editor & publisher, wrote in her 10/70 Report, *"Anatomy of a Hoax,"* "Your children & grandchildren can't speak for themselves. You have an *obligation* to act for them. If you don't the government will."

Mrs. Morris, graduate of Rutgers University, & a practicing pharmacist, publisher of the *Barbara M. Morris Reports,* blasted the coercive power of government over the family by quoting from the *Report to the President of the White House Conference on Children:* "A day care program that ministers to a child from six months to six years of age has over 8,000 hours to teach him values, fears, beliefs, and behaviors," & reminded her readers that, "The government is serious about raising your children. Are you?"

Described by the *Baltimore Chamber of Commerce magazine* as a pamphleteer in the Benjamin Franklin tradition, Mrs. Morris is nationally-acclaimed for her success in exposing otherwise unpublished information from governmental and social-planning agencies. On Friday night, March 19, 1972, she will present the introductory *"Child-Development—an Overview"* in the initial *Parade of Issues* opening the *Phase II convention of the National Coalition on the Crisis in Education* at the Mayflower Hotel in Washington, D.C.

The convention, with the theme *The Crisis Invades the Home,* is being held simultaneously and jointly with that of a national professional organization, the Scientific Information & Education Council of Physicians (SIECOP), whose membership leans heavily toward child analysts, psychologists and psychiatrists. Dr. James Parsons of Melbourne, Florida, SIECOP President, predicts "a certain tinderbox quality when the child advocacy and day care schemes come up" before its delegates.

THE NATIONAL COALITION ON THE CRISIS IN EDUCATION

PRESS RELEASE

Claiming that her organization actually represents the 97% of American women opposing the so-called 'women's liberation' movement, Mrs. Jaqui Davison, President of *Happiness of Womanhood* and its new division *Housewives League of America,* says that her organization intends to counter the degradation of femininity and the conversion of 'housewife' into a dirty word, pledging to the men of America, *"You make the living, and we'll make life worth living."*

According to the HOW newsletter, some 3% of the women in this country have pressured the Congress of the United States into withdrawing the rights, responsibilities, and privileges so treasured by the vast majority of American womanhood, by passing the "Equal Rights" Amendment and the first Child Advocacy bill later vetoed by President Nixon.

Housewives League of America is one of many national organizations with specialized interests who are joining together in Washington, D.C. May 18–22, 1972, to unite their efforts in blocking any and all forms of federal child-development legislation which they agree are destructive to the American family unit and the sanctity of the American home.

Stating that "A true woman is serene until her den is threatened; then she rises like a lioness to defend it," and pledging that "we are 'little old ladies' who are taking off our tennis shoes and putting on combat boots," Mrs. Davison's organization is hosting a May 18 banquet at the Mayflower Hotel, convention headquarters, to honor members of the U.S. Senate and House of Representatives who voted *against the "Equal Rights" Amendment.*

Other organizations which will be represented at the *National Convention on the Crisis in Education,—Phase II: The Crisis Invades the Home* include state and local groups of the National Coalition on the Crisis in Education, the National Parents' League, Unified Concerned Citizens of America, the Private Day Nursery Association of Ohio, the Detroit Education Association, and the Scientific Information Council of Physicians (SIECOP) which is holding a simultaneous convention, with joint sessions, on the *Medical and Psychologic Aspects of Current Social & Educational Trends Affecting the Quality of Family Life.*

THE NATIONAL COALITION ON THE CRISIS IN EDUCATION

PRESS RELEASE

"How to Reverse that Imperative Psychotic Childhood Regression, Primary Disidentification", will be the subject of a banquet speech to be delivered Saturday night, May 20, 1972, at the Mayflower Hotel in Washington, D.C., under the sponsorship of the *National Parents' League,* headquartered in Portland, Oregon.

Speaker Mary Royer, M.S., Research Psychologist and President of the NPL, is the developer and perfector of the psycho-diagnostic test of child-adjustment, the *Royer Identification Scale.* She will be addressing delegates to simultaneous and joint sessions of the conventions of the *National Coalition on the Crisis in Education* (NCOCE) and the *Scientific Information & Education Council of Physicians* (SIECOP). Also in attendance will be presidents of other national organizations sharing concern over proposed federal child-development legislation which Mrs. Royer describes as "unequivocably destructive of children."

In July of 1970 in an article for the Hillsboro Argus, Mrs. Royer wrote, "The saddest commentary of all is that many parents are moaning a dirge instead of coming together as a group for the purpose of raising (their) voices in a thundering crescendo of rightful protest against these indignities being perpetrated upon the Innocents. Decisive, militant action is needed." Her comments were both prophetic and catalytic, for on Friday night, May 19, representative leaders of NCOCE parent-committees across the nation will convene for *"Phase II: The Crisis Invades the Home"* and for an initial *"Parade of Issues"* during which Mrs. Royer will speak on *"The Psychological Implications of Contemporary Education and Alternatives Available to Parents."*

Through her organization, Mrs. Royer has chartered and given assistance to those interested in establishing inexpensive parent-controlled private schools dedicated to basic academic education; under the auspices of Circuit Court Judges and school administrators in different states, she has conducted extensive testing of adjudicated delinquents, and in 1963 she served as a consultant to *President Kennedy's Comm. on Delinquency & Crime,* a pilot program in St. Louis.

"Sufficient probing has revealed," she writes," that within a broad, amorphous, humanistic framework, your sons and daughters are being manipulated as experimental animals are manipulated . . . in giant, pilot school research projects designed by educators or behavioral scientists who are promoting various modular scheduling and differentiated staffing research projects, none of which have, according to educators, any definite proven value as educational techniques. Educators are also promoting the use of various psychological techniques, whose stated purpose is to 'alter attitudes' or to bring about various forms of 'behavioral modification' or change."

"Behavior modification techniques," she continues: "are being unethically, and unprofessionally, applied in the schools, against normal well-adjusted morally oriented children, without the knowledge of, or consent of, parents and/or guardians . . . The use of such psychological techniques is wholly inappropriate in a normal school setting, upon normal students, for, as stated, they are being utilized for the purpose of bringing about behavioral change."

"Specifically", Mrs. Royer concludes, "It is parental attitudes and values, that you have taught to your children, that are the target for change."

THE NATIONAL COALITION ON THE CRISIS IN EDUCATION

PRESS RELEASE

World-renowned child analyst and international lecturer on the emotional development of children, Dr. Rhoda Lorand of New York City, has challenged the self-assumed expertise in personal matters of the educational innovators, and emphasized the validity of the extreme creditability gap developed between parents and educators. "While school officials deny they have definite plans for programs, and use that denial to avoid showing parents the materials to be used, parents discover warehouses filled with the materials, which have been ordered paid for, and delivered", she wrote in her Fall, 1970 article for the N.Y. State School Nurse Teachers Association magazine, "A Psychoanalytic View of the Sex Education Controversy."

Because of her conviction that "the new [sex-education] programs would render parents obsolete", Dr. Lorand, whose book *Love, Sex, and the Teenager* was selected for inclusion in the VISTA Volunteers Portable Book Kit, will deliver the keynote address on "The Widening Assault on the Family" at the joint conventions of the Scientific Information & Education Council of Physicians (SIECOP) and the National Coalition on the Crisis in Education (NCOCE) to be held May 18–22 at the Mayflower Hotel in Washington, D.C. an effort bringing together representatives of grassroots parent-committees, and responsible medical, phychological and psychiatric professionals, from across the nation.

Speaking in her area of expertise, Dr. Lorand has said that "protesting parents are terated with unbelieveable rudeness and hostility when evasiveness no longer works. These facts point to the probable presence of unresolved childhood hostility towards their own parents [on the part of educators] which is being vented on the protesting parents. The behavior of those who are so determinedly pushing these programs has been most interesting clinically."

"Everyone became an instant authority on mental health," she continued, "diagnosing those who disagreed with them as 'very sick' and 'sexually hung-up'. Teachers and principals with impunity told and continue to tell protesting mothers that they must be mentally ill and surely there is something wrong with their sex life."

Dr. Lorand, a Fellow of the International Council of Psychologists, concludes, "The over-enthusiasm for the courses arouses the conjecture that these people are reacting to an excess of unconscious anxiety and guilt about sexuality, produced by a too repressive upbringing. Thus their ready diagnosis of the opposition as being sexually troubled is pure projection (attributing to someone else what one cannot bear to know is true of one's self). The no-holds-barred approach appears to be giving them a feeling of liberation from childhood guilt feelings and anxiety about sexual matters and they are experiencing a great sense of release in having this material openly available and under authoritative auspices."

ENGLISH EDUCATOR BLASTS INNOVATIVE EDUCATION

Headmaster S. H. Froome of the traditionally-oriented St. Jude's Jr. School in Surrey, England; author of the best-selling *Why Tommy Isn't Learning* (Tom Stacey Books, Ltd., London, 1970), and contributor to the London Express, Teacher's World Magazine, and the 1969 *Black Paper* on education, has blasted contemporary educational innovations as "trying to pretend that learning can be a pleasure; it can't. It's hard work, but it's got to be done."

Because of the parallel problems confronting education both here and abroad, ranging from permissiveness through sex-education and school-bussing, Mr. Froome has been invited to address the assembled delegates of the simultaneous conventions of the National Coalition on the Crisis in Education, a network of grass-roots parents' organizations, and SIECOP (Scientific Information & Educational Council of Physicians), to be held in Washington, D.C. on May 18–22, 1972 at the Mayflower Hotel, in both joint and separate sessions.

In commenting on American educational problems, Froome points out, "We have the same problem in Britain with 'faceless' bureaucrats being able to shape educational organization without reference to an electorate. It is done slowly and insidiously, but gradually schools and other institutions are remodeled to agree with the wishes of the paid officials, not with the desires of the parents of the children who attend them. It is my experience in this country that parents generally want their children to be taught in the traditional way and to be masters of reading, writing and arithmetic, but the officials have decided otherwise, and that is why our schools are centres of discovery-learning and are addicted to life-adjustment courses." Meanwhile, he adds, "Discriminating parents are always looking for an old-fashioned school—somewhere with strict discipline and with traditional teachers who like their pupils to know their multiplication tables and to write English in a tidy grammatical form."

The fact that Mr. Froome's school is avidly sought by parents is obvious in England's "The Teacher" of July 31, 1970, where reporter Shirley Toulson, comparing St. Jude's to a progressive British school points out that "Parents of these children have all deliberately chosen this sort of structured primary education for their children. Many of them travel considerable distances to bring the children to the school and all of them think themselves fortunate to have got a place at St. Jude's. There is an enormous waiting list, and many children are turned away." The London Evening Mail in reviewing Froome's book and school on May 19, 1971, put it this way: "Any of the modern educationists with whom he is now engaged in virtually single-handed combat had better not look to Stuart Froome's school, the proof of his particular pudding, to provide their ammunition."

Mr. Froome's summary, written in his column for England's "Teacher's World", August 21, 1970, applies equally in the United States: "Much modern educational theory, like thalidomide, has not been tried and tested in the crucible of practical experience. Centre of interest and integrated day procedures are strenuously advocated by purveyors of modern methods, but there is no demonstrable proof of their efficiency as teaching aids. Nor can there ever been such proofs, because coincident with the introduction of these free methods of teaching have come demands for the abolition of examinations and tests in schools."

POLICY STATEMENT

This organization is a coalition of independent parent-groups within the United States whose members believe that the ultimate authority and responsibility for the child must remain with the family. We have joined our efforts in order to preserve the family as the primary unit of our society; to preserve and foster the right of the parent to obtain the best possible education for his child and determine that child's moral and religious training, and to preserve these rights for our posterity.

In accordance with said purpose, this Coalition takes a united stand against in-school sex-education or sensitivity-training; the abolition of the neighborhood school; mandatory busing of schoolchildren beyond their home communities for any purpose whatsoever; and against any form of education, or any other program—administrative or governmental, local, state, national or international—which serves to weaken the child-parent relationship, to undermine national patriotism or our traditional Judeo-Christian ethic, or to abrogate the rights guaranteed to the people under the Constitution of the United States of America.

It is our specific intent to further the exchange of information and assistance between cooperating groups, each of which retains at all times its individual autonomy.

[From the Enquirer-Gazette, April 20, 1972]

THE SCOTT REPORT

(By Paul Scott)

A backlash similar to that running against forced school bussing is spreading across the nation in opposition to legislation that would change the traditional role of the American family and parent-child relationship.

This potential, powerful political force is being generated by hundreds of small pro-family groups now springing up around the U.S. In sharp contrast to the child development groups organized and directed from New York and Washington, the new pro-family movement appears to be made up of hard-core grass roots organizations.

The pro-family groups are now organizing a national coalition to vigorously oppose massive government child development programs, sensitivity training in schools, in-school sex education, and the abolition of the neighborhood school.

Known as the National Coalition on the Crisis in Education, this loosely knitted movement plans to bring their campaign to strengthen the family to the nation's Capitol in May by holding a national convention here. The organizing groups include:

Crisis in Education Committee, Garden City, Idaho; Unified Concerned Citizens of America, Texarkana, Texas; the National Parents' League, Portland, Oregon; League of Housewives, Kingman, Arizona; Detroit Education Association, Detroit, Michigan; SIECOP, Melbourne, Florida; and a number of pro-family groups in California, Ohio, Missouri, and Maryland.

Immediate objective of the mushrooming coalition will be to spark a drive in Congress to block the latest version of the controversial Child Development legislation that President Nixon vetoed last year.

The new legislation package, which includes money for the Head Start program, was quietly approved last week by a Senate Labor and Education Subcommittee headed by liberal Democratic Senator ———, the chief advocate of programs that would give the government more control over the early years of the nation's children.

The full Senate Labor and Education Committee is expected to act on the legislation later in the week. Supporters hope to win committee approval so Senate action can be taken early in May. Timetable for the legislation in the House now depends on action in the Senate.

The new strategy—The "Comprehensive Head Start, Child Development and Family Services Act", as the new legislation package is known, would provide for a network of preschool educational services for most children and controversial "development day care programs for youngsters whose parents are working."

In a major effort to win White House approval for the legislation, Senator ——— worked with GOP Senators ———, and ———, to slash the authorization for the first operation year from $2 billion in the vetoed bill to $1.2 billion.

Strategy of the ——— group is to try to get a frame-work child development program through Congress this year that President Nixon will not veto. Then after the 1972 election, the Senators would work to expand and radicalize the legislation to include many of the social engineering schemes that were in the vetoed measure.

The new pro-family coalition hopes to counter this move by convincing members of Congress and President Nixon that a majority of Americans are opposed to such social tampering with their children.

As one member of the coalition puts it: "Once the American people know what these Senators really have in mind when they propose child development, they will not only work to defeat the legislation but they will politically oppose those that support such programs."

White House aides report that President Nixon vetoed the original child development bill last year after receiving more than 100,000 letters from parents of children throughout the country who are fed up with efforts to weaken the family. More than three-fourths of the letters came from the Far West states including politically strategic California.

The strategy of the new coalition will be to use their national meeting here to spotlight their campaign against the Child Development legislation and to have their members talk with members of Congress. Their policy statement, now being circulated among members of Congress, states:

"This organization is a coalition of independent parent-groups within the U.S. whose members believe that the ultimate authority and responsibility for the child must remain with the family.

"We have joined our efforts in order to preserve the family as the primary unit of our society; to preserve and foster the right of the parent to obtain the best possible education for his child and determine that child's moral and religious training, and to preserve these rights for our posterity. . . .

"We are against any form of education, or any other program—administrative or governmental, local, state, national or international—which serves to weaken the child-parent relationship, to undermine national patriotism or our traditional Judeo-Christian ethic. . . ."

In a Presidential and Congressional election year, the new national coalition could be a very powerful political force—especially since it comes from the grass roots where they cast and count the votes.

TRANSLATOR STATIONS

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. SHOUP. Mr. Speaker, I have today introduced a bill to amend section 318 of the Communications Act of 1934, as amended. Its purpose is to enable the Federal Communications Commission to authorize translator broadcast stations to originate limited amounts of local programing and to authorize FM radio broadcast translator stations to operate unattended in the same manner as is now permitted for television broadcast translator stations.

Translator stations are low-power broadcasting stations which receive the incoming signals of a television station on an FM radio station, amplify the incoming signals, convert—or "translate"—them to a different output frequency, and retransmit the signals to the community or area which it is desired to serve.

Translators are needed where, because of terrain or extreme distances, it is not possible to receive the signals of the originating television or FM radio station—the primary station. Consequently, translators are found in abundance in rural areas, mountainous areas, or areas far from any television or FM radio station and frequently they provide the only source of television or FM radio to the residents of such areas. Most translator stations are found in the western part of the United States, but many are on the east coast in mountainous States. Translators, in increasing numbers, carry the programing of noncommercial educational television stations and serve an important function by providing in-school programing. They are limited, however, to rebroadcast, or petition, of the signals of their primary stations without any significant alteration of the characteristics of the incoming signals.

Translation stations were conceived as simple, inexpensive devices which could be made available to small communities where demand for television service—and later, FM radio service—was great and financial resources were meager. As so conceived, the rules governing their operation were modest, as were the financial requirements and other qualifications. Television translator stations have proliferated, there being now nearly 3,000 authorized in the country. The demand has not diminished nor has the need, but there is an increasing demand for greater utility for these stations, specifically, the ability to originate programing of local interest as well as to find financial support by carrying commercial advertising. Because translators are not now permitted to originate programing nor, with an exception to be discussed subsequently, to carry commercial advertising of their own, they are not self-supporting and must depend upon the public generosity for their support. This has always been difficult. Profit is not a characteristic of translator stations.

Prior to 1960, section 318 of the Communications Act required all broadcast stations to be operated only by persons having license issued by the Federal Communications Commission. The Commission is, under the law, permitted to waive the requirement for certain types of stations, but not for broadcast stations. Congress, by Public Law 86-609, approved July 7, 1960, amended this section of the law to make a specific exception for those broadcasting stations "engaged solely in the function of rebroadcasting the signals of television broadcast stations." The purpose of this amendment was to enable the Commission to permit translator stations to operate without a licensed operator. At that time, there were only television translator stations. FM radio translator stations were not authorized by the Commission until September 1970. Under section 318 of the act, as amended in 1960, any broadcasting station which was engaged solely in the function of rebroadcasting the signals of a television station could operate unattended, thus fulfilling the promise of a simple and inexpensive device available to all. A translator station, however, which originates programing would no longer be engaged solely in the function of rebroadcasting and would, therefore, be removed from the category of broadcasting stations which could operate without a licensed operator in attendance.

Television translator stations are of two basic types: Those that rebroadcast on a VHF output frequency—channels 2 through 13—known as VHF translators, irrespective of whether the primary station is VHF or UHF, and those that operate on UHF output channels—channels 14 through 83—known as UHF translators. UHF translators are necessarily more complex, require greater power, and are, consequently, many times more expensive to construct and operate than VHF translators. Because of the limited frequency space available in the VFH band, it is often not possible for communities to construct VHF translators and, if they are to have television, they must use UHF translators. This has generally resulted in a great financial burden. The Commission, recognizing this problem and desiring to encourage the use of UHF television, issued a Report and Order in Docket No. 15971 in 1968, in which it provided that UHF translators could originate local slide announcements for the purpose of soliciting or acknowledging voluntary local public financial support. This was later construed by the Commission to include carriage of pure commercial advertising. The duration and frequency of such announcements, however, was limited by the Commission to no more than 20 seconds every hour. The Commission held that this limitation was required by the proscriptions of section 318 of the Communications Act but believed that 20 seconds per hour was so insignificant as to constitute no change in the character of a translator as a station engaged solely in rebroadcasting. Any more than that, however, would remove such stations from that category and they would be required to employ licensed operators. The Commission said that, with this restriction, translator stations would still be considered to be engaged "solely" in rebroadcasting in the same manner as they are considered to be engaged solely in rebroadcasting when they originate and broadcast their call signs. The originations were restricted to slide announcements and no program origination was possible. Thus, translators are not permitted, and cannot be permitted under the statute as now worded, to originate programing of local interest.

People living in rural communities and areas, principally in the West, are increasingly demanding that their translator stations give them news, weather, and other programing of local interest. In many cases, such communities are able to receive, via translator stations, only television stations from a neighboring State. They are deprived of news of local political interest or events which vitally affect them. Frequently, isolated communities have no access to free television and are required to subscribe to a cable television system for which they must pay fees. Translators offer great promise for rural America if their functions can be expanded even to a limited extent. This can only be achieved through amendment of the statute, as proposed.

The Federal Communications Commission has indicated that the amount of local origination which could be done by translators would still be limited, both because of the statute as it is to be amended, and for technical reasons. The extent of the origination permitted would need to be determined by the FCC but it must be limited so that translator stations retain their character as rebroadcast stations. To enable the Commission to proceed with consideration of revision of its rules to allow local origination by translators in harmony with the statute, I propose to amend section 318 of the act to change the word "solely" in the phrase that reads ". . . engaged solely in the function of rebroadcasting" to "primarily" so that the phrase will read "engaged primarily in the function of rebroadcasting."

Since the statute now specifies "television" stations in the phrase "engaged solely in the function of rebroadcasting the signals of television broadcast stations, the Commission is not permitted to allow FM radio translator stations to operate unattended. At the present time, a person with a restricted radiotelephone operator permit is required to monitor an FM translator. Therefore, I propose to amend the statute to eliminate the word "television", thereby allowing FM radio translator stations also to operate unattended and to originate programing and commercial matter.

I recognize, of course, that there will be many problems to be resolved if origination is allowed, including the question of political broadcasts, the fairness doctrine, false and misleading advertising, logging, and similar problems. These can be dealt with in the rulemaking proceeding which the Federal Communications Commission would institute to amend the rules.

Section 318 of the Communications Act, as it is proposed to amend it, will read as follows:

> "Sec. 318. The actual operation of all transmitting apparatus in any radio station for which a station license is required by this Act shall be carried on only by a person holding an operator's license issued hereunder, and no person shall operate any such apparatus in such station except under and in accordance with an operator's license issued to him by the Commission: *Provided, however,* That the Commission if it shall find that the public interest, convenience, or necessity will be served thereby may waive or modify the foregoing provisions of this section for the operation of any station except (1) stations for which licensed operators are required by international agreement, (2) stations for which licensed operators are required for safety purposes, (3) stations engaged in broadcasting (other than those engaged primarily in the function of rebroadcasting the signals of broadcast stations), and (4) stations operated as common carriers on frequencies below thirty thousand kilocycles: *Provided further,* That the Commission shall have power to make special regulations governing the granting of licenses for the use of automatic radio devices and for the operation of such devices."

LIFE ABOARD A POLARIS SUB

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. HOSMER. Mr. Speaker, the May 1972 issue of the VFW magazine carries an insightful article by Frank Carey about life aboard one of America's Polaris submarines.

Few of us can fail to be awed by the power of these magnificent machines and their crews. Mr. Carey's article gives us all a valuable insight into the atmosphere aboard the U.S.S. *Carver* during a cruise with Vice Adm. H. G. Rickover.

For the benefit of my colleagues, the article follows:

ON THE PROWL UNDERNEATH

(By Frank Carey)

"You're dead!" cried the old admiral, tapping a startled young officer on the shoulder—even as the full-speed-ahead power of the Polaris submarine Carver began to fade.

"Take over!" Vice Adm. Hyman G. Rickover, 71, ordered an equally-surprised enlisted man who had been tensely peering at the panels of a maneuvering-control console—the one controlling the submarine's atomic power plant.

The 8,000-ton Carver—equipped to launch more destructive power than all the explosives detonated in all the wars of history—was operating at 400 feet beneath an angry sea.

And Electronics Technician 1/C J. John Lennon, 26, of Joliet, Ill., did "take over" and ran the show, as he or someone else might have to do in wartime.

He delicately maneuvered instruments and barked orders that brought the nuclear power plant to a complete stop—even as other crewmen switched the ship to old-time, emergency battery power, thus allowing the Carver to still move ahead, although at a fraction of her former speed. Finally, Lennon virtually nursed the atomic power plant back into action.

The switch-of-command incident occurred shortly after peppery, controversial Adm. Rickover—often called "the father of America's nuclear Navy"—had given the sharp command to "Scram the reactor!"

This triggered one of the most tense emergency-drill operations aboard a nuclear submarine.

Hands flew to instrument panels, voices elsewhere cried "Reactor scram!" and a siren screeched like a police cruiser chasing a bandit car.

This "scramming" maneuver involved an intentional, temporary stoppage of the ship's ingenious nuclear power plant by reducing its steam-generating nuclear fission "fires" and shutting off the trillion-atoms-per-second "splitting" of its uranium fuel.

It's the thing that would have to be done on a truly emergency basis if something went awry with the power plant and the crew and the plant were endangered.

True, the whole thing was a test—and there were indications that at least some of the crew had a tip-off that Rickover might stage such a drill this night.

But, it was a grim game, and as Rickover himself said:

"There's no such thing as a fake drill aboard a submarine!" In effect, he indicated, every kind of drill aboard a submerged sub amounts to an emergency.

The test maneuver—including the switch of command from the watch officer "killed" in action—was a dramatic finale to a rarely-given demonstration to a few newsmen of the deep-diving and other operations of a Polaris submarine.

The Carver—named for Dr. George Washington Carver, the famed black educator and chemist—is one of 41 nuclear-powered submarines equipped to launch 16 nuclear-warheaded Polaris missiles in a 2,500-nautical mile range.

And the Carver and 30 of her sister subs are being readied for conversion to carry even more powerful Poseidon missiles that may have multiple hydrogen warheads.

The Polaris subs, on secret submerged patrols lasting two months at a time—and ever on the alert to launch missiles capable of reaching virtually any target on earth—constitute one of America's chief deterrents against nuclear warfare.

As the 425-foot, cigar-shaped Carver operated at a Polaris diving area some 100 miles off the Virginia coast, newsmen—invited by Rickover for an overnight patrol—also experienced such maneuvers as:

—Diving to a classified-secret depth which they were only allowed to report as "greater than 400 feet."

—An "emergency stop" at full, but secret, speed—with the great hull of the Carver trembling and shuddering as the plummeting craft was suddenly thrown into reverse throttle by tall, alert Electrician's Mate 1/C Eugene Gihring, 24, of Seattle, Wash.

The amazing extent of the undersea, watchful prowling of the mighty Polaris fleet was disclosed aboard ship by Vice Adm. Eugene P. (Dennis) Wilkinson, now commander of all nuclear and non-nuclear submarines of the Atlantic fleet. About 16 years ago, then a commander, Wilkinson was the original skipper of the Nautilus, the world's first nuclear-powered submarine. He thrilled America when he signalled the terse, historic message—"Underway on nuclear power"—as the Nautilus put to sea on Jan. 17, 1955.

The Carver often rolled badly during a 7-hour surface voyage out of Norfolk, Va.—plowing into the teeth of a 25-knot wind beneath misty, threatening skies.

Such surface-rolling would be true of any nuclear-powered "true submersible," because they're not designed to run on the sea's surface like conventional, non-nuclear-powered subs must do.

Below deck, coffee cups slid off the wardroom table into the laps of officers and civilian "ship-riders." And shoulders and shins bumped against metal in the narrow passageways as the Carver struggled through 15-foot swells on the outward voyage.

Topside, a few "nukes" (nuclear sailors) having deck duties, lashed themselves with safety ropes to the nearest ladder, or to a kind of monorail which snakes along the deck.

In charge topside was the ship's "exec"—Lt. Cmdr. John L. Sullivan, of Minneapolis, who grinned, in replying to a reporter's question, that he was no "kin to the 'Boston Strong Boy' prizefighter" of yesteryear.

But now, the ship's clocks showed 10:05 p.m. and—

"Diving officer, submerge the ship!" ordered Cmdr. Donald Briggs, 41, of Gentry, Ark., the Carver's skipper, momentarily taking a fat cigar from his mouth.

"Dive! Dive!" came a cry from somewhere as two blasts from the ship's klaxon horn violently attacked our eardrums.

About 10 youths, sitting alert in front of a large console, peer sharply at their panel boards through the diving-control room's garish red light. That dim illumination was required by periscope viewers nearby to "night-adapt" their eyes for a final peak around before and early in submergence.

"Make (initial) depth 150 feet!" ordered Briggs, as the great ship, almost imperceptibly, began to go down at a 4-degree angle—and a depth meter above this reporter's head graphically recorded our foot-by-foot descent . . . ". . . 37, 38, 39, 40 . . ."

Even at that shallow depth, the sub's surface-rolling had magically disappeared.

"It will take us about a minute or so to get down to around 150," said Briggs. "These ships are so large, and create such a suction as they submerge, you practically have to pop 'em under the surface."

These tests are needed periodically to provide information to guide the aiming and firing of the Carver's nuclear missiles if the ominous, secret order ever came from the White House. That's because density, motion and other water conditions can vary sharply from place to place in the open ocean from which the missiles would surge.

But we were to go much deeper than that into the strange, silent world which is the hiding place of the Carver and her sisters on their lonely, dangerous patrols.

Adm. Rickover walks three miles daily when ashore—and is a Spartan eater. Thus, the Navy's oldest officer in active service set a fast pace as he led hard-breathing newsmen along the labyrinthian passageways of the great ship.

He ducked through tight hatches, maneuvered close corners, descended and climbed the toughest ladders with a finesse matching that of crewmen young enough to be his grandsons.

Talking almost continuously as he cruised onward the onetime Western Union messenger boy from Chicago maneuvered from the torpedo room in one part of the ship through a maze of other compartments, including one nicknamed "Sherwood Forest."

The latter is a passageway flanked on each side by eight fat cylinders stacked like giant trees and extending some 30 feet from the bottom of the sub to now-buttoned-down "windows" on its deck.

These held the Carver's ever-ready missiles during the 5½ years she's been on patrol. And, modifications of them will hold the even more fearsome Poseidons.

Rickover, quickly doffing his civilian clothes for khaki Navy "fatigues" when he came aboard, warmed up for his Pied Piper role by telling us that he is greatly worried about the future of the Navy he loves.

He said that despite the Carver's potential destructive force—a symbol of overall U.S. naval power—the United States may soon become "the No. 2 naval power in the world."

That possibility could become a reality, he said, unless action is taken to at least match what he calls an ever-increasing build-up of Soviet naval strength—ranging from missile-equipped nuclear submarines to conventional warships and the Russian merchant fleet.

Then the admiral—who for years has been battling Pentagon bureaucracy and urging increased U.S. might at sea—gave the newsmen a cram course in atomic energy and nuclear propulsion in the still-surfaced Carver's badly-rolling wardroom.

The white-haired scrapper illustrated the longevity of undisturbed atoms of the universe by declaring:

"Some of the atoms from the last dying gasps of Julius Caesar still remain in the world's atmosphere some 2,000 years later, whereas, every second, one trillion atoms of uranium undergo fission in this ship's propulsion reactor!"

Paradoxically, the ship's real payoff department—the "Missile Control Center,"—is known as the "push-the-button-department." Here, among other gear, a soft-spoken youth unemotionally worked a handle containing THE button. Ironically, the handle that would loose the nuclear whirlwind resembles the handle of a child's toy water gun.

Contact with the men's families during the patrols is provided by radio messages from wives and girl friends. Such 20-word "family-grams" are allowed only four times during each 60-day patrol, and there can be no replies from the radio-silent, prowling ship.

The night's realistic training exercise completed, the Carver surfaced shortly after midnight.

Clumps of tiny, phosphorescent sea-creatures glowed like fireflies, and even Roman candles, in the surf, racing across the bow as the Carver headed homeward to Norfolk.

And a lone, leaping dolphin gleamed in the ship's light off the port side as the lookout, Seaman Robert Abreu, 21, of Westford, Mass., confided he was homesick for his family and his girl.

"My birthday was Oct. 12," he said, "and for the last three years, I've spent it on patrol."

"Tough luck!" the newsman agreed. "But at least you have much in common with Columbus."

PRESIDENT NIXON'S ACTIONS IN VIETNAM APPROVED BY TWO ARIZONA NEWSPAPERS

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. RHODES. Mr. Speaker, both of the major Phoenix newspapers, the Arizona Republic and the Phoenix Gazette, printed excellent editorials today regarding President Nixon's most recent actions in Southeast Asia.

I would like to share the wisdom of these editorials with my colleagues, and suggest we all listen to this reasoned approach to the present situation. I therefore, insert both editorials in the Record at this point.

[From the Arizona Republic, May 10, 1972]

Nixon's Dual Escalation

President Nixon's speech Monday night undoubtedly escalated American participation in the Vietnam war. What many of the President's listeners didn't realize, however, is that the speech also escalated the drive for peace. It probably was the bravest speech ever made by an American president, and it showed the only course that promises an honorable end to the war.

Mining of North Vietnamese harbors involves a calculated risk. But it also promises to shut off supplies for North Vietnam, and 85 per cent of the tanks, artillery and guns used so effectively by North Vietnam are delivered by ship.

At the time he announced his blockade of North Vietnam, the President also went further than he has ever gone to meet the peace demands of the Hanoi government.

With the complete support of liberal opinion in this country, Hanoi has repeatedly said it would return the American prisoners if the United States (a) stopped fighting and (b) announced a fixed date by which all American military forces would be withdrawn from Vietnam.

Monday night President Nixon said he would agree to withdraw all American military forces within four months of (a) the return of American prisoners and (b) the establishment of an internationally supervised cease-fire.

So it is obvious that President Nixon has now come very close to accepting the Hanoi demands for an end to the war. He threw in the blockade for two reasons, it seems to us. First, he will have something to bargain with if Hanoi agrees to meaningful talks. Second, the South Vietnamese will be in a much stronger position to continue the war if enemy supplies of oil, tanks, guns, planes and ammunition are cut off.

There is, of course, a risk involved in ordering the interdiction of enemy supplies within the territorial waters of North Vietnam. What happens when the first non-combatant freighter, say a Russian ship, starts up the river for Haiphong? U.S. planes may bomb it, or U.S. ships may warn the Russian captain that he is entering a minefield. In either case, the supplies will not be delivered and the provisions of international law will have been complied with.

The President's hand was, of course, forced by the new missile and artillery attacks on American military bases in South Vietnam. Had he made no response the 80,000 American troops still in South Vietnam (most of them supply troops) might well have been faced with a Dunkerque of appalling proportions.

Cutting the Russian arms supply to North Vietnam assures the American command that it can continue its orderly withdrawal without running the risk of a slaughter on the beaches. To have done less would have made President Nixon guilty of neglecting his duty (1) to the American soldiers still in Vietnam, (2) to the prisoners still being used as pawns by the North Vietnamese, and (3) to the 17 million South Vietnamese whose capture is the goal of the Communist regime of North Vietnam.

[From the Phoenix Gazette, May 9, 1972]

To Win the Peace

When predator nations are on the prowl, most often peace can be achieved only by fighting for it.

Or by showing beyond even a fool's doubting the willness to fight.

America's Quaker President, whose very religion binds him to the cause of peace, who has gone the last mile with an arrogant enemy in seeking it, who has offered compromises so deeply cutting that they have lost him the good will of the far right in his own party—this President last night told his people, and the people of the whole world, that he intends to fight for peace.

Not for a false and transient peace born of surrender, that could have no other ultimate end but greater war.

A peace of honor, born of respect, sustained by strength.

In President Nixon's address to the nation last night was the implicit knowledge that there are two ways in which a great nation can fight. One is to win a victory. The other is to win a peace. The first seeks to humble and destroy the enemy. The second seeks only to bring the enemy to end the fighting.

By ordering the blockade and mining of North Vietnam's ports and the rail lines which bring in war supplies. Mr. Nixon entered into a great gamble that the Soviet Union would not react aggressively. But by going no farther at this time, he signaled to anyone who might listen that it is peace he seeks—not conquest and not a victory of conquest.

It should not be lost on anyone, and surely by now must not be lost upon the Communist world, that Mr. Nixon has meant what he has said from the beginning of his administration: He does not intend to surrender in this war; he does not intend to stand aside so that our ally can be first humiliated, then destroyed.

In our opinion Mr. Nixon has now done what President Kennedy and Johnson should have done, each in his turn.

Left undone in the proper time, it made the doing now vastly more difficult.

But no less necessary.

ESCALATION, AMERICAN OPTIONS, AND PRESIDENT NIXON'S WAR MOVES

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. DELLUMS. Mr. Speaker, today I am joining with several of my colleagues in sponsoring a resolution of impeachment of President Richard M. Nixon.

Given the President's actions in recent days—indeed, over the entire term of his office—and given the type of information now available about the options he faced, I have concluded that he is guilty of both unconstitutional procedure and of crimes against humanity.

President Nixon thinks he can get away with anything. I do not. The real question is whether the Congress will justify his contemptuous opinion of it, or whether Congress will start doing its job. The President fools only himself in believing his grandstanding can solve problems. Those of us in Congress must have a greater sense of reality—and a great sense of responsibility both to the Americans who are pawns in Mr. Nixon's games, and to the Vietnamese whose society we are turning into a smoking ruin.

I am amazed by the cynical irresponsibility with which the President presumes to blackmail the American people. Is he so obsessed with his personal prestige and power, is he so removed from the human realities of his decisions, that he no longer cares how many lives he endangers through his cruel and reckless actions? After wantonly exposing American troops and installations and the lives of American POW's, he then tries to use their endangered position—for which he alone is responsible—as a weapon to silence criticism. After flounting international law and daring the Russians to forget about their national honor, their ability to help their allies, their fears of appearing a pitiful, helpless giant. I, for one, do not think the Russians are more saintly than the Americans—I think they will respond as we have, with aggressive belligerence. And their victims will be the same innocent people trapped in Indochina.

In the last year of the Second World War, after the Germans knew they were defeated, they went on an orgy of killing that exceeded the horrors of the earlier part of the war, haunting the conscience of mankind ever since. This is the choice that faces us now. No longer able to impose our will in Southeast Asia, will our removal be in the same frenzied manner? Or will the American people get down to the job of preventing the needless sacrifice of lives and of preserving the sense of honor that is sickened by senseles and cruel destruction?

In the 48 hours since Mr. Nixon made his speech to the American public, my offices here in Washington and in California have been deluged with calls and telegrams responding to the President's moves. Of those calls and telegrams, my constituents and the Americans from all over the Nation who have contacted me have opposed the President by a margin of over 200 to 1.

This morning I accepted the following petition from students at Eastern High School here in Washington. I wish to insert their petition into the RECORD at this point—and, other than saying that I fully agree with them, I cannot add anything at all to this beautiful and eloquent statement by young black Americans:

EASTERN HIGH SCHOOL STUDENTS' STATEMENT TO CONGRESS CONCERNING THE WAR IN VIETNAM

We, the black students of Eastern High School in Washington, D.C., wish to express our outrage at President Nixon's escalation of the war, in total disregard of the needs of our community. While billions of dollars are poured into a genocidal slaughter of our brown brothers and sisters in Vietnam, we are starved of a decent education seventeen blocks from the floors of Congress. While so-called "Representatives" express their humanitarian concerns for peoples thousands of miles away, they expose their true hypocrisy by closing their eyes to the ghettos of Washington, D.C., through which they drive to work.

Now President Nixon asks the same black people that he has shown such contempt, to support an escalation so dangerous that it can only be seen as an escalation of contempt for all the world's poor and powerless people. In the past we have said that this is not our war. But make no mistake, we will not stand by while President Nixon threatens to destroy everything which black brothers and sisters have built with sweat and blood here and around the world.

Not only do we refuse to give President Nixon the support he requested, it is our duty to assure the world that we will not abide his trickery and deceit. The President asks for decorum while he gives us drugs. He asks for support and gives us the syndicate. Instead of home rule, we have the rule of the night stick and the National Guard. The fruits of our education are inflation and unemployment.

We will not fight the President's war. Our fight is the survival and improvement of our homes, schools, and community. We will not allow Nixon's military-industrial complex welfare program to continue. Our answer to the President's appeal is this, "better to bring the troops home than to bring the war home."

For the sake of those young students, and for the sake of all humanity in this time of ultimate madness, I believe it is imperative that the Congress and the public be fully informed as to the nature of the decisions made by the President in taking the type of actions that he has.

I have made a careful analysis of the studies used in providing the President with information to make his decisions, and, after doing so, it is clear to me that in each and every instance the President has been swayed only by the powerful influences of the narrow-minded military establishment. Time after time, when views of the military differed with those of other experts, the President would completely disregard those conflicting opinions and go with what the militarists wanted.

To give my colleagues an idea of the background to decisions—and why I believe it is imperative that the impeachment proceedings be taken against Mr. Nixon, I am now inserting into the RECORD those studies:

VIETNAM QUESTIONS

ENVIRONMENT OF NEGOTIATIONS

1. Why is the DRV in Paris? What is the evidence?

(Among the hypotheses:

a. Out of weakness, to accept a face-saving formula for defeat.

b. To negotiate the withdrawal of U.S. (and NVA) force, and/or a compromise political settlement, giving a chance for NLF victory in the South.

c. To give the U.S. a face-saving way to withdraw.

d. To undermine the GVN and U.S./GVN relations, and to relieve U.S. military pressure in both North and South Vietnam.

e. Out of desire to end the losses and costs of war on the best terms attainable.)

2. What is the nature of evidence, and how adequate is it, underlying competing views (as in the most recent NIE on this subject, with its dissenting footnotes) of the impact of various outcomes in Vietnam within Southeast Asia?

3. How soundly-based is the common belief that Hanoi is under active pressure with respect to the Paris negotiations from Moscow (for) and Peking (against)? Is it clear that either Moscow or Peking believe they have, or are willing to use, significant leverage on Hanoi's policies? What is the nature of evidence, other than public or private official statements?

4. How sound is our knowledge of the existence and significance of stable "Moscow" and "Peking" factions within the Hanoi leadership, as distinct, for example, from shifting factions, all of whom recognize the need to balance off both allies? How much do we know, in general, of intraparty disputes and personalities within Hanoi?

NVA/VC

5. What is the evidence supporting various hypotheses, and the overall adequacy of evidence, relating to the following questions:

a. Why did NVA units leave South Vietnam last summer and fall?

b. Did the predicted "third-wave offensive" by the NVA/VC actually take place? If so, why did it not achieve greater success?

c. Why are VC guerrillas and local forces now relatively dormant?

(Among the hypotheses: 1) response to VC/NVA battle losses, forcing withdrawal or passivity; 2) to put diplomatic pressure on U.S. to move to substantive talks in Paris; 3) to prepare for future operations; and/or 4) pressure of U.S. and allied operations.)

6. What rate of NVA/VC attrition would outrun their ability to replenish by infiltration and recruitment, as currently calculated? Do present operations achieve this? If not, what force levels and other conditions would be necessary? Is there any evidence they are concerned about continuing heavy losses?

7. To what relative extent do the U.S./RVNAF and the NVA/VC share in the *control* and the rate of VC/NVA attrition; i.e., to what extent, in terms of our tactical experience, can heavy losses persistently be imposed on VC/NVA forces, despite their possible intention to limit casualties by avoiding contact?

(Among the hypotheses:

a. Contact is predominantly at VC tactical initiative, and we cannot reverse this; VC need suffer high casualties only so long as they are willing to accept them, in seeking contact; or

b. Current VC/NVA loss rates can be maintained by present forces—as increased X% by Y additional forces—whatever the DRV/VC choose to do, short of further major withdrawal.)

8. What controversies persist on the estimate of VC Order of Battle; in particular, on the various categories of guerrilla forces and infrastructure? On VC recruiting, and manpower pool? What is the evidence for different estimates, and what is the overall adequacy of evidence?

9. What are NVA/VC *capabilities* for launching a large-scale offensive, with "dramatic" results (even if taking high casualties and without holding objectives long), in the next six months? (e.g., an offensive against one or more cities, or against most newly "pacified" hamlets.) How adequate is the evidence?

10. What are the main channels for military supplies for the NVA/VC forces in SVN, (e.g., Cambodia and/or the Laotian panhandle)? What portion of these supplies come in through Sihanoukville?

A. What differences of opinion exist concerning extent of RVNAF improvement and what is evidence underlying different views? (e.g., compare recent CIA memo with MACV views.) For example:

a. Which is the level of effective, mobile, offensive operations? What results are they achieving?

b. What is the actual level of "genuine" small-unit action in ARVN, RF and PF: i.e., actions that would typically be classed as such within the U.S. Army, and in particular, offensive ambushes and patrols? How much has this changed?

c. How much has the officer selection and promotion system, and the quality of leadership, actually changed over the years (as distinct from changes in paper "programs")? How many junior officers hold commissions (in particular, battlefield commissions from NCO rank) despite lack of a high school diploma?

d. What known disciplinary action has resulted from ARVN looting of civilians in the past year (for example, the widespread looting that took place last spring)?

e. To what extent have past "anti-desertion" decrees and efforts lessened rate of desertion; why has the rate recently been increasing to new highs?

f. What success are the RF and PF having in providing local security and reducing VC control and influence in rural populations?

11. To what extent could RVNAF—as it is now—handle the VC (Main Force, local forces, guerrillas), with or without U.S. combat support to fill RVNAF deficiencies, if all NVA units were withdrawn:

a. If VC still had Northern fillers.

b. If all Northerners (but not regroupees) were withdrawn.

12. To what extent could RVNAF—as it is now—also handle a sizeable level of NVA forces:

a. With U.S. air and artillery support.

b. With above and also U.S. ground forces in reserve.

c. Without U.S. direct support, but with increased RVNAF artillery and air capacity?

13. What, in various views, are the required changes—in RVNAF command, organization, equipment, training and incentives, in political environment, in logistical support, in U.S. modes of influence—for making RVNAF *adequate* to the tasks cited in questions 9 and 10 above? How long would this take? What are the practical obstacles to these changes, and what new U.S. moves would be needed to overcome these?

PACIFICATION

14. How much, and where, has the security situation and the balance of influence between the VC and NLF actually changed in the countryside over time, contrasting the present to such benchmarks as end-61, end-63, end-65, end-67? What are the best indicators of such change, or lack of it? What factors have been mainly responsible for such

change as has occurred? Why has there not been more?

15. What are the reasons for expecting more change in the countryside in the next two years than in past intervals? What are the reasons for not expecting more? What changes in RVNAF, GVN, U.S., and VC practices and adaptiveness would be needed to increase favorable change in security and control? How likely are such changes, individually and together; what are the obstacles?

16. What proportion of the rural population must be regarded as "subject to significant VC presence and influence"? (How should hamlets rated as "C" in the Hamlet Evaluation System—the largest category—be regarded in this respect?) In particular, what proportion in the provinces surrounding Saigon? How much has this changed?

17. What number or verified numbers of the Communist political apparatus (i.e. People's Revolutionary Party members, the hard-core "infrastructure") have been arrested or killed in the past year? How many of these were cadre or higher than village level? What proportion do these represent of total PRP membership, and how much—and how long—had the apparatus been disrupted?

18. What are the reasons for believing that current and future efforts at "rooting out" hard-core infrastructure will be—or will not be—more successful than past efforts? For example, for believing that collaboration among the numerous Vietnamese intelligence agencies will be markedly more thorough than in the past? What are the side-effects, e.g., on Vietnamese opinion, of anti-infrastructure campaigns such as the current "accelerated effort," along with their lasting effect on hard-core apparatus?

19. How adequate is our information on the overall scale and incidence of damage to civilians by air and artillery, and looting and misbehavior by RVNAF?

20. To what extent do recent changes in command and administration affecting the country-side represent moves to improve competence, as distance from replacement of one clique by another? What is the basis of judgment? What is the impact of the recent removal of minority-group province and district officials (Hoa Hao, Cao Dai, Montagnard) in their respective areas.

POLITICS

21. *How adequate is our information,* and what is it based upon, concerning:

a. Attitudes of Vietnamese elites not now closely aligned with the GVN (e.g., religious leaders, professors, youth leaders, professionals, union leaders, village notables) towards: Participation—if offered—in the GVN; the current legitimacy and acceptability of the GVN; like-wise (given "peace") for the NLF or various "neutralist" coalitions; towards U.S. intent, as they interpret it (e.g., U.S. plans for ending the war, perceived U.S. alignments with particular individuals and forces within Vietnam, U.S. concern for various Vietnamese interests).

b. Patterns of existent political alignments within GVN/RVNAF and outside it—reflecting family ties, corruption, officers' class, secret organizations and parties, religious and regional background—as these bear upon behavior with respect to the war, the NLF, reform and broadening of the GVN, and responses to U.S. influence and intervention.

22. What is the evidence on the prospects—and on what changes in conditions and U.S. policies would increase or decrease them—for changes in the GVN toward: (a) broadening of the government to include participation of all significant non-Communist regional and religious groupings (at province and district levels, as well as cabinet); (b) stronger emphasis, in selections and promotion of officers and officials, on competence and performance (as in the Communist Vietnamese system) as distinct from considerations of family, corruption, and social (e.g., educational) background, and support of the GVN, as evidenced, e.g., by reduced desertion, by willing alignment of religious, provincial and other leaders with the GVN, by the wide cooperation with anti-corruption and pro-efficiency drives.

23. How critical, in various views, is each of the changes in question 22 above to prospects of attaining—at current, reduced or increased levels of U.S. military effort—either "victory," or a strong non-Communist political role after a compromise settlement of hostilities? What are views of the risks attendant to making these changes, or attempting them; and, to the extent that U.S. influence is required, on U.S. practical ability to move prudently and effectively in this direction? What is the evidence?

U.S. OPERATIONS

24. How do military deployment and tactics today differ from those of 6–12 months ago? What are reasons for changes, and what has this impact been?

25. In what different ways (including innovations in organization) might U.S. force-levels be reduced to various levels, while minimizing impact on combat capability?

26. What is the evidence on the scale of effect of B–52 attacks in producing VC/N VA casualties? In disrupting VC/N VA operations? How valid are estimates of overall effect?

27. What effect is the Laotian interdiction bombing having:

a. In reducing the capacity of the enemy logistic system?

b. In destroying material in transit?

28. With regard to the bombing of North Vietnam:

a. What evidence was there on the significance of the principal strains imposed on the DRV (e.g., in economic disruption, extra manpower demands, transportation blockages, population morale)?

b. What was the level of logistical throughput through the Southern province of NVN just prior to the November bombing halt? To what extent did this level reflect the results of the U.S. bombing campaign?

c. To what extent did Chinese and Soviet aid relieve pressure on Hanoi?

d. What are current views on the proportion of war-essential imports that could come into NVN over the rail or road lines from China, even if all imports by sea were denied and a strong effort even made to interdict ground transport? What is the evidence?

e. What action has the DRV taken to reduce the vulnerability and importance of Hanoi as a population and economic center (e.g., through population evacuation and economic dispersal)?

SUMMARY OF RESPONSES TO NSSM 1.—THE SITUATION IN VIETNAM

The responses to the questions posed regarding Vietnam show agreement on some matters as well as very substantial differences of opinion within the U.S. Government on many aspects of the Vietnam situation. While there are some divergencies on the facts, the sharpest differences arise in the interpretation of those facts, the relative weight to be given them, and the implications to be drawn. In addition, there remain certain areas where our information remains inadequate.

There is general agreement, assuming we follow our current strategy, on the following:

(1) The GVN and allied position in Vietnam has been strengthened recently in many respects.

(2) The GVN has improved its political position, but it is not certain that the GVN and other non-communist groups will be able to survive a peaceful competition with the NLF for political power in South Vietnam.

(3) The RVNAF alone cannot now, or in the foreseeable future, stand up to the current North Vietnamese-Viet Cong forces.

(4) The enemy have suffered some reverses but they have not changed their essential objectives and they have sufficient strength to pursue these objectives. We are not attriting his forces faster than he can recruit or infiltrate.

(5) The enemy is not in Paris primarily out of weakness.

The disagreements within these parameters are reflected in two schools in the government with generally consistent membership. The first school, which we will call Group A, usually includes MACV, CINCPAC, JCS and Embassy Saigon, and takes a hopeful view of current and future prospects in Vietnam within the parameters mentioned. The second school, Group B, usually includes OSD, CIA and (to a lesser extent) State, and is decidedly more skeptical about the present and pessimistic about the future. There are, of course, disagreements within agencies across the board or on specific issues.

As illustration, these schools line up as follows on some of the broader questions:

In explaining reduced enemy military presence and activities, Group A gives greater relative weight to allied military pressure than does Group B.

The improvements in RVNAF are considered much more significant by Group A than Group B.

Group A underlines advancements in the pacification program, while Group B is skeptical both of the evaluation system used to measures progress and of the solidity of recent advances.

In looking at the political scene, Group A accents recent improvements while Group B highlights remaining obstacles and the relative strength of the NLF.

Group A assigns much greater effectiveness to bombing in Vietnam and Laos than Group B.

Following is a summary of the major conclusions and disagreements about each of six broad areas with regard to Vietnam: the negotiating environment, enemy capabilities, RVNAF capabilities, pacification, South Vietnamese politics, and U.S. military operations. Attached (at Tabs A–F) are summaries of the individual questions asked of the various agencies.

1. NEGOTIATING ENVIRONMENT

(Questions 1–4)

There is general U.S. government agreement that Hanoi is in Paris for a variety of motives but not primarily out of weakness; that Hanoi is charting a course independent of Moscow, which favors negotiations, and of Peking, which opposes them; and that our knowledge of possible political factions among North Vietnamese leaders is extremely imprecise. There continues wide disagreement about the impact on Southeast Asia of various outcomes in Vietnam.

Why is the DRV in Paris?

Various possible North Vietnamese motives for negotiating are discussed, and there is agreement that the DRV is in Paris for mixed reasons. No U.S. agency responding to the questions believes that the primary reason the DRV is in Paris is weakness. All consider it unlikely that Hanoi came to Paris either to accept a face-saving formula for defeat or to give the U.S. a face-saving way to withdraw. There is agreement that Hanoi has been subject to heavy military pressure and that a desire to end the losses and costs of war was an element in Hanoi's decision. The consensus is that Hanoi believes that it can persist long enough to obtain a relatively favorable negotiated compromise. The respondents agree that the DRV is in Paris to negotiate withdrawal of U.S. forces, to undermine GVN and USG relations and to provide a better chance for FV victory in the

South. State believes that increased doubt about winning the war through continued military and international political pressure also played a major role. Hanoi's ultimate goal of a unified Vietnam under its control has not changed.

Vietnam Impact on Southeast Asia

There continues to be a sharp debate between and within agencies about the effect of the outcome in Vietnam on other nations. The most recent NIE on this subject (NIE 50–68) tended to downgrade the so-called "domino theory." It states that a settlement which would permit the Communists to take control of the Government in South Viet-Nam, not immediately but within a year or two, would be likely to bring Cambodia and Laos into Hanoi's orbit at a fairly early state, but that these developments would not necessarily unhinge the rest of Asia.

The NIE dissenters believe that an unfavorable settlement would stimulate the Communists to become more active elsewhere and that it will be difficult to resist making some accommodation to the pressure than generated. They believe, in contrast to the Estimate, these adjustments would be relatively small and insensitive to subsequent U.S. policy.

Factors entering into the judgments are estimates of (1) Hanoi's and Peking's behavior after the settlement; (2) U.S. posture in the regions; (3) Asian leaders' estimates of future U.S. policy; (4) the reactions of the area's non-Communist leaders to the outcome in Viet-Nam; (5) vulnerabilities of the various governments to insurgency or subversion; and (6) the strengths of opposition groups within each state.

The assessments rest more on judgments and assumptions than on tangible and convincing evidence, and there are major disagreements within the same Department. Within the Defense Department, OSD and DIA support the conclusions of the NIE, while Army, Navy and Air Force Intelligence dissent. Within State, the Bureau of Intelligence supports the NIE while the East Asian Bureau dissents.

Both the majority and the dissenters reject the view that an unfavorable settlement in Viet-Nam will inevitably be followed by Communist takeovers outside Indo China.

Indeed, even the dissenters, by phrasing the adverse results in terms such as "pragmatic adjustments" by the Thais and "some means of accommodation" leave it unclear how injurious the adverse effects would be to U.S. security.

Moscow and Peking Influence

There is general governmental agreement on this question. Peking opposes negotiations while Moscow prefers an early negotiated settlement on terms as favorable as possible to Hanoi. Neither Peking nor Moscow have exerted heavy pressure on Hanoi and for various reasons they are unlikely to do so, although their military and economic assistance give them important leverage. CIA notes that "in competing for influence Peking and Moscow tend to cancel out each other." For its own reasons, Hanoi's tendency in the last year has been in the Soviet direction. However, the Hanoi leadership is charting its own independent course.

Hanoi Leadership Factions

There is agreement that knowledge of the existence and significance of possible factions within the Hanoi leadership is imprecise. There are differences of opinion within the leadership on tactics as opposed to ultimate objectives but there are not stable "Moscow" and "Peking" factions. The Hanoi leadership will form different alignments on different issues. The attempts by the agencies to ascertain the position of various North Vietnamese leaders on specific issues shows the imprecision of our information and analysis. For example, different agencies set forth sharply conflicting identifications of the position of individual leaders such as Giap on particular questions.

2. THE ENEMY

(Questions 5–10)

Analyses of various enemy tactics and capabilities reveal both significant agreements and sharp controversies within the Government. Among the major points of consensus:

A combination of military pressures and political tactics explains recent enemy withdrawals and lower levels of activity.

Under current rules of engagement, the enemy's manpower pool and infiltration capabilities can outlast allied attrition efforts indefinitely.

The enemy basically controls both side's casualty rates.

The enemy can still launch major offensives, although not at Tet levels, or, probably, with equally dramatic effect.

Major controversies include:

CIA and State assign much higher figures to the VC Order of Battle than MACV, and they include additional categories of VC/NLF organization.

MACV/JCS and Saigon consider Cambodia (and specifically Sihanoukville) an important enemy supply channel while CIA disagrees strongly.

Recent Enemy Activties

Military pressures and political considerations are viewed as responsible for the withdrawal of some North Vietnamese units into Cambodian and Laotian sanctuaries during the summer and fall of 1968. Military factors included heavy enemy losses, effective allied tactics, material shortages, and bad weather. Political factors centered on enemy efforts to make a political virtue out of a military necessity in a talk-fight strategy to influence the Paris negotiations, and the enemy's emphasis on the establishment of "Liberation Committees" throughout the South Vietnamese countryside.

The enemy undertook a third-wave offensive during the week of August 17. At a cost of 5,500 enemy KIA, the enemy tripled the number of his attacks to 300 per week and his assaults during the second half of August nearly equalled the level of his "second-wave" offensive in May. Prisoners and captured documents reported the goal of achieving a general uprising and overthrow of the GVN. The lack of greater success was attributed to: the enemy's economy-of-forces tactics; his desire to demonstrate initiative but at reduced risk; effective U.S. spoiling actions and increased intelligence; and the continuing deterioration of enemy Post-Tet capabilities in terms of quality of men and officers and lack of training.

All evaluators except the Department of State and Embassy Saigon state that VC guerrillas and local forces are not relatively dormant and that levels of harassment and terror remain high. However, the Embassy notes "the current low level of guerrilla and local forces activity," and State agrees there has been a "relative decline." Both agree that among the reasons are the heavy casualty rates, manpower problems and loss of cadres. But according to Embassy evaluators the main factor is that "The VC are husbanding their resources to give themselves the option of a 'climaxing' offensive." State notes that to support the VC counter-pacification campaign and their "Liberation Committees," "the Communists may feel that a demonstrably strong blow against the pacification program would have wide repercussions particularly at a time of optimistic Allied claims about pacification successes."

NVN/VC Manpower

It is generally agreed that the NVN/VC manpower pool is sufficiently large to meet the enemy's replenishment needs over an extended period of time within the framework of current rules of engagement. According to the JCS, "The North Vietnamese and Viet Cong have access to sufficient manpower to meet their replenishment needs—even at the high 1968 loss rate of some 291,000—for at least the next several years . . . Present operations are not outrunning the enemy's ability to replenish by recruitment or infiltration." Enemy losses of 291,000 in 1968 were roughly balanced by infiltration and recruitment of 298,000. North Vietnamese manpower assets include 1.8 million physically fit males aged 14–34 of whom 45% are in the regular forces (475,000) and paramilitary (400,000) forces. 120,000 physically fit males reach draft age each year and 200,000 military and labor personnel have been freed by the bombing half from defensive work. The potential manpower pool in SVN is estimated at half a million men and recruitment, while down, is running at approximately 3,500 per month. Enemy maintenance of the current commitment of 300,000 new men per year requires that the Allies inflict losses of 25,000 KIA per month, or 7,000 more than the current rate. MACV considers current Allied force levels adequate to inflict such casualties if the enemy chooses to engage.

The enemy's employment of economy of forces tactics since the fall of 1968 and intelligence evidence reflect the enemy's concern about his 1968 level of losses, which if continued another year would mean nearly 100% yearly attrition of his full-time fighters and nearly total North Vietnamization of local fighting forces in South Vietnam. He is judged unlikely to undertake the heavy losses of a major offensive unless he believes he could thereby achieve a breakthrough in Allied will-power in Vietnam or Paris. Yet, without a VC/NVA offensive on the scale of Tet 1968, the JCS believe "It will be exceedingly difficult in 1969 for allied forces to attrite the enemy at 1968 levels."

Control of NVA/VC Attrition

There is general agreement with the JCS statement, "The enemy, by the type action he adopts, has the predominant share in determining enemy attrition rates." Three fourths of the battles are at the enemy's choice of time, place, type and duration. CIA notes that less than one percent of nearly two million Allied small unit operations conducted in the last two years resulted in contact with the enemy and, when ARVN is surveyed, the percentage drops to one tenth of one per cent. With his safe havens in Laos and Cambodia and with carefully chosen tactics, the enemy has been able during the last four years to double his combat forces, double the level of infiltration and increase the scale and intensity of the main force war even while bearing heavy casualties.

VC Order of Battle

Considerable disagreement is evidenced concerning the estimates of Viet Cong order of battle, the categories of guerrilla forces, recruiting manpower pool and quality of the data. MACV includes only enemy personnel engaged in offensive military actions and estimates enemy strength at 327,000. Moreover, CIA and State consider categories of paramilitary and administrative service to be indispensable to the enemy's military effort and population control and extrapolate a total range of 435,000–595,000 men. State, noting that the MACV estimate results from adding up so-called "hard" field intelligence figures for main force, local and guerrilla forces, believes CIA's extrapolation is developed more realistically from the totality of evidence. OSD presents both MACV and CIA estimates, pointing out that the differences in overall strength presented by the two are not sufficient to cause a change in overall strategy (though, as CIA notes, they could have a bearing on peace terms).

Recruiting figures vary for reasons similar to the divergencies on strength. Monthly VC recruitment is estimated at 8,500 in 1966, 7,500 in 1967, double the 1967 rate during the first quarter of 1968 and dropping sharply after the Tet offensive to approximately 3,500 per month. CIA estimates a smaller drop than MACV. Saigon reports that the last six months reflect a reduced level of recruitment, citing as evidence GVN expansion, reduction in VC standards, VC attempts to improve existing cadre, increased use of NVA fillers in VC units, and GVN mobilization effectiveness.

NVA/VC Capabilities for a Large-Scale Offensive

All agree that (as recent events have borne out) the enemy has a capability for a large scale offensive against cities, bases and/or villages in the Accelerated Pacification Program if he wishes to bear the heavy casualties that would result. Allied countermeasures and preemptive capabilities make it highly unlikely that such an attack would have an impact on the scale of the Tet offensive of 1968. Further, the enemy would have to weigh the effect of such an offensive on the Paris talks and on the risk of touching off a resumption of bombing in North Vietnam.

NVA/VC Supply Channels

There is general agreement that the main channels for military supplies reaching enemy forces in the northern areas of South Vietnam (I, II, and a part of III Corps) are the Laos Panhandle and the DMZ. Considerable disagreement exists as to the channel of supplies for the southern part of South Vietnam (part of III and all of IV Corps). MACV, CINPAC, JCS and Embassy point to Cambodia. MACV believes that no large shipments of ordnance are coming into IV Corps via Laos and that Cambodia has during the last two years become a major source of supplies for this region, with 10,000 tons of arms going through Sihanoukville to the border between October 1967 and September 1968. CIA diagrees strongly, especially with regard to the importance of Sihanoukville. It estimates that the external resupply requirement of IV Corps is three tons of combat-related material a day and that this comes across two Cambodian border points and the South China sea coast of South Vietnam. CIA notes numerous factors which it believes cast doubt on the importance of the Sihanoukville channel.

OSD summarizes without comment the national level CIA/DIA estimates for total enemy external daily supply requirements of 80 tons: 34 tons come from Laos, 14 tons across the DMZ, and 32 tons from Cambodia (of which 29 tons involve mainly food and other non-combatant goods).

3. THE SOUTH VIETNAMESE ARMED FORCES

(Questions 10A–13)

The emphatic differences between U.S. agencies on the RVNAF outweigh the points of agreement. There is consensus that the RVNAF is getting larger, better equipped and somewhat more effective. And all agree that it could not now, or in the foreseeable future, handle both the VC and sizeable NVA forces without US. combat support. On other major points there is vivid controversy. The military community gives much greater weight to RVNAF statistical improvements while OSD and CIA highlight remaining obstacles, with OSD being the most pessimistic. Paradoxically, MACV/CINCPAC/JCS see RVNAF as being less capable against the VC alone than does CIA.

RVNAF Capabilities Against the Enemy

The Vietnamese Armed Forces (RVNAF) are being increased in size and re-equipped to improve their ground combat capability. The best measure of this improvement is the RVNAF's expected performance against a given enemy threat. However, there is paradoxical divergence in agency views on the RVNAF ability to handle the internal VC threat without U.S. assistance. State (both EA and INR) and CIA—who generally rate RVNAF improvement and effectiveness lowest among the respondents, and who accept the highest estimates of overall VC strength—believe that, "Without any U.S. support . . . ARVN would at least be able to hold its own and make some progress against the VC unsupported by the NVA" (i.e. the VC without NVA fillers, though with regroupees).

In contrast is the view of MACV/CINCPAC/JCS, who rate RVNAF improvement and effectiveness highest, who accept the lowest estimates of VC armed strength and who (unlike CIA and State) do not consider VC irregular forces to be part of the VC military threat. But the military community believes that without U.S. combat support, in opposing VC main and local forces with any NVA units or fillers, RVNAF "would have to reduce the number of offensive operations and adopt more of a defensive posture," resulting in "loss of control by the Government of Vietnam over substantial rural areas." Thus, MACV/CINCPAC/JCS believe that RVNAF would not be able to cope with purely indigenous VC forces without U.S. combat support until the completion of the modernization program in 1972.

OSD, however, believes that a number of major reforms are required, in addition to the current modernization program, if this goal is to be met. "It is unlikely that the RVNAF, as presently organized and led, will ever constitute an effective political or military counter to the Viet Cong."

All agencies agree that RVNAF could not, either now or even when fully modernized, handle both the VC and a sizable level of NVA forces without U.S. combat support in the form of air, helicopters, artillery, logistics and some ground forces.

RVNAF improvements

There is consensus that RVNAF forces are now much larger (826,000) than in December 1967 (743,000) and will be further increased to 876,000, with the greatest increases in manpower given to the Popular and Regional Forces needed for local security. The RVNAF is also better equipped. All regular combat units have M16 rifles and are beginning to receive increases in their own artillery and helicopter support. Militia (393,000 of the total RVNAF strength in December 1968) have 100,000 M16 rifles and are scheduled to receive 150,000 more in 1969. MACV has stepped up his training efforts by forming 353 mobile teams in 1968 to train and advise the militia.

Moreover, all agencies agree that overall RVNAF capabilities, number of operations and effectiveness increased during 1968. Data presents a mixed picture in some areas, but it is clear that the larger number of enemy killed by RVNAF resulted from better effectiveness (more kills per 1000 troops), along with higher kill ratios, as well as increased force size. In spite of these statistical improvements (which CIA in particular finds unreliable indicators), RVNAF is best thought of as a force which enlarged its contribution in 1968 within a total allied effort which also expanded. The modernization program, just beginning to have a high impact on the field, promises that results will continue to increase so long as RVNAF receives backbone in the form of a U.S. ground combat presence.

RVNAF problems

RVNAF faces severe motivation, leadership and desertion problems. The officer problem is mixed in politics and little has been done to correct it. Poor leadership and motivation contributes to regular ground combat forces deserting (net) at an annual rate of 34% of their strength (gross rate ⅓ of the divisions is more than 50%). Total RVNAF desertions (net) are equivalent to losing one ARVN division per month.

Thus, OSD does not believe that current expansion and reequipment programs are sufficient to make RVNAF into an effective fighting force because major political and military actions are required that are not now emphasized. OSD considers essential action to recognize and reward combat leadership and development of a favorable attitude by the military towards their own people which will result in acceptance and support of the government by its citizens.

JCS, CINCPAC, MACV and State feel that, without such changes, RVNAF is making reasonable progress toward development as a self-sufficient force able to hold its own against an internal VC threat. OSD and CIA feel that RVNAF is making limited progress and many of RVNAF's weaknesses are uncorrected.

OSD suggests the possibility of cutting costs and US losses by reducing US forces as RVNAF reaches milestones in the modernization program. This plan is contingent on the enemy force stabilizing at a reduced level of threat. A plan to withdraw one US division during mid-1969 has been discussed with President Thieu, who responded favorably. Allied troop reductions are dependent on progress in RVNAF improvement, changes in enemy forces and a manageable battlefield and pacification situation in South Vietnam.

4. PACIFICATION

(Questions 14–20)

Two well-defined and divergent views emerged from the agencies on the pacification situation in South Vietnam. One view is held by MACV and Embassy Saigon and endorsed by CINCPAC and JCS. The other view is that of OSD, CIA and State. The two views are profoundly different in terms of factual interpretation and policy implications. Both views agree on the nature of the problem, that is, the obstacles to improvement and complete success. What distinguishes one view from the other is each's assessment of the magnitude of the problem, and the likelihood that obstacles will be overcome.

The Two Views

The first group, consisting of MACV JCS Saigon, maintains that "at the present time, the security situation is better than any time during period in question," i.e., 1961–1968. MACV cites a "dramatic change in the security situation," and finds that the GVN controls three-fourths of the population. JCS suggests that the GVN will control 90% of the population in 1969. The second group, OSD, CIA, State, on the other hand, is more cautious and pessimistic; their view is not inconsistent with another Tet-offensive-like shock in the countryside, for example, wiping out the much-touted gains of the 1968 Accelerated Pacification Program, or with more gradual erosion. Representing the latter view, OSD arrives at the following conclusions:

(1) "The portions of the SVN rural population aligned with the VC and aligned with the GVN are apparently the same today as in 1962 [a discouraging year]: 5,000,000 GVN aligned and nearly 3,000,000 VC aligned.

(2) "At the present, it appears that at least 50% of the total rural population is subject to significant VC presence and influence."

CIA agrees, and State (INR) goes even further, saying:

> "Our best estimate is that the VC have a significant effect on at least two-thirds of the rural population."

The Major Issues

After removing population control changes attributable to urban migration (which has brought more people under GVN control than pacification), the two views differ by the magnitude of up to about one-sixth of the

South Vietnamese people, i.e., 2–3 million. The second group places these people in a contested category, yet to be secured by the GVN, while the first group maintains that these 2–3 million people are already under GVN control.

The substance of the argument is evident on the next page. Using HES data for 1967–1968, the chart shows that the optimistic interpretation leaves only 26.7% or SVN's population to be pacified as of November 1968. The conservatives think 41/3% of the population has yet to be pacified. More importantly, the second view shows little pacification progress over the period except for the gains of the Accelerated Pacification Campaign (APC) program, and they dispute these gains. State, OSD and CIA maintain that the October-December APC acquisition of 9.4% of the population is an exaggerated claim because these gains were achieved by cutting minimal force levels to one-third of previously accepted levels. These agencies, therefore, argue that the APC gains have stood only because the NLF has not challenged them, and they believe it is "quite likely" the gains will be contested in the coming months.

If the APC gains are removed, the substance of the long-term debate emerges clearly. The chart then shows that according to the second view, pacification programs have registered no progress over 1967–68, and before. The first view records only slight progress over the 1966–68 period. It is further seen that the second view places the chart's pacification line much lower. For example, in August 1968, the first group says 65.8% of the population was under GVN control; the second group places only 49.9% in the GVN category. The source of this difference is a dispute over the value of the HES composite indicator which is really an average of eighteen indicators, few of which have anything to do with security.[1] The second group arrives at their estimate by allocating the contested population on the basis of security criteria alone. According to their view, in the fall of 1968 at least one-half of South Vietnam's population was subject to a significant NLF presence; for the first group, this figure was one-third.

By neither view can pacification be said to have progressed much in the last three years (at least, prior to the last few months). Nor does either view promise anything close to complete success within several years. If the 1967–1968 pacification rate (including the debated APC gains) is sustained, the first interpretation implies that it will take 8.3 years to pacify the 4.15 million contested and VC population of December 1968; the second view implies pacification success in 13.4 years.

It is noteworthy that the gap in views that does exist is largely one between the policy makers, the analysts, and the intelligence community on the one hand, and the civilian and military operators on the other.

The policy implications of the disagreement could hardly be more divergent. One view sees a high probability of GVN success and generally applauds the GVN's performance. It finds that the GVN has been ineffective at times, but that it has not been negligent, and overall progress has been most satisfactory. The policy implications of this view are more of the same, gradual U.S. pressure and wholehearted U.S. support.

The other view leads to a radically different policy. The GVN has failed in the countryside. The rural population situation has not changed significantly and certainly not at a rate which will free us of noticeable burdens within 2–5 years. We may even be overextended in the rural areas and open to a damaging VC counter-attack. The implied policy recommendations would call for voicing considerable displeasure at the GVN's rural performance, establishing realistic rural goals for the GVN; penalizing the GVN if these goals are not achieved, and devoting a greater effort to promoting a GVN/VC rural political accommodation on, for example, a district or village basis.

Lesser Issues

In 1968, 15,776 members of the Viet Cong Infrastructure (VCI) were neutralized, 87.1% of whom were low-level functionaries. Anti-VCI operations showed major improvements but did not seriously harm the VCI.

All agencies agreed that the Phoenix program was long over due and potentially very valuable. The respondents agreed that it is too early for a thorough assessment of the Phoenix program, and they predict it is unlikely to cause the NLF major problems in 1969. Embassy Saigon noted that Phoenix bears close watching with respect to the attitudes of rural population, attitudes toward the American sponsors, and a potentially deleterious effect on the possibilities for a rural accommodation.

Every agency except MACV/JCS agrees that the available data on war damage to the civilian population is inadequate. Using limited data which showed that 7% of the reporting hamlets were affected by friendly caused war damages, CIA concluded "the rural hamlets take a tremendous beating." The responses received suggest that this is a very serious problem in need of further U.S. government attention and analysis.

Recent GVN personnel changes were found by all agencies to have brought a significant upgrading in the average quality of GVN officials. Nonetheless, corruption, favoritism, and neglect of the populace's problems were still seen as major GVN shortcomings. There was no conclusive evidence that the 1968 personnel changes harmed the GVN's relations with minority groups.

5. THE POLITICAL SCENE

(Questions 21–23)

This section on the political situation can be boiled down to three fundamental questions: (1) How strong is the GVN today? (2) What is being done to strengthen it for the coming political struggle with the NLF? (3) What are the prospects for continued non-Communist government in South Vietnam?

The essence of the replies from U.S. agencies is as follows: (1) Stronger recently than for many years but still very weak in certain areas and among various elites. (2) Some steps are being taken but these are inadequate. (3) Impossible to predict but chancy at best.

Within these broad thrusts of the responses there are decided differences of emphasis among the agencies. Thus MACV/JCS and Saigon, while acknowledging the problems, accent more the increasing stability of the Thieu regime and the overall political system; the significance of the moves being made by the GVN to bolster its strength; and the possibility of continued non-Communist rule in South Vietnam given sufficient U.S. support. CIA and OSD on the other hand, while acknowledging certain progress, are decidedly more skeptical and pessimistic. They note recent political improvements and GVN measures but they tend to deflate their relative impact and highlight the remaining obstacles. State's position, while not so consistent or clear-cut, generally steers closer to the bearishness of OSD and CIA.

The Present Situation

We have a great quantity of information on Vietnamese politics but the quality is suspect. It varies greatly by elite and level and is usually sounder for broad groups than factions or individuals. In addition, we are dealing with a nascent constitutional system, and public opinion is often manipulated.

Non-communist elements rally in times of common danger from the communist threat, but otherwise generally engage in a perpetual struggle for power. Most elites may be willing to participate in the GVN but their motives are often more self-serving than nationalistic. In their view toward the military struggle, Northerners are most insistent on military victory, central Vietnamese the most war-weary, southerners the most ambiguous. Firm support for GVN comes from most military elements, Catholics and the bureaucratic and merchant classes. The major problem for the GVN remains in the rural villages where the VC are strongest. Opposition also comes from certain Buddhist, youth, union and Army elements. Various ethnic and religious minorities, while often anti-communist, are not strongly tied to the GVN.

In reading the Vietnamese political scene, one must keep in mind that pragmatism, expediency, war weariness, a desire to remain unaligned and end up on the winning side are all common features. So are family loyalty, corruption, social immobility and clandestine activities.

OSD points out (and a recent Saigon cable corroborates this view) that there has been a noticeable shift recently by many non-communists towards acceptance of the NLF in some capacity as part of an eventual political settlement. Most elites would want to minimize the communist influence in the government.

South Vietnamese attitudes toward the US are varied and ambivalent. Our presence is seen as a necessary evil to forestall a communist take-over. Our involvement is viewed with a mixture of gratitude, shame, and suspicion. In any event, recent events, especially the Paris talks, have made it clear to the Vietnamese that the U.S. commitment is not open-ended and that some withdrawals will probably come soon.

GVN Political Actions

All agencies agree that there has been substantial progress in broadening the government; all except OSD see significant movement against corruption; and all agree that political mobilization is both the (material missing) advancement based on merit, and there are many other political steps needed. In general, all these factors will be increasingly important as the US reduces its military effort. Such a reduction might stimulate political progress but it will also entail risks. As noted earlier, there is some ambiguity as well as differences of view about the proper US role in SVN politics. State and Saigon caution against undue US involvement and pressure, while MACV/JCS place greater emphasis on the use of our leverage in effecting needed reforms.

No agency clearly forecasts a "victory" over the communists, and all acknowledge the manifold problems facing the DVN as we withdraw. However, MACV/JCS stress the need for continued US support. OSD and State believe that only a compromise settlement is possible and emphasize GVN self-reliance. CIA states that progress in SVN has been sufficiently slow and fragile that substantial US disengagement in the next few years could jeopardize all recent gains.

JCS and OSD each list their essential conditions for cessation of hostilities While they agree on certain elements, the JCS look toward continued US support to assure the sovereignty of the GVN while OSD requires only that the South Vietnamese be free to choose their political future without external influence.

---

[1] There is a strong case for abolishing an overall composite indicator from HES and either utilizing the sub-indicators on a category basis, e.g., security, political, and economic development or using the category data within a newly devised system. Despite all its shortcomings, HES has provided useful data and the small amount of analysis available is very helpful, although large areas of analytical ground remain to be covered.

6. U.S. MILITARY OPERATIONS

(Questions 24–28)

The only major points of agreement with the U.S. Government on these subjects are:

The description of recent US deployment and tactics;

The difficulties of assessing the results of B-52 strikes, but their known effectiveness against known troop concentrations and in close support operations;

The fact that the Soviets and Chinese supply almost all war material to Hanoi and have enabled the North Vietnamese to carry on despite all our operations.

Otherwise there are fundamental disagreements running throughout this section, including the following:

OSD believes, and MACV/JCS deny, that there is a certain amount of "fat" in our current force levels that could be cut back without significant reduction in combat capability.

MACV/JCS and, somewhat more cautiously, CIA ascribe much higher casualty estimates to our B-52 strikes.

MACV/JCS assign very much greater effectiveness to our past and current Laos and North Vietnam bombing campaigns than do OSD and CIA.

MACV/JCS believe that a vigorous bombing campaign could choke off enough supplies to Hanoi to make her stop fighting, while OSD and CIA see North Vietnam continuing the struggle even against unlimited bombing.

U.S. Deployments and Tactics

In early 1968, MACV moved the equivalent of two divisions from II and III Corps to northern I Corps. This deployment was a defensive reaction to the threat of a major NVA siege of Khe Sanh and the coastal lowlands. With the further enemy offensives in February and May, U.S. forces throughout the country (except for I Corps) were pulled back into screening positions around SVN's major cities and used to push the VC forces out. Since then, the two U.S. divisions redeployed to I Corps have been returned to III and IV Corps. MACV now gives top priority to the control of Saigon, the approaches to it in III and northern IV Corps, and the heavily populated upper Delta.

Until late 1968, allied (particularly U.S.) efforts were directed largely against enemy main forces through large (1,000 men or more) unit operations. With the recent withdrawal of NVA main force units from SVN, U.S. units have been able to operate in smaller units and with more emphasis on the enemy's infrastructure and support apparatus. Though no U.S. units are currently in direct support of pacification, the deployment of U.S. units in SVN's populated areas and the change in tactics has, MACV asserts, helped improve pacification progress.

U.S. Force Reductions

MACV/JCS and OSD agree that there is no way of reducing U.S. force levels in Vietnam without some reduction in combat capability. However, OSD argues that withdrawing some U.S. logistics headquarters, construction or tactical air personnel may not have any significant effect on U.S. combat capability or effectiveness. For instance, OSD concludes that because of the halt in bombing North Vietnam, the U.S. needs neither as many interdiction aircraft as we now have, nor our full force of three Navy carriers off North Vietnam. OSD also believes certain tactical innovations might make some troop cutbacks possible. MACV/JCS feel that while some of the above elements would help to minimize loss of combat capability, in general, significant reductions in our force levels will proportionately reduce our combat capability.

OSD also thinks that U.S. forces could be reduced as the RVNAF improves and expands. By their estimates, the ongoing RVNAF improvement plan might free up to about 15 U.S. battalions and their support units by mid-1969 without a decrease in total allied force capability. This projection assumes that RVNAF combat effectiveness increases along with their combat capability. In their responses, MACV/JCS do not consider this question.

B-52 Effectiveness

All agencies acknowledge that sound analysis of the effectiveness of B-52 strikes is currently impossible for several reasons. The consensus is that some strikes are very effective, some clearly wasted, and a majority with indeterminate outcome.

There is agreement that B-52 strikes are very effective when directed against known enemy troop concentrations or in close support of tactical operations, and have served to disrupt VC/NVA operations.

There are sharp differences on casuality estimates. While the JCS estimate that about 41,000 enemy were killed in 1968 by the B-52's, OSD believes that perhaps as few as 9,000 were. The difference is that OSD, unlike MACV/JVS, find that B-52 strikes against suspected enemy infiltration routes or base camps (50% of 1968's sorties) are much less effective than close support strikes. CIA cites a variety of casualty estimates and considers it impossible to select one, but believes it is apparent that B-52 strikes have became a significant factor in the attrition of enemy forces.

The Laos and North Vietnam Interdiction Campaign

The MACV/JCS and State/CIA/OSD fundamentally disagree over whether our bombing campaign either prior to or after November has reduced the enemy's throughput of supplies so that the enemy in South Vietnam receives less than he needs there. The MACV/JCS feel the bombing has succeeded; State/CIA/OSD think it has failed.

Post-November Campaign

Since early November, MACV has attempted to reduce the logistic capacity of the enemy by blocking the two key roads near the passes from NVN into Laos. MACV finds it has effectively blocked these roads 80% of the time and therefore caused less traffic to get through. OSD/CIA/State agree that enemy traffic on the roads attacked has been disrupted. However, they point out that the enemy uses less than 15% of the available road capacity, is constantly expanding that capacity through new roads and bypasses, and our air strikes do not block but only delay traffic.

Besides blocking the roads, our bombing destroys material in transit on them. JCS/MACV and OSD/CIA agree that we destroy 12% to 14% of the trucks observed moving through Laos and 20% to 35% of the total flow of supplies in Laos. To MACV/JCS, the material destroyed cannot be replaced so that our air effort denies it to the VC/NVA forces in South Vietnam. In complete disagreement, OSD and CIA find that the enemy needs in SVN (10 to 15 trucks of supplies per day) are so small and his supply of war material so large that the enemy can replace his losses easily, increase his traffic flows slightly, and get through as much supplies to SVN as he wants to in spite of the bombing.

Pre-November Campaign

Prior to November 1968, we bombed in southern North Vietnam as well as Laos. The MACV/JCS find that this campaign reduced the flow of supplies into Laos greatly and that this flow increased greatly after the bombing halt. The OSD/CIA agree that traffic followed this pattern, but argue that it was caused by normal seasonal weather changes, not our bombing policy. Comparing 1967 traffic to 1968 traffic, they find that prior to the bombing halt, 1968's supply throughput was higher than 1967's and that, after the halt, it followed its normal seasonal patterns.

Alternative Campaign

All agencies agree that Chinese and Soviet aid has provided almost all the war material used by Hanoi. However, OSD/CIA and MACV/JCS disagree over whether the flow of aid could be reduced enough to make a difference in South Vietnam. If all imports by sea were denied and land routes through Laos and Cambodia attacked vigorously, the MACV/JCS find that NVN could not obtain enough war supplies to continue. In total disagreement, OSD and CIA believe that the overland routes from China alone could provide NVN enough material to carry on, even with an unlimited bombing campaign.

February 21, 1969

MEMORANDUM FOR THE PRESIDENT

Subject: National Security Study Memorandum Number 1

With reference to my memorandum of February 13 transmitting the Department's answers to NSSM Number 1 as well as Ambassador Bunker's answers, I enclose an additional memorandum of comment responsive to the original request. The enclosed memorandum contains the Department's comments on our own submissions and those of Ambassador Bunker. These comments may be helpful in evaluating Ambassador Bunker's responses.

WILLIAM P. ROGERS.

Enclosure:

ENVIRONMENTAL OF NEGOTIATIONS

Question 1 (Why is the DRV in Paris?): The Embassy's response approaches the problem in a slightly different manner but reaches essentially similar conclusions to our own answers. Saigon places somewhat more emphasis on the difficulties facing the enemy in Viet-Nam than do we in assessing why the DRV came to Paris. In discussing likely future actions of the DRV in the negotiations, the Embassy stresses the importance of a firm policy by the new Administration to accept only a peace settlement that would meet the basic U.S. objective of assuring that the Vietnamese people are able to determine their future without outside interference. If such a policy is made clear to the other side, the Embassy is confident that events on the ground in Viet-Nam will eventually force the enemy to make significant concessions, in terms of their own withdrawal, to get our forces out. While our response does not specifically address this conclusion, we would accept Saigon's judgment while noting the critical factor of time.

Question 3 (Influence of Moscow and Peking on Hanoi): Our response is made from the viewpoint of Moscow and Peking while the Embassy has viewed the question from Hanoi. We do not see any major inconsistencies between us although Saigon quite rightly emphasizes the desire and the ability of the DRV to take advantage of the Sino-Soviet split. We concur with the Embassy's point that the Sino-Soviet rivalry has left Hanoi relatively free from pressure from these two powers. We attribute more significance than does the Embassy to Soviet efforts to be helpful in moving the negotiations ahead, and we think the evidence that they did so is quite clear. What is not clear is whether it was necessary for them to bring pressure on the North Vietnamese to bring about a compromise.

NVA/VC

Question 5a. (Why Did NVA Units Leave SVN?): While both the Embassy and we agree that military considerations led to the withdrawal of NVA units from South Viet-Nam last summer and fall, and that the DRV subsequently made a virtue of necessity by noting the political implications of the withdrawal, the Embassy lays greater stress on the military difficulties facing the NVA as against tactical military considerations. Specifically, as noted elsewhere, we would not accord as much importance as does the Embassy to aerial interdiction of enemy supply lines in North Viet-Nam and Laos (para. 3). We also do not believe there is evidence to support the flat statement that the four NVA/VC divisions in III Corps are supplied via Sihanoukville and the Mekong River through Cambodia (para. 5).

Question 5b. (The Third Wave Offensive): Both responses agree that the Third Wave Offensive actually took place and achieved little success. Our assessment is that the enemy's intentions in this offensive were quite limited and that he achieved his purpose of demonstrating continuing initiative and the ability to inflict heavy casualties. The Embassy on the other hand notes the quite limited psychological impact of this offensive, and emphasizes the Allied military efforts and enemy weaknesses that prevented the enemy from achieving greater success.

Question 6 (NVA/VC Attrition): Although the Embassy and ourselves approach this problem from somewhat different directions, there is basic agreement on the conclusion that NVA/VC ability to recruit and infiltrate exceeds their attrition rate and will probably continue to do so for the foreseeable future. The Embassy lays heavier emphasis on the question of quality of manpower and believes that we already have sufficient forces to achieve a reduction of enemy personnel in terms of quality, if not quantity, and this seems to us a valid point. We do not know where Saigon obtained the figure of 289,000 VC/NVA losses in 1968; our cited estimate was 240,000 KIA.

Question 9 (Enemy Capabilities to Launch Large Scale Offensive): Both answers agree that the enemy has the capability to launch a large scale offensive with "dramatic" results in the next six months if he is willing to risk very heavy losses. We also both agree that the enemy is making preparations to do so, although he has probably not yet made a final decision to go ahead. The Embassy's response is more specific regarding possible targets. We do not agree with the inference in para. 2 of the Embassy's response that the enemy would need up to three months to reposition his units for a large scale attack in areas other than III Corps. We believe the enemy could do so in a much shorter time, particularly in the Highlands of II Corps.

Question 10 (NVA/VC Military Supply Channels Through Cambodia and Laos): It comes as no surprise that the Embassy places much more importance on Cambodia as a route for enemy military supplies in IV, III and southern II Corps, and that it believes that significant supplies come to the VC through Sihanoukville. As stated in our response to this question, we believe that there is clear evidence that military supplies to southern II Corps and III Corps move down the extension of the Ho Chi Minh trail in massive quantities. Saigon flatly disagrees and says there is little such evidence of the movement of goods on the North-South route south of I Corps. While we agree that Sihanoukville may be increasingly important as a channel of supply for the VC, we believe the evidence is not clear that it is the main source of supplies for III and IV Corps. The Embassy does agree that there is insufficient information on this aspect.

RVNAF

Question 10A (RVNAF Improvement): e. (Desertions)—The Embassy has explained that the Vietnamese definition of desertion is much broader than our own and that many deserters in fact leave regular military units to join one of the para-military forces, and vice-versa. In addition the Embassy notes the importance of improved welfare measures such as better housing, pay, and food allowances to cutting back the desertion rate. We concur with these observations, which were not included in our own paper.

f. (RF/PF Effectiveness)—We believe that our response is a good description of the causes of RF/PF ineffectiveness and the steps needed to improve their capabilities. The Embassy gives a good description of the role of the territorial forces in pacification. We both agree that the territorial forces are of critical importance to future efforts in the countryside.

PACIFICATION

Questions 14–20: We find Saigon's pacification assessment to be extremely well stated and are in basic agreement with it. Saigon believes that the rural security situation has recovered completely from the regression occasioned by the Tet Offensive and shows every sign of moving forward, particularly after the initial successes of the Accelerated Pacification Campaign. At the same time, their analysis of recurring GVN problems and the residual strength of the enemy leaves little doubt that pacification progress will be slow and arduous in the future and, possibly, even subject to some reverses. There are some differences in tone between Saigon's and our description of the situation. Most notably we tend to question more severely pacification statistics, particularly as to how much of the rural population is to be considered "relatively secure." We also give greater emphasis to the enemy's capability of disrupting the pacification program in coming months. In our opinion, the latter prospect is quite likely. It would cost the enemy less than larger scale campaigns; moreover, it could be effectively used to the advantage of the DRV/NLF position in Paris.

Question 15 (Pacification over Next Two Years): The Embassy has provided a more complete check list than did we of the changes on the part of RVNAF, the GVN and the U.S. necessary to improve security and control in the countryside. The Embassy also points out that continued GVN success could have a snowball effect, and that portents of what the Vietnamese would regard as a U.S. "sellout" would have rapid and disastrous consequences for the security situation; although not included in our paper, we concur with these assessments.

POLITICS

Question 22 A (Chances for Broadening the Government): In terms of broadening the GVN at the *local* level, the Embassy places more emphasis on the village/hamlet level than on the provincial level, whereas we tend to emphasize the latter. We think that the elections for provincial councils could be used as a significant means of broadening participation by the regional and religious groupings or even—possibly—by the NLF.

Province-level participation also has more *international* (i.e. propaganda) impact, whereas political activity at the village/hamlet level is too diffuse, disparate, and of low visibility outside the immediate locality for such impact.

Question 22 B (Chances for Improving Selection and Promotion of Officers and Civil Servants): We would agree with the Embassy that a trend exists toward establishing a GVN/RVNAF selection and promotion system based on merit. But we would be slightly less sanguine than the Embassy is about the pace of improvement and the time necessary to carry it out satisfactorily.

Question 28 a. (Bombing of North Viet-Nam—Significant Strains on DRV): There appears to be a difference in views between the Embassy and ourselves concerning the effects of the bombing on North Viet-Nam, most specifically regarding the severity of the manpower pinch on North Viet-Nam and the adverse effects on the morale of the people. We continue to believe that there is considerable evidence, some of it cited in our paper, to support our contention that both these problems were serious ones for the DRV and were significant considerations in Hanoi's decision to come to Paris. The position taken by the Embassy on these points is not consistent with its responses to other questions (numbers 1, 5-A and 6).

To: The Secretary.
Through: S/S.
From: EA—John A. Calhoun.
Subject: National Security Study Memorandum Number 1—Action Memorandum.

Enclosed are our suggested answers to the questions on Viet-Nam posed in NSSM No. 1 as well as Embassy Saigon's responses to these same questions and our comments thereon.

These answers were drafted in the first instance by INR and the majority were concurred in by EA with relatively few qualifications and/or additions. However, on several significant questions we have made extensive revisions of the INR drafts or have substituted our own drafts reflecting major differences in our assessment of the issues under discussion.

Our chief differences with INR center on the efficacy of our pacification programs and on the degree of progress which has been achieved in providing security to the South Vietnamese rural population; on the question of whether the RVNAF without US combat troop support could cope with the Viet Cong in the event of a total NVA withdrawal; and on the impact on Southeast Asia of a settlement in Viet-Nam lending to a Communist takeover. INR is somewhat more pessimistic on pacification and the RVMAP than we, although, as our answers indicate, we too are mindful that performance has often fallen far short of our expectations. However, INR does not see a Communist takeover in Viet-Nam as having as unfavorable an impact on Southeast Asia as we do.

* * * * *

In the event of a situation *unfavorable* to the Communists, in the terms noted above, we see several major developments. There would certainly be a sense of relief throughout the region, US prestige would increase, Communist morale would sag, and the "people's war" concepts of Mao and Ho Chi Minh would be seriously questioned. On the other hand, few countries would conclude that the Communists had been permanently stopped in Vietnam or that the future of the Saigon regime had been assured. Nor would doubts be removed about the willingness of the US to engage on a substantial scale in any new military conflict in Southeast Asia.

The main thrust of the *competing view,* as exemplified by the dissents to NIE 50–68, is that, in the event of a favorable situation for the Communists in South Vietnam, the disintegration process in the rest of Southeast Asia would begin immediately. Most Southeast Asian leaders, including the Thai, would move quickly to alter significantly their relationships with the US, having little if any confidence in the future US role, regardless of stated US intentions in the immediate post-settlement period. In altering their commitments to the US, these Southeast Asian leaders would move quickly to take concrete steps looking toward some accommodation to Communist internal and external pressures.

The competing view also contends that there would not only be encouragement to Communist insurgent-subversive forces in various countries but also that these forces would move quickly to emulate "people's war." Substantial material assistance would be provided at least by Hanoi and Peking, particularly to Communist forces in Thailand. Finally, many, if not most, of the governments faced with insurgency problems probably would be unable or unwilling to move decisively against the insurgents.

* * * * *

Question 2: What is the nature of evidence, and how adequate is it, underlying competing views (as in the most recent NIE on this subject, with its dissenting footnotes) of the impact of various outcomes in Vietnam within Southeast Asia?

2. Prognoses on the outcome in Southeast Asia after Vietnam tend to rest more on highly subjective and interpretative judgments and assumptions than on tangible evidence, regardless of the stated views of a number of Southeast Asian leaders. For example, Thai leaders are among those most concerned about the Communist threat in Southeast Asia and among those unequivocally supporting US policy in Vietnam. Yet, Foreign Minister Thanat's views on the future roles of regional arrangements and the US in Southeast Asia suggest that the Thai are looking to developing alternatives for dealing with security problems in the area without the need for significant accommodation with Communist powers.

Our judgment on Southeast Asia after Vietnam is predicated on the following basic terms of reference, as noted, for example, in NIE 50–68: (1) we exclude the possibility of an outright military victory or a precipitous withdrawal by Allied forces or the Communists; (2) we assume a compromise settlement which, in the next year or two, leads either to Communist control (i.e., an *unfavorable* situation) or to the continuation of a pro-US regime in South Vietnam, or at least a regime not hostile to the US (i.e., a *favorable* situation); and (3) we do not prejudge future US policies or courses of action in Southeast Asia, regardless of the outcome in South Vietnam.

For several reasons, we believe that a settlement in Vietnam *favorable* to the Communists, in the terms stated above, in itself would not necessarily unhinge Southeast Asia. Very likely, Cambodia and particularly Laos might well become fairly early casualties although initially at least Hanoi would probably rely on political rather than military pressure to alter the situation further in its favor in both countries. However, Communist political and military assets elsewhere in the region, even in Thailand, probably would not be immediately strengthened, nor would the Communists during this early period be likely to rely more heavily on armed violence than at present. Hanoi would be preoccupied, for a time at least, with the formidable task of consolidating Communist rule in South Vietnam.

Neutralist sentiment would clearly increase in several countries, and throughout the region there would be damage to US prestige and serious doubts about the validity of US power and commitments. However, most Southeast Asian leaders would nevertheless continue to be influenced to an important extent by US actions elsewhere in the area, particularly Thailand, during and after the settlement. We do not believe that these leaders would be panicked into precipitate changes in policy and very likely would postpone any definitive policy decision until they had assessed US intentions. Indeed, for both the short-term and the longer-term, the role the US decides to play in the rest of Southeast Asia will be a critical factor.

* * * * *

20. Changes in command and administration affecting the countryside almost certainly are predicated to a considerable extent on personal loyalties. This is a complex and well-established Vietnamese tradition and is not likely to change radically in the near term. Perhaps the most notable example of personnel changes made principally on political grounds is the shift of Corps commanders. In virtually every instance, the out-going Corps commanders were supporters of Ky or had never been particularly committed to Thieu. While some of the new commanders may be somewhat more competent, they do not on balance appear to be less corrupt or less inclined toward intrigue.

However, there have been a number of significant steps taken during the past year to improve the command-administrative system. The political authority of the Corps commander has been reduced as has his role in the appointment of province and district chiefs. Of course, it must be assumed that new officials at these lower levels are regarded as being politically reliable and that they will remember under whose aegis they came to power. On the other hand, the ties to political patrons do not appear as evident as have existed in the past among local officials. For example, since Tet 1968, twenty-four province chiefs have been changed. Some of the changes were routine transfers while others occurred because of the corruption, inefficiency or ill health of the incumbent. The Embassy has reported that the majority of those province chiefs whom it considered corrupt and inefficient or both had been replaced by September 1968. The new province chiefs have in general been a politically faceless lot although it must be assumed that they are politically reliable, despite the absence as yet of any clear pattern or political loyalty. In general, they have been reported to be more competent and less corrupt than their predecessors; it is too early to tell whether these assessments simply derive from comparison with their predecessors, from the fact that the replacements are relatively new on the job and their flaws less visible, or from the lack of sufficient background information.

The general pattern of province chief appointments since Thieu took office has been the replacement of chiefs aligned with strong local interest groups by neutral outsiders. This pattern reverses the pattern of Ky's administration by which, for example, there was a VNQDD province chief in Quang Ngai, a Cao Dai chief in Tay Ninh, and Hoa Hao officers in several provinces of the western Delta. Such replacements as those of the Cao Dai province chief of Tay Ninh and of several Hoa Hao province chiefs in delta provinces have initially encountered resistance from the population in the areas affected although it does not appear to have resulted as yet in a major local problem.

The introduction of province chiefs not identified with local political/religious elements can have its benefits. The new chiefs may be better able to escape involvement in local squabbles among the extremely factionalized local groups. Theoretically, such appointments should tend to strengthen the authority of the GVN by separating religious influence from administrative authority and thus reducing the image of political/religious fiefdoms. Also, a province chief who has no local base of support must depend more heavily on the GVN and is presumably more responsive to Saigon directions. On the other hand, Thieu's actions also can have net losses. Whatever the support from and the degrees of responsiveness to Saigon, a province chief who does not have the support of the principal local group is not likely to get much meaningful response from the local level and upward to him. In the final analysis, this is perhaps where the issue is joined most realistically between the GVN and the Communists.

At the district level, the GVN appears to be attempting to improve the competence of its officials through better training and an improved assignment process. In March, the GVN conducted a training course for officers likely to serve as district and province chiefs; a second six-week course was held in September. Thieu addressed the first course and Premier Huong the second, an indication that the GVN appears to be placing considerable importance on the training of officials to work in the countryside. The graduates of the second course selected their district assignments on the basis of their class standing, thus removing the district chief assignment process from any apparent manipulation by province chiefs, division commander, and Corps commanders. Furthermore, the GVN has shown itself somewhat more responsive than in the past to US advice in these matters. At the time of graduation of the second military administration course, the US Mission submitted a list of 29 incumbent district chiefs whom it wished to see replaced. The GVN agreed to replace all 29, and these slots were presumably among those from which the course graduates were allowed to choose. In addition, Thieu has urged recently that one of the priority tasks for the GVN in 1969 be to increase the number of GVN officials functioning at the hamlet level and to increase their competence.

21. a. Our information on the attitudes of Vietnamese elites such as those mentioned is generally adequate. Quite naturally, both the quantity and the quality of our information vary from one specific elite group to another. In almost every case, quantity and quality could be improved somewhat and the information further corroborated, though the necessary investment of effort might not always be worthwhile; in any event such information requires and does receive continual up-dating.

Generally speaking, our information on the attitudes of the various categories of "out-politicians", except on the extreme left-wing, is better than our information on any of the elites cited as examples. Our coverage of union leaders is probably next most adequate. Thereafter, in descending order of a adequacy, the other elites would be roughly as follows: religious leaders; youth leaders; professors; professionals; and village notables. It is important to realize that "village notables" hardly constitute a homogeneous national grouping; communication among them is almost nil, and their individual attitudes are almost invariably determined by other and more specific affiliations such as those of race, religion, region, locality, education, occupation or party, or a combination of these factors. To varying degrees, of course, this is true of the other elites as well.

Information on attitudes toward participation in the GVN, the GVN's current legitimacy and acceptability, and US intentions is generally easy to acquire because these attitudes lie near the surface; they are frequently stated with little or no prompting. (It is worth remembering that members of the various Vietnamese elites are seldom reticent, even though sometimes guarded and on occasion deliberately misleading, in their conversations.) Attitudes toward the NLF and toward possible compromise political solutions are more difficult to determine, both because these attitudes in many individuals are tentative and uncertain and because the subjects themselves are still considered somewhat dangerous for public or even private discussion.

Our information on attitudes is based on US Mission, specifically, Embassy, CAS and JUSPAO, reporting from both overt and clandestine sources.

21. b. Usable and collective knowledge of political alignments of the types described is considerably less *adequate* than our information on current attitudes of the various elites noted earlier. To be sure, the behavior of numerous prominent individuals and some of the more readily-identifiable groupings within the GVN and the RVNAF are often predictable in general terms as a result of our knowledge of their past behavior, their personal alignments, or their regional, religious or other affiliations. For the most part, however, our knowledge of these matters is neither broad nor deep. Even our contacts at some important levels, e.g., second and third echelons of most government ministries, have tended to be *inadequate* in generating political or attitudinal information, even though advisory relationships exist in many cases.

There have been a handful of noteworthy efforts to study political alignments in the RVNAF. Two which come immediately to mind are Embassy airgrams of December

1965, on the career patterns of two dozen or more senior RVNAF officers then occupying important positions and commands, and of February 1967 on the appointments to province chief and high-level staff positions by Lieutenant General Vinh Loc during his tenure as commander of II Corps. We have fairly complete information on most cabinet ministers and how they got their jobs. but little or nothing on lower levels of the bureaucracy.

A basic cause of our ignorance in this area is the inadequacy of sophisticated biographic information; this deficiency would be less of a problem if all of the varied sources available to and within the US mission were systematically tapped and their information collated. For a number of years, we have had MACV advisors with RVNAF units down to battalion level and with province and district chiefs and principal members of their staffs, and USAID advisors in most ministries at sub-cabinet level and below. Yet, there has never been a program that would *require* (not merely encourage) *candid* biographic reporting on these hundreds or thousands of Vietnamese "counterparts," nor even any single, central agency for the collection and re-dissemination of the reporting that has been done. The Embassy and CAS both have biographic units, and MACV J–1 presumably has considerable holdings as well. However, biographic reporting by the US military, at least, as represented in the final products issued by DIA, has tended to be incomplete and highly superficial and roseate.

Increased attention to the collection, evaluation and utilization of biographic information would considerably enhance our knowledge of existent political alignments. Such information would be invaluable to succeeding generations of our advisors working with individual GVN officials and RVNAF officers. It would better equip us to block undesirable prospective appointments and to encourage valuable ones, though it will be necessary at the same time to find opportunities and channels for timely intervention in civil and military appointment processes. Such information would also buttress our efforts to obtain the removal of incompetent and corrupt officials, efforts which have been increasingly successful of late as CORDS has targeted a number of such officials and as the GVN has apparently become somewhat more receptive to our advice in such matters.

We have had a few valuable studies devoted to significant political groupings as well although several of the groups are not heavily represented in the GVN or RVNAF leadership. Notable here are Embassy airgrams on the Viet-Nam Nationalist Party or VNQDD of April and May 1966, and on the Cao Dai in 1968, and a CAS report on the An Quang Buddhist faction also in 1968. Most of these efforts have entailed lengthy preparation by individual officers with language competence, relatively long service in-country, and extensive contacts in the groups under study. Officers with such expertise could and should be relieved of day-to-day reporting requirements when necessary to enable them to pursue such assignments on a more systematic basis. For example, we have a number of spot reports on individal Revolutionary Dai Viet and Tan Dai Viet officers and officials, and on aspects of Dai Viet organization and influence within the RVNAF and the upper levels of the civil service in some localities; however, we do not have comprehensive studies of these groups pulling together all of our knowledge and appraising total Dai Viet influence or delineating the attitude or likely behavior of covert party members. Similarly, there has to our knowledge been no comprehensive study of the alignments created by (or responsible for) the practice of corruption; we have often discussed, and less often, reported) the problem itself or its specific manifestations, but we have not analyzed its consequences in terms of the behavior and attitudes of those involved or its unfortunate contribution to the popular image of the GVN.

In short, we conclude that our information in this general area is inadequate and unnecessarily so and that this inadequacy could be considerably diminished through better use of existing resources.

22. a. Events of the past year, particularly the Tet offensive, the establishment of a ceiling on the size and extent of the US military commitment, and the evolution of the Paris talks, have forced most responsible Vietnamese nationalists to look upon broadened, representative government in more realistic terms. The realization that they must prepare for an imminent political confrontation with the Communists has prompted a flurry of moves to create blocs, fronts, and various political arrangements which thus far have had only limited success. Perhaps more importantly, this same realization has stimulated greater receptivity to the idea of broadening within the GVN leadership, even though there has been little concrete action. At the same time, these events have sharpened opposition to the GVN by some groupings, notably the militant Buddhists, which have never reconciled themselves to the present government. Such opposition, however, is only one of several serious constraints that limit the prospects for a successful broadening of the government.

President Thieu and Prime Minister Huong are reportedly planning a cabinet shuffle for sometime after the Tet holiday, while they apparently are motivated by concern over the performance of some present ministers, there is some evidence that they see the present cabinet as mainly "technical" and that some additional political elements can be brought into the government without significantly altering their own concept of the existing political balance. They may also feel that the changes will defuse current criticism, whether justified or not, of the cabinet by the National Assembly, the press, and other sources. Some questions immediately arising, therefore, are whether the US should attempt more forcefully than on previous occasions to insert ourselves into Thieu's and Huong's deliberation on this matter and just how much weight could we really swing if we made the attempt. While broadening is clearly needed, cabinet changes with relatively minor additions of political strength could create an unfortunate picture of continuing division within the GVN and within the nationalist body politic at a particularly inopportune moment.

Even though there is general agreement on the desirability of broadening at the national level, the mechanics of such broadening are something else again, as Huong discovered when putting together the present cabinet last May. As has always been the case in Vietnam, political groups advocating "broadening" really want enhanced position for themselves, often at the expense of their rivals. The appointment to the cabinet of one man with a personal or organizational following or with any pronounced affiliations can easily alienate other individuals or factions. For example, the current upsurge in North-South regional frictions, both within the executive and between Huong and some elements in the National Assembly, suggests that any new cabinet appointments will be measured in regional terms and that Huong will have to be more careful about this aspect now than he was in forming the present cabinet. The continuing problem of Vice President Ky's relations with Thieu and the more recent one of Ky's relations with Huong have similar ramifications. Furthermore, representative men are not always competent ones; it is difficult, for example, to think of more than a handful of respectable Hoa Hao, Cao Dai, or Montagnard leaders who have the technical qualifications to hold down ministerial assignments. Therefore, the symbolic value of a cabinet appointment from any of these groups could well be vitiated if the appointee turned out to be incompetent or corrupt or both, as appears to be the case with Paul Nur, the Montagnard who is presently Minister of Ethnic Minorities Development.

There are other means of effecting a broadening of the GVN at the national level, but none of them as visible in their results as changes in the cabinet. The Constitution provides for outside advisory council on culture and education, on economic and social matters and on ethnic minority affairs. (The National Security Council is intended to comprise leaders from the executive and legislative branches and the armed forces.) Implementing legislation is still to be passed for the establishment of all of these councils, but at least in theory these bodies have representative value and could, if the executive and legislature prove willing to utilize them, exercise some influence over government policy. Somewhat similar results could be obtained through less formal means such as presidential appointment of other consultative groups. An advisory body on negotiations was created in the summer of 1968 and has had at least a few meetings with Foreign Minister Thanh. Its members were chosen for their expertise, however, and not for their group affiliations, and the council has received relatively little publicity.

Broadening at province and district levels presents problems of a somewhat different and more complex nature. The only "representative" bodies, elective or appointive, which now exist at that echelon and in which broader participation might be encouraged are the virtually powerless provincial and municipal councils, elected in May of 1965 and now overdue for reelection or replacement. (It should be noted here that the district, unlike the province or the village, has no legal status or electoral tradition; it is merely an administrative subdivision of the province.) Aside from their lack of power, the provincial and municipal councils are not ideally representative. In several instances, they are dominated by single interest groups which managed to turn out a bloc vote, e.g., Buddhists in Quang Tri, Northern Catholics in Long Khanh, Cao Dai in Tay Ninh, Hoa Hao in several provinces of the western Delta, all to the exclusion of other elements of the local populations. **While these results reflected accurately the local political muscle in most cases, they left the less-disciplined minorities, or unorganized majorities, virtually unrepresented.**

However, the province echelon does offer certain opportunities. The provincial and municipal councils, with certain adaptations, could become fairly worthwhile institutions. Foremost among the changes would be a grant of considerably wider authority to the councils or their successor bodies and the creation of an electoral system (e.g., proportional representation or allocation of seats for recognizable minorities) that would guarantee more representative results in every locality and at the same time permit adequate reflection of local political strength. It is also at this level, perhaps, that some form of participation by the National Liberation Front could be provided for, or at least invited, at an early date with the fewest and least severe problems of constitutional change, recognition of territorial control, or derogation of over-all GVN authority.

The Constitution also provides that there are to be elected mayors and province chiefs not later than the second presidential term, which begins late in 1971. There is no legal obstacle to earlier implementation of this provision, and implementation could probably be undertaken now in most or all of the six autonomous cities (Saigon, Da Nang, Hue, Da Lat, Vung Tau and Cam Ranh) and in several provinces. The principal problem would be the reorientation of GVN thinking away from the concept of military control of civil administration at the province level. Military officers would undoubtedly remains as sector commanders in almost all cases, and there would certainly be civil-military jurisdictional struggles at the outset. Nevertheless, there have been a handful of appointive civilian province chiefs during much of the post-Diem era, and their military deputies for security have functioned as sector commanders. The resulting mix has usually been no worse than the usual case where both civil and military authority have been vested in a single RVNAF officer.

Another change susceptible to early implementation would be in the status of the more populous provincial capitals. Large centers such as Qui Nhon, Nha Trang, Bien Hoa, My Tho, and Can Tho have a stronger claim to autonomous status than do the special-purpose "cities" of Vung Tau and Cam Ranh, both of which contain large expanses of rural territory. The large provincial capitals are, rather anomalously, still governed as individual villages or, more typically, as several villages now covered by urban sprawls. There is no compelling reason why these truly urban areas could not, at any time, elect mayors and municipal councils with a degree of authority.

The institutional opportunities for broadening at the district level are few and of slight potential value. One possibility would be the creation of councils of elected village chiefs and/or village council chairmen to advise the chiefs of their respective districts on local matters. However, given the secondary importance of the district both traditionally and constitutionally, and the subordination of district to province in the administrative system, it is likely that continued effort at the village level and increased attention to the province level would have greater effect.

Many of the conditions necessary for broadening are already present. Most political elements are ready and even eager to participate, at least on their own terms. From a constitutional or legal standpoint, several opportunities for broadening at national and provincial levels already exist or can be created without much difficulty. Changes in conditions that might improve the prospects for broadening are numerous, of course. One would be movement at Paris toward serious discussion of the details of a political settlement; this would sharpen the stimulus that already exists from that quarter. Another would be greater success in the building of new nationalist organizations or the merger and strengthening of existing political groups; this may come about as various fronts, and parties and even the traditional but less formal political elements try to meet the requirements of the political parties law when it is finally adopted. Still another would be demonstrable, lasting improvement of security conditions in the countryside, which would encourage participation by individual candidates and officeholders and in turn might encourage the GVN to accelerate the process of civilianization and decentralization of real authority to popularly-elected bodies at province level and below.

No basic change in U.S. policy appears necessary in this sphere: our commitment to constitutionalism and our support for broadening are well known. What does need increased attention, however, is the extent and manner of our effort to encourage Thieu, Huong, and the Assembly to proceed with the job of broadening and to influence them and the numerous interest-groups which would logically be involved in the process. Some greater U.S. stimulation and involvement is probably advisable, but any U.S. efforts that were too forceful or too obvious could produce results opposite to those we intended. Finally, unless broadening at the central level is translated downward and in some legal or practical way involves the variety of political forces operating locally, the impact in terms meaningful to the Vietnamese frame of reference will probably not be substantial.

23. The three types of possible change in GVN character, structure, and operations (discussed in response to Question 22) are closely inter-related. This is particularly true of broadening and political mobilization since the main purpose of broadening, if it is to be more than a facade, is to produce a significant increase in political mobilization. Stronger emphasis on competence and performance within the GVN is almost a precondition to political mobilization. Any separation of these three types of change is therefore somewhat artificial, but some effort at distinguishing among them is clearly necessary.

To many, "victory" has meant the outright defeat of Communist forces (both Viet Cong and NVA) or at least such heavy attrition of them that no alternative remained but their total and permanent withdrawal. It has also meant the destruction or dissolution of the entire Communist political apparatus. There now appears to be wide and growing realization that victory in these terms is unattainable and that the inexorable trend is toward some compromise settlement of hostilities and some kind of political competition thereafter. In this situation, a strong non-communist political role becomes a practical necessity for any satisfactory outcome.

In this context, political mobilization is by all odds the most critical of the three types of governmental "change" (It is possible in terms of internal war to argue that the achievement of political mobilization itself is tantamount to "victory," but present NVA and VC military capabilities make such a view not wholly realistic.) Broadening of the government, which we consider basically a contributory factor to political mobilization, may be somewhat less critical in theory, but in practice broadening *per se* is deserving of priority attention in part because some steps in this direction can be taken relatively quickly and easily and can produce results that are visible, even though somewhat superficial at the outset. Stronger emphasis on competence and performance in the selection and promotion of officers and officials is in our view least critical, not because it is unimportant but because genuine and thoroughgoing change will probably take longest to effect (even though *some* early change is probably indispensable to successful political mobilization).

This basic ranking probably applies whatever the level of our military commitment. Clearly, however, any reduction in the level of our own military effort without a corresponding reduction in presence and activity of North Vietnamese forces reduces the likelihood that the GVN would work toward political mobilization. The same is true of any reduction of U.S. military effort in relation to Viet Cong military capabilities, except to the extent that the RVNAF can demonstrate its ability to take up the slack. On the other hand, experience seems to indicate that any conceivable increase in the level of US military effort would not alter the military balance to the extent that the prospects for political mobilization would be materially enhanced. Indeed, any such increase might lessen whatever sense of urgency the GVN and most nationalist political groupings now feel and therefore could conceivably retard current and prospective efforts toward political mobilization. On balance, we conclude that a policy of maintaining the current level of military effort while preparing for possible *reciprocal* reduction of that level affords the best prospects for increased political mobilization. Essentially, the same argumentation applies to the matter of broadening the government which, as noted above, is contributory to the process of political mobilization. The relation between the level of our military effort and the GVN's emphasis on the competence and performance of its personnel is of a different character; obviously, any reduction of our effort makes an improvement in GVN and RVNAF performance all the more necessary, but there is little evidence that changes in the level of our effort in and of themselves have had any significant effect on GVN and RVNAF policies in this regard.

In general, the GVN would run very little risk in making or attempting any of these changes; the problem, rather, is whether the GVN has the will and the ability to make them and whether they can be made in time to do much good. Some risks have already been noted possibly attending any spectacular effort at broadening the GVN even at the national level. Areas where US influence may be required have also been indicated (in Question 22). In general terms, US influence in the political sphere has often been misunderstood and its impact at times overrated; our support for governments and programs has been interpreted as support for their leaders of the moment or for their initiators (e.g., Nguyen Khanh, Nguyen Cao Ky, Nguyen Duc Thang) whether or not this was the case. And there are many politicians outside the GVN who profess to believe that the Embassy and CAS are behind every shift in policy, change in personnel, or other political development, even when this is patently not the case. These circumstances argue for caution and circumspection as we seek to wield political influence, but they also suggest that we should not hesitate to make the effort since we will frequently be damned whether we have made the effort or not.

Question 1: Why is the DRV in Paris? What is the evidence?

Hanoi decided to negotiate for a number of reasons related to its estimate of the course of the war and of its chances for success. Mainly, it came more and more to realize that it could not win the conflict by continued military and international political pressure, and that it would have to negotiate in order to make the American forces leave. It also sensed that the constitutional structure in South Viet-Nam, supported by the South Vietnamese Army, was developing in a manner which might preclude NLF participation unless the NLF could be negotiated into the picture.

Wanted to end bombing and reduce scale of war

Combined with these realizations was a desire to reduce the scale of the conflict, or at least to end the bombing. North Viet-Nam was beginning to feel greater pressure toward the middle and latter part of 1967, as the bombing became heavier. The Communist leadership also became worried that it was losing members of the important Southern cadre element in its Southern structure at a rate which, if continued over a long time, would leave the Viet Cong unable to compete effectively in the South. It wanted to open possibilities for greater emphasis on political warfare, and also to reduce the chance that the US might escalate further.

But not ready to surrender

But Hanoi's concern about its prospects for winning was not accompanied by any feeling that it had lost the war and that it needed to surrender. On the contrary, in fact, the Communist leaders felt distinct cause for pride because North Viet-Nam and the Viet Cong, even with large amounts of Soviet and Chinese aid, had resisted US military pressure for several years and had not been beaten. They also believed that US public opinion was beginning to tire of the war, and they believed that election year politics in the United States offered them an opportunity to profit from this attitude. Although the election is now over, the Hanoi leaders continue to believe that public pressure will force the US Government to end the war. One reason Hanoi is negotiating is because it believes that we will have to look for compromise formulas in the talks, and that its own intransigence, coupled with continued military initiative, will add to public pressures on the Administration to make such compromises.

Hopes to reverse 1954

This means that Hanoi's desire for an end to the war is not yet combined with any readiness to yield on certain basic issues such as US withdrawal, an NLF political role, or the prospects for reunification. What Hanoi is hoping to do by negotiating is to reverse the 1954 result: at that time, Hanoi agreed to mutual regroupment of forces, a division of Viet-Nam, and the installation of a non-Communist government in the South. In exchange, Hanoi obtained the opportunity to socialize half the country, promises of heavy Communist aid, and a prospect of elections throughout Viet-Nam. Those elections were not held, and it is even uncertain whether the Communists ever expected them to be held. They were probably counting on a southern collapse more than on elections.

This time, the Communists would like to obtain a US withdrawal, the installation of a potentially Communist government in the South, and the opportunity to continue political struggle in the South. In exchange, they may be prepared to offer some prospects for an American non-military presence throughout Viet-Nam, and the prospect of elections in the South. They probably expect that the elections need not be held, if anti-Communist resistance collapses, and they may well believe that we will not count on the elections being held. Hanoi's decision to negotiate reflects some hope that it can obtain that kind of favorable settlement sooner or later. Frequent references by Hanoi spokesmen to helping the US find a face-saving formula for a withdrawal suggest that there may be some in Hanoi who believe this essentially is what the US really desires and would eventually settle for.

But settlement will not end Communist drive

We should not be under any illusions that the conclusion of some negotiated accord with the Communists will necessarily mean peace and quiet in Viet-Nam. Instead, it seems very likely that even if they withdraw their forces and turn to the reconstruction of North Viet-Nam, the Communists will want to use the post-war period to continue their political struggle against the GVN and to continue their drive to take over the South completely. One of their key purposes in negotiations will be to work out conditions which will optimize their chances for success in continued political warfare, in the long if not necessarily in the short term.

Will combine negotiations with pressure

However, the North Vietnamese leadership recognizes that such a settlement will not be easy to obtain, and that it may take some time before the US is prepared to grant terms which the Communists now consider acceptable. The leadership therefore hopes to continue to exert military and political pressure against us, and particularly against the South Vietnamese government, in order to force or persuade us to accept Communist terms. At the same time, the leadership recognizes that its own southern structure may suffer further under continued warfare.

Own positions also subject to change

Thus the Communists are negotiating under pressure, just as they think we are negotiating under pressure. Some of the same pressures which drove them to negotiate *will* also drive them to modify their own terms and conditions over time. The Communists will want to pick the best possible moment for compromise, when we have yielded on the things which they consider vital but before they themselves have had to give up anything of critical importance. This will require delicate and sensitive timing. It is thus not correct to say that the Communists are not negotiating "seriously." They are negotiating seriously, in the sense that negotiations are an important element in their strategy, and that they would like to see the war end by a negotiated settlement favorable to themselves. But the required evolution in their position will come slowly.

Also talking to gain tactical advantages

However, while Hanoi is basically interested in using talks to obtain a favorable settlement, it also has entered negotiations in order to gain a number of tactical advantages. It has used the talks to stop the bombing of North Viet-Nam, which was its principal tactical objective. It has now also obtained NLF representation at the negotiations, which was its second tactical objective. It will continue to use the talks to push for further restrictions on US military operations—in Laos as well as in South Viet-Nam—and it will also attempt to use the increase in the NLF's stature to undermine the GVN. It hopes that the very fact of negotiations and NLF participation will lead to unraveling of the South Vietnamese political and administrative structure and to a strong if not necessarily wide-spread South Vietnamese movement for political accommodation with the NLF. As in the past, it will also try to use the talks to explore the American negotiating position, and to push for changes in that position, without fully revealing its own.

Evidence scanty, but also shows evolution

There is no incontrovertible evidence of Hanoi's purpose or intentions with regard to negotiations, because there is no available record of Politburo meetings at which decisions on the subject were made. There is some treatment of the subject in the captured text of a speech made by General Nguyen Van Vinh in April 1966. In that speech, Vinh indicated that negotiations might occur in the future, but did not go into detail on their possible outcome. He placed his main emphasis on the point that those negotiations would be determined by the fighting. Politburo members Le Duan at about the same time referred to negotiations in a letter to the Viet Cong headquarters in the South. He did not go into detail either, but he wrote that the "diplomatic struggle" was "of prime importance." He also wrote that "our strategy on negotiations must serve in a practical manner our concrete political aims," indicating how negotiations strategy was designed to help obtain a favorable settlement. It should be kept in mind, however, that much has changed since 1966, and that Hanoi's ideas on the purpose of negotiations may have changed. For example, Vinh boasted that the Communists would not negotiate until the US had permanently stopped bombing, withdrawn our forces, and dismantled our bases. Those Hanoi conditions have obviously been either dropped or modified since.

Best evidence remains behavior

Thus the best evidence remains Hanoi's own behavior. It indicates that Hanoi does take negotiations seriously, and that its positions are considerably influenced by its judgments on the current situation in Viet-Nam and the United States. Hanoi began the Paris talks last May with a surprising readiness to survey the whole field of settlement issues, as if it were ready to discuss all of them. While its positions were hard and uncompromising, there were enough of them to reflect a readiness to use the talks for exploration of substantive issues.

In July, after it had become evident to Hanoi that the United States was not yet prepared to negotiate its own withdrawal on Hanoi's terms, the Communist leadership decided that it had to settle for a bombing halt as an immediate first priority. And it began focusing on that. Now it has again begun covering the full range of settlement issues. While it is still speaking in harsh and demanding terms, its readiness to cover a wide range of topics suggests that it views the negotiations as a serious means for reaching a settlement.

Hanoi's desire to use the talks for tactical purposes is also evidenced by its behavior. It timed its own readiness to compromise on certain issues to accord with the periods of greatest American domestic sensitivity, in order to produce a bombing halt. It has also used the presence of the NLF as a means of influencing South Vietnamese political attitudes, and it has tried to use the talks as a means of pressure against the GVN (specifically, by arguing that there had to be a "peace cabinet" in Saigon before the talks could make progress). Such evidence, while admittedly imperfect, does suggest that Hanoi sees some tactical merit in the talks, and that it also believes they could be used to reach a settlement.

Question 2: What is the nature of the evidence, and how adequate is it, underlying competing views (as in the most recent NIE on this subject, with its dissenting footnotes) of the impact of various outcomes in Viet-Nam within Southeast Asia?

Assessments of how the outcome in Viet-Nam will affect the rest of Southeast Asia rest more on judgments and assumptions than on tangible evidence. The argument revolves around the impact of a settlement which for one reason or another would permit the Communists to take control of the government in South Viet-Nam, not immediately but within a year or two.

One view holds that such a settlement would be likely to bring Cambodia and Laos into Hanoi's orbit at a fairly early stage, but that these developments would not necessarily unhinge the rest of Southeast Asia. The judgment here is that Hanoi would be preoccupied, for a time at least, with the task of consolidating Communist rule in South Viet-Nam and even in Laos and Cambodia the Communists would rely in the first instance on political rather than military pressure to alter the situation in their favor. Elsewhere Communist political and military assets probably would not be immediately strengthened, nor would the Communists be likely to rely more heavily on armed violence than at present. Although neutralist sentiment would increase in several countries and U.S. prestige would suffer, these developments would not cause Southeast Asian leaders to be panicked into precipitate change in policy, although the degree of their steadfastness would depend on the role the U.S. decided to play in post-war Southeast Asia. An argument used in support of this assessment is that many of the current crop of leaders are in sympathy with and fully committed to current U.S. objectives relating to the security of Southeast Asia.

Another view of the probable effects of an unfavorable settlement and the one to which we adhere, holds that the prospect of a full takeover in South Viet-Nam will stimulate the Communists to capitalize on their success by becoming more active elsewhere and that it will be difficult for many Southeast Asian nations to resist making some sort of accommodation to the pressure thus generated. This judgment rests, *inter alia,* on a belief that Communist China as well as Hanoi will see opportunities to increase its influence in the area and that anything short of a major US commitment in mainland Southeast Asia is likely to be regarded as insufficient protection by many nations of the area, e.g. Burma, Malaysia, and in particular, Laos, Cambodia and Thailand.

Both Hanoi and Peking have indicated in the past their interest in extending their influence over at least mainland Southeast Asia and there is no reason to believe that this interest would wane once Hanoi was on its way to consolidating its hold on all of Viet-Nam. The Lao Dong Party (Vietnamese Communist party) is basically oriented toward the concept of international Communism. The Vietnamese have historically had designs on much of the area and therefore Hanoi is doubly motivated. It probably suits Peking's plans (and perhaps Moscow's as well) to let the Vietnamese be the principal instrument for "revolution" in this area. An authoritative rendition of this view is a statement made by North Vietnamese Army General Hoang Minh Thao in the December 1966 issue of the Party Theoretical monthly "Hoc Tap":

". . . the people's war in our country . . . is contributing a share to stimulating the revolution in Southeast Asia . . ."

Lituraturnaya Gazeta of Moscow expressed a similar view of the scope of the Communist effort in an article which appeared in September 1967:

"Just as the frontiers of imperialism on one side of the continent have been thrust back to the extreme southwest corner, so too have they been moved to the southeast on the other side, South Viet-Nam. When imperialism loses this last beachhead in the southeast, the path toward freedom and socialism in continental Asia will basically be clear."

While we do not interpret these comments as indicating that the Communists would immediately move on all fronts to take over the remainder of Southeast Asia, we would expect them to take quick advantage of whatever opportunities arose to spread their influence once they saw success ahead in South Viet-Nam. The ongoing Communist insurgency efforts in Laos, Cambodia, Thailand and Burma would probably get increased attention although their usefulness would vary and none by itself would be sufficiently powerful at the outset to serve as a vehicle to bring the Communists to power.

As to the likely reaction of non-Communist Southeast Asian leaders to a settlement favorable to Hanoi, the views of Lee Kuan Yew, Prime Minister of Singapore and Tunku Abdul Rahman, Prime Minister of Malaysia are instructive. In a reply to a question in his Parliament on January 21, 1967 Rahman had the following to say:

". . . if South Viet-Nam is handed over as a peace offer to the North, is there any guarantee that the people will be safe from the Communists? Will it stop the Communists from carrying out their plan to dominate Southeast Asia?

"The intention of the Communists is not just to take over South Viet-Nam. They will not stop there. . . . Once South Viet-Nam is taken over by the Communists, it will only be a matter of time before Malaysia goes under . . ."

In an interview on "Meet the Press" on October 22, 1967, Lee Kuan Yew made the following observation:

". . . the Feld Marshal of Thailand says—Kittikachorn, and he is saying it to his own people, that they are going to fight in Viet-Nam, not in Thailand. But I take that to mean that if that is gone, he is going to anticipate history, and you know that Thais have this great sense of the future and are good anticipators of history. They made the kind of adjustments in their posture arising out of what they think is a failure in Viet-Nam. I don't think the Tunku in West Malaysia has very much years in spite of all his armed forces, and then they have got me by the throat."

Although there is little doubt that the staunchly pro-Western regime now in power in Thailand would make a stout effort to shore up the country against Communist encroachment, it would probably be able to retain power only if bolstered by a major U.S. commitment. If such a commitment failed to materialize, other political elements more inclined to reach an accommodation with the Communists would be in a position to challenge the regime and move Thailand back to its more traditional position. To a greater or lesser degree the non-Communist regimes in many other Southeast Asian countries would face the same sort of challenge if U.S. strength in Southeast Asia following a Viet-Nam settlement appeared inadequate to the task.

In short we believe that in the situation postulated the Communists would not be inclined to exercise restraint and that the non-Communist countries, at least on mainland Southeast Asia, would find it difficult to resist the pressures they would come under without massive outside support.

Question 2: What is the nature of evidence, and how adequate is it, underlying competing views (as in the most recent NIE on this subject, with its dissenting footnotes) of the impact of various outcomes in Vietnam within Southeast Asia?

2. Prognoses on the outcome in Southeast Asia after Vietnam tend to rest more on highly subjective and interpretative judgments and assumptions than on tangible evidence, regardless of the stated views of a number of Southeast Asia leaders. For example, Thai leaders are among those most concerned about the Communist threat in Southeast Asia and among those unequivocally supporting US policy in Vietnam. Yet, Foreign Minister Thanat's views on the future roles of regional arrangements and the US in Southeast Asia suggest that the Thai are looking to developing alternatives for dealing with security problems in the area without the need for significant accommodation with Communist powers.

Our judgment on Southeast Asia after Vietnam is predicated on the following basic terms of reference, as noted, for example, in NIE 50–68: (1) we exclude the possibility of an outright military victory or a precipitous withdrawal by Allied forces or the Communists (2) we assume a compromise settlement which, in the next year or two, leads either to Communist control (i.e., an *unfavorable* situation) or to the continuation of a pro-US regime in South Vietnam, or at least a regime not hostile to the US (i.e., a *favorable* situation); and (3) we do not prejudge future US policies or courses of action in Southeast Asia, regardless of the outcome in South Vietnam.

For several reasons, we believe that a settlement in Vietnam favorable to the Communists, in the terms stated above, in itself would not necessarily unhinge Southeast Asia. Very likely, Cambodia and particularly Laos might well become fairly early casualties although initially at least Hanoi would probably rely on political rather than military pressure to alter the situation further in its favor in both countries. However Communist political and military assets elsewhere in the region, even in Thailand, probably would not be immediately strengthened, nor would the Communists during this early period be likely to rely more heavily on armed violence than at present. Hanoi would be preoccupied, for a time at least, with the formidable task of consolidating Communist rule in South Vietnam.

Neutralist sentiment would clearly increase in several countries, and throughout the region there would be damage to US prestige and serious doubts about the validity of US power and commitments. However, most Southeast Asian leaders would nevertheless continue to be influenced to an important extent by US actions elsewhere in the area, particularly Thailand, during and after the settlement. We do not believe that these leaders would be panicked into precipitate changes in policy and very likely would postpone any definitive policy decision until they had assessed US intentions. Indeed, for both the short-term and the longer-term, the role the US decides to play in the rest of Southeast Asia will be a critical factor.

In the event of a situation *unfavorable* to the Communists, in the terms noted above, we see several major developments. There would certainly be a sense of relief throughout the region, US prestige would increase, Communist morale would sag, and the "people's war" concepts of Mao and Ho Chi Minh would be seriously questioned. On the other hand, few countries would conclude that the Communists had been permanently stopped in Vietnam or that the future of the Saigon regime had been assured. Nor would doubts be removed about the willingness of the US to engage on a substantial scale in any new military conflict in Southeast Asia.

The main thrust of the *competing view*, as exemplified by the dissents to NIE 50–68, is that, in the event of a favorable situation for the Communists in South Vietnam, the disintegration process in the rest of Southeast Asia would begin *immediately*. Most Southeast Asian leaders, including the Thai, would move quickly to alter significantly their relationships with the US, having little if any confidence in the future US role, regardless of stated US intentions in the immediate post-settlement period. In altering their commitments to the US, these Southeast Asian leaders would move quickly to take concrete steps looking toward some accommodation to Communist internal and external pressures.

The competing view also contends that there would not only be encouragement to Communist insurgent-subversive forces in various countries but also that these forces would move quickly to emulate "people's war." Substantial material assistance would be provided at least by Hanoi and Peking, particularly to Communist forces in Thailand. Finally, many, if not most, of the governments faced with insurgency problems probably would be unable or unwilling to move decisively against the insurgents.

Question 3: How soundly-based is the common belief that Hanoi is under active pressure with respect to the Paris negotiations from Moscow (for) and Peking (against)? Is it clear that either Moscow or Peking believe they have or are willing to use, significant leverage on Hanoi's policies? What is the nature of evidence, other than public or private official statements?

Communist China

We believe that Peking has brought pressures to bear upon Hanoi with respect to negotiations, but that the pressures have fallen short of major threats. These pressures weigh into Hanoi's calculations at each step of the negotiating way, but they have not prevented Hanoi from negotiating. Nor would they, in our judgment, prevent Hanoi from accepting a settlement which appeared desirable from other considerations.

Peking's Open Opposition to Talks. Peking has been against a negotiated settlement of the Viet-Nam war from the outset. Peking was not loath to make its opposition to the talks public, referring to the prospect of negotiations as "the peace talks hoax," and later when the talks actually opened, "the peace talks swindle." As early as mid-1965 Peking had taken the public position that there should be no negotiations prior to a complete US troop withdrawal, which should be brought about by "protracted struggle."

The Chinese used every opportunity to excoriate the Soviets for their role in facilitating the U.S.–D.R.V. conversations. According to the Chinese, the U.S. and the Soviets were in collusion to redivide the world between them. The North Vietnamese leadership was concerned about Chinese objections to negotiations, as evidenced by periodic high-level visits by North Vietnamese officials to Peking and by some deference to Chinese sensitivities in Hanoi's tactical handling of negotiations. But Hanoi's concern for Chinese attitudes did not prevent the North Vietnamese from moving toward negotiations.

Evidence of Chinese Pressure on North Viet-Nam. Intelligence reports indicate that China's opposition to the talks has shown itself in a variety of ways. British sources report that posters glorifying Hanoi's effort in the South no longer decorate the streets of Peking. In contrast to 1967, when at China's National Day Hanoi received much attention, in October 1968 Chinese mention of North Viet-Nam was merely perfunctory. There was no special reception for the North Vietnamese at the Chinese Communist National Day ceremonies in the fall of 1968 nor was Hanoi accorded a place on the speaker platform as in years past. Le Duc Tho's stop-overs in Peking enroute to and from Paris were not announced, and the talks themselves were ignored publicly until October 19. Another report tells of signboards erected at the Sino-North Vietnamese border promising that the Chinese "will not leave their Vietnamese brothers to suffer at the hands of the revisionists." There are also reports that Peking has withdrawn large numbers of construction troops from North Viet-Nam. If it actually occurred, however, this withdrawal appears at least as likely to be due to the completion of construction tasks and/or replacement by Vietnamese freed from bomb-damage reconstruction as to Chinese pique over the negotiations. There have also been reports of Chinese stoppages of Soviet air shipments, leading to complicated arrangements whereby the North Vietnamese assume responsibilities for those shipments at the Sino-Soviet border. During the 1968 phase of the Cultural Revolution rail service appears to have been stopped for a while. It is not certain whether this was caused by Peking's desire to show its muscle or by the upheavals of the Cultural Revolution. Vague reports of more substantial Chinese pressures have never been confirmed.

Chinese Influence Great. Peking obviously has a lot of influence in Hanoi. The Chinese Communist Party has long been a revolutionary partner of the *Lao Dong*. Communist Chinese aid played a major role in the Viet Minh victory over France, and in North Vietnamese economic development. Its assistance in both weapons and foodstuffs has been and continues to be essential to North Viet-Nam's war effort. Geography and history oblige Hanoi to be acutely sensitive to Chinese attitudes. Moreover, there are apparently North Vietnamese leaders who are sympathetic to Chinese attitudes and to Peking's on strategy and tactics. (This will be covered in greater detail in the answer to Question 4.)

But Limited. But Chinese leverage appears limited. Chinese advice has not always been good, and North Vietnamese limitations of Chinese campaigns (e.g., the land reform, the Hundred Flowers) have misfired. The Hanoi leadership therefore tends to act on its own. It has ignored and rejected Chinese tactical advice—even though that advice may in fact have been very sound—and it almost glories in its assertion that Vietnamese Communist strategy must be tailored to the particular situation in Viet-Nam.

As Is Its Freedom To Act. Peking cannot compel Hanoi to obey without hurting its own cause. Having long proclaimed its right to develop its own ideas against Moscow's, Peking cannot move militarily against a brother Socialist Party without severely besmirching its own image. If it chose to cut aid supplies, it would impede the North Vietnamese war effort—which it wishes to see succeed. Interference in North Vietnamese Politburo disputes by supporting one faction against another would be a tricky business, problematic both for ideological and practical reasons.

Basic Interests Being Served. Peking recognizes that its most important immediate interest is served by the existence of a friendly Communist state in North Viet-Nam; that state is a valuable buffer against the United States. It would be against Peking's interests to jeopardize its relationship with Hanoi or the existence of the DRV in a fit of pique or in a tactical dispute. Peking would certainly like to see the war concluded by the establishment of what is clearly a Communist South Viet-Nam (though it may have some reservations about the extent to which this might increase Hanoi's competitive position in Southeast Asia), but Peking recognizes Hanoi's primary interest and responsibility in Viet-Nam and is prepared to defer to it unless it believes that its own interests or the existence of the DRV are being placed in jeopardy. Thus, while we do not exclude Peking greater intervention if it believes there is some threat to its interests, we do not believe that Hanoi's current policies would produce such a situation.

Soviet Union

There are elements of both truth and error in the popular notion that Moscow has placed "active pressure" on Hanoi with respect to the Paris negotiations, and the proposition needs to be carefully weighed, first against basic factors restricting Soviet leverage, and second against recent evidence of a more assertive Soviet role.

Factors Limiting Soviet Leverage on Hanoi. Soviet ability to influence DRV policy decisions is limited by Hanoi's determination to have maximum freedom of maneuver within the schismatic Communist system, and Hanoi has been adept in playing the Soviets against the Chinese while giving neither of the powerful rivals a pretext for a decisive intervention in DRV affairs. Thus Hanoi's acceptance of major Soviet military assistance in the war has not been accompanied by any discernible derogation of the Hanoi leadership's firm control over its own war strategy. In dealing with the North Vietnamese the Soviets have experienced the full degree of Hanoi's ideological rigidity and distrust of the West, and on occasion they have privately deplored excessive North Vietnamese stubbornness.

Aware of these inhibiting factors, and sensitive to Chinese charges of "collusion" with the U.S., the Soviets long restricted themselves to unqualified support of Hanoi's terms for ending the conflict, even refusing to act as a "post office" for our message to Hanoi in May 1965 about the first bombing halt. However, Kosygin's visit to London in February 1967 suggested that the Soviets at least made serious effort to win Hanoi's agreement to an extension of the 4-day Tet truce.

Paris: More Assertive Soviet Role. With the beginning of the Paris talks last May, the Soviets began a new and decidedly more assertive phase of their diplomacy. Ambassador Zorin and Minister Oberemko were authorized by Moscow to act as primary Soviet representatives with respect to the talks. At several critical points during the ensuing months one or both of them intervened constructively, acting under both general guidelines and explicit instructions from Moscow.

Thus, it was Zorin who elaborated on the two-phase concept for stopping the bombing without any ostensible reciprocal action by Hanoi, and indicated Hanoi might be receptive to such an approach. When on October 11 the North Vietnamese for the first time gave a clear indication they would accept the GVN as a participant in the talks, the Soviets thought this move so important they confirmed this position to us on the following day. At several points during the culminating phase of these difficult negotiations the Soviets accepted our strong representations about North Vietnamese intransigence and appeared to have passed them along to Hanoi, to good effect. When the two sides were deadlocked on the issue of what terminology to use in a secret minute—a demand later dropped by the DRV—the Soviets put forward a formulation which resolved the impasse. When the talks on procedural arrangements were deadlocked in January, the Soviets suggested the formula on seating arrangements which proved acceptable to all sides.

Conclusion and Prospect. Although there is strong evidence of constructive Soviet effort over this period, one must balance this appraisal with the observation that the North Vietnamese may at times have employed the Soviets as intermediaries to convey positions upon which they had already decided themselves, so that they would not have to "lose face" by making the concessions directly to us.

Even with this caveat, however, the record would appear to support the conclusion that since May 1968 the Soviets have employed their influence over Hanoi in a generally constructive direction both as to timing and substance. From all indications they will continue to stake out tough Hanoi bargaining positions, to explore U.S. thinking and, whenever they consider it warranted, to utilize their leverage upon Hanoi in measured, highly selective, and carefully timed fashion.

Question 4: How sound is our knowledge of the existence and significance of stable "Moscow" and "Peking" factions within the Hanoi leadership, as distinct, for example, from shifting factions, all of whom recognize the need to balance off both allies? How much do we know, in general, or intraparty disputes and personalities within Hanoi?

Knowledge Imprecise. Our knowledge of the existence and significance of any kind of factions within the Hanoi leadership is imprecise. The evidence, which takes the form of public statements and Hanoi diplomatic conversations, is both tangible and amorphous. We can be reasonably certain that differences exist, partly because statements by different leaders reflect different views on certain problems. Even without such evidence, we could assume the existence of disputes because it seems inconceivable that a group of strong-willed men engaged in ambitious tasks would not have divergent views on the best means of achieving them. Further buttressing these considerations are reports from former Viet Minh cadre and from Westerners who have had contact with the Hanoi leadership.

Not "Moscow" or "Peking" Factions. It is not accurate to state that these differences of opinion reflect the existence of "Moscow" or "Peking" factions. The Hanoi leadership is sufficiently xenophobic that its members must be considered "Vietnamese" first, with any other loyalties running a distant second. However, over the years patterns of attitudes have developed which suggest that some members of the *Lao Dong* Politburo are more attuned to the Chinese view of the world, and want to emulate policies which had been used by the Chinese, at least prior to the Cultural Revolution, for which we can see little sympathy in any quarter. Others tend more toward Russian ideas. It is generally believed that Truong Chinh, third-ranking man in the Politburo, is among those most sympathetic to China, whereas Pham Van Dong and Vo Nguyen Giap (numbers four and six respectively) are more pro-Soviet. Party First Secretary Le Duan, second-ranking in the Politburo, is reputed to be neutral.

At most, however, these leaders simply lean on some issues in one way or the other—and perhaps feel Vietnamese long-range interests are better served by closer cooperation with one or the other large ally. But they are not committed to full acceptance of either view. For example, the late General Nguyen Chi Thanh was considered to be one of the most "pro-Chinese" of the top Hanoi leadership. When he died two years ago, Peking called him a "great Marxist-Leninist" (which is something the Chinese have not called Ho Chi Minh). Yet Thanh differed publicly from Chinese views on military strategy, and did not hestitate to express his attitude in characteristically fierce fashion.

Debate Is About Tactics, Not Goals. Moreover, not all subjects are open to debate. It would seem highly unlikely that any Politburo member would ever believe (much less say) that the Communist Party should give up its efforts to unite all of Viet-Nam under its control. Disputes would concern methods, timing, and priorities—not ultimate objectives.

Different Politburo members probably ally themselves temporarily with other members on specific issues, and policy decisions are obviously subject to review. The leadership has changed its war and negotiations tactics several times in the last few years, suggesting that members of the Politburo adjust their view to circumstances. Some members may remain always on one or another side of any given question, but others apparently shift their ground as they deem necessary.

Differences on Tactics. Disputes within the leadership cover a range of topics, including the tactics required to win the war. General Nguyen Chi Thanh was reputed to have favored a drive for military victory over the US forces; he believed such a victory was attainable by continuous attacks on many battlefronts. Le Duan, on the other hand, has apparently favored a combination of military and poltiical tactics designed to frustrate US power and to compel us ultimately to withdraw. General Vo Nguyen Giap is also reputed to have favored a mix of military and political tactics, though it is not clear whether he has favored guerrilla war or large-scale attacks. He has on different occasions espoused each. Truong Chinh has favored protracted warfare, as have the Chinese Communists. He has also pointed more than others to the needs for constant contact with the population. There is evidently continuing controversy on this topic. When Truong Chinh in the summer of 1968 delivered a speech which implicitly attacked past military policy and called for "protracted war," North Vietnamese reports on the speech indicated that there was "heated debate."

Also on Negotiations. There also appear to have been disagreements on the advisability of negotiating, and on the extent to which negotiations could serve as a useful instrument of policy. Truong Chinh, again following a Chinese line, has generally spoken in ways which suggest that he does not favor negotiations. Pham Van Dong and Foreign Minister Nguyen Duy Trinh appeared to have favored them. Dong in particular has said things which suggest that he has wanted to start negotiations for some time. He has spoken of "US strength" and has praised the Geneva Accords. Le Duan's position is unclear. He has not appeared either to favor or oppose negotiations consistently; he may once have opposed them, and later changed his views. However, the matter is not quite so simple. We do not see enough evidence to allow us to guess at more than broad inclinations and it is difficult to say who favors what tactic within a broad strategy at any given moment. For example, it is possible that Truong Chinh, despite his opposition to negotiations, might have favored some effort to procure a bombing halt in order to make "protracted war" possible.

Ho Appears to Balance. Similar patterns of disagreement probably prevail in other areas, including the Sino-Soviet dispute, internal political priorities, and *Lao Dong* Party organization and indoctrination. Key members of the Politiburo are probably also jockeying for position to succeed Ho Chi Minh, who is about 78 years old. Ho has been careful not to designate his successor publicly, and has also been careful not to ally himself with one or another particular view in the Politburo. He appears to act as a Chairman of the Board, casting the deciding vote in case of disputes but letting others air their views.

Question 5: What is the evidence supporting various hypotheses, and the overall adequacy of evidence, relating to the following questions:

a. Why did NVA units leave South Viet-Nam last summer and fall?

VC/NVA withdrawals to border areas and out-of-country sanctuaries during the summer and fall of 1968 were in part the result of serious Communist losses incurred during the Tet and May offensives. Indeed, regroupment of forces for resupply and reinforcement, followed by relative lulls in the fighting, have been characteristic of Communist tactics over the years, even during periods of activity less intense than occurred during the first half of 1968. In this instance, however, the Communists withdrew farther and in greater strength and stayed for a longer period than at any time in the past. We believe that Hanoi wanted to make a virtue of necessity, but it took care to make certain that its gesture was substantial enough to be clearly recognized. To underline the point further, Communist spokesmen in late June and July suggested that the reduced level of fighting, resulting from the withdrawal of Communist forces, was a "positive gesture" which should be reciprocated by a bombing halt.

Question 5: What is the evidence supporting various hypotheses, and the overall adequacy of evidence, relating to the following questions:

b. Did the predicted "third-wave offensive" by the NVA/VC actually take place? If so, why did it not achieve greater success?

The predicted "third-wave offensive" did take place from August 17 through the first week or so of September. This offensive was characterized by a mix of ground but primarily artillery attacks against targets of secondary importance and small-unit harassing-guerrilla actions in the countryside. This offensive, utilizing economy-of-force tactics, satisfied the Communists' need for military action to demonstrate their continuing initiative in Viet-Nam as well as their ability to inflict heavy casualties. It was, as General Abrams has described it, "a conservative campaign" which did not achieve "greater success" because it was not intended to do so.

Question 5: What is the evidence supporting various hypotheses, and the overall adequacy of evidence, relating to the following questions:

c. Why are VC guerrillas and local forces now relatively domant?

There are probably several reasons for the relative decline in military activity by VC guerrilla and local forces. Among these obviously are the heavy casualty rate, manpower problems, and the decline in the quality of in-coming cadres. Also, there apparently is some diverting of guerrilla and local forces for logistical purposes, particularly in view of the on-going preparations for intensified military operations. Finally, it has been increasingly clear during the past several months that the Communists have placed high priority, and therefore time and effort, to improve political indoctrination and military training of the local and guerrilla forces. In this respect, some of the more important objectives relate to finding ways to strengthen the counter-pacification campaign and support of the "Liberation Committees". For example, the Communists may feel that a demonstrably strong blow against the pacification program would have wide repercussions, particularly at time of optimistic Allied claims about pacification successes.

Question 6: What rate of NVA/VC attrition would outrun their ability to replenish by infiltration and recruitment, as currently calculated? Do present operations achieve this? If not, what force levels and other conditions would be necessary? Is there any evidence they are concerned about continuing heavy losses?

Captured documents, interrogation testimony, and other information indicate continuing Communist concern over the casualty rate. Indeed, the character and level of Communist military operations since August 1968 themselves reflect in part at least concerted enemy efforts to lower the casualty rate. On the other hand, we believe that, should they decide to accept the risks and launch major campaigns, the Communists can probably tolerate an attrition rate comparable to 1968, say 20,000 per month, without outrunning their ability to replenish their forces through infiltration and recruitment. In 1968, infiltration alone averaged 20,000 per month; reliable figures on recruitment are not available but may have averaged about 10,000 per month in 1968. Thus, the total Communist personnel input in 1968 may have been 360,000. In contrast, total Communist casualties (estimated KIA) from all sources was about 240,000, leaving therefore an appreciable residual. While manpower shortages in both North and South Viet-Nam may force the enemy to reduce his input somewhat in 1969, we believe that the Communists retain the capability to sustain an input averaging 20,000 per month on the basis of infiltration and recruitment. It should be noted, however, that the quality of enemy manpower has declined in recent months, as younger and less well trained personnel have been showing up more frequently on the battlefield.

Question 7: To what relative extent do the US/RVNAF and the NVA/VC share in the *control* and the rate of VC/NVA attrition; i.e., to what extent, in terms of our tactical experience, can heavy losses persistently be imposed on VC/NVA forces, despite their possible intention to limit casualies by avoiding contact?

While the Department of State does not have the data to permit a detailed analysis of this question, we believe that to a considerable extent, the Communists are able to control the rate of attrition of their forces. First, they have retained a surprising degree of tactical initiative, even during periods of intense fighting. A DOD study, for example, has concluded that perhaps as many as three-fourths of the engagements in South Viet-Nam occur at VC/NVA tactical initiative. In addition to choosing the timing of the engagements, the enemy is able to determine the type of attack, ranging from a costly assault on a major urban center to a relatively inexpensive harassment of a village or hamlet. Despite improvements in US/ARVN tactical planning, the NVA/VC have also proven that they can often break contact and escape into base areas or sanctuaries either within or outside South Viet-Nam when the fighting in specific engagements has become too intense. Indeed, Communist tactical planning, even since 1965 when the character of the fighting changed significantly, continues to place high priority on swift, surprise attacks, followed by quick withdrawals.

Finally, the Communists retain the option of avoiding contact, again, even during periods of intense offensive operations by our side. For example, DOD studies of combat statistics show little relationship between the number and scale of Allied operations and the rate of estimated enemy combat deaths. Instead, such studies have found a strong relationship between the rate of NVA/VC attacks and their estimated casualties: VC/NVA combat deaths have been high during the periods of *their* offensives and have dropped during the cyclical so-called "combat lulls," regardless of the level of Allied military operations.

Question 8: What controversies persist on the estimate of VC Order of Battle; in particular, on the various categories of guerrilla forces and infrastructure? On VC recruiting and manpower pool? What is the evidence for different estimates, and what is the overall adequacy of evidence?

Controversy still persists over the inclusion of various categories of forces in the Viet Cong Order of Battle and over the size of some of those categories that are, by general agreement, included in the OB. The principal controversies at present, as in the past concern: (1) the *size* of the VC Guerrilla Force and the Administrative Services elements; and (2) the *inclusion* in the OB of such categories as the Self-Defense or Militia forces, the Assault Youth, and the lower echelons of the Political Infrastructure. (There is, on the other hand, general but not total agreement on the *size* of the VC Main and Local Forces on the *exclusion* of the political Infrastructure from the military OB, though not from the estimate of overall VC strength.)

Both items of controversy derive from two basic disagreements: over definitions and methodology. MACV and DOD have consistently down-graded the importance of enemy units other than those regularly committed to offensive action and have argued for their exclusion from the OB because they do not constitute part of the enemy's "offensive threat" or because their shadowy nature makes it impossible for us to quantify their strength with any precision, or for both reasons. CIA and State, on the other hand, have argued that all categories of enemy strength and organization are indispensable to his military effort and to his control over portions of the population, that all armed categories properly belong in the military OB, and that some attempt must be made to quantify their strength.

With regard to methodolgy, MACV has in large part insisted on an empirical approach whereby MACV J-2 arrives at nation-wide strength totals by adding up the supposedly "hard" figures reported by U.S. military intelligence officers, including U.S. advisors to RVNAF intelligence officers, in the field who rely on "battlefield observation" of the actual enemy strength. MACV has traditionally applied this methodology in estimating Main and Local Force and Guerrilla strength, but in the past has been obliged to rely on a more theoretical method for estimating other categories such as Administrative Service and Political Infrastructure. However, we gather that MACV is increasingly using field figures as well for these "softer" categories. In any event, MACV has customarily argued that such evidence as that gleaned from captured documents and the interrogations of prisoners and ralliers was inevitably random, spotty, and often out-of-date and that extrapolations based on such evidence were therefore generally worthless. When MACV itself has had to extrapolate, it has usually taken the lowest "type" strength figure for any given echelon (e.g., infrastructure membership strength at hamlet level) as a base, even when the totality of evidence would have sustained or even favored base figures that were considerably higher.

The CIA methodology, on the other hand, assumes that field reporting is not necessarily complete on the "hard" components of the OB and is particularly inadequate on guerrillas and self-defense and on the non-combat elements, which are by nature either "behind-the-lines" or entirely clandestine. CIA methodology therefore relies heavily on the evidence of documents and interrogation reports, which provide firm figures for an admittedly small number of units in the "soft" categories, and employs those figures much less conservatively than would MACV to extrapolate strength estimates for the various categories nation-wide.

An out-of-date but clear-cut example of the differing results produced by the two methodologies is provided by these figures, tabled at an intelligence conference in April 1968, for "Regular Military Forces" (including North Vietnamese) as of March 31, 1968:

	MACV	CIA
NVA/VC main and local forces	123,000-133,000	135,000-145,000
Administrative services (in-country only)	30,000-40,000	65,000-80,000
Guerrillas	50,000-70,000	90,000-110,000
Totals	203,000-243,000	290,000-335,000

(N.B.: These figures do not include the Political Infrastructure, which MACV then estimated at 75-85,000 and CIA at 90-120,000, or "Other, Irregular Forces," which CIA estimated at 90-140,000 and which MACV said could not be quantified.) The CIA approach would appear to provide a more realistic picture of the size and diversity of the enemy's entire apparatus and thus to reduce the risk of our underestimating his strength and staying-power. We believe that MACV, on the other hand, runs precisely this risk for reasons that have little to do with validity of the actual intelligence.

With regard to VC recruitment or the manpower pool, there has traditionally been greater uncertainty in this field because of the lack of adequate data even on the total population base and considerable controversy over the degree of VC access to manpower in contested and relatively-secure areas. Most of the data comes from captured documents, but these appear to be relatively few in number and insufficient for constructing estimates that would suffice for the country as a whole. Thus, the actual recruitment rate probably varies considerably from area to area.

Question 9: What are NVA/VC *capabilities* for launching a large-scale offensive, with "dramatic" results (even if taking high casualties and without holding objectives long), in the next six months? * * * How adequate is the evidence?

Should Communists decide to risk heavy losses, they have the capability to launch large-scale offensives in one or more parts of the country, particularly in III Corps. These offensives could include ground assaults or attacks by fire against any number of secondary, provincial centers and allied installations, a general heightening of minor actions and harassment throughout the country, and/or a strong counter-effort against the pacification campaign. There may also be some "dramatic" incidents, involving perhaps the infiltration of sapper units and some combat squads into Saigon or other major urban areas, the brief seizing of a section of a provincial capital, and a devastating attack against a model pacification area or refugee centers. Such military successes as might be achieved would be only temporary and would not approach the scale of Tet 1968. By a careful choice of targets and tactics, the enemy might be able to hold down his casualties; any major commitment of troops, however, would cost him dearly.

The evidence of NVA/VC attempts to improve their capabilities to launch such offensives during the next six months is extensive. Much of the NVA/VC main force has spent the recent months in base areas, re-equipping, retraining, and receiving replacements. And additional North Vietnamese replacements will continue to become available for some time and at a very significant rate. In the meantime, Viet Cong units have intensified recruitment and tax collection efforts in an attempt to rebuild their forces.

Truck traffic in North Viet-Nam and Laos has been heavy, suggesting that a considerable amount of material has been moving south to support Communists units. Captured documents, informants, POWs, and ralliers have all testified to the current build-up of NVA/VC forces and to the enemy's intention to launch some kind of offensive activity. In northwestern III Corps alone, the enemy has massed a force of over 40,000 troops.

Allied spoiling operations have seriously disrupted Communist efforts to get an offensive underway, have caused a steady drain on forward supplies, have hampered LOC's. and have frustrated the attempts of NVA/VC units to move into attack positions.

Nevertheless, all evidence clearly points to continuing Communist preparations for offensive actions, suggesting the possibility that in spite of the difficulties, the enemy is determined to attempt some sort of military spectacular unless last-minute considerations, either in Paris or in Viet-Nam, dictate otherwise. Perhaps this is best illustrated by the continuing presence and deployment of substantial Communist forces in the provinces surrounding Saigon and toward northwestern III Corps, despite the continued commitment to this area of the bulk of the U.S. maneuver-battalion force.

Question 10: What are the main channels for military supplies for the NVA/VC forces in SVN, (e.g., Cambodia and/or the Laotian panhandle)? What portion of these supplies come in through Sihanoukville?

The Communists rely on the overland route from North Viet-Nam through Laos and Vietnamese/Cambodian border areas into South Viet-Nam as the primary channel for the movement of arms and ammunition to Communist forces in I, II, and III Corps. Several supplementary routes augment this flow and probably supply IV Corps. These supplementary routes include smuggling over Cambodian beaches and then across the Cambodian/South Vietnamese border into IV Corps, occasional penetrations of the Allied patrol system (Market Time) in the coastal waters of South Viet-Nam, and diversion to Communist forces of arms and ammunition entering Sihanoukville for the Cambodian Army. In specific local areas for limited periods of time, the amount of arms delivered through these channels may be significant. On the basis of available information, it is impossible to quantify the amount of military supplies moved by any single channel.

Trucks flowing over the overland routes from North Viet-Nam into Laos and down the "Ho Chi Minh" trails carry more than enough supplies for Communist units in Laos and in I Corps and northern II Corps. In addition, *CIA, State, and DIA* believe, but MACV does not, that the overland routes from the North also provide sufficient supplies to support the Communist forces in at least southern II Corps and III Corps; supplies into these two areas probably enter via the tri-border area of Laos, Cambodia, and South Viet-Nam. Positive information on the specific amount of arms and ammunition moved southward is limited, but the expansion of the truck routes in Laos and the truck traffic sighted on these routes, plus the north-south trail network in Laos and in the northern and central part of South Viet-Nam, clearly supports evidence that the movement southward is massive. Captured documents and prisoners report that Communist liaison stations and tactical and support units are present along the entire network to assist in the movement of men and supplies south. In short, the Communists moved enough supplies directly into I Corps and * * * Corps and into southern II Corps and III Corps. Moreover, they have a functioning logistics system south of the tri-border area which has the capacity to move these tonnages to III Corps.

For some time, MACV has contended that the amount of arms and ammunition entering Cambodia through Sihanoukville and then transported to Communist forces in South Viet-Nam by elements of the Cambodian army has reached such proportions that Cambodia has become the main channel for Communist supply to forces in II, III, and IV Corps. There appears to be little doubt that elements of the Cambodian army are engaged in a relatively well-organized and profitable operation to supply arms and ammunition to the Communists. No firm basis exists, however, for estimating the quantities involved; evidence on the amount of arms arriving in Sihanoukville, on the requirements of the Cambodian army, and on the amount of arms delivered to the Communists is generally unreliable and inadequate. What reliable evidence is available does not suggest that the operation is of the magnitude MACV describes.

In our view, the Communists clearly have in the overland route a functioning logistics system in being which is capable of satisfying most of their needs and which is completely under their control, and it is therefore doubtful that they would place their main logistics channel under Cambodian control and make it vulnerable to Sihanouk's will and to the political pressures in Phnom Penh.

Question 10A: What differences of opinion exist concerning extent of RVNAF improvement, and what is evidence underlying different views? (e.g., compare recent CIA memo with MACV views.)

A recent CIA memorandum concluded that it would be at least two years, and perhaps longer, before ARVN would become an effective fighting force. The estimate of two years depended on the achievement of favorable military and psychological conditions during that time, an achievement considered unlikely.

We believe that the CIA estimate is not overly pessimistic. ARVN effectiveness has clearly improved as a result of better training, greater firepower, and inspiration by the presence of US forces. Indeed, a recent DOD study indicated that ARVN had been 58 percent as effective as US forces in 1968, as compared with 48 percent in 1967, and added that this progress could be expected to continue. However, since ARVN performance was measured in this study by comparing the number of enemy killed by US and Vietnamese forces, there was admittedly some question as to the validity of this improvement. The study noted that ARVN performance was generally best when the enemy was on the offensive and fell off during other periods, i.e., ARVN's own efforts to launch effective offensive operations were apparently not as large a factor in its improvement as during enemy operations. Finally, the DOD study pointed to a MACV assessment that the greatest improvement in ARVN performance was achieved by increasing ARVN firepower, and agreed with MACV that further improvement might be expected from the Phase I re-equipment program. While agreeing generally with these judgments, we believe that the more crucial problems—leadership, morale, discipline, and training—are long-term and highly complex and we are not confident that significant improvement in all these fields will be accomplished during the next year or so. Some of these problems are discussed in succeeding answers.

Question 10A: What differences of opinion exist concerning extent of RVNAF improvement, and what is evidence underlying different views? (e.g., compare recent CIA memo with MACV views.) For example:

(a) Which is the level of effective, mobile, offensive operations? What results are they achieving?

ARVN large-unit (battalion or larger) operations increased from about 3,200 in 1967 to over 6,000 in 1968. In 1967, ARVN achieved contact with the enemy in 1,974 of these operations; in 1968, 2,778 large-unit operations by ARVN achieved contact. In turn, the number of US large-unit operations declined slightly in 1968, but US forces were in contact with the enemy roughly twice as often as ARVN in both years. Thus it appears that, although the number of ARVN large-unit operations increased, they were less effective than large-unit US operations. On the other hand, it is probably true that the substantially greater mobility, particularly as provided by air, available to US forces has contributed to the latters' higher contact rate.

Question 10A: What differences of opinion exist concerning extent of RVNAF improvement, and what is evidence underlying different views? (e.g., compare recent CIA memo with MACV views.)

b. What is the actual level of "genuine" small-unit actions and night actions in ARVN, RF and PF: i.e, actions that would typically be classed as such within the U.S. Army, and in particular, offensive ambushes and patrols? How much has this changed?

Although ARVN small-unit actions increased slightly in 1968, daytime small-unit contacts dropped precipitously in 1968 to an estimated 813, from 3,089 contacts the previous year. Nighttime small-unit contacts also dropped, but not so steeply, from 8,233 in 1967 to 6,330 in 1968. Nighttime contacts by small US units actually increased, from 1,651 in 1967 to 1,888 in 1968. In 1967, for every 1,000 men in ARVN units, there were 4 enemy KIA in small-unit contacts; in 1968, this ratio dropped to an estimated 1 per 1,000. There is as yet no explanation for the overall drop in ARVN small-unit contacts, and MACV itself has noted this development with some concern. In any event, ARVN's effectiveness has long suffered from an overly defensive posture, particularly in terms of small-unit operations, night attacks, ambushes, and sustained patrolling. Available reports do not suggest any major breakthrough.

Question 10A: What differences of opinion exist concerning extent of RVNAF improvement, and what is evidence underlying different views? (e.g., compare recent CIA memo with MACV views.) For example:

c. How much has the officer selection and promotion system, and the quality of leadership, actually changed over the years (as distinct from the changes in paper "programs")? How many junior officers hold commissions (in particular, battlefield commissions from NCO rank) despite lack of a high school diploma?

Detailed information available to the Department of State is not sufficient to enable a comprehensive response to the matter of promotions within RVNAF. Nonetheless, it is clear from our general knowledge on the subject that the number of battlefield promotions within the officer corps has risen in each of the last two years but remains only a very small percentage of total promotions. For example, there were 2 battlefield promotions representing 0.05% of all promotions in 1966; the number rose to 56 or 4% in 1967, and to 195 or 3% in 1968. Moreover, while a fairly substantial program for the commissioning of RVNAF NCO's through officer candidate school, direct appointment, and battlefield promotion was initiated in 1966, only a small minority of these commissions are the result of battlefield promotion

Apparently as part of the general mobilization program begun in 1968, all newly-mobilized personnel, regardless of educational background, are now reportedly being sent through the same basic training process, and holders of high school diplomas are no longer being sent automatically to officer-training schools. While this apparent reform sounds promising, we have seen no information on its results, e.g., whether admission to officer training is now based on sounder principles. Finally, while we remain open to persuasion by contrary information which may be available in the field, we doubt that there has been much actual change in the officer selection and promotion system in recent years, and we doubt particularly that there is as yet much genuine commitment to the principle of battlefield promotions or commissions.

Question 10A: What differences of opinion exist concerning extent of RVNAF improvement, and what is evidence underlying different views? (e.g., compare recent CIA memo with MACV views.) For example:

d. What known disciplinary action has resulted from ARVN looting of civilians in the past year (for example, the widespread looting that took place last spring)?

Considerable looting by RVNAF troops occurred in portions of urban centers, especially in Hue, during the fighting of Tet 1968 and subsequent offensives. Low-level looting of miscellaneous items such as food has long appeared to be endemic among RVNAF units throughout the country. However, field reporting available to the Department has given no clear indication of the scope of disciplinary actions against looting.

It is possible that detailed information is available elsewhere. For example, the MACV Quarterly Evaluation Report for 1 July to 30 September 1968 lists under RVNAF "Investigations of Fraud, Theft and Misuse of Funds" a total of 104 RVNAF personnel of all ranks investigated during the first nine months of 1968; the third quarter saw 40 investigations and disciplinary actions against 13 officers. However, it is not clear from the report just how many of the investigations and disciplinary actions actually involved looting incidents. Moreover, we must also assume that there is considerable looting that goes unreported.

There are indications that the problems of looting are receiving increased GVN attention. At Vietnamese suggestion, in recent combined RVNAF–US cordon operations in Quang Nam, one family member from each dwelling was allowed to remain in his home to protect his property. Action is also reportedly being taken to provide increased amounts of food to RVNAF troops to reduce the need to forage for food.

Question 10A: What differences of opinion exist concerning extent of RVNAF improvement, and what is evidence underlying different views? (e.g., compare recent CIA memo with MACV views).

e. To what extent have past "anti-desertion" decrees and efforts lessened the rate of desertion; why has the rate recently been increasing to new highs?

Available evidence does not point to any single cause for the marked increase in desertions during 1968. However, a variety of new factors, notably the changing political/military situation since Tet and the institution of general mobilization, have had much to do with the increase. The net desertion rate among the Regular, Regional, and Popular forces rose quite steadily during much of the year and peaked in October at a level more than twice as high as the pre-Tet level; increases were evident even during observable lulls in the fighting such as those that prevailed from mid-June through mid-August and from mid-September through late October. Average gross desertions from RVNAF combat units jumped immediately after Tet and thereafter remained at least 50% higher than during the same months in 1967. By November and December of 1968, measures taken to control the desertion rate, probably aided by the generally low level of combat, had succeeded in lowering the net desertion rate toward the pre-Tet level.

DOD studies indicate that in general those combat units with the worst desertion rates in 1967 also had the worst rates in 1968, suggesting that chronically inferior leadership in those units is a significant factor. In December 1968, Lt General Dang Van Quang, special assistant to President Thieu, attributed the very high desertion rates among most III and IV Corps infantry divisions in part to poor leadership at division level, and said that plans were being made to replace the commanding officers of at least half the six divisions in those two Corps areas. The RVNAF Joint General Staff, when considering the desertion problem last September, noted that the increase in casualties in some combat units had been a key factor in the increase in desertion in those same units.

More generally, the rapid expansion of RVNAF during 1968 and the institution of general mobilization, which has included the return of numerous desertion-prone individuals to the armed services, has contributed significantly to the mounting desertion rate. An RVNAF JGS survey made in the latter half of 1968 showed that 80% of recent deserters had six months of service or less. The JGS in its September analysis also cited problems associated with the greatly increased numbers of volunteers and redrafted army reserve personnel. The volunteers, the JGS said, become more desertion-prone than inductees, after their initial burst of enthusiasm. Presumably, the reservists are more ready to desert because they feel that they have already done enough for their country. Furthermore, many recruits are clearly aware that desertion control is slack, particularly in the countryside, and take advantage of this slackness. Traditionally, light penalties and periodic amnesties in the past undoubtedly contribute also to desertions by the newly-mobilized.

A final factor, clearly of significance to the problems of all units, but of special importance to combat units, is the natural reluctance to give one's life just before peace arrangements bring an end to the fighting. Lt. General Le Nguyen Khang, former III Corps Commander, has given great weight to this reluctance in analyzing the reasons for the increased desertions.

Past RVNAF efforts to bring down desertion rates have had varying degrees of effectiveness. Decree-Law 15, issued in April 1966, was the basis of a program which nearly halved the desertion rate that prevailed in the first half of 1966 and kept the rate down throughout 1967. Decree-Law 15 defined desertion more strictly than it had been defined in the past and provided harsher penalties, including service at front-line labor camps. Despite the promising initial results of this program, a number of weaknesses have become apparent. A tendency to minimize the penalties applied to deserters, through use of a "mitigating circumstances" clause in Decree-Law 15, developed within the RVNAF although this tendency has reportedly been dealt with by instructions from the Director of Military Justice issued late last year. There have also been reports that operational units found it too difficult to administer combat labor camps, as the number of such punishments increased, and in some cases refused to accept additional deserters. Though we have seen no verification of these reports and have no statistics on the size of the labor-camp program, we imagine that any such development could have reduced the effectiveness of general anti-desertion measures during 1968.

Question 10A: What differences of opinion exist concerning extent of RVNAF improvement, and what is evidence underlying different views? (e.g., compare recent CIA memo with MACV views.) For example:

f. What success are the RF and PF having in providing local security and reducing VC control and influence in rural populations?

The causes of RF/PF ineffectiveness are well known and generally agreed: inadequate leadership, training, and motivation; low pay, poor housing and dependent care; inferior weapons, particularly in the case of the PF, and insufficient logistic support; static deployments; and uncertain reinforcement by air, artillery, and ground units when under attack or in contact during offensive operations. On the other hand, despite these problems, the RF and PF have had reasonable success in providing local security. Many individual RF and PF units have been willing to take casualties and have sometimes accounted for a disproportionate number of the enemy KIA. We know too that the RF and PF have in general responded well to association with US units, as in the Marines' Combined Action Platoons, and to the technical and motivational training instituted more recently by the MACV Mobile Advisory Teams. Indeed, the insistent demands of US sector and sub-sector advisors in many areas for greater allocations of these forces are one indicator of their value.

US attention to the RF and PF has paid off and should continue, e.g., focussing on motivational training, provision of more and better weapons, general logistical support, improved living conditions, etc. At the same time, we should give further thought to the future missions of the RF and PF in support of pacification, to the place of the RF and PF in any reorganization of the RVNAF command system that may be undertaken, and to the role of these forces in and after a settlement.

Question 11: To what extent could RVNAF—as it is now—handle the VC (Main Force, local forces, guerrillas), with or without U.S. combat support to fill RVNAF deficiencies, if all NVA units were withdrawn:

a. If all Northerners (but not regroupees) were withdrawn.

b. If VC still had Northern fillers.

Assuming that all US forces and all NVA forces—fillers as well as organized units but not regroupees—were withdrawn from South Viet-Nam, the RVNAF alone should be able to cope with the remaining Viet Cong. As the RVNAF modernization and improvement program advances, the ability of the government forces to make inroads into the VC military-political apparatus and to reduce the level of the insurgency will be enhanced. Even spokesmen for the other side (e.g. Tran Buu Kiem and Wilfred Burchett) have recently made reference to their concern for the fate of the Viet Cong if the North Vietnamese troops were pulled out.

If NVA regular units were withdrawn but NVA personnel remained in Viet Cong units as fillers, the relative balance would be more difficult to assess. Under these circumstances it would probably be necessary to provide the RVNAF with sufficient US combat support to make up for its deficiencies until the entire modernization and self-sufficiency program were completed.

Question 11: To what extent would RVNAF—as it is now—handle the VC (Main Force, local forces, guerrillas), with or without U.S. combat support to fill RVNAF deficiencies, if all NVA units were withdrawn:

a. If all Northerners (but not regroupees) were withdrawn.

b. If VC still had Northern fillers.

11. Assuming that all US forces and all NVA forces, fillers as well as organized units were withdrawn from South Vietnam, the RVNAF as it is presently constituted should be able to cope with the remaining Viet Cong, including the regroupees. Earlier American efforts to modernize and improve RVNAF presumably would have strengthened the ability of the government forces to erode the Viet Cong, and, over the short term, the GVN would be able to make appreciable progress in expanding its control over the countryside; this would be especially true if the terms of the settlement had a beneficial effect on RVNAF morale. However, we do not believe that the RVNAF will be able to eradicate the VC political-military apparatus or to reduce significantly the level of the insurgency. Indeed, these objectives, as well as the resolution of complex and deeply-rooted RVNAF deficiencies, are realistically possible only in the long term context.

The presence of substantial numbers of NVA fillers in Viet Cong units, in the absence of any US combat troop involvement, would tend to negate even favorable short-term, not to mention long-term, prospects for the RVNAF.

Question 13: What, in various views, are the required changes—in RVNAF command, organization, equipment, training and incentives, in political environment, in logistical support, in U.S. modes of influence—for making RVNAF *adequate* to the tasks cited in questions 9 and 10 above? How long would this take? What are the practical obstacles to these changes, and what new U.S. moves would be needed to overcome these?

Under current and foreseeable circumstances, it will probably take a minimum of two years before structural and technical reforms can make any substantial contribution toward RVNAF fighting effectiveness. The more critical deficiencies—motivation, discipline, and leadership—and essentially deeper and longer-term problems, some arising out of complex socio-political traditions and others greatly dependent on the prevailing political and military environment. A clearly accelerating favorable military trend highlighted by ARVN battlefield successes could have considerable effect on RVNAF motivation and morale. A stable political situation, and particularly one in which the top military leadership is united and secure, would favorably affect discipline and lower-level leadership.

Question 14: How much, and where, has the security situation and the balance of influence between the VC and NLF actually changed in the countryside over time, contrasting the present to such benchmarks as end–61, end–63, end–65, end–67? What are the best indicators of such change, or lack of it? What factors have been mainly responsible for such change as has occurred? Why has there not been more?

It is extremely difficult to measure changes in the security situation within Viet-Nam over time with any degree of precision. In approximate terms, end–1961 saw a sizable increase in NLF activity and influence. The GVN possibly only controlled ⅓ of the population at that time. After the initial successes of the Strategic Hamlet program during 1962 and 1963, the situation at end–1963 rapidly reverted to the end–1961 level as a result of intensified VC attacks against the program and the political turmoil occasioned by the Buddhist/Diem conflict. The rural situation continued to deteriorate throughout 1964 and part of 1965, largely as a result of political instability and NVA infiltration. The initiation of bombing of the North and the introduction of US troops in 1965 served to stabilize but not reverse the rural security equilibrium by end–1965.

Security, though subject to occasional relapses such as occurred at Tet in February 1968, has generally improved since its nadir in 1965 required the introduction of American combat troops. However, detailed studies of some key provinces indicate that, though statistics may show increases in the secure population for a given area, these changes often result from simple population movement and government held hamlets or towns, the over-all geographic pattern of security in the countryside appears to have remained generally the same.

The official system for measuring of progress, the Hamlet Evaluation System (HES), shows substantial progress. According to the December 1968 statistics of the HES, about three-fourths of the total population was classified as "relatively secure", the remaining one-fourth being divided rather evenly between "contested" and "VC-controlled" categories. By comparison, GVN figures for September 1965 showed approximately half the population to be "relatively secure", approximately one-quarter to be "contested", and one quarter to be "VC-controlled".

However, there are a number of problems with these statistics. Critics of the current means of compilation of the statistics have pointed, among other things, to HES reliance upon GVN sources, the pressure to show progress exerted upon local advisors by upper echelons, the lack of ability to verify much information, and the limited training given evaluators. It also has been argued that the statistics constitute a snapshot of military presence and development which does not show the dynamics of important ingredients, such as political attitudes, and that the statistics are weighted in favor of progress. Problems of definition can also cloud the interpretations. For example, the interpretation of the current statistics can be changed dramatically by switching the population in hamlets currently classified as "C" (hamlets which are subject to VC harassment and where the infrastructure has been identified and curtailed but is still operative) from the "GVN-controlled" category to the "contested" category. Utilizing this method, it can be shown that less than half of the total population (46.7%) is "relatively secure" while 41% of the population is "contested". These figures portray a situation similar to that given by the GVN figures for 1965. Indeed, some studies have found that, if the indicators of the level of VC military and political operations were considered in isolation from the remaining HES statistics, one could in fact conclude that very little progress has been made in the past two years. In short, although progress has undoubtedly occurred, it is difficult to measure it accurately, and attempts to quantify it have generally ended up by overstating it.

The key element in what progress has occurred has been the U.S. military presence. Although few American troops have been directly committed to pacification, their presence has strengthened security and has both formed a protective shield behind which a pacification program could operate and freed ARVN forces to participate in pacification. The essential first step toward pacification is security; the preservation and extension of the pacified areas, however, depends on the ability of the GVN to establish an effective political structure at the local level capable of responding to and eliciting the support of the people. The GVN has made only limited progress in establishing permanent village and hamlet security against the VC and in committing the people against the VC in an active sense. Even during periods when the general military situation appeared to be improving and when statistics showed considerable pacification progress, such as in the second half of 1967, subsequent events and studies of specific areas showed much of this progress to be illusory. In 1967, for example, detailed studies showed that, despite favorable statistics, security actually deteriorated in the latter half of 1967 in several strategic South Vietnamese provinces and that pacification actually lost ground in some key categories. The regression in pacification statistics in February 1968 occasioned by the Communist Tet offensive revealed the fragility of the progress that had been previously portrayed.

At present, there is again statistical progress in South Viet-Nam: the Chieu Hoi rate is up again (though there has been a dip during the last two weeks), neutralizations of members of the Viet Cong infrastructure are high, the HES statistics are on the rise, the Self-Defense forces are expanding, and the Accelerated Pacification Campaign (APC) is progressing well. Each measurement is subject to varying interpretations, and its significance can be questioned. However, one aspect of this current progress is clear: the current high rate of progress has resulted from an apparent Viet Cong unwillingness to challenge the APC. By the withdrawal of many units, which has resulted in a generally quiet main-force atmosphere, and by this somewhat surprising lack of sustained local activity against the pacification effort, the NVA/VC have given the GVN a chance to extend its control. The GVN has chosen to exploit this chance by spreading its military and pacification assets more thinly and by stressing security over development in order to achieve rapid statistical progress. A resumption of enemy activity against these fragile gains could reverse progress once again, although at the risk of considerable enemy manpower loss.

Question 15: What are the reasons for expecting more change in the countryside in the next two years than in past intervals? What are the reasons for not expecting more? What changes in RVNAF, GVN, U.S., and *VC* practices and *adaptiveness* would be needed to increase favorable change in security and control? How likely are such changes, individually and together; what are the obstacles?

We may expect more progress in the countryside during the next two years as a result of a variety of interrelated factors. These include: (1) better and more integrated organization and planning both in the GVN and US sides; (2) gradual improvement of the ARVN and RF/PF through more intensive training and better equipment; (3) having more RF/PF available, which form the backbone of local security; (4) greater GVN command emphasis to pacification and particularly the Phoenix program; (5) better province and district level leadership; and (6) perhaps most intangibly, greater GVN responsiveness to the governed as they realize that the US will not indefinitely remain in Viet-Nam, at least at present magnitudes.

Despite the above assertion, we should probably expect neither spectacular nor significant breakthroughs in the countryside over the next year or two. The basic reasons for this are threefold.

The rural population is generally apathetic and does not easily succumb to the blandishments of either the GVN or VC. This makes local political rejuvenation extremely difficult. Secondly, pacification is inherently a slow process because the assets used, whether police, ARVN, RF/PF or local officials, are low grade and thus difficult to control and improve. Finally, the VC still have considerable residual power to threaten and attack pacified areas, although they are unlikely to be able to regain the position of strength they held in 1964–1966.

If the GVN were to move vigorously in certain areas, more substantial results could be forthcoming. ARVN definitely needs better leaders. There is little question that the Vietnamese soldier will fight well if properly directed and led. The same is true for the RF/PF. Also in the area of leadership, the GVN should intensify its program of assigning competent and dedicated men to district and province chief positions. The importance of these positions cannot be overestimated in terms of progress or lack of it in pacification. Moreover, the GVN could make some political gains through the assignment of civilian district and province chiefs in certain pacified areas. Secondly, while retaining the pacification initiative and setting realistic goals, the GVN should avoid an overextension of its resources in the countryside which will inevitably lead to a VC response and some regression at a later date. There are indications that the Accelerated Pacification Campaign and 1969 pactification plan may have been too largely influenced by the desire to show maximum GVN presence in the countryside for effect on the Paris negotiations, though Thieu's recent emphasis on consolidation during the first part of 1969 is encouraging and should restore perspective.

On the US side, continued effective support to the GVN in Saigon and the field is the most important requirement. At the same time, we must seek out every possible stratagem whereby GVN dependence on ourselves will be selectively lessened, while avoiding the impression that we are pulling out.

The VC also have various options open and it is for this reason that our predictions are not more sanguine. As mentioned previously, they have the capability to disrupt the GVN pacification program if they are willing to pay the price. Even without large scale operations against pacified areas, they can reduce costs and effectively use terror and assassination to threaten, intimidate, and create fear among the population—if not control them. Finally, they still have approximately 20% of the rural population under their control. Most of these areas were controlled by the Viet Minh and therefore VC roots are very deep. We may expect a considerable slowdown when GVN emphasis shifts from "contested" to these red areas . . .

Future prognosis, therefore, is unclear. The most likely course of action is for the VC to launch selective campaigns of varying intensity against the pacification program. Some, though largely temporary, reversals to the pacification effort in given geographic areas would probably result. In this context, we consider it unlikely that the VC would be able to obtain the success which they enjoyed during the initial stages of the Tet offensive. If they did, the effect would be to deliver a major blow to the pacification effort and to halt progress for some time to come. Alternatively, if the VC refrain from conducting an active anti-pacification campaign, then we may expect continued momentum in the pacification effort, though not on the same scale as the APC program. Finally, if the enemy initiates a new military campaign and suffers significant military setbacks, the forward movement of pacification would be greatly facilitated.

Question 15: What are the reasons for expecting more change in the countryside in the next two years than in past intervals? What are the reasons for not expecting more? What changes in RVNAF, GVN, U.S., and *VC* practices and *adaptiveness* would be needed to increase favorable change in security and control? How likely are such changes, individually and together; what are the obstacles?

15. Since 1960, the strategic concept for countering the insurgency in Vietnam has remained basically the same, despite changes in terminology, organization, and the distribution of responsibilities. The doctrine adopted in 1960 accepted that the insurgent threat would be countered by a series of "pacification" stages in which the VC would be deprived of access to the people, their infrastructure would be destroyed, and the authority of the government would be reestablished by its ability to provide security and to improve the physical lot of the peasant.

As program has succeeded program since 1960, the principal deficiencies in implementation have become increasingly clear. In 1967, further changes were made in the doctrinal and organizational aspects of pacification and an increased stress was placed on the interdependence between all aspects of the military and political struggle. Despite the deceptive progress of 1967, the statistical recovery since Tet, and the fragile progress of the Accelerated Pacification Campaign, the basic deficiencies remain and give little reason to expect a significant change in the situation in the countryside in the next two years.

The Vietnamese Army has not escaped from its conventional warfare mold. Both in its military tactics and in its relations with the people it has all too often acted counter to the basic principles of counterinsurgency rather than in support of them. At the end of 1967, a year of sustained optimism, the U.S. Mission reported that "while ARVN support of pacification increased greatly, ARVN battalions in support of pacification were employed largely in static defense roles which limited their effectiveness." Studies of specific areas noted that RD teams were often "placed in hamlets where the security forces were understrength, inadequate, or simply non-existent." During the VC offensives of 1968, ARVN's tendency toward conventional warfare asserted itself: ARVN's search and destroy operations were less related to pacification considerations than before; ARVN units were more than ever committed to static defense; ARVN's lack of aggressiveness was exemplified by its withdrawal from the countryside; ARVN's looting and the use of artillery and air in populated areas both demonstrated and compounded its problems with the people. Another stage in the continuing effort to improve ARVN is now underway, but most analyses agree that it is unlikely that ARVN will achieve any significant degree of effectiveness any time soon.

Paramilitary units, locally recruited and locally based and theoretically the backbone of any counterinsurgency effort, have been repeatedly ignored or misused. Tet 1968 illustrated the resulting plight of these units. Outgunned by Communist units, they were left isolated in the countryside as ARVN units withdrew into the cities and then ignored in the post-Tet emphasis on urban security, relief and rehabilitation, and the creation of self-defense forces. Both the GVN and MACV have long recognized this problem. In discussing the 1969 Pacification plan, for example, the first "problem area" mentioned by Thieu was the quality and quantity of the territorial forces. MACV has several programs underway to improve the paramilitary services. As in the case of ARVN, recent studies have estimated that under the best of circumstances it would take eighteen months to two years to correct current deficiencies in equipment, resupply, training, firepower, relations with the civilian population, leadership, and motivation.

Despite elaborate planning and creation of machinery to execute and sustain a combined political-military pacification campaign, few Vietnamese leaders have clearly understood the goals of pacification or have committed themselves to supporting it through the GVN administrative apparatus. The majority of the South Vietnamese leaders, including President Thieu, have been chronically indifferent to the American ideas of pacification and skeptical of its claims of successes. Although acquiescing under American insistence and the promises of logistical support, in private they have consistently denigrated its principles and statistics. Under the pressure of the possibilities opened up by the Paris negotiations and the threat posed by the Communist campaign to establish "Liberation Committees," Thieu is now using the name and assets of pacification to pursue a goal of rapidly expanding the GVN's nominal presence in the countryside. To achieve this goal, it has required that the existing RD cadre teams be doubled by splitting existing teams in two, that teams be pulled out of locations prematurely, and that ARVN, RF, and PF forces be thinned out to provide the expanded territorial security required. These moves do not suggest that a solid base for pacification is being built; they may weaken the existing base. In any case, the background of the current Accelerated Pacification Campaign and the haste for rapid progress suggest that Thieu's motives are not linked to contingencies.

Pacification has thus far failed to give the peasant sufficient confidence in the GVN's ability to maintain security, or in the longer run, to redress basic economic political, and social inequities. An apathetic and war-weary population has been subjected to a constant stream of alternating false and fresh starts of GVN programs; for example, 67% of the hamlets targeted in the 1968 program had been targeted in 1967 or earlier. The US Mission's report no pacification in 1967 commented: "The GVN has yet to invest itself with the image of social revolution and a dynamic alternative to the NLF." The Communists' success in February 1968 in penetrating the hitherto inviolate cities, the GVN's failure to react quickly in either the rural or urban areas, the destruction which accompanied the fighting, and the constantly renewed threats of enemy offensives have not appreciably enhanced the GVN's image nor the peasants' confidence in it.

In short, the problems hampering pacification over the years do not appear to have been significantly reduced. We believe that the pacification program is as vulnerable today as it was prior to the Communist 1968 Tet offensive.

Question 16: What proportion of the rural population must be regarded as "subject to significant VC presence and influence?" (How should hamlet rated as "C" in the Hamlet Evaluation System the largest category—be regarded in this respect?) In particular, what proportion in the provinces surrounding Saigon? How much has this changed?

The official interpretation of the December data from the Hamlet Evaluation System (HES) showed that what is called the "relatively secure population" is now 7.1 million or 65.1% of the *rural* population, the "contested population is 1.7 million or 16.0%, and the "VC-controlled population is 2.0 million or 18.9%.

If one were to take the rural population currently classified as "C"* in the HES and interpret it to be "contested" rather than "relatively secure", HES statistics would show 2.9 million or 26.8% of the rural population to be "relatively secure", 5.9 million or 54.5% to be "contested" and 2.0 million or 18.9% to be "VC-controlled". Under this type of breakdown, two-thirds to three-fourths of the rural population could be regarded as "subject to significant VC presence and influence".

Some recent DOD studies have provided reasons to believe that this range of two-thirds to three-fourths may not be inaccurate as a general gauge of the extent of VC presence among the rural population. One DOD analysis has shown that only 31% of the total population was rated continuously seen from June 1967 through March 1968, leaving 68% of the total population subject to VC influence during at least part of one month during this period; the percentage considering a rural population alone would be even higher. Another DOD study has found that HES statistics for November 1968 indicate that the VC can claim an active infrastructure in areas containing approximately 60% of the total population and around three-quarters of the rural population. This study has also found that over 85% of the hamlet population surrounding Saigon is subject to an active VC infrastructure, probably reflecting the strong VC attention to the area over many years.

The problem, however, is to define exactly what is "*significant* VC presence and influence". Both the VC and the GVN have some presence and influence in virtually every part of South Viet-Nam. The mere presence of VC organization within a hamlet does not necessarily constitute "significant VC presence and influence". While it is true that most of the population of Viet-Nam is influenced in relative degrees by the VC through their infrastructure, for this to be significant the VC must be able to seriously affect the population's activities through such things as propaganda, hamlet infiltrations, tax collection, and disruption of local GVN admiinstrative and security operations. Mere harassing or nuisance type activities should not be considered significant.

In this perspective, there is little question that a certain number of "C" hamlets are "subject to significant VC presence and influence". It becomes clear from a careful reading of the definitions in the HES for "C" and "D" hamlets that those "C" hamlets at the lower end of the scale (which must have some "D" responses to average out at low "C") would have significant VC influence, while those "C" hamlets at the upper end of the scale would not. Discussions with experienced field operators, have confirmed this assumption.

Thus we believe the line would have to be more finely drawn through the "C" hamlets to determine the rural population subject to significant VC presence and influence. There is no doubt that a large percentage is so subject; our best estimate is *about half* the rural population.

The Saigon area particularly demonstrates the importance of the "C" hamlets in assessing the proportion of the rural population subject to significant VC presence and influence. According to the December 1968 HES, 58% of the rural population in the five provinces surrounding Saigon live in "C" hamlets. If all the "C" hamlets were regarded as subject to significant VC influence and presence, 87% of the people of those provinces would be so subject. Without the "C" hamlets only 28% would be so subject. The Saigon area is a particular target of the VC and their efforts there are strong. A large proportion of the rural population in the provinces around Saigon is subject to significant VC influence and presence from time to time. We believe there has been improvement in this situation since the heavy VC activity at Tet and in May and June.

Question 16: What proportion of the rural population must be regarded as "subject to significant VC presence and influence?" (How should hamlets rated as "C" in the Hamlet Evaluation System—the largest category—be regarded in this respect?) In particular, what proportion in the provinces surrounding Saigon? How much has this changed?

16. The official interpretation of the December data from the Hamlet Evaluation System (HES) showed that what is called the "relatively secure population" is now 7.1 million or 65.1% of the *rural* population, the "contested population" is 1.7 million or 16.0%, and the "VC-controlled population" is 2.0 million or 18.9%.

If one were to take the rural population currently classified as "C"* in the HES and interpret it to be "contested" rather than "relatively secure," HES statistics would show 2.9 million or 36.3% of the rural population to be "relatively secure," 5.9 million or 54.5% to be "contested," and 2.0 million or 18.9% to be "VC-controlled." Under this type of breakdown, perhaps two-thirds to three-fourths of the rural population could be regarded as "subject to significant VC presence and influence."

Some recent DOD studies have provided reasons to believe that this range of two-thirds to three-fourths may not be inaccurate as a general gauge of the extent of VC presence among the rural population. One DOD analysis has shown that only 31% of the total population was rated continuously secure from June 1967 through March 1968, leaving 68% of the total population subject to VC domination or influence during at least part of one month during this period; the percentage considering the rural population alone would be even higher. Another DOD study has found that HES statistics for November 1968 indicate that the VC can claim an active infrastructure in areas containing approximately 60% of the total population and around three-quarters of the rural population.

---

* Hamlets subject to VC harassment and where the infrastructure is identified and curtailed but still operative.

In addition to these statistical indicators, in evaluating the current situation among the rural population it should be noted that the Communists have traditionally focused their political effort at the village/hamlet level. Their campaign to create "Liberation Committees' throughout Vietnam is clearly built around the village and the hamlet, regardless of reports of organizational efforts at higher levels. Thieu has recently noted the need to increase the number of GVN officials functioning at the hamlet level; according to his figures at the present time there are only three GVN officials in each GVN-controlled hamlet, while the VC have nine officials administering each VC-controlled hamlet.

A DOD analysis has concluded that while the GVN infrastructure outnumbers the VC/NVA almost 30 to 1 at the national level, it has little less than a 2 to 1 edge at the hamlet/village/province level; at the level of the pacification effort in the villages and hamlets the Communists have a 2 to 1 manpower *advantage* over the GVN.

In short, there is little question that a certain number of "C" hamlets are "subject to significant VC presence and influence." It becomes clear from a careful reading of the definitions in the HES for "C" and "D" * hamlets that "C" hamlets at the lower end of the scale (which must have some "D" responses to average out at low "C") would have significant VC influence, while those "C" hamlets at the upper end of the scale might not. The current stress under the Accelerated Pacification Campaign upon raising contested "D" and "E" hamlets to "C" by stressing military factors suggests that, especially in many of the hamlets recently raised to "C", the VC infrastructure remains a significant factor.

Thus, the line should be more finely drawn through the "C" hamlets in order to determine the percentage of the rural population subject to significant VC presence and influence. Our best estimate is that the VC have a significant effect on at least *two-thirds* of the rural population.

The Saigon area particularly demonstrates the importance of the "C" hamlets in assessing the proportion of the rural population subject to significant VC presence and influence. According to the December 1968 HES, 58% of the rural population in the five provinces surrounding Saigon live in "C" hamlets. If all the "C" hamlets were regarded as subject to significant VC influence and presence, 87% of the people of those provinces would be so subject. The Saigon area has been a special target of the VC for many years; an estimate of around 75% would probably be close to the percentage of the population in the provinces surrounding Saigon which is currently exposed to significant VC influence. While the VC have attempted to step up their political propagandizing and proselytizing efforts in the Saigon area, their relatively military inactivity since May and June probably means that this estimate of 75% represents a decline in their influence.

Question 17: What number or verified numbers of the Communist political apparatus (i.e., People's Revolutionary Party members, the hard-core "infrastructure") have been arrested or killed in the past year? How many of these were cadre of higher than village level? What proportion do these represent of total PRP membership, and how much—and how long—had the apparatus been disrupted?

Statistics on Communist political cadre "neutralized," i.e., killed, captured, or defecting, are available through the Phoenix (Phung Hoang) program, the keystone of the current effort to attack the Communist infrastructure. According to these statistics, 15,700 political cadre were neutralized during 1968, or approximately 16%–20% of the Communist infrastructure currently estimated at 30,000–100,000. However, more than 13,000 of those neutralized last year were at the village and hamlet levels, suggesting that only a minimal number of middle- or senior-ranking officials were affected. Furthermore, while the infrastructure in several provinces may have been seriously impaired, any adverse impact throughout the vast majority of the provinces does not appear to be significant.

There is some problem with the statistics of the Phoenix program. Prior to August 1968, the reports of the number of Communists neutralized were not thoroughly screened to eliminate non-Communists. Correction of this data on the basis of the experience in the last part of the year, when tighter screening was introduced, reduces the official total of 15,700 to around 14,500, according to a recent DOD study. The same study notes that even the revised figures are believed to include non-Communists or part-time Communists, especially as report-padding may have increased recently under the pressure of attempting to reach the quota set for the Accelerated Pacification Campaign. In addition, it has been estimated that perhaps as many as two-thirds of the prisoners arrested in South Viet-Nam are released within a year as a result of the flaws in the GVN judicial system. If one applies this percentage to the figures on Communists neutralized, it appears that around 7,800 members of the infrastructure were eliminated during 1968, or approximately 8% of the total infrastructure. Such figures on the numbers and percent of Communists eliminated cannot be more than a general guide. Probably a working figure of around 10% would not seriously misrepresent the losses suffered by the Communist political apparatus during 1968. However, these calculations ignore the ability of the Communists to recoup such losses, at least in quantity if not in quality, by recruiting, upgrading of cadre, and introduction of North Vietnamese into the infrastructure. Nevertheless, the pressure on the infrastructure will continue to increase over time and should reduce its effectiveness.

Question 18: What are the reasons for believing that current and future efforts at "rooting out" hard-core infrastructure will be—or will not be—more successful than past efforts? For example, for believing that collaboration among the numerous Vietnamese intelligence agencies will be markedly more thorough than in the past? What are the side-effects, e.g., on Vietnamese opinion, of anti-infrastructure campaigns such as the current "accelerated effort," along with their lasting effect on hard-core apparatus?

The Phoenix program, however important to a successful anti-infrastructure effort, has certain inherent weaknesses. It does not collect intelligence but merely collates and analyzes information made available to the program from the intelligence community. However, it does provide the province and district chiefs with a slowly evolving management tool with which to systematically direct the anti-infrastructure effort and force the different collection and operational agencies to work together. It has also served notice to the Province Chiefs that their performance will in large part be measured by Phoenix results. Although the program was launched in December 1967, Saigon-level Vietnamese cooperation was minimal until Thieu, after considerable American prodding, issued a presidential decree in July 1968 formally directing that the network be set up. Continuing expressions of interest in the program from the upper echelons of the GVN appear to be slowly breaking down some of the organizational jealousy, rivalries, and inertia shown by the different agencies involved and which hinder the development of the program.

In addition to the problems raised by the nature of the organization, certain problems have arisen from the nature of the effort. Members of the infrastructure, especially the high-ranking ones, are becoming increasingly wary and elusive; some are moving into VC-secure areas. Most easy targets have already been hit, and there are indications that some of the intelligence agencies involved are already beginning to exhaust their data bases. The Viet Cong are beginning to step up their passive and active counter-intelligence measures. As easy targets disappear reliance upon large-scale cordon and search operations and less on rifle-shot efforts based on detailed intelligence; cordon and search operations may get VC supporters and guerrillas, but rarely members of the infrastructure.

Phoenix, as a collator and coordinator, exists where almost nothing existed before. By forcing cadre to move back to VC-secure areas, by the psychologically inhibiting impact the effort is presumably having on members of the infrastructure, and by causing the Communists to divert resources to combat the effort, the current anti-infrastructure program is hindering and putting heavier pressure on the operations of the VC infrastructure, although not eliminating it to any major degree. If GVN higher echelons maintain their interest and if other problems high-lighted by Phoenix are faced, such as those in the judicial system, it can increase its contribution. Recent reports indicate that the field is aware of many of the problems and has commented that the infrastructure quota of the current Accelerated Pacification Campaign will probably not be met and that it may be difficult to meet the infrastructure quota laid out in the overall pacification guidelines for 1969.

Question 19: How adequate is our information on the overall scale and incidence of damage to civilians by air and artillery, and looting and misbehavior by RVNAF?

The information available in Washington on the overall scale and incidence of damage to civilians by air and artillery and by RVNAF looting and misbehavior is less than adequate. The same is true about other similar topics, such as the damage resulting from forced resettlement, and the general impact of the US presence. Specific incidents and chronically bad situations are reported in Embassy provincial reporters' airgrams, Corps situation reports, monthly CORDS province reports, the press, and other miscellaneous channels.

There are also regular monthly reports on civilian war victims admitted to GVN hospitals which give some indication of trends of civilian casualties from all causes. Order-of-magnitude estimates of total civilian casualties throughout Viet-Nam can be made from these statistics.

The section of the Hamlet Evaluation System concerning hamlet problems does require responses on "incidents of misconduct by friendly elements adversely affecting friendly relations with the hamlet populace" and on "actions by friendly elements during military operations adversely affecting relations with hamlet populace (including but not limited to fire from any type of weapon, destructive passage within hamlet area, defoliation)." Statistics from the HES are thus available and can be used to indicate trends, but they do not really provide a basis for judgment as to how serious these problems are on an over-all basis.

---

* Hamlets in which VC units and the VC infrastructure are fairly effective.

US advisors at the battalion, district and province level in Viet-Nam are almost always aware of incidents involving civilian casualties and RVNAF misconduct which occur within areas controlled or contested by the GVN. They are also likely to learn of any serious incidents which occur in VC areas. Serious incidents which arouse local feelings would also be reported to Saigon in the Province Advisor's monthly report, which is available in Washington.

Despite this reporting, however, it is difficult to draw a clear picture of the over-all scale and incidence of these problems and how serious they are. Our assessment of these problems, based on the information available, including discussions with officials returning from Viet-Nam, is (1) that damage to civilians by air and artillery is still a serious problem in some populated contested areas and (2) that RVNAF behavior toward the civilian populace has improved considerably over the past year as a result of better discipline, increased indoctrination and training, and improved conditions of service for the troops and their families.

Question 20: To what extent do recent changes in command and administration affecting the country-side represent moves to improve competence, as distinct from replacement of one clique by another? What is the basis of judgment? What is the impact of the recent removal of minority-group province and district and district officials (Hoa Hao, Cao Dai, Montagnard) in their respective areas?

Changes in command and administration affecting the countryside almost certainly are predicated to a considerable extent on personal loyalties. This is a complex and well-established Vietnamese tradition and is not likely to change radically in the near term. Perhaps the most notable example of personnel changes made principally on political grounds is the shift in Corps commanders. In virtually every instance, the out-going Corps commanders were supporters of Ky or had never been particularly committed to Thieu. While some of the new commanders are less than ideal, they are generally competent than their predecessors.

There have been a number of significant steps taken during the past year to improve the command-administrative system. The political authority of the Corps commander has been reduced as has his role in the appointment of province and district chiefs. Of course, it must be assumed that new officials at these lower levels are regarded as being politically reliable and that they will remember under whose aegis they came to power. On the other hand, the ties to political patrons do not appear as evident as have existed in the past among local officials. For example, since Tet 1968, twenty-four province chiefs have been changed. Some of the changes were routine transfers while others occurred because of the corruption, inefficiency or ill health of the incumbent. The majority of those province chiefs who were considered corrupt and inefficient or both had been replaced by September 1968. The new province chiefs have in general been a politically faceless lot although it must be assumed that they are politically reliable, despite the absence as yet of any clear pattern of political loyalty. In general, they have been reported to be more competent and less corrupt than their predecessors; it is too early to tell whether these assessments simply derive from comparison with their predecessors, from the fact that the replacements are relatively new on the job and their flaws less visible, or from the lack of sufficient information on which to judge them.

The general pattern of province chief appointments since Thieu took office has been the replacement of chiefs aligned with strong local interest groups by neutral outsiders. This pattern reverses the pattern of Ky's administration, where for example, there was a VNQDD province chief in Quang Ngai, a Cao Dai chief in Tay Ninh, and Hoa Hao officers in several provinces of the western Delta. Such replacements as those of the Cao Dai province chief of Tay Ninh and of several Hoa Hao province chiefs in delta provinces have initially encountered resistance from the population in the areas affected although it does not appear to have resulted as yet in a major local problem.

The introduction of province chiefs not identified with local political/religious elements can have its benefits. The new chiefs may be better able to escape involvement in local squabbles among the extremely factionalized local groups. Theoretically, such appointments should tend to strengthen the authority of the GVN by separating religious influence from administrative authority and thus reducing the image of political/religious fiefdoms. Also, a province chief who has no local base of support must depend more heavily on the GVN and is presumably more responsive to Saigon direction.

At the district level, the GVN appears to be attempting to improve the competence of its officials through better training and an improved assignment process. In March, the GVN conducted a training course for officers likely to serve as district and province chiefs; a second six-week course was held in September. Thieu addressed the first course and Premier Huong the second, an indication that the GVN appears to be placing considerable importance on the training of officials to work in the countryside. The graduates of the second course selected their district assignments on the basis of their class standing, thus removing the district chief assignment process from any apparent manipulation by province chiefs, division commander, and Corps commanders.

Furthermore, the GVN has shown itself somewhat more responsive than in the past to US advice in these matters. At the time of graduation of the second military administration course, the US Mission submitted a list of 29 incumbent district chiefs whom it wished to see replaced. The GVN agreed to replace all 29, and these slots were presumably among those from which the course graduates were allowed to choose.

On balance, there have been modest gains in command and administrative competence over the past year, less so at the Corps than at the province and district levels. In addition, the removal of minority-group province and district officials has not proven to be disruptive to date.

Question 21: How adequate is our information, and what is it based upon, concerning:

a. Attitudes of Vietnamese elites not now closely aligned with the GVN (e.g., religious leaders, professors, youth leaders, professionals, union leaders, village notables) towards: Participation—if offered—in the GVN; the current legitimacy and acceptability of the GVN; likewise (given "peace") for the NLF or various "neutralist" coalitions; towards U.S. intent, as they interpret it (e.g., U.S. plans for ending the war, perceived U.S. alignments with particular individuals and forces within Viet-Nam, U.S. concern for various Vietnamese interests).

Our information on the attitudes of Vietnamese elites such as those mentioned is generally *adequate.* Quite naturally, both the quantity and the quality of our information vary from one specific elite group to another. In almost every case, quantity and quality could be improved somewhat and the information further corroborated, though the necessary investment of effort might not always be worthwhile; in any event such information requires and does receive continual updating.

Generally speaking, our information on the attitudes of the various categories of *"out-politicians",* except on the extreme left-wing, is better than our information on *any* of the elites cited as examples. Our coverage of union leaders is probably next most adequate. Thereafter, in descending order of adequacy, the other elites would be roughly as follows: religious leaders; youth leaders; professors; professionals; and village notables. It is important to realize that "village notables" hardly constitute a homogeneous national grouping; communication among them is almost nil, and their individual attitudes are almost invariably determined by other and more specific affiliations such as those of race, religion, region, locality, education, occupation or party, or a combination of these factors. To varying degrees, of course, this is true of the other elites as well.

Information on attitudes toward participation in the GVN, the GVN's current legitimacy and acceptability, and US intentions is generally easy to acquire because these attitudes lie near the surface; they are frequently stated with little or no prompting. (It is worth remembering that members of the various Vietnamese elites are seldom reticent, even though sometimes guarded and on occasion deliberately misleading, in their conversations.) Attitudes toward the NLF and toward possible compromise political solutions are more difficult to determine, both because these attitudes in many individuals are tentative and uncertain and because the subjects themselves are still considered somewhat dangerous for public or even private discussion.

Our information on attitudes is based on US Mission, specifically, Embassy, CAS and JUSPAO, reporting from both overt and clandestine sources. Embassy and CAS coverage of the Saigon political elite (of all persuasions) is both intensive and extensive. Embassy and JUSPAO coverage of the local Vietnamese-language press is fairly extensive, with concentrated attention devoted to the 8 or 10 publications representing distinct political shadings (e.g. militant Buddhist, radical Southern, Northern Catholic). JUSPAO, USAID, and Embassy contacts in youth and educational circles are extensive but could use further depth. In the provinces, Embassy provincial reporters spend full time contacting local elites, including local GVN administrators, religious and social figures, and political party leaders. Further information is developed from local CAS, CORDS, and JUSPAO sources. (Local elites seem to exhibit no greater or less inclination than their Saigon counterparts to discuss controversial subjects such as legitimacy of the GVN, recognition of the NLF, U.S. intentions, etc.).

Question 21: How adequate is our information, and what is it based upon, concerning:

b. Patterns of existent political alignments within GVN/RVNAF and outside it—reflecting family ties, corruption, officers' class, secret organizations and parties, religious and regional background—as these bear upon behavior with respect to the war, the NLF, reform and broadening of the GVN, and responses to U.S. influence and intervention.

Our usable knowledge of political alignments of the types described is less than our information on current attitudes of the various elites noted earlier. We can predict in general terms the behavior of numerous prominent individuals and groupings within the GVN and RVNAF, but our knowledge of individual attitudes at second and third echelons of the GVN/RVNAF machinery tends to be considerably more scattered and less comprehensive.

Increased attention to the collection, evaluation, and utilization of biographic information would probably enhance our useful knowledge of existent political alignments.

Such information would be valuable to our new advisors and officials arriving in Viet-Nam. It would also provide us a better basis on which to recommend to the GVN actions regarding various individuals, e.g., our efforts to obtain removal of incompetent and corrupt officials.

In general, we seem to have adequate information on significant political groupings, including several groups which are not heavily represented in the GVN or RVNAF leadership. We could use more information and analysis on some of the political party organizations—particularly the Dai Viet party and its influence within the GVN and RVNAF. We have seen no comprehensive study of the alignments created by (or responsible for) the practice of corruption; we have discussed and reported the problem itself or its specific manifestations, but we have not analyzed its consequences in terms of the behavior and attitudes of those involved.

In sum, we could probably use more information on a systematic basis in this particular field. At the same time, we must recognize that there is a definite limit to the quality and quantity of information we can effectively digest and act upon in this regard. Our ability to manipulate individuals and groups on the basis of such additional information will remain limited in any case, particularly in regard to those people below the top leadership positions in various fields.

Question 22. What is the evidence on the prospects—and on what changes in conditions and U.S. policies would increase or decrease them—for changes in the GVN toward:

a. broadening of the government to include participation of *all* significant non-Communist regional and religious groupings (at province and district levels, as well as cabinet).

Events of the past year have brought home clearly to most responsible Vietnamese nationalists the need for greater unity on the non-communist side. Many if not most of these nationalists, particularly party and Assembly politicians, have called for a "broadening" of the government to help achieve this unity. The GVN leadership has also sounded more receptive to this idea, though it has taken no further action since the establishment of the Tran Van Huong government last May (which *was* a decided broadening, compared to the previous cabinet).

One difficulty is that most political groups advocating "broadening" really want an enhanced or preeminent position for themselves, often at the expense of their rivals. This can create further disunity rather than greater unity. Further more, "representative" men are not always competent ones; it is difficult, for example, to think of more than a handful of respectable *and* capable Hoa Hao, Cao Dai, or Montagnard leaders who could handle Cabinet or sub-Cabinet level responsibilities. The immediate symbolic, or "political", value of such appointments must therefore be weighed against the corruption or ineffectiveness which could result.

It must also be noted that certain groups, such as the "militant" Buddhists, are completely opposed to the present GVN leadership and are now actively seeking its overthrow. It is extremely unlikely they could be brought into a broaden government on any reasonable terms at this time.

President Thieu and Prime Minister Huong are reported planning a cabinet shuffle for sometime after the Tet holidays. There is some evident that they see the present cabinet as mainly "technical" and that some additional political elements can be brought into the government without significantly altering the existing political balance. They may also feel that the changes will defuse current criticism, whether justified or not, of the cabinet by the National Assembly, the press, and other sources.

While some broadening would clearly be desirable, we do not believe the present regional balance should be upset nor should Huong be replaced—which limits what changes can actually be made at this point. On the other hand, changes that are inconsequential politically could create an unfortunate picture of continuing division and weakness within the GVN.

On balance, we think the only "political" changes feasible at present would be the inclusion of relatively "safe" party leaders and former Presidential/Vice Presidential candidates such as RDV leader Ha Thuc Ky, or possibly former Vice Presidential candidate and still respected Phan Quang Dan, although he does not have a major political following now. Any attempt to include more militant "opposition" or "neutralist" elements would risk serious Northern/Catholic/RVNAF reaction. We would probably get nowhere if we attempted now to encourage such wider participation in any case and might merely confirm suspicions in certain Vietnamese leaders' minds that we are working for a "peace cabinet" or government of transition. This could unsettle the situation further.

There are other means of effecting a broadening of the GVN at the national level. The Constitution provides for outside advisory councils on culture and education, on economic and social matters and on ethnic minority affairs. Implementing legislation is still to be passed for the establishment of all of these councils, but at least in theory these bodies have representative value and could, if the executive and legislative prove willing to utilize them, exercise some influence over government policy. Similar results could be obtained through less formal means such as presidential appointment of other consultative groups.

Broadening at province and district levels presents problems of a different and more complex nature. The only "representative" bodies, elective or appointive, which now exist at that echelon and in which broader participation might be encouraged are the virtually powerless provincial and municipal councils, elected in May of 1965 and now overdue for reelection or replacement. Aside from their lack of power, the provincial and municipal councils are not ideally representative. In several instances, they are dominated by single interest-groups which managed to turn out a bloc vote, to the exclusion of other elements of the local populations. While these results reflected accurately the local political muscle in most cases, they left the less-disciplined minorities, or unorganized majorities, underrepresented.

However, the provincial and municipal councils, with certain adaptations, could become fairly worthwhile institutions. Foremost among the changes would be a grant of considerably wider authority to the councils or their successor bodies and the creation of an electoral system (e.g., proportional representation or allocation of seats for recognizable minorities) that would guarantee more representative results in every locality and at the same time permit adequate reflection of local political strength. It is also at this level, perhaps, that some form of participation by the NLF might be provided for, or at least invited, at an early date with the fewest and least severe problems of constitutional change, recognition of territorial control, or derogation of overall GVN authority.

The Constitution also provides for elected mayors and province chiefs not later than the beginning of the second presidential term in October 1971. There is no legal obstacle to earlier implementaton of this provision, and it could probably be undertaken now in the six autonomous cities and perhaps in a few provinces. The principal problem is the GVN's reluctance to decentralize the Province Chief's considerable political and military power to an elected civilian official at this crucial stage of the war.

Regarding district-level political changes, it should be noted that the district—unlike the province or village—has no legal status or electoral tradition; it is merely an administrative subdivision of the province. Any political "broadening" at the district level is therefore likely to depend on action at the province level rather than on separate initiatives at the district level.

Question 22: What is the evidence on the prospects—and on what changes in conditions and U.S. policies would increase or decrease them—for changes in the GVN toward:

b. stronger emphasis, in selection and promotion of officers and officials, on competence and performance (as in the communist Vietnamese system) as distinct from considerations of family, corruption, and social (e.g., educational) background.

Despite current efforts in this regard, there seems little prospect that in the near future the GVN will succeed in establishing a system fully emphasizing competence and quality of performance as the principal factors influencing appointments and promotions within the Vietnamese civil and military services. The concept of loyalty to the family unit and the nepotism that results from it are matters of long-standing tradition. The notion that only a *baccalaureate* holder is truly qualified to be an officer will persist for a long time, although there are signs that this prejudice is breaking down.

There are other limiting factors, ranging from the overall shortage of qualified manpower upon which the RVNAF and the civil service can draw to GVN fear of the possible inflationary consequences of salary increases designed to lessen the incentive for corruption. Some positive steps taken by the GVN even seem to have produced unintended results: when the RVNAF introduced fitness reports and promotion panels in 1967, the number of promotions to the critical ranks of captain and above declined and fell below the number authorized, thereby exacerbating rather than easing RVNAF's officer shortage.

There are signs that the GVN is coming to realize the importance of competence and performance as standards for selection and advancement; the recent initiation of administrative training courses for prospective province and district chiefs at our behest are among these indications. More basic reforms, such as the education of large numbers of junior officers and fledging civil servants along Western lines, or systematic measures to reduce institutional opportunities for corruption, will probably have to await a scaling-down of the war and a greater degree of economic stability.

Intensification of present US policies, rather than any basic changes, seem to be indicated. We can and should continue to press the GVN for the removal of ineffective officers. We should systematize our biographic reporting and performance rating of officers and civil servants to whom US advisors are assigned, so as to reinforce our efforts to obtain influence in the GVN assignment process.

We should maintain our off-shore training programs for officers and civil servants at the maximum feasible levels, both to increase their technical competence and, if possible, to instill some basic concepts of leadership and public service. We should coordinate with the GVN on salary and allowance levels, so that theirs are at least roughly comparable with our own and those of our contractors and do not lag hopelessly behind those in the private sector. In addition, we should continue our advisory efforts in such fields as port operation and tax collection, in order to improve the capability to deal with such sources of corruption and financial loss.

We must be careful about applying too rigorous Western standards in measuring GVN performance, which has been a tendency in the past, especially in the U.S. press. In addition, in assessing the RVNAF/GVN's *relative* performance, two factors about *the enemy* should also be kept in mind; (1) We are not witness to his every action and error as we so often are to those of GVN/RVNAF; and (2) he has a cohesive political party organization which maintains stricter discipline and partially compensates for probably as much individual inefficiency and incompetence as on our side. In this regard, improved GVN *political* organization could also help to overcome some of the leadership deficiencies noted above.

Question 22: What is the evidence on the prospects—and on what changes in conditions and U.S. policies would increase or decrease them—for changes in the GVN toward:

c. *political* mobilization of non-communist sympathies and energies in support of the GVN, as evidenced, e.g., by reduced desertion, by willing alignment of religious, provincial and other leaders with the GVN, by wide cooperation with anti-corruption and pro-efficiency drives.

The prospects that certain government changes might promote greater political mobilization of non-communist forces in support of the GVN are mixed. The evidence of 1968 is instructive in this regard: GVN stability was decidedly greater than in any other year since the overthrow of Diem, in part the result of the legal and constitutional base developed during 1966 and 1967; the 1968 Tet offensive administered a powerful shock to the population and a major set-back to the pacification program, but at the same time it produced a widespread upsurge of national feeling and a greater willingness by many people to cooperate with the GVN. However, the intensity of these sentiments has clearly leveled off during the past several months. A number of nationalist fronts bloomed briefly, only to wither after a few weeks or months in the face of traditional factional in-fighting among their leaders and without their having established any significant mass support. During 1968, as GVN forces were expanded at our urging, RVNAF desertion rates rose.

1968 also saw some favorable signs of evolution in the attitudes and conduct of the GVN. Government response to the refugee and rehabilitation problems created by the Tet offensive was impressive. The reorganization of village and hamlet government and the election of local leadership at those levels have made administration on the local level somewhat more responsive and more acceptable to the populace. The recent agreement between the GVN and the Montagnard separatist movement may have resolved a somewhat secondary but festering problem of political mobilization. Even the People's Self-Defense program, inadequate though it is in military terms, is involving large numbers of people in an enterprise that emphasizes both their own responsibilities and the government's interest in their security and welfare.

Nevertheless, the issue remains: what constitutes political mobilization or commitment to the GVN cause? Our discussion of the prospects for broadening of the government implicitly carries the expectation that greater representativeness in political institutions and a larger share in the running of things for religious, ethnic, and political groupings will produce a reciprocal popular commitment. This is not necessarily true, however.

We believe that commitment to the GVN is determined for much of the population by the answers to a very few basic questions. By far one of the most important of these, now as always, is: Can the government provide security? It is in this context that the other questions become relevant: Will the government treat people decently, or at least leave them alone, educate their children, or make it possible for people to market their rice or obtain a fair price in return?

The answer to the basic problem, security, will rest increasingly with the RVNAF (as noted elsewhere). If adequate and sustained levels of security in the urban areas and in significant and increasing portions of the countryside can be assumed, the GVN will probably evolve slowly to the point where its performance can begin to generate significantly greater political mobilization. Similarly, a reversal or substantial reduction in security, either by dramatic developments or by attrition, might wipe out what political mobilization the GVN has managed to achieve during the past year.

In general terms, U.S. policy already supports a wide variety of programs designed to contribute to increased security and development, and thereby to increased political mobilization. This policy should obviously continue.

In regard to specific U.S. actions to encourage mobilization of political support for the GVN, it is clear that anti-GVN elements such as the An Quang Buddhists are hoping for U.S. help in replacing the GVN with one more to their liking. They obviously feel that their demand for a "peace government" will appeal to U.S. and other external opinion and may encourage action to unseat Thieu and Ky. This in turn has encouraged "fence-sitting' 'among the uncommitted political elements, many of whom would probably support the GVN if it were perfectly clear to them that the U.S. had no intention of pressuring Thieu and Ky into personally unacceptable political concessions or into stepping aside. Statements of reassurance by U.S. leaders and officials at all appropriate levels, which are in any case periodically needed by GVN leaders, would help discourage this "fence-sitting" tendency.

It must be recognized that short of actively moving for the replacement of Thieu and Ky, nothing the U.S. can say or do would satisfy such strongly anti-GVN groups as the An Quang Buddhists. Even if this were done, these extreme groups would then demand a wholesale purge which the U.S. would find totally unacceptable. The result would likely be a "right-wing" reaction involving far more repression of these groups than anything undertaken or contemplated by the present GVN.

Question 23: How critical, in various views, is each of the changes in question 22 above to prospects of attaining—at current, reduced or increased levels of U.S. military effort—either "victory", or a strong non-communist political role after a compromise settlement of hostilities? What are views of the risks attendant to making these changes, or attempting them; and, to the extent that U.S. influence is required, on U.S. practical ability to move prudently and effectively in this direction? What is the evidence?

The three types of possible change—broadening the GNV, a true merit system, and political mobilization—are closely interrelated. Any separation of these three types of change is therefore somewhat artificial but some effort at distinguishing among them is clearly necessary.

To many, "victory" has meant the outright defeat of communist forces (both Viet Cong and NVA) or at least such heavy attrition of them that no alternative remained but their total and permanent withdrawal. It has also meant the destruction or dissolution of the entire communist political apparatus. There is now growing realization that victory in these terms is unattainable and that the inexorable trend is toward some compromise settlement of hostilities and some kind of political competition thereafter. In this situation, a strong non-communist political role becomes a necessity for any satisfactory outcome.

In this context, *political mobilization* is the most critical of the three types of government "change". *Broadening of the government,* which we consider basically a contributory factor to political mobilization, is deserving of priority attention, since some steps in this direction can be taken relatively quickly and can produce results that are visible, even though somewhat superficial at the outset. Stronger emphasis on *competence and performance* in the selection and promotion of officers and officials is least critical, not because it is unimportant but because genuine and thorough-going change will probably take longest to effect.

Any reduction in the level of our own military effort without a corresponding reduction in presence and activity of North Vietnamese forces may reduce the likelihood that the GVN would work toward political mobilization. On the other hand, *any conceivable increase* in the level of U.S. military effort would probably *not* materially affect the prospects for political mobilization. On balance, we conclude that a policy of maintaining the current level of military effort while preparing for possible *reciprocal* reduction of that level affords the best prospects for increased political mobilization. Essentially, the same argumentation applies to the matter of broadening the government.

The relation between the level of our own military effort and the GVN's emphasis on the competence and performance of its personnel is of a different character; obviously, any reduction of our effort makes an improvement in GVN and RVNAF performance all the more necessary, but so far there is little evidence on which to judge this.

In general, the GVN would not seem to run unacceptable risks in making or attempting any of these changes; the problem, rather, is whether the GVN has the will and the ability to make them and whether they can be made in time to do much good. Some risks have already been noted possibly attending any significant effort at broadening the GVN at the national level. Areas where U.S. influence may be required have also been indicated (in Question 22).

In general terms, U.S. influence in the political sphere has often been misunderstood and its impact at times overrated. Our support for governments and programs has been interpreted as support for their leaders of the moment or for their initiators (e.g., Nguyen Khanh, Nguyen Cao Ky, Nguyen Duc Thang), whether or not this was the case. And there are many politicians outside the GVN who profess to believe that the Embassy and CAS are behind every shift in policy, change in personnel, or other political development even when this is patently not the case. These circumstances argue for caution and circumspection as we seek to wield political influence, and for a sure understanding of what the exercise of such influence can entail—e.g., our responsibility for what follows after we intervene, as seen not only through the eyes of the Vietnamese themselves but of other allies and friends as well. This does not mean we should not make the effort (since we will frequently be damned whether we have made the effort or not), only that we should be clear about the risks and responsibilities entailed for us therein.

Question 26: What is the evidence of the VC/NVA casualties? In disrupting VC/NVA scale of effect of B–52 attacks in producing operations? How valid are estimates of overall effect?

Evidence on the scale of VC/NVA casualties resulting from B–52 attacks is available from a variety of sources, including agent reports, PW and rallier debriefings, captured documents, ground follow-ups and visual reconnaissance. However, the extent and usefulness of this evidence varies considerably.

In the case of harassment and interdiction missions and strategic missions (HIS) against suspected VC base areas, the evidence on enemy casualties is inadequate. Although PW and rallier statements and captured documents attest to significant casualties resulting from specific missions, the available evidence is insufficient for a confident estimate of the overall scale of these casualties. There is little evidence to suggest that these HIS missions have succeeded in inflicting a scale of losses on the VC/NVA sufficient to significantly disrupt tactical operations or to force the Communists to alter their basic strategy for South Viet-Nam. To some extent, moreover, the level of the effectiveness of the HIS missions does diminish as the enemy develops tactics to adjust to their destructive potential. Indeed, captured documents and PW and rallier statements often refer to early warning systems and experimentation with types of shelters and methods to avoid recurring patterns in B-52 strikes.

Evidence on the effect of tactical air support (TAS) missions permits more confident estimates of the scale of casualties. In addition to interrogations and captured documents, ground follow-ups and visual reconnaissance have provided additional measures of the scale of the casualties. Used together, these four sources have documented the large scale casualties resulting from tactical B-52 strike missions; for example, MACV's estimated enemy KBAs at Khe Sanh alone run from a minimum 4000 to over 10,000. Moreover, MACV operational reports have repeatedly noted that TAS airstrikes in South Viet-Nam have disrupted Communist combat plans and helped set back their immediate time-table.

Question 27: What effect is the Laotian interdiction bombing having:

a. In reducing the capacity of the enemy logistic system?

The bombing has clearly imposed serious strains on the enemy's infiltration and logistic capabilities. It has made the movement far more difficult and no doubt slower than would be the case if there were no bombing. Also, it has probably reduced the potential flow of supplies that Hanoi could have put into South Viet-Nam. However, despite our efforts to choke off the flow of supplies, the enemy has made effective use of by-passes, portages, water routes, night movement, additional trucks, and non-motorized transport, and has managed not only to keep the roads open and the supplies moving but also to expand and improve his logistics network. In short, our interdiction efforts in Laos do not appear to have weakened in any major way Communist capabilities to wage an aggressive and protracted campaign in South Viet-Nam as well as to support military operations against RLG forces in Laos itself.

Question 27: What effect is the Laotian interdiction bombing having:

b. In destroying materiel in transit?

Our information is inadequate to estimate accurately the amount of enemy supplies destroyed in transit to South Viet-Nam by the Allied interdiction effort in Laos. However, information provided by pilot sightings of trucks and other related reports permits an estimate that 10 percent to 15 percent of the trucks moving through the Laos panhandle are being destroyed.

Until mid-1968, the Laotian interdiction bombing campaign concentrated on destroying trucks carrying materiel from North Viet-Nam through the Laotian panhandle to South Viet-Nam. While this bombing placed heavy strains on North Vietnamese logistical capabilities, these obstacles did not prevent Hanoi from maintaining a flow of supplies sufficient to accommodate an expansion of Communist strength and an intensification of Communist military operations in the South, as demonstrated by the events of 1968. In mid-1968 the Allies changed the emphasis of the interdiction effort from destruction of materiel and trucks to blocking so-called "non-bypassable choke points," hoping in this fashion to stop the flow of materiel south. While the present emphasis on choke points continues to hamper the enemy's ability to move supplies, truck movement in the Laotian panhandle is at the same high level this January as it was last January, suggesting that once again the Allied effort is only taxing the Communist flow of materiel. As long as the Communists wish to pay this price, they can continue to move materiel south.

Question 28: With regard to the bombing of North Viet-Nam:

a. What evidence was there on the significance of the principal strains imposed on the DRV (e.g., in economic disruption, extra manpower demands, transportation blockages, population morale)?

There was a good deal more evidence on the nature of the strain produced by the bombing than on their significance. U.S. intelligence indications, including *inter alia* the observations of travelers to North Viet-Nam, the opinions of the Hanoi diplomatic community (notably the Canadians and British), North Vietnamese public radio broadcasts, aerial photography, and the testimony of NVA POW's in South Viet-Nam, of fishermen captured off the coast of North Viet-Nam, and of the Spanish repatriates—all underscored the fact that the U.S. bombing was a matter of concern to the North. This evidence indicated that it was clearly having an impact and was generating strains throughout North Viet-Nam. As shown in the attached chart (at end of paper), the bombing is estimated to have caused North Viet-Nam economic and military losses totaling just under $500 million. In addition, there were many additional losses that could not, in the intelligence community's opinion, be assigned any meaningful values.

Unfortunately, the available intelligence indicators were relatively silent about the significance of these strains, i.e., about their cumulative ability to deter Hanoi from political and military policies unacceptable to the U.S. In theory, there was an upper limit to North Viet-Nam's capacity simultaneously to continue the defense of the North and the big-unit war in the South. The bombing undoubtedly pushed Hanoi closer to that limit, but it was not possible to determine precisely (1) where the limit lay, and (2) how far from it Hanoi was at any given time. Hanoi's decisions to change from protracted war to the Tet offensive and then to negotiations may be seen as indications it was approaching that limit, but it obviously still had considerable reserve capacity at that time.

What did become clear during the course of the bombing was that the North Vietnamese had not been paralyzed. Hanoi found a variety of ways to minimize and adapt to the strains of the bombing. Foreign aid was perhaps the most important single element in this adaptation, but the striking tenacity of the North Vietnamese leadership and the disciplined if fatalistic response of the North Vietnamese people were of nearly equal importance. Despite increasingly heavy bombing, the North continued to function. A high level of imports continued to be received and distributed, permitting North Vietnam to serve as "the great rear" for "the great frontline" in the South. The infiltration of men and supplies continued to increase from 1965 to the present.

Nevertheless, *in retrospect* it appears that by late 1967 and early 1968, the strains caused by the bombing were having a cumulative effect. The Spanish repatriates (a group of 14 Spaniards and their dependents who were repatriated to Spain in late 1967 after living for 13 to 19 years in North Vietnam) reported that the bombing had made life in the countryside very difficult and had been extremely demoralizing to the population. Some of the Spaniards believed that the North Vietnamese could not hold out longer than another year or two, because after that time the privations, misery, and bomb damage would be too great. One repatriate talked in Hanoi with an NVA lieutenant colonel from the DRV Ministry of Interior, who said in December 1967 that it would be very difficult to continue the fighting because of widespread demoralization and bomb damage.

Other evidence of growing difficulties in North Vietnam can be found in a decree on "the punishment of counterrevolutionary crimes," published by Hanoi in March 1968, which covered a wide range of activities harmful to state security and to the war effort and prescribed a variety of punishments ranging from several years' imprisonment to death. This decree was originally adopted by the DRV National Assembly in October 1967 and promulgated by President Ho the following month; the four-month delay between promulgation and publication has not been explained, but may have been related to Hanoi's expectations of intensified bombing. However, the very need for such a decree, as well as its timing, points to the leadership's concern with internal conditions and morale in the North in late 1967 and early 1968.

In addition, the bombing was having a cumulative impact on the North Vietnamese economy, resulting in the appearance of widespread black market activities which eventually came to involve many low-level DRV officials and cadre, as well as the man in the street. During 1967, the price of black market rice rose to ten times the price of rationed rice; some foods, like meat, could be procured virtually only on the black market. By the end of February 1968, economic damage caused by the bombing was estimated at $295 million, more than twice the estimated $135 million in military damage. A large number of reports from observers in Hanoi pointed to growing shortages in consumer goods and foodstuffs, persistent agricultural shortfalls, and increasingly strict rationing. The progressive dilution of the rice ration (by increasing the percentage of substitutes such as wheat, maize, and manioc at the expense of the percentage of rice) was one of the most striking indications of economic difficulties. By June 1968 the rice ration had been reduced to 50 percent rice substitutes, and subsequently it was reduced even further. (It is now about 60 percent rice substitutes.)

These facts, coupled with personal observations, led the Indonesian ambassador to Hanoi, Nugroho, to conclude in June 1968 that the main reason which impelled the DRV to agree to talk with the US was the need for a breather as a result of a deteriorating economic situation. In his opinion, peace negotiations were essential to Hanoi, at least for a "pause of calm," if not a permanent peace settlement.

Manpower shortages presented yet another intractable problem. Despite one school of thought, which held that Hanoi had more than enough manpower to keep the North intact and to fight a big unit war in the South, we came to believe by February 1968 that some of the key theoretical and statistical assumptions upon which these views were based had overlooked both Hanoi's own demographic data as well as the nearly unanimous opinions of on-the-spot observers, who pointed to severe and increasing labor and manpower shortages. Before the March 31 bombing limitation, an estimated 300,000 to 500,000 civilians were engaged in part-time bomb damage repair work, and an additional 100,000 military personnel were assigned full time to air defense. These manpower drains were intensified by high levels of infiltration into South Viet-Nam, and, in our judgment, by labor shortages which predated the bombing. The over-all result, therefore, was that the manpower situation began to weigh more and more heavily on Hanoi, until eased considerably by the March 31 bombing limitation. It should be noted, however, that there is no evidence that manpower shortages in themselves were becoming acute enough to *prevent* Hanoi from continuing its policies.

Bottlenecks caused by intensive bombing of the bridges and roads near Haiphong were yet another problem for the Hanoi leadership. These strikes increased through the summer and fall of 1967, and while their impact cannot be quantified, it was clear from observers' reports that imports were piling up in the port due to interdiction of the lines of communication. Increasing use by the US of Mark 36 Destructors in the latter part of 1967 undoubtedly contributed to transportation problems on inland waterways and some road areas. Throughout North Viet Nam as a whole, transportation routes were heavily interdicted; by the time of the March 31 bombing limitation, possibly 400 bridges had been damaged or destroyed throughout the country. The turn-around time for vessels calling at Haiphong increased from an average of 13 days in 1966 through 18 in 1967 and 25 in 1968, but there were variations within each year which could not be directly attributed to the bombing.

* * * * *

Question 28: With regard to the bombing of North Viet-Nam:

c. To what extent did Chinese and Soviet aid relieve pressure on Hanoi?

The degree of relief provided by Soviet and Chinese aid cannot be quantified, but its importance is suggested by the fact that, whereas the bombing destroyed capital stock, military facilities, and current production in North Viet-Nam worth nearly $500 million, Soviet and Chinese aid during this period was nearly $2.9 billion, nearly 6 times as much. This high rate of foreign aid, coupled with the relatively low requirements of North Viet-Nam itself and of NVA/VC forces in the South, goes a long way toward explaining Hanoi's ability to withstand the bombing.

Despite occasional Soviet complaints of Chinese interference with rail shipment, and despite such transportation difficulties as may have been caused in China by the Cultural Revolution or by deliberate Chinese Government policy, the Communist aid moved in sufficient quantities to take care of North Vietnamese needs and enable the regime to continue the war effort.

The trend of Soviet and Chinese aid has been as follows:

[In million U.S. dollars at Soviet foreign trade prices]

	1965	1966	1967	1968	Total
Economic:					
U.S.S.R	85	150	200	240	675
China	50	75	80	100	305
Total	135	225	280	340	980
Military:					
U.S.S.R	210	360	505	440	1,515
China	60	95	145	100	400
Total	270	455	650	540	1,915

All in all, the Soviets and the Chinese have supplied North Viet-Nam with a total of nearly $2.9 billion in economic and military aid since the bombing began.

It would be difficult to overstate the importance of this aid to Hanoi. More than any other single factor, it has enabled the North Vietnamese to withstand the bombing and to continue the war in the South. In 1968, for example, the Soviets provided economic aid in the form of petroleum, industrial and agricultural equipment, trucks and other vehicles, and construction materials and equipment, as well as such consumer goods as cotton and silk textiles, and vitally needed bulk foodstuffs. Much of the Soviet economic aid served military purposes, either by releasing North Vietnamese production and manpower capacity for war purposes, or because it was used in support of the military effort (e.g., trucks). In the pure military field the Soviets sent surface-to-air missile systems, aircraft, radar, armor, artillery, infantry weapons, and ammunition. The military aid, while higher in value than the economic aid, is much less in volume.

The Chinese, for their part, provided construction materials, trucks, spare parts, pharmaceuticals, and other machinery and equipment, as well as substantial deliveries of rice, grain, and other foodstuffs. Chinese military aid has consisted primarily of light artillery, rockets, and small arms and ammunition used by the Viet Cong., although most of the DRV's naval vessels and some token shipments of aircraft and armor have also been supplied by the Chinese in the past. In addition, the Chinese have had between 30,000 and 50,000 support troops (the number is declining) in North Viet-Nam. These troops have engaged in construction, repair, and air defense.

On a volume basis, about 85 percent of Communist aid to the DRV arrives by sea; rail deliveries from China account for the remaining 15 percent, including the military equipment provided by the Soviets and Chinese. During the first nine months of 1968, the composition of seaborne deliveries consisted of bulk foodstuffs, (chiefly rice and wheat, 38 percent of total volume), general cargo (33 percent), petroleum (20 percent), fertilizer (8 percent), and timber (1). This was similar to the first nine months of 1967, except that in 1968 shipments of bulk food replaced general cargo as the single largest category of imports. This point to Hanoi's growing dependence on foreign sources for supplies of rice and wheat, reflects continuing shortfalls in domestic agricultural production.

Question 28: With regard to the bombing of North Viet-Nam:

d. What are current views on the proportion of war-essential imports that could come into NVN over the rail or road lines from China, even if all imports by sea were denied and a strong effort even made to interdict ground transport? What is the evidence?

The crux of this question is the definition of "war-essential imports." There is room for considerable disagreement on this subject, but in our judgement, the category of war-essential imports should include most of the economic aid provided by the Soviets and Chinese, as well as nearly all of their purely military aid. The reason for this is that economic aid is equally if not more important than military aid in keeping North Viet-Nam a going concern. (During 1968, economic aid totaled some $340 million and military aid about $540 million). In fact, it can probably be assumed that all North Vietnamese imports in the past few years have been directly related to the war effort. The regime would not have used its sparse funds and credits, or burdened its strained transport system, with non-essential goods.

Food imports constitute a growing percentage of total imports, in 1968 replacing general cargo as the single largest category of imports. This reflects the steady decline in crop acreages and yields that began in 1965 and has continued through the present. The importance of food imports can hardly be overstated; even with them, North Viet-Nam has been forced to strictly ration foodstuffs on the official market and progressively to reduce the composition of the rice ration so that at present it consists 60 percent of rice substitutes such as domestic corn and imported wheat. In addition, a thriving black market has grown up, dealing in foodstuffs (and other items as well) and involving large numbers of DRV lower level officials and cadres, as well as average citizens.

Economic aid has been essential in keeping North Viet-Nam afloat; under present conditions it is extremely doubtful that Hanoi could dispense with any substantial portion of this aid.

The question becomes, therefore, "Could North Viet-Nam continue to receive and distribute most of the economic aid and nearly all of the military aid it is now obtaining from foreign suppliers if Haiphong and other key ports were closed and if the road and rail lines from China were heavily bombed?" A second question is: "What would happen if it could not?"

To begin with, it must be noted that in practical terms it would be impossible to deny all imports by sea. Even if the one principal port (Haiphong) and the two secondary ports (Cam Pha and Hon Gai) were closed, there would still be twelve minor ports as well as numerous coastal transshipment points suitable for over-the-beach off-loading. Lightering operations would permit an indeterminate amount of supplies to enter North Viet-Nam from the sea. It is nearly certain, however, that these minor ports and transshipment points could not handle anything like the present volume of imports going into Haiphong. (It is estimated that 85 percent of the total aid to Hanoi arrives by sea, i.e., through Haiphong. Almost all of this is economic aid, since military supplies are generally believed to come overland via China.)

We do not believe that the capacity of the DRV–CPR road and rail network is great enough to permit an adequate flow of supplies in the face of an intense day and night bombing campaign. In our view, earlier analyses which have claimed a virtually unlimited capacity for this network were based primarily on theoretical considerations of transport capacities and did not give adequate weight to the very real difficulties the North Vietnamese have experienced in handling imports even when Haiphong was relatively untouched. It is true that these difficulties were overcome, but to our knowledge there is no evidence that Hanoi would be able to deal as successfully with the closing of Haiphong and heavy attacks on lines of communication from China. We therefore believe that interdiction of Haiphong and heavy attacks on the rail lines from China would over time prevent North Viet-Nam from receiving sufficient economic and military aid to continue the war effort. But it would be difficult to quantify this, since it depends on the type and intensity of interdiction.

On the other hand, one important point should be kept in mind. The North Vietnamese surprised many observers, and confounded many predictions, by holding the North together and simultaneously sending ever-increasing amounts of supplies and personnel into the South during 3½ years of bombing. It is clear that the bombing campaign, as conducted, did not live up to the expectations of many of its proponents. With this experience in mind, there is little reason to believe that new bombing will accomplish what previous bombings failed to do, unless it is conducted with much greater intensity, and readiness to defy criticism and risk of escalation.

This brings us to the second part of the question, "What would happen if Hanoi could not obtain sufficient war-essential imports, as defined earlier?" Here again, there does not seem to be any quantifiable answer; we are reduced to educated estimates. If we arbitrarily assume that nearly all military aid reached North Vietnam (because it is relatively compact and could be transported by a small number of freight cars or a larger number of trucks, and because it has a high priority) but that only half of the economic aid did, we think that by strenuous exertions and considerable belt-tightening the North Vietnamese could continue on their present course for perhaps at most two years more. Beyond that time, barring a cease-fire or protracted lull in the fighting in South Vietnam (either of which would greatly ease Hanoi's burdens), we would estimate that Hanoi would be forced (1) to make concessions to the US in order to get Haiphong reopened, or (2) at least to reduce the scale of the war in the South to manageable proportions, perhaps by reverting to political struggle backed by terrorism and selected guerrilla operations which did not require Northern aid and personnel. Of course, other factors such as manpower shortages would figure in the same time-frame.

It should be noted, in conclusion, that this paper does not address the advisability of closing Haiphong, nor the question of the Soviet and Chinese responses. These matters, clearly the most central problems, lie outside the terms of reference of Question 28 (d).

Question 28: With regard to the bombing of North Viet-Nam:

e. What action has the DRV taken to reduce the vulnerability and importance of Hanoi as a population and economic center (e.g., through population evacuation and economic dispersal)?

Three chief trends were evident during the bombing: (1) civil defense measures, (2) population evacuation, and (3) economic dispersal.

Civil Defense Measures. Even before the bombing began, the DRV leadership was warning the population of trying days ahead. In January 1965 the National Defense Council directed that citizens should "strengthen further defense and security work and get ready to fight," "actively push forward anti-aircraft work," "make all all-out efforts to build a powerful people's armed force," and "actively build and consolidate North Viet-Nam in all fields." After February 7, 1965 (the beginning of the bombing) intensified civil defense measures were undertaken. On February 9, AFP reported that trenches were being dug, air raid shelters constructed, and vehicles and important installations camouflaged in Hanoi.

Thus, beginning in early 1965, an extensive civil defense program was devised, which eventually provided some form of bomb shelter for virtually the entire North Vietnamese population. Shelter programs were begun earliest in Hanoi and other heavily populated urban areas, where large public semi-underground shelters were built in downtown sections. This was supplemented in less densely populated parts of the city by an extensive system of tunnels and by individual shelters—covered cement cylinders buried in the ground. Almost all industrial plants came to have a network of earthwork tunnels leading away from the buildings to provide protection for workers on the job, and even agricultural workers reportedly built trenches near their rice fields.

At the same time, other forms of air defense were improved or were introduced. The SA-2 surface-to-air missile system was introduced in 1965. The DRV air force, air fields, and early-warning radar system were rapidly improved, and antiaircraft artillery weapons and units were dispersed throughout the country to protect major cities, industrial and defense areas, and lines of communication. Roughly half of the total AAA guns were located in the northeast quadrant of the country, which includes the Red River delta, and, of course, Hanoi.

Population Evacuation. This program got off to a slower start than the civil defense effort. In September 1965, however, a US traveler said that 50,000 persons had already been evacuated from Hanoi. It appears that, initially, the DRV Government gave little or no financial assistance to evacuees, but by early 1966, allowances for them were being made available. In June and July of the same year, the government conducted a ward census in Hanoi and cut off the ration cards of those deemed superfluous to the functioning of the city; these people were thus forced to evacuate. In July 1966 AFP reported that 10,000 people a day were leaving the city, and at the end of 1966 both Harrison Salisbury and a TASS reporter said that one-third of the capital's population had been evacuated.

People reportedly drifted back into Hanoi in early 1967, but evacuation increased sharply in April and May after US strikes on Hanoi. At that time a Swedish reporter was told that the DRV had plans to evacuate the whole city. In the summer of 1967, however, school children were reportedly entering Hanoi again, and this trend continued to the point where in early 1968 the Hanoi city council passed a decree instructing people *not* to return to the city. But after the March 31 bombing limitation, people began to return in considerable numbers, a trend which intensified after the November 1 bombing halt. It appears at this writing that the full population of Hanoi has not yet returned, but that a good portion of the inhabitants have indeed come back. The DRV Government, however, has not yet officially reversed its evacuation policy.

Economic Dispersal. Beginning in 1965, the expansion of centrally controlled, large-scale industry was deemphasized and local small-scale production received official encouragement with a goal of regional self-sufficiency. Long-term five-year economic planning was shelved in favor of a two-year planning period.

Economic activity in the Hanoi area consisted of electric power, machine building, chemicals, barge building, textiles, light industry, and phosphate processing. Some of these enterprises, such as textiles, were relocated and dispersed, but others, such as electric power plants, perforce had to remain in place. Accurate figures on the production of the relocated plants are not available, but we assume that even the limited pre-1965 output must have fallen considerably under the impact of the bombing and of dispersal.

Present Vulnerability and Importance of Hanoi. Hanoi's vulnerability and importance have probably both increased since the bombing halt. The population is returning to its pre-evacuation levels, and the defenses of Hanoi are reportedly being discreetly but substantially reduced. It appears that the DRV leadership has decided to continue indefinitely the policy of economic decentralization begun in 1965, probably to hedge against the bombing being resumed and to avoid the production losses which would occur if industry were recentralized. Some permanent rebuilding has begun, but full scale reconstruction throughout the country will probably await an end to the war in the South. In Hanoi itself, the Doumer bridge has been rebuilt, though it needs additional repairs, and the Hanoi thermal power plant is being rebuilt. Primary and secondary schools and universities in Hanoi have not been officially relocated back to the capital, but the kindergarten and nursery schools may reopen soon. However, hospitals and most government agencies remain evacuated. No large-scale construction of urban housing has been reported.

Question VII: To what relative extent do the US/RVNAF and the NVA/VC share in the control and the rate of VC/NVA attrition; i.e., to what extent, in terms of our tactical experience, can heavy losses persistently be imposed on VC/NVA forces, despite their possible intention to limit casualties by avoiding contact?

The Communists have a surprisingly large amount of flexibility in controlling their rate of casualties in South Vietnam. This flexibility is reflected in 1968 killed-in-action statistics—during February, at the height of the Tet offensive, VC/NVA KIA totaled nearly 40,000, but only five months later during July, the Communists were able to hold their monthly combat deaths to less than 7,000. During the last three months of 1968, average VC/NVA monthly killed-in-action was substantially below 10,000 per month.

The Communists have been able to control their attrition rate by varying both tactics and strategy. Given any current strategic deployment and short term goals, both offensive and defensive tactics may be more or less aggressive. In turn, strategic deployment and degree of offensive or defensive posture will greatly determine loss rates. These variations are obviously not mutually exclusive and tactical aggresiveness largely depends on short and intermediate term strategic goals.

Data on Allied military operations reflect the difficulty of making contact with VC/NVA forces. These data do not indicate which side is able to initiate the contact, only that Allied units were on offensive operations.

Question VIII: What controversies persist on the estimate of VC Order of Battle, in particular, on the various categories of guerrilla forces and infrastructure? On VC recruiting, and manpower pool? What is the evidence for different estimates, and what is the overall adequacy of evidence?

Strength estimates

Estimates of VC/NVA Order of Battle as well as estimates of various categories of guerillas, irregular forces, and infrastructure have been under thorough review and discussion by members of the intelligence community and CINCPAC/MACV since the summer of 1967. An apparent agreement reached at a conference in Saigon in September 1967 proved to be short-lived. Therefore, the Director of Central Intelligence convened a second conference in Washington in April 1968. This conference included representation from all concerned USIB agencies, CINCPAC, and MACV, and observers from the military services. The Washington conference failed to reach agreement on any of the elements included in the estimates of enemy strength.

Since April 1968, at the direction of the Director of Central Intelligence and the Chairman, Joint Chiefs of Staff, a CIA/DIA Working Group has worked to reach agreement in Washington and with CINCPAC/MACV. This CIA/DIA group has reached Washington working-level agreement on the strength of those elements composing the military threat (Main and Local Forces, Administrative Services, and Guerrillas) as of the end of August 1968 and for 31 December 1968. In addition, the working group has reached agreement on end-of-the-year estimates for such irregular organizations as Self Defense Forces and Assault Youth, and for the Political Infrastructure.

The agreed CIA/DIA estimates for 31 December 1968 are as follows:

Military threat in thousands

Combat forces:	
NVA	[1] 105–125
VC MF/LF	45– 55
Subtotal	[1] 150–180
Administrative services:	
NVA	10– 20
VC	45– 55
Subtotal	55– 75
Guerrillas	[2] 60–100
Total military threat	265–355

[1] An estimated 20,000–25,000 of these NVA troops are serving in VC units. This estimate excludes an estimated 28,000 NVA troops deployed north of the DMZ which include but are not limited to the 304th NVA Div., 320th NVA Div., 88th NVA Regt. of the 308th NVA Div., and 102nd NVA Regt. of the 308th NVA Div.

[2] We believe that the military threat represented by the Guerrilla forces is not on a parity with that of the Main and Local

Forces because probably only about one-third of the Guerrillas are well armed, trained, and organized.

Other irregular organizations

Self-defense forces	80–120
Assault youth	10– 20
Total	90–140
Political infrastructure	80–100

All of these agreed estimates have been communicated to CINCPAC and MACV. There has been some slight narrowing of the differences between the headquarters and field estimates, particularly in the estimates for combat forces, but neither CINCPAC nor MACV has been able to concur in these Washington figures.

Differences in estimates—military threat

The "military threat" component of the estimate includes NVA and VC Main and Local Forces, Administrative Services, and Guerrillas. The information available to CIA indicates that the current CINCPAC/MACV estimate of the military threat as of 31 December 1968 is as follows:

Combat forces and in thousands

NVA	106
VC MF/LF	36–40
Subtotal	142–146
Administrative services	42
Guerrillas	59
Total military threat	243–247

Although we do not have the detailed data underlying this estimate, it can, on the basis of our knowledge of previous estimates, be made reasonable comparable to the CIA/DIA estimate by making two adjustments:

(a) The latest information available to CIA indicated that CINCPAC/MACV judged that some 5,000 NVA troops serve in Administrative Service units.

(b) The CINCPAC/MACV estimate of 106,000 NVA troops apparently includes some elements which are excluded from the CIA/DIA estimate because they are north of the DMZ. If these units were excluded from the CINCPAC/MACV figure, then the CINCPAC/MACV figure comparable to the CIA/DIA figure for NVA troops would be 92,000.

With these changes the CIA/DIA and CINCPAC/MACV estimates of the military threat would compare as follows:

[In thousands]

	DIA/CIA	CINCPAC/ MACV
Combat forces:		
NVA[1]	105–125	92
VC MF/LF	45– 55	36–40
Subtotal	150–180	128–132
Administrative services:		
NVA	10– 20	5
VC	45– 55	37
Subtotal	55– 75	42
Guerrillas	60–100	59
Total	265–355	229–233

[1] Both sets of NVA figures exclude an estimated 28,000 North Vietnamese Army troops deployed north of the DMZ. They include 20,000–25,000 NVA troops serving in VC MF/LF units.

The significance of these differences, particularly their military strategic implications, depends, of course, on whether the true military threat is closer to the lower or the higher end of the range estimated by CIA/DIA. The difference in estimates may become of major political importance if developments in Paris should lead to an agreement on the phased withdrawal of NVA troops which intelligence might be required to confirm or monitor. For example, the CIA/DIA estimate is that there were 115,000–145,000 NVA troops in South Vietnam at the end of 1968. This is about 20,000–50,000 troops greater than the CINCPAC/MACV estimate of the NVA presence on 31 December 1968. Moreover, the differing estimates of guerrilla strength would have an important bearing on any estimate of the residual military capabilities of VC forces should the NVA in fact be withdrawn.

Other irregular forces

The agreed CIA/DIA estimates include estimates of other irregular forces—Self Defense Forces and Assault Youth. CINCPAC/MACV refuse to estimate these groups on the ground that they cannot be quantified and are not part of the military threat. We agree that these forces are not of the same military significance as combat and support troops, or querrillas, and do not group them as part of the military threat, particularly since they are even less well armed or trained than the guerrillas. Nevertheless, they do perform important military support functions, inflict and receive casualties, and are meaningful elements of the enemy's organized resistance. Therefore, we believe that they can and should be quantified as part of the intelligence necessary for national level assessments of the war in the total context of its political, security, and military evolution.

Political infrastructure

The CIA/DIA estimate of a Political Infrastructure of 80,000–100,000 is not far out of line with the CINCPAC/MACV estimate of about 82,000. The main difference is that the Washington estimate includes staff and support types not counted by CINPAC and MACV.

Reasons for the different estimates

The principal difference between CIA and MACV over the size of the several elements of Communist forces has been and continues to be the methods used to count them. In some areas, definitional problems also result in differences. For all echelons of the military threat, MACV compiles an OB, unit by unit, applying rigid acceptance criteria to evidence. Further, in compiling its OB, MACV uses only confidential-level documents and prisoner interrogations. As a result, the OB tends to understate enemy strengths and to lag significantly behind events. Utilizing all-source intelligence, we have developed varying methodologies that provide us with more current estimates of enemy strengths.

For example, at the Local Force level, we have added to the MACV OB 5,000–10,000 soldiers subordinate to districts and provinces. In doing this we have assumed the existence of units for which there is good indirect or inferential evidence. Most of these personnel are in small Local Force units commonly found at these levels. MACV does not carry such units unless it has direct documentary evidence for each one, even though they are standard in the enemy structure. Likewise, we estimate that some 10,000–20,000 soldiers, belonging to service and support units and staffs subordinate to divisions and regiments, need to be added to the MACV OB. This range is based on studies of the average structure and strength of these elements. The MACV OB criteria requires that each support element be individually confirmed.

The range of our estimate for Political Infrastructure reflects the fact that MACV's estimate excludes many thousands of low-level support personnel who are an integral part of the infrastructure. Our disagreement with MACV in this category arises not so much from differences over evidence but differences over criteria as to who should be counted. The basic problem in estimating the size of the infrastructure, therefore, is that the intelligence community has never come to a firm agreement on what constitutes an infrastructure member. Given the present definition, one could come up with a number ranging anywhere from a few thousand to a figure far in excess of any of the current estimates.

Statement of methodology and confidence

Although we are unable to compute statistical measures of confidence for our estimates, we have varying degrees of confidence in them as reflected by the spreads in the ranges of our estimates.

We are most confident of our estimate of the over-all strength of the Main and Local Force structure. This estimate has been approached with three different methodologies, each of which provides answers within the estimative range. Each methodology involves the application of all-source intelligence to correct the deficiencies of the MACV Confidential-level order of battle. CIA has used a methodology which (1) to fill out the basic force structure, adds units not carried in the MACV OB and (2) adds manpower to the structure based on dynamic studies of average unit strengths. DIA has used a study based on manpower flows (gains and losses) and in addition has recently completed an independent construction of the entire OB from primary source materials.

The CIA estimate of Administrative Service troops is based on ratios developed from primary source materials that relate combat troop strength to support troop strength. Both the CIA study and a recently completed DIA reconstruction of the Administrative Services OB point to the high side of the estimative range presented here.

As the size of the range used for Guerrillas suggests, we are much less certain of the strength of these elements. The low side of the range is based on MACV estimates. The high side of the range is a result of conservative extrapolation from figures in VC documents that gave nationwide irregular strength figures for earlier periods; we have also used more recent VC documents that provided guerrilla strengths for certain provinces. As a rough check we have related these estimates to current HES population control data and inferred that the ability of the VC to organize guerrillas has diminished duing 1968.

Our range for Self Defense forces is based on the same type of methodology used for the Guerrilla estimate. Our Assault Youth estimate is based on a small sample of unit strength reports. These estimates provide only a rough order of magnitude for these elements. Our estimate of the Political Infrastructure is based on the MACV estimate, adjusted to include staff and support personnel that we believe should be included.

Recruitment and the manpower pool

We have recently completed a preliminary study which concluded that the Viet Cong recruited an estimated average of 8,500 men per month for their combat units during 1966, and 7,500 men per month during 1967. These estimates are based on information in captured Viet Cong documents, interrogations of prisoners, and agent reports providing data on recruitment in areas including 30 to 40 percent of South Vietnam's hamlet population. This information—actually enemy reports of the numbers of people recruited in Viet Cong district or larger political subdivisions—was then related to population security data by geographic areas and the results projected for the remaining areas of South Vietnam.

Limited data in captured documents on recruitment activities during 1968 indicates that recruitment spurted to a level at least double the average 1967 rate during the first quarter of the year. This large increase is due largely to organizational improvements in preparation for the Tet offensive and easy access to an expanded recruitment base in rural areas after the offensive. During the second quarter, HES officials reported improvements in rural security, and captured documents indicate that Viet Cong recruitment began to fall off. On the basis of this admittedly tenuous evidence, it would appear that second quarter recruitment probably dropped * * * even slightly lower. These trends have continued through the third and fourth quarters, probably with even sharper declines. Nevertheless, we judge recruitment still to be at a level higher than that estimated by MAC.

These estimates are substantially above those in use by MACV. Although there have been frequent changes, our understanding of MACV recruitment estimates is as follows:

Monthly recruitment

1966	7,000
1967	3,500
January–April 1968	7,000
May–June	5,000
July–September	3,000
October–December	3,500

Determination of the size of the manpower pool available to the Viet Cong and the GVN is an especially vexing analytical problem. The "available pool" is a relatively small residual remaining after the deduction of estimates of the numbers of people not of prime military age, females, the physically unfit, and various estimates of population control and access. Consequently, estimates of the size of the pool are acutely sensitive to a number of necessary assumptions. For example, reasonable estimates of the share of draft age males in South Vietnam who are not physically fit for military duty range from 25 to 40 percent. With this uncertainty alone, estimates of the size of the manpower pool can vary by more than 400,000. Assumptions concerning the relationship between the contested portions of the population and accessibility for recruiting are even more important.

Despite these uncertainties about the "man-power pool" available to either side, it seems clear that the VC have begun to feel the effects of internal manpower shortages, perhaps even more seriously than in previous periods. The ability of the Viet Cong to maintain and particularly to again increase its flow of recruits will depend to a large extent on the military and political momentum they can sustain.

Question XV: What are the reasons for expecting more change in the countryside in the next two years than in past intervals? What are the reasons for not expecting more? What changes in RVNAF, GVN, U.S., and VC practices and adaptiveness would be needed to increase favorable change in security and control? How likely are such changes, individually, and together; what are the obstacles?

The principal source for expecting more change in the countryside in the next two years is the level of performance of pacification programs during the last quarter of 1968. While there is no doubt that this progress was achieved largely as the result of a permissive VC military environment, there have been improvements in GVN enthusiasm, in the use of improved intelligence, and in the application of resources which are encouraging in and of themselves. The test of this progress, and of the enthusiasm itself, however, is yet to come.

Prior to the last quarter of 1968, there was little cause for optimism regarding pacification progress in that the Communist forces were able to render the programs almost impotent by use of their military power. Much of our reported progress in "population control" stemmed not from the ability to release the countryside from the grip of the Communist forces, but from our ability to organize rural development programs and, more importantly, from the massive influx of population fleeing the countryside. When HES is used to measure the capabilities and activities of the VC in the countryside—as opposed to measuring population control—we find that in the twenty one months after January 1967, we actually lost ground in our battle with the Communists. The Accelerated Pacification Campaign began on 1 November and rapid gains have been claimed for it. Reported progress indicates that we are now slightly better off than in January 1967, but our ability to hold on to these gains has not really been subjected to military test.

The rapid expansion into contested areas that produced the dramatic pacification progress also required that the pacification resources available to the GVN be spread quite thinly across the countryside. This could present a real problem at such time as the VC military challenge occurs—a challenge which may already be underway. Even if this challenge never fully materializes, it is doubtful that the accelerated rate of real progress can be sustained for an indefinite period. While there is an initial impact in obtaining military and political access to hamlets previously under substantial VC influence, genuine, lasting progress in pacification requires not only security but that these initial gains be consolidated through real, rather than paper, programs of land-reform, economic progress, and a host of governmental operations aimed at winning the support of the people. Should the GVN become enchanted with the statistical progress achievable by widely dispersing its resources rather than consolidating its gains, not only would the gap between "population control" and real progress widen, but also the credibility of the GVN could be easily punctured by VC actions.

Much the same commentary could be attached to the phenomenal flow of population to urban and semiurban areas. While this process was not a major factor in the gains made over the last quarter, it was a significant contributor to gains in "population control" made over the previous months. Although this process is widely hailed as being detrimental to the Viet Cong—which it is—it is also clear that pacification programs initiated by the GVN cannot take credit for it. More significantly, the influx of population presents a large mass of people who have no particular reason to develop an affinity for the GVN and unless rehabilitation programs are undertaken they could represent a factor that was neutral at best and disruptive at worst in the long-run prospect for pacification.

The success of the Accelerated Pacification Campaign strongly suggests that progress in pacification is heavily dependent on the military environment. Progress over the last three months was largely due to the fact that a significant number of VC military units withdrew to sanctuary areas and chose not to contest allied operations. This basic characteristic of pacification in South Vietnam converts the question of whether or not our recent gains can be held into a larger question of VC intentions and strategy—that is, their response to new GVN programs. The VC are currently intensifying their efforts to counter the pacification program; such intensified Communist counter-measures will provide an acid test of our real progress. If the VC can successfully implement their capability to mount offensives from time to time, then our recent gains in pacification could mean very little.

Question XVIII: What are the reasons for believing that current and future efforts at "rooting out" hard-core infrastructure will be—or will not be—more successful than past efforts? For example, for believing that collaboration among the numerous Vietnamese intelligence agencies will be markedly more thorough than in the past? What are the side-effects, e.g., on Vietnamese opinion, of anti-infrastructure campaigns such as the current "accelerated effort," along with their lasting effect on hard-core apparatus?

Despite encouraging trends in the attack against the overall VCI, it is not likely that any significant breakthrough will be made in 1969 at "rooting out" hard-core VCI, especially high ranking PRP members. As previously noted, leading hard-core VCI cadres have suffered the least of all categories from the Phoenix/Phung Hoang program. It is anticipated that in 1969 the anti-VCI effort will make some progress with a slight qualitative increase resulting from emphasis on specific targetting, particularly at the district level and above. Nevertheless, most gains will continue to be made against the more accessible lower level VCI members. It is hoped that sufficient stability and momentum will have been built into the program so that if and when the GVN begins to assume full responsibility, the anti-VCI effort will continue to make progress. Presently, it is believed that the effort would be certain to suffer, perhaps critically, without U.S. guidance and assistance. Similarly, a settlement at Paris that created a political climate in South Vietnam improving Communist prospects, could also derail the entire program.

Until 1967, probably the greatest weakness in the prosecution of the conflict in Vietnam was the lack of any real, organized, coordinated, efficient counterattack on the VCI. Although the Phoenix program had its beginning in 1967, it was not until the Presidential Decree of July 1968 that the program was officially sanctioned by the GVN and a countrywide effort (Phung Hoang) was authorized to collect information on the VCI and to plan and launch operations targetted specifically against it. To date, a great amount of effort has gone into the establishment of a system of 246 province, autonomous city and district Intelligence and Operations Coordination Centers throughout the country. This has required a high degree of cooperation and coordination at all levels, often where little or none had previously existed, and is considered to be a significant accomplishment in itself, given the previous propensity of all concerned (U.S. and Vietnamese) toward parochialism. Although there are still instances of obstructionism and lack of cooperation by local officials and agencies responsible for conducting the attack on the VCI, there has been an overall and continuing trend toward improved coordination within the Intelligence and Operations Coordination Centers. A good start has been made at accumulating the specific information needed to target against the VCI and an accompanying improvement in the quality of operations against the VCI should result as the effort gains momentum.

That the program is adding pressure on the VCI is probably best illustrated by the growing concern of the VC to its activities as reflected in their own propaganda and documents alerting subordinates to the program's operations. VCI targets are becoming more wary and elusive with a substantial fraction of the low level, easy targets probably already eliminated. Despite the enemy's extensive anti-Phung Hoang campaign and increased passive and active counter-intelligence measures, December results were the highest ever reported. This improvement can be directly related to the Accelerated Pacification and Phung Hoang Campaigns as security forces have moved into contested areas and military operations and have penetrated once sacrosanct base areas where VC cadres have long been able to stay with relative impunity. Recent reports reveal that higher ranking VCI are now moving to more secure areas where it will be more difficult for Phung Hoang operations to be successful. These factors, plus an increased VC emphasis on identifying and targetting the program's personnel for elimination or subversion, indicate the seriousness with which the VCI views the present and potential effects of the program on it.

Although important steps have been taken to establish an active program and there have been signs of improvement as it has developed, the numerous problems hampering effective anti-VCI operations will require considerable time, patience, and effort to correct. Among the most serious of these effecting the attack on the VCI is the limited professional capability of many of the GVN personnel due to a lack of adequate training especially apparent at the district level where a more experienced and efficient base is required, since this is the level at which the Phung Hoang program is geared. Additionally, the program continues to be hurt by the lack of full coordination at these lower levels where there still are overtones of separatism among the many agencies involved. Pressure from above has, however, forced increasing cooperation between some of these once totally insular, competing agencies.

Since many of the district centers are in the initial stages of organization and are still in the process of developing the data base required to operate effectively against the VCI, they have barely begun to direct operations. For this reason, operations targetted against specific VCI have not been too common and the attack on the VCI has continued to be plagued by the conventional approach of large operations. As agencies involved in anti-VCI operations have exhausted their limited intelligence base and pressure has increased for results, the tendency has been to rely on large scale cordon and search operations to the detriment of specific VCI operations based on detailed intelligence. Such sweeps, cordon and search operations, or ambushes on likely communications routes usually result in the apprehension of many guerrillas and VC supporters but few high quality VCI. The number of heliborne raids against specific VCI targets in VC "liberated areas" is steadily increasing, however, and these fast moving raid-and-run operations are producing effective results.

Other related areas of serious weakness in the anti-VCI program are in the fields of identification, classification, judicial processing, detention, and prisoner accountability. To assist in correcting these deficiencies, a classification list of VCI executive and significant cadre functions has been developed to reduce confusion in identification and to provide a uniform basis for assigning priority and selecting targets for neutralization. Perhaps of equal importance, the list will serve as a basis for proposed changes in civilian detainee processing and prescribes standard maximum and minimum sentences. Additional detention facilities are being prepared and more efficient utilization of those available as well as improved methods of prisoner accountability have been proposed to alleviate these problem areas.

An aggressive anti-VCI program has definite side-effects on the Vietnamese opinion given the preeminent position of the family in Vietnamese society. Since it is not unusual for a family to have members working for both the VC and the GVN, attacks by either side can directly affect the family unit. In addition to family contacts with the VC, there has always been a certain degree of accommodation between some local officials and VC cadres. Thus the intermix of family loyalty coupled with a lack of real commitment by some GVN officials to move against an organization with which they may wish to reach a further accommodation in the future continues to be a serious problem and undoubtedly has an effect on Vietnamese opinion. There is no doubt that the people in the countryside have mixed feelings toward the accelerated efforts to eliminate the VCI since these efforts often affect family members, cause disruption in their area, and throw off a local balance which may have led to a relatively peaceful situation. Involvement with the programs of either side is contrary to the peasant's basic desire to be left alone by both. If this is not possible, he then is willing to accept a degree of security from whomever is in control. Recently, hamlets under the Accelerated Pacification Campaign appear to be attracting a significant number of refugees from VC areas, apparently confirming that the key to public approval and support is the ability to provide continuing security and to prevent reprisals by the opposition.

Recognition of the foregoing problem areas and the initiation of corrective measures where possible, along with the increased degree of coordination and cooperation required for the establishment of the Intelligence and Operations Coordination Centers; all contribute to a belief that future anti-VCI efforts should be more successful than those of the past. There are no guarantees that the corrective actions taken will be successful, that the Intelligence and Operations Coordination Centers will function as planned, or that the cooperation noted in their building will continue. However, the progress that has been made since July 1968 has been most impressive and encouraging. Probably the highest testimonial to the activities and potential of the Phung Hoang Program has been the concern exhibited by the VCI as it realizes that at long last, though in a neophyte stage, a counterattack has been launched directly against it.

Question XIX: How adequate is our information on the over-all scale and incidence of damage to civilians by air and artillery, and looting and misbehavior by RVNAF?

Information that would lead directly to an estimate of physical damage by bombing or the physical/psychological damage affected by looting and other types of military misconduct is not reported on anything resembling a systematic basis. Sporadic reports reach Washington concerning civilian complaints of such actions but currently there is no known way to establish a reliable data base for this information.

The Hamlet Evaluation System (HES) does contain information on two aspects of the problem: (1) incidents of misconduct by friendly elements that adversely affect the hamlet, and (2) actions by friendly elements during military operations that adversely affect relations with the hamlet. It is not known how reliable this data base is, but based on a sample of 5,870 hamlets that were rated each month consistently since January 1967, it would appear that approximately one percent of the hamlets each month are victims of some sort of serious misconduct by ARVN; another one percent each month receive similar treatment at the hands of Regional or Popular Forces (RF/PF), and another three fourths of one percent fall victims of serious misconduct on the part of US forces. Additionally, about four percent of the hamlets are either bombed, strafed, defoliated, or otherwise harmed during the course of friendly military operations. A higher percentage of hamlets would appear to experience one or more of these phenomena in a minor form.

It is imperative that these measures be viewed with considerable discretion, both because the data base has not been validated and because no systematic weighting system is available to discriminate between lasting damage and accidental property destruction. Even under the most generous interpretation of the available data, however, it must be admitted that the rural hamlets take a tremendous beating by both friendly and enemy forces. This aspect of the war is borne out by the rapid flow of refugees and migrants to the urban areas of South Vietnam. While the long-run impact of this process would, at first examination, appear to be favorable to the GVN, it is probably true that a considerable proportion of the urban population which is normally classified as "GVN-controlled" is made up of a recently rural populace which has little reason to affiliate itself with the cause of its social disruption.

Question XXII: What is the evidence on the prospects—and on what changes in conditions and US policies would increase or decrease them—for changes in the GVN toward:

(a) broadening of the government to include participation of all significant non-Communist regional and religious grouping (at province and district levels, as well as cabinet);

(b) stronger emphasis, in selection and promotion of officers and officials, on competence and performance (as in the Communist Vietnamese system) as distinct from considerations of family, corruption, and social (e.g., educational) background;

(c) political mobilization of non-Communist sympathies and energies in support of the GVN, as evidenced, e.g., by reduced desertion, by willing alignment of religious, provincial and other leaders with the GVN, by wide cooperation with anti-corruption and pro-efficiency drives?

(a) *Broadening the GVN.* The first question to be resolved is to define those regional and religious groups that warrant cabinet representation. For those who prefer a broad definition, the prospects of including all such groups are virtually non-existent. For those who would exclude such groups as the Hoa Hoa, Cao Dai, and the various Dai Viet and VNQDD factions from cabinet representation, the problem is far less formidable. With the addition of strong southern representation in the cabinet during the past year, it could even be argued that the essential balance of vital cabinet representation has already been struck. Others who prefer the narrow definition point out that representation from central Vietnam is thin, and that ultimately some kind of accommodation between the government and Tri Quang's Buddhists should be reached. In any event, current evidence indicates that while adjustments may be made in the cabinet during the next few months, no significant broadening is likely.

At the province and district levels, the problem is somewhat different. Virtually all province and district chiefs are military officers appointed by the central government. The issue of selecting province and district chiefs was raised at the time the constitution was written in early 1967; many civilians arguing for an electoral process. But the GVN—with U.S. concurrence—maintained that under wartime conditions these positions must be appointed, with the understanding that they would be filled by military officers. Thus the problem at this level has assumed the form of a civilian-military rivalry. Because the province and district chiefs have now become key figures with control over some ARVN units, the prospects for increasing civilians in these offices are very remote so long as the war continues.

Even so, there is some degree of *local*, as opposed to civilian, representation within the present system. There have been or are military province and district chiefs of montagnard backgrounds in the central highlands, and Cao Dai provincial officials in areas where that sect is strong. For all practical purposes, An Giang and Chau Doc provinces are run by Hoa Hao officials. Other officers occasionally have local ties to the areas in which they are assigned. We have no evidence, however, that the proportion of such officials is increasing.

(b) *Emphasis on competence in selection and promotion.* With the ascendancy of President Thieu during the past year or so, more than one half of all province and district chiefs have been replaced. We have evidence, in the form of reports from U.S. field advisers, that the replacements generally are more competent than their predecessors. Strictly on this basis, however, it is difficult to state that there has been a significant and deliberate increase in emphasis on competence at the expense of political loyalties and other considerations. Indeed, political loyalty almost certainly remains paramount (i.e., there is no evidence that President Thieu has approved the appointments of many who are at political odds with him). Our feeling is that because President Thieu has wider associations than did his predecessors with the same appointive powers, the number of politically acceptable candidates has increased, thus allowing for more latitude in the search for competency.

There are, of course, a great many other positions in the government and armed forces and our evidence on increased competence in these positions is at best very sketchy. Civilian officials within the various ministries are almost certainly selected in accordance with the political coloration of their respective ministers. So long as the cabinet remains a delicate and highly charged political balance, this tendency will remain strong. For those whose appointments receive presidential consideration, however, it would not be unreasonable to assume that the same general factors described in the preceding paragraph are at work to some extent.

There remains the broader question of eligibility for government or military service at a meaningful level of those not already in the government (e.g., the degree of opportunity for the bright and vigorous peasant who might become an excellent company commander). The educational and social restrictions on eligibility for, let alone advancement in, government service have been long-standing weaknesses of the GVN. Though the war and the inordinate size of the RVNAF have probably created opportunity for peasants that otherwise would not have existed, there is no evidence of GVN encouragement or of any change in normal requirements. Even given vigorous US prodding and high level GVN concurrence, it would be prudent to envisage increased social mobility in South Vietnam in terms of decades.

In weighing GVN performance in this area, however, it is misleading and unrealistic to compare the actualities of GVN behavior with the tenets of Communist theory or propaganda. The statement of subsection (b) of Question XXII implies that, in contrast to the GVN, the Vietnamese Communists promote solely on merit and performance, without any reference to family or social background or other extraneous considerations. This is just not true. The Communists simply do not apply the same educational, social or other criteria in this sphere that the GVN applies. It is certainly the case that a poor peasant youth (other factors aside) has a better chance of becoming a company commander in the VC Forces than he would have in ARVN, but this does not mean that the Communists promote solely on merit. "Class origins," doctrinal orthodoxy, absence of "incorrect" or "impure" thoughts, and many other factors entirely unrelated to merit or performance weigh very heavily in Communist decisions on matters of advancement—or demotion. Even a brilliant performance record will not necessarily protect an officer of peasant stock from being cashiered—or worse—should the Party ever decide to classify his parents as "landlords." Furthermore, even the Vietnamese Communist Party, in practice, is not immune to the pull of regional or village ties or the influence of personal loyalties or jealousies and the Party is more than vulnerable to the ripple effect of doctrinal battles won or lost by contenders in the higher command echelons.

(c) *Political Mobilization*. We doubt that fluctuating ARVN desertion rates can be considered as a true indicator of the Vietnamese population's degree of political mobilization. There are simply too many other factors involved. For example, desertion rates went up sharply in the late spring of 1968, following a rapid expansion of the armed forces. We do not believe that this increased desertion reflected a lessening of political mobilization, but rather that it was largely the natural result of the sudden expansion. (The same pattern was evident during the last large RVNAF expansion in 1966.) As the unreliables are weeded out and as ARVN's command and control system gradually copes with the larger numbers of personnel, the desertion rates should go down. And this trend, when it begins to occur, should probably not be construed as an increase in political mobilization.

The willing alignment of religious and other leaders with the GVN has fluctuated in the past and will most likely continue to do so depending upon future events and the government's relation to them. Within the past year, there have been instances when broad and genuine endorsement of the government's position have been expressed by such leaders (i.e., in the wake of the Tet offensive and at the time of the U.S. bombing halt on 1 November). At other times, support has naturally been more muted, and disapproval has been expressed when some government act seemed to warrant it. We have no evidence suggesting that these rather normal fluctuations will not continue.

Willing cooperation with anti-corruption and pro-efficiency drives, though they would be limited to persons within the government, would almost certainly reflect a virtual transformation of the government in terms of discipline and political unity. But evidence on the prospects for these occurrences is not good. Though corruption has perhaps been toned down and public attention has been diverted from it at least temporarily, the basic problem will remain so long as the large U.S. material presence remains in Vietnam and so long as the social ethos gives family or personal ties prior place to loyalties to abstractions such as "national interest." Pro-efficiency drives have not been a characteristic of the GVN to date, and there is no evidence of any plans for them. However, given U.S. prodding, GVN concurrence, and some skillful psychology, such drives might prove to be useful devices in harnessing in a useful way the incessant competition among the various political groupings in the government.

The foregoing simply illustrates some of the difficulties in attempting to detect an increase in political mobilization of the accidental or disorganized variety. It seems clear that the creation of an effective national political organization is the major change needed to provide the GVN with a dependable, enduring political base. The problems and shortcomings of the Lien Minh amply illustrate the fundamental problems involved in establishing such an organization. For in order to function effectively, such an organization must have real political power. The conflict that would ensue between it and the army, which currently is the real if not the constitutional power base, is only too obvious. Because of the difficulty inherent in the problem, political organizational efforts have been little more than marginal efforts during the past few years. In light of potential political competition with the NLF in peacetime, GVN leaders may soon begin to deal with the problem, though despite Thieu's verbal endorsement of Lien Minh, there is as yet no real sign of a serious address to this problem on the part of the GVN's top leadership.

Question XXIII: How critical, in various views, is each of the changes in question 22 above to prospects of attaining—at current, reduced or increased levels of US military effort—either "victory," or a strong non-Communist political role after a compromise settlement of hostilities? What are views of the risks attendant to making these changes, or attempting them; and to the extent that US influence is required, on US practical ability to move prudently and effectively in this direction? What is the evidence?

There is no question but that South Vietnam's political stability has a bearing on its military performance, and is in turn affected by the latter, and that both are affected by the levels and trends of the US effort. Intensified military efforts by themselves, however, neither compensate for nor cure basic political and administrative shortcomings which diminish the GVN's attractiveness to many who do not positively support it, including many whose opposition to the prospect of Communist rule is considerably greater than their dislike of the GVN. Furthermore, the attitudes of non-Communist groups which are currently aloof from the government, or are committed only passively, are not likely to be greatly altered by changes in US force or aid levels, unless these are so greatly changed as to result in early military "victory" or early GVN defeat. There have been in the past, and may be in the future, positive short-term public or military responses to emergencies, anti-corruption measures, pay raises or promotion policies, but we are not sanguine that such measures will be any more rapid or far reaching than in the past, or will have the needed short-term effect.

South Vietnam has shown progress whether measured against 1961 or 1964, but it has been slow, fragile and evolutionary. It is difficult to see how the US can largely disengage over the next few years without jeopardizing this. There are certain programs (Phoenix, etc.) which if effectively pursued in this period may well increase the GVN's margin for stumbling without falling. In general, however it appears that the RVNAF will for some time remain the only national political force capable of matching the Communists from the point of view of strength and organization. It must, therefore, be kept "cohesive and disciplined", and military corruption kept at tolerable limits; it will also be politically affected by US force levels and operations. While this does not mean that all feasible steps should not be taken to encourage the strengthening and participation of civilian groups, it does not appear realistic or prudent to expect that civilian groups alone can stand up to the Communists within the next few years or that they should be given the practical burden of this effort at the expense of the military.

Question XXVI: What is the evidence on the scale of effect of B–52 attacks in producing VC/NVA casualties? In disrupting VC/NVA operations? How valid are estimates of over-all effect?

The few existing studies and the available raw intelligence make it clear that B–52 strikes do account for a substantial number of casualties, have effectively disrupted VC/NVA operations, and have a strong adverse psychological impact on enemy troops. Unfortunately several factors—a poor evidence base, a lack of ground follow-up, and the inaccessibility of many targeted areas—make it impossible to arrive at any quantitative measurement of the effect of B–52 strokes that can be regarded with confidence.

Recent JCS, J–3, studies based on post-strike body counts obtained from aerial and ground observations between May 1968 and October 1968 accounted for 2,933 enemy dead as a result of 3,895 sorties. These J–3 findings would indicate a kill ratio of .74 per sortie, or an implied KIA rate of 1,300 per month during 1968. Thus, projections based on the J–3 studies would indicate that B–52 attacks in South Vietnam may have accounted for more than 16,000 enemy KIA and a like number of wounded during 1968. These estimates obviously understate enemy casualties, particularly when they are based principally on limited ground follow-ups. Normally, the enemy has had the opportunity to remove or conceal his dead before leaving the strike area.

A MACV post-strike assessment for earlier periods implies an even higher 1968 KIA rate. Between June 1966 and October 1967

245 B-52 strikes reportedly killed 2,489 enemy troops or approximately 10 per strike. If six aircraft are assumed to constitute one strike, this would be 1.7 killed per sortie, or an estimated 3,000 KIA per month if applied to the 1968 sortie rate.

An informal CIA study of captured documents and rallier-POW interrogations would suggest that as many as 6,300 troops per month could have been killed and a like number wounded by B-52 attacks during 1968, but these figures are substantially inflated. Our analysis was based on 233 documents and interrogations mentioning B-52 strikes that were selected randomly from intelligence reports available in 1968. These sources revealed 4,871 killed as the result of 229 strikes, or an average rate of 3.5 per sortie. However, the document and interrogation approach can be expected to yield an estimate higher than actual results because these sources fail to report missions where no one was killed, or where targets were missed completely.

Although we are unable to determine the extent of bias in any of these estimates it is apparent that B-52 strikes have become a significant factor in the attrition of enemy forces. To the best of our knowledge B-52 casualties confirmed by ground follow-up are included in the official KIA figures. Thus, to the extent that the remaining B-52 strikes are indeed casualty producing, the official KIA figures may understate somewhat the actual level of enemy attrition.

B-52 strikes undoubtedly disrupt VC/NVA operations, but because of the inaccessibility of most targeted areas, the extent of this disruption also cannot be quantified. We believe it reasonable to assume that materiel losses due to airstrikes of all kinds probably are at least equal to those resulting from Allied ground operations, some 20 tons a day during 1968. These losses may be critical in regard to specific military operations but do not represent a significant burden in terms of the enemy's over-all resupply capabilities. In addition to casualties and materiel losses, B-52 strikes induce numerous troops to desert or defect. Interrogation of captured enemy senior officers indicates that B-52 attacks are also a significant threat in rear areas where no other weapons system is really effective. In particular, B-52 strikes contributed greatly to the defense of Khe Sanh.

VC/NVA forces also apparently retain some capability to reduce the disruptive effects of B-52 strikes through the use of an elaborate warning system.

Question XXVII: What effect is the Laotian interdiction bombing having:

a. In reducing the capacity of the enemy logistic system?

The air campaign in Laos is not resulting in any sustained reduction of the capacity of the enemy logistic system, although it is causing the enemy intermittent, localized transport problems. Agreed CIA/DIA estimates of the road capacity and volume of truck traffic on the major access routes from North Vietnam into Laos indicate that these routes are being used at only 10 to 15 percent of their capacity. Such a low level of use, and the experience of four years of observing the effects of bombing, make it clear that the capacity of these routes cannot be reduced by bombing to a level that imposes a meaningful restraint to the enemy's ability to resupply his forces in South Vietnam. All available evidence indicates that traffic in the Laotian Panhandle is continuing at levels equal to, or slightly higher than, comparable periods in the past.

Aerial photography during December and early January revealed that the road network through and around the most heavily attacked logistics chokepoints in southern Laos was capable of supporting the amount of traffic entering from North Vietnam. Although these areas have been repeatedly interdicted, causing numerous delays and disruptions, comparative photography indicated that trucks were able to move through the chokepoints or on nearby bypasses. This traffic apparently moved under cover of darkness and during periods of poor visibility.

Pilots sightings in southern Laos averaged 1,140 trucks per week during November and December 1968 and increased to 2,240 during the first three weeks of January, a slight increase over similar periods last year. Although part of the continued high level of truck sightings since 1 November may be explained by an increase in sorties, most of the additional sorties have been directed against fixed targets such as roads, truck parks, and enemy installations. Further, there has been an increase in truck sightings on main road bypasses, indicating the enemy's ability to circumvent interdicted roads and chokepoints.

The number of truck movements detected by sensors has increased substantially since the bombing halt in North Vietnam, from less than 400 per week in October 1968 to almost 6,000 in January 1969. Although this increase was due in part to the placement of additional and more effectively located sensors, sensor data indicated that the Communists have increased their use of Routes 128, 236A, 239, 917, and the alternate routes in the area between Mu Gia Pass and Sepone.

Reports from roadwatch teams along the two main entry routes into Laos also indicate that traffic within Laos has not been substantially disrupted by air attacks. Teams on Route 15 in the Mu Gia Pass area reported that traffic moving into Laos in October 1968—January 1969 was about the same as in the same periods in 1967 and 1968, as shown in the tabulation below:

AVERAGE NUMBER OF TRUCKS PER DAY SOUTHBOUND ON ROUTE 15

	1967	1968	1969
October	17	19	----------
November	10	11	----------
December	20	21	----------
January	22	25	25

Although roadwatch teams along Route 912 have not been close enough to the road to estimate traffic flows, infrequent reporting from these teams have indicated that traffic on Route 912 has been the same or higher in the past few months compared to similar periods last year.

Other intelligence sources indicate that since 1 November there has been a relatively continuous flow of supplies and vehicular traffic along Routes 912, 911, 9 and 914.

b. In destroying materiel in transit?

It is extremely difficult to estimate how many tons of goods in transit the enemy is losing in Laos. Such estimates must depend upon pilot reports of trucks destroyed and damaged, and of secondary fires and explosions. Under the best of conditions bomb damage assessment based on pilot reporting is an extremely unscientific process. In Laos, where the target system is rudimentary, the tonnages being moved are small, the opportunities for dispersion great, and direct observation is obscured by rugged terrain and jungle canopy, any estimate of the volume of supplies being destroyed is especially tenuous.

The most reasonable way to estimate enemy supply losses in Laos is to multiply each truck loss to air strikes by 1.5 tons, on the assumption that half of the destroyed trucks were delivering supplies fully loaded, and the other half were returning empty. The average carrying capacity of the type of truck operating in Laos is 3.0 tons. Applications of this methodology to the 1968 campaign in Laos indicates that about 20 tons of supplies were destroyed daily, the equivalent of about 12 percent of the estimated 165 tons of supplies that entered Laos daily during the same month.*

The above estimate makes no allowance for supplies destroyed in storage in Laos although such losses undoubtedly occur in addition to losses associated with truck destruction. The only available information that would permit an estimate of these supply losses are pilot reports of secondary explosions and fires. It is extremely difficult, however, to choose with any degree of confidence the factor that should be applied to each observed secondary explosion or fire. Under the jungle canopy, an explosion of a 55-gallon gasoline drum is difficult to distinguish from the explosion of three tons of ammunition. Furthermore, it is not known to what extent there is duplication in pilot reports of destroyed trucks that explode or catch fire, and other reports of secondary explosions and fires. Rather than use a methodology based on the evidence of secondary explosions CIA has customarily considered that the enemy's in transit losses amounted to 20 percent of total traffic, compared to our calculated 12 percent. This added margin, in our judgment, is sufficient to account for any supply losses that would not be included in our estimates.

Enemy supply losses at this level are not so great as to put a serious constraint upon enemy operations in South Vietnam. During 1968 an estimated 165 tons of supplies were delivered daily into the Panhandle of Laos. After allowing for the requirements of the forces in Laos and estimated losses, this volume of traffic was more than 2.5 times the enemy requirements for supplies that must enter South Vietnam. A similar level of truck losses and secondary explosions were reported by pilots in Laos during November 1967—January 1968 yet the enemy apparently moved a quantity of supplies through Laos that was adequate to conduct the Tet offensive.

Question XXVIII: With regard to the bombing of North Vietnam:

a. What evidence was there on the significance of the principal strains imposed on the DRV (e.g., in economic disruption, extra manpower demands, transportation blockages, population morale)?

The major effects of the bombing of North Vietnam were extensive damage to the transport network, widespread economic disruption, greatly increased manpower requirements, and the problems of maintaining the morale of the people in the face of personal hardships and deprivation. Hanoi was able to cope effectively with each of these strains, so that the air war did not seriously affect the flow of men and supplies to Communist forces in Laos and South Vietnam. Nor did it significantly erode North Vietnam's military defense capability or Hanoi's determination to persist in the war. Material losses resulting from the bombing were, for the most part, offset by increased imports from Communist countries. Damage and destruction by the bombing of military and economic facilities and equipment, together with measurable losses of output, were valued at about $500 million. Economic and military aid during 1965-68 is estimated at over $3 billion.

---

* This estimate assumes that an average of about 100 trucks were destroyed weekly in 1968. Pilot reports of trucks destroyed and damaged were deflated on the basis of an agreed CIA/DIA formula that calculates losses as 75 percent of those trucks that pilots report as having been destroyed and 25 percent of those reported damaged. This deflation allows for some duplication and inaccuracies in pilot reports and recognizes the known ability of the North Vietnamese to repair damaged trucks. Despite this adjustment it is entirely possible that the truck loss estimates are still exaggerated and inflate the estimate of enemy supply losses.

Despite heavy damage to the transport network throughout the bombing, effective countermeasures kept the system operable. In the northern part of the country, transport into Hanoi and the port of Haiphong was disrupted by the destruction of a number of key bridges. The Hanoi Railroad/Highway (Doumer) Bridge over the Red River remained out of service between December 1967 and July 1968; the Haiphong Railroad/Highway Bridge was out much of the time between September 1967 and April 1968. Rail traffic on the Lao Cai line to China was restricted by the destruction of the bridge at Viet Tri that remained unserviceable from mid-1966 to December 1968. In each of these, as in countless other interdictions, pontoon bridges, ferries, or temporary bridges provided bypasses to the original structures and permitted continued logistic movements. Other measures to counter bomb damage included the prepositioning of materials and the training of local teams to effect repairs quickly; developing of transport schedules to make maximum use of the cover of darkness and of bomb free sanctuary areas; and pressing into service all types of equipment including bicycles and carts.

The bulk of the bombing throughout the air war was carried on in the Panhandle of North Vietnam. Even under the heavy bombing during the time that air attacks were restricted to the area below the 19th Parallel, however, logistic flows into Laos were maintained, as evidenced by the reports of roadwatch teams and by photography. (See question 28b.)

Throughout the bombing campaign, construction of new rail lines and new highways, along with the dual gauging of the Hanoi-Dong Dang line, was continued so that the transport network now has a greater capacity than at any previous time.

Economic disruption, besides that to the transport system, met with varying degrees of response by the Hanoi regime. Repair of damaged electric powerplants was carried out when major reconstruction was not required, and an estimated 20 percent of the country's prebombing capacity was kept operational at the height of the bombing in mid-1967. A large number of diesel electric generators were imported to provide independent power to essential users. Blast walls were constructed around the principal electric powerplants, beginning in early 1968. For the most part, damage to manufacturing facilities was left unrepaired and the reduced domestic output of such items as cement, chemicals, and clothing was replaced either in whole or in part by imported goods. Efforts to restore the output of important export products that were casualties of the bombing—pig iron, coal, apatite, and cement—were not observed until after the bombing north of the 19th Parallel had been halted. The machine building industry was relatively undamaged by the bombing and appears to have been expanded through substantial imports of machinery and equipment over the past three years.

Disruption of agricultural output by the indirect effects of the bombing on distribution and on the management and productivity of labor was offset by greatly increased imports of foodstuffs with little adverse effect on the availability of food. Rice rations, however, were increasingly honored with less palatable substitutes of imported wheat flour, corn, or domestic subsidiary crops.

Extra manpower demands induced by the bombing brought about some tightening of over-all manpower availabilities, but never reached proportions significant enough to limit Hanoi's support of the war. Additional demands for laborers to repair bomb damage, to move goods, and to help in civil defense were estimated to total between 475,000 and 600,000. Of these, less than 200,000 were occupied full time in war-related activities; the remainder were used as conditions warranted. The bombing required an additional 100,000 military personnel within North Vietnam to man the air defenses.

These extraordinary demands were satisfied primarily from the underemployed in agriculture and the services sectors, and by the increased use of women. The agricultural labor force could be reduced substantially without a proportionate decline in output because of the low marginal productivity of each farmer. Similarly, workers in handicraft industries could be diverted with only slight adverse effects on the economy. Military manpower requirements, that increased each year during the bombing, were satisfied by broadening the draft regulations. The draft age was increased, former servicemen were recalled to service, and physical standards were lowered. As a result, an estimated 600,000 males were added by 1967 to the 800,000 males eligible for military service in 1965.

The bombing imposed severe hardships on the people by the constant threat to life, by the disruption of personal routines, and by the dispersal of industry and evacuation from urban areas. There were some indications in late 1967 and in 1968 that morale was wavering, but not to a degree that influenced the regime's policies on the war. The regime was quite successful, however, in using the bombing threat as an instrument to mobilize people behind the Communist war effort. There is substantial evidence, for instance, that the general populace found the hardships of the war more tolerable when it faced daily dangers from the bombing than when this threat was removed and many of the same hardships persisted. Concern about maintaining popular morale, and, in particular, discipline and unwavering support for the needs of the war appears to have grown markedly in the past year when most of the country was no longer subjected to bombing. Since the 1 November bombing halt over the entire country, Hanoi has put great stress on countering the widespread tendency of the people to relax their efforts. Concern of this kind is reflected almost daily in North Vietnamese publications and broadcasts as the regime has used exhortation, criticism, and the threat of coercion to sustain support for the needs of the war in South Vietnam.

b. What was the level of logistical throughput through the southern provinces of NVN just to the November bombing halt? To what extent did this level reflect the results of the US bombing campaign?

An average of about 1,000 short tons per day moved south of Thanh Hoa into the southern provinces of North Vietnam during the period April through October 1968. About one third of the total flow was economic goods; the remainder, military and war-related goods such as petroleum. About 75 percent of the supplies moved into the Panhandle of North Vietnam were used locally (AAA ammunition comprised a major portion of the total), 15 percent were moved into the Panhandle of Laos for use there or in South Vietnam, 5 percent moved to the DMZ, and 5 percent moved into northern Laos.

The North Vietnamese have continually increased the volume of supplies moving into the southern provinces. The total daily volume moved south during the seven-month period before the bombing halt in October was 15 percent higher than that moved in 1967. The volume moved southward in 1967 was more than double that of 1965. The throughput tonnage to southern Laos increased substantially in 1968 compared with 1967 as shown below:

[Average number per day]

	April through October			
	1967	1968	1967	1968
Tons delivered to southern Laos	95	165	70	145

The increase in the volume of supplies moved into the Panhandle of North Vietnam and Laos in 1968 consisted almost exclusively of military and war-related goods. It resulted from the step-up in personnel infiltration, the higher levels of combat in South Vietnam, and the increased supplies and equipment needed to maintain through logistic movements in the face of increased air interdiction against lines of communication (LOCs).

During April-October 1968 an average of about 95 tons per day were destroyed as a consequence of air attacks, or roughly 10 percent of the total flow into the southern provinces. In addition to direct losses the bombing complicated the flow of supplies to Laos and South Vietnam. We are convinced, however, that the bombing did not put a relevant ceiling on the volume of supplies that the enemy could move South. The enemy was able to take effective countermeasures that resulted in the maintenance and even an increase in the flow of traffic. During the final months of the air war, traffic movements in the Panhandle of North Vietnam were influenced as much by the weather and logistic needs as they were by the intensity of the air strikes.

One reason why the air interdiction campaign was not more successful is the fact that the capacity of the transportation routes remained well above the requirements for their use. Another reason is that even though large amounts of transportation equipment were destroyed and damaged by air attacks, the North Vietnamese were able to repair and replace motor trucks, watercraft and railroad rolling stock so that no shortages developed.

The estimates of traffic flows into the southern provinces of North Vietnam are based on both indirect and direct evidence, supported by a limited amount of documentary evidence. The estimate for 1965 was based, in part, on a sample of actual traffic and has been increased over time by such indicators of activity as changes in the military order of battle, pilot sightings, aerial photography, the level of imports, and roadwatch reporting. The data, therefore, are subject to a margin of error, but are of the proper order of magnitude and could have as great a downward bias as an upward one.

The estimate on supplies lost through air strikes contains an unknown amount of redundancy, and is probably too high. It is based on reports by pilots of the number of fires and secondary explosions, and of the amount of transport equipment destroyed and damaged.

The most authoritative part of the throughput estimate is the amount of supplies delivered to southern Laos which is based on reports from roadwatch teams, particularly those on Route 15/12 to the Mu Gia Pass. The tonnage moved to southern Laos via this route is an estimate based on these reports and is considered to be a minimum estimate. Roadwatch reports for Route 15 also serve as a basis for estimating traffic on the other principal access road (Route 137/912) which has not had good coverage by roadwatch teams. Other intelligence confirms that our estimates of the traffic moving on Route 137/912 were essentially accurate. We believe that the data compiled through careful research and analysis over many years are adequate to support our estimates and that objective alternative interpretations of the data would be difficult.

a. To what extent did Chinese and Soviet aid relieve pressure on Hanoi?

Communist military and economic aid to North Vietnam to a large extent offset the physical destruction and the disruptive effects of the US bombing and were instrumental in maintaining the morale of the people. Communist countries provided all of the weapons; enough food, consumer goods and materials to compensate for lost domestic output; and most of the equipment and materials to maintain the transport system.

Without Communist aid, most of it from the Soviet Union and China—particularly given the pressures generated by the bombing—the Vietnamese Communists would have been unable to sustain the war in both South and North Vietnam on anything like the levels actually engaged in during the past three years.

The amount of Communist economic aid delivered annually has grown from a yearly average of less than $100 million through 1964, to $150 million in 1965, $275 million in 1966, $370 million in 1967, and $460 million in 1968. The value of Communist military aid increased from an average of less than $15 million a year during 1954–64, to $270 million in 1965, $455 million in 1966, and $650 million in 1967. With the restricted bombing of the heavily defended northern part of the country in 1968, military aid deliveries were reduced. At least 75 percent of total military aid since 1965 has been for air defense.

North Vietnam's air defenses significantly reduced the effectiveness of the US bombing, resulted directly or indirectly in the loss of almost 1,100 US aircraft, and provided a psychological boost to morale. Before 1965, the Soviet Union had provided North Vietnam with only ground forces equipment, transport and trainer aircraft, and small naval patrol craft, while China had provided MIG 15/17 jet fighters, motor gunboats, and ground forces equipment. Since early 1965, the USSR has provided North Vietnam with most of its air defense systems including surface-to-air missiles, jet fighters, a radar network, and antiaircraft artillery. Chinese military aid since 1965, much smaller than that from the USSR, has been important primarily in building up North Vietnam's ground forces, including reequipping Communist ground forces in South Vietnam with the AK–47 assault rifle, the 107-mm rocket, and other new weapons.

The bombing had been indirectly responsible for part of North Vietnam's reduced agricultural output since 1965 because of diversions of labor and disruptions to the distribution system. Greatly increased imports of foodstuffs in 1967 and 1968 have prevented any serious widespread food shortages. The food supplied by Communist countries during 1968 probably provided at least a sixth of the total calories consumed by the North Vietnamese. A comparison of estimated shortfalls in rice production and of imports of foodstuffs is shown below:

[Thousand metric tons]

	1965	1966	1967	1968
Shortfalls (in rice equivalents)	0	200	350	500
Imports	120	80	460	790

Estimates of the shortfalls are tenuous and the extent of the increase in output of subsidiary foods cannot be measured. Moreover, the annual population increment adds almost 70,000 tons to the country's annual food requirements.

Without Communist assistance in maintaining the logistics network, North Vietnam's capacity to move supplies southward in support of the war in South Vietnam would have been seriously restricted. To offset the considerable damage to the transport system, the Soviet Union and China provided large quantities of construction machinery and materials, trucks, railroad rolling stock, and watercraft. At no time during the bombing was there close to a critical shortage of transport equipment in North Vietnam. In addition, China supplied North Vietnam with about 50,000 engineering and support troops to build, repair, and defend transport facilities in the northern part of the country.

North Vietnam's small modern industry was destroyed or rendered largely inoperative as a result of bomb damage. All the major Communist countries, however, especially the Soviet Union, have supplied North Vietnam with a vast array of industrial machinery, metal products, vehicles, and chemicals that in total value are several times greater than the value of lost domestic industrial output.

d. What are current views on proportion of war-essential imports that could come into NVN over the rail or road lines from China, even if all imports by sea were denied and a strong effort even made to interdict ground transport? What is the evidence?

All of the war-essential imports could be brought into North Vietnam over rail lines or roads from China in the event that imports by sea were successfully denied. The disruption to imports, if seaborne imports were cut off, would be widespread but temporary. Within two or three months North Vietnam and its allies would be able to implement alternative procedures for maintaining the flow of essential economic and military imports. The uninterrupted capacities of the railroad, highway, and river connections with China are about 16,000 tons per day, more than two and a half times the 6,300 tons per day of total imports overland and by sea in 1968, when the volume reached an all-time high. Experience in North Vietnam has shown that an intensive effort to interdict ground transport routes by air attack alone can be successful for only brief periods because of the redundancy of transport routes, elaborate and effective countermeasures, and unfavorable flying weather.

Almost four years of air war in North Vietnam have shown—as did the Korean War—that, although air strikes will destroy transport facilities, equipment, and supplies, they cannot successfully interdict the flow of supplies because much of the damage can frequently be repaired within hours. Two principal rail lines connect Hanoi with Communist China, with a combined capacity of over 9,000 tons a day. Eight primary highway routes cross the China border, having a combined capacity of about 5,000 tons per day. In addition, the Red River flows out of China and has a capacity averaging 1,500 tons per day.

An intensive and sustained air interdiction program could have a good chance of reducing the northern rail capacity by at least half. However, roads are less vulnerable to interdiction, and waterways even less so. In the June-August 1967 air attacks—a previous high point of U.S. interdiction efforts against targets in the northern part of North Vietnam—the transport system was able to function effectively.* Strikes in August 1967 against the Hanoi-Dong Dang rail line were effective in stopping through service for a total of only ten days. Strikes during this period against the highways that parallel the Dong Dang line showed no significant or sustained reduction of capacity. The Hanoi-Lao Cai rail line capacity, after destruction of the Viet Tri bridge, was maintained at 700 tons per day by use of a rail ferry. If more capacity had been required, however, there is every reason to believe that additional facilities would have been installed at this location to restore the through capacity of the line.

In addition to the overland capacity, an airlift from Chinese airfields could potentially provide a means for importing a large volume of high-priority goods. Moreover, total interdiction of seaborn imports would be difficult because shallow-draft lighters could be used to unload cargo from ocean-going ships anchored in waters outside the mined major harbor areas. Large numbers of small coastal ships and junks could move cargoes from ships diverted to southern Chinese ports of Fort Bayard, Canton, or Peihai, and could unload imports over the beaches, or move into North Vietnam's network of inland waterways.

The volume of imports that would be essential to maintain the war cannot be closely estimated. Out of total imports in 1968, less than five percent were military material and ammunition. Other imports essential to the war would include petroleum, food, clothing, transport equipment, and construction materials to maintain the lines of communication. In 1968, the volume of all overland and seaborne imports included the following:

[In thousands of metric tons]

Total	2,300
Military materiel	100
Foodstuffs	790
Petroleum	400
Fertilizer	155
Miscellaneous	860

Within the miscellaneous category was an undetermined amount of goods to maintain the economy, to build factories, and to satisfy, at least in part, civilian needs. Moreover, the level of import of some goods was believed to be more than current consumption, permitting a buildup of reserves. It is possible, therefore, that war-essential imports might be as much as one fourth less than the total, or 4,700 tons per day. Whether war-essential imports are estimated to be 4,700 or 6,300 tons per day, however, the overland import capacity would be from two to three times the required import level, and it is unlikely that air interdiction could reduce transport capacities enough over an extended period to significantly constrict import levels.

e. What action has the DRV taken to reduce vulnerability and importance of Hanoi as a population and economic center (e.g. through population evacuation and dispersal)?

During 1965–68, Hanoi's vulnerability has been reduced somewhat by evacuation of the nonessential population and by dispersal of small industries. Despite these measures, however, Hanoi's economic importance has been largely preserved. The city's air defense is manned by experienced crews and probably has been enhanced during 1968 by the installation of new radar equipment. Construction of additional bomb shelters and maintenance of the older shelters apparently continues. Reports indicate a steady return of evacuees to Hanoi since mid-1968, but these probably could be evacuated again on short notice. On balance, the city's defensive posture appears to have improved gradually since the bombing limitation of 31 March 1968.

Evacuation of the population from Hanoi reportedly involved 300,000 people, more than one half the population of the city proper, of which 170,000 were students and children. Although few specific details are available, the second largest group evacuated probably was handicraft workers, followed by non-essential and old people, government workers, and the labor force of a few factories. Most of these people are believed to have been moved to the rural areas just a few miles outside the city, still largely within the boundaries of the Hanoi metropolitan area. Their proximity to the city is attested to by frequent reports of a large influx of people on weekends. Even though the evacuation produced some hardships—crowded living conditions, separation of families, longer commuting distances—the welfare of the population generally was adequately served. Currently, a growing number of evacuated people are reported to be returning to Hanoi, but the regime has warned that conditions are still not safe. Although primary and secondary schools and universities have not been officially relocated to urban areas, some outdoor classes were observed in late 1968 in Hanoi. There were reports in December that some kindergarten and nursery schools would be reopening soon in the Hanoi area. Hospitals and most government agencies officially continue to operate from dispersed sites.

---

* Interdiction of the lines of communication between Hanoi and the China border could not be sustained at the level that was achieved in the southern Panhandle of North Vietnam during August through October 1968 for a number of reasons. The multiplicity of modes and transport routes in the North would make it necessary to sustain interdiction at a larger number of points than in the Panhandle. Air defenses in the North—aircraft, missiles, and antiaircraft artillery—make air attacks less accurate and also more costly in terms of U.S. air losses. We believe it is unlikely that either B–52s or Sea Dragon forces could be brought to bear in an interdiction campaign in the north.

Industrial dispersal primarily involved small enterprises and short-distance relocation within the Hanoi metropolitan area. It apparently has been accomplished without long-term effects on Hanoi's economy. Dispersal of large industrial installations was limited to a few factories that could be broken up into small producing units. For example, parts of the 8th March Textile Plant and the Hanoi Machine Building Plant were dispersed, but certain shops at the original plants remained active throughout the bombing. On the other hand, in the handicraft sector, which supplied about half the total industrial output in Hanoi prior to the bombing, it appears that hundreds of handicraft shops were relocated, probably to the suburbs surrounding the city. Little disruption of output would result from dispersal of these small-scale, labor-intensive enterprises, compared to the inefficiency inherent in dispersing large installations. Furthermore, as handicrafts typically employ more than 65 percent of the industrial labor force in North Vietnam, the dispersal would be an effective means of evacuating a substantial segment of the population from the city with minimal disruption to the economy.

Hanoi is the land transportation hub to the southern part of the country. Rail connections with the port of Haiphong and with Communist China, as well as the most important highways, converge on Hanoi. Therefore, most of the imports destined for the south pass through Hanoi. When the main bridges into Hanoi were destroyed under the Rolling Thunder camapign, the North Vietnamese built rail and highway bypasses around the city. The original bridges now have been repaired but the ferry or pontoon bypasses are being kept in readiness for emergencies.

Hanoi continued to bolster its defense against air attacks even after the 31 March 1968 bombing limitation. Some 34 million individual shelters have been constructed throughout the country, and the Hanoi area claims an average availability of 3 shelters per person that can be reached in seconds after a warning is sounded. A number of bunker-type shelters were observed under construction in the spring of 1968, and limited construction of these was continuing as recently as December. The population is experienced in first-aid, techniques of designing home shelters, and regularly cleaning and repairing older shelters. The air defense capability probably has been upgraded by the installation of 10 modified Fan Song radars in the surface-to-air missile network around Hanoi in 1968. Revetments to protect a small number of critical installations have been observed, and massive blast walls were erected around the Hanoi Thermal Powerplant and the Hanoi Post, Telephone and Telegraph building to protect against all but direct hits.

ENVIRONMENT OF NEGOTIATIONS

Question 1: Why is the DRV in Paris? What is the evidence?

Among the hypotheses:

A. Out of weakness, to accept a face-saving formula for defeat.

B. To negotiate the withdrawal of US (and NVA) forces, and/or a compromise political settlement, giving a chance for NLF victory in the South.

C. To give the US a face-saving way to withdraw.

D. To undermine the GVN and US/GVN relations, and to relieve US military pressure in both North and South Viet-Nam.

E. Out of desire to end the losses and costs of war on the best terms attainable.

Answer:

1. We do not believe that any of the hypotheses listed in the question adequately explain why the DRV is in Paris, but we believe, as outlined below, that there are elements of several of these hypotheses, plus some that are not listed, in enemy motivation.

2. The fundamental reason that the DRV is in Paris is that the leaders in Hanoi feel that, given their present strengths and weaknesses, participation in the talks will further what remains their basic objective—to gain control of South Viet-Nam. Hanoi's tactics in Paris will be determined by their judgment as to how best to use the talks to attain this objective.

3. Hanoi's purposes in the talks must be viewed in the light of the fact that the long-term trend on the ground in Viet-Nam has for some time been unfavorable to them. Apparently the advocates of an all-out effort (according to the so-called Giap doctrine) won acceptance of such a strategy as against the alternative strategy of protracted warfare (usually attributed to Truong Chinh). As the failure of this strategy became more apparent in 1968, and as the enemy's hopes for a "popular uprising" were disappointed, he has come to pin his principal hope for early victory on a weakening of the U.S. will to carry on the struggle, and much of his military, political, and diplomatic activity is designed to encourage and accelerate that process. (There are elements of Hypotheses A, C, D and E here.)

4. Hanoi's basic purposes in the negotiations have thus been: first, to obtain relief from immediate allied military pressure (through partial and then complete cessation of the bombing, and now possibly through other de-escalatory measures)—part of Hypothesis D above; second, to obtain the withdrawal of American forces, the presence of which the enemy knows will prevent him from achieving military victory in South Viet-Nam; and, third, establishment, with U.S. help, of political arrangements for the South which will create favorable conditions for achievement of control over the nation by pro-communist political elements—Hypothesis B above. The most obvious evidence of this is in the enemy's propaganda—he first concentrated on cessation of the bombing; with the achievement of that aim, he has turned up the volume of his propaganda on withdrawals and on the need to replace the present GVN by a "peace cabinet" which will lead to a coalition government made up of the Communists and their friends but excluding the present GVN leadership. The captured documents and the private conversations of Hanoi's representatives in Paris and elsewhere echo the same themes.

5. The enemy is also pursuing several tactical ends in the Paris talks. These include: demonstrating his own "love of peace" to world public opinion, which is so important to him (this was probably one of the reasons he accepted President Johnson's offer to negotiate in March); casting the GVN, in the eyes of the world and the people of Viet-Nam, in the role of "the obstacle to peace" (the table shape debate is a good example); discrediting the GVN's character and accomplishments before the world press; exacerbating friction between the GVN and the USG—Hypothesis D above; building up the NLF (the insistence on the "four-party" conference shows this); and advertising Hanoi's version of the origin and nature of the war.

6. These tactical aims are important to Hanoi, and pursuit of them has, and doubtless will on occasions in the future, delay or even risk prejudicing achievement on the more basic objectives outlined above. Yet these latter remain over-riding. Hanoi is under pressure on the ground. In the absence of a collapse of the U.S. will to fight, it is at the negotiating table that Hanoi must obtain relief and/or achieve its ends.

7. How much, or how little, Hanoi will settle for at the table depends on many factors. Hanoi's expectations from the negotiations appear to have changed considerably over the past months. There is fairly good evidence—in the way Hanoi responded to the March 31 speech, its statements about it at the time and afterward, and its conduct at the negotiations—that the leadership first thought they were probably going to get an American surrender, papered over with a few face-saving devices. As the weeks wore on, and it became apparent this was not in the cards, and as the situation on the ground continued to deteriorate, Hanoi decided it would have to make concessions to achieve its immediate strategic goal—cessation of the bombing. And Hanoi did make concessions.

8. Once Hanoi is convinced the new administration is not going to "quit" in Viet-Nam or give the game away for free in Paris, and after a period of propaganda exchanges, we would expect renewal of "serious" talks. The primary aim of these for Hanoi will be US withdrawal coupled with the best attainable political settlement. Hanoi will dangle issues such as prisoners before us to achieve these ends and in pursuit of their tactical objectives outlined above. Hanoi will try to obtain their ends at minimum cost to themselves in terms of their own withdrawal, effective supervision of a settlement, and the like. Yet we think the prospects on the ground are bleak enough for them so that they will, in the end, make significant concessions (in terms of their own withdrawal) to get us out. They may even relinquish their effort to obtain a favorable political settlement in the negotiations, provided they feel the play of forces in South Viet-Nam in the wake of the agreements reached holds out good promise for their military or political take-over of South Viet-Nam in the next few years.

ENVIRONMENT OF NEGOTIATIONS

Question 2: What is the nature of evidence, and how adequate is it, underlying competing views (as in the most recent NIE on this subject, with its dissenting footnotes) of the impact of various outcomes in Viet-Nam within Southeast Asia?

Answer:

1. There is evidence that the leaders of other Southeast Asian countries—Laos, Cambodia, Thailand, Malaysia, Singapore, Indonesia and the Philippines—are greatly concerned that a Communist victory in Viet-Nam will have gravely adverse repercussions on their own security. However, this does not in itself constitute adequate evidence that those repercussions would actually occur.

2. It might be held that a victorious North Viet-Nam might, at least for a time, conduct a policy of restraint and accommodation reassuring to the other countries of Southeast Asia, and/or that the non-communist neighbors of a victorious North Viet-Nam would unite together to create some kind of equilibrium in Southeast Asia that would deter further communist aggression.

3. Evaluation of such a prospect is a matter of judgment, not of evidence. It seems to us that a victorious North Viet-Nam would be overwhelmingly powerful in the area, would see no immediate reason for

restraint at least in Laos and Cambodia, would conduct itself with justifiable pride and assertiveness as a country that had defeated the most powerful nation on earth, and would accordingly strike terror into its opponents and convey encouragement and support to its potential allies and supporters in other Southeast Asian countries. We are not assuming an explicit "great design" for aggrandizement, which is difficult to substantiate, but rather a succession of moves in response to increasing opportunities to exercise Vietnamese influence and eventually control in Southeast Asia.

4. Some proof of this can be found in the behavior of the communists in Laos, Cambodia and Thailand. As North Viet-Nam scored successes during the current war, those elements were emboldened to act either at the direction of North Viet-Nam or independently. We think the case of Cambodia is particularly instructive. It is by no means certain that the "Red Khmers" were organized and sent into battle by the North Vietnamese. Neither, however, could they be disavowed or deprived of support. It stands to reason that initiatives of this kind, even if not directly instigated by a victorious North Viet-Nam, would furnish opportunities for support which it would find difficult to resist.

5. The foregoing reasoning, it seems to us, has merit regardless of whether or not one believes North Viet-Nam to be acting at the instigation of Communist China or other countries. In comparison to other Southeast Asian countries, a victorious North Viet-Nam would be a great power. Support for further aggressive policies in the name of "wars of liberation" could hardly be denied to it by at least some other communist countries. Restraints from others among the communist countries, in the heady atmosphere of victory, would probably be relatively ineffective; and various moves on the part of Southeast Asian countries to accommodate a victorious North Viet-Nam would create the general image of it as the "wave of the future."

6. We wish to underline that we are not able to answer the specific question, which is about the nature and adequacy of the evidence. Even if it were copious, we would not attribute much importance to evidence about the ideological commitment of North Viet-Nam to wars of national liberation. Ideology, while undoubtedly a factor, is probably less important in North Viet-Nam than national pride and assertiveness. We attach somewhat more importance to traditional Vietnamese national ambitions and expansionist behavior. But we attribute the greatest importance to evidence from other Southeast Asian countries that they feel they would have to accommodate themselves to a victorious North Viet-Nam.

7. It seems to us that an unusual amount of restraint would have to be postulated for a victorious North Viet-Nam if it is expected to resist the opportunities for further aggrandizement, at least over Laos and Cambodia. For specifics about those opportunities the other area posts should be queried. It seems to us that evidence should be readily available especially for Laos, Cambodia, Thailand, Malaysia, Singapore and the Philippines. The degree of accommodation of such countries is apt to be a function, it seems to us, of (a) the degree of pressure from a victorious North Viet-Nam, (b) the internal strength and resilience of the non-communist societies, and (c) the degree and credibility of any countervailing pressure that could still be exercised by the U.S. and other major powers. We venture the guess that the first of these factors would be large and the others relatively small.

8. Should a relatively permanant stalemate be achieved between North Viet-Nam and South Viet-Nam, the prospects for a stable equilibrium in the area would seem much improved. There would be incentives for Laos and Cambodia to exercise a more truly neutral role as buffers; and cooperative relationships among the non-communist countries of the area could gradually permit a reduction of the countervailing American power necessary for a wider equilibrium. The credibility of U.S. security assurances would have been strengthened by having been demonstrated. For these favorable trends to come into play it would not be necessary for North Viet-Nam to acknowledge defeat in any settlement; it would be sufficient for the demonstration to be made that its ambition to take over South Viet-Nam had been frustrated for the immediately foreseeable future.

January 30, 1969.

Question 3: How soundly-based is the common belief that Hanoi is under active pressure with respect to the Paris negotiations from Moscow (for) and Peking (against)? Is it clear that either Moscow or Peking believe they have, or are willing to use, significant leverage on Hanoi's policies? What is the nature of evidence, other than public or private official statements?

Answer:

1. We in Saigon have no evidence that Hanoi is under active and heavy pressure with respect to the Paris negotiations from either the USSR or Communist China. In fact, we believe that the North Vietnamese make their own decisions on the negotiations.

2. The Chinese of course have made it abundantly clear in their propaganda that they are opposed to the negotiations. They have also publicly indicated their displeasure with Hanoi's conduct by a variety of small slights and statements. How much they have told Hanoi privately we do not know, but we can assume they have made their views plain. There have been reports that delays in aid shipments, withdrawal of construction workers, and other actions by the Chinese were taken for the purpose of pressuring Hanoi to alter its stand on negotiations. While these things have occurred, we have not seen convincing evidence that the motive behind them was to pressure Hanoi, and they can all be explained by other factors (disorders within China, cessation of the bombing, etc.). Furthermore, it appears that the Chinese have now decided that the negotiations are a fact of life with which they must live.

3. The Soviets have been more circumspect in their public utterances than the Chinese, and they have in their propaganda applauded the negotiaions and stressed their importance. They have on occasion been helpful in clarifying issues in the course of neogtiations and in assisting ourselves and the North Vietnamese to reach specific agreements. We do not know how much pressure they have put on Hanoi to be "flexible", but we do think they have given some quiet encouragement in that direction.

4. It is of course the Sino-Soviet rivalry and the divergent views of the two nations on the Viet-Nam issue that have left Hanoi so relatively free from pressure from these two powers. Hanoi is very dependent on their help, and neither power is known for an innate reluctance to use its influence to pressure friend or foe. Given the rivalries between Moscow and Peking and their differing interests in the Viet-Nam war, Hanoi has ample room for maneuver between those Communist powers. Furthermore, the USSR and Communist China probably hesitate to put too much pressure on Hanoi for fear of lending substance to an accusation by the other of "betraying the front line of socialism." The Sino-Soviet rivalry also increases the interest of the Soviet Union in Viet-Nam, thus making it easier for Hanoi to obtain Soviet aid for its war and post-war needs.

5. Thus Hanoi, by playing its cards with skill and taking into account the sensibilities of the two powers in choosing the form, if not the substance, of its policies, has been able to maintain a remarkable degree of independence. With the decision to go into negotiations, Hanoi has moved closer to the Soviet side of the argument, and it is perhaps natural that the role of Soviet advice and influence should loom larger now than before. The need for economic reconstruction and development of the North should also tend to heighten the Soviet role, for it is to the rich and distant USSR, not to Communist China, that the Hanoi leadership will be looking for massive economic aid. In spite of this present and prospective growth of Soviet influence, however, we believe the Hanoi leadership will try hard to maintain maximum freedom of action with respect to both the USSR and Communist China, and we think they have a good chance of success.

January 30, 1969.

Question 4: How sound is our knowledge of the existence and significance of stable "Moscow" and "Peking" factions within the Hanoi leadership, as distinct, for example, from shifting factions, all of whom recognize the need to balance off both allies? How much do we know, in general, of intraparty disputes and personalities within Hanoi?

Answer:

1. It is commonplace, but misleading, to single out certain North Vietnamese Lao Dong Party leaders as being in the camp of one or the other of the Communist superpowers. For example, Vo Nguyen Giap and Pham Van Dong often are listed as pro-Soviet, while Truong Chinh, the deceased Nguyen Chi Thanh, and occasionally Pham Hung have been placed in the pro-Chinese camp. Ho Chi Minh himself is usually characterized as being "in-between." Le Duan, Le Duc Tho and Nguyen Duy Trinh appear to have gone through various shifts and sometimes are referred to as a swing group.

2. Such characterizations are probably an impediment to a useful understanding of the political dynamics of the North Vietnamese leadership. For example, the "pro-Chinese" Nguyen Chi Thanh was at the same time an advocate of conventional style warfare in South Vietnam, despite China's call for protracted warfare. Other anomalies also are apparent. Even in the case of Truong Chinh, whose name means "Long March" and was chosen to honor Mao Tse-Tung, the most consistent of the pro-Chinese figures, there have been periods when his stance did not appear to jibe with what Peking was advocating.

3. Our knowledge of the internal personalities, workings and divisions within the Lao Dong Party is in fact very limited and speculative. We lack solid information concerning intraparty disputes and personalities within the Lao Dong hierarchy. We can be reasonably sure, in view of Hanoi's perplexing problems and the occasional surfacing of policy disputes, that there are differences within the top ruling group in Hanoi about the best course to be pursued at any given time. We cannot be nearly so sure that there are established ideological factions within the ruling group. It is possible that these do exist, but it is also just as likely, judging from the evidence we have, that the groupings shift according to the particular issue being discussed or the point in history that is being considered, and that personal rivalries, loyalties, and ambitions play a large role.

4. We have a great deal of evidence to indicate that the Hanoi leadership wants to be independent of both the USSR and China and, in fact, has acted independently of these two powers. We therefore think that the root and nature of differences in the leadership are unlikely to be found in "pro-Soviet" or "pro-Chinese" feelings on the part of individual Hanoi leaders.

Question 5–A: What is the evidence supporting various hypotheses, and the overall adequacy of evidence, relating to the following questions:

A. Why did NVA units leave South Viet-Nam last summer and fall?

SUMMARY

1. The withdrawals of NVA units last summer appear to have been motivated exclusively by military considerations though, as noted below, the enemy did reap certain political benefits from that withdrawal and the concurrent "lull" in fighting, which were interpreted by some Americans as a signal justifying a bombing cessation.

2. The withdrawal of NVA units from I and II Corps in October seems to have had a dual cause: (1) severe logistic difficulties due largely to allied interdiction efforts, and (2) the difficulty of supplying or protecting these troops if the DMZ was not to be "abused," one of the conditions of the total bombing cessation. These two factors seem sufficient to explain the enemy's action in those two Corps areas. He may have also hoped that his withdrawls would produce added pressures on the U.S. to cease bombing the north, but there is no positive evidence that he had this in mind, and he seems to have made no special effort to send us a "signal" on this point.

MILITARY MOTIVATION

3. NVN's inability to supply its troops in I and II Corps was attested by information contained in numerous captured documents, PW and rallier interrogations and source reports that indicated severe food shortages among enemy units—including near-starvation conditions for many troops—and serious material shortages. These shortages were a result of Allied military actions in SVN, unusually heavy rainfall, and—more importantly—improved interdiction of enemy supply lines in NVN and Laos following implementation of a different concept of aerial interdiction on July 20.

4. On July 20, aerial interdiction efforts in NVN and Laos were directed primarily at twelve essential but vulnerable road and water-crossing choke-points. By September, according to reliable intelligence estimates, the infiltration of supplies in SVN via Laos and the DMZ had been reduced to a rate about 10 percent of the pre-July level. This was the result of a combination of aerial interdiction and seasonal weather factors. Since most NVA as well as VC troops in I and II Corps were then dependent upon supplies entering SVN via Laos and the DMZ, supply shortages were undoubtedly a major factor in restricting enemy actions, reducing his ability to withstand the mounting Allied offensive operations, and forcing the withdrawal of his units to sanctuary in NVN or partial sanctuary in Laos. The position of enemy units south of the DMZ with regard to supplies and self-defense would have become tenuous after the bombing halt, with its obligation on the enemy not to "abuse" the DMZ and the enemy's consequent inability to send large amounts of supplies through the DMZ or move major forces across it.

5. Further evidence that the NVA withdrawal and reduction of military activity was due to the immediate military situation is found in the fact that the NVA First Division was dispatched at this time from II to III Corps where, along with the NVA Seventh and nominally VC Fifth and Ninth Divisions, it is supplied via Sihanoukville and the Mekong through Cambodia. Also, with the improvement of the enemy's supply situation in I and II Corps after the bombing halt and end of the southwestern monsoon, the movement of NVA units back into areas bordering Laos has been detected.

6. The withdrawal of NVA as well as VC units from III Corps into Cambodian sanctuaries has occurred in each instance following the severe losses the enemy has sustained in earlier offensives. The absences from SVN were in each case temporary, apparently for rest, refitting and training, while almost all intelligence indications—then as now—pointed to continuing enemy efforts to initiate further offensive action.

POLITICAL BENEFITS

7. The relative lulls in military activity which accompanied the withdrawals following the May offensive and again in late September and early October served to put pressure on the United States for a complete cessation of the bombing of North Viet-Nam. Many people believed that the lulls were the reciprocal gesture that we had demanded for a bombing halt, and that since Hanoi had taken this step we should cease the bombing. Hanoi somewhat belatedly took measures to exploit this attitude following the May offensive, presumably in the hope that the lulls in fighting brought on by their withdrawals due to military exigencies would bring about a complete halt to the bombing of North Viet-Nam without the necessity of their making any commitments to the United States.

8. By October the situation was different, for Hanoi was aware of the U.S. price for a bombing halt and was willing to pay it. They may have hoped, as noted above, that their withdrawals would bring reciprocal U.S. withdrawals, but they did not explicitly say so, and this does not seem to have been the reason for their action.

January 31, 1969.

Question 5–B: What is the evidence supporting various hypotheses, and the overall adequacy of evidence, relating to the following questions:

B. Did the predicted third offensive by the NVA/VC actually take place? If so, why did it not achieve greater success?

Answer: 1. There is no question but that the third-wave offensive did occur. That the enemy intended to launch such an offensive was perfectly clear from numerous captured documents, prisoner of war and allied interrogation reports, and agent sources. (In this respect, our information concerning the third offensive was identical to and as complete as that we received about the second offensive.) That he actually launched a third offensive is equally clear from the record of combat activities in August.

2. The third offensive varied markedly from the earlier two offensives of Tet and May–June. It did not begin with a large number of nationwide attacks by fire and assaults on a single day nor did it include a major attack on Saigon. It consisted rather of attacks by fire and assaults coordinated by corps area and staggered over a period of about two weeks. Thus, the third offensive failed to make the initial psychological impact of the earlier offensives, even though the total number of attacks by fire and assaults and of enemy casualties during the first two weeks of the third offensive approached those during the similar period of the May–June offensive.

3. Pre-emptive efforts were a major factor in preventing the enemy from achieving greater success. Additionally, improved intelligence, supply interdiction along infiltration corridors both in and out of country and aggressive Allied military operations all played important roles. Also limiting enemy achievements was the poorer quality of his men and officers, large numbers of whom were relatively untrained and considerably less experienced than those who had participated and been lost in the earlier offensives.

Question 5–C: What is the evidence supporting various hypotheses, and the overall adequacy of evidence, relating to the following questions:

C. Why are VC guerrillas and local forces now relatively dormant? Among the hypotheses:

(1) *Response to VC/NVA battle losses, forcing withdrawal or passivity;*

(2) *To put diplomatic pressure on us to move to substantive talks in Paris;*

(3) *To prepare for future operations; and/or*

(4) *Pressure of US and Allied operations.*

Answer: 1. The VC are husbanding their resources to give themselves the option of a "climaxing" offensive. The evidence for this is substantial. VC guerrillas and local forces are now under instructions to harass Allied forces, LOC's and installations while concentrating primarily upon preparations for the offensive. The guerrillas and local forces, which suffered particularly heavy losses in earlier offensives, are essential for logistical preparations and as guides and vanguard elements for large-scale offensive operations. They cannot be expended prematurely. However, while preparation and conservation of resources for future operations are probably the main factor in the current low level of guerrilla and local forces activity, there are other factors that may be of about equal importance.

2. The enemy's personnel losses and failure to achieve his military objectives in earlier offensives have reduced VC morale and prevented recruitment of sufficient replacements within South Viet-Nam. There is also evidence that VC attempts to upgrade guerrilla and local force units into main force units for operations outside their native provinces have contributed to desertions and declining confidence in victory. This is particularly true in IV Corps where the bulk of VC forces are now concentrated. It must be assumed, therefore, that attrition of guerrilla and local forces, the loss of cadres, and declining morale are also important factors in the low level of enemy activity, as is the continued heavy pressure of US and Allied offensive operations.

3. There is no evidence that guerrilla and local force inactivity is designed to put diplomatic pressure on us to move to substantive talks in Paris.

Question 6: What rate of NVA/VC attrition would outrun their ability to replenish by infiltration and recruitment as presently calculated? Do present calculations achieve this? If not, what force levels and other conditions would be necessary? Is there any evidence they are concerned about continuing heavy losses?

Answer: 1. MACV-estimated VC/NVA losses from all causes were 145,000 in 1967 (an IDA study indicates they were 25 percent higher) and 289,000 in 1968. If intelligence estimates are correct that North Vietnam adds 120,000–130,000 physically fit men each year to a military manpower pool of nearly 2.5 million (500,000 of whom are in service), the enemy could not have maintained force levels as he has without either dipping into North Vietnam's manpower reserves or through extensive recruiting within South Vietnam. Since intelligence indications are that the VC has not been able to replace its losses by recruitment, the burden of replacing enemy personnel losses and maintaining the conflict in South Vietnam has fallen increasingly upon North Vietnam. The result has been a significant shift in the balance between VC and NVA personnel in the total enemy force structure as well as a significant downgrading of the quality of enemy personnel—particularly leadership personnel—in terms of training, experience, and knowledge of SVN. These factors are probably equally if not more important for future military developments in SVN than the ability of the enemy to maintain his force levels in terms of mere numbers.

2. It is difficult to judge the willingness of North Vietnam to sustain current losses. Certainly, North Vietnam cannot continue to do so without very serious consequences at least for its economic, if not political, future. Increasing evidence that the enemy is pursuing conservation of manpower tactics, which is supported by intelligence derived from captured documents, interrogations of PW's and ralliers, and clandestine sources, indicate that in fact North Vietnam is concerned about heavy NVA/VC losses. However, we believe that the enemy is willing to expend considerable manpower if he judges that the Allied

will to continue the war will erode faster than his will to continue the war.

3. Force levels and conditions are, therefore, already present to achieve the NVA/VC attrition necessary to outrun North Vietnam's ability to replenish personnel losses in terms of quality, if not quantity. Also, as Allied forces maintain or improve their quality, and the current pattern of enemy relative to friendly losses continues, conditions to achieve NVA/VC attrition in excess of their ability to replenish, even in quantitative terms, should improve.

Question 7: To what relative extent do the US/RVNAF and the NVA/VC share in the control and the rate of VC/NVA attrition; i.e., to what extent, in terms of our tactical experience, can heavy losses persistently be imposed on VC/NVA forces, despite their possible intention to limit casualties by avoiding contact? Among the hyoptheses:

A. Contact is predominantly at VC tactical initiative, and we cannot reverse this; VC need suffer high casualties only so long as they are willing to accept them, in seeking contact; or

B. Current VC/NVA loss rates can be maintained by present forces—as increased X percent by Y additional forces—whatever the DRV/VC choose to do, short of further major withdrawal.

Answer: The Embassy has no evidence on this subject independent of that of MACV. Therefore we are not attempting to provide a separate answer.

Question 8: What controversies persist on the estimate of VC order of battle; in particular, on the various categories of guerrilla forces and infrastructure? On VC recruiting, and manpower pool? What is the evidence for different estimates, and what is the overall adequacy of evidence?

Answer: 1. Intelligence on the VC/NVA main and local force units is generally good and adequate. There are two sets of figures used—the first is based on "hard intelligence" derived from prisoners, reports, or captured documents, while a highly classified "estimate" of enemy strength would take account of units known or believed to be present or to have departed but which do not meet the "hard intelligence" criteria mentioned above Since it may take several months before prisoners or documents are captured, the "hard intelligence" figure has a built-in lag, and in a period of enemy buildup would carry a lower enemy strength figure than the "estimate." It is believed that all agencies accept the MAVC "hard intelligence" figure as a point of departure. The press in the past has sometimes tended to confuse these two sets of figures.

In preparing the classified "estimates" on the main and local forces, certain factors will cause the various agencies to come up with different estimates. These factors include: the speed with which units are accepted into the OB after their presence is known, the speed with which enemy losses are subtracted and replacements are added, and the degree to which normal divisional and regimental support units are assumed to be present despite lack of definite evidence. While these factors would cause differing estimates among the intelligence agencies, it is our understanding that the differences are not substantial in respect to the main and local forces.

2. Intelligence on the VC guerrilla forces is inadequate and unreliable. The degree of recruitment, upgrading and losses is dependent on local factors, thus precluding definitive countrywide estimates. Captured documents sometimes provide information, but it is usually not current and usually represents only a local situation. Limited Allied access to VC-controlled areas, where most guerrillas reside, is another limiting factor, and field reporting units acknowledge that their estimates are only educated guesses. Consequently, a great deal of assumption goes into estimates of guerrilla strength, with Washington estimates running somewhat higher than those of MACV. The part-time hamlet (self-defense) guerrillas and the assault youth are also not quantified by MACV on grounds they do not represent a significant military threat. Some Washington agencies include those elements presumably because they are part of the insurgent base sometimes participating in battles and are included in the "body count."

3. Estimates of the infrastructure are also based on extrapolations of incomplete date. Earlier controversy over the size of the political infrastructure stemmed largely from the lack of precise definition of what constituted the membership, which has now been resolved in the field. We are not aware of any controversy over the number of professional cadre in the infrastructure, although there may still be differences between Washington and the field as to the inclusion of certain kinds of support personnel.

4. Differences in estimates of VC recruiting likewise exist for the same reasons as indicated for the guerrillas. Monthly recruitment and impressment estimates range between 3,500–7,000 with Washington estimates being generally higher. While documents and prisoners are able to provide the recruiting situation in specific areas, varying local conditions make countrywide extrapolations from this limited date of uncertain reliability. The expansion of GVN-controlled areas, a reduction in VC recruitment standards, increased resort to involuntary recruitment, an increased use of NVA fillers in VC units, and the GVN's mobilization program all point to the probability of a reduced VC recruitment level during the past six months.

Question 9: What are NVA/VC capabilities for launching a large-scale offensive, with "dramatic" results (even if taking high casualties and without holding objectives long), in the next six months: (e.g., an offensive against one or more cities, or against most newly "pacified" hamlets.) How adequate is the evidence?

Answer: 1. The enemy has positioned his forces in III Corps so that he has several offensive options which he can choose to exercise and at present it is III Corps where he presents the greatest threat for "dramatic" results. Elsewhere in SVN his present threat is limited; however, within weeks or months he could present significant threats in other areas such as the DMZ, Hue, the Danang area, Tam Ky, or Quang Ngai in I Corps. In II Corps, the most likely areas that could be seriously threatened are Kontum, Pleiku, or Ban Me Thuot. Can Tho and My Tho would likely remain high threat areas in IV Corps.

2. In order to build a serious threat in areas other than III Corps the enemy would be required to heavily infiltrate those areas and concentrate his forces, which he is capable of doing. He has greatly improved his logistical capabilities, and has been stockpiling large quantities of supplies in base areas and forward positions during the past 4 months. In addition, infiltration of personnel is on the rise and his organized units could be repositioned, probably within 3 months at the most. The Allies can, to a considerable extent, pre-empt the enemy and can certainly defeat him when he does attack, but he essentially controls the level of combat.

3. In III Corps, the enemy, if he is prepared to pay the high price, is presently capable of launching major attacks against Tay Ninh and Loc Ninh, and—to a lesser extent—Bien Hoa and Saigon, and of temporarily penetrating those cities, which would gain him headlines in the world press. He has the proven capability to get some forces through Allied defenses (particularly at night), he has temporarily penetrated cities in III Corps on three previous occasions, and he has today more forces available for the task with more on the way. However, these forces, which include 4 organized divisions and 3 additional division-equivalents presently in III Corps, are primarily NVA troops which are less capable of infiltrating target cities than were the predominantly VC units deployed at Tet and in May-June. The enemy would not necessarily need to commit most of these forces to a major attack on one city, making it possible to use others to hold down Allied forces in other areas or to launch a simultaneous attack.

4. If the enemy launched large-scale attacks against cities he would suffer heavy casualties because he would have to concentrate against the target in the face of reinforced Allied infantry and increased Allied artillery and air power, and he would have to surface his clandestine assets in the target city. To launch attacks against such odds would require the enemy to exert a great deal of effort, but he has previously demonstrated a willingness to accept heavy losses for political gains. Despite some signs of faltering morale, we believe that enemy discipline is sufficiently strong to enable him to carry out such plans.

5. With the forces available the enemy could also concentrate his activities against the pacification program using much smaller units over a larger area. Captured documents have revealed enemy concern about the Accelerated Pacification Campaign (APC) and have indicated that they intend to smash it, and the enemy actions against pacification have increased during the last few months. They have the capability of striking at this program with guerrillas and Local Forces while holding down Allied forces with Main Force units who could also assist against the APC if needed. The security forces assigned to the APC would not be sufficient to withstand such an effort and the enemy could drive the friendly local forces out of a large number of hamlets, although the gains would only be temporary. Such an enemy success might be considered "dramatic" but would not have the impact of large-scale attacks against urban areas.

Question 10: What are the main channels for military supplies for the NVA/VC forces in SVN, (e.g., Cambodia and/or the Laotian panhandle)? What portion of these supplies come in through Sihanoukville?

Answer: 1. Military supplies for the Viet Cong/North Vietnamese Army (VC/NVA) forces are brought into South Vietnam (SVN) by various routes and methods, depending in large part on the region and the demands of the troops in the area. Enemy forces in I and at least part of II Corps receive supplies which have been moved across the DMZ or have been trucked through Laos and then into SVN. The possible routes for moving supplies into southern II Corps, III and IV Corps are: 1) via the Laotian panhandle and the tri-border area to roads along the Cambodian–SVN border (the North-South route); 2) by ship to Sihanoukville (or up the Mekong to Phnom Penh) and trucked from there to arms depots in Cambodia or moved along Cambodian lines of communication (LOC's) to SVN; 3) by sea infiltration either along the coast of SVN or across Cambodian beaches.

2. Some military material may be infiltrated into SVN by sea, but even for goods coming into IV Corps, this is not a principal channel. Although it would be difficult to intercept small coastal craft which could carry military supplies, the presence of enemy steel-hulled trawlers would almost certainly be detected.

3. Except for the movement of military supplies via the Laotian panhandle into I Corps, there is little evidence of the movement of goods on the North-South route. Still, this route possibly also is being used to transport goods to II and III Corps. For several years the VC/NVA have maintained a trail network from Laos and the tri-border area along the Cambodian-SVN border; how-

ever, in 1968 the road network was improved and expanded to such an extent that now there may be a road stretching from the tri-border area almost to Saigon. The paucity of evidence that arms and ammunition are moving southward to III and IV Corps from Laos and the tri-border area is significant. Coupled with copious evidence of substantial West-East movement inside Cambodia, it suggests that the latter route is most important to III and IV Corps, with some remaining doubt whether it is the most important supply route to the enemy in II Corps.

4. Sihanoukville and various Cambodian LOC's comprise another artery for moving military supplies to the VC/NVA in South Vietnam. Some of the military goods coming into Sihanoukville are destined for the Cambodian armed forces as part of the agreements with the USSR and Communist China, but the amounts agreed to, shipped or required, are unknown. On the other hand, some of the military materiel arriving at Sihanoukville probably is diverted to the VC/NVA by Cambodian military officers, possible as part of an agreement between Cambodia and the Communists. For the III Corps area, where the Communists have deployed a large number of main force units, no solid evidence is available which allows a precise judgment on whether Sihanoukville or the North-South route is the main channel for supplies. Based on the fragmentary evidence available, however, we tend to believe that Sihanoukville is increasing in importance to the Communists and may constitute the main source of supplies for III and IV Corps.

5. In sum, there is insufficient information available to judge whether the North-South route or the West-East route from Sihanoukville is the main channel for enemy supplies in III and IV Corps. All one can say with assurance is that the latter route has become significantly—indeed, vastly—more important in 1968 than previously. It cannot be proved that the West-East route is the principal supply route, but we believe that an informed estimate can be made in that sense.

RVNAF

Question 10A (A–D): What differences of opinion exist concerning extent of RVNAF improvement, and what is evidence underlying different views—(e.g., compare recent CIA memo with MACV views.) For example:

A. Which is the level of effective, mobile, offensive operations? What results are they achieving?

B. What is the actual level of "genuine" small-unit actions and night actions in ARVN, RF and PF: i.e., actions that would typically be classed as such within the US Army, and in particular, offensive ambushes and patrols? How much has this changed?

C. How much has the officer selection and promotion system, and the quality of leadership, actually changed over the years (as distinct from changes in paper "programs")? How many junior officers hold commissions (in particular, battlefield commissions from NCO rank) despite lack of a high school diploma?

D. What known disciplinary action has resulted from ARVN looting of civilians in the past year (for example, the widespread looting that took place last spring)?

Answer: The Embassy has no evidence on this subject independent of that of MACV. Therefore we are not attempting to provide a separate answer.

Question 10A (E): What differences of opinion exist concerning extent of RVNAF improvement, and what is evidence underlying different views—(e.g., compare recent CIA memo with MACV views.) For example:

E. To what extent have past "anti-desertion" decrees and efforts lessened the rate of desertion; why has the rate recently been increasing to new highs?

Answer:

1. Desertion is differently defined in the RVNAF than in our own armed forces. Those whom we would categorize as AWOL are considered deserters by the RVNAF. Additionally, many RVNAF "deserters" in fact leave the regular Army to enlist in the RF and PF because of a desire to be located close to home. At the same time, some RF and PF "desert" in order to enlist in the RVNAF to obtain better arms and uniforms. In the absence of accurate personal records, it has been impossible to ascertain the precise extent of these practices. We are satisfied, however, that they are a significant factor in the so-called "desertion rate." While we have not succeeded in our efforts to get the RVNAF to revise their criteria for declaring a serviceman a deserter, improved personnel controls through the GVN fingerprint program are now being established so that the true extent of "desertions" should become known in the near future.

2. The RVNAF desertion rate increased sharply from May through October 1968. This development followed closely on the heels of the rapid induction from April through August of large numbers of men into the RVNAF under the General Mobilization Law. Earlier, throughout 1967, the desertion rate had been relatively steady at about 10–11 per thousand per month; later, from a high of 18.3 in October 1968, the rate fell to 15.8 in November, and to 12.6 in December.

3. Since the desertion rate is substantially higher for military personnel in their first six months of service than for personnel who have served longer, it is believed that general mobilization and, especially, the induction of large numbers of youths between the ages of 17½ and 20 years of age, was responsible for the rapid increase in the RVNAF desertion rate. The decline in the desertion rate in November and December, the seventh and eighth months following the commencement of general mobilization, would tend to confirm this view. (Note: Monthly desertion rates in early 1968 were distorted by the effects of the Tet Offensive and the GVN's amnesty for deserters. Thus, those rates are not usefully compared with rates of other periods.)

3. The very recent decline in the desertion rate has also coincided with application of anti-desertion measures initiated in the late summer and early fall, 1968. Some of these were long-term welfare measures but many were a short-term, disciplinary nature. Given the recently increased interest of RVNAF and GVN authorities in the desertion problem and the better exercise of command leadership in such matters, the anti-desertion disciplinary measures may also have helped reduce the desertion rate in November and December. There is no hard evidence, however, that the anti-desertion decrees and efforts were the principal reasons, or even one of the principal reasons, for the drop in the desertion rate. They may, however, contribute to a further drop if one is noted in the future.

Question 10A(F): What differences of opinion exist concerning extent of RVNAF improvement, and what is evidence underlying different views—(e.g., compare recent CIA memo with MACV views.) For example:

F. What success (copy illegible) in providing local security (copy illegible) of and influence in rural populations?

Answer: 1. The increased percentage of population under GVN control since the Tet attacks in 1968 has been partly due to increased effectiveness of the territorial security shield provided by the RF and PF. The RF and PF began to be re-equipped during 1968 to offset increased VC unit firepower and to provide increased combat effectiveness. They were given a retraining program and improvements in the logistical support system were effected. Programs to improve leadership, the promotion system and the dispensing of awards were instituted. All the foregoing have resulted in increased confidence. All Corps Commanders have insisted on and obtained, a higher level of operational activity. This higher level of activity has resulted in extension of the radii of operations and a steadily increasing number of contacts with the enemy. It should be noted also that improved performance by ARVN units has supplemented and supported RF and PF operations.

2. The appearance of improved RF and PF effectiveness may, however, be due in part to the lessened activity of the enemy (see Question 5). From end September to mid-January, during the Accelerated Pacification Campaign, there has been a lower rate of terrorism and a lower level of VC military activity. During this same period a rapidly rising Chieu Hoi rate and the increasing effectiveness of the Phoenix Program have reduced the VC popular support and recruiting bases still further.

3. Considering the factors noted above, together with the results of RF and PF operations over the past several months, we conclude nevertheless that RF and PF forces have significantly improved in effectiveness.

January 31, 1969.

Question 11: To what extent could RVNAF—as it is now—handle the VC (main force, local forces, guerrillas), with or without US combat support to fill RVNAF deficiencies, if all GVN units were withdrawn:

A. If VC still had northern fillers.

B. If all northerners (but not regroupees) were withdrawn.

Answer: The Embassy has no evidence on this subject independent of that of MACV. Therefore we are not attempting to provide a separate answer.

RVNAF

Question 12: To what extent could RVN AF—as it is now—also handle a sizable level of NVA forces:

A. With U.S. air and artillery support.

B. With above and also U.S. ground forces in reserve.

C. Without U.S. direct support, but with increased RVNAF artillery and air capacity?

Answer: The Embassy has no evidence on this subject independent of that of MACV. Therefore we are not attempting to provide a separate answer.

RVNAF

Question 13: What, in various views, are the required changes—in RVNAF command, organization, equipment, training and incentives, in political environment, in logistical support, in U.S. modes of influence—for making RVNAF adequate to the tasks cited in questions 10–A and 11 above? How long would this take? What are the practical obstacles to these changes, and what new U.S. moves would be needed to overcome these?

Answer: The Embassy has no evidence on this subject independent of that of MACV. Therefore we are not attempting to provide a separate answer.

PACIFICATION

Question 14: How much, and where, has the security situation and the balance of influence between the VC and GVN actually changed in the countryside over time, contrasting the present to such benchmarks as end-61, end-63, end-65, end-67? What are the best indicators of such change, or lack of it? What factors have been mainly responsible for such change as has occurred? Why has there not been more?

Answer:

1. At end-1961, NLF activity had made such inroads in the countryside that the security environment in approximately 50% of the villages and hamlets would not be considered, in terms of Hamlet Evaluation Summary (HES) criteria, as "relatively secure" in the "C" category. The Strategic Hamlet concept had just been introduced, with its emphasis on population concentration and hamlet self-defense under local leadership. By comparison with January 1969, one would say

that the GVN controlled approximately one-third of the population that it controls today.

2. At end-1963, it was apparent that the Strategic Hamlet concept had achieved an initial success in establishing GVN control in the countryside, but that VC attacks against it, coupled with the decline and downfall of the Diem regime, had left the countryside in a position where perhaps 35% of the villages and hamlets would be considered as "relatively secure" in the "C" category. During this year increased US support in the helicopter transport, armored personnel carrier and close air support categories was offset by improved VC training, organization and tactics. NVA units were reported in the northern area of the country. The Buddhist confrontation with the Diem regime had a sharply divisive effect.

3. At end-1965, the country had passed through chaos following the downfall of Diem and the subsequent changes of government. The NVA presence grew steadily and the beginning of the present massive US presence was heralded by the decision to bomb North Viet-Nam in February and the introduction of an increasing number of US troops. NVA troop strength increased slowly throughout the 1963-65 period. By end-1965 programs were introduced with very much the same objectives as the Strategic Hamlet program although the refugee problem, created as a result of a much higher level of tactical operations, was an important and complex added factor. The GVN security situation vis-a-vis the NLF/VC at end-1965 was approximately the same as that at end-1963.

4. At end-1967, as a result of a combination of much greater US tactical, advisory and development support activity, as well as GVN involvement in the "Revolutionary Development" (RD) concept, the security situation and balance of influence between the NLF/VC and GVN had taken a favorable turn for the GVN with HES estimates of 67.2% of the population under GVN control, 16.4% in contested areas and 16.4% under VC control. The RD concept was to bring about concentration of population and introducing and/or improving technical and social services with emphasis on public health, education and agriculture. Eleven criteria were established under which the hamlet was improved physically, the VC infrastructure was to be rooted out and a self-defense capability in the hamlet was to be created. (This is the basis of the pacification campaign today with the exception of much greater emphasis on a village/hamlet self-defense capability). The momentum in the flow of materials and personnel in this program increased throughout 1967; however, the net increase in GVN strength and population control in the countryside increased only very slowly. Performance by appointive GVN officials was poor, and technical and social service representatives were generally reluctant to enter personally into the program. The self-defense capability was generally not realized and few weapons were made available for this purpose. A national Constitution was promulgated and village and hamlet elections were held in the spring of 1967. However, because of fear of assassination or other reprisal, many of the traditional candidates for village and hamlet office, such as family group leaders, did not run for office. The public administration training program for key elected officials was not particularly effective, having been geared to a higher educational level than that attained by many of the newly elected officials, and there was not much confidence in the ability of those officials to perform their duties adequately. On balance, there was no apparent transfer of authority and responsibility from the district to the village and hamlet level.

5. Enemy reaction to the spread of the Revolutionary Development hamlets throughout the countryside, which had increased slowly during 1967, appeared to be leveling off at the end of that year. VC organization was more tightly knit and disciplined. Adherence to the VC by a significant segment of the population was more sharply defined, while confidence in the GVN and its ability to establish control over the countryside was still generally lacking. There was a notable war-weariness and desire for peace. Despite the move toward political organization by the GVN and the holding of elections, there was little enthusiasm for the Government. Further, it was apparent that there was little communication between the Government and the people.

6. In 1968 the security and control measures of the GVN were at first badly shaken by the Tet attacks. Parts of the countryside were lost to VC control for varying periods of time. It is the analysis of GVN efforts to strengthen and restore GVN security and control since 1 February 1968 which serves as the basis for the answer to this question.

7. At the end of February 1968 population in relatively secure areas was reported as only 59.4%, in contested areas as 22.4%, and in VC controlled areas as 18.2%. Considering that the VC infrastructure in what were considered relatively secure areas remained largely unidentified, these figures are perhaps misleading. Evaluation of the operations immediately following the Tet attacks indicates that the ARVN forces turned in a relatively good performance as did the RF to a lesser degree. Although the VC attacked or entered a large number of Revolutionary Development hamlets, many of these were subsequently re-entered with ease by GVN forces and Revolutionary Development cadre. "Project Recovery" was set in motion to restore GVN control, to continue the Revolutionary Development program, to care for the large number of refugees created by the attacks, and to restore essential services.

8. Throughout the remainder of 1968, ARVN performance continued to improve. ARVN and RF and PF units were re-equipped, retrained, and armed with improved weaponry to match enemy firepower. Under the mobilization decree Government forces began a rapid expansion program. The mobilization decree forced many people to the decision to adhere to one side or the other, and most adhered to the GVN side. Project Recovery was, by and large, successfully completed. Inefficient and/or corrupt officials at province or district level were replaced. The Revolutionary Development program was simplified and greater emphasis placed on adapting it to village development and to providing a self-defense capability at the village and hamlet levels. The President and leading Government officials began visiting various provinces and meeting the people informally. By the end of the year the Government's intent to institute a national land reform program had been announced and a small percentage of land titles had been distributed. The country had recovered almost completely from the Tet attacks and the percentage of population in relatively secure areas was reported at 76.3% with 11.4% in contested areas and 12.3% under VC control. A steadily increasing number of people came in under the Chieu Hoi program, there was a sharp increase in the number of VC infrastructures neutralized, and the Accelerated Pacification Campaign moved forward more smoothly and rapidly than anticipated. More than 1,000 hamlets have been entered to re-establish GVN control. Since 1 September 1968 approximately 100,000 refugees have been able to return to their original hamlets.

9. At the present time the security situation in this country is better than at any time during the period covered by this question. Principal factors in this improvement are: a) ARVN performance continues to improve; b) RF and PF forces have increased their operational activity and are providing an expanding territorial security shield over the countryside; c) general mobilization is providing a broader recruitment base for an expansion of all the Viet-Nam Armed Forces; d) with the increasing success of the Phoenix and Chieu Hoi programs the popular support and recruiting bases for the VC are damaged; e) return to original hamlets and resettlement of refugees are proceeding at an accelerated pace; f) public services to the people have shown improvement and GVN officials are traveling more freely in the countryside; g) as GVN-controlled territory expands, inter-district and inter-province commerce and transport is resumed; h) local government is receiving impetus through the announcement that village and hamlet elections will be conducted during the month of March 1969 and the plan to place PF units and RD cadres in villages under village government control and to let village/hamlet governments have control of funds for local development; i) political leaders, aware of the coming political confrontation in the post-hostilities era, are engaged in talking with a view toward unified political action; j) there has been a relatively low level of VC activity during the last quarter of 1968 and the first half of January 1969; k) VC establishment of Liberation Committees at the village/hamlet level has proven to be largely a propaganda and political gesture without much convincing appeal to the aspirations of the people.

10. Reasons why there has not been more improvement follow: a) the VC retain the capability of attacking in force, and recent indications are that the pattern of VC tactics will be to avoid contact with ARVN units but to project main force attacks against the territorial security shield, thus undermining popular confidence in the GVN and seriously endangering the success of the Pacification Campaign; b) while activity toward unified political action continues, it has so far produced no concrete results; c) the GVN still demonstrates inability to communicate with the people; notably, GVN information initiatives fail to arouse popular enthusiasm or support; d) the psychological warfare program is generally considered pedestrian and lacking in imagination; e) the popular attitude continues to be one of apprehension that the GVN will not be able to meet successfully the politically confrontation with the Communists in the post-hostilities era; f) the people are not convinced that the Government can or wishes to root out corruption which, although traditional, is increasingly becoming a national issue; g) overshadowing all of this is the fact that the Vietnamese are basically unclear as to US intentions. They are plagued by the suspicion that the US will withdraw rapidly following negotiations and that the GVN will not be able to maintain security, law and order in the face of the Communist threat.

PACIFICATION

Question 15 (Part I): What are the reasons for expecting more change in the countryside in the next two years than in past intervals? What are the reasons for not expecting more?

Answer:

1. The reasons for expecting more change in the countryside during the next two years are as follows:

(a) The single most important reason is the urgent realization on the part of the GVN that control of the countryside will be critical in determining the final peace settlement. The GVN has not previously paid sufficient attention to pacification. Now, the GVN concern is very real, and is being pressed personally by President Thieu and the Cabinet as a whole.

(b) The initial success of the Accelerated Pacification Campaign.

(c) Assets for pacification (military and civilian) are becoming available in increasingly large amounts. This refers to weapons, equipment for self-help projects, construction materials, manpower, etc.

(d) ARVN, RD, RF and PF as well as the entire pacification apparatus, are becoming more effective.

(e) More key GVN officials, especially province and district chiefs, are now being chosen on the basis of competence. This was not the case in past years. Motivation and performance have improved.

(f) The VC political infrastructure is being seriously challenged for the first time through the Phoenix program. This program has high level GVN priority and there is evidence from enemy sources that he is seriously worried by it.

(g) GVN planning and awareness of priorities is much improved over recent years. The enthusiastic acceptance of the Phoenix program is one example. The campaign to strengthen local government, with emphasis on the village rather than the hamlet, is another.

(h) The VC have lost much of their influence over and support from the populace. This has been a result of the sufferings at the hands of the communists at Tet, and subsequent onerous VC recruitment and taxation policies. There is now no great confidence (in or out of VC circles) that the VC can win a military victory. Evidences of the change in rural allegiance are plentiful, e.g., the increasing Chieu Hoi rate and Highland ethnic minority groups moving into GVN-held areas to escape VC demands. As the VC are losing the compliance and support of the people, their manpower base is becoming smaller and their effectiveness is correspondingly reduced.

(i) Approximately 100,000 refugees have returned to their old hamlet, demonstrating confidence in the GVN rural effort.

2. The reasons for not expecting more (or more rapid) change are often no more than insufficiences and limitations in the above factors. They are as follows:

(a) The GVN effort sometimes appears directed more at Paris than to achieving real change in rural villages and hamlets. (The same, of course, can be said for the VC program of establishing Liberation Committees.) The effort is often superficial, and results are expected to come quickly. Pacification is a process requiring time and patience, and these qualities are not prominent in the current GVN pacification effort. The failure of the government to follow up on the 1967 elections, by providing adequately for local government development, is a case in point. President Thieu recognizes the importance of this, but it will not be easy or rapid.

(b) ARVN, RF and PF are not yet good enough. ARVN is still making insufficient contact with VC Main Force units. RF and PF are too concerned with static defense positions, and are ineffective or inoperative at night. While progress has been made, it is not nearly enough.

(c) Local GVN administration is often slow, corrupt and unconcerned.

(d) The GVN psychological warfare and VIS programs are inadequate. They lack imagination, and do not take advantage of existing opportunities.

(e) The rural population, while now less favorably inclined toward the VC, still does not support the GVN in any meaningful way. The desire to be left alone is still the predominant attitude in many rural areas along with an unwillingness to cooperate until it is clear which side will win.

(f) The Phoenix program is often concentrating on low-level village and hamlet cadre, rather than going after the more important and more elusive VC political personnel. Statistics, by failing to give weight to the importance or unimportance of cadres, encourages a "numbers game."

(g) Refugee programs and payments are not always administered with sufficient dispatch and compassion.

PACIFICATION

Question 15 (Part II): What changes in RVNAF, GVN, US and VC practices and adaptiveness would be needed to increase favorable changes in security and control? How likely are such changes, individually and together? What are the obstacles?

Answer:

1. *Necessary changes for RVNAF are:*

(a) The single most important change is in the area of leadership. The quality of officer and non-commissioned officer leadership is still low. More effective measures must be instituted to improve the quality of leadership, such as better promotion procedures and encouragement of initiative. Should leadership improve, then other necessary changes can be expected to follow. Among them are:

(b) Greater aggressiveness and willingness to seek out and pursue the enemy continuously.

(c) More emphasis on *night* operations.

(d) More *mobile, small unit* operations to take the place of cumbersome large unit ones.

(e) Greater concern and respect for GVN population and private property.

2. Necessary changes for the GVN are:

(a) Improve the quality of leadership.

(b) Consolidate GVN control over contested areas at an accelerated pace.

(c) Reduce corruption.

(d) Convince Vietnamese that the government is concerned about them.

(e) Decentralize administration and simplify procedures.

(f) To insure a faster-acting and more responsive civil administration, they must overcome the inheritance of the French civil service and give more training, encouragement, and support to administrative cadre so that they can contact the people they serve. At present, they are behind their desks far too much of the time.

(g) Continue to develop local government at the village/hamlet level.

(h) Improve psychological warfare and information programs.

3. Necessary changes for the US are:

(a) Improve US evaluation of the effectiveness of GVN programs and of US support for them, tempering the necessary statistical summaries by discriminating judgment.

(b) The US must bend every effort to encourage the GVN to develop Vietnamese leadership.

4. The likelihood of all this happening quickly seems dubious. Since Tet 1968 there has been very great progress for the GVN, primarily in troop combat performance and expansion of the area of the pacification effort, and a decline in VC power and influence.

This high rate of progress probably cannot be sustained. The likelihood in the future is for continued but somewhat slower progress by the GVN and a further gradual weakening of the VC.

5. There is, however, a possibility that the trends may be accelerated or reversed by the increasing expectation that the war is in its final stage. On the one hand, as the Government continues to make progress, the enemy could become increasingly dispirited and his resistance could lessen and in some cases collapse. On the other hand, a combination of "weariness and realism" on the GVN side could lead to an increasing tendency toward accommodation with the enemy. There already seems to be a growing tendency on the part of some Vietnamese on the GVN side to "think the unthinkable" about talking with the NLF, changing the Constitution to permit it some role, etc. To the extent that such thoughts stem from self-confidence in the ability of the non-communist majority to defeat the enemy also in open political battle, this is a constructive development; but if the idea gains ground that the US is pushing the GVN into a political accommodation with the enemy, the psychological reaction could be one of panic and pessimism, resulting in a steep decline in government performance and a quick reversal of the presently relatively favorable trend in the security situation.

PACIFICATION

Question 16: What proportion of the rural population must be regarded as "subject to significant VC presence and influence"? (How should hamlets rated as "C" in the Hamlet Evaluation System—the largest category—be regarded in this respect?) In particular, what proportion in the provinces surrounding Saigon? How much has this changed?

Answer:

1. Most of the rural population, including that in the provinces surrounding Saigon, must be regarded as subject to some VC presence and influence, significant in the following respects. Even in relatively secure areas such as "A", "B" and "C" hamlets, there is usually still a VC presence, or at least people who have relatives in the VC or who are sympathetic to it. In such areas the Viet Cong can still make a credible threat of assassination or kidnapping of GVN officials, so it is a matter of interpretation to what extent one can say that the GVN presence is fully established.

2. The Viet Cong is continuing to collect taxes in most areas, including relatively secure areas, though apparently with decreasing effectiveness.

3. With regard to propaganda, the Viet Cong can still propagandize the people face-to-face in relatively secure areas. They do not always say they are Viet Cong, and sometimes the message is not openly pro-Viet Cong, but an attempt to play on fears and dissatisfaction; for example, by calling for peace, criticizing the shortcomings of the GVN, or predicting that the Americans will soon abandon Viet Nam.

4. A notable VC initiative in the last quarter of 1968 and in January 1969 was the establishment of Liberation Committees in many villages and hamlets in "relatively secure", "contested" and "VC controlled" areas. However, we do not regard such Committees as an indicator of the degree of VC control or influence. Moreover, verification of existence of these Committees indicates that many exist in name only and do not represent an accretion in VC-controlled population.

5. VC forced labor and recruiting is adversely affected by the extension of the GVN presence to villages and hamlets during the Accelerated Pacification Campaign.

6. The foregoing considerations apply also to the provinces surrounding Saigon. Nonetheless, these provinces are more secure than ever before. Some 85% of the people in the provinces around Saigon are regarded as "relatively secure", which represents a big jump from the period immediately following Tet 1968, and a significant increase over the pre-Tet period. The Accelerated Pacification Campaign, with its concentration on "D", "E", and VC hamlets, is largely responsible for this improvement.

7. It is of course a question of judgment whether the "pervasive" influence of the VC, which extends even to the pacified portions of the country, detracts from the validity of their definition as pacified. In the kind of war that exists in Viet Nam, security is always a relative matter. The test, perhaps should not be whether the VC still have a residual capability in pacified areas but whether the population considers the threat and the influence to be "acceptable." By that standard, most of the hamlets certified by the HES as "A", "B", and "C" (but not all of the latter) are actually pacified.

8. On an overall statistical basis the change during the last year is dramatic. According to the HES after Tet 1968, 59.4% of the population was "relatively secure"; at year-end, the figure was 76.3%. Even if these figures are discounted, they reflect a

clear-cut and consistent trend since mid-1968 toward improvement in security throughout Viet Nam.

Question 17: What number of verified members of the Communist political apparatus (i.e., People's Revolutionary Party members, the hard-core "Infrastructure") have been arrested or killed in the past year? How many of these were cadre of higher than village level? What proportion do these represent of total PRP membership, and how much—and how long—had the apparatus been disrupted?

Answer:

1. A precise estimate of the present strength of the Viet Cong Infrastructure (VCI) is not possible. A rough base of 82,500 personnel, however, has been agreed upon by Mission elements as a target to work against. In 1968, the PHOENIX office reported 15, 776 VCI personnel neutralized. Of these, 2,255 were killed, 11,291 captured, and 2,230 rallied. The vast majority of those reported were low level functionaries, i.e., those more easily replaced or done without by the VCI. Only 12.9 percent (2,050) of those reported neutralized were from the district level or above.

2. VCI losses must be viewed in the light of inadequate reporting from the field. Great numbers of VC have been killed since Tet 1968 in large scale military operations. In most cases only a brief search for identifying documents was conducted on the battlefield before the bodies were buried. How many of these were VCI probably never will be known. In addition, the above figures also exclude reported losses that were rejected by the Saigon Phoenix office because of inadequate data identifying the suspect's position.

3. On the other hand, not all VCI members who are captured remain neutralized. Many captured suspects simply vanish into the system of interrogation and detention facilities with no record of their final disposition, and many subsequently slip back into the VCI. A major problem is the absence of effective laws covering Communist insurgent activities and personnel. GVN authorities often believe that they do not have sufficient evidence to prosecute in court many of the VCI suspects apprehended. Of those VCI actually brought to trial and sentenced, it is estimated that well over 50 percent are released within a year.

4. The number of "hard-core" infrastructure members, i.e., the Communist People's Revolutionary Party (PRP) members, neutralized is rather small. The total membership of the PRP is not known; nor is there any solid evidence of what proportion of the VCI is composed of PRP members, although 20 to 40 percent appears reasonable as a rough order of magnitude. In any event, of the total number of VCI neutralized in 1968, only 10.7 percent (1,697) were PRP members, and of these only 332 were at district level or higher. At the lower levels of the VCI, there are important cadres who are not Party members. Further, there are PRP members who have no function in the infrastructure, e.g., those who are guerrillas or who hold purely military position.

5. Although progress has been made in the attack against the VCI, particularly in the last quarter of 1968, the VCI does not appear to be faced with critical problems as yet. It continues to demonstrate the capability to exercise sufficient control over enough of the population to carry out combat and political operations. The Communists place a high priority on reconstituting their infrastructure losses and appear to have been able to keep ahead of critical personnel shortages. Nonetheless, the VCI has not gone completely unscathed. In some areas, it has been disrupted substantially, especially in the Capital Military District and in parts of I Corps. Attempts to rebuild the VCI organization in the major cities often has been countered by aggressive police work. But both intelligence on the VCI and operations against it diminish significantly the further one moves from the secure urban areas. In general, the hard-core command cardes of the VCI largely remain intact and often unidentified.

Question 18: What are the reasons for believing that current and future efforts at "rooting out" hard-core infrastructure will be—or will not be—more successful than past efforts? For example, for believing that collaboration among the numerous Vietnamese intelligence agencies will be markedly more thorough than in the past? What are the side-effects, e.g., on Vietnamese opinion, of anti-infrastructure campaigns such as the current "accelerated effort," along with their lasting effect on hard-core apparatus?

Answer:

1. Serious efforts are being made by the Government of Viet-Nam (GVN) to achieve organizational and operational efficiency in attacking the Viet Cong Infrastructure (VCI). This pressure from the top has paid off in forcing an increasing degree of cooperation between once totally insular, competing agencies. This has been demonstrably evident in a heightened awareness by tactical military units of the need to destroy the VCI, resulting in their greater participation in anti-VCI operations. With the formation of 246 District and City Intelligence and Operations Coordination Centers, a good start at accumulating information needed to target the VCI has been made, while improved reporting from the field is producing a clearer picture of the losses inflicted.

2. VCI concern over the pressure exerted by the anti-VCI programs has been reflected in propaganda and documents alerting subordinate units to Phung Hoang operations. Indeed, over the past few months Communist propaganda attacking the Phung Hoang Program has bordered on the hysterical. This, plus the increased emphasis on targeting the program's personnel for elimination or subversion, indicates the seriousness with which the VC view the potential effect of the program. The increasing number of Hoi Chanh reflects growing morale problems, at least at the lower levels. In a few areas, the infrastructure has been totally disrupted. Military operations are beginning to penetrate once involate base areas where the higher level cadres have long been able to stay in relative security.

3. Despite these signs of improvement, the problems hampering effective anti-VCI operations will take considerable time and effort to redress. There is still the serious problem of a lack of adequate training and experience among the personnel involved in the program, and it is at the district level, the level to which Phung Hoang is geared, that such shortcomings are most apparent. The program continues to suffer from lack of coordination at the lower levels and there still are overtones of parochialism among the many agencies involved. Further, many of the District Intelligence Operational Coordination Centers are in the initial stages of organization and have barely begun to direct operations. The attack against the VCI continues to be plagued by the conventional military orientation of GVN agencies involved; with the exception of the Provincial Reconnaissance Units, there is little in the way of operations targeted against specific key VCI figures. One of the principal agencies tasked with running anti-VCI operations is the National Police Field Force (NPFF), which still devotes very little emphasis to the VCI in its training program.

4. Other intelligence agencies such as the Police Special Branch and the Military Security Service are inadequate in the countryside, and the information they do possess often is withheld from or not sought by action elements. A more far-reaching problem is that there appears to be some accommodation between local officials and some of the more significant VCI cadres. Precise details of such accommodation are lacking, but the frequency of reports of it indicate that the problem could become, or perhaps already is, serious. A related problem lies in the family-oriented nature of Vietnamese society. Family loyalties often supersede political loyalties.

5. The people in the countryside no doubt have mixed feelings about the accelerated effort to disrupt the VCI. Their basic desire is to be left alone by both sides, and barring that, to be given a certain degree of security by one or the other. Field police are not popular with the rural population. On the other hand, hamlets under the Accelerated Pacification Campaign appear to be attracting a significant number of refugees from VC areas. The key to public approval and support, however, continues to be the GVN's ability to provide continuing security and to prevent Communist reprisals.

PACIFICATION

Question 19: How adequate is our information on the overall scale and incidence of damage to civilians by air and artillery, and looting and misbehavior by RVNAF?

Answer:

1. In GVN-controlled and contested areas these matters are always brought to the attention of GVN authorities as soon as possible by the persons concerned. In fact, it has become a national pastime to see who can benefit most from inflated damage claims. Where these incidents occur in VC-controlled areas, distorted versions are broadcast widely as soon as possible. Sifting all these claims is difficult, but there is no lack for information. What we do lack is accurate data for an overall assessment and the ability to verify it.

2. Difficulties of language and occasional mechanical failures of communications, as well as occasional misunderstanding of instructions, have resulted in casualties and damage as the result of artillery firing and air strikes. Processing and payment of claims by MACV is fairly quick and direct. Processing and payment of claims by RVNAF is slow but is improving.

3. Looting and misbehavior by RVNAF since Tet has declined, but its continued existence is still taken by Vietnamese as an established fact.

Question 20: To what extent do recent changes in command and administration affecting the countryside represent moves to improve competence, as distinct from replacement of one clique by another? What is the basis of judgment? What is the impact of the recent removal of minority-group province and district officials (Hoa Hao, Cao Dai, Montagnard) in their respective areas?

Answer:

1. Newly appointed province and district chiefs are younger, more intelligent, better trained and seem more highly motivated. Their performance has been better than that of their predecessors. They appear more honest. The choice of these men does not seem to have been based on considerations of position or status. They do not seem to be part of a new clique.

2. Administrative shifts have been less significant. There have been fewer changes of deputy province chiefs for administration. New service chiefs may possibly represent a slight improvement, but this is difficult to discern. These civil servants are still hampered by an excess of regulations and central control. Thus, some potentially good men are not performing the way they might.

3. The bases for these judgments are reports from province advisors, observations by various other US officials, and systematic analyses of performance.

4. There has been a tendency to remove officials previously closely identified with Vice President Ky. Their replacements have not all been pro-Thieu (there are few people with a pro-Thieu history) but at least they have not been identified with Ky.

5. Although it appears that the Interior Minister is more interested in installing

competent people loyal to him and the President rather than in selling positions, some exchange of money for some positions may still continue.

6. Province and district chiefs are now selected from officers assigned to an administrative training course. Before entering training the list of names is approved by the President, who assigns province chiefs after graduation upon recommendation by the Minister of Interior with concurrence by the Minister of Defense. Remaining officers of each class, by class standing, may select the district in which they wish to serve and are appointed district chiefs.

7. The GVN has adopted what appears to be a conscious policy of removing *Hoa Hao* officers from province and district chief positions to reduce favoritism and factionalism. While the reaction to this has been mixed, the effectiveness of GVN administration does not seem impaired.

8. There does not seem to be a conscious policy to remove existing *Cambodian* officers. Recently in Vinh Binh one Cambodian district chief was removed. When this kind of thing happens, it adds impetus to the growing Cambodian discontent with their lot.

9. The removal of the one *Cao Dai* province chief (in Tay Ninh) and replacement by a Catholic does not appear to have affected the administration or political complexion of that province. There seems to be no other evidence of a policy to remove government officials who are Cao Dai.

POLITICS

Question 21: How adequate is our information, and what it is based upon, concerning:

A. Attitudes of Vietnamese elites not now closely aligned with the GVN (e.g., religious leaders, professors, youth leaders, professionals, union leaders, village notables) towards: Participation—if offered—in the GVN: The current legitimacy and acceptability of the GVN; likewise (given "peace") for the NLF or various "neutralist" coalitions; towards US intent, as they interpret it (e.g., US plans for ending the war, perceived US alignments with particular individuals and forces within Viet-Nam, US concern for various Vietnamese interests).

B. Patterns of existent political alignments within GVN/RVNAF and outside it—reflecting family ties, corruption, officers' class, secret organizations and parties, religious and regional background—as these bear upon behavior with respect to the war, the NLF, reform and broadening of the GVN, and responses to US influence and intervention.

Answer:

1. The sources of our information on the subjects in both 21–A and 21–B are as follows:

a. Voluminous reports from American advisors, civilian and military, working throughout Viet-Nam. These reports are both formal and informal. Some are written, many are conveyed to the Embassy through personal conversations with Embassy officers.

b. Regular contacts by political officers and provincial reporters who operate out of the Embassy. These officers regularly seek opinions on all of the questions raised in 21–A and 21–B.

c. Some limited and relatively unscientific opinion sampling carried out by Vietnamese teams trained and directed by American political officers.

d. Contacts between Embassy officers and foreign journalists, visitors and scholars. Embassy officers seek to tape the knowledge gathered by journalists, scholars, and visitors in both written and oral forms.

e. Systematic screening of local publications, including such documents as political party organs as well as editorials in the regular vernacular press.

f. Voluminous reports on the opinions of all these groups gathered through covert contacts by CIA officers and agents.

2. The adequacy of our information on the topics raised in Question 21–A is judged to be good with regard to national and provincial leaders. Our information on the attitudes of district and village level leaders is much less adequate.

3. Scientific opinion sampling is not feasible in Viet-Nam. This is true in the first instance because Vietnamese will not express their true opinions to strangers, i.e. pollsters. (The normal Vietnamese reaction to a request from a stranger for a political opinion is to ask himself what the questioner is trying to do to him.) Secondly, scientific opinion sampling is not feasible because our information on population, professions, and opinion groups is not adequate.

4. Our inability to sample Vietnamese opinion scientifically through US-style opinion polls is probably not as much of a liability as it may appear. To a large degree Vietnamese public opinion is synthetic and manipulated, and opinions tend to flow down from political, religious and other leaders. Sampling the opinions of the leaders therefore is a fairly reliable way to judge general opinion, much more so than in the US.

5. It may be added that opinion in Viet-Nam tends to be fragmented. It is not communicated very well from one group or area to another. Often it is based on poor information. An extreme range of opinion on any given problem is more the rule than the exception. In practice this means not only that it is very difficult to characterize public opinion on some subjects, but also that public opinion exercises far less political influence on events. When public opinion is badly divided, the opinions of leaders become more important politically.

6. As regards the adequacy of our information on the topics mentioned in 21–B, it is generally good as regards the GVN. Our information on the political alignments within the RVNAF is less satisfactory. In general, we have good information on secret organizations and parties, religious and regional backgrounds, and officers' class. Our information on family ties is spotty; family connections in Viet-Nam are labyrinthine, and the practical importance of family ties varies enormously from one family to another.

7. In the last year or so our information on corruption has greatly improved. Nevertheless, by its nature, information on this kind of connection is most difficult to dig out. Our information on how corruption affects political alignments within the GVN/RVNAF is therefore quite incomplete, though the overall outlines are clear enough.

Question 22–A: What is the evidence on the prospects—and on what changes in conditions and US policies would increase or decrease them—for changes in the GVN toward:

A. Broadening of the government to include participation of all significant non-Communist regional and religious groupings (at province and district levels, as well as cabinet).

Answer:

1. It is neither possible nor necessary to include all significant non-Communist regional and religious groupings at any given level of the government. However, it is desirable that more of the major groupings be involved in the government, particularly at the national level.

2. Elections for *village* councils and *hamlet* chiefs were held in 1967 and will be held again this year. This is probably the best way to insure representation of significant groups at the local level. Strengthening local government and stimulating wider local participation may be effected by according more authority to local officials. The GVN is interested in accomplishing this, and various measures are under study.

3. At the *provincial* level, elections for provincial councils were due last year but were postponed. Although security was a major reason for the postponement, another consideration was the fact that the provincial councils are something of an anachronism. Set up as advisory bodies before the Constitution was enacted, they served a useful role in the early stages of democratization. Now, however, they will require more power, such as provincial budget review, if they are to continue to serve a useful purpose.

4. Increasing the powers of the provincial councils will require legislation. While the Assembly and the executive branch probably favor such a measure, it is not high on their list of priorities and may not be accomplished soon for that reason.

5. Province chiefs and their subordinates are now all appointed officials. The Constitution makes election of province chiefs mandatory after the first term of the first President—a provision which it may or may not be wise to implement when the time comes.

6. With a more powerful elected provincial council, provincial government should certainly be representative of the major groupings within the province. (There is no plan for electing district chiefs, and this is probably quite unnecessary in any event.) While these measures are not likely to be taken in the immediate future, the prospects are encouraging.

7. At the national level, all of the major groups are already represented in the Assembly. Some, notably the Catholics, are over-represented and others, notably the An Quang Buddhists, are under-represented, but no important faction is missing entirely.

8. On the executive side, the cabinet is well distributed in terms of regional representation. There are nine southerners, 5 northerners and two central Vietnamese in the cabinet. President Thieu is a central Vietnamese and Vice President Ky is a northerner. (It is sometimes said that the military is dominated by northern officers. While the Minister of Defense is a northerner, none of the four corps commanders are from North Viet-Nam and the chief of the JGS was born of southern parents in Vientiane.)

9. On the religious side the cabinet is heavily Buddhist, with only two Catholic Ministers. There are no Hoa Hao or Cao Dai in the cabinet, which is a source of some dissatisfaction to those religious groupings. It is also important to note that, like most Vietnamese, the chief political loyalty of all the Ministers is not to a religious group but to some political leader or faction. Thus even Buddhist and Catholic political factions do not regard any of the present Ministers as their representatives in the government. Also not represented in the cabinet are some major political factions such as the VNDD, and the Dai Viets. Labor, however, is very well represented with an officer of the CVT serving as Labor Minister.

10. A cabinet shuffle is widely anticipated in the near future, and there is widespread discussion of the need for a more broadly representative cabinet to conduct negotiations. It is altogether possible that Thieu and Huong will seek to bring into a new cabinet some Dai Viet, Hoa Hao, Cao Dai and other faction leaders now excluded.

11. While most Vietnamese agree on the desirability of a more broadly representative cabinet, there are a number of practical difficulties. The Hoa Hao and the Cao Dai do not appear to have leaders with enough administrative and technical ability to run a Ministry. If cabinet posts are reserved for these groups, they will probably be largely honorary. This may or may not satisfy the Hoa Hao and the Cao Dai. Dai Viet leaders such as Ha Thuc Ky will demand real power as the price of their participation in the government. (Ha Thuc Ky's unwillingness to accept one of the lesser portfolios was the reason for his refusal to join the first Huong

cabinet.) The VNQDD is split into several major factions, and it would probably be impossible to find a single VNQDD leader whom all factions would regard as their representative in the government. The An Quang Buddhists would probably refuse to participate in any cabinet so long as Thieu is President.

12. If an effort is made to broaden the cabinet so as to include major political and religious groupings, there is also the risk that such a cabinet would not be an effective team. Whereas efficiency probably requires a small war cabinet, a broadened government would likely result in a large and somewhat unwieldy cabinet. Strong personalities such as Ha Thuc Ky might find it difficult to work under the very firm leadership of Prime Minister Huong. Some political leaders, given a place in the cabinet, would be likely to try to pack their Ministries with their supporters.

13. To sum up, prospects for broadened government at the local level are good, though not yet an accomplished fact. At the national level all important factions are already represented, though not proportionately, in the legislative branch. Prospects for broadening the cabinet are probably good, though such a process is not without some built-in hazards, and success is certainly not assured.

14. It may also be noted in this context that the present government is far more representative of major religious, regional, and political factions than any of its recent predecessors. At the beginning of 1966 the GVN was basically a northern, military junta. The present government is basically civilian, Constitutional, elected, and heavily southern. (While President Thieu is a general, his political connections and his role as President have to a considerable extent metamorphosed him into a civilian leader. With the exception of the Ministers of Defense and Interior, his cabinet is completely civilian, including the Prime Minister. The legislative branch, while it includes some former military personnel, is a civilian body. Although province chiefs are military personnel, the Ministries and the provincial administrations are manned almost exclusively by civilian personnel.)

Question 22–B: What is the evidence on the prospects—and on what changes in conditions and US policies would increase or decrease them—for changes in the GVN toward:

B. Stronger emphasis, in selection and promotion of officers and officials, on competence and performance (as in the Communist Vietnamese system) as distinct from considerations of family, corruption, and social (e.g., eductional) background.

Answer:

1. Prospects are good for increased selection and promotion of officers and officials on the basis of competence and performance rather than family considerations, corruption and social background. In the past year and a half the trend has definitely been in that direction, though it must be admitted that there is still a long way to go.

2. The improved performance of the RVNAF was one of the most encouraging developments in 1968. This performance in part stems from better leadership, which in turn reflects more emphasis on merit appointments and promotions within the military.

3. On the civilian side it is worth noting that Thieu has pressed a program for appointing specially selected and trained personnel to the key jobs of province and district chiefs. His second training course for province and district chiefs was completed in October of last year, and 73 of the graduates were subsequently assigned as district chiefs. Of those district chiefs replaced, American advisors considered 30 to be notoriously corrupt or ineffective. Our field advisors are virtually unanimous in the opinion that the new appointments are great improvements.

4. Since Tet 1968 a total of 25 province chiefs and 149 district chiefs have been removed. Most of the province chiefs whom our advisors considered corrupt or ineffective were included among the 25 removed. Three of the province chiefs were specifically charged with corruption and are expected to stand trial. Of the 149 district chiefs replaced since Tet 1968, 90 were regarded by our advisors as corrupt or ineffective.

5. A new National Director of Police was appointed last year, and in an effort to clean up the police force, over 800 police officials were disciplined or discharged. A marked reduction in corruption at the Port of Saigon was accomplished under the new Port Director. The independent Inspectorate was established as required by the Constitution late last year, and it has begun to investigate charges of corruption. Both the Assembly and the press have maintained a considerable degree of public pressure for reduction of corruption. All of these developments are favorable to the effort to install a merit system in the government and the military establishment of South Viet-Nam.

6. The US role in this effort has been important. American counterparts regularly evaluate the performance of a very wide spectrum of government officials. We report those whom our advisors regard as corrupt or ineffective, and the GVN has in many instances acted to remove them.

7. Many obstacles remain in this area. Probably the most important is simply the ancient Vietnamese tradition of appointing officials on the basis of personal and family connections. Another important difficulty is the low level of salaries in the government. Exposed to American living standards and beset by continued inflation, most officials find it extremely difficult if not impossible to live on their salaries. This is one of the root causes of corruption in South Viet-Nam, and corruption in turn is one of the major obstacles to a true merit system.

Question 22–C: What is the evidence on the prospects—and on what changes in conditions and US policies would increase or decrease them—for changes in the GVN toward:

C. Political mobilization on non-Communist sympathies and energies in support of the GVN, as evidenced (e.g., by reduced desertion, by willing alignment of religious provincial and other leaders with the GVN, by wide cooperation with anti-corruption and pro-efficiency drives).

Answer:

1. As in the case of merit appointments and promotions, there is a favorable trend toward political mobilization. Some of the indicators of this trend are as follows:

a. More and better information about the enemy from the general population, often volunteered.

b. General willingness, in many cases popular demand, to participate in a civil defense program (the people in many areas are requesting training and weapons faster than the authorities are able and willing to provide).

c. Voluminous flow of complaints to the Inspectorate about corruption.

d. Assembly and press disclosure and complaints about corruption.

e. Despite the inevitable tugging and hauling between Legislative and Executive, realization of a broad degree of cooperation and joint effort between the Assembly and the Executive Branch.

f. Widespread recognition of the need for political unity, and—despite many failures and shortfalls—continued efforts to achieve it by virtually all major political groups.

2. While the trend is favorable, it must be said that progress has been painfully slow, particularly with regard to developing strong national political parties. The tradition persists from French colonial days that a true nationalist is by definition anti-government. The government is still plagued by inefficiency and corruption. The government information program remains relatively ineffective. Furthermore, differences between the United States and the GVN over negotiations issues—which became public in November—have apparently led some nationalists to believe that the US wants to oust the Thieu government in favor of a peace regime. All of these factors impede political mobilization in support of the GVN.

3. A very important factor for continued progress toward political mobilization is the Vietnamese reading of American intentions. The realization that the American commitment is not open-ended had a salutary effect in that it pre-disposed nationalists to look for ways of carrying more of the war burden themselves. Yet they need to be reassured that the US does not plan a precipitate withdrawal regardless of the consequences for Viet-Nam; for they will not support a government which they believe has lost or is about to lose American support.

4. Continued improvement in the efficiency and effectiveness of the government and the RVNAF is vital in winning the active support of the people. Also, if President Thieu can be persuaded to give active support to a broad nationalist political organization designed for the coming political contest, the chances of effective political mobilization will be enhanced.

Question 23: How critical, in various views, is each of the changes in Question 22 above to prospects of attaining—at current, reduced or increased levels of US military effort—either "victory," or a strong non-Communist political role after a compromise settlement of hostilities? What are views of the risks attendant to making these changes, or attempting them; and, to the extent that US influence is required, on US practical ability to move prudently and effectively in this direction? What is the evidence?

Answer:

1. *At current or increased levels of US military effort,* broadening the government is probably not a critical factor in achieving American objectives here. While it would be very helpful to have wider representation in the cabinet in terms of presenting a united front during negotiations, broadening the cabinet or increasing the powers of provincial councils probably would not add all that much to political stability or to political effectiveness vis-a-vis the communists.

2. If the US military effort is reduced, the need for unity becomes much greater, and a broad government of national unity would be accordingly more valuable in achieving our objectives. This is because a reduced US military effort even if the reduction were carefully phased, would tend to increase pressures on various groups to seek an accommodation with the enemy. Unless this situation is carefully managed, there is the risk that disunity could breed more disunity, and rapid deterioration in nationalist morals might set in. A broad government of national unity could be an important brake on any such tendency.

3. As noted above, broadening the government at the national level is likely to make for a larger but less effective cabinet. Teamwork would probably be more difficult. But these negative effects should be more than counterbalanced by the positive value of including some additional major political factions in the government.

4. The practical ability of the United States to effect a broadening of the GVN is extremely limited. We can point out to all concerned the value of such a move and urge them to take the necessary measures. But we cannot force them to do it.

5. *Merit Appointments and Promotions.* Appointments and promotions of civil and military personnel on the basis of merit is an important ingredient in improved GVN

and RVNAF performance, and at any level of US military effort the current trend toward better GVN and RVNAF performance is probably critically important. Regardless of the level of US military effort, measures to assure promotions and appointments on the basis of merit and performance thus require high priority.

6. Our role in encouraging the merit system may have contributed somewhat to anti-American sentiments. Officials displaced on the recommendation of US advisors are often bitter against the United States. Nevertheless the results of our effort seem to have been far more important than any negative effects.

7. Although American advisors have played a very useful role in moving the Vietnamese civil service and military toward a merit system, our practical ability to make changes in this area is also limited. What is required ultimately is a revolution in attitudes toward public service. Social pressures must police Vietnamese officials and military personnel, rather than an external American watch-dog.

8. *Political Mobilization.* If the US military effort is reduced, progress toward political mobilization will be of critical importance. However, even if the US military effort is maintained at the present level or increased, political mobilization will also be very important for long term stability and success in the coming political contest with the communists.

9. As in the case of broadening the government, the United States' means for achieving Vietnamese political mobilization are distinctly limited. We can, as we have, press what we regard as enlightened policies on the government. We can make clear our support for elected constitutional government. We can provide both material assistance and advice for programs which appear to assist political mobilization. But only the Vietnamese can accomplish political mobilization and national unity, and they have to do it in their own way.

U.S. OBJECTIVES

Question 28–A: With regard to the bombing of North Viet-Nam:

A. What evidence was there on the significance of the principal strains imposed on the DRV (e.g., in economic disruption, extra manpower demands, transportation blockages, population morale)?

Answer:

1. The bombing of NVN created considerable strains in agriculture, but many of the effects were indirect, and because of imports NVN was never faced with starvation. The normal seasonal shortages of manpower were aggravated and many of the male managerial cadres were drafted and replaced by inexperienced females. As a result, the 1967 rice crop was at least 500,000 metric tons less than normal, and NVN imported about 450,000 metric tons of food during the year. This situation continued, perhaps worsened, during 1968, and NVN was forced to import around 700,000 metric tons of food. With the aid of imported food, primarily wheat flour, and the raising of rice-substitutes, NVN was able to meet its food demands.

2. North Vietnamese industry was damaged severely by the bombing. Up to 80 percent of its electric power capacity was knocked out, reducing not only the production of electricity but also production at plants dependent on the powerplants. The country's cement plant and iron and steel plant also were damaged heavily; this entirely eliminated domestically produced cement and pig iron, both traditional export items. Other plants extensively damaged included textile, paper, chemical, fertilizer, and coal processing.

3. NVN, however, took countermeasures to minimize the effects of the bombing. Industrial plants were dispersed to more secure areas, diesel generators were imported to replace to some extent the reduced electric power production, and manufactured goods for both industrial and consumer use were imported, primarily from other Communist countries. Thus, the bombing postponed NVN's program for economic development. Nonetheless, the use of imported industrial goods provided an adequate standard of living for the people and allowed construction of a sizable number of small industrial shops to satisfy local needs.

4. The lines of communication (LOC's) were damaged continuously by the bombing; roads were interdicted, boat traffic disrupted, and bridges knocked out. The latter probably caused the greatest disruption. All of the major bridges were damaged; in particular, the bombing of the bridges along the LOC's from China to NVN was significant. The Viet Tri Bridge was damaged early, thus severing the Lao Cai-Hanoi rail line, and other bridges leading into Hanoi were struck, impeding the flow of goods on the Dong Dang rail line from China to Hanoi. Finally, the destruction of the bridges near Haiphong slowed the movement of goods from the port to other parts of NVN.

5. Several measures were taken to counteract the effects of the bombing on the LOC's. Thousands of full- and part-time workers were employed to repair roads and rail lines, often in a matter of days. Rail lines were made dual guage to facilitate the flow of goods from China. Bridge substitutes were devised, including truck and rail ferries, and pontoon and cable bridges. By such expedients, goods continued to flow from China and to move from Haipong to other parts of NVN. Of course, they moved more slowly and some were destroyed during the bombing raids, causing some temporary distribution problems and shortages, but there was never any evidence of serious disruption to the flow.

6. The bombing, viewed in Hanoi as an escalation of the war, increased NVN's manpower requirements for the armed forces and for repairing the LOC's. While the bombing diverted manpower from agriculture and industry into the military and war-related activities, NVN never appeared to be suffering from a shortage of manpower in general, only of manpower in particular skills. With an estimated 120,000 physically fit males coming of age each year, and by drafting older men and recalling officers, the necessary manpower for the armed forces was available. To satisfy the demand for managerial cadres, women were used. To insure the rapid repair of the LOC's, agriculture workers supplemented the full-time construction workers. As further testimony to the absence of critical manpower shortages, NVN continued to send thousands of students and technicians abroad for education and training throughout the period of the bombing.

7. There is little evidence that the bombing adversely affected the morale of the people of NVN. An indirect effect of the bombing was to create a lower standard of living, through a change in the composition of the rice ration, a general inability to fulfill the meat ration, and a reduction in the cloth ration. In addition, the programs to disperse industry and evacuate urban population were poorly organized, resulting in temporary unemployment, lack of housing and often inadequate rations. Moreover, both programs resulted in the separation of families, a possible morale-depressant. As the bombing continued, however, these programs were improved and the standard of living always was maintained, at least at subsistence-level.

Question 1: Why is the DRV in Paris? What is the evidence? (Among the hypotheses:

a. Out of weakness, to accept a face-saving formula for defeat.

b. To negotiate the withdrawal of U.S. (and NVA) forces, and/or a compromise political settlement, giving a chance for NLF victory in the South.

c. To give the U.S. a face-saving way to withdraw.

d. To undermine the GVN and U.S./GVN relations, and to relieve U.S. military pressure in both North and South Vietnam.

e. Out of desire to end the losses and costs of war on the best terms.)

There appears to have been differences of opinion in Hanoi concerning the situation in the south and appropriate strategies. These differences affect Hanoi's reasons for being in Paris. Thus, as far as our knowledge of how Hanoi thinks and feels, we see through the glass darkly if at all.

Notwithstanding, all echelons generally agree that the preponderance of evidence indicates that North Vietnam is in Paris because of a decision that it would be less costly to get the bombing stopped and to negotiate the U.S. out of South Vietnam (SVN) than to continue fighting for another five to ten years, and that they are pursuing objectives *b* and *d* above.

All five hypotheses apparently are contributory in some way to North Vietnam's (NVN) position in Paris. It appears there has been considerable debate in Hanoi over a correct strategic line and its proper tactical implementation. The essence of the discussion seems to be whether NVN should adopt an "offensive strategy" looking once again for dramatic military results or adopt a more flexible combination of political and military tactics. Evidence is that their intention are to adopt a more flexible combination of political and military tactics. There are several factors which may have influenced this direction:

First of all, and probably the most important is a conviction that Hanoi cannot win a war through large-scale, offensive military actions. Hanoi knows that continuing such a strategy would involve high losses without commensurate gains. The North Vietnamese further believe that the effort necessary to support large-scale fighting results in a serious weakening of the ideological struggle in both North and South Vietnam.

Closely allied to these propositions, is the probable conviction that the US will to persevere in South Vietnam is weakening and can eventually be undermined through a combination of the threat of indefinite military struggle coupled with pressures and gestures toward compromise and political settlement.

There is strong evidence that North Vietnam is in Paris to negotiate a withdrawal of US forces, to undermine the GVN and US Government relations, and to provide a better chance for Viet Cong victory in the South (hypotheses b and d).

It appears that a military victory in SVN is beyond Hanoi's capabilities as long as US forces remain and that Hanoi has become increasingly aware that the political dimensions of the struggle would have to assume greater significance in their overall strategy.

(1) By contrast with the Viet Cong (VC) and North Vietnamese, the overall strength and effectiveness of allied forces has improved sharply. Alterations of US tactics have increased the combat effectiveness of US units, and Allied intelligence has been more successful in detecting enemy movements since Tet. More firepower has been added to Republic of Vietnam Armed Forces (RVNAF) by modernization and expansion.

(2) In the last six months our military efforts against enemy main force units seem to be significantly improved. COMUSMACV has begun to concentrate much more on area

control than on kills. He has been aided in this approach by his defense in depth, particularly around the major cities. Moreover, since our "understanding" with Hanoi with respect to the DMZ, he has been able to redeploy one division from northern I Corps to III and IV Corps, and to free up for operations in the Danang area a division previously held in reserve for a DMZ contingency. The enemy has also been deterred from launching large scale attacks and attacks on cities, apparently because of the present disposition and tactics of our forces or because he is unwilling to violate our understanding concerning attacks on major population centers, or because he too may be in the process of changing his tactics.

(3) Despite allied successes, recent intelligence indicates that most enemy main force units have returned to SVN from border sanctuaries where they withdrew in September 1968. Further the number of infiltrators recently entering the pipeline to SVN recently increased significantly. These factors point to a continuing enemy capability to launch offensive operations.

(4) Although there has been considerable improvement in RVNAF capability, these forces are beset by a number of weaknesses and basic faults and remain highly dependent on US forces for support and continued improvement.

Politically, the enemy's prospects are brighter; despite some surface calm in the South Vietnamese political system, it is a changing and highly fragile device.

(1) Uncertainties about Communist military plans, the course of the Paris meeting, and the policies of US government have produced a widespread mood of apprehension in South Vietnam. There is acute concern that US domestic political considerations may lead the US to not consider GVN interests in the quest for a settlement in Vietnam.

(2) The GVN political system as it is *now* is probably inadequate for a political confrontation with the enemy. South Vietnam leadership remains divided and uninspiring. The Vietnamese nationalists have no national political organization to match the communists. Without an effective political organization, the lower level and local nationalist leadership is vulnerable to disintegration if the tide should appear to be moving in favor of the communists. Further, there is no large disciplined GVN structure in the rural areas to match the VC organization (See responses to questions 18, 22–24); and despite allied efforts to destroy the VC organization, it will probably remain a viable structure for some time.

With respect to pacification, while there has been some progress, the situation is not as favorable to the GVN as some believe. The recent Special National Intelligence Estimate on this subject concludes that:

a. The pacification program as a whole has made a significant contribution to the prosecution of the war and strengthened the political position of the Government of South Vietnam (GVN) vis-a-vis the Communists. Thus far the GVN's principal success has been in expanding its presence into the countryside. Providing permanent security for these gains has been more difficult. Security conditions continue to fluctuate with the intensity of combat. Low level terrorism, political agitation, and propaganda efforts by the Viet Cong (VC) continue to hamper progress, particularly since no more than a promising start has been made in reducing the effectiveness of the VC infrastructure. A large part of the countryside is still contested and subject to the continuing control of neither side.

b. As for gaining the allegiance of the people, this is almost impossible to measure. The turnout in the 1967 elections and the failure of the Communists to gain popular support at Tet suggest progress. Apprehension over the settlement of the war and the firmness of the American commitment tends to reduce popular confidence. The most common attitude among the peasants, however, continues to be one of war-weariness and apathy.

c. Saigon now seems finally to have accepted the need for a vigorous pacification effort. However, progress may still be hampered by the political situation in Saigon, continuing inefficiency, corruption, and the parochial concerns of the GVN.

d. Another major uncertainty is how much time is left to make up past deficiencies and consolidate current gains. Over the next several months, further progress in pacification will almost certainly not make the GVN much more able to cope with the VC, given peacetime conditions, than it would be today; a significant advance in this respect would probably require at least a year.

e. Finally, there is the question of how the Communists will react to the growing pressures on them. Despite improvements in the overall security situation, gains in pacification are still vulnerable to adverse military developments. The chances are good that the Communists will attempt to make an intensified effort to counter the gains in pacification and they will probably have some success. Thus, consolidation of gains is likely to continue to be a very slow and uncertain process.

COMUSMACV considers that hypothesis b is probably the strongest motivation behind the enemy's presence in Paris and is certainly the best documented. There have been numerous enemy documents and reliable reports that set forth these objectives, and his propaganda, as well as public pronouncements, proclaim them. Typical in tone and thrust is a report on new Viet Cong policy from a highly reliable agent just four days prior to the bombing halt. In describing the new policy, he said that in the near future the VC may approve negotiations with the GVN and the Americans in order to bring about a cease fire and a coalition government. But it must be emphasized from the beginning that a coalition government is only temporary. The parallel was drawn with someone on a long journey. One must stop and rest before continuing. The ultimate goal is still a communist South Vietnam. There might be a cease fire, but after a period of time there would be another general uprising. US withdrawal is an equally important objective and receives equal attention. For example, a recent report from Paris indicates that key National Liberation Front leader, Tran Buu Khien, has told a confidant that the chief aim of the National Liberation Front was to get the United States out of South Vietnam at all costs. After that, the National Liberation Front could take care of Vietnamese problems including reunification. Similar attitudes have been expressed by other National Liberation Front leaders as well as stated in enemy documents.

COMUSMACV considers that hypothesis d also is well documented as an enemy intent which may now be a key element of his strategy. As early as March 1968, the sixth resolution of the Central Office, South Vietnam (COSVN) pointed out the mutual dependence of US presence in South Vietnam and the continued existence of the present Government of Vietnam structure. It set forth the specific objective of driving a wedge between the two. This obviously remains a prime enemy tactic. An undated document signed by the Undersecretary of the Central Office, South Vietnam Party Committee and promulgated subsequent to the bombing halt, contains the enemy's current view of his overall situation and opportunities. It sees the United States urgently "trying to find ways for withdrawal of troops from South Vietnam and to de-Americanize the war in South Vietnam." It goes on to judge that these US attempts will be no different under a new Administration. The enemy believes that controversy exists within the GVN/US camp. He states that, "The US people and the people of the world want the US troops to depart Vietnam as soon as possible; whereas, the United States wants to prolong the period of withdrawal so that the puppet government can be consolidated."

Within this controversy he sees opportunity, the possibility to exploit situational developments which would result from the "swift solving of the Vietnam problem by either Johnson or Nixon, Diplomatically." Evidence continues to mount that the enemy sees these opportunities in a weakening of the Government of Vietnam that would result from allied controversy and tensions. For example, Directive No. 34, issued on 12 December 1968 by the VC Current Affairs Committee to Tay Ninh Province, goes into substantial detail in describing the various situations and conditions which could bring about an abrupt transformation of the GVN. The first would be a coup d'etat brought on as a result of US pressure to reshuffle the GVN Cabinet and, thus, ease the differences between the US and GVN negotiations. The second would be an open break between Thieu and Ky, leading to conflict between the Government of Vietnam and elements of the RVNAF. The third would result from a direct move by the US to replace the present leadership of the GVN. The fourth would be the complete replacement of the present GVN as a result of the popular uprising. In this document, the enemy goes on to say that the first condition would afford him the best opportunity and the second would be profitable to him locally and throughout the country. He makes no comment on the third. However, it is significant that he parenthetically states that there is little likelihood of the fourth contingency—the first evidence that he has lost face in the popular uprising concept. All evidence indicates that his military, political, and diplomatic efforts are devoted to aggravating these tensions, thus weakening the GVN to such a point that he can force a coalition government upon it.

CINCPAC considers that a combination of hypotheses *b* and *d* appear to be the key elements of the enemy's negotiating strategy. He notes that Hanoi has not acknowledge the presence of the North Vietnamese Army (NVA) forces in South Vietnam. The communist position has not changed. This was reaffirmed by Ha Van Lau on 19 January 1969 when he asked the press to stress that the basis for the Paris talks remained the four points of the National Liberation Front (NLF) of South Vietnam. Having secured major concessions in 1968, i.e., total halt of aerial, naval and artillery bombardment in North Vietnam, and representation in Paris without being required to reciprocate, his next objectives would most likely be the withdrawal of US troops and continued exacerbation of US/GVN relations.

The JCS concur with COMUSMACV's and CINCPAC's views noted above—in particular that hypotheses *b* and *d* are the primary reasons for the Democratic Republic of Vietnam's continued presence in Paris. The other hypotheses are also supported in some degree of available information. The Joint Chiefs of Staff concur with the US Military Assistance Command, Vietnam, that, at the time of the failure of the third offensive, there was a significant reduction in the number of infiltrators in the pipeline, which reduced the enemy's capability for future offensives; infiltration did not cease and it subsequently was stepped up.

(1) In response to the question as stated, the Joint Chiefs of Staff believe the enemy first came to Paris in May in order to secure the complete halt of bombardment and other acts of war against North Vietnam. The ad-

vent of spring and the coming good-weather period over the industrial heartland of NVN was an additional factor which probably affected the decision by the DRV to come to Paris. From the first session on 13 May 1968 until the total bombing halt was announced on 1 November 1968, this platform was repeated in each meeting in various terms and was played repeatedly in press releases.

(2) Although we certainly do not believe the propaganda claims of the enemy, they have shown that their statement of objectives are true expressions of their desires. As stated again on 25 January 1969 and on 30 January 1969 by the North Vietnamese and VC representatives in Paris, they are continuing negotiations first to secure the withdrawal of US/Free World Forces, and second to establish a new government in South Vietnam in accordance with the program of the National Liberation Front. Third, they seek eventual reunification of north and south.

(3) In the course of the negotiations, the other side can be expected to use all measure of propaganda and negotiating ploy in an attempt to discredit the GVN and its Armed Forces, and to drive a wedge between the United States and the GVN.

There is some evidence to support the view that North Vietnam is in Paris out of a position of weakness. (hypotheses a and e).

While there is no evidence that North Vietnam seeks a face-saving formula for defeat, hypotheses *a* and *e*, above, are otherwise so closely related that they can be treated as one. The best evidence supporting both is the huge losses the enemy took during 1968 and the failure of his general offensive/general uprising strategy. The enemy losses of 291,000 men more than offset the massive infiltration effort he had mounted. With the failure of his third offensive, there were no more infiltrators in the pipeline moving south—a factor which severely reduced his capability for future large-scale offensives.

COMUSMACV reports that despite repeated attempts, the enemy had been unable to seize and hold a single military objective. His battlefield performance was declining rapidly as was demonstrated in the demilitarized zone, at Thuong Duc, Duc Lap, and fire-support base Dot. He had failed to achieve the popular uprising, and his campaign to proselyte the Republic of Vietnam Armed Forces (RVNAF) to his side had met with no success. The gain in population control he had achieved with Tet was only temporary; by the end of December, the accelerated pacification campaign of the Government of Vietnam had surpassed their pacification progress of 1967 and had surpassed the campaign goals for 1968 established before Tet. The air interdiction program, combined with severe weather, had nearly closed his supply routes from the north, and he could no longer logistically support his forces in the demilitarized zone or in the northern provinces of the I Corps Tactical Zone.

There is some minor and older evidence to support the view that North Vietnam is in Paris to give the U.S. a face-saving way to withdraw. (hypothesis c).

COMUSACV reports that some of the pre-Tet captured documents dealing with the possibility of negotiations allude to it. For example, notes taken by a Viet Cong cadre in late December 1967 state, "In case it is necessary to talk (peace) with the United States, the peace conference will be conducted in the line of 'creating an honorable defeat' for the United States." There have not been such references in recent evidence of enemy plans or intent.

And finally, some consider that the North Vietnamese are in Paris only because they were so forced by U.S. peace initiatives and pressures of world opinion. Proponents of this view argue that:

The enemy has been able, and can continue to control both his and our casualties. This has been an integral part of his overall strategy. His attacks are designed to have maximum psychological impact by inflicting heavy allied casualties and projecting an aura of country-wide strength. If the enemy does control casualty rates and, as indicated below, is not limited by manpower or logistical shortages, then the entire notion of winning the war by attriting the enemy force is untenable, at least at present force and activity levels.

The second principal factor working to defeat the allied strategy of attrition is the external manpower and materiel provided by North Vietnam and the Communist Bloc nations. Without this support, the military war would have slowed down or ended long ago; with it, the VC/NVA can continue to fight almost indefinitely. North Vietnam has relied primarily on external Communist aid and economic austerity at home to meet the steadily increasing military requirements of the war in the South and the bombing-induced difficulties in the North. The Soviet Union, Communist China, and Eastern European nations provide the bulk of the combat equipment and materiel used by enemy units in South Vietnam. The cost of this support to North Vietnam is negligible. Our interdiction campaign has failed to stop the movement of these supplies to SVN.

In summary, it appears that the prevailing evidence supports the view that North Vietnam is in Paris primarily to get U.S. forces out of South Vietnam and to provide a better chance of VC/NLF political victory in the South.

Question 2: What is the nature of evidence, and how adequate is it, underlying competing views (as in the most recent NIE on this subject, with its dissenting footnotes) of the impact of various outcomes in Vietnam within Southeast Asia?

The difference of opinion in NIE 50–68 between the Army and Air Force on the one hand and the remainder of the intelligence community on the other over the impact of a "good" vs a "bad" Vietnam settlement on the future of Southeast Asia reflects a differing evaluation of the same basic data. For the most part, these assessments derive from public and private statements by local officials and from diplomatic reports. Past national reactions to threats and crisis, and overall estimates of both the military and political weaknesses of each country are also weighted in these evaluations.

DIA has indicated that the Army/Air Force dissent resulted from their more heavily weighting the public declarations of Asian politicians and the weaknesses of the nations; whereas the other intelligence agencies emphasized the power of growing nationalism in focusing the opposition to externally inspired and oriented communist movements, especially insurgencies. CINCPAC tends to support the Army/Air Force emphasis on the public statement of Southeast Asian leaders, noting that Thailand's Foreign Minister Thanat has expressed his fear that US withdrawal will result in a Vietnamese version of the 1962 Laos accords which he considers a sellout. Singapore's Prime Minister Lee Kyan Yew warned, on 4 November 1968, that the most important outcome of the war would be to decide what is to happen to South Vietnam's neighbors. Chiang Kai-Shek, in a message to President Thieu, stated "if the US withdraws as a result of a split with the Government of Vietnam, South Vietnam, Thailand, and all Southeast Asia will crumble and fall prey to the communists and the Free World cause in Asia would be irreparably damaged."

Public statements by national leaders, however, must always be treated carefully since the opinions expressed may be: (1) more concerned with present problems than future situations; (2) intended to influence the US; or (3) responsive to domestic political pressures. Moreover, in considering the post-Vietnam environment in Southeast Asia, it is important to remember that the outcome of the war in the South will be only one of the factors, and not necessarily the most important one, affecting developments. While the Vietnam settlement will have a significant psychological impact on Southeast Asian perceptions of US power and commitment, North Vietnamese strength, and the future of communism in the area, Vietnam will only set the political tone, not determine the eventual outcome for each country.

Other important factors will be: (1) the North Vietnamese and Chinese postures with respect to supporting insurgencies elsewhere in the area; (2) the degree of involvement in the area of extra-regional powers (Japan, USSR, India, Australia, UK, France); (3) the individual reactions of the countries to their specific internal situations. The compounding of uncertainties due to these multiple considerations makes it extremely difficult to judge the effect of a specific Vietnam outcome in isolation. Hence the generally cautious and qualified assessments in the NIE.

With respect to the impact of an unfavorable Vietnam outcome on Thailand, the Navy dissent is based upon judgments that: (a) Thailand is already engaged in a searching reappraisal of its geographical situation and future foreign policy orientation; (b) Thai leaders are deliberately signalling this fact to the United States; (c) their official and unofficial public statements to this effect are being confirmed by clandestine reporting of their private attitudes; and (d) the Thai appraisal of their strategic situation following the postulated communist takeover of the rest of Indochina would be a very realistic one in terms of what help they might expect from the United States in confrontations with Communist Chinese power short of general war. (Clandestine reporting indicates that the Thais may have undertaken to establish communications with Communist China via Pakistan over the question of the Chinese-sponsored insurgency in Thailand.) In this situation, the Navy concludes that Thailand would opt for a policy that maximizes her maneuverability in dealing with all powers in the area, and this would probably entail early movement toward a loosening of Thailand's security ties with the United States.

There is general agreement in the intelligence community that US performance in Vietnam is being closely watched by leaders in Southeast Asia. Nor are these leaders insensitive to the US public reaction to our involvement. Many of them genuinely fear that if the US retreats from its engagement in the region, the communists will move to take advantage of the individual weaknesses of the unprotected countries. Seeing themselves exposed to communist pressure without powerful US backing, some Asian leaders might feel compelled to accommodate the new realities. The dissents in the estimate reflect concern that the changes in this direction might be swift in the wake of an unfavorable settlement in Vietnam; whereas the majority believes that the record of the past would indicate that radical changes in policy would be some time in emerging.

Question 3: How soundly based is the common belief that Hanoi is under active pressure with respect to the Paris negotiations from Moscow (for) and Peking (against)? Is it clear that either Moscow or Peking believe they have, or are willing to use, significant leverage on Hanoi's policies? What is the evidence, other than public or private official statements?

On the basis of intelligence derived from analysis of Hanoi's known diplomatic relations with China and the Soviet Union; reports from third country diplomats; and continuing study of public and private statements by officials of the three countries, there does not appear to be significant pressure by Moscow or Peking on North Vietnam. Moreover, it seems likely that leaders in both China and the Soviet Union recognize the limitations of their power over Hanoi's policies. Hanoi over the years has been extremely adroit at balancing between the two by avoiding involvement in the Sino-Soviet ideological split and leaving the subtle impression that attempted intimidation by one might force it into the arms of the other. Both can be expected, however, to continue their efforts, public and private, to influence North Vietnamese decisions in Paris and in the conduct of the war. At best, the Chinese probably hope to impress on Hanoi that any Paris settlement will not alter China's support for wars of national liberation throughout Southeast Asia, while the Soviets presumably are husbanding their influence in the hope of having decisive impact either to present a breakdown or achieve a breakthrough in the negotiations. Both sides continue to send aid to Hanoi adequate to support its war needs.

Relations between North Vietnam and China cooled after Hanoi's decision last April to enter into negotiations. Negotiations are not a part of the Maoist script for wars of national liberation. But Peking probably recognizes that it cannot block a compromise settlement if Hanoi desires it. Furthermore, North Vietnam appears to have ignored from time to time China's doctrine of "protracted war" because of Defense Minister Giap's known preference for "big victory" a la Dien Bien Phu. After having failed to dissuade the North Vietnamese from going to Paris, China sharply reduced its media coverage of the war, slighted the North Vietnamese at various communist celebrations, completely ignored coverage of the Paris talks, and may even have withdrawn some construction troops from North Vietnam. Manifesting its intent to continue supporting insurgency in the region, China has again begun road construction in northern Laos and announced that the insurgency in Thailand is a war of national liberation. Further, there are some indications that Peking may be bypassing Hanoi and seeking more direct contact with the National Liberation Front in South Vietnam. Hanoi has been careful not to exacerbate the situation and has sent Le Duc Tho to Peking on each return trip to Paris presumably to keep the Chinese informed. All evidence suggests, however, that while Hanoi may listen attentively to its northern ally, its leaders keep their own counsel.

Relations between the Soviet Union and North Vietnam have been good throughout the war and the Soviets have supplied vast amounts of aid and supplies reaching record levels in 1968 with further increases probable in 1969. Conversations with Soviet officials, diplomatic reports, and public statements indicate that the Soviets desire a negotiated settlement of the war, but are probbaly unwilling to use their aid as a direct lever. Although North Vietnam apparently recently accepted some Soviet proposals on procedural questions, Hanoi for its part will, no doubt, try to avoid giving Moscow the impression it has a voice cr a veto in North Vietnam's negotiating position. In this connection, Hanoi's uncharacteristically vigorous support of the Soviet invasion of Czechoslovakia was somewhat of a surprise (and was not calculated to improve relations with China which condemned the Soviet action). Ambassador Thompson's year-end summary offers a succinct and accurate appraisal of the Soviet position:

"In Vietnam, the Soviets have openly and privately pressed for talks looking toward a political solution. We see no reason why they should not continue to use their leverage with Hanoi in this direction, but they are likely to continue to employ it with caution, letting Hanoi call the signals. At the turn of the year, for example, support in Soviet media for the positions of the DRV and the NLF was vocal and unequivocal, and we think it unlikely that the Soviets will go far in pressing Hanoi toward concessions unless the talks are near breakdown."[*]

Questions 4: How sound is our knowledge of the existence and significance of stable "Moscow" and "Peking" factions within the Hanoi leadership, as distinct, for example from shifting factions, all of whom recognize the need to balance off both allies? How much do we know, in general, of intraparty disputes and personalities within Hanoi?

Our knowledge of DRV politics and key personalities remains fragmentary and largely second-hand. It derives primarily from second-hand diplomatic reports and a continuing close scrutiny of the public statements and actions of Hanoi officials. On the basis of this limited evidence it appears misleading to characterize any faction within the Politburo as either "Moscow" or "Peking" oriented. This is true mainly because most of the problem with wich the Hanoi leadership must deal are issues of tactics and timing particular to the Vietnam situation. Chinese and Soviet ideologies can offer only the most general guidelines; often, no doubt, they are irrelevant. Moreover, even on issues where disagreements exist a strong element of nationalism and a shared view of the gravity of the situation work to produce unity and loyalty once decisions are made.

While the Hanoi leadership has exhibited remarkable external cohesion over time, there is evidence of considerable internal shading of opinion on both military and political-ideological issues, and there have been hints of intensive periodic debates on future courses of action. For instance, there is reason to believe a heated review of strategy for the "fight-talk" phase of the war took place late last summer.

On the question of military strategy there has been disagreement between the number three man in the official hierarchy, Truong Chinh, and Defense Minister Vo Nguyen Giap. Truong Chinh has consistently supported the Maoist doctrine of "protracted war" and violent revolution, most recently in a speech released last August. Because of this espousal of the Chinese line on wars of national liberation coupled with his doctrinaire ideological militancy, Chinh has been identified as the leader of the "pro-Chinese" faction. General Giap, whose brilliant victory over the French at Dien Bien Phu has conditioned his subsequent military outlook, has argued for a "big victory" in the current struggle with the U.S. Aside from several people closely identified with either Giap or Chinh, there is no clear evidence of the positions of most of the Politburo. Moreover, somewhat contradictory public statements suggest the issue raised last summer in the post-Tet policy debate may yet be unresolved.

On political and ideological issues there is evidence of a loose grouping of militants who favor an aggressive approach to both foreign and domestic policy. In addition to Truong Chinh, this group includes: the number two man, Le Duan; the senior member of the Paris delegation, Le Duc Tho; and Deputy Premier Hoang Quoc Viet. A more moderate and pragmatic approach is taken by another portion of the Politburo (often identified Misleadingly as the "Moscow" faction). This group includes Premier Pham Van Dong; Defense Minister Giap; Pham Hung, Le Thanh Nghi; and Van Tien Dung. It is impossible to judge how cohesive or stable these groupings are or clearly which has most power. Ho Chi Minh has consistently remained aloof from these groupings, presumably promoting consensus or playing one group off against another.

A somewhat different analysis of the groupings in the Hanoi leadership is offered by DIA and the JCS. Basing their conclusions largely on public statements and writings of the individuals, DIA and the JCS believe there are three broad groups generally active in the North Vietnamese Politburo. The distinctions among them, however, are by no means solid or suggestive of rigid factions. The groups reflect, at best, in this view, the general political philosophy to which these individuals adhere, and are regarded as useful only to a certain degree to identify the general approach of a man to political and national problems. Over the years, in the DIA/JCS view, the groupings in the Politburo have been as follows:

a. *Militant.* Favoring an extreme and aggressive approach to both foreign and domestic policy:

(1) Le Duan.
(2) Le Duc Tho.

b. *Moderate.* Inclined to greater caution in domestic and foreign policy:

(1) Pham Van Dong.
(2) Pham Hung.
(3) Vo Nguyen Giap.
(4) Le Tanh Nghi.
(5) Van Tien Dung (alternate member).

c. *Neutral.* Open to persuasion:

(1) Truong Chinh.
(2) Nguyen Duy Trinh.

But whatever the internal alignments in the Politburo may be, the most important consideration favoring unity and discouraging open identification by a person or group with either China or the Soviet Union has been the widely shared fear of alienating either. This need to delicately balance and offset relations with the two Communist giants explains Hanoi's studied neutrality in the Sino-Soviet dispute and the muting of internal preferences by Politburo members.

Question 5a: Why did North Vietnamese Army units leave South Vietnam last summer and fall?

The three most likely reasons for the withdrawal of North Vietnamese Army (NVA) units from South Vietnam (SVN) during the latter half of 1968 are: (1) military necessity as a result of losses inflicted by allied forces; (2) a gesture to persuade the United States (US) to order a complete bombing halt; and (3) a change in enemy strategy based on the opinion that he now may be able to gain more politically than he ever has been able to gain militarily.

The enemy traditionally has withdrawn his forces (particularly North Vietnamese Army (NVA) units) from South Vietnam (SVN) whenever he has felt the need to rest and refit them. He always has enjoyed relative safety from allied operations in North Vietnam (NVN) and Laos and complete immunity in Cambodia. In all three countries, the flow of supplies to the enemy base areas near the borders of SVN and his employment of these base areas are documented. He withdrew his units from SVN last summer and fall following his second and third offensives, respectively. In both instances, his decision to withdraw units was prompted by several factors, including the pressure of allied operations, heavy battle losses, and a need to prepare for future operations. The fact that most of the units returned to SVN for tactical operations is evidence of the last factor.

There were additional considerations regarding the enemy's withdrawal of units from the demilitarized zone (DMZ) and military region Tri Thien-Hue last fall.

Allied interdiction efforts south of the 19th parallel had reduced significantly the logistic support for these forces.

The DMZ area suffered logistically because allied forces had uncovered enemy supply and munitions caches of unprecedented magnitude. For example, units of the 3d Marine Division uncovered 19 caches in the 320th Division area during the period 10–23 September 1968 which contained: over 11,000 rounds of rocket and mortar ammunition; 7,300 grenades, 850,000 rounds of small arms ammunition; 1,500 mines; and 4,600 pounds of TNT. In the months of August and September, friendly units in I Corps seized over 1,000,000 pounds of rice, further increasing the enemy's logistics problems.

---

[*] Moscow Airgram 2351; 31 December 1968.

There were numerous prisoner of war reports and captured documents describing food shortages in the military region Tri Thien-Hue. For example, an officer prisoner of war from the 5th Regiment stated that a lack of rice had created morale problems. Rice was gathered daily in the mountains, but deliveries were inadequate because of allied blockades of transportation routes. A rallier from the 803d Regiment declared that as a result of food shortages, the troops went without a noon meal. A late July 1968 notebook entry by a quartermaster cadre of the 812th Regiment spoke of men facing imminent starvation and disclosed that food shortages had hampered preparations for the third offensive. These reports are typical of many received during September.

While there is substantial evidence that military necessity may have forced the enemy to withdraw some of his forces from SVN in the summer and fall of 1968, within the enemy's broad strategy, political determinations well could have played an equally important role in his disengagement.

Although the evidence suggesting a political motive for the withdrawals is less obvious, there are indications that Hanoi was trying to influence a US decision to declare a complete bombing halt of NVN. The enemy's desire to obtain a complete bombing halt and guarded inference out of Hanoi support the hypothesis that there was a political motivation behind the withdrawals.

The speed with which the 320th NVA Division returned to NVN and the fact that the NVN delegation approached the US delegation in Paris shortly after the division's return to NVN, strongly suggests that the enemy seized upon the opportunity to turn fault to virtue, by withdrawing forces he could no longer support effectively as a seeming concession to attain the bombing halt.

Moreover, the withdrawals did not follow previous patterns. Some of the forces withdrawn from the DMZ area went further north in NVN than in previous years. In addition, in September and October, a greater number of units withdrew to border sanctuaries in Laos and Cambodia than previously had been witnessed.

Other political considerations which may have influenced communist motives were their awareness of the rising unpopularity of the war in the US, the ramifications of the 1968 US Presidential campaign, and expressed US interest in negotiating an early reduction of it commitment in SVN.

All of these considerations, taken together with the military defeats inflicted on enemy forces, may have led the communists to the conclusion that they had much to gain in the short term by agreeing to negotiations as a part of a long-range strategy to continue fighting while negotiating.

There also are indications the enemy changed his strategy based on the opinion that he may be able to gain more by increased political activity than he ever has been able to gain through military efforts. He decided that the best time to accomplish these political initiatives is now, before the full effect of Government of Vietnam (GVN) programs to gain support of the people can be realized. At present the major threat to allied objectives in SVN is the enemy's effort to extend his political control over the population and claim a facade of legitimacy for his authority. It is estimated that the enemy has established "liberation committees" in over half of the villages in SVN, and over 60% of the population could be said to live in areas subject to some VC political activity. In support of this effort, enemy military capabilities are significant and he still is capable of maintaining the military initiative. It is estimated that the total enemy military strength committed against or posing a threat against SVN is 265,000–355,000.

In summary, both military and political motives influenced the enemy's decision to withdraw forces from SVN in the summer and fall of 1968. On the surface, military necessity may appear to be the dominant factor, but in reality, political determinations may have been more important.

Question 5b: Did the predicted "third-wave offensive" by the North Vietnamese Army/Viet Cong actually take place? If so, why did it not achieve greater success?

An enemy "third-wave offensive" did take place and it began the night of 17–18 August 1968. It initially was evident in the sharp rise of enemy-initiated incidents and in enemy killed in action. Enemy large-scale attacks totaled 6 in June, 2 in July, and 3 in the first half of August, with 10 battalion-size and 1 regimental-size attacks. Enemy assaults and attacks by fire more than doubled in the week of 18–24 August over the previous week (38 assaults/attacks by fire to 91). The enemy killed in action also more than doubled, from 2,483 during the period 1–17 August to 5,534 during the period 18–24 August. The number of enemy incidents and killed in action remained at a relatively high level through the first week of September. Numerous captured documents and prisoners of war attested to the fact that a third offensive was both planned and launched by the enemy. In addition to the increase in enemy incidents and killed in action, there is hard evidence relating to enemy plans for a third offensive and his own admission that he had launched one. These include at least 183 captured documents, agent reports, and the statements from at least 16 prisoners of war.

In the III Corps, especially, numerous reports made specific reference to the "Third General Offensive," and indicated August as the time for the attacks. A notebook from the Central Office, South Vietnam (COSVN) Subregion 4 specified that preparations for the "climaxing phase" were to be completed before 30 July. Another notebook contained detailed plans for an attack against Saigon, and stated that from 15 June to 30 July 1968, the unit concerned was to prepare for the "third climax." All rear services preparations were to be completed by 5 August 1968. A prisoner of war, who was a battalion political officer, stated that a meeting scheduled for 7 to 9 July 1968 was to plan for a third offensive, which he estimated would begin sometime after mid-August. A political officer who rallied on 26 July 1968 described plans for major enemy units in the III Corps Tactical Zone during a "forthcoming third offensive."

The enemy's lack of success in his third offensive is predominantly a reflection of what has been a continual deterioration of his tactical capabilities since the 1968 Tet attacks.

In the Delta, his plans to attack Cai Lay and Can Tho had been compromised and preempted. Thus, he had been unable to launch any sizable offensive action there.

His attacks on III Corps' peripheral targets did not weaken Saigon defenses and his forces had been driven back to the Cambodian sanctuary, unable to reach the capital.

In II Corps his only major attack had been at Duc Lap. Four regiments were not able to take this outpost.

The three-plus division force he had been building all summer in northern military region 5 never was able to consolidate near Danang. They spread out along the coast attacking population centers and the outskirts of Danang itself. These attacks were repulsed with heavy losses to him and he was forced inland. His DMZ units were ineffective. Their mission was to tie down and attrite allied forces; instead, they suffered heavy casualties as well as loss of caches, and were forced out of the country.

To a lesser extent, the enemy's assessment of his potential for the future probably brought about an early decision to cut short his offensive plans.

Concurrent with the decided decline of the enemy's tactical capability has been a significant improvement in allied intelligence, which has allowed allied forces to anticipate enemy movements and locate his forces as well as his logistical activity. As a result, it has been possible to shift B–52 and tactical air assets, applying them to the most lucrative targets. In addition, improved intelligence has been instrumental in preempting enemy actions on the ground. Well in advance, his plans, targets, and timing for both the second and third offensives were well known to allied forces.

For example, it was learned from two highly reliable agents that B–52 strikes directed against a COSVN headquarters element and units of the 9th VC Division forced the enemy to cancel his plans for attacks on Tay Ninh City the end of July. The early detection of the 95 CNVA Regiment's move toward fire-support base Dot led to destruction of his artillery elements before they deployed to firing position. Consequently, his infantry was exposed to the heavy losses they subsequently sustained. The enemy himself has recognized the improvement of friendly intelligence and views it with considerable alarm.

For instance, a document captured last summer in I Corps contained notes indicating that allied intelligence was excellent, stating, "we frankly acknowledge that we are defeated in that field." More recent reports evidence that COSVN admits to great difficulty in carrying out large-scale operations because of improved allied intelligence.

In summary, the enemy's "third-wave offensive" began on the night of 17 August 1968 with a sharp increase in the number of attacks against military installations and population centers throughout SVN. By the time the offensive crested during the week of 18–24 August, comparative data showed there had been a three-fold increase in the level of his military activity—from a weekly total of about 30 attacks during each of the first two weeks of August to 100 for the initial week of the offensive. * * *

Question 5c: c. Why are the Viet Cong guerrillas and local forces now relatively dormant?

There is no evidence that Viet Cong (VC) guerrillas and local forces are now relatively dormant. On the contrary, enemy documents captured subsequent to the bombing halt called for renewed emphasis on guerrilla activity and a build-up in guerrilla strength.

Enemy activity since the bombing halt has been characterized by small-scale harassment, standoff attacks by fire, sapper and terrorist attacks. The predominant part of this activity has been carried out by guerrillas and local forces in support of attempts to consolidate and strengthen their position in the rural areas. Guerrillas and local forces also are trying to screen the deployment of enemy main force units into attack positions, especially in III Corps.

During the last six months, the only significant drop in categories of activity credited to guerrillas and local forces has been the decline in the number of acts of sabotage, as illustrated by the following table:

Type of incident	July 1968	August 1968	September 1968	October 1968	November 1968	December 1968	July to December 1968	Total 1968	1st half
Harassment	1,372	1,234	1,065	1,125	1,135	1,039	7,070	18,233	11,200
Terrorism	60	59	99	75	73	91	457	1,047	600
Sabotage	60	41	32	17	20	9	179	1,609	1,400

	Total 1967	Total 1968	1st quarter	2d quarter	3d quarter	4th quarter
Attacks:						
Bn size	54	126	64	33	27	2
Other	2,422	3,795	1,473	1,234	567	521

Note: Big decline in 2d half compared to 1st half, or to 1967.

Question 6: What rate of NVA/VA attrition would outrun their ability to replenish by infiltration and recruitment, as currently calculated? Do present operations achieve this? If not, what force levels and other conditions would be necessary? Is there any evidence they are concerned about continuing heavy losses?

Current Military Assistance Command, Vietnam (MACV) estimates for 1968 place enemy gains from infiltration and recruitment at approximately 298,000, as opposed to enemy losses of about 291,000. Excluded from this loss count are the unknown casualties inflicted by B-52 strikes, tactical air, and ground artillery. MACV estimates that the enemy's gains and losses in South Vietnam (SVN) roughly balanced out for the year of 1968. If it is assumed that the enemy can infiltrate and recruit approximately 300,000 men a year, then allied forces would have to attrit the enemy at the rate of about 25,000 per month. Present operations (those since September to December 1968) have attrited an average of about 18,000 men per month. This difference of 7,000 men per month is not because the allied force level is inadequate, but because the enemy chooses not to engage.

The enemy has access to sufficient manpower to meet his replenishment needs for at least the next several years, even at the high 1968 loss rate of about 291,000. Approximately 120,000 physically fit males reach the draft age each year in North Vietnam (NVN). Prior to 1968 they have more than offset the requirements for infiltration into South Vietnam (SVN)—90,000 infiltrators in 1966 and 82,000 in 1967. About 250,000 men appear to have infiltrated in 1968, but even this level can be maintained by tapping the large pool of nonmilitary manpower available in NVN. For example, there are about 1.8 million physically-fit males in NVN aged 15 to 34; only about 45 percent (875,000) are in the NVN regular (475,000) or paramilitary (400,000) armed forces. The cessation of bombing probably has freed an additional 200,000 troops and labor force personnel of the approximately 600,000 total who were involved in anti-aircraft defense, repair activities and transport. Moreover, NVN has additional alternatives open with regard to the availability of manpower which include: reducing the North Vietnamese Army (NVA) forces committed to SVN; lowering physical standards for induction; requesting "volunteer" support from other Communist countries; and increasing the rate of food imports to free large numbers of marginally productive agricultural workers.

Even at the all time high enemy loss rates (340,000 annual rate) during the first six months of 1968, the Viet Cong (VC)/North Vietnamese Army (NVA) could replenish their forces for more than four years by depleting 33% of their joint pool of able-bodied manpower.

Estimated VC/NVA personnel gains

Infiltration [a]	128,000
Recruitment [b]	42,000
Total gains	170,000

Estimated VC/NVA personnel losses

Combat deaths [c]	109,584
Died of wounds [d]	38,354
Prisoners [e]	8,774
Military defectors [e]	14,677
Total losses	171,389

[a] Estimated by taking all source infiltration estimate for 1st quarter 1969 and multiplying by 4.

[b] Taking MACV's current recruitment estimate of 3,500 per month and multiplying by 12.

[c] Taking 4th quarter 1968 rate and multiplying by 4.

[d] Died of wounds=.35 x KIA (MACV estimate).

[e] Average of 1967 and 1968 statistics.

Assuming that VC/NVA losses could be boosted back up to the rates for the first half of 1968, the highest ever, the enemy still could replenish his losses for quite a while, depending on how far down he is willing to draw his manpower pool. At the first half 1968 rates, the enemy would lose about 340,000 personnel per year, assuming that MACV's combat death and died of wounds figures are correct. At this rate the total VC/NVA able-bodied manpower pool of 2.3 million would be depleted at a rate of about 175,000 per year. Assuming that the NVA replenish VC losses after the VC run out of manpower, it would take 13 years to exhaust the manpower pool, 6.5 years to cut it in half and 4.4 years to deplete it by a third.

Moreover, it is unlikely that the high enemy loss rates of January–June 1968 could be maintained by allied forces unless: (1) the enemy generates massive Tet offensive type attacks; (2) allied forces become much more efficient and effective; and/or (3) allied force levels are increased greatly.

Even if the enemy initiates massive attacks, the evidence is quite strong that he calculates the casualties he is willing to take before he goes into the battle and withdraws if casualties exceed acceptable levels. To support this, there is a very strong relationship between the level of attacks and the level of enemy casualties. Thus, the enemy is unlikely to launch sustained major attacks unless he figures he can stand the losses.

A higher tempo of allied operations is unlikely to raise enemy casualties the January–June 1968 levels, unless the allied kill rate can be doubled. Unfortunately, there is little or no relationship between the ——— of allied operations and fluctuations in enemy (or US) combat deaths. Thus, unless allied commanders can wrest the initiative from him, the enemy can be expected to control his losses within a broad range.

Another way enemy losses might be raised is to simply increase allied troops to the point where the desired level of losses is inflicted. It appears that the 4th quarter 1968 losses are at about the level the enemy must sustain in order to maintain his presence in the countryside. If so, more allied troops in the field ought to be able to raise the enemy loss rate. During the 4th quarter 1968, allied strength averaged 1,606,000 men, who inflicted enemy losses at a yearly rate of 170,000 or 106 per 1000 allied troops. At this rate it would take more than 3 million allied troops to raise the yearly rate of 340,000 enemy losses, assuming the enemy continues to avoid contact and allied efficiency remains constant.

The foregoing troop estimates are unrealistic, because it is likely that the enemy combat death rate per 1000 allied troops would increase as more troops were added. Moreover, any large scale troop increase would have to come from outside SVN, since the Government of Vietnam is deep into its manpower pool and at current desertion rates will not be able to maintain present Republic of Vietnam Armed Forces (RVNAF) force levels. Since US and other free world forces generally outperform RVNAF in killing the enemy, some gains would be expected from this substitution. However, if the difference in performance is due to difference in mission (i.e., pacification versus sweep), then the gains would be reduced. In any case, it appears that 500,000 to 1,000,000 US and other free world forces would have to be added to insure a level of attrition unacceptable to the enemy. Allied casualties, of course, would increase as the enemy casualties increased.

The prospects of continuing losses, even at a rate considerably less than 1968, would not be attractive to the enemy unless he thought that he was moving progressively toward his objectives. If he opts to continue the war, he would be required to consider carefully the relationship between his strategy and his losses. The high loss rate of 1968, for example, was a consequence of his offensive tactics, the forward deployment of his main forces during the first nine months of the year, and his effort to achieve a maximum impact, both politically and militarily, in a short period of time.

The JCS previously have recommended military actions under certain alternatives which they believe: (1) are feasible in terms of force, assets, time and risks; and (2) can be undertaken to either render the enemy incapable of continuing the war, or cause him to recognize the inevitable destruction of his capability to continue the war.

The JCS considers that, should a decision be made to resume full-scale hostilities with a view to achieving the objective postulated, authorities should be granted: (1) for closure of ports in NVN by mining; (2) for unrestricted air warfare against all targets of military and/or economic significance in NVN to within several miles of the Chinese border; (3) extension of normal naval surface operations to within 15 miles of the Chinese border; and (4) expanded current and covert operations, as required, in Laos, Cambodia and the demilitarized zone (DMZ), supported by air power.

There is evidence to indicate that the enemy is concerned about continuing heavy losses. Much of the evidence is contained in captured documents and prisoner interrogation reports in which concern is reflected about sickness, desertions, shortages of cadre personnel, poorly trained and tardy replacement personnel, and other problems. According to US commanders, however, the best evidence can be found in the pattern of enemy actions since the third offensive in August and September of last year.

General Abrams has characterized the enemy's third offensive as a conservative campaign marked by much greater tactical flexibility, in which the enemy began to pull his forces away once his casualties began to mount. Analysis of the enemy's daily combat deaths during the third offensive shows his apparent concern for a lessening of casualties. For example, there was a decided peak coinciding with his initial staggered attacks in mid-August; then there was a drop to below the average 280 combat deaths per day which he had sustained during the so-called June–July "lull." This was followed by an increase in his combat deaths as he turned to secondary targets such as Thuong Duc; then, when the third offensive finally was called off, his combat deaths returned to about the "lull" level.

The enemy's concern for losses also can be seen in the pattern of offensive actions which have occurred since the third offensive. These have emphasized economy of force tactics and stand off attacks by fire, with most of the contacts since September 1968 having been at allied initiative. In the past several months the enemy generally has been reluctant to engage in any large-size combat operations and consistently has sought the security of his border sancturies.

Question 7: To what extent do the United States/Republic of Vietnam Armed Forces and the North Vietnamese Army/Viet Cong share in the control and the state of Viet Cong/North Vietnamese Army attrition, i.e., to what extent, in terms of our tactical experience, can heavy losses persistently be exposed on Viet Cong/North Vietnamese Army Forces, despite their possible intention to limit casualties by avoiding contact? Among the hypotheses:

a. Contact is predominantly at Viet Cong tactical initiative, and we cannot reverse this; Viet Cong need suffer high casualties only so long as they are willing to accept them, in seeking contact; or

b. Current Viet Cong/North Vietnamese Army loss rates can be maintained by present forces—as increased "X" percent by "Y" additional forces—whatever the Democratic Republic of Vietnam/Viet Cong choose to do, short of further major withdrawal.

The enemy, by the type action he adopts, has the predominant share in determining enemy attrition rates. The Military Assistance Command, Vietnam (MACV) believes, however, that heavy losses can be and are being imposed upon the enemy regardless of the tactics he adopts in South Vietnam (SVN).

During 1968, the enemy's total monthly casualties (permanent losses) ran from a low of approximately 15,000 for July and October to a high of 40,000 to 41,000 in Febraury and May. It is significant that the two high months (February and May) encompassed the peak of his Tet and second general offensives. As a broad rule, when the enemy attacks his casualties increase; when he evades, hides, or uses attacks by fire, his casualties decrease.

During 1968 the enemy's minimum monthly permanent losses from all sources totaled 15,000. During the last 4 months of 1968, when the enemy avoided large-scale offensive actions, his permanent losses averaged 18,000 per month.

Allied military strategy in SVN assumes that allied forces are superior to the enemy forces because of greater allied combat manpower, firepower, mobility and support. In terms of total armed men, the allies outnumbered the enemy about 6 to 1 at the end of 1968, but the allies had only a slight advantage over the enemy in terms of combat troops on offensive operations. This is because about 25% of the allied maneuver battalions are tied down protecting base areas, lines of communication and pacification operations. Conversely, the enemy's small logistic and defensive requirements and reliance on local populace leave most enemy main force units free for offensive operations. As a result, allied forces committed to offensive operations only slightly outumber the enemy troops in maneuver battalions; in terms of rifle platoon manpower the two sides are nearly equal.

Past experience indicates that the enemy tries to fight in a way nullifies the allied advantages in manpower, firepower, mobility support. One way the enemy does this is to mass his forces to exploit favorable tactical situations while tying down most of the allied forces through small attacks and harassments against allied forces and cities. The cost in enemy lives is high, but it prevents the allies from turning their resource superiority into a decisive military advantage.

Base areas in North Vietnam (NVN), Laos and Cambodia provide the enemy with a strategic advantage and a military sanctuary which permits them to choose the time and place of his offensive activity in SVN and provide a respite from allied operations. The enemy has the strategic initiative in SVN, and like a criminal in the city, he decides when and where he will strike, if the "climate gets too hot," he merely "lies low" for awhile. When the fighting becomes too intense, he can break or avoid contact by retreating to his base area sanctuaries.

Withdrawal of main-force units to base sanctuaries in NVN, Laos and Cambodia permits the enemy to regulate his casualty rate to a significant extent. In spite of the heavy casualties he sustained in 1968, he has been successful in maintaining and even increasing his force structure in SVN. In fact, during four years of intensive combat in SVN and unprecedented bombing of NVN and Laos, the enemy has more than doubled his combat forces, successfully sustained high casualty rates, doubled the level of infiltration, and increased the scale and intensity of the main-force war.

Allied operations do result in increased enemy casualties, but most often when the enemy is willing to engage in large-scale reaction and counter operations. From time to time, allied forces are able to cut off or trap enemy forces and impose unexpectedly high casualties on a particular unit. Such actions are too infrequent, however, to enable a continuing heavy casualty rate on the scale of early 1968 so long as border sanctuaries outside SVN are available.

Statistical analysis supports the hypothesis that the enemy exercises the greatest share in the control of the rate of enemy attrition. The allies never have persistently imposed significant losses on enemy forces when he has sought to avoid them.

Little or no relationship exists between the tempo of allied operations and fluctuations in either enemy or US combat deaths. A significant increase in allied operations is not accompanied by a significant increase in enemy or allied combat deaths, nor does a reduction in allied operations reduce deaths.

A very strong relationship exists between enemy-initiated attacks and enemy combat deaths, and there is an even stronger relationship between enemy-initiated attacks and US combat deaths.

Statistical analysis supports the hypothesis that the enemy holds the military initiative in SVN, as measured by his ability to influence casualty rates. Taken alone, the statistical findings must be considered tentative, but they accord well with past experience, which indicates the enemy can control his casualty rate, to a great extent, by choosing where, when, and how often he will fight. He tries to avoid contact with allied troops under unfavorable conditions by blending into the population or vanishing into jungle base areas during large allied operations.

Another way to show that allied forces cannot persistently impose heavy losses on enemy forces, except when the latter seek heavy combat, is to compare the tempos of operations and casualties during the 2nd and 4th quarters of 1968. The former was a period of high enemy activity while the latter was a period of significant lull. Despite increases in allied battalion days of operation, large and small operations, and force strength, the enemy reduced the monthly average of his combat deaths by 41% between the 2nd and 4th quarters of 1968. However, the changes in allied operations in SVN did produce a more favorable than usual kill ratio (6.0) in the 4th quarter of 1968. This improvement is only a marginal contribution to the effort since enemy yearly losses at this rate, while high, probably would not be considered unacceptably heavy by the enemy. A comparison of monthly averages during the 2nd and 4th quarters of 1968 is shown on the following table:

Indicators (monthly averages)	2d quarter 1968	4th quarter 1968	Percent change
Enemy combat deaths	15, 540	9, 132	−41
Enemy initiated attacks	422	174	−59
U.S. combat deaths	1, 575	682	−57
Allied combat deaths	3, 212	1, 529	−52
Allied bn. days of opn	7, 520	[1] 8, 890	+18
Allied large opns	583	[1] 639	+10
Allied large opns	583	[1] 639	+10
Allied small unit opns. (thousand)	182	[1] 205	+13
Allied Force strength (thousnads)	1, 507	1, 606	+7

[1] Estimated from October/November data.

The enemy combat death rate of 9,132 per month shown above probably represents a good indication of the combat death rate that the current allied forces can impose on the enemy when he is working hard to avoid contact. The following table shows that the rate would be 24% above the 1967 rate, but 40% below the 1968 rate:

	Annual rate at 4th quarter 1968 level	Total 1968	Total 1967	Total 1966
Enemy combat deaths	109, 584	181, 146	88, 104	55, 524
U.S. combat deaths	8, 184	14, 561	9, 358	4, 989

In summary, the ability to control casualties is an integral part of the overall enemy strategy in SVN. His attacks are designed to have the maximum psychological impact by inflicting heavy allied casualties and projecting an aura of country-wide strength. Severe enemy personnel losses, similar to those of early 1968, can be repeated only if the enemy chooses to remain in the field where he will be vulnerable to allied action. Experience has shown that enemy casualties increase in proportion to enemy offensive activity, or in reaction to allied operations. In either case, the choice to stand and fight or to avoid contact rests with the enemy.

What controveries persist on the estimate of Viet Cong order of battle; in particular, on the various categories of guerrilla forces and infrastructure? On Viet Cong recruiting, *and manpower pool? What is the overall adequacy of evidence?*

The elements composing enemy strength in Sotuh Vietnam (SVN) are divided into two broad areas: (1) the military order of battle, or military threat; and (2) other organized portions of the insurgency base. The military threat, in turn, is composed of four elements: (1) North Vietnamese Army (NVA) forces; (2) Viet Cong (VC) main and local forces; (3) administrative services (or support) forces; and (4) guerrillas. The total population under enemy control, including the agents and sympathizers in Government of Vietnam (GVN) controlled areas, is the insurgency base.

The Communists attempt to organize all elements * * *; however, only those elements such as the infrastructure, self-defense militia and assault youth, which deal primarily with population/area control and provide some support to the combat forces, are considered appropriate for separate quantification. Although these organized blocks of the population are a problem for any long-range pacification effort, they are not considered as part of the military threat. On previous occasions, the Central Intelligence Agency (CIA), by including many of these organizations in its assessments, has estimated the enemy threat in SVN at a total strength in excess of one-half million. In the opinion of the Military Assistance Command, Vietnam (MACV) and the Defense Intelligence Agency (DIA), such inclusions appeared to increase the actual enemy military threat well beyond its realistic capability and attribute to the enemy an exaggerated military strength.

In the past, estimates of the enemy threat in SVN have proved to be closer to the actual military threat than the order of battle (OB) figures at the time, which were based only on collateral intelligence. The following table compares the unadjusted OB figures at the time with the retrospectively adjusted OB figures as of year-end 1968.

Strength in thousands	June 1965	December—		
		1965	1966	1967
Unadjusted military threat	92.8–98.8	121.1–128.1	225.6–245.6	218.6–223.6
Adjusted military threat	200.6	224.7	286.4	244.2

From the above table, it can be seen that in June 1965 the OB figures at the time were less than half of what retrospectively adjusted OB figures now reflect. Subsequent improvement in methods of collecting and evaluating information have provided more accurate OB figures in later years.

QUESTION 9

In terms of the total military threat, the present divergencies between the national-level (DIA/CIA) estimates and field (MACV) estimates are not significant enough to cause a change in strategy. The differences, in part, stem from the problem of balancing gains and losses, the different methodologies used to compensate for the lack of precise confidence, the strict acceptance criteria normally employed by MACV in developing order of battle data, and differences in analytical judgments.

The following comparison of DIA/CIA estimates and MACV estimates is of year-end 1968 is preliminary and may be subject to further change. The comparison is intended primarily to update and to bring together in some place the varying numbers, so as to facilitate understanding of this complex issue.

Military threat	DIA/CIA estimates	MACV estimates
Combat forces:		
NVA	[1] 105,000–125,000	[2] 106,000(116,000)
VC	45,000-55,000	[3] 37,00
Subtotal	[1] 150,000–180,000	
Admin. services:		
NVA	10,000–20,000	
VC	45,000–55,000	
Subtotal	55,000–75,000	[4] 42,000
Guerrillas	[5] 60,000–100,000	59,000
Total military threat	265,000–355,000	244,000

[1] An estimated 20,000 to 25,000 of these NVA troops are serving in VC units. This estimate excludes an estimated 28,000 NVA troops deployed north of the DMZ.

[2] The MACV estimate for total NVA troops in SVN, including administrative service troops, may be increased by approximately 10,000 (to 116,000) depending upon the results of a special study of enemy administrative service troops presently nearing completion. It is not clear whether MACV estimate includes those NVA troops currently out of country.

[3] Although it is implied in text of MACV response that VC regular strength could be spread from 36,000 to 40,000 the latest known best estimate is 37,000.

[4] The current MACV estimate for administrative service troops is 42,000; the special study mentioned above may raise this figure above 50,000.

[5] DIA/CIA believe that the military threat represented by guerrilla forces is not on a parity with that of main and local forces because probably only about ⅓ of the guerrillas are well-armed, trained, and organized.

QUESTION 9

Other elements	DIA/CIA estimates	MACV estimates
Infrastructure [1]	80,000–100,000	83,000
Other irregular organizations [2]	90,000–140,000	
Total military/political	435,000–595,000	327,000

[1] Includes political cadre based on expansion of count down to hamlet level.

[2] Includes self-defense, secret self-defense and assault youth forces.

The following current MACV estimates of VC recruiting during 1968 may be subject to further change: January through April, 7,000 per month; May and June, 5,000 per month; July through September, 3,000 per month; October through December, 3,500 per month. MACV believes that the VC manpower pool throughout SVN is becoming not only smaller, but also poorer in quality, although statistical data is not available to support this belief. Such judgment is based on ever-increasing recruitment difficulties, expanding Government of Vietnam control of the populace in SVN, expansion of the Republic of Vietnam Armed Forces, and the success of the Accelerated Pacification Campaign.

Evidence substantiating strength estimates by MACV is built on the methodology employed. This methodological approach rests on three fundamental principles: (1) the estimates are based on order of battle holdings—that hard intelligence data derived from such sources as captured documents, prisoner of war interrogation reports, and defector statements; (2) the estimates are complemented by all source intelligence, mathematically innovated into the estimates; and (3) the estimates incorporate extensive strength data as reported directly from major field commands under very specifically supervised collection programs.

Therefore, evidence regarding the NVA in SVN and the VC main and local forces is relatively good, since they are in frequent contact with allied forces and generally are organized along conventional lines. The evidence on the administrative services and guerrillas is substantially less firm and less complete, permitting only a broad estimate quantification. The guerrillas, who are not organized conventionally, who are made up of large numbers of cell to platoon-size units at the village and hamlet level, and who operate in a far less open manner, also fluctuate in strength because they are used as a manpower base for the regular forces. Basic information on guerrilla strengths is derived from reports of intelligence officers at province and district levels; this evidence generally is accepted. The MACV estimate, derived from this data, has tended to be conservative, but usually has fallen within the uncertainty spread of the DIA/CIA estimate. MACV assessments of the VC infrastructure strength, VC recruiting level, and VC manpower pool generally are accepted at the national level.

Question 9

*What are North Vietnamese Army/Viet Cong capabilities for launching large-scale offensive, with "dramatic" results (even if taking high casualties and without holding objectives long), in the next 6 months * * *" an offensive against one or more cities, or or against most newly * * * fled" hamlets)? How adequate is the evidence?*

The enemy retains a significant capability to launch offensive actions in South Vietnam (SVN) at times of his own choosing and on a broad scale * * * in the next six months. However, it is doubtful that he can successfully carry off a large-scale offensive and achieve "dramatic" results * * * par with the Tet offensive of last year.

From a quantitative standpoint, there is ample evidence that the * * * has the strength to launch a large-scale offensive during the next * * * months. In spite of heavy losses, his end-1968 military strength is approximately 6,500 troops greater than it was at the beginning of the year. Logistically, the combination of the bombing halt and the dry season has allowed him to replenish his stockpiles around SVN's northern borders, and he continues to resupply unhampered through Cambodia. Infiltration from North Vietnam (NVM), on the order of 40,000–50,000 troops since 1 December 1958, is adding to his capabilities.

Again, from a purely quantitative standpoint, the enemy could launch an attack through the demilitarized zone (DMZ) with an equivalent strength of two divisions, an attack against Danang by the equivalent of about one division, and an attack against Saigon with a strength of up to four or five divisions. If the 304th North Vietnamese Army Division moves to the northern I Corps area, as now destined, the enemy could launch an attack in Thua Thien with an equivalent strength of over one division.

However, from a qualitative standpoint, the enemy's chances of carrying off a large-scale offensive with "dramatic" results appear remote. During 1968, there was a marked deterioration in the combat effectiveness of enemy forces. A gross measurement of this deterioration can be found in the results of his three major offensives. Each was more poorly executed than its predecessor; each accomplished less in turn.

The enemy has growing problems influencing his quality. He has leadership problems, and in many units, morale problems. His troops appear less well trained than in the past. His in-country logistic problems have drastically increased over the last six months as allied military forces have uprooted the Viet Cong (VC) infrastructure and discovered his lines of communications and caches.

The Joint Chiefs of Staff (JCS) believe that the allies in SVN have the forces and means to defeat an enemy offensive and that this is quite apparent to the Communists. * * *

In order to gain "dramatic" results in a large-scale offensive against any "pacified" hamlets, the enemy would need to carry out successful simultaneous attacks against a substantial number of hamlets in locations throughout SVN. If this involved the major redeployment and redistribution of his forces, such movement probably would be detected. He then would be faced with the problem that plagued him throughout his 1968 campaign—the inherent risk of exposure to allied mobile forces and overwhelming firepower. He would confront the bulk of allied forces, which increasingly are deployed in continuous direct support of pacification to prevent enemy success against pacified areas and to establish a Government of Vietnam (GVN) presence and administrative apparatus.

Over the next six months the enemy's main efforts, whether direct or indirect, probably will be aimed at crippling the pacification program. The enemy places high priority on efforts to keep the populace from supporting the Saigon regime. This is illustrated by a recent National Liberation Front (NLF) communique which emphasizes the necessity for the Communists to extend and strengthen their political influence over the South Vietnamese populace, through the continuing development of a "national administration" apparatus to rival the GVN.

(Copy illegible.)

Question 10. What are the main channels for military supplies for the North Vienamese Army/Viet Cong Forces in South Vietnam (e.g., Cambodia and/or the Laotian Panhandle)? What portion of these supplies come in through Sihanoukville?

There is general agreement that the main channels for military supplies reaching enemy forces in South Vietnam (SVN) are the Laotian overland route and Cambodian lines of communication, with some supplies coming in through the demilitarized zone (DMZ). There is some disagreement as to the specific type, amount and destination of the supplies that come by way of each channel.

The Military Assistance Command, Vietnam (MACV) believes:

The Laotian overland route provides military supplies for enemy forces in I Corps and northern II Corps. The enemy uses Cambodian lines of communication to move most of the military supplies for his forces in III Corps and IV Corps and parts of II Corps.

The fact that the enemy supplies his forces in northern SVN by way of the Laotian overland route is concretely documented and accepted by the intelligence community.

The bulk of the evidence attests that enemy forces in southern SVN receive their military supplies from Cambodia. Of 236 reports documenting the flow of ordnance from Cambodia to SVN, only 15 allude to the use of the Laotian overland route as the point of origin or ordnance shipments. Significantly, throughout the year of 1968, vehicle movements equated to only 8 tons per day being trucked south of Base Area 610 in Laos, which is 350 kilometers north of the Cambodian/Laos border. Since the minimum ordnance requirements alone for II, III and IV Corps during 1968 were about 7 tons per day, this throughput of 8 tons is insufficient to support both the enemy combat forces in the southern III Corps and the troops also manning the long line of communication. Of the 236 reports documenting the flow of ordnance, only two reports describe the flow of munitions from the tri-border area south to Pleiku and Darlac provinces in II Corps. Additionally, a Controlled American Source (CAS) road-watch team south of the sensor string on Highway 92 reveals that little or no traffic is moving past their position. From the available evidence, it has been concluded that no significant amounts of ordnance are reaching southern SVN through the Laotian overland route.

The increasing use of Cambodia by the enemy for movement of his military supplies has become more pronounced over the last two years. According to 70 reports, Sihanoukville is the primary point of entry for military supplies destined for the enemy. Based on 62 reports, over 14,000 tons of munitions have been shipped there in the last two years. Thirty-three reports state that civilian carriers and the Cambodian Army probably delivered over 10,000 tons of munitions to the Cambodian/SVN border regions from October 1967 through September 1968. The complicity of members of the Cambodian Army in the arms traffic to the enemy has been well established. The involvement of Prince Sihanouk has not yet been proved; however, it is believed that he is aware of the movement of arms to the enemy and has at least given his tacit approval to it.

The Commander in Chief Pacific (CINCPAC) concurs with MACV and estimates that enemy forces in SVN presently require approximately 240 short tons per day of all classes of supplies of which about 104 short tons per day must be brought in from out of country. About 30 short tons per day originate in North Vietnam (MVN) and pass through the Laotian panhandle prior to delivery, while almost 9 tons are moved directly from MVN across the demilitarized zone (DMZ). Some 65 tons, mostly food produced in Cambodia, transit that country before receipt by enemy in SVN. About 6 short tons per day are estimated to come in through Sihanoukville, with arms and ammunition comprising almost all of these deliveries.

The Joint Chiefs of Staff (JCS) note that national-level intelligence estimates indicate that the Laotian panhandle provides the primary route for war related material for the war in SVN. The JCS also note that the extensive use of Cambodian territory by communist forces has grown alarmingly over the last two years for the storage of arms and ammunition and other supplies, for sanctuary, and as a source of supply. It is clear that Cambodian sources, including elements of the Cambodian Army as well as merchants and smugglers, provide enemy forces in SVN with the bulk of their foodstuffs, medicines, and other nonlethal supplies, and also with substantial amounts of arms and ammunition. Available evidence does not permit a confident quantification of the amounts of arms and ammunition which are moving through Cambodia as distinguished from onward movement from the Laotian panhandle. In any event, it is clear that Cambodia represents a significant source of supply for enemy forces in SVN.

The Office of the Secretary of Defense (OSD) overview is:

The evidence pertaining to the movement of military supplies originating in NVN to enemy forces in I Corps and northern II Corps is considered good. It is based on truck sightings in the North Vietnamese panhandle and upper Laotian panhandle, captured documents, prisoner interrogation reports, aerial photography, and special intelligence. The evidence pertaining to the movement of supplies south through the Laotian panhandle to the Laotian-Cambodian-South Vietnamese border area for onward distribution to enemy forces in southern II Corps and III Corps is sparse. It is based mainly on truck sightings south of Sepone on major north-south routes, portaging observed around interdiction points, and limited special intelligence reinforced by a few prisoner/defector interrogation reports and clandestine source reports.

IV Corps arms and ammunition requirements as well as supplementary shipments to III Corps during the rainy season are believed to be supplied through Cambodia. The intelligence community long has agreed that a considerable volume of foodstuffs and nonlethal supplies from Cambodia reaches forces in Laos and SVN as a result of "legitimate" agreements and smuggling; the total may exceed 40 tons per day. Such movement, as well as that of arms and ammunition to IV Corps, is undertaken with the complicity of some highranking Cambodian officials. The tonnages of arms and ammunition sent to Communist forces in SVN cannot be determined, however, because of the lack of reliable information on the amount delivered to Sihanoukville and the amount stockpiled or issued to Cambodian military forces. Moreover, it is not possible to distinguish between civilian and military shipments to the South Vietnamese border area nor can cargoes or consignees be categorized.

National-level estimates indicate that during 1968 enemy forces required a daily average of about 250 short tons of supplies per day. Of this total, approximately 80 short tons (32%) were provided by external sources. By commodity, 84% of the ammunition and 24% of their food is provided by external sources; 30% of the weapons and other supplies are also externally supplied, but most of this category are weapons, almost all of which are imported. The following table shows supply requirements for enemy forces in SVN in short tons per day (STPD).

[Short tons per day][1]

Category of supplies	Total supplied	Internally supplied	Externally supplied	Percent externally supplied
Food (class I)	190.2	144.5	45.7	24
Weapons and supplies (classes II and IV)	29.1	20.4	8.7	30
Ammunition (class V)	30.3	4.9	25.4	84
Total supplies	249.6	169.8	79.8	32

[1] Based on 1968 figures through October.

The following table shows the flow of supplies from external channels based on national-level estimates.

External channel	Percent of total	Short tons per day
From Laos	43	34
From Cambodia	40	32
Across DMZ	17	14

—National-level estimates indicate that Cambodia primarily supplies food and noncombat materials. On the other hand, MACV estimates that Cambodia is a large scale source of weapons and ammunition which are imported through the port of Sihanoukville and then trucked to the Cambodian/SVN border. Intelligence reports have implicated the Hak Ly trucking firm and various Cambodian Army officers, but most of these reports are from low level sources and have not permitted reliable determination of the quantity of munitions shipped.

—MACV estimates that approximately 10,000 tons of military supplies were received at Sihanoukville from October 1967 through September 1968. National-level estimates list less than 2,000 confirmed tons of such material received during the same period. MACV also lists approximately 10,000 tons of military supplies delivered at the Cambodian/SVN border and connects it with the Sihanoukville deliveries. National-level estimates indicate that they may have been brought down through Laos. While evidence of Cambodian complicity is present, the methodology of the studies and the information upon which they are based are not reliable enough to make a meaningful estimate at this time.

Question 11. What differences of opinion exist concerning extent of Republic of Vietnam Armed Forces (RVNAF) improvement, and what is evidence underlying different views? (e.g., compare recent Central Intelligence Agency memorandum with MACV views.) For example:

a. What is the level of effective, mobile offensive operations? What results are they achieving?

b. What is the actual level of "genuine" small-unit actions and night actions in the Army of Vietnam, Regional Forces, and Popular Forces, i.e., actions that would typically be classed as such within the US Army and, in particular, offensive ambushes and patrols? How much has changed?

c. How much has the officer selection and promotion system, and the quality of leadership, actually changed over the years (as distinct from changes in paper "programs")? How many junior officers hold commissions (in particular, battlefield commissions from noncommissioned officer rank) despite lack of a high school diploma?

What known disciplinary action has resulted from the Army of Vietnam looting of civilians in the past year (for example, the widespread looting that took place last spring)?

e. To what extent have past "antidesertion" decrees and efforts lessened the rate of desertion; why has the rate recently been increasing to new highs?

f. What success are the Regional Forces and Popular Forces having in providing local security and reducing Viet Cong control and influence in rural populations?

The answers to these questions are discussed in separate responses. This section responds to the question: what diffierences of opinion exist concerning extent of Republic of Vietnam Armed Forces (RVNAF) improvement, and what is the evidence underlying different views?

Any analysis of improvement of the capability of Republic of Vietnam Armed Forces (RVNAF) is directly linked to assessment of the direction of the war itself. Most observers and analysts agree that the battlefield situation has improved and that the allies are in a better position than 18 months ago.

Most also consider that the RVNAF has improved compared with several years ago. All recognize that RVNAF is faced with some major problems. The chief differences of opinion concern the (1) degree and speed of improvement and (2) the prognosis for the future. There are two views:

RVNAF is making fairly rapid strides in improvement and effectiveness and that the prognosis for a self-sufficient force designed to hold its own against an internal threat is good. RVNAF will continue to overcome its recognized endemic problems such as lack of leadership, difficulties with the population, etc. The VCS, CINCPAC and COMUSMACV are inclined towards this view.

RVNAF is making only limited progress due to primarily recent inputs of U.S. resources, to U.S. combat activity, and to a perception that U.S. forces may withdraw. Significant improvement of RVNAF is limited because of constarints of the present military and political sytsem. RVNAF mut take major political and military actions, some of which are not now underway, to become an effective force in the near future. OSD is inclined towards this view.

Both of these conclusions, however, are drawn from the same body of data from which the following trends emerge:

a. Overall, RVNAF capabilities and efforts have improved.

The total strength of RVNAF has increased by about 27% since 1967.

The number of regular battalions engaged in combat operations has increased by about 11% during 1968.

The firepower of RVNAF has improved. Since March 1968, Army of the Republic of Vietnam (ARVN) battalions have been 56% as effective as U.S. battalions in killing the enemy vs 48% in 1967.

COMUSMACV reports that Regional and Popular Forces (RF and PF) are more aggressive and responsive, and that the combat effectiveness of regular forces has improved, compared with 1967.

The number of large unit operations has about doubled compared with 1967. RF and PF are conducting almost twice the number of operations as they conducted earlier in 1968.

The number of returnees under the Chieu Hoi program has steadily increased during 1968. Monthly returnee rates are now almost double the rate during the first months in 1968. The highest rate is in IV Corps where there are few US forces.

The percentage of population living in relatively secure areas has reached an all time high at 76.3% in December 1968.

b. Despite these improvements, there has been no breakthrough in RVNAF performance. RVNAF performance is still directly related to US efforts.

While the number of military operations has increased overall, Regular Force effort has declined slightly since the 1st Quarter 1968.

The number of enemy killed per contact also has declined slightly since early 1968; although the number of operations with contact per unit has increased slightly during 1968.

The number of small unit operations with contact is below the 1967 rate.

Despite increases in relatively secure population, little of this is directly attributable to efforts of Regional and Popular Forces, those forces primarily responsible for territorial security.

Performance of RVNAF varies greatly between units. While there has been some general improvement, some units have declined in effectiveness ratings.

The RVNAF desertion rate is now the highest since early 1966. RVNAF lost almost 120,000 men due to desertion in 1968.

C. RVNAF, despite some minor inroads, continues to suffer from significant systemic and attitudinal problems.

The officer system is a closed system; it has changed little over the years. Entry to the system depends upon education, advancement depends upon political loyalty and opportunity for corruption, rather than aggressiveness on the battlefield. While there have been some changes at the low echelons resulting in improvements in quality, effectiveness of many of the senior officers has not improved. RVNAF leadership lacks the skills necessary for modernization.

RVNAF is conventionally organized and equipped, not necessarily well suited to an extensive pacification effort or to countering political action. Further the RVNAF organization maximizes divisive trends in the Vietnamese social and political system, and makes poor use of available manpower resources.

Despite the emphasis on pacification, most RVNAF leaders neither understand it no support it. The pacification task has been given to RF and PF who have been inadequate. Plans call for continued shift of pacification to RF/PF; despite improvements in these forces, without regular force backup, they are likely to remain adequate by themselves.

RVNAF has been unable to relate to the population and is neither a politically unifying nor modernizing force. Both RVNAF and the civil populace regard each other as "outsiders"; there has been little change in RVNAF conduct towards the populace.

The capability of RVNAF to overcome these problems and the time available to do so is the chief question. OSD believes that RVNAF can become an effective force if certain major actions are taken. These are addressed in the answer to question 14. Evidence supporting this view, in addition to that cited previously is:

President Thieu has consolidated his position of power to a large degree and appears to be accepted, thus the central leadership in SVN with US advice and support could begin the necessary change.

It appears that the South Vietnamese leadership recognizes that certain changes are necessary if they are to survive.

There are a considerable number of effective and honest officers and enlisted men at lower levels who could be advanced.

The Vietnamese are a flexible and pragmatic people who have survived over the centuries; if the necessity for change is clearly understood, systematic changes could be made and would be accepted.

Question 11a. Which is the level of effective, mobile, offensive operation? What results are they achieving?

While the Republic of Vietnamese Armed Forces are killing more enemy, entering more base areas and conducting more operations that was the case in 1967, the effectiveness of mobile offensive operations is difficult to ascertain. The "hard" evidence of effectiveness of these operations often conflicts or is confusing since RVNAF and allied operations are closely associated. Despite an increase in the level of mobile, offensive operations during 1968, approximately 85% of all contacts in South Vietnam (SVN) are initiated by the enemy (while the enemy continues to be able to avoid contact, he does so only at the risk of uncovering more of his support structure). Furthermore, Viet Cong (VC) and North Vietnamese Army (NVA) forces can still freely strike most areas in SVN, though with the risk of incurring increased losses over 1967.

1968 marked a gradual improvement in the level of effective, mobile, offensive operations.

This improvement is exemplified by the employment of mobile reaction forces, ability to conduct sustained operations, the use of reconnaissance and intelligence resources and the ability to exploit the advantages gained by fire support. This improvement, however, varies according to the missions of friendly units, tactics employed, terrain and enemy dispositions within each Corps Tactical Zone (CTZ), and to a large degree according to the combat support received from us and limited RVNAF sources. Leadership and other qualitative factors such as experience and training also strongly affect the effectiveness of performance.

In I CTZ, regular grounds forces have experienced a growing confidence in their own capabilities. Army of Republic of Vietnam (ARVN) battalions, once dependent upon division and regimental control, can now operate independently. The trend throughout the corps is toward extended operations to continuously apply pressure on the enemy. US support still plays a significant part in the success of I Corps forces, and while their precise share of overall success against the enemy is difficult to measure, it is the considered estimate of the Corps senior advisor that ARVN's share has been significant.

In II CTZ, a steady improvement in all elements of RVNAF has been noted. ARVN forces in particular have shown a disposition to engage more in offensive operations to seek out the enemy, to preempt him and keep him off balance. Previously weak and ineffective units have improved their performance and are now on a par with more effective units. Although still weak in combat support, RVNAF's capability to cope with enemy guerrilla forces continues to increase.

In III CTZ, one-third of the ARVN maneuver battalions conduct offensive operations effectively, another third is relatively ineffective, while another third is unsatisfactory.

Indications are that their effectiveness is declining in IV CTZ, IV the overall number of offensive operations has not appreciably increased, but with more helicopter assets available, the ability to conduct airmobile operations has been significant. Longer duration, large unit operations aimed at penetrating enemy base areas have been successfully conducted to destroy and capture the enemy and his material.

Country-wide, regular ground forces increased their percent of available battalion days on combat sweeps (offensive operations) from 35.1 for the first quarter CY68 to 44.7 during the last quarter. This equates to 2,219 more days per quarter during the fourth quarter compared with the first. The fourth quarter was particularly significant because regular ground forces for the first time during 1968 spent more time conducting offensive than security operations. NOTE: Tabulated data on operations for Vietnamese regular forces is derived primarily from the System for Evaluating the Effectiveness of RVNAF (SEER). Numbers are submitted by US advisors and refer to operations involving more than three companies of friendly troops. The number of operations and their results may be high.

Total RVNAF operations during 1968 through October involving all types of missions have increased 30%. Each South Vietnamese Army and Marine regular maneuver battalion spent 13 days per month on operations in early 1968 versus 20 days per month by October.

During January 1969, RVNAF had an average of 29 battalion sized operations in progress per day.

COMUSMACV reports that "the first two quarters of 1968 were characterized by many small-unit operations. These operations were generally of one or two days duration. During the last two quarters, CY68, the trend toward extended large unit offensive operations became evident. The average duration of these operations increased by one-third during the last two quarters of 1968. These operations have been the most productive in terms of enemy attrition."

While mobile offensive operations are generally effective at battalion level, such operations by both larger and smaller units are less effective: higher staffs lack experience and company operations lack the requisite force. Further, these operations have not yet reached the level of effectiveness of US units. An ARVN regular battalion is about ½ as effective as a US battalion. Specifically:

Operational days of contact are about 75% of that for US units. Further, analysis of data from the first three quarters of 1968, shows very little overall change in the number of operations conducted by RVNAF battalions.

In addition, RVNAF gets less artillery support than US forces. Overall RVNAF receives about ⅓ the average artillery rounds which US forces get in SVN. While the modernization program provides increased artillery to RVNAF approximating that organic to a US division, US corps artillery is so large that this addition changes only slightly the ratio of US to ARVN artillery support.

Finally, mobility is inherent in offensive operations against an ellusive enemy. RVNAF has considerably less air mobility than US forces. RVNAF has about 5% of the organic helicopter lift capability of US forces; roughly 20–25% of the US lift is provided RVNAF. Even with modernization, RVNAF will have only about 25% of the helicopter lift that is now available to US forces. However, COMUSMACV reports that:

The effectiveness of these operations has increased with greater mobility of GVN forces. Mobile reaction forces have been organized in ARVN divisions and employed against the enemy. Where more assets become available, ARVN has developed a capability to conduct successful airmobile operations. Eagle flight operations have proven highly effective with small units deploying by helicopter to find the enemy and larger heliborne reaction forces used to "pile" on and destroy him. With the increase of cavalry units in 1968, more operations with infantry and armored units have been conducted. The Vietnamese marines working with mobile riverine forces have conducted highly successful operations against enemy base areas. In short, with some conspicuous exceptions, RVNAF are showing a willingness to conduct sustained operations, and are demonstrating an improved capability to conduct offensive mobile operations when given the means for performing them.

In terms of results, overall assessment of the RVNAF effort and the level of offensive operations is difficult to separate from the total allied effort.

The enemy lost about 290,000 men in 1968 from all causes; of this 181,000 were attributed to deaths from hostile action in SVN. In general, the number of enemy killed by RVNAF in 1968 has about doubled compared with 1967, and in IV Corps, where there are limited US forces, enemy casualties more than doubled.

The JCS and COMUSMACV report their RVNAF is proving more effective in combat. During the last five months of 1967, the RVNAF kill ratio averaged 2.9 enemy to 1 friendly. In 1968, through October, RVNAF kill ratios (Excluding Tet) were about 4.0:1. But despite increased enemy losses in 1968, RVNAF kill ratios increased proportionately. During 1968, RVNAF kill ratios declined from a first quarter high of 6.5:1 to 4.1:1 in the third quarter. For offensive actions only, kill ratios declined from 6.8:1 in the first quarter to 5.0:1 in the fourth quarter.

However, the decline is due to enemy avoidance of contact rather than reluctance of RVNAF to press contact. NOTE: enemy casualty data is derived from the SEER and other operational reports based on information submitted by the unit or its advisor. Reliability of this data is not high, but is considered adequate to reflect trends.

The enemy has lost about double the amount of weapons in 1968 as in 1967; the captured to lost ratio has increased continually during 1968 from a 1st quarter ratio of 5.6:1 to 11.5:1 in the fourth quarter.

The increased casualties and weapons losses may have forced the enemy to withdraw most of his major main force units to sanctuaries to retrain and refit beginning in September 1968.

Question 11b: What is the actual level of "genuine" small-unit actions and night actions in ARVN, RF and PF: i.e. actions that would typically be classed as such within the US Army, and in particular, offensive ambushes and patrols? How much has this changed?

As with large unit operations, the level of effective small unit actions is difficult to assess; the evidence is again conflicting. While there are more operations now being conducted than in 1967, results have not increased proportionately. Overall the level of small unit operations during 1968 was slightly above that for 1967, but the number with contact was less than the 1967 rate.

Generally, Army of the Republic of Vietnam (ARVN) units conduct small unit operations at company and multibattalion level, the Regional Forces (RF) at platoon and company level, and the Popular Forces (PF) at squad and platoon level.

The number of small unit operations conducted by regular forces during 1968 declined slightly from 86,723 in the first quarter to 82,079 in the fourth quarter. Night actions were not tabulated during 1968. (NOTE: Data are derived primarily from advisor reports and reflect operations involving less than three companies but not less than a fire team).

COMUSMACV attributes this decline to (1) an increase in large unit offensive operations and (2) a decrease in the number of battalions assigned to pacification missions.

As a comparison, US forces conducted about one-third more small unit operations with almost three times the number of contacts.

COMUSMACV further reports that generally US advisors at division level and below believe that improvement has occurred, and that command emphasis and advisory help is increasing the rate of these improvements. Some RVNAF units are showing increased confidence in themselves, their armament, and their support. However, other units, particularly in III Corps, are ineffective due to lack of leadership at all levels, a fear of conducting squad and platoon semi-independent operations and a widespread lack of offensive spirit.

Generally, the definition of RVNAF small-unit operations describes those that would be considered as genuine small-unit actions by a US unit. However, the degree to which the operations reported follow the guidance above is difficult to determine as the basic source of the data is the local Regional Forces and Popular Forces leader and is not entirely subject to verification by US advisory personnel. Additionaly, in some areas senior South Vietnamese Army commanders have assigned quotas governing the number of operations that units must conduct. In some instances this may result in commanders reporting operations as offensive when, in fact, they do not meet the criteria stated in the definition.

RF and PF are now conducting slightly less than twice the number of operations than they conducted during the spring of 1968. About 75% of these are conducted at night; however only 45% of RF contacts and 60% of PF occurred at night. Note: These and data in the following paragraphs were extracted from the Territorial Forces Evaluation System (TFES) which defines such operations as those which consist of a fire team or larger unit but one that is less than three companies and under control of a single headquarters. The minimum duration of the operation is 6 hours (unless significant contact occurs in less time). Movement must be planned and executed for purpose of contact with the enemy.

* * * * *

(1) Relative strength of the enemy.

(2) Degree of interest and support of nearby US Forces.

(3) Caliber of the district chief.

The overall effectiveness of small-unit operations is difficult to determine. Data is conflicting and there appears to be considerable variance between units and areas.

Operations with contact per unit have increased slightly during 1968 but the number of enemy killed per contact has declined slightly. Results of operations per RF and PF unit, per operation, and per contact show only marginal improvement, despite some equipment modernization and increase in training.

Area security has improved, but this may be as much the result of VC/NVA inactivity as it is RVNAF activity. It appears that where the enemy makes the effort, he still can enter villages and hamlets that are defended by RF/PF.

RF and PF units are mainly still defensively oriented on the hamlet where their families live. However, there is an inherent danger of misinterpretation of the degree of effectiveness of Regional Forces and Popular Forces units if a straight-line comparison of number of operations and number of contacts by US and South Vietnamese Army units on one side is made against Regional Forces and Popular Forces units on the other side. US and South Vietnamese Army units in the main seek and destroy enemy main force units. The Regional Forces and Popular Forces mission of territorial security centers on keeping local forces and guerrillas from entering hamlets and villages and molesting the populace. The degree of which the Regional Forces and Popular Forces prevent attacks by active patrolling and ambushes is as much a part of the measure of their effectiveness as the number of operations or the results. The answer to Question 11f treats with this measure.

Territorial forces can do well, offensively, against enemy of their own size (i.e., fragmented local force units or guerrillas). Correspondingly, they are defensive-minded when strong enemy forces are operating in their general area.

The South Vietnamese Army Marine Corps averaged 25 enemy contacts per day during 1968 on operations of company size or less. Most recent monthly averages are:

November 1968: 31 per day.

December 1968: 36 per day.

January 1969: 38 per day through 22d.

Question 11c: How much has the officer selection and promotion system, and the quality of leadership, actually changed over the years (as distinct from change in paper "programs")? How many junior officers hold commissions (in particular, battlefield commissions from NCO rank) despite lack of a high school diploma?

There have been no major renovations of the Republic of Vietnam Armed Forces (RVNAF) promotion system since 1965. There has, however, been some reform.

There has been a substantial increase in the number of promotions during 1967 and 1968. At the present time, approximately 60 percent of the Regular Forces officers in the grades of captain through colonel have dates of rank in 1967 and 1968.

In October 1968, the Joint General Staff promulgated a new promotion directive which revised and consolidated policies applicable to all RVNAF personnel. This directive reduced time in grade criteria for Regional Forces officers to bring them into line with those applicable to Regular Forces officers. It also reduced time in grade criteria to 18 months for automatic promotions for graduates of the Officer Training School at Thu Duc to second lieutenant and for graduates of the Vietnamese Military Academy at Dalat to first lieutenant. At the same time, the Minister of Defense approved a three-year phased officer promotion plan designed to correct the officer grade imbalance caused by the rapid expansion of RVNAF in 1968.

Significant is the action taken by the Joint General Staff in 1968 to increase the number of officer promotions, both special and annual, to meet the expanding needs of RVNAF. Although the Joint General Staff did not, in fact, meet its established promotion goals for 1968, it did promote more officers than in any previous year. The Chief Joint General Staff, has directed that the 1968 quota shortfall be added to the annual promotion quotas for 1969, and that 20 percent of the 1969 promotion quotas be allocated for special battlefield promotions. This policy will provide recognition for those personnel who have distinguished themselves through sustained combat operations.

An important improvement to the RVNAF promotion system in recent years has been the institution of an efficiency reporting system. Efficiency reports were used for the first time in the selection of officers for the 1967 annual promotion. Promotion boards allot 30 percent of the promotion score to efficiency reports, with the remaining 70 percent determined by such factors from the individual's record as time in grade, time in service, and decorations.

The JCS consider that the quality of officers within the RVNAF has shown significant improvement over the years. Today, a large percentage of the officers have extensive combat experience. In addition, an impressive officer schooling system now provides officer education at precommission, branch, command and staff, and national defense level. This is supplemented by schooling for selected officers in service schools in the United States.

While the Vietnamese have a "reformed" promotion system on paper, OSD considers it has changed little in method of operation. The promotion system responds to the politics of the senior generals rather than to the needs of the professional military service.

Decree Law 13, implemented in late 1965, stated the general bases upon which promotions were to be awarded, but the accompanying regulations only centralized the authority for promotions at the general officer level and did not specify the actual criteria upon which officer eligibility was to be evaluated. In practice, then, a tradition of rather long standing has been maintained: promotion are still made through negotiation and compromise at promotion boards between general officers trying to advance their protegés. This process is especially prominent in the promotion and placement of field grade officers where each general seeks to protect and position his supporters on the basis of politics rather than professional abilities.

OSD further considers that the price paid for the promotion system's responsiveness to the politics of the senior RVNAF generals is its autonomy. It has been unable to respond effectively to both requirements for professionalism and to the war itself.

First, the selection system has tended to reinforce and exacerbate the gap between the GVN and the population. In particular, the educational requirements for officer candidacy (i.e. the equivalent of a high school diploma) and the means employed to get adequate numbers of cadets to parallel the uneven growth of the RVNAF (i.e. occupational and educational drafts) produce officers more interested in the perquisites and privileges of rank than in effective military leadership. Education and the city life it required resulted in what many observers have now perceived as a gap between officers and soldiers.

The education requirement also tended to to place the armed forces in a position where it had to compete only poorly with other forms of employment which offered higher pay and considerably better living conditions. As officers that during their initial period of service might have gained valuable operational experience were seduced to the better jobs, inexperienced cadets and junior officers replaced them and consistently deprived the RVMAF and the war if fought of the already small pool of experienced leaders.

Furthermore, the majority of subsequent promotions made in the RVNAF are not for military skills. Special, "other than battlefield" promotions in 1966–67 and 1967–68 accounted for 19% and 20%, respectively of all promotions, while less than 2% of all officers provided in those years owed their rank to combat victories.

RVNAF has not loosened significantly the educational requirements for commission.

COMUSMACV reports that the exact number of noncommissioned officers who have received commissions without having a high school diploma is not available. However, information provided by the Adjutant General/Joint General Staff shows that the number of noncommissioned officers commissioned as aspirants was approximately 520 in 1966, 490 in 1967, and approximately 1,900 in 1968. Indications are, that of the 1,900 commissioned in 1968, 99 percent did not have high school diplomas; however, because of their commander's recommendation, they were promoted to officer rank. It should be noted that those promoted without a high school diploma cannot be promoted beyond the rank of captain until they have completed high school level education.

Only 7% of all RVNAF officers have received commissions from the ranks and this proportion actually declines to only 4.8% in the 1967–68 class of Officer Candidates. There can be no concerted effort to raise the overall quality of officer leadership without RVNAF availing itself of the experienced leaders from the enlisted ranks.

The steady expansion in the size of the RVNAF has overtaken army politics in the sense that the need for more officers and, hence promotions has outstripped the capacity of the RVNAF political system to sanction such promotions.

As a result of the early exhaustion of a limited reserve officer pool and the input of a great number of junior officers during 1968 (approximately 10,000 from Officers Candidate School), the overall quality of leadership in RVNAF has experienced some dilution. The quality of leadership varies from outstanding to weak at all levels, and MACV is directing efforts to influence RVNAF to identify and eliminate weak leaders.

While there is only about a 2,000 shortfall in regular and Regional Force (RF) officer strength compared with authorized, there is a considerable imbalance in the grade structure. These forces are short about 8,200 officers in the higher grades of Captain through Colonel and over about 6,100 in the aspirant and lieutenant grades.

Based on US standards, which may not be germane to South Vietnam but save as a comparison, RVNAF should have about 65% more officers than currently authorized.

In comparison to past two year periods the annual promotion rate actually declined despite the constant growth of the regular forces' size and leadership needs. COMUSMACV estimates that, at the current rate of promotion, and attrition, 90% of those authorized for all grades would be available by end CY 70. OSD estimates it should take the RVNAF a minimum of 2.5 years to fill the mid-1968 requirement for officers.

The relatively rapid expansion of the RVNAF filled the officer corps with men of approximately the same age (50% of all officers, for example, are between 25 and 31 years old). The relative chronological homogeneity of the officer corps has resulted in cleavages between those "political" officers who spend a rewarding and lucrative career in the national, provincial, or corps capitals and those "combat" officers who bear the brunt of the fighting with few rewards in the hinterlands. Morale, thereby, is low among these Vietnamese field officers who have held the same rank for 8 or 10 years while witnessing his colleagues at Saigon or Corps rapid advance due to favoritism. The "political" officers are divided between Thieu and Ky, while those officers bearing the brunt of the fighting may be beginning to coalesce into a 3rd faction opposed to both. Thus, the hope that Thieu's apparent victory over Ky in the struggle for control of the executive and the army will bring both stability and effectiveness to RVNAF command may well be frustrated. The Thieu consolidations represent the victory of one faction over another rather than the end to the causes of such factionalism. The Thieu consolidations represent but another act in the continuing drama of coup and countercoup within the Vietnamese military elite.

In summary, OSD considers that unless the promotion system is regularized and given the autonomy it clearly needs from the vagaries of general officer politicing, the increase in RVNAF effectiveness may well be limited.

Question 11d: What known disciplinary action has resulted from ARVN looting of civilians in the past year (for example, the widespread looting that took place last spring)?

Looting and other misconduct by Republic of Vietnam Armed troops toward the civilian populace have undermined the confidence of the people in RVNAF. Despite some efforts to correct the situation, efforts to undertake the required attitudinal changes of RVNAF towards the populace have not been productive.

COMUSMACV reports that his command has no firm evidence of widespread looting. However, as the Joint General Staff saw fit to publish a memorandum in March 1968 concerning theft, robbery, and rape, there apparently was concern in this area during the Spring.

The number of such RVNAF personnel

brought to trial during 1968 totaled eight. Of this eight, one enlisted man was acquitted, one officer received a sentence of five years detention, and six enlisted men received sentences of six months detention (suspended).

During 1967, several measures were taken to preclude RVNAF's stealing from the populace. A key program was the institution of a free issue of operational rations to troops. Prior to that time, the cost of operational rations was deducted from the soldier's pay. Consequently, he was prone to live off the land to save this expense.

During 1967, all South Vietnamese Army infantry battalions received training in Revolutionary Development, which stressed the importance of gaining the respect and cooperation of the people. This training was eventually extended to all other RVNAF battalions and to a high proportion of Regional Forces and Popular Forces units.

Many officers either have a disdain for dealing both with their men and with the peasants, or have come to expect and tolerate looting by believing that it "makes soldiers fierce" and unites them with a tradition of soldiering associated with the legendary and successful armies of Vietnam's past. During the third quarter of 1968, about 50% of MACV advisors with Vietnamese Army and Marine units report that one-third of the populace has a feeling of hostility towards their unit. On the other hand, 68% reported that their units respected the right of the populace and property most of the time.

What may be a more serious problem, however, is not that looting will probably continue despite even the most concerted reform efforts but that it is part of the larger problem of the army's lack of compassion and respect for civilian life and property. Such lack of compassion, in turn, is likely to further alienate the civilian population from the government's cause.

Question 11e: To what extent have past "anti-desertion" decrees and efforts lessened the rate of desertion; why has the rate recently been increasing?

RVNAF personnel are deserting at a rate of almost 120,000 per year. In combat units, the rate is the highest; gross desertions account for about 65% of the losses in these units. MACV has estimated that desertion rate will be reduced by about 50% during 1969—in fact, achievement of the new force goals is contingent upon this.

The successes of past desertion reduction programs attest to the fact that a reduction in the current high desertion rate is possible.

The following table illustrates RVNAF desertion rates over time:

RVNAF NET DESERTIONS PER 1,000 STRENGTH

	1st quarter, 1966	4th quarter, 1966	4th quarter, 1967	1st quarter, 1968	2d quarter, 1968	3d quarter, 1968	4th quarter, 1968
Regular	23.0	11.0	9.7	4.8	12.8	15.8	18.6
Regional	10.0	6.3	9.0	8.7	9.8	16.3	16.3
Popular	27.7	14.8	12.7	13.3	16.6	11.9	8.6
Total RVNAF	21.1	10.8	10.2	7.7	12.9	15.2	14.8

Desertion rates during 1965 and early 1966 rose to high levels, reflecting the political instability of the Government of Vietnam and enemy battlefield successes at that time. As the US build-up took effect and the Government of Vietnam was able to reestablish itself, the implementation of Decree Law 15 of 1966 and of a series of administrative reforms within the Republic of Vietnam Armed Forces (RVNAF) began to result in steadily decreasing desertion rates. As enforcement of Decree Law 15 (which increased sentences for desertion to a minimum of five years at hard labor and provided punitive measures to be taken against inducers and accomplices) proceeded, the punishments for desertion became adequate deterrents. Prior to February 1968, about 16,000 people were tried and 11,000 sentenced. By 1967, the desertion rate showed a 34 percent drop from 1966, and by January 1968, the rate had decreased to the level of 1963.

The administrative reforms within RVNAF during 1966 and 1967 consisted of increased attempts at troop indoctrination; pay raises in June 1966, May 1967, October 1967, and a PF pay raise in July 1968; increases in fund allowances; some leadership improvements; and upgrading of Regional and Popular Forces (RF and PF). These programs also had some effect—the PF desertion rate, which was the highest in 1960, is now the lowest; interestingly enough, PF casualties during the same period declined from 31% of the RVNAF total to about 20% in 1968. However, we do not know the extent that these forces have made local accommodations with the Viet Cong—we suspect there has been some.

Yet despite these programs, the desertion rate rose in 1968. This rise is attributable to several factors.

In February, the GVN declared a general amnesty and all those deserters previously sentenced was sent to combat units; about 13,000 deserters returned. Following this, rates rose. COMUSMACV reports that such amnesties granted to deserters by the Government of Vietnam, despite advice to the contrary by the Chief, RVNAF Joint General Staff, have not strengthened the desertion control program.

COMUSMACV reports that the present high desertion rate is due primarily to the large number of men entering the service as the result of the general mobilization.

"Prior to 1968, the RVNAF was a relatively stable force filled primarily with mature, trained individuals. As a result of the Partial and General Mobilization Decrees, the RVNAF expanded from a strength of 817,358. This accelerated mobilization required a general shift of the older officers, noncommissioned officers and enlisted men from their original units to one of the newly formed units. This shift resulted in a significant portion of RVNAF being manned by young, immature conscripts and volunteers supervised by a reduced quality of leadership by the young officers and noncommissioned officers."

"Statistics have shown that a soldier is more prone to desert during his first 6 months of service due to fear of the unknown, fear of combat, and because of strong family affiliations. This is the basic reason why desertions increased during the summer and fall of 1968 as over 200,000 new personnel were inducted or volunteered for service during this period."

In addition to new personnel, the increased rates may be due in part to the heightened intensity of combat and Viet Cong proselytizing.

The rising desertion rates turned slightly downward during the last quarter of 1968. Yet despite this further reduction may be difficult.

RVNAF initiated a program in July to encourage the populace to turn in deserters; the leave policy has been liberalized slightly as has been motivational training for new servicemen; and desertion "quotas" have been assigned to units. These programs appear to be having some effect.

The endemic poor environmental conditions of RVNAF, which contribute to desertions, such as low pay, little dependent housing, limited leave policy, transportation problems to get home even if a man gets leave, remain to be corrected.

The Vietnamese people take a very pragmatic attitude toward desertions. They feel that desertion is not bad but a way to beat the central authority.

We do not know to what extent the rising desertion rate indicates disaffection with the GVN or how many deserters remain in GVN areas and how many go the VC. The answer to these questions become more important as the RVNAF and GVN supporters become increasingly aware that they probably will have to make some political accommodation with the Viet Cong. Fewer may be willing to die in combat. Thus continued innovative actions are required to reduce RVNAF desertions.

* * * * *

Question 11f: What success are the RF and PF having in providing local security and reducing VC control and influence in rural populations?

Information on the success of local security and the reduction of VC control is soft and recognized as such, but some conjecture can be made and trends discerned.

The JCS, COMUSMACV and CINCPAC report that the best overall measure of the success of Regional forces (RF) and Popular forces (PF) in providing local security and reducing Viet Cong (VC) control is the trend in relatively secure and VC controlled population.

Since the Hamlet Evaluation System (HES) began breaking out rural population separately, the trends have been as follows:

PERCENT OF RURAL POPULATION

	January 1968	March 1968	October 1968	December 1968
Relatively secure	53.0	42.9	55.0	64.9
Vietcong controlled	25.4	28.3	23.7	18.9

Thus, despite the Tet setback, relative security has been extended to about 1.3 million people in the rural areas during 1968, and the Viet Cong have lost approximately 0.7 million of the population they controlled at the outset of the year. NOTE: HES data does not necessarily depict an accurate reflection of the security conditions at any one time nor does it reflect internal variation with categories of security, yet trend information is considered adequate.

During the Accelerated Pacification Campaign, for example, significant numbers of Regional and Popular Forces units have been redeployed mostly from relatively secure areas into contested hamlets. Some 227 Regional Forces companies and 710 Popular Forces platoons (roughly 15 percent of the total territorial security forces) are now stationed in formerly contested or Viet Cong-controlled target hamlets. Although territorial security forces are spread somewhat more thinly, even taking into account the almost 100,000 strength increase over the past year, the enemy has not taken advantage, either through lack of caability or a conscious decision of this deployment of friendly security forces.

Viewed from a slightly different perspective, another good indicator of the status of local security is the status of the Viet Cong (VC) local government or infrastructure (VCI): the existence of a small disciplined organization in a village or hamlet is a significant threat to an individual.

As of the end of November 1968, only about 21.2% of the population lived in areas where the VCI were considered eliminated (this does not include non-hamlet secure population as rating of this group does not include specific VCI questions—and the extent of VCI may be considerable). According to HES figures, about 61% of the total population and 80% of the rural population is subject to VCI influence; this has increased since 1967 as we find more about the VCI, despite anti-infrastructure efforts. Recent VCI political activity has also offset our efforts to destroy the VCI—as of the end of December 1968, about one-half of SVN's villages had "liberation committees"; about 10% of the relatively secure population lived in areas with such committees.

Actual Government of Vietnam (GVN) control is increasing very slowly. As of December 1968, only about 47% of the population of SVN was under primarily GVN influence with only 32% in rural areas.

Whereas the VC has a disciplined organization at village/hamlet level, the GVN does not: The GVN structure is smaller by almost one-half—the GVN has only about 15% of its structure at this level.

The existing rural GVN organization has little protection. During 1968, about 1300 GVN officials were killed and 300 abducted (it is likely that the large majority of these were from rural areas).

There is no significant programmed expansion of GVN and civil manpower resources at village and hamlet level. In fact, the GVN structure has declined in size due to general mobilization and input into RVNAF.

With respect to performance and effectiveness, while both RF and PF have improved, improvements are still not rapid enough. COMUSMACV reports that:

The presence of 353 Mobile Advisory Teams has added backbone to the Regional Forces/Popular Forces, improved their training, and increased the air and artillery support which they receive. Other similar programs such as Marine Combined Action Platoons, training courses conducted by US combat units, and numerous combined operations have enhanced the ability of the Regional Forces/Popular Forces to provide better protection to the people.

More than 100,000 M-16 rifles are already in the hands of Regional Forces/Popular Forces. Another 150,000 will be issued within the next year. The increased firepower and increased confidence these rifles give to the Regional Force/Popular Forces have enhanced their effectiveness and aggressiveness. As discussed in more detail under Question 11b, both Regional Forces and Popular Forces contacts in the last quarter of 1968 were up almost 100 percent over the 1st quarter of the year. Night contacts increased more than 100 percent during the same period.

The pace of Regional Forces/Popular Forces improvement is still not rapid enough. The first year's improvement program carried out in 1968 was moderately successful. With greater Government of Vietnam command interest being shown from the President on down, with the Territorial Forces Evaluation system (TFES) as a Government of Vietnam and US management tool, with more than 350 Mobile Advisory Teams available for full-time work, and with a vigorous improvement program for 1969, the Regional Forces/Popular Forces should be able to extend security to 90 percent of the population, which is the goal set by President Thieu for 1969.

OSD considers that despite increases in RF and PF operations and the increase in overall security ratings, improvement and extension of area security directly attributed to these remain marginal.

How much of the success of the accelerated pacification program is due to lack of VC opposition and how much is due to RF/PF efforts is not clear. An indicator is the fact that only about 20% of the RF/PF units in this program have moved from their original location.

Local units are mainly defensively oriented, related to villages or hamlets where their families are, rather than to conducting forays to close by VC hamlets.

The number of RF and PF units (currently about 32% and 65% of the total units respectively) protecting villages and hamlets has changed only slightly throughout 1968.

According to analysis of TFES reports and HES security ratings, the population unprotected by RF or PF improved during 1968 almost as rapidly as those protected by RF or PF; further, security improvement existed only when PF were present.

The PF is programmed to be expanded over current levels by only about 6,000 men.

Thus it appears that influence of the GVN versus the VC is growing slowly and principally under the weight of allied effort. Yet influence extension still operates with minimal resources on the part of the RVNAF and GVN. For greater productivity in this regard, commitment of additional manpower and equipment resources is necessary.

Question 12: To what extent could RVNAF—as is now—handle the VC (Main Force, local forces, guerrillas), with or without US combat support to fill RVNAF deficiencies, if all NVA units were withdrawn:

a. If VC still had northern fillers

b. If all northerners (but not regroupees) were withdrawn?

RVNAF capabilities and possible NVA withdraws are difficult to predict; judgments are highly conjectural at this time.

The JCS, CINCPAC and COMUSMACV estimate that it is highly probable tht Republic of Vietnam Armed Forces (RVNAF), as it exists today, adequately supported by US artillery, engineer, tactical air, helicopter, and naval assets, is capable of handling the Viet Cong. Without US combat support and when opposing Viet Cong main and local force units, the RVNAF would have to reduce the number of offensive operations and adopt more of a defensive posture. This would result in loss of control by the Government of Vietnam over substantial rural areas.

The above response is predicated upon two assumptions: first, there exists an internal environment characterized by a workable economy, a relatively secure civilian populace, and a functioning government. Secondly, the North Vietnamese Army forces have withdrawn to North Vietnam and terminated external support to Viet Cong Forces. Otherwise, if external support from the north were to continue, it is visualized that filler personnel would infiltrate in ever-increasing numbers to counter any substantial RVNAF success. This could result in a prolongation of the conflict unless substantial Free World Military Assistance Force presence were either continued or reestablished.

It is highly probable that the RVNAF, as it exists today, adequately supported by US artillery, engineer, tactical air, helicopter, and naval assets, is capable of:

(1) Making substantial progress in the elimination of Viet Cong main and local force units, including those with northern fillers.

(2) Making sustained progress in a reduction of the Viet Cong guerrilla threat although elimination would require a prolonged period of time.

(3) Achieving favorable results in a shorter time frame, if northern fillers are withdrawn.

It is estimated that without US combat support and opposing Viet Cong main and local force units, with or without northern fillers, the RVNAF would:

(1) Reduce numbers of offensive operations and adopt more of a defensive posture.

(2) Consolidate some forces and redeploy them within or in the proximity of major populated areas.

(3) Lose Government of Vietnam control over substantial rural areas.

(4) Retain Government of Vietnam control over major populated areas.

However, OSD considers that if all northerners withdraw the Viet Cong effort in the South may collapse, thus such a complete withdrawal may be unlikely.

North Vietnamese Army (NVA) forces in the south now comprise about 70% of the enemy regular combat forces. If all northerners withdraw the internal threat would be reduced from about 202 infantry type battalions to 73 with a regular force strength of about 37,000.

If fillers remained, the VC threat would be from 92 to 130 maneuver battalions. The larger figure is based on movement of NVA fillers into newly formed VC units.

RVNAF's capability against VC forces with NVA fillers is closely associated with time.

If most US forces were withdrawn now, RVNAF improvement may stop or regress. Most RVNAF gains are closely related to support provided directly and indirectly by US forces; if these forces are withdrawn rapidly, RVNAF's newly gained confidence may collapse.

While there has been considerable progress in increasing the force levels of RVNAF (now at about 826,000 to be expanded about 872,000 by end FY70), the initial expansion and modernization was designed to maximize combat power, rather than develop a balanced force. The impact of this expansion and modernization is just now being felt. The second phase of the modernization and improvement program is to develop a balanced force capable of coping with the internal VC threat, but despite acceleration, goals will not be met before end FY 72. Thus RVNAF capabilities should increase over time. Continued RVNAF modernization and more evidence of improvement over time will reinforce judgments on the question of RVNAF capabilities.

To what extent could the Republic of Vietnam Armed Forces—as it is now—also handle a sizeable level of North Vietnamese Army forces?

a. With U.S. air and artillery support?

b. With above, and also U.S. ground forces reserve?

c. Without U.S. direct support, but with increased RVNAF artillery and air capacity?

(S) Today's Republic of Vietnam Armed Forces (RVNAF), without full support of US combat forces, could not cope with a sizeable level of North Vietnamese Army (NVA) forces.

a. Should the present RVNAF be reinforced with US air and military support, their capability of defense would be improved, but not to the extent of being able to cope with the type and complexity of combat imposed by major North Vietnamese Army involvement.

b. The posture of the present RVNAF would be further strengthened if reinforced by major US air and military support, and backed up by major US ground force elements in a mobile reserve posture immediately available for commitment. The utility derived from placing major US Forces in standby reserve would depend on US willingness to use them as a threat and to commit all or part of the reserve as needed.

c. Finally, the question as to whether the present-day RVNAF, without US (or Free World Military Assistance Force) direct support but with an increase in organic artillery and air, could cope with sizeable North Vietnamese Army forces relates directly to the concept of the Phase II development.

Phase II is designed to restructure the present-day RVNAF to provide a more balanced combat support and combat-service support capability and includes a significant increase in air and artillery support. Air unit activations will commence in the 3d quarter, FY 1970 and be completed by end FY 1972. Artillery unit activations, currently underway, will be completed in the 2d quarter, FY 1970.

The RVNAF, with their present structure and degree of combat readiness, are inadequate to handle a sizeable level of North Vietnamese Army forces. The RVNAF simply are not capable of attaining the level of self-sufficiency and overwhelming force superiority that would be required to counter combined Viet Cong insurgency and North Vietnamese Army main force offensives. Some of the RVNAF would necessarily have to be redeployed to concentrate defenses in and around critical population centers and installations, thus abdicating a greater extent of rural areas to Viet Cong/North Vietnamese Army control.

(TS) Although the question does not consider gradual US troop reduction, the most likely and feasible scenario would be RVNAF gradually improving its capabilities and effectiveness. Associated would be a phased reduction in US forces.

COMUSMAC considers that, with the momentum that has been built up in the pacification program, the expansion and modernization of RVNAF, and the steady attrition of the enemy, it would be possible to plan for removing one division from South Vietnam during mid-summer of 1969. He and Ambassador Bunker discussed this with President Thieu and were met with a favorable response.

In addition, reduction of other US forces should be possible in the near future. The numbers and timing depend upon progress of RVNAF modernization (some units will turn over their equipment to RVNAF units during 1969), improvements in effectiveness of RVNAF, and a drastic reduction in the RVNAF desertion rate.

Question 14: What, in various views, are the required changes—in Republic of Vietnam Armed Forces (RVNAF) command, organization, equipment, training, and incentives, in political environment, in logistical support, in US modes of influence—for making the RVNAF adequate to the tasks cited in Questions 11 and 12, above? How long would this take? What are the practical obstacles to these changes, and what US moves would be needed to overcome these?

The JCS, CINCPAC and COMUSMACV consider that by 1972 the planned Phase II RVNAF will be adequate to handle the Viet Cong insurgency if the Viet Cong are not reinforced and supported by the North Vietnamese Army.

Command and Organization. From the initial decision to improve and modernize the RVNAF as a self-sufficient and effective military force until the present, planning has focused on developing the RVNAF command and organizational structure and providing the equipment, training, and logistical support adequate to the task cited in Question 12b, above. No major changes in command structure or organization are believed required at this time.

Force Level. The Phase II accelerated RVNAF force structure consists of a 10-division South Vietnam Army with a minimal logistic support force, expanded territorial forces which will total approximately 431,000 men and a 40-squadron South Vietnam Air Force. The approved SVN Navy plan calls for a balanced naval force of 24,734 men. Because of limitations on manpower availability, this total force is the maximum that can be achieved and sustained. It is the minimum force believed required to meet the likely threat from an internal insurgency without North Vietnamese Army support.

People's Self Defense. The Government of Vietnam is also pressing the People's Self Defense and similar programs. As these become more effective and involve a substantial portion of the total population, they can be expected to make at least part of the Popular Forces and Regional Forces available for more intensive efforts against local guerrillas and even local forces. This would correspondingly free elements of the Army of Vietnam now required to assist in this role, which could then be utilized not only against Viet Cong main force but also North Vietnamese Army main force units. While this would not be adequate to handle all of the North Vietnamese threat, it could contribute substantially to this mission.

Equipment. The RVNAF has yet to achieve the full quantities of equipment called for by the Phase II accelerated force structure nor has the planned modernization program of equipment yet been completed. When the equipment called for by these programs is received, the equipment will be adequate to meet the requirements.

Training. Training within units needs to have continued emphasis. The product of the RVNAF training systems, to include their schools, is generally satisfactory. High skill, long lead-time training, such as helicopter pilots, must, for some time, continue to take place in the Continental United States.

Incentives. While increased pay for the RVNAF would amount to an increased incentive and could possibly assist in solving the desertion problem, there are no current plans for any raise. The RVNAF is currently paid at a level equal to, or greater than, the Government of Vietnam civil service. Other forms of incentive, such as increased promotion opportunities and greater use of decorations and awards, are being pressed by US advisors.

Logistical Support. While not yet approved, the recent recommendations of the Military Assistance Command, Vietnam, for an increase in logistical spaces of approximately 9,400 will produce a better balanced force more capable of self-sufficiency. It is a minimal logistical structure.

Modes of Influence. No significant changes in US modes of influence are called for or required. Certain reductions are being made within selected Army of Vietnam units in the level of US advisory effort as these units achieve maturity and effectiveness. In the territorial forces, on the other hand, consideration is being given to doubling the level of the Military Assistance Training program. This program, which provides small five-man advisory teams to work with the Regional Forces/Popular Forces, has been a significant contributing factor to the improvement of territorial forces.

Timing. Primarily because of long lead-time training requirements and secondarily because of stretch-out of delivery of required equipment, it will be FY 72 before the planned force can be fully effective.

Obstacles. Obstacles to the success of the program include the remaining high desertion rate and needed improvements in quantity and quality of leadership. These problems are receiving continuing command emphasis.

US Moves. In any case, until the goals of the Improvement and Modernization Program are achieved, US support units (approved at about 39,000 personnel) will be required to make up RVNAF shortfalls against the threat postulated in Question 12b, above. Continued US materiel support under a Military Assistance Program/Military Assistance Service Funded program will be required indefinitely to maintain an effective force. A continuing requirement for a US presence in the form of a Military Assistance Advisory Group is anticipated also (approved at about 19,000).

In addition to the above views of the JCS, CINCPAC and COMUSMACV, OSD considers that there are other required changes in RVNAF.

Without major reforms within the RVNAF command and selection system, however, it is unlikely that the RVNAF as presently organized and led will ever constitute an effective political or military counter to the Viet Cong. Moreover, as the Government of Vietnam's (GVN) major presence in the countryside, the RVNAF as presently constituted will only continue to widen the gap which exists between the government and the rural population. Thus, any program of priority changes must have as its primary purpose the provision of an interval during which maximum pressure can be exerted on the GVN to make the necessary organizational and political changes commensurate with the assumption of a larger role in the political struggle and the war. Actions enumerated in the following paragraphs should be undertaken. While some of these are underway in varying degrees, they must receive more emphasis.

a. Concentrate on those organizational and command changes that can improve RVNAF stategic capability to assume a greater share of the overall military burden and increase their competence to better confront the enemy's military and political infrastructure.

Initiate top echelon political action to emphasize and reward professionalism in the RVNAF by making the basis of promotion and assignment professional competence rather than political loyalty. Immediate action on this priority is essential if the RVNAF is to emerge as a viable and an effective military establishment in South Vietnam. From the standpoint of GVN politics, the army is also at a major watershed in its development. President Thieu has succeeded in replacing those senior generals and other once-influential officers loyal to Vice President Ky. The Thieu victory, however, is not likely to bring either stability or effectiveness to future RVNAF operations unless Thieu can make the choice between basing RVNAF commands on professionalism rather than politics. First, while all major RVNAF commands have changed hands, the primacy of politics and political loyalties as the basis for advancement has not been changed. Second, if politicizing remains the basis of command assignment in RVNAF, then the Thieu victory is a temporary one at best. The tension between supporters of General Cao Van Vien vs Premier Tran van Houng, paralleling the basic antagonism between northerners and southerners in the policy at large is likely to further divided the RVNAF generals and threaten Thieu's hold over them. Similarly, at the battalion level and throughout the field generally, the tension between those officers who have fought hardest and advanced least verus those who have had little fighting experience but rapid advancement is likely to hamper the ability of the GVN to successfully carry out major transfer of fighting responsibilites. Unless the closed system of loyalties and regionalism is replaced in the promotion and assignment of officers the same problems of inept leadership and corruption will continue to paralyze the RVNAF regardless of the magnitude of future US/Allied assistance to the GVN.

What is now required, in essence, is to overlay the Vietnamese system with effectiveness criteria, institutionalize advancement and assignment on such criteria, and use US pressure to regularize the promotion system. There are some indications that the GVN both realizes that this must be done and is willing to do so. They have taken some steps to improve low level leadership. We should help the GVN make changes at the top. This can be done by first making it clear to the GVN at the highest levels that: (1) while we will continue support, we intend to reduce our effort, (2) that the GVN can no longer survive without making certain changes and we will assist them in making these changes—teach the leadership to survive in a changing system. In this regard, we should provide highly qualified and sensitive advisors for selected high level RVNAF leaders (at the Joint General Staff, Corps and division level) to work directly with these leaders.

In consultation with the Vietnamese, we should decrease the number of American advisors assigned to RVNAF units which have demonstrated the capability of operating effectively.

b. Increase the quality and quantity of territorial security and pacification operations aimed at expanding GVN influence and diminishing the VC support structure and its guerilla and local force units.

Give priority attention to the territorial security forces by increasing support from regular forces, by providing more and better functioning communications as now planned under current RVNAF modernization and improvement programs, by increasing the force levels of Popular Forces and by detailing more regular force officers and NCO's to fill leadership shortages in territorial security units.

Emphasize quality rather than quantity in the Phoenix program by providing greater incentives for the identification and capture of high ranking or key personnel in important positions within the VC infrastructure, as opposed to elimination or larger numbers of lower ranking personnel of lesser importance.

Be prepared to establish a national constabulary type territorial security force under the Ministry of the Interior as may become necessary in the event the activities of the RVNAF are severely circumscribed in the post hostilities environment due to a restriction of the use of the RVNAF to maintain security, law and order resulting from a ceasefire agreement or other agreement to terminate hostilities.

Augment territorial security forces as required with RVNAF regular force maneuver battalions, and US maneuver battalions if necessary, to improve level of security in selected high-priority districts. Develop more effective pacification tactics.

Reward unit and individual performance in providing local security and eliminating the VC infrastructure through promotions, awards and publicity.

Initiate motivational and educational actions to change the attitudes of RVNAF personnel towards the populace and toward pacification programs.

Revitalize the RF by redistribution of leaders from headquarters elements to combat units, cross assignment of ARVN officers, and improved training and motivation.

Bring about attitudinal changes in RVNAF leadership towards the worth of the populace and the necessity for local security. Here, the special advisors could be effective instruments in stimulating and guiding the Vietnamese, thereby bringing GVN leaders and RVNAF to the realization that effective protection of the local people is an essential priority if nation-building activities are to be carried out.

c. In addition to the foregoing groups of actions, there are a number other less critical actions that should be taken to improve RVNAF. Among those, we should:

Modify the RVNAF force structure as the threat in SVN shifts in emphasis to an internal one. The current RVNAF is conventionally equipped and organized, not necessarily well suited to political action or countering guerrilla warfare. Its many varied and separate commands maximize divisiveness. Powers of military commanders continue to conflict with political development. The essential task is to build a structure that maximizes cohesiveness and national loyalty. Rather than separate commands, differences should be manifested in mission assignments.

Question 14: What, in various views, are the required changes—in Republic of Vietnam Armed Forces (RVNAF) command, organization, equipment, training, and incentives, in political environment, in logistical support, in US modes of influence—for making the RVNAF adequate to the tasks cited in Questions 11 and 12, above? How long would this take? What are the practical obstacles to these changes, and what US moves would be needed to overcome these?

The JCS, CINCPAC and COMUSMACV consider that by 1972 the planned Phase II RVNAF will be adequate to handle the Viet Cong insurgency if the Viet Cong are not reinforced and supported by the North Vietnamese Army.

Command and Organization. From the initial decision to improve and modernize the RVNAF as a self-sufficient and effective military force until the present, planning has focused on developing the RVNAF command and organizational structure and providing the equipment, training, and logistical support adequate to the task cited in Question 12b, above. No major changes in command structure or organization are believed required at this time.

Force Level. The Phase II accelerated RVNAF force structure consists of a 10-division South Vietnam Army with a minimal logistic support force, expanded territorial forces which will total approximately 431,000 men and a 40-squadron South Vietnam Air Force. The approved SVN Navy plan calls for a balanced naval force of 24,734 men. Because of limitations on manpower availability, this total force is the maximum that can be achieved and sustained. It is the minimum force believed required to meet the likely threat from an internal insurgency without North Vietnamese Army support.

People's Self Defense. The Government of Vietnam is also pressing the People's Self Defense and similar programs. As these become more effective and involve a substantial portion of the total population, they can be expected to make at least part of the Popular Forces and Regional Forces available for more intensive efforts against local guerrillas and even local forces. This would correspondingly free elements of the Army of Vietnam now required to assist in this role, which could then be utilized not only against Viet Cong main force but also North Vietnamese Army main force units. While this would not be adequate to handle all of the North Vietnamese threat, it could contribute substantially to this mission.

Equipment. The RVNAF has yet to achieve the full quantities of equipment called for by the Phase II accelerated force structure nor has the planned modernization program of equipment yet been completed. When the equipment called for by these programs is received, the equipment will be adequate to meet the requirements.

Training. Training within units needs to have continued emphasis. The product of the RVNAF training systems, to include their schools, is generally satisfactory. High skill, long lead-time training, such as helicopter pilots, must, for some time, continue to take place in the Continental United States.

Incentives. While increased pay for the RV NAF would amount to an increased incentive and could possibly assist in solving the desertion problem, there are no current plans for any raise. The RVNAF is currently paid at a level equal to, or greater than, the Government of Vietnam civil service. Other forms of incentive, such as increased promotion opportunities and greater use of decorations and awards, are being pressed by US advisors.

Logistical Support. While not yet approved, the recent recommendations of the Military Assistance Command, Vietnam, for an increase in logistical spaces of approximately 9,400 will produce a better balanced force more capable of self-sufficiency. It is a minimal logistical structure.

Modes of Influence. No significant changes in US modes of influence are called for or required. Certain reductions are being made within selected Army of Vietnam units in the level of U.S. advisory effort as these units achieve maturity and effectiveness. In the territorial forces, on the other hand, consideration is being given to doubling the level of the Military Assistance Training program. This program, which provide small five-man advisory teams to work with the Regional Forces/Popular Forces, has been a significant contributing factor to the improvement of territorial forces.

Timing. Primarily because of long lead-time training requirements and secondarily because of stretch-out of delivery of required equipment, it will be FY 72 before the planned force can be fully effective.

Obstacles. Obstacles to the success of the program include the remaining high desertion rate and needed improvements in quantity and quality of leadership. These problems are receiving continuing command emphasis.

US Moves. In any case, until the goals of the Improvement and Modernization Program are achieved, US support units (approved at about 39,000 personnel) will be required to make up RVNAF shortfalls against the threat postulated in Question 12b, above. Continued US material support under a Military Assistance Program/Military Assistance Service Funded program will be required indefinitely to maintain an effective force. A continuing requirement for a US presence in the form of a Military Assistance Advisory Group is anticipated also (approved at about 19,000).

In addition to the above views of the JCS, CINCPAC and COMUSMACV, OSD considers that there are other required changes in RVNAF.

Without major reforms within the RVNAF command and selection system, however, it is unlikely that the RVNAF as presently organized and led will ever constitute an effective political or military counter to the Viet Cong. Moreover, as the Government of Vietnam's (GVN) major presence in the countryside, the RVNAF as presently constituted will only continue to widen the gap which exists between the government and the rural population. Thus, any program of priority changes must have as its primary purpose the provision of an interval during which maximum pressure can be exerted on the GVN to make the necessary organizational and political changes commensurate with the assumption of a larger role in the political struggle and the war. Actions enumerated in the following paragraphs should be undertaken. While some of these are underway in varying degrees, they must receive more emphasis.

a. Concentrate on those organizational and command changes that can improve RVNAF strategic capability to assume a greater share of the overall military burden and increase their competence to better confront the enemy's military and political infrastructure.

Initiate top echelon political action to emphasize and reward professionalism in the RVNAF by making the basis of promotion and assignment professional competence rather than political loyalty. Immediate action on this priority is essential if the RVNAF is to emerge as a viable and an effective military establishment in South Vietnam. From the standpoint of GVN politics, the army is also at a major watershed in its development. President Thieu has succeeded in replacing those senior generals and other once-influential officers loyal to Vice President Ky. The Thieu victory, however, is not likely to bring either stability or effectiveness to future RVNAF operations unless Thieu can make the choice between basing RVNAF commands on professionalism rather than politics. First, while all major RVNAF commands have changed hands, the primacy of politics and political loyalties as the basis for advancement has not been changed. Second, if politicizing remains the basis of command assignment in RVNAF, then the Thieu victory is a temporary one at best. The tension between supporters of General Cao Van Vien vs Premier Tran van Houng, paralleling the basic antagonism between northerners and southerners in the polity at large is likely to further divide the RVNAF generals and threaten Thieu's hold over them. Similarly, at the battalion level and throughout the field generally, the tension between those officers who have fought hardest and advanced least versus those who have had little fighting experience but rapid advancement is likely to hamper the ability of the GVN to successfully carry out major transfer of fighting responsibilities. Unless the closed system of loyalties and regionalism is replaced in the promotion and assignment of officers the same problems of inept leadership and corruption will continue to paralyze the RVNAF regardless of the magnitude of future US/Allied assistance to the GVN.

What is now required, in essence, is to overlay the Vietnamese system with effectiveness criteria, institutionalize advancement and assignment on such criteria, and use US pressure to regularize the promotion system. There are some indications that the GVN both realizes that this must be done and is willing to do so. They have taken some steps to improve low level leadership. We should help the GVN make changes at the top. This can be done by first making it clear to the GVN at the highest levels that: (1) while we will continue support, we intend to reduce our effort, (2) that the GVN can no longer survive without making certain changes and we will assist them in making these changes—teach the leadership to survive in a changing system. In this regard, we should provide highly qualified and sensitive advisors for selected high level RVNAF leaders (at the Joint General Staff, Corps and division level) to work directly with these leaders.

In consultation with the Vietnamese, we should decrease the number of American advisors assigned to RVNAF units which have demonstrated the capability of operating effectively.

b. Increase the quality and quantity of territorial security and pacification operations aimed at expanding GVN influence and diminishing the VC support structure and its guerrilla and local force units.

Give priority attention to the territorial security forces by increasing support from regular forces, by providing more and better functioning communications as now planned under current RVNAF modernization and improvement programs, by increasing the force levels of Popular Forces and by detailing more regular force officers and NCO's to fill leadership shortages in territorial security units.

Emphasize quality rather than quantity in the Phoenix program by providing greater incentives for the identification and capture of high ranking or key personnel in important positions within the VC infrastructure, as opposed to elimination of larger numbers of lower ranking personnel of lesser importance.

Be prepared to establish a national constabulary type territorial security force under the Ministry of the Interior as may become necessary in the event the activities of the RVNAF are severely circumscribed in the post hostilities environment due to a restriction of the use of the RVNAF to maintain security, law and order resulting from a ceasefire agreement or other agreement to terminate hostilities.

Augment territorial security forces as required with RVNAF regular force maneuver battalions, and US maneuver battalions if necessary, to improve level of security in selected high-priority districts. Develop more effective pacification tactics.

Reward unit and individual performance in providing local security and eliminating the VC infrastructure through promotions, awards and publicity.

Initiate motivational and educational actions to change the attitudes of RVNAF personnel toward the populace and toward pacification programs.

Revitalize the RF by redistribution of leaders from headquarters elements to combat units, cross assignment of ARVN officers, and improved training and motivation.

Bring about attitudinal changes in RVNAF leadership towards the worth of the populace and the necessity for local security. Here, the special advisors could be effective instruments in stimulating and guiding the Vietnamese, thereby bringing GVN leaders and RVNAF to the realization that effective protection of the local people is an essential priority if nation-building activities are to be carried out.

c. In addition to the foregoing groups of actions, there are a number other less critical actions that should be taken to improve RVNAF. Among those, we should:

Modify the RVNAF force structure as the threat in SVN shifts in emphasis to an internal one. The current RVNAF is conventionally equipped and organized, not necessarily well suited to political action or countering guerrilla warfare. Its many varied and separate commands maximize divisiveness. Powers of military commanders continue to conflict with political development. The essential task is to build a structure that maximizes cohesiveness and national loyalty. Rather than separate commands, differences should be manifested in mission assignments.

Question 15: How much, and where, has the security situation and the balance of influence between the Viet Cong and Government of Vietnam actually changed in the countryside over time, contrasting the present to such benchmarks as end-61, end-63, end-65, and end-67? What are the best indicators of such change, or lack of it? What factors have been mainly responsible for such change as has occurred? Why has there not been more?

The number of relatively secure hamlets changed from 7,000 to 8,000 in early 1963 to about 4,000 in the fall of 1964 and mid-1965, 5,000 at the end of 1967, 4,559 after Tet, and 6,425 in December 1968. The main factors responsible for the changes for the better are the loss of local support when the North Vietnamese Army began to replace the Viet Cong programs, and the Accelerated Pacification Campaign. Obstacles to favorable change are failure of the Government of Vietnam to push reforms and a "wait and see" attitude on the part of the populace.

SECURITY CHANGES IN VIETNAM

The JCS, CINCPAC and MACV consider that the following historical evaluation reflects the change in the countryside since 1964 and the reasons for this change:

After failing to make political gains in South Vietnam between 1954 and 1959, the Viet Cong added a military thrust to their strategy. By 1959, security started to become a problem, and by end-1961, security had begun to deteriorate seriously as the Viet Cong guerrillas and small units attacked the practically defenseless hamlets and villages. The Army of Vietnam, organized for another type of war, was unable to cope with the terrorists, propagandists, and night guerrilla actions which marked the enemy campaign.

The Government of Vietnam developed the Strategic Hamlet Campaign as a counter strategy. It stemmed the loss of security in the countryside and in early 1963, was on an uptrend of success. Perhaps 7,000 to 8,000 hamlets would have been classed as relatively secure by today's more sophisticated standards. But by the summer of 1963, the house of cards had started to collapse as a result of strong pressure against the strategic hamlets by more powerful enemy units, political problems at the center which culminated in the 1 November 1963 coup, and the unwillingness of the Army of Vietnam to adapt itself to the enemy's kind of war. By the time of the coup, the number of relatively secure hamlets had decreased to about 5,500.

This deterioration presented an opportunity for rapid progress by the National Liberation Front in recruiting, arming, and influencing the South Vietnamese population. The series of governments following Diem was characterized by starting their tenure with the highest level of support they were ever to achieve and rapidly losing this support until they fell or were overthrown. By the fall of 1964, in the judgment of nonaligned Vietnamese, US and other foreign missionaries and numbers of the Viet Minh, the National Liberation Front enjoyed the active, willing cooperation of more than 50 percent of the population in South Vietnam and a belief among the majority of the population in the inevitability of a communist takeover. Scarcely 4,000 hamlets could be regarded as relatively secure. At this time, the National Liberation Front made a decision in late 1964 to depart from its own principle of protracted warfare and try for a knockout blow in 1965. The immediate results of this decision were:

a. The promotion of local effective and politically astute cadre from positions in the infrastructure to command or political positions in companies and battalions.

b. An increase in taxation to support main force units.

c. A reduction in the draft age to recruit the necessary filler personnel.

d. The replacement of local cadre leaders with more youthful, less politically knowledgeable individuals, many of whom tended to take financial advantage of their position.

e. A resultant shift from effective, discriminate terrorism wherein unpopular Government of Vietnam leaders were targeted, to indiscriminate terrorism wherein the noninvolved population began suffering casualties (mortaring and mining).

f. The increased vulnerability of main and local force units now concentrated in base areas to the Government of Vietnam, US air and artillery fire.

The enemy's overall strategy was to consolidate his units into regiments, or to coordinate several battalions, to threaten vital areas, including Saigon. The Army of Vietnam committed itself rather poorly in these battles and was forced to fall back toward the cities. Later at Tet 1964, the countryside was turned over to the Viet Cong so that by mid-1965 only the same hard core of some 4,000 hamlets that remained under Government of Vietnam control in mid-1964 could still be considered relatively secure.

A new factor was added to the security equation on 7 February 1965, when the United States bombed North Vietnam. At the same time, the National Liberation Front agreed to more overt support by North Vietnam rather than "lose face" by disbanding their recently formed main force and local force battalions and companies. They chose to escalate in a belief that the United States was a paper tiger. The United States and the Government of Vietnam continued to escalate. The once popular belief in the inevitable communist takeover began to evaporate.

Throughout 1966 and 1967, improved and strengthened pacification programs and the balancing off of enemy and friendly forces by external replacements, i.e., North Vietnamese Army and US troops, allowed the Government of Vietnam to slowly expand control by following the oil spot concept. Relatively secure hamlets increased by about 500 in 1966. Another 500 were added in 1967 bringing the end-1967 total, by this time measured by the Hamlet Evaluation System, to approximately 5,000 relatively secure hamlets.

Relatively secure population improved slowly and irregularly from about 40 percent in early 1965 to more than three-quarters of the total in South Vietnam by the end of 1968, in spite of the Viet Cong Tet and May attacks in that year.

INDICATORS OF CHANGE

All of the factors described above continued to exacerbate the relations of the National Liberation Front and North Vietnam with the population until Tet 1968. The Tet attack by the enemy, in retrospect, probably cost him even more dearly in the alienation of the population than the excessive casualties he took. A composite grouping of the relatively noninvolved observers on the scene in Vietnam, people who are able to converse across the political spectrum, now estimate that the enemy forces enjoy the willing cooperation and support of less than 15 percent of the population, and possibly as low as 10 percent. Moreover, neither the population nor the majority of the enemy's forces any longer expect a military victory. The evidence to support the observations made above is as follows:

a. The fact that by all known measurements of Government of Vietnam versus communist control, the former enjoys the greatest degree of control exercised in this decade, and the latter the least. With due respect to the limitations of the Hamlet Evaluation System report, such error or bias as is contained in the overall report is a constant and the Hamlet Evaluation System report is indeed a valid measure of trend, particularly over the past 18 months. The 31 December 1968 figures reflect the highest level attained since the start of the Hamlet Evaluation System in January 1967.

PERCENT OF TOTAL SOUTH VIETNAM POPULATION

	January 1967	June 1967	January 1968	March 1968	October 1968	December 1968
Relatively secure	62.1	65.6	67.2	61.0	69.8	76.3
Contested	18.5	16.4	16.4	20.7	14.9	11.4
Vietcong controlled	19.4	18.0	16.4	18.3	15.3	12.3
Number of relatively secure hamlets	4,700	5,189	5,331	4,559	5,509	6,425

b. The urban population which, although not widely supporting the enemy prior to Tet, was neither resisting the enemy nor inclined to seek an end to the war. This population now, by all measures of attitudes, has taken a distinctly hostile attitude toward the Viet Cong, particularly the North Vietnamese Army.

c. The Rural Technical Team Reports in the III Corps Tactical Zone, a series of over 300 in-depth interviews with the population by non-Government of Vietnamese personnel reflect an almost total reliance by the enemy on terrorism, coercion, and the abandonment of attempts to woo the population.

Prior to mid-1964, data did exist for the evaluation of population security. Beginning mid-1964, Government of Vietnam data showed that approximately 50 percent of the total population was considered relatively secure and about 20 percent of the population was under Viet Cong control. The remaining 30 percent was considered "contested" population. The nadir of relatively secure population was reached in February 1965, when only 40 percent of the population was considered relatively secure by the Government of Vietnam. Following this low point, there was a gradual improvement as evidenced primarily by changes from the contested to relatively secure categories. Government of Vietnam data for end-1965 showed that just over 50 percent of the population was considered relatively secure and about 20 percent was under Viet Cong control. Listed below are significant benchmarks in rural population control since January 1967, using Hamlet Evaluation System data.

[In percent]

Rural population	January 1967	January 1968[1]	February 1968	December 1968
Relatively scuere	47.5	53.4	44.5	65.1
Contested	27.3	21.6	28.3	16.0
Vietcong control	25.2	25.0	27.3	18.9

[1] As measured before the Vietcong Tet attacks.

With respect to geographic areas, population security has been the most favorable in the II and III Corps areas. Population security in III Corps has always been the best. Allied troop density and the Saigon population base account for the high relatively secure picture in III Corps. The III Corps rural population security situation is also high with just over 77 percent of the population being relatively secure at the end of December 1968.

Provinces which showed the most change during 1968 with respect to relatively secure population, are indicated below:

[In percent]

	Up	Down[1]
Quang Tri (I Corps)	30.6	
Kien Phong (IV Corps)	30.1	
Phuoc Long (III Corps)	28.5	
Thua Thien (I Corps)	28.4	
Binh Thuan (II Corps)		6.8
Kien Giang (IV Corps)		3.3

[1] Only 2 Provinces showed a net regression in relatively secure population during 1968.

FACTORS RESPONSIBLE FOR CHANGE

The greatest single factor determining popular support in any area is the presence of US/Government of Vietnam or North Vietnamese Army/Viet Cong Forces. The populace generally tends to support whichever side is in military control.

The shift in I, II, and III Corps went from a predominately Viet Cong force in 1967 to a predominately North Vietnamese Army force in 1968, has resulted in a withdrawal of support on the basis of family or village connections and its replacement by passive resistance and noncooperation. This should not be interpreted as a shift of support to the Government, but only as a shift of support from the enemy.

Although sometimes over-dramatized, the urbanization taking place in Vietnam is reducing the degree of Viet Cong control and increasing the degree of Government of South Vietnam control, regardless of security considerations. In a recent analysis of the increases in population during the 1960s in the III Corps Tactical Zone, to include the province and district towns and hamlets of 2,000, it was estimated that approximately one-third of the population of these towns and hamlets (1,000,000) has shifted location from the rural areas to one of the aforementioned population centers. In spite of problems of housing income, urban strife, the present benefits of urbanization outweigh the postwar costs and with the coming of peace, relocation to rural areas may again be accomplished.

The increase in quantity, the improvement in quality, and the increasing attention being focused on the territorial forces, are making substantial inroads to improve security in what were once considered inviolate enemy areas.

By all indications available to COMUS MACV, CINCPAC, and the JCS, there has been dramatic change in the security situation and balance of influence favorable for the GVN. Best estimates indicate that since January 1967, alone, more than 2,000,000 of the rural population have been brought into the relatively secure category. This represents a favorable change of more than 12% of the total population.

Some additional critical factors responsible for the change are:

a. A 28 percent increase and modernization of the RVNAF force structure over the period 1965–1968;

b. The large Free World Military Assistance Force troop buildup in South Vietnam over the period 1965–1968;

c. The U.S. civil and military advisory buildup over the past 3 years at all levels of the Government of Vietnam structure;

d. Intensified anti-Viet Cong infrastructure programs beginning in 1967; and

e. The Accelerated Pacification Campaign of 1968–1969.

Obstacles to Change

(*OSD agrees with this assessment of the obstacles.*) Obstacles to expected favorable changes in the countryside are:

Failure of the Government of Vietnam to push reforms and to crack down on corrupt practices.

Continuation of a "wait and see" attitude on the part of the population with regard to the outcome of the negotiations in Paris.

A too hasty withdrawal of US Forces, thus causing both a reduction in security and a loss of confidence by the people in the Government of Vietnam.

Early pacification programs had only limited success for the following reasons: (1) effective counteraction by the Viet Cong; (2) breakdowns in coordination by a shaky Government of Vietnam; (3) lack of communication and cooperation between the national Government and officials at corps through district levels; (4) lack of coordination machinery among US agencies Saigon and in the field adequate to the broad scope of the threat; (5) the slow development of conceptual agreement among Government of Vietnam and US officials; (6) overly optimistic reporting of results and data interpretation in response to public and political pressures; (7) over-emphasis on quantitative measurement rather than quality of effort and results; (8) programs more ambitious than initially achievable; (9) inadequacies in local leadership, cadre selection, and cadre training due, in part, to the losses to terrorism; and (10) inadequate provision of means for treatment of basic political, economic, social, and psychological problems. *The underlying cause in most cases was the inability to achieve the essentially political objective of engaging the people in support of the Government of Vietnam.*

OSD considers the following factors to be a partial explanation of the changes in the security situation and the balance of influence in the countryside of Vietnam since 1961 and the reasons for those changes:

(*N.B. The answers to questions 15, 16, 17, 18, and 19 are so closely interrelated that one answer should not be considered without considering the other answers at the same time.*)

The following table represents population control data from the end of 1962 to the present. This data has been retroactively adjusted in order that data from the older reporting systems might be matched with the data presently produced in the HES. The two different systems used between 1962 and the beginning of the HES in early 1967 suffered from ambiguous and changing categories and definitions and from lack of detail and critical system checking. The HES, which we rely upon now, while far more systematic and detailed, remains quite subjective. (It is important to keep in mind that these statistics can only show gross relative trends and are constantly in need of caveats and refinements that can only be supplied by the subjective judgments and analysis of informed knowledgeable individuals.)

RETROACTIVE POPULATION CONTROL DATA

[Population in thousands]

	End—						
	1962	1963	1964	1965	1966	1967	1968
GVN aligned[1]	7,674	9,011	6,716	8,884	6,065	7,236	8,165
Viet Cong	2,587	2,729	3,302	3,550	2,832	2,862	2,155
Total	15,210	15,590	15,980	16,379	16,402	17,209	17,477

[1] For end 1966 and following, A+B+nonhamlet secure population was considered GVN alined; "C" hamlet population is not counted; therefore, the categories presented do not add up to total population.

This table illustrates well the roller coaster nature of the size and percentage of GVN aligned population with the average population in this category over the past six years being 7,679,000, but going as high as $9,011,000 (1963) and as low as 6,065,000 (1966). At the same time, the relative constant nature of the population in the VC category is noticeable with the average VC population being 2,860,000 for the six years and the variation from this mean being not more than ±700,000. (The reported figures for VC population are probably quite soft. Few VC hamlets, if any, are subject to accurate census.) If retrospective urban population over the last six years is subtracted from the above secure population category, then the *rural* GVN aligned population has remained relatively constant at about 5,000,000 if the end-1963 and end-1965 data is not considered (they appear over-stated in any case.) *This analysis suggests that the security situation and the balance of influence in the countryside have not appreciably altered over time: the GVN aligned population was about 5,000,000 in 1962 and remains about that in 1968, and the VC population was approximately 2,600,000 in 1962 and is approximately 2,200,000 today.* In the remainder of the population (7–10 million) two phenomena seemed to have happened over time: (1) many individuals (perhaps up to *2–3 million*) have abandoned the rural areas and moved either into or nearby the urban areas; (2) 5 to 7 million have wandered back and forth from GVN influence to VC influence dependent upon who was placing the greatest pressure upon them to conform at any given moment.

Examination of the past two years of HES reports indicates that the *movement of individuals* and census adjustments brought about nearly as much of the total net gains in "secure" population as did the population brought into this category by improvement in hamlet ratings (35–39% from adjustments to 41–52% from improvements). This tends to show: (1) that population goes up in secure areas not because the people are committing themselves to the GVN particularly but because they want to get out of the fighting in rural areas; (2) that there is a significant amount of "gain" which results from accounting adjustments not actual change. Additionally, analysis of the number of hamlets which regressed vs. the number of hamlets that improved shows that 40 to 44% of time the number of hamlets which improved their ratings was matched by the number of hamlets whose ratings regressed. This analysis somewhat supports the above thesis that much of the rural population vacillates back and forth between the GVN and VC.[1]

More detailed data to examine the balance of influence in the countryside did not become available until the HES went into operation in January 1967. However, the crucial issue of any analysis regarding the HES revolves around the degree to which "C" hamlets may be considered "relatively secure." Examination of some of the indicators reveals the following:

a. ——— was designed as a management tool to assist in allocating GVN and US resources in rural South Vietnam. As such the responses concentrate on those areas over which the GVN/US have the most direct influence, namely the activities of GVN ministries and political activities directed by the GVN. Accordingly, 12 of the 18 "indicators" measure GVN presence and activities with only 6 "indicators" measuring enemy activities. The values assigned to these "indicators" are given equal weight in determining the alphabetical standing of each hamlet and the system is thus based in favor of ratings favorable to the GVN. Moreover, HES ratings are made by Americans, few of whom speak Vietnamese, who are in the district generally from 6 months to a year, and who are able to visit the hamlets being rated on an average of less than once a month. Accordingly, the raters' ability to appraise those elements of GVN activity is far greater than for those of the VC. This is illustrated by the fact that when the requirement is laid on him to pay particular attention to certain VC activities such as that of the infrastructure (VCI), reported findings, as indicated in the tables below, indicate greater VC presence than was formerly perceived. *It is for these reasons that OSD considers that C hamlets should not be considered as being "relatively secure" and that for "grading" purposes only 50% of the C hamlets should be considered as primarily under GVN influence.*

The following tables illustrate the influence of the Viet Cong Infrastructure over the hamlet (rural) population as shown by indicators 2a and 2b of the Hamlet Evaluation System:

	December 1967	June 1968	November 1968
Indicator 2a, hamlet infrastructure:			
A and B	24.1	18.0	17.5
C	20.8	23.1	28.0
D and E and VC	36.8	40.3	32.7
Indicator 2b, village infrastructure:			
A and B	31.4	24.2	26.5
C	15.0	17.8	22.6
D and E and VC	35.4	39.7	32.7

In indicator 4a which "measures" the presence of GVN administration in hamlets, a rating of "C" is given when "Managerial groups are resident; mostly locally appointed or elected; and are usually present at night." Following table indicates the percentages under this category for 1968:

	December 1967	June 1968	November 1968
A and B	34.5	32.6	36.0
C	19.2	17.7	20.6
D and E and VC	29.3	31.6	29.3

If the "C" hamlet population is split evenly between primary GVN influence and primary NLF influence, the above tables would show the following:

	December 1967	June 1968	November 1968
Hamlet infrastructure:			
GVN influence	34.5	29.6	31.5
NLF influence	47.2	51.9	46.7
Village infrastructure:			
GVN influence	38.9	33.1	37.8
NLF influence	42.9	48.6	44.0
GVN administration:			
GNV influence	44.1	41.5	46.3
NLF influence	38.9	40.5	39.6

Thus, the range of possible percentages for the rural populace "subject to significant VC presence and influence" would be from 39.6 to 46.7 percent given the above interpretation of the "C" hamlets. Other assessments would tend to show that at least 65% of the rural population is subject to disciplined VC infrastructure activities. *Probably as close as it can be estimated, 50% of the total rural population is subject to significant VC presence and influence and, at least 50% and probably more, of the rural population living in "C" hamlets is subject to such presence and influence.*

The following table represents yet another way of looking at the HES statistics with regard to assessing GVN or VC influence. It summarizes data from indicators 3C (Internal Security), 2A (VC Hamlet Infrastructure), and problem areas 8 a and b (Tax Collection). In this analysis, "C" ratings were considered en toto for both GVN and VC categories, thus alleviating the necessity to split their population in half.

HES INDICATOR DATA

	December 1967			November 1968		
	Population claimed by—			Population claimed by—		
	GVN	VC	Both	GVN	VC	Both
Rural and urban GVN or VC/infrastructure functioning:						
Population (thousands)	11,122	10,003	3,916	11,949	10,733	5,230
Percent of total	65	58	23	68	62	30
Tax collections:						
Population (thousands)	12,220	8,300	3,311	13,102	9,229	4,879
Percent of total	71	48	19	75	53	28
Rural GVN or VC/infrastructure functioning:						
Population (thousands)	5,464	8,114	2,807	6,081	8,552	3,828
Percent of total	51	75	26	56	79	35

---

[1] JCS notes that: According to the HES, the gain in percent of relatively secure population in 1967 was 3.8 percent for the first six months and 1.7 percent for the last six months, a total of plus 5.5 percent. Total gain in relatively secure population was 1,297,000. Total loss of contested and VC population reported was 378,000. Difference between gains and losses was due to population expansion, refinement of population data, and migration of people GVN controlled areas in which the population counts are often merely best estimates. Such "accounting" changes are necessary to achieve more data on increased population under GVN control, which is the true measure of pacification progress.

The above tends to indicate that the GVN can claim to have built up a reasonable internal security apparatus with some degree of popular participation in areas which contain about 68% of the population. At the same time, the data tends to show that the VC can claim an active infrastructure operating in areas which have about 62% of the population. There is an overlap of about 30% and between 1967 and 1968 both sides increased their apparatus by 3–4%.

The tax collection data shows that the GVN collects taxes from about 75% of the population while the VC collect them from about 53%. At least 28% pay taxes to both sides.

The data represented by the above table tends to support the contention that the balance of influence in the countryside has not been tipped strongly in favor of either the GVN or the VC; further, the indication is that there has not been great change over the past two years.

A recent analysis of population regression and gains presented some evidence that there is a high correlation between VC attacks and population regression. Further, a high correlation was demonstrated between kill ratios and population regression. Since high kill ratios are associated with periods of high VC/NVA activity, this tends to support the correlation between VC attacks and regression. Additionally, examination of RF/PF casualties versus population regression shows a high degree of correlation and also supports the initial contention that *VC attacks are the most significant factor in affecting regression in the rural population.* At the same time, examination of VC attacks, kill ratios and RF/PF casualties versus population improvements shows little or no significant correlation. Further, checking population gains against friendly operations showed little or no correlation. *Thus, population gains do not seem to relate directly to level of military activity while population regressions do, particularly enemy military activity.*

OSD's analysis of the available data tends to lead to the following overall conclusions: (1) The portions of the SVN rural population which was aligned with the VC and aligned with the GVN is approximately the same today as it was in 1962: 5,000,000 GVN aligned and nearly 3,000,000 VC aligned; (2) At the present, it appears that at least 50% of the total rural population is subject to significant VC presence and influence; (3) The most significant factor negatively affecting the situation in the countryside is VC/NVA military activity.

In addition OSD supports the views of JCS, CINCPAC, and COMUSMACV that:

The main factors responsible for the changes for the better are the loss of local support when the North Vietnamese Army began to replace the Viet Cong; urbanization, improvement in RVNAR, Free World Military Assistance Forces buildup, anti-Viet Cong infrastructure programs, and the Accelerated Pacification Campaign. The greatest single factor determining popular support in any area is the presence of US/Government of Vietnam or North Vietnamese Army/Viet Cong Forces. The populace generally tends to support whichever side is in military control. (OSD considers it more accurate to state that the presence of US/GVN or NVA/VC forces is the greatest single factor in determining the level of security in any given area and that *the level of security is the major factor in providing a climate in which popular support may be elicited.* Popular support or commitment is probably more the function of political, social, economic and psychological measures than the function of military activities. Thus, the populace will *acquiesce* to whichever side is in military control but not necessarily *support.*)

Question 16: What are the reasons for expecting more change in the countryside in the next two years than in past intervals? What are the reasons for not expecting more? What changes in RVNAF, GVN, U.S. and VC practices and adaptiveness would be needed to increase favorable change in security and control? How likely are such changes, individually and together; what are the obstacles?

CAUTIONARY NOTE

Much of the below analysis is predicated upon various statistics which are reported from Vietnam, with particular emphasis upon the Hamlet Evaluation System (HES). Several weaknesses of the HES combine to make the *overall* picture it presents of the status of pacification in Vietnam *tend to be overly optimistic:* (1) It does not measure political development in any sophisticated or sensitive way; (2) It is reliant upon the subjective judgment of a foreigner; (3) It requires the adjudgee to be the adjudger—thus requiring a somewhat inhuman capacity for honesty and objectivity; (4) It asks an impossible task of its reporters: In a countrywide average, each district adviser would have to visit 37 hamlets each month (not counting "E" and "VC" hamlets); or more than one a day in order to make his assessment of their ratings—given the magnitude of his other tasks, he cannot visit all the hamlets he rates; (5) Many of the ratings can only be supplied by the Vietnamese, thus the District Advisor is, in some cases, at the mercy of the District Chief who may have totally different perceptions of what is being asked and what the answer is *or should be.* Despite these shortcomings, the HES and our other statistical systems represent the best data that is available to us and therefore must be used in the decision making and evaluating process; however, it is important to keep in mind that these statistics can only show gross relative trends and are constantly in need of caveats which can only be supplied by the subjective judgments and analysis of informed knowledgeable individuals.

REASONS FOR EXPECTING MORE CHANGE

The favorable balance in opposing forces achieved by the GVN provides new possibilities for increased security of the countryside. Tables 1 and 2, below, show the change in friendly and enemy forces from 1967 to 1968:

TABLE 1.—FRIENDLY FORCES STRENGTH FIGURES

South Vietnamese Army (ARVN)	303,000	387,200	+28.0
Regional force/popular force (RF/PF)	300,000	393,000	+31.0
Total	603,000	780,200	+29.4

TABLE 2.—ENEMY FORCES STRENGTH FIGURES

	Dec. 31, 1967	Dec. 31, 1968	Percent change
North Vietnamese Army (NVA) (excludes 23,000 North Vietnamese Army fill in Vietcong units)	65,000	83,000	+27.7
VC main force/local force (includes 23,000 North Vietnamese fill)	63,000	60,000	−4,8
Guerrillas	73,000	59,000	−19.2
Total	201,000	202,000	+.5

GVN territorial forces are starting 1969 with about a six to one advantage over VC main force/local force and guerrillas, compared with a five to one advantage at the start of 1968. Table 3 shows the ratio of friendly forces to enemy forces.

TABLE 3.—STRENGTH RATIO: FRIENDLY TO ENEMY

	Dec. 31, 1967	Dec. 31, 1968
RF/PF	4.8:1	6.6:1
ARVN to NVA	4.7:1	4.6:1

The increase in proportion of NVA indicates that the enemy is attempting to make good his VC losses with northern replacements. The significant drop in VC main force/local force and guerrillas in 1968, taken with the increase in NVA, indicates a substantial recruiting problem which should become still more serious as pacification progresses.

TABLE 4.—TOTAL UNITED STATES/FREE WORLD STRENGTHS AND FORCE RATIOS

	Dec. 31, 1967	Nov. 30, 1968	Percent change
United States/free world strength	556,605	616,929	+9
Force ratios for combined ARVN, RF/PF, United States, and free world versus the enemy	5.4:1	6.9:1	-----

The GVN is stronger and more stable than in the past several years. It has a freely elected, constitutional government which is slowly becoming more responsive to the aspirations of the people. President Thieu is the most knowledgeable GVN official concerning pacification and he is highly effective in that role. The President and Prime Minister are exerting strong personal leadership, holding provincial and district officials to high standards and encouraging dialogues with administrators and political groups.

Rapid completion of the current RVNAF improvement program and continued implementation of the Phase I and Phase II RVNAF expansion programs should appreciably improve territorial security with a concomitant improvement in pacification.

The integration and consolidation of US civilian and military pacification support activities under the Commander, US Military Assistance Command, Vietnam (COMUS MACV) provides maximum assistance for the GVN. Additionally, COMUSMACV, has implemented and plans to make operational early in 1969 improved techniques for reporting, measuring, and analyzing the status of pacification, including a major revision of the Hamlet Evaluation System (HES). These measures will permit better allocation of pacification effort and resources, and thus facilitate management.

The Vietnamese are considering their situation far more seriously than in the past. They are increasingly motivated to commit themselves more fully to winning their war. Significant events in 1968, particularly the Tet offensive, President Johnson's 31 March 1968 speech, and the Paris talks, have shocked the Vietnamese into a greater sense of urgency than in past periods. Removal of 21 province and 92 district chiefs for corruption or inefficiency in 1968 demonstrates the GVN willingness to exert pressure on its officials.

The 1969 pacification program focuses substantially more attention and resources on providing security to the rural population and strengthening the country's political foundations than in previous years. The GVN aims to control 90 percent of the population by December 1969 by concentrating on the destruction of VC local forces and the elimination of VC infrastructure.

a. Recent improvements in the GVN organization should result in more effective execution of pacification in 1969. The Central Pacification and Development Council (CPDC) now integrates and coordinates all GVN pacification elements for the first time. All assets have been concentrated on achieving a single set of clearly defined objectives. Ambitious goals have been set and pressure to achieve these goals is increasing steadily.

b. US units have assumed a larger role in pacification. Combined operations involving US units with all types of Vietnamese Forces are highly effective because they link

American initiative, drive and leadership to Vietnamese knowledge of the local situation, customs, language and prevalent VC modus operandi.

US field commanders estimate that nearly half of their operations are in support of the accelerated pacification campaign. Simultaneously, the Allies are destroying significant amounts of prepositioned supplies and equipment which are so vital to the enemy's main forces. These continuous and highly effective allied military spoiling operations are perhaps the single most important new factor to be considered when assessing the complex pacification picture, especially future prospects. Under this allied umbrella the GVN's own security forces are operating with increased effectiveness. Similarly, other GVN pacification efforts benefits immeasurably from the allied military shield.

The December HES shows that 76.3% of the population (or 13,338,700 people) are now in the relatively secure category. This represents the highest percentage in this category since 1963. At the same time the percentage of the population in the contested category had dropped to 11.4% (or 1,983,100); while the VC category is estimated at 12.3 percent (or 2,155,100). These latter figures represent the lowest percentages ever in these categories.

The total resources available for pacification activity are greater than at any previous time. RVNAF stands at an actual strength of 826,500 as of end of December 1968—an increase of 179,000 since January 1968. Revolutionary Development (RD) cadre increased from 49,380 to 59,653 during the same period of time; while Provincial Reconnaissance Units (PRU) and National Police (NP) increased from 3,433 to 5,032 and from 70,291 to 78,431 respectively during the same period.

Total estimated VC/NVA personnel losses during 1968 were 290,000 which represents 92.1 percent of the average estimated VC/NVA strength.

It is estimated that 70% of the personnel in VC/NVA combat forces are NVA; thus diminishing their capability to relate to the South Vietnamese peasant.

Total number of operations, contacts, weapons captured and enemy killed in action (KIA) by RF and PF have increased significantly during 1968. (RF operations went from 38,487 in May to 66,958 in November; contacts increased from 1,378 to 3.061 during the same period. The PF show a similar increase in effort: operations; Apr 1968—62,661; November 1968—119,801; contacts; Apr 1968—1,449; November 1968—3,508.)

Another measure of reality concerning the RF/PF is found in the opinions of senior US military commanders in the combat theater. The current assessment of these individuals is that with few exceptions, RF/PF, and particularly RF, combat effectiveness has improved significantly in the past 10 to 12 months. This notable improvement is attributed to the current intensive weapons and equipment improvement programs, and, perhaps even more important, the outstanding performance of the Mobile Advisory Teams who work around the clock with the RF and PF.

The Accelerated Pacification Campaign (APC), designed to increase the security level in more than 1000 contested hamlets, has thus far met with little opposition and with apparent success. As of 11 January 1969, 1,320 of the 1,332 hamlets targeted for the APC have been entered by GVN forces—of these, 842 are now considered to be in the "relatively secure" category. Further, functioning local governments were located in 84% of the targeted hamlets.

Although the overall Chieu Hoi figure for 1968 was considerably lower than that for 1967 (18,140 compared to 27,178), the monthly intake during the last quarter of 1968 (2,115, 2,408 and 3,117) was among the highest since the initiation of the program, and January rates, reported to date, indicated a continuation of this trend.

During 1968, the People's Self Defense Forces (PSDF) program was initiated. By the end of December 1968 approximately 1,000,000 PSDF had been organized, 517,000 had been trained and 107,000 weapons had been distributed.

If categories A&B and the non-hamlet secure population are considered by themselves, the percentage of population under primary GVN influence has increased during 1968 from 37.3% in January to 46.7 in December.

REASONS FOR NOT EXPECTING MORE CHANGE

The main reason for not anticipating still further gains in 1969–1970 is the nature of the pacification itself. Pacification is inherently a slow process. Gains in any area can only be consolidated by continuous effort over a long period of time. It would be unrealistic to predict that much more than 90 percent of the population will come under the GVN control before the end of 1969.

As long as NVA units constitute a serious threat to the RVN security, significant change in enemy posture can effect pacification gains in either direction. Commitment of the NVA main force units will not only draw away present US and South Vietnamese support but could, if considered with increased guerrilla activity, result in an unfavorable reorientation of territorial security forces.

While total number of resources which could be devoted to pacification efforts in the countryside have increased significantly during 1968, the *actual* number of resources *committed* in support of pacification in the countryside have stayed approximately the same or decreased slightly. Less than one-third of all RF companies were committed to village/hamlet security during 1968 (31.9% in January; 31.1% in December). Slightly less than two-thirds of all PF platoons were committed to village/hamlet security during 1968 (64.1% in January; 65.8% in December). The percentage of ARVN maneuver battalions committed to direct support of pacification fell from 35 in 1967 to 16 in January 1969.

Further, while total RVNAF resources have increased 179,000 during 1968 the PF have only increased about 22,000 (from 151,000 to 173,000) and their planned increase by the end of Phase II RVNAF modernization program is only 6,000 more (to a force level of 179,000). A recent study shows a positive correlation between PF in a hamlet and the hamlet's ratings while, at the same time, showing a negative correlation between RF in a hamlet and the hamlet's HES rating. Further, PF are on the leading edge of pacification and bear the brunt of the program at the hamlet level. The minimal increase being made in the size of the PF tends to support the conjecture that "real" progress in pacification will not be significantly faster during 1969.

Since January 1967 the percentage of the South Vietnamese people subject to active influence by the VC/NLF has gone from 58 to 61 by the end of November 1968. Thus, VC/NLF political influence in South Vietnam, especially in the countryside, has probably not declined and may have increased.[1]

At village and hamlet level, the GVN has about 38,000 members of its political infrastructure while the VC have approximately 70,000 or more of their political infrastructure. (The GVN figure does not include Revolutionary Development (RD) Cadre. *The Joint Chiefs of Staff would include that portion of the RD Cadre engaged in political and development work in rural areas—approximately 25,000 of the RD Cadre.* The VC figure does not include other VC irregular forces such as Secret Self-Defense, Armed Assault Youth which have some political roles to carry out.)

Despite significant increases in total number operations by RF and PF during 1968, the results per unit, per operation and per contact remained nearly constant or showed only marginal improvement, and, in some cases, such as enemy KIA and enemy weapons captured per contact, showed a decrease. (However, it is important to remember that our data for measuring combat effectiveness is not very sophisticated nor sensitive; thus analysis using this data can only show gross trends at best and may not be an accurate measurement of reality.) With regard to Regional Forces, the percentage of operations which made contact compared to total operations was 3.6% in April 1968 (the first month Territorial Forces Evaluation System (TFES) reports are available,) varied from 1.1% to 4.6% during the year, and was 3.4% in December. The number of enemy KIA by RF per contact during 1968 varied considerably from (1.63 to .58) but the number in April was .95 and in December it was .68. At the same time the number of enemy weapons captured by RF per contact was .47 in April and .25 in December. *These figures tend to indicate that RF efficiency and effectiveness has improved little if any during 1968. Another possible conclusion is that combat effectiveness of the RF is largely dependent upon VC initiative*—in other words, that enemy KIA, weapons captured and contacts are basically controlled by the enemy. One other indication available tends to contradict the above conclusions as the average number of operations with contact per RF company per month rose during 1968 from 1.3 in April to 2.2 in December with the last six months of 1968 showing an upward trend. As with the statistics concerning RF operations, those concerning Popular Force operations showed mixed results. The percentage that PF platoons operations made contact compared to total operations remained below 3% during the entire year, it was 2.3% in April and 2.2% in December. The enemy KIA per contact by PF dropped from .84 in April to .39 in December. Over the same time period, the enemy weapons captured per contact by AF dropped from .33 to .14. *Again, these figures seem to indicate that RF efficiency and effectiveness have not measurably improved during 1968*. However, as with the RF statistics, the average number per month per unit of PF platoon operations arose during 1968 from .34 in April to .61 in December. *Apparently, the "best" assessment that can be reached, given the inadequacies of the data available and the contradictions the present indications offer, is that RF/PF have increased their efforts in the gross sense but have not yet significantly increased their combat effectiveness or efficiency*. (It should be noted that the main source for this data, TFES, is currently undergoing major revisions so that it will be more sophisticated, sensitive and accurate.)

As of November 1968, it is estimated that about 1800 VC "Liberation Committee's" had been formed. Close to 80% of these were at the village level, thus about one-half of the villages in South Vietnam could have these "committees" or a de facto sub rosa VC/NLF "government."

It is estimated that at least 1300 GVN employees and officials were assassinated during 1968 and another 330 abducted. It is likely that a large majority of these employees and officials were in the countryside, thus further diluting GVN capability to project itself in the rural areas.

---

[1] Using end-November 1968 HES data, the Joint Chiefs of Staff consider that 44.4 percent of the rural population was subject to significant VC presence and influence (20.6 percent VC control, 23.8 with active VCI). Obviously, the criteria selected by JCS explains the significant differences in the conclusions derived from identical data used by OSD.

Analysis of PF efforts during 1968 reveals that PF platoons received ground reinforcements in support of contacts only at 11% of the time. Additionally, 36 percent of the PF were considered by their advisors to have less firepower than the enemy they were confronting in December 1968. The seriousness of these figures is amplified by the fact that over the past five years approximately half of all VC activities have been against the PF. However, PF firepower, according to advisors' reports, has improved 65% in the period from May through December 1968.

As of 11 January 1969, less than one quarter of the RF and PF units which were scheduled to be deployed into the hamlets targeted for the APC had actually been deployed. This tends to support the view that progress in the APC is due more to lack of any enemy reaction than any other single cause.

Almost 67% of 1785 hamlets which were programmed for pacification during 1968 were hamlets which had been either "new life" or Revolutionary Development hamlets during 1967 or earlier. This would seem to corroborate some observer's statements that we have been pacifying the same hamlets year after year.[1]

In 1968, pacification represented only 5% of total US expenditures in South Vietnam, indicating despite its relative high priority, the effort expended in support of pacification was relatively small in comparison with the total resources expended. (JCS notes that while the amount is small by US standards, the GVN is strained to the breaking point with its present pacification program. Pacification is, and must be, a 99% GVN effort, and most knowledgeable pacification authorities believe that it is practically impossible for the GVN to absorb any appreciable increases in expenditures for its pacification program.)

Special National Intelligence Estimate (SNIE) Number 14–69; 16 January 1969, *The Pacification Effort in Vietnam* states, in part:

a. During 1968, however, new uncertainties have arisen which are bound to have impact on Revolutionary Development. With the beginning of negotiations and the end of the bombing of North Vietnam, there is a growing belief—at least among informed Vietnamese—that the war is coming to an end, sooner rather than later. Among these people, there is growing apprehension over the shape of a final settlement and the firmness of the American commitment. To the extent that this uncertainty may be reflected in the countryside, it would tend to undermine the gains of Revolutionary Development. Moreover, any weakening of the central government, whether real or imagined, would magnify the uncertainties of officials involved in Revolutionary Development programs and thus pose a growing threat to this aspect of pacification.

b. Even leaving aside such general uncertainties, progress in the field of "nation building" or Revolutionary Development is likely to be painfully slow for several basic reasons. As noted, security is an indispensable prerequisite. In areas where there is a decline in security conditions, even temporarily, the resulting damage to confidence and respect for the government more than offsets gains from developmental projects. Even if security conditions remain good, the administrative capability of Vietnamese officials is weak; Revolutionary Development is heavily dependent on American advice, assistance, and inspiration. Pervasive corruption is a constant threat to the entire system.

c. Pacification is far too complex, covers too many individual programs, and is geographically too diverse to permit clear prognoses. All things considered, the program as a whole has made a significant contribution to the prosecution of the war and to the political struggle. It has been most successful in expanding the presence of the GVN in the countryside; it has been less successful in establishing permanent security or stimulating genuine loyalty and commitment to the Saigon government. And it has been laggard in coping with the political threat posed by a well-organized and disciplined Communist infrastructure. This has been a significant weakness, threatening and undermining other gains.

d. Much will depend on the attitude of the GVN. It cannot be said that the various Saigon governments have shared the American enthusiasm or dedication to pacification. Results obtained during 1966 and 1967 were largely because of constant American pressures. The skills, funds, and motivation have been overwhelmingly American; the GVN has provided manpower and occasional high level endorsements but has been far from committed to the programs. Too often GVN officials have participated or cooperated simply to please their American counterparts, or to share in the spoils of the inevitable corruption.

e. The GVN still does not have the skills and resources to assume a significantly greater role in the management and execution of an effective pacification effort in 1969. US assistance is still vital to success, but gaining popular acceptance will depend finally on a growing effectiveness of the GVN's performance in the program.

f. A major uncertainty is how much time is left to make up past deficiencies and consolidate current gains. Pacification has already strengthened the GVN position vis-a-vis the Communists. Over the next several months, further progress in pacification will almost certainly not make the GVN much more able to cope with the VC in peacetime than it would be today. A significant advance in this respect would probably require at least a year. And the terms of a settlement could undo virtually all that has been accomplished, especially since progress has been minimal in reducing the political threat.

PLANS FOR 1969

The OSD analysis of the GVN Pacification Plan for 1969 follows: The GVN Pacification Guidelines for 1969 have set the following objectives:

1. 90% of the population will come under the "relatively secure" (A + B + C) category.
2. 33,000 VC Infrastructure personnel will be eliminated.
3. Local government will be established in all villages; Village Administrative Committees and Hamlet Managing Boards will be elected in all secure hamlets and villages; village and hamlet officials will be trained in a large scale program.
4. 2,000,000 People's Self Defense forces to be recruited and 400,000 armed.
5. 20,000 Hoi Chanh (returnees).
6. The total number of refugees will be decreased to less than 1,000,000 and 300,000 will be resettled.
7. The information and propaganda effort will be increased.
8. Rural economy will be stimulated and rice production increased from five to six million tons.

In more specific terms, the 1969 pacification guidelines will require the following:

Total "relatively secure" population will number about 16,122,420 or an increase of 2,783,720 during 1969. This would mean an increase of over 231,977 per month into the A + B + C category. During the last quarter of 1968, the monthly increase in these categories was about 480,000 per month; thus, the 1969 goal seems attainable if: (1) *Hamlets and their populations are made relatively secure at the same rate as during the last six months of 1968;* (2) *The VC activities and opposition to pacification remain near the same level as during the last six months of 1968.* (Total incidents during the last six months of 1968 were at approximately the same level as during 1964.) The monthly rate that rural population moved into A + B + C category during all of 1968 was 146,000; thus the 1969 campaign would have to achieve nearly two times the monthly rate for the total 1968 program.

33,000 VCI to be eliminated in 1969 would represent 30% of the total estimated VCI in South Vietnam (CIA estimate). It would require monthly eliminations at triple the monthly rate for 1968 (3,000 vs 1,314) and a good bit higher than the rate achieved during the last two months of 1968 (2,355). Since the low level easier targets are the first to be eliminated, it can be expected that there will be difficulty in maintaining momentum in the anti-VCI campaign even if efficiency and effectiveness are considerably improved. *The 1969 goal does not seem possible to attain.*

Of the approximately 2,600 villages in SVN, about 1,290 had some form of fairly regular GVN presence by the end of 1968; this represented an increase of about 220 villages during the year or about 18 villages were provided some form of GVN aligned administration each month. Considering the last quarter of 1968, during the months of the Accelerated Pacification Campaign and the scale-down of VC activity, about 85 villages per month were provided some form of GVN administration. *To attain the 1969 goal will require a total of 1280 villages to be provided a GVN aligned administration or about 107 villages per month.* Considering the rate with which village administrations would have to be provided and considering that approximately 1100 villages may have VC/NLF "liberation committees" duly "elected," *it seems unlikely that this goal can be obtained.*

The present guidelines call for the training of nearly 42,000 village and hamlet officials during 1969. At present, it is planned to train these officials at Vung Tau where the RD Cadre are already being trained at the rate of approximately 5,000 a month. Shortage of facilities as well as instructors and lack of preparation makes *it very unlikely that this ambitious program can be accomplished.*

Latest reports indicate that 1,000,000 PSDF have been organized, 517,000 trained and 107,000 weapons distributed. *Attainment of 1969 goals will require the signing up of 1,000,000 individuals and the issuing of about 300,000 weapons and it should be relatively easy to accomplish* despite some misgivings as to the effectiveness and actual accomplishments of this program by US officials in Vietnam.

The weekly Chieu Hoi rates for 1967 and 1968 were 522 and 348 respectively; however, the weekly rate for the past 16 weeks (as of 25 January 1969) has been 644. *To attain the 1969 goal would require a weekly intake of 385 which seems easily attainable* unless an offensive equal in magnitude to the Tet offensive is mounted by the VC/NVA.

During 1968 approximately 1,000,000 Tet and May offensives' evacuees were aided and returned to their homes or provided new homes. Total regular refugees in South Vietnam by the end of November 1968 were about 1,250,000. It is estimated that over 250,000 regular refugees were resettled during the year; *Barring unforeseen circumstances, the refugee goals for 1969 should be met.* However, this will mean that over 900,000 refugees remain to be resettled indicating that the refugee problem will be with us for a considerable period of time.

---

[1] JCS Notes: Revolutionary Development hamlets planned but not worked in 1967 and those that did not achieve all of the pacification goals during 1967 were rescheduled in the 1968 RD program. This represents continuity of effort in the face of insufficient RD team resources and territorial security forces to meet the goals of the 1967 program. The expansion of the enemy main force effort in 1967 greatly hampered but did not stop pacification progress. Sixty percent of the hamlets that became relatively secure in 1967 were RD hamlets.

The 1968 rice crop is estimated at 4.8 million metric tons. Given the increase from 40,000 hectares planted in IR-8 rice during 1968 to the planned 150,000 to 200,000 hectares to be planted during 1969 (IR-8 yields approximately 5 metric tons per hectare); the greater use of fertilizer (250,000 tons used in 1968; 400,000 tons planned for 1969); and the present improved security situation, the rice goal for 1969 should be met.

SUMMARY OF THE 1969 PLAN

Of the eight goals of the 1969 Pacification Campaign, three seems unlikely of attainment, or at least overly ambitious:

90% of the population relatively secure.

33,000 VCI eliminated.

Local government established in all villages; village hamlet officials trained.

Three seems relatively sure of attainment:

2,000,000 PDF recruited and 400,000 armed.

300,000 refugees resettled and less than 1,000,000 refugees remaining.

Rural economy stimulated and 60,000,000 metric tons of rice produced.

One seems to be understated and could be increased:

20,000 Hoi Chanh.

And one is not measurable in a meaningful way under the present indicators:

Increase information and propaganda effort.

From analysis of the above facts, several assessments can be made:

(1) Many, to include *JAS, CINCPAC and MACV, consider that the VC/NVA are considerably weakened* as indicated by the rapid increase in relatively secure population during the last quarter of 1968; thus, *pacification progress should accelerate in 1969.*

(2) Others, including OSD, think that pacification progress was made during 1968, but it is difficult to determine how much is due to the real weaknesses of the VC/NVA and the real strength of the GVN/RVNAF and how much is due to a deliberate plan by the VC/NVA not to oppose the pacification program but to concentrate on a political solution; thus, future pacification progress in the countryside is subject to too many variables beyond US/GVN control and is almost impossible to predict. In any case, progress probably will be made during 1969 but not at the rates of the last quarter of 1968 and it is unlikely that the 1969 goals will be met unless there is some sort of unpredictable dramatic breakthrough.

(3) Some, generally in the minority, assess that pacification has not made "real" progress during 1968; any "progress" indicated is because of faulty assessments, inadequacies of present indicators, lack of VC opposition because of VC/NLF concentration on organizing for the forth-coming political struggle and the withdrawal of NVA units (which is adjudged a tactical maneuver tied to negotiations). All of this "progress" could fade away without a trace if the VC choose to challenge, just as the 1967 "progress" faded away in the face of the Tet offensive. This view would hold that the VC influence over the countryside has not diminished but has increased during 1968 and that "great" progress or "real" progress is unlikely in 1969 unless the VC influence and presence is overcome and a GVN presence and influence installed; and the program as presently conceived is unlikely to accomplish such a task.

Depending upon which of the above assessments is accepted, the comments on what changes in RVNAF, GVN, US and VC practices and adaptiveness would be needed to increase favorable change in security and control vary considerably.

If the JCS, CINCPAC, MACV view is accepted, then the changes which would be needed are:

Several changes in practices could increase favorable developments or at least the rate of development. A change of tactics by the South Vietnamese toward small company-size operations would provide an increase in territorial security and would permit extension or acceleration of pacification.

An extension of US unit involvement in pacification will have an increasing effect on the rate of progress. This involvement is contingent on the enemy's use of his main force units, and may have to cut back if the enemy attempts to use his main forces more aggressively than at present. The South Vietnamese adoption of US unit techniques for pacification would assist in accelerating the program. However, many South Vietnamese commanders are still reluctant to divide their commands or to conduct small unit operations.

Success in 1969 is largely dependent upon aggressive execution of the program at all levels of the GVN. This, in turn, is largely contingent upon US pressure on the GVN to put forth the maximum possible effort at all times. If US pressure is relaxed, the probability of successful pacification effort in 1969 will be reduced.

Continuing qualitative improvement in the GVN pacification personnel and administration, successful implementation of the APC, and realization of the goals established in the Guidelines for the 1969 Pacification Campaign would increase favorable trends.

Other requirements include: (a) continued development of national political unity and organization; (b) stimulation of active participation of the population; (c) continued development of a base of law and legal procedures; (d) adjustment of the inequitable salary structure of civil servants; (e) increased income for the workers: (f) increased impetus on land reform; (g) increased Government of Vietnam emphasis on supervision and direction of province pacification planning and execution; and (h) concerted US/GVN effort to establish a national psychology of success, while continuing to build Vietnamese self-confidence to assume greater responsibility for their own destiny.

The obstacles to accomplishment of any or all of the above changes are:

The many US/GVN actions designed for positively affecting changes in the countryside are all calculated to reduce relative enemy offensive activity. In the face of these measures, it does not appear that the enemy will be capable of a sustained increase in relative offensive activity, on the contrary, his more probable course will be the direction of reduced capability.

The growing energy and spirit with which the GVN is accelerating pacification efforts is encouraging. There have been many pacification programs in the past, but none on the scale and with the resources and the leadership being demontrated today. Despite many continuing and serious problems, pacification has more than regained the momentum lost following the Tet and May offensives, and the outlook is most favorable. In 1969, the GVN should continue to achieve the same high level of progress in pacification as was evidenced during the last quarter of 1968.

However, if the less optimistic view of present and future progress in pacification is accepted, then the magnitude and seriousness of changes required expands considerably. The less drastic approach would call for not only the above changes but also the chanegs which can be made with minimum disruption of the present system and procedures. Among such changes would be:

a. Increase the quality and quantity of territorial security and pacification operations aimed at expanding GVN influence and diminishing the VC support structure and its guerrilla and local force units.

Give priority attention to the territorial security forces by increasing support from regular forces, by providing more and better functioning communications as now planned under current RVNAF moderization and improvement programs, by increasing the force levels of Popular Forces and by detailing more regular force officers and NCO's to fill leadership shortages in territorial security units.

Emphasize quality rather than quantity in the Phoenix program by providing greater incentives for the identification and capture of high ranking or key personnel in important positions within the VC infrastructure, as opposed to elimination of larger numbers of lower ranking personnel of lesser importance.

Be prepared to establish a national constabulary type territorial security force under the Ministry of the Interior as may become necessary in the event the activities of the RVNAF are severely circumscribed in the post hostilities environment due to a restriction of the use of the RVNAF to maintain security, law and order resulting from a ceasefire agreement or other agreement to terminate hostilities.

Augment territorial security forces as required with RVNAF regular force maneuver battalions, and US maneuver battalions if necessary, to improve level of security in selected high-priority districts. Develop more effective pacification tactics.

Reward unit and individual performance in providing local security and eliminating the VC infrastructure through promotions, awards and publicity.

Initiate motivational and educational actions to change the attitudes of RVNAF personnel towards the populace and toward pacification programs.

Revitalize the RF by redistribution of leaders from headquarters elements to combat units, cross assignment and ARVN officers, and improved training and motivation.

Bring about attitudinal changes in RVNAF leadership towards the worth of the populace and the necessity for local security.

Restructure RVNAF and increase PF to a force level of 250,000 during 1969 while decreasing ARVN and RF correspondingly.

Provide specific training to US and ARVN maneuver battalions commanders and their staffs in the tactics and techniques of providing offensive security operations in direct support of pacification.

b. Increase the Vietnamese perceptions that they must take the required actions to improve their own capabilities and effectiveness; that the US does not consider it has an "open-ended" commitment; and that they can "win" their own war if they really try.

Continue and accelerate the turn over of funding responsibility for most pacification programs to the GVN. It should be made clear to the Vietnamese that we will continue to provide overall budgetary support but that they must fund and manage their own pacification program and that we will retain the option to withdraw funding if the programs are mis-managed or subverted through inefficiency, disinterest or corruption.

Reduce a significant number (perhaps as high as 50%) of both tactical unit and the Civil operations and Revolutionary Development Support (CORDS) advisors over the next year. Withdrawal of advisors should be as a reward for good performance, not bad, with the growth in Vietnamese capability and efficiency beinging stressed.

Continue to stress the requirement to meet the felt needs of the people in all discussions with GVN leadership. Particularly, programs should be developed and initiated to reward officials, civil and military, for activities which assist the people and advance the GVN toward influencing the population.

The above changes could accelerate the pacification process during the forthcoming year. Further, because they would not require a major disruption of the system or present procedures, the obstacles which would prevent their accomplishment are not major and could be overcome.

The advocates of the more radical assessment, who feel that progress in pacification has been chimerical during 1968 and is likely to remain that way in 1969, would call for, in addition to the above changes, other rather dramatic changes. The rationale for such changes results from a basic difference in perception of the nature of the pacification process. These individuals would argue that pacification is a state of mind—not a social condition. Pacification's real objective is attitudinal change, both by the South Vietnamese leadership and by the South Vietnamese people. On the one hand, the leadership needs to perceive the necessity for relating to the people and for providing them with clear evidence that the GVN represents the "JUST CAUSE" and for providing a reasonable degree of local security. On the other hand, the people need to perceive that security and commitment necessarily go together simultaneously and that the GVN represents the "JUST CAUSE" to which they should pledge their allegiance. (The Vietnamese are not nationalistic in the sense that they respect and support their "government." They are, however, extremely proud of their nation and of being Vietnamese. It therefore follows that the people who are willing to die in the service of the GVN are not doing so because of their respect for their government nor the image of that government. They are doing this because they think they are fighting for the "JUST CAUSE.")

Therefore, the basic and most important changes that could be made would be those that will have a positive effect toward creating the necessary attitudinal changes:

a. The institution of strong and energetic leadership in the top levels of GVN and RVNAF which is concerned with people and will emphasize the need for the GVN and RVNAF to relate to the people.

b. A promotion system based upon merit and not on personal loyalty.

c. Elimination of corrupt and ineffective officials, civil and military, at all levels, including some at the highest.

d. A system of punishment for officials and soldiers who mistreat the general public, individually or collectively.

e. Politicization of the pacification program so that it stimulates genuine loyalty and commitment to the central government. The RD cadre should be indoctrinated and trained to develop local grass roots political organization at the hamlet and village level and should be tied into the present program for development of village administration.

f. Increasing demonstrations of concern by all representatives of the GVN, executive, legislative and judicial of real concern for the average Vietnamese and his welfare.

These changes would require complete reorienting of the system of values and perceptions that the present Vietnamese leadership possesses. Since this is the most difficult task for any oligarchy to carry out, the US should be prepared to assist the Vietnamese leadership in carrying such changes out. This can, perhaps, be done by making it clear to the Vietnamese leadership at the highest level that: (1) While we will continue our support, we are determined to reduce our direct efforts; (2) We are convinced that they can no longer survive unless they make these rather drastic changes and we will assist them to make them, teaching them the skills necessary to survive in a changing system. In regard to the latter, we would provide the key Vietnamese leaders with mutually agreed upon special advisors who would act more as "special assistants" to the Vietnamese than as US agents assigned to advise them and to monitor their activities.

The obstacle to these types of changes would be enormous. The chances of their being carried out are minimal. Yet, because they do attack the central issue of pacification and because they carry the greatest potential pay off if instituted, they may be well worth attempting.

Question 17: What proportion of the rural population must be regarded as "subject to significant VC presence and influence?" (How should hamlets rated as "C" in the Hamlet Evaluation System—the largest category—be regarded in this respect?) in particular, what proportion in the provinces surrounding Saigon? How much has this changed?

Rural population regarded as "subject to significant Viet Cong presence and influence" is the rural population evaluated in the Hamlet Evaluation System as contested, and Viet Cong controlled by security ratings. The following table presents security evaluation data for contested and Viet Cong-controlled rural hamlet population.

PERCENT OF RURAL SOUTH VIETNAM POPULATION

	January 1968	March 1968	October 1968	December 1968
Contested	21.6	28.8	21.3	16.2
Vietcong controlled	25.4	28.3	23.7	18.9
Contested and Vietcong controlled	47.0	57.1	45.0	35.1

Total South Vietnam rural population in December 1968 was 10,836,500. The reduction in rural-contested and Viet Cong-controlled population in November and December 1968 coincided with the Accelerated Pacification Campaign, which is targeted on rural hamlets.

Another approach to measuring rural population, subject to significant Viet Cong presence and influence, is to add the Viet Cong-controlled population to that remaining rural population in any hamlet with active Viet Cong infrastructure.

An issue which impinges upon all assessments of the situation evolves around the interpretation of who has how much influence over the population of "C" hamlets. The JCS, CINCPAC and MACV view "C" hamlets as follows:

a. Hamlets rated as "C" in the Hamlet Evaluation System may be subject to some Viet Cong political/psychological activity and influence. For example, "C" hamlets may have village and hamlet Viet Cong infrastructure, although the infrastructure probably is unable to live or operate in "C" hamlets except covertly or at night. However, friendly capabilities are considerably more significant than Viet Cong capabilities. The willingness of the Viet Cong to resort to terror tactics permits them to "influence" the population to a far greater degree than their numbers or political power base would otherwise permit. Nevertheless, to rate "C", a hamlet must achieve a Hamlet Evaluation System score of between 2.50 and 3.49 out of a possible 5.00 for a "perfect" hamlet.

Since "C" is beyond the halfway point on the rating scale, a "C" hamlet is considered relatively secure.

b. Hamlets, which are rated "C" within the Hamlet Evaluation System, normally would not be regarded as being subject to significant Viet Cong presence and influence. However, it is possible that this would not be true, since the hamlet letter rating represents the average of 18 separate ratings. For example, a hamlet's Viet Cong infrastructure could receive a "D" or "E" rating—which would indicate "significant" Viet Cong present—while the overall rating could place the hamlet in a "C" category because of other indicators receiving higher ratings. However, proper ratings of guerrilla activity, Viet Cong extortion, and Viet Cong taxation—all controlled by the Viet Cong infrastructure—should give adequate weight and balance of the overall Hamlet Evaluation System rating. Considering solely the hamlet Viet Cong infrastructure, a "C" category indicates that most of the hamlet undercover party apparatus has been identified and accounted for, with the possible exception of deep-cover agents working under the control of higher echelons within the Viet Cong infrastructure. The Viet Cong infrastructure remaining within a given hamlet rated "C" are quite limited as to overt and covert activity, allowing normal Government of Vietnam economic, political, and social activity to function. Thus, population falling within the "C" category is not generally considered to be affected by significant Viet Cong presence and influence.

On the other hand, OSD views "C" hamlets as follows:

The HES system was designed as a management tool to assist in allocating GVN and US resources in rural South Vietnam. As such, the responses concentrate on those areas over which the GVN/US have the most direct influence, namely the activities of GVN ministries and political activities directed by the GVN. Accordingly, 12 of the 18 "indicators" measure GVN presence and activities with only 6 "indicators" measuring enemy activities. The values assigned to these "indicators" are given equal weight in determining the alphabetical standing of each hamlet and the system is thus biased in favor of ratings favorable to the GVN. Moreover, HES ratings are made by Americans, few of whom speak Vietnamese, who are in the district generally from 6 months to a year, and who are able to visit the hamlets being rated on an average of less than once a month. Accordingly, the raters' appraisal of those elements of GVN activity is more complete than for those of the VC. This weakness regarding rating of the VC/NVA is illustrated by the fact that when the requirement is laid on him to pay particular attention to certain VC activities such as that of the infrastructure (VCI), reported findings, as indicated in the tables below, indicate greater VC presence than was formerly perceived. *It is for these reasons that OSD considers that C hamlets should not be considered as being "relatively secure" and that for "grading" purposes only 50% of the C hamlets should be considered as primarily under GVN influences.*

The following tables illustrate the influence of the Viet Cong infrastructure over the hamlet (rural) population as shown by indicators 2a and 2b of the Hamlet Evaluation System (In indicator 2a of the HES, a rating of "C" is given when "Intelligence indicates that most of the party apparatus is identified; but some agents under village or district control are still operative". In indicator 2b, a rating of "C" is given when "Most of the key members of village apparatus have been identified, effectiveness curtailed"):

	December 1967	June 1968	November 1968
Indicator 2a, hamlet infrastructure:			
A and B	24.1	18.0	17.5
C	20.8	23.1	28.0
D and E and VC	36.8	40.3	32.7
Indicator 2b, village infrastructure:			
A and B	31.4	24.2	26.5
C	15.0	17.8	22.6
D and E and VC	35.4	39.7	32.7

In indicator 4a which "measures" the presence of GVN administration in hamlets, a rating of "C" is given when "Managerial groups are resident; mostly locally appointed or elected; and are usually present at night". Following table indicates the percentages under this category for 1968:

	December 1967	June 1968	November 1968
A and B	34.5	32.6	36.0
C	19.2	17.7	20.6
D and E and VC	29.3	31.6	29.3

If the OSD assessment of "C" hamlets is accepted and the "C" hamlet population is split evenly between primary GVN influence and primary NLF influence, the above tables would show the following:

	December 1967	June 1968	November 1968
Hamlet infrastructure:			
GVN influence	34.5	29.6	31.5
NLF influence	47.2	51.9	46.7
Village infrastructure:			
GVN influence	38.9	33.1	37.8
NLF influence	42.9	48.6	44.0
GVN administration:			
GVN influence	44.1	41.5	46.3
NLF influence	38.9	40.5	39.6

Thus, the range of possible percentages for the rural populace "subject to significant VC presence and influence" would be from 39.6 to 46.7 percent given the above interpretation of the "C" hamlets. Other assessments would tend to show that at least 65% of the rural population is subject to disciplined VC infrastructure activities. *Probably as close as it can be estimated, 50% of the total rural population is subject to significant VC presence and influence and, at least 50% and probably more, of rural population living in "C" hamlets is subject to such presence and influence.*

The following table contains the proportion of rural population in provinces surrounding Saigon (Gia Dinh, Long An, Hau Nghia, Binh Duong, Bien Hoa) that are "subject to significant Viet Cong presence and influence," i.e., rural-contested and Viet-Cong-controlled hamlet population.

PERCENT OF RURAL HAMLET POPULATION IN 5 PROVINCES SURROUNDING SAIGON

	January 1968	March 1968	October 1968	December 1968
Contested	27.3	45.5	28.2	18.7
Vietcong controlled	19.8	21.4	17.5	11.4
Contested and Vietcong controlled	47.1	66.9	45.7	30.1

The marked change between January and March 1968 in the rural security conditions surrounding Saigon is indicative of the enemy's selection of Saigon as a primary target. The significant improvement since Tet is a measure of the improved security situation which is better around Saigon than the countrywide average. The rural hamlet-contested and Viet Cong-controlled population has been reduced by over 15 percent since the beginning of the Accelerated Pacification Campaign, despite continued enemy emphasis on Saigon as his primary target.

However, the enemy's political influence exerted through his infrastructure exceeds his overall influence. For example, although 30.1 percent of the rural population in the five provinces surrounding Saigon is either contested or Viet-Cong-controlled, the December 1968 Hamlet Evaluation System shows that 43.3 percent is affected by the presence of hamlet-level Viet Cong infrastructure and 45.4 percent is affected by village-level Viet Cong infrastructure.

One analysis of the VC infrastructure presence and influence in the five provinces surrounding Saigon indicates that 96% of the hamlet population in those provinces is subject to such presence and influence. At the same time, the latest HES statistics for December 1968 indicate that 90.1% of the population of III Corps was in relatively secure category.

a. Attempts to relate other data to either of these indicators have not been illuminating. For instance, the Chieu Hoi rate for III Corps has been relatively low in comparison to its percentage of population (15.4% of the Chieu Hoi in 1968 are III Corps while III Corps has 31.2% of the population) and, further, has been lower this year than its average over the last four years (III Corps has averaged 22% of the Chieu Hoi over the last four years). Further, III Corps' percentage of total Chieu Hoi dropped during the last six months of 1968 (15.4% for the year and 15.0% for the last six months). Normally, Chieu Hoi rates correlate positively with numbers of military operations; however III Corps during 1968 had the highest number of battalion days of operations of any Corps area yet its percentage of total Chieu Hoi went down.

b. The Phoenix data shows that of the 95,708 Viet Cong infrastructure members in all South Vietnam, 29.9% were in I Corps; 33.3%, II Corps; 12.6%, III Corps; and 24.2%, IV Corps.[1] This low percentage for III means that the III Corps Phoenix program has been the most successful of all Corps as it eliminated 30% of its VCI during 1968. Given the fact that III Corps is the location (when in country) of COSVN plus has Saigon and contains over 30% of the population of the country, it seems unlikely that only 12.6% of the total VCI is located in III Corps. There is one report which indicates there are 7,500 VCI in Saigon alone (a figure which does not seem unreasonable in a city of 2 to 3 million inhabitants). Therefore it seems prudent to suspect that the VCI influence in the provinces around Saigon, while not all prevasive as the 96% figure above tends to indicate, neither is the GVN influence as widespread as the 90% "relatively secure" population figure tends to indicate.

A further factor to be considered is the opinion held by most Americans, past and present, who have knowledge of the situation in III Corps, that the three ARVN divisions in III Corps are the worst divisions in all of ARVN. A recent report by a very competent observer indicates that the RF/PF of III Corps have little confidence in the three ARVN divisions stationed there.

Thus, if the OSD assessment of "C" hamlets is accepted, an educated guess about VC influence in the provinces surrounding Saigon would be that the VC have significant influence over more than half of the rural populace in the five provinces immediately surrounding Saigon with particular strength in Long An and Hau Nghia.

Because of the VC/NVA threat to the Saigon metropolitan area during first half of 1968, the emphasis during much of this year in III Corps was to eliminate the commo-liaison VCI and not the higher level cadre, it may be adduced that the VCI structure in and around Saigon is still largely intact. Further, it is likely that the VCI in Saigon in particular are targeted against the GVN in what the NLF sees as the forthcoming political struggle to commence upon completion of the Paris Negotiations. Thus, it is unlikely that the higher level cadre will expose themselves prior to that.

Therefore, it would seem prudent to assume that "significant VC pressure and influence" will remain largely intact in III Corps during 1969, given present US and GVN and VC/NVA tactics and techniques.

Question 18: What number or verified numbers of the communist political apparatus (i.e., People's Revolutionary Party members, the hardcore "infrastructure") have been arrested or killed in the past year? How many of these were cadre or higher than village level? What proportion do these represent of total People's Revolutionary Party membership, and how much—and how long—had the apparatus been disrupted?

COMUSMACV reports that during 1968, 15,776 members of the Viet Cong Infrastructure (VCI) were killed, captured or surrendered. Of these, approximately 2,050 were cadre of higher than village level.

A breakout of the method of neutralization follows:

Killed	2,255
Captured	11,291
Rallied	2,230

Of the 15,776 Viet Cong infrastructure neutralization reported during 1968, 12.9 percent (2,050) were serving at district level or higher. The remaining 87.1 percent served at village and hamlet level—most being functionaries that the Viet Cong infrastructure probably can easily replace. However, considering the heavy casualties inflicted on the enemy, there is no doubt that an unknown but significant number of Viet Cong infrastructure of all ranks have been neutralized but not officially accounted for because of inadequate records and inability to identify the dead.

The number of VCI members neutralized during 1968 was about 16–20% of the total VCI estimated strength. However, our information on the VCI is soft and recognized as such. CIA and DIA estimate the VCI total strength to be between 80,000 and 100,000. now. Estimates have risen in the past several years. OSD analysis of Hamlet Evaluation System (HES) data over the past two years indicates that the more we concentrate on the VCI, the more we recognize the extent of VCI existence. In January 1967, excluding non-hamlet secure population, about 56% of the population was subject to some VCI influence. The figure had risen to 61% by November 1968. Further, we do not know about recruitment nor do we have an accurate accounting of the disposition of captured or rallied VCI members.

Approximately 10% of those neutralized in 1968 were People's Revolutionary Party Membership. COMUSMACV estimates the current personnel strength of the Viet Cong infrastructure at roughly 83,000. Of those, 20 to 40 percent (16,400 to 32,800) are believed to hold membership in the People's Revolutionary Party. The 2,050 cadre or higher than village-level Viet Cong infrastructure neutralized represent approximately 6.2 to 12 percent of the total People's Revolutionary Party membership. Examination of the monthly, provincial, by-name Viet Cong infrastructure neutralization reports for 1968, shows that 10.7 percent (1,967) of the total neutralized were People's Revolutionary Party members. Approximately 19 percent (332) of the People's Revolutionary Party members served at higher than village level.

Losses during 1968 have not unduly disrupted the communist political apparatus.

In terms of organizational goals, progress against the Viet Cong infrastructure has been satisfactory. However, it cannot be determined whether the number of Viet Cong infrastructure neutralized reflects an accurate picture of permanent or net losses to the Viet Cong infrastructure, especially in view of the lack of data on the final disposition of those who were apprehended. The attack on the Viet Cong infrastructure during 1968 did not significantly reduce the communists' ability to carry out essential activities, although Viet Cong infrastructure attempts to revitalize and strengthen their organizations in the major cities were often disrupted by fairly effective police work. Viet Cong infrastructure operations were disrupted in several geographic areas, and a noticeable attrition resulted from a combination of losses in combat and from anti-infrastructure activities. However, government intelligence on the Viet Cong infrastructure and operations against their activities diminish significantly as one gets further from the secure urban areas. What losses the Viet Cong infrastructure has suffered apparently have not unduly hampered its functioning.

---

[1] Represents a count of specific VCI names and identified positions held in Phoenix files in Saigon and is not the presently accepted MACV figure.

Recent Viet Cong moves to streamline the infrastructure by reclassifying cadre according to their effectiveness and by transferring numbers of low-level or inefficient cadre into military units, suggests that Viet Cong infrastructure personnel losses have not yet approached the critical stage. It does not appear likely that they will in the near future.

The anti-infrastructure program suffers from some significant problems. These are:

Judicial Processing. This is one of the weakest links in the overall attack on the Viet Cong infrastructure. This is highlighted by the number of persons under detention who have been judicially processed: 16,638 as of 31 December 1968. Numbers of innocent persons, or at least persons who have been forced to perform tasks for the Viet Cong, have been arrested and held, sometimes for extended periods, without a hearing. Justifiably concerned, the Office of the Prime Minister established special screening committees throughout the country to review the cases of a large number of civil detainees, and many have since been released. On the other hand, real Viet Cong infrastructure and Viet Cong supporters are being released prior to judicial processing or receive very light sentences, usually on the ground of lack of sufficient evidence.

Detention Facilities. Interrogation and detention facilities are inadequate in many areas. At the end of November 1968, there was a total of 38,700 civilian confinement spaces in Vietnam, and the total incarcerated population was reported by Government of Vietnam officials to be 37,689. These figures, based on the best data available, are considered to be accurate only for the national prison system which holds 32,689 prisoners and detainees. The remaining 5,000, said to be held in National Police detention facilities throughout the country, is an unverifiable estimate. There are four national prisons, 37 provincial prisons, and 50 existing or planned detention centers. Although these figures indicate that there are sufficient confinement spaces on a nationwide basis, overcrowding still exists in some provinces, and poor prisoner accounting procedures are the rule rather than the exception. OSD estimates that roughly 60% of the prisoners arrested in 1968 were released.[1] Steps are underway to remedy these problems.

Government of Vietnam Intelligence Capability. The effectiveness of the attack on the Viet Cong infrastructure is hampered by the limited intelligence capability of the Government of Vietnam. Personnel in those agencies tasked with gathering intelligence on the Viet Cong infrastructure and running operations against it, such as the Police Special Branch and Military Security Service, simply have not had the training and background for sophisticated intelligence work. This is especially true at the district level and down, where the responsible Government of Vietnam personnel may barely be able to read and write. Many have difficulty understanding the requirements sent down to them, let alone fulfilling them. Although the Phung Hoang program is geared primarily to the district level, most of the talent, intelligence information, and reaction capability is presently found at province level. Information available at province level is often not fully disseminated down to the district; moreover, most of the District Intelligence Operations Coordination Centers are still in the process of developing the data base needed to operate effectively against the Viet Cong infrastructure. Further, many of the intelligence agencies are beginning to exhaust their intelligence data bases. For these reasons, to a great extent, operations targeted against specific individuals are not too common. Most Viet Cong infrastructure personnel are picked up in sweeps, cordon and search operations, or in ambushes on communication routes; only 10–20% of those neutralized are specifically targeted through the Phung Hoang program.

In summary, at the current rates of attrition, the VCI can sustain its operations and replace its losses except in a few localities. We are, however, making inroads and should continue to disrupt VCI activities in an increasing number of hamlets. But it should be understood that the VCI is too large and well established to be permanently neutralized or rendered impotent, short of an extended and intensive campaign over the next several years, including much improved Government of Vietnam performance. (A more detailed prognosis for the VCI is contained in the response to Question 19).

Question 19: What are the reasons for believing the current and future efforts at "rooting out" hard-core infrastructure will be—or will not be—more successful than past efforts? For example, for believing that collaboration among the numerous Vietnamese intelligence agencies will be markedly more thorough than in the past? What are the side effects, e.g., on Vietnam opinion, of anti-infrastructure campaigns such as the current "accelerated effort" along with their lasting effect on hard-core apparatus?

The Government of Vietnam (GVN) did not fully commit itself to the attack on the Viet Cong infrastructure (VCI) until July 1968. Since that late date, the steady improvement in organizational efficiency has resulted in an increase in neutralizations. Given 12 to 24 more months of continuous US/GVN effort and command emphasis, present progress will pay off with much more significant damage to the VCI. Far more than in the past, the GVN has the will and the organization to achieve this goal.

GVN officials are increasingly aware of the need to pinpoint the attack on the VCI. Continued high-level GVN and US command emphasis should assure that this awareness continues to spread.

The program has generated coordination and cooperation at all levels, often where little or none previously existed. This includes disparate GVN officials, agencies, and military units, as well as US and allied agencies and military forces.

Intelligence and Operations Coordinating Centers, which have been established at province, district, and autonomous city levels, are becoming increasingly capable both of conducting anti-VCI operations and in supporting military and territorial security forces. Many of these centers have just reached the "take-off" point, and can be expected to assist greatly in intensifying operations against the VCI.

a. These centers are building data bases on VCI personalities and modus operandi. As they improve their capability to collate and analyze raw data, perfect source control, and agent handling techniques, operational effectiveness will improve proportionately. Inspection and training programs have been instituted and additional programs are being developed to upgrade capabilities, especially at district level and lower. The civil arms of the GVN, particularly the police, have been strengthened by heretofore unavailable military, Provincial Reconnaissance Unit (PRU), and National Police Field Force support.

b. The centers have also increased the degree of province and district chief control over territory and resources by providing a more efficient staff mechanism through which they can plan and operate.

As part of the "Accelerated Pacification Campaign (APC)", a special Phoenix-Phung Hoang (anti-infrastructure) campaign was launched on 20 October 1968 which concentrated military and paramilitary assets against the VCI. Results show that during the last quarter of 1968, VCI neutralization accounted for just under 40 percent of the total for all of 1968. Of the VCI above village level who were "neutralized", slightly over 38 percent were "neutralized" during the last 3 months.

The VCI definitely is beset by problems. Most of these are related to the pressures of the war. However, an encouragingly increasing number of them can be attributed directly to the APC and to the anti-VCI effort. A notebook recently captured in Thua Thien Province in I Corps described the considerable losses among both guerrillas and infrastructure personnel caused by the South Vietnamese Army (ARVN) and allied operations. A captured report from VC Subregion 4 complained about the shortage of personnel; stated that more than one-third of the hamlets in the subregion had no Party members, while the quality of existing Party chapters was below par. The chapters were described as weakened by factionalism and lack of determination. A source in Binh Chanh District in Gia Dinh Province reported in early October that a VC guerrilla platoon had been brought in, broken down, and assigned to four villages to help rebuild the infrastructure.

a. There has also been an increasing number of captured documents which labeled the Phoenix-Phung Hoang operation as a cunning, wicked plot and exhorted all VC/NVA Armed Forces to be wary of and strive to wipe out the "cruel die-hard agents of aggression." A captured document dated 10 December 1969, contained a detailed commentary on the mission, organization, and activities of Phoenix-Phung Hoang from national to district level, and a VC plan to counter Phoenix-Phung Hoang activities, stated that, "the most effective measure to combat this organization is to eliminate its members."

b. Perhaps more telling is the increasing amount of broadcast time Radio Hanoi and Liberation Radio devote to denouncing the APC, particularly Phoenix-Phung Hoang operations. A Liberation Radio commentary on 3 December 1968 called for the implementation of the Peoples Liberation Armed Forces Command's order to "crush the head of the venomous snake Phoenix." The communists have ordered all members of the Peoples Liberation Armed Forces "to resolutely smash the US-puppet rural pacification scheme, annihilate, and completely disintegrate enemy pacification teams, and to annihilate Phoenix teams which are composed of spies and intelligence agents."

c. One of the most explicit examples is that given by a VC proselyter in the Saigon/Cholon area. On 13 January 1969, he remarked to a personal friend who happens to be an allied GVN infrastructure. There is no data on local accommodations and accurate information on its existence and the extent of the area where it is practiced is very limited. However, it can be said that as the Vietnamese begin to perceive clearly that some form of negotiated settlement is to be reached with the National Liberation Front (NLF) then the pressure to reach some form of local accommodation will probably be increased, thus increasing the difficulties in carying out the Phoenix-Phung Hoang program. The Joint Staff feels that the record of the Phoenix program since November when serious negotiations were in progress does not substantiate this view.

Additionally, it is important to remember the realities of the war in Vietnam—families have close relatives on both sides of the conflict. There are ways that are accepted to kill your brother and there are other ways such as "breaking his rice bowl" which are not. Further, an attitude of "if I don't bother his home, he won't bother mine" is sometimes prevalent, particularly at the hamlet level. One of the reasons why it took the GVN so long to initiate the

---

[1] OASD(SA) Southeast Asia Analysis Report, December 1968.

Phoenix-Phung Hoang program was just that reason. Until the VC/NLF/NVA "broke the faith" by attacking the cities during Tet 1968, the GVN was reluctant to carry out a systematic program of "neutralizations" in fear of reprisal and apparently because of this sort of unwritten agreement. Again as negotiations progress, or given the appearance of progressing toward a settlement, the pressures within families to reach accommodation will increase and, correspondingly, the effectiveness of the Phoenix-Phung Hoang program could decrease.

The 16 January 1969 National Intelligence Estimate on the Pacification Program, concurred in by DIA, CIA, INR and NSA, states in part:

"Over the next several months, further progress in pacification will almost certainly not make the GVN much more able to cope with the VC in peacetime than it would be today. A significant advance in this respect would probably require at least a year. And the terms of a settlement could undo virtually all that has been accomplished, especially since progress has been minimal in reducing the political threat."

This statement tends to support the conclusion that dramatic improvement in the Phoenix-Phung Hoang program in the near future is unlikely, and that "rooting out" the hard core VCI will continue to be slow and hard to do and that the whole program could be placed in jeopardy by the negotiations in Paris. Moreover, it indicates the judgment by the intelligence community that it will be at least a year before the GVN is in a significantly better position to deal with VC in the political struggle that may follow a cessation of hostilities.

The gathering of the representatives of all or most of the Vietnamese intelligence agencies together under the roofs of the District and Province Intelligence and Operations Coordination Centers represents a giant step forward toward gaining active cooperation and collaboration among these Vietnamese agencies in the program of "neutralizing" the VCI. However, it is important also to remember that in the end cooperation and collaboration between Vietnamese agencies is a function of the relationship between the agency heads and the struggle for personal power within the Vietnamese political milieu; thus, the cooperation seemingly beginning with the development of the Intelligence and Operations Coordination Centers could be reversed with the toss of one hand grenade.

In terms of organizational goals, progress against the VCI has been satisfactory. However, it cannot be determined whether the number of VCI neutralized reflects an accurate picture of permanent or net losses to the VCI, especially in view of the lack of data on the final disposition of those who were apprehended. The attack on the VCI during 1968 did not significantly reduce the communists' ability to carry out essential activities, although VCI attempts to revitalize and strengthen their organizations in the major cities were often disrupted by fairly effective police work. VCI operations were disrupted in several geographic areas, and a noticeable attrition resulted from a combination of losses in combat and from anti-infrastructure activities. However, government intelligence on the VCI and operations against their activities diminish significantly as one gets further from the secure urban areas. What losses the VCI has suffered apparently have not unduly hampered its functioning. Recent VC moves to streamline the infrastructure by reclassifying cadre according to their effectiveness and by transferring numbers of low level or inefficient cadre into military units, suggests that VCI personnel losses have not yet approached the critical stage. It does not appear likely that they will in the near future.

The effectiveness of the attack on the VCI is hampered by the limited intelligence capability of the SVN. Personnel in those agencies tasked with gathering intelligence on the VCI and running operations against it, such as the Police Special Branch (PSB) and Military Security (MSS), simply have not had the training and background for sophisticated intelligence work. This is especially true at the district level and down, where the responsible GVN personnel may barely be able to read and write. Many have difficulty understanding the requirements sent down to them, let alone fulfilling them. Although the Phoenix-Phung Hoang program is geared primarily to the district level, most of the talent, intelligence information, and reaction capability is presently found at province level. Information available at province level is often not fully disseminated down to the district; moreover, most of the District Intelligence Operations Coordination Centers (DIOCC) are still in the process of developing the data base needed to operate effectively against the VCI. For this reason, to a great extent, operations targeted against specific individuals are not too common. Most VCI personnel are picked up in sweeps, cordon and search operations, or in ambushes on communication routes.

The above evidence seems to show that, while there has been improvement in our efforts to "root out" the infrastrature and further improvements are expected during 1969, there are inherent difficulties in the target, the organization and the methodology of the Phoenix-Phung Hoang program which make a dramatic improvement in the program unlikely. Further, the vast effect that seeming progress in reaching a settlement in Paris could have on the program's execution makes predictions of greater success during 1969 highly conjectural. Additionally, results to date and predicted over the next year do not support the contention that the program, within that time frame, can have a lasting effect on the hard-core apparatus.

The chief danger in a program such as the current anti-VCI drive is that it can cause the arrest of some innocent persons and result in inconvenience and injustice, giving the government a poor image. However, there are side effects on the positive side as well.

a. The increasing number of ralliers is indicative of the effect that various GVN programs, but particularly Phoenix-Phung Hoang, are having on the populace. These ralliers are providing valuable information on enemy activities, locations of enemy forces, arms and rice caches, and significantly, information on VCI. One of the largest anti-VCI operations so far conducted in I Corps—Meade River—was generated as a result of information obtained from a rallier and on the basis of Phoenix-Phung Hoang intelligence. In Binh Dinh Province, ralliers were used in a psychological operation which resulted in an entire hamlet rallying en masse on 24 December 1968.

b. Evidence indicates that the general population is cooperating more with GVN officials. For example, enemy activity in outlying portions of cities has often been reported by the people, demonstrating that they are putting more trust and confidence in Government of Vietnam agencies. The stepped-up VC terrorist-type activity in and around provincial capitals, and and the VC's repeated attempts to lower the morale of the populace, has generally proven fruitless. These actions, and the GVN response to them, appear to have instilled a measure of confidence in the GVN leadership.

We have no systematic or continuing evidence on the "side effects" of the Phoenix program. There are those who feel that the Phoenix-Phung Hoang program, in particular the operation of the PRU's, may be counterproductive as it alienates the non-committed population more than it hurts the VCI. There is not much evidence to support this conjecture.

Perhaps the most serious criticism of the PRU is that the whole concept and operation are copied after the Communists and that by copying their extra legal methods we lose any claim we have to the "just cause." (The majority of the infrastructure of the GVN are not nationalistic in the sense that they respect and support their "government" (Chinh Phu). They are, however, extremely proud of their nation and of being Vietnamese (Quoc Gia). It therefore follows that the people who are willing to die in the service of the GVN are not doing so because of their respect for their government nor the image of that government. They are doing this because they think they are fighting for "The Just Cause.")

An additional "side effect" for which we have no accurate measure is the fact that the Phoenix-Phung Hoang program is looked upon by many Vietnamese as having been forced upon the GVN by the Americans. Further, the PRU program is clearly identified as an American program—supervised, controlled and financed by Americans. Thus, the issue of national sovereignty is a "real" issue with regard to Vietnamese attitudes toward the Phoenix-Phung Hoang program and particularly the PRU program. How much anti-Americanism is caused by these perceptions is unknown, but the suspicion is that it is enough so that it should be taken into account when assessing the program.

Question 20: How adequate is our information on the overall scale and incidence of damage to civilians by air and artillery and looting and misbehavior by RVNAF.

The adequacy of information on the overall scale and incidence of damage to civilians by air and artillery is questionable.

On one hand, COMUSMACV considers that information of the overall scale and incidence of damage to civilians by air and artillery is direct and adequate. The JCS and CINCPAC concur. Further, COMUSMACV considers that adequate information is available on such damage caused by Republic of Vietnam Armed Forces (RVNAF). Civilians killed or wounded and damages to property are reported, and the nationality of force and weaponry causing the casualties or damages are identified. Three sources of information are available.

On the other hand, there is little information available on damage in most Viet Cong controlled areas, and portions of contested areas. There is little systematic reporting to Washington on the overall level of combat damage.

The overall level of combat damage undoubtedly has been high. For example: the damage to Vietnamese cities at Tet was considerable; there have been over two million refugees in SVN since 1964—many of these were caused by combat activity; the U.S. Navy alone reports they have destroyed almost 35,000 structures and damaged about 43,000 since 1966. While much of the destruction has been unavoidable due to enemy provocations and tactics, undoubtedly some destruction could have and can be avoided.

Concerning RVNAF looting and misbehavior, there is no complete and comprehensive reporting system on this subject either in MACV or the Government of Vietnam. However, some conclusion can be drawn from available information.

COMUSMACV considers that information on this subject is of sufficient adequacy to indicate that the problem is still not fully controlled. MACV's Hamlet Evaluation System (HES) and System for Evaluation the Effectiveness of RVNAF (SEER) provide information from US advisors which permits evaluations of the incidence and seriousness of misconduct on the part of the RVNAF and also reflecting respect for the rights of the populace by Vietnamese Army and Marine units. For example, the HES shows that each month about 900 hamlets, or 7% of the hamlets reporting, are adversely affected by either minor or serious incidents of troop misconduct, ranging from drunkenness and chicken stealing, to murder or rape. Based on quarterly response to the SEER questionnaire during 1968, 93% of US advisors to the South Vietnamese Army and Marine Corps units considered that their units respected the rights of the populace and property always or most of the time. The Vietnamese do not maintain a comprehensive reporting system for determining the overall scale and incidence of damage to civilians through looting or misbehavior by Government of Vietnam Forces.

HES data are available to indicate the adverse incidents committed by the RVNAF against hamlet population. (These data are reported monthly from the field by the Hamlet Evaluation System and are maintained in an automated file with entries back to January 1967).

(1) A sampling of data indicating the incidence of misbehavior of the RVNAF and other allied troops shows that the RVNAF caused minor incidents affecting the population in approximately 43% of all hamlets reported for the months examined (Figure 1). The RVNAF also was reported as causing serious incidents affecting the population in 23% of all hamlets. (Figure 2).

(2) South Vietnamese Army troops caused serious incidents in more hamlets than the Regional and Popular Forces. However for minor incidents, the reverse was true. (Figure 3). This fact may be attributal to the Regional and Popular Forces normally being an integral part of the community in which they are assigned. The South Vietnamese Army regulars, on the other hand, are most likely to be exposed to the hamlet population during military operations against the Viet Cong/North Vietnamese Army forces.

(3) The RVNAF was reported to have caused both major and minor incidents in 42% of all hamlets. It is interesting to compare South Vietnamese Army and US troops with respect to the hamlet reports. From the standpoint of behavior toward the population, US and South Vietnamese Army troops are on a par (Figure 4).

(4) It must be recognized that the Hamlet Evaluation System measurement is imprecise, and conclusions drawn from the data presented should be so qualified.

FIGURE 1.—HAMLETS IN WHICH MINOR INCIDENTS WERE REPORTED AS AFFECTING POPULATION

	September 1967	October 1967	November 1967	January 1968	April 1968	July 1968	August 1968	September 1968	November 1968
RVNAF	1,455	1,412	1,302	1,226	1,037	971	1,014	1,083	868
Revolutionary Development Cadre	100	93	85	83	62	62	71	86	91
United States	462	467	447	428	396	404	462	500	377
Other free world military assistance forces	187	172	155	145	129	128	107	176	107
Other friendly elements	887	868	896	848	773	725	779	845	94
Total reports	3,091	3,012	2,885	2,730	2,398	2,290	2,433	2,690	1,537
RVNAF percentage of total reports	47	47	45	45	43	42	42	40	39

FIGURE 2.—HAMLETS IN WHICH SERIOUS INCIDENTS WERE REPORTED AS AFFECTING POPULATION

	September 1967	October 1967	November 1967	January 1968	April 1968	July 1968	August 1968	September 1968	November 1968	Total report
RVNAF	44	43	50	52	131	122	122	147	56	75
Revolutionary development cadre	6	5	6	10	10	11	12	10	12	8
United States	46	44	58	66	76	72	78	77	58	57
Other free world military assistance forces	38	38	24	10	23	35	26	23	23	240
Other friendly elements	92	121	103	95	317	266	246	212	94	1,548
Total reports	226	251	241	223	557	506	486	469	243	3,202
RVNAF percentage of total reports	20	17	21	19	23	24	25	31	23	[1]23

[1] Average.

FIGURE 3.—HAMLETS IN WHICH MINOR INCIDENTS WERE CAUSED BY ARMY OF VIETNAM AND REGIONAL FORCES/POPULAR FORCES

	September 1967	October 1967	November 1967	January 1968	April 1968	July 1968	August 1968	September 1968	November 1968	Total report
Army of Vietnam	610	603	544	499	394	385	435	444	330	4,244
Regional forces/popular forces	845	809	758	727	643	586	579	639	538	6,124

HAMLETS IN WHICH MAJOR INCIDENTS WERE CAUSED BY ARMY OF VIETNAM AND REGIONAL FORCES/POPULAR FORCES

	September 1967	October 1967	November 1967	January 1968	April 1968	July 1968	August 1968	September 1968	November 1968	Total report
Army of Vietnam	27	26	27	25	74	68	62	91	30	430
Regional forces/popular forces	17	17	23	17	57	54	60	56	26	327

FIGURE 4.—HAMLET REPORTS OF INCIDENTS AFFECTING POPULATION

Force	Hamlet reports	Percent	Percent total
RVNAF	11,125		42
Army of Vietnam	4,674	18	
Regional forces/Popular forces	6,451	24	
Revolutionary Development Cadre	816		3
United States	4,518		17
Other free world military assistance forces	1,546		6
Other friendly elements	8,263		32
Total	26,268		100

Question 21: To what extent do recent changes in command and administration affecting the countryside represent moves to improve competence, as distinct from replacement of one clique by another? What is the basis of judgement? What is the impact of the recent removal of minority group province mid-district officials (Hoa, Hao, Cao Dai, Montagnard) in their respective areas?

CHANGES IN COMMAND AND ADMINISTRATION

Considerations of political and personal allegiance remain and will, no doubt, always remain of paramount importance in the assignment of key personnel throughout the Vietnamese command and administrative structure. Since the national election of September 1967, for example, President Thieu has moved quite successfully from a "coalition" in which key jobs were divided between Thieu and Ky supporters to replacement of Ky men by those loyal to him. Nevertheless, it does appear that newly appointed province and district officials are being selected on the basis of competence from within the politically acceptable candidate group. This is a new and important development.

Recent changes in command and administration affecting the countryside represent a substantial effort to improve competence, in addition to President Thieu's moves toward consolidation of his personal political power base. In 1968, 25 province chiefs and 162 district chiefs were changed. The changes were made primarily to remove inefficient or corrupt officials (21 province chiefs, 92 district chiefs). Field reports indicate that the new district and province officials are significantly more honest and competent than their predecessors. In addition, newly assigned officials are required to attend special training courses designed to prepare them for administrative and political duties. The stated intent of the Government of Vietnam is to prosecute those officers removed for corruption. To a greater degree than before, ousted officers have been transferred to positions where they could do less damage, rather than merely shifted to similar positions elsewhere as was the common practice in the past.

Collateral evidence of the intent and effort of the Government of Vietnam to give priority to administrative improvement are provided for in the 1969 Pacification Program:

a. The mounting of large-scale training programs for village and hamlet officials.

b. Studies to streamline administrative procedures at the local government level.

c. The rendering of greater autonomy and authority to the village.

d. The availability of, and control over, more resources, particularly self-help funds to the village.

e. The very strong pressure from the central government and the President to increase the number of elected village and hamlet officials.

It may be useful in this context to bear in mind that (1) due to the nature of the political system in South Vietnam, competence and replacement of one clique by another are complementary terms not opposing. Given the state of political development, this is likely to remain true for some time to come. Thus, if the new district and province chiefs and division and regimental commanders were not basically aligned with Thieu as opposed to their predecessors who were aligned with Ky, they could not be effective in accomplishing their jobs given the political and military milieu that prevails in South Vietnam; and (2) our in depth knowledge of individual loyalties, family ties, clandestine networks, etc., in South Vietnam is sufficiently marginal to cast doubt on any answer provided to questions of this nature. In many cases we are dealing in supposition, assumption and intuition and not with facts or evidence.

REMOVAL OF MINORITY OFFICERS

On balance, the impact of the recent removals of minority group province and district officials does not appear to have generated any serious antigovernment feeling. In general, the Government has been discerning in handling this matter. In relation to the Hoa Hao, which has serious internal pressures toward dissension, non-Hoa Hao have been placed in important positions at province level.

In relation to the Montagnards, a more politically cohesive group (if only because of a relative lack of political sophistication) Montagnard officials have been replaced with other and more competent Montagnards. It is significant that the Government has agreed in negotiations to nominate more Montagnard officials to senior province and district positions. The benefits of such a policy are clear in areas like Pleiku where an excellent Montagnard province chief has been able to make significant gains in the Pacification Program.

Recent changes of the province chief in Tay Ninh and An Giang resulted in assignment of non-affiliated officials. The changes were made ostensibly to improve performance, but the change in Tay Ninh was probably to remove a controversial figure. In An Giang replacement of an inept Hoa Hao province chief by a non-affiliated officer has resulted in improved administration without serious disturbance among the people.

Other removals have had mixed results. In Chau Doc, for instance, the Province Senior Advisor has reported that the replacement of the old Hoa Hao politician by a non-Hoa Hao as Province Chief has been very successful with much of the factional rivalry and sissonance that went on before now diminished and better cooperation with job effectiveness by the Provincial staff and the district Chiefs and staffs. On the other hand, the removal of a Cao Dai politician as Province Chief in Tay Ninh and his replacement by a Catholic had serious repercussions which forced the GVN to back down from trying the ex Chief for corruption and further to reappoint him to assist the new Province Chief. With regard to the Montagnards, the Vietnamese have by and large left Montagnards in those positions of authority which they have allowed them to have.

It should be brought out, however, that the GVN cannot "control" these minority groups by replacing Province or District officials in Hoa Hao, Cao Dai, or Montagnard territory. These groups effectively control their area through unofficial and sub rosa channels and organizations which have a unity and capability for action which exceeds that of the official GVN structure. Thus, generally speaking, the GVN, by meddling with these minority organizations seldom can accomplish much in the way of "controlling" over them, but almost always runs the risk of alienating them. Therefore, the GVN's most fruitful course of action with regard to these minority groups generally lies in reaching some mutually advantageous accommodation with them.

Question 22a: How adequate is our information, and what is it based upon concerning:

Attitudes of Vietnamese elites not now closely aligned with the Government of Vietnam (e.g., religious leaders, professors, youth leaders, professionals, union leaders, village notables) towards: Participation—if offered—in the Government of Vietnam; the current legitimacy and acceptability of the Government of Vietnam; likewise (given "peace" for the National Liberation Front or various "neutralist" coalitions; towards US intent, as they interpret it (e.g., US plans for ending the war, perceived US alignments with particular individuals and forces within Vietnam, US concern for various interests).

The JCS, CINCPAC and MACV report:

ATTITUDES OF VIETNAMESE ELITE

Information on the attitudes of groups not now closely aligned with the Government is based in large part on: (a) their public utterances and actions; (b) public opinion polls; (c) the soundings of Embassy political officers, including the four regional political advisors; and (d) views of informed American officials with close contact and good understanding of various groups of Vietnamese. This information available to the US Mission has probably accurately identified and labeled the main groups insofar as they themselves developed a firm ideological posture.

ATTITUDES OF ELITES ON PARTICIPATION IN THE GOVERNMENT OF VIETNAM

Participation may be defined as positions in cabinet, and subcabinet levels, positions of authority in various government departments (military forces, police, agriculture, refugee, provincial administration), and a role in special advisory groups on government programs and policy.

Religious Leaders. Relatively few religious leaders would be willing to serve directly in governmental positions. All are ready to support their lay candidates for office, and to play a role in advising the Government on its policies. Most religious groups tend of course to be interested primarily in programs of direct concern to them, such as education, refugee, and social welfare, although others, for example, the An Quang Buddhists, tend to actively oppose the GVN. In this regard, Catholics tend to be well organized and to participate effectively in such programs. The Buddhists are not well organized and their participation and involvement suffers by comparison.

Youth Leaders. Youth leaders, on balance, are rarely supporters of the GVN programs or policies or considered ready to serve as officials in the Government. Youth leaders are prepared to advise and consult with the Government on matters of concern to them (education, youth programs) but in general avoid direct participation in or identification with the Government of Vietnam.

ATTITUDES OF ELITES ON CURRENTLY LEGITIMACY AND ACCEPTABILITY OF THE GOVERNMENT

Nonaligned elite groups have generally supported the process of establishing representational, constitutional government. They seem to accept the system laid down by the constitution. Many groups would undoubtedly like more representation in the Huong government and more of a voice in forming government policy. Many would like to see the National Assembly exercise more legislative control over the government. Some would like early province chief elections and more rapid civilianization of government (as is taking place in the national police). By and large, the constitutional system beginning with the province council elections in 1965, the constituent assembly in 1966, the local elections in early 1967, and the national assembly and presidential election in 1967, are considered by them as legitimate and acceptable.

ATTITUDES OF ELITE ON THE NATIONAL LIBERATION FRONT OR VARIOUS NEUTRALIST COALITION

Elite groups, not closely aligned with the government, reject the notion of coalition government as violently as the military and the government itself. They feel that this would be tantamount to giving the country to the Viet Cong (VC). The tremendously popular response to President Thieu's initial decision not to go to Paris reflects this strong prevailing view.

a. Some Buddhist groups, village leaders, village notables, union leaders, professors, and professionals (while not accepting the ideas of "coalition") are prepared to consider some sort of legitimation of the National Liberation Front as a political party provided they cast off, at least openly, their communist affiliations. However, most groups, particularly the Northern Catholics, prefer a harder line rejecting both "coalition" and legitimation of the National Liberation Front (NLF) as a political party.

b. The attitudes of village notables and villagers generally is of particular interest because of the importance of popular support for the government in the coming political contest. Generally speaking, the Vietnamese villager would prefer to be left alone in peace by both the VC and the government. Forced to choose, as a pragmatist, he usually will go along with the side which controls his area. He recognizes, nevertheless, that he will probably lead a less troubled existence under the GVN than the VC. Evidence of this is the fact that the average GVN hamlet has a much larger population than the average VC hamlet. When the GVN security and authority is reestablished in a hamlet, there is a clear tendency for its population to increase markedly. VC control brings high taxes, austerity, authoritarianism, and drafting of all youth for VC military service. GVN control brings some assistance for local development, at least a portion of local taxes are locally spent, and duty in Regional Force/Popular Force (RF/PF) or South Vietnamese Army (ARVN) is somewhat less onerous than service for the VC. Similarly, refugees flock not to the VC for succor, but to the GVN.

c. In certain areas, the peasant follows organized groups. The Hoa Hao reached an accommodation with the government some years ago and this group (1.5 million) provides strong resistance to any communist rule, as do the Catholics (1.25 million). Following Tet there has been clear indication that the Cao Daists (750,000 minimum) are moving to a more pro-GVN stance. Although some small groups of isolated communities among the highlanders are strongly pro-VC, due to long exposure to the Viet Minh and later the VC, many of the 750,000 (or so) highlanders follow the United Front for the Liberation of Oppressed Races (FULRO) which has so far taken an anti-VC stance. Recently the GVN has concluded negotiations with the FULRO leading to the return of most of the group, which had been in Cambodia, and to support of the GVN by this segment of the population.

ATTITUDES OF ELITES CONCERNING US INTENTIONS AND PLANS

a. Most Vietnamese expect US military withdrawal, but hope and expect that it will be gradual. Most welcome the prospect, provided it is not abrupt. Few would expect the United States to return troops once withdrawn in the event of renewed attack from the north. Most Vietnamese expect extensive US economic assistance and political support in any postwar period. The Paris talks have shaken the belief of many Vietnamese that the United States will remain committed here and has alarmed some over the prospect of an American sell-out.

b. There does not appear to be significant concern by the non-aligned elite groups over "perceived US alignments with particular individuals or forces within Vietnam" at this time. This represents a significant, if perhaps temporary, change from the past.

OSD views the information on the attitudes of Vietnamese elite as follows:

GENERAL—CONCERNING INFORMATION ABOUT ATTITUDES

There is a cornucopia of data flowing in from the various reporting agencies of the U.S. Government and news media but there is a paucity of *hard evaluated* documentation which alone can provide a basis for equally hard policy choices. Generally, the greater the distance between the GVN and its non-Communist opponents, the less is known about the basic attitudes of the Vietnamese elite. Moreover, each of the elite strata referred to (e.g. religious leaders, professors, youth leaders, professionals, union leaders, village notables) do not constitute homogenous entities with shared attitudes but are themselves split up in many ways. The reporting on each of these categories varies considerably in detail. Thus we have more information about religious leaders, union leaders and professionals than we do about professors, youth leaders and village notables.

The foregoing is further complicated, from an analytical approach, given the over-all evolution of the political situation in South Vietnam. We are not dealing with an *established* political system but rather an emerging constitutional order whose legitimacy is barely accepted even by the elite who emerged victorious in its *first* elections. Many of the GVN leaders tend to regard the election process itself not as a competitive means for providing alternative leaders but rather as a manipulatory process designed to confirm the existing minority group of power leaders in their leadership role.

Moreover, the fractionated character of Vietnamese political organizations, the lack of a mandate provided by an election process which because of plurality voting saw minority candidates for the most part succeed to office, and the instability within the armed forces leadership, all combine to place a premium on opposition to the GVN as a means of rapidly achieving a leadership role. Essential cohesiveness within the nationalist camp is provided by the common threat posed by communist takeover. Otherwise, energies are focussed upon a perpetual competitive struggle to gain status and dominance in Vietnamese political life without regard to the damage done to the nascent constitutional structure. In this regard, the consolidation of the Thieu presidency can be seen as a favorable offsetting stabilizing trend, as can the development of the legislature (Upper and Lower House) as a deliberative body with real powers to influence governmental action.

While we have some data about organizational activity and even strategies adopted by the oppositional elite groups, we do not have a clear picture of their attitudes toward many aspects of the GVN. Observations usually take the form of reports of clique or personality conflict without clear definition of the basic underlying attitudes toward maintenance of the existing governmental structures, nor the conceptual scheme for creating alternative organization for structuring Vietnamese political life. Some of the information seems designed to influence U.S. officials as to infighting in Vietnamese political circles.

ATTITUDES TOWARD PARTICIPATION IF OFFERED IN THE GVN

There is a general willingness of most of the non-communist non-aligned Vietnamese elite to share in the perquisites and power provided by participation in the GVN. The weakness of political groupings and their perennial need for finances make access to the budgetary resources of the GVN a highly preferred objective. Even the militant Buddhist faction was pleased to have its most prominent lay leaders participate as ministers in the Nguyen Khanh government despite its general opposition to military rule. The very newness of the governmental structure makes it a tempting base for infiltration and Vietnamese of varying political persuasions are not averse to exploiting that structure either covertly or overtly for the particular needs of their political groupings of private well-being.

ATTITUDES TOWARD THE LEGITIMACY AND ACCEPTABILITY OF THE GVN

As indicated earlier, the GVN is a transitional political system in its infancy whose legitimacy is barely acceptable. Principal opposition toward it is manifest most dangerously from members of the armed forces who are unhappy about its present organizational form i.e., the supremacy of President Thieu, and the sharing of power with civilian elements. It is these quarters that account for coup rumors that continue to plague political life in Saigon.

The An Quang Buddhists are also a principal source of disaffection. Having been roughly handled and defeated in their confrontation with the GVN, they continue to be a troublesome faction in opposition. They have ample reason to contest the legitimacy of the elections and existing government. They undoubtedly find support or can be expected to make common cause with oppositional elements such as the followers of Truong Dinh DZU, a defeated presidential candidate who languishes in jail. They may also be joined, as in the past, by oppositional youth leaders and youth groupings who remain most resistant to the GVN leadership. The "Peace Campaign" of these Buddhists can also be expected to strike a responsive chord among some of the organized union elements who perceive the GVN leadership as unfriendly to their economic as well as political demands. It is not surprising in this regard that all of the foregoing elements are clearly seen as high priority targets for communist infiltration and manipulation in anti-GVN struggle activities.

There is also a political gulf betwen the GVN and religious and ethnic groupings such as the Hoa Hao, Cao Dai, Highlanders and Khmer minorities. In the case of the Hoa Hao and Cao Dai whose followers constitute organized peasant communities, the desire to constitute a religious state and monopoly of their leadership exists as a basic attitude. Even though both of these religions constitute hardened principled opposition to the VC, locally, these communities of co-religionists have, in the view of experienced observers, worked out some forms of accommodation with the VC. The GVN, for its part, has found it necessary to make equally considerable political adjustments in their areas of control.

In the case of the Highlanders and the Khmer minorities, the existence of the FULRO; its stormy relationship with the GVN and its links with the Cambodian government show the tenuousness of their acceptance and recognition of legitimacy of the GVN.

It is at the village level among the rural elite that the greatest problem exists for the GVN's acceptance. Ever since the Ngo Dinh Diem regime struck a blow at the autonomy of the village and extended the Saigon government administration's control of village life, there has been a marked gap between rural and urban elites. The success of the VC in the rural areas is in part traceable to this situation. There is considerable evidence that a good part of the GVN leadership still fears the outcome of village and hamlet elections (which have been partially reinstituted) unless they are manipulated by Saigon authorities because of the prospect of success therein for VC and/or oppositional elements. Indeed, this situation has led many observers to regard the rural situation in South Vietnam as one in which the villagers are being fought over and subject to pressure by two outside forces: the GVN and the Viet Cong as alternative governmental structures.

ATTITUDES TOWARD THE ACCEPTABILITY OF THE NLF OR VARIOUS "NEUTRALIST" COALITIONS

Broadly speaking, we can say that there has been a noticeable shift in the non-communist camp to the acceptance of a political settlement that involves some form of co-existence with communist southern forces. In general, the non-GVN, non-Communist elites share with the GVN leadership a desire to reach a settlement which minimizes actual communist influence in the GVN government structure, whatever the form that is agreed upon. However, it is not clear how much "adaptation" to the communists many non-communists will make, as a means of achieving leadership, and in their belief that they can control the communists and thereby better manage the fortunes of a noncommunist South Vietnam. In short, considerable opportunism will characterize many Vietnamese leaders and they will be highly vulnerable to manipulation by the NLF in terms of its organizational strength and political skills in a condition of political competition. Northern Catholics and other refugee elements will be less prone to this tendency toward adaptation because of their previous experiences with the communists in North Vietnam.

In this connection, the belated "discovery" by some of the non-communist Southern Vietnamese elite that a sizeable portion of the National Liberation Front now consists of "nationalists" is a sign of current adjustment to some form of coalitionism should this prove necessary as an outcome of negotiations. It should be remembered that the Viet Cong has always sought to promote the "broad coalition" character of the NLF as a cosmetic device despite the actual monolithic communist organizational structure and control that characterizes their "liberation struggle".

ATTITUDES TOWARD UNITED STATES INTENT

Elite groups not aligned with the GVN share with other Vietnamese generally a deep-seated ambivalence with respect to the United States. They recognize that insofar as their past, present, and to a degree their future existence in a viable non-communist South Vietnam is dependent upon the United States, our presence and/or support is required. Nonetheless, the United States intervention is perceived as a necessary evil. This perception arises from a deep seated feeling of shame that they cannot handle the problem posed by the Vietnamese communists without recourse to the presence of foreigners whose impact is considerable upon Vietnamese society and whose presence lends evidence to the charge of "puppetry" sedulously propagated by the Viet Cong.

Moreover, many Vietnamese (as do many Americans) do not understand why the United States has been willing to make so great an effort in Vietnam. As a consequence, because it is perceived that our interests and Vietnamese interests do not necessarily coincide, there is considerable doubt as to our intentions with respect to the struggle in Vietnam. Based on past experiences with the French, the non-communist nationalist elite is particularly sensitive to the prospect that at the outer limits the national interest of the United States may lead to U.S. withdrawal from Vietnam even if a communist victory were to be a likely outcome of such withdrawal. Willingness to negotiate in Paris was and is seen as partial confirmation of this view. Given this sensitivity, the non-communist Vietnamese, who wish to *survive* in South Vietnam, wish to minimize the negative consequences of U.S. troop withdrawal while maximizing their own ability to deal militarily and politically with the NLF. They also desire maximum United States support in the Paris negotiations to insure the most favorable military and political settlement for the non-communists.

Thus even the most critical opponents of the GVN (barring those who favor a victory for the NLF) do not wish to lose the benefit that continuing American pressures and presence confer for maintaining a viable non-communist South Vietnam. Even the disaffected militant Buddhist faction has always stressed the need for U.S. support. What they have objected to, and what they continue to oppose, is what they perceive as United States alignment with particular individuals and forces within Vietnam detrimental to their interests. With few exceptions of minor consequence, there is no political grouping, except the NLF, favorably or unfavorably disposed to the GVN, which has not sought United States support and intervention in their own behalf despite their basic desire for "the right of Vietnamese self-determination."

Question 22b: How adequate is our information, and what is it based upon, concerning:

Patterns of existent political alignments within GVN/RVNAF and outside it—reflecting family ties, corruption, officers' class, secret organization and parties, religious and regional background—as these bear upon behavior with respect to the war, the NLF, reform and broadening of the GVN, and responses to U.S. influence and intervention.

The JCS, CINCPAC and MACV report:

Information on these matters is based in great part upon counterpart contacts, supported by the informal local relationships of advisory teams and other officers. Part-time political reporting officers have been appointed in each province and full-time political officers are present at each corps, in addition to the Saigon level. Available information is adequate with respect to overall political positions of the standard political, religious, and regional groups, but is only partial with respect to the fractional and individual positions of the members thereof.

Since there is a strong conspiratorial tradition in Vietnamese politics, it is not surprising that much political activity is undertaken in conspiratorial ways, nor that simple Government or private activities are frequently misinterpreted as being the result of some dark conspiracy. However, the gradual development of political activity in Vietnam, at the national level through the Senate and National Assembly, and even at local levels, has tended towards more organized and more overt political activity. Similarly, the Tet offensive had a positive shock effect on many elite elements, leading them to adopt somewhat more constructive and loyal, rather than parochial and selfish, attitudes.

Factionalism within the Armed Forces similarly seems to be declining from its origins in the French-dominated Army as a factor of the growing maturity of RVNAF, the growing size and complexity of the RVNAF, and the increased professionalism of many of its officers. The conscious effort by the Government to reduce the power of corps warlords has had perceptible effects, although it must be recognized that the tendency toward direct transmission of the Presidential and national power, rather than through the Joint General Staff, is still prevalent.

OSD views the information concerning the patterns and attitudes of the existent political alignments in South Vietnam as follows:

Patterns of existent political alignments within GVN/RVNAF and outside it.

There is a considerable body of data available from reporting agencies of the U.S. Government and news media about the organization and activities of the principal political fronts and parties on the Vietnamese political scene. This information varies in detail and utility depending upon the overt or covert character of the political grouping involved. The highly personalized and clique character of much of the "political elite" activity and the frequent shifts in political alignments as the power structure is altered complicates our ability to keep track of the situation and our understanding thereof.

It must be remembered that the Vietnamese political elites have been formed in an environment of colonialism, war and revolutionary upheaval in which survival itself was often dependent upon maintaining secret and conspiratorial organization. The Ngo Dinh Diem government's repressive policies also contributed to the development of clandestine political activity.

These long-time political habits are not easily dispensed with in the relatively short period of a freer environment since the overthrow of the Ngo Dinh Diem dictatorship. The tentative character of political arrangements since November, 1963, and the manifest instability of leadership circles in both the civilian and military spheres have further contributed to reinforce the behavioral need for covert organization.

The development of a parliamentary system coupled with elections has perforce brought out into the open a considerable number of the political actors. But the process of surfacing is necessarily incomplete and the oldest and most well-known political parties (e.g., the Dai Viet Quoc Dan Dang and Vietnam Quoc Dan Dang and the various factions thereof) still maintain what is essentially secret membership and networks of infiltration not subject to public scrutiny. The same approach is characteristic of lesser known political groups.

Proponents of political views prescribed by the GVN also have resorted to secrecy in their activities. Political exiles who have lost out in previous leadership struggles also maintain some clandestine links and organization in the hope that they can return and resume activity in South Vietnam. The real extent of the influence and power of such individuals is often difficult to gauge. It has not been uncommon for such exiles to return and receive ministerial posts which does testify to some residual base in Vietnamese political life.

In general, data relating to patterns of existent political alignments reflecting officers' class and religious and regional background is adequate. It is with regard to family ties, corruption and secret organizations and parties that our information becomes spotty or nonexistent.

Nonetheless, despite our lack of detailed information, we can estimate what the impact of such factors as family ties; corruption and secret organization are with respect to the climate of political opinion and to political loyalties in South Vietnam.

Family ties

The basic institutional tie of the Vietnamese is to his family and there are few other loyalties that transcend the family relationship for most Vietnamese. Wherever such extra-family loyalities are created, they are generally directed toward other individuals who are perceived in familial terms of respect, i.e., grandfather, elder brother, younger brother, etc., rather than to organization or ideology per se.

Political alignments and political participation of Vietnamese will often reflect family decisions and family needs. This accounts for a high degree of nepotism manifest throughout the society. Such family ties often transcend the ideological divisions that are part of the civil strife rending Vietnam today. Members of the same family can often be found on both sides of the nationalist-Communist spilt in Vietnam and there is considerable communication between families so divided. This is less true for the Northerners who come South (communication with people in the Communist Democratic Republic of Vietnam is highly controlled), than is the case for Central and Southern Vietnamese who are separated by the fluid lines that are characteristic of the demarcation between GVN and NLF controlled territory.

Family decisions will often be a kind of indicator as to the course of the war and degree of commitment to either the GVN or the NLF or neither. Thus families living in GVN territory may affect the return of soldiers in the VC ranks if they develop strong views about the justness of the GVN struggle and its capacity to win the war. Family concerns may well account for some of the high desertion rates of young men drafted into ARVN, etc. Responses to political organization and political loyalties will also be affected by the fortunes of individuals within the particular family group as they react to opportunities and events in the churnings of the war.

Corruption

Patterns of existent political alignments are greatly affected by corruption because of its endemic character in GVN and RVNAF functioning. Even though it is difficult to document and uproot through legal proceedings, its existence is widely known and does influence the whole context of the war situation in Vietnam.

The principal effect of corruption has to do with Vietnamese concept of the *Just Cause* wherein righteous behavior on the part of individuals either validates or discredits the government or political movement they serve. It is a prime objective of the NLF to depict the GVN and the RVNAF as corrupt and venal. Unfortunately, too many of the GVN's leadership—military and civilian—validate that image by their behavior and thereby undermine their own authority in a society where Confucian values of rectitude have considerable meaning for the people.

The perception the Prime Minister Tran van Huong is an honest man and that he is trying to uproot corruption is a factor offsetting some of the negative aspects of the GVN image. The administrative weakness and lack of adequate personnel for the inspectorate headed by Mai Tho Truyen, a respected Southern lay Buddhist political figure, limits his ability to deal more effectively with corruption.

The magnitude of the problem can be seen in part in the widespread acceptance of the view by Vietnamese that the Education Minister was killed recently because he was too vigorous in his effort to eliminate corruption within his ministry, one of the most sensitive because of the importance that education plays in Vietnamese life. This dampens the enthusiasm for other GVN officials to be too active in this regard.

Differential punishment for corrupt activities is also a negative factor in GVN reform and broadening of its appeal. Shooting a Chinese—with its negative political consequences in the Chinese community—or severely punishing low-ranking soldiers is a subject for much cynicism and discredit of the GVN in Vietnamese political circles when there are Corps Commanders or high ranking Generals who are notoriously corrupt and go unpunished. Indeed the endemic system of corruption that has not proved too amenable to correction to date in the RVNAF remains a serious political disability.

Corruption is an important source of revenue with which to build political organization in Vietnam. In the absence of wealthy patrons or businessmen who can provide donations from business income, political organizations and political leaders are hard put to finance their activities from lack of an adequate financial base provided by adherents. Engaging in corrupt and illicit dealings for the benefit of one's political organization and not personal gain has a certain legitimacy.

The high input of American aid and the disorganization inherent in a country at war provide many opportunities for corrupt practices. These activities do influence in turn the political arrangements in Vietnam. Moreover, it is natural that many Vietnamese will hold the United States responsible for not controlling its aid so that corruption will not flourish.

OFFICER'S CLASS

The most significant feature of the RVNAF is the relative homogeneity of its officer class drawn almost exclusively from those with at least a high school diploma. Without a high school diploma entrance to officer candidate status is limited to recommended non-coms. Only 7% of all RVNAF officers have received commissions from the ranks and this proportion actually declines to only 4.8% in the 1967–1968 class of officer candidates. Without a high school diploma, officers cannot be promoted beyond the rank of captain.

Since high school education is primarily available to the city-bred and wealthier classes, the officer class in Vietnam is hardly attuned to the life style of the rural conscripts and ordinary soldiers of the RVNAF. Indeed, this has led many observers to comment unfavorably on the "mandarin" character of RVNAF officers.

This acceptance of a "mandarin style" and inadequate other motivation produced many officers who were more interested in the prerequisites and privileges of rank than in effective military leadership. This gap between officers and soldiers has resulted to a degree in poor combat efficiency. Similarly, the lack of empathy shown by the officer ranks to the rural population has resulted to some extent in the perception by the peasantry that the RVNAF is not "our army" because of its poor discipline and behavior. Correspondingly, the armed forces of the NLF are often perceived more favorably since their leadership has more officers of peasant origin and its soldiers are made more conscious of and disciplined to the rural population's needs.

Although some improvement has been made in recruiting non-coms for officer ranks in recent years, it is clear that the numbers will have to be greatly augmented if RVNAF needs for officers are to be met.

This relative homogeneity of the officer class also has seen the RVNAF quite resistant to integrating into its ranks soldiers and officers of the Hoa Hao, Cao Dai and Highlanders. This clear discrimination inhibits the ability of the GVN to overcome the "autonomous" drive of these communities and develop a "national" outlook in its political leadership. The GVN has dealt with the problem in the past by attempted suppression of dissident armed forces and then integrating some into the RVNAF. In time even these officers were eliminated from the RVNAF. Cao Dai and Hoa Hao officers do not play any important role in the RVNAF today. The Highlanders have gone through the ritual of revolt and return several times. Most recently FULRO has again been "dissolved" with the promise of integration of its armed forces still to be realized.

There is considerable factionalism within the officer class that reflects and shapes the divisions inherent in all GVN political life. In fact, it is the emergence of the military as a powerful force in Vietnamese political life that has realigned existing political groups and created new patterns of political organization. The conflict between the military officers supporting President Nguyen van Thieu and the Vice President Nguyen Cao Ky still plagues the RVNAF and realigns political groups in the GVN.

In general, it seems clear that the position of President Thieu has been strengthened and that of Vice President Ky has been weakened considerably. A shift in power has taken place that permeates the entire structure of the officer class and is reflected in the GVN political and administrative structure wherever the military plays a role. What sometimes goes under the rubric of replacement for efficiency and competency is a thinly disguised factional consolidation of political forces willing to accept President Thieu's leadership for the present. That politics still predominates over professionalism is still the guiding rule in RVNAF. Thus, political tensions between Northerners and Southerners for command will still affect the RVNAF as will the conflict between a large number of low ranking combat officers and the basically French-trained high ranking officers who have achieved their positions due to politics rather than performance in the field.

The recruitment of officers drawn from the same class strata represented by the GVN officials has also contributed greatly to the elite character of political parties and the failure of any of the pro-GVN parties to achieve a mass base in Vietnamese society.

The RVNAF officer class can be and is subject to a considerable degree of influence by the United States intervention in Vietnam. The process by which acceptance of professional standards becomes the mode of operation of the RVNAF has been greatly enhanced by the behavior and presence of our large military forces. The RVNAF is particularly dependent upon the United States presence and support. This influence accounts in part for discernible improvements in RVNAF performance and has had a corresponding impact of a basic character in shaping the long-term evolution of Vietnamese politics.

SECRET ORGANIZATIONS AND PARTIES

The full extent of war weariness and the desire for peace is not known in any exact manner for the people of South Vietnam. Indications are that such feelings are widespread and deeply desired by a significant number of the population. This was manifest in the Presidential election of 1967 when despite the desire of the ruling governmental elite, the peace issue surfaced as a principal point for discussion in the campaign. The relative success of Truong Dinh Dzu in garnering some 17% of the vote attested to considerable organizational activity in his behalf throughout GVN areas of control. The role of the Tan Dai Viet and some Cao Dai elements in this organizational effort has not been adequately analyzed.

The participation of the GVN in the Paris Peace Negotiations has opened the door for further discussion of alternatives to continuing the war. The GVN's difficulties, despite overall success in managing the transition to open consideration of what were forbidden topics of conversation, and its current irritation with the "peace campaign" of the An Quang Buddhists, student and youth groups, and some trade-unionists, indicates how explosive an issue is involved. The militant Buddhists decision to exploit this issue is apparently a consequence of their belief that they can achieve significant political mileage in this regard. It would not be surprising that considerable clandestine organizational activities around this issue and corresponding change takes place in patterns of existent political alignments.

It is at this level that the NLF can be expected to develop their own contacts and new organizations. The situation is roughly parallel to the condition that existed in the course of the "struggle movement" of the Buddhists in 1966 which lent itself to some Communist infiltration and exploitation.

Efforts to reform and broaden the GVN and develop the new constitutional structure are the only ways to get at the problem posed by secret organizations and parties. When leadership and acceptance of political views are made part of an open political process, the need for and efficacy of classification of clandestine organization diminishes.

Because of the covert nature of such political activity, there is little that the United States knows or can do directly about this matter. Rooting out the NLF "infrastructure" is difficult enough without further complicating our intervention in Vietnamese political life by efforts in this area. Indirectly, we have influenced this area by our efforts to help create representative government in Vietnam and thereby contributed to an open political process.

RELIGIOUS AND REGIONAL BACKGROUND

The patterns of existent political alignments within GVN/RVNAF and outside it reflecting religious and regional background as these bear upon the situation in Vietnam are as follows:

CATHOLICS

The Catholics of South Vietnam remain one of the most intransigent groupings committed to victory in the war against the Viet Cong. For the Northern Catholics who fled to South Vietnam in the 1954 period, there is no disposition on religious and political grounds to come to terms with what they regard as their implacable enemies.

This view is shared for the most part by the Southern Catholic leadership except insofar as it is partially responsive to Papal enjoinders for peace in Vietnam and some greater willingness out of regional experience and shared feelings with other Southerners to seek some solution to the war short of total extermination of the Viet Cong cadres.

There are some miniscule Catholic groups of intellectuals and students who are advocates of a peace program but their influence is quite limited. The bulk of the Catholic population is quite resistant to any soft appeals in regard to the ending of the war and considerable numbers have been mobilized in the past by Catholic leaders against the GVN when it was deemed necessary to offset weakness in prosecuting the war because of the alleged soft nature of the then GVN leadership.

Catholics are the best organized of all political groups in Vietnam and are over-represented in the GVN and RVNAF at all levels. Not only did they benefit during the regime of President Diem but their adoption of Christianity has opened them up to "modernizing tendencies" and Western education to a far greater extent than most in the more traditional Vietnamese society.

In the recent period, increasingly conscious of their need to survive possible US withdrawal and some form of political accommodation with the NLF, Senate Catholics have sought to create a broader base for their political views by seeking to build legislative blocs in both the Upper and Lower Houses and extending such political activities beyond the legislature to the population generally by way of participating in the creation of nation-wide "Fronts."

Generally, the Catholic political leadership is most sensitive to and responsive to US influence and intervention. They have benefited, most from exchange programs in education, from working with Americans in Vietnam, and are most perceptive of the role that the United States has played in maintaining South Vietnam as a non-Communist state.

BUDDHISTS

As far as their behavior with respect to the war is concerned, the Buddhist political groups are quite split. Regional factors play an important role in influencing the divisions among the Buddhist leadership. There is a further split between the clergy and lay leadership. The lay politicians generally are more inclined to support military activity directed against the Viet Cong. The Northern Buddhists in the Thich Tam Chau tendency are likewise less inclined toward "peace activity." The Central and some Southern clerics of the militant An Quang tendency have been principally concerned with exploiting a cease-fire and peace program. A large part of the Southern wing of the Buddhist clergy confines itself to religious activities and is not overtly political with respect to the war issue.

It is among the rural Buddhist masses that the Viet Cong has its principal strength. The NLF has also seen the Buddhist leaders as competitors who can affect their own base and has placed great stress on infiltrating Buddhist political organization.

Politically, the Buddhists have experienced great fluctuation in strength as far as the GVN/RVNAF is concerned. Their high points were their role in the events that resulted in the overthrow of the Diem government and the militant Buddhist alliance with General Nguyen Chanh Thi in the struggle movement of 1966 *and its impact on constitutional development.*

Buddhist leaders have always sought to influence the patterns of political alignments within the GVN/RVNAF and have moved from participation to opposition depending upon the benefits and interests to be served thereby. They share with the Catholics great sensitivity and responsiveness to United States influence and intervention which they regard as necessary to their survival and for some an obstacle to their political supremacy in Vietnam.

HOA HAO

The Hoa Hao religionists are quite split at the leadership level though recent efforts to provide a facade of unity and a unified religious organization have met with some degree of success. Apart from a small armed band believed to still function as an adjunct to the Viet Cong in the struggle against the GVN, the Hoa Hao are dedicated anti-Communists because of their past experiences and treatment at the hands of the Communists.

Whatever their degree of participation in the GVN structure at various levels, the Hoa Hao are fundamentally a state-within-a-state as yet in South Vietnam. Their accommodation to the GVN is considerable because of the desire to survive and continue to proselytize under the most favorable auspices, and it has proved profitable in terms of subsidies and political pay-offs. The GVN has equally made considerable adjustments to the Hoa Hao—as distinct from the relationship during the Diem period—but there is great sensitivity of the particularity of the Hoa Hao structured communities in South Vietnam and their autonomous character vis-a-vis a "national" concept. This often leads to contradictory GVN policies, i.e., the drive to accommodate vs. the drive to establish direct control.

There is some ambiguity about local accommodation by the Hoa Hao with the Viet Cong since some of the Hoa Hao areas are the most peaceful in South Vietnam. The Viet Cong forces avoid attacking these areas but some of the VC supply routes are known to go through these same areas.

The Hoa Hao leadership groups are aware that the United States plays a decisive role in Vietnamese affairs but some of them feel neglected in terms of their own efforts to build up their religion's influence and in benefits received for Hoa Hao areas from the American presence.

THE CAO-DAI

The Cao Dai religionists are—similar to all Vietnamese groupings—also split at the leadership level and have a range of response toward the war which includes some collaboration with the Viet Cong.

Basically, they are predominantly anti-Communist in orientation. Here again—like the Hoa Hao—the peasant Cao Dai communities collectively constitute what is more like a state-within-a-state than adherence to the concept of citizenship within the GVN framework.

REGIONAL BACKGROUND

Regionalism is still an important political factor in Vietnamese political life. As far as the war is concerned, the Northerners remain the most intransigent in their desire for military victory. The Central Vietnamese who have borne the brunt of the war and experienced the greatest dislocation and suffering are probably the most "war-weary" and desirous of peaceful settlement. Nonetheless, political leadership groups that are most virulently anti-Communist have considerable support in Central Vietnam, and a desire for peace should not be confused with a willingness to compromise with the Communists.

The Southerners are the most ambiguous in their political responses to the war and the problem posed by the NLF. While most all leadership groups wish to maintain South Vietnam as a non-Communist state and limit NLF influence, the greatest "accommodation" has taken place with the NLF in many delta areas. In part, Southern dissatisfaction with Northern influence in the GVN/RVNAF has tempered their militancy against the NLF by focussing attention on the internal politics of the GVN. This regionalism is a great contributor to disruptive tension in the GVN, and expresses itself in the desire for greater Southern influence throughout the GVN political and administrative structure.

Awareness of the importance of the US role is high among Southern elite leadership, but it is tempered in part by some hostility engendered by what is perceived as US collaboration with and dependence upon Northern and Central dominated GVN leadership. This has been attenuated in part by the Prime Minister being a Southerner.

Question 23: What is the evidence on the prospects—and on what changes in conditions and US policies would increase or decrease them—for changes in the Government of Vietnam toward: (a) broadening of the government to include participation of all significant noncommunist regional and religious groupings (at province and district levels, and well as cabinet); (b) stronger emphasis, in selection and promotion of officers and officials, on competence and performance (as in the communist Vietnamese system) as distinct from considerations of family, corruption, and social (e.g., educational) background; and (c) political mobilization of noncommunist sympathies and energies in support of the GVN, as evidenced, e.g., by reduced desertion, by willing alignment of religious, provincial, and other leaders with the GVN, by wide cooperation with anticorruption and pro-efficiency drives.

The views of the JCS, CINCPAC and MACV are: There is a gradual expansion of the political arena to include additional elements and to give more power to legitimately elected representatives of the people. Further steps are contemplated and it can be anticipated that this gradual process will continue. The removal of incompetent officials in favor of specially trained and selected replacements occurred during 1968 in a substantial number of cases and testifies to a stronger emphasis on competence and performance. Experience in 1968 also highlighted the feasibility of combining legal pressure and political incentive to encourage political mobilization. However, in all areas, continued US assistance and pressure are required.

BROADENING OF THE GOVERNMENT

On occasion, President Thieu makes a verbal slip by referring to some government institution by its name during the Diem period. He has been quoted as to his belief that Diem ran an efficient administration. However, President Thieu has also given indications of his resolution to avoid the political Achilles heel of the Diem regime, its refusal to share power, and develop a political base. Thus, he has been meticulous in giving the Prime Minister an important role, and the Prime Minister and the government have been substantially responsive to National Assembly interrogations and opinion. The National Assembly plays a substantial part in political review of the government's actions, even though it does not yet fully share in the decision stage. The government's authorization of processions and meetings by a variety of political and religious groupings fits into this gradual process of accepting the function of other centers of political power. This has not included, of course, elements about whose reliability with respect to communism or neutralism the government held any doubts, such as Truong Dinh Dzu.

In June 1968, the government postponed elections to province councils, with US concurrence at the time, but has lately directed holding of village council elections in all villages wherein appointed councils exist. It has also moved substantially to increase the authority of the village chief and council, and at least one senior minister is actively contemplating a move toward election of certain province chiefs. In summary, there is a gradual expansion of the political arena to include additional elements and to give more power to legitimately elected representatives of the people. Further steps are contemplated and it can be anticipated that this gradual process will continue as the government gains confidence in itself and in the dictates of its constitution. A primary factor in this is, of course, the delicate balance between enough US support to avoid collapse and a shortage to stimulate Vietnamese action to handle problems alone.

STRONGER EMPHASIS ON COMPETENCE AND PERFORMANCE

As with so many other questions, the pace at which this occurs is breathtaking in the eye of one beholder, snail-like in the eye of another. The facts are about 25 province chiefs and 162 district chiefs were changed during 1968, the majority because of malfeasance or inefficiency. Their replacements were the product of a special course of officers chosen for these jobs and given a choice of assignment according to their standing in the course. There is, at the same time, at least some live-and-let-live tendency among the members of the establishment. There are also political factors requiring something less than a vigorous application of objective standards of performance, as in the case of the three unsatisfactory Chieu Hoi Service Chiefs in three Hoa Hao-dominated provinces, who were each rotated to an adjacent province, so that the three individuals remained in equal jobs, the Hao Hao balance was undisturbed, and yet a step was taken to demonstrate a refusal to accept their inefficiency of the job they had done. With respect to military officers, the failure to meet the quotas of promotion for 1968 reflects the severity of the promotion process, with its emphasis on review panels and all the paraphernalia of modern personnel management. Recent graduates of the National Institute of Administration have been assigned to rural areas to exploit their expertise and reports of their performance speak of satisfaction with their selection and training. While some of these actions are, in fact, substantial, the critical importance of leadership to a successful outcome of the struggle in Vietnam requires the closest US attention to this matter and vigorous projection of detailed American comments on Vietnamese officials to those levels capable of taking corrective action. This form of case-by-case removal of incompetents and trial of new candidates is most apt to accelerate the process of replacement of inadequate officials by those of greater capability.

Although the goal of objective promotion and retention of RVNAF personnel has not been achieved fully, promotion procedures have been developed which apply to all RVNAF personnel and are designed to improve objectivity in the promotion system as well as enhance the quality of leadership through recognition of qualified and deserving persons. Specific features of the system are:

* * * * *

b. Establishment of selected criteria for annual promotions based on efficiency reports, time in grade, positions held, military schools attended, awards, time in combat, civilian education, and punishments (negative factor).

c. Provision for special promotions which can be awarded for battlefield performance and for individuals serving in positions for which higher grades are authorized.

MACV continues to emphasize to the Vietnamese Joint General Staff the necessity for achieving a professionally competent officer corps. Military effectiveness can be enhanced greatly by strenuously enforcing the improved promotion system now available.

POLITICAL MOBILIZATION

The experience of political mobilization during 1968 points out the feasibility and the technique of combining legal pressure and political incentive to secure such mobilization. The general mobilization law provided the spur to bring a substantial increase of recruitments into the Armed Forces and, combined with a vigorous expansion of the people's self-defense program, has engaged a substantial bloc of over 1,000,000 citizens in the national effort. There is, of course, no question but that the shock of the Tet offensive was contributory, as well as the clear indication that the Americans would not bear the burden of Vietnam indefinitely. During the coming year, all these pressures can and should be maintained. Legal pressure on all to participate in an effective desertion reduction program (including a central fingerprint file of all citizens), a clear indication of government desire for participation with the citizenry in the national effort rather than regimentation, and a continued pressure from the United States on public and official Vietnamese to assume a greater portion of the burden of effort, scheduling of village elections, granting power to village authorities over local forces, and the possible election of provincial councils and even some provincial chiefs should continue the spirit of mobilization launched during 1968.

OSD Views are as follows:

BROADENING OF THE GOVERNMENT

In considering the prospects for changes in the GVN and American leverage thereon it would be well to consider the proposition that the record of American experience in Viet Nam is one that indicates a signal failure to direct the evolution of Vietnamese political life into desired channels. It is only at the nether limits, i.e. getting rid of President Ngo Dinh Diem or, since 31 March 1968, raising serious doubts about American willingness to continue the war, that sufficient leverage has apparently been exerted to markedly influence but not direct the course of political events internally.

Baldly stated, it is more accurate to see the evolution of political life in South Viet Nam as reacting to Vietnamese imperatives, in response to which the United States has had to adjust its policy because its policymakers only saw dimly the internal political dynamics of Vietnam. The instability characteristic of Vietnamese life, from the fall of Diem through to the election process that installed General Nguyen van Thieu as President of the GVN, was not foreseen, planned or directed in any meaningful sense by the United States although we unwittingly contributed to it on numerous occasions. Our role has been to try and stabilize and support whomever emerged as the power holders of the day which was a Vietnamese decision not our own.

Indeed, the record shows that the consolidation of the Nguyen van Thieu presidency is itself not primarily due to any American effort but rather his perception of the Vietnamese political process in terms of political strategy and timing of actions to be taken. To be sure we have influenced events considerably because the GVN has had to be mindful of some of our wishes but the number of frustrated American advisors who functioned at every level in Vietnam is legion and speaks eloquently to the weight of American opinion in shaping events in Vietnam.

The general rule that obtains with respect to US policies is that by withholding or allocating resources broad shifts can be caused in Vietnamese political alignments but that lesser Vietnamese policy changes can be effected only where the advice "fits" the requirements of the Vietnamese political process and strengthens the hand of the powerholders as they perceive their situation and can carry their constituencies.

The principal tendency in recent Vietnamese politics has been the emergence of and increasingly dominant position of President Nguyen van Thieu as the national leader of the GVN. The strong control position of the President in institutional terms as provided by the new constitutional structure and the legitimacy provided by an election process has afforded President Thieu, starting with his base in the military, the opportunity to consolidate his power and reduce the influence of his chief rival Vice President Nguyen caoKy and the generals who oppose him. President Thieu has found it expedient to fashion a political bloc of civilian support of Southerners and Catholics under the leadership of a Presidential rival Tran van Huong as Prime Minister. He has skillfully permitted the Legislative (Upper and Lower Houses) to play a significant role in the formulation of GVN policies and has created the broadest coalition of rule in South Vietnam's checkered existence as a sovereign state.

* * * * *

Thus the prospects for broadening of the government to include participation of all significant non-communist regional and religious groupings (at province and district levels, as well as cabinet) is thereby enhanced.

Offsetting this prospect for broadening change is the postponement of the provincial elections and some of the responses of cabinet members to the holding of village elections. The desire for administrative management of elections to assure their outcome and the unwillingness of GVN administration to share power with elected officials are stubborn realities that stand in the way of the broadening process. In this instance, sympathetic U.S. advice and pressure may induce President Thieu and Prime Minister Huong to intervene and push the election process along.

There may also be prospects for broadening change through providing participation for some of the political groups not currently represented at the cabinet level. It is still primarily a cabinet of technicians and could well be changed to incorporate some prominent political figures who might contribute to GVN's prestige.

United States pressure in this regard might be effective if President Thieu could be convinced that such action might not only improve the GVN image abroad in the course of the Paris negotiations but that American public opinion would be more willing to continue the sacrifices demanded by the war in Vietnam if such were the case.

At province or district levels it is more a matter of providing competent administrators (with the emphasis on appointing qualified civilians and releasing RVNAF officers to military assignments) that will have the greatest impact. The shortage of officers in an expanded RVNAF responding to US withdrawal can serve as inducement for this change. In the absence of elections, some form of appointment to advisory councils that involve local and religious leaders at province or district level might prove useful. Perhaps some means of involving defeated local candidates for the Senate and Lower House in the governmental structure might prove advantageous to broadening GVN at Province and District levels. Some US funding of such arrangements might be a statutory step to bring this about.

SELECTION AND PROMOTION OF OFFICERS AND OFFICIALS

There is some slight indication that the GVN is prepared to rely on competence and performance as criteria for selection and promotion. Evidence usually cited is that about 25 province chiefs and 162 district chiefs were changed during 1968, the majority because of malfeasance or inefficiency, and their replacements came from among specially trained officers.

It is more likely that the initial choice of these officers to be trained was itself a product of the established system in Vietnam. Certainly these officers for the most part did have educational backgrounds that made them acceptable. Moreover, they were probably chosen within the requirement of a highly personalized system of providing personnel where considerations of family also played a role. What is more important is that political considerations emanating from the office of the Presidency undoubtedly had a good deal to do with the relief of many of the incumbents rather than the criteria of competence and performance.

The foregoing is not designed to argue that we are dealing with an intractable situation. Indeed, within the Vietnamese system one can bolster such efforts toward performance criteria by reference to Confucian standards of conduct and ability. President Thieu can agree to accept the principle of adequate training and competence as criteria for assignment of officers. It is more likely that this process will be resorted to when he can be sure that such officers are both competent and loyal to the GVN under his leadership.

Perhaps the best leverage exerted by the U.S. in this regard, apart from material aid extended in helping set up training facilities, is the quality of our own advisers at the provincial and district levels. A shakedown of our own staffs, the replacement of US officials who do not contribute positively to the American effort in Vietnam, and the maintenance of US performance standards through adequate selection and training would do much to ensure that our advice is taken.

POLITICAL MOBILIZATION DESERTIONS

It is admittedly difficult to assess the prospects for political mobilization of non-Communist sympathies in support of the GVN using desertion statistics as an indicator. Certainly the statistics for 1968 as compared with the previous year 1966 and 1967 are not promising since the desertion rate is quite high and shows an upward trend.

Data for 1966 shows a rise in gross desertion (net figures not available) commencing with February 1966, the beginning of the Buddhist struggle movement, and continues at high levels to May, when the struggle movement is crushed, declines during June, July and August and remains constant on the average from September 1966 (the first Constituent Assembly elections) through December 1967.

Net monthly figures for desertion were slightly down for the first three months of 1968 as compared with 1967. They then rose to a monthly average that is approximately double the monthly average net figure for 1967. The dip in the first quarter of 1968 seems to be accounted for by the amnesty measures for desertion following the Tet holidays and the subsequent rise can perhaps be accounted for by higher force levels due to general mobilization efforts that brought in larger numbers of volunteers and conscripts commencing March 1968 who were not as easily integrated into the RVNAF.

There is a marked increase in volunteers commencing with general mobilization in March 1968 to approximately double the monthly rate for 1967 through August 1968. The volunteer rate drops back to the monthly rate of 1966–1967 for September and October and then is halved for November and December 1968. Conscription monthly figures remain fairly constant during the same period from March to December 1968 at the higher levels due to the general mobilization effort. These changes may well be accounted for by exhaustion of the eligibles in the manpower pool.

However, a more speculative *political evaluation* of the foregoing could result in the judgment that desertions rose in April coincident with the partial bombing halt and move toward peace negotiations in Paris to their present higher rate. In addition, the political impact of the mobilization drive after Tet accounts for the six month period of high volunteering and falls to the lowest level in three years in November and December 1968 coincident with the full bombing halt and the move toward expanded peace negotiations.

Thus, the prospects of an end to the fighting may have some political influence on the stability of the RVNAF. Certainly, the experience in 1954 of large scale desertion coincident with the Geneva peace negotiations is a factor that President Thieu is cognizant of from personal experience. Further study of this matter of desertions and volunteering would seem warranted to make possible better evaluation of the impact of political events.

It is not clear what specific US policies could reduce the desertion rate. Contribution to overall material improvement of the status of RVNAF personnel undoubtedly would have some effect. Politically, the prospects of continued fighting and increased combat for RVNAF units replacing US forces could *increase* the desertion rate since the rate is currently higher for combat units. Education of RVNAF troops politically as to the struggle commensurate with the better indoctrination of the NLF would seem to be indicated.

WILLING ALIGNMENT WITH THE GVN

The prospects for changes in the GVN for *political* mobilization by willing alignment of religious, provincial and other leaders would seem to be somewhat mixed.

Ever since the shock of the 1968 Viet Cong Tet offensive produced a political reaction favoring the creation of new nationalist political organization to rally the people of South Vietnam, there has been a marked and growing realization by all political leaders in Vietnam that they are dangerously divided and weak.

This realization of the need for unity has been sharply underscored by the prospect that open political competition with the NLF may well be an outcome of the Paris negotiations. While in the past a considerable section of the elite has envisaged a military solution that would eliminate the insurgent forces and had counted on the new GVN constitutional provisions as measures to outlaw the Viet Cong as a political force, more and more of the political leaders have come to believe that they will have to accept the legality of the NLF as an openly functioning political force in South Vietnam.

In the past when confronted with political conditions of such a crisis nature, the standard political response of the badly split nationalist leadership elite has been to attempt consolidation within parties, create new parties, and also form some alliances between parties and fronts for unaffiliated individuals. On balance, the historical record would seem to indicate the Communists have been able to build and maintain such alliance organizations or Fronts because the steel structure of such organization was provided by the disciplined Communist Party organization. In contrast, the same process of factionalism which has marked all nationalist political parties has been extended to and led to the ineffectiveness and/or early demise of the non-communist alliances.

Since Tet 1968, there has been a flurry of such organizational efforts by the nationalist political elite. The information available to date is hardly promising as to the success of these new efforts. Not only is there personal conflict which threatens the viability of the new formations but the dearth of financial resources is a serious limiting factor for organizational efforts. Moreover, these new groupings have difficulty defining themselves vis-a-vis the GVN and in particular the Presidency which as the center of power is vital to their prospects both financially and organizationally. Considerable instability has characterized legislative attempts to create blocs in the Upper and Lower House as a base for national coalition effort.

Nonetheless, the existence of the election system and the Legislature does have its consequences for these efforts at political organization. The new law dealing with political parties will undoubtedly require some coalition and unity of existing organizations if they are to meet its requirements. Changes in the present plurality voting system to reduce the number of candidates and splintering currently operative may well be devised to meet the future challenge passed by possible NLF participation in elections.

It would appear that the United States has little to gain by participating directly in actions aimed at building new grass-roots political organization or fronts in Vietnam. US muddling, covertly or overtly, in Vietnamese affairs at this level would embroil us in the very clique and personality struggles that are the bane of Vietnamese politicals.

* * * * *

In Vietnam it is central to the process of political mobilization that the strengthening of the GVN's institutional structure in all its ramifications, the Presidency, cabinet, legislature, administration and recently organized judiciary be continued. Parallel to this effort is the continued improvement of the RVNAF as the military arm of the GVN. The more this governmental structure and its army appears to be *the* alternative to the NFL and its armed forces as the holders of the "just cause" mandate then the greater will be the willingness of the non-Communist elite to rally to it.

Alignment with the GVN of existing grass root religious organization such as the Hoa Hao, Cao Dai, Catholics, Buddhists and Highlanders *can best be facilitated by attention to their social and economic needs by the GVN* while leaving them considerable leeway to develop politically.

A change in the policy of the GVN leadership toward the handling of militant Buddhists and others who favor peace programs and/or coalition with the NLF, by reinstitution of repressive practices, can contribute to the instability and narrowing of the base of support for the GVN. There is some evidence of desire for tightening up in this regard. Such divisive policies by the GVN leadership can only help to increase the numbers of those who will seek to change the GVN by accommodating to NLF demands for coalition policies and reduce their willingness to ally with the GVN leadership.

ANTI-CORRUPTION AND PRO-EFFICIENCY DRIVES

The prospects for cooperation by the people of South Vietnam with the GVN in anti-corruption and pro-efficiency drives would seem to be good if the GVN sought their aid and created the necessary open climate. The major change required here is that the effort be undertaken by the top GVN leadership. The desire of the President and Prime Minister to be successful and survive has already seen them undertake a number of beneficial steps during the 1968 mobilization effort. The Vietnamese system, despite its grave shortcomings, is responsive to vigorous leadership.

United States advice and pressures to this end would be facilitated by a tightening of the standards of personal conduct by United States personnel in Vietnam, by streamlining and reducing American staffs in Vietnam and by continuing to take steps to get any U.S. civilians or military who contribute to wartime profiteering and corruption out of Vietnam.

US SUPPORT

Among the ways the United States might facilitate the movement toward broadening of the government, increasing competence and performance, and mobilizing non-communist sympathies and energies in support of the GVN would be to:

a. Increase the Vietnamese sense of their own worth and capability by reducing the total numbers of American advisors, both civil and military.

b. Assist the Vietnamese in perceiving the necessity to relate to the people and meet their felt needs. Thus, special advisors, chosen in consultation with the highest levels of Vietnamese leadership as to their needs and desires, could be assigned to work closely with some Vietnamese leaders to develop programs of political organization and action. For example, advisors could be assigned to some key senators and representatives and they could assist then in touring their provinces and establishing and maintaining their constituencies.

c. Reassure the Vietnamese oligarchy of continued US support while at the same time providing clear evidence that the US commitment is not "open ended". For example, continued high levels of economic assistance and the provision of specially selected close-in political advisors to the President and the Prime Minister could do much to reassure the key leadership and assist them in developing the political skills for open democratic political processes at the same time the level of US troop commitments and total numbers of US advisors are reduced.

d. Continue to provide, in every case, clear advanced warning to the GVN leadership of major US moves vis-a-vis the scaling down of US forces or negotiations with the DRV/NLF and ask for their advice and assistance.

e. Scale down the numbers and types of demands that we make upon the Vietnamese; we should constantly revaluate our requests of the Vietnamese in the light of feasibility and suitability to the Vietnamese milieu. For instance, asking the Vietnamese to "neutralize" a significant portion of the Viet Cong infrastructure in a one year period may be equivalent to asking ourselves to crack the Mafia in one year.

Question 24: How critical, in various views, is each of the changes in Question 23 to prospects of attaining—at current, reduced or increased levels of US military effort—either "victory" or a strong noncommunist political role after a compromise settlement of hostilities? What are views of the risks attendent to making these changes, or attempting them; and, to the extent that US influence is required, or US practical ability to move prudently and effectively in this direction? What is the evidence?

The views of the JCS, CINCPAC and MACV are:

The changes cited in Question 23 are important. However, they are only part of the total program needed to complete the constitutional structure, extend pacification throughout the national territory, and carry out a process of reconciliation. The GVN should take the initiative. The United States can contribute by supporting efforts, prodding them into decreased reliance on the United States, and by suspending assistance to recalcitrant elements.

GENERAL

The three changes cited in Question 23 would, of course, be desirable, but it would be unfortunate to focus solely on them. To develop sufficient GVN strength to carry it to "victory," or to insure continued freedom for noncommunist Vietnamese after a settlement, a many pronged foundation, not a few glittering pillars is necessary. Thus, these three programs cannot be considered in isolation, but they should play their appropriate role in an overall strategy. Such an overall strategy for Vietnam could consist of a program of centripetal reconciliation and accommodation from the local level toward the national center. The GVN should take the initiative in the process, dealing from the position of strength it has achieved as a result of the military, pacification and political successes of the past year and those which can be reasonably anticipated from a steady projection of these programs into the next.

Such a program would be designed to expand the GVN's electoral base, at the local as well as national level. The Ministry of Interior has already decreed that village and hamlet elections will be held in all villages which now have appointed committees. These steps can be supplemented by holding the provincial council elections postponed from June 1968. Certain areas even offer the degree of security which would warrant the election of the province chief.

Real power over security, administration, and economic assistance is being given these elected officials and councils, and budgets and similar critical local decisions should be subjected to council vote as well as or in place of higher administrative approval. Thus, the process of decentralizing authority to the local level, and replacing the narrow elite as the power base by the broad mass of the rural and urban electorate can be initiated and even completed within a reasonable time span.

ATTENDANT RISK

An overall program such as this would obviously include steps toward broadening the Government and political mobilization by incorporation of all elements of the political spectrum. However, this would take place through the electoral process, not by appointment or coalition of self-appointed political forces. The electoral process would not necessarily develop greater competence and performance among elected officials, but it would name those giving greater satisfaction to the voters, a factor of perhaps greater importance. Upgrading could be expected through the process of political selection.

Such a program would include a number of other actions of equal importance to the three noted in question 23, such as providing forums for the growth of nongovernmental groupings, increasing the authority of elected representatives at the national level, providing an atmosphere of security against subversion or paramilitary violence to permit the electoral process to function, and invitation to Vietnamese currently engaged in violent attempts to seize power to participate in the electoral contest. The mere statement of the program outlines the difficulties and risks involved, and it is clear that elements of the establishment and even of the population might be reluctant to see such a trend. At the same time, the steps already undertaken and the provisions of the constitution itself point the direction of the program.

US ACTION

The United States can contribute substantially to such a development by encouraging and supporting the GVN as it moves in these directions, at the same time prodding the GVN by both word and deed to get on with the job and not perpetually rely on the United States. US support could become a critical factor in the face of a flat recalcitrance by some elements of Vietnamese society to go along. In such a case the United States could suspend its assistance to that group and its supporters, e.g., a military element considering a coup d'etat.

Thus, the steps in Question 23 are important, and can be pressed by the United States, but they are only part of the total program needed to complete the constitutional structure, extend pacification throughout the national territory, and carry out the process of reconciling Vietnamese now pursuing the path of violence, to contend instead in peaceful political courts. The United States can assist such a program, and must, if it is to achieve the reduction of internal violence which can permit it honorably to consider its task accomplished in Vietnam.

Additionally, the JCS points out the following requirements:

The Joint Chiefs of Staff consider that the essential conditions for a cessation of hostilities include an effective cease fire, verified withdrawal to North Vietnam of all North Vietnamese personnel (including those in Laos and Cambodia), verified cessation of infiltration, substantial reduction in terrorism, repatriation of US prisoners, agreement to reestablish the demilitarized zone with adequate safeguards, no prohibition against US assistance to insure that; the RVNAF is capable of coping with the residual security threat, and preservation of the sovereignty of the GVN.

It may not be possible for negotiations to achieve agreement in full on all of the essential conditions. However, the degree to which the essential conditions can be achieved as a result of negotiations is crucial to the determination of whether "victory" has been achieved or a strong noncommunist political role assured. The degree of achievement of the above conditions will determine the post hostilities security threat in South Vietnam and the capability of the RVNAF to cope with the threat.

Achievement of the essential conditions for cessation of hostilities is contingent upon continuation of the US effort and improvement of the RVNAF. It is inconceivable that the essential conditions could be realized as a result of an early unilateral reduction of US military effort. Contemplation of such a possibility is not in consonance with our experience in dealing with the communists and ignores the basic causes of the conflict as well as the recognized communist objectives.

Two considerations loom large in any assessment of the leverage which the United States should exert on the GVN for changes in the political processes. First is the need to allay South Vietnamese fears that the United States might either desert the GVN or impose a settlement which could lead to a communist takeover. Secondly, the GVN must be allowed to establish its competence and independence as a sovereign government so that it can earn the support of the South Vietnamese people and provide confident, effective government. Untactful or excessive US leverage could produce instabilities contributing to political disintegration. The nature and level of pressure which the United States can effectively apply to encourage GVN political improvements can best be evaluated by the US mission in Saigon.

With regard to essential conditions for cessation of hostilities, OSD has the following views:

There is a need within the US Government for agreement on the essential conditions for a cessation of hostilities. Interagency efforts (in the context of preparing for the Paris talks) to achieve such agreement are in progress. Planning for the implementation of post hostilities programs at this time, however, need not necessarily be identical to the US negotiating position in Paris. Implementation of post hostilities actions may begin independent of or in phase with the Paris talks rather than directly tied to these talks. Therefore, planning for these actions should be viewed as a step toward ascertaining general minimum conditions for post hostilities. The following is a suggestive list of criteria:

a. Restoration of the Demilitarized Zone defined in terms of the 1954 Geneva Accords, that is, a buffer zone observed and acknowledged by both sides which is free of all military forces. Further, the DMZ would separate the two zones of North and South Vietnam pending a peace settlement and would have the same exact area as the DMZ set up by the 1954 Geneva Conference. Additionally, all acts of force would be prescribed within the DMZ and an effective inspection system instituted.

b. Mutual withdrawal of forces in accordance with the Manila Communique and as security conditions permit. The required security conditions are: (1) Respect for the DMZ; (2) No attacks on the major cities; (3) No infiltration to replace troops withdrawn; (4) No attacks on units which have been designated by either side to the other for withdrawal and which are in the process of withdrawal.

c. Withdrawals include: (1) All North Vietnamese forces whether or not they are fighting in North Vietnam's units to include regroupees; and (2) The withdrawal of North Vietnamese troops in Laos and Cambodia.

d. An agreement on inspection and verification machinery which might take the form of an international commission or a joint belligerents' commission or both. However, realizing inspection and verification in Southeast Asia has never been a workable proposition except with the full cooperation of all parties concerned, we would be prepared to rely upon our unilateral means of surveillance

e. Release of all US/FW personnel held by the NVN/NLF.

Additionally, other conditions considered necessary but not subject to formal agreement are:

a. External security guarantees on a multilateral basis, or failing these, some declaration of future support for South Vietnam in the event of future breach, signed by ourselves and friendly nations (like the Korea 16-nation declaration).

b. Conditions in South Vietnam that will give an opportunity for free choice of political system and leadership under constitutional processes and without external interference.

Further OSD views re the issues raised are:

Question 24 raises issues that go to the heart of the problem posed by the intertwining of the political and military that characterizes "wars of national liberation." "Victory" in such a war has a dual meaning.

"Victory" in the military sense would be the reduction of the military capabilities of the Viet Cong to the level where it could be dealt with throughout South Vietnam as normal police operations against criminal disturbers of the peace.

The question is fundamentally ambiguous in respect to the military aspect of "victory" insofar as it seeks evaluation of prospects for "victory". . . . at current, reduced or increased levels of U.S. military effort. . . . or after a compromise settlement of hostilities." Presumably "a compromise settlement of hostilities" would preclude use of the word "victory" by definition and more over by its nature as a compromise would require appreciably reducing the level of the U.S. military effort since it is hard to envisage conditions requiring the maintenance of the current level or an increased level at that point in time.

A possible though unlikely "compromise

settlement of hostilities" might lead to mutual reduction in force levels of the United States and NVA troops in South Vietnam leaving the GVN to confront the NLF. In that case the prospects for military "victory" of the GVN leaves much to be desired since they would still have to successfully overcome an insurgent movement with armed forces of its own at a level of approximately 100,000 soldiers. Even the most optimistic would concede that will take some "doing" by the RVNAF and only after a considerable period in time, if at all, by a transformed RVNAF would the GVN be able to deal with the NLF at a police level. Thus military "victory" is not an issue under present circumstances.

In its political sense "victory" would require political submission of the NLF to the GVN to be dealt with as the GVN sees fit or at the least it would mean simply dissolving their infrastructure in the villages and leaving the political arena as an organized body. This outcome would appear unlikely at any level of U.S. military effort except one that would be increased to the point where military "victory" was possible and thus does not follow on a compromise settlement of hostilities. It would also seem unlikely that the U.S. would seek this outcome by abandoning the effort for a compromise settlement given the costs of further escalation.

Therefore, the changes envisaged in question 23 are primarily continuing efforts to improve the GVN's prospects as an alternative political system now to that of the National Liberation Front. Thus, when the political and not a military confrontation takes place after the compromise settlement of hostilities, the GVN would be able to play a strong or stronger non-Communist role depending on its progress in the course of the negotiating period.

From the vantage point of the political, the changes indicated above would seem to be necessary for the viability of the GVN in any case. If the GVN does not improve as an effective non-Communist political system even its military effort is bound to suffer as it has in the past. Americanization of the war in Vietnam was made necessary because of near-collapse of the GVN in February 1965. The U.S. military effort has provided the shield behind which the reconstruction of the GVN has taken place. De-Americanization of the war has to go hand-in-hand with the GVN takeover of its responsibilities if it is to survive in its own right and not be perpetually dependent on the United States military presence.

Question 25: How do military deployment and tactics today differ from those of 6–12 months ago? What are the reasons for the changes, and what has this impact been?

In early 1968, deployments were made in reaction to enemy actions. Later in the year, as a result of having nearly all Deployment Program 6 forces in South Vietnam (SVN) and of seizing the initiative, US forces were deployed in accordance with land area priorities and now are in a position to counter likely enemy threats with a minimum of changes. In addition, a number of developments in 1968 have had, and are continuing to have, a direct effect on tactical operations. They are: adoption of a "one war" concept with all assets brought together in a single effort; provision for major military support of pacification; increased waterway interdiction operations by the Navy; employment of B–52s as a strategic reserve; application of a "single manager" concept for tactical and reconnaissance air operations; and shift in allocation of air resources to interdiction campaign in Laos when the halt in the bombing of North Vietnam (NVN) freed air assets.

In early 1968, deployments were in reaction to the enemy invasion across the demilitarized zone (DMZ) and through Laos which placed Khe Sanh under siege and threatened the coastal lowlands. In January and February, the 1st Cavalry Division from II Corps and two brigades of the 101st Airborne Division from III Corps were deployed to northern I Corps. These units were joined by the 3d Brigade, 82d Airborne Division, and Regimental Landing Team 27, 5th Marine Division, which were deployed from the Continental United States (CONUS). These additional units enabled allied forces to relieve the siege of Khe Sanh, force the enemy to withdraw from Hue, neutralize enemy strength in the A Sau Valley and Base Areas 101 and 114, and pursue the enemy into the western highlands.

SVN land area priorities, established in mid-year, have influenced subsequent deployments. These were: priority one, the western portion of III Corps (which includes Saigon) and the northern portion of IV Corps down to the mouth of the Mekong River (these areas were to be minimum risk, to be held as inviolate as possible); priority two, I Corps from the DMZ down to Quang Ngai; priority three, the highland areas of II Corps (this area was to be held by minimum forces backed by South Vietnamese Army and Republic of Korea divisions along the coast).

An additional factor influencing deployment was the availability of US forces. By mid-summer; practically all of the Deployment Program 6 forces were in SVN. With the arrival in-country of the complete asset for the Mobile Riverine Group (Task Force 117), two brigades of the 9th US Infantry Division were moved from III Corps and permanently stationed in the Delta. Operating on the rivers and canals, Republic of Vietnam Armed Forces (RVNAF) and US units have stepped up the pace of the war in IV Corps, especially against longheld enemy bastions.

By mid-October 1968, it became apparent that the enemy, reacting to allied pressure, had withdrawn virtually all of the North Vietnamese Army (NVA) units from northern I Corps into sanctuaries in Laos and NVN and that a reduced force could control the remaining enemy units and maintain offensive pressure south of the DMZ. At the same time, enemy forces were building up in III Corps astride the SVN-Cambodian border. Accordingly, on 28 October 1968, the 1st Cavalry Division began deployment to III Corps to screen the border provinces adjacent to Cambodia. The division was given the mission to interdict the movement of enemy personnel and supplies, locate the neutralize base areas and destroy caches, deny freedom of movement to reconnaissance elements, and preempt the enemy's offensive preparations.

On 1 December 1968, five US helicopter companies and two air cavalry troops were deployed to IV Corps to provide RVNAF and US forces in the Delta with the mobility and reconnaissance capabilities required for the operations that were planned for the dry season.

A major factor influencing deployments within the corps has been the degree of expansion and improved effectiveness of the Regional Forces (RF) and Popular Forces (PF). This has permitted some regular RVNAF and US units to be withdrawn from static security missions and resume offensive operations. The effectiveness of RF/PF has been enhanced by the deployment of US Mobile Advisory Teams to province and district level, providing better training and greater access to air and artillery support through US advisory channels.

US ground forces now are deployed throughout SVN to conduct offensive operations, to exploit enemy vulnerabilities, and to contain the enemy's offensive capabilities. US ground forces are not held in reserve because the superior tactical mobility of US forces permits any ground force out of contact to constitute the reserve. Two brigades in II Corps have been given a contingency mission and are prepared to move to either the I Corps or III Corps on a 36-hour notice.

Several factors have contributed to the change in the pattern of air operations during 1968. These include: additional deployments of aircraft; cessation of bombing north of 19 degrees; greater flexibility in the shifting of resources between in-and-out-country operations; greater availability of B–52 resources for interdiction; the introduction of centralized management of air support in key areas; new techniques of concentrated targeting; the effective application of sensor technology in tactical air operations; and the availability of sufficient air resources to operate effectively south of 19 degrees.

Deployment changes in air assets in 1968 include: the addition of five F–100 squadrons and one A–1 squadron to the 7th Air Force force structure; the movement to bases in eastern Thailand nearer the interdiction battlefield, enabling greater concentration of effort; employment in the interdiction campaign of four AC–130 gunships, and ten EC–47s; the introduction of F–100F and F–4 Misty and Stormy forward air controllers; and an increase of B–52 sorties allotted from 800 to 1,800 per month.

These changes in deployment have improved the round-the-clock interdiction of the route structure in Laos and the surveillance of the routes day and night, increased the night strike capability, and intensified close support operations in SVN.

A "one war" concept has been adopted which recognizes that there is no such thing as a war of big battalions, a war of pacification, or a war of territorial security. Under this concept, allied forces carry the battle to the enemy simultaneously in all areas of conflict by strengthening cooperation, between US commanders and US advisors to the RVNAF on the one hand, and between US commanders and US advisors to the Government of Vietnam (GVN) province and district officials on the other. In the employment of forces, all elements are brought together into a single effort. Ground forces, tactical air, B–52s, RF/PF, Province Reconnaissance Units (PRU), National Police Field Force (NPFF), Civilian Irregular Defense Group (CIDG), and Revolutionary Development (RD) cadre attack the North Vietnamese Army (NVA)/Viet Cong (VC) units (main and local forces), guerrillas, and the VC infrastructure across the broad spectrum of the conflict to neutralize the enemy's capabilities and offensive options. The "one war" concept in-country achieved its biggest breakthrough with the combining of the civil/military support of pacification under a single agency in MACV.

Military support has been provided for the Accelerated Pacification Campaign (APC) of the GVN for the period November 1968 through January 1969. The APC seeks to expand the GVN presence and control into contested areas by upgrading about 1,300 contested or VC-controlled hamlets containing some 1.4 million people to relatively secure status, based on Hamlet Evaluation System (HES) security score alone (the first nine factors). US forces have been used to keep large enemy forces away from the pacification areas, to destroy local forces and guerrillas in them, and to assist with an intensified attack on the VC infrastructure. Denied access to these formerly contested or VC-controlled hamlets, the enemy's main forces lose sources of food, recruitment, intelligence, and concealment. The GVN 1969 Pacification and Development Plan is an extension of the APC and is designed to maintain the momentum of the political/military attack on the enemy.

Interdiction operations on the navigable waterways of SVN have been intensified, utilizing the diverse capabilities of ground, air, and naval forces. These operations include actions to locate, block, and inflict personnel and materiel casualties on the enemy's supply, commoliaison and evacuation routes. Multiple barriers are established across lines of communication. Waterborne assets, US airmobile troops, Special Forces, RF/PF, tactical air, and helicopters are used to form the barrier, augmented by sensors and other intelligence gathering assets, and defoliation of the river banks. Interdiction operations in III Corps are designed to make the enemy reorient his logistic structure and restrict the flow of supplies into the Saigon area.

B-52s have been employed as a strategic reserve. The B-52 force in Southeast Asia is a flexible reserve which gives the theater commander a means for influencing the battle without constant shift of major troop units. See Question 27 for additional comment.

A "single manager" concept has been adopted for control of tactical air assets. The COMUSMACV Deputy for Air was given the responsibility for management of III Marine Amphibious Force fighter-bomber and reconnaissance aircraft. At Khe Sanh, total centralization of reconnaissance and targeting functions, coupled with massive concentration of force, was a decisive factor in the outcome of the battle. The "single manager" concept for tactical and reconnaissance air operations, although providing overall more effective air support, has resulted in some impairment of the air/ground organizational integrity of US Marine Corps forces.

The allocation of air resources has been shifted. On 1 April 1968, all bombing operations north of 19 degrees ceased, enabling the US Navy and Air Force to concentrate out-country tactical air in the NVN panhandle. As in-country ground operations diminished in intensity, additional tactical air sorties were applied out-country. This concentration of air power succeeded in disrupting the logistic flow into SVN along the coastal routes of the NVN panhandle, the DMZ, and the overland routes into Laos. The termination of all bombing operations in NVN on 1 November 1968 released more air resources which were shifted to the interdiction campaign in Laos. However, the same tactics used and lessons learned in bombing NVN are being applied in Laos, subject to political constraints. The object is to create impassable choke points on lines of communication. Waterways and crossing points are seeded with MK-36 mines and roads are closed with blast and delay fuzed munitions. The result is off-loaded supplies and backed-up logistics carriers which are located by all-source intelligence and attacked with area-coverage munitions. However, the geography of Laos is not as well suited to line of communciation air interdiction as is NVN. This is offset partially by a higher rate of B-52 and tactical air strikes. With the aid of Igloo White sensor technology, road watch teams, and other intelligence collection assets to locate and monitor the flow of truck traffic, the enemy's truck parks have been systematically attacked. This has forced the enemy to change his convoy patterns and daytime truck parking habits. The major truck parks are no longer safe to use, and convoys cannot move freely. The air effort is reducing significantly the enemy's throughput capability.

Allied military forces in SVN almost have tripled in size during the last four years from about .5 million at the beginning of 1965 to approximately 1.4 million today. In the first three years of this period they increased about 650,000 and in the last 6-12 months they increased approximately 240,000. They currently are programmed to increase over 45,000 in the next six months to a strength of almost 1.5 million by mid-1969. The following table shows the increasing size of allied military forces in SVN since early 1965.

Strength (thousands)	December 1964	December 1967	June 1968	December 1968	June 1969
United States [1]	23.3	485.6	534.7	536.7	546.7
South Vietnam [2]	514.3	643.1	765.3	826.5	872.4
3d nation [3]	.5	59.4	62.4	65.6	69.9
Total strength	538.1	1,188.1	1,362.4	1,428.8	1,474.2

[1] Does not include forces offshore or in Thailand.

[2] Includes only national military forces (RVNAF); does not include paramilitary/security forces.

[3] Includes only forces from Australia, Korea, New Zealand, Philippines, and Thailand.

In the past, the primary mission of US forces in SVN has been to destroy the enemy's main force units, to protect US bases and to provide air and artillery support for other allied forces. On the other hand, the primary mission of the RVNAF has been to provide territorial security and to support the pacification program. The third nation forces have operated autonomously in specific geographical areas and carry out offensive and security missions.

To accomplish these missions, the number of allied maneuver battalions has increased commensurate with the increasing size of allied military forces in SVN. During the last four years there has been one maneuver battalion for every 4000-5000 of total military strength. In the first three years of this period the number more than doubled, due to the expansion of the RVNAF and the deployment of US and third nation combat forces to SVN. In the last 6-12 months the number increased at a slower rate, as the deployment of free world forces slowed down and the continued expansion of the RVNAF placed greater emphasis on more RF and PF for territorial security. The following table shows the increasing number of infantry-type allied maneuver battalions in SVN since early 1965:

Battalions (infantry type)	December 1964	December 1967	June 1968	December 1968	June 1969
United States	0	98	108	107	107
South Vietnam [1]	123	154	161	166	168
3d nation [2]	0	26	26	28	31
Total battalions	123	278	295	301	306

[1] Includes only national military forces (RVNAF); does not include paramilitary/security forces.

[2] Includes only forces from Australia, Korea, New Zealand, and Thailand.

The total number of allied maneuver battalions in each corps has varied as US combat units and RVNAF general reserve units (airborne and marine) were shifted to meet the prevailing enemy threat. The maneuver battalions organic to RVNAF infantry divisions and third nation forces generally have remained within their assigned corps. In the last 6-12 months the number of maneuver battalions has fluctuated the most in I Corps (78-100), while II Corps (62-73), III Corps (94-102) and IV Corps (45-51) have been more stabilized. This fluctuation in I Corps has been dictated primarily by the changing enemy threat to Quang Tri and Thua Thien provinces (XXIV Corps), particularly from enemy forces located in sanctuaries north of the DMZ and in Laos.

Until the last half of 1968, allied efforts were directed largely against enemy main forces through major unit operations. A significant portion of allied assets also was directed against enemy infiltration and committed to the defense of cities and towns. Because of these other operations, insufficient forces were available for continuous direct support of pacification and local security. These efforts are essential to countering both the political and military threat in the rural areas.

The withdrawal of a large part of the enemy main forces recently has permitted allied forces to concentrate on offensive actions against the VC support apparatus, including the political structure, and on countering infiltration by improved intelligence and territorial security. This effort has accelerated progress in this area, but it still is unlikely that the conflict can be brought rapidly to a close. Conversely, deescalation of US military activities, not tied to a significant increase in RVNAF effectiveness or NVA deescalation, could lead to a deterioration of our position.

At present, the major threat to allied objectives in SVN is the enemy's effort to extend his political control over the population and claim a facade of legitimacy for his authority. Currently the enemy has two main alternatives for military action: either to conduct protracted guerrilla warfare, or to undertake widespread attacks similar to those mounted earlier last year. It now appears that he has settled on a protracted war with the threat of major military activity, combining his military actions with intensified political activity.

Before the US can reduce its force levels in Southeast Asia the RVNAF will have to assume an even larger share of the fighting and pacification. Since 1965 the RVNAF has increased both the quality and quantity of its troops, but it still is far from being able to stand alone against the VC/NVA forces. The army presently is the best equipped and most effective fighting branch of the RVNAF and recently it has begun to assume a larger share of the main-force war throughout SVN, particularly in VI Corps which normally has only two US brigades. On the other hand, the RF and PF, who are supposed to provide security for the population in conjunction with other allied forces, generally have been less effective because of severe leadership, firepower, supply and motivational difficulties.

In summary, the Vietnam war is both a political and a military one; the ultimate key to victory for both sides in SVN is control of and support by the people. At present the major threat to allied objectives in SVN is the enemy's effort to extend his political control over the population and claim a facade of legitimacy for his authority. The withdrawal of a large part of the enemy main forces recently has permitted to allies to concentrate on offensive actions against the enemy support apparatus, including the political structure, and on countering infiltration by improved intelligence and territorial security. While elements of the overall situation may change and show signs of improvement, there is little likelihood that the allies can attain their objectives in the immediate future by military means alone. If the allies continue to shift towards the political aspects of the struggle, the present US effort appears to be the proper one to counter enemy actions and options and permit a gradual shifting of the war to the Vietnamese as they demonstrate the ability to handle their own political-military problems.

In what different ways (including innovations in organization) might US force levels be reduced to various levels, while minimizing impact on combat capability?

While there appears to be no acceptable way of reducing US force levels in Vietnam without at least an equal reduction of combat capability, there are a number of ways to reduce forces with minimal effect on combat capability. They are:

1. Reduction of logistic and headquarters forces limiting effect on combat capability by consolidation of units, locations and utilization of innovations in organization.
2. Reduced tactical air capability.
3. US troop reduction in phase with expansion and improvement of RVNAF.
4. Reductions of forces saved through revised tactical concepts for using US combat forces.
5. Increased use of contractual efforts and use of logistic facilities other than in South Vietnam.
6. Elimination or reduction in specific units of the force structure as they are no longer necessary.

The question of US force levels in South Vietnam and possible reduction of these levels is being reviewed by DoD continually.

—OSD controls tightly all US deployments and redeployments to and from South Vietnam. The existing force structure and possible ways to reduce US force levels in South Vietnam are continually under review.

—In addition to the reviews conducted by the Commander in Chief, Pacific, and the Commander, US Military Assistance Command, Vietnam, the Joint Chiefs of Staff and the Services continuously study the force structure in the Republic of Vietnam to identify lower priority forces, possible reorganizations, and other innovations to provide tradeoffs, within ceiling to accommodate outstanding high priority requirements.

—COMUSMACV reports this question has been raised and reviewed almost daily since the current force ceiling was established in mid-1968. Under present conditions in South Vietnam, any significant reduction in current force levels will result in a significant decrease in combat capability. An integrated Military Assistance Command, Vietnam, unit priority list is maintained under constant review to determine which spaces can be traded off at any moment to meet higher priority requirements. . . .

The principal criteria are perceived to be:

1. The tactical situation, in particular the residual threat. US/Free World Forces must, at all times, be adequate to ensure security.
2. The capability of the RVNAF to assume US missions.
3. The requirement to provide US combat support (e.g., helicopter, artillery, and combat service-support units) to the expanded RVNAF and, thus, assure a balanced combat capability in South Vietnam.
4. The requirements of the roll-up mission.
5. Impact on ongoing negotiations.

—An additional criterion that OSD will consider is the political situation in South Vietnam and the political stability of the Government of Vietnam (GVN). A large or precipitous withdrawal of US forces without prior preparation of the Vietnamese political structure may weaken seriously the GVN's progress in preparing itself for political confrontation with the Viet Cong.

The following paragraphs contain a brief review of some of the considerations involved in each of the ways to reduce forces.

Reduction of logistic support and headquarters forces. COMUSMACV reports that combat service-support units have been drawn down recently over 15,000 spaces to meet the civilianization program goal and to provide spaces for higher priority combat and combat-support units. Within the space ceiling established by Southeast Asia Program 6, the maximum number of combat-type units has been included with the result that only essential combat support and combat-service support are provided. The austerity of these type units is reflected in the Command's integrated unit priority list where the emphasis is on more combat-service support units as opposed to combat units.

On the other hand, OSD analysts consider that significant reduction in logistic and headquarters elements in SVN could be made. For example, as key engineer constructions are completed, engineer construction personnel could be reduced. Further, reduction could be made by reducing some of the over 12,000 personnel assigned to major units headquarters.

Reduced tactical air capability. OSD analysts consider that some reduction in tactical air capability devoted to SVN could be made with only limited reductions in combat efficiency. First, one of the three attack craft devoted to Laos interdiction might be feasible.

However, either or both of these actions depend on North Vietnamese observance of the tacit conditions of the US bombing halt. Reduction of tactical air capability at this time without an unacceptable reduction in combat capability is not supported by the Joint Chiefs of Staff, CINCPAC, and COM USMACV. They considered that force requirements in Southeast Asia are not reduced as a result of cessation of bombardment operations against NVN and air assets should not be reduced at this time. Sorties currently being flown do not utilize the full tactical air capability. This is not the result of a reduced requirement but rather the consequence of adverse weather conditions and targeting problems associated with the interdiction program in Laos. The improvement in targeting procedures is now being pursued as a matter of urgency.

(TS) *RVNAF improvement and expansion.* US forces could be reduced as RVNAF improves and expands:

The ongoing RVNAF modernization and expansion program should increase RVNAF ground combat capability by the equivalent of more than 30 US Army combat battalions by the end of FY70, provided that RVNAF combat effectiveness increases along with combat capability, the security situation does not worsen, and the RVNAF desertion rate can be appreciably reduced. Depending upon increases in RVNAF effectiveness, some US combat capability could be withdrawn. Based on current levels of effectiveness, OSD analysts consider that about one-half the Vietnamese regular combat battalions are sufficiently effective so their combat capability should increase rapidly. Consequently, up to about 15 battalions might be reduced by mid-1969 without a decrease in total allied force capacity. Some associated support elements could also be reduced.

In regard to reduction of combat forces, COMUSMACV considers that, with the momentum that has been built up in the pacification program, the expansion and modernization of RVNAF, and the steady attrition of the enemy, it would be possible to plan for removing one division from South Vietnam during mid-summer of 1969. He and Ambassador Bunker recently discussed this with President Thieu and were met with a favorable response. OSD considers that at least some of the 43,000 men "division equivalent" could be reduced; however, those elements of this equivalent that could assist in quickly maximizing RVNAF's combat power (such as helicopter units, some logistic elements, etc.) should remain.

In addition to possible reduction of US forces through increased RVNAF capability, some US units will turn-over their equipment to RVNAF units during the accelerated modernization program. Most of these are combat support (helicopter and artillery units) and logistic units. . . .

Revised tactical concepts. It is OSD view that recent changes in tactical concepts and resulting innovations, may make some troop reductions possible. First, the increases in the number of integrated and combined relations with RVNAF should result in increases in RVNAF effectiveness above a level possible with a modernized RVNAF operating alone. A second, but less desirable approach would be encadrement, placing US forces in RVNAF units similar to the US Marine Combined Action Platoon program. A third way, would be to concentrate on extensive long range patrols in lieu of battalion fire operations. Proponents claim that these operations are more effective; however, small units are often more vulnerable to ambush and a highly mobile reserve is required. Regardless of the approach taken, ways of "stiffening" RVNAF with US combat and combat support are being studied and these may lead to possible reductions in US forces.

Increased use of contractual effort and use of logistic facilities other than in South Vietnam. In addition to continuing emphasis at all levels on combat capability in force structure development, two innovations have been undertaken: (1) the extensive use of civilian contractor effort in lieu of troop construction and service units; and (2) the use of direct-hire local nationals to fill selected positions within US military organizations. The potential saving in military manpower spaces was originally estimated to be 12,500, but it has not yet proven to be possible to realize the saving of this magnitude, a principal reason being the implications of combat on a country wide basis, e.g., at Tet 1968. In this regard, COMUSMACV, reports that civilian labor is unreliable during periods when proximity of combat is close, when there is labor unrest or security conditions are unfavorable.

Elimination or reduction in specific units of the force structure as military requirements for them decline in priority.

The JCS consider that US military ceilings in the Republic of Vietnam have always been substantially less than assessed military requirements, necessitating a continuing search for tradeoffs, within ceiling, to accommodate outstanding high priority requirements. During 1968, the ongoing search for space-saving actions or units of relatively lower priority, have produced over 12,000 spaces which, in turn, were used to accommodate, within the 549,500 ceiling, the most critical of the unfulfilled requirements. However, the directed method of accounting for spaces within this Program 6 ceiling includes personnel who are either not participants in combat effort, or for various reasons (temporarily assigned in-country hospitalized, R&R, temporarily assigned out-of-country, and in replacement or returnee status) are nonproductive personnel that must be included in accounting procedures. These procedures necessitate reductions in combat personnel so as to remain within the Program 6 ceiling. Currently, consideration is being given to redeployment from Vietnam of certain Marine authorization, of the remaining elements of the division/wing . . . their full organizational strength. Elements being considered for redeployment include units such as a fighter-attack squadron and support two antitank battalions, one amphibian tractor battalion, an armored amphibian tractor company, and two medium tank companies (reinforced).

At present, COMUSMACV has certain unfulfilled high priority requirements for which compensating tradeoff spaces have not been identified. Some of these requirements such as the AC–119 gunships, have been specifically developed at great cost for use in Vietnam and will soon be available for deployment. Additional new requirements will develop as the situation in RVN changes or as other new or improved organizational equipments become available for units in RVN. Any such new requirements will require tradeoff spaces to remain within the ceiling. Thus not all actions mentioned herein can be applied to a reduction in the existing military ceiling but some must be utilized on an ongoing basis to offset organizational strength changes in-country or approved new deployments.

Question 27: What is the evidence on the scale of effect of B–52 attacks in producing VC/NVA casualties: In disrupting VC/NVA operations? How valid are estimates of overall effect?

ARC LIGHT is the code name given to high altitude tactical bombing raids flown in Southeast Asia by B–52 bombers. The missions are carried out by 105 B–52s based on Guam, Thailand (U-Tapao), and Okinawa (Kadena), supported by KC–135 tankers from Okinawa and Taiwan. At present, an average of 1600 ARC LIGHT sorties per month are authorized with the sortie rate scheduled to range between 1400 and 1800 depending on combat intensity.[1] Each B–52 delivers 28 to 30 tons of high explosives per sortie, depending on where the plane is based.

The B–52 ARC LIGHT force in Southeast Asia provides a flexible theater reserve with the firepower equivalent of a multidivision ground force. Retention of sorties under centralized control permits quick support of subordinate commanders. Reconstitution of this reserve is accomplished in a matter of hours by upcoming sorties. It also permits the weight of B–52 to be shifted between in-country and out-of-country targets as required.

About one-half of the strikes are against known or suspected enemy base camps, supply caches, and headquarters. The remainder are targeted against known enemy troop concentrations or in support of tactical operations, e.g., in support of the defense of an outpost such as Dak To and Khe Sanh.

During CY 1968, the B–52s flew 20,600 sorties, of which 16,450 were directed against in-country targets. Included in the in-country bombing are several noteworthy campaigns. At Khe-Sanh during January–March, 2,179 B–52 sorties delivered 61,012 tons of bombs. In mid-June, B–52s flew 5,378 sorties and delivered 150,584 tons of ordinance to disrupt Viet Cong/North Vietnamese Army (VC/NVA) operations around Saigon. Recently, B–52 strikes have been shifted to the Laotian lines of communication to assist in blocking the flow of traffic entering Laos through the Mu Gia and the Ban Karai/Ban Labory Passes. Since November 1, 1968, 2,301 B–52 sorties have been flown over Laos.

EFFECTIVENESS

It is generally agreed that a feasible method for analyzing ARC LIGHT effectiveness has *not* yet been devised. It is not possible to make any definitive statements regarding the effectiveness of ARC LIGHT. Field commanders are lavish in their praise. COMUSMACV recently stated that ARC LIGHT was his strategic reserve and had the equivalent combat punch of two divisions. No one has been able to quantitatively support such claims (or disprove them). Hard evidence on the effectiveness of the ARC LIGHT program is difficult to find. Certainly some strikes are highly effective. Some are clearly wasted. The majority have an undetermined impact.

QUALITATIVE

Many qualitative statements of effectiveness can be cited. For example, at Khe Sanh ARC LIGHT has been credited with blunting the enemy's offensive plans. MACV states that prisoners of war reports indicated that some enemy battalions sustained from 50 percent to 75 percent casualities from B–52 attacks alone. Estimates of total enemy killed and wounded at Khe Sanh by B–52s ranged from 2,000 to 10,000 men.

During August and September an enemy force with an estimated strength of 6,000 to 8,000 attempted to overrun the Duc Lap Special Forces Camp in Quang Duc Province. ARC LIGHT strikes were ordered. Of the 800 enemy killed in action there, MACV states that about 300 were attributed to B–52 strikes.

In mid-June there was evidence of an imminent attack on Saigon. The enemy had placed three VC/NVA regiments in Binh Duong Province and the 9th Viet Cong Regiment in Hau Nghio Province. B–52s attacked their staging areas, base camps, and resupply points. The enemy did not launch the anticipated attack or make good his threat of 100 rockets a day for 100 days against Saigon. MACV states that there is evidence that, harassed by day and night bombing as well as by aggressive ground actions, the enemy was forced to split into small units and in many cases, withdraw to safe areas in Cambodia.

In the four northern provinces of South Vietnam (I Corps Tactical Zone) and the demilitarized zone, B–52 strikes have been used in supporting US and South Vietnamese ground forces with heavy firepower in preparation for and during operations. B–52s were effective in frustrating enemy efforts to overrun the Special Forces Camp at Thuong Duc and in support of friendly helicopter assaults into heretofore inaccessible areas such as the A Shau Valley.

In the delta region of South Vietnam (IV Corps Tactical Zone), B–52 strikes are scheduled in advance of US and South Vietnamese combat sweep operations, to permit the entry of friendly ground forces into former enemy strongholds with little or no resistance. In the delta, the constant threat of B–52 strikes has forced the enemy to disperse his forces and move almost every day, making it more difficult for him to mass for an operation. The necessity for frequent movement and dispersal has greatly increased the enemy's command and control problems.

Intelligence derived from documents, prisoners of war, and reliable agents, confirms that B–52 strikes have prevented high level infrastructure planning conferences from occurring, made local recruiting of laborers and village guerrillas difficult, exposed caches of supplies and munitions, and have forced the enemy to move in small groups. Frequent comments by prisoners of war and ralliers indicate that the B–52 strike is the one weapon most feared by enemy troops.

QUANTITATIVE

The only quantitative measures of effectiveness available deal with the damage inflicted by ARC LIGHT strikes. These measures (enemy killed, structures destroyed, days a pass is closed to traffic, trucks destroyed, etc.) are indirect in the sense that their effect on the enemy's ability and desire to pursue the war is not known. Part of the difficulty in relating damage inflicted to real progress is due to the fact that the enemy can often delay his attack until he has built up the needed forces or repaired the damaged lines of communication.

The JCS estimate that 41,250 enemy were killed in 1968 by all in-country B–52 strikes. This is an average of 2.5 enemy killed per sortie.[2] (This is equivalent to the 13.75 killed per B–52 strike where each strike includes an average of 5.5 sorties.)

Office of the Secretary of Defense estimates of enemy killed by ARC LIGHT are much lower than those of the JCS. As shown below, they are derived from a different data base during a different time period. It is felt that Bomb Damage Assessment (BDA) reports provide the most comprehensive source of data on ARC LIGHT casualty and destruction results. There are three sources of BDA. The first, ground follow-up, is the most thorough, even though there frequently is a time lapse between the B–52 strike and the follow-up, allowing the enemy to conceal his losses. The other two sources, aerial photographs and aerial visual reconnaissance, provide some information but are often limited by jungle cover and there is the unsolvable problem of multiple countings. BDA of some type is received on about 60% of ARC LIGHT missions, but only 18% of the total missions are followed up by ground teams. Missions in NVN and Laos receive no ground follow-up; missions in III and IV Corps have ground follow more than half of the time. The table below shows the extent and type of BDA during the period June 1966 through October 1967.

ARC LIGHT BOMB DAMAGE ASSESSMENT

[June 1966–October 1967]

	Mission	Missions with BDA	Type of BDA [1]		
			Photo	Visual recon	Ground
B–52 missions	1,351	801	308	299	247
Percent	100	59	23	22	18

[1] More than 1 type of BDA was available for some missions.

Source: MACV–J–2 study 68–08, "Arc light effectiveness."

The following table summarizes Bomb Damage Assessment reports from June 1966 to October 1967. It indicates that the average ARC LIGHT mission kills 3.1 enemy and destroys 10.0 structures (huts, fortified positions, and buildings). An average mission consists of 7.2 aircraft; thus, an average of *0.43* enemy are estimated as being killed per sortie. (Note that the JCS estimate was 2.5 enemy killed per B–52 sortie.) If this average enemy casualty rate is extrapolated to include all B–52 strikes, ARC LIGHT apparently has killed approximately 17,000 enemy since 1965 (3.9% of total enemy losses) and will cause 8000 deaths in 1969. ARC LIGHT has also destroyed or damaged 41,000 enemy structures (5.7% to total structures reported destroyed by all air operations).

---

[1] The variable 1400/1800 rate replaced a level 1800 sortie rate on 1 Jan 1969. To date SAC has continued to fly at the 1800 sortie rate. The JCS are expected in the near future to recommend that the variable rate be dropped and 1800 be approved.

[2] This statistic is based on ground follow-ups of 103 B–52 strikes during the period 1 Jan-31 Jul 1968 which revealed 714 killed by air, or about 6 killed by air per strike. Also, in 50 prisoner of war interrogations, enemy soldiers who had undergone B–52 attacks indicated that their units had suffered 989 killed, 357 wounded, and 74 desertions attributable to ARC LIGHT strikes. Other prisoner and rallier reports concerning 22 specific ARC LIGHT strikes indicated a total of 435 killed, 235 wounded and 23 desertions.

ARC LIGHT BOMB DAMAGE ASSESSMENT RESULTS (JUNE 1966–OCTOBER 1967)

Location	Missions with BDA	Missions with ground followups [1]	Structures [2] destroyed/damaged: Total reported	Structures [2] destroyed/damaged: Per miss	Enemy KIA: Total reported	Enemy KIA: Per miss
NVN	22	0	124	5.6	0	0
DMZ	92	2	1,415	15.4	8	0.1
I CTZ	250	57	882	3.5	493	2.0
II CTZ	182	29	2,565	14.1	637	3.5
III CTZ	239	144	2,907	12.2	1,089	4.6
IV CTZ	16	15	159	9.9	270	16.9
Total	801	247	8,052	10.0	2,497	3.1

[1] Included in BDA column.

[2] Storage areas, fortifications, weapons positions, bases, camps.

Source: MACV–J–2 Study 68–08, "Arc Light Effectiveness."

UNCERTAINTIES

It is not possible to place any confidence limits on estimates of ARC LIGHT effectiveness. Even estimates of enemy deaths are difficult to obtain because:

1. VC/NVA practice of immediate removal of the wounded from the strike area and immediate burial of the dead.

2. Infrequency of immediate ground follow-up into accessible B–52 strike areas.

3. Significant numbers of B–52s are targeted against remote and inaccessible enemy base areas.

4. Aerial observation of the target area restricted by weather, terrain, and jungle canopy.

5. Blast effect of the individual B–52 weapon load (29 ton) tends to destroy some evidence.

6. Multiple countings.

Where total enemy deaths are estimated by projecting the available BDA data, a number of uncertainties can be identified. First, while the sample is reasonably large (the BDA reports cover 5,800 of the 34,000 B–52 sorties flown since 1965), it may be biased. The strikes with BDA tend to be those nearest friendly troop areas which may be the ones based on the best intelligence. The strikes against suspected enemy base camps, which may be the least productive, have few BDA reports. Second, the amount of damage reported is clearly related to the thoroughness of the BDA (more enemy deaths reported when ground follow-up is used). Thus, since we have ground follow-up on few missions, we may be understating the true impact. And third, B–52 strikes are not necessarily the cause of the reported destruction. This is especially true for those missions in support of ground operations, where artillery and tactical air were also employed.

Another source of information is reported by ralliers and prisoners of war. These reports provide substantial information about instances where ARC LIGHT strikes were highly effective. Unfortunately, this evidence is fragmentary and frequently vague regarding the place and time of the attack. Therefore, it has not been possible to utilize these reports to develop a comprehensive picture of ARC LIGHT effectiveness.

In conclusion, there is general agreement that ARC LIGHT strikes have been effective on numerous occasions in preempting enemy attacks, blocking lines of communication, and supporting troops in combat with sizeable enemy forces. However, OSD feels that there are no quantitative measures of effectiveness and the available data is of uncertain quality and limited quantity.

Question 28: What effect is the Laotian interdiction bombing having:

a. In reducing the capacity of the enemy logistic system?

b. In destroying materiel in transit?

The intensity of the US bombing campaign in Laos has more than doubled with the cessation of air strikes against North Vietnam on November 1, 1968 (15,178 attack sorties were flown in December 1968; 6,722 were flown in Laos in December 1967). Jet sorties previously used to attack targets in NVN were shifted primarily to interdiction missions in the Laotian Panhandle. Also, in early November, the Air Force began a new interdiction campaign in Laos (COMMAND HUNT) designed to reduce or impede enemy truck traffic during the good weather months in Laos (November to May).

In addition to the destruction of trucks and supplies, the current campaign attempts to limit enemy traffic primarily by creating and sustaining a number of "non-bypassable" choke points in the key roads in Laos. About 45 percent of the attack sorties are devoted to this objective.

See answers at tabs A and B.

Question 28a: What effect is the Laotian interdiction bombing having: a. In reducing the capacity of the enemy logistic system?

With the bombing halt in North Vietnam on November 1, 1968, it was no longer possible to interdict the flow of supplies before they reached Laos. A large-scale program to interdict the flow was undertaken by B–52's and other tactical aircraft, with heavy weight concentrated on key choke points in Laos, just south of the Mu Gia and Ban Karai Passes. However, relatively large quantities of supplies still entered Laos. In fact, the normal seasonal traffic appeared to continue. Road watch teams stationed south of Mu Gia Pass reported truck traffic entering Laos that was identical to the seasonal buildup last year (an average of 10 trucks per day in November, 20 in December, and about 25 in January during both years). IGLOO WHITE sensors on roads south of the interdiction points strongly suggested that trucks were moving supplies south of our two key chokepoints; special intelligence sources also indicated normal throughput traffic. The enemy was apparently using porters, or bypassing them altogether.

In the latter part of November 1968, most of the trucks entered through a newly constructed by-pass around the two Ban Pha Nop interdiction points south of the Mu Gia Pass. After its discovery, this by-pass was interdicted frequently; however, it was more difficult to keep interdicted than the two points chosen originally.

One measure of success in reducing the enemy's throughput capability is the better than 75 percent closure of the Ban La Boy/Ban Karai complex since October 1, 1968. However, the enemy was still able to complete a well-camouflaged road around the Ban La Boy Ford south of the Ban Karai Pass on 14 December 1968. This allowed another large influx of trucks prior to its interdiction by ARC LIGHT and tactical air strikes.

The current bombing campaign has forced the enemy to pay a high price to keep his supply lines open through Laos to South Vietnam.

Construction of camouflaged by-passes in mountainous terrain has required a sizeable expenditure of manpower and equipment. Road repair crews were harassed continually with cluster-type bombs and anti-personnel mines. Photographs show the enemy was forced to porter supplies around the interdicted points.

As the bombing progressed, destruction of the jungle canopy made the enemy more vulnerable to attack. As a result of the air strikes, enemy traffic was delayed and his resupply efforts from time to time were disrupted. Trucks moved in smaller convoys to lessen vulnerability and were more widely dispersed in revetted "stalls." Well-developed truck parks, with repair and support facilities, were denied the enemy by intensive bombing attacks. Improved intelligence collection methods and better integration of information made it easier to locate and attack the enemy. In addition to these factors, enemy logistic requirements have been increasing. The enemy antiaircraft reaction has doubled, probably causing expenditure on the order of 100 tons per week in ammunition and logistic support of antiaircraft artillery battalions. Additional engineer, construction, and antiaircraft artillery battalions have been employed to defend and maintain the road networks.

But in spite of evidence that aerial attacks reduced the flow of enemy supplies to very low levels; notably in the periods 1–11 November and 1–15 December at Mu Gia Pass, and 1 November–15 December and 7–24 January at Ban Karai Pass, intelligence reports indicate that the enemy has made a major effort to insure the continued forward movement of supplies for enemy forces in Laos and South Vietnam, and that the enemy has pushed through sufficient tonnages to provide the bulk of his external supply requirements. Although it is still too early to tell, experience during the first months of intensified operations in Laos indicates that the current campaign may not significantly limit enemy supply flows into South Vietnam. The external supply requirements of VC/NVA forces in South Vietnam are so small relative to enemy logistic capacity that it is unlikely any air interdiction campaign can reduce it below the required levels. Estimates of external enemy requirements from North Vietnam range from 30 to 50 short tons per day (10–15 truckloads).[3]

If truck sightings are any indication of supply flow, a comparison between 1967 and 1968 sightings, as shown below, indicates that activity on the Laotian roads has not been effectively reduced by the current campaign.

TRUCK SIGHTINGS IN LAOS PANHANDLE

Month	1967	1968
October	992	1,043
November	4,249	4,395
December	6,046	5,519

Question 28b: What effect is the Laotian interdiction bombing having: b. In destroying material in transit?

It is estimated that nearly 8,000 tons of enemy supplies have been destroyed in Laos in the period 1 November 1968–23 January 1969. Visual sightings report a total of 1,682 trucks destroyed, 706 trucks damaged, and a total of 13,130 secondary explosions and fires caused by aerial attacks. The following table shows the breakout by type of damage and time period.

---

[3] The exact magnitude for the supply flows and requirements is still not known with certainty.

MATERIEL DESTROYED IN LAOS

Time period	Type of damage	Number	Tons destroyed
Nov. 1–30	Trucks destroyed	344	567
Dec. 1–31	do	637	1,051
Jan. 1–23	do	701	1,157
Subtotals		1,682	2,775
Nov. 1–30	Trucks damaged	143	59
Dec. 1–31	do	220	90
Jan. 1–23	do	343	140
Subtotals		706	289
Nov. 1–30	Fires/explosions	3,219	1,207
Dec. 1–31	do	4,811	1,804
Jan. 1–23	do	3,659	1,372
Nov. 1	Arc Light	1,441	540
Jan. 23	Fires/explosions		
Subtotals		13,130	4,923
Total tons destroyed			7,987

Source: Joint Chiefs of Staff (data for DIA is in substantial agreement).

It has not been possible to estimate accurately the materiel destroyed in truck parks. Most of these targets are well hidden under foliage and BDA is seldom available. More than 30 of these truck park areas have been heavily attacked. It is estimated that each contained from 20 to 50 trucks and may have contained between 50 to 500 tons of supplies, in addition to repair facilities. It is possible also that storage, housing, medical and petroleum, oil, and lubricant facilities and bunkers, as well as communications equipment and arms were destroyed.

These estimates indicate destruction of about 95 tons of supplies per day in Laos since November 1, 1968. While this is impressive, it is not what really counts. The critical factor is the amount that reaches South Vietnam. Another equally critical factor is the amount of supplies already stored in South Vietnam. Much of the material destroyed was probably not destined for South Vietnam but was for consumption or storage in Laos. Since we have no control over imports to North Vietnam or inputs to Laos, it appears that the enemy can continue to push sufficient supplies through Laos to South Vietnam in spite of relatively heavy losses inflicted by air attacks.

Question 29a: What evidence was there on the significance of the principal strains imposed on the Democratic Republic of Vietnam (e.g., in economic disruption, extra manpower demands, transportation blockages, population morale)?

ECONOMY

By the time offensive air operations against NVN were stopped on 1 November 1968, most of the heavy industry and more than half of the electrical power generating capacity had been destroyed. Dispersion of industry and redistribution of labor resulted in serious inefficiencies, which were aggravated primarily by the constant disruption of lines of communication. As domestic economic requirements became more difficult to satisfy, NVN became more dependent on external assistance. What NVN was unable to produce itself (guns, missiles, ammunition, trucks, food, etc.) or was destroyed by US air raids (cement, POL, steel, etc.) was imported from abroad. Seaborne imports during 1968 totaled nearly 2 million metric tons, up from 1.4 million metric tons during 1967. Food imports nearly doubled during 1968, and accounted for about one-third of all imports. Likewise, imports of fertilizer and petroleum products increased.

The economic (monetary) impact of the bombing is shown in the following table:

Costs and benefits to NVN (1965–68)

[In millions of dollars]

Costs:	
Destroyed capital stock	215
Lost current production	[a] 400
Destroyed facilities	153
Total cost	768
Benefits:	
Foreign economic aid	1,210
Foreign Military aid	1,845
Total benefit	3,055

[a] Estimate based on growth rates prior to 1965.

While air strikes destroyed about $770 million worth of capital stock, military facilities, and current production, NVN received about $3,000 million worth of foreign economic and military aid from Communist Bloc countries. Thus, in terms of total economic and military resources available to support the war, NVN is better off today than it was in 1965.

It is generally agreed that the bombing did not significantly raise the cost of the war to NVN. This was because production facilities outside of NVN were not targetable and ample external aid was available from the Communist Bloc nations. The Soviet Union, Communist China, and Eastern European nations provided the bulk of the combat equipment and materiel used by enemy units in South Vietnam. The cost of this support to North Vietnam was negligible.

Another major impact of the bombing of North Vietnam was a shift within the labor force. Workers moved from food production to the repair of bomb-damaged facilities. The resulting food shortage created further disruption at the ports by adding food imports to an already overburdened military goods traffic. The economy of the country was further upset by the relocation of industry and by the move of over 30,000 of their most highly trained workers from the Hanoi area. In addition, it was estimated that over 400,000 people fled from Hanoi and Haiphong during the height of the bombing.

EXTRA MANPOWER DEMANDS

Manpower dislocatons were apparent at the height of the air war. Women were assuming a greater proportion of the workload, and 40,000 Chinese Communist construction troops and antiaircraft artillery units were moved into the country. Extra manpower was required for air defense, road and rail repair, logistical movement, industrial relocating, and rebuilding. A labor force of between 475,000 and 600,000 including women and children, was required in these areas to offset the effects of the airstrikes. About 110,000 military personnel were assigned to air defense duties. This drain, plus the increasing number of combat losses, necessitated a lowering of military induction standards with a like effect on the standards within their Armed Forces. Evidence from interrogation of North Vietnamese fishermen along the coast and from recent prisoners of war reflects the enormity of the manpower drain. Fifteen year-old villagers were conscripted for military duty in South Vietnam. Many received no more than a few days training. The apprentice, technical, high school, and college entry classes were reduced sharply.

In spite of these extra demands, it appears that NVN has enough manpower to continue the war at the high causalty rates sustained in 1968.[1] Most of the additional labor requirements have been met through normal population growth and through the use of their large pool of unemployed and underemployed citizens.

TRANSPORTATION

The interdiction of major lines of communication made the flow of material throughout the country more costly and time consuming. The degree to which interdiction was effective in reducing support of military forces in the south is difficult to measure. The difficulties brought on by the bombing were evident, however, in that the North Vietnamese were forced to build over 1,200 miles of alternate highways and bypasses, employ alternate and less efficient modes of transport, restrict movement to nighttime, and import large quantities of trucks and locomotives.

While the transportation blockage heavily taxed the capability of North Vietnam to support the troops in South Vietnam, the flow of supplies continued. The rail transit time from Hanoi to Vinh more than tripled, and rail traffic became almost non-existent from Vinh southward. As a result, truck travel from Hanoi to Laos and the demilitarized zone areas increased 100 percent. But these effects simply increased the time necessary to move supplies; they did not deny supplies to the VC/NVA in South Vietnam.

MORALE

The bombing undoubtedly had adverse effects on the people of NVN. Individual citizens suffered many hardships. While the total supply of goods in NVN increased, individual standards of living declined. Food was rationed and consumer goods were scarce; and air raid warnings disrupted the lives of the populace and forced many to leave their homes. Moreover, it has been estimated that approximately 52,000 civilians were killed in NVN by US air strikes.

Still, there is no evidence to suggest that these hardships reduced to a critical level NVN's willingness or resolve to continue the conflict. On the contrary, the bombing actually may have hardened the attitude of the people and rallied them behind the Government's programs. Firm population controls and a steady flow of propaganda from Hanoi have been credited with helping to maintain popular support for the regime. There is some evidence, however, indicating that morale and support for the war in NVN has declined significantly since the bombing halt. Whatever their feelings about the war, the people of NVN have lacked either the will or the means to make any dissatisfaction evident.

The bombing also impacted heavily on the morale of the North Vietnam soldiers moving to South Vietnam. Bombing made the journey difficult and hazardous, a fact reported by many prisoners after capture.

Question 29b: What was the level of logistical throughput through the southern province of North Vietnam just prior to the November bombing halt? To what extent did this level reflect the results of the US bombing campaign?

Estimates of the flow of supplies from the southern province of NVN to Laos vary widely. This is because we have no reliable means of measuring this flow. The Joint Chiefs of Staff estimate that an average of 65 short tons per day flowed into Laos during the three months prior to the bombing halt. The Seventh Air Force estimated that the flow decreased from 340 tons per day in mid-July to 35 tons per day immediately prior to the bombing halt. The CIA and DIA estimate that an average of 165 short tons per day flowed into Laos during 1968. Some of this variation can be explained by the seasonal variation in truck traffic as indicated by the following table of truck sightings in Route Packages 1, 2, and 3 in NVN.

---

[1] The bombing may have killed up to 5% of the 285,000 infiltrating troops (about 14,200 men in 1968). Although there are considerable uncertainties about this estimate, these losses would represent less than 3% of the 700,000 regular and militia troops remaining in North Vietnam and are relatively small compared to the 180,000 VC/NVA reportedly killed in South Vietnam in 1968. Infiltration losses of this magnitude would not appreciably limit VC/NVA force levels or activity rates in SVN.

TRUCK SIGHTINGS IN NVN (ROUTE PACKAGES 1, 2, AND 3)

Month	1967	1968
January	383	2,866
February	654	1,037
March	770	2,142
April	1,731	3,346
May	2,919	5,140
June	3,388	3,723
July	4,254	4,868
August	5,717	3,337
September	2,510	1,958
October	1,037	1,488
November	1,090	
December	1,754	

Source: DIA.

In 1967, truck sightings dropped by a factor of 5.5 from the peak in August to the low in October as bad weather set in over NVN. The supply flow followed this trend. Thus, one cannot attribute the entire decrease in supply flow that occurred in the months before the bombing halt to bombing effectiveness.

Whether the "Summer-1968 Interdiction Campaign" had a special effect is difficult to assess. The following table compares truck attrition in Route Packages 1, 2, and 3 in NVN for June-October in 1967 and 1968.

TRUCK ATTRITION IN NVN

(EVALUATED DESTROYED IN ROUTE PACKAGES 1, 2, AND 3)

Month	1967	1968
June	402	565
July	577	775
August	784	622
September	239	295
October	77	242
Total	2,079	2,499

Source: DIA.

These results show a 20 percent increase in truck attrition in the period June-October 1968 over the same period in 1967.

Rather than look at monthly estimates of truck sightings and attrition and supply flows, a better perspective on the overall effect of the bombing in NVN on the supply flow into Laos is obtained by comparing estimates averaged over a whole year. The table below suggests that, despite our intensive 1968 bombing campaign, NVN was able to infiltrate supplies and equipment into Laos than it required to support military operations in SVN. The excess material was probably stockpiled in Laos and SVN to support future operations.

INFILTRATION OF SUPPLIES INTO LAOS

[Short tons per day]

	Delivered to Laos	Consumed and destroyed	Available for SVN	Required in SVN
1967	93	57	36	15-20
1968	165	99	66	30-50

While the exact magnitude of these supplies flows and requirements are all subject to uncertainty, the basic conclusion seems clear. The bombing failed to reduce support below required levels, even at the increased activity rates of 1968. The external needs of the VC/NVA forces were so small relative to enemy capacity that it is doubtful any interdiction campaign could have constrained their combat operations. Estimates of the NVA daily requirements for ammunition and weapons range from 30 to 50 short tons, the equivalent of about 10 to 15 trucks per day.

In addition to the destruction of supplies and lines of communication, the bombing campaign in NVN forced the enemy to provide additional materiel to compensate for the interdiction losses, this in order to maintain support for his forces in SVN at acceptable levels. Moreover, NVN was denied use of the more efficient means of transportation (i.e., rail and coastal shipping). Use of these modes since the halt has enabled the enemy to move large amounts of materiel into the southern Panhandle. Movement south to Vinh by rail is estimated at 400 short tons per day; by coastal watercraft, nearly 1,500 short tons per day. Truck activity now occurs throughout the day, whereas it was confined to the hours of darkness prior to the bombing halt. Further repairs and improvement to land lines of communication, coupled with continued southward extension of north-south petroleum, oils, and lubricants pipeline (1,100 metric tons daily capacity) will further increase the enemy's logistic capability.

* * * * *

Question 29c: To what extent did Chinese and Soviet aid relieve pressure on Hanoi?

Soviet and Chinese aid to NVN has provided nearly all of the materiel required to carry on the war against SVN; NVN's contribution has been chiefly the over-all direction of the war and the input of troops to do the fighting. The bulk of this military and economic aid comes from the Soviet Union. Its assistance generally has consisted of a sophisticated air defense system and training for associated personnel, artillery, petroleum products, transportation equipment, and food. Chinese aid has consisted primarily of small arms and ammunition. Without such aid, NVN long since would have been forced to reduce the scope of fighting in SVN to the guerrilla-warfare level.

One consequence of aid from outside countries was a lessening of economic pressures on Hanoi in the conduct of its war effort. On the other hand, dependence on outside countries for economic support may have resulted in an increase in the political leverage which could be exerted on Hanoi's war policies by other Communist states.

Another consequence of foreign aid directly affected the bombing campaign. The provision of a complete air defense system—including MIG aircraft, surface-to-air missile systems, and antiaircraft guns—enabled NVN to mount a vigorous defense against US air attacks. This air defense environment had significant effects on our bombing performance and tactics.

Seaborne imports to North Vietnam during 1968 increased by almost 40 percent over 1967. The increase was caused mostly by a 40 percent rise in food and a 56 percent rise in petroleum shipments over the previous year from both the USSR and China. Large amounts of flour and rice were delivered last year to supplement the below-average harvests in North Vietnam. The delivery of such items permitted the movement of men and supplies to SVN and the maintenance of a subsistence-level diet in NVN.

Question 29d: What are current views on the proportion of war-essential imports that could come into North Vietnam over the rail or road lines from China, even if all imports by sea were denied and a strong effort even made to interdict ground transport? What is the evidence?

LAND IMPORT CAPACITY

In 1968, NVN imported an average of 6,800 STPD (short tons per day); 6,000 STPD by sea, and 800 STPD by land. Imports by land were higher in 1967, amounting to about 1,100 STPD. However, the land lines of communication from China were not used to capacity. It is estimated that the two rail lines from China have a theoretical uninterdicted capacity of about 8,000 STPD and the road network could provide an additional 7,000 STPD during the dry season (normally June–September) and about 2,000 STPD during the poor weather months. The combined capacity of the land routes (9,000–15,000 STPD) is more than enough to transport North Vietnam's total import requirements of about 7,000 STPD. If all seaborne imports were to come through China, considerable logistic problems would have to be solved by the Chinese regime.

INTERDICTION OF IMPORTS FROM CHINA

If seaborne imports can be denied to NVN, her ability to successfully pursue the war in SVN would be dependent on land imports from China.

A strong effort to interdict road and rail transport from Communist China through North Vietnam would require a concerted and coordinated air interdiction campaign against all transportation: military support; petroleum oil, and lubricants power; industrial; air defense; and communications target systems. The interrelationship of the effects of destruction of targets in one category to the effectiveness of others is such that a cumulative impact is achieved. The air campaign would be conducted in such a manner as to be free of the militarily confining constraints which have characterized the conduct of the war in the north in the past. The concept would preclude attacks on population as a target but would accept high risks of civilian casualties in order to achieve destruction of war-supporting targets.

An interdiction campaign as described above, when employed in conjunction with denial of sea imports, would, in large part, isolate Hanoi and Haiphong from each other and from the rest of the country. Isolation of Hanoi, the focal point of the road and rail system, would be highly effective in reducing North Vietnam's capability to reinforce aggression in South Vietnam. Importation of war-supporting material would be seriously reduced. Road capacities would be reduced by a factor well in excess of the estimated 50 percent believed to have been accomplished during the summer months of 1966 and 1967. Over time, North Vietnam's capability to cope with the cumulative effects of such an air campaign would be significantly curtailed.

The Joint Chiefs of Staff believe that resumption of an interdiction campaign similar to that carried out in Route Package I between July and 1 November 1968 would assure almost total interdiction of truck and waterborne movement of supplies into the demilitarized zone and Laos. Naval blockade offshore and interdiction of Regional Package II to Thanh Hao would further enhance this effort.

Commitment of B-52 forces following heavy and unrestricted suppression of defenses by fighters, could reduce the amount of time to accomplish the above. Although the North Vietnamese have established a significant by-pass capability, the transportation nets remain vulnerable at many key points. The locomotive population could be attrited quickly if all buffer restrictions were removed near the Chinese border.

There is not sufficient data available at this time on either the cost or the effectiveness of an air campaign against these land lines to reach a firm conclusion as to the chances of isolating NVN from her neighbors. Past attempts to cut rail, road, and water networks in NVN have met with considerable difficulties. It has been estimated that a minimum of 6,000 attack sorties per month would be required against the two rail lines from China. Even at this level of effort, the North Vietnamese could continue to use the rail lines to shuttle supplies if they were willing to devote sufficient manpower to repair and transhipment operations. Interdiction of the road system would be still more difficult. Since the bombing halt north of 19° in April 1968, North Vietnam has repaired all major road and railway bridges, constructed additional bypasses and alternative routes and expanded the railroad capacity by converting large segments from meter to dual gauge truck. These improvements would make even more difficult prolonged interdiction of the overland lines of communication.

We currently fly approximately 7,000 sorties per month against two primary roads in Laos without preventing throughput truck traffic; the road network from China has 7–10 principal arteries and numerous bypasses. Finally, the monsoonal weather in NVN would make it difficult to sustain interdiction on the land lines of communication. Poor visibility would prevent air strikes during 25–30% of the time during good weather months and 50–65% of the time during poor weather months. Thus, it is not possible to give a definitive amount to the question of how much war-essential imports could come into NVN if sea imports are denied and a strong air campaign is initiated.

Attention would also have to be given to interdiction of supplies coming into SVN from Cambodia. Over the past 2 years, the enemy's use of Cambodia as a supply base and a place of refuge has become more pronounced. During the period October 1967 to September 1968, 10,000 tons of munitions transited Sihanoukville and are suspected of having been delivered to enemy forces in the Cambodia-Republic of Vietnam border regions. This amount represents more than enough ordnance to satisfy the arms and ammunition requirements for all enemy forces in South Vietnam during the same period. Thus, the act of sealing off the enemy's Cambodian supply lines must be considered as an integral part of any plan to prevent supplies from reaching enemy forces in the Republic of Vietnam.

Question 29e: What action has the Democratic Republic of Vietnam taken to reduce the vulnerability and importance of Hanoi as a population and economic center (e.g., through population evacuation and economic dispersal)?

North Vietnam has attempted to reduce the vulnerability of Hanoi and Haiphong to US air strikes. A large segment of the civilian population (estimates range from 40–70% of the total) was evacuated from those two populated areas while US bombing operations were being conducted in the north. Some evacuees have drifted back into the city since the bombing halt, and a few schools reportedly have been reopened; however, the evacuated order has not been rescinded. In addition to personnel evacuation, the North Vietnamese dispersed most small industry, schools, hospitals, and government administration in Hanoi and Haiphong. There is no indication that these facilities have returned. Finally, North Vietnam has constructed an effective and extensive system of air raid shelters for Hanoi residents, and blast walls are under construction around important facilities such as the thermal power plant. Hanoi and its environs are also protected by a well-integrated air-defense system.

Although the North Vietnamese have attempted to reduce the importance and vulnerability of Hanoi and Haiphong, these two cities still remain essential to their war effort. Approximately 80% of the North Vietnamese imports enter through the port of Haiphong, and Hanoi is the logistic center for all rail, road, and water lines of communication from China. Both cities are important storage areas for war-supporting supplies and materiel. It has been reported that some fuel and industrial equipment are being sent directly to new regional sites and rural areas away from Hanoi where new factories will be set up.

The buildup of a major logistics support/trans-shipment complex in the Than Hoa and Vinh area since April 1968 has shifted this important war-support function from the Hanoi area. The buildup of Quang Khe and Dong Hoi since the bombing halt has further reduced dependence on Hanoi. However, the success of this dispersal is dependent in large measures upon unrestricted ship movements south from Haiphong. Hanoi continues to be a bottleneck for all land traffic from China.

DEPARTMENT OF STATE TELEGRAM

5. Prior to Tet 1968 any public discussion of negotiations was generally regarded as nothing short of direct assistance to the enemy. Even private discussion of the subject was very cautious and limited. Dealing with the NLF was hardly discussed in any form. The general assumption being that the NLF would be destroyed as an organization, and its members reintegrated into society as individuals (probably with a definite and lasting stigma as a result of their former Communist connection).

6. While there is now a broad consensus on the need to negotiate with Hanoi, dealing with the NLF remains a sensitive and sometimes hazardous subject. The November USG-GVN impasse over the role of the NLF at Paris reflected the fact that most SVN leaders remain profoundly reluctant to accord the NLF any status whatever. This does not mean that there has been no movement of opinion as regards the NLF, however. This movement is reflected in the series of controversial statements about the NLF—and reactions to them—which have agitated the SVN political scene since shortly after the partial bombing halt:

7. In mid-April 1968 presidential peace candidate Truong Dinh Dzu told foreign correspondents that he favored talks with the NLF. According to some reports, he also advocated coalition government. (Dzu and his family claim that he merely said non-Communist elements of the NLF should be included in the government). The GVN promptly re-arrested Dzu for these remarks (he had been in "protective custody" following Tet). As far as we could determine then, the vast majority of the Vietnamese body politic considered the arrest richly deserved and Dzu's remarks quite beyond the pale.

B. About the same time that Dzu made his comments about the NLF, then Foreign Minister Tran Van Do reportedly told the "Gazette De Lausanne" that after a settlement was reached with Hanoi the GVN could talk with the NLF "as well as other armed dissidents, just as Diem did in 1954". Do also reportedly said "we do not deny the existence of the NLF which is a powerful organization, but we do deny its existence as a government."

C. Do's remarks prompted a stormy protest from Hoa Hao and Cao Dai leaders who felt that he had compared them to the NLF (they were chief among the armed dissidents with whom Diem parleyed in 1954). Perhaps more significant, Do was questioned sharply by the assembly on whether his remarks represented any "shift toward the NLF". Do backed water and explained that he only meant to say that following negotiations with Hanoi, nationalist members of the NLF who put down their arms could return to the nationalist ranks. As for Communists in the NLF, they would be sent to North Viet Nam. Despite his disclaimers, Do's comments probably increased the pressures which resulted shortly in the removal of the LOC Government.

D. Early in his tenure as prime minister, some of Huong's opponents charged that he was soft on the NLF. Perhaps in part as a response to this attack, the Huong Government adopted, at least by implication, a very hard line on the NLF. First indication of this posture was the response to Dr. Phan Quang Dan's June 3 Stanford University speech in which he commented on dealing with the NLF. Named Minister of State while in the US, Dan was summarily dismissed before ever taking up his portfolio. Another indication of Huong's position was the trial and sentencing of Truong Dinh Dzu for his April comments about the NLF. Tried July 26 by a military court, Dzu got five years of hard labor.

E. There was some confusion in Viet Nam about exactly what Dan said in the US. In part this was due to somewhat different American press versions of his statements. In his Stanford speech Dan reportedly observed that it is impossible to kill all the communists in SVN and so some kind of agreement must be reached with them. According to UPI, he also advocated immediate talks with the NLF. (He evidently made it clear to everyone that he was completely opposed to coalition government.) The general impression here was that Dan was proposing direct—and by implication, equal—negotiations with the NLF. On his return to Viet Nam, Dan "explained" that he had merely meant to advocate discussions with individual nationalists in the NLF in the framework of the Chieu Hoi program.

F. While there was a good bit of private sympathy for Dan, a number of our contacts observed that he was probably just ahead of the times. He was still treated as a political leper. His recantation on his return apparently did not cause any consideration of his reinstatement in the government, and political groups gave him a wide berth. Reaction to Dzu's July trial was even more harsh. Most Vietnamese believed that Dzu had advocated coalition government with the Communists, and we heard no expressions of sympathy or support for him.

G. While Dr. Dan's dismissal and Dzu's trial were probably related in part to Huong's political need to demonstrate his firm position vis-a-vis the NLF, they also reflected popular outrage over the prolonged enemy shelling of Saigon and other population centers which occurred in May and June. If opinion about dealings with the NLF had softened gradually though slightly after the partial bombing halt, it seemed to harden perceptibly in mid-year.

H. The announcement November 1 that the U.S. was preparing to sit down with the NLF, with the strong implication that we expected the GVN to do likewise, was a profound shock to Vietnamese leaders in both official and private circles. The March 31 partial bombing halt, the opening of U.S.-Hanoi talks, and Thieu's effective efforts had prepared public opinion for a negotiated settlement of the war, but Vietnamese in general had only very tentatively examined the problem of what to do with the NLF in such a negotiated settlement. November 1 they were suddenly confronted with the possibility of immediate, face to face talks with the NLF on an equal basis. The first reaction was an emotional rejection of the whole idea. During the prolonged GVN-USG impasse that followed, however, nationalists generally felt compelled to confront the dilemma of what to do about the NLF.

I. This renewed nationalist consideration of the NLF problem was reflected both in Prime Minister Huong's comments to the New York Times November 23 and in the relatively mild public reaction to those comments. According to that rather disjointed report, Huong said that the GVN could deal with the NLF as an armed opposition group, that the NLF could send a "delegation" to Saigon or another country such as Laos for discussions with GVN authorities, that internal political questions could be discussed with the NLF. If they acknowledged that they are not a government, and that the NLF could form a political party if its members gave up communist ideology and disarmed. (In a later clarification in Viet Nam press, Huong said that the NLF must lay down its arms and give up communist doctrine before any talks with the GVN could take place.)

J. Huong's critics did not fail to point out that his remarks were not all that far removed from the statements which had caused him to dismiss Dr. Dan from the cabinet. But criticism in press and assembly was muted, and in private little exception was taken to Huong's statements by most SVN political figures. This mild reaction was partly due to the nearly total preoccupation with the USG–GVN split and the need to find a way to get the GVN to Paris. However, it also represented a significant movement of political opinion toward the idea of dealing with the NLF in some fashion.

K. Vice President Ky's December 21 comments on "Face the Nation", reiterated in part at the Saigon Airport on his return to Viet Nam December 23, also revealed the shift in Vietnamese opinion. Ky said in essence that while the GVN will not recognize the NLF as an "entity" or a government, it is prepared to talk with the NLF about internal SVN problems because the NLF is a "reality". Ky's views on the proper timing and context of such talks was not entirely clear, but he seemed to be saying that once negotiations were under way for the withdrawal of NVN forces from SVN, the GVN would consider a meeting with the NLF in South Viet Nam.

L. There appeared to be very little opposition to the substance of Ky's remarks. Official reaction was muted, in part perhaps because Ky's remarks were not agreed on beforehand by Thieu and other GVN leaders. None of the top GVN leaders made any comment on Ky's formula, Ky's remarks never appeared in Viet Nam press, and official spokesmen—after a delay of ten days—finally insisted that Ky's statements in no way constituted any departure from previous GVN policy.

M. Much more significant than official silence was the apparent lack of opposition in non-governmental circles. While many expressed amazement that "Superhawk" Ky should make such statements and some made fun of the fine semantic line between "reality" and "entity", virtually none opposed the basic idea that it would be necessary at some point for the GVN to discuss internal SVN matters with NLF representatives. As noted above, the lack of adverse reaction to Huong's comments to the New York Times may have been due in part to popular preoccupation with the November GVN-USG impasse. This was no longer the case when Ky made his statements to "Face the Nation", and the mild reaction to Ky's comments must be taken as a reflection of a considerable shift in SVN opinion since early 1968.

N. Considering the foregoing sequence of official statements and reactions to them, it now seems safe to say that South Vietnamese Nationalists generally accept the proposition that the GVN will at some point and in some form be obligated to deal directly with the NLF. In large part this conclusion flows from the now general understanding that the US commitment is not endless and a negotiated settlement is inevitable. However, this change in Nationalist opinion also reflects increased confidence in GVN and RVNAF ability to handle the NLF and the Viet Cong if they are deprived of the heavy support they now get from Hanoi and the Communist bloc. (Probably this new confidence is reflected in part in the fact that there is increasing talk in political circles about there being some "Nationalists" in the NLF ranks who can be weaned away from the Communist cause). Having accepted the idea of some kind of negotiation with the NLF, a great many if not most Vietnamese political leaders are now thinking about the possible form of a GVN-NLF agreement. Most of their rather painful and muted debate on this question revolves around the possibility of somehow changing the NLF into a legal, law-abiding, and at least ostensibly non-Communist political party under the Constitution.

8. Nationalist conditions for integrating the NLF into the political life of the nation remain very hard, at least on the surface. In general nationalists totally reject any kind of parity with the NLF. Most if not all profess to see talks with the NLF taking place only after Hanoi has withdrawn its troops and logistics support; they generally insist on NLF acknowledgement of the legality of the GVN and the Constitution, including at least pro-forma acceptance of Article 4 (the basic anti-Communist provision of the constitution): the majority want the NLF to disavow Communist ideology as well as disarm.

9. These conditions are not immutable. In large part nationalist leaders are still groping for a position on the NLF which is at once realistic and not too risky. Most are aware that the terms described in Para 8 above would amount to surrender in NLF eyes and for that reason are not realistic. While they seldom say it, most also undoubtedly go on to conclude that a considerably softer formula must ultimately be accepted. Their difficulty, however, is that they find it extremely hard to envisage any softer formula which does not entail risks which they now regard as quite unacceptable.

10. There are some minority opposition groups which seem to fear accommodation with the NLF much less than the majority. These probably include the An Quang Buddhists, some Song Dao Catholics, a few small leftist labor unions, and possibly some radical southern factions. Some of these groups are heavily infiltrated if not controlled outright by the enemy. Probably most of the remainder are motivated more by their intense opposition to the government than by a sober conviction that the nationalist side can or must take more risks in dealing with the NLF. At the moment these groups are small and wield little political influence.

11. The position of these opposition groups is rarely articulated, even in private, and probably varies considerably from group to group. Like other nationalists, they are groping for a solution which meets their needs and the requirements of the situation as they see it. However, it is safe to say that most of these factions would be quite willing to see the constitution scrapped and the present government replaced as part of a settlement with the NFL. (An Quang in particular would welcome such conditions as the fulfillment of their long-standing desire to humble their old antagonists, Thieu and Ky.) Yet probably very few—excepting of course those controlled by the enemy—would feel ready to accept a coalition government as the price of peace with the NLF.

12. In sum, it can be said that Nationalist attitudes toward the NLF have moved a long way from the general assumption of pre-Tet 1968 that the NLF could be destroyed and the problem thereby resolved. It is now widely accepted that at some point the GVN will have to deal directly with the NLF and find some means for reintegrating it into the political life of the nation. While opinion has thus moved a long way and is still moving, Nationalists are still confronted by a very painful dilemma. This is because Nationalists generally remain unable to envisage a GVN–NLF agreement which the NLF would accept and which would not at the same time pose a very grave threat of a Communist takeover of South Vietnam.

HOUSE OF REPRESENTATIVES—*Thursday, May 11, 1972*

The House met at 10 a.m.

The Reverend Clarence L. Fossett, D.D., Wesley United Methodist Church Washington, D.C., offered the following prayer:

Eternal God, we thank Thee for the earth and the fullness thereof, the world and those who dwell therein. Grateful are we that we can join with Thee in Thy work of creation and redemption.

We praise Thee for the many ways Thou hast favored us as a nation. Remind us that we, who have received freely, have been commanded to give freely. Let us not forget that privilege carries responsibility. Bless our President and all other officials, especially these elected representatives of our people. Inspire all of us to be instruments of Thy peace. Hasten the day, O Lord, when nation shall not lift up sword against nation, and when they shall not learn war any more.

In the spirit of Christ, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill and concurrent resolution of the House of the following titles:

H.R. 13334. An act to establish certain positions in the Department of the Treasury, to fix the compensation for those positions, and for other purposes; and

H. Con. Res. 557. Concurrent resolution authorizing the printing of additional copies of House Report No. 92-911.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 1379. An act to authorize the Secretary of Agriculture to establish a volunteers in the national forests program, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8140) entitled "An act to promote the safety of ports, harbors, waterfront areas, and navigable waters of the United States," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MAGNUSON, Mr. LONG, Mr. HART, Mr. GRIFFIN, and Mr. STEVENS to be the conferees on the part of the Senate.

THE REVEREND DR. CLARENCE L. FOSSETT

(Mr. FAUNTROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAUNTROY. Mr. Speaker, on behalf of the membership of this House, I want to express my deep appreciation to the Reverend Dr. Clarence Louis Fossett of the Wesley United Methodist Church of this city, for offering the prayer today in the House of Representatives.

His words are always a source of inspiration to those of us who know him and seek his guidance. They are reflective of the hopes and aspirations of a people who seek to do the work of their God, of a people who seek to find the path that God would have them follow.

Dr. Fossett is the pastor of one of the most significant churches here in the District of Columbia. It is a church that has long been involved with the civic activities of the city by contributions to those programs taking place elsewhere and by offering its facilities to every worthwhile cause. Perhaps most notable is the ecumenical spirit that Dr. Fossett has fostered. Every tradition is welcome, even those which are distinctly non-Christian, for Dr. Fossett believes that it is by sharing that one learns and becomes better able to live in the light of Him who came before us.

Washington, D.C., does not lay total claim to Dr. Fossett. Originally born in Birmingham, he was educated in Alabama, California, and Maryland. His theological education was achieved at Garrett Theological Seminary, and he is the recipient of the doctorate of divinity from Western Maryland College. Indeed, he is a man who has a claim to the breadth and width of this Nation.

His pastorates have taken him from Illinois to Maryland, and finally to this city, where he has served as pastor and district superintendent. His lovely wife, Norma, is no less an important person. The city lays total claim to her for she is a native and educated in our public schools. As a former teacher, she has made an impact upon our city by the excellence that she gave and demanded of those who came through her classroom.

Mr. Speaker, I am pleased and honored to have the opportunity to speak of this man who is with us today. He is a man who has led in the tradition of those who have led this body in prayer and I hope that perhaps we will be able to have him with us again.

REQUEST FOR PERMISSION FOR SUBCOMMITTEE ON ACCOUNTS, COMMITTEE ON HOUSE ADMINISTRATION, TO SIT TODAY DURING HOUSE SESSION

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Accounts of the Committee on House Administration be permitted to sit today while the House is in session.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. HALL. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

CONGRESSMAN STRATTON INTRODUCES VIETNAM ERA VETERANS REEMPLOYMENT ACT OF 1972 TO GUARANTEE 52 WEEKS OF EMPLOYMENT TO EVERY UNEMPLOYED VIETNAM VETERAN

(Mr. STRATTON asked and was given permission to address the House for 1 minute, to revise and extend his remarks.)

Mr. STRATTON. Mr. Speaker, I have just dropped into the hopper this morning the Vietnam Era Veterans Reemployment Act of 1972, which is designed to provide 52 weeks of employment to any unemployed Vietnam veteran.

Mr. Speaker, the figures which were released just the other day by the Department of Labor indicate very clearly that we have failed so far in our voluntary efforts to find jobs for our returning Vietnam veterans. Their unemployment rate today is still 50 percent more than the national average, with something over 340,000 Vietnam veterans still unemployed. The ratios for black veterans are even higher.

Mr. Speaker, I think this Government of ours has a solemn responsibility to put these young men back into the economic mainstream of American life, and that is what my bill will do.

Specifically, it will provide $3.5 billion over the next 4 years to finance 52 weeks of employment for any unemployed Vietnam veteran, either in public service jobs or, with the help of Federal wage subsidies, in private businesses.

Incidentally, my bill would require that job opportunities funded under it would have to represent an increase in total employment. Veterans could not be hired simply to replace workers who would otherwise be paid under existing programs or contracts.

There are many areas where this bill can provide urgently needed public services, for example in supplementing local police forces; in providing personnel to monitor price increases and aid in the enforcement of price regulations under phase II of the administration's anti-inflation program; and to help in screening airline passengers in an all-out effort to end the increasing rash of hijackings, something the airlines say they are not now equipped to do.

RESIGNATION FROM U.S. DELEGATION, 12TH MEXICO-UNITED STATES INTERPARLIAMENTARY CONFERENCE

The SPEAKER laid before the House the following resignation:

WASHINGTON, D.C.,
May 9, 1972.

Hon. CARL ALBERT,
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: I regret that due to pressing business I will be unable to attend the 12th Mexico-United States Interparliamentary Conference, and wish to submit my resignation from the U.S. Delegation to same.

Sincerely,

SAM STEIGER.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

APPOINTMENT AS MEMBER, U.S. DELEGATION, MEXICO - UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER. Pursuant to the provisions of section 1, Public Law 86-420, the Chair appoints as a member of the U.S. delegation of the Mexico-United States Interparliamentary Group the gentleman from Nebraska, Mr. THONE, to fill an existing vacancy thereon.

REQUEST FOR SUBCOMMITTEE ON THE PANAMA CANAL TO SIT TODAY DURING HOUSE SESSION

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Subcommittee on the Panama Canal be permitted to sit in executive session while the House is in session today.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. HALL. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

RUMANIA'S NATIONAL INDEPENDENCE DAY

(Mr. VIGORITO asked and was given permission to address the House for 1 minute.)

Mr. VIGORITO. Mr. Speaker, I join with my colleagues in saluting all Rumanian peoples around the world on the occasion of the 10th of May, the traditional Rumanian Independence Day.

Every American knows how the 4th of July is an important part of our national heritage. The 10th of May holds as important a place in the heart of every freedom-loving Rumanian.

It is unfortunate that the iron hand of foreign oppressors today prevents the 10th of May from being celebrated in Rumania. Rumania is a captive nation, unable to guide its own destiny. The people are not free to act, think and speak as they wish.

We value greatly our own freedom. Every American should pledge that we will do everything in our power to see that some day—in the very near future—that Rumania will again enjoy the freedom it deserves among all nations of the world.

PRIESTS REPORTED CRUCIFIED BY FOE

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. YOUNG of Florida. Mr. Speaker, an article appeared on page 17A of the Washington Post this morning that was so small and placed so poorly that I am afraid the membership might have missed it.

It is datelined "Pleiku, South Vietnam."

The article reads as follows:

> The senior U.S. adviser for the Central Highlands said today he has reports that enemy troops have crucified two French priests in Kontum Province. John Paul Vann told a news conference that according to these reports two French priests who stayed with their congregations in the tiny village of Konhring, 20 miles northwest of Kontum City, were crucified in the last week. He gave no further details. He did not identify the sources of his reports or the French priests.

When are the spokesmen for the so-called antiwar movement going to condemn these immoral murders?

Mr. Speaker, I would also like to call to the attention of the Members who might have missed it last night, an article which appeared in the Washington Star. It reports an interview with Mr. Yakov Malik, the Soviet Ambassador to the United Nations which reads in part:

> In New York the Soviet Ambassador to the United Nations, Yakov A. Malik, yesterday said, "I agree with many American Congressmen who have condemned this new act of aggression."

Mr. Speaker, I read this into the Record to make sure that some of the Members know what kind of grades they are getting from Communist leaders of Soviet Russia.

THE PEOPLE'S RIGHT TO KNOW

(Mr. KEMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KEMP. Mr. Speaker, in the last few days there have been a lot of pious statements made from this microphone about the people's right to know the truth in order to help them understand the great issues of the day.

I am concerned, Mr. Speaker, about an erroneous impression being foisted upon the American people that by voting to cut off all funds and by voting for immediate unilateral withdrawal, we are going to end the war and the killing in Southeast Asia.

An article appearing in the morning's Washington Post reported:

> Democrats on the House Committee on Foreign Affairs approved, by a wide margin yesterday, legislation to pull all U.S. forces from Indochina by October 1, subject only to the release of prisoners and the safe withdrawal of all U.S. troops.

They rejected President Nixon's requirement of a cease-fire as a condition for U.S. withdrawal. But the title of the article was "House Democrats Press End-War Act." What a travesty—the headline is misleading the people. If we really want to end the war, a cease-fire is essential, because only a cease-fire will stop the killing by all sides. Anything less would not insure a stop to the killing. There must be support for the President or else unilateral withdrawal and cutting off all funds in the face of this invasion will lead to wholesale slaughter throughout Indochina.

Mr. Speaker, if all killing is to be stopped in Indochina, then the President should be supported in his efforts to get a cease-fire; which, it has been conveniently forgotten, the critics have been demanding for years.

MOTION TO INSTRUCT HOUSE MANAGERS ON S. 659, HIGHER EDUCATION AMENDMENTS, 1971

Mr. WAGGONNER. Mr. Speaker, I send to the desk a privileged motion under clause 1, rule XXVIII.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

> Mr. Waggonner moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the House amendment to the bill S. 659 be instructed to insist upon the provisions contained in Sections 1701 and 1703(b) of the House amendment.

The SPEAKER. The gentleman from Louisiana (Mr. Waggonner) is recognized for 1 hour.

Mr. WAGGONNER. Mr. Speaker, and Members of the House, this is an effort on my part, and others, to insist upon the instructions previously given to the House conferees to stand by the House language contained in the higher education bill which specifically, under the conditions set forth by the Broomfield amendment, the Ashbrook amendment, as amended by the Green amendment, instruct them to stand by the language of those amendments prohibiting busing to overcome racial imbalance and prohibit coercion by the executive branch of Government.

Now you would ask why, once having instructed the conferees, that we would again at this point in time feel the need for further instruction. It is made necessary first of all because of the poor track record of our House Education and Labor Committee conferees in defending whatever position the House takes and their actions yesterday as well as the statement which the news media has attributed to Mr. Quie, who I understand is the ranking minority conferee, that we might as well forget anything in the way of legislation having to do with the moratorium on busing this year.

It is further made necessary, in my personal opinion, because of the effort of certain segments of the media to downplay this issue, and to create in the minds of the people of this country that a controversy no longer exists over this matter of busing.

When the media, any part of it, attempts to mislead our public to that extent, then they are far less informed than is the public.

Because all you have to do is to visit around this country and talk to the people all over this country and you will find that this controversy is growing in intensity rather than diminishing.

The issue has been misrepresented. The people overwhelmingly want some prohibition against unnecessary busing. They are opposed to busing for the purpose of achieving racial balance. You know what is happening in Michigan. You have read of the attitude of the Federal judiciary up there wherein they have forbidden the Department of Justice to even intervene.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I am happy to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I was extremely disappointed to read the decision of several days ago by the Federal district judge in the Eastern District of Michigan. He denied the right of the Department of Justice to intervene. The Department of Justice had sought to enter that controversial lawsuit in order to find a solution, other than the kind of solution that is now apparently in the making, so far as Richmond is concerned.

But the Department of Justice was denied the opportunity to participate on behalf of all of the American people about an arbitrary decision of that particular district court judge.

It seems to me, the judiciary has the responsibility to give the Department of Justice, representing all of us, the right to participate in such proceedings that are of such significance to all Americans.

I hope and trust that the Department of Justice will continue to intervene and hopefully that the judiciary, other than this judge, will be more responsive to the legitimate request on behalf of the Attorney General.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. Mr. Speaker, I yield to the gentleman from Kentucky (Mr. Perkins) for purposes of debate only.

Mr. PERKINS. Mr. Speaker, I personally feel that the motion of the gentleman from Louisiana is untimely and will render a tremendous disservice to higher education in this country.

We are making tremendous progress in trying to work out an acceptable education. The vast majority of the more than 250 differences have been resolved. The House conferees have already voted and submitted to the Senate a motion that we refuse to recede on busing in accordance with the instructions of the House.

When this issue was debated before, it was indicated and was interpreted by every Member of this body that there would be certain latitude within those instructions where we could not dot every "i" and cross every "t" if we expected to obtain a bill.

To my way of thinking, we have the most important higher education bill that has ever been pending in the Congress of the United States. It is my judgment that we will work out all the differences next week and stay within the instructions.

So I think this motion to reinstruct the conferees not only will muddy the water, but may support those who are not too interested in obtaining a bill. It will only serve one purpose and that will be to play into the hands of those people who are not interested in a higher education bill during this session of the Congress.

Too much time and effort has gone into the most comprehensive higher education bill that has ever been considered by this Congress to allow any one issue to destroy it when we are so close to reaching resolution that everybody can agree to.

To think about instructing the conferees, as diligently as we have been working, can only be interpreted in one way, that we do not want a higher education bill during this session of the Congress, and that we are not concerned about the fact that the law has already expired. Why should we throw away the many millions of dollars that have gone into this study during the past 2 years, when we are on the verge of obtaining a higher education bill which every higher educational institution in this country needs. This is a bill I feel 90 percent of the American people are interested in seeing signed into law.

I say to you when we get down here to try to reinstruct the conferees, when everybody is using his best judgment and due diligence, we are not legislating in the best interest of America. We will be legislating against the public interest in this country.

Mr. Speaker, I should like to yield to the gentleman from Minnesota.

The SPEAKER. The gentleman from Louisiana has the floor.

Mr. WAGGONNER. Mr. Speaker, the gentleman from Kentucky, the distinguished Chairman of the House Committee on Education and Labor, has just said to you that anyone who would want to further instruct this committee would be in opposition today to finally bringing from conference for our consideration a higher education bill.

Let me remind the gentleman that I supported that higher education bill when it passed this House of Representatives. I spoke in favor of it; I am in favor of it still. But I simply want to say to the gentleman and the other Members of the House that rather than being opposed to the legislation, I want to strengthen the gentleman's hand in dealing with the Senate conferees so that he might go ahead and do what he just said he intended to do, and that was comply with the intent of the previous instructions given the House conferees. We want to strengthen his hand to be sure that the American public gets back here for our consideration what they expect to get back from it.

Mr. Speaker, I yield for purposes of debate only 5 minutes to the gentleman from Minnesota (Mr. QUIE).

The SPEAKER. The gentleman from Minnesota is recognized for 5 minutes.

Mr. QUIE. I thank the gentleman from Louisiana for yielding.

As the gentleman from Kentucky indicated, the House conferees have taken only one action on busing so far, and that is to vote to stand by the position of the House. If the House conferees had taken a position contrary to the desires of the majority of the House, or if the conferees were about to do so, I could understand then the desire to instruct the conferees. But we have not taken any action on busing contrary to the wishes of the House.

I say that it is impossible for us to reach an agreement if we require the Senate to take exactly the words of the House. I feel my instructions were that we keep the spirit of the House language.

Let me say what I think is what we ought to try to accomplish. That is, that there should be no effort on the part of any agency of the Federal Government to bring about the transportation of children outside of their attendance area, nor should there be any effort to bring about racial balance.

To me those are the two things that people really are opposed to in this country. They do not want the requirement that every school in the school district have the racial balance of that school district, nor do they want their children transported outside of their attendance area against their wishes, so they lose the sense of community and neighborhood. I think that is what the House has said and the conferees ought to adhere to, and that is what I am going to try my best to get them to adhere to.

I believe we are putting together an excellent higher education bill. I am extremely pleased with the progress we have made so far. I think this will be a much better piece of legislation than came out of the House or the Senate in our blending together of the two views of those bodies on higher education. So if we continue as we are doing now, I expect to come back extremely proud of what we present to the House on higher education.

In so doing, I do not want to bring out an antibusing amendment the House will turn down. I will do everything I can to make certain we will come back with something the House will accept, because otherwise we will not have a higher education bill, and the young people depend on that kind of good legislation we are going to be bringing out.

If I might mention the moratorium, if we were going to adopt the President's moratorium in the conference, we would have to come back and get a rule, because it is just not germane to the conference. The House did not instruct us to take the moratorium. They instructed us to stand by the position of the House. I think that is what we are obligated to do. I do not find enthusiasm for the moratorium expressing itself, and that is why I have expressed myself as I have, as thinking it would not happen.

The most important part of the President's proposal in my estimation is for this Congress to set the standard for remedies for desegregation that the courts ought to abide by, similar to what the President suggested in the Equal Education Opportunity Act which I was pleased to cosponsor. I think that is the responsibility of this Congress before it leaves and goes home—to determine how far the courts should go in transporting kids.

Should they transport the children all the way across town to some foreign area? It does not make any difference what the race is of the people in that area, the objections still arise. I do not think the children ought to be transported against their parents' wishes past schools of their attendance area. Now in the rural areas, as would be the case if my children were still in Minnesota, they would be transported 18 miles, but that is the closest school, and one develops a sense of community to the closest school. But if the children are transported past two or three schools just in order to bring about a racial balance, I do not think the country wants that, and I do not think the Congress wants that. And, if that is the case, we ought to tell the courts that they ought to limit their remedies to that which is acceptable for good education. I think we have the right to do that.

Mr. WAGGONNER. Mr. Speaker, the gentleman from Minnesota has just said to the House that it was his intention to stand by the spirit of the previous instructions given the conferees by the House. His position would have been much stronger had he said, "I will without wavering stand by the instructions previously given the conferees by the House of Representatives."

Let me tell the Members, he properly interprets the attitude of the people of this country, but he does not admit that the people of this country are being frustrated by the courts, who do not agree with the people of this country. They are in contravention of the law when they order busing to achieve racial balance.

But more important than that, let me tell the Members why we must again instruct these conferees. Are the Members aware of the fact that whatever is brought back from the conference will only bring about an up or a down vote here in the House of Representatives, because the conference papers are going not first to the House of Representatives, they are not coming to us, but they are going to the U.S. Senate, and then we will have one vote: Take it or leave it, as it is.

So if we want one more crack at instructing these conferees, we had better do it today. If we really want to stick by the prohibiting language contained in the amendments, passed by this House of Representatives, three good amendments—the Broomfield amendment, the Ashbrook amendment, and the Green amendment to the Ashbrook amendment—I would say to my friends in the House that we must insist upon these amendments.

We do want a higher education bill. This country needs a higher education bill. The gentlewoman (Mrs. GREEN) has worked as hard as anybody ever did for this bill, and I want her to have it. I supported it when she had it here originally, and I think she deserves to have this bill passed. She has no peer as far as education is concerned in this country in the public sector or the private sector. She has experience that few people have ever had.

I think that the language which she gave so much careful consideration to in an effort to prevent coercion by the Executive should be adhered to, so we must instruct again not just to put reins on the court, but also, as important in my personal opinion, to rein in the bureaucracy who continuously contravene the intent of legislation passed by this House of Representatives.

Mrs. GREEN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. Mr. Speaker, I yield to the gentlewoman from Oregon for purposes of debate only.

Mrs. GREEN of Oregon. I thank the gentleman very much. I was not aware that the gentleman was going to offer this motion this morning.

Mr. WAGGONNER. If the gentlewoman would pause for just a moment, I did not make a decision until 5 minutes of convening, myself.

Mrs. GREEN of Oregon. I am not criticizing, I say to my friend.

May I say to my colleagues that it seems to me, the motion, once having been made, must be carried if those people who are opposed to busing want the antibusing amendment to remain in the conference report. It seems to me that now, that the motion is before the House, its defeat would be considered in the conference as an invitation to back down on the House position on the part of the House conferees.

Now let me make two or three other comments, if I may, on this.

The gentleman from Louisiana is very accurate in saying that the higher education bill means a great deal to me. But I would also say to my colleagues that if the conference goes as it has at the present time I do not think the higher education bill should be approved by the Congress this year, and there will be an opportunity to take it up again in 1973.

Why do I say that? Even if we retain all three antibusing amendments that the House approved by an overwhelming majority, we still have at this time in the conference, by the action approved yesterday, the following things:

We have the requirement that every school district that is the recipient of funds shall have a stable, integrated school, I believe that is the wording. But anybody who is knowledgeable knows this means one thing: they must have racial balance in at least one school in any district which applies for funds.

It is argued by the Senator from Minnesota, who is on the conference, that this is voluntary, that no district has to apply for funds. I would say to my colleagues that this is true of every single bill we pass for any funds for any purpose. If a city or a county or a State or a school district, or anybody else, does not want to apply for the funds, they do not have to. It is voluntary.

"Necessitous people are not free people" and cannot make a free choice. Districts today which are having a terrible time supporting their schools are desperate for funds. But if they are to be eligible, they must agree that they are going to have this one stable integrated school—or get no funds.

Again an offhand view would say, "Well, one stable integrated school in every city would be a very good thing." I agree. I do not have any quarrel with that. But is that what it really means?

Take your own city. Do you think your school board could say, "We are going to have one of these schools as an integrated stable school," without making that requirement for every one of them? You know they cannot. Your people in any city or town might be very, very angry if that were the case—to treat one school in your school district differently than the other schools in that district.

So what it really means is that you start out this way, and it sounds like inoffensive language, but what they are really after is a racial balance, as a requirement for all.

There was a second approval yesterday, and I would say this especially to my friends from Detroit and those who are concerned about a recent court decision in Richmond. One of the provisions is that funds will be provided for a metropolitan school district. Five percent reserved for this.

Mr. PERKINS. Mr. Speaker, will the gentlewoman yield?

Mrs. GREEN of Oregon. Let me finish, please.

Mr. WAGGONNER. Mr. Speaker, I have the time.

Mrs. GREEN of Oregon. There is a provision for a metropolitan school district. A commissioner is the one to decide this, and he would choose the city in the United States that would become a metropolitan school district, where they would go across school district lines.

Again it is argued it is voluntary, they would not have to do it. But what you are doing if you pass this is that you are really giving the stamp of approval by the Congress of the United States that this is a good idea.

Why did you vote funds for it? Why would Congress vote funds for the establishment of a metropolitan school district in the United States unless you thought it was good? We certainly would not do it if we thought it was bad. Are you so convinced the establishment of a metropolitan district is good educational policy that you are willing to give the Commissioner of Education $75 million to carry out this provision?

There was also a provision agreed to yesterday after much argument. As you recall in the language in the House bill—which I do not have before me—the guidelines and rules and regulations would be uniformly administered throughout the United States.

About 5 years ago, if you recall, Mr. FOUNTAIN first recommended this provision in the Elementary and Secondary Education Act, and the House approved it by a decided majority. If racial isolation is injurious to any child—and there is no body of evidence to prove this, but if one accepts this premise—then it surely is as injurious to a child who is in a de facto racially isolated school as in a de jure racially isolated school. The House approved the Fountain amendment and 5 years ago it was given away in the conference.

In the bill before the conference there is this provision again that any guidelines, rules, and regulations must be uniformly administered throughout the United States. That language was adopted in conference, but in addition the Senate language was presented and referred to as the Stennis amendment. I have discussed it with Senator STENNIS and he is going to have to decide what was in the Senate language, but Senator STENNIS certainly told me he did not advocate a provision that would say the rules and regulations and guidelines shall be the same for all de facto situations and then the rules and regulations and guidelines shall be the same for all de jure situations. But that was MONDALE's proposal as the Stennis amendment and this was approved in the conference.

So now we treat those schools that are supposedly in a de facto segregated situation one way and we treat the schools that are in a de jure segregated situation in another way.

Mr. Speaker, twice the House has expressed its disapproval of this and said that the Civil Rights Act was not meant to be imposed in one way on one part of the country and imposed in another way on another part of the country. This is an old battle, and we have fought it before. The votes in the House have been decisive. But as of yesterday in the conference report the de jure situations are treated in one way and the de facto situations are treated in another.

Mr. Speaker, there are several other parts of the conference I am finding myself having great difficulty with. Heaven knows I think our colleges and universities are facing a great crisis. In a study by the Association of Independent Colleges, it indicates 365 of them will close their doors if help does not come. I am deeply concerned about it, but there are certain limits beyond which I will not go. I'm keenly aware of the purpose of a conference committee to search a compromise. The House conferees have yielded on many of the 270 points of difference. The Senate conferees have yielded on many points. But these are some major items—some principles that should not be compromised. If these matters of such great importance are part of the conference report—then I, as one conferee, could not in good conscience—sign the conference report. I will not stand idly by and see financial aid for post secondary education approved at the cost of bringing about a further deterioration in our elementary schools—and an increased polarization in our country. We can afford neither.

Mr. WAGGONNER. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the committee, the gentleman from Kentucky, for the purposes of debate only.

Mr. PERKINS. Mr. Speaker, first let me state that I want to pay my respect to Mrs. GREEN for all the dedicated work that she has done on this higher education legislation not only for the past 2 years but for many years.

She mentioned one provision that has tentatively been accepted in the House bill, the amendment which requires there be one stable quality integrated school in any school district that receives any money under the emergency school aid title.

I agree with the gentlewoman from

Oregon (Mrs. GREEN) that if I had my way this provision would not be in the bill.

The gentleman from Illinois (Mr. PUCINSKI) handled the desegregation bill, both in the subcommittee and here in the House, and I do not think that Mr. PUCINSKI has gone overboard anywhere insofar as any of these provisions are concerned. Neither has the gentleman from California (Mr. BELL).

The conferees have gone along with the House provisions in many instances, but I do want to stress again that with the emergency school aid program it is a give-and-take proposition with the other body. We have eliminated any number of items in their approach.

Mr. WAGGONNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. BRADEMAS), for purposes of debate only.

Mr. BRADEMAS. I thank my colleague from Louisiana for yielding.

Mr. Speaker, I would like to say just a word about where we are now on the subject under discussion.

The question of desegregation is a difficult and complex matter. Of that, we are all aware, but the issue in the bill now in conference is not only desegregation. I do not, therefore, address myself at this time to that part of the bill, but, rather, to the overall bill before the conference.

Mr. Speaker, the bill under consideration in conference is a very lengthy one, a bill that contains not only matters that pertain to school desegregation, but also to aid for our colleges and universities, aid to students, Indian education, educational research, and new support for vocational education.

Indeed, Mr. Speaker, I think that the bill now in conference can mark the most significant strides forward for American education at many levels that we have seen in a long time.

The conferees have been making steady progress. We have been meeting for several weeks, sometimes 6 hours a day, and we are now headed into what I hope will be the remaining days of work on the legislation.

Mr. Speaker, passage of this legislation is essential. Witness after witness told our committee that unless Congress acts promptly to expand the Federal commitment to higher education, many of our colleges and universities will be in serious difficulty.

In addition, Mr. Speaker, the immediate future of literally millions of students depends upon our acting now to extend and improve the student aid programs. If we do not act expeditiously, these programs will lapse and students who commenced their education on the promise of Federal financial assistance will find themselves left out in the cold.

Mr. Speaker, as my colleague, the gentleman from Minnesota (Mr. QUIE), and the distinguished chairman of our committee, Mr. PERKINS, have made clear, we are confident that we will get a good bill, a bill that will command the support of both Democrats and Republicans in Congress.

It is clear to the conferees that we must bring out a bill that will have bipartisan support, and we are laboring diligently and, I believe, effectively to fashion legislation that will win the support of Members of both parties, of both bodies, and of the President of the United States.

I, for one, am confident that we will come back to this Chamber with a bill that will win the support of an overwhelming majority of this body and a bill that will fulfill our responsibility to the millions of students of this country and the institutions they attend.

Mr. WAGGONNER. Mr. Speaker, it should be crystal clear now, having heard the distinguished gentlewoman from Oregon, that it is more important than ever that we reaffirm our opposition to busing and prohibiting busing to achieve racial balance as well as coercion by the executive.

It is made even more necessary, if you listened carefully to the compromise language written into other provisions of the bill which will allow accomplishment of exactly the same thing we specifically want to prohibit.

Mr. Speaker, we must insist upon what we have done.

Mr. Speaker, I move the previous question and ask that we instruct the conferees.

MOTION TO TABLE OFFERED BY MR. YATES

Mr. YATES. Mr. Speaker, I move that the motion of the gentleman from Louisiana to instruct the conferees be laid on the table.

The SPEAKER. The question is on the motion to table offered by the gentleman from Illinois (Mr. YATES).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. YATES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 126, nays 273, not voting 32, as follows:

[Roll No. 143]

YEAS—126

Abourezk
Abzug
Adams
Anderson, Ill.
Ashley
Aspin
Badillo
Barrett
Begich
Bell
Bergland
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Brown, Ohio
Burke, Mass.
Burton
Byrne, Pa.
Carney
Celler
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Culver
Daniels, N.J.
Dellenback
Dellums
Donohue
Dorn
Dow
Drinan
Dwyer
Eckhardt
Edwards, Calif.
Erlenborn
Fascell
Findley
Flood
Foley
Fraser
Frenzel
Gonzalez
Green, Pa.
Gude
Hansen, Idaho
Hansen, Wash.
Harrington
Hathaway
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks, Wash.
Holifield
Horton
Howard
Jacobs
Karth
Kastenmeier
Koch
Kyros
Leggett
Link
McClory
McCloskey
McCormack
McCulloch
McFall
McKay
Madden
Mailliard
Mallary
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mikva
Minish
Mink
Mitchell
Moorhead
Morgan
Mosher
Moss
Nix
Obey
O'Neill
Patten
Perkins
Price, Ill.
Quie
Railsback
Rees
Reid
Reuss
Riegle
Robison, N.Y.
Rodino
Roncalio
Rooney, N.Y.
Rosenthal
Roybal
Ruppe
Ryan
Saylor
Scheuer
Schwengel
Seiberling
Smith, Iowa
Steiger, Wis.
Thompson, N.J.
Udall
Ullman
Van Deerlin
Vanik
Waldie
Whalen
Yates
Zwach

NAYS—273

Abbitt
Addabbo
Alexander
Anderson, Calif.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashbrook
Aspinall
Baker
Baring
Belcher
Bennett
Betts
Bevill
Biaggi
Biester
Blackburn
Blanton
Bow
Brasco
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carey, N.Y.
Carlson
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Cotter
Coughlin
Crane
Curlin
Daniel, Va.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Downing
Dulski
Duncan
du Pont
Edwards, Ala.
Eilberg
Esch
Evins, Tenn.
Fish
Fisher
Flowers
Flynt
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Frelinghuysen
Frey
Fulton
Fuqua
Galifianakis
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Goldwater
Goodling
Grasso
Green, Oreg.
Griffin
Griffiths
Gross
Grover
Gubser
Hagan
Haley
Hall
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Harsha
Harvey
Hastings
Hébert
Heinz
Henderson
Hicks, Mass.
Hillis
Hogan
Hosmer
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Keating
Kee
Kemp
King
Kyl
Landgrebe
Latta
Lennon
Lent
Lloyd
Long, La.
Lujan
McClure
McCollister
McDade
McDonald, Mich.
McEwen
McKevitt
McKinney
McMillan
Mahon
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Michel
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minshall
Mizell
Mollohan
Monagan
Montgomery
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nichols
O'Hara
O'Konski
Patman
Pelly
Pepper
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Podell
Poff
Powell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quillen
Randall
Rarick
Rhodes
Roberts
Robinson, Va.
Roe
Rogers
Rooney, Pa.
Rostenkowski
Roush
Rousselot
Roy
Runnels
Ruth
St Germain
Sandman
Sarbanes
Satterfield
Scherle
Schmitz
Schneebeli
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Snyder
Spence
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Symington
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Vander Jagt
Veysey
Vigorito
Waggonner

Wampler
Ware
White
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wright
Wydler
Wylie
Wyman
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion

NOT VOTING—32

Abernethy
Anderson, Tenn.
Brooks
Clark
Diggs
Dowdy
Edmondson
Eshleman
Evans, Colo.
Gallagher
Gray
Hays
Hull
Keith
Kluczynski
Kuykendall
Landrum
Long, Md.
Macdonald, Mass.
Metcalfe
Passman
Preyer, N.C.
Rangel
Smith, N.Y.
Springer
Stokes
Stubblefield
Talcott
Tiernan
Whalley
Williams
Wyatt

So the motion to table was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Macdonald of Massachusetts for, with Mr. Stubblefield against.

Mr. Rangel for, with Mr. Long of Maryland against.

Mr. Stokes for, with Mr. Tiernan against.

Mr. Metcalfe for, with Mr. Gray against.

Mr. Diggs for, with Mr. Brooks against.

Mr. Evans of Colorado for, with Mr. Hays against.

Mr. Gallagher for, with Mr Kluczynski against.

Mr. Keith for, with Mr. Kuykendall against.

Until further notice:

Mr. Anderson of Tennessee with Mr. Smith of New York.

Mr. Clark with Mr. Williams.

Mr. Hull with Mr. Eshleman.

Mr. Landrum with Mr. Springer.

Mr. Passman with Mr. Talcott.

Mr. Edmondson with Mr. Wyatt.

Mr. Abernethy with Mr. Whalley.

Mr. PRYOR of Arkansas changed his vote from "yea" to "nay."

Messrs. DANIELS of New Jersey, MINISH, and FLOOD changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

Mr. WAGGONNER. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Louisiana (Mr. WAGGONNER).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WAGGONNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—leas 275, nays 125, not voting 31, as follows:

[Roll No. 144]

YEAS—275

Abbitt
Abernethy
Addabbo
Alexander
Anderson, Calif.
Andrews, Ala.
Andrews, N. Dak.
Annunzio
Archer
Arends
Ashbrook
Aspin
Aspinall
Baker
Baring
Belcher
Bennett
Betts
Bevill
Biaggi
Biester
Blackburn
Blanton
Bow
Brasco
Bray
Brinkley
Broomfield
Brotzman
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Burlison, Mo.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carey, N.Y.
Carlson
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Cotter
Coughlin
Crane
Curlin
Daniel, Va.
Danielson
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Delaney
Denholm
Dennis
Dent
Derwinski
Devine
Dickinson
Dingell
Downing
Dulski
Duncan
du Pont
Dwyer
Edwards, Ala.
Eilberg
Esch
Evins, Tenn.
Fish
Fisher
Flowers
Flynt
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Frelinghuysen
Frey
Fulton
Fuqua
Galifianakis
Garmatz
Gaydos
Gettys
Giaimo
Gibbons
Goldwater
Goodling
Grasso
Green, Oreg.
Griffin
Griffiths
Gross
Grover
Gubser
Haley
Hall
Halpern
Hamilton
Hammerschmidt
Hanley
Hanna
Harsha
Harvey
Hastings
Hébert
Heinz
Henderson
Hicks, Mass.
Hillis
Hogan
Horton
Hosmer
Hungate
Hunt
Hutchinson
Ichord
Jacobs
Jarman
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Kazen
Keating
Kee
Kemp
King
Kluczynski
Kyl
Landgrebe
Latta
Lennon
Lent
Lloyd
Long, La.
Lujan
McClure
McCollister
McDade
McDonald, Mich.
McEwen
McKay
McKevitt
McKinney
McMillan
Mahon
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Michel
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minshall
Mizell
Mollohan
Monagan
Montgomery
Murphy, Ill.
Myers
Natcher
Nedzi
Nelsen
Nichols
O'Hara
O'Konski
Patman
Pelly
Pepper
Pettis
Peyser
Pickle
Pike
Pirnie
Poage
Podell
Poff
Powell
Price, Tex.
Pryor, Ark.
Pucinski
Purcell
Quillen
Randall
Rarick
Rhodes
Roberts
Robinson, Va.
Roe
Rogers
Rooney, Pa.
Rostenkowski
Roush
Rousselot
Runnels
Ruth
St Germain
Sandman
Sarbanes
Satterfield
Scherle
Schmitz
Schneebeli
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, N.Y.
Snyder
Spence
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Ariz.
Stephens
Stratton
Stuckey
Sullivan
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Vander Jagt
Vigorito
Waggonner
Wampler
Ware
White
Whitehurst
Whitten
Widnall
Wiggins
Wilson, Bob
Wilson, Charles H.
Winn
Wright
Wydler
Wylie
Wyman
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion

NAYS—125

Abourezk
Abzug
Adams
Anderson, Ill.
Ashley
Badillo
Barrett
Begich
Bell
Bergland
Bingham
Blatnik
Boggs
Boland
Bolling
Brademas
Brown, Ohio
Burke, Mass.
Burton
Byrne, Pa.
Carney
Celler
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Culver
Daniels, N.J.
Dellenback
Dellums
Diggs
Donohue
Dorn
Drinan
Eckhardt
Edwards, Calif.
Erlenborn
Fascell
Findley
Flood
Foley
Fraser
Frenzel
Gonzalez
Green, Pa.
Gude
Hansen, Idaho
Hansen, Wash.
Harrington
Hathaway
Hawkins
Hechler, W. Va.
Heckler, Mass.
Helstoski
Hicks, Wash.
Holifield
Howard
Jonas
Karth
Kastenmeier
Koch
Kyros
Leggett
Link
McClory
McCloskey
McCormack
McCulloch
McFall
Madden
Mailliard
Mallary
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Mikva
Minish
Mink
Mitchell
Moorhead
Morgan
Mosher
Moss
Murphy, N.Y.
Nix
Obey
O'Neill
Patten
Perkins
Price, Ill.
Quie
Railsback
Rees
Reid
Reuss
Riegle
Robison, N.Y.
Rodino
Roncalio
Rooney, N.Y.
Rosenthal
Roy
Roybal
Ruppe
Ryan
Saylor
Schwengel
Seiberling
Smith, Iowa
Steiger, Wis.
Symington
Thompson, N.J.
Udall
Ullman
Van Deerlin
Vanik
Waldie
Whalen
Wolff
Yates
Zwach

NOT VOTING—31

Anderson, Tenn.
Brooks
Brown, Mich.
Clark
Dow
Dowdy
Edmondson
Eshleman
Evans, Colo.
Gallagher
Gray
Hagan
Hays
Hull
Keith
Kuykendall
Landrum
Long, Md.
Macdonald, Mass.
Metcalfe
Passman
Preyer, N.C.
Rangel
Scheuer
Stokes
Stubblefield
Tiernan
Veysey
Whalley
Williams
Wyatt

So the motion to instruct was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Stubblefield for, with Mr. Macdonald of Massachusetts against.

Mr. Long of Maryland for, with Mr. Rangel against.

Mr. Tiernan for, with Mr. Stokes against.

Mr. Hays for, with Mr. Evans of Colorado against.

Mr. Brooks for, with Mr. Dow against.

Mr. Passman for, with Mr. Scheuer against.

Mr. Edmondson for, with Mr. Metcalfe against.

Mr. Gray for, with Mr. Gallagher against.

Mr. Anderson of Tennessee for, with Mr. Landrum against.

Mr. Williams for, with Mr. Keith against.

Mr. Hagan for, with Mr. Preyer of North Carolina against.

Until further notice:

Mr. Clark with Mr. Eshleman.

Mr. Brown of Michigan with Mr. Wyatt.

Mr. Kuykendall with Mr. Veysey.

Mr. Hull with Mr. Whalley.

Mr. LANDGREBE changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FAIR LABOR STANDARDS AMENDMENTS OF 1971

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7130) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7130, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, the Clerk had read the first section of the committee amendment ending on line 21, page 18.

Are there any amendments to section 1?

Mr. BIAGGI. Mr. Chairman, I rise in support of this measure. As a member of the Education and Labor Committee and as a cosponsor of this bill I feel that it is a most important and necessary piece of legislation.

This bill, the Fair Labor Standards Amendments of 1971, would increase the Federal minimum wage rate, extend wage and hour coverage to additional workers, authorize the President to impose restrictions on imports, and prohibit certain procurement practices. There is an urgent need for all of these provisions.

First, H.R. 1730 would increase the present minimum wage rate for nonagricultural workers from the present $1.60 an hour to $2 an hour. In addition, the bill would increase the minimum wage for agricultural workers covered by the Fair Labor Standards Act from the present $1.30 an hour to $1.50 immediately, and to $1.70 by January 1973. There is a crying need for these increases at this time. The last increase in the minimum wage was in 1966 when the $1.60 an hour figure was considered adequate to provide a full-time worker enough money to live at least at the poverty level. At the time the poverty level was defined as $3,200 a year for a family of four. Since that time, however, as a result of inflation, the annual income for subsistence for a family of four is now about $4,500—with the Bureau of Labor Statistics calculating a lower standard of living annual budget at $6,900. In other words, using the $4,500 standard, today's wage of $1.60 an hour buys less than the $1.25 minimum wage bought in 1966. If we are going to help these workers, this inequity must be corrected and the minimum wage must be increased immediately.

Second, this legislation would extend wage and hour coverage to additional workers. This provision is desperately needed by certain categories of workers, because of their severe economic plight. Household domestics, for example, are not currently covered by the Fair Labor Standards Act. In 1969, more than 80 percent of the 1.5 million people in this occupation had total cash incomes of less than $2,000 annually—57 percent had less than $1,000. These are shocking figures when we consider the amount of money needed just to purchase the essentials of life. They must, therefore, be included in the provisions of this law. This bill would do just that.

Mr. Chairman, despite the enactment of the Fair Labor Standards Act in 1938, and subsequent amendments to the measure, over 16 million potentially covered workers remain without its protections. Many workers receiving a minimum wage continue to live in poverty. Moreover, nearly two-thirds of the 24 million poor in America are members of families headed by a worker in the labor force—this includes workers in low-wage, part-time or unemployed categories. Approximately one-fourth of the poor and more than 30 percent of the children growing up in poverty are in families headed by a full-time, year-round worker whose wages are so low that his or her family is impoverished. This bill would go far to correct these deplorable conditions.

Finally, title III of the bill authorizes the President to take "action as he deems appropriate," such as imposing higher tariffs or import quotas, if the Secretary of Labor finds that a foreign import produced under substandard labor standards is threatening the well-being of any group of U.S. workers or threatens the economic well-being of the community in which these workers live. It prohibits Government procurement and procurement financed in whole or in part by Federal funds that involves a contract of more than $10,000 from industries employing persons under "terms or conditions which are" substantially less favorable "than those required in this country."

The time is long overdue when the Congress should take decisive action to protect the American workingman from foreign competition. We must protect our own workers, particularly during a time of severe economic difficulty.

I, therefore, urge my colleagues to join with me in voting in favor of this most necessary piece of legislation, and to vote against any amendments which would weaken any of its provisions.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. DENT. Mr. Chairman, when I rose, I intended to ask unanimous consent to offer, en bloc, a list of amendments to do one single thing. I happened to glance to my right and I noted that I was not going to get that unanimous consent. Maybe, it is because one person does not understand what I am doing and, so, I would like to explain it.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I think the gentleman from Pennsylvania probably had reference to me when he said he glanced to his right. Would the gentleman agree that yesterday, when we discussed the procedure, the gentleman at that time did not suggest offering anything en bloc, but told me he was going to offer one amendment changing the short title so that it would reflect 1972 rather than 1971?

Mr. DENT. I did not say that. I told you that I was going to offer an amendment incorporating my promise to the Committee on Rules that if it granted a rule, the first move that I would make would be to correct the effective dates in the act. The Committee on Rules, I think, would be witness to that. And that is all I am doing. I am not trying to amend this act to undercut the gentleman's grandstand play on this, or anything. He can have his substitute in whatever color or shape he wants. All I am doing in my amendment is just saying that in order for this legislation to truly reflect the most important items in it, the effective dates must be changed, because these rates are no longer applicable under the provisions of the act before us, because of the effective date has passed already. It is just commonsense that we should change the effective date to a later date, and in order to do that I would have to change the citation of the legislation from the "Fair Labor Standards Amendments of 1971" to the "Fair Labor Standards Amendments of 1972."

I would also have to change the effective date of the legislation from January 1, 1972, on the increase of $1.80 to $2 to the first day of the first calendar month which begins more than 30 days after the date of enactment, or July 1, 1972, whichever occurs first.

I would have to change the date of the initial increase in the minimum wage rate from January 1, 1972, to the effective date of the legislation—within 60 days, as discussed above.

I would change the date of the second increase in the minimum wage rate, where applicable, from January 1, 1972, to 1 year after the effective date of the legislation.

I would change the date of the application of the overtime revisions in the bill applicable to transit employees and seasonal industry employees from January 1, 1972, to the effective date of the legislation; change the date of the application of the minimum wage provisions to "Other Employees in Puerto Rico and the Virgin Islands" from January 1, 1972, to the effective date of the legislation. The percentage wage increases required are made applicable 60 days after the effective date; and make other technical and perfecting changes in the Puerto Rico-Virgin Islands provision to:

Clarify the application of the percentage wage increases against the most recent wage orders.

I would clarify the application of the percentage wage increases against the most recent wage order where subsidies are involved, because the language is confusing and is not quite clear; and clarify the application of the proviso that the minimum wage rate in the islands will not exceed that applicable in the United States. We have a situation where it could be interpreted that the wage level would be higher in this area simply because of the language.

I want to clarify this: That there is no substantive change, no change in the material content of the act.

Mr. Chairman, I ask unanimous consent to offer these amendments en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania to be permitted to offer his amendments en bloc?

Mr. ERLENBORN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. For what purpose does the gentleman from Illinois (Mr. ERLENBORN) rise?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ERLENBORN: Strike out all after the enacting clause of H.R. 7130, and insert in lieu thereof the text of H.R. 14104, as follows:

SHORT TITLE; REFERENCES TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1972".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the section or other provision amended or repealed is a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

TITLE I—INCREASE IN MINIMUM WAGE

NONAGRICULTURAL EMPLOYEES

SEC. 101. (a) Section 6(a) (29 U.S.C. 206 (a)) is amended by striking out "(a) Every employer" and all that follows through paragraph (1) and inserting in lieu thereof the following: "(a) Except as provided in this section, every employer shall pay each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, at a wage rate of not less than $2 an hour."

(b) Such section is amended by adding after paragraph (5) the following new paragraph:

"(6) If this section was made applicable to such employee by the amendments made to this Act (other than section 18 thereof) by the Fair Labor Standards Amendments of 1966, not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972, and not less than $2 an hour thereafter."

AGRICULTURAL EMPLOYEES

SEC. 102. Paragraph (5) of section 6(a) is amended to read as follows:

"(5) If such employee is employed in agriculture, not less than $1.50 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972 and not less than $1.70 an hour thereafter."

GOVERNMENT, HOTEL, MOTEL, RESTAURANT, AND FOOD SERVICE EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 103. Section 5 (29 U.S.C. 205) is amended by adding at the end thereof the following new subsection:

"(e) The provisions of this setcion, section 6(c), and section 8 shall not apply with respect in the minimum wage rate of any employee employed in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands, (2) by an establishment which is a hotel, motel, or restaurant, or (3) by any other retail or service establishment if such employee is employed primarily in connection with the preparation or offering of food or beverages for human consumption either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs. The minimum wage rate of such an employee shall be determined in accordance with sections 6(a), 6(b) (5), 7, 13, and 14 of this Act."

OTHER EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 104. (a) Section 6(c) is amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) (A) In the case of any such employee who is covered by such a wage order and to whom the rate prescribed by subsection (a) would otherwise apply, the following rates shall apply: The rate or rates applicable under the most recent wage order covering such employee issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, increased by 25 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (5). The increased rate or rates prescribed by this subparagraph (or if such rate or rates are superseded as authorized by this subparagraph, the superseding rate or rates) shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1972 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(B) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a special industry committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by subparagraph (A). Any such application shall be filed before the effective date of the Fair Labor Standards Amendments of 1972.

"(3) (A) In the case of any such employee who is covered by such a wage order and to whom the rate or rates prescribed by subsection (b) (4) for employees in agriculture would otherwise apply, the following rates shall apply:

"(i) The rate or rates applicable under the most recent wage order covering such employee, issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, increased by 16 per centum, unless such rate or rates ar superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (5). The increased rate or rates prescribed by this clause (or if such rate or rates are superseded as authorized by this clause, the superseding rate or rates) shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1972 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(ii) Beginning one year after the applicable effective date of the increase under clause (i), not less than the highest rate or rates (including any increase provided under clause (i)) in effect on the day before the effective date of the rate or rates under this clause under a wage order covering such employee, increased by an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972 covering such employee, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (5).

"(B) Any employer, or group of employers, employing a majority in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a special industry committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by clause (i) or clause (ii) of subparagraph (A). Any such application with respect to any rate or rates provided for under clause (i) of subparagraph (A) shall be filed before the effective date of the Fair Labor Standards Amendments of 1972, and any such application with respect to any rate or rates provided for under clause (ii) of subparagraph (A) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the rate or rates under such clause.

"(C) Notwithstanding subparagraph (A) or (B) of this paragraph, in the case of any employee described in subparagraph (A) whose hourly wages are subsidized, in whole or in part, by the Government of Puerto Rico, the following rates shall apply:

"(i) The rate or rates applicable under the most recent wage order covering such employee, issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972 increased by (I) the amount of the subsidy in effect on the effective date of such Amendments, and (II) 16 per centum. The increased rate or rates prescribed by this clause shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1972.

"(ii) Effective one year after the effective date of the increase under clause (i), not less than the highest rate or rates (including the increase provided under clause (i)) in effect on the day before the effective date of the rate or rates under this clause under a wage order covering such employee, increased by (I) an amount equal to 16 per centum of the rate or rates applicable under the most recent wage order issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, covering such employee, and (II) the amount of the subsidy in effect on the effective date of such Amendments.

"(4) (A) In the case of any such employee who is covered by such a wage order and to whom this section was made applicable by the amendments made to this Act by the Fair Labor Standards Amendments of 1966, the following rates shall apply:

"(i) The rate or rates applicable under the most recent wage order, covering such employee, issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972 increased by 12.5 per centum, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (5). The increased rate or rates prescribed by this clause (or if such rate or rates are superseded as authorized by this clause, the superseding rate or rates) shall become effective sixty days after the effective date of the Fair Labor Standards Amendments of 1972 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(ii) Beginning one year after the applicable effective date of the increase under clause (i), not less than the highest rate or rates (including any increase provided under clause (i)) in effect on the date before the effective date of the rate or rates under this clause under a wage order covering such employee, increased by an amount equal to 12.5 per centum of the rate or rates applicable to the most recent wage order issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, covering such employee, unless such rate or rates are superseded by the rate or rates prescribed in a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed under paragraph (5).

"(B) Any employer, or group of employers, employing a majority of the employees in an industry in Puerto Rico or the Virgin Islands, may apply to the Secretary in writing for the appointment of a special industry committee to recommend the minimum rate or rates to be paid such employees in lieu of the rate or rates provided by clause (i) or clause (ii) of subparagraph (A). Any such application with respect to any rate or rates provided for under clause (i) of subparagraph (A) shall be filed before the effective date of the Fair Labor Standards Amendments of 1972, and any such application with respect to any rate or rates provided for under clause (ii) of subparagraph (A) shall be filed not more than one hundred and twenty days and not less than sixty days prior to the effective date of the rate or rates under such clause.

"(5) (A) The Secretary shall promptly consider any application duly filed under paragraph (2) (B), (3) (B), or (4) (B) for a special industry committee and may appoint a special industry committee if he has reasonable cause to believe, on the basis of financial and other information contained in the application, that compliance with any applicable rate or rates prescribed by paragraph (2) (A), (3) (A), or (4) (A), as the case may be, will substantially curtail employment in the industry with resepct to which the application was filed. The Secretary's decision upon any such application shall be final. In appointing a special industry committee pursuant to this paragraph the Secretary shall, to the extent possible, appoint persons who were most recently convened under section 8 to the special industry committee for such industry. Any wage order issued pursuant to the recommendations of a special industry committee appointed under this paragraph shall take effect on the applicable effective date provided in paragraph (2) (A), (3) (A), or (4) (A), as the case may be. In the event a wage order has not been issued pursuant to the recommendation of a special industry committee appointed under this paragraph prior to the applicable effective date under paragraph (2) (A), (3) (A), or (4) (A), as the case may be, the applicable percentage increase provided by any such paragraph shall take effect on the effective date prescribed therein, except with respect to the employees of an employer who filed an application for appointment of a special industry committee and who files with the Secretary an undertaking with a surety or sureties satisfactory to the Secretary for payment to his employees of an amount sufficient to compensate such employees for the difference between the wages they actually receive and the wages to which they are entitled under this subsection. The Secretary shall be empowered to enforce such undertaking and any sums recovered by him shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to the employee or employees affected. Any such sum not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

"(B) The provisions of section 5 and section 8, relating to special industry committees, shall be applicable to special industry committees appointed under this paragraph. The appointment of a special industry committee under this paragraph shall be in addition to and not in lieu of any special industry committee required to be convened pursuant to section 8(a), except that no special industry committee convened under that section shall hold any hearing within one year after a minimum wage rate or rates for such industry shall have been recommended to the Secretary, by a special industry committee appointed under this paragraph, to be paid in lieu of the rate or rates provided for under paragraph (2) (A), (3) (A), or (4) (A), as the case may be.

"(C) The minimum wage rate or rates prescribed by this subsection shall be in effect only for so long as and insofar as such minimum wage rate or rates have not been superseded by a wage order fixing a higher minimum wage rate or rates (but not in excess of the applicable rate prescribed in subsection (a) or subsection (b)) hereafter issued by the Secretary pursuant to the recommendation of a special industry committee.

"(6) Notwithstanding any other provision of this subsection, on the effective date of the Fair Labor Standards Amendments of 1972, no wage rate in effect under a wage order for any employee in Puerto Rico or the Virgin Islands may be less than 60 per centum of the wage rate that (but for this subsection) would be applicable to such employee under subsection (a), (b) (4), or (b) (5)."

(b) The third sentence of section 10(a) (29 U.S.C. 210(a)) is amended by inserting after "modify" the following: "(including provision for the payment of an appropriate minimum wage rate)".

TITLE II—REVISION OF EXEMPTIONS

SALES AND MANAGERIAL PERSONNEL

SEC. 201. Section 7 (29 U.S.C. 207) is amended by adding after subsection (j) the following new subsection:

"(k) For a period or periods of not more than seven workweeks in the aggregate in any calendar year, the requirements of subsection (a) of this section shall not apply with respect to the employment of any employee (not otherwise exempted from such subsection by subsetion (i) or section 13(a) (1)) in a retail or service establishment if—

"(1) such employee is employed in a bona fide sales capacity in, or as manager of, such establishment;

"(2) such employee's regular rate of pay is not less than twice the wage rate in effect under section 6(a); and

"(3) for employment in such establishment in excess of forty-eight hours in any workweek during such period or periods, such employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed in such establishment."

NEWSPAPER DELIVERY EMPLOYEES

SEC. 202. Section 13(d) (29 U.S.C. 213(d)) is amended by inserting after "newspapers" the following: "or shopping news (including shopping guides, handbills, or other types of advertising material)".

HOUSE-PARENTS FOR ORPHANS

SEC. 203. Section 13(a) (29 U.S.C. 213(a)) is amended by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; or" and by adding after that paragraph the following:

"(15) any employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children—

"(A) who are orphans or one of whose natural parents is deceased, and

"(B) who are enrolled in such institution and reside in residential facilities of the institution.

while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated, on a cash basis, at an annual rate of not less than $10,000."

TITLE III—EXPANDING EMPLOYMENT OPPORTUNITIES FOR YOUTHS

SPECIAL MINIMUM WAGES FOR EMPLOYEES UNDER 18 AND STUDENTS

SEC. 301. Section 14(b) (29 U.S.C. 214(b)) is amended to read as follows:

"(b) (1) Notwithstanding the minimum wage rates required by section 6(a) or 6(b) (5), any employer may, in compliance with applicable child labor laws, employ any employee—

"(A) to whom such rates would apply but for this subsection, and

"(B) who is (i) under the age of 18 or (ii) a full-time student under the age of 21,

at a wage rate which is not less than 80 per centum of the otherwise applicable minimum wage rate prescribed by such section or $1.30 per hour, whichever is the higher.

"(2) Notwithstanding the minimum wage rates required by section 6(b) (4), any employer may, in compliance with applicable child labor laws, employ in agriculture any employee—

"(A) to whom such rates would apply but for this subsection, and

"(B) who is (i) under the age of 18 or (ii) a full-time student under the age of 21,

at a wage rate which is not less than 80 per centum of the otherwise applicable minimum wage rate prescribed by such section or $1.30 per hour, whichever is the higher.

"(3) The Secretary shall by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this subsection is applicable."

TITLE IV—CONFORMING AMENDMENTS

CONFORMING AMENDMENTS

SEC 401. (a) Section 6(a) is amended—

(1) by inserting before paragraph (2) the following:

"(b) In lieu of the wage rate prescribed by subsection (a), every employer shall pay each of his employees (described in a paragraph of this subsection) who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages, at the following rates:";

(2) in paragraph (2), by striking out "(2) if" and inserting in lieu thereof "(1) If" and by striking out the semicolon at the end and inserting in lieu thereof a period;

(3) in paragraph (3)—

(A) by striking out "(3) if" and inserting in lieu thereof "(2) If",

(B) by striking out "in lieu of the rate or rates provided by this subsection or subsection (b),", and

(C) by striking out "paragraph (1) of this subsection;" and inserting in lieu thereof "subsection (a).";

(4) in paragraph (4)—

(A) by striking out "(4) if" and inserting in lieu thereof "(3) If",

(B) by striking out "paragraph (1) of this subsection" and inserting in lieu thereof "subsection (a)", and

(C) by striking out "; or" and inserting in lieu thereof a period; and

(5) by redesignating paragraphs (5) and (6) (as amended and added by sections 101(b) and 102 of this Act) as paragraphs (4) and (5), respectively.

(b) Subsection (b) of section 6 (as in effect on the date of enactment of this Act) is repealed.

(c) Section 6(e) is amended to read as follows:

"(e) Notwithstanding the provisions of section 13 of this Act (except subsections (a) (1) and (f) thereof), every employer providing any contract services under a contract with the United States or any subcontract thereunder shall pay to each of his employees whose rate of pay is not governed by the Service Contract Act of 1965 (41 U.S.C. 351–357) or to whom subsetcion (a) of this section is not applicable, wages at a rate not less than the rate provided for in section 6(b) (5)."

(d) Section 8 is amended by striking out "paragraph (1) of" in subsections (a) and (c).

(e) Section 13(b) is amended by striking out "(1)" in paragraph (13).

(f) Section 13(e) is amended by striking out "6(a) (3)" each place it occurs and inserting in lieu thereof "6(b) (2)".

(g) Section 16(d) is amended by striking out "6(a) (3)" and inserting in lieu thereof "6(b) (2)".

(h) Subsection (c) of section 14 is repealed and subsection (d) of such section is redesignated as subsection (c).

TITLE V—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 501. (a) The effective date of this Act and the amendments made by this Act is the first day of the second full month after the date of its enactment.

(b) Notwithstanding subsection (a), on and after the date of the enactment of this Act the Secretary of Labor is authorized to prescribe necessary rules, regulations, and orders with regard to the amendments made by this Act.

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment in the nature of a substitute be dispensed with; that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. DENT. There is, Mr. Chairman. I object, because I would not be able to get that same request from the gentleman from Illinois.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk proceeded to read the amendment in the nature of a substitute.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that the further reading of the substitute be dispensed with and that it be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. GROSS. Mr. Chairman, I would like to inquire who had the change of mind with respect to the demand for the reading of the substitute?

Mr. PERKINS. We are trying to save as much time as possible and get along with the consideration of the bill expeditiously.

Mr. GROSS. I understand that, but who had the change of mind?

Mr. PERKINS. That is my intent and I discussed the subject matter with the gentleman from Illinois (Mr. ERLENBORN) and I intend to make the same request with reference to the bill.

Mr. DENT. Mr. Chairman, will the gentleman yield to me?

Mr. GROSS. I am glad to yield to the gentleman, who originally objected to the dispensing with the reading of the substitute.

Mr. DENT. I objected, as part of my strategy to object to having the bill considered read, but if I do not get the same courtesy when I ask for that, then I just deny it to others—that is all.

If the gentleman from Illinois (Mr. ERLENBORN) wants to have the substitute considered as read, I will be glad to give it to him, but I expect the same courtesy and that my amendments be given the same consideration.

Mr. GROSS. As to the issue of objection to the entertainment of the gentleman's amendments to be considered en bloc, the gentleman ought to understand there is a vast difference between what is offered by the gentleman from Illinois and the amendments by the gentleman from Pennsylvania, which, under the circumstances, ought to be subsequent to the adoption of the committee bill to which the changed dates apply.

There is a vast difference, and I was surprised, I will say to my friend, the gentleman from Pennsylvania, that he objected originally to dispensing with the reading of the 19 pages, or whatever the number of pages, of this substitute amendment.

I do not desire to prolong the pain of having the entire substitute read, and I will not object. I simply point out that the objections in the first instance are not even remotely on all fours with the gentleman's objection dispensing with the reading of the substitute.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. DENT. I am not doing this because he objected to my amendments being considered en bloc.

Mr. GROSS. That is exactly what the gentleman said a moment ago.

Mr. DENT. No, I said the objection to this would have to carry with it at least consideration of when and if the Erlenborn amendment is defeated. Then I would have the same privilege of having my bill considered as read. Why should I not have a quid pro quo on like substance? His is a comprehensive piece of legislation.

Mr. GROSS. I do not care to prolong this, but the gentleman said in effect that "if I do not get the courtesy I ask for, I deny it to others." Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. DENT. Mr. Chairman, reserving the right to object, I would like to have read the request of the chairman so I know its contents.

The CHAIRMAN. A unanimous-consent request is already pending. It would require unanimous consent, and the Chair feels that it should dispose of the pending unanimous-consent request.

Mr. DENT. Mr. Chairman, I would like to know the unanimous-consent request.

The CHAIRMAN. Will the gentleman make his request in the form of a unanimous-consent request?

Mr. DENT. Mr. Chairman, I ask unanimous consent to be given the language of the unanimous consent request of the chairman (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, let me repeat my request. I ask unanimous consent that further reading of the substitute be dispensed with and that it be open for amendment at any point. It would be my purpose to make the same unanimous-consent request when we come to the other bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. GROSS. Does the gentleman include the words "and printed in the RECORD at this point"?

The CHAIRMAN. Does the gentleman from Kentucky include "and printed in the RECORD at this point" in his request?

Mr. PERKINS. Yes, I include "and printed in the RECORD at this point."

Mr. GROSS. All right.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN) for 5 minutes on his substitute amendment.

Mr. ERLENBORN. Mr. Chairman, I do not think there is any Member in the chamber who really is not aware of the amendment that has just been offered. It is an amendment in the nature of a substitute. It is the text of H.R. 14104, which was made in order by the Rules Committee to be offered as a substitute to the pending bill, H.R. 7130. Of course, we have been debating through the course of the consideration of H.R. 7130 both of these bills, and a good deal has been said about both of them already. It is not my intention to take any more than the 5 minutes that have been allotted to me, because yesterday I spoke on them as best I could and pointed out the differences between the two bills.

H.R. 7130 starts out as an attempt to increase the applicable minimum wage, which has not been increased since the amendments of 1966. Many people feel—I feel as sponsor of the substitute—that it is equitable at this time to increase the minimum wages due to the inflation that has occurred since the last amendments. In both bills the minimum wage rate is increased to $2. This is applicable immediately for those who were covered prior to the 1966 amendments, and in both bills, those that were annually covered in 1966 would go to $1.80 this year and $2 next year. Insofar as the wage rate is concerned, the two bills are, for all intents and purposes, identical. The only other thing that is in the substitute bill that is now pending is a youth differential, a meaningful youth differential. There is a student rate differential in the present law. It is a formula that relates back to the early part of the last decade as to the employment in an establishment of youth, determining whether or not or how many youth can be hired by a particular establishment under that youth differential.

It has a procedure for prior certification that has made the youth differential practically useless. The committee bill has a student differential also, but the committee bill makes worse a bad situation that is in the present law. It excludes a whole laundry list of vocations from the application of the requirement. It maintains a prior certification which has been a real stumbling block to the implementation of the youth differential. In the substitute bill we have a clean and workable youth differential: 80 percent of the otherwise applicable minimum wage will be available or $1.60 per hour, whichever is the higher.

There are three minor amendments in the substitute that I described yesterday, and I will not take the time to describe them today.

That is all that is in the substitute which is now under consideration.

The committee bill goes much further by extending coverage to State and local and Federal employees, and I point out also the Federal employee definition even would cover our own employees here on the Hill. It does not take into consideration the definition, not only of the minimum wage increase for State and local employees, but also the overtime that would be required to be paid under the Fair Labor Standards Act. It repeals certain exemptions that are in the present law.

The substitute, reiterate, does none of these things. It does not contain title III. Title III has been the subject of a great deal of discussion and debate. Title III in effect would say wherever the Federal dollar goes, in any fashion by way of grant, subsidy, guarantee, in any fashion, at that point any contract using those Federal dollars would shut off, absolutely prohibit imports under that provision of title III.

Mr. PIKE. Mr. Chairman, will the gentleman yield for a question?

Mr. ERLENBORN. I yield for a question.

Mr. PIKE. In the event the gentleman's substitute is not adopted, is it his intention to offer the substance of it in pieces, in separate amendments, and, if so, can the gentleman give us any idea how many there would be?

Mr. ERLENBORN. It is, of course, my intention that the substitute be adopted so that procedure would not be necessary.

Mr. PIKE. I quite understand.

Mr. ERLENBORN. I know of several Members who have various amendments that would be offered that would accomplish in some cases what the substitute would accomplish by striking and in other cases by amending. It would be a whole new ball game, and I cannot tell the gentleman, but there probably would be, I would guess, many, many amendments. I have no idea how many, but probably in the neighborhood of 20 or more would be offered to the committee bill should the substitute not be adopted.

Mr. Chairman, this brings to mind, of course, that should the substitute now pending be adopted, we would be out of here quite early this afternoon.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, all of us recognize not only the right, but also the prerogative of differing with each other. First, let me dismiss any idea that there is a threat we might have 20 or more amendments offered in an effort to try to intimidate those who might have to get home for very special reasons tonight. I would say that whatever comes, comes. Whatever is necessary in the minds of the Members of Congress will be exactly what takes place. Whatever they feel is necessary will take place.

That does not give this particular substitute any greater flavor or enhances its contents by the hint that we may be here all day.

If the Lord is willing and I am reelected, I shall probably be here for 2 more years.

But, Mr. Chairman, I do want to say that the substitute has picked up a great deal of whatever strength it has in this House on the issue of title III. It is on the issue of taking away from the conglomerates an exemption that was intended in the beginning and in my mind is still intended to be a consideration for small establishments in this country of ours in their fight to try to compete against the modern octopus known as a conglomerate.

However, it does more than wipe out these two features. It goes to the heart of the child labor laws that have been passed over a great number of years and in a great number of States to correct one of the worst conditions this Nation has ever had visited upon it. We would open up again the doors to employment of those under 18 years of age for a substandard wage, which is offered as an enticement, in a hazardous occupation. And there is no provision for the regulated hours of 40 rather than the restriction which we have during school terms that a young person should not be worked at a subminimum wage for more than 20 hours.

This has worked well. The only objection I have had personally and I have had called to my attention by a great number of employers who employ youth labor is the objection of precertification and a limitation on the number of youth they can hire. That was done, because we were correcting a situation that was so bad that perhaps the pendulum swung, as is normal, a little bit to the other side. In making the correction perhaps we overcorrected it. So we tried at this time to remedy some of that by liberalizing the certification procedure.

We would restrict this substandard wage to school children, students, because we believe if they are under 21 years of age or 18 years of age and enter the full-time work market then the common decency of equal pay for equal work ought to obtain.

We say that we demand equal pay for equal work on account of sex. We are not allowed to have any bias on race or any other bias on the matter of wages paid. Why, then, deny a young fellow 19 or 18 years of age, who has to quit school for reasons of his own? Perhaps he cannot afford to go any further in school. Perhaps he just does not have the aptitude for higher education and wants to enter the work force. Should he not then enter the work force to be treated as a regular worker rather than as a substandard worker?

This is the crux of what is being done in this legislation.

I understand they have barred any kind of amendments. A couple of gentlemen on the other side came to me and talked about an amendment on the increase of the $250,000 limitation for the small establishment.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. DENT was allowed to proceed for 2 additional minutes.)

Mr. DENT. I listened very intently to the gentleman's request, because it made some sense. He said:

> There has been better than a 30-percent increase in the cost of goods since the $250,000 limitation was set.

He asked:

> Would you give consideration to this?

I said:

> When I come up on the floor, if my bill prevails and we have it before us, I certainly will give it consideration. I want a little time to think about all the ramifications, but I certainly will give it every consideration.

I said:

> But you might better put it in the Erlenborn bill.

He said:

> I am not allowed to. They are afraid if they get one amendment they will lose the whole thing.

I kind of like the democratic process. If a Member of Congress has an amendment he wants to offer, not only will I not brickbat the amendment, but I will treat him with every bit of consideration, because I do not consider myself to be the ultimate or the know-all in writing this legislation. It is a very difficult piece of legislation in its total, and its ramifications go into many fields and many areas.

So I say to the Members that they ought to give more consideration to what might happen in the final action on this legislation, rather than just to go through a motion today.

I do not know whether all Members understand it or not, but we will be faced with the Erlenborn barebones bill against a piece of legislation over in the Senate that wipes out all exemptions and considerations that this committee of ours has worked on diligently for many years.

The Senate bill wipes out every exemption we now have in any instance where they recognize the difference between an outdoor salesman and an indoor worker. We recognize that there is no way to measure the time of an automobile salesman or someone who is on the road. So therefore we have wisely, I believe, given exemptions; we have wisely given exemptions in the matter of the payment of the minimum wage where there are tips that are a part of the income of the employee. We have gone through the whole matter, and that is what you are voting on here today.

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ERLENBORN

Mr. ANDERSON of Illinois. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of Illinois to the amendment in the nature of a substitute offered by Mr. ERLENBORN: Page 2, line 13. Strike out "$2 an hour" and insert in lieu thereof the following: "$1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972, and not less than $2 an hour thereafter".

Page 2, line 19. Strike out "$1.80" and all that follows through paragraph (b) and insert in lieu thereof the following: "$1.70 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1972, not less than $1.80 an hour during the second year from such effective date, and not less than $2 an hour thereafter."

Mr. ANDERSON of Illinois. Mr. Chairman, many of you have already received communications concerning this amendment to the Erlenborn substitute. It has been generally referred to as a stretchout amendment. Perhaps a better term would be a phasein amendment. It is directed to only one element of the substitute. It would leave everything else in Mr. ERLENBORN'S very commendable proposal intact—including the youth opportunity wage differential which can do so much to alleviate the increasingly severe problems of teenage unemployment and also the elimination of the iniquitous title III—so damaging to our effort to create favorable international trade policies.

The amendment would follow the eminently wise precedents established in both the 1961 and 1966 amendments to the wage and hour law. Perhaps you will recall when we raised the rate from $1 to $1.25 in 1961 we provided for a two-step increase with a minimum going to $1.15 in 1961 and $1.25 2 years later in 1963. Again in 1966 we followed the same procedure. The increase was first to $1.40 in 1967 and then to $1.60 in 1968. In the case of those workers who were first covered in 1966, that increase was phased in, I would remind you, in five steps, with a rate moving from $1 in 1967 to $1.60 in 1971. In other words, these workers received their last increase, when they were first covered in 1966, just a year ago last January.

This is in essence a small business amendment. I ask you to remember whom you have been hearing from the past few weeks. It has not been the conglomerates or the giants of American industry. For them the level of the minimum wage may be of scant concern. But you and I have been hearing from the little businessmen, the merchants, the family motel operator, the countless small enterprises that are located on the Main Streets of small towns and medium-sized cities across America. I hope that some of the emerging new populists in this body will hear their cry for a little equity as, squeezed by their larger competitors, they turn to us at this time not for the ever-familiar subsidy—but merely for the chance to compete and to continue their operations.

They are not operating sweatshops. You know these people. These are business ventures often undercapitalized and, perhaps, only marginally efficient. They do not enjoy the economics of scale and many other of the benefits of large business, but they do provide useful and gainful employment to both young and old, to the low-skilled worker who might otherwise be just another dismal unemployment statistic.

Mr. Chairman, there are more compelling reasons than there were in either 1961 or 1966 as to why we should not precipitously increase by 25 percent the present level of the minimum wage and whether we should not undertake to completely gut the 5.5-percent guideline of the Pay Board and inevitably inundate that Board and the Price Commission with requests for increases.

And, frankly, I am somewhat amazed at the very people who rail about high prices, who talk about the ineffectiveness of phase II. Now, they want to slice the very heart out of an attempt to restrain the cost-push that has been ravaging the economy of this country.

Let me remind you that this is not only the new age of so-called populism. This is the new age of consumerism. The consumers are unhappy about the high price of food, about the threatened increase in the price of shoes and clothing and all of the other market basket items.

These people are not going to be very happy with you Members of this body who are so irresponsible as to inflate still further the costs of the distributors of these items.

Those who worry about the increased cost of medical care should realize that when you mandate a 25-percent increase in that area you will aggravate and exacerbate that very problem.

The committee report has tried to tell you in rather soothing fashion that only 10 percent of the labor force covered prior to 1966 will be affected.

But they fail to tell you that an aggregate statistic of that kind is practically meaningless, because it is the retailing and service industries that will bear the brunt of this increase.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent Mr. ANDERSON of Illinois was allowed to proceed for 5 additional minutes.)

Mr. ANDERSON of Illinois. Mr. Chairman, the Department of Labor survey in April of 1970 shows very conclusively that when you break down a $2 minimum wage by industry and region and metropolitan and nonmetropolitan areas, that in those two sectors I mentioned—retailing and service—from 25 to 50 percent of the work force would be affected, at least 25 percent of those workers covered before 1966 and 37 percent of those covered after 1966.

Mr. Chairman, to those of you who come from the South let me remind you that in the nonmetropolitan areas of the South, almost 50 percent of the retail workers first covered in 1966 would be affected by this immediate, and I would suggest, precipitous increase to $2 in the minimum wage.

You may ask why should this contribute to the cost-push of inflation. Well, for one reason, and one very clear reason, we are talking about one sector of the economy where both profit margins and productivity are well below the remainder of the economy. Also, the wage bill component of total operating costs is significantly higher and wage scales are usually significantly more compressed and more closely tied to the minimum wage than in other parts of the economy. The total direct effect and the ripple effects that have been mentioned so often in this debate will be relatively greater than in manufacturing where higher costs can be absorbed either through profit reduction or productivity improvement.

And, I would suggest that where you have sectors of the economy where the profit rate is about 2 percent of sales there is not much elbow room there for absorbing these increased costs.

Does anyone in this body with any economic commonsense think we can legislate increased productivity or increases in real income? You know full well, gentlemen, that you can do neither one.

I am accustomed to the argument that we have got to help the working poor. How can you support a family on $65 a week?

Let me say to you that I am not satisfied with the fact that we have 25 million Americans who are supposedly below the poverty line; that while 9.9 percent of white Americans are below that line, in 1970 the figure for black Americans was 34 percent.

Nearly three-fifths of the poor families in America in 1970 which were headed by a male member between 24 and 65 of that family who worked a full year still fell below the poverty line—the market failed to provide a decent standard of living under current wage rates and opportunities for employment. This seems to indicate a need for a substantial increase in the minimum wage. But consider these additional essential facts:

As I said earlier, of 12 million poor who were members of families with some work experience in 1970—fully 46 percent were members of large families—six or more. The problem is one of need.

Let me point out the poverty level for a family of six is nearly $5,300 and for a family of seven it is over $6,400. But to raise the minimum wage to meet the needs of those families would require a rate of $2.65 and $3.20 respectively.

The proposed increase to $2 would raise the annual income of a single worker by $800—just as it would raise the income of a family of seven by $800.

My point is that the minimum wage is a blunt, imprecise instrument when it comes to dealing with the problem of poverty in America.

As I have pointed out even a minimum of $3 would not quite bring the seven-member family up to the poverty level.

The primary reason that the working poor are poor is not simply inadequate wages. Far more important are, first, the lack of full-time job opportunities, and second, in the case of more than one-half the working poor it is the fact of relatively great income needs, because of large families and the minimum wage is not geared to family units.

But let me remind you of a couple of further figures: That of the 12 million poor who were members of families with some work experience in 1970, fully 46 percent were members of large families of six or more. When you raise the minimum wage you raise the income of that single worker by $800 a year, you raise the wage of that family, and we are considering a family of six or seven, by $800 a year. This does not do anything to bring that family above the poverty line, and you are holding out a wholly false and illusory promise that you are ever going to do so with a minimum wage of less than $3 an hour. We need to address ourselves in more meaningful fashion to the poverty problem in this country. I think we should, and I think the answer lies in the family assistance program, where we provide some income supplements for the working poor. Do you realize that a $3 minimum wage which would be necessary to really attack the problem of poverty in this country would add $65 billion to the wage bill of this country? And I wonder whether anyone in this Chamber this afternoon, given the present economic situation, given the very fact that we are less than 6 months into an effort with a wage and price control program, to try to help cost-push inflation in this country, wants to do anything like that to the economy of this country? Surely not.

So I would suggest that the answer to poverty does not lie in holding out false promises to the poor people of this country. Because, even with the $2 minimum wage you are not going to do too much about the problem.

Let me very quickly in closing point out one other very significant fact, and that is that by adopting the phase-in amendment that I am proposing we can significantly reduce the wage-cost impact of the increase, and we can keep the adverse price and employment effects to a minimum.

The wage cost of the so-called Dent bill, the committee bill, during the first year alone would be nearly $2.4 billion, a figure that is six times greater than the minimum wage cost of the Erlenborn substitute if modified by my amendment.

I hope the amendment will be adopted.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the substitute amendment, and move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the substitute, and in favor of the committee bill. The minimum wage law has worked well in this country. It has put purchasing power where it is most needed. It has been of greatest help to workers in industries that have been unorganized. There have been no adverse economic effects—no impairment of the general levels of employment and no inflationary effects—as a result of any previous amendments to the Fair Labor Standards Act.

The committee bill that we bring before you today, in my judgment, is the minimum that should be proposed and enacted into law at this time.

I want to tell my friends that the provisions in this bill were most carefully worked out over a period of years. It is a modest bill, a reasonable bill—a bill that any Member of this House can proudly support. For any Member can be proud to raise the minimum wage, to come to the aid of the "working poor." We must come to the aid of those workers who cannot support their families though they are working full time and sometimes more than full time on more than one job.

I think it is much wiser if we adopt this committee bill and vote against the substitute.

Mr. KEATING. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague from Illinois (Mr. ANDERSON). I wish to be associated with his remarks.

At the present time, the Nation is in a critical juncture in our fight against inflation. The inflationary spiral of the past few years has eaten away at the increased earnings of all Americans. As we consider this legislation, we have an obligation to measure its impact on the President's economic stabilization program.

Proponents of the immediate $2 increase argue that, in this day and age, to pay someone at this rate is the very least that we can expect of any employer. They argue that this level of pay will still leave the family of four below the 1970 poverty level.

This argument has an almost irresistible appeal for as legislators, we have a great desire to see all Americans rise above the poverty level. However, I believe a close examination of the facts will reveal that in fact, this measure could very well be counterproductive to the goals we wish to achieve.

Statistics indicate that in excess of 5 million or 20 percent of the poor in this Nation are members of families which consist of seven or more people. In order to bring these poor families above the poverty line, it would be necessary to raise the minimum wage to over $3 an hour. While there are some who have reservations about the effect of raising the minimum wage to $2 an hour, there can be no doubt that a raise to over $3 an hour would have a severe effect on the entire economy. Therefore, we can conclude that raising the minimum wage is not the way to get a substantial number of families above the poverty line.

As a supporter of the President's welfare reform concept, which passed the House, I am convinced that the family-assistance approach is the logical way to improve the economic position of the poor in our Nation. Rather than merely raising the minimum wage, which will reduce the number of available jobs, the President's proposals would be a comprehensive approach. It will provide day-care facilities for the working poor and provide the needed changes in our welfare structure to revitalize the basic family structure which has disintegrated in many poor communities.

When one examines the working poor who are members of small families, the clear indications are that the income deficiency is due to a lack of full-time employment. The Bureau of Labor Statistics state that only 18 percent of the working poor in 1970 worked a full year at a full-time job. However, of the same group, 73 percent were able to find and hold part-time jobs or work on a full-time basis for less than 26 weeks. The real answer is to create an economic situation where jobs will be at the maximum possible level. This cannot be done if we create the economic shock of a 25-percent increase in the minimum wage at one time. The sensible approach is the graduated raise proposed in the amendment we are considering now.

The increase in the minimum wage will have the greatest effect in those sectors of the economy that are today in the most serious trouble. Of special concern to me is the plight of the small businessman who will be seriously affected by this increase of 25 percent in his labor cost at the lower wage levels.

From the many letters and discussions that I have had, it is clear that this immediate increase will cause a significant number of employers to reduce their work force. For other larger concerns who will absorb this increase, they will be forced to pass this increased cost on to the consumer. What we have here is the classic situation of the inflationary spiral pushing up the cost of consumer goods.

Today in America, and indeed in every industrialized nation, we are faced with the problem of a mismatch in the number of low-skilled jobs and potential job applicants. There can be no doubt that, as technology increases, this situation will only become more acute. To the extent that a rapid increase in the minimum wage would reduce the growth rate of jobs in low-skill industries, our current unemployment problem can only continue to deteriorate.

The increase in the minimum wage will be disproportionately felt in certain industries and in certain sections of the Nation. The retail industry which employs a significant number of part-time job seekers will be severely hurt by this immediate 25-percent increase. The Labor Department estimates that in the retail field alone, over 1 million employees will be affected by this increase.

Many individuals who work with young people and the elderly have personally contacted me urging that the minimum wage not be rapidly increased at the rates suggested in this bill. These are people who work daily for the benefit of youth and our senior citizens. The argument they make is that by increasing the minimum wage at a 25-percent rate will cause employers to hire fewer people and the first to go will be the young and the elderly. Many of these individuals are looking for jobs to supplement other income. The statistics clearly indicate that the increase in the minimum wage is not going to solve our Nation's poverty problem, the effect it could have is indeed counterproductive to this goal. It will increase the cost of living which is most severely felt by those at the lower levels of the economic spectrum. It will reduce the number of low-level job opportunities and again, affect those whom we have tried to help by this bill.

By taking the "stretch out" approach in this amendment, we will give the economy time to adjust to a reasonable planned increase in the minimum wage level.

I urge adoption of this amendment.

Mr. DENT. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I do not take this time to make a direct approach as to the position on amendments suggested by the gentleman from Illinois.

We are proceeding in a fashion and in a proper fashion by discussing every angle, and he put his finger on what have been the complaints against any increase in the minimum wage at this time.

However, in going back through the long history of this legislation, I find that on every one of the dates of an increase in the minimum wage the argument has been exactly the same. For example, in 1948, when the minimum was raised from 40 cents to 75 cents and later extended to $1, history shows the Republican policy at that time was in opposition to it. True to that policy, Senator Ball, I believe, of Minnesota, offered an Erlenborn-type substitute. When they awakened to what had happened, they discovered they had removed some of the safeguards against unscrupulous employers, and they had to come right back and put some amendments in to give the protection that the Congress really wanted.

Now, to get down to this cost-of-living thing, I thought you might be interested to know that in September 1947 the University of California was given a project to prepare a budget which would represent a healthful and reasonable living for a wage earner's family. The budget for a family of four, according to their findings and report, came to $3,871.64. This meant that, at that time, it would require a $79.45 weekly wage, or $1.86 an hour for a 40-hour week.

The Bureau of Labor Statistics, not being satisfied with that particular figure because they were at that moment working on the Myers bill—I believe it was Myers and PEPPER—prepared their own budget with their own Bureau of Statistics. This budget showed that it cost a family of four $3,350 a year to maintain American standards across the board. This meant a weekly wage of $66.35. CLAUDE PEPPER, our colleague from Florida, took up the fight at that time, and they put a bill in to represent the so-called requirements of a family, and they raised their coverage in the bill to 5,500,000 persons.

You must remember this was the strongest position that I have taken in my years in the Congress. When coupled with trying to reach a meaningful wage level, I have emphasized the idea of putting all workers under the umbrella; if this new bill of ours passes, we will be able to increase the number covered in this country to about 7.5 million with complete coverage.

I want to assure my friend from Illinois (Mr. ANDERSON) that when we do pass this bill, we will be able to get into the position, I believe, of just taking the level of wage that is universal and establishing an increase based upon the cost-of-living index increase, just as this Congress does for the civil service employees every 2 years.

The stretchout does have one disadvantage, in my opinion, because if you stretch it to 1974 you continue your cost-of-living index increases on exactly the same base as you have for the past 3 years. Panamanians working for the U.S. Government in the Canal Zone, who were covered in 1967 against my wishes, are now receiving the minimum wage law $2.18 an hour against $1.60 for Americans on the mainland.

Now, that particular group, unless my bill passes with the Panamanians removed, at the time your American worker receives $2, they will be receiving $2.84 an hour. To me there is something that just does not click right. This is not an inflationary wage level because we are doing exactly what Congress did for itself.

These workers I am talking about going to the $2 level have not had a pay raise since February 1968. That is a 5-year period. During those 5 years, we have voted a 35-percent increase to civil service employees as a cost-of-living increase in this Congress. We voted ourselves a 42-percent increase in salaries. Why did this Congress have to vote such an enormous boost at one time? Because we were denied the same right given to every other worker of having a raise as the cost-of-living increases. We found ourselves in a position where the chief clerks of some of our committees were receiving $3,000 more than Members of Congress were receiving because of the increases in the cost-of-living index.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. DENT was allowed to proceed for 1 additional minute.)

Mr. DENNIS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Chairman, I thank the gentleman for doing me the courtesy of yielding.

I wanted to ask the gentleman, in view of the argument he was just making, why he thought the congressional raises were not inflationary. The gentleman says this proposed raise of the minimum wage is not inflationary, because the congressional raise is not inflationary. But who says that the congressional raise is not inflationary? Why does the gentleman think it is not?

Mr. DENT. By the same logic that every time this House has granted a cost-of-living index raise and has raised universally the civil service employees, no one claimed it was not inflationary. Every time there is a pay raise, in the minds of some it is inflationary—even when we created the 25 cents an hour minimum.

Mr. BIAGGI. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

This amendment, which is in effect an entirely new bill, would not expand the fair labor standards coverage or include provisions establishing import or procurement restrictions.

On the first point, the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) would not extend the Fair Labor Standards Act coverage to employees not presently protected by the law. It is most unfair to neglect a sizable number of American workers and not to cover them by this act. If we look at one category of workers which is not now covered by the Fair Labor Standards Act, for example, we can readily understand why they should be included under the provisions of this law. Household domestics are not currently covered by this act. In 1969, more than 80 percent of the 1.5 million people in this occupation had total cash incomes of less than $2,000 annually—57 percent had less than $1,000. Moreover, 97 percent of all domestics are women with 200,000 of them being the heads of families. Of all domestics who are heads of families, 60 percent had incomes in 1969 that were less than the poverty level. By including this group of workers under the provisions of the act we can alleviate this inequity.

The second major difference between the committee bill, of which I am a cosponsor, and the proposal offered by the gentleman from Illinois (Mr. ERLENBORN) is that the latter does not include a provision which would establish a procedure for the President to impose higher import quotas or tariffs and to prohibit certain procurement practices.

Mr. Chairman, to exclude this section, title III, would neglect the protection of the American workingman from detrimental international economic influences. This section is necessary to carry out the intent of the original Fair Labor Standards Act by providing remedies which would prevent the protections of the act from being dissipated by the injurious impact of excessive imports of products produced abroad under conditions below the standard specified in the act. Indeed, if the production of goods imported into this country does not generally carry cost burdens equivalent to that imposed on domestic producers by our wage, hour, and other labor standards, the channels of interstate commerce will be substantially preempted by imported goods. This effect would be to the serious detriment of domestic employment and the standards of living of workers as well as the welfare of the communities in which workers displaced by these imports reside.

Mr. Chairman, more and more U.S. corporations are investing in foreign corporations to accomplish work that could be done here at home. This practice of having inexpensive foreign labor do our work for us has the obvious effect of draining our domestic labor market of potential jobs for all Americans: black, white, rich, and poor. Moreover, this practice is magnified by our current economic difficulties.

I, therefore, urge my colleagues to defeat the amendment offered by the gentleman from Illinois (Mr. ERLENBORN), and to support the committee bill thus providing the American workingman with the fair shake he deserves.

Mrs. GRIFFITHS. Mr. Chairman, I move to strike the last word.

I should like to ask the proponent of the substitute if his bill contains the inequity now applying to professional women so that they do not come within the equal pay for equal work statute. Is that right?

Mr. ERLENBORN. Mr. Chairman, will the gentlewoman yield?

Mrs. GRIFFITHS. I yield to the gentleman from Illinois.

Mr. ERLENBORN. The gentlewoman makes it a little difficult for me to answer the question.

Mrs. GRIFFITHS. There are a lot of business and professional women in town today, and I know they would like to hear the answer.

Mr. ERLENBORN. I would be in a better position to answer the gentlewoman if she would refer to the particular section or provision of the law. We make no changes relative to that in the substitute.

Mrs. GRIFFITHS. The law as it now stands does not apply to equal pay for equal work for professional women; is that not right?

Mr. ERLENBORN. Mr. Chairman, will the gentlewoman yield?

Mrs. GRIFFITHS. I yield.

Mr. ERLENBORN. The committee bill and the substitute bill, so far as I am aware, treat this subject the same way, so that neither the committee bill nor the substitute bill would change those provisions.

Mrs. GRIFFITHS. Then let me ask the subcommittee chairman a question. Is it not true that the committee bill wipes out this distinction and that women in a professional capacity will qualify under the equal pay for equal work section?

Mr. DENT. Section 207 is the equal pay for equal work section of the act. As the act now stands there is no protection, no guarantee of protection for equal pay for women, so the committee in its bill, which is before the House now, which some seek to amend by the substitute, applies to sex discrimination in employment—section 6(d) of the act. This relates to any employee employed in administrative or professional capacity.

The answer to the question is that the Erlenborn substitute leaves the inequity as it is.

Mrs. GRIFFITHS. So that a woman employed in a law firm or a woman employed as a doctor, or a nurse, or teacher, or a woman employed in one of the automobile companies of this country, in the executive department, now has no protection. She can be employed at a scale, for instance, of $8,000, with a man working beside her on exactly the same job getting $15,000, and the woman getting $8,000 as a professional has no remedy?

Mr. DENT. Absolutely.

Mrs. GRIFFITHS. The remedies are available, then, only if one is working in a plant. Is that not right?

Under those circumstances I would like to say to the distinguished gentleman from Illinois I have spent a long lifetime trying to do something to help women, and I am against the substitute. And, believe me, I think if this were generally known, you would find you would have quite a lot of lobbying against the substitute, Mr. ERLENBORN.

I yield back the balance of my time.

Mr. RYAN. Mr. Chairman, I oppose the pending amendment. By deferring for 1 year the proposed $2 minimum wage for nonagricultural workers who were covered before the 1966 amendments, and by denying the $2 minimum wage to workers who were first covered under the 1966 amendments, the Anderson amendment fails to implement the primary intent of the Fair Labor Standards Act. It was enacted to insure that a worker and his family would have an income which would allow them to live in minimal safety and comfort.

The workers in question are those at the lowest wage level. The minimum wage is not synonymous with the average wage. For example, except for the years in which it was increased, it was always less than half the average wage in the manufacturing industry.

The need for a substantial increase in the minimum wage is especially great at this time, in light of the severe economic situation with which our country is faced today. Prices continue to rise, while the minimum wage law permits a worker to earn less than $4,000 for a year's work. What is needed is a concerted attack on this system, a genuine offer of assistance to the many Americans who are struggling merely to make ends meet.

And this is an important point to remember. The minimum wage is being increased so that a sizable group of Americans will simply be able to afford the essentials of life.

The committee bill will do little more than help restore their purchasing power to enable them to maintain a minimum standard of living. The Anderson amendment would prevent this small step forward and would deny these workers the means to contend with the still spiraling costs of many basic consumer goods.

It has been argued that the immediate 25-percent increase in the minimum wage would have an adverse effect on our already inflationary economy, and that it would hinder the administration's efforts to restore economic stability.

However, in testimony before the Senate Subcommittee on Labor on related legislation, a spokesman for the U.S. Chamber of Commerce stated.

> We do not contend, unlike some of the witnesses that appeared before you apparently, that minimum wage is inflationary. Quite the opposite. Inflation is not caused by minimum wages.

Yet, in an apparent about-face, the U.S. Chamber of Commerce is now supporting the Anderson amendment on the grounds that the provisions of the committee bill would be inflationary.

The contention that a higher minimum wage will increase unemployment has not been substantiated. There is simply no concrete evidence to support this view. We will not eradicate unemployment by keeping wages depressed but by creating new jobs.

An increased minimum wage can only have a beneficial effect. It will increase the purchasing power of the true victims of inflation, the low-income workers. I, therefore, urge defeat of the Anderson amendment.

Mr. McCLORY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was present last night at an affair where the distinguished gentlewoman from Michigan was honored very appropriately for her successful sponsorship of a measure in behalf of the women of America, and I want to congratulate her here publicly again on that achievement and on her interest in behalf of equal pay for equal work.

Mr. Chairman, at a time when we should be working on legislation to help provide more jobs for more persons who are anxious to work, we are, instead, considering legislation which, in my opinion, will reduce employment.

Mr. Chairman, when we legislate minimum wages we also legislate unemployment.

Mr. Chairman, the bill before us today, H.R. 7130, the Fair Labor Standards Amendments of 1971 would increase the minimum wage and extend its coverage. This description of increasing minimum wages is an attractive one; it conjures up in our minds pleasant images of citizens gaining ever-larger incomes, and consequently being able to purchase ever more goods and services. But I think that if we look behind the facade to the essence of this legislation, we will find that it would have highly pernicious effects on the less skilled of our citizens, and that its unfortunate repercussions would adversely affect us all.

Most assuredly, this bill would place more cash in the hands of persons who are now earning less than $2 an hour, provided that after enactment of the legislation, they would continue to be employed over an equivalent period of time. My colleagues who speak in favor of this measure seem to ignore this very important proviso. We must keep it in mind, though, because I suspect that many employers who are now paying workers $1.60 or $1.75 an hour may not keep those same people on the payroll at an increased wage rate.

In my view, three types of businesses would be most severely affected. One of these is small business. The National Federation of Independent Business estimates that if this bill became law, its members would be forced to release several hundred thousand workers. Another type of business which would be similarly affected is the service industry. Firms in this field generally provide jobs which cannot be performed more economically by utilizing more capital per worker, and many of them would have to contract considerably if H.R. 7130 were to be enacted. The third type of business which would be hard hit by this bill is that of government. In many communities, governments would have to stop providing useful public services if they had to pay wages as high as the ones this bill requires. In addition, we in legislative bodies at all levels of Government would have to rethink our consideration of what some people have suggested is a possible solution to the welfare problem: making the Government an employer of last resort, in an effort to provide employment opportunities for people now on welfare rolls.

Mr. Chairman, this last point leads me to the most destructive aspect of the bill: Who would be affected by the job cutbacks? Those who would lose their source of income would be in the main the less skilled among us—those at the bottom of the wage scale—teenagers, minority group citizens, and many women.

I took occasion some months ago to review a report which had been made by John A. Renick of the Social Sciences Department of North Chicago, Ill., High School. Mr. Renick, who deals directly with minority group youngsters, speaks from personal knowledge of the young black students who go job-hunting after graduation and during the summer recess. Mr. Renick stated with regard to minimum wage legislation:

> Minority groups . . . are hardest hit by the effect of minimum wage laws.

He declared further:

> These laws are a chief cause of the disproportionately high unemployment levels among blacks, especially teenagers.

Mr. Renick also quoted from President W. Allen Wallis of the University of Rochester, who declared:

> Minimum wage laws are in effect, though not in intention, among the most anti-negro of laws.

Many of the Federal programs which we have initiated here in the Congress over the past several years have had as their objective providing these people with an opportunity to enter into our society as a whole, in the hope that once exposed to the working world, they would gain the incentive to increase their skills and thus improve themselves. H.R. 7130 would have a totally opposite effect—it would exclude these people from the opportunity we have tried to provide.

A final aspect which should concern us in our analysis of H.R. 7130 is the foreign trade provision, title III of the bill. This part of the proposed legislation would drastically modify established U.S. international trade policies, violating many treaties and commitments, undermining pending negotiations, and randomly protecting inefficient enterprises at home while depriving American consumers of access to foreign goods. My colleague from New Jersey (Mr. FRELINGHUYSEN) has explained elsewhere, and in greater detail, why title III is so pernicious, and I commend his remarks to you.

Mr. Chairman, H.R. 7130 is, in summary, a package with attractive wrapping but dangerous contents. This legislation is antithetical to the interests of our less skilled citizens in particular and to all Americans in general. I support the amendments to be proposed by my two colleagues from Illinois, Messrs. ERLENBORN and ANDERSON, only because I believe that if a bill is ultimately to pass, its effect would be less serious if these amendments were adopted. In my opinion, we ought to deny H.R. 7130 our approval.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ANDERSON) to the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. ERLENBORN).

TELLER VOTE WITH CLERKS

Mr. ANDERSON of Illinois. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. ANDERSON of Illinois. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Mr. MCCLORY, Mr. DENT, Mr. KEATING, and Mr. BIAGGI.

The Committee divided, and the tellers reported that there were—ayes 216, noes 187, not voting 29, as follows:

[Roll No. 145]

[Recorded Teller Vote]

AYES—216

Abbitt
Abernethy
Alexander
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Aspin
Baker
Baring
Belcher
Bennett
Betts
Blackburn
Bow
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Byrnes, Wis.
Byron
Cabell
Camp
Carlson
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Conte
Coughlin
Crane
Curlin
Daniel, Va.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Denholm
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
du Pont
Dwyer
Edwards, Ala.
Esch
Evins, Tenn.
Findley
Fish
Fisher
Flowers
Flynt
Ford, Gerald R.
Fountain
Frelinghuysen
Frey
Fuqua
Galifianakis
Gettys
Goodling
Griffin
Gross
Grover
Gubser
Hagan
Haley
Hall
Hammerschmidt
Hansen, Idaho
Harsha
Harvey
Hastings
Hébert
Heckler, Mass.
Henderson
Hillis
Hogan
Hosmer
Hunt
Hutchinson
Ichord
Jarman
Johnson, Pa.
Jonas
Jones, N.C.
Jones, Tenn.
Kazen
Keating
Kemp
King
Kyl
Landgrebe
Latta
Lennon
Lent
Lloyd
Lujan
McClory
McCollister
McCulloch
McDonald, Mich.
McEwen
McKay
McKevitt
McMillan
Mahon
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Mayne
Michel
Miller, Ohio
Mills, Md.
Minshall
Mizell
Montgomery
Mosher
Myers
Nelsen
Nichols
O'Konski
Patman
Pelly
Pettis
Pickle
Pirnie
Poage
Poff
Powell
Quillen
Railsback
Randall
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roncalio
Rousselot
Runnels
Ruppe
Ruth
Sandman
Satterfield
Scherle
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Shoup
Shriver
Sikes
Skubitz
Smith, Calif.
Smith, N.Y.
Snyder
Spence
Springer
Stanton, J. William
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Vander Jagt
Waggonner
Wampler
Ware
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wylie
Wyman
Young, Fla.
Zion
Zwach

NOES—187

Abourezk
Abzug
Adams
Addabbo
Albert
Anderson, Calif.
Anderson, Tenn.
Annunzio
Ashley
Aspinall
Badillo
Barrett
Begich
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanton
Boggs
Boland
Brademas
Brasco
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Caffery
Carey, N.Y.
Carney
Celler
Clay
Collins, Ill.
Conyers
Corman
Cotter
Culver
Daniels, N.J.
Danielson
Delaney
Dellums
Dent
Diggs
Dingell
Donohue
Dow
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Fascell
Flood
Foley
Ford, William D.
Forsythe
Fraser
Frenzel
Fulton
Garmatz
Gaydos
Giaimo
Gibbons
Gonzalez
Grasso
Green, Oreg.
Green, Pa.
Griffiths
Gude
Halpern
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Hathaway
Hawkins
Hechler, W. Va.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Holifield
Horton
Howard
Hungate
Jacobs
Johnson, Calif.
Jones, Ala.
Karth
Kastenmeier
Kee
Kluczynski
Koch
Kyros
Leggett
Link
Long, La.
McCloskey
McClure
McCormack
McDade
McFall
McKinney
Madden
Mailliard
Matsunaga
Mazzoli
Meeds
Melcher
Mikva
Miller, Calif.
Mills, Ark.
Minish
Mink
Mitchell
Mollohan
Monagan
Morgan
Moss
Murphy, Ill.
Natcher
Nedzi
Nix
Obey
O'Hara
O'Neill
Patten
Pepper
Perkins
Peyser
Pike
Podell
Price, Ill.
Pryor, Ark.
Pucinski
Quie
Rangel
Rees
Reid
Reuss
Riegle
Rodino
Roe
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Ryan
St Germain
Sarbanes
Saylor
Scheuer
Seiberling
Shipley
Sisk
Slack
Smith, Iowa
Staggers
Stanton. James V.
Steed
Stokes
Stratton
Sullivan
Symington
Thompson, N.J.
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
Wilson, Charles H.
Wolff
Wright
Wyatt
Wydler
Yates
Yatron
Young, Tex.
Zablocki

NOT VOTING—29

Blatnik
Bolling
Brooks
Chisholm
Clark
Dowdy
Edmondson
Eshleman
Evans, Colo.
Gallagher
Goldwater
Gray
Hays
Hull
Keith
Kuykendall
Landrum
Long, Md.
Macdonald, Mass.
Metcalfe
Moorhead
Murphy, N.Y.
Passman
Preyer, N.C.
Price, Tex.
Purcell
Stubblefield
Tiernan
Veysey

So the amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. ABBITT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ERLENBORN

Mr. ABBITT. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. ABBITT to the amendment in the nature of a substitute offered by Mr. ERLENBORN of Illinois: Page 2, strike out lines 5 through 22 and insert in lieu thereof the following:

SEC. 101. (a) Section 6(a) (29 U.S.C. 206 (a)) is amended by striking out "(a) Every employer" and all that follows through paragraph (1) and inserting in lieu thereof the following: "(a) Except as provided in this section, every employer shall pay each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, at a wage rate of not less than $1.70 an hour during the first year from the effective date of the Fair Labor Standards Amendment of 1972; not less than $1.80 an hour during the second year from such date; not less than $1.90 an hour during the third year from such date; and $2.00 an hour during the fourth year from such date."

(b) Such section is amended by adding after paragraph (5) the following new paragraph:

"(6) If this section was made applicable to such employee by the amendments made to this Act (other than section 18 thereof) by the Fair Labor Standards Amendments of 1966, not less than $1.70 an hour during the first year from the effective date of the Fair Labor Standards Amendment of 1972; not less than $1.80 an hour during the second year from such date; not less than $1.90 an hour during the third year from such date; and $2.00 an hour during the fourth year from such date.

POINT OF ORDER

Mr. ERLENBORN. Mr. Chairman, I rise to make a point of order to the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ERLENBORN. Mr. Chairman, I was not given a copy of this amendment before it was offered and I still do not have one, but in following the reading of the amendment, it becomes apparent that the language that is sought to be amended by the gentleman's amendment is language which was in the original substitute but has already been amended by the amendment offered by the gentleman from Illinois (Mr. ANDERSON).

I think that the amendment is, therefore, out of order.

The CHAIRMAN. Does the gentleman from Virginia desire to be heard?

Mr. ABBITT. Yes, Mr. Chairman, I think the amendment is in order. It is merely an addition. Due to the parliamentary situation, the amendment as originally drawn had to be redrawn in this way.

The amendment as offered is not as originally drawn due to the parliamentary situation, but the Anderson amendment having been adopted, my amendment had to be drawn in its present form. What it does is simply add two additional steps over the long haul to the Anderson amendment. For instance, the Anderson amendment provides $1.80 an hour during the first year and then goes to $2 an hour. This amendment simply makes two additional steps, from $1.80 to $1.90, and then to $2, taking 4 years to do it, whereas the Anderson amendment takes 2 years to do it.

Mr. Chairman, I think this is in order.

The CHAIRMAN. Does the gentleman from Illinois desire to be heard further?

Mr. ERLENBORN. Mr. Chairman, I now have a copy of the amendment. It apparently does amend the same language that the Anderson language has just amended, and I believe my point of order is correct.

The CHAIRMAN (Mr. BOLLING). The Chair would like to read from page 13 of the Cannon's Procedure, 1957 edition. This is at the bottom of the page under the heading "Application to amendments once disposed of"—Section 474—of the House Rules and Manual. It is not in order to—

> Strike out an amendment already agreed to, but other words of the paragraph, including the amendment, may be stricken out to insert a new paragraph of different meaning.

The amendment strikes out the entire section and inserts new language.

The Chair rules that the amendment is in order and overrules the point of order.

The gentleman from Virginia is recognized for 5 minutes in support of his amendment.

Mr. ABBITT. Mr. Chairman, the amendment is very simple. I realize, first, that we are going to have a minimum wage bill, and I desire to soften the impact as much as possible. Under the Anderson amendment, the gentleman starts out by having $1.80 an hour during the first year from the effective date, and then not less than $2 thereafter. That is applicable to those who were put in in 1961. Now as to those who were put in in 1966, he starts out with $1.70 an hour during the first year and then $1.80 an hour the second year, and then $2.

All this amendment we offer now does is to start at $1.70 for all for the first year, and then $1.80 for the second year, and then $1.90 for the third year, and then it goes to $2.

In my opinion, the present bill is just too harsh on the economy. This amendment would keep the change in line with the economic program of the administration. Our retailers are faced with a tremendous economic situation. This does not do away with the Anderson amendment in the least, but simply adds two different steps. It starts at $1.70, and then goes to $1.80, and then $1.90, and then $2. I believe under the present economic conditions that this will go a long way to adjust the wage system effectively.

As I said, the reason I am offering it is that I am convinced this body or the other body is going to act on a wage and hour bill, and I think this in some way will soften the impact. The Nation's industry needs more time than provided even in the Anderson amendment to adjust to wage increases. Both bills and the Anderson amendment goes too far.

The committee bill (H.R. 7130) would raise the minimum in one step from $1.60 to $2 for those covered prior to the 1966 amendments to the Fair Labor Standards Act. In the retail industry alone, such a raise would directly affect one and one-quarter million employees. Both bills do, however, offer a 1-year stretchout for those employers first covered by the 1966 amendments; $1.80 60 days after enactment and $2 a year later. One and one-tenth million retail employees would be directly affected by an immediate raise in the minimum to $1.80. Altogether, therefore, approximately 2,350,000 retail employees will be directly affected by the new minimum contained in these two bills.

The fact is, the impact of such an increase upon the economic stabilization effort—a program designed to hold down inflation and create more jobs—would be disastrous. In a labor intensive industry like retailing, where labor costs run as high as 60 percent of overall operating costs, the effect would be ruinous.

I have stated that approximately 2,350,000 retail employees would be directly affected by the raise in the minimum wage contemplated by these two bills. By directly I mean that this number of employees would immediately get whatever raise was appropriate to them—either $1.80 or $2. "Directly," therefore, is a key word. Let me remind you of a very real additional effect upon retailing—this highly labor intensive industry—the ripple effect. Any increase in the minimum wage means an increase in all retail wages, including the higher skilled retail labor force. Whatever we in this body legislate in terms of an increase, there will be a proportionate increase throughout the entire retail workforce.

According to a 1971 study of the Department of Labor, there are 11,362,000 retail employees in the United States. Of this number 10,224,000 are classed as nonsupervisory employees. Taking either of these figures, the effect the ripple would have on, not only retailing, but on the entire economy, would, to say the least, be devastating.

The total workforce of the United States is approximately 80 million strong. Of this number, retailing employs 12.5 percent in its stores, and about 91 percent of these are in a nonsupervisory capacity—25 percent making less than $2—if you, however, include those retail employees not now covered by the FLSA, this figure would be as high as 40 percent of the nonsupervisory employees or 4,049,816 employees.

Whichever figure you prefer, the 25 percent or the 40 percent of the retail nonsupervisory employees now making under $2, this would entail either 3 or 5 percent of the total U.S. work force. Even if you discounted the ripple effect—the effect of raising the minimum to $2 would have a major impact on the economy even if just applied to either the 3 or 5 percent—who are at best marginal employees.

There is already some serious discussion in retailing circles on the possibility of more automation and/or a move toward the self-service store. What would the unemployment of another 3 or 5 percent of the Nation's workforce do to the economy?

It is with this in mind, Mr. Chairman, that I offer this amendment which would, in effect, do two things. First, stretch-out the raise in the minimum wage over a 4-year period, starting with an immediate raise from $1.60 to $1.70 with raises over the next 3 years of 10 cents each year until the minimum is $2. Second, the effect of this type of raise in the minimum wage would be to make the Fair Labor Standards Act the same for all nonagricultural employees, and make it unnecessary for the Congress to continue to treat employers, depending on when they were first covered by the Fair Labor Standards Act differently.

In conclusion, therefore, I would like to say, that if this body is serious about wanting prices to stabilize and the employment picture to improve, a raise to $2 at this time, even in an election year, would be disastrous.

Mr. DENT. Mr. Chairman, I move to strike the last word.

I would suggest to the Members that we vote and vote immediately upon this amendment, because if we do not get this over with pretty soon the next amendment may begin to cut the minimum wage 10 cents a year. Some of us are afraid that some of the workers covered now will not have any income after we finish.

I suggest that we just have the vote. You have the votes, and we will sit quietly by and watch what you are doing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. ABBITT) to the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ABBITT) there were—ayes 41, noes 102.

So the amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. CÓRDOVA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ERLENBORN

Mr. CÓRDOVA. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. CÓRDOVA to the amendment in the nature of a substitute offered by Mr. ERLENBORN: Page 7, strike out line 12 and all that follows down through and including line 12 on page 8 and insert in lieu thereof the following:

"(C) Notwithstanding subparagraph (A) or (B) of this paragraph, in the case of any employee employed in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5 and whose hourly wage is increased above the wage rate prescribed by such wage order by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the following rates shall apply except as otherwise provided in this subparagraph:

"(i) The rate or rates applicable under the most recent such wage order issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972, increased by (I) the amount by which such employee's hourly wage is increased above such rate or rates by the subsidy (or other income supplement), and (II) 16 per centum of the sum of the rate or rates under such wage order and such subsidy (or income supplement). The increased rate or rates prescribed by this clause shall take effect sixty days after the effective date of the Fair Labor Standards Amendments of 1972 or one year from the effective date of the most recent wage order applicable to such employee theretofore issued by the Secretary pursuant to the recommendations of a special industry committee appointed under section 5, whichever is later.

"(ii) Beginning one year after the applicable effective date of the increase prescribed by clause (i), not less than the highest rate or rates (including the increase provided under clause (i)) in effect on the day before the effective date of the rate or rates under this clause under a wage order covering such employee, increased by an amount equal to 16 per centum of the sum of the rate or rates applicable under the most recent wage order, covering such employee, issued by the Secretary before the effective date of the Fair Labor Standards Amendments of 1972 pursuant to the recommendations of a special industry committee appointed under section 5 and the amount by which such employee's hourly wage is increased above such rate or rates by the subsidy (or income supplement). Notwithstanding clause (i) or (ii) of this subparagraph, the minimum wage rate for any employee described in this subparagraph shall not be increased under such clause (i) or (ii) to a rate which exceeds the minimum wage rate in effect under subsection (b)(4).

Mr. BURTON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from Puerto Rico is recognized for 5 minutes in support of his amendment.

Mr. CÓRDOVA. Mr. Chairman, my amendment to the Erlenborn substitute has been cleared with Mr. ERLENBORN, and is acceptable to him.

It is designed to correct an error, which was inadvertently copied from the committee substitute, and which Chairman DENT proposes to correct by a substantially similar amendment to the committee substitute.

The error in the two bills, as written, would provide minimum wages for agriculture in Puerto Rico higher than on the mainland, and in many cases higher than the $2 minimum which the legislation proposes for industrial and commercial employees.

In Puerto Rico we have in recent years pioneered in the field of raising the level of farm wages. Three years ago, a bipartisan legislative effort enacted legislation to increase the minimum farm wage from the then prevailing Federal level of 65 cents in most cases and as low as 58 cents in some, in three annual stages, to a uniform level of $1 an hour. But since farming was and is in a precarious economic situation, principally because the bulk of our farm land is mountainous, hence not susceptible to mechanization, the legislation provided a wage subsidy, reimbursing farmers the difference between the Federal minimum and $1. About 2 months ago, the Federal minimum was increased sharply in certain classifications, and will probably be increased in all other classifications next month. The Legislature of Puerto Rico has moved to support these increases by affording higher wage subsidies that would permit farmers to pay the higher wages and avoid any substantial curtailment of employment. Legislation for this purpose is now moving through the Legislature of Puerto Rico, with the support of the Governor.

We believe that the crisis of Puerto Rico's agriculture presents not only an economic but a social problem, and that the entire community should bear the economic burden of keeping our farms solvent, of avoiding the flow of population from rural to urban areas.

Our government in Puerto Rico will therefore continue to subsidize farm wages and thus provide higher wages on the farm, not in theory but in fact. Our interest in this goal, an interest shared by all of us in Puerto Rico, regardless of political party, is far greater than any Member of this Congress could have. But our means are limited. And they would be substantially wiped out by the extension of coverage to all public employees which the committee bill proposes. This is the basic reason why I support the Erlenborn substitute. My amendment is designed to perfect this substitute. I earnestly ask you to support my amendment.

Mr. BURTON. Will the gentleman yield?

Mr. CÓRDOVA. I yield to the gentleman.

Mr. BURTON. Does this amendment or does it not provide a review committee for subsidized wages?

Mr. CÓRDOVA. It does not provide a review committee for subsidized wages. It does not. I did have such an amendment which I showed to counsel yesterday afternoon, but that change has been made; so it does not.

Mr. BURTON. As some of my colleagues know, I am chairman of the Subcommittee on Insular Affairs, and I have worked, at all times, constructively with our distinguished colleague, the Resident Commissioner of Puerto Rico.

We have some difficulty. The amendment that the gentleman is proposing appears to be at variance with the amendments that the committee is prepared to offer, amendments of a technical nature to the basic proposal.

It appears that because we have not had this amendment before us perhaps our distinguished colleague is reaching a little further than his statement to date would lead the audience to believe.

I will not pursue the matter except to note—and I do not think on this point we would have any difficulty on either side of the aisle, and I do not intend this to be self-serving—that there has been no member of this subcommittee who has been any more concerned than the gentleman from California to see that we did not proceed insensitively in terms of the economic needs of the residents of Puerto Rico. I am a little troubled that we have not had any forewarning, some of us at least, as to this amendment. I am also somewhat concerned as to the scope and the breadth of the gentleman's proposal. Our staff leads us to believe this brings the review committee into those cases of persons whose wages are subsidized.

Mr. ERLENBORN. Will the gentleman yield?

Mr. CÓRDOVA. Yes. I yield to the gentleman.

Mr. ERLENBORN. Just for the record, it should be noted I am advised counsel, pursuant to my request, saw that some hour or 2 hours ago a copy of Mr. CÓR-

DOVA's amendment to my substitute was delivered to the majority desk.

It is my understanding—and this is a complicated subject, as the gentleman from California (Mr. BURTON) knows—but it is my understanding that any differences between this and the amendment that has been agreed to by the majority to the main bill are stylistic only and are not substantive.

Further, I would say that the gentleman from Puerto Rico (Mr. CÓRDOVA) has never, in my opinion, tried to mislead any of us.

He has told me that this has been prepared by counsel and that is nothing different than what has been agreed to by the majority.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. CÓRDOVA. Yes; I yield further to the gentleman from California.

Mr. BURTON. Within the parameters of the assertions of the ranking minority Member, I, for one, within those parameters will not seek to take up any additional time. We will resolve this matter in conference in the event there is a misunderstanding on one side or the other.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. CÓRDOVA. I am happy to yield to the gentleman from California.

Mr. HOSMER. Mr. Chairman, as a member of the Interior Subcommittee on Insular Affairs, I well know the gentleman's necessity here and I concur in and support his amendment.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. CÓRDOVA. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, this is exactly what we agreed upon as to the changes to go into the original bill.

Mr. CÓRDOVA. It is exactly the same with respect to review.

Mr. DENT. Mr. Chairman, I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the Resident Commissioner of Puerto Rico (Mr. CÓRDOVA) to the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENTS OFFERED BY MR. BURLISON OF MISSOURI TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ERLENBORN

Mr. BURLISON of Missouri. Mr. Chairman, I offer amendments to the substitute amendment.

The Clerk read as follows:

Amendments offered by Mr. BURLISON of Missouri to the amendment in the nature of a substitute offered by Mr. ERLENBORN: Page 3, strike out lines 2 through 5 and insert in lieu thereof the following: "not less than $1.30 an hour.".

Page 5, strike out line 10 and all that follows down through and including line 12 on page 8.

Page 10, line 17, strike out ", (3) (B),".

Page 10, beginning in line 22, strike out ", (3) (A),".

Page 11, beginning in line 8, strike out ", (3) (A),".

Page 11, line 13, strike out ", (3) (A),".

Page 12, line 18, strike out ", (3) (A),".

Page 13, line 9, strike out ", (b) (4),".

Page 16, line 9, strike out "or $1.30 an hour, whichever is the higher".

Mr. BURLISON of Missouri (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendments be dispensed with and that they be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BURLISON of Missouri. Mr. Chairman, I ask unanimous consent that the amendments which have been read be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BURLISON of Missouri. Mr. Chairman, I offer this amendment on behalf of the farmers of America. The farmer has made great strides forward in recent years, but his relative position has changed little financially. Our farmers, particularly on the small underdeveloped farms, are financially unable to pay higher wages for farm laborers. I, therefore, seek to amend this section of the bill with the result that farm workers' minimum wages will remain at current levels.

Mr. Chairman, in 1972 only one person in 21 lives on a farm. Twenty years ago this figure was one in seven. People today are eating more. They consume twice as much beef per person as they did 20 years earlier. The population has expanded at an explosive rate, and food needs must keep pace, at additional costs.

The per capita disposable income of the farm family is only three-fourths that of the nonfarm family. This income includes both the farmer's rate of return on his farm business and his hourly labor return. Many farm people must supplement their farm labors with off-the-farm income to meet even the three-fourths figure.

The debts incurred by a farmer to carry on his operations are five times as great as they were 20 years ago. The total debt of farmers has risen from $13.1 billion in 1965 to $65.5 billion in 1972.

Increasingly, the farmer's economic welfare is becoming more dependent on what happens in the nonfarm sector of the economy. Greater and greater amounts of nonfarm resources such a machinery, fuel, fertilizer, agricultural chemicals, and electricity are being used to maintain and improve efficient levels of production. The costs of these inputs have increased much faster than the prices the farmer has received, and it has only been through increases in efficiency that some farmers have been able to survive in order to continue to produce an abundant supply of food for this country.

Farm investment in land, buildings, livestock, and similar items has more than doubled in the same 20-year period, rising from $152 billion to $335 billion. Farmers have been burdened with huge increases in real property taxes to help meet the increased revenue needs of local governments. Taxes on land must be paid even when no profit is made, even in a bad year. The typical American farmer has an individual investment of more than $150,000, but shows a net cash return of less than $10,000 annually. Few other industries would remain in business today with that type of profit margin.

The farmer of the seventies pays wages for help that are 2.3 times higher than wages paid 20 years ago, and his machinery costs are nearly double what they were in 1951. His production costs have increased 5 to 7 percent per year resulting in almost double costs in 20 years. Overall, most prices that the farmer pays have risen nearly 50 percent in the past two decades.

Throughout this period farm income has remained below the national average. Today the farmer can only count on receiving 38 cents of each food dollar, compared to 49 cents, 20 years ago. If the 1951 figure is adjusted to correspond to today's dollar value, the difference is even greater.

This, Mr. Chairman, is the American farmer—a hard working, efficient producer, earning the same return on his investment and labor that he did 20 years ago, in spite of his significant improvements. With an income 20 years behind the times, and deflated by inflation, the farmer, who is working for one-fourth less than the workers in the rest of the economy, cannot afford to pay a higher minimum wage and stay in business. Mr. Chairman, the current rate of $1.30 per hour is the maximum that the farmer can pay under current circumstances. I, therefore, propose that the minimum wage for agricultural workers remain as presently stated in the law.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I yield to my colleague, the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Missouri.

What the gentleman is saying is that if we increase the minimum wage at this time we are simply going to worsen the lot of the small farmers. I know we are all interested in maintaining at least the present economic status of our farmers. We certainly do not want to make their condition any the worse. But if the minimum wage is upped the plight of the farmer will be worse than it is at the present time.

I am glad that the gentleman has offered this amendment, and I intend to support his amendment.

Mr. ABOUREZK. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I yield to the gentleman from South Dakota.

Mr. ABOUREZK. Mr. Chairman, I would ask the gentleman does this amendment and the entire bill affect any farmers who gross under $250,000?

Mr. BURLISON of Missouri. Under the present law, as I understand it, coverage is limited to about the size farmer who employes seven employees full time. There is a more complicated way of computing this, but I think it is generally agreed that the present law applies basically to all farmers who employ seven or more employees full time.

Mr. ABOUREZK. If the gentleman will yield further, how many farmers who gross under $250,000 a year are covered by this law?

Mr. BURLISON of Missouri. I cannot answer that.

Mr. ABOUREZK. Can someone on the committee answer that?

Mr. DENT. Mr. Chairman, if the gentleman will yield, the record shows only 1 percent of the farmers in the country to be covered by this minimum wage, so I do not think there can be too many.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

(By unanimous consent, Mr. BURLISON of Missouri was allowed to proceed for 1 additional minute.)

Mr. BURLISON of Missouri. Mr. Chairman, the gentleman from Pennsylvania (Mr. DENT) has mentioned that only 1 percent of the farmers are covered under the law. I cannot vouch for that, but I can vouch for the fact that in my district a number of farmers fall within this category, and I can say that in the last few years, I have known small farmers, medium size farmers, and also farmers with seven or more full-time employees, going into bankruptcy, and with greater and greater rapidity, thereby resulting in larger and larger farms.

I think that the amendment is necessary to try to be of some help in stemming the tide of evacuation of our farming people from the farms into the cities.

Mr. SEBELIUS. Mr. Chairman, will the gentleman yield?

Mr. BURLISON of Missouri. I yield to the gentleman from Kansas.

Mr. SEBELIUS. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Missouri, and to state that I intend to vote for his amendment, and I appreciate that the gentleman has brought up this amendment.

The CHAIRMAN. The time of the gentleman from Missouri has again expired.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, if we enact this amendment, we are going to do much harm to the little farmer throughout the country.

From the standpoint of production, only about 1 percent of the farms are covered by the present law.

If we expect to keep the farm exemption in the future for the small farm and for the medium-size farmer, where this legislation is not applicable today, we had better not go too far to protect the conglomerate, corporate farmer. And that is the net effect of this amendment.

This amendment will do harm to the farm exemptions that have been so carefully worked out in the past. When you go too far in the defense of the huge corporate farms where they can afford to pay, you are endangering the exemption of the small- and middle-sized farmers of this country. And you are doing a grave injustice to the farmworkers as well.

I say to you in all fairness that this amendment should be voted down.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman.

Mr. QUIE. I thank the gentleman for yielding.

As the gentleman has indicated, it is important that young people have the opportunity to work on a farm at $1.30. But it is certainly no help to the small farmers of the country to knock down this increase of the minimum wage.

As I recall, the large employers did not come in and testify in opposition to the minimum wage before our committee. Therefore, I urge that the amendment be voted down.

Mr. PERKINS. The gentleman is exactly right. The amendment should be defeated.

Mr. TALCOTT. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would like to say that I represent the farm area, too. I think we should remember we are talking about the farmworker and we should be concerned about the farmworker. He lives in the same society. He lives in the same community and he pays the same prices for food, rent, and clothes, and he is already at the bottom of the economic totem pole.

One thing that is wrong with this total bill and the Erlenborn amendment, too, is the differential between the farmworker and the industrial worker. This is bad for the farmer, the big farmer and the little farmer and the farmworker. In our society the farm employee works just as hard, and maybe harder, than the industrial worker. His expenses are greater because he has to pay more rent, because he is a migrant and must move often at additional expense, and at best he enjoys only seasonal work. I think we should certainly vote down this amendment and we should approve an amendment to give the farmerworker the same minimum wages that the industrial worker enjoys.

Unless this unfair differential between farmworkers and industrial workers is amended out of this bill or the substitute bill, I shall vote against the bill on final passage. Somehow we must call attention to the plight of the farmworker.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Missouri (Mr. BURLISON) to the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BURLISON of Missouri. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendments to the amendment in the nature of a substitute were rejected.

AMENDMENTS OFFERED BY MR. STEIGER OF WISCONSIN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ERLENBORN

Mr. STEIGER of Wisconsin. Mr. Chairman, I offer amendments to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendments offered by Mr. STEIGER of Wisconsin to the Amendment in the Nature of a Substitute offered by Mr. ERLENBORN:

Page 4, line 3, strike out "Section" and insert in lieu thereof "Effective on the date of the enactment of this Act, section".

Page 13, strike out lines 3 through 9 and insert in lieu thereof the following:

"(6) Notwithstnading any other provision of this subsection, the wage rate of any employee in Puerto Rico or the Virgin Islands which is subject to paragraph (2), (3), or (4) of this subsection shall, on and after the effective date of the applicable wage rate increase prescribed by paragraph (2)(A), (3)(A)(i), (3)(C)(i), or (4)(A)(i), be not less than 60 per centum of the wage rate that (but for this subsection) would be applicable to such employee under subsection (a) or (b) of this section."

Page 18, strike out lines 16 and 17 and insert in lieu thereof the following:

(d) Section 8 is amended (1) by striking out "the minimum wage prescribed in paragraph (1) of section 6(a)" in the first sentence of subsection (a) and inserting in lieu thereof "the minimum wage rate which would apply under subsection (a) or (b) of section 6 but for section 6(c)", (2) by striking out "the minimum wage rate prescribed in paragraph (1) of section 6(a)" in the last sentence of subsection (a) and inserting in lieu thereof "the otherwise applicable minimum wage rate in effect under subsection (a) or (b) of section 6", and (3) by striking out "prescribed in paragraph (1) of section 6(a)" in subsection (c) and inserting in lieu thereof "in effect under subsection (a) or (b) of section 6 (as the case may be)".

Page 19, line 3, strike out "The effective date" and insert in lieu thereof "Except as provided in section 104(a), the effective date".

Mr. STEIGER of Wisconsin (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendments be dispensed with, that they be printed in the RECORD, and that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. STEIGER of Wisconsin. Mr. Chairman, these small, technical, and clarifying amendments are necessary because of some problems that arose in the Erlenborn substitute. I would be delighted to yield to the gentleman from Illinois for purposes of description.

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Chairman, these are four amendments that are necessary because of draftsmen's errors relative to the Puerto Rican section of title I of the bill. These are errors that were contained in the committee bill, and since we took the language from the committee bill, they were repeated in the substitute. They were called to our attention by the legislative counsel. They are not substantive, and I would hope that they would be adopted. They are technical and clarifying amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Wisconsin (Mr. STEIGER) to the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendments to the amendment in the nature of a substitute were agreed to.

Mrs. GREEN of Oregon. Mr. Chairman, I rise to direct two questions to the chairman of the subcommittee handling the bill.

The CHAIRMAN. The gentlewoman from Oregon is recognized.

Mrs. GREEN of Oregon. In recent weeks I have received many letters in regard to the effects of this bill on young people, high school and elementary school students, who are working in seasonal harvest work, picking beans, strawberries, et cetera. Is it not true that the committee bill which comes to the House floor today does not change the exemption which has always been under the Minimum Wage Act so that youngsters who are engaged in seasonal harvesting are exempt from the coverage of the act?

Mr. DENT. That is correct. We make no changes in the provisions relating to agricultural exemptions.

Mrs. GREEN of Oregon. That is the second question. There seems to be a misunderstanding in regard to the provision that if students work more than 20 hours a week, then they must come under the provisions of the Minimum Wage Act. Am I not correct that young people who are working in seasonal harvest, even though they work more than 20 hours, do not have their conditions of employment changed at all; they are still entirely exempt from the provisions of the minimum wage bill?

Mr. DENT. That is correct.

Mrs. GREEN of Oregon. I thank the gentleman.

AMENDMENT OFFERED BY MR. RANDALL TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ERLENBORN

Mr. RANDALL. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. Randall to the amendment in the nature of a Substitute offered by Mr. Erlenborn:

TRANSIT EMPLOYEES

Sec. 204. (a) Paragraph (7) of section 13 (b) (29 U.S.C. 213(b)) is amended by inserting immediately before the semicolon the following: "and if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(b) Effective January 1, 1973, such paragraph is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(c) Effective January 1, 1974, such paragraph is repealed.

(d) Section 7 (29 U.S.C. 207) is amended by adding at the end thereof the following new subsection:

"(k) In the case of an employee of an employer engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, whose rates and services are subject to regulation by a State or local agency, in determining the hours of employment of such an employee to which the rate prescribed by subsection (a) applies there shall be excluded the hours such employee was employed in charter activities by such employer if (1) the employee's employment in such activities was pursuant to an agreement or understanding with his employer arrived at before engaging in such employment, and (2) if employment in such activities is not part of such employee's regular employment."

Mr. RANDALL (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with, and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. RANDALL. Mr. Chairman, each of the last two or three speakers indicated their amendments were simple. May I say I think mine is really easy to understand. It is taken from the language of the Dent bill and is simply put in at the appropriate place in the Erlenborn substitute.

I have recently become concerned about a rather small group of transit workers, who have been neglected or overlooked. They are not asking for very much. They are making more than the minimum wage. Many if not most of them do not have problems with their overtime. Of 70,000 transit workers, it is estimated 50,000 or maybe 60,000 have contracts which provide for overtime. The balance of the transit workers who are not covered by a contract want the exemption in the 1966 bill that they receive overtime only over the 48 hours, that is, 6 days, amended so they receive overtime after or over 44 hours. They are not even asking that regular time be limited to the ordinary 8-hour, 5-day week until a year or two later.

We are talking about the streetcar workers, if there are any left in America, and about the electric lines running to the suburbs, and the interurban lines, and we are talking most of all about the motorbus operators.

The first point I would like to emphasize is that this amendment would affect around 20,000, but not to exceed 30,000 nationwide. Most are of course located in our metropolitan areas. In the metropolitan Kansas City area there are about 450.

I have noted in the report of the additional views of the gentleman, from Wisconsin (Mr. Steiger), so if he will withhold asking me to yield for a minute, I will continue on to say that the transit industry experiences unusual circumstances because of rush hours, and because of weather conditions. It is charged that paying overtime could result in some increased operating costs. Perhaps there would be some additional costs.

But all of the Members can recall this body last year passed what we called the "Urban Mass Transit Act" authorizing assistance in the amount of $3.1 billion. I am sure that none of us can ever afford to sit by and see all of our transit systems for all of our metropolitan areas terminate operations. It just cannot be. We have to think of our young people in some instances going to school, and certainly our handicapped, and most important of all our aged who would otherwise have no way to get into and out of the cities to visit their doctors and do their necessary shopping. We have no choice but to face up to this problem of maintaining a transit system. In Missouri a multimillon-dollar bond issue will be on the ballot in November to provide funds for St. Louis and Kansas City.

Mr. Chairman, the purpose of my amendment is to provide some encouragement to these hard-pressed transit workers—to tell them to hold on for a while longer. Why is this important? The answer is that these operators are not just like a truck driver. They are really and truly professionals. I think all of us would agree that these drivers have the patience of job and the skill of racing car drivers. They will constitute a sort of cadre who will be around after the newcomers arrive, meaning at the time when there is a revival or rebuilding of our mass transit systems. We hope these present workers will serve as sort of senior counselors to the new workers of the future as the Federal and State and local assistance or subsidy programs become operative.

We are not talking about many persons or much money. We are not talking even about overtime over 40 hours right now. We are only talking about limiting regular time to 44 hours for the first year.

Mr. STEIGER of Wisconsin. Will the gentleman yield?

Mr. RANDALL. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, this is what I want to ask the gentleman. I have a copy of what the gentleman has offered. The gentleman does not in the subsection take it from 48 to 44. May I suggest to the gentleman from Missouri, as of January 1, 1974, the amendment says such paragraph is repealed. It is the paragraph that grants the overtime exemption. So in effect the gentleman is going to end up with repealing the overtime exemption.

Mr. RANDALL. No, no.

Mr. STEIGER of Wisconsin. But the gentleman eliminates the overtime exemption, even the 44 hours.

Mr. RANDALL. That was certainly not the intention of the amendment. I have followed exactly the wording of H.R. 7130, the so-called Dent bill.

Mr. STEIGER of Wisconsin. Mr. Chairman, I rise in opposition to the amendment.

Mr. STEIGER of Wisconsin. Mr. Chairman, I would refer the members of the committee to the additional views that are presented to the House on a bipartisan basis, including Mr. Quie, Mr. Erlenborn, Mr. Esch, Mr. Eshleman, myself, Mr. Landgrebe, Mr. Forsythe, Mr. Kemp, and Mr. Biaggi of New York, in opposition to the language found in the Dent bill.

I do recognize that the gentleman from Missouri apparently did not intend to present the same language as the Dent bill, which completely eliminates the present law insofar as the transit employees are concerned.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. Of course I yield to the gentleman from Missouri.

Mr. RANDALL. I have just discussed this with the manager of the bill. I believe the intent is very clear. It is to change the 1966 law. It simply would provide that they do be paid overtime for over 44 hours. It is that simple.

Mr. STEIGER of Wisconsin. Except I say to the gentleman from Missouri, it would effectively repeal paragraph 7, section 13(b) of the Fair Labor Standards Act. It would not simply take it from 48 to 44 hours, but would in fact, completely repeal the exemption on January 1, 1974. That is the reason why the additional views are in here.

In addition, yesterday in the RECORD, at page 16620, I put in a newsstory, admittedly parochial since it relates to Wisconsin, but the headline on that news story is, "Most State Bus Systems Were in Red for Year 1971."

Sheboygan, Fond du Lac, Oshkosh, Manitowoc, and all across the State of Wisconsin, bus companies at the present time are receiving subsidies, from $2,400 in Watertown up to $40,000 in Eau Claire.

There is a debate in my city of Oshkosh as to whether or not to increase the bus company from the $12,000 the city is giving.

If we did take the subsidy away and began to drive up rates at the same time we would take away from the number of passengers and effectively kill transportation on either public or private mass transportation systems for people across this country.

I think that is wrong. I would urge that the amendment not be agreed to, and then we can get on about the business of debating the substitute amendment.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from California.

Mr. BURTON. Is the gentleman suggesting that employees of bus companies should subsidize the operation?

Mr. STEIGER of Wisconsin. He is not; no.

Mr. BURTON. Why should not the employees of the transit systems be given the same protection as the FLSA overtime provisions apply to other workers.

Mr. STEIGER of Wisconsin. It is my time. If the gentleman wants to go ahead and make a speech he can make a speech on his own time.

The CHAIRMAN. The gentleman from Wisconsin has the floor.

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield back the remainder of my time.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

I believe I ought to clarify this amendment. I believe I know what the gentleman from Missouri wants to do.

The gentleman said on the floor what he was doing was taking the language from our bill, which reduces the hours from 48 under the exemption to 44. That is exactly what he is doing.

Apparently there is some confusion in the minds of some persons, because he also takes from our bill that particular paragraph (c) "effective January 1, 1974," at which time that paragraph is repealed, and then it goes down to the regular 40 hours in 1974. So we understand.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Of course, that is correct. The question is whether or not that is the intent of the gentleman from Missouri.

Mr. DENT. That is why I took the floor, to try to clarify it.

Mr. RANDALL. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Missouri.

Mr. RANDALL. The gentleman from Missouri has tried to make it very plain. "Effective January 1, 1973, such paragraph"—and that refers back to the 1966 law. I am striking out the 48 hours and inserting in lieu thereof 44 hours. Perhaps the confusion is over the dates.

Mr. DENT. We understand it, and I believe he understands it as he so sees it.

I might say to the gentleman from Wisconsin, my heart bleeds for him about his community busline. I have not operated one for quite a number of years, but I know the problem.

It is funny how we can fly to the defense of a situation that is purely local, when it comes home and strikes us, for then we know the truth about it.

What I said to this group yesterday, and on many days for 10 years or more, is that every one of my steel companies is operating in the red, just like that little bus company. That is why I have title III here. But no one bleeds for those persons, does he?

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman from Ohio.

Mr. ASHBROOK. If the gentleman would only reiterate something he implied, but we did not get the answer to, it might help. The gentleman from Missouri (Mr. RANDALL) indicates the exemption in his amendment would not reduce coverage from 44 to 40 hours on January 1, 1974.

The gentleman from Wisconsin and the gentleman from Pennsylvania, if I understand you correctly, state that as of January 1, 1974, the exemption would, in effect, be removed and transit workers would enjoy the same 40-hour overtime coverage as all other workers.

Would the gentleman in categorical language state what the situation is?

I am sure many Members having listened to the gentleman from Missouri and the gentleman from Wisconsin are not sure what the case will be on January 1, 1974.

Mr. DENT. I will be happy to.

Mr. ASHBROOK. The gentleman from Pennsylvania is the expert in the field. Would he please explain it?

Mr. DENT. I will be happy to state it.

The statement made by the gentleman from Missouri is correct in that part where it says effective January 1, 1973, strike out 48 and insert 44; but then in the next line where it says effective January 1, 1974, that paragraph is repealed, which gives us the 40-hour week.

That is what he wants to do.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. RANDALL) to the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken: and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. RANDALL. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. RANDALL. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. RANDALL, STEIGER of Wisconsin, BADILLO, and ERLENBORN.

The Committee divided, and the tellers reported that there were—ayes 186, noes 208, not voting 38, as follows:

[Roll No. 146]

[Recorded Teller Vote]

AYES—186

Abourezk
Abzug
Adams
Addabbo
Albert
Alexander
Anderson, Calif.
Anderson, Tenn.
Annunzio
Ashley
Aspin
Badillo
Barrett
Begich
Bell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanton
Blatnik
Boggs
Boland
Brademas
Brasco
Broyhill, N.C.
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Carney
Celler
Clay
Collins, Ill.
Conyers
Corman
Cotter
Culver
Daniels, N.J.
Danielson
Delaney
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Dow
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evins, Tenn.
Fascell
Fish
Flood
Foley
Ford, William D.
Fraser
Fulton
Garmatz
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Gude
Halpern
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Hathaway
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hillis
Holifield
Horton
Howard
Hungate
Ichord
Jacobs
Johnson, Calif.
Karth
Kastenmeier
Kazen
Kee
Kluczynski
Koch
Kyros
Leggett
Lent
Link
Long, Md.
McClure
McCormack
McFall
McKay
Madden
Mailliard
Matsunaga
Meeds
Melcher
Mikva
Minish
Mink
Mitchell
Monagan
Moorhead
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Obey
O'Hara
O'Konski
O'Neill
Patman
Patten
Perkins
Pepper
Pickle
Pike
Podell
Price, Ill.
Pryor, Ark.
Pucinski
Railsback
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rodino
Roe
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ryan
St Germain
Sarbanes
Saylor
Scheuer
Schwengel
Seiberling
Sisk
Skubitz
Smith, Iowa
Staggers
Stanton, James V.
Steed
Stokes
Stratton
Sullivan
Symington
Thone
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
Wolff
Wright
Wyatt
Yates
Yatron
Zablocki

NOES—208

Abbitt
Abernethy
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Aspinall
Baker
Baring
Belcher
Betts
Biester
Blackburn
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carlson
Carter

Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conte
Coughlin
Crane
Curlin
Daniel, Va.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Dellenback
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Findley
Fisher
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Fuqua
Gaydos
Gettys
Giaimo
Gibbons
Goldwater
Goodling
Green, Oreg.
Griffin
Gross
Grover
Gubser
Haley
Hall
Hammerschmidt
Hansen, Idaho
Harsha
Harvey
Hastings
Henderson
Hogan
Hosmer
Hunt
Hutchinson
Jarman
Johnson, Pa.
Jonas
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Keating
Kemp
King
Kyl
Landgrebe
Latta
Lennon
Lloyd
Long, La.
Lujan
McClory
McCloskey
McCollister
McDade
McDonald, Mich.
McEwen
McKevitt
McKinney
McMillan
Mahon
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Michel
Miller, Ohio
Mills, Md.
Minshall
Mizell
Mollohan
Montgomery
Mosher
Myers
Natcher
Nelsen
Nichols
Nix
Pelly
Pettis
Pirnie
Poage
Poff
Powell
Price, Tex.
Purcell
Quie
Quillen
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Rousselot
Ruppe
Ruth
Sandman
Satterfield
Scherle
Schmitz
Schneebeli
Scott
Sebelius
Shoup
Shriver
Sikes
Slack
Smith, Calif.
Smith, N.Y.
Snyder
Springer
Stanton, J. William
Steele
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Thomson, Wis.
Vander Jagt
Waggonner
Wampler
Ware
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wydler
Wylie
Wyman
Young, Fla.
Young, Tex.
Zion
Zwach

NOT VOTING—38

Bolling
Bow
Brooks
Carey, N.Y.
Chisholm
Clark
Conable
Dowdy
Dwyer
Edmondson
Eshleman
Flowers
Galifianakis
Gallagher
Hagan
Hays
Hébert
Hull
Keith
Kuykendall
Landrum
McCulloch
Macdonald, Mass.
Metcalfe
Miller, Calif.
Mills, Ark.
Passman
Peyser
Preyer, N.C.
Shipley
Spence
Stubblefield
Terry
Thompson, Ga.
Thompson, N.J.
Tiernan
Veysey
Wilson, Charles H.

So the amendment to the amendment in the nature of a substitute was rejected.

AMENDMENT OFFERED BY MR. WILLIAM D. FORD TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ERLENBORN

Mr. WILLIAM D. FORD. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAM D. FORD to the amendment in the nature of a substitute offered by Mr. ERLENBORN: On page 15, strike line 6 and all that follows to and including line 15 on page 16.

And redesignate subsequent titles and sections accordingly.

Mr. WILLIAM D. FORD. Mr. Chairman, the amendment I have offered would strike from the Erlenborn substitute the provisions of title III that he has so very generously provided to protect the young people of this country.

Perhaps the most regressive and onerous provision of the Erlenborn substitute is the creation of a subminimum wage rate for employees under 18 years of age. Using the guise of promoting youth opportunity by the lure to the employer of a subminimum wage rate, the Erlenborn substitute thereby effectively and efficiently emasculates the meaning of a minimum wage as a wage below which no worker should be forced to work. The provision also very neatly denies employment and employment opportunity to older workers.

If you will look at the minority report, and at this particular section of the bill, you will find they are drenched with crocodile tears shed by the sponsors of the substitute who say they bleed for the unemployed youth of this country. I call them crocodile tears, though there is some suspicion because crocodile tears should be salty, but these seem to be a bit more like sulfur water if one judges by their smell. You know that the sulfur water does something to your sense of smell that causes you to take notice that there is something not fresh and pure in the wind.

The sponsors justify this provision in the Erlenborn amendment on the grounds that it is to protect the young people and to give them job opportunities.

It is interesting to note that every group concerned with young people and the special problems of young people and their job opportunities has consistently opposed the broadening of the exemption from the minimum wage law for people simply because of their age. While they will tell you that this provision, while it has been in the law, has been helpful in fighting the battle of the overabundant and the overoppressive portion of unemployment borne by people under the age of 21 and particularly under the age of 18—the facts are that no one can show any correlation between this unemployment and the minimum wage.

The effect of my amendment would be to continue the requirement that says that if an employer wants to take advantage of the provision in the law that allows him to hire a young person at a wage below the minimum wage, he must apply to the Department of Labor and have the Labor Department certify that they have examined the job and examined the circumstances surrounding it and have determined that the purpose of hiring that young person is not to displace another employee by someone who would be hired legally under this exemption at a lower wage than the minimum wage.

What the Erlenborn amendment would seek to do is remove the requirements for that certification even though he has some fancy language in the substitute saying that the Labor Department ought to do something to satisfy itself that an employer is not, in fact, trying to hire cheap labor by displacing adults and replacing them with young people covered by the minimum exemption. The alleged protection that they hold out to the young people who would be involved in this section is not any protection at all. It is hollow language. There is no way to enforce it.

In fact, if the Secretary of Labor attempted to enforce the Erlenborn amendment with the fancy language he has in it, if he made the mistake of thinking they really meant the language as protection for the young people and tried to enforce it, he would have to impose the most stringent kind of form requirements, and redtape that you could possibly imagine.

If any of you, as some of us have, had employers complain of the redtape involved in hiring people at substandard wages, I can only suggest to you that the Erlenborn amendment opens the door for every anxious Secretary of Labor to wrap red tape around an employer without limit.

It is interesting to note that the representative groups of those the Erlenborn substitute seeks to assist—namely, youth and student groups—vigorously oppose this provision and support instead the committee bill. Both the White House Conference on Youth and the National Student Association are outspokenly on record against such a proposal. Is it any wonder? Which group or category of American workers would enjoy being singled out for special, subminimum economic treatment in the name of increasing employment opportunity? That notion is not only offensive, but illusory.

There is no evidence whatsoever to support the contention of the Erlenborn substitute that a youth subminimum wage will encourage employment opportunity for that group. In actual fact, a 1970 Department of Labor survey, "Youth Unemployment and Minimum Wages," found no relationship between youth employment or unemployment and the minimum wage. Rather, it was found that the most important factors explaining changes in teenage employment and unemployment have been general business conditions as measured by the adult unemployment rate.

The advocates of this provision of the Erlenborn substitute offer youth unemployment statistics to point out the dimension of the problem—never offering, however, any meaningful evidence of a relationship between such unemployment statistics and theminimum wage rate. In minority views in the committee report, they say:

> The unadjusted jobless rate for teenagers has climbed to almost 20 percent.

For black teenagers in inner city poverty areas, however, the unemployment rate rose from 34 percent in the first quarter of 1971 to 39 percent in the second.

The 1971 unemployment rate for black males aged 20 to 24 was 16.2 percent, and for black females in that age group, 17.3 percent. The fact that the rate of unemployment for white high school dropouts was lower than that for nonwhite high school graduates is even more striking.

If a special youth minimum wage is to be justified on this basis, and using this twisted logic, why not then also have a black minimum wage rate; or even more precisely, a black female youth inner city minimum wage? Why not a Puerto Rican-American minimum wage rate? Those unemployment figures are equally staggering! Or a Chicano minimum wage?

Taking this argument even farther, why not a special minimum wage rate for those in the 45- to 64-year-old bracket? The April 1972 unemployment rate for them was 16.2 percent; and maybe their differential should be even lower since they stay unemployed longer and have a more difficult time gaining new employment.

Or maybe the best approach of all is to realize that the concept of the youth minimum outlined in the Erlenborn substitute is ludicrous on its face. The problem is unemployment in general. Beyond that, the problem is unequal employment opportunity for racial minorities, women, and workers at both ends of the working-life ladder. And the solution is employment opportunity across-the-board; not a bold continuation of the isolation and discrimination against a selective group of American workers.

Mr. BURTON. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from California is recognized.

Mr. BURTON. Mr. Chairman, I have a question I would like to pose to our colleague from Michigan. As I understand, the various student bodies throughout the country, who have demonstrated such a praiseworthy and effective concern and interest in political affairs in the last 3 or 4 months, have an organization called the National Students Association. I would appreciate it if the gentleman from Michigan (Mr. WILLIAM D. FORD) could enlighten me and my colleagues as to the view of the National Student Association on the Erlenborn subminimum wage proposal for college students.

Mr. WILLIAM D. FORD. Mr. Chairman, will the gentleman yield?

Mr. BURTON. I yield to the gentleman from Michigan.

Mr. WILLIAM D. FORD. I thank the gentleman for yielding and for the question. As a matter of fact, the National Students Association has discussed this matter at great length. They have discussed the specific proposal contained in the Erlenborn substitute, and they were unanimously opposed to this kind of protection being given to them. I might also say that the White House Conference on Youth adopted a similar stand with respect to this type of phony protection for young workers.

Mr. BURTON. I yield back the balance of my time.

Mr. FUQUA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am a cosponsor of the Erlenborn substitute, in my opinion the youth provision is one of the most important contained in the substitute.

This provision provides that students and young people may have an opportunity to work if they so desire. Under the present bill and the effect of the amendment offered by the gentleman from Michigan, it would revert back to the present law, which has been completely unworkable. The redtape required to be gone through in order to hire students if they so desire to be hired is so cumbersome and involves so much bureaucracy that most businessmen will not resort to it. They avoid its overburdening requirements.

This would simplify the requirement so that many students and many young people, particularly college students can be helped. When I went to college, I had to work and I have not regretted that. Many young people today must work in order to obtain their education.

This provision permits employers to hire at 80 percent of the minimum wage in that category, and they can work in agriculture or in hamburger stands or in fried chicken stands or grocery stores or other places where they want to work.

Furthermore, it will not replace permanent jobs. These are temporary jobs. In cases of rising wages and price-profit squeezes these are the first people who will be eliminated. They are easily eliminated. But principally it provides jobs in the summertime and at other times for the young people who can be employed.

Particularly in the District of Columbia this year, there is a big campaign to employ youth during the summer months so there will not be idleness and so they will not be involved in drugs or other crimes if they have idle time. Keeping them busy, I think, is very important in our effort to eliminate and reduce juvenile delinquency. This provision will help do that, particularly in the college towns.

I have a large number of college students in my district. I have talked to those students. I do not know what organizations they belong to. Our students have to work to make ends meet. This provides an opportunity for them to work and to be employed in a simplified manner. It enables them to find employment.

Mr. Chairman, I urge the committee to vote down the amendment.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I was interested in the commentary of the gentleman from Michigan (Mr. FORD) that the National Student Association approved this change. Is it not true that the Office Education Association representing 37,000 secondary and postsecondary students who are involved in skill training have endorsed the provision and the future business leaders of America who are being trained in business skills and opportunities have also endorsed the student differential?

May I say to the House those two organizations are far more reflective among the young people who are concerned about job opportunities than is the National Student Association. I urge rejection of the Ford amendment.

Mr. FUQUA. All I can say is I suggest the Members ask the young people how they feel about this so they can work in order to further their education.

Mr. Chairman, I urge defeat of the amendment.

Mr. QUIE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I urge the Members to vote against this amendment, because as the previous speaker, the gentleman from Florida (Mr. FUQUA) indicated, there is probably no more important part of this substitute than the youth differential. We know what is happening today with the young people not knowing what to do and roaming the streets and getting into all kinds of problems with drugs and tearing up the place. One reason is they are not able to get jobs.

There is another thing. When we raise the job rate minimum to $2 an hour, the young people who have had jobs at $1.60 may not be able to get the jobs at $2 an hour. We also know that after the $2 rate has been in effect for a while, the employers will open up other opportunities for the young people if we have the youth differential at 80 percent. That also will apply to the agricultural areas.

Mr. Chairman, I ask that the Members vote down this amendment and keep this youth differential in the bill.

Mr. ZWACH. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Minnesota.

Mr. ZWACH. Mr. Chairman, we have many fine vocational and technical schools in our State. We have 32 of them. I have a letter from the State president of the organization which represents the vocational schools, and this is what they say. This is from the Minnesota Area Vocational School Directors:

> Please give your support to the youth provisions of the Erlenborn substitute. We have a large number of students out for occupation experience as part of their regular training program. The provisions of the Dent Bill, which makes no exclusion of youth in training, would make placement of our trainees virtually impossible. I am not sure if the Erlenborn Bill also exempts students (in on-the-job training). It could obligate the employer for unemployment insurance coverage. These two provisions, the unemployment insurance and minimum wage, are important if we are to conduct industrial training programs using industry as a laboratory.
>
> As President of the Minnesota Area Vocational Technical Institute Directors, I wish to urge your support of the Erlenborn substitute in order that more jobs and job training opportunities would be available to the Youth Work Force of America.

I would appreciate having the gentleman's comment on this letter from the president of the State association.

Mr. QUIE. I believe the people working in the area vocational and technical schools realize well what it means for entry level jobs and the necessity for those who are learning that kind of skill. Imagine what the situation is for the unskilled youth, the one who is 16 or 17 years of age especially, who has not found any opportunity for work experience or learning a skill. Can he secure a job at $2 an hour? Not a chance. We need that youth differential so that these young people can start fulfilling some responsibility toward the community, doing something worthwhile for their own dignity. We can do it with a youth differential.

I urge the Members to vote down the amendment.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

I should like to clear up something. I do not know whether the gentleman who said it understood this. He said we have no provisions for certain types of students and so forth in the act.

The act covers every single case that the gentleman mentioned. Whether Members vote one way or the other on this amendment is not the question before us. The question is, do we or do we not do what the gentleman says we do not do.

Let us take section 14. I will read the first paragraph, so that Members will understand:

> The Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for the employment of learners, of apprentices, and of messengers employed primarily in delivering letters and messages, under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitations as to time, number, proportion, and length of service as the Secretary shall prescribe.

Then let us go to something else that is not done in the Erlenborn substitute, which is very necessary at the present time. It was not done before, because it was an oversight on our part. We did not understand that there was such a thing as labor employed in education as a part of the educational study purpose.

So we have section 208, which provides that a student work while he is going to school, which shall not be considered as coverage under the minimum wage law.

There are the 7th-Day Adventists. A part of their training is in employment. It is work. So we exempt that from coverage. It has been covered up to now, but inadvertently. We did not intend to cover it.

The persons the gentleman is interested in, believe me, are protected under the law. They all have the opportunity under the present law, as in the school the gentleman mentioned awhile ago. There is no restriction. There is no exemption taken away from the field the gentleman is interested in.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman from Maryland.

Mr. LONG of Maryland. It has been my impression that the Department of Labor has actually made very few exceptions. Am I incorrect in that impression?

Mr. DENT. No. We have many different interpretations of their activity. They have authority to issue special certificates and do.

Mr. LONG of Maryland. That is the theory, but I wondered whether very many exceptions had been made in practice. I had the impression there were not many.

Mr. DENT. I can only speak for my district. We have had adequate exceptions. Some of them have gotten to 100 percent parity of earnings within 2 years after joining the program.

Mr. MAZZOLI. Will the gentleman yield?

Mr. DENT. I will be happy to.

Mr. MAZZOLI. Perhaps you can clarify this for me. Are you for or against the pending amendment, or has that been made clear?

Mr. DENT. I have not paid any attention to it, because it is my own specific purpose at this time to expedite the work on this floor. We know exactly where each one of us stands, so let us get to it and get to the conference and come back with a decent piece of legislation.

Mr. MAZZOLI. Will the gentleman yield for one further comment?

Mr. DENT. Yes.

Mr. MAZZOLI. That is, if I understand the law correctly, reading from page 85 of the committee report, if the gentleman from Michigan's amendment is agreed to, we will then revert back to the present law, possibly, which means all student employment is paid for at the 1961 rates. The student hours permitted are related to adult hours at the 1961 rates. Is that correct?

Mr. DENT. That is right. I personally would not support it, because of the fact that I told this House what was in my bill where we thought we had what was a reasonable approach to make it easier for us to get jobs and still living within the prescriptions of the intention of the act where you do not take a full-time adult off a job to give it to a youth at a lower rate.

Mr. O'HARA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Kentucky suggested that if the Ford amendment were agreed to, we could go back to the 1961 situation. That is not correct. If the Ford amendment is agreed to, a boy who is doing a man's work will get a man's pay.

The gentleman from Florida came down here and said that when he went to college he had to work. Well, I had to work, too. I worked in the factories of Detroit when I was 16 and 17 years old. I did a man's work and I got a man's pay. Not a subminimum pay. Not less than the minimum wage as the Erlenborn substitute would have given me, but the same pay as anyone else for doing the same job.

That is all that the Ford amendment asks for. I think it is an eminently reasonable amendment.

It has been suggested here that unemployment among youth is due to the minimum wage law. The Department of Labor under the Republicans the year before last made a study of that question and could find no relationship between the minimum wage and youth employment. They found instead that youth unemployment went up when the general level of unemployment went up. Youth unemployment will come back down when we get the economy working at full speed.

Mr. Chairman, I hope that we can have a record teller vote on this question. The youth organizations of this country ought to be able to distribute a checklist that young voters can take with them when they go to the polls this fall to determine who thinks that a man's work is worth a man's pay and who does not.

Mr. ERLENBORN. Will the gentleman yield?

Mr. O'HARA. I yield back the balance of my time.

Mr. GUDE. Mr. Chairman, during the vote on the youth differential amendment I was unavoidably detained in a meeting with constituents from my district. If present I would have voted in support of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD) to the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. O'HARA. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. O'HARA. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. WILLIAM D. FORD, QUIE, O'HARA, and STEIGER of Wisconsin.

The Committee divided, and the tellers reported that there were—ayes 170, noes 228, not voting 34, as follows:

[Roll No. 147]

[Recorded Teller Vote]

AYES—170

Abourezk
Abzug
Adams
Addabbo
Albert
Anderson, Calif.
Anderson, Tenn.
Annunzio
Ashley
Badillo
Barrett
Begich
Bergland
Bevill
Biaggi
Biester
Bingham
Blanton
Blatnik
Boggs
Boland
Brademas
Brasco
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Carey, N.Y.
Carney
Celler
Clay
Collins, Ill.
Conte
Conyers
Corman
Cotter
Culver
Daniels, N.J.
Danielson
Delaney
Dellums
Denholm
Dent
Diggs
Dingell
Donohue
Dow
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Fascell
Flood
Ford, William D.
Fraser
Fulton
Garmatz
Giaimo
Gonzalez
Grasso
Gray
Green, Pa.
Griffiths
Halpern
Hansen, Wash.
Harrington
Hathaway
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hillis
Holifield
Horton
Howard
Hungate
Jacobs
Johnson, Calif.
Jones, Ala.
Karth
Kastenmeier
Kee
Kluczynski
Koch
Kyros
Leggett
Link
Long, La.
McCloskey
McDade
McDonald, Mich.
McFall
McKay
McKinney
Madden
Matsunaga
Meeds
Melcher
Mikva
Minish
Mink
Mitchell
Mollohan
Monagan
Moorhead
Morgan
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
Obey
O'Hara
O'Konski
O'Neill
Patten
Pepper
Peyser
Pickle
Podell
Price, Ill.
Pryor, Ark.
Pucinski
Railsback
Randall
Rangel
Rees
Reid
Reuss
Riegle
Rodino
Roe
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roybal
Ruppe
Ryan
St Germain
Sarbanes
Scheuer
Seiberling
Sisk
Smith, Iowa
Staggers
Stanton, James V.
Steele
Stokes
Sullivan
Thompson, N.J.
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
Whitten
Wilson, Charles H.
Wolff
Wyatt
Yates
Yatron
Zablocki

NOES—228

Abbitt
Abernethy
Alexander
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Aspin
Aspinall
Baker
Baring
Belcher
Bell
Bennett
Betts
Blackburn
Bow
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Buchanan
Burke, Fla.
Burleson, Tex.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carlson
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Coughlin
Crane
Curlin
Daniel, Va.
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Dennis
Derwinski
Devine
Dickinson
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Evins, Tenn.
Findley
Fish
Fisher
Flowers
Flynt
Foley
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Fuqua
Gaydos
Gettys
Gibbons
Goldwater
Goodling
Griffin
Gross
Grover
Gubser
Hagan
Haley
Hall
Hamilton
Hammerschmidt
Hanley
Hanna
Hansen, Idaho
Harsha
Harvey
Hastings
Henderson
Hogan
Hosmer
Hunt
Hutchinson
Ichord
Jarman
Johnson, Pa.
Jonas
Jones, N.C.
Jones, Tenn.
Kazen
Keating
Kemp
King
Kyl
Landgrebe
Latta
Lennon
Lent
Lloyd
Long, Md.
Lujan
McClory
McClure
McCollister
McCormack
McEwen
McKevitt
McMillan
Mahon
Mailliard
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Miller, Ohio
Mills, Ark.
Mills, Md.
Minshall
Mizell
Montgomery
Mosher
Myers
Natcher
Nelsen
Nichols
Pelly
Perkins
Pettis
Pike
Pirnie
Poage
Poff
Powell
Price, Tex.
Purcell
Quie
Quillen
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Roush
Rousselot
Roy
Runnels
Ruth
Sandman
Satterfield
Saylor
Scherle
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Skubitz
Slack
Smith, Calif.
Smith, N.Y.
Snyder
Springer
Stanton, J. William
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stuckey
Symington
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thomson, Wis.
Thone
Udall
Vander Jagt
Waggonner
Wampler
Ware
Whalley
White
Whitehurst
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wright
Wydler
Wylie
Wyman
Young, Fla.
Young, Tex.
Zion
Zwach

NOT VOTING—34

Bolling
Brooks
Broyhill, Va.
Chisholm
Clark
Davis, Wis.
Dowdy
Dwyer
Edmondson
Eshleman
Galifianakis
Gallagher
Green, Oreg.
Gude
Hays
Hébert
Hull
Keith
Kuykendall
Landrum
McCulloch
Macdonald, Mass.
Metcalfe
Michel
Miller, Calif.
Passman
Patman
Preyer, N.C.
Spence
Steed
Stubblefield
Thompson, Ga.
Tiernan
Veysey

Mr. SAYLOR changed his vote from "aye" to "no."

So the amendment to the amendment in the nature of a substitute was rejected.

Mr. DENT. Mr. Chairman, may I inquire how many amendments are still at the desk?

The CHAIRMAN. The Chair will advise the gentleman that there are two amendments now at the desk.

Mr. DENT. Mr. Chairman, I ask unanimous consent that all time on the amendments, on the Erlenborn substitute and the original bill, be terminated at 3:30 p.m. with the reservation of 5 minutes for the gentleman from Illinois and 5 minutes for myself.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. The gentleman said "all amendments to the Erlenborn substitute and to the committee bill."

Mr. DENT. And the final vote on the committee bill, as I understand.

PARLIAMENTARY INQUIRY

Mr. STEIGER of Wisconsin. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STEIGER of Wisconsin. If the Erlenborn amendment prevails, will the original bill then be open for amendment at any point?

The CHAIRMAN. The Chair will answer the gentleman. If the Erlenborn substitute as amended is adopted, the vote will then occur on the committee amendment in the nature of a substitute, the Dent bill, so-called, as amended by the Erlenborn substitute, and at the conclusion of that vote, if it is agreed to, the Committee will rise and report to the House.

Mr. DENT. Mr. Chairman, then I renew my unanimous-consent request.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman from Illinois.

Mr. ERLENBORN. I would like to ask the gentleman if he would amend his request to limit debate on the Erlenborn substitute and all amendments thereto.

Mr. DENT. Accepted.

The CHAIRMAN. Will the gentleman please restate his unanimous-consent request so there will be no confusion?

Mr. DENT. If I know what my unanimous-consent request is, as amended by my friend, I will try to repeat it. I am asking unanimous consent that the time on the Erlenborn substitute and all pending amendments to the Erlenborn substitute end at 3:30 p.m.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that all debate conclude on the Erlenborn substitute and all amendments thereto at 3:30 p.m. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Chair suggests that those desiring to use time stand, and those Members who do not desire to use time please sit down.

PARLIAMENTARY INQUIRY

Mr. SNYDER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SNYDER. I would like to know what amendments are to be offered to the Erlenborn substitute.

The CHAIRMAN. There is no way for the Chair to answer that question.

PARLIAMENTARY INQUIRY

Mr. STEIGER of Wisconsin. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STEIGER of Wisconsin. Is it possible for the Chair to seek to recognize at this point only those who have amendments pending?

The CHAIRMAN. The Chair would be inclined to give preference to recognition of those who do have amendments pending and who do seek recognition.

The Chair would also honor the last unaimous-consent request, which did not designate any further time, and he would seek to recognize those who indicated that they wish to speak by rising. That is why the Chair asked that Members desiring to speak rise. The Chair will recognize Members for slightly more than a minute.

The Chair recognizes the gentleman from Missouri (Mr. BURLISON).

AMENDMENT OFFERED BY MR. BURLISON OF MISSOURI TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ERLENBORN

Mr. BURLISON of Missouri. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. BURLISON of Missouri to the amendment in the nature of a Substitute offered by Mr. ERLENBORN: Page 15, insert after line 5 the following:

NURSING HOME EMPLOYEES

SEC. 204. Section 13 is amended by adding after subsection (f) the following new subsection:

"(g) The provisions of section 6 shall not apply with respect to any employee (1) who is employed by an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective, who reside on the premises, and (2) who receives compensation for such employment at a rate not less than $1.60 an hour."

Mr. BURLISON of Missouri (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. BURLISON of Missouri. Mr. Chairman, the purpose of my amendment is to allow nursing homes to retain their present exemption from the overtime payment provision, and to keep the minimum wage paid by nursing homes at its current level of $1.60 per hour.

As I am sure my colleagues know, our nursing homes, particularly those in the rural and poverty areas, give aid and care to our elder citizens, many of whom cannot afford the full cost of the services they receive. It has been estimated by the American Nursing Home Association that 60 percent of nursing home patients are welfare recipients. Medicare presently pays for only a limited number of days of extended nursing home care. Because of these facts, nursing home budgets are currently very tight and provide for only the basic necessities.

Nursing homes were brought under coverage of this act by the 1966 amendments. They were required to pay $1.15

an hour on February 1, 1968, and were increased 15 cents an hour each year for the next 4 years—bringing them to $1.60 on February 1, 1971—a little over 1 year ago.

Nursing homes have been unable to pass on this 60 cents an hour increase over the 4-year period. During the past 2 years in particular, in many States nursing home rates have been increased very little, not at all, or have been cut.

No one group of newly covered employees has ever been increased as rapidly as the health care field at 15 cents an hour for each year of 4 years in a row. It is unfair to attempt now to escalate immediately another series of increases over another 3-year period. An increase in the minimum wage at this time would result in a reduction of essential services, because the funds to meet a required wage increase could not be found elsewhere. It has been estimated that nursing home costs are now rising at a rate between 10 and 15 percent per year.

Further financial peril is foreseen if the administration's proposal to reduce medicaid matching funds after the 60th day a patient has been in a nursing home, becomes a reality. This would bring the total cutback in Federal matching funds in the nursing home sector alone to over $500 million. These reductions are unduly severe, and to be further burdened at this time with additional labor costs that cannot be absorbed would be totally unacceptable.

Mr. Chairman, I know the problems that would result from a change in the status of nursing homes. Over one-eighth of the people in my district are 65 or older. I have no city in my district over 35,000. These poor, rural people cannot afford to pay the additional costs that a higher minimum wage would produce. Yet, they need nursing care just as much as anyone.

A related concern is that higher costs may put many nursing homes out of business. What then is to become of the old and the poor that are being cared for in these homes? I hope my colleagues will support this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. Gross).

(By unanimous consent, Mr. Gross yielded his time to Mr. Burlison of Missouri.)

Mr. BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, given the time constraints, I will just say it is obvious that carving out this one segment of low wage employes, the nursing home employees, makes little or no sense at all.

Mr. Chairman, I urge the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. Burlison) to the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. Erlenborn).

The question was taken; and on a division (demanded by Mr. Burton) there were—ayes 52, noes 55.

Mr. BURLISON of Missouri. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. CONTE TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ERLENBORN

Mr. CONTE. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte to the amendment in the nature of a substitute offered by Mr. Erlenborn: At page 13, between lines 13 and 14, insert the following new subsection (f) of Section 6:

"(f) The minimum wage rates established by the amendments made to this act by the Fair Labor Standards Amendments of 1972 shall not apply to Canal Zone employees."

Mr. CONTE. Mr. Chairman, I have a letter here from David Parker, Governor of the Canal Zone, who appeared before our committee. Governor Parker says there is a great disparity between the wages paid workers in the Canal Zone and those paid workers in Panama:

> There presently exists a considerable disparity between wages paid workers in the Canal Zone and that paid workers in Panama.
>
> Panamanian effective minimum wages vary from 40 cents to 70 cents an hour versus the $1.60 an hour paid in the Canal Zone. Further increase in the Canal Zone minimum wage would widen this gap. This gap is significant because virtually all the employees in the Canal Zone affected by the proposed change in minimum wage reside in and are nationals of the Republic of Panama. The higher minimum wage does not appear justified on the basis of economic need, social policy or sound personnel practices. Indeed, paying Panamanian workers three times the prevailing minimum wage as in the Republic of Panama forces inefficient and uneconomical operations of the Canal and the military bases.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. CONTE. Mr. Chairman, I hope the amendment will be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. Steiger).

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I continue:

> Paying Panamanian workers three times the prevailing minimum wage as in the Republic of Panama forces inefficient and uneconomical operations of the Canal and the military bases. Present wage levels provide more than an adequate number of applicants for employment in all Canal Zone agencies and labor market conditions do not warrant paying more for a labor supply that is already surplus to local needs.
>
> Minimum wage in the Canal Zone is one of the subjects being addressed in the treaty negotiations between the United States and Panama. To change the current wage system while negotiations are in progress would be against the best interests of the United States.
>
> In conclusion, I would just like to point out, in favor of this amendment that the Canal Zone is the only foreign area in which the U.S. Government pays local nationals at a wage rate based on the U.S. minimum wage rather than one based on prevailing rates in the local economy.

For these reasons, Mr. Chairman, we should not include Panama. They are raising havoc down there. Imagine the result of the people in Panama being paid 40 cents an hour and the Panamanian in the Canal Zone being paid $1.80 an hour.

Mr. DENT. Mr. Chairman, I should like to use half my time.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Dent).

Mr. DENT. I should like to ask one question. Does this cover only the Panamanians, or would it not take the American citizen workers out, too?

Mr. CONTE. The intent of the amendment is to cover only the Panamanians.

Mr. DENT. But the amendment does not do it. In the provisions it would uncover everybody.

Mr. CONTE. I am sure that, if my intent in this regard does not coincide with the language of the amendment, the gentleman from Pennsylvania can take care of that problem in conference.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. Conte) to the amendment in the nature of a substitute.

The question was taken; and on a division (demanded by Mr. Conte) there were—ayes 68, noes 20.

Mr. BURTON. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. Pucinski).

Mr. PUCINSKI. Mr. Chairman, I rise in support of the original committee bill and in opposition to the substitute offered by our colleague from Illinois (Mr. Erlenborn).

Everybody talks about the 6 million unemployed in this country, but very few people ever talk about the 2.5 million "working poor." There are 2.5 million workers in this country who work probably harder than anyone else and yet are unable to make enough money to provide the basic needs for their families. These are the "working poor." They are not protected by minimum wage or any other means to guarantee them a living wage.

It seems to me in a nation that boasts a trillion dollars gross national product, it is ironic we still have people who cannot earn a minimum of $2 an hour.

For that reason I hope the House will reject the substitute and stay with the committee bill. It extends coverage to many of those not now protected by minimum wage.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. Snyder).

Mr. SNYDER. Mr. Chairman, may I inquire, are there other amendments at the desk? If there are no other amendments, I will yield back the balance of my time. I am only concerned with speaking if certain amendments are offered.

The CHAIRMAN. There is an amendment at the desk but the Member has not risen to offer it.

Mr. SNYDER. Then, can I reserve my time?

The CHAIRMAN. No. The gentleman may use his time or yield it back.

Mr. SNYDER. I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, as a cosponsor of the substitute, I urge my colleagues to vote in favor of it.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I rise to call attention to remarks which I inserted in the CONGRESSIONAL RECORD on Tuesday, May 9, on page 16344 which calls attention to the testimony in the Joint Economic Committee by three distinguished economists, Mr. Arthur Okun, a member and Chairman of President Johnson's Council of Economic Advisers, Saul Heyman, president of economics and codirector of research at the University of Michigan, and Dr. Herbert Stein, Chairman of the CEA of President Nixon, all of whom from various aspects of the political, economic, and philosophical spectrum, condemn an increase in the minimum wage at this time.

I rise in support of the substitute on the basis of this testimony from some of the Nation's leading economists.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I rise in support of the Erlenborn amendment.

Mr. Chairman, we have debated this bill for 2 days, but not until this vote on the Erlenborn substitute have we had a chance to express ourselves against the restrictive trade policies in title III. To me this is the key vote on this bill, and title III is the key issue of the bill.

I strongly support the Erlenborn substitute as the only way to remove title III from H.R. 7130.

We have had a chance to vote on the amount of the minimum wage, to vote on certain industry exclusions and to vote on certain age exclusions. Some of these amendments, such as the one by the gentleman from Massachusetts (Mr. CONTE), I have supported. Others, like the amendment of the gentleman from Illinois (Mr. ANDERSON), the amendment of the gentleman from Missouri (Mr. BURLISON), and the amendment of the gentleman from Missouri (Mr. RANDALL), I have opposed. To me, however, these votes were all secondary. The moment of truth—our chance to eliminate title III—is now upon us. I urge an affirmative vote on the Erlenborn amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

(By unanimous consent, Mr. GIBBONS yielded his time to Mr. BURTON.)

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. BURTON).

Mr. BURTON. Mr. Chairman, I think it would be well to note that upon the rejection of the Erlenborn amendment it will be my intention to introduce an amendment to the pending legislation deleting title III.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Mr. Chairman, I believe it is time to vote.

I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. O'HARA).

(By unanimous consent, Mr. O'HARA yielded his time to Mr. DENT.)

The CHAIRMAN. It is the understanding of the Chair that there are four speakers remaining, and since there has been set a time limitation for a vote on the Erlenborn substitute at 3:30, the Chair will recognize the gentleman from Illinois (Mr. ERLENBORN), the gentleman from Minnesota (Mr. QUIE), the gentleman from Pennsylvania (Mr. DENT), and the gentleman from Kentucky (Mr. PERKINS) for 2½ minutes each.

The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I think this has been a good debate today and I think that the debate yesterday and today has made the issues clear.

I would hope that this bipartisan effort, joined in by my colleague, the gentleman from Florida (Mr. FUQUA) and my colleague, the gentleman from Minnesota (Mr. QUIE), will be successful.

Therefore, I urge the support of the substitute amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, to my way of thinking the committee bill has been well worked out and will serve the best interests of the country, if adopted.

The other bill may have a few provisions that are preferable. However, no bill is perfect.

If the Committee of the Whole House on the State of the Union will go along and adopt and approve the committee bill, I want to state that there are amendments that we intend to offer that will make the bill more satisfactory to all. Moreover the committee bill will help more people where it is needed most. The categories that are covered are those categories where the laboring people of this country need protection and where they are not protected under the substitute bill.

Mr. Chairman, I make that observation because the gentleman from Pennsylvania (Mr. DENT) has spent months and months in working out the committee bill. Any errors that you feel may be contained in this bill, you will have the opportunity to correct by amendment and by additions to the committee bill after the substitute bill offered by the gentleman from Illinois (Mr. ERLENBORN) is defeated.

It is my hope that the committee bill will prevail, and then those Members who want to perfect the committee bill in other ways will have that opportunity. It will serve the best interest of America to adopt the committee bill.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, the House has worked its will now on the rate of minimum wage increases that it wants. It had that opportunity in a separate vote on the amendment which was offered by the gentleman from Illinois (Mr. ANDERSON). Now, we are ready to vote on the substitute.

As a coauthor of the substitute, I think it is a good piece of legislation and rather than take any more of your time, I urge you to vote for the substitute.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. DENT) to close debate.

Mr. DENT. Mr. Chairman, I am sure the gentleman from Minnesota (Mr. QUIE) did not mean that we are going to legislate on the question of whether or not we can go home earlier or stay here a little later.

I want to say to all of you that we have tried our best during the past 5 years of studying this legislation to come up with legislation that would do the greatest good for the greatest number.

There is one thing that sorrows me more than anything, and that is that approximately 6 million uncovered workers in the United States will not have the benefits of the coverage and the protection of the law on minimum wages and maximum hours. I think this is even more important than all of the other things we have talked about today.

It saddens me also, and I hope in the conference we can clear it up, and that is the matter of having taken out even the child labor laws in the Panama Canal law simply because of the manner in which they were offered.

It saddens me also that even though our committee has worked for 5 years in the preparation of this legislation, that it is possible we may see all of this effort washed down the drain. It may be time to change the rules of the House so that at the whim and fancy of any individual Member this can be done, and then take the time to write the legislation on the floor.

However, to all of you who have understood the problem throughout the years, and who have stayed with us, I am sorry that we did not change one section of the act that I think is probably more confusing than it is commonsense in the minds of most of those who have taken a very narrow view, and that is on the subject of title III. I hope to live to see the day that this Congress will take into consideration the soundness of the economy of this country as it relates to international trade, and the international production of goods as they affect the American domestic economy.

I sincerely hope and pray that enough of the Members will stand by the committee in this hour, and do so with the knowledge that in the conference we will write the kind of legislation which will do the greater good for the greater number. So long as we do that in the legislative bodies of this Nation, this Nation will survive, but when we stop doing that, as sometimes we do, then it will not be necessary either for the Nation to survive, because this is a Nation of the people, by the people, and for the people. And the only way this can be done, and the only way the Nation can survive is to see that the greatest good must be done for the greatest number of its citizens, because only in that manner can we have the kind of government that has brought us to our present state.

And although we seem to be mangled a bit at this point on this legislation today, I still think there are enough among us who understand the work of this committee, and appreciate the sincere efforts of all its members who will support the committee.

Mr. Chairman, the minimum wage increases proposed in the Erlenborn substitute are virtually identical to those in the committee bill—as it will be amended on the floor by Mr. DENT. Both bills call for an ultimate nonagricultural minimum wage rate of $2 an hour and an agricultural rate of $1.70 an hour. Both bills will become effective at about the same time. Therefore, there is no difference to speak of in this regard.

The Erlenborn substitute, however, contains none of the extensions of minimum wage and overtime coverage included in the committee bill. This means that minimum wage and overtime protection will not be extended to public employees—Federal, State, and local—domestic service employees, preschool center employees, or employees of conglomerates. Moreover, overtime protection will not be extended to agricultural processing employees, transit employees, nursing home employees, sugar processing employees, or maids and custodial employees of hotels and motels. In fact, while the traditional threat of amendments to the Fair Labor Standards Act has been to expand coverage, the Erlenborn substitute creates exemptions beyond those in existing law—for example, sales and managerial personnel, newspaper delivery employees, and houseparents for orphans.

Of particular significance—especially to Members from agricultural areas—is a provision in the committee bill, not in the Erlenborn substitute, relating to conglomerates. All rural area Members who view the conglomerate and agri-business takeover of the small- and medium-sized family farm with concern and alarm should take special cognizance of this essential difference in the two proposals. The committee bill offers relief; the Erlenborn substitute does not.

The Erlenborn substitute does not contain provisions relating to relief from low-wage produced foreign goods—title III of the committee bill. All Members whose districts have been adversely affected by imports should look to the committee bill for equitable relief. The Erlenborn substitute offers no such relief.

Perhaps the most regressive and onerous provision of the Erlenborn substitute is the creation of a subminimum wage rate for employees under 18 years of age. Using the guise of promoting youth opportunity by the lure to the employer of a subminimum wage rate, the Erlenborn substitute thereby effectively and efficiently emasculates the meaning of a "minimum wage" as a wage below which no worker should be forced to work. The provision also very neatly denies employment and employment opportunity to older workers.

It is interesting to note that the representative groups of those the Erlenborn substitute seeks to assist—namely, youth and student groups—vigorously oppose this provision and support instead the committee bill. Both the White House Conference on Youth and the National Student Association are outspokenly on record against such a proposal. Is it any wonder? Which group or category of American workers would enjoy being singled out for special, subminimum economic treatment in the name of increasing employment opportunity? That notion is not only offensive, but illusory.

There is no evidence whatsoever to support the contention of the Erlenborn substitute that a youth subminimum wage will encourage employment opportunity for that group. In actual fact, a 1970 Department of Labor survey, "Youth Unemployment and Minimum Wages," found no relationship between youth employment or unemployment and the minimum wage. Rather, it was found that the most important factor explaining changes in teenage employment and unemployment has been general business conditions as measured by the adult unemployment rate.

The advocates of this provision of the Erlenborn substitute offer youth unemployment statistics to point out the dimension of the problem—never offering, however, any meaningful evidence of a relationship between such unemployment statistics and the minimum wage rate. In minority views in the committee report, they say:

> The unadjusted jobless rate for teenagers has climbed to almost 20 percent.

For black teenagers in inner city poverty areas, however, the unemployment rate rose from 34 percent in the first quarter of 1971 to 39 percent in the second.

The 1971 unemployment rate for black males aged 20 to 24 was 16.2 percent, and for black females in that age group, 17.3 percent. The fact that the rate of unemployment for white high school dropouts was lower than that for nonwhite high school graduates is even more striking.

If a special youth minimum wage is to be justified on this basis, and using this twisted logic, why not then also have a black minimum wage; or, even more precisely, a black female youth inner city minimum wage? Why not a Puerto Rican-American minimum wage? Those unemployment figures are equally staggering. Or a Chicano minimum wage?

Taking this argument even further, why not a special minimum wage rate for those in the 45- to 64-year-old bracket? The April 1972 unemployment rate for them was 16.2 percent; and maybe their differential should be even lower since they stay unemployed longer and have a more difficult time gaining new employment.

Or maybe the best approach of all is to realize that the concept of the youth minimum outlined in the Erlenborn substitute is ludicrous on its face. The problem is unemployment in general. Beyond that, the problem is unequal employment opportunity for racial minorities, women, and workers at both ends of the working-life ladder. And the solution is employment opportunity across-the-board; not a bold continuation of the isolation and discrimination against a selective group of American workers.

The Erlenborn substitute, unlike the committee bill, does not apply the sex discrimination in employment prohibition of the act to executive, administrative, and supervisory employees. Simply put, this deficiency in the Erlenborn substitute should be aptly noted by all Members interested in equal employment opportunity for women.

The provisions of the Erlenborn substitute relating to the application of the minimum wage to Puerto Rico and the Virgin Islands could wreak havoc because of serious language imperfections. In fact, as the Resident Commissioner from Puerto Rico has correctly pointed out, the Erlenborn substitute would mandate a higher minimum wage rate for certain Puerto Rican agricultural activities—(that is subsidized) than that applicable to U.S. mainland agriculture. The committee bill, as perfected by the Dent amendments, applies coverage to Puerto Rico and the Virgin Islands with fairness and acceptability to representatives of the islands.

Mr. HALL. Mr. Chairman, I wish to reflect for just a moment on the wording of House Resoution 968, the rule under which this legislation is being debated today:

> To extend coverage, to establish procedures to relieve domestic industry and workers injured by increased imports from low-wage area.

Mr. Chairman, by our actions today are we not now creating a new Frankenstein-like monster of legislation to replace another?

Is it not procedures such as these, disguised as legislation to help labor and industry, that have in fact made it almost impossible for this Nation's free marketplace to function?

Now as to the bill under consideration, can we, in good conscience talk about those who have been injured by low wage countries' imports when our actions today will raise production costs of American industry, enabling the low wage countries to grab off even a bigger slice of the American market?

Reflect for a moment on our beleaguered shoe industry. Low wages paid by foreign manufacturers have flooded this Nation with cheaply made shoes, the effect has been the loss of a countless number of jobs. Do you think for a moment that by making us even less competitive this situation will improve? I say "No."

How about the stainless steel industry? With each passing day, foreign stainless steel produced with low labor costs, takes more and more of our domestic steel market.

The list is endless, from television sets, through watches, to clothing; the ability of foreign nations to produce and deliver, at less cost, has brought this Nation closer and closer to the point of where it may soon become a nonmanufacturing entity. I cannot vote to let that happen.

Quite aside from the jurisdictional question, this bill—or its substitute—may help a small percentage of our population, but it will have a serious impact on qualifying and included small businesses, forcing many of them out of business, thereby adding to our unemployment problems.

No one has yet fully informed this body in concrete terms, what the deleterious effects of passing this legislation will be. How then can we in good faith foist this monstrous bill on our constituents?

Mr. CRANE. Mr. Chairman, many of those who advocate an increase in the minimum wage do so for the best of reasons. They believe that such an increase will assist even larger numbers of Americans to lead a good and decent life.

Such individuals are of the opinion that, somehow, prosperity can be legislated. Their economic reasoning fails to take into consideration the side effects of their proposals, and few who advocate an increase in the minimum wage do so because they believe that such an increase will adversely effect those who occupy marginal positions in our employment structure.

The legal minimum wage has been pushed up 114 percent between early 1956 and 1968, though average hourly earnings in manufacturing rose only 55 percent. In addition, the Federal minimum wage has become effective over a far greater range.

According to Economist Henry Hazlitt:

> The net result of this has been to force up the wage rates of unskilled labor much more than those of skilled labor. A result of this, in turn, has been that though an increasing shortage has developed in skilled labor, the proportion of unemployed among the unskilled, among teen-agers, females and non-whites has been growing.

Mr. Hazlitt notes that:

> The outstanding victim has been the Negro, and particularly the Negro teenager. In 1952, the unemployment rate among white teen-agers and non-white teenagers was the same—9 per cent. But year by year, as the minimum wage has been jacked higher and higher, a disparity has grown and increased. In February of 1968, the unemployment rate among white teen-agers was 11.6 per cent, but among non-white teen-agers it had soared to 26.6 per cent.

By a minimum wage of, for example, $2 an hour we have forbidden anyone to work 40 hours a week for less than $80. If we offer the same amount, or something somewhat less, in welfare payments we are saying, in effect, that we have forbidden a man to be usefully employed at $70 a week, in order that we may support him at either the same amount or something less in idleness. Such an approach deprives society of the value of his services and deprives the individual involved of the independence and self-respect that comes from self-support, even at a low level, and from performing wanted work, at the same time that we have lowered what the man could have received by his own efforts.

All of us agree that we would like to see American workers earning as much as possible. The way to raise the real earnings of our citizens, however, is not through the legislative process. We cannot, after all, distribute more wealth than is created. Labor cannot be paid more than it produces.

Economist Hazlitt expresses the view that:

> The best way to raise wages . . . is to raise labor productivity. This can be done by many methods: by an increase in capital accumulation, i.e. by an increase in the machines with which the workers are aided; by new inventions and improvements; by more efficient management on the part of employers; by more industriousness and efficiency on the part of workers; by better education and training. The more the individual worker produces, the more he increases the wealth of the whole community. The more he produces, the more his services are worth to consumers, and hence to employers. And the more he is worth to employers, the more he will be paid. Real wages come out of production, not out of government decrees.

Shortly before Christmas 1929, Harvard University fired, without notice, Mrs. Katherine Donahue, Mrs. Hannah Hogan, and 18 other scrubwomen in the Widener Library rather than raise their pay from 35 cents to 37 cents an hour as demanded by the Massachusetts Minimum Wage Commission. To avoid paying the extra 2 cents, Harvard replaced the women with men, who were not covered by the State's pioneering, but weak, minimum wage law.

As recounted by labor historian Irving Bernstein in "The Lean Years," the case of the Harvard charwomen ended on a brighter note. Yet the problem which we face remains the same. Economist Paul Samuelson recently asked:

> What good does it do a black youth to know that an employer must pay him $1.60 per hour if the fact that he must be paid that amount is what keeps him from getting a job?

Economist Milton Friedman refers to the Fair Labor Standards Act of 1938, the base of the minimum wage, as:

> The most anti-Negro law on our statute books—in its effect, not its intent.

Economists Gene L. Chapin and Douglas K. Adie of Ohio University, in a paper presented before the 23d annual meeting of the Industrial Relations Research Association, declared that:

> Increases in federal minimum wage cause unemployment among teenagers. The effects tend to persist for considerable periods of time. And the effects seem to be strengthening as coverage is increased and enforcement of the laws becomes more rigorous.

The techniques, language, and variables used in their mathematical models may vary, but most other econometricians get the same result: a strong correlation, confirmed by repeated observations in the 1950's and 1960's, between youth unemployment and the minimum wage.

Finis Welch of the National Bureau of Economic Research and Marvin Kosters, now a senior staff economist with the Council of Economic Advisers, concluded in a Rand Corp., study last year that "minimum wage legislation has apparently played an important role in increasing the cyclical sensitivity of teenage employment." They found that as minimums rise, "teenagers are able to obtain fewer jobs, and their jobs are less secure over the business cycle. A disproportionate share of these unfavorable employment effects accrues to the nonwhite teenagers."

A study by economists Jacob Mincer and Masonori Hashimoto of the National Bureau of Economic Research warns that many teenagers are scared out of the labor force by lack of job opportunities and vanish into the gray area of hidden unemployment.

Even the Bureau of Labor Statistics appears to be reconsidering the effects of the minimum wage. In a Labor Department study entitled "Youth Unemployment and Minimum Wages," Assistant Commissioner Thomas W. Gavett notes that:

> While there is a significant relationship * * * where other variables are excluded, a look at the whole set of variables casts doubt upon the importance of minimum wages as an explanatory variable.

Gavett finds the lack of clear evidence "discouraging." He fears that there is some real basis for inferring that extensions of minimum wage coverage, not the rate itself, tended in the 1960's to offset the benefits of Federal manpower programs.

In attempting to help those Americans whose status is most tenuous in the job market, it is essential that we not take a step which will make it even more difficult for young people and members of minority groups to gain employment. The economic evidence available at this time indicates that an increase in the minimum wage would do precisely that: make it less possible for such individuals to find employment in today's job market.

Such a result would have serious consequences not only to the individuals directly involved, but also to the society at large. It is this group of unemployed young people, for example, who have been involved in a high proportion of the crime and violence which has occurred in our cities. A large part of the reason may be attributed to boredom, lack of incentive, and the unavailability of employment.

Those who advocate an increase in the minimum wage should carefully consider the available evidence with regard to its effect upon both the economy and our society as a whole.

I have reviewed this evidence and conclude that it is in our best interest to refrain from any increase in the minimum wage which would have the dire impact set forth so persuasively by our leading economists.

I intend to vote against the pending bill and I encourage my colleagues to do likewise.

Mr. LEGGETT. Mr. Chairman, the legislation before Congress today leads us one step further to bringing about realization of the American dream. The Fair Labor Standards Amendments of 1971 continue the philosophy so uniquely American which was initiated on June 25, 1938—to eliminate, "labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers." These words whose purpose we give effective meaning today would increase the Federal minimum wage rate, extend wage and hour coverage to additional workers, authorize the President to impose restrictions on imports and prohibit certain procurement practices. While I fully agree with many of my colleagues that this is not the most perfect of all bills, it is my feeling that this bill will, with one exception, accomplish its goals more efficiently than any substitute measure that is currently before us. I will speak of that exception presently.

The last time the minimum wage was raised was in 1966. At that time, Congress, in its wisdom, saw fit to raise the minimum to $1.60 per hour. Many at that time foresaw massive hardships, and unemployment as a result of this action. No such catastrophic events took place. The increase of the minimum, in fact, during 1966, brought within the law 10 million nonagricultural employees as well as 536,000 agricultural workers and certain public employees such as hospital workers.

Today, we are voting on extending the coverage to 6 million more workers, among them employees of Federal, State, and local governments—excluding police and firemen—houshold domestic, employees of conglomerates and others as well as extending the equal pay provisions to many more women. The proposed Erlenborn amendment substitute would not provide this additional coverage.

Acceptance of the substitute amendment would be asking large segments of the working public to go without minimal protection of their hourly wages. It would say to State and local workers that the public feels they should not be eligible to come under the protection of the Federal statute. Rejection of the Dent bill would insure that domestic workers would continue to be exposed to predators of the labor market, persons who delight in depriving the least protected employee of their just wages.

Title III of this legislation, Import and Procurement Restrictions, authorizes the President to "take action as he deems appropriate" if the Secretary of Labor finds that a foreign import produced under substandard labor standards is threatening the well-being of any group of U.S. workers or threatens the economic well-being of the community in which these workers live. That this title has drawn the most flack in the bill, I think is understandable. At a time when the country is attempting to shake loose from escalating prices and wage rates, this measure seeks to isolate our markets further from world competition.

As Gardner Ackley, former Chairman of the Council of Economic Advisers said recently in his report to the Democratic Policy Council's Economic Affairs Committee:

> We must avoid at all costs, the neoisolationism that seeks to insulate our markets from legitimate foreign competition. This is essential to protect the consuming public from excessive prices. . . .
>
> We recognize that world competition may have disruptive impact on some industries, but the answer should be found in adequate programs of "adjustment assistance," not in building arbitrary barriers that would only set off a train of reprisals to the injury of all.

For these reasons, I am pleased to have the opportunity to endorse this bill, however, I will vote to have title III removed from the bill.

Mr. SCHNEEBELI. Mr. Chairman, an amendment has been included in the Erlenborn substitute to resolve a problem not foreseen at the time of writing the original wage-and-hour provisions of the Fair Labor Standards Act.

It concerns the problems of recordkeeping and overtime for more than 200 foster parents, referred to as houseparents, employed in Pennsylvania by a nonprofit educational institution and home for male orphans, ages 4 through approximately 18 or 19. The program designed to educate and care for these youngsters is unique and there does not appear to be any other educational institution for orphans like it in the United States.

The young boys are housed in very modern and more than adequate homes in groups of from 12 to 16, according to age. In each of these homes are a married couple who not only act as foster parents, but who develop a strong personal interest in the boys assigned to their care. The number of orphans being cared for at present is close to 1,500 and there are over 100 such homes.

As with all children residing with their natural parents, there are occasions during the night when the houseparents have to minister to the needs of the boys under their care. According to the present statutes, the school would be responsible for recordkeeping and the payment of overtime for these seldom and irregular demands of time.

Each couple averages a cash take-home pay of more than $10,000. Added compensation is provided in the form of a free apartment within the home, food, and laundry service. The employer also provides medical and hospitalization insurance as well as a generous retirement program to which the houseparents do not contribute. They have no concern for property taxes, utility bills, home maintenance or household expenses. Free time is allotted when the youngsters are in school and they are given other time off.

Discussions held with Labor Department officials and the legal staff of the Committee on Education and Labor result in a consensus that the present law with regard to overtime recordkeeping is not deemed practical or advisable in the instance of these houseparents who, themselves, feel no necessity for recordkeeping and overtime pay. Theirs is a maternal and paternal interest in the boys assigned to their care—their compensation and fringe benefits are of such a substantial nature that it is generally agreed this small select group should not come under the requirements of the present law.

Mr. Chairman, this is certainly a desirable and reasonable amendment to the Fair Labor Standards Act and I urge its approval.

Mr. CLAY. Mr. Chairman, as one of the many Members of the House who is deeply troubled by the deteriorating standard of living for millions of workers in this country, I fully support H.R. 7130 and I urge my colleagues to look to the positive aspects of this legislation which far outweigh any of the criticisms that will be expressed in this debate.

There are many powerful arguments to support the various provisions of H.R. 7130. The principal one, I feel, is the one that deals with the problem of poverty among workers in this country.

Mr. Chairman, the last amendment to the Fair Labor Standards Act was enacted in 1966. It provided gradual increases for some covered workers and set the minimum wage at $1.60 per hour for 74 percent of the more than 62 million nonsupervisory employees, while some farmworkers were subjected to a minimum of $1.30 per hour. It would be presumptuous for me to now remind my colleagues that economic conditions have changed drastically since enactment of the last minimum wage legislation. Yet, the commitment we made to workers of America who are at the bottom end of the salary structures in 1966 cannot be carried out unless we act to revise the minimum wage law to allow these workers to keep pace with the highly volatile economic conditions of the last 4 or 5 years.

While many of the several aspects of H.R. 7130 are noteworthy, I would like here particularly to emphasize the provision which extends coverage to Government employees. This part of H.R. 7130 is totally consistent with the established policies of the Federal Government which endeavor to equate Federal employees' pay with pay levels for similiar work prevailing in the private sector. In keeping with this policy it would appear illogical to exclude from coverage of the Fair Labor Standards Act some employees of the Federal, State, and local governments while covering others.

The 1966 amendments to the Fair Labor Standards Act brought within its coverage about 2,686,000 nonsupervisory State and local employees and more than one-half million Federal workers. However, another 1,726,000 Federal and over 3 million State and local government workers are presently exempt from the minimum wage and overtime provisions of the Federal law. H.R. 7130 would bring these employees under the law's coverage except that, in recognition of unique working circumstances surrounding police and firemen in many jurdisdictions, these public safety workers would be exempt from the overtime provisions only. In regard to this point, it is a known fact that many employees in police and fire departments across the country are now paid premium pay for overtime work. The bill before us would not preclude such payments. However, in those jurisdictions where undue hardships would be exerted by a Federal law mandating such coverage, the choice of overtime coverage is left up to the local authorities.

Mr. Chairman, according to a survey conducted by the Department of Labor in 1970, it was found that 18 States and Puerto Rico already had minimum wage laws or orders in effect which cover some or all of their public employees. In seven of these States, the minimum wage for public workers equaled the present Federal minimum of $1.60, and in Puerto Rico several classes of government employees are also covered under the $1.60 minimum rate.

This survey also disclosed that in March 1970, straight-time earnings for nonsupervisory employees in States and local governments averaged $3.27 per hour, and only 3.5 percent of the 2.6 million nonsupervisory employees earned less than the $1.60 minimum. The conclusion is that a vast majority of government workers are paid at minimum or higher levels set by the Federal law.

The new higher minimums called for in H.R. 7130 applicable to public workers would result in an annual increase of less than 1 percent in the nationwide wage bill for all public employees covered under this legislation in the first year. And, in 1973, the wage bill increase would be only slightly more than one-half percent. It is obvious that extending coverage to nonsupervisory government employees as prescribed in H.R. 7130 would have a minimal impact. It would certainly not cause any serious problems for public agencies who are interested in assisting lower-paid employees to keep up with the rising cost of living. And the modest increase in the total wage costs brought about by this provision would by no means exert inflationary pressures on the general economy. Yet, to exclude some workers paid at substandard levels and not others, simply because they may or may not be employees of a government agency, would be a highly discriminatory approach to solving the problem of poverty workers in America.

I believe it is not only our moral but also our legal responsibility to guarantee every worker at the bottom of the income scale both in government and in most of the private sector at least a minimum but livable wage standards.

I therefore urge support for the provisions of H.R. 7130 extending coverage to government employees and I ask my colleagues to vote in favor of the bill so that the well-being of the Nation and the millions of workers who toil to make it great will be promoted.

Since October 1966, when the last amendments to the Fair Labor Standards Act were enacted, the Consumer Price Index has risen almost 26 percent. This increase breaks down to a 5-percent rise per year with no comparable increase in the minimum wage.

It seems only equitable to increase the minimum wage in an attempt to compensate for the disparity between wages and prices. An increase in the Federal minimum wage to $1.80 an hour will provide a worker with a gross salary of $3,744 a year. Even increasing the minimum wage to $2 an hour will only yield a gross salary of $4,160 a year. The poverty level income for a family of four is defined at $4,000 a year. Thus, an increase in the minimum wage to $1.80 an hour will still result in full-time work with earnings below the poverty level. The $2 an hour minimum wage will place a family of four barely above the poverty line.

An increase in the minimum wage will slightly benefit those workers currently covered by the Fair Labor Standards Act. However, the act does not cover several categories of workers, including almost 5 million nonsupervisory employees of State and local governments, many of whom now are paid at a rate far below the minimum wage.

The Bureau of the Census Survey of Consumer Income for 1969—Series P–60, No. 75—indicates that 10.5 percent of the full-time, year round employees of State and local governments had earnings of less than $4,000——752,000 out of a reported total of 7,138,000. As documentation of where the burden falls most severely, 6.4 percent of the 4.1 million males employed full-time were below the $4,000 mark—while 16.1 percent of the 3 million State and local government female employees working full time had annual earnings below the poverty index for a family of four.

The argument has been raised that extension of the Federal minimum wage coupled with an increase of the minimum wage to $1.80 an hour will work an undue hardship on the States. Statistics published by the Department of Labor indicate that this is clearly not the case. In March 1970, there were approximately 2.6 million nonsupervisory employees of State and local governments in the United States. Of the total, only 91,714 were not receiving wages in excess of $1.60 an hour, the present Federal minimum wage. In percentage terms, only 3½ percent of the 2.6 million State and local employees were not so covered. Slightly over 124,000 State and local employees were not being paid in excess of $1.80 an hour. This is only 3.9 percent of the total.

It does not seem that the proposed changes in the act or the immediate adoption of a $1.80 minimum wage can seriously be objected to on economic grounds. The January, 1972 4(d), Report of the Secretary of Labor, entitled "Minimum Wage and Maximum Hours Standards Under the Fair Labor Standards Act," indicates that the cost of raising public employees to the $1.80 minimum wage would result in only a three-tenths percent increase in the national annual wage bill. Approximately 124,000 public employees, or 3.9 percent of the total, would benefit from this increase. Raising the minimum wage to $2 an hour would increase the wage bill by about two-tenths percent and benefit approximately 174,000 public employees, 5.4 percent of the total.

Another issue on which the extension of the minimum wage has been opposed is that of constitutionality. There seems to be no constitutional problem with waiving the exemption that was written into the Fair Labor Standards Act when it was adopted in 1938. In the case of *Maryland* v. *Wirtz,* 392 U. S. 183—at page 199—Justice Harlan, writing for a majority of the Court, noted that Congress had, at the time it wrote the act, the power to omit any exemption of any employee if it so chose. That case upheld a 1966 amendment to the Fair Labor Standards Act extending the minimum-wage protection to employees of State and local hospitals, schools and certain other earlier decisions in the case of the *United States* v. *California,* 297 U.S. 175, which held, in part, that, when a State engages in economic activities that are validly regulated by the Federal Government when engaged in by private persons, the State may be enforced to conform its activities to Federal regulations.

If the Fair Labor Standards Act is to be amended to include public employees, it seems only logical to extend overtime pay provisions to these workers. One cannot raise a serious objection to this extension on economic grounds. The Department of Labor reports that, in State and local governments:

> The increase in the weekly wage bill that would be required by the payment of additional half-time for all hours over 40 is estimated at one percent. It should be noted that the actual impact of a 40-hour overtime standard would be somewhat less than this amount since some State and local government units currently have provisions for premium overtime pay.

These data anticipated coverage of public employees engaged in law enforcement and fire protection activities, the major source of overtime in most communities. Since such public employees are exempted in H.R. 7130, the impact would be significantly less than indicated in the report.

Thus, neither an economic nor a constitutional case can be made opposing the extension of minimum wage and overtime pay coverage to public employees, as proposed in H.R. 7130. Public employees seek to provide needed public services and to protect the health, safety, and welfare of other citizens. They deserve equal protection under the law and equivalent coverage under the Fair Labor Standards Act.

The inclusion of State and local government employees under the coverage of the Fair Labor Standards Act would demonstrate a commitment by the Congress to the principle of equal pay for equal work. Not only is this coverage essential for pay during regular working hours but also for overtime pay.

The Department of Labor, in a study entitled "Nonsupervisory Employees in State and Local Government" states:

> The increase in the weekly wage bill that would be required by the payment of additional half-time for all hours over 40 is estimated at one percent. It should be noted that the actual impact of a 40-hour overtime standard would be somewhat less than this amount since some state and local government units currently have provisions for premium overtime pay.

These data anticipated coverage of public employees engaged in law enforcement and fire protection activities, the major source of overtime in most communities. Since such public employees are exempted in H.R. 7130, the cost impact would be significantly less than indicated in the report.

The study further indicates that an extremely low percentage of employees surveyed worked in excess of 40 hours a week when compared to the total work hours reported. Only 2.3 percent of the total nonsupervisory man-hours in State and local governments represented hours worked in excess of 40 hours a week. Regionally, the corresponding proportion ranged from 1.7 percent in the Northeast to 1.9 percent in the West to 2.3 percent in the north central region and to 2.7 percent in the South.

It is worth noting again that local government expenditures for overtime pay are inflated by pay to policemen and firemen. Since these individuals are exempted, this total would also greatly decrease.

Almost one-half of all nonsupervisory employees in State and local governments are currently covered by overtime pay standards. Sixty-four percent of all nonsupervisory employees in the Northeast are covered; 30 percent in the South; 40 percent in the north central region; and 43 percent in the West.

Thus, an extension of overtime pay provisions under the Fair Labor Standards Act to nonsupervisory employees of State and local governments would not result in a costly expenditure, as the above statistics demonstrate. It seems only equitable to include overtime pay provisions to public employees in the Fair Labor Standards Act of 1971.

Mr. DONOHUE. Mr. Chairman, I most earnestly urge and hope the House will overwhelmingly approve this measure before us, H.R. 7130, the Fair Labor Standards Amendments of 1971.

In simple substance, Mr. Chairman, this bill is designed to further strengthen the basic policy that was projected in the original Fair Labor Standards Act back in 1938:

> To correct and, as rapidly as practicable, to eliminate labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.

This current bill provides an increase in the minimum wage rate, extends the protection of the act to many groups of workers not presently covered, and establishes procedures for relief for domestic industries and workers proven to be injured by imports from low-wage areas.

We should be mindful, today, Mr. Chairman, that the last amendments to this act occurred back in 1966. Even at that time the approved rate of $1.60 per hour was barely enough to provide an income above what was then defined as the poverty level by the Government.

Meanwhile millions of Americans have additionally suffered constantly increasing prices during our prolonged and continuing period of inflation. The $1.25 minimum wage rate that prevailed before the 1966 amendments bought more then than today's $1.60.

To those who earnestly fear that these proposed increases in the minimum wage might further aggravate inflation, let us emphasize that no reliable economic study has yet proven that any of the previous increases in the minimum wage has had an adverse effect on the economy. The record shows that our national economy has never had any difficulty in absorbing minimum wage rate increases.

On this score the Congress itself has recognized that poverty level wage increases do not have an inflationary effect by excluding the working poor from the phase II controls of the Economic Stabilization Act. Additionally, every President since Franklin Roosevelt has supported the principle that every workingman should have a fair and adequate wage.

Let me emphasize again that the authoritative statistics demonstrate that today's minimum wage of $1.60 buys substantially less than the $1.25 an hour minimum wage bought in 1966.

In further consideration of this measure, Mr. Chairman, let us be mindful that much of American business and labor has for too long been subjected to unfair competition which has brought increasingly great economic hardships upon great numbers of American businesses and workers. On this score, Mr. Chairman, I believe the Congress has a major responsibility to carry forward the pledges that were made in the original Trade and Tariff Agreements Act by reasonably insuring that "fair trade" is a two-way street, that its operation is actually fair both to our own American businesses and workers as well as to legitimate foreign competitors.

In summary, Mr. Chairman, I very earnestly believe that this fair labor standards act amendments measure before us is urgently needed, that it is eminently reasonable and prudent, and that authoritative evidence heavily indicates that it will not have any adverse effect upon the economy. On the contrary, it will extend vitally important benefits to those American wage earners and their families that need them the most.

From all the testimony and evidence of record it is apparent, I believe, that the overall operation and application of this bill will substantially promote the national interest and I hope that it is resoundingly approved this afternoon.

Mr. VANIK. Mr. Chairman, the Fair Labor Standards Act was last amended in 1966—6 years ago. Since then, inflation has wiped out the additional benefit the $1.60 minimum wage provided by those 1966 amendments.

Justice for low wage earners demands immediate action to raise the minimum wage. The economy needs—and must have—the added purchasing power these increases will provide. It is regrettable that in our action today we did not extend the benefits of this legislation to the large segments of the working poor who were not covered by the 1966 amendments.

Nearly two-thirds of the 24 million poor in America are members of families headed by a worker in the labor force. About 25 percent of the poor and more than 30 percent of all children growing up in poverty are part of families headed by a full-time, year-round worker whose wages are so low that his family is impoverished.

An increase in the Federal minimum wage to at least $2 an hour is required on the basis of simple economic fact. At $2 an hour, a full-time worker would earn about $4,000 a year. The 1970 defined poverty level for a family of four is $4,000. At present, many of these families are making about $3,200 a year.

In the past decade, some progress was made in the reduction of poverty. Millions of Americans at the lower end of the income ladder moved a step above the poverty level. During recent years, many of these people have slipped back into the "poverty pocket."

Inflation has always hit the low income people the hardest. Today's minimum wage of $1.60 an hour buys less than $1.25 an hour bought in 1966. I do not believe that any employed worker should be forced to use welfare supplements in order to survive.

These people work hard at useful jobs, struggle to maintain economic independence and self dignity, and attempt to achieve self-reliance against overwhelming odds—and then we pay them less than a subsistence wage.

It is regrettable that we failed to extend the act's coverage to the largest category of workers still not covered by the Fair Labor Standards Act—nearly 5 million workers of Federal, State, and local governments.

It is also regrettable that we did not include students within the protection of these amendments.

We must direct our efforts toward a full employment economy with income standards which make it possible for the average wage earner to support his family with dignity and provide for his family's retirement security. The action we take today is a step in the right direction.

Mr. REID. Mr. Chairman, I rise in opposition to the Erlenborn substitute, which delays and stretches out the increase and extension of the minimum wage.

However, I do want to say that I am glad this substitute deletes title III of the committee bill, relating to imports. Along with my colleagues Mr. GIBBONS, Mr. FRASER and Mr. CULVER, I will offer an amendment to the committee bill to strike title III, should the Erlenborn substitute be rejected.

Title III, a highly protectionist, "Buy American" section was added in committee by a narrow vote along bipartisan lines. I object to it for a number of reasons:

First, it has no place in a minimum wage bill. Even Andy Biemiller of the AFL-CIO testified that the issue "should be handled separately from . . . the Fair Labor Standards Act." Further, as a trade-related provision, it should be considered by both the Ways and Means Committee and the Foreign Affairs Committee before floor action is taken.

Second, since there are about 2.7 million export-related jobs, and only about 2 million import-affected jobs, a protectionist policy with retaliation by foreign countries could severely limit our exports, thus affecting 2.7 million workers in these jobs.

Third, the trade war which could result from passage of title III would seriously undermine the health of our entire domestic economy, as well as jeopardize our foreign economic and political relations. With multilateral negotiations upcoming, our efforts at these talks could be seriously undermined, and the passage of a provision which violated GATT could further limit our credibility, let alone our popularity.

Fourth, American agriculture would be devastated by reciprocal quotas imposed by foreign countries. When one considers that the agricultural produce from 1 out of every 4 acres is exported, one is not hard put to understand how retaliatory actions could affect our farmers. Furthermore, not only would our farmers be hurt, but in addition, the costs to the U.S. taxpayer for storing agricultural surpluses would increase.

Fifth, many of our trading partners, unable to sell to the United States would thus be unable to earn the necessary foreign exchange to purchase our exports, again threatening our export-related jobs. For instance, in 1971 we imported $7 billion worth in goods from Japan, while we exported $4.1 billion worth to Japan. If we refused to import a significant portion of that $7 billion, which would be the case under title III, Japan's net purchasing power would greatly decrease and they would be unable to purchase the over $4 billion worth of goods we want to export. Not only would we be hurting Japan's economy, we would again be threatening our export-related jobs.

Sixth and finally, the ultimate loser in many ways would be the American consumer, since protectionism could produce both higher prices and lower quality in goods within the United States. Protectionism would be yet another fan to the flames of inflation—a fan which neither the consumer nor the worker can afford.

Mr. STOKES. Mr. Chairman, I strongly support H.R. 7130 as reported by the Education and Labor Committee. I am unalterably opposed to the Erlenborn substitute which fails to expand the protection of the Fair Labor Standards Act to include millions of presently unprotected workers. The bill will provide minimum wage and overtime protection to about 1.4 million additional Government employees. It will extend wage and overtime protection to 1.1 million domestic employees, most of whom are women. These and other groups of workers covered by this bill have struggled for too long to earn pay which is grossly inadequate to support themselves and their families.

The Anderson amendment would delay and, with respect to many workers, deny any increase in the minimum wage. H.R. 7130 is directed at the nearly 16 million people who make up the working poor of this Nation. The increase to $2 an hour will enable a full-time worker to earn $4,000 annually—just slightly above the poverty level. To say that such an increase would be inflationary is absurd. Income at this level must be spent on the necessities of life.

Inflation has hurt the poor severely. Food prices have continued to rise at an alarming rate. If a cost-of-living clause were in effect, the minimum wage would now be $2.18 an hour. We must adopt an immediate increase to help offset the dire effects of inflation on the working poor.

H.R. 7130 is one of this session's most significant pieces of legislation affecting the poor. We have the opportunity to improve the income and overtime protection of millions of workers. We cannot continue to permit people to work full time and even overtime for wages which are so distressingly inadequate. I urge my colleagues to join me in supporting H.R. 7130 without amendment.

Mr. RARICK. Mr. Chairman, I too am in favor of working productive citizens receiving fair wages for work done; however, this bill, H.R. 7130, far exceeds the desire of many of our colleagues to guarantee a $2 minimum wage to unskilled labor. When Congress starts legislating private salaries and wage scales, we are not only again officiously intermeddling in the free enterprise economy sector, we are in reality passing a new tax which will be borne by all of our people.

There is nothing in the existing law that prevents unskilled labor from receiving $2 or even more depending on their productivity and their employer's success. But, when, by law, we force a salary raise on the employer, be they small businessmen, farmers, housewives, or other, we know in advance that the employer will no more bear the brunt of the salary increase than will those in Congress who think it is good for votes to spend someone else's money. The employer will treat the wage increase like any other Federal tax and merely pass it on to the next consumer. This legislation will raise all prices across the board. In the long run, many of the people we are here talking about helping will end up paying the cost of financing their higher wages.

The American people are already taxed to death, and such gimmicks as use tax, sales tax, minimum wage increases, and other ploys to get around direct taxes no longer fool the people. A tax is a tax is a tax and ends up only with additional controls even as in the bill we are debating. H.R. 7130 provides for no direct tax to pay for the salary increases but by the implementation of more stringent Government controls expects to derive additional direct taxes in the long run because of the higher incomes in the lower bracket.

In opposing this minimum wage bill, I am not opposing labor but am assisting the retirees, pensioners, disabled, and welfare recipients by trying to hold down taxes as well as inflation resulting from more money in the marketplace without increased productivity.

I have consistently opposed the use of this Congress to legislate labor contracts and salary equities. I have never regarded Congress as a proper forum to conduct negotiations on wage and working conditions. That is why I opposed the railroad strike legislation and even more recently the dock strike legislation.

Rising prices, inflation, and taxes must stop somewhere. Passage of a $2 minimum wage law will not help us restore fiscal sanity to any sector of our economy. And no one should blame the private sector when the prime reason we are here today is because our intermeddling in other areas of wage determination caused those wages to get so out of line that some feel we must now put the minimum wage earner under the broad umbrella of Government wage fixing.

My main opposition to this bill is that it is nothing but another tax on the consumers of our Nation.

Mr. RYAN. Mr. Chairman, I oppose the Erlenborn substitute and would like to direct my remarks to a few of its many deficiencies.

In considering a bill of this nature, we must be careful not to overlook the purpose of a minimum wage, which is to raise the wages of those employees who are at the bottom of the wage scale and who cannot bargain for themselves. The minimum wage is generally paid to the unskilled and inexperienced worker who is frequently young, black, or a woman. Yet the Erlenborn substitute completely ignores the needs of these groups by retaining many of the exemptions currently in effect.

The committee bill would extend the minimum wage and overtime coverage to approximately 4.7 million Federal, State, and local public employees. Opponents of this provision claim that this constitutes unwarranted interference in the fiscal affairs of State and local governments and that it would exacerbate the already tight budgetary situations in which many State and local governments find themselves today.

However, the findings of the Department of Labor ,which conducted a feasibility study of extending minimum wage and overtime protection to nonsupervisory employees in State and local governments, concluded:

> The nationwide survey of State and local governments (excluding education and hospital institutions) indicates that wage levels for State and local government employees not covered by the FLSA are, on the average, substantially higher than those of workers already covered. Hence, if coverage under the FLSA is extended to these workers, comparable minimum wage and overtime standards would not have as great an impact as did the earlier extension of FLSA coverage to employees of State and local governments schools, hospitals and residential care establishments.

The Department of Labor estimates that fewer than 120,000 of the over 3 million State and local government employees to be covered by the bill would benefit from a $1.80-an-hour minimum wage rate and that 167,000 of that total would benefit by the $2-an-hour minimum wage rate to be effective January 1, 1973.

Therefore, the facts indicate that extending the minimum wage coverage to State and local government employees would not impose undue hardships on these units of government because of the relatively small number of workers involved. This extension would, however, provide vitally needed assistance to those workers who are struggling to maintain an adequate standard of living.

Another group which, under the Erlenborn substitute, would be denied the protection of the minimum wage law, is domestic household employees. There are approximately 1.1 million household employees who would stand to benefit from a minimum wage law.

I have had occasion in the past to address the House on the need for Federal assistance to this group of workers. Last March, I introduced a bill which would authorize payment under medicare for services performed by household workers. We have for too long neglected these workers, many of whom are members of minority groups, and who desperately need assistance.

I would like to address my remaining comments to that provision of the Erlenborn substitute which would establish a subminimum wage rate for youth.

I am not pleased, I must say, that the committee limited wage rates for full-time students, except those in hazardous part-time jobs. However, the Erlenborn substitute goes even further by penalizing all those under 18 years of age and all students under the age of 21 by allowing employers to pay them either 80 percent of applicable minimum wage or $1.60 an hour, whichever is higher.

Supporters of this provision argue that a subminimum wage would increase the employment opportunities available to our youth. However, there is no evidence that low wages create jobs. I think that some statistics will shed light on the real problem involved.

In 1970, there were more than 6 million employed teenagers aged 16 to 19. This was 360,000 more than in 1968 and 2 million more than in 1960. Teenagers held almost 8 percent of all jobs in 1970 as compared with 6 percent in 1960. The single most important reason for the relatively high unemployment rate for teenagers is the 41 percent increase in the teenage population during the 1960's.

However, because an increase of only 12 percent in the population of teenagers is projected for the 1970's, we can expect this picture to undergo a dramatic change.

The rate of teenage unemployment was higher in 1961, 1963, and 1964 than in 1970. But while overall employment of teenagers was significantly higher in 1969 than in 1968 and slightly higher in 1970 than in 1968, nonwhite teenagers lost jobs between 1968 and 1970. Between 1969 and 1970, there was a 1-percent increase in white teenage employment but a 6-percent drop in nonwhite teenage employment.

These figures pinpoint the problem with which we must realistically deal: it is not a youth unemployment problem but, more correctly, a black teenage unemployment problem. If this youth differential is established, there will be a subminimum wage for a select group of young people, those who can least afford to have yet another impediment placed in the path of their attempt to earn enough to maintain a minimum standard of living.

The Erlenborn substitute contains many other glaring omissions. For instance, the committee bill would extend the equal pay provisions prohibiting discrimination in pay between men and women doing the same work to include executive, administrative, and professional personnel and outside salesmen. We are all aware of the problems that women face in their attempts to receive equal pay for equal work. The passage of the equal rights amendment was an indication of our concern and our determination to eliminate wage differentials based on sex. However, if we are to truly succeed in our efforts to insure that women are not discriminated against on account of sex, we must wage the battle for equality simultaneously on many fronts. We must use every tool at our disposal, and the act currently under consideration provides yet another vehicle for enacting legislation to assure women equal pay for equal work.

For all of these reasons, I urge my colleagues to defeat this substitute bill which is in fact a step backward in our efforts to improve working conditions in our country.

Mrs. ABZUG. Mr. Chairman, I rise in support of H.R. 7130, the minimum wage bill, and in opposition to the Erlenborn substitute. Let me begin by expressing my concern at the length of time for which this legislation has been prevented from reaching us and my hope that it will be finally enacted into law before the 92d Congress passes into history.

This bill is long overdue, and it is not enough by a long shot. Over 16 million American workers still lack the protection of minimum wage legislation well over three decades after the initial enactment of the Fair Labor Standards Act. In addition, even those receiving the statutory minimum wage are well below the poverty line. Due to the steady progress of inflation in our economy, the present minimum wage of $1.60 per hour buys less than the former minimum of $1.25 did back in 1966. Even with this bill, a worker earning the minimum wage of $2 will receive about $4,000 per year, while the Bureau of Labor Statistics' "Lower Living Standard" is presently calculated at just over $7,000 per year for a family of four.

In addition to increasing the minimum wage, the bill before us rectifies a long-standing injustice to public employees at the Federal, State, and local levels by including them within the minimum wage and overtime provisions of the Fair Labor Standards Act. It is incredible that the workers who make our governments run have not yet been accorded the same benefits and protections as workers in private industry. These working people not only serve the public, but usually do so for salaries which are less than those paid for similar jobs in private industry. There are those who claim that to extend this coverage to employees of State and local governments would stretch their budgets to the breaking point. The facts indicate otherwise. A recent report of the Department of Labor entitled "Nonsupervisory Employees in State and Local Governments" indicates that the burden of the proposed increase would be minimal, and that their average wage outlay would be increased by less than 1 percent by the time-and-a-half-for-overtime requirement of the Fair Labor Standards Act. To date, I have seen no evidence which refutes the conclusions of this report, and I think that simple justice requires that we afford equal treatment to our public servants.

I strongly oppose the Erlenborn substitute, which would strike from this bill the various extensions of coverage contained in it, and the Anderson amendment, which would delay—and in some cases deny altogether—the minimum wage increases in the bill.

In addition to the favorable effect that this legislation will have on workers generally, it includes specific reforms which address themselves to the unique problems of women workers. The most serious of these is that of the domestic worker.

Seven percent—over 2 million—of all women workers in this country are classified by the Department of Labor as "private household workers." Ninety-eight percent of all the workers in this category are women. The duties of these workers consist of general household work, cleaning, laundering, and acting as servants.

Wages in this category are very low. The "Handbook on Women Workers" for 1969, issued by the Department of Labor, showed that in 1966 the median total cash income of these individuals, including all forms of social insurance and public assistance payments in addition to wages and self-employment income, was a mere $1,441. About six out of 10 women private household workers had total cash incomes of under $1,000, and only one out of 10 had a total income of $2,000 or more.

The low annual wages of women private household workers reflect not only their low rates of pay but also the intermittent character of their employment. In 1967, 62 percent of all women in this category over the age of 16 worked less than 35 hours per week; furthermore, four out of every 10 of these people worked 26 weeks or less during 1966.

Full-time private household workers tend to work longer hours than do other employed individuals. In 1967, 37 percent of all workers in this category on full-time schedules worked 41 hours or more a week.

A high proportion of women private household workers are heads of families. For these people especially, the hardship of supporting a family on less than $2,000 a year, when the lower living standard is just over $7,000, is most extreme and unjust.

This legislation is meant to correct these serious abuses which affect over 2 million American women. These women are every bit as valuable as any other class of workers in our society, and they deserve the same protections that other workers have enjoyed for years.

Title II of the bill extends minimum wage and overtime coverage to over 1 million household employees, to maids and custodial employees of hotels and motels, and to employees in preschool centers. It is most unfortunate, however, that the bill does not extend its protections to domestic workers who reside at their place of work. It is illogical, to say the least, to exclude this group. They are in just as much need of income protection as are domestic workers who travel to work.

The legislation is designed not only to aid women workers in lower income brackets, but also those who work at executive level. In 1963, Congress passed the Equal Pay Act, which prohibited sex discrimination in the payment of wages for all employers subject to the wage and hour provisions of the Fair Labor Standards Act. However, employees in administrative, executive, professional and outside sales categories were exempted from this protection. To correct this, H.R. 7130 directs that the equal pay provisions be extended to include all of the above classes of workers.

Finally, I note title III of the bill, which would authorize or require broad import restrictions with regard to goods produced abroad under working conditions which are below the standards in this country. I have spoken out a number of times over the past year about the need to adjust some of our foreign trade and investment policies in order to reduce the incidence of unemployment of American workers brought about by the exodus of "multinational" corporations to foreign havens. I have suggested that we remove from our laws the various incentives for such activities on the part of corporations which are essentially American in nature, and have introduced legislation—H.R. 11582—which would accomplish this change.

On the other hand, I have consistently opposed the imposition of blanket quotas on the importation of foreign-made goods. I believe that establishing such quotas could lead to a tariff war reminiscent of the disastrous Hawley-Smoot period of the 1930's. In erecting high tariff walls to try to protect American labor in the short run, we entered into a tariff battle which undoubtedly prolonged the great depression.

The effect of title III could be to establish blanket quotas for most, if not all, foreign goods, and that it would open the door to events that we could not control, subjecting us to punitive reprisals and risking a repetition of the Hawley-Smoot experience. I believe that lesser measures, such as those proposed in H.R. 11582 and in parts of the Burke-Hartke bill other than its title III, will be sufficient to turn the tide. For the present at least, I believe that the risks we would run with a quota system such as that authorized under title III are too great in the absence of some proof that other methods will not work.

In addition title III gives broad and ill-defined powers to the President to impose import restrictions. It has been quite accurately described as the Gulf of Tonkin resolution of the foreign trade field. At a point when we are so justifiably concerned and upset with the inordinate powers being exercised by the Executive in the conduct of our military adventures in Indochina, it would be unfortunate to hand the President still another blank check.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. ERLENBORN) as amended.

TELLER VOTE WITH CLERKS

Mr. DENT. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. DENT. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. ERLENBORN, PERKINS, QUIE, and DENT.

The Committee divided, and the tellers reported that there were—ayes 217, noes 191, not voting 24, as follows:

[Roll No. 148]

[Recorded Teller Vote]

AYES—217

Abbitt
Abernethy
Alexander
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Archer
Arends
Ashbrook
Aspin
Baker
Baring
Belcher
Bennett
Betts
Blackburn
Bow
Bray
Brinkley
Broomfield
Brotzman
Brown, Mich.
Brown, Ohio
Broyhill, N.C.
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carlson
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Collier
Collins, Tex.
Colmer
Conable
Coughlin
Crane
Curlin
Daniel, Va.
Davis, Ga.
de la Garza
Dellenback
Dennis
Derwinski
Dickinson
Dorn
Downing
Duncan
du Pont
Edwards, Ala.
Erlenborn
Esch
Evins, Tenn.
Findley
Fish
Fisher
Flowers
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Frey
Fuqua
Galifianakis
Gettys
Gibbons
Goldwater
Goodling
Griffin
Gross
Grover
Gubser
Hagan
Haley
Hall
Hammerschmidt
Hanley
Harsha
Harvey
Hastings
Hébert
Henderson
Hogan
Hosmer
Hunt
Hutchinson
Jarman
Johnson, Pa.
Jonas
Jones, N.C.
Jones, Tenn.
Kazen
Keating
Kemp
King
Kyl
Landgrebe
Latta
Lennon
Lent
Lloyd
Lujan
McClory
McClure
McCollister
McCulloch
McDonald, Mich.
McEwen
McKevitt
McMillan
Mahon
Mailliard
Mallary
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Michel
Miller, Ohio
Mills, Md.
Minshall
Mizell
Montgomery
Myers
Natcher
Nelsen
Nichols
O'Konski
Patman
Pelly
Pettis
Pickle
Pirnie
Poage
Poff
Powell
Price, Tex.
Quie
Quillen
Railsback
Randall
Rarick
Rhodes
Roberts
Robinson, Va.
Robison, N.Y.
Rogers
Rousselot
Ruppe
Ruth
Sandman
Satterfield
Scherle
Schmitz
Schneebeli
Schwengel
Scott
Sebelius
Shoup
Shriver
Sikes
Skubitz
Smith, Calif.
Smith, N.Y.
Snyder
Springer
Stanton, J. William
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stuckey
Talcott
Taylor
Teague, Calif.
Teague, Tex.
Terry
Thomson, Wis.
Thone
Vander Jagt
Waggonner
Wampler
Ware
Whalley
White
Whitehurst
Whitten
Widnall
Wiggins
Williams
Wilson, Bob
Winn
Wolff
Wright
Wydler
Wylie
Wyman
Young, Fla.
Young, Tex.
Zion
Zwach

NOES—191

Abourezk
Abzug
Adams
Addabbo
Albert
Anderson, Calif.
Anderson, Tenn.
Annunzio
Ashley
Aspinall
Badillo
Barrett
Begich
Bell
Bergland
Bevill
Biaggi
Biester
Bingham
Blanton
Blatnik
Boggs
Boland
Brademas
Brasco
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Carey, N.Y.
Carney
Celler
Chisholm
Clay
Collins, Ill.
Conte
Conyers
Corman
Cotter
Culver
Daniels, N.J.
Danielson
Davis, S.C.
Delaney
Dellums
Denholm
Dent
Dingell
Donohue
Dow
Drinan
Dulski
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Fascell
Flood
Foley
Ford, William D.
Fraser
Fulton
Garmatz
Gaydos
Giaimo
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Gude
Halpern
Hamilton
Hanna
Hansen, Idaho
Hansen, Wash.
Harrington
Hathaway
Hawkins
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Hillis
Holifield
Horton
Howard
Hungate
Ichord
Jacobs
Johnson, Calif.
Jones, Ala.
Karth
Kastenmeier
Kee
Kluczynski
Koch
Kyros
Leggett
Link
Long, La.
Long, Md.
McCloskey
McCormack
McDade
McFall
McKay
McKinney
Madden
Matsunaga
Meeds
Melcher
Mikva
Miller, Calif.
Mills, Ark.
Minish
Mink
Mitchell
Mollohan
Monagan
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
Obey
O'Hara
O'Neill
Patten
Pepper
Perkins
Peyser
Pike
Podell
Price, Ill.
Pryor, Ark.
Pucinski
Purcell
Rangel
Rees
Reid
Reuss
Riegle
Rodino
Roe
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ryan
St Germain
Sarbanes
Saylor
Scheuer
Seiberling
Shipley
Sisk
Slack
Smith, Iowa
Staggers
Stanton, James V.
Steele
Stokes
Stratton
Sullivan
Symington
Thompson, N.J.
Tiernan
Udall
Ullman
Van Deerlin
Vanik
Vigorito
Waldie
Whalen
Wilson, Charles H.
Wyatt
Yates
Yatron
Zablocki

NOT VOTING—24

Bolling
Brooks
Clark
Davis, Wis.
Devine
Diggs
Dowdy
Dwyer
Edmondson
Eshleman
Gallagher
Hays
Hull
Keith
Kuykendall
Landrum
Macdonald, Mass.
Metcalfe
Passman
Preyer, N.C.
Spence
Stubblefield
Thompson, Ga.
Veysey

So the amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended by the Erlenborn substitute.

The committee amendment in the nature of a substitute as amended was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 7130) to amend the Fair Labor Standards Act of 1938 to increase the minimum wage under that act, to extend its coverage, to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas, and for other purposes, pursuant to House Resolution 968, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole. If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ASHBROOK. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ASHBROOK moves to recommit the bill H.R. 7130 to the Committee on Education and Labor.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 330, nays 78, not voting 23, as follows:

[Roll No. 149]

YEAS—330

Abourezk
Abzug
Adams
Addabbo
Alexander
Anderson, Calif.
Anderson, Ill.
Anderson, Tenn.
Andrews, N. Dak.
Annunzio
Arends
Ashley
Aspin
Badillo
Baring
Barrett
Begich
Bell
Bennett
Bergland
Bevill
Biaggi
Biester
Bingham
Blanton
Blatnik
Boggs
Boland
Bolling
Brademas
Brasco
Broomfield
Brotzman
Brown, Mich.
Broyhill, N.C.
Burke, Mass.
Burlison, Mo.
Burton
Byrne, Pa.
Byron
Cabell
Caffery
Carey, N.Y.
Carlson
Carney
Carter
Casey, Tex.
Cederberg
Celler
Chamberlain
Chappell
Chisholm
Clancy
Clausen, Don H.
Clay
Cleveland
Collier
Collins, Ill.
Conable
Conte
Conyers
Corman
Cotter
Coughlin
Culver
Curlin
Daniels, N.J.
Danielson
Davis, Ga.
Davis, S.C.
de la Garza
Delaney
Dellenback
Dellums
Dent
Derwinski
Diggs
Dingell
Donohue
Dow
Drinan
Dulski
Duncan
du Pont
Dwyer
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Evins, Tenn.
Fascell
Findley
Fish
Flood
Flowers
Foley
Ford, Gerald R.
Ford, William D.
Forsythe
Fountain
Fraser
Frelinghuysen
Frenzel
Frey
Fulton
Fuqua
Galifianakis
Gallagher
Garmatz
Gaydos
Giaimo
Gibbons
Gonzalez
Grasso
Gray
Green, Oreg.
Green, Pa.
Griffiths
Grover
Gubser
Gude
Haley
Halpern
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Harsha
Harvey
Hastings
Hathaway
Hawkins
Hébert
Hechler, W. Va.
Heckler, Mass.
Heinz
Helstoski
Henderson
Hicks, Mass.
Hicks, Wash.
Hillis
Hogan
Holifield
Horton
Hosmer
Howard
Hungate
Hunt
Ichord
Jacobs
Johnson, Calif.
Johnson, Pa.
Jones, Ala.
Jones, N.C.
Jones, Tenn.
Karth
Kastenmeier
Kazen
Keating
Kee
Kemp
King
Kluczynski
Koch
Kyl
Kyros
Leggett
Lennon
Lent
Link
Long, La.
Long, Md.
Lujan
McCloskey
McCollister
McCormack
McCulloch
McDade
McDonald, Mich.
McEwen
McFall
McKay
McKevitt
McKinney
Madden
Mahon
Mailliard
Mallary
Mann
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Mazzoli
Meeds
Melcher
Michel
Mikva
Miller, Calif.
Miller, Ohio
Mills, Ark.
Mills, Md.
Minish
Mink
Minshall
Mitchell
Mizell
Mollohan
Monagan
Moorhead
Morgan
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Myers
Natcher
Nedzi
Nelsen
Nix
Obey
O'Hara
O'Konski
O'Neill
Patman
Patten
Pelly
Pepper
Perkins
Pettis
Peyser
Pickle
Pike
Pirnie
Podell
Price, Ill.
Pucinski
Quie
Quillen
Railsback
Randall
Rees
Reid
Reuss
Rhodes
Riegle
Robison, N.Y.
Rodino
Roe
Rogers
Roncalio
Rooney, N.Y.
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roy
Roybal
Runnels
Ruppe
Ruth
Ryan
St Germain
Sandman
Sarbanes
Saylor
Scheuer
Schneebeli
Schwengel
Seiberling
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Iowa
Smith, N.Y.
Snyder
Springer
Staggers
Stanton, J. William
Stanton, James V.
Steed
Steele
Steiger, Wis.
Stokes
Stratton
Stuckey
Sullivan
Symington
Taylor
Thompson, N.J.
Thomson, Wis.
Thone
Tiernan
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vigorito
Waggonner
Waldie
Wampler
Ware
Whalen
Whalley
White
Widnall
Williams
Wilson, Bob
Wilson, Charles H.
Winn
Wolff
Wright
Wyatt
Wydler
Wylie
Wyman
Yates
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zwach

NAYS—78

Abbitt
Abernethy
Andrews, Ala.
Archer
Ashbrook
Aspinall
Baker
Belcher
Betts
Blackburn
Bow
Bray
Brinkley
Brown, Ohio
Broyhill, Va.
Buchanan
Burke, Fla.
Burleson, Tex.
Byrnes, Wis.
Camp
Clawson, Del
Collins, Tex.
Colmer
Crane
Daniel, Va.
Denholm
Dennis
Dickinson
Dorn
Downing
Edwards, Ala.
Fisher
Flynt
Gettys
Goldwater
Goodling
Griffin
Gross
Hagan
Hall
Hammerschmidt
Hansen, Idaho
Hutchinson
Jarman
Jonas
Landgrebe
Latta
Lloyd
McClory
McClure
McMillan
Martin
Montgomery
Nichols
Poage
Poff
Powell
Price, Tex.
Purcell
Rarick
Roberts
Robinson, Va.
Rousselot
Satterfield
Scherle
Schmitz
Scott
Sebelius
Smith, Calif.
Steiger, Ariz.
Stephens
Talcott
Teague, Calif.
Teague, Tex.
Whitehurst
Whitten
Wiggins
Zion

NOT VOTING—23

Brooks
Clark
Davis, Wis.
Devine
Dowdy
Edmondson
Eshleman
Hays
Hull
Keith
Kuykendall
Landrum
Macdonald, Mass.
Metcalfe
Passman
Preyer, N.C.
Pryor, Ark.
Rangel
Spence
Stubblefield
Terry
Thompson, Ga.
Veysey

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Davis of Wisconsin for, with Mr. Devine against.

Mr. Macdonald of Massachusetts for, with Mr. Dowdy against.

Mr. Clark for, with Mr. Stubblefield against.

Mr. Brooks for, with Mr. Hull against.

Mr. Eshleman for, with Mr. Spence against.

Mr. Terry for, with Mr. Veysey against.

Until further notice:

Mr. Metcalfe with Mr. Preyer of North Carolina.

Mr. Aspin with Mr. Keith.

Mr. Landrum with Mr. Thompson of Georgia.

Mr. Rangel with Mr. Edmondson.

Mr. Hays with Mr. Kuykendall.

Mr. BRAY changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. O'KONSKI. Mr. Speaker, I was confined in my office with visitors and came to the floor during the final seconds of the vote on the Erlenborn substitute.

Had I known that section 3 of the original bill, which put a curb on imports to countries unless these countries pay equal wages was not in the Erlenborn substitute, and had I know that the provision for overtime pay for Federal, State, county, and municipal employees was not in the Erlenborn substitute, I would have voted against the Erlenborn substitute.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 14582, SUPPLEMENTAL APPROPRIATIONS, 1972

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on the bill H.R. 14582, making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 92–1063)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14582) "making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 7, 9, 18, 24, 29, 35, 36, 37, 39, and 50.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 4, 11, 13, 15, 20, 28, 30, 31, 32, 34, 41, 42, 43, 45, and 46, and agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$156,550,000"; and the Senate agree to the same.

Amendment numbered 21: That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert "$3,000,000"; and the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$469,940,000"; and the Senate agree to the same.

Amendment numbered 47: That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$56,276,000"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert "$2,500,000"; and the Senate agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$8,106,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 5, 6, 8, 10, 12, 14, 17, 19, 22, 23, 25, 26, 27, 33, 38, and 40.

George Mahon,
Jamie L. Whitten,
John J. Rooney
(except as to amendment No. 22),
Otto E. Passman,
Joe L. Evins,
Edward P. Boland,
William H. Natcher,
Daniel J. Flood,
Tom Steed,
Julia Butler Hansen,
John J. McFall,
Frank T. Bow,
(except as to amendment No. 22),
Charles R. Jonas,
(except as to amendment No. 22),
E. A. Cederberg,
Robert H. Michel,
Silvio O. Conte,
Garner E. Shriver,
Joseph M. McDade,
Managers on the Part of the House.
Allen J. Ellender
Warren G. Magnuson,
Alan Bible,
Robert C. Byrd,
Gale W. McGee,
Joseph M. Montoya,
Ernest F. Hollings,
Milton R. Young,
Margaret Chase Smith
(except as to amendment No. 1),
Roman L. Hruska,
Gordon Allott,
Norris Cotton,
Hiram L. Fong,
Mark O. Hatfield,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14582) making supplemental appropriations for the fiscal year ending June 30, 1972, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I

Chapter I—Agriculture

Amendment No. 1: Deletes the appropriation of $10,000,000 for a "Cropland Conservation Program" as proposed by the Senate.

Amendment No. 2: Deletes the appropriation of $100,000 for the National Commission on Materials Policy as proposed by the Senate.

Chapter II—Retired military personnel retired pay, defense

Amendment No. 3: Appropriates $144,312,000 as proposed by the Senate instead of $154,312,000 as proposed by the House. The Senate reduction is based on the latest available estimates.

Chapter III—District of Columbia

Amendment No. 4: Appropriates $2,233,000 for Public Safety as proposed by the Senate instead of $2,602,000 as proposed by the House.

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to appropriate $67,835,000 for Capital Outlay instead of $69,955,000 as proposed by the House and $68,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conference agreement deletes $165,000 proposed by the Senate for a new morgue building.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to provide $4,380,000 for construction services instead of $6,500,000 as proposed by the House and $4,545,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Chapter IV—Foreign operations

Amendment No. 7: Deletes the appropriation of $320,000,000 for "Subscription to the International Development Association" proposed by the Senate. The managers agree that there is no intention of denying each of the three annual installments of $320,000,000 in the next three fiscal years and that the first installment will be provided in the fiscal year beginning July 1, 1972.

Chapter V

Federal Communications Commission

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment making funds available until June 30, 1973.

Veterans' Administration

Amendment No. 9: Restores House language deleted by the Senate to provide funds for Medical administration and miscellaneous operating expenses by transfer instead of a new appropriation.

Chapter VI—Department of the Interior

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides $200,000 for "Bureau of Land Management, construction and maintenance".

Amendment No. 11: Appropriates $4,308,000 for "Bureau of Indian Affairs, resources management", as proposed by the Senate, instead of $4,000,000 as proposed by the House. The increase over the amount provided by the House includes an additional $308,000 for preparation of a census roll of Alaska Natives.

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing language to authorize the advance of $500,000 to any Regional Corporation, established pursuant to the provisions of Public Law 92–203, the "Alaska Native Claims Settlement Act", which the Secretary of the Interior determines to be necessary for the organization of such Regional Corporation and the Village Corporations within such region, and to identify land for such corporations pursuant to said act, and to repay loans and other obligations previously incurred for such purposes. The amended language further provides that such advances shall not be subject to the provisions of Section 7(j) of said act, but shall be charged to and accounted for by such Regional and Village Corporations in computing the distributions pursuant to Section 7(j) required after the first regular receipt of monies from the Alaskan Native Fund under Section 6 of said act; and that no part of the money so advanced shall be used for the organization of a Village Corporation that had less than 25 Native residents living within such village according to the 1970 census. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 13: Authorizes the Secretary of the Interior to borrow from the Treasury $45,300,000 for payment to the helium production fund pursuant to section 12(a) of the Helium Act to carry out the provisions of the act and contractual obligations thereunder, as proposed by the Senate.

This borrowing authority is provided to service the three helium purchase contracts continued in force by court order, but the conferees are of the opinion that judicial concern in this matter should be resolved at the earliest possible moment. The conferees are of the further opinion that upon resolution of the judicial questions, the Secretary of the Interior should determine within the least possible time, the matter of continuance of these contracts.

Related Agencies

Amendment No. 14: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides $170,000 for "Forest Service, construction and land acquisition." The amount provided is for installation of a water supply system for protection of buildings at the Alexandria, Louisiana, Forestry Center.

Amendment No. 15: Appropriates $125,000 as proposed by the Senate instead of $300,000 as proposed by the House for the "Joint Federal-State Land Use Planning Commission for Alaska."

Chapter VII—Departments of Labor and Health, Education, and Welfare

Department of Labor

Manpower Administration

Amendment No. 16: Appropriates $156,550,000 for "Manpower training services" instead of $95,000,000 proposed by the House and $247,000,000 proposed by the Senate. The amount agreed to includes $15,000,000 for the summer recreation program instead of $12,800,000 proposed by the House and $21,900,000 proposed by the Senate; and $141,550,000 for the Neighborhood Youth Corps summer jobs program instead of $82,200,000 as proposed by the House and $223,900,000 proposed by the Senate. The conferees are agreed that some of the funds for the Neighborhood Youth Corps summer jobs program may be used for transportation if it is found to be necessary to accomplish the program's objectives.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which will make the funds contained in Amendment No. 16 available until September 30, 1972.

Department of Health, Education, and Welfare

Health Services and Mental Health Administration

Amendment No. 18: Deletes appropriation of $112,000 for "Maternal and child health" proposed by the Senate. The managers on the part of the House and Senate are agreed that funds may be reprogrammed, within the funds already appropriated for "Maternal and child health" for fiscal year 1972, for the purposes of this amendment. For fiscal year 1973 the conferees were advised by the Department of Health, Education, and Welfare that "HEW would be willing to reprogram a sufficient amount of funds from the projected $9,000,000 increase for project grants to permit this project (the university-affiliated mental retardation center in Kansas City, Kansas) to be funded." The managers on the part of the House and the Senate will very definitely expect that this reprogramming be carried out.

National Institutes of Health

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates $40,000,000 for "National Cancer Institute," to remain available through June 30, 1973, as proposed by the Senate.

Office of Education

Amendment No. 20: Inserts heading.

Amendment No. 21: Appropriates $3,000,000 for "Elementary and secondary education" instead of $9,000,000 as proposed by the Senate. The managers on the part of the House and the Senate are agreed that the amount provided is to continue in operation those Follow Through projects (currently scheduled for discontinuance) of the highest priority for one year.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede from disagreement to the Senate amendment and agree to the same with an amendment which will appropriate an additional amount of $100,000,000 for "Higher education" instead of $300,400,000 proposed by the Senate. The total appropriation includes $45,000,000 for educational opportunity grants, $25,600,000 for work-study grants, $23,600,000 for National Defense Student Loans, and $5,800,000 for additional projects specifically for veterans under the Talent Search, Upward Bound, and Education Professions Development Act programs. The entire appropriation of $100,000,000 is to be used in the 1972–73 academic school year. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Office of Economic Opportunity

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which will have the effect of appropriating $20,000,000 for "Economic opportunity program" instead of $30,000,000 as proposed by the Senate and the managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

General Provision

Amendment No. 24: Strikes language proposed by the Senate.

Chapter VIII—Legislative branch

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $650,000 for the Joint Committee on Inaugural Ceremonies of 1973.

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to appropriate $130,000 to the Architect of the Capitol for temporary parking facilities for the Senate.

Chapter IX—Southwestern Power Administration

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to concur in the Senate amendment with an amendment inserting language providing $180,000 for "Operation and Maintenance" to be derived by transfer from the appropriation for "Construction" for the Southwestern Power Administration in lieu of the $500,000 proposed by the Senate, including $320,000 in direct appropriations. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Chapter X—Department of State

Amendment No. 28: Changes chapter number as proposed by the Senate.

Amendment No. 29: Appropriates $9,308,360 for "Contributions to International Organizations" as proposed by the House instead of $13,216,529 as proposed by the Senate.

Chapter XI—Department of Transportation

Amendment No. 30: Changes chapter number.

Amendment No. 31: Appropriates $540,000 for Coast Guard, operating expenses as proposed by the Senate instead of $140,000 as proposed by the House.

Amendment No. 32: Appropriates $3,000,000 for Coast Guard, state boating safety assistance, as proposed by the Senate instead of $1,000,000 as proposed by the House.

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $170,000,000 for Federal Railroad Administration, grants to National Railroad Passenger Corporation, instead of $270,000,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. Since the authorizing legislation for this program has not been enacted into law, the conferees are in agreement that action on the additional $100,000,000 included by the Senate has been deferred without prejudice to future consideration.

Chapter XII

Amendment No. 34: Changes chapter numbers.

General Services Administration

Public Buildings Service

Amendment No. 35: Appropriates $45,958,000 as proposed by the House instead of $8,756,000 as proposed by the Senate for construction, public buildings projects.

Amendment No. 36: Restores language proposed by the House providing for construction of a courthouse and federal office building (superstructure) Philadelphia, Pennsylvania.

Amendment No. 37: Restores language proposed by the House providing for construction of the Federal Bureau of Investigation Building (superstructure), Washington, D.C.

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment providing that the funds in this Act for the three projects at Chicago, Philadelphia, and the FBI Building in Washington, D.C. shall be available only upon the approval of the revised prospectuses by the Committees on Public Works of the Congress. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 39: Appropriates $2,297,000 as proposed by the House instead of $755,000 as proposed by the Senate for sites and expenses, public buildings projects.

Chapter XIII—Claims and Judgments

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $5,508,032 for claims and judgments as proposed by the Senate.

TITLE II—INCREASED PAY COSTS

Amendments Nos. 41 and 42: Appropriate additional pay act funds for the Senate as proposed by the Senate.

Military Personnel

Military Personnel, Army

Amendment No. 43: Appropriates $696,738,000 as proposed by the Senate instead of $736,738,000 as proposed by the House. The Senate reduction is based on the latest estimate of the Army man-year strength which indicated a substantial shortfall below previous estimates.

Military Personnel, Navy

Amendment No. 44: Appropriates $469,940,000 instead of $464,740,000 as proposed by the House and $471,740,000 as proposed by the Senate. The provision of $5,250,000 more than the House amount is based on the most recent computation.

Reserve Personnel, Army

Amendment No. 45: Appropriates $17,792,000 as proposed by the Senate instead of $23,792,000 as proposed by the House. The sum agreed to is based on the latest available strength figures for the Army Reserve which show substantial shortfalls in personnel.

National Guard Personnel, Army

Amendment No. 46: Appropriates $49,431,000 as proposed by the Senate instead of $79,431,000 as proposed by the House. The sum agreed to is based on the latest available strength figures for the Army National Guard which show substantial shortfalls in numbers of personnel.

Operation and Maintenance

Operation and Maintenance, Army

Amendment No. 47: Appropriates $56,276,000 instead of $41,276,000 as proposed by the House and $61,776,000 as proposed by the Senate. The conferees agreed that some of the pay cost funds could be absorbed by the Army from savings realized through program changes.

Operation and Maintenance, Marine Corps

Amendment No. 48: Appropriates $2,500,000 for "Operation and Maintenance, Marine Corps", for which the House provided no funds and the Senate proposed $4,549,000. The Conferees agreed that while some funds were required, a part of the pay cost increase could be absorbed by the Marine Corps from savings realized through program changes.

Operation and Maintenance, Army National Guard

Amendment No. 49: Appropriates $8,106,000 instead of $2,106,000 as proposed by the

House and $10,106,000 as proposed by the Senate. The Conferees agreed that a part of the funds requested for the pay cost increase could be absorbed by the Army National Guard from savings realized through program changes.

Amendment No. 50: Restores the House language stricken by the Senate to limit the use of administrative and nonadministrative expenses of the Federal Home Loan Bank Board, thus precluding the use of funds for relocating the district bank for the fourth district from Greensboro, North Carolina, or for the supervision, direction or operation of such bank at any other location.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1972 recommended by the committee of conference, with comparisons to the budget estimate total, and the House and Senate bills follows:

Budget estimates	$4,865,943,389
House bill	3,954,453,358
Senate bill	5,063,517,439
Conference agreement	[1] 4,347,698,270
Conference agreement compared with:	
Budget estimates	−518,245,119
House bill	+393,244,912
Senate bill	−715,819,169

[1] Includes amounts in amendments reported in technical disagreement.

GEORGE MAHON,
JAMIE L. WHITTEN,
JOHN J. ROONEY
(except as to amendment No. 22),
OTTO E. PASSMAN,
JOE L. EVINS,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
DANIEL J. FLOOD,
TOM STEED,
JULIA BUTLER HANSEN,
JOHN J. MCFALL,
FRANK T. BOW,
(except as to amendment No. 22),
CHARLES R. JONAS,
(except as to amendment No. 22),
E. A. CEDERBERG,
ROBERT H. MICHEL,
SILVIO O. CONTE,
GARNER E. SHRIVER,
JOSEPH M. MCDADE,
Managers on the Part of the House.

ALLEN J. ELLENDER,
WARREN G. MAGNUSON,
ALAN BIBLE,
ROBERT C. BYRD,
GALE W. MCGEE,
JOSEPH M. MONTOYA,
ERNEST F. HOLLINGS,
MILTON R. YOUNG,
MARGARET CHASE SMITH
(except as to amendment No. 1),
ROMAN L. HRUSKA,
GORDON ALLOTT,
NORRIS COTTON,
HIRAM L. FONG,
MARK O. HATFIELD,
Managers on the Part of the Senate.

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I take this time for the purpose of asking the distinguished Majority Leader the program for the rest of the week, if any, and the schedule for next week.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the distinguished Majority Leader.

Mr. BOGGS. In response to the first question of the distinguished Minority Leader, we have completed the business for this week, and I plan to ask to go over until Monday.

Next week, on Monday we will have the Consent Calendar, followed by three suspensions:

H.R. 7378, Commission on Revision of Judicial Circuits;

H.R. 480, veterans life insurance tax exemptions; and

H.J. Res. 812, Secretary of Interior on F.D.R. Memorial Commission.

On Tuesday we will be in recess to receive the Apollo 16 Astronauts, to be followed by the Private Calendar and

H.R. 7375, salaries of U.S. magistrates, under an open rule with 1 hour of general debate.

On Wednesday:

H.R. 11627, Motor Vehicle Information and Cost Savings Act, under an open rule, with 1 hour of debate; and

H.R. 6788, mining and mineral research centers, under an open rule, with 1 hour of debate.

It is our intention that if we finish the consideration of these two bills on Wednesday we hope to dispose of the general debate on the State-Justice-Commerce-judiciary approriation bill on Wednesday and proceed to vote on it on Thursday.

Of course, conference reports may be brought up at any time and any further program will be announced later.

ADJOURNMENT OVER TO MONDAY, MAY 15, 1972

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today that it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS IN ORDER WEDNESDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that Calendar Wednesday business scheduled for Wednesday next be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

GENERAL LEAVE

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill H.R. 7130, which was just considered, and to include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

THE 24TH ANNIVERSARY OF THE ESTABLISHMENT OF THE STATE OF ISRAEL

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. ANNUNZIO. Mr. Speaker, on May 15, we commemorate the anniversary of an event of stirring significance and inspiration in mankind's continuing struggle for freedom and dignity—the day upon which 24 years ago the Jewish people proclaimed the independent sovereign Republic of Israel.

The founding of Israel is a vital, living monument to the persistence and heroism of a people who have suffered many centuries of persecution and know only too well the bitterness and despair of an existence without even the most basic freedoms.

The strategic location of the traditional homeland of the Jews, as a crossroad of commerce and cultural exchange among three continents, has made the Jewish nation a prime target of foreign invaders. Under ancient kings and as part of ancient empires, the Jews suffered massacre, deportation, and slavery.

The Roman Empire imposed its will on the Jewish people for several centuries during which time—70 A.D.—Jerusalem was again besieged and, after a heroic defense, its people were reduced to starvation. This event coincided with the final Diaspora and the subsequent elimination of Palestine as the focal point of Jewish culture and civilization for almost 2,000 years.

Throughout the Middle Ages, in most of the countries of the world, the Jews were severely restricted in their civil and religious liberties, as well as being subjected to periodic physical harassment or outright persecution by fire and sword. This sad history culminated in the twentieth century with the unspeakable horror at Auschwitz and Buchenwald.

Seen in this context of tears and tragedy, the establishment of the State of Israel is, therefore, a most momentous turning point in the history of the Jewish people. The nation was carved out of bedrock, desert, and malarial swamp at great sacrifice and, in addition, was surrounded by hostile neighbors. Yet the courage and tough determination forged during their centuries of exile enabled the Jews to face these problems with vigor and unwavering enthusiasm.

Today, as a nation of almost 3 million people, Israel can rightfully boast of its astounding record of economic, political, and social accomplishments. In spite of the continuing problems of heavy armament expense and the integration into their society of many new immigrants, Israel has not abandoned its innovative spirit or sympathetic interest in the peoples of other lands with similar problems.

Encouraging other small nations, not only by example but also with substantive action, Israel conducts programs of technical assistance, on-the-job training courses, and the loan of experts and instructors to scores of nations in the less developed areas of Asia, Africa, and Latin America.

In a mere 24 years of existence, the State of Israel has contributed mightily with energy and imagination to our hopes and dreams for the eventual establishment of a creative, democratic, and progressive world community of nations.

To the citizens of Israel and their friends in this and every other nation, I join my colleagues in the Congress in a tribute on this special day. May the State of Israel continue to be a source of encouragement and inspiration for all peoples of the world.

THE CRATCHITT MEMORANDUM—A TOP SECRET DOCUMENT

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, a few days ago, the President went down to the Picosa ranch to have a little dinner with Secretary Connally. Now everyone knows that if the President wants to see the Secretary, all he has to do is summon him across the street, from the Treasury to the White House. And if he just wants to have a social evening, well, that can be done right here in Washington. So there is no denying that this trip to the Picosa spread, where carefully groomed cowboys watched equally carefully groomed cattle for the picturesque effect of it all, and where mariachis strummed gaily in the background, was more than a social event. By all accounts it was a political event of the first magnitude, because the President dined not just with Connally, but with 200 of the richest, most powerful men in Texas—what we call in Spanish los pesados—weighty men. I call them the Picoso pesados. These are people who contribute mightily to political campaigns, and men who know perfectly well the meaning of the Spanish phrase, "Don Dinero—poderoso caballero," which in English means, "Mr. Money—a powerful gentleman."

So when the President hunkers down to barbecue with 200 of los pesados, it is not because he likes barbecue, and not because he is a gregarious man who enjoys parties, even at a ranch as elegant as the Picosa. There is only one reason why this trip was made, and that is political—to raise large amounts of political capital.

Now we all know that Presidential travel is not cheap. Nobody knows how much it cost for the President to go to China, though we do know of the initial payment of $6 million in cash handed over to the Chinese to cover a few of the local bills. It is perfectly proper for the taxpayers to ante up the money for official travel, but when the taxpayers are called upon to cover the bills for political fundraising safaris, that is another matter.

There are those who are responsible for paying the bills in this Government, and I have just acquired a batch of top secret documents from the Treasury relating to the question of whether the taxpayers should foot the cost of the Picosa political expedition. I call these documents to the attention of the Congress, in the finest tradition of current document leakage, because I consider this a prime example of one man's effort to save the taxpayer from a needless expense.

The Picosa expedition bills happened to be sent to an obscure Treasury clerk named Cratchitt, who was supposed to write the checks.

The Treasury has a great many people who write checks, and it was a sheer accident that the Picosa expedition bills all went to Cratchitt. Ordinarily, these bills would have been divided up and sent to many clerks in many agencies, in order to better cover up the real cost of the extravaganza. Cratchitt, of course, was shocked when he saw the bills. As it happens, he has 28 years of service as a civil servant. He formerly worked in my hometown of San Antonio, but lost his old job as a GS–9 bookkeeper during an economy wave. After that he landed a GS–5 clerk's job at the Treasury, where he worked quietly. Cratchitt is a humble fellow, but stubborn and proud; he works hard, is a devoted family man, and a devout member of the church. He is honest and industrious, but a very unobtrusive fellow. His office is not really an office at all, just an old-fashioned high desk in a dark and obscure corner of the Treasury basement. Cratchitt, like many old-fashioned men, has only one affectation, and that is a green eyeshade he uses to protect his eyes, which have suffered considerable strain in his 28 years as a Government clerk.

When Cratchitt got the bills for the Texas political trip, he rightfully concluded that these were not incurred in the course of Presidential duty, but in the cause of straight, old-fashioned politics. Cratchitt himself cannot participate in politics in any way because of the Hatch Act, and he knows full well that not even the President has a right to foist political bills on the taxpayer, especially when the Treasury is running in the red by $47 billion or so.

Accordingly, Cratchitt took the bills, which were labeled "Top Secret" and sent them to Secretary Connally with the following memo, also marked "Top Secret."

DEPARTMENT OF THE TREASURY,
Washington, D.C.

Top secret

To: Secretary Connally.

MR. SECRETARY: I have just received the attached bills for the trip that you and the President took to Texas, which I understand was solely for the purpose of raising political campaign funds. As you can see, the bills already amount to $51,810.25 and more are coming in. I can't in good conscience pay this. Please send the attached bill to the Republican National Committee and ask that they remit the following amounts:

Travel expense, Secretary's entourage	$6,200.00
Operating expense, Air Force 1	9,400.00
Ferrying expense, helicopters	14,600.00
Operating expense, local, copter	430.00
Press bus, San Antonio	100.00
Security, Air Force 1, copters	500.00
Overtime	460.00
Secret Service travel costs	6,000.00
Hospitality aboard Air Force 1	300.00
Travel expense, President's entourage	6,440.00
Local lodging, expenses, entourages	2,380.00
Communications, Bell Telephone	$4,100.00
Overtime, Signal Corps	500.00
Extra airplane, backup	7,300.00
Alka-Seltzer, President	.25

These expenses, Mr. Secretary, do not include overtime costs incurred by the FAA in guiding the 27 learjets used by the barbecue party guests to fly from all over Texas to the Picosa, which is, after all, hard to find. Also, the foregoing does not include $4.73 spent by members of the official entourage to buy Alka-Seltzer and other medications to combat effects of the barbecue and Moet et Chandon champagne. However, the President's Alka-Seltzer is included.

Again, Mr. Secretary, I respectfully suggest that these bills not be paid by the taxpayer, but by the Republican Party, since the entire affair was for its sole benefit.

Sincerely,

B. CRATCHITT.

The Secretary promptly replied to Cratchitt, as follows:

DEPARTMENT OF THE TREASURY,
Washington, D.C.

Top Secret

To: B. Cratchitt.

I have your memorandum suggesting that the President should pay his political bills or submit same to the Republican party, same as any politico.

This is to advise that you have been replaced by a computer, in the interests of economy and efficiency. The computer will write checks without asking embarrasing questions.

J. B. CONNALLY.

Friends, today poor Bob Cratchitt is out of a job, replaced by a computer, like so many others. He is fighting inflation, shoulder to shoulder with the millions of other unemployed people in our Nation today. The Republican Party, and the President's war chest, has been enriched by perhaps $2 million contributed, by los pesados of Texas, the Picosa Pesados.

I suggest in all seriousness that the President is also a politician, and must recognize when he is acting officially and when he is acting politically. This is a distinction that every politician is expected to make, and if a President is anything, he is a politician as well as a President. Those of us who use taxpayers' money to make purely political trips can expect to be questioned, and even prosecuted or jailed—and that is as it should be. The President is also subject to this essential division, this essential demarcation between what is work in behalf of the people, and what is work in behalf of his own political interests.

President Johnson did not find it difficult to make this distinction between official expenses and political expenses. Whenever he traveled on unofficial business, whenever he used Government facilities for political purposes, he carefully submitted the bills to the Democratic National Committee. I am not suggesting that the President give up his private air force and fly commercially when he is about political business—that is clearly impossible, because of the nature of his office and duties. But it is not too much to expect that when he does make political safaris, he ask the

Republican Party to pick up the tab, just as his predecessors did.

There is no reason why the taxpayers should be asked to pay the bills for the Picosa expedition, which was purely, simply, and solely undertaken for political purposes. I respectfully suggest that the President submit these bills to the Republican National Committee.

ORGANIC FOOD INSPECTION AND CERTIFICATION LEGISLATION NEEDED

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, I am concerned that the American consumer is not adequately protected against the tremendous amount of misrepresentation in the marketing of organically grown foods. At present, the consumer has no way of knowing whether the fruits and vegetables purchased at an "organic" food store were in fact grown organically, that is, without the use of synthetic pesticides, fertilizers, or additives, or whether they were regular farm produce bought earlier in the day at the local supermarket and resold at fancy premium prices. As a result, the consumer often pays premium prices for what is many times only conventional food.

The bill I am introducing today would protect both the American consumer and the bona fide organic farmer from fraud and deception in the marketplace by providing for the inspection and certification of farms producing organically grown food. Only those farms and establishments which have been inspected and certified would be allowed to label, advertise, and distribute their produce as "organically grown" or "organically processed," and the use of the word "organic" would be denied all other producers and distributors.

There is no easy way to tell if food has been grown organically unless the farm itself has been inspected, with the soil, plants, and water sources tested for chemical residues. Testing samples of food in the market cannot reveal the whole story about how that food was grown, and whether artificial fertilizers were used by the farmer. Even pesticides are sometimes hard to detect without testing prior to harvest. Millions of consumers have already been defrauded by paying for food which they believed to have been organically grown and which was not. And these fraudulent sales take place every day.

There is a need for a Federal inspection and certification program that would assure consumers that they are getting organically grown food when they buy it. And the best part of my Federal inspection and certification legislation is that it is self-financing. The fees will be charged to the producer and ultimately paid by the consumer. But producers and consumers are more than willing to pay these fees because at present the latter are already paying premium prices for foods sold to them as organically grown which were in fact not so grown, and the former are now subjected to unfair competition from unscrupulous vendors.

There are some people who take the position that organically grown food is in no significant nutritional way better than conventional food. That controversy is irrelevant to this issue. Organically grown food is a legal commodity, in strong demand, and should be available to those who want it.

There is now a significant and growing sector of the American public showing interest in organically grown foods. Organic food can no longer be considered a fad; indeed, it has quite a history in this country. Organic Gardening and Farming, for example, the magazine which first brought this matter to my attention, has been published since 1942 and now has a circulation of more than 800,000 subscribers.

The sales of food represented as organically grown may reach several hundred million dollars this year, and this legislation is needed to protect the legitimate interests of both producers and consumers, and I urge you to support it.

The following is a copy of this bill:

H.R. 14941

A bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the advertising and distribution of organically grown and processed foods

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new section:

"ORGANICALLY GROWN OR PROCESSED FOODS

"SEC. 410. (a) For the purposes of this section:

"(1) The term 'organically grown food' means food which has not been subjected to pesticides or artificial fertilizers and which has been grown in soil whose humus content is increased by the addition of organic matter.

"(2) The term 'organically processed food' means organically grown food which in its processing has not been treated with preservatives, hormones, antibiotics, or synthetic additives of any kind.

"(3) The term 'organically growing or processing food' means growing or processing food for distribution in commerce as an organically grown or processed food.

"(4) The term 'commerce' means trade, traffic, commerce, or transportation—

"(A) between a place in a State and any place outside thereof, or

"(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

"(5) The term 'distribute in commerce' means sell in, offer for sale in, or introduce or deliver for introduction into, commerce.

"(b) The Secretary shall consult with Federal and State departments and agencies having related responsibilities or interests and with appropriate professional organizations and interested persons, including representatives of farms, industries, labor organizations, and consumer groups which would be affected by such standards and shall by regulation prescribe the conditions under which a food must be grown or processed before it may be advertised or distributed in commerce as an organically grown or processed food. Such conditions shall include (1) a standard for minimal humus and mineral content of the soil and (2) standards for maximum permissible residues from pesticides in the soil, the produce, and the water sources. The Secretary shall also by regulation prescribe the requirements according to which such organically grown or organically processed foods shall be labelled.

"(c) No person may advertise or distribute in commerce a food or food supplement as 'organic,' 'organically grown,' or 'organically processed' unless such food is (1) grown, processed, or both grown and processed, as the case may be, by a person registered under this section and in accordance with the conditions prescribed by the Secretary, and (2) labelled in accordance with regulations prescribed by the Secretary.

"(d) (1) (A) On or before December 31 of each year, every person who owns or operates any farm or establishment in any State engaged in organically growing or processing food on or in any farm or establishment which he owns or operates in any State shall immediately register with the Secretary his name, place of business, and all such farms or establishments.

(B) Every person upon first engaging in organically growing or processing food on or in any farm or establishment which he owns or operates in any State shall immediately register with the Secretary his name, place of business, and such farm or establishment.

(C) Every person duly registered in accordance with the foregoing subsections of this section shall immediately register with the Secretary his name, place of business, and such farm or establishment.

(D) The Secretary may establish such fee for registration as he determines necessary to cover the cost of carrying out this section.

(2) The Secretary shall make available for inspection, to any person so requesting, any registration filed under this subsection.

"(e) The Secretary shall inspect each farm and establishment in any State registered with the Secretary under this subsection, no less than twice per year for each crop grown during the year by one or more officers or employees duly designated by the Secretary in the one-year period beginning with the date of registration of such farm or establishment under this subsection and continuing with every successive one-year period thereafter. The purpose of this inspection shall be to determine whether the farm or establishment meets the conditions for the growth and processing prescribed by the Secretary.

"(f) Section 301 of such Act (21 U.S.C. 331) is amended by adding after paragraph (p) the following:

"(q) The advertisement or distribution in commerce of a food as an organically grown or processed food in violation of section 410 (b), and the failure to register as required by section 410(c)."

SEC. 2. (a) Section 410 of the Federal Food, Drug, and Cosmetic Act, added by the first section of this Act, shall take effect on the first day of the seventh calendar month which begins after the month in which this Act is enacted, except that the Secretary of Health, Education, and Welfare may on or after the date of the enactment of this Act promulgate such regulations as may be necessary for the administration of such section 410.

(b) Any person who, on the day immediately preceding the date of enactment of this Act, owned or operated any farm or establishment in any State engaged in organically growing or processing food (as defined by section 410 of the Federal Food, Drug, and Cosmetic Act) shall, if, prior to the first day of the seventh calendar month which begins after the month in which this Act is enacted, he registers with the Secretary his name, principal place of business, and location of each such establishment, be deemd to have complied with section 410 of the Federal Food, Drug, and Cosmetic Act for the calendar year 1972. Such registration if made within such period and effected in 1973, shall be deemed to be in compliance with such section for that calendar year.

EFFORTS OF FEDERAL POWER COMMISSION TO IMPROVE NATURAL GAS SUPPLY IS BEING HINDERED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Bow) is recognized for 30 minutes.

Mr. BOW. Mr. Speaker, the Federal Power Commission is making a major effort to improve the natural gas supply in this country and overcome the effects of the shortages created by its own shortsighted pricing policies of the past 10 years. Members of Congress should applaud and encourage the FPC in this long overdue action.

It is alarming, therefore, to find press reports that several Members of Congress are intervening in the FPC proceedings, as "interested persons," in an effort to impede the FPC action and thus perpetuate the energy crisis that threatens to interrupt industrial production in many States next winter.

According to the Washington Post, these efforts are supported and encouraged by Lee C. White, former FPC Chairman, who is responsible more than any other single person for the natural gas shortage that we are experiencing. It does not surprise me that Mr. White is unwilling to admit the error of his policies at FPC.

To sum up the entire situation, the FPC for a decade held natural gas prices to a level so low that development of new gas reserves was inhibited. These unnaturally low prices made natural gas particularly attractive in competition with other fuels, thus creating a dramatic increase in demand. While FPC policies held supply to a minimum, it increased demand to a maximum.

Now gas-heated homes in many parts of the country may be cold next winter unless gas-fueled industries are shut down during periods of excessive cold weather. Already thousands of employees of natural gas companies have been laid off. Industrial expansion in States importing gas has been curtailed. Companies that wish to switch to gas for environmental reasons are unable to do so. An additional and unnecessary strain is being placed upon already short supplies of other energy.

Mr. White and the FPC did all of this in the interest of protecting the consumer from higher prices. Mr. White and the Members of Congress oppose the new FPC proposal—which would permit higher field prices for natural gas in order to encourage the development of new gas supplies—on the grounds that they must continue to protect the consumer.

I question whether protecting the consumer from a reasonable and necessary price increase outweighs the responsibility of providing the consumer with fuel for heat and light and industry.

I urge that any Member of Congress who considers lending his support to this effort take time to review carefully recent testimony before various committees of both House and Senate on the national fuels and energy crisis.

This testimony supports the fact that the natural gas shortage is real and serious. The consequent adverse impact of this crisis on our Nation's environmental and economic goals is enormous.

Some of the statements contained in press coverage of the White protest are easily refuted. For instance, it is said that:

> There are vast reserves not yet committed to the interstate market.

There are sizable quantities of natural gas being used within the producing States where the FPC cannot extend its price control. To the extent that these supplies are being used intrastate, they are "not yet committed to the interstate market," nor will they be. Ohio and other nonproducing States will see industry moving to Texas, Louisiana, and Mississippi to take advantage of the availability of this supply. This trend is already well underway.

The fact is that there are virtually no uncommitted gas reserves. There is a tremendous resource base of potential supplies which need to be developed, but they are not now reserves available for sale. They will be developed if higher field prices, suggested by FPC, encourage development. They will not be developed and the gas shortage will worsen if the heavy hand of Government control continues to hold the price to unnaturally low levels in the alleged interest of the consumer. The evidence of the validity of the shortage is overwhelming.

Mr. White and the congressional critics are quoted further as saying that:

> The FPC action will inevitably result in higher prices without any assurance of new supplies being discovered.

Any reasonable person must believe that higher prices will assure development of new supplies. Recent history is dramatic proof that lower prices have stopped development. Beyond that, it is also true that the higher prices permitted for new development will give consumers natural gas at a price still much lower than those resulting from alternative sources including imports, distant and synthetic supplies.

The press account quotes "a sudden and total deregulation could only raise havoc . . ." This is typical overstatement for dramatic effect. We are not considering deregulation. We are considering a regulative response to reality. The FPC in previous years repeatedly cut the field price directly in the face of alarming supply-demand trends. The present FPC is faced with the difficult task of raising prices to meet consumer needs and other national goals.

I suppose there will always be those who believe that the Government can regulate in defiance of the laws of the marketplace. The natural gas shortage is a classic example of the failure of such regulative attempts. I sincerely hope the present FPC will continue with its realistic policy to overcome the shortage and repair the damage done by the unwise policies of the past 10 years.

NURSING HOMES AND THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, the older American has always been one of my special concerns and I have been making every effort to study firsthand the problems which must be faced in today's society by these senior citizens.

I have had the opportunity to visit a number of nursing homes in my district and I have never failed to be inspired by the talks which I have had with the patients there. Even though many of them are bedridden or in wheelchairs, these elderly citizens face life each day with unparalleled courage. These are the men and women who worked and sacrificed to build America. They deserve to be thanked, not forgotten.

Almost 1 million of our 20 million senior citizens reside in nursing homes. The elderly who live in these facilities have the right to be assured of quality care in safe and compassionate surroundings.

The overwhelming majority of nursing homeowners are providing an indispensable and humane service for the elderly. Day after day and year after year they demonstrate the capacity of our society to care for even the most dependent of its elderly citizens in a decent and compassionate manner. I would like to pay tribute to these nursing homeowners of America and their staffs who are dedicating their lives to assisting the elderly.

It has been one of my goals in Congress to work for a program which will insure that every nursing home in America will provide care of a universally high standard. Therefore, along with other measures, I am supporting the following plan for action:

First. Nursing homes presently receive over $1 billion or 40 percent of their total income from the Federal Government. I believe that taxpayers' funds should not be used to subsidize substandard nursing homes. Enforcement efforts must be improved, and I urge that the Federal program for training State nursing-home inspectors be expanded so that an additional 2,000 inspectors will be trained during the next year. The major responsibility for surveillance and regulation in the field is now carried out by State governments, and this action will enable them to increase their effectiveness most significantly.

Second. Congress should authorize the Federal Government to assume 100 percent of the necessary costs of State inspection teams under the medicaid program. Again, State enforcement efforts should be significantly enhanced by this procedure.

Third. I am supporting the enlargement of the Federal enforcement program by the creation of 150 additional positions. This will enable the Federal Government more effectively to meet its own responsibilities under the law and to support State enforcement efforts.

Fourth. I am supporting a new program by the Department of Health, Education, and Welfare to institute short-term courses for physicians, nurses, dieticians, social workers, and others who are regularly involved in furnishing services to nursing-home patients. In too many cases, those who provide nursing-home care—though they be generally well-prepared for their profession—have not been adequately trained to meet the special needs of the elderly. This new program will help correct this deficiency.

Fifth. I am supporting the establishment of State investigative units which will respond in a responsible and constructive way to complaints made by or on behalf of individual patients. The individual who resides in an institution and is dependent upon it is often powerless to make his voice heard. This new program will help him deal with concerns such as accounting for his funds and other personal property, protecting himself against involuntary transfers from one nursing home to another or to a mental hospital, and gaining a fair hearing for reports of physical and psychological abuse.

Sixth. I also support a comprehensive review by the Secretary of Health, Education, and Welfare of the use of long-term care facilities as well as the standards and practices of nursing homes and the recommendation of any further remedial measures. Such a review has been badly needed. Study after study tells us—compellingly—that many things are wrong with certain nursing home facilities, but there is not yet a clear enough understanding of all the actions that must be taken to correct this picture.

These steps I have outlined are only a beginning and a small part of the effort which must be made to assist nursing home owners and improve the quality of life for the elderly. When called upon, the American people have never failed to put forth their best efforts for a just cause. I am confident that working together, the individual American, labor, business and government at all levels, can make a better tomorrow for our senior citizens to whom we all owe so very much.

Mr. Speaker, the AFL–CIO magazine, American Federationist, has printed an excellent article, "The Cry for Adequate Nursing Homes," which outlines a comprehensive program to upgrade nursing homes. I commend this article to the attention of my colleagues. I also include for the RECORD facts concerning nursing homes and an article by Sylvia Porter, "Nursing Home Substitutes":

[From the AFL–CIO American Federationist, March 1971]

THE CRY FOR ADEQUATE NURSING HOMES

(By Vaughn Ball)

(NOTE.—Vaughn Ball is an intern in the AFL–CIO Department of Social Security.)

An increasing number of older Americans are living out their years in one of the nation's 24,000 nursing homes.

For some, the nursing home represents a brief transitional period between hospitalization and full recovery. But for many, it is the final home, reflecting the changing nature of American society and family life.

When a family is unable to take care of an elderly parent, when a once-active person is bedridden or incapacitated, when special care or special diets are needed, the nursing home is often called on to fill the need.

For the fortunate few, there are luxurious establishments—with prices to match the decor. But even a handsome building and charges that strain the budget are no assurance against neglect or even inhumane, demeaning standards of care.

The quality of nursing home care is of real concern to all Americans, not just those directly affected.

Certainly, it is the concern of the trade union movement. For labor has battled over the years to establish the principle that workers have a right to share in the fruits of their labor at every stage of their lives.

At its February 1971 meeting, the AFL–CIO Executive Council noted that unions "have fought with some success for the right of children to grow and learn in health, for the right of workers to provide decently for their families and for the right of aging Americans, when their years of labor are over, to live out their lives in dignity and comfort."

But do the great majority of America's nursing homes provide that essential "dignity and comfort?"

The nursing home industry is big business. Last year, Americans paid out nearly $3 billion to nursing home operators. Charges of $500 a month or more are common.

All credit to those homes that provide the services they promise—decent accommodations and attentive care.

But the shortcomings in this expanding industry have been revealed periodically—and these revelations have included some shocking scandals.

There have been reports of helpless patients left to rot in untended beds; about patients kept in a drugged stupor so that they will be easier to manage; about doctors making huge profits—often from government-financed programs—by walking through a nursing home, glancing at medical charts and charging big fees for the care of each patient.

In the worst establishments, careless food handling and violations of fire codes present hazards to life.

State and local inspection programs are often hopelessly understaffed and underfinanced. When violations are reported, enforcement too often is lax.

The federal government has made scarcely any effort to establish and maintain humane standards or to police the expenditures of millions of dollars in federal funds paid to private nursing homes on behalf of patients covered by Medicaid, which provides medical care for the poor. Shamefully, the U.S. Department of Health, Education and Welfare has only a single employe, working part time, to enforce Medicaid regulations concerning nursing homes.

Although the Medicare program for the elderly is more carefully regulated by the federal government, it too has its shortcomings.

Medicare payments are given only for short-term, post-hospital treatment requiring skilled nursing care and standards are considerably higher.

Nevertheless, only about one-third of all homes approved for Medicare fully meet federal standards. The Social Security Administration still allows institutions that are in "substantial" compliance to continue to receive federal funds. The staff of the Senate Finance Committee has recommended that only homes fully meeting standards be allowed to participate.

Seldom does any authority—state, local, or federal—check on reports of nursing home patients being used as guinea pigs by doctors and drug companies testing new drugs.

Wages paid in nursing homes in many parts of the nation are often too low to attract competent employees and new workers seldom receive adequate training for their important tasks. The labor turnover is the highest of any industry.

Increasingly, nursing homes are run as a big business with a chain of institutions controlled by a single individual or corporation.

The demand on the manager of each institution is to return a profit to the owners. Too often, this is accomplished by cutting down on services and quality of food.

These abuses are not, of course, universal. But they are common enough to demand federally-enforced remedial action.

Any program that spends nearly $2 billion of public funds must be controlled and decent standards must be enforced to insure that patients will receive adequate care.

The AFL–CIO has called on the Administration and Congress to take the following eight steps as the minimum required:

Encourage nonprofit institutions providing nursing home care by including them in all programs, gradually phasing out public financing of institutions motivated by profit.

Develop alternatives, such as home health aides and homemaker programs, to enable patients to remain at home unless compelled for medical reasons to enter a nursing home.

Require nursing homes to provide planned programs of rehabilitation, in cooperation with qualified hospitals, for all patients who can benefit from them.

Provide adequate inspection programs to assure vigorous law enforcement. Inspections should be frequent and unannounced and nursing homes that fail to remedy defects promptly should be closed.

Instruct HEW to promulgate minimum standards for operating a nursing home, uniform for both Medicare and Medicaid.

Require licensing under federal standards of all nursing home administrators, vesting responsibility for licensure in a board controlled by persons with no financial interest in any nursing home. Licensure should aim at raising standards for qualification to a level that will insure that only trained and qualified persons will operate nursing homes.

Close immediately every nursing home that fails to meet adequate fire and safety standards. Require preparation of emergency escape procedures and instruction of both staff and residents in carrying out such procedures.

Upgrade the quality of service in nursing homes by providing decent wage levels and good working conditions, as well as adequate training programs for nursing home personnel. Government programs in this area should incorporate and strengthen the training and upgrading efforts already put in effect by unions of workers in the health-care field.

The ills that these eight steps are designed to cure outline what is wrong with the nursing homes of America. The root of the problem lies partially in the nature of a changing nation. At once more populous and more mobile, the nation finds its old ways no longer sufficient.

Care for the elderly was formerly a family function, most often on the famliy farm, which sustained everyone form grandparents through infants. But the rapid urbanization of recent decades has drastically altered that picture. Demands for living space and job opportunity scattered the members far from the family unit.

Today's population aged 65 and over was born in the early 20th century, in years when America's population soared at a phenomenal rate—from 60 million in the 1890s to 91 million by 1910. In those days, only 4.5 percent of all Americans were aged 65 or over while today almost 10 percent are over 65. And with a 1970 population of over 200 million, there are not only more elderly, but more Americans of every age, with consequent social needs which must be met.

The needs of the elderly, like so many

other functions of society, have passed by necessity from the hands of the family to the hands of society as a whole. Social Security, Medicare and many other social programs have evolved from that necessity.

Nursing home care is one need that has not been adequately met. Of the 20 million Americans aged 65 and over today, some 1 million, or a full 5 percent, are in nursing homes. And in the few years since 1965, the number of people in nursing homes has doubled.

This growing segment of the population is cared for in several types of institutions which are popularly referred to as nursing homes. The institution designated by Medicare to provide post-hospital care for patients is called an extended care facility. Contrary to this name, it doesn't extend care for a long period of time. Its main purpose is to provide a less expensive bed during the recuperating period in which the intensive services of a hospital are no longer needed. A limit of 100 days is placed on the payment for this facility by Medicare.

Another facility called a nursing home by the general public is the skilled nursing home as identified in the Medicaid law. But since it is a joint federal-state effort, it is actually 50 different programs. This facility should very closely resemble the extended care facility under Medicare, but the standards have been somewhat lower in most states.

Other facilities often called nursing homes are those custodial homes that provide a certain amount of personal care service to individuals unable to care for themselves to one degree or another.

All of these facilities can be of use to the patients and to the community under the general title of nursing home.

These institutions—and their shortcomings—have come under periodic scrutiny from the news media, from congressional committees and from concerned public officials. The problems, in short, have been cited, but the kind of comprehensive action needed for a remedy has not been undertaken.

Several of the groups which have conducted investigations, including the Senate Special Committee on Aging, the National Council of Senior Citizens, Rep. David Pryor (D-Ark.) and others, have exposed some of the terrible abuses. Besides the careless food handling, fire hazards and "gang visits" by doctors, there have been revelations of unscrupulous officials collecting federal money by continuing to carry the names of patients who have died and "double" collecting under both the Medicare and Medicaid programs. Individuals have had their public assistance money confiscated or have signed "life-time" contracts in exchange for their estates.

While providing the needed criteria for change, these revelations have also served to increase the fear of nursing homes and thus add to the trauma of an elderly person facing the necessity of going to one. This trauma is often shared by a family, most likely a middle-aged couple with the growing responsibilities of teen-aged or college-aged children.

Although the decision to send an elderly parent to a nursing home may be absolutely unavoidable, still the family is guilt-ridden by forcing the issue—and simultaneously stunned by the $300 to $700 monthly costs that are now prevalent.

Only a wholesale correction of the impact of "living in a nursing home" can ease this experience. At the root of the needed correction is the question of who is responsible for the state of the nation's nursing homes.

Responsibility would seem to lie with the owner of the nursing home. But the owner is a corporation, formed to take advantage of available federal money for construction and patient care. Or the owner is simply an investor, attracted because nursing home securities have been referred to as "the hottest stock on Wall Street." With 90 percent of the nation's nursing homes run for profit, it is a good bet that the owner will not be physically present at any one home.

The owners' Organization—The American Nursing Home Association—represents them well, with three main themes running through all of its arguments before public bodies: 1) increase the amount of money to be paid to the nursing homes for patient care; 2) maintain standards at least at the present level, since it is insisted that a shortage of available personnel prevents the meeting of higher standards.

Some responsibility would seem to lie with the physician. But in most cases no one doctor serves as a "medical director" totally responsible for the quality of medical care at the home. One doctor may be designated "principal physician," but the term may be meaningless. In the investigation into the salmonella epidemic at the Gould Convalesarium in Baltimore in the summer of 1970, the doctor who bore the title "principal physician" explained that it meant simply that he treated the 39 patients who had no personal physician, it did not mean that he was responsible for the total medical care of the home.

Some responsibility would seem to lie with the administrator, and indeed in the homes that are well-run an efficient, capable administrator is invariably present. But more often, the administrator is guided by the demands to cut costs in order to return a higher profit. And he is faced with the inefficiency or outright neglect of an undertrained, underpaid staff. Nursing home aides are among the lowest paid of any American workers. And like his staff, the administrator is apt to be ill-prepared for his job. One developer of a chain of nursing homes claims his best administrator is a former bakery foreman. And an investigative reporter for the Chicago Tribune found himself named administrator within 72 hours after he applied for work as a handyman.

The vacuum created by this abdication of responsibility must be filled by the general public through its various forms of government. The present situation in many nursing homes testifies to the fact that the responsibility has not been adequately assumed by government. The Medicaid program especially illustrates how state and local governments carry out only the minimal regulations that HEW has set for their participation in the program.

The first step to improvement is to phase out the profit motive. Inhumane conditions cannot help but result from the inhumane policy of allowing one man to make a profit from another man's infirmity.

Yet today, not only are 90 percent of the nation's nursing homes run for profit, but over 50 percent of them are owned by corporations or by individuals who own a number of homes.

The federal government helps to maintain this 90 percent figure by heavily favoring the financing of institutions operated for profit. The Small Business Administration lends money only to such institutions. Similarly, more than 95 percent of the funds under one section of the FHA program go to the operation of profitmaking institutions.

A nursing home operator can build or improve a facility with an FHA-guarateed loan, then go back into the public treasury to pay it off by taking patients under the Medicare and Medicaid programs. Once this loan is repaid, he is under no obligation to take public patients.

The net result of such programs is that tax dollars are widely used to support profit-making enterprises.

When stockholders or a balance sheet must be answered to, there is no alternative but to cut costs—and cut services, at the expense of the dietary, medical or other needs of the patient. The well-being of the patient, not the bank balance of the owner, should be the guiding motive behind the home.

Alternatives to the nursing home are a direct way to relieve the strain of overcrowding. Many of current patients do not have to be—and should not be—confined to a nursing home, because they are not medically in need. They could take care of themselves, if supportive services such as homemaker's aids and home health aids were available.

Rehabilitation is a necessity if the nursing home is ever to be more than a place to spend one's last days. Proper rehabilitative care can be provided only when the home is affiliated with a qualified hospital.

It takes a skilled person to handle rehabilitation, but the mere effort can provide a form of self-fulfilling achievement—that someone cares enough to work with you and help you improve can be a powerful force in instilling the desire to improve.

Inspection of nursing homes has a long way to go to become adequate. When the home is alerted to the inspector's impending visit, the very definition of inspection is so undermined as to be laughable.

Any hint of conflict of interest must be removed from the inspection process. And inspection should be broadened to mean not just the physical facilities but also the auditing of financial records and the like.

State and local agencies are supposed to be responsible for inspecting nursing homes. In most cases, their inspection programs are understaffed and underfunded. Inspectors who do find defects are often powerless and violators are hardly ever prosecuted.

Inspection should mean not only surveillance on a regular schedule, but also an atmosphere of openness, including availability to press, public and families, with reasonable limits.

The minimum standards for nursing homes under the Medicare program, while not fully enforced at present, provide a model. These requirements include:

Transfer arrangements among institutions;

A nursing home utilization review committee;

Restorative services if so ordered by a physician;

Laboratory diagnostic services;

A physician or group of physicians to advise on medical care patient policy; and

Dental and social services.

A nursing home will be allowed to operate in 36 of the 50 states, however, without meeting standards such as those outlined for Medicare.

Where licensing boards are set up to license nursing home administrators, the majority are controlled by the nursing home industry. If the Nursing Home Association controls the licensing board of the state, it will generally insist on low standards for licensure of administrators. Similarly, in many states these associations can exert pressure on health departments and other agencies responsible for standards.

Licensure boards set up in the states to license nursing home administrators must be constructed so that a majority of the board will not be representatives of or have a financial interest in the nursing home industry. The HEW regulations in this area need to be changed to allow for consumer participation.

The question of safety rarely comes up except in the aftermath of a tragic fire or other catastrophe. The example of the fire at Marietta, Ohio, early last year brought a delayed reaction on the part of the Social Security Administration, which finally published regulations on Sept. 2, 1970, which include the Life Safety Code—the best measure developed to date as a guideline to patient safety.

Fire is always an increased danger when patients are bedfast. Many nursing homes do not have organized fire prevention systems or methods of dealing with a fire so that all involved know exactly how to react in case of a fire. In the absence of better methods, a sprinkler system is the bare minimum needed to protect bedfast patients.

The people who work in these institutions are often paid the lowest wages and are usually given no training for their important tasks. It follows logically that the turnover of the labor force in nursing homes would be the highest of any kind of employment.

The importance of the nurse's aides cannot be overemphasized. Since they are the ones in everyday contact with the patient, their skill in relating to the patients is extremely important.

Because the pay is low and the work is physically strenuous, the job carries a very low status. As a result, many people who work as aides have personality problems of their own and shouldn't be working with frail old people. The aides take out their frustration with aggressive action, both physical and verbal, toward patients.

The aging Americans whose labor has helped make this nation great have a right to decent treatment and a right to protection from exploitation in the years of their retirement.

The workers who care for them have a right to decent wages and working conditions.

And every American taxpayer has a right to receive full value on his tax money.

SOME FACTS ON NURSING HOMES

Number of Institutions for the Aged, 23,000.

Type of Ownership: Proprietary for profit, 77%; Private Non-profit, 15%; and Governmental (State and Local), 8%.

Number of Discharges, 661,089.

Number of Employees (total), 505,031.

Number of Employees (per 100 residents), 68.

Average monthly charge per resident: In nursing homes, $295; In personal care homes, $210.

Number of persons 65 and over: 20 million.

Percent of population, 9.

(In New Hampshire 11.2% of population is over 65).

Number of persons 65 and over in nursing homes, 900,000.

Federal support of nursing home patient care, 1970: Over 1 billion dollars.

State and local governments spend, $700 million.

Private sources spend over, $900 million.

Nursing home "industry" is close to $2.6 billion.

TYPES OF NURSING HOMES PRESENTLY RECEIVING FEDERAL FUNDS

EXTENDED CARE FACILITIES (RECEIVED MEDICARE PAYMENTS)

Types of facilities involved

Extended Care Facilities.
Extended Care wings of hospitals.
Skilled Nursing Homes.

Minimum facility standards for Federal financial participation

Facility must have State license; meet Federal standards for staffing, safety, and quality of patient care.

Review of patient's needs

Visit by physician at least once every 30 days.

Eligibility in Federal or Federal-State programs

Those eligible for Medicare under Title XVIII of the Social Security Act.

SKILLED NURSING HOMES, TITLE XIX (RECEIVE MEDICAID PAYMENTS)

Types of facilities involved

Skilled Nursing Homes.
Infirmary Sections of homes for the aged.
Skilled nursing home wings of hospitals.

Minimum facility standards for Federal financial participation

Facility must meet State licensing requirements; meet Federal standards.

Review of patient's needs

Monthly visit by physician.

Independent medical review and evaluation of care and services received in relation to patient's needs at least annually.

Eligibility in Federal or Federal-State programs

Those eligible for medical assistance under Title XIX of the Social Security Act.

INTERMEDIATE CARE FACILITY, STATE OPTION (RECEIVE WELFARE PAYMENTS)

Types of facilities involved

As defined by the State Plan: Homes for the aged; Rest homes; Personal Care homes; and Other homes for those not requiring skilled nursing care.

Minimum facility standards for Federal financial participation

State licensing, sanitation, and safety standards applicable to State nursing home licensure and any other standards set by State.

Review of patient's needs

Independent review and evaluation by physician and case worker of care and services received in relation to patient's needs at least annually.

Eligibility in Federal or Federal-State programs

In the 32 States including intermediate care in their assistance plans, those eligible for financial assistance under federally supported programs for old age assistance, aid to the blind, aid to the disabled.

YOUR MONEY'S WORTH: NURSING HOME SUBSTITUTES

(By Sylvia Porter)

Today, if you have to keep a patient in a nursing home, the cost will range from $200 to $1,000 a month—hardly what most people can afford.

On top of that, the horrors of many nursing homes have been widely publicized: patients tied to beds or chairs whether they need to be or not and "drugged into bed" with tranquilizers for the convenience of the staff; the pervasive stench; utter lack of privacy, dignity, fresh air, recreation; complete abandonment of the idea of rehabilitation. Many nursing homes are by no means waystations to better health. They are the end of the line.

The biggest horror of all, though, and the ultimate irony, may be the fact that so many occupants—possibly a majority—don't belong there at all.

A new 1971 study of nursing home inhabitants in Massachusetts reveals that, of every 100 nursing home residents, only 37 actually need full-time skilled nursing care; 26 need just minimal supervised "living"; 23 could get by comfortably with periodic home visits by nurses; 14 do not need institutionalization at all.

A similar study in Buffalo concluded that, of every four patients now in nursing homes, one does not need to be there.

A new report by the Senate Special Committee on Aging, written by specialists at Brandeis University's Levinson Gerontological Policy Institute reports:

"Large numbers of the disabled are forced into nursing homes or into mental hospitals at a very high charge to the public treasury simply because public programs could not give attention to alternative ways of meeting their needs outside of institutions."

Accuses the report: "While we pay generously for active treatment, we pay nothing to reinforce the natural life system arrangements to which the disabled can turn in their own communities. The entire burden is placed upon family and neighbors . . . until they are virtually bankrupted in money and energy; then the unfortunate individual is removed to a nursing home."

More money is not the answer. In the opinion of many, less money for fewer nursing homes will be closer to the solution.

"It is possible to resettle 70 percent of all ordinary admissions in their own homes or hostels," according to Dr. Lionel Z. Cosin, clinical director of England's United Oxford Hospital Geriatric Unit and a top authority in this field. Cosin insists that permanently bedridden patients and frail or confused long-term patients should represent a very small percentage of admissions to geriatric facilities.

In England, where a number of progressive elderly care systems are now being pioneered, the cost of "day hospital" care is only 6 percent of the cost of acute-care hospitals and only 1–10 of the cost of a nursing home.

Here are some imaginative alternatives offered one British hospital for elderly citizens and the for the relatives caring for them at home:

1. The "holiday" admission—for a week or two during which the family is free to take a planned vacation—from home and from the dependent relative.

2. The short-term admission, also for two weeks or so—again to give families an occasional spell of badly needed relief from the stresses of caring for their aged charges.

3. The "floating bed system"—scheduled admission every fortnight for three or four days.

4. The Day Hospital—a unit offering medical and nursing care, physical and occupational therapy, plus luncheon.

Surely, we in the United States can experiment with similar solutions and come up on our own with alternatives to today's obviously rotten system. And surely what is needed in the United States, too, are major financial and other incentives to help the elderly and disabled remain in their own homes and communities.

AMERICA OWES MUCH TO ITS SMALL BUSINESSMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 10 minutes.

Mr. HAMILTON. Mr. Speaker, America owes much to its small businessmen. The debt is too often forgotten, however, in our preoccupation with giant corporations, big unions, conglomerates, multinational corporations, agribusiness and phase II.

In our fascination with bigness, we lose sight of the importance of the small businessman, who is the economic and commercial backbone of our communities. Anyone who has walked around a courthouse square in the Ninth Congressional District in southeastern Indiana is soon made aware of the role the small businessman plays in his community.

The people of the Ninth District communities depend upon the small businessman for most of their daily needs. He contributes to the wide diversity of the economy in our communities. He is independent, community-minded, resourceful, and self-reliant. These are the qualities which go to the heart of what that Nation is all about. The small businessman has contributed to the quality of life in America and his demise would have an uncertain and worrisome impact because many of the most responsible leaders in American life come from the ranks of small businessmen.

That is why I am concerned that so much the Government does places a special hardship on the small businessman. He is less apt to be able to absorb higher taxes, inflation, increased wage rates, more paperwork, and tighter regulations. Environmental and consumer legislation often causes him severe problems. All of these Government actions fall with special impact upon the small businessman, and I am persuaded he needs help and relief and special attention.

THE CONTRIBUTION OF SMALL BUSINESS

In our concern with big business, we have forgotten the contributions of our small entrepreneurs. Such technological marvels as the rocket engine, the Polaroid camera, the helicopter, the jet engine, Xerox, insulin, the vacuum tube, and countless production devices and processes have been developed by independent inventors and small firms.

In economic terms alone, the small businessman's impact has been enormous:

The small business share of the gross national product—GNP—the total of all goods and services produced in this country, has drawn even with the share of its big business competitors, and should increase in the 1970's.

About 40 percent of all American job opportunities are provided by small business.

About 95 percent of our business population is comprised of small firms, which numbered 5.5 million in 1970.

Still, the small businessman, who operates on limited capital and limited inventories, is the most vulnerable to adverse economic conditions. He feels the fluctuations of the economy first, and he feels them severely in many cases.

HOW CAN GOVERNMENT HELP?

Government can help in a variety of ways, however. Government purchases of goods and services, which total about $50 billion each year, should be handled in a way to give special attention and careful consideration to small business.

Tax policy should take into account the special problems of small business. The multibillion-dollar impact of crime on small business is serious, and it calls for increased measures for the safety and security of these firms. The transfer of technology from the Government to business must be speeded up, and handled in a manner to assure that small business is not handicapped by a competitive disadvantage.

The impact of franchising on small business needs examination, since 600,000 franchises now account for $90 billion annually in sales. The increased investments required of small business by the spate of legislation on the environment and the consumer also deserves congressional scrutiny.

LEGISLATION

The Congress has recognized the plight of the small businessman with several pieces of legislation designed specifically to aid him. Two measures now have become law:

First. Public Law 92–16 increases by $900 million the amount of loans, guarantees, and other obligations which may be outstanding at any one time from the Small Business Administration. This action obviously is designed to encourage the development of more small businesses.

Second. The Revenue Act of 1971 is aimed at boosting the economy as a whole, a goal which, if successful, will benefit small businessmen. Two provisions of the law, however, are especially applicable to the small businessman:

One encourages expenditure on machinery by establishing a 7-percent investment credit, similar to the one repealed in 1969; and

The other expands the applicability of this credit to used property, thus aiding small businesses which have not had the financial ability to acquire new property under the benefits of the law.

Three other measures are working their way through the legislative process, and I am hopeful that all of them will become law by the time the current session of the Congress adjourns:

First. The major water pollution control bill of this Congress contains a provision authorizing $800 million in loans to assist small business concerns in making additions to, or alterations in, equipment and production processes to meet the more exacting pollution control standards the public is demanding.

Second. Another bill would increase substantially the lending authority of the Small Business Administration beyond the levels established under Public Law 92–16. It includes provisions to increase by $150 million the SBA lending authority for loans to businesses in areas of high unemployment or low income, and to increase the maximum SBS loan from $350,000 to $500,000.

Third. A third bill expands existing SBA programs which encourage participation in the financing of small business with private capital. It also establishes a new program of grants to reduce interest costs to small business.

While these bills will help the millions of small businesses across the Nation, more efforts are needed.

OTHER ACTION NEEDED

Small businesses have fared worse than their larger counterparts in recent years, and the economic climate must be made more conducive to the growth of these small firms.

The statistics tell a sober tale. Since 1969, the aftertax profits of small manufacturing firms have declined by more than two-thirds, while the large firms are continuing to increase their share of corporate earnings. Gross sales by small manufacturing firms have remained constant, or have decreased slightly, since 1970, while sales have increased substantially for those firms with assets of $1 billion or more.

Although the Nation's economy has been gaining in recent months, small businesses have not had all that much of a surge in income. Their situation remains tenuous, and helpful actions are urgently needed.

For this reason, I was pleased to note the decision by the Federal Cost of Living Council to remove all phase II controls from firms with fewer than 60 employees, a decision involving about 5 million firms and 19 million employees. This follows the Council's decision last January to exempt from phase II controls all retailers with annual sales of less than $100,000.

These decisions were based on the concept that market competition alone exerts adequate pay and price controls on small firms—a feeling shared and recognized all too well by small retailers and manufacturers.

TAX SIMPLIFICATION AND REFORM LEGISLATION

As one step in helping the small businessman, I am glad to join more than 100 of my colleagues in the House in introducing the small business tax simplification and reform bill.

One of the leading complaints of the small business community is high and rising taxes. This bill deals with this problem, and related issues, in a positive manner by:

First. Creating a permanent Federal Government committee to make a continuing effort to simplify our tax system, including business taxation.

Second. Restructures downward the tax rates for firms earning less than $1 million a year in order to bring the rates more into line with the principle of ability to pay, the principle now applied to individual income taxes.

Third. Encourages the establishment of new small business enterprises through such provisions as tax exemption of net operating income for new small business corporations for the first 5 years; deduction of organizational expenses of partnership; bad debt deductions for guarantors and lenders to small business; losses on small business stock.

Fourth. Promoting modernization, efficiency, and cost reductions for small business with provisions such as a 10-year carryover for small business net operating losses, accumulated earnings tax, and multiple surtax exemptions for certain small business corporations under single family control.

Fifth. Authorizes a comprehensive study of the factors causing business failures and includes recommendations for preventing future failures.

REVENUE SHARING: MATCHING THE MONEY AND THE NEEDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GIBBONS) is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, in line with my opposition to the revenue-sharing bill which has been reported by the Ways and Means Committee with seven dissenting votes, I would like to include in the RECORD an article of opposition to this bill which appeared on the editorial page of this morning's Washington Post. The article is written by the economist Robert D. Reischauer.

I hope that expressions of judgment on the revenue-sharing bill such as these will influence my colleagues to support the efforts to either defeat this bill in its present form or to bring it to the floor under an open rule so that it can be amended.

The article follows:

Revenue Sharing: Matching the Money and the Needs

(By Robert D. Reischauer)

In the three years since President Nixon first proposed general revenue sharing, discussion has centered on the need for such a program and on the merits of alternative methods of distributing the money. Now that Wilbur Mills and the Ways and Means Committee have bestowed their blessing upon a specific revenue sharing plan, the political resolution of these issues appears to be at hand. Therefore, this may be the time both to review the objectives of revenue sharing and to evaluate the Committee's "State and Local Fiscal Assistance Act of 1972" in the light of conditions currently existing in the nation.

Few programs in recent years have been advocated as a remedy for so many diverse and conflicting ills as revenue sharing. When first proposed in the mid 1960's, it was chiefly regarded as a method of disposing of something foreseen as the "fiscal dividend." This "dividend" or surplus was the projected difference between the rapid growth of revenues generated by the federal income tax and the slower, built-in expenditure increases needed to maintain existing federal programs. Revenue sharing was seen as the means by which states and localities could be assured a "piece of the action"—a way in which they might hold their own against such popular and familiar consumers of a federal surplus as new military hardware, tax cuts and the bottomless pork barrel. It also was thought commendable because it would support the generally redistributive programs of states and localities with dollars raised from a progressive national tax.

Since the basic objective was considered that of ensuring that at least some of the projected federal surplus was used to fatten the fiscal budgets of states and localities, little attention was given to designing methods on the basis of population possibly with a few extra dollars for the poorest states was thought both sufficient to achieve the program's aims and politically palatable.

Of course the fiscal dividend never materialized. It was a casualty of the expanded war in Southeast Asia, of tax cuts and of the burgeoning social welfare programs of the Great Society. Faced with mounting deficits rather than surpluses, the Nixon Administration therefore had to come up with a new rationale when it introduced revenue sharing. So it was that the "fiscal crisis" replaced the "fiscal dividend" as the program's *raison d'être*. As portrayed by Mr. Nixon this "fiscal crisis" derived from a general, long run imbalance between the resources available to states and localities and the demands placed upon these governments for services. While state and local revenues grew slowly, their expenditures were running amok.

The distribtuion formula chosen by the Administration was not an unreasonable means of overcoming a general fiscal inadequacy. Money was to be divided among jurisdictions roughly in proportion to the amount of revenues each raised from its own sources. While this method generally gave large cities the most, followed by suburbs and then rural areas, there were anomalies. A few of the very wealthiest suburbs—Beverly Hills, California and Newton, Massachusetts, for instance—received the most per inhabitant, and thus the plan was attacked for not putting the money where the problem was.

The difficulties most states and localities have experienced recently in trying to balance their budgets has lent considerable credence to the notion that our federal system suffers from a general fiscal imbalance. Yet a closer examination reveals that most of these difficulties stem from three peculiarities of the past five years that are not likely to repeat themselves. In the first place, there was a tremendous expansion in the scope and quality of the services provided by states and localities in this period. Pollution control, medicaid, drug treatment centers, consumer protection agencies, junior college and day care facilities were virtually unheard of a decade ago. It is highly unlikely that as many new programs will be initiated in the near future. Nor is it likely that the clientele of most existing state and local services will expand as rapidly as they did over the past few years.

Inflation has been the second peculiar characteristic of the past few years that has contributed to the fiscal problems of states and localities. The prices paid for the goods and services consumed by these governments have risen at roughly twice the rate of consumer prices in general. Much if not most of this increase is attributable to the rising wages of state and local government employees. Pressure from this source, however, is likely to abate as these workers achieve wage parity with comparable employees in the private sector.

Finally, the recession of the past few years has cost states and localities dearly. Annual revenues for these governments fell some $5 to $10 billion below what they would have been at full employment. If the experts are correct, however, the next few years should bring a slow but steady economic recovery which will help to boost state and local revenues.

Thus the "crisis" of the past few years has been largely the product of the peculiarities of this period. Furthermore, several recent studies have indicated that there does not even appear to be any long run general fiscal imbalance such as that portrayed by the administration.

However, the lack of an aggregate fiscal problem conceals the existence of a different problem, a severe imbalance between the needs and the resources of particular jurisdictions; and it is to this problem that advocates of revenue sharing have lately re-directed their attention. For while the revenue-raising ability of wealthy areas is expanding rapidly, that of the decaying central cities, rural areas and poorer suburbs is not growing at all; in a few places such as Newark and East St. Louis it is actually declining. These cities and rural counties are also the places in which needs for improved public services are the most acute, for it is within them that the nation's poverty, crime, drug abuse, pollution and inadequate schools are concentrated.

Since the fiscal dividend has disappeared and the "fiscal crisis" never existed, the redistributional rationale for revenue sharing remains the sole criterion for judging the plan put forth by the Committee on Ways and Means—and by this test it fails most miserably. The $1.8 billion which it would distribute among state governments on the basis of their income tax receipts and their general tax effort would have no redistributive impact at all. Mississippi, Alabama, Arkansas, South Carolina, West Virginia and Louisiana—the six states with the lowest per capita income in the nation—are among the eleven states which would receive the least on a per capita basis under the Wilbur Mills plan. New York, Hawaii and Wisconsin—all fairly wealthy states would receive the most.

The $3.5 billion which the Mills plan earmarks for the nation's local governments is allocated on a less redistributive manner than would be the case under either the Administration's proposal or Senator Muskie's bill. One-third is distributed solely on the basis of population. Decaying central cities, rich suburbs and forgotten rural counties each get the same amount per inhabitant from this pot regardless of their fiscal resources or their relative needs. Another third of the total is divided only among local governments in the highly urbanized portions of the nation. From this pot of money Los Angeles would receive the same amount for every person living in the Watts or East Los Angeles ghettos that the Beverly Hills City Hall collects for each of its residents. On the other hand, all of Wyoming, Vermont and Alaska—which have no metropolitan areas—as well as the rural portions of California, benefit not at all from the distribution of this $1.2 billion. The final third of the money destined for local governments is divided on the basis of relative per capita incomes. While this factor does put money disproportionately into the South and into the rural areas of the northern states, it does little to ensure that big cities or poor suburbs receive more than the wealthier suburbs.

In effect, within most metropolitan areas the distribution of shared revenues under the Mills proposal would differ little from that which would be produced by a flat per capita grant. What this means is that suburbs would get relatively more money than they would under virtually any of the other revenue sharing plans that have been introduced. In spite of the fact that the Mills bill would distribute to local governments roughly $1 billion more than the Administration plan, a number of hard pressed cities such as New York, Los Angeles, Newark and Oakland would actually receive smaller amounts than they would under the Administration plan. In all of these cases the surrounding suburbs would receive more.

The plan approved by the Ways and Means Committee can be faulted on several other grounds besides its failure to distribute revenues according to any measure of relative need. First, it may upset the existing patterns of fiscal responsibility that have evolved within states over the past 100 years. Secondly, the Mills bill requires that the local revenue sharing grant be spent only on public safety, environmental protection or public transportation. Some local governments now spend either nothing or very little on these functions. They would thus face the choice of giving away part of their grant or increasing their expenditures on services they may not want or need.

Unfortunately the choice before Congress may be to take the Committee's "State and Local Fiscal Assistance Act" or nothing at all. In all likelihood the bill will go to the floor on a closed rule and thus no amendments will be permitted in the House. While the Senate may initially pass a more responsible version it is doubtful that a Committee of Conference will let the plan deviate too far from the House version.

The pressure from state and local governments to pass some revenue sharing measure is already tremendous. While in the past governors and mayors were willing to argue about the relative merits of one distribution formula versus another, few will risk throwing out the baby with the bathwater now. Operating on the theory that something is better than nothing most large city mayors are likely to ignore the fact that of all the plans presented, this one helps them least vis a vis their rich suburbs.

As the full Congress sits down to resolve the question of revenue sharing, it might be worth recalling the words spoken by Mr. Mills himself some 15 months ago:

"If the purpose of revenue sharing is to meet the needs of our economy today, then revenue sharing is a poor and wasteful means of attaining these ends. Why do I say that it is wasteful? Because under any of the formulas that have been developed so far, substantial funds are given to States and localities where there is little or no need, as well as to those where there is need."

The observation is as true today as it was then.

HEARINGS ON LIFE AND HEALTH INSURANCE FOR POLICEMEN AND FIREMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Rodino) is recognized for 10 minutes.

Mr. RODINO. Mr. Speaker, I wish to advise the House that Subcommittee No. 1 of the Committee on the Judiciary will hold hearings on May 24 and 25 on various bills designed to provide life insurance, as well as injury and death benefits to policemen, firemen, and their survivors.

These hearings will begin at 10 a.m., and will be held in room 2141, Rayburn House Office Building. The hearings will be concerned with three distinct set of bills.

The first set of related bills—H.R. 714, by Mr. Jacobs, and similar bills—would extend Federal injury and death benefits to law enforcement officers, professional and voluntary firemen or to members of ambulance teams and rescue squads, who are killed or disabled in the line of duty. Secondly, the hearings will also be directed at H.R. 8316, introduced by the Honorable Emanuel Celler to provide group life insurance and group accidental death and dismemberment insurance for State and local law enforcement officers.

Lastly, the subcommittee's hearings will also be concerned with H.R. 9139 by Mr. Poff, and H.R. 9177, which was introduced by Mr. Celler at the request of the administration. This bill would provide a $50,000 death benefit for families of State and local police officers killed in the line of duty. Several related bills would extend a similar gratuity to additional State and local officials.

Interested parties wishing to testify or submit a prepared statement for insertion into the hearing record, should address their request to Subcommittee No. 1, Committee on the Judiciary, room 2139, Rayburn House Office Building, Washington, D.C.

ALASKA NATIVE HEALTH BOARD PROGRAM AND PRIORITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. Begich) is recognized for 30 minutes.

Mr. BEGICH. Mr. Speaker, the people in the rural areas of Alaska face a vast number of health needs in their communities. The Alaska Native Health Board has conducted an exhaustive study of the total unmet health needs of the people living in these areas.

On the basis of the vast knowledge of their people's health needs, the Alaska Native Health Board—ANHB—has produced a document which was specifically drafted to identify these health needs of rural Alaska.

The representatives from the Alaska Federation of Natives have done an excellent job of presenting these problems. Their utmost concern and effort has been directed to the current and future needs of their people. The dedication of the members of the Alaska Native Health Board to the elevation of the level of health services their people receive has been commendable and inspiring.

The six program priorities established by ANHB are the village-built clinic program, programs to meet dental health needs, statewide mental health emphasis programs, programs for medical record-keeping, outpatient facilities and communication between villages and hospitals for medical and emergency traffic.

The following excerpts from the document prepared by the Alaska Native Health Board will explain in greater depth why these programs are of such vital importance to rural Alaska.

EXCERPTS FROM ALASKA NATIVE HEALTH BOARD PUBLICATION

VILLAGE-BUILT CLINICS

Problem definition

ANHB altered its prority listing in its December, 1971 meeting. The village-built clinic program was assigned the number one priority.

The ANHB after reviewing the program packages on the village-built clinics is endorsing the concept.

Non-existence of clinics for ambulatory care in the villages represents a threat to the health status of the people in rural Alaska. The geographical distributions of the villages, coupled with inadequate transportation and communication systems, lends a great need for a clinic at the villages. As mentioned in PHS program package "A long-standing problem adversely affecting the delivery of health care services in the villages of Alaska has been the lack of proper remotely-located examination and treatment facilities with adequate space to enable the community health aides to properly function. In many locations, it is still necessary for visiting health professionals to use a schoolroom, a room in a store, a residence, or some other equally inadequate space. Some community health aides continue to use their homes or other improvised space for patient visits."

The total needs for clinics in rural Alaska is to have clinics where there is a Health Aide. Currently there are 156 Health Aides in rural Alaska of which at the end of FY 72, 41 will have clinics to practice from. PHS–IHS in collaboration with AFN delegate agencies is currently training additional Health Aides **so that by the end of FY 72, 185 Health Aides** will be fully trained to start their practice.

Since PHS has instituted in 1969 a pilot project to lease clinic space from the villages to serve as clinics, this concept has been fully accepted by the people in the villages. These clinics will not only be used by the community health aides but they will also be used by itinerant health professionals. During the past year, letters have been received by AFN Health Affairs and its two delegate agencies, YKHC (Yukon-Kuskokwin Health Corporation) and NSHC (Norton Sound Health Corporation), from the villages asking assistance to build their own clinics. The two health corporations upon mandate from their Board of Directors will build or renovate the total of 17 clinics in the corporate area by the end of fiscal year 1972. These clinics are to be leased upon completion by PHS. Base for leading 38 clinics are to be leased upon completion by PHS. Base for leasing 38 clinics have been established by the Congressional Add-on FC 72. However, since the clinic construction funds have been arranged through bank loans backed by the commitment from PHS to lease the clinics, it is anticipated the base of 38 clinics set in FY 72 will triple in FY 73.

This program is important to the people of rural Alaska. These people indigenous to the harsh climate are experiencing crisis in health care. The people's insight to modern attitude to better health has now been gained through contact with itinerant PHS doctors, nurses, dentists and health aides. A pragmatic willingness to try new techniques and recognition of the increases in village-health problems, which are concomitant with permanent residents in villages and deteriorating sanitation conditions have lent further support to the acceptance of new ideas in health care, new ideas as village-built clinics.

DENTAL PROGRAM

Problem definition

The dental health of Alaska Natives is of great concern to the Alaska Native Health Board. The Alaska Native Health Board has requested that the PHS–IHS place highest priority on special emphasis programs to meet dental health needs. The present and past efforts of the Native Health Service impact on only one target population, school age children. In the past few years limited routine oral treatment has been provided for about 1500 adults attending vocational schools throughout the State. Outside of this limited adult group, routine oral treatment is terminated once a pupil gets out of school. No family centered educational programs have been adopted. More specifically, parents of those children being treated have not been considered as a source for proliferating dental awareness within family units. It seems that the basic assumption has been that dental health is primarily a mechanical problem to be attacked by highly-trained professionals who deal with disease and repair its effects rather than with the patient and his family. This assembly-line attitude in dealing with children must be discarded. The unilateral decision that all Native people will incrementally receive the same level of care must be reassessed.

In the current priority system dental efforts are applied according to a pattern of age and services rendered. Pre-school children receive primary attention, followed by a decreasing commitment to group of increasing age. . . . In a planning system, one prime measure of operating efficiently became the number of direct services rendered per unit of time expended. . . . At the level of direct care delivery, the dentists obligations to the time factor determines his delivery methodology, i.e., his village clinic operations must be programed and scheduled to deliver the greatest number of services in the least possible time. Inevitable, production-line techniques are employed, and the children are shuttled through routine service operation en masse, by a dental assistant. . . . As one might suspect, the US–PHS dental delivery system is poorly designed in terms of delivering dental education to the Native people . . . there have been no serious attempts to establish routine dental education in the home . . . the Native parents, of course, had no more comprehension of dentistry than their children and are, therefore, unable to reinforce the preventive procedures a child learns from the dental team.

The Alaska Native Health Board has made specific recommendations to the Native Health Service to improve dental services to the Alaskan Native.

Objectives

To provide preventive and routine repairative dental service so that all Alaskan Natives will have access to dental care.

To make adults aware of the importance of preventive dental care.

The long-run benefits that will accrue from redirecting the emphasis and additional support are:

1. Maintenance of good oral hygiene at the village level resulting from development of oral hygiene awareness in family units which would proliferate total village involvement.

2. More efficient utilization of both Native Health Service dental teams and contracted private dentists augmented by utilization of individuals indigenous to the villages.

3. Increasing long-term benefit in the overall program for dollars invested.

MENTAL HEALTH—STATEWIDE

Problem Definition

AANHB after reviewing the mental health emphasis program package hereby endorse the document, however we feel it should be established Statewide. The Board concurs with statement of the problems and the supporting statistical backup. The objectives and action steps specified reflects a thorough analysis of environmental requirement with respect to a time phase development of Natives to manage their own programs in this area.

The total Statewide need is to have coordination and a viable mental health program is desperately needed in all of the seven service units. Two specific areas are of great concern to ANHB; these are urban and rural, both of which are critical and dependent on the other. As documented by PHS there exists a critical need for:

1. Psychiatric in-patient service, day-care centers and Community Psychiatric Services Treatment Program *in Urban Centers*.

2. Bush Education Services, Regional Village Conferences, Village Aide and Nurses Training and Village Mental Health Aide Program *in Rural Alaska*.

To implement the total need will require at least 100 additional staff both in the Area Offices and Service Unit at an estimated cost of 2 million dollars plus.

ANHB, after assessing the total program, is hereby endorsing one of them, the village Mental Health Aide program.

Village mental health aide program

Social and mental health services in Alaska are presently provided by an enormous number of different agencies, institutions and specialists. This creates huge problems of coordination and delivery of service both for those who need services and those who deliver services. For people in villages the situation proves disastrous. Agencies and professionals in urban settings are generally aware that because of the gap between them and villagers, they cannot often provide satisfactory concrete services to villagers. They simply do not know the people in the villages, their needs, their life styles, and are in the villages too infrequently and briefly. The villagers' needs do not often pigeon hole easily into bureaucratic specialities. Usually only one agency is represented on a particular day in their geographic location. The villagers do not really understand all the varieties of programs, varieties of agencies, overlaps and gaps offered. Thus, further frustration is added to their unmet needs.

The health aides, presently employed in the villages, have a great deal of responsibility in providing medical services. While they are presently being oriented and provide service they cannot possibly do an adequate job in both health and social services.

Objectives

The village mental health aid would help bridge culture gaps and be an advocate of Native village needs and values. His allegiance would be to the village rather than to outside agencies. Such a person would be useful as a resource person to deal with problems they see: alcoholism, drug abuse, family and individual breakdown, children with special needs, such as handicapped and mentally retarded. Hiring a local person by the local council not only provides additional employment, but increased local direction and involvement in community planning and reinforces and develops local leadership.

DATA SYSTEMS

Problem definition

Since USPHS–IHS in 1955 took over from the Department of Interior the responsibility of providing primary medical care of the Alaska Natives "the delivery system has evolved to meet the health needs of the Alaskan Native. However, because of the increased pace of the health care delivery over the past few years, the manual medical record-keeping has exceeded its limits and is showing large deficiencies in recording pertinent data, storage of that information, and most important, of being able to retrieve vital information rapidly at critical decision-making moments. As a result, the problem arises where the diagnostic process requires the knowledge of previous medical history to assist in ruling out or taking into consideration causitive factors. The primary problem as recognized by the Board is the fragmentation of health information. The health information is fragmented by not being stored in a common data reference point for immediate availability of usage.

At the present, four (4) main providers have their own manual record systems: AANHS, State, Private and Military. There is no linkage between the health information being kept by these four (4) providers. Agencies and individuals in Alaska utilize a system—a system not compatible with each other. Instead, the health records are kept primarily to serve one's own requirement. There is no overall plan which would coordinate health data needs to the extent practicable.

The problem is compounded when dealing with IHS multi-level facilities i.e., village clinics, Service-unit hospital, medical centers and contract facilities, where inadequate information flow is encountered.

Another problem is within PHS-IHS. Professional staff is short-termed usually, and no two physicians keep records exactly alike. There's no uniformity. Also, there is little uniformity in the methods of information collection, storage and distribution and evaluation, therefore, none of the existing systems of record-keeping are compatible with one another and retrieving and evaluating information with expedience at critical moments is impossible.

Most affected in the inadequacy of the present manual record system is the health of the people in rural Alaska. To a great extent it has become quite unmanageable for the village health aides to attempt record-keeping manually, (1) as patient workload continually increases the effort required to manually maintain health records is unrealistic and futile, and (2) because of the increased workload the village health aides are unable to receive the proper medical information from the professional staff.

An established system is being dealt with, however, because of the vastness of Alaska, the majority of the communities being spread out rurally, and the factors which have effects on health of the Native population, such as inadequate and spotty transportation because of weather and bad runway conditions, poor communication processes, insufficient housing and little or no sanitation and good water supplies, this established system needs modification. The present health record system has too many gaps and weaknesses, which, in turn, has made the system useless.

Objective

The objective is to establish a vehicle, be it AANHS or AFN, to "support the delivery of health care to Alaskan Natives by providing a reliable information system which would allow appropriate health program personnel immediate access to current integrated patient information.

OUT-PATIENT FACILITIES AREA WIDE

Problem definition

The present out-patient facilities over the past years have proven to be inadequate with the current out-patient traffic load. Statistically, one-half of the total Native population went through the out-patient clinics in all the service units in FY 71. The trend for the increasing load indicates a positive attitude among the Native people i.e. increased awareness of their medical status. However, this increased awareness of though beneficial creates an opposite problem which is overloading of the out-patient clinics.

Every Service Unit is experiencing the acute out-patient traffic, some of these attributed to inadequate space, insufficient staff and limitations on present scheduling that result in queuing problems with the patient and doctors.

The reality faced by each of the seven service units is inefficient processing of patient in out patient clinics. The following have been documented by PHS in their ANMC program package, which is true in all of the seven service units:

"The clinic load is increasing so rapidly, particularly in the general clinic, eye, ear, . . . and prenatal service, that the clinics with present schedules and limitations simply cannot accommodate the patients. The result is long waiting time, hurried evaluation and frustration on the part of staff and patients alike. The quality of care being rendered undoubtedly suffers."

ANHB, having developed sensitivities to such crucial health needs hereby propose an interim solution to alleviate the problem. (See recommendation).

Objective

The following objectives to be accomplished by recommendations:

(1) To decrease out-patient general traffic to improve the quality of care to Alaska Natives in all of the seven Service Unit Hospitals,

(2) To provide routine provision of health maintenance and surveillance to all Alaska Natives in each of the service units.

COMMUNICATION

Problem definition

Geographically, Alaska is one-fifth the size of the continental United States. It is the home of nearly 60,000 Natives. Most of the living is widely scattered settlements across the half-million square miles. The extremes, variations and vastness of the land called Alaska are well documented and should require little comment. Directly related to the vastness is the problem of communications. Today the Native people live in the shadow of infectious diseases such as: influenza, measles, tuberculosis, small pox, syphilis, and so on, which can approach an epidemic proportion in a very short time—among some of the natural emergencies that occur daily in the villages and need emergency treatment. As stated in PHS program packages: "Inadequate communications between villages and hospitals for medical and emergency traffic. Our present HF system is not reliable for constant communication. . . ."

The current equipment in villages is not adequate. The SS band radios, which are the most efficient means of communication at the present time, has proven to be incompatible with AM radios, and the lack of cooperation between BIA, State and private individuals does not make an adequate radio network for medical purposes.

The satellite communication system which has been established in 26 villages has definite constraints, as the system is open to medical and educational traffic 8 hours per day for 5 days a week. The satellite communication system that is being installed in many villages in the interior of Alaska is not compatible for medical traffic at the present time. Until such time the satellite network is expanded to include every village, immediate alternative methods need to be looked into to improve the total communication system in all rural Alaska.

Phones that have been installed in Southeast, Interior and the current plans by RCA to install phones in Southwest Alaska have proven to be incompatible to medical traffic.

A PROPOSAL FOR A NORTON SOUND SERVICE UNIT ADMINISTERED BY THE NORTON SOUND HEALTH CORPORATION

Problem definition

In the last 20 years, tremendous strides have been made in elevating the health status of Norton Sound residents. The health status of Norton Sound residents remains far below the national averages. The overall death rate in the Norton Sound community is 8.5 deaths per 1,000 persons in 1971, over 16 percent higher than the national averages. Worse is the infant mortality rate—nearly twice as high as the national average, account for about 20 percent of all deaths. The most important causes of death for Native populations of Norton Sound are, decreasing in order of incidence: accidents, heart disease, disease of early infancy, malignant neoplasms, influenza and pneumonia, vascular lesions of the CNS, homicide, respiratory disease and alcoholism.

Several problems with the existing health delivery system impede further improvements of health status:

(1) Fragmentation of health services between the Alaska Area Native Health Service, State of Alaska Public Health Nursing Program, Norton Sound Health Corporation and other results in less than optimal use of scarce resources. This is exacerbated by the fact that services are often split along racial lines.

(2) The present health care delivery system clashes with the socio-culture mores of the predominant Eskimo population.

(3) Financial incentives operate to promote high cost in-patient utilization rather than to promote prevention and ambulatory care.

(4) Insufficient emphasis is placed on primary care in the villages. Aids have no adequate facility within which to work and virtually no equipment.

(5) No follow-up system in the village is operable for patients discharged from the hospital.

(6) Records of the village aide are inadequate and not utilized by the rest of the delivery system, and the aides receive no information from the hospitals and other components of the system on care provided outside the village.

(7) Health education efforts in Nome and other villages, as well as outreach and follow-up services are inadequate.

(8) Outreach and follow-up services in Nome are inadequate.

(9) Boarding homes for village patients who overnight in Unalakleet and reside in Nome while seen as out-patients are inadequate.

(10) Mental health, social services do not meet existing needs.

(11) Dental services for school-age children are incomplete, and services for adults unable to pay are non-existent.

(12) A high turnover of professional personnel negates any meaningful physician-patient relationship.

(13) Radio communication is inconsistent and normally poor, as well as transportation of emergency patients poor, due to weather and/or runway conditions. The problems stated in the previous paragraphs lead up to the following major problems in Norton Sound:

(1) Fragmentation of services and discontinuity of care due to a multiplicity of providers.

(2) Need to develop the capacity to deliver quality primary care in the villages.

(3) Lack of consumer involvement in the planning and administration of services.

Objectives

The objectives is that a Norton Sound Service Unit be administered by the Norton Sound Health Corporation. There is no administrative authority in Nome, and the Alaska Area Native Health Service administers its services from Kotzebue, approximately 200 miles away. This hampers rapid and sensitive response to patient needs in the Norton Sound area.

Inroads in the area of preventive health and primary care in the village can occur if the villagers themselves are involved in carrying out the effort. Consumer control of health services delivery is the ONLY mechanism to insure that health promotion efforts are amenable to the Eskimo culture and therefore to insure 1) proper utilization of services, 2) cultural transition, rather than cultural assault without the well-documented side effects of alcoholism, suicides, etc., and 3) promotion of a sense of involvement and responsibility for survival that has been robbed by the "welfare state."

Furthermore, traditionally the Native people of the Kotzebue and Nome Service Areas have had little interaction. Transportation routes, language and numerous other barriers have separated these two groups. Therefore these two places cannot be lumped together under one service unit.

JUSTICE DEPARTMENT URGES UPGRADING TWO POSITIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Dulski) is recognized for 5 minutes.

Mr. DULSKI. Mr. Speaker, the Acting Attorney General has submitted a formal request to you along with a draft bill to provide for the upgrading of two positions within the Department of Justice.

The proposal is to make level III of the Executive schedule applicable to the present Special Assistant Attorney General and to make level IV of the Executive schedule applicable to the U.S. Attorney for the central district of California.

The Special Assistant Attorney General is the Director of the Office for Drug Abuse Law Enforcement and also functions as a special consultant to the President for Drug Abuse Law Enforcement.

The all-out effort to combat drug abuse has brought new responsibilities to the Department which are in the hands of the Special Assistant Attorney General. This is a vital area of concern throughout our Nation and entails extensive responsibility in coordinating Federal activities with the various enforcement agencies across the Nation.

As for the other positon, the Acting Attorney General feels that the workload of the U.S. attorney for the central district of California warrants a higher pay level.

Mr. Speaker, as part of my remarks I include the text of the letter from the Acting Attorney General which accompanied the draft of the bill I am introducing today:

Office of the Attorney General,
Washington, D.C., May 9, 1972.

The Speaker,
House of Representatives,
Washington, D.C.

Dear Mr. Speaker: There is attached for your consideration and appropriate reference a draft bill, "To make Level III of the Executive Schedule applicable to the Special Assistant Attorney General, and to make Level IV of the Executive Schedule applicable to the United States Attorney for the Central District of California."

The Department of Justice believes that the present pay levels for the two positions affected by this legislation are lower than is warranted by the level of responsibility of the jobs.

One of the positions which would be affected by the draft bill is that of the Special Assistant Attorney General who is the Director of the Office for Drug Abuse Law Enforcement and a Special Consultant to the President for Drug Abuse Law Enforcement. The bill would make Level III rather than Level V of the Executive Schedule applicable to that position.

The position of Special Assistant Attorney General was created under Executive Order 11641, 37 Fed. Reg. 2421, January 28, 1972, as part of the Administration's program to combat drug abuse through law enforcement measures and education and rehabilitation programs. The Office for Drug Abuse Law Enforcement, of which the Special Assistant Attorney General is the Director, was established by the Attorney General, at the President's direction, and the Director was made "responsible for the development and implementation of a concentrated program throughout the Federal Government for the enforcement of Federal laws relating to the prevention of drug abuse and for cooperation with State and local governments in the enforcement of their drug abuse laws." Under the same Executive Order, the Director of the Office for Drug Abuse Law Enforcement was also made a Special Consultant to the President for Drug Abuse Law Enforcement, with responsibility for advising the President concerning more effective Federal drug law enforcement and means of Federal assistance to State and local governments to strengthen their drug law enforcement programs.

In order to carry out these functions, the Office of Drug Abuse Law Enforcement works through nine regional offices, using special grand juries as authorized under the Organized Crime Control Act of 1970, to gather information concerning drug traffickers. The information gathered is used by Federal, State and local law enforcement agencies. Grand juries will be called in at least 33 cities for the special purpose of investigating the heroin traffic problem. These grand juries will operate in an investigative capacity to develop information against drug traffickers for purposes of prosecuting them on drug charges, perjury, tax violations or other criminal violations. To date about 2700 persons have been tentatively identified by the Office as persons whose activities concerning drug trafficking should be investigated. In order to carry out this program, between 150 and 200 Department of Justice attorneys have been detailed to activities related to the special grand juries and about 250 Bureau of Narcotics and Dangerous Drugs agents will be involved in this concerted effort against drug trafficking. A number of Bureau of Customs officers and Internal Revenue Service agents will also assist in the effort. The Federal personnel will operate in teams in the key cities, in cooperation with an equal number of local law enforcement personnel. In addition to the special grand juries, a "Heroin Hotline" has been announced by the President to handle citizen calls concerning the heroin traffic problem, and Bureau of Narcotics and Dangerous Drugs agents will investigate the information derived from those calls. This entire effort against street traffic in heroin is being coordinated by the Office of Drug Abuse Law Enforcement of which the Special Assistant Attorney General is the Director.

Because of the importance of this program in curbing street traffic in heroin, and because of the dual responsibility of the Special Assistant Attorney General in acting as Director of the Office for Drug Abuse Law Enforcement and as Special Consultant to the President for Drug Abuse Law Enforcement, the Department of Justice recommends that Level III of the Executive Schedule be made applicable to the Special Assistant Attorney General.

The other position which would be affected by the draft bill would be that of the United States Attorney for the Central District of California. The bill would make Level IV, rather than Level V, of the Executive Schedule applicable to that position.

The Central District of California, consisting of Los Angeles and the surrounding area, was created by Public Law 89–372, enacted March 18, 1966, from part of the old Southern District of California. Section 3(e) of that Act made the United States Attorney for the Southern District on the date of enactment the United States Attorney for the Central District and placed most of the old Southern District's judges in the Central District.

Under the law in effect at the time the Central District was created, the United States Attorney for the Southern District of California was in Level V of the Executive Schedule. The Level V designation followed that United States Attorney in the Central District.

There are now two United States Attorneys at Level V, the one in the Central District of California and the one in the Northern District of Illinois. Level IV applies to two United States Attorneys, the one in the Southern District of New York and the one in the District of Columbia.

The workload of the United States Attorney for the Central District of California, however, is approximately the same as that of the United States Attorney for the Southern District of New York. In the Southern District of New York, there were 1,369 criminal filings and 980 civil filings during fiscal 1971, while there were 2,124 criminal filings and 1,117 civil filings during that period in the Central District of California. Attorneys in the United States Attorney's office in the Southern District of New York spent 13,147 man hours in court during that time, while attorneys in the United States Attorney's office in the Central District of California spent 13,721 man hours in court. Further, the number of personnel in each office is similar. There are 88 Assistant United States Attorneys and 113 clerical personnel in the office of the United States Attorney for the Southern District of New York, while there are 72 Assistant United States Attorneys and 91 clerical personnel in the office of the United States Attorney for the Central District of California. This compares with 999 criminal case filings and 936 civil case filings in fiscal 1971 in the Northern District of Illinois, 10,941 man hours in court, and a staff of 53 Assistant United States Attorneys and 61 clerical personnel in the United States Attorney's office for that District.

Accordingly, the Department of Justice recommends that Level IV of the Executive Schedule be made applicable to the United States Attorney for the Central District of California, just as that level is now applicable to the United States Attorney for the Southern District of New York.

I urge early and favorable consideration of this legislation by the Congress.

The Office of Management and Budget has advised that there is no objection to the submission of this proposal to the Congress.

Sincerely,
RICHARD G. KLEINDIENST,
Acting Attorney General.

INTERIOR DEPARTMENT DECISION ON TRANS-ALASKA PIPELINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 15 minutes.

Mr. ASPIN. Mr. Speaker, I am saddened and disappointed today by the Interior Department's decision to give a go-ahead to the proposed trans-Alaska pipeline.

Few environmental projects have received the sort of scrutiny and intense, well-researched criticism that the Alaska pipeline project has received. I believe the Interior Department will be surprised by the amount of criticism this decision will generate.

This decision is a blatant example of the interests of the oil industry superseding the public interest. Interior had to choose between the interests of the oil industry and that of the public. Apparently, contributions from the oil companies to the Nixon campaign are simply more important to the administration than the good will of environmentalists and midwest and east coast consumers. The Interior Department has made its choice, but it will have to pay the fiddler.

In fact, I believe that this decision is so completely without logic and rationality that the proposed project may well be stopped in the Federal courts. Although this decision is one more tribute to the influence of the oil industry, the public interest may yet be heard.

MID VALLEY NEWS GOING STRONG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, this week marks the seventh anniversary of a commendable example of free enterprise in my congressional district in the form of a small community newspaper.

The Mid Valley News, serving the cities of El Monte, South El Monte, and Rosemead, published by Ray B. "Tex" Rickerd, was conceived and put into print, because a few businessmen wanted to see a community newspaper that was designed to build up the community and to foster a more personal, human touch that they felt was missing in many larger newspapers.

With the philosophy that newspapers, like Government, should remain close to the people, the Mid Valley News has survived and has proven that a rugged individualist can still "make it" without losing money. This little paper calls 'em as it sees 'em, but prides itself on its record of building up rather than tearing down the community.

THE HAIPHONG BLOCKADE: FROM THE SAME GENIUSES WHO BROUGHT US SONTAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 60 minutes.

Mr. LEGGETT. Mr. Speaker, President Nixon's escalation of the war in Indochina is an admission of the failure of Vietnamization. It is also illegal and counterproductive.

It is illegal because it is in direct violation of the law of the land.

Since the repeal of the Tonkin Gulf resolution, the President's only authority to conduct military operations in Indochina has been his responsibility as Commander in Chief to protect American troops. Obviously, the best way to protect the troops is to get them out. This could be done, and done safely, in very short order. The President did not deny this in the speech he gave Monday night. Instead, after the usual self-serving ritual about how this would be the politically easy course and therefore he will not take it, he gave this reason for not withdrawing:

> Abandoning our commitment in Vietnam here and now would mean turning 17,000,000 South Vietnamese over to Communist terror and tyranny. It would mean leaving hundreds of American prisoners in Communist hands with no bargaining leverage to get them released.

If we had at one time a commitment, it was only to help the Saigon government, not to be the Saigon government. So there we have it. He says we have a commitment to keep South Vietnam from going Communist, period.

But we have no such commitment, neither by the SEATO treaty, the United Nations Charter, nor by any other commitment ever made by the Government of the United States in accordance with its constitutional processes. In fact, any such commitment is specifically excluded by the Mansfield amendment to the last military procurement bill, Public Law 92–156, which declares it to be the policy of the United States to withdraw from Indochina "subject to the release of all American prisoners of war—and an accounting for all Americans missing in action who have been held or known to—North Vietnam and its allies."

Thus, when Mr. Nixon conducts foreign policy on the basis of a commitment to preserve the Saigon government as it is presently constituted, he is violating the law.

On the other hand, we do have a commitment to the prisoners of war. While we can argue about the best way to secure their release, it is clear that there is one course which has no possibility of recovering the POW's, and that is the course Mr. Nixon is following. He refuses to offer to remove American air and naval power from Indochina, and he openly declares his intent to preserve the Saigon regime indefinitely. Since the Saigon government appears to be manifestly incapable of preserving itself, this means Mr. Nixon intends to bomb Indochina forever, or at least until Thieu falls despite our air support.

As long as we bomb, the other side is not obligated by the Geneva Convention to release the prisoners, and it is not going to do so. That is just commonsense. Mr. Nixon talks about loss of bargaining leverage if we get out. But if he is not willing to get out, and apparently he is not, he has no leverage at all. We cannot expect a favorable response if we tell the other side, "If you don't return the prisoners we're going to bomb you, but if you do return them we're going to bomb you anyway until you cease-fire."

So Mr. Nixon's policy contradicts the Mansfield provision on prisoners of war as well as the withdrawal provision.

The mining, blockade, and bombing will not accomplish its stated purpose of cutting off war material from the North Vietnamese army. It will be counterproductive and will cause an increase in the level of enemy military activity.

We know that in the past bombing has been unable to cut off the overland flow of supplies from China through North Vietnam to South Vietnam. We know that in the past—in England as well as North Vietnam—bombing has not broken the will of the bombed population, but has made them dig in and fight harder.

There is no reason to believe things will be different this time.

The people who urged this operation are the same ones who supported the raid on Sontay to rescue POW's from a place where there were no POW's. They are the same people who designed and supported the Vietnamization program, who told us it was going magnificently, and who were amazed when the ARVN collapsed the first time it was exposed to serious pressure.

Even conservative columnist William Buckley, previously an uncritical supporter of all aspects of the war, is now making very strong and derogatory comments about the competence of those who planned and evaluated Vietnamization.

I cannot understand why we continue to follow the path of military escalation when it has never worked to date—only to bankrupt us.

It was almost exactly 2 years ago that President Nixon described his Cambodian incursion as a "decisive move."

What did it decide? It did not destroy the "headquarters for military operations in all of South Vietnam," because no such headquarters ever existed. It was supposed to prevent the massing of enemy supplies, and to buy time with which the South Vietnamese Government would build the ability to defend itself. The events of the last month show it did not do either of these things. This move was "decisive" only that it was decisively wrong.

Now the President tells us he has three choices, and he has chosen "decisive action to end the war." But watch and see how desperately the administration opposes our attempt to cut off funds which would not be needed if the blockade and bombing were really "decisive action to end the war." The President does not believe this "decisive" nonsense any more than I do.

The escalation is not only counterproductive. It is irresponsible in that it threatens really vital aspects of our national security in other theaters.

First, it will hamper and perhaps stop the developing thaw between the United States and the U.S.S.R., and between the United States and China.

Second, the escalation may have torpedoed the SALT agreement. This limitation on strategic arms could save us billions of dollars per year and perhaps initiate a true generation of peace. It is the result of years of negotiating not only between the United States and the U.S.S.R., but between hawk and dove factions in both governments.

Remember, the Soviet invasion of Czechoslovakia caused President Johnson to postpone the beginning of the SALT talks, thus forever destroying the hope of a MIRV ban. The Haiphong blockade and interference with Soviet shipping will tremendously strengthen the Soviet hawks in the Kremlin struggle for power, and it may give them the fuel they seek to postpone or kill the SALT agreement.

I hope this will not happen, but it would be tragic if it did. We used to hear the "domino theory" that we had to hold Vietnam because if the Communists got it, this would lead to the fall of Laos, Cambodia, and so forth. But the SALT agreement is far more important to our national security than is all of Southeast Asia. If we lose it, this will be the domino theory with a vengeance. We would have been better advised to forget about Laos and Cambodia and all of Southeast Asia.

Third, we may be closing the schism between Russia and China; this is clearly contrary to free world interest. With Haiphong closed, the U.S.S.R. can only supply North Vietnam by going overland through China. It is highly probable that China will allow this, and that the two Communist nations will once again work together in aiding Vietnam. With this as a beginning, they may then move to reconcile their other differences.

In a vain attempt to protect a government for which its own people apparently will not fight, we are violating the law, uniting our enemies, and possibly killing an arms control agreement which could save us many billions of dollars and perhaps lead the way to a true generation of peace.

Is General Thieu worth it?

I say "No."

Mr. Nixon has a problem. He has sent 20,000 Americans to their deaths in service of the Vietnamization program. Now it is clear that Vietnamization is a failure; the ARVN is receiving the heaviest air support in history and is doing very badly nevertheless; without our air support no one doubts that by now the enemy would have taken all of South Vietnam.

If the ARVN collapses and the other side takes over, it will be plain that Mr. Nixon has killed 20,000 Americans for nothing, since the Vietnamization program collapses wtih the Saigon government. The President is doing everything he can to distract public attention from his failure, and he is hoping desperately that the ARVN collapse can be delayed by monstrous bombing of all targets in sight without really having a reasonable prospect for eventual victory. Today he mines Haiphong. When that does not work, he may level Hanoi. And when that does not work, who knows? Will troops be redeployed in South Vietnam?

President Nixon does not have the right to unite our enemies, jeopardize a valuable treaty, and send young Americans to death or capture without action of the Congress.

We are now conducting a major war. We are mining the harbor of a foreign power for the purpose of denying this harbor to all ships, including those of major powers. We are conducting the most massive bombing in history. We are stepping gravely close to the brink of nuclear conflagration.

No President has the authority or the right to do this without specific authorization from Congress. If President Nixon desires to continue these actions, I say he must come to the Congress and ask for repeal of the Mansfield amendment and for a declaration of war. If he does not do this he is required to stop, out of respect for the Constitution.

On Monday night, President Nixon said he had three choices. I have already discussed the alleged "decisive military action" which will not be decisive, but let us briefly look at the other two choices.

Regarding negotiations, he said, "we have made every reasonable offer and tried every possible path for ending the war at the conference table," but the other side has not responded.

This is not true. Neither in the official talks nor in the no-longer-secret Kissinger talks has Mr. Nixon ever offered a total withdrawal. He has never offered to remove the air and naval power surrounding Vietnam. He has always retained the option of leveling Vietnam if the Vietnamese establish a government of which we disapprove. This is not a reasonable proposal.

I do not mean to say the other side is reasonable either. Frequently they are not, and I told them so 10 weeks ago in Paris. But now Le Duc Tho has indicated their position may be softening and they may be willing to accept a simple military settlement, and as before the administration is suddenly hard of hearing.

The remaining option is immediate withdrawal, or at least expeditious withdrawal. The President says he cannot do this because of a nonexistent and an illegal commitment to keep Vietnam anti-Communist, and because he does not want to abandon the prisoners his policy in fact abandons. I have already discussed these points in detail. They do not hold up.

Mr. Speaker, in times like this we cannot afford a politician President. We must have a statesman President who can admit he made a mistake and who can place the national interest above saving his political face. We must have, not a President who talks about respect for his office, but one who acts in such a way as to bring it respect. We must have a President who recognizes that the national interest requires us to pick up and get out. and who then proceeds to do so.

We need not a President who calls for artificial unity, but a President who makes policy behind which the American people naturally unite. We need a President who acts on the principle set forth by Senator Richard Nixon in 1951:

> The country wants unity, but it does not want unity on a policy which has led to disaster or on the perpetuation and power of those who made that policy and who cannot be expected to make good on any other . . . Disunity hurts our cause without question, but unity on a policy which was wrong could bring even greater disaster.

YOM YERUSHALYIM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PODELL) is recognized for 10 minutes.

Mr. PODELL. Mr. Speaker tomorrow is Yom Yerushalyim, the celebration of the reunification of Jerusalem. It is a time when Jews hail the miracle of June 1967, that ended ruinous and discriminatory Jordanian rule over the eastern half of the city. It is a day when Israelis remember the brave soldiers who fought in the bloody hand-to-hand battle to regain the access to the historic city.

It is a day when Jews celebrate the access to the holy places, to the Western Wall; access they were deprived of during the 20 years of Jordanian rule.

Jordan refused to allow Jews to visit any of the places of Jewish cultural or historical significance. The Western Wall they used as a garbage dump; they built a grand hotel over a pillaged Jewish cemetery using the gravestones of Jewish martyrs as pavement for their swimming pool.

But no one uttered a word. All the Christian clergymen who now condemn imaginary Israeli practices in the unified city, all the nations that now pass resolutions condemning Israeli practices that investigating commissions did not document or confirm. Where were they then? When Jordan converted the Jewish quarter of the old city into a haven for derelicts? Did they complain about Jordan forcibly altering the character of the city? No. Their silence resounded in the empty cavities of world morality.

And yet when the Israelis finally established peace in Jerusalem, reunified a divided city, ended religious discrimination, installed water, sewage, and electric facilities, upgraded medical and municipal services, gave all denomination jurisdiction over their own holy places—then the great libertarians who had kept silent for so many years found their voices.

From pulpit and rostrum, they unanimously condemned Israel for changing the character of the ancient city. In specious terms, without evidence or proof for their accusations, they demanded internationalization of Jerusalem. The last time the city was internationalized Jewish gravestones were used for highway construction. The last time the city was internationalized, Arabs had rights but Jews had nothing.

I say, dear colleagues, that we should laud Israel for the changes she has made. She has rid the city of disease; she has put a stop to discrimination; she has given all the great religions freedom to worship, control, and pray at their holy places; she has changed the city from a hovel of prejudice to a center of freedom.

But the official U.S. Government policy fails to recognize this. Our Embassy is in Tel Aviv, although the capital of Israel is Jerusalem. This State Department policy and its refusal to move our official presence to the Israeli capital lends credence to the absurd charges of impropriety the prejudiced have leveled against Israel.

The State Department should take immediate steps to remedy this impression that the United States sides with these ridiculous accusations that have been discredited by all objective witnesses and never been proved by all the demogoguery of the rabid Arabists. An administration that prides itself on how its foreign policy jives with reality should practice what it preaches in this instance as well.

PROFESSIONAL DRIVERS' PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ECKHARDT) is recognized for 10 minutes.

Mr. ECKHARDT. Mr. Speaker, I have today introduced the Professional Drivers' Protection Act of 1972 which creates civil liability for an employer to discharge an employee for refusing an order which would entail violating motor carrier safety regulations or for reporting violations of these regulations or otherwise cooperating with the Bureau of Motor Carrier Safety as, for instance, by testifying in proceedings involving these regulations.

Let it never again be said: "He was fired for obeying the law. . ." as it could be said of a Boston truck driver who refused to falsify his logbook to make it appear that a round trip from Boston to New York could be run in 10 hours, the maximum time for driving in a single day under the Federal safety regulations of the Interstate Commerce Act.

In this particular case the trucking company determined that a lone driver can make the run from Boston to New York and back within the time limitation. Yet, according to experienced drivers, this run can be made in 10 hours given favorable weather conditions, only if the truck is driven at a dangerously high speed. Drivers who refuse to drive recklessly but fear losing their jobs for failure to comply with the company's unrealistic schedule have adopted a widespread practice of under-reporting the number of hours actually spent behind the wheel of the vehicle. Federal regulations require drivers to record both off-duty and on-duty activities in a daily logbook, and despite the fact that falsification of the records subjects both the driver and his employer to Federal prosecution, the practice of "fudging" to show only the number of hours allowed is an accepted part of the daily routine. Because this Boston driver objected that the run could not be made in the 10 hours and because he refused to falsify his logbook in direct violation of Federal safety regulations, he was fired.

Drivers throughout the country are confronted with the same dilemma: How can a person follow the dictates of his conscience, which says he must obey the law of the land, when to do so is to risk his source of livelihood and the sole means of support for his family? In response to this intolerable situation, I have introduced legislation today which would eliminate this dilemma and be a valuable tool for enforcing existing safety regulations. Entitled the Professional Drivers' Protection Act, its approach is simple. It provides that an employee cannot be fired for refusing to follow an order from his employer if his actions would result in a violation of motor carrier safety regulations made under section 204 of part II of the Interstate Commerce Act or for filing a complaint about a violation of these regulations. In addition, it allows a driver discharged under such circumstances to sue in Federal district court to be reinstated in his job and to receive three times the amount of back wages lost. Its enactment will provide both moral and legal support for the driver who chooses to do what he knows is right and will penalize those companies which seek to intimidate employees to act in clear violation of Federal law.

Incredible as it may seem, an all too common practice has arisen in the trucking industry of firing drivers who refuse to drive unsafe rigs or who refuse to engage in unsafe driving practices in violation of safety regulations issued by the Department of Transportation.

Thus the need for such legislation is evident. In addition to rules regarding the physical condition of the driver, Federal regulations clearly state:

> No Motor carrier shall permit or require a driver to drive any motor vehicle . . . nor shall any driver drive any motor vehicle which by reason of its mechanical condition is so imminently hazardous to operate as to be likely to cause an accident or a breakdown of the vehicle.

Data compiled by the Bureau of Motor Carrier Safety, which has the responsibility of insuring compliance with motor vehicle safety regulations, illustrates rather vividly that motor carriers allow, and even require, vehicles to be driven on the highway in violation of safety regulations. In 1969, the trucking industry protested that the data reported by the Bureau regarding the condition of vehicles on the highway made them appear less safe than they actually are. In response to industry demands, in 1970 the Bureau of Motor Carrier Safety conducted a carefully designed controlled study of motor carrier vehicles on the highway. Of the vehicles inspected in this special study, 16.5 percent were ordered out of service because they were mechanically too hazardous to be operated beyond the check point. Another 27.8 percent were found to be unsafe.

This data gains added significance when considered in the context of changes occurring in highway traffic. The number of trucks on American highways is growing faster than the number of automobiles and buses. During the period from 1959 to 1969, the number of trucks registered in the United States increased by 4.38 percent. Automobile registrations showed an increase of 3.86 percent. In 1970, truck registrations increased by 4.87 percent and automobiles by 3.4 percent. In addition, the fatality rate for truck occupants is on the upswing. From 1965 to 1969 the occupant death rate for passenger cars, equipped with an increasing array of safety devices, dropped 5 percent.

As illustrated by the following incident, drivers who seek to abide by the Federal prohibition against driving mechanically unsafe vehicles on the highway are subject to intimidation. Last fall a driver in Illinois refused to drive a truck which had a defective air valve brake system on the trailers. He discovered the defect on a test drive, but the terminal manager failed to respond to his complaint. Following his boss' orders, the employee drove the truck on the highway. A quick stop caused the rear trailer to jackknife into the oncoming lane. The company safety manager ordered the driver to complete the run or lose his job. The driver refused to drive any further and was fired.

A driver can file a complaint with the Bureau of Motor Vehicle Safety regarding violations of safety regulations yet letters written by drivers indicate that the results are uniformly unsatisfactory. In many instances in which a violation is discovered, the company is not prosecuted but rather the violation is merely recorded for future reference should additional complaints be filed against the company. Unfortunately, the Bureau has no data which describe the adequacy of the complaint system either according to complaints filed and their resolution or which can provide estimates regarding the impact of fear of job loss on the filing of complaints.

Obviously, it is not the drivers alone who stand to benefit from improved enforcement of existing safety regulations. The lives of all travelers on America's highways are endangered by unsafe trucks and shoddy safety practices. In a letter describing the plight of her husband who refused to drive an unsafe vehicle, a woman recently observed:

> I think when the public understands and is aware of the conditions of some of these trucks . . . (and that it) is not safe to be . . . on the highway that they themself pay to support something will be done.

Passage of the legislation I propose is the "something" which must be done.

Following is a May 10, 1972 column written by Nicholas von Hoffman of the Washington Post on this subject and the text of my bill.

[From the Washington Post, May 10, 1972]

THEY KEEP ON TRUCKIN' AND TRUCKIN' AND TRUCKIN'

(By Nicholas von Hoffman)

The truckers' association has an ad on TV informing us that if we got it, whatever it might be, a truck delivered it to us. The inference is that we should forget we *paid* the truck to deliver it and be grateful.

The picture on the screen shows a nice, clean, polite truck cruising along the interstate at a safely pleasant, moderate speed obligingly bringing our merchandise to us intact, undamaged and in perfect condition. We all have our own private estimates as to how much of a fairy tale that is, but regardless of the condition the goods arrive in, what kind of shape is the driver in?

Frequently he is frazzled, drugged, stumbling from fatigue, harassed by the trucking company, coping the best he can without support from his union or the government. A threat to himself and the other drivers on the road. Such is the life of many truck drivers as described by the Professional Drivers Advisory Council—"Prod" for short. Yet another idea hatched out of Ralph Nader's health and happiness counter-conglomerate, Prod isn't an attempt at dual unionism, but yet one more effort to get public institutions to do the work they're supposed to do . . . in this case the Department of Transportation's Bureau of Motor Carrier Safety, and the Teamster's union.

Arthur Bouchard of Kirkville, N.Y., is a Prod member, and an ex-driver who says he was fired after 20 years on the job because he complained about unsafe and defective equipment: "double trailers with too much play in their fifth wheels" or "37,000-pound loads of loose steel which are supposed to be hauled on trucks with chains and binders and reinforced header boards but aren't."

For complaining about such things, Bouchard, a man with three children, says he was sacked, "and the Department of Transportation man helped them fire me. I had to go on welfare. Outta work for 14 months. That's a drop from $285 a week down to $80."

In phoning around the country talking to worried drivers one discovers a number find fault with DOT's Bureau of Motor Carrier Safety, an outfit with 103 inspectors with the duty of checking up on 3 million trucks and buses in 50 states, according to Nader's figures. With a ratio of inspectors to vehicles like that, they couldn't do the job right if they wanted to, which, the drivers say, they don't. Whether this is a case of excessive amity between the DOT and the trucking industry or the naked bribery of some of the department's functionaries, the drivers don't know. All they know is a lot of these trucks aren't safe—an estimated 38 per cent of them—and that many of the men can tell stories similar to the one told by this driver:

"I myself came close to killing a family of four because of no brakes. . . . The driver is always blamed. . . . I can recall driving a stretch of road known as Bloody Alley, between San Francisco and San Jose—U.S. 101—with all my trailer brakes plugged off and one diaphram on the tractor leaking badly. I was told to drive it all night and it would be fixed the next day . . . 7,100 gallons of gas! I was told . . . that I would never turn another wheel for anyone again if I complained once more about the equipment not being safe."

Another driver with three children who'd like to live to see them grow up is Bob Lyons of Sharonville, Ohio. Lyons is particularly concerned about trucking company pressure both to meet dangerously fast schedules and to work killing 70- and 80-hour work weeks: "It's a known fact that the companies expect you to take one (stimulant) and go, but a lot of the drivers go along with it. This is big money, you know, for a man without much education. You can make $400 to $450 a week, and they'd rather have that than the working conditions, but, listen, it's not the drivers. We're scared to holler. They can spank us with days off, bad runs, all kinds a ways."

Drivers are required to log their hours in a book so that they don't go over the maximum, but Lyons says, "The companies don't want you down right. It's a matter of greed. The fewer men they got driving more hours, the less they have to pay in health and welfare benefits. Take Cincinnati to Harrisburg. That's 9½ or 10 hours if you drive decent, but we have guys who log it at 7 hours."

To the DOT man verifying the log book, the driver hasn't exceeded the maximum number of hours, but it's there in the paycheck of this tired man who, in addition, is on two-hour call to report to work during the insufficient hours he's home resting. On top of that, according to Lyons, he is expected to make runs on a schedule that can only be met by exceeding the speed limits and pulling such tricks as rolling those big semis down steep hills out of gear so they'll go faster.

At 80 miles an hour with a groggy man at the wheel, rolling down a steep grade out of gear, an enormous machine like one of those big diesels is out of control. But all interstate transport, minutely regulated as it's supposed to be, is likewise out of gear, out of control and free-wheeling down the mountain towards its profit and our destruction.

H.R. 14935

A bill to create a civil remedy for the employees of motor carriers who are discharged for failing to obey their employers' orders where compliance with those orders would entail violating motor carrier safety regulations or for reporting violations of these regulations or otherwise cooperating with the Bureau of Motor Carrier Safety.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Professional Drivers' Protection Act of 1972".

SEC. 2. It shall be unlawful for any employer to discharge any employee for failure to comply with any order or directive if such compliance would involve such employee in a violation of motor carrier safety regulations established under section 204 of part II of the Interstate Commerce Act.

SEC. 3. It shall be unlawful for any employer to discharge any employee because such employee has filed any complaint or instituted any proceeding related to motor carrier safety regulations established under section 204 of part II of the Interstate Commerce Act or has testified, or is about to testify, in any proceeding involving these regulations.

SEC. 4. Any person who is discharged in violation of sections 2 or 3 of this Act shall be entitled—

(1) to reinstatement in his employment,

(2) to be made whole for his losses due to such discharge, including interest at the rate of 6% from the date monies would have been payable to the date of payment,

(3) to exemplary damages in the amount of twice the sum of (2) above, and

(4) to costs of suit and reasonable attorneys' fees.

SEC. 5. Suits under this Act may be brought in any court of competent jurisdiction and such shall include the United States District Court for the district in which the defendant is located or any United States District Court for the district within which the employee received notice of discharge.

CALLS FOR CONCERN AND PARTICIPATION IN COMMUNITY AFFAIRS

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, a most outstanding address was recently delivered by a leading member of the Miami community, and a very good friend of mine, Dr. Charles E. Perry, president of Florida

International University. On April 27, speaking before the Dade County outstanding citizen luncheon sponsored by Sholem Lodge No. 1024 of the B'nai B'rith, Dr. Perry eloquently and enthusiastically called for greater citizen concern and citizen participation in community affairs. His speech was entitled "Let's Emphasize the Positive," and before an appreciative audience he declared:

> I am firmly convinced that the world, with all its shortcomings, is still an exciting and stimulating place to be. It is a world that has great potential for improvement; it is a world that still has many frontiers to conquer; and it is a world that deserves our most positive attitude in order to meet the challenges of the future.

This speech is a worthy rebuttal to those who preach pessimism and inaction. I commend this inspiring address to my colleagues and to all who read this RECORD:

LET'S EMPHASIZE THE POSITIVE

It is a great pleasure for me to be a part of this occasion today which honors two of the outstanding citizens of Dade County who have rendered truly worthwhile and distinguished service to our community.

What pleases me so much about this occasion is that the positive and not the negative is being accented. What these two honorees, and all the nominees, have done is very positive for our community and country. And what you have done by coming here to honor them is also something very positive.

Some of my colleagues are saying that commencement speakers this year should not tell the graduates that "the world is theirs"—for fear of unduly alarming them. But last week, when I gave one of my commencement speeches scheduled for this spring, I referred to the world by telling the graduates "to try it—you'll like it!" And I meant it, because I do not accept the negative way of thinking about our world.

Yes, there is a great deal wrong about our society today. But I am firmly convinced that the world, with all its shortcomings, is still an exciting and stimulating place to be. It is a world that has great potential for improvement; it is a world that still has many frontiers to conquer; and it is a world that deserves our most positive attitude in order to meet the challenges of the future.

Newscaster Gabriel Heater died here in Miami a few weeks ago, and he will long be remembered for his nightly shoring up of the morale of millions of radio listeners in the dark days of World War II with his phrase, "Ah there's good news tonight." Interviewed during his retirement, he was asked if he preserved his optimism in watching the day-to-day events of the turbulent 1960's. His answer was, "If I could say there was good news during the darkest days of World War II, I can sure find good news in the exciting events of the '60s. And I am convinced that the world will find good and cheering news in the '70s."

I fully agree with Gabriel Heater. And why shouldn't I?

We, in America, are fortunate to live in a free society—a society that, with its pockets of poverty still to be eradicated, overall has the highest standard of living in the world . . . where personal income has increased almost 50 per cent in a five-year period.

We live in a nation that cares . . . a nation that in the last decade has made great strides in realizing equality and dignity and opportunity for all its people . . . a nation that has fostered such great social progress for the elderly as Social Security and Medicare . . . a nation which has shared its wealth and technology with underdeveloped countries more generously than any other in the history of man.

We live in a nation which has the technological know-how to send men to the moon and to get them back . . . to progress in medicine to the point where we have virtually wiped from the face of the earth such dreaded diseases as polio, diphtheria, and scarlet fever. In this connection, I would remind you that 90 per cent of the prescriptions written today could not have been filled by a pharmacist in 1937, the year I was born.

We live in a nation where communication has not only become instantaneous, but remains free.

And most important in our world is the fact that we still have the freedom of choice in life—that we can direct our own activities.

Now before you decide that I am looking at the world only through rose-colored glasses, let me assure you that I do not think we live in paradise. Obviously, our needs and our opportunities for change are many. We must constantly be receptive to change, for in our future change will perhaps be the most constant element of all. And progressive change, to paraphrase Lincoln must be by the people, of the people, and for the people.

That is what makes this occasion today so significant. It is significant because in this day of the all-powerful government—with its multitude of committees and commissions—this is a citizen endeavor.

What we have here today is a demonstration of citizen concern and citizen participation. There is no government sponsorship, no government funding, no governmental authority, and that today is an unusual circumstance.

This was not always so. The history and folklore of America—which stay with us in thought, but too seldom are translated into action—tell the story of a pioneering and self-sufficient people. A people who came across the sea and conquered a wilderness. And a people who preferred to find their own solutions.

Today, however, citizens more and more seem to prefer inertia to initiative, abandoning action as a proper sphere of citizen concern. Thus government has supplanted the citizen initiative that established it.

Is there a problem about money? Let the government figure out where money should come from.

Is taxation unfair? Let government appoint a committee or a commission to provide some paper solution.

Education, pollution, urban renewal, mass transit, integration, crime, busing, war and peace—leave it to government because its "their" job.

And, if it is "their" job, then what is left for the citizen to do? Three things. To grumble constantly. To criticize generally. To vote occasionally.

So, in this world of constant change, let's make some really big changes now. Let's adopt a positive, optimistic attitude about the world and life in general. Let's renew our pride in America to give us the inspiration to correct whatever is wrong, and let's not expect government to solve all our problems by letting "Uncle" do it.

I mentioned our high standard of living, but there are Americans who go to bed hungry each night. I mentioned the great advances of Social Security and Medicare, but there are Americans who have worked all their productive lives only to be rewarded with a poverty-level subsistence in their old age.

We have Americans who live well and who make a good living, but they are terrified by the thought of sickness, because the price of a get-well ticket is way beyond their means. And we have Americans who fear to walk their city streets because of crime. We also have millions of Americans who will not swim in our rivers and lakes and oceans because of pollution. These examples can go on almost without end. But the question is: What can we, as citizens, do about them?

You know what many of us do. We blame it on the government. Sometimes the government in Washington. Sometimes the government in Tallahassee. Sometimes city and county government right here. That's freedom of choice. Choose your targets and let them have it. Because it's always, somehow, "their" fault. Never "our" fault.

We are fond of talking about our advanced and complex technology—which also serves as one of our personal excuses for not becoming involved in its operation. We recognize that we now live in a world that we somehow created, but do not really understand. Which is another good excuse for doing nothing.

I don't buy these excuses. I don't buy them because I'm optimistic enough to believe that we, the citizens of today, by calling on our pioneer heritage of individual and collective initiative of yesterday, can control our destiny.

What should we do? Well, the first thing we need to do in every city and town in this nation is what's being done here today. We need to come together. We need to know what each of us—the concerned citizen—is doing and thinking. We need to tell other people what one concerned and two concerned citizens and three concerned citizens can accomplish if they work at it. We need to draw more and more people into the things we do, the projects we plan.

We need to create a citizens' movement. We need to understand what must be done. And then we need to make government responsive to our understanding—and to our commitment to get the job done.

We need to concern ourselves with the operation of government at every level. Not just to blame it or criticize it, but to improve it. Because in this country—we own the government. It's all ours. And many of us have left it alone far too long.

But that need not be the case. The people in this room are testimony to that fact. There isn't one unconcerned citizen here today. And there isn't one of you who can't get another 10 as concerned as you are. And that's the key to winning this battle.

This is a great nation—ladies and gentlemen. Not because it has a great government. But because it has a great people. A people who can accomplish almost anything—if we put our minds to it.

Right now, we need to do something about our country—and about our government. We have been handed a great heritage of freedom. It didn't come to us without strings or without obligations. Now is one of those times when the obligations must be met. It's not a payment anyone can make for anyone else. Each of us has to make our own.

America's prosperity has often been mistakenly attributed solely to our possession of great stores of natural resources. It is true that we are blessed in that respect, but it is not the whole story. The striking fact is that many nations around the world—Israel and Japan are prime examples—are relatively poor in natural resources. They have flourished by developing their human resources.

And so has America prospered by developing its human resources. It is America's human resources—its people—that have written our great story of progress around the world. Now we must do more with these resources.

Certainly, we in education can do more than we have been doing. In the last two decades there has been a tremendous increase in knowledge, and it is being poured into our brains at an ever-increasing rate. But we in education must be more than just concerned about facts and figures—we must be concerned about the total society.

Being prepared to meet the demands of life is a large order, but the people of this nation have always thought big. We just need to start thinking bigger. And we need to start thinking together.

Let us start practicing ecology and conservation on a truly broad spectrum, conserving not only the rich resources of the earth, but of man who lives upon it.

Let us provide better—more effective—education for all our citizens—young and old, black and white, rich and poor—recognizing that students must acquire a high degree of specialized knowledge if they are to have the tools to provide skilled service to society. But, let's add more wisdom and understanding to their tool kits.

Let us have more interrelated planning as we build for the future, particularly in our cities. President John F. Kennedy called our cities "both our glory and our shame." So, let's erase the shame and provide the social engineers and technical experts to solve our urban problems.

Let us concentrate on solving such pressing problems as those of pollution, crime, drug abuse, transportation, health care, and housing in a massive joint effort with government, private enterprise, and citizens—let's pool our resources to create a better quality of life.

Let those of us in the "over-30 generation" stop dwelling on the misdeeds and mistakes of youth, and become working partners with each successive new generation in shaping a better world.

The world . . . Yes, "Try it—you'll like it." But, to really like it, you must contribute something to it!!

Each of us here knows what needs to be done, each of us really wants to see it done. And now is the time to get it done.

We must learn from one another, and assist one another as we attempt to move mankind forward in a constructive and meaningful way. Our work—yours and mine—will help shape the world in which we must all live together . . . or *perish together*. With your continued concern and involvement, *survive we will!*

A PETITION FOR THE CONGRESS TO END U.S. PARTICIPATION IN THE INDOCHINA WAR

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, today, at 11 a.m. there will be an assemblage of citizens gathered together in order to present a petition to those Members of Congress who attend for that purpose.

The petition which will be presented is appended:

A Plea for National Repentance and a Petition to the Congress of the United States

Whereas, millions of Vietnamese, Cambodians and Laotians have been maimed and uprooted from their homes and more than one-half million killed;

Whereas, more than 50,000 Americans have been killed in Indo-China and 300,000 have suffered casualties;

Whereas, the lands and cities of Vietnam, Cambodia, and Laos have been devastated by napalm, defoliants, bombs and all the vast arsenal of the automated air war;

Whereas, the lives of United States prisoners held by the North Vietnamese are now threatened by the further escalation of the war;

Whereas, the war waged by the United States in Indo-China wastes our human and material resources and weakens our security rather than insuring it;

Whereas, the United States armed forces continue to impose upon the people of Vietnam the Thieu government dictatorship, thus depriving the Vietnamese people the inalienable right of freedom;

Whereas, the peace of the whole world is threatened by the recent escalation of the war by the United States, including the mining of Vietnam harbors, thus risking the beginning of World War III;

We, the undersigned citizens of the United States repent of our own complicity in this sin against the Providence of God and this crime against humanity; and we call for a national time of mourning and repentance.

We petition the Congress of the United States to take its proper responsibility for ending participation by the United States in the war in Indo-China by cutting off funds used for the prosecution of the war, that sanity and justice may be restored in the foreign relations of the United States government.

AN UNCONSTITUTIONAL GIVEAWAY OF GOVERNMENT PROPERTY

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, 17 of our colleagues and I have joined today with three Senators and Ralph Nader's Corporate Accountability Research Group—CARG—in appealing a decision by the Administrator of the Agricultural Research Service to give two companies exclusive royalty-free licenses on Government-owned patents. We believe that this decision by the Agricultural Research Service is an unconstiutional giveaway of Government property without congressional approval. Our appeal is directed to the Secretary of Agriculture, Earl L. Butz.

Article 4, section 3, clause 2 of the Constitution specifically provides that the Congress has the sole power "to dispose of and make all needful rules and regulations respecting property belonging to the United States." And yet, the Department of Agriculture is now proposing, on its own initiative, to grant licenses for the exclusive use of Government-owned patents to Welch Foods, Inc. and the Upjohn Co. The patents in question are on developments researched by the Department of Agriculture. In the past the policy has been to grant licenses on a nonexclusive basis, allowing competing companies to share in such Government-financed developments.

In granting a company an exclusive patent license—even if for a limited time and not the duration of the full life of the patent—the Department is unquestionably giving away property owned by the Government and precluding its use by other companies. What is more, in this case it is doing so at no charge.

While the Congress has given NASA limited authority to grant exclusive licenses on its patents, no such powers have been given to the Department of Agriculture.

What is disturbing is that the Department of Agriculture's action is part of a governmentwide move toward a policy of extending exclusive licenses on Government-owned patents. Effectively, such exclusive license granting will amount to a giveaway program financed by the taxpayer—first in the research of the patented development and ultimately in the price of monopoly-produced goods.

The appeal we are filing today is the first test of this new program which could affect more than 20,000 patents owned by various Federal agencies. These patents cover new developments in drugs and medical equipment, agricultural production and processing, the handling of energy sources, and so on.

The patent which the Department intends to grant to Upjohn is for a new use for the chemical cycloheximide. When sprayed on citrus trees, the chemical causes fruit to drop to the ground when ripe, thus reducing harvesting costs.

Mr. Speaker, I am submitting for printing in the CONGRESSIONAL RECORD a copy of our appeal. I believe it will be of interest to our colleagues for surely it is important that the Congress guard against usurpation by the executive branch of its constitutionally granted powers. Furthermore, it is incumbent upon us to protect the consumer against monopoly prices that would be caused by Government practices.

The appeal follows:

Appeal to the Secretary of the Department of Agriculture, Earl L. Butz

On behalf of Ms. Irene Till and the Corporate Accountability Research Group, we hereby appeal the decision of the Administrator of the Agricultural Research (ARS) of the United States Department of Agriculture (USDA) dated April 10, 1972, concerning the intended granting of exclusive licenses by USDA to Welch Foods, Inc., and The Upjohn Company, as indicated in the *Federal Register* of August 4, 1971. The appeal is taken pursuant to Regulation 19.11 CFR § 19.11, and is joined in by the members of the United States Senate and the United States House of Representatives whose names appear on the Schedule annexed to this appeal. Pursuant to Regulation 19.12, we hereby request a hearing before an Appeals Board. Because of the relatively short time authorized under the Regulations for this appeal, the appeal will contain only a summary of the arguments that will be offered at the hearing and contained in a full brief of this issue. That brief will be filed on or before June 16, 1972, unless the Secretary of USDA directs otherwise.

ARGUMENT

The question involved on this appeal is whether USDA has the authority to grant exclusive royalty-free licenses of patents owned by the United States and acquired by research paid for by the taxpayers' money, even when the license is not for the full life of the patent. In answering this question we start with Article 4, Section 3, Clause 2 of the United States Constitution which states that Congress has the sole power "to dispose of and make all needful Rules and Regulations respecting. . . . Property belonging to the United States." In his decision of April 10, the Administrator of ARS discusses at length the distinctions between licenses and assignments in the law of patents. While it is true that the properties at issue are patents, the controlling provisions of the Constitution here are not those authorizing Congress to grant letters patent, but those which establish and elaborate the principle of separation of powers and which grant to Congress and not the Executive the right to decide when, where, and under what conditions property paid for by the taxpayers shall be given away for the executive use of a private citizen.[1] Thus, all of the discussion concerning the distinctions between licenses and assignments in the patent area is irrelevant to the Constitutional question at issue here.

In our brief on this appeal we will demonstrate that the purposes behind Article 4, Section 3, Clause 2, are fully applicable in this case. For the present, an example will illustrate that point. Assume that USDA owned a building and decided that it would give a private person a royalty-free "license" to use that building for 99 years to the exclusion of all other persons. Absent a specific grant of authority from Congress can there be any doubt that the issuance of that "license" would be unconstitutional? Change the number of years from 99 to 5, and we have the situation in this case. The taxpayers pay for the acquisition of all government property, including patents. The Founding Fathers decided that only the Congress should have the power to take property paid for by the taxpayers out of the public's hands and give it over, or authorize it to be given over to private interests. That is what is proposed to be done here, and the fact that the period of exclusivity is no more than five years, or is otherwise limited, is constitutionally immaterial.

To illustrate how meaningless the time limitations are, and equally how irrelevant is the distinction between a license and an assignment, we only need to look at the patents involved here.[2] Pursuant to Section 19.5(c)(2) of the Regulations, the license cannot include the terminal portion of the patent. Therefore, in accordance with that provision, patents nos. 2,816,039 and 2,816,-840 are to be licensed to Welch Foods, Inc. for periods that end 6 and 13 days, respectively, before the patents themselves expire.[3] According to the distinction drawn in the April 10 decision, the exclusion of the terminal period prevents the license from being classified as an assignment, and hence avoids the constitutional proscription against disposing of property without Congressional authority. Presumably, the same logic would apply where the time remaining until expiration was one day, or even one hour or one minute. Clearly, the Constitution cannot be circumvented that easily.

The patent proposed to be issued to the Upjohn Company is a use patent for a chemical compound (cycloheximide) on which Upjohn held the original, but now expired, patent which is simply being put to a new use. The new use is as an abscission aid in the harvesting of fruit. Research by USDA shows that, when the chemical is properly sprayed on citrus trees, the fruit falls to the ground when ripe. If this use is proven commercially and technically feasible, it will provide tremendous savings in labor costs and will enable Upjohn to make huge profits under its monopoly granted by USDA. If allowed, that would mean that the public would be paying twice: first, to develop this use for cycloheximide, and second, to Upjohn for its monopoly profits. As taxpayers and consumers of citrus products we protest this action by USDA.

The fact that Upjohn's license would be only for five years simply means that there is a *possibility* that some other company may try to break into the field after that time. We suggest that the more likely possibility is that competitors would wait for their own exclusive licenses of other publicly-owned patents to augment their profits, rather than face a very uphill battle in the face of Upjohn's five year lead. Furthermore, from a constitutional point of view, it presumably would make no difference whether the period chosen were five, or fifteen, or even seventeen years less one day. If that is the logic of the argument in support of the decision of April 10, it is clearly in violation of the principles underlying the Constitution's prohibition against disposing of public property without Congressional authority.

When Congress wanted to give an agency the power to grant exclusive patents licenses, it knew very well how to do it. Thus, in Section 305(a) of the National Aeronautics and Space Act of 1958, 42 U.S.C. § 2457, Congress declared that all inventions and patents developed pursuant to contracts with NASA shall be the exclusive property of NASA, unless there is a waiver of those rights by NASA pursuant to subsection (f). This latter provision then spells out in detail the conditions required before the waiver can be made. Since there is no comparable provision of law under which USDA is "waiving" its rights to the patents at issue here, there is no basis for its attempt to issue exclusive licenses.[4]

Prior to the promulgation of USDA Regulations permitting exclusive licensing, licenses granted on publicly-owned patents were non-exclusive. Even this practice was considered by some to be of doubtful legality until Attorney General Harlan F. Stone issued an opinion indicating that such licenses could constitutionally be granted. 34 Op. Att. Gen. 320 (1924). The key to that opinion is that there was no disposition of government property since the license was non-exclusive, and hence the patent would still be available for use by others. In its selective reading of Attorney General Stone's Opinion, the Administrator's April 10 decision carefully omitted the operative language of the Opinion found on page 330 as it applies to exclusive, as opposed to non-exclusive patents:

"Since the property in a patent is not the actual exclusion of others but the possession of the right to exclude, the granting of a revocable, nonexclusive license *which does not convey the right to exclude,* is a mere exercise of the right, and so far from diminishing the estate constitutes a beneficial use of it on the part of the owner, or whoever is charged with the responsibility for it." (Emphasis added.)

Obviously, the opinion of Attorney General Stone in no way supports the grant of the exclusive licenses proposed here. As Attorney General Stone has made clear—and no authority cited by the Administrator has challenged his interpretation—the only property in a patient *is* the right to exclude others. Any conveyance or grant of that right, notwithstanding other conditions or limitations, is a "disposition" for purposes of Article 4, Section 3, Clause 2 of the Constitution, and thus is unlawful in the absence of a Congressional authorization allowing it.

Moreover, since the basis of the prior practice with regard to non-exclusive licenses was an opinion of the Attorney General, we do not understand why none was requested here. Mrs. Till was recently advised by Ralph E. Erickson, Assistant Attorney General in Charge of the Office of Legal Counsel in the Justice Department, that a review of the propriety of granting exclusive licenses was underway. In our view, this fact alone requires that you await the opinion of the Justice Department before proceeding in such a controversial area[5] where the sole basis for proceeding in the past has been an opinion of the Attorney General.[6]

The Administrator attempts to justify an exclusive license to Upjohn—although not those to Welch—on the grounds that in order to obtain the required Food and Drug Administration (FDA) approval before cycloheximide can be used, further expensive testing is necessary, and this cost must be recovered in order for the product to be able to be commercially successful. It is then suggested that, without this exclusive feature, Upjohn would not be willing to undertake this expensive testing, and the benefit to the public at large would be lost since the patent would lie fallow. Apart from the constitutional problems with this position, it is not even a satisfatcory basis for the action proposed.

We would like to know the evidentiary basis supporting the determination that an exclusive license is necessary to insure that the product reaches the market. Obviously, self-serving statements by Upjohn must be discounted in any evaluation of supporting evidence. Moreover, the use patent involved here has not even been issued; hence it cannot be argued that, since no one else has sought the license on a non-exclusive basis over a long period of time, it can be inferred that exclusivity is necessary to insure development.

Furthermore, we believe that there are a number of alternatives that should have been considered before resorting to exclusive licensing. For example, USDA could itself perform the testing required by FDA—just as it did the research that led to the discovery of this particular use—and then make that test data available to all who sought a nonexclusive license for the patent. In the alternative, licenses could have been granted on a non-exclusive basis on the condition that all licensees agree to contribute jointly toward the expenses needed to meet FDA's testing requirements, and the test results would then be available to all contributors. To the extent that commercial opportunities might not be exploited in the absence of further taxpayer-financed research and/or Executive-sponsored monopolies, it is up to Congress and not the Executive to decide whether to authorize an appropriate disposition of public funds and Government property to achieve those ends.

CONCLUSION

The question here is not whether or not exclusive licenses of Government-owned patents are desirable in some situations. The question is whether Congress or the Executive has the power to decide whether and under what conditions exclusive licenses are to be granted. We submit that the Constitutional prohibition against the disposition of Government property without the authority of Congress prohibits the grant of any exclusive patent licenses by USDA. Accordingly, the decision of the Administrator should be reversed, and no exclusive licenses should be granted.

---

[1] The Administrator, on page 10 of his letter of April 11, seems to suggest that these exclusive licenses constitute mere "management and use" of government property under 5 U.S.C. § 301. This view manifestly ignores the purpose of that statute which is to authorize the head of an executive department to regulate the use of "records, papers, and property" of the United States which are in his custody because of his statutory duties.

[2] In order to be able to participate fully in this appeal, it is necessary that we examine the proposed licenses since the discussion of them in the *Federal Register* is insufficient for these purposes. Accordingly, we request that copies be provided immediately.

[3] The other patent to be licensed to Welch terminates 46 days before the patent expires.

[4] The strong Congressional policy in favor of having all members of the public benefit from Government-sponsored research from which patents are developed is evidenced by numerous statutes which specifically require that result. See *e.g.*, the provisions of the Federal Coal Mining Health and Safety Act of 1969, which are found in 30 U.S.C. § 951 (c).

[5] See *Government Patent Policy* BNA Patent, Trademark and Copyright Journal (No. 71) 3/31/72.

[6] We are also somewhat at a loss to understand why you have not waited until the final regulations are issued by GSA in this area and then your program to those regulation.

ALAN B. MORRISON,
PETER J. PETKAS,
Attorneys for Appellants.

SCHEDULE OF MEMBERS OF CONGRESS JOINING THE APPEAL

Senators

Russell Long (Louisiana).
Lee Metcalf (Montana).
William Proxmire (Wisconsin).

Representatives

Bella S. Abzug (New York).
Les Aspin (Wisconsin).
Herman Badillo (New York).
Jonathan B. Bingham (New York).
Phillip Burton (California).
John D. Dingell (Michigan).
Bob Eckhardt (Texas).
Joshua Eilberg (Pennsylvania).
Donald M. Fraser (Minnesota).
Cornelius E. Gallagher (New Jersey).
Seymour Halpern (New York).
Michael Harrington (Massachusetts).
Henry Helstoski (New Jersey).
Edward I. Koch (New York).
John E. Moss (California).
Charles B. Rangel (New York).
Benjamin S. Rosenthal (New York).
William F. Ryan (New York).

A PENSION PROPOSAL TO PROTECT THE WORKERS OF AMERICA

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, private pension plan legislation is an issue of prime concern to American workers and sheer numbers of workers and dollars involved should make this issue of immediate concern to the Congress. At present, over 30 million employees are covered by private pension plans with $125 billion of unregulated assets. It has been estimated that just by the end of this decade those figures will increase to 43 million workers and over $259 billion.

In a society as affluent as ours and which has proclaimed its devotion to the furtherance of the general welfare, we must not permit a worker's "golden years" to be tarnished by poverty. Retirement should and must become a period of economic security and happiness for Americans, not days of uncertainty and hardship. The pension rights of American workers must now be protected and guaranteed, if pension plans are not to remain a cruel game of chance for employees.

The hazards of the private pension plan system places the odds on "winning" squarely against the workers; therefore, reform of that system is no game for the pensioner. The pension is usually the single largest asset other than Social Security that a worker has after a lifetime of labor. Loss of this income can spell financial disaster. The Senate Subcommittee on Labor estimated that over 90 percent of workers covered by pension plans never see a pension check. This means that financial disaster is the norm, not the exception for American workers.

In my estimation, the major hazard that prevents workers from receiving pension benefits is the false assumption that an employee will remain with a company his entire working career. Many employees will not work consecutively at the same company for even a period of 15 years, no less than 30 or more years that are usually required under private pension plans in order to receive benefits. The Senate Subcommittee on Labor determined that lack of vesting, the guarantee that an employee will receive a share of the company's pension fund if he leaves before retirement age, is the major cause that participants do not receive their retirement benefits. Some plans do have vesting provisions, but their ranks are so small as to be inconsequential for the vast majority of American workers. Among those plans that do have vesting provisions, some set eligibility requirements so high as to deny pension benefits to a large percentage of the participants. In some cases, plant relocations have forced many workers to lose their pension rights simply because there were no vesting provisions. Then too, one of the greatest needs in this field is to end the possibility that a worker can lose all his pension benefits just because he is laid off or quits one day before his benefits are scheduled to vest. Constituents who have suffered just such heart-breaking treatment have repeatedly come to me for assistance, and I have been totally unable to help them. The possibility of a cutoff of pension rights creates not only great hardship and injustice, but also offers a temptation to unscrupulous pension managers to arrange for the layoff of employees just before their pension rights accrue, so that they will not have to be paid. Many plans, it appears, are set up on the assumption that a majority of the workers will not receive their benefits. Workers should not lose their pension rights simple because of layoffs, plant relocations, or termination of service one day before the rights are scheduled to vest. Thus, vesting standards are a necessary part of pension legislation if the broad social purpose of pensions is to be served.

Funding standards, or at present, lack of funding standards, are another issue of great importance in the pension debate. What good will it do workers to receive vesting rights if there is no money, or not enough money, in the plan when they reach retirement age. Each plan should require funding that would catch up with accrued pension liabilities within a certain number of years. This is essential if we do not wish to see a repeat of the Studebaker fiasco of 1964. While Studebaker had very liberal vesting provisions in their plan they did not, at the time of bankruptcy, have enough funds to cover their liabilities. Many men who had worked 20 or more years did not receive their pension benefits, or at most, received a small percentage of their benefits. How can pensions plans reach their social objective if funds are insufficient to cover liabilities?

Since most employers recognize that full funding is necessary, it is interesting to note how many oppose legislation which would impose funding obligations upon private pension plans. As the Congress delays reform legislation, I ask what explanation can we give retired workers who have lost their pension rights because of unfunded plans? Just as it is a legitimate function of the Government to regulate bank reserves and insure the safety of depositors' accounts, so should the Congress establish laws to insure the proper funding of private pension plans.

A prime argument against the required funding of private pension plans is that this might discourage the establishment of new plans. Why would a company start a pension plan if it did not intend to pay out the benefits? Why should companies be wary of required funding unless they actually have no intention of meeting their obligations? Adequate funding of all private pension plans is essential to assure that pension promises will be fulfilled.

Reinsurance of pension funds, which protects employees against loss of benefits caused by plan termination, is tied closely to the issue of funding standards. Many plans lack the funds to protect effectively the interests of the employees. Upon termination, certain plans with insufficient funding will not be able to cover all accrued liabilities. Immediate funding of all vested benefits would provide complete insurance for the employee; however, this is often economically infeasible. By the requirement of reinsurance, the Federal Government would guarantee and secure basic pension benefits to workers for a slight fee. Only through reinsurance would pension benefits be considered a legal liability of the company. This is necessary if employers are to assume their responsibility to their employees, and if participants are to be assured full benefits. Further, reinsurance need not pose hardship upon employers. The burden of financing this guarantee would be measured by the value of the fund's assets and would not be applied retroactively. Also, a uniform premium rate could be established so as to minimize the cost to any particular plan.

Fiduciary responsibility and disclosure provisions, while not as crucial to the needs of pension plan participants as are the vesting and funding provisions, are certainly necessary for the full protection of workers. At present, Federal provisions regarding disclosure and responsibility are very weak and are in need of strengthening. Lack of strong provisions in these areas make enforcement of the legal rights of participants very difficult. Most workers do not know the corporate name of the employer, the bank holding his pension money, the names and addresses of the trustees of the plan, or even the exact name of the pension plan itself. Knowledge of these facts is essential for an employee if he is to adequately monitor his pension fund. More importantly, most matters of fiduciary responsibility are now covered under State law. This means that when the assets are in one State, the union in another, the corporation in even another that it is extremely difficult to file any sort of complaint, no less initiate legal action. Federal legislation must clarify fiduciary responsibility.

Legislation concerning fiduciary responsibility must also deal with investment discretion. While certain restrictions should be placed upon the pension plan manager, he should not be unduly restrained in the handling of fund assets. I do not believe, as do many pension legislation opponents, that stronger provisions of fiduciary responsibility must necessarily hinder the growth of fund assets. Reporting of large transactions and limitations on the amount a fund can invest in the sponsoring company, only serves the interest of the employees and are not a serious restraint on investment.

An effective pension law must also have stringent disclosure provisions. The contents of pension plan reports should inform participants about what the money is being used for and who is responsible for it. It is important to require the mailing of the pension plan report to each participant. Presently the law requires the participant to write to the pension plan office in order to receive a copy of the report. Many times the employees do not know the location of the office and often will not go to the trouble to find out.

Another important aspect of private pension plan legislation is pension credit portability. Portability would enable a worker who moves from one job to another to bring with him any pension credits which may have been vested. Such a plan would make it much easier for the employee to compute his current discounted value of any pension credits. This provision, while not a major one, would be one of convenience for the employee. This is analogous to having all your money in one bank account instead of several. In both cases, it is much easier to keep an eye on your money or pension credits. Many opponents of a portability provision claim that it would be cumbersome and expensive; however, under my legislation, participation would be voluntary and a separate commission would be set up to handle all pension transactions. Thus, the burden that now lies on many different Government agencies—such as the Department of Labor and the Internal Revenue Service—would be consolidated.

This pension commission would not only handle portability credits, but would be responsible for the filing of pension plan reports and would serve as a watchdog over the private pension plan industry. The commission would also be responsible for the enforcement of any regulations concerning the private pension industry.

One further point must be kept in mind. Social security was not intended to be and should not become a substitute for a good, sound private pension industry. While social security does provide a minimum income for covered employees, the amounts provided are seriously inadequate for most, if not all, middle income participants. Expansion of social security in lieu of development of sound private pension plan regulation would be a serious mistake and would place an undue burden on the middle income workers. Further, since private pension plans have an enormous amount of money available for investment, this vast reserve of money should be regulated not only to supplement social security but to foster the growth of our economy.

SUMMARY OF PENSION LEGISLATION

In the preceding paragraphs I have outlined the need for comprehensive private plan legislation to protect the pension rights of employees covered by such plans. The legislation I am introducing today would effectively deal with all of the problems and issues that I have previously discussed.

First. Vesting—Establishment of a basic minimum standard of graded vesting that would mature to full vesting after 15 years. Ten percent of accrued benefits would vest after 6 years employment with an additional 10 percent for each year thereafter until full vesting at 15 years. There would be no probationary period of enrollment in the pension plan and all aggregate service would be treated as continuous service. Temporary suspensions of employment would not be regarded as a break in service.

A Pension and Employee Benefits Commission would oversee the pension plan system and would be responsible for the enforcement of all pension legislation, including vesting. In the event that the commission would find that a plan is not conforming to legislation, it could petition a Federal court to order compliance.

Second. Exemptions—All plans with under 25 participants and those unfunded plans lacking tax qualification would be exempted.

Third. Voluntary portability—A voluntary pension portability system would be set up under the Pension Commission to aid in the transfer of pension credits between two registered plans. The Pension Commission would receive money voluntarily transferred to it in settlement of pension rights. This money would either be paid into a new employers fund or paid to the individual when he reaches 65.

Fourth. Funding—Plans would be required to provide for contributions to meet all current operating costs, liquidate unfunded liabilities in 40 years, or 30 years in the case of a new plan. An old plan creating an unfunded liability after the effective date of legislation would also be given 30 years.

Every 3 years, the plans' administrator would be required to submit a funding status report to the Pension Commission. Actuaries would be certified by the commission in order to submit these reports.

In the event of the complete or partial termination of a pension plan the employer would be liable for payment of all amounts that have been required by the funding section of the bill. Multi-employer plans would be exempted from the new funding provisions of the bill if such a plan enrolls 25 percent of an industry's employees or if no single employer employs more than one-fifth of the plan participants.

Also, a system of priorities would be set up and if a plan is terminated, it would provide life annuities first to retirees or those eligible to retire, next to those with vested rights, and then other participants.

The funding requirements would be enforced by the Pension Commission in the same way as the vesting standards.

Fifth. Reinsurance—The insurance of pension plans would be mandatory for all registered plans and would be administered by the Pension Commission. This would be a Federal insurance program for pension plans to guarantee that benefits would be paid even if an employer goes out of business before the plan is fully funded. This bill would limit reinsurance of vested benefits to the lesser of 50 percent of the employees' average monthly wage for the period at which his earnings were the greatest, or $500 a month.

Sixth. Disclosure—The bill would require that each plan send to each participant the details of exactly what benefits he is entitled to. An annual report would be published and would include a statement of assets, liabilities, receipts, and disbursements.

Seventh. Fiduciary Responsibility—Establishment of rules which would govern conduct of administrators of pension funds. These rules concern conflict of interest and unethical practices. The focus of these provisions would be to prevent the mishandling of funds. Whenever the commission has cause to believe that a fund is being administered in violation of the fiduciary requirements of the bill, the commission could petition any district court for an order requiring return to the fund of the assets illegally transferred out of it, or requiring payment of benefits denied to a beneficiary in violation of the fiduciary requirements.

A GI BILL FOR THE SEVENTIES AND BEYOND

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, American veterans are facing crises on several fronts. The problems of veterans today include drug and alcohol addiction, unemployment, and poverty; even the doors of our Nation's schools are closed to them. Today, I am introducing a package of bills which would deal directly with the critical problems facing those returning from Vietnam and elsewhere and would give new direction to Federal aid for veterans.

To aid the 80,000 veteran drug addicts and almost 2 million veteran alcoholics, I propose an enlightened treatment and rehabilitation program. The proposal would remove the stigma of dishonorable discharge from those suffering from these diseases as a result of their service and would provide a treatment program geared to individual needs. The VA's present drug addiction treatment plan, a methadone maintenance program requiring 6 weeks confinement to a hospital bed, is too drastic and rigid for many "lightly addicted" veterans. It should be supplemented by outpatient drug clinics and storefront treatment centers. My proposal would also deal with the psychological aspects of alcohol and narcotics addiction through rehabilitation and counseling programs.

In the face of a persistent 8-percent rate of unemployment among returning veterans—over 11 percent in the 20 to 24 age category—Federal employment and job placement efforts have proven inadequate. I propose that the Federal Government take the lead in encouraging employment of veterans by establishing a preferential hiring policy under Government contracts for disabled and Vietnam era veterans. Furthermore, my legislation would require the Veterans' Administration, in consultation with the Department of Labor and the Civil Service Commission, to establish an affirmative action plan providing for the employment of veterans in the Federal Government.

Any job training, counseling and placement service, to be effective, must also rely heavily upon the dedicated effort of State and municipal agencies and local businesses and unions to expand job opportunities. I call upon these segments of our society to cooperate fully with the Federal efforts by insuring complete registration of eligible veterans in job programs; improving communications between labor unions, employers and the veterans; increasing promotional activities such as job fairs; and, of course, opening new job opportunities.

The Federal Government has also failed to appraise realistically the cost of higher education. Skyrocketing education costs have mandated congressional action. This year, the House raised the benefits level from $175 a month to $200. The Senate has yet to act on this proposal. However, even the $200 figure is inadequate. I propose raising the level from the present $175 to $250 per month. With better education and training, the veterans would be able to adjust to life back in the States more easily and would be better qualified for jobs as they become available.

Also, the Congress must recognize that the crisis in veterans' affairs is not limited to Vietnam-era veterans. Benefits for veterans of other wars have been diminished by inflation and this hardship has been particularly severe for the disabled and elderly veterans. Therefore, I am introducing legislation to insure a cost-of-living increase in compensation, dependancy, indemnity compensation and pension payments. Equity for all veterans demands such action.

One further note. With any effort to employ Vietnam-era veterans, many will remain unemployed for some time. To ease their plight, I introduced H.R. 7833, a bill which would guarantee these veterans unemployment compensation of $75 per week for 52 weeks a year. That proposal has been endorsed by more than 50 Members of the House and I strongly urge others to join this effort to aid our veterans returning from the war.

With 8 million Vietnam-generation veterans attempting to return to the mainstream of American life, the need for a smooth and comfortable transition is essential. Unfortunately, the Federal Government's policy toward veterans has lacked vitality and has failed those who courageously served their Nation and survived brutal and bitter wars. The Veterans' Administration and other Federal agencies charged with responsibility toward veterans have failed to treat them as high-priority clients and too often are satisfied to follow the rules of the past instead of embarking on constructive and innovative reforms. The Congress must not wait until veterans bitterly march to the Capitol demanding just compensation for their service. The signs of despair are clear—high unemployment, unchecked drug and alcohol addiction, poverty and disorientation. What is needed is a major new initiative from the Congress now—a GI bill for the seventies and beyond.

PRESIDENT'S PEACE OFFER WOULD END WAR NOW

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

Mr. McCLORY. Mr. Speaker, in reviewing carefully the recent announcement by President Nixon regarding steps which he has ordered in Vietnam, I am impressed by his determination to protect lives of Americans who remain in that area and who are being withdrawn according to his announced schedule.

Mr. Speaker, in my opinion, the most significant portion of the President's announcement is his new proposal for peace throughout Indochina, an initiative which he expressed in specific terms which are fair, generous, and realistic.

Mr. Speaker, the President has called for an immediate and complete ceasefire. He has emphasized that the United States would stop all acts of force throughout Indochina and proceed with a complete withdrawal of American military elements from Vietnam to be completed within 4 months.

Mr. Speaker, the only conditions to this proposal are that prisoners of war should be released and that an internationally supervised ceasefire should be established.

Mr. Speaker, I have endeavored to translate precisely into a House concurrent resolution this proposal by the President, to indicate that it is the sense of the Congress that we subscribe to the terms and conditions of this proposal for peace.

Mr. Speaker, the House concurrent resolution which I am introducing today is as follows:

CONCURRENT RESOLUTION

Whereas the President of the Untied States has in his message to the American people on Monday, May 8, 1972, announced new initiatives for peace throughout Indochina; and

Whereas the President has specified that the following two conditions for peace must be met: First, all American prisoners of war must be returned, and second, there must be an internationally supervised cease-fire throughout Indochina; and

Whereas the President's announcement constitutes an honorable and highly appropriate means for bringing the existing conflict to an immediate end: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that, once prisoners of war are released and the internationally supervised cease-fire has begun, the United States should stop all acts of force throughout Indochina and proceed with a complete withdrawal of all American forces from Vietnam within four months.

FORT WALTON BEACH, FLA., SHOWS THE WAY ON VIETNAM

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, Fort Walton Beach, Fla., has taken important initiative in demonstrating support for the President on Vietnam. It should serve as an example nationwide. Local citizens, with the support of the news media in a drive spearheaded by radio station WFTW, have held a parade and collected petitions which contain thousands of names of individuals who stand with the President in his efforts for peace. This bipartisan effort will culminate in a visit to the White House on Friday, which I arranged, for presentation of group leaders and the petitions which they have gathered.

Apparently Fort Walton Beach is the No. 1 city in the Nation to conduct an all-out drive to show that America stands with the President in this crucial period. My warm congratulations to the patriotic citizens of Fort Walton Beach in Florida's First District.

THE 10TH ANNIVERSARY OF THE McINTIRE-STENNIS ACT

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the very high regard in which the Honorable JOHN C. STENNIS has long been held in his own State is now shared by all the Nation. The distinguished Senator from Mississippi is one of our Nation's most respected lawmakers. He is one of those directly responsible for providing adequate defense forces for America, but his contributions in other fields are equally valuable. One of these fields is forestry. In the South where forestry is one of our important industries, we have long known of Senator STENNIS' important work in this field. The extent of his interest is well brought out in a speech which he recently made at Mississippi State University commemorating the 10th anniversary of the McIntire-Stennis Act. I think it highly appropriate that his remarks on that occasion be shared with the membership of Congress. Therefore I take pride in placing them in the RECORD:

REMARKS BY SENATOR JOHN C. STENNIS

President Giles, Dean Clapp, Dr. McGuire, distinguished educators, professional Foresters, business and industrial visitors, and other friends:

Let me first thank you for what I know will be a very valuable and interesting book to me, and I hope to some others. I will explain later how much of a contribution others have made to anything I've done in forestry, including the McIntire-Stennis Act that we have talked about tonight. You said a copy of this book, I believe, was to go to the Library of Congress, and another to the Library for the Forest Service.

Well, reserving the privilege of looking at this book later, I'm going to match your generosity and now present this book to Dr. Giles, as President of Mississippi State University, in trust for all present and future students—to see, to read, and perhaps get an insight into what he wants to do, with the hope that some will develop a desire to be professional foresters. I hope I have your consent, Dr. Giles, with the reservation that I shall have a chance to look at it, and for the purposes already stated, it is my great privilege to present this book to you.

Dr. GILES. Senator Stennis, your University is honored to accept this book and its volume is testimony as to the contributions which this great statesman has made to forestry in the United States. Dr. Bayley and others here this evening have mentioned the Hatch Act, which was so important to the development of the State Experiment Stations in this country. The Act was passed in 1885. There is a similarity in the McIntire-Stennis Act, the development of it—and the Hatch Act, which is almost too much to be coincident. In the case of the Hatch Act, a Northern member of the House of Representatives drafted legislation which was gotten through the Senate by a Mississippi Senator, Senator J. Z. George, whose home still stands two counties away from here. And here this second Act in support of Forestry Research, with the combined efforts of the Federal government and the State governments, has had this same combination of a member of the House of Representatives from the North and a Mississippi Senator. This State takes great pride in the contributions which these statesmen have made in the development of both Agricultural Research and now Forestry Research in the United States. It is my privilege to introduce Senator John C. Stennis, a great American statesman, a warm friend. He was a Cheerleader at Mississippi State University and he hasn't stopped cheering for the Institution since that time. We're delighted to have you, Senator, and we're proud of you.

Senator STENNIS. Thank you very much—thank you—thank you. Dr. Giles and distinguished visitors, old friends, I can't thank you enough for the presentation of the map of inlaid wood—and also the book—but even more than that, the spirit that's behind this entire occasion, the spirit represented by those that came many miles, some across the Continent, for a meeting of their important Committee, and for the great, fine, wholesome fellowship here tonight. You know, I was told that I would be called on to make a speech, and that was understood, but these gentlemen that preceded me here in their excellent fashion have just cut the trees of my speech down one by one. I didn't have anything in the speech about myself, but everything else they said, except about me, was in the points that I had planned to bring to this national audience; now, I'm left on my own resources. But let me say, friends, I get great joy from the fact that you've experienced to a degree here tonight the fine experience that I had when I got into the matter of forestry research on a national level and when I commenced finding these dedicated professional foresters, many of them men of scholarly attainments (and it is literally true that I found some of them working in what they called laboratories, but they were having to sit on wood boxes). I came to know those in some of the State Universities—I can mention many names—it was an inspiration and an encouragement to me then. I'll mention one at the national level, and that's our friend Dr. Les Harper, and we're delighted to have him here tonight. I want the privilege of mentioning a few Mississippians if I may, and I run the risk of leaving out some, but I just must mention a few that have contributed to my thought and my efforts in forestry over the years.

There was a gentleman, Mr. W. H. Crosby, Sr., of Pearl River, Mississippi, who had been very successful in the timber and lumber business. He had placed an exhibit in the halls of the State Capitol in Jackson that I first saw when I was sworn in there as the newest member of the Mississippi Legislature in 1928. It told the story of the injury of wood fires, and made a plea for forest protection, for a forestry program, for foresty reforestation That image he painted there—he wasn't there himself—never died. It stayed with me. The great friend of this Institution and my friend, Bob Morrow, in his quiet way pointed out to me too, opportunities that I might find in Washington with reference to reforestation programs. Boswell Stevens of the Farm Bureau had the same idea, as did John Squires, a professional forester in Mississippi at that time. They helped me greatly. And I want to mention, too, Bob Hansford. Bob was the County Forester in Kemper County, Mississippi, and I hope he is here tonight. He's one of the finest men that I've known in this great profession—this great work. Bob had a degree in the school of hard knocks and practical experience. He was one of the great men that's been connected with our forestry in Mississippi, a true leader and worker with and among treegrowers.

We especially appreciate having these gentlemen from the other universities, and the business and industrial fraternity throughout our entire Nation. You have heard the names of their States called. By the way, we have both ends of the great Mississippi River represented here tonight—that's encouraging, too. These men are giants in their field. In fact, we have tall timber in town tonight! Isn't it great when people can get together on a common cause and all pull together and work together? It took a long time to put this bill together. It represented the best thoughts of a lot of different people. Maybe that's where its strength is. But we are doubly honored to have them here tonight. They have made great contributions to the Nation's strength, and for the benefit of all of us.

Now I'm going to condense my words if I may. You ordinarily might think of me as talking all the time of our work in military preparedness; I am concerned about this, of course—the security of our nation with enough to protect us. However, I am fully satisfied that we can, and that we shall have the will and the ability to protect ourselves against any military threat. However, I do have some grave concern that we *may* fail to anticipate and provide for our future needs in the decades ahead those material things that are necessary to support our economy and maintain the reproductive resources of the Nation. At the same time we must also generate a sound political environment, and political purposes that will sustain our present system of government, which is the best system ever recorded in the history of mankind. In thinking of the material things of the future, one of the very foremost on the list is the demand for forward-looking forestry research programs, and also an increase in the annual growth of our forestry products. I am going to emphasize tonight that the annual needs of our nation for forestry products will have doubled before this century ends. I think, too, of our other needs, but this is one of our most serious.

So when I first went to the Senate I was searching for an activity that was constructive and productive and enduring, which would help build our economy as well as strengthen the Nation, including our own State, and I seized upon this subject in which I already had an interest—forestry research. I found that there was great need there for proper Congressional support. But I also found one of the finest and most dedicated groups of professional men to be found in our nation. They are represented here tonight—the professional researchers, the professional foresters, and those that work in the forest products. I found these at both the State and the national level, and these initial forward steps by this new Senator also led to the joint effort with my respected friend, and highly valuable and truly great friend of forestry, the Honorable Clifford McIntire. These things, with a great deal of help, as you have already heard, finally led to what is known now as the McIntire-Stennis Act.

Clifford, if I may say with a great deal of emphasis, it is with the greatest pride that I find you here. You are still carrying on, always unselfishly, always constructive, productive, looking to the future and building for the future and for the strength of our great nation. To the extent that this Act has been successful, you are certainly due more credit than I am, but literally scores and scores of individuals deserve the credit. I am, as you already know, a complete believer in the essentiality of forest research—a strong advocate of adequate funding and facilities in this field. I salute you gentlemen as being builders of the future. I salute the colleges and universities of this great nation. I am impressed with the individual and collective support, effort, and effectiveness of the Forestry Schools throughout our Nation. I take pride in the fact that we have one here at Mississippi State, that young in years, is known as one of the very best. Now this Act, my friends, was designed to capture all of the advantages that I have mentioned, and those that can accrue from a multiplication of the factors that go with cooperative activities. The federal funds on a matching basis are an incentive to States to increase funding for forestry, and that exceeded our expectations. At the same time, in the same way, this expression of national interest in forestry research at State institutions gives greater opportunity for exchange of communications on research matters between those schools and the public and the private groups, so dependent upon research and science in this field. I am told that there are now over 500 forestry scientists, supported in part by the Cooperative Research Funds on the campuses of our State universities in graduate and undergraduate work. There are almost as many in training to become scientists. We need them, and more. The impacts on our forest resources have reached staggering proportions from increases in population, in leisure time, and in accelerated means of access to forest areas. Three to four times the federal dollars now available to the universities are needed to help solve the Federal government's share of these increasing problems.

I want to touch briefly on some of the high points of another bill, the Forestry Incentives bill. This is directed primarily at privately-owned lands, for that's where the necessary extra production must come from. On February 2nd I introduced this legislation. I believe it has the potential to have a major effect on the economy and the environment throughout the nation. Why do we have this widespread under-productivity of non-industrial forests, over 300 million acres in private ownership? There are a number of reasons, but they boil down to a dollars-and-cents economic reason. This Act is designed to provide the small owner with the incentives that have so far been lacking—a fact which accounts for the relatively low production of these kinds of lands. There is only one source with a sufficient potential capacity to provide the necessary increased production, and that is the forest land of the country that is in small ownership—privately-owned land—non-industrial forests.

Three-fifths of all available commercial forest capacity is in this category. It amounts to over 300 million acres, as I've said, and it belongs to 4½ million owners. This land is growing wood only at about one-half of its capacity. Being quite brief, this bill would operate under the Department of Agriculture, assisting landowners to plant seedlings on private, non-industrial land, paying 80% of the cost of reforestry. No new organization would be needed at County and State levels. The County and State Committees would act as they do now. This is a large national program and not just a local program by any means. The estimates on this proposal are that it would be possible under it to plant 45 million acres in the next 10 years, and eventually add 9 billion board feet per year to our present production. Environmental dividends are also obvious. Erosion prevention, watershed protection, conversion of idle land, wildlife habitat, outdoor recreation and other environmental enhancement will be a part of the benefits. We have had hearings on that bill. It has nationwide support, and I believe has a good chance to become law this year, with an appropriation forthcoming next year. I repeat, the estimates are that by the year 2000, and that is just 28 years—which is not a long time when you are growing trees—we will have doubled the amount of forest products of all kinds needed to sustain our economy.

Now let me go back a moment to the McIntire-Stennis Act. You have heard a review here of what I believe was a well-drawn bill. It was a very small appropriation, but things were well thought out and have been built on a very sound foundation. The appropriation from the Federal government ought to double—at least double—in the next few years, and I'm certainly going to double and redouble my efforts to get that money. I am accustomed to dealing for Research and Development in the Military in terms of hundreds of millions of dollars—even billions, in one bill. Frankly, it will be a reflection on me if I can't be more effective now that this program is so well established and on such a sound foundation. Let me tell you, there's not anything as powerful in legislation in Washington, no power in the government equal to the power of federal programs and State agencies all working together, and all pulling in the same direction. When this really happens, momentum is generated and action starts, as this bill has shown. I appeal to you who are here from all the States—spread the word as to the needs, and we can get these appropriations doubled if we redouble our efforts. I want to emphasize this to everyone here from every State. This program now has a separate profile, an individuality, and an identity of its own. Let's keep it that way. That's the source of its strength, bringing together the resources of the universities, the States, the Federal Government—all their top thought and resources of the mind. That's what gives it its identity, its separate profile—and to use a term that's well known in the parlance of woodwork—let's not let the termites get in this program. Let's keep it going in the direction that it is now, and let's keep it moving where it will afford young men, oncoming scientists and professional men, the attraction and the opportunity to get early training and go on to higher achievements.

This bill has, to put it another way, a very good flavor as it is now, and let's keep it in that category. I believe that this program, together with others, will assure not only the necessary wood products for our economy, but will assure them for the strength of our great nation as the decades come and go. Time can run out on us, but this is one field of endeavor, in which we are dealing with a reproduceable resource, where I believe that we are going to have time.

I have spoken about the economy and I have referred to its strength. I know that's in the minds of the people, and I want to conclude quite briefly. I sense wherever I go a certain amount of uncertainty running through the minds of the people—we all feel that something has happened, and we don't know just what it is. We are afraid that something is very much wrong with our system of government, our society, or our social order, or our spiritual beliefs—call it what you will. I hear people say once in a while, and I get it in letters I receive too, that dedication is old-fashioned; that those things are not what count any more. Let me tell you, friends, I think if we fall into that realm of thought—that it's old-fashioned and useless to talk about dedication—and if that's true, then we have pulled out one of the main mudsills upon which our society is founded and our system of government rests. I appeal to people to go back to the days of pride in personal achievements. I believe that pride is one of the great forces that has made our society—pride in achievements, pride in accomplishments, pride in doing an honest day's work for an honest day's pay. I believe that the power of moral values is one of the great motivating factors of our society. Talk about being a powerful nation! We better think about the great power of moral values, and the undermining process of deterioration when there is a lack of those values. I am not discouraged. I find evidence of the deep flow in the hearts and minds of the people. They are confused by what they read, and maybe for the time being are discouraged, but still, the basic faith is there; the belief is there; basic pride is there. We must give it more emphasis. We must remember the power of spiritual values, the weakness that goes without those values. I'm satisfied, myself, that our nation is not founded on any kind of religion, but is founded on spiritual values and spiritual strength and things of the spirit—things expressed by what the writer from South Carolina said: "We have a great abundance here of the things that money cannot buy." So as leaders, let's keep the emphasis on those things and make them survive.

I want to illustrate again that it doesn't take a majority to believe in these fundamentals. I was taken over the encampment ground at Valley Forge two years ago. It wasn't a battlefield—there were no shots fired there—it's where George Washington took his struggling, straggling, starving Army for their winter quarters, as you recall. I didn't know until the Historian told me, that while they were there during that terrible winter a third of those men deserted—or at least, they left and didn't come back. The second third of them died—so many that George Washington wouldn't let them be buried except under cover of darkness, lest the enemy learn the extent of their decimation. But a third of them stayed, and prayed—catching the matchless example of the Commander-in-Chief as they caught glimpses of him in his daily prayers. That third survived, and he marched them out of there when spring finally came; and within the brief span of a few years he had formed them into the hard core of the Army to which Cornwallis surrendered at Yorktown. This Historian said he told that story to President Eisenhower and that truly great man lifted his hat, laid it on the grass, bowed his head and said, "Here, thank God, our Nation was born." I believe he was correct.

We are facing these challenges, and we are facing change; but every generation before us has faced them and has met them. And they have kept their faith—their faith in our system of government. No generation has failed to respond and keep it going. But our system of government is not self-executing; it's not self-perpetuating. Every generation has to meet the problems of their time, carry their part of the load, and have faith in our system. They have always been able to make it work, and we can, too. That same God to which George Washington and that remaining one-third looked is still there, and His help is still necessary. So let us rededicate ourselves to the constructive and fundamental bases of our society and our great religious belief, making up our minds to do our part and keep looking for Higher Light and more strength from On High. When we do that, we will find that Light and Strength, and with His help, we will find our way. So God bless the Forests of America, and God bless you!

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Steele) to revise and extend their remarks and include extraneous material:)

Mr. Bow, for 30 minutes, today.

Mr. Kemp, for 15 minutes, today.

(The following Members (at the request of Mr. Mazzoli) to revise and extend their remarks and include extraneous material:)

Mr. Hamilton, for 10 minutes, today.

Mr. Gonzalez, for 10 minutes, today.

Mr. Gibbons, for 5 minutes, today.

Mr. Rodino, for 10 minutes, today.

Mr. Begich, for 30 minutes, today.

Mr. Dulski, for 5 minutes, today.

Mr. Aspin, for 15 minutes, today.

Mr. Danielson, for 5 minutes, today.

Mr. Leggett, for 60 minutes, today.

Mr. Podell, for 10 minutes, today.

Mr. Eckhardt, for 10 minutes, today.

Mr. Slack, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Ryan, to revise and extend his remarks before the passage of the Anderson of Illinois amendment.

Mr. Gude, to extend his remarks immediately following the vote on the Ford amendment on H.R. 7130.

Mr. O'Konski, to make a personal explanation immediately following the vote on the Erlenborn substitute.

(The following Members (at the request of Mr. Steele) and to include extraneous matter:

Mr. Peyser in five instances.

Mr. Camp.

Mr. Wyman in two instances.

Mr. O'Konski.

Mr. Hosmer in two instances.

Mr. Schwengel.

Mr. McCloskey.

Mr. Bell in three instances.

Mr. Erlenborn.

Mr. Price of Texas.

Mr. Derwinski in three instances.

Mr. Thomson of Wisconsin.

Mr. Wydler in two instances.

Mr. Kemp in four instances.

Mr. Whalen.

Mr. Duncan in two instances.

Mr. Thone in two instances

Mr. Frey.

Mr. Wiggins.

Mr. Shoup in six instances.

Mr. Whitehurst in two instances.

Mr. Schmitz in two instances.

Mr. Bow.

(The following Members (at the request of Mr. Mazzoli) and to include extraneous material:)

Mr. Murphy of New York in two instances.

Mr. Annunzio in three instances.

Mr. Wolff in three instances.

Mr. Badillo.

Mr. Begich in three instances.

Mr. Leggett in two instances.

Mr. Sarbanes in five instances.

Mr. Teague of Texas in two instances.

Mr. Fuqua.

Mr. White.

Mr. Obey in six instances.

Mr. Hungate in two instances.

Mr. Dulski in two instances.

Mr. Burke of Massachusetts in two instances.

Mr. Symington.

Mr. Byron in 10 instances.

Mr. Long of Maryland in three instances.

Mr. Addabbo.

Mr. Chappell in two instances.

Mr. Boland in six instances.

Mr. Bingham in four instances.

Mr. Fascell.

Mr. Roush.

Mr. Jones of Tennessee in five instances.

Mr. Edwards of California.

Mr. Celler.

Mr. Evins of Tennessee in two instances.

Mr. Dingell in two instances.

Mr. Bennett.

Mr. Waldie in three instances.

Mr. Stratton.

Mr. Zablocki in two instances.

Mr. Diggs in three instances.

ENROLLED BILL SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 13334. An act to establish certain positions in the Department of the Treasury, to fix the compensation for those positions, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1379. An act to authorize the Secretary of Agriculture to establish a volunteers in the national forests program, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 8083. An act to amend title 5, United States Code, to provide a career program for, and greater flexibility in management of, air traffic controllers, and for other purposes; and

H.R. 9212. An act to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes.

ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 18 minutes p.m.), under its previous order, the House adjourned until Monday, May 15, 1972, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

1973. Under clause 2 of rule XXIV, a letter from the Comptroller General of the United States, transmitting a report of opportunities to consolidate support functions in the Pacific to reduce military costs, Department of Defense; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee of conference. Conference report on H.R. 14582 (Rept. No. 92–1063). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BADILLO (for himself, Mr. Koch, Mr. Mitchell, Mrs. Abzug, Mr. Rangel, Mr. Ryan, Mr. Edwards of California, Mr. Waldie, Mr. Hawkins, Mr. Dellums, Mr. Nix, Mr. Metcalfe, Mr. Burton, Mrs. Chisholm, Mr. Clay, Mr. Conyers, Mr. Diggs, Mr. Fauntroy, Mr. Harrington, Mr. Mikva, and Mr. Stokes):

H.R. 14924. A bill to prohibit States and political subdivisions from discriminating against low and moderate income housing, and to give a priority in determining eligibility for assistance under various Federal programs to political subdivisions which submit plans for the inclusion of low and moderate income housing in their development; to the Committee on Banking and Currency.

By Mr. BIESTER:

H.R. 14925. A bill to amend the Public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. BINGHAM:

H.R. 14926. A bill to amend title 38 of the United States Code to provide for cost-of-living increases in compensation, dependency, and indemnity compensation, and pension payments; to the Committee on Veterans' Affairs.

H.R. 14927. A bill to amend chapters 31, 34, and 35 of title 38, United States Code. to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons; to the Committee on Veterans' Affairs.

H.R. 14928. A bill to provide additional readjustment assistance to veterans by providing improved job counseling, training, and placement service for veterans; by providing an employment preference for disabled veterans and veterans of the Vietnam era under contracts entered into by departments and agencies of the Federal Government for the procurement of goods and services; by providing for an action program within the departments and agencies of the Federal Government for the employment of disabled veterans and veterans of the Vietnam era; and for other purposes; to the Committee on Veterans' Affairs.

H.R. 14929. A bill to amend chapters 17 and 31 of title 38, United States Code, to require the availability of comprehensive treatment and rehabilitative services and programs for certain disabled veterans suffering from alcoholism, drug dependence and alcohol or drug abuse disabilities, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 14930. A bill to provide additional protection for the rights of participants in employee pension and profit-sharing retirement plans, to establish minimum standards for pension and profit-sharing retirement plan vesting and funding, to establish a pension plan reinsurance program, to provide for portability of pension credits, to provide for regulation of the administration of pension and other employee benefit plans, to establish a U.S. Pension and Employee Benefit Plan Commission, to amend the Welfare and Pension Plans Disclosure Act, and for other purposes; to the Committee on Ways and Means.

By Mr. DINGELL (for himself, Mr. Moss, and Mr. Reuss):

H.R. 14931. A bill to promote the abatement of atmospheric sulfur pollution by the imposition of a tax on the emission of sulfur into the atmosphere, and for other purposes; to the Committee on Ways and Means.

By Mr. DRINAN (for himself, Mr. Collins of Illinois, and Mr. Stokes):

H.R. 14932. A bill to provide for the cessation of bombing in Indochina and for the withdrawal of U.S. military personnel from the Republic of Vietnam, Cambodia, and Laos; to the Committee on Foreign Affairs.

By Mr. DULSKI (for himself and Mr. Miller of California):

H.R. 14933. A bill to amend title 5, United States Code, to make level V of the Executive Schedule applicable to three additional positions within NASA, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DULSKI:

H.R. 14934. A bill to amend title 5, United States Code, to make levels III and IV of the Executive Schedule applicable to certain positions within the Department of Justice, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ECKHARDT:

H.R. 14935. A bill to create a civil remedy for the employees of motor carriers who are discharged for failing to obey their employers' orders where compliance with those orders would entail violating motor carrier safety regulations or for reporting violations of these regulations or otherwise cooperating with the Bureau of Motor Carrier Safety; to the Committee on Interstate and Foreign Commerce.

By Mr. FISH:

H.R. 14936. A bill to name the new Federal Bureau of Investigation Building the "J. Edgar Hoover Building"; to the Committee on Public Works.

By Mr. HARRINGTON:

H.R. 14937. A bill to establish a contiguous fishery zone (200-mile limit) beyond the territorial sea of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. HAWKINS (for himself, Mr. Abourezk, Mr. Aspin, Mr. Badillo, Mr. Bingham, Mr. Clay, Mr. Conyers, Mr. Corman, Mr. Danielson, Mr. Dow, Mr. Edwards of California, Mr. William D. Ford, Mr. Fraser, Mr. Green of Pennsylvania, Mr. Helstoski, Mr. Johnson of California, Mr. Leggett, Mr. Matsunaga, Mr. Mazzoli, Mr. Meeds, Mr. Nix, Mr. Perkins, Mr. Podell, Mr. Rangel, and Mr. Tiernan):

H.R. 14938. A bill to provide public service employment opportunities for unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes; to the Committee on Education and Labor.

By Mr. BURTON (for himself, Mr. Anderson of California, Mr. Barrett, Mr. Bolling, Mr. Collins of Illinois, Mr. Dent, Mr. Diggs, Mr. Fauntroy, Mrs. Grasso, Mr. Halpern, Mr. Holifield, Mr. McFall, Mr. Metcalfe, Mr. Moss, Mr. Price of Illinois, Mr. Pucinski, Mr. Rodino, Mr. Rooney of Pennsylvania, Mr. Rosenthal, Mr. Roybal, Mr. Ryan, Mr. Scheuer, Mr. Stokes, Mr. Thompson of New Jersey, and Mr. Charles H. Wilson):

H.R. 14939. A bill to provide public service employment opportunities for unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes; to the Committee on Education and Labor.

By Mrs. MINK (for herself, Mrs. Abzug, Mr. Annunzio, Mr. Carey of New York, Mrs. Chisholm, Mr. Gonzalez, Mr. Hathaway, Mr. Hanna, Mr. Hechler of West Virginia, Mr. Miller of California, Mr. Mitchell, Mr. Madden, Mr. Pepper, Mr. Rees, Mr. Reid, Mr. Van Deerlin, Mr. Waldie, and Mr. Yates):

H.R. 14940. A bill to provide public service employment for unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes; to the Committee on Education and Labor.

By Mr. KOCH (for himself, Mrs. Abzug, Mr. Burton, Mr. Dellums, Mr. Dow, Mr. Eilberg, Mr. Halpern, Mr. Heinz, Mr. Helstoski, Mr. Horton, Mr. Kemp, Mr. Kyros, Mr. Lent, Mr. Roe, and Mr. Wolff):

H.R. 14941. A bill to amend the Federal Food, Drug, and Cosmetic Act to regulate the advertising and distribution of organically grown and processed foods; to the Committee on Interstate and Foreign Commerce.

By Mr. MINISH:

H.R. 14942. A bill to amend the Public Health Service Act to provide for the prevention of Cooley's anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. STRATTON:

H.R. 14943. A bill to amend title 38 of the United States Code in order to establish a program providing 52 weeks of assure employment to Vietnam-era veterans unable to find work; to the Committee on Veterans' Affairs.

By Mr. STRATTON (for himself, Mrs. Abzug, Mr. Boland, Mr. Brasco, Mr. Byrne of Pennsylvania, Mr. Curlin, Mr. Danielson, Mr. Davis of South Carolina, Mr. Delaney, Mr. Dent, Mr. Dingell, Mr. Donohue, Mr. Duncan, Mrs. Dwyer, Mr. Garmatz, Mr. Gonzalez, Mrs. Grasso, Mr. Halpern, Mr. Hanna, Mrs. Heckler of Massachusetts, Mr. Leggett, Mr. Metcalfe, Mr. Miller of California, Mr. Podell, and Mr. Rees):

H.R. 14944. A bill to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, and for other purposes; to the Committee on Ways and Means.

By Mr. WYMAN:

H.R. 14945. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes; to the Committee on Education and Labor.

By Mr. DON H. CLAUSEN:

H.R. 14946. A bill to establish the Golden Gate National Recreation Area in San Francisco and Marin Counties, Calif.; to the Committee on Interior and Insular Affairs.

By Mr. CULVER:

H.R. 14947. A bill to authorize the city of Clinton Bridge Commission to convey its bridge structures and other assets to the State of Iowa and to provide for the completion of a partially constructed bridge across the Mississippi River at or near Clinton, Iowa, by the State Highway Commission of the State of Iowa; to the Committee on Public Works.

By Mr. DANIELS of New Jersey (for himself, Mr. Esch, Mr. Hawkins, Mr. Badillo, Mrs. Chisholm, Mr. Coughlin, and Mr. Rosenthal):

H.R. 14948. A bill to provide for the comprehensive development of correctional manpower training and employment, and for other purposes; to the Committee on Education and Labor.

By Mr. DIGGS:

H.R. 14949. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FISH:

H.R. 14950. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mrs. HECKLER of Massachusetts (for herself, Mr. Archer, Mr. Bell, Mrs. Grasso, Mr. Roe, Mr. Sandman, and Mr. Sisk):

H.R. 14951. A bill establishing a commission to develop a realistic plan leading to the conquest of multiple sclerosis at the earliest possible date; to the Committee on Interstate and Foreign Commerce.

By Mr. HOWARD:

H.R. 14952. A bill to extend the contiguous fisheries zone of the United States to a distance of 197 miles seaward of the territorial sea; to the Committee on Merchant Marine and Fisheries.

By Mr. KEMP:

H.R. 14953. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. KING:

H.R. 14954. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

By Mr. O'NEILL (for himself, Mr. Reuss, Mr. Roe, Mr. Scheuer, Mr. St Germain, Mr. Thomson of Wisconsin, Mr. Waldie, Mr. Charles H. Wilson, Mr. Zablocki, Mr. Mollohan, Mr. Sarbanes, Mr. Denholm, Mr. Clay, Mr. Scott, Mrs. Hicks of Massachusetts, Mr. Cotter, Mr. Thompson of New Jersey, Mr. Bergland, Mr. Eilberg, Mr. Madden, Mr. Kastenmeier, Mr. Matsunaga, Mr. Hunt, and Mr. Moss):

H.R. 14955. A bill to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, and for other purposes; to the Committee on Ways and Means.

By Mr. SHOUP:

H.R. 14956. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes; to the Committee on Education and Labor.

By Mr. SLACK:

H.R. 14957. A bill to permit the State of West Virginia to obtain social security coverage, under its State agreement entered into pursuant to section 218 of the Social Security Act, for policemen and firemen in certain cities, and to validate certain past coverage for such policemen and firemen; to the Committee on Ways and Means.

By Mr. THONE (for himself and Mr. Mizell):

H.R. 14958. A bill to amend the Occupational Safety and Health Act of 1970 to provide that where violations are corrected within the prescribed abatement period no penalty shall be assessed; to the Committee on Education and Labor.

By Mr. VEYSEY:

H.R. 14959. A bill to amend the Federal Election Campaign Act of 1971 to establish a Federal Elections Commission; to the Committee on House Administration.

By Mr. WALDIE:

H.R. 14960. A bill to change certain provisions of title 5, United States Code, to bring certain classes of temporary and other short-term employees within the purview of the civil service retirement system and the Federal life and health insurance programs; to the Committee on Post Office and Civil Service.

By Mr. DOWNING:

H.J. Res. 1196. Joint resolution to terminate the effectiveness of subparagraphs (d) and (f) of section 37 of the Shipping Act, 1916, as amended; to the Committee on Merchant Marine and Fisheries.

By Mr. McKINNEY:

H.J. Res. 1197. Joint resolution declaring the week of June 19–26 as Family Camping Week; to the Committee on the Judiciary.

By Mr. BRINKLEY:

H. Con. Res. 610. Concurrent resolution expressing the sense of the Congress with respect to the withdrawal of all American forces from Vietnam; to the Committee on Foreign Affairs.

By Mr. McCLORY:

H. Con. Res. 611. Concurrent resolution expressing the sense of the Congress with respect to the establishment of peace in Indochina; to the Committee on Foreign Affairs.

By Mr. TEAGUE of Texas:

H. Res. 979. Resolution relative to a transnational lunar expedition; to the Committee on Science and Astronautics.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. CELLER introduced a bill (H.R. 14961) for the relief of Vyacheslav Pavlovich Artemiev; Vojislaw Bozic; Constantine Arkadij Krylov; Abdurachman Kunta; Nikola Masur; Nikolajs Ozolins; and Eugen Posdeeff, which was referred to the Committee on the Judiciary.

SENATE—*Thursday, May 11, 1972*

The Senate met at 11:30 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou Ancient of Days, yet ever-present Lord of life, we lift our hearts to Thee for wisdom and strength. Penetrate the darkness of our shadowed human scene with Thy divine light and truth. When we cannot see the way, wilt Thou illuminate our path? Give Thy servants here grace as well as strength, patience as well as resoluteness, and above all else the will to obey Thy guidance. Help us not only to speak, but to hear with understanding, and above all voices may we hear Thy voice. In the midst of confusion and conflict, help us, both leaders and people, to seek always first "Thy judgments which are more to be desired than gold, yea, much fine gold; sweeter also than honey and the honey comb. Moreover by them are we warned and in keeping of them there is great reward."

In the Redeemer's name we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of of the Journal of the proceedings of Wednesday, May 10, 1972, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 1, Public Law 86–420, the Speaker has appointed as a member of the U.S. delegation of the Mexico-United States interparliamentary group, Mr. THONE, of Nebraska.

The message also announced that the Speaker has affixed his signature to the following enrolled bills:

H.R. 8083. An act to amend title 5, United States Code, to provide a career program for, and greater flexibility in management of, air traffic controllers, and for other purposes; and

H.R. 9212. An act to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. METCALF).

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 753 and 754.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of those measures.

LONG-TERM LEASING OF INDIAN LAND ON THE WALKER RIVER RESERVATION

The bill (S. 953) to amend section 1 of the act of August 9, 1955, relating to the leasing of Indian lands, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 953

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of August 9, 1955 (69 Stat. 639), as amended, is amended by inserting immediately after "Fort Mojave Reservation,", the following: "the Walker River Reservation, Nevada,".

Amend the title so as to read: "A bill to authorize long-term leasing of Indian land on the Walker River Reservation."

The title was amended, so as to read: "A bill to authorize long-term leasing of Indian land on the Walker River Reservation."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–785), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The bill amends the act of August 9, 1955 (69 Stat. 539), as amended, by authorizing leases on the Walker River Reservation for a period up to 99 years for public, religious, educational, recreational, residential, or business purposes and for farming purposes which require the making of substantial investment in the improvement of the land for the growing of specialized crops.

NEED

The Walker River Indians have an immediate need for this additional leasing authority for their reservation which consists of a little over 320,500 acres. A development organization, known as Cibola Freeport Authority, Ltd., has expressed an interest in leasing approximately 7,000 acres of tribal land on the Walker River Reservation for the purpose of creating a warehouse and industrial complex, including the construction and operation of an airport for use consistent with such purposes and the construction of a residential complex for the persons employed there. The leased premises on the Walker River Reservation would be an air cargo distribution point to markets within the Western States. The Cibola Industry has expended considerable sums of money doing preliminary study and research on this project. However, the developers will need a period longer than 50 years in which to recover their investment and to finance the development of this industrial site. The tribal governing body has requested that this legislation be enacted.

BACKGROUND

In 1955 Congress gave general authority for long-term surface leases on any trust or restricted Indian lands, whether tribally or individually owned. Under the 1955 act leases for various purposes, such as business and residential development, could be granted for terms of up to 25 years and could contain an option permitting renewal for not to exceed 25 years. The effect was to permit 50-year leases of Indian land. Farming leases which involved substantial improvements could be made for 25 years and grazing leases were limited to 10 years.

Beginning in 1959 and the 1955 act has been amended 19 times to allow development leases to be made for up to 99 years on certain reservations. In 1964 Congress also gave authority for 99-year leases on the Colorado River Reservation. In addition, in 1966 Congress authorized the leasing of Indian land on the San Xavier and Salt River Pima-Maricopa Indian Reservations for a term of not to exceed 99 years.

In attempting to make use of the 1955 act authority, it became apparent that lessees would be severely limited in financing the development of Indian lands with a maximum tenure of only 50 years. Many lenders are restricted by law, regulation or their policies from making leasehold development loans unless the lease is for a full 50 years, and in some instances longer. Mortgage insurance under the National Housing Act is available for leasehold residential loans only if a 50-year term exists. This means that the borrower must have a full 50-year lease term remaining when a loan is made. From a practical standpoint, this means that many of the important potential sources of financing cannot be available to a developer with a 50-year lease.

By the time he has prepared development plans and accomplished the many other necessary preliminaries to financing, he no longer has a 50-year term remaining. Furthermore, no phased development of a substantial acreage is possible. A lessee is limited to a site which can be financed and developed instantly.

The effect of this on Indian landowners is obvious. The authority to make development leases is empty if the property cannot be developed, and only insignificant amounts of land will be developed if lessees cannot obtain financing. The fewer the sources of financing which are available, the smaller will be the number and quality of developers who will lease Indian land.

These are some of the considerations which have motivated Congress in previous years to extend the term for which development leases can be made.

COST

No additional expenditure of Federal funds will result from the enactment of S. 953.

AMENDMENTS

The committee approved a technical amendment to S. 953 recommended by the Department of the Interior.

KANSAS-NEBRASKA BIG BLUE RIVER COMPACT

The Senate proceeded to consider the bill (H.R. 8116) to consent to the Kansas-Nebraska Big Blue River compact, which had been reported from the Committee on Interior and Insular Affairs with an amendment, on page 10, at the beginning of line 15, strike out "(b) During the period May 1-September 30 the process of laws in effect in that State." and insert "1968, that were then inactive shall be canceled by due process of laws in effect in that State.".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-786), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The purpose of H.R. 8116, is to give congressional consent to a compact between Kansas and Nebraska, dividing the waters of the Big and Little Blue Rivers. A companion bill, S. 1726, introduced by Senator Roman Hruska from Nebraska, has been introduced in the Senate.

BACKGROUND

The Big Blue River Basin drains an area of about 9,700 square miles of which about 75 percent is in south central Nebraska and 25 percent is in north central Kansas. The Big and Little Blue Rivers, originating in Nebraska, are the principal streams of the Basin and are tributaries of the Kansas River. Generally flowing from north to south, the Big and Little Blue Rivers cross the Nebraska-Kansas State line separately to unite in the headwaters of the Tuttle Creek Reservoir. Tuttle Creek Reservoir was constructed by the Corps of Engineers on the Big Blue River and is the only existing major storage and streamflow regulation feature on the basin.

During the period of streamflow record of about 30 years, the Big and Little Blue Rivers' flows passing the State line into Kansas have averaged 564,000 acre-feet and 267,000 acre-feet per year, respectively. The Big Blue River contributes an average of about 1.3 million acre feet per year to the Kansas River, near Manhattan, Kans.

Consent to negotiate the compact was granted to Nebraska and Kansas by the act of June 3, 1960 (74 Stat. 160). Negotiations on the compact were concluded on January 25, 1971; the compact was ratified by the signatory States in April 1971. H.R. 8116 passed the House of Representatives on November 15, 1971, amended.

DISCUSSION OF LEGISLATION

Section 1 of H.R. 8116 presents the text of the compact as ratified by the signatory States in April 1971. The compact is comprised of eight articles.

Articles I-IV are descriptive and set forth compact definitions. Article I consists of definitions. Article II is a description of the Big Blue River Basin. Article III establishes an interstate executive agency to administer the compact and defines administration membership and government. Article IV defines the administrative responsibilities of each State.

Articles V-VII contain the substantive provisions of the compact. The heart of the compact is article V, the apportionment of waters of the Big Blue River Basin. The apportionment takes into account the historic flows of the basin's streams, the existing water rights and possible future developments and water requirements in both States, based upon studies made by Federal and State agencies. Article VI sets forth principles for preservation of water quality. Article VII contains provisions limiting storage of water in Nebraska.

Article VIII sets forth the procedures for ratification. *Section 2* states that the United States, by consent of Congress, must be joined as a party in litigation in the U.S. Supreme Court in any action resulting from the compact if one or more of the signatory States is a party. Article VIII of the compact makes this section necessary, and the compact shall be binding and obligatory only when the consenting act contains such a provision.

Section 3 reserves the right to alter, amend or repeal the act.

COMMITTEE AMENDMENT

The committee amendment set forth above, is a technical amendment to correct a typographical error in the House measure.

COMMITTEE COMMENT

The committee notes with approval that article VI of the compact provides for cooperation to maintain the quality of waters of the Big Blue River Basin in compliance with the provisions of the Federal Water Quality Act of 1965 and amendments which have been or may be made thereto. Realizing the regional nature of water resources management including management of water quality, the committee expects that Federal policy in the water quality field will increasingly give consideration to the total environmental and water quality problems of major stream systems such as the Missouri and Mississippi.

The committee, in recommending congressional approval of the compact interprets the language of article VI as facilitating and posing no barrier to the management of the Big Blue River Basin in compliance with whatever broader system management plans might subsequently be adopted pursuant to Federal policy.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends that H.R. 8116, as amended, be enacted. The adoption of the technical amendment and the motion to report H.R. 8116 to the Senate with a recommendation of enactment were unanimously agreed to by the members of the committee present in executive session on April 26, 1972.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I yield back my time under the standing order.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following letters, which were referred as indicated:

PROPOSED AMENDMENT OF TITLE 5, UNITED STATES CODE

A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to amend title 5, United States Code, to provide for a change in the titles of the NASA Associate Administrator positions listed under Level V of the Executive Schedule, and to add three more such positions to such Schedule (with accompanying papers); to the Committee on Aeronautical and Space Sciences.

REPORT REQUIRED UNDER ANIMAL WELFARE ACT

A letter from the Acting Secretary of Agriculture, transmitting, pursuant to law, a report relating to animal welfare (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT ON FEDERAL CONTRIBUTIONS PROGRAM EQUIPMENT AND FACILITIES

A letter from the Director of Civil Defense, Office of the Secretary of the Army, transmitting, pursuant to law, a report on Federal Contributions Program Equipment and Facilities, for the quarter ended March 31, 1972 (with an accompanying report); to the Committee on Armed Services.

BATTLE ACT REPORT

A letter from the Assistant Secretary for Economic Affairs, Department of State, transmitting, pursuant to law, the twenty-fourth report on the Battle Act, for the year 1971 (with an accompanying report); to the Committee on Foreign Relations.

PROPOSED AMENDMENT OF UNITED STATES INFORMATION AND EDUCATIONAL EXCHANGE ACT OF 1948

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to further amend the United States Information and Educational Exchange Act of 1948 (with an accompanying paper); to the Committee on Foreign Relations.

PROPOSED LEGISLATION RELATING TO MEMBERSHIP AND PARTICIPATION IN THE SOUTH PACIFIC COMMISSION

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to amend the joint resolution providing for membership and participation by the United States in the South Pacific Commission (with accompanying papers); to the Committee on Foreign Relations.

REPORT ON GRANTS FOR BASIC SCIENTIFIC RESEARCH AND TRANSFER OF TITLE TO GOVERNMENT EQUIPMENT

A letter from the Assistant Secretary for Defense, transmitting, pursuant to law, a report on grants for basic scientific research and transfer of title to Government equipment, for the calendar year 1971 (with an accompanying report); to the Committee on Government Operations.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Financial Statements Government Printing Office Fiscal Year 1971", dated May 10, 1972 (with an accompanying report); to the Committee on Government Operations.

Proposed Amendment of Title 38, United States Code

A letter from the Administrator of Veterans Affairs, transmitting a draft of proposed legislation to amend section 210(c) of title 38, United States Code, to extend the authority of the Administrator of Veterans Affairs to grant equitable relief from administrative error (with an accompanying paper); to the Committee on Veterans' Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. METCALF):

A concurrent resolution of the Legislature of the State of Hawaii; to the Committee on Interior and Insular Affairs:

"SENATE CONCURRENT RESOLUTION NO. 17

"Concurrent resolutions requesting the U.S. Congress to allocate funds for the planning and construction of water resource facilities at Kokee, Kauai

"Whereas, for the past decade the island population of Kauai has declined because of the lack of employment opportunities; and

"Whereas, the sagging economy of Kauai is due in part to the inability to fully develop its land and water resources to encourage new opportunities for the production of sugar and other highly lucrative crops for further export throughout the world; and

"Whereas, for the past several years there has been some development of water storage in and around Kokee, Kauai for the optimum utilization of water resources on that island; and

"Whereas, private industry with the cooperation of federal and State agencies dating as far back as 1924, has endeavored to provide investigations and reports indicating the need for the planning and construction of water resource facilities forthwith to meet the needs of irrigation, hydroelectric power, wildlife improvement and flood control for that section of Kauai; now, therefore

"Be it resolved by the Senate of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, the House of Representatives concurring, that the U.S. Congress be and is hereby requested to allocate funds for the planning and construction of water resource facilities at Kokee, Kauai; and

"Be it further resolved that certified copies of this Concurrent Resolution be transmitted to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, and to each member of Hawaii's delegation to the United States Congress."

ORDER FOR STAR PRINT OF SENATE RESOLUTION 300

Mr. ROBERT C. BYRD. Mr. President, due to a clerical error, Senate Resolution 300, which the Senator from Minnesota (Mr. MONDALE) introduced yesterday, failed to include the dollar figure representing supplemental expenditures requested by the Select Committee on Equal Educational Opportunity. I ask unanimous consent that Senate Resolution 300 be star printed to include the figure "123,000" immediately following the dollar sign on line 6.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HATFIELD:

S. 3596. A bill pertaining to the inheritance of enrolled members of the Confederated Tribes of the Warm Springs Reservation of Oregon. Referred to the Committee on Interior and Insular Affairs.

By Mr. TOWER:

S. 3597. A bill for the relief of Hildegard Mercedes Schlubach Ercklentz, Enno W. Ercklentz, Jr., Hildegarde Ercklentz Merrill, and Alexander T. Ercklentz. Referred to the Committee on the Judiciary.

By Mr. WILLIAMS (for himself, Mr. JAVITS, Mr. BEALL, Mr. CRANSTON, Mr. EAGLETON, Mr. KENNEDY, Mr. HUGHES, Mr. MONDALE, Mr. NELSON, Mr. PELL, Mr. RANDOLPH, Mr. STAFFORD, Mr. STEVENSON, and Mr. TAFT):

S. 3598. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans. Referred to the Committee on Labor and Public Welfare.

By Mr. PERCY (for himself, Mr. COOK, and Mr. SCHWEIKER):

S. 3599. A bill to expand and improve the direct food distribution program. Referred to the Committee on Agriculture and Forestry.

By Mr. HARTKE:

S. 3600. A bill to establish a national growth policy; to provide for the creation of a National Growth Policy Planning Board; and to provide Federal assistance to the States for growth policy planning. Referred to the Committee on Government Operations.

By Mr. BROOKE:

S. 3601. A bill providing reimbursement to States and political subdivisions for police and National Guard overtime compensation incurred with respect to national disturbances. Referred, by unanimous consent, to the Committee on the Judiciary; and if and when reported by that committee, to the Committee on Armed Services, if so desired by that committee.

By Mr. FULBRIGHT (by request):

S.J. Res. 231. A joint resolution to authorize the appropriation for the contribution by the United States for the support of the International Agency for Research on Cancer. Referred to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 3596. A bill pertaining to the inheritance of enrolled members of the Confederated Tribes of the Warm Springs Reservation of Oregon. Referred to the Committee on Interior and Insular Affairs.

Mr. HATFIELD. Mr. President, during the 91st session, Congress amended the Yakima Inheritance Act to permit the Yakima Tribe to purchase lands that were about to pass into nonmembers' hands through inheritance.

The amendment provided a means whereby the tribal council can maintain the integrity of the tribal lands while assuring nonmember heirs payment of fair value for their devise.

The Warm Springs Tribe of Oregon has been conducting a number of outstanding programs which have added greatly to the development of tribal assets and capabilities.

The Warm Springs Tribal Council desires the same authority as that enjoyed by the Yakimas to maintain the integrity of tribal lands. I believe my colleagues will recognize the need of the bill I am introducing today.

Mr. President, I ask unanimous consent that the bill I am introducing be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. (a) A person who is not an enrolled member of the Confederated Tribes of the Warm Springs Reservation of Oregon shall not be entitled to receive by devise or inheritance any interest in trust or restricted lands within the Warm Springs Reservation or within the area ceded by the treaty of June 25, 1855 (12 Stat. Treaties, 37), if, while the decedent's estate is pending before the Examiner of Inheritance, the Confederated Tribes of the Warm Springs Reservation of Oregon pay to the Secretary of the Interior, on behalf of such person, the fair market value of such interest as determined by the Secretary of the Interior after appraisal. The interest for which payment is made shall be held by the Secretary in trust for the Confederated Tribes of the Warm Springs Reservation of Oregon.

(b) On request of the Confederated Tribes of the Warm Springs Reservation of Oregon the Examiner of Inheritance shall keep an estate pending for not less than two years from the date of decedent's death.

(c) When a person who is prohibited by subsection (a) from acquiring any interest by devise or inheritance is a surviving spouse of the decedent, a life estate in one-half of the interest acquired by the Confederated Tribes of the Warm Springs Reservation of Oregon shall, on the request of such spouse, be reserved for that spouse and the value of such life estate so reserved shall be reflected in the Secretary's appraisal under subsection (a).

SEC. 2. The provisions of section 1 of this Act shall apply to all estates pending before the Examiner of Inheritance on the date of this Act, and to all future estates, but shall not apply to any estate heretofore closed.

By Mr. WILLIAMS (for himself, Mr. JAVITS, Mr. BEALL, Mr. CRANSTON, Mr. EAGLETON, Mr. KENNEDY, Mr. HUGHES, Mr. MONDALE, Mr. NELSON, Mr. PELL, Mr. RANDOLPH, Mr. STAFFORD, Mr. STEVENSON, and Mr. TAFT):

S. 3598. A bill to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans. Referred to the Committee on Labor and Public Welfare.

RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT OF 1972

Mr. WILLIAMS. Mr. President, today, together with Senator JAVITS and other Senators, I am introducing the Retirement Income Security for Employees Act of 1972.

This bill is the product of one of the most comprehensive studies undertaken by this Senate into the private pension plan system of the United States. It embodies proposals to eliminate identified and proven deficiencies in private pension plans which, our Labor Subcommittee study showed, cause workers to fail to realize benefits which they had worked for and expected to receive upon retirement. This legislation will establish practical and uniform Federal requirements to assure that workers receive those benefits.

Private pension plans have existed in the United States for nearly 100 years. During that time, they have become a potent force in the national economy, as well as a symbol of old-age security for 30 million workers and their families. Today their combined assets in excess of $130 billion represent the largest single source of virtually unregulated capital in the country. The national interest requires that some regulation and oversight of these moneys be initiated.

Congress has exhibited a legislative interest in private pension plans since the early 1950's, following the surge in private plan growth after World War II, when new tax benefits made the establishment of pension plans attractive to employers. Congressional investigations in the 1950's culminated in the 1959 Welfare and Pension Plans Disclosure Act, a relatively weak law which fulfilled its sponsors' commendable aim of requiring plans to report their financial activities yearly to the Department of Labor, but which left the Secretary of Labor without any enforcement or oversight powers. Even the amendment of this act in 1962, instituting penalties for crimes such as embezzlement and bribery, did not satisfy those in Congress who realized their responsibility to the millions of retired and about-to-be-retired workers who had no one else to turn to to help make their pension dreams a reality.

A report recently submitted by the Subcommittee on Labor points out that at least eight executive agencies have some authority over the operations of private pension plans and the welfare of their participants, but that Federal authority, except in the event of criminal action, is confined mainly to supervision of the reporting requirements of the Welfare and Pension Plans Disclosure Act.

While these reporting requirements enable the Government to assess the scope of the private pension plan system in the United States, and provide detailed financial information on particular plans when requested, they do not do the job which the public is looking to Congress to accomplish—the protection of the benefits and of the workers' interest in them so that the dream of retirement security will become a reality for those 30 million participants.

The Labor Subcommittee investigation has witnessed the growth of two competing schools of thought on the need for legislative reform of the private pension plan system. Whereas one school advocates stringent Government control, which would divest the private system of all discretion, the other strongly resists any legislative attempts to cure the shortcomings of the private pension plan system, claiming legislation would destroy the flexibility of such plans. Neither view is realistic. The great goals of reform legislation must be to guarantee retirement security to the worker, and to assure the continued growth and expansion of private pensions. Achieving the financial security promised by pension plans, and the flexibility necessary to fulfill that objective are not incompatible. It is our belief that corrective measures, as outlined in our bill, will provide reasonable and feasible measures to achieve the reforms necessary. They will not only serve to eliminate existing inequities, but also contribute to the strengthening and improving of the private pension plan system so that it will better serve the needs and aspirations of employer and employee together.

The major purpose of the Retirement Income Security for Employees Act of 1972 is to set forth the minimum standards of protection of the benefits of workers. There is no intent to restrict improvements beyond those minimums which private pension plans can voluntarily assume. Under the provisions of this bill, 8 years of service would entitle a worker to 30-percent vested benefits, increasing at 10 percent per year until full vesting is achieved at 15 years of service. Eight years recognizes the employee's claim to a vested right early in his career, once he has clearly moved out of the transient or casual category. To vest him later would run the risk of unreasonable forfeiture of ultimate retirement benefits. Because vesting without funding is an empty promise, our bill would require funding of all pension benefit liabilities over a 40-year period, with a Federal pension insurance program to assure against loss of vested benefits prior to full funding of a plan. Further, enough has been written and studied about the complicated portability concept to warrant the start under this bill of a voluntary system for the transfer of vested credits. The bill also calls for improvement in the fiduciary standards and requires a more comprehensive disclosure to plan participants of their rights and obligations. Various fiduciary abuses, such as party-in-interest transactions, which have threatened the security of assets belonging to plan participants, are legislatively prohibited.

Pensions are not gratuities, but earnings saved and deferred to retirement. They represent compensation which the employee would have received in his paycheck had he not belonged to a pension plan. American workers have a right to expect that financial support in their retirement years will come from more than social security benefits. Only with a combination of these two incomes can an American worker look to the twilight stage of his life without fear of financial insecurity.

As legislators, we recognize that pension rights and obligations are essentially a matter of contractual relationship and liability between employer and employee. We are faced with the findings of our Senate study and the hardships and inequities of private pension plans it has surfaced. History has recorded the problems faced by a society of working men and women whose expectations cannot be fulfilled. The beliefs and hopes for financial security in retirement of American workers can no longer be the shattered dreams and illusions of people whose working lives will not allow them a second time around. Congress can no longer ignore the pleas of American workers for help in achieving pension hopes. Congress must assume the initiative for reform and produce legislation which can respond to the needs of its people and yet retain flexibility to spur the growth of private pensions.

INTRODUCTION OF THE WILLIAMS-JAVITS PENSION REFORM BILL (S. 3598): NEW HOPE FOR AMERICAN WORKERS

Mr. JAVITS. Mr. President, this is the year for pension reform. The new bill we introduce today meets all the problems of private pensions which have surfaced in recent years, and proposes solutions for them.

And, we believe it has the support needed to pass.

I. THE CHALLENGE TO PRIVATE RETIREMENT SYSTEMS

One of the most pressing challenges that this Nation confronts is the task of providing adequate income security to older Americans—of whom over one-fourth now live in poverty. We in the Government have spent a great deal of time and resources to improve public programs—such as social security and family assistance—to meet this need, but up to now we have never expended an equal effort to strengthen the private retirement systems to which more than 30 million American workers now look for enough of an old age income to provide retirement with dignity.

Yet it is the private system which is so uniquely American, so central to a free economy with a conscience, so fundamental to an economic system in which workers justly believe that they can sustain themselves with dignity on what they can sustain themselves with dignity on what they earn, and on what they have set aside for their own retirement.

II. BIPARTISAN SUPPORT

Today, Senator WILLIAMS and I have joined in a major bipartisan legislative undertaking to reform this Nation's private pension system and raise it to partnership status with our basic Federal social security system. Joining with us is a coalition of Democratic and Republican Senators—members of the Senate Labor and Public Welfare Committee—who have become familiar with the work of the committee on this subject during the past year and who are equally convinced that legislative reform is indispensable toward securing the just expectations of American workers. These cosponsors represent the support necessary to bring this bill to the Senate floor—which we certainly should be able to do this year.

III. A COMBINATION APPROACH TO PENSION REFORM

The bill we are introducing today represents comprehensive pension reform. Unlike some other proposals in the field it does not take a "band aid" approach. What we need and what this legislation delivers is a "bill of pension rights" for the American worker. This legislation will see to it that—

First. The Steven Duanes, the Iris Kweks, the Murray Finkelsteins, the Frank Hoddicks, the Guy Nichols, and all the other workers with substantial service, who testified to loss of their pension benefits at last year's hearings of the Labor Subcommittee—and the thousands of others who have written to us—will never again need to forfeit pension after pension as they move from job to job or get caught in retrenchment policies;

Second. Workers who are owed benefits under a pension plan will no longer suffer the enormous hardship of losing their benefits, as they did in the Studebaker plant shutdown in South Bend when the pension fund terminated without sufficient assets to pay the benefits they had relied on for their old age security;

Third. Double dealing, manipulation, and personal aggrandizement at the expense of the workers in the handling of their pension funds is effectively halted and those responsible for such unethical practices are removed from their positions of trust.

IV. BACKGROUND

For me, introduction of this bipartisan bill represents the redemption of a 5-year commitment. In February 1967, I introduced the first comprehensive pension reform bill—S. 1103 in the 90th Congress—a bill which has been reintroduced several times, including my current version of it, S. 2, which has been pending for over a year in the Senate Labor Committee.

My original proposal included: minimum vesting standards, minimum funding standards, Federal pension reinsurance, a portability clearinghouse, Federal fiduciary standards, and a single Federal agency charged with enforcing and administering these standards.

The bill Senator Williams and I are introducing today includes all those elements and is a synthesis of advanced legal thinking and practical experience in the field.

V. COST

Our committee has just begun a careful actuarial study of the prospective costs of the various legislative proposals, but, in my judgment, in an economy in which wages have risen over 6 percent every year since 1965, there is no question about the feasibility of this bill: in any one of the last 7 years, compliance with this bill could have been achieved simply by allocating one of those percentage points to pension vesting, leaving the other 5 percentage points for wages. Only this week, for example, the Treasury Department testified before the House Ways and Means Committee on the cost of various vesting proposals, and stated that the probable cost of my own bill—S. 2, which provides graded vesting beginning at 10 percent after 6 years—would be less than 1 percent of payroll. Presumably the cost of the Williams-Javits bill would be even less, as vesting does not begin until 2 years later.

VI. THE NEXT STEP

We have made a record. We have conducted numerous hearings on loss of pension rights, on unreasonable forfeitures for lack of vesting, on plan collapses for lack of funding, on the need for "reinsurance," on portability, and on fiduciary abuses.

No doubt the rest of the legislative process—legislative hearings, markups in executive session of the committee, and floor consideration—will require more concentration and hard work.

With Senator Williams I am ready to begin, and to finish the job this year.

Mr. President, I ask unanimous consent that there be printed in the Record two summaries of the provisions of the bill, and the text of the bill.

There being no objection, the summaries and bill were ordered to be printed in the Record, as follows:

OUTLINE OF MAJOR PROVISIONS OF WILLIAMS-JAVITS PENSION REFORM BILL—RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

The following are the major provisions of the Williams-Javits Pension Reform Bill:

1. Establishes within the Department of Labor, under the supervision and responsibility of the Secretary of Labor, an Office of Pension and Welfare Plan Administration, to be headed by an Assistant Secretary of Labor appointed by the President, with Senate advice and consent, which will be responsible for promotion, establishment, and administration and operation of employee benefit plans and enforcement of Act.

2. Prescribes minimum vesting requirements whereby an employee, after eight years of service, will acquire a vested nonforfeitable right to 30% of pension benefits, and, thereafter, each year will vest an additional 10% until, at the end of 15 years, he will have vested rights of 100%. Each existing pension plan would be given the option to elect to divide itself into a "new plan" and an "old plan." New employees would be covered only under the "new plan" and old employees would be permitted to elect coverage under either plan. The "old plan" would not be required to comply with the Act's vesting standards but would be required to comply with all other provisions of the Act. The "new plan" would be required to comply with all provisions of the Act.

3. Establishes minimum funding standards of pension plans which will insure that all pension liabilities incurred by the plan after the effective date of the Act will be funded over 40-year period.

4. Authorizes the Secretary to grant variances from funding requirements for qualifying plans under certain circumstances.

5. Establishes voluntary program for portability through a central fund, whereby employees of participating employers may transfer vested credits from one employer to another.

SUMMARY OF MAJOR PROVISIONS OF THE WILLIAMS-JAVITS PENSION REFORM BILL—RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

PURPOSES

The purposes of the "Retirement Income Security for Employees Act" are:

1. To confer upon the Secretary of Labor the duty and responsibility to implement and administer the programs and provisions of this Act designed to improve and coordinate the establishment, administration, and operations of private employee pension and welfare plans, and provide for the enforcement of its provisions through administrative and judicial remedies.

2. To improve employee benefit plans by creating standards which will promote and adequately protect the interests of workers covered by such plans by making provisions for:

(a) Prescribed minimum vested benefits to employees after they have worked reasonable periods of time with an employer;

(b) The protection of the worker's earned rights to benefits in his or her pension plan by a combination of minimum and required standards of funding, and a Federal program of insurance to prevent losses of unfunded vested benefits where the plan terminates;

(c) A voluntary system of portability and reciprocity of credits to enable workers to transfer their earned retirement credits among different employers;

(d) Minimum standards and safeguards against abuses in the administration and management of employee benefit funds, and requirement of more comprehensive disclosure and detailed reporting of the plan, including full financial disclosure of the plan's operations, and also sufficient explanation to workers of their rights, obligations, and benefits.

(e) Effective judicial enforcement of the Act's provisions by the government and the workers affected.

TITLE I—ORGANIZATION, POWERS, AND DUTIES OF THE SECRETARY OF LABOR

Section 101. The Secretary would have the responsibility to promote programs and plans for the establishment, administration, and operations of employee benefit plans. It would require the registration of such plans with the Secretary upon compliance with requirements set forth in the statute. The Secretary would also direct, administer, and enforce a pension insurance program and others relating to portability, vesting, funding, and fiduciary and disclosure requirements. The Secretary is empowered to conduct inquiries reasonably necessary to ascertain violations of the Act and use subpoena powers if necessary, and bring authorized actions to enforce the Act, prescribe rules governing actuarial standards, certify actuaries as qualified to furnish reports required under the Act, and furnish Congress with annual reports and studies.

Office of Administration

Section 103. Within the Department of Labor, there shall be an Office of Pension and Welfare Plan Administration to be headed by an Assistant Secretary of Labor, appointed by the President, with Senate advice and consent, to exercise power and authority delegated the Secretary of Labor for the administration and enforcement of the Act.

Coverage and exemptions

Section 104. Unless exempt, the provisions of the Act apply to any pension or profit-sharing-retirement plan established or maintained by an employer, a union, or both together in any industry or activity affecting interstate commerce. The fiduciary provisions of the Act apply to all employee benefit plans unless exempt.

The Act does not apply to plans administered by federal or state governments, plans administered by religious organizations, plans for the self-employed, plans covering not more than 25 participants, plans established outside the territorial jurisdiction of the United States for citizens of other countries, certain plans for key executives and plans for members of labor organizations which are financed exclusively from the members' dues.

The funding and plan termination insurance requirements are not applicable to profit-sharing or money purchase plans, because of the nature of these plans.

Registration of plans

Section 105. Requires covered pension and profit-sharing-retirement plans to file and register with the Secretary and upon a finding that the plan is qualified for registration, the plan is issued a certificate of registration by the Secretary. The criterion for granting a certificate of registration is compliance with the requirements of the Act. Every plan must apply for plan termination insurance as a condition for registration.

Certificate of rights

Section 108. The Secretary shall require by regulation that each plan furnish a vested participant, upon his termination of service with the plan, with a certificate reciting the benefits due the participant and the location of the entity responsible for payment and the date when payment shall begin.

TITLE II—VESTING AND FUNDING REQUIREMENTS

Part A—Vesting

Eligibility

Section 201. No pension or profit-sharing-retirement plan may require as a condition for eligibility in the plan a period of service longer than six months or an age greater than 21, whichever occurs later.

Vesting Schedule

Section 202. All pension and profit-sharing-retirement plans are required to vest rights in participants with respect to service on or after the effective date of the title at the rate of a 30% vested interest commencing with eight years of service, and increasing by 10% each year thereafter in order that 100% vesting is attained after 15 years of service.

It further provides that no more than three of the eight years required to qualify for a 30% vested right need be continuous years of service, but that service prior to the age of 21 may be ignored in determining eligibility for a vested right unless the participant or his employer has made contributions to the plan with respect to service prior to age 21.

Any plan may allow more liberal vesting than required by the Act.

Part B—Funding

Section 210. Every employer is required to provide contributions for funding of his pension plan in a manner adequate to liquidate all pension benefit liabilities which may accrue under the terms of the plan. Employers must fund all normal service costs annually and must fund initial unfunded liabilities existing on the effective date of this Title, or in any plan established after the effective date of the Title, within 40 years from the applicable date. If any amendment to the plan results in substantial increase to the plan's unfunded liabilities, the increase shall be funded separately as if it were a new plan and shall be regarded as a new plan for purposes of the plan termination insurance program established under this Act.

If a plan has an experience deficiency (resulting from actuarial error) for any particular year, the deficiency must be liquidated in no more than a five-year period.

Within six months after the effective date of the Title or within six months after the date of plan establishment, whichever is later, the plan is required to submit a report by an actuary who has been certified by the Secretary, stating information necessary to determine the appropriate application of the funding requirements to the plan. Plans are also required to be reviewed every five years by certified actuaries who are to report the funding obligations that must be met and any surplus or experience deficiencies. The Secretary is authorized to exempt certain plans from these filing requirements.

Discontinuance of Plans

Section 211. The Act requires all funds of terminated pension plans to be distributed according to the following priorities:

First, to retirees or persons eligible to retire on date of plan termination; second, to participants who have vested rights under the plan but who have not reached retirement age; and, third, to other participants. In addition, employers are held liable for contributions owing to the plan that were required to be made by virtue of the funding requirements of the Act, but which were not made as of the date of plan termination.

Part C—Optional election to divide pension plan

Section 215. Employers with plans in existence at the effective date of the Act would be given an option. They would be permitted to retain their old plans in existence without complying with the vesting provisions of this Act, but would be required to comply with all other provisions of the Act. In addition, the employer would be required to establish a new plan to conform to the vesting requirements of the Act. All new employees, and any old employees who wish to join the new plan, would be included. The new plan would supplement the prior plan, providing all new employees with the protection required by the vesting provisions of the Act. The old plan would be allowed to phase out as older employees who elected to remain in the old plan retire.

Part D—Variances

Section 216. The Secretary is authorized to grant an initial delay of up to three years to comply with the vesting or funding requirements of the Act where initial compliance with these requirements would be unduly burdensome, impractical, or would otherwise adversely affect the interests of employees.

Section 217. Upon a showing that an employer cannot make the required annual contribution to the plan, the Secretary is authorized to permit the deficiency to be funded over a period of five years, provided that the Secretary is satisfied that such a waiver will not adversely affect the interests of employees and will not impair the financial position of the plan termination insurance fund. No waiver may be granted for more than five years, and where a plan has been granted five consecutive waivers, the Secretary may determine:

1. Whether merger on consolidation of the deficiently-funded plan with another plan of the employer is feasible and would not adversely affect the interests of participants involved;

2. Whether in order to protect the interests of participants and the position of the plan termination insurance fund, it is necessary to order the plan to terminate; and

3. Such other action as may be appropriate to carry out the purposes of the Act.

No amendments increasing plan benefits are permitted during any period that a funding waiver is in effect.

The Secretary is required to promulgate regulations governing funding of fixed-contribution multi-employer plans to assure that such plans are provided with sufficient assets to cover benefits under the plan. In promulgating such regulations, the Secretary is required to set a funding period that will actuarially reflect an adequate basis for funding the plan's benefit commitments and which takes into account the particular situation pertaining to the plan, industry, and circumstances involved. In no event is the Secretary authorized to prescribe a funding period for a fixed-contribution multi-employer plan which is less than 40 years, and no such plan is permitted to increase benefits beyond a point for which the fixed-contribution rate would be actuarially inadequate unless such rate is increased commensurately.

The Secretary may determine also that an employer's withdrawal from a multi-employer plan will significantly reduce the rate of aggregate contributions to the plan. He may then require the fund to be allocated between the nonworking and working participants, and treat the nonworkers' share of the fund as terminated for insurance purposes, and the remaining portion of the fund as a new one for funding, variances, and insurance purposes.

TITLE III—VOLUNTARY PORTABILITY PROGRAM FOR VESTED PENSIONS

Program established

Section 301. There is established a voluntary program for portability of vested pension credits. The program will be administered by and under the Secretary's direction and designed to facilitate the voluntary transfer of vested credits between registered plans. Plans registered under the Act may voluntarily apply for membership in the program and upon approval be issued a certificate of membership by the Secretary.

Acceptance of deposits

Section 302. Upon request of a plan participant, plans which are members of this program are required to pay, to a central portability fund administered by the Secretary, monies representing the value of the participants' vested rights when he is separated from the plan prior to retirement. The Secretary will prescribe the terms and circumstances of deposits to be made.

Special fund

Section 303. The Act establishes a Voluntary Portability Program Fund under the supervision of the Secretary into which payments will be made in accordance with regulations prescribed by the Secretary under the portability program. The Secretary shall be the trustee of the fund, and shall administer the fund and report to the Congress annually of the fund's operations and fiscal status. The Secretary is authorized to deposit the amounts received in financial institutions insured by the FDIC or FSLIC but not more than 10% in any one financial institution.

Individual accounts

Section 304. The Fund would establish individual accounts for each participant with respect to whom it has received monies under the portability program.

Payments from individual accounts

Section 305. At the request of a participant transferring into a new plan, the Secretary is required to pay out of his account the accumulated amounts to purchase pension credits from the new plan which are actuarially equivalent. Unless the monies in a participant's account have been transferred to another employer's plan at the participant's request, the Secretary is required to use the monies in the participant's account to purchase a single-premium life annuity from a qualified life insurance carrier when the participant reaches age 65.

Technical assistance

Section 306. The Secretary is authorized to furnish technical assistance to unions, administrators, and all others affected by this Act who wish to develop portability or reciprocity arrangements of their own.

TITLE IV—PLAN TERMINATION INSURANCE

Program established

Section 401. There is established a Private Pension Plan Termination Insurance Program administered by the Secretary.

Conditions of insurance

Section 402. The insurance program insures participants against losses of vested benefits arising from plan termination. Vested rights acquired prior the effective date of the Act or which exceed the minimum vesting requirements provided for by the Act are not insured.

The amount of vested benefit insurance is limited to 50% of highest average monthly wage of participants earned over a five-year period or $500 monthly, whichever is the lesser.

No insurance shall be paid if the plan is terminated less than three years from date of establishment or registration unless the Secretary determines that a registered plan was otherwise in substantial compliance with Act and that the reserve position of the insurance program will not be adversely affected.

Insurance will not cover vested rights created by any plan amendment which took effect less than three years prior to plan termination.

No coverage is extended to participants who own 10% or more of employer voting stock.

Assessment and premiums

Section 403. Plans shall pay an initial uniform assessment to be prescribed by the Secretary to cover administrative costs of the program. The Secretary shall prescribe an annual premium rate based upon unfunded vested liabilities. For the first three years that there are unfunded vested liabilities subject to insurance, the insurance premium shall not exceed 0.2% of the plan's unfunded vested liabilities. After the initial three-year period, the Secretary may prescribe an annual rate based upon experience, and unless Congress objects within 60 days, the new premium shall become effective.

The Secretary is required to consult with appropriate private and government agencies on matters relating to the assessment and premium rates before prescribing rates.

Payment of insurance

Section 404. Insured plans must receive authority from the Secretary to terminate, and the Secretary must determine that statutory requirements have been complied with and that the prospective termination is not designed to avoid or circumvent the Act.

The insurance to be paid shall be the difference between the plan's assets and unfunded vested benefits owed at the time of plan termination.

Recovery

Section 405. Where employers in terminated plans are not insolvent, they may be liable for reimbursement of a portion of insurance benefits paid. The liability of the employer is to be based on the ratio of the plan's unfunded vested liabilities to the employer's net worth, and the employer is required to reimburse the Secretary for that percentage of the unfunded vested liabilities which is represented by the foregoing ratio.

The Secretary shall make arrangements with employers on equitable terms for the reimbursement of insurance paid.

Pension benefit insurance fund

Section 406. Within the Treasury Department, there is established a fund for the deposit of premiums, assessments, etc., made under the Act and for payment of such claims thereunder.

TITLE V—DISCLOSURE AND FIDUCIARY STANDARDS

The new Disclosure and Fiduciary Requirements of this Act are accomplished by amendment to the Welfare and Pension Plans Disclosure Act. (WPPDA).

Disclosure

Section 501. Annual reports required to be filed are required to be accompanied by a certificate designating the Secretary as agent for service of process in any action arising under this Act.

Section 505. Plan descriptions under this Act are required to be comprehensive and written in a language and manner calculated to be understood by the average participant. In addition, the prior filing requirements are revised to authorize plan amendments to be filed in accordance with regulations prescribed by the Secretary. Heretofore, plan amendments had to be filed within 60 days after they were effective.

Section 506. There are two significant changes to the WPPDA made by this section. The first is a new requirement that the annual financial report must include an opinion of the plan's financial condition by an independent accountant based upon the results of an annual audit. Second, plans must include in their reports more detailed financial information, particularly in connection with party-in-interest transactions, and more detailed actuarial information relating to the plan's funding method and its overall financial soundness.

Section 507. The requirements of the WPPDA relating to the furnishing of reports and information to employees is substantially broadened to require administrators to furnish to every participant upon his enrollment in the plan a summary of the plan's important provisions written in a manner calculated to be understood by the average participant (this requirement covers major amendments as well), including an explanation of a participant's rights and obligations under the plan and the circumstances which may disqualify him from benefits, and to furnish to participants every three years a revised, up-to-date summary of the plan's important provisions (including major amendments).

Additionally, the plan administrator must furnish to participants and beneficiaries, upon request, copies of the plan description, annual report, or bargaining agreement, trust agreement, contract, or instrument under which the plan is established and operated. The plan administrator may make a reasonable charge to cover the costs of such copies.

Plan administrators are also required to furnish participants with notices of any vesting or funding variation the plan has received under other provisions of the Act.

Section 508. Amends Section 14 of the WPPDA to restructure the Advisory Council on Employee Welfare and Pension Benefit Plans so that it will serve as an advisory council for both the WPPDA and the Retirement Income Security for Employees Act. The Advisory Council is expanded from its present number of 13 members to 19 members. New permanent categories of membership are added to include the fields of actuarial counseling, investment counseling, and accounting. The period of advisory council meetings is changed from its required twice a year to meetings of at least four times a year.

Fiduciary standards

Section 509. Adds new Section 15 to the WPPDA which establishes fiduciary standards for employee pension and welfare plans.

In general, requires plans to be established pursuant to a trust agreement and requires plan funds to be treated as a trust for the exclusive purpose of (1) providing benefits to participants and their beneficiaries and (2) paying reasonable administrative expenses.

Requires a fiduciary (i.e. a person who is responsible for handling plan funds) to act solely in the interests of participants and beneficiaries and as a prudent man in a similar situation and other like conditions would act. The fiduciary must adhere to trust terms which are consistent with the Act and to refrain from transactions where his personal interests would conflict with the interests of the participants and beneficiaries. However, transactions which are otherwise prohibited may be permitted by the Secretary if he finds that the participants' interests would be served by such action. A fiduciary is prohibited from investing more than 10% of a pension fund's assets in securities of the employer.

In general, fiduciaries may be reasonably compensated and entitled to receive benefits which belong to them by reason of being participants in a plan and may also make certain loans to participants or beneficiaries or make reasonable arrangements with parties-in-interest for office space or other services.

Any fiduciary who breaches his trust is personally liable for losses resulting from such breach, and co-fiduciaries are jointly and severally liable except that a co-fiduciary may avoid liability by objecting promptly to any action which may constitute a breach of trust.

Exculpatory clauses in trust agreements are prohibited; however, fiduciaries are permitted to allocate specific responsibilities among themselves, and, thereby, subject to approval by the Secretary, limit the responsibility of each fiduciary.

The bill further prohibits any person who has been convicted of certain specified crimes from serving as an administrator, officer, trustee, employee, or consultant, of or with respect to a plan, for five years following his conviction or release from imprisonment, unless the Secretary determines that a waiver is justified.

Finally, the bill requires all investments and deposits of plan funds to be made in the name of the fund or its nominee and prohibits employees of either the employer or an employee organization from receiving commissions, or brokerage fees with respect to plan investments; and provides for a transitional period as determined by the Secretary for a plan to dispose of conflict-in-interest investments.

TITLE VI—ENFORCEMENT

Section 601. The Secretary is empowered to petition the federal courts to compel a pension or profit-sharing-retirement plan to comply with the Act or effect recoveries of monies which may be due under the Act.

Sections 602, 603, 604, and 605. When the Secretary has reason to believe that a pension, profit-sharing, or other employee benefit plan is violating the Act or the plan's governing documents, he may seek relief in the federal courts to compel the return of assets to the fund, to require payments to be made, to require the removal of a fiduciary, and to obtain other appropriate relief. Plan participants also may seek relief in federal and state courts against violations committed by a fiduciary, including his removal from office. They may also seek relief to recover benefits required to be paid under the plan in the same courts. The Secretary has the right to remove an action pending in a state court to the federal courts for relief provided under this Act.

Sections 607 and 608. Administrators and fiduciaries have the right to obtain judicial review of the actions of the Secretary. The bill provides a statute of limitations of five years for actions arising under the Act.

Section 609. Thist Act supersedes state laws covering the same matters. However, the Act does not exempt or relieve any person from complying with any state law regulating insurance, banking, and related matters, and does not remove state jurisdiction over plans not subject to the Act. State courts are not prevented from asserting jurisdiction in compelling the accounting of a fiduciary or requiring clarification of the plan. The Secretary or a plan participant may remove such a case from the state to the federal court if it involves the applicability of the Act.

S. 3598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Retirement Income Security for Employees Act."

INDEX

Sec. 2. Findings and declaration of policy.
Sec. 3. Definitions.

TITLE I—ORGANIZATION

PART A—ADMINISTRATIVE ORGANIZATION

Sec. 101. Powers and duties of the Secretary of Labor.
Sec. 102. Appropriations.
Sec. 103. Office of administration.

PART B—COVERAGE, EXEMPTIONS, AND REGISTRATION
Sec. 105. Coverage and exemptions.
Sec. 106. Registration of plans.
Sec. 107. Reports on registered plans.
Sec. 108. Amendments of registered plans.
Sec. 109. Certificate of rights.
TITLE II—VESTING AND FUNDING REQUIREMENTS
PART A—VESTING REQUIREMENTS
Sec. 201. Eligibility.
Sec. 202. Vesting schedule.
PART B—FUNDING
Sec. 210. Funding requirements.
Sec. 211. Discontinuance of plans.
PART C—OPTIONAL ELECTION TO DIVIDE PENSION PLAN
Sec. 215. Optional Election To Divide Pension Plan.
PART D—VARIANCES
Sec. 216. Deferred Applicability.
Sec. 217. Variances from funding requirements.
TITLE III—VOLUNTARY PORTABILITY PROGRAM FOR VESTED PENSIONS
Sec. 301. Program established.
Sec. 302. Acceptance of deposits.
Sec. 303. Special fund.
Sec. 304. Individual accounts.
Sec. 305. Payments from individual accounts.
Sec. 306. Technical assistance.
TITLE IV—PLAN TERMINATION INSURANCE
Sec. 401. Program established.
Sec. 402. Conditions of insurance.
Sec. 404. Payments of insurance.
Sec. 405. Recovery.
Sec. 406. Pension Benefit Insurance Fund.
TITLE V—DISCLOSURE AND FIDUCIARY STANDARDS
Sec. 501. Standards.
Sec. 508. Fiduciary standards.
TITLE VI—ENFORCEMENT
Sec. 601. Provisions.
TITLE VII—EFFECTIVE DATES
Sec. 701. General provisions.

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress finds that private pension, and other employee benefit plans and programs in the United States are intrinsically woven into the working and retirement lives of American men and women; that such plans and programs have become firmly rooted into our economic and social structure; that their operational scope and economic impact is interstate and increasingly affecting more than thirty million worker participants throughout the United States; that the pension assets of approximately $135,000,000,000, accelerating at more than $10,000,000,000 annually, represent the largest fund of virtually unregulated assets in the United States; that the growth in size, scope, and numbers of employee benefit plans is continuing rapidly and substantially; that Federal authority over the establishment, administration, and operations of these plans is fragmented and ineffective to secure the fulfillment of purpose and protection of retirement and welfare benefits due to the workers covered and affected; that deficient and inadequate provisions contained in a number of such plans are directly responsible for hardships upon working men and women who are not realizing their expectations of pension benefits upon retirement; that there have been found to be serious consequences to such workers covered by these plans directly attributable to inadequate or nonexistent funding of assets necessary to pay employee benefits, inadequate or nonexistent vesting provisions, lack of portability to permit the transfer of earned credits by employees from one employment to another; that terminations of plans beyond the control of employees, without necessary and adequate funding for benefit payments, has deprived employees and their dependents of earned benefits; that employee participants have not had sufficient information concerning their rights and responsibilities under the plans, resulting in loss of benefits without knowledge of same; that the lack of minimum standards of conduct required of fiduciaries, administrators, and trustees has jeopardized the adequate protection of employee benefits; and that it is therefore desirable, in the interests of employees and their beneficiaries, and in the interest of the free flow of commerce, that minimum standards be prescribed to assure that private pension and employee benefit plans be equitable in character and financially sound and properly administered.

(b) It is the declared policy of this Act to protect interstate commerce, and the equitable interests of participants in private pension plans and their beneficiaries, by improving the scope, administration, and operation of such plans, by requiring pension plans to vest benefits in employees after equitable periods of services; to meet adequate minimum standards of funding; to prevent the losses of employees' earned credits resulting from change of or separation from employment; to protect vested benefits of employees against loss due to plan termination; and to require more adequate disclosure and reports to participants and beneficiaries of plan administration and operations, including financial information by the plan to the participant, as may be necessary for the employees to have a comprehensive and better understanding of their rights and obligations to receive benefits from the plans in which they are participants; to establish minimum standards of fiduciary conduct, and to provide for more appropriate and adequate remedies, sanctions, and ready access to the courts.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Secretary" means the Secretary of Labor.

(2) "Office" means the Office of Pension and Welfare Plans Administration.

(3) "Assistant Secretary" means the Assistant Secretary of Labor in charge of the Office of Pension and Welfare Plans Administration.

(4) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

(5) "Commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place outside thereof.

(6) "Industry or activity affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry affecting commerce within the meaning of the Labor-Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.

(7) "Employer" means any person acting directly as an employer or indirectly in the interest of an employer in relation to a pension or profit-sharing-retirement plan, and includes a group of association of employers acting for an employer in such capacity.

(8) "Employee" means any individual employed by an employer.

(9) "Participant" means any employee or former employee of an employer or any member or former member of an employee organization who is or may become eligible to receive a benefit of any type from a pension or profit-sharing-retirement plan, or whose beneficaries may be eligible to receive any such benefit.

(10) "Beneficiary" means a person designated by a participant or by the terms of a pension or profit-sharing-retirement plan who is or may become entitled to a benefit thereunder.

(11) "Person" means an individual, partnership, corporation, mutual company, joint-stock company, trust, unincorporated organization, association, or employee organization.

(12) "Employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or program, in which employees participate and which exists for the purpose in whole or in part, of dealing with employers concerning a pension or profit-sharing-retirement plan, or other matters incidental to employment relationships; or any employees' beneficiary association organized for the purpose, in whole or in part, of establishing or maintaining such a plan.

(13) The term "fund" means a fund of money or other assets maintained pursuant to or in connection with a pension or profit-sharing-retirement plan, and includes employee contributions withheld but not yet paid to the plan by the employer, or a contractual right pursuant to an agreement with an insurance carrier. The term does not include any assets of an investment company subject to regulation under the Investment Company Act of 1940.

(14) "Pension" means any plan, fund, or program, other than a profit-sharing-retirement plan, which is communicated or its benefits described in writing to employees and which is established or maintained for the purpose of providing for its participants, or their beneficiaries, by the purchase of insurance or annuity contracts or otherwise, retirement benefits.

(15) "Profit-sharing-retirement plan" means a plan established and maintained by an employer to provide for the participation in the profits of the employer by the employees in accordance with a definite predetermined formula for allocating the contributions made to the plan among the participants and for distributing the funds accumulated under the plan upon retirement or death. Such plan may include provisions permitting the withdrawal or distribution of the funds accumulated upon contingencies other than, and in addition to, retirement and death.

(16) "Registered plan" means a pension plan or profit-sharing-retirement plan registered and certified by the Secretary as a plan established and operated in accordance with title I of this Act.

(17) "Money purchase plan" refers to a pension plan in which contributions of the employer and employee (if any) are accumlated with interest, or other income to provide at retirement whatever pension benefits the resulting sum will buy.

(18) The term "administrator" means—

(A) the person specifically so designated by the terms of the pension or profit-sharing-retirement plan, collective bargaining agreement, trust agreement, contract, or other instrument, under which the plan is operated; or

(B) in the absence of such designation, (i) the employer in the case of a pension or profit-sharing-retirement plan established or maintained by a single employer, (ii) the employees organization in the case of such plan established or maintained by an employee organization, or (iii) the association, committee, joint board of trustees, or other similar group of representatives of the parties who established or maintain such plan, in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

(19) "Initial unfunded liability" means the amount (on the effective date of title II, or the effective date of the establishment of a pension plan or any amendment thereto, whichever is later), by which the assets of the plan are actuarially required to be augmented to insure that the plan is and will remain fully funded.

(20) "Unfunded liabilty" means the amount on the date when such liability is computed, by which the assets of the plan are actuarially required to be augmented to insure that the plan is and will remain fully funded.

(21) "Fully funded" with respect to any pension plan means that such plan at any particular time has assets actuarially determined, by a person authorized under section 101(b)(1), to be sufficient to provide for the payment of all pension and other benefits to participants then entitled or who may be entitled under the terms of the plan to an immediate or deferred benefit in respect of service rendered by such participants.

(22) "Experience deficiency" with respect to a pension plan means any actuarial deficit, determined at the time of a review of the plan, that is attributable to factors other than the existence of an initial unfunded liability or the failure of any employer to make any contribution required by the terms of the plan or by section 210, except insofar such failure to make a required contribution is treated as an experience deficiency under section 217(a)(1).

(23) "Funding" shall mean payment or transfer of assets into a fund, and shall also include payment to an insurance carrier to secure a contractual right pursuant to an agreement with such carrier.

(24) "Normal service cost" means the annual cost assigned to a pension plan, under the actuarial cost method in use (as of the effective date of title II or the date of establishment of a pension plan after such date), exclusive of any element representing any initial unfunded liability or interest thereon.

(25) "Special payment" means a payment made to a pension plan for the purpose of liquidating an initial unfunded liability or experience deficiency.

(26) "Nonforfeitable right" or "vested right" means a legal claim obtained by a participant or his beneficiary to that part of an immediate or deferred pension benefit, which notwithstanding any conditions subsequent which would affect receipt of any benefit flowing from such right, arises from the participant's covered service under the plan, and is no longer contingent on the participant remaining covered by the plan.

(27) "Covered service" means that period of service performed by a participant for an employer or as a member of an employee organization which is recognized under the terms of the plan or the requirements of part A of title II for purposes of determining a participant's eligibility to receive pension benefits or for determining the amount of such benefits.

(28) "Normal retirement benefit" means that benefit payable under a pension or profit-sharing-retirement plan in the event of retirement at the normal retirement age.

(29) "Normal retirement age" means the normal retirement age under the plan but not later than age 65.

(30) "Pension benefit" means the aggregate, annual, monthly, or other amounts to which the participant will become entitled upon retirement or to which any other person is entitled by virtue of such participant's death.

(31) "Accrued portion of normal retirement benefit" means that amount of benefit which, irrespective of whether the right to such benefit is nonforfeitable, is equal to—

(A) in the case of a profit-sharing-retirement plan or money purchase plan, the total amount credited to the account of a participant;

(B) in the case of a unit benefit-type pension plan, the benefit units credited to a participant; or

(C) in the case of other types of pension plans, that portion of the prospective normal retirement benefit of a participant, which under rule or regulation of the Secretary is determined to constitute the participant's accrued portion of the normal retirement benefit under the appropriate plan.

(32) "Fixed-contribution multi-employer plan" means a collectively-bargained pension plan to which two or more unaffiliated employers are required to contribute, and in which the rate of contribution, but not the amount of pension benefits to be provided under the plan, are specified in the collective-bargaining agreement or agreements.

(33) "Unaffiliated employers" means employers other than those under common ownership or control, or having the relationship of parent-subsidiary, or directly or indirectly controlling or controlled by another employer.

(34) "Qualified insurance carrier" means an insurance carrier subject to regulation and examination by the government of any State, which is determined by rule or regulation of the Secretary to be suitable for the purchase of the single premium life annuity or the annuity with survivorship options authorized under section 305(2).

(35) "Vested liabilities" means the present value of the immediate or deferred pension benefits for participants and their beneficiaries which are nonforfeitable and for which all conditions of eligibility have been fulfilled under the provisions of the plan prior to its termination.

(36) "Unfunded vested liabilities" means that amount of vested liabilities that cannot be satisfied by the assets of the plan, as determined by rule or regulation of the Secretary.

TITLE I—ORGANIZATION

Part A—Organizational Structure

POWERS AND DUTIES OF THE SECRETARY

Sec. 101. (a) It shall be the duty of the Secretary—

(1) to promote programs and plans for the establishment, administration, and operations of pension, profit-sharing-retirement, and other employee benefit plans in furtherance of the findings and policies set forth in this Act;

(2) to determine, upon application by a pension or profit-sharing-retirement plan, such plan's eligibility for registration with the Secretary under section 105 and, upon qualification, to register such plan and issue appropriate certificates of registration;

(3) to cancel certificates of registration of pension and profit-sharing-retirement plans registered under section 105, upon determination by the Secretary that such plans are not qualified for such registration;

(4)(A) to direct, administer, and enforce the provisions and requirements of this Act and the Welfare and Pension Plans Disclosure Act, except where such provisions are only enforceable by a private party;

(B) upon reasonable cause, to make appropriate and necessary inquiries to determine violations of the provisions of this Act, or the Welfare and Pension Plans Disclosure Act, or any rule or regulation issued thereunder;

(C) for the purpose of any inquiry provided for in subparagraph (B), the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 1, 1914, are hereby made applicable to the jurisdiction, powers, and duties of the Secretary.

(5) to bring civil actions authorized by this Act subject to control and direction of the Attorney General;

(6) to appoint and fix the compensation of such employees as may be necessary for the conduct of his business under this Act in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, and to obtain the services of experts and consultants as necessary in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem equivalent for GS–18;

(7) to perform such other functions as may be necessary to carry out the purposes of this Act.

(b) The Secretary is authorized to prescribe rules and regulations—

(1) establishing standards and qualifications for persons responsible for performing services under this Act as actuaries and upon application of any such person, to certify whether such person meets the standards and qualifications prescribed;

(2) establishing reasonable fees for the registration of pension and profit-sharing-retirement plans and other services to be performed by him in implementing the provisions of this Act, and all fees collected by the Secretary shall be paid into the general fund of the Tresaury;

(3) establishing reasonable limitations on actuarial assumptions, including, but not limited to, interest rates, mortality, and turnover rates;

(4) such as may be necessary or appropriate to carry out the purposes of this Act, including but not limited to definitions of actuarial, accounting, technical, and other trade terms in common use in the subject matter of this Act and the Welfare and Pensions Plans Disclosure Act; and

(5) governing the form, detail, and inspection of all required records, reports, and documents, the maintenance of books and records, and the inspection of such books and records, as may be required under this Act.

(c)(1) The Secretary is authorized and directed to undertake appropriate studies relating to pension and profit-sharing-retirement plans including but not limited to the effects of this Act upon the provisions and costs of pension and profit-sharing-retirement plans, the role of private pensions in meeting retirement security needs of the Nation, the administration and operation of pension plans, including types and levels of benefits, degree of reciprocity or portability, financial characteristics and practices, methods of encouraging the growth of the private pension system, and advisability of additional coverage under this Act.

(2) The Secretary shall submit annually a report to the Congress covering his activities under this Act during the preceding fiscal year, together with the results of such studies as are conducted pursuant to this Act, or, from time to time, pursuant to other Acts of Congress, and recommendations for such further legislation as may be advisable.

(d) Prior to promulgating rules or regulations, the Secretary shall consult with appropriate departments or agencies of the Federal Government to avoid unnecessary conflicts, duplications, or inconsistency with rules and regulations which may be applicable to such plans under other laws of the United States.

(e) In order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the functions of any such agency as he may find to be practicable and consistent with law. The Secretary may utilize on a reimbursable basis the facilities or services of any department, agency, or establishment of the United States, including services of any of its employees, with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary, and to the extent permitted by law, to provide such information and facilities as the Secretary may request for his assistance in the performance of his functions under this Act.

APPROPRIATIONS

SEC. 102. There are authorized to be appropriated such sums as may be necessary to enable the Secretary to carry out his functions and duties.

OFFICE OF ADMINISTRATION

SEC. 103. (a) There is hereby established within the Department of Labor an office to be known as the Office of Pension and Welfare Plan Administration. Such Office shall be headed by an Assistant Secretary of Labor who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) It shall be the duty of the Assistant Secretary of Labor under the supervision of the Secretary to exercise such power and authority as may be delegated to him by the Secretary for the administration and enforcement of this Act.

(c) Paragraph 20, of section 5315, title 5, United States Code, is amended by striking "(5)" and inserting in lieu thereof "(6)".

(d) The functions, books, records, and personnel of the Office of Labor Management and Welfare Pension Reports are hereby transferred to the Office of Pension and Welfare Plan Administration.

PART B—COVERAGE, EXEMPTIONS, AND REGISTRATION

COVERAGE AND EXEMPTIONS

SEC. 1004. (a) Except as provided in subsections (b) and (c), titles II, III, and IV of this Act shall apply to any pension plan and any profit-sharing-retirement plan established or maintained by any employer engaged in interstate commerce or any industry or activity affecting interstate commerce or by any employer together with any employee organization representing employees engaged in commerce or in any industry or activity affecting such commerce or by any employee organization representing employees engaged in commerce or in any industry or activity affecting commerce.

(b) Titles II, III, and IV of this Act shall not apply to any pension plan or any profit-sharing-retirement plan if—

(1) such plan is administered by the Federal Government or by the government of a State or by a political subdivision of the same or by any agency or instrumentality thereof;

(2) such plan is administered by a religious organization described under section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under the provisions of section 501(a) of such Code;

(3) such plan is established by a self-employed individual for his own benefit or for the benefit of his survivors or established by one or more owner-employers exclusively for his or their benefit or for the benefit of his or their survivors;

(4) such plan covers not more than twenty-five participants;

(5) such plan is established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States;

(6) such plan is unfunded and is established by an employer primarily for the purpose of providing deferred compensation for a select group of management employees and is declared by the employer as not intended to meet the requirements of section 401(a) of the Internal Revenue Code; or

(7) such plan is established or maintained by an employee organization and is administered and financed solely by contributions from its members.

(c) Title IV and part B of title II shall not apply to profit-sharing-retirement plans or money purchase plans.

(d) Titles V and VI shall apply to any plan covered by the Welfare and Pension Plans Disclosure Act and any pension plan for profit-sharing-retirement plan covered by this Act.

REGISTRATION OF PLANS

SEC. 105. (a) Every administrator of a pension or profit-sharing-retirement plan to which this title applies shall file with the Secretary an application for registration of such plan. Such application shall be in such form and shall be accompanied by such documents as shall be prescribed by regulation of the Secretary. After qualification under subsection (c), the administrator of such plan shall comply with such requirements as may be prescribed by the Secretary to maintain the plan's qualification under this title.

(b) In the case of plans established on or after the effective date of this title, the filing required by subsection (a) shall be made within six months after such plan is established. In the case of plans established prior to the effective date of this title, such filing shall be made within six months after such effective date.

(c) Upon the filing required by subsection section (a), the Secretary shall determine whether such plan is qualified for registration under this title, and if the Secretary finds it qualified, he shall issue a certificate of registration with respect to such plan.

(d) If at any time, the Secretary determines that a plan required to qualify under this title, is not qualified or is no longer qualified for registration under this title, he shall notify the administrator, setting forth the deficiency or deficiencies in the plan or in its administration or operations which is the basis for the notification given, and he shall further provide the administrator, the employer of the employees covered by the plan (if not the administrator), and the employee organization representing such employees, if any, a reasonable time within which to remove such deficiency or deficiencies. If the Secretary thereafter determines that the deficiency or deficiencies have been removed, he shall issue or continue in effect the certificate, as the case may be. If he determines that the deficiency or deficiencies have not been removed, he shall enter an order denying or canceling the certificate of registration, and take such further action as may be appropriate under title VI.

(e) A pension or profit-sharing- retirement plan shall be qualified for registration under this section if it conforms to, and is administered in accordance with this Act, the Welfare and Pension Plans Disclosure Act, and in the case of a pension plan subject to title IV of this Act, applies for and maintains plan termination insurance and pays the required assessments and premiums.

REPORTS ON REGISTERED PLANS

SEC. 106. The Secretary may, by regulations, provide for the filing of a single report satisfying the reporting requirements of this Act, and the Welfare and Pension Plans Disclosure Act.

AMENDMENTS OF REGISTERED PLANS

SEC. 107. Where a pension or profit-sharing-retirement plan filed for registration under this title is amended subsequent to such filing, the administrator shall (pursuant to regulations promulgated by the Secretary) file with the Secretary a copy of the amendment and such additional information and reports as the Secretary by regulation may require, to determine the amount of any initial unfunded liability created by the amendment, if any, and the special payments required to liquidate such liability.

CERTIFICATE OF RIGHTS

SEC. 108. The Secretary shall, by regulation, require each pension and profit-sharing-retirement plan to furnish each participant, upon termination of service with a vested right to an immediate or a deferred pension benefit or other vested interest, with a certificate setting forth the benefits to which he is entitled, including, but not limited to the name and location of the entity responsible for payment, the amount of benefits, and the date when payment shall begin. A copy of each such certificate shall be filed with the Secretary. Such certificate shall be deemed prima facie evidence of the facts and rights set forth in such certificate.

TITLE II—VESTING AND FUNDING REQUIREMENTS

PART A—VESTING REQUIREMENTS

ELIGIBILITY

SEC. 201. No pension or profit-sharing-retirement plan filed for registration under this Act shall require as a condition for eligibility to participate in such plan a period of service longer than six months or an age greater than twenty-one, whichever occurs later.

VESTING SCHEDULE

SEC. 202. (a) All pension or profit-sharing-retirement plans filed for registration under this Act shall provide under the terms of the plan with respect to service on or after the effective date of this title, or by amendment to the terms of the plan or by the establishment of a new plan with respect to service on or after such date, that:

(1) a plan participant who has been in covered service under the plan for a period of eight years is entitled upon termination of service prior to attaining normal retirement age—

(A) in the case of a pension plan, to a deferred pension benefit commencing at his normal retirement age; or

(B) in the case of a profit-sharing-retirement plan, to a nonforfeitable right to his interest in such plan

equal to 30 per centum of the accrued portion of the normal retirement benefit as provided by the plan in respect of such service, or of such interest, respectively, and such entitlement shall increase by 10 per centum per year thereafter of covered service until the completion of fifteen years of covered service after which such participant shall be entitled upon termination of service prior to attaining normal retirement age to a deferred pension benefit commencing at his normal retirement age equal to 100 per centum of the accrued portion of the normal retirement benefit as provided by the plan with respect to such service, or to the full amount of such interest in the profit-sharing-retirement plan;

(2) the pension benefits provided under the terms of a pension plan, and the interest in a profit-sharing-retirement plan referred to in subparagraph (B) of paragraph (1) shall not be capable of assignment or alienation and shall not confer upon an employee, personal representative, or dependent, or any other person, any right or interest in such pension benefits or profit-sharing-retirement plan, capable of being assigned or otherwise alienated; except that the Secretary may by regulation provide for the final disposition of plan assets when beneficiaries cannot be located or ascertained within a reasonable time.

(b) Any participant covered under a plan, for the number of years required for a vested right under this section, shall be entitled to such vested right regardless of whether his years of covered service are continuous, except that a plan may provide that—

(1) three of the eight years required to qualify for the 30 per centum vested right under subsection (a) shall be continuous under standards prescribed under subsection (c), and

(2) service by a participant prior to the age of twenty-one may be ignored in determining eligibility for a vested right under this section, unless such participant or an employer has contributed to the plan with respect to such service.

(c) The Secretary shall prescribe standards, consistent with the purposes of this Act, governing the maximum number of working days, weeks, or months, which shall constitute a year of covered service for purposes of this Act. In no case shall a participant's time worked in any period in which he is credited for a period of service for the purposes of this section, be credited to any other period of time unless the plan so provides.

(d) Notwithstanding any other provision of this Act, a pension or profit-sharing-retirement plan may allow for vesting of pension benefits after a lesser period than is required by this section.

PART B—FUNDING

FUNDING REQUIREMENTS

SEC. 210. (a) Unless a waiver is granted pursuant to part C of this title, every pension plan filed for registration under this Act shall provide for funding, in accordance with the provisions of this part, which is adequate to provide for payment of all pension benefits which may be payable under the terms of the plan.

(b) Provisions in the plan for funding shall set forth the obligation of the employer or employers to contribute both in respect of the normal service cost of the plan and in respect of any initial unfunded liability and experience deficiency. The contribution of the employer, including any contributions made by employees, shall consist of the payments into the plan or fund of—

(1) all normal service costs; and

(2) where the plan has an initial unfunded liability, special payments consisting of equal amounts sufficient to amortize such unfunded liabilities over a term not exceeding:

(A) in the case of an initial unfunded liability existing on the effective date of this title, in any plan established before that date, forty years from such date;

(B) in the case of an initial unfunded liability resulting from the establishment of a pension plan, or an amendment thereto, on or after the effective date of this title, forty years from the date of such establishment or amendment, except that in the event that any such amendment after the effective date of this title results in a substantial increase to any unfunded liability of the plan, as determined by the Secretary, such increase shall be regarded as a new plan for purposes of the funding schedule imposed by this subsection and the plan termination insurance requirements imposed by title IV.

(3) special payments, where the plan has an experience deficiency, consisting of equal annual amounts sufficient to liquidate such experience deficiency over a term not exceeding five years from the date on which the experience deficiency was determined.

(c) Within six months after the effective date of this title or within six months after the date of plan establishment, whichever is later, the plan administrator shall submit a report of an actuary (certified under section 101(b)) stating—

(1) the estimated cost of benefits in respect of service for the first plan year for which such plan is required to register and the formula for computing such cost in subsequent years up to the date of the following report;

(2) the initial unfunded liability, if any, for benefits under the pension plan as of the date on which the plan is required to be registered;

(3) the special payments required to liquidate such unfunded liability and experience deficiencies in accordance with subsection (b); and

(4) the actuarial assumptions used and the basis for using such actuarial assumptions.

(d) The administrator of a registered pension plan shall cause the plan to be reviewed not less than once every five years by a certified actuary and shall submit a report of such actuary stating—

(1) the estimated cost of benefits in respect of service in the next succeeding five-year period and the formula for computing such cost for such subsequent five-year period;

(2) the surplus or the experience deficiency in the pension plan after making allowance for the present value of all special payments required to be made in the future by the employer as determined by previous reports;

(3) the special payments which will liquidate any such experience deficiency over a term not exceeding five years; and

(4) the actuarial assumptions used and the basis for using such actuarial assumptions.

If any such report disclose a surplus in a pension plan, the amount of any future payments required to be made to the fund or plan may be reduced or the amount of benefits may be increased by the amount of such surplus. The reports under this subsection shall be filed with the Secretary by the administrator as part of the annual report required by section 7 of the Welfare and Pension Plans Disclosure Act, at such time that the report under such section 7 is due with respect to the last year of such five-year period.

(e) The Secretary may exempt any plan, in whole or in part, from the requirement that such reports be filed where the Secretary finds such filing to be unnecessary.

DISCONTINUANCE OF PLANS

SEC. 211. (a) Upon complete termination, or substantial termination (as determined by the Secretary), of a pension plan, all contributions by an employer, an employee organization, an employee, or other persons, in respect of the deferred pension benefit prescribed in section 202(a) shall be applied under the terms of the plan as follows—

(1) first, to participants in the plan who have retired prior to the date of such termination and have been receiving benefits under the plan;

(2) second, to those participants in the plan who, on the date of such termination had the right to retire and receive benefits under the plan;

(3) third, to those participants in the plan who had acquired vested rights under the plan prior to termination of the plan but had not reached normal retirement age on the date of such termination; and

(4) fourth, to any other participants in the plan who are entitled to benefits under the plan pursuant to the requirements of section 401(a)(7) of the Internal Revenue Code of 1954.

(b) Upon complete termination, or substantial termination (as determined by the Secretary), an employer, and the employees if the plan so provides, shall be liable to pay all amounts that would otherwise have been required to be paid to meet the funding requirements prescribed by section 210 up to the date of such termination to the insuror, trustee, or administrator of the plan.

(c) Upon complete termination, or substantial termination (as determined by the Secretary) of a profit-sharing-retirement plan, the interests of all participants in such plan shall fully vest.

(d) In any case, the Secretary may approve payment of survivor benefits with priorities equal to those of the employees or former employees on whose service such benefits are based.

PART C—OPTIONAL ELECTION TO DIVIDE PENSION PLAN

SEC. 215. (a) Notwithstanding any other provision of this Act, an existing plan subject to this title may elect, pursuant to regulations, to divide the plan and its trust into two separate plans and trusts or within the same plan and trust, into two separate plan and trust accounts as follows:

(1) the continuing plan or plan and trust account (hereinafter referred to as "continuing plan") which shall be a continuation of the plan as it existed immediately before the effective date of this title and which shall cover those participants who have credited service under such plan as of such date and who elect to remain covered by the provisions of such plan;

(2) the new plan or new plan and trust account (hereinafter referred to as "new plan") which shall cover all new participants and all participants who would be eligible to continue coverage under the continuing plan but who elect to waive such coverage and to participate instead in the new plan.

(b) A plan which elects to make the division permitted by subsection (a) shall—

(1) assure that the new plan conforms in all respects to the vesting provisions of this title but may maintain the continuing plan without regard to the vesting provisions of this title;

(2) assure that contributions to the new plan are made at a rate not less than the contribution to the continuing plan;

(3) assure that the continuing plan shall transfer to the new plan on the effective date of the election assets determined to be actuarially equivalent to the total amount of contributions made to the plan or credited to the participants covered by the new plan with respect to the previous service of such participants before the effective date of the election as provided for in section 215(a)(2).

(c) A plan which elects to make the division permitted by subsection (a) shall provide that—

(1) no new participant shall become covered by the continuing plan after the division is elected by the plan; and

(2) all new participants shall be covered only by the new plan.

(d) All divided plans or plan and trust accounts established or maintained pursuant to the provisions of this section shall conform to all other requirements imposed by this Act and shall be subject to the plan termination insurance provisions of title IV. In accordance with regulations, continuing plans maintained pursuant to the provisions of this section shall insure participants and beneficiaries thereunder against loss of benefits derived from such vested rights as may be provided by such plan and which arise from termination of such plan before it has been fully funded.

(e) Nothing in this section shall limit the obligation of a party to a collective bargaining agreement to bargain collectively, to the extent required by law, with respect to the making of an election pursuant to this section.

PART D—VARIANCES

DEFERRED APPLICABILITY

SEC. 216. Upon a showing that the initial compliance with the vesting or funding requirements of this Act would be unduly burdensome, impractical, or would otherwise adversely affect the interests of the participants or beneficiaries of a particular plan, the Secretary may defer such applicability for a period not to exceed a total of three years.

VARIANCES FROM FUNDING REQUIREMENTS

SEC. 217. (a) Where upon application and notice to affected or interested parties by the plan administrator, the Secretary determines that—

(1) any employer or employers are unable to make annual contributions to the plan in compliance with the funding requirements (under subsections (a) and (b) of section 210), and he has reason to believe that such required payment for that annual period cannot be made by such employer or employers, the Secretary may waive the annual contribution otherwise required to be paid, and prescribe an additional period of not more than five years for the liquidation of such annual funding deficiency, during which period the funding deficiency shall be liquidated by prescribed equal annual payments. Any funding deficiency permitted under this section shall be treated for the purposes of any actuarial report required under this Act as an experience deficiency under section 210;

(2) no waiver shall be granted unless the Secretary is satisfied after a review of the financial condition of the plan and other related matters that—

(A) such waiver will not adversely affect the interests of participants or beneficiaries of such plan; or

(B) will not impair the capability of the Pension Benefit Insurance Fund to equitably underwrite vested benefit losses in accordance with title IV.

(3) waivers pursuant to this provision shall not exceed five consecutive annual waivers.

(b) Where a plan has been granted five consecutive waivers pursuant to subsection (a), the Secretary may—

(1) order the merger or consolidation of the deficiently-funded plan with such other plan or plans of the contributing employer or employers in a manner that will result in future compliance with the funding requirements of part B of title II of this Act without adversely affecting the interests of participants and beneficiaries in all plans which may be involved;

(2) where necessary to protect the interests of participants or beneficiaries, or to safeguard the capability of the Pension Benefit Insurance Fund to equitably underwrite vested benefit losses, under title IV, order plan termination in accordance with such conditions as the Secretary may prescribe; or

(3) take such other action as may be necessary to fulfill the purposes of this Act.

(c) No amendments increasing plan benefits shall be permitted during any period in which a funding waiver is in effect.

(d) (1) Notwithstanding the requirements of part B of title II of this Act the Secretary shall by rule or regulation prescribe alternative funding requirements for fixed-contribution multi-employer plans which will assure sufficient assets to cover the plan's benefit commitments.

(2) The period of time provided to fund such fixed-contribution multi-employer plans shall be a period which will actuarially assure that such plan has adequate assets to meet the plan's benefit commitments, and which reflects the particular circumstances affecting the plan, industry, or other pertinent factors, except that no period prescribed by the Secretary shall be less than forty years.

(3) No fixed-contribution multi-employer plan shall increase benefits beyond a level for which the fixed contributions made to the plan would be actuarially determined to be inadequate unless the fixed contribution rate is commensurately increased.

(e) Where upon application and notice to affected or interested parties by the plan administrator of a pension plan funded by the contributions of two or more unaffiliated employers, the Secretary determines that the withdrawal from the plan by any employer or employers has or will result in a significant reduction in the rate of aggregate contributions to the plan, the Secretary may take the following steps:

(1) require the plan fund to be equitably allocated between those participants no longer working in covered service under the plan as a result of their employer's withdrawal, and those participants who remain in covered service under the plan;

(2) treat that portion of the plan fund allocable under (1) to participants no longer in covered service, as a terminated plan for the purposes of the plan termination insurance provisions of title IV; and

(3) treat that portion of the plan fund allocable to participants remaining in covered service as a new plan for purposes of the funding standards imposed by part B of title II of this Act, any variance granted by this section, and the plan termination insurance provisions of title IV.

TITLE III—VOLUNTARY PORTABILITY PROGRAM FOR VESTED PERSONS

PROGRAM ESTABLISHED

SEC. 301. (a) There is hereby established a program to be known as the "Voluntary Portability Program for Vested Pensions" (hereinafter referred to as the "Portability Program"), which shall be administered by and under the direction of the Secretary. The Portability Program shall facilitate the voluntary transfer of vested credits between registered pension or profit-sharing-retirement plans. Nothing in this title or in the regulations issued by the Secretary hereunder shall be construed to require participation in such Portability Program by a plan as a condition of registration under this Act.

(b) Pursuant to regulations issued by the Secretary, plans registered under this Act may apply for membership in the Portability Program, and, upon approval of such application by the Secretary, shall be issued a certificate of membership in the Portability Program (plans so accepted shall be hereinafter referred to as "member plans").

ACCEPTANCE OF DEPOSITS

SEC. 302. A member plan shall, pursuant to regulations prescribed by the Secretary, pay, upon request of the participant, to the fund established by section 303, a sum of money equal to the current discounted value of the participants' vested rights under the plan, which are in settlement of such vested rights, when such participant is separated from employment covered by the plan before the time prescribed for payments to be made to him or to his beneficiaries under the plan. The fund is authorized to receive such payments, on such terms as the Secretary may prescribe.

SPECIAL FUND

SEC. 303. (a) There is hereby created a fund to be known as the Voluntary Portability Program Fund (hereinafter referred to as the "Fund"). The Secretary shall be the trustee of the Fund. Payments made into the Fund in accordance with regulations prescribed by the Secretary under section 302 shall be held and administered in accordance with this title.

(b) With respect to such Fund, it shall be the duty of the Secretary to—

(1) administer the Fund;

(2) report to the Congress not later than the first day of April of each year on the operation and the status of the Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next two fiscal years and review the general policies followed in managing the Fund and recommend changes in such policies, including the necessary changes in the provisions of law which govern the way in which the Fund is to be managed; and

(3) after amounts needed to meet current and anticipated withdrawals are set aside, deposit the surplus in interest-bearing accounts in any bank the deposits of which are insured by the Federal Deposit Insurance Corporation or savings and loan association in which the accounts are insured by the Federal Savings and Loan Insurance Corporation. In no case shall such deposits exceed 10 per centum of the total of such surplus, in any one bank, or savings and loan association.

INDIVIDUAL ACCOUNTS

SEC. 304. The Secretary shall establish and maintain an account in the Fund for each participant for whom the Secretary receives payment under section 302. The amount credited to each account shall be adjusted periodically, as provided by the Secretary pursuant to regulations to reflect change in the financial condition of the Fund.

PAYMENTS FROM INDIVIDUAL ACCOUNTS

SEC. 305. Amounts credited to the account of any participant under this title shall be paid by the Secretary to—

(1) a member plan, for the purchase of credits having at least an equivalent actuarial value under such plan, on the request of such participant when he becomes a participant in such member plans; or

(2) a qualified insurance carrier selected by a participant who has attained the age of sixty-five, for the purchase of a single premium life annuity in an amount having a present value equivalent to the amount credited to such participant's account, or in the event the participant selects an annuity with survivorship options, an amount determined by the Secretary to be fair and reasonable based on the amount in such participant's account.

TECHNICAL ASSISTANCE

SEC. 306. The Secretary shall provide technical assistance to employers, employee organizations, trustees, and administrators of pension and profit-sharing-retirement plans in their efforts to provide greater retirement protection for individuals who are separated from employment covered under such plans. Such assistance may include, but is not limited to (1) the development of reciprocity arrangements between plans in the same industry or area, and (2) the development of special arrangements for portability of credits within a particular industry or area.

TITLE IV—PLAN TERMINATION INSURANCE

PROGRAM ESTABLISHED

SEC. 401. There is hereby established a program to be known as the "Private Pension Plan Termination Insurance Program (hereinafter referred to as the "Insurance Program"), which shall be administered by and under the direction of the Secretary.

CONDITIONS OF INSURANCE

SEC. 402. (a) The insurance program shall insure participants and beneficiaries of those plans registered under this Act against loss of benefits derived from vested rights which arise from the termination of such plans.

(b) The rights of participants and beneficiaries of a registered pension plan shall be insured under the insurance program only to the extent that—

(1) such rights were earned after the effective date of this Act;

(2) such rights are not vested after a lesser period than is required by this Act;

(3) such rights as provided for in the plan do not exceed: (A) in the case of a right to a monthly retirement or disability benefit for the employee himself, the lesser of 50 per centum of the average monthly wage he received from the contributing employer in the five-year period after the registration date

of the plan for which his earnings were its greatest, or $500 a month; (B) in the case of a right of one or more dependents or members of the participant's family, or in the case of a right to a lump-sum survivor benefit on account of the death of a participant, an amount no greater than the amount determined under clause (A);

(4) the plan is terminated more than three years after the date of its establishment or its initial registration with the Secretary, except that the Secretary may in his discretion authorize insurance payments in such amounts as may be reasonable to any plan terminated in less than three years after the date of its initial registration with the Secretary where (A) such plan has been established and maintained for more than three years prior to its termination, (B) the Secretary is satisfied that during the period the plan was unregistered, it was in substantial compliance with the provisions of this Act, and (C) such payments will not prevent equitable underwriting of losses of vested benefits arising from plan terminations otherwise covered by this title;

(5) such rights were created by a plan amendment which took effect more than three years immediately preceding termination of such plan; and

(6) such rights do not accrue to the interest of a participant who is the owner of 10 per centum or more of the voting stock of the employer contributing to the plan, or of the same percentage interest in a partnership contributing to the plan.

ASSESSMENTS AND PREMIUMS

Sec. 403. (a) Upon registration with the Secretary, each plan shall pay a uniform assessment to the insurance program as prescribed by the Secretary to cover the administrative costs of the insurance program.

(b)(1) Each registered pension plan shall pay an annual premium for insurance at uniform rates established by the Secretary based upon the amount of unfunded vested liabilities subject to insurance under section 402.

(2) For the three-year period immediately following the effective date of this title, such premium shall not exceed 0.2 per centum of a plan's actuarially-projected unfunded vested liabilities subject to insurance under section 402.

(3)(A) The Secretary is authorized to prescribe different uniform premium rates after the initial three-year period based upon experience and other relevant factors.

(B) Any new rates prescribed by the Secretary shall be effective at the end of the first period of sixty calendar days of continuous session of the Congress after the date on which the proposed rates are published in the Federal Register, unless between the date of such publication and the end of the sixty-day period, either House passes a resolution stating in substance that that House does not favor the proposed rate change.

(C) For the purpose of subparagraph (B)—

(i) continuity of a session is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

(c) Assessments and premiums referred to in this section shall be prescribed by the Secretary only after consultation with appropriate Government agencies and private persons with expertise on matters relating to assessment and premium structures in insurance and related matters, and after notice to all interested persons and parties.

PAYMENT OF INSURANCE

Sec. 404. (a) No plan insured under this title shall terminate without approval of the Secretary. The Secretary shall not approve a plan termination unless he is satisfied that the requirements of this Act and those of the Welfare and Pension Plans Disclosure Act have been complied with and that such termination is not designed to avoid or circumvent the purposes of this Act.

(b) As determined by the Secretary, subject to the conditions specified in section 402, the amount of insurance payable under the insurance program shall be the difference between the realized value of the plan's assets and the amount of vested liabilities under the plan.

RECOVERY

Sec. 405. (a) Where the employer or employers contributing to the terminating plan or who terminated the plan are not insolvent (within the meaning of section 1(19) of the Bankruptcy Act), such employer or employers shall be liable to reimburse the insurance program for any insurance benefits paid by the program to the beneficiaries of such terminated plan to the extent provided in this section.

(b) An employer, determined by the Secretary to be liable for reimbursement under subsection (a), shall be liable to pay a percentage of the terminated plan's unfunded vested liabilities equal to 100 per centum less the percentage of the ratio of the plan's unfunded vested liabilities to the net worth of the employer.

(c) The Secretary is authorized to make arrangements with employers, liable under subsection (a) for reimbursement of insurance paid by the Secretary including arrangements for deferred payment on such terms and for such periods as are deemed equitable and appropriate.

PENSION BENEFIT INSURANCE FUND

Sec. 406. (a) There is hereby created within the Treasury a separate fund for pension benefit insurance to be known as the Pension Benefit Insurance Fund (hereafter in this section called the fund) which shall be available to the Secretary without fiscal year limitation for the purposes of this title.

(b) All amounts received as premiums, assessments, or fees, and any other moneys, property, or assets derived from operations in connection with this title shall be deposited in the fund.

(c) All claims, expenses, and payments pursuant to operation of the program under this title shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the funds into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations provided as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable Treasury obligations. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

(d) All moneys of the fund, except appropriated funds, may be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

TITLE V—DISCLOSURE AND FIDUCIARY STANDARDS

Sec. 501. In addition to the filing requirements of the Welfare and Pension Plans Disclosure Act, it shall be a condition of compliance with section 7 of such Act that each annual report hereinafter filed under that section shall be accompanied by a certificate or certificates in the name of and on behalf of the plan, the administrator, and any employer or employee organization participating in the establishment of the plan, designating the Secretary as agent for service of process on the persons and entities executing such certificate or certificates in any action arising under the Welfare and Pension Plans Disclosure Act or this Act.

Sec. 502. (a) Section 3 of the Welfare and Pension Plans Disclosure Act (72 Stat. 997) is amended by adding at the end thereof the following new paragraphs:

"(14) The term 'relative' means a spouse, ancestor, descendent, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(15) The term 'administrator' means—

"(A) the person specifically so designated by the terms of the plan, collective-bargaining agreement, trust agreement, contract, or other instrument, under which the plan is operated; or

"(B) in the absence of such designation (i) the employer in the case of an employee benefit plan established or maintained by a single employer, (ii) the employee organization in the case of a plan established or maintained by an employee organization, or (iii) the association, committee, joint board of trustees, or other similar group of representatives of the parties who established or maintained the plan, in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

"(16) The term 'employee benefit plan' or 'plan' means an employee welfare benefit plan or an employee pension benefit plan or a plan providing both welfare and pension benefits.

"(17) The term 'employee benefit fund' or 'fund' means a fund of money or other assets maintained pursuant to or in connection with an employee benefit plan and includes employee contributions withheld but not yet paid to the plan by the employer. The term does not include: (A) any assets of an investment company subject to regulation under the Investment Company Act of 1940; (B) premium, subscription charges, or deposits received and retained by an insurance carrier or service or other organization, except for any separate account established or maintained by an insurance carrier.

"(18) The term 'separate account' means an account established or maintained by an insurance company under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

"(19) The term 'adequate consideration' when used in section 14 means either (A) at the price of the security prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (B) if the security is not traded on such a national securities exchange, at a price not less favorable to the fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer.

"(20) The term 'nonforfeitable pension benefit' means a legal claim obtained by a participant or his beneficiary to that part of an immediate or deferred pension benefit which, notwithstanding any conditions subsequent which would affect receipt of any benefit flowing from such right, arises from the participant's covered service under the plan and is no longer contingent on the participant remaining covered by the plan.

"(21) The term 'covered service' means that period of service performed by a participant for an employer or as a member of an employee organization which is recognized under the terms of the plan or the requirements of the Retirement Income Security for Employees Act for purposes of determining a participant's eligibility to receive pension benefits or for determining the amount of such benefits.

"(22) The term 'pension benefit' means the aggregate, annual, monthly, or other amounts to which a participant will become entitled upon retirement or to which any other person is entitled by virtue of such participant's death.

"(23) The term 'accrued portion of normal retirement benefit' means that amount of benefit which, irrespective of whether the right to such benefit is nonforfeitable, is equal to—

"(A) in the case of a profit-sharing-retirement plan or money purchase plan, the total amount credited to the account of a participant;

"(B) in the case of a unit benefit-type pension plan, the benefit units credited to a participant; or

"(C) in the case of other types of pension plans, that portion of the prospective normal retirement benefit of a participant that pursuant to rule or regulation, under this Act, is determined to constitute the participant's accrued portion of the normal retirement benefit under the appropriate plan.

"(24) The term 'security' has the same meaning as in the Securities Act of 1933 (15 U.S.C. 77(a)).

"(25) The term 'fiduciary' means any person who exercises any power of control, management, or disposition with respect to any moneys or other property of an employee benefit fund, or has authority or responsibility to do so.

"(26) The term 'market value' or 'value' when used in this Act means fair market value where available, and otherwise the fair value as determined pursuant to rule or regulation under this Act."

(b) Paragraph (1) of section 3 of such Act is amended by inserting the words "or maintained" after the word "established".

(c) Paragraph (2) of section 3 of such Act is amended by inserting the words "or maintained" after the word "established".

(d) Paragraph (3) of section 3 of such Act is amended by striking out the word "plan" the first time it appears and inserting in lieu thereof the word "program".

(e) Paragraphs (3), (4), (6), and (7) of section 3 of such Act are amended by striking out the words "welfare or pension" wherever they appear.

(f) Paragraph (13) of section 3 of such Act is amended to read as follows:

"(13) The term 'party in interest' means any administrator, officer, trustee, custodian, counsel, or employee of any employee benefit plan, or a person providing benefit plan services to any such plan, or an employer, any of whose employees are covered by such a plan or any person controlling, controlled by, or under common control with, such employer or officer or employee or agent of such employer or such person, or an employee organization having members covered by such plan, or an officer or employee or agent of such an employee organization, or a relative, partner, or joint venturer or any of the above described persons."

SEC. 503. (a) Section 4(a) of the Welfare and Pension Plans Disclosure Act is amended by striking out the words "welfare or pension", "or employers", and "or organizations" wherever they appear.

(b) Paragraph (3) of section 4(b) of such Act is amended to read as follows:

"(3) Such plan is administered by a religious organization described under section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under the provisions of section 501(a) of such Code;"

(c) Paragraph (4) of section 4(b) of such Act is amended by inserting before the period the following: ", except that participants and beneficiaries of such plan shall be entitled to maintain an action to recover benefits or to clarify their rights to future benefits as provided in section 604 of the Retirement Income Security for Employees Act".

(d) Section 4(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5) such plan is established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States."

SEC. 504. (a) Section 5(b) of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"(b) The Secretary may require the filing of special terminal reports on behalf of an employee benefit plan which is winding up its affairs, so long as moneys or other assets remain in the plan. Such reports may be required to be filed regardless of the number of participants remaining in the plan and shall be in such form and filed in such manner as the Secretary may prescribe."

(b) Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) The Secretary may by regulation provide for the exemption from all or part of the reporting and disclosure requirements of this Act of any class or type of employee benefit plans if the Secretary finds that the application of such requirements to such plans is not required in order to implement the purposes of this Act."

SEC. 505. Section 6 of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"SEC. 6. (a) A description of any employee benefit plan shall be published as required herein within ninety days after the establishment of such plan or when such plan becomes subject to this Act.

"(b) The description of the plan shall be comprehensive and shall include the name and type of administration of the plan; the name and address of the administrator; the schedule of benefits; a description of the provisions providing for vested benefits written in a manner calculated to be understood by the average participant; the source of the financing of the plan and identity of any organization through which benefits are provided; whether records of the plan are kept on a calendar year basis, or on a policy or other fiscal year basis, and if on the latter basis, the date of the end of such policy or fiscal year; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part. Amendments to the plan reflecting changes in the data and information included in the original plan, other than data and information also required to be included in annual reports under section 7, shall be included in the description on and after the effective date of such amendments. Any change in the information required by this subsection shall be reported in accordance with regulations prescribed by the Secretary."

SEC. 506. (a) Subsection (a) of section 7 of the Welfare and Pension Plans Disclosure Act is amended by adding the number "(1)" after the letter "(a)", and by striking out that part of the first sentence which precedes the word "if" the first time it appears and inserting in lieu thereof the words "An annual report shall be published with respect to any employee benefit plan if the plan provides for an employee benefit fund subject to section 14 of this Act or".

(b) Section 7(a)(1) of such Act is further amended by striking out the word "investigation" and inserting in lieu thereof the words "notice and opportunity to be heard", by striking out the words "year or if" and inserting in lieu thereof the words "policy or fiscal year on which", adding a period after the word "kept", and striking out all the words following the word "kept".

(c) Section 7(a) of such Act is further amended by adding the following paragraphs:

"(2) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier or organization shall certify to the administrator of such plan within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, such information as determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.

"(3) The administrator of an employee benefit plan shall cause an audit to be made annually of the employee benefit fund established in connection with or pursuant to the provisions of the plan. Such audit shall be conducted in accordance with accepted standards of auditing by an independent certified or licensed public accountant, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing insurance, investment, or related function for the plan, if such books or records are subject to periodic examination by any agency of the Federal Government or the government of any State. The auditor's opinion and comments with respect to the financial information required to be furnished in the annual report by the plan administrator shall form a part of such report."

(d) Sections 7(b) and (c) of such Act are amended to read as folows:

"(b) A report under this section shall include—

"(1) the amount contributed by each employer: the amount contributed by the employees; the amount of benefits paid or otherwise furnished; the number of employees covered; a statement of assets, liabilities, receipts, and disbursements of the plan; a detailed statement of the salaries and fees and commissions charged to the plan, to whom paid, in what amount, and for what purposes; the name and address of each fiduciary, his official position with respect to the plan, his relationship to the employer of the employees covered by the plan, or the employee organization, and any other office, position, or employment he holds with any party in interest;

"(2) a schedule of all investments of the fund showing as of the end of the fiscal year:

"(A) the aggregate cost and aggregate value of each security, by issuer,

"(B) the aggregate cost and aggregate value, by type or category, of all other investments, and separately identifying (i) each investment, the value of which exceeds $100,000 or 3 per centum of the value of the fund and (ii) each investment in securities or properties of any person known to be a party in interest;

"(3) a schedule showing the aggregate amount, by type of security, of all purchases, sales, redemptions, and exchanges of securities made during the reporting period; a list of the issuers of such securities; and in addition, a schedule showing, as to each separate transaction with or without respect to securities issued by any person known to be a party in interest, the issuer, the type and class of security, the quantity involved in the transaction, the gross purchase price, and in the case of a sale, redemption, or exchange, the gross and net proceeds (including a description and the value of any consideration other than money) and the net gain or loss;

"(4) a schedule of purchases, sales, or exchanges during the year covered by the report of investment assets other than securities—

"(A) by type of category of asset the aggregate amount of purchases, sales, and exchanges; the aggregate expenses incurred in connection therewith; and the aggregate net gain (or loss) on sales, and

"(B) for each transaction involving a person known to be a party in interest and for each transaction involving over $100,000 or 3 per centum of the fund, an indication of each asset purchased, sold, or exchanged (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the asset); the purchase or selling price; expenses incurred in connection with the purchase, sale, or exchange; the cost of the asset and the net gain (or loss) on each sale; the identity of the seller in the case of a purchase, or the identity of the purchaser in the case of a sale, and his relationship to the plan, the employer, or any employee organization;

"(5) a schedule of all loans made from the fund during the reporting year or outstanding at the end of the year, and a schedule of principal and interest payments received by the fund during the reporting year, aggregated in each case by type of loan, and in addition, a separate schedule showing as to each loan which—

"(A) was made to a party in interest, or

"(B) was in default, or

"(C) was written off during the year as uncollectable, or

"(D) exceeded $100,000 or 3 per centum of the value of the fund,

the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the loan obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and other material terms), the amount of principal and interest overdue (if any) and as to loans written off as uncollectable an explanation thereof;

"(6) a list of all leases with—

"(A) persons other than parties in interest who are in default, and

"(B) any party in interest,

including information as to the type of property leased (and, in the case of fixed assets such as land, buildings, leaseholds, and so forth, the location of the property), the identity of the lessor or lessee from or to whom the plans is leasing, the relationship of such lessors and lessees, if any, to the plan, the employer, employee organization, or any other party in interest, the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; if property is leased from persons described in (B) the amount of rental and other expenses paid during the reporting year; and if property is leased to persons described in (A) or (B), the date the leased property was purchased and its cost, the date the propety was leased and its approximate value at such date, the gross rental receipts during the reporting period, the expenses paid for the leased property during the reporting period, the net receipts from the lease, and with respect to any such leases in default, their identity, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default;

"(7) a detailed list of purchases, sales, exchanges, or any other transactions with any party in interest made during the year, including information as to the asset involved, the price, any expenses connected with the transaction, the cost of the asset, the proceeds, the net gain or loss, the identity of the other party to the transaction and his relationship to the plan;

"(8) if some or all of the assets of a plan or plans are held in a common or collective trust maintained by a bank or similar institution or in a separate account maintained by an insurance carrier, the report shall include a statement of assets and liabilities and a statement of receipts and disbursements of such common or collective trust or separate account and such of the information required under paragraphs (2), (3), (4), (5), (6), and (7) of section 7(b) with respect to such common or collective trust or separate account as the Secretary may determine appropriate by regulation. In such case the bank or similar institution or insurance carrier shall certify to the administrator of such plan or plans, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, the information determined by the Secretary to be necessary to enable the plan administrator to comply with the requirements of this Act; and

"(9) in addition to reporting the information called for by this subsection, the administrator may elect to furnish other information as to investment or reinvestment of the fund as additional disclosures to the Secretary.

"(c) If the only assets from which claims against an employee benefit plan may be paid are the general assets of the employer or the employee organization, the report shall include (for each of the past five years) the benefits paid and the average number of employees eligible for participation."

(e) Section 7(d) of such Act is amended by striking out the capital "T" in the word "The" the first time it appears in paragraphs (1) and (2) and inserting in lieu thereof a lower case "t".

(f) Section 7(e) of such Act is amended to read as follows:

"(e) Every employee pension benefit plan shall include with its annual report (to the extent applicable) the following information:

"(1) the type and basis of funding,

"(2) the number of participants, both retired and nonretired, covered by the plan,

"(3) the amount of all reserves or net assets accumulated under the plan

"(4) the present value of all liabilities for all nonforfeitable pension benefits and the present value of all other accrued liabilities,

"(5) the ratios of the market value of the reserves and assets described in (3) above to the liabilities described in (4) above.

"(6) a copy of the most recent actuarial report, and

"(A) (i) The actuarial assumptions used in computing the contributions to a trust or payments under an insurance contract, (ii) the actuarial assumptions used in determining the level of benefits, and (iii) the actuarial assumptions used in connection with the other information required to be furnished under this subsection, insofar as any such actuarial assumptions are not included in the most recent actuarial report,

"(B) (i) if there is no such report, or (ii) if any of the actuarial assumptions employed in the annual report differ from those in the most recent actuarial report, or (iii) if different actuarial assumptions are used for computing contributions or payments than are used for any other purpose, a statement explaining same.

"(7) a statement showing the number of participants who terminated service under the plan during the year, whether or not they retain any nonforfeitable pension benefits, their length of service by category, the present value of the total accrued benefits of said participants and the present value of such benefits forfeited, and

"(8) such other information pertinent to disclosure under this subsection as the Secretary may by regulation prescribe."

(g) Section 7 of such Act is further amended by striking out in their entirety subsections (f), (g), and (h).

Sec. 507. (a) Section 8 of the Welfare and Pension Plans Disclosure Act is amended by striking out subsections (a) and (b) in their entirety and by redesignating subsection (c) as subsection (a). The subsection redesignated as subsection (a) is further amended by striking out the words "of plans" after the word "descriptions", striking out the word "the" before the word "annual", and adding the word "plan" before the word "descriptions".

(b) Such section is further amended by adding subsections (b), (c), and (d), to read as follows:

"(b) The administrator of any employee benefit plan subject to this Act shall file with the Secretary a copy of the plan description and each annual report. The Secretary shall make copies of such descriptions and annual reports available for public inspection.

"(c) Publication of the plan descriptions and annual reports required by this Act shall be made to participants and beneficiaries of the particular plan as follows:

"(1) the administrator shall make copies of the plan description (including all amendments or modifications thereto) and the latest annual report and the bargaining agreement, trust agreement, contract, or other instrument under which the plan was established and is operated available for examination by any plan participant or beneficiary in the principal office of the administrator;

"(2) the administrator shall furnish to any plan participant or beneficiary so requesting in writing a fair summary of the latest annual report;

"(3) the administrator shall furnish: (i) to every participant upon his enrollment in the plan and within thirty days after each major amendment to the plan, a summary of the plan's important provisions and requirements of the amendment, whichever is applicable, written in a manner calculated to be understood by the average participant; such explanation shall include a description of the benefits available to the participant under the plan and circumstances which may result in disqualification or ineligibility; and (ii) to every participant every three years (commencing January 1, 1975), a revised, up-to-date summary of the plan's important provisions and major amendments thereto, written in a manner calculated to be understood by the average participant; and (iii) to each plan participant or beneficiary so requesting in writing a complete copy of the plan description (including all amendments or modifications thereto) or a complete copy of the latest annual report, or both. He shall in the same way furnish a complete copy of the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established and operated. In accordance with regulations of the Secretary, an administrator may make a reasonable charge to cover the cost of furnishing such complete copies.

"(d) In the event a plan is provided alternative standards of vesting, funding, or both, pursuant to title II of the Retirement Income Security for Employees Act, the administrator shall provide notice of such action to each participant in a manner calculated to be understood by the average participant, and in such form and detail and for such periods as may be prescribed by the Secretary."

Sec. 508. Section 14 of such Act is amended to read as follows:

"Sec. 14. (a) (1) There is hereby established an Advisory Council on Employee Welfare and Pension Benefit Plans (hereinafter referred to as the 'Council') consisting of nineteen members appointed by the Secretary. Not more than ten members of the Council shall be members of the same political party.

"(2) Members shall be appointed from among persons recommended by groups or organizations which they shall represent and shall be persons qualified to appraise the programs instituted under this Act and the Retirement Income Security for Employees Act.

"(3) Of the members appointed, seven shall be representatives of labor organizations; two shall be representatives of management; one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, and the accounting field; and five representatives shall be appointed from the general public.

"(4) Members shall serve for terms of three years, except that of those first appointed, six shall be appointed for terms of one year, six shall be appointed for terms of two years, and seven shall be appointed for terms of three years. A member may be reappointed, and a member appointed to fill a vacancy shall be appointed only for the remainder of such term. A majority of members shall constitute a quorum and action shall be taken only by a majority vote of those present.

"(5) Members shall be paid compensation at the rate of $150 per day when engaged in the actual performance of their duties except that any such member who holds another office or position under the Federal Government shall serve without additional compensation. Any member shall receive travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

"(b) It shall be the duty of the Council to advise the Secretary wtih respect to the carrying out of their functions under this Act, and to submit to the Secretary recommendations with respect thereto. The Council shall meet at least four times each year and at such other times as the Secretary requests. At the beginning of each regular session of the Congress, the Secretary shall transmit to the Senate and House of Representatives each recommendation which he has received from the Council during the preceding calendar year and a report covering his activities under the Act for the preceding fiscal year, including full information as to the number of plans and their size, the results of any studies he may have made of such plans and the operation of this Act and such other information and data as he may deem desirable in connection with employee welfare and pension benefit plans.

"(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary to conduct its business. The Secretary may call upon other agencies of the Government for statistical data, reports, and other information which will assist the Council in the performance of its duties."

SEC. 509. The Welfare and Pension Plans Disclosure Act is further amended by renumbering sections 15, 16, 17, and 18 as sections 16, 17, 18, and 19, respectively, and by inserting the following new section immediately after section 14:

"FIDUCIARY STANDARDS

"SEC. 15. (a) Every employee benefit fund established to provide for the payment of benefits under an employee's benefit plan shall be established pursuant to a duly executed trust agreement which shall set forth the purpose or purposes for which such fund is established and the detailed basis on which payments are to be made into and out of such fund. Such fund shall be deemed to be a trust and shall be held for the exclusive purpose of (1) providing benefits to participants in the plan and their beneficiaries and (2) defraying reasonable expenses of administering the plan.

"(b)(1) A fiduciary shall discharge his duties with respect to the fund—

"(A) solely in the interests of the participants and their beneficiaries;

"(B) with the care under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

"(C) in accordance with the documents and instruments governing the fund insofar as is consistent with this Act, except that (i) any assets of the fund remaining upon dissolution or termination of the fund shall, after complete satisfaction of the rights of all beneficiaries to benefits accrued to the date of dissolution or termination, be distributed ratably to the beneficiaries thereof or, if the trust agreement so provides, to the contributors thereto; and (ii) that in the case of a registered pension or profit-sharing retirement plan, such distribution shall be subject to the requirements of the Retirement Income Security for Employees Act.

"(2) Except as permitted hereunder, a fiduciary shall not—

"(A) lease or sell property of the fund to any person known to be a party in interest;

"(B) lease or purchase on behalf of the fund any property known to be owned by a party in interest;

"(C) deal with such fund in his own interest or for his own account;

"(D) represent any other party with such fund, or in any way act on behalf of a party adverse to the fund or adverse to the interests of its participants or beneficiaries:

"(E) receive any consideration from any party dealing with such fund in connection with a transaction involving the fund;

"(F) loan money or other assets of the fund to any person known to be a party in interest;

"(G) furnish goods, services, or facilities to any person known to be a party in interest;

"(H) permit the transfer of any property of the fund to, or its use by or for the benefit of, any person known to be a party in interest; or

"(I) permit any of the assets of the fund to be held, deposited, or invested outside the United States unless the indicia of ownership remain within the jurisdiction of a United States District Court, except as authorized by the Secretary by rule or regulation. The Secretary may by rule or regulation provide for the exemption of any fiduciary or transaction from all or part of the proscriptions contained in this subsection, when the Secretary finds that to do so is consistent with the purposes of this Act and in the interest of the fund and its participants and beneficiaries. However, no such exemption shall relieve a fiduciary from any other applicable provisions of this Act.

"(c) Nothing in this section shall be construed to prohibit the fiduciary from—

"(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the plan under which the fund was established;

"(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with the fund, except that no person so serving who already receives full-time pay from an employer or an association of employers whose employees are participants in the plan under which the fund was established, or from an employee organization whose members are participants in such plan shall receive compensation from such fund, except for reimbursement of expenses properly and actually incurred and not otherwise reimbursed;

"(3) serving in such position in addition to being an officer, employee, agent, or other representative of a party in interest;

"(4) engaging in the following transactions;

"(A) purchasing on behalf of the fund any security which has been issued by an employer whose employees are participants in the plan, under which the fund was established or a corporation controlling, controlled by, or under common control with such employer, except that (i) the purchase of any security is for no more than adequate consideration in money or money's worth, and (ii) that if an employee benefit fund is one which provides primarily for benefits of a stated amount, or an amount determined by an employee's compensation, an employee's period of service, based on fixed contributions which are not geared to the employer's profits, no investment shall be made subsequent to the enactment of this amendment by a fiduciary of such a fund in securities of such an employer or of a corporation controlling, controlled by, or under common control with such employer, if such investment, when added to such securities already held, exceeds 10 per centum of the fair market value of the assets of the fund. Notwithstanding the foregoing, such 10 per centum limitation shall not apply to profit sharing, stock bonus, thrift and savings or other similar plans which explicitly provide that some or all of the plan funds may be invested in securities of such employer or a corporation controlling, controlled by, or under common control with such employer, nor shall said plans be deemed to be limited by any diversification rule as to the percentage of plan funds which may be invested in such securities. Profit sharing, stock bonus, thrift or other similar plans, which are in existence on the date of enactment and which authorize investment in such securities without explicit provision in the plan, shall remain exempt from the 10 per centum limitation until the expiration of one year from the date of enactment of Retirement Income Security for Employees Act. Nothing contained in this subparagraph shall be construed to relieve profit sharing, stock bonus, thrift and saving or other similar plans from any other applicable requirements of this section;

"(B) purchasing on behalf of the fund any security other than one described in (A) immediately above, or selling on behalf of the fund any security which is acquired or held by the fund, to a party in interest: *Provided*, That (i) the security is listed and traded on an exchange subject to regulation by the Securities and Exchange Commission, (ii) no brokerage commission, fee (except for customary transfer fees), or other remuneration is paid in connection with such transaction, and (iii) adequate consideration is paid;

"(5) making any loan to participants or beneficiaries of the plan under which the fund was established where such loans are available to all participants or beneficiaries on a nondiscriminatory basis and are made in accordance with specific provisions regarding such loans set forth in the plan;

"(6) contracting or making reasonable arrangements with a party in interest for office space and other services necessary for the operation of the plan and paying reasonable compensation therefor;

"(7) following the direction in the trust instrument of other document governing the fund insofar as consistent with the specific prohibitions listed in subsection (b)(2);

"(8) taking action pursuant to an authorization in the trust instrument or other document governing the fund, provided such action is consistent with the provisions of subsection (b).

"(d) Any fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this Act shall be personally liable to such fund for any losses to the fund resulting from such breach, and to pay to such fund any profits which have inured to such fiduciary through use of assets of the fund.

"(e) When two or more fiduciaries undertake jointly the performance of a duty or the exercise of a power, or where two or more fiduciaries are required by an instrument governing the fund to undertake jointly the performance of a duty or the exercise of power, but not otherwise, each of such fiduciaries shall have the duty to prevent any other such cofiduciary to redress such a breach, except that no fiduciary shall be liable for any consequence of any act or failure to act of a cofiduciary who is undertaking or is required to undertake jointly any duty or power if he shall object in writing to the specific action and promptly file a copy of his objection with the Secretary.

"(f) No fiduciary may be relieved from any responsibility, obligation, or duty imposed by law, agreement, or otherwise. Nothing herein shall preclude any agreement allocating specific duties or responsibilities among fiduciaries, or bar any agreement of insurance coverage or indemnification affecting fiduciaries, but no such agreement shall restrict the obligations of any fiduciary to a plan or to any participant or beneficiary without prior approval of the Secretary.

"(g) A fiduciary shall not be liable for a violation of this Act committed before he became a fiduciary or after he ceased to be a fiduciary.

"(h) No person who has been convicted of, or has been imprisoned as a result of his conviction of: robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, kidnapping, perjury, assault with intent to kill, assault which inflicts grevious bodily injury, any crime described in section 9(a)(1) of the Investment Company Act of 1940, or a violation of any provision of the Welfare and Pension Plans Disclosure Act, or a violation of section 302 of the Labor-Management Relations Act of 1947 (61 Stat. 157, as amended), or a violation of chapter 63 of title 18, United States Code, or a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, or a violation of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 519, as amended), or conspiracy to commit any such crimes or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element shall serve—

"(1) as an administrator, officer, trustee, custodian, counsel, agent, employee (other than as an employee performing exclusive clerical or janitorial duties) or other fiduciary position of any employee benefit plan; or

"(2) as a consultant to any employee benefit plan, during or for five years after such conviction or after the end of such imprisonment, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, (A) his citizenship rights have been revoked as a result of such conviction, have been fully restored, or (B) the Secretary determines that such person's service in any capacity referred to in clause (1) or (2) would not be contrary to the purposes of this Act. No person shall knowingly permit any other person to serve in any capacity referred to in clause (1) or (2) in violation of this subsection. Any person who willfully violates this subsection shall be fined not more than $10,000 or imprisoned for not more than one year, or both. For the purposes of this subsection, any person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event, regardless of whether such conviction occurred before or after the date of enactment of this section. For the purposes of this subsection, the term 'consultant' means any person who, for compensation, advises or represents an employee benefit plan or who provides other assistance to such plan concerning the establishment or operation of such plan.

"(i) All investments and deposits of the funds of an employee benefit fund and all loans made out of any such fund shall be made in the name of the fund or its nominee, and no employer or officer or employee thereof, and no labor organization, or officer or employee thereof, shall either directly or indirectly accept or be the beneficiary of any fee, brokerage, commission, gift, or other consideration for or on account of any loan, deposit, purchase, sale, payment, or exchange made by or on behalf of the fund.

"(j) In order to provide for an orderly disposition of any investment the retention of which would be deemed to be prohibited by this Act, and in order to protect the interest of the fund and its participants and its beneficiaries, the fiduciary may in his discretion effect the disposition of such investment within three years after the date of enactment of this Act, or within such additional time as the Secretary may by rule or regulation allow, and such action shall be deemed to be in compliance with this Act."

TITLE VI—ENFORCEMENT

Sec. 601. Whenever the Secretary—

(1) determines, in the case of a pension or profit-sharing-retirement plan required to be registered under this Act, that no application for registration has been filed in accordance with section 102, or

(2) issues an order under section 107 denying or canceling the certificate of registration of a pension or profit-sharing-retirement plan, or

(3) determines, in the case of a pension plan subject to title II, that there has been a failure to make required contributions to the plan in accordance with the provisions of this Act or to pay required assessments or permiums under title III, or to pay such other fees or moneys as may be required under this Act,

the Secretary may petition any district court of the United States having jurisdiction of the parties, or the United States District Court for the District of Columbia, for an order requiring the employer or other person responsible for the administation of such plan to comply with the requirements of this Act as will qualify such plan for registration or compel or recover the payment of required contributions, assessments, premiums, fees, or other moneys.

Sec. 602. Whenever the Secretary has reasonable cause to believe that an employees' benefit fund is being or has been administered in violation of the requirements the Welfare and Pension Plans Disclosure Act or the documents governing the establishment or operation of the fund, the Secretary may petition any district court of the United States having jurisdiction of the parties or the United States District Court for the District of Columbia for an order (1) requiring return to such fund of assets transferred from such fund in violation of the requirements of such Act, (2) requiring payment of benefits denied to any beneficiary in violation of the requirements of such Act, and (3) restraining any conduct in violation of the fiduciary requirements of such Act, and granting such other relief as may be appropriate to effectuate the purposes of this Act, including, but not limited to, removal of a fiduciary who has failed to carry out his duties and the removal of any person who is serving in violation of the requirements of section 15(h) of the Welfare and Pension Plans Disclosure Act.

Sec. 603. Civil actions for appropriate relief, legal or equitable, to redress or restrain a breach of any responsibility, obligation or duty of a fiduciary, including but not limited to, the removal of a fiduciary who has failed to carry out his duties and the removal of any person who is serving in violation of the requirements of section 15(h) of the Welfare and Pension Plans Disclosure Act or against any person who has transferred or received any of the assets of a plan or fund in violation of the fiduciary requirements of the Welfare and Pension Plans Disclosure Act or in violation of the document or documents governing the establishment or operation of the fund, may be brought by any participant or beneficiary of any employee benefit plan or fund subject to the Welfare and Pension Plans Disclosure Act in any court of competent jurisdiction, State or Federal, or the United States District Court for the District of Columbia, without respect to the amount in controversy and without regard to the citizenship of the parties. Where such action is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

Sec. 604. Suits by a person entitled, or who may become entitled, to benefits from an employee benefit plan or fund, subject to the Welfare and Pension Plans Disclosure Act may be brought in any court of competent jurisdiction, State or Federal, or the United States District Court for the District of Columbia, without respect to the amount in controversy and without regard to the citizenship of the parties, against any such plan or fund to recover benefits required to be paid from such plan or fund pursuant to the document or documents governing the establishment or operation of the plan or fund, or to clarify rights to future benefits under the terms of the plan. Where such action is brought in a district court of the United States, it may be brought in the district where the plan is administered, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

Sec. 605. (a) In any action brought under section 603 or 604, the court in its discretion may—

(1) allow a reasonable attorney's fee and costs of the action to any party;

(2) require the plaintiff to post security for payment of costs of the action and reasonable attorney's fees.

(b) A copy of the complaint in any action brought under section 603 or 604 shall be served upon the Secretary by certified mail, who shall have the right, in his discretion, to intervene in the action.

(c) Notwithstanding any other law, the Secretary shall have the right to remove an action brought under section 603 or 604 from a State court to a district court of the United States, if the action is one seeking relief of the kind the Secretary is authorized to sue for under this Act. Any such removal shall be prior to the trial of the action and shall be to a district court where the Secretary could have initiated the action.

Sec. 606. The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932, shall not be applicable with respect to suits brought under this title.

Sec. 607. Suits by an administrator or fiduciary of a pension plan, a profit-sharing-retirement plan, or an employees' benefit fund subject to the Welfare and Pension Plans Disclosure Act, to review final order of the Secretary, to restrain the Secretary from taking any action contrary to the provisions of this Act, or to compel action required under this Act, may be brought in the name of the plan or fund in the district court of the United States for the district where the fund has its principal office, or in the United States District Court for the District of Columbia.

Sec. 608. Any action, suit, or proceeding based upon a violation of this Act or the Welfare and Pension Plans Disclosure Act shall be commenced within five years after the plaintiff has notice of the acts or events forming the basis of the claim. Truthful disclosure of a fact in any form or other document required to be filed with the Secretary shall be deemed such notice.

Sec. 609. (a) It is hereby declared to be the express intent of Congress that, except for actions authorized by section 604 of this title, the provisions of this Act or the Welfare and Pension Plans Disclosure Act shall supersede any and all laws of the States and of political subdivisions thereof insofar as they may now or hereafter relate to the subject matters regulated by this Act or the Welfare and Pension Plans Disclosure Act, except that nothing herein shall be construed—

(1) to exempt or relieve any employee benefit plan not subject to this Act or the Welfare and Pension Plans Disclosure Act from any law of any State;

(2) to exempt or relieve any person from any law of any State which regulates insurance, banking, or securities or to prohibit a State from requiring that there be filed with a State agency copies of reports required by this Act to be filed with the Secretary; or

(3) to alter, amend, modify, invalidate, impair, or supersede any law of the United States other than the Welfare and Pension Plans Disclosure Act or any rule or regulation issued under any law except as specifically provided in this Act.

(b) Subsection (a) of this section shall not be deemed to prevent any State court from asserting jurisdiction in any action requiring or permitting accounting by a fiduciary during the operation of an employee benefit fund subject to the Welfare and Pension Plans Disclosure Act or upon the termination thereof or from asserting jurisdiction in any action by a fiduciary requesting instructions from the court or seeking an interpretation of the trust instrument or other document governing the fund. In any such action—

(1) the provisions of this Act and the Welfare and Pension Plans Disclosure Act shall supersede any and all laws of the State and of political subdivisions thereof, insofar as they may now or hereafter relate to the fiduciary, reporting, and disclosure responsibilities of persons acting on behalf of employee benefit plans, an employee benefit fund subject to the Welfare and Pension Plans Disclosure Act except insofar as they may relate to the amount of benefits due beneficiaries under the terms of the plan;

(2) notwithstanding any other law, the Secretary or, in the absence of action by the Secretary, a participant or beneficiary of the employee benefit plan or fund affected by this subsection, shall have the right to remove such action from a State court to a district court of the United States if the action involves an interpretation of the fiduciary, or reporting, and disclosure responsibilities of persons acting on behalf of employee benefit plans subject to the Welfare and Pension Plans Disclosure Act;

(3) the jurisdiction of the State court shall be conditioned upon—

(A) written notification, sent to the Secretary by registered mail at the time such action is filed, identifying the parties to the action, the nature of the action, and the plan involved; and satisfactory evidence presented to the court that the participants and beneficiaries have been adequately notified with respect to the action; and

(B) the right of the Secretary or of a participant or beneficiary to intervene in the action as an interested party.

TITLE VII—EFFECTIVE DATES

SEC. 701. (a) Sections 101, 102, 103, and 104, title V, and title VI of this Act shall become effective upon the date of enactment of this Act.

(b) Titles II, III, and IV of this Act shall become effective one year after the date of enactment of this Act, except that, with respect to any plan the terms of which have been agreed upon pursuant to a collective-bargaining agreement which is in effect on the date of enactment of this Act but which expires after the effective date of titles II, III, and IV, such titles shall become applicable to such plan on the date of expiration of such collective-bargaining agreement, but in no event later than three years after the date of enactment of this Act.

Mr. TAFT. Mr. President, the private pension system is an important supplement to our social security system. Involving 30 million participants, these 34,000 private pension plans provide a major part of the retirement security for America's working men and women.

Private pension plans have been largely successful. A few pension plans, however, have presented real problems to America's workers which we must all recognize. The Senate Labor Subcommittee, of which I am a member, has been conducting hearings with respect to pension reform. These hearings are not completed, and I believe that American industries should participate fully in suggesting legislative solutions so that the problems which exist can be solved in a constructive manner. Such legislative reforms should not be punitive and should not destroy the private pension system. Instead such reforms should give all employees the kind of protection which is available in our better pension plans.

We must recognize, of course, that pension reform by itself will not provide greater benefits without additional costs. We cannot have something for nothing, and America's workers and employers alike must realize that pension costs are directly translated into hourly wage equivalents.

Speaking candidly, I must say that some type of pension reform legislation will be enacted by the Congress. I say this because we cannot fail to recognize that certain isolated pension plans have created problems where employees have been unable to receive their expected retirement benefits. For many of America's workers this is a real bread-and-butter issue. As a Member of the Senate, I receive as much mail on the issue of pension reform as on any other subject. In 1971, for example, I received over 6,000 letters on this subject. Whatever legislation is enacted, however, must not price pension plans out of existence or curtail their usage.

In this context I think it would be helpful for us to look at some of the specific problems that have arisen so that we can better evaluate the situation which the Congress and the industry are facing.

The first problem in the pension area relates to the stringent vesting provisions of many pension plans. When the Fruehauf Trailer Plant in Avon Lake, Ohio, closed its doors, many workers who had been with the company as long as 11 years found they had no vested pension benefits whatever. Their hopes for financial security upon retirement were dashed. The closing of this facility and the transfer of its operations to other company plants ended the hope of many of those employees for pension benefits in their later years. Other plant closings in Ohio and other parts of the Nation have illustrated this tragic situation.

Employees who voluntarily leave one job to accept a better position with another firm often may not recognize, until it is too late, that by upgrading their salaries they have, in effect, eliminated their pensions.

There are also employees who can never hope to qualify for a pension because of the cyclical nature of their employment or the mobile nature of their job opportunities.

In all of these situations tax deductible contributions on behalf of these employees have been made into a pension fund. These contributions are supposed to have provided employees with retirement security. But in too many instances overly restrictive vesting requirements have resulted in a complete forfeiture of the pension money credited to the employee's account.

It has been estimated that 1 of every 10 workers covered by pension plans in several low-wage industries will never receive pension benefits, Dick Barnes has reported in the Buffalo Courier-Express on July 13, 1970 that:

> A sheet metal worker from the Northwest who for years alternated between two union locals because of work availability found when he reached age 70 he would get a pension from neither.
>
> A retired hat worker in Manhattan was notified by her pension plan that payments would be suspended for a year because the fund was not taking in enough money.
>
> A business executive quit his firm after eighteen years, thinking he had pension benefits he could draw at age 65, But when he went to work for a competitior, his original company cancelled the pension right.
>
> A woman who worked 37 years in New York was forced out of her job by a shop shutdown and was told to temporarily withdraw from her union. Later, when she sought her pension, she was told the withdrawal had cost her the pension.

The vesting problem becomes most acute with respect to professional employees who are part of a highly mobile labor force such as salesmen and engineers. Many professional engineers and salesmen tend to work for one company for several years and then move on to another job with another company. The result of these moves may mean that these professional men may approach retirement age without having satisfied the vesting period of any individual employer.

The administration's approach would be to provide vesting to the extent of 50 percent when an employee's age plus years of service totals 50. The only problem with this approach is that it gives employers an additional financial incentive not to hire older workers. As an alternative to that approach we may expect a proposal to provide vesting on the basis of years of service, irrespective of age. We could, for example, provide vesting of 30 percent after 8 years of service, with an additional 10 percent after each year. The result of such a proposal would involve full vesting at the end of 15 years of employment.

We should remember that if most workers are not given some such type of recognition, the political pressures for a more radical solution will only be magnified.

Portability has been suggested as one possible solution to the vesting problem. I do not believe that compulsory portability is the best approach, but the Congress may explore the establishment of a central fund whereby employers may voluntarily participate in a portability plan involving the transfer of vested credits from one employer to another.

Ralph Nader has proposed a radical restructuring of America's private pension systems by proposing what amounts to instantaneous vesting with benefits determined exclusively in relationship to the contributions made to the fund. He further suggests that each employee be able to direct the investment of the funds attributed to his account. I do not believe that this would be at all workable from an administrative standpoint. It would be hopelessly complex if each employee is allowed to invest his own pension funds. More importantly, Nader's proposal, masquerading as being in the interest of employees, would immediately reduce the benefit levels of pension beneficiaries by over 50 percent.

A second problem of inadequate funding exists even where pension benefits are vested. In some cases, employees with vested pensions lose their benefits because there is simply not enough money in the pension plan.

When Studebaker closed its plant and terminated its pension plan on November 1, 1964, it had been employing nearly 7,000 men and women at its South Bend plant. Tragically there was not enough money in the fund to make full provision for all vested benefits of the employees. After making provision for those who had already retired and those employees who would be age 60 by the projected termination date, the plan was able to pay only 15 cents on the dollar of the "vested" benefits of 4,500 employees, ages 40 to 59, who had 10 years or more of service. It was a rude shock for a 59-year-old man to lose his job, and then find that his vested pension would not be paid and that he would receive only 15 cents on the dollar.

Unfortunately, the Studebaker situation is not unique. Recently, another instance was brought to my attention which may be the most tragic situation of all. Committee inquiries show that when GarWood closed its plant in Findlay, Ohio, all employees who had not yet attained retirement age lost all pension benefits, even where the benefits were vested. Furthermore, employees who had already retired found their pensions reduced by aproximately 62 percent.

I have received a number of letters from barbers who have been contributing to their pension plan for many years and are ready to retire. Now they are concerned that they will not receive the benefits which they had anticipated for their later years.

Even if better provision is made with respect to vesting, there will be only slight improvement for America's retirees unless pension plans are made actuarily sound. There must be an adequate level of funding.

With respect to funding the Congress may establish minimum funding standards which will insure that all pension liabilities incurred by the plan will be funded over a 40-year period. While I cannot be certain that this approach will be taken, it is my judgment that the Congress will resolve the matter on approximately that basis.

The third problem involves irregular and sometimes outrageous investment policies and the misuse of pension funds which have occurred in certain cases. While these abuses are not typical of pension plans in general, instances have been brought to light of scandalous investment practices and insider transactions.

When Secretary of Labor George P. Shultz testified before the House Subcommittee on General Labor on April 16, 1970, he offered illustrations of manipulation, insider dealing, and exorbitant fees that have affected the viability of many pension funds.

He observed that as to one fund, four of the five employer appointed trustees borrowed from the fund and one trustee owed over $62,000, having made no principal or interest payments for more than a year. In another instance, five officers of a corporation, who were the trustees of their pension plan, formed other corporations to retail shoes. The money to finance their outside activities was obtained by loans of up to $460,000 from the pension plan. These trustees had borrowed more than two-thirds of the pension plan assets to finance their own private ventures.

Another small profit-sharing trust had more than 90 percent of its assets loaned back to the employer corporation. When the employer corporation went bankrupt the employees and retirees were the ones who suffered because the loans to the employer were worthless.

The trustees of another pension fund placed $16 million in a questionable investment, which was secured by a mortgage on a proposed golf course. After the project had gotten underway, the management was turned over to a man who 3 months earlier had been released from Federal parole. When the mortgagor went bankrupt the pension fund suffered a loss of $6.7 million.

A classic case of mismanagement was brought to light in the recent litigation with respect to the United Mine Workers' Welfare and Retirement Fund. In the case of Blankenship and others, against Boyle and others, the U.S. District Court for the District of Columbia found that the union held 74 percent of the stock of a Washington bank. The trustees of the union's welfare and retirement fund then deposited as much as $75 million, or 44 percent of the fund's total resources in this bank at no interest. The court found that:

> The money remained at the bank on demand to the bank's advantage but earning nothing for the fund.

The court also said that:

> The beneficiaries were not in any way assisted by these cash accumulations, while the union and the bank profited.

The court also found that the trustees were utilizing the fund's assets primarily to advance the collateral interests of the union instead of advancing the interests of the beneficiaries. In this regard the union was purchasing large blocks of electric utility stocks and lending money to an individual to do the same. The union and the financier would then pressure the management of these utilities to buy only union-mined coal. While there is nothing wrong with a union promoting the use of union-mined coal, it should not do so with trust funds which must be held solely for the purpose of maximizing security for its beneficiaries. In other words, trust funds should not be used to promote the separate interests of the trustees. Trust funds should be invested solely with the objective of safeguarding the interests of the beneficiaries.

In promoting these collateral interests the court found that:

> These activities present a clear case of self-dealing on the part of trustees Lewis and Schmidt and constituted a breach of trust.

The trustees also failed to promptly collect the royalties from a coal company. This was a large coal operator controlled by the union in conjunction with a private investor. This delinquency was as high as $700,000 in 1961. The court said that the union's heavy stock interest in west Kentucky should have disqualified Lewis from participating as a trustee in decisions involving royalty collections from that company. In other words, the union was placing its own proprietary interests in conflict with the interests of its trust fund beneficiaries.

What do these figures mean? In simple terms they mean that a few pension plan trustees have been using the pension fund assets for their own personal business ventures and dealings. They have been putting their own speculative schemes ahead of the security of the employees and pensioners. This is a practice which must be stopped now by Federal law.

When the Labor Subcommittee resumes its investigation I hope that we can explore the possibility of an FDIC-type insurance program to see that employees will not lose their expected pension benefits through improper investment practices.

While I favor an FDIC-type insurance program I would very much oppose any proposal which would require the pooling of private pension fund assets. I believe that the strength of the private pension fund system would be seriously undercut if we were to adopt that approach.

In addition to such an insurance program I believe that the Congress will prescribe new rules of conduct for trustees and fiduciaries controlling employee benefit funds. I believe that the Congress will prohibit conflicts of interest, self-dealing, and other such practices which result in the loss of retirement security.

Finally, some trustees have been over-eager to milk pension assets through exorbitant fees. In one instance, five trustees administered the pension and profit-sharing plans of a corporation. Three of the five were past or present officers of the corporation. In 1 year, these five trustees received more than $300,000 in trustees' fees alone from the corporation's pension and profit-sharing plans.

In addition, this pension and profit-sharing plan paid more than $130,000 to a separate corporation controlled by these same trustees which was established to administer and invest the funds.

I believe that American industry should welcome some type of responsible pension reform. From the standpoint of your own self-interest, reasonable pension reforms will serve to protect the reputable members of American industry from unscrupulous pension promoters. Such reforms should apply to union controlled pension funds with equal force.

Recently I learned of an individual who had been making rock and roll records until his business collapsed. Only a few weeks later he surfaced as a pension consultant and pension plan promoter. It is cases like this that increase the pressures for reform.

I believe that, just as reputable securities dealers are protected by meaningful regulations, so the pension industry can protect itself from this type of competition. The bad apples in the barrel are always the ones that receive the comment, and so it is that the cases of pension default and pension plan collapse are the ones that always get the headlines. The pension industry is an important and vital segment of our retirement security system and it must be strengthened and protected. By eliminating the outrageous cases that generate the headlines, the pension industry will have set the stage for greater growth in the years ahead.

Consequently, I am pleased to join with Senator JAVITS, Senator WILLIAMS, and others in cosponsoring this measure which will give America's working men and women the kind of pension protection which they have worked for and deserve. I understand that the committee is going to take up this measure in legislative hearings during the middle of June and I hope that this measure can be quickly adopted.

Mr. HUGHES. Mr. President, I welcome the introduction of proposed legislation today by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS) aimed at providing real and effective supervision of employee pension and welfare benefit plans for American workers.

Too many workers have discovered after years of effort that their pensions were not available as expected. Sometimes the pension trust fund does not contain enough funds to cover every pension commitment. Other workers discover that they have not fulfilled each and every requirement—requirements that they often did not even understand. Companies fail leaving hundreds and thousands of employees with a pitiful settlement instead of a generous pension. This can happen when the individual worker has contributed his own earnings into the pension fund.

The Subcommittee on Labor has amply documented numerous situations. The legislation developed by the subcommittee would create an Office of Pension and Welfare Plans Administration to effectively supervise the billions of dollars held in trust for America's workers.

I support this effort and I hope the bill will receive early Senate action.

PENSION SECURITY FOR AMERICAN WORKERS

Mr. EAGLETON. Mr. President, I am pleased to join today in sponsoring the Williams-Javits Retirement Income Security for Employees Act.

The Nation's system of private pensions has experienced extraordinary growth in recent years. It has grown in assets from $12 billion in 1950 to $130 billion in 1970. Some 30 million workers—nearly half the labor force—are covered by one of the 34,000 pension plans now in operation.

Unfortunately, millions of American workers are dependent for the economic security of their retirement years on pension plans that are themselves too insecure to hold any realistic prospect of keeping that promise. As chairman of the Senate Subcommittee on Aging, I have seen over and over again the sad consequences of old age without an adequate retirement income.

This bill is the product of several years of intensive investigation of our system of private pensions by the Senate Labor Subcommittee, under the outstanding leadership of the chairman, the distinguished junior Senator from New Jersey (Mr. WILLIAMS) and the ranking minority member, the very able senior Senator from New York (Mr. JAVITS). Through the facts obtained from this investigation, and from hearings held on the subject, the subcommittee was able to identify specific weaknesses in the basic structure of the private pension system. The most common problems are these:

Inadequate vesting, that is, the failure to assure a worker that he has qualified for pension rights under a formula prescribing a specified number of years worked for the company, a particular age reached, or, as is often the case, a combination of these factors. Thus an employee working under a pension plan with no vesting rights—an extreme situation—could work for 40 years for the same employer but find he had no pension if he were laid off the day before he reached retirement age.

Insufficient funding of assets, resulting in an employee being informed that he will receive no pension, or a reduced pension, because there simply is not enough money in the pension fund to pay all of the benefits that have been promised. This situation usually results from the termination of a plan when a company goes out of business or closes a particular plant. The Labor Department estimates that some 25,000 people are thus affected by the termination of about 500 plans a year—admittedly, a small fraction of the total number of employees in the private pension system but a tragedy for those who happen to be among the 25,000 affected.

Violations of fiduciary responsibility by those entrusted with administering, investing and safeguarding the pension fund. These violations range from trustees using the pension funds for their own benefit to instances where the assets have been dissipated because of the trustees' failure to exercise reasonable skill or care in handling the pension fund.

Laxity in enforcing the patchwork of laws we now have regarding pension funds, thus allowing abuses and illegal practices to continue without being questioned by responsible authorities.

Failure to inform workers of the details of their pension rights, leaving them in the dark as to what is required of them in order to qualify for retirement benefits and what those benefits are going to be.

The bill being introduced today, Mr. President, is designed to deal with these problems in a comprehensive, systematic fashion. As with any measure of its size and complexity, the bill is by no means perfect. There are undoubtedly provisions that can be improved and perhaps we may even find that some of the fundamental concepts underlying the bill need refining.

This, of course, is a primary function of the committee process in Congress and I look forward to hearings on the legislation at which we can get the benefit of comments and criticisms by interested parties.

As a member of the Labor Subcommittee, I conducted hearings in St. Louis, Mo., last week to investigate the effects of pension plan termination on workers with vested pension rights. We heard testimony regarding the closing of two plants—the Benson Manufacturing Co. in Kansas City, Mo., and the American Zinc Co. plant in East St. Louis, Ill.

In both cases, the closing of the plant meant termination of the pension plan covering the workers formerly employed there, even though the companies, or their parent corporations, continued operations elsewhere. And in both cases, termination of the pension plan left workers with vested benefits—workers who had every reason to expect that they would ultimately receive some retirement income under the plan—high and dry, with no assets in the pension fund to pay for their benefits.

Indeed, we found that in at least one of these cases, the pension fund assets were even insufficient to pay full benefits to workers who had already retired.

I ask unanimous consent that an editorial on this subject that appeared in the Kansas City Star on May 7, 1972, be printed in full in the RECORD at the conclusion of my remarks. The Star editorial provides an exceedingly complete and comprehensible discussion of the full range of problems with which the Williams-Javits bill deals. I want to commend the author, Mr. Robert Sigman, for his thorough research and skillful exposition of a complex and difficult subject.

Finally, Mr. President, it is important to note that our concern with regard to weaknesses in some aspects of the private pension system should not be read as a condemnation of the entire system. On the contrary, I believe the efforts embodied in this bill must be counted as a failure if the final legislation we develop does not operate to improve the private pension system and promote, rather than inhibit, its future growth.

Our aim is to establish standards that will raise those plans now found to be defective to the level of the many that must be rated as excellent. If we are successful, we will assure that the promises held out to workers by their pension plan will be kept, and the economic insecurity now endemic among millions of older Americans will be alleviated for future generations.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[Kansas City (Mo.) Star, May 7, 1972]

PRIVATE PENSIONS: REAL OR A CRUEL MIRAGE?

The case histories have a familiar ring. A man spends years, perhaps 40 or more, working, confident that he will have adequate income in retirement. Then, much too late, as he faces old age, he is shocked to find that his pension plan has fallen tragically short of his expectations.

As a U.S. Senate subcommittee hearing in St. Louis last week showed, the unexpected termination of private retirement programs is neither isolated nor remote. The session, conducted by Sen. Thomas F. Eagleton of Missouri, took testimony from workers who will receive less than they anticipated after the closing of the Benson Manufacturing Company plant here last year and a St. Louis area firm.

A suit against Benson is pending in federal court. The plaintiffs are seeking full coverage; the company contends that it has fulfilled its obligation under agreement reached in collective bargaining.

A 2-year investigation by the Senate Labor Subcommittee found many reasons why retirement benefits sometimes evaporate or produce a trickle of what employees earned. The two principal reasons are that (1) many workers leave their jobs or are fired before becoming eligible and (2) plans are dropped when businesses close or merge, sometimes without warning, without enough assets to cover the claims.

THE ANNUAL TOLL

An estimated 25,000 people are affected by the cessation of about 500 pension funds a year, records at the Labor Department reveal. Some of them receive part of their benefits, but others lose everything.

That may be a rather small number among the more than 30 million Americans—about half those in the labor force—who are looking forward to retirement benefits from one of the 34,000 private plans now in operation. If you are among the 25,000, however, it can be a tragedy; payments from a private system (usually as a supplement to Social Security) in some cases are the difference between having a comfortable, acceptable standard of living and one below the poverty line. It can be the difference between living in dignity and having a meager existence.

This human factor should be enough to warrant corrective action by Congress. The tremendous growth of private retirement funds, which means that more and more people will be depending on them, demands remedial legislation.

From $12.8 billion in 1950, the assets held in private programs escalated to $129 billion in 1970. For perspective that is more than double mutual fund holdings. By 1980 the private pension nest egg is expected to be $250 billion and involve 42 million beneficiaries.

Although there are laws that apply to private pension funds, they are virtually unregulated in comparison with banks and insurance companies. Administrators are required to make annual reports on operation and structure of the funds. But there are no requirements on audits or insurance. Moreover, few workers seem to comprehend the complicated language that spells out the qualifications and conditions for eligibility and payment.

A Labor Department official seemed to capture the sense of what the average man is up against in this wordy analysis:

"If you remain in good health and stay with the same company until you are 65 years old, and if the company is still in business, and if your department has not been abolished, and if you haven't been laid off for too long a period, and if there is enough money in the fund, and if that money has been prudently managed, you will get a pension."

"The fine print will get you if you don't watch out."

Right now is none too soon for you to determine what you have been promised—or what you think you have been promised—if your employer were to go out of business. And if you were to change jobs and if you were to undergo any or all of the other things the Labor Department man talks about.

Don't depend much on your union for help. Labor has negotiated some decent pension agreements, but the best pledge in the world is no good if it isn't backed up with enough money to meet the liability—namely your pension checks. Labor's record in the handling of pensions is extremely spotty.

It will help to know a few terms, "Vesting," for example. This means the irrevocable right of the participant to his accrued pension benefits, regardless of whether he continues to be employed by the sponsoring firm until he retires. Many plans have vesting, others do not. Some have combinations of service and age. A worker would have a vested right after he is 55 years old and has been employed 15 years, for instance. But if he gets terminated at 45, even though he has been on the job 20 years he may wind up with nothing.

"Portability" is another key word in the pension lexicon. It means the transfer of vested pension rights from one employer to another. This is important in our mobile society. Few people work for one employer exclusively. Yet without portability a change in jobs can be disastrous.

The 100th anniversary of the use of private pensions will occur in 1975. Congress has encouraged them since the 1920s by granting tax advantages on employer contributions. By now the great majority are financed by management.

WORLD WAR II IMPETUS

The real growth started during World War II when wages were frozen and fringe benefits were used to make contracts more palatable to labor. In the late 1940s a court ruling allowed unions to negotiate pension benefits.

The development that drew the most public attention to private pensions, however, was the Studebaker Corporation closing in 1963. Many employees received nothing. Some 4,500 vested workers under the age of 60 got only 15 per cent of what they expected. The situation developed because the plan had been in operation 13 years, not long enough to accumulate enough assets to cover the commitments.

No one has said that sound pension programs don't exist. They do.

But much sentiment points toward reform. Better control of investments. Insurance on the funds similar to the Federal Deposit Insurance Corporation. Guidelines on vesting and portability. In short a comprehensive law for all private pension plans.

Legislation already has been introduced in both houses. Sen. Harrison A. Williams, Jr. (D-N.J.), chairman of the Labor and Public Welfare Committee, is involved in drafting a bill. The Nixon administration has its own version before Congress.

The outlook is not good for final action this year, however. Protection is clearly needed. Congress can provide it.

By Mr. PERCY (for himself, Mr. COOK, and Mr. SCHWEIKER):

S. 3599. A bill to expand and improve the direct food distribution program. Referred to the Committee on Agriculture and Forestry.

FOOD DISTRIBUTION ACT OF 1972

Mr. PERCY. Mr. President, I am introducing today a bill to expand and strengthen the food distribution program of the U.S. Department of Agriculture.

The food distribution program—often referred to as the "commodity distribution," "surplus distribution," or "direct distribution program"—is part of the triumvirate of programs administered by USDA to help feed millions of Americans. The other two are the child nutrition programs and the food stamp program.

The food distribution program has traditionally had the dual purpose of alleviating farm surplus and helping the poor. It presently feeds about 3.5 million Americans living in about 1,100 counties and cities. It is an outgrowth of farm-oriented legislation which was developed in the mid-1930's. That legislation was designed primarily to remove farm surpluses and help support farm prices; and, only secondarily, to feed America's hungry. The program reached peak levels after World War II. Since the early 1960's, it has been overshadowed by the food stamp program, which now reaches about 11.5 million people.

Last September I had the privilege to chair 4 days of hearings by the Senate Select Committee on Nutrition and Human Needs which assessed the performance of the food distribution program for the first time in 35 years.

The hearing record is a story of Federal bureaucratic confusion, of uncertainty on the part of the States as to their own responsibilities, of attempts by the counties to place barriers before the poor, and of a general attitude toward commodity recipients as second-class citizens.

This bill is an effort to deal directly and forcefully with the host of problems which our hearings revealed. It is designed to make the Government more responsive to the recipients of surplus foods and to make the delivery of food to the poor and ill-fed the major aim of the program.

My authorship of this bill does not in any way imply that I favor reversing the trend away from the food distribution program and toward the food stamp program. I hope that food stamps will eventually replace commodity distribution entirely; and I hope that cash benefits to the poor will eventually eliminate the need for food stamps.

But these developments are a long way off. We need a strong and workable food distribution program now. And that is what this bill accomplishes.

I want to point out that this bill does not amend any existing statute but rather establishes a new program. The reason I do this is simply because there are only vague and passing references to a food distribution program in the authorizing legislation, section 32 of the Agricultural Adjustment Act of 1935 and section 46 of the Agricultural Act of 1949.

Because the food distribution program was conceived of and has been implemented as basically a farm support program, there is very little USDA involvement at present with the consumer. If a county chooses to participate in the commodity program, then USDA will contribute all of the food and will meet some of the administrative costs. In fiscal year 1971, USDA spent about $290 million to purchase 1.2 billion pounds of food, and about $19.7 million for local and State administrative costs.

The Federal Government's role effectively ends when the commodities it purchases from various processors are deposited in various State warehouses. Each State or locality sets its own standards of eligibility and USDA has no role in the certification process. Moreover, the whole process of purchasing, packaging, and distributing the food to the needy has not been organized with the ultimate consumer in mind, but rather for the benefit or convenience of the producer and processor of the surplus commodities.

In order fully to safeguard the health and well-being of all low-income households by providing them with adequate levels of food consumption and nutrition, it is essential to expand and improve the present food distribution program so that it serves the low-income consumer and makes easily accessible to him food whose quality is unimpaired, which suits his tastes, which is appropriately processed and packaged to permit convenient use and storage, and which is of sufficient quantity and variety to constitute a nutritionally adequate diet as prepared and served.

The bill sets up national standards of eligibility similar to those of the food stamp program and provides that eligibility for one program automatically constitutes eligibility for the other. Administration is left in the hands of the county except where participation falls below 50 percent of the eligible population. In that case the Secretary of Agriculture is authorized to step in and run the program.

In an attempt to insure the recipient a nutritionally adequate diet, the bill authorizes that foods other than surplus commodities may be distributed and that foods distributed must provide 125 percent of the recommended daily allowance of nutrients. The foods must be adequately packaged in small quantities and must be labeled to indicate the manufacturer's name, all ingredients, the nutritional content, and a date when the foods can no longer be assumed to be safe.

The bill requires that the distribution system at the county level be set up so that foods will be available in convenient locations and at convenient hours. The warehouses must meet the local health standards for restaurants.

Finally, the bill authorizes USDA to pay all administrative costs of the program. The bill provides for authorizations of $75 million and $100 million in the next 2 fiscal years to cover these costs. Foods will continue to be purchased with section 32 moneys.

Mr. President, this Congress and this administration have committed themselves time and time again to an all-out war against hunger and malnutrition. The United States, President Nixon says, is firmly committed to help the poor and feed the hungry.

With this legislation, the Congress has the opportunity to take a significant step in our progress toward the goal of eliminating hunger and malnutrition. We must replace a faltering and ineffective feeding program with one which will fulfill the expectation of the poor and disadvantaged. I urge swift action on this badly needed legislation.

I ask unanimous consent that the full text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3599

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Distribution Act of 1972".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) millions of Americans living in low-income households suffer from hunger and malnutrition because their income is insufficient to enable them to purchase a nutritionally adequate diet through normal channels of trade;

(2) while the food stamp program enables some low income households to afford a nutritionally adequate diet, many low-income households are not located in areas in which the food stamp program operates or are otherwise unable to participate fully in that program;

(3) for those low-income households not assisted by the food stamp program, the food distribution program is the sole alternative source of Federal family food assistance;

(4) the food distribution program now in effect fails to eliminate hunger and malnutrition among low-income households;

(5) the food distribution program now in effect is said to be designed and administered for the benefit of the producers of surplus agricultural commodities rather than for the benefit of low-income households in need of adequate nutritious food;

(6) the food distribution program now in effect provides food at times that is either spoiled at the time of distribution or spoils immediately after distribution; that is unsuited to ethnic, religious, or other personal preferences; that is in a form demanding extensive preparation; and that is insufficient in quantity and variety to meet minimum daily nutritional allowances, particularly given the problems of storage and handling confronting low-income households; and

(7) in order fully to safeguard the health and well-being of all low-income households by providing them with adequate levels of food consumption and nutrition, it is essential to expand and improve the present food distribution program so that it serves the low-income households not reached by the food stamp program and makes easily accessible to such households food that is unimpaired in quality; that is consonant with the tastes of the recipients; that is appropriately processed and packaged to permit convenient use and storage; and that is of sufficient quantity and variety to constitute a nutritionally adequate diet as prepared and served.

(b) It is the purpose of this Act to expand and improve the food distribution program so that it meets the criteria set forth in subsection (a)(7) of this section and, in combination with the food stamp program, helps eliminate hunger and malnutrition from every low-income household in the United States.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "distributing agency" means any State agency or the Secretary or any public agency or private nonprofit organization responsible for distributing food to recipient households either by virtue of delegation from a State agency or action by the Secretary pursuant to the provisions of section 7(e) of this Act.

(2) The term "food distribution program" means the program of distributing federally donated foods and agriculture commodities and products to low-income households under section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), or section 416 of the Agricultural Act of October 31, 1949, as amended, or under any other provision of law administered by the Secretary.

(3) The term "food stamp program" means the program of distributing food coupons to low-income households under the Food Stamp Act of 1964, as amended.

(4) The term "household" means one or more individuals, related or nonrelated, who are not residents of an institution or boardinghouse, but who live together as one economic unit and customarily eat meals together.

(5) The term "nutritional value" means the amount of nutrients (protein, vitamins A, B, C, and D, carbohydrate, fat, calories, calcium, iron, and such other nutrients as are contained in the nutritional requirements established by the Recommended Daily Allowances of the Food and Nutrition Board, National Academy of Sciences-National Research Council) contained in a food expressed in terms of the relationship of the amount of each nutrient contained in such food to such recommended daily allowances.

(6) The term "program subdivision" means any county or other political unit or area smaller than a State in which a food distribution program is in operation.

(7) The term "Secretary" means the Secretary of the United States Department of Agriculture.

(8) The term "State" means each of the fifty States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and the Trust Territories of the Pacific.

(9) The term "State agency" means the agency of the State government, including the local offices thereof, which has the responsibility for the administration of the food distribution program within the State, except that after July 1, 1973, it shall mean the agency responsible for the administration of the federally aided public assistance programs within the State.

(10) The term "food" has the meaning prescribed for that term by section 201 of the Federal Food, Drug, and Cosmetic Act, except that such term does not include any fresh fruit.

(11) The term "perishable or semiperishable food" means any food which the Secretary determines has a high risk of any of the following as it ages: (A) spoilage; (B) significant loss of nutritional value; or (C) significant loss of palatability.

(12) The term "pull date" means the last date on which a perishable or semiperishable food can be sold for consumption without a high risk of spoilage or significant loss of nutritional value or palatability, if stored by the consumer after that date for the period which a consumer can reasonably be expected to store that food.

ELIGIBLE HOUSEHOLDS

SEC. 4. (a) In the administration of the food distribution program, the Secretary shall provide that any household shall be eligible to participate in such program if its income and other financial resources are within the criteria established by the Secretary under section 6(a) of the Food Stamp Act of 1964, as amended, except that any household shall be eligible to participate in such program if, on the basis of its income and other financial resources, it would have been eligible for food stamp coupons under the standards of eligibility of the State plan of operation which was in effect, immediately prior to the enactment of Public Law 91-671 (84 Stat. 2048), for the food stamp program for the State in which such household is located.

(b) In determining the eligibility of any household to participate in the food distribution program, none of the resources of such household, other than income, shall be counted.

(c) The Secretary may establish temporary emergency standards of eligibility, without regard to income and other financial resources, for households that are victims of any disaster which has disrupted commercial channels of food distribution when he determines that such households are in need of temporary food assistance.

NATURE AND QUANTITY OF FOOD DISTRIBUTED

SEC. 5. (a) The food distributed pursuant to the food distribution program shall not be restricted to commodities deemed to be in surplus, but shall include commodities that (1) are suited to the particular ethnic, religious, or other taste preferences of the recipient households as determined by sample surveys conducted by the Secretary in each program subdivision, and (2) are appropriately fortified with vitamins and minerals to overcome proven nutritional deficiencies.

(b) The food distributed pursuant to the food distribution program shall, when delivered to the recipient households, be in a condition fit for safe consumption and in a form, processed or otherwise, that is convenient to prepare for consumption.

(c) The food distributed pursuant to the food distribution program shall include as wide a range of commodities as possible in keeping with the criteria set forth in subsections (a) and (b) and shall be of sufficient quantity and variety to provide recipient households with 125 per centum of their daily nutritional requirements as established by the Recommended Daily Allowances of the Food and Nutrition Board National Academy of Sciences-National Research Council.

PACKAGING AND LABELING

SEC. 6. The food distributed pursuant to the food distribution program shall be packed in containers that (1) are sufficiently durable to withstand a storage period of six months without breaking open or otherwise permitting the contents to come in contact with the outside air; (2) are impervious to vermin and insects; (3) are equal in every performance characteristic to the containers used to hold comparable foods distributed under title II of the Agricultural Trade Development and Assistance Act of 1954, as amended; (4) can be, when practicable and after the contents have been consumed, used for a purpose other than that of food container; (5) are, when practicable and prescribed by the Secretary, of a size sufficient to hold no more than five average adult servings of the food contained therein; and (6) bear a label which has type that is conspicuous and easily legible in distinct contrast (by topography, layout, color, embossing, or molding) with other matters on the container, and which contains a statement specifying (A) all ingredients contained in such food in the order of their predominance, (B) the nutritional value of each average serving of food contained therein, (C) the number of servings of food contained therein, (D) the name and address of the producer of the food contained therein, and (E) in the case of perishable or semi-perishable food, the pull date and the optimum temperature and humidity conditions for storage by the ultimate consumer.

ADMINISTRATION

SEC. 7. (a)(1) Subject to the conditions prescribed in paragraphs (2), (3), and (4) of this subsection, the distributing agency for any State or any subdivision of a State shall assume responsibility for the certification of applicant households and for the distribution of food allotments.

(2) Applicant households shall be certified for eligibility solely on the basis of a simplified written statement, conforming to standards prescribed by the Secretary, and such statement shall be acted upon and eligibility certified or denied within seven days following the date upon which the statement is initially filed. A certification of eligibility shall remain in effect for one year from the date thereof. The Secretary shall, however, provide for adequate and effective methods of verification of the eligibility of recipients subsequent to certification through the use of sampling and other scientific techniques. Notwithstanding any other provision of law, if a household, certified as eligible for the food stamp or food distribution program in any political subdivision, moves to another political subdivision in which the food stamp or food distribution program is operating, such household shall be eligible to participate in either the food stamp or food distribution program, whichever is operating in such other political subdivision, in accordance with the prior certification.

(3) Food allotments under the food distribution program shall be distributed in each subdivision in which such program is in operation on a fixed schedule on a weekly basis between 9 a.m. and 6 p.m. and after 6 p.m. on at least one weekday and/or on Saturday, and shall be distributed from a central location within that subdivision so that no recipient shall have to travel unreasonable distances or shall have to spend an unreasonable length of time in travel. Each recipient household shall be informed of the times and locations of distribution by means of a monthly letter from the distributing agency, and such times and locations shall be regularly announced in the newspapers that circulate in the subdivision and, where feasible, on the radio and television stations operating in the subdivision. Such times and locations shall also be prominently posted in each public assistance office in the subdivision.

(4) The distributing agency shall assure, in accordance with regulations issued by the Secretary, that the distribution location and the site of each warehouse in the subdivision in which foods to be distributed are stored prior to distribution (if different from said location) are inspected at least twice a year by appropriate State or subdivision health officials and certified by such officials as complying with the State and/or subdivision health codes applicable to restaurants and similar enterprises at which food is handled.

(b) The State agency of each participating State shall assume responsibility for the certification of applicant households and for the distribution of food allotments. There shall be kept such records as may be necessary to ascertain whether the program is being conducted in compliance with the provisions of this Act and the regulations issued pursuant to this Act. Such records shall be available for inspection and audit at any reasonable time and shall be preserved for such period of time, not in excess of three years, as may be specified in regulations issued by the Secretary.

(c) Participating States or participating political subdivisions thereof shall not decrease welfare grants or other similar aid extended to any person or persons as a consequence of such person's or persons' participation in benefits made available under the food distribution program.

(d) The State agency of each State shall submit for approval a plan of operation specifying the manner in which such State intends to conduct such program. Such plan of operation shall provide, among such other provisions as may by regulation be required, the following: (1) for the use of the eligibility standards promulgated by the Secretary under section 3 of this Act and the certification procedures specified in subsection (a)(2) above; (2) safeguards which restrict the use of disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions of this Act or the regulations issued pursuant to this Act or to State or local prosecuting attorneys; (3) that the State agency shall undertake to inform low-income households concerning the availability and benefits of the food distribution program and encourage the participation of all eligible households, with use of bilingual materials and personnel wherever necessary; (4) for the granting of a fair hearing and a prompt determination thereafter to any household aggrieved by the action of a State agency under any provision of its plan of operation as it affects the participation of such household in the food distribution program in accordance with the procedures set forth in the regulations issued pursuant to the Food Stamp Act of 1964, as amended, and (5) for the submission of such reports and other information as may from time to time be required.

(e) After the lapse of ninety days from the approval of this Act, if a month should occur in the course of the operation of the food distribution program in any subdivision in which the number of persons participating in the program is less than one-half of the number of persons in that program subdivision who are from households whose annual income is below the poverty level as determined by the Secretary in consultation with the Secretary of Health, Education, and Welfare (which number shall be determined annually on the basis of the most recent available data from the Secretary of Commerce), the Secretary shall directly administer such program in such subdivision or administer such program through any appropriate Federal, State, or county agency or through any public agency or private nonprofit organization approved by the Secretary. When the Secretary administers a food distribution program through a public agency or private nonprofit organization, he shall require the public agency or private nonprofit organization to observe all the appropriate provisions of this Act and regulations issued pursuant thereto.

COOPERATION WITH DISTRIBUTING AGENCIES

SEC. 8. (a) The Secretary shall pay each distributing agency an amount equal to all of the operating expenses incurred by the distributing agency in administering the food distribution program, including, but not limited to, the cost of determining the eligibility of households, of transporting the food to be distributed from the points at which it is received from the Secretary to the locations at which it is distributed to recipient households (including the cost of delivering such food to the homes of recipient households composed entirely of persons sixty years of age or over and/or persons who are too physically or mentally handicapped to travel to the distribution location for the purpose of carrying such food to their homes), of storing such food in warehouses under such conditions as may be necessary to meet the distribution requirements prescribed in section 5(b) of this Act, and of taking the action required under the provisions of section 7(d)(3) of this Act. In no event shall funds be used to pay any portion of such expenses if reimbursement or payment thereof is claimed or made available from any other Federal source.

(b) In addition to funds appropriated or otherwise available under any other provision of law, the Secretary is authorized to use for the fiscal year 1973 the sum of $75 million and for each fiscal year thereafter the sum of $100 million in funds from section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to carry out the provisions of subsection (a).

Mr. COOK. Mr. President, I am pleased to join the senior Senator from Illinois (Mr. PERCY) in introducing this unquestionably needed legislation which proposes not only to correct the present faults contained in the food distribution program but also to strengthen this family feeding program.

When the food distribution program was first established in the 1930's, there was no real concept of the extent of hunger and malnutrition in America. Not until the 1960's did America finally wake up to the fact that there are millions of Americans suffering from hunger and malnutrition. With this awakening, Congress passed the Food Stamp Act of 1964 as a means to provide adequate diets to low-income persons. I strongly support the continued movement toward nationwide operation of the food stamp program in every country. However, it has already taken 8 years to implement 2,044 food stamp projects. Taking into account the average rate of implementation of food stamp projects and also the remaining 1,163 counties on the food distribution program, it appears that the food distribution programs will need to continue for a few more years.

Upon examining present law pertaining to the food distribution program, there is a definite lack of legislation regarding administration of this program and the quality, quantity, packaging, and distribution of the provided foods. It appears that Congress is either unaware of the serious problems occurring within the food distribution program or Congress is ignoring these problems.

The food distribution programs serves 3.5 million needy Americans and is the only family feeding program for the poor in 1,163 counties. For many of these needy families, the free food that they receive is the only food that they get and in most instances the participants do not even get all the food items to which they are entitled. To receive 12 of 24 items is a common situation.

During the Select Committee on Nutrition and Human Needs' hearings last September, testimony on the food distribution program revealed the continual reoccurrence of several problems in this program such as the spoilage of the food, bulky and inadequate packaging, insufficient labeling information, distribution centers located inconveniently, and lack of transportation. Some of these problem situations discourage participation by the low-income persons who really need such assistance.

The Food Distribution Act of 1972 attempts to eliminate these problems through legislative authority. As my distinguished colleague from Illinois has stated, this bill does not amend existing law, but rather this is new legislation to provide congressional authority for program improvements and administrative funds for the Department of Agriculture.

The Department of Agriculture is aware of needed changes in the program. This was indicated recently when the Department redesigned the labels for the food distribution program to contain both the English and Spanish name of the food item, simplified instructions, illustrations, and a symbol indicating in which "food group" the item belongs. I heartily commend the Department of Agriculture for developing such revisions. However, more revisions are needed such as those proposed in section 6 of our bill.

It is obvious that the program changes provided for in this legislation will require an increase of administrative funds. Presently, less than $100 is spent on each participant in the food distribution program. The food stamp program, in comparison, provides a food stamp bonus of $800 for each participant. Is the U.S. Government saying, in effect, that the participant in the food distribution program is less hungry and less deserving of an adequate diet than a participant in the food stamp program? Although still considerably lower than the food stamp figure, our bill would allow for a cost of less than $200 for each participant in the food distribution program. Such an increase, however, would mean a more nutritional diet through much improved distribution methods.

Congress must take action now on this program which has a direct effect on the health of 3.5 million Americans. I strongly urge that Congress move on the Food Distribution Act of 1972 and approve this vital piece of legislation.

By Mr. HARTKE:

S. 3600. A bill to establish a national growth policy; to provide for the creation of a National Growth Policy Planning Board; and to provide Federal assistance to the States for growth policy planning. Referred to the Committee on Government Operations.

NATIONAL GROWTH POLICY PLANNING ACT

Mr. HARTKE. Mr. President, because of the growth of population and technology threaten the very survival of our Nation, I am, today, introducing the National Growth Policy Planning Act of 1972. This measure not only calls for the creation of a national growth policy, it creates a National Planning Board and a program of Federal assistance to States and interstate agencies to develop statewide and regional growth policy planning as elements of our National policy.

Today, our Nation faces problems of such magnitude and complexity that they threaten irreparable damage to the ecosystem that is essential to our survival. As the Nation's population continues to concentrate in urban areas, the effects of pollution become more alarming. With the continued depletion of natural resources and the uncontrolled proliferation of industry, the onrushing possibility of national ecocide approaches reality. Indeed, our very survival seems a race against time.

In order to prevent future environmental disasters that could well be of international proportions, we must begin now to control the Nation's growth. To guarantee the quality of life on our Nation's finite resource base, we must formulate a national policy to more efficiently manage and plan for future growth. The act establishes a national growth policy to effectuate economic development, population control, housing distribution, the use of natural resources, the protection of our environment, and the location of government and private facilities in a manner and magnitude that, it is hoped, will enhance the chances that our Nation will continue to prosper.

In a recent report entitled, "The Limits of Growth," written by the Club of Rome—an internationally distinguished group of businessmen, economists, and scientists—the need for controlling the Nation's growth was documented. Basing their findings on a computerized model system of the world developed at the Massachusetts Institute of Technology, the report forecast ecological collapse in the next century. Yet, Congress has only begun to formulate a national growth policy. In title VII of the Housing and Urban Development Act of 1979, however, Congress recognized the critical need to implement a growth policy for at least our urban areas. The administration and several of my colleagues in the Congress have, subsequently, sponsored bills limited to national land-use planning, alone. I believe my bill develops a more comprehensive and efficient policy to manage and control the interrelated and complex problem of growth in both our urban and rural areas.

At present, a system of Federal, State, and local governmental units are concerned with the planning and decisionmaking which affect growth. However, this system lacks a comprehensive orientation to deal with the problems that we now face. The problems that we face today will be magnified many times in the future if we fail to develop the institutional and legal capacity to deal with the future demands that will be placed upon our physical and human resources. The creation of a National Growth Planning Board, as provided in the act, would help coordinate the efforts of Federal, regional, State. and local governments to plan and manage growth. In effect, it would constitute a national research, planning, and coordinating board with a strong emphasis on the input of State, local, and public participation.

On the local level, the current legal and institutional arrangements for managing growth are, in many respects, archaic, and ineffective. The National Growth Policy Planning Act would encourage modernization by providing Federal technical and financial assistance and sanctions. Federal financial assistance to any project that would have a substantial impact on growth in the State would be terminated if a State refused to institute effective plans to control growth. This will prompt State and regional agencies to actively and vigorously participate in documenting needs and resources, managing, and planning for efficient and balanced national growth. It is also hoped that the act would encourage States to set up interstate metropolitan planning authorities as a first step in controlling growth in our urban areas.

Mr. President, I ask unanimous consent that the text of the bill and the section analysis be printed in the Record at this point.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 3600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Section 1. This Act may be cited as the "National Growth Policy Planning Act".

TITLE I—NATIONAL GROWTH POLICY PLANNING AND PROGRAM OF ASSISTANCE TO THE STATES

Part I—Findings, Policy, and Purpose

FINDINGS

Sec. 101. (a) The Congress hereby finds that there is an immediate national interest in an efficient and comprehensive system of national, regional, statewide, and local growth policy planning and decision making and that the rapid growth of the Nation's population, a deteriorating environment, increasing urban sprawl, a disproportionate dependence on inefficient transportation systems, large scale industrial and economic growth, conflicts in patterns of land use, the fragmentation of government entities exercising growth policy planning powers, and the increased size, scale and impact of private and public actions have created a situation in which growth policy management decisions of national, regional, statewide and local concern are often being made on the basis of expediency, tradition, short-term economic considerations, and other factors which often detract from the real concerns of sound national growth policy and are detrimental to the future well-being of the nation.

(b) The Congress further finds that a failure to conduct competent, ecologically sound growth policy planning has on occasion, required public and private enterprise to delay, litigate, and cancel proposed public utility, industrial and commercial developments because of unresolved growth policy planning questions, thereby causing an inefficient use of human and physical resources and a threat to the public welfare and often resulting in decisions to locate utilities, industrial and commercial activities in the area of least public and political resistance, but without regard to relevant ecological, social, economic, demographic and environmental growth policy considerations.

(c) The Congress further finds that many Federal agencies are deeply involved in national, regional, State and local growth policy planning and management activities which because of the lack of consistent policy often results in needless undesirable and costly conflicts between agencies of Federal, State and local government; that existing Federal growth policy planning programs have a significant effect upon the location of population, economic growth, the character of industrial, urban and rural development and the quality of life; that the purposes of such programs are frequently in conflict, thereby subsidizing undesirable and costly patterns of growth; and that an immediate and extraordinary effort is necessary to interrelate and coordinate existing and future Federal, State, local and private decision making within a system of planned growth and reestablish priorities that are in accordance with national policy of limited and orderly growth.

(d) The Congress further finds that while the primary responsibility and constitutional authority for growth planning and management of non-federal lands rests with the State and local governments, it is increasingly evident that the manner in which this responsibility is exercised has a significant influence upon the utility, value and future of the public domain, national park system, forests, seashores, lakeshores, recreation, wilderness and other Federal areas; and that the failure to plan and poor planning at all levels of government, pose serious problems of broad public concern and often result in irreparable damage to commonly owned assets of essential national importance such as estuaries, ocean beaches and other areas of public control.

(e) The Congress further finds that the growth policy decisions of the Federal government have a significant impact upon the ecology, the environment and patterns of growth of local communities; that the substance and the nature of a national growth policy should take into consideration the needs and interests of State, regional and local government as well as those of the Federal government, private groups, and individuals and that the Federal growth policy decisions demand greater effective participation by State and local governments so that they are in accord with the highest and best standards of growth policy management and the desires and aspirations of State and local government.

(f) The Congress further finds that there is a national interest in encouraging the several States to exercise their full authority over the planning and regulation of non-Federal lands by assisting the States, in cooperation with local governments, in developing growth policy plans including unified authorities, policies, criteria, standards, methods and procedures for dealing with growth policy decisions of more than local significance.

(g) The Congress further finds that it is an essential quality of effective government that each State establish an agency within the structural framework of the government of that State to administer and coordinate the planning process in relation to its growth.

(h) The Congress further finds that growth policy decisions significantly influence the quality of life within the Nation, and that present State and local institutional arrangements for planning and regulation of growth policy of more than local impact are inadequate with the result that the implementation of standards for the control of air, water, noise and other pollution is impeded.

DECLARATION OF POLICY

Sec. 102. (a) In order to promote the general welfare and to provide full and wise application of the resources of the Federal government in preserving the environmental, economic and social well-being of the people of the United States the Congress declares that it is a continuing responsibility of the Federal government consistent with the responsibility of State and local government to for growth policy planning and management undertake the development of a policy to be known as the National Growth Policy which shall incorporate ecological, environmental, esthetic, economic, social, demographic and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of environmental, population, and industrial growth, and the development of the Federal lands, and shall provide a framework for development of regional, State, and local growth policy.

(b) The Congress further declares that it is the National Growth Policy to—

(1) favor patterns of growth planning, management, and development which are in accord with sound ecological principles and which encourage intelligent and balanced use of the Nation's resources;

(2) redirect beneficial economic activity and development to all underdeveloped regions of the United States;

(3) disperse economic, racial, demographic, and social patterns or concentrations that are detrimental to the public welfare;

(4) contribute to the revitalization of existing communities and encourage, where appropriate, new communities;

(5) assist the State governments to assume growth policy planning responsibility for activities within their boundaries;

(6) facilitate increased coordination in the administration of public welfare;

(7) facilitate increased coordination in the administration of Federal programs so as to encourage desirable patterns of growth and policy planning; and

(8) systemize methods for exchange of all information relevant to the growth policy in order to assist all levels of government in the development and implementation of the national growth policy.

(c) The Congress further declares that intelligent growth policy planning and management provides the single most important institutional device for preserving and enhancing the environment, for ecologically sound development, and for maintaining conditions capable of supporting a quality of life and providing the material means necessary to maintain a high national standard of living.

PURPOSE

Sec. 103. It is the purpose of this title to—

(1) establish a National Growth Policy to encourage and assist the several States to more effectively exercise their responsibility for the planning, management and administration of the Nation's resources through the development and implementation of comprehensive growth policy plans and management programs designed to achieve an ecologically and environmentally sound use of the Nation's resources;

(2) establish a grant-in-aid program to assist State and local governments to hire and train the personnel and establish the procedures necessary to develop, implement, and administer a statewide growth policy plan which meets Federal guidelines and which will be responsive in dealing with the growing pressure of conflicting demands on a finite resources base;

(3) establish reasonable and flexible Federal guidelines and requirements to give State and regional agencies guidance in the development of growth policy plans;

(4) establish the authority of the National Growth Planning Board as established in title II (hereinafter referred to as the Board) to administer the Federal grant-in-aid program, to review growth policy plans for conformity with the provisions of this title and to assist in the coordination of Federal agency activities with growth policy planning agencies;

(5) develop and maintain a national policy with respect to federally conducted and federally assisted projects having growth policy implications; and

(6) coordinate planning and management relating to Federal lands and resources with planning and management relating to non-Federal lands and resources.

PART II—STATEWIDE AND INTERSTATE GROWTH POLICY PLANNING GRANTS

GRANTS-IN-AID

Sec. 104. (a) In order to carry out the purposes of this title, the Board is authorized to make growth policy planning grants to a State agency, designated by the Governor of the State or established by law, or to an interstate agency, if such agency has statewide, or interstate region, respectively, growth policy planning responsibilities and meets the guidelines and requirements established in section 105 of this title.

(b) Such grants shall be for the purpose of assisting eligible State and interstate agencies to—

(1) prepare and inventory the State's or region's land and growth-related resources;

(2) compile and analyze information and data related to—

(A) population densities and trends;

(B) economic characteristics and projections;

(C) directions and extent of urban and rural growth and changes;

(D) public works, public capital improvements, land acquisitions, economic development programs, projects, and associated activities;

(E) ecological, environmental, geological and physical conditions which are of relevance to decisions concerning the location of new communities, commercial development, heavy industry, transportation facilities, utilities, Federal and State facilities, and other growth policy factors;

(F) the projected growth policy requirements within the State or region for agriculture, recreation, urban growth, housing, commerce, transportation, open space, the generation and transmission of energy, and other important uses for at least 100 years in advance;

(G) governmental organization and financial resources available for growth policy planning and management within the State, and the political subdivisions thereof, or within the region; and

(H) other information necessary to conduct State or region growth policy planning in accord with the provisions of this title;

(3) provide technical assistance, including computer technology, and training programs for appropriate interstate, State and local agency personnel in the development, implementation and management of growth policy planning programs;

(4) arrange with Federal agencies for the cooperative planning of Federal lands located within and near the State's or region's boundaries;

(5) develop, use and encourage common information and data bases for Federal, regional, State and local growth policy planning;

(6) establish arrangements for the exchange of growth policy planning information among State agencies; and among the various governments within each State and their agencies—between the governments and agencies of different States, and among States and interstate agencies and regional commissions;

(7) establish arrangements for the exchange of information with the Federal Government for use by the Board and the State and interstate agencies in discharging their responsibilities under this Act;

(8) conduct public hearings prior to submission of plans to the Board, prepare proposals, and solicit comments on proposals concerning specific portions of the plans and the plans in their entirety;

(9) establish arrangements for public information programs pertaining to the need for immediate national growth policy planning in all governmental sectors; and

(10) utilize for the purpose of furnishing advice to the Federal Government as to whether Federal and federally assisted projects are consistent with the State or region's growth policy program, procedures established pursuant to section 104 of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968.

GUIDELINES AND REQUIREMENTS FOR GROWTH POLICY PLANS

SEC. 105. (a) An agency specified in section 104(a) must meet, or give adequate assurance that it will meet, the following requirements in the development of a growth policy plan described in subsection (b) of this section to be eligible for grants under this title. Such agency—

(1) shall be designated by the Governor or established by law if for a single State, or be established by interstate compact if for a region of more than one State, and shall have primary authority and responsibility for the development and administration of the growth policy plan for the State or region;

(2) shall have a competent and adequate interdisciplinary professional and technical staff as well as special consultants who will be available to the agency to develop the plan;

(3) shall to the maximum extent feasible, use pertinent local, State and Federal plans, studies, information data or growth policy planning already available in order to avoid unnecessary repetition of effort and expense; and

(4) shall include equitable representatives of localities involved in the plan.

(b) During the three complete fiscal year periods following the initial publication of regulations by the Board implementing the provisions of this title, such agency must, as a condition of continued grant eligibility, develop a growth policy plan which—

(1) identifies the portions of the State or region subject to enforcement of the plan, which shall include all lands within the boundaries of the State or region except lands the use of which is by law subject solely to the discretion of, or which is held in trust by, the Federal Government, its officers or agents;

(2) identifies areas—

(A) where ecological, environmental, geological, or physical conditions dictate that certain types of growth are undesirable;

(B) which are best suited for agricultural, mineral, industrial, or commercial development;

(C) where transportation and utility facilities are, or should in the future be located;

(D) which furnish the amenities and the basic essentials to the development of new towns and the revitalization of existing communities;

(E) which, notwithstanding Federal ownership or jurisdiction, are important to the State or region for industrial, commercial, mineral, agricultural, recreational, ecological, or other purposes;

(F) which, although located outside the State or region, have substantial, actual, or potential impact upon growth patterns within the State or region; and

(G) which are of unusual national significance and value.

(3) includes appropriate provisions designed to insure that projected requirements for material goods, food, natural resources, energy, housing, recreation, and environmental amenities have been given full and adequate consideration;

(4) includes provisions designed to insure that the plan is consistent with applicable local, State, regional and Federal standards relating to the maintenance and enhancement of the quality of the environment and the conservation of public resources;

(5) provides for assuring orderly and efficient patterns of growth;

(6) includes provisions to insure that transportation and utility facilities are established in compliance with regional and State needs, State policies, and policies and goals set forth in other Federal legislation;

(7) provides for measures such as buffer zones, scenic easements, prohibitions against nonconforming uses, and other means of assuring the preservation of aesthetic qualities to insure that Federally designated, financed and owned areas, including but not limited to elements of the national park system, wilderness areas, and game and wildlife refuges, are not damaged, degraded or in any way adversely affected as a result of inconsistent or incompatible growth patterns in the immediate geographical region;

(8) provides for other appropriate factors having significant growth policy implications;

(9) provides a method for assuring that local regulations do not restrict or exclude development and growth of State or regional benefit;

(10) includes site selection criteria for the location of new communities and a method for assuring appropriate controls over growth around new communities;

(11) provides a method for effectively controlling proposed large-scale development of more than local significance in its impact upon the environment; and

(12) includes a system of controls and regulations pertaining to areas and developmental activities previously listed in this section which is designed to assure that any source of air, water, noise, or other pollution will not be located where it would result in a violation of any applicable air, water, noise or other pollution standard or implementation plan.

(c) To retain eligibility for grants after the end of three complete fiscal years from the beginning of the first fiscal year after the initial publication of regulations by the Board implementing the provisions of this title—

(1) such plan must be approved by the Board in accordance with section 106; and

(2) such agency—

(A) must have authority to implement the approved plan and enforce its provisions, except that in the case of an interstate agency such implementation and enforcement may be carried out by appropriate State agencies;

(B) may have the authority to acquire interests in real property;

(C) must have the authority to prohibit growth in a manner which is inconsistent with the provisions of the plan, except that this requirement need not apply to an interstate agency;

(D) must have the authority to conduct public hearings, allowing full public participation and granting the right of appeal to aggrieved parties, in connection with the dedication of any area subject to restricted or special use under the plan; and

(E) must have reasonable procedures for periodic review of the plan, for purposes of granting variances from and making modifications in the plan, including public notice and hearings, in order to meet changed future conditions and requirements.

(d) Nothing in this section shall be deemed to preclude a State or region from planning for growth or for implementing a plan in stages, with respect to either—

(1) particular geographical areas including but not limited to coastal zones, or

(2) particular kinds of uses, as long as the other requirements of this Act are met.

(e) Nothing in this Act shall be deemed to preclude the delegation to local governmental entities of authority to plan for growth and enforce restrictions on growth adopted pursuant to the plan, including the assignment of funds authorized by this Act, to the extent available, except that —

(1) such agency shall have ultimate responsibility for approval and coordination of local plans and enforcement procedures;

(2) only the plan submitted by such agency will be considered by the Board;

(3) such plan must be consistent with the guidelines established by this Act; and

(4) such agency shall be responsible to the Board for the management and control of any Federal funds assigned or delegated to any local government or other entity within the State or region concerned.

REVIEW OF PLANS

SEC. 106. (a) Upon completion of each growth policy plan—

(1) the agency responsible for the development of the plan shall submit it to the Board;

(2) the Board shall submit the plan for review and comments to those Federal agencies the Board considers to have significant interest in or impact upon growth within the State or region concerned, and a period of ninety days shall be provided for the review; and

(3) upon completion of the review period established by clause (2) of this subsection, the Board shall review the plan along with the agency comments and approve the plan if it—

(A) conforms with the policy, guidelines, and requirements declared in this title;

(B) is compatible with the plans and proposed plans of other States and regions, so that regional and national growth policy considerations are accomodated; and

(C) does not conflict with the objectives of Federal programs authorized by law.

(b) Modifications may be made or variances granted in any growth policy plan unless such modification or variance renders the plan inconsistent with the policies, guidelines, and other requirements in this Act. Provisions for such modifications or variances shall be included in the plan as reported to the Board. The Board shall approve such provisions unless they cause the plan to no longer meet the criteria set forth in subsection (a).

(c) In the event the Board determines that grounds exist for disapproval of a growth policy plan or, having approved such a plan, subsequently determines that grounds exist for withdrawal of such approval pursuant to section 111, it shall notify the President, who shall establish an ad hoc hearing board, the membership of which shall consist of—

(1) the Governor of a State other than the State or States included in the plan, whose State does not have a particular interest in the approval or disapproval of the plan, or such alternate person as is designated by such Governor;

(2) one knowledgeable, impartial Federal official, who is not a member of or responsible to a member of the Board;

(3) One knowledgeable, impartial private citizen, selected by the other two members, except that if such members cannot agree upon a third member within ten days after the appointment of the second member to be appointed, the third member shall be selected by the President.

(d) The hearing board shall meet as soon as practicable after all three members have been appointed. The Board shall specify in detail to the hearing board its reasons for considering disapproval or withdrawal of approval of the plan. The hearing board shall hold such hearings and receive such evidence as it deems necessary. The hearing board shall then determine whether disapproval or withdrawal of approval would be reasonable, and set forth in detail the reasons for its determination. If the hearing board determines that the proposed action of the Board is unreasonable, the Board shall terminate such proposed action.

(e) Members of hearing boards who are not regular full-time officers or employees of the United States shall, while carrying out their duties as members, be entitled to receive compensation at a rate fixed by the President, but not exceeding $100 per diem, including travel time, and while away from homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons in Government service employed intermittently. Expenses shall be charged to the account of the Executive Office of the President.

(f) Administrative support for hearing boards shall be provided by the Executive Office of the President.

(g) The President may issue such regulations as may be necessary to carry out the provisions of this section.

COORDINATION OF FEDERAL PROGRAMS

SEC. 107. (a) All Federal departments and agencies, including the Office of Management and Budget, conducting or supporting activities affecting growth in an area subject to an approved growth policy plan shall operate in accordance with the plan. In the event that a departure from the plan appears necessary in the national interest, the agency shall submit the matter to the Board. The Board may approve a Federally conducted or supported project a portion or portions of which may be inconsistent with such a plan if it finds that—

(1) the project is essential to the national interest; and

(2) there is no reasonable and prudent alternative which would be consistent with the plan. In the event, the Board fails to approve the project, the project may be undertaken only upon the express approval of the President. The President may approve projects inconsistent with an approved growth policy plan only when overriding consideration of national policy requires such approval.

(b) State and local governments submitting applications for Federal assistance for activities having significant growth policy implications in an area subject to an approved growth policy plan shall submit a statement of the views of the agency administering such plan as to the consistency of such activities with the plan. Federal agencies shall not approve proposed subjects that are inconsistent with the plan.

(c) All Federal agencies responsible for administering grant, loan or loan guarantee programs for activities that influence patterns of growth, including but not limited to home mortgage and interest subsidy programs, shall take cognizance of approved growth policy plans and shall administer such programs so as to enable them to support controlled growth;

(d) Federal agencies conducting or assisting public works projects in areas not subject to an approved growth policy plan shall, to the extent practicable, conduct those activities in accord with sound public works investment policies so as to minimize any adverse environmental or social impact resulting from decisions concerning growth policy.

(e) Officials of the Federal government charged with responsibility for the management of Federally owned lands shall take cognizance of the planning efforts of growth policy planning agencies of States or regions within which or near the boundaries of which such Federal lands are located and shall coordinate Federal growth policy planning to the extent such coordination is practicable and not inconsistent with paramount national policies, programs and interest.

PART III—ADMINISTRATION OF GROWTH POLICY PLANNING GRANTS ALLOTMENTS

SEC. 108. (a) From the sum appropriated pursuant to section 203 the Board is authorized to make grants to agencies eligible for assistance under this title in an amount not to exceed 90 per centum of the estimated cost of developing growth policy plans during three full fiscal years after the initial publication by the Board of regulations implementing the provisions of this title. Thereafter, grants may be made in an amount not to exceed two-thirds of such agency's costs of administering such plans.

(b) Such grants shall be allocated in accordance wtih regulations of the Board which shall take into consideration the amount and nature of resource base populations, pressures resulting from growth, financial need, and other relevant factors.

(d) Any such grant shall provide for an increase and not replace growth policy planning activities. Any such grant shall be in addition to and may be used jointly with, grants or other funds available for growth policy planning surveys, or investigations under other federally assisted programs.

(e) Not more than 5 per centum of any funds granted pursuant to this Act to any planning agency in any fiscal year may be expended for the acquisition of any interest in real property.

PAYMENTS

SEC. 109. The method of computing and paying amounts pursuant to this title shall be as follows:

(1) the Board shall, prior to the beginning of each calendar quarter or other period prescribed by it, estimate the amounts to be paid to each agency under the provisions of this title for such period, such estimate to be based on such records of the agency and information furnished by it, and such other investigation, as the Board may find necessary; and

(2) the Board shall pay to the agency from the allotment available to such agency the amounts so estimated for such period, reduced or increased as the case may be, by any sum (not previously adjusted under this paragraph) by which it finds that its estimate of the amount to be paid such agency for any period under this title was greater or less than the amount which would have been paid to such agency for such prior period under this title. Such payments shall be made through the disbursing facilities of the Treasury Department at such times and in such installments as the Board may determine.

FINANCIAL RECORDS

SEC. 110. (a) Each recipient of a grant under this Act shall keep such records as the Board shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, and the total cost of the project or undertaking in connection with which the grant was made and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Such other records shall be kept and made available and such reports and evaluations shall be made as the Board may require regarding the status and application of Federal funds made available under the provisions of this title.

(c) The Board and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers and records of the recipient of the grant that are pertinent to the determination that funds granted were used in accordance with this Act.

TERMINATION OF ASSISTANCE

SEC. 111. (a) The Board shall have authority to terminate any financial assistance under this title and withdraw its approval of a growth policy plan, whenever, after the agency concerned has been given notice of a proposed termination and an opportunity for hearing, the Board finds that—

(1) such agency has failed to adhere to the guidelines and requirements of this title in the development of the plan;

(2) the plan has not been implemented in accordance with section 105(c) or otherwise fails to meet the requirements of this title; or

(3) the plan has been so changed or so administered that it no longer complies with the requirements of this title.

SANCTIONS FOR NONCOMPLIANCE

SEC. 112. (a). After the end of three fiscal years from the beginning of the first fiscal year after the initial issuance of regulations by the Board implementing the provisions of this Act, no Federal agency shall, except with respect to Federal lands, propose or undertake any new action or financially assist any new State-administered action which may have a substantial adverse environmental impact or that would or would tend to irreversibly or irretrievably affect substantial growth in any area which is not covered by a growth policy plan submitted in accordance with this Act.

(b) Upon application by the Governor of a State or head of the Federal agency concerned, the President may temporarily suspend the operation of subsection (a) with respect to any particular action, if he deems such suspension necessary for the public health, safety, or welfare: *Provided*, That no such suspension shall be granted unless a schedule for the area concerned, acceptable to the Board, is submitted: *And provided further*, That no subsequent suspension shall be granted unless due diligence has been exercised to comply with the terms of that schedule.

TITLE II—NATIONAL GROWTH PLANNING BOARD

SEC. 201. (a) There is hereby established a National Growth Planning Board (hereinafter referred to as the "Board"). The Board shall consist of seven members appointed by the President, by and with the advice and consent of the Senate, from among individuals with special qualifications to carry out the functions of the Board. Four members of the Board shall constitute a quorum. The

Board shall annually elect a chairman from among its members.

(b) Each member of the Board shall serve for a term of six years, except that—

(1) the members first taking office shall serve as designated by the President, two for terms of two years, two for terms of four years, and three for terms of six years; and

(2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(c) Members of the Board shall be compensated at the rate provided for level III of the Executive Schedule Pay Rates in title 5 of the United States Code.

RESEARCH

Sec. 202. The Board shall—

(1) prepare an inventory of all resources in the United States;

(2) make a continuing study of those resources, with projections of development and growth, and an analysis thereof; and

(3) study the efficiency of growth policy planning agencies.

AUTHORITY

Sec. 203. The Board shall have the authority to establish principles, standards, and procedures for planning agencies receiving grants pursuant to this Act.

REVIEW OF PLANS

Sec. 204. Upon receipt of a plan or revision thereof from a planning agency under the provisions of this Act, the Board shall review the plan, and may revise it, with regard to—

(1) the efficiency of such a plan or revision in achieving efficient growth in the area involved;

(2) the effect of the plan on the Nation's physical resources including water, air, land, agriculture, fish and wildlife, asthetics, timber, national parks, seashores, estuaries, energy, housing, industrial production and transportation, human resources including population, employment and immigration, and other resources of the entire Nation; and

(3) the contributions which such plan or revision will make in attaining the Nation's economic, social, and environmental goals. Based on such review the Board shall—

(A) formulate such recommendations as it deems desirable in the national interest; and

(B) transmit its recommendations with respect to such plan or revision to the President for his review and subsequent transmittal to Congress with his recommendation for authorization of projects.

CONSULTATION AND REVIEW

Sec. 205. The Board shall—

(1) consult with other Federal officials responsible for the administration of Federal growth policy planning assistance programs to States, their political subdivisions, and other eligible agencies in order to enhance coordination; and

(2) periodically review provisions of growth policy plans, to the extent necessary or desirable for the proper administration of this Act.

TITLE III—MISCELLANEOUS PROVISIONS

EFFECT OF EXISTING LAWS

Sec. 301. (a) Nothing in this Act shall be construed—

(1) to expand or diminish either Federal or State jurisdiction, responsibility, or rights in the field of growth policy planning, development, or control; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency or two or more States, or of two or more States and the Federal government; nor to limit the authority of Congress to authorize and fund projects;

(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of duties of his office except as required to carry out the provisions of this Act;

(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this Act.

(b) Nothing herein shall be interpreted to extend the territorial jurisdiction of any State.

(c) Nothing herein shall be construed to imply Federal consent to or approval of any State or local actions which may be required or prohibited by other Federal statutes or regulations.

DEFINITIONS

Sec. 302. For the purposes of this Act—

(1) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

(2) the term "interstate agency" means any interstate compact agency established in accordance with Federal law;

(3) the term "growth policy" means a policy which favors patterns of growth and economic development and stabilization which offer a range of alternative locations and encourage the wise and balanced use of physical and human resources in the Nation; fosters the continued economic strength of all parts of the Nation; helps reverse trends of migrations and physical growth which reinforce disparities among States, regions, and cities; treats comprehensively the problems of poverty and employment (including the erosion of tax bases and the need for better community services and job opportunities) which are associated with disorderly urbanization and rural decline; refines the role of the Federal Government in developing new towns and revitalizing existing communities; strengthens the capacity of general governmental institutions to contribute to balanced and efficient growth, and facilitates increased coordination of Federal, regional, State, and local activities so as to encourage orderly growth, the prudent use of natural resources, and the protection of the physical environment; and

(4) the term "resources" includes both physical resources, including water, air, land, agriculture, fish and wildlife, aesthetics, timber, national parks, seashores, estuaries, energy, housing, industrial production, and transportation, and human resources, including population, employment, and immigration.

AUTHORIZATION OF APPROPRIATIONS

Sec. 303. (a) There are authorized to be appropriated not more than $30,000,000 annually for the administration of this Act, not more than $20,000,000 of which may be used for contract studies.

(b) There are authorized to be appropriated not more than $300,000,000 annually for grants to planning agencies pursuant to this Act.

ADMINISTRATIVE PROVISIONS

Sec. 304. (a) For the purpose of carrying out the provisions of this Act, the Board may—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable;

(2) acquire, furnish, and equip such office space as is necessary;

(3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States;

(4) employ and fix compensation of such personnel as it deems advisable;

(5) procure services as authorized by section 3109 of title 5 of the United States Code at rates not to exceed $100 per diem for individuals;

(6) purchase, hire, operate and maintain passenger motor vehicles; and

(7) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required for the performance of its functions under this Act.

(b) Any member of the Board is authorized to administer oaths when it is determined by a majority of the Board that testimony shall be taken or evidence received under oath.

(c) To the extent permitted by law, all appropriate records and papers to the Board may be made available for public inspection during ordinary office hours.

(d) The Board shall be responsible for the appointment and supervision of its personnel, the assignment of duties and responsibilities among such personnel, and the use and expenditure of funds.

DELEGATION OF FUNCTIONS

Sec. 305. For the purposes of this Act—

(1) the Board is authorized to delegate to the chairman of the Board its administrative functions including the detailed administration of the grant programs; and

(2) the Board may not delegate the responsibilities of a policy nature vested in it by this Act.

UTILIZATION OF PERSONNEL

Sec. 306. (a) The Board may, with the consent of the head of any other department or agency of the United States, utilize such officers and employees of such agency on a reimbursable basis as are necessary to carry out the provisions of this Act.

(b) Upon the request of the Board, the head of any Federal department or agency is authorized—

(1) to furnish to the Board such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency; and

(2) to detail to temporary duty with the Board on a reimbursable basis such personnel within his administrative jurisdiction as the Board may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay or other employee status.

TECHNICAL ASSISTANCE

Sec. 307. The Board may provide technical assistance to any eligible planning agency to assist it in the performance of its functions pursuant to this Act.

AVAILABILITY OF FEDERAL EXPERTISE

Sec. 308. Federal agencies with data or expertise relative to factors which affect growth shall take appropriate measures to make such data or expertise available to planning agencies for use in preparation, implementation and revision of growth policy plans for the purposes of this Act.

REPORTS AND EVALUATIONS

Sec. 309. Any interstate, State, or local agency receiving a grant under this Act, either directly or through another such agency, shall make such reports and evaluations in such form, at such times, and containing such information as the Board may require for the purposes of this Act, and shall keep and make available such records as may be required by the Board for the verification of such reports and evaluations.

STUDIES

Sec. 310. The Board may, by contract or otherwise, make studies and publish information on subjects related to State, regional and national growth policy planning and resource use for the purposes of this Act.

GUIDELINES

Sec. 311. The President is authorized to designate an agency or agencies to issue guidelines to Federal departments and agencies to assist them in carrying out the requirements of this Act.

RULES AND REGULATIONS

SEC. 312. The Board, except with respect to subsection (c) of section 106 shall—

(1) promulgate rules and regulations for the administration of this Act, including the detailed terms and conditions under which grants may be made;

(2) prescribe with the approval of the President, such rules, establish such procedures, and make such arrangements and provisions relating to the performance of its functions under this Act and the use of funds available therefor, as may be necessary in order to assure—

(A) coordination of the program authorized by this Act with related Federal planning assistance programs, including the program authorized under section 701 of the Housing Act of 1954, and

(B) appropriate utilization of other Federal departments and agencies administering programs which may contribute to achieving the purposes of this Act; and

(3) make such other rules and regulations as it may deem necessary or appropriate for carrying out its duties and responsibilities under the provisions of this Act.

RESOURCE INVENTORY AND OTHER STUDIES

SEC. 313. The Chairman of the Board shall—

(1) prepare an inventory and maintain a continuing study of the resources of the United States, and report biennially to the President and the Congress on resources and uses, projections of growth, and uses of land, and analyses of current and emerging problems of growth policy;

(2) maintain a continuing study of the adequacy of administrative and statutory means for the coordination of Federal programs which have an impact upon growth and of the compatibility of such programs with interstate, State, and local growth policy planning and management activities; and

(3) appraise the adequacy of existing and proposed Federal policies and programs which affect growth, and make recommendations to the President with respect to such policies and programs.

DIRECTION TO FEDERAL DEPARTMENTS AND AGENCIES

SEC. 314. All Federal departments and agencies shall, as a part of their planning procedures on projects involving a major growth policy activity, consult with the Board for the purpose of determining whether the proposed activity would conflict in any way with the plans of other Federal, State, or local agencies. In the event a conflict is discovered, the matter shall be reported to the Board. If the conflict is not resolved by the agencies involved within a reasonable period of time, the Board shall investigate the conflict and report its findings along with a recommendation concerning the proper resolution of the issue, to the Congress, the President, and any State or local agency concerned.

SECTION-BY-SECTION ANALYSIS OF A BILL: TO PROVIDE FEDERAL ASSISTANCE TO THE STATES FOR GROWTH POLICY PLANNING

Short Title—"National Growth Policy Planning Act."

TITLE I—NATIONAL GROWTH POLICY PLANNING AND PROGRAM OF ASSISTANCE TO THE STATES

Part I—Findings, policy and purpose

Sec. 101. Finds that there is an immediate national interest in an efficient and comprehensive system of growth policy planning and decision-making; a failure to conduct competent, ecologically sound growth policy planning; that many Federal agencies are involved in growth policy planning and management activities which has resulted in needless, undesirable and costly conflicts between agencies; that there is a National interest in encouraging the States to exercise their full authority over the planning and regulation of growth policy plans; that each State should have an agency to administer and coordinate the planning process in relation to its growth; that growth policy decisions influence the quality of life within the Nation, and that the present State and local institutional arrangements for planning and regulating growth policy of more than local impact are inadequate with the result that the implementation of standards for the control of air, water, noise, and other pollution is impeded.

Sec. 102. Declares that in order to promote the general welfare and to provide full application of resources, the Nation should undertake the development of a policy to be known as the National Growth Policy which shall provide a framework for development of a regional, state, and local growth policy.

Sec. 103. It is the purpose of this title to establish a National Growth policy, establish a grant-in-aid program, establish Federal guidelines and requirements, establish the authority of the National Growth Planning Board, develop and maintain a National Policy with respect to federally conducted and assisted projects that have growth implications, and to coordinate planning and management.

Part II—Statewide and interstate growth planning grants

Sec. 104. Grants in aid. To carry out the provisions of the act, the Board is authorized to make growth policy planning grants to an appropriate agency which has growth policy planning responsibilities and which meets the guidelines and requirements.

Sec. 105. Guidelines and Requirements for Growth Policy Plans. An agency must meet the following requirements to be eligible for grants: 1) be designated by the Governor or by an established agency of an interstate compact and shall have primary authority and responsibility for the growth policy plan; 2) have professional and technical staff as well as special consultants; 3) utilize existing information; and 4) involve representatives of the locality in the plan. Within three complete fiscal years after the initial publication of regulations by the Board, the agency must develop a growth policy plan. To retain eligibility for grants, after three complete fiscal years after the initial publication of regulations by the Board, the plan must be approved by the Board, the agency must have the authority to implement the plan, acquire interests in real property, prohibit growth that is inconsistent with the provisions of the plan, conduct public hearings and make procedures for periodic review.

Sec. 106. Review of Plans. The agency shall submit the plan to the Board. Then the Board shall submit the plan to those Federal agencies the Board considers to have interest in or impact upon growth within the area concerned, for review and comments. Upon completion of the review period, the Board shall review the plan along with the agency comments and approve the plan. Modifications may be made or variances granted in any growth policy plan unless those changes make the plan inconsistent with this Act. If the Board disapproves of the plan, the President may establish an ad hoc hearing board to review the plan.

Sec. 107. Coordination of Federal Programs. All Federal agencies conducting or supporting activities affecting growth in an area subject to an approved growth policy plan, shall operate in accordance with that plan. Submitted along with the plan shall be a statement of the views of the agency administering such plan as to the consistency of such activities with the plan. All Federal agencies responsible for administering financial assistance, conducting or assisting public works projects and responsible for management of federally owned lands shall take cognizance of approved growth policy plans so as to enable support of controlled growth.

Part III—Administration of growth policy planning grants

Sec. 108. Allotments. Grants are made to agencies in an amount not to exceed 90 percent of the estimated costs of developing the plans during the three full fiscal years after the initial publication of regulations. Thereafter, the grants may be made in an amount not to exceed two-thirds of such agency's costs of administering such plans.

SEC. 109. Payments. The Board shall estimate the amounts to be paid in grants and these may be increased or decreased. It shall be done through the disbursing facilities of the Treasury Department.

Sec. 110. Financial Records. All recipients of financial assistance shall make record of the disposition and amount of the funds received under the grant, and the total cost of the project or undertaking. All records shall be made available for reports and evaluations.

Sec. 111. Termination of Assistance. The Board has the authority to terminate any assistance and withdraw its approval of a plan, whenever the Board finds that the agency has failed to follow guidelines and requirements, the plan has not been implemented, or the plan has been changed so that it no longer complies with the requirements of this Act.

Sec. 112. Three years after the initial issuance of regulations by the Board implementing the act, no Federal agency shall assist any State action which would have a substantial adverse environmental impact or substantially affect growth in an area, if a growth policy plan has not been submitted by the State.

TITLE II—NATIONAL GROWTH PLANNING BOARD

Sec. 201. The Board shall consist of seven members, appointed by the President, with the advice and consent of the Senate; for terms of six years; and compensated at the rate approved for level III of the Executive Schedule Pay Rates.

Sec. 202. Research. They shall prepare an inventory of all resources, make a continuing study of those resources, with projections of development and growth, and an analysis thereof, and study the efficiency of growth policy planning agencies.

Sec. 203. Authority. The Board may establish principles, standards, and procedures for planning agencies receiving grants pursuant to this Act.

Sec. 204. Review of Plans. The Board has primary responsibility for review of the agency plan or revision.

Sec. 205. Consultation and Review. The Board shall consult with the Federal agencies concerned with growth policy planning and assistance programs and make periodic review of the provisions of the plans, to the extent necessary for the proper administration of the Act.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Effects on Existing Laws. None.

Sec. 302. Definitions. "Growth policy" means a policy which favors patterns of growth and economic development and stabilization which offered a range of alternative locations and encourage the wise and balanced use of physical and human resources in the Nation; fosters the continued economic strength of all parts of the Nation; helps reverse trends of migrations and physical growth which reinforce disparities among states, regions, and cities; treats comprehensively the problems of poverty and employment (including the erosion of tax bases and the need for better community services and job opportunities) which are associated with disorderly urbanization and rural decline; refines the role of the Federal government in developing new towns and revitalizing existing communities; strengthens the capacity of general governmental institutions to contribute to balanced and efficient growth and facilitates increased coordination of Federal, regional, state, and local activities so as to encourage orderly growth, the prudent use of natural resources and the protection of the physical environment.

"Resources" means both physical resources and human resources.

Sec. 303. Authorization of Appropriations. For administration, $30 million, $20 million of which can be used for contract studies; $300 million for grants to planning agencies.

Sec. 304. Administrative Provisions. The Board shall hold hearings, acquire office space, use the U.S. mail, employ and fix compensation for personnel, procure services, operate motor vehicles; Board members are authorized to administer oaths; records and papers of the Board may be made available for inspection; and the Board is responsible for personnel activities and duties, and use and expend funds.

Sec. 305. Delegation of Functions. The Chairman is responsible for administrative functions including the detailed administration of the grant program and the Board shall not delegate any responsibilities of a policy nature.

Sec. 306. Utilization of Personnel.

Sec. 307. Technical Assistance.

Sec. 308. Availability of Federal Expertise.

Sec. 309. Reports and Evaluations.

Sec. 310. Studies.

Sec. 311. Guidelines. The President is authorized to designate any agency or agencies to issue guidelines to Federal departments and agencies to assist them in carrying out the requirements of this Act.

Sec. 312. Rules and Regulations.

Sec. 313. Resource Inventory and Other Studies.

Sec. 314. Direction to Federal Departments and Agencies. All Federal departments and agencies shall consult with the Board for the purpose of determining whether the proposed activity would conflict in any way with the plans of any other Federal, State, or local agency.

By Mr. BROOKE:

S. 3601. A bill providing reimbursement to States and political subdivisions for police and National Guard overtime compensation incurred with respect to national disturbances. Referred, by unanimous consent, to the Committee on the Judiciary; and, if and when reported by that committee, to the Committee on Armed Services, if so desired by that committee.

Mr. BROOKE. Mr. President, local law enforcement agencies, courts and the National Guard across the Nation increasingly have been faced with the need to respond to demonstrations protesting national policies.

In most instances, I am pleased to say, those demonstrations have been peaceful. Citizens, whether they agree or disagree with the purpose of a demonstration, have behaved in a responsible manner. Only infrequently have demonstrations gotten out of hand, necessitating arrest or other use of force.

Yet any large gathering of people embodies within it the possibility of violence or disorder. Any gathering, therefore, necessitates extraordinary police precautions, and sometimes extra court action as well.

Demonstrations are not confined to large cities and college campuses. They can occur, and have occurred with increasing regularity, in towns and cities of every size and description across this country. Municipal, county, and State law enforcement agencies have been called upon to perform tasks which were virtually unforeseen and for which no provision could have been made in the agencies' budgets.

Mr. President, towns and cities, counties and States, should not be required to allocate from their meager income, funds to pay police, court, and National Guard overtime when that additional time is required to handle demonstrations or disorders occasioned by national policy.

To require States and localities to pay these additional costs is to require them to take dollars away from schools, hospitals, fire departments, sewage collection, and other vital local services. State and local taxes are collected to pay for State and local needs. They should not, and cannot, be applied to meet national needs as well.

The legislation I introduce today seeks to correct this flaw. It would authorize the Attorney General of the United States to reimburse State and local governments for overtime paid to law enforcement officers, and court personnel in the performance of duties connected with protests against national policy, and for similar compensation by the Department of Defense in the case of the National Guard.

Under this legislation, any community in which a deminstration occurs protesting a policy of the Federal Government, can apply to the Department of Justice for reimbursement of overtime expenditures for its law enforcement officers and court personnel, and to the Department of Defense for reimbursement of the National Guard. This reimbursement would have to be forthcoming as soon as practicable after the submission of a voucher by the applicant.

Reimbursement would not be limited to demonstrations against foreign policy, although foreign policy considerations obviously have precipitated the introduction of this bill. Demonstrations against Federal policies governing busing, environmental issues, public works projects, or any other Federal program against which citizens might protest, would also be covered by this legislation.

Mr. President, the legislation is desperately needed. State and local tax revenues are already inadequate to meet the burdens placed upon these governments. Many cities and towns are on the verge of bankruptcy, unable to provide even basic services to their residents. Overtime for law enforcement officials responding to demonstrations may well be the proverbial straw that breaks their financial backs.

Yet an amount which may be decisive at the local level may better be accommodated within the Federal budget. Not only is the Federal Government in a better position financially to meet these requirements, but I believe it has a clear moral and political responsibility as well to pay for costs incurred in protests against national policy.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD, and I urge that it receive prompt and favorable consideration.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3601

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 31 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 527. Reimbursement for police, National Guard and court employee overtime compensation incurred with respect to disturbances relating to national policy.

"(a) Upon request of any State or political subdivision thereof, the Attorney General is authorized to reimburse as soon as practicable, such State or political subdivision for overtime compensation determined by the Attorney General to have been paid by that State or political subdivision to any law enforcement officer or employee of a court of that State as the result of overtime work performed by such officer or member with respect to any demonstration, riot, or other disturbance related to any national issue or policy.

"(b) The Attorney General is authorized to promulgate rules and regulations to carry out this section.

"(c) Upon request of any State or political subdivision thereof, the Secretary of Defense is authorized to reimburse as soon as practicable, such State or political subdivision for overtime compensation determinded by the Secretary to have been paid by that State or political subdivision to any member of the National Guard as the result of overtime work performed by such officer or member with respect to any demonstration, riot, or other disturbance related to any national issue or policy.

"(d) The Secretary is authorized to promulgate rules and regulations to carry out this section.

"(e) For purposes of this section, 'State' includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States."

(f) The analysis of such chapter 31, preceding section 501, is amended by adding at the end thereof the following new item:

"527. Reimbursement for police, National Guard and court employee overtime compensation incurred with respect to disturbances relating to national policy.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill which was just introduced by the Senator from Massachusetts (Mr. BROOKE), to provide reimbursement for States and political subdivisions for police and National Guard overtime compensation, and so forth, be referred to the Judiciary Committee; and that if and when reported from that committee, the bill be referred to the Committee on Armed Services for consideration of any matters therein under the jurisdiction of that committee, if that committee should seek jurisdiction.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. FULBRIGHT (by request):

S.J. Res. 231. A joint resolution to authorize the appropriation for the contribution by the United States for the support of the International Agency for Research on Cancer. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a joint resolution providing for payment by the United States of annual contributions to the International Agency for Research on Cancer.

The resolution has been requested by the Assistant Secretary of State for Congressional Relations and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this joint resolution, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the joint resolution be printed in the Record at this point, together with the letter from the Assistant Secretary of State dated May 3, 1972, to the Vice President, and the memorandum accompanying the joint resolution.

There being no objection, the material was ordered to be printed in the Record, as follows:

S.J. Res. 231

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, There is hereby authorized to be appropriated such sums as may be necessary for the annual payment by the United States of its share of the expenses of the International Agency for Research on Cancer as determined in accordance with Article VIII of the Statute of the International Agency for Research on Cancer.

Department of State,
Washington, D.C., May 3, 1972.

Hon. Spiro T. Agnew,
President of the Senate,
Washington, D.C.

Dear Mr. President: I submit herewith a proposed draft Joint Resolution, providing for payment by the United States of annual contributions to the International Agency for Research on Cancer.

The Statute of the Agency entered into force in 1965, with the United States as one of the original members. Up to now the annual contribution has been funded under the authority of the Foreign Assistance Act. The Agency has now been operational long enough for a determination that continued U.S. participation is beneficial to the U.S. national program of cancer research. The proposed legislation would provide continuing authorization for a U.S. contribution to be financed in the State Department Appropriation Act.

A memorandum describing the Agency and its work is enclosed.

The Department has been advised by the Office of Management and Budget that, from the standpoint of the Administration's program, there is no objection to the submission of this proposal to the Congress for its consideration.

Sincerely yours,

David M. Abshire,
Assistant Secretary for Congressional Relations.

Memorandum to Accompany Proposed Joint Resolution Providing for Payment by the United States of an Annual Contribution to the International Agency for Research on Cancer

The International Agency for Research on Cancer (IARC) was established in Lyon, France on May 20, 1965, by the 18th World Health Assembly of the World Health Organization. (Copy of Resolution 18.44 attached).

The five original members of the Agency were France, the Federal Republic of Germany, Italy, the United Kingdom, and the United States. The present membership includes Australia, Belgium, the Netherlands and the USSR in addition to the original five.

In deciding to participate in the Agency for a trial period, the U.S. believed that an effective international cancer research agency might both correlate work being done elsewhere and undertake basic field studies in other countries. Since cancer was the second leading cause of death in the United States, it was recognized that such activities to supplement our own efforts to determine the causes of cancer could be of great value to the American people.

However, it was not certain whether the Agency would in fact be able to achieve its potential. Therefore, a decision on continuing U.S. participation was deferred pending review of actual Agency operations. During the trial period, the U.S. annual contribution has been financed from funds appropriated for voluntary contributions to international organizations and programs as authorized by Part I, Chapter 3 of the Foreign Assistance Act of 1961, as amended.

The Agency has now been operating for seven years. Its programs and methods are practical applications of its stated objectives, which are:

a) to collect and disseminate information on the epidemiology of cancer, on cancer research, and on the causation and prevention of cancer;

b) to consider proposals and prepare plans for cancer research; and;

c) to train personnel for cancer research.

In addition the Agency carries out special projects such as pilot demonstrations of cancer prevention.

A considered judgment has been made that continued U.S. membership in the Agency complements the national program of cancer research. The Director of the National Cancer Institute has written:

"In its brief years of existence the IARC has assumed major importance in the worldwide effort against cancer. The Agency, with headquarters in Lyon, France, is concentrating on joint investigations of the patterns and characteristics of cancers that occur in many areas of the world. The studies focus on research that is international in nature. One such study is focused on determining the possible relation between virus and cancers that occur in various areas of the Far East and Africa. U.S. scientists need data from this type of study and can not obtain the information unilaterally. This study can be expected to yield information that will benefit scientists of the U.S. and of other countries of the world. With the recent passage of the National Cancer Act of 1971, support of the IARC has taken on even greater significance. The President, who has taken personal interest in the nation's cancer resarch effort, has enthusiastically endorsed the Act which includes a provision providing specifically for support of '. . . research in the cancer field outside the U.S. . . . which can be expected to inure to the benefit of the American people. . . .' "

With a decision to continue U.S. membership, legislation is being requested to enable our annual contribution to be funded from the State Department budget under "Contributions to International Organizations." Each member originally paid $150,000 annually. Effective in calendar year 1971, however, the equal annual contributions were supplemented by additional amounts based on percentage assessments for the budget of the World Health Organization. The U.S. contribution in 1971 was $312.352 and will be $336,789 in 1972. It is estimated that it will increase to about $420,000 in 1975.

U.S. participation in the Agency is coordinated with our national program, and the Director of the National Cancer Institute has been regularly delegated as the United States Delegate to the meetings of the Agency's Governing Council.

Establishment of an International Agency for Research on Cancer

Resolution WHA18.44 of the Eighteenth World Health Assembly

The Eighteenth World Health Assembly,

Cognizant of Article 18 of the Constitution which provides, *inter alia,* that one of the functions of the Health Assembly shall be to establish such other institutions as it may consider desirable, with a view to promoting and carrying on research;

Considering that the Governments of the Federal Republic of Germany, France, Italy, the United Kingdom of Great Britain and Northern Ireland, and the United States of America have agreed to sponsor the creation and to participate in the functioning of an International Agency for Research on Cancer in accordance with the provisions of its Statute;

Considering that many governments have expressed their interest in the creation of such an Agency; and

Considering resolution WHA17.49 of the Seventeenth World Health Assembly.

Decides to establish an International Agency for Research on Cancer which shall carry on its functions in accordance with the provisions of its Statute (annexed).

Twelfth plenary meeting, 20 May 1965.

ADDITIONAL COSPONSORS OF RESOLUTIONS

At the request of Mr. Chiles, the Senator from Tennessee (Mr. Baker) was added as a cosponsor of Senate Resolution 232, expressing the sense of the Senate that the remainder of the amount appropriated for the rural electrification program for fiscal 1972 be released immediately by the Office of Management and Budget.

SENATE RESOLUTION 273

At the request of Mr. Hart, the Senator from North Dakota (Mr. Burdick), the Senator from Idaho (Mr. Church), the Senators from California (Mr. Cranston and Mr. Tunney), the Senator from Arkansas (Mr. Fulbright), the Senator from Oklahoma (Mr. Harris), the Senator from Oregon (Mr. Hatfield), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from New York (Mr. Javits), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Minnesota (Mr. Mondale), and the Senator from Illinois (Mr. Stevenson) were added as cosponsors of Senate Resolution 273, relating to extension of the nuclear test ban treaty to include underground testing.

FOREIGN RELATIONS AUTHORIZATION ACT—AMENDMENT

AMENDMENT NO. 1194

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENTS NOS. 998 AND 999

Mr. CHURCH. Mr. President, I ask unanimous consent that the name of the Senator from Minnesota (Mr. MONDALE) be added as a cosponsor of amendments Nos. 998 and 999, which I intend to offer to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. The Senator from Minnesota (Mr. MONDALE) was one of the early supporters of these proposals, but his name has been mistakenly not listed in the official records as a cosponsor, even though I have indicated publicly his cosponsorship of the amendments.

AMENDMENT NO. 1176

At the request of Mr. BENTSEN (for Mr. DOMINICK), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of amendment No. 1176, intended to be offered to the bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

NOTICE OF TIME CHANGE OF INVESTIGATIVE HEARINGS ON BARBITURATE ABUSE

Mr. ROBERT C. BYRD. Mr. President, on behalf of the distinguished Senator from Indiana (Mr. BAYH), I ask unanimous consent that a statement prepared by him be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR BAYH

I wish to announce that the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary is continuing its investigative hearings on barbiturate abuse on May 17, 1972.

The Subcommittee began this investigation with hearings December 15 and 16, 1971 on the extent of barbiturate abuse and the legitimate uses of these dangerous drugs. On May 2 and 3, 1972 the Subcommittee heard testimony from police officials and others on the illegal diversion of legitimately produced barbiturate materials and pills; illicit barbiturate traffic; and law enforcement responses to the diversion and illegal distribution of these dangerous substances.

On May 17 we will hear testimony from several district attorneys representing various regions of the country. They will focus on aspects of illicit barbiturate traffic and prosecutorial efforts to deal with the barbiturate problem.

The hearings will begin at 9:30 a.m. on May 17 in Room 2228, New Senate Office Building. Any person who wishes to submit a statement for the record should notify Mathea Falco, Staff Director and Chief Counsel of the Subcommittee at 225–2951.

POSTPONEMENT OF HEARING

Mr. MOSS. Mr. President, I announce for the information of the Senate that the hearing scheduled for May 12 on S. 2556 to establish a municipal mine demonstration plant has been postponed. A new date will be announced at a later date.

NOTICE OF COMPREHENSIVE TEST BAN HEARINGS

Mr. MUSKIE. Mr. President, the Subcommittee on Arms Control, International Law, and Organization of the Committee on Foreign Relations will hold a hearing on Monday, May 15, 1972, on the need for a comprehensive nuclear test ban treaty, including consideration of Senate Resolution 230 introduced by Senator KENNEDY, and Senate Resolution 273 introduced by Senators HART and MATHIAS. The hearing will begin at 10 a.m., in room 4221 of the New Senate Office Building.

This hearing follows upon hearings held in the Arms Control Subcommittee last summer on prospects for a comprehensive nuclear test ban treaty. In those hearings we heard testimony from administration witnesses and from outside experts on the current status of negotiations for a comprehensive test ban and on the technical issues involved.

The United States is firmly committed by the Limited Test Ban Treaty of 1963 and the Non-Proliferation Treaty of 1968 to work for a comprehensive nuclear test ban. The President himself has said that—

> The United States supports the conclusion of a comprehensive test ban adequately verified.

As last year's hearings demonstrated, the scientific techniques of detection and identification of underground nuclear tests have improved dramatically in recent years. This progress clears the way for a fresh start in negotiations leading toward a comprehensive test ban—negotiations which have been stymied in the past by the problem of verification.

The benefits of a comprehensive test ban treaty are clear: Such a treaty would control the arms race in new offensive and defensive nuclear weapons development. It would spare the world of environmental dangers of large underground tests. It could also salvage the Non-Proliferation Treaty of 1968, which seems increasingly in jeopardy, since the nuclear powers would for the first time impose the same testing constraints on themselves that the 1968 treaty does on the non-nuclear powers. And a comprehensive test ban would also save us the millions of dollars which are now expended annually on underground tests of dubious value to our national security.

For all these reasons, I urged the administration last year to take new and bold initiatives to breathe life into its own stated commitment to work for a comprehensive nuclear test ban treaty. In the intervening period little appears to have been done to move toward this goal. The resolutions introduced by my distinguished colleagues would provide an opportunity for the Senate to place itself on record in support of such initiatives. The timeliness of the issue, as we approach an initial SALT agreement, is clear.

The witnesses at the hearing on May 15 will include Senators KENNEDY, HART, and MATHIAS in behalf of their respective resolutions; the Honorable Philip J. Farley, Deputy Director of the Arms Control and Disarmament Agency; Dr. Herbert York, dean of graduate studies, University of California at San Diego; Prof. Lynn R. Sykes, Lamont-Doherty Geological Observatory; Dr. Adrian S. Fisher, dean of the Georgetown Law School; Prof. Abram Chayes, Harvard Law School; and Mrs. Jo Pomerance, cochairman of the Task Force for the Nuclear Test Ban.

ADDITIONAL STATEMENTS

DISGRACEFUL NONCOOPERATION

Mr. GOLDWATER. Mr. President, while driving home last evening I heard on my car radio a report that four Democrat Members of the House of Representatives had filed a resolution to impeach President Nixon on the constitutional grounds of "high crimes and misdemeanors."

It struck me, Mr. President, as a fitting move to top off the most disgraceful exercise in noncooperation I have ever seen performed by a major political party in a time of national emergency.

The resolution was only the most ridiculous of the steps taken or suggested by men who are playing politics right up to the hilt with the war in Vietnam and, consequently, with the lives of Americans and their allies in Southeast Asia.

On the House side, Democrats on the Committee on Foreign Affairs are pushing legislation to force the United States to pull all of its forces out of Indochina by October 1, subject only to the release of prisoners and the safe withdrawal of American troops. Here in the Senate, the Democratic Caucus voted 29 to 14 to condemn what it called an "escalation of the war" by President Nixon, and it approved by a vote of 35 to 8 a proposal to cut off all funds for U.S. forces in Vietnam after the first of the year.

If I sound a trifle cynical, Mr. President, it is because I am cynical. In fact, I am disgusted with the political roadblock which the Democrats in Congress are placing in the path of a Republican President who is trying to wind down and end their war. I actually am beginning to wonder if the Democrats want this war to end before the election.

The contrast between what Americans saw on their television sets on the evening of May 8 and what is now going on in the Halls and the Chambers of a Democrat-controlled Congress is downright amazing. When President Nixon told the American people that he was going to mine the harbors of North Vietnam and interdict supply routes to South Vietnam in an effort to protect the withdrawal of American troops and hasten the time when our POW's would be returned, he knew exactly what he was doing—he was placing the lives of 60,000 Americans, the future of South Vietnam, and the honor of this Nation ahead of his chances for reelection to the White House. He knew and he said that the easy way would be the way suggested by Democrats who want to cut and run and wash our hands completely of all affairs in Indochina, regardless of our commitments and treaties and agreements. He knew he was taking the difficult course. He knew that the men responsible for placing this Nation in the awkward position it finds itself in in Southeast Asia would accuse him of escalating and widening the war.

Right here, Mr. President, I want it understood that regardless of how many special articles appear in liberal and left wing publications under the title "Nixon's War"—despite all the propaganda aimed at making the American people believe the President has some basic responsibility for this conflict—I shall continue to call the difficulties in Vietnam the Democrat war. I do not like to say that, but I do not know any other way to describe a conflict which began under President John F. Kennedy and reached its high point of escalation under President Lyndon Johnson before a Republican Chief Executive could take hold and start pulling our chestnuts out of the fire.

If ever there was a political party that should, by everything that is right and moral, leap to the chance of helping a President wind down an unpopular war, it is the Democrat Party of the Kennedys, the Fulbrights, the Humphreys, and the Muskies.

Mr. President, I have something of a personal stake in the appeal I am now making for united support of the President of the United States. If you will permit me, I should like to pose for your consideration a few flashbacks in our thinking. We can call them flashbacks to crises, and we might describe them something as follows.

First. The time is late October 1962. All of a sudden a Democrat President who just 2 weeks before had been assuring this country that the Soviet Union was mellowing in its attitude toward the West placed this country on a collision course with the Soviet Union by announcing a blockade of Cuba to prevent the installation of long-range Soviet missiles on that island 90 miles from our shores. It is important to remember that we were just concluding an important congressional election in which feelings ran high between Republican and Democrat aspirants for public office. Nevertheless, when the President announced the gravity of the action he had taken and called upon the American people for support, Republican leaders, many of them candidates for public office, immediately sprang to his support without raising a single doubt. In California, where a hot race was being waged for Governor of that State, the Republican candidate went on statewide television hookup to pledge his support of President Kennedy in the missile crisis and to urge all Americans to do the same thing. His name was Richard M. Nixon, and he was defeated for the Governorship of California.

Flashback No. 2. The time was a bright afternoon in August in 1964. I had just won the Republican nomination for President and was taking a few days rest at Newport Beach, Calif. All of a sudden the telephone rang, and then came that always-electrifying statement:

> This is the White House calling. The President would like to speak with Senator Barry Goldwater.

As I recall, I was still in my sailing togs, having just completed a trip to nearby Catalina in a neighbor's boat. I had heard of no great problem that would cause the President to contact me in that urgent fashion. However, when he came on, he told me that the Communists had attacked some American ships in the Gulf of Tonkin, that the war in Vietnam had taken a nasty turn, and he wanted to know if he could count on my support to take whatever actions he deemed necessary to meet the situation. I want Senators to understand that this was my President calling with an urgent request for patriotic cooperation. Without waiting a moment, I assured him of that cooperation and said I felt he was in a better position than anyone else to know how grave the conditions were and how they would affect America's strategic interests.

I believe this is enough reference to events of the past. I mention them for one very important reason, and this is that every time Democrat Presidents have faced war emergencies, the Republicans were the first to offer and give assistance. I can tell you now that I had some reservations about how serious the incidents were in the Gulf of Tonkin, but I had no hard facts to work with, and the President had. Consequently, L. B. J. made me something of an accomplice in the actions which he took later on with reference to the Gulf of Tonkin.

But the situation today is not the same. It is not the same because this is not a Republican President asking for help in a war his administration helped to build. The situation here is the spectacle of a Republican President asking for cooperation from men who put us in the mess we are in today and who helped compound the extent of that mess. Any way you slice it, there is no way it can be denied that the first fighting troops were sent to Vietnam by Democrat President John F. Kennedy, and the huge force of almost three-quarters of a million men was sent there by Democrat President Lyndon Johnson. And the only action ever taken in the past decade to reduce our involvement and withdraw our troops has been taken by President Richard Nixon.

Now Mr. Nixon has decided to mine the harbor of Haiphong to facilitate the rate of American withdrawal from Vietnam and to ease the pressure on the South Vietnamese people. Contrary to the reports we hear on the media and read in the newspapers, the mining of Haiphong was a passive act. It was an action taken to save lives by preventing the easy movement of weapons of destruction to the bloodthirsty troops of the Hanoi government. This cannot be called escalation by any stretch of the imagination. It can be called escalation only by the wierd, untruthful insistence of the liberals and the Democrats who insist that any actions President Nixon takes short of outright surrender qualify as escalation.

What I want to know today is, Where were all my friends on the Democratic side when true escalation was actually taking place? Why was there not a resolution to impeach Johnson floating around as he kept building up the American troop forces and casualty rate week after week? Where was my friend the majority leader (Mr. MANSFIELD) at that time? He is now very quick to charge Nixon with a risky gamble and enlargement of the war while the reverse is actually the case.

And then there is HUBERT HUMPHREY, my friend from Minnesota, who is running hard for the Democratic presidential nomination. HUBERT says he cannot support President Nixon because the course of action he has taken is filled with danger. Where was HUBERT when the danger was really on the increase, when L. B. J. was sending men and machines to Vietnam as fast as the ships could take them there? Why was that not dangerous?

And, of course, when it really counted, that great war critic, Chairman FULBRIGHT, of the Senate Foreign Relations Committee, was busy sponsoring, arguing for, and pushing through to adoption the Gulf of Tonkin resolution, which gave senatorial blessing to escalation of the war a la Democrat President Johnson.

Mr. President, I do not quite know what to think about my friends on the other side of the aisle when I hear about resolutions to impeach President Nixon for trying to end a war the Democrats started. I begin to wonder if our friends on the other side of the aisle have received another letter of direction from Mrs. Nguyen Binh, the chief Vietcong negotiator at the Paris peace talks. I do not have to point out that, when Mrs. Binh wrote her last letter urging Members of Congress to repudiate President Nixon, the Democrats on the House side went into caucus and approved overwhelmingly an end-the-war resolution of their own. At the same time, Democrat leaders in the Senate objected to the consideration of my resolution to condemn the invasion of South Vietnam by the Communists and to put the Senate on record in support of the U.S. Government.

Mr. President, I get an uncomfortable feeling when I hear about Mrs. Binh sending orders to the U.S. Congress or when I read in the Wall Street Journal about an Ad Hoc Military Buildup Committee in Cambridge, Mass., which has been formed for the sole purpose of gathering classified military data from disgruntled soldiers and making it public.

And I get the same kind of unhappy feeling when I read about American radicals visiting the Soviet Embassy in Washington to urge the Russians to increase their support of the Communist enemy in Vietnam. Some of them carried signs which said:

> Send more missiles to shoot down U.S. planes.

I suggest, Mr. President, that we can expect nothing more from radicals on the street when radicals in Congress run around downgrading the United States of America in everything it attempts to do. We in this Chamber have a higher responsibility than that to partisanship or political party. We have a responsibility to the United States of America and to its under-205-million citizens.

WHERE HAVE ALL THE FARMERS GONE?

Mr. TALMADGE. Mr. President, last year, during field hearings of our Subcommittee on Rural Development, Harold Ruden, an Iowa farm auctioneer, told us that in western Iowa it was inefficient to farm fewer than 450 acres. He told of how he was showing farmers with less land than that how they could sell their farms, invest the money, and get a better return than they could by working in the fields.

Today, the Wall Street Journal tells the story of Paul Bates, of Bloomington, Ill., who farmed more than 650 acres, but decided that he had better sell out while he could.

The trend toward bigness in agriculture continues. We now have fewer than 3 million farmers. There has been a lot of gnashing of teeth and beating of breasts in Congress and elsewhere over the plight of the yeoman farmers. But it has been my experience that few people care enough to do something about their problems.

Mr. President, it is well known that I am an advocate of rural development, but there can be no meaningful rural development until we begin to take seriously the preservation of the family farm.

Mr. President, I ask unanimous consent that the article about Mr. Bates be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AUCTION IN A CORN FIELD ENDS THE FARMING LIFE FOR AN ILLINOIS FAMILY

(By John A. Presto)

BLOOMINGTON, ILL.—In a bleak corn field north of town, farmers in overalls and muddy boots crowd around a red pickup truck. Near the truck sits a piece of farm equipment. From the back of the truck comes an auctioneer's flurry of words: "I'm-a-bid 450, do I hear 475? Now I got 75, you're gonna buy it at 500 . . . all done, gonna quit, last chance . . . sold for $500."

The crowd follows the truck as it rolls slowly over the corn field's deep ruts to the next piece of equipment. "Now, here, boys, is a real nice piece of machinery. . . ."

Behind the auctioneer sits Paul Bates, 42, who has farmed this land all his adult life. He watches intently as all his tractors, trucks, and tools go one by one to the highest bidder. Finally, with the last pound of the auctioneer's fist, he is a farmer no more.

"I'd always figured somebody would take care of this after I was dead," he says quietly. "I never thought I'd ever leave the land and have to see them sell off the things I've used for, well, it seems like all my life." This is the first spring in 100 years that a Bates isn't planting this land.

Auctions like this across the country play a key role in the move from farm to city, a move that still changes the lives of many Americans every year. The United States now is losing 123 farms a day, down from the pace of a few years back but still high. Only 2.83 million farms will operate this year, down nearly a million from 3.7 million a decade ago. Some farmers retire. Some, like Paul Bates, find better jobs in town. Others just go broke. Whatever the reason, the auction is usually the means by which they leave the farm.

BARGAINS AND TAX BREAKS

Other farmers are willing buyers of the machinery, livestock, furniture and sometimes even acreage itself that is sold at such auctions. Prices are often lower than on other markets. Besides, most states don't charge sales tax on such auctions. Thus an estimated $300 million worth of machinery and equipment alone changes hands at farm auctions each year.

But for all its bargains, the farm auction, like the small family farm itself, is a fading piece of Americana. The number of auctions peaked during the Depression when bankers often held them as part of foreclosure proceedings. Sympathetic neighbors often agreed to bid only a tiny amount on each item, then give all the goods back to the farmer being squeezed.

The number of auctions now is dwindling mainly because there are simply fewer and fewer small family farms left to be sold. In the area around this town, 279 auctions have been held in the last year, down about 30% from the level three years earlier, says Stanley Lantz, farm editor of the Bloomington Daily Pantagraph. "Maybe within this decade, we'll see farm auctions become a thing of the past," he says.

Auctions are important social and business events in a farm community—and emotional events for people like Paul Bates. His situation is common on American farms. "I'm a little bitter about quitting farming," he concedes the night before the auction. "The circumstances aren't entirely of my own making, but my better judgment tells me I'd best get out now. I know it's no use to get emotional about something like this—but, God, I wish I didn't have to be there tomorrow."

FARMING ON WEEKENDS

To supplement his farm income, Paul last year took a job as a commodity futures broker with the Illinois Agricultural Association, a trade group that merchandises grain, among other activities. Paul already had some experience in grain trading, and he had worked part-time in winters on farmers' books. But even with the new job, he continued farming. Though he quit the hog-fattening business, he found he could manage his own 270 acres plus about 400 rented acres by working nights and weekends raising the corn.

Paul planned to do the same this year, but last Jan. 7 a fire destroyed his barn, biggest tractor, biggest truck and considerable machinery.

"We were insured, but we got only $6,500 on the tractor, and it would cost about $13,000 to replace it," Paul says. "So it came down to whether we wanted to invest about $30,000 to keep going or pull out. Considering that we made only about 3% on our investment last year, and that my salary is bigger than the cash I made by farming, pulling out looks like the sensible answer."

Paul, who is divorced, will still live in the wood frame farmhouse with his 17-year-old daughter. His 65-year-old father and farm partner, Tom Bates, will also continue to live in a separate house on the farm. Since heart trouble laid him up for five months three year ago, Thomas Bates has steadily reduced his farm work. He clearly is anxious to quit farming altogether and relax in his sedate job as a watchman at a nearby orphanage. Unlike his son, he is tired of the farm's responsibility. The Bates' have already rented their land to a neighbor in return for half the crop.

The afternoon before the auction, Paul sits at his kitchen table wtih the auctioneers who come to size up the goods they are supposed to sell. The auctioneers, Kenneth Coulter and Dean Yoder, are professionals at the work, though they also keep a hand in real estate and farming. In their appearance, they are a combination of farmer and mod city slicker. Mr. Coulter wears a bright green sports coat, pink shirt and pink tie—along with cowboy boots and Western hat.

The two auctioneers breeze into the kitchen, laugh loudly at their own jokes and slap Paul on the back. "I guess that's their bedside manner when they see a guy like me feeling a little down," Paul says later, with appreciation.

The auctioneers discuss prices and warn Paul he is in for some disappointments. "The prices you'll get for some things will be so low your feelings will be hurt, but other items will bring a lot more than you figured," Ken advises.

Auction day itself is sunny, but chilly. Three hours before the 11 a.m. starting time, farmers begin arriving to inspect the goods. They poke and pry. They drive the tractors. They ask questions:

"How long you had the planter, Paul?" "Do the gas pumps work?" "How could I hook up that John Deere mower to my International (Harvester) tractor?" Paul and his father patiently answer each one.

The two auctioneers arrive in their red truck and begin to register bidders. Each of the 216 registrants receives a number to flash at the clerk if he buys something. "It speeds things up quite a bit to use numbers instead of names when we sell," Mr. Coulter explains. "We know a lot of these men personally, but if we see a stranger buying up a lot of things, one of us will slip into the house and make a telephone credit check wtih the guy's local bank while the auction is still going on," he adds.

TRICKS OF THE TRADE

In the dealing itself, a country auction demands its own brand of shrewd sophistication. "The real skill of an auctioneer is to figure out just how far the bidders will go and then make sure they get to that point," Mr. Coulter says. The purpose of the auctioneer's fast patter is to build excitement and a semblance of momentum, even though the bidders themselves may actually be pausing to think things over. A dishonorable—but widely used—auctioner's trick is to throw in a few fictitious bids to prod the actual bidders to higher and higher levels.

Some items are even sold fictitiously. The seller usually gets his own bidding number, which he keeps secret. Thus he can "buy" slow movers that are dampening the crowd's enthusiasm or items that aren't bringing high enough bids. For instance, Paul keeps number 44, sits in the truck with the auctioneers and discreetly taps one of them on the shoulder when an old wooden picnic table attracts a top bid of only 50 cents. Paul "buys" it for 75 cents.

The auctioneers' skill apparently helps boost prices on several items. A hay mower that Paul bought second-hand for $75 eight years ago brings $90 in spirited bidding. A 1960 Chevrolet truck that Paul figures is worth about $1,000 sells for $1,600. On the other hand, an old planter sells for $700 instead of the $1,000 Paul expected. Another piece of equipment that might command over $700 in a used machinery store goes for only $370.

WEARING OUT THE COMPETITION

One reason for these low prices, of course, is that buyers have tricks, too. For instance, one savvy farmer who frequents many auctions deliberately tries to slow down the pace. If the auctioneer wants to open bidding on a tool for, say, $5, this farmer may bid 75 cents. He raises his bid only 25 cents a time and eventually wears out his competitors.

"This guy knows a lot of people will bid just so many times on something and then quit, even if the price is way too low," says Mr. Coulter with grudging respect. "I've seen him pick up a lot of power tools and stuff for chickenfeed."

An elderly farmer with a cane uses another hoary trick. Long before Paul's auction starts, he hangs around a small tractor. When other farmers stop to look at it, he sidles up and shakes his head. "Needs new brakes," he says knowingly to one man. "Not in such good shape," he murmurs to another. But when the bidding gets around to this tractor, the elderly man bids vigorously against all comers. He smiles broadly when he is declared the buyer.

After four hours of selling, the auction reaches its finale: bidding for the big combine. On such big-ticket items, the auctioneers openly beg and cajole. "Come on, fellas, you know darn well you'd pay twice as much to a dealer for a machine in this good a shape," Mr. Yoder pleads. "Paul will never speak to me if you don't give me at least three-quarters of what it's worth." Paul had hoped to get $7,000 or $8,000 for the five-year-old piece of equipment. The auctioneers considered $6,500 more likely and $7,000 the absolute top. The combine goes for $6,900.

SETTLING UP IN THE KITCHEN

The farmers quickly take charge of their purchases and settle their bills. Payment is by cash or check. Bills are settled in the kitchen where the auctioneers' wives have set up shop with two adding machines and a cash box.

Within half an hour, nearly everybody is gone, and the auctioneers' wives total the proceeds. The auction brings in nearly $26,000, which Mr. Coulter says is a little more than average. It's about what Paul had hoped to get. The auctioneers collect their 2% fee; the clerks and cashiers share 1%.

With a cheery beep-beep on the horn, the auctioneers speed away. It is over. Paul Bates is an ex-farmer, yet another country gentleman who lives in a farmhouse but works in a town. He knows things will never be the same.

"Farming is a great way of life—until it stops being a way of life," Paul muses. "I've worked so hard at it that I never learned to swim or dance or play golf or any of the things that other people do to enjoy themselves. I always thought, well, I have my farm. But now I have nothing, except my job. It's a very lonely feeling."

MISREPRESENTATIONS OF SENATOR SMITH'S ACTIONS ON CROPLAND CONVERSION PROGRAM

Mrs. SMITH. Mr. President, within the past few weeks, the Representative from the Second Congressional District of Maine has twice made misrepresentations against me on my efforts to fund $10 million for the cropland conversion program, which is a land retirement program.

On April 20, 1972, he represented that "no action had been taken and none is planned." To the contrary, action had been taken more than a month prior to that when on March 14, 1972, I offered my proposal as an amendment to the urgency supplemental appropriations bill when it was before the Senate Appropriations Committee. The committee took unfavorable action in turning it down then but agreed to consider my proposal favorably as an amendment to the second supplemental appropriations bill when it came before the committee.

Then when the second supplemental appropriations bill came before the Senate committee, the members kept their word with me and adopted my proposal as an amendment to that bill, as did the full Senate in passing and sending the bill to conference with the House.

Yesterday the press reported a statement by Representative Hathaway as representing that my proposal for the funds would cover only the rest of this fiscal year 1972, which expires on June 30. Again Representative Hathaway has made a serious misrepresentation against me on my proposal, for there is no time limit on my proposal, and the funds would not be cut off after June 30. To the contrary, my proposal as adopted by the Senate very specificially states that the $10 million would "remain available until expended," thus removing any time limit on the proposed funds.

I prefer to believe that Representative Hathaway did not deliberately make this misrepresentation against me but rather was misled by faulty staff work that failed to read the language of my amendment as adopted by the Senate. The language is clear enough, and the Senate-amended version of the bill has been in print and available for 2 weeks.

I do wish that Representative Hathaway would be more careful in the future about making misrepresentations against me, whether deliberate or as a result of faulty staff work.

AIRPORT SALE

Mr. SPONG. Mr. President, the Office of Management and Budget recently announced that it will seek legislation to authorize the sale of National and Dulles airports to the "highest bidder," which almost surely would be a private interest or some consortium of interests. I would vigorously oppose such a sale for reasons which I explained in a speech before the Virginia State Chamber of Commerce convention. I ask unanimous consent that excerpts from that speech be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks by Senator William B. Spong, Jr.

I want to talk with you today about two issues before the Congress which are of special importance to Virginians.

The first of these is the future of National and Dulles airports.

As many of you know, the Office of Management and Budget has let it be known it now wants to sell the airports to the highest bidder. Almost certainly that would be a private interest or consortium of interests.

In my judgment, the proposal is a preposterous scheme, a *non sequitur* in the long debate over these airports. It bears no relationship to any of the issues which have been raised, it is inconsistent with past statements of the FAA and Department of Transportation and even contradicts the Administration's own budget statement that the primary goal of the sale is to encourage more efficient utilization of the airports and a better allocation of traffic.

Washington National and Dulles International airports are the only Federally owned and operated airports in the country. They are also the only airports that are not in some way responsible to the community of which they are a part.

Thirty years ago, when the Federal government first got into the airport business, this was not a major concern. Washington was a smaller community, less densely developed, and less affected by the limited operations at National Airport.

Since then, however, there have been dramatic changes both in the development of the region and the growth of its air traffic. No longer are the airports something off to themselves. In their impact on the environment, their burden upon local ground facilities, their contribution to the area's economy, their performance of vital transportation services, and in a dozen other ways, the airports today are an integral part of the urban complex they serve.

It is an anachronism that planning and development of these facilities should continue to take place in a vacuum without reference to other community plans or desires. The interests of the airlines have long been represented in the decisions of the FAA. It is time that there was as much concern with the interests of those who must live with the consequences of those decisions. In my opinion, that should be the principal objective of any transfer to a new owner.

A second purpose should be to assure that the airports are developed on an orderly, systematic basis.

The Washington area is fortunate in being served by three major airports. It is probably the only urban center in the country today with such a surplus of airport capacity. Yet, at the same time, it suffers from airport congestion as severe as any I know.

There is a simple explanation for this paradox. The development of the airports in this area has simply been left to the forces of the marketplace. And, in that situation, the airlines have continued to expand their profitable use of National to the point where that facility now handles about 65% of all passengers in the region.

With stretch jets now operating at National and the prospect that they will soon be followed by even larger wide-bodied jumbo jets, there is no practical limit on expansion of business at that facility. Neither the 40-per hour limit nor the ban on the use of 4-engine jets would have any limiting effect at all.

As you know, the CAB regards Washington and Baltimore as a single, hyphenated point for purposes of certificating air carrier service. Unfortunately, that is as far as a regional concept has advanced. Once certificated, airlines generally have discretion to use any of the three airports they wish. There is no long range plan or program for the balanced development of the facilities nor for coordination with other community developments.

For many years, I have been fighting what sometimes seems a lonely battle to bring about this kind of regional planning. I believe it is essential and I have been pleased to have the support of General E. R. Quesada, former head of the FAA and director of American Airlines. Testifying before the Senate D.C. Committee three years ago, General Quesada made two extremely important points:

First:

". . . the fact remains that one should not expect and certainly should not hope for the solution to National's problems to be reached by agreement among the airlines.

The competitive instincts are such that this is not a hopeful solution."

And second:

"Washington's problem, in my opinion, cannot be resolved until someone has the courage to consider the requirement as a whole and use their courage to apply a reasonable standard to the use of each (airport). Until that is accomplished, I do not see a constructive and progressive solution to our problem."

With General Quesada, I believe that National Airport has a role in meeting the area's air transportation needs in the short-haul field. Better planning and development, however, should restrict that role and result in a more reasonable scheduling of flights at Dulles and Friendship.

I know that there have been discussed many possibilities for providing new ownership and management of the airports and there are some differences of view. But I believe all parties until now have agreed on the need to give some voice in these matters to the residents of the area and to bring about a more rational use of our resources.

The OMB plan to sell the facilities at auction to the highest bidder would do nothing to meet these problems. On the contrary, it would probably aggravate them.

I would vigorously oppose any legislation to authorize such a sale. I plan to ask the chairman of the Senate Aviation Subcommittee to reopen the hearings suspended a year ago when the FAA asked for more time to take a position on this sale. Clearly, OMB has given it a position now and the Committee should go on with its consideration of a constructive solution to the problem.

LETTER FROM A VIETNAM WAR VETERAN

Mr. TOWER. Mr. President, there has been a great deal said in this body lately about the situation in Vietnam. I believe that most of it has been said sincerely and in what the speaker believed was the best interest of the Nation. Try as we may, however, oftentimes we are not so eloquent as are many of our constituents when they write to us.

Recently, I received a letter from a constituent that is a case in point. I invite all Senators to read the letter. It is an eloquent testimony from one who has spent a good deal of time in Vietnam to what we are trying to do there. I ask unanimous consent that the letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Hon. John G. Tower,
U.S. Senate,
Washington, D.C.

Dear Senator Tower: This is the first time that I have written to any member of the Congress, although my father was a member of that body in representing the people of Texas for three terms in the House.

I am a career officer in the Marine Corps. I accept and support the fact that while I may not always agree with the policies of my government, that those policies are forged in consideration of my views and those of all other Americans, and contribute to the formation of our leaders' best judgment as to what constitutes appropriate goals for our country, at home and abroad. I believe that our leaders have succeeded well in defining these goals particularly in the realm of foreign policy, to the extent that they have engaged us in pursuits designed to help other less fortunate nations to achieve the freedom that was so hard won by our forefathers, but so easily taken for granted today. One such pursuit led to our involvement in the Vietnam war. I commanded the artillery battery in the first landing of U.S. forces in Vietnam on March 8, 1965. For me, the mission was clear—to assist the Vietnamese people to achieve the necessary security within which they could form a government and get on with the process of building their economy and providing for their people. In retrospect, I recognize as illusions and examples of ignorance some conventional elements in our approach to what was clearly not a conventional political military problem. I believe, however, that over time, our perception of the nature of victory has developed and an appreciation of past errors has led to a maturing of our tactics and a shifting of resources into the building of a viable basis for nationhood in South Vietnam.

Unfortunately, however, the public has been led to focus on our earlier errors and misconceptions, and to believe that our efforts remain mired in pursuing a purely military solution. This public preoccupation with condemning the errors of the past has further resulted in a willingness to label the entire effort as wrong and unsalvageable. Americans no longer concern themselves with our original end, but with the earlier means to that end, and therein lies the compromise to any public appreciation of the very humanistic goal we have been and remain dedicated to achieving. "To establish security behind which the Vietnamese can go about building a free society." That was and is our goal in Vietnam.

Each day we read a great deal of the combat, the loss of life and destruction. Unfortunately, we hear very little of the lasting efforts which receive equal emphasis—the building of schools, roads, hospitals and economic infrastructure. It is these efforts which reflect the good faith of Americans in pursuing the goal of freedom in Vietnam; of being willing to admit errors of the past; of shifting priorities to nonmilitary efforts; but of never breaking faith, with our commitment to make possible for the Vietnamese what we in America hold so dear.

Today the public is again being persuaded to forget the goal and commitment and to consider the costs. Many of our elected representatives point to the loss of life and conclude that this eternal fact of war, makes its pursuit not worthwhile. Quite frankly, I can only ask how less dear to us today was the death of a French soldier at Yorktown in fighting for American independence than the death of an American in Vietnam? I believe the answers of President Washington and Senator Kennedy might differ in this regard! A sense of purpose—a belief in freedom is what has guided our men in the armed forces through seven years of combat. We have not been perfect. We have made serious mistakes. Through it all, however, we have retained our original sense of purpose, our belief in freedom for the Vietnamese, and our integrity toward our commitment to them.

For seven years we have preached the virtues of self determination, perhaps someday of democracy. Our word has been accepted, and at our behest over a million South Vietnamese young men have taken up the challenge and hundreds of thousands have paid with their lives. Senator, a man does not place his life in peril without feeling that the challenge is worth his greatest sacrifice. Man just isn't made that way. Vietnamese have died because they believed in our idea of freedom. What is to become of the ideal of freedom if America states that it no longer believes in it for the Vietnamese. Indeed, what is left for Americans to believe in if we reject the cause of freedom for our fellow man.

By nature I am not a believer in crusades without consideration of the alternatives. After a consideration of history and of the tragic folly that has occasionally destroyed man figuratively and literally, as well as his sense of human worth. I have been extremely demanding upon those who allege the necessity for war for any purpose. In this context, however, I believe freedom and self determination to be inalienable rights for all mankind and I will give my best efforts to their survival.

I hope that in the closing days of this war that we will not let the length of the battle divert us from the legitimacy of our purpose. For if that sense of purposes dies, I fear for America and will ask God's forgiveness for those who will have died in vain.

Very Respectfully,

———— ————.

TRIBUTE TO A PATRIOT

Mr. CANNON. Mr. President, many words of praise have been spoken in the memory of that great American patriot, J. Edgar Hoover. They are all well deserved for a man who, by talent, energy, and sheer genius of will created a law enforcement agency recognized and respected throughout the world for its integrity and efficiency.

The American people owe an unusual debt of gratitude to Mr. Hoover. As head of the Federal Bureau of Investigation for 48 years, J. Edgar Hoover molded an institution which has become a bastion in the Nation's fight against crime, communism, and other forms of subversion; as well as a leader in upgrading law enforcement procedures in this country.

Under his guidance the FBI developed a force of dedicated and qualified men and women, adopting the latest technological and scientific developments in the war against crime. Yet, ever cognizant of the dangers of concentrated power, he consistently opposed every effort to make the Bureau a national police force, and insisted that agents meticulously observe the rights of the criminals apprehended.

J. Edgar Hoover effectively carried out his duties under eight Presidents and 16 Attorneys General. It is my hope that the FBI will continue in this fine tradition which is the legacy left to us by that great American.

NELSON B. LASSON

Mr. MATHIAS. Mr. President, the city of Baltimore and State of Maryland were saddened yesterday by the news of the loss of a distinguished citizen. I share that loss and that sadness. Nelson B. Lasson, journalist, educator and lawyer, died Tuesday morning at his home. He was 63.

Mr. Lasson was acknowledged to be an expert on the fourth amendment to the U.S. Constitution. His book entitled History and Development of the Fourth Amendment to the United States Constitution was published in 1937 and is still used as a reference work.

Mr. President, I ask unanimous consent that an account of Mr. Lasson's death published in the Baltimore Sun May 10 be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as folows:

Nelson B. Lasson, Lawyer, Dies at 63

Nelson B. Lasson, a constitutional lawyer and lecturer and co-owner of an East Baltimore newspaper, died yesterday morning of a heart attack at his home, 6110 Biltmore avenue.

His career spanned the government, the university, the community and Jewish religious organizations. He was 63.

At the end of the war, in 1945, he became director of the War Records Division of the Maryland Historical Society. In 1946, however, he and a colleague went into the publishing and printing business. They bought Boone Press, Inc., and Guide Publications, Inc.

Three years ago he returned to teaching, becoming an associate professor of political science at Loyola College. He taught constitutional and civil liberties law. This past semester he also lectured at the University of Baltimore Law School.

FOURTH AMENDMENT EXPERT

He was acknowledged to be an expert on the Fourth Amendment to the United States Constitution, which deals with search and seizure. His book, "History and Development of the Fourth Amendment to the United States Constitution," although published in 1937 is still considered a reference work on the subject. He tried several constitutional cases in Maryland courts in the last several years.

Born in Baltimore, he graduated from City College in 1923 and four years later from the Johns Hopkins University. He then went to the University of Maryland Law School and graduated in 1931. Mr. Lasson decided he wanted to do more work in political science and went back to the Hopkins, receiving a doctorate in that field in 1934.

While doing graduate work at the Hopkins, he was named a Warren B. Hunting Scholar. He was also elected to Phi Beta Kappa and the Order of the Coif, the honorary law society.

He served in the past as a member of the board of Ner Israel Rabbinical College, Talmudical Academy and Shearith Israel Congregation.

Funeral services will be held at noon today at the Sol Levenson funeral establishment, 6010 Reisterstown road.

Survivors include his wife, the former Nanette Macht; three sons, Morris S. Lasson, of Baltimore, Kenneth L. Lasson, an author and lecturer at Goucher College, and Robert P. Lasson, of Geneva; a daughter, Mrs. Eleanor Berkowitz, of Cedarhurst, N.Y.; a brother, H. Milton Lasson, of Baltimore, and seven grandchildren.

BIAFRA: A CASE FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the Senate is well aware that the Genocide Convention treaty has been before it for more than 20 years. For those two decades this Chamber has refused to ratify that document despite the continuation of violence throughout the world.

Probably the worst example of genocide in recent years took place in the country of Nigeria. As a result of tribal rivalries and persecutions, civil war broke out in that African nation, and before it was brought to its bloody conclusion millions had perished. Only through international intervention and support were the Biafrans saved from extinction.

This was certainly a case for action under the articles of the Genocide Convention. Yet, nothing was done. Although protestations were made at the United Nations, and although concerned and humanitarian individuals the world over worked diligently for a cessation of violence, official action through the treaty was not initiated. The acts of genocide were left unchecked and unpunished.

One important explanation for the impotency of the treaty has been the unwillingness of the U.S. Government to stand behind it. Like the ill-fated League of Nations, present peace-keeping efforts are doomed to failure without our support. If crimes of genocide are ever to be prevented or punished, the United States will have to share in the responsibility.

Therefore I urge Senators to join me in swift consideration and ratification of the Genocide Convention. Let the horrors of Biafra never be repeated.

ADDRESS BY HON. ROBERT T. MURPHY BEFORE SPRING QUARTERLY REGIONAL MEETING, ASSOCIATION OF LOCAL TRANSPORT AIRLINES

Mr. CANNON. Mr. President, last week the Association of Local Transport Airlines held its spring quarterly regional meeting in Atlanta, Ga. Atlanta is a very important crossroad in the transportation industry, so the meeting was well attended.

The principal address was given by Robert T. Murphy, a member of the Civil Aeronautics Board. He was optimistic for the air carrier industry as a whole, and for our local transport carriers. It is a statement well worth reading. I ask unanimous consent that it be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address by the Honorable Robert T. Murphy

Once again, it is my great pleasure to participate in a Quarterly Meeting of ALTA. This year it is particularly enjoyable for me because it affords me the occasion to renew my acquaintance with Atlanta, the home base of Southern Airways and a most significant air transportation gateway for so much of this entire region. Atlanta's growth and prosperity are a never-ending source of awe and admiration to me. Each time that I have come here I have received the same impression—that Atlanta and its environs are burgeoning, but that the charm and character which has made it famous are still retained. The airlines, both trunk and regional carriers, have not only shared in this growth but also have been responsible in large measure for much of it. This is particularly true of our host carrier, Southern Airways, which is so closely identified with Atlanta and the entire State of Georgia. Piedmont, too, has made a substantial contribution and, to some extent, this is evidenced in the growth experienced jointly by Southern and Piedmont during the past five years which, in terms of revenue passenger-miles has amounted to 127%. So, while Atlanta is many things to many people, to us in civil aviation it is a significant transportation hub with routes radiating to large and small communities in the Southeast servicing a never-ending flow of passengers and cargo which have helped to stimulate the economy of this Capital City.

It is always a great pleasure to meet with carrier representatives at a time like this when traffic is on the upswing. The latest figures I have seen are very heartening indeed. The more than five point increase in local service load factors in March of 1972, compared to March 1971, was one of the most impressive spurts that I have seen since I came to the Board. From a 42.4 percent load factor in March 1971, your group escalated to 47.7 percent in March 1972. It was encouraging, indeed, for example, to see Frontier's load factor in March go up eight points above the previous March and to see Allegheny and Ozark go up six and Piedmont and Texas International go up more than five points. While in some cases this resulted from reduction in seat-miles, most of it was attributable to additional revenue passenger-miles. I have strong hopes that much of this traffic improvement will find its way down to the bottom line of your financial statements and that 1972 will be a far better year than the two bleak years we have just endured.

There are a number of relevant items which we could examine with interest at this quarterly conference and it is difficult to focus on some and ignore the others—topics such as service to small communities, the route strengthening program, aircraft loan guarantees, mutual aid, Visit U.S.A., advertising trade agreements, etc., are all worthy of some comment and treatment in the course of a discussion with you. However, it requires very little perception on my part to know that the most important subject which pervades your minds at this moment is Class Rate VI and the fiscal level for 1972. We at the Board regret that we have not yet been able to finalize the rate and we can appreciate your concerns. My own general attitude on subsidy payments for the rendition of local service is well-known and has often been stated. I see no reason to belabor the point at this time except to say that the economy and well-being of this country demands and warrants the continuation of subsidy support at a level consonant with our duty to maintain an efficient and adequate air transportation system to our small communities. I have always believed and I am still of the opinion that Federal support of local service air transportation is one of the wisest and most justifiable of all Federal support programs. Its positive benefits, both tangible and intangible, distinguish it in a host of respects from other so-called Federal subsidy programs. And its comparativly modest proportions set it apart as a reasonable and prudent investment in the present and future welfare of this country.

In recent testimony on this subject before the Aviation Subcommittee of the Senate Commerce Committee our Chairman, Secor D. Browne, pointed out that we are bending every effort to expedite our internal processes and to set a fair and just rate. But this has been a difficult task in which the predictive process has seemed to be more elusive than usual because of the economic factors governing the forecast period as modified by more recent and current trends. While there have been increases in costs these have been difficult to allocate and, on the other side of the ledger, there has been a very substantial fare increase in effect for the full term of the past year which has resulted in improved yields and increased revenues. In the meantime, traffic and load factor improvements have been such as to gladden the hearts of all of us. The combination of these circumstances has made it difficult for the Board to complete the task as quickly as you would have wished.

A word on your role as local service carriers—Atlanta, as a gateway point in the Southeast is typical of the large hub served by the local carriers. From such hubs, routes radiate to the smaller communities. The maintenance of this service, as you know, is of vital concern to the Board and to the Congress. It is a service which, while perhaps not as profitable or glamorous as an interregional operation, nonetheless, is the very reason for the creation and existence of the local service carrier industry as well as for the subsidy program itself. It is appropriate for me to urge you, as local service carriers, not to lose sight of this fundamental fact. To abandon this tradition—to denigrate this service—is to challenge the very purpose of your corporate existence. The transportation network which spans the country, reaching into smaller cities and connecting them with their important markets is the bloodstream of America's economic, social and cultural life. Every form of transport plays a part in this system. But air transportation offers that important element—speed—and the local service carriers bring that element to the small cities. With it they bring Hometown U.S.A. into the mainstream of U.S. life. I believe the Hometown citizen has come to rely on you. The speed and convenience you provide contribute to the quality of his life and to that extent help to alleviate the further concentration of population in the already overcrowded metropolis. It behooves all of us to remember, therefore, that air service to small communities is as important today as it was 10 years ago and 20 years ago.

When it comes to serving small cities, my own view has been expressed nowhere more clearly than in a statement of Secor Browne last year when he said:

"The ability to transport people and products by air is an important national asset. It should not be denied citizens who live outside the great metropolitan areas for whatever reason: logistical, legal or economic. It behooves all of us charged with responsibility for air commerce to see that every effort is made to preserve the totality of the system—that no point or service leg goes by the boards as a matter of default."

Now, the fact that we feel so strongly about the importance of service to small points does not mean that the Board will be completely inflexible on the question of service by the local carriers. As the economic health of the entire domestic airline industry improves it is not unreasonable to believe that additional limited steps will be taken to strengthen local routes. In 1966 your organization, ALTA, filed a most impressive and memorable study and report with the Board entitled, "Jet Age Route Policy for Local Service Airlines." A principal thrust of that report was that route strengthening offered the greatest potential for reducing subsidy while maintaining reasonable service to smaller cities. After due consideration, the Board embarked on such a program. A streamlined procedure was adopted to minimize red tape and by June 1969 more than 100 route modifications were made by the Board. These route strengthening actions and the concurrent reequipment program undertaken by the carriers produced some dramatic changes in the local carrier characteristics. For example, in 1963 the average stage length was 90 miles while in 1971 it was 158 miles. The average passenger load of 15 in 1963 more than doubled and total available ton-miles increased from 441 million to 2.2 billion (nearly five times), reflecting the capacity of the new jets. Despite charges from some quarters that you have been endeavoring to become junior trunklines, the locals are a long way from a 576 mile trunkline average hop or an average trunkline passenger trip of 761 miles.

As we know, the route strengthening program has not been a complete success in every instance to date. However, one of the earliest achievements of the Board's route strengthening program occurred in connection with the award of a New York City segment to Southern Airways. Here, within a year of introduction of service, the new route was producing 25% of Southern's entire system's revenue passenger-miles.

In fairness, the route strengthening program should be evaluated against the background of the economic turndown of the past few years and the resulting inflation, higher interest rates and greater costs generally. Moreover, on hindsight, I believe that we at the Board and you in the industry were too quick to reduce subsidy after 1966 considering the commitments required for new equipment, the time necessary to promote and develop the new routes and the unanticipated turndown in traffic. However, the last two subsidy rates have moved a long way toward full payment for service on subsidy-eligible routes and, hopefully, we can look for substantial improvements in 1972.

Of course, a prime reason for embarking on the route strengthening program was to give local service carriers sufficient economic strength to effectively serve small loss-points on a route system. In this sense, therefore, the route strengthening program and service to small communities are not at variance with one another and actually are intended to complement each other.

This leads me to express a few thoughts on a major item on your agenda for this Quarterly Meeting, namely, legislation developed in the Board and introduced in the Senate (S. 3460), which would authorize the Board to enter into contracts on an experimental basis with air carriers to provide service to small communities. This proposal, as a restrained experiment, may give us an answer as to whether there are more suitable means of providing a level of more frequent and adequate service to a limited number of the small communities in various parts of the United States.

The Board's legislative proposal emerged from a three-volume study recently prepared by our Bureau of Operating Rights. I assume you are still studying this document and I imagine that you, like me, will find many things in it with which you agree and disagree. I am sure you fully appreciate that this publication is purely a staff study by the Bureau of Operating Rights and does not in any way represent conclusions or decisions of the Board itself. It is very important that this study *not* be seen as a Board proposal for wholesale abandonment of smaller cities by the local service carriers or a plan to turn all of these cities over to commuter airlines. The Board's views as to the amount of subsidy warranted to serve a point, the isolation of communities, and the traffic levels which merit service are, and will continue to be, determined on an *ad hoc* basis in proceedings before the Board. In my view, they cannot be determined on the basis of theoretical standards or mechanical criteria of isolation, traffic or subsidy dollars.

Let me briefly turn to another aspect of the public interest, namely, the voice of the consumer in our regulatory life and times. Some time ago the Board established an Office of Consumer Affairs. It is performing a valuable service. It needs the attention and support of the industry. And, I believe, in most cases, it is getting excellent cooperation. Tonight, I want to express my congratulations to North Central, Southern and Piedmont, in that order, for their recent impressive records on consumer complaints to the Board. The table of statistics published by our Office of Consumer Affairs showed complaints per hundred thousand enplanements in March of only .97 for North Central, 1.88 for Southern and 3.07 for Piedmont. The complaint letters for all three for the first quarter of this year were significantly below the first quarter of 1971. Obviously, these statistics are for letters received only, and there has been no determination of their validity. I believe, however, that they are a measure of the temper of the aroused and articulate consumer of today and, as such, are a matter of great importance and merit your continuing attention.

I also want to express the Board's pleasure with your renewal of the "Visit U.S.A." program. I refer to it whenever I have a chance to talk with aviation and travel representatives of other governments. I urge that they vigorously publicize to their own citizens and travel industry that, for $150, a foreign citizen can enjoy unlimited travel all over the continental United States for 21 days. There is a great need to make the international tourism market more of a reciprocal exchange. For example, in the giant North Atlantic market more than two-thirds of the passengers consists of American citizens. We need to make that market and others more of a two-way street for many reasons, including that of dollar outflow. I don't know of a more significant assist in meeting the balance of payments problem as far as tourism is concerned than this valuable local service program. Moreover, it is important to note that it is in keeping with the views so often expressed by Senator Magnuson and his colleagues on the Senate Commerce Committee.

Let me conclude by recounting an incident which occurred in the course of negotiations some few years ago with aviation officials of an Eastern European country. Following a long session of conferences in their own country they journeyed to Washington many months later to complete them. Our negotiations had been directed only toward long international trunk routes. As a respite from the formalities attending such meetings, I invited them to the Civil Aeronautics Board for an informal visit and leisurely discussion with some of us and the staff. The Chairman of their delegation soon noted the route map of our local service system which graces a wall in our Board Room. He examined it closely and in great detail.

From then on, the entire dialogue had nothing to do with international aviation, but rather revolved about his questions as to our ability to mount and maintain such a tremendous coordinated system of service to the small towns and cities of this country. At his request, we furnished him with much of our public information on the subject. It was obvious that he was most amazed and most admiring of what we had achieved and he wistfully expressed the hope that perhaps, sometime in the long-term future, his country could seek to emulate us. It was apparent that he recognized that air transportation could not be regarded as an instrument of the public unless it could be shared by the masses of people scattered throughout a single country. I have always thought of this incident as a tribute to what we in Government and you in private industry have jointly accomplished. I have thought of it, too, as a commendation of the singular efforts of General Joseph P. Adams, the tireless Executive Director of your Association, who has devoted so much of his life, both in Government and in private life, to the sincere promotion of the local service system. Recently, a senior and distinguished aviation writer, Eric Bramley, has referred to the General as "The local airlines' one-man gang in Washington"—a term of both respect and affection, which he enjoys in all circles.

No other country in the world has what we have in terms of air transportation in the United States. This may not be true of other modes of transportation. I would like to think that we will stand by our traditions and work cooperatively to make that part of it composed of the local air transportation system not necessarily bigger, but a great deal better.

DETERIORATION OF OUR TRADE BALANCES

Mr. DOLE. Mr. President, Congress and the administration have been concerned about the deterioration of our trade balances. The one bright spot in our efforts to adjust the position of our international trade and monetary accounts has been agriculture.

Our agricultural trade produced a positive balance last year, while other sectors were recording deficits. As we approach the end of the current fiscal year it is once again in a strong position.

I think we can take some credit for the $2 billion gain in agricultural exports since fiscal 1969 that led to the all-time record of $7.8 billion last fiscal year. This body, working with the Department of Agriculture, rewrote the Federal farm programs 3 years ago to emphasize export markets. We have authorized, funded, and supported overseas market development in the highly competitive international market.

So Mr. President, I cannot support that portion of S. 3526, which would require a reduction in the number of American personnel who are representing us in the very markets we have been trying to expand with what we have done in Washington.

There are only about 200 of them—representing U.S. Agriculture to scores of countries and hundreds of millions of people around the globe. You do not sell products by bringing your salesmen home. I am opposed to this section of the bill and support the amendment offered by the Senator from Oklahoma (Mr. Bellmon).

A CHILDREN'S HEARING

Mr. HARRIS. Mr. President, on April 12, several other Senators joined with me in sponsoring a children's hearing. Our purpose was to focus attention on the pressing problems of children in the areas of health, education, nutrition, welfare, and children's rights. Several distinguished witnesses presented what I consider to be excellent testimony and timely suggestions on how we can deal with the problems of our Nation's children. Even more impressive was the testimony of children and young people about the problems they face and the distressing lack of action on those problems.

One of the conclusions of most witnesses is that regressive legislation such as that embodied in the administration's welfare proposals can only worsen the situation of today's children and youth. Recent action by the Committee on Finance is even more regressive than the House provisions in H.R. 1. I am hopeful that Senators will take the time to read the moving statements of these children and of the adults who accompanied them. I think it is time that we in Congress pay more attention to assuring that the programs we implement will indeed help those most affected by them. The first half of the text of the hearing follows; I ask unanimous consent that it be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

Transcript of the Children's Hearing Held on April 12, 1972

Senator Harris. This is an ad hoc public hearing sponsored by several members of the Senate who will be participating during the day. Senator Philip Hart of Michigan is here now. I'm Senator Fred Harris of Oklahoma. Several organizations have been involved with setting up these hearings: The Children's Foundation, the National Council of Churches, the National Welfare Rights Organization, the District of Columbia School Board, the Washington Research Project Action Council, and over fifty other day care and church related organizations, many of whom participated in the recent Children's March for Survival.

The hearing is designed to focus attention on the issues and problems of children. Many of us in the Senate have been trying over the past years to deal with the crucial problems of education, child care and nutrition. Those efforts have been systematically stymied by the present Administration. We're now faced with what I consider to be a regressive step in the treatment of the nation's poor children through provisions in H.R. 1, the Administration's so-called welfare reform bill. I, and other members of the Senate who've been increasingly concerned about the inability of the Congress to enact meaningful child development legislation, to assure adequate nutritional programs, and to implement needed educational programs, feel that it is time to make a concerned effort to bring to light the severity of children's problems. Perhaps if we can bring to the attention of the Administration, the Congress, and the country the unacceptable conditions under which many children in this country live, we can help move toward solutions of the crucial problems we now face.

We have with us today some outstanding people who've worked hard over the past many years on the problems of children's health, nutrition, education, child development, children's rights, and child welfare. With them are the real spokesmen and spokeswomen today, the children with whom they work. I think we too often forget that much of the legislation we deal with affects children and should be geared to their needs, not the needs of the adults who administer the programs. It is fitting then that we have several young people with us who can tell us their own experiences and their needs. I'm hopeful that we can have an as informal and open discussion as possible. Some of those testifying have prepared statements, some have not. All, I think, are willing to participate in a comprehensive discussion among members of the Senate and others with these expert witnesses and these young people.

The hearing will be transcribed and printed in the Congressional Record. Those of you who are here and others who would like copies of the transcript later on can drop me a note and I will be glad to provide them.

Before we proceed, Senator Hart, do you have any opening statement?

STATEMENT OF SENATOR PHILIP A. HART

No, Mr. Chairman, except to say, thank you and the many organizations that are making this possible, and to apologize for what will seem a very rude and indifferent act on my part. I must leave almost as I conclude this statement to go to a meeting of another committee, a closed meeting, where the question of the continuation of the investigation of ITT and related matters will be under review. Once that meeting moves into the open hearing, I will return here, Mr. Chairman. I'm delighted the media is here. But there will be a lot more attention and energy concentrated in the Judiciary Committee inquiry into ITT than will focus on the problem you address here. But there will be greater truth, whole and entire, from the witnesses we will hear here than from those we have been listening to in the Judiciary Committee. And they will be speaking to a problem that is curable. Unlike the problem of impropriety in government, which will be with us as long as man is fallible, we can make a categorical decision to eliminate malnutrition, and do it. We can reduce infant mortality rates, we can do it. So I think there is a much higher degree of importance to what is going on in this room than in the room to which I shall now go—and I hope briefly.

Senator Harris. As director of the West 80th Street Day Care Center in New York City, Dorothy Pitman Hughes is familiar with both the problems posed by urban poverty and the need for adequate day care for poor children. She is the mother of three, an activist in the women's movement and Chairwoman for the Committee for Community Controlled Day Care in New York City. Mrs. Hughes, we're glad you're here. Would you please introduce those who are with you and then we'd be glad for you to proceed however you want.

STATEMENT OF MRS. DOROTHY PITMAN HUGHES, DIRECTOR, WEST 80TH STREET DAY CARE CENTER, NEW YORK CITY

Thank you. This is Tjitana Neblet who is four years old and attends the West 80th Street Day Care Center; this is Lee Vasquez who is five years old; this is Patrice Pitman Hughes who is seven years old and attended the day care center since she was six months old; Raymon Cala has been with us for three years and is six; Julia Cunningham is five and has been in the program since she was six months; Darnell Williams is six and he has been with us since he was about two years of age. They will talk to you and answer questions.

Before, then, all the members of this hearing I've come with these children who attend and have attended the West 80th Street Day Care Center, one student from the College of Human Services and one of the teenagers in the community that I work with in one of our youth development programs. I've come to comment on the H.R. 1 bill, and I would like for you to accept my definition of H.R. 1. I feel that it is the first real public relations piece and plan for implementing total fascism. To insure that H.R. 1 gets past, more and more repression has been happening in the community to keep us busy while the people that are fighting to get this passed really don't understand our struggle. We were here and these children were here in the Survival March. And we went back to New York to face parts of the H.R. 1 program already being implemented, under different names. I don't know if you've heard them, but they are becoming very familiar words in our community. One is called PSWOP. PSWOP is the Public Service Work Opportunity Program. Another one is called IFI—Incentives for Independence. We've had to go back home to deal with those programs, and so we've supposedly left our concentration on the H.R. 1 bill. But we found out very quickly that they were very close and much of the same thing.

In 1970, President Nixon introduced his welfare reform bill, now called H.R. 1. It didn't pass in 1970 or 1971 and so President Nixon is trying again in 1972. Taking its cue from Nixon, New York State passed the new work rules for welfare recipients in 1971. These work rules were and are the basis for PSWOP and IFI. They require most adults to look for work or to be cut off welfare. But New York wasn't satisfied with forcing welfare recipients to look for work; it wanted to force them to work. So it made home relief recipients, who were able to work, work off their grant in city agencies. New York wanted to force AFDC families to work off their grants too, but it couldn't because AFDC families, unlike the home relief families, receive federal money and HEW used to say that it would not pay for work relief. Somehow we always get shuffled around and when the need arose Governor Rockefeller met with President Nixon and they agreed to develop demonstration projects—the projects we are now suffering from. In New York, we have had to shift our attention to these programs because parents of many of these children that I work with have been forced to go to work for welfare checks. Because we who work in day care have been asked to drop our waiting lists of people who need services to prevent themselves from going on welfare to give priority to the parents who will be forced to work. Because the teachers in the public schools and the social workers from the Department of Social Services tell the mother that five of her seven children must go to the psychiatrist. When the mother rejects this and objects to them giving her children pills, dope, the parents' welfare check is cut off or reduced and sent late.

Because this welfare program announces to the parents of this nation that if they are on public assistance and their child or children are not doing well in school, the mother is sent to a psychiatrist. This kind of fascism doesn't just control the mother and the children, it has extended itself through H.R. 1 to the father. And it says something about if he goes across the state line—and it doesn't give very much definition about what for—it becomes a federal offense and he could be put in prison.

You look at the children around me. You may notice that if you just talk with them you would know that they have no problems with socialization, they have respect for each other, and humanity. I would say that they are far superior to the people that wrote and designed and planned and plan to implement the H.R. 1 bill, IFI and PSWOP. The child care program that they attend is one that has a goal to end racism, classism and sexism. Their parents are together and involved in the struggle for survival. Yet some of these very children and their families were, and are, on welfare. If H.R. 1 is implemented, the families of these children are subject to live in fascism. These children may very well in six months be in a concentration-camp-type child care center, instead of one which is helping them and their families to come together and to survive. We learn also that even being brought into it as a day care worker that we are really needed and so we refuse to accept forcing people to go to work. We aren't really needed for that because franchised day care is going to be subsidized by the federal government so that concentration camps can be set up. Parents who are on welfare will have to take five other children into their home while five other families go out to work for welfare checks.

PSWOP work will be slavery and not jobs. A recipient will only be allowed to work long enough to pay for his grant, no overtime, no way to earn more than a substantial welfare budget, not even a substantial welfare budget. Of course, it would be easy for a person to earn less than a substantial welfare budget. If he misses work and his supervisor decides that he or she didn't have a good reason, and if they decide that the person is just being uncooperative the welfare grant can be taken away and it would be very hard to get on welfare again. PSWOP makes no provision for vacations, sick leave, promotion, pay raises, seniority, or job security—all of the things that a real job is supposed to give you. It's slavery in every possible way you may think about it.

I would hope here that we could do something about destroying H.R. 1. Even if H.R. 1 is destroyed, I have a feeling that we in New York will still have to work very hard to destroy PSWOP and IFI. But we're ready to do that because every time I've attended a meeting in the last two months, I've felt that I was called into a meeting—not by Jule Sugarman or Mayor Lindsay—but by the same person that many of us don't even want to talk about any more, because it is too painful to know that we as people have helped to put six million Jews into gas ovens to be burned. People might not think about it, but I as a black woman have to know if I am called into a meeting and asked to implement these fascism programs—H.R. 1, PSWOP and IFI—against the people that I work with, I have to know that there is no difference in what Hitler did and what is going on now. I would rather, and I hope that many of you here would rather, walk fighting rather than help other people who live with you and work with you to be killed, to walk into ovens. It can be done; it has been done.

If you don't know anything that's written based on people being shiftless and lazy, and this is the reason for most of this legislation now—people would rather be working at real jobs. No incentive programs can be built any better than the incentive programs and community child care—the incentive programs in any kind of community controlled programs where people are trying to get jobs. It has been built into the programs. Everybody knows that this economy doesn't have enough jobs to give people, so why play around with people's lives. If everyone were given a job the country couldn't stand it. It's just learning for the first time with the women's movement that people are not free to make choices under this system. And so it must control the number of people if it's going to continue. I would ask you to check out the mal-attitude of this legislation as it pretends to tell you that people are lazy and shiftless and that they are a burden to taxpayers. I'm saying that it's going to cost much more money for every parent in this country whose child is not doing well in school for that mother to be sent to a psychiatrist—that's going to cost a lot of money because psychiatrists charge from $50 up. Who is paying it—the Department of Social Services. It's coming from taxpayers dollars. It would cost much less to give everybody a living wage that people have been asking for. We aren't going to stand for it; we are not going to let our kids take pills in school because somebody is going to classify them as hyperactive. We're not going to allow neighbors to be forced to work in jobs that are not jobs, that are slave labor. We just can't do it because every little bit of life that they take is ours. Thank you.

Senator Harris. I appreciate very much your statement. Do you think that if there were really quality day care and jobs at decent salary levels, don't you think that people would work on a voluntary basis?

Mrs. Hughes. Yes. We've asked. They say that they have 950 jobs. Those of us who were called in asked if we could get people to volunteer for those jobs because we could fill those jobs by morning. We were told that they could not volunteer for those jobs, that it is a work-off program and that they would have to be referred by the welfare centers. Of course, people want jobs. In New York City, more than 2,000 people who had civil service jobs were fired over the last two years. They had no jobs to go to so they are now on public assistance. They are going back into those same jobs that they were getting paid for before at union wages and working it off as a welfare check.

Senator Harris. Are these children here all in day care?

Mrs. Hughes. They are all in day care except Patrice who is graduated from day care and is now in the community schools.

Senator Harris. Are they all in the same day care center?

Mrs. Hughes. Yes.

Senator Harris. Who sponsors the center?

Mrs. Hughes. I'll give it to you my way. I've been working since I was sixteen years old and I've always paid taxes. They said to me that a percentage of my tax dollar was going for education. I had my first child when I was 21 years old, and I figure that the country with my educational tax dollars is paying for my child's child care services. We are paying for it as parents with our tax dollars. It is being paid for by tax dollars from the federal, state and city government to implement 97 percent of the program. The rest of it is being raised by us as parents and the building that the day care center is in—we were once in a storefront for five years in one of the three largest crime rate and narcotics centers in New York City. Thirty-six parents got together, 16 of whom were on welfare when we began and were off in three months—and raised over $500,000 and bought our own building. It is owned by any parents and children who go in there. It's owned by the community. Six dollars was collected from people on one street, but those people on that street know that they own that building. That building is owned by us and was renovated by us and is used by the community. It's both economically and racially integrated.

Senator Harris: Tell me about various day care centers that you've had some contact with, about their relative quality and so forth. Would you also comment on franchised day care centers, which you mentioned? I'm awfully worried about how we're going to get into that as some kind of non-community controlled and non-parent involved business if we were to pass the provisions that President Nixon is recommending in that welfare bill.

Mrs. Hughes. The day care centers that I am working with are the very opposite to the reason for President Nixon's veto of the Comprehensive Child Development bill. These day care centers have been instrumental in bringing families together. If you know anything about day care was for, it was used first as a part of war production. When that was over, at that time, they were about to be closed up but people kept them open. Then they were used as a welfare program. Now they are being used as educational services. A day care center is very, very educational. It teaches children by experience. Reading is no good unless you have some experience with the letter. One of the things we do in West 80th Street Day Care Center, and I'm going to speak for that center, instead of teaching a child to count one, two, three apples, if we are not around apples, we will teach them to count one, two, three narcotics pushers because there is something very real in that. They are learning to count and they are also learning who those people are who would be contributing to their death at a very early age. It is also supporting the community in that if children are walking around counting pushers, they don't stand there very long. Everything is done with relevancy. All the parents are the members of the board of directors. You notice that I say "parents" and I don't say "mothers" because parents are involved. The children are growing and developing and being educated not to be trapped into a cheap labor force but to understand more than that, to understand humanity, to be together, to work together, to live together, and also to have many skills rather than get to be 40 years of age and have to go and learn another trade. The parents are communicating with other parents and so the children are learning to respect each other and each others' values. They know that other people have values even though they have different skin colors. The parents are beginning to do that. We are beginning to respect each other and each others' values. We're beginning to respect each other as human beings, male and female.

The children are getting practical education, and it brings families together. Parents in the Center are able to say to their landlords, "I'm not going to pay you $5 this week because I didn't have heat for a day or two days." It's changing. There's a movement. I was told by Senator Buckley's aide that we were trying to make child care desirable for all people when it was designed to be a welfare program, and that was dangerous and they weren't going to let it happen. These day care centers really are organizations for communities and organizations for parents and children to come together.

Senator Harris. Very good. Let me ask the children some questions. Tjitana, do you have any brothers or sisters? One brother? Do you like to go to the day care center?

Tjitana Neblet. Yes.

Senator Harris. What do you do there?

Tjitana Neblet. Play. I play house.

Senator Harris. Do you have meals there?

Tjitana Neblet. We eat there.

Senator Harris. Is the food good?

Tjitana Neblet. Yes. We have spaghetti and meat balls.

Senator Harris. Lee, how many meals a day do you have there at the day care center?

Lee Vasquez. Three. In the afternoon we have snacks. In the morning we have breakfast, and in the middle of the day we have lunch.

Senator Harris. What do you have for breakfast usually.

Lee Vasquez. I usually have my cereal at home and most of the time have toast and juice.

Senator Harris. Do you like to go to the day care center?

Lee Vasquez. Yes.

Senator Harris. What do you do there? Do you learn things?

Lee Vasquez. We learn to make things out of clay and how to build with blocks.

Senator Harris. How many brothers and sisters do you have?

Lee Vasquez. I have a little baby sister.

Senator Harris. Does your mother come with you to the day care center sometimes?

Lee Vasquez. She takes me every morning and my housekeeper picks me up. And most of the time my daddy picks me up. Sometimes we walk and sometimes we go by car.

Senator Harris. Patrice, you graduated into public school, community school, now. Is it near your home also?

Patrice Pitman Hughes Yes, on 81st Street.

Senator Harris. Did you learn how to read or count before you went to school?

Patrice Pitman Hughes. I learned how to read one whole book on the little book rack.

Senator Hughes. What other things did you learn in day care center?

Patrice Pitman Hughes. Counting and working with clay and stuff.

Senator Harris. What about you, Ramon, do you have any brothers and sisters?

Ramon Cala. I have a little brother.

Senator Harris. How do you get to the day care center?

Ramon Cala. I walk.

Senator Harris. What do you learn there?

Ramon Cala. Sounds. Like an "a".

Senator Harris. How old are you?

Ramon Cala. Six.

Senator Harris. Do you eat all of the meals there at the day care center that Lee eats?

Ramon Cala. I eat everything.

Senator Harris. Darnell, tell me what you learn at the day care center.

Darnell Williams. We learn words and colors.

Mrs. Hughes. "Words and Colors" is the reading program that they're using.

Senator Harris. Ramon, do you speak Spanish?

Ramon Cala. Yes.

Senator Harris. Well, good. Mrs. Hughes, can you think of anything else we'd like to hear from these children?

Mrs. Hughes. I'd just like to say that one very important thing is that these children are very important to us and we intend for them to have a good education. In order to do that we have probably a better integrated, racially and economically, school than the United Nations. There is a man in every classroom at West 80th Street. We have infants from two months old up and their total development is following, through each classroom. We have a strong health program. We have a pediatric nurse who is in charge of the infant program and toddler program. We have balanced racially our classroom in that we have, as much as possible, white, black and Spanish-speaking, either Puerto Rican or Santo Domingan, in each classroom so that each child is able to relate to someone personally and value-wise.

H.R. 1 is going to knock out any possibilities for this kind of child care-child development. It will also knock out possibilities for life in that we cannot expect to have any kind of educational system that does not include the family. If we continue to give education in isolation of the family, we will continue to create a difference in that family and split off the parents from the children, and nobody is really growing. It is very important that H.R. 1 is defeated and that all the accompanying programs that are like H.R. 1 are defeated. If not, we all take the responsibility for the death of these children and their parents, and me.

Senator Harris. Thank you. I think the children demonstrate much better than could be told, what can come from a family that is together and involved with a community-controlled day care program—that's really the right kind of program, rather than what we've been talking about where people will be forced to send their children to day care centers the quality of which they object to and in which they're not involved. Anybody who thinks we're going to do that these days is just living in the wrong century, I think. And I think what you've demonstrated here is the kind of thing we might begin to see around the country if we can get that Day Care and Child Development bill passed which the President vetoed last year. Thank you very much. Mrs. Hughes, and thank all you young people for coming.

I want to call next on Dr. Raymond Wheeler of Charlotte, North Carolina. He is an expert on child nutrition and health care, and one of the nation's leading advocates of adequate feeding and medical care programs for poor children. He was a member of the team of doctors during the late 1960's who personally investigated hunger and related health problems in the South and later published "Hungry Children." He is a member of the Citizens Board of Inquiry into Hunger in the United States which is best known for its publication, *Hunger USA*. Dr. Wheeler is also Chairman of the Executive Committee of the Southern Regional Council. Dr. Wheeler, we're pleased you're here.

STATEMENT OF RAYMOND WHEELER, M.D., CHARLOTTE, N.C.

Thank you, Senator Harris. Ladies and Gentlemen. During the past five years, to which you have already referred, serving both as a member of the Citizens Board of Inquiry into Hunger in the United States and also as a consultant with the Field Foundation, I have examined children of the poor in North Carolina, Mississippi, Alabama, Florida, Southwest Texas, Appalachia, and in some of the ghettos of northern cities. I've talked with the parents of these children; I've visited in their homes and their schools. There isn't time for me to described to you in any detail what I have seen in my travels. Nor do I think it is necessary. Most of you have already heard the earlier testimony of my medical colleagues and others of you have seen and heard about sick and hungry children as part of your own investigation and through documentaries and numerous surveys and studies.

I think the case against hunger and malnutrition is now established beyond debate. There are countless families with large numbers of children in America today who are isolated from the mainstream of culture and opportunity, possessing none of the protections of life and jobs and health that most Americans take for granted as a right of citizenship. By our own government estimates, there are at least 25 million poor people in the United States today. Twenty percent of these, or five million people, have annual incomes so low that if all their money was spent on food they would not have enough to purchase a minimally adequate diet. Although the rest are better off, unless they are receiving some kind of food assistance, they are certain to be victims of poverty-related hunger. Among these 25 million poor, there are at least 8 million children who are spending their formative years in a grinding poverty which absolutely guarantees they shall have no future in our society. Malnutrition before and after birth has already impaired them physically, mentally and emotionally. They will not have the capacity to engage in any substantial mental or physical effort which is necessary to succeed in school, to learn a trade, or to assume the full responsibilities of citizenship in a complex society such as ours.

Now that we know the facts about hunger and malnutrition, what becomes most important is that we understand these conditions not just in terms of human misery, but in terms of how they affect the strength and vitality of the society in which we live. First, a poorly nourished child will be more likely to become ill than to throw off an infection. He will be sick for a longer time and his body will be so exhausted from one illness that he will be even less resistant to another. Many of these children will die. In the 300 counties of the United States where hunger is most critical, the infant mortality rate is more than twice the national average. Secondly, the evidence is mounting that malnutrition damages the brain as well as the body. The human brain reaches 90 percent of its full growth before age 4 years. If a child's protein intake is deficient during that critical period the brain just never does develop properly. Scientific evidence increasingly has demonstrated that malnutrition sufficient to impair growth in infants and young children impairs also their learning ability, their memory, their adaptive behavior, and in turn prevents these children from obtaining their full mental capacity and their social development.

There is a third way in which malnutrition can impair both learning and performance. Lack of food produces pain—physical discomfort. It produces lower energy levels. Children become apathetic and irritable. Their ability to concentrate may be impaired. Behavior problems as well as failure in school result. By not feeding children adequately we actually may be negating all of our efforts to educate them. And we may be creating problems for the future. Many of the children grow up distrusting society and in conflict with it. They may become psychological cripples. How we feed our children may have a direct bearing on their capacities for social adjustment, on the potential of our society for crime and disorder, and on the perpetuation of the effects of malnutrition from one generation to the next. All the available data indicates that the children born of and into poverty are malnourished, are frequently ill, often develop irreparable brain damage. They become slow learners who wind up living in poverty and producing children who grow up in this same vicious cycle which condemns them to lifetimes of marginal function. Their lives are characterized by high rates of failure in school, by behavioral disturbances, and physical disability, and ultimately by low levels of employability. Our own Bureau of the Budget has already calculated that for every dollar we save by not feeding people who are hungry and malnourished it costs our nation $3.30 in lost income and productivity by people who are sick or are incapable of performing a job adequately.

It seems to me that if compassion and a desire to restore blighted lives is not enough, perhaps the prospect of a 330 percent return on our investment might make it easier for the government to decide that it can afford to spend some of our tax dollars to eliminate hunger and poverty in the United States.

We know the facts about hunger and malnutrition. We know what conditions do to people and what they do to our society. But perhaps knowing all that isn't really the most important thing. Perhaps we ought to stop talking about hunger and poverty and turn the educational process around and direct it to ourselves. Perhaps we should be asking whether the accumulation of property and wealth, the expansion of our technology at the expense of the quality of our lives really justifies what we are allowing to happen to the children I've described to you today. Perhaps we need to look into our own hearts to find out why we have not demonstrated as a nation the capacity to respond to the plight of 8 million children in our midst who have little hope of meaningful lives. I think it is time that we face the truth that Americans don't really like poor people. At times, of course, we show benevolent concern, we even do minor good works while preserving unchanged the power of the institutions which dominate our society and which perpetuate poverty. We've convinced ourselves that if a man is poor it's by his own doing and all he needs is a little initiative to take advantage of the opportunities which are available to him.

It's very easy and much more comfortable to ignore the fact that welfare recipients are not able-bodied men who are too lazy to work, but rather mothers with dependent children, and the blind and the elderly and the physically disabled. In North Carolina, where I live and work, one-half of our families earn less than $4,000 a year. Half of those families are white. One-fourth earn less than $2000 per year per family. Only 25 percent of the poor in North Carolina receive any welfare assistance. Eighty percent of the poor in that state, who are able to work, and who can obtain jobs, work daily to support themselves as best they can. Furthermore, 40 percent of them work more than 40 hours a week. They are not lazy, but because of circumstances of race, of lack of education, of lack of vocational skills, low wages, high prices, large families, they remain poor and many of their children do not get enough to eat. It's long past the time that we should have put aside our punitive, moralistic attitude toward the poor. I believe that when we have failed to cure man's ills or to provide him with a marketable skill, our social system has failed that man. We have an obligation not just to him, but to ourselves, to provide him with a minimally adequate subsistence that will permit his children a decent chance to make it in our society. We must make certain that in this nation, in this world, no child will ever again know the pain, the humiliation, the loss of opportunity which are the heritage of the poor and the hungry.

There is much that can and should be done immediately. The one most important thing that we can do to lengthen and strengthen the lives of our people, to increase their productivity, to reduce the amount of sickness and death, to remove the hostility and the despair which possess so many, is to feed adequately those who do not have enough to eat. None of the existing food programs has proved sufficient with the problem of hunger. There are people who do not have sufficient food or the money to buy it. We must develop a system to deliver it, to deliver food in adequate amounts to people who need it. And I know of no proposal short of an adequate guaranteed income to every person in our country that will accomplish this objective and I say adequate with emphasis, because I don't think H.R. 1 meets that criterion.

As an interim measure, until an adequate minimum can become effective, or as a supplement to an inadequate minimum income, there should be free food stamps available on the basis of stated need. These should be certified simply on the basis of annual income, number of people in the family and medical expenses. I've never understood the philosophy of a program which determines that a man does not have enough to eat and then requires him to pay money for stamps. Both of the present food assistance programs, in my opinion, should be junked immediately in favor of a free food stamp program.

Secondly, we need an effective national health policy. This perhaps could be created by a Joint Congressional Committee on Health Policy which might be able to pull together the public and the private functions now provided, or not provided, by the fragmented, the overlapping and the inadequate non-system of health care which exists today in this country. I think we tend to forget that health is a broad social concept that encompasses not only illness but a complex interrelationship of genetic, psychological, social, environmental and pathological factors, all of which affect the individual's ability to perform his life task effectively. The existing medical complex, no matter how it is restructured or paid for, may actually be irrelevant to the central health issue. The doctor is helpless for many ailments which account for most of the sickness and death in the United States—heart, kidney, blood vessel disease, much cancer, alcoholism, drug abuse, accidents, the ravages of poverty and malnutrition. In the modern world, housing; nutrition; accident prevention; sanitation; clean water, food, streets and homes have all improved health conditions more than perhaps all the doctors and hospitals combined. Health indices seem much more related to poverty levels within states than to the number of doctors within those states. A program of national health insurance is certainly desirable, but it may serve to increase the demand and therefore the cost of medical care while doing very little to improve either mortality or morbidity statistics, unless we're willing to put more effort into the areas of adequate nutrition, housing and sanitation, especially for the poor.

Most existing health programs today simply do not reach those whose need is greatest, just as the food programs do not reach those who need food most. There is one exception, I believe, and that's the program of the neighborhood health centers funded by the Office of Health Affairs of OEO. This is the one program that I know about which is designed to deal with health and environment as they ought to be dealt with. Ways must be found to strengthen this program, extend it not only to the urban areas of the country, but also the rural areas where this kind of approach to health problems is desperately needed. I think that with this type of approach we can begin immediately to improve the health of our children, to deliver comprehensive health services, to improve the conditions in which women have children, and offer assistance to parents in limiting family size. This is the kind of program, I think, that deserves the enthusiastic support of the entire country. It was distressing to me to find that as far back as the beginning of medicaid, legislation contained the requirement that all children under the age of 21 should be provided with screening, physical examinations, diagnostic services where needed, and treatment where illness or disability was discovered. And not until this year has any real effort been made to implement those provisions. The Senate Finance Committee, however, recently voted to postpone and dilute these needed services.

I hope that this committee will make every effort to see that these benefits are restored to the program. For those of you who are interested in more details of this, I would refer you to the *Congressional Record* of Thursday, March 30, in which Senator Mondale has a statement outlining the problem in more detail.

Finally, I'd like to say that as meaningful and productive as this hearing today may prove to be, it strikes me also in another context—it's absurd. In the richest, most powerful and historically the most generous nation in the world, containing most of the wealth and productivity, it should not be necessary that we meet here today to try to save the lives of children who do not have enough to eat. It's shameful that we've not already used our resources to make certain the right of every child to strength and health. Let a hurricane strike or a mountain valley be flooded, and we see immediate action. Let children suffer quietly of hunger and disease, their potential as human creatures destroyed, and this disaster is simply ignored. You, Senator Harris, have chosen not to ignore, and I congratulate you, for it is an effort such as yours that may eventually make our system work as it is supposed to. Thank you very much for affording me this oportunity.

Senator HARRIS. Thank you. It doesn't make much sense to say to a child that comes out of the background that you've described with poor health and bad nutrition, why don't you pull yourself up by your bootstraps, does it?

Dr. WHEELER. No, indeed, it doesn't. These children are, of course, trapped in situations over which they have no control and are subjected early in life to all the environmental forces which serve to perpetuate their continuing to live in these circumstances. To break out of it is, in most cases, really a superhuman task. A few break out, but not many do. It's so easy for people to turn their eyes away from the obvious fact that there are people in unfortunate circumstances, by virtue of circumstances and not by virtue of any particular characteristic of the individual. I suppose most people in this country today are so devoted to the status quo and believe so thoroughly that the society in which we live can do no wrong, that to look about them and admit that they see a vast group of disadvantaged people simply challenges everything that they believe in. They would have to admit that there are some things about our society that need to be changed, and, they simply can't admit this. And so it's much easier either to deny it or to blame somebody for not lifting himself by his own bootstraps or simply to stick one's head under the pillow and hope it's all going to go away someday.

Senator HARRIS. I like what you say about the really strange feeling of punitiveness toward poor people that exists in this country. I've said on other occasions that it seems weird to me that we want to punish the poor. I've been poor and I think that being poor is punishment enough. It's no use adding any more punishment on to it.

Two things you've said are really basic. So much, if not most, of the basic human problems in America are tied back to the distribution of income—that if you have income you are much more likely to be healthy and if you don't you don't have nearly the chance. And the same is true with regard to nutrition. You've said, for example, that there is a correlation between health and poverty levels, and by increasing people's income is probably the best way by which we've affected health levels. And you've said the best way to assure people enough to eat is by a decent income maintenance system which, as you said, H.R. 1 is not. I think that is really basic. Even when we can get people to get involved in some of these problems the tendency is to treat symptoms. I think it's important that we talk about the people's right to income and then their right, as a result of that, to buy health and to buy enough to eat. In the meantime, I agree with you that at the minimum a child in America ought to have a right to enough to eat, in the richest, most agriculturally productive country in the world. Another thing I liked about what you said is self-interest. If we don't do right by that child to start with, it's going to wind up costing us more in the long run. Somehow we haven't been able to appeal enough on a basis of conscience, and I think maybe if we begin to talk in terms of the self-interest of people we can get somewhere. Thank you very much, Dr. Wheeler.

I want to call next on Dr. George Wiley of the National Welfare Rights Organization, who has been central to these hearings and will present our next witnesses. Dr. Wiley, perhaps you have something to say as well.

Dr. George Wiley. I don't want to speak, but I may stay and respond to questions. Bertha Cavanaugh and her two children Ann Marie and Bobby are here from the Welfare Rights Organization, and Mr. Peter Edelman who is a former legislative assistant to Robert Kennedy and worked through all the welfare legislation of 1967 is going to testify for us today. I'm particularly pleased to have Mrs. Cavanaugh who is on our Executive Committee of National Welfare Rights and her children here today because we want to stress today that the majority of children on welfare are white, and the majority of people on welfare and in poverty are white, and the people being most brutalized by this Nixon so-called Family Assistance Plan are white children. That is an important thing that people ought to understand in this legislation.

Senator Harris. Mrs. Cavanaugh, it's good to see you again, and also Bobby and Ann Marie. Peter, thanks for coming. Peter is also currently Vice President for Policy and Planning at the University of Massachusetts. Mrs. Cavanaugh.

STATEMENT OF MRS. BERTHA CAVANAUGH AND BOBBY AND ANN MARIE CAVANAUGH, PROVIDENCE, R.I.

My name is Bertha Cavanaugh and I am the mother of seven children. I would like to testify today about some of the welfare myths. My reason is simple, I am a welfare recipient. Myth number 1—that hard work is the answer to the welfare problem. I disagree with this wholeheartedly. My husband worked every day and worked as much overtime as his boss would give him. But his take home pay just wasn't enough to support a family of nine. So we had to apply to welfare for general public assistance. My husband is a very proud man and this was a blow to his self-respect; but we had no other recourse to feed our family. We were able to make it with this little bit of help that we got from general public assistance. Then we got hit with another blow, the doctors discovered that my husband had TB. This meant complete rest for four to six months. In Rhode Island it takes five to six weeks to start collecting TDI, so we again had to go to the Welfare Department. When, after seven months, the doctor finally said he could return to work, his employer had no job openings for him. He then went to the Unemployment Agency to apply for unemployment compensation. Now during this time, the Welfare Department was giving us $2.10 every two weeks to help us out. My husband was getting $72 every week from TDI. The TDI stopped. The welfare still at this point is giving us $2.10 every two weeks.

Senator Harris. What is TDI?

Mrs. Cavanaugh. Taxpayers Disability Insurance. We've lost out on our food stamps. The only way I've really saved my food stamps so I'll be able to get them when we finally get settled is that I've been giving my food stamp card to other people to buy my food stamps. Because if you miss your place in the roll you lose them. We go to the welfare and we get a food order for $42 and five or six days later they give us a makeup check. The only way they're really helping us is that I don't have to worry about my rent because they pay it directly to my landlord. But it has left us in an awful fix. We don't have our bill money on time. We don't have the food stamps. We lose out on $37 worth of food every two weeks. That's really affected the children badly in their nutrition.

This has been a big hassle for the whole family. So I went out and tried to get a job. I filled out the application, which asked how many children in the family. Then you have to answer questions like, if you go to work would you have a reliable baby sitter so that they wouldn't have to call you up on the job? If one of your children became ill would you be able to stay in work or would you have to take off? If one of your children got injured would you have to leave work to take them to an accident room or something? After you answer all these questions to the best of your ability and think you have them believing that you can stay on the job, they say that with a family that large they think you should stay home to take care of your children. So if you tell a welfare mother to go get a job and she has a large family, I wish them luck because it doesn't work in Rhode Island.

Then, of course, I have a 16 year old son and he has been out of school 6½ months. He went down to DVR which is supposed to help you get into some kind of training. He's still waiting. He's been waiting for 6½ months for the Division of Vocational Rehabilitation to help him in any way at all.

My favorite welfare myth is the one about all welfare mothers do is have illegitimate babies. Well, it takes two to tangle, and I haven't met a woman yet who was able to produce a baby without the help of a man. So therefore, the child has a father. Maybe he doesn't have his name, but the mother still didn't do it alone. I think that's a helluva title to pin on any child, no matter if he's rich, middle class or poor.

And then we have the myth about those welfare recipients who own color tv's and drive Cadillacs. Who is to say if these people bought these items before they went on welfare. Are they supposed to give them up because some unfortunate thing happened to them and they landed on welfare? I'm not saying that this is always the case, but what difference does it really make; they sure didn't get it from their little welfare check. And it is the only enjoyment that the little welfare children have, and I wish they all had a color television set to look at.

Another myth is that blacks coming up north are the people on welfare. I don't believe that most welfare recipients are black and I don't think that any of you do either. Almost all of the recipients I know are white. But I don't see why such statements are made. Poor is poor and it doesn't make any difference what color your skin is. I have never heard anyone say—see that rich man, he is purple, green or orange. If they don't care about the rich and middle class family and what color they are, why such a big deal about the poor?

We know that a lot of organizations get their money by counting poor heads. But when are the poor ever going to benefit from it? If you are so eager to help the low income and poor, why not just give it to them directly? Then at least you will be sure that the right persons get the benefit of the money. If you give us any less money than you are giving us now, you won't have to worry about people living off the fat of the land. With all the starchy food we'll be forced to eat, we'll have to worry about people eating off our fat. Let's not turn the poor of our country into garbage can pickers. Let's live and let live. We all owe the children of this country this much.

I'm very proud to see Senator Pell here today. And I'm very glad he cares enough to listen to the poor people. Thank you.

Senator Harris. Peter, do you want to say a word before we ask questions?

STATEMENT OF MR. PETER EDELMAN, VICE PRESIDENT FOR POLICY AND PLANNING, UNIVERSITY OF MASSACHUSETTS

I appreciate the opportunity to testify, Mr. Chairman and Senator Pell. I congratulate you for holding these hearings. It shows that some members of the Senate at least, all too few unfortunately, are trying to dramatize the problems that children face in this country, in particular, as is my concern here today, those problems as they relate to H.R. 1, President Nixon's so-called welfare reform proposal.

I'd like to concentrate on H.R. 1, talking about children, but perhaps some other aspects of it too. It is in my judgment the greatest legislative fraud that I've seen in my experience working around the United States. It's not a measure to help the poor; it's a measure to control the poor. Indeed, if there were a question about this Administration's attitude, one might simply contrast the child care provisions of this bill with the fact that President Nixon vetoed a very constructive piece of child care legislation last December. This legislation, instead of trying to help children and provide child care for them, is essentially, as I will show in my remarks, designed to control their parents, control the poor and simply to stack children in day care warehouses while their parents are forced to go to work.

I would suggest that the reason why this legislation has been proposed in the first place is not to reform the welfare system, but rather because the welfare system is working too well. It's finally working somewhat, not satisfactorily—no one is certainly satisfied with it—but in the last five to eight years since the welfare rights movement has gotten organized and become greatly effective around the country, and since lawyers, particularly poverty lawyers, have gotten involved in issues relating to welfare, the welfare system has begun to reach people. There are more people than ever who qualify, not just because of the many unemployed under Mr. Nixon's economic policies, although that's also true, but because people have begun to solve the bureaucracy and because the courts have declared rights—rights to hearings, rights to assistance while a hearing is pending, rights to counsel, rights not to be stymied by unfair residency laws and so on. The fact is that welfare is working all too well. Too many people have solved the system and the Nixon Administration really has decided that they have to find a new way, a more effective instrument, of controlling the poor.

I've been greatly disturbed, Mr. Chairman, by the kind of support which this legislation has received. I think that we have a variety of reasons for it and we ought to understand them. I think newspapers like the *New York Times* are looking for something on which they can support the President. And even though the proposal is a greatly different one from the one which was introduced in 1969—we are now on the fifth or sixth draft and each one of them has been successively worse, the *Times* editorial people say, well we have to support the President on something. There are a lot of people who just don't know what's in the bill, and I hope that your efforts and those of others can continue the process of education before it's too late. And finally there are some who simply do want to find more effective ways of controlling the poor.

Now a real welfare reform proposal would have certain basic elements about it. It would provide assistance to all those who are in need. It would provide incentives for people to work. It would be simple to administer and it would be administered with dignity and due process. I submit that the Nixon proposal, H.R. 1, Title IV, as passed by the House of Representatives, satisfies none of these elements. The providing of benefits is inadequate and because there is no requirement of state supplementation, in contrast by the way of the Administration's original proposal in 1969. Benefits may well be cut for recipients in 44 to 46 states, well over 90 percent of the present recipients of welfare. If there's is any doubt that that will happen, one has only to look at what legislatures all over the country have been doing. In my own state of Massachusetts, New York, Rhode Island, all over the country, in fact with the fiscal constraints that have been caused by the present Administration and that are now confronting the states, the first program that gets cut and has been cut repeatedly is welfare. The invitation is there in this legislation.

The forced work has been widely discussed and I won't go into it in detail, although it is certainly one of the most inhumane elements of this piece of legislation. Now, contrary to earlier drafts, mothers of children all the way down to the age of three will be forced to go to work under this legislation. An exemption will only be for mothers of children under the age of three. I think this is really quite astonishing that we are having this sort of slavery proposed under respectable auspices in this country. And the work has no standards: $1.20 wage, three-quarters of the minimum hourly wage; day care without adequate standards.

Indeed, HEW wants to define the adequate day care budget as costing $2370 a child, and in this legislation they have said that "developmental" day care would cost $866 a child per year. So that for their own purposes they have shaved the cost of adequate day care by two-thirds in a matter of two or three years time. People can be forced into jobs that are distant from their homes without having any kind of protection. This bill provides disincentives for people to work, not incentives, and it will be worse than the present law in that respect. The first $60 of earnings will be disregarded, $720 a year. That is said to be equal to the expenses of going to work. Under present law, the first $30 are disregarded but then all expenses of working are disregarded. You think about $15 as the expense of going to work—you think about carfare, clothing and lunches—the fact is it will cost considerably more than that to go to work. Then, for every additional dollar earned, a recipient will lose 67¢ of benefits which is the same as under present law. Except under this law, in contrast to present law, the recipient will also have to pay his social security tax (5 percent), all applicable state and federal income taxes as well. And, as his income rises, he will lose other kinds of assistance from the federal government—in-kind assistance such as medicaid, food stamps and public housing. So the fact is that by the time a person's income gets up in the high $3,000's, the tax on every dollar of earnings will be over a dollar, by the time you add up the loss of benefits and all the applicable taxes and loss of in-kind assistance. Obviously a system that contains this kind of disincentive to work will in the end not get the people off the welfare rolls and on to the work rolls which is Mr. Nixon's favorite rhetoric. What will happen is, at the end of five years time, the program will not have worked—and this is putting aside the fact that most welfare recipients are not able-bodied males in any case—and again the poor will be blamed.

There are a lot of people excluded from this program, individuals and childless couples are excluded. One thing that particularly hasn't been stressed enough is that the income for purposes of qualification will be adjudged over the previous nine months of earnings. Which means that all seasonal and migrant workers are excluded from this legislation because if they've been working for nine months and they now have zero income, the relevant income will be the average over the previous nine months.

Now all of these things are bad enough, and I would say are adequate reasons to oppose this legislation. But there is an additional element to it, an element of repression. And I use that word advisedly. An element of interference with basic civil liberties which is built into the entire structure of this bill, is built in in a complicated series of ways and has not been adequately publicized at all. Every recipient is thrown off this program every two years and must reapply. Every recipient must report his family income every three months and if the report is not accurate or not timely the person will be fined and the benefits will be reduced for a period of time or can be eliminated entirely from the program. Any person who fails to cooperate in the judgment of the Labor Department, who is deemed employable or deemed trainable and fails to register for work or training will be docked $800. In fact, the basic floor is really $1600, not $2400, for a family of four which makes it lower than all of the states, not merely lower than 44 of the states.

The elements of control are really quite fantastic. The people will be told where they can work, whether they will be trained, whether they're a drug addict and have to be forced into some kind of drug treatment program, whether they're only partially disabled and can be rehabilitated in the judgment of the bureaucrat.

There are all kinds of crimes which have been alluded to in other testimony. The first is that if a man crosses a state line to leave his family to the tender mercies of this wonderful program, he is subject to a year in jail or a $1000 fine.

Under the fraud provisions, and the House Ways and Means Committee tells the Administration to interpret these provisions very, very strictly, if money is converted from one intended beneficiary to another, that would be from one child to another, from one child to a parent, that's a federal crime punishable by one year in jail or a $1000 fine. The elements of control are really quite amazing.

The Ways and Means Committee proudly told us children would be given social security cards and there would be cross-registration among the Internal Revenue Service, Veterans Administration, Railroad Retirement Board and Social Security Administration so that we can find out everything about everyone of the people who come into this program. Senator, it's 1984 for the poor. Now how will that work?

The father leaves home—a man who is alleged to be the father of the child—the House report tells us that the first thing that happens is that the mother will be told as possibly a condition of her receiving aid that she must cooperate in locating that father.

That's how far this goes. And if the man who is said by the bureaucrats to be the father doesn't turn up, the result of the cross-registration on the computers is that, when he is 65 and he comes in and he applies for his social security, he will be told that before he gets any social security the thousands of dollars that were paid out to that woman way back there 30 years ago, he will have to pay back. I find that rather frightening.

The bill also takes us back—takes us away from rights that have already ben achieved under present law: rights of appeal, rights to counsel, and rights of prior hearing. This bill provides that the facts as determined by the Secretary in any administrative hearing will be conclusive if a recipient takes it to court. This is not the case under present law. This bill provides that the Secretary of HEW can determine who is an appropriate person to represent a recipient at a hearing. This is not the case under present law. This bill provides that if a recipient has been told to pay back benefits as a result of the hearing, benefits which he or she was allowed to keep while that hearing was pending, if those were erroneously paid then it is an overpayment and the recipient is going to have to pay them back. This is not the case under present law. It's not possible to qualify for this program by an affidavit and a spot check mechanism which is possible as a state option under the present law. So it takes us backwards in many, many ways.

Now, I've been describing the aspects of H.R. 1, of Title IV, that's been passed by the House. I think one thing that we want to concentrate on for the remaining moment or two is really the tactics of where we are now in the Senate. Senator Harris, with you and I it's "deja vu." We've been sitting here talking to each other since 1967 on these matters. And you've contributed a great deal over the years to trying to inform your fellow senators about the tactical consequences of this kind of legislation in the Senate.

Pending before the Senate are a series of amendments called the Ribicoff package, which admittedly do improve the bill in many respects, although basically by tinkering with language—changes that would be easy, even if the Senate passed them, to remove in Conference. What I want to emphasize is that the Ribicoff amendments, while I'm sure are not intended as frauds, are in fact a fraud. They constitute running interference for the Administration, because if the Senate passes those amendments they will be lost in Conference.

The Conference will be between your chairman, Senator Russell Long, and Chairman Wilbur Mills with the most senior members of the two committees. Any ameliorating amendments, any reforming amendments, that have been adopted by the Senate will be lost in the Conference.

There has been a conspiracy of silence among all of those who understand this and who are supporting the Ribicoff amendments and who are going around saying, "let us pass these amendments and you will get better legislation." The fact is we will not get better legislation. And if Senators are opposed to Title IV of H.R. 1, what they have to do is to oppose the Ribicoff amendments, they have to oppose Title IV and they have to oppose H.R. 1 itself.

A chance to reform the welfare system comes only once every ten or twenty years. If this legislation is passed we will not have another chance for another ten or twenty years. We will be told to wait until it's had a chance to work. A structure will have been imbedded in the law of the United States which is repressive, which is backward-looking, which will not work. We cannot have this happen. We have to let the country know, let all Senators know what the consequences of this bill are and what the consequences of the tactical situation are.

If you can defeat Title IV, if you can defeat the Ribicoff amendments, if you can defeat H.R. 1, you can then go ahead and do what should be done now and what can be done now. This is an election year. There's no way you can get away without passing increases in social security benefits. It's got to be done; it's an election year. The states want fiscal relief under the present welfare system. The governors will support that. You can go ahead and pass that apart from this legislation. We need your leadership, Mr. Chairman, Senator Pell and all the other members of the Senate, we need your leadership right now if we're going to stop this fraud from being enacted and give ourselves a chance to ever enact decent welfare reform.

Senator HARRIS. I want to get back to that in a moment. But I want to first ask Ann Marie and Bobby to say a word or two and then turn to Senator Pell who has to attend another hearing. Ann Marie, how old are you?—in what grade?

ANN MARIE CAVANAUGH. Twelve. I'm in sixth grade.

Senator HARRIS. How old are you Bobby?

Bobby CAVANAUGH. Thirteen.

Senator HARRIS. Are there many of the children that you know as friends whose families receive welfare assistance?

ANN MARIE CAVANAUGH. No.

Senator HARRIS. What about clothes? Do you and Bobby have the kind of clothes you want? Is that a problem?

BOBBY CAVANAUGH. Yes, it's a problem.

Senator PELL. I apologize for not staying right through, but I have an executive meeting going on. I wanted to be here for two purposes. One, to congratulate Senator Harris on holding this hearing because we hear very often from the articulate and the educated and the fortunate. But we do not hear often from the young and the black and the poor. And this is a government which is primarily run, I think for the interests of those who are not young, are not black, and are not poor. One of the reasons being that they don't always take advantage of the franchise of voting as much as they should to be a greater force in the community. In my own state of Rhode Island I congratulate many of the people there who fall in these categories who take advantage of the vote and do vote. You, Mrs. Cavanaugh, I am sure are registered.

Mrs. CAVANAUGH. Yes. And I ran a registration drive too.

Senator PELL. Exactly. I would hope that as many of your friends, of people who are in the same situation you are would do exactly the same thing. The opportunity to you and to your youngsters is very rare for us, and I think this is a wonderful idea. I would like to ask Bobby, how many pairs of shoes you've had in the past year.

BOBBY CAVANAUGH. Two and a pair of sneakers.

Senator PELL. And when will he grow out of them, within the year, won't he?

Mrs. CAVANAUGH. Depends on how much I can afford at the time to pay for them. Sometimes they last two weeks.

Senator PELL. I just wanted to welcome you down here and be here to hear you testify. Good luck to you. In our own state of Rhode Island, welfare has become a poor word. This is one of the problems—the politics of it. But the facts of it are, if you take off the welfare rolls the children and the mothers of pre-school children and the disabled—in other words look at the potential workers, of which there are very few—and then you look at the unemployment in our state—7.8 percent at last count—you realize that we have a problem that is of tremendous proportions.

Senator HARRIS. What is the welfare assistance payment in Rhode Island for a family the size of yours?

Mrs. CAVANAUGH. $289 a month. For a family of nine.

Senator HARRIS. Is there still some of that TDI coming in too?

Mrs. CAVANAUGH. No. That's welfare. When I was getting TDI I was getting $72 a week from TDI and the welfare was only giving us $2.10 every two weeks.

Senator HARRIS. What about the food stamp program, how does that work there?

Mrs. CAVANAUGH. With the size of the family I have now—which is eight because my daughter got married—I pay $61 and I get $98 worth of food stamps.

Senator HARRIS. That $61 comes out of that $289.

Mrs. CAVANAUGH. That comes out twice a month.

Senator HARRIS. And it will buy about a third more food than the amount of money it cost you. What kind of food can you buy for that amount of money? How do you make that last?

Mrs. CAVANAUGH. Well I make a lot of soups—and macaroni and things like that that we can use for two days—especially near the end of the two-week period. But I do try to get a lot of meats in for the kids. As much as I can stretch it.

Senator HARRIS. What about dentists and eye checks and so forth?

Mrs. CAVANAUGH. They get all free medical care.

Senator HARRIS. That's good. Peter, I was going to ask you to comment further on what you said awhile ago. I was very disappointed in Common Cause and the League of Women Voters and other well-meaning organizations and groups that supported H.R. 1 in the House on the basis that maybe we could fix it up in the Senate, because I thought that you ought not to start compromising that early in the game. If you're ever going to do anything, it seemed to me, you're going to have to start right at first. Now we've got a lot of people saying that if we can get passed something good here we ought to do it and then if it comes back from Conference in unacceptable form then we can kill it. That gets us back to this business that Senator Robert Kennedy and I and you and others were involved in, standing in the way of social security increases, which we would have done except for a parliamentary maneuver. I wish you'd comment on that, what are our chances of stopping it down the road if we didn't stop it now?

Mr. EDELMAN. Well, it's the same myth that the proponents of this kind of so-called welfare reform engaged in when the bill was in the House. They said, we'll fix it up in the Senate. We now know it can't be fixed up in the Senate because that will be lost in Conference. The fact is, you and I know that it's very, very difficult to defeat a Conference report. Maybe you can do it sometimes when you're talking about something like the SST, which has a nationally organized fight where all liberals are on the same side, where it's been publicized all over the country.

But the country doesn't understand that this is crumby legislation. Perhaps you can stand up and run a filibuster and if Russell Long who is a pretty clever parliamentary fellow doesn't beat you at that game it will last for a while. But as you say, they're going to come in and say you're holding up the benefits for the old folks. They"re going to come in and say that you're holding up the business of the Senate and it's election year and they have to get out and campaign. There will be incredible pressure on you to stop that. The fact is that I would sit here and predict that it will be difficult, if not impossible, to muster the votes to defeat the conference report once everything has been agreed upon. If it comes down to that I will be on your doorstep telling you to carry on the fight. It has to be done. But the point is that it is the most myopic kind of shortsightedness to sit now while there still is an opportunity to do something and to say let it go to Conference and come back and then we'll fix it up. That's wrong, it's silly and it's ultimately self-defeating and futile. The thing that must be done is defeat this legislation now in the Senate and then pick up the parts of it that are constructive and useful and enact them separately in both the House and the Senate and get them signed by the President. That's the only thing to do.

Let me say a word about the organizations. Common Cause and the League of Women Voters have begun to understand what a terrible mistake they have made—at least the League does and a minority of the board of Common Cause does. We tried very hard when the bill was in the House to get them to understand that that was the day of reckoning, the day that Title IV was passed in the House. I hope they remember it the next time this happens. But they've already done incalculable damage. On the other hand, I think we ought to say for the record that the position of the liberal community on this is not one-sided. The general myth that's abroad in the land is that everyone who is a great liberal supports this legislation of Mr. Nixon's—the League of Women Voters, Common Cause, the AFL–CIO, the *New York Times*, the *Washington Post*. But let's look at the other side of the list—the National Welfare Rights Organization; the Child Welfare League of America; the National Council of Churches; the Family Service Association of America; the Synagogue Council of America; a number of labor unions; Elizabeth Wickenden, Professor of Urban Studies at City University.

The fact is that the list on the other side, the list that takes exactly the position that I took today in my testimony, is equally as long and equally as distinguished.

Senator HARRIS. Thank you very much.

Mrs. CAVANAUGH. I would like to point out that there has not been a single organization of poor people—farm workers, domestic workers, or any group of poor people—that supports this legislation. The people who supposedly it is designed to help are unanimously united in their opposition to it, which I think is very essential.

Senator HARRIS. So the thing to do is kill this legislation, pass some fiscal relief for the states, and then work for some real welfare reform.

Mr. EDELMAN. I agree with that.

Senator HARRIS. Let me ask Ann Marie and Bobby one more question. Do you eat one meal at school? What does that lunch cost, do you know?

ANN MARIE CAVANAUGH. 40 cents.

Senator HARRIS. Do you always have the 40 cents?

ANN MARIE CAVANAUGH. We get free lunches.

Senator HARRIS. Do you? Good. Is there any difference in treatment, Mrs. Cavanaugh, for those who get free lunches? Different lines?

Mrs. CAVANAUGH. Ann Marie has come up with her own thing on that all the way from Rhode Island, and now let her tell you.

ANN MARIE CAVANAUGH. The people on Welfare have to have a yellow card and they go on the same line with the people with money and we have to give them a yellow card.

Senator HARRIS. So everyobdy knows. And you don't like that? Neither do I. Thank you all very much for being here.

I next want to call on Jonathan Kozol and with him is Linda Jordan who is 14. As many of you know quite well, Professor Jonathan Kozol is from Boston, Massachusetts. He is best known as the author of *Death at an Early Age* which describes the crippling and inadequate education offered to black ghetto children in the Boston schools. He has taught in the Boston public schools and is now actively involved in the free school movement, a movement dedicated to providing more meaningful and relevant educational opportunities to children. His newest book, *Free Schools*, has just recently been released. I've asked Professor Kozol particularly to focus on infant death rates at city hospitals.

STATEMENT OF JONATHAN KOZOL, EDUCATOR, BOSTON, MASS.

"Senator, this is hearing primarily for children. I'm speaking here, however, on behalf of children who cannot come here to testify today, or any other day, because they are not living. I'm speaking of children not in Mississippi, not in South Carolina, but in Boston and in New York, who have died in infancy as a direct consequence of inadequate and intolerable obstetric services in ghetto hospitals."

Every city has its third-rate hospital for those whom it considers to be third-rate children. In Boston it is known as Boston City. The situation in this hospital is now so serious that one can only wonder where two respected Senators have been, and why they have not been prepared to speak out on this issue. Where there is no documentation, no man is to blame. *Where there is documentation,* where there is overwhelming evidence, then silence can only be interpreted as acquiescence in the death of children.

Doctors at Boston City Hospital—BCH—have indicated, in signed statements, that patients on the danger-list are often left as long as 18 hours without nurses. 276 nurses walked out of this slum-hospital in less than one year.

The hospital was denied accreditation (by the Joint Commission on Accreditation of Hospitals) in January, 1970. Reasons given included the danger to contamination in obstetric-newborn areas.

Medical Records in the BCH—upon which doctors must rely in order to make critical decisions—currently have a backlog going all the way to 1969. Doctors estimate that over 4,500 records are either incomplete or non-existent. BCH sees approximately 1,000 out-patients in its clinics every day. *200 of those are seen without their medical record.* (Report of House Officers Association, Boston City Hospital, 818 Harrison Avenue, Boston.)

The Joint Commission which took away accreditation from the BCH put special emphasis on possible contamination of obstetric areas. In one of the most shocking statements signed and put forth by the doctors who take care of infants, the point was also made that chaos in the area of pediatric record-keeping is causing danger to the lives of children. Said one doctor, in explicit warning to poor people who have entrusted infants to his care: "We are having difficulty practicing good pediatrics."

The problem has now reached the critical point—one of which few members of the medical profession ever will freely speak—at which, in the signed statements of the House Officers of BCH, it has begun to cause *unnecessary mortality in patients.*

The absence of records, I might parenthetically suggest, is a very familiar phenomenon to anyone who has ever worked within a ghetto school. In medicine, of course, the stakes are infinitely higher. If the listener is in doubt, or if he should be dubious on this score, I urge him to drive over to his doctor's office and ask his doctor how he would like to make emergency-decisions in regard to a cardiovascular problem on a fourteen-year-old child with no medical history, no documents, tests, x-rays or records of previous emergencies available within his office or within the hospital in which he works. It might be well to ask him also how it might affect the death-rate among patients on the danger-list if he were forced to leave them for sixteen hours without nurses.

Abstractions oftentimes have little power to awaken proper rage. Let me be concrete and specific: Black and Puerto Rican infants born at the BCH have twice the risk of death within the first 4 weeks of life as children born in the Beth Israel or the Boston Lying-In—both middle-class white hospitals of Boston. (Figures provided by chief statistician, Lemuel Shattuck Hospital, Boston. See also, "Medicine in the Ghetto," edited by Dr. John C. Norman, Appleton publishers, 1969.)

This figure corresponds to the classic ratio between white infant-death and rates for ghetto children nationwide. Black children in the United States have between two and ten times the chance of dying in the first 12 months of life as white children. The national average is 20 infant-deaths per thousand. In white suburban neighborhoods: 12 to 15. In ghetto neighborhoods: not often lower than 35 or 40; sometimes as high as 60.

In the event that those from Boston, New York or Chicago would like to think that figures of this kind apply primarily to Mississippi, Dr. H. Jack Geiger of Tufts University points out that there are a number of Northern ghetto census-tracts in which the infant death-rate now exceeds 100 children dead for every 1,000 live births. We are speaking here of the dimensions of the Biblical plague. It is difficult to know what words like "equal opportunity" can possibly imply for children who do not even have an equal chance to see the fifth week of their lives.

I have been speaking, up to now, primarily of infant-death. Infant-malformation, however, is also catastrophically high among the black and poor in Boston; so high, indeed, that the men who know the figures are afraid to speak of them for fear of their incendiary implications among those whose children suffer, as a direct consequence. I can assure the Senators that they would not sleep well if they were obliged to look into these documents for very long.

The danger of lead based paint poisoning is now coming to the attention of parents. The plaster in these old tenement buildings is covered with sweet-tasting chips of lead paint which the poor kids eat or chew as it flakes off the wall. Lead paint poisons the brain cells of young children. Infants die, are paralyzed, undergo convulsions, and sometimes grow blind if they chew it over long periods of time. Forces of the law do not compel a landlord to replace or cover over the sweet-tasting crust of paint that paralyzes kids. The law does allow a landlord to throw out a welfare mother if that mother misses one rent payment by as much as 15 days. So there is our equal justice before law. On the face of these conditions it's hard not to ask a question about the curious silence on the part of Boston's prestige medical schools. Several doctors have pointed out in recent months that the Harvard Medical School, one of the most distinguished in the world, derives ironical advantage from this system by virtue of the fact that it obtains through two-class medicine a wide array of devastating cases—cases and conditions a good deal more advanced and therefore medically more valuable, more interesting than doctors could ever find in middle class, white hospitals.

I have heard doctors at Harvard Medical School say to me, "We're getting some good material over there—black kids are good material." Boston has a worldwide reputation as a medical research center, but in terms of basic health care to poor children it is probably one of the most racist cities in the western world. In the opinion of several of the most sober, conservative and respected doctors that I know, black children would get far better pediatric care in either Denmark or Peking than they now get in Boston.

I know one child, 18 years old, she falls down in the middle of the city, she's an epileptic. In the neurological capital of the United States there is not treatment for this child. One night she comes downstairs to the coatroom underneath the church stairs which is the office of the freedom school where I'm working. She asks me please if I would close the door, please would I close the door because she is about to have an epileptic seizure and she doesn't want to bother the other children in the classes. I watch her as she undergoes three seizures in a row. When she can stand up we drive her to Boston City Hospital. There is a three hour wait before she gets to see the intern. He comes out finally and he gives her an injection and some tranquilizers to sedate her and writes out a prescription for phenobarbital. He looks at me then and shakes his head—one white man to another—"It's a goddamn shame," he says, "nobody needs to have an epileptic seizure in this day and age, nobody except a poor black nigger."

The final word on this belongs to two doctors, one of them a young doctor who happens to be black and who also happens to be a doctor on the Harvard staff, expressed his view to me in these words: "If my own daughter were treated in the way I see children treated in this place I'd tear the hospital apart." The other doctor who happens to be white and a lot older, one of the most respected physicians in the country, put it in different words. I sat with this doctor one night during the past winter. We were talking about some of the stories the parents and kids are telling me all the time.

Like many older people he tried to put it off—"Not in my city, somewhere else." Finally he sighed and said: "Who can deny it, (this was in reference to the decline in health care at BCH) the total collapse of patient services at ghetto hospitals follows the classic lines of change in racial character. Boston City was once a world renown, even brilliant, medical institution. Those were the days when it served mostly those of Yankee, Irish, Jewish or Italian origin. In the last 20 years the ethnic character has shifted. There are less Irish, few Italians, and almost no Jews, it has become a hospital at least for the 'untouchables.' And it has become third rate. I hate to say it because I love and always respected Boston City. I had my training there more than three decades back. I did my residence there; I supervised the interns on the Harvard service; I led the medical students on grand rounds. I cannot speak of Boston City without a sense of sadness. There is still some excellent research going on. There are still large numbers of distinguished men and women working there, but BCH is a ghetto dumping ground today. If racism in medicine means anything at all in 1972, then it means Boston City Hospital." Those words came from a very conservative gentleman.

As I said earlier, children can't testify on matters of this kind. The victim of the infant death rate in a ghetto hospital like Boston City cannot come to Washington to make his protest. I've taken license, therefore, of speaking on behalf of those whose lives have been snuffed out or maimed in child birth. I'd like to hope that some of the senators, perhaps Senator Harris, might be persuaded to come up to Boston sometime to take testimony firsthand in my neighborhood. The back door of the emergency ward of Boston City Hospital might be an excellent location. The victims of this tragedy cannot testify, but you might well tape record the crying of their mothers. Thank you.

Senator HARRIS. Thank you very much, Mr. Kozol. I think there's nothing really to add or to ask, except to say that you've demonstrated once again that we systematically destroy millions of children in this country primarily because of their lack of income. I don't think people are going to stand for this kind of maldistribution of the good things in our society which is unparalleled in the modern world among rich, industrial countries, and this sort of exploitation of people, if it continues very much longer. I think your testimony has been a very eloquent and outrageous statement of facts.

Mr. KOZOL. Senator Harris, I would like to introduce one of my students from Boston, a black student. I would briefly like to make one point, or ask of you, if possible, intervention in one area this student cannot speak about. The most obvious educational school atrocities in Boston have to do with black kids. These have been documented and will be documented again in a couple of minutes. But, there's another problem which isn't talked about, a great deal, this deals with the Spanish-speaking children.

Senator Harris. I was going to ask you to tell us about the things we discussed last night. What is the problem with Puerto Rican kids in Boston being kept out of the schools?

Mr. Kozol. There are remarkable, almost unbelievable, statistics, according to a report that was put out last year by Beacon Press done by a lot of very respected citizens in our city. Between one-half and two-thirds of the Spanish-speaking kids just aren't in school at all. They are Puerto Rican and some Cuban and South American children. There are approximately 12,000 school age Puerto Ricans in Boston. Between 6,000 and 8,000 of these children are not in school. The most conservative statistics, even those which are obviously those of the Boston school system, indicate that there are at least as many Spanish-speaking kids out of school as those who are in. For those who do enter, 90 percent drop out by 9th grade. There are approximately, according to a Puerto Rican leader, 3,000 kids of high school level in Boston. But in all the high schools in Boston there are only 90 Puerto Rican children enrolled. With my arithmetic it looks like 2,910 Puerto Rican children are missing in action. A suggestion that I would like to make, and one which some of the Puerto Rican and black leaders in Boston have been speaking about recently, is this: we are always told we should work within the system, and this is a way of working within the system, courts are part of the system, people bring court suits for lots of things in this country. We're wondering why a child who has been kept out of school couldn't bring suit for the money which wasn't spent on him. A year at school in the United States costs $500 to $1000 for every child. In Boston I think it's about $1000.

A child who has been kept out of school for 8 or 10 years, seems to me to have $8,000 to $10,000 coming to him. A year ago a black man named Bill Owens decided he was going to do just this. He took his kids out of public school where they had just been rotting away and put them in one of the parent-operated free schools, one of the street academies the black parents had started, and then he demanded that the city pay him tuition for that school because they were rotting in the school they previously attended. I thought he had a very strong case. I though it was very eloquent and very poignant. But we didn't see any of those good lawyers in the city rushing forward to his defense. Senator, I was thinking, should there be a time in the next few years when by any chance, oversight of the voters or your own decision, you're not in public office, that you would like to come to Boston and help us make a brief. It's admittedly an unconventional idea to sue a city for the years a child has been denied, but rich men are always suing for broken bones and bent Cadillac fenders. I don't see why a kid couldn't sue his own society for broken dreams and dented hopes and ruined expectations. We'd like to have a good lawyer.

Senator Harris. Well said. Thank you very much. I want to call now on Linda Jordan. You live in Boston don't you? And you're in the 9th grade? Do you have a beginning statement you want to make?

STATEMENT OF MISS LINDA JORDAN, STUDENT, BOSTON, MASS.

Not really. I just want to say my name and how old I am. I am 14 years old. I am presently in the Metco program and have been for the last four and a half years. That's a program that is basically voluntary with students and suburban communities like Newton, Brookline, Wellesley. Also other communities like that out in the suburbs outside Boston. They take black students. I can't vouch for statistics to say that the Metco program is wholly black, but from what I have seen, I think it is predominately black. They go from the ghetto out to suburbia to get a better education.

Senator Harris. Where do you go to school?

Linda Jordan. I go to school at Warren Junior High in West Newton.

Senator Harris. How does that work out do you think, Linda?

Linda Jordan. I've been out there ever since the fifth grade. In elementary school I went to Davis School in Newton. To make comparisons with the schools in Boston, I went to William Lloyd Garrison Elementary School. That's the school I left to go to Davis. To compare between the two elementary schools: I never even saw a library while I was in the Boston school. I never went to the library because I didn't have, I guess you could say, the inspiration; no one told us about books or anything. They didn't tell us, why don't you go to the library and look up this person or see that thing. We had no kind of black history or black studies in our school. To compare regular curriculum studies like math or science or different things like that—I don't even think we had science. We had a little bit of art, but we couldn't express ourselves. We had to be told what to draw. Everything was in a routine way. We did nothing out of the ordinary. In math I was getting A's in Boston. When I went out to Newton I dropped down from an A to a C. That shows that although we were doing the same work the teachers in Boston didn't have enough time to spend with us to find out exactly what we were doing. Say I got a D in Newton, the teacher would come to me and find out why I was getting a D. He looks at it that it was not my fault that I got a D, but that it was his fault that he did not take enough time to explain what was going on with a certain mathematical equation. In Boston the teacher just couldn't care less. It just goes into a vicious circle—you're in school in Boston and you don't have any chance of getting into college with what they teach you there. Then you go out to Newton and what they teach you out there in suburban schools while you're sitting next to a white child in a predominantly white school, you get a better education than you would ever hope to in Boston.

Senator Harris. How did you manage to get into that program, Linda?

Linda Jordan. My parents signed me up into it. The Metco program started in 1966. I went in 1967. The communities then were Newton and Brookline. They have about 265 kids in Newton in elementary and junior high schools. They started out with one bus and now they're up to 19 buses. A couple of kids have already graduated from high school in Newton. My parents signed me up into that program hoping that I would do a lot better than I had been in the Boston school. Because they could obviously see that I wasn't learning anything.

Senator Harris. How many other communities are involved in the program?

Linda Jordan. There are more than 30 communities. It's purely voluntary—by the students and by the communities.

Senator Harris. What about the differences in buildings or books and class materials?

Linda Jordan. The buildings in Boston are hopeless. In Boston we have two new elementary schools being built. There is a campus high school that is supposed to be built, but that's on the way. In Newton they're building a new Newton North High School and there is a new South High School. Newton North ought to be finished by the time I get there in September. The elementary school I went to in Boston had no kind of gym, no library, we didn't change from teacher to teacher, we only had one teacher throughout the day who taught us all of our subjects. When I came out to Newton, I never knew there was anything such as gym. What we called gym was playing 5 or 10 minutes of hop-scotch. Then we went back in. In Newton we had gymnastics, soccer, baseball, all different things. I was really amazed with the library. I guess you could call it a kind of hunger. The first year I was there I read about every book that was in the library. And it was a fairly good sized library. It was the only library I had been to in my life. From that time on I started going to the library regularly, because I had a hunger for knowledge. I think most of the kids in Boston have this kind of hunger too, but no one there will tell them to go to the library to see what you can find to read or write a book report on what you find. There was no one there to tell us that. The teachers don't even care let alone take any kind of interest in anything they do there. In comparison, the Boston school is just a dump where they just send kids to say that they are in school.

Senator Harris. Is there a difference in class size?

Linda Jordan. When I went to elementary school, I was taught at that time by Mr. Kozol in the 5th grade; our room was spread out, we had two rooms that joined together. One was a reading room and the other was a room for math and other things. In the 5th grade we focused mainly on math and reading. We had a big room set up with books all over the place and any time you wanted to you could just come in and sit on the rug and read or converse with the teacher or talk to the students. Everything was in a free atmosphere. In Boston, the room is set up with four desks across and nine desks down. Everybody sat in rows in his assigned seat. The teacher stood up front and said, "class we're going to have math so open up your books." In the fifth grade it didn't go like that. The teacher came around and helped us individually. Everybody was doing things at their own pace. In this way they were getting help. The ones who were ahead could go on at their pace and the ones who were a little slower got help from the teacher to help them catch up.

Senator Harris. What's going to happen to those kids who are not lucky enough to go to a suburban school? What sort of future do you think they're going to have?

Linda Jordan. I really don't know. If they're lucky enough to pass the college boards test I guess they can get into college and do whatever they want to. The argument has come up that black kids just can't learn. That is not true. Teachers say that they don't want to teach them because they always make trouble or there is always a certain amount of trouble in the schools and you just can't get along with them, they beat you up if you say something to reprimand them. That's not true. They say that no matter what you do they can't learn and they can't be taught. Any kid is not an angel; they're bound to get in a little trouble. But some kids just have problems and they have to be helped. This isn't noticed at all in these schools. If you mess up once you're out or you're just not cared about. Some kids can skip school for weeks and a truant officer will come to their house but nothing is done. In Newton, if you miss school for three days they call your house to find out what is wrong, what is the problem. It always boils down to in Boston they just don't care. This is a form of racism, in a way, because the ghetto is a part of racism. They say that black people will never be ready, and why they'll never be ready is because they don't have the education to get ready. When you don't have the education to get ready it only falls back on one people, and that's white people because from the time we were brought here in slavery we've always been separated and tried to be turned against each other—even with the house slave and the field slave, they were turned against each other because the white men made the house slaves feel better than the field slaves. White people feel that if we're always separated and we don't have the education to move any place then there'll be no revolution, not by guns but by change. And when we do have this revolution by change in the school system, in the ghetto, that's when we'll be able to say we'll be able to get someplace. We'll be able to send kids to school and know they'll be able to learn something. Maybe we'll be able to have this thing by separate but equal, and it will really be true. These are the things that have to come out in the wash, and they're not coming out in the wash. That's why I'm here to say as much as I can about what's really going on. I'm not going to try to hide this from you or to say what other people tell me to say just so it won't give them a bad impression. I'm going to tell it like it is because this is the way I feel.

Senator Harris. Linda, you're going to make it because you've got what it takes. Because of you I think others may get a chance too. Thank you very much.

CLASSIFIED INFORMATION IN THE SENATE

Mr. GOLDWATER. Mr. President, my colleague from Alaska, Senator Gravel, has a now well-known penchant for presenting classified information to the Senate. Earlier this week he again favored us—this time with excerpts from the so-called NSSM-1 memorandum compiled by the National Security Council. The Senator chose to place emphasis on the part of that memorandum which indicated that the mining of the harbor at Haiphong would be an ineffective military measure. The inference which he would have us make is that the administration itself has said, in the memorandum, that the mining of the harbor would be ineffective, yet now, inexplicably, the administration is mining the harbor. That inference would be altogether false.

In the first place, the memorandum was one of many written to the President. In the second place, the memorandum contained divergent views. In fact, it did not reach any overall conclusions—more accurately, it merely postulated possibilities. For these reasons alone, Senator Gravel's implications should be disregarded.

But even if the memorandum had reached that conclusion, those implications would be no more valid—the memorandum was compiled almost 4 years ago when circumstances in Vietnam were far different from those we see today. For example, at the beginning of 1969, we had half a million American troops in Vietnam, placed there by a Democratic administration. But from a military standpoint, in regard to the mining of the harbor, the most significant differences are: First, that in 1969 the supplies arriving through the harbor were not the modern and sophisticated artillery, antiaircraft, armor, and other weapons on which the current offensive so heavily depends; second, that the North Vietnamese did not have their entire army committed to a massive invasion of South Vietnam; third, that the North Vietnamese had not committed themselves to the kind of conventional warfare which they have been waging since they launched their invasion 6 weeks ago; and fourth, that in 1969 the North Vietnamese had direct access to the southern half of South Vietnam through use of the Cambodian port of Sihanoukville, whereas today the supplies needed to sustain their effort in that half must come from the North.

For Senator Gravel to suggest that one of a number of postulates set forth 3 years ago under wholly different conditions proves that present mining of the Haiphong Harbor will be ineffective would be, in my opinion, misleading, ludicrous, and dangerously deceptive.

Furthermore, Senator Gravel and other critics of the administration seem to want to have it both ways. But simple logic dictates otherwise: either the mining of the harbor will be effective and will bring an earlier end to the war, or it will not be effective and, therefore, there is little reason for the North Vietnamese, the Chinese, the Russians, and Senator Gravel to be so upset about it.

It is time to stop this nonsense. It is time for us to unite behind the President's effort to bring an honorable end to this war. It is time for his critics to acknowledge that the President has set forth most acceptable peace proposals to the North Vietnamese. If they do not, it will simply bolster the view of many that these critics will not be satisfied until they have seen North Vietnam conquer and subjugate our allies to their south.

THE SUN LOOKS AT INFLATION

Mr. PROXMIRE. Mr. President, the Sun, of Baltimore, was kind enough to publish a letter from me the other day and to comment on it editorially.

Mr. President, I ask unanimous consent that the letter and the editorial be reprinted in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Baltimore Sun, May 6, 1972]

A Letter From Senator Proxmire

Elsewhere on this page Senator William Proxmire responds to recent comment here about his views on inflation and its cure. We are happy to see that the distance between his position and ours is much narrower than we had supposed. Very properly he asks why prices continue to rise when there is high unemployment of people and underemployment of plant and equipment. Because, he says, "a few large and powerful unions and a few large and dominant companies have a super market power, that enables them to shove both wages and prices up, when market forces should bring them down." The idea here is the same as ours when we said the cure was "to get government spending into balance with public revenues and wage-prices into gear with productivity." The Senator does not stress deficit spending by government as the original mother of inflation, but doubtless agrees with us that it is; when it comes to the big unions and big corporations which respond to the demand-pull inflation of deficit spending by the cost-push inflation of managed pricing, he and we are at one. Our earlier comment went on to say, however, that while the structural reforms for which Mr. Proxmire speaks were "economically imperative," they were "politically impossible." We had in mind here mostly the zero progress to date in curbing big-union power. The outlook for business control is not so bleak—there are, after all, antimonopoly laws applied day in and day out to business—which are explicitly withheld from trade unions.

Proxmire on Inflation

Sir: This is in response to your lead editorial of Tuesday, May 2, entitled, "A Point But Not a Remedy."

In the editorial you state that I have a point that anti-inflation isn't working very well. But my remedy is to shuck the whole wage-price program and "learn to live with inflation."

I absolutely, categorically and completely deny that "to learn to live with inflation" is any part of the Proxmire remedy. I recognize that inflation is a serious and tragic economic problem, second only to unemployment.

Certainly we must use the most effective economic policy actions we can to stop it.

I did say that we should get rid of most—but certainly not all of our present anti-inflation program.

It isn't working—as any consumer can tell you. The administration has started within the past few days to move in the right direction by exempting small business.

They should go farther. They should recognize that the kind of inflation we have now is not the kind that we had in World War II when there were serious shortages of manpower and goods.

Now we not only have more than five million persons out of work, we are operating at a slack 75 per cent of capacity.

Why do prices continue to rise under these circumstances? The reason: because a few large and powerful unions and a few large and dominant companies have a super market power, that enables them to shove both wages and prices up, when market forces should bring them down.

The solution: zero in on the big unions and the big companies. Let the rest of the economy that is still subject to the pressures of competition operate freely. This would permit the present inadequate enforcement machinery to concentrate where it should.

This course is not likely to be popular even with consumers unless they take the time to think it through; and it certainly will be opposed hot and heavy by big labor and big business.

But it makes sense and it cannot be characterized as "learning to live with inflation." . . .

William Proxmire,
United States Senator.

Washington.

JUDGE THOMAS B. FINAN

Mr. MATHIAS. Mr. President, when a man has lived long enough to place an accurate value on the various aspects of life, he knows how to appreciate friendship. When he has additionally been educated in the hard school of politics he knows that friends are the most valued product of a life spent in seeking and fulfilling the trust of others. And when a friend is lost, the loss is felt accordingly.

Tom Finan's death has dealt that kind of blow to me and to thousands of other Marylanders. He was a man who did not let his party inhibit his friendships, nor his friendships affect his partisan loyalty. He achieved a right balance in his life, and never let politics or professional competition subordinate his constant and endearing interest in his family, of whom he often spoke. He took particular pride and pleasure in the education and progress of his sons, to whom he has left the legacy of a fine example.

Although he did not grasp the leadership of the executive branch of State government, he was clearly qualified and destined to preside over the judicial branch. Death may have prevented the formality of his elevation to the chief judgeship, but it cannot affect the primacy he attained in the regard of his brethren of the bench and bar and his wide circle of admirers and supporters.

Marylanders who knew him little, or not at all, were moved by the untimely death of Judge Thomas B. Finan of the Maryland Court of Appeals. His loss deprives our judicial system of a most distinguished legal mind and leaves his many friends saddened and diminished by his departure.

The Baltimore Sun of May 9 contains an editorial which sets forth succinctly Judge Finan's contribution to all of us. I ask unanimous consent that it be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Baltimore Sun, May 9, 1972]

Thomas B. Finan

Judge Thomas B. Finan's untimely death at 57 leaves a gaping hole on Maryland's Court of Appeals. He was a kind and friendly jurist whose impish smile masked a strong, even-handed approach to his work. In his demanding job, Judge Finan reviewed numerous cases and, like the other judges of the court, produced about 50 opinions annually. It was not surprising that death caught him at his desk in Cumberland reviewing briefs during the current recess.

A native Western Marylander, Tom Finan stepped upon Maryland's political stage in 1959 as Governor Millard Tawes's secretary of state. Two years later the Governor named him Maryland attorney general which, during the turbulent early 1960's, was one of the most sensitive posts in state government. Mr. Finan interpreted laws dealing with racial relations, reapportionment, school prayers and the rapidly changing police powers over criminal suspects. Oftimes he dutifully went to court to argue the state's position. Always he presented his case with justice, understanding and aplomb, even when he lost.

In 1966 he ran for Governor in the Democratic primary. Party dissension worked against him. He managed in defeat, however, to retain his grace, and it wasn't surprising that he was named to the Court of Appeals. He was considered a natural successor to the chief judgeship upon the retirement of Hall Hammond, May 18.

The court now has two vacancies instead of one. For Governor Mandel, the job of replacing Judges Hammond and Finan will be difficult indeed.

PLIGHT OF MINORITY POPULATIONS IN BANGLADESH AND PAKISTAN

Mr. HARRIS. Mr. President, I ask unanimous consent to have printed in the Record two New York Times articles published on May 8 regarding the plight of minority populations in Bangladesh and Pakistan.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the New York Times, May 8, 1972]

Bhutto Bars Trials in Pakistan of Bengalis Held for Sabotage

Rawalpindi, Pakistan, May 7.—President Tulfikar Ali Bhutto ruled out tonight holding trials in West Pakistan of Bengalis accused of sabotage during the December war. Such trials had been suggested as a possible counter-move to reep Sheik Mujibur Rahman, the Prime Minister of Bangladesh, was holding war crimes trials there of captured West Pakistani soldiers and civil servants.

President Bhutto also reiterated that he would not recognize Bangladesh before holding talks with Sheik Mujib, who has insisted that he will not meet President Bhutto until Pakistan grants that recognition.

Mr. Bhutto also said that Pakistan would not agree with India to disarm. But he suggested that the extent of post-war rearming depended on Indian "ambitions"—presumably to be appraised when he meets Prime Minister Indira Gandhi.

President Bhutto made his statements at a press conference he called to announce a forthcoming trip to visit Middle Eastern and African Moslem countries that supported Pakistan during the war; to say that no "secret agreement" was made two weeks ago at preliminary talks with India, and to proclaim that, as a result of a power-sharing agreement with Opposition parties in Baluchistan and the Northwest Frontier Provinces, "the disintegration of what remains of Pakistan is now impossible."

Mr. Bhutto said that his meeting with Mrs. Gandhi would take place after his Middle East trip. He is scheduled to leave Pakistan on May 29 and return on June 10.

Mr. Bhutto said that his government had evidence of Bengali sabotage during the war, but when asked if the Bengalis would be brought to trial, he said "no, never—out of the question."

"There have been certain things done by individuals which would invite trials, but I rejected it," he said. "They have taken secret documents. We have caught them red-handed, but I have ordered no action."

There are several hundred thousand Bengalis in West Pakistan, including 24,000 soldiers and 12,000 civil servants, according to the Pakistani Government.

[From the New York Times, May 8, 1972]

Dacca Criticized on Refugee Care—Supplies at "Danger Point," Red Cross Aide Says

(By Robert Trumbull)

Dacca, Bangladesh, May 7.—Officials of the International Committee of the Red Cross here have severely criticized the handling of tens of thousands of non-Bengali refugees by Bangladesh authorities.

Laurent Marti, Swiss head of the International Red Cross mission in Dacca, leaves for the organization headquarters in Geneva today to report on conditions in the crowded areas of makeshift huts and ragged tents where an estimated 200,000 members of Moslem minority groups live in hunger, fear and squalor.

The Bangladesh Red Cross, which took over responsibility for the camps from the International Red Cross on April 18, has allowed the supplies of food and medicines in the camps to fall to the "danger point," an official of the international organization said. The official, who declined to be named, described the situation in the camps as "wholly unacceptable."

He said that the average individual food ration of 500 calories a day provided for the camps by the International Red Cross had dropped to 100 calories daily for the last 12 days.

The official said that the International Red Cross headquarters in Geneva would be asked to bring pressure on the Bangladesh Government to provide the "vital minimum" of food and medicine for the refugees.

"Otherwise they will die," he declared, adding that health conditions in the two largest camps, in the Dacca suburbs of Mohammadpur and Mirpur, had become "very dangerous."

The refugees are mainly from the 800,000-strong Bihari Moslem colony, which has been accused of collaborating with the Pakistani forces in the war between Pakistan and India last December, in which this former Pakistani province became an independent republic.

Following the withdrawal of Indian forces from most of Bangladesh after Pakistan's surrender, many Biharis—some say thousands—were the victims of reprisal killings by Bengalis.

Homeless, many gathered in camps for mutual protection.

Sheik Mujibur Rahman, the Prime Minister, has promised safety to Biharis who wish to be "good citizens" of Bangladesh, and many have returned to their former jobs, but those intimate with conditions in the camps say that many Biharis are afraid to leave the camps and want to go to Pakistan.

Bengalis, including the Prime Minister, openly show irritation at the concern often exhibited by foreigners over the condition of the refugees. They insist that many Bengalis displaced by the conflict with Pakistan are in even worse condition, if less visible in this crowded city of 1.5 million than the Biharis concentrated mainly in Mohammadpur and Mirpur.

TO WHAT END? (PART II)

Mr. HART. Mr. President, following President Nixon's announcement last month that the United States was escalating bombing attacks in Vietnam, I asked:

> What end justifies the terrible costs which inevitably result from massive bombing?

In asking that question, I had in mind not only the terrible toll in human lives, but also the terrible toll the use of bombs and other explosives extracts from the land.

There can be no debate about the extensive use of explosives in Vietnam.

Since 1965, U.S. forces have exploded the equivalent of 142 pounds for every acre in Indochina and 584 pounds for every person in Indochina.

Profs. Arthur H. Westing and E. W. Pfeiffer made three tours of war zones in Vietnam in an attempt to assess the effects of such wholesale use of explosive.

Their dismaying findings are reported in an article entitled "The Cratering of Indochina," published in the May edition of Scientific American.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Cratering of Indochina

(By Arthur H. Westing and E. W. Pfeiffer)

The unprecedented use of herbicides on a massive scale as an instrument of war in Vietnam has prompted several studies of the probable long-term effects of these chemical agents on the land of Indochina. Much less attention has been paid to the effects of the tearing up of the land by bombing and shelling. Yet the released tonnage statistics alone suggest that these effects must be sizable. In the seven-year period from 1965 to 1971 the area of Indochina, a region slightly larger than Texas, was bombarded by a tonnage of munitions amounting to approximately twice the total used by the U.S. in all the theaters of World War II.

During three tours of war zones of Indochina to assess damage done to the environment by herbicides, we became increasingly conscious of the ubiquitous scarring of the landscape by bomb and shell craters. From the air some areas in Vietnam looked like photographs of the moon. How would this cratering of the land affect life and the ecology in Indochina when its people attempted to pick up normal living after the war? It seemed that the physical alteration of the terrain by bombing might have created long-range problems fully as serious as those produced by the defoliation campaign (which had attacked more than five million acres of forest and cropland in Vietnam). In order to initiate investigation of the crater problems, the two of us went to Vietnam for a preliminary study in behalf of the Scientists' Institute for Public Information in August, 1971. From the U.S. Department of Defense we collected the limited information that was available to the public about the expenditures of munitions in Indochina. Then in the field we surveyed bombed areas on the ground and from the air (in helicopters) and interviewed many people, including farmers, lumbermen and other persons who had observed various effects of the bombing on the land, the economy and various occupations.

In the seven years between 1965 and 1971 the U.S. military forces exploded 26 billion pounds (13 million tons) of munitions in Indochina, half from the air and half from weapons on the ground. This staggering weight of ordnance amounts to the energy of 450 Hiroshima nuclear bombs. For the area and people of Indochina as a whole it represents an average of 142 pounds of explosive per acre of land and 584 pounds per person. It means that over the seven-year period the average rate of detonation was 118 pounds per second. These average figures, however, give no indication of the actual concentration; most of the bombardment was concentrated in time (within the years from 1967 on) and in area. Of the 26 billion pounds, 21 billion were exploded within South Vietnam, one billion in North Vietnam and 2.6 billion in southern Laos. The bombardment in South Vietnam represented an overall average of 497 pounds per acre and 1,215 pounds per person; the major part, however, was focused on two regions; the five northern provinces and the region around Saigon.

Craters pock every area of South Vietnam: forests, swamps, fields, paddies, roadsides. Certain areas, notably the "free fire," or "specified strike," zones, show severe cratering. We personally observed large areas that had been subjected to intensive transformation of the landscape in Tay Ninh, Long Khanh, Gia Dinh, Hau Nghia and Binh Duong provinces around Saigon and Quang Ngai, Quang Tin and Quang Nam provinces of the northern part of the country. And of course the concentration of craters is particularly marked in areas such as the demilitarized zone (DMZ) between North Vietnam and South Vietnam and the supply trails in southern Laos.

We were able to visit on foot an area in the Mekong Delta that had been until fairly recently a free-fire zone. The area was near the hamlet of Hoi Son about 30 miles south of My Tho. Farmers were being resettled here on their previously fought-over land because senior officials considered the region fairly secure. (The degree of security became evident during our stay when U.S. aircraft were observed rocketing and strafing only a few miles away.) Several families that had left the area a decade earlier because of fighting were interviewed, and they took us to three craters that they said had been made in 1967. The craters had probably been produced by 500-pound bombs dropped by fighter-bombers. Each crater was about 30 feet in diameter, filled with water, and at the time of our visit was about five feet deep in the center. The entire immediate area had been a rice paddy, but during the years when no cultivation had occurred, the rice had been replaced by a very tall reed, genus *Phragmites*, which surrounded the crater at a distance of 10 to 20 feet. Growing from the rim of the craters and into the reeds was a species of relatively short grass, *Brachiaria*, and a taller grass, *Scirpus*. The farmers were growing seed rice near the craters and were plowing under the reeds and grasses in preparation for planting rice. It was obvious that they could not use the cratered areas for rice cultivation because the water was much too deep. The only apparent solution was to bring in soil from elsewhere, but this was obviously not practical.

We also observed at close hand many craters on the flat terrace lands northwest of Saigon that had previously supported an evergreen hardwood forest. In this area the craters generally contain no water during the dry season, so that their natural history is considerably different from the history of the craters of the Delta region that are permanently filled with water. The craters were very numerous in this area; there was at least one every 100 feet. Each crater was 20 to 40 feet across and five to 20 feet deep. There were many generations of craters from different air strikes. The most recent ones were bare of vegetation but contained some rainwater. (We observed these craters in the wet season.) In the older craters a few sprigs of grass, probably *Imperata,* were sprouting in the center. As the craters age grass grows radially, eventually covering the bottom to meet vines trailing down from the peripheral vegetation. There is some filling of old craters with soil washed down from the sides, but this is limited because old craters almost completely covered with grass were still five to 10 feet deep. They thus became permanent features of the landscape.

From the data available to us on the quantity of munitions expended we calculated tentative estimates of the total area affected by cratering and other damage to the land. For these estimates we had to make some very free and general assumptions. For example, we assume that about half (by weight) of the total amount of munitions employed in Indochina consisted of bombs, shells and other missiles that would produce craters. We assume further that on the average each of the crater-producing missiles was equivalent to a 500- pound bomb and formed a crater 30 feet in diameter and 15 feet deep, displacing 131 cubic yards of earth. (A large proportion of the cratering has been produced by B-52 bomber raids; each of these big planes typically carries 108 500-pound bombs.) We also estimate that the fragments from each crater-producing missile were spread over an area of 1.25 acres.

On the basis of these assumptions (some of which are supported by actual measurements) we estimate that the number of craters produced in Indochina by the bombardments from 1965 to 1971 totaled some 26 million, covering a total area of 423,000 acres and representing a total displacement of about 3.4 billion cubic yards of earth. The area of missile-fragment spread totals 32.6 million acres, if we disregard overlap. Again we note that South Vietnam has borne the brunt of this damage. In the period mentioned (through 1971) South Vietnam is estimated to have received about 21 million craters, covering all together about 345,000 acres, and to have had millions of acres contaminated by missile fragments, even allowing for overlap. The total area of the country is 42.8 million acres.

Let us now examine some specific effects, for the present and for the future, of this massive application of "landscape management" by high explosives. There is evidence from previous wars that the effects will be long-lasting. A decade after the end of World War II the craters of heavily shelled areas on Okinawa were still barren of vegetation and reddened by rusting shell fragments. On Eniwetok craters were clearly in evidence two decades after the war. Four decades after World War I vegetation in the Negev desert of Israel outlined the craters from that war, and even in France's Verdun area many of the World War I craters are still clearly visible and in some cases to this day are devoid of vegetation.

To begin with, we can see that the displacement and scattering of soil and subsoil from the craters in Indochina have given rise to harmful physical consequences. (Over the seven years the displacement of soil by bombardment in Indochina proceeded at a rate of nearly 1,000 cubic yards of soil per minute.) In hilly terrain the tearing up of the soil promotes erosion. In Indochina, where some of the soil is vulnerable to laterization (hardening to a bricklike state), the removal of vegetation and humus may make the area in and around craters permanently barren. At the least it has resulted in colonization of cratered regions by weedy, worthless grasses and shrubs. Furthermore, the deep craters have made many areas almost impassable for travel.

Many of the craters, particularly in the Delta and coastal regions, have penetrated the water table and remain filled with water during much or all of the year. They have thereby probably become breeding grounds for mosquitoes, greatly increasing the hazards of malaria and dengue fever for the population. Reports by military authorities indeed confirm that "malaria has been causing increasing concern in Vietnam" and has spread to previously unafflicted areas.

The impact of cratering on agriculture has been substantial. Farmers in South Vietnam, notably in the Mekong Delta, have been reluctant or unable to attempt to reclaim rice paddies or other farmlands that have been pocked by craters. One of the important deterrents is the presence of unexploded munitions buried in the ground. A number of farmers have been killed by the detonation of such shells or bombs by their plows. Moreover, the ubiquitous missile fragments in the ground cut the hooves of the water buffaloes used as draft animals, causing infection and death of the animals. The unexploded bombs and shells lying about in the soil of Indochina are known to number several hundred thousand. Bombing has also disrupted rice-growing in Indochina by breaking up many of the intricate irrigation systems, and in some areas near the seacoast it has opened the land to encroachment by salt water.

The timber industry of South Vietnam, potentially one of the most important elements in the region's predominantly agricultural economy, has been particularly hard hit by the bombing. It has catastrophically slashed the values of the once prime timberlands northwest and northeast of Saigon, for example. The heavy shelling and bombing have damaged the trees in three ways: outright destruction, riddling of the timber by missile fragments and subsequent weakening of the trees through infection by wood-rotting fungi.

The forests have been bombarded by ordnance so intensively that the trees are filled with metal shards; one millowner told us that four out of five logs he receives have metal in them. Although the sawmill operators make laborious efforts to chop out the pieces of metal, they are only partly successful, with the result that they have a high rate of destruction of their saw blades by still embedded metal. In trees left standing the missile-fragment wounds provide ready entry for fungal rot. In some tree species the rot progresses so rapidly that if they are not harvested immediately after the metal attack they soon become almost worthless. Apparently the main South Vietnamese timber trees lose about 50 percent of their value in two or three years from this cause. Rubber trees are particularly susceptible to the fungal rot initiated by missile-fragment wounds; they become so weakened that they are felled by any high wind. A French official of a rubber plantation told us he had lost 80 percent of his trees within two years after a bombardment of his plantation.

Loggers in the battle zones of South Vietnam find that the damaging of timber by munitions is causing them a loss of more than 30 percent in the price received for the logs (although the severance tax remains the same). In addition the profusion of craters impedes the hauling of their logs to the mill. Often they must cut the logs to a short length (instead of the desirable 90 feet that is possible under normal circumstances) to allow sufficient maneuverability to skid them around around the craters. During a survey in a high-flying helicopter of a mountain forest near Da Nang we saw many craters on the mountainside and along the ridges with severe accompanying erosion; they had been produced by a single B–52 raid about a year and a half earlier. We also observed another significant type of damage: large areas of the forest had been burned out, apparently by incentiary attacks with napalm, white phosphorus and flares.

Bombardment and defoliation are by no means the only methods used by the U.S. military in its struggle with vegetation in Indochina. Beginning in the mid-1960's a vast program of systematic forest bulldozing has been developed. The employment of massed tractors organized into companies for extensive forest clearing had apparently replaced the use of herbicides to deny forest cover and sancturay to the other side. The effectiveness of the tractors, called Rome plows, is in some ways clearly superior to that of chemicals and is probably more destructive to the environment. When we visited a land-clearing operation in August 1971, we watched about 30 such plows (20-ton Caterpillar tractors fitted with massive 11-foot-wide, 2.5-ton plow blades and with 14 tons of armor plate) scrape clean the remaining few areas of the Boi Loi Woods northwest of Saigon. We learned that in the 26 days prior to our visit the company had cleared 6,037 acres. Four other companies were also in operation and these five units had cleared a total of 750,000 acres as of August, 1971. We visited an area that had been plowed several years previously and it had regrown to cogon grass (*Imperata*), making further successional stages to the original hardwood forest very unlikely.

A study by U.S. agents has determined that about 10 percent of the agricultural land of South Vietnam has had to be abandoned because of the destruction wrought by bombardment and other weapons used in this war. It has been a war against the land as much as against armies. Indeed, it appears that one of the main strategies of our military effort has been to disrupt and destroy the social and economic fabric of rural, agricultural Vietnam in order to drive the peasant population into areas under central control and to deprive the guerrilla enemy of a power base.

Only about 5 to 8 percent of the U.S. bombing missions in Indochina have been directed at tactical military targets, that is, in direct support of troops. The rest of the bombing missions are described as "harassing" or "interdiction" attacks. They are also referred to as strategic bombing missions. Whereas the targets of strategic bombing in World War II were the factories, port cities, railroads and so forth of the enemy, in the Indochina war the strategic targets are the land and forests of Indochina because they give cover and sanctuary to the other side. It is important to note here that whereas factories, ports and other man-made sources of production can be rapidly rebuilt, as demonstrated in Europe and Japan, it is doubtful that many of the forests and lands of Indochina can be rehabilitated in the foreseeable future.

From 1966 on the B–52's carried out incessant attacks on a schedule of almost daily missions. From an altitude of 30,000 feet, where they are usually unheard and unseen from the ground, they have been sowing systematic destruction. A typical B–52 mission, comprising seven planes on the average, delivers 756 500-pound bombs in a pattern that saturates an area about half a mile wide and three miles long, that is, nearly 1,000 acres. Thus on a schedule of four or five missions per day of seven sorties each, such as was followed during 1971, the B–52's alone were creating about 100,000 new craters each month. Unfortunately the release of air-war data is now severely restricted.

The cumulative impact of the munitions attack on the land has to be seen to be grasped fully. Reports by military observers speak of the landscape's being "torn as if by an angry giant," and of areas of the green delta land's being pulverized into a "gray porridge." Our brief survey has only suggested some of the grim consequences for the present and future life of the inhabitants of Indochina. Still to be assessed are the effects of the persisting bombardment on the people's habitations, on the animal life and general ecology of the region. The damage caused by the large-scale disorganization of the environment may be felt for centuries.

Meanwhile the steady bombardment and shattering of the land, shielded from the Western world's view and concern by the wide Pacific Ocean and the supposed "winding down" of the war, goes on with no end in sight.

Senator Gaylord Nelson of Wisconsin has introduced in the Senate a bill to provide for a study by the National Academy of Sciences "to assess the extent of the damage done to the environment of South Vietnam, Laos and Cambodia as the result of the operations of the Armed Forces of the United States . . . and to consider plans for effectively rectifying such damage."

Senator Nelson declared:

"There is nothing in the history of warfare to compare with [what we have done in Indochina]. A 'scorched earth' policy has been a tactic of warfare throughout history, but never before has a land been so massively altered and mutilated that vast areas can never be used again or even inhabited by man or animal. . . . These programs should be halted immediately before further permanent damage is done to the landscape.

"Our program of defoliation, carpet bombing with B–52's and bulldozing . . . did not protect our soldiers or defeat the enemy, and it has done far greater damage to our ally than to the enemy.

"The cold, hard and cruel irony of it all is that South Vietnam would have been better off losing to Hanoi than winning with us. Now she faces the worst of all possible worlds with much of her land destroyed and her chances of independent survival after we leave in grave doubt at best."

NEW INTERNATIONAL MONETARY SYSTEM

Mr. JAVITS. Mr. President, Walter B. Wriston, chairman of the First National City Corp., in a speech before the Bankers' Association for Foreign Trade on May 9, 1972, has made a most useful contribution to the debate that is presently underway on the future of the international monetary system and the role of the dollar within this system.

The points that Mr. Wriston so eloquently made and which deserve the attention of Senators include the following:

1. The world must live from now on with the reality that the dollar is just another currency. Like other currencies, it is not immune to pressures. Nor is it immune to devaluation whenever our external accounts are persistently out of balance.

2. The time has come for greater exchange-rate flexibility. This could help solve a multitude of problems. If currencies were exchanged at their true market values, there would be massive balance of payments surpluses or deficits. Adjustments would tend to be taken care of by the market.

3. What I suggest to you today is that neither fixed exchange rates nor the convertibility of the dollar into gold represent very realistic options in today's world. Unfortunately, the choice before the world is either to go back to the jungle of exchange controls, nationalism and momentary trade advantage; or, alternatively, to accept a greater exchange rate flexibility between the dollar and the other major currencies in the world.

4. It is a time for a new beginning of a new international monetary system. It is not the time to go back to yesterday's mechanism nor for the nations of the world to turn inward and to re-build a network of controls. The ability of the free markets to adjust to the realities of the world is enormous and exceeds even the confidence of their greatest advocates. We should urge it along. The dialogue has already started. Today, more than ever, there is an urgent need for the highest degree of international cooperation, both at the governmental and the private level.

I ask unanimous consent that the complete text of Mr. Wriston's address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

The Global Attic

(By Walter B. Wriston)

A great deal has been written about the direction and tempo of change in today's world. America's attitude toward gold is a case in point.

There was a time just before the Second World War when a top economist of the Federal Reserve Board, Mr. E. A. Goldenweiser, predicted that one of the great problems facing the world and the United States would be to achieve a redistribution of gold after World War II. Our severest critic would now concede that such a redistribution has been achieved.

As learned men have worried about our capacity to distribute gold to the world, so also in the past there has been at least one time when the United States was reluctant to accept gold—even as a gift. That hesitation occurred in the early 1800's when the wealthy British scientist, James Smithson, directed that his entire estate should go to the United States to establish an institution "for the increase and diffusion of knowledge among men."

Those of you who are impatient with the progress of monetary reform can take comfort in the fact that the question of whether or not to accept the largess of the late Mr. Smithson was debated in and out of the Congress for ten years. While the controversy raged, the legacy—nearly 105,000 British pounds paid in gold sovereigns—was delivered from the hold of a clipper ship to the Philadelphia mint where it was smelted down and recast as American coin. In those days, this came to an amount well over a half a million dollars, which was a considerable fortune.

The money itself was deposited in the United States Treasury at an interest rate of six percent per annum. It remained there until Congress, largely through the urgings of John Quincy Adams, who had to overcome the strong objection of John C. Calhoun, graciously accepted this alien gold in 1846 and with it created what is now the Smithsonian Institution.

Irreverent souls have dubbed the Smithsonian Institution, America's attic, for into it we pour all the memorabilia of this country. After the recent meeting of the Group of Ten Finance Ministers in the Romanesque commons room of the Smithsonian to hammer out a new international financial package, the ministers left behind a kind of monetary memorabilia. They gave the Institution renewed prominence, turning it from America's attic into a global attic.

Museums, after all, are treasure houses of the past; they are places where people go to see beautiful or valuable objects or to see things which were once important, but no longer function as useful things in our society. In this larger sense, it seems to me fitting and proper that a museum was the setting for the signing of an agreement which sharply departs from two once valuable and important monetary institutions.

It is possible that the concepts of fixed exchange rates and the convertibility of the dollar into gold were left in the Smithsonian to take their place beside Eli Whitney's cotton gin, the Spirit of St. Louis and rocks from the moon. In another sense, perhaps we should be hanging up in the costume gallery at the Smithsonian, a suit of the Emperor's clothes because the world perceived that these twin pillars of our monetary system existed for a period long after they had ceased to have any reality.

While they existed, they served the world very well indeed. The link to gold helped the dollar evolve gradually into the main international reserve asset. It led to an open and expansive international monetary system which responded unobstrusively to the action of the Governors of our own Federal Reserve Board. This system provided a degree of international monetary stability which allowed the dismantling of the network of exchange controls that had been built just prior to and during World War II. But men and nations tend to endow their successful institutions with an unlikely immortality—often without really understanding why these institutions worked or how much of their success depended upon wholly extraneous conditions.

The world is full of folklore and myths which are stated as facts and upon which many seemingly logical arguments are based. It is the old story of being more comfortable with illusion than with truth. The international monetary arena is no exception. One of the fundamental tenets of times past was the desirability of fixed exchange rates. The case has been made, time and again, that one of the main reasons world trade has grown and prospered since the end of World War II was because we had a system of fixed exchange rates. This premise, which is often accepted as gospel, is in reality no more than a polite fiction.

Let me remind you, for example, that the largest two-way trade in the world is between Canada and the United States. The Canadian Government has never fixed the price of gold. Canada, in fact, also allowed its exchange rate to fluctuate from September 1950, until May 1962, and again from May 1970 until the present day.

Our friends in Europe sometimes take this illustration as atypical. They tell me that Canada and the United States are somehow different. At times, Europeans forget that Italy did not have an established par value for the lira with the International Monetary Fund from 1946 until 1960. France, often said to be the bastion of monetary orthodoxy, did not establish a par value with the IMF during the ten years between 1948 to 1958. France, where fixed exchange rates are spoken of with reverence, has changed its currency in relation to other currencies no less than seven times since 1948.

Out of 21 major industrial countries, only the United States had no change in the par value of its currency between 1946 and last December. Twelve of the 21 nations devalued their currencies more than 30 percent against the dollar. Five nations—Germany, the Netherlands, Switzerland, New Zealand and Austria—had upward revaluations. Of the world's leading currencies, the yen was the most nearly fixed after the dollar. The exchange rates in the developing countries have been even more unstable.

In reality, absolute fixed rates were indeed a myth. We have long paid lip service to them when, like the Emperor's clothes, they did not really exist. What we had, instead, was a fixed dollar that became the bench mark against which other currencies fluctuated. The dollar was said to be as good as gold, and the option of devaluing the dollar against other currencies to redress our own balance of payments was not open to the United States. Other nations, however, could avail themselves of the option of devaluing against the dollar. The record shows that in a period of so-called fixed exchange rates, this option was used by other countries again and again.

The fixed exchange rate system probably reached its zenith in 1958 when many exchange controls were removed and general external convertibility was introduced. The test of the compatability of fixed exchange rates and free exchange markets then began. Unfortunately, it was free markets that gave ground and, indeed, the United States was among the countries which began imposing new exchange controls early in the 1960's.

It could be argued that these controls were aimed not at defending the dollar, but at defending the price of gold and the fixed exchange rates. Since then, we have seen controls become more and more pervasive in a series of futile efforts to support inflexible rates.

The other myth which sustained us in the postwar period was that the dollar was convertible into gold. We have all known, at least since 1960, that the convertibility of the dollar into gold was a myth. We all knew that if any central bank in the world attempted to convert a massive amount of its dollar reserves into gold, the United States would use every diplomatic device to dissuade them. The money traders of the world knew too, that if any nation persisted in demanding gold, the United States would shut the gold window.

The statistics show that the United States' share of the world's monetary gold, which in 1949 reached 70 percent, has declined today to roughly 25 pecrent. In a dangerous world it is unrealistic in the extreme to believe that the U.S. would not keep enough hard metal reserves to meet any contingency. It was obvious, therefore, to all who would look, that the day would soon come when we would not permit our gold reserves to dwindle further.

One of the reasons that world trade grew and prospered in the postwar era was the relative peace that the world enjoyed. In no small measure, this relative calm could be attributed to the fact that the United States of America paid the price to hold the nuclear shield protecting both ourselves and our allies and kept the uneasy balance of power. Over the years, we have paid a disproportionate amount of these costs, which are now beginning to be shared more equitably. While we paid the check for the defense of the free world, on the commercial front the American dollar fueled the revival of Europe and Japan.

In fact, the world learned to live off the U.S. balance-of-payments deficit and to enjoy it. The Japanese were able to permit the yen to become substantially undervalued relative to the dollar and such undervaluation acted as a massive and continuing subsidy for its own exporting industries. A return to the convertibility of the dollar would be a return to efforts by the United States to continue underwriting a fixed exchange rate system, which in trade terms has worked largely against our interests.

These days are past, and the concept of a dollar convertible into gold, which really has not been anything but a concept for a number of years, should be left in the Smithsonian with the other exhibits.

Money and trade must always be viewed together and the Smithsonian Agreement recognized this fact, since it has become increasingly evident that the barriers to American exports were growing around the world. The use of trade restrictions of one kind or another as an instrument of national policy to readjust the balance-of-payments equilibrium was specifically authorized by GATT and IMF decisions. Happily, these privileges have been used sparingly. To those at home and abroad who shy away whenever the linkage of trade and money is mentioned, we must constantly reemphasize that they are, in fact, inseparable.

At this moment in history, the world is suffering from a kind of cultural shock since for the first time in a generation, American negotiators have seriously advanced our own economic national interest and not just the concept of freer trade. This posture has been taken by some of our friends as an indication of arrogance and rudeness when, in fact, this is not the case. Our position reflects only the realities of the day. It marks the end of the postwar period when the United States picked up the check for the world, while at the same time permitting our trading partners to raise barriers to the export of American goods. It is a new world, a new set of circumstances, and it calls for new attitudes all around the table.

The Bretton Woods Agreement was a masterly document which basically lay fallow until the late Per Jacobsson breathed life into the Fund. It was drafted in an era in which the assumption was made that the nations of the world would be politically willing and able to accept the discipline of the gold exchange standard as a brake on their domestic priorities. The system that actually developed really imposed no such discipline, and it is difficult to find a historical example of a nation which did, in fact, consistently subordinate its domestic economic policies to the requirements of international payments equilibrium. The fact that the United States underwent four major recessions in the last twenty years—none of which corrected our balance of payments—is often overlooked in harsh admonitions from our friends abroad who keep insisting that we should put our "house in order" though restrictive monetary and fiscal policies.

The classical gold standard, so brilliantly described many years ago by Jacob Viner, could operate in the days when national value systems were quite different from what they are today. One has to live in a dream world, not the real world, to believe that the government of any nation will permit the discipline of the balance of payments to override what it perceives to be its own national priorities. Whether we like it or not, there is not a government in the world which is not committed to maintain full employment for its citizens. If the choice is perceived to be between maintaining reasonably full employment and readjusting currency values, the decision is predictable.

What made fixed exchange rates possible was the special status of the dollar. The acceptability of the dollar as a reserve asset, coupled with the Federal Reserve's expansive policy in the Sixties, helped other countries to maintain high growth rates and full employment, and at the same time to build their international reserves. Under this system, U.S. payments deficits actually fueled world production and trade. In effect, the Federal Reserve became, perhaps unintentionally, a kind of supranational central bank shaping monetary policies around the world.

Other nations were not always happy with the consequences of this set of circumstances. This was particularly true after 1964, when the United States first began to be accused of exporting inflation. The Federal Reserve's international role, however, had its beneficial side. It served to coordinate monetary expansion in the other industrial countries suffi-

ciently to keep their price levels more or less in line with each other. In retrospect, the Federal Reserve's role made it possible for major exchange rates to remain relatively stable prior to the mid-Sixties.

To be sure, the apparent link between gold and the dollar added to its attraction as a reserve asset. But that link also concealed the politically unpalatable fact that the world was on a *de facto* dollar standard. In reality, it was not the dollar's supposed link to gold that made this system work, but rather the dollar's fixed value in relation to other currencies.

While other exchange rates might rise or fall individually, the dollar was presumed to be immutable. It was taken for gospel for a long time that the dollar itself would never be devalued by the United States. Nor would it be devalued by the collective revaluation of other important currencies. This post-World War II assumption is what made the dollar, for so long, the international money *par excellence*. This is what made it possible for the United States to serve as a kind of central banker to the world.

All of this is now history. The general upward movement of other currencies against the dollar in the spring of 1971 was the point of no return. The formal suspension of the gold link and the Smithsonian Agreement merely drove the point home.

The world must live from now on with the reality that the dollar is just another currency. Like other currencies, it is not immune to pressures. Nor is it immune to devaluation whenever our external accounts are persistently out of balance.

There are many people in Europe and some in this country, however, who cling to the old monetary myths. They insist there is no alternative to fixed rates and the gold-dollar system. They claim that all countries have the responsibility of keeping their external payments in balance at fixed exchange rates by domestic measures. My conclusion is different. The evolving international monetary system must be more flexible than that. It must not be put in the strait jacket of fixed exchange rates—at least between the dollar and other major currencies. It must not be dependent upon the convertibility of the dollar into gold or into Special Drawing Rights. These are no longer realistic options.

The time has come for greater exchange-rate flexibility. This could help solve a multitude of problems. If currencies were exchanged at their true market values, there would be no massive balance of payments surpluses or deficits. Adjustments would tend to be taken care of by the market. This would greatly reduce the importance of international reserves and also the whole problem of what reserves should consist of—gold, silver, diamonds or Special Drawing Rights. Flexible rates would also eliminate the intricate machinery for trying to keep the values of various reserve assets stable.

Not the least of the virtues of such flexible rates would be a state of affairs in which we would again become masters in our own house. This is to say that we, and other countries as well, would be more at liberty to run our domestic economic life without worrying so much about the alignment of our price levels or business cycles with the rest of the world. The movements of the exchange rate would automatically adjust for any imbalances. In short, flexible or floating rates would render unto the market what belongs in the market.

The bureaucrats of the world are all brothers under the skin and will relentlessly press the notion on their political masters that the world should once again go back to the jungle of exchange controls. The tendency to hold fixed exchange rates in such high regard seems to provide a legitimate excuse for the imposition of exchange controls and other trade barriers as a means of maintaining these rates. The process feeds on itself. There are always voices raised in high places suggesting that the United States control its outflow of capital, that other nations control the inflow of capital, and that the judgment of the free market be negated by a network of regulations. All this, despite the fact that short of an all-out war, there is no instance in recorded history where direct controls have worked over any extended time frame.

The tide of nationalism is rising around the world and the voices of those who would throw away the experience of dismantling trade barriers in the last quarter of a century are growing louder. In my own country, we have the introduction in our Congress of the Burke-Hartke Bill, which is perhaps the worst piece of legislation introduced since the Smoot-Hawley Tariff. In the expanding Common Market, the progress in lowering the barriers, tariff and non-tariff, against our goods is slow. It is time for those of us who believe in free markets internationally to stand up and be counted. It is time for people of all nationalities to review the dreary history of controlled economies and to speak out for free markets.

Since it threatens the popular old myths, a freer system of exchange rate adjustment has enjoyed a bad press; nevertheless, the wider bands set by the Smithsonian Agreement are a first tentative step in the direction of freer exchange rates.

It is an interesting irony of history that people always prefer the devil they know. The general response around the world to the breakdown of the gold and dollar system has been a general reassertion of the belief in fixed exchange rates and convertibility of the dollar into gold or at least into Special Drawing Rights.

What I suggest to you today is that neither fixed exchange rates nor the convertibility of the dollar into gold represent very realistic options in today's world. Unfortunately, the choice before the world is either to go back to the jungle of exchange controls, nationalism and momentary trade advantage; or, alternatively, to accept a greater exchange rate flexibility between the dollar and other major currencies in the world.

If rates were made more flexible, the question of the dollar's convertibility into gold or Special Drawing Rights would lose a great deal of its apparent importance. Payments deficits and surpluses between the dollar and other major currencies would tend to be minimized. This process, in turn, would tend to downgrade the importance of the question of reserve assets and convertibility.

It is time for a new beginning of a new international monetary system. It is not the time to go back to yesterday's mechanism nor for the nations of the world to turn inward and to rebuild a network of controls. The ability of free markets to adjust to the realities of the world is enormous and exceeds even the confidence of their greatest advocates. We should urge it along. The dialogue has already started. Today, more than ever, there is an urgent need for the highest degree of international cooperation, both at the governmental and the private level. The complexity of the problem argues for deliberation rather than for speed.

Those of us who work in the area of world trade and finance must use whatever influence we have to insure that the new payments mechanism will continue to permit the world to expand its areas of freedom, and not to return to the restrictive practices of the late 30's and the World War II period. Nothing less than the direction and prosperity of the world is involved in this decision.

McGOVERN ON HOUSING

Mr. HARRIS. Mr. President, the 1972 election could prove a watershed in American history. For the first time since the turn of the century a man has become a major contender for the Presidency by raising fundamental issues about the nature of our society.

As more and more grateful voters are beginning to understand, the campaign of GEORGE McGOVERN is not following the traditional pattern. To the astonishment of journalists, political pros, but not the electorate, he is asking questions that in previous campaigns candidates have been afraid to ask. These are questions such as the following: What is a fair tax system from the standpoint of the average voter instead of the money interests? What level of defense spending do we really need when even the Defense Department's own boosters admit there are billions of dollars wasted in Defense spending?

Not only has Senator McGOVERN asked such questions, but he has courageously attempted to answer them. He has provided the country with detailed position papers outlining what a McGovern administration would do to correct the grave political and social problems facing the country. More than any candidate from either party in my memory, he has been able to say that people who vote for him have an opportunity to understand the kind of program they are endorsing.

Mr. President, Senator McGOVERN recently outlined his views to the American public on another vital issue facing the country, the housing crisis. Twenty-three years ago the Congress pledged that every American family should be able to have a decent home "as soon as feasible." Yet today the log cabin where Abe Lincoln was born in 1809 was a better home than millions of American families have today.

Six million families still live in substandard housing. Millions more, who are more affluent, still cannot afford to pay the price of a new home. The average American family cannot afford to pay much more than $15,000 for a home. Yet the median price for a conventionally built new home is over $27,000.

To meet this crisis, Senator McGOVERN proposes a national housing policy based on ending the exclusive power of private developers, speculators, brokers, dealers, and mortgage banks to decide where livable housing will exist and who can occupy it. In its place, Senator McGOVERN will transfer that power to the housing consumer, by endorsing the right to decent housing "not through guarantees to the builder and the banker, but by income support for the individual."

Other Senators will wish to study Senator McGOVERN's innovative proposals in the field of housing. I therefore ask unanimous consent that they be printed in the RECORD.

There being no objection, the proposals were ordered to be printed in the RECORD, as follows:

McGOVERN FOR PRESIDENT

Senator George McGovern charged today that the Nixon Administration has "abandoned the nation's cities."

In an address to a nationwide conference of neighborhood organizations seeking to end real estate abuses, McGovern cited Administration neglect of center city needs and said Federal housing programs "have become engines for destroying decent homes and livable neighborhoods, and for perpetuating segregated housing."

He said the "first requirement for saving urban neighborhoods and ending urban decay is a new Administration in Washington."

Along with rigorous regulation and enforcement against unscrupulous housing practices, McGovern offered a housing policy based on ending "the exclusive power of private developers, speculators, brokers, dealers and mortgage banks to decide where livable housing will exist and who can occupy it."

He said part of that power should go to the housing consumer, by enforcing the right to decent housing "not through guarantees to the builder and the banker, but by income support to the individual."

Another part, he said, "must be assumed by the public—by Federal, State and local agencies working to build communities instead of just the component parts."

In line with that policy, McGovern said an initial direct federal investment in land, using the power of eminent domain, could assist the development of integrated satellite communities that would be coordinated with transportation and would fit into a sensible pattern of metropolitan growth.

To Reclaim American Cities

(By Senator George McGovern)

I am grateful for the opportunity to participate in this important national conference on housing abuses.

You are confronting issues which bear directly on human life and dignity. And that is not a capricious description.

Our investigations in the Senate Select Committee on Nutrition and Human Needs have uncovered shameful conditions of hunger and malnutrition in this country—conditions which afflict and disable millions of American men, women and children.

But we have also discovered that many Americans who suffer bad diets do so because they are driven to a choice between food and shelter, and they choose shelter first.

Housing costs have first call on poverty income. A decent diet must come from what is left over.

That single example demonstrates that you are wholly correct in regarding access to good housing as a first priority national concern.

You are equally correct in focusing on housing abuses—in real estate dealings, in insurance, in home finance, and in the operation of government housing programs—as a primary influence in the destruction of the urban environment.

They are propelling us ever faster toward the two societies—toward the metropolitan apartheid and the economic caste structure—that was foreseen by the Kerner Commission some three years ago.

And they are transforming our central cities into decaying prisons for the poor.

You know how the process works:

the blockbuster who uses panic to produce high volume housing sales,

the "investor" who buys houses at distress prices,

the unscrupulous real estate salesman who inflates the price, misrepresents the condition of the house, and finds an unsuspecting buyer,

the mortgage company which makes any loan it can shove past FHA,

and then FHA itself, often swallowing false appraisals, often failing to examine credit, nearly always guaranteeing mortgages on systems which underwrite FHA ghettos.

When foreclosure is inevitable an "investor" may buy the deed and collect illegal rent.

Or the buyer may just pull up stakes, leaving FHA with the property and the mortgage company with a claim on the national treasury.

But in any case another good neighborhood has fallen.

We are just beginning to see the dimensions of this disaster.

The physical destruction is most obvious—rows of abandoned houses, boarded up shells and vacant lots. All major cities have their examples.

But the most painful harvest is bitter people.

Low income minority families are bitter because they have been sucked into shoddy housing by unscrupulous dealers and FHA money.

And the whites who moved out are bitter because they lost their investment in their homes, their neighborhoods, and a way of life.

Each tends to blame the other.

But in fact both sides have been victimized by a collection of fast money artists, assisted by an agency that was set up to work for the people.

The housing programs designed to promote home ownership and to rehabilitate the older areas of American cities have become engines for destroying decent homes and livable neighborhoods, and for perpetuating segregated housing.

The truth is that the Nixon Administration has abandoned the nation's cities to this hopeless process.

It has failed to use its authority, both for criminal prosecutions and regulations, to end the practices this conference is addressing. Despite repeated requests from citizens groups, HUD has failed to move in all but the most flagrant cases.

In one of its last acts in office the Johnson Administration opened the doors to previously excluded minority groups. But the Nixon Administration followed through by cutting the manpower assigned to help newly eligible buyers—an open invitation to the process I have just described.

The early talk about an urban growth strategy fell dead at the lips of Administration spokesmen.

Project Rehab—the rehabilitation counterpart of Project Breakthrough—has fallen flat on its face.

Funds to deal with the burgeoning problem of abandonment of center city homes remain unspent and unproductive.

The condition of the center city has been ascribed to many causes. But most of all it stands as a monument to the misplaced priorities and the bungling of the Nixon Administration.

It follows that the first requirement for saving urban neighborhoods and ending urban decay is a new Administration in Washington.

We need an Administration that will come down hard on the side of groups seeking to end housing abuses.

That new Administration must actively regulate mortgage banking, including systematic credit checks so that buyers will no longer be bilked into paying more than they can afford.

It must end sweetheart arrangements between FHA and realtor-appraisers, arrangements which permit and encourage the sale of substandard housing at inflated prices.

It must eliminate the point system on FHA-guaranteed loans—a system which enforces housing segregation just as effectively as a billboard reading "whites only."

Most of all, the new Administration must adopt some fundamental new directions in housing policy.

We must make the decision to end the exclusive power of private developers, speculators, brokers, dealers and mortgage banks to decide where livable housing will exist and who can occupy it.

Part of that power must go instead to the housing consumer.

We ought to establish decent housing as a basic right of citizenship in this country, enforced not by guarantees to the builder and the banker, but by income support to the individual.

Specifically, the minimum taxable income grant which I have proposed for all Americans should be accompanied by a housing allowance with variations according to income and local housing costs. The individual should have a chance to choose between a one-time capital grant, to rehabilitate an existing residence or to meet the down payment required for conventional financing, or stretched out assistance to help with rentals or federally-guaranteed loans.

Action of this kind would do more than anything else we might imagine to break down barriers to integrated housing, simply by allowing the market to work and by expanding the range of economic choices.

Another part of the power of decision must be assumed by the public—by Federal, State and local agencies working to build communities instead of just the component parts.

One way to do this would be to direct new towns' funds at the point of the most immediate and urgent need—on small satellite communities adjacent to major cities, and ultimately in the cities themselves. An initial direct federal investment in land, using the power of eminent domain, could assist the development of truly integrated communities, coordinated with transportation and job prospects and fitting into a sensible pattern of metropolitan growth.

There are other essential elements to a serious program to save and restore the inner city.

The federal government should assume at least one-third of elementary and secondary education costs, allocated to meet minimum standards of educational quality in every school.

That is the kind of commitment we must have if we are to truly end the system in which a child's chance to attend a decent school depends on where he is born, where he is bused, or where he runs to escape a declining urban environment.

And it is the kind of commitment we must undertake, along with replacement of the welfare system, if we are to release local revenues for essential community services in every neighborhood—for fire and police protection, for waste disposal, for public utilities, and for other responsibilities of local government.

The programs I have outlined can transform our society. And they are realistic prospects for the 1970's.

They will not be accomplished by the Nixon Administration. You've seen the symptoms in tax policy, in economic policy, in anti-trust enforcement, in Lockheed loans, in housing, and in a host of other areas. This Administration has a congenital incapacity to place the public good ahead of special privilege—a disability it was born with because of its sources of support.

Nor will these hopes be realized by old politics candidates who get their money from the same places; who are long on spending promises and short on plans to raise the funds; or who propose to tinker with the system and call it new priorities.

Instead the 1972 elections must make a real difference in how the national government raises and spends its revenues.

That is why my first major proposal in this campaign was a plan to rewrite today's fiction of a progressive tax structure—a tax reform program that can raise $28 billion a year with no change in rates.

And it is why my second major proposal was an alternative program for national defense that will recapture more than $32 billion from a bloated, wasteful and dangerous military establishment.

In the last analysis it is on programs of that kind that the future of our cities, and the future of our society, will depend.

And I make one guarantee here today.

If this campaign is successful, those programs will be pressed with every ounce of energy I have, and with every shred of power in the presidency.

I welcome your advice, and I ask your support.

U.S. FOREIGN POLICY

Mr. DOLE. Mr. President, just over 3 years ago when President Nixon took office, the United States was entrapped in a foreign policy noted more for its excesses than for its restraint. Members of this body argued that America had become the world's policeman.

President Nixon has from the outset set out to change things. Six months after taking office he voiced what is now called the Nixon doctrine, saying:

> We must avoid that kind of policy that will make countries in Asia so dependent upon us that we are dragged into conflicts such as the one that we have in Vietnam.

Today, the war in Vietnam is a very different war from what it had become by 1969—under the guidance or misguidance of two Democratic Presidents and a Democratic Congress.

What was an American war in Vietnam has become increasingly and overwhelmingly an effort of the South Vietnamese people to insure themselves a chance to choose the kind of lives they live.

PRESIDENT NIXON HAS SAVED AMERICAN LIVES

President Nixon has withdrawn over 500,000 troops. And he has saved the lives of American troops who were dying at the average rate of more than 1,000 a month. Even our draft calls have been cut by three-fourths—and by 1973 will have dropped to zero.

In recent weeks the North Vietnamese have made very plain their true intention regarding South Vietnam. They are not seeking an end to American assistance for South Vietnam. They are seeking an end to the existence of South Vietnam—by whatever means necessary. On Easter weekend, the full armies of North Vietnam began a total invasion of South Vietnam, complete with new and advanced weaponry provided—for whatever reason—by other major powers, including the Soviet Union.

It was in response to this act of incredible arrogance—fueled by enemy deceit at the so-called peace table—that the President moved to prevent the North Vietnamese bandits from receiving further supplies with which to kill more people whose only crime is a desire to be left only to live their lives in peace.

SOME SEEM TO FORGET THEIR PAST

I am sad to say that even this new and most flagrant violation of international law and decency has not aroused some Americans. I am bewildered by the vacillation exhibited by some whose major aim seems to be to forget their part in creating America the world policeman so they can feel free to criticize a President who has not only moved to change American policy, but has moved to change our policy in a way that will not destroy our friends.

During the 1960's who was it that made Vietnam a war without end? Who sent American troops there? Who promised South Vietnam all the help they needed?

Independent of the wisdom of making those promises, there is a deeper moral problem. Should men who made those promises and made possible a conflict of growing proportions, desert a President who is trying to keep their promise. Should those who raised South Vietnamese hopes, yet could not make them come true, castigate a President who is merely trying to prevent a North Vietnamese army from completely ending those hopes?

THE UNITED STATES SHOULD CONTINUE TO BELIEVE IN DIGNITY

The notion of bipartisanship does not mean that Members of the U.S. Senate should not disagree about foreign policy, but it does mean that the President of the United States should not be the victim of the kind of invective we have heard from some during the last few days. It does mean that the United States should continue to believe in the dignity and the authority of international law. And that aggression unchecked, furthered by other great powers, if not stopped will come to harm us all.

It is one thing for American armies to protect those who would be easy prey to aggression. It is something else for America to turn her back on those who steeled by our promises are still fighting to protect their own land from enemy hands.

John Kennedy once said:

> While we shall negotiate freely, we shall not negotiate freedom. Our answer to the classic question of Patrick Henry is still "No. Life is not so dear and peace is not so precious . . . as to be purchased at the price of chains and slavery." . . . We will always seek peace—but we will never surrender.

That is the promise which caused America to commit so much to the South Vietnamese fight for a free choice. Let all of those who applauded his words admit today that the sentiments are any less worthy now and that today after encouraging the hopes of South Vietnam they will decry the efforts of this President to give such words some meaning.

EEOC FILES FIRST LAWSUIT UNDER TITLE 7

Mr. JAVITS. Mr. President, last February, after a monumental 5-week struggle on the Senate floor, we enacted into law a proposal to give the Equal Employment Opportunity Commission the power to enforce guarantees against employment discrimination contained in title 7 of the Civil Rights Act of 1964. Under the new law, the EEOC is permitted to file suits directly in the Federal courts to redress violations of title 7.

The EEOC today filed its first complaint under the new law. It is extremely gratifying that the Commission has been able to act so swiftly to utilize its new authority. Today's lawsuit may well indicate that we are about to enter the last, but clearly the most important and decisive phase, of the struggle to eliminate unlawful discrimination in employment opportunity once and for all. I am gratified to have played an active part in securing the passage of the new law. I ask unanimous consent that the Commission's press release concerning the suit filed today be printed in the Record.

There being no objection, the release was ordered to be printed in the Record, as follows:

EEOC Files First Suit Under New Enforcement Power

Washington, D.C.—The United States Equal Employment Opportunity Commission today filed its first court action pursuant to the Equal Employment Opportunity Act of 1972. The complaint, filed in the United States District Court for the Middle District of Florida, Jacksonville Division, named as defendants the Container Corporation of America, six local unions and four international unions with which the local unions are affiliated.

The Commission alleges that the defendant company maintained segregated lines of progression and segregated facilities, used unvalidated tests as screening devices, and limited training opportunities for good jobs to white males. The defendant unions, all signatories to collective bargaining agreements with the company, were alleged to have "aided and abetted Container Corporation of America in the performance of the discriminatory practices . . ."

The suit follows unsuccessful attempts to conciliate complaints, previously filed by an EEOC Commissioner and by individual parties, alleging unlawful employment practices which discriminate against blacks and women at the company's Fernandina Beach, Florida plant.

An EEOC investigation found that both women and blacks were virtually excluded from higher positions in all its operations. Women were limited to clerical positions; blacks were used mainly in custodial and laboring jobs. The company is the only major industrial employer in the immediate area, which has a heavy black population.

The decision to file the suit was approved by a unanimous vote of the five presidentially appointed members of the Commission, which asked the Federal court to order "all such relief as will serve the purposes of the civil rights act." The complaint specified 13 actions which the court might order the defendants to take. These included a complete revision of seniority systems, special training for blacks and women, elimination of unvalidated tests, payment of back wages lost due to discrimination, hiring of blacks and women in a specified ratio, and revision of union by-laws to protect black members.

In addition to Container Corporation of America, the defendants include: International Association of Machinists and Aerospace Workers and its local, Island Lodge No. 40; International Brotherhood of Electrical Workers and its local unions Nos. 1924 and 2018; International Brotherhood of Pulp, Sulphite and Paper Mill Workers and its affiliates, Bucaneer Local No. 802 and Fort Clinch Local No. 415; and United Brotherhood of Painters, Decorators, and Paper Hangers of America and its local union, No. 164.

United States District Court for the Middle District of Florida, Jacksonville Division

Equal Employment Opportunity Commission Plaintiff, versus Container Corporation of America: International Association of Machinists and Aerospace Workers, Island Lodge, No. 40, International Brotherhood of Electrical Workers, Local Union No. 1924, International Brotherhood of Electrical Workers, Local Union No. 2018; International Brotherhood of Pulp, Sulphite and Paper Mill Workers, Bucaneer Local No. 802; International Brotherhood of Pulp, Sulphite and Paper Mill Workers, Fort Clinch, Local No. 415; United Brotherhood of Painters, Decorators, and Paper Hangers of America, Local No. 164; International Association of Machinists and Aerospace Workers; International Brotherhood of Electrical Workers; International Brotherhood of Pulp, Sulphite and Paper Mill Workers; and United Brotherhood of Painters, Decorators and Paper Hangers of America, Defendants.

I

This is an action brought by the Equal Employment Opportunity Commission, an agency of the United States Government, seeking relief from violations of Title VII, Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.*, as amended by Public Law 92–261 (March 24, 1972).

II

All conditions precedent to the institution of suit have been fulfilled.

III

Defendant Container Corporation of America is an employer subject to Title VII, Civil Rights Act of 1964, as amended.

All other defendants are labor organizations subject to Title VII, Civil Rights Act of 1964, as amended.

IV

The unlawful employment practices alleged below were and are being committed in Florida and venue properly lies in this judicial district.

V

Defendant Container Corporation of America operates facilities at Fernandina Beach, Fla., where it has engaged and is engaging in discriminatory employment practices against blacks and women, in violation of Title VII, Civil Rights Act of 1964, as amended, including, but not limited to, the following:

1. It has maintained a policy of hiring and assigning its employees on the basis of race, with blacks being hired for and assigned to the less desirable, more arduous, and lower-paying jobs with the least opportunity for advancement, and with whites being hired for and assigned to the more desirable, less arduous, and higher paying jobs with greater opportunity for advancement, a policy it followed on a formal basis until at least 1967, and in substance follows to the present;

2. For at least five years subsequent to the effective date of Title VII, it unlawfully maintained racially segregated seniority lines to the disadvantage of its black employees;

3. While it has belatedly integrated certain of its seniority lines and departments, the mechanism used for such integration perpetuates into the present the effects of past discrimination, locks black employees permanently into positions of inferiority, and imposes burdens on black employees who seek transfer which are not imposed on white employees similarly situated;

4. It refuses to confer equal benefits on black, employees even when such blacks have considerably higher plant seniority dates than white employees;

5. For approximately six years or more following the effective date of Title VII, it has required applicants for transfer to better paying, less arduous jobs, to pass unvalidated tests, not related to the jobs for which they are given, thereby blocking the advancement of black employees;

6. It requires more stringent qualifications in hiring, assigning, and transferring blacks than were and are required of whites hired, assigned, and transferred to the same or similar jobs;

7. It refuses to give black employees the same training opportunities it has given white employees;

8. It fails to provide opportunities for advancement to supervisory positions to black employees equal to those opportunities provided to white employees;

9. It hires black employees only into the lower paying jobs, denies them entry into clerical, professional, or supervisory positions, and hires whites rather than blacks into all job categories (other than in the wood-yard or as janitors) whenever possible;

10. It fails to advertise for, or recruit, blacks for clerical, technical, or supervisory jobs;

11. It limits the employment of women to clerical positions, with the result that it pays its women employees considerably lower wages than its male employees;

12. It makes no effort to train women to perform other than clerical tasks, thereby denying them entry into better paying, presently all-male positions;

13. It fails to advertise fcr, recruit, or hire females for clerical, technical, or supervisory jobs;

14. It refuses to take reasonable and appropriate affirmative action to eliminate its discriminatory practices or to correct the effects of past discrimination against blacks and women.

VI

Defendant unions are all signatories to collective bargaining agreements which cause Container Corporation of America to discriminate against blacks and women with respect to compensation, terms, conditions, and privileges of employment, in violation of Title VII, Civil Rights Act of 1964, as amended.

Defendant unions have aided and abetted Container Corporation of America in the performance of the discriminatory practices stated in Paragraph V, above, in violation of Title VII, Civil Rights Act of 1964, as amended, especially insofar as they have helped establish seniority systems and procedures for promotion, demotion, layoff, recall, and transfer which are based upon the length of service in certain occupations, lines of progression, departments, areas, and union jurisdictions, from which blacks and females have been excluded or had only limited access, rather than upon length of service with the Container Corporation of America and which, therefore, deprive blacks and female employees of an equal opportunity to compete with their white male contemporaries for the more desirable, better-paying jobs.

VII

Defendant union International Brotherhood of Pulp, Sulphite and Paper Mill Workers, and its Local 415, have, since the merger of the Local with all-black Local 805, International Association of Hod Carriers, Building and Common Laborers, failed and refused to adopt any transitional measures necessary to protect the interests of the black members acquired through the merger, in violation of Title VII, Civil Rights Act of 1964, as amended.

VIII

Wherefore, plaintiff prays this Court, in accordance with the provisions of Section 706(g), Title VII, Civil Rights Act of 1964, 42 U.S.C. § 2000e–5(g), as amended, and in accordance with the provisions of 42 U.S.C. § 1988 and other appropriate federal and state statutes, to grant all such relief as will serve the purposes of the civil rights acts, eliminate the discriminatory employment practices complained of, and make the victims of such discriminatory practices whole. Specifically, plaintiff prays this Court to order each appropriate defendant, jointly or severally, as the case may be, to:

1. Discontinue the present seniority systems or any seniority system which discriminates against black or female employees;

2. Permit incumbent black and female employees to use their accumulated plant seniority for all purposes, including promotion, transfer, layoff, demotion, vacation, and all other purposes for which seniority is used, without loss of pay, waiver of future bidding rights, or the imposition of other disabilities as preconditions;

3. Eliminate all unnecessary residency requirements as a condition for promotion of transfer into any job, department, or line of progression for all present black and female employees, and those applicants for employment who would have been hired but for defendants' discriminatory practices;

4. Employ any incumbent black or female employee who bids therefor in any vacant position to which he or she would be entitled by plant seniority, irrespective of previous experience and residence, unless defendants can demonstrate to the Court that, after a reasonable period of training, the particular black or female has been unable to acquire the skill necessary to perform the functions required by the position;

5. Provide such periodic apprenticeship and other training programs as will qualify black and female employees for advancement to skilled, technical, supervisory, and executive jobs in all divisions of the Fernandina Beach facility;

6. Use only such screening devices and such tests as are validated in accordance with 29 C.F.R. §§ 1607.1–1607.14;

7. Pay all incumbent black and female employees the difference between the pay actually earned and the pay (with accrued interest) which they would have earned since July 2, 1965, or their date of hire, whichever is more recent, but for defendants' discriminatory practices;

8. Recruit and hire at least one black for each white hired until such time as such staggered hiring has eliminated the effects of defendants' discriminatory practices and thereafter recruit and hire on a racially nondiscriminatory basis;

9. Recruit and hire at least one female, in other than a clerical position, for every white male hired until such time as such staggered hiring has eliminated the effects of defendants' discriminatory practices and thereafter recruit and hire on a basis which does not discriminate between the sexes;

10. Hire persons for clerical positions on a basis which does not discriminate between the races or sexes;

11. Pay all black and female applicants for employment denied employment at any time since July 2, 1965, because of defendants' discriminatory practices, back pay (with accrued interest) in the amount they would have earned but for such discriminatory practices until such time such applicants are offered positions equivalent to those for which they applied;

12. Establish such transitional provisions in the construction and by-laws of Local 415, including provisions for the election of black officers, as will protect the interest of black members for a three year period beginning with the effective date of the decree herein;

13. Take such other reasonable actions as may be necessary to correct the effects of the discriminatory practices alleged herein.

The Commission further prays that this Court retain jurisdiction over this action to assure full compliance with the decree and with Title VII of the Civil Rights Act of 1964, as amended, and that it require defendants to file such reports as this Court and the Commission deem necessary to evaluate compliance.

ESCALATION OF VIETNAM WAR

Mr. TUNNEY. Mr. President, 3 days have passed since the President announced his new and accelerated military strategy for the war in Vietnam. The American mines in North Vietnamese harbors are now activated and ready to explode. The stepped-up B–52 raids and naval bombardments continue. The tough threats and warnings of more military action continue to pour from the White House, the Pentagon, and the lips of Presidential advisers and spokesmen.

These escalating steps and hard-line threats, the administration tells us, are necessary consequences to the recent

North Vietnamese offensive and are essential to what the President calls American interests.

There is no question that the North Vietnamese, supplied militarily by the Soviet Union and the People's Republic of China, have acted irresponsibly, belligerently, and cruelly in their latest offensive. There is no question that North Vietnam has cynically precipitated the most recent escalation of the war. I deplore and condemn North Vietnam's military aggression.

But the new military escalation of the war ordered by the President this week is equally deplorable. Despite all the pledges for peace, despite all the promises to end the war, despite all the high expectations of withdrawal which the administration has offered to the American people, this Nation once again is committed to a rigid, simplistic, brute-force-will-prevail policy.

It has not worked through a decade of American involvement in Southeast Asia. It will not work now. This great Nation has been reduced through the President's strategy to the ancient and uncivilized assumption that violence begets violence—and that nothing can be done to break that primitive pattern of human conduct.

The new acts of violence ordered by the President are even more dangerous than the irresponsible offensive of North Vietnam and her allies. By mining North Vietnamese harbors into which Soviet ships sail, by stepping up air and naval bombardments of other supply routes, by threatening other forms of military action against Soviet sea or air transports, the President has created an entirely new and possibly devastating dimension to the war.

The war is now perilously close to exploding beyond the geographic area of Southeast Asia. The war now—for the first time—involves a direct confrontation between the United States and the Soviet Union. The war now—for the first time—is clouded with the specter of possible battle between American and Soviet forces. The war now—for the first time—could be lunging toward a catastrophic world conflict.

The President of the United States—indifferent to this repeated past promises to end the war and ignoring the waves of despairing opposition by American citizens—is risking everything for negligible or illusory gain.

There is only one, significant "American interest" in Vietnam now: the lives of American personnel, including prisoners of war. When they are home—and the President has the authority, resources and influence to bring them home—there is no valid or moral reason to justify American involvement in the war for another minute or another dollar.

The continuation of a corrupt government in Saigon is not in the American interest, and does not justify the nightmarish risks the President is taking this week.

A blind allegiance to the myth that "America has never lost a war" is not in the American interest, and does not justify the risk of a catastrophic world war III. In fact, the removal of American forces from Vietnam will represent a victory for the American people.

The President's pique that the North Vietnamese did not play into his hands and his apparent pride in preserving his image as a tough adversary of communism are not in the American interest, and do not justify the continued and increased violence, destruction, and loss of life in Southeast Asia.

It is time for the United States to end its involvement in Vietnam and accept the fact that the Vietnamese must resolve their own struggle and conflict.

It is time—once again—for the American people, through peaceful protest, to get the message to the President that they expect the United States to act as the civilized nation we presume it to be.

It is time to realize fully that the President and the executive branch of the Government do not have the sole authority and responsibility for the life-and-death issues of war and peace.

It is time for the Congress to assert its responsibility and authority to end the war. I am now convinced that our legislative branch of Government is far more responsive to the will of the people on the issue of Vietnam than the President.

The Congress can and must exercise its authority to end American military involvement in Vietnam.

I support—and I implore Senators to support—an effort to cut off all funds for the war, with the single qualification that the lives of American personnel are protected and our prisoners of war are released.

TRAGIC PROBLEM OF THE MISUSE OF DRUGS

Mr. TOWER. Mr. President, much has been written and spoken in recent months about the tragic problem of drugs in the United States. I, as many other Senators, have been active in legislative efforts both to curtail the amount of dangerous drugs in the country and to rehabilitate those who have become addicts.

We have all seen many statistics on the drug problem, statistics that are demanding action. However, as I was reading the May 5 edition of Life, I came across an article that made the problem crystal clear in a tragic sense. The article, entitled "Richie," tells the story of a young boy who became addicted to Seconal and the tragic day when his father had to shoot him in order to protect the rest of the family. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RICHIE

(By Thomas Thompson)

This is the story of a terrible thing that happened between one decent man and the son he loved. It took place on a Sunday afternoon in a fine lemon-colored house on a maple-lined street hard in the middle of the American dream. The woman who was wife to the man and mother to the son could only stand by as an agonized witness.

Seventeen years ago, on June 6, 1954, their first child, a son, was born to George Edward Diener and his wife, the former Carol Ring. They had been childhood sweethearts in Brooklyn on a row of houses which Carol remembers as "like the ones you see at the beginning of *All in the Family*." When people would ask later how they met, George Diener would grin, "I was lazy," he would always say. "I fell for the girl next door."

During their five-year courtship, Carol finished high school and became a receptionist on Wall Street. But George dropped out and joined the merchant marines at 16, hoping to catch a piece of the tail end of World War II. He sailed the seas for seven years before Carol suggested—firmly—that if he wanted her to marry him, he would have to settle down and stay at home.

Carol was petite and red-haired and willful, like her Scotch and English ancestors. She was proud of her family history and paid a genealogist to trace her line back to a 16th-century Norman Knight. George countered by tracing his line, which went back, he said, only as far as a saloon in Ridgewood, N.J. about 1916. Carol also joined the DAR and hung the membership certificate on the living room wall. Efficient and good with money, she paid the bills and kept up the cramped apartment they took in Queens.

George Diener was a muscular, compact fellow with thick and dark wavy hair. If you saw him in a bar, you would notice the U.S. flag tattoo on his strong arm, affixed there by a drunken tattooist in the Bowery when George was only 15. He had a Jimmy Cagney air about him. You would guess he had been a scrapper as a kid, maybe a welterweight boxer. He always seemed uneasy at rest. In conversations his eyes would dart about a room, his hands chopping the air. He was never one to sit at home on Sunday and watch the games. "I only like things that I can *do*," he would say. Much more to his liking was a hike in the woods or a day of target practice at an indoor pistol range. He was a good enough marksman to be rated expert.

They named their first son George, after his father, but to distinguish between the two, the child quickly became known by his middle name, Richard. Soon he was Richie. He was a fine son, with a lusty cry and bright red hair. George Diener adored him.

When Richie was 2, George's new job as salesman for a food company required him to travel each day the far reaches of Long Island, from Huntington to Orient Point, stopping in on hundreds of grocery stores and restaurants, persuading them to stock his brands of coffee, teas and spices. He longed to move his wife and son from the congestion of a city apartment out into the land. How could a man who had seen the sun turn the white cliffs of Dover gold at dawn, how could a man who had traded a carton of cigarettes to an Eskimo for six huge lobsters in Greenland raise his own boy on the anonymous floor of an apartment house?

There was no literature in George Diener's life, no poetry, not even great ambition. Like most men, he was willing to settle for ordinary drama: a woman, some money, a house with land that is owned, trees, work that does not paralyze the mind, recognition. And, above all, sons. A son is the mirror image, the blank piece of paper before our ink-blots soil it, the continuation of life. There is joy in a daughter, but there is power in a son.

George and Carol chose East Meadow in the heart of Nassau County, Long Island, once a place of potato farms but after World War II the definitive example of exploding suburbia. To the young couple who had grown up in Brooklyn, there was a delicious feel of newness about East Meadow. The houses were new and painted warm pastels, the people young and industrious and—like the Dieners—politically conservative. Policemen and firemen from the city were buying and moving in, and aircraft workers, and union men who took off their hard hats and turned to pruning rose bushes. East Meadow was 98% white. The sea was near, near enough to catch a breeze in summer. There seemed to be a boat in every other driveway. And everybody agreed the schools were excellent.

They lived for five years in the first house, and when a second son, Russell, appeared, it was time to move to a larger one. George had always wanted a basement to store his tools and do his home carpentry. On Longfellow Avenue, they found just the house, with a spacious wooded backyard and room for a pool.

Carol remembers that Richie was never happy in the new house. "There was only one other little boy on the block, and he moved away, and there were only girls around then." Richie was chubby and hated it when the girls called him "Fatty." He took refuge, found friends, in animals. Carol had had a Boston terrier named Boots who died when Richie was very small. He loved the dog so much that she bought another one for him, which he also named Boots. There followed a skunk, a rabbit, a crow, hamsters, gerbils, fish, alligators, a coati, even a boa constrictor that grew to five feet and suddenly vanished within the house. It was never found.

George encouraged his son's interest in animals. The father had always preached reverence for any form of life. "George would not even let me step on a spider," said Carol. "He said spiders did more important work than people, and when I found one in the house I'd get Richie to pick it up and take it outside." When Richie wanted books on animals, his father bought them by the dozens. Richie became almost expert in animal diseases and he personally doctored all of his pets. The squirrels in his backyard would spring onto the new redwood deck and wait for their friend to feed them peanuts by hand when he got home from school.

Even when he lost his childhood fat and grew into a well-built lad of 5′ 8″, 145 pounds, with strong legs and a muscled chest, Richie had no interest in sports. George encouraged him to try wrestling. Carol suggested football and baseball. "But he always refused," his mother said. "He was so insecure. He told me that if he ever got on a team and made a mistake that caused his side to lose, he wouldn't be able to stand it."

Nevertheless, for the first 15 years of his life, Richie was a satisfying average boy, very much a part of George's ordered life. The father recognized Richie's insecurity—but what 15-year-old is secure, anyway? He accepted his son's preference for animals over human friends, tolerated his periods of moodiness, his silences, his middling grades, his occasional breaking of midnight curfew on Saturdays. None of these particularly alarmed his parents: they seemed the classic problems of any adolescent.

When the first real trouble appeared in the summer of 1970, it was therefore as startling as a crack of lightning on a clear night. Twice Richie had been away to summer camp, but on this, his third session, Carol received a long-distance telephone call. Richie had become disruptive and belligerent with the counselors. And he had been caught smoking marijuana. Could his father come immediately and get him?

On the long drive back from the Adirondacks, George questioned his son, Richie said it was only "the first, maybe the second time" he had ever tried grass. "All the kids were doing it," he said. "Some brought it up, and others found it growing wild in the woods." He promised never to use it again.

The next year, when Richie was a junior in high school, his grades tumbled. He took the nature books and animal pictures that used to decorate his room and put them in his closet. "This is what my son used to be," his father said one day to a visitor, pointing to the forgotten books. "And this is what he is now." His arm swept the room in bewilderment.

Richie had transformed his room into a lair of the counterculture. Ticket stubs from rock concerts were pinned to the window ledge. Black light cast an eerrie glow on replicas of rock stars. A game called "Feds 'n Heads" was pinned to the wall. When Richie lay in bed, he could look directly ahead at several bizarre and frightening drawings, grotesque demons, creatures with bulging eyes, hair tossed by electrical storms, hands of reptiles. One such creature sat in a bathtub of blood, holding a dagger.

Richie had discovered a tiny space, some six feet long, behind a panel at the back of his closet. He put a cheap mattress in it and took to lying there to escape his parents' calls. George found the secret place in May 1971 and decided to dismantle it. He came across a small cube of something brown wrapped in aluminum foil, neatly hidden behind a picture. "What is this?" he demanded of his son. Richie answered that it was hashish he was keeping for a friend. Then he said it was only mud that somebody was passing off as hashish. Whatever, George threw it out.

Not long after, Carol found a sandwich bag full of marijuana in Richie's room and threw that out too. This time the boy freely admitted that it was his. Moreover he was furious at his mother for what she had done. Carol tried to discuss the matter with him calmly. If he opposed her cigarette smoking, why did he smoke marijuana?

"Because the other kids do," he would say, or "Because I want to, that's why," or, shyly, almost a mumble, "Because it helps me talk to girls." Carol found a book in his room, *How to Talk to Girls*. Richie was undeniably shy. His longtime friend Sue Bernstein, whom he had dated since he was 14, said it took Richie three years to get up the courage to kiss her goodnight.

When Richie turned 16, the changes came faster. Carol and George learned that he had become a heavy user of marijuana and hash—and more, though they would not discover this for some time. He began staying out until 2 a.m. on weekends, two hours past his curfew. He told his parents never to enter his room, and if they did, there would be a yelling row. He rarely joined them for dinner. "I'm just not hungry," he would say, but Carol could see the haunting red eyes and hear his tongue tripping over the words, new profane words, that rushed out of the boy who had been so quiet so long.

Richie now had friends, disturbing ones. He began running with an East Meadow boy who was on probation for using marijuana and who was suspected of dealing in heroin. Ironically, Carol learned, Richie had met the boy on a Methodist Church retreat. For a time, Richie had been active in church, and he had been confirmed when he was 15. The new friend, whom we will call Eddie, tried to interest Richie in heroin. Apparently he refused. "Richie said he wasn't going to stick any needle in his body. No way," said one of the friends.

George discovered that he now could not talk to Richie without yelling at him, and the boy yelled back. When George ordered him not to see Eddie, and to be home at a certain hour, and to stop using foul language, Richie disobeyed every order. Finally George took his son to Family Court and charged him with being incorrigible. "I don't want him to have a police record, but he's only 16 and all the proceedings are secret," he told Carol. After the session in court, Richie suddenly changed. He found a summer job at Burger King and began saving money to buy a car. George Diener informed the court of his son's improvement and the case was dismissed.

Last October, a severe case of bronchitis developed into pneumonia and Richie stayed home from school for three weeks. He fell behind. He failed *every* subject the first quarter. Carol was upset because on his Scholastic Aptitude Tests for college he had scored well. When Richie returned to class in November, Carol received a call from the assistant principal. Richie was ill. Could she come and pick him up?

When Carol arrived at the assistant principal's office, Richie "was very talkative, his eyes were red and heavy. He was abusive," she told George that night. "He cursed me and everybody else." Carol talked privately that morning with the nurse. "Richie told me he took some pills on the school bus, but he insisted they were pills the doctor gave him for pneumonia," the nurse said. But her voice was skeptical.

"Do you think it was something else?" Carol asked. The nurse nodded.

The "something else" was Seconal. The kids called them "downs" or "goofers" or "reds." With all the horror stories about heroin and speed, somehow Seconal has not received much attention. It is a powerful barbiturate, a mental depressant used as a sleeping pill. Tens of millions are manufactured every year in America. Marilyn Monroe died from an overdose of them. So have countless others. In the late 1960s, kids discovered that Seconals produced a quick and curious feeling, an hour of dreamy lethargy.

"If you become dependent upon Seconals," explains one New York doctor, "you actually need the drug to function, just as an alcoholic needs a drink first thing in the morning. Without Seconal, a dependent person becomes nervous, jittery, agitated. Withdrawal from Seconal is more severe than withdrawal from heroin." Because Seconal is a depressant which interferes with nervous transmissions from the central nervous system, it can so affect the brain's functions that one can become hostile and aggressive.

The market for Seconal thrives, particularly in high schools. A Nassau County narcotics officer said that the dangerous pills can be bought in the corridors or bathrooms or lunchrooms of "any school in this district, including parochial ones." They sell for prices ranging from 25 cents each to three for a dollar. "The kids like them because they are cheap, clean—no needles—and plentiful," said the New York doctor. "They don't think they are addictive. But God, are they ever. They don't think they are dangerous. I wish word could get around that at least six Long Island kids have died in the past year from Seconal abuse."

Last autumn, Richie began using Seconal heavily. He told one girl that he had a bottle of 100 pills, that he was tempted to sell them, but he thought he would keep them for his own use. "Why don't you stop doing drugs?" said the girl. "I can," answered Richie. "Anytime I want. I just don't want to stop right now."

No one could say for certain why Richie became so deeply involved with drugs. One "perhaps" was his being thrown into a massive high school with 3,000 students and wanting desperately to be accepted. When a shy, socially insecure youngster discovers that drug use will admit him to at least one circle, however pathetic that circle may be, the temptation can be great.

There were other signs that Richie was pleading, in his way, for status and friendships. He became an expert on rock music, not the standard Fillmore East pop groups, but obscure ones which Richie would "discover" and tell his friends about. He fretted constantly about his appearance. He took at least two showers a day and his clothes had to be clean and freshly pressed. Detesting his tight, curly red hair, Richie spent hours in front of the mirror attacking it. Finally he went to a barber and had it straightened. "Now it looks like a Brillo soap pad," he said in despair. He announced he was going to grow an Afro, which did not please his father.

His childhood nickname of "Fatty" was replaced by the time he was 17 with a new one, "The Kid." He hated this name so much that he once bloodied a friend's nose for calling him that. But when the fight was over, he invited the friend to come by his house anytime and listen to music. He told all his friends that. "Whenever the light in my room is on, that means come on in, he said. "I really mean it."

There were many signs that Richie was not totally comfortable in the drug world. He very carefully divided his friends into "straights" and "heads" and he never mingled the two. One of the straights, a boy who did not use drugs or even smoke pot, described this period of Richie's life: "We all knew Richie was doing drugs—a really heavy pill scene—but he'd never bring anything with him when he went out with us. He wouldn't take the chance of getting us busted along with him. I think he respected our way of life."

Once last summer Richie had arrived at Jones Beach with a group of "heads." A hundred yards away were two couples who were "straights." Richie waved at the couples, then started walking toward them. But midway he stopped. He glanced back at his "head" friends, then looked forward toward the others. Finally he sat down on a dune mid-distance between them, not able to commit to either side.

By Christmas last, the rupture between George and his son became complete. They passed each other silently in the house. Occasionally anger would flash and they raged at one another. But George had decided that he could no longer deal with Richie. Perhaps Carol could achieve something. As long as she talked to the boy quietly, gently, he would listen. And promise. And go out and break his promise.

Late at night, George and Carol would lie in bed and search their lives for reasons. Carol assured her husband that it was not his fault. He had tried in his brusque, do-as-I-say way to interest Richie in scuba diving or in becoming a marine biologist. "What did I do wrong?" George would say, not content with his wife's murmurings. "What did I do wrong?" He had build up the walls of his life so that he knew exactly who he was, what he believed and where he belonged. That his son had no ambition, that his son lay in his room listening to loud music with confusing lyrics, that his son had covered his boyish face with a scraggly red beard and long shaggy red sideburns and was letting his hair grow in the directions of a windstorm was more than he could understand.

George was growing more and more politically conservative. He grouched often about welfare abuses, a "no-win" policy in Vietnam, and how "'liberal' to me is a dirty word." It was not difficult for him to affix part of the blame for Richie's troubles on these villains. "It's this permissive liberalism," he told Carol. "The kids do just what they want because they know the courts won't punish them." Indeed, there had recently been a large narcotics raid on a house in the neighborhood which involved several arrests. But, George raged, "the pushers were back on the streets the next day." Carol agreed. She also felt Richie's school was partly to blame. "He has *three* free periods to do just what he wants," she said. "He can leave the campus or buy drugs or go into the bathroom and smoke pot. The teachers are afraid to go to the bathroom because they know what's going on in there."

On Christmas Eve, Richie was in his room and Carol went to call him. The house was full of relatives and it was time to open gifts. She opened his door and the smoke of marijuana assaulted her. "Put that out immediately," she said. "Everybody is waiting for you so we can open the presents." Richie shook his head. He would not join the family celebration. "I think he was so possessed of guilt," Carol told George later, "that he couldn't bear to face all those people who loved him. He couldn't let them see him stoned."

George Diener's ordinary dreams were being menaced in other areas. The taxes on his house had originally been $300 a year. Now, in less than seven years, they had quadrupled. Even though George and Carol together earned $15,000 a year, there was rarely enough money for an evening out. Carol liked good restaurants, but the best George could normally do was hamburgers at McDonald's. Crime seemed to be encircling him. The house across the street was robbed, then one behind him, finally his own—in broad daylight. Because he worked part-time as a night security guard, George had a police permit for two pistols. One of them was taken by the afternoon burglar and the house was ransacked. Even though many of the parents in the Dieners' circle of friends knew their own children were using drugs, it was rarely discussed. Perhaps it should have been. District Attorney William Cahn publicly estimated that 75% of the youth in his county had at least experimented with marijuana and/or pills.

George worked ten hours at one job and often at another, he coached Little League baseball and was a committeeman with the Boy Scouts, but he had to come home from labor and civic endeavor to discover his own son stoned and red-eyed and mute. "Jesus, God in Heaven, what's happening to us?" he would cry.

During one of their flashes of anger which was the only way they communicated anymore, George grew so exasperated that he snapped to Richie, "All right son, you believe in the law of the streets. You believe strong is best. Put up your dukes."

Richie looked at his father in surprise: his hands were closed into fists. Richie picked up a piece of chain to defend himself. George, perhaps remembering his own Brooklyn street days, perhaps thinking he could "slap some sense into the boy," threw a roundhouse punch at his son. It exploded on his cheek. For days Richie had an angry, swollen bruise on his face. Later George apologized, but Richie did not accept it.

George began to suspect that his son was not only using drugs but selling them. He told Carol that the only way to find out for sure was to tap the family telephone. If his suspicions were true, he wanted to stop the business before it grew larger. Carol was reluctant at first—"How can we spy on our own child?" she said—but George insisted. He installed the bug secretly, but Richie found out and told his friends.

One girl friend remembers those days: "I'd call up Richie and I'd start off the conversation by saying, 'Hi there Mr. Diener,' or 'Hello, Tape,' and we'd talk in code so he couldn't dig anything anyway."

But before Richie discovered the tap, George heard things that staggered him. His son seemed a budding expert at the art of "ripping off." The boy's telephone conversations with friends were peppered with requests to "front me," which George learned was a plea for enough money to buy, say, a half pound of marijuana which might cost as much as $100. Richie then broke it down into "nickels" and "dimes"—$5 and $10 sandwich bags—and sold it. Usually he sold an ounce that was either short-weighted or mixed with oregano.

George and Carol's younger son Russell was taking medication prescribed by a doctor, and Richie bragged on the telephone of stealing some of the pills and selling them to friends. He told one girl that his customers were "dumb kids, like only 13."

George also heard, on the tapped phone, that Richie was developing enemies who had discovered they were being cheated. "Richie told one contact that he was unable to sell a big batch of marijuana because he had ripped off so many customers that nobody trusted him anymore," George told Carol. "He says that people are out to get him, but he isn't worried because he will shoot them. Or stab them."

The police of Nassau County knew Richie was a marijuana user, but they did not know he was a large-scale dealer. "The pattern is typical," said one narcotics officer. "If a kid gets some grass, he sells it to friends at small profit and keeps his own use going. A lot of kids even *give* it away. It seems to be an element of social status, of making and keeping friends."

One day toward the end of 1971, Richie came home stoned, his eyes red, his speech fast but slurred. George challenged him once more. "I have done everything I know to do," said the father. "I have tried to reason with you, I have forbid you to see kids who take dope. I have asked you to stay home, I have taken you to Family Court. I have cried, I have told you I loved you, I have told you I'll do anything in my power to find you help. Your mother and I cannot talk to you anymore. So this is the way it's going to be. You're going to stay home Friday and Saturday nights if I have to lock you in your room."

Richie made a counterproposition. "I promise to stop doing drugs," he said slowly, "I really do promise . . . if, IF you'll let me go out with kids on weekends and drink beer."

George answered quickly. "As much as I want you to stop taking drugs, I can't bargain with you. You're only 17, and I can't give you permission to go out and drink."

Richie began to yell. He shouted, as children so often do, "You don't love me! You don't understand me!"

"Of course we love you," Carol put in softly.

"You never even wanted me," Richie raged "The only reason I'm here is that you two were fooling around one night. I didn't ask to be born."

George blew up. He hit his son in the mouth and blood gushed out. Richie took the blood from his mouth and flung it against the wall of the living room. While George watched the blood trickle down, Richie rushed out into the night.

Once again, George Diener took his son to Family Court, and this time Richie endured two sessions with a psychological counselor. After the second meeting, the counselor told Carol that he was going on a two-week vacation and when he returned, he would resume his work with Richie. "When the counselor returned," said Carol, "he called me and said he had been promoted, that another man would take over Richie's case. This new man would call me and make an appointment. I never heard from them again."

On Feb. 12, a Sunday, Richie was in a Walgreen's drugstore at the huge Roosevelt Field Shopping Center. The manager noticed him loitering near the drug counter and suspected him of shoplifting. He told Richie that he would have to stay until the police came to investigate. A punch-up occurred in which, according to the manager, Richie threw a display basket and a wooden table at him, tried to choke him with his necktie, and kicked him in the knee. The manager charged Richie with assault and a trial was set for Feb. 28. It was Richie's first arrest.

Two days later, Valentine's Day, George was working at home. The school called. Richie had been expelled for fighting and cursing at a teacher. George waited for his son to come home. He dreaded the confrontation. Richie pulled up in front of the house with a carload of friends. They noticed George's car in the driveway and hurriedly sped on. George knew that they would not come in with him as long as he was there, so he got into his car and drove away. Some time later he circled back and, sure enough, the boys were inside the house. George made a decision. He telephoned the police and asked them to raid his own son's room. "I thought that maybe if Richie was arrested, it would scare him out of it," he told Carol later.

When the police arrived and searched the room, there was no marijuana. The boys were only drinking. After the police had left, and after George had ordered the boys out, Richie began to scream at his father. George yelled back. It was the same ground they had gone over a hundred times before. Only this time Richie seized a pair of scissors (gold ones which his mother had once used to make elaborate Halloween costumes for him) and threatened to kill his father.

George checked his clenched fists and left the house. Richie called his mother at the junior high school where she worked in the cafeteria and sobbed into the telephone. "I must be crazy," he said. "I just tried to kill my father." Carol's mind raced. She figured this, at last, was Richie's cry for help. "You're not sick," she said. "You're just tired. Lie down on your bed and rest and I'll come home."

She telephoned a relative who put her in touch with a community health psychiatrist. The psychiatrist gave Richie a preliminary "screening" and told Carol that, yes, he would take the case, but that he would have to wait until the Walgreen incident was disposed of in court. Since that trial was only two weeks off, Carol felt the delay could be borne.

Toward the end of the week Richie had a conference with the principal of East Meadow High. If Richie agreed to stop using drugs and stop cutting classes he could come back on probation.

"The next week was almost miraculous," according to Carol. "Richie was a changed boy. He stayed in at night. He did his homework. He was sweet to me. He was our boy again. I think he realized this was his last chance. That Friday afternoon—I would learn later—a big shipment of drugs hit the school. Richie bought some pills. A lunchroom lady spotted him and some other kids and told them she was turning in their names to the office. Richie probably felt this was the end."

On Friday night, Feb. 25, Richie went to a Long Island bar called Ryan's which is popular with young people. In New York State, the legal drinking age is 18. Police raided Ryan's that night and checked ID cards. Richie had none. He and a few others were taken to the police station, questioned and released. This was Richie's second arrest.

On Saturday, Richie, oddly mute and peaceful, asked his mother to drive him to a girl friend's house. She agreed. Four hours later when he returned home, Carol suspected he had been smoking marijuana. But he said nothing. That night, Richie and two friends, two "straight" friends, went out and—for a few happy hours—played in the snow.

The next noon, Richie asked his mother if he could borrow the car. Carol has forbidden him use of the car but, as she remembers: "He had been acting so nice all week that I gave in. In fact, I made a bargain with him. 'If you stay this way,' I said, 'I'll give you my old car rather than trading it in on a new one as I had planned. You'll have to find a job to pay for the insurance.'" Carol watched as Richie happily left. She had always "lived with hope." She thought her lectures were getting through to him. Maybe.

Richie and a friend went to a local hamburger shop. As they left, Richie backed his mother's car into another one. There was negligible damage to both, but the other car's owner telephoned George and Carol. Assured that their son was not hurt, they waited for him to come home with an explanation. Richie had taken some Seconals. He pushed the car up to 60 mph on a quiet residential street in his neighborhood. Suddenly a tire blew out and the car bounced across the street, hit a station wagon, careened into a yard and knocked down a fence. Neither Richie nor his friend was hurt, but the car was destroyed.

George was summoned to the scene, and he told his son they would discuss the accident later. Richie went home while George stayed to discuss insurance matters with the police.

At 4 p.m. George and Carol sat down at the dining room table with Richie to talk about the accident. Carol had told George that it must be a calm meeting with no raised voices. But Richie seemed strangely remorseless. "You don't act the least bit sorry;" said Carol. Finally she spoke sharply. "Don't you realize you just totaled my car? Besides that, you could have killed somebody! You could have killed yourself!"

Richie raised his head and looked through the glass patio door to the yard. "Maybe that would have been even better," he said softly.

George remained silent during the dialogue. But he was shaking his head sadly. Richie noticed this. "That's right," the boy shouted, "shake your f—ing head."

Trying to avoid another scene, George rose and left. He went to his basement shop and began working on his salesman samples, sorting out broken packages and returns.

Richie and his mother continued to talk, but the boy kept jumping up and making telephone calls. Finally Richie went into his room, flipped on a rock tape, and shut the door. Carol took her younger son to a bowling alley and returned half an hour later. Richie came out of his room and his mother gasped. He was staggering. His eyes were red slits. He slurred his words. "What in God's name have you taken?" she cried. He confessed that he had taken four Seconals.

Ignoring her, Richie made a date on the telephone with a friend for 6:30. He hung up and shouted at Carol. "And don't go down in my room when I'm gone and look for pot."

"You're in no condition to go anywhere," said Carol. Richie began to walk past her. Suddenly he fell over a chair and onto the floor.

The two crashes—boy and chair—brought George racing up from the basement. Now Richie was standing up. He saw his father. "Did you tell the cops at the accident scene that I was on dope?" he cried.

George did not want to talk to the boy in this condition. He turned without speaking and started out. Richie ran after him. "Answer me! Answer me! I asked you a f---ing question," the boy shrieked, "and I want a f---ing answer!"

Richie's face was so contorted, his body so quivering with rage that George felt he and his wife were in physical danger, the kind that could not be handled with parental authority or even with fists. This was the last scene of the long painful drama and all the emotions were out. All reason was gone.

George went to his bedroom to get his pistol. The .32 was hidden behind a night stand. Weeks before, Carol had urged George to conceal it. She had been afraid that Richie would find the gun in a heated moment and use it on them as they slept. On the taped telephone calls, George had heard his son brag of being ready to shoot or stab any dissatisfied customer who was out to get him. And more than once Richie had shouted at George, "I'll get you . . ."

George tucked the .32 into his belt. He walked down the stairs into the basement.

Richie appeared on the stairs leading to the cellar. Unsteadily he made his way down. He saw an ice pick on a work bench and picked it up. When he was 15 feet from his father, Richie raised it and cried, once more, "I want an answer! Answer me!"

George's answer was to take the gun from his belt and to point it at his first-born son. Perhaps this would frighten him. Perhaps this would send him away.

Richie threw out his arms like a crucifix. "You've got your f---ing gun. Go ahead and use it." The boy walked slowly toward his father. When he was five feet away, the ice pick trembling in his hand, George cocked the .32. Richie stopped and flung out his arms once more, "Go ahead. . . . Shoot!"

Richie dropped his arms and somehow the ice pick fell to the floor. George lunged forward, grabbed his son by both shoulders, and kicked the ice pick into a corner. Carol had appeared by this time, paralyzed with fear. Richie broke loose from his father and rushed upstairs, shouting behind him, "I'm going up to get the scissors." He rushed past his mother. "Oh my God! What can we do?" Carol moaned.

"I don't know," George answered. "Maybe he won't come back down."

While they waited in the cellar, George and Carol could hear Richie rummaging in the kitchen above their heads. He pulled out a drawer too far and it crashed to the floor, utensils rattling about like hailstones on a metal roof.

Instantly the boy appeared at the head of the stairs with a steak knife in his raised hand. George pushed his wife behind him and faced his son. With each step he took down the stairs, Richie cried, "Shoot! Use your gun!"

George's finger trembled on the trigger. The frustrations of his life were suddenly telescoped. His seed had produced a son, but the son was no longer his. The son was a million miles away. The son was a child-man with a beard, with a knife, with obscenities on his lips, with drugs in his brain.

What God spared Abraham from doing to Isaac, what the makers of myth and literature could scarcely even imagine, George Diener at last did.

He fired.

The bullet tore directly into Richie's heart. He slumped backward onto the stair in a sitting position. He brought his young hands to his chest and he saw his blood. He was puzzled. He stood straight up and raised the knife again. Now its handle was soaked with the life draining from him.

Incredibly, George Diener fired again. This time the bullet went wide, screaming past his son and ripping a hole in the wall of the house that had been George's dream.

Richie sat down and toppled forward, down the stairs, onto the cement floor.

George grabbed Carol and pushed her up the stairs to the living room. He called the police and an emergency ambulance number.

He went back downstairs. Richie was quiet. He was not moving. George touched his throat. There was no pulse.

Slowly he dragged himself up the stairs. George went to his wife and knelt beside her chair. "He's dead. I've killed our son. Can you ever forgive me?"

Then they sat and cried and waited for the police.

Several things quickly happened.

They carried out Richie's body in a canvas sack. An autopsy disclosed that his vital organs contained six times the amount of Seconal given by doctors in a therapeutic dose.

George was arrested and charged with murder, but he pleaded self-defense and the grand jury did not indict him. The police did want to know why George, an expert marksman shot to kill, rather than to wound. "All I could think of was that if I only wounded the boy, he would come back and kill Carol and me," he answered. "There had been so many threats."

George vowed to lead a community war against drugs, in particular barbiturates.

The night before the funeral, many of Richie's friends went to the funeral home to pay their respects. George thanked most of them for coming, although he would not even speak to some he considered part of Richie's "head" crowd. In particular Eddie, who was sobbing almost hysterically. Carol was shocked to see that more than one of the young mourners came to the funeral parlor stoned.

When Richie's friends looked at him in the casket, they were stunned to see that his beard had been shaved off, his sideburns trimmed and raised, his hair neatly, forever cut. Sue Bernstein, his longtime friend, said that Richie looked "exactly the way he looked when I first met him, when he was 14, before the trouble started."

There was criticism of the barbering, but George dismissed it. "This is the way I wanted Richie to look," he said. And the father, at last, had his way.

Lately George has taken to going into Richie's room and shutting the door and stretching out on the bed. It is his way of getting through one sleepless midnight. There are others to come.

ENACTMENT OF S. 2467, NATURAL GAS ACT AMENDMENTS

Mr. COOK. Mr. President, I have long been concerned about the supply of energy resources available to meet our ever increasing requirements. In many instances industrial growth is being curtailed by the inability of our utilities to supply new customers with gas and to increase the supply to customers now on the line. New homes are having to use fuel other than gas at significantly higher costs. In Kentucky, a typical six-room house can be heated with gas for $108; it costs $189 with oil. Thus, the shortage is hurting the small consumer; even with a 25–50 percent increase in price of gas in the field, he is much better off with gas.

I repeat: This is not a next year's problem but a problem that is with us today. We are short of gas today to meet legitimate needs. This condition deteriorates daily.

On March 21, 1972, I placed in the RECORD a letter I had sent to the Chairman of the Federal Power Commission concerning the natural gas shortage and the effect this shortage is having on the State of Kentucky. I requested Mr. Nassikas to inform me of the actions being taken by the FPC to solve this problem and offered to support the development of any reasonable solution.

I have received two letters from the FPC which outline their programs in this regard. Because of the interest that the Congress has taken in this issue, I ask unanimous consent that these letters be printed in the RECORD at the conclusion of my remarks. I believe that action is being taken by this Commission to provide answers to this vital problem. I do not conclude that the problem has been solved. Other actions, including action by this Congress, is urgently needed.

I am in full support of the recent action taken to encourage the development of new gas from domestic sources. I refer to the FPC proposal issued April 6, 1972, known as rulemaking 441 establishing an optional procedure for certificating new producer sales of natural gas. Recent press accounts have indicated that certain Members of Congress view this action as sudden and total deregulation which could only raise havoc. I do not consider this action to be deregulation but rather a regulatory agency's response to reality. The FPC has in previous years repeatedly cut the field price of gas directly in the face of alarming supply-demand trends. The present Commission is faced with the difficult task of raising prices so as to encourage development of gas supplies needed to meet consumer needs and other national goals in the most timely and economic manner. R–441 is a procedural mechanism for FPC to allow higher prices for new gas supplies. FPC retains control as to whether it will allow the contract price.

Recent testimony before the Senate Interior and Commerce Committees supports the fact that the natural gas shortage is real and serious. The record shows that the major pipelines serving the Nation east of the Mississippi River obtain the bulk of their supplies in the southern Louisiana-Texas area. These pipelines need 50–60 trillion feet of new reserves in the next 8 years. This is a staggering amount of new reserves from this one area. Without these new reserves, deliveries to the eastern part of the United States will decline sharply. The consequent adverse impact of this crisis on our Nation's enviromental and economic goals is significant. This testimony is overwhelming in its evidence that there is a requirement to encourage the producer to develop our resource base of potential supplies. Higher field prices would encourage this development. What the FPC has proposed is a mechanism to permit, in the proper cases, higher prices. I urge Senators to study the record before taking action to require the FPC to withdraw its proposal at R–441.

Press reports also indicate that certain Members of Congress have expressed concern that the increase in field price will eventually result in higher prices without any assurance of new supplies being discovered. I must agree that there is no "assurance" of new supplies but I submit that in my opinion the margin for success will be enhanced significantly. Only until new gas reserves are found and dedicated, are higher prices paid.

I am greatly concerned over any increase in price which must be borne by the consumer. But, we must face the facts. Because of inflation and because the search for new reserves is more costly, the price of gas will rise. We cannot change economics. However, the increase caused by R–441 will be reflected in new gas contracts only and will not affect existing producer contracts sanctioned by the FPC prior to April 6, 1972. To offset this short-term price differential, I believe that more realistic field price levels will encourage development of this domestic potential at prices considerably lower than those resulting from the importation of liquid natural gas, or synthetic pipeline gas from foreign feedstocks as was authorized recently by the FPC. In the final analysis, there is every indication that in the long run the consumer will benefit from a more realistic price for a more reliable product. In my State of Kentucky, because of the shortage of gas, we have been forced to deny some industrial expansion and thereby incurred the loss of new construction as well as the jobs this expansion would have provided. This, to me, is anticonsumer and cannot be tolerated.

Mr. President, the hue and cry by some Senators seems to me most strange since the same issues are before the Congress in substantially the same form with substantial support. I refer to sanctity-of-contract legislation in general and to S. 2467, of which I am a cosponsor, in particular. I believe that the enactment of the bill would render the rulemaking, proposed by the FPC, unnecessary and would in effect supplant it, as both actions are designed to accomplish the same purpose. The FPC proposal (R–441) sets out an optional certificate procedure which would be available to gas producers under contract dates on or after April 6, 1972. The FPC would be allowed to approve a contract rate higher than the applicable area rate upon finding that the contract is required by the public convenience and necessity. The Commission would be prohibited from adjusting or changing the terms of such contracts once they had been approved. Inasmuch as such matters are fully detailed in S. 2467, its enactment would supersede and obviate entirely the need for R–441.

Thus I say to Congress: Let us get on with this legislation. In this manner the will of Congress can be expressed.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FEDERAL POWER COMMISSION,
Washington, D.C., April 6, 1972.

Hon. MARLOW W. COOK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOK: Your letter of March 17, 1972, extending your offer of support in the development of reasonable solutions to critical shortage of natural gas is greatly appreciated. The comments of Mr. Moran and Mr. Murray once again emphasize the impact which this growing supply shortage is having on the social and industrial development of the United States.

There is no single, simple, easy answer to the underlying cause, or causes, of the deteriorating gas supply situation over the past decade. Because of the inherent premium qualities which natural gas possesses as a fuel, there have been great increases in demand over the past decade, while at the same time there has been a pronounced decline in exploration and development for natural gas. There can be little doubt that this decline in exploration activities has been related at least in part to FPC's imposed ceiling prices in the decade of the 1960's. This has led to inadequate capital formation and the flow of the limited capital available to other more attractive alternative investment opportunities for the gas producer. It has only been within the past two and one-half years that a concerted effort has been made by the Federal Power Commission to consider the multiplicity of other factors rather than just utility costing concepts in establishing FPC ceiling prices. These include consideration of supply and demand, capital requirements, market conditions and other principles of economic costing.

However, the Federal Power Commission's ceiling price regulation is not the only element which affects the exploration and development rate for natural gas. Other factors, under control of various government agencies and Congress, include inflationary pressure, national energy import policies, international monetary considerations and national policies, tax policies and other considerations.

The Federal Power Commission has, for more than two years, been engaged in an active program to stimulate additional exploration and development of natural gas reserves in the United States and their dedication to the interstate market. It has undertaken a number of regulatory actions, some of which are briefly outlined below, which I feel are pointed in the right direction for effective producer regulation, which is consistent both with providing a fair return on investment to the producer and assuring adequate gas supplies to the consumer at a reasonable cost. The Commission has:

(1) Conducted a nationwide investigation to review existing rates and determine whether higher rates should be established for future supplies of natural gas dedicated to the interstate market.

(2) Established rates for major producing areas, resulting in increased price ceilings and periodic escalations to encourage increased exploration and development of gas. Other incentives including increased prices and the option to "write off" refund obligations in proportion to their dedication of new gas reserves to the interstate market has been given to producers in area rate decisions for the Texas Gulf Coast and Southern Louisiana areas. Our major area rate decisions are on appeal to various Federal Courts.

(3) Applied the area rate pricing principle to pipeline company producers of natural gas so that they would have increased incentives to develop their own gas reserves.

(4) Instituted rulemaking and policy determination to stimulate the search for gas by producers and pipeline companies in reservoirs which underlie acreage already committed to the interstate market.

(5) Granted blanket certificates to small producers to exempt them from ceiling prices and allowed them to make sales without obtaining FPC authorization, as an incentive to increase gas service and reduce the time required to provide gas to the interstate system, as well as to ease the entry of small producers into the gas production business, thus increasing competition.

(6) Established new procedures allowing producer rates to be determined by rulemaking procedures in lieu of the more lengthy formal proceedings.

(7) Accepted for consideration applications by independent producers requesting issuance of a certificate for sales of natural gas, notwithstanding that the proposed rates may be in excess of the ceiling or guideline rates.

(8) Established accounting rules for advance payments and loans to producers by pipeline to stimulate further exploration and development. The United States Court of Appeals for the District of Columbia Circuit approved the Federal Power Commission's order on March 29, 1972.

(9) Required filing of curtailment plans by pipeline for priority allocation among customers if supply is deficient.

(10) Encouraged lease sales in the Outer Continental Shelf and senior staff personnel testified in support of such Federal oil and gas lease sales.

(11) Undertaken, with Congressional authorization, a National Gas Survey to investigate the supply-demand-price relationships of natural gas including independent determination of reserves and overall evaluation of natural gas in meeting United States energy requirements. This Survey is being conducted to enhance the Commission's ability to regulate the gas industry so that a continuing and reliable supply of gas will be available to meet consumer needs.

(12) Our most recent order proposing, to establish by rulemaking, an Optional Procedure for Certificating New Producer Sales of Natural Gas, issued April 6, 1972.

As the foregoing rather lengthy list of Federal Power Commission actions indicate, the Commission does have a positive program for correcting the supply-demand imbalance which now exists in the natural gas industry. Because of the lead time required for exploration and development prior to the flow of significant quantities of gas to the interstate market, the downward trends of a decade or more cannot be immediately reversed. However, with public awareness as evidenced by the letters from your constituents, and support for a constructive regulatory program from leaders of the Senate, we feel that we will be able to develop a regulatory pattern which will provide incentives for increased exploration and development of natural gas to provide the consumer with an adequate supply at the lowest reasonable cost.

Sincerely,

JOHN N. NASSIKAS,
Chairman.

[United States of America
Federal Power Commission]

(18 CFR 2.75)

NOTICE OF PROPOSED RULEMAKING AND STATEMENT OF POLICY RELATING TO OPTIONAL PROCEDURE FOR CERTIFICATING NEW PRODUCER SALES OF NATURAL GAS

(Issued April 6, 1972)

1. Pursuant to 5 U.S.C. 551, *et seq.* Supp. V, (1967) and Sections 4, 5, 7, 8, 15, and 16 of the Natural Gas Act (52 Stat. 822, 823, 824, 825, 829, 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, 717g, 717n, 717o), the Commission gives notice that it will consider adopting rules and regulations providing an alternate method under which it will consider the issuance of permanent certificates for, and will otherwise regulate, new sales of natural gas subject to the Commission's jurisdiction. Current procedures for issuing permanent certificates for new sales of natural gas are:

DOCKET NO. R-441—(A) PURSUANT TO AREA RATE ORDERS [1] OR, IN THE ALTERNATIVE (B) PURSUANT TO SPECIAL CERTIFICATION PROCEDURES

Area	Docket No.	Opinion No.	FPC	Date	Court cite
Area rate orders:					
Permian Basin	AR61-1	447	33 FPC 43	Jan. 12, 1965	375 F.2d35 (1967).
do	AR61-1	468	34 FPC 159	Aug. 5, 1965	390 U.S. 747 (1968).
do	AR61-1	468-A, 546	34 FPC 1068	Oct. 4, 1965	428 F.2d 407 (1970).
Hugoton-Anadarko (incentive price policy)	AR64-1	567	42 FPC 726	Oct. 3, 1969	
Hugoton-Anadarko	AR64-1	586	44 FPC 761	Sept. 18, 1970	USCA9 No. 71-1036.
Texas Gulf Coast	AR64-2	595	45 FPC	May 6, 1971	USCA5 No. 71-3061 et al.
Southern Louisiana	AR64-2	595-A	46 FPC	Oct. 18, 1971	USCA5 No. 71-2761 et al.
	AR61-2	598	46 FPC	July 16, 1971	
Other Southwest	AR61-2	598-A	46 FPC	Sept. 9, 1971	
	AR67-1	607	46 FPC	Oct. 29, 1971	USCA5 No. 72-1114 et al.
	AR67-1	607-A	47 FPC	Jan. 17, 1972	
		Order No.			
Appalachian-Illinois	R-371	411	44 FPC 1112	Oct. 2, 1970	
	R-371	411-A	44 FPC 1334	Oct. 30, 1970	
	R-371	411-B	44 FPC 1487	Mar. 27, 1970	
Nationwide gas rates	R-389		35 FR 10152	June 20, 1970	
	R-389A		35 FR 11638	July 17, 1970	
Adequacy of supply	R-418	431	36 FR 7505	Apr. 21, 1971	
Rocky Mountain Area	R-389A	435	FPC	July 15, 1971	CACD No. 71-1812.

DOCKET NO. R-441

Nothing herein is intended to supersede the procedures set forth in A, *supra.* If adopted, with or without modification, the alternate method proposed herein would supplement the procedures set forth in B, *supra.* Nothing in this Notice shall affect any certificate or proceeding completed, pending, or hereinafter initiated pursuant to (A) or (B), *supra,* or affect the operation of Orders 402, 402A (18 C.F.R. 2.68, May 6, 1970 and June 3, 1970), or our Regulations 157.22 and 157.29.

2. Jurisdictional pipelines are presently unable to procure contracts for new supplies of gas, on a spot or long-term basis, in sufficient quantities to insure that consumers of natural gas will receive a reliable and adequate supply of gas. Interstate pipelines are unable, in many instances, to provide service to new customers, and some major interstate pipelines are, at this time, being forced to curtail deliveries of natural gas below their contractual commitment and are unable to supply to quantities requested by their customers because of insufficient supplies. Such disruptions of service create an intolerable situation for human needs customers dependent on the interstate pipelines. Prolonged curtailment of industrial sales of natural gas until industry can switch to alternate fuels, and continued non-expansability of gas utility service, will inevitably have a repressive effect on the productivity of the Nation's economy. On the basis of certificate filings, at the present gas from foreign imports or non-conventional sources have been offered only at high cost to the consuming public.

3. The recent report on "National Supply and Demand 1971–1990," prepared by the Federal Power Commission's Bureau of Natural Gas (BNG) shows the level of "unsatisfied demand" for gas increasing from 3.6 trillion cubic feet in 1975 to 9.5 trillion feet in 1985 and 17.1 trillion cubic feet in 1990.[3] Additionally, it is estimated that between 1971 and 1990, the United States will require 186.4 trillion cubic feet more gas than will be available, even after making liberal allowances for pipeline imports, Alaskan gas and reformed gas.[4]

4. The Future Requirements Committee (FRC) estimates that the natural gas requirements for the United States will in-

---

[3] *National Gas Supply and Demand 1971–1990,* and Bureau of Natural Gas, Federal Power Commission, February 1972, p. 3.

[4] *Ibid.,* p. 3.

crease from about 28.2 trillion cubic feet in 1971 to 33.9 trillion cubic feet in 1975.[5] Based on information concerning presently contracted or reasonably assured supplies, the FRC estimates that the gap between the potential demand for gas and the most likely available supply will increase from .9 trillion cubic feet in 1971 to 3.9 trillion cubic feet in 1975.[6]

5. The assurance of adequate supplies of natural gas can mitigate the damage being done to the nation's environment. Natural gas is by far the cleanest burning and least polluting of all the fossil fuels.

6. Any further aggravation of the gas supply problem also portends grave implications for the nation's economic objectives. Between 1947 and 1970, the nation increased its annual consumption of energy from 32.9 quadrillion Btu to 68.8 quadrillion Btu, with the share of the total being contributed by natural gas increasing from 13.8 percent in 1947 to 32.5 percent in 1970.[7] During this period, the nation's real output of goods and services more than doubled and its real income per capita increased by about one-half. It is inescapable that the continued growth and productivity of the U.S. economy requires adequate and reliable supplies of energy, including adequate and reliable supplies of natural gas.

7. Moreover, the "lowest reasonable cost to the consumer" can only be eroded if the nation is forced to satisfy its requirements for gas (1) through increased reliance on new substitute supplies of gas or (2) through the increased use of other fossil fuels. In the case of number (1) above, all information available to the Commission indicates that the new base load supplies of substitute gas will be available to consumers only at costs significantly higher than the prices of currently available domestic well head supplies. In the case of (2) above, the price per BTU for many primary fuels is greater than the price per Btu for natural gas. This comparison is especially unfavorable to the alternative fossil fuels when the costs of storage, handling and pollution control are included. In summary, when the gas shortage forces consumers of natural gas to satisfy their energy requirements by using either substitute gas supplies, *e.g.*, imported liquefied natural gas, propane, reformed hydrocarbons, gassified coal, imported natural gas, or other fossil fuels, the net effect is higher energy costs throughout the economy, with resulting inflationary pressures.

8. Based on a careful and comprehensive evaluation of all facts and information available, the Commission herein proposes to adopt an optional certificate procedure, as hereinafter detailed, for new producer sales of natural gas, in order to provide an alternate method to stimulate and accelerate domestic exploration and development of our natural gas reserves. Herein we propose this alternate procedure designed to assure the interstate consumers of natural gas, and the nation as a whole, an adequate and reliable supply of natural gas at the lowest reasonable cost.

9. We are hereby proposing to amend our General Rules of Practice and Procedure to insert Section "2.75, Optional Procedure for Certificating New Producer Sales of Natural Gas," in Part 2, General Policy and Interpretations, Subchapter A, Chapter 1, Title 18 of the Code of Federal Regulations.

10. The new Section 2.75 reads as follows: "Section 2.75 Optional Procedure for Certificating New Producer Sales of Natural Gas."

a. Notwithstanding any other provisions in the General Rules of Practice and Procedure of the Federal Power Commission, or the Regulations Under the Natural Gas Act of the Federal Power Commission, applications for certification of future sales of natural gas produced within the United States may, at the option of the signatory parties to sales contracts, be submitted in accordance with the provision of this Section. To the extent that any Federal Power Commission General Rules of Practice and Procedure or Regulations under the Natural Gas Act are inconsistent herewith, the same are hereby amended to permit the optional procedure herein set forth.

b. The provisions of this Section shall be available if each of the following conditions exists:

1. A contract covering the sales of natural gas in interstate commerce has been executed on or after April 6, 1972.

2. All parties to such contract agree to the submission of the same for certification in accord with the provisions of this Section;

3. The purchaser under such contract is a jurisdictional pipeline which, as of the date of the contract in question, has a deliverability life on its entire system, considered as a whole, of less than 12 years; deliverability life as used herein is defined in Section 2.61 of this Chapter;

4. The seller under such contract establishes that he has discharged, or is prepared by specific plan or program to discharge, all obligations (such as refunds) prescribed by prior orders or opinions of this Commission; provided, however, that any such seller may make the showing here required without prejudice to his claim in any cases now pending on judicial review that such obligations were unlawfully imposed by the Commission.

5. The acreage covered by the contract offered for certification has not been previously dedicated to the interstate market (unless abandonment has been previously granted, nor has an application been previously filed with the Commission for certification of the sale of gas from such acreage: *Provided*, That nothing herein shall preclude certification of contracts covering acreage from which sales have been certificated pursuant to special certification procedures under R–389 (35 F.R. 10152), R–389–A (35 F.R. 11638), or Order 431 (36 F.R. 7505).

c. If all of foregoing conditions precedent exist, the signatory parties to the contract may tender the same to the Commission and request the issuance of a certificate of public convenience and necessity to the seller for sales of natural gas thereunder. The application shall certify that all parties to the contract desire certification in accordance with the terms and provisions of this Section, that the seller expressly agree to the waivers and elections hereinafter provided for in subsections m and o of this Section, and that all conditions precedent as set forth in subsection b of this Section are met.

d. Certificates of public convenience and necessity issued and accepted under this Section shall not be subject to change by determinations or orders in area rate proceedings or pipeline rate proceedings whether heretofore made or hereafter to be made, and orders issued hereunder shall not constitute establishment of an area rate.

e. Applications presented hereunder will be considered for permanent certification, either with or without pregranted abandonment, notwithstanding that the contract rate may be in excess of an area ceiling rate established in a prior opinion or order of this Commission.

f. No contract shall be accepted for filing if it includes any type of indefinite pricing clause, including but not limited to a "favored nation clause," a "price redetermination clause", or a "special escalation clause".

g. A seller-applicant under this Section shall state the ground for claiming that the present or future public convenience and necessity require issuance of a certificate on the terms proposed in the application, and shall provide factual support for such claims. The application shall contain a contract summary as prescribed in Sec. 250.5 of our Regulations Under the Natural Gas Act.

h. The purchaser under a contract filed under this Section shall certify that the present or future public convenience and necessity require issuance of a certificate to the seller, and shall provide information in support of such certification with respect to the purchaser's (1) system-wide supply, (2) present and estimated 3-year peak day and average day demands, (3) present and estimated 3-year requirements of customers on its system, (4) deliverability life, (5) implementation, if any of curtailment plans, (6) emergency purchases of gas under Order 431, or 157.22 or 157.29 of these Regulations, and (7) purchases of LNG or attachment of other supplemental supplies.

i. The information required by sub-section g. and h. may be submitted by cross-reference and incorporation of information already on file with the Commission.

j. Applications requesting issuance of certificates of public convenience and necessity as authorized in this Section shall be processed in accordance with the procedural requirements, including those relating to notice intervention and hearing, set out in Part 157 of the Commission's Regulations Under the Natural Gas Act.

k. Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a statutory hearing will be held before the Commission without further notice on all applications for certificates under this Section in which no petition to intervene in opposition is filed within the time required, if the Commission on its own review of the matter believes that a grant of a certificate is required by the public convenience and necessity. Where the Commission believes that a formal hearing is required notice of such hearing will be duly given.

l. A final order of this Commission, issuing a certificate as applied for, or issuing a conditioned certificate acceptable to the applicants, shall constitute a final determination, under Section 7 of the Natural Gas Act, that the rates and services therein specified are required by the present and future public convenience and necessity.

m. By acceptance of a certificate issued hereunder, the seller-applicant unconditionally agrees to (1) waive all rights to seek future rate increases under Section 4 of the Natural Gas Act with respect to the contract submitted, other than fixed price escalations, if any, as certificated by the Commission; and (2) waive all rights to contingent adjustment of flowing gas rates as provided by the Commission in area rate decisions heretofore decided or hereafter issued, for flowing gas which the seller-applicant produces in the same geographical pricing area as the pricing area of the production covered by the application made under this Section.

n. Upon the filing of an application under this Section, deliveries pursuant to the provisions of the tendered contract may be commenced after notice to the Commission and pending review of such application by the Commission. Such notice shall be given within ten days after deliveries first commence, and shall include all pertinent information concerning the deliveries. Any such deliveries sc commenced may be terminated (1) if such contract for any reason shall terminate or be terminated prior to the issuance by the Commission of a final order upon review of such application, or (2) upon the issuance of a certificate containing conditions unacceptable to the party adversely affected. If the Commission by final order shall deny such application, or if the party or parties to the contract adversely affected shall not accept the terms and conditions prescribed by the Commission, deliveries thereunder shall be terminated. Within thirty days after termination of deliveries, the seller shall notify the Commission of such termination, and shall report the date of termination, volumes delivered, and revenues received.

---

[5] *Future Gas Requirements of the United States*, Future Requirements Committee, Vol. No. 4, October 1971, p. 3.

[6] *Ibid.*, p. 3.

[7] *Mineral Industry Surveys, Petroleum Statement Monthly*, Bureau of Mines, Department of Interior, December 1970, p. 37.

o. If the parties elect to commence deliveries as set forth in subsection n., such deliveries will be made at rates no higher than the prevailing area ceiling rate and shall so continue for six months unless the Commission has made its final orders on the application at an earlier date; at the end of such six-month period (if the Commission has not made its final orders), the seller shall be entitled to receive, and the purchaser shall be entitled to pay, the rates specified in the contract, and such contract rates shall continue as the effective rates until the Commission enters its final order on the certificate application.

11. The proposed new Section 2.75 of our General Rules does not replace geographical area pricing under existing regulations and orders of the Commission. The new Section provides an alternative procedure for certification of natural gas sales, as herein provided, for those who elect to seek certification of contracts on the basis that price and other provisions thereof are appropriate under standards of public convenience and necessity. This optional procedure, if adopted, is intended to encourage long term, large volume dedications of new supplies of natural gas to the interstate market.

12. Applications for certification under the optional procedures set forth in this notice will be accepted for immediate filing and processing; provided, however, that Commission action on any application so filed shall be subject to the Commission's final action on the rulemaking proposed in this Notice.

13. Mindful of the national gas supply problem delineated in paragraphs 2–8 above, the Commission reaffirms its obligation to consider applications for special relief under Sections 4 and 7 of the Natural Gas Act for contractually authorized rate increases for gas sold under certificates of public convenience and necessity heretofore issued. Neither the moratoriums imposed in area rate decisions, nor our regulations, preclude the right of an individual seller to apply for special relief and demonstrate that a contractually authorized increase is necessary, even if such increase involves rates above area ceilings. In considering individual applications for special relief, we are required by the Natural Gas Act to determine if a departure from area ceiling rates is required by the public interest. Upon an applicant's showing that the proposed contractually authorized amendment will result in securing a substantial net increase in the supply of gas for the interstate market, a determination of public convenience and necessity will be undertaken by the Commission in the light of the standards set forth in *Austral Oil Co.* v. *F.P.C.*, 428 F. 2d 407 (5th Circuit 1970), cert. denied 400 U.S. 950 (1970).

14. Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than May 1, 1972, views, comments or suggestions in writing concerning all or part of the procedures proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before action on the matters proposed herein. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address and telephone number of the person to whom communications concerning the proposal should be addressed.

15. The Secretary shall cause prompt publication of this notice to be made in the Federal Register.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

FEDERAL POWER COMMISSION,
Washington, D.C., April 24, 1972.

Hon. MARLOW W. COOK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOK: This is in reply to your letter of February 29, 1972, concerning the natural gas shortage and the effect it is having on the State of Kentucky.

A primary concern of this Commission is the assurance of an adequate supply of natural gas to the American consumer. To this end the Federal Power Commission has taken and is taking a number of steps designed to alleviate the current gas shortage, to stimulate exploration for new natural gas reserves and encourage the commitment of reserves to the interstate market. The FPC is also working toward these ends with other Federal agencies with energy resource responsibilities.

A brief summary of significant FPC regulatory actions to resolve the natural gas shortage includes:

A nationwide investigation to review existing rates and determine whether higher rates should be established for future supplies of natural gas dedicated to the interstate market;

Review and completion of area rate proceedings in important gas producing areas;

Institution of rulemaking procedures designed to stimulate the search for natural gas by independent producers and pipeline companies.

Change of small independent producers price regulation by means of blanket certification and Commission review of gas purchase costs in its pipeline regulation;

Nationwide investigation of the reliability of natural gas service;

Establishment of producer rates by rulemaking proceedings;

Accepting for consideration applications by independent producers requesting issuance of a certificate for sales of natural gas, notwithstanding that the proposed rates may be in excess of the ceiling or guideline rates;

Authorization of importation of liquefied natural gas to meet emergency needs;

Establishment of accounting rules for advance payments and loans to producers by pipelines to stimulate further exploration and development and to increase pipeline responsibility for gas supply;

Review of pipeline company curtailment plans and policies.

Further, the Commission has undertaken a National Gas Survey to investigate the supply-demand-price relationship of natural gas. An important part of this survey includes the independent determination of resources and overall evaluation of natural gas in meeting U.S. energy requirements. This survey should enable the Commission to more effectively regulate the gas industry and thereby provide for a continuing and reliable supply of natural gas to meet consumer needs.

The deteriorating domestic natural gas supply situation has resulted from increasing demand and declining exploration and development over the past decade. The demand for gas as a non-polluting and economic fuel has grown at over six percent per year which greatly exceeded the forecasted demand. Proven additions to gas reserves have not been keeping up with increasing production and sales of gas. This declining ratio of reserves to production is reflected in the rate of exploration and development with about a 50% reduction in the number of oil and gas wells drilled, and a sharp drop in the ratio of gas findings per foot drilled. This decline was caused, among other reasons, by inadequate capital formation and more attractive alternate investment opportunities.

Based on estimates by industry and Government, our reserves of natural gas in the ground are adequate to meet projected production requirements through this century. The problem is to discover, develop and dedicate these reserve resources to the interstate market at a rate sufficient to meet demand and at an economically competitive cost with other energy sources. Many of the factors influencing development of natural gas reserves are not under the control of the FPC such as interest rates, oil import policies, tax policies including depletion allowance, industrial technology, and leasing of Federal lands with oil and gas rights. However, as indicated above, the FPC is taking actions which are calculated to alleviate the shortage. Many of these actions will take time to bring about the desired results due to the lag between investment and return and the reaction time required by industry to respond to governmental regulatory actions.

Based on its clean burning characteristics, natural gas is a premium fuel in the battle to preserve and protect the quality of air we breathe. Under current technology, much of the burden of protecting the atmosphere rests with utilization of low sulfur fuels such as natural gas. We believe that the dual problem of energy resource development and environmental preservation can be resolved with acceptable solutions that meet both objectives. We are working towards these ends for failure to meet both challenges would cause serious detriment to both environmental and economic facets of the national interest.

I can assure you that the natural gas shortage, which is affecting Kentucky and many states throughout the Nation, is a top priority concern of this Commission and other agencies of the Federal Government. The Commission is taking every available means within its authority to solve the gas supply problem, and we appreciate your interest.

Enclosed for your information is a copy of the Chairman's statement of February 29, 1972, before the Committee on Interior and Insular Affairs of the United States Senate. This statement sets forth many of the problems and actions of the FPC regarding the natural gas shortage. If additional information is needed, we will be glad to provide it.

Very truly yours,

THOMAS J. JOYCE,
Chief, Bureau of Natural Gas.

ARMENIAN INDEPENDENCE

Mr. HARTKE. Mr. President, I wish to voice my support for the Action Committee for Armenian Rights, for the cause of its members, who are dedicated to the illumination and retribution of the atrocities committed against their people in 1915, is a just and righteous one. The passage of time too often causes the abominable events of history to become more palatable, but we should not permit ourselves to condone them by our silence. Through the efforts of such groups as the Action Committee on Armenian Rights, we remain constantly aware of the wrongdoings that have been performed in the past.

The atrocities committed against the Armenian people from 1915 to 1918 by the Turkish Ittihad government certainly should not be forgotten by the people of this decade. During that time over 1.5 million Armenians perished in this unprecedented attempt at genocide. It is impossible to determine the monetary value of the destruction, but the impact these tactics had upon the Armenian race is clear. Those members of the population who escaped the Turkish massacres, regardless of their constant efforts to regain the lost splendor of their race, have been unable to fully recover from the terrible onslaughts of their adversaries. The United Nations, in actions praised by all who value the protection of national, ethnical, racial, or religious freedoms, is attempting to devise means and methods of preventing and punishing genocide. However, because Armenia is not a member of the United Nations, this country is unable to gain redress of its grievances before this assemblage. The significance of the Action Committee for Armenian Rights is therefore apparent, and I heartily commend them for their attempts to gain recompense from their historical oppressors.

The benefits derived from the efforts of the ACAR include not only those specifically directed toward the Armenian people but to the people of the world as well. By illuminating the tragedy of 1915 this organization will aid in the prevention of such horrors in the future. I ask, therefore, that Senators join with me in supporting the Action Committee for Armenian Rights and the people of Armenia.

MRS. ROMANA BANUELOS, TREASURER OF THE UNITED STATES

Mr. FANNIN. Mr. President, the Washington Post today published an article on Mrs. Romana Banuelos, Treasurer of the United States.

We in Arizona are very proud that Mrs. Banuelos was born in our State.

She also is living proof that with hard work and determination it is possible not only to share in the affluence of America, but to become one of its leaders.

Mr. President, I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

U.S. Treasurer: From 36 Cents to $36 to $36,000

(By Digby Diehl)

Los Angeles.—Romana Banuelos, the recently appointed 34th Treasurer of the United States, says her lucky number is 36. She had 36 cents in her pocket when she came to Los Angeles from Mexico in 1944. After the first day of business in a tortilla factory she bought in East Los Angeles, she had sold $36 worth of tortillas. And she is now paid $36,000 a year as treasurer.

Romona's Mexican Food Products Inc., expanded from the tortilla factory to become the largest Mexican Food wholesale concern in the nation. It is now a $5-million-a-year operation employing over 300 people.

Although her work as treasurer keeps her in Washington, D.C., most of the time, we talked recently at her large, decidedly non-Spanish style home in the Los Feliz area of Los Angeles. In an animated Spanish accent she discussed her appointment and her background as a Mexican-American businesswoman with a combination of charm and political precision. During the conversation, her lucky number 36 came up again, 36 illegal aliens:

Question: Before you were approved as treasurer by Congress, you were questioned by members of the Senate Committee on Finance about disclosures that officers of the Immigration and Naturalization Service raided your plant and found illegal Mexican aliens employed there. What is your reaction to the episode of the illegal aliens?

Banuelos: I think the press misrepresented the situation. When someone comes into Ramona's Food Products looking for a job, we give him an application. He fills out the application and we keep it on file. In Washington, the senators asked me about the questions on the application. I told them that the important question is: Are you an American citizen or resident?" One senator asked me if I asked anything else and I said no. And he said that I was correct because I didn't have the right to ask anything else. Also, the senators requested a list of the wages paid to both legal and illegal workers and compared them. When they saw that I paid the same to everyone according to the job, they were so angry that they told the immigration department and the AFL–CIO that they should be on trial instead of me. But that didn't come out in the newspapers.

Q: Didn't Cesar Chavez write a letter opposing your appointment?

Banuelos: When I went to the Senate hearings there was a letter read, saying that Cesar Chavez was opposing my appointment. But Chavez was not informed that Ramona's Food Products was a union plant. He was not informed about the working conditions at Ramona's Food Products. Neither was he informed that of those 35 illegals that were removed from the plant 34 of them were members of the union, and they were up to date with their dues and two of them were working for a 30-day trial period before they could become members of the union. So for some reason, they didn't inform Chavez of the truth. And they didn't show him the employment contract we had.

Q: It seems that you have been able to break through the barrier of prejudice toward Mexicans in America and open some doors by yourself. You were born in poverty in Miami, Arizona, weren't you?

Banuelos: Yes, it is a small copper mining town. My family first came to the United States from Chihuahua at the time of the revolution of Pancho Villa. My grandmother lost her husband who fought with Villa and she had 14 children. My father met my mother in Miami, Arizona, and I was born there in 1925. My father had been a colonel and a paymaster with Villa when he met my mother. In Miami, he worked in the copper mines. In 1932, the authorities advised my father and mother that as Mexicans they could no longer have jobs during the depression and they would have to go back to Mexico. They were offended but we went back and lived in the state of Sonora. Then, in 1942, at the age of 16, I was married and my husband and I came to the United States after two sons had been born in Juarez, Mexico. Two years later I got a divorce. My mother took care of my two sons in Juarez and I came to Los Angeles, because in El Paso the wages are very low. I worked for $1 a day in 1943 in the El Paso Laundry Company.

Q: That is incredible.

Banuelos: I had heard that in California all you had to do was to come and sweep up the money with a broom. So I came to Los Angeles. When I arrived in the bus station I had $7, but I took a taxi and the driver charged me so much that I only had 36 cents after I paid him. Of course at that time I couldn't speak English and couldn't complain very much when he overcharged me. That was my introduction to Los Angles.

Q: What did you do with 36 cents in Los Angeles?

Banuelos: I stopped at a house of my mother's friend and I started working right away. A lady took me to the back door of her restaurant and showed me a huge pile of dishes. She said she would pay me cash that day if I washed the dishes. So I worked for about 10 hours and she paid me $8 cash. And that was very good for me because then I had enough money in my pocket for transportation the next day to look for a job. I worked like this until I went into business for myself. There was a little tortilla factory on Temple and Bixel with one tortilla machine and a grinder in a showcase in the front. It was owned by three men and they wanted to sell it for $2,500. I had $400. I made arrangements to borrow money from my aunt and I made a down payment. So I owned one fourth, my aunt owned one fourth and the rest was owned by the gentlemen. Then I worked in the factory every day learning to make tortillas. I was about 23 at the time.

NAHB AND THE INTEREST SUBSIDY HOUSING PROGRAMS

Mr. PERCY. Mr. President, I do not believe anyone can deny that one of the major domestic issues at the moment, and perhaps, as Ralph Nader says, the major consumer issue of the 1970's, is the quality of housing, particularly the quality of housing insured under various Federal Housing Administration programs.

Grand jury investigations are proceeding in several cities into charges of fraud and corruption in the operation of programs such as the FHA section 235 program of homeownership for low-income families.

Two congressional committees—the Senate Antitrust and Monopoly Subcommittee, chaired by the able and distinguished senior Senator from Michigan (Mr. Hart), and the Monetary and Legal Affairs Subcommittee of the House Government Operations Committee—are conducting major hearings into abuses in our housing programs which have lead to large profits for unscrupulous operators and shoddy housing for unsophisticated home buyers.

I am pleased that these efforts are being directed toward strengthening and improving the section 235 and section 236—rental and cooperative housing for low-income families—programs.

I am pleased also that the private sector is acting responsibly toward the well-documented problems in these programs.

Mr. Stanley Waranch, president of the National Association of Home Builders, has rightly noted that the problems are not confined to the interest subsidy programs and, indeed, the foreclosure problem is related primarily to the unsubsidized programs in the inner-city. He also notes, and rightly so, the positive effects of the interest subsidy programs on increasing the housing stock.

But, Mr. Waranch says:

> We do not condone abuses of any kind and we pledge ourselves to help stop abuses in any of the programs.

As part of this effort, the NAHB has initiated a major study of the subsidy programs.

The NAHB has commissioned the Real Estate Research Corp. of Chicago and its extremely able senior vice president, Dr. Anthony Downs, to undertake this study. I have unbounded respect and admiration for the scholarship of Dr. Downs. I know he will prepare an objective and penetrating analysis of these programs. I look forward with great anticipation to the results of this study and I commend the NAHB for commissioning this work.

I ask unanimous consent that the statement by Mr. Waranch announcing this study be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT BY STANLEY WARANCH

We need to set the record straight on housing lower income families under Federal subsidy programs: Until the mid 60's we never produced more than about 50,000 units annually for lower income families in the postwar period. By the end of the decade we were producing nearly 10 times that number. In 1970 it was 433,000 units, in 1971, 445,000. As HUD Secretary Romney has said, we have provided more housing for low and moderate income families in the past three years than in the previous 31.

There still is, however, a long way to go. There are millions of families in this country whose incomes are too low to get decent housing without these Federal subsidy programs, and the nation is in danger of defaulting on its obligations.

We are confronted with distortions of the subsidy record and the programs' operations; inaccuracies, and barely-concealed biases that obscure the realities and the accomplishments of the programs. The programs demand to be put into perspective, and the story of the successes of these programs be told.

The basic purpose and intent of the Congress in developing the programs is conveniently forgotten; the successes are ignored. The programs were enacted by the Congress to carry out a national commitment to provide decent housing in suitable living environments for low and moderate income families. They were not developed as the panaceas for society's ills, although an important by-product has been both a morale and economic boost to such families.

The subsidy programs are not subsidies for brick and mortar or for builders. They are subsidies for people—to enable them to escape wretched, dilapidated, deteriorating housing where one out of six families still live.

The two current major subsidy programs were created in the Housing Act of 1968 and, in effect, have had but a three year history. These programs are Section 235, providing interest rate subsidies to lower and moderate income families for purchase of homes, and Section 236, also providing interest rate subsidies for families for rental of units.

By and large, these programs have helped once-forgotten families to decent housing and many toward fulfilling their desires to be home owners. It has stimulated their efforts to improve their economic status. Of the first group of home purchasers under Section 235 to have their incomes re-examined as Congress requires every two years, 8 percent were earning enough to go off the subsidy program entirely and to carry their homes on their own, and 65 percent had decreases in their subsidies as a result of improved incomes.

Abuses, it is reported, have crept into the programs, particularly with regard to the cosmeticizing and sale of existing houses by speculators. We do not condone abuses of any kind and we pledge ourselves to help stop abuses in any of the programs. But there have been relatively few cases of abuses in the construction and sale of new units. Nonetheless the entire program finds itself tarred. As a result of these abuses, overwhelmingly in the existing house sector, the whole subsidy effort of the government—its cost and its relevancy—has been brought under broad attack, much of its misleading and misdirected.

Reports of numbers of FHA foreclosures in several cities are described as failures of the subsidy program. But they are not, in fact, failures of current subsidy programs. They were in other, older, and *unsubsidized* programs where Congress specifically directed that larger risks be taken in insuring mortgages in an attempt to save areas apparently headed for blight.

An article in a prestigious publication, Fortune Magazine, concludes that the costs and benefits of the entire subsidy programs must be a grand delusion. Aside from confusing many of the programs, it makes a grand and inaccurate point of emphasizing that the total cost to the Federal government of a 236 subsidized rental unit would be $142,024 over a 40 year period.

An examination, based on government figures, of the "typical" case cited reveals an entirely different picture, and must make suspect many of the premises in the entire article. Our calculations show that the total cost over 40 years, even assuming the unlikely occurrence that a family would remain on subsidy for 40 years would be about $37,500.

The Fortune article, on the other hand, includes in its total such "costs" of the subsidized rental unit as $25,920 in welfare payments. Welfare payments would be made in any case, have no relevance to the 236 program and, furthermore, few 236 tenants are on welfare.

One so-called "expert" is quoted as saying that 236 "may foist the worst wave of slums on the country since the first antislum ordinances were adopted in the nineteenth century." The fact is that 236 projects are built under strict government design and engineering standards and project selection criteria instituted by the Department of Housing and Urban Development will insure that locations will be superior.

We in the National Association of Home Builders recognize that there are improvements to be made in the programs. We seek them. HUD recognizes problem areas, and Secretary George Romney has been administratively moving to correct them.

The Congress has been studying the situation. I don't believe, however, it will be stampeded into abandoning what are essentially sound programs to carry out both national housing goals and national housing policy. In fact, the Senate reaffirmed that policy with passage this month of a massive housing bill which consolidates and simplifies programs by a vote of 80 to 1—a bill which continues and expands the scope of the subsidized programs with appropriate safeguards.

We do not say that the programs, as currently operating, are the ultimate ones that can be devised to provide the hope and housing for families whose incomes are not adequate to bring them into the market place. Certainly there is always room for improvement, particularly since the programs are so new.

To that end, the National Association of Home Builders has initiated a major study of the subsidy programs. Its aim will be to assess as objectively as possible existing and proposed federal housing subsidy programs, to evaluate them, and suggest improvements or, perhaps, even new directions.

Participating in sponsorship of the study with NAHB are the U.S. Savings and Loan League and the National Association of Mutual Savings Banks.

To undertake the study, we have contracted with the Real Estate Research Corporation of Chicago, one of the most knowledgeable and respected housing and urban research firms in the country. Its senior vice president, Dr. Anthony Downs, who served on the Douglas Commission, Presidentially-appointed groups which studied America's urban and housing problems, has been asked to examine existing programs, to consider alternatives and, if necessary to come up with recommendations as to new approaches that would best suit the country's needs.

Dr. Downs is being given a completely free hand to make the study meaningful and constructive. We expect to have its findings later this spring.

As concerned citizens and businessmen, we are involved with these problems and are prepared to make extraordinary efforts, in cooperation with the government, to provide more housing that so many families desperately need now in the most efficient and reasonable manner possible.

RUMANIAN INDEPENDENCE

Mr. HARTKE. Mr. President, on May 10, Rumanian people throughout the world celebrated the 95th anniversary of their independence.

In fact, May 10, is the most significant date in Rumanian history.

On May 10, 1866, Charles, Prince of Hohenzollern-Sigmarigen, was proclaimed Prince of Rumania, putting an end to the nation's long struggle to acquire the right to elect as its sovereign a member of one of the Western non-neighboring reigning families and ending internal strife.

On May 10, 1877, the principality of Rumania declared its independence and allied itself with Russia against the Turks.

On May 10, 1881, Charles I was crowned, by the will of the people, King of Rumania. A period of prosperity followed.

World War II, and 1945, however, ended the independence of this brave nation. Soviet occupation troops forced the Rumanians to establish a Communist government that would be a satellite regime to the Kremlin.

Throughout history Rumania has been the crossroads between East and West. Although Communist rule still prevails in this long oppressed nation, its people still cherish their dream of once again being free. On the occasion of the anniversary of their independence, I urge that we continue to support their hope for self-determination.

INCREASING VETERANS EDUCATIONAL ASSISTANCE BENEFITS

Mr. MATHIAS. Mr. President, I ask unanimous consent to have printed in the Record the testimony of the National Council of Independent Colleges and Universities before the Senate Committee on Veterans' Affairs on April 28 of this year.

The testimony supports the concept of providing tuition payment for veterans' college education and urges the committee to report favorably S. 3345, a bill proposed by the American Legion to improve veterans educational benefits. It is similar in concept to my own bill, S. 2163, the Vietnam Veterans Act of 1971, which would provide a direct tuition payment of up to $1,000 for tuition, books, fees, and related supplies for veterans paid directly to the educational institution by the Veterans' Administration similar to the World War II GI bill, under which I attended law school.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT BY PRESIDENT LANDRUM R. BOLLING

We begin our testimony this morning by commending the United States Senate for forming a few months ago a standing committee on veterans' affairs. The consolidation of all authorizing activities previously conducted by several separate committees should provide more expeditious and efficient legislation for veterans and the nation as a whole. We extend our best wishes for the achievement of an illustrious record and offer our cooperation in your work.

Few committees have more potential to influence higher education and the nation than this one. We cite as an example the enactment of the Servicemen's Readjustment Act of 1944, more familiarly known as the World War II GI Bill. The Congress, in this single piece of legislation, perhaps did more to transform higher education and set lasting education priorities for the nation than has been achieved by any comparable piece of strictly education legislation. The World War II GI Bill, plus the original land-grant act in 1862, were truly landmark and historic legislation. The future legislative achievements for this committee hold equal promise.

The associations we represent, the Association of American Colleges and the National Council of Independent Colleges and Universities, comprise most of the undergraduate, four-year liberal arts colleges, independent and public, and nearly all the independent colleges and universities of the nation. Their combined total is approximately 1300 institutions of higher learning. We thank you now for this our first opportunity to testify before this subcommittee in its first round of hearings on improving veterans' educational assistance.

We commend the chairman of the committee for setting the scope of these hearings by saying, "Perhaps our most important work this year will be to review and revamp the present educational benefits under the GI Education Bill." We appreciate his opening statement to the subcommittee in which he indicated "there are no forbidden areas of discussion for this committee." The needs of the nation, its veterans and its colleges and universities require such a charge.

The times in the life of this nation in which you are legislating are difficult, nay painful. Almost unyielding forces are tearing at the fabric of our society. How every much unlike the days in June, 1944, when a grateful nation passed a veterans' education bill described in 1965 by John R. Emens, then president of Ball State Teachers College, as "an expression of faith in ultimate victory . . . the United States had made plans for its veterans." We are now engaged in an "unpopular" war, not knowing from day to day whether it is winding down or escalating. Yet, the needs of the nation today are as great; the opportunity to turn it around to face the future with hope is equal if not greater. We must now allow our doubts about the legitimacy of this war to deprive those veterans who willingly fought for us.

The obstacles before this committee to vastly improve veterans' educational benefits, generally regarded by the Congress as well as society to be inadequate, are difficult to surmount also. You have before you a House-passed bill, under a closed rule, to increase monthly benefits from $175 to $200, coming at a time when student charges next fall, in many public colleges as well as independent colleges, have been increased by more dollars than the increase in benefits, leaving thousands of veterans with less dollar support next year than in the current school year. Further, the Administration has not requested legislation which would provide adequate benefits. How unlike, again, the days in 1944 when Congress passed the GI Bill without a dissenting vote! Clearly to us, someone in the Congress must undertake a challenge to these inadequate responses to the needs of veterans which will again point the nation to the future with hope and to the veterans with appreciation.

We gratefully recognize that this committee is committed to improving veterans' education benefits. We pledge now our support for an adequate increase in benefits. The question and the problem is: shall it be done by increased monthly payments to the veteran and/or a direct tuition payment?

Neither the current $1575 benefits per nine-month school year, nor the House-proposed $1800 benefits, will cover the full cost except at a low-charge public institution, mainly the community college. Such limited benefits restrict veterans to certain low-charge colleges, in effect making the veteran choose postsecondary education on economic limitations rather than educational preferences. This influence may, in part, account for the fact that Indiana, which ranks 10th in veterans population, ranks 48th in percentage of veterans in college; while California ranks first each in veterans population, veterans in training, and percentage in college. Some of the major influences in the California experience undoubtedly relate to a state scholarship program and an outstanding community college system. But the veterans, in the fifty states, were summoned to service by the federal government—the responsibility for equal educational opportunity for veterans belongs in Washington. Further, fewer tax dollars would be required to subsidize the veteran than to build public low-charge systems in states, assuming there is some respite between wars.

The low present monthly benefit is one problem: a second problem relates to the proposed increase in these monthly benefits. Presently, the $1575 provided for a nine-month school year already covers the fixed expenses at low-charge colleges. Increasing the annual support to $1800 or $2200 for the school year only increases the amount of 'extra' federal dollars beyond the fixed costs at those institutions currently attended by more than 40% of all under-graduate veterans.

A third problem facing the committee deals with stories of abuses under the orginal GI Bill. No greater abuse can be cited than the discrimination which took place under the Act. In 1944 the nation did not understand the need for civil rights clauses in educational legislation, or indeed veterans' legislation. Can anyone imagine the nation or Congress writing legislation today without prohibiting discrimination? Other abuses related to fly-by-night schools and price-gouging. Can anyone imagine the nation or Congress—having learned in the National Defense Education Act of 1958, the Higher Education Facilities Act of 1963, the Higher Education Act of 1965 or the National Science Foundation Act of 1950 how to create a proper federal-college/university relationship—permitting these abuses to be repeated!

A fourth problem is speculative: how will the Vietnam veteran influence the future of this nation? The post-World War II years and today do not provide an exact basis for comparison but a sufficient number of common denominators exist to permit an attempt. The World War II GI came home to a grateful nation, supported by a marvelous piece of legislation to benefit the veteran. The remarkably high degree of aspiration of today's parent, millions of them veterans, for education for their children has helped make this nation the most highly trained in the world. The World War II GI has repaid the government several times over in taxes the almost $15 billions cost of veterans' education.

Today's GI comes home to a troubled world, faced with uncertainties and unemployment. This veteran is underutilizing his or her education benefits, despite greater efforts by the government to give encouragment; the veteran knows his or her service has not brought a comparable education benefit to his or her parents'. If the veteran today is disillusioned, and we believe he or she is, then we must speculate what the veteran's responses will be to our society in another twenty years. We can greatly assure the proper response in part now by implementing creative legislation. And again the veterans' affairs committees can be instructive to the Congress in how to legislate education for all for the future.

We urge this committee to report S. 3345 introduced by Senators Hartke and Thurmond on request. With the genuine concern of this nation for equality of opportunity we feel the veterans should have their own kind of equality of opportunity as provided in S. 3345 which would mean attending the college of their choice and having sufficient subsidy to help pay for most of it.

The provision in S. 3345 for the lesser of $1000 or 75% of tuition would not underwrite the full cost of tuition at the higher-charge college or university, but with the eligibility of the veteran for other federal student aid programs the achievement of equality of opportunity would be more nearly approached. Its enactment would provide approximately one-half tuition charges at higher-charge colleges and universities.

S. 3345 would provide greater opportunities for veterans to attend independent colleges or universities. It would also make a dramatic and effective move toward offsetting the present underutilization of veterans' education benefits. Whether the *Parade* Sunday supplement of January 23, 1972 is quoted at 28% or Veterans Administration figures at an overall participation rate of 38.1% (DVB IB 24-7201), it is generally conceded veterans are not using education benefits at a desired rate. S. 3345 would make a major contribution to solving what could be added as a fifth problem facing the committee.

Although we are attempting to state the case for greatly increased veterans' education benefits and equal educational opportunity for the veteran, we are not doing so solely for the self-interest of independent colleges or universities. Testimony presented earlier to this subcommittee by the National Association of Collegiate Veterans, Inc. contained results of a survey of public universities which showed 65% of veterans enrolled in those universities stated costs of their education was $3,000 or more annually. We wish to demonstrate that veterans' education benefits are inadequate for many institutions, public or independent.

Clearly, veterans are not attending independent colleges or universities at the same rate as after World War II, which was 50% of all veterans in training. The rate today is near 20%, one-half of which are part-time. Some weeks ago the National Council of Independent Colleges and Universities provided each Senator a comparison of veterans enrolled in its member institutions in 1947–48 versus the current school year. The loss is not tabulated alone in tuition income, for the independent sector has grown in enrollment, although at not so rapid a rate as the public sector. The loss is in the veteran as a person, and in sufficient numbers so as to present a point of view badly needed by the non-veteran. The absence of a significant veteran enrollment is a cultural loss to the 2,000,000 plus students in independent colleges. The effect of this loss is supported by studies which show students learning as much from their peers as their teachers.

We are not assuming the veterans would choose independent colleges at the same rate as under the original GI Bill. We do feel, however, the veteran would distribute himself or herself among colleges in about the same proportion as the general student population if the benefits were comparable to World War II benefits. The veterans merits at least the choice, which present benefits do not provide.

Our testimony up to this point has been

aimed toward influencing the philosophy of veterans' education benefits, toward making a fundamental change in the present program. For the many operative suggestions for current veterans' programs we recommend the testimony presented this morning by the American Association of Junior Colleges and its very able director of programs for veterans and servicemen, Dr. John Mallan, and their witness, President James H. Hinson, Jr., of Dekalb College in Clarkston, Georgia.

The AAJC and the AAC operate separate Veterans Outreach programs. The former has been described to you; the latter began operating in January, 1972, in 50 states and two territories, with 700 colleges signed up to receive almost 2,000 monthly lists of discharged veterans by state of residence at the time of discharge. These programs are operated in cooperation with The American Legion and the Veterans Administration. The independent colleges and universities are earnest in their desire to encourage veterans to undertake post-secondary education. We join this committee in that effort

---

MRS. JOSEPHINE CHRISTIANSEN OAKS, PROVO, UTAH, NAMED 1972 YOUNG MOTHER OF THE YEAR

Mr. BENNETT. Mr. President, I have just had the pleasure of learning that Mrs. Josephine Christiansen Oaks of Provo, Utah, has been named the "Young Mother of the Year."

Mrs. Oaks is the mother of six young children and has still managed to find time for outstanding service to her community. I am certain all Utahans are very proud of her today. I ask unanimous consent that an article published in the Washington Daily News today be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Daily News, May 11, 1972]

YOUNG MOTHER OF YEAR

NEW YORK.—Josephine Christiansen Oaks of Provo, Utah, was named today as 1972 young mother of the year at the 37th annual convention of the American Mothers Committee Inc.

Mrs. Oaks, mother of six children, is a teacher and head of a child guidance program at the Provo Civic Center.

The young mother of the year award was limited to those mothers in the contest under the age of 34.

The group will announce its official national mother of 1972, chosen from among mothers representing each of the 50 states, the District of Columbia and Puerto Rico, at a luncheon.

FOREIGN TRADE AND INVESTMENT ACT

Mr. HARTKE. Mr. President, in February of this year, we suffered the second worst trading month in our Nation's history—a deficit of almost $600 million. At that rate, our trade deficit could be over $7 billion at the end of the year.

At the same time, our unemployment picture has taken a turn for the worse. Now 5.9 percent of our work force is out of work, and there are no signs of improvement.

In these circumstances, I was not surprised to learn that the Milwaukee City Council and the Milwaukee County Board of Supervisors became the first local government bodies to endorse the Foreign Trade and Investment Act of 1972—the Hartke-Burke bill.

Because of the importance of this first step, I ask unanimous consent that an article from the Machinist, concerning the recent endorsement, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CITY COUNCIL VOTES TO BACK BURKE-HARTKE

Milwaukee City Council and the Milwaukee County Board of Supervisors are the first two local governing bodies to endorse the Burke-Hartke Act.

This is the measure in Congress that seeks to save American jobs from export overseas by removing some of the tax and tariff advantages now enjoyed by multi-national corporations. The measure, S. 2592, is authored by U.S. Sen. Vance Hartke of Indiana and U.S. Rep. James Burke of Massachusetts.

The Milwaukee Council and County Board acted under pressure from the Coalition of Unions to Save Jobs, Milwaukee unions whose members have suffered particularly from overseas runways. Al Brown, vice president of IAM Local 1061, represents the IAM on the steering committee. Brown reported these facts:

Firms that have been gradually reducing operations in Milwaukee include such well-known companies as Cutler-Hammer, Inc., Allen-Bradley, Square-D, Louis-Allis, John Oster, Johnson Service, Fedders Corp., and Allis Chalmers.

Cutler-Hammer, for instance, has dropped from a high of 3,600 shop employees several years ago to 1,050 at present. During the phasing-out process there are many internal transfers that have downgraded employees' pay from 50 cents to $1.50 an hour.

OBSERVANCE OF SOIL STEWARDSHIP WEEK

Mr. FONG. Mr. President, May 7 to 14 marks the 19th observance of Soil Stewardship Week. This year's theme is "Creative Conservation."

During Soil Stewardship Week, all citizens are asked to be especially mindful of their obligation as stewards of the soil, water, and other natural resources.

Hawaii's districts are joining 3,000 companion districts throughout the country to provide local sponsorship of this observance for the 18th consecutive year. The districts—along with their State and national associations—deserve praise and gratitude for their history of concern for the quality of our environment.

As residents of our Nation's only island State, Hawaii's people are keenly aware of the limitations of their land and other natural resources. For three decades, two of the various agencies that have made significant contributions to conservation of land and water resources in Hawaii are our 15 soil and water conservation districts, charged by State law to conserve and protect land and water resources in the State, and the U.S. Department of Agriculture's Soil Conservation Service, which provides technical help through these districts to the people of my State.

Hawaii was the first State in the Union to have a completed soil survey, a cooperative survey accomplished under the leadership of the Soil Conservation Service. Soil surveys, of course, are the foundation of good land-use planning. The State is well known in planning circles for its progressive land-use laws. Decisions on statewide zoning boundaries benefit from information provided by the SCS soil survey and interpretations.

The Soil Conservation Service is providing valuable technical planning help to sponsors of the Tri-Isle resource conservation and development project, which has received substantial Federal funds. The sponsors of Hawaii's first such project are the County of Maui and the five soil and water conservation districts in the county. Local people are finding that the project leads to improvement of all aspects of the quality of life in the three-island project area.

Two projects under provisions of Public Law 566, the Small Watershed Protection and Flood Prevention Act, have been completed. They are the Naalehu watershed project and the Puukapu watershed project, both on the island of Hawaii. These were among the 10 applications for planning assistance which have been submitted to SCS from Hawaii. The other projects are in various stages of planning and construction.

Plant materials, after testing at the SCS Plant Materials Center in Hawaii, are being used to beautify the countryside, stop soil erosion, and improve the quality of agriculture in Hawaii as well as in other areas of the Pacific Basin.

The success of this kind of Federal assistance is due immeasurably to the efforts and leadership of the State's soil and water conservation districts. Landowners who have cooperated with districts for years have been effectively acting on the ecological concern today so widespread. Preserving the good qualities of life—one of the great challenges facing our Nation—is a continuing consideration in active district programs.

The districts include practically all landowners in the State and 96 percent of the land. In fact, about 80 percent of the entire State is under cooperative agreement with districts, reflecting landowners' intentions to apply needed conservation measures. Since the Soil Conservation Service's first study of conservation problems in Hawaii in 1938, landowners themselves have invested more than $80 million in conservation practices.

Hawaii's citizens are proud of the work accomplished through the district movement with the assistance of the Soil Conservation Service and other agencies; are indebted to district leaders for their efforts to keep the public informed about vital reserve conservation and development needs; and are most appreciative of the continuing support Congress and the President have given this program.

Mr. President, the House of Representatives of the Sixth Legislature of the State of Hawaii, regular session of 1972, unanimously adopted House Resolution No. 392, "Supporting Observance of Soil Stewardship Week, May 7–14, 1972," the text of which is as follows:

Whereas, the preservation of environmental quality is not only a national objective of paramount importance, but also one of this State's major goals; and

Whereas, for the past two decades, the Government and people of Hawaii have sought to preserve environmental quality through the creation of soil and water conservation districts designed to implement proper resource conservation and development; and

Whereas, these soil and water conservation districts, together with the Hawaii Association of Soil and Water Conservation Districts, are sponsoring local observances of Soil Stewardship Week, May 7–14, 1972, for the 18th consecutive year; and

Whereas, by proclamation of the Honorable John A. Burns, Governor of the State of Hawaii, the people of Hawaii will join in the activities and ceremonies recognizing this observance; now, therefore,

Be It Resolved by the House of Representatives of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, that this body endorse the proclamation of the Governor and encourage the citizens of the State of Hawaii to support the observance of Soil Stewardship Week; and

Be It Further Resolved that the House of Representatives extend its congratulations and appreciation on behalf of the citizens of this State to the officers of the Hawaii Association and National Association of Conservation Districts for their active sponsorship of his event; and

Be It Further Resolved that certified copies of this Resolution be transmitted to the Honorable John A. Burns, Governor of the State of Hawaii; John S. Wilder, President of the National Association of Conservation Districts; Northrup Castle, President of the Hawaii Association of Soil and Water Conservation Districts; Earl L. Butz, Secretary of Agriculture; Kenneth E. Grant, Administrator of the Soil Conservation Service; Fred Haughton, State Conservationist; and Sunao Kido, Chairman, Board of Land and Natural Resources.

In connection with sponsorship of Soil Stewardship Week, districts fill requests from churches of all faiths for published materials created particularly for the current observance. The materials are prepared by the National Association of Conservation Districts in consultation with an advisory committee composed of leading churchmen. I commend to the attention of Senators a portion of this material—a strong plea for the conservation of our natural resources—as follows:

Consider Conservation

It's the will and the skill of responsible man
To protect and use wisely the treasures of land—
The waters and wildlife, the forests and fields,
Plus the bounty of beauty God's countryside yields.

It's the fight against ignorance, waste, and greed
To save the resources that all men need.
It's the foe of erosion, forest fire, and flood—
Three agents of ruin, pollution, and mud.

It's the vision and work to add something good
To the home, to the farm, to the whole neighborhood.
It's new lawns and new gardens; a lake built to please;
It's roadsides with grass and hilltops with trees.

There's a lot to be done for the state of our living
But each gain requires *your* share of self-giving.

Consider conservation. Consider it well.

LEARNING EXCHANGE

Mr. PERCY. Mr. President, in an era when institutionalized education is receiving criticism for not being responsive enough to the needs and concerns of the individual, many Americans are seeking meaningful and enjoyable alternatives to classroom learning. A group of people in Evanston, Ill., have organized an innovative program called the Learning Exchange. The project requires neither huge sums of money nor large numbers of people. Yet in its year of operation, the Learning Exchange has broadened the educational opportunities of the people of the Evanston area and demonstrated that teaching and learning can also be fun.

I ask unanimous consent that information on the Learning Exchange program be printed in the Record.

There being no objection, the information was ordered to be printed in the Record, as follows:

A Community's Effort To Recycle Education

In May, 1971, a group of graduate and undergraduate students at Northwestern University along with residents of the Evanston community joined together to establish the Learning Exchange. After eleven months of operation this simple educational mechanism has grown to serve the learning needs of almost 1,000 participants and offers a "curriculum" of over 700 topic areas. The total cost of the Learning Exchange program has been under $200.

The area presently served by the Learning Exchange roughly corresponds to the outer limits of the Chicago metropolitan area. The focal point of the learning community is a small, borrowed office provided by United Community Services of Evanston. The Exchange is two telephones, three boxes of 3x5 file cards, and a group of fifteen volunteers who determine policy and answer the telephones.

Anyone who wants to use the services of the learning community simply writes or telephones the Learning Exchange and indicates his educational needs and interests to the volunteer operator. If the caller wants to learn a skill or body of knowledge, he is given the names and phone numbers of people who know what he wants to learn and are willing to teach him. The learner assumes responsibility for contacting one or more of the teachers provided and attempts to work out a mutually satisfying learning relationship. Decisions regarding meeting time, place, frequency, rate, and fee (if any) is mutually decided by the teachers and learners to suit their needs or convenience.

Teachers who wish to make their services available to other members of the Chicago metropolitan community are invited to register with the Exchange. Some have school credentials and certificates, while others draw on work, leisure, or life experience as the basis for their knowledge. Preliminary research indicates that the Learning Exchange is successfully tapping onto or recycling some of these skills, talents, and knowledge that have not previously been utilized. A quality control mechanism is presently being devised that will enable the recipients of a teacher's service (learner) to recommend or not recommend the teacher to prospective learners.

Another aspect of the Learning Exchange is called the Interest-Match, wherein there are no teachers and no learners, just people who are interested in discussing a topic of mutual interest. People in the learning community, for example, are forming groups around book titles, hobbies, foreign languages, etc.

The Learning Exchange services are offered free to the public. There are no access restrictions whatsoever. It is a highly pluralistic group—7 year olds to senior citizens, grade school drop-outs to Ph.D.'s, and all social and ethnic groups are represented in this learning community. Aside from being very inexpensive, this new approach to self-improvement and education encourages a sense of community and is even being used by local public, parochial, and free schools to enrich their academic and extra-curricular programs.

[From the Chicago Sun-Times, Nov. 9, 1971]

How "Learning Exchange" Works—At $27 for 6 Months

(By Dennis D. Fisher)

The radio ad was catchy:

"Would you swap what you know for what you want to know with someone who knows what you want and wants to know what you know?

"If so, then call the Learning Exchange weeknights at 475–2402."

A phone call to Robert Lewis, 30, a doctoral candidate in education at Northwestern University and a co-founder of the exchange, netted more specifics on the unusual experiment in learning.

"It is a free educational matching service for anyone with access to a telephone or the 8 cents for a postage stamp," he said. "We don't offer a school. All we offer is a mechanism for getting learners and teachers together."

STARTED IN MAY

The exchange was started in May by Lewis and Denis Detzel, 25, who is a doctoral candidate at NU in sociology of education.

Detzel said the idea for a learning exchange originated from three months of study at the Center for International Documentation run by radical social critic Ivan Illich in Cuernavaca, Mexico.

The institution of education in this country is "a locked system" that destroys motivation and the will to learn, Detzel observed.

"An individual (in school) has no choice over who will teach him, what he wants to learn or when he wants to learn it," Detzel said.

"We wanted to develop a learning structure that anyone could use, rich or poor, regardless of race or skill level," he said. "And we also wanted a structure that was not controlled by the state or any bureaucratic system."

PARTICIPATION VOLUNTARY

The Learning Exchange has about 20 nonpaid co-directors and a very loose organizational structure that works on a voluntary basis. The directors meet once a week and discuss issues and problems and volunteer for shifts at manning the phone for the next week.

The exchange is set up in borrowed space in the Volunteer Bureau of Evanston office at 828 Davis. Expenses are minimal because no outgoing calls are placed. The whole budget for six months has been $27, most of which was used for printing costs.

The co-directors supply callers with the phone numbers of teachers, learners or those with a mutual interest, like a hobby or discussion of a best-selling book.

The Learning Exchange has built up a file of 290 topics, ranging from traditional amateur radio and the stock market to more colorful subjects such as the Baha'i faith, communes, Esperanto, handwriting analysis, psychic investigation and hammock making.

There are potential learners but no available teachers for Aikido, auto mechanics, chinchilla ranching, playing the flute or the Greek, Russian and Youba languages.

The interest-match category includes a wide array of themes, including East Asian philosophy, extremist groups, guitar, photography, male liberation, bowling and discussion of books like "The Greening of America" and "Future Shock."

Lewis said the exchange will not list topics that have to do with anything illegal or violent, like bomb making. He said very few of the teachers charge a fee.

The exchange now serves persons from high-school age to senior citizens, with a predominance of persons in their middle 20s and older.

"The beautiful thing is that you don't need formal credentials to be a teacher," Lewis said.

One premise of the experiment is that "a vast number of educational resources go to waste in any given community," he said.

The exchange is one way of making use of this untapped talent, he said.

Each caller is questioned about possible interests to share and subjects he may be able to teach.

"There is no limit to how large our file can grow," Lewis said.

Information from each caller is placed on a 3-by-5 card and cross-referenced.

CHEAP—BUT REAL

"What we have is a cheap but real and thriving alternative to the education establishment which has been the only game in town until now," Detzel said.

Detzel and Lewis agree that a side benefit is the exchange's catalytic effect on people communicating.

"This is a vehicle for getting people together around what they're interested in and the interest promotes self-learning," Lewis said.

The eventual goal is to turn over the project to the community.

[From Evanston, January 1972]

LEARNING EXCHANGE: SOMETHING FOR ALL

What is your major educational interest? Would you like to learn more about it? If so, The Learning Exchange in Evanston might be able to help. The Exchange matches people in the Chicago metropolitan area who want to teach, learn or share their skills and knowledge.

After six months of operation there are more than 400 topic areas available through the Exchange. The catalogue grows daily as more people hear about and take advantage of the free educational matching service.

Close to 1000 persons are registered—preadolescents to senior citizens. No one is excluded. Anyone who has access to a phone and the desire to learn, teach or share an interest area can use the Exchange.

Teachers include Ph.D's, M.A.'s, B.A.'s, high school graduates, some adults who never finished high school. The Exchange taps onto a vast storehouse of educational potential by providing a way for people to teach and share their skills and knowledge even if they do not have credentials from a four year teachers college.

About 90 per cent of the teachers provide their services free. The Exchange neither encourages nor discourages teachers from charging a fee. Many are willing to teach for the sheer enjoyment that the experience affords them.

Another important and highly popular service offered is the Interest-Match—no teachers, no learners, just people who want to discuss and share a common interest. People are getting together to discuss books, movies, plays, hobbies, organizations, politics, religions, current events, you name it. If a person wants to discuss a subject, but does not feel capable of teaching it, he can list himself in this category.

The Learning Exchange is not a school. It is only an office, two telephones and a small group of volunteer operators. Expenses are very small. The office is provided free by the Evanston Volunteer Bureau. The Bureau uses it during the day and the Exchange uses it in the evening. The telephones are also provided by the Bureau. Since the Exchange has very few outgoing calls (people call in) the phone bill is quite small.

The idea of a Learning Exchange originated at CIDOC in Cuernavaca, Mexico. Denis Detzel, a doctoral student with the Center for Urban Affairs at Northwestern University, was part of a group of innovative educators who brainstormed for alternative educational structures. The Exchange was one of several discussed.

For more information about the free educational matching service call 475–2402 any weekday between 6 p.m. and 10 p.m. or write to the Learning Exchange, 828 Davis Street, Evanston, Illinois 60201.

SUPPORT AND NONSUPPORT FOR PRESIDENT'S ACTION IN VIETNAM

Mr. FULBRIGHT. Mr. President, illustrative of how the news can be managed, and the misleading effect of such management, I have noted an article in the Washington Post of Thursday, May 11. That article, by Carroll Kilpatrick, is headlined: "White House Says Support Is 5 or 6 to 1," in favor of the President's decision to mine Haiphong and other harbors.

I believe it would be more credible if the correspondents were given a bag of mail and permitted to make their own estimates.

Lacking that kind of responsible reporting, it might not have been a bad idea to ask some opponent of the President's action how his mail is running.

For the information of the Senate, my mail is running 6.6 to 1 against the President's policy.

As of this morning, I had received 88 letters supporting the President's policy and 597 against his policy.

I ask unanimous consent that Mr. Kilpatrick's article and a statement of my mail averages be printed in the RECORD at this point.

I might note, that I am willing to have anyone count my mail on this subject, so that it can be verified first hand, if he or she so wishes.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHITE HOUSE SAYS SUPPORT IS 5 OR 6 TO 1

(By Carroll Kilpatrick)

The White House yesterday claimed "substantial support" for President Nixon's Vietnam decision both in Congress and among the voters despite the sharp criticism that has developed.

Press secretary Ronald L. Ziegler, declaring that the congressional opposition was "largely along party lines," predicted that public support for the President would "permeate Congress sooner or later."

"This is a time when domestic unity is extremely important in bringing about an end to this (Vietnam) conflict," Ziegler said, echoing the President's appeal for unity in his address Monday night.

On Tuesday, the day after the President announced his decision to mine North Vietnamese harbors, the Senate Democratic Caucus condemned his "escalation of the war" and proposed a cutoff of Vietnam funds.

Ziegler said letters, telegrams and telephone calls to the White House supported the President 5 or 6 to 1. He said about 20,000 telegrams have been received and that Western Union said there is a backlog of 17,000 still to be delivered.

Ziegler also said that an Opinion Research Corp. poll showed substantial public support for the President's action.

The poll results also were made public by Senate Republican Leader Hugh Scott (Pa.) and Senate Republican Whip Robert P. Griffin (Mich.).

An Opinion Research Corp. official said in Princeton, N.J., that a telephone poll it conducted Tuesday showed that nearly three out of four Americans support the President's decision to mine the harbors. Only 21 per cent of those surveyed expressed disapproval, 5 per cent had no opinion and 74 per cent said they supported Mr. Nixon's actions.

The findings were based on 702 telephone interviews of persons 18 years of age and older at "several locations" around the county, according to Opinion Research's director of communications, L. C. Milchuk.

Opinion Research has done extensive polling for the GOP in the past.

Milchuck told a reporter yesterday that the firm was not free to name the client who commissioned Tuesday's survey. He did say, however, that the Republican National Committee was not the sponsor.

Ziegler, when asked why the President failed to consult Congress before making his momentous decision, said Mr. Nixon consulted widely among his advisers, made his decision as commander in chief and informed congressional leaders of his decision and why he made it.

Ziegler maintained that the President considered all aspects of the problem and weighed pro and con arguments. In the end, the President had "the full support of his advisers," Ziegler said.

Referring to a report that Secretary of Defense Melvin R. Laird opposed the decision, Ziegler volunteered the comment that the report was untrue. He said Laird "is supportive of this action."

Asked whether Mr. Nixon consulted former President Johnson on the decision, Ziegler said no.

He also said there are no plans for Henry A. Kissinger, assistant for national security affairs, or any other high official to visit the Soviet Union prior to the President's trip scheduled to begin May 22.

Ziegler said plans for the summit meeting are proceeding, but he declined to give any details or any information on the President's schedule. On a trip of this kind details normally are made available much earlier.

A technical advance mission is in Moscow now but Ziegler declined to say what kind of reception it was getting.

At the State Department, spokesman Charles W. Bray said Soviet-American discussions on a variety of issues are continuing in a "straight-forward, serious" way.

These include the strategic arms limitation talks in Helsinki and talks here on commercial maritime issues, a lend-lease settlement and the avoidance of naval incidents at sea.

J. EDGAR HOOVER

Mr. COOK. Mr. President, I believe that all Americans are saddened by the death of former director of the Federal Bureau of Investigation, J. Edgar Hoover. Although he came under much criticism recently, he will be remembered for taking an inefficient and politically guided bureau and making it into one of the most respected law enforcement and investigative agencies in the world.

Recently I received a letter from a lawyer and constituent in Kentucky who was also a former special agent in the FBI. Because his sentiments reflect the feelings of so many Americans, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EWEN, MACKENZIE & PEDEN, P.S.C.,
Louisville, Ky., May 3, 1972.
Hon. MARLOW W. COOK,
U.S. Senator,
Old Senate Office Building,
Washington, D.C.

MY DEAR SENATOR COOK: A feeling of great personal loss compels me to set forth some personal reflections occurring to this former Special Agent of the Federal Bureau of Investigation on the occasion of the passing of its Director, Mr. J. Edgar Hoover. I was privileged to have served for but a comparatively short term of something over three years in the Bureau before returning home and to the practice of law. During the last two years of my tour I was assigned to Washington, D.C. It was during this period that I began to know Mr. Hoover as the great leader he was. He was a firm, and often times tough, boss who never lost control in view of the seemingly overwhelming tasks his Bureau was charged to perform. Nevertheless, he was a fair man and, as an investigator, I soon learned that here was an employer to whom I was giving my loyalty, not because I simply wanted to retain my position, but for the sole reason that I respected the principles under which Mr. Hoover, the man, operated. The men and women with whom I worked daily convinced me of this business of principle, not by anything they said, but rather by the lives they led, both professionally and privately. It would, I am sure, be difficult for the average citizen to imagine the loyalty this one individual had among his employees.

It was in this spirit that I terminated my service with the FBI, an experience never to be forgotten and for which I will always remain thankful. In my letter to the Director announcing my intention to resign I wrote:

"It is after deep and serious consideration that I write you with my intention to resign my position as Special Agent of the FBI, effective October 8, 1971. Family considerations and personal reasons compel my separation from, what abides as, the top investigative agency in the world, and my return to private law practice in Louisville, Kentucky.

"A swell of pride in the Bureau and its most important work constrain me to relate to you my sincere appreciation for the opportunity to have served my Country in such a meaningful way.

"In parting, let me say that it has been a unique personal pleasure, shared by relatively few other of my fellow countrymen, to have served under your dedicated leadership. In the most complete sense of the word, you have been and continue to be, a patriot whose life and service to our Government have helped to maintain the American way of life. Your accomplishments and career will forever serve me as a shining example of genuine patriotism, for it is difficult to recall to mind any man who has given so many years of outstanding service to his country as have you, Sir. It is my hope, as I resign, that your leadership, which has become the bench mark of law and order, will continue as long as health permits."

Unfortunately, health was to permit him but a few additional months in office after this letter was written, but the bench mark of which I spoke will remain as long as this society is free.

Critics have murmured that the Director was an enemy of civil liberty. Those of us who served under his dedicated leadership knew this charge to be false for it was at every juncture that we were reminded of the rights of the citizens, rights we had been sworn to protect and defend. It would test the elasticity of the mind's imagination to speculate on the course this country would have taken were it not for the dedicated public life of this great patriot. Can it be logically said that one man so changed the history of an entire country? In this case, I think so. Sure, America has its faults, but in what other country will you find those who disagree with government policy protesting, on the sidewalk in front of the home of the Chief of State, with full license guaranteed by the government against which the protest is being leveled? Yes, Mr. Hoover was the protector of the civil liberty. But for some only time and prospective will cast this man as the true champion of individual rights that he was.

His accomplishment and career have left an indelible imprint on the citizens of this great country whom he has so faithfully served during his lifetime.

I am proud to have been associated with Mr. Hoover's FBI, and it is my sincere hope that the strength, character and principles which guided this great man and which he built into his organization will continue as the Bureau's compass as it sets sail into the uncharted waters of the future under the flag of a new skipper.

For my part, I would say, thank you Mr. Hoover for the opportunity to have walked with you for a short while and for the liberty and freedom my family and I today enjoy.

Senator, I thank you for allowing me to share these thoughts with you and I would hope that they would be shared with as many of my fellow citizens as possible as we pause to reflect at this most solemn moment.

Respectfully yours,
CHARLES E. RICKETT, JR.

THE PRESIDENT'S POLICY IN VIETNAM

Mr. BENNETT. Mr. President, today the mines in the harbors of North Vietnam have been activated and the deadline for ships to leave the harbors has passed, the Soviet Union has taken a position, and the President's policy has become a reality. I cannot stress enough the need for unity and support for the President in this hour of stress.

The President did not make the decision to mine these ports easily nor callously, as some Members of this body have implied. He has selected this difficult course of action because he believes, and I agree with him, that there is only one way to bring a lasting peace in Indochina, and that is to end aggression. Mr. Nixon could have withdrawn all American military support immediately and thrown up his hands in despair and defeat as his political opponents appear so willing to do. But he does not believe that to allow overt aggression to succeed in Indochina will bring a lasting peace.

President Nixon has offered the North Vietnamese the most generous and wide-ranging peace proposals offered in the course of this conflict. He has offered a complete American withdrawal and an end to all acts of force when the release of American prisoners and an internationally supervised cease-fire have been effected. This is a realistic basis on which to negotiate and not simply demand that the United States turn South Vietnam over to them. The combination of the President's military moves and his generous offer for peace has great potential for making peace a reality in Indochina. However, the North and its allies will have no will and no need to negotiate if the President's policies are defeated here in the United States. The Communist nations of the world and the allies of North Vietnam are watching us closely. Every sign of weakness in the national resolve, every additional pressure which is put upon the President only adds to their assumption that they will not have to agree to a negotiated settlement and peace. Every thoughtless action of violent dissent reinforces their belief that they will not have to negotiate a settlement for the Americans will soon leave and the North will have its way.

Mr. President, I am not saying that freedom of speech or expression should be restricted in any sense. I am saying that those who automatically responded to the President with criticism without giving his new policy a chance, should have examined the facts before making their statements. It is time to tone down the rhetoric of politics and give the President's new peace proposals a chance. A show of unity is vital today, and I encourage all Americans to stand behind President Nixon in his courageous attempt to end his tragic and costly war with a peace based on negotiation and compromise, not armed force.

EDUCATION OF VIETNAM VETERANS

Mr. HARTKE. Mr. President, the Vietnam veteran should be the subject of our deepest concern, both in a patriotic and pragmatic sense. While honoring those who served, we should also assure them of a civilian life that is useful and productive, in anticipation of a brighter national promise.

Continued education is of paramount importance to a large segment of Vietnam era servicemen, but to date they have been given short shrift. Veterans have come home to government educational benefits that to them appear to be born of parsimony and obvious indifference, something I hope the Senate will correct this year through comprehensive legislation with adequate benefit levels.

Until recently, they also found many colleges unreceptive and unwilling to tailor to veteran needs. In this area, there is now reason for encouragement. Recently, Dr. John P. Mallan Jr., director of the American Association of Junior Colleges' program for servicemen and veterans appeared before the Senate Veterans' Affairs Committee, which I am privileged to chair. Dr. Mallan told us of the effort and accomplishment made by community colleges in enrolling and aiding the veteran.

Further evidence of the academic community's interest recently appeared in the Chronicle of Higher Education, in an article entitled, "Community Colleges Lead the Way in Stepping Up Programs To Attract Veterans of the Vietnamese War," written by Cheryl Fields. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COMMUNITY COLLEGES LEAD THE WAY IN STEPPING UP PROGRAMS TO ATTRACT VETERANS OF VIETNAM WAR

(By Cheryl M. Fields)

WASHINGTON.—The Vietnam veteran is no longer a forgotten man on many U.S. campuses.

Just a year ago many colleges and universities reported they were not doing anything special to attract the thousands of Vietnam veterans slipping quietly back into society each month.

Now dozens of institutions are actively recruiting servicemen with offers of information, counseling, and financial aid.

Community colleges have led the way, with their generally less stringent admissions policies and lower costs. Also, the American Association of Junior Colleges has encouraged its members to use G.I. Bill provisions authorizing remedial and tutorial aid for veterans, in addition to their regular college benefits.

The provisions are aimed particularly at attracting disadvantaged and minority-group veterans to higher education. A year ago many four-year colleges reported that their veteran populations were increasing, but that their student veterans were mainly men who already had some college or had been planning on college before they were drafted, or who met normal admissions standards.

REQUIREMENTS EASED

Since that time, however, steps have been taken to attract a broader range of veterans to many campuses. Numerous institutions have waived or at least eased admissions requirements for veterans, appointed veterans' counselors, encouraged G.I. clubs, and provided catch-up courses and more financial help.

As of last month, about 760,000 veterans were attending college under the G.I. Bill, according to the Veterans Administration.

To make recruitment of veterans more than a hit-or-miss affair, nearly 300 junior colleges and several hundred four-year colleges have arranged to obtain from American Legion posts the names of all veterans returning to their states each month. The four-year colleges include 700 members of the National Council of Independent Colleges and Universities, an affiliate of the Association of American Colleges.

Their action will allow the most systematic recruitment of servicemen to date.

A number of institutions and some states, however already have aggressive, coordinated programs to attract veterans to college campuses and to help them stay there.

PERSONAL ATTENTION

For example, within two or three weeks after a veteran returns home to Rochester, N.Y., he receives a letter and brochure from Monroe Community College. A week later one of seven recruiters from the college—all of whom are student veterans themselves—follows up with a telephone call.

If a veteran is interested in attending the college, a recruiter goes to his home, helps him fill out college forms, and explains how to apply for G.I. Bill benefits. Or the recruiter invites the veteran to the campus to sit in on some classes and to talk with other students.

This goes a long way toward easing the veteran's fears that he can't make it in college because he has been away from classes for a long time or because he earned poor grades in high school, says Charles A. Adimaro, coordinator of veterans' services at Monroe. The college has an "opendoor" admissions policy for all veterans with a high school diploma or an equivalency certificate, and "once they are on campus, we find many can do dean's-list work," Mr. Adimaro said.

REFRESHER COURSES

The college has a general studies program where veterans can take refresher courses in mathematics, reading, and writing while receiving G.I. Bill benefits. The college also uses the G.I. Bill tutorial program. If the college certifies that a veteran needs tutoring, he can get up to $50 per month to pay tutors.

In just two years, Monroe's services have helped increase the number of veterans enrolled there from 87 to 1,100.

Many services like those that Monroe provides, plus some others, eventually will be included in what is perhaps the most ambitious veterans' recruitment project to date. A consortium of 22 colleges and universities in the metropolitan Detroit area has begun working to increase their enrollment of veterans by at least 5,000 next fall, a 100 per cent increase.

"The Vietnam-era veteran with 18 months' service has a $6,000 scholarship available to him," says Clarence Brown, director of the consortium, called the Center for the Education of Returning Veterans. "It's our job to see that he gets to use that scholarship."

Concerned by Veterans Administration statistics showing that only 15 per cent of an estimated 225,000 Vietnam veterans in Michigan have filed claims for educational benefits, the consortium plans to hire 75 student veterans to work as recruiters 20 hours per week.

Using the American Legion's lists of veterans, and perhaps even stationing themselves in Michigan's state employment offices, the recruiters will try to contact each returning serviceman. If he's interested in more education, they will refer him to a veterans' counselor at the participating institution nearest his home.

$120,000 IN GRANTS

The Michigan project has received a $65,000 grant from the National League of Cities and U.S. Conference of Mayors. It also has received $30,000 from Detroit and $30,000 from nearby Pontiac under the Federal Emergency Employment Act.

Passed last summer, the act earmarks a third of its $1-billion to help veterans get public service jobs. The consortium will use the funds to hire student veterans as recruiters, thus giving them part-time jobs and reaching other veterans at the same time.

Other large-scale efforts to systematically recruit veterans for college include a Pennsylvania program that maintains 60 counseling centers manned by veterans at various institutions in the state.

Supported by veterans' clubs on the campuses, the counseling centers obtain lists of recently discharged veterans, and student veterans try to contact each one to offer informal educational counseling.

Illinois has just announced a program designed to encourage more veterans to use their G.I. benefits. Some 70 student veterans are already working at 14 community colleges throughout Illinois to recruit fellow G.I.'s for college, a state official says.

SPECIAL EFFORTS

Veterans from minority groups, in particular, often need to be encouraged to use their G.I. Bill benefits. Several campuses are making special efforts to recruit black veterans, and the American Association of Junior Colleges and El Paso Community College recently announced a program to develop new educational programs to specifically meet the needs of Mexican-American veterans.

Meanwhile, several institutions have modified their admissions requirements for veterans. Fordham University, for example, allows veterans who don't meet regular admissions standards to enroll in a special liberal arts curriculum leading to a regular bachelor of arts degree. At least 350 students are participating in the program.

Michigan State University and the Universities of Masachusetts and Missouri also have eased entrance requirements for veterans.

Manhattan College has an open-admissions policy for veterans. So have Rosary Hill College in Buffalo, N.Y., and Duquesne University in Pittsburgh.

After veterans decide to enroll in college, however, finances and the need for part-time work are still major obstacles.

The basic G.I. Bill educational allotment for an unmarried veteran would be increased from $175 a month to $200 under new legislation approved by the House of Representatives, and there is the possibility of larger increases being voted by the Senate.

An increase in the range of $25 per month probably would not help many veterans substantially, however, some veterans counselors say, given the cost of living and rising educational expenses.

TUITION WAIVERS

To help combat this problem, a few states and some institutions have agreed to waive tuition for veterans either fully or partially.

Illinois and Massachusetts provide tuition waivers at state-supported institutions for G.I.'s who were state residents before they entered the service. Texas allows tuition waivers at state institutions after a veteran's maximum 36 months of G.I. benefits are exhausted.

Several colleges have agreed to deferred tuition plans for veterans, allowing them to postpone for a month or two the usual beginning-of-semester expenses until their G.I. benefit checks start arriving regularly.

The new G.I. Bill legislation pending in Congress also would allow a month's advance payment of benefits to help veterans pay school expenses on time.

HELP TO GET JOBS

Veterans' counselors at many colleges, including the University of Florida, try to help veterans get part-time jobs to stretch their federal benefits. This isn't easy, though, says Jay Stormer, assistant dean for veterans' affairs at the University of Florida at Gainesville.

Not many jobs are available, he notes, and veterans are competing with many other students for those that do exist.

Because of veterans' difficulties in getting part-time jobs in many areas, the National League of Cities is sponsoring projects in 13 cities to help student veterans get such jobs, particularly in government agencies.

PROBLEMS OF PRIVATE COLLEGES

A recent survey of 620 private colleges revealed that slightly more than 20 per cent of the Vietnam era veterans in college have enrolled in independent colleges. This compares with 50 per cent after World War II, when costs at private colleges were competitive with those at public colleges, says Howard E. Holcomb, director of federal relations at the Association of American Colleges.

A proposal added recently to the Senate version of the higher education bill, if approved and financed, could encourage colleges to enroll more veterans and could funnel an estimated $180-million to institutions. It would entitle a college to grants of at least $300 per veteran if the college increased its enrollment of veterans by 10 per cent in the first year and 5 per cent each year thereafter through 1975. The colleges also would have to provide special recruitment and counseling services for the veterans.

ENVIRONMENTAL IMPACT OF TRANS-ALASKA PIPELINE

Mr. CASE. Mr. President, three leading environmental groups have submitted a four-volume compilation of 56 separate studies of the proposed trans-Alaska oil pipeline to the Department of the Interior.

The studies, compiled by the Wilderness Society, the Environmental Defense Fund, and the Friend of the Earth, comprise a critical analysis of the Interior Department's revised environmental impact statement on the pipeline.

In addition to many specific and valid points made by the various scientists, engineers, and economists who submitted the studies, a few general threads run through the comments.

The common points made in many of the studies are that insufficient information now exists on which to base a rational decision, that the Department's environmental impact statement avoids discussion of practical problems that will be faced in the field and at sea if the project is approved, that environmental control once the project is approved, would be virtually nonexistent, and that alternative routes, including a Canadian pipeline, were not adequately explored.

The comments on marine impact are especially significant because this is an area of impact that could be largely avoided by an all-land route through Canada.

One of the studies on marine impact was submitted by Max Blumer, senior specialist at the Woods Hole Oceanographic Institution.

In his study, Dr. Blumer notes that we must determine in advance what levels of environmental deterioration we are willing to accept if we are to prevent unchecked deterioration of our marine environment. He points out that the effort expended to develop the standards needed in this area would be applicable to other areas, such as the Continental Shelf along the eastern seaboard, where they are needed.

I ask unanimous consent that Dr. Blumer's study be printed in the Record at the conclusion of my remarks.

Another of the studies was submitted by Dr. David Hickok, director of the sea grant program at the University of Alaska.

Dr. Hickok says the range of alternatives available to the Alaska pipeline is too wide to permit all of them to be investigated in great depth. But he points out that the Canadian alternative route has been given considerable study by both industry and the Canadian Government and the environmental advantages of this route warrants more thorough investigation than is evidenced in the revised impact statement.

I ask unanimous consent that Dr. Hickok's study also be printed in the Record.

Also, I ask unanimous consent to have printed in the Record a letter from the Sierra Club, dated April 17, 1972, to Mr. Russell E. Train, Chairman, Council on Environmental Quality.

There being no objection, the items were ordered to be printed in the Record, as follows:

Institution,
Woods Hole, Mass., April 27, 1972.

Hon. Rogers C. B. Morton,
Secretary of the Interior,
Washington, D.C.

Dear Secretary Morton: I have read with interest the Environmental Impact Statement for the proposed Trans-Alaska Pipeline, especially the sections dealing with the impact on the marine environment, inshore and offshore.

The statement in Appendix to Volume IV (Effects of Oil on Marine Ecosystems) gives a fair appraisal of the present knowledge in this area. This section, in the context of the remainder of the statement, leaves no doubt that environmental deterioration will follow the establishment of the proposed Trans-Alaska Pipeline.

Environmental deterioration will result from anticipated routine discharges and from unanticipated but virtually assured accidental discharges, onshore and offshore.

In view of the expected environmental deterioration, the Impact Statement should provide the mechanisms to establish baselines previous to the operation of the pipeline, mechanisms to establish the maximum permissible pollution levels, and mechanisms to arrest a continued rise of the pollution levels, if the permissible levels are approached or exceeded locally. The Impact Statement fails to provide or suggest these mechanisms.

I wish to elaborate on these points.

1. BASELINES

All marine organisms, waters and sediments contain hydrocarbons from biological sources, or from fossil fuels, or from both. In a clean environment, the former predominate; as pollution levels rise, the contribution from fossil fuels rises. The fossil fuel hydrocarbons are responsible, among other factors, for the environmental deterioration.

Hydrocarbons in the sea are persistent; studies in progress at Woods Hole continue to provide evidence for spilled fuel oil and whole crude oils for periods now exceeding 2½ and 1½ years, respectively (enclosures). Thus, oil pollution leads to a buildup of fossil fuel hydrocarbons in the environment. This buildup can only be monitored if presite baselines are known and if monitoring continues during the entire period of oil port operation.

I am addressing myself to this question as a hydrocarbon chemist; a biologist would make a similar statement regarding the necessity of monitoring the floral and faunal state before and during port operation.

The task of chemical monitoring is straightforward; sensitive and reliable techniques exist, no further methods development is required.[1]

2. PERMISSIBLE POLLUTION LEVELS

Oil port operation in a presently clean environment will lead to a buildup of fossil fuel hydrocarbons in the water, in the sediments and in organisms. This may result in reduced productivity, in an impoverishment of the environment and in a buildup of hydrocarbons in the food-chain; the latter may eventually affect the consumer.

If we are not to permit unchecked deterioration of a presently clean and productive environment, we must establish the degree of environmental degradation and the pollution levels which we are willing to accept. This task can be aided by making use of existing experience. Many inshore and offshore areas of our coastal zone, in different climatic regions, are exposed to oil pollution. A correlation of the existing pollution levels in these areas with the environmental state and with the pollution levels in sea food is a feasible and necessary part of this task. It will require also the establishment of maximum permissible levels of fossil fuel contamination in food.

This is a more extensive but not more difficult task than the establishment of pollution baselines.[2] The effort expended is relevant to, and the standards developed are needed and applicable in, other marine areas which may be subjected to increasing oil pollution in the near future, e.g. the continental shelf along the eastern seaboard.

3. CONTROL OF POLLUTION LEVELS

To provide a measure of true environmental protection, the results of the baseline study and of the continued operational survery must be assessed in terms of the established maximum permissible pollution levels. If the fossil fuel level in the environment or the environmental deterioration exceed the maximum permissible levels, the oil influx to the environment must be reduced, e.g. through better control of routine or of accidental discharges, through appropriate recovery techniques or through the reduction of oil throughput.

A precedent exists in U.S. oil shale development policy. There, the U.S. Department of the interior requires ecological surveys before and during shale plant operations, and production quotas will be tied directly to the environmental status.[3]

I believe that granting the permit at this time would provide no mechanism to detect rapidly the unanticipated environmental deterioration and to arrest the rise of the pollution level in the environment and in fisheries products.

Denial of the permit would eliminate entirely the pollution, environmental deterioration and to arrest the rise of the pollution level in the environment and in fisheries products.

Denial of the permit would eliminate entirely the pollution, environmental degradation and destruction of fisheries resources, inshore and offshore in Alaska, on the high seas and in the waters of the contiguous United States, that would otherwise result from the transport of the Alaskan oil.

Deferral of the permit, in anticipation of later granting, could provide the time to carry out the necessary baseline studies in Alaska, to assess the environmental effects of oil in terms of our experience in presently polluted areas, and to establish maximum permissible oil pollution levels in the environment and in food.

To a large extent, this effort is possible with existing chemical and biological methods. The results are applicable to other areas where production is anticipated; the availability of such data and standards should hasten substantially decisions which will have to be made elsewhere.

Sincerely yours,

Max Blumer,
Senior Scientist.

FOOTNOTES

[1] We are involved in a study of the effect and fate of fuel oil spilled in 1969 Buzzards Bay, Massachusetts. This study, now in its third year, involves repetitive chemical and biological analyses of samples from 15 stations, offshore and in the marshes. The chemical analyses are carried out by one chemist and one assistant, both devoting only part of their time to this effort. The biological effort involves approximately twice the personnel, but it is less expensive in terms of capital equipment which is required.

[2] We envisage coordinated chemical and biological studies, similar to our Buzzards Bay survey; these should be carried out in different climatic regimes and in areas which are affected by oil production, by refining, and by oil transport. Sampling should extend from the most heavily affected regions outward to clean control areas.

[3] I refer to policy information presented in a lecture by Dr. R. T. Stone, U.S. Department of the Interior, at the International Symposium on Science and Technology of Oil Shale, Curitiba, Brazil, December 12–17, 1971 Further, the Draft, Environmental Impact Statement for the Prototype Oil Shale Leasing Program, U.S. Department of the Interior states (p. IV–9):

"An important objective of this prototype program is to compare the actual environmental impact with the projected impact. To this end, the air and water quality would be measured and assessments made of the environmental consequences by both the operator and Government representatives. If it is found that the operations do not meet the standards specified in the lease, an immediate adjustment of the operations would be made. Failure to comply in a reasonable time could result in cancellation of the lease. Where operations cause unforeseen environmental effects, operating plan requirements to control such effects would be changed to the maximum extent possible, consistent with the terms of the lease."

Sea Grant Program,
University of Alaska,
College, Alaska, May 1, 1972.
Hon. Rogers C. B. Morton,
Secretary of the Interior,
Interior Building,
Washington, D.C.

Dear Mr. Secretary: We have reviewed the final impact Statement on the proposed Trans-Alaska pipeline and find it to be an imposing document. Much study and effort have obviously gone into its preparation. So much new material has been presented since the 1970 draft, particularly relative to the marine shipping of oil and the potential Canadian pipeline alternatives, that we believe a public hearing to be a necessary part of a decision which will have such an impact on so many North Americans.

We are concerned with several aspects of the Statement, particularly as they relate to marine systems.

For instance, natural physical systems are discussed in detail in Volume 2 in terms of physiography, geology, climate, air quality, water resources and insects as they occur along the terrestial portion of the pipeline route. Not until the fish and wildlife section on page 150, however, is mention made of marine environments of the Beaufort Sea, and uncomprehensively at that. A considerable body of existing knowledge has not been used.

For example the only discussion of the system of barrier islands and lagoons that extends intermittently from Point Barrow to the Canadian border is in relation to birds. We can find no discussion until Volume 5 of the possible functions of the lagoons as nursery areas for fish, sea mammals, plankton and other lower elements of the food chain or as protection for an erodable shoreline.

Several alternative shipping routes have been seriously proposed that would involve the Beaufort Sea, gravel has already been extracted from one or more of these barrier islands and recent communications[1] discuss possibly irreversible impacts on the albedo of the Arctic ice pack that could occur from oil spills. Although these communications are discussed in Volume 4 (pp. 136–138), we believe the potentially irreversible and far-reaching nature of the impact has not been brought out. The point is that consideration of the physical and chemical environment of the Beaufort Sea would seem to warrant more than the 1½ pages allocated to it.

We note also that the discussion of impacts that cannot be avoided, Beaufort Sea (Vol. 4, pp. 523–541), considers only marine mammals. We believe many other forms varying from plankton to birds would be subjected to unavoidable impacts.

These comments on the Beaufort Sea are not new considerations. The record of the August 29–30, 1969 hearing will show that I brought these matters up at that time.

Although there are many imponderable factors involved in an oil spill in a marine environment that make precise prediction of its effects impossible, we believe some illustrative example should be provided that would illustrate graphically the extent and duration of impacts from a hypothetical spill on all segments of the environment. A major spill on the Sagavanirktok River, Port Valdez and on the shipping lanes off the coast of British Columbia might provide good illustrations. Nowhere in the statement can we find a clear picture of what would happen to the environment of a particular ocean or embayment if "X" barrels of crude oil were spilled at point "A" at "H" stage of the tide and under "W" weather conditions. Where would the oil go, how would it affect various organisms and what would be the secondary and long term effects on the communities involved? What cleanup action is visualized and how effective would it be? The problem here, of course, is the lack of physical circulation knowledge—winds, tides, currents which make the impact of these situations difficult, if not impossible, to answer.

In reviewing volume 3, we conclude that information on the marine environments from Valdez to West coast ports is preliminary, at best. For instance, winds in Port Valdez are discussed (p. 103) and, because of the inapplicability of records from the existing station, it is recommended that a recording wind station be placed in an exposed location in Valdez Arm. This has not been done, even though Port Valdez and Valdez Arm are known to be subject to extreme winds and the location proposed for the terminal and tank farm has been unchanged for nearly three years.

Resources in Prince William Sound are knows to be of high value and the possibility of major spills is acknowledged. We believe, therefore, that the limited information on tidal currents, water chemistry, distribution of all elements of the marine biota and their vulnerability to oil should be greatly expanded before the effects of the proposed development can be appraised. For instance, the inadequacy of present information is illustrated by the statement (Vol. 3, p. 206) that "the waters of Prince William Sound are probably represented by the Gulf of Alaska source waters as modified by local runoff". What, for instance, is the effect of upwelling and seasonal oxygen depletion in some fiords on this relationship?

We believe that there is need for detailed comprehensive studies throughout Prince William Sound, the Gulf of Alaska and marine tanker routes of water chemistry, temperature, circulation and salinity and seasonal distribution and abundance of all life forms ranging from plankton and kelp to tufted puffins, sea otters and black-tailed deer.

More information is needed on the relationship between various elements in the food chain. For example, what would be the impact on the ecosystem if one or more forms susceptible to oil pollution were replaced by an oil resistant competitor? We recognize that answers to such involved questions will require extensive long-term research, but also believe the deficiencies in present knowledge should be acknowledged and necessary studies outlined.

We have reviewed the section on alternatives to the proposed action and agree that the wide range of available alternatives could not investigated in great depth. The Canadian pipeline alternatives, however, have been given considerable study by both industry and the Canadian government. One might also follow a corridor already proposed for a gas line and any of them would provide a means of avoiding the hazards of the marine routes from Valdez to West Coast ports. We believe that the environmental aspects of these routes, such as impact on fish and wildlife and wilderness warrant more thorough investigation than is evidenced by the impact statement which appears to result largely from personal interviews and a review of the literature.

We were also unable to determine how much the requirement for gravel would be reduced by selection of any of the Candian routes which would presumably not require construction of a secondary highway comparable to the one planned to run from Livengood to Prudhoe Bay. We did not find any evidence that a highway constructed to state secondary standards is a necessary, or even desirable adjunct to construction or operation and maintenance of a pipeline.

We are concerned about contingency plans and believe there is sufficient experience in cleaning up large oil spills under weather conditions comparable to those expected in the Beaufort Sea and along the tanker routes from Valdez to West Coast ports to warrant some conclusions regarding their probable efficiency. There is a discussion of this problem as it related to operation on the outer continental shelf (Vol. 5, p. 306) that should apply equally well to spills resulting from tanker shipment of oil. Large spills probably will occur and complete cleanup would seem to be impossible even if the 12-hour delay now permitted by the Coast Guard for full response (Vol. 4, p. 484) were eliminated.

We believe also that the statement on p. 485 that the oil industry and Alyeska intend to incorporate improvements in spill control technology will do little to reduce oil spills unless the intent is implemented.

Evidence is also accumulating which indicates that the toxic elements from crude oil are absorbed into water very rapidly and even full and immediate cleanup of residues would prevent only part of the damage.

We can only conclude that effective control of impact from oil spills depends on their prevention. The statement is made (Vol. 4, p. 475) that the Alyeska system would probably utilize only the most modern tankers available. We cannot find in the impact statement any assurance that this will be so.

Even if it were so, it is becoming apparent that if the oceans of the world are to remain productive and useful, a complete worldwide international overhaul of standards for construction, maintenance and operation of tankships will be required.

We do not suggest that such standards be required of Alyeska alone, believing this would be an unrealistic imposition on one segment of a competitive industry. We do believe, however, that if the decision is made to permit shipment of Prudhoe Bay oil on salt water, it is incumbent on the government of the United States to take energetic steps, either through the United Nations or similar organizations, to bring about safety standards comparable to those of the airline industry, at the same time recognizing that this would impose an increase in costs to the consumer.

We hope these comments prove to be useful and do not intend to be critical of the personnel involved in assembling this statement. We recognize that it was a tremendous task carried out under difficult conditions.

Sincerely,

David M. Hickok,
Director.

Sierra Club,
San Francisco, Calif., April 17, 1972.
Mr. Russell E. Train,
Chairman, Council on Environmental Quality, Washington, D.C.

Dear Mr. Train: We have received a copy of the environmental impact statement on the proposed Trans-Alaska Pipeline System and the accompanying volumes on the economic and security aspects of the project. The following is our commentary on this statement.

In contrast to earlier attempts to prepare an impact statement, this version is more comprehensive and is clearly more in keeping with the requirements of the National Environmental Policy Act and thus can aid the decision-making process.

We hasten to add that it is not a perfect statement. It is much too long, and the same information could have been conveyed in perhaps a third of the space.

It is not our present purpose to make a detailed commentary on the inadequacies of the analysis of environmental impact. We are certain that other environmentalists will cover many of these. However, two general comments along these lines are in order.

First, basic information is still lacking. For instance, the crucial experiments on large mammals are admittedly incomplete, and tests on pipe under Arctic conditions remain inadequate.

---

[1] Campbell, W. J. and S. Martin 1971. A note on the dynamics of oil in the Arctic Ocean and Ramseier, R. O. 1971. An overview of potential oil pollution in the High Arctic.

Second, a still greater fault of the statement lies in its failure to comprehend fully the magnitude of the potential harm. A list of impacts is presented, but their importance is not completely recognized. While attempts are made to quantify the impacts of the pipeline and its related systems, this process has not been carried to completion. Potential future uses and probable future importance of resources that would be harmed or threatened are not fully evaluated, and these endangered resources are not weighed by reference to what is happening to similar assets elsewhere. As a result, the increasing importance and irreplaceable nature of Alaskan wilderness values and the marine environment of Prince William Sound are not fully recognized.

In spite of these (and other) failings, the statement does outline the major impacts of the pipeline and its related systems. From our point of view, these are the following:

(1) The largest remaining wilderness in the United States would be cut in half and its character forever changed.

(2) Public access to northern Alaska would be considerably accelerated, both as a direct and indirect result of pipeline construction and operation. This would also threaten the wilderness qualities of this area and render difficult the orderly and sensitive growth of potentially valuable developments that could benefit the state for a long time to come.

(3) The construction and operation of the pipeline and its associated road, construction pad, and oil field in this permafrost-laden area will be difficult and expensive, and would result in considerable erosion, sliding, drainage pattern change, and siltation.

(4) Pipeline construction would have a detrimental effect on the vegetation, destroying over 61 square miles of surface cover. Revegetation proves to be exceedingly difficult in the Arctic.

(5) Pipeline construction will have a negative effect on freshwater life and fisheries because of unavoidable siltation.

(6) The extensive requirements for construction materials (83 million cubic yards) will place a heavy burden on gravel deposits near the construction right-of-way.

(7) Despite all precautions, heat loss from the pipeline would cause significant changes over a wide area, particularly in drainage patterns.

(8) The noise and activity of construction would reduce the size of the habitat for several species of large mammals and would indirectly and significantly increase the hunting pressure upon them. Aerial transportation for pipeline operations, maintenance, and surveillance would cause continuing disruption.

(9) The pipeline itself, elevated in many areas to avoid problems with permafrost, would create a virtually uncrossable barrier to the migrations of several species of large mammals.

(10) Oil terminal operations at Valdez and recipient ports on the west coast would contribute to the degradation of the marine environment, for a series of large and small oil spills are inevitable, as well as continuing water contamination by ballast containing the soluble components of oil. This pollution would be particularly hard on the relatively unspoiled marine environment and valuable fisheries of Prince William Sound.

(11) The pipeline and associated systems would directly commit a total of 602,000 acres of Alaskan land to development.

(12) There would always remain the threat of oil spills from pipeline rupture due to earth quakes, landslides, differential land settlement in unstable soils, various permafrost effects, and stream erosion.

(13) The siting of several of the pump stations remains in question because of soil instability. Pump station operation would cause industrial-level noise, with unknown effects on wildlife, and they would emit from 15 to 150 pounds of hydrocarbons per hour into the air to the particular detriment of delicate Arctic lichens.

(14) The pipeline and oil development would be no panacea to the Alaskan economy. The result would be further inflation and continuing unemployment, in spite of the new jobs available in construction, and it would result in a surge in unemployment when pipeline construction is completed. The increased demand for goods and services would place heavy burdens on the Alaskan economy, and on the state government in advance of any revenues from oil production.

It is clear from the environmental impact statement that a route through Canada would be better from a variety of points of view than a trans-Alaskan route (although we believe that neither route would be as desirable as halting North Slope development). A Canadian route would bring North Slope oil closer to where it is most needed, the areas of the country most dependent on outside petroleum sources. It would also be safer from both environmental and physical security points of view, avoiding risky marine transport and the earthquake belt of southern Alaska.

We note that a Canadian route is already under serious consideration by oil consortia and by the Canadian government in connection with oil and gas transport from the Canadian Arctic and gas transport from the North Slope. Thus, in reality, a Canadian route is an alternative to two routes—one through Alaska and one through Canada.

From an overall point of view, we feel that the environmental impacts of the pipeline system are especially detrimental, particularly in light of the fact that the assets in jeopardy are ones which are in short supply in all parts of the world and are under attack everywhere. In other words, the environmental price is great. This leads us to ask if the system is really so needed that we must pay such a price.

We believe it is a mistake to maintain that an increase in energy consumption is equivalent to improving our well-being. The principles of ecology tell us that unlimited growth in anything is impossible—be it population or energy. We are already straining our energy resources, and we have begun to borrow against an uncertain future. We are depleting our non-renewable energy resources at an alarming rate. We also easily forget that all energy pollutes, and the more energy we use, the more pollution we create. We are already paying a heavy price in lost land, and dirty air and water.

We need new public policies immediately that call for:

(1) using less energy in the future, and using it less wastefully now;

(2) developing new, better sources of energy;

(3) halting the destruction taking place for the sake of energy—stripmining, loss of wilderness, oil contamination of the marine environment, thermal and air pollution from refineries and power generating plants; and

(4) conservation of our dwindling non-renewable energy resources.

The environmental impact statement assumes unlimited growth in energy consumption. However, now is an appropriate time to begin educating the public toward changing their attitudes. At maximum capacity in the 1980's, the pipeline system would be able to deliver only two million barrels of oil per day to the "lower 48" states, yielding only about 4% of our total energy requirement and about 9% of our oil requirement. In the decade until then, we can make up for this amount by developing alternate energy sources by curtailing growth rates in energy use. Reducing the demand for energy is not going to be easy. A major public commitment to find ways to be less wasteful of energy will be required.

The impact statement also claims that no other energy source can fill our needs as cheaply and as well as oil. This reasoning does not take into account the fact that oil is both a polluting and a non-renewable resource. In the past, the cost of oil did not include the cost of the pollution caused by the oil from the time it is pumped from the ground to the time it is used. And because oil is a non-renewable resource, we must include the social cost of having less oil available for the future and the resulting cost of developing substitutes. These environmental costs—pollution and depletion—when added to the price of oil, make us realize that we pay more than we may think. And if we do not take these costs into account, we undersell other energy sources.

As you know, we are already running short of natural gas. In spite of the fact that peak production is now occurring, natural gas is not available to everyone who would like to use it, and prices are rising. When the peak in oil production is reached, probably within 50 years, it will be accompanied by similar restrictions.

Moreover, the choice is not to find a single, simple substitute for North Slope oil, as the environmental impact statement implies. Rather, the choice is to find a combination of policies and substitutes that will get us beyond our present impasse. There is no single substitute, but we can find the correct combination of policy changes and alternatives. The four billion dollars that would be spent on the pipeline would be better spent in research with more far-reaching and long-term results.

Coal gasification and liquefaction and nuclear and geothermal power all offer short-term alternatives. Nuclear breeder reactors, nuclear fusion, and solar energy offer the prospect of significant amounts of power further in the future. Processes such as topping cycles and magnetohydrodynamics will allow us to make more efficient use of fossil fuels. Technological advances will allow us to extract more oil from existing fields.

We cannot afford to wait until we run out of oil to develop new, less polluting alternatives. We must make a major commitment now instead of trying to postpone the inevitable by taking needless risks with our environment in an effort to drain what remains of the earth's oil supply.

We take this opportunity to call upon the President to establish a Commission on Energy and the American Future to examine the energy growth of our country and to recommend policies that will carry us not only for decades, but for centuries. Large scale energy development, like that on Alaska's North Slope, should await the outcome of opportunities to achieve a broader consensus of our society.

Our national security, according to the environmental impact statement, calls for the immediate development of North Slope oil. This argument assumes that it is in the best interest of our country to be a self-dependent as possible, as quickly as possible, in case of the sudden unavailability of oil from the eastern hemisphere. For this reason, the United States has a restrictive oil import policy designed to promote domestic oil development.

We believe this argument is questionable. First, it does not take into account the long-term cost to our national security of a depleted and no longer available domestic oil resource. Second, even at maximum capacity of two million barrels per day, North Slope oil would not make much difference in our dependence upon insecure eastern hemisphere oil which would still amount to about one-third of all oil consumed. Indeed, the range in uncertainty of predictions of the extent of our dependence on eastern hemisphere oil is four times greater than the extent to which North Slope oil could reduce that dependence. Finally, the parts of our country most dependent upon eastern hemisphere oil—the east and the midwest—would benefit only indirectly from Alaskan oil (unless a pipeline through Canada were selected).

Moreover, there are better solutions to the problem of "insecure" foreign sources of oil as well. These include: (1) a federal program of oil exploration, placing new discoveries in reserve until needed, (2) federal purchase of domestic oil fields, and (3) storage of oil in salt domes and previously depleted oil fields until needed. Storage could be accomplished with less expensive foreign oil, allowing us to remove restrictive oil import quotas. Such reserves could also "buy time" to develop North Slope and offshore fields if we really got into trouble.

Much has changed from the time the trans-Alaska pipeline was first proposed. The plan has changed, but more importantly, our view of what constitutes relevant environmental considerations has changed.

The basic research carried out by the Department of the Interior and the Alyeska Pipeline Service Company will ultimately be of great benefit to business, government, and all citizens. We must compliment them for the amount of time and effort that has gone into these studies. It is true that some environmental problems have been overcome. It is true that everyone has now agreed to take care of the Alaskan environment and to do their best to minimize the harm that would take place. But care and minimization are not enough.

In evaluating the environmental impact statement, we must try

(1) not to under-estimate the magnitude of the damage that would occur to Alaska and the marine environment as the result of the pipeline,

(2) not to over-estimate our energy need for North Slope oil nor to under-estimate our ability to change public policies and actions in order to reduce our need for energy,

(3) not over-estimate the immediate need for North Slope oil for purposes of national security, and

(4) not to under-rate the benefits of delay in using North Slope oil and the advantages of a pipeline route through Canada if a pipeline must be built at all.

In summary, then, we believe that the environmental impact statement itself demonstrates that the permit for the pipeline should not be granted.

Sincerely yours,

MICHAEL MCCLOSKEY,
Executive Director.

A NEW GI BILL

Mr. MATHIAS. Mr. President, the war in Vietnam continues to wrack the country in many ways. Yet the men who have fought in that war, to whom we owe so much, receive so small a part of our interest and our concern.

The very least we could do for them is to put them into competitive position with their peers through education. This we persist in refusing to do. If there are war crimes in this war, this is one of them, committed on our own troops.

While we admittedly continue to finance operations in Vietnam that waste millions through inefficiency, corruption, and pillage, we dismiss these losses as the hazards of war. Yet we employ the feeble excuse that there were some abuses of the World War II GI bill as the reason we deny equity to today's veterans.

Although the Congress has been callous to the needs of Vietnam veterans, the veterans are no longer sleeping on their rights. An article published in Time magazine this week describes their awakening. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TIME FOR A NEW GI BILL?

When Johnny came marching home from the second World War, he could march straight into college—or finish high school—with considerable financial help. A grateful nation had passed the G.I. Bill of Rights, which paid for tuition and books (up to $500 a year for four years) and kicked in $50 and up per month for living expenses. Today's Viet Nam veteran gets just $1,575 a year to cover everything—and only for 36 months. That figure represents an increase of 6.7% over what was paid in the 1940s, but it hardly matches the 350% increase in education costs since then.

In an effort to ease their financial strain, some 350 veterans converged on Duluth last week to plan a campaign of political action. Why Duluth? "Because," said one vet, "the hotels offered to put us up for four dollars a head a night, that's why. We're all broke." Arriving by bus, motorcycle and thumb, delegates of the National Association of Collegiate Veterans (N.A.C.V.), which claims 500 chapters representing 250,000 veterans, began efforts to revise and update the obsolete G.I. Bill.

"Many veterans are forced to work now in order to stay in school," says N.A.C.V. Board Member Patrick M. McLaughlin, 25, once a staff sergeant in the 1st Infantry and now a prelaw student at Ohio University. Work cuts down on study time to such an extent, claims McLaughlin, that the 36 months of aid are almost sure to be exhausted before the student has earned enough credits for graduation.

To change an outdated system, N.A.C.V. is organizing vets both on and off campus in hopes of electing local and state officials sympathetic to their needs. N.A.C.V.'s major objectives: a 20% increase in the subsistence allowance; payments of up to $1,000 per year for books, fees and tuition; extension of studies from 36 to 48 months; two months' advance payment to enable veterans to meet registration costs.

"It would be another question if we were asking for more than the Government offered other vets in other wars," says Bill Cunningham, 28-year-old vice president of N.A.C.V., "but that's not the case. Listen, there were a million guys discharged in 1971. This year there'll be more. You've got to do something for these guys; they know full well what their fathers got when they came home."

MODERATE AND RESTRAINED STATEMENT BY SOVIET UNION

Mr. FULBRIGHT. Mr. President, the Soviet statement is obviously moderate and restrained. It does not allude to considerations of prestige or threaten military action. Instead it concentrates on the question of the legality of the measures the President has taken—measures taken, it should be emphasized, single-handedly without any consultation with or authority from Congress—and on warning that the United States must bear the entire responsibility for the consequences of these actions.

I hope, as indeed all thinking Americans must hope, that the Soviets will continue to show restraint. I hope, as all thinking Americans must hope, that this Government will come to its senses before events create situations in which such restraint on the part of others is no longer possible.

In his speech of May 9, the President said that if there were an American defeat in Vietnam "world peace would be in grave jeopardy." The Soviet statement says that the President's recent actions "are fraught with serious consequences for international peace and security." Years ago, an American officer surveying the wreckage of what was once the town of Ben Tre commented that we had to destroy the town in order to save it. We now seem to be threatening world peace in order to preserve it. That kind of mistaken logic led us into the Vietnam war originally, has continued to keep us there and has now led us, a Nation founded on the rule of law and "a decent respect to the opinions of mankind," to take actions which violate the law and offend mankind. Will it now be up to other nations to save us from ourselves?

UNITED NATIONS CONFERENCE ON HUMAN ENVIRONMENT

Mr. CASE. Mr. President, next month, at Stockholm, Sweden, the United Nations Conference on the Human Environment will be held.

One of the most important objectives of the conference will be to establish a continuing organization to deal with the problems of international protection of the environment.

Recently, the Foreign Relations Subcommittee on Oceans and the Environment held some very useful hearings on the preparations for the Stockholm Conference. These hearings were chaired by my distinguished colleague, the Senator from Rhode Island (Mr. PELL).

One of the statements presented to the subcommittee was that of Richard N. Gardner, professor of law and international organization at Columbia University. I believe his statement is worthy of the attention of all Senators. Therefore, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF RICHARD N. GARDNER TO THE SUBCOMMITTEE ON OCEANS AND INTERNATIONAL ENVIRONMENT OF THE SENATE FOREIGN RELATIONS COMMITTEE, MAY 4, 1972

AN INTERNATIONAL ENVIRONMENTAL COALITION

I am grateful for this opportunity to present my views to this Committee on the organizational questions that will face us at the Stockholm Conference. My views on these questions are set forth in detail in the attached statement entitled "The Role of the UN in Environmental Problems." In these brief introductory remarks, I would like to emphasize three points that I believe have not yet received sufficient attention in either official or public discussion of international environmental organization.

First: The desire of the United States for effective international arrangements for environmental regulation is unlikely to be realized without major changes in present U.S. policy toward the United Nations and multilateral development assistance.

I believe, and have argued for more than a decade, that the national security of the United States is gravely threatened by the expensive and dangerous arms race, the uncontrolled growth of world population, the progressive deterioration of the human environment and the spreading frustration of people in the developing countries at their inability to achieve a decent life. The study by the Club of Rome published this spring suggests the very real likelihood of massive breakdowns in world society within the lives of our children or grandchildren if present trends continue. Although the most devastating consequences of these trends may lie some decades in the future, the measures necessary to avert disaster must be taken now.

If this diagnosis is correct, the United States ought to be doing everything within its power to strengthen the United Nations and other international institutions to deal with these global problems. Unhappily, however, the Vietnam tragedy is impelling us not only to reduce our unilateral responsibilities, which is good, but to disengage from our multilateral responsibilities, which is bad. United States support for multilateral institutions is in doubt or disarray all along the line. We take no serious initiatives to enlarge the U.N. role in peacekeeping or development. We take a penny-wise and pound-foolish attitude to the United Nations budget. We adopt a low financial profile as the United Nations drifts toward bankruptcy. We violate solemn treaty obligations by refusing to pay our assessments to the ILO and by breaching the Security Council's embargo on trade with Rhodesia. We move steadily away from the internationally agreed aid target of one percent of GNP as other industrialized nations move toward it. We fail to put up our promised share of funds for the multilateral aid agencies—the International Development Association, the Inter-American Development Bank and the Asian Development Bank.

We complain that the U.N. behaves "irresponsibly." How can we expect the institution to behave responsibly if we do not behave responsibly toward it? At a time of planetary emergency, we are rapidly becoming a global dropout. Our leadership is currently fascinated by the politics of the balance of power. Surely the time has come to devote more attention to the politics of world order.

What does all this have to do with the Stockholm Conference? Everything. A healthy set of environmental institutions is unlikely to flourish in a weak United Nations. Moreover, an effective multilateral attack on the problems of environment and population growth is not likely to be mounted in the absence of an effective multilateral attack on poverty. Without an increase in the quantity and quality of global air efforts, the financial and political basis for population control and environmental protection in the less developed countries will not exist. Not only does action on the population and environmental problems cost money that the developing countries do not have, but political resistance to population and environment efforts is likely to grow in these countries if international assistance is static or declining. Already, at the U.N., some countries are charging that the new emphasis by the United States on the environment and population is a gigantic "cop out" to justify our declining foreign aid effort.

Second: The most important single objective of the Stockholm Conference is to establish a flexible institutional framework capable of future growth in response to the needs and demands of the world community.

I do not wish to minimize the importance of the other matters that will be before the Stockholm Conference, such as the Declaration on the Human Environment, the Action Plan, the Convention on Ocean Dumping and the World Heritage Foundation. But the overriding necessity of the Stockholm Conference is to establish an institutional framework to carry on the work which we have only begun. If this is missing, no other achievements can prevent Stockholm from being deemed a failure.

In the attached paper, I describe in some detail my own views about the institutional arrangements that are required—an Environment Secretariat of the highest quality with adequate power initiative; an inter-governmental body to which governments will send senior environmental decision-makers; effective arrangements to draw upon the expertise of the private scientific community; a substantial environment fund to assure the financing of priority projects; new measures for the prevention and settlement of environment disputes; and the development of more effective arrangements to deal with the marine environment.

The basic point that I wish to stress in these preliminary remarks is that our principal attention in the development of these institutions should be on substance rather than form. To take an example, the question of whether the inter-governmental body is an organ of the General Assembly or of ECOSOC is less important than the question of whether governments are prepared to send as representatives to it their environmental ministers or senior environmental decision-makers.

A related point is that we should not be too disappointed if the institutional arrangements do not spell out all the formal powers which some of us in the United States might like to include. Experience with international institutions inside and outside the United Nations suggests that a general and somewhat vague grant of authority can provide the basis for impressive organic growth over the years in response to the needs and aspirations of the member states. The important thing is to get something going that has the capacity for growth.

Third: The United States should support the establishment within the United Nations of an "international environmental coalition" of those countries that are prepared to undertake special responsibilities for environmental action.

I strongly believe that our major efforts for environmental action should be taken through the United Nations and its family of agencies. No other institutions presently exist in which we can pursue environmental diplomacy with developing countries and Communist nations as well as with the members of the North Atlantic community and Japan. While regional cooperation is also necessary, global action through the U.N. system is indispensable if we are to secure the cooperation of the developing world and take vital decisions to protect the world's oceans and atmosphere.

At the same time, we have to face the fact that action within the U.N. does present special difficulties. There are now more than 130 members of the United Nations and these members have widely varying attitudes as to the seriousness of environmental problems and as to the extent to which they should limit their national freedom of action to deal with them. We need some formula to reconcile the need for global cooperation within the United Nations with the equally compelling need for cooperation that is adequate to the challenge.

I believe that such a formula can be found in an "international environmental coalition" operating within the United Nations. The concept is simple. At the Stockholm Conference and in subsequent meetings, an attempt should be made to reach the highest level of agreement among all U.N. members on institutional and other issues. In the foreseeable future, however, this level of agreement will undoubtedly be disappointing to those of us who feel a sense of urgency about the environmental threat. Therefore, the United States should join in organizing a coalition of environmentally concerned nations who would accept voluntarily a higher level of obligation than the membership as a whole.

One obvious example of this higher level of obligation would be willingness to contribute generously to an environment fund. Less obvious, but no less important, would be the voluntary acceptance by the members of the coalition of certain procedures for periodic reporting and submission of environmental disputes to third party settlement.

To be somewhat more specific, the United States and other members of such a coalition should agree to report to the new Environment Secretariat on all national activities (private as well as public) that might affect the environment of others and to consult in good faith with other members and with international agencies when questions or objections are raised. The members of the coalition should also agree that environmental disputes to which they are a party can be taken to the new intergovernmental body at the request of any other party and that they will cooperate with any specially-constituted scientific fact-finding panel which might wish to make on the spot investigations on their territories. The members of the coalition should also agree to make use of the good offices of the Environment Secretariat and to permit non-governmental groups like IUCN and ICSU to present independent testimony on matters at issue in environmental disputes. In addition, wherever possible, international agreements on such specific matters as oil pollution of the sea or ocean, dumping should provide for the settlement of disputes at the request of any party by an arbitral commission or the International Court of Justice, which could organize itself into special chambers for this purpose and make use of scientific "assessors."

I doubt that the members of the "international environmental coalition" would be ready to accept an "environmental veto" by international agencies, much less an environmental "police force." But an international review process of the kind outlined above, even if it did not lead to legally binding decisions by international agencies, would represent a great step forward. I believe it would serve the enlightened self-interest of our country to promote such a process among as many countries as possible and to discharge to the full the obligations involved.

Whatever institutions are created at Stockholm, their vitality will obviously depend on the behavior of governments. The hard question is whether those leaders who now use the rhetoric of "spaceship earth" are really prepared to accept the political and economic costs that this rhetoric implies. The answer will be found in the resources that they are prepared to devote to international environmental efforts and the limitations they are prepared to accept on their traditional freedom of national action.

The institutional decisions which governments take at Stockholm and after will have the most profound consequences not only on the quality of environmental cooperation but also more broadly on the whole system of international relations. Failure to devise a workable pattern of cooperation to cope with urgent environmental issues could lead to international disputes and a poisoning of political relations. On the other hand, success in environmental cooperation could help humanity deal with other pressing problems.

A record of successful achievement in this area would demonstrate the U.N.'s capacity to adjust its institutional habits and deal efficiently with major threats to the survival of mankind. It could show the way to new approaches in the economic and political areas. Perhaps, in the long run, it could stimulate new perceptions of interdependence and strengthen the political commitment of governments to a stronger United Nations.

ADDRESS BY SENATOR BEALL

Mr. BEALL. Mr. President, on April 21, I had the pleasure of addressing the annual spring meeting of the Maryland Association of Junior Colleges.

I ask unanimous consent that address be printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

The Community College and the Education Amendment of 1971—Partners in Pursuit of a Great National Goal

I appreciate this opportunity to be with my many community college friends tonight.

The range and nature of education in a given nation or society results from many factors including its history, its basic philosophy and its commitment. Fortunately for us, from our Founding Fathers to the present, this nation has had a commitment to education.

It was Thomas Jefferson who first began to make the case for universal education. Mr. Jefferson felt education would provide a "community of honest, useful, and enlightened citizens, understanding their own rights, and firm in their perpetuation." The pronouncements of other Founding Fathers, such as Franklin, Washington, and John Adams, also evidenced a commitment to and a realization of the importance of education.

This outlook was written into law in the Clarion Call For Education written in the Northwest Ordnance which says: "Religion, morality, and knowledge being essential to good government and the happiness of mankind, schools and education, shall forever be encouraged."

But even Thomas Jefferson's view of "universal education" did not include "universal higher education." In his notes on Virginia written in 1782, he writes only of the selection of the "youth of genius" or what he refers to as the "aristocracy of intelligence." Jefferson's vision then clearly did not include the community college concept.

Most, if not all of his contemporaries, would have had similar difficulties with this concept. This limited vision, although most enlightened at that time, continued through the 18th and 19th centuries. It was not until the early 20th century that this nation's sights were lifted and then no higher than an elementary education for all children.

Finally by the middle of this century we had embraced secondary education for all children.

The history of our nation shows successive steps and advances toward education for all that far exceed that of any nation in the history of mankind. We are and should be, proud of that record. For it is a record that reveals ever increasing numbers and percentages of our youth in schools and colleges.

For example, by 1900, 11% of the eligible youths were in high school; today, the percentage approaches 95%.

In 1900, only 4% of our college age youth attended college. Today, the figure exceeds 50%. With educators like you in the audience at work, I am convinced that this growth will continue in the future.

In fact, one author suggests that if the trend continues, we may anticipate a 90% enrollment of college-age youth in our institutions of higher learning during the first decade of the next century.

As you know, community colleges are aware of and are experiencing the implications of such developments and projections.

It has spelled a notable characteristic of junior colleges today, and for the foreseeable future. I am referring, of course, to the explosive growth of community colleges both nationally and here in Maryland. You will recall that in 1900 I said only 4% of our college age youth were in colleges. It is interesting to observe that at the same time there were only 8 junior colleges in the United States with a grand enrollment of 100 students. By 1971, 1,100 private and public junior colleges enrolling 2.5 million students were part of our national and education landscape. In the last decade alone, the number of junior colleges doubled while a 300% increase in enrollment took place. In recent years community colleges nationally have been growing by one a week.

The Carnegie Commission on Higher Education has advanced a national goal of establishing community colleges within commuting distance of all persons by 1980, with the exception of some sparsely settled areas. To reach this goal, the Commission estimated that between 230 and 280 new colleges would be required.

Maryland's experience has been similar to that of the nation as a whole. The number of community colleges in our State in the past six years have increased by over 45% and the enrollment at the institutions has tripled. Fortunately, we in Maryland are far ahead of most of the nation toward meeting the goal of making geographical access to community colleges for all Marylanders.

47,671 credit seeking students were enrolled in Maryland's 16 community colleges in 1971. This represented a 13.2% increase over the previous year. The State's projections indicate that by 1976 the enrollment in the community colleges will be over 82,000 and by 1981, the projected size will surpass 100,000, a figure which will represent 60% of the projected first two year under-class enrollment in higher education in Maryland.

Current surveys in Maryland indicate that 93.3% of Maryland's residents live in counties served by community colleges. Thus, the Carnegie Commission's goals for tomorrow is becoming a reality in Maryland today. Only 6.7% of the State's population live in counties not presently served by community colleges. However, it has been estimated that 3,434 Maryland citizens would enroll in a community college if it were accessible. Members of this audience, I am sure, are aware of the fact that it has been found that more than half of all high school graduates intend to go to college if there is a public junior college in the community, whereas one-third or less do so if there is not such an institution near by.

The community college movement is a logical extension of educational opportunities in this country. They are unique institutions built in response to community and citizen needs. They are locally controlled and operated. They are a part of and vital to the community and the community is a part of and vital to the college.

The community college has not been without its critics. Recently, I read an article criticizing the community colleges as offering unequal educational opportunity. By this I guess it is meant that the Harvard education is not offered at community colleges.

But, the community colleges are not and should not be watered-down versions of four year colleges. Community colleges should seek excellence. This is just as important in one type of institution as it is in another. As John Gardner, former Secretary of the Department of Health, Education, and Welfare pointed out "As things now stand the word excellence is all too often reserved for the dozen institutions which stand at the very zenith of higher education, in terms of faculty distinction, selectivity of students, and the difficulty of curriculum. In these terms, it is simply impossible to speak of junior colleges, for example, as excellent. Yet, sensible men can easily conceive of excellence in a junior college.

"The traditionist might say 'of course'; let Princeton create a junior college and one would have an institution of unquestionable excellence". That may be correct, but it leads us down precisely the wrong path. If Princeton Junior College were excellent in the sense that Princeton University is excellent, it might not be excellent in the most important way that a community college can be excellent. It would simply be a truncated version of Princeton. A comparably meaningless result would be achieved if General Motors tried to add to its line of low priced cars by marketing the front end of a cadillac. We shall have to be more flexible than that in our concept of excellence. We must develop a point of view that permits each kind of institution to achieve excellence in terms of its own objectives. The community college then should continue to pursue excellence but it should be excellence in its own objectives".

The community college has and must continue its unequaled and critical role in the provision of universal access. Briefly, I would like to discuss with you some of the community college's roles and in some cases comment on them.

Community colleges will continue to have the major responsibility for preparing students at upper division work at universities and colleges. Course offerings should be coordinated with the University so that they will be fully transferable with as little loss of credit as possible to the student. I applaud our State's efforts to improve the articulation process. I recently examined a catalog for Montgomery Junior College and I must say I was very impressed with the course offerings. I was particularly pleased with the examples of coordination and imagination that I believe are essential for higher education in the country.

If I read the catalog correctly, a student desiring to enter business administration, could spend two years at Montgomery Junior College. Thereafter, the student could transfer to the University of Maryland at College Park and spend another year there as part of his business administration program. The student then could enter the Maryland University Law School at Baltimore and would be given his Bachelor of Science degree in Business Administration after he completed his initial year of law school, which would represent his fourth year of business school. The student then, of course, would continue until he received his law degree.

Thus, three separate campuses have been combined to make it possible for students to secure his business and law degrees in one year less time. This is the kind of cooperation and imagination needed in education in the country. I urge all in the audience today to continue to pursue similar arrangements.

The community colleges have a major responsibility in technical and vocational education. This is an area that has been neglected in much of the Nation. Somehow, American education and educators from the elementary to the college level must quit peddling or implying the nonsense that an academic college education is the only passport to success. This is patent nonsense. I believe that Maryland is facing up to this issue. It is my understanding that vocational students now make up 30% of Maryland community college students, and within 5 years this percentage is expected to reach 50%.

However, there is some cause for alarm. The just completed "Project Focus" a study done by the American Association of Junior Colleges, indicated "career education within the community college setting is experiencing difficulty . . . and that much of the liberal arts faculty sees "little value in providing training option to students". This attitude does not make sense. The trend in Maryland, as well as my personal discussion with the community college Presidents and faculty, makes me believe this attitude is not prevalent in our State. Again John Gardner gave an analogy which I believe states the case quite well.

He said:

"There may be excellent plumbers and incompetent plumbers, excellent philosophers and incompetent philosophers. An excellent plumber is infinitely more admirable than an incompetent philosopher. The society which scorns excellence in plumbing because plumbing is a humble activity and tolerates shoddiness in philosophy because it is an exalted activity, will have neither good plumbing nor good philosophy. Neither its pipes nor its theories will hold water."

Community colleges should continue to be open-door institutions. This concept is consistent with the idea of educating our citizens to the fullest potential, gives late bloomers a second chance, and allows the retraining of adults for jobs created in an age of automation.

Junior colleges must continue to be a community college in all that name implies. The community junior college must attempt to meet the special requirements and concerns of the community and this is one of the real important developments in the junior college movement. College classes during evening hours, cooperative programs with industry, special programs for low-income groups, and special non-credit courses appealing to avocation or cultural interests are a few of the examples of good community involvement. I am pleased to note again that Maryland is one of the few states providing state support for community service programs of a non-credit nature.

Modern communications and technology are going to bring revolutionary changes in communities and colleges in the future.

Some have predicted the demise of education as we know it today. While this seems far out, the possibility of communications are indeed staggering. Take Cable TV and its implications. It will now be possible to beam community college courses into homes throughout the community.

As far as the political process is concerned, cable TV may usher in the citizens participation unlike anything that the nation has experienced since the New England Town Meetings. Cable television will permit a great opportunity for imaginative local TV programs and I believe that the community colleges in many areas will be looked to for a major role in this regard. Also, I would like to see funds available for community colleges to enable them to focus on community problems such as unemployment, transportation, health, drug abuse, pollution, and housing, to mention a few. The American Association of Junior Colleges' *Project Focus,* to which I previously referred, recommended such an effort and in fact envisioned the establishment by 1980 in community colleges a variety of quasi-permanent institutions focusing on community problems.

President Nixon in submitting his Educational Message, and proposals to the Congress, made an historical pledge when he said, "No qualified student who wants to go to college should be barred for lack of money. That has long been a great American goal: I propose that we achieve it now".

Since then, the Congress has been working on legislation that will become, in my judgment, another legislative milestone. When the Higher Education Bill passed the Senate, I said in a floor speech, "This measure is both massive and monumental. It is not only for the moment but for the future." As you know, this legislation is now in the Conference Committee which has the difficult job of reconciling the differences between the bills as passed by the House and the Senate. The Higher Education bill, in reaching this stage of its legislative journey, had added to it a 1.5 billion dollar two-year aid to school districts to help them desegregate. School anti-busing amendments were also added to both House and Senate bills and this issue will probably be the last item resolved by the Conference Committee. To give you an idea of the complexities and the size of the task facing the Conference Committee, on which I serve, the Senate bill was over 750 pages in length and there are over 250 substantive issues that will have to be resolved by the Conference Committee before final House and Senate passage.

I will discuss with you some of the major issues in the Higher Education legislation and, where possible, the decisions reached by the Conference Committee thus far.

Student aid is one of the major issues facing the Conference. Both the Senate and House bills would continue the present National Defense Student Loans and the Educational Opportunity Grants. But the Senate bill, in keeping with the President's commitment that no student should be barred from attending college for lack of financial resources, envisions a vast increase in the direct Federal grant assistance, and would authorize a new program called "basic opportunity grants".

Under this program a student would be eligible for a grant of up to $1,400 less the amount the student's family could reasonably be expected to contribute to the education of the student. Family contribution would consider such items as family income, the number of dependents, including the number of dependents in college, family and student assets, and any unusual expenses, such as medical bills. Such a basic grant could not exceed 50% of the cost, such as tuition, fees, rooms and board and books and other expenses deemed by the Commissioner to be related to attending the Institute.

The House bill extends the present student aid program generally with some improvements. The Conference Committee tentatively agreed on the Senate position with respect to student aid. Testimony was presented to the Congress indicating that young men and women from families in the bottom quarter of the nation economically, are three times less likely to be in college than those in the top quarter. The Senate student aid provisions are designed to provide economically equal access to higher education. Coupled with the geographical access that community colleges are providing, these new student assistance grants will greatly expand educational opportunities in the nation.

The second key issue before the Conference is institutional aid. Both the House and the Senate bills provide for the first time direct federal grant to the nation's colleges and universities to use as they see fit.

The House and Senate versions vary considerably. The Senate formula would distribute institutional aid according to the number of students receiving the basic Federal grants and the number of veterans. On the other hand, the House formula allocates one-third of its institutional aid according to the amount of educational opportunity aid received by students at the various institutions and two-thirds according to total enrollment. Both the House and Senate formula are weighted so that smaller colleges get more per student than the largest universities.

Under the Senate provision, community colleges in the country and Maryland would receive two times as much funds as under the House version. For example, for each $100 million appropriated, the Senate bill would provide $32.6 million to community colleges where as the House would provide $16.5 million. Maryland Community Colleges would receive $323,612 under the House formula, and $67,560 under the Senate version.

To date, no decision on institutional aid has been reached by the Conference Committee. I believe the final version will be an amalgam of the two, although it likely will be closer to the Senate position. There has been some concern voiced with respect to the constitutionality of both bills' institutional aid provisions since assistance is provided to church related schools.

The Senate believes its version, because it addresses a specific national purpose, namely, promoting equal educational opportunities, is more likely to stand a constitutional test.

There are also important items in the conference dealing with expanded educational research. It is important that an accelerated effort be made in this area. If one compared research and development expenditures in education, as compared to health, defense, and other areas, one is sharply struck with the disproportionment resources that are being spent in the educational research area.

The Senate bill would establish a National Institute of Education to do educational research and development, authorizing $25 million for the initial year, and also would authorize a national foundation for postsecondary education. The foundation will provide funds to institutions and individuals for promising experiments in higher education.

Similar to the National Science Foundation, the Foundation would be authorized to spend $200 million the first year.

Another section in the Senate bill of particular interest to the Community Colleges is found in title 10. I am referring to that section of the Senate bill which authorizes $225 million over a three year period for establishing and expanding community colleges to bring them within commuting distance of all students. Part A of this title authorizes grants to the States for the survey of postsecondary education programs and the development of statewide plans for the expansion and improvement of postsecondary education programs in community colleges. Although our State is far ahead in the planning area, this is needed by many States and I am certain that Maryland will make good use of the funds. Part B of the title provides for three types of grants to establish new community colleges, to expand existing colleges, and grants to lease facilities either for the purpose of establishing a new college or expanding existing ones.

In addition, the Senate bill raises the present setaside for junior colleges under the higher education facilities section from 23% to 24%.

Title 10 also authorizes a community college unit in the Office of Education to coordinate all programs administered by the commissioner. Our educational subcommittee has been concerned with the disproportionately small allocation of funds to community colleges by the Office of Education. During the fiscal year 1971, for example, we found that community colleges received less than 6% of the $4.4 billion budget administered by the Office of Education. The House bill does not have a community college section but it does have an occupational educational title. The conferees have not resolved the community college and occupational education titles. This was the item discussed in our last conference and effort is underway to combine these provisions. I feel confident that the conference will adopt the community college and occupational education titles. I strongly support such agreement which will help provide the needed additional resources for community colleges not only because of the need that exists but also in recognition of your solid record of accomplishment in expanding educational opportunity to young men and women in this country.

There are many other important provisions in the bill dealing with such items as women's rights, developing institutions, library assistants, community service, teacher training, and so on. As I previously indicated, there are over 250 substantive issues. We have approximately 125 issues remaining. We have been meeting since before Easter and have made considerable progress and are scheduled to resume our meetings next week. I cannot predict when the conferees might conclude, but there is hope expressed that agreement will be reached in the next two to three weeks.

I am aware of the urgency to reach agreement on this legislation so that students will know what financial assistance might be available for the fall term, and that schools might know what, if any, institutional assistance they might count on.

Mr. Adolpf A. Berle, addressing a conference of school administrators discussed the charge that our society is hyprocritical. He said:

"Accusation is made that American society is hypocritical—It proclaims a spate of ideals in the Declaration of Independence and the Constitution and does not live up to its profession. A good teacher, far from denying this, would at once admit its truth. But he would add something surprising. He would say that no society would be worth the price of admission if it did not proclaim ideals which were beyond its present realization. For that matter, no man ever lived up to his ideals either. If ever American society fulfills all its ideals, it would be because the ideals were outrageously low."

Setting goals beyond our reach has always been tradition of this country and of the education community. Commissioner Marland in his recent annual review of the conditions of education in the Nation referred to this process as the endless educational renaissance. He predicted that at the close of this decade America will find that its expectations in education are being met and that education had responded effectively to this public will. But he went on to say that society would be further dissatisfied with whatever gains were made and a "splendid discontent will launch us possibly into the near decade of the endless education renaissance". Our Nation was formed *based* on a belief that a better way of life could be found. But the spirit of America has always been regenerated by the fact that we have a program for tomorrow. The progress that you are developing in the community colleges in Maryland and the legislation that is being shaped in Congress will enable the Nation to reach *today's* national goals, but in the meantime, I am certain that national goals and sights will be raised even higher *tomorrow*. This after all is the story of America. May it always be so.

MISSOURI'S VOLUNTEERS AGAINST HUNGER

Mr. EAGLETON. Mr. President, Volunteers Against Hunger, a project of the Missouri Association for Social Welfare, was organized in 1970 as a citizen organization to combat hunger and malnutrition in Missouri.

Although there are similar volunteer groups in other States, Missouri's Volunteers Against Hunger is the only statewide organization with county committees extending to the township and community level.

The organization's efforts have been directed primarily toward increasing participation in, and improving the effectiveness of, the food distribution program which is still the major family food assistance program in Missouri.

In recent months, when a funding crisis arose, $80,762 in contributions was raised to enable the program to be continued in the 28 counties where its existence was threatened.

Government programs and funding are certainly the most important ingredients in the effort to alleviate hunger and malnutrition. But often citizen involvement, such as that so successfully organized by the Missouri Association for Social Welfare, can bring programs and people together in a more meaningful and effective way.

The April issue of USDA's Food and Nutrition magazine contains an article on Missouri's Volunteers Against Hunger by Charles T. Weirauch, of USDA's Midwest regional office.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MISSOURI'S VOLUNTEERS AGAINST HUNGER

(By Charles T. Weirauch)

After making a nutrition survey that revealed the extent to which hunger and malnutrition exist in Missouri, Mrs. Betty Hearnes, wife of the Governor, and the Missouri Association for Social Welfare's steering committee decided to establish a volunteer food aid coordinating committee.

Funding for the statewide project was arranged in April 1970 through the State of Missouri Division of Welfare and a U.S. Department of Health, Education and Welfare research and demonstration grant.

The action committee, Volunteers Against Hunger, has since been established in 80 counties where USDA's food distribution program is in operation.

"In these counties we work to educate citizens about the food aid programs and to obtain their support of it," says Tom Snodgrass, VAH project coordinator.

The VAH movement is built on the concept that hunger and malnutrition can be eliminated in all counties across the Nation if enough dedicated citizens pool their efforts," says Mrs. Daniel Schlafly, chairman of the State volunteer committee.

The primary goal of VAH is uniting such people against hunger in Missouri. However, its organizers can see no reason why their concept cannot be adapted in all other States.

"We believe that many persons want to help a government program that aids their community," Snodgrass says. "Once VAH convinces the public that effective help programs do exist, individuals, groups and businesses will often jump at the chance to work with them."

When they do respond, the VAH county committee is close at hand to direct their volunteer activities.

In setting up committees in new counties, VAH personnel use a uniform four-page organization plan.

"This plan has been adapted without change by the counties because of its simplicity," Snodgrass says.

The first step calls for the Missouri Association for Social Welfare workers to recruit a county chairman from the community in which he is to work. He in turn must familiarize himself with local operations of the food distribution center and county welfare agency.

"We urge such a first step because the Volunteers' chairman is a primary educational source," Snodgrass points out. "The more the chairman knows about the program operations and related social problems, the more he will be able to convince others to join in the effort."

Other steps involve talking to University of Missouri Extension nutritionists, county coordinators of community action programs, and others working with disadvantaged persons. It is hoped that these groups will serve as advisors for VAH and point out sources of volunteers. Meeting with them also might point out weak areas in the food distribution plan where such volunteers could concentrate their efforts. They might also know of good contacts among food program participants. VAH members have found it important to have persons from all sides pass along their feelings and information.

"While working with these people, it is important for the county chairman to make clear that VAH will not be duplicating their functions," Snodgrass emphasizes. "We're organized to explain the food distribution program's existence in the community and educate people in its use. Other agencies utilize it, but do not concentrate their program efforts there as we do."

"Volunteers from the local community relate to people in need at their own level," says Mrs. Schlafly. Volunteers can supplement the extensive activities of University of Missouri nutritionists by getting recipes and other nutrition information out to those who need it.

Other volunteers may be needed for more physical efforts, such as taking USDA food by proxy slip to those who cannot come in for it, taking others down to the center for recertification, and by helping out in the food distribution center.

Mrs. Schlafly emphasizes that it is the job of Volunteers Against Hunger to help build bridges of communication. "We must be realistic and admit that we have not found the final solution to the problem. However, we must work to use the system we have to its fullest advantage. VAH should be there to enhance whatever programs work best."

Just before the Civil War, residents of Callaway County, Missouri, established the Kingdom of Callaway and declared it to be a neutral soverign State throughout the war.

Today, however, Callaway residents have joined the war against hunger and malnutrition. The Missouri Volunteers Against Hunger and USDA's food distribution program have worked together in the county to make significant gains in getting food to disadvantaged persons.

The relationship began less than a year ago, but in that time 16 diverse community groups have pitched in to help expand the food aid program.

Such response is attributed to good coordination of volunteer efforts by Mrs. Celsta Cannell, chairman of the Callaway County chapter of the Statewide Volunteers Against Hunger, and James Baysinger, county food distribution supervisor.

"It's important to utilize a volunteer's time in accordance with his work interests, but we have to make sure we have enough people to carry out all of our activities," says Mrs. Cannell.

Need for volunteers becomes apparent when a person walks into the Fulton food distribution center on one of the ten monthly distribution days. On that day, as many as 150 household recipients might come in for their monthly food allotments.

The first volunteers a recipient meets are college students from Westminster and William Woods Colleges. About 150 students spend some time at the center checking food supplies and making sure that the recipients receive proper amounts. They also see that program participants have a way of getting their food home.

For those persons who cannot come in to pick up their food because of transportation or health problems, volunteers may obtain a proxy slip. This authorizes them to pick up the food and drive it to those in need.

Students from Fulton High have been helping out in such deliveries both on their own and through the Drive to Serve program.

This program utilizes driver education cars to deliver USDA foods to elderly recipients who live out of town and are disabled. The Callaway County Drive to Serve Program is one of six pilot projects established by USDA's Food and Nutrition Service in cooperation with the National Red Cross to test this new approach in delivering foods.

Besides getting food to those who would not normally be able to get it, Drive to Serve lets the students see how the food distribution program can help, and many students have become volunteers.

Mrs. Dorothy Meyer, Red Cross representative for the Callaway County area, has been helping to coordinate these volunteers. Occasionally they borrow the Red Cross station wagon to make food deliveries.

"Students in the Drive to Serve Program and other volunteers often tell people in the community about the merits of the food aid plan," says Mrs. Cannell. "Such grassroots communication is highly effective in educating the community about food distribution."

Education is an essential part of the volunteer operations—for the recipient, other welfare agencies and the community in general. The recipient often gets his first taste of this when picking up food at the center, where nutrition aides from the University of Missouri Cooperative Extension Service pass out recipes and information on how to get the full nutritional value from foods received.

"Volunteers supplement such activity by going out into recipients' homes and disseminating similar information," says Mrs. Cannell. Although Extension aides also go into the community, the volunteers help them to reach all potentially needy households.

Even then, there are not enough volunteers for this kind of work. Efforts have to be concentrated on persons who need help the most.

To find out where these areas are, volunteers have contacted local welfare agencies. From them they have learned where they might be able to make the most impact.

The Callaway volunteer group has also discovered from the welfare agencies that there are organizations which offer aid to community improvement projects. Such groups as the Council of Ecumenical Ministers, League of Women Voters, and other business groups and civic clubs have supported the food distribution program.

Faced with a possible end to food program operations last spring, the Callaway Volunteers Against Hunger launched an emergency fund drive to cover the $320 a month in operating costs.

Some volunteers made appeals to civic groups and businesses for contribution pledges. Others, such as college and high school groups, recruited funds from their peers and the community.

In just two weeks the VAH group reached its goal, getting enough cash and pledges to cover operating costs. This money allows 2,650 county recipients to receive their share of the $40,000 a month in food distributed at the Center.

The Callaway drive is holding its own, but proposed State legislation would allow the number of recipients to increase.

"We're going to make sure", Baysinger says, "that the food distribution program stays and grows in Callaway county."

FINANCIAL STAEMENT OF SENATOR BEALL

Mr. BEALL. Mr. President, consistent with my view that elected officials should make the public aware of their financial interests, I ask unanimous consent to have printed in the RECORD, my financial statement and a list of stocks held as of December 31, 1971.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Financial Statement of Senator J. Glenn Beall Jr., as of Dec. 31, 1971

ASSETS

Cash in bank: Checking accounts	$8,505.28
	11,137.30
Total	19,642.58
Stocks and bonds (see list attached, appendix A)	120,346.68
Life insurance—cash surrender value	$15,543.00
Beall, Garner & Geare Retirement Trust (vested interest)	25,553.63
Equity in Beall, Garner & Geare Realty Co. (copartnership)	9,977.60
Dwellings:	
Beall's Lane, Frostburg, Maryland	50,000.00
Western Avenue, Chevy Chase, Md	80,000.00
Total	130,000.00
Personal Property (furniture, etc. at both locations	20,000.00
1969 Oldsmobile 4 door sedan	1,300.00
Total	342,363.49

LIABILITIES

Note payable, First National Bank & Trust Co. of Western Maryland	10,000.00
Mortgage payable, Fidelity Bank, Frostburg, dwelling	18,785.60
Citizens Building and Loan Association, Chevy Chase, dwelling	55,643.66
Total	84,439.26
Net worth	257,924.23

APPENDIX A.—STOCKS AND BONDS

39 Beall, Garner and Geare, Inc. (common)	$71,574.25
260 Beall, Garner and Geare, Inc. (preferred)	26,000.00
100 Canadian Export Gas and Oil	218.75
5 Charter New York Corporation	170.00
5 Cumberland Fair Association	375.00
50 Fidelity Bank of Frostburg, Maryland	1,000.00
79 First National Bank and Trust Company of Western Maryland	4,740.00
17 Kaiser Aluminum and Chemical (common)	1,045.50
8 Kaiser Aluminum and Chemical (4¾% common preferred, 1959)	472.00
156.4 Massachusetts Investors Growth Fund	2,226.18
30 Minnesota Mining and Manufacturing Company	4,050.00
200 United States Fidelity and Guaranty Company	8,475.00
Total	120,346.68

LAND RETIREMENT AMENDMENT IN SUPPLEMENTAL APPROPRIATION BILL

Mrs. SMITH. Mr. President, I am most grateful to the Senate conferees for their unanimous support of my $10 million land retirement amendment in the supplemental appropriations bill. I know that the farmers of Aroostook County and the State of Maine are grateful to them for their stand in the interest of Maine farmers.

I am keenly disappointed that the unanimous opposition of the House conferees—not a single one of them voting for the amendment—resulted in killing the amendment and deleting it from the bill. I know that Maine farmers will be keenly disappointed with their action to kill the proposal.

DEPARTMENT OF DEFENSE INDEPENDENT RESEARCH AND DEVELOPMENT REPORT

Mr. McINTYRE. Mr. President, section 203, paragraph (c) of the 1971 Department of Defense Appropriation Authorization Act—Public Law 91–441—requires the Department of Defense to submit an annual report to the Congress on independent research and development and bid and proposal costs. I ask unanimous consent to have the following documents printed at this point in the RECORD:

(a) The language of section 203, Public Law 91–441.

(b) Copy of the letter of transmittal dated March 11, 1972, and the report for calendar year 1971.

(c) Copies of implementing Department of Defense directives and instructions.

(d) Onsite review schedules for calendar year 1972.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

SEC. 203, PUBLIC LAW 91–441

SEC. 203. (a) Funds authorized for appropriation to the Department of Defense under the provisions of this or any other Act shall not be available after December 31, 1970, for payment of independent research and development or bid and proposal costs unless the work for which payment is made has, in the opinion of the Secretary of Defense, a potential relationship to a military function or operation and unless the following conditions are met—

(1) the Secretary of Defense, prior to or during each fiscal year, negotiates advance agreements establishing a dollar ceiling on such costs with all companies which during their last preceding fiscal year received more than $2,000,000 of independent research and development or bid and proposal payments from the Department of Defense, the advance agreements thus negotiated (A) to cover the first fiscal year of each such contractor beginning on or after the beginning of each fiscal year of the Federal Government, and (B) to be concluded either directly with each such company or with those product divisions of each such company which contract directly with the Department of Defense and themselves received more than $250,000 of such payments during their company's last preceding fiscal year;

(2) the independent research and development portions of the advance agreements thus negotiated are based on company submitted plans on each of which a technical evaluation is performed by the Department of Defense prior to or during the fiscal year covered by such advance agreement; and

(3) no payments for independent research and development or bid and proposal costs are made by the Department of Defense to any company or product division with which an advance agreement is required by subsection (a)(1) of this section, except pursuant to the terms of that agreement.

(b) In the event negotiations are held with any company or product division with which they are required under subsection (a)(1) of this section, but no agreement is reached with any such company or product division, no payments for independent research and development or bid and proposal costs shall be made to any such company or product division during the fiscal year for which agreement was not reached, except in an amount substantially less than the amount which, in the opinion of the Department of Defense, such company or product division would otherwise have been entitled to receive, subject to appeal by such company or product division under regulations to be prescribed by the Secretary of Defense.

(c) The Secretary of Defense shall submit an annual report to the Congress on or before March 15, 1971, and on or before March 15 of each succeeding year, setting forth—

(1) those companies with which negotiations were held pursuant to subsection (a) (1) of this section prior to or during the preceding fiscal year of the Federal Government, together with the results of those negotiations;

(2) the latest available Defense Contract Audit Agency statistics, estimated to the extent necessary, on the independent research and development or bid and proposal payments made to major defense contractors, whether or not covered by subsection (a) (1) of this section during the preceding calendar year; and

(3) the manner of his compliance with the provisions of this section, and any major policy changes proposed to be made by the Department of Defense in the administration of its contractors' independent research and development and bid and proposal programs.

(d) The provisions of this section shall apply only to contracts for which the submission and certification of cost or pricing data are required in accordance with section 2306(f) of title 10, United States Code.

(e) Section 403 of Public Law 91-121 (83 Stat. 204) is hereby repealed.

MARCH 11, 1972.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Secretary of Defense has requested that I prepare and submit to you the report of Independent Research and Development and Bid and Proposal costs required under Section 203, Paragraph (c) of the 1971 Department of Defense Appropriation Authorization Act (PL 91-441). This Section requires the submittal of an annual report to the Congress on or before March 15 each year setting forth—

"(1) those companies with which negotiations were held pursuant to subsection (a) (1) of this Section prior to or during the preceding fiscal year of the Federal Government, together with the results of those negotiations.

(2) the latest available Defense Contract Audit Agency statistics, estimated to the extent necessary, on the Independent Research and Development or Bid and Proposal payments made to major defense contractors, whether or not covered by subsection (a) (1) of this Section during the preceding calendar year; and

(3) the manner of his compliance with the provisions of this Section, and any major policy changes proposed to be made by the Department of Defense in the administration of its contractors' Independent Research and Development and Bid and Proposal programs."

The report is in three parts corresponding to the three items quoted above. Parts I and II were compiled from detailed data pertaining to individual companies. This detailed company information is very sensitive and is not included in the report; however, it will be made available for review.

Sincerely,

BARRY J. SHILLITO,
Assistant Secretary of Defense (Installations and Logistics).

REPORT TO THE CONGRESS ON INDEPENDENT RESEARCH AND DEVELOPMENT COSTS AND BID AND PROPOSAL COSTS

PART I

Companies with which negotiations were held pursuant to Section 203 prior to or during the preceding fiscal year of the Federal Government and the results of those negotiations.

Section 203 became effective January 1, 1971. Since the Federal Government's fiscal year ends on June 30, this report for Fiscal Year 1971 covers those negotiations completed in the six-months period from January 1, 1971 through June 30, 1971. The attached Schedule A provides data relative to these negotiations.

At this time we have preliminary information concerning the negotiations that we will be reporting next year. This data indicates that negotiations were conducted with 54 companies between June 30, 1971 and December 31, 1971 to establish ceilings for contractors' 1971 IR&D/B&P costs. In addition negotiations were conducted with 8 companies during this time period to establish ceilings for the contractors' 1972 fiscal year. As indicated before, complete information on these negotiations plus those conducted in the second half of Fiscal Year 1972 will be included in next year's report. We estimate that 75 or more companies will be included in that report because they fall within the $2 million threshold established by Section 203 and are required to negotiate advance agreements.

SCHEDULE A

I.R. & D./B. & P. REPORT, PT. I—NEGOTIATIONS COMPLETED IN FISCAL YEAR 1971 AND RESULTS OF THOSE NEGOTIATIONS

[Dollars in thousands]

Contractors' fiscal year	Number of companies	Total program dollars proposed by contractors			Total advance agreement ceiling dollars negotiated by DOD			Estimated DOD share of ceiling dollars negotiated		
		I.R. & D.	B. & P.	Total	I.R. & D.	B. & P.	Total	I.R. & D.	B. & P.	Total
1971	20	$231,853	$97,844	$329,697	$181,445	$85,579	$267,024	$95,525	$56,191	$151,716
1972	2	9,611	9,563	19,174	8,092	7,978	16,070	6,628	6,814	13,442

PART II

Latest available Defense Contract Audit Agency statistics, estimated to the extent necessary, on the Independent Research and Development (IR&D) or Bid and Proposal (B&P) payments made to major defense contractors, whether or not covered by Subsection (a) (i) of this Section [203, PL 91-441] during the preceding year.

The statistics required are provided in the attached DCAA report. The report shows total IR&D and total B&P costs incurred by the contractors reviewed, the amount accepted or recognized by the Department of Defense and the DOD share. In addition, total sales of the contractors are shown along with the portion representing DOD sales.

The amount listed on Page 1 under the column heading "Amount Accepted by Govt." represents the sum of the ceilings negotiated with individual contractors as well as the sum of amounts recognized for other contractors who had no advance agreements. These accepted amounts are not the costs reimbursed by the DOD but are the amounts that the DOD recognizes for allocation to all the contractors' business. The DOD portion is shown under the column headed "DOD share."

Page 2 of the report shows the portion of the total dollars reported which was covered by advance agreements. It should be noted that, in the past, very few advance agreements were negotiated for B&P. This accounts for the small amount of B&P costs shown on Page 2 for 1970. Page 3 reflects IR&D and B&P costs for which no advance agreements were negotiated.

Although not required by Section 203 a report is also included showing other technical effort (OTE) costs. The cost principles included in the Department of Defense Procurement Regulation have been modified to include, in their definitions of IR&D and B&P, certain technical costs not now included. These revised definitions were not yet effective in Calendar Year 1971 and OTE costs are, therefore, being furnished to provide consistency with data previously furnished.

It will be noted that data for both 1970 and 1971 are furnished. It has been the practice to update data previously furnished because latest year figures include significant amounts of estimated information. The 1970 figures presented here have had most of the estimated data replaced with actual data. The report furnished next year will similarly update the 1971 data furnished herewith.

A complete explanation of the information contained in the report is provided in the foreword which precedes Page 1. You will note that some changes have been made to improve the quality of the data reported. There has also been a change in the criteria for selecting major defense contractors to be included in the report. This change in criteria causes some companies to drop out of the report and brings in certain others. The net effect is a slight reduction in the number of companies and a slight increase in the IR&D/B&P dollars reported. We do not believe the change in selection criteria has any significant effect on the report.

PART III

The manner of his compliance with the provisions of this section, and any major policy changes proposed to be made by the Department of Defense in the administration of its contractors' Independent Research and Development and Bid and Proposal Programs.

Armed services procurement regulation (ASPR) implementation

In the report furnished to the Congress last March we advised that we had published Defense Procurement Circular (DPC) 84 in November 1970 to implement Section 203. In April of 1971 we published a revision to that initial implementation which changed the criteria under which contractors were required to negotiate advance agreements for IR&D and B&P. This change was made to conform the criteria more closely to the provisions of Section 203 which requires negotiations only when a contractor recovers over $2 million of IR&D or B&P costs from Department of Defense contracts which are subject to the Truth in Negotiations Act. A copy of this revision, which was published in DPC 87, is attached.

In September of 1971 we published two new Armed Services Procurement Regulation (ASPR) cost principles for IR&D and B&P respectively. These new cost principles were included in DPC 90 which is attached for your information.

The new IR&D and B&P cost principles provide a complete new policy for allowance of these costs and, as they become effective in new contracts, will supersede all prior IR&D and B&P ASPR policy. The cost principles provide for implementation of the Section 203 legislation and also establish a policy for determining the amount of IR&D and B&P costs to be allowed for contractors not subject to the legislative requirements.

IR & D Policy Council

An IR&D Policy Council has been established to develop policy and guidance essential to the efficient administration of IR&D and B&P. This Council will concern itself with matters such as the proper level of DOD support, DOD goals with respect to IR&D and B&P, guidance for determining potential relationship of contractors' IR&D and B&P projects to military functions or operations and other IR&D and B&P policy matters. The Charter for the Council is contained in the attached DOD Instruction 5100.66 dated February 29, 1972.

Technical evaluation procedures

An Instruction assigning responsibilities and procedures for the technical evaluation and review of contractors' IR & D has been written. This is also included in DOD Instruction 5100.66.

The technical evaluation procedures are under review by the IR & D Technical Evaluation Group. Included in the review is consideration of the comments received on the proposed IR & D Technical Review form which has been used by the evaluators on a trial basis for almost a year. It has been determined that the form requires some changes. After these changes have been made, the form will become an official DOD document. A copy of the test form (without changes) is attached.

IR & D data bank

A DOD IR & D Data Bank has been established at the Defense Documentation Center. This data bank will provide a centralized body of technical and management information that will enable DOD scientists, engineers, and managers to identify the IR & D projects as well as the companies conducting them. Approximately 40 major companies are participating in the three-year service test of the data bank. Project data has been placed in the bank by 21 companies, and inputs from the others is expected in the next few months. A copy of the IR & D Data Bank Input Manual (DSAM 4185.9) is attached.

Resources and administration

In the more general area of resources and administration of the IR & D program, revisions to the guidelines for the annual preparation of IR & D Technical Plans (brochures) have been prepared and distributed through the DOD negotiators. The guidelines should assist each contractor in preparing a plan to meet the provisions of ASPR 15-205.35. IR & D Technical Plans prepared in accordance with these guidelines should assist the technical evaluators in determining the allowability of the individual projects and the reasonableness of the IR & D program. A copy of the guidelines is attached.

A specific schedule has been prepared for the CY 72 on-site reviews of IR & D programs (copy attached). Currently, on-site reviews in support of technical evaluations are averaging more than one each week. The conduct of these reviews requires the time of many personnel over and above their normal duties.

The workload impact due to the requirement for making a "potential relationship" determination for each IR & D project as well as the increased IR & D technical evaluation activity (including evaluation of IR & D Technical Plans and on-site reviews) is being followed closely. Further, the associated need to support contracting people in the determination of the relevancy of the bid and proposal effort has increased the DOD workload. It will be some time before an effective evaluation of the impact of these requirements can be made.

SUMMARY OF INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS INCURRED BY MAJOR DEFENSE CONTRACTORS IN THE YEARS 1970 AND 1971

FOREWORD

This summary report presents the latest available Defense Contract Audit Agency (DCAA) statistics, estimated to the extent necessary, on the independent research and development (IR&D) and bid and proposal (B&P) payments made to major defense contractors. The statistical data are submitted for inclusion in the annual report to be submitted by the Secretary of Defense to the Congress on or before March 15, 1972, in accordance with paragraph (c), Section 203, Public Law 91-441. The data set forth in this statistical summary report are similar in nature to the information previously furnished to the Office of the Assistant Secretary of Defense (Installations and Logistics (OASDI) (I&L)), for contractor fiscal years 1969 and 1970.

The summary on page 1 is an overall presentation of IR&D and B&P costs incurred by 84 major defense contractors during their fiscal years 1970 and 1971, amounts accepted by the Government, and the Department of Defense (DoD) share of amounts so accepted. The column "Amount Accepted by the Government" contains amounts considered allowable and allocable to all contractor work performed—Government and commercial. The DoD share of the costs accepted each year is the contractor's actual allocation of such costs to DoD work. In addition, this summary shows related sales achieved by the 84 contractors, comprising 175 reporting divisions and/or operating groups.

The defense contractors represented in this summary are those who had an annual auditable volume of costs incurred of $15 million or more as of December 31, 1971, and other contractors who, although not meeting the auditable volume criterion required 4,000 or more man-hours of DCAA's direct audit effort per year. As in prior DCAA reports, contractors specifically excluded from this summary are construction companies; educational institutions, foreign contractors and overseas operations of U.S. contractors; Government-owned, contractor-operated (GOCO) plant contractors; insurance companies; Job Corps Training Center contractors; major laboratories (Jet Propulsion Laboratory, California Institute of Technology Applied Physics Laboratory, John Hopkins University; etc.); marine transport contractors; and military medicare contractors. These contracting activities incurred nominal or no IR&D and B&P costs. Details in support of the summary are contained in a separate statistical report, designated "for official use only," copies of which are available through OASD (I&L) or DCAA.

DCAA obtained the IR&D and B&P cost and sales data from contractors' records, but such data do not necessarily represent audited amounts. Included in the costs shown are amounts accepted by the Government in overhead negotiations and through advance agreements. Where actual cost and sales data were not available, as in the case of calendar year contractors who had not completed the closing of their books for 1971, DCAA auditors obtained reasonable estimates. It should be noted that the contractor divisions and/or operating groups that are listed in DCAA's detailed supporting report. DCAA did not attempt to determine the reasons for increases or decreases in contractor costs and sales between the years 1970 and 1971.

Minor changes were made for this report in the definition of a "major contractor" and in the computation of the DoD share of IR&D and B&P costs; the changes did not significantly affect the amounts reported herein. As can be seen on the first summary, the DoD share for the year 1970 totals $654 million compared with $622 million stated in DCAA's report of March 1971. The difference of $32 million is accounted for by (i) an increase of $12 million due to the change in definition of "major contractor," (ii) an increase of $2 million representing the change in methods of allocating accepted amounts, and (iii) adjustments to previously reported amounts, including updating of estimates to actuals, totaling $18 million.

The summary on page 2 indicates the extent of advance agreements in effect during either one or both years. The summary on page 3 shows costs not subject to advance agreements.

SUMMARY OF INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS INCURRED AND SALES ACHIEVED BY MAJOR DEFENSE CONTRACTORS—FOR CONTRACTOR FISCAL YEARS 1970 AND 1971

[In millions of dollars]

	1970			1971		
	Costs incurred	Amount accepted by government	DOD share	Costs incurred	Amount accepted by government	DOD share
Independent research and development (I.R. & D.)	753	597	376	707	572	356
Bid and proposal (B. & P.)	414	398	278	421	387	271
Total, I.R. & D. and B. & P. costs	1,167	995	654	1,128	959	627
Sales, total Government and commercial	32,519			29,884		
Sales, total DOD		21,315			19,655	

SUMMARY OF INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS INCURRED BY MAJOR DEFENSE CONTRACTORS—WITH ADVANCE AGREEMENTS

[In millions of dollars]

	1970			1971		
	Costs incurred	Amount accepted by Government	DOD share	Costs incurred	Amount accepted by Government	DOD share
Independent research and development (I.R. & D.)	632	497	315	682	548	349
Bid and proposal (B. & P.)	154	143	93	400	366	260
Total, I.R. & D. and B. & P. costs	786	640	408	1,082	914	609

SUMMARY OF INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS INCURRED BY MAJOR DEFENSE CONTRACTORS—WITHOUT ADVANCE AGREEMENTS

[In millions of dollars]

	1970			1971		
	Costs incurred	Amount accepted by government	DOD share	Costs incurred	Amount accepted by government	DOD share
Independent research and development (I.R. & D.)	121	100	61	25	24	7
Bid and proposal (B. & P.)	260	255	185	21	21	11
Total, I.R. & D. and B. & P. costs	381	355	246	46	45	18

DEFENSE PROCUREMENT CIRCULAR

This Defense Procurement Circular is issued by direction of the Assistant Secretary of Defense (Installations and Logistics) pursuant to the authority contained in 5 U.S. Code 301, 10 U.S. Code 2202, DOD Directive No. 4105.30, and ASPR 1-106.

All Armed Services Procurement Regulation material and other directive material published herein is effective upon receipt except as otherwise indicated.

Unless otherwise indicated in the introductory language preceding an item, each item in this Circular shall remain in effect until the effective date of that subsequent ASPR revision which incorporates the item, or until specifically canceled.

Reproduction authorized.

ITEM I—INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS

Section 203 of the DOD Military Procurement Authorization Act of 1971 (PL 91-441) establishes certain requirements with respect to IR&D and B&P costs. Section 203 reads as follows:

SEC. 203. (a) Funds authorized for appropriation to the Department of Defense under the provisions of this or any other Act shall not be available after December 31, 1970, for payment of independent research and development or bid and proposal costs unless the work for which payment is made has, in the opinion of the Secretary of Defense, a potential relationship to a military function or operation and unless the following conditions are met—

(1) the Secretary of Defense, prior to or during each fiscal year, negotiates advance agreements establishing a dollar ceiling on such costs with all companies which during their last preceding fiscal year received more than $2,000,000 of independent research and development or bid and proposal payments from the Department of Defense, the advance agreements thus negotiated (A) to cover the first fiscal year of each such contractor beginning on or after the beginning of each fiscal year of the Federal Government, and (B) to be concluded either directly with each such company or with those product divisions of each such company which contract directly with the Department of Defense and themselves received more than $250,000 of such payments during their company's last preceding fiscal year;

(2) the independent research and development portions of the advance agreements thus negotiated are based on company submitted plans on each of which a technical evaluation is performed by the Department of Defense prior to or during the fiscal year covered by such advance agreements; and

(3) no payments for independent research and development or bid and proposal costs are made by the Department of Defense to any company or product division with which an advance agreement is required by subsection (a)(1) of this section, except pursuant to the terms of that agreement.

(b) In the event negotiations are held with any company or product division with which they are required under subsection (a)(1) of this section, but no agreement is reached with any such company or product division, no payments for independent research and development or bid and proposal costs shall be made to any such company or product division during the fiscal year for which agreement was not reached, except in an amount substantially less than the amount which, in the opinion of the Department of Defense, such company or product division would otherwise have been entitled to receive, subject to appeal by such company or product division under regulations to be prescribed by the Secretary of Defense.

(c) The Secretary of Defense shall submit an annual report to the Congress on or before March 15, 1971, and on or before March 15 of each succeeding year, setting forth—

(1) those companies with which negotiations were held pursuant to subsection (a)(1) of this section prior to or during the preceding fiscal year of the Federal Government, together with the results of those negotiations;

(2) the latest available Defense Contract Audit Agency statistics, estimated to the extent necessary, on the independent research and development or bid and proposal payments made to major defense contractors, whether or not covered by subsection (a)(1) of this section during the preceding calendar year; and

(3) the manner of his compliance with the provisions of this section, and any major policy changes proposed to be made by the Department of Defense in the administration of its contractors' independent research and development and bid and proposal programs.

(d) The provisions of this section shall apply only to contracts for which the submission and certification of cost or pricing data are required in accordance with section 2306(f) of title 10, United States Code.

(e) Section 403 of Public Law 91-121 (80 Stat. 204) is hereby repealed.

1. *Purpose*

The purpose of this DPC is to rescind Item I of DPC #75, furnish guidance with respect to the negotiation of advance agreements required by the Act and to provide information on future action that will be taken on IR&D and B&P costs.

2. *General*

In accordance with the provisions of 15-107 and 15-205.35, advance agreements are presently being negotiated with a number of contractors for the purpose of placing a dollar limitation on the amount of IR&D that will be recognized for allocation to DOD and NASA contracts. In some instances advance agreements also are negotiated for B&P costs. This policy is not affected by the new legislation except with respect to contractors who meet the criterion established by the law.

ASPR 15-205.3 and 15-205.35 will be revised to incorporate the provisions of the Act and to provide for mandatory negotiation of advance agreements covering IR&D and B&P with substantially more contractors than are included under the present law. Except as revised by this DPC, Section XV of ASPR shall continue to be utilized in negotiating and administering advance agreements.

3. Definitions and Interpretations of Section 203, PL 91-441.

a. Effective date—"after December 31, 1970."

Contractors meeting the criterion in paragraph 3b below in their preceding fiscal year ending on or before 31 December 1970 must negotiate advance agreements for IR&D and B&P which shall have an effective date not later than 1 January 1971. When a contractor's fiscal year coincides with the calendar year, the agreement shall cover the complete fiscal year. In other cases, the initial agreement shall cover at least the remaining portion of the fiscal year remaining after 1 January 1971. However, existing advance agreements extending beyond 31 December 1970 will be honored in full unless they provide an option under which the Government may reopen the agreement and impose the restrictions of Section 203. When advance agreement negotiations cannot be completed by 1 January 1971, interim billing and forward pricing rates, including provision for IR&D and B&P costs, should be utilized prior to and during negotiations.

The limitations of Section 203 are not applicable to costs incurred prior to 1 January 1971.

b. Companies Required to Negotiate.

Companies receiving payments, either as a prime contractor or subcontractor, in excess of a total of $2 million from DOD for IR&D and B&P in the previous fiscal year, must negotiate advance agreements covering both IR&D and B&P for their following fiscal year.

Computation of the amount of IR&D and B&P costs to determine whether the $2 million criterion was reached will include only those recoverable IR&D and B&P costs allocated to all DOD prime contracts and subcontracts during the contractor's previous fiscal year regardless of contract type or method of procurement. The computation shall include full burdening in the same manner as if the IR&D and B&P projects were contracted for except that G&A will not be applied.

For purposes of this paragraph b, the term "company" includes all divisions, subsidiaries and affiliates of the contractor under common control.

c. Organizational Level for Negotiations.

When a company meets the criterion in 3b above, required advance agreements may be negotiated at the corporate level and/or with those separate entities, such as divisions, subsidiaries and affiliates of the company, which in the preceding year allocated recoverable IR&D and B&P costs in excess of $250,000 to DOD contracts. Agreements negotiated at the corporate level may set individual ceilings for separate entities of the company.

d. Contractor Programs.

Contractors who negotiate advance agreements for IR&D and B&P with the DOD shall submit technical and financial information on their planned programs. IR&D plans shall be submitted in accordance with guidance furnished by the Armed Services Research Specialists Committee. Technical evaluations shall be performed by the Armed Services Research Specialists Committee. Contractors will be advised of the Committee's determinations with respect to "potential relationship" prior to negotiation of advance agreements. Proposals for advance agreements on B&P shall be submitted in accordance with guidance furnished by Tri-Service Departmental offices.

e. Ceilings.

Ceilings are the maximum dollar amounts of a contractors' total costs for IR&D and B&P work that will be recognized for allocation to all work of that part of the contractor's operation covered by an advance agreement (see ASPR Section XV). A separate ceiling for IR&D and B&P shall be established for each advance agreement negotiated. In negotiating a ceiling, in addition to other considerations, particular attention must be paid to the "potential relationship" aspect of the contractor's planned IR&D and B&P programs (see paragraph 3f below). The portion of the ceiling estimated to be allocable to DOD contracts shall not exceed the total estimated costs of the contractor's planned IR&D and B&P work having a "potential relationship" to a military function or operation.

Contractual pricing actions, based on actual or estimated costs as appropriate, shall not include amounts in excess of each transaction's allocable share of the ceiling.

The amounts of incurred IR&D and B&P costs recoverable on DOD contracts shall not exceed (i) such contracts' allocable share of the ceiling and (ii) the total costs of the contractor's IR&D and B&P work having a "potential relationship."

f. Potential Relationship to a Military function or operation.

With respect to IR&D, when advance agreements are required, the Armed Services Research Specialists Committee established by DODI 4105.52 as amended will make determinations of "potential relationship."

B&P costs will be considered to satisfy the "potential relationship" requirement when the contractor can demonstrate that the effort under a proposed contract or grant would have a "potential relationship" to a military function or operation.

When agreements are required, costs for IR&D and B&P work which does not have a "potential relationship" to a military function or operation are unallowable as a charge against DOD funds subject to Section 203, PL 91–441 limitations.

"Potential relationship" determinations are required only when advance agreements are required in accordance with paragraph 3b above.

g. Repeal of Section 403, PL 91–121.

Section 403 of PL 91–121, which required a 7% reduction in IR&D, B&P and OTE costs under certain circumstances, was implemented by Item I, DPC #75. Section 203, PL 91–441, repeals Section 403, PL 91–121. However, many contracts already include a provision similar to the clause suggested in DPC #75. Such provisions shall continue to be enforced as they are not affected by the repeal. In addition, FFP contracts shall not be adjusted to reinstate the 7% reduction.

4. Procedures for Implementing Section 203.

a. Identification of Contractors.

Contractors not assigned for IR&D and B&P negotiations on the "Master List of Contractors for Negotiated Overhead Rates and Advance Agreements for IR&D and B&P Costs" in DPC #83 but which meet the criterion set forth in 3c above, should contact the Department (see DPC #83 for addresses) which has the preponderance of contract and subcontract work being performed.

b. Advance Agreements Negotiated Shall Include at Least the Following:

(1) A separate dollar ceiling for IR&D and for B&P. However, provision shall be made permitting the contractor to increase recovery of costs for either IR&D or B&P above the individually negotiated ceilings, provided that recovery of costs for the other is decreased below its ceiling by a like amount.

(2) A statement that the ceilings negotiated must be allocated to all work of that part of the contractor's operation covered by the agreement consistent with ASPR Section XV. For example, if an agreement is negotiated for a division, costs incurred up to the ceiling must be allocated to all work of that division, not just to DOD contracts.

(3) A statement that the costs for IR&D and B&P work recoverable under contracts citing DOD funds subject to Section 203, PL 91–441 limitations shall not exceed (i) such contracts' allocable share of the ceiling and (ii) the total costs of the contractor's IR&D and B&P work determined to have a "potential relationship."

(4) A statement that estimated costs or actual costs incurred, as appropriate, not in excess of the ceilings negotiated shall be used in the pricing of all contractual actions when negotiations are based on elements of cost and in final price determinations.

c. Reduced Payment of IR&D and B&P Costs.

In the event negotiations are held with a contractor meeting the $2 million criterion and an advance agreement is not reached, payment for IR&D and B&P costs is required to be reduced substantially below that which the contractor would otherwise have received. The amount of such reduced payment shall not exceed 75% of the amount to which, in the opinion of the contracting officer, the contractor would be entitled to receive under an advance agreement. Written notification of the contracting officer's determination of a reduced amount shall be provided the contractor.

d. Appeals by Contractors From Decisions Regarding IR&D and B&P.

Contractors may appeal decisions of the contracting officer to reduce payments under paragraph 4c. For the purpose of hearing and deciding such appeals, each Department will establish appeals hearing groups consisting of the following:

A representative to be designated by the Assistant Secretary (Installations and Logistics) who shall be Chairman;

A representative to be designated by the Assistant Secretary (Research and Development);

A representative to be designated by the General Counsel or Judge Advocate General of the Department.

Determinations of the Departments shall be the final and conclusive determination of the Department of Defense.

Notice of intent to appeal shall be filed within 30 days of receipt of a decision and will be processed through the cognizant Tri-Service Departmental office.

DEFENSE PROCUREMENT CIRCULAR

This Defense Procurement Circular is issued by direction of the Assistant Secretary of Defense (Installations and Logistics) pursuant to the authority contained in 5 U.S. Code 301, 10 U.S. Code 2202, DOD Directive No. 4105.30, and ASPR 1–106.

All Armed Services Procurement Regulation material and other directive material published herein is effective upon receipt as otherwise indicated.

Unless otherwise indicated in the introductory language preceding an item, each item in this Circular shall remain in effect until the effective date of that subsequent ASPR revision which incorporates the item, or until specifically canceled.

Reproduction authorized.

ITEM I—INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AD PROPOSAL COSTS

Item I of DPC #84 provides guidance for implementation of Section 203, of the Military Procurement Authorization Act of 1971 (PL 91–441). Paragraph 3b titled "*Companies Required to Negotiate*" establishes the criteria for determining which companies are required to negotiate advance agreements. It has been determined that these criteria should be modified to authorize contracting officers to waive the negotiation requirement when contractors do not have significant amounts of DoD work that will be affected. Accordingly, paragraphs 3b and 4c of DPC #84 are hereby rescinded and superseded by the following:

3. Definitions and Interpretations of Section 203, PL 91–441.

b. Companies Required to Negotiate.

Any company which received payments, either as a prime contractor or subcontractor, in excess of $2 million from the DoD for IR&D and B&P in a fiscal year, is required to negotiate an advance agreement with the Government which establishes a ceiling for allowability of IR&D and B&P costs for the following fiscal year. Computation of the amount of IR&D and B&P costs to determine whether the $2 million criterion was reached will include only those recoverable IR&D and B&P costs allocated to all DoD prime contracts and subcontracts during the company's previous fiscal year regardless of contract type of method of procurement. The computation shall include full burdening in the same manner as if the IR&D and B&P projects were contracted for except that G&A will not be applied. Companies which, although meeting the $2 million criterion above, did not allocate more than $2 million to contracts for which the submission and certification of cost or pricing data was required in accordance with Section 2306(f) of Title 10, United States Code, may request an exemption from the requirement for an advance agreement. The contracting officer (see paragraph 4a below) shall grant their request if the combined dollar value of commercial work and DoD contracts awarded on the basis of price competition, catalog or market price or price set by law or regulation is so substantial in comparison to the value of DoD contracts awarded by negotiation on the basis of cost or pricing data that advance agreements for IR&D and B&P are not needed to protect the interest of the Government.

For purposes of this paragraph b, the term "company" includes all divisions, subsidiaries and affiliates of the contractor under common control.

4. Procedures for Implementing Section 203.

c. Reduced Payment of IR&D and B&P costs.

In the event negotiations are held with a contractor meeting the criteria established in 3b and an advance agreement is not reached, payment for IR&D and B&P costs is required to be reduced substantially below that which the contractor would otherwise have received. The amount of such reduced payment shall not exceed 75% of the amount to which, in the opinion of the contracting officer, the contractor would be entitled to receive under an advance agreement. Written notification of the contracting officer's determination of a reduced amount shall be provided to the contractor.

DEFENSE PROCUREMENT CIRCULAR

This Defense Procurement Circular is issued by direction of the Assistant Secretary of Defense (Installations and Logistics) pursuant to the authority contained in 5 U.S. Code 301, 10 U.S. Code 2202, DoD Directive No. 4105.30, and ASPR 1-106.

All Armed Services Procurement Regulation material and other directive material published herein is effective upon receipt except as otherwise indicated.

Unless otherwise indicated in the introductory language preceding an item, each item in this Circular shall remain in effect until the effective date of that subsequent ASPR revision which incorporates the item, or until specifically canceled.

Reproduction authorized.

CONTENTS

ITEM 1—INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS

1. Purpose.

The purpose of the item is to revise the cost principles for Independent Research and Development (IR&D) (15-205.35) and Bid and Proposal (B&P) (15-205.3).

2. Effective Date.

The revised cost principles for IR&D and B&P costs shall be effective with respect to contracts entered into at the beginning of the first fiscal year of the contractor which starts on or after January 1, 1972. However, in publishing these revised principles, it is recognized that certain of their requirements will, in some instances, necessitate changes in the way contractors classify, allocate, and otherwise account for IR&D and B&P costs. To reduce the impact of the changes, the cognizant departmental office listed on page 9 of DPC 83 may, at the request of any contractor required to negotiate, grant an extension of effective date to permit phased implementation of accounting changes, but not beyond the beginning of the contractor's fiscal year following 30 June 1972. The cognizant administrative contracting officer may grant such extensions to other contractors. Any extension should be in the form of an advance agreement.

Existing contracts should be amended to incorporate the revised cost principles if it will be to the advantage of the Government.

Application of the formula to determine reasonableness of costs requires the use of historical information. Such information may not be readily available or may not have been accumulated in accordance with the definitions and procedures contained in the new cost principles. Therefore, analyses may be necessary to provide a basis for the resolution of problems encountered in implementing the new cost principles. Such analyses should give consideration to factors such as (a) differences in definitions between the old and new ASPR cost principles, and (b) differences between the prior practices of contractors regarding indirect cost allocations and the burdening requirements of the new cost principles.

Required revisions in contractors' accounting practices to provide future cost data in the form needed should be made effective for the contractors' first fiscal year starting on or after January 1, 1972. Government contracting officers, negotiators, and auditors should work together, and with contractors, to identify, analyze, and resolve the problems involved in implementing the revised cost principles and in providing for the systematic accumulation of needed data.

3. Revision of Paragraph 3b of Item I of DPC 87.

Item I of DPC 87 provided a revised paragraph 3b "Companies Required to Negotiate." Effective upon receipt of this DPC, that paragraph is rescinded and superseded by the following:

"b. Companies Required to Negotiate.

Any company which received payments, either as a prime contractor or subcontractor, in excess of $2 million from the DOD for IR&D and B&P in a fiscal year, is required to negotiate an advance agreement with the Government which establishes a ceiling for allowability of IR&D and B&P costs for the following fiscal year. Computation of the amount of IR&D and B&P costs to determine whether the $2 million criterion was reached will include only those recoverable IR&D and B&P costs allocated during the company's previous fiscal year to all DOD prime contracts and subcontracts for which the submission and certification of cost or pricing data was required in accordance with Section 2306(f) of Title 10, United States Code. The computation shall include full burdening in the same manner as if the IR&D and B&P projects were contracted for except that G&A will not be applied.

For purposes of this paragraph b, the term "company" includes all divisions, subsidiaries, and affiliates of the contractor under common control."

4. Revision of Paragraphs 15-205.3 and 15-205.35.

Revised cost principles for IR&D and B&P are as follows:

15-205.35 Independent Research and Development Costs.

(a) *Definitions.* A contractor's independent research and development effort (IR&D) is that technical effort which is not sponsored by, or required in performance of, a contract or grant and which consists of projects falling within the following three areas: (i) basic and applied research, (ii) development, and (iii) systems and other concept formulation studies. IR&D effort shall not include technical effort expended in the development and preparation of technical data specifically to support the submission of a bid or proposal. For the purposes of this paragraph:

(1) *Basic research* is that research which is directed toward increase of knowledge in science. The primary aim of basic research is a fuller knowledge or understanding of the subject under study, rather than any practical application thereof.

(2) *Applied research* is that effort which (A) normally follows basic research, but may not be severable from the related basic research, (B) attempts to determine and exploit the potential of scientific discoveries or improvements in technology, materials, processes, methods, devices, or techniques, and (C) attempts to advance the state of the art. Applied research does not include efforts whose principal aim is design, development, or test of specific items or services to be considered for sale; these efforts are within the definition of the term "development," defined below.

(3) *Development* is the systematic use, under whatever name, of scientific and technical knowledge in the design, development, test, or evaluation of a potential new product or service (or of an improvement in an existing product or service) for the purpose of meeting specific performance requirements or objectives. Development shall include the functions of design engineering, prototyping, and engineering testing.

(4) *Systems and other concept formulation studies* are analyses and study efforts either related to specific IR&D efforts or directed toward the identification of desirable new systems, equipments or components, or desirable modifications and improvements to existing systems, equipments, or components.

(5) *Company* includes all divisions, subsidiaries, and affiliates of the contractor under common control.

(b) *Composition of Costs.* IR&D costs shall include not only all direct costs, but also all allocable indirect costs except that general and administrative costs shall not be considered allocable to IR&D. Both direct and indirect costs shall be determined on the same basis as if the IR&D project were under contract.

(c) *Allocation.* As a general rule, IR&D costs shall be allocated to contracts on the same basis as the general and administrative expense grouping of the profit center (see 3-1003.3) in which such costs are incurred. However, where IR&D costs clearly benefit other profit centers, or the entire company, such costs shall be allocated through the G&A of such other profit centers or through the corporate G&A, as appropriate. In those instances when allocation of IR&D through the G&A base does not provide equitable cost allocation, the contracting officer may approve use of a different base. Where allowable IR&D is established by advance agreement pursuant to (d)(1) below, the advance agreement shall specify the allocation procedures.

(d) *Allowability.* Except as provided in (e) below, costs for IR&D are allowable only in accordance with the following:

(1) *Companies Required to Negotiate Advance Agreements (CWAS-NA).*

(A) Any company which received payments, either as a prime contractor or subcontractor, in excess of $2 million from the DoD for IR&D and B&P in a fiscal year, is required to negotiate an advance agreement with the Government which establishes a ceiling for allowability of IR&D costs for the following fiscal year. Computation of the amount of IR&D and B&P costs to determine whether the $2 million criterion was reached will include only those recoverable IR&D and B&P costs allocated during the company's previous fiscal year to all DoD prime contracts and subcontracts for which the submission and certification of cost or pricing data was required in accordance with Section 2306(f) of Title 10, United States Code. The computation shall include full burdening in the same manner as if the IR&D and B&P projects were contracted for except that G&A will not be applied.

(B) When a company meets the criterion in (A) above, required advance agreements may be negotiated at the corporate level and/or with those profit centers (see 3-1003.3) which contract directly with the DoD and which in the preceding year allocated recoverable IR&D and B&P costs in exces of $250,000 including burdening as in (A) above, to DoD contracts and subcontracts for which the submission and certification of cost or pricing data was required in accordance with Section 2306(f) of title 10, United States Code. When ceilings are negotiated for separate profit centers of the company, the allowability of IR&D costs for any center which, in its previous fiscal year, allocated less than $250,000 of IR&D and B&P costs to such DoD contracts and subcontracts may be determined in accordance with (d)(2) below.

(C) Companies which meet the threshold in (A) above shall submit technical and financial information to support their proposed IR&D program in accordance with guidance furnished by the Armed Services Research Specialists Committee. Results of the technical evaluation performed by the Armed Services Research Specialists Committee, including determination of potential relationship, will be made available to the contractor by the cognizant Departmental central office.

(D) Ceilings are the maximum dollar amounts of total costs for IR&D work that will be allowable for allocation to all work of that part of the company's operation covered by an advance agreement. Within the ceiling limitations contractors will not be required to share IR&D costs. In negotiating a ceiling, in addition to other considerations, particular attention must be paid to such factors as:

(i) The technical evaluation of the Armed Services Research Specialists Committee including the potential relationship of IR&D projects to a military function or operation.

(ii) Comparison with previous year's programs including the level of the Government's participation.

(iii) Changes in the Company's business activities.

(E) The total amount of IR&D costs allocated to DoD contracts pursuant to this subparagraph (1) shall not exceed the total of expenditures for IR&D projects with a potential relationship to a military function or operation. For contracts which do not provide for cost determinations on a historical basis, this requirement will be considered to have been met if the estimated IR&D costs allocated to the contract do not exceed its proportionate share of the total estimated costs of IR&D with a potential relationship to a military function or operation.

(F) No IR&D costs shall be allowable if a company fails to initiate negotiation of a required advance agreement prior to the end of the fiscal year for which the agreement is required.

(G) When negotiations are held with a company meeting the $2 million criterion or with separate profit centers (when negotiations are held at that level under (B) above) and an advance agreement is not reached, payment for IR&D costs is required to be reduced substantially below that which the company or profit center would otherwise have received. The amount of such reduced payment shall not exceed 75% of the amount which, in the opinion of the contracting officer, the company or profit center would be entitled to receive under an advance agreement. Written notification of the contracting officer's determination of a reduced amount shall be provided the contractor. In the event that an advance agreement is not reached prior to the end of the contractor's fiscal year for which such agreement is to apply, negotiations shall immediately be terminated and the contracting officer's determination of the reduced amount shall be furnished.

(H) Contractors may appeal decisions of the contracting officer to reduce payments. Such appeal shall be filed with the contracting officer within 30 days of receipt of a decision. For the purpose of hearing and deciding such appeals, each department will establish an appeals hearing group consisting of the following:

(i) A representative to be designated by the Assistant Secretary (Installations and Logistics) or the Director, DSA, who shall be Chairman;

(ii) A representative to be designated by the Assistant Secretary (Research and Development) or ODDR&E in the case of DSA; and

(iii) A representative to be designated by the General Counsel, Judge Advocate General of the Department or Counsel of DSA.

Determinations of the appeals group shall be the final and conclusive determination of the Department of Defense.

(I) Advance agreements negotiated shall include at least the following:

(i) A separate dollar ceiling for IR&D. However, provision shall be made permitting the contractor to recover costs for IR&D above the negotiated ceiling, provided that recovery of B&P costs covered by the same agreement is decreased below its ceiling by a like amount.

(ii) A provision stating how IR&D costs are to be allocated (see (c) above).

(iii) A statement that the costs for IR&D work recoverable under contracts citing DoD funds subject to Section 203, P.L. 91–441 limitations shall not exceed *A* such contracts' allocable share of the ceiling, and *B* the total costs of the contractor's IR&D determined to have a potential relationship to a military function or operation.

(iv) A statement that estimated costs or actual costs incurred, as appropriate, not in excess of the ceilings negotiated shall be used in the pricing of all contractual actions when negotiations are based on elements of cost and in final price determinations.

(J) Prior to the execution of an advance agreement, the IR&D factor to be used for forward pricing and interim billing will be developed by and obtained from the cognizant central office of the Department responsible for negotiating IR&D advance agreements. The IR&D factor shall exclude estimated or actual costs for projects considered unrelated to a military function or operation.

(2) *Companies Not Required to Negotiate Advance Agreements* (*CWAS*). Allowable IR&D costs for companies not required to negotiate advance agreements in accordance with (1) above shall be established by a formula, either on a company-wide basis or by profit centers, computed as follows:

(i) Determine the ratio of IR&D costs to total sales (or other base acceptable to the contracting officer) for each of the preceding three years and average the two highest of these ratios; this average is the IR&D historical ratio;

(ii) Compute the average annual IR&D costs (hereafter called average), using the two highest of the preceding three years;

(iii) IR&D costs for the center for the current year which are not in excess of the product of the center's actual total sales (or other accepted base) for the current year and the IR&D historical ratio computed under (i) above (hereafter called product) shall be considered allowable only to the extent the product does not exceed 120% of the average. If the product is less than 80% of the average, costs up to 80% of the average shall be allowable.

(iv) Costs which are in excess of the ceiling computed in (iii) above are not allowable except where the ceiling computed for bid and proposal cost under 15–205.3 is reduced in an amount identical to the amount of any increase over the IR&D ceiling computed in (iii) above.

However, at the discretion of the contracting officer, an advance agreement may be negotiated when the contractor can demonstrate that the formula would produce a clearly inequitable cost recovery. The requirements of (d)(1) above are not mandatory for such agreements.

(e) *Deferred Costs* (*CWAS–NA*). IR&D costs which were incurred in previous accounting periods are unallowable, except when a contractor has developed a specific product at his own risk in anticipation of recovering the development costs in the sale price of the product provided that:

(1) The total amount of IR&D costs applicable to the product can be identified,

(2) The proration of such costs to sales of the product is reasonable,

(3) The contractor had no Government business during the time that the costs were incurred or he did not allocate IR&D costs to Government contracts except to prorate the cost of developing a specific product to the sales of that product, and

(4) No costs of current IR&D programs are allocated to Government work except to prorate the costs of developing a specific product to the sales of that product.

When deferred costs are recognized, the contract (except firm fixed-price and fixed-price with escalation) will include a specific provision setting forth the amount of deferred IR&D costs that are allocable to the contract. The negotiation memorandum will state the circumstances pertaining to the case and the reason for accepting the deferred costs.

15–205.3 *Bid and Proposal Costs.*

(a) *Definitions.*

(1) *Bid and proposal* (*B&P*) *costs* are the costs incurred in preparing, submitting, and supporting bids and proposals (whether or not solicited) on potential Government or non-Government contracts which fall within the following:

(A) *Administrative costs* including the cost of the nontechnical effort for the physical preparation of the technical proposal documents and also the cost of the technical and nontechnical effort for the preparation and publication of the cost data and other administrative data necessary to support the contractor's bids and proposals, and

(B) *Technical costs* incurred to specifically support a contractor's bid or proposal, including the costs of system and concept formulation studies and the development of engineering and production engineering data.

(2) *Company* as used in this paragraph includes all divisions, subsidiaries, and affiliates of the contractor under common control.

(b) *Composition of Costs.* B&P costs shall include not only all direct costs but also all allocable indirect costs except that general and administrative (G&A) costs shall not be considered allocable to B&P. Both direct and indirect costs shall be determined on the same basis as if each B&P project were under contract.

(c) *Allocation.* As a general rule, B&P costs shall be allocated to contracts on the same basis as the general and administrative expense grouping of the profit center (see 3–1003.3) in which such costs are incurred. However, where B&P costs clearly benefit other profit centers, or the entire company, such costs shall be allocated through the G&A of such other profit centers or through the corporate G&A, as appropriate. In those instances when allocation of B&P through the G&A base does not provide equitable cost allocation, the contracting officer may approve use of a different base. Where allowable B&P is established by advance agreement pursuant to (d)(2)(A) below, the advance agreement shall specify the allocation procedures.

(d) *Allowability.*

(1) B&P administrative costs, when not separately identified and classified as B&P costs in accordance with the contractor's normal accounting practice, are allowable in accordance with the general principles of this Part 2 and are not subject to 2(A) and (B) below.

(2) All other B&P costs (including all technical costs and any administrative costs separately identified and classified as B&P costs in accordance with the contractor's normal accounting practice) are allowable only in accordance with the following:

(A) *Companies Required to Negotiate Advance Agreements* (*CWAS–NA*)

(i) Any company which received payments, either as a prime contractor or subcontractor, in excess of $2 million from the DoD for IR&D and B&P in a fiscal year, is required to negotiate an advance agreement with the

Government which establishes a ceiling for allowability of B&P costs for the following fiscal year. Computation of the amount of IR&D and B&P costs to determine whether the $2 million criterion was reached will include only those recoverable IR&D and B&P costs allocated during the company's previous fiscal year to all DoD prime contracts and subcontracts for which the submission and certification of cost or pricing data was required in accordance with Section 2306(f) of Title 10, United States Code. The computation shall include full burdening in the same manner as if the IR&D and B&P projects were contracted for except that G&A will not be applied.

(ii) When a company meets the criterion in (i) above, required advance agreements may be negotiated at the corporate level and/or with those profit centers (see 3–1003.3) which contract directly with the DoD and which in the preceding year allocated recoverable IR&D and B&P costs in excess of $250,000 including burdening as in (i) above, to DoD contracts and subcontracts for which the submission and certification of cost or pricing data was required in accordance with Section 2306(f) of Title 10, United States Code. When ceilings are negotiated for separate profit centers of the company, the allowability of B&P costs for any center which, in its previous fiscal year, allocated less than $250,000 of IR&D and B&P costs to such DoD contracts and subcontracts may be determined in accordance with (B) below.

(iii) Companies which meet the threshhold in (i) above shall submit information to support their proposed B&P program in accordance with guidance furnished by the cognizant Tri-Service Departmental Office.

(iv) Ceilings are the maximum dollar amounts of total costs for B&P work that will be allowable for allocation ot all work of that part of the company's operation covered by an adverse agreement. Within the ceiling limitations contractors will not be required to share B&P costs. In negotiating a ceiling, in addition to other considerations particular attention must be paid to such factors as:

A. The determination of the potential relationship of B&P projects to a military function or operation (see (v) below).

B. Comparison with previous year's programs including the level of the Government's participation.

C. Changes in the company business activities.

D. The extent to which the contractor's B&P program is well planned and managed.

(v) The total amount of B&P costs allocated to DoD contracts pursuant to this subparagraph (A) shall not exceed the total of expenditures for B&P projects with a potential relationship to a military function or operation. For contracts which do not provide for cost determinations on a historical basis, this requirement will be considered to have been met if the estimated B&P costs allocated to the contract do not exceed its proportionate share of the total estimated costs of B&P with a potential relationship to a military function or operation. B&P costs will be considered to satisfy the potential relationship requirement when the contractor can demonstrate that the effort under a proposed contract or grant would have a potential relationship to a military function or operation. The potential relationship of B&P will be determined by the contracting officer, and he will make the results of his determination available to the contractor.

(vi) No B&P costs shall be allowable if a company fails to initiate negotiations of a required advance agreement prior to the end of the fiscal year for which the agreement is required.

(vii) When negotiations are held with a company meeting the $2 million criterion or with separate profit centers (when negotiations are held at that level under (ii) above) and an advance agreement is not reached, payment for B&P costs is required to be reduced substantially below that which the company or profit center would otherwise have received. The amount of such reduced payment shall not exceed 75% of the amount which, in the opinion of the contracting officer, the company or profit center would be entitled to receive under an advance agreement. Written notification of the contracting officer's determination of a reduced amount shall be provided the contractor. In the event that an advance agreement is not reached prior to the end of the contractor's fiscal year for which such agreement is to apply, negotiations shall immediately be terminated and the contracting officer's determination of the reduced amount shall be furnished.

(viii) Contractors may appeal decisions of the contracting officer to reduce payments. Such appeal shall be filed with the contracting officer within 30 days of receipt of a decision. For the purpose of hearing and deciding such appeals, each Department will establish an appeals hearing group consisting of the following:

A. A representative to be designated by the Assistant Secretary (Installations and Logistics) or the Director, DSA, who shall be Chairman;

B. A representative to be designated by the Assistant Secretary (Research and Development), or ODDR&E in the case of DSA; and

C. A representative to be designated by the General Counsel, Judge Advocate General of the Department, or Counsel of DSA.

Determinations of the appeals group shall be the final and conclusive determination of the Department of Defense.

(ix) Advance agreements negotiated shall include at least the following:

A. A separate dollar ceiling for B&P. However, provision shall be made permitting the company to recover costs for B&P above the negotiated ceiling, provided that recovery of IR&D costs (see 15–205.35) covered by the same agreements is decreased below its ceiling by a like amount.

B. A provision stating how B&P costs are to be allocated (see (c) above.)

C. A statement that the costs for B&P work recoverable under contracts citing DoD funds subject to Section 203, P.L. 91–441 limitations shall not exceed (i) such contracts' allocable share of the ceiling, and (ii) the total costs of the contractor's B&P determined to have a potential relationship to a military function or operation.

D. A statement that estimated costs or actual costs incurred, as appropriate, not in excess of the ceilings negotiated shall be used in the pricing of all contractual actions when negotiations are based on elements of cost and in final price determinations.

(x) Prior to the execution of an advance agreement, the B&P factor to be used for forward pricing and interim billing will be developed by and obtained from the cognizant central office of the Department responsible for negotiating B&P advance agreements. The B&P factor shall exclude estimated or actual costs for projects considered unrelated to a military function or operation.

(B) Companies Not Required to Negotiate Advance Agreements (CWAS). Allowable B&P costs for companies not required to negotiate advance agreements in accordance with (A) above shall be established by a formula, either on a company-wide basis or by profit centers, computed as follows:

(i) Determine the ratio of B&P costs to total sales (or other base acceptable to the contracting officer) for each of the preceding three years and average the two highest of these ratios; this average is the B&P historical ratio;

(ii) Compute the average annual B&P costs (hereafter called average), using the two highest of the preceding three years;

(iii) B&P costs for the center for the current year which are not in excess of the product of the center's actual total sales (or other accepted base) for the current year and the B&P historical ratio computed under (i) above (hereafter called product) shall be considered allowable only to the extent the product does not exceed 120% of the average. If the product is less than 80% of the average, costs up to 80% of the average shall be allowable.

(iv) Costs which are in excess of the ceiling computed in (iii) above are not allowable except where the ceiling computed for IR&D cost under 15–205.35 is reduced in an amount identical to the amount of any increase over the B&P ceiling computed in (iii) above.

However, at the discretion of the contracting officer, an advance agreement may be negotiated when the contractor can demonstrate that the formula would produce a clearly inequitable cost recovery. The requirements of (d) (2) (A) above are not mandatory for such agreements.

Establishment of Policy for, and Technical Evaluation of, Independent Research and Development Programs

Reference: (a) Armed Services Procurement Regulation (ASPR) 15–205.35:

I. PURPOSE

This Instruction prescribes the role, mission and composition of the Independent Research and Development (IR&D) Policy Council. Further, it assigns responsibilities and outlines procedures for the technical evaluation and review of contractor Independent Research and Development (IR&D) programs, as defined in reference (a).

II. APPLICABILITY

The provisions of this Instruction apply to the elements of the Office of the Secretary of Defense and to the Departments of the Army, the Navy, and the Air Force.

III. DEFINITIONS

A. The *IR&D Policy Council* is an organization charged with developing and securing Secretary of Defense approval, and disseminating DoD policy and guidance essential to the administration of the DoD IR&D program, and related Bid and Proposal (B&P) activities.

B. *Relevant IR&D projects* are those that are considered to have a potential relationship to a military function or operation. IR&D projects aimed only at commercial or non-DoD areas of interest are not considered relevant. Relevancy determination is part of the evaluation process.

C. *A lead Department* is the Military Department responsible for arranging and conducting on-site reviews and for coordinating and summarizing technical evaluations of project descriptions in brochures.

IV. RESPONSIBILITIES AND PROCEDURES

A. *The Director of Defense Research and Engineering* (DDR&E), as Chairman of the IR&D Policy Council, shall be responsible for convening the Council and for taking such actions as may be appropriate in carrying out the mission of the Council in accordance with its Charter (Enclosure 1).

B. The *Secretaries of the Military Departments* shall be responsible for the following:

1. *Evaluation of Project Descriptions.* Evaluate the written descriptions of IR&D projects (generally referred to as brochures) furnished by companies, and submit to the lead Department either a written evaluation re-program or a statement of the reason it was not evaluated. The lead Department shall verify that the overall evaluation has covered at least 90 percent of the dollar value of each company's IR&D program to ensure that the evaluation is valid.

2. *On-Site Review of Projects.* Conduct an on-site review of company IR&D programs. Those companies with whom the Government negotiates advance agreements for IR&D programs reviewed on site at least once

every three years. The companies that have substantial IR&D programs but, by law, do not require advance agreements will have on-site reviews at least once every four years.

C. *IR&D Technical Evaluation Group:*

1. *Membership:*

a. Each Military Department shall designate a Departmental IR&D Manager to carry out the functions set forth in IV.C.2.

b. The DDR&E shall appoint a chairman who, with the three Departmental IR&D Managers, will constitute the IR&D Technical Evaluation Group.

2. *Responsibilities.* The IR&D Technical Evaluation Group shall:

a. Establish criteria, methodology, and evaluation forms that will be used uniformly by the Military Departments for performing the technical evaluations and ratings of company IR&D programs. Such evaluations must include, but need not be limited to, the determination of the relevance and quality of each IR&D project and the categorization of each project as research or development in accord with the ASPR definition (reference a).

b. Designate the lead Department for each company.

c. Establish uniform procedures for debriefing companies whose IR&D programs have been reviewed.

d. Determine the standard format for submitting companies' IR&D project descriptions.

e. Establish a schedule for submission of companies' IR&D brochures.

f. Establish procedures for providing the Defense Contract Administration Services with technical evaluations of company-submitted IR&D project descriptions to support their negotiation of advance agreements required by law.

g. Establish, prior to the start of each calendar year, the annual schedule for on-site IR&D reviews.

h. Establish procedures for providing the Department-designated negotiator with a technical evaluation of each IR&D program for use in determining the IR&D advance agreement with each company.

i. Provide assistance to the contracting officers on an as needed basis in determining the relevance of B&P effort.

D. *Departmental IR&D Managers' Responsibilities.* Each Departmental IR&D Manager shall:

1. Designate the organizations within his Department that are responsible for evaluating each company's IR&D projects.

2. Ensure an effective evaluation of the company-submitted IR&D project descriptions.

3. Prepare and submit to the lead Department a consolidated report of results of the evaluations performed by his Department.

4. Arrange for, and participate in, on-site IR&D reviews as required.

5. Maintain an up-to-date distribution list for IR&D brochures.

E. *Funding for Technical Evaluations.* Each year the Military Departments shall submit, in their RDT&E budgets, estimates of the expenses required to support the technical evaluations of companies' IR&D programs. Details regarding the format for submittal shall be included in the annual call for a Project Listing.

V. IMPLEMENTATION

A. The Military Departments shall inform the DDR&E of the names of their IR&D Managers within 30 days after the date of this Instruction.

B. The Military Departments shall provide two copies of implementing instructions to the DDR&E within 60 days after the date of this Instruction.

VI. EFFECTIVE DATE

This Instruction is effective immediately.

JOHN FOSTER, Jr.,
Director of Defense Research and Engineering.

CHARTER OF THE DOD INDEPENDENT RESEARCH AND DEVELOPMENT POLICY COUNCIL

I. PURPOSE

This charter prescribes the mission, composition, and administration of the DoD Independent Research and Development (IR&D) Policy Council.

II. MISSION

The mission of the DoD IR&D Policy Council is to develop, secure Secretary of Defense approval, and disseminate DoD policy and guidance essential to the efficient administration of the DoD IR&D program, and related Bid and Proposal (B&P) activities. This policy and guidance shall encompass such facets of the program as: the proper level of DoD support required; an outline of the goals of IR&D and B&P. the mechanisms to be employed to increase or decrease the overall level of effort; guidance necessary to assure valid potential relevancy determinations; appropriate negotiation policies; and response to Congressional inquiries.

III. COMPOSITION

The members of the DoD IR&D Policy Council will be the Director of Defense Research and Engineering, who will serve as Chairman; the Assistant Secretaries of Defense (I&L) and (C); the Assistant Secretaries for (R&D) and (I&L) from the Army, the Navy, and the Air Force. A NASA representative and an AEC representative will participate as observers.

IV. OPERATION

A. The Assistant Secretary of Defense (I&L) will designate an individual to act as Secretary to the Council.

B. The Secretary to the Council will receive from members any items for discussion; prepare the agenda and minutes of each meeting; obtain the Chairman's approval of the agenda and minutes prior to issuance.

C. The Council will meet before the end of each calendar year for the purpose of establishing the IR&D/B&P objectives and guidelines for the next calendar year. Other meetings of the Council will be held at the call of the Chairman.

D. The Council may establish such ad hoc working groups as may be required for the accomplishment of matters which come before it.

E The Council decisions will be implemented by appropriate Council members.

V. DURATION

The Council will automatically terminate upon completion of its mission of not later than two years from the effective date of its formation, whichever is earlier, unless approval is obtained in advance to continue the Council for another two-year period in accordance with Committee management directives. The activities of the Council will be evaluated annually by the Director of Defense Research and Engineering to determine if the Council should be continued.

APPROVED GUIDELINES FOR CONTRACTOR PRESENTATION OF INDEPENDENT RESEARCH AND DEVELOPMENT INFORMATION

A contractor desiring to negotiate an advance agreement for costs of independent research and development (IR&D) projects in accordance with the provisions of ASPR 15–205.35 is requested to prepare a Technical Plan setting forth the scope and costs of such projects. The purpose of this Technical Plan is to assist in determining the allowability of the individual projects and the reasonableness of the IR&D Program in accordance with the ASPR's. The Technical Plan must be submitted within 90 days of the beginning of a company's fiscal year.

A. GENERAL GUIDANCE

1. *Compiling the Plan.* Separate copies of the Technical Plan (hereinafter called the plan) will be distributed to DoD and NASA organizations in accordance with a distribution list provided by the IR&D Technical Evaluation Group. To obtain timely review of the projects within a plan and for convenience of the IR&D Technical Evaluation Group, a plan is often separated into individual project descriptions so that it can be evaluated by several people at the same time. The plan should be compiled in such a manner that it is easy to separate and reassemble when the evaluation is completed. Because of this requirement, spiral binders should not be used. For ease in locating the plan when it is filed, the name of the company should appear on the edge of the binding.

2. *Organization of Projects.*

(a) The plan should be organized by Cosati Fields and/or Groups. This arrangement assists the IR&D Technical Evaluation Group in locating projects in their technical areas. It also makes the plan compatible with the IR&D data bank. Further, this arrangement may assist the company in certification of need to know for a technical area.

(b) Within each Cosati Field or Group, projects should be segregated as research (basic and applied), development, and systems and concept formulation studies.

(c) Within each section of the plan (covering a particular Cosati Field or Group), two things are generally helpful; first, in the beginning of the section, a paragraph or two indicating the reason for the company's interest in this particular technical area will help the IR&D Technical Evaluation Group to understand the company's purpose for this type of effort; second, because IR&D is usually only a small part of the company's R&D effort in a technical area, it will help the Evaluation Group if the plan contains a table showing the titles of recent R&D contracts in each Cosati Field and Group.

3. *Tables and Charts.* The information identified in the following tables is needed to evaluate contractor brochures.

(a) Table of Contents. This table should include a listing of each project by number and title, indicating the Cosati Field and Group into which it falls, and the page number where it is described, i.e., the information should be displayed under the following headings:

Cosati Field and Group; Project No.; Project Title; and Page No.

(b) Organization Chart. (Not printed in RECORD.)

4. *Principal Investigator Resumes.* Resumes of the principal investigators of basic research projects should be included in a separate section of the plan. Each resume should not exceed one page and should contain the following:

Full Name.
Job Title.
Years with Company.
Formal Education: field; degree; year received; university.
Work Experience.
Significant Papers and Patents.

5. *Relevancy Submittal.* If prior to the publication of a plan, the contractor provided information to the IR&D Technical Evaluation Group for a determination of potential relationship to military functions or operations, a copy of this information should be included in the plan for a comparison with the detailed project writeups.

6. *Classified Projects.* The plan should never contain known classified projects and, therefore, should not be assigned a DoD security classification. Project description with established or suggested military classifications should be compiled separately and distributed to those who have need to know. Each Service will provide a separate distribution list for classified projects. Highly sensitive company projects can also be handled in the same manner, if requested by the company.

7. *Proprietary Marking.* The plan should be marked "Company Proprietary" and not "Company Confidential" or "Company Se-

cret." The confidential and secret markings can be misinterpreted by mail handling personnel and cause problems. Each page should be marked "proprietary" so that when a page is separated from the rest of the plan it will still be controlled.

B. PROJECT INFORMATION

1. A writeup should be prepared for each IR&D project the company is planning to conduct during the Company Fiscal Year of the plan and for each project completed or cancelled in the previous year. In this context a project is defined as the smallest segment into which research and development efforts are normally divided for purposes of local administration. It is usually technically distinguishable in scope and objective from other efforts with which it may be aggregated for financial and administrative purposes. For example, a system development can include several subsystems and each of these could have several distinct technical problems. In general, an IR&D project will not be determined by size or funding level but by technical considerations. In many cases, however, it will involve not more than five nor less than one professional man year of effort.

2. Each project writeup should begin on a right hand page. This will allow for ease of separation during evaluation.

3. Each project writeup should begin with a tabular synopsis of important project information and be displayed in the format shown below. The tabular synopsis sets the stage for the evaluation of the narrative description of the project. (Not printed in RECORD.)

Descriptions of the items in the synopsis are provided below:

(a) *Project No.* Each project should be identified with a project number. This number may correspond to the assigned IR&D data bank accession number. If the company has not been assigned a block of accession numbers by DDC, or does not choose to use these numbers, the company should assign simple project numbers, i.e., arabic numbers from 1 to 999.

(b) *Category.* This should indicate one of the following categories in accordance with ASPR definition:

Basic Research.
Applied Research.
Development.
Systems and Other Concept Formulation Studies.

(c) *Start Date.* This should indicate the month and year in which the project was started, for continuing or completed projects, or the "will start" date for new projects.

(d) *Project Title.* An unclassified descriptive title should be used. This title should not refer to a specific system but to the technology or the general area of application of the study or effort.

(e) *Project Contact.* This block should contain the name and telephone number of the person in the company's performing organization who will serve as a point of contact to provide further information on the project, thus relieving the project scientists and engineers have the burden of answering many general questions. Preferably, the project contact should be someone at the managerial or supervisory level who has substantial knowledge of the project and the authority to release company information.

(f) *Related Projects in the Current Fiscal Year.* This block should indicate one to three project numbers from the current company plan which are directly related to the project being reported. This correlation of the project with others in the same year's program will assist the IR&D Technical Evaluation Group in viewing it as part of the overall program rather than as a separate entity.

(g) *Related Projects in Prior Fiscal Year Program.* This block should include the numbers of from one to three projects from the previous company fiscal year that contributed to or led to the present project. This block differs from the previous block in that it looks at a project's progression from one year to the next, rather than at parallel projects in a single year. If a project is continuing from last year, enter last year's project number followed by the words "continuing project."

(h) *Subject Category Field and Group (COSATI).* This block should indicate from one to three Subject Category Feld and Group Codes listed in Attachment 1, with the most relevant code beginning at the left portion of the block.

(i) *Estimated Project Completion Date.* For new and continuing projects, this block should indicate the anticipated completion month and year for the project. This date could be several years away in the case of a long range project or it could be an indefinite completion date in the case of a basic research project.

(j) *Estimated Professional Man-Years.* For new and continuing projects, the block should indicate the estimate (to the nearest tenth) of the professional man-years to be applied to the project in the current fiscal year.

Professional man-years are all scientific and engineering time that a scientist or technically-trained person (i.e., one who has received at least a bachelor's degree or the equivalent) expends directly on the IR&D work being reported. Excluded are skilled craftsmen, laboratory assistants, programmers, shop workers, secretaries, and other personnel providing non-technical support and services.

(k) *Actual Project Ending Date.* For projects completed or cancelled in the previous year, this block should indicate the month and year in which the projects were closed out.

(l) *Actual Professional Man-Years.* For projects completed or cancelled in the previous year the block should indicate to the nearest tenth the actual professional man-years incurred against the project in the previous fiscal year.

(m) *Key Words.* The block should contain at least five key words which relate to the subject covered by the report. A key word can be a single word or a group of words. Each key word must be unclassified. Whenever possible, use as a source of key words the Thesaurus of Engineering and Scientific Terms available through the Defense Documentation Center (AD Number 672000). Cryogenics, lightweight radar, and space vehicle navigation are examples of key words. The use of complete phrases, which include prepositions and conjunctions (e.g., navigation of space vehicles) should be avoided. Systems, subsystems, or application-oriented words are suggested for the first few key words. The title and text may describe work on a guidance or a signal processing project, but may fail to mention that it is missile guidance, not aircraft guidance, or that it is signal processing of sonar signals and not radar signals. It would be of great help to be able to distinguish the application. Many research projects may not have a specific application, but they may have an area of application. For example, materials research could have applictions to structures, coatings, electronics, optics and lubricants. Also, a group of words which is technically descriptive of the project should be selected. For example, if there was a project on a miniature stereoscopic display for a space application involving the use of laser holography, a key word chain could be maser, laser, spacecraft display, three dimensional display, Argon, holography, optics, miniaturization, navigation, reliability, high intensity.

(n) *Principal Investigator.* This block should indicate the name of the person who is in charge of the project from a technical (rather than an administrative) standpoint.

(o) *Associate Investigators.* This block should indicate the names of other professional persons who are assisting with the project.

(p) *Project Funding—Current Year.* This block should contain the estimated expenditures planned for the project within the fiscal year covered by the plan. If the "other" category is a large portion of the project's overall cost, the major effort included in the category (i.e., computer time, wind tunnel time) should be indicated.

(q) *Project Funding—Prior Year.* If the project is a cancelled, completed or continuing project, the actual expenditure charged to the project in the previous company fiscal year should be entered in this block. If the project is the continuation of a combination of several prior-year projects, the cost of the combination should not be entered. This project should be shown as a new project and the prior year projects shown as completed projects with their costs indicated separately.

5. The most important part of the plan, as far as the IR&D Technical Evaluation Group is concerned, is the project narrative section. The DoD evaluation form requires an evaluation of the objective, the approach and the progress. Experience has shown that three to five pages, including a tabular synopsis is sufficient to describe a project requiring one to five man-years of effort. The IR&D Technical Evaluation Group will look for technical facts and important details when conducting its evaluation. The narrative should include the following:

(a) *Problem.* The problem which the project is addressing should be described from a technical (not a marketing) standpoint. In the case of a completed or cancelled project, the problem to have been solved should be described.

(b) *Objective.* The project's technical objectives should be identified. If the project is to run over several years, the overall objective should be briefly stated and the particular goal for the coming year emphasized. This statement should include a description of the questions being explored, and, where appropriate, the performance goals (in quantitative terms). In the case of a completed or cancelled project, the objective to have been attained should be described.

(c) *Approach.* The approach to be used in accomplishing the objective should be described with the emphasis on the method, technique, and design approach. Technical detail, rather than schedules and milestones, should be emphasized. The specific tests or equipments, theoretical work being conducted, major technical problems, and factors which may tend to accelerate or decelerate the work should be outlined. In the case of a completed or cancelled project, the approach which was taken should be explained.

(d) *Progress.* The time period during which the progress was made should be shown. If a project is a new one, a note to that effect should be made in the report and a description of any technical background, which the investigators have that will help them to successfully complete the project, should be provided. In the case of a continuing project, the progress made in achieving the stated objective should be indicated. Facts and data should be presented whenever possible. The implication and application of results should be indicated. Charts, tables or photographs which add to the explanation of the progress should be used. Significant reports generated within the reporting period should be identified by number title, and date and listed at the end of the "Progress" section.

C. DOD CONTACTS

Any questions concerning these guidelines should be referred to the IR&D Technical

Evaluation Group member representing the Military Service responsible for negotiating the IR&D Advance Agreement with the company. The IR&D Technical Evaluation Group members representing the Services are:

Date Approved: February 1, 1972.

Army member:

John W. Crellin,
(Army Materiel Command, AMCRD, Building T–7, Washington, D.C. 20315. Phone: (202) 697–2536.)

Navy member:

Ancel E. Cook,
(Office of Naval Research, Code 400A1, Ballston Tower No. 1, 800 Quincy Street, Arlington, Va. 22217. Phone: (202 692–4109.)

Air Force member:

Maj. Joseph J. Eash,
(HQ AFSC/DLOR, Andrews Air Force Base, Washington, D.C. 20331. Phone: (301) 981–4736.)

Subject Field and Group Structure

01 Aeronautics:
01 Aerodynamics
02 Aeronautics
03 Aircraft
04 Aircraft flight instrumentation
05 Air facilities
02 Agriculture:
01 Agricultural chemistry
02 Agricultural economics
03 Agricultural engineering
04 Agronomy and horticulture
05 Animal husbandry
06 Forestry
03 Astronomy and Astrophysics:
01 Astronomy
02 Astrophysics
03 Celestial mechanics
04 Atmospheric Sciences:
01 Atmospheric physics
02 Meteorology
05 Behavioral and Social Sciences:
01 Administration and management
02 Documentation and information technology
03 Economics
04 History, law and political science
05 Human factors engineering
06 Humanities
07 Linguistics
08 Man-machine relations
09 Personnel selection, training and evaluation
10 Psychology (*Individual and group behavior*)
11 Sociology
06 Biological and Medical Sciences:
01 Biochemistry
02 Bioengineering
03 Biology
04 Bionics
05 Clinical medicine
06 Environmental biology
07 Escape, rescue and survival
08 Food
09 Hygiene and sanitation
10 Industrial (*Occupational*) medicine
11 Life support
12 Medical and hospital equipment and supplies
13 Microbiology
14 Personnel selection and maintenance (*Medical*)
15 Pharmacology
16 Physiology
17 Protective equipment
18 Radiobiology
19 Stress physiology
20 Toxicology
21 Weapon effects
07 Chemistry:
01 Chemical engineering
02 Inorganic chemistry
03 Organic chemistry
04 Physical chemistry
05 Radio and radiation chemistry
08 Earth Sciences and Oceanography:
01 Biological oceanography
02 Cartography
03 Dynamic oceanography
04 Geochemistry
05 Geodesy
06 Geography
07 Geology and mineralogy
08 Hydrology and limnology
09 Mining engineering
10 Physical oceanography
11 Seismology
12 Snow, ice and permafrost
13 Soil mechanics
14 Terrestrial magnetism
09 Electronics and Electrical Engineering:
01 Components
02 Computers
03 Electronic and electrical engineering
04 Information theory
05 Subsystems
06 Telemetry
10 Energy Conversion (*Non-propulsive*):
01 Conversion techniques
02 Power sources
03 Energy storage
11 Materials:
01 Adhesives and seals
02 Ceramics, refractories and glasses
03 Coatings, colorants and finishes
04 Composite materials
05 Fibers and textiles
06 Metallurgy and metallography
07 Miscellaneous materials
08 Oils, lubricants, and hydraulic fluids
09 Plastics
10 Rubbers
11 Solvents, cleaners and abrasives
12 Wood and paper products
12 Mathematical Sciences:
01 Mathematics and statistics
02 Operations research
13 Mechanical, Industrial, Civil and Marine Engineering:
01 Air conditioning, heating, lighting and ventilating
02 Civil engineering
03 Constructon equipment, materials and supplies
04 Containers and packaging
05 Couplings, fasteners and joints
06 Ground transportation equipment
07 Hydraulic and pneumatic equipment
08 Industrial processes
09 Machinery and tools
10 Marine engineering
11 Pumps, filters, pipes, tubing and valves
12 Safety engineering
13 Structural engineering
14 Methods and Equipment:
01 Cost effectiveness
02 Laboratories, test facilities, and test equipment
03 Recording devices
04 Reliability
05 Reprography
15 Military Sciences:
01 Antisubmarine warfare
02 Chemical, biological, and radiological warfare.
03 Defense
04 Intelligence
05 Logistics
06 Nuclear warfare
07 Operations, strategy, and tactics
16 Missile Technology:
01 Missile launching and ground support
02 Missile trajectories
03 Missile warheads and fuzes
04 Missiles
17 Navigation, Communications, Detection and Countermeasures
01 Acoustic detection
02 Communications
03 Direction finding
04 Electromagnetic and acoustic countermeasures
05 Infrared and ultraviolet detection
06 Magnetic detection
07 Navigation and guidance
08 Optical detection
09 Radar detection
10 Seismic detection
18 Nuclear Science and Technology:
01 Fusion devices (*Thermonuclear*)
02 Isotopes
03 Nuclear explosions
04 Nuclear instrumentation
05 Nuclear power plants
06 Radiation shielding and protection
07 Radioactve wastes and fission products
08 Radioactivity
09 Reactor engineering and operation
10 Reactor materials
11 Reactor physics
12 Reactors (*Power*)
13 Reactors (*Non-power*)
14 SNAP technology
19 Ordnance:
01 Ammunition, explosives and pyrotechnics
02 Bombs
03 Combat vehicles
04 Explosions, ballistics and armor
05 Fire control and bombing systems
06 Guns
07 Rockets
08 Underwater ordnance
20 Physics:
01 Acoustics
02 Crystallography
03 Electricity and magnetism
04 Fluid mechanics
05 Masers and lasers
06 Optics
07 Particle accelerators
08 Particle physics
09 Plasma physics
10 Quantum theory
11 Solid mechanics
12 Solid state physics
13 Thermodynamics
14 Wave propagation
21 Propulsion and Fuels:
01 Air breathing engines
02 Combustion and ignition
03 Electric propulsion
04 Fuels
05 Jet and gas turbine engines
06 Nuclear propulsion
07 Reciprocating engines
08 Rocket motors and engines
09 Rocket propellants
22 Space Technology:
01 Astronautics
02 Spacecraft
03 Spacecraft trajectories and reentry
04 Spacecraft launch vehicles and ground support

I.R. & D. On-Site Review Schedules for Calendar Year 1972

LEAD LABS AND ORGANIZATIONS

Army

Army Materiel Command, AMCRD–TE/Mr. J. W. Crellin, Bldg. T–7, Washington, D.C. 20315.

Commanding General (ECOM), U.S. Army Electronics Command, AMSEL/RD/PB, Dr. Hans Ziegler, Ft. Monmouth, New Jersey 07703.

Commanding General (MICOM), U.S. Army Missile Command, AMSMI–RB, Dr. Julian S. Kobler, Director, Redstone Arsenal, Alabama 35809.

Commanding General (AVSCOM), U.S. Army Aviation Systems Command, AMSAV–R–RP, Mr. Dunkel, P.O. Box 209 Main Office, St. Louis, Mo. 63166.

Commanding General (TACOM), U.S. Army Tank–Automotive Command, AMSTA–CR, Mr. Hayes, Warren, Michigan 48090.

Navy

Office of Naval Research, Code 400A1, Mr. A. Cook, Ballston Tower No. 1, 800 Quincy Street, Arlington, Va. 22217.

Director, Office of Naval Research Branch Office, Mr. M. A. Chaszeka, 536 South Clark Street, Chicago, Illinois 60605.

Director, Office of Naval Research Branch Office, Attn: Deputy Director, 1030 East Green Street, Pasadena, California 91106.

Director, Office of Naval Research Branch Office, Attn: Mr. T. B. Dowd, 495 Summer Street, Boston, Massachusetts 02210.

Air Force

AFSC/DLOR/Major J. J. Eash, III, AFB, Washington, D.C. 20331.

AFOSR/CCC/Major McKimie, 1400 Wilson Blvd., Arlington, Va. 22209.

AFAPL/DOY/Mr. L. McKenny, Wright-Patterson AFB, Ohio 45433.

AFFDL/DOO/Mr. J. E. Schauweker, Wright-Patterson AFB, Ohio 45433.

AFAL/DO/Mr. Y. Jacobs, Wright-Patterson AFB, Ohio 45433.

AFML/DOY/Mr. S. Bakanauskas, Wright-Patterson AFB, Ohio 45433.

ASD/ENO/Mr. H. L. Kreitzburg, Jr., Wright-Patterson AFB, Ohio 45433.

AFATL/DLOP/Capt. Roy Rawlings, Eglin AFB, Florida 32542.

AFCRL/XOP/Mr. S. Falkowske, L. G. Hanscom Field, Bedford, Mass. 01731.

RADC/DOT/Mr. W. S. Kelly, Griffiss AFB, New York 13442.

AFWL/DOPT/Mr. Aldrich, Kirtland AFB, New Mexico 87117.

AFRPL/SU/Lt. Col. A. R. Hombaker, Edwards AFB, California 93523.

SAMSO/SYO/Capt. R. K. Strome, Los Angeles AFS, California 90045.

ESD/XRJ/Mr. A. P. Trunfio, L. G. Hanscom Field, Bedford, Mass. 01731.

Date	Company	Location	Agency	Lead
Jan. 25	United Aircraft P & W	West Palm Beach, Fla	Navy	ONR Washington.
Jan. 26-27	NAR, Columbus Division	Columbus, Ohio	Air Force	AFFDL.
Feb. 14-15	GE, Heavy Military Electronics Div	Syracuse, N.Y	do	RADC.
Feb. 10-11	Motorola	Scottsdale, Ariz	Army	ECOM.
Feb. 16-17	United Aircraft P & W	East Hartford, Conn	Navy	ONR Washington.
Feb. 23-25	NAR, Space Division	Downey, Calif	Air Force	SAMSO.
Mar. 15-16	TRW Equipment Group	Cleveland, Ohio	do	AFML.
Mar. 20-21	Stanford Research Institute	Melno Park, Calif	Army	ECOM.
Mar. 22-24	Lockheed Missiles & Space/Res. Lab	Palto Alto, Calif	Air Force	AFOSR.
Mar. 27-28	Singer Kearfott	Little Falls, N.J	do	AFAL.
Mar. 29-30	Texas Instrument	Dallas, Tex	Navy	ONR Chicago.
Mar. 29-30	AVCO, Lycoming	Stratford, Conn	Air Force	AFAPL.
Apr. 4-5	Western Electric Co	Whippeny, N.J	Army	MICOM.
Apr. 5-7	McDonnell Douglas	St. Louis, Mo	Air Force	AFFDL.
Apr. 10-11	Page Communications Engineers	Washington, D.C	do	RADC.
Apr. 12	Sikorsky	Bridgeport, Conn	Navy	ONR Boston.
Apr. 13-14	GM, Delco Electronics	Milwaukee, Wis	Air Force	AFAL.
Apr. 18-19	ITEK Dorp, Optical Sys./Cen. Res. Lab	Lexington, Mass	do	AFCRL.
Apr. 19-21	Bendix, Mishawaka Div	Mishawaka, Ind	Navy	ONR Chicago.
Apr. 19-21	Martin Marietta	Orlando, Fla	Air Force	AFATL.
Apr. 24-25	Sperry Rand Electronic Tube Div	Gainesville, Fla	do	RADC.
Apr. 26-27	Sperry Rand Microwave Electronics	Clearwater, Fla	do	AFAL.
May 1-2	Curtis Wright Wood-Ridge	Wood-Ridge, N.J	do	AFAPL.
May 2-4	Control Data Corp	Minneapolis, Minn	do	RADC.
May 3-5	Martin Marietta, Denver Div	Denver, Colo	do	SAMSO.
May 8	General Electric TEMPO	Santa Barbara, Calif	do	AFWL.
May 9-10	Hughes Tool Co	Los Angeles, Calif	Army	AVSCOM.
May 11	Cutler Hammer A.I.L	Long Island, N.Y	Navy	ONR Boston.
May 9-12	McDonnell Douglas	Huntington Beach, Long Beach, Calif	Air Force	AFFDL.
May 15-16	Philco Ford, Aero. & Def. Systems	Newport Beach, Calif	Navy	ONR Pasadena.
May 17-18	Philco Ford, Western Div. Labs	Palo Alto, Calif	do	Do.
May 15-17	Lockheed, Calif	Burbank, Calif	Air Force	AFFDL.
May 18	Lockheed Aircraft Service	Ontario, Calif	do	ASD.
May 22	GE, Direct Energy Conv. Bus	West Lynn, Mass	do	AFAPL.
May 24	Bendix, Nav. & Control	Teterboro, N.J	Navy	ONR Boston.
May 25	Bendix, Comm. Div	Towson, Md	do	Do.
June 1	Martin Marietta, Rias	Baltimore, Md	Air Force	AFOSR.
June 6-8	Boeing Aerospace/BSRL/Com. Airplane Gp	Seattle, Wash	do	AFFDL.
June 6-7	Raytheon	Lexington, Mass	Army	MICOM.
June 13-14	Lear Siegler Instrument Div	Santa Monica, Calif	Air Force	AFAL.
June 15-16	Lockheed Electronics Div	Plainfield, N.J	do	AFAL.
June 21-23	TRW Systems	Redondo Beach, Calif	do	SAMSO.
June 26-27	North American Atomics Int	Los Angeles, Calif	AF/ONR	ONR/AFSC.
July 11	Bendix Electrodynamics	North Hollywood, Calif	Navy	ONR Pasadena.
July 13-14	Sperry Rand UNIVAC	St. Paul, Minn	Air Force	RADC.
July 17-18	General Dynamics, Stromberg Data-graphics	San Diego, Calif	do	RADC.
July 19-20	Teledyne Ryan	do	do	AFAPL.
July 24-25	Hughes Aircraft Co	Culver City and Malibu, Calif	do	AFAL.
July 26-27	NAR, Science Center	Thousands Oaks, Calif	do	AFOSR.
Aug. 10-11	General Dynamics Elec. Boat Div	Croton, Conn	AF/ONR	ONR/AFSC.
Aug. 15-16	General Electric Avionics Cont Div	Binghamton, N.Y	Air Force	AFFDL.
Aug. 17-18	Singer, Link Div	do	do	ASD.
Aug. 22-23	Westinghouse, Aerospace Elec. Sys. & Electronic Support	Baltimore, Md	Navy	ONR Boston.
Aug. 29	CCI Marquardt	Van Nuys Calif	Air Force	AFRPL.
Sept. 6-8	GE, Aircraft Engine Group	Evendale, Ohio	do	AFAPL.
Sept. 13-15	Honeywell Basic & Applied Res	Minneapolis, Minn	do	AFOSR.
Sept. 19	Philco Ford, Comm. & Tech. Services	Philadelphia, Pa	Navy	ONR Boston.
Sept. 26-27	Bell Helicopter	Fort Worth, Tex	Army	AVSCOM.
Sept. 28-29	Boeing Wichita Div	Wichita, Kans	Air Force	AFFDL.
Oct. 3-4	RCA Govt. Systems	Camden, N.J	Navy	ONR Boston.
Oct. 4-5	Solar Aircraft Co. Intl. Harvester	San Diego, Calif	do	ONR Pasadena.
Oct. 12-13	E.G. & G	Bedford, Mass	Air Force	AFCRL.
Oct. 17-18	PMC	Los Angeles, Calif	Army	TACQM.
Do	Singer, Telesignal Div	Woodbury, N.Y	Air Force	ESD.
Oct. 19-20	Hazeltine	Little Neck, N.Y	do	RADC.
Oct. 26-27	AVCO Precision Prod	Richmond, Ind	do	AFATL.
Oct. 30-31	General Motors, Allison Engines	Indianapolis, Ind	do	AFAPL.
Nov. 1-2	General Motors, Allison	do	Army	TACOM.
Do	Dalmo Victor Corp	Providence, R.I	Air Force	AFAL.
Nov. 3	HRB Singer	State College, Pa	do	RADC.
Nov. 7-9	Northrop Corp	Hawthorne, Calif	do	AFFDL.
Nov. 13-14	Chrysler Corp	Detroit, Mich	Army	TACOM.
Nov. 14-15	Thiokol Chemical Corp	Brigham City, Utah	Air Force	AFRPL.
Nov. 15-16	Sperry Rand Vickers Div	Detroit, Mich	do	AFAPL.
Nov. 27-29	LTV	Dallas, Tex	Navy	ONR Chicago.
Dec. 5-6	Grumman	Bethpage, Long Island, N.Y	do	ONR Boston.

Mr. McINTYRE. Mr. President, this is the second year of reporting, and it covers the first full year of implementation since section 203 was enacted. The report reflects substantial progress by the Department of Defense. When I reported to the Senate a year ago on March 24, 1971, I stated that I would continue to monitor performance closely to insure that expenditures for I.R. & D., B.P. & E., and OTE are maintained within reasonable limits and that they are in strict conformance with the law. In addition, I stated that I would obtain an estimate of defense expenditures for 1971 and compare this with actual performance a year later to determine if additional legislation is needed.

The Armed Services Committee, to insure prompt and effective compliance with section 203, requested the Comptroller General, by letter dated October 5, 1971, to conduct a complete examination of all actions taken pursuant to section 203, and submit a report of findings, including appropriate comments and recommendations by April 1, 1972. As a part of the investigation, the letter requested that industry reaction and compliance be determined on a sampling basis. I ask unanimous consent that the letter and the report of the Comptroller General, B–167034, dated April 17, 1972, be printed at this point in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

OCTOBER 5, 1971.

Hon. ELMER B. STAATS,
Comptroller General of the United States,
General Accounting Office,
Washington, D.C.

DEAR MR. STAATS: Section 203 of the Military Procurement Authorization Act for Fiscal Year 1971 established permanent language involving the expenditure of funds appropriated for the purpose of Independent Research and Development (I.R.&D.). Major provisions of this section require that (a) the Secretary of Defense negotiate advance agreements each year with major defense contractors as to the dollar ceiling on funds which are to be reimbursed by the Defense for these purposes, (b) these advance agreements be based on company submitted plans which are subject to technical evaluation by Defense, (c) dollar penalties are imposed by Defense when such advance agreements cannot be reached, (d) the work for which payment is made has, in the opinion of the Secretary of Defense, a potential relationship to a military function or operation, and (e) the Secretary of Defense submit an annual report to the Congress on or before March 15 of each year advising of the results of implementation of this section.

Principal Department of Defense witnesses who appeared before the Committee in support of the Fiscal Year 1972 request stated that a series of implementing actions had been taken but that because of the late enactment of the Fiscal Year 1971 Procurement Act not enough time had passed to measure the effectiveness of the implementing actions.

Since this subject is a matter of special significance to the Committee, request that a complete examination be conducted of all of the actions that have been taken pursuant to Section 203 of Public Law 91–441, and a report of findings, including any appropriate comments and recommendations, be submitted to the Committee not later than April 1, 1972.

In conducting this investigation, an effort should be made to determine industry reaction and compliance on a sampling basis. In this connection, there have been some reports from industry that the implementing actions of the Department of Defense are more stringent than intended by the language of the law. The Committee does not necessarily disagree with such actions by the Department of Defense but is interested in determining the specific facts.

Your prompt attention to this matter will be appreciated.

Sincerely,

JOHN C. STENNIS.

REPORT TO THE COMMITTEE ON ARMED SERVICES, U.S. SENATE: IMPLEMENTATION OF SECTION 203, PUBLIC LAW 91–441, ON PAYMENTS FOR INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS—DEPARTMENT OF DEFENSE

(By the Comptroller General of the United States)

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate.

DEAR MR. CHAIRMAN: As requested in your letter of October 5, 1971, we have reviewed the actions taken pursuant to Section 203 of the Military Procurement Authorization Act for Fiscal Year 1971 (P.L. 91–441, October 7, 1970). This section etsablished requirements to be met by the Department of Defense (DOD) in paying contractors the costs of the independent research and development (IR&D) and bid and proposal (B&P) efforts.

We noted the statement in your letter, attributed to principal DOD witnesses, that because of the late enactment of the 1971 Procurement Act, not enough time had passed to measure the effectiveness of DOD's implementing actions. Section 203 became effective January 1, 1971. Although steps were taken by DOD at that time to implement the law, not all actions were completed at the time of our review. For example, determinations of potential relationship to a military function or operation of most B&P projects had not yet been made. We believe, therefore, it is still too early to make a conclusive evaluation of either the actions taken or the effects of the provisions of Section 203; however, we will comment on these matters to the extent presently possible.

First, there are some portions of the language of Section 203 which are not sufficiently clear as to meaning or intent to enable proper evaluations of effect. For example, the law precludes DOD from paying contractors for IR&D or B&P costs unless the work has a potential relationship to a military function or operation, and unless other specified conditions are met. One of these conditions is that advance agreements be negotiated with companies which had more than $2 million of IR&D or B&P payments from DOD during their preceding fiscal years. It is not clear as to whether the intent of the law was to require a determination of potential military relationship of the projects of all companies receiving funds from DOD for IR&D and B&P, or only of companies with which advance agreements are negotiated.

We were told by a DOD official that application of a relevancy test to all defense contractors would be administratively infeasible; consequently, DOD interpreted the law as requiring the test only for major companies. We agree that DOD's interpretation is administratively sound, but suggest that the Congress may want to clarify the intent of the law.

The law also fails to provide any criteria for determining when a project has "potential relationship to a military function or operation" or any indication as to what the provision was intended to achieve. We believe that without clarification, the law can be interpreted to allow practically any IR&D or B&P project to be classified as having "potential military relationship," even though it may be primarily for commercial or nondefense purposes. This matter is discussed more fully in an attachment (appendix I) which includes examples of projects accepted as having potential military relationship, although they were undertaken primarily for nondefense purposes.

A third problem we see in the language of the law is contained in Section 203(a)(1) which requires that advance agreements be negotiated "with all companies which during their last preceding fiscal year received more than $2,000,000 of independent research and development or bid and proposal payments from the Department of Defense. . . ." In implementing this provision DOD has taken the position that the Congress intended that the $2 million should apply to IR&D and B&P combined. We believe that the DOD interpretation is realistic because of the very close relationship of IR&D and B&P costs.

Industry, however, has pointed out (see Council of Defense and Space Industry Associations' (CODSIA) letter of January 31, 1972, appendix II), that DOD's interpretation (along with its extension of the law's requirements to subcontracts, and its requirement for burdening of IR&D and B&P) could result in requiring some companies to negotiate advance agreements that would not be required to do so if the $2 million criterion were applied to IR&D and B&P separately. CODSIA referred to one such company in its letter.

We did not make a detailed study of this matter, but based on DOD-developed statistics on the amounts of contractors' IR&D and B&P costs, we doubt that more than five to ten companies would have been required to enter into advance agreements under DOD criteria that would not have been required to do so under a strict interpretation of the law. Concerning subcontracts and burdening,[1] the law neither provides nor precludes the action taken by DOD. In view of the high level of subcontracting that prevails, we believe subcontracts should be included along with prime contracts in determining if the criterion for negotiating advance agreements has been achieved. We also believe it is appropriate that IR&D and B&P costs bear their appropriate share of indirect costs.

How, to DOD's implementation of the law. We have examined all the implementing actions of DOD, as requested in your letter, to the extent possible at the present time. We reviewed the policies, practices, and procedures established and followed by DOD and the military services; reviewed records and obtained information from Government officials responsible for procurement and financial administration; and reviewed the activities of six selected contractors in complying with the law and DOD's implementing instructions. We did not examine the potential military relationship of contractors' B&P costs and contractors' subsequent changes to approved IR&D programs because insufficient time had elapsed for DOD to take action on these matters. We plan, however, to continue monitoring DOD's administration of IR&D and B&P efforts.

In our opinion, DOD has been reasonably diligent, and with the possible exceptions discussed above, the provisions of the law are being implemented. Our observations on certain major aspects of the law, including DOD's implementation and industry's views, are included in appendix I.

As authorized by your office, we are sending copies of this letter and appendixes to the Chairman of the House Armed Services Committee, Congressman Charles S. Gubser, the Department of Defense, CODSIA, and the six contractors included in our review. We plan to make no further distribution unless specific requests are received.

Sincerely yours,

ELMER B. STAATS,
Comptroller General
of the United States.

APPENDIX I: OBSERVATIONS ON IMPLEMENTATION OF SECTION 203, PUBLIC LAW 91–441, REGARDING PAYMENTS FOR INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS

POTENTIAL MILITARY RELATIONSHIP

We have previously referred in our letter to the lack of criteria in the law for determining potential relationship and the absence of a statement as to what the legal requirement is expected to achieve.

In the absence of a definition or criteria from the Congress, DOD must interpret the intent of the law and establish its own criteria. During the first year that Section 203 was effective, DOD and the military services chose generally not to formalize criteria for determining potential military relationship, preferring to gain experience first. Consequently, the Service representatives responsible for reviewing contractors' IR&D and B&P projects had considerable latitude in determining potential relationship. In February 1972, DOD issued an instruction which states that IR&D projects aimed only at commercial or non-DOD areas of interest are not considered relevant.

We attempted to evaluate the reasonableness of the Service determinations of the relevancy of IR&D projects included in the proposed plans of six selected companies.[2] These plans formed the basis for the advance agreements for IR&D of the companies. We found a number of projects that are considered by DOD to have potential military relationship although they were undertaken primarily to meet nondefense needs.

---

[1] DOD requires that IR&D and B&P costs be burdened, i.e., they are to include not only all direct costs, but also all allocable indirect costs except for general and administrative expenses.

For example, a project of one aerospace-oriented company had an objective of developing a conceptual design that would identify new equipment design criteria and provide methods for combining benefits of fresh water recovery with water pollution abatement by the use of distillation equipment. The company said this project would benefit the military services and the Environmental Protection Agency. The company stated that the Navy and Coast Guard were looking for solutions to waste-treatment problems aboard ships.

The DOD evaluator commented that the project had potential military relevancy because of DOD's interest in curbing pollution at military installations and facilities. In view of the Environmental Protection Agency's responsibilities in the water pollution abatement area, it would appear that the potential military relationship of such IR&D projects would be marginal.

Another aerospace-oriented company included in its plans a project concerning a flight-type electrochemical system. The application of this project was to provide (1) advanced life support systems for manned space flights; (2) aircraft oxygen systems, and (3) regenerative fuel cells for manned and unmanned systems. The purpose of the program was to develop design approaches in certain areas and to demonstrate the flight worthiness of those approaches through appropriate environmental tests. It seems to us that this project is directed to matters of greater concern to NASA than DOD.

CODSIA believes that the Congress should consider amending the potential relationship portion of the law to read "potential relationship to the interests of the U.S. Government." It contends that the current law is resulting in contraction of imaginative and innovative research, and it points to the military services' use of the potential military relationship requirement in reducing the costs of IR&D and B&P.

We did not find, however, that contractors' proposed IR&D/B&P programs were being reduced by the military services for nonmilitary related projects. DOD's instructions state that in negotiating advance agreement ceilings consideration will be given to the potential relationship determinations; but in practice the military services have computed ceilings without including the amount of nonrelated projects as a factor. This has been possible because the cost of projects found to be nonrelated has been relatively insignificant.

For example, the ceiling for one of the six contractors included in our review, with a proposed program of $20.5 million, was negotiated at $15.5 million. The total nonrelated projects were only $1.3 million. In view of the nonacceptance by DOD of $5 million of the contractor's program for other reasons, the $1.3 million of nonrelated projects had no effect on the ceiling. For three other contractors no projects were determined to be nonrelated and for the other two the amounts were minor, $1.2 million and $80 thousand.

It seems to us that the only time nonrelated projects would be a factor in reducing costs is when they are so large in dollar volume as to exceed the amount of a contractor's program not accepted by DOD for other reasons. We were informed by a DOD representative that none of the 63 companies negotiating advance agreements in calendar year 1971 had their IR&D ceilings reduced because of work that did not meet the relevancy test.

In view of the lack of effect on contractors' ceilings, we doubt that the potential military relationship requirement in the law has actually caused the serious restrictive impact on industry, the contraction of research, and the stifling effect on National security mentioned by CODSIA. In view of the law's general recognition through the potential military relationship provision that the military services should not be paying for research and development efforts that do not benefit them, we do not believe it should be changed as suggested by CODSIA. We suggest, however, that the Congress consider providing more specific guidance in the law as to what it is intended to achieve. For example, if the intent is to limit DOD's payment for IR&D to work undertaken *primarily* to meet potential military needs, a provision of such nature would be helpful.

NEGOTIATION OF ADVANCE AGREEMENTS

Within the framework of Section 203, DOD has issued regulations which put the burden on the contractors who meet the criteria of the law to come forth and negotiate advance agreements. DOD has further stipulated that no IR&D or B&P costs will be allowable if a company meeting the criteria fails to initiate negotiation prior to the end of the fiscal year for which the agreement is required. We believe this approach should ensure that DOD will negotiate advance agreements with all companies meeting the criteria as required by Section 203.

DELAYS IN NEGOTIATION OF ADVANCE AGREEMENTS

Of 63 companies that negotiated advance agreements with DOD in calendar year 1971, only about 3 percent had completed negotiations prior to cost incurrence, and only about 26 percent were completed by 7 months after the beginning of the contractors' fiscal years. Section 203 requires that advance agreements be negotiated prior to or during the Government's fiscal year covering each contractor's fiscal year beginning on or after the beginning of the Government's fiscal year. This requirement is in conflict with the generally recognized meaning of an advance agreement—that it is made in advance of cost incurrence.

If made in advance of cost incurrence such agreements give the contractor some assurance that its IR&D costs will be recovered and that disputes with Government contracting personnel concerning the reasonableness or allocability of the costs will be minimized or avoided. They also provide a basis for an objective evaluation of projects by the Government, unencumbered by consideration of costs already incurred and the effect disallowance of already incurred costs would have on the contractor. If not made on a timely basis the Government cannot use advance agreements in contract price negotiations. Prior agreements must be used and appropriately adjusted to meet current conditions. In the event of substantial changes, pricing problems could result.

We recognize the difficulties encountered in reaching agreement with a large number of contractors before the beginning of their fiscal year, but believe that all parties would benefit from negotiating prior to cost incurrence. DOD is aware of the problem and is attempting to bring about earlier negotiations of 1972 agreements through requiring earlier submission of proposed programs, better scheduling of technical evaluations, etc. While this does not mean that agreements will be negotiated prior to cost incurrence, the action is in the right direction.

PENALTY FOR FAILURE TO AGREE

Section 203(b) of Public Law 91-441 requires that DOD substantially reduce its expected IR&D and B&P payments to any company with which negotiations are held but no agreement is reached before the end of the contractor's fiscal year.

DOD's instruction provides that when agreement is not reached, DOD will not pay more than 75 percent of the amount which the contracting officer believes the company would be entitled to receive under an advance agreement. The instruction establishes (1) guidelines to contractors for appealing decisions for reduced payments and (2) final appeal hearing groups for each of the departments.

CODSIA believes this requirement in the law has provided the DOD negotiator with too much leverage in the negotiating process because he can unilaterally reduce a contractor's payments when agreement is not reached. No specific examples of such arbitrary actions were cited by CODSIA. CODSIA believes there should be no penalty when reasonable but unsuccessful efforts are made by a contractor to reach agreement.

DOD officials informed us they had reduced the payments of only one contractor because an agreement was not reached. The contractor's appeal was heard but denied. We were told that the contractor is considering the possibility of filing a civil suit.

It is obvious that DOD negotiators could use the penalty provision in the law as a leverage in negotiations, although we have no evidence that this is being done. On the other hand, contractors could also be arbitrary during the negotiations. If advance agreements were actually made in advance of cost incurrence, instead of any time during the contractor's fiscal year, the possibility of harm to the contractor, through actions on the part of the Government contracting officer to reduce the amount of the contractor's program to be supported by DOD would be minimized. The contractor would have an option of not starting certain projects so as to stay within the ceiling negotiated in the advance agreement.

ARBITRARY REDUCTION OF PROPOSED PROGRAMS

CODSIA said that despite extensive technical review and other efforts on the part of DOD to assure that contractors' expenditures are at reasonable levels, well managed, and of high technical quality, some DOD personnel have established an unsupportable criteria of "the same or less than last year." CODSIA is afraid this will result in involuntary cost-sharing on the part of the contractor, and perhaps in contractors refraining from conducting needed IR&D tasks or making appropriate bids. The latter would, CODSIA says, result in weakening our National capabilities and impairing the competitive process.

DOD's instructions state that in negotiating the ceilings for IR&D and B&P to be included in advance agreements particular attention is to be given to technical evaluations of contractors' programs, determinations of potential military relationship, comparison with previous years' programs including the level of the Government's participation, and changes in the company's business activities.

We were unable to ascertain the effect of each of these factors on the ceilings negotiated for the six contractors included in our review because the negotiators' files did not show how the ceiling amounts were determined. However, in discussing the matter with DOD negotiating personnel we concluded that the level of previous years' programs is given substantial weight in determining the Government's prenegotiation position. Considering recent budgetary constraints and congressional concern over costs incurred for IR&D and B&P in prior years, it is not surprising that historical cost experience is a basic consideration.

---

[2] In view of DOD's determination—with which we agree—that the relevancy of B&P projects could not reasonably be determined except on an after-the-fact basis, rather than on a programmed basis such as IR&D, our review was too early to permit an evaluation of the relevancy of the B&P segment.

ADJUSTMENT OF NEGOTIATED CEILINGS

CODSIA is concerned about the practice of some DOD negotiators to include a clause in advance agreements which provides DOD with an option to reopen negotiations aimed at downward adjustment in the ceiling when the technical rating[3] is subsequently received at lower than a stipulated value. CODSIA believes that if a higher technical rating is received, the rules should similarly allow an increase in the allowable ceiling.

We analyzed all 146 agreements negotiated with 63 companies in calendar year 1971 and found that 48 provided DOD with the option to reduce ceilings based on subsequent technical reviews. The clause was inserted in all agreements negotiated prior to completion of technical reviews of the contractor's proposed programs. Departmental officials informed us, however, that only one of these 48 agreements was renegotiated because of a subsequent low technical rating.

Although the experience to date does not show that renegotiation of ceilings downward because of low technical ratings is a major problem area, CODSIA's position seems reasonable.

TECHNICAL EVALUATIONS

Section 203(a)(2) requires that the IR&D portions of advance agreements must be based on company-submitted plans on each of which DOD makes a technical evaluation before or during the fiscal year covered by the agreement.

DOD's technical evaluations are of two types. One, which is made annually, consists of a review by technically oriented personnel of the written descriptions of IR&D projects furnished by the companies in their annual plans (brochures). DOD currently requires that at least 90 percent of the dollar value of each company's IR&D program be reviewed in this manner. The descriptions are reviewed with the objective of judging the quality of the projects with respect to such things as technical objectives, approach, past achievements, originality, uniqueness, facilities, personnel, etc.

The second type, which DOD now requires to be made at least once every three years, is referred to as an on-site review. This review complements the annual "brochure review" in that it allows the Government evaluators to see the actual facilities and to discuss projects with company personnel. In contrast to the 90 percent rule for the brochure review, the evaluating team generally has considerable discretion in selecting the numbers and types of projects it will examine during the on-site review.

In view of the time and cost required to make on-site reviews, we believe that after a contractor's program has once been subjected to a thorough on-site review, the annual reliance thereafter on paper (brochure) reviews, augmented periodically with on-site reviews, is a reasonable practice.

DOD'S ANNUAL REPORT TO THE CONGRESS

Section 203(c) requires the Secretary of Defense to submit an annual report concerning IR&D and B&P to the Congress on or before March 15 of each year. We reviewed the report recently submitted, and believe it meets the requirements of the law.

We also made a limited test of the reasonableness of the Defense Contract Audit Agency's (DCAA's) annual statistical report submitted as a part of the Secretary's annual report, because of the report's importance in providing the Congress with visibility of the costs incurred for IR&D and B&P. This test was restricted to the six major contractors included in our review, and included a review of DCAA's method as well as a validation of source data to the extent we deemed necessary.

Although we found minor discrepancies, we believe the DCAA report can be relied on as a gauge of IR&D and B&P activity. We believe, however, that the value of the report could be further enhanced by including payments made to the contractors by other Government agencies. DCAA officials informed us that such payments have not been included because this is not required by Section 203; however, this information is available in DCAA's files. In view of the relatively large sums involved, about $85 million for NASA in 1970, the Congress may wish to consider having DCAA extend its report to include payments by other Government agencies to those contractors receiving payments from DOD.

COUNCIL OF DEFENSE AND
SPACE INDUSTRY ASSOCIATIONS,
Washington, D.C., January 31, 1972.

Mr. W. D. LINCICOME,
Assistant Director, Research and Development, Defense Division, General Accounting Office, Washington, D.C.

DEAR MR. LINCICOME: This is in response to your letter of December 1, 1971, requesting the views of industry on the implementation by the Department of Defense of the provisions of Section 203 of Public Law 91-441, pertaining to the recognition of Independent Research and Development (IR&D) and Bid and Proposal (B&P) costs.

In November 1970, DoD, acting promptly and responsively to implement Section 203 (passed in October 1970), requested CODSIA to submit comments on the proposed ASPR Regulations which would implement this Section. At the time, we suggested certain changes which were considered necessary to prevent over-implementation or misimplementation of the law.

Even though 14 months have passed since the issuance of Defense Procurement Circular No. 84, sufficient time has not yet elapsed to assess accurately all of the effects of Section 203 and DoD's implementation of that legislation. Implementation problems are still surfacing as DoD procedures continue to be formalized and refined. Fourteen months is not sufficient time for full-cycle including an after-the-fact audit and analysis of results. For this reason, we are addressing a few key issues realizing that additional problems could very well develop in the future.

There is, however, some evidence that potentially harmful effects have emerged. We now see that some aspects of the legislation and DoD's implementations are beginning to stifle technical ingenuity which is critical not only to defense needs but also to social and economic needs.

POTENTIAL RELATIONSHIP

The provision of the legislation which requires that IR&D and B&P have a "potential relationship to a military function or operation" is producing a serious restrictive impact on industry IR&D programs. There appears to be a trend towards recognition of IR&D only when related to present readily identifiable needs with a resulting contraction of imaginative, innovative research. We sincerely doubt that this was the result the Congress had in mind at the time the legislation was enacted. For example, at one time even the Space Shuttle Program was ruled to have no potential military relationship, though this ruling was subsequently changed.

Congressional Hearings held in early 1970 and subsequent Committee reports issued as a result of those Hearings do make it clear that the Congress desired improvement in administration of IR&D and B&P by the DoD and identification of the amounts allocated by DoD for IR&D and B&P. On the other hand, it appears clear from the Hearings and Committee Reports that Congress recognized the importance of industry funded research and development effort to the national security. Unfortunately, experience shows that some elements of the DoD and the military services are laboring under the impression that Congress has mandated that IR&D and B&P costs be continually reduced regardless of the national priorities. With this "mandate" in mind, the "test of potential relationship" offers one means of accomplishing such reductions.

In addition to the stifling effect of DoD's interpretation of the "test of potential relationship" on the national security, the law has an even greater impact on other priority national goals such as ecology, transportation, medicine, housing, and urban problems. The contributions of technology to national strength and a better society are recognized by other nations, both friend and foe. This recognition is evidenced both in the national budgets and in subsidies to support industry research and development. At a time when there is a need for realization that only through technological advance can we hope to maintain national security and continue economic and social progress, we find an anomally in legislation, whether intended or not, which seriously impedes industry research and development.

We therefore, submit that narrow interpretation of the regulations and the statute with respect to "potential relationship" is only the evidence of the problem rather than its root.

As an immediate correction of what we consider to be a most serious and damaging legislative anomaly, Congress should consider amending the potential relationship portion of the law to read "potential relationship to the interests of the U.S. Government" in order to permit and encourage recognition of industry's independent technical effort benefiting all branches of the Federal Government. In addition, such action would support the continuing encouragement by Congressional leaders for utilization of defense technology in solving non-defense problems.

PENALTY FOR FAILURE TO AGREE

Section 203, P.L. 91-441, provides that a contractor who fails to conclude an advance agreement shall by the end of the pertinent fiscal year receive "substantially less" than he would otherwise be paid. Although to date, only a few contractors to our knowledge have been confronted with such a determination, all are threatened with this possibility. This provision creates an imbalance in the negotiating process as it gives the DoD negotiator an inequitable leverage in negotiations since, failing agreement, he must make an unilateral determination for a significantly reduced recoverable ceiling. Such authority effectively destroys the concept of bilateral negotiation and unavoidably leads to forcing of agreements that may well be detrimental to both the government's and industry's best interests. It may not be unreasonable for the few to impose a penalty on a contractor who refuses to enter into negotiations looking toward an advance agreement. However, there should be no penalty when a contractor makes reasonable efforts to negotiate an agreement, but is unable to reach an agreement by the end of the pertinent fiscal year.

---

[3] In making technical evaluations of contractors' IR&D programs DOD evaluators generally assign a numerical rating which in their judgment represents the quality of the programs in relation to predetermined standards.

ARBITRARY REDUCTION OF CONTRACTOR'S PROPOSED I.R. & D. AND B. & P. PROGRAMS

With the leverage afforded the DoD negotiator as discussed under "Penalty For Failure to Agree", it is observed that despite extensive technical review and control and reporting techniques being directed at contractor's IR&D/B&P programs by the DoD to assure that contractor expenditures are at reasonable levels, well managed, and of high technical quality, some DoD personnel have established an unsupportable criteria of "the same or less than last year." It is obvious that the opportunities for and requirements of individual contractors, as well as the Government, will vary from year to year. Unless some valid judgments are made in recognition of these needs, the result will be that contractors will incur essential but nonrecoverable costs, the end result of which is involuntary cost sharing not intended by the legislation or by DoD policy. The only alternative is to refrain from conducting certain IR&D tasks and from making otherwise appropriate bids with the resultant weakening of our national capabilities and impairment of the competitive process.

ADJUSTMENT OF NEGOTIATED CEILINGS

Some DoD negotiators are now requiring in current advance agreements, a clause which makes mandatory consideration of a downward adjustment only to otherwise allowable IR&D/B&P expense ceilings when the Government's technical grading is subsequently received at lower than a stipulated value. We believe that if a higher technical grade is received, the rules should similarly allow an increase in the allowable ceiling. It is our view that the "downward" philosophy in neither a reasonable nor an equitable business arrangement.

INCONSISTENCIES BETWEEN SECTION 203, PUBLIC LAW 91–441, AND DOD IMPLEMENTATIONS, DPC 84 AND DPC 90

Defense Procurement Circular 90 provides that advance agreements must be negotiated with any company which received payments, either as a prime contractor or *subcontractor*, in excess of $2 million from the DoD for IR&D *and* B&P in a fiscal year while the act provides $2 million in IR&D *or* B&P payments in the prior year and is silent as to subcontracts.

DPC 90 provides that companies which meet the $2 million criterion must negotiate advance agreements either at the corporate level or at the profit center level for those profit centers which contract directly with DoD and which in the preceding year allocated recoverable IR&D *and* B&P costs in excess of $250,000 to all DoD contracts and *subcontracts*. DPC 90 correctly provides that in the computation to determine whether the $2 million or $250,000 threshold was reached, only contracts for which the submission and certification of cost or pricing data was required shall be included. However, the changing of "or" to "and" as well as the inclusion of "subcontracts" (and burdening) results in the negotiation of many more agreements than the language of the statute requires. To give a specific example, a medium size company has advised that these changes in language have caused it to have to submit brochures, go through a two day technical review with 18 government representatives, and to negotiate advance agreements for two profit centers of the company where the applicable DoD billings were less 10% of the total profit billings in each case. In one of the profit centers 1500 man hours were expended and in the other 3500 man hours, all of which would have been unnecessary had DPC 90 followed the letter of the law and not enlarged upon it.

As indicated at the beginning of our letter, CODSIA appreciates the opportunity afforded to comment upon Section 203, P.L. 91–441 and its implementation, because this is a matter of great importance to the vitality and future of our country. We appreciate also your indication that this letter will be made a part of the GAO Report to the Senate Committee on Armed Services.

CODSIA representatives will be available to discuss and clarify any of the subject matters discussed in this letter.

Very truly yours,

JEAN A. CAFFIAUX,
Staff Vice President, Electronic Industries Association.

ROBERT E. LEE,
President, National Aerospace Services Association.

GEORGE E. LAWRENCE,
Executive Vice President, Scientific Apparatus Makers Association.

KARL G. HARR, JR.,
President, Aerospace Industries Association.

JOSEPH M. LYLE,
President, National Security Industrial Association.

EDWIN M. HOOD,
President, Shipbuilders Council of America.

JOHN C. BECKETT,
WEMA.

JAMES G. ELLIS,
Manager, Defense Liaison Department, Automobile Manufacturers Association.

Mr. McINTYRE. Mr. President, I have introduced a substantial volume of information for the RECORD which will be available for the convenience of the Senate. However, in the interest of brevity, I will summarize the significance and highlights of their contents.

First, to summarize the financial data reported by the Department of Defense, the amount of payments to contractors for I.R. & D. and B. & P., and including OTE for comparability, as reported a year ago was $754 million for 1969, $695 million for 1970, and $625 million estimated for 1971 and for 1972. The current report reflects actual data for 1970 which totals $714 million. This is $19 million above the amount estimated but still $40 million less than 1969. The current estimate for 1971 is $673 million which is substantially above the $625 million previously estimated but still $41 million less than the actual costs for 1970. The current estimate for 1972, as provided informally by the Department of Defense, is that it will be within a few percentage points of the amount for 1971. The significance of all of these amounts is that even with some upward adjustment from estimates made a year ago, they continue to reflect a declining trend from earlier years.

Secondly, and perhaps even more important than the decline in dollars, is the effectiveness of the actions taken by the Department of Defense during the past year to bring an increasing number of eligible contractors into compliance with section 203 including the requirements for advance agreements, for technical brochures, and for relevancy to military function or operation. For example, the number of advance agreements negotiated covering I.R. & D. and B. & P. totaled 62 for 1970 and increased to 126 for 1971. Another dramatic improvement is represented by a comparison of total I.R. & D. and B. & P. costs incurred by DOD with advance agreements and without advance agreements. For 1970, $246 million or 37 percent of such costs were without an advance agreement. For 1971 this declined to $18 million or 3 percent.

Turning to the Comptroller General report, a number of significant points made are worthy of mention:

First. Because DOD implementation had not been completed when the GAO review was made, it is still too early to make a conclusive evaluation of either the actions taken or the effects of the provisions of section 203.

Second. Certain provisions of section 203 are not sufficiently clear to enable proper evaluations of effect.

Third. DOD has been reasonably diligent, and with certain possible exceptions covered in the GAO report, the provisions of the law are being implemented.

Fourth. The Department of Defense annual report submitted under section 203(c) has been reviewed and is believed to meet the requirements of the law.

Fifth. Although minor discrepancies were found in the Defense Contract Audit Agency's annual statistical report, GAO believes the report can be relied on as a gage of I.R. & D. and B. & P. activity.

Sixth. GAO plans to continue monitoring DOD administration of I.R. & D. and B. & P. efforts.

Dr. John Foster, the Director of Defense Research and Engineering, recently appeared before the Armed Services Committee in support of the fiscal year 1973 military procurement authorization request and made the following statements in response to questions on section 203:

First. The I.R. & D. technical plans submitted by contractors have been improving.

Second. There has been only one case that had to go to an appeals board because an advance agreement could not be reached between DOD and the contractor. Final resolution is pending.

Third. The requirement to determine the potential relationship of I.R. & D. and B. & P. projects to military functions or operations is causing problems.

Fourth. The submittal of an annual report to the Congress on or before March 15 of each year is not causing any serious problems with respect to collection of the information to be furnished.

Fifth. The I.R. & D. effort plays a vital role in ensuring that this Nation maintains an adequate technological base.

Sixth. At this point in time, it would appear that industry is generally satisfied with the current approach to I.R. & D. We have had no major complaints except for the question of relevancy.

Mr. President, in my opinion the Department of Defense is doing a commendable job of implementing the provisions of section 203. The documents which I have provided for the record attest to the extensive efforts which have been made to establish and place in operation the required organization and procedures. DOD has even gone beyond the letter of the law by creating a centralized data bank in the Department of Defense which makes knowledge of contractor I.R. & D. efforts available to major Defense organizations. At the same time, Mr. President, it is generally agreed that this program is still in a shakedown period and requires more time to achieve a high degree of efficiency.

The problems which have been encountered, as reported by Defense, by GAO, and by industry bear additional study as the provisions of section 203 are further implemented. I intend to continue to employ the GAO to assist in this process and to seek solutions to these and any other new problems which may arise as experience is gained.

I will continue to monitor the performance of the Department of Defense to insure effective compliance with the provisions of section 203, and to report to the Senate as appropriate.

TO WHAT END—PART III

Mr. HART. Mr. President, I have refrained from making a formal comment on the President's decision to blockade North Vietnam with the hope, foolish perhaps, that with the passage of several days the policy would look different than described.

There was the hope that the script had already been written and a satisfactory ending already agreed to by the players.

There was uncertainty as to the extent of the blockade and as to what type of cease-fire the President seeks in return for the release of our prisoners and withdrawal of our troops.

Unhappily, it now appears that indeed there is no script and that the author of this latest act in the continuing tragedy of Vietnam has left it to others to write the outcome.

Unhappily, where on Monday night the President spoke principally of mining and bombing railway lines—grevious enough steps in their own right—we are now told this Nation may be prepared to take direct action against ships unloading in North Vietnam.

It has been reported that already we have bombed to within 60 miles of the Chinese border.

And finally, there has been no statement clarifying our cease-fire offer, statements which might encourage Hanoi leaders to forget past experiences with international agreements and to accept our offer.

Certainly, I hope Moscow reacts coolly.

Certainly, I hope Hanoi accepts.

In the meantime, we have returned to the brink.

We have sought out and set up a confrontation with the Soviet Union and possibly with Red China, and we have done so in a way which has taken control of the situation out of our hands and leaves us only with the hope that the other players will react with restraint and wisdom. That is the grimly ironic result of our attempt to prove that a great power can and must control events even in a land distant from its sphere of influence.

But hope is a thin reed to rely on when standing on the brink in the nuclear age.

So it is that I find myself returning to the question which will not go away—the question which will haunt us long after the shooting ends in Southeast Asia:

To what end?

What end do we seek in Vietnam that morally justifies the destruction of life and property resulting from our policies?

That was the question I asked after the President last month announced a resumption and escalation of bombing attacks on North Vietnam, and that is a question we must ask again today. What outcome of the war in Vietnam justifies a confrontation with China and Russia and still another escalation in bombing?

Bombing close to the China border will not improve relations with Peking, relations which are more important to world peace than who happens to rule in Saigon.

Attacking Soviet ships and planes will do little to convince hardliners in Moscow of the value of negotiations with the United States, and the outcome of the SALT talks are more important to world peace than who happens to rule in Saigon.

Remembering the awful destruction already borne by the people of Southeast Asia, what end do we seek which justifies still more of the same?

Even more importantly, we must ask ourselves whether the return to the brink is necessary to achieve the President's goals.

We must ask that question even if luck is with us and those goals are achieved as a result of the President's newest moves.

We must ask that because there is a fatal flaw in a policy of brinkmanship in a nuclear age—no matter how many times it succeeds, it only has to fail once.

To risk a major power confrontation over the question of who rules in Saigon is insane.

To risk a major power confrontation to gain what could be achieved without confrontation is insane.

The President said he is willing to withdraw all U.S. forces within 4 months in return for a cease-fire and return of our men held prisoners.

We can, I believe, achieve an end to U.S. involvement without marching to the brink, without an escalation of violence.

I, no less than the President, will be thankful if his latest plan succeeds.

But even if it does, must we still not ask if what was achieved justifies the costs and the risks?

Those who believe that the brink should be approached rarely, if ever; those who believe that a nation should wage war only for reasons vital to national security, and those who believe that the risks involved in this Nation's current policy outweigh any end which can be achieved should do what they can to change that policy.

For that reason, I voted in the conference of Democratic Senators to disapprove the escalation and to support the Church-Case amendment to cut off war funds 4 months after agreement has been reached on return of our men held prisoners.

Mr. President, columnist Joseph Kraft, in a piece entitled "Figleaf for Defeat," discussed how this Nation arrived at the newest Vietnam crisis. I ask unanimous consent that this column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FIGLEAF FOR DEFEAT

(By Joseph Kraft)

President Nixon is risking almost everything to gain practically nothing. This is the distinguishing feature of the present Vietnam crisis.

Maybe he will luck out, and I certainly hope so. But even if he does, there has to be a deep question of confidence in a leader who has so unnecessarily guided the greatest power in the world to such a pathetic position.

To see how little Mr. Nixon stands to gain it is only necessary to look at the terms offered the other side in his latest TV address. In return for a cease-fire and the release of American prisoners, he offers, within four months, to pull out of Vietnam all American troops and installations.

The meaning of that offer has been spelled out in further detail to, among others, Soviet diplomats in Washington. It has been indicated that the withdrawal would mean a cessation of sea and air operations—that is a total suspension of all American military activities in South Vietnam. It has also been indicated that this country would not be surprised if the North Vietnamese broke the cease-fire after the American withdrawal.

That, in effect, is the whole ball game. The other side is being asked to afford Mr. Nixon a respite to pull out troops and get back the prisoners. Then the Communists would be free to go to work on the Saigon regime, with the virtual certainty of taking over South Vietnam.

Mr. Nixon did not come to that offer by any carefully calculated line of deliberate policy. It was not his "plan" when he came to office. Nor when he invaded Cambodia in 1970; nor during the Laos incursion of 1971.

It was not in his mind only three months ago when he said, in the State of the World message, that: "Vietnam no longer distracts our attention from the fundamental issues of global diplomacy or diverts our energies from priorities at home."

On the contrary, Mr. Nixon was forced to make the present offer by the North Vietnamese offensive. The incapacity of 1½ million South Vietnamese soldiers to protect 60,000 Americans against 100,000 North Vietnamese brought the President face to face with defeat in a war which he assured the country was practically over.

As a figleaf to hide defeat, he put forward the latest offer. And to buttress the offer, to make it seem little better than a mere panicky surrender, he accompanied it with the decision to seal off North Vietnam by mining harbors and cutting rail lines.

The cost of that face-saving exercise is bound to be very high. American airmen are likely to suffer heavy casualties as they hit the rail links with China. Hundreds of Vietnamese will be killed.

Moreover, the tone the President felt obliged to take to conceal panic is perfectly calculated to put off the North Vietnamese leaders. Mr. Nixon did, after all, issue a kind of ultimatum.

But the men in Hanoi—mindful of their weakness as a country and deeply aware of how the Great Powers diddled them in 1946 and 1954—are paranoic about negotiating under threat. At the very least, they are going to go on with their offensive against Hue. Thousands of Vietnamese will be killed in the process.

As a final cost, the sealing off of North Vietnam, necessarily engages Russia and China. The danger of big power confrontation can be probably put aside as rhetoric dear to senators. Moscow and Peking have available many ways short of direct challenge to erode and infiltrate Mr. Nixon's quarantine of North Vietnam.

But President Nixon's action does put in hazard the summit meeting with the Russians. It casts a shadow over the arms control and German agreements connected with the Moscow summit. And it washes out the rapport Mr. Nixon established with the Chinese leaders in what he called "the week that changed the world."

Because the offer the President is now extending is so favorable to the other side, there is a chance Moscow can induce Hanoi to negotiate. But no "fix" has been put in between Washington and Moscow. It is still touch and go, and the risks the President has already taken to cover the failure of his policy add up to a staggering total.

Mr. Nixon has put up for grabs the structure of world order, and the lives of thousands of Vietnamese and hundreds of Americans. The best he can get in return is only the figleaf for defeat he could have had all along. Every responsible citizen will want to think hard before according confidence to that performance.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION, 1973

The ACTING PRESIDENT pro tempore. Under the previous order, the unfinished business, S. 3526, is temporarily laid aside, and the Chair lays before the Senate H.R. 14070, the NASA authorization bill, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 14070) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Aeronautical and Space Sciences with an amendment to strike out all after the enacting clause and insert:

That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration:

(a) For "Research and development," for the following programs:

(1) Apollo, $128,700,000;

(2) Space flight operations, $1,094,200,000;

(3) Advanced missions, $1,500,000;

(4) Physics and astronomy, $156,600,000;

(5) Lunar and planetary exploration, $321,200,000;

(6) Launch vehicle procurement, $191,600,000;

(7) Space applications, $207,200,000;

(8) Aeronautical research and technology, $163,440,000;

(9) Space research and technology, $64,760,000;

(10) Nuclear power and propulsion, $21,100,000;

(11) Tracking and data acquisition, $259,100,000;

(12) Technology utilization, $4,000,000.

(b) For "Construction of facilities," including land acquisitions, as follows:

(1) Rehabilitation and modification of aeronautical airborne science, and support facilities, Ames Research Center, $1,065,000;

(2) Rehabilitation of Unitary Plan wind tunnel model supports, control systems, and model preparation areas, Ames Research Center, $760,000;

(3) Rehabilitation and modification of utility systems, Goddard Space Flight Center, $590,000;

(4) Rehabilitation and modification of roadway system, Jet Propulsion Laboratory, $610,000;

(5) Modifications of, and additions to, spacecraft assembly facilities, Kennedy Space Center, $8,100,000;

(6) Modification of Titan Centaur facilities, Kennedy Space Center, $2,040,000;

(7) Rehabilitation of full-scale wind tunnel, Langley Research Center, $2,465,000;

(8) Modification of central air supply system, Langley Research Center, $1,175,000;

(9) Environmental modifications for utility operations, Langley Research Center, $650,000;

(10) Modification of high temperature and high pressure turbine and combustor research facility, Lewis Research Center, $9,710,000;

(11) Modification of fire protection system, Manned Spacecraft Center, $585,000;

(12) Warehouse replacement, Wallops Station, $350,000;

(13) Space shuttle facilities, as follows:

(A) Modification of Altitude Test Facilities, Arnold Engineering Development Center, $6,800,000,

(B) Rehabilitation of Propellant and High Pressure Gaseous Systems, Mississippi Test Facility, $1,160,000,

(C) Modification of the Entry Structures Facility, Langley Research Center, $1,635,000,

(D) Addition for Systems Integration and Mockup Laboratory, Manned Spacecraft Center, $2,545,000,

(E) Modification of the Vibration and Acoustic Test Facility, Manned Spacecraft Center, $2,770,000,

(F) Modification of the Structures and Mechanics Laboratory, Marshall Space Flight Center, $4,700,000,

(G) Addition for Electrical Power Laboratory, Marshall Space Flight Center, $320,000,

(H) Modification of Acoustic Model Engine Test Facility, Marshall Space Flight Center, $2,430,000,

(I) Modification of Manufacturing and Final Assembly Facilities, Undesignated Locations, $5,540,000;

(14) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $11,580,000;

(15) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $1,720,000;

(16) Facility planning and design not otherwise provided for, $8,000,000.

(c) For "Research and program management," $729,450,000, of which not to exceed $572,237,000 to be available for personnel and related costs.

(d) Notwithstanding the provisions of subsection 1(g), appropriations for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Astronautics of the House of Representatives and the Committee on Aeronautical and Space Sciences of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months begining at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $10,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and not in excess of $25,000 for each project, including collateral equipment, may be used for rehabilitation or modification of facilities: *Provided,* That of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

(h) No part of the funds appropriated pursuant to subsection (a) of this section may be used for grants to any nonprofit institution of higher learning unless the Administrator or his designee determines at the time of the grant that recruiting personnel of any of the Armed Forces of the United States are not being barred from the premises or property of such institution except that this subsection shall not apply if the Administrator or his designee determines that the grant is a continuation or renewal of a previous grant to such institution which is likely to make a significant contribution to the aeronautical and space activities of the United States. The Secretary of Defense shall furnish to the Administrator or his designee within sixty days after the date of enactment of this Act and each January 30 and June 30 thereafter the names of any nonprofit institutions of higher learning which the Secretary of Defense determines on the date of each such report are barring such recruiting personnel from premises or property of any such institution.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (15), inclusive, of subsection 1(b) may, in the discretion of the Administrator of the National Aeronautics and Space Administration, be varied upward 5 per centum to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 3. Not to exceed one-half of 1 per centum of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (16) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Aeronautical and Space Sciences of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Sec. 4. (a) Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Astronautics or the Senate Committee on Aeronautical and Space Sciences,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by sections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(b) Nothing in this section shall be construed to authorize the expenditure of amounts for personnel and related costs pursuant to section 1(c) to exceed amounts authorized for such costs.

Sec. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

Sec. 6. (a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties of pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs authorized by the National Aeronautics and Space Act of 1958, the funds for which are authorized pursuant to this Act. If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any of the programs authorized by the National Aeronautics and Space Act of 1958, the funds for which are authorized pursuant to this Act.

(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act, and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of, such individual under any of the programs authorized by the National Aeronautics and Space Act of 1958, the funds for which are authorized pursuant to this Act.

(c)(1) Nothing in this Act shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expressions of individual views or opinions.

Sec. 7. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1973."

The ACTING PRESIDENT pro tempore. Debate on this bill is under a time limitation of 2 hours, and 1 hour on any amendment, with the exception of an amendment by the Senator from Massachusetts (Mr. Brooke), on which there is a limitation of 2 hours, and an amendment by the Senator from Minnesota (Mr. Mondale), on which there is a limitation of 3 hours, and 30 minutes on any amendment to an amendment, debatable motion, or appeal.

Who yields time?

PRIVILEGE OF THE FLOOR

Mr. CANNON. Mr. President, I ask unanimous consent that the chief counsel of the committee, Mr. James J. Gehrig, be permitted the privilege of the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CANNON. I yield myself 30 minutes.

Mr. President, we have before the Senate H.R. 14070, to authorize appropriations to the National Aeronautics and Space Administration for fiscal year 1973 for research development, construction of facilities, research and program management, and for other purposes.

At this time I should like to compliment the distinguished chairman of the committee, the senior Senator from New Mexico (Mr. Anderson), for his most able leadership in guiding the committee during the hearings and its deliberations on this bill. I also commend the committee's ranking minority member, the Senator from Nebraska (Mr. Curtis), for his fine assistance and support to the chairman during the committee's work on this authorization bill.

This is the 15th annual budget of the National Aeronautics and Space Administration. The initial authorization request for fiscal year 1973 was $3,379,000,000, of which $2,600,900,000 was for research and development, $77,300,000 was for construction of facilities, and $700,800,000 was for research and program management. However, a budget amendment was submitted on March 20, 1972, increasing the research and program management request by $28,650,000 to accommodate the fiscal year 1973 impact of the Federal pay increase which was effective January 1, 1972. Therefore, the amended request reviewed by the committee was $3,407,650,000.

The committee is recommending $3,420,150,000 for NASA for fiscal year 1973, an increase of $12.5 million above the amended request. The House approved $3,428,950,000 in its action on H.R. 14070, an amount $8.8 million above that recommended by your committee. However, the House did not act upon the pay increase amendment and, therefore, excluding the effect of the pay raise the House bill actually exceeds the recommendations of your committee by $37,450,000.

The authorization recommended for fiscal year 1973, $3,420,150,000, is $35,915,000 above the authorization for fiscal year 1972 which essentially continues the same reduced level of operation for this Agency established 2 years ago. Most significant, however, is that testimony before the committee makes it clear that NASA management has made a critical examination of its plans and programs, not only for fiscal year 1973, but for the impact which these programs will have upon subsequent years funding requirements. The Administrator has stated that the Agency is prepared to conduct its operations for the next several years at about the level recommended in this bill. This does not mean that the program has become stagnant. Rather, it is indicative of realistic planning so that projects initiated as a part of a balanced and viable space and aeronautics program have a reasonable chance of being funded to completion and that as current projects are completed there will be an opportunity for some new starts. In addition, this policy will maintain a base from which ongoing programs can be accelerated or new programs initiated if such actions are desired in the national interest. This long-range program is in contrast to last year when there was concern that some programs being recommended by NASA might result in unacceptably large annual peak funding requirements, or the undesirable alternatives of severe program imbalance, uneconomical cutbacks or cancellation of approved projects. The funding estimates for the immediate future are presented on page 90 of the report accompanying this bill.

RESEARCH AND DEVELOPMENT

H.R. 14070 contains 12 research and development programs totaling $2,613,400,000. These programs support manned and unmanned space flight projects, space science and technology experiments, launch vehicle development, space applications, aeronautical and space research and technology tasks, and auxiliary activities such as spacecraft tracking and data acquisition. The recommendation of $2,613,400,000 for research and development is $12.5 million above the NASA budget request; $37,450,000 below the House bill for this appropriation category. I will discuss these differences as I proceed with my summary of the bill.

Your committee is recommending $128,700,000 for the Apollo program for fiscal year 1973. For all practical purposes this will conclude the funding for this highly successful manned space flight endeavor. As you know, Mr. President, the Nation has accomplished five successful lunar landing missions, the latest, Apollo 16, being completed on April 27. The Apollo 16 astronauts spent some 20 hours on lunar surface exploration activities and returned with about 215 pounds of lunar surface sample material, the largest returned to date. There is one remaining mission, Apollo 17, scheduled to be flown in December of this year, and this will conclude our lunar exploration activities for the foreseeable future.

The second research and development program in this bill, space flight operations, is recommended at the level of the NASA budget request, $1,094,200,000. This includes $540,500,000 for the Skylab flight project, $200 million for the fiscal year 1973 increment for the space shuttle development, $305,200,000 for funding those activities directly associated with maintaining the capability to launch the Saturn V and Saturn IB launch vehicles and support the Apollo spacecraft, the lunar module, and the Skylab missions, $25,500,000 for studies of space life sciences, and $23 million for studies related to space systems and payloads. Current studies on a space station initiated in prior years will be completed and no further work on this item is contemplated at this time. The Skylab is the Nation's first earth orbital laboratory and is now scheduled for launch by a Saturn V launch vehicle in April 1973. The launch of the laboratory will be followed by three visits by three-man astronaut teams launched with the Saturn IB launch vehicle in Apollo spacecraft. The initial visit is scheduled at 28 days with the following visits to be extended to 56 days each. This project is designed to conducting a variety of experiments involving solar astronomy, earth resources measurements, and biomedical engineering.

The space shuttle, for which $200 million is recommended in fiscal year 1973, has been discussed extensively in conjunction with the two previous NASA authorization requests. This project involves the development of a reusable earth orbital transportation system designed to reduce substantially the cost of space flight operations and provide a great deal of flexibility in these operations which is not now possible with the current family of expendable launch vehicles. Following extensive conceptual, feasibility, technical and cost trade-off studies, and a statement by the President on January 5, 1972, announcing his approval of this undertaking, NASA recently announced the selection of the configuration for development. This consists of a twin solid rocket motor booster which will be recovered after the boost stage burnout, refurbished and reused, and a reusable orbital vehicle, with a separate expendable H_2/O_2 fuel tank, which will be returned to earth and reused for up to 100 flights. This configuration is quite different from the fully reusable two-stage system, incorporating a flyback booster, which had received a great deal of study at the time we presented the bill last year. However, it was determined that the fully reusable configuration, particularly the flyback booster, involved extremely high research and development costs and a higher degree of technical risk which might result in cost overruns to solve the technical problems encountered during development. The selected configuration is estimated to cost $5.15 billion through the research, development, test and evaluation phase including the first manned orbital test flight in 1978. This cost estimate is less than half of the estimated cost of the fully reusable system. The economics of this decision, as well as the economics of the shuttle itself, have been studied by the economic analysis firm of Mathematica, Inc., and these studies show conclusively that this is an economically worthwhile project. A summary of the findings of Mathematica, Inc., is included in the hearings on the bill. Aside from the economic aspect, I believe that the significant factor involved here is that the development of this system will place the Nation in a leadership role in space in the future and in so doing will provide a focus for the continuing development of our national technological base which is essential to maintaining our highly productive society.

Mr. President, I may add that I have prepared a table which will be set up in the back of the Chamber, for Senators to examine. It shows the cost and the favorable economic balance from use of the space shuttle with respect to programs projected for the future.

I have just mentioned that the space shuttle is designed to provide an economical and flexible launch vehicle system for space operations in the future. I should like to emphasize that this capability applies not only to NASA, but to the Department of Defense and the commercial users such as the Communications Satellite Corp., and other private ventures which may require transportation services as space opportunities are exploited. The committee has been very much impressed with the coordination between the NASA and the Department of Defense in the development of the shuttle configuration to assure that it would meet the needs of these agencies, the principal users at this time. This is particularly of interest, I believe, because in the past we have seen NASA developing a family of launch vehicles for its missions and the Department of Defense similarly developing a family of vehicles for its purposes. Yet the objective is the same, that is, that of placing and supporting payloads in space as economically as possible. The committee heard testimony from Dr. John Foster, Jr., Director of Defense Research and Engineering, and from Dr. Robert Seamans, Secretary of the Air Force, both of whom strongly endorse the development of the shuttle, agree that the selected configuration will meet the Department of Defense needs and that it is appropriate the development program and the funding be the primary responsibility of NASA. This approach simplifies the financial and management processes and eliminates duplication of effort. Also, through written agreement NASA and the DOD have provided for full cooperation in the space shuttle development program with DOD representation on the configuration and facility selection boards which assure that the end product will be fully usable by the Department of Defense. This is not to say at all that the shuttle is or should be a DOD or Air Force vehicle. It merely says that the committee believes that the development of this advanced space transportation system is being properly approached in the best interests of the Nation and that procedures exist to assure that one vehicle will be able to properly serve the needs of all users.

Your committee, Mr. President, is recommending $1,500,000 for the advanced missions program for fiscal year 1973, the same level approved for fiscal year 1972. It is also the same amount requested by the administration and approved by the House. This funding will support studies of concepts and suggested activities which are later evaluated for their contribution and/or relationship to future space missions.

The committee is recommending $156,600,000, an amount identical with the NASA request for the physics and astronomy program. This amount is $4 million above that approved by the House in H.R. 14070. This program supports research in space physics and astronomy, utilizing solar and astronomical observatory spacecraft, less complex Explorer-type spacecraft, sounding rockets, balloons and other instrumented devices with which to measure the phenomena in space. The fiscal year 1973 amount recommended by the committee is $46,500,000 above the fiscal year 1972 operating plan. The increase is principally due to the fact that the high energy astronomical observatory project, approved in previous years, is now entering the hardware phase and, therefore, requires a substantial increase in funding. The objective of this project has been strongly endorsed by the scientific community as one of the most important areas of space science to be investigated. The House cut $4 million from this project. The Committee did not concur with this action because of the current status of the project, and others, hardware development and the fact that evidence indicates that other projects have experienced serious difficulties due to understanding at this particular point in the spacecraft development schedule.

The lunar and planetary exploration program, a program whose objective is enhancing our knowledge of interplanetary space and the other planets in the solar system, includes projects such as the Mariner-Mars 1971 spacecraft which is currently orbiting and has taken many pictures of that planet; the Venus-Mercury 1973 swingby mission which will give additional data on the planet Venus and the initial look at the planet Mercury; the 1975 Viking orbiter-lander mission which will produce a more detailed examination of the planet Mars with its scientific instrument lander package; the Pioneer F and G missions with F—designated Pioneer 10 after launch—launched in March 1972, to provide initial data on the planet Jupiter from a fly-by mission; and, the Helios cooperative project with the Federal Republic of Germany. Last year, the committee recommended a budget cut in and further study by NASA of a proposed outer planets mission, requiring the development of a new spacecraft, known as the "Grand Tour." This would have been a very expensive undertaking and it did not have unanimous support from the scientific community with respect to the priority it held among such projects under existing budgetary constraints. As a result, the "Grand Tour" concept—essentially a 3-planet swingby—has been dropped in favor of separate, smaller spacecraft missions to selected planets at much less cost. This approach is endorsed by the Space Science Board. Major funding in the lunar and planetary program this year is for the Viking spacecraft project which is well along in hardware development in order to meet the 1975 Mars launch opportunity.

The committee is recommending $191,600,000 for the launch vehicle procurement program, the same amount requested by NASA and approved by the House. This represents an increase of $40,300,000 above the operating plan for fiscal year 1972. However, this program funds the procurement and launch of the launch vehicles for all of the unmanned spacecraft programs and, therefore, is directly impacted by the number of these launches. The major increase this year is for procurement of the Titan 3/Centaur and the Titan 3C launch vehicles to support the HEAO, Helios, and Viking missions just referred to and applications technology satellites F and G which are funded under the space applications program.

The committee is recommending $207,200,000 for the space applications program, an amount $12,500,000 above the budget request and an amount $8.5 million above that approved by the House. This program supports those unmanned spacecraft activities which are oriented to utilizing space as a platform to provide data with which to enhance our everyday activities such as weather prediction, communications, earth resources evaluations and utilization, and similar activities. It is through this program, notably in the area of weather and communications satellites, that we have identified and developed the technology for some of the most immediate benefits of space technology to the Nation as a whole, and the program is designed to improve our existing technology in these areas as well as experiment with new technology, particularly in the earth resources area to identify additional benefits which can be realized from such space-based platforms.

The committee believes that such applications should receive priority attention by NASA and it is greatly encouraged by the recent elevation of this program area to the management level of Associate Administrator. In view of the proven contributions of the applications program to date, the committee was at a loss to understand why the NASA fiscal year 1973 budget request to the Office of Management and Budget for this program was reduced and in the absence of any sound reasons therefor, the committee has reinstated $12.5 million of the OMB reduction—$7.5 million to offset a programwide decrease and $5 million for the initiation of a small applications technology satellite. The House, in its action on the bill, had previously added $4 million for accelerating studies for an earth observatory satellite project; however, since testimony by NASA witnesses indicated that the other two items just mentioned had a higher priority, the committee did not agree with this House addition.

NASA requested $163,440,000 for its aeronautical research and technology program, an increase of $53,440,000, or about 50 percent, above the operating plan for fiscal year 1972. The aeronautical research activity of NASA was inherited from the National Advisory Committee on Aeronautics when NASA was formed in 1958. NACA and NASA have a splendid history in aeronautical research developments and the conduct of advanced research in aeronautics has been responsible for the leadership which this country currently enjoys in aviation technology.

However, this is a highly competitive field and we find European nations, as well as the U.S.S.R., pressing to compete in the world aircraft market. Therefore, the committee is quite pleased with the increasing attention given this program area as reflected by the major increase in funding over the previous year. In its deliberations on this bill, the committee discussed at length the $41 million added by the House to the NASA request of $9 million for development of retrofit kits for existing JT3D engines used on DC-8 and B-707 aircraft, and for JT8D engines used on DC-9, B-727 and B-737 aircraft, with the objective of reducing the noise generated by these aircraft. This proposal was a very late addition to the NASA budget. The committee concluded that certain aspects of this matter had not been studied fully and that additional information should be developed. Therefore, the committee did not agree with the House addition of $41 million to accelerate this program at this time. The House further approved a $7,450,000 addition to this program for increasing the effort on several activities related to aviation safety such as clear air turbulence detection and collision avoidance systems. The committee noted that NASA does have work underway in this area and that certain of these activities are the primary responsibility of the Department of Transportation. Further, it was not clear from NASA's standpoint at least, that these many activities were not now adequately funded and accordingly did not concur with the House addition.

Mr. President, I may say that since the committee concluded the markup on this bill, we have made further study in this area. Later on I will propose a committee amendment which will change the committee's action to some degree, but not as high as the House proposal.

The committee is recommending $64,760,000 for the space research and technology program, which is identical to the House approved amount and to the NASA budget request. This program level is approximately $10 million below the fiscal year 1972 operating plan, part of which is attributable to completion of selected research tasks which were being performed in support of the space shuttle program.

H.R. 14070 contains $21,100,000 for the nuclear power and propulsion program, which is almost $50 million below the authorization recommended to the Senate for fiscal year 1972. The significant action reflected in this reduction is the termination of the 75,000-pound thrust NERVA nuclear rocket engine development program after the expenditure of some $1.4 billion. In lieu thereof, NASA proposes to study the definition of a 20,000-pound thrust nuclear rocket engine which would be evaluated against other potential propulsion systems in this thrust range which could support long duration, high energy requirement planetary missions in the 1980 time frame. The committee believes it is a mistake to terminate the NERVA engine program, particularly when it has been an extremely successful technology program and would provide a very efficient, high thrust space propulsion capability and thereby keep the Nation in the forefront of space technology. It appears to the committee that there was a great deal of inconsistency in the planning activities surrounding this decision inasmuch as the President's Space Task Group had endorsed this development as a vital part of an overall space transportation system needed by the country. Now this is being terminated. Concurrently, a new development is being considered which, although it will be able to utilize some of the NERVA technology, it is reasonably clear that the technical teams and a great deal of effort expended since the NERVA was placed in development during fiscal year 1970 will not be utilized. Your committee believes that the planning process must be improved to avoid these expensive false starts in the future.

The committee is recommending $259,100,000 for the tracking and data acquisition program for fiscal year 1973. This program provides funding for a worldwide tracking and communications network which controls all of the NASA space flight missions, whether manned or unmanned, and provides for the acquisition of scientific and applications data which is produced by the spacecraft. Network performance is absolutely essential to the success of our many manned and unmanned projects, and its record is outstanding. As the Apollo lunar program draws to a close, planning is underway to effect consolidations within the network to provide the most efficient use of the equipment, reduce operating costs and to reorient the network to most effectively and efficiently support the missions forecast for the future.

NASA requested $4 million for its technology utilization program for fiscal year 1973. The committee is recommending this amount for this program which is designed to provide for the identification and dissemination of space technology to the nonaerospace community. The committee believes that this program is being more effectively implemented than it was in previous years and that an effective program can be conducted at the requested budget level. Consequently, the committee did not concur with the House addition of $1.5 million for this program.

CONSTRUCTION OF FACILITIES

The committee, in H.R. 14070, is recommending an authorization of $77.3 million for the NASA construction of facilities program for fiscal year 1973. This amount coincides with the NASA request and with that previously approved by the House in its action on the floor.

Of the amount recommended, $69.3 million is for actual construction and construction-related work and the remaining $8 million is for facility planning and design activities. I should like to stress that approximately 60 percent of the funds recommended for construction work would be used for the rehabilitation and modification of existing facilities in order to offset the effect of technological obsolescence and/or deterioration resulting from age and extensive utilization of the NASA capital plant.

This work is necessary to maintain the facilities in a usable condition, to upgrade the existing plant to accommodate advanced research efforts reflecting technology advancements since the facilities were first placed in service, and to modify facilities to support new endeavors. For example, one of the projects at the Langley Research Center is to rehabilitate a wind tunnel that has provided 40 years of aeronautical research service. On the other hand, another of the projects recommended will provide for the modification of newer facilities at the Kennedy Space Center to support the Viking unmanned mission to Mars in 1975. In this group of projects I am presently discussing there is only one which I would consider to be a new building and that is a small warehouse at Wallops Station to replace a completely inadequate building which has more than outlived its expected useful life.

The remaining 40 percent of the construction projects in the bill, estimated to cost $27.9 million, are necessary to conduct the research tasks, development, fabrication, assembly, and test activities associated with the space shuttle program. Here again, however, each one of these projects involves the modification of, addition to, or conversion of existing facilities to serve this new need which maximizes the use of the current investment in facilities thereby minimizing expenditures for new facilities for this advanced development program.

Last year, the committee expressed its dissatisfaction with certain aspects of NASA's facilities management program and requested that the agency make a critical review of this part of its business. Such a study was completed in January 1972, and one of the recommendations was consolidation into the construction of facilities section of the bill the major portion of those facilities needs which heretofore had been accomplished to an undesirable degree, in the committee's opinion, under both the "Research and development" and the "Research and program management" appropriations. Presentation of these types of projects in the construction of facilities section, therefore, has the effect of increasing the amount of funds budgeted under C. of F. while more fully identifying facilities projects thereby providing better visibility and control. I mention this to my colleagues so that there will be a better appreciation for the number of projects and the amounts recommended for authorization in this section of the bill this year.

RESEARCH AND PROGRAM MANAGEMENT

The committee is recommending $729,450,000 for the Research and Program Management appropriations category for fiscal year 1973. This category provides for the salaries of NASA employees doing research in NASA laboratories and/or responsible for the management of the research and development programs I have been discussing, or engaged in Agency support functions. It also provides the funding for maintenace, utility services and the many other supporting services necessary for the operation of the several NASA installations. Approximately 70 percent of this appropriation category is allocated to salaries of direct NASA employees—over 60 percent of whom are scientists, engineers and technicians. Personnel and related costs for fiscal year 1973 are estimated at $572,237,000 and your committee, as in the past 2 years, is recommending a provision in section 1(c) of the bill and a complementary provision in section 4 (b) of the bill which would limit NASA's expenditures for personnel and related costs to this amount. The House version of H.R. 14070 does not include such a limitation.

My colleagues will recall that in the opening paragraphs of this statement I mentioned that the House had not acted upon an amendment to the fiscal year 1973 budget submission which requested an additional $28,650,000 for NASA to cover the fiscal year 1973 impact of the Federal salary increase which became effective January 1, 1972. The amount of the budget amendment, $28,650,000, and the fact that the House did not act upon the amendment, accounts for the difference between the amount approved by the House for this appropriation category, $700,800,000, and the amount recommended by your committee, $729,450,000.

LEGISLATIVE CHANGES

The committee is recommending three legislative amendments to the NASA fiscal year 1973 request. The first amendment would modify section 1(b), construction of facilities, item 13, to identify as subline items the individual facilities recommended for the space shuttle program in this bill. This action was taken consistent with the committee's position that major projects should be so identified. The second and third amendments I have just touched on inasmuch as they modify section 1(c) and add a subsection 4(b) to establish the limitation of $572,237,000 on the amount available for personnel and related costs.

CONCLUDING REMARKS

Mr. President, I believe this is a good bill. I believe it is well balanced between space and aeronautical activities and between long-range and short-range projects. Most significant, I believe, is that, as I indicated in my opening remarks, it provides a sound base for future endeavors in space and aeronautics and, yet, it is so structured that commitment to any one single project will not create an undesirable imbalance in the total program or necessitate peak funding inputs which may be unacceptably large. It also provides the flexibility to accelerate ongoing projects or initiate new undertakings in the event these courses of action may be desired. I believe it is essential that we, as a nation, continue to advance the state of our science and technology and, I think that this program for NASA for fiscal year 1973 will contribute to this advancement. Therefore, I urge my colleagues to support H.R. 14070 as presented here today.

Mr. President, I yield such time to the distinguished chairman of the committee as he may desire.

Mr. ANDERSON. I thank the Senator for yielding.

Mr. President, as chairman of the Senate Committee on Aeronautical and Space Sciences, I have presided for the last time over the hearings and markup of the annual NASA authorization bill. The resulting legislation reported to the

Senate as H.R. 14070, is a good bill and should pass.

Mr. President, all committee members worked diligently on this legislation. I commend the members of the committee for the great interest they have taken in the bill and the fine support and cooperation they have given me. In particular, I would like to commend the ranking minority Member, the Senator from Nebraska (Mr. CURTIS) for his effort and support. Also, I would like to thank the Senator from Nevada (Mr. CANNON), the floor manager of the bill, for the time he has devoted to understanding the major issues and for his support during the committee's consideration of this bill.

Some of the members have been on the committee for a long time, four of us since the committee was first formed in 1958, others since the late fifties or early sixties. However, I think it is appropriate to mention that the less senior members of the committee have had a good deal to say about the committee's recommendations on this bill and I am deeply grateful to them for the great interest they have shown and the time they have spent on it.

Mr. President, I have chaired the committee through 10 NASA authorization bills. I know of no prior authorization bill on which the committee worked harder or on which the committee has made a better record than will be found in this year's hearings. I think the members of the committee have done an outstanding job, and I urge the Senate to pass the bill recommended by the committee.

Mr. CURTIS. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, I commend the distinguished Senator from Nevada (Mr. CANNON) for his very able explanation of the purposes served by H.R. 14070, the NASA authorization for fiscal year 1973. Under the leadership of the distinguished senior Senator from New Mexico (Mr. ANDERSON) the Committee on Aeronautical and Space Sciences has reported a bill which, I believe, deserves the support of the entire Senate.

There are two salient features of the NASA authorization for fiscal year 1973:

First, the NASA budget has been stabilized.

Second, we now have a commitment from the President to proceed with the development of the space shuttle transportation system—a system that will save the taxpayers and space users billions of dollars.

With all the demands being made upon the National Treasury, it is inevitable that each Federal program would come under intense scrutiny. This has certainly been the case where the space program is concerned.

The space program as planned last year would have required funding levels in future years of about $4 billion. The budget as it is being presented to the Senate this year is substantially below that figure. Moreover, it has run-out costs that are lower than was thought possible last year. In part, this can be attributed to greatly reduced developmental costs for the space shuttle, which I will discuss briefly elsewhere in this statement.

As a matters now stand, the run-out costs for the space program are $3.37 billion in fiscal year 1974, $3.3 billion in fiscal year 1975, and $3.2 billion in fiscal year 1976, and $3.1 billion in fiscal year 1977. These projected run-out costs are measured in 1972 dollars and do not contemplate any new starts.

NASA's budget of $3.4 billion, while a substantial amount of money, actually only represents 1.4 percent of the total Federal budget—a percentage that is small but productive.

I would remind my colleagues that in 1966 the NASA budget was almost $6 billion.

Since the Senate last considered the NASA authorization, there have been some dramatic changes in the space shuttle program. In what may come to be considered as one of the great engineering feats of this decade, the overall development costs of the shuttle have been reduced from over $12 billion to a range of $5.15 to $6.15 billion. This cost reduction has been accomplished without sacrificing any of the shuttle's capabilities.

The space shuttle, during the 12 years that it will be in use from 1978 to 1990, will save the American taxpayers and space users an estimated minimum of $5 billion with a relatively low traffic model. A bigger traffic model could provide savings up to $16 billion.

How do these savings occur?

With the space shuttle, payloads require less redundancy, can be simpler, and in some instances can be repaired. As the Senators well know, when we launch a satellite with our currently existing rockets, if there is a failure, it is total. Accordingly, very stringent quality controls must be applied to assure a high degree of reliability.

With the shuttle, more off-the-shelf items can be used, and less reliability is required, because we have the option of retrieval and repair.

For those who doubt the savings that will result from an operational space shuttle, I ask them to ponder the following question:

How many airlines throw away their airplanes after one flight?

The economics of the space shuttle have been the subject of a study by the Advanced Technological Economics Group at Mathematica, Inc., of Princeton, N.J. In essence, it finds the space shuttle to be economical with as few as 30 flights per year—a level of activity that is reasonable to assume for historic reasons.

Our Nation faces a growing energy crisis. We are running out of fossil fuels. Even the amount of fissionable material is finite.

If man is to survive on earth, he must find sources of relatively cheap energy that are socially acceptable. Because of these considerations, the President issued an energy message last June 4 to mobilize the Federal Government in this area. As part of this effort, NASA and the National Science Foundation were directed to study the use of solar energy and solar cells.

Reports to the President on energy are due presently.

On page 48 of the Senate report accompanying H.R. 14070, there are four paragraphs concerning solar energy. These four paragraphs are designed to convey a sense of urgency to NASA on the energy problem—a problem of growing and vital concern to our fellow citizens.

During its hearings on the NASA authorization for fiscal year 1973, the Committee on Aeronautical and Space Sciences heard testimony on the importance of high technology exports to America's balance of trade.

Exports of high technological wares amount to about $24 billion annually with aerospace industries contributing some $4 billion. Over the years, NASA's research has provided the cutting edge for technology which in part has led to America's preeminent position in aerospace markets.

According to the latest figures published by the National Science Foundation, America spent a total of $26.8 billion in 1971 for R. & D. The estimated figure for 1972 is $28 billion. During the 1967–69 period, the Nation spent $55 per capita annually for research and development. These are impressive figures. It means that America has been spending nearly double the per capita amount for R. & D. of any other country in the free world.

While these figures indicate a substantial R. & D. effort in absolute terms, nevertheless, there are other figures that provide concern for the future. I refer to the increasing sums being spent by some of our trading partners in an effort to overtake us in high technology production. For example, in the 1967–69 period West Germany had an average annual R. & D. growth of 16 percent. Japan had an even greater annual growth rate in R. & D. amounting to 33 percent. The corresponding figure for the United States was 5 percent. It is evident, that should this trend continue, the United States can expect increasing competition, and probably substantial losses, in high technology markets.

In the field of aviation, this competition is now a reality. Two wide-bodied aircraft for high-density lines are near the point of entering the marketplace. Both incorporate advanced engine technology. First, a European consortium of aircraft companies has taken the lead in developing so-called airbuses. I refer to the new A–300B airbus developed by French, German, Dutch, British, and Spanish companies.

This aircraft is a 280-passenger, twin-engine plane for medium distance routes. Admittedly, it is tailored to European needs. If, as some authorities believe, the A–300B airbus has application to American air routes, we will find Europe, for the first time since World War II, a serious challenger in commercial aviation. We have no equivalent aircraft for sale or under development.

Second, another short-haul aircraft under development in Europe is France's Mercure in cooperation with Italian, Belgian, Spanish, and Canadian partners. It is a short-haul, 150-passenger, twin-engined aircraft. Backers of the Mercure claim it will show a profit with a load factor of as little as 22 percent. Or stated another way, the Mercure's seat-mile costs are claimed to be at least 10 percent below those of any other airliner on short hops. While the global market for this aircraft is less certain than the A-300B, here again we have no equivalent aircraft.

In view of the increased competition from abroad in aviation, I am gratified to see that NASA has substantially increased its budget requests for aeronautical research and development. Further evidence of greater emphasis on aeronautics at NASA is provided by the fact that NASA now has an Office of Aeronautics and Space Technology.

At our best, we Americans are creative, energetic, and optimistic.

These qualities enabled us to build a strong Nation with vast resources—a Nation that put man on the moon in less than a decade.

They should enable us to compete in a world ever more competitive.

They should provide wherewithal for meeting the changing needs and demands of our society.

They should buttress our confidence that a better future is in store for all mankind.

The authorization we are considering today represents one of the few areas where Federal money is spent for programs that are creative, energetic, and optimistic. As such, it is symbolic of the best in us. I urge my colleagues to join in supporting H.R. 14070.

THE PRESIDING OFFICER. Who yields time?

Mr. CURTIS. I yield 10 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I rise merely to compliment the chairman of the committee (Mr. ANDERSON) and the Senator from Nevada (Mr. CANNON), and the ranking Republican member of the committee, the Senator from Nebraska (Mr. CURTIS). It is my pleasure to serve as a member of this committee, and I can tell the Senate that I have never served on a committee that gives such detailed attention to the requests of its agencies.

I also wish to recognize the wonderful job Mr. James Gehrig does in connection with the staff work. It is a pleasure to serve with him, and I look forward to serving with him for many years to come.

My one reaction to Dr. Fletcher's appearance this year is that we have finally achieved stability in the space program. I think the days of asking for $8 billion one year, $4 billion the next year, and $2 billion the next are over, and I think we can look down the long road now and see developments taking place in a logical order, which will result in a great saving of money to the United States.

I am also convinced that our expenditures in NASA are very wise. I believe that in years to come we will find an increasing return on this investment to the American people in the form of better ways of living and safer ways of living.

So, Mr. President, I am very glad to support the Senate version of H.R. 14070, and I hope for quick and unanimous passage.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 12, lines 17 and 18, strike out "$163,440,000" and insert in lieu thereof "$187,440,000".

Mr. CANNON. I yield myself 5 minutes.

Mr. President, the amendment to the bill which I have sent to the desk is a committee amendment agreed to by the members of the committee. The effect of this amendment would be to increase NASA's aeronautical research and technology program from $163,440,000 to $187,440,000, an increase of $24 million. $21 million is to be used for expedited effort on a project to design and demonstrate certifiable retrofit modifications to JT3D and JT8D engines and nacelles used on slim-bodied aircraft currently in service in the civil air fleet to reduce the noise generated by these aircraft. The other $3 million is to be used to increase NASA's activities in the area of aviation safety with priority attention to be given to development of aircraft collision avoidance systems with some lesser emphasis, not to exceed $700,000, for research on trailing vortex and clear air turbulence. No part of the $3 million addition in this amendment is to be used for work on the new FAA microwave landing system.

Mr. President, as I indicated in my opening statement on the bill, the committee discussed both of these matters at great length during the markup session because of the committee's long standing belief that NASA should increase its efforts in aeronautical research and technology and because of the fact that the House in its action on H.R. 14070 had increased the aeronautical research and technology program by $48,450,000 of which $41 million was for the JT3D and JT8D engine retrofit project and $7,450,000 was for activities related to aviation safety. At that time the committee considered that additional information should be developed through those agencies; namely, the Department of Transportation and NASA, who have responsibility in the noise abatement and aeronautical research area. Such information has been received and evaluated and, accordingly, the committee believes that the addiction of $21 million to the original engine retrofit program request of $9 million, making a total of $30 million available for the new front fan retrofit program to reduce aircraft noise, will provide sufficient funding to initiate and move this program forward on a well managed basis. The committee is most conscious of public concern over aircraft noise being generated by the civil air operations at the many domestic airports. However, its study of the matter indicated, and still does indicate, that there is a considerable amount of coordination, as well as hardware engineering, to be done in order to make this a successful and meaningful program. It is for this reason that the committee in this amendment does not agree completely with the House recommendation to add $41 million in fiscal year 1973 for this noise reduction effort.

Aviation safety continues to be a matter of paramount importance to the committee and there is agreement amongst our members, based upon the latest information available, that increased NASA effort in this area would expedite the availability of meaningful devices which could be used by the certificated air carriers and general aviation aircraft, both of which are necessary if an effective collision avoidance system is to be developed and placed in service in the immediate future. This is a real need and all too often one reads a newspaper account of another near-miss between a commercial carrier and a general aviation aircraft. In fact, there was one just the other day over northwest Virginia.

Mr. President, it is for the foregoing reasons that the committee recommends a further increase of $21 million to the engine retrofit noise reduction project and an increase of $3 million for the two areas of aviation safety which I have discussed.

NOISE

Mr. President, I want to make clear to the Senate that the additional $21 million authorization we seek to add to the aircraft noise abatement program will not result in increasing total expenditures for the retrofit program; rather it will simply speedup the current time table for the development of flight and ground test hardware. This speedup will result in savings of more than 1 year and will make available to the FAA, the agency responsible for regulating aircraft noise, data which will, for the first time indicate the greatest possible noise reduction benefits and their cost which can be achieved with present technology.

The FAA is currently contemplating issuing an advance notice of proposed rulemaking requiring retrofit for noise suppression of the current U.S. fleet of narrow-bodied jets.

It is important that the results of the NASA program to develop a quieter JT-3 and JT-8 engine be available to the FAA prior to issuing a final rule.

Mr. President, the NASA program for research toward retrofitting our older jets is a relatively new and important development. Basically, the NASA retrofit program is based on a redesigned enlarged fan which will significantly increase the bypass ratio of the JT-3 and JT-8 engines, resulting in better performance on the one hand and quieter operations on the other. Together with the program now underway at the FAA which is seeking to quiet present engines by acoustical treatment of the engine nacelles, this effort will give the United States a thorough and complete understanding of what present technology can do to reduce aircraft noise generated by the narrow-bodied fleet.

In the committee's view, one of the biggest problems confronting civil aviation today is that of aircraft noise, an environmental nightmare which has virtually halted all new airport development in the United States today.

I need not remind my colleagues that one of the greatest sources of irritation in our present U.S. environment is excess aircraft noise over our cities and around our airports. Therefore, it is vitally important to speed up the NASA retrofit program so that all technological and economic data will be available to aid the regulatory agency in determining the standards which must be met in any program requiring engine retrofitting of today's jet fleet.

AVIATION SAFETY

Mr. President, the Subcommittee on Aviation of the Senate Commerce Committee, which I chair, has recently held hearings on the problem of midair collision and the need to develop airborne anticollision systems which will provide a greater measure of safety to millions of Americans who use our air transport system. In the coming decade the midair collision problem will grow as the number of planes in the U.S. civil fleet is expected to increase to more than 200,000. Therefore, it is imperative that work be speeded up in developing practical low-cost collision avoidance systems. In addition the committee proposes that of the $3 million additional authorization for aviation safety, not more than $700,000 should be authorized for continuing studies on the problems of clear air turbulence, another significant civil aviation problem particularly related to our jet powered aircraft which fly at high altitudes.

Mr. President, I urge the adoption of the amendment.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. CURTIS. I thank my distinguished colleague. I merely want to state that I concur in this amendment, and urge its adoption.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. CANNON. I yield.

Mr. GOLDWATER. Mr. President, I rise in support of the amendment offered by the Senator from Nevada (Mr. CANNON).

This amendment is aimed at restoring a sizable portion of the funds to the NASA budget which had been included in the House-passed authorization in the fields of aircraft noise abatement and aviation safety. The House bill added $41 million earmarked under NASA's aeronautical research and technology program for noise reduction and $7.45 million allotted under the same line item to aviation safety purposes. The total increase in authorization which is contained in the pending amendment would restore $24 million of this amount, including $21 million which, as I shall explain, is not really additional funds at all but merely a shift of funds from future years to 1973.

Mr. President, there are probably very few programs which the general public would like to see moved along as swiftly as the goal of jet aircraft noise reduction. The problem of noise is affecting people nationwide from every income group and is considered by many to be an intolerable condition. This is a general impression which many citizens, including a great many in my own State, have right now, without even considering the fact that the total number of air operations, landings, and takeoffs, are predicted to double every decade throughout the rest of this century. Since most airports are too noisy for their neighbors today, you can imagine how this increase in capacity will aggravate the situation unless immediate steps are taken to decrease noise in the future.

Mr. President, there are several ways this problem can be handled, and they are all being considered right now by the joint DOT/NASA Noise Abatement Office which has prepared a 10-year noise abatement plan that is in draft form and is nearly ready for publication. This is responsive to the popularly known CARD Policy Study, which was initiated at the urging of the Senate Committee on Aeronautical and Space Sciences and which concluded that noise reduction is the No. 1 problem facing civil aviation. In my opinion, the most promising effort among the near-term noise reduction programs being planned by this Office is one for which additional funds are provided in the pending amendment, the development and demonstration of modifications to the JT-3D and JT-8D engines now in use on almost 2,000 domestic aircraft and 1,000 foreign airplanes.

In short, the near-term program is aimed at developing ground and in-flight tests of engine modifications on five models of civil aircraft, leading to FAA certification of such modified aircraft with an end result of the maximum possible noise reduction. The idea is to develop and prove the technology required to retrofit, or modify, the entire existing civil fleet of B-707's, B-727's, B-737's, DC-8's, and DC-9's being operated by the U.S. airlines so as to achieve the greatest noise control at a minimum retrofit cost and performance loss to the aircraft.

In the NASA program the jet noise of the engines used on these aircraft will be reduced by increasing their fan size in order to handle more airflow. Thereby the same thrust can be produced at a lower jet velocity and a lower jet noise. Nacelle acoustic treatment will also be used to control fan noise, and although this introduces some thrust loss, increasing the airflow will more than compensate for the added weight of the larger fan and modified nacelles. The modified engines will actually operate more efficiently after retrofit, with increased thrust and lower fuel consumption.

In contrast, an alternative program which the FAA is pursuing with nacelle treatment and jet suppressors results in an overall performance loss to the airplane.

Now, the expedited program which the House recommended could lead to an initial retrofitted aircraft on line by January of 1976. In fact, Mr. Roy Jackson, Associate Administrator of NASA, testified on February 17 that:

> An all-out program—completely funded and with no constraints on moving ahead could result in operational aircraft with retrofitted engines being in service in three years, and even as early as 2½ years, from time the go-ahead was given.

This would offer the prospect of beginning retrofitting by January of 1975 or certainly by 1 year afterward at the very latest.

On the other hand, the record indicates that the program reported by the Senate committee will lead to a time frame of January 1977 at the best, with a high chance of slippage even from that date. One factor which must be fully recognized is that the baseline program will result in flight tests which are not completed until more than a year after the related FAA noise rule would be issued. Obviously, this might cause a delay in aircraft orders until the performance of the new fan modified engines could be demonstrated in actual flight, which might cause a slip in the first delivery of a retrofitted aircraft.

In between the two programs is an alternative version of the expedited schedule which provides for the earliest possible flight tests of two of the five aircraft involved in the retrofit program. The Boeing 727 is one of these because it is the aircraft for which a possible FAA rule for retrofit is planned to be issued first. The DC-8 also would get expedited flight tests in order to balance the program between Boeing and Douglas and between the JT8D and the JT3D. This approach puts the program in step with the planned FAA regulatory procedures and should result in the same flight test dates for the two aircraft involved as the House approach. It would require $35 million in fiscal year 1973, $30 million of which is provided in the pending amendment and $5 million of which NASA would have to reprogram from other funds if it determines the program lives up to its full promise.

In summary, the baseline program of $9 million in fiscal year 1973 results in the first delivery of retrofitted aircraft 1 to 2 years later than either of the two expedited programs. What is more, there is every reason to believe that the expedited programs would save money as against the baseline schedule. While the estimated total is now put at the same amount, $130 million, one way or the other, Mr. Jackson of NASA testified that it is generally true that sizable savings can be accomplished on a research program whenever its timespan can be compressed.

Mr. President, I should mention that the end result of any one of these retrofitting programs will achieve a dramatic noise reduction in the current aviation fleet. It even would bring jet noise below the existing noise maximums prescribed by Federal air regulation 36 for certifying new models of aircraft. These projected noise levels are based on data already in hand and would bring noise reductions of from 10 to 17 EPN db. I might also mention that the total fleet of the five types of aircraft involved that will be in the domestic inventory in 1980 is 1,570, plus 1,070 foreign airplanes. Not only will there be a tremendous number of these older model aircraft still in use in 1980, when the retrofitting program will be completed, but I would remind my colleagues that these are the type of airplanes which regularly make 12 to 20 landings and take-offs a day, increasing the number of people who are subjected to objectionable noise levels.

There is no question that the retrofit program is realistic. The only question is whether or not we will allow the American public to suffer for 1 to 2 years more than is necessary. I think the answer to that is obvious.

Mr. President, the second area in which the amendment would provide additional funds is air safety, the number two problem identified by the CARD study results. One aspect of this area which is especially critical is the need for making available, for all aircraft flying in this country, a low-cost, reliable collision avoidance system. Literally, this system can be defined as the aircraft equipment needed to derive and display, to the pilot, specific command maneuvers necessary to avoid an airborne collision.

Representatives from NASA, DOD, and the FAA have joined together to form the Interdepartmental Group on Collision Avoidance and Pilot Warning, thhe purpose of which is to establish a close-working relationship between all Government agencies examining this problem. It is my belief NASA requires additional support in this area if it is to pull its weight in this cooperative arrangement. The other agencies have budget allocations of almost $3 million for collision avoidance research and I believe that NASA should be spending a comparable amount on its work in this field.

Mr. President, I might mention that my son, Congressman GOLDWATER, was personally responsible for persuading the House committee to add funds for collision avoidance research, and I salute him for his wisdom. I understand that a rock bottom sum of $2.3 million is to be reserved for this program under the pending amendment and that NASA is encouraged to devote the entire $3 million to it.

In summary, Mr. President, I am pleased to join in support of the pending amendment, which closely fits most of the suggestions I had made in my additional views to the committee report. In the best of all possible worlds, I would like to see progress moving ahead on all the programs which I have discussed in the report on an "as soon as possible" basis, but I am delighted at the large increase in program support which is represented by the pending amendment and believe it will strongly benefit the future of aviation and the public interest.

Mr. TUNNEY. Mr. President, I was most disappointed to learn that the Senate Aeronautical and Space Sciences Committee severely cut back the amount of money approved by the House in H.R. 14070, NASA fiscal year 1973 authorization act for an expedited aircraft retrofit program. I am pleased that the committee has now reached an accommodation with the House in the matter, and has offered an amendment to H.R. 14070 whereby $24 million is added to the committee's authorization for NASA: $21 million for R. & D. on retrofit and $3 million for research in the important area of turbulence, safety, and collision. I fully support this amendment.

With all of its outstanding activities in the area of space exploration, too often we have forgotten that the first "A" in NASA stands for aeronautics. NASA, along with its predecessor agency, the National Advisory Commission for the Advancement of Aeronautics, has long been in the business of advancing aircraft technology.

To my mind, at the present time the most underdeveloped aspect of aircraft technology is the control of aircraft noise.

The statistics are devastating. Despite the fact, according to EPA, that 95 percent of the expenditures of time and money on research to control noise pollution has been spent on the control of aircraft noise, there has been least progress in this field.

Despite the fact that the FAA has had statutory authority to regulate aircraft noise since 1958 and regulations on this subject have existed since 1968, virtually no control of aircraft noise has occurred.

Part 36 of the Federal Aviation regulations applies only to new aircraft, and has resulted in postponing the retirement of the existent fleet. Moreover, decreases in noise emissions of new aircraft by virtue of the regulations is expected to be offset by increases in the daily number of flights.

Clearly, given this inadequate regulatory scheme, there must be a focus on retrofit of the existing fleet if we are to help between 10 and 40 million Americans whose health is endangered by effects of aircraft noise pollution.

Research into the subject of retrofit must be as comprehensive as possible. I would hope that not only reduction in fan and compressor noise be investigated, but also the matter of the high velocity of gas, which I am informed is a principal source of noise in aircraft engines. Further, provisions should be made for such items as thrust reversers, anti-icing or fire prevention, to mention some of the safety equipment which must be incorporated in order to get FAA certification. In these ways, we can be assured that our quiet engines are safe engines.

We must also consider whether, in the long run, it would not be better for safety, for the economy, and also for the industry, to focus on encouraging the replacement of the existent fleet rather than the retrofitting of it. Even so—given the long leadtime and extraordinary expense in building new aircraft—we must devote time and money to the control of noise from planes now flying. Indeed it is estimated that by requiring retrofit modifications to existing aircraft, we will be able to reduce noise by 10 decibels 5 to 10 years sooner than we could by phasing out the older equipment.

In conclusion, let me put this NASA authorization in perspective. We have a dire need for research and coordination of research on all aspects of the control of aircraft noise. We must bring together the separate activities of EPA, the FAA, DOT, the CAB, NASA, and other Federal, State, and local agencies, industry, and the public, to arrive at a comprehensive scheme to eliminate the effects of aircraft and airport noise on the public health and welfare. In addition to defining relationships and goals, we must consider: First, more extensive and rapid application of aircraft engine noise suppression technology; second, employment of noise abatement procedures to aircraft takeoff and landing; third, more flexible use of airspace around airports; fourth, control and limitation of the number of types and times of aircraft operations; fifth, the rezoning of airports so as to provide for compatible land use; and sixth, the economic aspects of various alternatives currently available or possibly available, including their impact on the national transportation system as well as on the public health and welfare.

Two months ago I introduced S. 3342, the Noise Pollution Control Act of 1972. My bill is one of three currently pending in the Congress and as it will be marked up by the Public Works Committee within the next weeks, I am very much involved in decisions as to what arrangements with respect to control of aircraft noise are most responsible, effective, and protective of the public health and welfare.

There has been a vacuum of responsibility in this area for too long. One result of this is the mood of panic generated by a recent California State Supreme Court decision which would permit property owners to file nuisance suits for damage caused by the noise, fumes, and vibrations from airplanes at airports owned by cities and counties. This decision led the Los Angeles city attorney to recommend to the mayor and city council that Los Angeles International Airport be closed down within 30 days unless the airlines and the Federal Government agreed to protect the public against a possible $10 billion in nuisance suits.

The city attorney has now reconsidered his position and is urging remedial legislation at the State level against nuisance actions.

What we must do, at the Federal level, is to order relationships so that never again will it be unclear who has the responsibility and ability to control harmful effects of aircraft and airport noise.

Mr. CRANSTON. Mr. President, I would like to add my support to the amendment to the NASA authorization bill, offered by Senator CANNON on behalf of the Committee on Aeronautical and Space Sciences. The purpose of this amendment is to raise the figure authorized by the Senate for research and development on jet engine noise reduction for fiscal year 1973.

The basic problem is that more and more planes are using our Nation's airports more and more frequently. This means that the noise produced by the existing civilian jet fleet is increasing.

Aircraft noise is a stress which is intense and repetitive. Excessive noise levels affect human health, relaxation, and sleep. The body responds with a variety of hormonal and neurological mechanisms. Dr. Clifford Bragdon, in his book "Noise Pollution: The Unquiet Crisis," cites evidence indicating that migraine headaches, nervous disorders, colitis, and high blood pressure may be associated with noise. Irreversible damage to the ear resulting in a loss of hearing can be caused by noise. The harmful effects of noise on both health and human environment must be stopped. Hundreds of thousands of people should no longer be forced to put up with irritating intrusions into their daily lives.

The densely populated areas around our urban airports are the ones which are suffering the most from noise exposure. Neighborhoods are deteriorating. Persons without enough money to move out are subjected to increasing noise against their will.

The well-justified fear of intense, frequent, and prolonged noise exposure that a new airport would provide frequently prevents new facilities from being constructed to handle the increasing air traffic. Overcrowded urban airports are being forced to stack plants in the air over the airport because of the volume of traffic. Landing delays are costly to the airlines as well as irrritating to the passengers. In 1970, for example, it cost United Airlines alone some $25,955,000 in increased operating expenses arising from takeoff and landing delays.

Nothing illustrates the seriousness of our current noise problem better than the recently publicized danger of a shutdown of the Los Angeles airport. The aftershock of a California Supreme Court ruling holding airports liable for nuisance caused by aircraft noise hit Los Angeles, as one California paper put it, "like a catastrophic sonic boom." Pending suits against the airport, based mainly on property damage, already total a staggering $4 billion. Now the Court has opened the door to suits based not only on damage but on nuisance as well. City Attorney Roger Arneburgh has recommended that the airport be shut down within 60 to 90 days unless the airlines and the Federal Government agree to protect the city from claims, losses, or damages resulting from aircraft operations.

Although a city has no control over the use of its landing strips, the type and number of planes flown, or the prevailing flight patterns, the California ruling declares that the law may hold a city liable for the nuisance of aircraft noise. In Los Angeles, the city's taxpayers could wind up owing $10,000 for every man, woman, and child in the city. Mr. President, I ask unanimous consent that articles from the Los Angeles Times and the San Francisco Chronicle on this alarming subject be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, the impact of this dramatic legal development on one of the world's busiest airports underlines the need for immediate action to reduce jet engine noise. One of the most effective steps is contained in the NASA authorization bill in the form of the noise reduction retrofit program. Let me explain what this program means.

As the words imply, the noise reduction retrofit program will develop improved technology to reduce jet noise by modifying existing aircraft. The main targets of this program will be the JT3D and JT8D engines, used by the 707, the 727, the 737, the DC–8, and the DC–9.

The Federal Aviation Administration has been working with aircraft firms on an acoustic lining of these engines and their casing, called the nacelle. Over a year ago I introduced a bill, S. 1566, which would require that commercial aircraft be retrofitted using this acoustic lining scheme.

In the time since I introduced that bill, NASA researchers have discovered a major new method of noise reduction which concentrates on modifying the engine itself in addition to lining it with an acoustic casing. The program which NASA proposes combines both fan modification and acoustic lining to produce a much larger noise reduction than that stemming from existing FAA technology. The plans for research and development of this important innovation carry my earlier legislation to a logical next step. I propose that funds be authorized so that NASA can perfect this new retrofit technology as quickly as possible.

The total research and development cost of the new program will be $130 million. The total cost will not change regardless of the amount authorized for fiscal year 1973.

According to NASA's projected schedule for different rates of expenditure, the difference centers on the date on which the first plane could be retrofitted. In the light of our current noise problems, there is no time to be lost.

The NASA scheme involves altering the way in which air moves through the engine by increasing the diameter of the fan. This modification will result in a lower jet velocity and a reduction in jet noise. Performance gains of increased thrust and lower specific fuel consumption will compensate for the added weight and drag of the modified nacelles. In other words, this new noise technology will not harm performance. Equally important, noise levels will fall below the maximum decibel limits set by FAA regulations.

The program proposed by NASA should lead to a date of early 1976 for the first retrofitted airplane. The completion of retrofitting the fleet is dependent on many factors, such as the ability of airlines to pull aircraft from operation economically and the optimal capacity of retrofitting itself. NASA administrators believe that completion will occur in 1979 if the program proceeds unfettered. While the research and development proceeds, money will be spent on designs, hardware, and flight tests so that the retrofitted engines can be certified by the FAA.

The newest jet aircraft—the DC–10, the L–1011, and the B–747—produce noise that is approximately one-half as loud as the jets that I mentioned earlier. The Air Transport Association, however, states that less than 7 percent of the planes currently flying are part of this new generation. Almost all of the rest are powered by JT3D or JT8D engines.

Unfortunately, a considerable number of the noisy planes will still be flying in the 1980's. A systems analysis and research corporation study estimates that 700 of these planes will still be active in major airline fleets in 1982. Futhermore, the retirement of planes from major airline fleets does not mean that they will no longer be landing at major airports. Charter airlines and airfreight lines buy older planes retired by major airlines. In fact, charters and airfreight flights usually take place at night, when noise is most disturbing. In short, the number of noisy planes which will still be in use in the 1980's is much greater than just the number which major airlines will have in their fleets.

Mr. President, for all of the reasons which I have outlined, I urge that the Senate authorize a new level of funding for research and development of this badly needed technology.

EXHIBIT 1

[From the San Francisco Chronicle, May 4, 1972]

AN L.A. THREAT TO CLOSE ITS AIRPORT

(By Jack Viets)

LOS ANGELES.—The aftershock of a California Supreme Court ruling that held airports liable for air and noise nuisances emanating from their operations hit Los Angeles yesterday like a catastrophic sonic boom.

The city attorney recommended to Los Angeles Airport commissioners and the City Council that L.A. International—one of the world's busiest—be shut down within 30 days if attempts to exempt it from air-noise suits are not successful.

(At San Francisco International, Director James K. Carr said there "are no plans here to shut down and we would hope Los Angeles International won't have to take this drastic step. It would have a drastic economic effect on Los Angeles-San Francisco air travel, the most heavily traveled air route in the world.")

In Los Angeles, Roger Arnebergh told the City Council that L.A. International is a target of pending suits totaling $4 billion. "That's billions, not millions," he emphasized.

City attorney Arnebergh added that one section of the Supreme Court decision particularly worried him, the part that held "every repetition of the wrong may create further liability."

He interpreted this language to mean that "everytime an aircraft took off or landed, it might result in additional claims."

The decision, handed down last Friday, was in the case of Nestle versus the City of Santa Monica. In it the court held that even if there had been no taking (condemnation) or damaging of property due to airport operations, the plaintiffs could initiate all action on "the theory of nuisance."

PREDICTION

Although most of the $4 billion in suits currently facing Los Angeles International stem from land condemnation actions, Arnebergh predicted that in addition to opening a floodgate of new suits, the Supreme Court ruling would mean "every action now pending against us would include nuisance as an additional cause of action."

The Los Angeles city attorney also warned the council that he interprets the ruling to mean that if city-operated airports are liable for nuisance damages—then the city of Los Angeles and any other California governmental agency—is liable for any nuisance created by any of its public services.

"It means the city could be sued if someone thought a fire engine made too much noise on its way to a fire," he said.

MEETING

The City Council ordered a joint meeting of its State, City and Federal Committee and the Industry-Transportation Committee to suggest remedial legislation to be sent to Sacramento to nullify the decision.

The two committees will report to the full Council this morning.

The airport commissioners, earlier in a hectic day, said they would await recommendations from L.A. International Manager Clifton Moore on the "broader ramifications" of the situation. Moore promised his report "as quickly as possible."

Moore told The Chronicle that the situation created by the court's decision is the "most critical" he has faced at the airport, which is the nation's third busiest.

The potential liability the airport and Los Angeles face "could be so great that the city can't afford to stay in the airport business," he said.

RESPONSIBILITY

The airport manager and the city attorney told The Chronicle they believe major U.S. airports have "become a federal problem" and that the federal government should accept responsibility for damages caused by airport operations.

The federal government has in essence preempted the field by its control of all air operations, they said.

But although the government controls air transport and air operations, it does not accept the consequent responsibility and liability for damages, they noted.

"The city has no control over who uses its landing strips, the type of planes flown, the flight patterns used, the number of planes landing, nor how the planes are flown," Arnebergh noted.

It is the federal government, he said, which certifies the air carriers, the routes, the planes, their engines and controls the landing and flight patterns.

"LANDLORDS"

He added: "We're just the landlords. We have no control . . . we didn't invent the jets."

And now that Pandora's box has been opened by the state Supreme Court's nuisance ruling, he said, Los Angeles faces the specter of "incalculable" new billions of law suits—far, far "beyond the ability of the airport, the city and its taxpayers to pay."

Moore said that the choices are first, to get remedial legislation, and failing that to close the airport unless the airlines, the Federal Government and aircraft manufacturers and jet engine manufacturers agree to indemnify the city for air-noise suit damages.

Arnebergh said the city may well be enjoined from closing its airport by the court.

[From the San Francisco Chronicle, May 4, 1972]

L.A. Airport Faces Shutdown

A little-noted ruling by the State Supreme Court affirming the right of adjacent property owners to sue airports for damages created by noise, smoke and other by-products of take-offs and landings, has assumed the dimensions of a multi-megaton legal bomb.

Its potential is of so frightening an aspect as to wring from the City Attorney of Los Angeles the solemn and official advice that "the only prudent course" is to prepare for shutting down the city's busy International Airport within 30 days. It is his belief that Los Angeles, which has already been sued for millions because of airport noises, exhausts and vibrations, might now face "unlimited and unforeseeable liability" for judgments mounting into the billions, and far beyond the ability of the taxpayers to meet.

Such a shutdown, whether or not followed by other airports within the State, would immediately and directly affect air travel and might eventually work economic injury upon the national economy to a devastating extent. Such disaster must plainly be averted, through appeals to the Federal courts or by a shift of responsibility to the federal government or, what is quite unlikely, to the airlines.

Though San Francisco airport is in no present danger of wholesale lawsuits (prompt remedial action by the Airports Commission has brought about dismissal of the only two such suits ever brought against it) James K. Carr, director of airports, concedes that a shutdown of Los Angeles airport would directly and immediately affect operations at the local airport, its coterminus on the busiest route in the nation.

Carr agrees with officials of Los Angeles who hold that airports are unjustly held responsible and liable for damages caused by the airplanes that use them. They feel that the Federal Aviation Administration, which certifies engines that create noise and omit fumes and thus create actionable nuisances, ought to bear the responsibility, if the operators of planes do not.

It has been demonstrated by Pacific Southwest Airlines that the emission of smoke by jet engines can be prevented. It is well known that the noise of jet engines can be sharply reduced if not eliminated by devices which the airlines are reluctant to employ because they reduce power and increase fuel consumption.

John Shaffer, administrator of the FAA, has ample authority to compel the use of such devices or to impose whatever other regulations are necessary to abate the fumes and noise underlying the current crisis. He should promptly exercise such authority, lest the State's airports be forced to prudent closing while legalities of the situation are argued in the Federal courts.

[From the Los Angeles Times, May 3, 1972]

Closing of L.A. Airport Urged in Claims Ruling—Arnebergh Proposes Shutdown Unless United States Airlines Agree To Protect City Against Suits

(By Erwin Baker)

Los Angeles International Airport should be shut down within 30 days unless airlines and the federal government agree to protect the city from claims, losses or damages resulting from air operations, City Atty. Roger Arnebergh said Tuesday.

Arnebergh, in a report to Mayor Sam Yorty, the City Council and the Board of Airport Commissioners, said his recommendation was the "only prudent course to follow" in view of a California Supreme Court landmark decision handed down last Friday.

The court, voting 5 to 2, held property owners may use grounds of public nuisance to sue for damages from noise, fumes and vibrations caused by the operation of city-owned airports.

The ruling reversed a Los Angeles County trial court's dismissal of a $12.5 million class-action suit brought by 700 persons against the city of Santa Monica on grounds that its airport constituted a nuisance, negligence and zoning violations.

INCALCULABLE LIABILITY

Applying the ruling to the operation of the Los Angeles airport "results in potential liability of an incalculable amount," Arnebergh said.

Suits seeking almost $4 billion in damages are pending against the city, "and we will undoubtedly have claims involving many more billions of dollars as a result of this Santa Monica decision," he said.

Attorney Jerrold Fadem, who is representing Playa del Rey and Westchester homeowners in suits against Los Angeles International, said the airlines "already contractually agreed to pay damages" when they signed airport leases.

"He (Arnebergh) is now, I suspect, trying to frighten the courts into changing their ruling." Fadem said. "They have 30 days to do so. It is an attempt to put some pressure on the courts. I really think it is out of bounds."

Arnebergh said his recommended "drastic action" was made with "extreme regret," but "in fairness to the taxpayers of . . . Los Angeles every effort must be made to avoid a catastrophic financial liability which would destroy both the city and its taxpayers."

"This is of particular importance," he noted, "in view of the Supreme Court statement that every repetition of the wrong may create further liability."

He added:

"It would therefore appear that the only prudent course . . . to follow is to advise all the airlines using the . . . airport and the Federal Aviation Administration that in 30 days the . . . airport will suspend operations unless the airlines and the federal government agree to indemnify and hold harmless the city from any claims, losses or damage resulting from operation of aircraft . . . pursuant to authority of and control by the federal government."

Arnebergh recalled that at various times during the last few years when the multiplicity of damage actions against the airport and the amount of potential liability reached such "astronomical heights" that there was "no chance of payment" in the event of unfavorable decisions, he had suggested the commission take such action.

It refused, he said.

UNLIMITED LIABILITY

Now, however, because of the court's decision, he said, "what was formerly only a remote possibility and of relative limited liability, now may well be a very real probability with unlimited and unforeseeable liability."

Arnebergh said it would appear "only logical" that the airlines should at least be jointly liable for any nuisances arising from operation of their aircraft.

But even if that is correct, he pointed out, the city would still have potential liability far beyond its ability to pay.

Arnebergh emphasized that federal courts have held that the federal government has complete control over aircraft operations, but despite that the California court has apparently held that the airport operator has responsibility for any nuisance.

Arnebergh maintained that the city should not be held liable for noise or other alleged nuisance since "it has no control over who uses its landing strips, the type of planes flown, the flight patterns used, the number of planes landing, nor how the planes are flown."

Arnebergh held out the hope that the city would be enjoined from closing the airport by court action.

If so, he said, the litigation then should resolve the question whether aircraft operators and builders, the federal government "which certifies and controls aircraft use" or the city which "merely provides landing strips . . . is liable for whatever . . . damages for nuisances result from aircraft use."

Arnebergh also recommended that the city immediately endeavor to obtain legislation clarifying the question of whether a government agency in California is liable for nuisance.

He said it has been "assumed" for several years that the legislature had granted immunity to government agencies.

Would Close Airport if Needed, Manager Says—All Aspects Would Be Scrutinized, Commission Told

(By Marvin Miles)

Clifton A. Moore, general manager of the Department of Airports, said Wednesday he will not hesitate to recommend closure of Los Angeles International Airport if such action seems warranted.

However, all of the aspects of closure must be carefully scrutinized to avoid any precipitous move, he told the Board of Airport Commissioners a day after shutdown of the field was suggested as a possibility by City Atty. Roger Arnebergh.

Arnebergh said Tuesday the airport should be closed within 30 days unless the airlines and the federal government agree to protect the city from nuisance noise claims he estimated could eventually cost taxpayers more than $10 billion.

The city attorney modified his 30-day suggestion Wednesday, however, to 60 or 90 days, explaining he used 30 days to emphasize the gravity of the situation.

DECISION ON NUISANCE CLAIMS

Arnebergh's report to Mayor Sam Yorty and the City Council followed a landmark decision by the California Supreme Court Saturday that held property owners may sue for damage on nuisance claims of noise, fumes and vibrations caused by city-owned airports.

Suits seeking almost $4 billion already are pending against the city, he said, despite the fact that the airport is in the middle, so to speak and not responsible for the noise made by airliners, the patterns they fly, their certification or the design of the engines.

In discussing the city attorney's surprise move with the Board of Airport Commissioners Wednesday, Moore recommended no action be taken on Arnebergh's suggestion until he and his staff complete a thorough investigation of all the ramifications involved in closure.

"I feel," he added, "that there are broader considerations than those contained in the legal report. All the consequences of closure must be carefully scrutinized before any move could be made in this very, very serious area."

AIRPORT'S ECONOMIC IMPACT

"I do not have to point out to this board," he said, "the vast economic impact of International and the tremendous number of people who depend on it for a livelihood."

At Moore's request the commissioners voted to ask the City Council to request emergency clarification from the State Legislature on the question of city immunity from nuisance litigation.

Almost within the hour, on motion of Councilman Donald D. Lorenzen, Council President John S. Gibson referred the request to the State, County and Federal Affairs Committee and the Industry and Transportation Committee which will meet jointly at 9 a.m. today.

They are expected to report back to the council late this morning their recommendations on the move by Lorenzen that the Legislature should move promptly to amend the state Public Liability Act and make cities immune to nuisance litigation.

Meanwhile the Air Transport Assn., an organization of U.S. scheduled airlines, emphasized the carriers are firmly committed to fulfilling their public responsibility to provide air service to International: "Under federal authority the carriers are required to serve Los Angeles through International Airport, the only facility capable of providing vital air transportation sufficient to meet the needs of 7 million people in the Los Angeles basin.

"The location of International Airport and the establishment of its runways have been determined not by the airlines, but by the city of Los Angeles, and the airlines have no choice but to use the existing airport and its runways in fulfillment of the duties to the public.

"A constructive solution . . . would not be enhanced by closing the airport, thereby imposing grave hardships on the traveling public, disrupting the economy of Southern California and seriously impairing the national air transportation system."

QUIETER JET ENGINES

Mr. BROOKE. Mr. President, 10 million Americans regularly suffer the persistent bombardment of aircraft engine noise. Their concern has now increased to the point that they are bringing suit to curtail this annoyance.

Congress first took action to demonstrate its concern with the problem in 1968 when it amended the Federal Aviation Administration Act in order to give the FAA authority to regulate aircraft noise. The Senate report calling for passage of the bill noted that:

> The jet aircraft has imposed undesirable incidental effects on the environment—in this case noise and concluded that with the technological and regulatory means now at hand, it is possible to reduce both the level and impact of aircraft noise.

The fact is, however, that there has been no significant noise reduction since 1968 and, in many areas, there has been an increase as the amount of air service continues to expand. Although the new generation of airplanes—including the 747, DC–10 and L–1011—are noticeably quieter than the earlier jets, FAA has not yet imposed any regulation on the airlines to compel a reduction in noise.

I recognize, of course, that the regulators can move no faster than the state of the art will permit. However, I strongly maintain that we should give the scientists and engineers every possible opportunity to develop a quieter jet engine at the earliest possible date.

The FAA is currently in the midst of a $21 million research and development program to develop a jet exhaust acoustical treatment program. According to preliminary studies, this improvement would reduce jet noise by approximately 50 percent.

More recently, however, the NASA office of Aeronautics and Space Technology has initiated work on a joint program with the Department of Transportation that would result in an even greater noise reduction. This program would replace the existing fan in the aircraft engine with a modern fan that would extract more of the available energy from the turbine. The effect of this improvement would be to increase the thrust of the engine while decreasing the noise. Preliminary noise estimates indicate a reduction in takeoff and landing noise of greater than 75 percent.

I applaud the Administration for developing these progressive programs that will substantially reduce the level of noise around our Nation's airports. It is to the credit of NASA, DOT, and the White House that they have taken action on this problem that has existed for more than a decade.

I also commend the members of the Senate Committee on Aeronautical and Space Sciences for offering an amendment to provide $30 million for this NASA program in the current budget. The committee report originally recommended an expenditure of only $9 million. Consequently, I had intended to offer an amendment raising the amount authorized for this program to the $50 million contained in the House bill. However, I am gratified that the members of the committee have recognized the urgency of the situation and have, accordingly, offered the amendment for greater funding.

According to NASA projections, the combined FAA and NASA program will permit the first delivery of a quieter jet engine by the end of 1975. Although this is still a long 3 years away for the many suffering citizens who live and work around our Nation's airports, I am convinced that both the Congress and the executive branch are taking every possible step to meet the scheduled completion of this program.

In particular, I am hopeful that the Congress will once again turn its attention to the separate question of financing the retrofit program. I have introduced S. 2398, which calls for increases in the head tax and freight tax for air users. My colleague Senator CRANSTON of California has introduced legislation that would finance a retrofit program through the guaranteed loan approach. Others have suggested other forms of tax incentives for the airlines, or simply rate increases.

We must resolve this financing program, perhaps by taking parts from several proposals. When the time comes that the technology is available to develop a quieter engine, then there must also be both a mandate from the Government that the retrofitting should begin, and the funds available to pay for this important program.

Mr. President, the aircraft noise situation is a highly critical one in communities across our Nation. It is clear that unless we resolve the problem, we will be unable to build the new expanded airport facilities which will be needed in the 1980's if we are to maintain our economic strength.

I believe that the amendment which the members of the Space Committee have offered today will be viewed as a vital step on the road to quieter jet airplanes. I commend them for their action, and I urge the Senate to approve the committee amendment.

Mr. SYMINGTON. Mr. President, I support the committee amendment to add $24 million to the NASA budget for aeronautical research and technology.

I think the committee made the correct move in approving the NASA request for the development of the so-called front fan retrofit kit, even if this represents somewhat of a departure from previous NASA aeronautical programs. I also think that, having received additional facts about this program since the committee markup, it is appropriate to recommend the authorization of these additional funds so that the R. & D. on the retrofit kit can be completed in a shorter time.

The FAA, of course, will have the ultimate responsibility to certificate this development and, after proper investigation, propose the necessary rulemaking that would allow our current fleets of narrow-bodied jets to operate at substantially lower noise levels than at the present time. Furthermore, although installation costs will be considerable, these retrofited engines will operate at a substantial reduction in fuel and, therefore, at reduced costs. This fact alone should make this a welcome development to the airlines and the air traveling public instead of a bitter pill to swallow since there is a good possibility that this could be accomplished without any increase in fares.

Mr. President, I urge Senators to support the committee amendment.

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. CURTIS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. Chiles). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Chiles). Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States, submitting a nomination, was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. Chiles) laid before the Senate a message from the President of the United States submitting the nomination of Ashton C. Barrett, of Mississippi, to be a Federal Maritime Commissioner, which was referred to the Committee on Commerce.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION, 1973

The Senate continued with the consideration of the bill (H.R. 14070) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

Mr. MONDALE. Mr. President, I call up the amendment sponsored by myself, the Senator from New York (Mr. Javits) and the Senator from Wisconsin (Mr. Proxmire) to H.R. 14070, the NASA authorization bill, and ask unanimous consent that its reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the Record at this point.

The text of the amendment is as follows:

On page 12, line 10, insert the following: Strike "1,094,200,000" and insert in lieu thereof "894,200,000".

On page 14, beginning with line 3, strike out through page 15, line 3.

At the end of the bill, add the following new section:

"Sec. 8. None of the funds authorized to be appropriated under this Act shall be available for design and development of the space shuttle and for space shuttle facilities."

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Minnesota yield for a question? This question may have already been asked while I was off the floor, but is it possible, may I ask the distinguished Senator, so that all Senators on both sides of the aisle may be alerted—is it possible, may I ask the Senator and the manager of the bill, that the Senate could vote on this amendment by, say, 2 p.m. today?

Mr. MONDALE. I should like to accommodate the acting majority leader. My only problem is, in agreeing to that, there are several other cosponsors, including the Senator from New York (Mr. Javits) and the Senator from Wisconsin (Mr. Proxmire), who may wish to speak. Therefore, I am reluctant to agree to that time limitation until I know what their desires are.

Mr. ROBERT C. BYRD. I am not proposing a time limitation, may I say to the distinguished Senator. I am merely asking what the prospects are, so that all Senators may be alerted to the possibility of a rollcall vote on the amendment prior to a report by the majority leader on his visit to China.

Mr. MONDALE. Permit me to say that I think there is a possibility. I am not sure, until I talk to the cosponsors how bright that possibility is.

Mr. CANNON. Mr. President, I would say, so far as I am concerned, that there would be a possibility, because I do not anticipate that I will use more than 10 minutes and the distinguished opponents would not use more than 45 minutes, so that it is quite possible we could do that. But, as the Senator from West Virginia just said, we have no time limit to consider there.

Mr. ROBERT C. BYRD. I believe that the distinguished Senator has answered my question. The distinguished majority leader has indicated that he would be willing to delay his report for a few minutes if it were possible, prior thereto, to reach a vote on the pending amendment, so that all Senators may be apprised through the two cloakrooms of that possibility.

I thank the Senator very much for yielding to me.

Mr. MONDALE. Mr. President, before I begin my remarks, permit me to say how much I appreciate the courtesy and respect accorded me, and those of us who favor this amendment, to strike the authorization for the space shuttle, by the distinguished chairman of the committee. For some years, it was my privilege and honor to serve under the gifted leadership of the distinguished Senator from New Mexico (Mr. Anderson). I have found him to be a man not only of brilliance but also of high public devotion.

Throughout this rather uncomfortable period of the past few years, when I have found it necessary to disagree with the committee in terms of the authorization for this space shuttle, I must say that on every occasion the Senator from New Mexico (Mr. Anderson) has treated me with respect, with great courtesy, and great generosity. Thus, I cannot refrain from expressing my profound admiration for his leadership and my appreciation for being able to work with him on this matter.

Mr. President, the amendment which we propose would delete $227.9 million from this authorization. Of this amount $200 million is for development of the space shuttle; $27.9 million is for space shuttle facilities.

There has been significant criticism of the space shuttle in the scientific community. The Space Science Board of the National Academy of Sciences, the Federation of American Scientists, and many independent space scientists have expressed strong reservations about the wisdom of developing the shuttle.

Mr. President, at this point, I ask unanimous consent to have printed in the Record at the conclusion of my remarks a report issued today by the Federation of American Scientists, strongly opposing the proposed space shuttle.

The PRESIDING OFFICER (Mr. Chiles). Without objection, it is so ordered.

(See exhibit 1.)

Mr. MONDALE. Mr. President, Dr. James Van Allen, a pioneer of the U.S. space program, has observed that a massive program like the shuttle "is far beyond the context of any existing national policy on the scope and magnitude of our activities in space during the next two decades." He estimates that a "well designed program of space applications"—including such activities as radio communications and earth reconnaissance—can be maintained by delivery into earth orbit of only about 50,000 pounds of satellites per year. It should be emphasized that 50,000 pounds is less than the capacity of one shuttle flight.

Dr. Thomas Gold—a member of the President's Science Advisory Committee and director of Cornell's center for radiophysics and space research—has also vigorously opposed the shuttle's development. In testimony submitted to the Senate Committee on Aeronautical and Space Sciences, he stated:

> If we were certain that we wanted a large continuous manned earth orbital program throughout the 1980's then it would be easier, despite the great uncertainties, to justify the development costs of the Shuttle. But the case for such a program is weak. It cannot be justified for applications purposes nor for science . . . For unmanned, instrumented flight purposes, such as is required for applications programs and for space science, the economic advantage of the Shuttle is very doubtful.

And perhaps most significant, the Space Science Board of the National Academy of Sciences has also expressed skepticism about the shuttle. In a 1971 report entitled "Priorities for Space Research, 1971–80," this Board made the following observation on the proposed development of the shuttle and station:

> The absence of recommendations concerning the shuttle and space station should also be noted. These were considered as vehicles for the support of science, but we found the concepts too vaguely defined with respect to costs and engineering difficulties to permit any realistic assessment of the potential values to scientific research and applications. Nor was the Study able to evaluate the economics of the shuttle, because it depends so strongly on the volume of space traffic, which

> in turn is dependent upon many user activities besides those included in the present frame of reference. *It is clear that space science and applications by themselves are insufficient to justify the cost of developing the shuttle.* (Emphasis added)

Other experts outside the scientific community have also expressed reservations about the shuttle. For example, Peter N. James—a former space-system analyst at Pratt & Whitney, with extensive experience in planning and analyzing the shuttle and other aerospace projects—observed in a recent article that the—

> Space shuttle program as currently conceived by NASA is not in our national interest. NASA's space shuttle expenditures thus far run into the millions of dollars and a good percentage of these expenditures has been wasted because of poor planning and impatience to get the program under way. There is no evidence to indicate that things will improve, while there is supporting evidence to indicate things are getting worse.

Mr. James believes that congressional approval of the shuttle at this point will contribute to "one of the most wasteful and poorly planned, dead-ended multibillion-dollar space age boondoggles of this century." This is a statement by a top space analyst who was fired by Pratt & Whitney. Perhaps they read the article.

I believe, therefore, that there is a compelling case for rejecting—or at the very least, postponing—Senate authorization of any further funds for development of the space shuttle. The case against the shuttle centers on; first, its concealed and burgeoning costs, and second, the absence of any clear-cut policy to justify or guide such a massive expenditure.

Mr. President, I intend to concentrate on those two matters this afternoon—the shuttle's real cost and the absence of any clear-cut policy to guide such a massive expenditure.

THE SHUTTLE'S REAL COST

The shuttle will require a large and expanding commitment of limited Federal resources. The $227.9 million for the shuttle requested by NASA for fiscal year 1973 is merely the tip of a multibillion-dollar iceberg. According to NASA's own latest estimates, the total development and investment costs for this transportation system are $8 billion.

It should be noted that this $8 billion figure includes the space tug—an $800 million vehicle which NASA concedes is an essential future element of the total space transportation system. Despite NASA's admission that many shuttle missions will depend on the space tug, the Agency has consistently omitted this item in its public statements on the shuttle's development cost.

This $8 billion estimate assumes that the actual development and procurement cost of an extremely complex technological program like the shuttle can be accurately predicted. Yet in light of the enormous cost overruns experienced in almost every large-scale aerospace and defense project, there is no basis for such an optimistic assumption. It is quite likely, then, that the ultimate development and procurement costs of the shuttle will greatly exceed $8 billion.

And even without any cost overruns, this estimate is still deceptive, since it does not include the sizeable cost of the projected shuttle payloads or its actual operating costs. Thus, the most recent Mathematica report—a study funded by NASA, which NASA relies on to justify the shuttle—estimates that the shuttle's total program cost over a 12-year period will be $35 billion—which makes this program far more expensive than Apollo.

My figure is a Mathematica figure based upon the data supplied to them by NASA and NASA contractors. We continue to hear the $5 billion figure. In fact, the total program cost over a 12-year period of operations is $35 billion.

It should be emphasized, moreover, that this $35 billion figure still does not include the multibillion-dollar cost of developing a permanent manned station to be placed in earth orbit. Because the shuttle is inevitably linked to the eventual development of such a space station, the complete cost of this program—assuming no cost overruns—will approach $40 billion.

This is a program which is almost double the cost of the moon program.

Not surprisingly, NASA and the administration have tried to obscure the real cost implications of this program. Instead of openly focusing the debate on these costs, they have consistently made misleading claims that the shuttle will greatly reduce the cost of space transportation to earth orbit.

For example, in his January 5, 1972 statement on the shuttle, President Nixon claimed that the shuttle "may bring operating costs down as low as one-tenth of those of present launch vehicles." On that same date, Dr. Fletcher, the NASA Administrator, was more specific about the shuttle's capability for reducing space transportation costs: "It is estimated," he stated, "that the reusable space shuttle will reduce the cost per pound of putting a payload into space from $600 and $700 (using existing expendable boosters) to $100." And Dr. Myers, NASA's Associate Administrator, testified last year that the cost might be reduced to as low as $75 per pound of payload.

These statements are grossly and, I think, consciously misleading. They are put out by NASA without any basis. And they have been fed to the American newsmen and have been used in debates on this floor and on the House floor. They are a consistent part of NASA's case for the space shuttle. I say that that figure is totally and outrageously without justification. It is a false and misleading figure which NASA continues to advance without any effort to honestly justify it. I do not think it can be justified. Nevertheless, practically every day they put it out in one form or another.

What are the facts? What will it cost? Does it reduce or increase the cost? Unchallenged testimony by Dr. Ralph Lapp, one of our most prominent scientists, an independent witness before the Senate Space committee, concluded that at the very least, every pound put into orbit by the space shuttle will cost $2,250 per pound.

As Dr. Lapp pointed out in his testimony before the Senate Space Committee on April 12, 1972, there is no basis in fact for these extravagant claims. Using the data supplied in the 1972 Mathematica report, Dr. Lapp concluded that at the very least, every pound put into orbit by the shuttle will cost $2,250—which is three times more expensive than the transportation costs of existing launch vehicles.

Here is how Dr. Lapp reached his conclusion:

> Mathematica, Inc. . . . estimates the Launch Vehicle (LV) costs for 514 shuttle flights as $12.0 billion. Dr. Fletcher in his February testimony updated this figure to $13.1 billion. This amounts to $22.5 million per Shuttle flight.
>
> Mathematica, Inc. (Vol. 11 page 6–42) states: "As it turns out, the actual loading of the Space Shuttle Systems in terms of satellite payload weight comes to about 5,000 pounds on the average (not the 40,000 pounds theoretically available." Thus, a total of 514 Shuttle flights equals a total of 2.6 million pounds of orbital payload.
>
> If we divide $25.5 million by 5,000 pounds, we get a unit price of $5,100 per pound placed in orbit. This, I maintain, is the true price since it is based on full accounting of all new appropriated dollars for the space program transportation system. However, proponents of the Shuttle may argue that they refer their unit prices only to operating costs without figuring in research, development, test and engineering and shuttle investment. Well, that isn't the way General Motors figures it when I buy a car, but even if we look at operating costs the unit price is nowhere near President Nixon's goal.
>
> Although operating costs for the latest configuration of the Space Shuttle are undergoing almost monthly revision, the latest figure I find is that of $10.5 million per shuttle flight. This figure is, in my opinion, a highly optimistic one since it assumes that the solid rocket motor (SRM) cases will be used as many as 20 times. Inferior multiple use of the booster could double the unit operating cost. However, accepting the $10.5 million statistic and dividing by 5,000 pounds yields $2,250 per pound placed in orbit. Thus even on this lowest Shuttle cost basis, the unit cost is triple that specified by Dr. Fletcher for conventional expendable rockets.

Dr. Lapp estimates it will cost $2,250 to put every pound into orbit using the space shuttle. This is based on the lowest possible cost estimates.

Mr. President, I ask unanimous consent that Dr. Lapp's testimony be printed at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT ON THE SPACE SHUTTLE SYSTEM

(By Dr. Ralph E. Lapp)

I appreciate this opportunity to testify in opposition to the proposed Space Transportation System known as the Space Shuttle. While the views I express are my own, I have consulted with a number of space scientists in preparing my testimony. A number of scientists are manifesting a growing interest in "adversary science and technology"—this being a movement which, in my opinion, is an attempt to exercise a set of checks and balances on the unprecedented activities of research and development. The Space Shuttle is an example of a complex and highly costly technology which is difficult for the layman to comprehend. A number of adversary scientists are attempting to interpret such technological issues free from the bias of the promoter's eye.

1. President Nixon made a statement on the Space Shuttle on Jan. 5, 1972 in which he stressed the economies of the Shuttle in these words:

"The new system will differ radically from all existing booster systems, in that most of the new system will be recovered and used again and again—up to 100 times. The resulting economies may bring operating costs down as low as one-tenth of those of present launch vehicles."

2. The layman would be justified in welcoming such a ten-fold reduction in space economy IF it is achievable and IF transportation costs are indeed the prime determinant of space costs. I believe that the data I shall present demonstrate that:

(A) Space Shuttle transportation costs cannot achieve their advertised rates, and

(B) Transportation is not the cost-driver of the unmanned space program.

3. To make specific the projection of Shuttle transportation costs, I quote from Dr. Fletcher's Jan. 5, 1972 White House statement: "It is estimated that the reusable space shuttle will reduce the cost per pound of putting a payload into space from between $600 and $700 to $100." NASA Associate Administrator Dale D. Myers testified last year that the cost might be reduced to "as low as $75 per pound of payload." Aerospace industry officials (House hearings, Science and Astronautics Comte, FY '72 Pt II, page 482) have projected costs as low as $50 per pound.

4. NASA's case for the economy of the Space Shuttle is tied to the report "Economic Analysis of the Space Shuttle System" by Mathematica, Inc., a NASA contractor. The Committee has asked me to be prepared to comment on the 1972 Mathematica, Inc. report and on March 13th forwarded the 4 volume report to me. I am happy to respond to this request.

5. Mathematica, Inc. (Executive Summary dated Jan. 31, 1972, page 0–8) estimates the Launch Vehicle (LV) costs for 514 Shuttle flights as $12.0 billion. Dr. Fletcher in his February testimony updated this figure to $13.1 billion. This amounts to *$25.5 million per Shuttle flight.*

6. Mathematica, Inc. (Vol. II page 6–42) states: "As it turns out, the actual loading of the Space Shuttle Systems in terms of *satellite payload weight* comes to about 5,000 pounds on the average (*not* the 40,000 pounds theoretically available)." Thus a total of 514 Shuttle flights equals a total of *2.6 million pounds of orbital payload.*

7. If we divide $25.5 million by 5,000 pounds, we get a unit price of $5,100 per pound place in orbit. This, I maintain, is the true price since it is based on full accounting of all new appropriated dollars for the space program transportation system. However, proponents of the Shuttle may argue that they refer their unit prices *only* to operating costs without figuring in research, development, test and engineering and shuttle investment. Well, that isn't the way General Motors figures it when I buy a car, but even if we look at operating costs the unit price is nowhere near President Nixon's goal.

8. Although operating costs for the latest configuration of the Space Shuttle are undergoing almost monthly revision, the latest figure I find is that of $10.5 million per Shuttle flight. This figure is, in my opinion, a highly optimistic one since it assumes that the solid rocket motor (SRM) cases will be used as many as 20 times. Inferior multiple use of the booster could double the unit operating cost. However, accepting the $10.5 million statistic and dividing by 5,000 pounds yields *$2,250 per pound placed in orbit.* Thus even on this lowest Shuttle cost basis, the unit cost is triple that specified by Dr. Fletcher for conventional expendable rockets.

9. It appears to me that someone has sadly misinformed the White House on the costs of the Shuttle and, as a result, the American taxpayers have been misled into thinking they are getting some kind of a space bargain. Quite the contrary, the *Space Shuttle will,* according to NASA's own numbers, *be more expensive* than a *variety of launch vehicles which NASA now uses.* I refer to data given on page 389 of this Committee's FY 72 Authorization Hearing, Part I. I believe that adversary science serves the citizen-taxpayer well when it forces NASA to face facts which compel a realistic assessment of the Shuttle.

10. Since Mathematica, Inc. (1972 Executive Summary, pg 0–1) makes as its *primary conclusion*: (Emphasis, Mathematica's)

The development of a space shuttle system is economically feasible assuming a level of space activity equal to the average of the United States unmanned program of the last eight years.

I believe it is pertinent to tabulate the *actual* NASA launch vehicle procurement costs for the FY 1964–1971 period, for unmanned missions:

Fiscal year	Leave procurement costs (millions)	Percent of NASA budget
1964	$129.8	3.0
1965	154.4	3.0
1966	177.6	3.0
1967	117.6	2.2
1968	124.5	2.6
1969	96.9	2.4
1970	107.8	3.0
1971	124.9	3.7
1964–71 total	1,033.5	2.9

Total LV development costs are $631 million.

I think it is very clear that in the past 8 year period launch vehicle costs for NASA have been a very small part of its budget. Yet a layman reading the Mathematica, Inc. primary conclusion cited above would be led to conclude that the Space Shuttle would be economic for unmanned NASA flights. He would, perhaps, be unaware that Mathematica, Inc. was using as its actual baseline Department of Defense (DOD) and NASA unmanned flights. This confusion of military and civil space programs persists throughout the Mathematica, Inc. report and makes difficult a realistic appraisal of the Space Shuttle in terms of the NASA program. There is also confusion injected because of a blending in of unmanned and manned space programs and an abundance of assumptions which are not made clear in the Mathematica, Inc. analysis.

11. In the 1964–71 period U.S. Navy and Air Force space missions dominated the U.S. space activity. To the best of my knowledge there were 369 space missions conducted by DOD. Payloads tended to be heavier than NASA's with emerging dependence upon Titan III–C space vehicles, whereas the NASA total of some 150 space launches employed smaller LVs such as Scout and Delta. Defense spending amounted to about $14 billion over the past 8 year period. Therefore any comparison by Mathematica, Inc. of this period for Shuttle versus Current Expendable LVs is necessarily heavily weighted in the direction of defense missions. If the Space Shuttle is intended to be a military vehicle, then I submit it ought to be justified and funded by the Department of Defense.

12. It is pertinent to note that during recent years NASA payloads have averaged just slightly under 1,000 pounds. Mathematica, Inc. has projected an average of 5,000 pounds per Shuttle mission. This means two things: first, averaging in defense payloads which have been heavier than NASA's and second, programing larger and heavier payloads for NASA missions. Thus, the Mathematica, Inc. projections call for increased space activity, as measured by payloads, but the rationale for the Space Shuttle seems to be that it is a cheaper means of space transportation. This requires that we focus attention on the real cost-driver of the space program—the cost of the payloads.

13. In order to pinpoint this discussion—and to comply with the Committee's request that I make my testimony responsive to the Mathematica, Inc. 1972 report, I am reproducing from page 0–8 of the Executive Summary Table 0.1 Space Transportation Systems Cost Summary [1] Source: Adapted from Aerospace corporation and Contractor Data. Modified NASA and DoD Baseline, 514 Space Shuttle Flights (1979–1990)

TABLE 0.1

[In millions of dollars]

	Current expendable	New expendable	Space shuttle and training
Expected launch vehicle costs:			
Non-recurring costs (fiscal year 1972–87)	1,620	2,000	7,450
Recurring costs (fiscal year 1977–80)	10,600	8,760	4,800
Total launch costs	12,000	11,000	12,000
Expected payload costs (satellites):			
Research, development, test and engineering (fiscal year 1975–90)	11,000	10,600	9,880
Recurring costs (fiscal year 1976–90)	18,800	18,400	12,700
Total payload costs	30,000	29,000	23,000
Expected total space program costs	42,000	40,000	35,000

14. A quick glance at the assembled statistics might lead one to the conclusion that the Space Shuttle promises $7 billion in savings. That is the difference between program costs for current expendable launch vehicles and the shuttle costs. This is the basis on which the program is being sold. But Mathematica, Inc. projections should be carefully examined item by item to determine what assumptions they may involve. First of all, I maintain that the United States has not approved $42 billion space program in the current expendable category. Therefore, I would question the basic premise of Mathematica, Inc. in its cost projections. In order to determine just what the United States would get for such a $42 billion expenditure, I would recommend that Mathematica, Inc. or, preferably, NASA, should make a program presentation to substantiate this $42 billion figure.

15. I would like to emphasize that any comparison of Space Shuttle and current expendable space vehicles must take into account the fact that in the development of any new technology contractor estimates of systems cost are hardly reliable. RAND studies (Alvin J. Harman "A Methodology for Cost Comparison and Prediction." Aug. 1970 RM–6269–ARPA and Robert Summers "Contractor Estimate and Prediction of Actual Weapons Costs" March 1965 RM–3061–PR.) show that contractor estimates are invariably low and that actual costs exceed the estimates by 80 percent.

16. Additionally, I would stress that the Space Shuttle involves a number of significant technological risks. The degree of these risks was undoubtedly a prime factor in NASA's backing away from a full reusable manned booster. But the unmanned booster still involves risks in that the ocean recovery of a hugh 156 inch SRM case is a great extrapolation of recovery technology. The way to overcome technological risk is well known and involves parallel paths of development and improvisation—both of which add cost. It would be highly useful if NASA would per-

form sensitivity analyses on its areas of high risk and determine the costs which may be involved in these technological sectors.

17. Focusing attention on Col. 1 of Table 0.1, I do not see why *any* funds are included for non-recurring costs of current expendable vehicles. These vehicles are already developed and their costs have been paid. The $1.62 billion listed actually involves $267 million for RDT&E and investment of Titan IIIB/D/M and $550 million plus $800 million for Big Gemini. This is scarcely fair to include these costs under the "current expendable" category. Therefore, I would strike this $1.62 billion from the column.

18. As for recurring costs of current expendable launchers, I note first that this $10.6 billion figure includes $2.15 billion for Big G. There is also $0.25 billion for Intermediate 21 and since Mathematica, Inc. states (Vol. II, p. 5–16) that: "Based on the very limited flexibility and applicability of this vehicle it is quite unlikely that it will be used in the 1980s." I would strike this from the column. Since Big G *and* the Shuttle are redundant I would suggest subtracting the $2.35 billion total from the $10.6 billion leaving a residual *$8.25 billion* which then becomes the *total* launch costs rather than the $12.0 billion figure. This is a "saving" of $3.75 billion and involves no diminution of the unmanned NASA or DOD program.

19. Looking now at the expected payload costs under Column 1 of Table 0.1 I suggest that the proper way to proceed to analyze this expenditure of $30 billion is to set down the complete list of missions and their individual costs so that a rational decision may be made on the program. I note that Mathematica, Inc. (Vol. II Table 6.21 p. 6–46) tabulates the OSSA payloads by cost (but not by mission) as follows:

Payload cost range	Number of payloads	Percent of total
$0 to $20,000,000	17	4
$20,000,000 to $40,000,000	242	61
$40,000,000 to $60,000,000	46	12
$60,000,000 to $80,000,000	17	4
$80,000,000 to $100,000,000	1	<1
$100,000,000 to $120,000,000	22	6
$120,000,000 to $140,000,000	22	6
$140,000,000 to $160,000,000	11	3
Over $160,000,000	20	5
Total	398	100

My estimate is that these nearly 400 payloads represent a $20 billion cost. I estimate that $10 billion represents 75 payloads each more than $100 million in cost. I believe that there ought to be a very critical examination of each class of mission from the standpoint of science and national priorities. I believe that the large public expenditures involved make it mandatory that mission models such as Mathematica, Inc. has used be more than NASA or NASA contractor inputs. There can be no doubt that the mission model used in Table 0.1 represents a sharp step-up in NASA space activity and that such a program change should be subjected to public examination on a programmatic basis. Furthermore, the mission model should be specifically a NASA model and not a mixed NASA–DOD model.

I note that the 398 payloads dispersed over a 15 year time span represent a biweekly launch rate for OSSA missions—more than double the present rate and that for recent years. I submit that such an increase in the tempo of the civilian space program has not been justified as a legitimate public expenditure. Therefore, I feel that the $30 billion total in this column is unrealistic and, although lacking a specific itemization of missions, I would suggest a more realistic figure would be $20 billion. Such an adjustment automatically feeds back to launch vehicle procurement and would reduce my suggested $8.25 billion figure to about $5 billion.

20. Using the new numbers of column I, I arrive at a bottom line total of $25 billion rather than the $42 billion stipulated by Mathematica, Inc. I further believe that if the scientific and technical community was given this figure as a ceiling, it would be possible to define an aggressive and rewarding space program for the 1975–1990 period.

21. Skipping Column 2 for the moment, I would like to comment on the launch vehicle and payload costs for the Space Shuttle. First, I would note that new numbers need to be inserted for LV costs. The non-recurring costs of $7.45 billion are now estimated to be $8.1 billion. Using the 1.8 factor of contractor estimate understatement (#15) this 8.1 billion figure could *escalate to $14.5 billion.* It is not necessary to provide a parallel escalation for conventional launch vehicles since their research, development, test and engineering costs have been paid.

22. The recurring costs for the Space Shuttle estimated at $4.8 billion by Mathematica, Inc. as of Jan. 31, 1972 need to be revised in the light of the hardware decisions made in March. Clearly, recurring costs will depend on the orbiter functioning properly for 100 or more times and refurbishment costs being held in line. More critical to the recurring cost total for the Shuttle is the uncertain reusability of the booster. It is highly likely that the $4.8 billion figure cited by Mathematica, Inc., will escalate considerably. Total launch costs for the Space Shuttle certainly exceed $13 billion and for the 514 flights specified in Table 0.1 it is quite possible that a *$20 billion total* might result.

23. In any event any comparison of the launch vehicle costs for current expendable LVs, which we have, and the space shuttle, which we do not have, must lead to a favorable cost margin for existing launch systems. No matter how one tries, the Space Shuttle cannot claim an economic advantage based on launch costs. I agree with Mathematica, Inc. in its conclusion (Vol. II, page 6–43): "What matters are the actual space missions performed in the 1980s and used in the economic analysis when comparing Space Shuttle Systems to expendable modes of operations. What matters most, in the economic analysis, is the cost of payloads and of space missions in the 1979–1990 period." Let us therefore look at the cost of the Shuttle payloads.

24. Table 0.1 lists $9.9 billion as R.D.T.&E. costs of Shuttle payloads or $1.1 billion less than for conventional launch vehicle payloads. It is however in the area of recurring costs that Mathematica, Inc. claims a Shuttle advantage. The 12.7 billion figure is $6.1 billion less than for conventional LV payloads.

Economies claimed for the Shuttle derive from the potential of making larger and heavier satellites which can be cheaper per pound of instrumentation. No doubt the ability to add weight to a satellite may permit less costly microminiaturization of instrumentation but this is a trade-off situation. Furthermore in making comparative costs of placing a pound of payload in orbit the Shuttle payload cannot then be compared on a 1 for 1 basis since the conventional less weighty payload is then equivalent to x pounds of Shuttle payload. This means that the $5,100 unit price per pound of payload lifted in Sec. 7 needs adjustment upwards. This means that instead of the Shuttle providing transportation for one-tenth the unit price of conventional launch vehicles, it is actually ten times more expensive. It is difficult to state how much the higher payload capacity of the Shuttle allows reduction in payload costs on a pound basis, but the trend is contrary to the thrust of technology which aims at more compact, solid-state, instrumentation of high reliability.

25. Apart from the economy of permitting bulkier instrumentation, the Space Shuttle is claimed to be economical in increasing the reliability of satellites placed in orbit by allowing man to be on board and make a final check-out of the orbital device prior to dispatch into orbit. Since many orbital devices have achieved a 95% reliability in operation, this feature of the Space Shuttle does not appear to be highly significant. Furthermore, the increasing complexity of orbital devices calls for a much greater payload of check-out devices and personnel competence at the check-out point. If the orbital device is checked out prior to launch it does not appear overly advantageous to provide a final checkout prior to orbital insertion.

26. Proponents of the Space Shuttle place greater emphasis on the capability of retrieving orbital devices, servicing them in orbit, and in bringing them back to earth for refurbishment and redeployment in orbit. Here one is faced with a trade-off situation in which the unit cost of the orbital device vs. the cost of retrieval, refurbishment and redeployment is of critical importance. As mentioned earlier, there is also the relative impact of obsolescence of the orbital device. What is also involved here is the relative advantage of a single massive orbital device vs. a number of smaller, lower-price, units. In the communications satellite field, there appears to be a trend toward smaller devices which grant greater flexibility and back-up to the deployed system. Rather than replace a malfunctioning communications satellite with the same device, retrieved and refurbished, it might be more economic to launch a new, higher-capacity, satellite. I believe that it would be very useful to solicit the views of Comsat Corporation on this matter.

Mathematica, Inc. bases its estimates of retrieval/refurbishment economies on Lockheed Missiles and Space Company (LMSC) studies. LMSC studied (NASW–2156 Contract, LMSC–A990594, June 30, 1971 "Payload Effects Analysis") three devices—OAO (Orbiting Astronomical Observatory), SEO (Synchronous Equatorial Orbiter) and SRS (Small Research Satellite). It concluded that the savings would be significant, i.e., refurbishment cost ratios of 0.32 to 0.39 for Shuttle vs conventionally launched satellites. However, there appears to be considerable uncertainty in these estimates. Since LMSC is an aerospace company which would benefit from Shuttle contracts, it is questionable whether Mathematica, Inc. is justified in accepting the LMSC data without considerable adjustment for bias. Conventionally launched satellites are not credited with much of an increase in future reliability and little attention is paid to the contest between refurbishment and technological obsolescence. It would have been highly instructive for LMSC to have performed an analysis of Comsat type satellites and to have carried out sensitivity analyses on a variety of satellites (retrieval/refurbishment as a function of age of the satellite).

The basic problem posed by the retrieval/refurbishment issue is whether or not the traffic in satellite retrieval and refurbishment justifies the development and deployment of a new space system as costly as the Shuttle. Since Mathematica, Inc. has singled out the recurring costs of Shuttle payloads as the sector of maximum "savings" i.e. "$6.1 billion" in comparing Columns 1 and 2, I suggest that a more careful study be made of this sector. I believe that it should be required that Mathematica, Inc. make a very detailed accounting of how this $6.1 billion payload "savings" is to be achieved. By this I mean specification of *all* missions as tabulated in Table 6.20 on page 6–44 of Vol. ii. It will be noted that in this tabulation, Mathematica, Inc. postulates:

	New satellites deployed	Refurbished satellites deployed	On-orbit maintenance/refurbishment	Flights to space station
Total NASA	242	274	62	62
Total DOD	103	302	(1)	(2)
Total	345	576	62+	62+

[1] Some.

[2] Not available.

Obviously, Mathematica, Inc., foresees a flourishing business in refurbishment of sick or aging satellites. I suggest that the uncertainties of Shuttle costs, technological issues, mission models and booster reuse do not now permit a 1978–1990 projection such as Mathematica, Inc. has made—or, to put it another way, do not permit public confidence in the projection.

27. I call to your attention the fact that Mathematica, Inc. has listed a minimum of 62 flights to Space Station. I also note that the most recent NASA estimate of the cost of such a Space Station development/deployment is $6 billion and that much higher figures have been suggested. If Mathematica, Inc. is going to include earth-to-Space Station flights in its mission model then it should provide for this expenditure under Shuttle payload costs. This inclusion of the Space Station in its mission model makes it clear that buying the Space Shuttle means we are also buying the Space Station.

28. I believe that the foregoing commentary makes it clear that the total payload costs associated with the Shuttle system will not be $23 billion, but will be considerably higher and would probably approach the $30 billion figure cited for the conventional payloads. I have suggested in Sec. 19 that the latter could be $20 billion.

29. If we now consider the "bottom line" totals for conventional and Shuttle program costs, the $42 billion figure (Col. 1) for conventional launch vehicles shrinks to $25 billion (Sec. 20) while the $35 billion Shuttle total may in fact soar to over $44 billion. In other words, *instead of "saving" $7 billion the Shuttle could actually "cost" us $19 billion more for the U.S. space program.*

30. It seems to me that we can put space spending in better perspective if we translate the billion dollar totals into specific costs per pound. This was done by President Nixon in his Jan. 5th message for costs of transportation. I suggest we do the same thing for costs per pound of satellite payload. For example, if we accept the $23 billion total for Shuttle payload costs given by Mathematica, Inc. (which includes a large credit for satellite reuse) and use the 2.6 million pound orbital payload (Sec. 6) postulated by Mathematica, Inc. we arrive at an *average cost of $8,800 per pound of payload.*

Expressed in other units, *Shuttle payloads will average $550 per ounce.* Thus *Shuttle payloads will average ten times more expensive than their weight in solid gold.*

31. In proceeding to discuss Shuttle costs we jumped from Col. 1 to 3 without consideration of Col. 2, the "New Expendable" category. Referring back to Table 0.1 (Sec. 13) Mathematica, Inc. figures for this category is $1 billion less for total launch costs than for either the conventional or Shuttle launch vehicles. Payload costs are $1 billion less than for conventional LVs and $6 billion more than for Shuttle payloads. It seems to me that Mathematica, Inc. and NASA have skipped over a very important potential costsaver in space activity. In as much as NASA has opted to recover the massive twin rocket motor cases for the Shuttle booster, it would seem to me completely logical that NASA apply the same degree of optimism to recoverability and refurbishment of Titan-class launch vehicles.

Thus I would recommend that NASA examine the possibility of new launch vehicles of the non-shuttle class. In this examination, I would recommend that an attempt be made to standardize on a launch vehicle so that unit costs can be reduced.

32. In summary, I conclude that the NASA and NASA-contractor basis for the Space Shuttle is inadequate and that the entire issue of launch vehicle choices for the future space program should be restudied. I believe that I have shown remarkable deviations in the cost estimates of NASA and NASA contractors for comparative launch systems.

I appreciate this opportunity to have presented an adversary view of the Space Shuttle System.

Mr. MONDALE. Mr. President, I ask unanimous consent that a letter I received today from Dr. Lapp under date of May 11, 1972, be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MAY 11, 1972.

Senator WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: I am deeply grateful for your inserting my analysis of the Space Shuttle into the *Congressional Record.* It has produced results which are most gratifying to an adversary scientist whose basic mission in contesting the assembled might of a $3 billion-a-year government agency must be that of provoking reply. I believe that lawyers refer to this process as *discovery.*

I also appreciate the courtesy of the NASA contractor, Mathematica, Inc., of Princeton, N.J., in replying to my analysis in the May 5th *Congr. Rec.* (pages S 7367–7373). As a result of Mathematica Inc., reply, many things come to light which have previously been implicit in NASA and NASA contractor assessment of the Space Shuttle. We now learn some of the assumptions which NASA contractors like Lockheed and Aerospace Corp. have been making about the economics of the new Space Transportation System. Much has also come to light in the volumes of authorization hearings just released by the Senate Committee on Aeronautical and Space Sciences and by the House Committee on Science and Astronautics.

It is now quite evident that the Space Shuttle is being sold to the Congress on pseudo-economics which have been distorted to make it appear that this new transportation system is a prudent national investment which will save taxpayers billions of dollars. For example, I quote from the House bill reporting out the FY73 authorization, page 192:

"The economic savings are based on the following facts:

(a) Approximately $12 to $13 billion will be saved from 1978–1990 based on launch rates of less than 50 a year. In fact, it will be economical with as few as 20 a year."

Comment: This means a total flight schedule of 240 flights. Simple division shows that this means a saving of $50 million per flight! The only possible way to justify such a figure is to assume that the U.S.A. is going to authorize 240 space missions, each of which is greatly in excess of $50 million each. That's the policy the U.S. Senate should be examining. Not how much we save BUT how much we spend.

To continue: "(b) Of the $12 to $13 billion savings, $5 billion will be saved in launch costs."

Comment: Nothing is said about *how many* launches are involved in such 'savings'. If, however, we charitably assume 500 launches, then this means a saving of $10 million per launch of existing rockets. This must inevitably assume that NASA will fire nothing but super-rockets. The fact is that NASA's SCOUT rocket costs only $3 million per launch. To be sure, Saturn V costs $188 million per launch, but Congress is not authorizing such mammoth vehicles.

In case, as might be thought, NASA is ducking under a military cover and claiming that Defense Department rockets are more costly and that these are involved, allow me to cite the cost per launch of the Titan III D (data from page 1035, vol. 2 of Senate Space Au. Hrg. FY 73) is $14.7 million for injecting 24,000 pounds into a low earth orbit. Delta, a NASA workhorse rocket, is cited in the same reference as costing $5.9 million per launch vehicle.

I would point out that the above cost accounting fails to include the amortization of the $8.1 billion (not the $5.1 billion figure used in Senate hearings) capital costs of the new Shuttle. The fact is that we already have a family of workable rockets from Scout to Delta and Titan. These are in existence. Their capital costs have been paid and need not be figured in for the future. Furthermore, if they are put on a mass production basis their unit costs will decrease.

To continue: "(c) Of the $12 to $13 billion savings, $7 to $8 billion will be in design of satellites and our ability to check out and return satellites from space."

Comment: This is a fiction. When the NASA contractor, Mathematica, Inc., attempted to justify this payload saving (See C.R. pg. 7369) it was naive in the extreme. It accepted input data from the Lockheed and Aerospace Corp.—companies which have much at stake in winning Shuttle contracts. Mathematica's uncritical acceptance of aerospace industry inputs amounts to supine compliance with assumptions about the future of the U.S. space program. For example, it claims that a Shuttle placing Radio Explorer satellites in orbit can save $132 million, mostly in payload costs, by substituting for 9 Radio Explorers. The Shuttle sequence would use only 3 satellites, retrieve and refurbish them. To accomplish this feat, the 3 satellites of 1980 vintage are used up to 1990. Do you think any scientist in his right mind would allow 10 years to go by without completely revamping his instrument design? This is typical of the Mathematica, Inc. techno-blindness in their analyses.

Again, as I did in my testimony reproduced in the May 5th Congr. Rec. I emphasize that NASA deceives taxpayers when it speaks of a $5.1 billion Shuttle investment. It's a double deception: First, the true number is not $5.1 billion but much more. According to the Senate authorization hearing, page 207, Vol 1, the quote is: "Total development and investment, 1972–1990 (sum of Items 6a and 6b) $8.05 billion."

Now this figure neglects the following:

Any cost overruns which were allowed for in President Nixon's Jan. 5th statement on the Shuttle but since are not mentioned.

I suggest that overruns will total to more than $10 billion. *Thus the advertised price of the Shuttle as $5.1 billion is half its real investment cost.*

To Continue: "(d) The cost of placing a pound in space will be reduced from aproximately $800 to $4000 per pound to $120 per pound."

Comment: Even Mathematics, Inc. does not attempt to defend this cost accounting, claiming that the cost per pound is "meaningless" and speaks of NASA's "passion for the use of this oversimplification". I submit that NASA's passion has a purpose—it is designed to persuade Congressmen that the Shuttle is really cheap. Time cost per pound appears over and over in Congressional hearings. Until I challenged the figures it was simply accepted as true.

To continue: "(e) The cost of launch will be reduced to $10 to $11 million a flight."

Comment: This figure, now used as $10.5

million, is no where justified by NASA in its testimony. It is, however, only operations costs. There is no allowance for amortization of the Shuttle development and deployment. If this is $10 billion and there are 500 flights, it will be $20 million per flight added to $10.5 million or $30.5 million per flight. And, if as Mathematics, Inc. concludes the average Shuttle flight will carry a payload of 5,000 pounds, then this figures out to $6,000 per pound—or much more than existing rockets—and very much more than promised by President Nixon in his Jan. 5th announcement.

Shuttle advocates will respond by saying that the cost per pound can be achieved if it is fully loaded—65,000 pounds. Well, $30.5 million divided by 65,000 pounds is $470 a pound, but it implies something which NASA would rather not mention. Namely, that you also have to pay for 65,000 pounds of payload. That drives the whole cost of the Space program sky high since payload costs per pound are very high.

All in all, I conclude that the economics of the Space Shuttle constitute a spacious basis for investment of so much money in a technological venture.

RALPH E. LAPP.

Mr. MONDALE. Based on NASA's own data, this analysis conclusively demonstrates that the shuttle cannot achieve the savings in space transportation costs claimed by NASA and the administration.

In fact, as Dr. Lapp observed, "the space shuttle will, according to NASA's own numbers, be more expensive than a variety of launch vehicles which NASA now uses."

NASA's own contractor, Mathematica, Inc., accused NASA "of a rather naive oversimplification of the economic case for the space shuttle by quoting numbers such as $100 per pound for the cost of putting a payload into orbit using the space shuttle." Mathematica regretted "NASA's passion for the use of this oversimplification." Mr. President, this is a criticism by a NASA contractor paid to analyze the economics of the shuttle.

NASA's deception about the reduction of costs to "$100 per pound" is no minor detail. It has been fed to both the press and the Congress as a major selling point for the shuttle. The recent House debate on the shuttle emphasized this claim. Newspaper, radio, and television editorials throughout the country have heavily relied on this figure—generally without attribution to NASA—in advocating the shuttle as a cost-effective investment.

Even the New York Times bought this figure. For example, in its editorial of January 8, 1972, supporting the shuttle, the New York Times stated:

> If successfully built, the reusable shuttle would cut the cost of putting a pound of matter into space from $600 or $700 to about $100 . . . Moreover post-shuttle development would almost certainly reduce the cost of putting material into space significantly below $100 a pound by the 1980's. In short, the space shuttle has the possibility of beginning for space travel what the model T Ford did for the automobile age.

Confronted with Dr. Lapp's analysis, NASA argued that its $100 per pound claim—which has lately been revised to $160 per pound—is based on the assumption that the shuttle will carry a full load of 65,000 pounds on every flight. This means that one shuttle flight could carry the total of all unmanned satellites launched by NASA over the past 5 years. Or to put it another way, under NASA's projection of 48 shuttle flights every year, the shuttle would have to carry 3.1 million pounds of payload to earth orbit every year to accomplish its alleged savings—which is almost 7 times as much as the total of all payloads—including four Apollo flights—launched by NASA in 1969, its biggest year in space.

This project led Brian O'Leary to state that apparently what NASA is planning to do is to use elephants for space animals and to put them in lead castings so that they can accomplish the type of heavy payloads needed to justify these costs.

Thus: either the shuttle will not carry 65,000 pounds per flight and will therefore cost more than existing boosters to put a pound of payload in orbit, as Dr. Lapp's analysis demonstrates, or it will carry 65,000 pounds per flight, which would mean an incredible increase in the amount of orbital payloads launched by the U.S. space program.

In either event, NASA's claims about the shuttle's reductions in transportation costs are irresponsibly misleading.

I wish to emphasize "irresponsibly misleading."

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. JAVITS. Mr. President, I wish to associate myself with the arguments which are being made by my colleague, the Senator from Minnesota (Mr. MONDALE), on this matter. I wish to give my reason because it may be attractive to other Senators.

I am for a space program which is level in cost, taking into account increases in cost, but which is level in that proportion of the budget it represents.

I do not believe that such large expenditures for the space shuttle program should be undertaken at a time when budgetary pressures are so great and many needed social programs are being underfunded. It is quite likely that the American people will be asked to pay increased income taxes next year. In this context it is incumbent upon the Congress to closely examine new programs which entail large expenditures to see if they can be justified.

Looking at the space shuttle program we find a great deal of conflicting opinion in the scientific community over the cost and the effectiveness of this program. We also find a lack of a clearcut objective toward which the program is to be directed. On this basis it would be improvident to proceed on a multi-billion-dollar program without further study and review.

The shuttle has been studied and approved by Mathematica, Inc. under a contract from NASA but even here the total program cost has been set at $35 billion when payload costs are included.

On the other side the Space Science Board of the National Academy of Sciences has expressed reservations about the shuttle program. The Federation of American Scientists has also expressed similar reservations. Dr. James Van Allen, one of our most notable scientists, has expressed the view that an effort to develop a space shuttle is "inappropriate to the national context of the 1970's."

Dr. Thomas Gold who is a member of the President's Science Advisory Committee and Director of Cornell University's Center for Radiophysics and Space Research is also vigorously opposed to the development of the space shuttle. He feels the case for the program is very weak and cannot be justified on the present contemplated uses of the shuttle. Dr. Ralph Lapp, the renowned scientist, has vigorously opposed the shuttle on the grounds that it will not reduce the cost of putting payloads into orbit and is not worth the large expenditures required to develop it. Finally, Peter James, a former space-systems analyst for Pratt & Whitney, has stated that the shuttle cannot be justified on the basis of its limited uses contemplated by NASA and that it should be delayed pending further study.

Thus we have seen conflicting statements by experts disputing every aspect of the shuttle. This is not a sound basis upon which to proceed with such a massive program. The Federal Government is going to be called upon to make increasingly large expenditures for social programs and I believe it is essential that we make these expenditures. A revenue-sharing bill which will call for the expenditure of $5.3 billion is expected to pass the Congress this year. Welfare reform legislation requiring an expenditure of possibly double that amount also may pass the Congress this year. We are likely to pass a higher education bill creating new grant programs that will run into billions of dollars. I believe these programs are necessary and should be funded at the appropriate levels. Therefore, we must take a hard look at programs like the space shuttle which will also cost billions of dollars and compete for funding with social programs.

The GAO is undertaking a study of the shuttle and should have its findings by June 1 of this year. I believe it is necessary to get the results of the GAO study and other studies which should be undertaken before proceeding with the shuttle program.

In light of the controversy and conflicting opinions about the advisability of proceeding with the shuttle program and our pressing social needs which must be met, I urge the Senate to support our amendment to delete the authorization of $227.9 million for the space shuttle program.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. JAVITS. I shall be glad to yield to the Senator in just a moment.

Mr. CANNON. If the Senator will permit me to respond in part, the $35 billion is completely unrealistic for the estimate cost of the shuttle. It is the estimate for the total space program; it is not the estimate for the shuttle, and never has been projected as such.

Mr. MONDALE. It is based on NASA's own contractor's estimates of the total program cost: 12 years, $35 billion. I do not think there is any question about it. It is true that the NASA spending levels this year are the same as last; but they are already beginning to dig into essential scientific programs, robbing from them to finance this space shuttle. So already they are taking from programs that have had useful purposes for this unneeded space shuttle. We are seeing shifts in NASA's priorities even at this modest start-up cost.

In addition to relying on these misleading claims, NASA rests its economic case for the shuttle on the reports of its contractors—particularly the Mathematica report. This report concluded that:

> The shuttle is economically feasible assuming a level of space activity equal to the average of the United States unmanned program of the last eight years.

The Mathematica study constructs a future scenario of 514 space missions over a 12-year period. On the basis of this scenario, it concludes that the United States will save $7 billion by using the shuttle instead of existing launch vehicles. However, this finding is based on the assumption that the United States will spend $42 billion using expendable vehicles for earth orbital missions during this 12-year period. Accepting this $42 billion program, Mathematica concludes that the shuttle's total program cost will be only $35 billion—thus, leading to the savings of $7 billion.

But the Congress has never approved such a $42 billion program. And until it does, any projections of shuttle economies based on such an escalation in future space activity are meaningless and deceptive.

Furthermore, the Mathematica report compares the development and procurement costs of existing launch vehicles—which are well defined—with NASA's estimates of the shuttle's development and procurement costs. But as Dr. Oskar Morgenstern—the chairman of the board of Mathematica—told the Senate Space Committee, all of the proposed shuttle designs have "considerable cost uncertainties" attached to them. Dr. Morgenstern continued:

> Given the advance in space transportation proposed by the space shuttle system, these cost uncertainties are prominent.

Dr. Lapp made the same point in his testimony:

> I would like to emphasize that any comparison of Space Shuttle and current expendable space vehicles must take into account the fact that in the development of any new technology contractor estimates of systems costs are hardly reliable. Rand studies (Alvin J. Harman "A Methodology for Cost Comparison and Prediction" August 1970 RM-6269-ARPA and Robert Summers "Contractor Estimate and Prediction of Actual Weapons Costs: March 1965 RM-3061-PR) show that contractor estimates are invariably low and that actual costs exceed the estimates by 80 percent.

Peter N. James, the former space-system analyst at Pratt & Whitney, was even more specific in his recent article on the shuttle:

> Predicting cost estimates only several years in advance is a very difficult task, let alone a span of almost 20 years. Modern day examples of cost over-runs include the C-5 military jumbo jet transport and the F-111 fighter aircraft. And these systems were developed only a few years ago.
>
> To justify the shuttle, however, cost estimates must show a span of approximately 20 years, due to the 7-10 year development cycle and the 10-15 year operational cycle. On a statistical basis one would expect to find just as many high cost estimates as low estimates.
>
> The record shows that aerospace cost estimates—regardless of the reasons—have characteristically been biased on the low side. Projecting costs 20 years in advance—and I've seen this done on numerous shuttle projects—is essentially equivalent to President Harry Truman in 1949 estimating the cost of landing men on the moon and bringing them back home safely in 1969; and Truman would have made his calculations based on the technology of the 1940's. In other words, while shuttle cost estimates must be made over approximately a twenty-year period, we should place these estimates in the proper context.

Mr. President, I ask unanimous consent that Mr. James' article, which appeared in the April 2, 1972 edition of the Miami Herald, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"WE MUST REORGANIZE OR POSTPONE IT"

(By Peter N. James)

Most citizens and Congressmen are not aware that the space shuttle program is in deep technical trouble due to bizarre planning decisions by NASA officials.

Support for the program is righteously based on the idea that low cost space transportation systems must be good and we must forge ahead in space. Unfortunately, what the shuttle ideally represents and what is being offered are two different things.

Another problem area is that the public and Congress have been led to believe that "low cost transportation" means a "low cost national space program." Unfortunately these terms are not synonymous.

The space shuttle program as currently conceived by NASA is not in our national interest. NASA's space shuttle expenditures thus far run into the millions of dollars and a good percentage of these expenditures has been wasted because of poor planning and impatient to get the program under way. There is no evidence to indicate that things will improve, while there is supporting evidence to indicate things are getting worse.

The urgency to get this program under way at the risk of developing the wrong system cannot be justified. We are talking about a multi-billion dollar, 20-year program (7-10 years development and approximately 10 or more years of operation).

It is time to stop and either get reorganized or consider the project at a later date. Congressional support of this program in fiscal 1973 without advisory guidelines and restraint will endorse NASA's "sketchy" space shuttle record and in my opinion will contribute one of the most wasteful and poorly planned, dead-ended, multi-billion dollar, space age boon-doggles of the century.

By late 1970, the logic that prevailed within the industry was that the shuttle had to be sold to Congress and the public, or the future of the space industry was in jeopardy.

Official spokesmen began promoting the shuttle, hoping to convince Congress and the public that the shuttle had to be built on the grounds that it would reduce space costs.

Numerous cost studies appeared, showing the advantages of reusable shuttle-type systems over expendable systems. While most studies emphasized cost savings if a space shuttle were developed, few studies made it clear that the total annual space expenditures for this nation in the shuttle era would be considerably greater than NASA's current space expenditures.

Congressional resistance to increased space expenditures during 1970 dictated that the projected total cost of our national space program not be publicized so frequently as in the past, so as to not scare off any supporters of our space program. The emphasis was to be on cost savings, rather than on total cost. All planning to date was based on an integrated space program. Suddenly, for political expendiency officals were talking about delaying some programs, and breaking up the integrated space program concept to make it more palatable to Congress. The logic that prevailed was: Let's get the shuttle approved first, then the rest will follow. If we lose the shuttle, we lose everything anyway.

After reading the record and testimony on the U.S. space shuttle program, I concluded that members of the Senate were not given sufficient background information to intelligently assess the program.

NASA witnesses, for example, presented the official NASA Headquarters position, which did not reflect the raging controversy and serious differences in expert opinion within NASA and private industry over the shuttle program. Witnesses against the shuttle program—mostly scientists—presented information from the scientific point of view.

The missing testimony was from the aerospace engineers and systems analysts who have been studying reusable launch vehicles for almost a decade. Generally speaking, these persons cannot surface their inner feelings about the space shuttle program as currently conceived by NASA or criticize their government publicly without jeopardizing their jobs and careers.

Shuttle cost estimates: Predicting cost estimates only several years in advance is a very difficult task, let alone a span of almost 20 years. Modern day examples of cost overruns include the C-5 military jumbo jet transport and the F-111 fighter aircraft. And these systems were developed only a few years ago.

To justify the shuttle, however, cost estimates must show a span of approximately 20 years, due to the 7-10 year development cycle and the 10-15 year operational cycle. On a statistical basis one would expect to find just as many high cost estimates as low estimates.

The record shows that aerospace cost estimates—regardless of the reasons—have characteristically been biased on the low side. Projecting costs 20 years in advance—and I've seen this done on numerous shuttle projects—is essentially equivalent to President Harry Truman in 1949 estimating the cost of landing men on the moon and bringing them back home safely in 1969; and Truman would have made his calculations based on the technology of the 1940's. In other words, while shuttle cost estimates must be made over approximately a twenty-year period, we should place these estimates in the proper context.

By mid-1971 NASA had undertaken measures to make the shuttle acceptable to Congress on a dollar basis. Plans for developing a space station were deferred. The grandiose plans of an expedition to Mars, lunar orbiting space stations, lunar bases, and logistic support missions for manned space activity were shelved. These developments were construed within the engineering community as a bad planning decision by NASA. The original integrated national space program envisioned by the Space Task Group and other officials in 1969 was being dismembered. The programs that once were used to justify the shuttle during 1969 and 1970 were either cancelled or deferred. Against all cost principles, the shuttle is being presented to Congress on its own merits and tied in with payload cost savings.

The dilemma the engineering community faced was as follows: A space shuttle would probably be "cost-effective" relative to any throw-away launch vehicle if a large number of launches were required. However, if a large number of launches were required it meant that we would dramatically increase the number of payloads launched into orbit relative to our current launch rate. Because the cost of payloads has a significant influence on the total cost of our national space program, the cost of our space program would increase dramatically.

And if people are not willing to support a costlier space program, then it would not be cost-effective to develop the space shuttle. It is impossible to launch more payloads than we are currently launching without significantly increasing annual space expenditures. In short, we know that the shuttle can only be justified if our nation commits itself to a large space program—in excess of what we are already doing. So the option for the 1970's is to either maintain a status quo without a shuttle or greatly increase space expenditures to accommodate an aggressive space program with a shuttle.

The shuttle was originally conceived as part of an integrated total national space program. Everyone agrees that low cost space transportation is needed if we are to pursue an aggressive manned and unmanned space program for the next two decades. Most shuttle design studies conducted during 1969 and 1970 proceeded on the assumption that annual space expenditures during the '70's and especialy the '80's would greatly exceed current expenditures. This assumption was necessary to justify the shuttle on an economic basis.

In other words, the cost savings from low cost space transportation systems would not reduce current annual space expenditures; they would help keep down the costs for a geratly expanded space program. The cost for a greatly expanded space program—even with low cost transportation systems—would be considerably more than we are currently spending in space, and this is mostly due to the exorbitant costs to design and develop payload. It costs $50,000 to $200,000 per pound of payload: spacecraft or satellites to be launched.

Because Congress authorizes space expenditures, the public and Congress participate in the planning of our space program. Congressmen who do not favor a greatly expanded national space program, regardless of their reasons, should vote against the shuttle. To support a shuttle program at this time and then withdraw this support at a later date, when costs escalate, would be wasteful. I would rather see this money spent on health and education than on a dead-end program.

For the space shuttle to have a chance—even if it is technically and economically feasible—it must have strong support throughout its duration. It is fairly obvious that the shuttle as presently conceived does not have this support—even within the engineering community. Unfortunately, the shuttle program has been separated from the concept of a total national space program to make it palatable to Congress. Such an approach is no longer cost effective by any stretch of the imagination.

It is worth repeating what NASA learned in 1969: "The lesson is that we need to develop our concepts of low cost transportation within the context of a total national space program rather than in the more limited context of launch vehicle and transportation alone."

For our country to develop an effective low cost space transportation system let us recognize that three conditions must be met:

"(1) The space transportation system must be an inseparable part of a total national space program.

"(2) We must plan better than we have in the past.

"(3) We must spend considerably more in space on an annual basis during the next two decades than we are currently spending."

NASA's space shuttle program does not satisfy conditions 1 and 2 above, and NASA has not made it clear to Congress and the public that condition 3 was always a prerequisite for the space shuttle to be an economic success regardless of technological considerations.

I urge Congress not to support the space shuttle program as currently conceived and propose that a one year moratorium be declared with the idea of considering the space shuttle program for fiscal 1974. As the rocket engine program for the shuttle's orbiter stage requires a long time to develop, I would recommend that it be retained as a separate entity with minimum funding until fiscal 1974, when a go-no go shuttle decision can be made.

A one-year moratorium would allow NASA to get reorganized, solve its internal differences, and start with a clean slate. It would also give our country the benefit of "in-house" studies by aerospace corporations (i.e., studies conducted at the corporation's expenses). Many corporations invested a great amount of time and money into studying shuttle configurations, but have had their ideas suppressed by NASA's intervention and initiation of premature detailed design studies.

If the shuttle goes down the drain, the organization itself falls. NASA is trying to hurry the shuttle through to keep it alive. I'm in favor of giving NASA the funds to stay alive, but let's not blow it on the shuttle until they've done more homework.

Mr. MONDALE. Mr. President, thus, if NASA's relatively speculative cost estimates for the shuttle prove to be unreliable—which is quite likely—Mathematica's fragilely constructed rationalization for the shuttle will collapse.

Finally, it should be emphasized that Mathematica carried out its economic analysis solely on the basis of space traffic data provided to them by Aerospace, Inc., and Lockheed Missiles & Space Co.—all three NASA contractors.

I do not believe that we should make another multi-billion dollar commitment to a new space program solely on the basis of studies solicited and paid for by the agency which has the greatest stake in this decision.

In an independent analysis of the Mathematica study, Dr. Lapp concluded that:

> Instead of "saving" $7 billion, the Shuttle could actually "cost" us $19 billion more for the U.S. space program.

I wish to repeat that because it comes from an independent scientist who is on no one's payroll. He said this program will not save us $7 billion, but cost us $19 billion more than a program using existing launch vehicles. The National Academy of Sciences also said it could not be justified on grounds of cost.

Other independent judgments on the shuttle—such as the 1970 Rand Report, reports of the Space Science Board of the National Academy of Sciences, and the Federation of American Scientists, and the testimony of eminent space scientists like Dr. Van Allen and Dr. Gold—have concluded that the shuttle would not be cost-effective on scientific or utilitarian criteria.

Even those who disagree with the conclusions of these experts will admit, I think, that a complex technological project like the shuttle raises obvious questions—questions which deserve thorough examination in an impartial study by a body which is free of any conflicting interests and which is in no way dependent on NASA.

I believe the General Accounting Office is capable of performing this type of analysis. On February 17, 1972, I asked the GAO to make an initial study of the cost-benefit analyses—such as the Mathematica Report—used by NASA to justify the shuttle. On March 14, the GAO informed me that they would conduct such a review and issue a report to the entire Congress prior to June 1, 1972. Mr. President, I ask unanimous consent that this exchange of correspondence be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Comptroller General
of the United States,
Washington, D.C., March 14, 1972.

Hon. Walter F. Mondale,
U.S. Senate.

Dear Senator Mondale: On February 17, 1972, you requested that our Office undertake a review and analysis of the cost-benefit analyses used by the National Aeronautics and Space Administration in support of the proposed Space Shuttle Program.

As indicated in our discussions with your office, we plan to conduct this review and to issue a report to the Congress, with simultaneous distribution to you, cognizant congressional committees, other interested members of Congress, and the public. We believe that on matters as extensive as the Space Shuttle Program, the results of our work should be made available to all members of Congress and to the public.

Although we will have a short period of time to complete the extensive work required, we believe that we will be able to supply data on each area of your request by June 1, 1972. Presently, we are developing work plans for the accomplishment of your request. At the conclusion of this planning, we will meet with Mr. Steven Engleberg of your staff to specifically indicate the information we can obtain and report on by June 1, 1972.

Sincerely yours,

Elmer B. Staats,
Comptroller General of the United States.

U.S. Senate,
Washington, D.C., February 17, 1972.

Mr. Elmer B. Staats,
Comptroller General,
Washington, D.C.

Dear Mr. Staats: As you know, the National Aeronautics and Space Administration is planning a new Space Shuttle program, which was announced on January 5, 1972. This program will involve an expenditure of $5.5 billion for research, development, test and engineering, together with 20 percent overrun allowance, and $0.3 billion for launch facilities. This Shuttle will be a two-stage vehicle—consisting of a booster and an orbiter. Each booster will cost $50 million, and at this point, the booster's reuse capability is not defined. Each orbiter, which NASA claims can be used 100 times, will cost an estimated $250 million.

NASA claims that each shuttle flight will cost less than $10 million and that the cost of placing a pound of payload in orbit can be reduced to less than $100. Thus, it is argued that the Space Shuttle will be a cost effective vehicle for the space program.

Obviously, the Senate is confronted with a situation wherein prospective economics becomes the basis for a new space transportation system. However, there appear to be many technological unknowns in this new venture and a wide margin of uncertainty in cost estimates. I would therefore deeply appreciate it if your office would undertake a review and analysis of the cost-benefit analyses used by NASA in support of these Shuttle estimates.

In this connection, I would like your review to include, but necessarily be limited to the following:

(1) Identification of supporting analyses for the NASA estimates.

(2) Identification of the processes whereby these estimates were conducted, the organizations involved, and any supporting studies or other work involved in the processes,

(3) Identification of significant assumptions and other critical study elements which influence the estimates of shuttle economics,

(4) Analysis of these studies and their critical elements and analysis of the range of possible effects on shuttle economics forecast by these estimates.

I would like the results in the form of a document showing the range of possible effects on the shuttle economic estimates and a description of the other work described in this request. In view of the urgency of the Space authorization, I would like the members of your staff assigned to this work to maintain a day-to-day working relationship with members of my staff, particularly Mr. Steven Engelberg, and others to be designated.

Sincerely,

WALTER F. MONDALE.

This initial GAO report will not be a definitive study of the shuttle. But I am hopeful it will be a basis for the kind of comprehensive, objective review which is essential before the Congress votes to spend billions of the taxpayer's money.

LACK OF CLEAR-CUT POLICY

Beyond these serious questions about the hidden costs and cost-effectiveness of the shuttle, there is another basic reason for opposing this project.

It seems to me self-evident that the Congress should not approve such massive spending of tax money for development of the shuttle—or for development of any other space transportation system—until we have established a realistic space program for the future. With the impending phase-out of the Apollo program, however, the Nation simply lacks any agreed upon set of objectives—any coherent future policy—for our space program. Only after Congress has approved long-range missions in space and defined their probable costs should we then consider whether an expensive new transportation system to earth orbit is really required—or whether we can save billions by continuing to rely on existing expendable boosters.

Instead, NASA is urging us to approve a multi-billion dollar investment in the space shuttle before these long-term goals in space are established as a matter of national policy. NASA openly admitted this is responding to Dr. Lapp's assertion that the United States has not approved the $42 billion program for orbital missions projected in the Mathematica Report:

> "Of course," NASA stated, *"the United States has not approved in detail any space program for the 1980's; NASA* and DOD will continue to seek approval from the Administration and the Congress of their space activities—program by program—as they now do each year." (See *Congressional Record*, page 13790).

This ad hoc, improvised approach may have been feasible so long as NASA was operating within the general context of the Apollo moon program. But with the end of Apollo in sight, neither the public or the Congress—and apparently not even NASA—have an overall strategy and purpose to guide the enormous investments we are now being asked to make. This purposelessness and lack of policy make no more sense in the space program than it would in national defense, in transportation programs here on earth, or in any other type of public program.

What we are being asked to do, then, in approving the shuttle, is to purchase a fantastically expensive vehicle with no real idea of the legitimate and worthwhile transportation demands for that vehicle.

But one thing is certain: If NASA has its way, a commitment to develop the shuttle inevitably will close off certain policy options and back up into others without the slightest public debate on realistic space goals for the future.

As Peter James pointed out in his article on the shuttle.

> A space shuttle would probably be "cost-effective" relative to any throw-away launch vehicle if a large number of launches were required. However, if a large number of launches were required it meant that we would dramatically increase the number of payloads launched into orbit relative to our current launch rate. Because the cost of payloads has a significant influence on the total cost of our national space program, the cost of our space program would increase dramatically.
>
> And if people are not willing to support a costlier space program, then it would not be cost-effective to develop the space shuttle. It is impossible to launch more payloads than we are currently launching without significantly increasing annual space expenditures. In short, we know that the shuttle can only be justified if our nation commits itself to a large space program—in excess of what we are already doing. So the option for the 1970's is to either maintain a status quo without a shuttle or greatly increase space expenditures to accommodate an aggressive space program with a shuttle.

Thus, as Mr. James concluded:

> Congressmen who do not favor a *greatly expanded national space program*, regardless of their reasons, *should vote against the shuttle.*

Without an approved space program for the future, any analysis of the shuttle's cost-effectiveness—such as the Mathematica Report—is highly speculative and can only be hypothetical. We should keep in mind that Mathematica rests its conclusions on the completely unwarranted assumption that the United States will have a $42 billion earth orbital space program over a projected 12-year period.

In a March 29, 1972 speech at the University of Toledo, Dr. Ralph Lapp aptly characterized NASA's advocacy of the shuttle:

> I submit that NASA is putting the cart before the horse—or the rocket before the payload—in focusing Congressional attention on a launch vehicle when it should, in fact, be examining the nature of the future U.S. space program. The only way you can make the Space Shuttle even begin to look economically attractive is to make it a weekly work horse for boosting huge payloads into orbit. I submit that before we get ourselves into a massive trucking operation, we ought to ask ourselves what is the basic purpose and payoff of this vastly expensive activity.

The fact that the shuttle is viewed by NASA as an end in itself—rather than as a transportation system—is demonstrated by the shifts and zig-zags in this project since it was first proposed several years ago. In its desperation to get the shuttle funded, NASA has repeatedly changed its design, purpose, and justification—not to meet legitimate scientific or technological demands, but to make it politically salable.

In 1970, the shuttle and station were presented by NASA as a joint project—the basis of what NASA called a new epoch in manned space flight. The agency justified the shuttle primarily as a reusable logistical truck for carrying men and supplies to a permanent manned space station in earth orbit.

In early 1971, NASA—responding to budgetary pressure—argued that the shuttle was no longer related to development of the station and that it could be justified on its own merits. Within the space of 1 year, NASA completely changed the shuttle's mission and its justification. As one NASA official put it:

> This does represent a reversal of priorities. Initially, we thought of the shuttle only in terms of the station; now the shuttle is to the fore alone.

NASA's 1971 version of the shuttle was a reusable, two-staged vehicle—with both stages piloted by men. The estimated development cost of that shuttle was $12.8 billion.

Prior to last year's debate on this issue, NASA again realized that it would be difficult to persuade the Congress to fund such a costly development program. On June 16, 1971, the agency issued a release stating that it was actively examining a phased approach to the development of a reusable space shuttle system in which the orbiter vehicle would be developed first and initially tested with an interim expendable booster. In other words, NASA was considering deferring a reusable, two-staged shuttle in return for a partly reusable vehicle.

Finally, on January 5, 1972, the President announced still another shuttle design. This design—now being considered by the Senate—consists of a partly reusable, unmanned booster—which NASA assumes will be reused as many as 20 times—and a manned orbiter—which NASA claims is capable of carrying out 100 space missions.

One clear fact emerges from this pattern of shifting justifications and changing designs: NASA desperately wants this multibillion-dollar project, and will seek any rationale to justify its development.

What we see, then, is a classic case of a program and agency in search of a mission. Instead of the normal process of presenting a clear and consistent justification for a program—and then seeking to fund it—NASA wants to develop this project on a "fund now, justify later" basis.

There is no more vivid example of the murkiness of NASA's position—and the confusion caused by an absence of coherent policy—than the ambiguous relationship between the space shuttle and the space station. First, NASA presented the shuttle and station as a joint project—with the shuttle serving as a logistical truck to the station; then, NASA claimed that the shuttle had been decoupled from the station; and finally, at the beginning of this year's debate, the station again emerged as an integral part of the program to develop a shuttle.

In his January 5, 1972, statement, Dr. Fletcher stated that "further in the future," the shuttle will be used to "resupply with men and equipment space modules which themselves have been brought to space by the space shuttle." Dr. Myers—NASA's Associate Administrator for manned space flight—was even more specific in his recent testimony before the committee; he stated that one of the shuttle's primary missions will consist of space station logistic support. And as Dr. Lapp pointed out, the Mathematica report, in its tabulation of future space shuttle missions, listed a minimum of 62 flights to a space station.

It is obvious, then, that the space station is very much a part of NASA's future plans. Nevertheless, NASA persists in attempting to focus this debate on the shuttle alone. They realize that a joint shuttle-station project raises two significant problems.

First, the simultaneous development of both the shuttle and station will create an enormous budgetary strain. In 1970, NASA estimated that the station's development would cost approximately $7 billion; recently, this estimate has decreased to $3 billion. But like estimates for the shuttle itself, I believe that these figures are most unrealistic and that the final costs of the station will be a great deal higher than NASA claims.

And second, the space station is based on the unproven assumption that man can function effectively in a space environment for long periods of time.

A 1969 report by the House Subcommittee on Space Science and Applications stated that:

> If there is an ultimate limiting factor (to exploring space), it may well be the length of time through which man can endure the influence of the hostile environments encountered beyond the earth. The extent and limits of human frailty or endurance have not yet been established.

Weightlessness and other special effects of the space environment may be extremely deleterious and even fatal to man after extended space flight. The Biosatellite III mission—which resulted in the death of a monkey after 8½ days of a scheduled 30-day flight—the medical reports on the cosmonauts aboard the Soyuz flights, and the problems experienced by our own astronauts have reinforced the view in the scientific community that many unanswered questions remain about the biomedical effects of long duration space flight.

NASA's Skylab project is designed to determine the feasibility of manned operations in a space environment over long periods of time. The first of these Skylab missions is scheduled for 1973; and until the results of these missions are evaluated, we will not know whether man will be able to use the space station. Even if it is demonstrated that man can survive in such an environment, the station will undoubtedly have to be tailored to solve various biomedical problems.

It is therefore senseless to begin funding for a giant space station before we have even flown the small one which is supposed to test the concept of space station flight. As Air Force Secretary Seamans told the Senate Space Committee last year:

> We should wait until we have had further experience with the Skylab program and the shuttle before we embark on a space station mission. Knowledge derived from Skylab will give us a greater understanding of the role that man can perform in space and only after a thorough investigation and analysis of the shuttle, can we predict with reasonable accuracy our ability to resupply such a station economically and to ferry astronauts, scientists, and engineers back and forth from the space platform.

Thus, NASA's claim that the shuttle can be justified independently of the station presents it with a very basic dilemma: with the station, it has an enormously expensive development program over the next 7 or 8 years which even NASA knows Congress and the American taxpayer will not support; and it has a program which depends on unanswered questions about the feasibility and value of long duration manned space flight; decoupled from the station, the shuttle is left without a primary purpose and without the activity needed to enable it to begin to make sense from a cost point of view.

It is evident that NASA has resolved this dilemma by deciding to proceed as soon as possible—perhaps after clearing this year's hurdle on the shuttle—with rapid development of the station. As Dr. Low of NASA told the Senate Space Committee last year, expedited development of the station is very much a part of NASA's plans:

> I think it is a question of timing—

He stated—

> as to when we should move out with the space station. *I am not sure we need to wait until the shuttle and the Skylab are fully developed.* It may well be that as our space program moves out into the 1970's that we would decide sooner rather than later to start the full development of the space station as well.

NASA's strategy boils down to this: Once the shuttle is no longer endangered by congressional opposition, the other multibillion dollar shoe—called the space station—will drop. We will be told that the station's development logically follows from development of the shuttle. And we will be back to where we were when NASA first presented the shuttle and station as a joint project in 1970.

As one commentator perceptively noted:

> The shuttle is a bundle of oddities such as even the space age has not seen before. It is really only half of a bigger project sonorously labeled the "Space Transportation System." The other half is a large manned orbital station and is what the shuttle originally was meant to shuttle to and from. Only it's becoming apparent that there isn't enough money to build the two halves concurrently. So the shuttle will be built first. And when it is built, probably it will have no place to go (fifty times a year) until the space station comes along five or six years later.

Underlying NASA's shifting positions on the shuttle and its obfuscation of the role of the station is one central fact: NASA has persistently refused to confront the basic policy questions of what we expect to achieve in space, for what purpose, and at what cost.

To the extent that NASA has considered future policy, it is apparent that they are determined to keep intact their large bureaucracy built around the manned space program. Thus, the NASA Administrator has stated that a primary reason for developing the shuttle is that it "is the only meaningful new manned space program which can be accomplished on a modest budget."

NASA's belief that the shuttle is essential to its bureaucratic future—particularly to its future in manned space flight—is certainly not a sufficient reason for funding this multibillion dollar project. Before this large-scale undertaking—or any other public expenditure—can be justified to the American taxpayer, the Congress must be convinced it is designed to meet real and pressing public needs.

I do not believe this burden can be met unless there is a clear and precise definition of a future space program in terms of launch vehicles, payloads and missions. As NASA concedes, no such program has even been presented to the Congress—let alone approved by it.

Ironically enough, NASA's own contractor—Mathematica, Inc.—aptly summarized the criteria by which the shuttle should be judged. As they emphasized in their report of January 31, 1972:

> *Any investment can only be justified by its goals.* This applies to business as well as to government, hence also to NASA. *A new, reusable Space Transportation System should only be introduced if it can be shown, conclusively, what it is to be used for and that the intended uses are meaningful to those who have to appropriate the funds, and to those from whom the funds are raised,* as well as to the various government agencies that undertake space activities. (emphasis added)

The demonstrated failure of the shuttle proposal to meet these criteria makes it clear that the Congress cannot at this point sanction this multibillion-dollar expenditure.

At a time when millions of Americans are finding it a torture just to get to and from work, we are on the verge of spending billions of dollars to carry a few men to earth orbit. Just the development cost of the shuttle will be approximately six times what the Federal Government has spent for all mass transit programs in the last decade.

In the magnitude of its cost, in the folly of its concept, and in its damage to the country, the space shuttle is many times worse than the SST. If Congress rejects the shuttle—as it rejected the SST—we will again prove that in a democracy, people have a right to demand that Government-supported technology serve human needs.

EXHIBIT 1

FEDERATION OF AMERICAN SCIENTISTS REVIEWS SPACE SHUTTLE

(NOTE.—The statement and analysis released in 1971 was approved by the Federation and prepared by an Ad Hoc Committee chaired by Philip Morrison, Professor of physics at MIT, and containing Eugene B. Skolnikoff, Chairman of the Department of Political Science, MIT and Leon Trilling, Professor of aeronautics, MIT.

(The Federation's review of this program was prepared and reviewed by two highly experienced analysts and observers of military and space programs.

(Dr. George W. Rathjens, of the MIT Political Science Department, is professionally engaged in teaching methods of just such analysis and has a long, varied, and widely admired career in their practice. He has been Deputy Director of the Advanced Research Projects Agency in the Department of Defense's Directorate of Defense Research and Engineering; Deputy Director for Science and Technology of the Arms Control and Disarmament Agency and Director of the Weapons System Evaluation Division of the Institute for Defense Analyses.

(Dr. Von Eshelman has been long engaged in space programs. He has been the principal investigator for space science experiments on lunar and planetary missions (Apollo, Explorer, Mariner and Pioneer) and has been a long-standing consultant to NASA. In particular, he was, from 1966–69, a member of the Lunar and Planetary Mission Board of NASA. Dr. Eshelman is now a member of the Electrical Engineering Department of Stanford University.)

On July 15, 1971,[1] the Federation released a statement in opposition to the Space Shuttle then being proposed. We argued that: 1) the space shuttle would not do anything for NASA that it could not already do and would have to be justified on economic grounds; 2) that the level of use required to make it economic would be justified only if there were a plan for substantial manned occupation of orbit; and 3) that the shuttle should therefore not go forward until the investment value of the scheme were shown in terms of foreseen and desired uses of heavy launched payloads.

This year, the shuttle proposal has been modified and new justifications put forward for it. FAS has therefore reexamined the program. But its conclusions are similar. This report concludes that the alleged economic benefits are based on assumptions for which there is little basis, assumptions which are likely to prove seriously in error. FAS supports a vigorous program of unmanned flights for applications devoted to improving man's condition on Earth. But we fear that heavy investment in the shuttle may divert attention from such important areas and may undermine public support for the space program in particular and credibility in Government in general, when it becomes apparent that the shuttle was sold to the public on a misleading basis. Further, it may lead to space investments not really desired by the public simply because the shuttle would then have been expensively funded. Waste would beget waste.

SUMMARY

The space shuttle is being sold to the Congress and to the public as an economical transportation system for a space program in which the primary emphasis would be on the use of instrumental satellites for applications and space science. The relationship of the shuttle to manned space flight and to military programs is being played in low key.

The result is that the Congress and the public are being asked to approve the program on the basis of presentation of its utility and likely import that is misleading in several respects.

First, the alleged economic benefits of the program as compared with one based on the use of expendable boosters is based on assumptions for which there is little basis, and which in fact we believe are likely to prove seriously in error—particularly assumptions that there will be a substantial increase in the number of unmanned civil satellite launchings as compared with the present frequency, and that the use of a shuttle would result in substantial savings in space payload costs. The use of more realistic assumptions would mean that the cost of a reasonable space applications and science program would be more with the shuttle than without it.

Second, although the Defense Department clearly does not regard the shuttle as a high priority item, it seems likely that the military utility will be greater than that to the civil sector. Accordingly, if the shuttle is to be developed, a substantial part of the funding and the defense of it should be by the Defense Department.

Third, and most important, we believe that the shuttle ought really to be considered primarily as a part of a continuing effort by NASA to maintain the manned space program with momentum and as the centerpiece of its activities. We are particularly concerned because we believe a vigorous program of unmanned flights primarily for applications purposes, such as for improved communications and weather forecasting, but also including space science launches, has much to commend it, and we fear that emphasis on the shuttle may divert attention and resources from these important areas. We are also concerned because we feel that it is these kinds of programs, particularly the applications programs, that can command public support. We fear that if the shuttle is misleadingly sold to the public as having its primary justification in such programs there may be a later reaction, when its true impact becomes apparent, reflecting adversely on the whole space program and contributing to erosion of confidence in government.

COMMENTS ON THE SPACE SHUTTLE

In advocacy of the proposal to build a space shuttle, NASA, its contractors, and supporters have advanced a number of arguments which we believe must be questioned. We summarize the major arguments very briefly below and then comment on them and on a few additional points.

a) It is claimed that on narrow cost-benefit considerations the shuttle is desirable: that with its development and use, we can have the same kind of space program that would otherwise be acceptable and make sense for us at a saving of several billions of dollars, e.g., at a saving through 1990 of 5 to 7 billion according to one estimate[1] and 5.35 billion according to another.[2] This conclusion derives from several subsidiary assumptions and arguments.

1) It is assumed that the number of U.S. space launches will increase from the present level of about 30 per year to a somewhat higher level during the 80's. The savings cited above in reference 1, for example, are based on an assumption of 514 space shuttle flights during the period 1979–1990, i.e., an average of 43 flights per year, and those in reference 2 on 580 flights during the same period.

2) It is assumed that with the shuttle it will be possible, and economical, to repair some satellites in orbit and to retrieve many others for refurbishment and relaunch.

3) It is estimated that the shuttle will make possible the use of less expensive payloads: that, because of less severe constraints on weight, reliability, and ability to withstand high loadings, it will be possible to achieve substantial savings on payload costs without sacrifices in performance.

These assumptions, particularly the second and third, and an assumption that the cost of a shuttle would be reasonably consisent with present estimates, are the major ones which have led to rather favorable conclusions of the Mathematica study regarding the economic attractiveness of the shuttle.

In fairness, however, it must be said that the Mathematica study generally plays down the argument that the shuttle is economically attractive in terms of straight transportation costs. While it argues that undiscounted recurring launch costs will be substantially less with the shuttle than with expendable boosters, at the 43 flights per year level, the non-recurring costs of the shuttle program are estimated to offset the launch savings.[1]

On the other hand, statements by NASA and other supporters have been much less cautious and indeed in our view misleading with respect to the issue of transportation costs. Thus, NASA has made a major point of arguing that the shuttle will be an economical transportation system, reducing the costs of putting payloads in orbit by a factor of 10.[3]

b) It is claimed that the development of the shuttle will have favorable effects on employment particularly in the aerospace industry.[4]

c) It is claimed that development of the shuttle is important for American technology and that there may be important spin-off effects.

d) It is argued that the shuttle may be of importance as a rescue vehicle.

We now comment on the major questions raised by the shuttle.

Does the Shuttle make sense in terms of straight transportation costs?

The case for the space shuttle has been based in part on its use to replace large, expensive boosters. Indeed, it has been repeatedly argued that the shuttle would economically replace the whole family, the Scout and the Saturn V excepted.[5] These arguments would make sense if a completely reusable shuttle with recurring launch costs of about $5 million had already been developed. However, we have yet to incur the development costs. Moreover, even after development is completed the cost per launch with the shuttle design that has now been selected will be about $10.5 million *according to NASA.*[2] This figure should be compared with costs of about $6–7 million for Delta launches and $9–10.5 million for most Titan III B launches with either the Agena or Centaur upper stages. In addition, many Titan III D launches will apparently be in the range $9.8–10.6 million each. (NASA's figure for the Titan III D is $13.2 million.[6])

If one looks at the NASA Office of Space Science launch record for last year one finds that 4 out of 16 launches were carried out with Atlas-Centaur vehicles. In these cases the use of a shuttle, had it been developed, would have resulted in modest savings. (The cost of an Atlas-Centaur launch is, according to NASA, $15.8 million.) However, for the other 12 launches, which employed Scout and Delta vehicles, use of a shuttle would have resulted in substantially increased costs. Looking to the near future the situation is similar. For the years 1972, 73 and 74 of 52 projected launches in only 13 cases would there be a saving were the shuttle available. Even when one considers the flight schedules for the period 1979–90 on which the Mathematica study is based, it becomes clear that less than half of the launches would cost less using the shutttle than if existing vehicles were used.[6] NASA figures in this regard are truly remarkable. One reference[2] cites a figure of $13.2 billion for launch and launch-related costs for 580 launches during the period 1979–90 using expendable boosters, an average cost of $22.7 million per launch. This figure should be compared with the launch costs cited above and others, e.g., for Titan III C $20.4–$23.8 million according to NASA. One is led to assume that NASA contemplates a dramatic increase in average payload weight requiring that nearly all payloads be launched with Titan III C or comparable expensive boosters. Such an assumption would seem to have some validity as regards launch of military satellites (see p. 23), but none whatever as regards unmanned civil payloads. Certainly it is gross-

---

Footnotes at end of article.

ly inconsistent with the assumptions regarding payloads that appear in the Mathematica study.[7]

The comparisons above all neglect shuttle development costs. If these are included, $5.15 billion according to NASA,[2] just the interest that the government would have to pay to borrow the sum would come to over $300 million per year or an additional $6–8 million per launch, if one assumes launch schedules at the NASA-Mathematica levels, and *far* more if one assumes that the shuttle is used only for those launches where a saving would result. If as little as $6 million per launch were added to the recurring costs of the shuttle the case for it looks much less favorable than suggested in the paragraph above: *no* civilian missions in 1971 or 1972, only 1 in 1973 and 2 in 1974 would have involved lower launch cost using the shuttle in place of expendable boosters.

We note in passing that costs for the present family of boosters are relatively hard procurement costs; those for the shuttle are estimates which are more likely to be too low than too high.

Notwithstanding the relatively high cost per flight with the shuttle NASA and some supporters have argued that great economies in transportation will be achieved, in particular citing reductions in the cost of delivering payloads to near earth orbits from about $1000 per pound with expendable boosters to $100 or $160 per pound, the $100 figure applying to shuttle configurations now rejected[8] and the $160 figure applying to the design recently selected.[9] These figures are deceptive.

In the first place they do not include RDT & E costs: The $160 figure is obviously derived simply by dividing the recurring cost of $10.5 million per launch by the maximum payload of the shuttle of 65,000 pounds. If one included the RDT & E cost of the shuttle and amortized it over the 514 flights assumed by Mathematica[1] or the 580 flights assumed by NASA[2] for the period up to 1990, the costs per pound would be roughly doubled. Moreover, if one discounts future costs, as one should and as the Mathematica study does, the comparison between the shuttle and the expendable boosters will be still less favorable than simple undiscounted figures suggest since, with development costs included, costs for the shuttle will be less heavily discounted than those for the expendable boosters. This last point is illustrated if one repeats the calculations of reference 2 but with discounting of future expenditures. With the use of any discount rate greater than about 7% or 8% (the Mathematica study uses 10% as its central case), NASA-cited savings of $5.35 billion that might be achieved through use of the shuttle completely disappear.

Far more important, the $100 or $160 per pound figures quoted by NASA assume the shuttle would carry a full payload of 65,000 pounds each flight. There is not the slightest basis for making such an assumption. On the contrary, there are overwhelming arguments suggesting otherwise. Even Mathematica claims that the shuttle would, on the average, carry a satellite payload weight of only about 5,000 pounds.[10] At that rate, the cost per pound delivered to orbit would be $2000 without amortization of development costs. Actually, even the 5,000 pound figure quoted by Mathematica seems excessive at least for civil payloads. As James Van Allen has pointed out, if one discounts the Apollo payloads which are coming to an end and which in any case would require Saturn V or similar boosters, the aggregate weight of all science and civilian space applications payloads in 1969, a good year in space, was 11,400 pounds.[11] It is true that the total weight that had to be boosted to near-earth-orbit energies exceeded this substantially because some of the payloads were delivered to geosynchronous orbit and two were to Mars. Nevertheless, even when one considers that putting a payload in synchronous orbit requires that about 10 times as much weight be delivered to near-earth-orbit, it would seem unlikely that space science and unmanned applications programs as we have known them in the past would have used more than three or four per cent of what the shuttle could have delivered had a shuttle flight replaced each expendable booster launch. (The three to four percent figure is based on calculating the weight of all civil payloads launched during the three years ending September 30, 1971 making allowance for the extra propulsion required in those cases where launch was to other than a near-earth orbit.)

One could perhaps envisage using the shuttle efficiently by greatly limiting the number of launches, with each launch carrying many payloads—it would normally take a dozen or more to use its capacity—but this is clearly not what NASA has in mind since it projects a relatively modest budget for payloads and yet large numbers of shuttle flights—30 to 75 per year. Moreover, a reading of NASA and supporting documents generally suggests that the number of satellites to be launched is not markedly larger than the number of shuttle launches.

The unlikelihood that the shuttle will be used to anywhere near its capacity is easily demonstrated by other figures released by NASA. For example, the kinds of launch schedules on which NASA bases its arguments imply a capacity to deliver 2–3 million pounds per year of payload to near-earth orbit energies. If one multiplies this by a cost of $20,000 per pound. NASA's figure for satellite payload costs, one gets a total payload cost of 40 to 60 billion dollars per year, manifestly ridiculous—and ridiculous even if one reduces the 2–3 million pounds per year, and therefore the total payload cost, by a factor of, say, two to reflect the fact that many payloads will be put in high energy orbits; and that for those, the ratio of payload weight to gross weight at lift-off for either the shuttle or other boosters will be much less than in the cases of launches to near-earth orbit.

Finally, even NASA admits that 90% of the civil payloads and 63% of the DoD missions could be carried by a smaller shuttle than the one it now proposes to build.[12]

Proponents of the shuttle may raise the argument that with redesign of payloads to reduce costs, payload weight will increase. We are inclined to discount this whole line of argument (see page 12), but even shuttle proponents argue in terms of increasing payload weights only by a factor of about two,[13] hardly enough to change our conclusion that the payload delivery capacity of the shuttle would be grossly underutilized by scientific and application payloads which we can reasonably expect to launch in the future.

We reach the following conclusions regarding the shuttle as a transportation system:

(1) for most unmanned civilian payloads the shuttle will not be competitive with expendable boosters even if one discounts completely RDT & E costs. If one includes the latter, and with any reasonable amortization, there will be *very* few such payloads for which the shuttle would provide competitive transportation.

(2) talk of reducing transportation costs by an order of magnitude through the use of the shuttle is irresponsible. Such reductions could be achieved, if at all, only if the shuttle were to deliver near-capacity payloads on each flight. With few exceptions, the cost per pound delivered to orbit is likely to increase, not decrease, if the shuttle replaces an expendable booster.

(3) real economies in transport can be realized through the shuttle only if one envisages a greatly expanded manned space flight program or a greatly expanded military program. If the former is envisaged, that is the question the country should be debating, not whether to build the shuttle. If the latter, not only should the country be debating the issue of such extensive use of space by the military, but the Defense Department, not NASA, should be paying the bulk of the costs and defending the shuttle program.

(4) we agree with Mathematica, "A space shuttle does not appear to be an economic investment when only launch costs are considered."[14]

Are the projections of increasing numbers of satellite launches realistic?

Since 1966–67 the number of U.S. unmanned satellite launches has dropped by a factor of more than two: from over 70 in 1966 to a present level of about 30 per year for the total program; and from about 40 to 15 for the civil program. Despite this trend, the NASA-Mathematica analyses are based on a program that involves much larger numbers of flights. Mathematica apparently looked at a NASA-DoD baseline case involving 736 shuttle flights during the period 1978–1990, an average of 56 per year and then at 25 additional scenarios with numbers of flights ranging from as few as 494 (38 per year) to as many as 1221 (94 per year).[15] NASA cities as its latest illustrative case 580 flights over 12 years (48 per year).[2]

These numbers of flights are hard to rationalize particularly when one recognizes that in fact the NASA-DoD baseline figure and others used by Mathematica and NASA ought not to be compared with the present level of 30 launches per year but rather with a lesser level since the figure of 30 includes Scout launches (7 in 1971)—launches which, according to NASA, the shuttle will not replace and which therefore are not included in the figures of 56, or others, used by Mathematica or in the NASA figure of 48. We see no particular reason to believe that the trend of a diminishing number of launches which has been observed during the last few years will be dramatically reversed. Indeed, there are rather strong arguments to suggest that we may see little, if any, increase.

First, the Defense Department has stated that it anticipates that the level of its launches will remain constant at about 20 per year.[16]

Second, the capabilities of applications satellites, notably the communications satellites but also others, have increased dramatically in recent years and are likely to do so for at least a few more. Coupled with longer expected lifetimes than were appropriate to the technology of the mid–60's, small numbers of satellites will provide great capacity.

Third, the cost of payloads, both applications and scientific, is increasing as they become more complex. That being the case, and with the public somewhat disillusioned with science in general and space in particular, there may be little enthusiasm for a program of increased expenditures on space applications and particularly on space science. We note in this connection that, contrary to this reasoning, one of the Mathematica-cited projections—we presume not an unrepresentative one—shows a significant growth in NASA payloads, up from 13 in 1971[17] to 19 in 1979 and an even more dramatic increase later (to roughly 40 launches per year from 1981 on).[18] Growth in total civil payloads is from 15 in 1971[17] to an average of about 55 in the 1980's.[18]

We believe projections of a substantial increase in numbers of launchings reflects wishful thinking on the part of NASA, and suggest that an analysis of the shuttle ought more reasonably to be based on the assumption that traffic levels may remain about as they now are: perhaps 15 to 20 unmanned NASA launches per year of which three-

---

Footnotes at end of article.

quarters could be carried out using Scout or Delta boosters at costs less than would be involved if the shuttle were used; and perhaps 20 DOD launches per year.

Is it likely that payload costs will be greatly reduced if the shuttle is used to deliver them to orbit?

NASA has argued that with less severe constraints on weight and reliability, and concomitantly with the use of modular designs, substantial reductions in payload costs will be made possible by the shuttle. It has apparently based its case on a study done for it by Lockheed Missiles & Space Co. which concludes, based on an analysis of three payloads, that the application of low cost design techniques will result in savings on payloads averaging greater than 25%.[19]

We do not doubt that some reductions in payload costs would be possible; whether 25% is a reasonable figure is more debatable. However, we observe that such an approach to reducing payload costs is inconsistent with the whole trend in the American aerospace industry, in which the emphasis has been on the development of greater reliability, microminiaturization and ruggedization—not in moving in the opposite directions.

Moreover, the NASA-Lockheed approach to reducing payload costs is likely to be a relatively inefficient one. A consideration of communications satellites will perhaps illustrate our point. Since Early Bird was launched in 1965 we have seen a many-fold increase in capacity with only a three-fold increase in satellite costs. If one takes these factors into account along with the longer expected life of the newer satellites we have had an improvement in capability by a factor of about 50 in seven years, the same length of time that will be required for shuttle development. Against this kind of improvement a reduction in satellite costs of 25% to take advantage of the less severe constraints of the shuttle as compared with expendable boosters is not impressive. It is probably unlikely that 50-fold improvements can be realized in communications satellite or other satellite technology over the next seven years, but we can not but believe that expenditure of but a small fraction of the shuttle development budget on accelerating payload development would produce a much greater than 25% reduction in payload costs by 1979.

Can substantial savings be realized by using the shuttle for refurbishment of satellites either in orbit or with retrieval?

The NASA and the Mathematica arguments for the shuttle depend very substantially on assuming considerable retrieval and refurbishment. Thus, it is claimed that satellites can be refurbished either in orbit or on the ground for about 35% of the cost of replacement,[19] and an exemplary schedule of launchings used by Mathematica shows over half of the NASA launchings and about ¾ of the DoD launchings during the period 1978–90 to be refurbished satellites.[20]

We do not question the assumption of a 35% replacement cost, but we most seriously question the assumption that a large fraction of satellites, particularly 50% of the non-DoD satellites, would be judged worth refurbishing. A few very likely would be, e.g., the large, expensive astronomical payloads (of which there will be perhaps half a dozen during the period 1978–90). Most others will not be because of obsolescence, relative inaccessibility, or a combination of the two.

The communications satellites serve to illustrate these points. The expected life of such satellites now being built is 7 to 10 years, and even if such a satellite were in near-earth orbit it would not be worthwhile retrieving it at the end of, say, 7 years for refurbishment at a cost of 35% plus retrieval costs. By that time the satellite would be obsolete and this would be true even if capabilities improved at the rate of only 5 to 10% per year, not, as they have been, at about 75% per year. Indeed, we have probably reached the point, simply because the technology advances so rapidly, where it would not be worth spending even modest amounts to extend the life of communications satellites. Why then spend much larger amounts for retrieval and refurbishment?

Actually, the case for refurbishment of communications satellites is even weaker than suggested above because of the difficulties of retrieval or access. Because geosynchronous orbits are used such satellites could be neither refurbished in orbit nor brought back with the space shuttle alone. What would be required in these cases would be what NASA calls a space tug or the Air Force calls an orbit-to-orbit shuttle, and even if such a vehicle were developed (the projected NASA budgets do not contain funds for it), the costs of refurbishment would be much greater than in near-earth orbit cases.

It might be argued that the communications satellites are unrepresentative and particularly unfavorable examples for refurbishment. This is probably true both because of rapid obsolescence and relatively long life and because of the use of synchronous orbits. Nevertheless, we doubt that the NASA arguments regarding refurbishment can be supported by a broader look at the space program. For example, if one considers the unmanned civil satellites launched during the three years ending last September 30 one finds there would have been very little case for refurbishment had we had a shuttle. Probably refurbishment of the large astronomical observatories would have made sense—OAO-2, OGO-6, and OSO's 5, 6 and 7; and the total savings over three years would have amounted to a couple of hundred million dollars at most. For most, if not all, of the remaining satellites refurbishment would probably have been ruled out: for the Explorers because payload costs are generally relatively low; for the communications satellites for the reasons given earlier; for the weather satellites because, as with communications, obsolescence occurs rather rapidly; and for the planetary probes and other payloads in high energy orbits because of the difficulty and cost of access. Contrary to the Mathematica estimate[20] that half of the civil launches in the 80's would involve refurbished payloads or on-orbit maintenance we believe that for only a very limited number of payloads would this be rational.

We also note that while Mathematica assumes that three-quarters of the Defense Department launches would be refurbished satellites, the Air Force itself states that over 50% of the planned DoD payloads will have to be delivered to high energy orbits from which retrieval would be relatively expensive and for which a space-tug would be required.[16]

We conclude our comments on the cost-benefit aspects of the shuttle by reiterating that the favorable Mathematica analysis is moderately sensitive to an assumption of a considerably expanded space program and strongly sensitive to assumptions of savings in payload costs that might be achieved through changes in design and through refurbishment. These assumptions have little foundation and thus the Mathematica conclusions must be seriously questioned.

We believe that more realistic assumptions would lead one to conclude that the shuttle cannot be supported on cost-benefit grounds.

Would there likely be a reasonable pay-off using the shuttle to save satellites that might otherwise be lost through malfunction?

Particularly in the light of the failure in late 1970 of the orbiting astronomical observatory, NASA and its supporters have emphasized the role that a space shuttle might play in salvaging payloads that might be lost in the future through similar malfunctions. We do not discount the seriousness of the loss of the OAO. It was a payload which, with launch costs, represented an investment of the order of $100 million, not to mention the serious losses to science. But the problem should be put in perspective. It was the only loss that year out of 14 space science and application launches, and the fact that it happened to be the most valuable payload in the lot should be regarded as a case of particularly bad luck. Very likely the total value of all civilian payloads lost since the space program began is only in the range of $300 million and there is no reason to think that the record will be worse in the future (unless, with the shuttle available, we adopt sloppy practices that lead to a higher failure rate—in our view an unwise course even though salvage would be, in many cases, possible). Moreover, some losses could not be prevented even with the shuttle—some of those involving geosynchronous orbits, unless a space tug is also available; and some planetary flights. Finally, we note that even when a payload is lost one still retains the knowledge of how to build a replacement. It is fair to count the cost of replacement and the cost of launch as losses but not the R&D involved.

We can reasonably expect then that, on the average, losses, preventable with a shuttle, will be measured in tens of millions of dollars per year—an order of magnitude less than just the interest cost on the shuttle R&D program. Thus, if one allocates even a small part of the shuttle costs to payload salvage one is confronted with a remarkably unfavorable insurance proposition.

We doubt that even those scientists who lost payloads in the OAO-B failure would view such insurance favorably considering that NASA has found it necessary to remove from its projected program other launches, two orbiting solar observatories to be specific, because of funding constraints—constraints that would very likely not exist in the absence of a shuttle program.

Should the possibility of astronaut rescue be regarded as an important argument for the shuttle?

Unless we are to have a manned space program very much larger than NASA has been prepared to advocate, the case for the shuttle as a rescue vehicle for men is even weaker than as a rescue vehicle for unmanned payloads. This is primarily because we do not expect to put nearly as many manned as unmanned vehicles in orbit nor maintain them there for as long. Moreover, in many cases a rescue capability could be arranged without the development of the shuttle. Indeed, this is contemplated in connection with the Skylab project for which the shuttle will not be available. Finally, crass though it may seem, it is probably relevant to compare the expected cost per life saved using the shuttle with the costs of saving lives of people on earth through additional federal expenditures. When this is done, and when one considers the risk of loss of a man in space, it becomes clear that allocation of as much as a hundredth of 1% of the shuttle costs would represent a misallocation of priorities. (Some years ago HEW produced a study in which were compared a number of programs for averting death and produced estimates of cost of from $87 to $43,000 per life saved.[21] While the methodology and conclusions of that study are open to some question—in some cases serious ones—there can be no doubt that federal expenditures in any of a number of areas would be far more effective as life-saving measures than the development of the shuttle.

Footnotes at end of article.

Will the shuttle have a favorable effect on employment in the aerospace industry?

Some proponents of the shuttle, notably members of Congress, appear to favor it in part at least because of the belief that going ahead with it will help the aerospace industry. The assumption is questionable and in any case inconsistent with the case NASA and Mathematica make for the shuttle.

NASA and Mathematica have argued that with the shuttle we can accomplish the same (and additional) objectives in space that would be possible with expendable boosters at several billions of dollars less cost between now and 1990. We doubt this, but note that, if the estimate is correct, each billion dollars of savings will mean virtually a billion dollars less than will be spent on employment in aerospace work. The proponents of the shuttle can not have it both ways: they can not argue that with the shuttle the country will save money on its space program and also increase employment in the aerospace industry.

Going ahead with the shuttle would, of course, have different local effects than spending an equivalent amount on a program based on expendable boosters. Presumably more money would be spent on propulsion and the development of hypersonic flight technology while less, and in the view of NASA and Mathematica, substantially less, would be spent on electronics, optics, electromechanical devices and in other technical areas related to payload development.

There would also be a difference in the timing of expenditures in the two cases.

From a very short term perspective, the effects of the shuttle will be small: expenditures won't really begin to rise rapidly until fiscal 1974. Meanwhile, as we note later, other space programs are being deferred or cancelled because of budgetary constraints. Insofar as one's concern is with aerospace employment, the near-term effect of the shuttle would then seem to be neutral: a modest increase in employment directly related to it, roughly offset by decreases in employment on other programs.

As regards the longer term, Mathematica calculates that the effect of the shuttle program would be to increase space program costs from 1972 to 1979 followed by more-than-offsetting savings from 1979 on. One can ask whether increasing expenditures on space in the early and mid-seventies with an offsetting diminution in the 80's is in the national interest. Economic projections over the time scales in question are so fraught with uncertainty as to render any answer to such a question of doubtful validity. Nevertheless, one can at least take account of demographic trends. We note in this connection that shuttle development expenditures can be expected to reach a peak in 1976 and then drop whereas the labor force will be growing rapidly up to the mid-80's, the effect of the first echo of the post-World War II baby boom. Thus, on demographic grounds, a peaking of the space budget in the mid 70's followed by a later offsetting diminution such as might be the effect of the shuttle would seem badly matched to projected changes in the labor force.

Will the shuttle program produce significant technological spin-off?

We can expect some useful spin-off from the shuttle program that will have relevance to non-space activities, e.g., as regards hypersonic flight technology. However, we will likely learn far less per dollar expended than if we spent equivalent amounts on research specifically directed at non-space objectives.

Moreover, if one believes the arguments that expenditures on the shuttle will be more than offset by savings on payloads, there may be an offsetting diminution in spin-off in areas relating to payload development, e.g., in micro-miniturization and improvement in reliability of electronics.

Will the development of the shuttle advance space science?

We have already noted that because of budgetary constraints NASA has removed two orbiting solar observatories from its current schedule of projected launches. It has also scrapped the "grand tour," a proposal to fly by the outer planets made possible by their favorable conjunction during the late 1970's. (It would be possible to send a single mission to Jupiter, Uranus and Neptune and another to Jupiter, Saturn and Pluto, in each case using the gravitational attraction of Jupiter to minimize energy requirements to visit the planets beyond.) We also note that the present Mariner 9 flight is carrying fewer experiments than earlier were planned, not because of weight constraints, but because of budgetary considerations.[22] Finally, we note that, in view of fiscal constraints, NASA is not proposing to start major new projects during Fiscal Year 1973.[23]

It would seem then, that demands of the shuttle and the concomitant increased pressure on the budget may well have an adverse effect on space science programs.

If the shuttle is to be developed who should pay for it?

Most of our discussion of the shuttle, and most of that which has occurred before both the Congress and the public has been with respect to its role for civil purposes. This is not surprising considering that much of the military space program is highly classified and the fact that development is being entirely funded, and largely defended, by NASA. We suggest that the resulting picture has been a distorted one—one that plays down the military role and provides an overly optimistic view of the utility of the shuttle for civil purposes.

We note in particular that

a) the design of the shuttle has been determined largely by military requirements. A smaller shuttle with less maneuverability, and consequently one that could be developed at lower cost, would have met most of NASA's "requirements."

b) presently over half of the space launches are for Defense satellites, and NASA's views to the contrary notwithstanding, we see no reason to believe the fraction will change (see p. 10).

c) nearly all unmanned civil payloads could be placed in orbit less expensively using expendable boosters than with the shuttle (see p. 3–9) while this will likely be true for a smaller fraction of Defense payloads. Without going into detail as regards military programs this would seem to follow from Defense statements that more than half its payloads will be placed in high energy orbits (for which relatively heavy upper stages would be required),[16] from the statement that a smaller shuttle could carry 90% of the civil payloads but only 63% of the military ones,[12] and from the fact that the Titan III is supplanting the Thor-Delta as the major Air Force launch vehicle.

d) the case for retrieval and refurbishment of satellites, possibly the strongest argument for the shuttle, is a stronger one in the case of military than for civil satellites. This is apparent even from projections used by Mathematica wherein it is estimated that roughly ¾ of the military launchings will be refurbished satellites while this would be true of only about ½ of the civil payloads (in our view, the latter estimate is an unrealistically larger one at that—see p. 14–16).

With these considerations in mind, we suggest that the military benefits of the shuttle will be comparable to, if not greater than, those for the civil sector; and that accordingly at least half of the development costs should be carried by the DoD. In this connection, the shuttle should compete with other DoD programs for a claim on the military budget, and should be defended by the DoD before those Congressional committees with responsibility for the allocation of resources to the Defense sector.

Were the shuttle to so compete, it would fare badly. The Air Force has said, in effect, that while the shuttle would be nice to have, it is not eager to pay for its development. In fact, it has been explicitly stated that the shuttle would rank below such programs as the B–1 and the F–15 in priority within the Air Force.[24]

Finally, we note that there would appear to be an even better customer for the shuttle than the U.S. Department of Defense. That is the Soviet Union which is now putting up more than twice as many payloads per year as the U.S.—payloads that are generally heavier and probably less reliable and shorter-lived than their U.S. counterparts, and which would therefore be better candidates for shuttle-type delivery.

While we would certainly not suggest that U.S. decisions as regards space vehicles should necessarily be similar to those of the U.S.S.R., the lack of evidence of a Soviet program, despite the much greater incentives, should at least give us pause.

Of course, the shuttle would make most sense if it were a joint venture with, say, the U.S. doing the orbiter and the Soviet Union the booster or vice versa. If we must have a shuttle ought not this option be at least tried?

A FINAL COMMENTARY—THE REAL ISSUE

While shuttle proponents have adduced arguments based on narrow cost benefit considerations, effects on employment, etc., and we have attempted to deal with them, it is important that the public and the Congress recognize that these issues are peripheral to the main one that relates to the shuttle. That is the question of the kind of space program the country wants and should have.

We believe that support for the shuttle has its basis primarily in the belief of proponents that it will have effects on the whole nature of the space program of the future that they view as desirable rather than because it will be a useful instrument for carrying out presently envisaged missions.

Once it is developed, if it is, proponents can be expected to argue for a number of missions, which would not otherwise be justified. One can already see the harbingers of this in this year's budget defense, e.g., in remarks by James Fletcher, the Administrator of NASA.[25] With a shuttle developed, there will be missions (in our view actually a very limited number) that will make sense, the development costs of the shuttle already having been incurred, which would not make sense if one considered them at *this* time and included an appropriate share of the shuttle development costs.

More importantly, proponents see the shuttle as maintaining the momentum of the manned space program. In this connection one should bear in mind that the antecedents of the shuttle are in the earlier interest in a manned Mars landing as a follow-on to Apollo, and more recently, as the Mars landing lost favor, in the proposal to build a large manned space station to which the shuttle would have provided transportation. The shuttle has survived both the Mars landing and the space station as the follow-on to Apollo—as the vehicle for keeping the NASA budget at the greater-than-$3 billion-per-year level and for maintaining manned space flight as the primary focus of the NASA budget. (This is illustrated by NASA projections of contractor manpower, see Fig. 1.)

Opponents, generally taking a diametrically opposite view with respect to both of the arguments of the last two paragraphs, will view the shuttle as the foot in the door for a program involving an expanded number of launches not justifiable on either space ap-

---

Footnotes at end of article.

plications or space science grounds, and more particularly, a program dominated by manned flight and involving a larger expenditure of public funds than the nation now seems prepared to buy.

We believe that that is the true import of the shuttle, that the nation should face up to the kind of space program it wants, and then consider the shuttle in that context. We believe that what the nation really wants is a program in which the primary emphasis will be on the exploitation of space for the betterment of life on earth through such activities as the use of satellites for better weather prediction and communication, and with a secondary emphasis on space science, objectives which can be achieved at relatively modest costs and with minimum emphasis on manned missions. The true case for the shuttle, if there is one, is in manned flight (or in military programs). To play down these aspects of the shuttle, as has been done, and to attempt to sell it as a cost-effective instrument for a civil program to be dominated by unmanned missions involving only modest levels of public expenditures is to mislead.

FOOTNOTES

[1] Economic Analysis of the Space Shuttle System by Mathematica, Inc., January 31, 1972, pp. 0–8.

[2] Appendix to Space Shuttle Fact Sheet, NASA, March 15, 1972, p. 3.

[3] Hearings on S. 720 for FY 1972 Before the U.S. Senate Committee on Aeronautical and Space Science, p. 142.

[4] See, e.g., Why Space Shuttle, and at What Priority, James Cook; inserted in Congressional Record for February 8, 1972 by Senator Alan Cranston, p. 3076.

[5] Secretary of the Air Force, Hearings on S. 720 for FY 1972 before the U.S. Senate Committee on Aeronautical and Space Science, p. 349. NASA Asso. Administrator for Manned Space Flight, *ibid.*, p. 388.

[6] Mathematica report, Table 6.7.

[7] Mathematica report, Tables 4.1 through 4.8 and Table 6.7.

[8] Hearings on S. 720 for FY 1972 before the U.S. Senate Committee on Aeronautical and Space Sciences, p. 143.

[9] NASA release, The Space Shuttle, March 15, 1972.

[10] Mathematica report, pp. 6–42.

[11] Statement to the Appropriations Committee, U.S. Senate, June 29, 1971.

[12] Space Shuttle Briefing to the House Committee on Science and Astronautics, Subcommittee on Manned Space Flight, March 16, 1972.

[13] Payload Effects Analysis, Lockheed Missile and Space Company, June 30, 1971, pp. 3–13.

[14] Mathematica report, pp. 6.2.

[15] *Ibid.*, Table 6.24.

[16] Secretary of the Air Force, Presentation to the U.S. Senate Committee on Aeronautical and Space Sciences, March 23, 1972.

[17] Statement of John E. Naugle of NASA before the U.S. Senate Committee on Aeronautical and Space Sciences, January 1972, Fig. SV 71–2406.

[18] Mathematica report, Table 4.9.

[19] Lockheed study, pp. 2–6.

[20] Mathematica Study, Table 6.20.

[21] Selected Disease Control Programs, September 1966, U.S. Department of Health, Education, and Welfare, Office of the Assistant Secretary for Program Coordination, p. 12.

[22] Statement of Von Eschleman on "The Advocates," April 11, 1972.

[23] Statement by John E. Naugle, Associate Administrator for Space Science, NASA before the Senate Committee on Aeronautical and Space Services, January 1972, p. 8.

[24] Secretary of the Air Force, Hearings on S. 720 for FY 1972 Before the U.S. Senate Committee on Aeronautical and Space Sciences, p. 363.

[25] Budget briefing, January 24, 1972, pp. 37–38.

Mr. MONDALE. Mr. President, at this point I yield such time as he may require to the distinguished Senator from Arkansas.

The PRESIDING OFFICER (Mr. STEVENSON). The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I strongly support the amendment by the Senator from Minnesota (Mr. MONDALE), along with the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from New York (Mr. JAVITS), to delete $227.9 million for development of the space shuttle from the NASA authorization bill.

As in previous years, I do not understand how we can possibly justify authorizing a large expenditure for the space shuttle project. The shuttle would cost as much as $8 billion over the next 6 years, and many times more in the following years. This is an extremely large expenditure for a project which can hardly be considered vital.

There are two primary considerations which should be involved here. First is the question of exactly what is the purpose of the space shuttle—indeed what is the purpose of our overall space effort? Second is the matter of priorities. Is this the wisest, most prudent investment of the taxpayers' money?

As the Senator from Minnesota has pointed out, there is no clear, coherent future policy for the space program. Many leading scientists have expressed strong doubts about the advisability of proceeding with the shuttle. We have already witnessed changes in the estimates of the cost, capability, and configuration of the shuttle. This continued shifting seems to betray uncertainty about its potential and purpose. There have been numerous inconsistencies in NASA claims about eventual costs and benefits.

As Dr. Ralph Lapp has stated:

> One clear fact emerges from this pattern of shifting justification and changing designs; NASA desperately wants this multibillion dollar project, and will seek any rationale to justify its development.
>
> What we see, then, is a classic case of a program and agency in search of a mission. Instead of the normal process of presenting a clear and consistent justification for a program—and then seeking to fund it—NASA wants to develop this project on a "fund now, justify later" basis.

Prof. Brian O'Leary of San Francisco State College points out:

> Time and time again configurations have been shifted or obfuscated.

The original concept linked the shuttle with a permanent manned space station as a stepping stone for manned flights to the planets. However, as Professor O'Leary recounts:

> When this approach appeared unpopular, the shuttle became an end in itself—a $12.8 billion two-stage fully reusable system which could hoist more than two million pounds of manned and unmanned payloads into earth orbit each year.
>
> This can be compared to the present rate of about 10,000 pounds per year of unmanned nondefense payload, barely sufficient to comprise 20 per cent of the capacity of one shuttle flight (one shuttle is thus capable of carrying four adult elephants into earth orbit). But when that price seemed too high, we are given a $5.5 billion-plus configuration which can perform essentially the same tasks as the $12.8 billion version, the only major difference being the booster is now expendable rather than reusable. And now the President's budget discloses that $5.5 billion is in fact an underestimate. . . .

Mr. President, from 1959 through fiscal 1973, if the current authorization request is approved, we will have spent about $72 billion for Government space activities. This includes funds expended both by NASA and the Department of Defense, as well as other agencies. This is a colossal amount and the figure will increase greatly in the years ahead if the shuttle is approved.

It should be emphasized that one of the main justifications for the space shuttle is its military potential. The predominant portion of our Federal budget is already going to the military, yet here is one more significant expenditure which should at least partially be charged to the military budget. The chairman of the Manned Flight Subcommittee of the House of Representatives recently said the space shuttle is "being designed with careful attention to the special requirements of the military services."

He continued:

> We do not hear a great deal about military employment of satellites because of the classified nature of many of the payloads, but the Department of Defense launches space systems with greater frequency than does NASA, a factor which additionally underlines the need for shuttle development.

Noting that with the space shuttle "investigators will be able to accompany their experiments into space," he commented:

> Here again, there is military potential. For some time the Department of Defense has sought to evaluate, in actual space flight, the role of military man in space. The shuttle can make possible such an evaluation.

Not many years ago the purpose of the American space program was "to catch up with the Russians." Now it is said to be a matter of "maintaining our superiority." Representative FREY, of Florida, recently said:

> We as a nation cannot turn our back on the usefulness of NASA work to the national defense and the importance of superiority in space to our national security.

The arguments all sound familiar—the same claims that have been used, frequently without any basis, to justify support for weapons systems. We hear of new Soviet threats, increased Soviet spending. Consider some of Representative FREY's comments:

> I emphasize that the sufficiency of our investment in space cannot be determined merely in terms of domestic priorities but . . . by such major considerations as global power relationships . . . Without our military strength, and it goes without saying, a superior capability in space, this country will reach the point where we will no longer be able to emerge from a political confrontation with our foreign policy objectives intact . . .
>
> In terms of the number of flights, the Soviet Union has surpassed the United States in annual missions in both civilian and military space flights every year for the past 6 years. And with regard to dollars budgeted, the continuing reduction in space investment in this Nation contrasts sharply with

the budget increases the U.S.S.R. has enjoyed . . .

NASA Administrator Dr. James C. Fletcher speaks in the same vein. He recently said:

> My biggest concern is what the Russians will be doing. Will they have some spectaculars? The Russians seem to be devoting at least 50 percent more effort to space activities than we are, and three times as great a percentage of their Gross National Product. That's another reason it's so important to continue an orderly development of the shuttle without delay.

Mr. President, I have commented on numerous occasions about the fallacy of comparisons based on percentage of the gross national product. The GNP is simply not a valid measurement of the state of our society. It is an all-inclusive total which really tells very little about our ability to spend for one program or another. I have outlined in great detail the reasons why it is nonsensical to rely so heavily on the GNP.

I might also add that if the Russians have spent as much as we are told for space, and for missiles and various military activities, and radio broadcasts and other endeavors, I simply do not see how they could have any money left. I am reminded of all the exaggerated claims about the number of North Vietnamese and Vietcong killed in the war. As someone has pointed out, if the claims were true, everyone in Vietnam would have had to have been killed several times over. I am wondering if these claims about Russian spending are not in the same category. I do not believe rubles can be minted fast enough to be spent at the rate some would have us believe.

The truth of the matter is that we are spending very heavily on our space program and are being asked to commit ourselves to an extremely expensive program in the future for the space shuttle. Just the amount which is requested for the shuttle for this year and which would be deleted by this amendment—$227.9 million—is twice as much as the amount of Federal funds allocated to the 2 million people of Arkansas for elementary and secondary education, higher education, vocational education, and manpower training in the last fiscal year.

In announcing his support for the multibillion dollar space shuttle, President Nixon said the United States "has led and still shall lead" in space. It is interesting to recall that only a few weeks before the President's announcement he had vetoed as "fiscally irresponsible" a bill to extend the Office of Economic Opportunity's programs for 2 years and establish a comprehensive day care and child development program. That bill would have provided up to $2 billion—considerably less than the current NASA authorization bill—for child care centers for children of millions of working mothers. That was one of a dozen bills the President has vetoed, many of them for health and education programs.

In the beginning our space program was supposed to be for the purpose of getting to the moon first. At last count, eight crews of American astronauts have traveled to the moon. Ten Americans have walked on the moon, with complete and costly television coverage, while no Russian has yet stepped on the moon. Apollo astronauts have ridden buggies across the moon, but at the same time it was impossible to ride a passenger train in many parts of the country, including the entire State of Arkansas. Members of the Senate will recall that just 2 weeks ago a proposal to provide Amtrak rail service over routes which would have included two important cities, Cleveland and Little Rock, was rejected because of a shortage of funds. We were talking about $2 million at most. Yet the space shuttle's cost—for this year alone—is 113 times as great.

Mr. President, I think we have to be concerned about our problems on earth. The value and importance of the space shuttle must be weighed against the other needs in our society. I believe the shuttle simply cannot rank high on our list of priorities in view of the critical social and economic problems we face. In the past I have compared the cost of the shuttle to the funds available for the important Farmers Home Administration water and sewer system grants, so vital to the development of our smaller communities and for relieving the burden of our urban areas. The contrast is even greater than in the past. For fiscal 1973 the Nixon administration proposed to spend no new funds for water and sewer grants, proposing only to carry over the $58 million impounded this year—and not to spend all of that. Meanwhile, an estimated 34,000 towns of under 5,500 population lack adequate water systems and 49,000 lack adequate waste disposal systems.

I would also comment, Mr. President, that the opposition to the space shuttle funding does not represent an "antitechnology wave," as has been claimed by the NASA Administration, nor a lack of concern about workers, scientists and technologists in the aerospace industry. As I stated during the consideration of the SST, it is a case of applying the manpower, talent and skill, as well as the money, toward more productive purposes which will be in the broad interest of the American people.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. MONDALE. I am glad that the Senator made that point, because one of the arguments used against those of us who are trying to strike out the shuttle is that we are antiscience.

In fact, the Space Science Board of the National Academy of Sciences concluded that this shuttle could not be justified on the basis of scientific or utilitarian uses. In addition, the Federation of American scientists has just gone on record with a strong statement condemning this project. Dr. Ralph Lapp, a most distinguished scientist, opposes it. Dr. Van Allen and other specialists in the field have also strongly criticized this proposal. I think they ought to persevere. Just the other day, Peter Jones, a top space analyst from Pratt & Whitney—who had analyzed the space shuttle program—made this observation: He said, "The space shuttle is one of the most wasteful and poorly planned, dead-ended multibillion-dollar space age boondoggles of this century."

This is fresh information from responsible sources.

Mr. FULBRIGHT. Mr. President, the Senator could not be more right. And there are so many things, so many other areas where there are crying needs for immediate attention in this country. There is no question about the need for technologists or scientifically trained people for useful purposes.

Mr. MONDALE. No question about it. As a matter of fact, even this year, NASA is starting to steal money away from the scientific parts of the space program—such as missions for the unmanned exploration of outer space—in order to put money into this shuttle. So even this year, we are diminishing the scientific thrust of the space program in order to bankroll this unneeded shuttle.

Mr. FULBRIGHT. What NASA wants to do is to get the shuttle to the point where they think it will be difficult to cut it off.

Mr. MONDALE. That is an old game around here. Later they will come in and say, "It may be bad, but we have spent so much money on it, let's spend a little more."

Mr. FULBRIGHT. That is right. That was one of the big arguments on the SST.

Mr. MONDALE. And the carrier.

Mr. FULBRIGHT. It is absolutely phony, but as the Senator says, it is an old argument here.

Now that the Senator has brought the matter up, yesterday I had lunch with an acknowledged expert in fuel and energy. With the clear, unquestioned data about the growing shortage of energy in this country, I asked him how much was being spent on projects such as the conversion of coal into gas so it could be more readily used. He said, "I think a total of about $20 million for research in this kind of program." Yet he is certain that if we do not do something very dramatic in accommodating the growing shortage of energy, the whole country will grind to a stop.

Yet we continue to spend large sums of money on things like this shuttle. The absurdity of this distorted sense of priorities is unbelievable. Our present condition appears similar to a Greek tragedy—we move on toward disaster, yet we continue on the same course. It is similar in some respects to the kind of policy we have pursued in Vietnam. There is a kind of madness afflicting us regarding what is important and vital to the country. This is just the most current example of the complete sense of unreality that is exhibited.

It is like the case of the man who has everything and you try to think of something to give him. Maybe you could give him a shuttle. If we had no urgent requirements for health, education, transportation, energy, pollution control, and were just looking for something to do, perhaps we could say, "Well, this might be a nice, interesting gift; it might even make a good television program." But that is about the degree of urgency I attach to the space shuttle. To me, it is such an absurd thing it is difficult to argue about. I sometimes feel a little foolish making an argument on something that strikes me as being so self-evident.

Finally, Mr. President, I would like to refer to two recent editorials in Arkansas newspapers opposing funding for the shuttle. The Northwest Arkansas Times at Fayetteville, analyzing the cost projects for the shuttle concluded:

> The sum of the affair reminds us a little of the bargain-conscious housewife who buys 100 pounds of potatoes when she needs only one for the stew, because spuds are 10 cents a pound cheaper that way.

The Arkansas Gazette suggested, and I completely agree, that with the shuttle we "may get into another of those open-ended commitments that have so distorted our national priorities and human values."

I ask unanimous consent, Mr. President, that the editorials from the Northwest Arkansas Times of April 18 and the Arkansas Gazette of April 24 be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

Bargains

It is instructive, in understanding President Nixon's system of New Economics to listen closely while Ralph Lapp, a technical writer of matters of nuclear physics and space science, explains the "savings" that the President's proposed space shuttle system will produce for the U.S.

In announcing his endorsement of NASA's space shuttle program early this year President Nixon, you may recall, explained that "economies" made possible by the new launch system in the 1980s might bring costs down to one-tenth those of present launch vehicles (such as Apollo 16) which are used only once.

NASA, said the President, estimates that the cost per pound of putting a payload into orbit would drop from $600 or $700 to less than $100.

Writer Lapp, testifying before a congressional committee last week, clarified NASA's figures. The real cost of putting a payload into orbit using the space shuttle, says Lapp, based on NASA's own figures, will be about $5,100 per pound.

Lapp explains this differential of 510 per cent as a matter of arbitrary comparison. The space shuttle system is only cheaper than a more expensive program, in other words. In this particular instance, says Lapp, the computations go like this (pay close attention, because it's a little tricky):

Cost projections prepared for NASA by the space hardware industry (which is more than a little interested in making the project look good), indicate a $7 billion savings for the space shuttle when compared to the estimated cost of a program (which is technically fictitious, since it has never been proposed or authorized) using conventional one-shot launch vehicles. The latter program would cost an estimated $42 billion, the shuttle system "only" $3 billion. Ergo, a $7 billion windfall for the U.S. Treasury.

Lapp adds that, figured another way, a cool $19 billion can be saved by NOT using the space shuttle system and carrying on a less ambitious program with existing hardware.

The sum of the affair reminds us a little of the bargain-conscious housewife who buys 100 pounds of potatoes when she needs only one for the stew, because spuds are 10 cents a pound cheaper that way.

A bargain, as they say, is a bargain.

Space Shuttle Costs

It was only a matter of time before someone with expertise in the field got down to evaluating the figures used by the Nixon administration in justifying its go-ahead for a space shuttle program.

First in line is the noted physicist, Ralph E. Lapp, a prolific student of and writer on nuclear, space and related affairs, in an appearance recently before the Senate Space Committee.

National Aeronautics and Space Administration officials around at the time of President Nixon's announcement early this year estimated that the cost per pound of putting a payload into orbit would drop with use of the proposed reusable space shuttle vehicles from $600 or $700 a pound to $100 and perhaps $75.

Dr. Lapp, using projections made by private sources for NASA, said the real cost instead would be $5,100 a pound for launches in the 1979–1990 period. Taxpayers, according to Lapp, can save $19 billion during the 1980s by not building the shuttle and by using existing rockets for "a rational space program". We are not so sure that at this point in time the country can even justify expenditures at the rate required even for existing rockets, but Lapp's point nonetheless is well taken.

If the United States is indeed to undertake the space shuttle the least we all should ask is what probable costs we are going to have to bear for supporting it. Testimony such as Dr. Lapp's suggests that we simply may get into another of those open-ended commitments that have so distorted our national priorities and human values.

Mr. FULBRIGHT. Mr. President, this argument, of course, is like arguing about the Vietnam war. That has been going on for some 10 years now, and the space program has been going on a little longer. It goes back to the days of sputnik. Sputnik set us off on a program which has grown and grown until it has developed its own momentum.

I have no idea what the Senate will do, but I for one want to make it very clear once again that this seems to me to be a gross distortion of the priorities of this country. Goodness knows our money is limited enough. I do hope that the Senate will consider this matter most seriously, and support the amendment of the Senator from Minnesota.

Mr. PROXMIRE. Mr. President, will the Senator from Minnesota yield me 5 minutes?

Mr. MONDALE. I gladly yield 5 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, there has been a lot of discussion and debate in this country during the last 3 or 4 months, and a lot of analysis, as to what the results of the primary elections mean.

They mean a number of things, but one thing they mean, loud and clear, is that there is a real tax revolt in this country. People are fed up with the kind of taxes they have to pay, especially the working people and those making $9,000, $10,000, or $12,000 a year.

Mr. President, we are engaged right now in debating an amendment, and the fate of that amendment will determine whether or not we are going to have a very expensive space program, or one of more modest dimensions. If we go ahead with this shuttle, this is just a beginning of a commitment that will make it virtually impossible to resist continuing the program in the future. It will mean that next year it will be bigger, the next year bigger still. It will mean first hundreds of millions of dollars a year, and then billions of dollars a year.

I think we have to recognize that the best analysis that we can get of our needs over the next 4 or 5 years indicates that we might just as well assume we will have no funds available for new programs unless we increase taxes. I think it may very well be that we should, and I think a strong case can be made for increasing taxes, but not a realistic case, because not many of the people of this country want higher taxes. That being the case, we have to start saying no somewhere, and I think there are many areas that we should be careful about.

The Senator from Minnesota (Mr. Mondale) is not asking in his amendment that we cut out the space program, that we eliminate it. He is asking that we exercise judgment about it, and for the time being concentrate on instrumented exploration of space.

The $227.9 million request is only the tip of the space shuttle iceberg. NASA itself estimates the ultimate development and investment cost for the shuttle will reach $8 billion; and the total program cost over a 12-year period will be $35 billion. These are the real cost figures and the ones we should consider.

These are the reasons why I think we should be very careful about proceeding with this program and why the Mondale amendment makes sense.

The next manned space flight marks the end of the Apollo moon missions. This has been a highly exciting period in space exploration, but with its conclusion the United States enters an unplanned and uncertain future. There is simply no clear objective or logical policy for space exploration, and, as NASA itself recently acknowledged, "the United States has not approved in detail any space program for the 1980's."

The reason for the absence of clearly defined policy is complex, but two very obvious reasons are apparent. In light of the multitude of social problems here at home, many Americans cannot justify a multibillion dollar investment in celestial space rides. The poor, the infirm, and the uneducated demand the attention and the support of American leaders and American dollars. Also, it is difficult to decide on future goals until we have properly digested the wealth of information gained through earlier flights. The American space team has shown courage and brilliance in opening the mysteries of the moon, but those secrets are now at our feet and we are uncertain as to which new worlds we should conquer next. Until that decision is made, and only when Congress has approved a long-range space program with a well defined cost estimate, should we consider this multibillion dollar space shuttle.

But besides the absence of a coherent policy for future space exploration, there arises the question of utility. President Nixon, in a statement on the space shuttle on January 5, 1972, stressed the economic value of the shuttle, saying:

> The new system will differ radically from all existing booster systems, in that most of the new system will be recovered and used again and again—up to 100 times. The resulting economies may bring operating costs down as low as one-tenth of those of present launch vehicles.

Taking this at face value, there would be no disagreement. We all welcome a 90 percent saving wherever and whenever we can get it. With taxes and inflation at an all time high, it is a welcome relief. Indeed, the fact that the shuttle would be reusable up to 100 flights is the chief argument raised to support the shuttle instead of expending money periodically for one-shot boosters. But will we really save money as shuttle supporters claim? Two years ago, the Rand Corporation, at the request of the Air Force, completed a study of NASA's shuttle plans. Rand's conclusion: the shuttle would be cost effective if the space agency proceeded with plans for a $141 billion space program between now and 1990. That is what we are talking about—$140 billion.

Mr. President, as I have already indicated, we are not yet committed to such a costly program. In order to amortize the cost of the shuttle, according to the Air Force's own study, we would have to more than double our current space spending. We would have to spend $7 billion a year just to justify the shuttle's existence. In other words, we cannot consider the $8 billion cost of the shuttle alone, though that is a high price tag to be begin with, but we must be willing to throw in another $141 billion just to make the first eight worthwhile. Are we not putting the cart before the horse? Where has the President's 90 percent cost savings disappeared to?

Finally, I believe that this country has made a marvelous breakthrough in space exploration. NASA has shown courage and foresight in the planning of the Apollo program, and the Mercury and Gemini programs before. I very much believe that we should continue to lead the world and the scientific community with a well-designed and well-equipped space program. But I am convinced by leading experts in the field that we can do it for less money. Unmanned space flights could achieve a great deal, almost as much as manned flights, but would bring the price of our extremely active space program to $2 or $3 billion a year without cutting back on missions.

If we proceed with the $8 billion space shuttle, we would also have to commit ourselves to the $141 billion program necessary to justify it. Such an expenditure would represent $2,800 for every American family. Is that not just a bit too high? I sincerely believe that without such a shuttle we can easily maintain a space program of the highest caliber and still retain the funds so urgently needed for the problems here at home. Therefore, Mr. President, I call on my colleagues to vote for the Mondale amendment to eliminate authorization for the space shuttle.

Mr. MONDALE. Mr. President, the only basis for the space shuttle is that it provides a cheaper system, it is alleged, for transporting men or materials into near earth orbit. In fact, it will cost at least three times more to do so than the most efficient existing expendable boosters. NASA says it will cost $100 a pound. Independent scientist Ralph Lapp and the report of the Federation of American Scientists estimate—using NASA's own figures—that it will cost $2,250 a pound.

So on the cost-benefit argument, which is the only reason for this shuttle, NASA loses 3 to 1.

I thank the Senator from Wisconsin.

Mr. CANNON. Mr. President, I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I should like to point out some of the advantages of the space shuttle. But before I do, I should like to comment on some underlying attitudes and objections to the shuttle program.

I believe that part of the opposition to the space shuttle stems from a conviction that our national priorities need reordering. I share that conviction. Our defense budget has been overstuffed at the expense of social programs. The Vietnam war has already cost us five times more than what we spent on the entire Apollo program. We lose substantially more through tax loopholes each year than we spent in 1 year to go to the moon, and yet we still hear voices questioning this magnificent achievement. Billions upon billions of dollars are thrown into our bloated military budgets, with nothing but waste, destruction, and death to show for them.

I fully support moves to reorient our priorities of focus on our poor, our elderly, our minorities, our veterans, our cities, our transportation, our medicine, and a whole range of social action programs. But at the same time I do not believe that the space program should become a scapegoat because it is so visible. But I remind Members of this Chamber that the money spent on space research and technology is a tiny fraction of existing social action programs. The 1972 Federal budget, for example, called for spending $3.2 billion on space research and technology and $100 billion on income security, health, veterans' benefits and services, education and manpower, and community development and housing. And in turn, the money spent on the space shuttle is a fraction of total space spending.

As my distinguished colleagues know, the proposed shuttle is a new space transportation system involving a piloted, reusable orbiting vehicle and a retrievable booster or launcher. At present, launching rockets and vehicles are lost with each shot into space. With the shuttle, crews of scientists and technicians onboard the orbiter can launch unmanned satellites and space probes, conduct observations and experiments, and retrieve satellites while in orbit. Once the mission is completed, the orbiter will land like an airplane. The point to remember is that its parts are reusable.

After development, the shuttle will save money in several ways. The cost per mission will be less than most existing launch vehicles. The cost per pound in orbit when fully loaded will be about $160, as contrasted with $900 to $5,600 per pound for conventional launchers. Savings are estimated at $13 billion over 12 years, or slightly over $1 billion per year.

It is clear to me that the $227.9 million set aside for the shuttle in the present bill is a money-saving investment. The basic fact is that the shuttle is designed to save money. But there are other facts, too. Additional cost savings can be effected through the following:

The recovery, repair, and reuse of malfunctioning satellites by the shuttle orbiter;

Less expensive designs and manufacture of satellites by eliminating the need for duplicated systems within the satellite in the event of failure;

The ability to dispense with the higher costs associated with miniaturization, which is difficult to develop and test; and, finally,

The versatility of the shuttle and the wide variety of missions which it can serve, namely, satellite placement and return; space rescue; future space station support; research on the space environment; delivery of propulsive stages and payloads for high-energy missions launched from low-earth orbits; short duration sky-viewing missions; film recovery; and more.

Mr. President, this versatility means that the shuttle will replace most expendable launch vehicles. It will probably be available for future use by commercial groups, other government agencies, foreign governments, and a variety of international organizations.

Thorough studies of the economic feasibility of the shuttle were undertaken by Mathematica, Inc. Their report shows that over a 13-year period the return on investment should be 10 percent for a projected 500 flights and 15 percent for 700 flights. The study commented that even a 10 percent return is "among the highest discount rates ever applied in the evaluation of public investments in this country." Even with only 39 flights per year the shuttle would be economically justified, whereas the actual number planned by NASA and the Department of Defense is roughly 56 flights per year.

It is important to remember that space flights are going to take place anyway—unless we scuttle the entire space program, which is obviously not going to happen. Our job, then, is to find the least expensive way of operating them. The space shuttle is clearly the answer.

Of course there are different opinions on the cost-effectiveness of the shuttle. That is a healthy sign. Critical analysis by nonbelievers is exactly what we need in a decision as important as this.

Dr. Ralph Lapp, an eminent scientist for whom I have the greatest respect, is one of these critics. He has many doubts about the space shuttle project which he expressed very cogently in testimony before the Senate Committee on Aeronautical and Space Sciences. But both Mathematica and NASA made a point-by-point response to Dr. Lapp's analysis, and I submit that the cost-effectiveness of the shuttle remains unshaken.

I am not trying to say that the final word on this subject has been spoken. NASA is not omniscient. No one is arguing that the subject is closed. Continuing cost and feasibility studies will be made by the NASA–DOD Joint Space Transportation System Committee and other groups. In fact, Robert C. Seamans, Jr., Secretary of the Air Force, told the House Subcommittee on Manned Space Flight that a clearer view of costs, capability, and operations must wait until December 1973. Even then, future flight tests of prototype vehicles may modify cost estimates.

I am aware that the uncertainty of exact future costs is used as an argument against passing the current request. We have all been burned by scandalous overruns in weapons programs and aircraft contracts. But NASA and the Air Force have been completely open in their testimony, as have other organizations involved. There has been no attempt to hide any of the facts of the space shuttle project. In extensive hearings in both the House and the Senate space committees, the shuttle project has been submitted to sharp questioning. From past performance, I think that we can give high marks to the way NASA has handled the many space projects under its authority. Its achievements over 10 years have been made within budget allowances and on time. I believe that we should continue our trust in this agency by proceeding with a vitally important and money-saving program without further delay.

Mr. President, some opponents of the space shuttle go beyond cost arguments to assume that space technology does not contribute to the improvement of life here on earth. Nothing could be further from the truth. Let me cite a few examples.

Our Nation is almost surely heading toward an energy crisis. We face the joint dangers of dwindling supplies of gas and oil and possible radioactive poisoning from nuclear energy. Yet we know that every day the sun produces 1,000 times as much energy as all of the energy sources on earth.

Harnessing the energy of the sun could well save the world from suffocating under a blanket of air pollution. We have already launched seven orbiting solar observatories. We have been gathering vital data about the effects of the sun on the earth's life systems. Theoretically, we could tap the sun's enormous heat energy with a solar energy station in space and transmit that energy in beams to the earth.

To cite other examples, sensors developed for use in space are already being used for infants with breathing problems. An instrument measuring muscular tremors, originally developed to record the impact of micro-meteorites on space vehicles, aids the early diagnosis of neurological diseases. Waste and sewage disposal systems are being adapted to utilize collection, processing, and disposal techniques developed by space technology. Earth resources satellites are already helping farmers to detect crop diseases and to protect their crops from weather disasters. Similar satellites can serve fishing fleets by detecting large schools of fish as well as the pattern of currents and tides. Weather satellites will soon be able to make accurate weather predictions as much as 2 weeks in advance. And speaking of satellites, I am sure that many of my distinguished colleagues enjoyed watching the Olympic games from Japan—live via satellite.

For advances such as these it is only a short step toward understanding the shuttle's enormous peacekeeping potential. For example, there has been a proposal to establish a U.N. Fact-Finding Center utilizing the latest photographic and electronic observation technologies. In any given conflict, photographs obtained from U.N. reconnaissance planes could be changed by laser scanning into electronic impulses, which would then be beamed by satellite to world peacekeeping councils. Detection of cease-fire violations and arms buildups could be detected instantly. Leaders around the world could be directly in touch with on-the-spot developments. In the field of arms control, monitor satellites would help the cause of peace by serving as watchdogs. International agreements regulating environmental pollution could be monitored in a similar way. All this is in addition to the breaktaking educational potential of the satellites, through which the world's illiterate could be educated. I understand that the Indian Government is already deeply interested in this uplifting idea. I am not suggesting that the space shuttle will do all these things. I am stating that satellites, serviced by the space shuttle, will do these things better. I do them less expensively. Mr. President, I will summarize by restating my belief that the space shuttle is cost-effective, that it promotes social environmental goals, and that it will help break new paths to world peace.

Let us leave death and destruction behind us.

The shuttle will help us to find our way ahead.

Mr. CANNON. Mr. President, I yield to the distinguished Senator from Florida.

Mr. GURNEY. Mr. President, this is the third time that opponents of the space shuttle have sought to knock out money in this bill. They are the same arguments, the same shopworn fallacies, and they do not go to the point of the matter at all. As a matter of fact, in the House of Representatives this year, the effort to knock out the money garnered only 11 votes, just a few days ago.

Mr. President, at the outset, I commend the distinguished chairman and members of the Committee on Aeronautics and Space Sciences for the excellent service that they have performed in analyzing, modifying, and reporting out the NASA authorization for fiscal year 1973. They have managed to navigate the fine line between keeping costs down to a minimum while at the same time not endangering any of these programs which are so very important to this Nation's future as both a world power and as the most technologically advanced nation in the world.

The present admendment introduced by the distinguished Senator from Minnesota (Mr. MONDALE) is essentially a replay of amendments which he has introduced in past years. It seeks to have the Senate and the country turn its back on its future, on man's last and most immense physical frontier. It represents a negativism which is unfortunately enough all too pervasive today. It expresses a defensive attitude toward our national existence, a loss of confidence in ourselves, a loss of desire to control our own destiny.

This amendment seeks to remove from the authorization for NASA for fiscal year 1973 money needed to begin the development of a working space shuttle system. Two arguments have been raised by the critics of this system. The first criticism is that at this point in time we need to reorder our priorities and emphasize other programs.

In regard to this argument, I am content to simply point out that one of the most extensive, published blueprints for changing national priorities is one entitled "Counter Budget 1971–76" which was prepared by the National Urban Coalition. This organization expressed no desire to delete the space shuttle system. Rather, the coalition recommended a lengthening, a stretching out, of the development and operation of the shuttle so that NASA's budget would not exceed $3.8 million a year. This is exactly what the administration has done. It is exactly what the House of Representatives has done. It is exactly what the distinguished committee in the Senate has done.

As to the second criticism question, the basic validity of the shuttle concept itself, much can be said. The space shuttle will be an entirely new way of getting to and from space. It will be an airplane-like vehicle, which unlike present rocketry, can be used and reused with a concomitant reduction in cost per flight. Indeed, NASA has estimated that a 12-year benefit saving realized from the proposed shuttle investment will exceed $5 billion by 1990. The average total cost for launch and payloads projected for the 12-year period of 1979–90 would be about $4 billion using conventional launch vehicles and about $2.9 billion with a shuttle, based on current levels of total space budgets for NASA, DOD and other agencies.

The economy is implicit in the large load-carrying capacity of the proposed shuttle configuration. This vehicle would be the basic launch system for all kinds of space satellites and planetary probes. It would, therefore, allow a manufacturer to build less expensively engineered, less miniaturized, less delicate satellites for perhaps one-half to two-thirds of present costs. This is especially true since these instruments would not have to be built for a long, unattended life span. The orbiter could carry men to routinely service, repair, or retrieve these increasingly expensive orbiting instruments.

For example, the $75 million orbiting astronomical observatory whose batteries went dead, thereby providing no return for that investment, just might have been saved.

Much has been made of the expense of the program, and I believe that some of the remarks, that I have already made, indicate that in the long run the space shuttle will provide more return per dollar than continuation of present conventional systems. These examples and the position I have taken is borne out by an independent study by Mathematica, Inc., which shows a potential saving greater than the $5 billion which is the conservative NASA estimate.

Moreover, all these cost-benefit analyses take too little account of one of the principles of transportation systems in general—that is, as transport becomes more frequent, faster and less expensive, it attracts more traffic. In this case having a shuttle system would therefore lead to even further cost-savings and other benefits because of the real possibility of increased usage.

In the long run, programs such as the space shuttle which increase our superiority in high-technology areas, are exceedingly important, and in fact, are a necessity. We have watched competitive nations in the world community rise above us in numerous areas of industrial competence. We have let our export-import balances sink rapidly into the worst negative balances of the century.

Far from becoming an equal opportunity employer, we are becoming an equal opportunity unemployer. Training and education are becoming less and less important in avoiding unemployment, welfare rolls and poverty status. This is a national illness which must be cured, and the way to cure it is to restore our competitive position in the world market, to restore our exports and thereby restore the jobs related to them. We cannot do that and turn our back on high-technology areas of research and development. We cannot do that by turning our back on the immense scientific potential of man's controlled exploration of space.

There is one proviso, however. For, to remain competitive, there are, in fact, two options available to us. We can continue to maintain our technological superiority and restore balance of payments through the exporting of high-technology products. Or, we can remain competitive by turning our back on technology and drastically reducing the wages of the American worker.

No one in this Chamber could support that latter position. Yet, what the advocates of an abandonment of technology would accomplish is exactly that.

The American worker is the highest paid worker in the world. I also happen to think that he is the best, most skilled, most conscientious worker in the world. I think that he should retain his position. Yet, these higher relative labor costs are most readily absorbed in products involving high technology. Were we forced to compete with say fabrics, the mills of Japan for our sole dollar exports, we would lose unless our workers were making Japanese scale wages.

Thus, amendments such as the one proposed here today do far more than turn our back on what could be a glorious future for this Nation and for man in space. The ultimate and unerring result of such amendments, the ultimate and unerring result of the elimination of programs designed to enhance our competitiveness in the areas of sophisticated technology, is the abandonment of the American working man to lower relative wages, if not permanent unemployment. I, for one, do not want to see us delete budgetary provisions for programs such as the space shuttle only to have to turn around a year from now and appropriate more money to keep people from starvatioin because they are unemployed. It makes absolutely no sense to devote increasing amounts of national resources to provide sustenance for people who are unemployed because we have, in the name of cutting costs, deleted programs which could stimulate the economy sufficiently to give these people jobs.

One of the best features of the shuttle, in view of the importance of maintaining technological superiority, is that it could well serve as a unifying goal for such technological advancement. The developments and spinoffs from such a program would have major impact in the areas of propulsion, metalurgy, electronics, meterology, ecology, and the medical sciences.

I have spent considerable time discussing costs and technology in this discussion because I believe strongly that we must continue technological development in the most economic manner, if our nation is to progress. Historically those nations that have failed to develop their technologies have lost their ability to maintain and raise the quality of life of their citizens.

Sir Bernard Lovell, director of Britain's Jodrell Bank Observatory, offered a significant word of caution:

> If you look at the thousands of years of civilization, you will find that only those communities that have been prepared to struggle with the nearly insolvable problems at the limits of their technical capacities—there are the only communities, the only times, that civilization has advanced. The Roman Empire decayed when it ceased to be progressive in this sense, and there are other examples. To a certain extent, you see the beginnings of it in the United Kingdom today, but fortunately, not in the United States, and certainly not in the Soviet Union.

I ask Senators which course they wish to choose.

Mr. President, much of the opposition to the shuttle program is related to something that Mr. Lawrence Lessing, a science writer who recently discussed the shuttle in Fortune magazine, refers to as "the anti-man in space syndrome." Since the 1960's such people as Dr. Thomas Gold, a key supporter of the efforts of the distinguished senior Senator from Minnesota, has been promulgating such theories as the contention that the moon might have such a deep covering of dust in its seas that our astronauts would sink soundlessly into it and never return. The success of the Apollo program has of course dispelled that fear. More recently, Dr. Gold, in a New York Times Magazine article concluded that man should give up space life because of harrowing psychological effects of prolonged weightlessness, effects which, needless to say, have in no way been borne out.

Throughout the history of man there have been doomsayers, those individuals who have said "Let us not go farther else we shall suffer destruction." I am sure these people were around when man first decided to harness the energy of fire. I am sure that they were around when the Phoenicians developed ships to set sail and trade throughout the Mediterranean Basin. I am sure that there were counterparts of the supporters of this amendment in the court of Queen Isabella who told her that the money obtained from pawning her jewels could be better spent elsewhere, that she should not invest it on Columbus' trip, because after all everyone knew that there was nothing on the other side of the world and that his venture would inevitably fail.

Mr. President, I submit to you that the history of mankind is an uninterrupted history of the achievements of those who have ignored the doomsayers and brought increased benefits to all mankind. We as a nation cannot afford to turn our backs on the future. We as a nation cannot afford to abandon what technological superiority we still muster and retreat to the point where we become a second-class power, a nation increasingly relegated to the backwater of history, a nation which cannot compete either in military might or in trade competition with its neighbors.

Mr. President, I submit that the Senate, Congress, and the Nation are not prepared to forfeit our place in the history of man. We are not prepared to join with the supporters of this amendment and turn our back on the immense frontier of space.

Mr. President, I submit that the only intelligent, rational choice for us is to proceed with the proposed, and exceedingly moderate, program of development of a space shuttle and to defeat the pending amendment offered by the Senator from Minnesota.

Mr. CANNON. Mr. President, I yield to the distinguished Senator from Texas.

Mr. TOWER. Mr. President, I oppose the Mondale amendment, because I think it would mean the end of a program that promises even more expanded ancillary benefits than we already have realized from the space program. The program can have a great benefit to people throughout the world. Already, the ancillary benefits that have accrued to the American people have been legion in the field of medicine, in the field of communications, in the field of electronics, and in many other fields.

Mr. President, nearly 10 years ago, President John F. Kennedy pledged that we would have a vigorous space program and that we would put a man on the moon in the decade of the 1960's. Although at the time that he spoke, no American had flown in earth orbit, few believed that we would not make that goal. With the American expertise and devotion to a goal, everyone readily accepted the fact that we would go to the moon successfully. Such was the confidence of the 1960's.

In the ensuing years, Mr. President, we have had the doubter appear and question the space program, as they have doubted nearly everything else in America. The resounding answer of the American people to these doubters has been to show them that we still have the determination and the desire to be the best and that we will continue to be the best. As we enter into the next generation of spacecraft, specifically the space shuttle, we will continue to have outstanding achievements in our program and outstanding men to perform them.

No one can forget that historic day of July 20, 1969, when there came from the moon, "Tranquility base here, Eagle has landed." We have come a long way since then and we will go a lot farther.

We have only one manned flight to the moon still remaining in the current series. It may be quite a while before we return there; but we will go back, because we have more yet to learn for the benefit of all mankind. In the decade of the 1970's, we will be conducting manned flights in close proximity to the earth and will, as a consequence, be learning a great deal more about our atmosphere and the environment of our planet. The space shuttle will enable us to do this exploration more often, with greater ease and much more cheaply than would otherwise be the case. To use an old expression, to destroy the space shuttle program, as is proposed by the Senator from Minnesota, would be penny wise but pound foolish.

The space shuttle will give us routine access to space, and offer substantial economies in space operations. Satellites that are dead because of component failure can be recovered and repaired. Others which have completed their mission can be retrieved, refitted, and reflown. The shuttle will also give us a rescue capability. It will further provide logistic support to orbiting space stations, bringing relief crews, fuel, and consumables. Or it can be used as a spacecraft itself for multipurpose, short duration missions—in what is called its sortie mode.

Because the shuttle will reduce substantially the costs of operating in space, it will be possible to consider other missions which would be out of the question at present cost levels.

Mr. President, the space program has been of significant benefit to Americans not only in the scientific data that it has recovered and the understanding it has given us of our earth and our universe, but also in the improvement of everyday life. For example, the creation of life support systems for space flights has sharpened the understanding of human organism needs and functions. This has led to the development of life support techniques in our Nation's hospitals that have undoubtedly saved many lives. In the field of transportation, advanced navigational techniques developed for spacecraft have been adapted for use by commercial aircraft, making these flights more sure and certainly more safe. In the area of weather forecasting, particularly storm and hurricane tracking and forecasting, the use of satellites has given many more hours of advanced warning to threatened areas, thus giving the civil populations many more hours to protect property and save lives. These are just a few of the many benefits that we have derived from the space program. I ask unanimous consent that a list of these benefits be printed at the conclusion of my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See exhibit 1.)

In conclusion, Mr. President, the space program has been of great benefit to this Nation and will continue to be. The space shuttle, which is threatened by the pending amendment, is a very important part of the overall program and is necessary for its continued success at the least possible cost to the American taxpayer. I believe that it would be folly to deny NASA the authority to proceed with the program, and I urge the Senate to reject the amendment of the Senator from Minnesota.

Exhibit 1

Benefits From the Space Program

Neil Armstrong's first step for man was indeed a giant step for mankind. The space program benefits mankind through:

IMPROVED HEALTH CARE

Creation of life support systems for space flight sharpens understanidng of human organism needs and functions.

Methods have been adapted for the continuous simultaneous automatic monitoring of intensive care patients.

Medical application of micro-meteoroid detector on spacecraft can measure change in heartbeat or tremors from parkinson's disease.

"Telemedic" service utilizing space developed sensors provides immediate electrocardiogram analysis through telephone lines for post-coronary and rural patients.

Moonwalking simulation device aids physically handicapped to walk.

Sensors developed for the space program enable amputees and paraplegics to activate wheelchairs by simple head/eye movement.

Other equipment enable doctors to determine the condition of accident victims through wireless monitoring from ambulance to hospital, enabling immediate treatment on arrival.

SAFER TRANSPORTATION

Commercial jetliners use same basic guidance and navigation techniques as spacecraft.

Grooving techniques developed by NASA for aircraft runways reduce skidding on highways.

Adapting astronaut couch shock absorbers to highway guardrails and vehicle bumpers provides greater margin of safety to driver.

NASA research has provided fireproof materials and paints and high performance lubricants which have been applied to commercial transportation.

NEW/IMPROVED MATERIALS, PRODUCTS, AND PROCESSES

Fireproof materials developed by NASA provide greater safety to firemen, hospital workers and auto-racers.

Low and high temperature materials and insulations resulting from NASA research are utilized in cooking ware and camping equipment.

Lightweight, strong fiberglass-plastic composites used for boats, surfboards, plumbing, tanks, and printed circuit boards were originally developed for the space program.

Miniature nickel-cadmium batteries developed for Apollo missions are used in electric wrist watches and small appliances.

Transparent film developed for the space program is used for packaging meat and cheese.

Miniaturized electronics developed for the space program are being used in radios, TV's, computers.

MORE EFFECTIVE LAW ENFORCEMENT

Computer techniques developed for the space program provide methods for a national central data bank with rapid access which aids in criminal apprehension and conviction.

Communications satellite will relieve existing police communications problems by increasing the number of available radio bands.

TIMELY WEATHER FORECASTING

Accurate hurricane warnings in the last 10 years through the use of weather satellites have saved thousands of lives and reduced property losses greatly.

Improved weather forecasting will save farmers millions of dollars by allowing better planning.

LESS EXPENSIVE WORLD-WIDE COMMUNICATIONS

World-wide live TV coverage via communications satellites brings international news and sporting events into the home.

World-wide telephone communications at one-fourth the former cost are available as a result of communications satellites.

INCREASED PRODUCTION OF FOOD-FIBER-FOREST PRODUCTS

Observations from orbiting spacecraft will improve the quality of land in production and increase yield.

Decrease losses through advanced warning of disease, insect infestation, forest fires, and natural disasters.

Increase quantity of land under cultivation (only 1/3 of the useable world land area is currently productive).

BETTER USE OF WATER RESOURCES AND OCEANS

Better fishing productivity will result from detection of fresh fish oils, vapors, and favorable thermal conditions.

Spacecraft systems will improve the identification of new water sources and the management of existing fresh water supply.

Spaceflight pictures of water sheds will be taken to improve methods of flood control planning.

POLLUTION

Detection of pollution patterns and sources will aid in development of pollution control procedures.

Improved understanding of man's relationship to his environment will result from satellite remote sensing.

Improved pollution abatement equipment has been developed as a result of space program research.

ECONOMICS

The majority of the money spent for each moon landing mission provides salaries for thousands of American workers throughout the United States.

More money is spent each year on cosmetics than on the space program.

The American space program costs you five cents a day.

The above list is only the beginning of the many direct and indirect benefits obtained from the space program. Hundreds more products and services you will be using tomorrow are being perfected today on the way to the next mission.

For further information please contact: Mr. Loren E. Wood, TRW Systems Group, Space Park Drive Houston, Texas 77058 Telephone: 488-3530 (A/C 713)

Mr. CANNON. Mr. President, I yield to the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, the entire world watched in awe on July 20, 1969, as Neil Armstrong took that historic first step on the moon. We were able to see that "giant leap for mankind," because the men and women who implemented this Nation's space program gave us the technological miracle known as the communications satellite. Ultimately, the space program will benefit each American in a unique and personal way. It will continue to save lives, make life safer and enrich the existence of every citizen of this country.

On December 7, 1971, in a speech on

the floor of the Senate, I discussed at some length a number of practical everyday benefits the American people—and the entire world—can look forward to as a result of technological advances accomplished by our space programs. I quoted from Dr. Wernher von Braun, a citizen of my home State of Alabama and a name recognized worldwide as an authority on space.

Since that time, additional examples have been cited of benefits of the U.S. space program which are already improving medical techniques, diagnostic and treatment systems.

To cite just a few of these:

First. Thanks to the electronic pacer, a boy can live a normal life. This pacer is capable of being implanted in the chest and keeps the heart beating at a normal rate. Miniaturization techniques, perfected in the space program, are an integral part of the pacemaker's design.

Second. Monitoring techniques, similar to the ones used for the Apollo astronauts, are being used in hospitals. The radio-linked automatic patient monitoring system, which can collect several channels of physiological data from as many as 64 hospital patients and transmit the data in digital form to a central control station for processing by a computer, has been developed. The system is now in use at Palm Beach Community Hospital in Florida.

Third. A space helmet utilizing unique sponge electrodes, originally developed by NASA's Ames Research Center to obtain electroencephalographic tracings from astronauts and test pilots under stress, is being adapted to detect hearing defects in children. Investigators at the Scott-White Clinic and Hospital in Texas are perfecting a technique for evaluating hearing ability from EEG tracings.

Fourth. The exploration of space has demanded that scientists come up with life support systems that are self-contained. This technology is finding many nonspace uses. One example is a portable, volume-controlled respirator designed to operate without benefit of external electrical power or external source of oxygen. It weighs 75 percent less than common respirators and it is much more precise; it has particular utility in disaster-area field hospitals.

Fifth. A new medical tool, in use at the School of Nursing and Health Services, St. Louis University, is called a muscle accelerometer. It measures minute muscular tremors that may help doctors in early diagnosis of neurological ailments, including Parkinson's disease. It was developed from a momentum transducer used to measure the impact of micrometeorites on vehicles in space.

Mr. President, the United States sent men to the moon because we are an exploring people, reaching out further and further in order to uncover the mysteries of the world about us. We sent men to the moon because the moon was there to be explored, just as centuries ago man explored the seas, the continents, and in the future will explore the solar system. The people who first dreamed of space exploration were only dimly aware of the many practical benefits which would ultimately flow from their dreams. But, like many ventures into the unknown, the space program has produced useful results far beyond the imagination of the early pioneers who laid the groundwork for this, man's greatest adventure. Surely, the cost—less than 1½ percent of the national budget—is a small price to pay for a program that has returned so much.

In its issue of Friday, April 21, 1972, the Wall Street Journal published an article entitled "Can Man Turn His Back on Space?" written by Edwin McDowell, a staff member of that widely read and highly esteemed newspaper. In addition, there has been prepared a series of assertions made by opponents of the space shuttle program accompanied with detailed responses disproving those assertions. I ask unanimous consent that these articles be printed in the RECORD, together with the text of my speech in the Senate, appearing in the RECORD of June 29, 1971.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAN MAN TURN HIS BACK ON SPACE?

(By Edwin McDowell)

In Caruaru, Brazil recently, a father withdrew his eight-year-old son from school because the teacher insisted that man had landed on the moon.

Closer to home, shortly after the first moon walk, and against a backdrop of unprecedened TV coverage and millions of printed words, many Americans continued to express skepticism. Some thought it was a gigantic hoax, others were sure the lunar surface was really the Arizona desert, still others were certain it had all been an elaborate science fiction odyssey.

In short, not everyone believes that America's space accomplishments are real. What is more unsettling, even as Apollo 16 attempts to unravel the mystery of the moon's violent birth some four billion years ago, is that among Americans who believe that man has walked on the moon, there is widespread disagreement as to the value of space exploration.

On the day of liftoff for Apollo 16, Vice President Agnew assured the launch crew that Americans aren't bored with the space program, and he added that "you probably find more people enthusiastic about the space program than you've ever seen before."

But samplings and surveys have made it clear that a great many people are simply not enthusiastic about the space program. In fact, they have serious reservations about rushing to conquer the moon when Planet Earth is still so far from conquering discrimination, pollution, hunger and poverty.

This lack of enthusiasm is reflected in the sharply diminished space budget, in the cancelation of two Apollo moon landings, and in the fact that Apollo 16 is the penultimate moon flight scheduled for this entire decade.

THE CRITICS' CASE

The critics are many and their arguments are impressive. British historian Arnold Toynbee, for example, compared our first moon landing to the building of the pyramids or Louis XIV's palace at Versailles. "Sizing up man's achievements," he commented, "one would say, how amazing, how strange, that this ceature is so marvelous in his technology, but in morals and social behavior he has stayed practically stationary."

Philosopher Lewis Mumford complained: "It is not the outermost reaches of space, but the innermost recesses of the human soul that now demand our most intense exploration and cultivation."

And not long before his death, Bertrand Russell, although applauding the skill and courage of the moon flights, expressed grave reservations about their wisdom. According to him, the bustle and locomotion of space travel would probably do little to promote wisdom, thought or enlightenment. He felt that "men who take to a life of conquest tend to be men who are indifferent to the higher values of civilization."

"I should wish to see a little more wisdom in the conduct of affairs on earth," Lord Russell said, "before we extend our strident and deadly disputes to other parts. . . . It is for us to grow to the stature of the cosmos, not to degrade the cosmos to the level of our futile squabbles."

Each of these arguments has merit. So, too, perhaps, have the arguments that the American space program should place greater reliance on moon rovers, or that space exploration should become more of an international venture than the exclusively American and Russian domain that it has been so far.

Indeed, probably the only argument against space exploration that is patently absurd is the contention that the space program is the special province of the Silent Majority, and therefore is unrelated to the world of the intellectuals and the poor.

In a foreword to an important recent book ("Nine Lies About America," by Arnold Biechman), Tom Wolfe writes of "the phenomenon of the intellectuals' amazing hostility to NASA's success in reaching and exploring the moon."

Social critic Wolfe is particularly interested in Norman Mailer's criticisms of the space program as "tasteless" and of the NASA facilities in Houston as "ordorless." "This seems like a piece of pointless crankiness," writes Mr. Wolfe, "until one realizes that 'ordorless' is a code word for 'sterile.' In fact, his long and involved book on the first moon flight, 'Of a Fire on the Moon,' was nothing more than an announcement that the whole enterprise was sterile." What Mailer and other critics, home and abroad, were really saying, according to Mr. Wolfe, is that these nonintellectual Americans may have accomplished a feat—but the feat was worthless.

But if the arguments against space exploration are impressive, the arguments in favor appear to be even more so. For our periodic thrusts aimed at solving the aged-old mysteries of the cosmos are not just an expensive plaything of the Silent Majority, but a quest whose revelations probably will benefit all mankind.

The economic arguments themselves are impressive, although they can easily be overstated. (Remember the promises about how our tax dollars spent on foreign aid were going to repay us all ten-fold?) Nevertheless, the technological spin-offs from space exploration, some of them already apparent in communications, medicine and food, raise the definite prospect of directly improving mankind's material life on earth.

Furthermore, there is no assurance that the money spent on space exploration, if we were to cut or eliminate our space program, would automatically be diverted to education, housing or other social needs—at least not if the Silent Majority has the political clout and the grudging hostility to broadened social measures that we are repeatedly assured it does have.

Nevertheless, the economic arguments are distinctly secondary considerations, and not only because such promises frequently turn out to be as chimerical as the chain-letter system of piling up a fortune.

Arthur Schlesinger Jr. put it very well when, addressing himself to criticism that space exploration is wasteful, he said he could imagine similar criticism in Spain in the 1490s: "Why in hell are Ferdinand and Isabella giving all that money to that madman Columbus when they could build a good nunnery or a hostel or something?"

But even that analogy is imperfect. For

Columbus discovered America by accident, whereas we know that the moon and Mars and Venus are out there in space waiting to be explored.

A more precise analogy would be if Britain or Portugal, during their glory days of exploration, knew there was a new world beyond the seas but decided it should remain undiscovered and unexplored until they solved their domestic problems. Fortunately for both countries, Elizabeth I and Prince Henry the Navigator had other ideas.

SCIENTIFIC REWARDS

This is not to suggest that the U.S. should ignore the costs of space exploration, and race frantically from one planet to another while America's own cities fester and die. Perhaps the temporary moratorium the administration has placed on space flights is advisable, even though each new moon mission is far more productive and scientifically rewarding than each of its predecessors. But abandonment of America's space venture, which some critics have been urging, would be disastrous.

Historian and philosopher Salvador de Madariaga has properly noted, "It is from men who act on nature, and do not merely suffer to be acted upon by her, that history flows." And Arthur Clarke, the noted space writer, observed: "A nation which concentrates on the present will have no future; in statesmanship, as in everyday life, wisdom lies in the right division of resources between today's demands and tomorrow's needs."

Moon exploration is only the beginning of the long stride across the ages of man. It is only one more waystation along man's eternal journey toward the new and unknown. It is a transcendent event, one that imperfect modern man should no more turn his back on than men of antiquity should have turned their backs on other villages or other lands.

It is an awesome, Promethean challenge, one that only a frightened, confused nation—a nation of people who have lost their way—would reject as an unworthy goal.

SPACE SHUTTLE PROGRAM

Assertion. The space shuttle has more to do with perpetuation of bureaucratic interests and the politics of Government contracting than with the authentic needs of the Nation.

Answer. Wrong on two counts:

First—The space shuttle and the whole space program have strong bipartisan support. For example:

In the 64 to 22 vote approving the Shuttle in the Senate last June, 27 Democrats joined 37 Republicans in support of the Shuttle.

During House debate on the FY 73 NASA Authorization bill on April 20 of this year, 6 Democrats and 7 Republicans spoke in opposition to the Aspin Amendment (to delete funding for the space shuttle and to instead authorize further studies of it). The Aspin Amendment was rejected by an almost 10 to 1 margin.

Senator Humphrey came out strongly in support of the Shuttle several weeks ago.

On Feb. 18, 1972, in Miami, Fla., the Executive Committee of the AFL–CIO passed a resolution supporting the Space Shuttle Program.

Second—The space shuttle is an authentic need of the Nation. It is the right thing for the Nation to do.

We *cannot afford* to abandon space to other technological superpowers—only if we maintain U.S. presence can we assure ourselves that space activities will continue to be focused only toward benefits for mankind and that the U.S. will participate in those benefits.

The Shuttle *is a good investment*. A detailed economic analysis by Dr. Oskar Morgenstern of Mathematica Inc., a world renowned economist, has demonstrated this beyond any doubt. With the Shuttle we will be able to expand the returns of the space program without increasing the space budget.

We *cannot afford* to have a space program in the 80's that relies on the expensive technologies of the 60's—when we know we can do more, do it better, and do it cheaper.

We *can afford* to produce the Shuttle and reap its direct and indirect benefits within a modest space budget, one well below the four, five and six billion dollar per year peaks that characterized the mid-sixties.

Assertions. The Shuttle is too expensive, it is squandering funds that could better be spent elsewhere, and it is not cost-effective.

Answer. The same points were raised last year with respect to an alleged $20 to $30 billion program; however, we are talking about a $5.15 billion program extending over six years. That's an average of less than $5 apiece each year—not too expensive for America, not too expensive to make our space program one of the best investments man has ever had the foresight to propose.

Today each of us is already spending 43¢ of every tax dollar on social action programs (welfare, health, education, community development, housing, etc.) and we only spend 1½¢ of every tax dollar on space research and technology. To contend that putting the 1½¢ on top of 43¢ would solve our social problems is unrealistic—and think of the loss to the nation if we had no space program.

The expansion of America's technology, as in pursuit of a broadly beneficial space program, provides an important stimulus to many sectors of our society. Our future in world commerce depends strongly on our ability to maintain our preeminence in technology-based exports. Progress in space offers the global view essential to the solution of many of our current, mutual problems.

Stringent economic analyses have shown that we can reduce space costs by increasing the reuse of launch vehicles and payloads. The Shuttle does exactly that; it puts space flight in the same category as aviation. We don't throw away a DC–10 after one transcontinental flight; we do our present boosters. We don't install complex systems without the ability to maintain them; we do our present spacecraft.

The 1969 RAND study was wrong; the Secretary of the Air Force has rejected its conclusions since they were based on erroneous assumptions. The cost-effectiveness of the Shuttle is not tied to the cost of the payloads it carries but rather to the reduction in costs of launch, to the maintenance, repair and reuse factors for both vehicle and payload, and to the routine accessibility of space.

Assertion. Scientists don't support the Shuttle.

Answer. Some scientists may not; Thomas Edison also said that commercial aviation would never develop, yet people today travel the world over by jet airplane. Some scientists also felt lunar exploration was not going to be valuable; these same scientists are now pleading for continuing Apollo missions. Hindsight is easier than foresight. Many scientists do support the shuttle:

What the scientists want are space science missions—preferably ours with which they can be personally involved. The Shuttle will make more, not less, such opportunities available. There will be more missions for science, for applications, for exploration when we can get to space easily and routinely.

Without a Shuttle, individual space missions will continue to be slow to mature and costly to deploy; the rate of progress and of discovery will be held back by high cost and high risk.

The Shuttle will be to space science what the computer has been to mathematics—an easier way to do better and infinitely faster what used to be onerous, slow, and expensive.

Assertion. We can do the same space program without the Shuttle and for less cost.

Answer. This is absurd. It is like saying we can travel as far as easily on foot as we can by car or plane. There is no expert evidence that science and applications programs will not benefit from the Shuttle—unless we choose a program so limited in scope that its values would be trivial.

The real goals of space are to use its unique characteristics for human good—communications, monitoring and managing our environment, discovering the laws that govern the solar system and the universe.

The Shuttle's purpose is to make these goals technically feasible and financially attractive.

There is no other realistic long-range space program that can even approach the benefits that the Shuttle provides.

Assertion. The Shuttle is an example of perverse priorities, a boondoggle, a colossal waste, a perpetuation of bureaucratic interests; it is not related to the authentic needs of the nation.

Answer. There is no substance behind such language. The real issue is simply this: Should this country abandon the use of space to others; should we deny our citizens the benefits of space science, space technology, and operational space systems.

The authentic needs of America go far beyond welfare programs; the responsibilities of America have always been to both the present and the future. And, two years ago, a majority of the Senate three times agreed that the space shuttle and the programs it would make possible were an important part of that future. Last year, in another test of this principle, the future won again, 64–22.

Some other points:

Much of our national security is involved with space—and the Shuttle's flexibility will add enormously to our capabilities while at the same time reducing their costs. The space shuttle has strong DOD support.

Much of our future will be engaged in learning to live intelligently within the limited confines of "spaceship Earth"—and it will be Shuttle payloads that will give us the information we must have to make wise use of our land, air and water resources.

Many of our problems today, such as pollution, energy, hunger, natural disasters, delivery of medical care, and exchange of information, can be directly attacked through proper applications of space technology, science and systems—and a Shuttle is an integral part of the programs that are being developed to meet such needs.

Much of our strength today, much of our freedom, has stemmed from the courage to invest in the future even when the payoff was uncertain or unknowable. Here is an investment whose known returns are clear and certain, and whose potential is probably beyond the reach of even our most imaginative prophets.

Assertion. The Shuttle will be environmentally dangerous, like the SST, because of sonic boom.

Answer. The Shuttle is being designed by engineers who are quite aware of the sonic boom phenomenon and managed by administrators who are quite alert to the needs for environmental protection. The Shuttle and its mission profiles are being designed specifically to avoid detrimental sonic booms over land.

The concern about the effects of SST sonic boom was based on the assumption that they would fly supersonically over populated areas, that there would be frequent flights, and that the shock wave would travel along the ground beneath the aircraft on a continuing basis during most of each flight. These conditions do not apply to the space shuttle. The "flight" phase of its mission is at orbital altitude in a near vacuum where sonic booms as such can not be produced.

Only during the launch phase is a serious sonic boom produced, and then for a short duration. The launch trajectory will route the Shuttle over ocean.

Assertion. The Shuttle is only another example of a technological fixation on vast manned spaceflight projects for their own sake.

Answer. This statement evidences a fundamental misunderstanding of the Shuttle concept. With the Shuttle, we are specifically moving *away* from manned space missions as we have known them. Valuable as it has been to science and technology, the era of Mercury, Gemini and Apollo missions is in the past. We are talking about a *piloted launch vehicle* to serve in space the functions that the automobile, the ship and the airplane serve on earth. The missions that the Shuttle permits us to carry out in earth orbit will be automated, manned-tended, or wholly manned, depending entirely upon their character and need. For example, most routine space operations are expected to involve automated systems that are maintained and replaced by the Shuttle. However, biological experimentation, for example, is rather difficult to imagine being carried out without the experimenter being present. Similarly, large astronomical telescopes and other complex scientific devices can benefit enormously from regular maintenance and adjustment by a visiting technician. The Shuttle, therefore, is not a vast manned flight project but a tool to open space and its benefits to man on earth.

Assertion. The Shuttle is just a first step toward a manned trip to Mars.

Answer. No it is not.

The Shuttle is planned as an efficient system for the transport of men and equipment into and out of earth orbit. The Shuttle is not a first step toward any new program but instead, it is to support and make more effective the type of missions which we have underway today and those new missions which this country decides to undertake in the future.

The requirements developed for the Shuttle have not depended upon, and have not included consideration of, manned planetary missions or even post-Apollo manned lunar missions, were the country to undertake such a program.

The entire Shuttle philosophy has been based on requirements for manned and unmanned missions in earth orbit and on the support of a program of *unmanned* planetary probes.

Assertion. NASA estimates that the Shuttle program will cost $5.15 billion (spread over six years), but estimates are always low.

Answer. When the goals of the Apollo program were first enunciated, before detailed designs had been even started, before all of the developmental difficulties had been assessed, NASA said that it would cost between $20 and $40 billion to land men on the moon and bring them safely back. By the time the Apollo 17 mission is completed and the Apollo flight program has come to an end, NASA will have spent about $23 billion on this most successful enterprise. As far as meeting the initial objective of safe manned lunar landing and return NASA accomplished that for some $19 billion, or even less than their initial, least conservative, estimate.

NASA has learned over the past ten years to estimate even more closely; $5.15 billion is a firm estimate based on experience and supported by detailed and sophisticated analyses. There is a good probability that they can bring the Shuttle into being for a price less than their estimate.

Assertion. NASA should not now embark on a plan that occupies most of its strength for another round of long-range development work, but should instead concentrate on the useful applications and scientific projects which the previous round of developmental work has made possible.

Answer. Past NASA programs have laid a foundation for a vast array of useful future advances in space sciences and space applications. However, these programs such as communications, environmental monitoring and resources surveys are the very ones which the Shuttle is designed to exploit. By lowering launch costs, making possible more accurate satellite placement, and providing for satellite repair, the Shuttle will enhance the value of such programs.

Assertion. NASA has a history of being interested in bringing new technology into existence, but then not following through on the applications and benefits this could provide.

Answer. This is based in part on a misconception of the mission of the National Aeronautics and Space Administration. It is not NASA's mission to provide direct operational services. Rather, it is NASA's mission to develop space technology and applications to the point of practical benefits and then turn over the benefits and results of such efforts to operational organizations such as the Department of Commerce's National Oceanic and Atmospheric Administration or the Communications Satellite Corporation. TIROS weather satellites and synchronous communications satellites are examples of such conversions.

Assertion. NASA has always disappointed scientists by discontinuing space systems at the point when they have achieved the perfection needed to do the job for which they were devised. The same will happen following the development of the space shuttle.

Answer. Quite the contrary. With the Shuttle scientists will finally be able to work in a mode which more closely resembles the way they work in the laboratory. For example with the Shuttle it will be possible to make short-term "sortie" missions to checkout new prototype experiments or conduct experiments which can be accomplished in a relatively short time thus reducing the time between conception and completion of an experiment. Indeed, the Shuttle will make it possible for scientists to accompany their experiments into space and perform scientific operations firsthand. As passengers aboard the Shuttle, scientists will not require any training or expertise in space flight but can be transported much the same as passengers aboard a commercial airliner to their destination in orbit.

Assertion. We cannot afford to wait for the development of the Shuttle before starting a vigorous space science program.

Answer. NASA is not standing idly by waiting for the development of the Shuttle. During the development of the Shuttle, NASA will continue its current program of automated scientific spacecraft for the next several years. At the same time, design studies on specific projects such as the Orbiting Solar Observatory (OSO), the High Energy Astronomy Observatory (HEAO), and the Large Space Telescope (LST), are in progress to assure that these projects will benefit as much as possible from an operational Shuttle.

Assertion. It is not possible at this time to predict the technological hurdles which the Shuttle development must overcome and, therefore, present economic estimates of Shuttle costs are not sound.

Answer. Over two years of focused space shuttle technology studies, experimental testing and evaluation have verified that the current state of technology will support development of the shuttle under the present schedule. While technical studies are continuing in many areas such as aerodynamic effects, avionics, and high temperature materials, and while further innovation is still desirable to reduce development and operational costs even more, the fundamental technology required now exists and no breakthroughs are necessary.

Assertion. Continued mass production of existing launch vehicles of a few standard types of expendable boosters could lead to great economies and thus negate the need for the reusable Shuttle.

Answer. This question has been investigated by Aerospace Corporation, a company which has had extensive experience with both the payload and economic effects of continued expendable launch vehicle production. In this study, production rate effects were fully considered and the study concluded that the Shuttle showed substantial economic advantages.

Assertion, Shuttle economies become less favorable for smaller annual payload requirements, and in view of improvements in electronic technology, average weight requirements will continue to diminish drastically thus reducing the need for the Shuttle's capabilities.

Answer. With respect to payloads, detailed engineering studies have shown that economies and other advantages are possible through relaxation of the size and weight constraints imposed by current launch vehicles. With the space shuttle, the configuration of satellites can be established by considerations of component access, ease of fabrication, and simplicity of testing rather than by the need to crowd miniaturized equipment into the nose cone of an expendable launch system.

Thus the Shuttle should markedly decrease the payload cost and at the same time add a degree of flexibility in construction and testing not presently possible.

Assertion. Development of the Shuttle will result in a very small space transportation fleet thus rendering the whole space program vulnerable to long delays in the event of accident, sabotage or hostile attack. This would also impair the reliability which the military could place on the system.

Answer. All systems, military or otherwise, are subject to accident or other abuse. NASA's quality assurance and safety programs will be given top priority in the Shuttle development program. When operational, it is expected that the DOD will have their own shuttles and will be in a postion to protect them.

Assertion. Development of the Shuttle will severely inhibit advances in alternate modes of space propulsion.

Answer. Basic research sponsored by NASA will continue to study alternate power and propulsion techniques. The Shuttle has been concluded to be, however, the most cost effective launch system for the next generation, as liquid rockets were for the preceding period.

Assertion. A balanced presentation to competent evaluators with no ties to NASA or its contractors of the potential costs and benefits of the shuttle is necessary to obtain an unbiased review of the program.

Answer. Agreed; this has already been done. The space shuttle program as now presented was given a most critical independent review by the Office of Management and Budget and other elements of the Executive Office The principal study in depth of the economics of the space shuttle program was by Mathematica, Inc. This study was commissioned by NASA as an independent study and appraisal of the economic worth of the space shuttle concept. Dr. Morgenstern of Mathematica has testified directly to the Senate Space Committee that his company was given full independence and freedom to criticize in the conduct of this study. He also stated he felt at the outset of the study that the shuttle would not prove cost-effective under rigorous analysis; he was surprised that it did. The study reports stand on their own feet as classic examples of penetrating, detailed analysis of a very complex program.

Assertion. The space shuttle is merely a "make-work" program to provide employment in the aerospace industry.

Answer. While the Shuttle program is, of course, sustained on its technical and scientific merits, it is also important to note that the economic impact of proceeding with the

Shuttle from an employment standpoint would be significant. Over 200,000 industrial man-years of work over eight years will be required, an average of over 25,000 jobs each year. This does not even include indirect local employment, which could be several times that number. Also the NASA-contractor organization, responsible for the overwhelming successes in the Apollo program, represents a major national asset of scientific, technical and managerial skills. The fact that the space shuttle will retain much of this capability is an important consequence of the decision to proceed with its development.

Assertion. NASA has continuously changed the proposed configuration of the shuttle and until a final configuration is selected it would be foolish to authorize additional funds for development.

Answer. The present Shuttle program has evolved in the free and open, critical, "give-and-take" type of discussion that characterizes innovative technical studies involving literally thousands of engineers and other professional specialists. In guiding and reviewing these studies, NASA has not suppressed or ignored dissenting views. Such views have been considered at the appropriate stages in the decision process and have helped shape the program in its present form. The changes in the program during the past two years, in fact, represent NASA's response to independent views it has sought and encouraged both within NASA and from outside groups. The present Shuttle configuration represents the ultimate result of these exchanges and is consequently the most cost-effective and technically sound approach.

Assertion. Approval of the space shuttle program represents a built-in commitment to higher space budgets in future years.

Answer. Not true.

All of the costs of the space shuttle program, plus all of the development and operating costs of a balanced total space program using the space shuttle, can be contained within a total space budget (NASA, DOD, and other users) which does not exceed the current total annual level.

Assertion. A lower payload Shuttle would cost less.

Answer. NASA and industry have made exhaustive studies of the effects of lowering the payload capability of the space shuttle. The results established that savings in development cost were only on the order of 10% and that the reduction in payload capability would result in a substantial net increase in the cost of the overall space program through 1990.

Assertion. There are no NASA missions which require a 65,000 pound orbital payload.

Answer. Not true. The decision on sizing the Shuttle capability reflects consideration of (1) the maximum single mission weight requirements that can reasonably be expected in the 1980's and beyond, and (2) the Shuttle performance required to place lighter payloads in higher altitude and higher inclination orbits.

A 5,000-pound communications, meteorological, or military satellite to be placed in synchronous orbit with the reusable space tug when it becomes available in the 1980's will require the full capacity of the Shuttle.

A Shuttle capability equivalent to 65,000 pounds launched due east in a 100 nautical mile orbit will be required for a number of other missions. Examples are earth resources types of satellites expected to be in use in the early 1980's. These satellites are expected to weigh about 6,000 pounds, but because of the high inclination and high altitude of the orbits required, and the weight of the propulsion stage required to reach these orbits, the Shuttle capabilities required correspond approximately to the 65,000 pound, 100 nautical mile due east capability that has been specified for the space shuttle.

Assertion. There is no way to justify the claim that the Shuttle will reduce the cost-per-pound in orbit.

Answer. Cost-per-pound in orbit when fully loaded is simply an index of the efficiency of a launch vehicle. This amount is computed by dividing the average cost-per-launch into the total weight the launch vehicle can place in a standard reference 100 nautical mile due east orbit. This index is one of many indicators which show the relative efficiency of the space shuttle compared to current expendable launch vehicles. The index of $160 per pound for the space shuttle compares to an estimate of $900 per pound for the Titan III C, the most efficient current launch vehicle by this standard.

The Shuttle does not have to be fully loaded to achieve economies, any more than a 230 horsepower car has to be operated at full power to be efficient, or a 150-passenger airplane has to be fully loaded to show a profit. With the loadings required to carry out the specific mission models studied, it was found that savings averaging $1 billion per year would result from use of the Shuttle.

Assertion. The quality of the Mathematica study has not been appraised.

Answer. The Mathematica, Inc. study has been subjected to review by NASA management and within the Office of Management and Budget, and has been presented by Dr. Oskar Morgenstern of Mathematica to a number of other professional economists, to several universities and corporations, and to the Senate Committee on Aeronautical and Space Sciences. There have been no adverse criticisms of either the methodology or the findings by any professionally competent group or individual. The constraints placed by Dr. Morgenstern and his people on the scope of the study, whereby they excluded the benefits of any missions which would be beyond today's state-of-the-art, or which could not be carried out using expendable vehicles, represents an extremely conservative approach and has resulted in an understatement of the real advantages that will result from the introduction of the space shuttle.

The study concludes that the space shuttle can be justified on economic grounds for a wide range of possible mission models. Most importantly, the study proves that the Shuttle is economically sound even if used *only* for automated science and applications missions. Mathematica studied in detail a range of discrete mission models calling for from 681 to 403 shuttle flights over a 12-year period (1979-1990). When these results were extended to even lower numbers of flights, Mathematica found that even with a 10% discount rate the break-even point occurred at 360 flights over the 12-year period. Thus the shuttle would represent a good investment even if the total number of flights did not exceed an average of 30 per year, or even less if a period longer than 12 years had been assumed for the useful life of the Shuttle. (It should be noted that both Atlas and Thor boosters have already been in use for over 13 years.) The Mathematica conclusions do not depend on the weight of the payloads associated with the program.

Assertion. The Shuttle, while supposedly a civilian program, will be taken over by military interests.

Answer. Not true. The Secretary of the Air Force has testified that he anticipated a requirement of about 20 flights a year for the military. Obviously, the space shuttle is a general purpose system which can transport military traffic as effectively as non-military traffic. This does not lead to the conclusion, however, that military projects will override or take control of this country's civilian space program. Both NASA and DOD today use the same expendable boosters, each buying what they require. The same will hold true for the Shutttle. Skeptics who argue that the shuttle is a military undertaking and should be funded through the Department of Defense, ignore the fact that the Shuttle is a *space transportation* system. To argue that DOD should fund and develop the shuttle is analogous to saying that because military mail is delivered by the Postal Service, the Department of Defense should take over the mail system.

Assertion. Further economic studies should be made before additional funding is approved for the Shuttle.

Answer. To defer the Shuttle for a year for further study is programmatic and economic nonsense:

All aspects of the Shuttle have been under detailed study for over two years already by the best qualified professional organizations available.

The facts we need for the Shuttle decisions have been developed and made available to anyone interested; there literally is no more that could reasonably be done to validate the technical and economic case for the space shuttle.

The cost and benefit estimates are sound:

They are based on exhaustive technical and design studies by the best engineering firms in the country.

The cost estimates are those of the Government, not the contractors. The 5.15 billion dollar estimate already includes factors for contingencies and changes based on past experience. NASA has demonstrated its ability to carry out major developments within pre-established cost limits.

The economic benefits analyses were carried out by highly respected, independent professionals, including Mathematica, Inc. and Aerospace Corporation. The methodology and the results have been critically examined and accepted by the academic and engineering community. When the author of the Mathematica study was asked by the Senate Aeronautical and Space Science Committee whether further studies were needed, he said: "If I were in a position to give a go-ahead sign, I would give it. That is my answer."

The Mathematica study concludes that the Shuttle is cost effective over a wide range of traffic mixes between NASA, DOD, commercial and government agency users.

The Mathematica study is based on an estimated direct cost of $3.5 billion per year for the *total* national United States space program for each of the 12 years covered by the study. This very conservative estimate includes the costs of NASA, non-NASA government agencies, commercial users, and DOD, and is lower than current program levels.

[From the Congressional Record, June 29, 1971]

National Aeronautics and Space Administration Authorization Act, 1972

Mr. Allen. Mr. President, I thank the distinguished Senator from West Virginia for yielding his time to me.

Mr. President, I rise in opposition to amendment No. 233 by the Senator from Minnesota (Mr. Mondale) which would eliminate the provision for the space shuttle from the NASA authorization.

Mr. President, on April 19 the Soviet Union launched an unmanned "orbital scientific station" called Salute, into earth orbit. Three weeks ago a three-man team of Russian spacemen docked with Salute and have remained in space, conducting a wide variety of experiments, most of which remain deep secrets of the Soviets. We are told, however, that one of the experiments involves the successful growing of plants under artificial conditions and that the spacemen, who have already set a record for living under the conditions of weightlessness are putting on weight themselves.

We are told nothing of the other experiments being conducted, and we are left to wonder and to worry about how many military projects are being performed in that manned space station.

Mr. President, the key words to the new Russian effort are "manned space station."

How many times have we heard the arguments—and are still hearing the arguments—that the manned space program being carried out by the United States is unnecessary. And those who make this type of argument have pointed to the Soviet Union's moon shots as examples of unmanned flight. But how do those who attempt to detract from our manned space program now explain away the Russian manned space station that even now is traveling in space over our head—human minds and human hands directing its movements from aboard the spacecraft, not from some ground station? The point is that the Soviet Union, like the United States, is developing manned as well as unmanned space programs.

The United States, through the National Aeronautics and Space Administration, has gone through the initial period of exploration and discovery in space and we are on the brink of great returns.

One of our top priority programs for the 1970's is the space shuttle program as proposed and now under study by NASA.

The space shuttle is not a manned spacecraft; it is a reusable space transportation system to deliver manned and unmanned payloads to low earth orbit. It will consist of a booster and an orbiter, both of which can be reused up to 100 times.

Program planners have known for some time that the use of this vehicle 100 times or more will lead to substantial reductions in the cost of space transportation. The cost of placing a pound in orbit and returning it back to earth will be reduced by more than a factor of 10—from $1,000 a pound for the present one-way trip to about $100 a pound to orbit and back to earth.

New economic studies have determined that even greater savings will result in the cost of producing and testing the spacecraft themselves, which will be the shuttle's cargo.

The greatest savings will be in unmanned satellites, which now cost generally between $12,000 and $20,000 a pound. Some are even more expensive. The high present costs result from the need for extensive miniaturization and testing. The machinery within a satellite is much more delicate than that in a fine watch. It must be tested and retested to be sure that nothing will fail to operate properly after it is in orbit.

With the reusable space shuttle, both of these problems will be solved. The shuttle will have as much space and weight-carrying capacity as a large cargo airplane. Thus it will be able to carry less expensive equipment, like that used on earth. Standard, low-cost parts and components will be in general use.

The shuttle will be able to bring satellites back to earth as easily as it puts them into orbit. Thus the costs will be reduced by planning on the reuse of satellites and space flight equipment. Should anything malfunction in space, it will be returned to earth for adjustment, repair, refurbishment, or replacement. And in many cases, scientists or technicians will be able to go into space by way of the shuttle to adjust and operate the instruments, just as they now do in aircraft.

The space shuttle will be the only capability for manned space flight after 1973, when the earth-orbital Skylab experimental space station program will be completed. Without a shuttle, there will be no more U.S. manned space flights after 1973. Even with a shuttle, there will be a gap in manned space flights from 1974 through at least 1977.

Termination of U.S. manned space flight activities by a conscious decision or by failure to provide adequate support to continue a balanced total program would mean—besides the loss of the benefits to science, technology, exploration, and practical applications—that for the indefinite future the Soviets would have manned operations in space as their exclusive domain. The operation of Salute should erase any doubts that the U.S.S.R. is pursuing manned space flight as a continuing major objective to which they are applying very substantial resources.

I am growing increasingly concerned about our Nation's long-term position in space relative to the Soviet Union. I can only hope that we are able to profit from the lessons of history. Surely, this country cannot so soon have forgotten the tremendous shock we faced in 1957 when the first sputnik went beeping around the world to give us warning that another country was challenging our position of technological leadership. It took us many years of hard work and unflagging effort and much of our treasure to regain that position of leadership, and today we see it again being strongly challenged.

If we lose our position of leadership again, we may not have the capacity to catch up. For a period at least 4 years after our Skylab program is completed, there will be no Americans in space. During that rather long period of time, we can be quite sure that the Russians will continue to make major advances in manned space flight, and specifically, space station technology.

That is why I think it is of the utmost importance that we of the legislative branch give our strong support to the U.S. space program of the next decade. Even more than that, I feel we must urge that all steps possible be taken to strengthen it, to keep us from falling too far behind.

NASA studies of shuttle benefits are quite conservative. For example, they do not assume the great expansion of space flight applications that can be predicted from these sharply reduced costs. They do not anticipate the growth envisioned by many scientists in communications, weather and earth observation satellites, or scientific studies of the earth and its environment. Nor do they presume any expansion to meet the needs of other agencies of the U.S. Government, commercial interests or foreign agencies.

Mr. President, I have been a foremost advocate of leveling off our space activities from the crash program of the past to a more stable program accommodating the national budget and national priorities.

The NASA appropriations contained in the Independent Offices-HUD authorization bill will give us this stability and will enable us to build our future space program on the solid foundations of past discovery and technological achievement.

The space shuttle capabilities form a required part of the total U.S. space program for the 1970's; it is important that we develop these new capabilities soon; and the program NASA is presenting for fiscal year 1972 is calculated to proceed with this development in an orderly step-by-step fashion.

I believe that it is in the best interests of our country that the NASA appropriations be approved without further reduction.

Mr. President, we live in a much too fast-moving era when accomplishments of yesterday are almost overwhelmed in the problems of today and almost lost in the promises of tomorrow. I do not think that it is necessary for me to take time here to recount the achievements made by our civilian space agency during the past 20 years—achievements which all of us should recount with pride. From the successful launching of Explorer I to manned exploration of the moon, the tremendous economic and social growth of the United States has paralleled the accomplishments of our space pioneers.

Neither is it necessary for me to devote time now in ennumerating the gains to our way of life because of our space program. These reach all the way from instant video and audio communications from any point on this earth because of our satellites, to teflon-coated cooking utensils in our homes, resources exploration and pollution detection of our planet and charting the course of dangerous weather conditions throughout the world.

Nonetheless, because of the fast pace we run, I fear that many of us forget the achievements of our space program and we tend to overlook the gains to our way of life because of our space program. In its August 29, 1970, issue, the estimable Christian Science Monitor published an article entitled "Aerospace 'Fallout'—Something for Everyone" written by Eric Burgess, who is a staff writer for the paper. I commend this article to the attention of every Member of this body and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AEROSPACE "FALLOUT"—SOMETHING FOR EVERYONE

(By Eric Burgess)

Jane Evans heard her husband's voice clearly in the telephone. He had just arrived from across country on a large jet and was about to pick up his automobile at the airport. He said he expected to be home within an hour even though the freeways were slick with rain.

Jane didn't stop to think that her husband's fast trip from the East Coast was a boon of aerospace technology. Even his telephone call had been automatically routed by advanced electronics first evolved to control missiles.

And his drive over the rain-slick freeway was made safe by grooves cut into the pavement to stop skidding—an innovation from aerospace work to improve runways.

As Jane prepared the evening meal for her family she removed a thin plastic that wrapped the meat. It originated from plastic developed for an Echo satellite. The electricity heating her stove was supplied through power-control techniques developed from aerospace research. Nor did she connect the beat music from her teen-age daughter's record player as an indirect product of the aerospace age.

But aerospace is all around—intimately woven into the technological pattern of American civilization. The impact on the United States standard of living is proverbial.

BENEFITS—DIRECT AND INDIRECT

Specific and direct aerospace benefits include commercial jets, computers, and communications and weather satellites. Indirect ones include new materials, manufacturing techniques, management systems, and a broadened outlook.

Benefits are not solely new gadgets—Teflon-coated kitchen utensils, transistor radios, color TV, micro-computers, flameproof materials—even though these are important spinoffs from aerospace programs. Many experts say the real payoff from aerospace is the broadening of thought—a cognizance by the many of things before known only to a select few.

They say aerospace has helped trigger a new renaissance, a revolution of rising expectations. For the first time in history great numbers of people realize that mankind has tools, resources, energy sources, and knowledge to achieve what earlier seemed impossible.

Earlier technology was applied mainly for better military posture or to amass great wealth for a few. But in the past decade technology expanded man's physical and mental realms tremendously.

Aerospace showed how to discover and invent on schedule for nonmilitary as well as military purposes. In the words of Dr. Kraft A. Ehricke, a rocket expert from Peenemünde and now chief scientific adviser at the Space Division of North America Rockwell: "Our space effort is the first nonwar-oriented technoscientific endeavor large enough to require a national commitment.

"It set a precedent—encouraged the conception of many other large-scale efforts, such as the 'war on poverty,' the concept of a national oceans program, and the organization of a national fight against pollution—all of which, ironically, attack or criticize their seedbed, the national space program."

Nor is it by chance, says Dr. Fred Hoyle, world-famous British astronomer, that quite suddenly everyone worldwide has become seriously interested in protecting the environment. "Something new has happened to create this feeling of awareness about our planet," says Dr. Hoyle, who many years ago predicted that, once men saw the earth from space, "a new idea, as powerful as any in history, will be let loose."

This new awareness parallels the experience of Europeans as they expanded to explore and then develop other continents. Europe blossomed in art, science, social, and religious reform. Now earth as a whole is blossoming in a new awakening and a new reformation that also has many material benefits.

THRONGS IN LINDBERGH'S WAKE

Dr. Wernher von Braun, when he directed the Marshall Space Flight Center, Huntsville, Ala., once said: "The real payoff [from spaceflight] does not lie in mining the moon . . . but in enriching our economy and our science in new methods, new procedures, new knowledge, and advancing technology in general."

Only 40 years after Charles Lindbergh made his hazardous flight across the Atlantic Ocean, more than 20,000 people cross that ocean by air each day. Aerospace technology breaks down worldwide mental barriers and helps cement international goodwill—it brings the man in the street together with others on an unprecedented scale. Earlier ocean travel was too expensive in time and money.

Aerospace, as America's largest manufacturing industry, employs 1.3 million people with a $14 billion annual payroll. It is one of the great producers of national wealth, exporting (in 1969) $2.9 billion in aircraft and parts. This furthers American purchases of goods and products worldwide.

And there are direct benefits from aerospace technology. One is the communication satellite, which was made possible by application of large rocket boosters, miniaturized electronics, and solar cells that convert sunlight into electrical power.

REVOLUTION IN WORLD COMMUNICATIONS

Thus, a relatively small, self-contained, unmanned satellite now does the work of many thousands of tons of ocean cables. Such satellites brought a revolution in global communications, helping underdeveloped countries as well as industrial nations.

In 1969 live TV could not be sent across major oceans. Now it is commonplace via satellite. And before satellite it cost $15,000 a month to rent a cable circuit across the Pacific. Via satellite it is only $4,000.

And communication satellites can assist education and link computers. They may one day transmit messages instead of mail and extend their communications links into every home, replacing telephone lines for rapid communications with information stores throughout the world.

Meteorology became a science only through applications of aerospace technology. Meteorological satellites allow weather systems to be mapped and tracked on a global scale for the first time.

If Jane Evans lived in some parts of this country she would receive warnings of hurricanes because of satellites. Since 1966 these satellites have kept close watch on every major storm threatening this nation and have alerted against potential major disasters.

In response to requirements of space and planetary exploration the technologies associated with automatic computation and advanced technical analysis took on a new and vigorous growth. Computer-analysis techniques of tremendous power were developed.

And even the computer itself was developed to meet the needs of aerospace. Now virtually every aspect of human endeavor is enhanced by the commercial application of the digital computer. To cite only a few: airline and travel reservations, accounting, law enforcement, stock market transactions, industrial process control, engineering design, banking, and typesetting.

And the aerospace industry developed computer simulation techniques by which complex human situations can be mathematically modeled and tried out in advance. These simulation techniques brought back the Apollo 13 astronauts from near-disaster. They are being used to find solutions for pollution and traffic problems and to aid business management and planning.

Almost every major computer system in the world is made in America. Without the space effort of 5 to 10 years back these computers would not be available today. And now the computing industry is an $8 billion-a-year business that pays the highest wages of all U.S. industry. It is the fastest-growing industry and contributes most to the American balance of trade. U.S. computer exports increased 1,400 percent in the first decade of the space age.

AUTO-POLLUTION MINIMIZERS SEEN

Lt. Gen. Sam Phillips, commander of the Air Force Space and Missile Systems Organization, recently told a management group meeting in Chicago: "Of some 12,000 new products and techniques which have come into being in the last decade, a very large percentage are directly attributable to space and missile development."

W. H. Berger, president of North American Rockwell's space division, says he visualizes many applications of aerospace technology. For example, micro-miniaturized computers in automobiles might control fuel injection and timing to minimize exhaust pollution.

Large aerospace programs have revolutionized management techniques. They motivate and bring together many highly intelligent and energic people of diverse technical skills, keep track of myriads of parallel processes, identify problems quickly, and continually adapt to changes needed as experience produces more knowledge.

These management techniques are capable of solving the socioeconomic problems facing the world today, say aerospace managers.

Aerospace has also made significant contributions to manufacturing technology which are only just beginning to be felt in commerce and industry. Industry now welds complex shapes and exotic new materials and manufactures items in previously impossible configurations.

Computer-controlled machining, metal-forming by hydroexplosives, chemical milling, electric-arc sculpturing, and solid-state diffusion bonding are new processes derived from aerospace.

Some manufacturing engineers say that within a few years solid-state diffusion bonding will be applied widely in chemical, petrochemical, nuclear, refining, and air-conditioning industries because it results in metal parts that have joints as strong and leakproof as the materials that are bonded together.

And filament-wound glass structures came from aerospace. Suggested as building materials for homes of the future, they are used now to fabricate large-diameter pipes—an outcome of making cases for solid-propellant rockets.

"The marriage of numerical control, the digital computer, and machine tools is one of the stunning technological innovations of our time," said Willard F. Rockwell Jr., chairman of North American Rockwell, in a keynote address to the Western Metal and Tool Exposition and Conference here.

And this all began back in 1952, he explains, because the Air Force wanted a better way to machine helicopter blades.

Now numerical control of machine tools has spread from aerospace to increase productivity four or five times.

No longer need a product be locked inexorably into an inflexible assembly line. Products can be changed to meet changing markets but still be mass produced.

APPLICATION IN WATER TRANSPORT

Automated fabrication is seen by many as the next step of aerospace applications to the nonaerospace economy. Factories will automatically manufacture commercial products through computer-aided design now commonplace in aerospace.

System engineering techniques developed for aerospace were used in the multibillion-dollar California water project designed to move more than 2 million acre-feet of water every year from northern to southern California, including the crossing of a 4,000-foot-high mountain range.

Aerospace lasers align tunnelmaking machines with unheard-of precision.

And systems-approach methods are being used to define power scheduling of the Columbia River hydroelectric system for the Bonneville Power Authority to achieve substantial savings in water consumption.

Aerospace has produced a galaxy of new materials—tough steels that are not brittle, lightweight alloys, honeycomb panels, plastics, lubricants, special coatings, fireproof textiles, refractories, and foam insulation.

A van uses foam and honeycomb structure to reduce overall weight by 50 percent.

Trains, autos, buses can use space-age materials that will reject solar heat and keep them 10 degrees cooler.

Aerospace foam provides a lightweight substitute for cork in tuna ships.

Railroad cars fabricated of aerospace materials are half the weight of steel cars.

The roof of the U.S. pavilion at Expo '70 in Japan is a fire-resistant coated beta fabric developed for aerospace. And the National Aeronautics and Space Administration has developed through its contractors a variety of fabrics, panels, plastics, and coatings that if used generally would eliminate most fire hazards in automobile, aircraft, and bus interiors, in home furnishings, and interiors of public buildings.

NASA even has nonflammable paper and nonflammable adhesive and acoustic tiles.

Ron Phillips, director of NASA's Office of Technology Transfer, recently told a convocation at Nebraska Wesleyan University: "In the areas of housing, urban transportation, and the environment, we are only now beginning to make the type of national commitment which was made in space in the 1960's.

"Since this country first made its commitment to space . . . we have vastly increased our technical know-how and put it to use. We have seen overall productivity rise significantly in the United States, and along with it we have come to realize both the magnitude of new problems associated with our growth and the new capabilities which may be brought to bear on them," he says.

COST PICTURE ROUGHED IN

"Since 1950, the real output of goods and services in the U.S. has grown as much as in the entire period of prior American history dating back to 1620," he explains.

Mr. Phillips says: "We cannot solve our most pressing problems by rhetoric."

Nor is change in itself a panacea for all problems, he adds. "The generation growing up in the '60's was born into the space age and a new era. It is learning a new science, a new cosmology, a different view of man's place in the universe, and it is the recipient of vast new opportunities—on which it alone has the potential to act.

And these new technological opportunities have come mainly from aerospace.

And how much has space technology cost the nation? Less than the money spent yearly on hard narcotics by known addicts; about the same as that spent on tobacco or cosmetics; about half that spent in one city, New York, in legal gambling.

"Investments in space and aeronautics science and technology are, in fact, investments in our future," says Melvin S. Day, acting administrator for technology utilization at NASA. "The total impact, economic and social, will in the long run exceed even our own optimistic predictions," says Mr. Day.

And Dr. Heinrich Haymerle, permanent representative of Austria to the United Nations, told delegates to a recent international conference on communications in San Francisco that the rapid evolution of new technologies from space exploration is about to change the very basis of our existence.

"Perhaps the most challenging effect of the evolution of space technology will be the inevitably increasing gap in technology and involvement between those nations which conduct space programs and those not able to do so," he said.

Jane Evans has something to think about as she unwraps that meat for dinner.

Mr. CURTIS. Mr. President, the main arguments made for the shuttle are that it will, in President Nixon's words, "take the astronomical costs out of astronautics." It will "routinize" manned and unmanned missions into earth orbit. It will greatly reduce the cost per pound of our space launches, which at present run between $600 and $700 a pound because we are still using "one-shot-and-throw-away" booster vehicles. Employing the shuttle system, with a solid booster designed to be recoverable and an earth-orbiting stage that will land like a jet airliner and be reusable scores of times, we can drastically reduce the cost of space transportation.

Apart from the simple difference between relative launch costs there are considerations that will add to the expected savings during the next two decades of our space activity. One is the fact that the shuttle will be the workhorse during that period. It will be designed to take into orbit virtually all of the spacecraft we will be launching. Further, the shuttle will be capable not only of placing satellites in orbit, but repairing them on station—and even bringing them back to earth for repairs, if that should be necessary.

An additional saving will accrue from the fact that the shuttle orbiter lands on the ground and does not need an extensive naval deployment to assure its safe splashdown and recovery.

Still further, the design of the shuttle will reduce the forces encountered both in escape from earth's atmosphere and during reentry into the atmosphere. This will reduce the requirements for toughness of components and for redundancy, and thus lower the cost of designing, manufacturing and delivering spacecraft.

Some opponents of the shuttle have claimed that it will cost us several times as much as NASA has stated, because we must include operational costs as well as the price of research and development. This is analogous to saying that the real cost of a new $2,000 or $3,000 automobile must include the thousands of dollars needed to run it for its useful lifetime.

To my knowledge, the most authoritative study done of the cost-effectiveness of the space shuttle was, and continues to be, that completed by Mathematica, Inc., of Princeton, N.J., one of the most highly regarded independent consulting firms in the Nation.

Mathematica concluded that, to quote their report:

> The development of a Space Shuttle system is economically feasible assuming a level of space activity equal to the average of the United States *unmanned* program of the eight years ending 1971.

Based on this and other Mathematica findings, NASA has concluded that with the savings offered by the shuttle system—perhaps amounting to $6–$16 billion between 1979 and 1990—the number of missions undertaken during that period might well exceed the total to be expected using present launch systems.

Here I might add that one very useful service of the program will be to end the argument as to the relative merits of manned and unmanned space flight. To quote again, the Mathematica report states that:

> The economic justification of a reusable Space Transportation System is not tied to the question of manned versus unmanned space flight. Space programs used and analyzed are in line with the activity and funding levels of the unmanned United States space program of the 1960's (NASA, DOD, and commercial users included). If a substantial number of manned space flights were to be undertaken in the 1980's, a Space Shuttle System would also contribute significantly to lowering the costs of such missions and activities.

Mr. President, I doubt that many, if any, Senators would suggest that this Nation simply abandon its space program, with all of the earlier investment and accomplishments and all of the promise that it holds for the future of ourselves and all mankind. The shuttle program is a carefully planned and very logical next step in space.

Mr. CANNON. Mr. President, I yield 1 minute to the distinguished Senator from Florida.

Mr. CHILES. Mr. President, I had occasion to hear a couple of debates on the space shuttle and I am amazed at the agility of the opponents of the space shuttle, in the way they can adjust their arguments. As I listened to their arguments last year, I remember that one of their great concerns was they felt this money would peak up and that we would have tremendous appropriations that would have to take place to take care of the space shuttle and it would raise this $5 billion or $6 billion higher than in peak years. Now, of course, that is no longer a factor because NASA has been able to level out the program so that the budgets are on a more level basis.

There were various estimates as to the cost overruns, where we would see a program which started at a cost of $12 billion, but now we are talking about $5.5 billion to $6 billion as being the cost, because of the savings and improvements which have been made. So that it is pretty clear this is a program certainly in the interest of the United States and should be pursued. Time after time Congress has announced its policy to pursue it and I think that we will continue to do so today.

Now, Mr. President, I believe that the space shuttle is the single most significant program now planned to advance space travel, because without the shuttle, I do not believe we can afford to capitalize effectively on our scientific opportunities in space. Nor can we afford to capitalize effectively on our scientific and technological investment that have already given us space communication, weather satellites, and geodetic programs. The commercial and social benefits of the next generation of space applications—contributing to such fields as natural resources management, pollution monitoring, weather modification and climate control, earthquake prediction and avoidance, education, public health and safety, to name just a few—will not be fully realized unless we get costs down, efficiency up, and introduce a flexibility of action not earlier dreamed possible. That is what the space shuttle is for. That is why without it we will lose a program of great promise and value.

Our space research, thus far, has been responsible for the electronic pacer which, being implanted in a man's chest, keeps his heart beating at a normal rate; it is responsible for the monitoring of large numbers of hospital patients by transmitting accumulated data from each patient to a central control station for processing; it permits hospital use of a tiny sensor and radio transmitter that sounds an alarm if breathing difficulties arise. The NASA-developed diagnosis and treatment system originally designed to monitor astronauts' heart action offers an important aid to cardiac patients.

Through utilizing our space program we have developed a worldwide weather reporting and communications system, not the least of which is global television news which most of us now see and hear nightly. Millions of people in remote areas of Asia and South America, through communication satellite technology, will shortly discover the excitement of reading and writing—a discovery they have never experienced. Through weather satellite warnings, the space program has improved weather reporting, helping ships at sea navigate in cloudy weather. It is already a matter of record that through such satellite warnings, numbers of persons have been given sufficient warning so they were able to evacuate themselves and others in time to survive devastating hurricanes and other weather calamities. An underwater closed cycle breathing system, developed through space technology, permits man to dive down to depths of 1,500 feet for up to 12 hours, giving him a new degree of freedom in his underwater rescue and salvage operations.

I could very easily go on and on listing the achievements our efforts in space have resulted in, including high intensity lamps for street use and lightweight railroad tankcars weighing one-half that of steel cars but more than equally as strong. And the list of benefits we are enjoying from our space program continues to grow. It is NASA's mission to develop space technology and applications to the point of practical benefits and then turn over the benefits and results of such efforts to operational organizations such as the Department of Commerce's National Oceanic and Atmospheric Administration or the Communications Satellite Corp. Tiros weather satellites and synchronous communications satellites are examples of such conversions.

The space shuttle will allow us to build and expand this technological research. We simply cannot afford to have a space program in the 1980's that relies on the expensive technologies of the 1960's—when we know we can do more, do it better, and do it cheaper through a reusable space transportation system.

The space shuttle will consist of a booster and an orbiter, both of which can be reused up to 100 times. The shuttle will have the capability of blasting off into orbit, linking up in space with other craft, then returning and landing like a conventional jet airplane. The shuttle is a concept that will make space as available—technically and economically—as the airplane has made long distance travel. Like an ocean vessel or an aircraft or a rocket, an economical space transportation system has a role to play in exploration, in science and technology, and if necessary, even in defense.

I realize there are those who question this space effort at a time when so many down to earth social programs have to wait in line for a share of the Federal dollar. But I think my listing of only some of the benefits we have received from our space effort thus far can be considered to be very concrete achievements for the social good.

Today each of us is already spending 43 cents of every tax dollar on social action programs—welfare, health, education, community development, housing, and so forth—and we only spend 1½ cent of every tax dollar on space research and technology. To contend that putting the 1½ cents on top of 43 cents would solve our social problems is unrealistic—and think of the loss to the Nation if we had no space program.

In addition to the concrete benefits I have mentioned, which I think are the top priorities involved here, there is the factor of economy to consider. I think the basic premise we must understand is simply that the United States will continue to have an active space program from now on. We must also realize that our present systems for getting into and using space are much too complex—and costly. We need a whole new approach to make space practical and economical to all users. The shuttle is such a system. Because it is reusable, we will no longer have to throw each element of hardware, booster or spacecraft away after only one use.

By reusing the two-stage shuttle vehicle for a maximum of 100 flights, NASA hopes to reduce the cost of space exploration. The launching price of payloads, the agency believes, can be reduced from nearly $1,000 a pound at the present level to less than $100 a pound. The shuttle is first, foremost, an economical transportation from earth to space, and back to any point on earth.

The shuttle will be able to be used for launching scientific satellites into earth orbit from inside the orbiter vehicle's huge cargo bay, measuring 60 feet by 15 feet. It can be used to retrieve satellites for repair and updating so they can be used again. And when Congress has determined what part man will play in future space explorations, the shuttle can ferry men and supplies to earth-orbiting stations, which would carry up to 12 men on long-duration missions. It will be able to repair, modify, or update unmanned payloads in orbit.

Mr. President, when the goals of the Apollo program were first enunciated, before detailed designs had been even started, before all of the developmental difficulties had been assessed, NASA said that it would cost between $20 and $40 billion to land men on the moon and bring them safely back. By the time the Apollo 17 mission is completed and the Apollo flight program has come to an end, NASA will have spent about $23 billion on this most successful enterprise. As far as meeting the initial objective of safe manned lunar landing and return, NASA accomplished that for some $19 billion, or even less than their initial, least conservative, estimate. Today Mr. President, we have every reason to believe that NASA has learned to estimate even more closely: There is, according to NASA sources, a good probability that they can bring the shuttle into being for a price less than their estimate.

In conclusion, Mr. President, let me point out that I am fully aware of the variety of arguments often used in opposition to the program: Such as, "the shuttle is an example of a perpetuation of bureaucratic interests"; or "We can do the same space program without the shuttle and for less cost." Let me assure my colleagues, I have studied the program carefully, listened to the arguments and heard them all, one by one refuted. Much of our national security is involved with space—and the shuttle's flexibility will add enormously to our capabilities while at the same time reducing their costs. Much of our future will be engaged in learning to live intelligently within the limited confines of "Spaceship Earth"—and it will be shuttle payloads that will give us the information we must have to make wise use of our land, air, and water resources.

A major environmental contribution now in the development stage, but not yet operational, is the earth resources technology satellite—ERTS—which may have the greatest potential of all for realizing hard economic returns from space exploration. It is a system for keeping satellite watch on the globe's natural resources with the aim of better managing nature's bounty. Its objective is to alleviate some of the world's paramount ailments by helping to produce more arable land, more water, food, clothing, shelter, and fuel to meet the needs of a population that is growing at an alarming rate. Two other specific environmental benefits from space exploration are the control of smoke plume emissions from airplane engines and the development of a quiet engine to reduce aircraft noise. Atmospheric pollution is under attack also in a program initiated by the Langley center for the development of an advanced type of sensor to measure carbon monoxide concentrations.

The real goals of space are to use its unique characteristics for human good—communications monitoring and managing our environment, discovering the laws that govern the solar system and the universe. Many of our problems today, such as pollution, energy, hunger, natural disasters, delivery of medical care, and exchange of information, can be directly attacked through proper applications of space technology, science, and systems. I believe the space shuttle will help in finding the solutions to these problems and will make our goals technically feasible and at the same time financially attractive. In short, I feel there is no other realistic long-range space program that can even approach the benefits that the shuttle provides.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that an article I prepared for Parade magazine, expressing by backing of the space shuttle be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE CASE FOR THE SPACE SHUTTLE

(By Sen. Barry Goldwater)

The case for the space shuttle is a case for human progress.

That is the only possible way to group all of the compelling argument for speedy adoption by Congress of a program to close the technology gap and open new frontiers of useful knowledge.

In the vernacular of the day, the Nixon Administration's space shuttle project is a "now" program designed for the practical application of new scientific and engineering facts to the pressing problem of a changing world.

It represents a new era of exploration and discovery. It is a switch from the glamour phase of space spectaculars such as moon landings. Actually, it is an investment in the future—a future which hopefully will prove to be the most materially abundant of all times.

WHO NEEDS IT?

Who needs the space shuttle? The answer to that question is, just about everybody. Let me explain:

1. The world needs the space shuttle because it is the most practical approach yet proposed to the question of opening up the frontiers of space on a practical basis.

2. The United States needs it because it provides a method for keeping this country in the space race at greatly-reduced costs.

3. The scientific community needs it to keep the superb research apparatus of NASA in fruitful operation.

4. The American people need it because it might supply the answers for today's pressing domestic problems such as pollution and shortages of transportation, food, power resources, etc. In addition it may enhance our capability in fields such as agriculture, forestry, fishing. It might even pave the way for the use of weightlessness and the vacuum of space for manufacturing purposes. And it certainly would revolutionize such activities as communications and navigation.

5. The American economy needs the space shuttle because it will help, in the immediate future, to put some 50,000 aerospace workers back to work and holds out the future promise of whole new industries based on information collected during repeated forays into space and back.

SPACE MODEL T

If this nation is able to produce a reusable shuttle that could cut the cost of putting a pound of matter into space from $900 to $100, the potential is almost limitless. The space shuttle has been variously described as a vehicle which could do for space travel what the Model T Ford did for automobile use and what the Wright brothers flight did for travel in the air. Yet, this potential is lost on some mossback liberals who are attempting to hold back the future and maintain the status quo by pumping more billions into the welfare state.

Ironically, the opponents of the space shuttle, led by my colleague from Minnesota, Senator Mondale, are using the initial cost factor in an attempt to defeat a program aimed at vast, continual savings in future years.

They insist that the development cost of 5.5 billion dollars (spread over six years) is an example of misplaced priorities and that the money earmarked for it should be channeled into social welfare programs instead. They are insisting that government officials prove beyond any doubt that measurable benefits will be derived when the program is in full operation. This is like asking the Wright brothers after their first flight to make a projection on the practicability of air travel and the extent to which it would develop in future years. It would be like asking the first man to land in America what he foresaw for the future of the vast, empty, hostile land he had discovered.

OUR NEW FRONTIER

In other words, the opponents of the space shuttle program do not understand or refuse to recognize the validity of the argument that space is the new frontier. They would rather discount the whole thing as an aerospace boondoggle aimed at creating thousands of jobs in a national election year.

And, of course, the opponents again are quoting their claims that the space shuttle is nothing but a colossal waste of the taxpayer's money.

In this connection, it is important to understand that the space shuttle is primarily an engineering project rather than a scientific project. Some of the scientists who have lent their names to objections to the space shuttle have been in fields which were confined to only small facets of the project. Thus, for an impartial view I should like to quote what Mr. Charles H. Townes, chairman of the Space Sciences, and professor of physics at the University of California, said about the program on October 21, 1970:

"A successful space shuttle, including further lowering of cost and the possibility of assembly and adjustment of equipment in space, should produce a marked change in the style with which science and space application are carried out . . . I believe that its study and development should be pursued with vigor."

MORE SUPPORTERS

Another view was given by Raymond L. Bisplinghoff, chairman, Aeronautics and Space Engineering Board of National Academy of Engineering, in a letter to Dr. James C. Fletcher, administrator of NASA: "The board members would like to reaffirm their continuing belief that a shuttle-like vehicle is the key to a forward moving and economic space program beyond 1980."

On the space shuttle issue, I find myself in agreement with *The New York Times*—an event which is certainly not an everyday occurrence for a conservative Republican—in the belief that "the space shuttle has the possibility of beginning for space travel what the Model T did for the automobile age." This is certainly worth the investment proposed by President Nixon.

The PRESIDING OFFICER (Mr. STEVENSON). The hour of 2 p.m. having arrived, the Chair, pursuant to the previous order, will now recognize the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD) for a report, after which time the Senate will resume its consideration of H.R. 14070.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that my time be extended pending the conclusion of debate on the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I yield myself 2 minutes to state that I have prepared a table which is on display in the back of the Chamber on the easel, for the benefit of Senators, which shows the cost of the program which has been so highly overstated during the course of this debate. I ask unanimous consent that a copy of this table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SPACE SHUTTLE ECONOMICS

Shuttle nonrecurring costs:	Billions
R.D.T. & E.	$5.15
Operating fleet	1.0
Construction of facilities	0.3
Total	6.45

COST SAVINGS FOR FUTURE ACTIVITY LEVELS

	Projected flights 1979–90	Average number flights per year	Net cost savings from use of shuttle (billions)
	720	60	$8.1
DOD/NASA/other baseline	581	48	5.4
	432	36	2.4

Note: Economic studies show the shuttle to be a good investment at traffic levels averaging about 30 flights per year for NASA, DOD and all other users over the period 1979–90. Average number of U.S. space launches, 1967–71, was 43 flights per year.

Mr. CANNON. Mr. President, the suggestion was made that we are reducing other space-oriented programs because of the cost of the shuttle program. That simply is not true.

For example, the programs of aeronautical research and technology are up 70 percent this year over the previous year. The program on space application is up 10 percent over the previous year. The launch vehicles for unmanned programs are up 25 percent. The lunar and planetary program is up by 10 percent. Physics and astronomy is up 42 percent. I point out that the missions to be flown in the future are the same missions that otherwise would be flown on conventional launching vehicles. Economic studies show that if we have a level greater than 30 launches a year of all kinds, which is a lesser average than we have had over the past few years, the shuttle will show good return on its investment.

We have been committed to saving the taxpayers' money over a long-range program on the space shuttle.

Now, Mr. President, I thank the Senator from Minnesota for his views on the space shuttle program. The committee appreciates his great interest in its work. During its hearings the committee has looked into and tried diligently to answer the questions which he has raised about the space shuttle. I am somewhat disappointed in the statement of the Senator against the space shuttle. I would have hoped that the statement would have given some consideration to the committee's work. The committee finds that many of the Senator's criticisms of the program are based on misunderstandings of one kind or another. For example, he has urged the committee to consider carefully the views of scientists as he believes there is significant criticism of the space shuttle in the scientific community. He mentions specifically the Space Science Board of the National Academy of Sciences. I am sure there are scientists opposed to the space shuttle just as there are scientists for and against other questions and programs but that does not make the question or program scientific in nature or give the scientists any greater insight into the question or program than other people such as lawyers, machinists, electricians, schoolteachers, businessmen, housewives, or anyone else. And so it is with the space shuttle. It is not a scientific matter and for precisely that reason, the Space Science Board of the National Academy of Sciences has never taken a position in opposition to the space shuttle system. This is a misinterpretation of a single paragraph from a 147-page report prepared 2 years ago. This report addresses itself to the scientific priorities of space research for the decade of the 1970's, the decade before the space shuttle system will be operational. I should like the Senator from Minnesota to know that the committee carefully examines the reports of the Space Science Board for its views on space science and has found them to be of immense help. I think it is fair to say that there is a good working relationship between the Board and the committee.

If the shuttle is not a problem of space science, what is it? It is a problem of engineering and economics. The economists have said the shuttle will save the Government money. So what do the engineers say? Well, the Chairman of the Space Science Board, a distinguished engineer as well as scientist and a Nobel laureate, Dr. Charles H. Townes, has said this:

> A successful space shuttle, including further lowering of costs and the possibility of assembly and adjustment of equipment in space, should produce a marked change in the style with which science and space applications are carried out . . . I believe its study and development should be pursued with vigor.

Another distinguished engineer now Deputy Director of the National Science Foundation, Dr. Raymond Bisplinghoff, former Chairman of the Aeronautics and Space Engineering Board of the National Academy of Engineering and former dean of engineering at the Massachusetts Institute of Technology, in a letter to Dr. Fletcher, had this to say:

> First, the Board members would like to reaffirm their continuing belief that a shuttle-like vehicle is the key to a forward moving and economical space program beyond 1980. Based on the discussion of your briefings during our Board executive session on 17 June and a review of your letter to me of 19 June 1971, the Board would like to express satisfaction with your re-examination of the space shuttle program especially as it relates to your recognition of the possibility of smaller payloads, the use of external propellant tanks on the orbiter and the desirability of a phased approach to the orbiter and booster.
>
> The Board was pleased to note the progress you have made on the Phase B studies and the quality of the work accomplished by your contractors. We concur with your expressed desire to continue such work until you have the soundest technical approach before proceeding with the development of the shuttle air frame.
>
> Your long-range planning activities presentation served to reemphasize the importance of avoiding shuttle funding peaks in order to maintain a balanced space program. Your work on 'concurrent' versus 'phased' approaches to a space shuttle system should provide an improved basis for the programmatic decisions that must be made this coming year. We can hardly overemphasize our belief in the importance of this activity.

Another of our country's very distinguished engineers, Prof. Courtland D. Perkins, chairman of the Department of Aerospace and Mechanical Sciences at Princeton University and a former Assistant Secretary of the Air Force for Research and Development, testified before the committee as follows:

> It [development of the space shuttle] will be hard to do, like many other large systems, but it is, I think, well positioned with respect to the state of the art after many studies of how we can reduce the risk to an acceptable point and at the same time not lose the benefits, I think that the Space Shuttle configuration as it is now oriented is about optimum.

Similarly, Dr. Brian O'Brien, one of the Nation's outstanding optical physicists and Chairman of the National Academy of Sciences' Advisory Committee to the Air Force Systems Command, has strongly supported the shuttle before the committee.

The National Society of Professional Engineers supports the development of the shuttle as does the Federation of Americans Supporting Science and Technology, a student group. I will not burden the Senate by quoting extensively from the testimony of these people and groups but merely refer Senators to the committee hearings beginning on page 1135.

The part of the Senator's argument against the space shuttle which leans heavily on rhetoric such as "burgeoning costs" and "the absence of any clear-cut policy to justify or guide the expenditures for the shuttle," is totally contrary to the committee view. The Senate Space Committee has examined the estimated costs for the shuttle and the policy under which the shuttle will be developed and has found that costs are being reduced and the policy clearly stated. The Senator uses higher shuttle costs than those given the committee but he furnishes no justification for these higher figures. The committee has examined space shuttle costs carefully and does not agree with the figures mentioned by the Senator. For example, in the Senator's statement to the committee, he says that even without any cost overrun, the estimate—his higher cost—is still deceptive since it does not include the sizable cost of the projected shuttle's payloads or its actual operating cost. That statement is incorrect on two points. First, in considering the cost of any transportation system, the cost of the projected payloads is never included—for example, the cost of operating a truck would be about the same whether it were carrying a load of oranges or a load of diamonds—and second, the actual operating costs of the shuttle have been fully discussed and are included in total space program costs.

The statement of the Senator from Minnesota which says the Mathematica report estimates that the shuttle's total program cost over a 12-year period will be $35 billion is incorrect. The Mathematica report does not say this. What the Mathematica report says is that this—the $35 billion figure—would be the cost of the entire space program over 12 years or an average of about $2.8 billion per year, much less than the fiscal year 1972 total of $4.6 billion; furthermore, the Mathematica report says that the same set of space launches without the shuttle would cost $7 billion more.

The Senator's argument against the shuttle brings up the matter of the manned earth orbital space station. My guess is that there will be a permanent manned space station in earth orbit but the development of the shuttle is not linked to this. The Senator's argument on this point repeats erroneous testimony by Dr. Ralph E. Lapp. Many of the statements by Dr. Lapp are incorrect as many of the figures he uses are misinterpreted and there is not much more that can be said about his views. For further rebuttal of Dr. Lapp's testimony, I refer Senators to the statements of Drs. Morgenstern and Heiss and of NASA which was placed in the Record of April 20, p. 13786 and May 5, p. 16086, or can be found in the hearings beginning on page 1088. Dr. Lapp is not an expert on shuttle technology, science, economics or management or on any part of the space program that I know of. Dr. Lapp's testimony, which is not an analysis nor scientific in any sense of these words, has not raised any serious questions about the space program or the space shuttle.

Mr. President, the Senator in his statement to the committee asked that NASA provide a clear and precise definition of a future space program. This I think they have done as well as possible with present day knowledge. I do not, however, think it is NASA's place to frame the total basic policy question of what we expect to achieve in space, for what purpose and at what cost. If it were, we would obviously have a much larger space program than we have today. Such policy questions in the large are for the administration and the Congress to decide.

With respect to future planning of the space program, as the Senate knows, the Congress does not establish space programs now—in 1972—for the 1980's. It would be foolish to try to do so. No one has the capability of finding out—of predicting—what the future will be. All men can do is examine extrapolations of past experiences, draw general conclusions and base current efforts on these conclusions. This is true not only for NASA but for all other Government departments and agencies, all businesses, organizations, and in all the long-range planning for other types of organizations. This is what NASA did and gave to Mathematica. Mathematica then examined numerous—hundreds in fact—different space programs and found out that if there are as many as 25 or 30 space flights per year, there is economic justification, in the sense that it will save the United States money to go forward with the development of the shuttle. The space age is here and is here to stay; and the United States, along with other nations, is going to continue to send both manned and unmanned spacecraft into space. But Mr. President, no matter how much study is done on what the United States will be doing during the 1980's in space, it is not possible now to say with any precision what missions will be launched a decade from now. On the other hand, the long term goals of the space program have never been in doubt. They are clearly set forth in section 102 of the National Aeronautics and Space Act of 1958 which I ask unanimous consent be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Declaration of Policy and Purpose

Sec. 102. (a) The Congress hereby declares that it is the policy of the United States that activities in space should be devoted to peaceful purposes for the benefit of all mankind.

(b) The Congress declares that the general welfare and security of the United States require that adequate provision be made for aeronautical and space activities. The Congress further declares that such activities shall be the responsibility of, and shall be directed by, a civilian agency exercising control over aeronautical and space activities sponsored by the United States, except that activities peculiar to or primarily associated with the development of weapons systems, military operations, or the defense of the United States (including the research and development necessary to make effective provision for the defense of the United States) shall be the responsibility of, and shall be directed by, the Department of Defense; and that determination as to which such agency has responsibility for and direction of any such activity shall be made by the President in conformity with section 201(e).

(c) The aeronautical and space activities of the United States shall be conducted so as to contribute materially to one or more of the following objectives:

(1) The expansion of human knowledge of phenomena in the atmosphere and space;

(2) The improvement of the usefulness, performance, speed, safety, and efficiency of aeronautical and space vehicles;

(3) The development and operation of vehicles capable of carrying instruments, equipment, supplies, and living organisms through space;

(4) The establishment of long-range studies of the potential benefits to be gained from, the opportunities for, and the problems involved in the utilization of aeronautical and space activities for peaceful and scientific purposes;

(5) The preservation of the role of the United States as a leader in aeronautical and space science and technology and in the application thereof to the conduct of peaceful activities within and outside the atmosphere;

> (6) The making available to agencies directly concerned with national defense of discoveries that have military value or significance, and the furnishing by such agencies, to the civilian agency established to direct and control nonmilitary aeronautical and space activities, of information as to discoveries which have value or significance to that agency.
>
> (7) Cooperation by the United States with other nations and groups of nations in work done pursuant to this Act and in the peaceful application of the results thereof; and
>
> (8) The most effective utilization of the scientific and engineering resources of the United States, with close cooperation among all interested agencies of the United States in order to avoid unnecessary duplication of effort, facilities, and equipment.
>
> (d) It is the purpose of this Act to carry out and effectuate the policies declared in subsections (a), (b), and (c).

Mr. CANNON. Mr. President, understanding the frailties of future planning, it would be inappropriate for NASA to decide whether or not to undertake the development of the shuttle based on a single approved space program for the 1980's. Such a course would be wholly impractical and unacceptable to the committee. The committee's view on such matters is that such undertakings as the shuttle must provide for different policy options and not lead the Nation into a single inflexible and possibly irreversible position.

The Senator's argument against the shuttle charged NASA with an ad hoc improvised approach and states that that have been feasible so long as NASA was operating within the general context of the moon program but with the end of the Apollo in sight, neither the public nor the Congress, and apparently not even NASA, has an overall strategy and purpose to guide the enormous investments we are now being asked to make. Mr. President, I must disagree with that general indictment of NASA and the Congress. I do not believe there is another program of the Federal Government as well structured and about which we know as much as the NASA space program. But even NASA's well structured program cannot throw a great deal of light on precisely what this Nation will be doing in space during the 1980's. What we do know is that we will still be going into space and those of us who have faith in the future believe we will be doing a lot more in space than we are doing today. We have this faith if for no other reason than we believe that the younger generations—our children and our grandchildren and their children—will know more and do more than we.

The Senator has charged:

> If NASA has its way a commitment to develop the Shuttle inevitably will close off certain policy options and back us into others without the slightest public debate on realistic space goals for the future.

There are few programs that have been as much before the public and discussed as widely as the NASA space program, particularly the development of the space shuttle. I believe the vast majority of the public favors this development. Moreover, the development of the shuttle will not close off policy options; it will in fact do exactly the opposite: it will open up policy options which we could not have considered without the shuttle. For example, it will open up the policy option as to whether or not this Nation should have a permanent manned space station orbiting around the earth.

Mr. President, the Senator from Minnesota has stated that NASA was forced to change its design of the shuttle to make it politically salable. Mr. President, any undertaking in these United States as important as the shuttle system, should be and usually is a political decision. I believe that any agency which seeks to undertake large expenditures of public funds should be willing to place such decisions before the people for public scrutiny and as soon as that is done, the decision enters the realm of political decision. So I would fully agree that it was necessary for NASA to bring forth a space shuttle system that was politically salable.

It is true that last year NASA proposed a two-stage, fully reusable vehicle but found that budgetarily such a system was unacceptable and so ways were found to reduce the cost of shuttle development—but at some penalty of increasing the per flight costs. NASA reduced not only the cost of the orbiter but the cost of the booster. I simply do not understand why anyone would denounce an agency for reducing the cost of a program.

The Senator from Minnesota is correct that in 1970 NASA proposed both the space shuttle and the space station but that the funds simply were not available to support both undertakings. To the great credit of NASA they made a decision as to which was the more important and should be developed first and they decide on the space shuttle. I think that was the correct decision.

The statement that NASA has decided to proceed as soon as possible with the rapid development of the space station, however, is false and has no justification in fact. As I have stated earlier, I fully believe that we will have permanent manned space stations in orbit around the earth sometime in the 1980's, but there is no timetable for beginning the develpment of these stations and I think Dr. George Low, Deputy Administrator of NASA, is correct when he says such development is a matter of timing. New discoveries and new knowledge, such as we may gain from the Skylab program, could certainly bring about a demand for a permanent space station in earth orbit and in such a case we would be mighty glad that we had under development or in operation a space shuttle system. But the shuttle is justified on economic grounds without a space station of any kind, now or ever.

The Senator is also correct when he says that NASA wants this space shuttle program. They want it because they must find a cheaper way to get into and operate in space and there ought to be unanimous agreement on this objective. Today because of the cost of space programs, only a few scientists, engineers, and astronauts are able to use the vast resources of space. It is the aim of the space shuttle transportation system to make space available to a much larger group of people and to expand the uses of space for the people. For example, it is expected that the space shuttle will reduce costs to such an extent by the early 1980's that many of our graduate students in science, engineering, biology and other disciplines, will be running experiments in space to provide the raw data for their Ph. D. theses.

Mr. President, the authorization and appropriation of $227.9 million for the research and development and construction of facilities for the space shuttle for fiscal year 1973 in no way commits the Congress—or the administration for that matter—to funding this program next year or the year after that or the year after that. But this does not mean that we cannot take intelligent action now based on the best current information that we have on programs that will be important to the Nation in future years.

Mr. President, it is the committee's view, after considerable study, that the development of the space shuttle should proceed during fiscal year 1973. This does not commit the committee or the Congress to future funding. Future funding will be decided in the future by fiscal year as it has always been done for NASA.

Mr. President, the development of the space shuttle should be supported by the Congress for fiscal year 1973 and I urge the Senate to reject the amendment of the Senator from Minnesota.

Mr. MONDALE. Mr. President, I yield myself 3 minutes by way of summarizing.

This program, in addition to costing something like $35 billion over a 12-year period of operations—and, in addition, costing, according to the best estimates, three times as much as the present system of expendable boosters—is a program that has not been analyzed, has not been explained or justified, and has not been approved. We do not have the vaguest idea what we are committing ourselves to—what this $35 billion space program consists of.

I cannot believe that it is the policy of the Senate—in the midst of the various priority issues we are facing, with rising taxes, reduced services, with people not having enough money to live on, and with other problems that this Nation faces—to authorize a $35 billion program, having no idea what is involved in this program.

NASA's own contractor, Mathematica, Inc., concluded that a reusable transportation system like the shuttle "should only be introduced if it can be shown, conclusively, what it is to be used for and that the intended uses are meaningful to those who have to appropriate the funds, and to those from whom the funds are raised."

There has been absolutely no showing whatsoever as to what the shuttle will be used for. No wonder that Mr. Peter N. James—a former space system analyst from Pratt & Whitney who had studied the shuttle—concluded that—

> The space shuttle program as currently conceived by NASA is not in our national interest. NASA's space shuttle expenditures thus far run into the millions of dollars and a good percentage of these expenditures has

been wasted because of poor planning and impatience to get the program under way. There is no evidence to indicate that things will improve, while there is supporting evidence to indicate things are getting worse.

Mr. James also believes that congressional approval of the shuttle at this point will contribute to "one of the most wasteful and poorly planned, dead-ended multi-billion dollar space age boondoggles of this century."

Mr. President, I hope that our amendment will be adopted.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

NEED FOR THE SHUTTLE

Mr. SYMINGTON. Mr. President, the opponents of the shuttle have raised certain objections which are, when analyzed, mutually contradictory. I would discuss some of these contradictions.

First, there is the objection that the projections showing a space expenditure of $42 billion for the 12-year period starting in 1979 have not been approved by the Congress; therefore, it is meaningless to talk about future savings by using a shuttle system.

But Congress has not approved any such program. For that matter, even after we have completed action on this year's request, that does not mean $1 has been approved for the fiscal year 1974.

It is basic to our legislative process that programs such as NASA's must be authorized and appropriated anew each year. The actions of one Congress cannot bind the actions of the next one.

That is not to say, however, that the only projects we can approve here must be completed in 1 year; and it is not to say that we are prohibited from intelligent long-range planning on projects that are of vital importance to the future of this Nation.

I do not know what we will be spending on space in the period from 1979 to 1990. In the last 12 years, however, we have spent about $65 billion—or about $5.4 billion per year—so that $42 billion or $3.5 billion per year for our total space program from 1979 to 1990 does not sound unreasonable, especially when adjusted for the inflation that is with us and continues.

The opponents want ironclad assurance of approval of all missions we plan to fly for the next 20 years. This, of course, cannot be done. What we can do is to carefully review the requested programs each year, in order to ascertain if they are sufficient and suitable for this Nation's needs.

This we have done in detail, and that is why the committee is presenting this bill for the consideration of the Senate today.

Another area in which we hear contradictions concerns the role of the military. Some critics have said that if the shuttle is useful for the military, they should be the ones to develop it.

Testimony that we have on this point is that if the Air Force were to undertake the developments of the shuttle, large portions of NASA—including probably all of the Manned Spacecraft Center in Texas, the Marshall Space Flight Center in Alabama, and the Kennedy Space Center in Florida—would probably have to be transferred into the Air Force and out of NASA, because it is in the NASA people that the expertise resides.

Is that what the opponents want—a thoroughly militarized space program? I would not believe so, although I am much in favor of the military's using the shuttle, as they would a truck, or a cargo carrier, or any other form of transportation that we have, provided it would help them do a less expensive and more efficient job to protect the security of our Nation.

I think we did a wise thing in creating a civilian agency to bear the primary responsibilities in this area. NASA has done a fine job.

Another curious contradiction among the opponents of the shuttle is that they want us to continue to use our current boosters, which are thrown away and lost on every flight, while many of these same people are urging a greater effort in the area of recycling our resources.

I am a proponent of recycling and reuse of scarce or expensive materials; and while some parts of the current configuration will still be discarded, we will recover and reuse most of the shuttle.

In addition, many of our expensive spacecraft are now written off as total losses, even though the faulty part is only a small piece of the whole system, is relatively cheap, and is easily repaired or replaced if you could just get to it.

With the shuttle, repair and replacement will become routine. That will sharply reduce our losses of these expensive instruments. Perhaps this aspect of the space shuttle has escaped the attention of the opponents.

Mr. President, I have offered here today reasons why I support the space shuttle. I believe the experts who have presented us with detailed justifications for this shuttle have built a consistent and logical case for its development, and urge rejection of this amendment.

Mr. CANNON. Mr. President, I ask unanimous consent to place in the RECORD at this point an additional rebuttal to the testimony of Dr. Ralph Lapp before the committee on April 12, together with the letter of transmittal from the Congressional Research Service.

For the record, this testimony has already appeared in the CONGRESSIONAL RECORD three times, twice on April 19—pages 13409 and 13583, and once on May 4—page 15956.

I see that it has been placed in the RECORD again today.

Also in the RECORD are two previous rebuttals to Dr. Lapp's testimony, one by NASA on April 20—page 13786, and one by Dr. Klaus Heiss of Mathematica on May 5—page 16086.

Again I urge everyone who is interested in obtaining professional evaluation of the issues involved to read these detailed rebuttals. I am sure this will not stop the flow of hasty, misleading, amateurish, and admittedly adversary evaluations. But, I hope they will be useful to those who are seeking the truth.

There being no objection, the letter and statement were ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
WASHINGTON, D.C., *May 9, 1972.*

TO: Honorable Clinton P. Anderson, Chairman, Aeronautical and Space Sciences Committee.

FROM: George N. Chatham, Specialist, Aeronautics and Space.

VIA: Charles S. Sheldon II, Chief, Science Policy Research Division.

SUBJ: April 12, 1972 testimony on the Shuttle given by Mr. Ralph E. Lapp.

The accompanying paper responds to your request for an analyses of the "adversary" views expressed by Dr. Lapp on the NASA Shuttle program.

Please let us know if we can assist you further in your study of this program.

Enclosures.

AN ASSESSMENT OF DR. RALPH E. LAPP'S "ADVERSARY VIEWS" ON THE NASA SHUTTLE PROGRAM

Dr. Lapp's "Statement on the Space Shuttle" was presented to the Senate Committee on Aeronautical and Space Sciences during hearings held on April 12, 1972. At these hearings a major economic analysis favoring the Shuttle program was reviewed by its authors, representing Mathematica, Inc. Requests to present opposing views were granted to two scientists, Drs. Gold and Lapp. Both were furnished copies of the Mathematica study. However, only Dr. Lapp appeared to present his arguments.

The Mathematica study is an extensive and detailed economic analysis derived from an even more extensive set of engineering systems studies. Dr. Lapp made no claim that he intended to present a scientific refutation. Instead, he would undertake an "adversary" argument which he defined as ". . . an attempt to exercise a set of checks and balances on the unprecedented activities of research and development." A more general definition of an adversary argument stipulates that is an argument in which data are selected to support a preconceived conclusion as opposed to an "analysis," in which the conclusion is not known until it emerges from the data.

Dr. Lapp's testimony consisted of thirty-two brief, numbered paragraphs which contained twenty-three arguments.

There were two suggestions that the contributors to the Mathematica study could have biased their results to favor a NASA desire or a business interest. Six points were critical of various Federal policies. Two attacked the logic of upgrading the NASA/DOD expendable boosters as an alternative to the Shuttle. Five were recommendations for further study. Eight of Dr. Lapp's arguments were directed against the Shuttle program.

BIAS

Bias is of course a pre-condition for an adversary argument, and at no time does Dr. Lapp say that he is unbiased—only that he is free of NASA's bias. He also suggests that "Since LMSC (Lockheed Missiles and Space Co.) is an aerospace company which would benefit from Shuttle contracts, it is questionable whether Mathematica, Inc. is justified in accepting the LMSC data without considerable adjustment for bias." He does not offer substance for his suspicion beyond this comment.

FEDERAL POLICIES

Dr. Lapp is correct in his statement: "First of all, I maintain that the United States has not approved a $42 billion space program in the current expendable category." He refers to costs projected over a twelve to fifteen year period, which appear in the Mathematica study.

The Nation's annual budgetary review and funding procedures commonly call for such projections or "run-out" costs. Yearly review, re-approval or cancellation is the standard and only procedure by which Federal projects are executed regardless of the time ultimately required for their completion.

Therefore, the numerous "run-out" figures in the Mathematica report cannot be considered a challenge to the extent of Congress.

Dr. Lapp notes with objection that the Mathematica analysis justifies the Shuttle program on a joint basis on which the DOD requirements as well as NASA's and other civil users, are served. As stated by Dr. Lapp:

"This confusion of military and civil space programs persists throughout the Mathematica, Inc. report and makes difficult a realistic appraisal of the Space Shuttle in terms of the NASA program." He accurately notes that the DOD applications in the various mission scenarios studied, are quite significant in the economic justification. Dr. Lapp objects to a justification based on a civil/military blend. As he puts it: "If the Space Shuttle is intended to be a military vehicle, then I submit it ought to be justified and funded by the Department of Defense."

Mathematica estimates that about 30% of the shuttle payloads will be military. Their approach categories the Shuttle as a "common carrier" like a railroad. In this sense they have weighed the merits of a new "rail spur" based on their best anticipation of the business from all potential users, their names being less important than their business.

As an overview, multiple uses for a federally funded project are generally a positive influence in their justification. Multiple management, which sometimes goes with multiple funding, is common but adds to the complexity of a project. The manner of funding and management of large multiple use projects is so much a function of the nature of the project that no general policies can be established. They must be created and executed on a case by case basis. However, a multiple use facility or service may be managed and funded, it is generally considered a more effective use of funds than the "separate but equal" approach, military vs. civil airports being a notable exception.

Dr. Lapp, in noting that the twelve year projection of Shuttle flights, included 62 flights to the projected space station, suggested that the cost of the space station should be combined with that of the shuttle. A review of NASA planning reveals a broad spectrum of programs which call for a space station. Planning for such a station predates the planning for the Shuttle by many years. Hence NASA included the flights in their "user schedule" provided to Mathematica.

However, if the cost of the space station were added to the cost of the Shuttle program, it would also have been added to the cost of the program calling for continued use of the current expendables along with the mission profile required for the space station flights. This flight profile would have cost $3 billion more to perform with the current expendable than with the Shuttle.

The path taken by Mathematica throughout the study was to avoid all contests between the current expendables and the Shuttle in which the Shuttle would make use of capabilities not possessed by the current expendables.

The space station is the only satellite, the cost of which has not been added to the various mission profiles. It is also the only satellite which has not yet been reviewed by Congress in terms of its mission and costs. The space station is a major venture which could cost as much as $6 billion. Its mission is quite different from that of the Shuttle, a factor which will require that the space station be justified on its own merits as a separate project.

Finally, the 62 Shuttle flights to the space station do not affect the conclusion reached by the Mathematica study. The Shuttle is shown to be more economical than the current expendables with as few as 30 flights per year.

Finally Dr. Lapp suggests that the "15 year" payload costs, totalling $30 billion, projected by the Mathematica study is an increase over the current launch rate of one of the NASA offices (OSSA). He submits ". . . that such an increase in the tempo of the civilian space program has not been justified as a legitimate public expenditure." He then suggests that ". . . a more realistic figure would be $20 billion." He notes that such an adjustment would reduce launch costs to about $5 billion. He offers this assurance: "I further believe that if the scientific and technical community was given this figure as a ceiling, it would be possible to define an aggressive and rewarding space program for the 1975–1990 period."

Dr. Lapp's association of the $30 billion projection (398 payloads in 15 years) with the activities of OSSA was a mistake, understandable perhaps in view of the complexity of the Mathematica study. The figure appears in numerous options but is never restricted to NASA flights. Viewed as used in the study, the total does not reflect an increase in space activity for the Nation.

He applies a lower figure ($20 billion) to alter the totals of some of the Mathematica comparisons. However, his figure as well as his views are admittedly personal, not substantive and are therefore beyond the scope of this review.

UPGRADING EXPENDABLE BOOSTERS

The Mathematica analysis compared the total costs of space missions conducted with (a) current expendable boosters, (b) new expendable boosters and (c) the Shuttle system. They noted that new expendable boosters provided significant cost reductions over those now in use. The savings amply justified the required development costs. Both types of expendables, however, could not approach the overall gain provided by the Shuttle system.

Dr. Lapp noted that in the detailed cost breakdown, the NASA projection included funds for additional development of their current expendables. He found that by removing this sum, he could demonstrate that the current expendables are lower in cost than the new expendables. He calculates a total cost reduction of $3.75 billion, a saving which ". . . indicate no diminution of the unmanned NASA or DOD program." One would assume from Dr. Lapp's statements, that he recommends a continued use of the current expendables with no changes or additions. At least this was the basis he used for his comparisons with the Shuttle. However, his final recommendation takes a different view of expendables. He recommends recovery and refurbishment of the Titan-class launch vehicles and a consideration of new boosters, i.e.

"Thus I would recommend that NASA examine the possibility of a new launch vehicles of the non-shuttle class. In this examination, I would recommend that an attempt be made to standardize on a launch vehicle so that unit costs can be reduced."

Estimates of the additional development costs entailed in Dr. Lapp's recommendation can not be derived without an extensive analysis of the particular new boosters or alternatives he has in mind. His testimony does not detail these things.

It should be noted, however, that as an alternative to the Shuttle, the Mathematica study did consider new non-Shuttle boosters. The tables for comparison of various alternatives all show three columns: a) current expendables, b) new expendables and c) Shuttle.

Finally, the goal of "standardization" is shown to be a strong advantage of the Shuttle system.

THE SHUTTLE PROGRAM

Uncertainties in Costing New Technology. Both Dr. Lapp and Mathematica note in their testimony and reports that uncertainties cause initial cost estimates to be low. This well established fact has been the subject of a large number of studies, particularly by the Rand Corporation. Both Dr. Lapp and Mathematica cited the same Rand studies.[1]

The earlier (1965) Rand study noted original estimates were lower than final costs by an average factor of 1.8. The updated (1970) Rand study corrected this factor to 1.2 in light of improved estimating methodology.

The allowance for estimating error used by NASA and Mathematica is based on the Rand updated study and is 1.2. However, Dr. Lapp erroneously interpreted the two Rand studies as in agreement, both confirming the 1965 estimate of error as 1.8. In his words: "RAND studies (Alvin J. Harman "A Methodology for Cost Comparison and Prediction." Aug. 1970 RM–6269–ARPA and Robert Summers "Contractor Estimate and Prediction of Actual Weapons Costs" March 1965 (RM–3061–PR.)) show that contractor estimates are invariably low and that actual costs exceed the estimates by 80 percent." Then, acting on his misimpression, Dr. Lapp applied this 1.8 factor as a multiplier to the Shuttle estimates.

His use of this multiplier is the major but not the sole mechanism by which he derived his higher cost estimates of the shuttle program. He increased the NASA estimate for the Shuttle non-recurring launch vehicle costs by $650 million prior to applying his 1.8 multiplier but did not specify his reason.

Estimates Derived by Averaging. Averaging is useful to describe a group of quantities only when they are close to the same size. Otherwise, the process of averaging tends to mislead. A New Yorker may walk a quarter of a mile to work each day and fly to San Francisco once each month. A review of his movements could show that the average trip length is 240 miles at an average speed of about 200 miles per hour. This would not be helpful in describing his habits, however.

One of the strongest points made in the Mathematica study could be rephrased to say "There is no such thing as an average space mission." These missions, payloads and orbits vary over a range that prohibits meaningful averages. This characteristic of space missions is perhaps the main reason for the length and complexity of the Mathematica analysis. In their assessment of competing launch vehicle systems, each type of mission had to be analyzed separately both as to launch vehicle costs and payload costs.

Despite the inappropriateness of extracting averages from such data, it is commonly done. NASA as well as the aerospace industry have given wide publicity to figures derived from averaging such as "cost per pound of payload to launch" and "average cost of payloads per pound."

Dr. Lapp and Mathematica are both sharply critical of the error and misleading nature of these commonly quoted figures. In contrast to Mathematica, however, Dr. Lapp does not object to the process of averaging data on a mix of different space missions. His objection centers around the error and misleading nature of the widely published averages. He cites a number of typical quotations: To make specific the projection of shuttle transportation costs, I quote from Dr. Fletcher's Jan. 5, 1972 White House statement: "It is estimated that the reusable space Shuttle will reduce the cost per pound of putting a payload into space from between $600 and $700 to $100." NASA Associate Administrator Dale D. Myers testified last year that the cost might be reduced to "as low as $75 per pound of payload." Aerospace industry officials (House hearings, Science and Astronautics Committee, FY 72 Pt II, page 482) have projected costs as low as $50 per pound."

---

[1] *Contractor Estimate and Prediction of Actual Weapons Costs,* Rand, March 1965 and *A Methodology for Cost Comparison and Prediction,* Rand, August 1970.

Dr. Lapp substitutes his own average based on projected Shuttle cost data from the Mathematica study:

(a) 514 Shuttle flights at a total development and procurement cost of $13.1 billion indicates an average cost per flight of $25.5 billion.

(b) An average payload of 5,000 lbs. placed in orbit for $25.5 million indicates a pound-in-orbit cost of $5,100.00 for transportation.

(c) Using Shuttle operating costs only, 5,000 lbs. in orbit indicates a pound-in-orbit average of $2,250.00.

(d) Using a 5,000 lb. average payload, 514 flights would place 2.6 million pounds in orbit. At Mathematica's estimated payload cost of $23 billion, the average price per pound of payload, using the Shuttle system becomes $8,800. Dr. Lapp emphasizes this sum with the addition: "Expressed in other units, Shuttle payloads will average $550 per ounce. Thus Shuttle payloads will average ten times more expensive than their weight in solid gold."

The table[2] referenced by Dr. Lapp as the source of his data also contained the comparison costs of today's expendable boosters. His computational method applied to the data for expendable boosters yields the following comparison:

	Expendables	Shuttle
(a) Cost per flight (514 flights)	25, 500, 000	25, 500, 000
(b) Cost per pound in orbit (total transportation)	5, 100	5, 100
(c) Cost per pound in orbit (operating costs)	5, 000	2, 250
(d) Cost per pound payload fabrication	11, 500	8, 800

The above tabulation is intended only to complete a comparison which if left uncompleted could be misleading. No importance other than this is ascribed to these averages, since they like others, quoted earlier by Dr. Lapp, have been based on data in which averaging is inappropriate.

Dr. Lapp made some objections, which were mentioned earlier, about the Mathematica costing of the expendable booster projections. Namely, he deleted a sum for upgrading the current expendables and reduced the total payload and launch projection. His recommendations for a smaller overall space program would affect the figures in both columns, pressing them upwards. However the amount cannot be determined without an extensive analysis.

In the comparison of the two competing systems, it is helpful to note that 62% of the $25.5 million cost per flight of the Shuttle is included to amortize the development and other non-recurring costs in 514 flights. The upgrading of expendables is also amortized over the same number of flights but only 13.5% of the $25.5 million per flight is for this purpose.

In other words, the cost per flight of the 515th flight and flights thereafter would show the following change:

a) Shuttle: $9.7 million cost/flight

b) expendable: $19.5 million cost/flight

Mathematica notes in their report that the actual mission profile provided to them by NASA and DOD totalled 624 flights but was reduced by them (Mathematica) to 514 flights. These additional flights which NASA and DOD expect to make would favor the Shuttle by about $1.0 billion in launch vehicle costs.

Payloads. Satellites have been called "space jewelry" because it is not at all uncommon for a payload to cost between $20,000 and $40,000 per pound. In fact these figures are cited by Mathematica (3) as typical NASA costs for payloads. Publicity about their construction and function gives the impression that they occupy the leading edge in the state of the art for their particular function.

Sometimes a satellite does occupy the leading edge of one or more arts—but not the art for which they were built. All of the functions to be performed by a given earth resources satellite, for example may be simple and routine in terms of the available art. However, in practice, a size and gross weight is targeted. Container weight, stabilization systems, fuel and power supply are estimated. The residual space and weight are then allocated for the working part of the satellite. From this point forward, a workable satellite gradually emerges from trade-offs and re-designs. Electronic circuitry can be miniaturized and shaped to fit available hollows but physical limitations are approached on just how much an optical system can be folded or how light and small a movable set of optical filters can become. Shutters, timers, film or tape transports, and a myriad of other items must be designed, tested and finally integrated. How much fuel can be carried for stabilization; how much power; how much tape; how many functions originally planned must be compromised or eliminated? The battle centers around the outcome of weight and size reduction engineering. A little larger battery here or another few feet of tape may add significantly to the life of the satellite and fractions of an ounce become major issues. Weight and size reduction, not the incorporation of new art, has always been the major challenge and the major cost of satellite design and construction.

The Mathematica study shows some economy in the use of the Shuttle System in lieu of the conventional expendables. However, it shows a much greater saving in the relief from the size, shape and weight restraints imposed by the current expendable boosters.

Finally, it should be noted that no one, whether his interests are commercial or scientific, abandons a productive machine costing between $20 million and $100 million because the art has now produced a somewhat more efficient electronic circuit. Furthermore if the user of a working satellite can give his machine a new lease on life by replacing a depleted fuel cell, a tape canister, or a new circuit module, he is then in a position to weigh this relatively minor cost against the cost of building and launching a new one. He does not now have this option, and a review of satellite history indicates that the option is attractive. A particularly strong case in point may be seen in the large observatory satellite program. Two of the three of these $100 million spacecraft never became operational, but could have been saved had they been carried aboard the Shuttle. The third observatory operated at reduced capability due to the failure of internal circuitry.

Dr. Lapp testified to strongly contrary views. He notes that if Shuttle-borne satellites are to become larger and heavier, then the cost of launching a given satellite can not be compared on a pound for pound basis between the expendables and the Shuttle. He also states that: "It is difficult to state how much the higher payload capacity of the Shuttle allows a reduction in payload costs on a pound basis, but the trend is contrary to the thrust of technology which aims at more compact, solid state, instrumentation of high reliability."

It must not be overlooked that in the particular analysis from which Dr. Lapp has drawn his data, a nominal payload of 5000 lbs. was used for their comparison of the expendable system and the Shuttle. Depending upon the orbit selected, the Shuttle is capable of taking payloads up to a maximum of 65,000 lbs. The nominal load of 5000 lbs was selected for many reasons, one of which was to make the comparison conservative. The choice permitted the analysis to handicap the shuttle thus favoring the current expendables.

There is a second, perhaps more important reason which Mathematica did not explain but left implicit in their data. One of the first points which must be known about a new transportation vehicle is its "break-even point." That is, what percent of its cargo capacity must be filled to pay the costs of owning and operating the vehicle. The user knows that his costs remain the same whether his vehicle hauls a minor load or a full load. This is true, of course, whether the vehicle be a ship, a moving van or a Shuttle.

Therefore a growth in the weight of the Shuttle payload does not bear upon the Shuttle operating costs used in the Mathematica comparison. Contrary to Dr. Lapp's belief, however, the relaxation of the current weight and space requirements are shown by the Mathematica study to have a dramatic effect in cost reduction.

Dr. Lapp's alarmed statement, quoted earlier, emphasized his anticipation that Shuttle payloads could cost 10 times their equivalent weight in gold. This would actually be a sharp drop in cost from their current average of about 100 times the cost of their equivalent weight in gold.

In brief, the point of the Mathematica payload analysis was to suggest that the superior lifting capacity of the shuttle would remove the necessity of producing "space jewelry". These "jewels" came into being because of launch vehicle limitations, not because small size and compactness represents the "thrust of technology." While size reduction is a long standing historical trend in advancing technology, it has always been a by-product to the primary goal—that of seeking and applying new principles which would first make possible a desirable result, then steadily reduce its cost in energy, material and money.

Mr. CANNON. Mr. President, Drs. Tom Gold and Brian O'Leary filed statements with the committee in opposition to the shuttle.

The committee was particularly concerned with some of the charges made by these gentlemen about the military uses of the shuttle. Consequently, we asked Secretary of the Air Force, Dr. Robert C. Seamans, to comment on these remarks.

We also have rebuttals from NASA and from Mathematica on these statements which I hope will help clear up any ambiguities that might have arisen as a result of these scientists' views.

Mr. President, I ask unanimous consent that these rebuttals be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Department of the Air Force,
Washington, May 9, 1972.

Hon. Clinton P. Anderson,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate.

Dear Mr. Chairman: I am pleased to respond to your letter of April 18, 1972, concerning the testimony of Dr. Gold and Dr. O'Leary.

Although most of both statements pertain to areas that can best be answered by NASA, particularly the NASA program content and the Mathematica study, I would like to provide some general comments and address those points specifically applicable to DOD considerations.

Our achievements in space have greatly

---

[2] Table 0.1, page 0–8 Mathematica Economic Analysis of the Shuttle System, Executive Summary, Jan. 31, 1972.

exceeded our expectations of only a few years ago and I strongly feel that we have only begun to understand and tap the vast potential of the space medium. To realize fully the potential that the medium has to offer for applications, for science, for defense and for the betterment of mankind, we must improve our means for operating in space through increased capability and flexibility and decreased operational costs. I believe that the Shuttle, designed with the proper capabilities, offers such potential and should be an ingredient of our total national space program.

The points raised by both papers are ones that face us continuously in our decision process of where to best apply our limited resources for the best interest of the nation. NASA is faced with providing a balanced program of science, application, technology and development. Normally, each of these areas is strongly promoted by advocates within their respective fields, sometimes without due consideration for needs in other areas. An agency must recognize the needs of the various disciplines under its authority. Within the resources available, NASA, in my judgment, has structured a balanced program.

Both papers question whether the Shuttle development should be initiated because of potential costs and application uncertainties. These questions are raised on every major program and were specifically addressed. Our present assessment of them indicates that we should proceed with development of the Shuttle. The phased approaches, or step-by-step development, which I support and which NASA is undertaking, is designed to identify the resolve cost, schedule, operational concept and technical uncertainties. As I pointed out in my testimony, the Preliminary Design Review (PDR) in late 1973 will result in another critical management review of these parameters and provide us better data for further assessment of the system capability and utility.

Our assessments to date have dealt primarily with present identifiable missions in both low and high energy orbits. Shuttle missions to the higher orbits require an additional upper stage as do missions with present day launch systems. Such existing stages could be intially adapted for use with the Shuttle. However, the Shuttle will offer the additional economic potential of reusing such stages. The need for an upper stage has not been treated as an afterthought, as noted by Dr. Gold, but is appropriately reflected in the phased development approach. The operational aspects involved for high energy missions have been considered in both DOD and NASA Shuttle System analyses and were factors in vhicle configuration and performance definition and are being considered in the design and utility assessment.

Regarding Dr. Gold's observation on Shuttle vulnerability in the event of military conflict, we feel it will be no more vulnerable to accident, sabotage, or hostile acts than our present expendable launch vehicles. Our present launch sites and supporting facilities are vulnerable to enemy action. To harden our space launch capability, whether for expandable boosters or for the Space Shuttle, would be very costly. For this reason, we have elected to achieve an acceptable survivable space capability by reducing the vulnerability of our satellites to hostile enemy action and by having an adequate number and mix deployed prior to any conflict. The Shuttle could make it easier to reach this goal if it achieves its objective of reducing the cost of placing our satellite systems in orbit. Regarding accidental loss, the DOD would not completely phase in the Shuttle System until its reliability is understood. Also, potential attrition losses will be considered in determining the fleet size.

Dr. O'Leary stated that the DOD was the prime driver of the configuration and payload bay size. As I have emphasized at every opportunity, maximum national utility should be the criteria upon which the Space Shuttle development is based. Thus, the configuration and performance specifications for the Space Shuttle reflect the needs of both NASA and DOD missions. This includes the cargo bay size as well as crossrange performance. NASA also requires upper stages for high energy missions which drive the low earth orbit payload weight and size capability. The required crossrange performance among other things permits maneuvering to a safe landing area in case of an abort within the first revolution around the earth. NASA needs this capability as well as the DOD.

Dr. O'Leary raised the question of Air Force contributing to the Shuttle investment. There are several ways to fund and manage a development program, such as the Shuttle, which involves more than one agency. In our experience, one agency should have prime management responsibility for the overall program, coordinating the requirements with the other agency. Our working relationship with NASA on this program has been outstanding and they have been very receptive to our suggestions. NASA/USAF cooperation on efforts of national importance dates back to the days of the NACA, the predecessor to NASA. Our mutual interests in space, like those in aeronautics, have led us to consider ways to meet the needs of both agencies through joint efforts and to foster national leadership in technological advances and capabilities. The Space Shuttle program is one such example. Also, I would like to point out that the NASA responsibility for development is consistent with their charter since the system is not uniquely for DOD. The Air Force intends to procure vehicles and equipment as the Shuttle economic and performance objectives are met.

In summary, I feel that the Shuttle offers potential for improving our means for operating in space, advancing our technologies and opening up new avenues for applications of space which would benefit all of mankind. As I stated before your committee in March, I believe the next logical step is to move toward development of the Space Shuttle.

I hope that the foregoing information is helpful to you. Please let me know if we can be of further assistance.

Sincerely,

ROBERT C. SEAMANS, Jr.

MATHEMATICA, INC.,
Princeton, N.J., April 26, 1972.

Mr. CLINTON P. ANDERSON,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you very much for your letter of April 18, 1972 and the opportunity to comment briefly on the statement of Dr. Thomas Gold concerning the Space Shuttle.

Basically, Dr. Gold raises three questions concerning the present Space Shuttle decision by NASA. We will try briefly to comment on all three of them.

The *first question* raised by Dr. Gold is whether NASA should embark now on a plan that will engage NASA in a long range development program in the 1970's or whether NASA should rather concentrate more on developing the many useful space applications and space sciences which Dr. Gold accepts and supports.

Dr. Gold cites great advances made in communications engineering, television, telephone and data transmission systems using space based systems. On the applications side, as a matter of fact, we would advocate, in addition to communications, a variety of added programs where we are convinced NASA can make great contributions in the 1970's and 1980's. They would include earth resource satellite programs, meteorology satellite programs, space based navigation systems, and a variety of other economic application programs that we can foresee in the next decade.

In space sciences, Dr. Gold advocates, implicitly, a continuation of the space sciences program of NASA at least at the current level.

After looking at the economics of the Space Shuttle System (and keeping in mind the substantially reduced non-recurring costs of the new Space Shuttle development in the 1970's), we feel that the correct answer to Dr. Gold's first question is not an opposition of space transportation technology development versus more applications and space science during the 1970's, but rather the emphasis of *both,* that is the forceful development of space applications and space sciences in the 1970's as well as the development of a new space transportation system that actually promises to bring about much expanded space applications as well as space sciences programs in the 1980's. The Space Shuttle System promises to reduce the cost of space programs anywhere between 30% and 50%, and possibly more. The new Space Shuttle System promises economic advantages as well as new technical and scientific opportunities that justify this program on its own merits.

The *second question* raised by Dr. Gold is whether the plan for the Space Shuttle is technologically sound and whether the favorable economic estimates are realistic.

As to the first part of this question, we are not qualified to discuss this question meaningfully. Our experience lies in economics. May we add, however, that it is important to understand the substantial technological differences between the original two-stage Space Shuttle (that seem to underlie many of Dr. Gold's statements) and the new Space Shuttle version now proposed by NASA to be developed in the 1970's. The *relative* technological, as well as economic risks, in developing this new system seem to us substantially reduced.

With regard to the favorable economic estimates concerning the Space Shuttle System and the cost of space programs in the 1980's, we would be more than prepared to discuss this in detail with Dr. Gold. There is substantial evidence available that, in addition to the work performed for us by different aerospace companies, there exists now work done independently from our study efforts that confirms, if not exceeds, the favorable estimates claimed for the Space Shuttle System when looking at individual space programs. In balance, it is *our* judgment that the estimates used in our analysis are realistic. But this is, of course, a matter of judgment. We can only express our willingness to review these areas with Dr. Gold jointly.

The *third question* raised by Dr. Gold regards the capability to predict the utility of the system 15 to 20 years ahead.

Obviously, the capability in economics as well as in scientific and technological developments to look ahead even 4 or 5 years is quite limited. With regard to development programs that have a gestation period of 8 years and an operational period expected to be 12 years or more, of course, the difficulties are compounded. What Dr. Gold states, quite correctly, is that decisions that affect us for 10, 15 or 20 years ahead are intrinsically decisions that have associated with them a considerable degree of uncertainty. Yet we have to make such decisions every day.

It is one thing to state that uncertainties exist with regard to predicting accurately the use of systems 15 to 20 years ahead, and, on the other side, to reject, implicitly at least, systems that do affect us 10, 20 or 30 years ahead of time. Any economic decision has associated with it some degree of uncertainty and risk. It is the task of economists to help the decision maker to make correct decisions *in the face of uncertainty.*

When studying the Space Shuttle decision, we state quite explicitly that these risks and uncertainties exist, both for the costs of new space transportation systems as well as for the demand for space transportation. *As a consequence of this uncertainty we formulated many alternate space programs,* in addition to those provided to us by NASA and the Department of Defense. Given the uncertainty that exists with regard to the use of *any* space transportation system, we varied the *total* activity level as well as the *mix* of space programs over a range of activities that do allow for nearly any composition yet proposed by different agencies and users. Thus, we varied for the 1980's the activities in the United States space program from a low of about 25 to 30 Space Shuttle flights per year to a high of 55 to 60 Space Shuttle flights. And we varied substantially the composition and contributions of the demand made for space transportation systems concerning the mix between NASA activities (sciences, applications, manned space programs), other civilian demands, and the Department of Defense demands for space transportation.

Allowing, therefore, for a very wide range of the possible composition of space programs, we came to the judgment that the new Space Shuttle System is economically justified.

There remains, of course, the additional question of the uncertainties regarding the non-recurring costs of the Space Shuttle System. This area needs careful examination and management control. A careful understanding and interpretation of the results of the economic analysis will lead to the conclusion that there is a substantial margin that can be allowed for in terms of non-recurring "cost growth" for the Space Shuttle decision still to be economically acceptable.

The most important development in the past year is the reduction in estimated non-recurring costs from somewhere around $14 billion to somewhere around $7.5 billion for the Space Shuttle System. This is a reduction of nearly $7 billion of costs that would have been incurred in the 1970's and that now will not be incurred, and yet capability. NASA has substantially adapted its development program to answer exactly the questions and issues raised by Dr. Gold in his second and third questions.

There are additional points that need to be raised with regard to some specific remarks by D. Gold. Yet, we do think that most of them have been answered in the rebuttal by Dr. Heiss regarding Dr. Lapp's testimony concerning the economics of the Space Shuttle System.

In conclusion, we invite Dr. Thomas Gold to review with us what has gone into the economic analysis as well as, if questions should exist, concerning the method of the economic evaluation performed.

Most sincerely yours,

Oskar Morgenstern,
Chairman.

Klaus P. Heiss,
Director, Advanced Technology Economics.

Mathematicia, Inc.,
Princeton, N.J., April 26, 1972.

Mr. Clinton P. Anderson,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Thank you very much for your letter of April 18, 1972.

As you know, we commented in detail regarding the thoughtful comments by Dr. Thomas Gold regarding the Space Shuttle System. With regard to Dr. Brian O'Leary's testimony to which this letter is addressed, we would like to refer you to the detailed rebuttal given by Dr. Heiss to the testimony of Dr. Ralph E. Lapp. Most points of Dr. Lapp's testimony overlap with that of Dr. Brian O'Leary and therefore we refer you to that rebuttal.

Nevertheless, we assigned Dr. Kan Young to review the statements of Dr. O'Leary and some comments in that review refer also to those of Dr. Thomas Gold. A copy of that internal working memorandum is enclosed.

We would like to take again the opportunity to state that from the beginning of our analysis we were neither advocates nor opponents of the Space Shuttle System. We did take throughout the analysis a very critical attitude. The results now indicate that the Space Shuttle System is in the economic interest of the United States. We do not expect this conclusion to change given the present Space Shuttle System configuration.

Most sincerely yours,

Klaus P. Heiss,
Director, Advanced Technology Economics.

Oskar Morgenstern,
Chairman.

Comments on Statements by Brian O'Leary and by Thomas Gold

Both the statements by O'Leary and by Gold presented to the United States Senate Committee on Aeronautical and Space Sciences in April, 1972 do not object to the analytical approach used by Mathematica, though they seem to suggest that the data provided to Mathematica may have considerable margin of errors. In fact, the major argument of O'Leary is that "a balanced presentation . . . on the costs and benefits of the Shuttle cannot be accomplished without some degree of effort outside NASA and its contractors. Such effort is now almost missing and is badly needed before a national decision can be made," (the only paragraph that is underlined in the original statement). Gold is skeptical about the ability to predict the future requirements and technological development. But can we make the decisions only when the uncertainty is negligible? In the following paragraph, I shall try to comment on the two statements separately.

O'Leary discussed a wide range of issues, some of them being outside the scope of the assignment to Mathematica. The major task of Mathematica was to answer the questions such as given a fixed requirement of space transportation *capability* or fixed level of *budget* for space transportation, would it be more economical to develop a Space Shuttle System instead of relying on the currently existing system.

The question of national priority and NASA priority should affect Mathematica's economic analysis only if the nation or NASA is expected to carry out an entirely different space program which would require much less capability or budget for *any* space transportation system.

In considering Shuttle launch costs, O'Leary raised a question: Why invest more than $7.5 billion into a system whose launch costs might turn out to be greater, both total and per pound, than existing systems? One should answer this question only by asking another one: Why not, if the total space program costs can be reduced? In fact, Mathematica stated explicitly that total launch costs for the Space Shuttle System is not likely to be lower than that of the current expendable system.

On Shuttle payload costs, O'Leary suggests that "the point of obsolescence is reached before the need for refurbishment." Therefore, no cost saving may be expected from any refurbishment. Whether payload maintenance or refurbishment is obsolete or not cannot be answered without knowing both the goals or missions and the level of technology. To the extent that the mission model may not be realistic or the cost estimation may not properly account for technological development, O'Leary's argument may be valid. In practice, to overcome these uncertainties, sensitivity analysis has usually been performed by varying the mission models and the cost estimates.

Regarding the role of the Department of Defense, O'Leary asks the question: Should the Air Force not add their contribution to Shuttle investment? The question may be relevant only when different funding practices or pricing policies may affect the capability requirements or budget constraints for space transportation considerably. The task of Mathematica was made simpler by explicitly stating a given level of capability or budget for space transportation, regardless of whether the fund is provided to NASA or the Department of Defense or the Air Force in particular.

Finally, in the so-called secondary costs category. O'Leary mentions environmental consideration and NASA's credibility or reputation et al. He also suggests that the Shuttle is coupled to a space station. "Otherwise what else is to be done when you get there?" Whether this is true should be considered by examining the proposed mission models and evaluating their reliability as a realistic program to be carried out in the future. One may note that in the past the space program actually required considerable space transportation capability (or budget) without any space station?

Turning to the statement by Gold, we found that he is much more concerned with the allocation of a given NASA fund. He seems to suggest that the limited fund that is available to NASA should be spent on communication engineering or telephone and data transmission systems, et. al., which presumably would not require a large capability or budget for *any* space transportation system, whether it be Space Shuttle or not.

Gold suggests that the Space Shuttle System could involve major technical problems and indicates that "In these circumstances detailed economic studies have no great value and tend to deflect attention from the major problems and uncertainties." (This view appears to be contrary to O'Leary's statement). After expressing his own doubt about the economic advantage of the Space Shuttle, Gold mentions several points that must be taken into account in addition to those mentioned in the recent Mathematica report. Among these, he suggests that the future missions may require more synchronous orbit flights rather than low orbit flights and this would reduce the attractiveness of the Space Shuttle which uses the Tug to transfer from a low to a high orbit. The mission models may be modified, if necessary, to take care of this consideration. But in view of the results of many sensitive analyses that have been performed, it appears unlikely that this consideration alone would alter the major conclusion of Mathematica.

Gold also suggests that the nature of payloads particularly their weight may be drastically reduced so that our present day ideas of payload requirements may appear quite outlandish in the future. We must admit that there is substantial uncertainties involved not only in the estimation of payload costs, but also in other costs as well. This has been taken into consideration again by performing sensitivity analyses.

Finally, Gold points out that the Space Shuttle may not be expected to perform all the Department of Defense's space flights. Mathematica has evaluated many mission models (scenarios) which involve only very limited participation of the Department of Defense. Therefore, whether it would be necessary to maintain other capability for the Department of Defense should not affect the major conclusion of Mathematica's economic analysis, unless such other capability would become very costly as a result of the Space Shuttle development.

Dr. Kan Young.

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION,
Washington, D.C., April 26, 1972.
Hon. CLINTON P. ANDERSON,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As requested in your letter of April 18, 1972, I am enclosing some NASA comments on the statements on the space shuttle filed with the Committee by Dr. Thomas Gold and Dr. Brian O'Leary.

H. DALE GRUBB,
Assistant Administrator for Legislative Affairs.

NASA COMMENTS ON STATEMENT BY DR. THOMAS GOLD TO THE COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES, U.S. SENATE, APRIL 1972

Dr. Gold's statement addresses matters largely outside his experience and competence as a space scientist. As indicated in detailed testimony given the Committee, NASA, its contractors, and other groups have studied in depth the technical potential of the shuttle for future space missions (including space science and space applications), the cost of developing and using the shuttle, and the overall economics of a long-term future program using the shuttle compared to the best available alternatives. These studies, made by qualified experts in each field and reviewed by NASA management, by the Office of Management and Budget, and now by the responsible Committees of the Congress, supported the conclusion that the space shuttle program should proceed as recommended by NASA and the Administration. These studies are the basic answer to the contrary arguments and opinions expressed in Dr. Gold's statement.

As Dr. Gold states, the NASA organization does represent a major national asset of scientific, technological and managerial skills. The fact that the space shuttle will help retain much of this capability is an important consequence of the decision to proceed with its development. However, it is erroneous to state that the plan for the shuttle is simply the result of NASA's desire to avoid dissipation of the NASA organization.

The need for the space shuttle arose from the requirement to achieve the potential benefits of space more effectively. As NASA has repeatedly stated, although the shuttle will indeed be an excellent economic investment, it is not economics that provide the basic justification. The fundamental reason for developing the space shuttle is to provide routine, timely access to space for the wide variety of scientific, earth applications, commercial and defense payloads that will be flown in the 1980's and beyond.

Congressman Karth, who for many years has been a strong advocate for space science and applications satellites, has recently put this in proper perspective when he said, ". . . if we're going to have any space program at all, we've got to have the shuttle to continue it. And if we don't get the shuttle, frankly, I think there's going to be an end to the space program." That is the point of the entire shuttle program—it is needed because of the effective uses of space it will make possible.

Comments on each of the three major points made by Dr. Gold are given below:

1. Dr. Gold asks: *Should NASA embark now on a plan that occupies most of its strength for another round of long-range development work or should it concentrate more on doing the many things in useful applications and in science which the previous round of development work have made possible?*

By "the previous round of development work," Dr. Gold presumably means the highly successful Apollo program, and the successful space science and applications programs of the 1960's. As he points out, these programs laid the foundation for a vast array of useful future advances in space science and space applications. However, whether it is in the first, second, or third round of development, each program must be justified on its own merits. It is the potential future utilization of the shuttle in space science and civil and military applications which justify its development.

The applications areas which Dr. Gold cites—commnuications, education, and meterology as well as many more—are the very ones for which the shuttle is needed to make it most effective. Lower launch costs, and more reliable satellite placement prevention of malfunction or failure, and refurbishment and reuse are examples of ways in which the space shuttle will make space applications more effective.

With the shuttle, scientists will finally be able to work in a mode which more closely resembles the way they work in the laboratory. Dr. John Naugle, who has had long and broad experience with all aspects of space science, has listed the advantages of the space shuttle for space science as follows:

"1. Low cost transportation to earth orbit;

"2. Operation, maintenance, and modification of more or less permanent orbital facilities, such as an astronomical observatory;

"3. Short-term 'sortie' missions to checkout new prototype experiments or conduct experiments which can be accomplished in a relatively short period of time; and

"4. Much shorter time between the conception and completion of an experiment, thereby accelerating our research in space.

"While we expect the shuttle to help our program in these specific ways, what really intrigues us are the potentialities which our present insight cannot accurately or fully predict."

Dr. Gold says that NASA is planning for tomorrow and neglecting present benefits. This is not true. NASA is not standing idle waiting for the shuttle. The technology of the 1960's is being applied now to the immediate future. Concurrent with development of the shuttle NASA will maintain and use a reliable and effective stable of launch vehicles for automated spacecraft for the next several years. At the same time, the Office of Space Sciences is shaping studies and design work on specific projects such as the Orbiting Solar Observatory (OSO), the High Energy Astronomy Observatory (HEAO), and the Large Space Telescope (LST), so that these projects can begin to take advantage of the shuttle as soon as it becomes operational.

2. Dr. Gold asks: *Is the plan for the shuttle technologically sound and are the favorable economic estimates realistic?*

Over two years of focused space shuttle technology studies, experimental testing and evaluation have verified that the current state of technology will support development of the shuttle under the present conservative development schedule. Technical studies are continuing in many areas such as aerodynamic effects, avionics, and high temperature materials for shuttle applications. Further innovation is still desirable, especially to reduce development and operational costs even further, if possible, but the fundamental technology required now exists and no breakthroughs are necessary.

The most detailed economic analysis of future space utilization has been the Mathematica study. This study probably was the most comprehensive and detailed economic study of a major development program in the history of the United States. The Mathemaica report concludes that the space shuttle will save about $13 billion for a conservative 12-year mission model over using expendable launch vehicles. This conclusion takes account of improvements possible in expendable launch vehicles and the cost of the space tug for the shuttle system. Detailed review of the Mathematica study will show that it takes account of each of the arguments and factors cited by Dr. Gold and other critics as objections to the space shuttle.

For example, Dr. Gold asserts that only a large continuous manned earth orbital program would justify the development costs of the shuttle and that it cannot be justified for applications purposes and science. The Mathematica study clearly shows that such conclusions are unwarranted. Dr. Gold's remarks about a Mars expedition are irrelevant. The shuttle could, of course, provide a way station for deep space exploration but that is not in any way the reason or justification for developing it.

Dr. Gold's discussion of the possible economies of mass producing expendable boosters is not valid. Aerospace Corporation, which has had extensive experience with both launch vehicles and payloads, has studied in depth both the payload and economic effects of continued expendable launch vehicle production. In this study, production rate effects were fully considered and the study concluded that the shuttle still showed substantial economic advantages. With respect to payloads, notwithstanding Dr. Gold's views to the contrary, detailed engineering studies have shown the economies and other advantages possible through relaxation of the size and weight constraints imposed by current launch vehicles. With the space shuttle, the configuration of satellites can be established by considerations of component access, ease of fabrication, and simplicity of testing rather than by the need to crowd miniaturized equipment into the nose cone of an expendable launch system.

3. Dr. Gold asks: *Do we understand enough of the requirements and the technological developments now to predict the utility of a system 15 or 20 years ahead?*

Dr. Gold's comment that the military space program could not be dependent upon the shuttle and that they will require expendable boosters has been adequately answered by the February 24, 1972, letter to Dr. Fletcher from Dr. John S. Foster, Jr., Director of DDR & E for DoD, which has previously been provided for the Committee record. In this letter, Dr. Foster listed the many shuttle capabilities desired by DoD and concluded by saying, ". . . if the space shuttle system is developed with acceptable operational and cost advantages, it could replace essentially all of our current stable of expendable boosters."

Dr. Gold's criticism that the shuttle will be flying in the 1980's with technology developed for it during the 1970's is not valid. The future use of present technology is an unavoidable fact of life for large systems development whether it be a dam, a bridge, or a space transportation system, because of the lead times necessary. However, there are areas in the shuttle where future technological improvements can be implemented if desired. For example, improved avionics systems could be installed in operational shuttles if economy and operation would benefit therefrom.

In summary, Dr. Gold's statement on the space shuttle makes no new points. All of the points he makes have been considered in their full and proper context in the NASA studies and decision process leading to the conclusion that the space shuttle should proceed as has been recommended.

NASA COMMENTS ON STATEMENT OF DR. BRIAN O'LEARY TO THE COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES, U.S. SENATE, APRIL 1972

Dr. O'Leary's statement consists almost entirely of opinions and conclusions outside his sphere of professional competence. The points he addresses have been dealt with critically and in depth by qualified experts in the studies and reviews that led to the decision by NASA and the Administration to proceed with the space shuttle.

Since Dr. O'Leary's specific points have been dealt with at length in testimony and studies previously presented to the Committee, this statement will address only his main point, which is a challenge to the integrity of NASA, its contractors, the Office of Management and Budget, and all who have reviewed and favorably evaluated the space shuttle program as now proposed. Dr. O'Leary says that the space shuttle program should not proceed until "a balanced presentation to decision-makers of technical information bearing on costs and benefits of the shuttle" is made and that "such an effort is impossible as long as those making the evaluation are beholden to NASA and the Department of Defense for their livelihoods." Three comments will suffice:

1. The present shuttle program has evolved in the free and open, critical, "give-and-take" type of discussion that characterizes innovative technical studies involving literally thousands of engineers and other professional specialists. In guiding and reviewing these studies, NASA has not suppressed or ignored dissenting views. Such views have been considered at the appropriate stages in the decision process and have helped shape the program in its present form. The changes in the program during the past two years, for which Dr. O'Leary criticizes NASA as representing a "fluctuating rationale", in fact represent NASA's response to independent views it has sought and encouraged both within NASA and from outside groups.

2. The space shuttle program as now presented was given a most critical independent review by the Office of Management and Budget and other elements of the Executive Office. These offices and their advisors are in no way "beholden" to NASA or the DOD.

3. The principal study in depth of the economics of the space shuttle program was by Mathematica, Inc. This study was commissioned by NASA as an independent study and appraisal of the economic worth of the space shuttle's concept. Dr. Morgenstern has testified directly to the Committee that Mathematica was given full independence and freedom to criticize in the conduct of this study. The study reports stand on their own feet as classic examples of penetrating, detailed analysis of a very complex program.

The record clearly shows that the merits of the space shuttle program have been studied and reviewed in depth by qualified experts within and outside the Government. The detailed points raised by Dr. O'Leary have repeatedly been answered again and again. His statement provides no valid reasons for not proceeding with the space shuttle as recommended.

Mr. TUNNEY. Mr. President, I rise in support of the space shuttle program, which is the most significant part of the NASA authorization before the Senate today. I support it because I believe in the need for a continuing, meaningful space program, including both manned and unmanned missions, and such a program would be impossible in a practical sense without the space shuttle.

I support the space shuttle because it transfers energy and dollars into a project which has long-term significance and it represents a good long-term investment into new and advanced space technology with resultant "spin-off" benefits to our domestic problems.

At a time when the United States must readjust its priorities toward domestic ills, the space shuttle program would allow the continuation of an advanced technology space program at a cost which is reasonable.

We are all aware that the space program has lost much of its "glamor." After the initial excitement of seeing men in space, after the stunningly successful Mercury, Gemini, and Apollo manned space programs and the less spectacular, but equally successful unmanned flights, a mood of boredom seems present. We must now recognize the reality of the situation. The diminished public interest in space means that NASA's budget must be leveled out. From now on, the Space Agency will have to fight for its budgets like any other Government agency. Every dollar it spends will be subject to intensive scrutiny. Both within the executive branch and here in Congress. And, like other agencies, NASA will find that it must get by with budgetary levels which will be lower than it would like to have. And yet, the need for a meaningful space program is more vital than ever before. So it becomes increasingly necessary that the space program take whatever steps it can to assure that dollars spent in space will achieve the maximum possible return. The space shuttle, by achieving important economies in our future space operations, therefore becomes vital to the future of the space program, hence to our future as a nation, as well.

Let me briefly describe what the shuttle system is like and how it will operate. Each shuttle is composed of an orbiter and a booster, with the orbiter mounted piggyback on the booster. After launch from a vertical position, the booster will drop away at low altitude, while the orbiter goes into space circling the earth. The orbiter is the new vehicle and is the heart of the system. It carries the payload into space and has the capability to return to earth, maneuver in the atmosphere, and land like an aircraft. The orbiter is to be designed for 100 flights, with a maximum of 2 weeks layover for maintenance after every flight. The booster, which is a solid-fueled rocket, will parachute into the ocean. It is designed to be reused some 10 to 15 times.

The sites from which the space shuttle will operate have been chosen. The initial launch and landing site will be at the Kennedy Space Center in Florida. This site will be used for research and development launchings beginning in 1978 and for all operational flights launched into easterly orbits.

A second operational site at Vandenberg Air Force Base in California will be used for shuttle flights requiring high inclination polar orbits.

I have said that the shuttle would produce significant economic savings in our space program. Let me begin with one dramatic example of a situation where the shuttle would have prevented a huge waste of money—the case of the Orbiting Astronomical Observatory, or OAO. When the first of these large and complex satellites was launched, the payload went dead because of a malfunctioning battery charger. This problem could have been solved by returning the payload to earth or repairing it in orbit had the shuttle been available. Instead it was a total loss of $80 million. Another OAO was rendered useless because a release mechanism failed to function properly and another $80 million was lost. If the shuttle had been used this failure, too, could have been prevented.

This is only one example of the potential advantages the space shuttle provides. There are many others, including a number of completely new capabilities. The more important benefits we derive from the shuttle fall into four broad categories:

First, the shuttle will greatly increase the usefulness of unmanned satellites by permitting their recovery and repair. The OAO example which I have just used is only one illustration. Many times a highly expensive scientific payload is rendered useless because of a relatively minor malfunction. The space shuttle would make these satellites accessible. The shuttle crew would match orbits with the malfunctioning satellite, pull up alongside, inspect the satellite, and repair it on the spot if possible. If the repair was beyond the capability of the shuttle crew, they could "take it back to the shop"; that is, bring it back to earth for more extensive refurbishment. The repaired satellite would then be placed back into orbit by means of another space shuttle flight. The economic advantages of this method of repairing satellites, as compared to the situation today where our only option is to launch a totally new device, are obvious.

Second, the shuttle would afford the opportunity for considerable savings in the design of unmanned satellites, since size, shape, and weight restrictions on these satellites would no longer be so severe. The aerospace industry has performed a remarkable job over the years in miniaturization of space hardware; without these efforts, we would not have a space program at all. But miniaturization exacts a price—in cost, in reliability, in the capability for doing the job. For example, there are physical limitations as to how much an optical system can be folded, or how light and small a movable set of optical filters can become. Often a slightly larger battery, or a few more feet of tape, might add significantly to the useful life of the satellite—but it is impossible to squeeze in those extra few ounces that would be so vital. The space shuttle promises designers relief from the tyranny of severe size and weight restrictions under which they now labor.

Third, the manned space program will become much more useful and productive with the shuttle. Here I would like to correct an erroneous impression that seems to be abroad, to the effect that the only reason for the shuttle is to keep the manned space program going. Nothing could be further from the truth. The examples I have just given as to how the shuttle would benefit our unmanned program illustrate this. In fact, the advantages to the unmanned program alone easily justify the shuttle. But it is true that, without the shuttle, the manned space program would be sharply limited—indeed so limited that it might have to close down. Putting a man into orbit by using an expendable booster rocket is a terribly costly proposition. The cost of each Apollo mission was roughly $450 million, or $150 million for each man in the capsule. A man is an expensive mechanism to send into space, under current weight restrictions. In addition to the weight of the man himself, we must include the weight of the life support systems necessary to keep him alive—oxygen, food, water, and all the rest. And yet, after the experience of the Apollo program, who can doubt the usefulness and versatility of man in space? The space shuttle would increase that usefulness, by diminishing the weight and cost penalties involved. It would also make it possible to send into space individuals who have not had astronaut training, since the shuttle will be roomy enough to allow for nonastronaut "passengers"—perhaps highly trained scientists, perhaps even poets or artists. Space would no longer be limited to a few specialists—it would be open and this openness would result in vast intangible benefits for mankind, as well as the tangible benefits already enumerated.

Fourth, and finally, there are the possibilities on the far horizon—the speculative projects that we cannot plan for today with any degree of certainty. These include ideas like a permanent orbiting space station, or manned flight to Mars, or a lunar colony, or a giant space power station using solar cells which could beam its power down to earth using microwaves. We have no way of knowing now how practical or worthwhile any of these projects might be, and they are not part of the formal NASA justification for the shuttle. But this we do know—without the space shuttle, the door will be closed on any such large-scale projects, and thus closed to the benefits these projects hold for mankind.

I have not attempted to go into the detailed studies that have been performed on the economic justification for the space shuttle. The distinguished members of the Committee on Aeronautical and Space Sciences are in a better position to discuss these details that I am. But I will point out that these studies do exist, and that they were performed by a group of the world's most respected economists. They compared the cost of our space program during the 1980's with the space shuttle against the cost of the same program without the shuttle. The net result was a savings of $7 billion by using the space shuttle system, even when the costs of designing and developing that system are taken into account, as of course they should be.

Mr. President, I have saved perhaps the most difficult question for last—the question that really underlies the debate over the space shuttle. The question is: Why continue our space program at all? Have we not already learned as much as we can from space—and do we not have pressing needs closer to home that should take priority over missions to outer space? And my answer is that we must continue the space program and at the same time we must solve our domestic problems. No one is more aware than I am of the urgent needs confronting our society—of the problems of poverty, hunger, pollution, decaying cities, clogged transportation networks, and all the rest. I am dedicated to solving these problems.

In fact, the space program has resulted in many tangible benefits or "spinoffs." These benefits have come in such areas as communications, weather forecasting, business and industry, agriculture, management, medicine, education, aeronautics, and environmental protection.

The original Space Act states that "activities in space should be devoted to peaceful purposes for the benefit of all mankind."

In continuing our space program we must keep this goal in mind and we must utilize the knowledge which we gain from space exploration to help us solve our problems here on earth, the space shuttle in fact allows us to do just that. It is a reasonable compromise which allows for the continuation of the space program but at a much lower budgetary priority level.

We must also not lose sight of the long-range national interest. And it is in our national interest to remain one of the world's leaders in science and technology. If we cannot remain competitive in high-technology industries, if we allow the other industrial nations of the world to pass us by, we will soon find that we cannot compete on the world's markets—and then we will have great difficulty generating the revenue needed to pay for our domestic programs. Our balance of trade figures provide some ominous indications that we are already in trouble—that we are losing the advantage of world leadership that we have enjoyed for so many years. We must reverse this trend—and in order to do that, we must keep our technological base.

The space program is one of the most essential elements of that base—and the space program cannot effectively be continued through the 1980's without the space shuttle. Mr. President, we must look to the future as well as the present. In the interest of the future which we all desire for our Nation, I urge the approval of the space shuttle.

In the words of Dr. Bruce Murray of the California Institute of Technology,

> We should explore the planets because it permits us as a people to create an enduring legacy for future generations; because it is a scientific field of great significance and timeliness; and because our citizens generally regard it as a desirable national activity, if kept within reasonable costs.

Mr. BROOKE. Mr. President, I support the committee's recommendation of $227.9 million for continued funding of the space shuttle program. This money will enable NASA to continue the orderly development of the principal components of the shuttle.

The shuttle represents a new concept in space exploration. Because it is reusable, it considerably reduces the time and the unit cost for transporting spacecraft into orbit. As such, I believe that it represents a significant technological improvement over the single-shot booster program which has characterized the American space program thus far.

Equally as important, the shuttle will expand the scientific opportunities of the space program. The farflung innovations that the program has fostered in such areas as medicine, communications, and the environment can be continued on a larger and more intensive scale because of the increased capability and utility of the shuttle. For example, it is expected that the shuttle will be able to carry biologists and physicists, in addition to the present corps of highly skilled pilots, who will be able to conduct more sophisticated experimentation in space.

Although we cannot state categorically at this time what will be the nature of each of these research efforts, I am confident that the NASA projects will result in benefits for all mankind for outweighing the initial cost of the program. Moreover, it has been pointed out that the use of space is becoming an economic necessity for a technologically advanced nation.

The fact is that we have grown to rely on such space-operated services as improved weather forecasting, a tenfold increase in capacity for transoceanic telephone conversations, and the photographic techniques which contribute to a more efficient means of land use and development, as well as product yield. And these projects represent only the tip of the iceberg. We would be resisting the inexorable flow of progress if we were to handicap the efficient continuation of these programs at a reasonable cost.

Furthermore, as the Apollo program reaches its completion this year, I believe that we should strive to keep together the highly talented community of scientists and engineers which NASA has built during the past decade.

Our Nation can and should continue to support a space program that represents slightly more than 1 percent of our total Government expenditures. Let us not forget, also, that the space budget for 1973 and for the foreseeable future represents a nearly 50 percent reduction in the amount of money spent by NASA in 1966.

Because the space shuttle will permit our country to continue the great scientific adventures which we have only just begun, and because it can be financed within the confines of the present space budget, I believe that the Senate should give the program its continued support.

Mr. STENNIS. Mr. President, during the debate on the shuttle during the past few months there have been statements made regarding the requirements of the DOD for the space shuttle.

Mr. President, if it would help the Senate to understand the need for the space shuttle program let me state emphatically that I am convinced that the DOD has a requirement for and does support the development of the NASA space shuttle program.

Testimony on this matter from Dr. John Foster, Jr., Director of Defense Research and Engineering and Dr. Robert Seamans, Secretary of the Air Force in March of this year before the Senate Space Committee bears this out. In fact, these two distinguished representatives of the Department of Defense have consistently supported this development program. Let me quote a few passages from Dr. Foster's testimony. He said:

> 1. The Department of Defense is becoming increasingly dependent on space systems, . . .
>
> 2. The Department of Defense supports the NASA Space Shuttle as an important part of the President's program which will lead to a greater and more effective use of the space environment in the future.
>
> 3. The DOD recommends that the Congress support the Shuttle. . . .

Secretary Seamans made similar statements, all of which unqualifiedly support the space shuttle.

However, I have heard the criticism that if the military requires this shuttle, then this need ought to be supported by DOD funding it. This is not a logical argument if one understands this project and the management of such systems. Over the years the Senate Space Committee has encouraged NASA and the DOD to work closely together on launch vehicle programs and this is happening. The committee's prodding is bearing fruit now with NASA scheduling the use of the Air Force Titan 3–C and 3–D launch vehicles for certain missions. It is simply more efficient and more economical for one agency to assume responsibility for the management and funding of this type of development program. This eliminates duplication. With respect to this Dr. Foster, in testimony before the committee, stated:

> My personal view is that we are on the right course, that one agency has to be in charge and, as such, should be the one that prepares the overall program, coordinates with other agencies, and then prepares and defends the case put before the Congress.

Dr. Foster continues:

> The alternative approach in which two different agencies present the program would, I think, make it more difficult for Congress, because the committees involved would then be increased severalfold. Moreover, the responsibility for operating the program would be split; and I think that would unnecessarily increase the number of people involved in the direction of the program at the top.

Moreover, a most knowledgeable observer, Dr. Courtland Perkins, an esteemed aeronautical engineer from Princeton University, who in the past has served as an Assistant Secretary of the Air Force, testified before the Space Committee that in his judgment NASA was the proper agency to undertake this development. Therefore, it seems to me that there is unanimous agreement among those who have studied this matter and who know and understand the management of these large complex systems. Funding for this development is properly assigned within the executive branch, and, the fact that NASA is providing all the funding for the development program is completely irrelevant and is in no way related to the fact that the Department of Defense supports this program and will utilize this space transportation system when it becomes available.

Mr. President, I believe the NASA space shuttle program is a program important not only to the NASA space program but is a program important to the national defense. I believe it is proper that the shuttle development be managed by NASA. I think departments and agencies of the Federal Government other than the Department of Defense have a role to play in the national security.

I am glad to see some of these burdens of development shifted from the Department of Defense.

I wish to commend Dr. James C. Fletcher, administrator of NASA, for the fine work and his reductions in the costs of the space shuttle; and his fine grasp of the problems of NASA and its administrations.

Mr. President, I urge the Senate to support the development of the space shuttle and vote down the Mondale amendment.

SPACE SCIENCE BOARD'S 1970 REPORT

Mr. CANNON. Mr. President, in connection with the debate over the space shuttle a good deal of attention has been directed both last year and this at the reputed position of the Space Science Board of the National Academy of Sciences. It is alleged that this scientific body has said that there is no economic justification for developing the shuttle or that the National Academy itself has said that "no convincing case has been made for the scientific utility for the shuttle."

I wonder if any of the critics of the shuttle have actually read the report of the Space Science Board, or have any idea of what this report was supposed to be about.

In the first place, the document is a report on "A Study on Priorities in Space Science and Earth Observations" which was convened at Woods Hole, Mass., from July 27 to August 15, 1970. Its short title is "Priorities for Space Research 1971–80." As is indicated by the title, and I am reading from the preface:

> The Study seeks to determine criteria for relative priorities and recommends levels of effort and support to be allocated to NASA programs in planetary exploration, lunar exploration, astronomy, gravitational and solar-terrestrial physics, the environmental science portion of space applications, and the life sciences, during the period 1971–1980, based on likely contributions to basic knowledge and social benefit and on estimated total funding to be available.
>
> Some 90 scientists, including consultants from abroad, were involved during the Study.

The chapter headings parallel the subject matter I just read. You will notice that there is no chapter heading for space transportation systems, space shuttle, boosters, or any other such engineering subject because this was not the purpose of this summer study.

Toward the end of the first chapter entitled "Introduction and Summary" there is this brief paragraph on page 17:

> The absence of recommendations concerning the shuttle and space station should also be noted. These were considered as vehicles for the support of science, but we found the concepts too vaguely defined with respect to costs and engineering difficulties to permit any realistic assessment of the potential values to scientific research and applications. Nor was the Study able to evaluate the economics of the shuttle, because it depends so strongly on the volume of space traffic, which in turn is dependent upon many user activities besides those included in the present frame of reference. It is clear that space science and applications by themselves are insufficient to justify the cost of developing the shuttle.

Now, keeping in mind that this report was written nearly 2 years ago, when the initial studies on the shuttle had barely begun, let us try to see just what that paragraph says in plain English.

The first sentence states clearly that the report contains no recommendation about the space station or the shuttle. Let me repeat, there is no recommendation concerning the shuttle.

The second sentence says why no recommendation was made. Because the concept was too vaguely defined to permit any realistic assessment. That statement may have been true 2 years ago, but it is not true today.

The third sentence says that no evaluation of the economics of the shuttle was made because, as they stated correctly, this is dependent so strongly on the volume of space traffic, which in turn is dependent on many user activities besides those included in their study.

Now, the fourth and last sentence, and this is the only one that has been so frequently quoted and widely misinterpreted:

> It is clear that space science and applications by themselves are insufficient to justify the cost of developing the shuttle.

Well, that statement may be true, but the opponents simply slough over the phrase "by themselves," ignore completely the previous statement concerning many users, and jump to the totally erroneous conclusion that the Space Science Board is against the shuttle or that the National Academy of Sciences "has expressed skepticism about the shuttle."

The real fact is that no one has ever suggested that we must justify the shuttle economically by flying only a fraction of the available payloads. In fact, the precise opposite is true. The shuttle is economically viable only if it flies virtually all of our space traffic and that is exactly what it is designed to do.

And so, Mr. President, let us put to rest, once and for all, the contention that the Nation's most prestigious scientific body has said that the shuttle cannot be economically justified. It just is not true.

SPACE PROGRAM TECHNOLOGICAL ADVANCEMENT

Mr. President, I think the record is clear that this Nation has established a preeminent position in space activities after getting a late start when compared with our principal competition. Not only has this program produced scientific breakthroughs and superb demonstrations of our technological competence as exhibited in the five successful lunar landing missions, but, and perhaps more important although much less obvious, is the focus which our space program has provided to solve problems which, in so doing, has broadened and greatly extended the technological base of our country.

There may be an occasional detractor, but I do not think we have to look far to observe that technology has been the basis for our present standard of living, the generator of our wealth, and the technological dominance of the Nation in world markets. One example is the computer industry which was stimulated almost beyond comprehension by the demands of our space activity. Our computer technology is envied by other advanced nations in the world today.

I fully believe that the space shuttle development will provide another focal point and a genuine technical challenge which will again cause us to advance the state of the art in many areas of technology and thereby continue to maintain the technological leadership which is so important to the continued success and growth of this Nation. I cite respected authorities on this point. Dr. Courtland Perkins, on April 14, testified before the Space Committee with respect to the space shuttle as follows:

> It will be one of only a few new national programs that will continue to permit growth and stretch in the various fields of high technology.

I also note a similar statement by Dr. John S. Foster, a nuclear physicist and currently the Director of Defense Research and Engineering.

> The shuttle will advance the Nation's technological capabilities. The improved technology in areas such as stability and control, avionics, heat-protection materials, lightweight structures, fatigue and fracture mechanics, and aerodynamic shock and flow problems associated with large vehicles will certainly benefit new generations of military aircraft and spacecraft.

Mr. President, Dr. Foster alludes to the importance of shuttle technology in new generations of aircraft. I think it is clear that as we pursue the disciplines of space and aeronautics that we find these drawing closer together and that there are technical transfusions between the two fields. Therefore, we can expect usable fallout from the shuttle development program to benefit our aircraft programs and one should not have to be reminded that today American-made airplanes dominate the air routes of the world. We must maintain this leadership.

My attention was called a few days ago to an article inserted in the CONGRESSIONAL RECORD on May 9 by the ranking minority member of the Space Committee, Senator CURTIS, that as a result of our tremendous advancements in electronic components and circuitry developed in response to needs of our space program, with its heavy reliance on electronics, that an American company today is selling solid-state circuits to the Swiss watchmaking industry. It is my understanding that these circuits, replacing all movements in present watches, will produce timepieces of unequaled accuracy and that with advancements in production processes such watches may well be available at a price of $50 in 3 or 4 years. Not only that, but there is some reason to believe that our electronic circuit technology for timekeeping may be marketed by some of our own firms and that we might even be successful in transferring a large portion of the watch manufacturing industry back to the United States, an industry which has almost completely departed from this country. This may be considered to be a small matter, but as I look around me, I note that the wrist watch is a pretty prevalent article and I suggest there is a substantial market for this device.

Mr. President, I believe this illustrates that when we have projects that stretch our technology, there is fallout which does have other applications and does stimulate new business and in some cases, may even well stimulate a new industry.

Mr. THURMOND. Mr. President, I wish to express my strong opposition to the proposed amendment which would eliminate funding for the space shuttle.

I really cannot understand why anyone would urge the Senate to kill this most promising program. The space shuttle, quite simply, is the key to our future in space. With it we will be able to do more in space, better, and at lower cost. Without it, we would be abandoning the new frontier of space to other nations.

In considering the many reasons why this Nation should develop the space shuttle, we should not overlook its important military applications.

Mr. President, the Department of Defense has worked closely with NASA on requirements for the space shuttle in order to assure that the shuttle will meet military requirements as well as those of NASA, Comsat, and other civilian users. This work is the responsibility of a top-level Space Transportation Committee, cochaired by Mr. Grant Hansen, Assistant Secretary of the Air Force for Research and Development, and Mr. Dale Myers, Associate Administrator of NASA for Manned Space Flight.

There are a number of reasons why the Department of Defense is interested in the shuttle for future military space operations. First, the shuttle will provide new operating capabilities heretofore not available to DOD for military space missions. The shuttle will be able to deliver military payloads to space in a protective environment; and in addition, selected payloads may be retrieved in space and returned to earth for adjustment, modifications, or repair, so that the payload may be reused in space. Today, we do not plan the reuse of spacecraft because it is impractical to design and build them to withstand the severe reentry environment; but with the shuttle this problem would be avoided, since the shuttle itself would provide the protective environment. In addition, we could resupply payloads in orbit, thereby extending their life. For example, we could replenish high pressure gases used for orienting the spacecraft in space.

Mr. President, important additional advantages can accrue from the retrieval capability of the shuttle in terms of reduced risk and reduced time for payload development. The shuttle's ample provisions for payload weight and volume combined with its benign environment will permit many simplifications in design and will avoid much costly miniaturization. Moreover, the shuttle can be used as a test-bed for on-orbit payload testing during development, thereby reducing the need for complex ground simulations. When the initial deployment discloses a deficiency the payload could be returned to earth for corrective action. The foregoing factors add up to less risk and reduced time for achieving a mature space system.

Our ability to respond to technological surprise is enhanced by the shuttle. We will collect data from space more rapidly and we will be able to respond more quickly with refurbished or newly developed payloads. As manned operations become more routine, through continued use of the shuttle, the use of man with military spacecraft will become practical from an operational and an economic standpoint.

A second reason why DOD is interested is the prospect of a substantial reduction in the cost of space operations. Although the shuttle may provide some savings in space transportation, we expect the principal cost benefits will accrue in the payload area, where we can take full advantage of the shuttle's new operating capabilities. Our present payloads are costly and sophisticated; they require a high degree of redundancy; they must operate unattended for years after surviving a severe launch environment. With the shuttle we can afford a more relaxed design policy. Under this policy, if a component should fail, it can be repaired. Through these and other means the shuttle will permit use of less sophisticated and less costly payloads than those we are launching today.

Mr. President, finally, the shuttle will advance our Nation's technological capabilities, because its development requires improved technology in such areas as heat-protective materials, lightweight structures, aerodynamics, stability, and control, avionics, and fatigue and fracture mechanics. Much of this new technology may transfer directly to future generations of military aircraft as well as to military spacecraft.

In summary, the space shuttle will lead to a more effective use of the space environment in support of military operations.

Mr. President, I am pleased to express my support for this challenging new program. Everything I have heard here today leads me to the conclusion that it would be a tragic mistake to turn away from this program and abandon our last frontier, the frontier of space.

The PRESIDING OFFICER (Mr. BOGGS). Do Senators yield back their time on this amendment?

Mr. CANNON. Mr. President, I yield back the remainder of my time.

Mr. MONDALE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Minnesota (Mr. MONDALE).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Georgia (Mr. GAMBRELL), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

On this vote, the Senator from South Dakota (Mr. MCGOVERN) is paired with the Senator from Mississippi (Mr. EASTLAND). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from Mississippi would vote "nay."

I further announce that, if present and voting, the Senator from Minnesota (Mr. Humphrey) and the Senator from Georgia (Mr. Gambrell), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. Aiken), the Senator from Oklahoma (Mr. Bellmon), the Senator from Tennessee (Mr. Brock), the Senator from Wyoming (Mr. Hansen), the Senator from Oregon (Mr. Hatfield), the Senator from Alaska (Mr. Stevens), and the Senator from Ohio (Mr. Taft) are necessarily absent.

The Senator from Vermont (Mr. Stafford) is absent on official business.

The Senator from South Dakota (Mr. Mundt) is absent because of illness.

If present and voting, the Senator from Vermont (Mr. Aiken), the Senator from Oregon (Mr. Hatfield), and the Senator from Alaska (Mr. Stevens) would each vote "nay."

The result was announced—yeas 21, nays 61, as follows:

[No. 179 Leg.]

YEAS—21

Burdick
Byrd, Robert C.
Church
Eagleton
Fulbright
Harris
Hart
Hughes
Javits
Kennedy
Mansfield
Mondale
Muskie
Nelson
Pastore
Pell
Proxmire
Randolph
Roth
Stevenson
Williams

NAYS—61

Allen
Allott
Anderson
Baker
Beall
Bennett
Bentsen
Bible
Boggs
Brooke
Buckley
Byrd, Harry F., Jr.
Cannon
Case
Chiles
Cook
Cooper
Cotton
Cranston
Curtis
Dole
Dominick
Ellender
Ervin
Fannin
Fong
Goldwater
Griffin
Gurney
Hartke
Hollings
Hruska
Inouye
Jackson
Jordan, N.C.
Jordan, Idaho
Long
Magnuson
Mathias
McIntyre
Metcalf
Miller
Moss
Packwood
Pearson
Percy
Ribicoff
Saxbe
Schweiker
Scott
Smith
Sparkman
Spong
Stennis
Symington
Talmadge
Thurmond
Tower
Tunney
Weicker
Young

NOT VOTING—18

Aiken
Bayh
Bellmon
Brock
Eastland
Gambrell
Gravel
Hansen
Hatfield
Humphrey
McClellan
McGee
McGovern
Montoya
Mundt
Stafford
Stevens
Taft

So Mr. Mondale's amendment was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record a statement by the distinguished Senator from Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Senator Gambrell

As the Senate considers H.R. 14070, I want to comment on an amendment I offered in the Aeronautical and Space Sciences Committee which would have required NASA to conduct cost-benefit studies on all of its future projects.

Dr. Fletcher, the NASA Administrator, in a letter to the Committee, expressed his opposition to this amendment which the Committee rejected. Dr. Fletcher's letter stated that NASA generally shares my view of the desirability of cost-benefit analysis, but it concluded:

Nevertheless, in NASA's own programs, it is frequently the case that cost benefit analyses are not possible or relevant. Even in applications oriented programs like earth resources and aeronautics the essential purpose of NASA's efforts is to establish experimentally the technical feasibility of possible practical applications so that informed decisons can be made on whether an operational system would be cost effective. Thus, a principal aim of our work is to provide data for cost benefit studies, and therefore it is often simply not possible to perform a cost benefit analysis before NASA conducts its experimental programs.

Therefore, while NASA fully supports the principles of cost-effectiveness and has, in fact, applied them in a number of cost studies in its program planning and management, we do not believe the proposed Amendment in its present form would be in the best interests of the space program for the reasons discussed above.

In commenting on my amendment the committee report suggested that such a cost-benefit study would be difficult and inappropriate with respect to such projects as proposed astronomy or planetary science missions. Frankly, I can't understand what business we have supporting any space missions without a clear understanding of the benefit expected from the expenditure involved.

If NASA's mission is to use Dr. Fletcher's words, "to establish experimentally the technical feasibility of possible practical applications," then I am extremely alarmed about the size of their budget, even under present limitations. What this means to me is that NASA and its contractors are given a technological "playpen" full of toys, without any yardsticks by which to measure success or failure, or even to establish any priorities.

So long as we are overspending annually in the range of $20 to $40 billion, I am most concerned about any "experiment" which can run as high, in cost, as a Billion Dollars or more. Viewed in this light, Congressional judgment is limited to the question of how much money we can set aside for the technicians at NASA to play with. It was on such a basis that the SST collapsed.

I do not think the American people will put up with this very long, and our space program may suffer from a reaction on the part of the American taxpayer. It was to avoid this possibility that my amendment was proposed. I will continue my efforts to guarantee a thorough cost-benefit analysis of all our space endeavors as a member of the Aeronautical and Space Sciences Committee.

Mr. HOLLINGS. Mr. President, I was angered recently when a columnist ridiculed the space program and a South Carolinian who has made a real contribution to that program. Worse than the ridicule of NASA and astronaut Charlie Duke, was the columnist's cynicism. He described our men as "Two Klutzes on the Moon." I am afraid that kind of attitude erodes our national spirit.

Reading a letter-to-the-editor in reply to the column, I gave some thought to this word, "klutz," as applied by columnist Van Hoffman. And with the writer, Dr. William Duke—the astronaut's brother—I have decided that a klutz might simply be an American who is proud of his country's accomplishment and proud of the people who make those accomplishments possible. If that is what klutz means, then count me in the clan. In fact, on May 26, Lancaster is having Charlie Duke Day. I invite my colleagues. I will bet you will find there a whole convention of klutzes—and people who are proud of it. Because in South Carolina, we are not yet quite so jaded. We still feel emotion and show it—especially when that emotion is evoked by our country doing well and one of our own doing well.

I am entering in the Record Dr. Duke's letter. He speaks well for his family and for Lancaster. He speaks well for South Carolina, a State proud—but not so proud that she has forgotten how to show enthusiasm, excitement, and affection for her astronaut, Charlie Duke.

There being no objection, the article was ordered to be printed in the Record, as follows:

From an Astronaut's Brother

The article by Nicholas von Hoffman, "Two Klutzes on the Moon," which appeared in the Washington Post, April 26, 1972, has come to my attention. I would like to make a few comments concerning Mr. von Hoffman's rather schizoid commentary. My viewpoint is no doubt biased, since I happen to be the twin brother of one of the "klutzes" on the moon.

I could find no listing of klutze in the dictionary. Obviously, quite a derogatory noun was used. My reaction to the activities on the lunar surface was that I was watching two enthusiastic, exuberant, excited, inquisitive men, performing a job as best they could, yet showing their natural human reactions and emotions.

Mr. von Hoffman's point about nobody remembering the second man to sail around the world after Magellan is correct, although most "klutzes" know that Magellan never made it around the world. He was killed by natives on an island in the Pacific, fully one year before Juan de Elcano (del Cano) sailed the last remaining ship into his home port.

My brother stated publicly that he would go to the moon anonymously. He sought no personal gain. No one will recall the names of these space explorers, but each time one mission is completed, the next is easier. I am sure the second, third, or one hundredth man to sail around the world found it easier than the one preceding. Who is to judge what is to be gained now or one hundred years hence in and from space?

I am envious that Mr. von Hoffman has such a direct line to God and informs us so well about God's refusal to live up to His treaty obligations with NASA. Too bad the United States Air Force Academy should be damned in the same paragraph, since neither of the "klutzes" on the moon graduated from that institution, an error difficult to explain for one who knows so much about what God would or would not do.

Perhaps most distressing is Mr. von Hoffman's belief, almost hope, that death would claim the two or three "klutzes," and put the space program back on the front page. All of our astronauts fly with this prospect in mind, but they go. Why, I wonder, for what reasons? Clue us in, Mr. von Hoffman.

I feel genuine sorrow for Mr. von Hoffman. He is obviously unhappy and disenchanted with his country, his earth, his heavens, his fellow humans, but most of all with himself. We would welcome a visit to Lancaster so that we could show him how a whole town of "klutzes" are enthusiastic, exuberant, and excited about our earth, our country, our heavens, and about life. I hope most Americans share this view.

William W. Duke, M.D., F.A.C.P.

The **PRESIDING OFFICER**. Pursuant to the previous order, the Chair recognizes the Senator from Montana.

Mr. **MANSFIELD**. Mr. President, I would prefer that the bill be disposed of, which I understand can be done immediately.

Mr. **SCOTT**. Mr. President, I am authorized by the distinguished Senator from Nebraska (Mr. Curtis) to yield back time on this side, and I am prepared to move to the third reading of the bill.

Mr. **CANNON**. Mr. President, as far as I know there are no other amendments. I am prepared to yield back the remainder of the time on the bill and have a voice vote.

The **PRESIDING OFFICER**. All the time is yielded back.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment as amended was agreed to.

The **PRESIDING OFFICER**. The question is on the engrossment of the committee amendment as amended and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. **CANNON**. Mr. President, I yield back the remainder of my time on the bill.

Mr. **SCOTT**. I yield back the remainder of our time on the bill.

The **PRESIDING OFFICER**. All time is yielded back.

Mr. **DOMINICK**. Mr. President, the yeas and nays.

Mr. **MANSFIELD**. Mr. President, I was under the impression there would be no rollcall vote. Therefore, I have held back since 2 p.m. I would hope that those asking for the yeas and nays would reconsider; otherwise, I would have to reconsider. I did get an order for this time to begin at 2 p.m.

The **PRESIDING OFFICER**. Is there a sufficient second for the yeas and nays? There is not a sufficient second.

The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 14070) was passed.

Mr. **CANNON**. I move to reconsider the vote by which the bill was passed.

Mr. **SCOTT**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The **PRESIDING OFFICER**. Pursuant to the previous order the Chair recognizes the majority leader for a report.

Mr. **ROBERT C. BYRD**. Mr. President, may we have order in the Senate?

The **PRESIDING OFFICER**. The Senator is correct. We will not proceed until the Senate is in order. Senators and staff members will please be seated.

The Senator from Montana may proceed.

JOURNEY TO THE NEW CHINA

Mr. **MANSFIELD**. Mr. President, when President Nixon returned from Peking last February, he transmitted an invitation from Premier Chou En-lai to the joint leadership of the Senate to visit the People's Republic of China. The invitation was accepted by Senator Scott and myself and between April 15 and May 7, we undertook the journey.

On Monday, last, I gave to the President a written report on what I had observed, heard, and discussed in China and conclusions which I had reached, as a result, particularly with regard to Indochina. I have requested this time, today, to provide a general account of the journey to the Senate.

I shall speak in some considerable detail because it seems to me that the long deprivation which has been experienced regarding direct information on China warrants a most thorough account. Moreover. since the President has chosen to take new military risks in Indochina, we had better get as clear a picture as we can of the contemporary nature of the immense nation whose southern borders are contiguous with that troubled and tragic region.

If I may, Mr. President, I shall now proceed to report on the journey to the new China, but before I begin I would like to express my gratitude to the distinguished minority leader, the Senator from Pennsylvania (Mr. Scott) and to Mrs. Scott and to the staff, but especially to Mr. and Mrs. Scott because of the assiduousness with which they applied their talents and abilities and to commend most especially the distinguished Republican leader who has a great cultural knowledge of China and an intense personal interest.

I. INTRODUCTION

From arrival in Shanghai on April 18 until departure from Canton on May 3, the leadership was in China a total of 16 days. Five days were spent in Peking; two in the great industrial port of Shanghai on the eastern seacoast; two in the recreational lake-city of Hang Zhou—Hangchow—which is south of Shanghai; two in Xi An—Sian—which is a gateway to Mongolia, a source city of Chinese dynastic culture and, today, a major agricultural and industrial center of the northwest; 2 days in Chang Sha, in the south-central Province of Hu Nan where Mao Tse-tung began his revolutionary activities; and 2 days in Guang Zhou, formerly Canton, the commercial hub of South China and the site of China's International Trade Fair.

We had ample opportunity to move about in these cities and into the surrounding countryside. We talked to many people, to government and party officials, soldiers, medical and health specialists, scientists, teachers, farm managers, factory workers, and students. Our most important discussions were held in Peking, where we met for 8 hours of informal conversations with Premier Chou En-lai, and many more hours with the Vice Minister of Foreign Affairs, Ch'iao Kuan-hua, and other officials.

Host for the visit was the People's Institute of Foreign Affairs, which is a quasi-official arm of the Chinese Foreign Ministry. I was deeply impressed both by the kindness and efficiency of the staff of the institute who accompanied us on the entire journey and by the warmth of the reception we received everywhere in China. The hospitality shown to us by our hosts and the Chinese people was thoughtful and considerate. The friendliness was unmistakable.

I did not go to China with the expectation of becoming an instant expert on its government, its social structure, its economy, or its internal affairs. I went to see what I had seen a long time before—as a private in the Marines in the early twenties and, twice again, during and after World War II, as a representative of President Roosevelt and as a young Member of the House of Representatives. After an absence of a quarter of a century, I went to compare the old China with the new and to explore current attitudes of the People's Republic toward the United States.

It is difficult to look at China, today, free of the distortions of national disparities, especially after two decades of separation. But the distortions can be tempered by perspective. It is possible, for example, to judge a bottle as half full or as half empty. If China is measured by some of our common yardsticks, whether they be highway mileage, the number of cars, television sets, kitchen gadgets, political parties, or newspaper editors—the bottle will be seen as half empty. If China is viewed in the light of its own past, the bottle is half full and rapidly filling.

Today's China is highly organized and self-disciplined. It is a hard-working, early-to-bed, early-to-rise society. The Chinese people are well fed, adequately clothed and, from all outward signs, contented with a government in which Mao Tse-tung is a revered teacher and whose major leaders are, for the most part, old revolutionaries.

There has not been a major flood, pestilence, or famine for many years. The cities are clean, orderly, and safe; the shops well stocked with food, clothing, and other consumer items; policemen are evident only for controlling traffic and very few carry weapons. Soldiers are rarely seen. The housing is of a subsistence type, but is now sufficient to end the spectacle of millions of the homeless and dispossessed who, in the past, walked the tracks and roads or anchored their sampans in the rivers of China and lived out their lives in a space little larger than a rowboat. Crime, begging, drug addiction, alcoholism, delinquency are conspicuous in their absence. Personal integrity is scrupulus. In Canton, for example, a display case for lost and found articles in the lobby of the People's Hotel contained, among other items, a half-empty package of cigarettes and a pencil.

The people appear to be well motivated and cooperative. Women and men work side by side for equal pay. There are no visible distinctions of rank in field, factory, armed services, or government offices. A casual sense of freedom pervades personal relationships with an air of easy egalitarianism. There is no kowtowing, not even to the highest officials.

A factory worker in Peking earns the equivalent of about U.S. $22 a month, and his wife works, making as much or more. That income is ample for a subsistence-plus existence because children are cared for free at a nursery or in public schools. Rent takes only about 5 percent of total income. Basic food prices are low and fixed. Medical care is free. Entertainment is cheap—admission to a movie is about 10 cents. Prices have been stable for years while wages have risen.

Cooking oils, rice, wheat, and cotton cloth are rationed, but the allotments are ample. The system seems to be designed more to assure basic distribution than to cope with shortages. In fact, large quantities of all rationed items, except wheat, are exported.

Bicycle and bus are the almost universal forms of transportation. The rickshas are gone; so, too, are most of the bicycle-pedicabs. Although China builds automobiles, including a few fine limousines as well as small sedans, they are for official purposes and limited in number. Production has been concentrated on such utilitarian vehicles as tractors, trucks, and buses. Private passenger cars are a rare sight on the streets of some cities. Indeed, there may be fewer now than immediately after World War II, when such vehicles were imported in considerable quantity.

Eighty percent of China's population is rural and is now largely organized into communes. The communes are in the nature of agro-towns and are a fundamental economic unit of the new China. They are also a new concept in social organization which acts to broaden and extend the virtues of interdependence of the old Chinese family system into a community of cooperation and group-action by many families.

One such unit which was visited, the Ma Lu Commune outside Shanghai, embraces over 6,500 families. In several successive years, this commune has reported an exceptional expansion of the production of grains, meat, and other agricultural commodities, much of which is now sold as excess to the commune's needs. Machine cultivation and power equipment is in wide use and electricity is generally available. The commune's small factories process a large part of the agricultural output and also produce gasoline engines, farm tools, spare tractor parts, insecticides, and consumer goods.

Ma Lu is regarded as a prosperous commune. Income last year was estimated at about $336 per household. It has 33 primary and secondary schools, a hospital, a clinic for each of the 14 production brigades, and a health worker for every team.

The accent in China is on today and the future, but throughout the country new interest is also being evidenced in China's rich past. Everywhere there are striking restorations of cultural shrines even as the search continues for more of the ancient heritage. Excavations of historic sites are underway throughout China. Wherever these works are undertaken, the effort is made to distinguish between the "bad"—that is, the cruel and exploiting rulers—of the past and the "good"—that is, the peasants whose creativity and labor were exploited for the well-being and pleasure of the few. Thus, in accordance with the teachings of Mao Tse-tung, a revolutionary content is made a part of archeology as it is of almost all other pursuits in China. There is, in other words, a determined effort to preserve a revolutionary consciousness in China.

The conservation of natural resources has also received great emphasis under the present leadership. So many trees have been planted in the Peking area, for example, that it has altered the local weather. Tree planting is a symbol of the new China and it is taking place all over China wherever the land is unsuited to agriculture. Gardening is also widely pursued even on postage-stamp plots inside the cities. Throughout China new productivity is being developed out of wastelands and by massive water control projects.

China, today, builds the new on the base of the old, and sometimes, with remarkable results. A most striking example is the revival of the ancient healing practices of acupuncture, whose origins go back over 3,000 years. Thanks to current research and experimentation, acupuncture is coming into wide usage in the treatment of a variety of ailments and as an anathesia in surgery.

The Capitol Physician, who accompanied us on the journey, witnessed four major operations in which no sedative or anesthesia was used, only the manipulated needles of the acupuncturist. It is estimated that about half of all the surgery now being performed in China is done with acupuncture anesthesia. Major experimentation is also underway in the use of the technique to cure deafness and other maladies.

The Capitol Physician visited seven different types of medical facilities, and on every one of his visits, I believe, he was accompanied by either Senator Scott and me separately or together, and on one occasion by our wives, during the course of which visits he was exposed to a representative cross-section of the Chinese medical services on the farms, in the factories, and in large city hospitals. He saw treatment dispensed by "Western" trained physicians, whose efforts are dovetailed with those of traditional Chinese physicians—experienced with herbs and acupuncture—and by basic medical workers, the so-called "barefoot doctors" who number in the hundreds of thousands and whose nearest counterpart in this Nation would be the medical corpsmen of the armed services.

Only a few years ago no modern medical care to speak of was available to the great preponderance of China's inhabitants. Now some kind of care is provided to every Chinese in need. In more remote regions, it may be elemental but it is available. There is no charge to workers in the cities but each family on the communes pays about 4 cents per month for medical services.

It should also be noted that epidemic and intestinal ailments have been drastically reduced in China. A heavy accent is placed on personal cleanliness and order. The people have also been repeatedly and successfully mobilized to cooperate in mass campaigns to eradicate disease-carrying snails, flies, and mosquitoes.

Some of the Chinese health techniques would have exchange value to this Nation. So, too, would Chinese methods of dealing with the disposal of human and animal excrement. Traditionally, these wastes have been regarded in China as an asset with great value as a fertilizer. The problem with their use in the past has been that they have also been a major source of intestinal and other communicable diseases. The Chinese now employ a very simple process for converting wastes into safe and effective fertilizers. It is estimated that 75 percent or more of all wastes are recycled back into the land, with the result that the fertility of the soil is better maintained while pollution of lakes, rivers, and streams is avoided. It is ironic to contrast the waters of this ancient land, which are supportive of a very large yield of fish, with what has been allowed to happen in this new land of ours.

In every aspect of society, there is evidence of China being rebuilt on the basis of Chairman Mao's dictum, "serve the people." The revolution has swept away much of the ineffectiveness of the past and enshrined a new concept of Chines self-reliance. While the family remains as the basic unit of the social structure, it is no longer in-turned and indifferent. Members of a family are now, also, active participants in the life of the communes and factories and they share a common pride in the achievements of Mao's revolution. In short, China has become a viable modern society with an approach to social participation and responsibility which is rooted in the past, meets the needs of the present, and offers a soundly based hope for the future.

II. BACKGROUND OF U.S. POLICY

In the Chinese view, U.S. policy is seen as having pursued an unremitting hostility toward the People's Republic for at least two decades. That is how they regard the effort to wall off China by the trade quarantine for 20 years. That, too, is how they see the sending of troops north of the 38th parallel in Korea, the interposition of the 7th Fleet between the mainland and Formosa and the leadership of this Nation in urging the United Nations to label China the aggressor in Korea.

That there is a considerable basis for these Chinese feelings about U.S. policy is undeniable. The policy of this Nation was, indeed, hostile for many years, reflecting as it did the shock of the "loss of China" to the Soviet Union. To be sure, much has changed since then. It has slowly dawned upon us, perhaps, that China was not ours to lose nor the Soviet Union's to gain. Attitudes have changed greatly in the United States. China, too, has changed internally and in its relationships with other nations.

Yet, our policy has only begun to be revised. Still in place is the chain of "defense against Chinese aggression" whose principal links are the SEATO Treaty, the mutual defense treaties with the Republic of China on Taiwan, Japan and the Republic of Korea. Still largely in place, too, are U.S. bases in Asia, U.S. troops to man the bases, hundreds of thousands of Asians equipped with the modern paraphernalia of war paid for by billions of dollars in U.S. military aid expenditures.

For a quarter of a century, the peoples of two great nations have been kept at arms length and, not infrequently, at sword's point by the policies which have led to this military confrontation. I regret to say that in the light of what is now taking place in Indochina, the end is not yet in sight, as I thought it was after the President's visit.

In retrospect, this separation has been one of the most ill-fated chapters in the history of this Nation. We may well ask ourselves to what extent are the policies of the past two decades responsible for the tens of thousands of U.S. casualties in Vietnam? For the tens of thousands more in Korea? For immense cost to the people of this Nation of these episodes and our other military activity in Asia during the past two decades?

III. THE PATH TO PEKING

The United States and China have taken only the first steps to restore normal relations. In my judgment, the rapprochement actually began with the announcement of the Nixon doctrine 3 years ago and the first draw-down of U.S. troops in Vietnam. The Chinese have been aware that the U.S. involvement was being reduced in Asia, even though it was accompanied, from time to time, by erratic military thrusts. Still, the troops were leaving, not coming into Asia. This signal of a change in U.S. policy was unmistakable to the Chinese. It meant that the President was reducing the military presence of the United States in Asia.

A number of propitious developments in both nations also helped to lay the basis for rapprochement. In China, the cultural revolution came to an end in a stronger, more united government, with a greater ability to handle its problems both at home and abroad. At the same time, the people of this Nation began to show a renewed interest in China. On October 25, 1971, The People's Republic of China was brought into the United Naions by a vote of 76 to 35. The world had begun to beat a path to China's door and Peking was prepared to open it.

President Nixon's visit to China last February was a long overdue step in normalizing relations between the United States and China. I applauded his action at the time. I am more than ever persuaded, at the conclusion of this journey, that it was the right action.

Where the path which was opened by the President and followed by the distinguished minority leader and myself will now lead is not clear. If the idea of rapprochement does not sink in the mire of the escalating war in Indochina, the path can lead, in my judgment, to an improvement of relationships throughout Asia.

In any event, a process of communication has begun again between ourselves and a nation whose population constitutes, perhaps, one-fourh of the human race—a population, according to U.S. Census estimates, which numbers something on the order of 845 million.

The President's visit served, immediately, to lower the level of tension in Asia and, therefore, has had a salutary effect on world opinion. It has also increased the interest of Japan and other nations of Asia in dealing in a normal way with the People's Republic of China. In short, it is clear that the tree of relationships in Asia and the world was shaken for the better by the President's initiative. What cannot yet be predicted is where the leaves will fall and what will be the look of the new foliage.

IV. THE WAR IN SOUTHEAST ASIA

Nor can we say whether the process of rapprochement will be aborted by what has now transpired in Vietnam. Certainly no problem loomed as large as the war in our discussions in Peking. The bombing of Haiphong and Hanoi—or at least their outskirts—the plan for which neither Senator Scott nor I knew when we left, took place while we were en route to China.

While there was no reflection of this development in the personal treatment which was accorded to us by the Chinese, in the discussions, the war dominated all else. The Chinese made it plain that our actions in Indochina were a matter of "great concern." If Taiwan is the crucial question for the normalization of Sino-U.S. relations, it is apparent that Vietnam is fundamental to a further relaxation of tensions in the Western Pacific. The Chinese comment on this matter was unequivocal, and I quote it:

> Unless this can be settled, there can be no progress on other issues.

How do the Chinese view the war in Vietnam? They see it as an attempt by the United States to dominate the political life of a region in which we have no business. Their memory of the tortured path of American involvement is long and sensitive. Readily recalled, for example, is John Foster Dulles' refusal to shake hands with Premier Chou En-lai at the Geneva Conference of 1954. So, too, is the disregard of the 1954 Geneva Accord by the United States.

The Chinese made clear their belief that the resumption of the bombing of the North would prolong rather than end the war. Strong exception was taken to the administration's contention that the action was jusified because North Vietnamese armies had invaded the South. From their point of view, "the invasion of Vietnam began with the—Tonkin Gulf—incident in 1964"; and United States actions in Laos and Cambodia, to them, also constituted invasion and aggression.

In my judgment, it is illusory to expect the Chinese, out of a desire to improve relations with the United States, to intervene with their Indochinese allies either to secure the release of our prisoners of war or to influence a settlement which is not agreeable to the North Vietnamese and the Cambodian resistance which is led by Prince Sihanouk. The Chinese want a rapprochement with the United States but they also want us out of Indochina. Their support of North Vietnam's position is unequivocal. They believe that the United States, one way or another, will ultimately be forced to withdraw and they seemed confident that, once we are gone, the people of the three countries will work out their own political arrangements.

In short, the Peking discussions painted a bleak picture of the prospects of peace on the basis of present policies of all concerned. Unless there are changes in the present course, therefore, visits to China will not alter the indefinite continuance of the bloodletting of Americans, Vietnamese, Cambodians, and Laotians, the destruction of the culture and environment of the Indochinese countries, the waste of tens of billions of dollars more of our resources, the sapping of the vitality of our Government, the distortion of our political processes, and the further division and frustration of our people.

It seems to me high time to ask why we are using the most advanced machines of destruction in that primitive land. Are we doing so out of force of habit? Out of fear? Fear of what? The fact is that we are still engaged in a war which, to put the best face on it, was sanctioned by what has now become a discredited policy toward China. The President's visit to China had the symbolic effect of marking the end of that policy. If the old China policy is no longer valid, is not the present involvement in the Vietnam war which derived from that policy also invalid? How can conscience, in these circumstances, continue to ask sacrifices of the armed services?

If we feel deeply for the ordeal of the prisoners of war and the missing in action and for their families, we will no longer acquiesce in the distortion of the problem of their release. They are not going to be released by mining Haiphong Harbor, nor by letter-writing campaigns to Hanoin or by postage stamps issued in their honor. They are going to be released, if the air war leaves any of them alive to be released, only when U.S. air and naval operations cease. While we remain in the war, the promise is not for their release but for more missing-in-action, more prisoners of war, and more casualties.

Incidentally, both Senator Scott and I brought up the question of the two American fliers who were shot down over Hainan Island in the South China Sea and the question of the release of Mr. John Downey, of Massachusetts.

We were informed that in the case of Mr. Downey, the sentence had been reduced from life to 5 years, and that consideration would be given. In the case of the two American fliers forced down over Hainan Island, we were informed that that was a different matter, and only that they would look into it.

V. EXCHANGES

In the Shanghai communique President Nixon and Premier Chou "agreed that it is desirable to broaden the understanding between the two peoples" through "contacts and exchanges" in such fields as science, technology, culture, sports, and journalism. Our trip was a manifestation of China's desire to carry out this pledge.

Plans are being made to open China's doors to more personal contacts. A date has been agreed to, for example, for the visit to China by the leaders of the House of Representatives. When asked about the possibility of other Members of Congress coming later in the year, the response was that "they will be able to come." What the Chinese have in mind, it seems, is approval of visits by small groups on a case-by-case basis.

As to exchanges in other fields, the Chinese indicated keen interest in carrying out the spirit of the communique. As it was put in the discussions: "Scientists are beginning to come, some doctors have come, and more are on the way." Visits by journalists are still being handled on an individual basis and, apparently, will remain that way for the foreseeable future. The Chinese Government, apparently, is not prepared for permanent U.S. news bureaus in China at this time, although the question is still under consideration. We were assured, however, that to be admitted on an individual basis, journalists did not have to "sympathize" with China. "If they have doubts about us, they can come also." All that is necessary is that "they seek the truth. Then we will welcome them."

Exchanges in the other direction—that is, Chinese visiting the United States—seem to be of less interest to Peking. There are, nevertheless, some possibilities in the fields of science, culture, athletics, and entertainment in which this Nation might profit greatly from an exposure to Chinese achievements, skills, and talents.

VI. TRADE

We should not expect spectacular results in trade from the rapprochement, although, obviously, it can grow rapidly, relative to the present low levels. The Chinese have looked largely to their own resources for economic building blocks so their urgent import needs are limited. Their industrial competence is substantial and growing rapidly. Such products as locomotives, tractors, cars, sewing machines, clothes, electronic equipment, medicines, machine tools, gasoline, and so on across the spectrum, to nuclear devices and space rockets are now made in China. While supplements to their production in some of these items, new designs and processes are likely to be welcomed from abroad, the development of their own diversified productivity is and will remain the fundamental Chinese consideration.

China pursues conservative fiscal policies in international dealings as well as at home. A rough balance is maintained worldwide between imports and exports. The Chinese have no external debts—or internal, for that matter—and their foreign transactions, in effect, are largely cash on the barrelhead.

In 1971, it is estimated that China's exports were $2.3 billion and imports $2.2 billion, a total turnover of less than one-half of 1 percent of gross national product.

Main imports are wheat, chemicals, machinery, manufactured fertilizer, certain types of iron and steel, other base metals, and transportation equipment, notably ships and aircraft. At present, the major industrial purchases are from Japan and western Europe. Wheat has been purchased from Canada, and, until recently, from Australia. China's exports go principally to Hong Kong, Japan, Singapore, Britain, and West Germany, with the main items being rice, soybeans, vegetable oils, silk, fabrics, clothing, and a wide range of light industrial products. There is only a limited trade with the Soviet Union and eastern Europe.

This year, China has given visas to 30 or so U.S. businessmen to come to the Canton Trade Fair. It is likely, too, that congressional leaders who specialize in international trade matters would be welcomed at that showing.

The growth of the twice-a-year Canton Trade Fair since its beginning in 1957 illustrates China's capacity to enter into the world markets. Goods for sale at the first fair were limited and exhibited to only 1,200 people. More than 30,000 different Chinese products for sale abroad are displayed or represented at the current fair. In the first 10 days, moreover, attendance was 10,000.

The United States is estimated to have purchased only about $4 million of Chinese goods last year, mostly through Hong Kong. As the rapprochement proceeds, a substantial increase in imports of Chinese consumer goods is to be anticipated. It is not yet clear, however, what we have that the Chinese want particularly that they cannot get cheaper elsewhere, or what they have that Americans will need in quantity over an extended period. Nevertheless, every encouragement should be given to the fullest possible development of commerce, if for no other reason than that trade relations at whatever level can be an important factor in removing the wall of a quarter-of-a-century of separation.

VII. CONCLUDING OBSERVATIONS

With a bitter history of subjection to the arrogance of "great powers," the Chinese emphasize that their own future is identified with that of ordinary nations. They reject the status of "superpower" and insist that their system does not permit them to impose their views on others by force. On the basis of our visit, there is no reason to conclude that the Chinese leaders mean otherwise. While the People's Liberation Army seems to be held in heroic regard, it is well blended into civilian pursuits and is not in evidence as a force for militancy. There are no appeals for military crusades abroad. To the Chinese, defense does not appear to mean maintaining outposts in Southeast Asia or anywhere else beyond their own borders. On the contrary, it means that their own cities are now catacombed with air-raid shelters.

China's energies are clearly concentrated on development of its inner resources and their usages are predominantly civilian. Premier Chou En-lai insisted that:

> China wants to build on our own with our own resources. The country is big enough and we have enough left to do to keep us busy . . . Our system does not permit us to commit aggression.

President Nixon, by his visit, moved to gear U.S. policies to that kind of China after two decades of bending them to fit a preconceived notion of China as an aggressor nation. In my judgment, the President has set in motion a process which is not reversible except by what may now transpire in Indochina.

Dangers as well as opportunities involving all of Asia can flow from the President's initiative with regard to China. I am persuaded that the opportunities far outweigh the dangers. The United States, China, Japan, and the Soviet Union share a common interest in the peace and stability of the western Pacific. At some point in the future, these common interests may form the basis of new arrangements concerning the security in the region which will supersede the fear-based concepts which have persisted since World War II. The normalizing of relations between China and the United States is a start. Hopefully, it will precipitate a similar normalization between Japan and China and between the Soviet Union and Japan.

Regrettably, the eruptions in Indochina have lengthened the shadows over the prospects for peace in Asia. In my judgment, the new sorties into North Vietnam have tarnished the significance of the President's visit to China and, of course, the visit of the Senate's joint leadership. They have thrown into at least temporary eclipse the possibilities of Chinese-United States rapprochement. When these shadows lift and only then can there be an expectation of change, a change for the better in Asia.

There is a Chinese proverb:

> To see one time is better than to hear a hundred times.

For the past 23 years, the American people have not seen much of China. What was heard a "hundred times" often contained gross distortions and added up to a horror story, concocted in the minds of the fearful in this Nation which, on the basis of the visit of the joint leadership, and the findings of some other recent observers, bears no relationship to China as it is today.

The 16 days which were spent in China, traveling widely throughout the country and talking to people in all walks of life, have impressed me most profoundly. Not only did we go to the places on the schedule but we also went to areas which were forbidden to foreigners and were opened for the first time.

The dynamism, energy, and devotion of the Chinese people in confronting what they have set out to do with their society must be seen to be believed. Their system is working for them, and it is working well.

We are a young national culture relative to China, hundreds of years compared with thousands of years. There is much to be learned on both sides. The mutual educative process has begun anew. This time it must be maintained on the basis of equality of treatment and mutual respect. The days of a one-sided relationship—of teacher-pupil, master-servant, benefactor and dependent, and so on, back into the 19th Century's "enlightened and heathen," are gone and it is hard to see who in China or in this Nation will mourn their passing.

Chou En-lai noted that it had taken "100 years since the Opium Wars for the Chinese people to stand up." Today, they are standing up. Self-reliance is their watchword and on that basis they are building a new China.

Premier Chou En-lai closed our talks with these words:

> Please convey to the American people the friendship and best respects of the Chinese people.

The joint leadership of the Senate responded in a similar fashion. In my judgment, only what transpires in Indochina blocks the way to a full fruition of these reciprocal sentiments. When they are fulfilled in reciprocal acts of respect and consideration, they will redound to the benefit of the people of the United States, the People's Republic of China, and the people of the rest of the world.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. PERCY. Mr. President, will the Senator yield?

Mr. MANSFIELD. Mr. President, I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, would it be the preference of the leadership that we comment on the report of the distinguished majority leader, or would he prefer that such comments be withheld until the minority leader is present?

Mr. MANSFIELD. The minority leader will not be here for some time. He is in conference. I am prepared to do my best to answer the questions.

Mr. PERCY. Mr. President, I would appreciate it if the majority leader would yield for a brief comment.

Mr. MANSFIELD. I would be glad to yield.

Mr. PERCY. Mr. President, does the distinguished Senator from Washington have a schedule that he would like to meet? If so, I would be happy to yield to him.

Mr. JACKSON. No. That is all right.

Mr. PERCY. Mr. President, my initial reaction is that at long last the cloak of mystery and mask of ignorance has been taken off China. And it has been taken off by our distinguished colleague, the majority leader, whose objectivity, sense of history and knowledge of this area, and whose reputation for objectivity, careful analysis and meticulous reporting are well known.

As the distinguished majority leader knows, I felt that it would have been desirable for the majority leader and the minority leader to accompany the President to China. I realize now—considering the value of this report to the Nation and to the Senate—that it would have been a mistake to have simply duplicated the festivities and the dinners and the occasions of that time. It has been invaluable to have this followup visit which was unhurried and of longer duration than the previous visit made by the President.

I was struck very much by the comments of the majority leader concerning the will of the Chinese people to succeed, and their willingness to work hard to make their society viable. I cannot help comparing that, with some degree of sadness, to what some consider the softness which has developed in our society because of the affluence in which we now live.

In a Gallup poll it was revealed that 54 percent of the people said that we could be and should be working harder than we actually are so as to help our economic situation at the present time.

I have tried many times through many channels to visit China.

I am very hopeful, now that we know the first impressions of our fine leadership, that other Members of the Senate could go, in whatever capacity, to see the country at firsthand. However, I feel—in lieu of that—that this report has been invaluable.

When the majority leader said that they even have a favorable balance of payments, I was waiting with bated breath to see if they had a balanced budget. I would say that if they have accomplished that, whether we be liberal or conservative, Democrat or Republican, we had better take a look at that society and not view it simply as an aggressive society designed to dominate the world. If that belief can be removed from our thinking, and we can look at China with an open mind, I believe that we will be far better off. While we reject the restraints which that society places on its people, I am sure that there is much to be learned there.

Mr. MANSFIELD. Mr. President, I thank the Senator from Illinois for his excellent remarks. I may say, if I did not say so in the course of my speech, that there is no internal debt in China.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. MANSFIELD. Mr. President, I yield to the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, I compliment the distinguished majority leader for a very fascinating and interesting report. I may not agree with all of the conclusions. But I do know that the distinguished leader has been a scholar in this area since back in the early twenties when he was a marine and later when he was a Member of the House of Representatives where he took a special interest in the emerging China as a result of World War II.

I am just curious about what I think is, of course, a very fundamental problem these days when we talk about Russia and China and the United States. Is the distinguished majority leader in a position to comment at all on the concerns, if any, of the People's Republic regarding the U.S.S.R., the developing Bangladesh, the relationship with India, and what some scholars allege to be the new containment of China by the Soviet Union?

Mr. MANSFIELD. Mr. President, the question of Bangladesh was not raised. India was mentioned only incidentally. The question of the border relationship between the U.S.S.R. and the People's Republic was raised.

At the present time negotiations are being resumed, perhaps because of the initiative shown by President Nixon in visiting Peking last February. In any event, within a week and a half after the visit, the Russian representatives asked to meet with the Chinese representatives to consider the question of the border relationship between the two countries.

What the Chinese want at this time is a rectification of the present border. They seem to be unable to get it at the present time.

The Senator may recall that the Chinese did move down into India, down into Assam, in 1962, I believe, to rectify the frontier there. They withdrew their troops immediately on their own initiative behind the line, they claimed after having advanced far beyond it.

The border problem between the Chinese Republic and the U.S.S.R. is most serious. The Russians have hundreds of thousands of troops along the border and in Mongolia.

Mr. JACKSON. Mr. President, is it the impression of the majority leader that they are deeply concerned about their relations with the Soviet Union?

Mr. MANSFIELD. They are very deeply concerned over the common frontier. I think that it covers about 4,500 miles. The concern that is deep. We do not know how wide is the gulf. It is of long standing. And it will not be easily overcome except, perhaps, by same act of ours of common concern to them.

Mr. JACKSON. Mr. President, in that connection I take it that the Senator is referring to bringing together the Chinese and the Russians.

Mr. MANSFIELD. The Senator is correct. If they are forced together, if they come together in the immediate future, as I see it, it will probably be because they are forced to come together. The differences are wide at the moment.

Mr. JACKSON. Does the majority leader feel that the new rapprochement with China will have an adverse effect on our relations with the Soviet Union?

Mr. MANSFIELD. I do not think so and I think the President has made it very plain that on the basis of his visits to Peking, and the upcoming one to Moscow, which I devoutly hope goes through, it is not his intention to take sides in any Sino-Soviet dispute. I am sure that would be the feeling of the American people generally speaking.

Mr. JACKSON. The majority leader agrees that in this triad one is put to the supreme test of diplomacy and judgment in trying to have appropriate relations with the two other great powers, the Soviet Union and China, and that historically the Russians have been paranoid on China. This goes back centuries. Is that correct?

Mr. MANSFIELD. Yes. I may say the Soviet Union at the present time holds between 600,000 and 700,000 square miles of territory which was taken from China mostly in the last century.

Mr. JACKSON. 1840–1860.

Mr. MANSFIELD. When Russia was under the czars.

Mr. JACKSON. And on the other side the Kremlin Wall was built originally to keep the Mongols out.

Mr. MANSFIELD. The Senator is correct.

Mr. JACKSON. So that there is a real, deep, historic problem that transcends so-called current ideology, with Marxism, Leninism, and whatever.

Mr. MANSFIELD. The Senator is correct.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. FULBRIGHT. Mr. President, I congratulate the Senator from Montana, the majority leader, for his very perceptive report on China. I am sympathetic to the efforts of the Chinese to improve the lot of their people and I judge the Senator is also. I find nothing in the statement with which I do not agree. I think it describes the progress the Chinese are making, and it should be very sobering to this Nation.

I remember one thing that Mr. Kissinger said just prior to the President's leaving. He said the opening up of communication with China would present this country with a very serious challenge. He did not elaborate on the nature of that challenge.

The description the majority leader has given of the progress they have made and are making does present us with a serious challenge. The Chinese people have great talents and we should recognize the facts of life and forget our illusions about them.

I do not think we can any longer afford wars around the world and particularly the one in Southeast Asia. There are many reasons, but especially now because we are confronted with two great nations, both of which, I think, are paying attention to their own affairs and are growing stronger while we are growing weaker. So I hope Senators will pay particular attention to the report of the Senator from Montana.

Mr. MANSFIELD. I thank the Senator. The report was supposed to be not so much sympathetic as to be as honest as I could interpret the findings made available to us. But I appreciate the remarks of the Senator.

Mr. SYMINGTON. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. SYMINGTON. Mr. President, I wish to join my colleagues in congratulating the majority leader on a thoughtful and constructive presentation of his trip. I am sure the American people will read his report with interest, especially when they consider what is going on in the world and what our participation is in that part of the world.

Mr. MANSFIELD. I thank the Senator.

Mr. INOUYE. Mr. President, would the Senator yield?

Mr. MANSFIELD. I yield.

Mr. INOUYE. Mr. President, I wish to join Senators in complimenting my distinguished leader for this extraordinary and highly perceptive report.

Ever since the President's journey to Peking many Members of Congress have indicated an interest in also journeying to Peking. I have heard that our majority leader has made other efforts in the past to make this journey and I am certain all of us will be interested to know the procedure we should follow, what pitfalls we should avoid. The leader has taken other initiatives. I am certain we would like to hear about those.

Mr. MANSFIELD. Yes, the Senator is correct when he indicates I have been endeavoring for some years to visit China. I did not intend to bring this out during the course of this statement but I guess it is all right to discuss it now. Some time before Dr. Kissinger made his first trip to China there was transmitted to me through several channels a report that Premier Chou En-lai had invited me to visit China in response to a request which I had made during the previous administration and had renewed at the outset of the present administration—on both occasions, may I say, with the full knowledge and support of the White House.

Since the reported invitation had not come to me directly from the Chinese Premier, and after discussion of the matter with the executive branch, I did not respond, with an acceptance. Instead I sought further clarification as to the validity of the invitation but without success. A cable which I sent Premier Chou was returned marked "undeliverable" from Honolulu.

Several weeks went by during the course of which the President's visit was arranged by Mr. Kissinger on his secret mission to China. The President then went to China and, as the Senate knows, brought back an invitation from Premier Chou on the basis of which the joint leadership of the Senate followed in his path.

When the Senator from Pennsylvania (Mr. SCOTT) and I were introduced to Premier Chou En-lai, the Premier opened his first conversation with us by remarking, in humor, that he thought he had invited me a year and a half ago and he wondered why I had not come at that time.

I refer to this incident, Mr. President, because it indicates to me that the Chinese Government has been ready for some time to move forward in rapprochement with this Nation. It seems to me that the order of visits was not only most appropriate but far more important and useful than would have otherwise been the case. The best way and the most effective way to start the normalization of relations with China should have been and was through the visit of the President of the United States.

May I say in response to the question that we did raise the Senator's name and the names of other Senators with Premier Chou En-lai, and he indicated that the possibilities of requests being accepted were quite good. I believe I mentioned this to the Senator in some small detail and I will talk to him in more detail later.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. CHURCH. Mr. President, I looked forward all day to hearing the remarks of the distinguished majority leader, and then, due to circumstances beyond my control, I could not get to the Chamber until the leader had completed his remarks. But I shall read them with great interest and I am sure with great approval.

The Senator from Montana is a student of Asian affairs and if his good advice had been followed by the Government of the United States through the years we would not be in such grave troubles there today.

I am very pleased that he had this opportunity to go to China and I know we will all profit from his remarks today.

Mr. MANSFIELD. I thank the Senator.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. STENNIS. Mr. President, I do not wish to delay the Senator from Montana or the Senator from Pennsylvania, but I wish to highly commend both of them for having made this trip and for the very valuable information they have supplied as a result of their perceptiveness.

Mr. MANSFIELD. I thank the Senator.

Mr. President, I wish to conclude by saying that it was a pleasure and a privilege to make this visit to China in company with the distinguished Republican leader of the Senate who, as I indicated, is a man of great cultural knowledge, a man of deep personal interest in the affairs of China, and a man who has indicated his desire to expand his knowledge and become more understanding of many of the facets of the Far East which were new to both of us, even though both of us had been there on several occasions.

Mr. SCOTT. Mr. President, first I want to thank the distinguished majority leader for his very kind and warm remarks; second, to say that in the course of our 16 days of travel of 8,000 kilometers, or 5,000 miles, all of it was made the more pleasant and enjoyable, without any slightest area of friction or disagreement with the majority leader or with other members of our group who were traveling together; that the distinguished majority leader's temperament is such that simply to be in his company is a pleasure in itself; to travel with him and to observe the great depth of his knowledge and breadth of his interest in the whole Asian scene is in itself a reward and was for me a great opportunity.

I feel that I learned more because I was traveling with the distinguished majority leader, and I believe that both of us learned more because we were able to place the visit on a bipartisan basis, and thereby removed from it any aspect of political advantage. We were able to reassure our hosts, by reason of the bipartisan nature of the visit, that both parties in America are intensely interested in improving communications and in widening relationships with the most populous nation on the face of the earth.

With the tablet blank and precious few available to contradict us there is present the terrible temptation to paint the People's Republic of China in broad strokes and to hypothesize great conclusions in a manner calculated to evoke admiration for our brilliance. Happily, that temptation is tempered by the knowledge that others shortly will follow us to China. Likewise, the breadth and depth of China is such that we will be forgiven for not having absorbed it completely in 16 days.

Let us then limit ourselves to more specific statements based on personal conversations, observations, and inferences drawn from empirical evidence. In short, those things reasonable to believe based on experience and upon which we feel secure in making judgments and recommending action.

In 16 days we traveled over 5,000 miles visiting six cities: Peking, Shanghai, Hangchow, Sian, Changsha, and Canton. On various inspection trips and tours in those cities we traveled over 500 miles by auto. We traveled by motor launch through the harbor of Shanghai on the Whang-po River to the Yangtze River. Thus we obtained at least a short look at a solid cross section of China—rural and urban.

One cannot adequately describe the cultural shock of being immersed in a country which for 22 years has been beyond our ken. Most of us in the Senate have rarely in our recent years been in a position where we did not share some control of the situation. Here we could only observe and draw some highly tentative conclusions. The usual diplomatic preparations, consultations, and niceties await the further normalization of relations. There is no familiar road for the traveler to China.

Characteristic of the entire visit and of every person in it was the immediate warmth, grace, and courtesy of our reception in Shanghai on April 18. We can in no way overstate the perfection of all our Chinese hosts in their hospitality. Clearly they spared no effort to insure our comfort, safety, and enjoyment. Each individual in touch with our party was an excellent ambassador for his country. Their entire performance bore great testimony to their sincerity and professional ability. Time and again we expressed among ourselves the hope that Chinese visitors to the United States would receive as fine a reception as we did in their country. Upon our return we learned that Chinese athletes had, indeed, been received very well.

China can be understood and evaluated only if one approaches it in the light of the forces which motivate Chinese action and the historical perspective against which the action is played. These forces are not mere abstractions to be thought of fondly on patriotic holidays—they are the basis of daily action and the living, breathing stuff by which the New China is being fashioned.

Liberation—1949—is the "great divide." After it comes the New China of Chairman Mao and the Chinese Communist Party achieved after decades of struggle. Before 1949 lie 50 years of chaos, deprivation, and invasion which were the culmination of centuries of domestic exploitation and foreign oppression.

All production and action is measured by its relation to "before liberation."

Two all-encompassing achievements of the CCP establish its credibility and appeal to the Chinese completely aside from ideology. One is the establishment of nationhood which makes China, for the first time since the 18th century, able to conduct its own activities on its own territory free of outside interference and domestic disorder. China has emerged as a unified state under the exclusive control of its central government.

The second great accomplishment since liberation is the attainment by the masses of a standard of living acceptable to them. This means that the masses have food, clothing, shelter, and health care sufficient to maintain their viability as workers in a producing society without reference to survival as a daily concern. It is the difference between existence and life—even though their contemporary standard of living is still low, by their own candid admission. These bases are the earth and the atmosphere on which China stands and of which it breathes. Teaching, guiding, vivifying, and heading is Chairman Mao. Larger than life and somehow closer to the red sunrise in the east than other men is the one who brought the New China into existence and who defines its present and future.

Has China rid itself of gods and erected the figure of a man to godhead?

We queried our hosts closely on the aspects of Maoism as a cult of personality or deification to replace the old, gone gods. "Mao receives the admiration and affection of the people because of what he has done for them—there is no cult of the personality." Still, the trappings of the one Supreme Teacher are there. Purity of thought has developed imperfections under less favorable circumstances in other places. What do the Chinese people believe in? "Materialism—Marxism as defined by Chairman Mao."

Two thoughts of Mao most valuable for Americans to appreciate are these:

> We must see to it that all our cadres and all our people constantly bear in mind that ours is a big socialist country but an economically backward and poor one, and that this is a very great contradiction. To make China rich and strong needs several decades of intense effort, which will include, among other things, the effort to practice strict economy and combat waste, i.e., the policy of building up our country through diligence and frugality.[1]
>
> On what basis should our policy rest? It should rest on our own strength, and that means regeneration through one's own efforts. We are not alone; all the countries and people in the world opposed to imperialism are our friends. Nevertheless, we stress regeneration through out own efforts. Relying on the forces we ourselves organize, we can defeat all Chinese and foreign reactionaries.[2] We stand for self-reliance. We hope for foreign aid but cannot be dependent on it; we depend on our own efforts, on the creative power of the whole army and the entire people.[3]

The Chinese "man in the street" reacted to our presence with great curiosity, particularly in Sian and Changsha where we are relatively rare as a genus. But at every place we gathered crowds of friendly, curious onlookers. Children often clapped and waved, which we returned in the Chinese manner. While some groups appeared conditioned to clap at the appearance of black, red-flag autos carrying foreigners, reactions to us were we believed for the most part spontaneous. Amusingly, our appearance on a small side street in Peking caused a youngster leading a squad of schoolchildren to break out and lead them in singing a well-known school song, "Albania." We believe that while we were obviously identifiable as foreigners, the mass of people outside the specific places we visited in the various cities were not provided any particular knowledge of us or of our presence, except in Peking. Our hosts insisted, however, that some of the people in other cities were aware, from their newspapers, that we were U.S. visitors.

I might add that we were seen on television in Peking, and I believe were recognized on the streets by reason of that.

Foreigners are not common sights and the Chinese curiosity is understandable. No political campaigner minds that in the least. Interestingly, I will add here, the reporters who went with us to China reported on the lack of curiosity of the Chinese. I wonder whether there was a lack of research on the part of the press; because I have known Chinese people before, in and out of China, and I have never known them to be anything but highly curious about everybody and everything. And the moment any of us stopped on the streets, to look in a window or even to cross the street, before you knew it, you gathered silent crowds of two score or more, simply to look at the round eyes and to stare at the westerners.

We were told that the Chinese were undemonstrative, and yet we won applause in parks and almost everywhere except the crowded central streets. In the country, in the communes, in museums, and everywhere there was evidence of a desire to exchange gestures of good will with the westerners.

How do the Chinese describe the state of their economy? Their state of production? They call it "backward." They describe their country as "developing" or "emerging." Most definitely the Chinese are not backward in energy. There is no apathy, no toleration of any tendency toward deterioration. In the factories, on the communes, and in the streets, one senses vigor, vitality, and dedication—a desperate struggle to move ahead. But there is no question that this is a developing nation. When in response to Chinese questions, we mentioned food surpluses in the United States we strained their credulity. At this time China has reached a plateau in agricultural production. It occupies about 80 percent of the population. It produces enough to feed the Chinese. However, Chinese agriculture today is the perfection of an ancient system—not the establishment of modern agriculture as we know it. Night soil, after being disinfected, remains the basic fertilizer. Horses, oxen, and water buffalo pull the plows. Human hands do the cultivation. Still, there are many small multipurpose tractors and I suspect these will become more prevalent. The Chinese people recognize the need to move their population from agricultural to greater industrial production. They are hampered by a lack of research, farmer education, and the sheer logistics of making an impact on about 640 million farmers. Nonetheless, they are moving with purpose.

Outside Shanghai we visited the Malu People's Commune of Chiating County. The Chinese describe it as below:

MALU PEOPLE'S COMMUNE OF CHIATING COUNTY

The Malu People's Commune was set up in September 1958 by merging a number of advanced agricultural producers' cooperatives. The commune consists of 145 production teams under 14 production brigades with a population of 27,532 in 6,632 households. The land under cultivation amounts of 33,923 *mu* (2,261 hectares) with grain and cotton as the principal products. It has also developed livestock-breeding, fishery and side-occupations. Furthermore, it has set up some small factories in the interest of farm production and the commune members' welfare.

---

[1] On the Correct Handling of Contradictions, Among the People (Feb. 27, 1957), list pocket ed., p. 71.

[2] "The Situation and Our Policy after the Victory in the War of Resistance against Japan," (August 13, 1945), *Selected Works*, Vol. IV, p. 20.

[3] "We Must Learn to do Economic Work," (January 10, 1945) *Selected Works*, Vol. III, p. 421.

Over the past 10 years and more, the commune members, implementing resolutely the principle of "taking grain as the key link and ensuring an all-round development," have carried out water conservancy projects, levelled fields, transformed nature and gradually promoted mechanization, thus bringing about a continuous growth in farm production. With the completion of a tractor station and 25 electric pumping staions, the commune has brought all its farmland under electric irrigation and expanded the machine-ploughed area to 95 per cent of the cultivated land. Bumper harvests have been reaped in grain production for ten years running. The average grain output per mu for 1971 reached 1,560 jin (11,700 kg. per hectare), registering an increase of 1.5 times over 1957 (the year of Shanghai's liberation). Compared with 1970, the output of cotton slightly decreased in 1971 due to a grave natural disaster; it was, however, still 4.2 times the figure of 1949. There has also been considerable development in livestock breeding, fishery and side-occupations. In 1971 the number of pigs raised by the commune reached 38,000, an increase of 5 times over 1957, or 8.5 times over 1949; domestic fowls sold to the market numbered 70,000 an increase of 5 times over 1957.

The commune runs six factories for repairing and producing farm tools, making mutliple-use of farm and sideline products, processing grain and fodder and producing bamboo-ware, towels and chemicals. At present time, these factories are able to provide the commune with all the small farm-tools it needs, part of the insecticides and some of the small diesel engines for farming machinery and vehicles. In addition, they process spare parts for some of the tractor and chemical fertilizer equipment plants in the city and produce non-staple foodstuffs for the urban market. The output value of these commune factories for 1971 accounts for about 50 per cent of the commune's total output value.

Along with the steady development of farm production, the material and cultural life of the commune members has further improved. There are 33 primary and secondary schools in the commune and all the school-age children are enrolled. There is a hospital in the commune, a clinic for every production brigade and a health worker for every production team. Common diseases can be treated in the commune. The income of the commune members has been increasing year by year. In 1971 the average income per household was over 840 yuan, 170 per cent above the 1957 figure or about six times as much as that before liberation.

At this commune we visited one production team—the smallest unit of accountability. In addition to rice and other grains the team raises chickens, ducks, hogs, sheep and fish. It has its own small repair and implement manufacturing facilities. In short, it is a model self-contained rural community of above average capability. Specialization of production in larger units is not yet practiced. Its residents pay 86 cents U.S. a year for medical services. Each household has a small reserved plot on which to grow vegetables for home use. Average household income was $361 U.S. per annum last year. A four-room house—no plumbing, coal fire in kitchen—costs the member about $250 U.S., and, I might add, costs the member who is fortunate enough about $800 U.S. to build, with the help of his associates, and he is able to borrow money from the local cooperative to assist him in making payments on the house. Whether or not he is able to dispose of the house later we were not able to establish. We were told that he could, but we were never told how he could.

We visited also one of the 14 production brigades of the West Lake Commune outside Hangchow. Ten of these brigades specialize in tea production and this is a relatively prosperous commune with households receiving about $430 U.S. last year.

At West Lake, as in the handicraft and art factories, we discovered that variation is allowed within the framework of the planned collective economy and revolutionary spirit. There is no one way to do everything. While industrial wages are standard on an eight level nationwide scale we found evidence of a piecework approach in other areas. Monetary incentives were abolished during the Cultural Revolution. However, individual workers may receive vacation time at a spa to honor them for exemplary achievement. At West Lake the tea workers who dried and rolled fresh tea in large heated bowls accumulate "work points" based on the "quantity and quality" of the output of a work team. Four man team results and standings are posted daily on a large blackboard.

We visited several handicraft factories. In these the wages varied according to technical competence and output—ranging from $13 U.S. to over $40 U.S. per month, with most around the industrial average of $24 U.S. per month. China maintains a high quality output of traditional labor intensive handicrafts made with modern tools and assembly line production so far as possible. Preservation of traditional skills and arts is encouraged. This homage to the workers of China through the ages supports the party line.

May I add as one interested in the cultural aspect of Chinese civilization that the work is technically good, it is skillfully done and well made, but it is conventional, it is contemporary; it carefully honors traditional work. It is not daring, it is not innovative, it is not impressionistic, it is not abstract, and one suspects it had better not be.

Members of our party visited the Peking General Petroleum Chemical Works which was the only modern industrial works we were shown. Below is the Chinese description:

THE PEKING GENERAL PETROLEUM CHEMICAL WORKS

The Peking General Petroleum Chemical Works is an integrated complex for the multi-purpose use of crude oil. The whole project comprises a total of 35 units: 13 oil-refining and 22 chemical units.

The construction of the Works started in October 1968. To date, the oil-refining units are in the main completed and in operation, the crude oil processing capability being 2.5 million tons a year; three of the chemical units (synthetic rubber, phenol-acetone resin and polyethylene-propylene) are completed and in operation, while the rest is still under construction.

When completed, the Works can turn out nearly 100 petroleum products, including various kinds of fuels, such as gasoline, aviation kerosene and diesel oil, various kinds of lubricants, benzenoids as well as synthetic rubber, synthetic fiber and synthetic plastics.

After biochemical and other treatment, waste water from the oil refinery can be used for irrigation and raise fish and ducks. Crops are growing well, and fish and ducks are normal.

In accordance with the Party's General Line of "going all out, aiming high and achieving greater, faster, better and more economical results in building socialism," the broad masses of workers and staff members have, in the course of building the Works, adopted the method of researching, designing, constructing and putting into production concurrently, and by so doing have gained time and accelerated progress.

Located in the tortuous terrain of the granite foothills 30 miles southwest of Peking the works are a prime example of Chinese practice in the dispersion of industry and regional self sufficency.

This general line is pursued throughout the country as a basic planning element. The use of all resources and all production priorities come from careful 5-year plans detailed in 1-year plans. The planning process proceeds from the State to the province to the county and to the commune/town. At each level there may be discussion with the planning council of the superior body by that of the inferior body. Goals are very specific and detailed. There is much evidence that the Chinese have been successful in achieving these goals especially in extending irrigation and health care. And here I interpolate that in the Southern Province of Kwangtung—Canton—many of the communes are able to harvest three crops a year; and most of them, we were told, harvest two crops a year of rice and of other foodstuffs.

EDUCATION

Chinese higher education suffered immense disruption from the cultrual revolution. Only now is it returning to stability. Only recently have full classes been accepted at the universities we visited. Acceptance is more a function of recommendation by one's local revolutionary committee, cadres, or army than of prior preparation. Likely prospects and leaders are sifted out of the masses for higher training. Students are dedicated and enthusiastic. Facilities are adequate. Curriculums are basic and specialized with an eye toward utilization of the student in production as soon as possible. The standards of university education cannot, at this time, approach the standards of western universities. It appears to me that they have not yet recovered from the culture shock of the 1965 events and those following, nor has research been returned fully to its proper place in Chinese academic life. Every effort is made to prevent the creation of an educated elite distinguishable from the masses. This levels, rather than elevates, the entire process.

The Chinese claim that primary schooling is universal but state that the large number of school-age children on city streets during school hours is caused by schooling in shifts. Probably no more than 40 percent of the eligible population attend secondary schools. However, at the present time more complete education, we are told, would not fit the development stage and would overeducate the people for the station in life available to them. Lack of sufficient facilities is probably the real reason.

HEALTH CARE

Medical facilities from the farm and factory level to the large city hospital and medical schools were visited, particularly by Dr. Pearson, the Capitol Physician, whose company and whose inquiries and conclusions were of the utmost value to all of us. China's medicine today is oriented toward delivery of medical care to the great mass of farmworkers who comprise over 80 percent of her population. Until a few years ago, virtually no medical care was available to this huge segment.

Medical schools are accepting students with only a few years of formal schooling. They have reduced the number of courses in the time in school by half—now 3 years. And they have increased the numbers of students many fold, in order to turn out more doctors for the masses. Chung Shan Medical School, which reopened last year, has 600 students in each class compared with about 100 when it closed in 1966. They are training "barefoot doctors," who would compare to our medical corpsmen. These medical workers have played a very important role in public health measures, and in mobilizing the workers to eradicate snails—which cause the dread disease schistosomiasis—and reduce flies and mosquitos. Treatment of feces—which still constitutes over 70 percent of China's fertilizer—has been a major contribution of the medical workers—a major advance which could well be used in many other countries.

It is interesting, too, to notice the dedication of children to the eradication of flies and insects, to such an extent that, although we were traveling at times in temperatures of 90 and 92 degrees, neither my wife nor I were ever to observe—and this was a joint observation—more than a single fly engaged in lonely exploration in Canton.

There is excellent integration of the various medical programs with the industrial and farming programs.

Acupuncture treatment, practiced in China for several thousand years, was observed several times, by our physician and by other members of the group. It is used for intestinal illness, headache, toothache, rheumatism, pneumonia. Whether it has intrinsic value in addition to its psychological benefits need further assessment.

Acupuncture anesthesia has also been observed and is undoubtedly effective in many cases. Many of us saw a very interesting documentary movie illustrating an operation under these conditions. It is used in about 50 percent of the surgery performed at the institutions we visited. Some of our group observed cesarean section, eye surgery, stomach removal, and thyroid gland surgery performed with no other drugs or anesthetic agent. This would seem to have obvious advantages and is being looked at with great interest by U.S. and other Western medical men. The mode of its action is not completely understood, even by the Chinese physicians, and research is now going on at a great rate in this area; but it is thought that some blocking of painful impulses occurs at the spinal or at the brain level.

The progress of medicine in China from its former level was impressive. The dedication and enthusiasm of medical interns at all levels, especially their efforts at continual improvement, was surprising and refreshing.

CULTURE

Built into the system at every level is the structure of revolution and its continuation. CCP cadres at all levels of organization guide the masses in self-education through criticism and self-criticism, and in education through mass persuasion. The good worker finds a good character of praise posted on the village gate. The bad worker finds a bad character poster. Party members must be exemplary or face expulsion. Newspapers and radio praise good workers and condemn lackeys. Merit is popular. Songs, plays, ballets, children's games, poetry, literature, and every conceivable medium carry the Party line. Dissent finds a presence only in the happy stories of repentant dissenters who recant and are reconciled to the Party line through self-education and education and whose reconciliation is usually featured in song and story, with much gestures and appropriate music. There can be no legitimate expression of self or anything else outside the furtherance of the revolution. As Mao says:

> In the world today all culture, all literature and art belong to definite classes and are geared to definite political lines. There is in fact no such thing as art for art's sake, art that stands above classes, art that is detached from or independent of politics. Proletarian literature and art are part of the whole proletarian revolutionary cause: they are, as Lenin said, cogs and wheels in the whole revolutionary machine.[4]

The Chinese have assiduously rehabilitated, preserved, repainted, and maintained palaces, parks, and other evidences of China's past history. From these the masses learn of their proud history as workers of great skill and accomplishment. They learn, also, of their exploitation by the emperor and the ruling classes. There is no difference today in the amount of work they do—the difference is that they enjoy its benefits much more fully and directly.

Rather than elaborate on the splendor of the various historical sites visited, I have listed them and included their description by the Chinese in an appendix.

DISCUSSIONS

During our 16 days in the People's Republic of China we had the opportunity to engage in frank and meaningful discussions with leading Chinese Government officials. We spent almost 5 hours in discussion with Vice Minister of Foreign Affairs Ch'iao Kuan-Hua and another 5 hours with Premier Chou En-lai, plus 3 hours at a dinner given for us by the Premier.

These discussions covered many subjects and, as might be expcted many hours were spent on the subject of Indochina. Senator Mansfield and I agreed to the request of the Premier that, because countries other than the United States and the People's Republic of China were involved in the areas discussed, we would not publicize the more sensitive aspects of our informal discussions.

Therefore, I cannot say too much about the discussions except to say they were frank, candid, and sometimes blunt discussions, with disagreements freely aired and areas of agreement searched for.

One of the subjects discussed in which China and the United States people are interested is exchanges and visits.

The Premier indicated that he felt that exchanges in various fields should be encouraged and told us of the some 30 American businessmen who were going to attend the Canton Trade Fair, some of whom I did see in attendance at the fair later. The Premier also told us that the House leaders, Representatives Boggs and Ford, were coming to China in June—I think he said June 26. We learned the date first from the Chinese Premier, and we found him extraordinarily well informed on American affairs. He said the Chinese would also give consideration to the visits of other Members of Congress. In that connection, as the distinguished majority leader has noted, members of certain committees were mentioned, some by name. The desire to visit China was indicated as to Members of the Senate and the House generally, who would like to come perhaps in groups of two, three, or four, perhaps later on next year, or alone, or perhaps in even larger groups, as the facilities of the Chinese expand.

The difficulty in handling visitors is a lack of adequate hotel facilities for large groups, the need for additional trained interpreters, and for additional members of the Chinese Institute for Foreign Affairs. Their willingness to receive visitors, in my opinion, is evident, but their capability for handling visitors appears to be limited by their facilities.

The Premier was especially pleased by the reception the President and the American people accorded the China's ping-pong team on its recent visit to the United States. We learned about the reception of the Ping-pong team in the rose garden by the President, again from Premier Chou En-lai, as our news sources were not exactly adequate while in Peking—other news sources.

One got the impression that the Chinese were very desirous of increasing exchanges between the two countries but did not at this time have the facilities to handle a great influx of visitors. They are working toward increasing their visitor facilities and their travel service so that they can provide for more and more foreign visitors.

In this regard, the distinguished majority leader and I also mentioned cultural exchanges, journalistic exchanges, and athletic exchanges. Our Chinese hosts indicated perfect affability toward the idea. They were entirely openminded. They mentioned, for example, the

---

[4] "Talk at the Yenan Forum on Literature and Art" (May 1942), *Selected Works, Vol. III*, p. 86.

Shanghai Ballet which was performing a ballet entitled "The White-Haired Girl" that night, which we saw, and indicated the possibility of similar ballets visiting the United States.

I would not have been true to Pennsylvania if I were not to say that I advocated the visit to China of the Philadelphia Orchestra and the Pittsburgh Symphony. The distinguished majority leader has his own favorite cultural and athletic suggestions to make and I will not impinge on that; but I believe that the Government is openminded to these exchanges.

We did also raise certain questions, which I cannot go into detail about, but it has been brought to the attention of the highest authorities that it would be hoped those journalists imprisoned somewhere in Indochina or in China can be released. We spoke to at some length but with some breadth of generality to the proper people.

I referred to Welles Hangen of NBC; Shawn Flynn, a freelance journalist; Dana Stone of CBS; and Terry Reynolds of UPI. It is our understanding that all these matters are under review.

We received no promises but we remain hopeful. We hope that our intercession will have been helpful. Only time will tell.

SUMMARY

We have only begun to plumb the depths of China. We need to know so much more about it—or more simply put—what makes it tick. There is no question of great material progress since the Liberation. But where does China go from here? Can a fluid state of revolution be maintained without disastrous instability in the society? Can the easily evident fervor and dedication be maintained? Is there comparable leadership after Mao? How far do China's claims of nonaggressive aims really extend?

I must add that we were impressed that the Chinese people believe they have enough problems at home, that their interest in territory, up to this time, extends only to their interest in Chinese territory—or Chinese claimed territory established by their own records in the past. So that their record of nonaggression is good.

I repeat, how far does that claim extend?

Let me summarize, if I may, a few judgments and conclusions.

China as a totality adds up to something radically different from our knowledge, experience, and concepts.

China is moving with great deliberation and careful planning in all areas—military, economic, and social. It is drawing on useful aspects of its heritage and obliterating the rest on the way to the New China. Western civilization has disrupted less advanced societies simply by the force and impact of its culture. In the case of China, we have a strong culture determined to go its own way, to assimilate what it wants of the West with the retention of its own identity and direction. China, by its own statement, is a developing nation faced with many decisions and many alternate courses of action.

It is important that we normalize relations to the greatest extent possible. At the same time we must remain alert to the fact that there are basic philosophical differences in our views of man and society. Yet within this context, it is possible for the United States and the People's Republic of China to co-exist peacefully.

I believe the trip by Senator MANSFIELD and myself adds greatly to our national understanding of China. The impending visit to China of the distinguished leaders of the House—JERRY FORD and HALE BOGGS can build more securely upon the good will established by the President, and advanced further, we believe, by our visit. It is my hope that more and frequent contact between our countries will come about including visits by my colleagues in the Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD, first, an appendix citing the itinerary and the personnel with whom we had the most contact; and, second, another appendix containing a description, from Chinese sources, with which we found no reason to disagree, concerning the number of places we visited.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ITINERARY

CITIES

1. Peking (5 days)—April 18 to 23.
2. Shanghai (2 days)—April 24 to 25.
3. Hangchow (2 days)—April 26 to 27.
4. Sian (2 days)—April 28 to 29.
5. Changsha (1½ days)—April 30 to May 1; at Noon on May 1—Depart Changsha for Canton.
6. Canton (1½ days)—May 1 to 3; at 8:30 a.m. on May 3—Depart Canton by rail for Hong Kong.

SCHEDULE—WEDNESDAY, APRIL 19, 1972

For members of party who do not attend discussions:

A. 9:30 a.m.—Visit "Temple of Heaven."

B. 2:30 p.m.—Full Party; 1) Imperial Palace; 2) Exhibition of "New Archaeological Discoveries".

Dinner for full party:

A. 7:00 p.m.—Reception by Mr. and Mrs. Kuo-Mo-Jo at the "Great Hall of the People".

B. 7:30 p.m.—Dinner.

Discussions—10:00 a.m.

1. Chiao Kuan-Hua—Vice Minister of Foreign Affairs and Vice President of the Chinese People's Institute of Foreign Affairs.
2. Chang Wen Chin—Director of Division, Foreign Ministry.
3. Mr. Chou Chiu-yeh—Secretary General, People's Institute of Foreign Affairs.
4. Mr. Hu Hong-fan—Cultural Member of the "People's Institute."

SCHEDULE—THURSDAY, APRIL 20, 1972

Morning options:

1. Ching Hua University.
2. Petrochemical Factory.
3. A Middle School.

Afternoon:

Arts and crafts factory.

Evening:

Reception and dinner hosted by Premier Chou En-Lai.

SCHEDULE—FRIDAY, APRIL 21, 1972

All day excursion.

1. The Great Wall.
2. The Ming Tombs.

Evening:

White-Haired Girl.

SCHEDULE—SATURDAY, APRIL 22, *1972*

Morning:

Physical Culture Institute.

Afternoon:

Kindergarten.

Obstetrics.

Carpet Factory.

Museums.

SCHEDULE—SUNDAY, APRIL 23, 1972

Morning:

Summer Palace.

Afternoon:

Open.

Monday, April 24, 1972: 8:00 a.m.—Leave for Shanghai.

PEKING DINNER WITH PREMIER CHOU EN-LAI

Prof. Chou Pei-yuan—Vice President of the Chinese People's Institute of Foreign Affairs, Vice Chairman of the Revolutionary Committee of Peking University.

Mr. Chiao Kuan-hua—Vice President of the Chinese People's Institute of Foreign Affairs, Vice Minister of the Foreign Ministry.

Mr. Hsieh Fu-ming—Member of the Standing Committee of the National People's Congress.

Mr. Chang Wen-chin—Director of Department of American and Western European and Oceanian Affairs of the Foreign Ministry.

Mr. Wang Hsiao-yi—Official in charge of the Foreign Affairs Group of the Peking Municipal Revolutionary Committee.

Miss Wang Hai-yung—Deputy-Director of the Protocol Department of the Foreign Ministry.

Mr. Hu Hung-fan—Council Member of the Chinese People's Institute of Foreign Affairs.

The first five persons in the above list and Mrs. Wang Ti-chen—Prof. Chou Pei-yuan's wife.

Mr. Chu Chuan-hsien—Deputy Director of the Protocol Department of the Foreign Ministry.

Mr. Wang Ch'iu-yeh—Director of Cultural Relics Administrative Bureau, State Council ("curator" of the Palace Museum).

Mrs. Cheng Chi-Lung—Council Member of Chinese People's Institute of Foreign Affairs.

PERMANENT PARTY—PEKING, CHINA

Chou Ch-iu-yeh—Secretary-General of the Chinese People's Institute of Foreign Affairs.

Hu Hong-fan—Council member of the Chinese People's Institute of Foreign Affairs.

Tan Hsing-po—Council member of the Chinese People's Institute of Foreign Affairs.

Yu Chien-chun—Staff of the Chinese People's Intitute of Foreign Affairs.

Wang Er Hang—Staff of the Chinese People's Institute of Foreign Affairs.

Chiao Shi-wu—Staff of the Chinese People's Institute of Foreign Affairs.

Chao Chi-hua—Staff of the Foreign Ministry of China.

Tzu Chung-yun—Interpreter.

Wu Chien-ta—Interpreter.

Chao Sheng—Interpreter.

Chao Feng-feng—Interpreter.

Present at the Shanghai Airport, April 24, 1972:

Mr. Feng Kuo-Chu—Council member in Shanghai of the Chinese People's Institute of Foreign Affairs.

Mr. Li Fu-hsun—Official in charge of the Foreign Affairs Group of the Shanghai Municipal Revolutionary Committee.

Mrs. Chiu Li—Chairman of the Shanghai Hongkou District Revolutionary Committee.

Mr. Chang Hsiang-tung—Deputy of the Third National People's Congress, Professor of the Institute of Physiology of the Chinese Academy of Sciences, Member of the Academy of Sciences.

Mr. Liu Ta-Jie—Member of the National Committee of the Chinese People's Political Consultative Conference, Professor of the Fu Tan University.

Present at the dinner the same evening in Shanghai:

Mr. Mai Tien-shui—Vice Chairman of the Revolutionary Committee on Shanghai Municipality.

(In addition of the above list)

Shanghai Monday, April 24, 1972:

Afternoon:

Shanghai Industrial Exhibit.

Children's Palace.

Evening:

Dinner hosted by Ma Tien-shui.

Tuesday, April 25, 1972:

Morning:

Malu Commune.

Afternoon:

Inspection of Shanghai Harbor by boat on the Huang Po River.

Evening:

Acrobatics performance.

Present at the Hangchow Airport, April 26, 1972:

Mr. Chou Feng—Council Member in Hangchow of the Chinese People's Institute of Foreign Affairs, Vice Chairman of Hangchow Municipal Revolutionary Committee.

Mr. Fang Ming—Official in charge of foreign affairs of Chekiang Provincial Revolutionary Committee.

Mr. Yang Chia-chun—Official in charge of cultural affairs of Chekiang Provincial Revolutionary Committee.

Mr. Hsu Yao-tung—Official in charge of foreign affairs of Chekiang Provincial Revolutionary Committee.

Mrs. Cheng Hsiu—Member of Chekiang Revoluntionary Committee in charge of women's affairs.

Wednesday, April 26, 1972:

8:30 a.m.—Leave Shanghai for Hangchow.

Hangchow—Morning:

Visit to Wu Hill for a view of the surroundings.

Afternoon:

Boatride and walk around West Lake.

Evening:

Dinner hosted by Hsien Cheng-hao.

Present at dinner in Hangchow, April 26, 1972:

Mr. Hsien Cheng-hao—Vice Chairman of Chekiang Provincial Revolutionary Committee.

Mr. Chou Feng—Council Member in Hangchow of the Chinese People's Institute of Foreign Affairs, Vice Chairman of Hangchow Municipal Revolutionary Committee.

Mr. Fang Ming—Official in charge of foreign affairs of Chekiang Provincial Revolutionary Committee.

Mr. Ni Yen-chiang—Official in charge of foreign affairs of Chekiang Provincial Revolutionary Committee.

Mr. Hsu Yao-tung—Official in charge of foreign affairs of Chekiang Provincial Revolutionary Committee.

Mr. Yang Chia-chun—Official in charge of cultural affairs of Chekiang Provincial Revolutionary Committee.

Mrs. Cheng Hsiu—Member of Chekiang Revolutionary Committee in charge of women's affairs.

Mr. Fang Yi-fei—Official in charge of foreign affairs of Hangchow Municipal Revolutionary Committee.

Mr. Lu Ho-sen—Staff member of foreign affairs section of Chekiang Provincial Revolutionary Committee.

Mrs. Shin Chih-ying—Staff member of foreign affairs section of Chekiang Provincial Revolutionary Committee.

Mrs. Chao Yun-hsia—Staff member of foreign affairs section of Chekiang Provincial Revolutionary Committee.

Thursday, April 27, 1972:

Morning: Shopping—Silk Factory, and arts and crafts exhibits.

Afternoon:

Tea factory.

Pagoda of the Six Harmonies.

Friday, April 28, 1972:

8:30 a.m.—Leave for Sian.

Sian—Afternoon:

Bell Tower.

Shensi Provincial Museum.

Evening:

Dinner hosted by Hu Wei.

Music and dance performance.

Saturday, April 29, 1972:

Morning:

Panpo neolithic village.

Hua Ching Gong Palace and Hot Springs.

Afternoon:

Arts and Crafts Factory.

Sunday, April 30, 1972:

8:30 a.m.—Leave for Changsha.

Changsha—Afternoon:

Number One Normal School—attended by Mao and at which he once taught.

Clear Water Pond—Mao's home while in Changsha.

Evening:

Dinner hosted by Li Chen-jun.

Monday, May 1, 1972:

Morning:

Yu Lou Hill.

Embroidery Factory.

11:30—Leave for Canton.

Canton—Afternoon:

Canton Trade Fair.

Evening:

Dinner hosted by Wang Shou-dao.

Tuesday, May 2, 1972:

Morning:

School for Deaf and Mute.

Afternoon:

Shih Wan porcelain factory.

Evening:

Farewell dinner hosted by the American group.

Wednesday, May 3, 1972:

8:20 a.m.—Leave by train for Hong Kong.

Sian—Li Kuang-jen—Vice Chairman of the Municipal Revolutionary Committee of Sian.

Mr. Kuo Fung-ning—Council Member, People's Institute of Foreign Affairs, Shensi Province.

Hu Wei (host-dinner)—Vice Chairman of the Revolutionary Committee of Shensi Province.

Changsha—Mr. Shang Tze-ching—Council Member, Chinese People's Institute of Foreign Affairs.

Mrs. Su Ming—Vice Chairman of Changsha Municipal Revolutionary Committee.

Mr. Li Chen-jun (host-dinner)—Vice Chairman of Human Provincial Revolutionary Committee.

Canton—Present at the Canton dinner, May 1, 1972:

Mr. Wang Shou-tao—Vice Chairman of Kwangtung Provincial Revolutionary Committee.

Mr. Shao Yen-sheng—Council Member in Kwangchow of the Chinese People's Institute of Foreign Affairs.

Mr. Yang Ke-chung—Responsible person in charge of foreign affairs of Kwangtung Provincial Revolutionary Committee.

Mr. Shang Eng-chuo—Deputy to the National People's Congress, Professor.

Madame Teng Chian—Responsible person of the Administration Office of the Kwangchow Municipal Revolutionary Committee.

The Park of the Temple of Heaven

The Temple of Heaven used to be where the emperors of Ming and Ching dynasties worshipped heaven and prayed for good harvests. It was constructed in 1420 and covers an area of 273 hectares. The Temple has an inner and an outer surrounding walls. The main structures are all situated in the inner enclosure. To the south is the Huan Chiu Tan (Circular Mound Altar) and to the north, Chi Ku Tan (Altar of Prayer for Good Harvests). The two altars are 360 metres apart and are connected by a wide paved way, the Tan Pi Chiao (Red Stairway Bridge). They together form a perfect complex of structures. The main buildings are Chi Nien Tien (Hall of Prayer for Good Harvests), Huan Yu (Circular Mound) and Huang Chiung Yu (Imperial Heavenly Vault).

The Hall of Prayer for Good Harvests is a round hall with triple eaves and a gilded ball on the top. It was constructed in 1420, rebuilt in 1890 and repaired again in 1971. It is 38 metres high and 30 metres in diameter. It is a structure of bricks and wood, but without big beams or long cross-beams.

The Imperial Heavenly Vault was constructed in 1530, and the famous "Echo Wall" and the "Triple Echo Stones" are here.

The Circular Mound was erected in 1530. It is a triple-tiered terrace with white marble balustrades and was the altar on which the emperors used to worship heaven and pray for rain at the winter solstice.

After the liberation of Peking, great efforts have been made to repair the Temple of Heaven. Trees have been planted, orchards expanded and cultural pavilions opened. Now it is one of the biggest parks in Peking.

The Great Wall at the Pataling Hills

The Great Wall is one of the grand works of architecture of ancient China.

In the 5th century B.C. in the Warring States Period some dukedoms and earldoms (feudal fiefs) built defensive walls on their own fiefs in order to ward off the attacks of neighbouring lords or Hsiung Nu (Huns). After the Chin dynasty (3rd century B.C.) unified China, these walls were linked up and expanded on a large scale, and later on extensions and consolidation work were made by successive dynasties, thus the present Great Wall came into being.

The Pataling Hills formed an outpost where the strategic Chuyungkuan Pass Gate was built in the Wan Li Chang Cheng (Ten Thousand Li Long Wall). From here the continuous Wall stretches to Shanhaikuan in the east and Chiayukuan in the west, a total length of 6,000 kilometres passing through 5 provinces and 2 autonomous regions in northern China. The average height of the Wall is 7.5 metres, its width 5.4 metres. There is a two storied tower every few hundred metres.

After liberation, the People's Government repaired the section of the Wall at the Pataling Hills and restored to its original magnificence.

Ting Ling Museum

Shihsan Ling (Ming Tombs) are situated about 50 kilometres to the northwest of Peking. They are the tombs of 13 emperors of the Ming Dynasty (1368–1644). Ting Ling (Ting Tomb) is the tenth and the tomb of Emperor Chu Yi-chun (1573–1620) and his two Empresses. The Underground Palace of Ting Ling was excavated after liberation in 1956 and 1957. It was the first underground construction to be excavated among the 13 tombs.

The main features of the Tombs are: the Ling En Hall, the Ming Tower, the Precious Wall and the Underground Palace, which is situated within the Precious Wall behind the Ming Tower. The Underground Palace covers a total space of 1,195 square metres and consists of five chambers, front, back, central, left and right, all of stone work without beams or pillars. The doors of the front, central and back chambers are made of marble with carved designs. The vault of the front and central chambers is 7.2 metres high and that of the left and right annex chambers 7.1 metres. In the middle chamber are emplaced three marble altars and three Dragon Urns used as Eternal Light Lamps. The back chamber is 9.5 metres high and housed the caskets.

The more than 2,000 burial articles found in the Ting Ling Underground Palace include gold, silver and jade articles, pieces of porcelain and lacqure ware, silk fabrics and clothing. They are displayed in two exhibition rooms.

The Palace Museum

The Museum used to be the imperial palace in the Ming and Ching dynasties, which was commonly known as the Forbidden City. It was first constructed from 1406 to 1420 (the 4th to the 18th reign year of Yung Lo of the Ming dynasty), and alterations and reconstructions were carried out later on several occasions. The Palace now has a history of more than 500 years.

The Museum covers a total area of 720,000 square metres and has buildings comprising more than 9,000 room-units, which have a floor space of about 150,000 square metres. It is surrounded by wall over 10 metres high and a moat 52 metres wide. It is the biggest and best-preserved of ancient buildings now in China as well as a concentrated embodiment of the fine tradition and unique style of China's national architecture.

The Imperial Palace mainly consists of two parts: the front part, where the emperors of the Ming and Ching dynasties held major ceremonies, and the rear part where they dealt with state affairs and their empresses and imperial concubines lived and entertained themselves.

During the Ming and Ching dynasties the Palace was the centre of their political rule.

THE PEKING PHYSICAL CULTURE INSTITUTE

The Peking Physical Culture Institute was founded in 1953, with the main task of training a backbone of physical culture workers.

The Institute occupies an area of 600,000 square metres (60 hectares) with a total building space of 64,000 square metres. It is divided into three areas, one for teaching and training, another the living quarters of the students and still another those of the teachers and staff members. The indoor facilities include three gymnasiums, two halls for table tennis, two for other ball games, one for field and track events, one for swimming, and one for weight-lifting. Outdoor athletic grounds number more than 60, including athletic fields, football courts, basketball courts, swimming pool and a militia shooting range.

It has now an office and teaching staff of over 560 and an enrollment of over 500.

The curriculum includes field and track training, football, basketball, volleyball, table tennis, badminton, swimming, gymnastics and Chinese shadow boxing. In addition, the Institute now runs short-term training classes on a trial basis to help train physical culture activists from factories, mines, people's communes and army units.

SHANGHAI CHILDREN'S PALACE

The Shanghai Children's Palace is a centre for the children under the age of sixteen to carry out their extra-curricular activities. The palace often organizes the children to exchange their experience in the study of Chairman Mao's works, gives lectures on the situation both at home and abroad, invites veteran revolutionaries and model workers, peasants and soldiers to give reports on class education and education in revolutionary traditions, and arranges for the children to visit factories, people's communes, docks and places of revolutionary significance for the purpose of receiving education and making social investigations. It also guides the children in learning industrial and agricultural production and medical science, in carrying out various scientific and technical activities, such as doing astronomical observations, assembling radio-sets and making airplane and ship models as well as in joining literary and art and physical activities which include: learning to sing model revolutionary operas, dancing, music, painting, embroidery, Chinese traditional boxing, gymnastics and table tennis.

Through these activities the palace, in close co-ordination with the school, the family and society at large, educates the children in carrying on the revolutionary traditions and in serving the Chinese people and the world people whole-heartedly. By guiding the children in participation in the three great revolutionary movements of class struggle, the struggle for production and scientific experiment, the palace enables the children to develop morally, intellectually and physically and become workers with both socialist consciousness and culture.

About 2,000 children take part in various activities in the palace every day. These activities are carried out chiefly under the guidance of workers, peasants and soldiers in addition to some full-time instructors.

SHANGHAI INDUSTRIAL EXHIBITION

The Shanghai Industrial Exhibition is a center where new products of Shanghai industry are displayed and new techniques exchanged. It consists of one multi-category exhibition hall and seven other halls with exhibits of the following categories—machine-building and electric machinery, metallurgy, chemical industry, meters and instruments and tele-communications equipment, light industry, textiles and handicrafts. Displayed at the exhibition are over 5,000 items occupying a total floor space of more than 10,000 square metres.

The exhibits (some of them are models) are the fruits gained by the working class of Shanghai who have acted on Chairman Mao Tsetung's teachings and displayed the revolutionary spirit of independence, initiative and self-reliance.

Following are the major ones:

300,000 kw. turbo-generator with inner water-cooled stator and rotor, digital process control machine tools equipped with electronic devices, 12,000-ton hydraulic free-forging press, big high precision thread grinding machine, laser automatic dynamic balance machine and 32-ton dump truck used for mines—all designed and manufactured by the Shanghai machine-building and electric machinery workers;

Semi-conductor materials, low-alloy steels, cold-drawn irregular-shaped steel tubes, high-temperature precision alloys and big vacuum refining furnace successfully produced by the Shanghai metallurgical workers with indigenous and modern methods;

Ocean-going ships built by the aspiring Shanghai ship-building workers, among which the 10,000-ton freighter *Feng Guang* and some other vessels were made on a small shipway previously used to build ships with a maximum of 3,000 tons only;

Electronic computer, video tape recorder, double focusing solid analysed mass spectrograph with the detection limits for impurity elements being as low as several parts per billion and various electronic elements of new types recently manufactured by the Shanghai workers in the meters and instruments and tele-communications industry;

New achievements in multi-purpose use of waste water, gas and residue, engineering plastics, effective traditional Chinese medicinal herbs, antibiotics and stimulant "920" for agriculture made by the Shanghai workers in the chemical industry;

Wrist watches, cameras, sewing machines, bicycles and all sorts of cotton, silk and woolen fabrics produced by the Shanghai workers in the light and textile industries;

Carvings in ivory and jade stones and woolen needle-point tapestry elaborately worked out in a Chinese national style by the Shanghai handicraftsmen.

The exhibition also gives a picture of the new achievements in the making of synthetic insulin, application of acupuncture anesthesia, replantation of several limbs and treatment of extensive burns.

New additions and replacements of exhibits are made from time to time. Most of the articles here have been designed and produced since the beginning of the Great Proletarian Cultural Revolution.

EXHIBITION OF HISTORICAL RELICS UNEARTHED DURING THE GREAT CULTURAL REVOLUTION

During the Great Proletarian Cultural Revolution, Chinese archaeological workers have unearthed a large number of historical relics with the support and participation of workers, peasants and soldiers. On exhibition here are about 1,700 pieces of historical relics selected from those excavated in nine provinces, one city and one autonomous region.

This group of historical relics ranges from tools of production, household utensils and works of art of the primitive society of 4,000 years ago to precious funerary objects from tombs of the imperial families of the Ming dynasty of 500 years ago. Among these the most outstanding are:

Two suits of "garments made of jade pieces threaded with fine gold wire" worn by Liu Sheng, the Prince of Chungshan, and his wife of the Western Han dynasty (2nd century B.C.);

A whole procession of bronze carts and horses of the Eastern Han dynasty (2nd century);

Gold, silver and jade articles of the Tang dynasty (8th century);

Silk fabrics, manuscripts and books, and various articles of daily use and foodstuffs of the 5th–8th centuries, unearthed along the "Silk Road", the main line of communication between China and the West in those times;

Paintings of the Sung dynasty (12th century), woodblock-printed books of the Yuan dynasty (13th century) and articles of daily use of the Prince of Lu, Ming dynasty (14th century), discovered in his tomb.

THE SIAN ART HANDICRAFTS WORKSHOP

The Sian Art Handicrafts Workshop was set up in 1964. There are now more than 200 workers and staff members. The chief products are inlaid lacquer ware and ivory and shell carvings. These products present the traditional designs of flowers, birds and scenery as well as designs with a new socialist content. With the Great Proletarian Cultural Revolution, we have further carried out the revolutionary line and policy for literature and art: *"Literature and art should serve the workers, peasants and soldiers"* and *"Let a hundred flowers blossom; weed through the old to bring forth the new"*, and new products have greatly increased depicting Chairman Mao's revolutionary practice, presenting heroic images of workers, peasants and soldiers and reflecting socialist revolution and socialist construction. The newly created products, such as "Chairman Mao arrives in Yenan", "Long live the Yenan Spirit" and "The White-Haired Girl", are greatly appreciated by the broad masses of the people. At the same time, we have continued to create products with flowers, birds, scenery and ancient figures as their themes.

THE SHENSI PROVINCIAL MUSEUM

The Shensi Provincial Museum is a historical museum mainly for the study and display of antiquities.

There is a wealth of antiquities above and under ground in the Shensi area as eleven of China's feudal dynasties located their capitals here. But before liberation, many of the relics were damaged or looted by landlords, compradors, warlords and imperialists. Since liberation, this museum has excavated and collected large numbers of precious antiquities in coordination with the progress of capital construction projects.

Two sections of the museum are now open to the public, "the forest of tablets" and "the stone carvings room".

"The forest of tablets", founded in 1090, is the oldest and richest collection of stone tablets in China. On display are more than 1000 tablets, most of them propagating feudal culture. Some of the tablets reflect the acute class struggle in ancient Chinese society, and some provide precious data for the study of Chinese history and the history of cultural interflow between China and foreign countries. They are also a treasure house of Chinese calligraphy.

Exhibited in the stone carvings room are more than 70 pieces of sculpture ranging from 2nd century B.C. to 8th century A.D. They form the richest indoor collection of ancient sculpture in China, which is an integral part of the magnificent ancient Chinese culture.

The Tayen Pagoda

The Tayen (Big Wild Goose) Pagoda was built in 652 A.D. in Tang dynasty and has a history of over 1,300 years. A fine example of the architectural art of the working people of ancient China, it is 64 metres high and has seven stories.

Before liberation, the staircase and floor boarding in the pagoda were broken and became rotten. The base of the pagoda tipped and its surroundings were badly neglected. What is more, Kuomintang reactionary troops once made it their barracks and dug trenches around it, giving it serious damage.

After liberation, the People's Government had repairs made in 1954 and trees planted, so that the pagoda's original magnificent look is now regained and preserved, and it has become a holiday resort of the working people.

The Bell Tower

The Bell Tower was originally constructed in 1384 A.D. (17th reign year of Hungwu of Ming Dynasty) at the crossing of the Hsita Chieh and the Kuang-chi Chieh streets, opposite to the Drum Tower. It was rebuilt at the present site in 1582 (10th reign year of Wanli of Ming Dynasty). and renovated in 1739 (5th reign year of Chienlung of Ching Dynasty). It has a history of nearly 600 years. In old times, a big bell hung in the tower for the announcement of time, hence the name.

The tower is 36 metres high. Its base is 8.6 metres in height, covering an area of 1,377.64 square metres. The tower body is built of brick and wood. It is beautifully shaped, with a superimposed ribbed roof and terraced eaves, each with supporting structure. It is one of the magnificent old structures of national style in Sian, which fully shows the infinite talents of the working people of old times and the characteristic style of Ming architecture.

During the Kuomintang reactionary rule, the tower became badly out of repair, being used as barracks and repeatedly damaged. At one time, it was even made a prison for the detention of progressives and revolutionary youth. Since liberation, under the leadership of the Party and Government, this ancient building has been repaired, with its base consolidated, its staircase and most of the pillars and beams reinforced or replaced, and its outside repainted and gilded, thus recovering its original look.

Huaching Hot Spring

Huaching Hot Spring is situated at the foot of Lishan Hill, 25 kilometres east to the city of Sian. It has been a famous scenic spot since ancient times.

Lishan Hill is an extension of the Chinling Mts, 1, 1,250 metres above sea level. It is overgrown with pines and cypresses and looks like a black horse, hence it name ("Li" in Chinese is the name of a black horse). According to historical records, the hot spring at the foot of the Hill was discovered more than 2.800 years ago. There are now four spring holes with a total flowing volume of 112.5 tons an hour. The water is 43 C in temperature and contains 9 minerals including lime, sodium sulfate, manganese carbonate and sodium carbonate. It is good for bathing as well as for curing arthritis and skin diseases.

For thousands of years, the Huaching Hot Spring was a resort of feudal emperors. During the dark days of Chiang Kai-shek's rule. there were only a few incomplete constructions here, which were owned by bureaucrat-capitalists, while the labouring people could never dream of coming here. After liberation, in order to meet the needs of the broad masses of the people, the people's government undertook repeated repairs and reconstruction, digging new springs, building new houses, expanding the baths and planting trees. The spa covers an area of 62,193 square metres and has the capacity of more than 350 people bathing at the same time. It has become a holiday resort and sanatorium for the masses of workers, peasants and soldiers.

The well-known Sian Incident in the modern Chinese revolutionary history also took place here.

The Panpo Museum

The Panpo Museum is situated to the north of Panpo Village on the east bank of the Chan River in the eastern suburb of the city of Sian.

Here is the site of the remains of a fairly complete matriarchal clan commune village of more than 6,000 years ago, typical of those in the Yellow River region. The remains cover an area of 50,000 square meters, and comprise an area of living quarters, a pottery-making centre and a graveyard. They were discovered in the spring of 1953, and after five scientific excavations a total area of 10,000 square meters has been cleared up, uncovering rich scientific data. The Museum, first of its kind in our country, was established on the site of the ruins in 1958.

The implements used by the Panpo men were mainly made of stone or bone, such as stone axe, chopper, arrowhead, fishing net weight, spinning wheel, and bone needle, fish hook harpoon head. The Panpo men engaged mainly in agriculture, but also in other productive activities: hunting, fishing, animal husbandry and pottery-making.

During their long practice of production and social life, the Panpo men carried out the artistic activities of painting, sculpture and making ornaments. Their painted pottery drew its themes from objects of their labour and from nature. They invented the pottery steam cooker, the eyed stone axe and the barbed fish hook and harpoon head. They also mastered the principle of centre of gravity in making the sharp-bottomed jug.

In the hall is kept part of the remains of the primitive village, about 3,000 square metres in area. There were two types of dwellings, the half-sunk basement and the above-ground wooden house, round or square in shape. All the doors faced south, and in the middle of the dwelling was a pit for fire. The chief building materials were turf and wood. Beside the houses were a number of cellars for storage. Round the living quarters there was a ditch 5–6 metres wide and deep for the protection of the village.

Mr. RANDOLPH. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCOTT. I yield.

Mr. RANDOLPH. Is it appropriate to ask questions—I was not here earlier——

Mr. SCOTT. We welcome questions, and I am glad to answer any.

Mr. RANDOLPH. If this question has been answered, I will understand, but I want to make inquiry about it now.

As to the people of China, what knowledge had they of the visit of the two leaders from the Senate to their country?

Mr. SCOTT. Well, that is a question we asked ourselves throughout the trip—and since. Obviously, it was evident, in view of the nature of our physiognomies that we were strange genre to most of the Chinese who, in the spirit of their relative isolationism, have not seen too many westerners. If they have seen westerners, they may well have been Germans, Rumanians, Albanians, or some other nationality.

As I noted, we appeared on television with Premier Chou En-lai in Peking. We saw articles with photographs of our appearance in the Peking Peoples Daily. We were told by our local hosts—and the local host was usually the Vice Chairman of the Provincial or the City Revolutionary Committee—that the reports of our visit appeared in their newspapers.

We attracted, as I said, enormous curiosity from the Chinese, particularly on the streets. We walked about freely on the streets. We went where we wanted to go within the cities. The best estimate is that they undoubtedly knew we were westerners and, some of them could not help knowing that we were Americans because they had seen us on television and read about us in the newspapers. It is natural for anyone to say, including the Chinese, "Who are those guys?"—as we would say if we saw a large delegation from another country. So we think that the fact they knew we were Americans applied to a relatively limited number of people, but the fact that we were westerners applied, I think, to everyone.

In most cases, in my mind, I do not believe that the demonstrations of applause for us could have been staged. For instance, when we went into a handicraft shop of arts and crafts, it did not escape my practiced eye that one worker would be working in jade, another one in malachite, another on ivory, and another on rose quartz. That is not the way in which a line works. Many of the group of workers would be working on malachite or some other similar stone. They had undoubtedly done this for our benefit, as we would do in this country, to show representative samples of the work they expected.

And when they applauded, I assume it was because they were told that it was good manners to applaud the visitors. When they applauded us, we would always applaud back. That was staged, but it was staged for our benefit so that we could see much more in a shorter time and not have to go through every room in the plant.

The children here put on a show very much like this for those visiting Public School 83 today. Someone recites. Someone dances.

They sung a song about washing clothes for the benefit of each other, to serve the people. There was a Maoist theme behind it. This was done because they knew that we were coming. And they applauded us. We were very much impressed when the children appeared at the door of the school after hours and took Mike Mansfield and Hugh Scott by the hand and led them into the classroom. This was all staged. It was very well done.

There would be the same kind of demonstration put on in Public School 83 at home.

On the other hand there was a lot of spontaneous reaction that could not possibly have been staged. For example, we would go through a public park, I made it a point to go somewhere else and disappear. So did two or three others. We would go where there was no Chinese host or interpreter. If we went down a little path here the children were playing ping-pong or yoyo, or a little game called devilo, they would stop what they were doing and applaud us. Whether they knew that we were Americans or westerners is beside the point.

The point is that it could not have been planned. This happened in the country. Where we went with previous notice, it could be planned. But where we went without previous notice and went our own way, there was a spontaneity about it.

What does it mean? It means the Chinese were glad to see visitors and liked us. And they may not have known who we were.

Mr. RANDOLPH. Mr. President, I express a personal and, in a sense, an official appreciation for the journey that the Senate leaders have made to this foreign country that has such complex problems annd such potential.

Mr. President, I have long been a believer in the fact that such contacts as the ones we are having a report on this afternoon are constructive. I hope that these contacts can be increased, not only by the members of the Federal Government, the diplomatic corps, the executive and legislative branches, but, also, so that Americans at many levels can visit Peking and the Republic of China, just as I hope earnestly that the people of that country can visit the United States.

Mr. SCOTT. Mr. President, I thank the distinguished Senator from West Virginia, and I agree with him.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SCOTT. Mr. President, I yield to the distinguished senior Senator from New York.

Mr. JAVITS. Mr. President, I was not present when the majority leader spoke. However, I want very much to spread on the RECORD the fact that throughout the visit of the majority and minority leaders of the Senate to China, I was impressed and I believe all Americans were impressed at the dignity with which they acted. I was impressed by their very restraint, their great courtesy, and their conduct which illustrated to my mind the most gracious of the American qualities. That is reflected in these reports.

I rise to express deep gratification that Americans can do so well for our country in the delicate role and touchy situation both leaders faced at the time of this visit.

Mr. SCOTT. Mr. President, I thank the Senator from New York for his very felicitous remarks.

Mr. SAXBE. Mr. President, I join in the comments of my colleagues. I think the visit of the majority and minority leaders to China displayed diligence as they went to this mission. And I think the reception afforded them and the reports rendered by them indicate that their mission was successful.

I have one question. Does the minority leader feel the Chinese hit upon the one method that involved with fervor the tremendous number of people in that country? In other words, the normal method would not have permitted the total involvement of the people in the country because of their great number. It seems to me that the emphasis on individual involvement might be the answer that many of our overcrowded countries might look to.

Mr. SCOTT. There is a political science phrase, "The genius of the people." It does not mean the brilliance of a single man. It means the feeling of the people for a particular situation. I think it is the genius of the Chinese people that, for these days and times, they have found a way to get everybody working and pulling together.

I do not know whether it is the best system even for them. The risk of the system is that they have put all their eggs in the Mao basket. They have put all of their cohesiveness behind the grain feature. They have denied and yet adopted Confucianism in the form of Mao Tse-tung. When Mao passes, can they make an easy transition from "as Mao teaches" to "as Mao has taught us."

They lived for centuries under the dictum "as Confucius said." They may do it. They are peculiarly fitted to follow through on the Maoism as they have on Buddhism and Confucianism. If any people can make a political credo last a long time, I believe they can.

The genius of the overseas Chinese, as we know, is demonstrated in their ability in private enterprise. They are natural businessmen. They succeed. Their children are well behaved, as we noted in China. There is a discipline about them. There is not the criminal element among the Chinese there or among the Chinese of any other country. They are self-sustaining, self-sufficient, and good citizens. They have taken all of this genius toward success of the overseas Chinese and turned it inward toward a philosophy of mutual self-reliance or joint struggle or a common determination to move from a very backward situation to a considerably better situation.

That at least is working. As I said, what happens after Mao is another question. I do believe that this inward commitment to devotion to Mao's thought is a form of regimentation, a programing, or a computerization by which they could program on toward something else, too. However, I see no evidence of any change in the program from nonaggression, for example, to aggression.

I see no evidence that they do want to be a superpower, yet I think they are going to be a superpower. I think their view of superpower is that it may happen to them and they hope it does not. They are determined to be the champion in the world of the small guy, and they have themselves quite a commodity, they think, if they can sell it.

Mr. SAXBE. The Senator felt there was no aimless busyness?

Mr. SCOTT. No, there is use of manpower. For instance, in Canton there are three rice harvests a year. They point out that where they have adequate manpower and womanpower they use it to complete the harvest, but wherever they are short of adequate manpower and womanpower, they use mechanical processes in the rice sowing and rice harvesting. Not having enough equipment for everybody to use it, they say where they do not have manpower, they use mechanical equipment. In America we have mechanical equipment at all times, and the Senator knows what happens to the manpower.

Mr. SAXBE. I thank the Senator.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. SCOTT. I am happy to yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I want to add my commendation to the distinguished majority leader and the distinguished minority leader for their efforts and diligence, and of course, for their report to the Senate and the people of America. I believe it is most helpful to those of us who have not had the opportunity, and many of us are probably in a class that hope someday to visit mainland China.

I share the views expressed earlier by the distinguished majority leader that the visit to Peking by President Nixon has, in effect, opened the door. That door may be a little wobbly today, but it did open. The same thought is expressed by the distinguished minority leader.

Knowing the answer, it is my understanding, of course, that China has more or less a closed society. I wish to ask the Senator, with reference to what we are seeing in Washington today with criticism of our leaders, and demonstrations, was there any of this in Peking? Did the Senator see any demonstrations or hear anybody criticize Chairman Mao or was there anybody on the capitol steps, or the steps of whatever their principal building is?

Mr. SCOTT. I would say to the Senator that demonstrations seem to be farthest from their minds and criticism farthest from their mouths. I not only saw no demonstrations, I did not expect to see them. I think this is a closed and ordered society. There was a period where the Red guards ran definitely amok and I am sure that among some of the people we met there were people who were reeducated through this system, in the so-called May Seven Schools of Reeducation, for example. But I would not expect within China anybody would criticize the leadership.

Mr. DOLE. More than once.

Mr. SCOTT. More than once; or that they would criticize the leadership if they wanted to enjoy it any more whatsoever.

Mr. DOLE. My point is that theirs is a closed society and ours is an open society. I believe that as both distinguished leaders have indicated, at least we have begun a dialog which may bring about visits by others and perhaps visits to America by leading Chinese, and that we are at a point of beginning.

I have read with interest about acupuncture. Did the Senator try that while he was there?

Mr. SCOTT. I am rather proud of my cowardice. I did not engage in any acupuncture myself.

Mr. MANSFIELD. We saw some.

Mr. SCOTT. Yes, we had some experience about it. My own acupuncture has been confined to needling my colleagues. I do comment en passant that I regard the forthcoming National Democratic Convention as a process in acupuncture whereby they will needle each other to a point of anesthesia extending, perhaps, to the general public. But that it not the kind of acupuncture we saw over there.

I do believe seriously there is widespread dissent, disagreement, and argument among the active leaders of the

Communist Party, but I think it takes place behind closed doors. They made quite a point of the fact that they do disagree and are not monolithic in their thinking, but when a consensus is arrived at, everybody is expected to follow the consensus.

Mr. DOLE. Again I thank the distinguished majority leader and the distinguished minority leader for their support.

Mr. SCOTT. Mr. President, I close with an anecdote I specifically cleared with the Premier. He pointed out visits made to China by a number of prominent former leaders of various nations who had held high office in their countries, and he had said to them:

> But I wonder why you did not visit us while you were in office.

He expressed particular pleasure that Senator MANSFIELD and I had shown the desire to visit them while we were still in office. That I think helped to make it possible to suggest that other Members of Congress, while still in office, may visit over there with the Premier, being especially aware of the fact there is a greater honor to visit China while still in office rather than to wait until you are out of office, and having nothing else to do.

I thank all Senators who participated.

Mr. MANSFIELD. All I want to say to the distinguished Republican leader is that he presented the situation well. It was a pleasure to be with him and Mrs. Scott.

On the basis of our 16 days in this great, huge country that we did learn something, we hope that we were able to be of benefit to our own country, and on the basis of equality to bring about a better understanding between our two nations.

Mr. SCOTT. I thank the Senator.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. COOPER. Mr. President, I want to say that because of a conference I was not able to hear the report of the distinguished majority leader, but I will read it. I did hear the greater part of the report of the Senator from Pennsylvania.

I join my colleagues in saying I think we owe them a great debt because of their observations and study upon which they are able to make to us a report which is revealing and helpful.

I know there are great differences between these two societies. The more one studies them I think these differences become more obvious. But efforts have been made by the President. I hope it will enable us to live together even though we have wholly different systems.

I would like to join the Senator from New York (Mr. JAVITS) in saying we have admired the dignity, courtesy, and restraint with which the Senators have conducted themselves in the People's Republic of China, although it is no surprise to us. But it does reflect so well upon this country. Your example might be followed more and more by those of us who travel in other countries and find ourselves in similar positions. We have had a good example given to all of us. We are very grateful for your work.

Mr. SCOTT. I want to thank the distinguished Senator.

Mr. MANSFIELD. Mr. President, I wish to join in thanks to the Senator.

Mr. PERCY. Mr. President, the minority leader's excellent report on his trip to China expands our knowledge of today's China and contributes to our understanding of living conditions in the People's Republic. He has made a fine distinction between an acceptable standard of living in the West and a standard of living acceptable to the Chinese after generations of deprivation.

The minority leader's descriptions of an agricultural commune, handicraft factories, and the Peking General Petroleum Chemical Works are all very useful in helping us to judge methods, capabilities and motivations. He also casts light on the damage caused by the cultural revolution to Chinese higher educational institutions, and states the inadequacies of secondary education in China.

I agree with the minority leader's conclusion that the United States should seek further to normalize relations with China. The trip of the leadership, with the insights and information gained through dozens of conversations—not only with China's leaders but also with people in many walks of life—is another example of the value of open communications between peoples of different backgrounds and cultures.

Mr. ROBERT C. BYRD. Mr. President, I wish to add my commendations concerning the reports that have been delivered to the Senate today by the distinguished majority leader and the distinguished minority leader in respect of their recent journey to mainland China.

I listened carefully to the entire report of the majority leader. I was called off the floor during the report of the minority leader, but it is my intention to read the report that was delivered by the distinguished minority leader, and I intend to reread the statement of the distinguished majority leader. I hope all Senators will read these reports, especially those Senators who were not able to be present in the Chamber at the time the two leaders were speaking. I think that the reports not only were interesting and informative but also can be very useful to all Senators and to other Government officials and the American people.

I feel that the President's mission to mainland China recently was very useful and that it paved the way for the opening of a continuing dialog and line of communication between that great country and our own. I believe that such continuing communications can be helpful to both the Chinese people and the American people in bringing about a better understanding between our two countries and in opening an era of cooperation.

The followup visit by the two distinguished Senate leaders was most appropriate and served to widen the opened doors made possible by the preceding trip to the Republic of China by the President of the United States. I know of no men who would have been more capable or better equipped for such a followup journey than were the two distinguished leaders of this body. They have a wide knowledge of Chinese history and a longtime and abiding interest in the Chinese people. I feel that with their natural warmth, with the great knowledge they both possess, and with their genuine sincerity, which is always evident in their every word and action, our two leaders were admirably prepared for this journey. I have no doubt that their charm was felt warmly by their hosts, and I am delighted with their reports.

I hope that others in this body may be able to visit the Republic of China from time to time, so that we may continue this dialog and may be able to broaden the areas of communication and trade, in order to achieve, in the long run, the kind of warm understanding, mutual respect, and cordial relations that we have so long missed with that great country and its great people.

So, Mr. President, I thank our majority leader and our minority leader for the useful and comprehensive reports they have submitted today. I congratulate them on a job well done, and I join other Senators in welcoming them and their gracious wives back home.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 86–380, appoints the Senator from Illinois (Mr. PERCY) to the Advisory Commission on Intergovernmental Relations, vice the Senator from South Dakota (Mr. MUNDT) resigned.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1379. An act to authorize the Secretary of Agriculture to establish a volunteers in the national forests program, and for other purposes; and

H.R. 13334. An act to establish certain positions in the Department of the Treasury, to fix the compensation for those positions, and for other purposes.

VIETNAM—THE ONE DECISIVE ACTION NEEDED IS U.S. WITHDRAWAL

Mr. PELL. Mr. President, the events of the past 6 weeks in Southeast Asia can be viewed only with dismay by those who seek an end to the violence and death in Indochina.

The massive offensive by the North Vietnamese forces, who bear a heavy responsibility in this regard, the extension and intensification of bombing and naval bombardment by the U.S. forces, and now the mining of North Vietnamese ports—these events have shattered any illusion that this never-ending war is winding down.

And these events have only reinforced my longstanding conviction that we should set a firm and early date for complete withdrawal of our forces from South Vietnam, contingent only upon the release of American men held as prisoners and an accounting for those missing.

I believe such a course is in the best interests of my country; I believe this is what the overwhelming majority of the American people want; and I shall continue to support, as I have in the past, every reasonable legislative effort in the Senate to achieve that goal.

I also believe some sort of asylum should be arranged for those South Vietnamese that would suffer as the result of our withdrawal.

The actions ordered by the President this week are indeed bold. But the vast expansion of bombing and bombardment, the mining of North Vietnamese waters, and the threat to interdict coastal shipping, also carry serious risks of dangerous confrontation and further escalation.

And what is to be gained? The prospects that these new military moves will effectively halt the flow of war supplies, or force the North Vietnamese Government to accept terms it has previously rejected, are regarded by objective observers as slim and slight.

I do commend the President for one significant and important change in policy. The terms proposed by the President for withdrawal of U.S. forces represent a significant improvement in the U.S. position. The proposal to withdraw all U.S. forces within 4 months of an internationally supervised cease-fire, contingent upon release of prisoners, moves the administration much closer to the position long propounded by those of us who have sought an early end to U.S. involvement in this war.

But I believe it is most unfortunate that the President chose to wield a club of military escalation with one hand, while offering a plan for U.S. withdrawal with the other. We should certainly have learned by now that the North Vietnamese, after fighting for 25 years in great hardship for what they believe is right, will not be bullied, bombed, or blockaded into a settlement not of their liking. I regret that the North Vietnamese have rejected the President's terms—but the rejection is scarcely surprising.

Mr. President, the bombing and mining by U.S. forces has been described by the President as a "decisive" military action, and the dictionary says decisive means "final, and conclusive." But the landscape of Vietnam is littered with the remains of past campaigns, strategies, and actions that were described as decisive.

The Cambodian campaign 2 years ago, in which U.S. forces surged across the border into Cambodia, was described as decisive. The object of that campaign was to insure the success of the administration's Vietnamization program by sanitizing the North Vietnamese sanctuaries. How decisive that campaign was can be seen in the fact that the North Vietnamese are now reestablishing those sanctuaries.

The Cambodian campaign has been followed by a series of major, bold, and presumably decisive military actions—the foray into Laos, the resumption of bombing of the north, and now the wholesale bombing and mining.

And along each step of the way we were assured by administration spokesmen that Vietnamization was a success. As recently as early this year, the American people were told that North Vietnamese forces might stage a little spectacular, but we were assured that the enemy no longer had the ability to mount a major offensive in South Vietnam.

To a great extent the American people have accepted these assurances, but the events of the past 6 weeks, I believe, have badly shaken the confidence of the American people in the promises, pledges, and predictions of the administration in regard to Southeast Asia.

After 3 years of Vietnamization, at a cost of billions of dollars and the lives of 20,000 American men, we are now told that we must undertake another decisive escalation to assure the safety of the 69,000 men remaining in South Vietnam. And in recent weeks 20,000 or more American men have been dispatched to Southeast Asia to provide the manpower for our increased air and naval activities there.

Mr. President, I believe there is just one decisive action the American people now want—an end to the killing. And that would be accomplished by the decisive withdrawal of U.S. Forces from South Vietnam by a definite date, contingent only on release of American prisoners of war. I would hope, too, some sort of asylum would be arranged for those South Vietnamese who would suffer as the result of our withdrawal.

I urge the President to take that decisive step. It would be a true act of courage and statesmanship, that would do far more for the prestige of our country and the Presidency than additional bold and risky acts of escalation.

The South Vietnamese Government now has a fighting chance to make it on its own, and to defend its territory, if that Government has the will and the leadership to mobilize the support and determination of the people of South Vietnam. Clearly, there is little more that we can do for them, short of again assuming the burden of ground combat. There is little more we can do for them without placing in jeopardy national interests and national goals that are far more vital to the United States than the survival of the inept, corrupt, and unrepresentative Thieu government.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

(The remarks of Mr. BROOKE when he introduced S. 3601 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

FOREIGN RELATIONS AUTHORIZATION ACT OF 1972

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, which the clerk will read by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 3526) to provide authorizations for certain agencies conducting the foreign relations of the United States, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. Amendment No. 1187, as modified.

Mr. ROBERT C. BYRD. I thank the distinguished Presiding Officer.

ORDER FOR VOTE ON AMENDMENT NO. 1187, AS MODIFIED, ON TUESDAY NEXT, MAY 16, 1972, AT 2 P.M.

Mr. ROBERT C. BYRD. Mr. President, having been directed to do so by the distinguished majority leader, and having cleared the request with various Senators, including Mr. CHURCH, Mr. STENNIS, and the distinguished Republican leader, I ask unanimous consent that a vote occur on the pending amendment by the junior Senator from West Virginia, No. 1187, as modified, on Tuesday next at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL MONDAY, MAY 15, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 o'clock a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM MONDAY NEXT TO TUESDAY, MAY 16, 1972, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday, it stand in adjournment until 10 o'clock a.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY NEXT AND THAT UNFINISHED BUSINESS BE LAID BEFORE THE SENATE AT CONCLUSION THEREOF

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, immediately after the two leaders have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION ON AMENDMENT NO. 1187, AS MODIFIED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, time on the pending question, amendment No. 1187, as modified, begin running at the close of morning business and that time for debate thereon be equally divided between and controlled by the junior Senator from West Virginia and the Senator from Idaho (Mr. CHURCH).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PEARSON ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders have been recognized, the distinguished Senator from Kansas (Mr. PEARSON) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, that, following the remarks of the Senator from Kansas (Mr. PEARSON) on Monday, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, AND THE ACTING PRESIDENT PRO TEMPORE TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING THE ADJOURNMENT OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until Monday next, the Vice President, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE OF REPRESENTATIVES DURING THE ADJOURNMENT OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the period of the adjournment the Secretary of the Senate be authorized to receive messages from the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO FILE REPORTS UNTIL 5 P.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that committees be authorized to file reports until 5 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ATOMIC ENERGY ACT—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—having cleared this request with the distinguished majority leader and with the leadership on both sides of the aisle and with various Senators on both sides of the aisle, including the distinguished Senator from Rhode Island (Mr. PASTORE)—that at such time as S. 3543, a bill to amend the Atomic Energy Act of 1954, as amended, is called up and made the pending business before the Senate, there be a limitation of time on the bill, of not to exceed 2 hours, the time to be equally divided between and controlled by the distinguished Senator from Rhode Island (Mr. PASTORE) and the distinguished Senator from Vermont (Mr. AIKEN); that time on an amendment by the Senator from Pennsylvania (Mr. SCHWEIKER) be limited to 1 hour, to be equally divided between Mr. SCHWEIKER, the mover of the amendment, and the Senator from Rhode Island (Mr. PASTORE); that time on any other amendment be limited to 30 minutes, to be equally divided between the mover of such amendment and Mr. PASTORE; that Senators in control of time on the bill may yield time therefrom to any Senator on any amendment, debatable motion, or appeal; that time on any debatable motion or appeal be limited to 20 minutes, to be equally divided between the mover of such and the Senator from Rhode Island (Mr. PASTORE); provided finally, that if the Senator from Rhode Island (Mr. PASTORE) favors any such amendment, debatable motion or appeal, the time in opposition thereto be then under the control of the distinguished Republican leader or his designee.

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, to make the record perfectly clear, there is no intent at this time to seek to bring the bill, to amend the Atomic Energy Act of 1954, before the Senate on Monday next. It had been previously hoped that the Senate could take up the bill on Monday early, and that the Senate could return to the unfinished business at a relatively early hour thereafter on Monday. But that will not be done. The Senate will continue to debate the unfinished business on Monday. There could be rollcall votes on motions to table, or on conference reports, if such were to be called up, they being privileged matters. I do not foresee any such at the moment.

Once again, the Senate will proceed to vote on the pending Byrd amendment No. 1187 as modified, on Tuesday next at 2 p.m. That will be a rollcall vote.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, there will be no session tomorrow. The Senate will again convene on Monday next at 12 o'clock noon. After the two leaders have been recognized under the standing order, Senator PEARSON will be recognized for not to exceed 15 minutes, after which there will be a period for routine morning business for not to exceed 30 minutes with a 3-minute limitation on speeches, at the conclusion of which the Chair will lay before the Senate the unfinished business, S. 3526. The pending question will be on the adoption of the Byrd amendment No. 1187, as modified. Debate thereon will continue throughout the day on Monday. I do not forsee any rollcall votes on Monday, unless conference reports or other privileged matters should be called up. At this moment I foresee none such.

A unanimous-consent agreement has been entered providing for a vote on Tuesday, at 2 o'clock p.m., on the Byrd amendment No. 1187, as modified. That will be a rollcall vote.

ADJOURNMENT TO MONDAY, MAY 15, 1972, AT 12 NOON

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 noon on Monday next.

The motion was agreed to; and at 5:03 p.m. the Senate adjourned until Monday, May 15, 1972, at 12 noon.

NOMINATION

Executive nomination received by the Senate, May 11, 1972:

FEDERAL MARITIME COMMISSION

Ashton C. Barrett, of Mississippi, to be a Federal Maritime Commissioner for the term expiring June 30, 1977. Reappointment.

EXTENSIONS OF REMARKS

A TRIBUTE TO J. EDGAR HOOVER

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. CHAPPELL. Mr. Speaker, the silence which pervaded the splendor of the U.S. Capitol was broken only by the slow moving footsteps of 12 men. While several persons looked on, six honor guards proceeded into the great hall.

They paused under the dome which supports the Statue of Freedom and then took their places as six other men slowly carried a flag-draped casket and placed it on the catafalque.

The Honor Guard saluted.

J. Edgar Hoover was dead; his body now lying in state, where, heretofore, only Presidents, Senators, two unknown soldiers, and a general have rested.

As I witnessed this moving ceremony, I glanced up at the mural which encircles the area just below the dome. Here is capsuled the story of the exploration and settlement of the new world, beginning with Columbus and ending with the Wright Brothers. I thought, if this mural is ever continued in another part of the building surely there will be a scene depicting the life and work of this great American who has done so much to preserve our freedoms.

Speaking to the House of Commons in August 1940, Sir Winston Churchill paid this tribute to the Royal Air Force:

> Never in the field of human conflict was so much owed by so many to so few.

To my mind, this tribute can be applied with equal validity to a man and an institution in our society—a man who has devoted his entire life in an unflagging effort, zeal, and dedication to the pursuit of justice and has created an institution which stands today as the Nation's chief bulkwark against crime and subversion. Seldom in our national history has an entire Nation owed so much to a single individual.

J. Edgar Hoover spent a better part of his life—48 years—building an organization which has the trust of the American people. Citizens throughout the country, in all walks of life, have a deep, abiding feeling of confidence in the FBI—that it will do its job, not only efficiently, but in the highest tradition of ethics. J. Edgar Hoover made it so.

Take an organization like the FBI and inaugurate it in many countries in the world and you would have a gestapo. Not in America. Here it is the investigative arm of the Justice Department. J. Edgar Hoover has implemented the concept that we need strong, effective, and well-trained local and State law enforcement. Through the cooperative services he originated—the FBI National Academy, the Laboratory and Identification Divisions, and the National Crime Information Center—our State and local law enforcement agencies are better equipped to do their jobs.

J. Edgar Hoover did far more than directing the work of the FBI. He tried to instill in all Americans a sense of pride in our national heritage. In his book, "Masters of Deceit," which has been read by thousands of Americans young and old, Hoover said:

> We, as a people, have not been sufficiently articulate and forceful in expressing pride in our traditions and ideals. In our homes and schools we need to learn how to "let freedom ring." In all the civilized world there is no story which compares with America's effort to become free and to incorporate freedom in our institutions. This story, told factually and dramatically, needs to become the basis for our American unity and for our unity with all free peoples. I am sure most Americans believe that our light of freedom is a shining light. As Americans we should stand up, speak of it, and let the world see this light, rather than conceal it. For too long we have had a tendency to keep silent while the communists, their sympathizers, and their fellow travelers have been telling the world what is wrong with democracy. Suppose every American spent a little time each day, less than the time demanded by the Communists, in studying the Bible and the basic documents of American history, government, and culture? The result would be a new America, vigilant, strong, but ever humble in the service of God.

The legacy which J. Edgar Hoover left us through his work with the FBI must be preserved and transmitted to future generations. It is my fervent hope that another such individual will emerge to continue where J. Edgar Hoover left off.

But equally as important, it is a time for all Americans to reflect on the life and work of J. Edgar Hoover. I challenge the people of the 4th District to rededicate themselves to the principles upon which America was built and to unashamedly proclaim those principles in their everyday lives. We must be unwavering in defending those principles which made America great. We can do no less if America is to remain strong and free.

JOHN G. LEACH SALUTES ARE DESERVED

HON. J. CALEB BOGGS

OF DELAWARE

IN THE SENATE OF THE UNITED STATES

Thursday, May 11, 1972

Mr. BOGGS. Mr. President, recently a group of Delawareans took time out to honor one of our number who has performed outstanding service for his State and country.

I am speaking of John G. Leach, a retired educator, but an active humanitarian, who has been a friend of mine for many years. A testimonial to his great service was held last Saturday in Wilmington.

Johnny Leach served for years as vice president and dean of students at Goldey Beacom College, in Wilmington, Del. He helped to build that college into the fine institution it is today.

But his contributions to education did not stop there. He worked tirelessly to improve the educational opportunities available to both the gifted child and the handicapped child.

In another field, he helped to create our fine Veterans' Administration Hospital at Elsmere, Del., and he served as an adviser to several Governors in developing programs to improve educational opportunities for veterans.

It has been my great privilege and pleasure to know John Leach for more than 40 years. I can truly say there is no one in the State of Delaware who is held in higher esteem and affection.

Mr. President, the Evening Journal, of Wilmington, in an editorial published on Tuesday, May 9, 1972, recognized Mr. Leach's contributions, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SALUTES ARE DESERVED

It was never true that John G. Leach superimposed a photo of Beacom College on one of Rockford Tower to give prospective (and distant) students the impression that the school had a sprawling campus—Mr. Leach did paint the school in glowing colors, but when the students arrived the Leach enthusiasm helped it live up to the colors.

Mr. Leach is an enthusiast who has channeled his interests in diverse ways, but always the school that is now Goldey Beacom Junior College was the center of his enthusiasm. He was interested in spelling enough to keep the spelling bee alive for years after it had died in other places, he compared different forms of shorthand, discussed extrasensory perception, loved to talk about the language.

In only one field did he keep a separation from Beacom: Politics, Mr. Leach was never a nonpartisan, rather a devout Republican. With his humor, his gifts as public speaker, his knowledge of government, he was offered a shot at political office by the Republicans more than once—including the governor's slot in a year when the Republicans won. He always said no. The school came first.

He was one of the pioneers in aiding the blind, the lame and the retarded, working for years before general help began to arrive in any quantity. He is one of the few men around to have a school, or any other kind of building, named for him in his lifetime—the John G. Leach School for the handicapped in the De La Warr School District.

Mr. Leach was saluted last week with a citation for his work at the Coordinating Council of the Handicapped Child of Delaware. Both houses of the General Assembly also passed resolutions honoring him.

The only regrettable part of it is that the news of the honors came along with the information that Mr. Leach is leaving the area, perhaps to live in Nova Scotia or Tilghman's Island, perhaps both. He's retired now, and has the right, but Mr. Leach is the kind of man with enough acquaintances still to get things done. He should be called on.

A SECOND LOOK AT THE AUSTRIAN SITUATION

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BRASCO. Mr. Speaker, very recently a group of young American Jews were involved in an altercation at the Austrian Embassy in Washington. It seems there was some physical contact involving the Austrian Ambassador to the United States. In the process, a swastika flag was hung from the front of the embassy in question. A message was attached to the flag, asking Americans to refrain from visiting "Nazi Austria."

I certainly deplore the violation of the grounds of the Austrian Embassy. And I hold no brief for those who would lay hands upon any ambassador of a sovereign state with which the United States maintains correct relations. But this incident deserves a little more research, particularly into reasons for such an outburst by young people who are lawbreakers in a very different sense of the word than is ordinarily understood by our general public.

Austria is the spiritual home of nazism. Hitler was a native of Linz, Austria. Adolph Eichmann was also a citizen of that country. Austria's very name in the old European lexicon was "Oesterreich," which really means an eastern extension of the "Reich."

The Nazi movement was exceptionally strong from the start in this nation. When "Anschluss" arrived with Germany, cheering mobs of Hitler's sympathizers lined her roads to welcome his armies first, and himself later.

Antisemitism has deep roots in the Austrian consciousness, even, as some might say, in the soul of this small nation. Large numbers of native Austrians not only fought for and served Hitler ardently unto death, but also were involved in many stupefying crimes of the Nazi regime.

Hundreds of thousands of Austrians had more than a nodding acquaintance with the eastern portions of Europe which fell swiftly under Nazi domination at the start of the Second World War. These were singled out, although thousands volunteered cheerily, to administer conquered territories, all of which contained large numbers of Jews.

Austria was a Nazi nation to its last corpuscle, participating in a thousand ways in what the Hitler regime planned and carried forth across the face of Europe. Many of those tried and executed or imprisoned as a result of the Nuremberg trials were Austrian nationals.

As Nazi hordes spilled over and took control of Eastern Europe, an administrative infrastructure was created everywhere across these conquered territories. Gauleiters, or area governors, were set up, with a complete power structure beneath them, charged with exploitation of lands and extermination of undesirables. They were in charge of enforcing laws, producing slave labor in massive quantities and running a variety of activities. Among these were extermination camps, where upward of 6 million innocent Jews were murdered methodically, and toward the close of the war, on an assembly-line basis. Many of the people who staffed scores of death camps were Austrians. Many of those who dealt with the daily administration of mass murder were Austrians.

Hundreds and hundreds of death trains weekly crisscrossed Europe. Many carried Jews to their doom. Others carried loot from across Europe to feed and clothe Nazi Germany and Austria.

Tens of millions of non-Jewish Europeans were exploited and murdered by this administrative infrastructure, which cooperated fully on a daily basis with the German Army, Gestapo, and SS.

Einsatzgruppen roamed areas behind frontlines, their sole purpose to round up and exterminate Jews, gypsies, and other so-called "undesirables." Many assassins in their ranks were Austrians. In fact, some of the most unspeakable crimes committed on a daily basis in the Second World War upon noncombatants were committed by Austrians.

After the war, an international outcry sought and obtained trial of the worst of these war criminals. Many trials were held across Europe for years, as these men and women were sought out, secured, brought to the bar, and condemned to death or long prison terms. One nation was an exception to this rule of law: Austria.

Her population harbored a massive ratio of members of the Nazi Party. Tens of thousands of war criminals found their way back to Austria, quietly melting back into the mass of the population, secure in the knowledge that few neighbors, if any, would betray them to authorities. Their confidence was well placed, for most such neighbors were in fact sympathizers, if not actual participants in the worst of these deeds. The same was true of the police authorities. The man who arrested Anne Frank and sent her to Belsen was recently discovered as an Austrian policeman.

Over the years a few stout hearts who have never forgotten clamored for Austria to bring some of these butchers to trial. I speak of concentration camp commandants, camp guards, and the like. Some were openly living under their own names, even though they were widely known to be guilty of unspeakable crimes.

At last, in the past year, a few token trials were put on by Austrian authorities. And the entire Western World looked on in disbelief and shock at the result.

At Auschwitz, 3 million Jews were exterminated on an orderly assembly-line basis. Some men who designed and built these extermination facilities were brought to trial and found innocent of any criminal activity.

Austria did not blanch at that. She put on a second trial. The defendant was typical of a certain class of Nazi war criminal, of which there are thousands alive and well today in Austria. This beast was a former Nazi SS officer in the Mauthausen Concentration Camp, a mass murder facility. His name is Johann Gogl, and he acknowledged in open court that in 1944 he commanded a section at this camp called the "Stairway of Death."

According to witness testimony, prisoners were forced to drag 110-pound stones up 186 steep steps of a stone quarry. Those who did not perish on the steps were thrown into an electric fence when they reached the top. Gogl's name, according to testimony, was on the death orders.

Gogl, like the rest of his kind, said he did not know what was being done; that his name was forged. His attorneys produced a petition signed by 268 persons, virtually the entire adult population of his home village of Ottnang, declaring he could not be guilty because he dedicated his life to saving life, a reference to his membership in a mountain rescue unit. How touching.

This, then, is what Austria conceals beneath her smiling facade of mountains, skiing, snow and "gemütlichkeit." Come to happy Austria and vacation with all the jolly old butchers of noncombatants. For they are everywhere in that accursed nation, and the entire world knows it. Austria sees fit to infuriate civilization by staging nonsense trials of the scum of the earth, and then acquits them.

We all know the real story. None of these people will ever be punished for their unspeakable deeds. After all, who were those they murdered? Who cares? And it was so long ago, wasn't it?

Where are the great voices of conscience who plead for even-handedness in the Middle East? I hear them not. I see them not.

I say, let Austria claim her own and hug them to her national bosom. She deserves them. And they deserve her. These young demonstrators who perpetrated the action against the Austrian Embassy did not do a nice thing. They did not do a legal thing. But they certainly did an understandable one.

LEAGUE OF VOTERS KEEPS BAN ON MEN

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. HUNGATE. Mr. Speaker, in these days of equal rights and democratic principles, this report of the proceedings of the League of Women Voters should be of interest to all Members.

[From the New York Times, May 7, 1972]

LEAGUE OF VOTERS KEEPS BAN ON MEN—URGES WITHDRAWAL OF U.S. FORCES IN SOUTHEAST ASIA

ATLANTA, May 6.—In this Southern city known for its hospitality the League of Women Voters was none too kind to men last week at the conclusion of its 30th annual convention.

Despite the pleadings of a small portion of the estimated 1,500 delegates to grant men membership rights, a stand-up vote on the final day of the convention resulted in a solid majority rejecting the proposal.

One delegate voting against the measure seemed to express the sentiments of most of the women when she said:

"The league is about the only moderate organization that has power for women. And I don't want to give up that power."

In another move that came as no surprise, the women went on record calling for total and immediate withdrawal of United States forces from Southeast Asia.

The anti-war expression represents only the sentiments of this particular convention and is not binding as an official league position, a representative of the organization said after the vote taken Wednesday night.

There was never any doubt that the delegates would block any attempt to bring men into their ranks.

But several pro-male supporters gave it a try. One woman suggested, "One of our purposes is to educate, and men are people who need educating." Besides, she added, "Men would be a good source of money."

But it was left to one of the leaders of the women's liberation movement, Gloria Steinem, to bring the delegates to their feet repeatedly during a speech she delivered earlier in the week.

Referring to the league's debate over the admission of men, she said, "No indeed. I can't understand why you need the validation of a man. The truth is we are not ready. We cannot integrate with men on an equal basis until we are equal."

"If you admit men," she went on, "let them do the typing, run the child care centers and donate money."

She also warned politicians to take women's votes seriously. An advocate of women's unrestricted rights to abortion on demand, Miss Steinem characterized many of today's politicians as "ancient white men and state legislatures . . . legislating the reproductive freedoms of women.

Noting that one-third of all women in the United States live below the poverty level, compared to one-tenth for men, and that 80 percent of the country's welfare rolls are women and children, she said, "Most of you in this room are only one man away from welfare yourself."

Acknowledging the unheralded role of the average housewife, Miss Steinem estimated that a man would have to pay between $9,000 to $14,000 a year for the 99.6 hours a week that the housewife puts in. "And that's not including parttime prostitution privileges," she added.

COAST GUARD MISMANAGEMENT

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. ASPIN. Mr. Speaker, I am publicly releasing today two recent General Accounting Office reports that reveal that estimated payroll accounting errors by the Coast Guard totaled in 1970 approximately $200,000. This $200,000 would be more than enough money to open, modernize, and operate the Racine Coast Guard Station. Earlier, the Coast Guard had estimated that it would take $130,000 to repair the Racine station and put it in top operating condition. In 1969 the Coast Guard estimated that it would only save $35,000 per year by closing the Racine station.

If the Coast Guard would eliminate mismanagement and waste in its own organization, more money would be available to keep stations like Racine open for the protection of boaters.

The GAO report indicates the Coast Guard made errors in 24 percent of the pay records of Coast Guard servicemen. A similar survey made of the records of men leaving active duty with the Coast Guard, reveals that 32 percent of the records were in error. The cost of these errors could be as high as $300,000.

No matter how you look at it, the Coast Guard could operate the Racine station for several years with these misused funds.

I have requested the General Accounting Office to make a comprehensive review of all Coast Guard programs. If these two reports are any indication then the GAO will find more mismanagement and misuse of funds by the Coast Guard.

The GAO reports follow:

U.S. General Accounting Office,
Washington, D.C., September 6, 1971.
Adm. Chester R. Bender,
Commandant, The Coast Guard.

Dear Admiral Bender: We have completed an examination at Coast Guard Headquarters, Washington, D.C. of a statistical sample of Coast Guard military pay records closed during the period January 1 to June 30, 1970. The examination included a review of 266 pay records of Coast Guardsmen on active duty during the period.

We found that there were 72 errors amounting to about $1,035 contained in 65 of the 266 pay records included in our sample. A statistical projection of the results of our examination indicates that there may have been about 10,450 errors amounting to an estimated $151,800 contained in the pay records of the 38,567 members on active duty as of June 30, 1970. More specifically, our computations showed that there was a 95-percent probability that (1) the number or errors in the pay records ranged from about 8,080 to about 12,800 and was more likely to be about 10,450 and (2) the probable dollar amount of these errors ranged from about $53,500 to about $250,000 and was more likely to be about $151,800. A summary of the types and frequency of the errors found is contained in Attachment I.

During the course of our examination we reported our findings in detail to the Coast Guard Payments and Claims Division so that corrective action could be initiated promptly. That Division has taken corrective action on all errors reported.

We also examined the pay records of those members among the 266 in our sample who received reenlistment and variable reenlistment bonuses prior to January 1, 1970. This review disclosed two members who were paid bonuses for greater amounts than they were entitled. These cases and the actions taken by the Payments and Claims Division are discussed in Attachment II.

Our examination did not include an overall evaluation of Coast Guard's payroll operations since we considered only those records available at Headquarters. We plan to initiate a review of pertinent source documents in the field in the near future. We are currently examining pay records available at Headquarters of those members separated from active duty during the six month period ended December 31, 1970, and we plan to report to you on the results of this examination.

We appreciate the cooperation and courtesies extended to us by Headquarters officials during our examination. We could appreciate your advice as to any actions the Coast Guard plans to take to reduce the incidence of the types of errors discusesd in this letter.

Sincerely yours,

Richard W. Kelly,
Assistant Director.

SUMMARY OF ERRORS—SAMPLE OF 266 MILITARY PAY RECORDS

Type of error	Number	Over-payment	Under-payment	Total
Federal income tax incorrectly withheld [1]	45	$383.93	$94.95	$478.88
FICA tax computed incorrectly	3	2.05		2.05
Basic allowance for quarters incorrectly recorded	1		45.00	45.00
Sea duty incorrectly recorded	5	3.60	8.80	12.40
Foreign duty incorrectly computed	2	.80		.80
Incorrect number of days entitled to leave rations	1	4.17		4.17
Incorrect determination of entitlement of basic and standard maintenance clothing monetary allowances	4	56.06	10.80	66.86
Basic allowance for subsistence and commuted rations incorrectly computed	2		$10.14	$10.14
Overwithheld allotment	1		1.00	1.00
Proficiency pay awarded before member had met eligibility requirements [2]	1	$308.00		308.00
Member paid family separation allowance while on leave and proceed time	1	34.00		34.00
Base pay incorrectly computed [3]	3	17.77	53.90	71.67
Taxable income incorrectly computed [4]	3			
Total	72	810.38	224.59	1,034.97

[1] Withholding of Federal income tax errors included cases where (1) no amounts or incorrect amounts were withheld from retroactive pay increases, (2) sea duty was not included as income for withholding tax computation purposes, and (3) no amounts were withheld on taxable income.

[2] Proficiency pay was awarded before the member met the eligibility requirement of demonstrating superior performance in assignment for a minimum period of 6 months.

[3] Errors in base pay were (1) failure to reduce pay for being AWOL, (2) rate of pay not increased when promoted, and (3) wrong pay base used for computation of retroactive pay adjustment.

[4] Consists of an overstatement of $847.32 and understatements totaling $181.

Information on Overpayments of Reenlistment and Variable Reenlistment Bonuses

case 1

A member was paid a reenlistment bonus by the Air Force in 1956. He subsequently enlisted in the Coast Guard and after completing his initial enlistment, reenlisted in October 1966 and was awarded a reenlistment bonus and a variable reenlistment bonus.

The amount of the reenlistment bonus paid the member was incorrect because the Coast Guard did not consider the prior reenlistment bonus paid by the Air Force in the bonus computation as required by 37 U.S.C. 308(a). Also, the member was not entitled to the variable reenlistment bonus since he did not meet the requirements of 37 U.S.C. 308(g). At the time of our review, the member was overpaid $4,175.75 and had not been paid $666.67 representing the remaining installment of the variable reenlistment bonus.

We reported this matter to the Payments and Claims Division. A pay adjustment was authorized against the member's pay. In April 1971, the Coast Guard approved the member's request for remission of indebtedness.

case 2

An enlisted member entered Officer Candidate School (OCS) in September 1966 and was awarded a reenlistment and variable reenlistment bonus. He was paid $305.40 for the first installment of the variable bonus in October 1966. This member had been selected to attend OCS prior to the date of his reenlistment. Inasmuch as the purpose of the variable reenlistment bonus is to provide the services with the continued use of enlisted men who possess certainly critical skills, we believe that the bonus payment was improper.

A Comptroller General's decision dated February 8, 1968, (47 Comp. Gen. 414), states that the variable reenlistment bonus is not atuhorized to enlisted members who are selected for college training under the Navy Enlisted Scientific Education Program or other similar programs and who reenlist for the purpose of meeting the obligated service requirements for such training. The decision states further that in view of an apparent misunderstanding by the military departments of the proper application of a previous Comptroller General's decision regarding the subject, we would not question bonus payments otherwise correct that were made incident to such reenlistments. However, the decision required that further payments, including yearly installments for such reenlistments already entered into, were to be promptly discontinued.

Since this variable reenlistment bonus was paid prior to 47 Comp. Gen. 414, dated February 9, 1968, we did not request that collection action be initiated. However, we alerted the Payments and Claims Division to the need to comply with the decision in the future. Also, the Division agreed to review the pay records of all members who attended OCS subsequent to the effective date of the decision in order to determine whether any variable reenlistment bonuses were improperly awarded.

U.S. General Accounting Office,
Washington, D.C., December 13, 1971.
Adm. Chester R. Bender,
Commandant,
The Coast Guard.

Dear Admiral Bender: We have completed an examination of a statistical sample of the pay records of Coast Guard members who were separated from active duty during the period July 1 to December 31, 1970. Final pay and allowances to members who are separated includes cash settlement for unused leave and travel allowances to their home of record or place of entry in the service.

There were 115 errors amounting to $2,526 in 61 of the 193 pay records included in our sample. A statistical projection of the results of our examination indicates that for the 3,473 members who separated from active duty between July 1 and December 31, 1970, there was a 95 percent probability that (1) the number of errors in the pay records ranged from 1,570 to 2,570 and was more likely to be 2,070 and (2) the dollar amount of these errors ranged from $26,050 to $64,900 and was more likely to be $45,460. A summary of the types and amounts of errors is shown in the attachment.

About 32 percent of the pay records we examined contained errors. Although this high percentage shows a general need for greater care in the maintenance of pay records, we were unable to identify the cause of error in most cases because our review was limited to the records available at Headquarters. Therefore, we plan to begin a review in the near future of pertinent source documents and control procedures in the field.

During the examination we reported our findings in detail to the Payments and Claims Division so that corrective action could be initiated promptly. That Division has taken corrective action on all errors reported.

We appreciate the cooperation and courtesies extended to us by Headquarters officials during our examination.

Sincerely yours,
Richard W. Kelley,
Assistant Director.

SUMMARY OF TYPES AND AMOUNTS OF ERRORS, LUMP-SUM LEAVE PAYMENTS AND ALLOWANCES FOR 193 MEMBERS SEPARATED FROM ACTIVE DUTY, JULY 1, TO DEC. 31, 1970

Type of error	Number of errors	Over-payment	Under-payment	Total
Leave taken not recorded on leave record [1]	20	$1,430.76	----------	$1,430.76
Leave taken incorrectly recorded on leave record [1]	24	293.89	$86.16	380.05
Mathematical error in computing leave record balance	6	40.06	30.50	70.56
Improperly allowing member to earn leave while in excess leave status	12	46.47	----------	46.47
Over deduction of allowances in connection with excess leave	2	----------	17.03	17.03
Excess leave incorrectly computed	3	6.51	1.51	8.02
Payment of basic allowance for quarters when not entitled because of grade or dependency status	2	85.00	----------	85.00
Mileage allowance incorrectly computed	2	$9.78	----------	$9.78
Leave rations not recorded on pay record	27	----------	$376.59	376.59
Leave rations incorrectly recorded on pay record	6	6.60	1.32	7.92
Leave rations improperly paid while in excess leave status	4	45.87	----------	45.87
Improper payment for sea duty while on leave	5	28.30	----------	28.30
Improper payment for basic allowance for subsistence while on leave	2	19.99	----------	19.99
Total	115	2,013.23	513.11	2,526.34

[1] Includes both ordinary and delay en route leave.

RESPECT FOR LAW

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. LONG of Maryland. Mr. Speaker, Miss Evelyn Mills, of Baltimore, a young lady 14 years old, has won the Optimist Club of Dundalk's essay contest on "Respect for Law."

I would like to share with you her eloquent statement on a very significant subject:

Respect for law to me means to obey and uphold those concepts which have been created to insure and guarantee the safety of every individual. Respect for law not only means the respect of the institution, but for those people who serve in some capacity in our own law enforcement system.

We must not only obey the law ourselves, but we must assist in the apprehension of those who abuse the laws of our land. We cannot refuse to get involved when innocent people must suffer. The old "I don't want to get involved" line can correctly be termed today as a "cop-out."

Everyone wants a feeling of security. I consider it a right to walk the streets safely, a right to feel unharmed in your own home, a right to have peace of mind. When these rights are denied to any human being, no one can sit and remain apathetic.

I think it only fair to remark that at this point it may seem to many that it is too late to fight crime, that we can only sit back and watch our crime-infested society further deteriorate. Besides, you may say, "I'll only endanger my own life by sticking my neck out."

There is a spark of hope which can only be brought aflame by people who respect the law and want to get involved in bringing violators of the law to justice.

The first step in involvement is a respect for law ourselves. This includes obeying the laws and co-operating with law enforcement officers. We all hear the words pig, cop, fuzz, and words of the like that are used to label our law enforcement officers. This is extremely ironic because these people risk death to protect us. They aren't some band of outcasts but indeed perform valuable service to society. The next step is to report crimes. If you have any association with a crime, such as eyewitnesses, gladly answer questions. Third, and most often the least-practiced, help those on the street who need your help.

Remember that every crime committed, every policeman murdered, every criminal, every minute someone remains apathetic, every minute you remain apathetic, takes away from your safety, security and well-being.

I respect the law because I want safety, security, and most of all peace of mind for myself and everyone else. Remember, you can never pay back those who have daily risked their lives for us. The least we owe them and the institution they uphold is respect.

HON. JOHN VOLPE, SECRETARY OF TRANSPORTATION, REVIEWS THE OKLAHOMA CITY ALCOHOL SAFETY ACTION PROJECT

HON. JOHN N. HAPPY CAMP

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. CAMP. Mr. Speaker, the Secretary of Transportation, John Volpe, was a recent visitor of Oklahoma City where he personally reviewed the Oklahoma City alcohol safety action project. Secretary Volpe was accompanied on his visit by the Administrator of the National Highway Traffic Safety Administration, Douglas Toms.

The alcohol safety action project is a demonstration project for the city of Oklahoma City under the Highway Safety Act of 1966 with the city of Oklahoma City as the prime contractor.

Secretary Volpe and Mr. Toms conducted a site visit of the two mobile alcohol laboratory processing units and the eight subsidiary patrol vehicles which were secured for the Oklahoma City Police Department under the provisions of the contract. These mobile vans are equipped with chemical breath testing, video tape and booking facilities which have greatly lessened the out-of-service time for police officers who arrest individuals suspected of "driving under the influence."

The police department has also been authorized 31 new police officers, the alcohol traffic safety unit, to operate this new equipment, all of whom received 3 weeks intensive training in breath or blood test techniques as well as in arrest and courtroom procedures.

This year, the Oklahoma Legislature lowered the presumptive level of legal intoxication to 0.10 percent blood alcohol concentration and defined impairment as being from 0.05 to 0.10 percent BAC, depending on the circumstances and the degree of impairment observed by the arresting officer. Under the implied consent law of Oklahoma, refusal to submit to either the breathalyzer or blood withdrawal automatically requires a hearing with the department of public safety with the potential loss of driving privileges and license suspension for 6 months.

The Oklahoma City ASAP became operational January 1 and this expanded enforcement contingency has resulted in an increase of DUI arrests by 110 percent in the first quarter of 1972 as compared to the same period in 1971. The conviction rate for those charged with DUI was 72 percent. Of those charged and subsequently convicted of DUI, 35 percent were diagnosed as problem drinker drivers and placed in rehabilitation programs.

Those individuals charged with DUI are given the usual opportunity to enter a plea of their choosing. Two full-time prosecutors and a legal intern have been added to the municipal attorney's staff with funds provided under the contract. Also with ASAP moneys, one full-time judge and five probation officers complement the existing municipal courts' staff and work exclusively with the ASAP in order to conduct presentence investigations and supervise convicted defendants.

After conviction, but prior to sentencing, each defendant is interviewed to determine the extent of his drinking problem. Those classified as nonproblem drinkers are directed into the more traditional sentencing categories, often supplemented by mandatory attendance in a 12-hour Drinking Driver Institute, the purpose being to reinforce safe driving habits and to emphasize the potentially hazardous results of drinking and driving.

Those individuals classified as problem drinkers are channeled into rehabilitation programs which, if voluntarily accepted, are offered as probation in lieu of incarceration. These programs include psychological and/or medical evaluation, inpatient or outpatient therapy, and group counseling, Disulfiram and behavioral modification training. The probation department keeps a check on the individual's progress during all stages of this rehabilitation. If successfully completed, the defendant then is allowed to terminate his active participation in the ASAP.

A significant part of the ASAP is an intensive public information and education campaign. It is designed to increase public awareness of the alcohol problem as it relates to highway safety, to impress the public that alcohol related accidents and deaths can and must be reduced and to develop public support in order to ex- judge and five probation officers comple-

Mr. Speaker, preliminary results indicate that with consistent, dedicated effort this program may prove to be the single most important factor in reducing the tragedies caused by the drinking driver on our streets and highways.

A BILL THAT PRODUCES RESULTS EVEN BEFORE IT PASSES

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BURKE of Massachusetts. Mr. Speaker, I want to call the attention of Members of this House to part of an interesting article which appeared on May 1 in the Journal of Commerce about a bill with which I have become closely identified, the Foreign Trade and Investment Act of 1972. I think the article takes a balanced point of view and this in itself is refreshing. Usually emotions seem to run high in any discussion on the prospects of legislation on the subject of foreign trade.

The article follows:

OPPOSITION EASING TO HARTKE TAX CHANGES

(By George F. W. Telfer)

Signs of a break in the opposition to the tax provisions of the Burke-Hartke bill are appearing within the Nixon Administration and in academic circles.

Present law providing American-based multinational corporations with credits or deferral in payment of federal taxes on their foreign earnings should be re-examined to see how they affect American domestic production and jobs, C. Fred Bergsten, a former assistant to President Nixon on international economic affairs, said here Friday.

Mr. Bergsten told a Columbia University forum on Friday that he shared some doubts of organized labor and others that the foreign operations of multinational corporations should continue "untrammeled." But even if such operations are limited by removing some of the tax advantages, he added, "this doesn't mean that we should abandon liberal trade policy."

Recently, a high Treasury tax official indicated that the Treasury had only a "lukewarm interest" in opposing removal of the tax deferral on income earned from manufacturing abroad.

The statement was made before a group of accountants of leading corporations by Nathan Gordon, speaking for Edwin S. Cohen, assistant secretary of the Treasury for tax policy.

ADDITIONAL REVENUE

As pointed out by specialists in the field, such a step would not produce much additional revenue. It also would not be a very heavy burden on U.S.-owned plants operated in high-tax countries such as the United Kingdom, Germany and France. However, it could be a serious burden on plants in countries having substantially lower tax rates than the United States. These have counted on exemption from both their own government's the U.S. income tax until profits are repatriated to the U.S.

Among other things the Burke-Hartke bill would repeal the tax credit now available to U.S. companies manufacturing abroad based on the amount of tax they pay to foreign governments. It also would require the companies to pay taxes to the U.S. Government on the income they earn abroad as they earn it, rather than only when they repatriate it.

STRAIGHT-LINE DEPRECIATION

The bill would further require straight-line depreciation of property located outside the U.S. Also, the President would have the authority to prohibit transfers of U.S. capital abroad and to prohibit holders of U.S. patents from producing or using the patented product outside the U.S. if this could reduce the level of U.S. employment.

Executives of multinational companies recently have indicated their greatest concern over Burke-Hartke is caused by the proposed tax changes. As is well known, organized labor strongly backs the bill, although some elements in the labor movement opposed it.

Mr. Bergsten, now Visiting Fellow at the Council on Foreign Relations and guest scholar at the Brookings Institution told the forum that he believed multinational corporations had become more interested in the free flow of capital than the free flow of goods. Therefore, he said, "I share some of the concern of the AFL–CIO on this score. We must look very closely at the overall impact from the foreign investment activity of multinational firms before we let them go ahead in the uncontrolled way which they have in the past."

The forum, entitled "Trade Policy at the Crossroads: Which Route to Negotiations?" was sponsored by Columbia Society of International Law and held at the university's School of Law.

Mr. Bergsten did not actually tell the forum that he was referring to the Burke-Hartke bill's proposed tax changes. But in a brief interview afterward, he indicated that Congress and the administration should scrutinize, in particular, the tax treatment of corporations' foreign operations.

Stanley H. Ruttenberg, president of Stanley H. Ruttenberg & Associates, Inc., Washington, asserted that American multinational corporations might strive to become a more competitive and prod Washington to force other countries to reduce barriers to U.S. exports if some of the tax and other advantages of operating abroad were removed.

"There is no incentive for large U.S. corporations to make their U.S. operations more efficient—and thus more competitive, nor to help the U.S. Government reduce tariff and nontariff barriers around the world," he claimed. He pointed to the fact that most companies had invested in the European Economic Community to get behind their tariff walls.

Another speaker, John C. Renner, director, Office of International Trade, U.S. Department of State, refuted the claim that Burke-Hartke would save U.S. jobs. He asserted that the currency realignment should improve the U.S. trade position most in lower-technology industries. This is because they are "quite price-responsive, and the competition is fierce."

He pointed out that for the first time in recent years in March purchases of color televisions in the U.S. focused more on U.S. produced units than on foreign made ones. "By mid-1973 our total balance of trade position should be going into surplus, largely because of the pickup in low-technology products," Mr. Renner said.

While we are on the subject of the Foreign Trade and Investment Act of 1972, and without wanting to appear too boastful, I think the news this weekend of the agreement with eight of our trading partners to curb steel sales in the United States demonstrates the effect that legislative proposals can have on affairs of state even though in the form of a bill rather than law. It has always been my hope that my bill would lead to action such as this. In other words, even without passing judgment on the merits of the specific contents of the agreement, it would appear to be a step in the right direction following on the heels of the much publicized textile agreement with Japan and other Asian countries as well as the voluntary agreement with the Italian shoe industry—all agreements initialed since the Hartke-Burke bill has been filed—I think that the bill's authors can justifiably feel as though they are contributing to a new attitude on the part of both our negotiators and our foreign trading partners. In short, if our bill accomplishes nothing else—and it must accomplish more than the agreement signed to date—it will not have been in vain. My many colleagues who had the courage to cosponsor this bill, or file bills of their own which closely parallel this bill, can take justifiable pride in such results. Their cosponsorship has clearly not been in vain.

An article from the Boston Globe follows:

Eight Nations To Curb Steel Sales in United States

Washington.—The White House announced yesterday agreements with Japan and seven European countries aimed at curbing further inroads by imports into the American steel market.

The producing foreign countries apparently agreed to curb their exports lest Congress enact protectionist legislation that could have placed even stricter limits on their shipments.

The new agreements, climaxing a year of negotiations, cover 1972–74 shipments and supplant more generous, voluntary quotas that went into effect in 1969.

President Nixon said in a statement:

"This undertaking represents a substantial improvement over the arrangements of the last three years and will enable domestic steel producers to make their plans with confidence that imports will not be disruptive in the domestic market. It will help preserve the jobs of American steel workers."

Under the old agreements, foreign steel makers were allowed to increase their exports here at the rate of 5 percent annually.

The new restriction on shipments will limit annual increases to 2½ percent, or roughly the rate at which the total American market grows.

The settlement with Japan will limit its 1972 shipments of steel mill products to the United States to 6,498,000 tons The Europeans will hold shipments to 8,013,794 tons this year, 8,093,573 tons in 1973 and 8,295,910 tons in 1974.

Thus, through 1974, imports should be held to their present estimated level of 15 percent of the US market.

For the first time, the United Kingdom initialed the latest curbs. The other European countries involved are Belgium, France, West Germany, Italy, Luxembourg and the Netherlands.

Together with Japan, three countries account for about 85 percent of total US imports of steel-mill products.

The American negotiating team won another concession from the foreign producers to impose special curbs on exports of higher-priced specialty steel such as stainless, tool and other alloys.

Tonnage limitations on stainless and other alloy steels for 1972 and 1973 will, in fact, represent rollbacks from actual 1971 shipments.

The agreements place restraints also on exports of fabricated structural steels, not covered under the 1969–71 arrangement, and on shipments of cold-finished steel bars.

Nathaniel Samuels, deputy US undersecretary of state for economic affairs, supervised a year of talks culminating in the accords.

Some American steel companies would like to see similar arrangements with Scandinavian producers, and Samuels told newsmen at a White House briefing that such a development would be desirable. However, he said no negotiations toward that end are under way.

BUSING BILLS TURN BACK CLOCK

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. DIGGS. Mr. Speaker, on April 27, 1972, Mrs. Frank W. Wylie, president of the Michigan Civil Rights Commission, testified before the House Committe on the Judiciary concerning House Joint Resolution 620 and H.R. 13916, legislation dealing with the question of busing.

The Michigan Civil Rights Commission, the only State constitutionally created civil rights enforcement agency in the Nation, has communicated its deep concern over this legislation and its consequences on the civil rights progress which this Nation has made in recent years. The commission charged that these resolutions, should they pass, would "render the implementation of desegregation plans absolutely impossible."

I would like to share the full text of Mrs. Wylie's comments with my colleagues:

Testimony by Mrs. Frank W. Wylie, President, Michigan Civil Rights Commission, Before Subcommittee No. 5 of the Committee on the Judiciary

Chairman Celler and members of the Subcommittee, I am Martha Wylie, president of the Michigan Civil Rights Commisison. Accompanying me this morning is Rita Scott, director of Education Programs. We are pleased to have this opportunity to appear before you to describe the Commission's experience and to share its concerns.

The MCRC is a major department of state government, created under provisions of a new state constitution which took effect in January 1964. The Commission is charged with the responsibility to protect the enjoyment of the civil rights guaranteed by law and by the constitution and to secure the equal protection of such rights without discrimination because of religion, race, color or national origin. It is the only constitutionally created civil rights enforcement agency in the nation.

The Commission urges this Subcommittee and Congress to reject H.J.R. 620 and H.R. 13916.

The Michigan Civil Rights Commission is painfully aware that events and officials in Michigan have influenced members of this Congress to consider legislation that would turn back the clock—reestablish the Plessy v. Ferguson doctrine of "separate but equal" in education, and impede the implementation of Titles IV and VI of the Civil Rights Act of 1964.

On February 22, 1972, the Michigan Commission responded to the proposition of constitutional amendments, as embodied in H.J. Resolution 620, and communicated its concern to state and federal officials. Let me share with you the substance of our unanimous position statement:

"The Michigan Civil Rights Commission calls upon the President, the Congress and public officials at all levels to join together to resist the current effort to amend the United States Constitution in a way which would have the effect of nullifying the United States Supreme Court's decision of 1954 outlawing racial segregation in our public schools.

"The momentum building toward an amendment prohibiting busing to end segregation could well bring us to a constitutional and moral crisis the likes of which we have not seen since the Civil War.

"It took more than a half century since 1896 to overturn the 'separate but equal doctrine' . . . It appears that it has taken less than 20 years from Brown vs. Board of Education for the clamor to begin to deny Fourteenth Amendment rights. . . . Those who urge amendment, we believe, fail to comprehend fully the awesome significance of action which would amend the Bill of Rights for the first time in our history.

"This Commission's Constitutional mandate compels it to speak to those in critical power and to every citizen of Michigan. Racial antipathy is the reality of this nation's history and what is wanting is a new understanding of how present inequities have developed and should be cured. To assume sectional differences between North and South impedes final resolution of the conflict between belief and practice. To amend the Constitution or to legislate to restrict the means of achieving equity leads the country away from its stated goals.

"The young people in Pontiac who are actively seeking to convince their elders that they *can* make it work, are symbolic of the commitment to the sense of justice which was the original source of our Constitutional strength. Adults have a moral duty to note and to emulate these young people. Public officials have a Constitutional duty to do so.

"As a civil rights enforcement agency, the Commission points out the contradictions of stating our complex racial dilemma only in terms of 'forced integration of the suburbs' when speaking of Open Housing; or 'forced busing of school children' when speaking of education.

"So interrelated are the systems of Housing, Employment and Education discrimination that our courts now find there is no longer a distinction between de jure and de facto segregation.

"To oppose busing as one of the methods of contributing to the achievement of equality in education for all children—to advocate the passage of a Constitutional amendment sanctifying the 'neighborhood school' when so often neighborhoods have been kept white by design, is to sanction the notion that we are incapable of bringing reality up to the level of belief. . . ."

While the Michigan Civil Rights Commission spoke to the critical and debilitating impact of a federal Constitutional amendment on public education policy and practice in Michigan, President Nixon on March 17, 1972, proposed a legislative strategy which would have the immediate effect of restricting any additional transportation of students now and in the foreseeable future. Enactment of this legislation would severely restrict minority youth access to desegregated schools and retain the status quo in terms of existing inequality of education facilities and services.

Such action only serves to prolong the divisive debate on busing. It precludes our attention to correction of educational circumstances which are in violation of Constitutional principles in Michigan and across this nation.

Let me now describe the situation in Michigan. In 1963 the people of Michigan reaffirmed their commitment to a system of free public education as a new State Constitution was adopted.

The fundamental importance of education to all members of a free, culturally diverse society, has been a basic tenet of this nation and Michigan.

Under provisions of Michigan law, residents are required to support public education; and under penalty of state law, every young person between the ages of 6 and 16 is required to attend a state-approved program of education.

In April of 1966, the Michigan Civil Rights Commission and the State Board of Education adopted a *Joint Policy Statement on Equality of Educational Opportunity* [attached] which set forth the findings of Brown I, supported the provisions of the Civil Rights Act of 1964, and described the legal and educational responsibility of school officials to prevent and/or correct segregation.

Some voluntary affirmative actions resulting in the elimination of racially identifiable schools have been taking place in a few small Michigan communities . . . Ann Arbor, Baldwin, Cassopolis and Covert.

In our middle cities, however—particularly in urban centers providing instructional programs for a student population of from 15,000 to 40,000, and in Detroit, voluntary actions to desegregate even at the secondary grade level have been challenged by residents who resist change.

This has been our early experience, for example, in such cities as Lansing and Flint, and our recent experience in Kalamazoo. I am pleased to report that the State Court of Appeals has used the State's Joint Policy Statement of 1966 in affirming that school officials have the authority and the mandated responsibility to assign students to facilities, and to consider race along with other factors in such decisions.

Seven Michigan districts* have been the subject of federal HEW review on their compliance status. One of these, Ferndale, was found in a state of noncompliance. A directive to terminate funds to Ferndale was ordered only last week.

Five local districts have been charged with discrimination and denying equal protection of the laws in action before the U.S. District Court. These several cases are at different stages.

Under the district court orders to Kalamazoo and Pontiac, school officials were required to implement a student-staff desegregation plan effective September 7, 1971.

The Pontiac appeal to the U.S. Supreme Court was denied; final orders are awaited in the Detroit desegregation case; appeals are pending in litigation involving Kalamazoo and Benton Harbor; and hearings on the complaint against the Grand Rapids schools will begin within a month in federal district court.

The immediate and continuing public response to court rulings have focused on the busing of students as a means to eliminate segregation. The federal courts, which have provided some relief for America's minorities since 1954, are facing severe criticism by the public and by elected officials. Even those who agree with the courts' findings now proclaim their total opposition to any remedy which would involve the transportation of students or the dissolution of the neighborhood school—often in terms of their "right" to a neighborhood school.

In his decision on the case Bradley v. Milliken, Judge Stephen J. Roth describes the reality—that black youth have been illegally confined to segregated, inferior schools. He found the Detroit and state school officials, the State, and local, state and federal housing officials guilty in that they acted to create and maintain racially segregated schools. Young Ronald Bradley, his family, and thousands of black families in the Detroit district took comfort as the Court described its legal responsibility and intention to seek appropriate remedies. There was hope that at last practices which were constitutionally and educationally offensive would be corrected, that the Constitution meant what it said, and that public officials, sworn to uphold the Constitution, would do just that!

I am sure that you must be aware that the hope and belief in justice, and the enforcement of civil rights, is at this moment somewhat dim. I can assure you that this describes the feelings of minority residents within our state. The disillusionment in the legal system and in the commitment of public officials is almost total at all levels of the minority community in Michigan—and I might add, among a large segment of the white community.

The Court decisions and orders involving Michigan school districts have implications for all other local districts where similar circumstances prevail.

In the school year 1970–71, public school enrollment in Michigan totaled 2,157,273 and included 13.4% black and 1.3% Spanish-surnamed pupils. Nearly three-quarters of all black pupils and 29% of all Spanish-surnamed pupils attend schools in the Detroit metropolitan area . . . Wayne, Oakland and Macomb counties. The remaining non-white pupils, except for 7% of the total American Indian student population, attend schools in southern Michigan.

In our core cities—approximately 27 school districts—racial segregation, particiularly in the elementary grades, is the rule rather than the exception. Complaints to the MCRC of unlawful discrimination are increasing. Among the complaints brought to us by members of the black, brown and red communities are allegations regarding extremely poor school/pupil academic performance; unequal treatment, conditions and benefits; grossly deficient curriculum content; and racial segregation and isolation. Exhibit B.

All of these urban school districts have qualified for and receive funds under the Elementary and Secondary Education Act. Compensatory education funds have had little impact upon minority student progress through school.

In many Michigan districts, minority group members are convinced that the elimination of segregation is the basic component of any plan to assure equal and quality education. There are school administrators and boards of education who support this concept. In Jackson and in Lansing, Michigan, school officials and the community have been engaging in the process of identifying feasible options for desegregation. Despite some vocal opposition, these districts are proceeding and expect to decide upon a time schedule and plan this school year. The plans will call for the transportation of more students than are currently bused in the districts.

The H.J.R. 620 proposal, if ratified would render the implementation of such plans absolutely impossible. The enactment of the legislative proposal H.R. 13916 invites opponents of these plans to intervene through the courts and thereby bar implementation.

Thus, even when the professional judgment of those who have direct responsibility for the operation of local schools, call for student desegregation, they are likely to be restrained by the action this Congress contemplates.

In addition, the enactment of the proposed H.R. 13916 would require the districts of Kalamazoo and Pontiac to cease transportation of students ordered by the Court in 1971. These districts have, with earnest effort and good faith, complied with Federal Court orders. Desegregation has been achieved district-wide, and is working well. The reorganization to achieve the previous status of schools as of December 31, 1970, would place an intolerable burden on these districts.

We in Michigan viewed our legal responsibility and opportunity to provide equal educational opportunity with some clarity and enthusiasm prior to November 4, 1971.* Educational leaders in this state understood the meaning of "affirmative duty" as described by Chief Justice Burger in Swann vs. Charlotte-Mechlenburg. There was a real prospect that the victims of discrimination in education would no longer be required to initiate court action at their own expense.

We are faced now with the prospect that such litigation will provide little, if any, realistic remedy.

This is indeed a critical moment in this nation's history. At a moment when leadership and encouragement from federal and state officials should facilitate local desegregation efforts, and exert the calm example of upholding the Constitutional guarantees, we are met with equivocation and retreat. For the Congress of the United States to act affirmatively on the proposed measures would be to record the greatest failure of this nation.

The Michigan Civil Rights Commission urges you to reject H.J.R. 620 and H.R. 13916 and similar measures.

We thank you for the opportunity to appear before you this morning.

EXHIBIT A

JOINT STATEMENT—MICHIGAN STATE BOARD OF EDUCATION AND MICHIGAN CIVIL RIGHTS COMMISSION

In the field of public education Michigan's Constitution and laws guarantee every citizen the right to equal educational opportunities without discrimination because of race, religion, color or national origin. Two departments of state government share responsibility for upholding this guarantee. The State Board of Education has a constitutional charge to provide leadership and general supervision over all public education, while the Michigan Civil Rights Commission is charged with securing and protecting the civil right to education.

In addition to the declaration of public policy at the State level, the United States Supreme Court, in the case of Brown vs Board of Education, ruled: "that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

The State Board of Education and the Michigan Civil Rights Commission hold that segregation of students in educational programs seriously interferes with the achievement of the equal opportunity guarantees of this State and that segregated schools fail to provide maximum opportunity for the full development of human resources in a democratic society.

The State Board of Education and the Civil Rights Commission jointly pledge themselves to the full use of their powers in working for the complete elimination of existing racial segregation and discrimination in Michigan's public schools. It shall be the declared policy of the State Board of Education that in programs administered, supervised, or controlled by the Department of Education, every effort shall be made to prevent and to eliminate segregation of children and staff on account of race or color.

While recognizing that raical imbalance in Michigan schools is closely related to residential segregation patterns, the Board of Education and Civil Rights Commission propose that creative efforts by individual school districts are essential and can do much to reduce or eliminate segregation. Local school boards must consider the factor of racial balance along with other educational considerations in making decisions about selection of new school sites, expansion of present facilities, reorganization of school attendance districts, and the transfer of pupils from overcrowded facilities. Each of these situations presents an opportunity for integration.

The Board of Education and the Civil Rights Commission emphasize also the importance of democratic personnel practices in achieving integration. This requires making affirmative efforts to attract members of minority groups. Staff integration is a necessary objective to be considered by administrators in recruiting, assigning and promoting personnel. Fair employment practices are not only required by law, they are educationally sound.

---

* Ecorse, Ferndale, Flint, Pontiac, River Rouge, Saginaw, Westwood.

*The date Congress acted with dispatch to propose several antibusing amendments to pending legislation.

The Board of Education and the Civil Rights Commission further urge local school districts to select instructional materials which encourage respect for diversity of social experience through text and illustrations and reflect the contributions of minority group members to our history and culture. A number of criteria are enumerated in *Guidelines for the Selection of Human Relations Content in Textbooks*, published by the Michigan Department of Education in 1965.

The Board of Education and the Civil Rights Commission believe that data must be collected to show the racial composition of student bodies and personnel in all public schools as a base line against which future progress can be measured. Both agencies will begin next month to assemble information on the present situation.

To implement these policies the State Board of Education has assigned staff to work cooperatively with the Civil Rights Commission and local school authorities for the purpose of achieving integration at all levels of school activity. The Michigan Civil Rights Commission also stands ready to assist local school boards in defining problem areas and moving affirmatively to achieve quality integrated education.

EXHIBIT B-1

STATE OF MICHIGAN—PUBLIC SCHOOL CENSUS, 1970-71

	Number	Percent
Total	2, 157, 273	100.0
White	1, 830, 367	84.8
Black	290, 018	13.4
Spanish surname	27, 801	1.3
American Indian	4, 885	.2
Oriental	4, 212	.2

Note: Public school environments: 80 percent of all Negro public school students attend predominantly Negro schools (over 50 percent); 46.4 percent of all white public school students attend all-white schools.

EXHIBIT B-2

38 RACIALLY IMPACTED SCHOOL DISTRICTS, STATE OF MICHIGAN—RACIAL CENSUS SUMMARY, 1970-71 (BY DISTRICT)

District	Indian		Black		Asian		Latin American		White		Total
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	
Albion	5	0.1	1, 051	29.2	6	0.2	174	4.8	2, 362	65.6	3, 598
Ann Arbor	27	.1	1, 810	9.1	261	1.3	167	.8	17, 725	88.7	19, 995
Battle Creek	24	.2	2, 844	27.1	11	.1	78	.7	7, 542	71.8	10, 499
Bay City	21	.1	224	1.3	18	.1	743	4.4	15, 714	94.0	16, 720
Beecher	6	.1	2, 221	33.2	7	.1	174	2.6	4, 287	64.0	6, 690
Benton Harbor	34	.3	6, 138	53.8	4	(1)	38	.3	5, 189	45.5	11, 409
Buena Vista	0	(1)	1, 511	42.9	0	(1)	269	7.6	1, 743	49.5	3, 520
Cassopolis	3	.2	577	29.0	0	(1)	7	.4	1, 405	70.5	1, 995
Clintondale	7	.1	380	7.5	4	.1	39	.8	4, 643	91.5	5, 073
Covert	0	(1)	579	68.9	0	(1)	0	(1)	261	31.1	843
Detroit	235	.1	181, 567	63.8	666	.2	3, 860	1.4	98, 119	34.5	284, 442
Dowagiac	33	.8	483	11.6	2	(1)	90	2.2	3, 557	85.4	4, 163
Ecorse	2	(1)	2, 135	50.8	9	.2	237	5.6	1, 817	43.3	4, 200
Ferndale	10	.1	770	9.5	28	.3	34	.4	7, 297	89.7	8, 137
Flint	27	.1	18, 475	40.5	60	.1	625	1.4	26, 472	58.0	45, 659
Grand Rapids	137	.4	7, 605	22.0	70	.2	857	2.5	25, 865	74.9	34, 534
Hamtramck	6	.2	816	28.7	3	.1	28	1.0	1, 990	70.0	2, 843
Highland Track	9	.1	6, 556	85.1	23	.3	14	.2	1, 106	14.3	7, 708
Inkster	0	(1)	3, 795	88.0	5	.1	2	(1)	509	11.8	4, 311
Jackson	7	.1	2, 016	14.8	19	.1	157	1.2	11, 379	83.8	13, 578
Kalamazoo	20	.1	2, 947	16.5	58	.3	124	.7	14, 679	82.3	17, 828
Lansing	89	.3	4, 084	12.5	56	.2	1, 972	6.1	26, 358	81.0	32, 559
Monroe	1	(1)	326	3.5	3	(1)	84	.9	8, 783	95.5	9, 197
Mount Clemens	4	.1	1, 418	21.3	17	.3	78	1.2	5, 145	77.2	6, 662
Muskegon	46	.5	2, 289	22.7	23	.2	323	3.2	7, 424	73.5	10, 105
Muskegon Heights	9	.2	3, 028	74.6	0	(1)	41	1.0	983	24.2	4, 061
New Haven	1	.1	311	17.7	3	.2	49	2.8	1, 394	79.3	1, 758
Oak Park	0	(1)	558	10.1	13	.2	3	.1	4, 950	89.6	5, 524
Pontiac	26	.1	7, 977	33.1	42	.2	1, 063	4.4	14, 979	62.2	24, 087
Port Huron	40	.3	870	5.6	14	.1	283	1.8	14, 222	92.2	15, 429
River Rouge	26	.7	1, 588	43.2	8	.2	27	.7	2, 026	55.1	3, 675
Romulus	25	.4	958	16.5	16	.3	21	.4	4, 781	82.4	5, 801
Roseville	26	.2	205	1.4	37	.3	44	.3	14, 114	97.8	14, 426
Saginaw	16	.1	7, 632	33.7	26	.1	1, 822	8.0	13, 139	58.0	22, 635
Taylor Township	43	.2	301	1.5	38	.2	232	1.1	20, 109	97.0	20, 723
Westwood	5	.1	1, 980	39.9	8	.2	25	.5	2, 943	59.3	4, 961
Willow Run	0	(1)	907	20.1	4	.1	12	.3	3, 597	79.6	4, 520
Ypsilanti	13	.2	1, 662	21.4	19	.2	25	.3	6, 038	77.8	7, 757
District totals (column percent)	983	20.1	280, 594	96.7	581	37.6	13, 821	49.7	404, 646	22.1	701, 625
State totals (row percent)	4, 885	.2	290, 069	13.4	4, 202	.2	27, 802	1.3	1, 830, 491	84.8	2, 157, 449

---

[1] Less than 0.1.

EXHIBIT C

SOME MICHIGAN SCHOOL STATISTICS

[Taken from local district results—Michigan educational assessment program, 1970-71, published by the Michigan Department of Education]

District name	State equalized valuation per resident pupil (1969-70)	Total current operating expense per pupil (1969-70)	Percent minority students	7th grade basic skills composite achievement (percentile)	District name	State equalized valuation per resident pupil (1969-70)	Total current operating expense per pupil (1969-70)	Percent minority students	7th grade basic skills composite achievement (percentile)
Ann Arbor	$25, 642	$1, 004	11.1	93	Ypsilanti	$19, 528	$888	21.9	19
Detroit	17, 720	756	65.0	1	Beecher	11, 686	693	36.0	3
Flint	19, 087	869	41.6	5	Bloomfield Hills	23, 845	965	1.1	98
Grand Rapids	20, 343	810	24.5	9	Dearborn	41, 231	1, 056	1.3	87
Jackson	17, 579	925	16.2	25	East Lansing	22, 584	1, 025	8.0	97
Kalamazoo	22, 139	894	19.0	54	Grosse Pointe	29, 634	1, 025	.3	97
Lansing	18, 828	894	19.0	14	Inkster	6, 637	708	88.2	1
Muskegon	16, 831	863	26.2	21	Livonia	16, 758	792	.6	76
Muskegon Heights	11, 334	679	75.8	0	Oak Park	30, 452	1, 276	10.5	91
Pontiac	21, 033	857	38.0	5	Warren Cons.	17, 809	774	.8	83
Saginaw	18, 744	757	41.9	4	Willow Run	14, 521	754	20.2	4
Benton Harbor	13, 323	714	54.4	1	Wyoming	14, 281	699	1.8	46
St. Joseph	20, 929	880	1.9	96					

FEDERAL HEALTH PROGRAMS

HON. CARL ALBERT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. ALBERT. Mr. Speaker, the people of the United States surely rank their personal health of utmost importance among their many needs.

This is true in every corner of the country, from our smallest rural communities to our largest industrial cities. It is true of rich Americans as well as poor Americans. It is true among all ages of our people. It is even true of Democrats and Republicans alike.

Together, we need to achieve the goal of better health throughout the lives of all the people of this Nation.

Is there a national health crisis? There is indeed.

What do we need to do about it?

We need to work toward preventive health care for all Americans. We need to train young men and women in the many health professions—and we need to train them now, before the already serious shortages in health personnel become critical. We need to advance the knowledge of medicine through research that is simultaneously broad and specific. We need to make more health services available to more people. We need to reduce the high costs of curing illness. We need to give extra support to those health-care institutions and training facilities that are in financial distress.

On the part of the Federal Government, these needs can be met only through the authorized programs of the Department of Health, Education, and Welfare. Yet with its proposed budget for fiscal year 1973, the Nixon administration would let all too many of these needs go unmet.

President Nixon may have acknowledged a national health crisis in his public speeches, but he has not taken it into full account in his budget recommendations. There is too little evidence in this budget that the President ranks concern for health as highly as the general public does.

In the proposed 1973 budget, health manpower programs are severely curtailed. Grants for building or modernizing hospitals, community clinics, and health schools are all but eliminated. Worthy programs to combat mental illness and alcoholism are not allowed to grow. Important health services, designed to deliver adequate care to all Americans, are held in place or actually reduced, considering increased operating costs and Federal pay raises. Most of the research institutes are given increases that amount to only half the annual inflation rate for health research.

If the goal of better health for all Americans is to be achieved in our day, or in our children's day, then the Congress will have to show more concern for Federal health programs in the coming fiscal year than the Nixon administration has shown. It is a duty that cannot be ignored by the Members of the House. It is our responsibility to the health and well-being of our people.

PLEA FOR NATIONAL REPENTANCE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mrs. ABZUG. Mr. Speaker, this morning, I was privileged to receive a most eloquent "Plea for National Repentance" over the inhuman terror we have wrought in Southeast Asia. This statement is being circulated in petition form and will be presented to Congress at a later date. I include the item in the RECORD at the conclusion of these remarks.

I am also including "War is Peace," a paper on the President's latest escalation by Fred Branfman. Mr. Branfman, who is director of Project Air War, is one of the foremost experts on our air tactics and weaponry in Indochina, and I commend his paper to you.

The articles follow:

A PLEA FOR NATIONAL REPENTANCE AND A PETITION TO THE CONGRESS OF THE UNITED STATES

Whereas, millions of Vietnamese, Cambodians and Laotians have been maimed and uprooted from their homes and more than one-half million killed;

Whereas, more than 50,000 Americans have been killed in Indo-China and 300,000 have suffered casualties;

Whereas, the lands and cities of Vietnam, Cambodia, and Laos have been devastated by napalm, defoliants, bombs and all the vast arsenal of the automated air war;

Whereas, the lives of United States prisoners held by the North Vietnamese are now threatened by the further escalation of the war;

Whereas, the war waged by the United States in Indo-China wastes our human and material resources and weakens our security rather than insuring it;

Whereas, the United States armed forces continue to impose upon the people of Vietnam the Thieu government dictatorship, thus depriving the Vietnamese people the inalienable right of freedom;

Whereas, the peace of the whole world is threatened by the recent escalation of the war by the United States, including the mining of Vietnam harbors, thus risking the beginning of World War III;

We, the undersigned citizens of the United States repent of our own complicity in this sin against the Providence of God and this crime against humanity; and we call for a national time of mourning and repentance.

We petition the Congress of the United States to take its proper responsibility for ending participation by the United States in the war in Indo-China by cutting off funds used for the prosecution of the war, that sanity and justice may be restored in the foreign relations of the United States government.

WAR IS PEACE

(By Fred Branfman)

(NOTE.—Mr. Branfman spent 4 years in Laos, from 1967 through 1971. He is currently director of Project Air War, a research group in Washington, D.C. He is editor of *Voices From The Plain of Jars*, to be published this month by Harper and Row.)

"All entrances to the North Vietnamese ports will be mined . . . United States forces have been directed to take appropriate measures within the internal and claimed territorial waters of North Vietnam to interdict the delivery of any supplies. Rail and all other communications will be cut off to the maximum extent possible. Air and naval strikes against military targets in North Vietnam will continue . . . You want peace. I want peace . . . and that is why, my fellow Americans, tonight I ask you for your support of this decision—a decision which has only one purpose—not to expand the war, not to escalate the war, but to end this war and to win the kind of peace that will last. With God's help, with your support, we will accomplish that great goal."—Richard Nixon, May 8, 1972.

George Orwell predicted that the leaders of major powers would come to wage war by machine and call it peace; that they would annihilate distant and unseen societies from the air even as they constantly reiterated their earnest desires for peace at home.

On May 8, 1972, Richard Nixon announced the most serious and dramatic set of escalations in the Indochina war, removing the last remaining restraints on automated war observed by his predecessor; at the same time, he used the terms "peace" or "ending the war" on 19 separate occasions in a 17-minute talk.

He didn't quite claim that "war is peace." But then he did not have to.

His speech was one of the most striking attempts to rewrite history in recent memory. Virtually every sentence in it contradicted the written record, ranging from the writings of Lacouture and Fall, to the Pentagon and Kissinger papers, to today's newspapers.

Two tons of bombs were exploding every 60 seconds as he solemnly declared "I, too, want to end this war;" mines were being laid in and around Soviet vessels as he called upon the Soviet Union not to "slide back into the dark shadows of a previous age."

It is as much in wonderment as dismay that one turns to an analysis of some of the more striking distortions and outright falsehoods of this remarkable speech:

1. INVASION—"FIVE WEEKS AGO, ON EASTER WEEKEND, THE COMMUNIST ARMIES OF NORTH VIETNAM LAUNCHED A MASSIVE INVASION OF SOUTH VIETNAM"

The very basis of the 1954 Geneva Settlement on Vietnam is that Viet Nam is *one country*. There is no reference to a "South Vietnam." The 17th parallel, far from being an "international border" as the President claimed in his April 26 speech, was merely a temporary military demarcation line. Point 6 of the Joint Declaration by the 9 powers guaranteeing the settlement specifically states that: "the military demarcation line is provisional and should not in any way be interpreted as constituting a political or territorial boundary." This line was only in force for 300 days following July 21, 1954, and was meant merely to mark time until a 1956 election which would unite Viet Nam. When the Diem regime did not allow this election, the 17th parallel lost any legal, political, or moral meaning. The cancellation of the elections threw the issue of who would rule in Viet Nam back to the Vietnamese themselves.

2. ORIGINS—"WE AMERICANS DID NOT CHOOSE TO RESORT TO WAR—IT HAS BEEN FORCED UPON US"

In fact, the United States did indeed unilaterally choose this war two decades ago, when the Truman Administration decided to pay ¾ of the costs of the war for the French between 1950 and 1954. And the Geneva Accords were barely signed when in August 1954, while Mr. Nixon was vice-President, the United States dispatched a team under Colonel Edward Lansdale to take over the French position. As Lansdale has written in the Pentagon Papers, team member "Major Conein was given responsibility for developing a paramilitary organization in the north" and "a second paramilitary team was formed to explore possibilities of organizing resistance against the Viet Minh in the south." These American teams, as

Lansdale describes, then proceeded to assure the installation of a little-known exile, Ngo Dinh Diem, and then carry out a wide variety of espionage, sabotage, and psychological warfare missions throughout Vietnam.

3. RESTRAINT—"THROUGHOUT THE WAR IN VIETNAM, THE UNITED STATES HAS EXERCISED A DEGREE OF RESTRAINT UNPRECEDENTED IN THE ANNALS OF WAR."

The next 10 years saw a variety of American-supported initiatives ranging from herding people into "agrovilles" and "strategic hamlets" to execution of suspected Viet Minh to war supported by U.S. combat troops. By 1965 Bernard Fall reported that "already, in what may be loosely termed the 'American period,' the dead are near a quarter million, with perhaps another half-million people seriously maimed. And other Vietnamese people are dying because they are starving." This was nothing, however, to the American "restraint" which followed. Between 1965 and 1972, the United States has expended over 13 million tons of ordnance, created over 23,000,000 bomb craters, and dropped over 100,000,000 pounds of herbicides which have destroyed an estimated 5,000,000 acres of crop and forest land. According to the Senate Subcommittee on Refugees, the United States bears the major responsibility for the creation of over 6,000,000 refugees in South Vietnam (and 2.7 million more in Laos and Cambodia), the death of 325,000 civilians, the maiming of 700,000 more, and generating 700,000 orphans.

4. THE NIXON RECORD—"AND I THINK YOU KNOW, FROM ALL THAT I HAVE SAID AND DONE THESE PAST THREE AND A HALF YEARS, HOW MUCH I TOO WANT TO END THIS WAR"

Mr. Nixon has done nothing to end the war. On the contrary, he has steadily expanded it, transforming it from a ground war in South Vietnam to a massive and indiscriminate air war throughout Indochina.

He has initiated and waged a full-scale air war in once-peaceful *Cambodia* for two years now. Over 2 million Cambodian refugees have been created under Mr. Nixon, according to an official Government Accounting Office study reported in the *New York Times* on December 5, 1971. The bombing in *Laos* has been double that under Mr. Johnson, and Mr. Nixon has also introduced over 10,000 new Thai troops in northern Laos as well as invading southern Laos with 22,000 ARVN in February, 1971. He resumed the bombing of *North Vietnam*, struck on 328 admitted occasions *before* the recent offensive began; and hospital admissions in *South* Vietnam in 1971 were running as high as in 1967, when there were 450,000 U.S. ground troops there.

In all, Mr. Nixon had already dropped over 3.3 million tons of bombs in Indochina before the offensive began, more bombs than have been dropped by any leader in history; and, according to the U.S. Senate Subcommittee on refugees, there had also been over 3,000,000 civilians killed, wounded or made homeless during his first 3 years in office.

At this writing he has tripled his aerial and naval forces in Indochina from what they were at the beginning of this year: B-52's have risen from 40 to 130, attack planes from 350 to nearly 900, aircraft carriers from 2 to 6, and other naval vessels from 10 to 55.

Most strikingly, there are now some 100,000 men waging the air and naval war against Indochina; 40,000 airmen in Thailand, 40,000 naval personnel in the Gulf of Tonkin, over 20,000 airmen within South Vietnam. By contrast, there are only some 45,000 ground troops left. It is the first time in history a nation has deployed more men abroad to wage automated war than ground war. Mr. Nixon's transformation to an age of Orwellian mechanized war has arrived.

5. NEGOTIATIONS—"THE UNITED STATES . . . HAS OFFERED THE MAXIMUM OF WHAT ANY PRESIDENT OF THE UNITED STATES COULD OFFER . . . (BUT) WE WILL NOT CROSS THE LINE FROM GENEROSITY TO TREACHERY . . ."

Mr. Nixon's continued insistence on determining who will rule in Saigon has precluded any hope of a negotiated settlement. For the very basis of the Vietnamese struggle for the last 20 years has been their insistence that the United States has no right to intervene.

And, in fact, Mr. Nixon's "generous" peace offers have added up to little more than a demand that the NLF surrender. He is asking that they lay down their arms while over 100,000 American troops are still in and around their country. He is asking that at that point they cede the Thieu regime nominal control of the country. He is asking that they then surface to contest elections, in the face of a CIA-run Phoenix program which is officially admitted to having killed or imprisoned 35,727 "suspected" NLF under Mr. Nixon. And he is asking that they take comfort in Thieu's offer to resign one month before elections, when the United States has put over $3 billion in the past 3 years to creating a giant machinery of repression consisting of over 1,000,000 troops, 200,000 police, and a vast network of appointed officials, informers and assassins down to the village level. And he is asking them to do all this when he could at any time rescind his pledges of a free election, just as the Eisenhower Administration did in 1956.

6. THE OTHER SIDE'S TERMS—"DO WE JOIN WITH OUR ENEMY TO INSTALL A COMMUNIST GOVERNMENT IN SOUTH VIETNAM?"

The idea that the PRG would be so foolish as to demand that the United States install a "communist" government in South Vietnam is patently absurd. They have made it more than clear that they understand the American desire to withdraw gracefully. In public, they have simply asked that Mr. Nixon set a date for total withdrawal, withdraw support from the Thieu regime, and allow a coalition government headed by a non-communist to take over. They have also taken the unpredented step of offering to begin the return of American captured personnel before the cessation of hostilities. In private, I am assured by high-ranking officials in the State Department, they have offered to guarantee Mr. Nixon a substantial period of grace after full American withdrawal before contesting for full power. Under the circumstances, no American president could hope for more generous terms if he had any intention of withdrawing and allowing the Vietnamese to settle their own affairs.

7. BLOODBATH—"ABANDONING OUR COMMITMENT IN VIETNAM HERE AND NOW WOULD MEAN TURNING 17 MILLION SOUTH VIETNAMESE OVER TO COMMUNIST TERROR AND TYRANNY . . . WE WOULD ONLY WORSEN THE BLOODSHED."

The use of the "bloodbath" argument was one of the most Orwellian aspects of this speech. It is not only that a "communist bloodbath" is a vague and distant possibility, that the only Vietnamese certain to suffer retaliation have already made plans for luxurious retirement in Europe, e.g. President Thieu in his villa in Switzerland; that the PRG, faced with the awesome task of attempting to rebuild a fractured nation, would most likely opt for a policy of national reconciliation both to build national unity and attract foreign aid; that even a group of prominent Catholic intellectuals recently issued a statement calling for a "halt to American aggression in Viet Nam today."

It is that even as he was speaking Mr. Nixon was continuing one of the greatest bloodbaths in recent history; that while a communist bloodbath was but a possibility, the American bloodbath was a reality and that Mr. Nixon's speech would be followed by an orgy of bloodletting that even Viet Nam had not yet seen.

8. ARVN BRAVERY—"THE SOUTH VIETNAMESE HAVE FOUGHT BRAVELY . . . (THEY) SHALL CONTINUE TO HAVE OUR FIRM SUPPORT IN (THEIR) RESISTANCE AGAINST AGGRESSION."

The very reason for Mr. Nixon's taking so drastic a step as attempting to mine and blockade Haiphong harbor was the lack of spirit of the "South Vietnamese." Devoid of the spirit to fight led by incompetent and corrupt officers, the ARVN has literally fallen apart. When the offensive first began, the *New York Times* reported on April 9, the entire Third Division ran away: "Let's face it; the third division was routed," one U.S. officer in Dong Ha said, "it was nothing but a mad rush to the rear once the North Vietnamese started shelling them." By April 15, the *Times* was reporting widespread lootings: "All day long, the army trucks moving south from Dongha were filled with soldiers and piles of loot—chairs, tables, refrigerators, television sets, food, chickens, pigs."

Relief columns were not getting through, as the *Washington Post* reported on April 16, "What might sound surprising . . . is that with all the American-supplied vehicles—including tanks and cars—and an estimated 20,000 troops assigned to the job—the South Vietnamese so far have not been able to open the road nor even to supply water to their troops in the bush." And two days after the fall of Quang Tri on May 1, the route was complete. The *Times* reported from the Hue that "thousands of panicking South Vietnamese soldiers—most of whom did not appear to have made much contact with the advancing North Vietnamese—fled in confusion from Quangtri Province today streaming south down route 1 like a rabble out of control." On the same day it was reported, "thousands of militiamen as well as regular soldiers of the 22nd Infantry Division gave up their posts and left their weapons behind in Binhdinh Province rather than contest the North Vietnamese for three districts inhabited by 200,000 people."

10. PROTECTING U.S. TROOPS—"WITH 60,000 AMERICANS THREATENED, ANY PRESIDENT WHO FAILED TO ACT DECISIVELY WOULD HAVE BETRAYED THE TRUST OF HIS COUNTRY"

Mr. Nixon's greatest betrayal of this country—and its soldiers—is his refusal to withdraw the 60,000 men in Vietnam and the 80,000 around it from the Indochina theater. It is clear that the only way to protect them is to take them out. As long as they remain there, they will be killed and maimed in ever-increasing numbers.

Since the offensive began, the American people have been told of the 36 men listed as killed by hostile action and 57 missing in action (MIAs). They have not been told that most of the MIAs are presumed dead, and another 23 men are listed as killed by non-hostile causes, making well over 100 men killed in the month of April alone. Another 197 men were wounded during the same period. These rates are roughly double those of the monthly average for the first three months of this year. This loss of American lives can be expected to intensify as the bombing and ground fighting increase in the weeks to come.

11. POW'S—"ABANDONING OUR COMMITMENT IN VIETNAM . . . WOULD MEAN LEAVING HUNDREDS OF AMERICAN PRISONERS IN COMMUNIST HANDS WITH NO BARGAINING LEVERAGE TO GET THEM RELEASED."

The only "bargaining leverage" the United States has to secure the return of captured military men is withdrawal, not more war.

Continued war ensures the prolonged internment of those already captured. In addition, it ensures that new men will be shot down daily. Over 350 men who were alive and well when Richard Nixon took office are now listed as missing in action or captured. The 57 men listed as missing in action in April are mostly airmen.

And, most seriously, the kind of war Richard Nixon forecasts creates even greater risks for those captured. As a March, 1968, study prepared by a Clark Clifford study group notes in the Pentagon Papers, "Although the NVN do not mark the camps where American prisoners are kept . . . heavy and indiscriminate attacks in the Hanoi area would jeopardize the lives of these prisoners and alarm their wives and parents into vocal opposition.

12. EFFICACY—"THERE'S ONLY ONE WAY TO STOP THE KILLING. THAT IS, TO KEEP THE WEAPONS OF WAR OUT OF THE HANDS OF THE INTERNATIONAL OUTLAWS OF NORTH VIETNAM."

The notion that mining and blockading Haiphong harbor will "stop the killing" in the south strains credulity. To begin with, according to Mr. Nixon, most of the North Vietnamese army is already in the south. A blockade's only conceivable effect on the situation in the south for the next few months will be to encourage anti-U.S. forces to fight harder than they ever have.

More importantly, there is no reason to believe that a blockade can stem the flow of supplies into the south. The Clifford Study stated categorically that "if the Port of Haiphong were to be closed effectively, the supplies that now enter Haiphong could, albeit with considerable difficulty, arrive either over the land routes or by lighterage . . . the closing of Haiphong Port would not prevent the continued supply of sufficient materials to maintain North Vietnamese military operations in the South."

The Kissinger papers show that the CIA and Office of the Secretary of Defense agree with this analysis. And though the Joint Chiefs of Staff do not, the history of past predictions shows little reason to believe them this time.

Indeed, the real reason for the blockade of the harbor and intensified bombing does not seem to lie in attempting to stop arms shipments. Rather, it seems in part an attempt to break Vietnam's spirit. As the Clifford Group suggested, "the only purpose of intensification of the bombing campaign in the North . . . would be to endeavor to break the will of the North Vietnamese leaders."

This hope is clearly also chimerical. It is not only that the Vietnamese have long since learned to de-centralize, protect their civilian population, and move supplies under a steady hail of bombs. It is far more that from their point of view, the recent offensive is not a question of the past month, the last 5 years, or even the last 25 years. It is a part of what they see as a 1000 year struggle to see their land free, unified and independent from foreign intervention. This is no doubt the reason why the Clifford Group notes that: "CIA forecasts indicate little if any chance that this would result even from a protracted bombing campaign directed at population centers."

13. SOVIET AID—"(THE) INVASION . . . WAS MADE POSSIBLE BY TANKS, ARTILLERY AND OTHER ADVANCED OFFENSIVE WEAPONS SUPPLIED TO HANOI BY THE SOVIET UNION AND OTHER COMMUNIST NATIONS."

Mr. Nixon's peculiar insistence on the importance of Soviet military aid to the Vietnamese may suggest another motive behind the blockade.

It must be noted that Soviet military aid to North Vietnam is of secondary importance. A *Times* report on April 13, based on official figures, showed that Soviet military aid to North Vietnam in 1971 was only $100 million, down by 80% since 1967. The combined total of Soviet, East European and Chinese economic and military aid in that year was $775 million. This may be compared with the $15.1 billion budgeted by the U.S. for the war in 1971.

Moreover, the use of tanks in the current offensive seems more a matter of convenience than necessity. The NLF, after all, managed to launch a highly successful Tet offensive against 550,000 American ground troops. There is no reason to believe that if deprived of their tanks they—with or without the North Vietnamese—could not succeed against the ARVN.

If the offensive is not due to "advanced weapons" supplied by the Soviets then, why Mr. Nixon's shrill insistence on this point? The reason may stem from Administration and Pentagon fears of growing movement against prohibitive defense spending. For some time now a massive public relations campaign has been underway to replace the Chinese threat with the Soviet threat. Mr. Nixon may be blockading Haiphong in part to build up anti-Soviet feeling in this country to justify high defense expenditures.

14. THE DOMINO THEORY—"AN AMERICAN DEFEAT IN VIETNAM WOULD ENCOURAGE . . . SMALLER NATIONS, ARMED BY THEIR ALLIES . . . TO ATTACK NEIGHBORING NATIONS AT WILL, IN THE MIDEAST, IN EUROPE AND OTHER AREAS."

Nothing damages American credibility in the world more than the ongoing spectacle of the mightiest nation on earth attempting to bloody a small, agrarian nation into submission. It is not only that much of the world is morally outraged. Any group of leaders—no matter how corrupt—would have to think twice before inviting the United States in to apply the same "help" it has given to South Vietnam. There is much evidence for example, that nations as close as neighboring Thailand are giving second thoughts to heavy involvement with the United States.

Perhaps this is why despite the sharp disagreement noted in the Kissinger Papers over the eventual consequences of an American withdrawal in South Vietnam, all agencies rejected "the view that an unfavorable settlement in Vietnam will inevitably be followed by Communist takeovers outside Indochina."

15. TERROR—"DO WE . . . LEAVE THE SOUTH VIETNAMESE TO A LONG NIGHT OF TERROR?"

The long night of terror came long ago to Indochina. Indeed it started one million Indochinese lives ago, and has continued for most of the lifetimes of those who have survived.

It came in the form of men of a strange and different race with whom they could not even communicate, men who respected neither their women, nor their culture nor their very existence; and it has continued in the form of their machines circling high in the skies, machines which have already dropped more than 6.5 million tons of bombs on them, more bombs than have been absorbed by the rest of the world put together in all history.

And Mr. Nixon's speech could only have meant one thing to ten million Indochinese now packed into refugee camps, to hundreds of thousands now huddling underground hiding from his bombs, to over 100,000 political prisoners packed into Saigon's inhuman jails, to a million ARVN forced on pain of death to fight for a cause they do not believe in, to the orphans and the widows and the mutilated and the prostitutes.

It could only have meant that their long night of terror would continue. And, that the worst would be yet to come.

HEALTH FUNDS NEEDED

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 10, 1972

Mr. GUDE. Mr. Speaker, even the most casual newspaper reader must be aware of the extended congressional debates last year which led to the National Cancer Act of 1971 and a large increase in funding for cancer research. The budget of the National Cancer Institute was $185 million in 1969; the President's budget request for fiscal 1973 is $432 million. Only a few days ago a supplemental request was made for $40 million in fiscal 1972.

Increasing attention is being given also to heart disease and associated problems. The administration's fiscal year 1973 request called for an increase of $23 million for the National Heart and Lung Institute.

Even though the momentum of Federal support has been regained or accelerated in these major areas—the total picture is not so optimistic. Other important areas within the National Institutes of Health are being slighted.

For other major disease problems and for the foundation which underlies all health progress—basic research—increases are modest and uneven, sometimes nonexistent. More than 80 percent of the requested increases for research in 1973 are concentrated in two institutes—cancer, and heart and lung. The other eight research institutes of NIH do not fare nearly well enough.

In fact, research in other areas has suffered an actual decline in terms of rising costs. Inflation has eaten away at the costs of biomedical research, as it has in other areas of life. The same amount of dollars in 1973 simply will not buy as much research as it did in 1971 or 1970. With the exception of cancer and heart disease, therefore, we are actually losing ground.

This does three things. It neglects many health problems which sap the strength and vitality of the American people. It produces serious imbalances along the whole spectrum of health research and creates great stress for the biomedical research community. And it weakens the fight against our targeted diseases.

The conquest of cancer, for example, depends on work done by geneticists, molecular biologists, virologists, cell biologists, and others engaged in research so basic that it cannot be classified as cancer research. The history of progress against cancer is filled with milestones from other fields of research.

The key that unlocks the riddle of cancer may be labeled something quite different. I hope we will not throw away any key, or neglect any lead, that may provide us with some fundamental answers.

Medical research depends upon gifted and trained investigators. Here, too, we are in danger of losing ground. The research fellowship and research training programs of NIH have been on a slow dollar decline for 5 years, with the exception of training programs related to cancer.

I am happy to see that increases have been proposed for cancer and heart disease. But I am disappointed about the amounts requested for such serious problems as arthritis, kidney diseases, diabetes, digestive diseases, population research, mental retardation, sudden infant death, and malnutrition. It is as if in a war for survival, a general concentrated all his forces on two sectors and kept the rest of his line so weak that the enemy might break through and engulf him. This is as poor a strategy in the war against disease as it is in a military conflict.

The NIH is the world's leading institution for biomedical research. It has made many outstanding contributions to the health of our people through its support of research in the Nation's academic institutions, hospitals, and laboratories. We must not allow major segments of its comprehensive program to lag, for if we do the whole mechanism for progress against human disease can be impeded. I want to strengthen that mechanism. I want to maintain the momentum of research in the interest of the American people and all humankind.

INTEGRITY AND THE ECOLOGICAL CRISIS

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. SHOUP. Mr. Speaker, I wish to share with my colleagues a letter from Glen L. Martin of Montana State University and the technical paper he sent to me by Dr. Myron Tribus.

I believe the paper makes important remarks which need to be carefully considered.

MONTANA STATE UNIVERSITY,
Bozeman, Mont., May 8, 1972.
Hon. RICHARD SHOUP,
U.S. House of Representatives,
Washington, D.C.

DEAR SIR: Enclosed is a copy of a presentation entitled "Integrity and the Ecological Crisis." This presentation, although given last August, is still timely and worth reading.

Starting on page 5 Dr. Myron Tribus makes many pertinent remarks with regard to the crises of the times. I commend it to you for your reading and thought. As Dr. Tribus points out, the solutions to today's problems are complex, and the leadership in federal agencies must have technical as well as legal competence to approach a solution to these problems.

Sincerely,
GLEN L. MARTIN,
Head, Civil Engineering and Engineering Mechanics.

INTEGRITY AND THE ECOLOGICAL CRISIS

(By Dr. Myron Gribus)

When I received the invitation to speak at this conference, my first inclination was to turn it down, for I do not like to be reminded of how many years have passed since I last presented a technical paper before a conference of this kind. But when I learned that the conference was to be dedicated to Hunter Rouse, I could not decline, for, quite unknown to him, he was an important influence in my career, and I feel I owe him something.

It is difficult now to recall the state of engineering education in 1940. It is hard to realize now what most engineering students actually studied then, usually under the heading "hydraulics." Those of you who share my pleasure at such things should go to a large library and look at engineering textbooks of 1938—especially those for students of hydraulics. Examine the required level of mathematics and the subject matter of the concurrent courses. Then, you will see what I mean. There were, however, important forces at work in the field of fluid mechanics, forces which have changed education and brought us to the state of affairs we see today—in which advanced students are able to predict the behavior of fluid systems not even imagined then. I shall not dwell on the many successes in analysis and experimentation, to which we have become accustomed in fluid mechanics. It is probably all to the good that so many of you are dissatisfied with the way things are. It is only right that the new Ph.D. should look with disdain at the scientific basis the previous generation have laid down, seeing only the gaps in the structure and the elements which need replacement. But having been witness to the swift transitions over the last 30 years, I am able to appreciate what has been wrought and to appreciate what has been the burden men like Hunter Rouse have carried.

I hope that some historians of science and technology will present us with a chronicle of the development of education in fluid mechanics from the period say in 1921 (when Zeitschrift Fur Angewandt Mathematic und Mechanic began publication), to the present time. The Blasius solution was available in 1908, but I choose 1921 for two reasons: First, it is the year Prandtl published an account of the use of integral methods in boundary layer calculations and, thus, marked a clear distinction between the main flow and the boundary layer. Second, it was the year I was born! Regardless of when the historical survey is begun, the period from the late 1920's to the very early 1940's will surely be recognized as critical in the development of our subject, and it was in this time that Hunter Rouse began to play the role we associate with him today.

There were at that time some farsighted engineers who knew what was urgently needed was adequate reference works. They endorsed the publication of certain books as "Engineering Societies Monographs," and among their choices was the book by Hunter Rouse published in 1938. That book was three years old when I began to study fluid mechanics and, from the brighter graduate students who were often my teachers, I often heard—"That's not the way to do it. Look it up in Rouse." That book is not yet out of date, a fact evident to Dover Publishing who have made it available in paperback.

In preparation for this talk, I did a little research on Hunter Rouse and came up with some information you may not know.

When he first showed up at M.I.T. and was pledged to Sigma Chi, his classmates recall that they let him in with some reluctance. He didn't have a Stutz Bearcat or a racoon coat—and he gave the overall appearance of a kid fresh from the farmlands, which he was. However, appearances are deceiving, for I have been told that he went on to be president of his chapter two times, president of his class, and to establish the highest scholastic record the fraternity had ever had.

As I said earlier, Hunter was an influence on me from afar—and he early learned to exert an influence from afar. I'll wager that very few of you know that Hunter Rouse supported himself through college as a professional ventriloquist! There are still people around who remember him sitting motionless and expressionless while the dummy sang an aria from Aida!

It was from this sort of start that Hunter went on to his studies in Germany and, thence, to the beginnings of a career which has brought him ever greater influence over the years.

Hunter Rouse and the field of fluid mechanics have come a long way since then, and I am proud to have been invited to participate in this salute to his steady, helpful, uplifting influence in the continuous pursuit of excellence. In an age when so many are eager to discard the values of the past, without knowing what they shall substitute for them, and at a time when the quest for better technology has been branded as irrelevant to improving society, I am proud to be here to stand up and be counted among those who say to Hunter Rouse—"Well done. Carry on. We who know what you have done and can do never doubt for a moment the worth of it all for the good of mankind."

Today I wish to talk with you about some of the facts of life . . . not the birds and the bees . . . for I suppose you know all that—if not, ask today's children! Rather, I mean some of the facts of life in a technological society. By definition, a technological society is one in which almost every event in the daily lives of every one of its members is deeply affected by, and totally dependent on, technological systems. And it is in the nature of things that these are systems over which he personally exerts little control. A modern city is, of course, an example of such a society.

In our country, with the exception perhaps of some parts of Appalachia, or Vermont, or a few isolated parts of the west, we are everywhere a technological society. Our food, our clothing, our shelter, our health, our education, our economic welfare—all depend upon the smooth functioning of vast, complex technological systems. These systems have long time constants, are interdependent in ways we do not fully comprehend, often behave in ways counter to our intuition and common sense, and are almost all designed for an earlier era, for different goals and managed by people who march to their own drummer.

Today, for the first time in many years, we no longer take it for granted that these systems will serve us as we wish. We are at their mercy and many of us are afraid, for while we know they must be changed, we recognize that our leaders do not know how to do it. Our perception that they are unaware they don't know makes it all the more disturbing.

I do not mean merely the problem of power shortages or of overloaded transportation systems. I do not refer to inadequate health care systems or to the crisis in housing. They are symptoms. I want to cut beneath these symptoms and find the really critical issues.

I accept, for the moment, that population pressures represent the ultimate force driving all organized societies to exceed their resources and, unless that force is brought under control, nothing else can matter for long. I believe that Malthus was right for the wrong reasons. It is true, as the anti-Malthusians have claimed, that we can increase food production to keep up with population. But the extra efficiencies come at the cost of inherent stability and we find that overpopulation breeds slowness of changes to the point of breakdown.

If the population explosion is to be brought under control, it will be through education or coercion on one hand or by war, pestilence, or famine on the other. To avoid the second set of alternatives, our citizens must be persuaded to give up something they want in exchange for a contribution to the welfare of their society. This step calls for the building of a kind of trust and faith in our government which is conspicously absent today. It is not a matter of distrust of motives. It is a lack of confidence in capability and commitment that saps our strength. Our democratic institutions permit the people to exert power . . but the power is useless if there are no viable alternatives. Rebuilding a faith in ourselves is one of our most urgent tasks. In rebuilding that faith, it is not only what we do, but the style in which we do it that counts. Therefore, today I want to discuss with you the style in which our Nation approaches technical challenges. My remarks will be centered on the environment as a specific example.

Today we have embarked on a most ambitious technological challenge—the rescue of the ecosphere. The conquest of the moon costs us about four billion dollars per year, which measured against a trillion dollar economy is less than ½ of 1 percent or even if reckoned as part of the Federal budget, is about 2 percent. In contrast, to protect and restore our environment will probably cost about five or ten times as much. Apart from the enforcement aspects of pollution abatement laws, the task is almost entirely a technical problem with about ⅔ of the work to be done outside the Government.

As with all technical problems in society, this problem is separable into two parts, the generation of technical possibilities and the choice of which ones to fund. The selection process is the point at which value judgments are exercised. Science and technology, through engineering, determine what the alternatives are. Political, economic, and social pressures determine which alternatives are pursued. The style whereby these interact is as important as what is actually done.

The task of making environmental decisions is never simple in practice, for just as the decision makers are stewing over which unattractive alternatives to select, it is likely that someone will propose a new alternative—one not clearly thought through and one not endorsed by all the so-called experts. Environmental decision makers are usually not served clear cut choices. They will have to make judgments in the fact of uncertainty. It seems obvious to us, who are technically qualified, that the decision makers must be well versed in technology if they are to act wisely. This view is not shared generally in Washington.

The decision makers should also reflect the sense of priorities of our people, if they are to produce the results which accord with the people's wishes. But if the people are confused, who is to say what their wishes are? The decision making process should help enlighten the people and not add to their confusion. This is part of the style needed to retain popular support.

Economists use the term "externality" to describe a cost which one group must bear for another group's benefit. This is the dawning of the age—not of aquarius—but of externalities! If everyone else accepts the cost of anti-pollution devices except one, that one person will benefit nonetheless. Action programs to rescue the environment will depend on the cooperation of the citizens who will view their own costs as externalities. If they do not trust the system which generates the laws and regulations, there will be no prospects for success. This makes the integrity of the process for deciding what to do in pollution control a central question. When we concern ourselves with the need for integrity in ecological matters, we must not only be concerned with individual integrity—the process must be consistent with its own aims, and one of those aims must be to enlist popular support.

The battle to save the environment must be won—and it can be won. As with population control, environmental protection will surely require a mixture of cooperative and coercive measures. We know from the social experiences of the past that enforcement alone will not work. Cooperation is essential to success, but we also know that cooperative measures alone will not work. There are too many externalities in the system. The degree to which coercion is needed depends on the faith of the people in what is done. There are not enough policemen in the world to enforce the laws if our citizens do not support them.

It is at this point in the argument that I wish to make the point that integrity or lack of it will win or lose this battle. The style in which the issues are addressed by the leaders of our society will either make or break the programs for through their perceptions of style the citizens will learn to trust or distrust our leaders.

No one knows for sure what the costs of cleaning up the environment will be. There are no systems for reckoning the costs and benefits associated with the many externalities. Better health, better recreation, cleaner air, more abundant wildlife, a more viable ecosystem—these do not appear in the GNP or even in the sum of the corporate P. & L. statements. My guess is that the increased costs of doing business will be of the order of 10 percent for a large number of companies in the power, chemical, and process industries. But statistical averages are apt to hide rather than reveal problems, as welfare clients in a trillion-dollar economy sadly attest. For older plants, the costs may be much greater than 10 percent; perhaps great enough to close them down. For new plants, yet to be constructed, the increment may even be negative—i.e., by looking more carefully at so-called "waste products," engineers often find a way to turn out useful products. But, whatever the cost turns out to be, it will necessarily be reflected in the price to the consumer.

The costs will be unequally distributed, and so will the benefits. The farmer in Kansas pays more for his family sedan, loaded with antipollution and safety devices so the people of Los Angeles can breathe more easily and drive more safely. The ghetto dweller will not be able to distinguish between price increases caused by environmental protection measures and those brought on by inflation. The housewife is asked to segregate waste products and her husband is asked to pay more for separate haulings of trash. They are told their extra efforts will assure that the rivers and air will be cleaner. Now, I have faith in the educability of the great majority of my fellow citizens and believe they will do the right thing—they will accept these sacrifices—but only if they believe the system that makes the rules is honest and competent. The majority will accept externalities, but only if they believe in the system.

The problems of our citizens and their government are made much more difficult because of a relatively recent phenomenon—the affluent activist. Lincoln is said to have forecast the problem years ago, "The challenge to democracy will arise from the youth who will not wish to build upon the foundations laid down by their elders." We are witnessing an attempt at revolution led by those who have been best treated, in a physical sense, by the system they have set out to destroy. It is of interest to consider how the ecological problem suddenly became a common cause with civil rights, consumerism and ending the war in Vietnam.

My own hypothesis on how it all happened is fairly simple. Any student of economics soon discovers that the available economic theories are almost useless as guides in deciding what to do about pollution control. Most of you have probably been sheltered, until very recently, from the need to look closely at what the economists have been doing in our society. Those, such as you, who build approximate mathematical descriptions of natural events long ago learned (or should have) that simple useful approximations should not be extrapolated to new regimes without question. The economist deals with more complex systems than even the full navier strokes equations. Because of successes in guiding the economy in the 50's and 60's, the economist's methods have gained power and prestige which seem to me to be overstatements of prowess for the era we are about to enter. These matters are surely transparent to any graduate student. My own guess is that many graduate students of political activist leanings recognized in their studies of the subject that, in fact, our theoreticians have only very crude ideas of how to treat the economics of pollution—or if they have clear descriptions of the illness cannot generate clear prescriptions for recovery. I believe that these students saw very clearly that at the interface between the government and business there were no satisfactory ways to move the country in the directions it should go. To them the economics of pollution appeared as an achilles heel in a system they wanted to destroy. I cannot believe they really care about ecology—except as a battleground in a war they wish to widen. Young people, especially, fail to recognize that this is a problem inherent in the decision making processes of a large technological society.

A review of ecological efforts in the Soviet Union, for example, shows essentially the same kinds of problems as in the U.S.A. The plant manager is told to worry about ecology, but he is also told to worry about production schedules, quality of the product and cost. When he is first told about pollution, he is aware that it has been a problem for some time—so what's the big rush. If he sees that Ivan at a nearby plant gets a promotion because he cuts costs, even if he didn't take care of pollution, you can guess what his own priorities will be next year.

If I tell you to rearrange the furniture in your room as quickly as you can and as silently as you can, you will surely ask me for clarification, for high speed and total silence cannot be had simultaneously. If the decisions are to be made centrally, it will take time to study the question.

In a technical society the tradeoffs are much more complex than just speed versus noise. Most of these tradeoffs cannot be made centrally without danger of extensive disruptions to the system as a whole. A sense of urgency arises only when things begin to be obviously wrong.

These problems are apparently invariant to the political system. They are the same in the U.S.A. and the U.S.S.R. and show up wherever technology is intensive.

Fundamentally, the stickiness in the economics of pollution resides in the tradeoffs between optimum solutions viewed locally and optima defined globally. A collection of locally optimum solutions often generates globally pessimum solutions in ecology. Global optima are found only with the help of a strong centrally oriented group capable of looking at the total system. In a complex society, no one can define the global system, let alone analyze it! The difference between a globally optimum solution and the sum of locally optimum solutions is the sum of the externalities. If the local groups are strong enough, they can resist solutions posed as "globally optimum." I find it disconcerting to realize that the phrase "power to the people" leads towards locally determined solutions which may be quite unsatisfactory on a global basis. If you doubt this, watch how local communities try to put the sanitary land fill somewhere else. The phrase "more power to the people" needs to be replaced with "more concern for the people." The problem is not that people don't have power—they just don't have the information or choices to make exercise of their power meaningful.

These shortcomings have been recognized by our youthful activists and taken as one more piece of evidence concerning the failure of the system as a whole. So they decided to add it to civil rights, consumerism, and Vietnam. That's why the same people show up on the boards of directors of separate organizations, why the confluence of posters showing black fists, Vietnamese suffering, and polluted rivers show up on the same office walls. My main concern is that these people believe that ends justify means, that it's all right to lie to the people if it is done in a good cause. They do not understand that the destruction of a technological society, if successful, carries with it unprecedented dangers to everyone. Mao clearly sees the difference between the stability and recuperative ability in an agrarian society on one hand and a technological society on the other. Anyone who is concerned over human misery and suffering must think twice about sabotage of a large industrial society.

People who want to right the wrongs of our society, without destroying the people in it are caught between the socially irresponsible activists who plan only to destroy and have no plan for rebuilding, and an unresponsive system of government and business. The activists, being young and unaffected by the adage, "good judgment comes from bad experience," can be counted on to pursue their course for the immediate future. I have, therefore, chosen to address myself to the style followed by business, industry, and government.

The challenge of environmental protection is different from almost every other challenge we have ever faced before. Our government tries to serve as the enforcement agency, the educational agency, the research agency, the forecasting agency, the standards setting agency, the monitoring agency, and the source of laws and regulations. About a third of the effort must be made in agriculture and about one third in industry. To oversee this work, we shall require the best technical talent we can muster. And this talent must be led by men whose competence for the job is beyond question.

If the federal government appoints to the key positions men whose qualifications may be questioned, there will surely be set in motion a reaction, first in industry and then in the general public. If the key positions in the new environmental protection agency are filled primarily on the basis of political considerations, if positions which should be held by men of the highest technical competence are filled by lesser men, we are at a poor beginning indeed.

I have studied the duties and responsibilities of the top managements of the new Environmental Protection Agency and the qualifications of the men appointed to these positions. In my opinion, the grand campaign is won or lost at this level. I leave to you the task of getting the data and drawing your own opinions. Your Congressman and Senator can obtain for you statements from EPA regarding the top three levels of administration, the duties of the offices and the qualifications of the men appointed to them. I have no reason to question either the sincerity or the integrity of these men. But I should like to call attention to the disparity in stature between the administrations of EPA and, say the historic leadership in the AEC. If protecting the environment is as important as we say it is, why do we not find men of nobel laureate status near the top? I am greatly disappointed at the failure of the administration to seek out the very best men to lead technical efforts.

The mobilization of the Nation's top technical and industrial resources calls for more than the skills of a district attorney. An approach which emphasizes the lawsuit will be met by phalanxes of industrial attorneys. The war against pollution is to be judged by how much the environment is cleaned up and not by the fines collected.

Let me give a specific example of one instance where failure to understand what is involved has cost us precious time and momentum. The ASTM has developed a cooperative program of standardizing measurements for pollution control. As you well know, it is one thing to measure the chemical composition of a flowing stream in controlled laboratory conditions—it is another thing to measure it under industrial conditions. Flows are apt to be unmixed, unsteady, and unhandy. We need a wide assortment of new measuring techniques useful for practical applications. Not only does this call for the best of theoretical analysis, it also requires experimental work. There must be cross-checking by different laboratories.

The ASTM has proposed a program of development and inter-laboratory testing. This is the kind of cooperative venture the Government should support and in which it should participate. If the Government tries to do all the work itself, it will surely fail, for the Congress has not provided the facilities and manpower to do the job. If the Government tries to do the work by contract with the separate laboratories, it will get hopelessly bogged down in contract details. As far as I know now, this program by ASTM still languishes for want of support. Nothing can be more disastrous to the cause of pollution abatement than standards of measurement which can be discredited in court. It takes experience in technology to appreciate how vulnerable measurements often can be.

The failure to support the ASTM is a good example of why strong technical leadership is needed at or near the top. It takes someone with technical knowledge and in a position of authority, above the level of bureaucracy, who sees the importance of outside influences in promoting integrity of measurement, to cause the right technical things to happen. Otherwise, the agencies succumb to the "not invented here" syndrome, and they view outsiders as competitors rather than helpers.

This country has had much experience in the mobilization of technical effort. These experiences have taught us that such mobilization requires technical leadership of the highest order. Given such leadership, we have achieved what they said couldn't be done. Sometimes it has required the mobilization of scientists and engineers to help make our politicians understand. I believe we are approaching such an instance.

Fundamentally, our problems stem from the fact that ours is a technological society run by technologically illiterate people. They simply do not know how to cope with technical problems. But because our problems are not purely technical, it will not do merely to replace them with technically trained people. We need to find ways to have the voices of technology heard, as equals, in the higher councils of government.

My experiences in Washington, and what I have learned since leaving there, have taught me the importance of the views of those who set the budgets and allocate the manpower. If they do not understand the job, neither the budget nor the manpower will reflect the necessary priorities. The wrong people will be promoted for the wrong things, expediency will rule as policy and the long-range planning so vital to success will not be done. The ecological crisis is a long run affair and success will only come to those who plan for it. Planning to deal with the ecological crisis requires the integration of technical, economic, and political considerations. If one of these considerations is missing or misunderstood, there will be no sensible plan. Somewhere near the top of EPA, we must find absolutely first rate, technically qualified men, or else we must expect a continuing ecological crisis.

Another area of environmental protection in need of attention is the protection of the integrity of information. We are today beset on all sides with claims and counterclaims about the costs and benefits of various aspects of environmental protection. I have proposed that an agency, such as the National Academy of Engineering, or perhaps some of the professional engineering societies, might join with representatives of the legal profession to design a new kind of hearing procedure or forum, in which technical issues might be debated in a new format. The procedures we now use are totally inadequate. The Library of Congress publication, "Technical Information for Congress," contains a series of case histories which shows clearly that the Congress and, therefore, the country, has been misled again and again because the typical adversary proceedings of our Government do not really get at the truth..

Take, for example, the procedures we now follow in an area such as the Flammable Fabrics Act. This act calls for the establishment of standards to protect us against burning up in our own clothing. When witnesses appear before committees of the Congress, they do so on different days, with different Senators or Representatives present at different times. Some witnesses make outlandish statements which are not caught at the time by the committee members or are rebutted a day or so later before a slightly different audience.

Under the system I have in mind, on important issues the statements of witnesses would be obtained ahead of time, circulated for rebuttal comment by opponents, and the areas of agreement and disagreement stipulated. Figures presented in a misleading way might be challenged and unsubstantiated claims could be identified. Wild and exaggerated claims would be exposed. Each witness should be given prior access to the comments made on his testimony and allowed to revise his remarks accordingly. If these interchanges were carried out under the supervision of a technically trained professional staff, the quality of the testimony would be enhanced. Of course, the sessions would be less lively—but we are not so much in need of entertainment as we are of integrity. Granting that our legislators will not be technically trained, we need to have professional help to organize the kind of information they hear without interfering with the content of the information.

It is for this reason that I proposed that the committees of the Congress have on their staffs at least one person whose technical competence had been endorsed by, say, the National Academy of Engineering or the National Academy of Sciences.

I have made these suggestions because I think that there needs to be a voice for truth in technology present in the debates of our legislators. I cannot say for such that the SST decision was a wrong one—that issue is closed. But I do say that the process whereby it was arrived at was irrational. I heard representatives of both sides say things in private that simply did not square with their public positions. We set dangerous precedents for ourselves and our children by such procedures.

The situation on the industrial side is not much better. I read about the additives that are supposed to make my car burn cleaner—so much so that one is tempted to believe the exhaust will be healthier than the intake! And who really knows where to go to get the truth about detergents and phosphates?

The Congress has, under the clean air act, requested the National Academy of Sciences to make an official report on whether industry is doing what it should to meet the objectives of the act. This is a wonderful opportunity for the academy to experiment with new and more rational ways to discuss these technical issues which cut across society. I hope they will not simply come forth with a long scholarly report, summarizing the data they have been able to cull from secret testimony from witnesses. I hope instead they will develop public debates, with genuine protagonists, with rules of procedure to guarantee as well as possible against wild and irresponsible claims. I know that there are many who do not welcome the truth—but these are matters too important to be left to a small group of "technological wise men." It will not be easy to do, but we must find a way to bring all sides to a discussion they perceive is honest.

The question of whether the government should modify hurricanes is an exceptionally interesting and important example which could lend itself as a test case. The problem is of national importance and interest, it is timely and it involves many special interests. It is not yet so pressing that we must have an immediate answer, yet it may soon become so. The necessary action to structure a debate has already been taken—but no one has clearly decided to stage the debate.

A decision to seed or not to seed a hurricane affects the environment of many citizens. The problem has many unknowns, including those which arise from our inability to solve the time dependent, energy, and momentum equations for four discrete phases for a fluid system described in rotational coordinates covering the globe and having imprecise initial and boundary conditions. The annual damage from hurricanes in the U.S. amounts to about half a billion dollars on the average, and some individual hurricanes can do 2 billion dollars damage. The scientific evidence that we can cause predictable decreases in hurricane intensity is not conclusive, but it is strongly suggestive. There is a sense of urgency but we can see no clear cut path to universally desired ends. Some of the things we could do to reduce hurricane intensity might improve the lot of one group at the *apparent* expense of another. I say apparent expense because there are always statistical fluctuations in our data, and we seldom know in an individual case what caused things to be slightly better or worse.

The problem, from a decision analysis perspective, is the same as discovering a month after leaded gasoline is outlawed in Tokyo that the most severe smog attack in history has occurred. No one has the data to say what really happend or how bad it might have been if lead had not been banned.

I hope that we will have well-structured debates on the question of hurricane control for two reasons. The problem fully justifies this kind of treatment, and the experience we gain in developing a full and honest presentation of the technical information in question will prove invaluable when we subsequently grapple with other technological issues. It will be most instructive to see how a properly structured presentation of the technical facts affects the quality of the congressional decision-making process.

I said before that the style with which our leaders address the major issues will either make or break the programs, and I don't think this point can be emphasized too strongly. At this juncture we find ourselves, for the most part, caught between the style of government representatives who play politics as usual and the style of industry leaders who play business as usual. Neither is calculated to inspire the confidence of an increasingly disenchanted public.

The pity of it is that, occasionally, pearls of wisdom will indeed drop from the lips of a politician or businessman whose past behavior has done violence to his credibility. When that happens, the effect is often much worse than that of crying into the wind. For the public may not merely ignore sage comment from an unlikely source but decide reflexively that it should take the diametrically opposite view.

Those who would make a sincere contribution to the solution of our technology-based problems must, like Caesar's wife, conduct themselves in a manner to place themselves above suspicion. And they would be well advised to heed an old adage:

"Don't bend down to tie your shoes in the middle of a pumpkin patch, and don't stretch your arms in an orchard."

PEACE? YES! SURRENDER? NO!

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. ERLENBORN. Mr. Speaker, in the past 3 years, the United States has reduced its forces in Indochina by almost 500,000 men; and the world can only regard that as a conciliatory gesture. If actions speak louder than words, then this withdrawal fairly shouted that we seek peace.

We do not want a surrender, but we do want an end to the killing.

Using arms supplied in abundance by the Soviet Union, North Vietnam has responded to this proffer of peace by sending 12 divisions, including armored divisions, into South Vietnam. It is a massive invasion and it endangers the lives, not only of 17 million South Vietnamese but also of 65,000 American troops.

Thus, our act of conciliation has been answered by an act of aggression.

In this situation, President Nixon spoke to the Nation and the world Monday evening. He offered a complete withdrawal of American forces if North Vietnam would agree to release our men who are prisoners of war and would abide by an internationally supervised cease-fire to stop the killing. He also announced that mines are being laid at the harbor entrances of North Vietnam, and that our bombers would cut rail lines leading into that country.

And he asked for the support of the American people. Mostly, I believe, he has it. Most Americans know that we are in a tight spot. We do not know how the Soviet Union will react to this sealing off of those ports. We do know that there is a better chance of Soviet understanding if the American people were to present a united front.

This is an election year, however, and some Americans give a higher priority to their political advancement than to their country's stance.

This has happened many times in our history.

For example, 196 years ago, our country's leaders signed a Declaration of Independence in July, and then began to lose battle after battle. General Washington found it necessary to withdraw from New York.

The enemy's morale was high; our morale was low. Many scoffed at the disunited colonies and their pretensions of independence from Great Britain.

One, however, did not scoff. Thomas Paine wrote:

> These are times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of his country; but he that stands it now deserves the love and thanks of man and woman.
>
> Tyranny, like hell, is not easily conquered.

Mr. Speaker, the spokesmen for the summer soldiers and the sunshine patriots of 1972 have met in caucuses in recent days and told the world they hope the United States—your land and mine—knuckles under to tyranny. I do not believe the people of the United States want to do that.

Peace, we want; surrender, we do not.

UKRAINIAN AMERICANS SPEAK OUT FOR FREEDOM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. KEMP. Mr. Speaker, I would like to call my colleagues' attention to a manifestation which will be held this weekend in front of the White House by the Conference of Central Youth and Student Organizations of the Ukraine Congress Committee of America.

This event is being held to show support for the rights of all Ukrainians throughout the world and especially those who have been unjustly arrested in the Soviet Union. A followup to this manifestation will be a demonstration which will take place on the same day, Saturday, May 13, in front of the Soviet Embassy.

The most important part of the day's events will be the presentation of a petition to President Nixon.

I was notified of this manifestation by Atanas T. Kobryn of my district who was kind enough to send me complete details. Two of Mr. and Mrs. Kobryn's children, Maria Luba Kobryn and Andrew B. Kobryn, will be among those participating in the event.

During the past few days Washington has once again been invaded by demonstrators who defame their country. These demonstrators appear to be completely oblivious of the priceless heritage of freedom which we all possess in America. The freedom of speech which they treat so lightly is only a cherished dream in captive nations around the world.

The freedom gained by the Ukrainian Republic was short lived, but countless Ukrainian Americans keep the hope of a free Ukraine alive in their hearts and minds.

Earlier this year I urged President Nixon to speak out for the captive nations, such as the Ukraine, during his trips to China and Russia. I am proud to support in every way possible the Ukrainian people's struggle for freedom and self-determination and I wish every success to the efforts of the Ukrainian Americans this weekend.

Mr. Speaker, I include for the information of my colleagues, the announcement of the Ukrainian manifestation this weekend and the letter from my constituent, Mr. Atanas T. Kobryn:

ANNOUNCEMENT

May 22, 1972, President Nixon is scheduled to leave the United States for a "good will" trip to the Soviet Union. One of his stops will be the capital of Ukraine, Kiev.

The Conference of Central Youth and Student Organizations of the Ukrainian Congress Committee of America is organizing a manifestation in front of the White House in Washington, D.C., on Saturday, May 13, 1972. We have the right to manifest our massive strength before the American people and before our President. As American citizens we have the right to ask President Nixon to hear our plea and to stand up for the rights of all Ukrainians throughout the world and especially those who have been unjustly arrested in the Soviet Union. It is our duty to manifest support for our brothers and sisters in Ukraine. 1972 is an election year and this fact can only add to our success in letting ourselves be heard. A followup to this manifestation is a demonstration which will take place on the same day, Saturday, May 13, 1972, in front of the Soviet Embassy in Washington.

Buses from all over the country are scheduled to arrive in Washington by 12 o'clock noon at the site of the Tara Shevchenko Monument at 22nd and P Streets. The activities will commence at 1 p.m. at the Monument, where the Ukrainian Bishops will open the proceedings with a prayer. Following a few short speeches, the crowd will march towards the White House. The manifestation will be held in Lafayette Park.

The most important part of the manifestation will be the presentation of a petition to Mr. Nixon asking him to stand up in defense of the Ukrainian intellectuals arrested in the Soviet Union and in defense of the Ukrainian Church in Ukraine, which has suffered much persecution at the hands of the Bolshevik atheists.

The Ukrainian Congress Committee of America has sent out 45 letters to various American senators, congressmen, governors, mayors, and other public officials inviting them to appear in Washington at the Ukrainian manifestation and to speak out against Soviet terror.

Recently, Washington has been the scene of many demonstrations protesting American involvement in the war in Vietnam. In order to insure that we will not be affiliated with these leftist elements, the Coordinating Committee of the UCCA encourages all Ukrainians to wear traditional Ukrainian shirts or blouses. Since not everyone has such a shirt or blouse, UCCA encourages all local committees to provide blue and yellow armbands.

Following the manifestation in front of the White House, all participants will march to the Soviet Embassy where we will demonstrate against the countless arrests of Ukrainian intellectuals, the persecution of the Ukrainian Churches and in general, the overall animalistic terror which has become widespread in Ukraine.

In the words of Valentyl Moroz:

"The trial will come and everything will begin anew, new protests and petitions, new material for newspapers and radios of the whole world. The interest in what Moroz wrote will grow tenfold. In a word, another heap of wood will be thrown on the fire which you want to put out."

Remember Saturday, May 13, 1972. Be there!

Conference of Central Youth and Student Organizations of UCCA.

Hon. JACK F. KEMP,
Member of Congress
Washington, D.C.

DEAR MR. KEMP: The enclosed newspaper clipping entitled "announcement" is in no need of comments and/or explanation. I am enclosing same for your and your staff's information.

As you undoubtedly know, a large group of young adults from western New York is planning to participate in the manifestation referred to in the enclosure. Among them will be two of my four children: My daughter Maria Luba Kobryn (West Seneca East Senior High School student) and Andrew B. Kobryn (West Seneca West Senior High School student).

Knowing your interest in the activities of young adults in our district as well as throughout the nation, and also knowing your readiness to actively support any positive and worthwhile undertaking, especially as it pertains to the causes of freedom and justice for all. I am sure that you would want to join the young people from our congessional district in this manifestation that is in the best tradition of American way of life. If anything, this will be one of very few (unfortunately!) *Positive* demonstrations that will be in a sharp contrast to the displays of negativist and/or pacifist thinking of a relatively small but vocal segment of our society.

Mrs. Kobryn and I will *appreciate very much your support of the thousands of the young Americans of Ukrainian descent,* and especially we will appreciate your efforts that would make our childrens' visit to our nation's capitol a memorable one.

Very truly yours,

ATANAS T. KOBRYN.

NO PROTESTS AGAINST COMMUNIST AGGRESSION

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. RARICK. Mr. Speaker, if the obvious panic of the TV analyzers and the news demonstrations by the antiwar hawks are any criteria for judgment, the President's action to deter additional military supplies from the invasion forces of South Vietnam was not only correct but it is hurting the aggressors.

To many Americans it appears that the present demonstrations are not against aggression or against war but against U.S. action to curb aggression. Most Americans are questioning where those anti-aggression demonstrators and the TV critics were over the past several weeks when the Communists were blatantly escalating the war by arming the North Vietnamese troops and publicly calling for victory over the South Vietnamese people by a military invasion? Or where are the protests at the overrunning of Quang Tri, or today's unbelievable Communist artillery barrage on the women, children, and citizens at An Lac?

The Communist propagandists, while talking about peace, have again proven to the world they want no peace. They only want to continue escalating tensions until they dominate the world.

Americans question why some of their fellow citizens seem to feel that our country is never right, while the Communists are never wrong. There are no protests, no disagreements from political leaders or citizens in Hanoi, Moscow, or Peking over that side's escalation of the war. In those countries dissenters are put in prison or just shot—liquidated in the interest of national unity.

Sincere individuals who demonstrate to end the war would better serve their announced purpose by demonstrating at the Soviet Embassy in Washington, D.C., or at the Soviet Mission at the U.N.

PHASE II'S FAILURE

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. LEGGETT. Mr. Speaker, there are few concerns of the American people today which are matched by their desire to end the ceaseless onslaught of the price rises. Month after month each citizen turns to the other asking, "When will it end?" Month after month the administration urges time and patience, time and more patience.

I feel that I recognize the need for both time and patience in executing an economic program. I expected few immediate results. But, Mr. Speaker, 6 months have passed. It is time to evaluate where we have been and how far we have yet to go.

Regrettably, the statistics do not tell a pleasant story. The President's program to hold down prices during phase II appears now to have failed. The first 6 months of this program have yielded price rises averaging nationally, virtually the same as the enormous price rises that preceded the 3 months of wage-price freeze. Productivity far from bouncing back is just poking along and unemployment remains at over 5 million unemployed.

In the administration's valiant effort to control price rises, the lessons of World War II, foreign experiences, and much more, were taken into account in drawing up the battle plan.

The flaws, however, remained rather clear to all: uneven enforcement, inability to communicate to the public the sincerity of the effort, widespread violations by corporations. Most visible of all has been the exemption for special sectors.

In Sylvia Porter's article of Wednesday, May 3, 1972, we are treated to a most specific analysis of why the administration is failing. I would like to introduce this article into the RECORD at this point.

CONTROLS OF PHASE II ARE NO GREAT SUCCESS

(By Sylvia Porter)

Within a few days, Phase 2 will reach the six-month milestone. What has been the record of this extraordinary experiment with price controls during a period of undeclared war?

Just fair, at best.

In fact, using President Nixon's own yardstick for success—a slowing in the annual rate of rise in the price level to the 2½ percent range—it has been a dismal flop.

It has not been a dismal flop, though—and now that Phase 2 is turning into a stricter Phase 3, it will become a much more apparent success.

We are watching Phase 3 unfold right now—with its stiffer policing, heavy and widely publicized clampdown on violators, threats of real punishment for flagrant abuses, tighter controls on the giants and in the most troublesome areas.

If you include the freeze of Phase 1 (August–November 1971) with the price-wage controls of Phase 2 (since November), the record comes out much brighter. The August–March rise in consumer prices was at an annual rate of only 2.8 per cent and, if updated through May 14, the annual rate of rise well might be down to Nixon's 2.5 percent target. The cost of automobiles in the Phase 1-2 period through March was actually down 2.3 percent.

But this is not an honest way of judging Phase 2.

The freeze the President announced last Aug. 15 was obviously a temporary thing. You couldn't live under such rigidity and you wouldn't want to.

The only honest way to judge the success of Phase 2 is to compare its inflation rates with those which were battering the U.S. economy in the months leading to the freeze.

Here are the figures for the six months prior to August, and for the Phase 2 months through March, put together for this column by the Bureau of Labor Statistics. The current rates probably will show a perceptible improvement when the May figures become available in late June. These statistics however, will give the essential clues.

[In percent]

Item	Precontrols	Phase 2
All items	+4.1	+3.7
Food	+5.4	+7.4
Nonfood commodities	+3.7	+2.1
Housing	+4.1	+3.6
Rent	+3.9	+2.9
Property taxes	+8.2	+16.9
Services	+4.5	+3.7
Medical care	+7.3	+3.1
Public transportation	+7.6	+2.8
Private transportation	+2.4	−0.5
Clothes and upkeep	+2.4	+1.7

The percentages that leap out are the 7.4 percent upsurge in food prices and the 16.9 percent spiral in property taxes—both much, much worse in Phase 2 than in the precontrol period.

Both of these are among the categories exempt from Phase 2 controls—a point which cannot be overemphasized. Close to 20¢ of every $1 goes for goods and services which are not under controls, a fat loophole indeed.

Among other categories also exempt from controls: damaged and used products, such as used cars; insurance premiums on new life insurance policies other than credit life insurance; tailoring of clothes; custom products and services including leather goods, wigs and toupees, fur apparel, jewelry; rents on farms, offices and industrial property; interest rates; fees and service charges by state and local governments.

In the food category, there are no controls on fresh fruits, vegetables, shell eggs, fresh potatoes, all seafood products, live animals and poultry. Meat prices are controlled only after an animal is slaughtered. Moreover, "pass through" rules permit meat processors and wholesalers to pass along whatever price increases and markups have been passed to them—all along the way to you and me.

Mr. Speaker, in November the people will speak their will. If the administration cannot do better by then, I am certain there will be changes.

RADIO STATION WFAB INAUGURATES NEW STUDIOS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. FASCELL. Mr. Speaker, tomorrow, May 12, WFAB radio station in Miami, Fla., will inaugurate its new building and studios, making it the radio station with the largest studios in Miami.

The fact that makes this unique is that WFAB broadcasts for 24 hours a day entirely in Spanish, and has been doing so for the last 10 years. The station has consistently ranked among the top five in Miami in ratings.

WFAB has served as a liaison between many government agencies and the Spanish-speaking population of Miami. It has performed considerable public service by keeping the Spanish-speaking population advised of government activities and programs such as income tax regulations, social security benefits, crime prevention, traffic education and much other needed information.

WFAB also performs a very personal service which is particularly meaningful to the many Cubans living in the area. In addition to announcing the names of those arriving on the freedom flights from Cuba, it broadcasts messages from individuals who are still living under Castro's rule to members of their families living in the United States.

WFAB is owned and operated by the United Broadcasting Co. of Florida. Its president, a former radio reporter in Washington, is Mr. Richard Eaton. The vice president and general manager is Mr. Tomas Garcia Fuste, a Cuban refugee.

Mr. Speaker, I congratulate WFAB on this important new step in its corporate life, and wish the station continued success in the performance of its programing for Miami's Spanish-speaking community.

PURE AIR TAX ACT OF 1972

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. DINGELL. Mr. Speaker, on February 8, 1972, President Nixon sent to Congress the proposed Pure Air Tax Act of 1972 which would impose a tax on sulfur emissions.

Feeling that this legislation should be fully considered by the Congress, Congressman John E. Moss, Congressman Henry S. Reuss, and I have introduced the administration's bill (H.R. 14931). In doing so, we wish to make it clear that we are not in full agreement with all of its provisions. We do feel, however, that the problem to which this legislation addresses itself is one which deserves full and expeditious consideration.

We are aware of other bills relating to this same subject, among them H.R. 10480 and H.R. 10890 sponsored by Congressman Les Aspin and other Members, which are considered my major environmental groups to be much stronger than the administration's proposal. With the administration's proposal in hand, it is our view that the Committee on Ways and Means will be in a good position to move forward with its consideration of the various proposals aimed at controlling and abating air pollution caused by sulfur emissions.

APOLLO 16: SO WHAT ELSE IS NEW?

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. FUQUA. Mr. Speaker, the Washington Post of April 29, 1972, carried an excellent editorial on the purpose of our space program that I wish every American had a chance to read and to understand.

This is not a waste of our natural resources but a basic scientific program that will repay humanity thousands of times over. Those who oppose the space shuttle and continuing space exploration are shortsighted and like an old expression back home "are guilty of eating their seed corn."

I would like to have the editorial reprinted here with the hope that some of our skeptics might read and understand that we are in the infancy of this great program. Thus far our research has uncovered more mysteries than we have solved.

The future will judge us as having been shortsighted if we fail to climb this mountain of opportunity and challenge.

Apollo 16: So What Else Is New?

It is easy these days to brush aside the moon flights as nothing more than multimillion dollar boondoggles. Everything is old-hat—the blast-off from Cape Kennedy, the landing on the moon, the search for rocks, the lift-off and rendezvous, and the splashdown in the Pacific. It's all been done before. So what else is new?

This jaded view is not one that commends itself to a nation which has taken pride in open-mindedness and the search for truth. For what is new about the lunar expeditions is that after each of them mankind seems to "know" even less than it did before about the solar system and the universe in which it dwells. One by one, the things men thought they knew have been exposed as nothing more than non-truths, or, at best, half-truths. Facts have a habit of doing that to theories, and the facts established as a result of the five lunar landings have raised more mysteries than they have answered.

This has been disturbing to most of those scientists and philosophers who had looked forward eagerly to examining the data, rocks and soil procured by the astronauts. The moon has not yet turned out to be the Rosetta Stone of the solar system on which were left the facts man needed to understand how the moon, the earth, the sun, and all the rest came into being. It may be, as some scientists now think, that the facts are there and that what remains is the arrival of a mind that can synthesize them into a provable theory. If so, the theory might do as much to change man's outlook as did the work of those who established that the earth rotates around the sun.

It is this kind of grappling with the unknown that justifies the lunar missions. Not far behind it, of course, is the thought that given what man is doing to the fragile planet on which he lives, the time may come when he must turn to other parts of the universe for the things he needs to survive. Thus, the lunar missions are part of this generation's legacy to the future, not just part of a space spectacular performed to demonstrate technical superiority and to build national ego.

No one is likely to understand for a long time all the data that splashed down in the Pacific with Astronauts Young, Duke and Mattingly. Their haul has been large in physical size and, if previous flights are any indication, it will be substantial in terms of new information. It is true that they did botch a couple of important experiments and that they did have a problem with their flying machines. But what has struck us about the moon flights is that so little has gone wrong and how much of what has gone wrong has been correctable. It is a sad commentary about the quality of life on earth when it takes days to fix a television set or a refrigerator while it takes only hours to analyze and overcome an electronic flaw in a craft that is circling the moon.

So we welcome back this batch of astronauts, who in both their joys and their errors have been the most human and the least machine-like team yet. Their data, when it is added to all the rest, will increase the odds that someday, someone will understand—and be able to explain—its full meaning.

NASA PROPOSES UPDATING OF TOP-LEVEL STAFFING

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. DULSKI. Mr. Speaker, at the request of the Administrator of the National Aeronautics and Space Administration addressed to you, I am today introducing legislation to amend the law with regard to the designation of titles for the positions of NASA Associate Administrator.

Present law provides for three Associate Administrators with specific titles.

Actually, Administrator James C. Fletcher says that the present organization of the agency provides for six officers functioning in roles equivalent to Associate Administrators. Further, the titles in the present law no longer are accurate with regard to the duties of the individuals.

The Administrator is proposing that the present titles be simplified in the law and the number of positions be doubled.

Mr. Speaker, as part of my remarks and in amplification of the request I include the text of the letter from the Administrator addressed to your office, also an analysis of the bill:

MAY 8, 1972.

Hon. CARL B. ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is forwarded herewith a draft of a bill "To amend title 5, United States Code, to provide for a change in the titles of the NASA Associate Administrator positions listed under Level V of the Executive Schedule, and to add three more such positions to such Schedule," together with a sectional analysis thereof. This is addressed to the Speaker of the House pursuant to Rule XL of the standing rules of the House.

Under the draft bill, section 5316, title 5, United States Code, would be amended by deleting paragraphs (15), (16) and (17) and substituting therefor a new paragraph (15) which would redesignate the NASA Associate Administrator positions listed under Level V of the Executive Schedule by that generic title alone, and would increase the number of such positions from three to six.

The present identification of the three Associate Administrators listed under Level V of the Executive Schedule reflects the programs and organization of the National Aeronautics and Space Administration at the time the Executive Salary Act was first enacted. However, since that time, in order to more accurately describe its functions, the Office of Advanced Research and Technology, headed by the Associate Administrator for Advanced Research and Technology, a title listed in 5 U.S.C. 5316, was renamed the Office of Aeronautics and Space Technology on January 14, 1972. Moreover, since the time of the initial enactment of the Executive Salary Act, the positions of Associate Administrator for Tracking and Data Acquisition and Associate Administrator for Organization and Management were established, the former on January 2, 1966, and the latter on March 15, 1967. Also, the former Office of Space Science and Applications, headed by the Associate Administrator for Space Science and Applications, a title also listed in 5 U.S.C. 5316, was reorganized on December 3, 1971, into the Office of Space Science and the Office of Applications, each headed by an Associate Administrator. As a result of all of the foregoing, therefore, there are now six offices headed by these Associate Administrators, all of whom have positions of comparable responsibility and authority, but only three of whom are presently identified in the statute.

The draft bill, if enacted, would permit the Administrator of NASA flexibility to establish the titles of the Associate Administrators presently listed under Level V in a manner consistent with evolving functional responsibilities as they may develop and be altered from time to time; and to add three such positions to provide salary equality among all Associate Administrators having comparable responsibilities and authorities.

It should be noted that providing for a specific number of positions having the same title within the same level of the Executive Schedule is not unique. Language to similar effect is now found in 5 U.S.C. 5316; for example, paragraph (66) reads "Assistant Directors, National Science Foundation (4)," and paragraph (75) reads "Assistant Directors, United States Arms Control and Disarmament Agency (4)."

Under the Executive Schedule salary rate currently provided for by 5 U.S.C. 5316, the enactment of this proposal would not affect NASA's budgetary requirements.

The National Aeronautics and Space Administration recommends that the draft bill be enacted by the Congress. Moreover, the Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of the subject proposal to the Congress.

Sincerely,

JAMES C. FLETCHER,
Administrator.

SECTIONAL ANALYSIS OF A BILL

To amend title 5, United States Code, to provide for a change in the titles of the NASA Associate Administrator positions listed under Level V of the Executive Schedule, and to add three more such positions to such Schedule.

The bill would amend 5 U.S.C. 5316 by deleting therefrom paragraphs (15), (16) and (17), each of which names the position of a NASA Associate Administrator for a particular program area, and substituting therefor a new paragraph (15), which would name six NASA Associate Administrator positions without further identification with specific program activity.

The object of this amendment is twofold: (1) deleting the references to specific program areas of responsibility from the titles of the positions would permit the Administrator of NASA to change the titles of the positions whenever the changing direction of the National program of aeronautical and space activities dictates a change in the responsibilities of the positions; and (2) adding three more such positions to the Schedule would accord equality to three present positions having responsibilities, authority and titles comparable to the three positions presently identified in the statute.

A CALIFORNIA WATER DREAM COMES TRUE

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. HOSMER. Mr. Speaker, last week, water from the Feather River in northern California flowed into Los Angeles after a trip of more than 600 miles through facilities of the California State water project, fulfilling a plan that first was envisioned in the early 1930's.

Congress is to be congratulated for the important role it has played in seeing this dream come true. For one of its key features was authorized here, the San Luis project of the Bureau of Reclamation, which represents a unique partnership between the United States and California.

Further, the State and the Corps of Engineers are cooperating in providing flood protection at California's Oroville Dam on the Feather River, where just over a decade ago 38 persons were killed and thousands made homeless on Christmas Eve when a raging torrent burst from the mountains.

Today 1.5 million residents in the San Francisco Bay area rely on the California water project, together with farmers and towns in the San Joaquin Valley. And now when southern California is facing one of its driest years in history, this great State endeavor is ready to meet this need.

Statewide support for this project is well demonstrated by the following editorial from the Sacramento Bee on April 27:

STATE WATER PROJECT FULFILLS PROMISES, MEETS NEEDS OF PEOPLE IN STATE

The first delivery of Northern California water through the State Water Project to homes, factories, businesses and ranches in cities and communities in Ventura and Los Angeles Counties this week marked a significant milestone.

This immense engineering works, born, bred and built in controversy, now has become truly statewide, fulfilling the promises made to the voters more than 10 years ago when they approved a $1.75 billion bond issue to finance the project.

The goal was to provide multipurpose uses throughout the state to be financed in the main by those getting the most benefit. Because most of the need was in the area south of Sacramento and most of the water supply in the north, the basic idea was to transport surplus water stored in reservoirs, principally behind Oroville Dam on the Feather River, through the California Aqueduct to the southland.

The delivery of this surplus water to the south came just in time. Because of the dry winter, there would have been problems supplying necessary water for agriculture use this summer in Orange, Riverside and San Diego Counties.

Frank Clinton, general manager of the Metropolitan Water District of Southern California, commented:

"These facts defy critics who contend the State Water Project is not needed. Without it we would be running out of water in a very few years, even for domestic uses."

The deliveries across the Tehachapi Mountains are not the first project benefits enjoyed by Californians. Even before Oroville Dam was fully built it prevented millions of dollars in potential flood damage.

The project has been delivering a water supply to the South San Francisco Bay area since 1962.

Fish resources have been upgraded in the Sacramento and Feather Rivers, electric power has been sold and recreational opportunities have been provided up and down the state.

Clearly this is an example of good advanced planning for the wise use of the state's natural resources.

THE DAYTON AREA REGIONAL HOUSING PLAN

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. WHALEN. Mr. Speaker, the Wall Street Journal today published an extensive article on its editorial page about the efforts which have been undertaken to initiate scatterization housing in the Dayton, Ohio, area, which includes my congressional district.

The comprehensive piece makes much of the fact that strong leadership was exerted to bring the regional housing plan to the stage of reality. While much remains to be done, it is clear that an unique beginning has been made which offers a guide to the rest of the Nation.

Underlining the story is the strong thread of commitment on the part of key people in our community. Such commitment is no stranger to Ohio's Miami Valley, Mr. Speaker, nor is innovation which our area so frequently has displayed in the technological and urban fields.

It is with a sense of pride that I insert at this point in the RECORD the referenced article from the Wall Street Journal for the information of my colleagues:

[From the Wall Street Journal, May 11, 1972]

HOW DAYTON'S ELITE OPENED ITS SUBURBS

(By Monroe W. Karmin)

DAYTON.—From his office high above this mid-America city, the elderly gentleman gazes out at the metropolitan landscape as he considers whether to answer. After a few moments, he smiles knowingly at the visitor and declares, "Well, sooner or later, yes."

This simple reply from Frank Anger tells quite a lot about Dayton. It says the city, "sooner or later," will become the first in the nation to successfully scatter subsidized rental housing throughout its surrounding suburbs. And it tells why: because the business elite that holds the reins of power here believes in the idea.

Mr. Anger, retired chief executive officer of Winters National Bank & Trust Co., has been a member of that elite for a long time and knows its inner workings intimately. So, when he says "yes," he means he expects current opposition to subsidized housing among the southern suburbs to crumble in time under pressure from the business community.

No one is more aware of the essentiality of that community to the dispersal plan's success than the planning team that developed it—Dale F. Bertsch, director of the Miami Valley Regional Planning Commission, and his sidekick, Ann Shafor. "Without the support of the business community and the newspapers," Mr. Bertsch declares, "we'd have published a technical dissertation that would not have been carried out in action."

CALLING THE TURN

In this city, governed by a city manager and council, there is no strong political force. So, when action is required, it is the newspapers and the business elite that call the turn. The two work in tandem. Jim Fain, editor of The Daily News, one of the two newspapers here, and a leading advocate of dispersal, is this year's chairman of the Area Progress Council, a select group of business leaders created in the early 1960s to give form to its management of community affairs.

The 30-or-so leaders meet on the first Saturday morning of each month at National Cash Register Co.'s guest facility, a farm in suburban Kettering. Though the group cherishes a "low profile," some of its deliberations are known. Late in 1968, after the 1966–67 uprisings in West Dayton's black slums, the APC assigned priority status to low- and moderate-income housing, among other concerns. The riots imparted a sense of "urgency" to the discussions, remembers Mr. Fain. George Sheer, then-president of McCall Corp., was asked to accept housing as a special responsibility.

This was the situation:

(1) Most of the city's black population—about one-third of Dayton's total population of 243,000 is black—was crowded into the west side slum. Those blacks escaping the inner city were moving west and north into suburbia, largely into Jefferson Township, with neighboring Madison Township as the next likely escape route.

(2) Most of the area's subsidized housing was within the city limits, mainly in black neighborhoods. In 1969, all but 158 of the existing 3,137 subsidized rental units were within Dayton's borders. Further subsidized construction within the city would only have compounded the concentration of the poor and the black, and denied them access to jobs in suburbia.

(3) Subsidized-housing sponsors seeking entry to suburbia were being rebuffed, setting up a confrontation situation. If the sponsors won any victories at all, they surely would come, because of the economics of land and housing, in the working-class communities to the north and west of Dayton, threatening inundation and continued racial and economic concentration. The more affluent southern suburbs seemed solid and safe, as did the outlying rural counties.

Enter Dale Bertsch, Ann Shafor and the Miami Valley Regional Planning Commission, or MVRPC, created in 1964 as the agency responsible for coordinating the expenditure of federal dollars in the area, which covers five member counties and 30 member municipalities. The Bertsch-Shafor team took seriously the federal mandate to study housing needs in the region. In 1968–69, at the request of mayors of close-in suburbs threatened by black expansion, MVRPC turned to housing.

Conclusion: The region was short some 14,000 low- and moderate-income units. The only way to convince suburbia to open its doors to such construction was a "fair share" plan of assigned quotas to limit the influx of housing in the north and west while opening up the south and east. "What the numbers do is show a community's quota in relation to others," explains Mr. Bertsch, "and thereby relieve the anxiety of suburbanites that they will be innundated."

The concept of accelerating production of subsidized housing and scattering it throughout the central city and the five-county region was cleared, informally, with the Area Progress Council. ("Everything must be plugged into them," says Mr. Bertsch.) Bertsch & Co., the APC and Mr. Sheer, and Mr. Fain and his newspaper joined in the painstaking task of informing local elected officials, the public at large at the various leaders of metropolitan Dayton society of what was afoot. Assurances of support for the plan from the Department of Housing and Urban Development in Washington were received (last month this pledge was invoked when HUD removed an obstructionist Federal Housing Administration area director from office), and a complex formula to assure fairness in the quota assignments was developed.

UNANIMOUS APPROVAL, BUT . . .

By the fall of 1970, the scatterization plan was approved unanimously by the local representatives who sit as commissioners on the MVRPC; membership is voluntary, but members balking at the plan knew they would receive low priority from HUD in the distribution of a variety of federal aid HUD funnels through the regional agency. Once the quotas for each jurisdiction were made public, the stage was set for the individual battles within each locality.

Now, one year into the four-year program, scatterization can claim victories, but not total triumph. Some 815 additional subsidized units are now either occupied or under construction, but all are located in the northern suburbs. This incursion might have been achieved without the plan, Mr. Bertsch concedes, but he contends the plan has "spread the units over the northern suburbs and has prevented inundation of any one area."

Still, success requires more than dispersal in the direction that subsidized housing was heading anyway. "The real test is in the southern suburbs," explains Editor Fain, "and we're beginning to get some evidence that they're opening up for selected projects."

The pressure on them is great. Of the 3,331 subsidized units currently proposed for the region, sponsors of 2,605 units want to locate in the counties, with the largest share aimed at Montgomery County in which Dayton, itself, is located. Thus, the battle to the south is being joined.

The skirmishing is conducted in full public view, before citizens groups, by votes of local governing councils and, in some cases, in the courts. Behind the trenches, however, hovers the "low profile" of the business elite not always easy to discern but very definitely there.

Oakwood, a southern suburb that is home to a number of the elite, is a case in point. MVRPC chose this affluent community to become the first to join the plan, but angry residents overwhelmingly disapproved of the idea. When it came time for the city council to vote, however, it unanimously pledged participation, and set the course for other suburban jurisdictions.

"We had to make sure the first domino fell right, not wrong," remembers Mr. Bertsch. Does this mean the elite told Oakwood officials how to vote? Some office holders do require "philosophical discussions," Mr. Fain concedes, but arm-twisting is not the elite's preferred style. Nor is it usually necessary, for when the elite reaches a consensus, it knows how to communicate.

Early in the game when APC assigned priority status to housing, George Sheer held a series of breakfasts with area leaders to inquire about the problem. The Chamber of Commerce, an arm of the elite, pledged $50,000 from a golf tournament as seed money for subsidized housing. The Junior League, consisting mostly of wives and daughters of APC members, also put up seed money and supported dispersal; "We decided to get into controversial issues and chose housing," explains past president Jean Mahoney, whose husband is president of the company that publishes both Dayton newspapers and an APC member as well.

Of course, acceptance of the plan and acceptance of subsidized housing itself are two different matters. But the elite's support is unrelenting. When necessary, it holds private meetings to educate local officials to the complexities of subsidized housing—like the one at the Dayton Inn last December for the mayors of Centerville and Kettering, southern suburbs facing decisions on projects.

"The APC members who were residents of Centerville and Kettering conveyed the message that they supported the projects," recalls someone who attended, "and that they supported local officials who supported the projects."

What the elite does in private, Editor Fain, through his newspapers editorials, does in public. When Oakwood's residents opposed subsidized housing. The Dayton Daily News chided them for fearing that "some of 'Them' might move into their compound." When the city council voted participation, The Daily News praised the "forward-looking, decent and politically courageous action."

"Most people now know that the sainted fathers of the community are for integrated housing," says Mr. Fain today. And so the dominoes continue to fall right.

Centerville resisted to the bitter end, but finally capitulated to a court order sought by the developer. Now a 232-unit project will be built, despite a call by the city council for a congressional investigation and protestations by opponents.

"It's against the American way of life," fumes Mrs. Marcy Wylie, whose home backs on the project site and who hints at her own legal action. "I worked for what I wanted, but for someone to sit back and get help from Washington for what they want is against the American way of life."

The Kettering city council has given the go-ahead for one project and paved the way for another. West Carrollton is willing to accept its quota, if MVRPC is willing to restrict the size of each project and let community residents have first crack at the rentals. Though Miamisburg has tabled a proposed project, the city council may relent if it can get federal funds to develop its deteriorating inner core. Moraine has held out, for the time being, by running a highway through one site and rezoning another to stop subsidized housing.

In the end, however, it is a reasonable bet that all the southern suburbs will accept projects, and the Dayton "fair share" plan will become the national model that HUD Secretary George Romney, who has commended the effort, would like it to be.

ELIGIBILITY AND INCOME

But the fact that subsidized housing comes to the suburbs does not necessarily mean that blacks, or even the poor, will come in large members. MVRPC permits 80% of the units in each rental project to be occupied by moderate-income families, which in Montgomery County means an annual income of up to $8,100 for a family of four. Thus, many people who work, are white, and already live is suburbia—teachers, nurses and policemen, for example—would be eligible to rent the subsidized units.

Suburbia, therefore, is quite capable of turning the threatened invasion to its own advantage. Leonard Stubbs, a teacher and member of the Centerville city council, voted to permit subsidized housing because of the need in his community. "There's definitely a shortage of housing, both rental and ownership, for people in (the moderate income) bracket," he declares. If local residents fill up most of the assigned units, there will be little room for newcomers from the city.

Moreover, there is no huge herd of inner city blacks waiting to rush into unfriendly suburbia. "I don't think that a lot of black people will live in subsidized suburbia," says C. J. McLin, a black state representative from Dayton. "But it will give black people, at the least, the right to refuse to live there, instead of the community refusing to let them live there. And that's significant for black people."

Dayton's blacks want a choice, even if they don't exercise it right way. The business elite that meets once a month as the Area Progress Council has decided to give it to them.

THE INCONSISTENT CHARGE OF IMMORALITY

HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. WIGGINS. Mr. Speaker, it is difficult to discuss the war in Vietnam without being confronted with the charge that the war is "immoral" and America's involvement therein "stupid," or worse. The charges are usually made with great force and evident conviction but, frankly, such inflammatory rhetoric is lacking in consistency and common sense.

Of course, it might be maintained that all war is immoral and stupid, but since the Vietnam critics seldom characterize other armed conflicts, such as the several Mideast clashes or the recent Pakistan-Indian war, in such terms, it is obvious that they deem the Vietnam war to be uniquely evil.

Although the bombing is harshly criticized, it is surely not the nature of the weaponry employed in Vietnam which renders that war "immoral" and others not. Aerial bombardment has become a usual and customary weapon employed both offensively and defensively in all armed conflicts. In Vietnam the Air Force has gone to great lengths to avoid civilian targets, unlike the practice in World War II when we deliberately destroyed entire cities with "area" bombing attacks. "Immorality" was seldom if ever used to characterize our tactics in World War II.

Also, one frequently hears the charge of "immorality" when the President's program of Vietnamization is discussed. According to the critics, the gradual withdrawal of our forces under Vietnamization will lead to Asians killing Asians, an "immoral" state of affairs.

Oddly, those who make such charges urge immediate withdrawal of our forces which would surely produce the same "immoral" result of Asians fighting Asians.

Perhaps the shrill cries of "stupidity" and "immorality" reached their peak during the incursions into Laos and Cambodia 2 years ago. It is clear that the forces of South Vietnam penetrated these neighboring countries with our assistance for the purpose of clearing out enemy troops which threatened South Vietnam. If this self-defensive action by South Vietnam was wrong, it was surely immoral for the Israelis to do likewise against terrorists on Lebanese soil several months ago. The justification is even stronger on the side of South Vietnam, since they acted with the consent of the neighboring governments. The Israelis did not.

Those few who rest their claim of immorality on the basis of Vietnam being a civil war in which we should play no part, conveniently overlook the presence of North Vietnamese troops in Cambodia and Laos. As to these beleaguered countries, the actions of North Vietnam amount to nothing less than an armed invasion. Also, the same critics of American "meddling" are, nearly without exception, the same group which applauded Indian armed intervention on the side of Bangladesh in its "civil war of independence" against West Pakistan.

Immorality, like beauty, is in the eyes of the beholder, it seems.

I have come to the conclusion that many Vietnam war critics only regard military action as being immoral when it is directed against Communist efforts to subvert or conquer a nation which wants nothing more than to be left alone. In my book, true immorality would be to abandon friendly governments under attack by such aggressor forces.

We all want peace. Peace in the world can never be secure, however, unless freedom-loving nations resist those countries which seek to impose their will upon their neighbors by force of arms.

If a word such as "immoral" must be employed in the public debate over the Vietnam war, let it be directed against the aggressor policies of North Vietnam. And if the word "stupid" must enter the conversation, I suggest that it best characterizes those who are unable to detect the blatant immorality of the Communists when it stares them in the face.

EXCELLENCE IN EDUCATION

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BELL. Mr. Speaker, I would like to take this opportunity to commend the many fine teachers in the city of Haverhill who are being recognized at this year's honors banquet.

There is one lady, however, to whom I would like to pay special tribute—Mrs. Stephen Degason. In her 38 years of working with the retarded, she has not only been completely dedicated, but has contributed greatly to the high level of special education in the Commonwealth of Massachusetts.

As a member of the House Committee on Education and Labor, I am involved daily in trying to ameliorate, if not eliminate, the many barriers to quality education for all our young people. It is especially important, however, that the physically and mentally handicapped receive proper training to enable them to become, whenever possible, self-sustaining, productive members of society.

Teaching on any level is a hard job which is becoming increasingly harder, and being in a position to influence young people is an awesome responsibility. We all know that children are very impressionable and the less-gifted even more so. It is therefore imperative that this particular group have teachers with great expertise, patience, and warm, reassuring personalities. Mrs. Degason exemplifies these qualities to the finest degree.

Her city, State, and the children she has helped all owe her a great debt of gratitude.

THE KLEINDIENST HEARINGS

HON. JOHN. V. TUNNEY

OF CALIFORNIA

IN THE SENATE OF THE UNITED STATES

Thursday, May 11, 1972

Mr. TUNNEY. Mr. President, over the past 10 weeks the Los Angeles Times has provided particularly thorough but balanced coverage of the Judiciary Committee's hearings on the confirmation of Richard Kleindienst as Attorney General. In addition, through its west coast staff it has revealed additional details about arrangements for the Republican Convention in San Diego and the various ways in which ITT dealt with local officials.

In order to make this information available to the Senate, I ask unanimous consent that the series of articles published in the Los Angeles Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GOP CONVENTION'S "BLANK CHECK" TOLD—SAN DIEGO UNDERWRITING BY COMPANY COULD SOAR

(By Bill Boyarsky)

A San Diego Republican National Convention official conceded Wednesday that a giant corporation's arrangement with convention planners could be interpreted as "saying, 'What San Diego doesn't raise, we'll help you with.' "

But Leon Parma, chairman of San Diego's convention host committee, added that he was completely confident that San Diego's business community and civic organizations would be able to pay their share of convention expenses without such help.

The comments came as a Senate committee investigated charges that the corporation, International Telephone & Telegraph Co., got a favorable settlement of major antitrust suits in return for assisting in convention financing.

Parma raised the possibility that the ITT's stake in convention financing might be much greater than reported previously.

An ITT subsidiary, Sheraton Corp. of America, has disclosed that it is underwriting $200,000 of the $400,000 to be raised by the convention from San Diego business sources.

The question of Sheraton's underwriting of the August convention took on even more importance when the Republican National Committee was told this week that San Diego had failed to pay on schedule $300,000 of the money due the committee for convention expenses.

Initially, Sheraton had said that it had put up $100,000 in cash to help underwrite costs—money that would be mostly repaid through local donations. On Monday, Sheraton said it stood ready to offer another $100,000. All this would help underwrite the city business community's $400,000 share of the $600,000 pledged locally to the national GOP.

Then on Wednesday, Parma, in a telephone interview, agreed that the Sheraton commitment could be interpreted as being even bigger.

"The $400,000 that has been talked about has been variously described as underwriting by Sheraton, and San Diego's commitment and Sheraton saying, 'What San Diego doesn't raise, we'll help you with,' " he said in response to a question.

"You can interpret that any way you want," Parma said. "San Diego has a commitment of $600,000, and the city said, 'We could meet that commitment.' "

NOT $400,000

But Parma denied that his statement meant that Sheraton was prepared to underwrite San Diego's entire $400,000 if the local fund raising from businesses fell short.

"In no way, not at the present time," Parma said. "We have pledges that far exceed the dollars we have been talking about."

Parma said the $100,000 in Sheraton's cash had been deposited in an account by the San Diego Visitors and Convention Bureau and was still there.

"We have not used the Sheraton monies," he said. "It is still there intact."

Parma said San Diego intended to return the bulk of the money as soon as local funds are raised. And he said San Diego had no intention of calling on the other $100,000 that Sheraton has said is available.

He said that once the bulk of the $100,000 in cash is returned to Sheraton, Sheraton will have invested no more in the convention than any other San Diego business.

HOTELS' STAKE

"You know they have three hotels in this community that have quite a stake in this community," he said.

But as Parma spoke, questions were raised in Washington about the fund-raising effort by San Diego convention officials—an effort that must bring in the money to repay Sheraton.

The Republican National Committee was told Tuesday that San Diego was $300,000 behind in payments.

Party officials said only about $100,000 in cash had been paid by the Visitors and Convention Bureau. A $200,000 payment was missed last Aug. 1 and another $200,000 payment was missed Jan. 1. A final payment of $200,000 is due April 1.

"There's a lag on the money from San Diego, all right," said a spokesman for the Republican National Committee.

But the spokesman and Parma expressed confidence that San Diego will come up with the money before the August convention.

Parma said San Diego County had contributed $50,000 in cash and would put up another $50,000 on July 1.

The Visitors and Convention Bureau has put in $50,000 from doubling its dues, and will put in another $50,000 from the same source.

Parma said "cash and pledges" would provide the remaining $400,000.

"I think in pledges we have our $400,000 but we don't have the cash in hand," he said.

What about the $200,000 due last August?

"That is in the form of cash and pledges we have," he said. "We expect to send it on when we have it all in hand."

He said the same was true for the $200,000 due Jan. 1.

NO NAMES

As he has done in the past. Parma refused to disclose the names of any of the San Diego donors or of those who have made pledges toward the $400,000.

"We have made a determination that we are not going to get into the numbers game (disclosing the size of donations and pledges), and we have also made a determination that we are not going to give the names of donors," he said.

To do this, he said, would appear to be pressuring one company to match the contribution of another.

Asked if the pledges were firm, ironclad agreements, he said they were "gentlemen's pledges and some written pledges."

Parma said he expected to the pledges to be kept when "a substantial member of this community makes this commitment to me."

Parma also said some local donors were being given a chance to buy advertisements in the convention program as a way of donating money.

"The one point I want to leave with you is that we have talked to . . . the (national) committee on arrangements and I am confident they understand what we're doing and share our confidence we will meet our commitments . . . This community has never fallen down on an obligation. We're going to meet our obligations. We are pleased that the national committee selected San Diego and we don't intend in any way to meet these commitments."

TOP SAN DIEGO HOTELMAN TELLS OF $24,000 AID

(By Bill Boyarsky)

SAN DIEGO.—San Diego's largest hotel operator said Wednesday that his firm's contribution for the Republican National Convention will be about $24,000—much less than the controversial amount pledged by an International Telephone & Telegraph Corp. hotel subsidiary.

C. Terry Brown, president of Atlas Hotels, Inc., said, "I think it (the convention) is the greatest thing that ever happened to San Diego" but "24,000 bucks is enough."

Brown's statement came in response to a question by a reporter seeking to find what other hotels contributed to the convention. Brown spoke as ITT continued to say that it had advanced $100,000 in cash, and promised much more, to help promote its hotel business—not to help settle a huge antitrust suit.

FINANCIAL ANGEL

An ITT subsidiary, Sheraton Corp., is a financial angel for the San Diego civic effort to raise money for the convention. The firm says it has offered to underwrite $200,000 of the local convention costs.

A Senate committee is investigating a memo suggesting a link between the convention money and the Justice Department's settlement of a huge antitrust suit against ITT.

Defending ITT, San Diego Convention officials said the firm offered to underwrite the convention because Sheraton has two hotels here and is building a third. Rep. Bob Wilson, San Diego Republican, quoted ITT President Harold S. Geneen as saying the contribution would help put the new hotel "on the map."

OTHER EVENTS

There were these other developments in San Diego Wednesday:

—A massive local fund-raising drive that started a few days ago to raise the money guaranteed by ITT was disclosed. One of those in charge was Frank Thornton, chief political fund-raiser for C. Arnholt Smith, wealthy businessman and Republican Party power.

—Local convention committee officials again refused to disclose donors' names. "We would not give the names out," said Phil Phillips, committee spokesman.

—Leon Parma, executive director of the local civic committee, refused for the third straight day to answer reporters' questions about the controversy.

Apparently Sheraton was the only local hotel operator that felt such a large financial stake was needed for promotional purposes.

CALLED BIGGER

Brown, in the interview, said his hotel operation here was bigger than Sheraton's. His Atlas Hotels operates the Town and Country Hotel, the Hanalei Hotel, the Mission Valley Inn and the Kings Inn, all in the hotel circle area of Mission Valley.

All told, Atlas has 1,325 rooms in San Diego, compared with about 1,150 he said Sheraton will have when it completes its new hotel by convention time next August. No hotel operator has more rooms in San Diego.

But Brown said he believed that the $24,000 his firm was giving for its assessment to the Convention and Visitors Bureau, which has pledged $100,000 is enough.

Brown said he had been told that the reason "Sheraton was going to come up with the $400,000 (sic) was that they were going to move their corporate headquarters to San Diego."

Brown made it clear that he was convinced that San Diego would be able to raise enough money from local sources without having to rely on the great majority of the Sheraton money.

DONORS ASSURED ON TAX DEDUCTIONS—JUSTICE DEPARTMENT AIDS GOP CONVENTION DRIVE

(By Bill Boyarsky)

SAN DIEGO.—A Justice Department letter, written to a law partner of one of President Nixon's biggest fund-raisers, is being used to assure corporations their contributions for the Republican National Convention are legal and tax deductible.

The Times learned Tuesday that businessmen who are worried about legal aspects of possible contributions are being shown a letter from the Justice Department to Frank DeMarco Jr., a Los Angeles attorney and law partner of Herbert Kalmbach of Newport Beach, a Nixon friend and political money-raiser.

It also was disclosed Tuesday that another Nixon political fund-raiser, C. Arnholt Smith of San Diego, a wealthy businessman, is sending letters to local businessmen asking them to purchase $10,000 convention program advertisements. Smith is sending along Internal Revenue Service regulations saying these contributions are tax deductible under certain circumstances. And he is pleading for gifts "as a way of eliminating embarrassment to the city"—an apparent reference to the controversy over convention financing.

Elliott Cushman, finance chairman of San Diego business community's convention committee, said the Justice Department letter, from John C. Keeney, chief of the department's fraud section, is being used to clear up legal questions that could slow fund-raising.

The legal questions are prompted by federal laws that forbid deductions of political donations from income taxes, that limit contributions to parties and candidates in federal campaigns, and that forbid banks and corporations from contributing to federal campaigns. Some of San Diego's biggest industries are banks and corporations.

While leaving some of the questions unanswered, the Justice Department letter assures businessmen that contributions such as those to the local convention committee are not considered political contributions if the convention helps increase the contributor's business.

Cushman said, "We make these copies of the letter available" when questions about taxes come up.

The legal ammunition from the Justice Department and the Smith letter are part of a stepped up local fund-raising campaign to bring in $400,000 from the local business community to help pay for the expenses of the convention in August.

Originally, local officials had counted on the International Telephone and Telegraph Co.'s Sheraton Corp. subsidiary to underwrite what local officials said was $400,000 until local funds were raised. Sheraton said it put up $100,000 and offered another $100,000 if needed.

But that plan was abandoned when a Senate committee opened an investigation of whether ITT had offered to underwrite convention expenses in return for help in settling a huge antitrust case. The probe, according to some civic leaders, was an embarrassment to the community.

Big names are involved in the current fund-raising drive.

The Kalmbach firm is a big one in politics.

Kalmbach has frequently represented President Nixon in legal matters, such as the acquisition of his San Clemente property. He was top staff man for the Nixon campaign finance operation in 1968, working under chief fundraiser Maurice Stans. He is secretary of the Nixon Foundation which is raising money to build a Nixon library.

He and DeMarco are in the firm of Kalmbach, DeMarco, Knapp and Chillingworth, with offices in Los Angeles and Newport Beach.

Asked about the firm's relation to San Diego's convention host committee, Finance Chairman Cushman said, "They are the tax people. They have been used for deductibility."

Smith also raised large sums for Nixon in 1968. And both he and Kalmbach are members of the Lincoln Club of Orange County, an exclusive Republican group led by many of the President's closest friends. Kalmbach is president of the club.

Cushman said local contributors are being asked to buy the $10,000 full-page ads and are being told that the local committee believes these advertisements are tax deductible.

That point has worried some potential donors. They note that federal law forbids corporations to contribute to parties and candidates in federal campaigns and that federal law forbids donors from deducting political contributions from their income tax.

IRS EXPLANATION

An Internal Revenue Service rule says purchase of such advertisements constitutes a "necessary business expense" only if "they are reasonable and bear a direct relationship to the advertiser's business."

But the rule also says that if the "amounts paid for such advertisements are not reasonable, do not bear a direct relationship to the advertiser's business or exceed the advertising value of the space acquired, they will be considered as contributions to a political organization and are not allowable as deductions."

An example of business concern about the donations came when retired Marine Corps Gen. Victor Krulak, an executive of the Copley newspaper organization here, asked Richard Silverman of the Southern California First National Bank to buy a one-page advertisement for $10,000. Silverman, concerned about federal law, turned the request over to firm lawyers.

JUSTICE DEPARTMENT

Cushman said the letter from the Justice Department was designed to answer such questions.

In the letter, Keeney wrote attorney DeMarco:

"The fact that the convention is political in nature as opposed to some other conventions, i.e., fraternal, legal, medical, etc., would not preclude the contribution being made for the primary purpose of bringing the political convention to the community with the reasonable expectation of financial return to the contributor."

While apparently giving the green light for some contributions to the convention, the letter left unanswered questions about tax deductibility and whether defense contractors—banned from giving to political parties and candidates in federal campaigns—are permitted to give to committees trying to bring a national political convention to their home communities.

A spokesman for Smith said he is "one of a number of people" engaged in fund-raising activities, "so he is not outstanding in that respect."

The spokesman said Smith was operating as part of the Cushman committee and had agreed to "contact five or six people to encourage them, if they saw fit, to take full-page ads in the convention program."

The spokesman said other San Diego businesses are "taking a look at it."

Copies of the letter from Smith were received by at least two top San Diego business executives this week—Robert H. Walter, chairman of the board and chief executive officer of U.S. Financial, and Donald R. Rochambeau, vice president and area manager of Title Insurance and Trust.

Walter said his letter asked him to buy a $10,000 full-page ad—something he had already decided to do. He said the letter contained the reference to "eliminating any embarrassment to the city."

BROWN SUES TO FORCE GOP TO RETURN "GIFT"—U.S. COURT SUIT CONTENDS INTERNATIONAL TELEPHONE AND TELEGRAPH SUBSIDIARY'S $100,000 FOR CONVENTION VIOLATES LAW

(By Bill Boyarsky)

Secretary of State Edmund G. Brown, Jr., Monday asked a federal court to force Republicans to return the $100,000 a big corporation advanced for GOP National Convention expenses. Brown, California's only Democratic statewide elected official, declared that the transaction violated federal law which forbids political contributions by corporations.

His suit, filed in federal District Court in Los Angeles, was aimed at the arrangement by which money was advanced for convention expenses by the Sheraton Corp., a subsidiary of International Telephone and Telegraph Corp.

Brown also asked the court to forbid the Republicans from accepting more money from the firm.

"A democracy simply cannot function if government officials and political parties which run the government are allowed to accept huge payments from massive corporations," Brown told an Ambassador news conference.

A Senate committee is investigating charges that Sheraton offered the money in return for settlement of a big Justice Department antitrust suit against ITT.

At issue in the Brown suit is a section of federal law forbidding banks or corporations to give political contributions to candidates or parties.

TO HELP COMMUNITY

Convention officials said the $100,000 was not given to the Republican Party, but to a nonpartisan civic host committee of businessmen which is attempting to raise the San Diego business community's $400,000 share of convention expenses.

The fundraisers contend their aim is to boost local business by attracting the big convention to their city. Thus, they said, the law was not violated.

The firm said it advanced $100,000 with another $100,000 available. Local convention officials said the firm had pledged to advance $400,000 if needed.

The $100,000, in the form of a check from the Sheraton Harbor Island Co., was deposited in the San Diego Trust and Savings Bank last Aug. 6, in an account of the San Diego Convention and Visitors Bureau.

Robert Gadbois, who is in charge of the bureau, said the money was being held for the convention civic committee. In an interview Monday, he said the money was still in the bank.

In his suit, Brown said "the convention bureau accepted and received this check as an agent of the Republican National Committee, in connection with and to finance the Republican National Convention."

COMMITTEE'S UNDERSTANDING

"The check was deposited by the convention bureau in a special account and the books of the convention bureau state that this trust account is earmarked for the Republican National Convention. The trust account is, and at all times since its creation, has been controlled by the Republican National Committee, which has the power to return the funds to ITT and its subsidiaries . . ."

Phil Phillips, spokesman for the convention civic committee, said the account is the convention bureau's, and the money is spent at the direction of the civic committee.

"The Republican Party has no control over it whatsoever," he said. "It is strictly a civic committee fund, to fulfill the commitment of the community."

But, even last January, Republicans asked the Justice Department about the legality of the contributions.

Frank DeMarco, a Los Angeles law partner of one of President Nixon's close friends and political fund raisers, asked for an opinion from Henry Petersen, acting assistant attorney general in charge of the criminal division.

DeMarco noted that federal law forbids corporations to make contributions to political parties—but an Internal Revenue Service bulletin allows contributions "in connection with the selection of (a) home city as the site of a national political convention."

Because of this conflict, DeMarco said, "legal problems" have developed in the San Diego fund-raising drive.

Replying for Peterson, John C. Keeney, chief of the fraud section, said donations to a convention civic committee are allowed, if the donor can prove his business would benefit from the convention. Convention fund raiser began using the Keeney letter to answer legal questions.

JOB'S DUTIES

But Brown said he disagrees with Keeny's logic. "There is not a court case on it," he said. "I would prefer to hear it from a judge."

Brown who is a potential candidate for governor in 1974, said he was entering the case in his capacity as chief election officer of California—and not as a political gesture.

He told the court his job requires him to enforce all election laws, even federal ones in California. And he said he was also filing the suit as a private citizen "who votes in presidential elections."

Brown was asked if he would act against other corporations who might give to the convention fund.

He replied he was singling out ITT-Sheraton because the case was "so notorious, the facts so apparent." But he said if he heard of similar cases, he would act.

Brown said he was filing the suit because he believes big business has too great an influence over government through campaign contributions.

"I don't think it takes any insight to see that big business is getting big write-offs and benefits and at the time, they are making massive contributions," said Brown.

"For many years, many of us have suspected that giant companies can virtually buy and sell politicians," said Brown. "The Sheraton-ITT contribution is the latest example of big business dominating our government."

Brown said he did not know about the truth of charges that the money was advanced to help with the antitrust suit, but "the situation is suspicious."

International Telephone and Telegraph Woes Cost San Diego's Port $450,000 Rent—Firm Won Concessions Due to Cable Plant, Hotel Construction Difficulties

(By Bill Boyarsky)

San Diego.—Long before being bombarded with bad publicity in connection with the Republican National Convention's financing, the International Telephone and Telegraph Corp.'s San Diego ventures were beset by troubles of another kind.

Construction delays hit the big new hotel that ITT's Sheraton Corp. subsidiary is readying for the convention.

And deep pilings had to be sunk in the earth to keep an ITT communications cable manufacturing plant from settling.

ITT and Sheraton asked the landlord for the two facilities—the San Diego Unified Port District—for help, and got it:

District commissioners excused the business giants from paying rents totalling $450,000.

WORK "NIGHT AND DAY"

Once cable plant construction problems were solved, Mrs. Dita Beard, the ITT lobbyist, said she had to work "night and day" on defense contracts—talking to the Defense Department, congressmen and Republican Gov. Reagan and his staff.

In a memorandum to her boss that ITT says is authentic, she spoke with candor about how companies get defense contracts.

"Our new (cable) division requires constant touch with the Department of Defense on contracting for cable in a top secret program, plus constant contact with the congressmen of that area, plus the governor of California and his staff," she said.

A spokesman for Reagan said Tuesday he knew nothing of such contacts.

The cable plant construction program had begun pleasantly enough, on a fishing trip with Rep. Bob Wilson (R-Calif.), a San Diego political power, and his friend, Harold Geneen, president of ITT. Their trip took place a year before Wilson persuaded Geneen to advance money for Republican convention expenses.

FISHING OFF SAN DIEGO

"I had Mr. Geneen fishing for albacore off San Diego," Wilson recalled in a telephone interview.

He said he told Geneen San Diego could use a plant related to the growing oceanographic business. Geneen replied that ITT was thinking of locating an undersea cable plant on the West Coast.

Later, said Wilson, "I remember getting a long distance call from Geneen saying did I think there would be a place for San Diego for the cable plant? I said 'yes' and put him in touch with the port authorities.

Wilson said he had no part in subsequent discussions over the lease, but he telephoned "one or two" port commissioners, telling them "I hope you can find a spot. We have a chance to get a cable plant."

There were difficulties with the site, on land fill over San Diego Bay, ITT asked for a break on the rent, saying other places were offering them up to 15 years' free rent to build the plant. ITT pointed out difficulties in building the big plant on filled land.

The port district said it offered a concession—it would gave ITT credit on its rent for extra money required to build the plant. ITT had to drive extra deep pilings to keep the plant from settling, and asked for a rent credit of $730,000, according to port officials.

The port agreed to compromise at $400,000. The deal was made. ITT agreed to pay $6,150 a month rent, but because of the rent credit, it will not have to pay any rent at all until Oct. 1, 1978.

ITT-Sheraton's hotel was also built on land leased from the port district—and it had troubles, too.

Sheraton told Don Nay, director of the port, that it was having construction problems with the hotel, which many people in San Diego believed would be used by President Nixon or his staff as convention headquarters.

The hotel, situated on a filled area called Harbor Island, is down the road from another Sheraton hotel. Sheraton plans to build a yacht harbor between them.

Nay was notified the hotel construction was a year behind schedule. The port had agreed to charge a low rent of $4,000 a month during the building period, before jumping the rent to the minimum of $20,833 rent to be paid after the hotel was built.

Sheraton asked for nine months more of low rent, saying that the delays—prolonged city study of building plans among them—were not Sheraton's fault. The port commission voted three more months of low rent, saving Sheraton $50,505 in rent. This, combined with the rent break given ITT for the cable plant, adds up to a rent credit of $450,000.

Wilson was also involved in a portion of Sheraton's hotel dealings. After the chain was awarded the lease for the new Harbor Island hotel, he said, the firm became convinced San Diego was a potentially good hotel city.

"When they were interested in another location, I suggested the Half Moon Inn (also on Harbor Island) which was for sale," Wilson said. Sheraton bought the hotel.

By this year, ITT's San Diego troubles appeared to be ended.

But then columnist Jack Anderson charged that ITT got a favorable settlement of an antitrust suit in return for advancing money for the convention.

Publicity—most of it bad—focused on Sheraton and ITT's San Diego holdings.

Representative Bob Wilson Linked to Ad Agency for International Telephone & Telegraph Corp.—Influential San Diego Congressman Denies He Is Active in Its Affairs

(By Bill Boyarsky and Harold Keen)

San Diego.—Rep. Bob Wilson who helped bring an International Telephone & Telegraph Corp. cable manufacturing plant to San Diego, is the nonsalaried vice president of the agency handling the facility's advertising.

Wilson, one of the most influential figures in San Diego Republican politics, is vice president of the Tolle Co., an ad agency employed by ITT's Cable Hydrospace Division, operator of a $40 million undersea cable making plant located on San Diego port land.

But both Wilson and Norman Tolle, president of the ad agency, said Wilson had nothing to do with getting Tolle the ITT account, drew no money from the agency and was not active in its affairs.

"I don't participate in the activities of the agency," Wilson said Wednesday in a telephone interview from Washington.

OWNS "PERHAPS FIVE SHARES"

Tolle said that while Wilson is a vice president of the firm, it is "just a name thing." He said the congressman draws no salary and receives no dividend from the "perhaps five" shares he owns.

Wilson, he said, had gone to work for the agency as an ad writer after World War II and then became a partner. When Wilson was elected to Congress, said Tolle, "we purchased his shares back."

"A few years ago, he said he was identified as an ad man in Congress, but he had no (agency) connection and so he thought it would be a good idea to have a connection. So we set it up," said Tolle.

"We made him a vice president to give him a title, that's all. We actually call him vice president and consultant, but the only time we get some consulting is when we call him about information about whom to see in Washington."

Wilson has said he helped bring the ITT plant to San Diego. He said in an interview he had told ITT President Harold Geneen that San Diego could use a plant related to the growing oceanographic industry.

Wilson said Geneen later called him and said "did I think there would be a place in San Diego for the cable plant. I said 'yes' and put him in touch with the port authorities."

Wilson also has said he talked to Geneen about ITT's Sheraton Corp. subsidiary advancing money for Republican National Convention expenses. A Senate committee is now investigating whether the money was advanced in return for settlement of a major antitrust suit against ITT.

COMPETITION TOLD

Tolle said his agency competed with six other agencies for the ITT account and won it "on the basis of merit."

He said he first met Sheraton representatives through Wilson. Sheraton had purchased the Half Moon Inn in San Diego and Wilson had asked Tolle to handle the public relations work for a reception celebrating the purchase.

"They (Sheraton) were very complimentary of the job we did," said Tolle. Later, when the company was going to break ground for a new hotel designed to be open in time for the Republican convention, "We helped out on that."

Tolle said his firm also did other "one-time" jobs for Sheraton and one for ITT. When ITT was looking for an agency to handle the new cable facility, Tolle said, "They called us unexpectedly and we made a presentation" in competition with the other firms.

CALLED ABOVE BOARD

"There is no meat in this," he said, speaking of Wilson's connection with the company. "It is straight and above board. Bob has been a friend. His name may give us some prestige, I don't know." But Tolle also said Wilson's name "might scare some people off."

Wilson said he had not heard about ITT's connection with the Tolle agency until asked about it by a reporter.

"I don't see anything wrong if I had (heard about it), but I didn't," said Wilson.

Wilson was previously associated in another advertising agency with Gerald Champ of San Diego.

Here, too, Wilson was an unpaid associate, according to Champ. Although the agency was called the Champ-Wilson Agency, Champ said Wilson was not part of the agency and "we did not get a single account through Bob Wilson's connection in Congress."

Later, Wilson terminated his association with the agency. It became the Barnes-Champ Agency.

Life magazine said this agency was controlled by San Diego multimillionaire Republican power C. Arnholt Smith through his political aide, Frank Thornton, and that Smith funnelled illegal political campaign contributions through it—a charge Smith denied.

After subsequent name changes, the agency is known as the Barnes-Chase agency, and is headed by Thornton.

TUNNEY ASKS PROBE EXTENSION INTO LIFE'S SAN DIEGO CHARGES

(By Ronald J. Ostrow)

WASHINGTON.—Sen. John V. Tunney (D-Calif.) urged the Senate Judiciary Committee Wednesday to probe charges that acting Atty. Gen. Richard G. Kleindienst played a role in squelching federal investigations in San Diego.

Tunney said the allegations by Life magazine of political interference, backed by two former federal investigators, "raise serious new clouds over Mr. Kleindienst's nomination."

He said "additional information" had come to his attention which coupled with the statements by the former investigators raise "substantial questions" about Kleindienst's decision to clear Harry Steward, U.S. attorney in San Diego, of any improper conduct.

Tunney would not discuss the new information other than to say it was "documentary evidence" which he said confirmed information in the Life article.

He said Sen. James O. Eastland (D-Miss.) indicated the full Judiciary Committee would consider whether to expand its inquiry next week after a subcommittee returns from questioning Dita Davis Beard, International Telephone & Telegraph Corp. lobbyist, in Denver.

Mrs. Beard is the author of a memorandum—which she later disavowed—that appeared to link settlement of ITT's three antitrust cases and a pledge by ITT Sheraton Corp. to help finance the Republican National convention. In other developments Wednesday;

—It was learned that ITT has hired Intertel, a Washington-based firm that handles security operations for the Howard Hughes empire. The company, staffed with veteran investigators formerly with such agencies as the Justice Department, the Internal Revenue Service and the Securities and Exchange Commission, was hired about two weeks ago to evaluate ITT's security measures, purportedly leaked to columnist Jack Anderson.

Robert Peloquin, a former Justice Department attorney who heads Intertel, would not say whether his firm had been employed by ITT. "We can't comment one way or another on whether a client hires us, unless the client acknowledges it," he said. ITT declined comment, but a source close to the company confirmed the arrangement.

—David W. Fleming, the Van Nuys attorney representing Mrs. Beard, confirmed that he was being paid $15,000 by ITT with the understanding that he is her "independent counsel without any direction from ITT whatsoever."

Letters on file with the Judiciary Committee disclosed that ITT has reservations about Fleming conducting "investigation services" as part of his representation of Mrs. Beard. Howard J. Aibel, ITT senior vice president and general counsel, asked Fleming for "further amplification" on the investigation work in a March 17 letter.

NOT RESOLVED

"We have not resolved the matter," Fleming said Wednesday, "But we're not worried about it at this stage of the game. We don't want to duplicate efforts."

—For the third day, Justice Department officials worked on a statement promised in response to the Life article. "We're trying to bring it all together," a spokesman said, noting that the Life charges involve several officials at different agencies.

Meanwhile, it was learned that the Life allegations are supported in part by an affidavit that David Stutz, a former Internal Revenue Service special agent, gave to two FBI agents Dec. 10, 1970.

In the affidavit, Stutz swore that U.S. Atty. Steward ordered him to stop investigating the involvement of Frank A. Thornton in an allegedly illegal campaign contribution channeled through the Barnes-Champ advertising agency. He said that Jerry Champ, president of the agency, stated before a federal grand jury Feb. 5, 1970, that Barnes-Champ was owned by C. Arnholt Smith, a friend and financial ally of President Nixon.

Stutz said that in the presence of three persons Steward said Thornton was a long time personal friend of his, who was instrumental in getting him appointed U.S. attorney and that he expected Thornton to help him win appointment as a federal judge.

Stutz also said that Charles Pratt, president of San Diego Yellow Cab, told him in September, 1970, that Thornton had said that Steward was interceding in the investigation on behalf of Thornton and Smith.

Stutz also quoted Pratt as stating that Thornton said Steward had revealed the progress and subject matter of the federal investigation to Thornton, that Steward had told Thornton he would not indict Pratt unless forced to and that Thornton would be forewarned of any impending action by the grand jury.

DATES SHOW PARALLELS IN INTERNATIONAL TELEPHONE AND TELEGRAPH CORP. AND GOP EVENTS

WASHINGTON.—A chronology of events in 1971 shows how negotiations for settlement of an International Telephone & Telegraph Corp. antitrust case paralleled the selection of San Diego as the Republican National Convention site with the support of ITT's Sheraton Corp.

Senate testimony and interviews with officials showed that the sequence of events began last spring when Richard G. Kleindienst, then deputy attorney general, was approached at a neighborhood party in suburban McLean, Va., by John Ryan, deputy director of ITT's Washington office.

Ryan, concerned about the government's antitrust attack on ITT, asked if Kleindienst would meet with a company representative to hear about financial repercussions that could result from a breakup of the giant conglomerate.

KEY EVENTS

April 16, 1971—Lawrence E. Walsh, outside counsel for ITT and a former deputy attorney general in the Eisenhower administration, wrote Kleindienst asking that the government delay an appeal to the Supreme Court of one of three antitrust suits against ITT to hear an argument on the economic consequences from the company. At the same time, Walsh conceded that there was a "high probability" of the government's winning its case.

April 19—Kleindienst asked solicitor General Erwin N. Griswold to postpone the appealing of this antitrust suit.

April 20—Kleindienst held the first of five meetings with Felix G. Rohatyn, a Wall Street banker and ITT director. According to Kleindienst, Rohatyn told him about "rather drastic economic consequences that would accrue" to stockholders of ITT and Hartford Fire Insurance Co. if the firms were split apart.

STUDY CONSULTANT

April 29—After a meeting including Kleindienst, Rohatyn and Richard W. McLaren, then head of the Justice Department's antitrust division, McLaren arranged through White House aide Peter M. Flanigan for an outside consultant to study the ITT case.

May 2—Dita Davis Beard, an ITT Washington lobbyist, approached then Atty. Gen. John N. Mitchell about the antitrust case at a Kentucky Derby cocktail party given by then Gov. Louie B. Nunn of Kentucky. Mitchell said he advised Mrs. Beard to "stop lobbying" the case.

May 12—Rep. Bob Wilson (R-Calif.) dined with Harold S. Geneen, ITT's chief executive officer, after an ITT board meeting in San Diego. Wilson proposed that the Sheraton Corp., an ITT subsidiary, pledge financial support to enable the 1972 Republican National convention to be held in San Diego, where Sheraton has a new hotel opening. According to Wilson, Geneen agreed, and set $400,000 as the company's top commitment.

May 17—Richard J. Ramsden, the outside consultant obtained through the White House, submitted a report generally favorable to the ITT position.

BID SUBMITTED

June 2—San Diego submitted a late bid for the convention amid reports that President Nixon favored that city.

June 25—Mrs. Beard wrote a memorandum to her boss linking the hoped-for settlement of the government antitrust case against ITT to Sheraton Corp.'s pledge of convention support.

July 23—The Republican Party officially selected San Diego as the convention site, based on its bid of $1,521,800 in subsidies. Sheraton's support was not disclosed.

July 31—The Justice Department announced an out-of-court settlement permitting ITT to retain control of its highly prized Hartford Fire Insurance Co. and part of a second firm, Grinnell, Inc. But ITT agreed to surrender control of six other firms, which amounted to a $1 billion divestiture.

Aug. 5—The Sheraton hotel chain was revealed as a major underwriter of GOP Convention costs. Leon Parma, chairman of the San Diego Republican convention committee, told a news conference about Sheraton's backing in response to questions.

Sept. 17—According to California Lt. Gov. Ed Reinecke, he told Mitchell about Sheraton's offer to help underwrite the convention. Mitchell, however, has said he was never informed of any dealings between the GOP and ITT.

Dec. 13—Kleindienst, in an irate reply to Democratic National Chairman Lawrence F. O'Brien, contended the settlement "was handled and negotiated exclusively" by McLaren. O'Brien had questioned whether the settlement was linked to ITT's convention pledge.

Feb. 29, 1972—Syndicated columnist Jack Anderson published the Beard memo, and subsequently named Kleindienst as a participant in ITT antitrust discussions. Kliendienst, who had been nominated to succeed Mitchell as attorney general, asked for Senate hearings in which to reply.

International Telephone and Telegraph Convention Pledge to GOP Cut to $25,000—$75,000 of $100,000 Deposit Being Refunded, San Diego Agency Says

San Diego.—A controversial $400,000 underwriting guarantee by Sheraton Hotels toward financing the Republican National Convention here has been reduced to an actual cash contribution of $25,000, convention sponsors disclosed Monday.

Elliott Cushman, finance chairman of the San Diego Civic Committee, told a news conference that $75,000 of a $100,000 cash deposit made by Sheraton is being refunded.

Cushman said business interests in San Diego and elsewhere have made "positive and firm commitments" totaling $340,000 of the committee's original $400,000 promised to the GOP National Committee.

Last May 12, the committee announced that Sheraton Hotels—a subsidiary of International Telephone and Telegraph Corp.—would guarantee the business community's commitment to help meet convention expenses up to $400,000.

ITT officials later said the corporation put $100,000 in escrow and pledged another $100,000 if matched by other local businesses.

ITT's financial involvement in the convention is still being investigated by the Senate Judiciary Committee to determine whether it was linked to a government antitrust settlement with the corporation.

Cushman said the decision to limit Sheraton's cash outlay to $25,000 was made by the Republic Arrangements Committee.

Cushman said a large part of the host committee's receipts have been obtained through selling advertisements in the convention program for $10,000 per page—an expenditure which Cushman said is tax deductible.

At past conventions, revenue raised from program ads has gone directly to the party for its own uses.

Cushman repeated an earlier promise that he "will fully disclose (names of) those contributing as soon as all cash is received and the commitment to the committee on arrangements is complete."

Panel Will Resume Kleindienst Inquiry, Sift San Diego Charges

(By Ronald J. Ostrow)

Washington.—The Senate Judiciary Committee voted 8 to 7 Friday to resume hearings on Richard G. Kleindienst's nomination as attorney general and to close the investigation by April 20.

Rep. Bob Wilson (R-Calif.) of San Diego is scheduled to testify Monday. He will be questioned about a published tape-recorded interview in which he contradicted key testimony of witnesses on a pledge by an International Telephone & Telegraph Corp. subsidiary to help finance the Republican National Convention.

Sen. James O. Eastland (D-Miss.), Judiciary Committee chairman, said that after Wilson's testimony he wanted to "start on the California angle."

This referred to Kleindienst's role in clearing the U.S. Atty. Harry Steward of charges that he improperly interfered with federal investigations in San Diego of allegedly illegal contributions to the GOP presidential campaign in 1968.

Witnesses expected to be called include Steward; C. Arnholt Smith, a San Diego financier and long-time friend and financial supporter of President Nixon's campaigns; Frank Thornton, a San Diego advertising executive and associate of Smith; Denny Walsh, author of a Life magazine article accusing the Administration of squelching the investigations, and three investigators who complained of Steward's alleged interference.

Sen. John V. Tunney (D-Calif.), who led the drive in the committee to take testimony on the Steward-Kleindienst matter, challenged the Justice Department's explanation, submitted to the committee Thursday in an affidavit by a Asst. Atty. Gen. Henry E. Petersen.

In the affidavit, Petersen said he had concluded on the basis of an FBI investigation of Steward which was reviewed by a criminal division staff attorney, that the U.S. attorney "had exhibited poor judgment in connection with an official matter."

Petersen, Chief of the Criminal Division, said this was not sufficient to warrant dismissing Steward. The unidentified staff attorney recommended admonishing Steward for his conduct, Petersen said.

A Justice Department spokesman declined to disclose whether Steward had been admonished, saying it was an "internal personnel matter."

The staff attorney concluded that only one allegation—the spokesman said there were a total of five—had any validity, "and that related solely to improper judgment."

The one allegation was Steward's quashing of a subpoena for Thornton to testify in the grand jury investigation, the department spokesman said. Instead, Steward, over the objection of three federal investigators, questioned Thornton, who he reportedly said had helped him be appointed U.S. attorney.

TUNNEY QUESTION

Tunney, noting that Petersen said Kleindienst concurred in the criminal division's recommendations Feb. 17, 1971, the same day they were sent to him, questioned how thoroughly Kleindienst evaluated the matter. Kleindienst issued a press release the same day, stating in part that he had "evaluated the matter and determined there has been no wrongdoing."

The department spokesman said the review "was as thorough as was necessary."

Tunney also disputed Petersen's statement that "there was no indication of any criminal wrongdoing" by Steward. He said there were three affidavits claiming that Steward leaked information from the grand jury, which Tunney said was a federal crime.

The committee's 8–7 vote, which stipulated that the hearings end by April 20, came on a surprise division. All but one of the committee's seven Republicans, who had favored not resuming the inquiry, supported the compromise proposal.

They were joined by Eastland and Sen. Robert Byrd (D-W. Va.), who proposed the compromise.

Sen. Edward J. Gurney (R-Fla.) explained that the Republicans voted as they did because the proposal included a cutoff date. He said he thought it would prevent Democrats from claiming that Republicans were trying to cut off the inquiry.

The Democrats, who made up all but one of the opposition votes, hoped to defeat the compromise in favor of a motion by Sen. Sam J. Ervin Jr. (D-N.C.).

Ervin's motion, which may be presented again before the hearings begin Monday, would tie termination of probe to an appearance by White House aide Peter M. Flanigan, who figures in the ITT aspects of the hearing.

If Flanigan invokes executive privilege and refuses to be questioned, as the White House has indicated, the hearings would continue indefinitely under Ervin's proposal. According to previous testimony, Flanigan arranged for the Justice (Department) to retain an "independent" financial consultant who supported ITT's claims that the government's antitrust suit against ITT would have severe economic repercussions. The report figured out-of-court settlement of the suit.

In another development Friday, ITT Chairman Harold S. Geneen said Tunney's suggestion that Wilson's tape-recorded interview indicated Geneen might have perjured himself in committee testimony was "an unfair interpretation of the record."

Wilson's statement appeared to contradict Geneen's testimony that ITT's Sheraton Corp. had pledged only a maximum of $200,000 support for the GOP convention.

Donations, Loans—C. Arnholt Smith—Money Man of State Politics

(By Bill Boyarsky)

C. Arnholt Smith, the San Diego financier whose political affairs have attracted the attention of Senate investigators, is a generous donor who has helped some of California's most powerful politicians with contributions and loans.

Republicans Gov. Reagan and Atty. Gen. Evelle J. Younger were among the recipients of Smith's assistance in the 1970 election. Democrat Richard J. Nevins of the tax-regulating state Board of Equalization, also received help, although to a considerably lesser extent.

According to reports filed in the secretary of state's office, Smith donated $5,000 to the campaign of Younger, the state's chief law enforcement officer, Smith's daughter, Carol S. Shannon, gave $3,500 more.

And Smith, along with Frank Thornton, an associate, loaned the Younger campaign $30,426. Norman Foster, a spokesman for Smith, said the debt had been "partially" repaid.

ADMIT $1,000 DONATION

Nevins, in an interview, said Smith gave about $1,000 to his 1970 campaign for the board, which sets guide lines for property taxation and helps administer such taxes as the sales and use tax, the alcoholic beverage tax, the cigaret tax and the insurance tax. Nevins represents the 4th District, which includes eight Southern California counties, including San Diego.

State records show Smith donated $5,000 to a Reagan radio committee in 1970 and also contributed to the campaign of U.S. Sen. George Murphy, a Republican, that year. The report does not list the amount of Smith's contribution to Murphy.

Smith's name did not turn up in an examination of the records of those who donated $500 or more to the 1970 campaigns of Democratic Sen. John V. Tunney, who beat Murphy, or of Jess Unruh, the Democratic gubernatorial nominee who lost to Reagan.

Smith, who rose from bank teller to head of a banking and industrial empire, is a political giver who numbers President Nixon among his friends and was reported to have raised more than $1 million—including $250,000 of his own—for the President's 1968 campaign.

CALLS FIGURES HIGH

Smith has said these figures are high, but said he contributed a substantial amount to the President.

Smith may testify this week in Washington at the Senate Judiciary Committee's hearing into the controversy over San Diego political fund-raising. Life magazine charged the Nixon Adminstration failed to probe evidence that illegal political contributions were being funneled through an advertising agency that Smith reportedly controlled.

Smith heads a multimillion dollar group of businesses, including the $746 million U.S. National Bank and the Westgate California Corp., a $215 million-a-year conglomerate that controls a tuna fleet. Air California, Yellow Cab Co. of California and canneries that market such tuna brands as Breast-O-Chicken and Carnation.

An examination of the records showed Smith's donations have a unique pattern. There is a combination of gifts and loans.

The money is often spent through the advertising agency that Smith is reported to control.

In the 1970 general election campaign, a San Diego Younger committee reported receiving $40,051.12—the bulk of it from Smith, his daughter and from the Smith-Thornton loan.

The same committee reported spending the same amount—$40,051.12—through the Barnes-Champ advertising agency.

(Smith was not the largest contributor to the Younger campaign. Sam Shulman, vice president of the National General Corp., a large conglomerate with theater and other interests, donated $20,250. The firm was listed as a $5,000 contributor. And the Community Bank of Los Angeles was listed as the lender of $185,000.)

PATTERN SIMILAR

The same pattern of Smith donations and loans—and expenditures through the Barnes-Champ Agency—was seen in the San Diego County campaign of Robert Thomas, an unsuccessful candidate for district attorney in 1970.

In his November campaign against a Smith foe, Edwin L. Miller, Thomas reported receiving a $5,000 campaign contribution from Smith and a loan from Smith and Thornton of $54,773.

AGENCY USED

Campaign records show that Thomas spent $47,436 through the Barnes-Champ agency.

One law enforcement officer has told federal agents of testimony that Smith owned the agency.

David Stutz, a former Internal Revenue Service agent now working for the San Diego County district attorney's office, has said that Jerry Champ, then president of the Barnes-Champ agency, stated before a special federal grand jury on Feb. 5, 1970, that "this agency was owned by C. Arnholt Smith and that Frank Thornton was responsible for the handling of political contributions by this agency."

Champ and Thornton were unavailable for comment.

Smith spokesman Norman Foster said "as far as I know he (Smith) does not own this agency and I think he has said that . . . But again I would not challenge what Jerry said under a special set of circumstances."

Stutz made his statement to two FBI agents investigating the charges that illegal campaign contributions were being funneled by Smith and Thornton through the agency. Smith has denied the charges.

The Smith-Thornton relationship was evident in another major San Diego campaign, when Mayor Frank Curran was engaged in his unsuccessful fight for reelection in 1970.

Smith contributed to the campaign and Thornton was a member of the strategy board that directed Curran's campaign.

NO DONATION TAKEN

Curran was defeated. Sources close to the new mayor, Pete Wilson, said he accepted no money from Smith that year, even though he was offered a "substantial" contribution. Wilson is a Republican and Curran a Democrat, but the mayor's office is nonpartisan.

Another illustration of how widespread are contributions from the Smith organization came last year when San Diego Democratic leaders held a small lunch for potential givers with two purposes—to honor Board of Equalization member Nevins and to raise money for the party treasury.

At the lunch was Lou Lipton, the Smith associate who deals with Democrats and with segments of labor, and he purchased a $1,000 table for a fund-raising dinner.

The Smith-Thornton political activities have become the subject of controversy in San Diego where Lawrence Kapiloff, a Democratic Assembly candidate, has held press conferences demanding an investigation.

In a letter to Dist. Atty. Miller, he said that "the public has an immediate right to know whether such practices are continuing into the 1972 election year and the extent of such practices."

LETTER QUOTED

Referring to Younger's receipt of campaign help from Smith, Kapiloff said, "I ask that Mr. Younger disqualify himself from any direct or indirect participation in any such investigation . . ."

Younger, in a letter to Miller, replied any investigation should be conducted by the local district attorney because he has seen no evidence of a violation of state law.

Of Kapiloff's reference to the Smith-Thornton campaign assistance, Younger said, "I don't know whether or not this information is correct."

He suggested that Henry Pitts Mack, his San Diego chairman and an attorney, could provide the information. Mack, contacted by The Times, said he had little to do with campaign financing, and suggested that Norman Lien, the finance chairman, be contacted. Lien was not available for comment.

SAN DIEGO INTERVENTION BY U.S. ATTORNEY HELD HIGHLY IMPROPER—BUT JUSTICE DEPARTMENT OFFICIAL SAYS STEWARD'S CONDUCT FELL SHORT OF CRIMINAL WRONGDOING IN CAMPAIGN DONATION QUIZ

(By Ronald J. Ostrow)

WASHINGTON.—U.S. Atty. Harry Steward's intervention in a San Diego campaign contribution investigation was "highly improper," but the Justice Department decided to back him publicly instead of dismissing him, a top department official testified Tuesday.

Henry E. Petersen, assistant attorney general for the criminal division, characterized Steward's conduct as "woefully indiscreet," but short of criminal wrongdoing.

He noted that Steward was preparing to handle a major trial in San Diego at the time the department investigated him and said: "There was no way we could say he was half-right or 99% pure."

Petersen gave the first detailed department comment on the politically sensitive matter as the Senate Judiciary Committee focused its attention to then Dep. Atty. Gen. Richard G. Kleindienst's Feb. 17, 1971, decision to clear Steward of any wrongdoing and express "full confidence" in him.

Until now, the committee's inquiry on Kleindienst's nomination to be attorney general has dealt with allegations that the settlement of antitrust suits against International Telephone & Telegraph Corp. was linked to a pledge by ITT Sheraton Corp. to help finance the Republican National Convention in San Diego.

While shouldering major responsibility for recommending to Kleindienst that Steward be cleared, Petersen, a 21-year career department attorney, revealed in his testimony that Kleindienst played more of a role in the case than the department had indicated earlier by stating his involvement was "minimal."

He told, for example, of a fall, 1970, meeting, at which he was not present, between Kleindienst and Steward, after the department began considering allegations against the U.S. attorney. Petersen said Kleindienst told him Steward had been "open and candid" and that Kleindienst said he did not think anything was wrong.

Nevertheless, Kleindienst decided to initiate an FBI administrative inquiry of Steward's conduct, a move the criminal division recommended, Petersen said.

The investigation covered five allegations against Steward, some dealing with his conduct before being named U.S. attorney by President Nixon in October, 1969.

Only one allegation stood up, Petersen testified, and that concerned Steward's blocking a subpoena for testimony from Frank Thornton, a San Diego advertising executive and associate of C. Arnholt Smith, a San Diego financial supporter of Mr. Nixon.

Under questioning by Sen. John V. Tunney (D–Calif.), who led the drive in the committee to look into the Steward matter, Petersen said federal investigators wanted Thornton subpoenaed in connection with an allegedly illegal contribution to Mr. Nixon's 1968 campaign by San Diego Yellow Cab.

The investigators contended the contribution was channeled through Barnes-Champ advertising agency, which Thornton served as vice president and which Petersen said was owned by Smith.

Steward objected to the subpoena and told the three investigators that Thornton helped him gain appointment as U.S. attorney and that he hoped Thornton would assist him in being named to the bench, Petersen said.

In his meeting with the three investigators—A. David Stutz, Richard Huffman and Michael de Feo—Steward "spoke very candidly," Petersen said. He assumed they "were understanding." They were not understanding at all.

Steward alone interviewed Thornton and received two conflicting explanations about a $2,068 bill to Yellow Cab from Barnes-Champ. One described the bill as for a wage-and-hour survey still to be conducted and the other depicted it as a personal contribution that would be returned.

Tunney pressed Petersen on whether Steward intervened on behalf of Thornton a second time, ordering Stutz to drop an Internal Revenue Service probe of Barnes-Champ and informing him that he had told the advertising agency not to turn over records to the investigator.

Petersen contended this was merely a continuation of Steward's first interference, although Stutz was acting in his IRS agent's capacity rather than as a member of the inter-agency federal strike force, which initially investigated the agency.

Asked whether Smith's alleged involvement was investigated further, Petersen said: "I understand that Mr. Smith and his whole combine are under investigation by IRS."

Petersen bristled at mention of the Life magazine article on the Steward matter, saying the magazine's central charge that the Nixon Administration had obstructed justice was false.

"Dick Kleindienst or (former Atty. Gens.) John Mitchell or Ramsey Clark or Nick Katzenbach or Bob Kennedy or Bill Rogers never brought political pressure to bear on me," said the Justice Department veteran.

"I'm convinced that nothing in this record—absolutely nothing—will reflect adversely on Dick Kleindienst," Petersen said.

Steward Defends Intervention in San Diego Probe

WASHINGTON.—U.S. Atty. Harry D. Steward disputed Tuesday a Justice Department finding that his intervention in a campaign contribution investigation in San Diego involving an old friend was "highly improper."

Testifying before the Senate Judiciary Committee, Steward initially said he felt his decision to block a subpoena for Frank Thornton, a San Diego advertising executive and Republican fund-raiser, "was correct then . . . and I still do."

But after questioning by Sens. John V. Tunney (D–Calif.) and Edward M. Kennedy (D-Mass.). Steward said: "It was poor judgment possibly—that's as much as it was."

Steward's testimony conflicted on several points with that of Asst. Atty. Gen. Henry E. Petersen and a sworn affidavit from A. David Stutz, a former Internal Revenue Service investigator in San Diego, which was turned over to the committee by Tunney.

Steward denied, for example, that he had told federal investigators he wanted to question Thornton personally because Thornton had helped him win appointment as U.S. attorney and he expected similar assistance in winning a federal judgeship. Petersen testified that a Justice Department inquiry had found this to be the case.

"Are you aware that there are sworn affidavits that you did tell Mr. (Michael) DeFeo that?" Tunney asked. (DeFeo, formerly a federal strike force attorney in San Diego, now heads the strike force in Kansas City.)

"I've never seen any," Steward said. "You have the records. You're one up on me."

DENIES STATEMENT

Tunney pressed the issue, and Steward said: "There was no reason for me to say that."

"But you didn't say that?" Tunney asked.

"I didn't," Steward said.

At another point, Steward added: "Apparently, Mr. Thornton doesn't have the power to designate federal judges because I'm not a federal judge."

Tunney said later that Steward had been "less than candid."

In connection with its consideration of the nomination of Richard G. Kleindienst as attorney general, the committee is investigating charges that Steward improperly intervened in a 1970 federal investigation of allegedly illegal contributions to President Nixon's 1968 campaign.

Kleindienst issued a statement Feb. 17, 1971, disclosing that unspecified allegations against Steward had been investigated by the FBI, that the U.S. attorney had been cleared of wrongdoing and that he enjoyed the full confidence of the attorney general.

Steward testified that it would have been "inappropriate and improper" to subpoena Thornton before a federal grand jury "in the circus atmosphere that existed publicity-wise in San Diego."

He said there had been "a tremendous amount of publicity" shortly before about subpoenas for "70 to 80% of the top elected officials of San Diego."

Steward added that a political corruption indictment had been returned in Newark, N.J., during the same period and that he opposed "opening up another publicity campaign." He said he was against trying such cases in the press.

Steward said Thornton had been "campaign manager (in San Diego) for every major Republican candidate for the last 20 or 30 years, including Nixon, Eisenhower and Goldwater when he ran." As such, he said Thornton was prominently identified as a political figure.

Steward said he told the investigators who wanted to issue the subpoena that instead he would question Thornton at Barnes-Champ Advertising Agency, where Thornton served as vice-president.

"I went over to Thornton's office so I could look at his books and documents," Steward said. "It's a big advertising agency and had lots of books and records."

"You learned about the subpoena and killed it?" Sen. Quentin N. Burdick (D-N.D.) asked.

Steward: "In sum and substance, yes."

Burdick: "You went over to his office. Is that customary?"

Steward: "No."

Burdick: "Wouldn't it be customary for you to call him over to your office?"

Steward: "Yes."

Burdick: "But you had a great friendship for him."

Steward: "Yes, but he had a lot of records, too."

The U.S. attorney also differed with previous testimony that Thornton had explained a $2,068 bill which Barnes-Champ had submitted to San Diego Yellow Cab Co. as arising from a wage and hour study. (The investigators had said they suspected the sum was actually a campaign contribution, barred by federal law.)

"I cannot remember what I told the strike force people," Steward said. "They were interested. I wasn't particularly interested."

Steward said he had "no independent recollection" that Thornton later gave him another explanation for the amount billed Yellow Cab.

"NO BIG DEAL"

Repeatedly dismissing the incident as "no big deal," Steward said his conversation with Thornton was "extremely vague in my mind. I can't remember if it was different because I don't remember what he told me the first time."

Steward testified he was "quite sure" Kleindienst had privately criticized him for intervening in the Thornton matter. "Dick doesn't mince words," Steward said, quoting Kleindienst as stating: "Steward, when there are friends involved, get the hell out."

But he said he could not recall when this dressing-down took place, whether it was when he first met with Kleindienst about the incident in November, 1970, or in February, 1971, after the criminal division recommended he be admonished.

Mitchell Disputed in ITT Controversy

(By Ronald J. Ostrow)

WASHINGTON.—Lt. Gov. Ed Reinecke said Friday that he discussed with former Atty. Gen. John N. Mitchell last Sept. 17 the offer by Sheraton Hotel Corp. to help underwrite the GOP convention in San Diego.

Mitchell, now directing President's Nixon's reelection drive, said Monday that he had no knowledge that Republicans were conducting convention dealings with International Telephone & Telegraph Corp., Shearton's parent corporation.

A spokesman for Mitchell Friday reaffirmed that the former attorney general denied even now any personal knowledge of the dealings between the GOP and ITT.

Mitchell's denial figures prominently in the mounting controversy over the Justice Department's $1 bililon antitrust settlement with ITT last July, which columnist Jack Anderson has charged was linked with the convention pledge.

The Anderson charges have held up Senate confirmation of acting Atty. Gen. Richard G. Kleindienst to succeed Mitchell, as the Senate Judiciary Committee holds hearings on the matter at Kleindienst's request.

Reinecke, issuing his second statement of the day from Sacramento, emphasized that the discussion of convention financing was in terms of Sheraton and not ITT.

MITCHELL AVOIDED CASE

It was unclear, however, whether Mitchell recognized the relationship between the firms. As attorney general, he removed himself from the antitrust case because the law firm in which he and Mr. Nixon were once partners had represented another ITT subsidiary, Continental Baking Co.

In his first statement, Reinecke told newsmen he and Edgar M. Gillenwaters, director of the state Department of Commerce, met with Mitchell in his Washington office in mid-May last year, about two months before the antitrust settlement. Reinecke said the Sheraton convention pledge "was mentioned, but was not discussed."

After a spokesman for Mitchell said the former attorney general's records showed he had not met with Reinecke in mid-May, Reinecke issued the second statement. He said that because he did not have access to his files when he made the initial statement he was mistaken about the meeting.

FIRST DISCUSSED SEPTEMBER 17

Reinecke did not explain, however, why he did not check his files before commenting Friday to newsmen on the meeting or before discussing it with Sen. John V. Tunney (D-Calif.). He gave his initial version to Tunney only about two hours before issuing the second statement.

It was learned that Reinecke changed his statement after a telephone conversation with Mitchell's campaign office in Washington.

In the second statement, Reinecke said the meeting which he thought was in May actually took place on April 26, 1971, but the Republican convention was not discussed "because the idea had not developed at that date." The Sheraton convention offer was first discussed at the Sept. 17 meeting, Reinecke said.

He urged the GOP to reject what he called Sheraton's $400,000 pledge—a sum that ITT contends is twice the amount pledged by the hotel chain.

"You have to play it super clean and super safe and just say 'Thanks, but no thanks,'" Reinecke said. The GOP "would be ill advised to accept this money now, not that there is anything wrong with it, but because of the propensity of the public to believe any accusatory story like this."

"The only reason I was involved was that I was doing work on behalf of California to try to get the convention to San Diego," said Reinecke.

"Mitchell was, you might say, the political arm of the Administration. It was widely known then it was he who was making the political decisions."

Tunney Friday asked Sen. James O. Eastland (D-Miss.), Judiciary Committee chairman, to call Reinecke as a witness when the Kleindienst hearings resume Tuesday. Reinecke said he would appear if asked, but said he hoped the committee would not summon him because of the press of business in California.

LETTER MENTIONED

At the hearing, Sen. Edward M. Kennedy (D-Mass.) questioned Kleindienst and U.S. District Judge Richard W. McLaren, former antitrust chief at the Justice Department, about a letter directed to them last Sept. 21, which questioned whether the antitrust settlement and convention pledge were linked. This would have been at least two months before the period that Kleindienst and McLaren have testified they first learned of the financial pledge from newspaper reports.

The letter, written to Kleindienst by Reuben B. Robertson III, an associate of consumer advocate Ralph Nader, also asked Kleindienst to specify what contacts he had with Rep. Bob Wilson (R-San Diego) during settlement of the suit.

McLaren, who replied for Kleindienst on Sept. 2, said he had been advised that Kleindienst had no contacts with Wilson during the antitrust negotiation and that there was no link between the settlement and any ITT offer of financial support for the convention.

NO RECOLLECTION

"I have no recollection of the letter," Kleindienst told Kennedy. Saying he receives correspondence "by the pound, by the foot," Kleindienst added that such letters as Robertson's "are routinely sent by my staff to various divisions" for handling.

"The letter indicates Mr. McLaren would have called me up," Kleindienst said. "I don't recall any conversation."

McLaren said: "I must have asked him about the Wilson part of the thing. I wouldn't have written that if I had not asked Mr. Kleindienst." But he said he could not recall the letter either.

As the hearings recessed, ITT made its first comment on Dita D. Beard, the company's Washington lobbyist and author of a purported internal memorandum which sparked Anderson's charges. Both the company and the FBI are searching for Mrs. Beard, who has been subpoenaed by Eastland to testify.

CALLED A VIOLATION

ITT said Mrs. Beard's absence "is in direct violation of a commitment she made to the company." The statement said ITT is ready to present evidence that will "put to rest the unfortunate and unfounded allegations and innuendoes" resulting from publication of the purported memorandum.

The FBI was said to be concentrating its search for Mrs. Beard in the Denver area. A committee source said he understood she had been in touch by telephone from Denver with her Washington physician.

Eastland, who said he did not think "anything has been turned up" in two days of hearings, disclosed that three mystery witnesses would be called next week. He said their names had been supplied by ITT, but refused to identify them.

OTHER WITNESSES

Eastland said Anderson and Mitchell would be called Tuesday, and that W. R. Merriam, head of ITT's Washington office, and Mrs. Beard, if she is located, also would be called.

The ITT merger settlement brought to a close two cases the government had lost in lower courts and was appealing and one yet to come to trial. Under the agreement, ITT retained control of Hartford Fire Insurance Co., which it considered vital of its operations, and part of a second firm, Grinnell, Inc.

ITT gave up control of Canteen Corp., a large food-vending concern; Avis Rent-a-Car System; Levitt & Sons, Inc., homebuilders, two small insurance concerns and the fire protection division of Grinnell.

Kleindienst Will Reply Today To Charges in Antitrust Case

(By Ronald J. Ostrow)

Washington.—Dep. Atty. Gen. Richard G. Kleindienst will reply today at a Senate hearing to charges that he helped settle a huge antitrust suit with a corporation that pledged financial support for the GOP convention in San Diego.

Kleindienst requested the hearing by the Senate Judiciary Committee, which approved his nomination as attorney general last week, in the wake of accusations by columnist Jack Anderson that he had "told an outright lie" about settling the case with International Telephone & Telegraph Co.

In a series of meetings with committee members Wednesday, Kleindienst offered to produce his former boss, John N. Mitchell, who stepped down as attorney general Wednesday, Federal Judge Richard W. McLaren, former antitrust chief, and ex-Gov. Louie B. Nunn of Kentucky to back his version of the dispute.

The committee also is expected to call Harold S. Geneen, chairman and president of ITT; W. R. Merriam, a Washington vice president of the firm, Mrs. Dita D. Beard, registered lobbyist for ITT, and Felix G. Rohatyn, a Wall Street financier and ITT director who has played a central role in the firm's active merger program.

ANDERSON TO TESTIFY

Rohatyn and Mrs. Beard were central figures in columns by Anderson charging that Mitchell and Kleindienst took part in closing the suit last July by consent judgment, allegations that they and the company deny. Anderson also will testify.

The dispute took on an added political coloration Wednesday when it was learned that Rohatyn has been active in raising finances for the presidential campaign for Sen. Edmund S. Muskie (D-Me.).

In his column Wednesday, Anderson charged that Kleindienst discussed the "economic side" of the merger with Rohatyn about six times, while McLaren carried on negotiations with the firm's lawyers. Anderson contrasted this activity with Kleindienst's assertion in a letter last Dec. 13 to Democratic National Committee Chairman Lawrence F. O'Brien that the suit settlement "was handled and negotiated exclusively" by McLaren.

Kleindienst declined to comment Wednesday, but sources familiar with his account said he would testify that he repeatedly referred Rohatyn to McLaren, including one instance when Rohatyn was understood to have complained about McLaren's hard-line position.

Such testimony would be similar to Mitchell's response to an earlier Anderson column alleging that Mitchell and Mrs. Beard "privately arranged" the antitrust settlement.

Mitchell, noting that he had removed himself from the ITT case at the outset because he had represented subsidiaries of the company when he was in private law practice, said Mrs. Beard had talked to him once about the suit.

He said she approached him at a reception last May held by ex-Gov. Nunn following the Kentucky Derby.

"I told the lady that I knew nothing about it," Mitchell told reporters Wednesday, "that if I were her I would stop lobbying in connection with the matter and I would have the appropriate people—lawyers from ITT—go back to the Justice Department where the matter was going to be settled."

VERACITY ISSUE

ITT also denied Anderson's allegations, but declined to comment on the veracity of a purported internal company memorandum obtained by Anderson that seemed to link the settlement with a pledge of support to the San Diego GOP convention by Sheraton Corp. of America. The hotel chain is an ITT subsidiary.

Contending that Sheraton had pledged $100,000 to help underwrite the convention to be followed by another $100,000 if it was matched by other contributions, the ITT statement said "such community support is not unusual in the hotel field." The company noted that it has two hotels in San Diego, with a third under construction.

ITT said there "was no deal of any kind" to settle the cases and that "neither Mrs. Beard nor any one else except legal counsel" was authorized to carry on the negotiations.

KLEINDIENST PARLEYS

Sen. James O. Eastland (D-Miss.), Judiciary Committee chairman, and two ranking Republicans, Sens. Roman L. Hruska of Nebraska and Hugh Scott of Pennsylvania, said after meeting with Kleindienst that they were satisfied by his explanation.

But Sens. Birch Bayh (D-Ind.), Edward M. Kennedy (D-Mass.) and John V. Tunney (D-Calif.), who also met with Kleindienst at his request Wednesday, declined comment on his explanation or their reaction.

ITT Lobbyist Puts Knife To Work—Without the Butter

(By Robert L. Jackson)

Washington.—Dita Davis Beard, veteran lobbyist for International Telephone & Telegraph Corp., is a salty, party-loving mother of five with a wide acquaintanceship on Capitol Hill.

The 53-year-old divorcee has a reputation for bluntness and political savvy. Her friends say she can curse a congressman to his face in a way that is charming and inoffensive.

"She's a hard-drinking, hard-cussing, free-swinging woman—tough as nails," an admirer said.

Mrs. Beard is a central figure in an ITT case under scrutiny by a Senate committee. A memo she reportedly wrote her boss last June links settlement of a government antitrust case against ITT with a subsidiary company's pledge of financial support for the Republican National Convention in San Diego.

FBI TRYING TO FIND HER

The FBI is trying to locate Mrs. Beard to serve her a subpoena to testify before the Senate Judiciary Committee.

"Primarily she knows Republicans in Congress," a former associate said, "but she gets along well with members of both parties."

In a city where grace and obeisance are hallmarks of many lobbyists, Mrs. Beard has capitalized on aggressiveness—often to the point of coarseness, friends say—and treats members of Congress as her equals.

A large, gregarious woman, her presence is noted almost daily at the Capitol Hill Republican Club in the Congressional Hotel, a block from the Capitol.

She worked in President Nixon's 1968 preconvention campaign. A daughter, Lane, now works for the Republican National Committee in finances.

A frequent traveler, Mrs. Beard enjoys attending national and regional meetings of governors and other politicians. Se usually presides at an ITT "hospitality suite."

A Republican Party worker recalls Mrs. Beard's large suite at San Francisco's Mark Hopkins Hotel during the 1964 Republican National Convention.

"It must have cost $125 a day," he said.

She has also arranged for congressional staff members to fly to political meetings in an ITT company aircraft.

A lover of the outdoors, Mrs. Beard drives snowmobiles and is an inveterate camper. A friend recalls that during a winter meeting in Wyoming she strolled barefoot down the winter street at midnight.

She is not fussy about her appearance.

"She'll string cigaret ashes all over a $200 dress," a friend said.

Associates say Mrs. Beard, divorced for several years, has devotedly raised five children, now grown.

"She's been a tremendously good mother to these youngsters, and they are very close to her," a friend said.

The family home is in nearby Arlington, Va.

Mrs. Beard, who has been ITT's registered lobbyist for 11 years, is regarded as one of Washington's most highly paid women. She reportedly earns over $50,000, although the company will not disclose her salary.

CAIN REMEMBERS

In the early 1950s she worked for former Sen. Harry Cain (R-Wash.), who remembers her as "a very gregarious, forceful and attractive girl who enjoyed rifle shooting as a hobby."

The memo ascribed to Mrs. Beard, which ITT will neither confirm nor deny, refers to the company's chief executive, Harold S. Geneen, as having "a big mouth."

ITT said Friday it was cooperating in the search for Mrs. Beard.

"Her absence," the company said, "is in

direct violation of a commitment she made to the company to keep it informed of her whereabouts so she would be available in the event her presence would be required."

Doctor Describes ITT Lobbyist as Being "Disturbed, Irrational"

(By Ronald J. Ostrow)

WASHINGTON.—The heart doctor for a lobbyist who suggested a link between a huge antitrust settlement and financial support for the GOP convention said Monday that the lobbyist had been periodically disturbed and irrational. Dr. Victor L. Liszka, testifying at Senate hearings on the allegations in an internal memorandum by Dita Davis Beard, lobbyist for International Telephone & Telegraph Corp., said a combination of "excessive drinking," tranquilizers and poor blood circulation accounted for her behavior.

Mrs. Beard must remain for one to two weeks in a Denver hospital where she is being treated to head off a heart attack, said Liszka, an Arlington, Va., heart surgeon. He said she might be able to testify from bed sooner.

However, Dr. David Garland, who is treating Mrs. Beard in Denver, said Monday that Senate investigators would not be allowed to question her if there was a chance it would "cause her more stress."

After the hospital issued a medical bulletin that she was responding to treatment, Garland said: "We cannot, in good faith or practice, except to subject her to interviews during her stay. If she were in good enough health to undergo this kind of stress, she probably would be ready for dismissal from the hospital."

Liszka, Mrs. Beard's doctor for nine years, testified that she had told him she was "mad and disturbed" when she wrote the memo and that "she did not mean to say what the memo appeared to say."

The doctor, under questioning by Sen. Edward M. Kennedy (D-Mass.), said he had met twice with top aides to acting Atty. Gen. Richard G. Kleindienst, whose nomination to head the Justice Department has been held up by investigation of the allegations.

There were these other developments Monday as the case of ITT and its $1 billion antitrust settlement and the pledge by ITT's Sheraton Corp. of America to help underwrite the GOP convention took on added controversy:

Solicitor General Erwin N. Griswold said Kleindienst called him to his office last April 19 and asked him to delay appealing one of the three anitrust suits eventually settled in the ITT case. This appeared to conflict with Kleindienst's testimony last week that Richard W. McLaren, former antitrust chief, was the only department official with whom he discussed the case.

Rep. Bob Wilson (R-San Diego), who was mentioned in Mrs. Beard's memo, said the lobbyist was part of an ITT contingent in San Diego last May 12 when Wilson broached the idea of convention support by ITT's Sheraton Corp.

California's secretary of state, Edmund G. Brown, Jr., called for a federal grand jury investigation of the Sheraton Corp. pledge—variously reported to be $200,000 or $400,000—in financial support for the Republican convention. A Justice Department spokesman declined comment on Brown's request, contained in a letter to U.S. Atty. Harry D. Steward in San Diego.

Columnist, Jack Anderson, who published Mrs. Beard's memorandum touching off the controversy, charged in a speech in Boston that ITT planned to throw her "to the wolves." He said the firm would make her a "healthy pension" offer if she would "just hold (her) tongue."

Liszka met Friday and Sunday with Associate Dep. Atty. Gen. Harlington Wood Jr. and John T. Duffner, executive assistant to Kleindienst, a Justice Department spokesman said. The spokesman said Mrs. Beard's doctor called to arrange the meeting, saying he felt that information being reported about his patient was not accurate.

Asked why Liszka was not interviewed by FBI agents rather than aides to Kleindienst, who is at the center of the allegations, the spokesman said: "Because there's not an investigation by the department."

DISCUSSED PROBLEMS

Liszka said he discussed with the officials Mrs. Beard's "problems with tranquilizers and alcohol" as well as the question of whether "she was always at full capacity mentally."

Liszka said Mrs. Beard traveled to New York against his medical advice last week to talk with officials at ITT's headquarters after columnist Jack Anderson published a copy of her memo. "She indicated it would be a strenuous trip," he said.

When Mrs. Beard dropped from sight last week until she was located in the Denver hospital over the weekend, ITT officials said she had violated a commitment she made to keep the firm informed of her whereabouts.

Liszka said he heard Mrs. Beard was in Denver when a close family friend called from there to tell him she was "in bad condition . . . unconscious." The doctor said he directed that she be placed in the hospital, and he flew to Denver to examine her Saturday.

"NOTHING IMPROPER"

Liszka's testimony and statements by Sen. James O. Eastland (D–Miss.), Judiciary Committee chairman, who says the hearing has revealed nothing improper on Kleindienst's part, indicated that Kleindienst's supporters would concentrate on Mrs. Beard's "disturbed" state and details about the memorandum in claiming that it was overdrawn.

For example, Liszka noted that the memorandum was typewritten and said he did not believe Mrs. Beard could type. A committee source said this indicated that one of the three "surprise" witnesses promised by ITT would be the stenographer who typed the memo.

Under questioning by Sen. Edward J. Gurney (R–Fla.), Liszka agreed that he would not be surprised if the memo presented untrue facts because of what Gurney called Mrs. Beard's "disturbance or irrationality."

At another point, Liszka said the memorandum "didn't strike me as very well thought out."

(The Washington Post reported that Liszka's testimony about Mrs. Beard's mental state drew a sharp rebuff Monday night from another physician caring for her at the Rocky Mountain Osteopathic Hospital in Denver.

("I'm her doctor now, and I do not question her mental health," said Dr. Lewis Radetsky, an osteopath specializing in cardiac diseases. "I do not think his comments are well founded," he said of Liszka's testimony to the committee.)

In discussing the origins of the Sheraton offer to help underwrite the convention, Rep. Wilson said in an interview that he made the suggestion over dinner on May 12 to Harold S. Geneen, ITT's chief executive officer, and to Howard P. James, president of Sheraton.

"INTRIGUING IDEA"

Mrs. Beard was not at their table, Wilson said. The dinner followed a company board meeting in San Diego that the lobbyist and other officers attended.

"The idea was rather intriguing to him (Geneen)," Wilson said. He quoted Geneen as saying, "I'll help you. We'll do our share. We'll stand behind you up to $300,000—even $400,000."

The San Diego congressman said he sought to line up Sheraton's support after White House counselor Robert H. Finch urged city officials that same day to "put in a bid" for the convention.

(A month later—in June, 1971—some White House officials were saying that San Diego was President Nixon's personal preference.)

As to Mrs. Beard's memo dated last June, which said Wilson and a few others knew about Sheraton's pledge, the congressman said he could not understand how the document linked Sheraton's commitment with settlement of a government antitrust suit against ITT.

"It sounds like a story somebody made up," said Wilson, who is chairman of the Republican Congressional Campaign Committee.

He said no one mentioned the antitrust action at the May dinner. Neither has he discussed these matters with Mitchell or Kleindienst, Wilson said.

Wilson said he doubted that Mrs. Beard had worked on the convention project since January, 1971, although her physician so indicated in his Senate testimony. The congressman said that as far as he knew, the idea of Sheraton Corp. support for the convention was his own proposal.

He rejected a recently expressed view of California Lt. Gov. Ed Reinecke that the Sheraton pledge should be turned back because of the current controversy.

"That's ridiculous," said Wilson. "This is a contribution to a San Diego civic committee, not a contribution to the Republican Party."

Finch said he was also in San Diego last May 12—the date Wilson said he dined with Geneen. Finch said he urged reluctant city officials "to at least indicate an interest" in the convention.

But after presiding at an "Old Town" dedication that morning, Finch said he left town early in the afternoon. He said he did not learn of the Sheraton pledge "until weeks or days later," and never discussed it with Mitchell.

Reagan Says GOP Should Spurn Offer

SACRAMENTO.—Gov. Reagan said Monday that perhaps Lt. Gov. Ed Reinecke was right: Republicans should reject a controversial $400,000 offer from an ITT subsidiary to help underwrite the GOP National Convention in San Diego.

But the Republican governor contended "an awful lot of fuss is being made over something that, really, I don't see how it involves Washington or anything else."

Reinecke last Friday said the Republican Party should "sanitize" itself and reject a $400,000 offer from Sheraton Corp. to defray GOP convention costs.

Wife of ITT Lobbyist's Doctor Subject of U.S. Fraud Inquiry

(By Ronald J. Ostrow)

WASHINGTON.—The wife of a heart doctor who testified critically about an International Telephone & Telegraph Corp. lobbyist is under federal criminal investigation on charges of Medicare fraud, the Justice Department disclosed Tuesday.

In addition, Dr. Victor L. Liszka, who testified Monday that lobbyist Dita Davis Beard was an excessive drinker and was at times disturbed and irrational, was cut off from the federal Medicare program two years ago for alleged discrepancies in billing, it was learned.

Mrs. Beard is the author of an internal ITT memorandum that suggested a link between the Justice Department's settlement of a massive antitrust suit against ITT and a pledge by ITT's Sheraton Corp. to help underwrite the GOP convention in San Diego.

Publication of the memorandum by columnist Jack Anderson has held up confirmation of acting Atty. Gen. Richard G. Kleindienst as the Senate Judiciary Committee investigates the charges.

The case of Liszka's wife, Dr. Catherine V. Green, who practices out of an Arlington, Va., office with her husband, will be considered by a federal grand jury in Alexandria, Va., next Monday, the Justice Department advised Sen. James O. Eastland (D-Miss.), Judiciary Committee chairman.

Liszka, whose testimony supported Administration denials of a link between the antitrust settlement and the convention support, said in an interview that he did not "see how that (his testimony) could possibly be an attempt to support my wife."

Two of Kleindienst's aides who talked with Liszka twice before he voluntarily testified, Harlington Wood Jr. and John T. Duffner, said there was no reference in their discussions to "any such personal problem which Dr. Liszka or his wife might have."

FAILED TO ADVISE PANEL

Kleindienst and other high Justice Department officials said they knew of the pending case against the doctor's wife before Liszka testified Monday, but failed to advise the Judiciary Committee. Kleindienst told a reporter that he received a telephone call from an angry Eastland Monday afternoon questioning him about the matter. He said he told the senator that he assumed Eastland already knew about the matter.

In other developments at the committee hearing Tuesday:

Ex-Gov. Louis B. Nunn of Kentucky denied a report in Anderson's column that former Atty. Gen. John N. Mitchell discussed the antitrust cases with Mrs. Beard at a reception after the Kentucky Derby last May 2. Nunn, who said he was with Mitchell throughout the reception, testified that Mitchell grew "very disturbed" when Mrs. Beard persisted in trying to discuss the matter. Finally, Nunn said, he was advised that Mrs. Beard had collapsed and had been driven back to her hotel. He attributed her condition to a possible heart attack, or exhaustion combined with drinking.

Lawrence E. Walsh, an ITT attorney, wrote Kleindienst last April 16 that there was "a high probability" the Justice Department would succeed in its suits against ITT and asked for a delay in appealing one of the cases that the government had lost in a lower court. Walsh said he was writing Kleindienst instead of Richard W. McLaren, antitrust chief, because he understood that Kliendienst had already been consulted on the "ITT problem." Walsh was a deputy attorney general in the Eisenhower Administration.

Walsh's statements appeared to conflict with Kleindienst's statement last December that the ITT settlement was handled and negotiated exclusively by McLaren. But Kleindienst said he did not read Walsh's letter and could not explain why Walsh thought he had been consulted.

Sen. Edward M. Kennedy (D-Mass.), challenging Kleindienst's refusal to turn over all documents in the ITT case to the committee, questioned whether Kleindienst, who is the subject of the Senate hearing, should be making such decisions. Kleindienst said he was not basing his refusal to turn over investigative files on executive privilege, which would require President Nixon's approval, but on what he said was longstanding Justice Department policy.

SHOW OF EMOTION

In a rare show of emotion, McLaren, now a federal judge, defended the Administration's antitrust policies and accused Kennedy's staff of having "poisoned" a former aide, Kenneth Elzinga, against him. Over the weekend, Elzinga criticized the ITT settlement, criticism that McLaren said amounted to calling him "a crook."

At the same time, McLaren corrected earlier testimony and said it now appeared that he did contact Peter M. Flanigan, assistant to President Nixon, to arrange for Richard J. Ramsden to conduct a financial analysis of the antitrust question. McLaren earlier testified that he had not discussed the cases with Flanigan or anyone else in the White House.

The testimony by former Gov. Nunn, who said Mrs. Beard appeared to be obsessed with losing her job at ITT and frequently spoke of that when she was drinking, was the latest in a series of actions by Kleindienst's supporters to challenge Mrs. Beard and her memorandum. Democrats on the committee maintain that conflicts in testimony and other questions posed by the hearing will remain even if the Beard memorandum is discredited.

That investigation of Dr. Liszka's wife resulted from allegations that Liszka had defrauded the Social Security Administration on certain Medicare payments. Asst. Atty. Gen. Henry E. Petersen told Eastland.

It was determined on Feb. 22 that Liszka was innocent of any wrongdoing, Petersen said, but the evidence against his wife has been referred to the grand jury.

The Social Security Administration said that in July, 1970, it suspended payment on any bills for Medicare patients submitted by Liszka "pending resolution of discrepancies we had found."

The discrepancies have not been resolved, however, and Liszka continues suspended.

Met International Telephone & Telegraph Official but Didn't Handle Suit, Kleindienst Says

(By Ronald J. Ostrow)

Washington.—Acting Atty. Gen. Richard G. Kleindienst told a Senate hearing Thursday that he met five times with a director of International Telephone & Telegraph Co. but said he did not handle the controversial settlement of the company's antitrust suit.

"I did not inject myself into the negotiations at all," leading to the settlement last July of the Justice Department's three antitrust suits against ITT, Kleindienst testified before the Senate Judiciary Committee.

Kleindienst whose nomination as attorney general earlier had been expected to be voted on by the Senate this week, requested the hearing in the aftermath of charges by columnist Jack Anderson that Kleindienst lied last December in saying that the ITT settlement "was handled and negotiated exclusively" by former Asst. Atty. Gen. Richard W. McLaren.

Kleindienst said he did not want to assume the top Justice Department post "with a cloud over my head."

At the luncheon recess, committee chairman James O. Eastland (D-Miss.) said when asked for comment on Kleindienst's testimony: "He's guilty of nothing."

Anderson also published a purported internal ITT memorandum in which the company's Washington lobbyist, Dita D. Beard, appeared to link the settlement of the case with a pledge by ITT's Sheraton Corp. of American to help underwrite the Republican National Convention in San Diego.

Kleindienst denied that allegation, too, saying he did not know of the $200,000 pledge until it was reported in the press last December, five months after the suits were settled.

The hearing, which will continue today, provided a rare public glimpse of negotiations behind the scenes of major antitrust disputes.

Kleindienst said his meetings with Felix G. Rohatyn, ITT director, did not amount to negotiating settlement of the case. He was backed by testimony of McLaren, now a federal judge in Chicago, and Rohatyn.

At first Kleindienst said Rohatyn called him last April, introduced himself as an ITT director and requested a meeting with the deputy attorney general to discuss financial repercussions of the government's suit, contrasted with legal aspects.

But after a whispered conversation with Rohatyn during McLaren's testimony, Kleindienst said he recalled being approached last spring at a neighborhood party by John Ryan, deputy director of ITT's Washington office. Ryan complained about the harsh effects of the antitrust suits and asked if Kleindienst would talk with an ITT representative about the case.

Rohatyn's call followed, Kleindienst said, and he agreed to meet him last April 20. Kleindienst said Rohatyn told him of "the rather drastic economic consequences that would accrue" to stockholders of ITT and Hartford Fire Insurance Co. if a merger of the two firms was blocked.

POTENTIAL LOSSES

Kleindienst said the stockholders would lose "in excess of $1 billion in the value of their stock," ITT would have to pay out $4 million to $5 million, causing lack of liquidity and interfering with the nation's already beleaguered balance of payments, and there might be additional repercussions on the stock market.

Kleindienst testified that nine days after his first meeting with Rohatyn, McLaren, at Kleindienst's suggestion, held "a rather large meeting" between ITT and government experts, where the corporation laid out its financial objections to the antitrust attack.

Kleindienst said he attended that session, too, but "sat there and said nothing myself."

Under the final settlement reached between the government and ITT, the company was permitted to retain control of Hartford Fire Insurance Co. and part of a second Firm, Grinnell, Inc.

However, ITT agreed to give up control over Canteen Corp., a large food-vending firm; Avis Rent-a-Car System; Levitt & Sons, Inc., a home-building firm; two small insurance companies, and the fire-protection firm; two small insurance companies, and the fire-protection division of Grinnell:

In separate suits, the government had sought, beginning in mid-1969, to block ITT's acquisition of Hartford, Canteen and Grinnell on grounds that they violated antitrust laws by restraining trade.

The Kleindienst Hearings

The central issue in the dispute over the confirmation of Richard Kleindienst to be attorney general is whether Kleindienst acted improperly in the Justice Department's settlement of a major antitrust suit. The frequently contradictory testimony heard by the Senate Judiciary Committee on this question has so far been inconclusive. What has emerged up to now is that Kleindienst's memory and, more importantly, his judgment leave something to be desired. The suspicion that more than this may be involved has been neither proven nor really rebutted.

This much we do know: Kleindienst initially denied that he had taken any part in the Justice Department's negotiations with the International Telephone & Telegraph Corp. in a suit challenging a huge corporate merger. Kleindienst subsequently said that he had met five times with an International Telephone & Telegraph Corp. director. It also has come out that he had spoken with the U.S. solicitor general about the case, that he had heard from an ITT lawyer about the case, that he had communicated with the head of the antitrust division about the case.

Kleindienst clearly has played some role in the ITT settlement. As deputy attorney general he was, to be sure, free to involve himself in any of the department's activities. Where he plainly erred, however, was in the nature and extent of his intervention, his private talks with participants, his bypassing of channels.

These activities inevitably raise a question of motive, of whether political favoritism was involved in the ITT case. The question might be largely academic, in itself no more than a politically inspired suspicion, except for one thing, the allegation that in return for favorable action on its case ITT agreed to contribute through a subsidiary somewhere between $100,000 and $400,000 to underwrite the Republican National Convention.

It is this charge of a political payoff, of a direct connection between settlement of the ITT case and an undenied convention pledge by ITT, that has raised the central issue of Kleindienst's propriety. There has been no substantive evidence to prove the charge but neither, we think, has anything been heard yet that effectively explodes it, and this is clearly troubling, for serious matters of government probity and candor may be involved. The Kleindienst nomination should be withheld until until these matters are satisfactorily resolved.

JUDGE RENOUNCES ITT HEARINGS AS "RIDICULOUS" AND AN "OUTRAGE"

(By Ronald J. Ostrow)

WASHINGTON.—U.S. Dist. Judge Richard W. McLaren Wednesday denounced as "ridiculous" and "an absolute outrage" Senate hearings probing whether a massive antitrust settlement was linked to a pledge to help finance the Republican convention.

In a heated exchange with Sen. John V. Tunney (D-Calif.), McLaren, antitrust chief at the Justice Department when the International Telephone & Telegraph Corp. cases were settled last July 31, said: "You know how the (settlement) decision was made, and there was no hanky-panky either."

McLaren lost his temper after Tunney and Sen. Edward M. Kennedy (D-Mass.) pressed him during his fourth day of testimony for more details about why he changed his mind and decided to negotiate a settlement in the three ITT merger cases instead of fighting them in court.

The Senate Judiciary Committee hearings were called at the request of acting Atty. Gen. Richard G. Kleindienst, whose nomination is pending before the Senate, after columnist Jack Anderson accused Kleindienst of lying in claiming the settlement was handled exclusively by McLaren.

Anderson also published a purported internal ITT memorandum suggesting the settlement was tied to a pledge by ITT's Sheraton Corp. to underwrite the GOP convention for up to $200,000.

"This isn't an inquiry into Kleindienst's qualifications." McLaren said, his voice trembling. "You are attacking my judgment, and I think it's pretty ridiculous . . . It's an absolute outrage the way the committee is inquiring into this."

McLaren drew strong backing from Solicitor General Erwin N. Griswold, who told the committee:

"I share Mr. McLaren's emotions about this. He's a fine public servant and ought to be recognized" for his antitrust accomplishments.

Griswold appeared to testify about Kleindienst's asking him to delay appealing one of the ITT antitrust cases about the time Kleindienst began meeting with Felix G. Rohatyn, an ITT director. Rohatyn maintained to Kleindienst that the antitrust attack would have serious financial repercussions beyond the company.

Griswold testified his "best judgment" was that the government would have lost all three of the ITT antitrust cases if they had remained in the courts. "In my view, the settlement was extremely favorable (to the government). . . It was a very large divestiture and the first case of a conglomerate that did divest itself."

Sen. Philip A. Hart (D-Mich.), chairman of the Senate antitrust and monopoly subcommittee, took issue with Griswold's characterization of the settlement as a substantial government victory. Hart noted that because it was settled outside the court, antitrust defense lawyers could look up the case as a measure of how far their clients could go.

TENSION NOTED

There was an air of tension again when Kennedy questioned Kleindienst about Peter M. Flanigan, a presidential assistant. Flanigan hired an outside consultant to evaluate the financial effects of the case for the Justice Department's antitrust division. The consultant was Richard J. Ramsden.

"Did you know the White House was involved?" Kennedy asked Kleindienst.

"Yes, I knew that Flanigan delivered the Ramsden report to McLaren, and I knew that McLaren had gone through Flanigan to get it," Kleindienst said.

Kennedy: "How did you know?"

Kleindienst: "I don't know how I knew."

Kennedy: "How did you know—you don't remember?"

Kleindienst: "Senator Kennedy, I'm a presidential appointee. I'm not in a prophylactic sack with respect to the White House. I consider myself part of the Nixon Administration . . . I'm talking with someone at the White House constantly. I even attend meetings at the White House."

Kennedy: "On antitrust matters?"

Kleindienst: "No."

Kennedy: "Did it surprise you that Flanigan was being used to get an opinion for the antitrust division? White House intervention in such a sensitive case as this doesn't concern you?"

Kleindienst: "I object. No, I withdraw the word 'object.' I don't object to anything you do, Sen. Kennedy. I disagree that there was any White House intervention in this matter. There was no intervention by anybody. The record is abundantly clear on this point."

Kleindienst altered his statement on when he first learned that a heart doctor gave critical testimony about an ITT lobbyist whose memorandum touched off the furor had legal problems of his own with the government.

Under questioning by Kennedy, Kleindienst said he first learned that the wife of Dr. Victor L. Liszka was under federal criminal investigation for Medicare fraud on Monday afternoon after Liszka testified. Kleindienst had told newsmen Tuesday he learned of the matter before Liszka's testimony, but failed to notify the committee because he "assumed" it was already known.

AIDES' ADVICE

Kleindienst said he had been advised by aides that he was wrong about the timing, which clarified his recollection. Neither he nor Sen. James O. Eastland (D-Miss.), Judiciary Committee chairman, mentioned an angry phone call that Eastland placed to Kleindienst after the doctor's testimony, inquiring about reports he had received of the matter.

Tunney released a letter he wrote Kleindienst Monday, proposing a requirement that antitrust settlements must be explained in a reasoned opinion and that all ex-parte contact between antitrust defendants and Justice Department and White House officials be reported to the court where the case is pending.

Kleindienst termed the proposals "very thoughtful" and promised to study them.

By the time McLaren and Kleindienst were excused—subject to recall—tempers had cooled, and Tunney told McLaren he hoped he would not think of him as a prosecutor trying to prove dishonesty.

"As a senator, I do have the responsibility of getting as much information as possible," Tunney said.

"I'm sorry my voice went up the scale a bit in the last exchange," McLaren said.

The hearings resume today with columnist Anderson and former Atty. Gen. John N. Mitchell scheduled to testify.

NIXON ORDERED SETTLEMENT WITH INTERNATIONAL TELEPHONE & TELEGRAPH CORP., MITCHELL QUOTED AS SAYING

(By Ronald J. Ostrow)

WASHINGTON.—The name of President Nixon was injected—Thursday via a third-hand account—into Senate hearings on whether settlement of a huge antitrust suit was tied to financial help for the Republican National Convention.

Brit Hume, an associate of columnist Jack Anderson, quoted ailing Washington lobbyist Dita Davis Beard as saying that former Atty. Gen. John N. Mitchell told her he had been instructed by Mr. Nixon to make a reasonable antitrust settlement with International Telephone & Telegraph Corp.

The surprise testimony startled some members of the Senate Juidiary Committee and brought a swift denial from Mitchell, who is expected to testify today.

WITHOUT FOUNDATION

"The testimony attributing statements to me involving the President is totally false and without foundation," Mitchell said in a statement from his office, where he is directing the campaign to reelect the President. "I categorically deny that I ever had any such conversation or that I ever made any such statement anywhere or at any time.

"The President has never—repeat never—made any request to me directly or indirectly concerning the settlement of the ITT case and I took no part in that settlement," Mitchell said.

Hume's reference to Mr. Nixon came when the reporter was recounting a near-midnight interview on Feb. 24 with Mrs. Beard in the kitchen of her home. He said she frequently broke down sobbing as she explained the background of an internal ITT memorandum she wrote that appeared to link the antitrust case negotiations with the convention financial pledge.

Referring to a conversation she said she had with Mitchell at a buffet supper at the Kentucky governor's mansion after the Kentucky Derby last May 2, Mrs. Beard allegedly said Mitchell told her that the President had called him and said, "Lay off ITT."

Hume, indicating he was astonished by Mrs. Beard's statement, testified that he asked her: "The President said that?"

He then quoted her as stating: "That's badly put," and as going on to soften the words she attributed to Mr. Nixon. This time, he said, she quoted Mitchell as saying that the President told him to make a "reasonable settlement" with ITT.

Sen. James O. Eastland (D-Miss.), Judiciary Committee chairman, who rarely questions witnesses, leaned forward in his chair and asked: "Was that the President of the United States?"

Hume replied, "Yes."

Mitchell earlier acknowledged a conversation with Mrs. Beard at the postderby party but he indicated that it was a brief one. He told reporters March 1 that Mrs. Beard had introduced herself and had started to talk about ITT's problems with the Justice Department.

"I told the lady that I knew nothing about it, that if I were her I would stop lobbying in connection with the matter and I would have the appropriate people—lawyers from ITT—go back to the Justice Department where the matter was going to be settled," Mitchell said.

Former Kentucky Gov. Louie B. Nunn, testifying before the committee Tuesday, agreed in general with Mitchell's version of the incident.

KEY WITNESS

Mrs. Beard, hospitalized in Denver, reportedly to head off an imminent heart attack, was described by Eastland as a key witness who must be heard before the hearings wind up. But doctors at the Rocky Mountain Osteopathic Hospital said she suffered chest pains Wednesday that might further delay her testimony.

Anderson testifying alongside Hume at the hearing, denounced acting Atty. Gen. Richard G. Kleindienst as "unfit to be attorney general," the position for which he has been nominated by Mr. Nixon.

The hearings were called at Kleindienst's request, after Anderson accused him of telling an "outright lie" in asserting that the ITT settlement was handled and negotiated exclusively by Richard W. McLaren, former head of the Justice Department's antitrust division.

Anderson's testimony was attacked by committee Republicans. Sen. Hiram L. Fong (R.-Hawaii) said Kleindienst was talking only about settlement of the ITT antitrust suits and not the prosecution of the case when he said it was handled and negotiated by McLaren. Fong said the columnist "was trying to play with words."

"CRIME" CLASH

Anderson also clashed with Sen. Roman L. Hruska (R-Neb.) when he characterized as a "crime" the pledge by ITT's Sheraton Corp. subsidiary to underwrite the GOP convention for up to $400,000.

"Are you a lawyer, Mr. Anderson?" Hruska asked.

"No, but I understand the English language. Here is the federal Corrupt Practices Act," Anderson said, reading the law. "I don't think you need to be a lawyer to understand that."

Hruska: "Well, that is your opinion."

Anderson: "What is your opinion?"

Hruska then cited a Justice Department memorandum holding that a corporation can legally donate to political conventions through civic committees.

Anderson said he realized that contributions were sensitive subjects with politicians.

Hruska: "Conventions all over the country are bought by the business community all the time, and everyone in this room knows it."

Without waiting for the laughter that rocked the hearing room to subside, Hruska added: "They do it to get publicity for their city and for the business they will draw."

MRS. MITCHELL THERE

Although it became clear midway through Anderson's testimony that Mitchell would not be called Thursday, his wife, Martha, wearing a bright pink dress and white sunglasses, captured attention with her appearance in the spectators' section.

"I came up because things were getting dull," she said. "I wanted to see if I could put some pepper into it." Her broad smile disappeared when she termed the hearings "a three-ring circus. It's worse than a three-ring circus," she said. "I wanted to know why they're wasting taxpayers' money."

At the White House, Press Secretary Ronald Ziegler implied that presidential aide Peter M. Flanigan would not agree to testify if the committee invites him. Sen. John V. Tunney (D-Calif.) has urged Eastland to call Flanigan for questions on his role in securing an outside consultant to evaluate claims of financial hardship presented by ITT.

"Mr. Flanigan would be willing to make information available to the panel in a way that executive privilege does not come into play," Ziegler said, by submitting information and documents.

Asked whether Mr. Nixon still believes that Kleindienst is fit to serve and whether he has complete confidence in him, Ziegler replied affirmatively to both questions.

ITT AIDE DENIES SETTLEMENT REPORT—MRS. BEARD SAYS MITCHELL DID NOT TELL HER NIXON ORDERED ACTION

(By Ronald J. Ostrow)

WASHINGTON.—Dita Davis Beard, ailing lobbyist for International Telephone & Telegraph Corp., denied through her attorney Friday that she had been told President Nixon instructed former Atty. Gen. John N. Mitchell to settle the company's antitrust suits.

Mrs. Beard made the denial in a statement issued by her attorney, David W. Fleming, at Rocky Mountain Osteopathic Hospital in Denver where she is in the intensive care unit because of a heart condition.

Appearing before the Senate Judiciary Committee Thursday, Brit Hume, an associate of columnist Jack Anderson, quoted Mrs. Beard as saying that former Atty. Gen. John N. Mitchell told her he had been instructed by Mr. Nixon to make a reasonable settlement with ITT. Mitchell issued an immediate denial.

Fleming, of the firm of White, Oberhansley & Fleming of Van Nuys, Calif., said in Denver Mrs. Beard "is extremely anxious to give testimony" to the Senate Judiciary Committee. The committee is probing charges of a link between the $1 billion ITT antitrust settlement and a pledge by ITT's subsidiary, Sheraton Corp., to help underwrite costs of the Republican National Convention.

"AN ABSURD CIRCUS"

Fleming, whose office said he has known Mrs. Beard socially for about six years, said Mrs. Beard regarded the hearing as "an absurd circus engendered by personal ambitions and extreme opportunism by a few persons."

The hearing, which will resume Tuesday with Mitchell as the day's first witness, was called at the request of acting Atty Gen. Richard G. Kleindienst. Anderson accused Kleindienst of lying when he said the ITT settlement was handled and negotiated exclusively by Richard W. McLaren, former head of the Justice Department's antitrust division.

In the statement at Denver, Fleming said "Mrs. Beard categorically denies the allegation that there was ever any arrangement between ITT and the Administration involving favorable treatment of the antitrust action."

Mrs. Beard's Denver physician, Dr. David Garland, said her heart condition still was serious but that she should be able to supply written answers to written questions from the Senate committee early next week.

However, Sen. James O. Eastland (D.-Miss.), Judiciary Committee chairman, indicated at the hearing Friday that written questioning under oath would not satisfy the committee's needs. "Mrs. Beard will be called when she is physically able to be examined," he said.

The committee Friday asked the president of the Denver Medical Society, Dr. Robert G. Bosworth Jr., to appoint two heart specialists to examine Mrs. Beard and inform the committee when she could testify. Bosworth said it would be next week before the specialists could conduct the examination.

New questions arose at the hearing over a financial consultant's report on ITT, which McLaren said aided him in deciding to settle the three antitrust cases rather than to pursue them in the courts.

Sen. John V. Tunney (D-Calif.) questioned whether the consultant, Richard J. Ramsden of New York, was paid for the study by the Commerce Department so he could avoid filing a conflict-of-interest report.

The investment management firm in which Ramsden is a partner, Brokaw, Schaenen, Clancy & Co., had control of a pension fund that owned 3,240 shares of ITT stock last May when Ramsden did the study. That amount of stock had a market value then of more than $200,000.

The Commerce Department told the committee Friday that it, not the Justice Department, paid Ramsden $242 for the two-day study. He asked to be paid through the Commerce Department "because he already was a paid consultant for it and thus could avoid refiling the rather lengthy forms already completed," the department said in a statement.

Tunney, who has asked Eastland to call Ramsden as a witness at the hearings which are expected to continue through next week, also urged the committee to ask to see the conflict of interest filing that he said such consultants are required to make.

NIXON AIDES DEEPLY UPSET OVER "TACTICAL ERRORS" IN ITT AFFAIR

(By Ronald J. Ostrow and Robert L. Jackson)

WASHINGTON.—The International Telephone & Telegraph affair, characterized by memory lapses and seeming contradictions in statements of public officials, has left presidential advisers deeply upset over "tactical errors" by the Justice Department's new management.

These advisers say acting Atty. Gen. Richard G. Kleindienst failed to consult the White House before requesting the stormy Senate hearing probing the department's $1 billion antitrust settlement with International Telephone & Telegraph Corp.

Even some officials close to Kleindienst at the Justice Department were not consulted on the advisability of asking for the hearings and were shaken to learn of the move from the newspapers.

"There have been some rather incredible tactical errors," a member of the President's inner circle said.

He said he was referring in part to Kleindienst's "reversals of position" at Judiciary Committee hearings into an alleged link between the antitrust settlement and the pledge by ITT's Sheraton Corp. subsidiary to help finance the coming Republican National Convention in San Diego.

No matter what the eventual outcome, the hearings, which already have run seven days and are likely to last at least another week, are leaving a cloud over Kleindienst's head that will be difficult to dispel, these advisers believe.

An Administration official who has kept close watch on the case says there are two reasons for this assessment: "The public thinks that where there is smoke there is fire, and they believe almost automatically that people in high places can be venal."

It is known that Kleindienst last week privately raised the question of whether his nomination as attorney general should be withdrawn for the good of the Nixon Administration in this campaign year. But, backed by the advice of others, he ruled out this alternative as a self-defeating move that would be viewed as an admission of guilt.

The President, through Press Secretary Ronald Ziegler, made clear last week that he was sticking firmly behind the nominee and continued to have full confidence in him.

Mr. Nixon "is somewhat fatalistic about this," an aide said. "He's been through too many of these political battles. He knows they come and go and that in time the impact can wear off."

INFLUENCE ERODED

Although White House and Justice Department officials are counting on Kleindienst's eventual confirmation to the Cabinet, they concede that the hearings have eroded the influence he will be able to exercise as the nation's top law enforcement officer.

The same aide who was highly critical of Kleindienst's "tactical errors" predicted that he "will take office under a cloud, but he can overcome this by performance—and Kleindienst will perform."

Referring to Mr. Nixon's recent trip to China, another official said: "There is a feeling of coming back from high-road statesmanship and walking into some low-road politics."

The ITT case has reached into the White House itself by involving Peter M. Flanigan, President Nixon's chief liaison with the business community. Flanigan obtained Richard J. Ramsden, an outside consultant and former business associate, to analyze key points in ITT's arguments for settling the antitrust dispute.

Flanigan's former investment banking company, The Times learned Saturday, helped plan the merger of ITT and Grinnell Corp., one of the companies that figured in the settlement, earning a fee of $600,000.

This work was accomplished in late 1968 and early 1969 at a time when Flanigan served as a vice president of a New York banking concern, Dillon, Read & Co. Flanigan said through a spokesman that he was not connected with this merger work, which was performed for Grinnell and for which Dillon, Read & Co. was paid in November, 1969, seven months after Flanigan assumed his White House post.

AGREED WITH ITT

Ramsden's report agreed with ITT that divestiture of Hartford Fire Insurance Co. would have adverse economic consequences for the giant conglomerate and would raise balance-of-payments problems. He added that divestiture of Grinnell and another firm, Canteen Corp., would make ITT's stock less attractive.

Flanigan, who has declined to talk to newsmen directly, said through Jon Rose, an assistant, that he was under "inhibitions" because he may have to refuse to answer committee questions if called as a witness. This would occur if the White House invoked "executive privilege."

What sparked the controversy were charges by Jack Anderson, the nationally syndicated columnist. Anderson first revealed, on Feb. 29, an internal memorandum written last June by Dita Davis Beard, an ITT Washington lobbyist, which strongly suggested that ITT's hoped-for settlement of its antitrust woes was linked to Sheraton's pledge of up to $400,000 support for the GOP convention.

In another column on March 1, Anderson charged that Kleindienst told "an outright lie" in saying that the July 31 ITT settlement was "handled and negotiated exclusively" by Richard W. McLaren, formerly head of the Justice Department's antitrust division and now a federal judge in Chicago.

One of the first apparent contradictions to emerge from Kleindienst's testimony was that he had held five meetings with Felix G. Rohatyn, an ITT director and prominent Wall Street banker. Rohatyn testified that he wanted to tell Kleindienst about dire financial consequences that would result if the government's antitrust attack were upheld.

Under questioning—and after a whispered conference with Rohatyn at the witness table—Kleindienst disclosed that his first contact on the case came earlier when he was approached at a neighborhood party by another ITT official, John Ryan, deputy director of the company's Washington office.

ROHATYN CALLED

Ryan apparently passed along word of Kleindienst's willingness to meet on this problem, and Rohatyn subsequently telephoned for an appointment.

At about the same time—April 16, 1971—a third ITT representative, Lawrence E. Walsh, outside counsel for the conglomerate and a man who had frequent contact with Kleindienst in connection with American Bar Assn. work, telephoned and wrote him about the case.

Walsh, a former deputy attorney general in the Eisenhower administration, said he ordinarily would have first gone to McLaren "but I understand that you, as acting AG, have already been consulted with respect to the ITT problem . . ."

Kleindienst testified that he couldn't explain what Walsh—who is expected to be called by the committee—was referring to. Kleindienst also told senators that his meetings with Rohatyn did not amount to negotiating settlement of the case.

Because some of Kleindienst's meetings with Rohatyn involved just the two men, Sen. John V. Tunney (D-Calif.) a committee member, suggested that a careful record be required of all such "ex parte" contacts on pending antitrust matters in the future.

Another seeming contradiction was Kleindienst's assertion that McLaren was the only Justice Department official with whom he discussed the case. Subsequent testimony revealed that Solicitor General Erwin N. Griswold was called to Kleindienst's office last April 19 and was asked to delay appealing one of the three antitrust suits that comprised the ITT litigation.

Other conflicts in official statements that have arisen include:

John N. Mitchell, who recently resigned as attorney general to run Mr. Nixon's 1972 reelection campaign, said he never knew of any arrangements between ITT and the Republican National Committee.

Lt. Gov. Ed Reinecke of California said he mentioned Sheraton's pledge to Mitchell at a meeting in Washington last May. But after Mitchell denied any such discussion. Reinecke corrected himself and said the meeting took place in September.

Mitchell's former law firm once served as counsel to another ITT subsidiary, but it was unclear whether Mitchell recognized the relationship between Sheraton and ITT.

Mitchell, in denying Anderson's report that he discussed the cases at length with Mrs. Beard, raised new questions about his May 2 confrontation with the aggressive lobbyist at a buffet supper after the Kentucky Derby.

Mitchell recalls the incident this way: "I told the lady that I knew nothing about it, that if I were her I would stop lobbying in connection with the matter and I would have the appropriate people—lawyers from ITT—go back to the Justice Department where the matter was going to be settled."

Mitchell, who is usually precise with his words, did not explain how he knew at that time the cases were going to be settled rather than fought out in the courts.

—McLaren revealed the Flanigan involvement only in response to committee questions and not in his 11-page prepared statement. He also testified that he knew nothing of the charges of a link between the settlement and convention support until he read of them in the press, despite the fact that he earlier denied the existence of such a link in a letter last September to an associate of consumer advocate Ralph Nader.

Kleindienst's backers appear to have two major strategies. One is to discredit the controversial Beard memorandum as the work of a woman they describe as sometimes intoxicated and emotionally unstable.

Their second strategy is to argue that memory lapses and inconsistencies are understandable for officials who work in a high-pressure environment, taking hundreds of phone calls a week and handling reams of correspondence.

Mitchell Denies Tie Between ITT, Party

New York.—Former U.S. Atty. Gen. John N. Mitchell said Saturday there was no connection between the Republican Party's choice of San Diego for its 1972 nominating convention and the Justice Department's settlement of an antitrust suit against International Telephone & Telegraph Corp.

"There is about as much connection with the ITT antitrust suit and the Republican convention going to San Diego as there is between the Lord and the devil," Mitchell told the Women's National Republican Club.

Referring to the newspaper columnist who first alleged a connection, the chairman of President Nixon's re-election campaign added: "And I draw no inferences with respect to Jack Anderson."

At the club's 51st annual luncheon at the Waldorf-Astoria Hotel, Mitchell jokingly mentioned his wife's name in the case. He said, "I find it hard to believe the Justice Department would ever have trouble with a telephone company in view of all that Martha has done for them."

Aide to Nixon Called International Telephone and Telegraph Case "Mastermind"

(By Paul Steiger)

Washington.—Sen. Thomas F. Eagleton (D-Mo.) said Tuesday there was reason to believe presidential aide Peter M. Flanigan was the "mastermind" behind what Eagleton called a series of special White House favors to International Telephone & Telegraph Corp. and other big companies.

In a Senate speech, he demanded that Flanigan come before Congress and explain his role in the ITT case and in four other instances where there was a "Flanigan factor" in what Eagleton said was government capitulations to business interests.

Eagleton's charges were branded "partisan" and "full of suggestion and innuendo" by White House Press Secretary Ronald Ziegler. Ziegler added that "The President had the utmost confidence" in Flanigan, and he said Mr. Nixon was convinced Flanigan had "conducted himself properly" in every respect.

Eagleton's contentions seemed certain to add new fuel to the controversy that has enveloped the 48-year-old former Wall Street banker almost from the day he joined the Nixon Administration.

To his enemies, Flanigan is known as "Mr. Fixit," the one who sees to it that government doesn't step too hard on the toes of big business. He is the man, Eagleton charged, "who works in the shadows—but only at the highest levels, only with the fastest cats."

To his supporters, however, Flanigan is a bright (1945 summa cum laude Princeton graduate) intensely loyal member of the Nixon team who has the job of listening to the pleas of bankers, brokers and industrialists.

Every Administration in modern times has had one or more people doing that job, his friends say. And because of his loyalty and tough constitution, they add, he often takes the responsibility for decisions made by those above him.

Flanigan's Democratic critics are not likely to let the matter rest there. They are expected to try to probe further Flanigan's involvement in the Justice Department's decision to settle, rather than prosecute, its antitrust suit against ITT last year.

Meanwhile, Eagleton's speech hinted they may also try to initiate congressional probes into other controversial decisions in which Flanigan has been said to have had a role.

Besides the ITT case, Eagleton listed four such decisions, two of them involving the Environmental Protection Agency.

Flanigan's intercession, Eagleton said, helped soften EPA pollution control efforts against Armco Steel Corp. and Anaconda Co., a big copper producer. Eagleton also repeated previous charges that Flanigan participated in negotiations under which the new private postal corporation arranged to sell $250 million worth of bonds, with Dillon, Read & Co.

his old investment banking firm, as one of the underwriters.

Flanigan's answer to all this, friends say, is that he has never made any decision he did not think was in the national interest.

"Ineptness" in International Telephone and Telegraph Case, Finch Asserts

(By Carl Greenberg)

Robert H. Finch, counselor to President Nixon, said here Friday there was "ineptness on the part of people in and out of the Administration" in connection with the ITT case.

He told a Century Plaza press conference that the ITT hearings in Washington have "tended to take the glow off" Mr. Nixon's trip to mainland China.

Asked whom he felt had been guilty of "ineptness" in the ITT matter, Finch replied:

"I'll just let that stand. I'm not in the business of criticizing my contemporaries."

Finch's comments were made in connection with Senate Judiciary Committee hearings involving a commitment of International Telephone & Telegraph Corp. to help underwrite the Republican National Convention and what connection the commitment might have with an antitrust settlement involving ITT.

The inquiry stemmed from nomination of Dep. Atty. Gen. Richard G. Kleindienst to the attorney general replacing John N. Mitchell, who resigned to run Mr. Nixon's reelection campaign.

Finch said he expected Kleindienst to be confirmed and he did not feel there was any wrongdoing.

Mitchell Denies Discussing International Telephone & Telegraph Antitrust Cases—Met Corporation Officials Only for Talks on Overall Policy, He Tells Senators

(By Ronald J. Ostrow)

Washington.—Former Atty. Gen. John N. Mitchell testified Tuesday that he discussed "overall antitrust policy" with International Telephone & Telegraph Corp.'s chief executive, but only on condition that antitrust suits against ITT not be brought up.

Mitchell also told the Senate Judiciary Committee of an earlier "purely social" contact he had with Harold S. Geneen, ITT's president and chairman, and of four other meetings he had with Felix G. Rohatyn, an ITT director.

None of the meetings with Rohatyn, who earlier testified that he first made a financial hardship plea on behalf of the company to Dept. Atty. Gen. Richard G. Kleindienst, had anything to do with ITT, Mitchell said.

Two of Mitchell's sessions with Rohatyn took place on April 29, 1971, the same day that Rohatyn and other ITT representatives presented financial arguments against the antitrust action to other Justice Department officials. The arguments played a part in convincing former Asst. Atty. Gen. Richard W. McLaren to change his mind and settle the ITT case out of court.

ANTITRUST POLICY PROTESTS

Mitchell's disclosure of his contacts with Geneen and Rohatyn came after a statement Monday night in which Geneen told of protesting general antitrust policies of the Administration during meetings with at least 23 government officials, including Mitchell.

The Judiciary Committee hearing was called at the request of Kleindienst, whose nomination to succeed Mitchell is pending. Kleindienst sought the hearing after columnist Jack Anderson raised a question as to whether there was a link between the antitrust settlement and a pledge by ITT Sheraton to help finance the Republican convention in San Diego.

Just before the eighth day of hearings began, the committee took under consideration a plan to send a delegation of members to question ITT lobbyist Dita Davis Beard, hospitalized with a heart ailment in Denver. Anderson's publication of an internal memorandum purportedly written by Mrs. Beard touched off the controversy.

The plan to question the lobbyist outside the hearing room was formed on the basis of a March 13 letter from a Denver cardiologist, Dr. Joseph Snyder, who said he did not believe it would be possible for her to appear at the Washington hearing for the "next few weeks."

In Denver, Dr. L. M. Radetsky of the Rocky Mountain Osteopathic Hospital, who has been treating Mrs. Beard, said she "is now in the convalescent stages. That means she is out of danger."

Mitchell was questioned Tuesday about how he could meet with Geneen on Aug. 4, 1970, concerning the Justice Department's policy on conglomerate mergers without discussing cases involving ITT, acknowledged by other officials to be a leader of the conglomerate movement.

"You regarded Mr. Geneen to be speaking for whom—the business community and not ITT?" asked Sen. Philip Hart (D-Mich.).

Mitchell said he considered Geneen to be speaking for "both ITT and the business community."

Mitchell said he agreed to meet with Geneen only after the condition was set that the ITT cases would not be discussed. He said the stipulation was repeated before the beginning of the meeting, which lasted no more than 35 minutes.

Sen. Edward M. Kennedy (D-Mass.) asked Mitchell whether he understood that at least half of the department's suits against conglomerate mergers involved ITT when he agreed to meet with Geneen.

"Did I understand what?" the obviously irritated Mitchell shot back. "I understood that if we hadn't adopted this policy, there sure would have been a helluva lot more (conglomerate mergers)."

Mitchell attacked the hearings for what he called "the scurrilous fact that three outstanding people—Mr. Kleindienst, Judge McLaren and Solicitor General Erwin N. Griswold—have been put in a position where their integrity, honesty and ability have been impugned."

In an exchange with Sen. Marlow W. Cook (R-Ky.), Mitchell agreed that if Kleindienst's nomination were rejected, an appropriate Senate committee should consider whether to impeach Griswold and McLaren, now a U.S. district judge.

Mitchell said his four meetings with Rohatyn dealt with problems that brokerage houses were experiencing. Mitchell was a member of an ad hoc government committee formed in 1970 to deal with the matter, and Rohatyn, a partner in a Wall Street investment banking firm, attended as chairman of the New York Stock Exchange's surveillance committee.

Mitchell, under questioning by Sen. John V. Tunney (D-Calif.), said Lt. Gov. Ed Reinecke "must have had me mixed up with somebody else" when he told of discussing ITT Sheraton's pledge of up to $400,000 for the GOP convention with Mitchell in the spring of 1971.

Noting that Reinecke later retracted that statement, Mitchell said the California official might have mentioned convention arrangements when he met with him last September, but "it would have made no impression on me at all."

Tunney, remarking that Reinecke seems to have "a very bad memory," said he hoped Reinecke would testify at the hearing.

Mitchell said Reinecke called on him in connection with an assignment from Gov. Reagan to assist in California's economic development. He said Reinecke was seeking "advanced projects like the space shuttle" and aircraft production.

Tunney asked why he would come to Mitchell, and the former attorney general replied: "I don't really know, except possibly (the feeling) that I might have influence around government."

"Did you get any contracts for him?" Tunney asked.

"I'm not sure," Mitchell said. "I hope we did."

Tunney abandoned that line of questioning, saying he did not want to prejudice California's chances of landing contracts.

Cook, reacting to a report Monday that a Justice Department lawyer who had jurisdiction over two of the ITT antitrust suits had refused to sign the settlement because he disapproved, said that the settlement was signed by nine department lawyers. Six of them "constitute 117 years of antitrust experience," he said. But Cook did not challenge the accuracy of the report.

ITT Reveals Talks With High Officials—Says Its Chief Met With Mitchell, Nixon Aides and Congressmen

(By Ronald J. Ostrow)

Washington.—The International Telephone & Telegraph Corp. disclosed Monday night that its chief executive officer, Harold S. Geneen, had protested Administration antitrust policies at separate meetings with 23 congressmen, presidential aides and Cabinet officers, including former Atty. Gen. John N. Mitchell.

However, ITT sidestepped the question of whether Geneen discussed his company's three antitrust cases with any of the officials.

The company's statement came on the eve of Mitchell's appearance before the Senate Judiciary Committee, which is investigating charges of a link between ITT's $1 billion antitrust settlement last July 31 and a pledge by ITT-Sheraton Corp. to help finance the Republican National Convention.

Word of Geneen's extensive contracts with high government officials was certain to intensify the questioning of Mitchell, who recently resigned his Justice Department post to run President Nixon's reelection campaign.

CONNALLY, STANS MENTIONED

ITT issued the statement in response to reports that Geneen sought the assistance of Treasury Secretary John B. Connally, former Commerce Secretary Maurice H. Stans and Paul W. McCracken, former chairman of President Nixon's Council of Economic Advisers, in solving his company's antitrust problems.

Mitchell, whose former law firm represented an ITT subsidiary, last month said he removed himself from any consideration of ITT's antitrust cases. He said the one exception was a brief discussion after last year's Kentucky Derby with ITT lobbyist Dita Davis Beard.

In Denver, United Press International reported, a lawyer for Mrs. Beard said that despite new chest pains she would testify from her hospital bed to Senate investigators later this week.

(The attorney, David W. Fleming, said Mrs. Beard's testimony would be given to members of the Senate Judiciary Committee in the presence of a physician.)

ITT said Geneen's round of talks in Washington with Administration officials and congressmen of both parties began when the Nixon administration took office and launched an attack on the conglomerate merger movement led by the corporation.

A corporation spokesman said Geneen's "right to place his views before any and all members of the government involved in national policy is a constitutional right of all American citizens."

"It is the duty of any businessman or citizen to express his views when he feels he has a wrong that needs redress," the spokesman said.

When asked whether Geneen specifically discussed the ITT cases with Mitchell, the spokesman said: "We stand on our statement."

Among those with whom Geneen met were John D. Ehrlichman, Mr. Nixon's top assistant for domestic affairs, and White House aides Peter M. Flanigan and Charles Colson. No dates for any of the meetings were given.

It was Flanigan who lined up an outside financial consultant and former business associate, Richard J. Ramsden, to evaluate ITT's arguments that the antitrust attack would have a severe financial impact on the company and the nation's balance of payments problem.

"EXECUTIVE PRIVILEGE"

The White House has indicated that Flanigan might supply a written statement to the Judiciary Committee, but would probably invoke "executive privilege" rather than testify.

McCracken, the former Council of Economic Advisers chairman, who was among those Geneen met with, said in an interview Monday that he did not recall details of his discussion.

McCracken, now a professor at the University of Michigan, said he did not remember taking any action as a result of Geneen's visit. He said his files were not currently available to him, and that the meeting was "some time ago."

Others that ITT said Geneen met with were: Stans, Connally, former Treasury Secretary David Kennedy, Chairman Arthur Burns of the Federal Reserve Board and former White House adviser Peter G. Peterson, who succeeded Stans as commerce secretary.

In Congress, ITT said Geneen met with Sens. Philip A. Hart (D–Mich.), chairman of the Senate antitrust and monopoly subcommittee; Vance Hartke (D–Ind.), Daniel Inouye (D–Hawaii), John L. McClellan (D–Ark.), Robert C. Byrd (D–W.Va.), Charles Percy (R–Ill.) and Reps. Emanuel Celler (D–N.Y.), House Judiciary Committee chairman; Gerald R. Ford (R–Mich.), House minority leader; Hale Boggs (D–La.); Bob Wilson (R–Calif.), and former Rep. Clark MacGregor (R–Minn.), now a White House aide.

Wilson has said he met with Geneen in San Diego last May and secured a Sheraton pledge of up to $400,000 for the GOP convention. Wilson said ITT's antitrust troubles were not discussed.

The ITT statement said that since the new antitrust policy attacking conglomerate mergers was adopted by the Nixon Administration, Geneen "has talked to many members of Congress, the government, the public, the bar, shareholders and others on what he felt was a serious impact of this policy on the national interest as well as on all American industry."

An ITT spokesman said Geneen felt that changes in antitrust law "should be made in Congress where hearings on all aspects of the national interest could be held before new legislation was enacted."

Some Papers in Capital Office Destroyed, International Telephone & Telegraph Chairman Says—Senator Surprised as He Tells of Document Shredding After Publication of Memo Linking Trust Suit, GOP Aid

(By Ronald J. Ostrow)

Washington.—The chairman of International Telephone & Telegraph Corp. testified Wednesday that some documents in ITT's Washington office were shredded after publication of Dita Davis Beard's memorandum linking the company's antitrust settlement with a pledge to help finance the Republican National Convention.

The testimony by Harold S. Geneen, brought out under questioning by Sen. John V. Tunney (D-Calif.), surprised members of the Senate Judiciary Committe.

His remark provided partial support for a statement attributed to Mrs. Beard that company security men put her files through a shredder after columnist Jack Anderson obtained the controversial memo.

"SUDDENLY OPEN TO PUBLIC"

Geneen said he was satisfied that the documents were destroyed "more in reaction to the feeling that our files were suddenly open to the public" rather than an attempt to cover up information.

ITT lawyers are conducting an investigation of the document shredding, Geneen said, and the results will be turned over to the committee.

Geneen said that at this point he did not know who was responsible.

"I don't know who came down . . . who they were," he said. "Some kind of documents have been shredded."

Howard J. Aibel, ITT senior vice president and general counsel, said he would tell the committee today, as Geneen returns for more testimony, when the company's investigation would be completed.

Meanwhile, the committee arranged to question Mrs. Beard, possibly Monday, in a Denver hospital where she is recovering from a heart ailment.

Sen. James O. Eastland (D-Miss.) named three Republicans and three Democrats to a subcommittee to make the trip after Sens. Edward M. Kennedy (D-Mass.) and Marlow W. Cook (R-Ky.) conferred by phone with two Denver cardiologists who had examined Mrs. Beard.

Kennedy reported the doctors said they could give no assurance that Mrs. Beard could be questioned in Washington at any time in the next several weeks. He said doctors would be present during the hospital questioning, which he said could extend for an hour in the morning and another in the afternoon. Eastland said one newsman also would be allowed in the room.

The subcommittee, with Sen. Philip A. Hart (D-Mich.) as chairman, includes Cook, Kennedy, Tunney and Sens. Edward J. Gurney (R-Fla.) and Charles M. Mathias (R-Md.).

Tunney, before being named to the subcommittee, said it would be "terribly awkward to question her in the hospital. It makes you feel like some sort of ghoul."

Geneen, who during his brief appearance dominated at the hearing with rapid-fire, lengthy answers to nearly every question, defended the out-of-court settlement of three ITT antitrust suits last July 31 and denied it was linked in any way to the convention financing pledge of the Sheraton Corp., an ITT subsidiary.

$200,000 MAXIMUM

The ITT chief executive stressed that the committee was to the San Diego Convention and Visitors Bureau. He also said the offer was for a maximum of $200,000 rather than the $400,000 pledge that had been attributed to him by Rep. Bob Wilson (R-Calif.) of San Diego.

Geneen gave the committee a copy of a July 21, 1971, telegram from Howard James, Sheraton president, to the Convention and Visitors Bureau. It said the $200,000 commitment was conditioned on the designation of the new Sheraton Harbor Island hotel as the presidential headquarters hotel for the convention.

Citing the publicity that would be received by the hotel, which is scheduled to open for the convention, Geneen termed the pledge "a solid business expenditure" and said it "might be worth $1 million."

The document-shredding incident was first mentioned at the hearing last week by Brit Hume, an associate of Anderson who interviewed Mrs. Beard before the columnist published parts of the memorandum.

FINDS SHREDDING

Hume said that the day after he confronted Mrs. Beard with the memorandum, she told him that she found ITT security men from New York putting her files through a document shredder. Hume quoted her as saying the security men feared that the documents might be subpoenaed after the Anderson column ran.

Under questioning by Kennedy, Geneen said he was withholding judgment on Mrs. Beard until he learns the circumstances behind the memo.

Citing testimony that the lobbyist had a severe drinking problem and was disturbed, Kennedy asked whether ITT would have kept her on its Washington payroll for 10 years if she was unable to function.

"Obviously we would not have," Geneen said. "I do think this is a pretty stressful occupation, and it may be particularly so for a woman. She has five children."

MITCHELL FINISHES

Geneen testified after former Atty. Gen. John N. Mitchell wound up nearly two days at the witness table. Mitchell clashed often with Tunney and Kennedy, who characterized Mitchell's answers as "carefully constructed."

Tunney, commenting on a conflict between Mitchell and California Lt. Gov. Ed Reinecke over when they discussed Sheraton's convention commitment, said during a recess in the hearing: "One or the other has not told the truth. Their statements are in conflict."

The conflict figures in Mitchell's denial that he knew anything about the convention financing pledge.

GOP Senators at International Telephone and Telegraph Hearing Assail Press

Washington.—A mislabeled photo in the New York Times touched off a round of criticism of the press Wednesday by Republican senators at the International Telephone & Telegraph Corp. hearing.

"Maybe we'd better get with it and investigate what's going on," said an angry Sen. Marlow W. Cook (R-Ky.), referring to a United Press International photo which identified a Justice Department official as an ITT executive.

The photo caption, carried on the New York Times' front page, said erroneously that William R. Merriam, who heads ITT's Washington Office, was conferring with former Atty. Gen. John N. Mitchell before Mitchell testified before the Senate Judiciary committee.

Actually, the man Mitchell was conferring with was Robert Mardian, assistant attorney general for internal security.

CORRECTION SENT

Several hours after transmitting the photo Tuesday, UPI sent out a midafternoon correction. A spokesman for the New York Times said the correction was not immediately noted by the newspaper and the mislabeled picture was published in about 200,000 editions.

The New York Times planned to carry a front page correction in its editions today. UPI President Mims Thomason publicly apologized to Mitchell for the incident.

Following Cook's comments, Sen. Hiram L. Fong (R-Hawaii) complained about "nonobjective" headlines on stories about the current hearings.

Sen. Roman L. Hruska (R-Neb.) said newspapers had been quick to suggest officials have been lying but should look to their own errors.

ALLEGES SLANDER

Asked about the criticism, Mitchell said: "A number of good people involved in these hearings have been slandered by the reporting in the American press."

Mitchell said he was referring to acting Atty. Gen. Richard G. Kleindienst, Richard W. McLaren, former head of the Justice Department's antitrust division, and Solicitor General Erwin N. Griswold.

Sen. Edward M. Kennedy (D-Mass.) defended the press for "fair and accurate coverage of a very complicated story."

Kennedy said if anyone had been slandered it was Dita Davis Beard, the memo-writing lobbyist who was pictured by her doctor in Senate testimony as being periodically disturbed and unstable.

INTERNATIONAL TELEPHONE & TELEGRAPH CORP. LOBBYIST CALLS MEMO A "FORGERY"; EVIDENCE PROMISED

(By Ronald J. Ostrow)

WASHINGTON.—Lobbyist Dita Davis Beard Friday denounced as a "forgery" and a "hoax" a memorandum purportedly written by her that touched off the International Telephone & Telegraph Corp. controversy.

Mrs. Beard's sworn statement was issued by her lawyer, David W. Fleming, in Denver where she is hospitalized, and in Washington by Senate Minority Leader Hugh Scott (R-Pa.).

The lobbyist gave no explanation of why she waited until now to challenge the authenticity of the memorandum, which was published by columnist Jack Anderson on Feb. 29.

But Fleming said she had not raised the forgery point before because "our first job was to find out" who wrote the memo.

"It's often easier to find out who did it if that person feels somewhat safe because he feels everyone believes the document is real," the Van Nuys attorney said in a telephone interview.

"We have evidence" of forgery, Fleming said. "I won't comment what that evidence is. We have evidence outside of her statement."

The memorandum appeared to link settlement of ITT's three antitrust cases with a pledge by ITT Sheraton Corp. to help finance the Republican National Convention in San Diego.

Mrs. Beard's heart doctor, Victor L. Liszka, testified before the Senate Judiciary Committee on March 6 that she had authorized him to state she was "mad and disturbed" when she wrote the memo and that "she did not mean to say what the memo appeared to say."

Liszka did not, however, challenge the authenticity of the document.

In a statement through Fleming on March 10, Mrs. Beard denied "the allegation that there was ever any arrangement between ITT and the Administration involving favorable treatment of the antitrust action." But, other than referring to the central document as an "alleged" memorandum, she gave no hint that she was not the author.

In her sworn statement Friday, Mrs. Beard said:

"Mr. Anderson's memo is a forgery, and not mine. I did not prepare it and could not have since to my knowledge the assertions in it regarding the antitrust cases and former Atty. Gen. (John N.) Mitchell are untrue. I do not know who did prepare it, who forged my initial to it, how it got into Jack Anderson's hands or why. But, I repeat, I do know it is not my memo and is a hoax."

"I did prepare a memo at about the time indicated, at the request of (W. R.) Bill Merriam, to him, concerning plans for the Republican convention in San Diego," Mrs. Beard said. (Merriam is head of ITT's Washington office, and the memorandum published by Anderson was addressed to him.) "However, it was not the memo Jack Anderson has put in evidence before the Senate."

ITT WON'T COMMENT

An ITT spokesman declined comment when asked if the company had a copy of what Mrs. Beard maintained was her original memorandum.

Fleming said that the "original memo had the same beginning—it started out like the Anderson memo. But then there are changes." Fleming would not cite the differences.

Mrs. Beard said she decided to issue the statement after a Senate Judiciary subcommittee scrapped plans to take sworn testimony from her in the Denver hospital Monday and Tuesday.

"Since I am now told that for some reason the committee is not coming until later, I feel it is necessary that I make certain facts very clear at this time," Mrs. Beard said.

"These facts cannot remain unknown and unspoken any longer, while myself, my family, my friends, my company, Mr. (acting Atty. Gen. Richard G. Kleindienst) and the Republican Administration are subjected to continued ridicule and embarrassment as a result of the lies that have been stated in the hearings."

The subcommittee canceled the hearing scheduled for Mrs. Beard's hospital room because, it was said, members wanted to be on hand for Senate votes expected early next week on the equal rights for women constitutional amendment.

Fleming charged that "certain people on that committee would like to postpone a statement from Mrs. Beard until they have done a lot more fishing."

Sen. Edward M. Kennedy (D-Mass.) who has been one of the leaders in the Judiciary Committee inquiry, said Mrs. Beard's statement "makes it all the more important that the Judiciary Committee have a full opportunity to discuss the facts with Mrs. Beard as soon as her health permits."

If the statement proves to be true, Kennedy said, "then the ITT officials and the attorneys who have been in constant touch with Mrs. Beard all during the past 3½ weeks have done a disservice to the Congress, to the American people and especially to Mr. Kleindienst by withholding this material flatly contradicting sworn testimony before the committee."

Anderson said Friday that Mrs. Beard had acknowledged the memo "was genuine," and attributed her statement to the lobbyist being "at the economic mercy of ITT."

Fleming, who said he got a go-ahead from Sen. Scott before releasing the statement, emphasized that he was not charging that Anderson knew the memo was phony. "A columnist of his reputation would never use what he believed to be a fake." Fleming said.

INTERNATIONAL TELEPHONE & TELEGRAPH CORP. OFFERS AFFIDAVITS CLAIMING PUBLISHED MEMO IS FRAUDULENT

(By Ronald J. Ostrow)

WASHINGTON.—International Telephone & Telegraph Corp. turned over to the Senate Judiciary Committee Monday affidavits that the company said indicated the Dita Davis Beard memorandum that plunged ITT into Senate controversy is a fraud.

ITT also submitted to the committee what it described as "the genuine Beard memorandum" which the company said was inconsistent with the one published by columnist Jack Anderson.

Mrs. Beard issued a statement from her Denver hospital room last Friday denouncing the document published by Anderson, as a "forgery" and a "hoax."

In one affidavit, Mrs. Susan Lichtman, who served as Mrs. Beard's secretary last June 25, the date of the purported memorandum, recalled typing some of the passages but said the communication did not include key sentences linking a pledge to help underwrite the Republican convention with settlement of ITT antitrust cases.

In a second affidavit, William R. Merriam, ITT vice president in charge of the firm's Washington office, said the genuine memorandum from Mrs. Beard, dated June 25, 1971, had been discovered within the past two days. The communication "made absolutely no reference to the antitrust cases," Merriam said.

Merriam also swore in his statement that he had never received the Anderson version but that he had received the one discovered by the company.

Meanwhile, Anderson said the Judiciary Committee had given his original copy of the memorandum to the Justice Department, which he said "can hardly be considered a neutral party in this matter."

The Judiciary Committee called the hearings at the request of acting Atty. Gen. Richard G. Kleindienst, accused of lying to Anderson when he said that the ITT antitrust settlement was handled and negotiated by Richard W. McLaren, former chief of the Justice Department's antitrust division.

In a letter to Sen. James O. Eastland (D-Miss.), Judiciary Committee chairman, Anderson said he had learned the memorandum which he gave to the committee had been turned over to Kleindienst's assistant, John T. Duffner.

"I should not need to point out to you the extreme impropriety of allowing a party (at) interest in a congressional investigation to take possession of a vital piece of evidence," Anderson said.

ANDERSON PROTEST

The Justice Department referred all questions to the committee, and Eastland's office declined comment on Anderson's protest.

No date has been set for resumption of Senate hearings pending a decision by a seven-member subcommittee on whether to question Mrs. Beard in her hospital room.

In other developments Monday:

Sen. John V. Tunney (D-Calif.) urged the committee to fully examine charges in the current issue of Life magazine that Kleindienst had been directly involved in blocking investigation of alleged violations of federal law in San Diego.

It was learned that David W. Fleming, Mrs. Beard's lawyer, has offices on the same floor of a Van Nuys building as ITT's West Coast public relations office and shares offices in Washington with the controversial Republican national committeeman for the District of Columbia, Carl L. Shipley.

"PURE COINCIDENCE"

Fleming, who has said he came to Mrs. Beard's aid because he has been her friend for six years, said the fact that ITT and his law offices are on the seventh floor of the Valley Federal Building was "pure coincidence."

He said he and a law partner, Charles E. (Hack) White, have "never met Carl Shipley." Their use of the same offices in Washington stems from the fact that an associate of Shipley attended law with White, Fleming said.

Shipley, attacked as a GOP "hatchet man" by Democratic critics, headed an election campaign committee two years ago that placed newspaper ads associating Democratic senatorial candidates with "radicals" and "extremists."

SCOTT IS DUBIOUS

Senate Minority Leader Hugh Scott (R-Pa.) said he was not vouching for the accuracy of Mrs. Beard's claim that the memorandum published by Anderson is a forgery. Scott distributed Mrs. Beard's statement in Washington.

Scott said Fleming called him from Denver Friday to report that Mrs. Beard had been "very restive" because the attorney ordered her to withhold comment until she testifies before the committee.

Scott said Fleming told him Mrs. Beard wanted to go on the Mike Wallace television show to present her side of the story.

He said he agreed with Fleming that such an appearance would be "grossly improper" before she testified.

More questions arose over the work of Richard J. Ramsden, the financial consultant who wrote a report that helped convince Justice Department officials to change their minds and settle out of court with ITT. The department said Ramsden, a former business associate of White House aide Peter Flanigan, was picked for the job because he had performed a similar task in the Ling-Temco-Vought antitrust case.

But in a letter to the committee over the weekend, the department said it could find no material on the Ling-Temco-Vought report in its files.

The affidavit of the ITT secretary, Mrs. Lichtman, an American citizen living in Toronto, was the heart of the ITT material presented Monday to challenge the authenticity of the memorandum published by Anderson. She recalled typing a memorandum for Mrs. Beard during the two months she worked for ITT in Washington and said it dealt with the San Diego convention.

She placed brackets around sentences in the memorandum published by Anderson that she said were not in the memo she typed. The bracketed material included references to Mrs. Beard discussing the antitrust cases with former Atty. Gen. John N. Mitchell, discussions he has denied; a description of ITT Chairman Harold S. Geneen as a "big mouth," and a plea to an ITT official to avoid publicity on the ITT financial commitment for the GOP convention.

Mrs. Lichtman's affidavit was dated March 18, but in a separate affidavit, Russell J. Tagliareni, ITT security administrator, said her statement was substantially the same as she made to him March 2. He said this was before she became aware of news stories about the memorandum.

Mrs. Lichtman said in a telephone interview she did not believe any other secretary could have typed the memorandum for Mrs. Beard.

INTERNATIONAL TELEPHONE & TELEGRAPH HEARING TO MOVE TO LOBBYIST'S SICKROOM

(By Ronald J. Ostrow)

WASHINGTON.—A Senate judiciary subcommittee arranged Tuesday to question Dita Davis Beard, the central figure in the International Telephone & Telegraph Corp. controversy, for three days beginning Sunday.

The hearing in the ITT lobbyist's Denver hospital room was scheduled as questions mounted over the company's claim that it had located the "genuine" memorandum written by Mrs. Beard and that the one published by columnist Jack Anderson was a fraud.

Meanwhile, Senate Majority Leader Mike Mansfield of Montana said he would not ask the Senate to consider the nomination of Richard G. Kleindienst to be attorney general until the full Judiciary Committee rendered a judgment on the entire ITT affair.

The committee opened the inquiry at the request of Kleindienst, who said he wanted to remove any cloud resulting from Anderson's publication of the memorandum which seemed to link the out-of-court settlement of three ITT antitrust cases with a pledge by ITT Sheraton Corp. to help underwrite the Republican National Convention.

SAN DIEGO ISSUE

With some committee members, such as Sen. John V. Tunney (D-Calif.), pushing to broaden the inquiry into allegations by Life magazine that Kleindienst had a role in squelching federal investigations in San Diego, Mansfield's statement indicates a Senate vote on the nomination could be weeks away.

The hearings will not resume until the questioning of Mrs. Beard is completed, an aide to Sen. James O. Eastland (D-Miss.), Judiciary Committee chairman, said.

Sen. Philip A. Hart (D-Mich.), chairman of the seven-member subcommittee that will go to Denver, said Mrs. Beard's doctors agreed she could be questioned for nine hours over the three-day period, broken up into six one and a half-hour sessions.

"GENUINE" MEMO

New questions about ITT's statement Monday that it had turned over to the committee the "genuine" Beard memorandum arose because the document bore no resemblance to the material published by Anderson.

Yet an affidavit submitted to the committee by Mrs. Susan Lichtman, Mrs. Beard's former secretary, stated that Mrs. Lichtman recalled typing some of the passages in the memorandum published by Anderson.

The "genuine" memorandum released by ITT "has nothing to do with me," Mrs. Lichtman said in a telephone interview Tuesday from Toronto where she is now living. "The memorandum has absolutely nothing to do with my affidavit, and nothing to do so far as I know with what's going on."

In her affidavit, Mrs. Lichtman said she did not recall typing passages that seemed to link the convention pledge and negotiations on settling the antitrust cases. She added that she was certain she would have recalled those sentences "because of the implications contained in them."

The "genuine" memorandum submitted by ITT carried the same June 25, 1971, date as the document published by Anderson, but it was part of an analysis of the workload in ITT's Washington office and contained no passages similar to the Anderson document.

An ITT spokesman Tuesday night quoted Mrs. Lichtman as saying she also had typed the "genuine" memorandum, but Mrs. Lichtman declined to verify the statement.

"I haven't seen it," she said. "I haven't gotten the newspapers (carrying stories on the "genuine" memorandum). But I would really rather not say anything about it because it doesn't concern me."

A spokesman for Eastland said Anderson's original copy of the memorandum and the "genuine" memorandum submitted by ITT had been turned over to the FBI for "technical analysis."

The FBI declined comment, but a source familiar with the bureau's analysis said it would include matching the documents with samples of typing from ITT's Washington office.

KLEINDIENST QUESTION STILL UNANSWERED

We confess to having reached a state of bewilderment in the matter of the nomination of Richard G. Kleindienst to be attorney general and his connections, if any, with an out-of-court settlement of an antitrust suit against the International Telephone & Telegraph Corp.

Not that things were crystal clear earlier. Witnesses before the Senate Judiciary Committee, which is holding hearings on the Kleindienst nomination, had an annoying habit of contradicting each other's testimony and sometimes contradicting themselves on points both large and small. A certain fog of confusion hovered around the whole affair. But at least it was possible to keep a key element of the case in sight. That was the memo allegedly written by International Telephone & Telegraph Corp. lobbyist Mrs. Dita Beard, which columnist Jack Anderson produced and which an associate of Anderson's swore was authenticated to him personally by Mrs. Beard.

It was an implication in this memo that the ITT settlement was linked to a big contribution by the conglomerate to the Republican National Convention that set off the flap over Kleindienst.

For weeks Mrs. Beard, isolated in a Denver hospital, said nothing to dispute authorship of the memo. Then, fast, furiously and not necessarily coherently, came these developments: ITT announced that Mrs. Beard's confidential office files had been shredded into confetti, lest they fall into the wrong hands. Mrs. Beard issued a sworn statement from her sick bed saying the Anderson memo was a "forgery," a "false" and, for good measure, a "salacious document." (That last sent us back for another look at the memo. Whatever else it may be, it is not, alas, salacious.) And then, ITT turned over to the Judiciary Committee what it described as "the genuine Beard memorandum," only recently discovered and lacking any implication of wrongdoing on the part of ITT or anyone in the Justice Department.

That about brings things up to date as far as the committee hearings are concerned. But there is more. Life magazine alleged this week that the Nixon Administration "tampered with justice" by interfering in federal investigations in San Diego that involved a friend of the President, and that Kleindienst played a role in the action. Sen. John V. Tunney (D-Calif.), a committee member, says he has "additional information" to support the Life charges. He wants the Judiciary Committee to look into the matter. We think it should, too.

The Kleindienst confirmation hearings have been frustrating, confusing, at times bizarre. The essential question of Kleindienst's fitness to be attorney general still hasn't been answered. The obligation of the Judiciary Committee is to keep searching for the answer, to separate truth from deception, to identify who has not been honest and why, to determine if the man nominated for the highest law enforcement job in the United States is deserving of that post and the power it carries.

ROGERS DENIES U.S. PLOT TO BAR ALLENDE IN CHILE

(By David Kraslow)

WASHINGTON.—Secretary of State William P. Rogers privately assured the Senate Foreign Relations Committee Wednesday that there had been no plot by the Nixon Administration to prevent President Salvador Allende of Chile from taking office in 1970.

It was learned further that Richard Helms, director of the Central Intelligence Agency, assured Committee Chairman J. William Fulbright (D-Ark.) in 1970 that the CIA would not intervene in the Chilean political situation.

An informed source said Fulbright contacted Helms because of speculation that the United States might interfere in Chile's presidential contest.

Rogers' testimony behind closed doors corroborated Helms' personal word to Fulbright. The secretary told the committee that the Administration's hands were clean and that if the CIA had been authorized to intercede either he or Undersecretary of State John N. Irwin would have known about it.

ANDERSON REPORT

The committee took advantage of Rogers' scheduled appearance on an unrelated matter to question him about Columnist Jack Anderson's published assertions that International Telephone & Telegraph Corp. and a CIA official plotted together in September and October, 1970, to block Allende from gaining power.

ITT and other American companies, fearful that Allende, a Marxist, would nationalize foreign-owned businesses, had favored the election of a more moderate candidate.

There was intense political activity in Chile between Sept. 4, 1970, when Allende won a popular plurality in the presidential election, and Oct. 24, when the Chilean congress named Allende as president.

Under Chilean law, if no candidate wins a popular majority the decision is made by congress. Chilean legislators were constantly lobbed by Allende's foes during the interim period to break with the tradition under which congress selected the front-runner as president.

Anderson asserted that ITT executives plotted with William V. Broe, identified by the columnist as director of the Latin American division of the CIA's clandestine activities branch.

ECONOMIC APPROACH

Quoting from what he described as confidential ITT documents, Anerson said the plan called for ITT and other large American companies with holdings in Chile to create economic chaos. This would cause the Chilean army to organize a coup that would block Allende from taking office. The documents said continuing approaches were being made—without success—to select members of the armed forces to lead an uprising.

Rogers told the committee that after the general election the Nixon Administration considered various policy alternatives but finally decided to do nothing.

Rogers said, however, that none of the policy moves under consideration was covert or clandestine or was outside the constitutional processes of Chile.

It was during the Sept. 4–Oct. 24 period that Irwin and other State Department officials told the Foreign Relations Committee that the United Sates would maintain a hands-off policy in Chile. It was also during this period that Fulbright consulted with Helms.

SEIZURE FOLLOWS CRUSTY TESTIMONY OF MRS. BEARD

(By Bruce Nelson)

DENVER.—International Telephone and Telegraph lobbyist Dita Davis Beard's collapse during questioning by a Senate subcommittee Sunday afternoon came as a great surprise to the participants because she had put on such a crusty performance in the morning session.

At first during the morning session, Mrs. Beard had lain languidly on her hospital bed, an oxygen tube in her nose, and with wires that ran to an electrocardiograph scope, to check her heartbeat, attached to her arms. By the end of the first 90-minute session, she had risen up from her bed, had begun gesturing dramatically, and was verbally flaying her enemies in ITT, pool reporter Dan Thomasson of Scripps-Howard newspapers said.

It was a bravo performance, and the senators, including the subcommittee chairman Philip Hart (D-Mich.) and Sen. Edward M. Kennedy (D-Mass.), went up to shake Mrs. Beard's hand at the end of the first session.

CITES COOPERATION OF SENATORS

"She came on like gangbusters," said one of her attorneys, Harold (Hack) White of Van Nuys. "She was in great spirits at the end of the morning. We were all astounded when it (the collapse) happened."

White said that in both the morning and afternoon sessions, the senators could not have been more cooperative and decent in questioning Mrs. Beard.

It was the first time in the senators' memory that the Senate had ever conducted a committee hearing in a hospital and they seemed edgy about approaching the invalid.

Sen. Edward J. Gurney (D-Fla.) knocked over the Colorado flag as he came in the room for the morning session, spilling the multicolored ensign on the lone reporter allowed in the room. The reporter picked up the flag.

The meeting took place under strict security procedures and health precautions. Only 17 people were allowed in the stuffy, overheated room—six senators, Senate aides, two of Mrs. Beard's doctors, two of her lawyers, a stenotypist, and a sound man to record the proceedings.

Forty Denver policemen, half of them plainclothesmen, were stationed around the Rocky Mountain Osteopathic Hospital, where Mrs. Beard has been hospitalized for the last three weeks since her unannounced departure from Washington, D.C.

Four German Shepherd dogs were kept in police cars adjacent to the hospital. "They're good for crowd control or for sniffing out everything from narcotics to bombs," one policeman said.

Police said there was some worry about a possible threat to Kennedy, or as one explained it, "Some nut might throw a bomb through the hospital window."

Tight security also prevailed on the 14th floor of the Denver Hilton Hotel, where the senators and their aides were staying.

At one point midway through the first 90-minute hearing, Mrs. Beard's EKG machine quit. "What's happened, has my heart stopped?" Mrs. Beard asked with a laugh. Mrs. Beard's doctors tried vainly to fix the machine and then asked two nurses to accomplish the task for them.

EMBARRASSING SLIP

At the morning session, Mrs. Beard, 53, wore a white nightgown emblazoned with blue diamond pattern. During the hearing, the nightgown made an embarrassing slip off her bare shoulder.

Besides the EKG machine, an oscilloscope, an oxygen tank and an electric heart stimulator, Mrs. Beard's doctor had a complete "crash cart" to handle any major emergency in the room where the hearing was taking place.

Mrs. Beard's language sometimes brought smiles from the senators. Referring to one sentence in the alleged memorandum, concerning Atty. Gen. John N. Mitchell's role, she said, "I don't know where in the world that mother came from."

In response to questions, Mrs. Beard outlined her rise in ITT in 12 years of service for the company in Washington. She said she started as a secretary but that she had gotten into lobbying because the ITT executives did not know what they were doing. "They were babes in arms," she said, explaining that they did not know that it was necessary to be able to get things done in Washington in order to be able to run a company.

When asked her current ITT salary, she replied, "I'm not sure I have one anymore." Then she said her base salary was either $28,500 or $35,000 annually, plus bonuses. She said she had not received a bonus this year.

FBI SAYS SAME MACHINE TYPED TWO DISPUTED MEMOS IN INTERNATIONAL TELEPHONE AND TELEGRAPH CORP. CASE

(By Ronald J. Ostrow)

WASHINGTON.—The FBI said Friday that the memorandum International Telephone & Telegraph lobbyist Dita Davis Beard disowned as a forgery appears to have been typed on the same machine as one that produced a memo the company has identified as genuine.

Reporting on an FBI laboratory analysis of the document, which is at the center of the ITT controversy, FBI Director J. Edgar Hoover also said his agency's tests suggested but did not establish, that the memo was prepared about June 25, 1971, the date it carried.

The analysis, submitted to Chairman James O. Eastland (D-Miss.) of the Senate Judiciary Committee, was a setback to supporters of Atty. Gen.-nominee Richard G. Kleindienst. They had hoped the tests would conclude the memo was typed at some later date and by a different machine.

A few hours after the report was released, President Nixon praised Kleindienst at a press conference as "an able, honest man," and said the Senate hearings had produced nothing to shake his confidence in the nominee.

While predicting that the Senate would confirm Kleindienst, now serving as acting attorney general, Mr. Nixon did not support an early cutoff to the hearings as some Republicans on the Judiciary Committee have proposed.

"We want the whole record brought out because as far as he is concerned, he wants to go in as attorney general with no cloud over him," the President said.

"He will not have any * * * once the hearings are concluded and what we are talking about will be proof, rather than simply charges which have not been substantiated."

Mr. Nixon made the statement when asked whether there was any link between the ITT antitrust settlement and a pledge by an ITT subsidiary, the Sheraton Corp., to help underwrite the Republican convention, the chief allegation under review by the Senate committee.

But the President sidestepped a question on the allegation that Kleindienst had played a role in squelching a federal investigation in San Diego of campaign contributions involving C. Arnholt Smith, a long time friend and financial backer of Mr. Nixon.

ASKED FOR REACTION

"Mr. President, have you satisfied yourself that the Justice Department acted properly in quashing an investigation of campaign contributions in San Diego last year?" a reporter asked.

"I covered that question," Mr. Nixon said, though the subject had not been raised previously at the press conference.

Earlier, the Justice Department scrapped plans to make a detailed reply to the allegation by Life magazine that the Administration had "seriously tampered with justice" in San Diego.

Kleindienst was involved because on Feb. 17, 1971, he said he had evaluated the matter in which Harry Steward, U.S. attorney in San Diego, was a central figure and had determined there had been no wrongdoing.

BRANDED AS FALSE

Instead of the detailed reply, a draft of which had been circulating in the department this week, a two-sentence statement was issued branding the report false and contending that it was "based on misinformation, innuendo, hearsay and a rehash of old rumors which were thoroughly investigated more than a year ago."

A Justice Department official said the decision not to respond in detail at this time was made because of the possibility that Democrats would succeed in bringing the issue before the Senate committee. A detailed reply would give Kleindienst's critics a preview of what the response would be at the hearing, the official said.

The FBI analysis disclosed that the bureau also had run tests on typewritten notes of Brit Hume, the associate of columnist Jack Anderson who interviewed Mrs. Beard before Anderson published the memorandum suggesting a link between the antitrust settlement and the convention pledge.

SAMPLE TOO LIMITED

"The Beard memorandum was not prepared on the typewriter used in the preparation of the Hume notes," the FBI report stated in one of its few unqualified conclusions.

The handwritten initial "D" appearing on the memorandum was too limited a sample to determine whether it was written by Mrs. Beard, the report said.

While stating that the typewriting ink on the Beard memorandum published by Anderson "appears substantially similar in composition" to that used in the correspondence from ITT's Washington office around the time of the memo, the analysis stressed a qualification.

"A factor which prevents these findings from being positive proof, of course, is the ease with which typewriter ribbons can be substituted or replaced on a typewriter," it said.

More time-consuming analytical tests are being run on specimens from the memorandum obtained by Anderson and the one identified by ITT as genuine, Hoover told Eastland in the report, promising to advise him of "any further significant information."

At his press conference, President Nixon also commented on political contributions, saying: "Nobody gets anything back as far as the general contributions are concerned in this Administration . . .

DEFENDS SETTLEMENT

"I think some of our major complaints have been that many of our business people have not received the consideration that perhaps they thought an Administration that was supposed to be business-oriented would provide for it."

He defended the ITT settlement as "the greatest divestiture in the history of the antitrust law."

Mr. Nixon said the press had inadequately reported the fact that ITT became a great conglomerate corporation primarily during the two previous administrations.

"It grew and grew and grew, and nothing was done to stop it," he said. "In this Administration we moved on ITT. We are proud of that record."

ITT SAYS BEARD MEMO WAS WRITTEN MONTHS LATER THAN DATE IT BEARS

(By Ronald J. Ostrow)

WASHINGTON.—International Telephone & Telegraph Corp. said Saturday that tests by experts it had retained strongly indicate that lobbyist Dita Davis Beard's memorandum was written seven months later than the date it carries.

This disputed an FBI laboratory examination of the document released Friday, which found nothing "to suggest preparation at a time other than around June 25, 1971," the date on the document.

The conflict is important because it bears on the authenticity of the memorandum, which suggested a link between settlement of ITT's antitrust cases and a pledge by an ITT subsidiary, the Sheraton Corp., to help finance the Republican convention.

Mrs. Beard, who has disowned the memorandum as a forgery, is due to begin testifying today before a Senate judiciary subcommittee in a Denver hospital, where she is recovering from a heart ailment.

ITT said its two experts on "questioned documents," Pearl Tytell of New York and Walter C. McCrone of Chicago, found from the tests they conducted that "the preponderance of evidence points to a period around January, 1972, as the most likely time" when the memorandum was typed.

The FBI declined comment on the findings by the ITT-retained analysts.

Meanwhile, Brit Hume, the newsman who testified before the Senate Judiciary Committee that Mrs. Beard acknowledged writing the memorandum in two interviews with him, passed a lie-detector test on the question.

Hume's employer, columnist Jack Anderson, reported the polygraph test results Saturday in a letter to Sen. James O. Eastland (D.-Miss.), Judiciary Committee chairman.

Anderson challenged "Mrs. Beard and any other witness who contradicts Mr. Hume's testimony to undergo a similar examination."

In a notarized statement, Lloyd B. Furr, a McLean, Va., polygraph examiner, said it was his opinion that Hume "answered the questions truthfully and satisfactorily 'passed the examination.' "

Among the 20 questions Hume was asked were whether Mrs. Beard at any time had told him the memo was a forgery, to which he replied in the negative, and whether the lobbyist explicitly confirmed that she had written the memo, to which he answered "yes."

ITT said that full reports of its experts' findings would be submitted to Eastland. The company said McCrone and Mrs. Tytell "made microscopic, ultraviolet fluorescent and highly sophisticated microchemical analyses" of the memorandum first published by Anderson and a sample of memoranda known to have been typed on Mrs. Beard's typewriter between June, 1971, and February, 1972.

ITT said it had received permission, presumably from Eastland, to have the memorandum examined because of what the firm called "grave reservations as to the authenticity" of the document published by Anderson. The columnist had protested earlier when Eastland turned his original copy of the memorandum over to the FBI, contending the Justice Department was a central party in the controversy.

ITT said that for the last 15 years McCrone had headed McCrone Associates of Chicago, which it described as a research and development laboratory specializing in chemical and physical microanalysis. Mrs. Tytell, ITT said, has worked on "questioned documents" for more than 20 years and has testified as an expert witness before federal and state courts.

In other developments Saturday:

—The Judiciary Committee scheduled its next session in Washington for Wednesday after the subcommittee, headed by Sen. Philip A. Hart (D-Mich.) returns from the Denver trip.

VOTES EXPECTED

Crucial votes are expected to be taken by the full committee on calling additional witnesses in the ITT matter and whether to expand the hearings into allegations that acting Atty. Gen. Richard G. Kleindienst played a role in allegedly squelching a federal investigation in San Diego.

The ITT probe has delayed indefinitely a Senate vote for Kleindienst's nomination to head the Justice Department. He asked for the Judiciary Committee hearings to remove any cloud that he said might have resulted from Anderson's charges.

—It was learned that the list of contributors to the presidential campaign of Sen. Edmund S. Muskie (D-Me.), which will be made public Monday, will include a $2,500 contribution from ITT Director and Wall Street banker Felix G. Rohatyn.

It was after an April, 1971, meeting between Rohatyn and Kleindienst that the Justice Department began the procedures which eventually led to a decision to settle the ITT antitrust cases out of court.

ITT AIDE'S HEART TO BE MONITORED AT QUIZ

DENVER.—Senate investigators who will question Mrs. Dita D. Beard, lobbyist for International Telephone & Telegraph Corp. will be stopped if her heart beat changes.

Mrs. Beard will be questioned in the Rocky Mountain Osteopathic Hospital here beginning today by a Senate Judiciary subcommittee.

Dr. L. M. Radetsky said Mrs. Beard's heart would be monitored during her testimony from a hospital bed. Questioning would be halted, if "there is any change in the rhythm of the heart beat," he said.

W. L. Davis Jr., hospital administrator, said Radetsky and Dr. David Garland would be present during questioning and two cardiac nurses would stand by outside the room.

Davis said guards would block corridors leading to the meeting room where testimony will be heard. "If anyone else tries to get in they will be prosecuted to the full extent of the law," Davis said. "That's what we've got the guards for. We have to take care of other patients, too."

Mrs. Beard is to be taken from her own room by wheelchair to the hearing room, which will be equipped with a special cardiac bed and the monitoring devices.

ITT ATTORNEY EXPLAINS DOCUMENT DESTRUCTION

(By Ronald J. Ostrow)

WASHINGTON.—The general counsel of International Telephone & Telegraph Corp. testified Thursday that many sacks of documents were destroyed in ITT's Washington office partly to prevent their "misuse" from causing "unwarranted embarrassment" to unidentified persons.

But Howard J. Aibel said none of the office staff interviewed by a special team of lawyers knew of any destroyed document that linked settlement of ITT's antitrust cases with a pledge by ITT's Sheraton Corp. to help finance the Republican National Convention.

The documents were disposed of Feb. 24, the day after Brit Hume, an associate of columnist Jack Anderson, came to the ITT office with a document that "appeared to be an ITT memorandum which had come to his possession through theft or other misappropriation," Aibel told a Senate Judiciary Committee hearing.

The memorandum, purportedly written by ITT lobbyist Dita Davis Beard, appeared to link the massive antitrust settlement with a commitment of up to $200,000 for the San Diego Convention and Visitors Bureau to help underwrite the GOP convention.

"NORMAL" GENEEN SAYS

Harold S. Geneen, ITT chief executive, defended the document shredding as a "perfectly normal reaction" to the Washington office becoming "an open sieve as far as security is concerned."

Sen. John V. Tunney (D-Calif.) said he would not expect officials in ITT's Washington office to admit now that embarrassing documents were shredded. "Now we have to rely on the memory of those who would be acting contrary to their self-interest" to make such an admission, he said.

Aibel said the document destruction took place after W. R. Merriam, head of ITT's Washington office, told the staff of "a possibility that documents were being illegally removed from the office files for the purpose of being turned over to Mr. Anderson."

AVOID EMBARRASSMENT

The staff was told to remove from their files documents no longer needed for current operations "as well as documents which if put into Mr. Anderson's possession, could be misused and misconstrued by him so as to cause unwarranted embarrassment to the people mentioned therein."

Most of the material was "old and outdated," some of it dating back to 1962, Aibel testified. He stressed that Merriam did not discuss the subject of the memorandum in Anderson's hands so that the staff was under no order to destroy certain matter.

But under questioning by Tunney, Aibel disclosed that five members of the 19-member Washington staff were aware of Hume's appearance in the office with the memorandum before Merriam met with the staff. Anderson alleged in a column that the documents were shredded to keep them from being subpoenaed.

Under questioning by Sen. Philip A. Hart (D-Mich.), Aibel said some of the shredded documents "related to the San Diego convention," while others of "a general nature" dealt with the antitrust settlement. The convention material, he said, "related to the nature of facilities available and tourist brochures."

Meanwhile, at the Securities and Exchange Commission another aspect of the ITT matter proceeded quietly. Last fall, the SEC launched a staff investigation to determine whether any ITT officers or directors had violated securities law by selling company stock on the basis of "inside information"—that is, whether they sold their stock in advance of the antitrust settlement in expectation that the price would drop.

PROBE CONTINUES

Sources close to the investigation said earlier this week that it had turned up no indication of illegal selling on the basis of inside information. But they indicated the investigation was continuing.

In the six weeks preceding the July 31 settlement of the antitrust suits, seven top officers or directors of the firm sold a total of 14,364 common shares and 8,500 preferred shares, with a total value of $1.4 million.

The bulk of this was common stock, which was selling at about $65 per share before announcement of the settlement. It plunged to $55 per share on Aug. 2, the first trading day after the announcement.

A company spokesman, speaking for all officers involved, has denied that they sold on the basis of inside knowledge.

LOBBYIST COLLAPSES DURING INTERNATIONAL TELEPHONE & TELEGRAPH CORP. HEARING

(By Ronald J. Ostrow)

DENVER.—Lobbyist Dita Davis Beard collapsed with severe chest pains Sunday during a second round of questioning by a Senate judiciary subcommittee on the International Telephone & Telegraph Corp. affair.

The subcommittee announced Sunday night that it had unanimously decided to suspend further questioning of Mrs. Beard and was returning to Washington.

Earler, at the extraordinary hospital-room hearing, Mrs. Beard had testified under oath for the first time that she did not write a controversial published memorandum that linked settlement of antitrust cases against her employer, ITT, with a subsidiary's pledge to help underwrite the Republican National Convention.

The collapse came when Mrs. Beard was sitting up in her bed and Sen. Edward J. Gurney (R-Fla.), stressing that, the purpose of the hearing was to determine the qualifications of acting Atty. Gen. Richard G. Kleindienst, asked if she knew him.

"MET HIM ONCE"

"I met him once—at the governors' conference in Tulsa, Okla. . . . I don't think he'd ever . . ."

Gurney asked: "That was just a normal gathering?"

The 53-year-old lobbyist fell back on her bed, gripping the left side of her chest with her right hand. Her flushed face contorted in pain and she moaned.

Mrs. Beard's doctor said Sunday night that her condition "is not dangerous at this time." They said the irregularity in her heartbeat had ceased and that she was resting comfortably but still had chest pains.

Sen. Philip A. Hart (D-Mich.) said Mrs. Beard "could certainly not be asked to testify again until she recovered from her apparent heart condition."

The committee said the decision was made after her doctors said they could give no assurance that there would not be a relapse under further questioning and that another attack might leave Mrs. Beard with permanent heart damage.

CONTRAST WITH MORNING SESSION

The dramatic halt contrasted with the 90-minute morning session of questioning when she appeared to grow stronger as the hearing went on. She swore under oath at the morning session that she did not write key portions of the ITT memorandum—contradicting sworn testimony given earlier by an associate of columnist Jack Anderson.

The lobbyist's testimony that she had told Brit Hume, the Anderson associate, that the memo he confronted her with was not hers clashed with Hume's testimony at Senate Judiciary Committee's hearings that she had acknowledged to him writing it in a tearful interview last month.

Hume, one of the newsmen covering the hospital hearing, said: "She is simply not telling the truth." He recalled her saying in what he described as "virtually an exact quote: 'I wrote it. Of course, I wrote it.' "

Mrs. Beard testified that she told Merriam the idea of a campaign contribution rather than financial aid to the convention was "all completely false."

Merriam said he could not understand her explanation, the lobbyist testified, and requested that she "go write it." This led her to compose an interoffice memorandum that had "similar language" to the first part of the memo published by Anderson, she said.

Under questioning by Sen. Edward M. Kennedy (D-Mass.), Mrs. Beard said that everything but the last sentence in the first paragraph of the memo published by Anderson "seems to make sense to me."

Thus she conceded writing in the memorandum to Merriam: "I'm so sorry that we got that call from the White House. I thought you and I had agreed very thoroughly that under no circumstances would anyone in this office discuss with anyone of participation in the convention, including me. Other than permitting (former Atty. Gen.) John Mitchell, (California Lt. Gov.) Ed Reinecke, (presidential aide) Bob Haldeman and (Mr.) Nixon—besides (Rep. Bob) Wilson (R–San Diego), of course no one has known from whom that 400,000 commitment had come . . ."

MITCHELL DENIAL

Mitchell has testified that he knew nothing of ITT's support for the convention.

Mrs. Beard later explained that she had assumed Reinecke had told the Republican officials she named in her memo about the convention commitment. She said Reinecke first raised the possibility of bringing the GOP convention to San Diego in January or February, 1971, in a luncheon conversation with her in Washington.

Mrs. Beard said she had agreed to allow ITT to shred documents from her files, after the Anderson column was published, because they contained letters she received from "very highly placed politicians" that she feared could be misinterpreted.

In another development Sunday, John Holloman III, Judiciary Committee counsel, denied that the committee had turned over Anderson's original copy of the memorandum to ITT for its own analysis.

ITT had disputed an FBI laboratory analysis of the document Saturday, saying its own two experts had determined that, it was probably written last January rather than on June 25, 1971, the date it carried. The FBI test found nothing to suggest that it was not written on June 25.

The memorandum has not been out of the committee's possession, except when it was delivered to Justice Department or FBI representatives for the FBI test, Holloman said.

An ITT spokesman said he could not explain how the company ran its own tests.

FOUR SENATORS ASSAILED AFTER HOSPITAL QUIZ

(By Bryce Nelson)

DENVER.—As International Telephone & Telegraph lobbyist Dita Davis Beard continued her recovery Monday, a fusillade of attacks against Massachusetts Sen. Edward M. Kennedy and other Democratic senators was lodged by Mrs. Beard's lawyers in Denver and by leading Republican senators in Washington, D.C.

Mrs. Beard's lawyers, Harold (Hack) White and David W. Fleming, both of whom practice in Van Nuys, held a wide-ranging press conference in the same hospital room in which Mrs. Beard suffered a heart seizure while being questioned by a Senate subcommittee Sunday.

Fleming and White criticized Kennedy, columnist Jack Anderson, his assistant Brit Hume, Mrs. Beard's Washington doctor, Victor L. Liszka, and officials of ITT.

Fleming and White are being paid by ITT for defending Mrs. Beard and have asked ITT for $15,000 for their work.

Sen. Hugh Scott of Pennsylvania, the Republican Senate leader, and Sen. Roman L. Hruska (R-Nebr.) said that Democratic Sens. Kennedy, John V. Tunney of Calif., Philip Hart of Michigan and Birch Bayh of Indiana should end their desire for continued hearings on President Nixon's nomination of Richard G. Kleindienst to be attorney general and allow the Senate to vote on the nomination after Easter. They were joined by Sen. Robert Dole of Kansas, the chairman of the Republican National Committee.

Hruska said the Senate hearings "ought to be terminated because the chief witness (Mrs. Beard) has been heard." He called Sunday's Denver hearing "a bedside political inquisition with almost fatal results."

At no point have Mrs. Beard's doctors indicated that she was near death. Monday, Dr. L. M. Radetsky, an osteopathic physician who specializes in cardiology, said, "Mrs. Beard is recovering quite well from her seizure of angina pectoris," but added that she had spent "a very restless night."

DANGER CITED

Radetsky said that people who suffer from angina pectoris are never fully curable and therefore further testimony from Mrs. Beard would never be perfectly safe. "For the next six months or more it would be very dangerous to her health to testify in a hearing," he said.

Mrs. Beard had wanted to testify, he said, and it provided emotional release for her to be able to do so. He added, nevertheless, that "if the subpoena is quashed and the hearings ended, Mrs. Beard will get a lot better a lot faster.

Radetsky said that, based on conversations Sunday with Republican subcommittee members, "we hope and have some reason to believe that the subpoena will be quashed."

Meanwhile in Washington, the mystery continued over who gave the memorandum, which columnist Jack Anderson has said was written by Mrs. Beard, to ITT for an examination to determine its authenticity. After publishing the memorandum, Anderson gave it to the Senate Judiciary Committee, which sent it to the FBI for analysis. ITT issued its own analysis of the memorandum last week, which contradicted the FBI's findings.

ITT and FBI spokesmen declined comment on the subject Monday. Justice Department spokesman John Hushen said, "I can't shed any light on it."

TWO WITNESSES

Hruska and Scott said they did not know who had given the memo to ITT but said they did not think the transfer of the memo was improper. Hruska compared giving the memo to ITT to letting a defendant in a murder case examine the alleged murder weapon.

In the Denver press conference, Fleming, Mrs. Beard's attorney, said the Senate Judiciary Committee should call two witnesses who could corroborate his client's testimony. The two are Walter Benning, an ITT employe, and Beverly Sincavage, Mrs. Beard's secretary, both of whom were in Mrs. Beard's house on the night of Feb. 24, when

Brit Hume interviewed her about the memorandum.

Fleming said that Benning had told Mrs. Beard, "You're a fool to talk to this man. You're in no condition to do so." Mrs. Beard testified that she was drinking that night.

Fleming said that Benning was "never more than 11 feet away" from Mrs. Beard during her entire conversation with Hume. Hume said Monday that Benning was in another room where he could not hear their conversation during most of the time.

FBI Let It Check Memo, International Telephone & Telegraph Says

(By Ronald J. Ostrow)

Washington.—The FBI permitted International Telephone & Telegraph Corp. to conduct its own chemical tests on a key document involved in the controversy over settlement of the giant conglomerate's antitrust cases, it was disclosed Tuesday.

Sen. James O. Eastland (D-Miss.), chairman of the Senate Judiciary Committee, which is investigating the matter in connection with the nomination of Richard G. Kleindienst as attorney general, said he had been asked by the FBI if scientists hired by ITT could run the tests.

"I informed them then that this was a decision for the FBI," Eastland said. He added that he told the FBI, however, that he "saw nothing wrong with the owners viewing their own property under control of the FBI."

The FBI declined comment. But an ITT spokesman said its experts were permitted to test the document "while it remained in the custody of the FBI, in order to prepare their own findings."

The ITT tests disputed the FBI laboratory analysis that found nothing "to suggest preparation at a time other than around June 25, 1971," the date carried by the memorandum, purportedly written by ITT lobbyist Dita Davis Beard.

ITT said the experts, Walter C. McCrone of Chicago and Pearl Tytell of New York, concluded from their tests that the memorandum was most likely written around last January.

The memorandum strongly suggested a link between the company's antitrust settlement and a pledge by ITT's Sheraton Corp. subsidiary to help finance the Republican National Convention in San Diego.

The memorandum was turned over to the Senate committee by columnist Jack Anderson, who protested when Eastland turned it over to the FBI. After the tests, it was returned to the committee, maked by several holes where letters had been removed for further testing.

Neither ITT nor the FBI would disclose whether the independent tests, which the company described as a "highly sophisticated microchemical analysis," were conducted at the FBI facility in Washington or elsewhere.

Meanwhile, Judiciary Committee hearings on the ITT affair will resume today, amid mounting GOP demands to cut them off.

Harold S. Geneen, the firm's chief executive, will return to the witness table for a third day of questioning on the shredding of ITT documents in his firm's Washington office and his numerous contacts with high Administration officials to urge a halt in attacks on conglomerate mergers.

PRESSES ATTACK

Senator Minority Leader Hugh Scott (R-Pa.) stepped up his attack on the Judiciary Committee hearings, denouncing them as "a frantic exercise in continuing irrelevancy, nongermaneness and hearsay evidence pursued to the fourth degree."

Scott also said Democrats on the committee were indulging in a "form of jackassery."

In another blast, Scott described the Senate Foreign Relations Committee as "slavering" to investigate activities by ITT in Chile.

He described Sen. William Proxmire (D-Wis.), who is undergoing hair-transplant treatments, as keeping warm under television lights "while the senator is waiting for his hair to grow back in."

But Scott, after a Republican congressional leadership meeting at the White House, said the subject of cutting off the Judiciary Committee hearings was not discussed with President Nixon.

Last week, Mr. Nixon lent no support to such a move, telling a press conference: "We want the whole record brought out."

Aides to Scott and Sen. Roman Hruska (R-Neb.), ranking minority member of the committee, said their anticipated move to bring the Kleindienst nomination to a vote probably would not be made until the Senate returns from Easter recess next Wednesday.

Their motion will clash with plans of Sens. Edward M. Kennedy (D-Mass.) and John V. Tunney (D-Calif.) for an expanded inquiry.

They want to push on with the ITT matter and to examine charges by Life magazine that Kleindienst played a role in what Life said was the squelching of federal investigations in San Diego.

Hughes to International Telephone & Telegraph Corp.: Unique Intertel: Cloak, Dagger—Private Style

(By Robert Jackson)

Washington—At the height of the Howard Hughes autobiography hoax, a Washington attorney named Robert D. Peloquin suddenly popped up in Zurich.

Peloquin, whose business firm numbers Hughes among its clients, was gathering evidence that $650,000 in publishers' checks—made out to H. R. Hughes—was fraudulently deposited in a Swiss bank account by someone other than the billionaire.

As it turned out, Peloquin—through the connections of his unique organization called Intertel—was instrumental in giving U.S. authorities a clue that author Clifford Irving's wife, using the pseudonym "Helga R. Hughes," was the mysterious blonde woman who made the deposits.

Now Intertel, which is short for International Intelligence, Inc., is working behind the scenes for another big-moneyed client, International Telephone & Telegraph Corp.

THEY TURN TO PELOQUIN

Increasingly, it seems, when businessmen are threatened with fraud, security leaks or crime within their firms, they are turning to Robert Peloquin and his 35-member staff.

Peloquin, president and a founder of Intertel, is a handsome six-footer whose background of government service is matched by those of his associates. Most of Intertel's top people once held responsible positions with the Department of Justice or the Internal Revenue Service.

Collectively, their contacts within the federal establishment are so good—as is their network of outside informants—that Intertel, in some ways, has become a shadowy extension of the U.S. government.

"I've really not feared to take on any task," said Peloquin, 43. "The talent we've collected under one roof—well for any area of expertise, we can find the man."

OUT TO SAFEGUARD BUSINESS

He described Intertel as a consulting firm "created specifically to safeguard business from the hidden risks of vulnerability to criminal elements." Intertel, he said, tries to head off corporate troubles before they begin.

"We're mostly dealing in prevention—advising a brokerage house, for example, not to invest in a certain company because of its hoodlum influence," Peloquin said, "or setting up an internal security system for a company with worldwide operations."

Its work for the Hughes organization dates back to 1970, when Hughes suddenly flew to the Bahamas from Las Vegas and fired Robert A. Maheu, chief of his Nevada properties. Intertel arranged for Hughes' personal security and advises his Nevada casinos on methods of minimizing thefts and illegal skimming.

The Britannia Beach Hotel on Paradise Island, where Hughes stayed until earlier this year, is owned and operated by Intertel's parent company, Resorts International, Inc.

For years there were whispers in government circles that Resorts International, which operates a casino complex in the Bahamas, was tainted by the influence of organized crime. Peloquin, as an attorney for 11 years in the Justice Department's organized crime section, was sensitive to these whispers.

But he insists that, because officers of Resorts International, principally Board Chairman James M. Crosby, took positive steps to keep hoodlums out, the company now operates "a legitimate and crime-free casino."

Intertel grew out of the leaked to the press and fact that Resorts International hired Peloquin and other ex-government types to police the casinos.

Intertel's connections recently led to reports that the firm arranged for ITT's document experts to examine the disputed Dita Davis Beard memorandum, then in possession of the FBI. Peloquin flatly denies this, although he refused to discuss what Intertel is doing for the giant conglomerate.

It is understood, however, that Intertel is working on an internal security system that would reduce the chance that ITT's confidential files could be public.

Although Intertel is a private company, its very name conjures up the image of Interpol, the international organization of government police forces. Intertel's own James Bond-type missions are carried out from a farflung network of offices in the United States, Canada and the Bahamas.

The Los Angeles office, one of four domestic branches, is headed by Donald F. Bowler, former chief of the IRS intelligence division for Southern California. His former government boss, William A. Kolar, who headed the national intelligence division of the IRS, joined Intertel in 1970, several months ahead of Bowler.

Like Peloquin, Thomas J. McKeon, Intertel's general counsel, is a former Justice Department attorney who ran an organized crime "strike force" in Detroit.

Stuart Allen, who specializes in financial institutions for Intertel, was formerly chief investigator for the House Select Committee on Crime, and before that an investigator for the Securities and Exchange Commission, where he developed successful cases against financier Louis E. Wolfson.

Besides mining its government contacts and paying underworld informants who have proved useful, Intertel gathers data from public files.

"Our knowledge of what information is available in the federal government is considerable," Peloquin said. "A lot of people wouldn't know where to go to get it."

Although the Hughes organization is Intertel's largest client—and ITT its most recent one—some other noteworthy assignments of Intertel include:

Guaranteeing that a major U.S. oil firm in the Middle East is free from electronic surveillance by one of its competitors or a foreign government.

Improving intelligence and reporting procedures for a New England state's prison system to make the prisons more secure and reduce a drug problem.

Checking on the background of large borrowers for six California banks.

Planning security measures for the Wayne County Airport at Detroit. The aim is to improve bomb detection, reduce cargo thefts and make aircraft ramp areas more secure.

Congress has taken note of Intertel's efforts. Rep. Dante B. Fascell (D-Fla.), chairman of a House government operations subcommittee, cited the firm during hearings in 1970 into the private sector's role in fighting crime.

"Wonders never cease about the amazing capability of former government employees," Fascell told Peloquin. "It seems that you have a unique organization."

SENATE PANEL FACES DECISION: DROP OR WIDEN INTERNATIONAL TELEPHONE AND TELEGRAPH HEARINGS?

(By Ronald J. Ostrow)

WASHINGTON.—Sen James O. Eastland (D-Miss.) Wednesday scheduled an April 6 session of the Senate Judiciary Committee to decide whether to cut off the committee's ITT hearings or expand them to cover alleged political influence in a federal investigation in San Diego.

Eastland, the committee chairman, called the meeting at the request of Sen. Roman L. Hruska (R-Neb.), who said he would move to close the hearings on the ground that they had developed "no proof or evidence of wrongdoing" by Atty. Gen. nominee Richard G. Kleindienst.

Hruska denounced as "irrelevant, repetitious and trivial" questions and testimony to date on whether settlement of International Telephone & Telegraph Corp.'s antitrust cases was linked to a pledge by ITT's Sheraton Corp. subsidiary to help underwrite the Republican National Convention.

Although Eastland said he had the same request for a cutoff vote from other committee members, there was doubt that the vote would be taken at the first closed-door session.

The committee has an unlimited debate rule, and Sen. John V. Tunney (D-Calif.) indicated that he and other senators who want to pursue the inquiry might use the tactic to continue hearings and call additional witnesses.

Tunney said he would turn over to the committee a document on allegations by Life magazine that Kleindienst played a role in squelching an investigation of alleged illegal campaign contributions involving C. Arnholt Smith of San Diego, a financial supporter and friend of President Nixon. Tunney would not specify the nature of the document.

If the full Judiciary Committee should vote to close the hearings and express confidence in Kleindienst, whose nomination is pending before the Senate, "There's no reason Sen. (Edward M.) Kennedy (D-Mass.) and his administrative practices subcommittee (an arm of the Judiciary Committee) couldn't open them up again," Tunney said. He added that the possibility of such a course had been discussed.

Eastland' decision to call an executive session came as ITT chief executive Harold S. Geneen wound up his third appearance before the committee.

There were these highlights in the testimony:

—Geneen amended a March 13 statement by the company that he had met with more than a score of Cabinet officers, congressmen and White House aides, including presidential assistant Peter Flanigan and Rep. Bob Wilson (R-San Diego), to discuss the "serious impact" of the Nixon Administration's policy of attacking conglomerate mergers.

TELLS SUBJECTS

Geneen testified Wednesday that the subjects were revenue sharing and government reorganization when he took part in a group meeting called by Flanigan, who figured in earlier testimony on the antitrust settlement. As for his meeting with Wilson, who had a key role in lining up the Sheraton convention pledge, Geneen said they talked about a fishing trip and a speech by the congressman on modular housing.

Geneen said he had no explanation for testimony Sunday by Dita Davis Beard, the hospitalized ITT lobbyist, about a call from "someone" in the White House to an ITT official, which she said led the official to ask whether the corporation's commitment was $600,000 and whether it was for Mr. Nixon's reelection campaign. "In my mind, it isn't real," Geneen said.

Geneen was pressed by Tunney—who pointed out that a campaign contribution would be illegal—on whether he had questioned the ITT official involved, W. R. Merriam, head of ITT's Washington office. Geneen said he had not, noting that Merriam was out of town this week. He said the only commitment the company had made was to underwrite up to $200,000 of the GOP convention as a business investment for Sheraton.

PROFESSOR RETAINED

Geneen disclosed that during the antitrust battle ITT retained Donald Turner, a Harvard law school professor and former assistant attorney general in charge of antitrust cases for the Johnson administration. Turner was consulted principally on the case of Hartford Fire Insurance, the acquisition that ITT considered vital to its operations, and advised the company that there was no basis for the antitrust suit.

Eastland dismissed an analysis of a key document in the case by two experts retained by ITT, saying: "I'm going to take what the FBI says on it." The ITT report disputed a finding by the FBI laboratory that there was nothing to show that a memorandum purportedly written by Mrs. Beard was not typed on June 25, 1971, the date it carried. The ITT experts said the memorandum most likely was written last January. The document suggested a link between the antitrust settlement and the convention pledge.

Pearl L. Tytell, one of the ITT-retained document experts, is being paid $1,000 a day, according to Howard J. Aibel, ITT senior vice president and general counsel. He told Tunney that he could not state the total cost of the analysis until Mrs. Tytell submits a bill. There has been no discussion of fees with the other expert retained by ITT Walter C. McCrone of Chicago, Aibel said.

FORMER INTERNATIONAL TELEPHONE & TELEGRAPH TYPIST RECALLS PART OF MEMORANDUM REFERRING TO MITCHELL—REMEMBERS KEY SENTENCE THAT EX-ATTORNEY GENERAL KNEW OF CONVENTION PLEDGE

(By Ronald J. Ostrow)

WASHINGTON.—The former secretary for Mrs. Dita Davis Beard, the International Telephone & Telegraph Corp. lobbyist, said Friday that she recalled typing in a memorandum a key sentence dealing with former Atty. Gen. John N. Mitchell.

The secretary, Susan Lichtman, said she remembered wondering about the sentence: "John Mitchell has certainly kept it (ITT's financial commitment to the Republican convention) on the higher level only, we should be able to do the same." But she said she never asked Mrs. Beard about it, and the lobbyist mentioned nothing about the sentence.

Questioned under oath about that sentence last Sunday in a Denver hospital, Mrs. Beard said: "I don't know where in the world that mother came from."

Mitchell, testifying before the Senate Judiciary Committee that is probing allegations of a link between ITT-Sheraton Corp.'s convention pledge and settlement of ITT's antitrust cases, said he had no knowledge of the convention arrangements.

Mrs. Lichtman, now a college student in Toronto, also told a press conference in Washington that she softened an affidavit that ITT asked her for in the case. She criticized the firm for the use it made of her sworn statement.

Commenting on ITT's relation with various political figures, Mrs. Lichtman said she received a call last June or July from the office of Sen. Vance Hartke (D-Ind.), requesting use of an ITT jet for the senator. Mrs. Lichtman said such requests were "certainly not an unusual practice."

She said she called back and told a Hartke staff member, whose name she did not recall, that a plane was not available.

Hartke could not be reached for comment.

Mrs. Lichtman, who worked in ITT's congressional liaison section, said a congressman—whose name she could not recall—asked the firm to arrange for two camper vehicles to be at Le Havre, France, for his family's use in touring Europe.

The 26-year-old blonde said ITT officials prepared a draft affidavit for her to sign in Toronto, including the statement that she found the suggestion of a deal involving the convention pledge and the antitrust cases "inconceivable."

REFUSED TO SIGN

She refused to sign "anything of the sort," she said, adding: "Little in this world is inconceivable."

Instead, she agreed to make a statement saying that during her seven-week employment in ITT's Washington office she received no impression of any deal and that if there had been one she would have had "an inkling about it."

In another change in the draft affidavit, Mrs. Lichtman said she inserted the word "definitely" in stating that she recalled typing a memorandum containing some of the passages that were in the memorandum published by columnist Jack Anderson, which touched off the controversy.

Mrs Lichtman said ITT officials had not advised her that they planned to issue her affidavit as a part of a press release challenging the authenticity of the Anderson document.

She said she had told the officials that a job description memorandum, also bearing the June 25 date, had nothing to do with the memorandum she recalled typing. But ITT released the job description memo, calling it the "genuine" Beard memorandum.

Mrs. Lichtman talked with newsmen at the office of her lawyer, Bruce Terris, outgoing chairman of the Democratic Party for the District of Columbia. Terris said he had been contacted on the case through Mrs. Lichtman's brother, who had been a roommate of an attorney in Washington with whom Terris had practiced law.

MRS. BEARD IMPROVED

In Denver, doctors for Mrs. Beard said she would be released from the Rocky Mountain Osteopathic Hospital on Tuesday. She will remain in the Denver area for three or four weeks for checkups, they said.

In another development, Sen. Fred R. Harris (D-Okla.) asked the Justice Department to investigate activities of ITT in Chile for possible violation of two sections of the federal criminal code.

Anderson made public documents purportedly written by ITT officials concerning the government of Chile. ITT is part owner of the Chilean telephone system and has other holdings there.

One section of the criminal code cited by Harris makes it a crime for any U.S. citizen, without the authority of the government, to correspond or conduct intercourse with any foreign government or foreign agent ". . . to defeat the measures of the United States."

Harris said it was unclear from the Anderson documents whether ITT actually intended to defeat U.S. measures.

The second section cited by Harris makes it a crime to conspire to "injure or destroy" property in a foreign country at peace with the United States.

The senator noted that alleged company memorandums released by Anderson said

ITT had been "trying unsuccessfully to get other American companies aroused over the fate of their investments" but had made "practically no progress" in getting these other companies to help create "economic chaos" in Chile.

Dita Beard Says International Telephone & Telegraph Told Her To Ask Mitchell About Suit

(By Ronald J. Ostrow)

Washington.—International Telephone & Telegraph Corp. lobbyist Dita Davis Beard said Sunday that she was acting on instructions from corporate superiors when she approached then Atty. Gen. John N. Mitchell to discuss her company's antitrust troubles.

Mrs. Beard's description of the incident was the first acknowledgement by an ITT official that she had been asked by the company to discuss the government's antitrust attack with Mitchell at a party after last year's Kentucky Derby.

ITT has denied there was any link between the antitrust settlement and a pledge by ITT's Sheraton Corp. to underwrite the Republican National Convention by up to $200,000, as was suggested by a memorandum purportedly written by Mrs. Beard, which she has disowned as a forgery. The conglomerate also has stated that she played no role in negotiations that led to settlement of the antitrust cases.

She was interviewed on the CBS program 60 Minutes in a Denver apartment she plans to occupy Tuesday after leaving the Rocky Mountain Osteopathic Hospital, where she is recovering from a heart ailment. The interview took place Saturday, six days after an attempt by a Senate judiciary subcommittee to question her was cut short when she suffered severe chest pains. Her doctor had said she could not be questioned again by the senators for six months.

Mrs. Beard initially maintained during the interview that E. J. Gerrity, ITT senior vice president for public relations, and William R. Merriam, a vice president who heads ITT's Washington office, had not told her to ask about ITT's desire to hold on to Hartford Fire Insurance Co. in any antitrust settlement.

"No, they didn't," she said.

"Honest?" pressed interviewer Mike Wallace.

"They asked if the occasion arose . . . if there was a possibility to do it," she said.

Wallace: "So you did?"

Mrs. Beard: "So I did."

Mrs. Beard's account squared generally with Mitchell's testimony before the Senate Judiciary Committee that he rebuffed her rather strongly when she persisted in trying to discuss the antitrust matter. Mitchell had disqualified himself from the ITT cases because his former law firm, which he has since rejoined, represented an ITT subsidiary.

Mrs. Beard indicated that she had done considerable drinking before she approached Mitchell.

But she recalled the incident with more detail than Mitchell gave the senators. She said he was "most charming" at first but said she persisted and quoted him as saying, "I'm just simply not going to talk to you about it. I think it will be worked out fairly, but how I don't know. Your lawyers will have to talk to my lawyers."

She added: "I said something to the effect that I understand we have most of the lawyers in the country on retainer talking to you about it now—or talking to somebody."

AFFIDAVIT DENIED ROLE

Merriam, in an affidavit submitted to the Judiciary Committee last month, said: "I also state unequivocally that I know of nothing that would substantiate the claim that Mrs. Beard had any role in the negotiations leading to the settlement of the ITT antitrust cases."

In recalling the lobbyist's trip to the Kentucky Derby, Merriam said that while Mrs. Beard mentioned afterward that she had met Mitchell there, she "never told me of any conversation with Atty. Gen. Mitchell involving the settlement of the antitrust cases. Had the attorney general discussed the settlement of the antitrust cases with Mrs. Beard," Merriam said, "it is inconceivable that she would not have conveyed this information to me."

During the interview, Mrs. Beard again denied the controversial writing memo, which was published by columnist Jack Anderson. Anderson's assistant, Brit Hume, has sworn that Mrs. Beard admitted to him that she wrote it.

QUESTION ON MEMO

Wallace: "Not Brit Hume says, not just the first day, but the next night at your house, you told him several times, over and over, 'I wrote it, there's no doubt about the fact that I wrote it.' "

Mrs. Beard: "Well, he remembered his notes so well that night . . . that he called me the next day to check a few of the things that he had said . . . I said, 'just a minute, you dear boy, I said nothing of the sort last night and I had quite a few witnesses in this house' . . . My son was in the kitchen most of the time. My doctor was there more than half the time."

Wallace: "Well, your doctor testified that you had said that you had written it when you were mad and disturbed. We're talking about Dr. (Victor) Liszka."

Mrs. Beard: "Poor Victor. Did he say that?"

Wallace: "Sure he did."

Mr. Beard: "He gets to mixed up. He tries to translate Hungarian to English and it never works."

CHARGE REPEATED

Mrs. Beard also repeated a charge made by her former secretary that Sen. Vance Hartke (D-Ind.) had used ITT planes. Asked about a statement attributed to her saying that certain individuals "want to use our planes all the time, don't they know that the company has to use the planes, too?" Mrs. Beard, replied: "Well, I did (make the statement) because I was getting calls from people who wanted—the gentlemen she mentioned felt like this was a sort of personal taxicab company."

Asked then, "Vance Hartke?" Mrs. Beard replied: "Yeah."

Hartke has denied the charge.

Mrs. Beard elaborated on her remark in Senate testimony that someone at ITT "seemed to be out to put a period to my career," but named no names.

Firm Accused of Unloading ITT Stock Before Antitrust Settlement

(By Ronald J. Ostrow)

Washington.—The investment banking firm in which International Telephone & Telegraph Corp. Director Felix G. Rohatyn is a partner unloaded "hundreds of thousands of shares" of International Telephone & Telegraph Corp. stock in the weeks immediately before the company's antitrust suits were settled, a Ralph Nader associate said Monday.

Rohatyn met five times with then-Dep. Atty. Gen. Richard G. Kleindienst and, according to Kleindienst's testimony before the Senate Judiciary Committee, set in motion the procedures which led to the settlement last July 31.

In a letter to Sen. James O. Eastland (D–Miss.), Judiciary Committee chairman, Reuben B. Robertson III, an associate of Nader, urged the committee to investigate this aspect of the International Telephone & Telegraph case.

Robertson described as "fundamentally misleading" testimony by Rohatyn that his Wall Street firm of Lazard Freres & Co. was both buying and selling ITT stock during the entire period of anti-trust negotiations between ITT and the Justice Department.

He said the statement "did not properly indicate the magnitude of the sales."

Robertson, who joined Nader in an unsuccessful bid to overturn the merger of ITT with the Hartford Fire Insurance Co., said ITT stocks suffered a net drop in market value of $1.25 billion immediately following announcement of the settlement.

PERIOD OF NO SALES

Rohatyn told a reporter Monday that all of Lazard Freres' sales of ITT securities during the period of settlement negotiations resulted from "unsolicited orders received by the firm from its clients."

From last June through August, Rohatyn said, "no shares of ITT securities were sold for the account of Lazard Freres, any of its partners or their families—directly or indirectly."

Rohatyn said that during the period his firm handled as a broker both purchases and and sales of ITT securities on behalf of its clients. "As a matter of policy, we don't identify clients."

He said he had no idea whether Robertson's figures were correct.

Robertson, citing testimony before the committee, said the Justice Department's offer to settle the ITT antitrust cases, rather than fight them out in the Supreme Court, was privately communicated to Rohatyn last June 17.

He said that in the weeks immediately preceding announcement of the settlement Lazard "was perhaps the most active seller in the world of ITT Series N preferred stock—the stock which had been issued in exchange for Hartford fire stock." He said the investment banking firm had unloaded "hundreds of thousands of shares upon the public and upon trust and pension funds throughout the country."

As one example, he cited a series of sales by Lazard of the Series N stock to the State Teachers Retirement System of Ohio, a pension fund established for thousands of teachers in that state.

About July 1, Lazard sold 30,000 shares of the stock to the fund.

About July 7, another 40,600 shares were sold to the same pension fund, which bought a total of 120,000 shares of Series N ITT stock during the entire month, according to Robertson. The prices of the sales ranged from about $78 to almost $83 dollars a share, while on the first trading day after the settlement was announced the stock dropped to about $69 a share, he said.

In Columbus, Ohio, officials of the state attorney general's office said they had been investigating for several weeks whether any securities violations had occurred which damaged the teachers pension fund.

Mansfield Expects OK for Kleindienst—Says Foes of Nomination Failed "To Build a Case"

(By Ronald J. Ostrow)

Washington.—Senate Majority Leader Mike Mansfield (D-Mont.) said Tuesday that opponents of Richard G. Kleindienst's nomination as attorney general had failed to "build a case against him" and predicted that he would win Senate confirmation "as of now."

At the same time, Mansfield said the Senate Judiciary Committee should "call the witnesses needed to clear up the Kleindienst matter."

The committee meets in executive session Thursday to consider whether to continue its hearings.

Mansfield's comments in a meeting with newsmen raised the prospect that the committee would reach a compromise between Republicans who want to cut off the inquiry and Democratic liberals who have a list of nearly 20 witnesses they want to question.

Meanwhile, it was learned that an aide to Sen. John V. Tunney (D-Calif.) spent four days in San Diego last week collecting "written information" on allegations that the Justice Department squelched an investigation into allegedly illegal GOP campaign contributions.

Tunney said he would use the material, collected by his assistant, Thomas Gallagher, to try to persuade the committee to consider the allegations before it voted again on the Kleindienst nomination.

The information collected by Gallagher, Tunney said, supplements a document in the case that he previously said he would turn over to the committee. He said he hoped the material would have great weight with at least enough committee members to broaden the hearing.

So far, the committee has focused on allegations that the Justice Department's settlement of International Telephone & Telegraph Corp.'s Antitrust cases was linked to a pledge by ITT's Sheraton Corp to help finance the Republican convention.

TUNNEY'S CLAIM

Tunney said Kleindienst was directly involved in the separate campaign contribution investigation because he personally cleared Harry Steward, U.S. attorney in San Diego, of any wrongdoing in the matter.

If the committee agrees to broaden the hearing, the question of what material Kleindienst reviewed in clearing Steward in February, 1971, is likely to become paramount. Tunney is convinced that the material he has would have barred any such decision.

Mansfield restricted his comments to the ITT matter. Justice Department officials, including Kleindienst, and ITT executives have denied charges that the antitrust settlement and the convention pledge were linked. The charge was based on a memorandum purportedly written by ITT lobbyist Dita Davis Beard.

LOBBYIST CHECKS OUT

Mansfield said other aspects of ITT's operations, such as the firm's alleged involvement in a plot against Chilean President Salvadore Allende, should be disassociated from Kleindienst so that his confirmation can "come to a head."

Meanwhile, Mrs. Beard checked out of the Rocky Mountain Osteopathic Hospital in Denver before dawn Tuesday. A hospital spokesman said she would receive treatment as an outpatient for a heart ailment for three to four weeks.

She is living in an apartment in the Denver area where she was interviewed last Saturday by CBS television. The interview has raised questions among some Judiciary Committee members. Her doctor had stated she could not be questioned by senators for six months after their first attempt was cut short because she suffered severe chest pains during the hospital room hearing.

KLEINDIENST'S ROLE IN INQUIRY HELD MINIMAL

(By Ronald J. Ostrow)

WASHINGTON.—The Justice Department Wednesday described as minimal the role of acting Atty. Gen. Richard G. Kleindienst in clearing U.S. Atty. Harry Steward of improper interference in a campaign contribution investigation in San Diego.

The characterization by John W. Hushen, the department's public information director, came on the eve of an attempt by liberal Democrats to persuade the Senate Judiciary Committee to investigate the matter before voting again on Kleindienst's nomination as attorney general. Hushen made the comment in response to a question.

In clearing Steward on Feb. 17, 1971, Kleindienst accepted the recommendation of the Justice Department's criminal division "after reviewing what the facts were," Hushen said, "I would call that a relatively minimal role."

Asked whether the recommendation included an internal censure of Steward, Hushen declined comment.

It was learned that an FBI probe of the matter established that Steward had blocked federal investigators from subpoenaing Frank A. Thornton, an executive of Barnes-Champ advertising agency, a target of the campaign contribution investigation.

Thornton, 1968 chairman of President Nixon's campaign in San Diego, is an associate of C. Arnholt Smith, San Diego banker and financial supporter of the Nixon campaign.

JUDGESHIP TIE

Steward, over objections of three federal agents, questioned Thornton himself, the FBI found. Before Steward was named U.S. attorney by Mr. Nixon, Steward and Thornton worked together as Republican fund-raisers, and Steward was reported to have told the agents that he expected Thornton to help him gain appointment as a federal judge.

Details of the criminal division recommendation could not be learned. However, Kleindienst said in his 1971 statement that charges involving Steward "were exhaustively investigated by the bureau and a report was made to the Department (of Justice). I have evaluated the matter and determined there has been no wrongdoing."

At the closed-door Judiciary Committee meeting today, the senators will consider whether to continue hearings, which so far have focused on relations between International Telephone & Telegraph Corp. and the Justice Department.

COMPROMISE SEEN

The outlook is for a compromise to emerge between Republicans, who want to cut off the inquiry or at least sever the Kleindienst nomination from any continued hearings, and Democrats, who are pushing for more witnesses.

Sen. John V. Tunney (D-Calif.), who has said he has a document and other information supporting allegations against Steward published by Life magazine, said he would ask the committee to receive testimony from Denny Walsh, author of the Life article, and six to eight other witnesses on the matter.

Tunney added that he would urge the committee to subpoena "at least half a dozen" documents on the San Diego investigation.

There were these other developments:

The Ripon Society, a liberal Republican organization, said that if Republican senators cut off the hearings "the Democratic Party will have been handed a whitewash issue on a silver platter for the 1972 campaign."

Senate Minority Leader Hugh Scott of Pennsylvania, urging that Senate debate on Kleindienst's nomination begin promptly, said the hearings no longer had "any real bearing on Kleindienst despite the best efforts of the wrecking crew."

SENATE UNIT TO VOTE TODAY ON EXPANDING KLEINDIENST INQUIRY

(By Ronald J. Ostrow)

WASHINGTON.—Amid suggestions of possibly perjured testimony on the ITT case, the Senate Judiciary Committee agreed Thursday to vote today on the nomination of Richard G. Kleindienst as attorney general.

Under the compromise proposal, up to nine more days of hearings could be held, and the committee would examine Kleindienst's role in allegedly squelching a politically sensitive investigation in San Diego.

Sen. James O. Eastland (D-Miss.), Judiciary Committee chairman, predicted that the compromise offered by Sen. Robert C. Byrd (D–W. Va.), would carry.

OUTLOOK STILL IN DOUBT

The outlook remained in doubt, however, both because of Republican desires to cut off the inquiry and concern among Democrats over whether they would be guaranteed procedures that would allow them to investigate effectively within the time limit.

Sen. Roman L. Hruska (R-Neb.), emerging from the closed-door session, denounced the proposal to continue the hearings upon April 20 as "an abomination."

"In a country where speedy trials are sought, the committee will be asked to double the time of a hearing that has already lasted longer than any in the memory of anyone on the committee," Hruska said.

Sen. Quentin N. Burdick (D-N. D.) said he opposed the compromise because it gave no assurance that Dita Davis Beard, the International Telephone & Telegraph Corp., lobbyist, would be called for more testimony.

Mrs. Beard, the purported author of a memorandum suggesting a link between the settlement of ITT's antitrust cases and a pledge by ITT's Sheraton Corp. subsidiary to help finance the Republican National convention, previously was cut short when she suffered severe chest pains while being questioned by senators in her Denver hospital room.

The suggestions of perjury were raised by Sen. John V. Tunney (D-Calif.), who turned over what he said was a transcript of a tape recorded interview that Rep. Bob Wilson (R-Calif.) gave to the San Diego Union March 3.

Tunney said the transcript, in which Wilson recounts a conversation he had with Mrs. Beard, "raises the possibility of three counts of perjury" in statements previously given the committee.

He pointed to testimony by Harold S. Geneen, ITT's chief executive, and Mrs. Beard and a sworn statement by William R. Merriam, ITT's vice president in charge of the Washington office.

CONVENTION PLEDGE

Geneen testified that ITT Sheraton's only commitment in connection with the GOP convention in San Diego was for a maximum of $200,000. Wilson told of Geneen pledging up to $400,000.

Mrs. Beard, in her hospital-room testimony, said she did not write the memorandum in its entirety, but made no such claim in the conversation that Wilson related.

Merriam said in his sworn statement that he had never seen the memorandum addressed to him until an associate of columnist Jack Anderson brought it to ITT's office before publishing a column based on it. Wilson quoted him as saying that he had received the memo.

Eastland said the compromise on holding further hearings includes a provision for calling California witnesses to testify about allegations that Harry Steward, U.S. attorney in San Diego, interfered with federal campaign contribution investigations involving C. Arnholt Smith, a prominent Republican fund raiser and friend of President Nixon, and Frank Thornton, an advertising executive and associate of Smith.

AFFIDAVIT GIVEN

It was learned Thursday night that the Justice Department had submitted an affidavit on tne Steward matter to the Judiciary Committee from Henry E. Petersen, assistant attorney general in charge of the criminal division.

Petersen told of Kleindienst authorizing an administrative inquiry into allegations against Steward and then accepting a criminal division recommendation that the findings were not sufficient to warrant dismissal of Steward.

Petersen noted in the affidavit, however, that the division found that Steward had not conducted himself in accordance with department procedure.

He did not discuss in detail an FBI investigation of the allegations, which found that Steward had quashed a subpoena for Thornton, whom the U.S. attorney described as a friend who had helped him gain his appointment.

Tunney, who spearheaded the effort to broaden the Kleindienst hearing into the Steward matter, turned over to the committee Thursday a Dec. 10, 1970, affidavit from A. David Stutz, a former Internal Revenue Service agent, detailing Steward's alleged interference in federal investigations.

Tunney said Stutz's statement "confirms in every respect" three charges against Steward.

They included Steward's alleged obstruction of the investigation of illegal contributions to Mr. Nixon's 1968 campaign by blocking the subpoena against Thornton, cutting off an independent IRS probe of the same matter and leaking secret grand jury information to Thornton.

Tunney said an investigation by his office found that two other federal agents also gave sworn statements supporting the charges.

Despite the affidavits, Tunney said, Kleindienst formally cleared Steward of wrongdoing Feb. 17, 1971.

"Mr. Kleindienst's own statement that he personally evaluated this matter and made the determination that there was no wrongdoing confirms both his involvement and his responsibility," Tunney said.

WITNESS RULINGS

If the compromise for resuming hearings is adopted, Eastland will have the power to rule whether questions of witnesses are sufficiently related to Kleindienst.

Tunney and Sen. Edward M. Kennedy (D-Mass.) said the committee had raised no objections about a list of more than 20 witnesses they want to call on both the ITT and San Diego investigation matters.

The proposed witnesses include Smith and Thornton, Lt. Gov. Ed Reinecke, Ed Gillenwaters, chairman of the state Department of Commerce, White House aides Peter Flanigan and William Timmons, Steward and Denny Walsh, author of a Life magazine article giving details of the accusations against Steward.

PARALLELS SEEN IN 1970 MERGER OF INTERNATIONAL TELEPHONE & TELEGRAPH-HARTFORD

(By Robert L. Jackson)

WASHINGTON.—The role of officers of International Telephone & Telegraph Corp. in another aspect of the politically tinged case—the approval by Connecticut of ITT's acquisition of Hartford Fire Insurance Co.—is revealed in a recently concluded court battle.

Public files here and in Hartford, Conn., show dealings between ITT and political figures in 1970 that provide a curious parallel with current Senate hearings.

But the politicians in 1970 were Democrats—principally Rep. William R. Cotter of Connecticut, then his state's insurance commissioner.

The tale of corporate political involvement spelled out in the testimony includes:

Intensive lobbying of Cotter by ITT officials including Harold S. Geneen, president and board chairman.

ITT's recruitment of an attorney friend of Cotter's to help in the lobbying effort, despite the fact that giant conglomerate had Washington legal talent.

OVERTURNED IN COURT

Allegations that ITT was investigating Cotter while he was running for Congress and considering the company's merger proposal at the same time.

An unusual closed-door meeting which Cotter and Democratic Hartford city officials held with ITT executives the day before Cotter finally approved the Hartford acquisition. Purpose of the meeting was to extract a firm ITT pledge to support a financially troubled Civic Center project in Hartford.

The state court case, initiated 22 months ago by consumer advocate Ralph Nader, was overturned last week by Superior Judge Walter J. Sidor.

Sidor said Nader and an associate, Washington lawyer Reuben B. Robertson III, did not prove they were aggrieved parties and, therefore, did not have standing in the court. Nader said the decision would probably be appealed.

The judge's decision came after Cotter, Geneen and other figures in the case had given lengthy sworn testimony.

Cotter said he met with ITT and Hartford city officials shortly before announcing his merger decision to determine "whether ITT was sincerely interested in building a Sheraton Hotel in Hartford."

TRIAL TRANSCRIPT

The court transcript shows this question and answer followed:

"Question—Were any other possible civic contributions by ITT to the Hartford community discussed among the participants at that meeting?

"Answer—I seem to recall a statement that I was queried as to whether a contribution would be made to the Civic Center. This contribution would be on the basis of other businesses in the city doing likewise."

The meeting on May 22, 1970, was held at a stoneyard outside Hartford operated by J. Michael Kell, chairman of the Democratic Town Committee. Later the group toured the Civic Center site in an ITT automobile.

Cotter testified that ITT officials Howard J. Aibel and Edward J. Gerrity were asked "what their thoughts were with respect to the Civic Center (and) whether there was substance and sincerity behind their statement that they wanted to become a participant in the Civic Center and a builder of the Sheraton Hotel."

They replied, according to Cotter, that "they fully intended to build a Sheraton Hotel."

The Civic Center project was then in deep financial trouble, with cost projections running $7 million above the $15 million bond issue voters had approved.

John M. Fitzgerald, former city counsel of Hartford, qouted Cotter as saying prior to this meeting:

"'As long as I am going to approve this merger, we might as well do something for the city of Hartford . . . I would like to see the city of Hartford benefit from it.'"

Cotter denied saying this, but told the court, "I love Hartford."

He also said ITT officials played no role in his successful campaign for Congress, on which he spent $100,000.

It was brought out in court testimony that the proposed merger was highly unpopular among Hartford residents, who feared their local company might be moved or that jobs would be reduced.

Cotter had rejected a similar ITT-Hartford merger proposal in December, 1969. The conglomerate subsequently promised not to relocate the insurance firm or reduce personnel.

PRESSURE TOLD

It was the Justice Department's later challenge of this merger and of other ITT acquisitions that led to the controversial antitrust settlement with ITT last July 31. The giant firm was allowed to keep the Hartford company.

Cotter testified he was under heavy pressure from all sides before his decision on May 23, 1970.

He met twice with Geneen, the testimony shows, including a Saturday morning meeting that occurred after formal hearings on the proposal had concluded.

Geneen and Cotter testified that the session was cordial and that they discussed Florida fishing and Geneen's school days in Connecticut, in addition to the matters at issue.

Another ITT representative who made repeated calls on Cotter was Joseph Fazzano, a Hartford lawyer. Fazzano, whom Cotter said he had known for six years, was retained by the company in addition to the Washington law firm of Covington & Burling.

Fazzano was retained, according to the testimony, after formal hearings were concluded in March, 1970, but before Cotter announced his decision two months later.

COTTER UNAVAILABLE

"None of these ex-parte meetings were made a part of the record of these proceedings," Nader charged in a plaintiff's brief filed last January.

"Even written matters were presented which did not find their way into the public record. No public notice was given that such meetings and presentations were to be held, and no members of the public had an opportunity to attend, or to rebut whatever statements or assertions might be made."

An aide to Cotter said he was taking a couple days rest and was not immediately available to discuss issues raised in the lawsuit.

One of the most bizarre aspects was Cotter's testimony that an insurance industry official told him in early 1970 he heard Cotter was being investigated by ITT.

Cotter said he checked out the report and decided it was false. ITT told the court there was no investigation "except for casual inquiries about the prior experience of Commissioner Cotter."

ANALYST DISAGREES WITH ITT TESTIMONY

(By Ronald J. Ostrow)

WASHINGTON.—The author of a key financial study in the ITT antitrust settlement Monday disputed testimony about his analysis given earlier by Atty. Gen.-nominee Richard G. Kleindienst and U.S. Dist. Judge Richard W. McLaren.

Richard J. Ramsden's testimony prompted Sen. Birch Bayh (D-Ind.) to urge that Kleindienst and McLaren, former head of the Justice Department's antitrust division, be called back for more testimony by the Senate Judiciary Committee. Kleindienst's nomination is pending before the committee.

The committee is investigating allegations of a link between settlement of three International Telephone & Telegraph antitrust cases and a pledge by ITT Sheraton Corp. to help finance the Republican National Convention in San Diego.

"In no way" could his report be read to support the claim that breaking apart ITT and Hartford Fire Insurance Co. would have adverse "ripple effects" on the stock market, Ramsden said.

McLaren testified that fear of such an effect was one reason he changed his mind and settled the ITT cases, allowing ITT to retain Hartford.

Ramsden said his analysis would provide only "modest" support for the claim that divestiture of Hartford would adversely affect the nation's balance of payment, another assertion advanced by ITT.

Kleindienst testified March 2 that McLaren arranged for an independent consultant "to furnish an opinion as to whether or not the information supplied by ITT was accurate and whether or not the projected consequences would accrue."

That was "not my understanding" of the assignment, Ramsden told the committee Monday. He said he was to make an "independent financial analysis" of the impact of divestiture and "not in any way a critique of someone else's work."

Ramsden said that McLaren's assessment that breaking apart ITT and Hartford would have "devastating financial consequences" to more than 250,000 ITT shareholders "is a little strong."

NIXON ADVISER

Ramsden's description of receiving his assignment from Peter M. Flanigan, President Nixon's adviser on the business community, intensified pressure for Flanigan to appear before the committee. The White House has turned down a committee invitation for Flanigan, invoking executive privilege.

Ramsden's testimony "makes it more imperative than ever that Mr. Flanigan appear." said Sen. Sam J. Ervin Jr. (D-N.C.).

It was learned that some Justice Department officials had counseled against the White House's swift refusal to permit Flanigan to testify prior to the committee's vote on whether to subpoena him. Motions for a subpoena were subsequently rejected by a tie vote of the committee.

This fueled speculation that the refusal, expressed in a letter from John W. Dean III, counsel to the President, was the White House's way out of the seven-week battle over Kleindienst's nomination—in effect undercutting it. Some White House officials who opposed Kleindienst's nomination are known to have been further alienated by his request for the hearing in the wake of allegations of a link between the antitrust settlement and the convention pledge.

Ramsden testified that his only contract with Administration officials on preparing the financial analysis was with Flanigan, with whom he had been associated at the investment banking firm of Dillon, Read & Co. from 1961 to 1965.

Ramsden said he was not surprised at being contacted by Flanigan rather than McLaren directly. "He was the logical person to know where I was," Ramsden said.

Ramsden said Flanigan gave him only one document in connection with his study, one that he learned from committee testimony had been prepared by ITT to present its arguments against forced divestiture.

He said Flanigan was "somewhat reluctant" to give it to him, and its only purpose was "to focus on what I was to focus on."

Ramsden conceded that the ITT report and his own reached the "same general conclusion"—that divestiture could cost ITT shareholders $1.2 billion in market value of their stock.

Two Key Senators Oppose Kleindienst

(By Ronald J. Ostrow)

Washington.—Angered by the refusal of White House aide Peter M. Flanigan to testify, two influential conservatives on the Senate Judiciary Committee said Wednesday they would oppose Richard G. Kleindienst's nomination as attorney general.

"I think the nomination is in great trouble," said Sen. Robert C. Byrd (D-W. Va.), the Senate majority whip. He was one of those who said he would vote against Kleindienst unless Flanigan appeared or unless questions related to his involvement in the ITT affair were answered.

The other, Sen. Sam J. Ervin Jr. (D-N.C.), who led an unsuccessful effort inside the committee to subpoena Flanigan, said: "The Senate ought not to vote in the dark especially when the White House is withholding relevant information."

CONFIRMATION PREDICTED

But Committee Chairman James O. Eastland (D-Miss.), while conceding that Ervin was "a man of vast influence in the Senate," reiterated his prediction that Kleindienst would be confirmed.

The committee, dividing along party lines, defeated by 6-6 tie votes Wednesday three motions to subpoena Flanigan. A compromise by Byrd to invite Flanigan to testify in a closed session was defeated by a 9-4 vote.

Eastland did not vote on the motions that lost by ties. One would have subpoenaed Flanigan, White House aide William Timmons and "any other White House or Justice Department employe mentioned" in the hearings, which so far have run 15 days.

In another aspect of the Kleindienst hearing, the committee voted 9 to 2 against taking testimony from two former investigators for a federal strike force in San Diego on charges that U.S. Atty. Harry Steward improperly intervened in an investigation of allegedly illegal contributions to President Nixon's 1968 campaign.

However, the committee agreed to invite Steward to testify about his 1970 conversation with then Dep. Atty. Gen. Kleindienst, before Kleindienst initiated an FBI inquiry into the matter.

In February, 1971, Kleindienst cleared Steward of any wrongdoing despite a finding by the Justice Department's criminal division that his interference was "highly improper." Steward is expected to testify before the Senate committee today.

In a letter released by Eastland Wednesday, John W. Dean III, counsel to the President, turned down the committee's invitation of last Friday for Flanigan to testify.

"PRINCIPLE ESTABLISHED"

Dean said "the principle that members of the President's immediate staff not appear and testify before congressional committees with respect to the performance of their duties is firmly established."

He said Flanigan's involvement in settlement of antitrust suits against International Telephone & Telegraph Corp. "was as stated by U.S. Dist. Judge (Richard W.) McLaren in his sworn testimony" before the committee.

McLaren, who headed the Justice Department's antitrust division when the ITT suits were settled, testified that he had apparently asked Flanigan to arrange for Richard J. Ramsden to conduct "an independent appraisal" of ITT's financial arguments for reversing course and settling the cases.

The appraisal by Ramsden, a former business associate of Flanigan, was one of four factors that led him to change his mind, McLaren said. Senators who favored questioning Flanigan wanted to ask him whether he had given any instructions to Ramsden, whether he had any contact with ITT or discussion with other Administration officials about the matter.

Byrd said the Kleindienst nomination was in jeopardy "in large measure because of Flanigan but overall because of doubt and concern I have and the public has about relations between the White House and large corporations."

Administration witnesses have praised the ITT antitrust settlement as the largest divestiture—$1 billion in assets—in history. Critics on the committee counter that the settlement prevented the government from getting a Supreme Court ruling on its policy of applying present antitrust law against conglomerate mergers.

CONTROL RETAINED

Under the settlement, the company was permitted to retain control of Hartford Fire Insurance Co., which ITT thought was vital to its financial well being, and part of a second firm, Grinnell, Inc.

However, ITT agreed to give up control over Canteen Corp., a large food vending firm; Avis Rent-A-Car System; Levitt & Sons, Inc., a home building concern; two small insurance companies and the fire-protection division of Grinnel.

Only Sens. Edward M. Kennedy (D-Mass.) and John V. Tunney (D-Calif.) voted to question the two former San Diego strike force investigators, A. David Stutz and Richard Huffman.

But it was agreed the committee staff would question Michael DeFeo, a third federal investigator reported to be unhappy over Steward's intervention, and Eastland will decide if his testimony would be relevant.

DOES NOT AGREE

In an interview Wednesday night, Huffman disputed the description of the Steward matter given the committee Tuesday by Asst. Atty. Gen. Henry E. Petersen.

Petersen said the investigators had not launched an immediate formal complaint after Steward blocked a subpoena for the testimony of Frank Thornton, a San Diego advertising executive and associate of C. Arnholt Smith, a fund-raiser for Mr. Nixon.

"Stutz and I complained like mad to Justice Department officials in California," Huffman said. "We considered the matter serious. I don't know what they did with the complaints."

Huffman, who along with Stutz is now with the San Diego District Attorney's office, said the investigators were trying to determine whether Thornton, Smith and Charles Pratt, former president of San Diego Yellow Cab, were involved in a conspiracy to channel illegal campaign contributions through the Barnes-Champ Advertising Agency.

In other development the committee agreed unanimously to ask two Denver heart specialists to reexamine Mrs. Dita Davis Beard, the ITT lobbyist who denies writing a memorandum linking settlement of the antitrust cases with a pledge by ITT Sheraton Corp. to help finance the Republican National Convention in San Diego.

Mrs. Beard's hospital room questioning by the committee was cut short when she suffered severe chest pains and her physician, Dr. L. M. Radetsky, said she could not testify again for six months. Six days later she was interviewed for 90 minutes for CBS television.

U.S. Investigating Second Doctor in Beard Case

(By Robert L. Jackson)

Washington.—The Denver physician who has been treating Dita Davis Beard, a key figure in the International Telephone & Telegraph Corp. case, is under federal investigation for alleged Medicare fraud, Sen. Edward M. Kennedy (D-Mass.) disclosed Tuesday.

The case involving Dr. L. M. Radetsky, a cardiologist, appeared similar to that facing the doctor wife of Dr. Victor L. Liszka, another of Mrs. Beard's doctors.

Dr. Radetsky announced recently that Mrs. Beard, the ITT lobbyist, would be unable to talk to senators again for six months.

In disclosing the investigation in a letter to Sen. James O. Eastland (D-Miss.), chairman of the Judiciary Committee, Kennedy accused the Justice Department of incompetence or willful concealment in failing to advise the committee of Radetsky's troubles.

CALLED "ROUTINE"

Radetsky reached in Denver, said the federal investigation was "routine" and that it involved $6,000 to $7,000 in disputed doctor's fees. He said the probe had not affected his actions in the Beard case.

The Radetsky case recalled that of Dr. Katherine V. Greene, Dr. Liszka's wife, who was recently indicted in Alexandria, Va., on Medicare fraud charges.

Liszka testified last month that Mrs. Beard was "mad and disturbed" when she purportedly wrote a controversial memorandum that kicked off the ITT affair.

Although Radetsky has refused to allow Mrs. Beard to resume her Senate testimony—it was halted abruptly when the lobbyist collapsed while testifying March 26—Mrs. Beard temporarily left her Denver hospital six days later to tape a CBS television interview.

Radetsky said the interview occurred without his knowledge or permission.

He said he had never discussed with members of the Justice Department his evaluation of Mrs. Beard's condition or her Senate testimony.

Kennedy, a member of the Judiciary Committee, which is conducting the ITT hearings, charged in his letter:

"During the very period when the committee was relying heavily on Radetsky's judgments and assessments on matters of utmost importance to the acting attorney general (Richard G. Kliendienst), this committee remained uninformed of the federal investigation of Dr. Radetsky.

"Since the Department of Justice was directly involved in the handling of Radetsky's case, I am forced to conclude that the department's actions show at least the grossest incompetence and insensitivity . . . and at most a willful attempt to interfere with the proper functioning of this committee."

Kennedy said the Social Security Administration based on a 1971 investigation, ordered a halt to all further Medicare payments to Radetsky last Jan. 18.

He said the Social Security Administration had referred the case to the U.S. attorney at Denver "with a recommendation for prosecution" and that Radetsky's case might be considered by a federal grand jury in the next few weeks.

DENIES SECRECY

Henry E. Petersen, assistant attorney general in charge of the criminal division, told Kennedy he only learned of the Radetsky investigation Tuesday morning. He denied withholding information from the committee.

In related developments Tuesday:

Rep. Bob Wilson (R-Calif.) said an investigation should be made to determine if William R. Merriam, who heads ITT's Washington office, has committed perjury.

Merriam has denied receiving any memo from Mrs. Beard on financing of the GOP National Convention. Wilson has said Merriam told him a month ago he did receive such a memo.

Rep. Chet Holifield (D-Calif.) denied a charge by syndicated columnist Jack Anderson that Holifield received a $500 cash "payoff" from ITT for writing a letter to the Air Force on behalf of an ITT subsidiary.

Holifield, dean of the California Democratic delegation, said he wrote then-Air Force Secretary Harold Brown on Dec. 19, 1918, to ask "fair consideration" for a Los Angeles firm, the ITT-Gilfillan Co.

Gilfillan was in competition with other firms to sell a ground-control radar device to the Air Force and the letter was similar to "hundreds" of others he has written for Southern California companies, Holifield said.

Gilfillan did not receive the contract Holifield said he neither sought nor received any payment from ITT and has no record of any such amount representing a campaign contribution.

Robert L. Schmidt, director of public affairs at ITT's Washington office, who was alleged by Anderson to have made the payoff, also denied the charge.

In a statement, Schmidt called Anderson's charge "completely false, misleading and destructive to my name and reputation."

Mrs. Beard's Boss Denies He Ordered Her To Write Memo

(By Ronald J. Ostrow)

WASHINGTON.—The head of International Telephone & Telegraph Corp.'s Washington office disputed under oath Monday lobbyist Dita Davis Beard's sworn testimony that he instructed her to write a memorandum which touched off the ITT controversy.

That and other conflicts between testimony by William R. Merriam and Mrs. Beard prompted Sen. John V. Tunney (D–Calif.) to call for a federal grand jury to consider possible perjury charges.

Testifying before the Senate Judiciary Committee, Merriam also denied Mrs. Beard's statement that he became confused over ITT's commitment to help finance the Republican National Convention and asked her whether it was a $600,000 contribution to President Nixon's reelection campaign.

PERPLEXED OVER TESTIMONY

Rep. Bob Wilson (R–San Diego) appeared to leave senators equally perplexed over his testimony. He said that Mrs. Beard told him over a month ago that she did not write the memorandum, but he also testified that he had failed to mention her denial in at least three interviews soon after he talked with her.

The hearing room tension produced by close questioning over the challenged testimony was relieved several times by eruptions of laughter over Merriam's sometimes startling responses.

Sen. Sam J. Ervin (D–N.C.) asked Merriam whether it was ITT's policy to destroy records—a step the firm took after columnist Jack Anderson published a memorandum purportedly written by Mrs. Beard, which seemed to link settlement of ITT's antitrust suits with the firm's convention financing pledge.

"It is when you have a memo like that get out," Merriam replied. "There might have been a lot of others in there (the files) like that. Sen. Ervin, you never know what's in the files of a corporation. I wasn't taking any chances."

At another point Merriam, in explaining why he initially told Wilson he had received Mrs. Beard's memorandum said he receives "hundreds of memos."

"Not alleging what was in the Anderson-Beard memorandum, I hope?" asked Tunney.

"You'd be surprised," Merriam said.

After the laughter subsided, Tunney said: "The Anderson-Beard memorandum alleges a gross impropriety by your company. I assume as head of the Washington office you would remember."

Merriam said that in telling Wilson shortly before the Anderson column ran that he had received the memorandum, "I fudged a little bit." He said he was "in a state of confusion" over the memo's authenticity.

"HEDGED," OFFICIAL SAYS

Under questioning by Ervin, Merriam changed the verb to "hedged," saying it "is a better word than fudged."

Ervin: "You concealed the truth."

Merriam: "No, I did not—honestly."

Ervin: "Don't you conceal the truth when you hedge?"

Merriam: "You slip a little bit . . ."

Merriam said he led Mrs. Beard to believe he had received a White House inquiry about the convention commitment even though he had actually talked to Jack Gleason, an ITT consultant and former White House staff member.

He testified that he asked Gleason to check on plans for the GOP convention after Mrs. Beard told him of "A commitment of some type by ITT" toward bringing the convention to San Diego.

Mrs. Beard "has a strong antipathy toward Mr. Gleason," Merriam said. "To avoid telling Mrs. Beard that I had called on Mr. Gleason to check what she had told me about the San Diego convention, I simply told her that I had received the inquiry from the White House and did not disclose to her the background of my conversations with Mr. Gleason."

Ervin, saying Merriam had "admitted to the committee your attempt to deceive" Mrs. Beard, asked him how he expected the senators to place credence in his testimony.

"That's a very unfair question, Senator" said Philip Gilbert, Merriam's lawyer who sat alongside his client. Gilbert attempted to distinguish between a statement to a subordinate and testimony under oath.

"Truth is truth whether told under oath or not," Ervin said.

Wilson offered various explanations for his month-long silence on the authenticity of the memorandum published by Anderson.

Referring to a March 3 interview with the San Diego Union where he raised no question about the authenticity, Wilson said: "It was so obviously a questionable memo that I didn't even raise the point."

Wilson also dismissed his failure to challenge the memo in interviews with San Diego television reporter Harold Keen and with the San Diego Tribune, saying: "I didn't have any obligation . . . I wasn't connected with the memo."

Wilson said he was embarrassed by having the San Deigo Union interview, which he said he thought was "off-the-record" in the "hands of a Senate investigating committee. It's like taking Candid Camera along on your honeymoon."

The committee, which reopened its confirmation hearing of Richard G. Kleindienst to be attorney general at his request, resumes today with testimony expected from John Ryan, Merriam's deputy, and Asst. Atty. Gen. Henry E. Petersen.

Compromise Sought in Kliendienst Impasse

(By Ronald J. Ostrow)

WASHINGTON.—Sen. Charles M. Mathias (R-Md.) said he was hopeful Thursday of a compromise in the next two days that would break the impasse over executive privilege that is jeopardizing the nomination of Richard G. Kleindienst as attorney general.

Mathias cited "informal sessions" held by the Senate Foreign Relations Committee with Henry A. Kissinger, President Nixon's national security adviser, as a pattern for a possible solution.

He said he and other undientified members of the Senate Judiciary Committee have been discussing a compromise with White House officials, whom he did not name.

The White House invoked executive privilege Monday in turning down a committee invitation for presidential aide Peter M. Flanigan to testify about the role he played in settlement of antitrust suits against International Telephone & Telegraph Corp.

This caused a break in the ranks of committee conservatives who had been solidly behind Kleindienst. Sens. Robert C. Byrd (D-W. Va.) and Sam J. Ervin Jr. (D-N.C.) said they would vote against the nominee unless Flanigan testified.

Despite Mathias' optimism, other Republican sources said they doubted the White House would go far enough to satisfy Ervin, Byrd and such liberals on the committee as Sens. Philip A. Hart (D-Mich.), Edward M. Kennedy (D-Mass.) and John V. Tunney (D-Calif.).

The Kissinger precedent cited by Mathias—four informal meetings over the last year-and-a-half—has left some Foreign Relations Committee members highly unsatisfied, including Sen. J. William Fulbright (D-Ark.), committee chairman. No transcript was taken of the sessions, which were closed to the public.

One Administration source expressed dismay over the White House's swift invocation of executive privilege. He noted that the refusal, in a letter from John W. Dean III, counsel to the President, came before the committee considered whether to subpoena Flanigan and other White House aides. The committee Wednesday defeated by tie votes motions to issue such subpoenas.

"That letter from Dean was just as precipitous as Kleindienst asking for the hearings in the first place," the source said.

In another development, the committee changed its plans to hear Harry Steward, U.S. attorney in San Diego, Thursday and scheduled his testimony for Tuesday instead.

Steward will be asked about a private meeting he had with Kleindienst in connection with allegations that he improperly intervened in a political campaign contribution investigation in San Diego. Witnesses today are E. J. Gerrity, ITT senior vice president for public relations, and Jack Gleason, a former White House aide and currently a consultant to ITT.

ITT Aide Says He Complained to Klein About Antitrust Suits

(By Ronald J. Ostrow)

Washington.—International Telephone & Telegraph Corp.'s public relations chief testified Friday that he complained to Herbert G. Klein, White House communications director, in 1969 after the Justice Department filed antitrust suits against ITT.

"I went to Herb Klein because I knew Herb Klein," E. J. Gerrity, ITT senior vice president for public relations, told the Senate Judiciary Committee.

Klein became the fourth White House aide to figure in the hearings that are investigating allegations of a link between settlement of ITT's antitrust suits and a pledge by ITT Sheraton Corp. to help finance the Republican National Convention in San Diego.

The hearings were requested by Atty. Gen.-nominee Richard G. Kleindienst after columns by Jack Anderson sparked the charges.

"What did you think Herb Klein could do?" asked Sen. Edward M. Kennedy (D-Mass.).

Gerrity said he told Klein that "the reaction to the suits was negative in the business community," and that he should know if the issue came up in White House meetings.

"He just kind of said, 'I understand your problem, I understand what you are saying,'" Gerrity said.

Klein could not be reached for comment. His office said he was flying to California from New Orleans where he had delivered a speech in which he defended the government's "strong action" in the ITT cases.

In the speech to a Louisiana Press Assn. meeting, Klein said the hearings "are indeed 'jackassery,' a political circus with Sen. Kennedy as ringmaster."

In his testimony, Gerrity said that after meeting with Klein he reported on the session to the ITT's chief executive, Harold S. Geneen.

He said he had told Klein that the Administration's attack on conglomerate corporations was "a pretty stupid policy. You're responsible for expressing it. Why don't you do something about it?" He added, however, that he did not know what Klein could do.

Meanwhile, there was no sign of a break in the impasse over White House refusal to permit presidential aides to testify at the hearings.

SECRET HEARING FOUGHT

Sen. Sam J. Ervin Jr. (D–N.C.) rejected efforts at a compromise for a closed session or limited questioning as proposed by Sen. Charles M. Mathias Jr. (R–Md.), declaring that "the public business should be conducted in public."

The executive branch's refusal, Ervin said, "is like enacting the play of Hamlet without the Prince of Denmark, being present."

Ervin, who until Friday focused on hearing testimony from presidential assistant Peter M. Flanigan, said he also wanted to question two other White House officials, John D. Erhlichman, the President's chief adviser on domestic affairs, and William E. Timmons, a liaison man with Congress.

Flanigan arranged for an independent analysis of ITT's arguments for settling the case by a former business associate, Richard J. Ramsden.

"If I had been in Mr. Ramsden's position and had gotten a call not from a lawyer, but from an aide to the President, I might reasonably reach the conclusion that the White House wanted the case settled," Ervin said.

Timmons, according to previous testimony, discussed the San Diego convention with an ITT consultant. Ehrlichman met with Geneen to discuss antitrust policy.

Ervin, who made his comments before Klein's name was mentioned, said the refusal to let the aides testify indicates that "there is something rotten in Denmark or in the White House."

Nixon To Let Aide Testify About ITT—Yields in Effort To Win Approval of Kleindienst

(By Ronald J. Ostrow)

Washington.—The White House moved to break the deadlock Tuesday over Richard G. Kleindienst's nomination to be attorney general by making presidential aide Peter M. Flanigan available to answer limited Senate questions about his role in the International Telephone & Telegraph affair.

Liberal Democrats on the Senate Judiciary Committee balked at accepting restrictions on the type of questions they could ask Flanigan, and the committee voted to notify the White House that it would require more leeway in questioning him.

Although the matter was still unresolved Tuesday night, prospects were that a compromise would be reached, with Flanigan testifying Thursday, the final day of scheduled hearings.

It was learned that former Atty. Gen. John N. Mitchell, whom Kleindienst served as deputy attorney general, had a major role in convincing President Nixon to reverse his position and permit Flanigan to appear. A break in the impasse over executive privilege would brighten Kleindienst's confirmation prospects considerably.

Mitchell, joined by Clark MacGregor, special assistant to the President for congressional affairs, designed Flanigan's offer to undergo limited questioning to satisfy Sen. Sam J. Ervin Jr. (D-N.C.), who said he would fight the Kleindienst nomination unless the White House backed down on executive privilege.

Shortly before Flanigan's offer was announced Tuesday, Mitchell, grinning broadly, told a reporter: "You better get up there (to the Kleindienst hearing)." He declined to elaborate as he entered the Pennsylvania Ave. building which houses the Committee to Reelect the President, where Mitchell now serves as director.

The reversal came in a letter from Flanigan to Sen. James O. Eastland (D-Miss.), committee chairman. The White House aide said he "would welcome the opportunity to appear and testify" if the questioning were restricted to two areas of his involvement with the International Telephone & Telegraph Corp.

These were his "limited involvement" in contacting and instructing Richard J. Ramsden, a Wall St. analyst and former business associate of Flanigan, to conduct a financial analysis of the government's antitrust attack on ITT, and the participation of Harold S. Geneen, ITT chief executive, in a 1971 White House meeting Flanigan arranged on revenue sharing.

Sen. Edward M. Kennedy (D-Mass.) said he did not feel compelled "to meeting his conditions." He said it would be the first time during his 10 years in the Senate that a witness would be allowed to limit questioning.

Kennedy said he also planned to question Flanigan about his relationship with the Justice Department and with ITT officials and whether he was involved in locating the Republican National Convention in San Diego.

The committee is probing allegations of a link between settlement of ITT's antitrust cases and a pledge by ITT Sheraton Corp. to help finance the Republican Convention in San Diego.

TUNNEY SEEKS OTHERS

Sen. John V. Tunney (D-Calif.) said that White House aides William E. Timmons, Herbert G. Klein and Charles Colson, who have been mentioned in earlier testimony, also should be invited.

But the committee defeated by a 7–6 vote Tunney's motion to invite Timmons, who was contacted by an ITT representative on the convention pledge, according to testimony. The vote split on party lines, with Eastland joining Republicans to reject Tunney's motion.

In its letter to the White House, the committee said Flanigan would not be questioned on conversations he had with the President or members of the presidential staff, areas traditionally covered by the doctrine of executive privilege—which holds that certain communications within the executive branch are of concern only to that branch.

THIRD PARTIES INVOLVED

Ervin had argued that the doctrine does not cover conversations of a presidential aide with third parties outside the White House, such as Ramsden and ITT officials.

White House Press Secretary Ronald Ziegler said the reversal did not reflect a fear that Kleindienst's nomination was in jeopardy. But Republican committee members, including Sen. Edward J. Gurney of Florida, conceded this was the case.

A White House aide, who declined to be identified, said there was a split on the issue between top-level presidential advisers and what he called "the middle-level working stiffs."

He said the higher officials viewed the turnaround as an escape valve for a potentially damaging political issue. The lower level officials, who have to deal with Congress on a daily basis, feared that permitting Flanigan to testify would open the door to demands by other congressmen for appearances by any presidential assistants they might want to question, the aide said.

He cited as the leading example the longstanding request by Sen. J. William Fulbright (D-Ark.), chairman of the Senate Foreign Relations Committee, for an appearance by Henry A. Kissinger, Mr. Nixon's national security affairs adviser.

Ziegler said the President reserved the right to invoke executive privilege if the questioning of Flanigan went beyond areas agreed to by the White House.

Nixon Aide Recalls Another International Telephone & Telegraph Talk—Kleindienst Was Told of Complaint, Flanigan Says

(By Robert L. Jackson)

Washington.—An additional contact with the White House by International Telephone & Telegraph Corp. was disclosed Monday by presidential aide Peter M. Flanigan, who said ITT director Felix G. Rohatyn complained to him last June about the company's antitrust problems.

In a three-page letter to Sen. James O. Eastland (D-Miss.), chairman of the Senate Judiciary Committee, Flanigan also revealed that two days later he passed on Rohatyn's complaint to Acting Atty. Gen. Richard G. Kleindienst, who was then deputy attorney general.

The committee, which is considering Kleindienst's nomination as attorney general, closed 21 days of hearings last week on the ITT affair.

Flanigan, who testified last week under ground rules established by the White House, made the disclosures Tuesday in response to written questions from the committee which the White House agreed could be answered.

Sen. Edward M. Kennedy (D-Mass.), who has spearheaded the attack on Kleindienst's nomination, said Flanigan's response conflicted with that of the nominee "about the White House involvement in the settlement of the ITT case" last July 31.

Sen. John V. Tunney (D-Calif.), another committee member, said the Flanigan letter "raises additional grave questions" that ought to require another appearance by the White House aide "with no limitations on his testimony."

Kleindienst told the committee last March 8 that "I had no conversation with Mr. Flanigan" about the ITT antitrust case.

The committee will meet in closed session Wednesday to discuss further action and to vote whether to recommend Kleindienst's confirmation.

In his letter to Eastland, Flanigan said Rohatyn raised the antitrust case issue last June 29 after meeting with Flanigan about stock market problems. Rohatyn, a Wall Street banker, was chairman of the surveillance committee of the New York Stock Exchange.

On the same day, according to earlier testimony, Rohatyn met with Kleindienst—one of five meetings on ITT involving the two men.

"Just before he left," Flanigan said of their White House meeting, "I recall that Mr. Rohatyn asked if I was aware of a settlement proposal by the (Justice Department) antitrust division for the ITT suits.

"I replied that I was not aware of it. Mr. Rohatyn indicated his belief that the proposal was so tough as to be unacceptable to the company and that the company intended to continue to fight the suits in court.

"I replied that this was a matter for ITT and the antitrust division."

"I further recall," said Flanigan, "that in a discussion on an unrelated matter with Dep. Atty. Gen. Kleindienst a couple of days later I passed on to him the Rohatyn comment and my reply. As I recall his response, it was to the effect that Mr. McLaren (Richard W. McLaren, then head of the antitrust division) had worked out the proposal, and was handling the matter."

The committee called Flanigan after learning he had arranged, at McLaren's request, for a Wall Street consultant, Richard J. Ramsden, to make an independent study last May of the ecoonmic consequences of possible divestiture by ITT of Hartford Fire Insurance Co.

Ramsden, a former business associate of Flanigan's, concluded that divestiture of Hartford would adversely affect the nation's balance of payments. The government's settlement last July allowed ITT to keep Hartford but required the conglomerate to shed other subsidiaries worth $1 billion in assets.

Reinecke Lunch With Dita Beard Described—Lieutenant Governor's Former Aide Says It Occurred Before Parley With Mitchell

(By Robert Fairbanks)

SACRAMENTO.—A former aide to Lt. Gov. Ed Reinecke says that Reinecke and Edgar M. Gillenwaters had lunch with International Telephone & Telegraph lobbyist Dita Davis Beard before their meeting last September with former Atty. Gen. John N. Mitchell.

Hal D. Steward, who resigned from Reinecke's staff two months later with an angry blast at the lieutenant governor, said he was at the table with Reinecke, Mrs. Beard and Gillenwaters, who is state director of commerce.

"The total subject was politics and Ed Reinecke's campaign to be elected governor and the Sheraton Hotel support of the national Republican campaign, and what a great guy Ed Reinecke was politically and so on," Steward said.

Steward made his statements to Kirk C. Smith, Sacramento correspondent for Pacifica Radio, in a recent interview.

LUNCHEON CONFIRMED

Questioned by The Times, a Reinecke spokesman confirmed that the luncheon had occurred.

"He had no lunch programmed that day, so somebody said, 'Let's have lunch with Dita Beard,' " said Reinecke's press secretary, James Woodworth.

Steward also said he did not accompany Reinecke and Gillenwaters into the meeting with Mitchell, but waited outside with Gillenwaters' assistant, Bart Christensen.

"When Reinecke and Gillenwaters and Christensen and I got back into the automobile, Reinecke and Gillenwaters both spoke of the importance of getting John Mitchell's support in Reinecke's campaign to be elected governor of California," Steward said.

Earlier in the interview, Steward challenged the official explanation for the trip.

"Now, ostensibly, the purpose of the trip was to make a presentation to the National Aeronautics and Space Administration on attempting to obtain the space launch project for California.

"However, I soon learned that that was only a byproduct of the trip—that really, the trip was more to politics. And we spent more time in the offices of the Republican National Committee and the office of John Mitchell.

". . . We spent, to my memory, about one hour in a briefing with NASA and we had a brief meeting with a few members of the California (congressional) delegation. And that was the total extent on NASA. The other three days that Reinecke was there were devoted solely to politics," Steward said.

POLITICAL FUNDS

Steward was Reinecke's director of public affairs until his resignation Nov. 9, 1971. At that time, he made several accusations, including a charge that Reinecke was using taxpayer dollars to further his political career. In the interview, Steward described Gillenwaters (whose Commerce Department comes under Reinecke's administration) as a "fund-raiser" for the lieutenant governor.

Steward said Gillenwaters once asked him to prepare a $250,000 budget for Reinecke's political campaign.

"Now, I doubt seriously that could by any stretch be considered an official function of a man drawing a salary from the taxpayers of California, which I was at that time," Steward said.

Reinecke Aide Lies in ITT Case—Bayh

(By Ronald J. Ostrow)

WASHINGTON.—Citing "Patent conflicts" in testimony, Sen. Birch Bayh (D-Ind.) Wednesday accused an aide to California's Lt. Gov. Ed Reinecke of committing perjury at Senate Judiciary Committee hearings on the International Telephone & Telegraph Corp. affair.

"Somebody's not telling the truth," Bayh told Reinecke and the aide, Edgar M. Gillenwaters, California state director of commerce.

"Your credibility has gone from 100 to darn near zero," Bayh said to the two state officials. They testified about meeting with former Atty. Gen. John N. Mitchell on financing the Republican National Convention and about their contacts with Dita Davis Beard, lobbyist for International Telephone & Telegraph Corp.

ACRIMONIOUS EXCHANGE

At this point in what was the most acrimonious exchange in 20 days of hearings, Gillenwaters, sitting alongside Reinecke, smiled at Bayh.

"You smile, sir . . . but if my impression is correct, you have committed perjury," Bayh said. "I have that feeling in my gut."

Gillenwaters, who had clashed earlier with Bayh when the senator suggested he should have been fired for a mistake he made about the timing of the Mitchell meetings, retorted: "If our credibility has gone to zero in your eyes, it surely must have gone up considerably elsewhere."

Gillenwaters' response drew a gasp from the spectators in the hearing room. Bayh, shaking his head, broke off the exchange, telling Gillenwaters: "I'm not going to get in your league."

Reinecke and Gillenwaters were questioned about a change in their public statements last month concerning when they first briefed Mitchell about the financing of the GOP convention in San Diego, including a $200,000 commitment by ITT's Sheraton Corp. subsidiary.

In at least three published interviews, they initially said the subject was discussed in Mitchell's office sometime between May 17 and 19 last year. But after a telephone call informing Reinecke that this did not jibe with Mitchell's records, the lieutenant governor said he had been mistaken and that the convention financing was reported to Mitchell in his office last Sept. 17.

The timing is important because of the central allegation in the hearings, which are considering the nomination of Richard G. Kleindienst as attorney general. That allegation is that there was a link between settlement of ITT's antitrust cases and the $220,000 underwriting by ITT's Sheraton Corp.

The antitrust settlement was announced last July 31—10 days after Sheraton wired the financing commitment to Rep. Bob Wilson (R-Calif.) of San Diego.

Mitchell, testifying March 14, said: "I do not as of this date know what arrangements, if any, exist between ITT or the Sheraton Hotel Corp. and the Republican National Committee, or between ITT or any of its subsidiaries and the city of San Diego or any agency thereof."

KENNEDY QUESTION

Under questioning by Sen. Edward M. Kennedy (D-Mass.), Reinecke said he did not know who called to notify him that his recollection of the meeting with Mitchell did not agree with the former attorney general's. He said his secretary handled the call and did not ask who the caller was.

Asked about a report in the Los Angeles Times that the call came from Mitchell's office in Washington, Reinecke said: "It could have come from anywhere."

Kennedy asked, "Could it have come from Mr. Mitchell's office?"

"That's presumptuous," Reinecke said. "It could have been an employe in our building."

Sen. John V. Tunney (D-Calif.) questioned Reinecke about a telephone-call he had with him about an hour before Reinecke issued his amended statement about the date of the meeting.

CHAMBER ROLE

Tunney said Reinecke told him he talked to Mitchell as a representative of the California Chamber of Commerce seeking to bring the convention to San Diego.

Why, Tunney asked, would Reinecke have such a conversation with Mitchell in September, two months after San Diego had been designated as the convention city?

"The tense of the verb I was using may have been unfortunate," Reinecke said. "I don't know that I can offer much help, Senator."

In an interview outside the hearing chamber, Reinecke charged that Tunney's call was "a setup" because a newsman asked 30 minutes after Tunney called whether he would testify before the committee, one of the subjects the two men discussed.

Tunney dismissed the charge as "patently ridiculous," saying he had called only to notify Reinecke that he had requested he testify.

IDEA "SEEDED"

Reinecke denied that he first mentioned the effort to bring the GOP convention to San Diego to Mrs. Beard in January or February last year, as the lobbyist testified earlier. He said he first discussed it with her in May, and that the idea was "seeded" at a Washington reception of San Diego business representatives April 27.

In another development, Jack Gleason, a former White House aide and now a consultant on government relations for ITT, invoked the lawyer-client privilege in refusing to answer questions about his lawyer's conversation with two White House officials shortly before he testified.

Tunney first pinned down the fact that the lawyer, Edward Taptich, had talked to John W. Dean III, counsel to the President, and Wallace Johnson, a White House legislative liaison man.

PARTY LINES

The committee split largely along party lines on whether to permit Gleason to invoke the privilege.

Sen. Roman L. Hruska (R–Neb.) said questions about the conversation were "totally irrelevant."

Sen. Philip A. Hart (D–Mich.) said that if the White House was attempting to influence a witness' testimony, "nothing is more relevant than that."

Sen. James O. Eastland, (D–Miss.), committee chairman, ruled against requiring Gleason to answer.

Under questioning by Kennedy, Gleason said that when he was on the White House staff in 1969 he called Kevin Phillips, then special assistant to Mitchell, to ask for information about ITT's antitrust case pending at the Justice Department.

Gleason said he wanted the information "so I could pass it back to Bill (Merriam, head of ITT's Washington office) and perhaps put their mind at ease."

"What did Phillips tell you?" Kennedy asked.

"He told me basically to forget it—that it was not something that he or I should get into."

White House aide Peter M. Flanigan is scheduled to testify today, the committee's last hearing day under a timetable agreed to earlier. Flanigan wrote Eastland Wednesday agreeing to answer questions in more areas than he had specified at first.

HEARINGS END ON ITT AFFAIR AS LIBERALS CHARGE "SNOW JOB"

(By Ronald J. Ostrow)

WASHINGTON.—The Senate Judiciary Committee Thursday wound up hearings on the International Telephone & Telegraph affair amid charges by Democratic liberals of a "snow job" when key questions put to White House aide Peter M. Flanigan were ruled out of order.

A motion by Sen. John V. Tunney (D-Calif.) to extend the hearings two more days lost by a 7–7 tie vote.

Sen. James O. Eastland (D-Miss.), committee chairman, ended the 21 days of hearings with a brusque "that's it," and said the committee would vote Wednesday on the nomination of Richard G. Kleindienst as attorney general.

The committee investigated two allegations in connection with the Kleindienst nomination.

One was that settlement of antitrust suits against International Telephone & Telegraph Corp. was linked to a pledge by ITT Sheraton Corp. to help finance the Republican National Convention in San Diego.

The other charge was that Kleindienst improperly cleared U.S. Atty. Harry D. Steward of wrongdoing after he intervened in a Federal Campaign-contribution investigation in San Diego.

Flanigan's day-long appearance, arranged only after the committee accepted a limitation on the areas of questioning, turned out to be anticlimatic.

Eastland began the questioning as Flanigan, the President's chief liaison with the business community settled down at the witness table, the 67-year-old committee chairman asked: "Mr. Flanigan, what do you know about ITT?"

Flanigan related that at the request of former Asst. Atty. Gen. Richard W. McLaren he contacted Wall Street analyst Richard J. Ramsden, a former business associate of Flanigan, to conduct an independent study of the financial effect if ITT were required to divest itself of the Hartford Fire Insurance Co.

McLaren testified previously that Ramsden's study was one of the four factors that caused him to change his mind and settle the cases, permitting ITT to retain Hartford.

Did Flanigan attempt to influence Ramsden's findings, Eastland asked.

"I did not," Flanigan said.

As other senators picked up the questioning, they ran into either refusals to answer by Flanigan, on grounds the questions were outside the limitations, or rulings by Eastland that the inquiries conflicted with the agreement reached with the White House.

REFUSES TO ANSWER

Sen. Philip A. Hart (D-Mich.), for example, attempted to ask Flanigan whether ITT director Felix G. Rohatyn or anybody else on behalf of the firm had expressed concern to Flanigan about the effects that breaking apart ITT and Hartford might have on the stock market, brokerage houses and the economy.

"To the best of my recollection," Flanigan began to answer, but then he paused and said: "I regret to have to again respond in this way, but I don't believe the question is within the areas of the limitation agreement."

His refusal was backed up by Eastland. In all, at least 15 questions were rejected by Flanigan, Eastland or Sen. Sam J. Ervin Jr. (D-N.C.).

After a series of rejected questions, Sen. Birch Bayh (D-Ind.) said he had the impression "we were going to get the whole story" when Flanigan agreed to appear.

"SNOW JOB"

"In fact, the questions are being so narrowly construed we would not get one-half the kernel of truth," Bayh said. "We're going to come out of here looking like the biggest snow job in history. We're going to come out from here not disclosing anything."

The committee subsequently turned down, 9 to 5, a motion by Sen. Edward M. Kennedy (D-Mass.) to expand the questioning. But it adopted by an 8–4 vote a motion by Sen. Roman L. Hruska (R-Neb.) to submit written questions to Flanigan on what contacts or conversations he had with ITT representatives or Justice Department officials on the antitrust cases.

Tunney, one of those opposing Hruska's motion, said he did so because it allowed no opportunity to cross-examine Flanigan.

Flanigan's description of his contacts with Ramsden on the financial analysis differed in some respects from Ramsden's earlier testimony.

Ramsden, for example, said Flanigan was "somewhat reluctant" to turn over to him a report that stressed the alleged dire effects of the divestiture to help him focus on the issues. (The report, testimony showed, was prepared by ITT officials.)

"I don't recall that there was any reluctance," Flanigan testified.

Ramsden later told a reporter the reluctance "may have been surmised on my part."

OCCUPATIONAL SAFETY AND HEALTH

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. SHOUP. Mr. Speaker, I have received many letters and reports from Montana businessmen. They are raising serious questions about the methods of the U.S. Department of Labor's Occupational Safety and Health Administration program to enforce the Occupational Safety and Health Act of 1970.

I want to share with my fellow colleagues the following letter from the Equity Supply Co. of Kalispell, Mont. This letter highlights the nature of the problem. It deserves your attention. I am submitting remedial legislation which will correct the inequities of the program and maintain reasonable standards of occupational safety and health.

The letter follows:

EQUITY SUPPLY CO.,
Kalispell, Mont., May 4, 1972.

Representatataive DICK SHOUP,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE SHOUP: Sorry for the delay in getting you an account of my OSHA experience, but the records had been with the attorney, and I only got them today. Briefly summarizing my experience, it is somewhat of this nature:

On September 1st two inspectors of OSHA called on me. We had a general discussion about the program in my office about 9:00 a.m. The conversation was informative and courteous. The OSHA inspector said he would like to make a walk through inspection of our facilities, and asked that either I or someone from management designated by me go with him, and there should also be an employee along which was easily arranged.

As we started our walk through inspection the inspector became completely non communicative, and I was very much puzzled by the inspection which I described as "eyeballing", writing down a few notes, and I do not recall a single instance where I was asked any questions or where anything was pointed out to me. We went through six of our facilities, one of which is located five blocks away, in a period of about one hour.

Following the inspection he asked for some additional time for a post inspection conference which was courteously given. He then told me he had made some notes of items he felt were out of compliance. He mentioned in a general way such areas as electrical, but gave me no definite items or location of violation. The only record I had was a mental picture of where we had been, and I did try to follow his glance to observe what he might be looking at. He stated that if the violations he had noted were of such a nature that a penalty would be assessed, I would hear from him, and that I would have thirty days in which to file an objection.

On November 1st I received a number of citations. I am enclosing copies of these in order that you might note the vagueness of them, and particularly of 6(13) which pertains to the creamery. After checking the citations over I made arrangements to correct all of the items that I could identify and understand except for two items, 3(2) and 4(3). Under item 3(2) my maintenance men in the shop contended there were no combustible liquids stored in unapproved containers. We even went to the trouble of having the fire department check the area.

With respect to item 4(3), it was my contention there were no fire extinguishers that were not properly inspected and marked, and that again we could do nothing to correct a situation which did not exist. The amount of penalty involved on these items was $26.00.

I could have paid the penalty and said nothing, but I was not about to be blackmailed into any payment, and only wanted a clarification of what they were talking about. The only avenue open to me was to file an objection, and this set into motion the only recourse under the program, making out a big hearing on the whole issue. Problems could have been avoided if the inspector had pointed out the areas he had doubts about, and I am sure we could have agreed on the spot whether there were combustible liquids as contended, and I could have showed him a complete set of records on inspection of all fire extinguishers.

I still had ideas that maybe they would send someone in to clear up the matter, but instead I received a notice of a hearing for the second week of December which was within the thirty day requirement of the law. Shortly before the hearing we were notified that no personnel was available, and it would be rescheduled. Later we were notified of a hearing date in April.

For a hearing on my $26.00 items to gain some information and clarify the items referred to, the Department of Labor sent into Kalispell a judge from St. Louis, an attorney and court reporter from Denver, and an inspector from Billings plus one or two state inspectors.

At about 3:00 p.m. on the afternoon before the hearing, I received a subpoena which I am enclosing ordering me to appear at the basement of the First National Bank building with a truck load of records which was neither physically possible to assemble nor transport to a hearing room with less than a week's notice. I did the only thing possible, and that was to disregard this part of the subpoena. I considered this a high handed, arrogant harassment by the federal government, and, of course, the records were never even mentioned at the hearing.

I have no idea how much time or money the government spent on this hearing, and, of course, it did cost me several hundred dollars. Again let me repeat, it wasn't a question of the $26.00, it was a question of defending what few rights an American citizen might still have.

I would like to mention that I am in sympathy with the objectives of Occupational Safety and Health for our employees, and have been doing everything possible in this direction. I also recognize an inspection service can call things to our attention we might overlook, but this program is the ultimate in arrogant, high handed bureaucracy that is costing taxpayers millions of dollars, and not accomplishing its full objectives because it is alienating rather than getting the cooperation of both employers and employees.

I have no idea when a decision will be rendered in this case, and whether or not I will receive what I consider equitable treatment.

One last comment—our business is involved with living up to regulations under the Board of Health Livestock Sanitary Board, Department of Agriculture and many others. Their inspections have been tough, and we have known that we must comply with their requirements. We have always gone along because the inspectors have always made it plain to us what was wrong, what had to be done and they have been reasonable in allowing us to make these changes. This is certainly not OSHA's approach.

Very truly yours,

S. N. Halvorson,
General Manager.

JACKSONVILLE SYMPHONY TO PERFORM AT KENNEDY CENTER

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BENNETT. Mr. Speaker, on May 18, the Jacksonville Symphony Orchestra, under the direction of Conductor Willis Page will perform at the John F. Kennedy Center for Performing Arts. My hometown of Jacksonville is extremely proud that its symphony orchestra will be performing in this fine hall in the Nation's Capital.

The symphony will introduce two new works during their concert. One will be by Duke Ellington and the other by Carlisle Floyd. The compositions were written especially for the Jacksonville Symphony Orchestra to commemorate the 150th anniversary of the city of Jacksonville.

Duke Ellington has written more than 5,000 compositions, including some of the world's most popular music.

His symphonic composition is based on his memories of his frequent visits to Jacksonville. The overture recalls with melancholy the long extinct "Number Two Club"—a Jacksonville nightclub where blues artists used to gather for jam sessions. Moving to the core of the city, the composition builds up to a fanfare which represents the growth of Jacksonville. Turning to a romantic theme, the composition closes with a musical allegory describing our beautiful city.

Carlisle Floyd's "Flower and Hawk" will be sung by soprano Phyllis Curtin. Their first collaboration, "Susannah," received the New York Critics' Award. "Flower and Hawk" is an exciting, new musical concept—the Monodrama—a fully staged work for the musical theater. In it, Miss Curtin will portray the tortured last days of one of history's most powerful personalities—Eleanor of Aquitaine, mother of Richard the Lionhearted. Frank Corsara, one of New York's leading stage directors, staged and directed the production. Lloyd Evans, a renowned designer for opera, theater, and television, designed the imaginative set and Miss Curtin's costume.

To open this unusual program, Willis Page has selected "Dies Natalis" or "Day of Birth," written by the distinguished American composer Howard Hanson.

Mary Lou Wesley Kronsnick, pianist, who will play Weber's "Konzertstuck" is also a composer. At 14, she won the New York Philharmonic's Young Composer's Contest.

The symphony will also present the same program at Carnegie Hall in New York City the night of May 19. Again, I and all of us in Jacksonville are tremendously proud of our symphony.

FEDERAL INVOLVEMENT IN PUBLIC BROADCASTING

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. FREY. Mr. Speaker, one of the more complicated issues soon to be debated in Congress is the Federal involvement in public broadcasting. It is extremely difficult to understand how the different bureaucracies, created as a result of the Public Broadcasting Act of 1967, function and interact. For example, how do you tell the difference between the Corporation for Public Broadcasting—CPB—Public Broadcasting Service—PBS—the National Public Affairs Center for Television—NPACT—Children's Television Workshop—CTW—and the Eastern Educational Network—EEN.

Mr. Speaker, I include an article appearing in the December 11, 1971, Congressional Quarterly in the Record for all to read:

PUBLIC BROADCASTING: CONTROVERSY OVER FEDERAL ROLE

The honeymoon for public broadcasting is over.

Noncommercial, nonprofit public television and radio has collided with the White House over crucial questions of the industry's funding and structure. The Administration's criticism is the most serious ever encountered by the industry.

At issue is what the Administration calls "communications federalism"—the relationship between national and local broadcast organizations.

At stake is the shape of funding legislation which either will limit the growth of public broadcasting to approximately its present level, or will expand the industry.

INDUSTRY BACKGROUND

"Public broadcasting" is what used to be called "educational" radio and television. Its new name complements new formats. Public broadcasting now entertains as well as informs, with shows like *Masterpiece Theatre* and *The Great American Dream Machine.*

The industry's development attracted much attention in 1969, when the educational children's program *Sesame Street* went on the air. From 1969 to 1970, the public television audience increased by 33 million persons, or 37 percent.

Today the industry is large and more complex:

Public television stations are interconnected by the Public Broadcasting Service (PBS). There are 213 public television stations, all of which are PBS affiliates. (*Box p. 2569*).

As of July 1, 1971, 32.4 percent of the television stations were licensed and operated by state and municipal authorities; 29.5 percent by state universities; 27 percent by nonprofit community corporations, and 11.1 percent by local public schools.

Public television's audience, according to a 1970 Louis Harris survey, is highly concentrated in suburbs and cities, in the West and Midwest and among 21-to-49-year-old persons. Fifty-three percent of college graduates and 48 percent of those who earn $15,000 or more watch public TV. So do 22 percent of those who never completed high school and 26 precent of those who earn less than $5,000 annually. An estimated 39 million viewers watch public television at least once a week.

Public television signals reach 74 percent of the population in the United States, Samoa, Guam and Puerto Rico. Public radio signals reach 75 percent.

There are 500 public radio stations, but a high percentage broadcast limited schedules on limited power; 118 are affiliates of National Public Radio, the radio inter-connection. Seventeen percent of these affiliates are AM; 83 percent, FM.

"We've never before been in this league," a public broadcasting official recently exclaimed. But he admitted that he was torn between agony and ecstasy. Public broadcasting has had problems as well as plaudits.

MONEY PROBLEMS

One continuous problem has been the lack of a dependable funding method for the independent Corporation for Public Broadcasting (CPB), established in the 1967 Public Broadcasting Act (PL 90–129) to funnel federal funds to public radio and television stations. Its initial $9-million authorization, said the Senate Commerce Committee, "was intended to be seed money pending a long-range financing plan to be submitted by the Administration." The legislation provided for annual appropriations until such a plan was submitted by the Administration. (1967 Almanac p. 1042; Congress and the Nation Vol. II, p. 297)

ANNUAL APPROPRIATIONS

The 1967 Act required the Corporation to submit its annual budget to the Office of Management and Budget, just as if it were a government agency. The President has the power to reduce a request he considers too high before sending it to Congress.

Educational broadcasters argued against these provisions in 1967. The paramount, immediate need, they said, was to assure the Corporation a permanent source of funds free from the political implications of the annual appropriations process. Without permanent financing, they said, educational broadcasters would hesitate to present controversial subjects for fear of losing their financial support in Congress the following year.

Various types of permanent financing were suggested, including an excise tax on the sales of TV sets; increasing and earmarking commercial broadcast license fees; using fees charged commercial stations for the use of a commercial satellite system; and a "user tax" on radio and television sets, the system used in Britain and some other countries to support their government broadcasting systems.

President Johnson promised legislation that never came. President Nixon stated in his 1972 budget message that "legislation will be proposed to provide an improved financing arrangement for the Corporation." But no administration bill has been submitted. (Text of budget message, Weekly Report p. 271)

FEDERAL FUNDING

One annual appropriation has followed another: $5-mililon in 1969; $15-million in 1970; $23-million in 1971, and $35-million in 1972. Five million dollars of the 1972 appropriation, however, depends upon a matching amount raised from private sources. (Fiscal 1972 appropriation, Weekly Report pp. 841, 1302)

The Corporation says that federal funding is inadequate as well as unreliable. They cite a report issued by the Carnegie Commission on Educational Television, prior to the passage of the 1967 public broadcasting legislation, which estimated that the Corporation would need an average annual appropriation of $56-million, plus $30-million in equipment assistance for stations from the Department of Health, Education, and Welfare, for its first four years.

Instead, Corporation spokesmen emphasized appropriations have averaged only $19.5-million per year since 1967, and the HEW grants have totaled only $32.3-million.

Individual stations, where the average budget is about $650,000, go begging for funds. The Corporation supplies them with general support grants, but those grants (totaling $7.5-million) constitute only about 18 percent of the Corporation's budget this year. Only a relatively few stations receive production funds. The Corporation hopes to increase the budget allocation for local stations' general support grants to 30 percent, provided federal appropriations are adequate.

The Office of Education is the other major source of federal funding. In this fiscal year, they will distribute $13-million in station plant grants.

PRIVATE FUNDS

Of the $125-million spent by public TV until June 30, 1970, only about 20 percent came from federal sources. Two-thirds of the rest came from state and local government and one-third from private sources.

Foundations, individuals and corporations have given more money to noncommercial TV than Congress. The Ford Foundation alone has given $174,397,083.66 in grants and projects to public broadcasting from June 30, 1951, when it began to fund experimental educational television and radio workshops, to July 1, 1971.

In fiscal 1970, for example, public TV stations reported a total income of $103.6-million. Major contributors were state governments or boards of education with $30-million; $20-million from local schools, boards of education and other local government sources; $10-million from state universities and colleges; $8-million from broadcast industry sources, primarily the Corporation; $8.5-million from national foundations, primarily Ford, and $6.8-million from subscribers and individuals.

The federal government was the next-highest contributor, with $5-million.

Business and industry contributed $2.1-million that year. Included in this category are corporations such as Mobil Oil, Polaroid and General Foods, which contribute to the production of certain programs.

The corporations receive the closest thing to advertising on non-commercial television when it is announced that "This program was made possible by a grant from the —— Corporation."

Polaroid, for example, produces Julia Child's *The French Chef*. Mobil Oil money produces *Masterpiece Theatre*.

Not all corporation grants are exclusively for production. A $1-million Mobil grant in 1970 was divided so that $490,000 was to be spent for the production; $250,000 for copies of *Sesame Street Magazine* to be given away to disadvantaged schoolchildren, and $260,000 to publicize the Corporation's contributions.

CENTRALIZATION ISSUE

The funding question may hang in the balance of a dispute between the Corporation and the White House Office of Telecommunications Policy (OTP) over the public broadcasting structure. (*Box, preceding page*)

Whitehead View. Clay T. (Tom) Whitehead, the director of OTP, opposes the idea of the public broadcasting industry's becoming what he calls "a fourth national network." He believes that the autonomy of individual local stations can be preserved by direct congressional funding. But the Corporation insists that it should continue to distribute all the station grants.

At the heart of the argument is what Whitehead calls "centralization." He and Arthur L. Singer, Jr., who was instrumental in the establishment of the Carnegie Commission report, have criticized the industry for being overly centralized.

Carnegie Report. According to Singer, the Carnegie Report was a "plea for pluralism, a plea for localism. . . . The present system is not pluralistic. It is dominated by the Corporation for Public Broadcasting, the Public Broadcasting Service and the Ford Foundation. What goes on the air on the system . . . is what these institutions approve."

He agreed that program production is dispersed among stations and regional and state networks around the country but noted that the three major institutions evaluate programs for their national significance and distribute them on the basis of their judgment. He called this procedure "dispersal in name only."

"There's no pressure on the local station to run any program we send down the line," retorted William Duke, the Corporation's public information director. "If the local stations don't have any faith in us, they won't run the program."

Disputed FBI Report, PBS selects and schedules the programs from its production centers for its stations. Its members have given it "go or no go" discretion over the programs, but the final responsibility for clearance and scheduling rests with the stations.

Recently, PBS ordered National Educational Television (NET), its largest and best-funded production center, to delete from its program *The Great American Dream Machine* a controversial segment dealing with alleged FBI undercover operations on college campuses. PBS claimed the segment was badly documented and too brief to carry the charges of FBI encouragement and instigation of violence within radical organizations.

A PBS official called the decision "the crunch—the kind of decision we knew we eventually had to make."

However, WNET–TV (Channel 13) in New York broadcast the segment. The action opened a debate on PBS' authority to make editorial decisions: i.e., to act like a commercial network. Another question engendered: whether NET, or any production center, should have direct station access instead of routing programs through PBS.

The PBS board and smaller, generally more cautious stations favor the network idea. They reaffirmed PBS' "go or no go" authority by an overwhelming margin after the incident.

This particular instance of PBS blue-penciling was welcome at the White House in spite of the "centralization" worries. Whitehead said, "As long as there is a centralized network, Harford Gunn (the president of PBS) is trying to make it work in a responsible manner despite the brickbats."

NEWS ORGANIZATION

Whitehead is also critical of public television's new Washington news organization, the National Public Affairs Center for Television (NPACT), a production affiliate of WETA–TV, the Washington, D.C., public television station.

NPACT hired former NBC newsman Sander Vanocur as its $85,000-per-year senior correspondent. *The Washington Post* has said White House aides do not think Vanocur was a wise choice for the job. The newspaper quoted an unnamed White House official of accusing Vanocur of having a liberal bias that shows on the television screen.

Whitehead himself only said that NPACT is an example of centralized programming that he does not favor. He said that his direct-funding measures predated NPACT's creation in a July Administration bill never submitted to Congress.

"The whole approach boils down to Nixon's philosophy on everything," said Whitehead's assistant Brian P. Lamb. "Local versus national."

White House Offensive. Whitehead combined the funding and centralizations issues in an Oct. 20 Miami speech before the National Association of Educational Broadcasters.

Whitehead noted the 43-percent rise in national broadcast hours from 1968 to 1970 and a 13-percent decrease in local production during the same period; the creation of NPACT, and the interest among public broadcasters in "rating points and audience."

"The concept of dispersing responsibility," he said, "was essential to the policy chosen in 1967 for public broadcasting. . . . The centralization that was planned for the system—in the form of CPB—was intended to serve the stations, to help them extend the range of their services to their communities. . . . The idea was to build an effective counterforce to give appropriate weight to local and regional views. . . .

"Do any of you," he asked the broadcasters, "honestly know whether public broadcasting—structured as it is today and moving in the direction it seems to be headed—can ever fulfill the promise envisioned for it or conform to the policy set for it? If it can't, then permanent financing will always be somewhere off in the distant future."

Corporation Reaction. About two weeks later, John T. Witherspoon, Corporation Director of Television Activities, claimed that Whitehead had threatened "in straightforward political language" to oppose permanent financing for the Corporation until "public broadcasting shows signs of becoming what this Administration wants it to be."

"Decent national programming was our first mandate and now that's established," said the Corporation's William Duke. "Of course we want more variety in programming—we were saying that long before Whitehead said anything. But the industry's been on starvation wages for two years. . . . if they've really serious about the need for more localism, they should come through with the money."

Whitehead said in his Miami speech that "great bales" of money would solve much of the problem by strengthening the local stations. But money alone, he said, will never solve basic structural problems.

"We feel the decisions on structure should be made within the industry and by our board," protested Duke. "Either public broadcasting is free to organize its house or it's not."

The upshot is that year-old negotiations for acceptable funding legislation between the Corporation and the White House are stalled.

CONGRESSIONAL OUTLOOK

Three public broadcasting financing bills have been introduced in Congress this year. H.R. 7443 was introduced by Rep. Robert O. Tiernan (D. R.I.) in April. It provides for a $500 million five-year authorization through two-for-one federal matching grants.

H.R. 11807, introduced on Nov. 16 by Rep. Torbert H. Macdonald (D. Mass.), chairman of the Communications and Power Subcommittee of the House Interstate and Commerce Committee, provides for a $575 million five-year appropriation through the same matching grants, but stipulates that 30 percent of the total amount received annually by the Corporation must be distributed to local stations.

S. 2765 was introduced on Oct. 28 by Senators Warren Magnuson (D. Wash.), chairman of the Senate Commerce Committee, and John O. Pastore (D. R.I.), chairman of the Communications Subcommittee of that committee. Their bill calls for a 1973 authorization at the same level as the 1972 authorization—$35 million, contingent on the same matching grant regulations as 1972's authorization.

No Broadcast Tax. Missing this year are proposals for a public broadcasting excise tax, the most frequently mentioned method of permanent financing for the Corporation.

Whatever else they disagree upon in the field of public broadcasting, the White House, key members of Congress and the corporation agree that an excise tax proposal hasn't a chance of passage this year.

The political sensitivity of an extra tax in an election year is one reason. The fact that public broadcasting, with its smaller audiences, has little to offer public figures in an election year is another. The legislative crunch of a closing session is another. The fact that President Nixon and key House members are against an excise tax is another.

The Administration opposes the tax because "the President is against an extra tax that is forced on the individual," said a spokesman.

Wilbur D. Mills (D. Ark.), chairman of the House Ways and Means Committee, opposes the tax because he dislikes special-purpose trust funds beyond reach of the annual appropriations process.

Harley D. Staggers (D. W.Va.), chairman of the House Interstate and Foreign Commerce Committee, disapproves partly, according to an aide, because the excise tax would remove jurisdiction of public television from his committee and place it under Ways and Means.

Duke described the excise tax proposal as the Corporation's "ideal bill."

"But that's unrealistic," he said. "We'd be children to walk in there in a political year with a proposal like that."

Whitehead's speech may have politicized the public broadcasting issue to the point where even Macdonald's five-year bill may be unrealistic, Duke said. Although the Corporation would prefer that the Magnuson-Pastore continued-authorization bill covered two years and called for more money, Duke said, the Corporation would be satisfied with its passage.

"That would give us a couple years for Congress to get on its feet, to give us a chance to come up with a long-range financing bill," he explained.

It would also take everyone to 1973, past a possible change of administration—"which may have been a factor in some peoples' thinking," said a Senate Commerce Committee aide.

White House officials have accused the Corporation of "planting" the Magnuson-Pastore and Macdonald bills. "But Pastore considers himself the father of public broadcasting," one said, "and neither Pastore nor Macdonald is going to appreciate being played off against each other."

Duke denied any consultation on the Magnuson-Pastore bill, but said that Macdonald's aides "did ask our opinion" on their legislation.

No hearings are expected on any of the legislation until next year. Even then, if the issue continues to be as controversial, said the Senate aide, "a Macdonald-type bill will never get anywhere."

Administration Future. It is not likely that Congress would approve a public broadcasting commitment for a substantial amount of money over a period of years without Administration support, said committee aides on both sides of the Capitol.

The only Administration bill known to be drawn up, the direct-funding proposal, was submitted to and withdrawn from the Office of Management and Budget in July after the Corporation attacked it. Lamb, Whitehead's assistant, says that no other funding legislation will be submitted in the foreseeable future.

"If the political issue gets any worse, the Administration will say, forget it," Lamb said.

"What with the war and the economy, it's not an issue that Congress is willing to spend a lot of time on, anyway. It's not worth a political fight in a political year."

MONEY FOR PUBLIC BROADCASTING

Major sources of funds for public broadcasting are:

Congress. Funds the Corporation for Public Broadcasting and the Office of Education.

Office of Education. Funds stations through facilities grants. Funds Children's Television Workshop for *Sesame Street* and *The Electric Company.*

Ford Foundation. Funds Corporation for Public Broadcasting, Public Broadcasting Service, Children's Television Workshop, and individual stations.

Carnegie Corporation. Funds Children's Television Workshop.

Private Corporations. Funds Corporation for Public Broadcasting.

OFFICE OF TELECOMMUNICATIONS POLICY

President Nixon established the Office of Tele-Communications Policy (OTP) on Sept. 4, 1970. The new agency, like the Office of Telecommunications Management that it replaced, oversees the federal government's use of long-distance communications. But unlike its predecessor, OTP has also been instructed to set policy guidelines for telecommunications outside the government.

According to the director, 33-year-old ex-Rand Corporation researcher Clay T. (Tom) Whitehead, OTP has taken an immediate interest in the development of communications satellites, cable television and public broadcasting.

But Whitehead has also attracted attention with his statements on commercial broadcasting. In an October speech, he called for the elimination of the fairness doctrine and its replacement with a statutory right of paid access.

"However nice they sound in the abstract," he said, "the fairness doctrine and the new judicially contrived access rights are simply more government control masquerading as an expansion of the public's right of free expression." In another interview in *Broadcasting* magazine, he continued, "Fairness is great, but do you want the FCC, issue by issue, day by day, community by community, deciding what's fair and what's not fair? Or do you want to define a process that you think is generally fair and realize that there are local imperfections and live with that? What we're saying is that's the way to do it."

Whitehead favors reducing FCC control over details of a broadcaster's operation so that "the broadcaster's incentives are to look to the local community and program to meet local needs." Presently, Whitehead said, the broadcaster is pulled one way by a demand for local programming and pulled another by the FCC's national program standards.

Whitehead is assisted by George F. Mansur Jr., OTP's deputy director; Charles C. Joyce Jr., Walter R. Hinchman and Bromley K. Smith, assistant directors; Wilfrid Dean Jr., assistant director for frequency management; Mrs. John T. Smith, special assistant to Whitehead; Brian P. Lamb, assistant to the director for media and congressional relations; and Antonin Scalia, general counsel. (Background on federal regulation of broadcasting, Congress and the Nation Vol. II, p. 447).

WHO'S WHO AND WHAT'S WHAT IN PUBLIC BROADCASTING

Corporation for Public Broadcasting (CPB): Funnels money to noncommercial radio and television stations, National Public Radio and the Public Broadcasting Service. General support grants go to all stations; additional funds to stations engaged in national production. Headquartered in Washington. President is John W. Macy Jr. Fifteen-member board appointed by President and confirmed by Senate. Chairman of the Board is Frank Pace Jr.

National Public Radio (NPR): Produces and distributes national programming and manages station interconnection. Supplies equipment and facilities to member stations. Does not distribute money. Incorporated by CPB in 1970. Receives approximately $3.5-million from CPB annually. Headquartered in Washington. President is Donald R. Quayle.

NPR Stations: Receive NPR programming to supplemental local programming.

Public Broadcasting Service (PBS): Manager of the television interconnection; selects, schedules and promotes programs from national production centers distributed nationally. Distributes no money. Produces no programs. Incorporated by CPB in 1969. Receives $7-million annually, primarily from CPB. CPB does not operate PBS; PBS reports to a board drawn from public television management. Headquartered in Washington. President is Hartford N. Gunn Jr.

Regional and State Networks: The five regional networks are the Eastern Educational Network (EEN), Southern Educational Network (SEN), Central Educational Network (CEN), Rocky Mountain Corporation for Public Broadcasting (RMCPB) and Midwest Educational Television (MET). The main state networks are in Nebraska, South Carolina, New York, New Hampshire, Maryland, Kentucky, Georgia and Alabama.

The programming that four of the regional networks distribute to their member stations is taped except for one hour per week "live" from PBS. EEN, the largest regional network, carries more "live" programming.

PBS Stations. Eight are national production centers: KQED, San Francisco, KCET, Los Angeles; WGBH, Boston; WTTW, Chicago, WQED, Pittsburgh; WNDT, New York; WNET, New York; and WETA, Washington.

National production at WNET (Channel 13), New York, is handled by National Educational Television (NET), the major national production center for evening programming. President of WNET/NET, also known as the Educational Broadcasting Corporation (EBC), is James Day.

National production at WETA (Channel 26), Washington, is handled by National Public Affairs Center for Television (NPACT), which handles public TV's major news and public affairs operations. President is Jim Karayn.

All public television stations—whether or not they are national production centers—receive PBS programming to supplement local programming. They may also belong to state and regional networks.

Children's Television Workshop (CTW): Not part of public broadcasting system. Independent nonprofit corporation which produces Sesame Street and The Electric Company. Shows distributed through PBS. Headquartered in New York. President is Joan Ganz Cooney.

SALARIES AND TALENT FEES

The Corporation for Public Broadcasting released its executive salaries and talent fees Dec. 2 at the request of Rep. Lionel Van Deerlin (D. Calif.), a member of the Subcommittee on Communications and Power of the House Interstate and Foreign Commerce Committee.

The Corporation said its pay scales are modeled on those in the Federal Civil Service.

Corporation President John Macy tops the executive pay scale at $65,000. Vice President Ralph Nicholson receives $45,000; Director of Television Activities John Witherspoon, $40,000; and Secretary William Faville and Planning Director John Golden, $38,000 each.

President Hartford N. Gunn Jr. of the Public Broadcasting Service receives $50,000; and General Manager Gerald Slater, $40,000.

National Public Radio President Donald Quayle receives $45,000. National Public Affairs Center for Television President Jim Karayn receives $40,000.

Newsman Sander Vanocur receives the top "star" salary—$85,000 annually. His colleague Robert MacNeil, another senior correspondent, receives $65,000.

Bill D. Moyers, former press secretary to President Johnson and former Newsday publisher, will receive $75,000 for a 35-program series this year.

The National Review Corporation will receive $506,000 for 44 Firing Line shows. Columnist and editor William F. Buckley will receive a salary of undisclosed amount from this company.

The producer of Hollywood Television Theatre, Lewis Freedman, will receive $45,000 yearly, Fred Rogers of Misteroger's Neighborhood receives $40,000 annually.

Elizabeth Drew, Washington editor of The Atlantic Monthly, receives $950 for each program of 30 Minutes With. . . . The expected total is $40,000 per year. Arthur Fielder, conductor of the Boston Symphony Orchestra, receives $1,500 for each summertime program.

The Advocates pays each participant $1,000 per show. Alistair Cooke of Masterpiece Theatre receives $833 per show; Jean Shepherd of Shepherd's America, $750 per show; Robert Cromie of Book Beat, $500 per show; Julia Child of The French Chef, $500 per new show or about $10,000 per year; Marshall Effron of The Great American Dream Machine, $23,400 for the 20-show series; and David Littlejohn of Critic-at-Large, $250 per show, World Press participants receive $140 per show and Washington Week in Review participants, $125 per show.

"Whether public television's talent and administrative officers are overpaid constitutes a value judgment," Rep. Van Deerlin said. "I should have hoped that this new medium would build up its own air personalities, rather than seek to compete on the commercial market. I am afraid that the agency's hope for future success on Capitol Hill has not been improved by these revelations."

PROF. WILLIS C. TUCKER

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. DUNCAN. Mr. Speaker, in 1947, Willis C. Tucker was given the assignment of establishing a school of journalism within the College of Business Administration at the University of Tennessee. Professor Tucker not only founded the school, but he became its chairman and remained as head of the school for the next 25 years.

The school of journalism met with such high acclaim that a few years ago the university decided to make it a full-fledged college. Thus, in 1969, the College of Communications opened in a brandnew $3 million building, and everyone associated with the effort knew that most of the credit belonged to Professor Tucker.

I mention these things at this time because Mr. Tucker is retiring as head of the school of journalism this year, and Saturday night, his students, past and present, and associates are honoring him with a special banquet at the Regency Hyatt House in Knoxville.

One of my sons was a student under Professor Tucker, and I have also had the privilege of working closely with several others who studied under him. I know that Mr. Tucker is held in the highest esteem by all those who have been associated with him.

Under his leadership, the school of journalism at the University of Tennessee has achieved a reputation as one of the best such schools anywhere. Professor Tucker has played a major role in raising the quality of journalism, not only in Tennessee, but throughout the entire Nation.

Willis Tucker has been a great asset to the University of Tennessee, and as he steps down as head of the school of journalism, I would like to add my congratulations for a job well done.

ASPIN REQUESTS GAO INVESTIGATION OF COAST GUARD

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. ASPIN. Mr. Speaker, today I am requesting that the General Accounting Office undertake a comprehensive investigation of the U.S. Coast Guard. The experience of the people of Racine with the Coast Guard reveals that the organization is riddled with inefficiency, ineptness and a callous disregard for the lives of thousands of Racine boaters.

I hope that the GAO will determine whether the Racine Coast Guard station was closed simply as an economy move or because of the need for the Coast Guard to gain additional funds to cover its squandering on other programs.

I am also anxious to discover why the Coast Guard service in the Racine area has been so totally inadequate. On Monday, May 1, an aircraft crashed on Lake Michigan near Racine. It took 2 hours for Coast Guard boats to appear on the scene. Coast Guard helicopters were turned back because of heavy fog. In another incident, fishermen stranded on Lake Michigan were forced to wait 2 hours and 15 minutes while a Milwaukee and Kenosha Coast Guard station apparently resolved a jurisdictional dispute.

I hope that the General Accounting Office will be able to uncover why the Coast Guard so consistently seems to fumble its job in the Racine area.

The GAO will study whether the Coast Guard is wasting funds that could be used to provide decent Coast Guard service for communities like Racine. It will also survey the efficiency and responsiveness of other Coast Guard services.

The people of Racine and the American people deserve excellent service from our U.S. Coast Guard. If our experience in Racine is any example of what is happening around the country, then the Coast Guard is not doing an adequate job.

The letter to Mr. Staats follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 11, 1972.

MR. ELMER STAATS,
Comptroller General of the United States,
Washington, D.C.

Attention: Richard W. Kelley, Assistant Director. Department of Transportation

DEAR MR. STAATS: I am writing to you in order to request a general comprehensive review of the operations of the United States Coast Guard.

I hope that this review will involve the study of the costs, the technical expertise, and the organizational efficiency of the Coast Guard.

As you know, the Coast Guard recently decided to close the Racine Coast Guard station. Recently, a plane crashed in Lake Michigan near Racine. It took the Coast Guard two hours to send a boat to the scene. In another incident, there apparently was a jurisdictional dispute between a Milwaukee and Kenosha Coast Guard station that delayed aid to a group of stranded fishermen for more than two hours.

I hope specifically the General Accounting Office will be able to determine whether the Coast Guard is wasting funds that could be used to provide decent service for communities such as Racine.

The Coast Guard estimates that the annual savings of the closing of the Racine Coast Guard station is only $35,000. They also have publicly stated that it would cost an additional $130,000 to modernize the present facility.

I hope the GAO will study the adequacy of Coast Guard services, particularly in the fulfillment of its search and rescue mission.

A member of my staff, Mr. William Broydrick, will be in touch with Mr. Richard W. Kelley, your assistant director at the Department of Transportation, to work out the specific details of work which the GAO will undertake.

Sincerely,

LES ASPIN,
Member of Congress.

J. EDGAR HOOVER—REMARKABLE ACCOMPLISHMENTS

HON. CHARLES THONE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. THONE. Mr. Speaker, when death ended 48 years of service as Director of the Federal Bureau of Investigation, J. Edgar Hoover received almost unanimous praise—some of it from unexpected sources.

Columnist Jack Anderson devoted an essay to Mr. Hoover's passing. Although a portion was concerned with alleged abuses of FBI power, the column contained this accomplishment-recognizing tribute, which I quote:

> J. Edgar Hoover died, as he would have wished, in harness.
>
> When he took over the FBI 48 years ago, it was loaded with hacks, misfits, drunks and courthouse hangers-on. In a remarkably brief time, he transformed it into a close-knit, effective organization with an esprit de corps exceeding that of the Marines.
>
> Under Hoover's reign, agents were fired for drunkenness, for insubordination, even a few for homosexual behavior. But not a single FBI man ever tried to fix a case, defraud the taxpayers or sell out his country.
>
> This amazing, scandal-free record was accomplished by hiring the best men available, training them well, convincing them they were the best, paying them top salaries, and then selling the public on the idea that the FBI is ready to protect the nation from internal emergency.
>
> Above all, Hoover insisted upon discipline. FBI men, who were able to face down armed criminals, couldn't escape the gaze of Hoover. Small disciplinary infractions brought heavy punishment—transfers to unpleasant posts, suspension without pay, or outright dismissal.
>
> For his giant accomplishments, the nation should pay homage to the Old Bulldog whose grim visage, gruff manner and steel-trap mind won't soon be forgotten.

J. Edgar Hoover was subject to error, like all mortals, but he was a remarkable man who did much for his Nation. Mr. Emil Reutzel, Jr., editor of the Norfolk, Nebr., News, in one brief paragraph summed up the strengths and contributions of Mr. Hoover's tenure at the FBI. In an editorial the Norfolk News declared:

> Mr. Hoover was a strong man of great character who developed an agency in his image. Critics to the contrary, his power was not misused. He was a firm believer in limiting the role of the FBI to investigation and fact-finding with the findings turned over to others in the law enforcement field to do as they saw fit. Lesser men would have been influenced to use this power unwisely.

BROOKLYN'S DEAN

HON. FRANK J. BRASCO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BRASCO. Mr. Speaker, the other day, the revered and universally respected MANNY CELLER celebrated his 84th birthday. He is the dean of the House and as well loved as he is respected.

Over the years he has devoted his entire life to the democratic process as we understand it in this Chamber. In fact, he has always been found on the right side of every issue where the cause of human dignity is advanced. And he has never had to run to catch up with the good cause. Always he has been found out in front, leading it.

Every single major civil liberties and civil rights law on the books since the Great Depression has some or all of his imprint on it. Generations yet unborn will have cause to bless and remember his name because of that lifelong belief in and attachment to the concept that all men are equal in the eyes of God.

He has always been an outstanding credit to the immigrant and ethnic and religious heritage he comes from and has in so many ways come to embody.

His efforts on behalf of the State of Israel alone have won him a place in the hearts of millions of Americans that must be felt rather than described.

My own service in this House as a Member representing a portion of Brooklyn has been marked with a most cordial learning and cooperating relationship. MANNY has always been ready to aid another Member in any and every way.

So I extend my warmest congratulations and best wishes to MANNY CELLER on this birthday. He has been a credit to the Congress and to his constituents. He has helped strengthen the democratic process by his daily actions. I can only wish him the best of health and happiness and many happy returns of the day.

REPUBLIC OF CHINA: POST-UNITED NATIONS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. RARICK. Mr. Speaker, in this issue-oriented world of ours where the minority can manipulate public opinion through a series of created crises, much of importance can be lost.

Such is the case of the Republic of China, a trusted ally and a valued friend who, though it has suffered tragically at our own hands in being expelled from the United Nations, remains friendly to the American people. Its people have not forgotten; have we?

The free Chinese have been the victims of an unrealistic notion of "balance of power potentialities"—a situation, in fact, an existence, that has been created by the power manipulators of the United States for their own profit and economic control. The doctrine of the superpowers is a created myth whose only reality rests on imagined strength and its resulting fear.

The present administration, unfortunately, seems to believe that the balance of power game is simply a question involving the United States, Soviet Russia, and the Communist Chinese; in actuality, there is much more at stake—in fact, the very existence of the free world. Peace for the Communists can only be reached after total world domination, regardless of how this is achieved; if the United States, the leader of the free world, continues to appease the Communists by yielding to their every suggestion, threat, or demand, this world will see the end of individual freedom in our time.

The Republic of China stands as a constant bulwark against further Communist aggression; truly, these are people worthy of our continued friendship, respect, and admiration.

I ask that a related article by a Yale professor of political science detailing the situation of the Republic of China following its expulsion from the United Nations follow. The article appeared in the May 1972 issue of Issues and Studies: A Monthly Journal of Communist Problems and World Affairs.

The article follows:

> REPUBLIC OF CHINA: POST-UNITED NATIONS
>
> (By David Rowe)
>
> The Republic of China (ROC) includes not only Taiwan and the neighboring Pescadores Islands, but the Matsu and Kinmen (Quemoy) groups close up to the Communist mainland. In these territories there are now over 15,000,000 people who enjoy the fruits of the Modernizing Chinese Revolution of our time. To this Revolution the ROC is the sole heir, and it continues to carry it on with unbated energy, determination, skill and devotion.
>
> Today, as a result of its expulsion from the United Nations and the admission of the Chinese Communist regime there, the ROC has once again come to an important crisis in its life. What is it, and what does it mean?
>
> By way of background, President Nixon in his State of the World message of Feb. 25,

1971, while opening the door to UN membership for the Chinese Communists, had promised to continue to resist attempts "to deprive the Republic of China of its place as a member of the United Nations and its Specialized Agencies." (p. 108) A simple majority vote in favor of expelling the ROC from the UN and for admitting the Red Chinese had been cast in the UN General Assembly in 1970. It thus became clear that the so-called "important question" technique of requiring a two-thirds majority for expulsion would probably be ineffectual in 1971. Nevertheless the United States held to this technique. The ROC loyally went along and did not invoke the other main provisions of the UN Charter that clearly applied to the matter.

In this respect, Secretary of State Rogers and other U.S. officials repeatedly, and correctly, labelled the UN action toward the ROC as "expulsion" of a member. Under the UN Charter such expulsion of a Permanent Member of the Security Council by a simple majority of the General Assembly was clearly illegal. Under U.S. law the Charter, as a Treaty to which we are a signatory, is part of the "supreme law of the land." This supreme law has been violated in this instance.

To the Government and people of the ROC the announcement on July 15, 1971, of President Nixon's visit to Communist China had seemed to maximize the chances of a reaction against them in the coming UN session. When his foreign affairs advisor Dr. Kissinger, made his second visit to Peiping just at the time of the voting in the General Assembly, they believed it had certainly helped swing votes away from them. Announcements came from the State Department to the effect that the question of "Taiwan" (as it is usually mis-named) was still unsettled since the end of World War II. Dr. Kissinger implied that this should be a matter for negotiation between the ROC and the Chinese Communists.

All this made it very difficult to take at face value the continuous stream of statements by US officialdom that, even after the expulsion of the ROC from the UN, the United States would continue to recognize the ROC and to come to its defense in case of attack, as provided in the mutual security treaty of 1955. After all, in 1949–50 President Truman had refused further military assistance to the ROC. In January 1950, Secretary of State Acheson had declared both South Korea and Formosa (Taiwan) to be beyond our defense perimeter in the Western Pacific. Was the United States about to revert to these policies of the past?

In 1945 the United States had decided that the ROC must be brought into a coalition government with its sworn enemy and inveterate opponent, the Chinese Communist Party. Was Dr. Kissinger now trying to revive some such strategy by urging negotiations between the ROC and the Chinese Communists? Like the try at coalition in 1945–47, the Nixon two-Chinas policy in the UN had failed in 1971. Both were attempts at securing a modus vivendi between Chinese Nationalists and Communists. But the 1971 two-Chinas policy resulted in a complete victory of the Communists in the UN and the complete defeat of the ROC there. Would President Nixon's trip to Peiping carry this defeat still further?

These apprehensions combined with a wave of shock, anger and bitterness in the government and people of the Republic of China. We must remember that many of those who had come over from the mainland twenty years before had lost everything they owned to the Communists. Was disaster to engulf them again? But the tradition of revolutionary persistence in the face of defeat and even of seeming disaster is still as strong as ever in the Republic of China. A very few people decided to liquidate their holdings in the local economy, but were soon to see all values climb higher than before. No major defections of any kind have been indicated. The resolution and steadfastness of the people of Free China, from President Chiang Kai-shek on down, is often capable of surprising even those who know it best.

Being forced out of the UN was a bitter blow to prestige, and a cruel injustice, undeserved on the record. But the dignity and assurance of the Republic of China survives unharmed. Furthermore, the ROC has simply proceeded to adjust and innovate on every hand.

In foreign affairs, for instance, a new flexible policy has already been initiated. Dealings of all sorts, on a pragmatic basis, with any and all countries, no matter what their ideologies, will be undertaken in the future, if only the countries involved are not "hostile" to the ROC. Every case will be worked out on its merits, without regard to legalisms or technicalities. This would seem to forecast possible trade relations, for example, with any member of the Communist bloc except Communist China. The ROC has simply accepted, however unwillingly, the new developments as to its international status, and has decided to make the best of them.

Internally, there are also strong tendencies toward generalizing still further the political representation and participation of the people in government, while revitalizing administration by the introduction of more new and vigorous young talents. Changes of this kind have been under way for a number of years. Power has been flowing steadily away from the older functionaries and into the hands of younger and modern scientifically trained personnel. Much of the ROC's progress in the last twenty years has come from this.

Most evident as a reaction to the current emergency are policies aimed at still more rapid and progressive development of the economy. Certainly the UN defeat and other developments in the foreign field have by no means hindered economic growth. On the contrary, 1971 was the best year ever for business in the ROC, with the gross national product climbing by 11.4% to a figure of US$6,237.5 million at current prices. Per capita income increased by 10% to a figure of US$329 per annum, one of the highest in Asia. Foreign trade increased during 1971 by 32% to a total volume of over US$4 billion. This is very close to the total figure for the entire Communist mainland with at least 47 times as many people.

The US Ambassador to the ROC, Mr. Walter McConaughy, predicted in a speech before the American Chamber of Commerce in Taipei on Jan. 19, 1972, that the total foreign trade of the ROC would exceed that of the Chinese mainland by as much as US$1 billion by 1974, and that by 1975 this "margin is likely to be even bigger." (Note: in terms of value, about 28% of Red China's exports are of narcotics.)

Economic development in the ROC is firmly based on a substructure of high quality education, with nine years of free education for all. There is increasing emphasis upon vocational training. Basic research is stressed, and will be continuously developed in the future, taking into full account the skills being imported from abroad along with capital funds. American investments in the ROC are steadily increasing and will soon be worth US$500 million.

Increasing attention is being given to manpower problems, particularly in view of the steady drift of labor from agriculture into industry. The primary problems of manpower are qualitative ones. On these matters the best brainpower in both the USA and the ROC is being mobilized to work out solutions. Included are some very comprehensive plans for mechanization and land consolidation in agriculture, as answers to growing shortages of agricultural labor. The population grows at a rate of around 2.3% per year, but the rate is slowly being decreased.

Rapid economic and technological development is bound to bring new problems, particularly as to social welfare, labor and income. Much of the industrial growth is based upon the lower wage scales prevalent in the ROC, even compared to Japan and Hongkong, as well as the high trainability and hard working habits of labor. But the ROC has successfully dealt with the wage problem by effective controls upon wages, money supply, commodity prices and currency values. No substantial wage-price inflational spiral is likely in the near foreseeable future. This, in turn, induces capital inflow, accompanied by advanced technology. This increases productivity of labor and leads to a natural healthy growth in labor's income and standard of living. This is a politico-economic fact of great importance. The accompanying growth of social services, such as health insurance, is in fact spearheaded by the Nationalist Party itself, not the least of whose interests is naturally that of political mobilization.

All this is related directly to the problem of internal security of the ROC. There is no doubt but that the drastic shift in the world position of the ROC will accentuate opportunities for the development of opposition to the Government, from a variety of reasons and sources. The assumption must be made by the Government now, even more than before, that some of this will emanate from a desire for the destructive subversion of the Republic of China. But this has never constituted a major problem for the security agencies of the ROC, and it is not likely to become such in the near future.

There is no doubt of the glowing pride of the people of Free China in the social, cultural and economic achievements of the past twenty years. To them this is a living proof of the continuing validity, over the years, of their own solutions of the problems of the Modernizing Chinese Revolution of our time. This is a fact of Chinese life, of which the people on the mainland and in the Republic of China are all aware. It is also a fact of the continuing political warfare between Communist China and the Republic of China. But here, of course, is the danger, namely that the greater the successes of the Republic of China and the grosser the failures of the fluctuating and expediential policies of the Chinese Communists, the more the latter must, in self defense, resolve to "liberate" the people of the ROC by force, saying, as they do, that "no force on earth" can stop them.

It is natural, therefore, to hear the top echelons of the Government of the ROC saying that "economic strength is the only means to military power." Here, while accepting the limitations natural to a people of only fifteen million with a highly restricted area and natural resource base, the Republic of China will undoubtedly develop its armed strength to the highest degree consistent with orderly and swift economic and social development. In this as in other things, it "does a lot for less." Aside from regular armed forces of about 600,000, it has huge trained military reserves several times larger, along with the necessary weapons and command structure.

Military development will no doubt be accentuated by the drop in credibility ratings of previously relied upon "guarantees" as to their external security. In spite of all assurances from the "highest quarters" in the U.S. government that it will sustain its treaty for the ROC's security against armed attack, there remains the steady question as to just what these guarantees may mean in actuality.

For example, the Chinese Communists for a long time have demanded the "total removal of U.S. forces from Taiwan." President Nixon can hardly accede to this demand without helping to create the same situation in respect to the ROC that Mr. Acheson did for the Republic of Korea by his announcement that it was "beyond our defense perimeter in the Western Pacific," which certainly helped bring on the Korean War about six months later. The likelihood might be stronger, therefore, of some actions which at the start might be described as "merely symbolic." They could start, for instance, with a pledge by President Nixon to close down all U.S. Air Force stations on the island of Taiwan. Perhaps the single most important of these involves the USAF use of the big Chinese air base in central Taiwan as a way station in air logistics for the war in Southeast Asia. This might happen soon anyway, as the war in Vietnam phases down or out. Another possibility is that the U.S. Military Assistance Advisory Group (MAAG) might be removed. Such an action would, it seems, be far more important symbolically than materially, although its material significance cannot be completely downgraded.

The increasing self-sufficiency of the Republic of China's armed forces, and their capacity for maintenance, repair and replacement of military equipment have been well noted. Their Air Force is in serious need of more modern planes for defense, but the US Government has not been willing to supply them. Removal of the US MAAG might well stimulate the Republic of China to spend some of its foreign currency reserves upon such weapons. Even though this could by no means satisfy the requirement, it would constitute a "counter symbolism" to help off-set effects of possible US withdrawal of its advisory group.

Much farther up on the list of possible options would be the withdrawal of the American component of the joint Sino-American Taiwan Defense Command (TDC). This organization, logically called for by the joint security arrangements between the two countries, is headed by an American admiral who is schematically second in command under President Chiang Kai-shek, Commander in Chief of ROC armed forces. However, even if these joint security arrangements are themselves to be unilaterally put out of effect by the USA, contrary to every specific guarantee that has been repeated so many times since the UN defeat, something like the TDC is essential to the interests of the USA in respect to the preservation of security in the area. Otherwise the ROC would be left in complete control of the options as to defense against aggression in the area. If only for such reasons, TDC removal at this time is deemed improbable.

Finally, what of the idea that the Chinese Communists would, *for the time being at least,* be satisfied if only the Republic of China would evacuate all its armed forces from the offshore island groups of Kinmen (Quemoy) and Matsu? These islands are in no sense bases for any possible ROC attack against the Chinese mainland. They have been strongly attacked *from* the Communist-held mainland, notably twice, in 1949 and 1958. Both attacks failed.

As things now stand, the Republic of China cannot conceivably be "talked out" of the offshore islands, and will not even discuss the matter. They have developed the defenses of these islands to the place where they believe that, given adequacy of air cover, they are solidly defensible. But even if not, they will have to be driven out of them by force, since they consider them indispensable forward positions for the defense of Taiwan and the Pescadores from attack from the mainland. It is merely natural and logical that their unjustifiable expulsion from the UN has hardened their will against giving up as much as one square inch of their national territory.

But what if the discussions between Mao Tse-tung and Chou En-lai and President Nixon in Peiping should take a more general line, involving, for example, the idea that in return for a pledge by the Chinese Communists not to use force in the Taiwan Strait, the USA would pledge no further military support at all for the Republic of China? It is most doubtful, no matter what is promised on either side, the American diplomacy at this time can really succeed in the aim of getting the Chinese Communists to abjure the use of force in the Taiwan Strait, something our diplomacy has been trying to secure ever since the days of Secretary of State John Foster Dulles. And in the last analysis, any Chinese Communist promises along this line would not be worth the paper they were written on.

But, it will be said, at present the Chinese Communists have special reason to make some agreement. They are, it is claimed, desirous of "doing business" with us because they want to use us to help balance off the Russians who threaten them with thirty-five or more divisions of heavily armed troops along their northern borders. The exploitation of the balance of power potentialities of the so-called Sino-Soviet split is, in fact, widely considered around the world to be the main reason for the Nixon initiative toward Communist China and for Mao Tse-tung's willingness to have him visit and talk in Peiping. In fact it goes beyond this, even to the point where many are convinced that the troubles between Peiping and Moscow have resulted in conversations between authorities of the ROC and those of both the Chinese Communists and the Russians! The Chinese Communists have themselves planted stories to the effect that the ROC had been talking and negotiating with them. On this, President Chiang Kai-shek's New Year's Day message to his own people, of 1972 stated:

"The only contacts between us and the enemy are those of blood and steel in the operations in front of and behind the enemy's lines. There are absolutely no contacts of any other kind."

In fact the balance of power game here is far from being a relatively simple question of Communist China, Russia and the USA, but must involve a number of other countries as well. The current initiatives of Moscow toward Tokyo show how hard it is to keep such a game within bounds. What would it profit President Nixon to gain a few odds and ends from the Communists in China, only to lose as far as Japan is concerned? Here the Russians hold some high cards in the shape of Japanese territories they have held since the end of World War II. By contrast with the Nixon diplomacy toward Okinawa, the Russians have held these territories until a vital *quid pro quo* could be secured for any concessions regarding them.

President Nixon no doubt entertains the notion of playing around the margins of the problems of Sino-Soviet relations and thus avoiding any entanglement with either party which would be dangerous. But if the Russians are suspicious of what he may be doing in this respect, we know already that the Chinese Communists are not merely suspicious; they are convinced from the start that President Nixon, who made his political start in life as a hard anti-Communist, could never be trusted even if he were to say only "Two plus two equals four."

Seen in this way, President Nixon's Peiping trip and his later trip to Moscow are not believed in the Republic of China to be likely to change things for the better. They are also convinced that whatever may *seem* visibly to come out of these meetings, the unannounced results, even perhaps the secret agreements for the future, will be more important to them than what is in the communique, if there is one.

Therefore it follows, many in the ROC believe, that the way must be explored toward alternate sources of security in case the United States really and in secret seems to be deserting them, and no matter how long such a desertion could take. For a long time they have been trying to build up regional security arrangements with such nations as the Republic of Korea, the Philippines, and South Vietnam. The United States has, seemingly, always discouraged these efforts, on the basis that none of these countries need any more security guarantees than are given by the USA.

This argument now begins to fall on rather deaf ears not only in the ROC, but in all the other countries involved in the area. But the missing element is Japan, as to whose direction in the field of national defense no one can be sure. Even the current slow but steady rise in the military budget in Japan raises severe political problems there, not the least of which are caused by the strong aim in many quarters to "normalize" relations with Communist China.

Such "normalization" already faces the staggering obstacle of Japan's previously stated and now reaffirmed position as to the ROC, as of Jan. 11, 1972, namely that the security of "Taiwan" is of vital importance to Japan. This so-called "Taiwan clause" was originally contained in the joint Nixon-Sato communique of Nov. 19, 1969. But now, as then, any relevance it has to the security of the ROC is, purely and simply, a function of US security arrangements on behalf of the ROC. Japan plays no part in any such arrangements. And, in fact, no US forces on bases in Japan can be used for this or any other purpose without prior consultation with Japan and Japan's consent. This will soon apply to our bases on Okinawa.

Only a sufficient and autonomous Japanese military establishment can provide any meaning or any sanctions behind Japanese desires and plans for the security of areas nearby to herself and in which her political and economic as well as strategic vital interests are involved. This may well be a very long time in coming. But this too will depend very much upon the Japanese interpretation of the results of the Nixon visits to Peiping and Moscow.

The pressure in the Japanese media for "normalization" of relations with the Chinese Communists has to be seen to be believed. Even anti-Communist circles in Japan appear to have been at least partially brainwashed by this constant pressure. Some Japanese are now beginning to urge, for example, that the Republic of China should cease to identify itself with China at all, and should abandon its title as Republic of China in favor of one which would identify it as a "separate country." Perhaps they believe that this is the only way in which it can possibly escape a takeover by the Chinese Communists. But there is little chance that the Chinese Communists would settle for anything as trifling as this. They want nothing less than the destruction of the Government of the Republic of China and the takeover of its territories, people, armed forces and total assets. And the Government of President Chiang Kai-shek will never give up its present title, no matter what is advocated along these lines either at home or abroad.

The Republic of China, post-United Nations, thus presents a picture of calm, resolute and determined self-confidence in the face of the injustice and evil treatment which it suffered in the United Nations. It is, in fact, the UN which has come out badly in this matter. By contrast with the Republic of China, the United Nations has lost the confidence of millions of its supporters both in the United States and around the world, and has set its feet on the pathway towards dissolution and total impotence.

In fact, the Republic of China is today stronger than ever before. Its friends and admirers on every continent have even more reason to support it than ever. Long Life to the Republic of China!

CONTINUING CRISIS IN MEAT PRICES—IMMEDIATE REPEAL OF MEAT QUOTA ACT NEEDED

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. VANIK. Mr. Speaker, as every shopper knows, the price of many food goods, particularly meats, fruits, and vegetables, skyrocketed during the past half year. Finally, this March, it was reported that the supermarket food prices dropped 0.4 percent, with the farmer, not the middleman processor, absorbing the price cut.

While the trend in recent prices is encouraging, it is still an undeniable fact that food prices, especially meat prices, are still too high and will probably begin rising again within a month or two.

While the general level of meat prices is usually upward throughout the spring and early summer, there is often a small drop in April and May. After that the prices continue to rise through at least the fall months. I predict that this summer's meat prices will be the highest ever, unless immediate action is taken to control these prices. This forecast is supported by an article which appeared in the New York Times, of May 2, 1972, which included the following analyses:

> Higher farm prices for hogs and beef will mean higher wholesale prices. And unless retailers are willing to accept, or are pressured by the Government into accepting, a reduction in their profit margins, supermarket pork cuts will certainly cost more by September. If past trends in beef demand continue, supermarket beef cuts will also be edging up by September and October.
>
> A recent Agriculture Department inventory of hogs now in feed lots has confirmed what agricultural economists were forecasting in early March: The supply of pork ready for market in September will decline by as much as 7 per cent. If demand continues at current levels, a decline in supply will certainly be followed by an increase in the prices paid to farmers.
>
> The forecasts indicate that by the October-December quarter, beef ready for market will be 4 per cent above last year. But the American Meat Institute estimates that during the next six months the annual per capita consumption of beef will rise from 113.3 pounds per person to 115.5.
>
> In the last decade, a steady increase in the per capita supply of beef has not been enough to prevent increasing demand from pushing prices up.
>
> From its studies of past trends, the institute believes that a far greater increase in annual supplies of both beef and pork would be necessary to hold prices near their current levels indefinitely, and this is not in prospect.

The administration expects meat prices to continue to rise. The Director of Agricultural Economics of the Department of Agriculture said in a speech of this January 6 before the Kansas Livestock Association convention that—

> First, the short run. This year shapes up as being one of the better years for livestock producers. Red meat out-put will likely be about the same as last year.
>
> We expect marketings to be up next summer and fall because the cattle inventory is rising and cattle-feed price relationships generally favor expanded feeding. Usually, when we see sizable increases in beef out-put ahead, we anticipate lower cattle prices. *But it looks like any weakness in cattle prices that may develop will be limited . . . the price effects of increased beef out-put in 1972 likely will be offset by the sharp reduction in pork out-put now developing. There probably will be another rapid rise in consumer incomes.*"

Not only will prices rise this year, but the same economist predicts meat price increases over the next decade:

> Now let's take a quick look at some of the longer-term aspects of the livestock situation . . . the beef production projected for 1980 would mean a rise of around a third over that produced in 1970. *This is a slower rate of increase than from 1960–1970 . . . thus, in the years ahead, the pace of expansion in beef out-put will slow . . .*
>
> *Price trends in the cattle business will continue irregularly upward even with an increase in production because consumer demand will be up even more.*

I am not against an improvement in the income of the livestock growers—but it should not come at the expense of America's urban consumers whose wages have been frozen during the current economic emergency. In addition, there has been a great deal of propaganda put out by the livestock industry, generally to the effect that it is about time that livestock prices rose, that prices today are only equal to what they were 20 years ago, and so forth. It is deceptive to use the catch phrase, "prices were only equal to what they were 20 years ago" because 20 years ago, as you will remember, was the height of the Korean war—a war which resulted in such a domestic inflation that price controls were imposed—even on meats. Prices paid for cattle were 40-percent higher in 1951 than they were 2 years earlier and they were 50-percent higher than they were 2 years later in 1953.

During the war crisis, the price per hundredweight at Omaha of choice steers was $33.64. But the average price for these steers during the period 1953–57 was $23 or about $10 less per hundredweight. Has the cost of raising cattle risen significantly since then? Of course, many costs have increased. But there have been some technological breakthroughs that have radically increased the cattlemen's yield. Not only is the age at which slaughtering is now done considerably lower, but the calving rate has increased by 80 to 90 percent in the last 20 years.

In short, I do not believe that today's meat prices can be properly justified. Certainly, today's crisis prices should not be justified on the grounds of the crisis prices of 20 years ago.

CONTINUED ARTIFICIAL PRICE OF LOWER GRADE CUTS OF MEATS

My main point today, however, is that while the latest newspaper reports indicate that the price of groceries and some meats may have declined in the last month or two, they do not indicate which cuts of meat are becoming less expensive.

I believe that the cheaper cuts of meat—the processed and canned meats, the frozen dinner meats, hot dogs, and hambugers—are still at totally unreasonable highs. It is the more expensive grades of meat—the sirloin steaks that so few of us can afford—that are beginning to decline in price.

The price increases between February 1971 and February 1972 in New York, Washington, and Los Angeles, are larger, percentagewise, for many cheaper cuts than for the expensive cuts. For example, the Bureau of Labor statistics has provided the following data:

	Prices for February 1971	Prices for February 1972	Percent change from February 1971 to February 1972
Chuck roast (pound):			
New York	74.9	89.0	18.1
Washington	74.5	85.7	15.1
Los Angeles	70.4	80.7	15.3
Round steak (pound):			
New York	158.4	179.3	14.0
Washington	136.2	152.3	12.2
Los Angeles	116.7	133.6	16.1
Sirloin steak (pound):			
New York	136.9	153.4	11.4
Washington	133.9	149.3	11.6
Los Angeles	182.9	208.7	14.1

In Cleveland, the same price pattern appears to be developing. For example, while the price of sirloin steak last Tuesday, May 2, was essentially the same as it was last November, ground beef and chuck is still generally a dime per pound more than it was in November. A sampling at two stores revealed the following price patterns:

	Nov. 10	May 2
Store A:		
Ground beef	$0.59	$0.69
Ground chuck	.79	.89
Sirloin steak	1.39	1.38
Store B:		
Ground beef	.69	.79
Ground chuck	.79	.89
Sirloin steak	1.49	1.34

One of the major reasons for the continued exorbitant prices for the traditionally cheaper grades of meats is that there is a real shortage of this type of meat, known as processing meat. The reason that there is a shortage is because we have placed restrictions on the importation of foreign meat, meat which is almost entirely of the processed variety. These restrictions have been permitted under the provisions of the Meat Import Quota Act of 1964, an anticonsumer piece of legislation which I opposed in 1964 and which I—and some 50 other Members of the House—are now seeking to repeal.

The meat that is raised in foreign nations is, almost entirely, noncompetitive with that raised by our livestockmen. The reason is that the foreign animals from Australia and New Zealand, for example, are allowed to graze on open range lands. Our livestock is now often raised under "greenhouse conditions." Heavy use is made of feedlots where the animals barely move—and, therefore, their meat is fatty, juicy, and tender. The foreign range feed meat is generally tough and lean and, therefore, not suited for being cut into steaks. American cattlemen claim that about 40 percent of the meat imported into this country comes in in the form of competitive "cuts" and that the free entry of foreign meat would drive down their prices. This is not true. When the quotas were first imposed in 1964, only about 10 percent of the foreign meat entered as "cuts." That same ratio holds true today. The simple fact is that the American livestockmen cannot supply the quantity of lean meat for processing that is needed by the American consumer.

This fact can be seen by an examination of the price trends in meat during the past 8 months. Below is a table obtained from data contained in the daily price quotations of the Chicago market, as reported by the National Provisioner Daily Market Service. The first column of figures is the highest printed price for the 30 days proceeding August 15, 1971—the base period on which prices would have been frozen if the phase I controls had been extended to meats. The second column of figures is the market quotations for May 5, 1972.

BASE PERIOD, MAY 5, 1972 (U.S. GRADE CARCASSES)

	Top half	
F.o.b. Midwest River points:		
Ch. Strs. 5/600	53	55
Ch. Strs. 6/700	53½	55
Ch. Strs. 7/800	54	54
Ch. Strs. 8/900	53½	53
Choice lambs (river points):		
Lambs, 35/45	64	62–63
Carcass, cows and bulls (CHGO) Cows, North:		
C.C., 350/up	48½	52½
Bng. Utl. 400/up	45½	49
N. Bolo Bulls 500/up	50	54
Boneless processing beef—Fresh C. & C. (packed), frozen:		
65, buls. beef 90% In	65	72
66, Bnls. Chucks	66	72
61, Trmgs. 85/90%	61	68
50, Trmgs. 75/85%	50	57
Froz. Shank Meat	65%	72½–73
Froz. Shldr. Clods	68	74
Aust.—N.Z. frozen imported meats f.o.b. port of entry (30 days):		
Cow Meat 90% Vis. In	61½	67½ to 68
Bull Meat 90% In	63½	69 to 69½
Shank Meat	64½	69½
Bnls. Mutton 90% In	38	44½ to 45
Primal cuts beef—U.S. Choice or equal:		
Less than Carlot	Choice	....
Trad. Loins 40/50	98	93
Trd. Loins 50/60	1.00	93
Trad. Loins 60/70	1.00	93
Ribs 25/30	72	73–74

These figures show that while the price of choice cuts of meats rose way above the base period price during the winter months, they have now declined to levels equal to or below that of last August. But processing meat, the meat used in the cheaper grades is actually higher than it was last August. This means that it is getting cheaper to eat sirloin. But if your budget can only afford hamburger, you are still in trouble.

Note especially the quotations for Australian and New Zealand imported meats. It is now being imported at a price up to 8 cents higher than it was 8 months ago. Obviously it is needed to meet the needs of the American consumer. Yet we are limiting the importation of this meat. The results are higher prices for those who can least afford it. The Meat Quota Act must be repealed.

Finally, I would like to make a few comments about the statements which have been issued by the Secretary of Agriculture and others claiming that the American shopper is lucky that he only has to pay a small portion of his weekly take-home pay for food costs. The Secretary has stated that the American housewife spends only 15.6 percent of her disposable income on food. This figure is totally inaccurate. This figure appears to be accurate for the small number of American families making about $20,000. For those with incomes above or below that figure, the figure is fictitious.

The Library of Congress has estimated that families earning about $6,300 a year would spend about 30.5 percent of their disposable income on food; families earning around $9,000 a year, 27.2 percent on food; and city families with an annual income of around $12,700 would spend approximately 24.5 percent of their income for food.

For a family of four living below the poverty level, $4,000, the percentage spent on food is obviously much greater. According to the Secretary of Agriculture, such a family would spend only $624 a year on food, or $12 a week—an obvious impossibility.

When so many families spend such a large proportion of their income on food, every effort must be made to stabilize food prices. Not only should the Meat Import Quota Act be repealed, but the strictest controls must be maintained on the prices of goods which the farmers and livestockmen must buy and the prices which food processors charge. Direct controls should be extended to fresh foods. The continuing failure to do this will completely undermine the economic stabilization program.

GOODWILL—ADDING TO HUMAN RESOURCES

HON. CHARLES THONE

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. THONE. Mr. Speaker, for 70 years, Goodwill Industries has been helping to develop America's most valuable resource—people. May 7–13 has been designated as National Goodwill Week to recognize this institution's contribution in helping those who otherwise could not be self sufficient.

A cornerstone of the Goodwill program has been, and is, collective of reusable clothing, furniture, and appliance for repair and resale. Goodwill work, however, is much broader in scope and includes manufacturing and assembling products.

Goodwill's basic aim is to train handicapped people so they can obtain regular employment. For those too handicapped to earn regular wages, Goodwill operates sheltered workshops where severely handicapped people earn dignity while they are earning a few dollars in wages.

Seventy years ago, Goodwill began by serving the physically handicapped. Now, the agency is helping addicts, alcoholics, the mentally retarded and the emotionally disturbed to become taxpaying wage earners.

As a nation we need to give more support to agencies such as Goodwill Industries, which can carry out many tasks more effectively and at less cost than can the Federal Government.

A VIEW OF ICC

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. MURPHY of New York. Mr. Speaker, I commend to the attention of the House of Representatives the recent remarks of Mr. Charles A. Webb, president of the National Association of Motor Bus Owners before the 1972 Conference of the Motor Carrier Lawyers Association. Mr. Webb's views are helpful to us in the discharge of our responsibilities in the field of interstate commerce, particularly as they relate to the decisional process of the Interstate Commerce Commission:

INSIGHTS INTO THE DECISIONAL PROCESS

(Remarks of Charles A. Webb)

It is always an honor for a lawyer to be asked to address his peers. My last speech before the Motor Carrier Lawyers Association was in 1965 in Las Vegas when I was Chairman of the Interstate Commerce Commission. This then is the second time I have written a speech for motor carrier lawyers for delivery in a locale which makes an audience problematical.

One of my last speeches as a member of the Commission was titled, "How the Commission Decides Its Cases." I don't know where Bill Lippmann resurrected it but as Chairman of our Program Committee, he asked me for an encore and to discuss for illustrative purposes, passenger broker licensing cases. I have conferred with several former colleagues to verify that the Commission's decisional processes have not changed essentially over the past five years.

When I was appointed to the Commission, its dean was the late Judge Mitchell. In reminiscing about his service as the junior Commissioner, he told me that upon taking office he found in the top drawer of his desk a pair of dice. He did not know whether they had been left by his predecessor or planted by a practical joker. I am sure Commissioner Mitchell never required any such decisional aid, but the value of a judicious use of dice should not be overlooked.

A Commissioner is obliged to vote on many matters without the benefit of an adequate file or record. For this reason, a decision on whether to grant or deny temporary operating authority or to suspend or not suspend a challenged rate may be as unpalatable for deciding Commissioners as for the losing party. Consider the advantages of throwing the dice. All suspicion concerning the possible influence of improper *ex parte* communications, modal favoritism, or undue fraternization would be dissipated. This no-fault jurisprudence would also elimiate fees of counsel.

I often thought of Judge Mitchell's dice in those cases where a vote either way seemed wrong. For example, a broker of passenger transportation by motor vehicle should exercise independent judgment in providing the best service available from all authorized carriers in the area. This principle was cited recently by the Commission as a reason for denying a broker's license to an applicant affiliated with local sightseeing companies. *Gray Line National Tours Corp. Broker Application*, 114 M.C.C. 914 (1972). On the other hand, there are precedents for the issuance of licenses to brokers affiliated with carriers. E.g., *Kerrville Tours, Inc., Broker Application*, 100 M.C.C.. 270 (1965); *National Trailways System Broker Application*, 41 M.C.C. 411 (1942).

There are other cases in which decisions reached by a roll of the dice might be just as satisfactory to all concerned as those reached by intellectual torment. Seriously, though, the Commission's decisional process is highly responsible and, before being quoted out of context, I should proceed to explain why.

All of you are familiar with the organizational framework of Commission action. The Commission's internal decisional processes, from the standpoint of reaching sound conclusions, are perhaps more important than its published rules of organization and procedure.

The most important Commission cases are those considered in conference. Regular conferences are held on the first and third Tuesdays of the month. The Commission also meets in conference either at the end of oral argument or within a week or so thereafter. In addition, numerous special conferences are called as the need arises.

The formal discussion of a case is begun by the senior Commissioner in point of service, proceeds to the junior Commissioner in point of service, and ends with the Vice Chairman and the Chairman. After a further and less formal exchange of views, the roll is called in reverse order of seniority.

Voting by proxy is not permitted. If a Commissioner is uncertain as to how he should vote, which is unusual, he may vote later by notation. After the roll is called, the Chairman designates a Commissioner who voted with the majority to supervise the preparation of a report reflecting the views of the Commission. The preparation of a draft report in a difficult case may require two or three months, or even longer. The draft report is circulated for suggested revisions and for final approval. Although the decided date on Commission reports is correct, virtually all of the cases considered in conference were decided for all practical purposes at the conference which voted on the result to be reached.

When a draft report is finally approved, dissenting Commissioners are given seven working days in which to submit their separate expressions. Although the Commission reserves the right to reject a dissenting expression, the exercise of that right was not even considered during my service on the Commission. Each Commissioner is accorded unrestricted freedom of expression, subject only to the Commission's right to reject any statement that is scandalous or impertinent in nature or which discloses confidential information.

Members of the Commission's staff do not participate in conference deliberations except when called to the conference room to give their views on some particular question. The great majority of cases are disposed of in conference without any member of the staff being present.

However, I do not wish to imply that the influence of the staff is minimal or that their advice and assistance are unimportant. Some conference actions are conditioned upon the staff's conclusion on some particular phase of the case. The file in almost every case taken to conference contains the views of experienced members of the staff.

The request of a Commissioner that a Commission case be disposed of in conference rather than by notation voting is always granted. Prior to conference, Commissioners who have strong views about the case will usually circulate them in writing. To facilitate conference discussion, extensive changes in a draft report or order may be circulated in advance of the meeting. To facilitate conference discussion, extensive changes in a draft report or order may be circulated in advance of the meeting. However, there is no general exchange of memoranda among Commissioners prior to conference. Each Commissioner tries to enter the conference room with a thorough knowledge of the case and in a conciliatory mood. Commissioners rarely exchange memoranda concerning a case that has been scheduled for oral argument. Each attempts to walk up to the bench prepared and willing to be persuaded.

I have long felt that the Commission's finest work is done in conference. Important and controversial issues can seldom be resolved fairly or finally without some accommodation of divergent views. In dealing with such issues, writing notes is seldom an adequate substitute for face-to-face discussion. The reason, perhaps, is that views have less tendency to harden when expressed orally. Only the eleven Commissioners and the Commission's Minute Clerk are privy to all conference discussions. Those discussions are impersonal, always frank, sometimes heated, and usually reflect a keener sense of carrier and shipper motivation than it is prudent to disclose in a published report.

In my opinion, the keystone of the Commission's internal decisional process is avoidance of any form of log-rolling. When a Commissioner argues the merits of a pending case, either orally or in writing, his views are presented to all Commissioners simultaneously. This practice discourages the formation of cliques, trading of votes, and voting on the basis of purely personal relationships.

Because of the Commission's huge caseload, only a small percentage of cases are decided in the conference room. Most cases are disposed of by notation voting. Under this procedure, a copy of the draft report or order is circulated to all Commissioners, together with the pertinent file. The date of the decision is the date upon which the last vote is cast. Copies of votes on Commission reports are sent to all Commissioners. If a Commissioner votes to approve the draft report, he will often suggest changes, either editorial or substantive in nature.

If a Commissioner votes to reject a draft report, he will usually explain why and will indicate, if the report is approved, whether he intends to file a separate expression.

Voting by notation is regarded as a constructive conference. If the Commission were required to dispose of all matters in an actual conference, it could not function. Although conference is generally the best method of deciding important cases, notation voting is a responsible procedure. If highly technical matters are involved, it is probably better for a Commissioner to reach a decision in privacy on the basis of the file and the written views of his colleagues. Notation voting is not incompatible with a vigorous dialogue. The voting memoranda exchanged on controversial cases are extensive, forceful, critical, and examples of the highest form of advocacy. It is a pity that the notation votes of Commissioners are necessarily confidential. I usually found these expressions to be more interesting than the text of majority and minority opinions which, of necessity, were more circumspect.

What I have said in regard to Commission conferences, oral argument, staff participation, assignment of cases to individual Commissioners, circulation of draft reports, dissenting expressions, and notation voting is largely applicable to the decisional process at the division level. In the disposition of division cases, three Commissioners are involved rather than eleven and the Chairman of the division is responsible for the administrative handling of division cases in much the same way as the Chairman is responsible for handling entire Commission cases. There is one important difference, however, in the decisional process at the division level.

Except in those instances in which a draft report of a division is recalled and approved as a Commission report, almost every report of the entire Commission is one that has been prepared in accordance with the Commission's instructions. Except for reports on reconsideration, most division reports are drafted prior to division consideration of the merits of the case. When replies to exceptions have been filed, the case is assigned to the docket of a member of a division and, at the same time, an attorney is designated to assist the Commissioner in preparing a draft report. This draft is then circulated to the other two members of the division for their approval. If they do not approve, one of them will prepare a report reaching a different conclusion.

Prior to 1961, the Commission had no employee review boards to decide heard cases and all initial reports of divisions could be appealed as a matter of right to the entire Commission. Obviously, the Commission was unable to consider intensively over a thousand petitions for reconsideration filed each year in relatively unimportant cases. Since the establishment of employee review boards and curtailment of the right of appeal, consideration of a case at the Commission level is just as thorough as at the division level.

In the past, choices of Commissioners in regard to division assignments were honored on the basis of seniority of service. As a result of a change made in 1965 Commissioners have an opportunity to serve on all three divisions within a three or four year period. Under this procedure respecting division assignments, each division usually has at least two new members at the beginning of each calendar year. The end result is more rotation and less specialization.

The decisional process described above is largely applicable to petitions for reconsideration. Such petitions may be considered in conference or voted on by notation. There are two important differences. First, the petition for reconsideration of a Commission, division, or board report is circulated with a memorandum of a staff attorney who has independently appraised its merits. This means that the reviewing body, Commission or division, has the recommendation of at least one person who did not participate in the prior decision. The review of a division decision by the same division, sitting as an appellate division, may not be an ideal procedure but it is preferable to requiring the entire Commission to dispose of numerous cases involving no issue of general transportation importance.

Secondly, the decisional process outlined above is somewhat different with respect to petitions seeking Commission review of cases allegedly involving an issue of general transportation importance. Since such petitions may not exceed three pages in length, no staff recommendation is circulated unless specifically requested. In addition, since the merits of the prior decision are not directly involved, extended study of the file is frequently unnecessary.

A division of the Commission may note the existence of an issue of general transportation importance at the time it serves its report, thus permitting the filing of a petition for reconsideration by the Commission. In *Auch Inter-Borough Transit Co. Extension—22 States*, 88 M.C.C. 455 (1961), Division 1 found that any adverse effect on brokers was not a sufficient ground for denial of passenger carrier operating authority. This issue had not previously been presented squarely to the Commission. The division concluded that a broker of transportation had no legitimate interest in preventing the authorization of a new carrier service available to it and to other brokers. These conclusions were upheld by the Commission in its denial of the protesting broker's petition for reconsideration.

The basic purpose underlying the licensing of brokers is to protect the traveling public against unscrupulous or dishonest purveyors of transportation. Section 211(b) provides for the issuance of a brokerage license to applicants who are found to be "fit, willing and able properly to perform the service proposed" and who show that the proposed service "is or will be consistent with the public interest and the national transportation policy." Section 211(c) authorizes the Commission to issue regulations prescribing bond or other security in such form and amount as will insure the financial responsibility of brokers.

Brokers of motor carrier transportation are required by Section 211 to utilize the services of authorized motor carriers. Since brokers cannot provide passenger transportation directly and generate traffic for authorized passenger carriers, why should entry into the brokerage field be restricted? There would be no reason, in my opinion, if the passenger traffic generated by a broker could be provided only by carriers who, in the absence of broker intervention, could perform the service in question. In the *Tauck Tours* case, however, it was held that a charter bus operator, having no authority to sell individual fare tickets, could transport groups of passengers on leisurely sightseeing and pleasure tours arranged by a broker through the sale of individual tickets. *Tauck Tours, Inc., Extension—New York, N.Y.*, 49 M.C.C. 491, 52 M.C.C. 373, 54 M.C.C. 291, 63 M.C.C. 493; action to set aside dismissed, *National Bus Traffic Assn., Inc.,* v. *United States,* 143 F. Supp. 689 (D. N.J., 1956), aff'd, 352 U.S. 1020. This decision enabled charter bus operators, in conjunction with brokers, to provide service in competition with carriers holding regular-route or special operating authority which would be unauthorized but for the interposition of a broker between the charter bus operator and the general public.

In *Greyhound Corp.* v *Edwards,* 96 M.C.C. 112 (1964) the Commission, Division 1, was confronted with an extension of the *Tauck Tours* situation. The issue in this case was whether a broker, through the sale of tickets to the general public, may assemble a group of passengers for trips of one day or less to shop, attend athletic events, or play bingo, and arrange for their transportation by a carrier holding only charter authority. The Commission held the one-day shopping tour was unlawful because no significant community interest existed among the patrons of the tours. The passengers did not shop together, eat together, or stay together throughout the trip; the non-transportation features of the tour were insignificant; and the shopping tour service could easily be utilized by passengers interested in only expedited point-to-point transportation.

On the other hand. the Commission found the one-day hockey excursions and the bingo trips would not be attractive to persons desiring only point-to-point transportation; that a substantial community interest existed among the patrons of these tours; and that the non-transportation features of the tours were substantial. Following the Commission's report on reconsideration in the *Edwards* case, 100 M.C.C. 453 (1966), NAMBO and the National Bus Traffic Association asked the Commission to clarify the authority expressed in brokers' licenses and to limit the transportation provided by brokers in conjunction with charter bus operators to leisurely tours of the type found lawful in the *Tauck Tours* litigation. The Commission declined to issue such rules and regulations.

One reason why the broker cases are difficult is that the entry requirement is not couched in the familiar concept of public convenience and necessity. The Commission cannot deny applications for brokerage licenses merely on the basis of existing service and cannot issue licenses merely upon finding applicants fit, willing and able. The test most frequently employed is that an applicant for a brokerage license must show that his service will contribute something of value or be of some benefit to carriers and the general public. This was the conclusion of the entire Commission in *Carla Ticket Service, Inc. Broker Application,* 94 M.C.C. 579 (1964). The Commission has attempted to apply that test in subsequent cases but the ambiguity of the standard makes the Commission's task unenviable.

Lawyers who practice before the Commission are understandably curious about the working habits of Commissioners. There are only three observations I can make with absolute confidence. First, no two Commissioners work in exactly the same way. Secondly, no Commissioner has more than 24 hours in his day. And finally, each Commissioner reads as much of the file as he deems necessary in order to reach a just conclusion.

Some matters on which Commissioners are required to vote are routine, extremely simple, and of no great transportation consequence. In my opinion, reading the entire file in such cases would be an inexcusable waste of time. Each Commissioner has at least three highly competent advisers on his personal staff. These examiners are responsible only to the Commissioner for whom they work. They know their Commissioner's philosophy of regulation. Commissioners and their examiners are not infallible and do not claim to be. However, most mistakes revealed by hindsight would be attributable, in my opinion, to errors of judgment rather than lack of effort.

While on the Commission, I was frequently asked what elements of advocacy are most influential in the final result. Obviously, there is no substitute for the development of an adequate record. As to controverted questions of fact, the Commission is naturally inclined to accept the findings of the examiner who heard the case. The importance of good writing is obvious. There are other important elements of advocacy which I would like to mention briefly.

First, we must realize a case becomes progressively narrower in scope as it moves from the hearing stage to final decision. It is always hard to relinquish points felt to be valid but nothing should interfere with the task of making the Commission see the main point in the case.

Secondly, persuasion by the written and by the spoken word should be recognized as two distinctly different arts. At the time of oral argument, the Commission has already been subjected to written persuasion. In most instances, the Commission will reach its decision within a few hours or days following oral argument and often without any further review of the file. Thus, if oral argument is merely a sterile summation of what has already been put in writing, the opportunity to gain from a different form of persuasion has been lost.

Finally, I think many of the arguments in Commission cases are excessively legalistic. Some cases, of course, turn primarily or exclusively on a relatively novel legal question. In a majority of cases, however, the Commission has considerable discretion. In such cases, the Commission cannot easily be persuaded that it is required as a matter of law to reach the result we desire. It is more impressed by arguments explaining the transportation consequences of a decision one way or the other.

In conclusion, I have attempted to describe an internal decisional process which is responsible and is being constantly improved. People, though, are far more important than processes. If the Commission were divided into warring factions or cliques, its decisional processes would soon become irresponsible. No matter how sharp the differences of opinion among Commissioners on various transportation matters, I do not re- were based on personal or political considera- call during my service any differences which tions or which generated any ill will. To serve on a Commission completely free of personal animosities is not only a great joy but the strongest restraint against irresponsible action.

THE DIFFERING PERSPECTIVES OF RURAL AND URBAN AMERICANS ON THEIR COMMON PROBLEMS

HON. VERNON W. THOMSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. THOMSON of Wisconsin. Mr. Speaker, on Wednesday, May 17, I intend to testify before the Agriculture Appropriations Subcommittee when it considers the funding levels for Rural Electrification, Rural Telephone, Rural Environmental Assistance, and personnel for the Farmers Home Administration. One encouraging development in this Congress, has been the increased interest among the Members in understanding the differing perspectives of rural and urban Americans on their common problems.

To assist my urban colleagues, I have asked that a copy of my tesimony be included at this point in the RECORD:

TESTIMONY OF VERNON W. THOMSON, REPRESENTATIVE

Mr. Chairman, it is again a privilege to appear before your Subcommittee. I know that in the past you and other Members of this Subcommittee have always been sympathetic to programs affecting rural America. Today, I would like to discuss four of them with you.

I would encourage the Subcommittee to closely survey the budget proposed for REA. In my view, it is not sufficient to meet the needs for electric power in rural America and I urge an increase in appropriations.

Let's look at the figures critically. Beginning this calendar year, the REA backlog stood at $387,610,000. NRECA's survey of anticipated projects for the 18 months beginning January 1, 1972, stood at $1,817,364,210. Assuming REA will provide 85% of the loans for distribution facilities and 40% of the generating facilities, the actual demand on the loan funds are expected to be $584 million for distribution and $452 million for generation. Even considering factors such as postponement of plans or submission of applications in one year while actual funding occurs over a period of years, need remains considerably above the projected budget.

In Wisconsin's Third District alone, there are numerous coops planning projects which anticipate submitting applications in f.y. 1973. Buffalo Electric Coop, Alma, $200,000; Grant Electric Coop, Lancaster, $800,000; Vernon Electric Coop, Westby, $1,114,700; Crawford Electric Coop, Gay Mills, $275,112; Barron Electric Coop, Barron, $1,000,000; St. Croix Electric Coop, Baldwin, $730,000; Eau Claire Electric Coop, Fall Creek, $485,293; Polk-Burnett Electric Coop, Centuria, $823,000; and Dairyland Power Coop, La Crosse, $117,000,000. Of this the REA portion for distribution facilities is calculated to be $4,422, 849 and $38 million for generating facilities. Adding the current application for loans from Oakdale and St. Croix Falls, the estimated demand on the REA fund from my district alone will be $43,313,849. At this rate, the requests from only 10 Congressional Districts with similar needs could be met by the proposed budget.

If the need is so great, why not just pass along the costs immediately to REA consumers? In fact, the cost of electricity is rising for rural America. I received reports this spring, for example, that a distribution coop in Pierce County, Wisconsin, was forced to raise its rates over 15%. Rural residents *are* being required to absorb immediate increased costs of just maintaining service, let alone improving or expanding it. They cannot do much more.

Dairyland Power Cooperative, one of the nation's largest generating cooperatives, advised me in regard to their rising expenses exclusively for service maintenance. Aside from increased wages, etc., Dairyland has encountered a rise in the price of coal over the past few years from $5.50 per ton to $9.10 per ton. In terms of actual heat produced (BTU's), the cost has doubled. Being a responsible organization and in full compliance with Federal regulations, Dairyland is adding $19 million worth of anti-pollution equipment or modifications, beside having created a new Environmental Department.

Non-productive cost increases such as those of Dairyland must ultimately be absorbed by the consumer. Thus if we are to keep within the Congressional mandate given REA—providing an adequate supply of cheap electrical power—rural residents simply cannot absorb costs of expansion or construction in addition to operating increases through immediate and high electricity bills. A healthy REA loan fund for that reason is necessary.

I do not propose to tell this Subcommittee what level of fiscal year 1973 REA appropriations is sufficient. My resources in making such a determination are not that encompassing. I would submit, however, that $438 million falls far short.

Last year the Congress made a significant advance in helping to provide rural services. The Rural Telephone Bank Act embodied an extremely promising approach toward permitting modern telephone service in non-urban areas. Still, we must recognize that the major supplier of funds for rural telephone companies remains the REA telephone loan fund.

It is anticipated that the proposed budget will be adequate to meet projected demands of consumer organizations; I am gratified at this Administration response. Nevertheless, the backlog of loans approaches $650 million. That means a local telephone company can expect to submit an application and four years later have it funded. In the meantime, however, cost projections change and auxiliary planning may become necessary. Such a condition is neither conducive to sound fiscal conduct of a company nor customer service.

In Wisconsin's Third District, for example, I am aware of several companies that have submitted applications for either a Telephone Bank or a regular loan: Northwest Telephone Company, Tomah, $5,852,500; St. Croix Telephone Company, New Richmond, $685,650; Viroqua Telephone Company, Viroqua, $567,000; Vernon Telephone Coop, Westby, $554,000; Dickeyville Telephone Company, Dickeyville, $500,000; Chibardum Telephone Coop, Dallas, $2,163,000; Amery Telephone Company, Amery, $1,300,000; Osceola Telephone Company, Osceola, $600,000; and Frederic Telephone Company, Frederic, $1,138,000. If each of these were required to wait four years, the type of telephone service taken for granted in urban areas could not be realized for a considerable period. And then, rising costs and added planning could very well require further delay. This, of course, is not to mention those currently denied any service.

I, therefore, feel it would be well if we began to clear the backlog. Such an effort obviously could not be accomplished overnight. Nevertheless, a beginning should be made and there is no reason to delay it any longer.

I would like to express my concern over the proposed budgetary reductions in Farmers Home Administration field personnel and urge that levels of these personnel be set so as to facilitate the prompt efficient processing of F.H.A. loan and grant applications. Since I am most familiar with the situation in my own State of Wisconsin, I focus my remarks on conditions there. In all probability Wisconsin is typical; however, I possess no data to substantiate the contention.

Between 1964 and 1971, full time FHA employees in Wisconsin rose 45% to a total of 168. Under normal bureaucratic conditions, this hefty increase must be considered excessive. Nevertheless, the growth of FHA programs and services as authorized by Congress scarcely constitute normal conditions.

In the past seven years the FHA unduplicated caseload in Wisconsin rose 151%. The average employee caseload as a result increased about 60%. Currently, 91 supervisors are being asked to service 13,932 applications, an impossible test.

It is significant that not only has the number of loans grown astronomically, but the complexity of many has as well. View, for example, the rising number of community water and sewer loans and grants. These community applications require considerably more time and effort to process than would a farm operating loan. My State approved 32 water and/or sewer loans and grants in f.y. 1968 amounting to $3,186,200, while in f.y. 1971 there were 66 at $11,750,000.

Wisconsin now faces a situation where the time required to service and collect loans permit FHA to make only 4–5 new loans per month per supervisory employee. At that rate, the 2,900 families now waiting for loans must continue to wait up to eight months before their application can be processed. In addition, 27 communities have funded water and sewer loans, but are waiting for the Wisconsin FHA to close what has already been approved. Another 100 communities have filed applications and await processing.

Mr. Chairman, it makes no sense to have FHA funds available if they cannot be distributed. In fact, I would argue such a situation creates unnecessary false hopes. If money were not available, the people could understand; but when it is there, just waiting for an application to be processed, the people become exasperated.

Let me suggest that a balance needs to be restored. Allow the processing mechanism to keep pace with the funds available. Only in this manner can FHA fulfill the mandate given it by Congress.

Every year I make a repeat performance before this Subcommittee on behalf of REAP (ACP). This year I am doing the same.

REAP is one of the Government's most valuable programs. When the so-called environmental crisis was discovered three or four years ago, REAP and the conservation activities it helped finance were long established. For years, REAP has been an active participant in maintaining soil and water quality, preserving and creating wildlife habitat, and generally aiding the continuance of an environmentally healthy rural America.

The program further is not a government handout to the individual farmer. Each recipient is expected to contribute about 50 percent of the approved project's cost. Thus the farmer helps to finance conservation practices which benefit us all.

Last January, correspondence was received from Mr. Boyd Frank, President, Wisconsin Association of Farmer Elected Committeemen. I would like to share a portion of that letter. Mr. Frank writes, "In our county of St. Croix last year, we had requests for $285,000 REAP funds. However, due to the late announcement of the program, shortage of field time, technical assistance from SCS, and weather conditions this Fall, we used only $80,000 which was 115 percent of our county allocation." (St. Croix County is predominantly agricultural and has a population of 34,354.)

Requests for funds in that one county were 350 percent above the allocation. Nor is this situation unusual as reports received from other counties within the Third Congressional District would indicate. Consistently, these shortages arise and many qualified farmers must be rejected.

Recently, the House passed a $25 billion water pollution bill. It rightly seeks to eliminate or drastically reduce the pollutants discharged into the nation's waterways. Yet silt is the single greatest polluter and the bill provides no funds for that purpose.

REAP, which not only retards silting but provides numerous other benefits, is budgeted at $145 million. Thus there exists an infinitely smaller allocation of funds to reduce our largest single polluter than to reduce others. This is totally inconsistent.

I would urge the Subcommittee to recognize this fact. Let us allocate our resources on a reasonable basis. I do not feel that an appropriation of $400–$500 million would be unjustified.

Thank you for permitting me to appear before this Subcommittee.

BIENNIAL CONVENTION OF UNITED CIRCLE CHOIRS OF WESTERN DIOCESE OF THE POLISH NATIONAL CATHOLIC CHURCH

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. ZABLOCKI. Mr. Speaker, the United Circle Choirs of the Western Diocese of the Polish National Catholic Church held its biennial convention and concert the weekend of May 6 at Milwaukee, Wis.

The United Circle Choirs is an association of parish choirs of the Western Diocese of the Polish National Church. The Western Diocese—whose See is All Saints PNC Cathedral, Chicago, Ill.—includes PNC parishes in Wisconsin, Illinois, Indiana, Ohio, Michigan, and Minnesota. Participants were from PNC parish choirs from Wilwaukee, Wis.; Chicago, Ill.; South Bend, Ind.; Detroit, Mich.; and Cleveland, Ohio. Special invited guest choir was the Polish Bard Choir, a combined choir from Polish National Catholic parishes in the Greater Pittsburgh, Pa., area.

On the occasion of this event, the city of Milwuakee Common Council adopted a resolution which follows:

RESOLUTION CONGRATULATING THE UNITED CIRCLE CHOIRS OF THE WESTERN DIOCESE OF THE POLISH NATIONAL CATHOLIC CHURCH, ON THE OCCASION OF THEIR BIENNIAL CONVENTION IN MILWAUKEE

Whereas, the United Circle Choirs of the Western Diocese of the Polish National Catholic Church held their biennial Convention in Milwaukee, Wisconsin, May 5 through 7, 1972; and

Whereas, The choirs meet for the purposes of promoting Christian fellowship through the medium of music, and to uphold the culture of the Polish people by promoting the performance of their music; and

Whereas, Choirs participating represent Chicago, Illinois; South Bend, Indiana; Detroit, Michigan; Cleveland, Ohio; and Pittsburgh, Pennsylvania as well as Milwaukee; and

Whereas, This year, the United Circle Choirs are commemorating their fortieth year of church and community service; and

Whereas, In these confused and changing times, with their increasing disregard for tradition and cultural values, this Honorable

Body welcomes the opportunity to recognize the valuable contributions made by organizations such as this one in the areas of ethnic and cultural identity and community service; now, therefore, be it

Resolved, That the Common Council of the City of Milwaukee hereby congratulates the United Circle Choirs of the Western Diocese of the Polish National Catholic Church, on the occasion of their biennial Convention in Milwaukee, and in recognition of their forty years of promoting Christian fellowship and Polish cultural values in a changing world through concerts, church activities and community service; and, be it

Further Resolved, That this resolution be spread upon the permanent record of this Council and a suitably engrossed copy presented to the United Circle Choir organization.

Over the past 40 years many conventions and concerts have been conducted by the United Circle Choirs. Many have been in Milwaukee, Wis. One of the early leaders in promoting music and Polish culture in general and in working with young people of these choirs in particular was the late Bishop Francis Bonczak who for decades served as pastor of Holy Name Church. The convention delegates and choir members held the Sunday services on May 7 with the Very Reverend Francis Kolwaicz, pastor, officiating. The Reverend Thomas J. Gnat of Washington, D.C., national chaplain of the National United Choirs of the PNC and pastor of St. Francis PNC of Washington gave the homily, entitled "The Dawn of Even Greater Things," which I wish to include in my remarks at this point:

THE DAWN OF EVEN GREATER THINGS

"Then opened Jesus their understanding, that they might understand the Holy Scriptures." (Luke 24:45)

In the name of the Father, and of the Son, and of the Holy Ghost. Amen

Very Reverend Pastor and Brethren in Christ.

The last chapter of the Gospel of Saint Luke tells us an interesting story of events that followed the resurrection of our Lord and Savior, Jesus Christ. This last chapter of the Gospel of Saint Luke tells us that the women who went out that morning with spices, found an empty tomb. Chapter Twenty-four also teaches us that after His resurrection, Jesus appeared to two disciples on the road to Emmaus. That chapter also relates to us that Christ appeared to the Eleven Apostles and ate with them.

It is about this way to Emmaus that I should like to speak, this morning.

The appearance of Christ, after the resurrection to the two disciples, is told only by the Gospel writer Luke. An earlier verse than these, of Chapter Twenty-four, tells us that the women who went out on that First Easter morning came rushing to tell the news of the empty tomb to the Eleven and "to all the rest."

The two men on the road to Emmaus were part of that other group, called in Holy Scripture "all of the rest."

Saint Luke tells us that the name of one of them is Cleopas. But beyond this, Bible scholars don't know anything about that person. In fact, Bible scholars aren't even sure of the exact location of the town of Emmaus. We know from Scripture that it is very near Jerusalem, probably no more than seven miles away.

At least one of those two disciples must have been from the town of Emmaus for the Now Testament tells us that Jesus was invited to stay over, there.

In this selection of Holy Scripture, we see then two men walking down the road, walking home, after an exciting and frightening week-end.

They knew of the report of the women and the empty tomb. They knew that the fact of the tomb being empty was confirmed by further investigation. But yet, the Bible tells us, they were not sure, they did not believe what had transpired; that Jesus was in fact alive.

These two men were deeply engrossed in a discussion of the empty tomb when Jesus caught up to them. But they did not recognise the resurrected Christ.

The Bible tells us, in fact, that they were surprised at the questions of this unrecognized stranger. These two men of the road to Emmaus asked him if he was a visitor in town. And they proceeded to explain the weird events that had transpired that weekend.

It was obvious from their explanation that two things bothered them:

First, that their own religious leaders had refused to accept Jesus as the hope of Israel and they delivered him to be crucified;

And the second bothering fact for them was that God, who gave evidence that Jesus was the Divine Son, did not intervene, during the time of crucifixion, to save Him.

They continue the story to the stranger.

They reported that the tomb was found empty and investigation proved the women were right. They opened and wondered why Jesus would not remain with his disciples, if he were in fact alive.

Now the Bible tells us, at this point the still unrecognized stranger took up the conversation. And He explained to the two men on the road to Emmaus that their foolishness and slowness of heart came from misunderstanding their own Scripture.

This Stranger, still unrecognized, reminded them of the prophets of old and all that they taught. He told them that suffering must precede glory.

This unrecognized Stranger on that road to Emmaus on the outskirts of Jerusalem then proceeded to teach them as they were walking and talking.

This unrecognized Stranger began with Moses, He spoke of the prophets and all parts of Holy Scripture.

In fact, He was so interesting that miles and time suddenly past and they were home.

But it appeared that Jesus was going on, further.

They invited this unrecognized Stranger to stay. And as they sat at table, Jesus took bread and He served them. And it was at this moment that suddenly they recognized Jesus and St. Luke tells us, He vanished.

They were still all psyched up from their experience, when suddenly they weren't tired anymore. They decided to go back, re-trace their steps, return to Jerusalem, and share the good news, this strange feeling, this strange visitor. They wanted to share this news with their friends in Jerusalem.

There they were met by their friends who confirmed what they already knew that Jesus was alive! "It's the real thing!"

Their friends told them that He even appeared to Simon.

It was un-believable. It was exciting. Jesus was alive!

It was like the breaking of sun over their darkened horizon.

During the past forty years, faithful followers of Christ have given time, talent, and treasury to bring joy, to bring happiness, to bring culture, to bring fellowship to their parishes, to their community, and to those 'round about them.

On this day, in Milwaukee Wisconsin, we are grateful to Almighty God for having inspired the organizers and the first directors of the United Circle Choirs.

We express gratitude to God for the countless numbers of dedicated lay and clerical workers in the vineyard of our Lord, who were loyal, who were unselfish, who recognized that a walk with Christ always warms your heart and always opens your eyes.

The forty year record of the United Circle Choirs is one that we can be proud of.

The two men on the road to Emmaus hastened to share their joy after they recognized Christ.

And even though it was night, and even though it was a healthy walk back, they couldn't keep the good news to themselves.

For they knew that the Christian message is never really ours until it is shared with someone else.

Today, as we join in prayer and in song, as we lift our hearts and our minds to God, we must emphasize that the United Circle Choirs have found their measure of success because they want to share their joy in doing, in serving, and in singing.

Just as the evening walk to Emmaus changed many lives, so too the sunset of the United Circle Choirs' forty year of service to church, community, and country can be for us the dawn of even greater things that can be accomplished with the help of Almighty God.

Through the resurrection of Christ, you can become regenerated in Him.

Your lives are richer because of the Resurrection.

Personally and in our corporate ventures, you are strengthened by Christ.

Your eyes can be opened to the wonder and the wisdom of God.

And with God's blessings, you've got a lot to live, Jesus has a lot to give. Amen.

In the name of the Father, and of the Son, and the Holy Ghost. Amen.

I ask that you join me in prayer.

O Lord, we thank You for the opportunity to serve You.

When we are tired, Lord, strengthen us.

When we disagree, Lord, give us patience.

When we wander, Lord, give us sight and direction.

In all things, Lord, guide us to see the tasks You give us.

Give us wisdom to set our priorities in accordance with Your Holy Will.

Bless us, Lord, that we may know You. There's still time, Lord, and we know it. We ask Your hand in benediction over all the choirs and their members, and dedicated singers of the Polish National Catholic Church so that they may ever open avenues of worship, dedication, and unselfish love to serving You, to singing to Your honor, and to worshipping in lives dedicated to Your heavenly Father. Amen.

Further, on the occasion of the 75th anniversary of the PNC and the 40th anniversary of the United Circle Choirs Bishop Francis Rowinski, Western Diocese, issued a statement which I am sure would be of interest to my colleagues:

DEDICATED TO GOD AND PROUD OF OUR HERITAGE

The 75th Anniversary of the Polish National Catholic Church is a milestone in the history of the American Polonia and its commitments and services to Christian ideals.

The singularly noble efforts, emanating from Chicago, Buffalo, Scranton and throughout America, Canada and Poland in 1895, 1896, leading to March 14, 1897 and the last 75 years, are not only the integral part of the Polish National Catholic Church history but represent the golden thread of religious idealism that meaningly and lastingly renewed Catholicism and enriched Christianity and rejuvenated the fabric of Polonia and contributed much to the richness and diversity of the American Way of Life.

Any period of transformation of religious and social meanings has two facets: the critical one of dislodging the past and the transcendental one of providing for the future.

It behooves us therefore, not merely to pay tribute to the organizers and builders of the Polish National Catholic Church but to follow and to emulate their noble steadfastness toward the perpetuation of the legacy of service and idealism they passed on to us and to give it continuity and expanding horizons within the context of our times.

Indeed, as Polish National Catholic Church members, we are heirs to a sacred legacy. A legacy whose substance and meaning and richness does not lie dormantly in the past but is projecting itself constantly into the future as a beacon light for all generations to come. Of this we must be aware more intensely in our time of moral renewal and ethnic renaissance than ever before.

The love of pristine Christianity, devotion to freedom, adherence to the precept of democracy, deep and abiding realization of spiritual growth, civic virtue and wisdom, desire to perpetuate the Polish language, song, dance, culture and tradition, concern for the fate of Poland and a better future for Americans of Polish heritage gave birth to the Polish National Catholic Church.

In the days ahead, may we continue the implementation of the ideals of the Polish National Catholic Church throughout the United States of America, Canada and Poland. May we continue the pious traditions we inherited and find ever new ways to express our devotedness to God, our heritage and our fraternity with each other.

Thank you, Members of the United Circle Choirs of the Polish National Catholic Church for your devoted service and steadfastness in the pursuance of the objectives and goals of Christ our Shepherd, as a little flock of brothers and sisters of the same faith, the same hope and the same love, traveling to God's new society, salvation and eternity.

"MISS HOPE" OF ALLEGHENY COUNTY

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. GAYDOS. Mr. Speaker, for many years the members of the American Cancer Society have waged a relentless war against this most dreaded of all diseases. They have given enormously of themselves and, thereby, earned the respect and admiration of all Americans.

I am, however, particularly proud of a young woman from my 20th Congressional District of Pennsylvania who has made her fight against cancer a full-time job. By day she works in the chemotherapy clinic at McKeesport Hospital, administering medication to cancer patients. In her free time she now will be traveling throughout Allegheny County conveying lifesaving facts about cancer to those not afflicted with the disease.

This outstanding individual is Miss Gerri Wasilisin, the daughter of Mr. and Mrs. John Wasilisin, of 1304 Maryland Ave., West Mifflin, Pa.

Early this year Gerri was named "Miss Hope" of the Allegheny County unit of the American Cancer Society. In this capacity she helped launch the local cancer crusade and throughout the year will attend meetings and functions to assist the society in its fight to conquer this disease. Recently Gerri was named the second runnerup in a contest to represent the State of Pennsylvania in this year's cancer crusade.

It seems appropriate that Gerri be given these honors, because of her close association with Americans afflicted by the disease. She expresses confidence, however, that some day a cure will be found. Many of her patients today, she explained, are leading normal lives as outpatients and others are being cured.

Gerri, it seems, was destined for nursing. As a young girl she wanted to enter the field and as a student at West Mifflin North High School she worked as a "candy striper" in Homestead Hospital. She graduated from high school in 1965 and enrolled in the McKeesport Hospital School of Nursing, receiving her degree in 1968. Even today she continues to pursue her career, studying for a bachelor's degree in nursing at the McKeesport Campus of Allegheny County Community College.

Mr. Speaker, Gerri Wasilisin is indeed an outstanding young woman. Her achievements to date reflect great credit upon herself and her family, and I am extremely proud to serve as her representative in the Congress of the United States.

ATTENDS LITTLE LEAGUE OPENING DAY CEREMONIES

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. WOLFF. Mr. Speaker, on Saturday, April 29, 1972, I had the pleasure of attending the Opening Day Ceremonies of the Mineola Athletic Association Little League. Many of our Nation's youngsters have learned the meaning of sportsmanship and self-sacrifice through participation on their local Little League team. Whether one is on a championship or last-place club, everyone emerges a winner from their Little League experience. The characteristics of personal pride and dignity that are developed during these formative years remain a part of each youngster's personality as he matures into adulthood.

The Mineola Athletic Association can be proud of the fact that through their hard work, Mineola was the home of the 1970 Long Island Little League Champions. Because of their dedicated service to the youth of Mineola, I would like to take this opportunity to offer my personal congratulations to the following list of officers of this fine organization:

Bill Kain, President, M.A.A.

Joe Chirachella, Vice-President, Little League.

Tim Jahn, Vice-President, Pony League.

Bob Hill, Vice-President, Colt League.

Russ Heintz, Vice-President, Inter. Town.

Len Kazdan, Treasurer, M.A.A.

Paul Ugo, Corresponding Secretary, M.A.A.

Herb Collins, Recording Secretary, M.A.A.

BOARD OF DIRECTORS

Jim Kovalsky, Mel Biaglioli, Fred Cunha, and Don Tamraz.

COMMISSIONERS

Mike Moonan, Dick Osterndorf, and Walt Crosby.

TRUSTEES

Tony Gambino, Bob Gallagher, and Perry Vascellaro.

COMMITTEE MEMBERS

Russ Heintz, Stella Overton, Ted Erickson, Hal Abbott, Don Tamraz, Frank Farino, Lois De Simone, Bob Kulfan, Tippy Overton.

Dan Cellucci, Lou Dunniger, Jeff Craven, Joe Connelly, Vincent Darpino, Howard Collins, Dan Carolin, Tony Donnelly, George Dugan.

Frank Deprima, Jim Daly, John Gallager, Chris Gannon, John Gandolfo, Don Earl, Bill Jeonat, Joe Kelly, Dom Macri, Pat Murphy.

John McGlynn, John Natoli, John McHale, John Macejka, Dick Marks, Pete Palumbo, Sal Orena, Jim Symington, John Talt, Jim Travers.

Tony Teixera, Jack Sheehan, Quint Schoenberg, Mike Varrone, Perry Vascellaro, John Langan, Tony Gambino, Mary Kain.

Neva Moonan, Marge Kulfan, Agnes Chirachella, Pat Gavin, Ed Kucharski, Walter Fritz, Fred Cunha, Len Kazden, Mike Chiusano.

RETIREMENT OF MR. AND MRS. J. F. BAILEY

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. JONES of Tennessee. Mr. Speaker, later this month, two of the outstanding educators of Tennessee's Eighth Congressional District will end their careers. Mr. J. F. Bailey, longtime principal of Friendship High School in Friendship, Tenn., and his wife, Mrs. Leona Bailey, a teacher in the same school system for the same duration, will both retire at the end of the current school year. The Baileys came to Friendship in the late 1920's and have served in the educational system of that community since that time.

In the May 4, 1972, edition of the Crockett Times of Alamo, Tenn., there appeared a story which recounted the careers of the Baileys. I insert this story at this point in the RECORD.

The article follows:

TRIBUTE TO BE PAID TO LONG TIME PRINCIPAL

This year writes the closing chapter and brings down the final curtain on an era of relentless dedication in the field of education which spans forty-four years of devoted and faithful service rendered by one of it's most loyal advocates.

On Sunday, May 28, 1972 at the Friendship High School gymnasium, a tea will be given from 2 p.m. until 5 p.m., honoring Mr. and Mrs. J. F. Bailey who are both retiring from their positions with the Friendship Public School System; thus noting the ending of a career and the commemoration of a legend which has already begun.

J. F. Bailey (named in honor of his grandfather, a Baptist minister) was born on July 24, 1902 in Saltillo, Lee County, Mississippi, the son of Isham and Kitty Turnage Bailey. Along with his two brothers (now deceased) and one sister, Mrs. H. E. Wood of Selmer, Tennessee, he was reared under the guidance of a stern father who was a farmer and later a store-keeper. Mr. Bailey graduated from Saltillo High School, and by working his way through college milking cows, sweeping floors, and being a night watchman, he received his Bachelor of Arts degree from Cumberland University in Lebanon, Tennessee and his Masters degree from George Peabody

College in Nashville. During those scholastic years, Mr. Bailey was a football star, and his 245 pounds of weight and 6' 3½" height attest to this possibility. Regarding his football career, he points to his leg which reflects an old injury that causes a slight limp and says "They fixed them right back in those days."

His teaching career began in the field of science and mathematics in Mansfield, Ark. in 1925 and it was here that fate bestowed upon him the privilege of finding quite by accident, the future Mrs. Bailey.

In order to attend services at his Baptist church in Mansfield, Ark., Mr. Bailey had to go past the Methodist Church enroute from his home. On a stormy Sunday evening with the rain pouring down, he decided to sit through services at the Methodist church rather than continue in the rain to his own church.

Home from college for a visit and singing in the Methodist Choir was Miss Leona Bailey. As he looked upon her face in the choir, he says he thought to himself, "My what a pretty girl." In the summer of 1929 they were married. Endless pages could be written with regard to courtship, love and marriage, but from the summer of 1929 until the summer of 1972 is a period of forty-three years of togetherness.

Mr. Bailey taught in Mansfield, Ark. from 1925 until 1928 when he was offered a position as coach, math and science teacher at Friendship, which he accepted. Mrs. Bailey came to Friendship when they were married in 1929 and has taught in the Elementary School from then until the present and served as principal for most of those years. As she recalls the earlier years, she remembers how she earned sixty dollars a month salary and from that was able to buy groceries, pay board and help educate her sister. Times were so bad and money so scarce that four or five months would lapse sometimes before she received her teachers check. Mrs. Bailey is presently a member of the Friendship Book Club, the Delta Kappa Gamma (an honorary society of which she is a past president), the Crockett County Teachers Association (past president), the Tennessee State Teachers Association and the Friendship Methodist Church.

During the early years at Friendship, Mr. Bailey served under the superintendency of Mr. W. B. Simpson and Mr. A. S. Andrews. When Mr. Andrews resigned in the late thirties, Mr. Bailey was appointed principal of Friendship High School and has remained in that capacity until now.

In his forty-four year career, Mr. Bailey has taught children and grandchildren of former students, and one of his most enjoyable pleasures is to be visited by a graduate of former years. A hard worker who won't admit being tired. Mr. Bailey likes to take drives in the country just to see and enjoy nature. He is an avid reader of newspapers, science books, and books on include gardening, azalea raising, clock collecting and fishing. He sometimes reads catalogues on azaleas for relaxation before going to sleep. Mr. Bailey is an active member of the Friendship Baptist Church, having served as Sunday School Superintendent for thirty consecutive years, and a member of the Masonic Lodge. He has held numerous offices in various educational organizations. He loves children, animals, and nature. He is a staunch advocate of the simpler things and readily admits he chooses dried blackeyed peas, cornbread and sweet milk in preference to an elaborate banquet.

The passage of time erases from our minds many memories, but forever instilled in thoughts of yesterday will be incidents and situations of our school years. Each of us who had the distinct privilege of receiving our education under the guidance of Mr. Bailey will have a memory of something outstanding that is prominent in our mind and will probably differ from that of anyone else, but regardless of what the individual memory may be, it will remind each of us that attention to school work and devotion to the welfare of the student was always primary in his every endeavor.

The Friendship School System will have lost two educators but will have gained a standard of administrative excellence. They leave our school system, but they don't leave our hearts, and they never will. Happiness for them in their retirement and the very best of everything is our sincere wish. The debt we owe them for what they have given to us all can never be paid, but then they don't feel that there is one, because their joy came from this giving.

In the future, when evening comes and darkness shrouds our town, we wonder if, just before bed time, Mr. Bailey will drive around and check on the school buildings. We think perhaps he will—just as he has every night for the last forty-four years.

THE HIDE CRISIS—OR HOW TO STUDY AN INDUSTRY TO DEATH

HON. JAMES A. BURKE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BURKE of Massachusetts. Mr. Speaker, I rise today to call the attention of Members of this House to the fact that the hide supply situation in this country is still wreaking havoc with the footwear industry situation. A few weeks ago this seemed to be one of the big issues, with considerable coverage in the press and no small amount of attention being given to it in various committees on the Hill and impromptu meetings with administration officials. However, like far too many things in this city, after a round of meetings and the exercise of some exertion, things have a way of slacking off and other issues come along to occupy one's attention. Certainly the situation in Vietnam is enough to occupy anyone's full attention at the moment. However, the hide situation has not materially improved and I feel I ought to inform Members of this. Since our meetings, all that has happened is the Commerce Department has devoted further time and effort to studying the situation. This has to be one of the most studious administrations we have ever had in this city. All kinds of economic decisions are being postponed and problems are being studied to death. Just yesterday I received an interim report of sorts from the Under Secretary of Commerce on my request for action to assist the footwear industry. Apparently the Commerce Department is still not convinced there is any connection between exports and the record increases in prices for hides and consequently shoes. Consumers are being penalized every day that the Commerce Department hesitates to take action and perhaps even worse, some plants just will not survive these moments of indecision. Consequently, I found it necessary to reply to the Under Secretary, Mr. Lynn, and represent the situation to the Commerce Department in hopes that we can get this thing off dead center. The following is what I wrote to the Under Secretary yesterday afternoon:

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 10, 1972.

Hon. JAMES T. LYNN,
The Under Secretary of Commerce, Department of Commerce, Washington, D.C.

DEAR MR. LYNN: I want to thank you for giving me your interim report on the current status of the studies being conducted by the Commerce Department on the cattlehide situation, particularly as to the influence of exports on the domestic price for cattlehides. I have gone over in great detail the information you have furnished, including the various charts and graphs you so kindly provided.

Perhaps the best thing for everyone concerned in this situation is to go back to the beginning and determine just what it was that we were concerned about and just what we were hoping the Commerce Department could do to alleviate our problem. My concern from the outset has been the rising cost of hides and/or the availability of these hides to the domestic tanneries and shoe manufacturers. The simple facts I started from and which are still before me as I write today are that there are firms in my District whose future operations are threatened because they just cannot obtain hides. As I understand it, originally it was felt that the price controls on the price of hides to domestic consumers was at least in part responsible. Then the point was made that even with price exemptions there was a problem. Prices were rising to such heights that the whole shoe industry was going to suffer a further disadvantage against foreign shoe manufacturers' exports to this country. In any event, my concern from the outset has been to see what steps are open to the government to assure this industry of an adequate supply of hides.

Understandably, from the outset I have been engaged in a controversy as to whether exports are at the root of the problem or not. Your statistics I assume, were furnished to me to show me that exports have not increased that much and consequently, do not seem to be an important factor in the price increases. I wonder, however, if this is not to miss the point of my original concern. Perhaps exports have not contributed materially to the price increases, but I still think it is undeniable that insofar as we are exporting, there is that much less available to our domestic industry.

It has been my experience that when you come down to it, the economists invariably can trace any marked increases such as the footwear industry has experienced lately to scarcity somewhere along the line. It is my understanding that the purpose of the Export Control Act of 1969 was to protect the domestic economy from the excessive drain of scarce materials and to reduce the serious inflationary impact of abnormal foreign demand. When cattlehide prices have increased up to as much as 115% in the past six months and shoes, at retail have increased from 35–40%, then it does seem to me that we have a very serious inflationary situation, that we do in fact have a material in scarce supply and that the only relief would appear to be to divert hides slated for export to the domestic market. In the end, what we seem to be quibbling about and spending valuable weeks studying, while some firms are in danger of closing in my District (and I am sure others), is the word "abnormal."

This nation's balance of trade performance of late, I need not remind you, has made far from happy reading. The last thing I think we need as a nation is more imbalance of trade. I am genuinely concerned about what is left of the shoe industry in this country. It does appear to me that there is room for action under the terms of the Export Control Act of 1969; stricter phrases than this have been given broad interpretations to meet critical economic situations in this nation's history. I would have thought that it would not have been too difficult to interpret the virtual withdrawal from the world market of Argentine hides as an unusual, even abnormal, export situation. Foreign demand, previously satisfied at least in part by Argentine hides must look elsewhere and some pressure on the price for American-supplied hides must inevitably result, even if exports in your opinion for the past two months do not show any marked increase. Furthermore, have any studies been made of the imports that previously came into this country from Argentina, if any? The sudden drying up of these imports obviously would have an impact on our domestic hide market. If I thought one could ride out this crisis without any further loss of jobs, I might sympathize with your desire to study the situation further before acting; however, with an unemployment rate of 9.8%, the last thing the City of Brockton, Massachusetts needs now is more plant closings and more unemployment. With the state unemployment rate of 7.9% well above the national average, the last thing the Commonwealth of Massachusetts needs is more plant closings and more unemployment.

Failing all else, and should the Administration decide to proceed on a very strict and narrow interpretation of its power under the Export Control Act of 1969, there are still several other options open to it which would go a long way toward relieving the serious plight facing the American footwear industry. As I understand it, the Administration could introduce a validated licensing system to limit the export of hides or could initiate a plan for hide exporters to file export declarations, thereby enabling the Commerce Department to keep a closer look at the domestic hide supply. I would appreciate your reaction to both these proposals.

Sincerely,

JAMES A. BURKE,
Member of Congress.

NATIONAL INSTITUTE FOR ARTHRITIS AND METABOLIC DISEASES

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. SYMINGTON. Mr. Speaker, I want to call attention to the administration's recommendation for the National Institute for Arthritis and Metabolic Diseases for fiscal year 1973. The recommendation for $159 million—less than $6 million over the amount appropriated by the Congress last year is plainly inadequate. Since the administration itself has admitted that the cost of the medical research rises at a rate of about 10 percent a year the fiscal 1973 recommendation is, in reality, a cut. This Institute encompasses some of the most common and disabling illnesses in the United States today. For example, arthritis and rheumatic diseases head the list of chronic diseases in the United States in 1972. Arthritis alone afflicts some 17 million Americans at a cost to the economy of $2 billion a year.

Mr. Speaker, I am most interested in the Institute's mandate in the field of the so-called digestive diseases. Into this category fall such disorders as peptic ulcer which afflicts one in every 10 American adults; cirrhosis of the liver, the fourth most common cause of death of adults in this country; gallbladder diseases and a whole host of additional digestive diseases. Such disorders comprise major or contributing causes of hospitalization for more than 5 million Americans each year and cost the national economy an estimated $8 billion.

I am pleased that the Institute has recently designated an assistant director for digestive diseases. This is a step in the right direction, but it is not enough. In addition to this development, the current Congress has passed legislation to change the name of the National Institute of Arthritis and Metabolic Diseases to the National Institute of Arthritis, Metabolism, and Digestive Diseases. In doing so, we placed greater emphasis upon this whole host of digestive diseases which kill and cripple so many Americans today.

Only the research advances of the last decades have admitted light to this dark corner of the Nation's health. The control of gout is but one of a number of significant achievements. Ongoing research has uncovered promising new departures. Continuation of momentum at this point is essential for exploiting opportunities to deal positively with the Nation's major chronic and debilitating diseases. Therefore, increased funding for this National Institute is needed to expand the fight against these diseases.

HELPING THOSE WHO HELP THEMSELVES

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. CHAPPELL. Mr. Speaker, there is an old Chinese saying:

> If you give a man a fish, he lives for a day. If you teach a man how to fish, he takes care of himself all the days of his life.

In a time when we hear so much about guaranteed income, rising welfare rolls, people refusing to work and demands by welfare recipients for increased benefits, it is indeed refreshing to find a locally financed community service program successfully operating on the premise of helping those who help themselves.

The Neighborhood Center of West Volusia in DeLand is a good example in point. In a unique way it brings together the human and financial resources of a community to help needy people help themselves and others in need. The individuals who receive help for themselves in turn give their services to help others. The result is a chain reaction, enabling the center to help more than 25,000 people in a year's time—with only one paid employee.

Neighborhood Center, which receives no Federal money, makes the Federal poverty programs look pale and weak by comparison. While taxpayers pour millions into salaries for Federal antipoverty workers, the center accomplishes more with volunteers.

It raises its $15,000 budget locally—from $5 monthly pledges from individuals and regular support from churches and civic groups. It stretches the dollar.

The center functions as an information clearing house, utilizing the services of existing agencies and trying to fill the gaps where its limited resources permit.

The center's volunteers drive several thousand miles each month taking children and adults to Daytona, Gainesville, and Orlando for special medical care. Six qualified counselors work with clients on marriage, drugs, juvenile delinquency, and teenage problems. Classes on birth control and nutrition are frequently scheduled. Volunteers teach people how to read and write. A clothing bank is maintained with the Volunteers sorting, repairing, and labeling clothes.

In cooperation with the jaycees, the center distributes food and toys at Christmas. Throughout the year, volunteers repair and paint the toys and dress the dolls. Volunteers have been actively involved in the distribution of surplus commodities. Now they are assisting qualified persons in making legitimate applications for food stamps and holding classes in how to use the stamps properly and economically.

As the center has grown and expanded from its humble beginnings in a vacant grocery store 3 years ago, the concept of helping those who help themselves has attracted the attention of the West Volusia community. Civic groups, churches, retirees, high school and college students have come to the center to volunteer their time and money. The clients—60 percent are white and 40 percent black—take pride in the center and help to keep it clean and in good repair.

This is true community involvement. The citizens of Deland and West Volusia County are proud of the neighborhood center. I applaud its work because it encourages people to depend on their own initiative, their own talents, and their own hard work.

An individual really never begins to help himself until he turns his mirror into a window—and looks to the plight of others, realizing he, too, can help. This is neighborhood center in action.

Mrs. Norah Hagman, the one paid employee whose enthusiasm and love for people has sparked the center's development, has related so many instances where individuals have found a new pride, a new hope, a new sense of achievement and thus have become a stronger link in the chain of our free America.

On a recent visit, I was amazed to see volunteers at work repairing toys, answering telephones, coordinating transportation schedules, and counseling. These people have been helped by the center and are now giving of themselves in return.

The neighborhood center truly proves what a community can do on the grassroots level. With this kind of involvement, wasteful and extravagant Federal programs can be eliminated.

Concerned citizens with a proper approach can build pride and lift people up. It does not take a lot of money. It takes concern.

I commend a program of this kind to any community as a positive means of returning to the concept of individual pride and achievement. The success or failure of this basic American concept may ultimately determine whether or not we survive as a free nation.

AN AWARD FOR THE OUTSTANDING ACHIEVEMENTS OF THE MAYFIELD CITY SCHOOL DISTRICT

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. VANIK. Mr. Speaker, the National Educational Association of the United States has awarded the Mayfield City School District an award for the accomplishments of their board of education. This outstanding school board has made many decisions of extraordinary vision and foresight, but none so outstanding as the acceptance of a request to provide a site, construct a building, and operate an exemplary program for hearing-impaired children of the Cleveland area.

The obstacles to this task were many and varied. The board members of this outstanding city, through their calm consideration of facts and effective decisions, their sound judgments, their deep commitments to the welfare of all students, their enthusiasm for hard work in the interest of the schools, and their overall leadership posture overcame each obstacle leading to the construction of Millridge Center for the Hearing Impaired. This school, the only one of its kind in Ohio, was built in 1969 by the Mayfield board in cooperation with 14 other school districts who shared in its costs and now share its facilities.

Prior to the construction of the new center, the students had been part of the East Cleveland Program for the Hearing Impaired. The growing enrollment in the East Cleveland School District had created a need for more space for the program. Early in 1966, at the request of the east Cleveland system, a series of meetings was held to determine the future of the hearing impaired program. Involved in these discussions were superintendents, parents, board of education members, other administrative personnel and selected community organizations. A major issue of the discussions centered around the advisability of maintaining a program integrated with a regular elementary school or sending the youngsters to a completely separate school. The desire to keep the youngsters in a regular school, to help them learn with and associate with the children in the public school environment predominated.

By late 1967, Mayfield, under the leadership of the late Mr. Joseph L. Baird, and an enthusiastic board of education, had accepted the responsibility for chairmanship of the project. The decision of the other school districts to look to Mayfield for leadership reflects the esteem in which the district and its board of education are held by their contemporaries.

The cost of this project made it impossible for any one district to finance the entire project. State law in Ohio forbid school districts to combine for jointure and expenditure of capital funds. Under the leadership of the Mayfield board, enabling legislation, S.B. 303, was introduced and passed by the Ohio Legislature. This legislation became section 3313.92 of the Ohio revised code and now serves as a model for all similar arrangements through the State.

The efforts and success of the Mayfield Board of Education to provide an excellent educational opportunity to 6,092 hearing-impaired students, is a great credit to both the city of Mayfield, and the greater Cleveland community.

WAGE MINIMUM IS TOO LOW

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. ZABLOCKI. Mr. Speaker, recently an article entitled "Wage Minimum Is Too Low," by Mr. John W. Schmitt, president of the Wisconsin State AFL–CIO was featured in the comment column of the Milwaukee Journal.

This is a lucid, persuasive, and factual presentation on the need for an increase in the Federal minimum wage. As Congress considers an increase in the Federal minimum wage, I believe his remarks are most timely and I respectfully call the statement to the attention of my colleagues:

WAGE MINIMUM IS TOO LOW

(By John W. Schmitt)

One of the most ridiculous and inhumane arguments being advanced by the Nixon administration and some newspaper editorialists these days is that an increase in the federal minimum wage requirement would create more inflation and unemployment.

These arguments have been popping up as a result of the bill currently before Congress to modernize the Fair Labor Standards Act by raising the minimum wage from the 1966 level of $1.60 an hour to $2 and extending coverage of the minimum to some 17 million workers who still lack even this protection.

Typical of the statements that have been made on this subject recently was an editorial in The Milwaukee Sentinel on April 2 that stated:

"The proposed 25% or greater increase in the basic minimum wage would knock the foundation out from under the 5.5% annual pay increase guideline set by the (Nixon) Pay Board."

This is a phony argument. You don't have to be a learned economist to know that there is certainly no inflationary threat in assuring the lowest paid workers in the nation a bare, subsistence wage.

That is all that the proposed $2 an hour could possibly provide in today's high cost of living economy. At the $2 rate, a full time, year round worker would earn approximately $4,000. This isn't much above the government defined poverty level of $3,900 for a family of four on the basis of 1970 living costs, and living costs have continued to skyrocket in the year and a half since then.

WOULD REDUCE WELFARE BURDEN

To present the proposed increase as a 25% boost is also the rankest kind of statistical distortion. The Pay Board guideline of 5.5% is for annual increases, while the proposed minimum wage increase is to cover the period of more than four years since the $1.60 rate took effect on Feb. 1, 1968.

Rather than being a cause of inflation, the proposed minimum wage increase is absolutely essential to restoring the purchasing power of those workers at the very bottom of our national economic ladder. For the population generally, an up to date and realistic minimum wage is also the best solution available for reducing the growing welfare burden.

A great deal of the welfare burden of our local communities stems directly from the below subsistence wages of workers who are paid the present minimum, or even less if they are not covered by the present law.

Government studies on poverty in 1968 showed that more than half of our families in the poverty category—over seven million—were headed by a man or woman who worked full time through the year, but for earnings below the subsistence level. Nearly 11 million full time, year round workers earned less than $4,000 in 1968.

The charge that an increase in the minimum wage rate will increase unemployment (particularly among young people and blacks) is equally phony. It has been completely refuted by past experience. Employment in this country has expanded rather than decline after each previous increase in the minimum wage dating back to the passage of the first minimum wage law in 1938.

The Nixon administration's Secretary of Labor Hodgson admitted this last year when he reported on the findings of a 1970 Labor Department study to determine the impact of minimum wages on youth unemployment. He said:

"A significant finding was that it was difficult to prove any direct relationship between minimum wages and employment effects on young workers."

Despite these conclusions from their own study, however, the Nixon administration and Secretary Hodgson are now seeking to modify and water down the proposed minimum wage bill by creating a special and lower sub-minimum for teenage employes.

The AFL–CIO is concerned about the high level of teenage unemployment, as we are concerned about all unemployment. However, we are unalterably opposed to a subminimum wage for youth or for any other category of worker. We believe that the minimum wage represents a floor under wages, and that no one—young or old, black or white, male, or female—should be asked to work for less.

Low wages do not create additional jobs. In the long run they actually reduce the number of jobs by cutting into the purchasing power of the people who must spend all they make. The real problem today is that the economy under Nixon administration policies is generating too few jobs for all workers, old as well as young.

The answer is the creation of more jobs through intelligent and progressive national economic policies—not in the creation of a subminimum wage pool of young workers who can be exploited by businesses and industries that are already earning substantial profits.

BUSINESS PROFITS PERMITTED TO SOAR

There are a variety of causes of unemployment, but the minimum wage is definitely not one of them. If President Nixon is sincerely interested in the answers to unemployment, I suggest that he begin by looking into the probusiness, antiworker economic policies of his administration. He has done more to reduce jobs in America than any president since Herbert Hoover.

Nixon economic policies and programs are encouraging huge American multinational conglomerates to move plants, technology and jobs to low wage foreign countries. The tight money, high interest strategy of his first economic game plan nearly doubled unemployment in the nation. His new, pre-election game plan has placed a curb on wages while permitting business profits to soar into outer space.

These are some of the reasons why the current propaganda campaign of the Nixon administration and its editorial yes-men against modernization of the minimum wage law are so ridiculous and phony. Their arguments don't make sense from any standpoint—economic, humanitarian or otherwise.

The workers and families affected by the minimum wage need and deserve a higher rate for the simple reason that the existing minimum has long been outdated by rising living costs. Our communities need it because they can't afford the earnings and tax loss of having 20% of our working population subsisting below the poverty level.

Finally, our nation needs it because people purchasing power has been the single most important factor in our national economic growth and progress to date. In this respect, a realistic minimum wage covering all workers is one sound way to stimulate the economy.

PROJECT SANGUINE

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. OBEY. Mr. Speaker, for the past 3 years the Navy has been conducting tests in northern Wisconsin on a massive underground communications system commonly known as Project Sanguine. That system is designed to allow us to communicate with nuclear submarines at operational depths during times of nuclear attack. Obviously, it is a system of great importance to all citizens of this country.

While research on a Sanguine system has been going on for a decade, many questions about it still remain—its ultimate size, its ultimate costs, its effect on the environment, its final location and whether or not a system of this type is essential to the defense posture of this Nation.

An absolutely basic question which many of us believe still remains to be answered is this: As now proposed, will Sanguine work?

Some scientists believe that it will. Others assert strongly that it will not. But as a well-thought-out guest editorial recently published in the Marshfield News Herald said:

> (That) answer should be obtained before many more millions of dollars are authorized for the project.

Mr. Speaker, since this project is important to all our citizens, and because this Congress must decide whether it wants to significantly increase money in this year's defense appropriation bill for Project Sanguine, I am hopeful my colleagues will take the opportunity to familiarize themselves with this project and the questions surrounding it by reading the editorial which appears below:

Project Sanguine

The purpose of Project Sanguine, whether it is carried out in Wisconsin, Texas, or any other state, is to provide a communications system that could not be disrupted by a nuclear attack.

Navy officials argue that the proposed system is needed so that the President would have a sure method of authorizing the use of nuclear weapons to retaliate against such an attack. They argue that under the present system the depth, speed and maneuverability of nuclear armed submarines and other craft is restricted because the existing radio systems are grossly inadequate. The high antenna towers and radio relay links are susceptible to jamming and atmospheric and ionopheric disturbances. If a message fails to get through, the system is of no value.

Because of opposition emanating from Wisconsin residents, the word was circulated last week that Project Sanguine may be moved to Texas. However, some research would be continued in northern Wisconsin, the first choice of the Navy because the underground rock formations there would make an efficient base for the system's cable and antenna.

But the question remains as to whether the proposed underground communications system would do what it is supposed to do. Senator Gaylord Nelson, who doubts that it would be worthwhile, met Monday with Admiral Elmo Zumwalt, chief of naval operations, to further express his opposition. Rep. David Obey of Wausau said last week that he is not ready to concede the system ought to be built at all, whether in Wisconsin or elsewhere.

Senator Nelson inserted in the Congressional Record a week ago a detailed report by Charles W. Harrison Jr., a physicist at Albuquerque, N.M., questioning whether Sanguine would work. About the same time a University of Wisconsin scientific team which has been studying the technical feasibility of Sanguine issued a second adverse report on the subject. The second report said that additional information obtained from the Navy and independent research "confirms very strongly our original position that the system would need an unrealistic amount of power or be an extremely slow method of communication."

The reasoning of the U.W. team is that the Navy would need a large increase either in the network's power supply or the size of the antenna grid compared to the system as presently proposed. Under present plans, at least 6,400 square miles would be covered with a transmitting antenna consisting of up to 1,000 miles of criss-crossing cable buried 6 feet deep. Enlarging such a system would mean far greater effect on the environment than originally indicated.

Further studies are called for in view of the adverse reports that have been received. While we recognize that much experimental work has been done in the past few years, no one can be sure that the system, no matter what its size, will work. The answer should be obtained before many more millions of dollars are authorized for the project, the cost of which has been estimated at somewhere between $500 million and several billion dollars.

FOOD STAMPS

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. RONCALIO. Mr. Speaker, for several months now I have been corresponding with Mr. Harold G. Korfanta, social work supervisor in Lander, Wyo. Mr. Korfanta has provided me with extensive, firsthand information on the operation of the food stamp program in Wyoming. The following is a statement of Mr. Korfanta's feelings on the food stamp program:

> It is my belief that the Members of Congress are operating under a dangerous form of self-deception in believing all poor people are "basically different" from the rest of us. The Food Stamp Program smacks of discrimination against all poor people. The whole program tells me that the Members of Congress believe poor poeple are not to be trusted—that poor people are cheats and almost criminal because they are poor. They are considered to be "not quite All-American". If they have, somehow, survived to adulthood with any dignity intact, the Food Stamp Program is designed to destroy what may be left. I challenge any Member of Congress to take himself to the nearest Welfare office, and in disguise, go through a Food Stamp certification. I guarantee he will go away knowing he lost some of his own dignity. I cannot believe that is what we want for poor Americans.

COMMODORE URIAH PHILLIPS LEVY

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. WHITEHURST. Mr. Speaker, the personnel of the Armed Forces have served this country extremely well. One unsually thinks of our military in relation to military circumstances. However, there are many instances of service to country beyond that called for by title of office. One of the most exemplary is Commodore Uriah Phillips Levy. His service to the United States changed and improved not only the military, but indeed the whole country.

I was privileged recently to recall his history in a speech given at the dedication of a commemorative plaque at the Levy Chapel on the Norfolk Naval Station. The dedication and selfless acts of Commodore Levy may prove to be an inspiration to others. I ask that the text of the speech be printed at this point in the Record. The text follows:

Remarks of the Hon. G. William Whitehurst, Dedication of Memorial to Commodore Uriah Phillips Levy

One of the interesting aspects of history is the fact that conditions of a particular time are so foreign to our own experience as to make that time seem even more remote from us. The institution of slavery, for example, is barely five generations removed from us, not really a long time in the chronicle of man. And yet, in a day of sweeping social changes and views, it is almost unthinkable that the great-grandfather of any of us could have been a slave-owner.

Dramatic change always seems to affect us in this way.

The United States has recently embarked upon an effort to create an all-volunteer military force. In an attempt to achieve this, a number of superficial moves and a few fundamental steps have been initiated to make the armed services more attractive to young men. This has been underscored in the Navy by a series of orders by the new Chief of Naval Operations, Admiral Elmo Zumwalt.

Many of these orders affect dress, as well as living conditions ashore and aboard ship for enlisted personnel. Someone coined a phrase for Admiral Zumwalt's directives, and the phrase has caught on. They're called *Z-grams.* We don't know yet whether or not longer hair styles, beards, or beer in barracks will do the trick, but it is certain that the Z-gram will be regarded as a milestone in the new Navy.

When I read the life of the man we are honoring today, I could not help but contrast the American Navy of the 19th century with the one today. The phrase then was "Iron men and wooden ships," an overstatement perhaps, but not by much.

When Britain was at war, impressment threatened every American seaman. Life at sea was difficult, and dangerous beyond imagination. Discipline was often brutal. In retrospect, it seems incredible that any young man would choose a naval career in those days, yet Uriah Levy did, and he would change the conditions of the day, pioneer in a fight for humane treatment of Navy seamen, and leave a matchless record of devotion to America that merits the tribute in bronze which has been placed here in his memory.

In a time when birth status counted for something, Uriah was a Philadelphia Levy. George Washington had attended his grandparents' wedding. His great-great-grandfather had been personal physician to the King of Portugal. Rich in heritage but less so in worldly goods, the Levys saw their 14-year-old son go to sea as a cabin boy in 1806.

We will never know exactly what prompted him to embark upon a naval career, although some of the signs show later in his life. He loved his country, and he was consumed by a drive to serve it and to make his mark in the naval service. Both of these characteristics are commendable, but the second reflected a determination in the face of formidable odds. No Jew had ever been a United States naval officer, and in those times it was unthinkable that one should ever wish or try to be.

Stephen Birmingham, in his brief biographical sketch of Levy in *The Grandees*, puts it well. He says that Levy "had chosen for his arena the institution of American life where the Jew's role had always been weakest, the most capitulating, where Jews had traditionally been given the least power and the meanest jobs."

There is no time here to review in detail the life of Uriah Levy. One can only touch upon the highlights. What emerges is the picture of a man of enormous personal and moral courage. Picture if you will the young Levy, not yet 20, confronted by a British press gang in Philadelphia in 1809: the challenge to produce his papers to show he was an American; the scornful remark that he didn't look like an American, that he looked like a Jew; the cool reply with pride, "I am an American and a Jew;" the insulting reply of the British marine followed by the solid blow to the jaw by the enraged young Levy, a blow which landed him aboard a British warship as an impressed seaman. There he saw life at its worst.

He returned to his native country in time to participate in the War of 1812, where he wore for the first time the coveted dark blue uniform of his nation's naval service.

It is the post-war career of Uriah Levy that deserves our attention, however. He was confronted with the deep-seated prejudice that faces all ethnic and religious minorities from time to time, but more important to Levy, he encountered the conditions of naval service that he felt should be altered.

In a day of exaggerated emphasis on honor, he was compelled to fight a duel in defense of his resistance to insult over his faith, a duel which could have ended his career. Additional incidents tested him, and yet he struck it out.

But his main battle was not in his own defense. It was against the barbarous practice of flogging, which he witnessed in the American Navy aboard the ship *United States*. The range of offenses for which flogging could be administered was so wide as to be entirely within the purview of the captain of the ship. The severity of the flogging enjoyed the same latitude. After watching a crewman receive 30 lashes, from which he never took his eyes, the young officer determined that he would see an end to it.

When he broached the subject in the wardroom, his fellow officers were incensed. In their narrow view, he was not only a Jew, he was subversive to boot because he questioned Navy discipline.

It was to be a long and bitter battle. His grit led him to other confrontations and even a short forced separation from service, which was reversed only by the action of President Monroe.

Promotion came slowly but surely. His first command, the sloop *Vandalia*, was a sorry hulk. The crew reflected the ship's condition, but Levy refurbished both. There was no flogging.

Forced out of the Navy again briefly on trumped-up charges, Levy was again vindicated by a President, this time Tyler. Still, he never let personal considerations or anger at the Navy stop him from his continual assault on inhumane discipline. The man was a perpetual gadfly.

It paid off. Uriah Levy wrote pamphlets and letters denouncing flogging. He enlisted the support of Senator John Hale of New Hampshire, and in 1850 an anti-flogging rider was attached to the Naval Appropriations Bill, as shrewd a move in that day as it would be in this. Even the lash wasn't worth a delay in funds.

But the Navy kept Levy in limbo. Not until the age of 63 did he return to active service as commander of the ship *Macedonian*, with the rank of Commodore. It took a show trial of considerable proportions to achieve it.

By this time, Uriah Levy's career was nearing its end. A few years later, the Civil War broke out, and the old Navy rebel stirred with excitement at the thought that he might at last serve his country in defense of the Union. Fate, however, deemed otherwise, and he passed away in 1862, after nearly 70 years of struggle against religious prejudice that would have sapped the energy of most of us. He had won not only his right to serve and command, but he could count as a lasting achievement the death of the heinous practice of flogging.

Indeed, he left instructions that the inscription over his grave should read: "Uriah P. Levy, Captain of the United States Navy, Father of the law for the abolition of the barbarous practise of corporal punishment in the Navy of the United States." He could take pride in his own epitaph. It was deserved.

Finally, Levy's appreciation for America's heritage is reflected in his purchase of Monticello so that the memory of Jefferson might be preserved for our people. It was no chance affair. It reinforces the image of a man whose horizon of patriotism extended beyond the limits of his oath of military service.

It is therefore proper that this contribution should be recognized on this commemorative plaque.

I think that we have placed the proper emphasis in the life of this man. In a day when devotion to one's country is sometimes confused with chauvinism, Uriah Levy's love for his native land remains refreshing and exemplary. Harassed by six courts-martial throughout his career by Navy men who resented him as a Jew and as a crusader, he never once compromised on his religion or his humanitarian convictions, and more amazingly, he never ceased to embrace the Navy he loved so well. Time and justice rewarded him, and a Navy more attuned to religious tolerance and human decency at last accorded him his proper place in Naval annals.

This afternoon, we do him this additional honor. God bless you, Commodore Levy, for your courage and what you represented. Every Navy man is in your debt. You pushed through the first and most important of all the Z-grams.

THE NIXON ADMINISTRATION

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. HELSTOSKI. Mr. Speaker, as an alumnus of Montclair State College, I was asked to prepare an article for the Montclair Alumni Forum in which I would explain my reasons for opposing the reelection of Richard M. Nixon. Since I feel that the American public should be made aware of the distressing record of the Nixon administration, I wish to share the article with my colleagues at this time:

SHOULD OUR NATION ENDURE 4 MORE YEARS WITH RICHARD NIXON IN THE WHITE HOUSE?

It is with dismay and deep concern that I recount the sorry record of 3½ years of the Nixon Administration. Although there are times when President Nixon and his appointees have told the people what they wanted to hear, the Administration has all too frequently done the opposite of what was promised.

There are five key areas in which I feel his actions have demonstrated Mr. Nixon's failure to live up to the responsibilities of his office; education, environmental protection, health care, economic policy, and foreign policy.

EDUCATION

Mr. Nixon's promises:

The one area we can't short-change is education. . . . When you cut exependitures for education, what you are doing is short-changing the American future.—Statement, Hillsboro, N.H., 1968

Money will be needed, and this Administration is prepared to commit itself to substantial increases in federal aid to education—to place this among the highest priorities in our budget.—Message to Congress, March 3, 1970

The American electorate has been misled. The President of the National Education Association, Mrs. Helen Bain, cogently described the Administration's actual attitude toward education:

"A lion's share of the nation's ills, frustrations, and failures must be placed at the doorstep of Richard Nixon. . . . By definition, Mr. Nixon is an under-achiever. . . . This is the most anti-education administration this country has had in many years. . . . Any president who vetoes educational funds and calls them inflationary, and fights for obsolete weapons systems and calls them progress, should be held accountable. Mr. Nixon has called for our accountability for over 30 months. In November of 1972, we shall call for his."

Despite Mr. Nixon's promises, he fought three times with Congress over the extra money we felt compelled to add to his education budget. When he took office in January, 1969, he cut the fiscal 1970 budget recommendation of the previous Democratic Administration, omitting funds for school libraries, textbooks, instructional equipment, guidance, and testing. He cut 85% from the amount authorized for handicapped children, 75% from the amount authorized for bilingual education, and 61% of the amount authorized for educationally-deprived children. The Democratic Congress restored over $1 billion for this Department of Health, Education and Welfare appropriation.

Mr. Nixon reacted by vetoing the bill on television, calling it inflationary spending. He neglected to mention that Congress had cut almost $7 billion from his proposed Pentagon and foreign aid expenditures. Extreme

White House pressure prevented the Congress from overriding his veto.

This scenario was repeated in August, 1970, when the President vetoed the Education Appropriations bill, referring to it as "the kind of big spending that is wrong for all Americans." Clearly, Congress believed the contrary, because this time the bill garnered the strong bipartisan support necessary for two-thirds of the House and Senate to override his veto.

Undaunted, Mr. Nixon tried to undercut education a third time, proposing a drop of $50 million from fiscal 1971 appropriations. Congress reinstated the slashed funds and added $400 million to Nixon's request.

ENVIRONMENTAL PROTECTION

Mr. Nixon's promises:

In order to maintain a high quality for our environment and conserve natural resources, the federal government must provide strong leadership to coordinate an integrated program which will include all levels of government, private industry, and individuals throughout the country.—October 15, 1968

We must have action to meet the needs of today if we would have the kind of environment the nation demands tomorrow.—February 8, 1971

What did he do? Mr. Nixon's proposal to combat air pollution called for less than half of the funds he was willing to spend on the environmentally detrimental SST. Again, he refused to spend millions of dollars already authorized by Congress for environmental protection programs. He has consistently given into the wishes of the large industrial polluters who finance his campaigns.

The Nixon Administration reacted to the unanimous Senate vote in November, 1971 in favor of the Federal Water Pollution Control Act by waging an intensive lobbying campaign to dilute its tough provisions.

In fiscal year 1971, Nixon refused to spend $882 million of the funds authorized for waste treatment facilities construction.

In August, 1970, Mr. Nixon vetoed the Department of Housing and Urban Development appropriations bill, which included $350 million for water and sewer facilities. A week after he vetoed the measure, the Bureau of Water Hygiene reported that 5% of the population may be drinking water that would prove hazardous to the health of our citizens—a situation which the funds would be used to correct.

Although approximately 34,000 towns with populations under 5,500 lack adequate water systems and more than 44,000 lack adequate waste disposal facilities, Mr. Nixon in fiscal year 1971 announced that he would spend considerably less than half of the money Congress had appropriated to remedy this situation. This refusal forced some 800 communities to postpone their development of water and sewer systems.

In July, 1971, the Nixon Administration reinstated 14 oil and gas leases in California's Santa Barbara Channel, the location of the 1969 oil spill. The Administration also gave permission for the construction of two new drilling platforms. In passing, I might add that Mr. Nixon's fondness for the oil industry was again obvious recently when he told industry magnates in Texas last month that he feels the oil depletion allowance, which causes a great loss in potential tax revenues for the federal government from those who could most easily afford to pay, should be increased to encourage new exploration. Meanwhile, the oil quota system limits the importation of inexpensive foreign oil, and our utilities payments are sky-high. The Nixon Administration has also failed to enforce existing laws which hold private corporations responsible for oil spills caused by their negligence.

Finally, in the face of vehement opposition by the automobile industry and the White House, Congress acted to require a 90% reduction in automotive pollution by 1975. In this regard, it is important to point out that automobile exhaust fumes account for 60% of the air pollution in the United States. The Nixon Administration is doing everything possible to postpone the implementation of this requirement of the Celan Air Act passed in 1970.

HEALTH CARE

We face a massive crisis in this area (health care) and unless action is taken both administratively and legislatively to meet that crisis within the next two or three years, we will have a breakdown in our medical care system which could have consequences affecting millions of people throughout the country.—President Nixon, mid-1969 press conference.

What did Mr. Nixon do to fend off this impending crisis? He vetoed the Hill-Burton Hospital Construction bill in June, 1970, calling it "a long step down the road to fiscal irresponsibility." This legislation had been passed by Congress without a single dissenting vote, and the veto was later overridden by a vote of 279 to 98 in the House and 76 to 19 in the Senate.

In December of that year, Mr. Nixon pocket-vetoed the Family Practice of Medicine Act, which was designed to assist hospitals and medical schools in the training of desperately needed family physicians for the 30 million Americans who have no access to a family doctor. This measure, too, had the overwhelming support of the House (347 to 2) and the Senate (64 to 1) when it was approved by Congress.

And, as in so many other areas, the Nixon Administration has refused to spend millions of dollars appropriated by Congress for health care. Mr. Nixon, after promising adequate health care for every American, has opted instead to subsidize the private health care industry.

In addition to the above vetoes, President Nixon made the following moves which clearly indicate his lack of interest in the health needs of our citizens:

(1) Opposed the expansion of federal treatment programs for the mentally retarded, prompting the government's chief mental health officer to charge the Administration with "abandonment of the mentally ill;"

(2) Impounded $34.5 million during fiscal 1971 for the Regional Medical Program;

(3) Proposed cuts of $26.4 million from the fiscal 1971 budget affecting heart disease, arthritis, and chronic and metabolic disease research;

(4) Sought only ⅓ of the Congressional authorization for fiscal 1972 to combat childhood lead poisoning, which afflicts 250,000 to 400,000 children under the age of seven each year; and

(5) Cut $400,000 from research and treatment funds for venereal disease despite the current epidemic.

In sum, as Dr. Roger O. Egeberg, then Assistant Secretary for Health Policy, was quoted as saying, "The White House doesn't appreciate, doesn't know what is going on in the health field." In the Nixon Administration, it seems, forthright comment does not pay, for Dr. Egeberg was demoted last May to a quieter post in the Department of Health, Education, and Welfare.

ECONOMIC POLICY

When President Nixon took office, the unemployment rate was 3.3%—the lowest in 20 years. Two years later, it had risen to 6.2%.

Mr. Nixon promises:

Reduction of the unemployment rate to 4% in 1972 is our goal.—January 4, 1971

What did he do? The previous month, President Nixon had vetoed the manpower training and employment bill, which would have provided 360,000 public service jobs by 1974.

On January 11, 1971, the Nixon Administration announced a major liberalization of tax depreciation regulations to encourage investment in new industrial equipment. This program, which cost the Treasury several billion dollars in corporate revenues for 1971, was designed to increase productive capacity at a time when 25% of the equipment then owned by corporations lay idle.

On June, 1971, the President again indicated his lack of concern for the unemployed when he vetoed the accelerated public works bill which included a $2 billion jobs program.

On August 15, 1971, the President announced his New Economic Policy. He froze wages and prices, and instituted a series of conflicting rent guidelines. In fact, however, only the incomes of wage earners were frozen—the rich and the corporate interests fared well by comparison. There was no legal limit proposed on corporate profits in Phase I, nor any limit on interest rates, corporate dividends, incomes of land speculators, or stock market players. By a stroke of a pen, the President abrogated contracts legally and solemnly entered into by Americans, causing unfair treatment of many of our nation's teachers, whose raises were to go into effect in September.

Mr. Nixon reports:

1971 was in many ways a good economic year. Total employment, total output, output per person, real hourly earnings, and real income after tax per person all reached new highs.—Economic Report of the President, January, 1971

What did Mr. Nixon forget to mention? 1971 was the year that unemployment reached a 10-year high, the balance of payments deficit was the largest in our history, the United States experienced its first balance of trade deficit since 1893, and the dollar was devalued for the first time since the Great Depression.

Although the Republican Party is always quick to accuse the Democrats of dangerous "big spending," Mr. Nixon's economic mismanagement and poor judgment have run up a federal deficit of $87.3 billion in 3 years—$30 billion more than in the 8 previous years with Democrats in the White House.

What does Nixon want to do now? He wants to institute a Value-Added Tax. This tax is nothing but a national sales tax—the most regressive form of taxation—which taxes the overburdened consumer at the same rate whether rich or poor.

Pragmatic political expediency wreaks havoc on any nation's economy. Yet Mr. Nixon has consistently leaped from crisis to crisis with makeshift policies and empty promises.

FOREIGN POLICY

In 1968, Candidate Nixon pledged that he had a "secret plan" to end the war in Vietnam. His secret plan turned out to be an improvised policy which proved a complete failure. Its name: Vietnamization. This plan to wind down the war led to the expansion of the war into Cambodia and Laos. In lieu of negotiating seriously for peace and the return of our POW/MIA's, Mr. Nixon gradually withdrew American troops, replacing them with American bombs. While Mr. Nixon has refused "to be the first American President to lose a war," 20,000 Americans have died in Vietnam and more than 100,000 have been wounded.

While many of us in Congress were advocating complete withdrawal by a date as early as June, 1971, the Administration responded by implementing a "peace plan" which resulted in the raining of more bombs in its three years of existence than in the three years previous to the initiation of the plan. In seeking "peace" in 1971, Commander-in-Chief Nixon ordered half as many tons of bombs dropped on Southeast Asia as the United States dropped in all of World War II.

On May 8th, President Nixon came before the American people to announce his latest, most reckless escalation of the war. He told us that he had offered "peace terms" to the Viet Cong and the North Vietnamese which were similar to those Congressional opponents of the war had advocated for several years. Why did it take 3½ years for Nixon to adopt a peace proposal which many of us told him years ago was the only realistic way to end the war?

On May 8th, he told us that he had to protect the lives of 60,000 Americans still in Vietnam—the 60,000 Americans he has refused to withdraw. His statement was a tacit admission that Vietnamization has failed to halt the advances of Viet Cong and North Vietnamese troops. He termed the North Vietnamese "international outlaws" because they rejected his offer. It is impossible in any objective analysis to see why a faction engaged in what it regards as a civil war should bend to foreign pressures when it is succeeding in attaining a goal it has sought for 26 years.

President Nixon's military actions have also seriously damaged the chances for early agreement on the limitation of strategic nuclear arms, an agreement which the Chairman of the Senate Armed Services Committee believes to be "more important than Vietnam." It was thought that this goal of the SALT talks in Helsinki would be realized at the Soviet summit meeting President Nixon is scheduled to attend on May 22nd. It is now highly questionable whether this meeting will take place. In mining the harbors of North Vietnam, disclaimers to the contrary, Mr. Nixon has almost certainly forced a confrontation with the Soviets. This action is the most flagrant abuse of Presidential powers in the 20th Century.

He was also forcing a confrontation with the People's Republic of China, effectively negating the improvement in relations since his visit there earlier this year. For North Vietnam has received an estimated 90% of its supplies over land from China. North Vietnam has not been anxious to be taken into the sphere of either China or the Soviet Union, but Mr. Nixon is forcing them into the arms of the Chinese. In view of the Sino-Soviet rift, the Chinese would be glad to gain such influence in North Vietnam.

In addition, the President's cynical support of the dictatorship in Pakistan in the war for the independence of Bangladesh led to increased influence for the Soviets in the Indian subcontinent. The Chinese will no doubt take advantage of the opportunity President Nixon has afforded them to counter Soviet gains in that area and the rest of the Third World developing nations.

Little noticed, but of strategic significance, has been Mr. Nixon's dealings with other major powers. He neglected to forewarn West Germany and Japan of the import surcharge, and Japan has not recovered from this shock that almost toppled the Sato government. What did the Nixon Administration do? The illustrious Henry Kissinger, with his anachronistic dedication to Metternichian diplomacy in a nuclear age, has cancelled for the third time his plans to visit Japan—a trip aimed at a reconciliation with the Japanese. To say that such a move would be regarded as an insult in an Asian culture constitutes an understatement of considerable magnitude.

At this writing, the outcome of Mr. Nixon's provacative re-escalation of the war is difficult to predict. Yet, to escalate international tensions and to risk another World War rather than to admit the ineptness of a particular policy are political pragmatism and brinkmanship in their most dangerous and most unconscionable manifestations.

In conclusion, if the American electorate is made aware of the mismanagement, corporate favoritism, and contempt of domestic priorities which have characterized the Nixon Administration, I believe the voters will decide to make Mr. Nixon a one-term President.

ROBERTS BUICK—PACESETTERS IN CUSTOMER RELATIONS AND QUALITY CONTROL

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. COLLINS of Texas. Mr. Speaker, in Dallas we are all very impressed and proud of the service rendered to our community by Melvin Roberts, who heads up Roberts Buick. Roberts this week won National recognition as winner of the 1972 "Performance Improvement Award," given by the American Society for Performance Improvement—the first retail automobile dealer ever to receive this honor.

Roberts earned the prestigious award for the unique quality control system in operation at Roberts Buick. This system includes 175 human, electronic, and mechanical checks made on each new car before delivery. Roberts was also cited in award ceremonies today at the Washington-Hilton for "a prevailing environment of genuine customer concern by all employees."

Roberts Buick is one of 1,200 members of ASPI, formerly known as American Society for Zero Defects, which includes members in industry, service fields, and the military. The society was founded in 1966 to provide an organization for communicating the concept and techniques of performance improvement-type programs.

Roberts' program, oriented toward the delivery of new Buicks and Opels, is called zero defects for safety, performance, and economy. It is the result of 5 years of research in automobile servicing by Roberts, and will be even further expanded, the dealer said. The aim of the plan is simply to produce satisfied customers the first time.

Internal communications and a common goal helped Roberts achieve the new honor. A customer relations department, with separate staff and facilities from the dealership itself, was initiated to audit customers' reactions and satisfaction from their auto servicing. A detailed system of followups continues Roberts' surveillance system. Customers' comments are recorded on daily worksheets, with adverse comments being transferred to a special form and routed to the customer relations manager. Department managers are contacted about the individual critiques.

After reviewing a particular file, the manager re-contacts the customer to resolve the problem. Following the solution of an individual problem, the department manager is required to detail all the steps that were taken. This disposition is returned to the customer relations manager. Besides telephone contact, a series of postage-paid mailers are also used to survey customers' opinions.

Records are also kept for each employee, regardless of their work area, for their percentage of satisfactory performance in dealing with the public. Each work area has a blackboard revealing all employees' percentage figures for the previous week. If, for instance, a mechanic serviced 20 cars in a week and one customer was not satisfied, the mechanic achieved a 95 percent satisfaction score. Competition is keen among Roberts' employees, for the winners in each category receive a dinner for two at the company's expense and the top percentage winner for the month receives a $25 gift certificate. Weekly rankings are provided to all employees.

Mr. Speaker, all America can take the message from the progress Roberts Buick has shown in customer relations and quality control. Dallas and all Texas salute Melvin Roberts and his colleagues for their fine work and we look for outstanding achievements in the years to come.

TRANSPORTATION IS IMPORTANT TO ECONOMY OF MONTANA

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. SHOUP. Mr. Speaker, the State of Montana is greatly dependent upon transportation services for its economy and well-being. Many of my constituents are concerned about the relationship between transportation services and costs, and the competitive marketing problems that Montana shippers, producers, and merchandisers must deal with on a region and national basis.

Recently one of the most knowledgeable experts in transportation wrote to me about improving the knowledge and expertise in that field. His letter and statement, which describes in my opinion a very realistic and needed approach, is submitted for the consideration of my colleagues here in the House of Representatives and for those in Montana who agree that something like this needs to be done:

APRIL 7, 1972.

Congressman DICK SHOUP,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SHOUP: This is in response to your letter of March 10 concerning any additional thoughts that I might have on the importance of transportation to the economy of Montana. Enclosed is a copy of some remarks that I presented at a meeting of people interested in transportation which was held in Helena in February. These remarks are, at best, only rough comments, but they begin to identify some of my opinions about the significance of transportation in Montana. In addition, I expressed other opinions to Robert Barrett of your staff when he was here in December visiting about the transportation situation in Montana.

The significance of transportation to Montana shippers, producers, and merchandisers in terms of marketing and their competitive position with other states and areas has been mentioned several times. A primarily rural state such as ours depends heavily on an efficient carrier system to transport inputs for production and for marketing the products produced.

Added emphasis and need for transportation expertise in Montana could fall basically into two categories: 1. Added attention, I think should be given to State Government action. 2. Developing basic information for the people about the problem of shippers and carriers.

Let me define in greater detail what I visualize as needed in these two areas.

Added attention at the State Government level should be focused on the Department of Agriculture and the Railroad and Public Service Commission. The duties of the Railroad and Public Service Commission allow them to initiate action on rate adjustments. They are the starting point for all efforts and actions that are made concerning carriers. The State Department of Agriculture has had experience in preparing verified statements and acting as witnesses. They are particularly appropriate because of their association with the Montana Crop and Livestock Reporting Service which develops much of our statistical data that is used in any presentation for agricultural rate adjustments.

The other major effort, I would argue, should be added attention to developing basic information and education for the people of Montana and this should be developed at the land grant university. The land grant university is a research-oriented institution and it has the Cooperative Extension Service, its informational arm, reaching out to the entire state. In addition, Montana State University has had some experience within the last five years in this area, particularly working on grain transportation problems in which I participated. This is particularly important to agriculture. The engineering school is experimenting with transporting wood chips through a pipeline.

Agriculture, our number one industry in the state, also has the largest transportation problem or discrepancy in the state.

I think that such an added transportation emphasis in Montana could provide a combination of activities that would assure a more fair and equitable treatment to our Montana shippers, consumers, and carriers.

The various information gathering and dissemination programs suggested above would be a step towards providing the producers of the state with what is needed for a unified approach to our transportation problems. Added emphasis at the State Government level would provide long overdue action that apparently is necessary in Montana transportation issues. Added emphasis could ultimately lead to more input and concern about a transportation policy for rural areas.

I apologize for the length of this letter, but I feel that these two points needed some clarification and I strongly feel that such a combination of effort would do much for the people of Montana. Your support is undoubtedly essential.

If you would like, I would appreciate the opportunity to visit with you at greater length on this subject. Perhaps we could get together on one of your visits to the state of Montana.

Sincerely,

CHARLES H. RUST,
Program Coordinator.

WHICH WAY TRANSPORTATION IN MONTANA?

(By Charles Rust)

It has been said if one stands long enough in Times Square in New York City, sooner or later just about everyone in the world will pass by.

Times Square is one of the crossroads of the world. People congregate there and around them can be found almost every imaginable type of merchandise, service, and transportation. To the New York resident, this is pretty much an abstract concern for he only needs to go a few blocks to find anything he wants.

Not so in the rural areas of the nation and particularly the state of Montana where people can live seven to eleven hundred miles from major population centers such as the twin cities of Minneapolis-St. Paul or the urban areas of Seattle, Washington, or Portland, Oregon.

A person can stand on a street corner in Eastern Montana and see very little traffic at all. Much of what does see will be heading away, toward the population centers or "times squares" of the nation.

Transportation in Montana is not an abstract—it is a reality that our very lives depend upon. If we can improve our transportation, we can improve our economic position. If we can improve that, we can begin to sustain our population and reduce the numbers of people that we are exporting to the cities where they continue to contribute to the urban crisis.

Our commerce in Montana is agriculturally based. As such, we deal in bulk cargoes of wheat, barley, cattle, and hogs—ideal products for rail transportation. In addition, some of our coal reserves and lumber products also lend themselves to railroad transportation.

Transportation is one of the most vital problems to be solved by those of us who are concerned with economic growth.

SIGNIFICANCE OF AGRICULTURE

The bulk of the cash receipts in agriculture comes from the sale of livestock, livestock products, wheat and barley. Our calf crop last year was 1.6 million head. We shipped out of Montana live cattle totaling about 1.5 million head.

The latest information available suggests that 65 percent of Montana's out-of-state cattle shipments are made by truck. An average shipment is slightly over 700 miles, with an average number of 50 head per truckload. This means that between 19 and 20 thousand truckloads of cattle were transported on Montana highways destined for out-of-state markets. Cattle moving out-of-state by rail generally are trucked to the rail head and probably add at least another ten thousand truckloads of cattle from ranch to rail head. As for intra-state shipments, these are difficult to estimate. They include trucking to summer range, to and from auction markets, feed lots and packing plants. These would probably exceed even the number of interstate hauls.

Our wheat production last year exceeded one hundred twelve million bushel. I have not gotten the latest estimates from Mr. Eldon Fastrup on the 1971 movements, but if we look at the 1970 data, we find that over 92 million bushel of wheat and barley were shipped by rail to out-of-state markets. This is equivalent to over 28 thousand hopper cars that hold 3,300 bushel each, or about 562 trainloads of 50 cars each. On the other hand, it would require over 80,000 super trucks (1,150 bushel units) to haul this same quantity.

In 1970, 34 million bushel of wheat and barley were hauled by truck—which would require over 30,000 super trucks to haul this quantity of barley and wheat.

A NEED FOR ADDED EMPHASIS IN TRANSPORTATION FOR MONTANA

Emphasis on added transportation by the public sector in Montana could result in:

1. Lower freight and handling costs for farm supplies and farm products, resulting in higher net income to the farm producer.

2. Enhancement of Montana's competitive position in area, state, regional, national and international markets.

3. Lower consumer prices of agricultural products.

4. A transportation system for Montana which is efficient and which has the degree of economic viability needed if the residents of this sparsely populated area are to fully participate in our society.

Basic changes in the organization and technology of agricultural production and marketing are resulting in increased burden on transportation. These changes include:

1. Bypassing many traditional markets for more direct movement of livestock, grain, and other agricultural commodities.

2. Increased regional specialization in production and marketing.

3. Use of bulk handling equipment to reduce handling and terminal costs.

In addition, a multiplicity of changes are taking place in the transportation sector. Application of new technology in containerization and coordinated transport (piggy-back, fishy-back, and birdy-back) will result in lower relative costs and a more advantageous competitive position for the adapter. The rent-a-train concept, the use of jumbo hopper cars and multiple units, and the further development of pipeline and inland water-way transport at greatly reduced volume rates will alter facility locations, local assembly and distribution handling, and competitive transport pricing and marketing prices. Jet aircraft with increased cargo capacity and the resulting lower cost of air transport could open up new markets and alter existing competitive relationships—changes in assembly, physical handling and delivery operations have generated rising costs of agri-business firms. Opportunities for lowering other costs exist through the application of sophisticated management tools including data processing, operations analysis, warehousing, truck routing and scheduling, and inventory management and control systems.

Montana's agricultural economy needs to interpret and adjust to these critical organizational trends and changes in transportation. Because transportation is not Montana's primary business, we have limited capabilities in this field. Transportation economists can assist by identifying changes, analyzing transportation opportunities, and pointing out the likely consequences of alternatives.

POSSIBLE DIRECTIONS IN MONTANA TRANSPORTATION

Montana, resting at the distance it does from bulk markets and basically a captive of one major rail carrier, finds itself in a situation where competitive modes of transportation, in this case truck, find it difficult to compete on the longer haul and the waterway is nonexistent. However, many hope that with the opening of the Port of Lewiston in 1975 another alternative will be provided for Montana. Possible truck-barge combinations could prove to be very effective in moving grain to market. It is also interesting to speculate on what combinations there could be between rail and water. The president of the Soulx City Barge Co., at a western meeting a couple of years ago, indicated that he felt that we should have large terminal facilities on the water with the rail bringing it to the river heads in the Pacific Northwest or on the Upper Missouri and Mississippi Rivers for transport by barge traffic down into the ocean-going vessels, using some of the LASH concept for reducing costs.

Another interesting transport item to speculate is the research that William Hunt is doing on transporting of wood chips via pipeline. This could present some excellent opportunities for commodities such as wood chips and coal.

There has been much rhetoric on the needs in transportation expertise within the state but only limited action. Traditionally *research* has developed basic data.

The sector that seemed to be receiving the most transportation abuse in our preliminary research investigations a few years ago was the grain sector. Research has developed some basic movement information and transferred this to its logical home with the State Department of Agriculture and Statistical Reporting Service so that we continue to get information on the direction of grain shipments by carrier from the state of Montana.

Some other areas need to be further defined. The Department of Ag Economics at MSU has done some work on costs of transporting grain, I'm sure Dr. McConnen will refer to the work done by George St. George in this area. We need to explore further the truck-rail combinations and how to price these on a cost basis.

A person with transportation expertise could address himself to some policy adjustments or considerations such as—if rails are the most efficient method for moving the bulk cargoes that we have over our long distances, then how come trucks now have over one-fourth of the grain shipments? This could be due to rails having a combination of unfair government regulations, archaic work rules, and unwillingness by management to really work at the business of running the railroads.

If tariff regulations put rails at an unfair competitive advantage, then we should work towards changing them.

If the work rules are in fact archaic and need to be changed, then there should be some work in this area.

Freight rates also work to our disadvantage. They need to be adjusted, if the state of Montana is to compete successfully. We find it necessary to pay too much for the miles that lie between us and our markets. This alone is a powerful persuasion for industry to remain in the large urban areas.

If it is impossible for commerce to exist in a reasonable volume in this isolated state without air travel because our distances are extremely great and the time loss to travel is high, then perhaps there is a legitimate reason (if government is serious about equalizing growth and reversing rural out-migration) to subsidize air travel on commerical carriers to a greater extent than it now does in Montana.

A transportation policy which makes possible the rapid flow of people and goods and which places urban and rural people on a somewhat equal basis is one major way of stemming the out-migration from rural areas as well as keeping our production sector competitive with those nearer markets.

And lastly, transportation expertise could continue to analyze alternative systems of transport and develop a program that would be helpful in arriving at decisions that will result in a viable *Transport System* for Montana.

You ask which way transportation in Montana. You might say, we have no way to go but up since it couldn't be much worse than it was a couple of years ago. As far as some of the changes of the last year in adjusting transportation of grain by reducing some of the out-moded practices appears to be the first step and the first real breakthrough and opportunity for Montana's to work with carriers in an attempt to develop an adjusted transportation and marketing system that will increase the income to all Montanans and make Montana a much better place to work and live.

TRANSPORTATION'S LONG-RANGE OBJECTIVES

We might say, then, that the basic long-range objectives of transportation expertise in Montana would be:

1. To provide information to market firms, producers, and other shippers that will help them to understand their current transportation situation.

2. To provide information that will demonstrate to market firms, producers and other shippers how the transportation and marketing system can be changed to benefit Montana.

3. To improve market firms, producers, and other shippers understanding of the needs and requirements for an effective transportation system in Montana.

4. To develop and distribute information that suggests alternatives that could be of benefit to carriers and shippers alike.

5. Give special attention to wheat and other grains in an effort to determine the effects of trends in transportation on grain pricing methods and grain marketing institutions in Montana.

6. Develop a Transport Policy that makes possible the rapid flow of people and goods and which places rural and urban people on a somewhat equal basis.

NATIONAL TIME OF MOURNING AND REPENTANCE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. EDWARDS of California. Mr. Speaker, this morning I received the petition—which follows—from a group of American citizens as distressed and outraged by our country's actions in Indochina as I and many other Members of this body.

The newest escalation of the war in Indochina not only continues to threaten the people of Indochina, but now has brought the threat of world war III very much closer to all of us. I urgently urge the House to act, and act swiftly, to end this war and bring some form of sanity to an increasingly grave international situation.

The petition follows:

A PLEA FOR NATIONAL REPENTANCE AND A PETITION TO THE CONGRESS OF THE UNITED STATES

Whereas, millions of Vietnamese, Cambodians and Laotians have been maimed and uprooted from their homes and more than one-half million killed;

Whereas, more than 50,000 Americans have been killed in Indo-China and 300,000 have suffered casualties;

Whereas, the lands and cities of Vietnam, Cambodia, and Laos have been devastated by napalm, defoliants, bombs and all the vast arsenal of the automated air war;

Whereas, the lives of United States prisoners held by the North Vietnamese are now threatened by the further escalation of the war;

Whereas, the war waged by the United States in Indo-China wastes our human and material resources and weakens our security rather than insuring it;

Whereas, the United States armed forces continue to impose upon the people of Vietnam the Thieu government dictatorship, thus depriving the Vietnamese people the inalienable right of freedom;

Whereas, the peace of the whole world is threatened by the recent escalation of the war by the United States, including the mining of Vietnam harbors, thus risking the beginning of World War III;

We, the undersigned citizens of the United States repent of our own complicity in this sin against the Providence of God and this crime against humanity; and we call for a national time of mourning and repentance.

We petition the Congress of the United States to take its proper responsibility for ending participation by the United States in the war in Indo-China by cutting off funds used for the prosecution of the war, that sanity and justice may be restored in the foreign relations of the United States government.

THE TERRORS OF THE EARTH

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. WOLFF. Mr. Speaker, much has already been said relative to the President's decision of Monday night to mine the ports and harbors of North Vietnam. But nothing said or written thus far is quite comparable to the column written by Mary McGrory which appeared in Wednesday's Washington Star.

Nothing that I can say will add to Miss McGrory's eloquence. She is one of this city's most prescient individuals. I think that every Member of this House, including those who belong to the opposition, would benefit greatly from reading what this gifted lady has written:

AS NIXON WIELDS "THE TERRORS OF THE EARTH"

When King Lear, Shakespeare's self-starting disaster-maker, finally confronts the reality that his two elder daughters despise him, he turns on them with these words:

I'll have such revenge on you both
That all the world shall—
I shall do such things
What they are yet
I know not, but they shall be
The terrors of the earth.

So it is now with Richard Nixon, another insecure and compulsive man who manufactured his own distress and wants the world to pay.

If he were the leader of a small nation, trying to dictate terms to a victorious enemy, he would be ludicrous. But he has "the terrors of the earth" at his command, and the world is quaking in its boots.

It is odd that a man who required six months to summon the stomach tc fire Wally Hickel to his face, would plunge, almost casually, to the brink of World War III.

But perhaps it is not so surprising. He laboriously traps himself into his own obsessions, and when his formulas blow up in his face, immediately concludes that someone else is to blame.

In this case, it is the Russians, his old familiar, comfortable devils, to whom he has passed the buck for preserving world peace.

He has walled off the real world, surrounded himself with men who would agree with him if he said the earth was flat, and even imported his own preachers lest any breath of criticism about the morality of his conduct jar his ears.

Lyndon Johnson, after the Tet offensive, heard the Joint Chiefs of Staff tell him that with 200,000 more troops and two years more, he could finish the job.

Enter Dean Acheson, the former Secretary of State. "With all due respect, Mr. President, the Joint Chiefs don't know what they are talking about."

In his remarkable and disturbing book, "The Roots of War," Richard J. Barnet notes that "It took a senior statesman of established reputation for toughness and with no further career ambitions in government to talk honestly to the President."

There is no Dean Acheson in the Republican Party. There is no George Ball, Johnson's pet dissenter, in the White House councils. After each springtime cataclysm, Secretary of Defense Melvin R Laird lets it be known that he had opposed the decision. Private dissent is about as useful as a fan in hell when the Commander-in-Chief is translating his wounded vanity into national pride. Nobody has yet sacrificed a

White House car on the altar of conscience. None is likely to.

Did anyone, as the President was dusting off Barry Goldwater's bloodcurdling old scheme of mining Haiphong, ask him what he thought he was doing? Did anyone ask him what he thought America stands for in the world?

Dr. Henry Kissinger, who was assigned the task of hawking the Goldwater escalation to the press, would not say. The debonair doctor was distraught, looking over at Ron Ziegler frequently, as if pleading with him to tell the boss how forcefully he had presented the new madness. Official favor is all that is left to him. The professor's reputation of detachment and reason is one of the many casualties of the spring offensive, one of the few that does not bleed.

The president knew from the moment he laid his hand on the Bible over three years ago that he was heading for collapse now crowding in on him unless he began immediately to end the war. It would be over by now, the "nightmare of recrimination" the "bloodbath," all the horrors he conjured up when he could have been rationally reconverting a national tragedy into a mistake.

While he babbled on about Vietnamization, and dropped a bomb a minute the North Vietnamese got the impression, widely shared in this country, that once safely reelected, he would proceed with no political pressure to stay him to the total devastation of the "small country" that resisted his game plan for a generation of peace.

They watched him add and subtract negotiating terms like some capricious mathematician. For a while he protested that all he wanted was the prisoners. When a year ago, Hanoi offered to negotiate on them, he hastily added the "reasonable chance" of survival of the South Vietnamese government. Currently he has dropped Thieu, but if there's a howl from Saigon, he will probably be reinstated. So the North Vietnamese attack.

No, the problem began with the president's grim conviction that he could not trust his countrymen to accept him as "the first American president to lose a war."

Now the unthinkable has befallen him, he will not think about it. He will instead threaten "the terror of the earth" so the world will "respect" him.

THE END OF AN ERA

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BELL. Mr. Speaker, I wish to join my colleagues and fellow citizens in mourning the death of a great American.

It is very difficult to eulogize J. Edgar Hoover; whatever I say will, in fact, be redundant since so many have expressed similar sentiments. His admirers are countless and even those with whom he disagreed—often bitterly—on policy matters, have acknowledged their profound respect for his outstanding accomplishments.

Only an individual with his vigor, vision, and devotion could have transformed the Federal Bureau of Investigation from a foundering, corrupt, incompetent agency into the most sophisticated, professional, and respected police force in the world.

His record of modernization and innovation was extraordinary; many of these measures were effected during his first decade of tenure. The centralized fingerprint file—1925—the total of which passed the 200 million mark this year—and the crime laboratory—1932—are landmarks in the gradual application of science to police work. The National Police Academy—1935—has trained the leadership elite of local forces throughout the country. His achievements are further enhanced by the fact that he took over the agency at an enterprising 29 years of age.

When then Attorney General Harlan Fiske Stone appointed him in 1924, Stone accurately appraised Hoover's youth as an asset because as he said, "apparently he hasn't learned to be afraid of politics." And much to Mr. Hoover's credit, he never did. He scrupulously kept the agency above politics, making it as indomitable and incorruptible as himself.

Mr. Hoover personified integrity, courage, dedication, and patriotism. The most appropriate tribute the country and the Bureau can pay him is to emulate these qualities. While there will probably not be another Director like him, as a legend, his sustaining presence will live on.

CUBA—ONCE A FREE NATION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. DERWINSKI. Mr. Speaker, Saturday will be the 70th anniversary of the formal withdrawal of the United States from Cuba. It was on May 20, 1902, that the American military authorities turned the government of the island over to the newly established administration. Tomas Estrada Palma was inaugurated as the first President of the island republic the same day.

Cuban independence resulted from the short but exciting Spanish-American War, in which American soldiers and sailors fought bravely and carried the Stars and Stripes to victory. Although the United States could have retained possession of Cuba indefinitely as a territory, it chose instead to make it a free nation after a short transition period.

The seven decades that followed American withdrawal from the island were sometimes years of peace and prosperity, but they were all too often periods of revolutionary turmoil. Cuba has, since January 1959, been a captive nation, nominally presided over by Fidel Castro, but actually run by the Soviet Union.

The usual Communist "reforms" followed Castro's assumption of power as a stooge of the Kremlin. Banks and industry, cattle, and tobacco lands, and education have all been nationalized. Many Cubans have been imprisoned in concentration camps or murdered by the Castro regime.

One of the most eloquent indictments of the Communist administration of Cuba has been the mass flight of people from the island. More than half a million Cubans have voted with their feet by fleeing, most of them having settled in the United States. The land that brought freedom to their father and grandfathers has thus provided freedom to many of Castro's victims.

Mr. Speaker, May 20 will not be a happy anniversary for those who still live in Cuba. It will be just another day of oppression for those who, for various reasons are forced to remain prisoners of Castro. Let us hope and pray that it will not be too long before Cuba and the Cubans will once again be free.

DEPARTING HONORS TO THE SECRETARY OF THE NAVY, HON. JOHN H. CHAFEE

HON. ALVIN E. O'KONSKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. O'KONSKI. Mr. Speaker, last Thursday, May 4, 1972, ceremonies were held at the Marine Barracks in Washington, D.C., to render departing honors to the Secretary of the Navy, Hon. John H. Chafee.

During these trying times, it was most important that the Department of the Navy be lead by a man with the ability, foresight, and courage to tackle the job of modernizing our Navy to counter the ever growing threat of the Soviet fleet. Secretary Chafee has served the Navy and the Nation with distinction and we on the Armed Services Committee will miss his sound counsel.

At this point, I would like to insert into the Record the remarks of the Honorable Melvin R. Laird, the Secretary of Defense, upon presenting to Secretary Chafee the Distinguished Public Service Medal:

Remarks by Melvin R. Laird, the Secretary of Defense at the Ceremony To Render Departing Honors to Secretary of the Navy, John H. Chafee

Those of us who have worked closely with Secretary Chafee these past three and one-half years know that the award which he has just received is richly deserved.

This ceremony marks the end of John Chafee's distinguished tour as Secretary of the Navy. Through I am sad to see him go, he can be proud of the record of achievement that he leaves behind.

His record is one that reflects initiative and leadership tempered by prudence and sound judgment. He understands how to get things done in Washington. His accomplishments are too lengthy to catalogue in full here though the citation for his award reflected some of them. The citation also reflects the two themes that stand out as most representative of his accomplishments: the quest for a more flexible, modern Navy and the quest to improve the quality of service life for the men and women of our Navy.

In both of these areas significant advances have been made. Secretary Chafee would be the last to claim individual credit for all of them, because he understands and encouraged the teamwork that enhances progress, but his influence was most significant and many times critical to their accomplishment. These accomplishments include fleet modernization programs to develop the flexible, modern Navy that is one of the requisites of the Nixon Doctrine and the Strategy of

Realistic Deterrence. We are closer to a goal of a modern balanced force as a result of Secretary Chafee's leadership and the Department of the Navy's team efforts. In addition, under John Chafee the quality of service life has been improved by initiatives in many areas. These include: significant pay increases, additional housing both temporary and permanent, increased opportunities to minorities that resulted in such milestones as the first black Admiral and a substantial increase in the number of black naval officers.

And, I would certainly be remiss if I neglected to mention Secretary Chafee's initiatives to improve the quality of life for women in our Navy. For example, women are now eligible to participate in the NROTC Program, and the first woman Admiral has been nominated by our Commander-in-Chief, President Nixon, upon the recommendation of the Navy and with my full support.

We thank John Chafee for his many contributions to our Navy and to our nation. He has demonstrated enthusiasm, thoughtfulness, wisdom, and determination.

He now returns to Rhode Island—but not, I suspect, for retirement. I wish him well in his next career—whatever it may turn out to be. It is most appropriate, I think, to close my remarks with the traditional naval farewell—"May you always have fair winds and a following sea."

JUDGE THOMAS B. FINAN

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BYRON. Mr. Speaker, last Saturday with the sudden death of Judge Thomas B. Finan, the State of Maryland lost one of its most distinguished and capable citizens. It was my pleasure to know Judge Finan for many years. He was a man of great integrity who was admired and respected in his hometown of Cumberland and throughout the State.

I feel the editorial in the Baltimore Sun published this week best describes Judge Finan and his many achievements, and I would like to share it with my colleagues:

THOMAS B. FINAN

Judge Thomas B. Finan's untimely death at 57 leaves a gaping hole on Maryland's Court of Appeals. He was a kind and friendly jurist whose impish smile masked a strong, even-handed approach to his work. In his demanding job, Judge Finan reviewed numerous cases and, like the other judges of the court, produced about 50 opinions annually. It was not surprising that death caught him at his desk in Cumberland reviewing briefs during the current recess.

A native Western Marylander, Tom Finan stepped upon Maryland's political stage in 1959 as Governor Millard Tawes's secretary of state. Two years later the Governor named him Maryland attorney general which, during the turbulent early 1960's, was one of the most sensitive posts in state government. Mr. Finan interpreted laws dealing with racial relations, reapportionment, school prayers and the rapidly changing police powers over criminal suspects. Oftimes he dutifully went to court to argue the state's position. Always he presented his case with justice, understanding and aplomb, even when he lost.

In 1966 he ran for Governor in the Democratic primary. Party dissension worked against him. He managed in defeat, however, to retain his grace, and it wasn't surprising that he was named to the Court of Appeals. He was considered a natural successor to the chief judgeship upon the retirement of Hall Hammond, May 18.

The court now has two vacancies instead of one. For Governor Mandel, the job of replacing Judges Hammond and Finan will be difficult indeed.

METRO AIR INDUSTRY

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. MURPHY of New York. Mr. Speaker, as a member of the Transportation and Aeronautics Subcommittee of the House Interstate and Foreign Commerce Committee, I am aware of the vital importance of air transportation to commerce in this country, but too few of us are aware of the direct economic contribution the air transportation industry makes to our own communities.

Recently the Air Transport Association of America made public a study on the economic impact of this industry on Metropolitan New York.

I found the study as reported in the following article from the Long Island Press to be very enlightening. I commend it to the attention of my colleagues:

METRO AIR INDUSTRY PUT AT $7 BILLION

(By Richard Schill)

The air transport industry contributes $7 billion annually to the economy of the metropolitan area and provides nearly 78,000 jobs, a study released by the Air Transport Association states.

And, according to the report, a significant amount of that money finds its way into the Long Island economy either as wages paid employes, landing and rental fees at Kennedy and LaGuardia Airports or money by tourists who use the airports.

According to ATA President Stuart G. Tipton, the direct employment by the air transport industry of 77,800 people in jobs makes it the fifth largest employer in the New York metropolitan area. This figure, he said, did not include those employed in related airport industries near Kennedy and LaGuardia, but the New York City Economic Development Administration estimates these "support industry" jobs total nearly 23,000.

The report indicated that 73 per cent of the 77,800 airline employes in the metropolitan area lived in New York state, earning a total of $514.5 million. A further breakdown showed 33,367 of the employes living on Long Island and earning a total wage of $391 million.

Flushing, which borders on LaGuardia Airport, had the highest concentration of airline employes with Hicksville second, Jamaica—whose post office area includes Kennedy Airport—third and Mineola fourth.

There are 9,028 airline employes living in Flushing, the report indicated, who earn a total of $90,361,000—an average income of $10,009 each. Hicksville has a total of 8,540 airline employes who earn in excess of $129 million, an average of $15,141 per employe.

There are 4,575 airline employes living in Jamaica, the report showed, earning an average of $9,671 each, and 4,331 people in Mineola are employed by the airlines, earning a total of $55,856,000.

According to the report, most of the money earned by the airline employes, totaling more than $965-million, is spent locally, adding to the economy of the area. The average $243 weekly wage of metropolitan area airline employes compares with an average of $148 in all nonagricultural industries and $197 in all transportation industries.

The report also indicates that 75 per cent of the 16 million tourists who came to New York in 1971 came by airplane; that airline spent $540 million in 1971 to purchase fuel, materials, equipment and services from the local area merchants, as well as $80 million in landing rental fees at the airports and that the three metropolitan airports serve as places of work for 55,612 people. An additional 22,188 airline employes work at locations other than the airports.

In announcing the findings of the report, which he said was designed to show the huge economic affect an airport has on the economy of a metropolitan area. Tipton also urged against a curfew on night flights and suggested that Newark and Kennedy Airports be expanded as a temporary solution to the problems of a fourth jetport.

"I hope that a curfew in the New York area will never be taken seriously," the ATA president said. "It would have a severe economic impact."

Tipton said an informal survey indicated that a curfew would force the lay-offs of 10 per cent of the employes of a major trunk airlines operating in New York. The largest all-freight airline, he said, estimated they would lay-off 60 per cent of their New York staff if night flights were banned.

He said that ATA opposed converting Stewart Airport near upstate Newburgh into a commercial jetport at least until transportation facilities to the site could be improved. Noting the trip to Stewart was 82 miles by road from New York, Tipton said "that is too far to ask the passenger to travel."

He also stated the association was "disturbed and concerned" about either Stewart or an off shore site as the location for the fourth jetport. The association, he said, did not like the wetport concept because of "astronomical costs" which would be involved in building such a facility.

OSHA MUST BE CHANGED

HON. JAMES ABOUREZK

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. ABOUREZK. Mr. Speaker, although I was not a Member of the 91st Congress which enacted the Occupational Safety and Health Act, I cannot believe that it was the intention of my colleagues at the time this bill was passed to permit the harassment of small businessmen to the point where some of them may even be forced to close their doors.

Clearly safety is a matter which concerns us all. It does the employer no good to have his employees off the job because of accidents that could have been prevented. However, at the same time it does the employee no good to lose his job because the employer cannot afford to stay open and meet the requirements of this law. One way to make sure a man does not get hurt on the job is to take his job away from him by bankrupting his employer. But I rather doubt that is the kind of safety Congress had in mind when it passed the Occupational Safety Act.

There has been no other issue since I became a Member of Congress that has generated so much spontaneous concern on the part of my fellow South Dakotans. There has been only one other issue that has so shaken the faith of Americans in the wisdom of their Government. It is time that the Members of the 92d Congress took action to correct the worst features of this law.

I, along with many of my colleagues, have introduced amendments which would change some of the problem areas that implementation of the law has revealed. I would strongly urge the appropriate committees to conduct hearings on these proposals so that Americans can again have faith that their Government is listening to their concerns and not merely handing down unreasonable, burdensome regulations that threaten their capacity to earn a living.

BICENTENNIAL COMMISSION

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. SCHWENGEL. Mr. Speaker, as an evidence of continuing interest in some program or some effort to get the Bicentennial Commission to acknowledge and recognize their responsibility more to history, and to recognize the tremendous potential that is ours if we properly commemorate the bicentennial of our country, I am presenting for the perusal and pondering of all Members and all people interested, an editorial published in the History News. This is a publication of the American Association for State and Local History.

Mr. Speaker, this is an organization that is completely and utterly dedicated to State and local history and whose members are very sensitive to the importance of history, its proper recognition, and its evaluation. They understand, as all should, that the more we look into our history, ponder on it, and learn from it, the better we can accept the challenge of our time as we prepare our country for a difficult and hopefully glorious future.

It is my hope that every Member of Congress and reader of the CONGRESSIONAL RECORD may read with avid interest the editorial which follows:

EDITORIAL

Frankly, we're discouraged!

For the past four years we have waited—patiently and hopefully—for the American Revolution Bicentennial Commission to get something started for the two hundredth birthday of the nation. As historians we have wished for a substantive program, something that might unite Americans in a meaningful commemoration. But we have about given up that hope.

We admit to a prejudice. We rather think that bicentennial should be concerned with the ideas and ideals of the founding fathers about such things as human dignity, individual liberty, and responsive government. We think the commemoration ought to help Americans understand the principles of the founding fathers, and of the Declaration of Independence, and the part those principles have played in the development of the nation. But this kind of approach is as absent from present federal Bicentennial Plans as Valley Forge snow from the Bicentennial City of Miami.

The latest newsletter of the ARBC is largely devoted to a much-heralded proposal to create a nationwide network of Bicentennial Parks. These parks, which are to be built on surplus federal land donated for the purpose, will have, in addition to a state historical exhibit hall, such features as botanical gardens, ecology centers. "Snack Kiosks," craft demonstrations, and recreational and other facilities. The newsletter also announces ARBC endorsement of a campaign to eradicate sickle cell anemia, appointment of "youth, women, and minorities" representatives to the ARBC philatelic advisory committee, and plans for 14 commemorative medals.

We don't oppose these projects, even though we personally think $15-25 million dollars per park is a lot to spend on single facilities remote from most of the people. We suppose we could even learn to tolerate the prototype park pavilion, despite its resemblance to a lobster pot. But where is history? Where are the substantive plans for programs to help Americans in every state gain a better understanding of the nation's heritage? Will the bicentennial be an excuse for all kinds of programs that have little to do with our history, or will we at least approach the solid accomplishments of the Canadian centennial?

Time is running out.

BREAKING THE HOUSING BARRIERS

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BADILLO. Mr. Speaker, I am reintroducing today, with cosponsors a bill aimed at removing the barriers to development of low- and moderate-income housing outside the core cities. This bill is identical to H.R. 14471, which I introduced on April 19.

As I explained then, this bill has two main thrusts: It establishes a Federal prohibition against the use of zoning subdivision controls, or building codes to prevent development of low- and moderate-income housing outside the core cities, and it directs the Department of Housing and Urban Development and other Federal agencies to give top priority in awarding Federal grants and loans to those communities having comprehensive development plans for such housing.

Cosponsoring this legislation with me today are Congressman EDWARD KOCH, of New York; Congressman PARREN MITCHELL, of Maryland; Congresswoman BELLA ABZUG, of New York; Congressman CHARLES RANGEL, of New York; Congressman WILLIAM F. RYAN, of New York; Congressman DON EDWARDS, of California; Congressman JEROME WALDIE, of California; Congressman AUGUSTUS HAWKINS, of California; Congressman RONALD DELLUMS of California; Congressman ROBERT NIX, of Pennsylvania; Congressman RALPH METCALFE, of Illinois, Congressman PHILLIP BURTON, of California; Congresswoman SHIRLEY CHISHOLM, of New York; Congressman WILLIAM CLAY, of Missouri; Congressman JOHN CONYERS, Jr., of Michigan; Congressman WALTER FAUNTROY, of the District of Columbia; Congressman MICHAEL HARRINGTON, of Massachusetts; Congressman ABNER MIKVA, of Illinois; Congressman LOUIS STOKES, of Ohio; Congressman CHARLES DIGGS, Jr., of Michigan.

With the furor over busing still raging in and out of Congress, it is vital that this legislation be brought to a record vote, either on its own or as an amendment to the housing bill that will come before the House later this month or next month. It is vital in two respects: First, so that the Nation can see once and for all whether issues of race are involved in the busing issue, for if they are not, those who have opposed busing will support this bill as a means of integrating our schools; and second, because without this legislation, the poor, the black, the Spanish-speaking minorities will continue to be trapped in urban ghettos, unable to follow the flight of industry and jobs to the suburbs and unable to realize the dream of equal opportunity which has been written into our laws but never implemented.

I present for inclusion with my remarks the text of a column by Tom Wicker which appeared in the April 23 New York Times:

THE NEIGHBORHOOD NOSTRUM

(By Tom Wicker)

WASHINGTON.—One of the arguments blandly put forward by opponents of busing is that it would be better to integrate neighborhoods so that neighborhood schools would be naturally integrated. Of course it would, but most of those who make this argument know that integration of the white suburbs of America is about as far in the future as passenger service to the moon.

That is to say, the suburbs are not going to be integrated any time soon unless there is vigorous action, Federal, state, local and private, to see that it is done. Now those in Congress who oppose busing but who say they favor integrated neighborhoods and schools will have a chance to vote for the kind of action that might lead to such an ideal situation. Fat chance!

Representative Herman Badillo of New York has introduced a bill that would prohibit the use of zoning, subdivision controls or building codes to prevent development of low- and moderate-income housing in suburbs or anywhere outside the core cities. The bill also directs the Housing and Urban Development Department to give top priority to communities with comprehensive development plans that include such housing.

Mr. Badillo knows his politics too well to believe that this measure has any more chance than, say, George Wallace to be "Man of the Year" in the N.A.A.C.P. He is offering it instead as a "direct challenge" to those who support President Nixon's proposed moratorium on school busing.

"If they really believe in integrated education and oppose busing on other grounds," Mr. Badillo said, "then they should support this bill because it will remove those housing barriers that have prevented the integration of our schools." A vote on his bill, he added pointedly, would "demonstrate to the American people and to the nations of the world whether or not racism is involved in the busing dispute, whether or not the Congress intends to keep the poor locked into urban ghettoes . . ."

Mr. Badillo will offer his bill as an amendment to the Nixon moratorium bill, and while the result may not be as graphic as he suggests it ought to help expose the "integrated neighborhood" argument for the

sham that it is. The Senate, for example, already has had a chance to do something specific about racial barriers in the suburbs. Fat chance!

Senator Abe Ribicoff of Connecticut has been proposing, for more than a year, a measure that would do something about the common situation in which an industry or business moves from the city to the suburbs and leaves behind its low-to-moderate-income employes, many of them black, who cannot find housing in the new location.

The Ribicoff bill would require communities where new Federal or state facilities, or installations of Federal contractors, are to be built to provide (with Federal assistance) adequate housing for low-to-moderate-income employes.

But the Senate has twice rejected this plan, even though it also is designed to reduce the busing that otherwise would be required to integrate the city and suburban schools of a metropolitan area, if that should ever be required by the courts (as it already has been, pending appeal, in Richmond, Va.). Desegregating the suburbs, in short, is not much more than a pot of gold at the end of a rainbow.

This is an important point because on the question of desegregating American schools, particularly in the major American cities, the choices come down primarily to busing or neighborhood integration. As Governor Askew of Florida put it in a speech last summer, "broad community desegregation and cooperation" ultimately would make unnecessary the "artificial and inadequate instrument" of busing. In this way only," he said, "will we stop massive busing [and] put the divisive and self-defeating issue of race behind us once and for all."

But if busing is now to be stopped, and if neighborhood integration is as far in the future as the evidence suggests—President Nixon has twice denounced "forced integration of the suburbs" and pledged that his Administration "will not seek to impose economic integration upon an existing local jurisdiction"—then the nation is going to have heavily segregated schools for a long time to come.

That is what the vote on Mr. Badillo's bill should help to make clear. Mr. Nixon and others contend they can provide quality education to neighborhood schools as they now exist; but even if that dubious proposition is accepted, most of the schools they are talking about will be *segregated schools*. If that is what the nation wants, it is ignoble to pretend otherwise.

J. EDGAR HOOVER

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. DERWINSKI. Mr. Speaker, WBBM, channel 2, CBS network in Chicago, in their editorial of May 2, emphasizes the honesty and integrity of FBI Director J. Edgar Hoover. The editorial makes its own point very properly and I, therefore, insert it into the RECORD:

J. EDGAR HOOVER

We have spoken a great deal about credibility in government. One of the few men in government who was totally credible was J. Edgar Hoover.

The Federal Bureau of Investigation was a haven for political hacks when he was appointed director in 1924. Through iron control and rigid discipline, he made the Bureau a symbol of integrity. He became so powerful no president dared replace him.

In Mr. Hoover's late years many believe he had become irascible and unyielding. And, perhaps he had. It was said that his men were overzealous in wire tapping, including the phones of congressmen. Others believed he exceeded his authority in the field of civilian surveillance.

Yet, his strongest critics do not question his honesty or the honesty of his department. It is unheard of that an FBI man would fix a case, defraud the taxpayer, or sell out his country. TV-2 believes his successor must be of equal caliber, and, having had the oppportunity to meet him on more than one occasion, we hope there will be some of J. Edgar Hoover in the new director.

THE WORKINGMAN'S STAKE IN A UNITED STATES-SOVIET TRADE AGREEMENT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. KEMP. Mr. Speaker, the tremendous regard which labor union leadership holds for this country was manifested last Sunday in a meeting which I was privileged to attend under the sponsorship of the St. Joseph's Guild, an organization dedicated to sound trade unionism, the fostering of industrial peace and the dignity of American workers.

At the 21st annual Communion Breakfast at the Buffalo Athletic Club, cochaired by Kenneth C. Carlucci, business manager of the Painter District Council, and Jan D. Pierce, area director of the Communications Workers of America, AFL-CIO, it was both inspiring and fruitful to participate in a program which dramatically demonstrated the labor-management, bipartisan and spiritual concern for the good of all American workers, job opportunities and freedom, among other cherished values in our Nation.

Appropriately at Mass at St. Joseph's Cathedral, the Reverend Monsignor James A. Healy, chaplain of the St. Joseph Guild, referred to the American flag, presented by my distinguished colleague, the Honorable THADDEUS J. DULSKI, as the great symbol of opportunity for all who labor.

Dedicated to the late Charles D. Phillips of Buffalo, who faithfully served his fellow workers, his community and country as secretary-treasurer of Local 27, Printing Pressmen and Assistants Union, before his death last December 2, the breakfast meeting and the preceding Communion service at St. Joseph's Old Cathedral was capped by an outstanding speech delivered by Thomas W. Teddy Gleason, the president of the International Longshoremen's Association, AFL-CIO and a real American stand-up guy.

Mr. Gleason's address was particularly timely, in that it expressed his union's concern with possible United States-Soviet trade agreements which may result from President Nixon's planned trip to Russia later this month.

Mr. Gleason won sustained applause when he reported his union has informed the administration that longshoremen will "gladly" work Soviet ships, "if for every ship we work, they will release three prisoners of war."

Thus, this leader of dockworkers joined our President in linking a North Vietnamese Communist response to Soviet influence.

Mr. Gleason also reported that our President was aware of a similar ILA stance when he visited China.

Mr. Gleason declared: "We are not going to work those Communist ships unless we can buy something for our people."

I believe, as Mr. Gleason does, that the workers and all the people of this country should obtain the fullest, possible benefits from this trade.

I also support the ILU's effort to win an agreement to ship surplus commodities overseas on "a 50-50 basis," that is 50 percent of the grain and other commodities on ships carrying the American flag and 50 percent on ships carrying flags of other nations.

I shall urge our President to win such a 50-50 agreement which not only would benefit the American longshoremen and shippers in western New York but longshoremen and shippers throughout the United States.

I am convinced, that Mr. Gleason hit the nail on the head, when he said "We in the labor movement have our own problems and we have this country to watch out for" and that his astute observation is fully in accord with my own belief that we must "Ship American, Buy American and Sell American" at every opportunity.

Mr. Speaker, I also wish to pay tribute to my other distinguished colleague, the Honorable HENRY SMITH, who participated with Mr. DULSKI and myself at the guild gathering; guild president Russell Devans; Mr. George Wessel, president of the Buffalo AFL-CIO; Mrs. Joseph Taibbi, president of Local 1347, Buffalo Waitresses Alliance and daughter of the late Charles D. Phillips; Mr. Phillips' other daughters, Mrs. Vincent V. Totara and Mrs. Nicholas Pierre; City Court Judge M. Dolores Denman who served as toastmaster; David M. Connors, international vice president of the ILA and Pat Sullivan, secretary-treasurer of the Great Lake District, ILA.

Finally, I wish to salute the St. Joseph's Guild which not only promotes sound trades unionism based on the principles of the papal encyclicals on labor but which also:

Educates workers to live according to the moral law as applied to economic matters; trains leaders to help put these truths into practice; fosters industrial peace by encouraging labor and management to work together and provides for the spiritual needs of the organized workers in the Buffalo Diocese.

The guild's accomplishments include the holding of 21 annual masses and communion-breakfasts with noted speakers; annual men's closed retreats; eight annual women's closed retreats; 8 days of recollection; the maintenance of a speaker's bureau on the benefits of unionization; the training of teachers for the Diocesan Labor School and support of the school's activities; participation in numerous community discussions, panels and forums on the subject of labor; assistance in the liberation of Communist and racket-dominated unions; promoted observance of the annual Labor Day Mass and the annual Union Father of the Year Award; presented an annual scholarship to a union member's child and sponsored the Diocesan Social Action Conference and the Conference on Community Living.

THE 1970 OCCUPATIONAL SAFETY AND HEALTH ACT

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. SHOUP. Mr. Speaker, across this country small businessmen and their employees are strongly united on one very critical item, the current implementation of the 1970 Occupational Safety and Health Act. Nobody likes it.

The act, passed in the 91st Congress, prior to my election, was one bathed in high hopes for improvement in working conditions and through that improved safety and health. Though both management and labor viewed it with guarded optimism, it was acknowledged that improvements in industrial hygiene and safety were badly needed.

What was hoped for and what has actually occurred are, unfortunately completely opposite. I have received a great deal of correspondence from my constituents criticizing the act, and for just cause. Because of the involved problems generated by the act, I have introduced a bill to amend the present law into a decent one governing occupational health, rather than the present statute that serves only to harass businesses who try to comply, and fails to adequately guard against worker injury through unsafe and unhealthy working conditions.

What has happened, Mr. Speaker, is that the Department of Labor, charged with carrying out provisions of the act, has sent inspectors into the field to insure compliance; inspectors so hung up on the letter of the regulations, they have on numerous occasions cited businesses for trivial violations. Those include not having the required "coathangers on the coatrack," or for not providing toilet facilities to a single worker working alone in the middle of an alfalfa field. The problem with the act is that it is not elastic enough to fit special situations, and the enforcers are doing nothing more than harassing businessmen who want to comply. In fact, by the requirements of the act, if a small businessman wanting to comply, asks the Government to come in and help him make improvements, the inspectors fine him if they find anything that is in violation. The result is that no small businessman in his right mind will ask for help, not when asking for that help will most assuredly cost him a substantial fine. The man would not ask for help if he knew he was in compliance. He should at least be allowed to correct deficiencies before being fined.

The way in which the act is being enforced is beyond being absurd, it is serving to make thousands of people, workers and managers alike, very perturbed at big government; with inspectors running around searching out minute infractions while overlooking the important ones. After all, when an inspector is ordered to be sure to check to see if notification of the Occupational Safety and Health Act being in force is posted on the wall, and that there are sufficient toilet facilities, how can the man be expected to notice anything like open conveyor belts, flammable materials stockpiled in the work area, or inadequate ventilation? What is more, rather than using a small amount of public relations and taking a manager around showing him the things that are wrong, the inspectors are writing out citations like meter maids writing parking tickets.

Under the act, each employer is required to furnish his employees a place to work, free of hazards that might cause serious injury or death. Employers are to comply with specific safety and health standards issued by the Department of Labor. Workers, in turn, are responsible for complying with the rules and regulations regarding their conduct. The principle of the act is fine, but the application is reaching the ridiculous.

The basic purpose of the act, somehow, has been overlooked in the zeal of the Department of Labor to write a lot of citations against small businesses which cannot afford them. These small businesses employ a lot of people, and if they go out of business because of this bureaucratic nightmare, there go the jobs—down the drain. I guess that is one way to make sure there are not any work hazards, eliminate the jobs, but I do not think that is the right way.

Some of the "major" violations being cited include:

First. No coat hangar on coat rack.

Second. Every sunburn must be reported as an injury, subject to penalty of up to $1,000 per incident. Evidently, this includes anyone who works outside and gets a bit sunburned on his arms when he changes from winter long-sleeved shirts, to summer short-sleeved ones.

Third. Toilet facilities must be furnished each employee even if a man is working alone in the middle of a farm field, while other workers are working somewhere else.

I could take the time to cite a dozen more examples of the kind of trivial application of the Occupational Safety and Health Act being carried out across this country, but I think my point is made. It is my feeling that the most unreasonable requirements apply to farmers who do not even have any hired help. They are subject to the act if they are helped out by their neighbor. In most rural areas, in places like western Montana which I represent, ranchers and farmers help each other out during planting, harvesting, and roundup. Yet, under the act now in effect, that neighborly help of one man to another, brings the farmer under the act and makes him liable for any of the trivial violations that simply do not fit farm and ranch work.

Mr. Speaker, I do not believe that the amendments offered thus far strike at the heart of the problem. Good points have been made but they represent piecemeal reaction to inequities rather than constructive, remedial legislation.

I am introducing a bill which would result in a number of improvements. First, it would defer implementation of certain provisions of the act until the Secretary has in fact established that they are reasonable. It would require the Secretary to determine applicability of standards to the various classes of concerns within the business, industrial, and agricultural communities. This would serve to correct such inequities as application of identical standards to heavy construction and to the homebuilder.

The act, as interpreted by the Labor Department, considers a rancher helping his neighbor in the same light as any employee. I maintain that employees covered by the act must be those who receive monetary compensation for their services and I spell this out in my bill.

The Federal Government should not involve itself in areas where State and local government can do the job. My bill would bring an end to the Federal involvement where States have adequate occupational safety and health standards of their own.

The amendments offered thus far seek exemption of firms and farms employing no more than 25 persons. I agree that resturants with 25 employees can reasonably be considered small businesses. A ranch, however that employs 25 people on a year around basis, is a big operation. I move this arbitrary number down to 15 as it applies to agriculture. This is closer to my idea of a "small farmer."

In my legislation, I ask that department inspectors cease their issuance of citations, and for 1 year following enactment serve as consultants to those who in good conscience are trying to correct their problems.

I would compensate employers for extradordinary expenses resulting from compliance and would insure that administrative procedures are followed before firms can be cited for noncompliance.

My bill would assure that penalties would not be imposed when an employer can prove that the requirement he is alleged to have violated would not in fact have constituted an improvement of the health and safety of his employees.

This bill would relieve the employer from the absolute liability provisions of the act where there is involved negligence on the part of employees.

I would make the Secretary of Labor responsible for initial medical examinations for employees and for followup examinations at periodic intervals.

Mr. Speaker, I have tried to view this problem through the eyes of the reasonable man. Ths bill is introduced in an attempt to bring reason to chaos, and to truly bring safety and health to the workers of America.

Mr. Speaker, I ask that my bill to amend the Occupational Safety and Health Act be printed in the RECORD at this time in its entirety.

The bill follows:

A Bill To Amend the Occupational Safety and Health Act of 1970, and for Other Purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Occupational Safety and Health Act Amendments of 1972."

SEC. 2. (a) Section 3(5) of the Occupational Safety and Health Act of 1970 is amended to read as follows:

"(5) The term 'employer' means a person engaged in a business affecting commerce who has employees but does not include the United States, any State or political subdivision of a State, any nonagricultural employer who employed no more than twenty-five employees at any time during the preceding calendar year, or a small farmer."

(b) "Section 3(6) of such Act is amended by inserting after "Commerce" the following: "and receives monetary compensation for his services."

(c) Section 3 of such Act is amended by adding at the end thereof the following new paragraph:

"(15) The term 'small farmer' means a person who owns or operates a farm who, it can reasonably be predicted on the basis of criteria prescribed by the Secretary, will not employ during the next twelve-month period more than fifteen man-years of agricultural labor for which compensation is paid."

SEC. 3. Section 5 of the Occupational Safety and Health Act of 1970 is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any provision of the National Labor Relations Act, an employer may appoint, establish, and maintain a safety committee for the purposes of this Act without violating any provision of section 8 of the National Labor Relations Act."

SEC. 4. Section 6 of the Occupational Safety and Health Act of 1970 is amended by adding at the end thereof the following new subsections:

"(h) The Secretary shall evaluate as soon as practicable after the date of enactment of the Occupational Safety and Health Act Amendments of 1972 existing standards established pursuant to subsection (a) or (b) of this section in order to determine the applicability of each such standard to each class of business concern within each industry or form of business. After such evaluation, the Secretary shall determine as a part of each standard, the class or classes of employers to which that standard is applicable and any class of employers to be excluded from the application of that standard, after a determination that the inclusion of any such class would be unreasonable. Such evaluation and determination shall be a part of the establishment of all standards after the effective date of the Occupational Safety and Health Act Amendments of 1972.

"(j) The Secretary shall prescribe, as soon as practicable after the date of enactment of the Occupational Safety and Health Act Amendments of 1972, as part of each existing standard adopted under the Occupational Safety and Health Act of 1970, the estimated average and maximum cost per unit to the average employer who is subject to that standard for compliance with the conditions, practices, means, methods, operation, or process used or proposed to be used by that employer under that standard and must find within such period that it is, in fact, possible for such employers to meet such standard including, but not limited to, availability of required devices, and possibility of performance of required procedures. If the Secretary cannot find that it is possible to comply, he shall rescind the standard, or fail to establish it in the event of a standard proposed to be established. The requirements of this subsection shall be a part of the establishment of all standards after the effective date of the Occupational Safety and Health Act Amendments of 1972.

"(k) Failure of an employer or employee to comply with an occupational safety and health standard which has been adopted or promulgated without compliance with the procedures of chapter 5, title 5, United States Code, shall not in itself be used in any civil action or proceeding as evidence of negligence, or wrong-doing, on the part of said employer or employee, or give rise to a presumption, or inference thereof. This provision shall not, however, be interpreted to imply the contrary is provided by this Act even though there was compliance with said chapter 5, title 5, United States Code, with respect to a standard."

(1) Section 6(k) shall not be applicable in actions brought by, or against, the Secretary pertaining to the enforcement of this Act.

SEC. 5. Section 8(c) (2) of the Occupational Safety and Health Act of 1970 is amended by adding the following at the end thereof:

"In furtherance of the effectiveness of this provision and this Act, the regulations of the Secretary may require, or otherwise provide for, appropriate physical examinations of employees upon the inception of their employment in a particular activity, or the effective date of the regulation, as to those who are employed in such activities on that date. In prescribing such regulations, the Secretary shall take into account the type of activity, or industry, the hazardous nature of the particular employment and the benefits in connection with the purpose of the Act which may accrue by requiring such examinations. Records of examinations made pursuant to this provision shall be maintained by the employer and be available to the Secretary in performing his duties under this Act, pursuant to the regulations of the Secretary."

SEC. 6. The third sentence of section 9 of the Occupational Safety and Health Act of 1970 is amended by inserting before the period a comma and the following: "and the action that is necessary to be taken by the employer for such abatement of the violation".

SEC. 7. Section 10 of the Occupational Safety and Health Act of 1970 is amended by—

(1) striking out subsection (a),

(2) redesignating subsection (b) as subsection (a),

(3) striking out "or (b)" where it appears in subsection (a) as so redesignated.

SEC. 8. Section 11 of such Act is amended by striking out "(c)" in the first sentence of subsection (a) and inserting "(b)", and by striking out "or (b)" in the third sentence of subsection (b).

SEC. 9. Section 17 of such Act is amended by striking out subsections (b), (c), and (k), redesignating subsections (d) through (j) as subsections (b) through (h), respectively, and by redesignating subsection (1) as subsection (i).

SEC. 10. The Occupational Safety and Health Act of 1970 is amended by adding after section 17 thereof the following new headings and sections as sections 18 and 19 and by the renumbering of subsequent sections:

AFFIRMATIVE DEFENSES

"SEC. 18. (a) It shall be an affirmative defense to any proceeding under this Act that—

"(1) the employer furnished adequate notice and exerted all reasonable efforts, pursuant to such regulations as the Secretary may prescribe, to obtain the compliance of his employees and the violation of the Act was attributable to such employees and the employer could not otherwise have reasonably prevented the violation;

"(2) the employer did not receive at least thirty days' prior actual notice of a standard not adopted pursuant to title 5, chapter 5, United States Code, when the violation charged relates to such a standard; and

"(3) the standard which is the subject of the violation charged would not have effectively constituted an improvement of occupational safety and health in the circumstances under which the charge is brought.

"(4) any nonmanufacturing business, having twenty-five or less employees shall be exempt from the rules and regulations pursuant to the provisions of this Act, providing that the State in which they reside has adequate occupational safety and health standards governing their businesses. For the purpose of this subsection, the term "business" means any individual business whose major business activity is nonmanufacturing."

COMPLIANCE AGREEMENT

"SEC. 19. (a) Section 10 of the Occupational Safety and Health Act of 1972 is amended by adding at the end thereof the following new subsection:

"'(d) At any time the Secretary determines the purposes of this Act will be best served by so doing, he shall have the authority to enter into an agreement with an employer believed to be in violation of an occupational health and safety standard whereby enforcement and penalty provisions are waived or deferred upon condition the said employer will voluntarily comply with said standard upon such terms and conditions as the Secretary determines appropriate in the circumstances. Failure of an employer to abide by such an agreement, however, may be taken into account in resulting enforcement and penalty procedures.'"

SEC. 11. (a) The heading of section 23 of the Occuptional Safety and Health Act of 1970 is amended to read as follows:

"ASSISTANCE TO SMALL BUSINESSES"

(b) Section 28 of such Act is amended by adding at the end thereof the following new subsections:

"(e) (1) Whenever it appears to the Secretary that it is necessary to assist employers with less than one hundred employees during the preceding calendar year to comply with the applicable standards promulgated pursuant to section 6 of this Act, the Secretary shall provide technical advice, assistance, and consultation, either directly or by way of a grant, to such employers to assist them in so complying.

"(2) The assistance provided by this subsection shall not include the actual cost of devices or procedures required by this Act.

"(f) Upon the application of an affected employer, the Secretary shall make a grant to him for the cost incurred by him in complying with a standard adopted or promulgated without compliance with title 5, chapter 5, United States Code, if that standard was replaced by the Secretary with a standard which could have reasonably been adopted at the time the replaced standard was adopted or promulgated and the said employer was required to comply with the later standard. The said grant to the employer shall be equal to the costs incurred by said employer which he would not have incurred if the later standard had been adopted or promulgated initially. For the purpose of making such grants, the Secretary is authorized to adopt schedules based upon average cost of data."

SEC. 12. Section 16 of such Act is amended by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this Act, no standard promulgated or adopted hereunder prior to the enactment of this subsection shall be applicable until one year after the enactment of this subsection to any employer who in the calendar year preceding enactment of this subsection had fewer than one hundred employees. This subsection shall not be applicable to new businesses established after the date of its enactment, or to any business having more than one hundred employees in the calendar year prior to its enactment. The Secretary shall adopt the necessary regulations to effect the provisions of this subsection.

SEC. 13. The amendments made by this Act shall take effect on the first day of the month beginning sixty days after the date of enactment of this Act.

STUDIES CLAIM WAGE LAWS PROMOTE POVERTY

HON. FRANK T. BOW

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BOW. Mr. Speaker, with regard to the minimum wage, as with many other facets of our national fie, we seem to be slow to detect the flaws in programs that have an outward appearance of desirability.

I have long felt that we need a serious study of the actual effects of the minimum wage. Instead, we are still talking about it in the hackneyed cliches of 20 years ago.

For this reason, I was delighted to find in the Columbus (Ohio) Dispatch the following article by Prof. Alfred Eckes in support of my position. I include in the RECORD, following the professor's article, my own comments in my constituent newsletter last week:

STUDIES CLAIM WAGE LAWS PROMOTE POVERTY

(By Alfred Eckes)

Federal minimum wage laws promote joblessness and poverty among the very people they are designed to help.

This conclusion, derived from a number of careful studies of the effects of government wage legislation, challenges the basic assumptions of government labor policy for the past generation.

And it helps to explain why a growing number of liberal and conservative economists oppose pressures to boost the federal minimum wage from $1.60 to $2 an hour.

Since 1938, when President Franklin Roosevelt signed the Fair Labor Standards Act, both Republicans and Democrats have generally accepted the argument that the federal government should establish a wage floor for workers. Over the years the wage minimum has slowly increased from 25 cents to $1.60. Also, Congress has provided coverage under the minimum wage provisions to approximately 46 million workers.

Last year, at the urging of organized labor and other groups, Congress considered boosting the minimum wage to $2 an hour and extending coverage to approximately five million federal, state, and local government employes. That bill also would have covered 1.4 million domestic workers not now eligible for minimum wage protection.

In 1971 Secretary of Labor James Hodgson, speaking for the Nixon administration, endorsed an increase in the minimum wage, though he proposed exempting teenage, workers. Noting that joblessness for workers under age 18 was between four and five times the unemployment rate for adults, Hodgson urged Congress to hold the minimum wage for teenage workers at $1.60.

But, William Colmer, the aging Mississippi representative who chaired the powerful House Rules Committee, successfully opposed the combined support of organized labor and the administration.

Now supporters are preparing what they hope will be a more successful campaign to legislate an increase.

Basically, proponents of the $2 minimum argue that a higher wage floor is the best way to improve the living standards of 25 million Americans living in poverty. The current $1.60 minimum, they say, provides a worker with only about $3300 annually, a figure that falls below the government poverty line.

In 1970 Washington estimated that a nonfarm family with four persons needed at least $3,968 to meet basic requirements.

Because critics are often denounced as antilabor, anti-American, and insensitive to poverty, there is a tendency for political leaders to favor a higher minimum wage without considering the economic effects.

Now a number of professional economists are challenging the conventional idea because they believe minimum wage laws cause more harm than good.

Conservative Milton Friedman denounces the Fair Labor Standards Act as "The most anti-Negro law on our statute books."

Nobel Prize winner Paul Samuelson claims these laws "often hurt those they are designed to help."

Belton Fleisher, an Ohio State University authority on labor economics, agrees.

"There is little evidence," he says, "that minimum wage laws improve the standard of living for the poor." While workers who keep their jobs obviously benefit from higher wages, Fleisher indicates these benefits are more than offset by the income lost to workers who lose their positions.

The adverse effects of minimum wage laws are documented by a number of scholarly studies that show minimum wage increases force plants to close or to substitute machinery for manpower.

Federal Reserve Board chairman Arthur Burns found evidence in 1966 that unemployment rates were invariably higher during the six months after an increase than during the six months before.

Many of the studies, including one by John Peterson of the Arkansas employment Security Division, show that federal laws have created serious unemployment problems among unskilled workers, particularly teenagers, nonwhites, and women.

Recent Labor Department figures indicate these groups face the highest levels of joblessness. Last year, while the unemployment rate for married men was 3.2 per cent, it was 5.7 for adult women, 16.9 for teenagers, and 9.9 for nonwhites.

Black teenagers had the most difficult time of all. Their unemployment rate was a staggering 34.9 per cent.

If increments in the minimum wage increase unemployment, why does organized labor push for a higher minimum?

Labor economists explain that unions are most anxious to protect the incomes of their members. Federal minimum wage laws support this objective by shielding organized workers from low-wage competition. As a result, union leaders can take stronger stands in wage negotiations with employers.

An increasing number of economists believe removal or reduction of minimum wage laws would ease the employment problems of unskilled workers. It would provide, they believe, at least a partial solution to the employment difficulties of blacks, teenagers, and women. To assist families who still fall below the minimum standard of living, some economists favor the so-called negative income tax, under which poor people would receive money from the U.S. Treasury rather than pay income tax.

Such a drastic change in federal programs may be an idea that will win acceptance in the future. According to Fleisher it has many advantages including a better utilization of American manpower, a reduction in the federal bureaucracy that supervises minimum wage legislation, and a decline in the "political immorality" of a system that benefits organized workers at the expense of the unskilled.

The proposal has at least one disadvantage, however. It would erase the need for an army of 4000 Labor Department administrators, earning average salaries of $14,080, who supervise minimum wage legislation.

YOUR CONGRESSMAN REPORTS FROM WASHINGTON

(By FRANK T. BOW, Member of Congress)

WASHINGTON.—It takes a kind of Alice-in-Wonderland thinking to argue that increasing the minimum wage to $2 will help young people, old people, poor people, or those with few skills.

These are precisely the people who make up the ranks of the unemployed today. They are the people who have few opportunities because they lack training or physical dexterity. Increasing the minimum to $2 will make it harder for them to find work and will result almost immediately in the loss of work for others.

The experts say it isn't so; that it has not happened before. I know better, and so do most businessmen and farmers in the country. They operate on narrow profits. Some jobs that might be worth $1.50 will simply not be done if they cost $2. Small businessmen will retrench and try to do the work themselves.

This is only the worst of the inconsistencies in the present minimum wage bill. In addition, it seems extremely foolish to enact increases as high as 25 percent in the minimum when we are trying to hold all wage increases within 5.5 percent.

Increasing the minimum always exerts pressure for wage increases all the way to the top. If the $2 foreman sees his $1.60 helper raised to $2, he wants an equal boost, and so does his supervisor, and the next supervisor and so on. It is a reasonable and natural and proper reaction. And it will destroy our efforts to fight inflation.

If we wished to be realistic and maintain a minimum consistent with the average hourly wage in the country, we could raise the minimum now from $1.60 to $1.70, and to $1.80 in another year to 18 months. Perhaps the way to take politics out of minimum wages would be to harness the minimum to the average hourly wage in a permanent percentage relationship.

The pending bill is a cruel hoax, threatening the welfare of the very people whom its sponsors claim to help.

LIFE SCOUT HENRI W. ZAJIC

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. ADDABBO. Mr. Speaker, a young man from Flushing, N.Y., Henri W. Zajic has undertaken a most interesting project in connection with his service requirements as a Life Scout with Troop 358. This 13-year-old Life Scout attends St. Ann's School in Flushing and has been in Scouting for the past 5 years.

Henri has written about his special project in his own words and I believe my colleagues in the House will find his article most informative. The project involves the collection of reading material for the patients at St. Albans Naval Hospital in Queens, N.Y.

I place Henri's article in the RECORD at this point.

EAGLE SCOUT SERVICE PROJECT SERVES A NAVAL HOSPITAL

Eagle Scout Service Projects are one of the many requirements a Life Scout must satisfactorily complete before he is eligible for consideration by a Eagle Scout Board of Review. The purpose of the requirement is to let a Life Scout demonstrate by doing that he can select, plan, develop, and complete a meaningful community service project. This doesn't mean that you have to work alone—you may, in fact it is encouraged, involve Scouts or others in the project. Whomever the project is for, you must first learn what is wanted, and then develop your plans accordingly—at the same time gaining experience in cooperation.

My biggest problem was selecting a project. A project that would have meaning. Many ideas crossed my mind but it wasn't till I came upon my present project that I was convinced that I really had a project with a real purpose.

The project that I selected is to provide reading material for the St. Albans Naval Hospital, St. Albans, New York. Reading material in the form of either hardback or paperback, but not magazines. The theme of the project is to provide a community service to those who served our nation.

Before the project was kicked off I discussed and received the permission of Lt. Cmdr. A. Fink, U.S. Navy of St. Albans. The commander put me in touch with a Ensign W. Joseph; and it has been through Mr. Joseph that I now do all my hospital activity. Mr. Joseph told me how to prepare the books for immediate Navy use. He is a real nice chap and a regular guy to work with.

Once I had the U.S. Navy approval for my proposed project, then I obtained my Scoutmasters permission to proceed with the project. Mr. V Sansone, Jr. my Scoutmaster not only gave me permission to proceed, but he also has been enthusiatic about helping me get other Scouts involved.

The project is an awful lot of fun and very rewarding. My original goal was to collect, repair, or mend, index, catalog, and deliver to the St. Albans Naval Hospital five hundred ready for use books. The delivery to be made at four times during the year (i.e. January 72, April 72, July 72, and October 72). Recently I revised my original goal from five hundred books up to three thousand. I made the revision based on my results up to date and the delivery made in January 72 (Five hundred forty books were delivered).

To say that I've accomplished the initial delivery alone would be untrue. I've been very fortunate and have had the help of many boys. The help has come from not only Scouts, but it has come from all walks of life. It ranged from Scouts and Scouters to Congressman. Some helped by mending and repairing while others by their giving of books. Congressman Joseph P. Addabbo has sent me a letter of encouragement and some books all the way from Washington, D.C.

Attached here is a flyer that I drew up and distributed at several Scout meetings, and at my school. As a result of the flyer or a small talk or a plea that I'd make at the Scout Roundtable various people would call me about available books. These books, either I or one of the boys helping me, would then pick up.

Next we'd repair or mend the books. Thank goodness for Masking Tape, Scotch Tape, and for what I learned while obtaining my Boy Scout Merit Badge for Book Binding. As a result of completing the requirements for the merit badge I've learned some good tips about rebinding. Now while I rebind or show someone else how to rebind the other chaps are either cleaning or mending pages.

As the books start to look presentable we place withdrawal cards and the card pockets onto the inside of each rear cover. One of the last jobs now left as the book nears the day it will get on a shelf or be used, is to classify the book. We classify the books according to the Dewey Decimal System; and stamp the book. Don't let me mislead you, not all the books that we have received have to be mended; some come to us as if they came direct from the publisher.

Bundling the books by category and making the delivery to the hospital is the easiest and most pleasant task. You realize at this point that the last three months have been worth it all. It made me feel very good when Ensign Joseph thanked me on behalf of all the patients for the books. The best part is that I'll be able to make at least three more such deliveries as part of this project.

TRANSPORTATION

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BEGICH. Mr. Speaker, because of the vital importance of transportation to the State of Alaska, I would like to submit into the RECORD a copy of the proclamation made by Alaska's Gov. William A. Eagan designating May 19, 1972, as National Defense Transportation Day and the week beginning May 14, 1972, as National Transportation Week:

PROCLAMATION: DEFENSE TRANSPORTATION DAY AND TRANSPORTATION WEEK, 1972

The United States truly became one Nation with the physical linkage of its cities and its citizens through an interconnected, diversified transportation network. Its commerce prospered from the ever-increasing proximity of its markets; its citizens from the availability and accessibility of the great productive wealth of this Nation. There can be no doubt about the importance of our Nation's transportation system.

In Alaska, where the Federal highway program has not supplied a network of roads into and throughout our State to the extent it has in the other States, we recognize and are dependent upon varying alternate methods of transportation. For much of Alaska's rugged terrain, air travel is the only method of transportation available. Our citizens in the coastal areas rely upon the Alaska Marine Highway to supply the goods they need and vital transportation. In the Interior and the Northern Regions the snowmobile is not looked upon as a recreational vehicle, but as a necessity.

The transportation challenge that our Nation and our State face today is the establishment of a truly balanced transportation system—a system that provides all our citizens with the ability to choose the most efficient means of transportation at the least possible cost to them and to the environment.

In recognition of the importance of transportation in this State, and to spotlight the challenge which it now faces, I, William A. Eagan, Governor of Alaska, do hereby designate Friday, May 19, 1972, as National Defense Transportation Day, and the week beginning May 14, 1972, as National Transportation Week, and ask that the citizens of Alaska join the Federal Department of Transportation and our local transportation officials in reevaluating our goals and reaffirming our commitment to a balanced transportation system for this State and this Nation.

Dated this 20th day of March, 1972.

WILLIAM A. EAGAN,
Governor.

AEC COMMISSIONER RAMEY CALLS FOR BALANCE BETWEEN PRESERVATION OF ENVIRONMENT AND ELECTRIC POWER NEEDS

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. EVINS of Tennessee. Mr. Speaker, Commissioner James T. Ramey of the Atomic Energy Commission in a recent article in Public Utilities Fortnightly declared:

> The problem of striking a proper balance between the need for electric energy and the need to protect and enhance our environment is one of the most serious and urgent ones presently facing the Executive Branch, the Congress our regulatory agencies, the electric utilities, and the American people.

Because of the interest of my colleagues and the American people in this most important matter, I insert the article in the RECORD:

DELAYS IN NULCEAR PLANT LICENSING: CAUSES AND POSSIBLE SOLUTIONS

(By The Honorable James T. Ramey)

Electric power plants—especially nuclear—have become a focal point of concern in our environmental crisis. It is unfortunate, though, that we tend to overlook another crisis—that of meeting our growing demand for electricity. Legislation aimed at striking a proper balance between our energy demands and preserving and enhancing the environment is urgently needed and the author offers some solutions.

During the past several years, electric power plants—and nuclear power plants in particular—have become a focal point of concern in the environmental crisis facing our nation.

That there is an environmental crisis is readily apparent to anyone who listens to television, reads a newspaper—or, for that matter—even looks around. The signals are everywhere.

It is unfortunate, however, that in our newfound concern regarding this long-developing environmental crisis, we all too frequently tend to overlook another crisis which is almost upon us, that of meeting our nation's rapidly growing demand for electrical energy. The symptoms of this crisis have already begun to manifest themselves—electric blackouts and brownouts, rapidly rising prices and shortages of supplies of coal, oil, and gas, threats of oil shipment embargoes by Near East nations, delays in operation of electric power plants, and the need of some utilities to resort to curtailment of electric power usage through "load shedding."

The problem of striking a proper balance between the need for electrical energy and the the need to protect and enhance our environment is one of the most serious and urgent ones presently facing the Executive branch, the Congress, our regulatory agencies, the electric utilities, and the American people.

This article focuses on some of the more significant reasons why, in my view, the nation is not now striking the proper environment-energy balance in the licensing and regulation of powerplants—and, in particular, nuclear plants—and how this is resulting in precarious delays in meeting our energy demands. Having reviewed some of the problems, I will then discuss some possible solutions to this dilemma.

ENERGY—THE DIMENSIONS OF THE CRISIS

The critical dimensions of our energy needs are made obvious by the amounts of electrical generating capacity needed in the next two decades, as estimated by the Federal Power Commission. As of 1970, the electrical generating capacity of the United States was about 340 million kilowatts. The projected 1980 electrical generating capacity is 665 million kilowatts, or almost double the 1970 capacity, and the projected 1990 electrical generating capacity is more than one billion kilowatts, over three and a half times the 1970 capacity.

It is estimated that 150 new sites for steam-electric power plants of 500,000 kilowatts or more will be needed by 1980, and another 150 more sites by 1990. It is also recognized that a significant share of these anticipated plants will be nuclear powered. Even now, 23 nuclear power plants are in operation and over 100 plants are under construction or on order.

By the end of 1980, it is expected that nuclear electric generating capacity will reach some 130 to 170 million kilowatts, representing between 20 and 25 per cent of our total power capacity at that time, and by 1990 nuclear power will represent about 40 per cent.

A PERSPECTIVE ON DELAY

Unfortunately, even with the promise of nuclear energy and our ability to manage its environmental effects, the projections for power requirements cited above are still accompanied by projections of increased delays in placing generating plants in service.

Of a total of 114 steam-electric generating plants, predominantly fossil-fueled, of 300,000 kilowatts or more installed from 1966 through 1970, service from 83 was delayed. Several factors contributed toward these delays, including technical problems associated with bringing the new larger power plants on line, and regulatory processes which reportedly caused delays for eight plants. Looking ahead, of a total of 230 similar plants scheduled for service during 1971 through 1977, 53 plants are already reported as being delayed, with various regulatory processes now reported as the cause in about 50 per cent of the cases (27 plants).

The cost of such delays can run on the order of $50,000 to $100,000 per day. These costs involve such items as interest on construction loans, loss of revenue, and perhaps the extra cost of purchasing outside power to meet demands. Nor, can we overlook the human costs that might result from the delayed operation of these plants, the inconveniences and dangers inherent in brownouts or blackouts, and economic hardships on a community which may result from the need for cutbacks.

The seriousness of this delay situation has been clearly pointed out in a report issued February, 1972, by the National Electric Reliability Council on "The Impact of a 12-month Delay of New Nuclear and Fossil-fuel Fired Steam Generating Units on the Adequacy of Electric Power Supply in the United States."

While technical problems continue to be a factor, experience suggests that current regulatory processes themselves are becoming the predominant factor in this overall "delays problem." It is to these processes—involved in the siting, construction, and operation of electric power plants, particularly at the federal level, and some proposed reforms intended to facilitate a balanced approach—to which the remainder of this article is devoted.

THE REGULATORY PROCESSES

The regulatory patchwork

An examination of the regulatory processes themselves reveals a largely unco-ordinated and often overlapping patchwork of regulatory programs with respect to the siting of electric power plants at the federal, state, and local level that also becomes a source of problems leading to delay.

Until fairly recently, problems regarding the siting, construction, and operation of electric power plants have been primarily regarded as problems of land use to be dealt with at the state and local level. Such plants commonly require state permits for water use, for sewage or waste disposal, for construction in or alteration of streams, and for discharge of air pollutants. In addition, they are generally subject to local zoning ordinances and building permit requirements.

In the past several years, the federal role in this area has increased with the result that, at present, a complicated system of federal regulatory processes is superimposed upon the regulatory processes at the state and local level.

At the federal level the regulatory processes associated with electric power plant siting, construction, and operation are centered around five basic statutes, the Federal Power Act, the Atomic Energy Act of 1954, the Rivers and Harbors Act of 1899, the Federal Water Pollution Control Act, the Clean Air Act, and the National Environmental Policy Act of 1969.

Nuclear powerplant licensing

The Atomic Energy Act of 1954 and its amendments vest the Atomic Energy Commission with licensing authority over the construction and operation of nuclear power plants. Until fairly recently, this authority was confined essentially to matters affecting radiological health and safety and the common defense and security. However, the National Environmental Policy Act of 1969 has been construed as enlarging the Atomic Energy Commission's substantive regulatory authority so as to require full consideration of all environmental matters as well as possible alternatives. The states are without authority to license or regulate nuclear power plants from the standpoint of radiological health and safety or common defense and security, but similar restrictions are not placed on the exercise of state authority over other aspects of nuclear power plant construction and operation.

The procedures for licensing nuclear power plants are themselves extremely rigorous. Utilities proposing to build plants first submit a comprehensive safety analysis which is evaluated by technical specialists on the AEC's regulatory staff and by the AEC Advisory Committee on Reactor Safeguards—an independent panel of scientists and engineers established by Congress. Next, a public hearing is conducted by an Atomic Safety and Licensing Board. Only after a review of the hearing record by a Licensing Appeals Board—or the AEC commissioners—is a construction permit granted.

The utility must also apply for an operating license from the AEC. Reviews similar to those for the construction permit take place, although a public hearing is not always held. While the AEC conducts the reviews as expeditiously as possible, consistent with the obligations to protect the environment and the health and safety of the public, some procedural delay does occur. In recent years, the period required to obtain a construction permit has grown from an average of about ten months to in excess of twenty-one months. The Calvert Cliffs decision in July, 1971, has further complicated this situation, in addition to providing a basis for broader and more time-consuming hearing.

REGULATORY PROBLEMS

Inherent in the regulatory processes just described are several aspects which have become very prominent in increasing delays in meeting our energy needs. These problems are: the asymmetry in the regulation and licensing of the various types of power plants; the effects of new environmental legislation and the transition to its implementation; the matter of calculated legal delays and extra costs imposed on nuclear plants—what has been called "nuclear blackmail"; and the problems associated with state-federal co-ordination in matters such as siting, water quality, and areas where states purport to set standards, the responsibility for which has been pre-empted by the federal government.

Asymmetry

An examination of the existing regulatory processes associated with siting, construction, and operation of electric power plants and the proposed legislative reforms in this area suggest that all types of electric power plants are not evaluated and judged equally as to their environmental impact.

For example, under the present statutory scheme, the overall environmental impact of fossil-fired plants is not reviewed at the federal level, and existing regulations purport to exempt the effluents from such plants from the requirements of the National Environmental Policy Act.[1]

Any regulatory asymmetry between nuclear and fossil-fired plants, or indeed between any types of plants, should be eliminated. Opportunities for citizen participation in the selection of electric power plant sites, and the scope of issues that must be considered in connection with regulatory site approval or disapproval, should be relatively equivalent for all types of plants. Otherwise, an artificial element—the desire to take the path of least resistance through the regulatory processes—enters into a utility's selection of the type of power plant to build. This will improve neither our environmental nor our energy situation in the long run.

Effects of new environmental legislation

The implementation of new environmental legislation, necessary as it may be, is an extremely complex matter in the licensing and regulation of nuclear power palnts. Such plants require water quality certification in accordance with the Federal Water Pollution Control Act, and may need an effluent discharge permit from the Corps of Engineers.

Under the National Environmental Policy Act of 1969, the AEC is required to *evaluate independently all the environmental effects* of the construction and operation of each nuclear plant applying for a license. In addition, NEPA states that a "detailed statement" of environmental considerations must be prepared by the federal licensing agency for all "major federal actions significantly affecting the quality of the human environment."

The "detailed statement" was already causing a significant increase in the time required for review of applications, when a decision was rendered in Calvert Cliffs' Coordinating Committte, Inc. v Atomic Energy Commission,[2] largely invalidating AEC's then effective regulations for implementation of that act. That decision directly affected at least 63 licensing applications involving 91 nuclear power reactors, as well as five nuclear power reactors for which operating licenses had been issued. Unfortunately, NEPA did not foresee the need to provide any guidance or transitional measures to be used in regard to plants already in operation, under construction, or whose construction was scheduled to commence in the near future. This fact and the development of such procedures have contributed to the delays problem.

NEPA and the Calvert Cliffs decision further highlighted the fact that the federal, state, and local regulatory processes are characterized by a certain amount of overkill and duplication. They also have made it painfully clear that these same regulatory processes are subject to increasing strain as concerned citizens and citizens' groups seek public forums for the resolution of the complicated environmental, technical, and social questions involved in siting, construction, and operation of electric power plants.

---

[1] The regulations referred to were struck down by the district court in Kalur v Resor. The case is currently on appeal to the U.S. court of appeals for the D.C. circuit.

[2] **91 PUR3d 12.**

"Nuclear blackmail"

The ability to use the requirements and complexities of the new environmental legislation to forestall indefinitely the licensing and operation of a nuclear plant is a growing problem being faced by utilities. Some have referred to it as "nuclear blackmail," although such tactics may have also affected other types of power plants.

It is now possible for counsel for a determined intervener to use delaying tactics, particularly at the operating stage, to obtain concessions from the utilities. These concessions are often in the form of additional "environmental safeguard devices" which may not actually improve environmental protection. Such tactics, pursued in the name of environmental protection, will inevitably pose an extra financial burden on the consumer.

The effect of "nuclear blackmail" is to shift decision-making responsibility to groups relatively limited in size and bearing no public accountability. Furthermore, these groups may not be present when and where the power shortages occur due to the delays they have engendered.

State-Federal relations in siting and regulation

A major problem area affecting the timely licensing and operation of nuclear plants has been that of co-ordinating state and federal regulations and activities.

The siting of power plants has characteristically been a matter of local and state concern. Today, because of a number of environmental and energy regulatory complexities, it is becoming one of growing federal involvement with many responsibilities overlapping apparent state jurisdiction. Water quality control falls into this category of overlapping concern. Although federal pre-emption of the area of control over radioactive effluents from nuclear power plants was upheld in the court of appeals. Supreme Court review of the court of appeals decision has been sought. The importance of having this matter resolved is indicated by the fact that there are already problems where states are implementing air pollution laws at twice the stringency of federal standards. Some possible relief to these problems involving federal-state relations will be discussed in the sections which follow.

SOLUTIONS THROUGH PLANNING AND LEGISLATION

Site planning

In October, 1967, at the suggestion of the author, an Interagency Power Plant Siting Study Group composed of representatives of the AEC, the Departments of Health, Education, and Welfare and Interior, the Federal Power Commission, the Rural Electrification Administration, and the Tennessee Valley Authority was formed to develop a coordinated approach to the siting problem. In 1968, under the sponsorship of the Energy Policy Staff of the Office of Science and Technology, the group issued a report, titled "Considerations Affecting Steam Power Plant Site Selection." The report described siting criteria, predicted future needs for electric power plant sites, and pointed to the need for striking a proper balance when questions of power plant siting develop.

In 1970, the same group, with the addition of the Council on Environmental Quality, produced the report, "Electric Power and the Environment," which proposed a four-part program for dealing with conflicts between power needs and environmental protection. Essentially, the report emphasized the need for long-range planning with public and environmental group participation from the start. In such a fashion, the attempts of those persons wishing to delay for the sake of delay could be dealt with and their attempts to "paper over" real issues of environmental quality could be minimized. Fortunately, the report's recommendation for legislation to put their plan into effect was heeded in the administration's proposed Power Plant Siting Act of 1971 (HR 5277 and S 1628), which, as is explained below, offers hope that the nation is awakening to the danger of unwarranted delays in the efforts to meet our nation's power needs.

The Power Plant Siting Act of 1971: Dealing with asymmetry

The "Power Plant Siting Act of 1971," if approved by Congress, may help alleviate many regulatory roadblocks that cause delays.

The administration's bill would largely meet the need for an across-the-board requirement for review and approval prior to siting, construction, or operation of *all* types of electric power plants. It would accomplish this by imposing a general requirement for regulatory review and approval of all power plant sites five years in advance of construction, and regulatory review and approval of detailed construction plans two years in advance of construction. The reviews would be conducted by a state or interstate certifying agency, or, in the absence of an appropriate state or interstate agency, a federal certifying agency, acting pursuant to federal guidelines. These review requirements would be applicable to all large electric power plants, except hydroelectric plants which are presently regulated by the FPC.

Early site legislation

Another important proposed piece of legislation is the AEC's "early site" legislation. This bill was introduced during the first session of the 92nd Congress as S 2152 and HR 9286. Amendments to these bills (HR 13731), including a provision dealing with interim licensing, were submitted recently by the administration. The interim licensing provision is intended to cast in a firm legislative foundation certain of AEC's regulations implementing the Calvert Cliffs decision to permit issuance of facility operating licenses on an interim basis pending completion of procedures for consideration of the full detailed environmental statement required for the full power license. The interim provision would only apply in emergency situations for plants for which applications were filed on or before September 9, 1971.

Under this proposed AEC early site legislation, activities such as site clearing and excavation could not be started, with minor exceptions, without a permit from the AEC which could only be granted after a mandatory adjudicatory hearing.

In future cases where a hearing has been held at the construction permit stage, an operating license could be issued without completion of a hearing, subject to certain conditions. It is not in the public interest to hold up the supply of scheduled electric power from a several hundred million dollar plant for a hearing where the AEC staff has already found that it meets all the requirements for an operating license. This procedure would help eliminate the "nuclear blackmail" discussed earlier, where an intervener can use delay as a bargaining club. It would be possible to complete a hearing as to further improvements in safety or environmental equipment which could be backfitted into the plant but not as a condition to obtaining the operating permit.

The intent of the early site legislation is to afford the public full opportunity to participate in the resolution of basic environmental considerations before any damage to the site environment, thus offering more opportunity for striking a proper balance in the environment/energy equation.

The Baker amendment: An answer to overlap

Congress is currently considering Senator Howard Baker's proposed amendment to the Federal Water Pollution Control Act. The Baker Amendment, if passed, would help considerably to alleviate a good bit of the overlap and duplication in water quality aspects of laws and regulations discussed above while still assuring that water quality considerations receive continued attention in the balancing of power needs against environmental quality.

If the Baker Amendment is enacted, federal licensing agencies, such as the AEC, could accept water quality certification from the appropriate state or federal agency and would be relieved of the responsibility under NEPA of going back of the state criteria to consider alternative means of dealing with water quality impact. The licensing agency, however, would still be required to take water quality into account in its overall cost-benefit analysis of environmental impact.

AEC procedural changes

The AEC is moving on several fronts—manpower, organizational changes, procedural changes, substantive rule making, and guidance to industry—to upgrade its efficiency in the overall licensing process. Specifically, the AEC is making efforts to increase the regulatory staff levels and supplement its technical assistance and environmental reviews. Recent organizational changes were initiated to strengthen the regulatory staff to provide for additional review on a functional, rather than a project basis, to provide additional support for planning and scheduling efforts, and to provide further emphasis on the development of reactor standards, codes, criteria, and guides. And while procedures for improving applications are being stressed and ways to improve the licensing process are being studied in an effort to expedite reviews, public rulemaking hearings are being sponsored as a means of moving away from case-by-case delays over basic issues such as emergency core cooling.

Managing the transitions

Any new federal power plant siting legislation must carefully address the problem of its impact on plants already in operation, under construction, or whose construction is scheduled to commence in the near future. A section of the Federal Water Pollution Control Act successfully dealt with this problem by postponing the water quality certification requirement for plants while applications were pending on the date of its enactment and for plants for which construction had lawfully commenced on the date of its enactment. The administration's siting bill postpones for two years the requirement that certifying authority approval be obtained prior to construction or operation of a bulk power supply facility, and provides for a different certification standard for plants under construction on the date of enactment. Thus, the bill would provide a basis for a more rational approach to siting problems for future plants. This is in marked contrast to NEPA which provided very little guidance as to its implementation, thus providing an opportunity for judicial interpretation.

CONCLUSION

As this article has attempted to describe, the processes for regulating the construction and operation of this nation's electric power plants are in need of reform. At a time when we are earnestly striving to meet both our environmental and our energy needs with the most modern technology possible, there is a real public need for eliminating asymmetrical, overlapping, and unnecessarily duplicative review and approval processes. This confused situation lends itself to irresponsible delaying tactics by small activist organizations and the new breed of counsel.

Remedial actions are clearly called for—and called for now. These include currently contemplated AEC actions to improve its own detailed regulatory procedures, elimination of conditions that permit the so-called "nuclear blackmail," and development of more rational legislative approaches to siting and licensing.

The most immediate needs, of course, are for the unobstructed and expedited implementation of interim licensing procedures. While the AEC's early site legislation and the Baker amendment promise some shorter-term remedy for the problems. I have discussed, the four-point program set forth in the "Electric Power and the Environment" report and embodied in the proposed "Power Plant Siting Act of 1971," appears to present a more long-range answer.

The essential elements of the program—long-range planning with public participation, early public notice, and hearings on *all* proposed power plant sites, as well as *overall* preconstruction review and approval after public hearing of the more detailed plans, and expanded research and development—offer an opportunity to strike a proper balance in our efforts to supply our energy demands while preserving and enhancing our environment. Legislation along these lines is urgently needed.

HOW THE SOVIETS BENEFIT FROM EAST-WEST TRADE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. CRANE. Mr. Speaker, there is a widespread feeling in our own country and elsewhere in the Western world that the Soviet Union has altered its goal of world domination and that, since this is the case, the previous barriers to East-West trade should be removed.

The reasoning seems to be logically consistent. If the Soviet Union is no longer an enemy, is no longer ambitious in its design to communize the world, then the opposition to trade with the Soviet Union, based upon a different assessment of its goals, should also change.

Unfortunately, those who advance this view can provide little evidence to support their thesis. The evidence is largely on the other side. During the past 5 years, for example, the United States has not increased the number of land-based missiles and missile-carrying submarines, while we cut back on the number of our strategic aircraft. The Soviet Union, on the other hand, increased her arsenal of land-based missiles to numbers 50 percent greater than our own. Her missile-launching submarine fleet is nearing equality with our own Polaris-Poseidon fleet.

Beyond this, Soviet activity in the Middle East, the Mediterranean, the Caribbean, and the Indian Ocean provides no indication of any change in policy. In addition, the Soviet Union provides over 80 percent of military and other supplies to North Vietnam and is, as a result, a major contributor to the continued conflict in Indochina.

Discussing Soviet goals in today's world Joseph Gwyer, a former senior research specialist in industrial engineering with the Library of Congress and one of the foremost experts on Soviet technology and East-West trade, notes that—

> It is obvious that the Soviet Union seeks to attain at any price such goals as scientific and technological as well as military superiority, improved socio-political cohesion and organizational efficiency, and higher rates of economic growth, while encouraging and seeking to control revolutionary process in the world.

At the very moment when Soviet military strength is surpassing our own, we are considering East-West trade proposal in the area of the most sophisticated machine tools, chemical processing, and electronics. These, writes Mr. Gwyer, "should be carefully scrutinized, since our conflict with communism is economic as well as political. We have little if anything to gain in this struggle by helping the Soviet Union to fill gaps in her technology."

To provide the Soviet Union with the very sophisticated technology it needs to surpass us, while not demanding any concessions in return, is a one-sided policy designed solely to our own detriment. Mr. Gwyer points out that—

> The Soviets use trade as a weapon of political as well as economic warfare. The Soviets clamor for trade with the West and then they campaign to disrupt world markets. They use the innocent bait of commerce to entice unsuspecting or perhaps naive nations into their political web.

This fact is made clear by Soviet spokesmen themselves. A. P. Chervyakov, a Soviet authority on foreign trade, wrote that—

> Due to the basic antagonism between communism and capitalism, trade between the East and West will always be influenced, if not dominated, by political considerations and motivations. The USSR's foreign trade policy is an integral part of its foreign policy.

Mr. Gwyer declares that—

> If President Nixon decides not to cancel the $1.4 billion package of licenses for the export of our technology to the Soviet Union, and does authorize Export-Import Bank credits to finance these sales, the Soviet Union will construe these actions or lack of actions as proof that we are unprepared psychologically to face a confrontation and that even before the opening of negotiations we already surrendered our trump card—namely trade.

Those who advocate increased trade with the Soviet Union without necessary concessions on the part of the Communist leadership, and those who believe that somehow the cold war is over and that Soviet ambitions differ from those of the past, should carefully read Mr. Gwyer's analysis.

I wish to share his article, which appeared in Human Events of April 22, 1972, with my colleagues and insert it into the RECORD at this time:

HOW THE SOVIETS BENEFIT FROM EAST-WEST TRADE

(By Joseph A. Gwyer)

(NOTE.—A former senior research specialist in industrial engineering with the Library of Congress, Joseph Gwyer is recognized both nationally and internationally as one of the foremost experts on Soviet technology and East-West trade. He has long urged the United States to use trade as a weapon to gain diplomatic and military concessions from the Soviet Union, a strategy Mr. Gwyer feels is not being used by the present Administration. Mr. Gwyer delivered this speech on April 1 before a chapter of the American Society for Quality Control in Akron, Ohio.)

In little more than five weeks, President Nixon will be visiting the Soviet Union in quest of his often repeated goal: a generation of peace. All of us agree no doubt that if a generation of peace is to be realized, nothing is more important than the relationship between the two world super-powers: the United States and the Soviet Union.

Not too long ago Washington foreign policy makers released a report on the Soviet Union's attitudes on peace and related matters. The Soviet Union, the report relates, is more amenable to meaningful negotiations than at any time since 1945 because of "important historical changes." These include the breakup of the Communist monolith and Moscow's differences with other Communist countries, including Red China.

The failure of the Communist system to solve its economic problems is also mentioned and suggestion was made that the Soviet Union has come to realize the limits of its physical strength and ideological fervor. "There are . . . openings in negotiations with the Soviet Union that simply did not exist even 10 years ago," the report concludes.

Let's look at the Soviet Union's amenability today on the eve of President Nixon's departure for Moscow.

Are the following actions on her part sufficient proof of reasonable behavior?

We cannot ignore the fact that while during the past five years we have not increased the number of our land-based missiles and missile-carrying submarines, while we cut back on the number of our strategic aircraft, the Soviet Union augmented her arsenal of land-based missiles to numbers 50 percent greater than ours and her missile-launching submarine fleet is nearing equality with our own Polaris-Poseidon fleet.

We cannot discount the worldwide expansion of Soviet maritime activity. Their fleet of major combat surface ships now numbers 215 units, of which 30 percent were built within the past five years. Their attack submarine fleet consists of more than 250 units, of which 20 percent are nuclear-powered. Their merchant fleet consists of some 1,700 ships with aggregate capacity of 14 million tons. Seventy-five percent of these are less than 10 years old.

We cannot shut our eyes to Soviet military presence and involvement in the Middle East, the Mediterranean, the Caribbean and the Indian Ocean.

We cannot ignore the presence of large and well-equipped Soviet land forces in Europe which they use to exert constant political pressure against both Western and Eastern Europe.

We cannot shut our eyes to the fact that the Soviet Union provides over 80 percent of military and other supplies to North Viet Nam and is thereby a major contributor to the continued conflict in Indochina. While we have been scaling down our involvement in Indochina, the Soviet Union in 1971 and 1972 stepped up her deliveries of war materiel to North Viet Nam. In 1971 alone some 340 Soviet ocean-going vessels called on North Vietnamese ports bringing in trucks, machine tools, and obviously military supplies.

We cannot ignore Soviet espionage and subversive activities exposed recently in Great Britain, Belgium and Bolivia.

It is obvious that the Soviet Union seeks to attain at any price such goals as scientific and technological as well as military superiority, improved socio-political cohesion and organizational efficiency, and higher rates of economic growth, while encouraging and seeking to control revolutionary process in the world.

To facilitate attaining these ends the Soviet Union attempts to dissolve or neutralize Western alliances, to weaken and disarm the United States, to subvert its legal and political base, and to encourage diversionary expenditure of United States resources.

Judging from what has been officially published in this country on the subject of the U.S.-USSR military balance, there is an element of uncertainty about the effectiveness of our "Strategy of Realistic Deterrence" in a second strike because of the possibility of Soviet qualitative superiority in key weapons. This places a definite political advantage in the hands of the Soviet Union because the crises resulting from Soviet initiatives may be resolved in their favor not because of their first-strike effectiveness but because of a comparatively greater concern on our part about our own ability to retaliate effectively.

Having attained this advantage the Soviet Union today is trying to fill in the gaps in her over-all scientific and technological base caused by an excessive drain of both manpower and resources by the demands of military priorities.

Current Soviet East-West trade proposals, particularly in the area of most sophisticated machine tools, chemical processing, electronics, etc., should be carefully scrutinized, since our conflict with communism is economic as well as political. We have little if anything to gain in this struggle by helping the Soviet Union to fill gaps in her technology.

The claim that we should either scrap or relax our restrictions on trade with the Communist bloc because our Western European allies are providing them with everything they desire is refuted by the Soviets themselves who repeatedly clamor for sophisticated American technology.

CONFLICTING STATEMENTS

According to former Secretary of Commerce Maurice H. Stans, interviewed by *U.S. News & World Report* (Dec. 20, 1971), "Premier Kosygin made quite plain to me his view that the Soviet Union could buy elsewhere anything that it needed for the purpose of building its economy." Kosygin's statement does not dovetail with statements made by the Russians to W. Kent Mathias, chairman of Cincinnati Milacron Co., who had the opportunity to visit the Soviet Union this past fall.

According to the *Metalworking News* (Oct. 25, 1972), Mr. Mathias remarked: "They are very well-informed people. They read everything printed in the U.S. but they want to talk of nothing but sophisticated machines." Mr. Mathias said he asked why the interest in U.S.-built equipment when counterparts can be gotten from European plants of U.S. builders. He said the Russians feel U.S. builders do not build their latest designs in overseas plants and because of the U.S. expertise for mass production.

The United States and Western Europe have helped significantly in building the industrial might of the USSR which today is challenging our military supremacy and is actively seeking world domination. It would be proper at this time to recall a statement made by Lenin in 1920 before the eighth all-Russian Congress of the Soviets.

In referring to trade with foreign countries, he said that in order to obtain all sorts of equipment, it will be necessary to bribe the capitalist nations with the bait of profit. The variety of equipment which the Soviets will thus obtain will permit them to raise themselves to their feet and then defeat these capitalist nations in an economic war.

This statement of intentions was successfully carried out during the '20s and '30s and is being carried out with considerable success today. In the early '20s by granting mineral concessions, the Soviet Union obtained from the United States and from Western Europe key types of industrial equipment plus trucks and tractors for their agriculture.

The services rendered by the French industry in the early days of Soviet aviation were great. French manufacturers shared with Americans the credit of helping the Soviet Union to build her air power. The Italians provided the Soviets with Fiat cars, airplane engines, dock yard equipment and ships. Germany, to a large extent, became responsible for building up the Soviet machine tool industry. The first Soviet watch factory began functioning with the machinery purchased from the United States.

Americans were also busy developing one of the largest Soviet iron and steel centers at Magnitogorsk. They also were instrumental in organizing and supervising the work and equipping the largest (at that time) hydro-electric power dam in Europe on the Dnieper River. The American know-how and equipment were largely responsible for erecting the largest Soviet auto plant at Gor'kiy. These are but a few examples where Western interests contributed greatly to the growth of Soviet industrial potential.

Conservative estimates show that the transfer of Western technology to the Soviet Union during the pre-World War II years accounted for 60 to 80 per cent of newly installed capacities in the following industries:

	Percent
Oil extracting and processing	80
Ferrous metallurgy	60–80
Nonferrous metallurgy	80
Locomotive manufacture	60
Machine tool building	60–80
Manufacture of bearings	80
Electrical equipment industry	80
Chemical processing equipment	80
Aircraft manufacture	80
Ordnance (artillery & ammo, tanks, armored cars)	80

During World War II, the almost unlimited aid extended by the United States to the Soviet Union, involved besides supplies of purely military character, equipment of industrial nature. It is estimated that of the approximately $11 billion worth of aid shipped to the Soviet Union up until 1947, industrial equipment amounted to *one-third* of the aggregate Soviet pre-war industrial output.

This infusion of technology permitted the Soviets to wind up the war with greater industrial capacity, in spite of all the war damage, than they had in 1940. The magnitude of our lend-lease aid may be judged from the tonnage of supplies delivered. Some 17.5 million long tons, carried by some 2,800 ships, wound up in the Soviet Union during World War II. The total tonnage nearly matches the 22 million long tons of supplies landed on the continent of Europe for the American forces between January 1942 and May 1945. The deliveries through the Persian Corridor alone were sufficient by U.S. Army standards to maintain 60 combat divisions in line.

How did the Soviet Union repay us for our almost unlimited generosity? The Soviets proceeded to annex Eastern Europe. They tried to retain their foothold in northern Iran. They instituted the Berlin blockade. They were instrumental in instigating the Korean conflict.

Their actions shattered the faith of the West, particularly that of the United States in the promises, agreements and pacts entered into with the Soviet Union and dealing with matters of paramount importance. As a consequence the United States enacted a number of legislative acts that have curtailed exports of strategic commodities to the Soviet Union and her satellites.

SOVIET APPRECIATION

Despite pressures from congressional quarters for greater enforcement, the laws intended to deny our technology to the Soviet bloc nations were gradually eroded in terms of the quality and effectiveness of their original scope largely because of our ineptitute in exploring Soviet economic shortcomings.

The Soviet Union now has a new scheme to divide the ranks of the free world. It is a trade scheme designed to appeal to the European businessman and to his North American counterpart and it shows real signs of catching hold in Western Europe and elsewhere. Soviet timing is shrewd, well chosen.

British, Japanese, West German, French and Italian businessmen are in cut-throat competition. Buying is slow. Unemployment in some industries is rising. Along comes the Soviet Union with an offer to buy computers, pipes, metal-working equipment, whole fertilizer plants, and now wheat, all of these commodities piling up for want of markets.

The plum dangled before the West's nose is very tempting but it may conceal a worm. The West has far less to gain from this trade than the Soviet Union or any of its satellites, and it has every reason to approach it with caution. Such trade may temporarily ease our balance of payments; it will certainly help perpetuate the Soviet state.

As long as the Soviet Union remains unyielding and uncooperative on the major issues that divide the world, we would be throwing away one of the few trump cards we hold by succumbing to "tempting" trade deals.

We must begin first by plugging up the leaks in the already greatly eroded international mechanism by which the free world has been restricting East-West trade in strategic goods. Only then can the free world use its economic strength to make the Soviet Union positive propositions of expanded trade in return for clear acts of political cooperation.

Are we so preoccupied with the task of "building bridges to the East" that we have almost forgotten what trade means to the Soviets? Have we forgotten that the Soviet Union's political objectives are to destroy our institutions, our system of government, our economic fiber, using all means at their disposal, including trade?

I think it would be appropriate to reexamine some of the Soviet precepts underlying their approach to East-West trade.

History points out the fact that the Soviets use trade as a weapon of political as well as economic warfare. The Soviets clamor for trade with the West and then they campaign to disrupt world markets. They use the innocent bait of commerce to entice unsuspecting or perhaps naive nations into their political web.

A. P. Chervyakov, a Soviet authority on foreign trade, wrote that ". . . due to the basic antagonism between communism and capitalism, trade between the East and West will always be influenced, if not dominated, by political considerations and motivations. The USSR's foreign trade policy is an integral part of its foreign policy . . . ."

Aleksey M. Rumyantsev, chief editor of the journal *Problemy mira i sotsializma* ("Problems of Peace and Socialism") and a member of the editorial board of the Journal *Mirovaya ekonomika i mezhdunarodnyye otnosheniya* ("World Economics and International Relations") stated the problem in an even more revealing fashion in the January 1966 issue of his journal. He writes that ". . . Socialist states consider it desirable to develop and improve economic relations with capitalist states *as long as these still do exist*."

Perhaps paraphrasing Chervyakov's statement, he also says that ". . . nothing can save the historically worn-out system [capitalism]. Not even the economic relations between capitalist and Socialist states will arrest the growth of internal contradictions within the capitalist society, contradictions that will lead it to its death [*gibel*]."

It is not a secret even to the least informed about the Soviet political and economic structure that foreign trade is a part and parcel of the economic planning system and its scope and structure are determined by the economic needs and requirements which cannot be satisfied by the domestic industry or perhaps because the domestic industry turns out goods either of substandard quality or not suitable for long-range service, and this particularly applies to needs of industrial establishments working on goals, most likely military, accorded the highest priorities.

The visions of a plum dangled in front of American noses are tempting, especially to those encouraged by promises of monetary awards that go with expanded sales to the East. The almost repetitious refrain that the American business community should take a crack at the profits enjoyed by Western Europeans over the past decade or so is fraught with danger because of the faulty premises upon which this argument is based. B. Blagorodov, writing on the subject of "American Aid and Its Aims" in the March 1957 issue of *International Affairs* (Moscow) summed up the problem as follows:

"It is noteworthy that it is the countries which received the greatest share of aid during the 1946–56 period—Great Britain, West Germany, France and Japan—which are the most prominent among those calling for more East-West trade. They, on a number of occasions, have been bold enough to ignore American laws got around the barriers imposed by the Battle Act. *Magazine of Wall Street*, 15 October 1956, p. 105, aptly stated that "it is ironic that a good part of this trade will be financed indirectly by the United States' support of foreign economies. . . ."

Ironically, we must admit that this was the case. The United States, although in a position to stop this trade alluded to by the Soviets, failed to enforce the provisions of the Battle Act, thus opening the gates to more and more trade between Western Europe and the Communist-bloc nations. This East-West trade in the past, which we either deliberately or inadvertently permitted to flourish, is being used today as an excuse and a reason for expanded trade between the United States and the Communist nations.

QUALITY AND RELIABILITY PROBLEMS

The technological explosion of the past 20 years has made modern industry throughout the free world more dependent than ever on ultra-high precision and on instruments capable of assuring such precision, on rigid standards of quality control, on sophistication of design and painstaking workmanship. These are precisely the areas where the Soviet Union is weakest and where the Soviet system raises the greatest obstacles to progress. The continuous and unrelenting drive for quantity rather than quality has created material and technological bottlenecks which the Soviets are finding difficult if not impossible to break.

If someone could go into Soviet industrial practices today, he would find that about one-half of all of the capital funds of the metallurgical machinery and instrument manufacturing industries are being plowed into replacing substandard, unreliable parts and components. Because of the low quality and unreliable equipment manufactured by the Soviet industry today, the operational maintenance costs exceed the cost of new equipment.

About 40 percent of the steel going into the automobile industry is used for making spare parts. Every third metal-cutting tool and every fourth machine tool operated in the Soviet Union today is engaged with repairs. Soviet statistics show that there are 250,000 repairmen per one million automobiles in operation.

A comparison of the magnitude of repairs performed in the United States and the Soviet Union shows that the latter has 10 to 12 times as many repairmen per 1,000 miles of vehicle mileage as there are in the United States and the figure is only partially explained by the poor condition of Soviet roads.

These data indicate the presence of serious shortcomings and an inability to cope with early equipment failure. It points out the fact that chronic imperfections are due to the nature of the plan which can set up only a limited system of criteria for the acceptability of a given product.

In the absence of a competitive system of selection of a more usable product the Soviets have to rely on the trial and error method of establishing production targets in terms of size, weight, or shape of goods. A strict system of central planning where every minute detail of the economy is determined by planning authority cannot achieve that rapid selectivity and product improvement characteristic of the free competitive system of enterprise.

The intrinsic character of Soviet planning is playing havoc with attempts to improve the product quality. With the growing complexity of the Soviet industrial establishment, these problems are becoming more acute and today they confront the Soviet government with a crisis, the magnitude of which staggers the imagination of anyone who has grown up in a free enterprise society.

Contributing causes appear to be unrealistic planning at all administrative levels, weak organization of testing equipment prototypes, a low level of technology, and the everlasting desire by individual manufacturers to fulfill the plan even at the expense of the ultimate users.

POLITICAL CONSIDERATIONS

The existing system of Soviet production prizes crude volume rather than usefulness and quality of output. Soviet political theorists are unwilling (economists are) to substitute quality for quantity as the prevailing consideration in mapping their industrial expansion goals. They are equally reluctant to institute economic reforms that could bring about improved quality and reliability of production because these would diminish their power of control of all factors of production.

Will doctrinaire Soviet leaders allow their economic system to adopt the market mechanism principle, where customers tell manufacturers what they want, where both the customer and manufacturer cooperate on improving the designs of "reliable" equipment? It is possible but highly improbable, since it would signal the demise of the absolute power of the state and this is not what the current leaders of the Soviet Union want.

It is easy enough for us to be quietly pleased at the discomfiture of the Soviets, but the signs of reaction may be very little to cheer about if one hopes for a day the United States and USSR can coexist with some assurance of peace.

The mood of reaction in the Soviet Union reduces chances that its economic system might lead to a more peaceful relationship. It increases the chances for conflicts between the Soviet Union and such neighbors as Czechoslovakia, Poland and Hungary, where people loathe Soviet repression. There is a distinct possibility that the frustrations encountered in trying to establish an efficient consumer economy could cause Soviet leaders to focus on political adventures, reducing chances for any agreement with the United States to curtail the dangerous and economically exhausting arms race.

It would appear that the Soviet leaders have become hostages of an economic system designed by Lenin and Stalin—one that has never worked well and most likely never will.

Soviet leaders are prisoners because of their own fears of the possible political consequences of any really fundamental economic reform. As long as those fears remain, there is little hope that the people of the Soviet Union will be able to move out of their confinement into free contact with the outer world. As long as that is true, the suspicions and fears that make for dangerous relationships between the two military superpowers are not likely to diminish.

CONCLUSIONS

Just two days ago North Vietnamese troops launched major ground and artillery attacks across the DMZ. Field reports say that these troops, supported by big Soviet-made artillery pieces, Soviet tanks, large-caliber rockets, and protected by Soviet SAM's and antiaircraft artillery, captured a number of fortified positions south of the DMZ and were pressing in the direction of Quang Tri City.

It is clear that this North Vietnamese invasion of South Viet Nam could not be possible without massive Soviet military and economic aid. Only 12 days ago, on March 20, 1972, speaking before the 15th Soviet Trade Union Congress, Leonid Brezhnev, secretary of the Communist Party of the Soviet Union, reiterated Soviet support of North Viet Nam. He said,

". . . The Soviet people fully side with the peoples of Indochina. It is our internationalist duty to help them and we will fulfill it to the end. The Soviet Union wrathfully condemns the bandit bombings of DRV [North Viet Nam] territory by American aviation and demands an end to them."

According to a Tass dispatch out of Moscow dated March 15, 1972, Timofey Guzhenko, minister of the USSR Merchant Marine, told newsmen that during 1971 some 340 Soviet ships called on North Vietnamese ports bringing in trucks, machine tools and other supplies. What he did not say is that the tanks, artillery, rockets and other munitions currently employed by the invading North Vietnamese were also brought in by these Soviet ships.

The rate of Soviet shipping coming to North Viet Nam has been increasing constantly since our involvement in Indochina. The number of Soviet ships increased from 74 in 1965, to 122 in 1966, to approximately 260 during 1968, the year of our highest troop commitment to Viet Nam. Today, the impact of the military supplies brought in by the Soviets is much greater than in 1968 because of our cessation of bombing raids over North Viet Nam, with the exception of select raids on SAM sites menacing our reconnaissance flights north of the DMZ.

There is no question that the Soviet Union is the major contributor to the continued conflict in Indochina and in the light of continuous scaling down of our own involvement the Soviet Union holds the key to peace in this hapless area of the world.

One wonders why would the Soviet Union embark on such a dangerous course by openly instigating or tacitly encouraging the North Vietnamese to pursue the goals of conquest on the eve of President Nixon's visit to Moscow.

There are several possible interrelated answers. Each, though highly speculative, has an important element of truth which should not be glossed over or ignored.

1. The Soviet Union wants to humiliate and test at the same time the President during an election year, betting that his often-repeated desire to move away from confrontation to negotiation will not sway him away from the trip to Moscow in pursuit of a "generation of peace."

2. Sensing the government-stimulated appetite of our business community for expanded trade which resulted in some $1.4 billion worth of licenses issued during the past six months for our technology to be exported to the Soviet Union, the Soviets are betting that these will not be cancelled whatever may happen in Viet Nam.

They are betting also that the President in advance of his May trip to Moscow will permit the taxpayer-financed Export-Import Bank credits to finance these purchases. They are also very much aware that Secretary of Defense Melvin R. Laird, who in the past and until recently strenuously objected to greater trade with the Soviet Union as long as the latter aids and encourages aggression in Indochina and elsewhere, was outvoted in the "inner councils on trade with the Soviet Union" and having lost the argument against expanded trade was now backing the Administration's trade plans fully and "not sulking" about it.

They are also aware of the existence in our State Department, Department of Commerce, and the inner circles of the White House of an influential school of thought that firmly believes that the current Soviet belligerency is caused by their frustrations encountered in trying to establish an efficient consumer economy and that only by an infusion of massive economic aid may we detour the Soviet leaders away from political adventures, thus reducing the tensions and improving chances for a mutually beneficial agreement on arms reduction, etc.

3. The Soviet Union is very much aware of the data openly published in this country on the subject of the U.S.-USSR military balance and about the controversy surrounding the issue of the effectiveness of our "Strategy of Realistic Deterrence." The element of uncertainty about our second-strike effectiveness because of the possible Soviet qualitative and quantitative superiority in key weapons places a definite political advantage in the hands of the Soviet Union, since she may initiate crises all around the world which may be resolved in her favor not because of her first-strike effectiveness but because of a comparatively greater concern on our part about our own ability to retaliate effectively.

The danger of the current situation lies in the fact that if President Nixon decides not to cancel his trip to Moscow, does not cancel the $1.4-billion package of licenses for the export of our technology to the Soviet Union, and does authorize Export-Import Bank credits to finance these sales, the Soviet Union will construe these actions or lack of actions as proof that we are unprepared psychologically to face a confrontation and that even before the opening of negotiations we already surrendered our trump card—namely, trade. Leonid Brezhnev, speaking before the 15th Soviet Trade Union Congress on March 20, 1972, also said,

"We approach the forthcoming Soviet-American talks from a business-like and realistic position. . . . Without retreating from the principles of our policy . . . not at the expense of some third countries, not to be the detriment of their lawful rights and interests. Such is our invariable position."

President Nixon once said that ". . . where the Soviet Union is concerned, talking peace and acting weak does not promote peace." He also said that "They use trade as a weapon. We must recognize that trade is one of our greatest assets in this game, and we must use it in the same way."

I hope that he does not surrender this greatest asset of ours beforehand.

HAPPY BIRTHDAY TO CHAIRMAN CELLER

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 9, 1972

Mr. MIKVA. Mr. Speaker, 84 years ago last Saturday, Brooklyn gave birth to one of its most illustrious sons, the distinguished dean of the House, MANNY CELLER.

Fortunately he left Brooklyn 50 years ago and embarked upon one of the most impressive careers in public service this House has witnessed.

As a member of the Judiciary Committee, and later as its chairman, EMANUEL CELLER has helped to guide us through the critical years of rapid development of our laws and our society. He has left his indelible mark on the statute books and the Constitution of the United States.

Mr. Speaker, it is a continuing honor to serve under Chairman CELLER on the Judiciary Committee. I would like to join with my colleagues in wishing him a very happy 84th birthday.

GOLD STAR PARENTS DISCUSS AMNESTY

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. WYDLER. Mr. Speaker, recently I received a letter from Mr. and Mrs. Robert Sanzone, who live in my Fourth Congressional District in New York. Mr. and Mrs. Sanzone are the parents of a son who was killed in Vietnam in 1967, and was awarded the Distinguished Service Cross.

The Sanzones were moved to write me because the issue of amnesty for draft evaders has become a major topic in our country. Although many people set themselves up as experts in this area, the position held by the Sanzones seems to me particularly appropriate as one from which to comment on this subject. I am setting forth their letter to me, together with some enclosures and a follow-up letter as well.

We can all learn from the views of these parents, and their words must be considered when we discuss this matter.

The material follows:

LEVITTOWN, N.Y., *3 March 1972.*

HON. JOHN W. WYDLER,
Congressman, Fourth Congressional District,
Mineola, N.Y.

SIR: A recent press release announced comments related to Sen. R. Taft Jr. (R. Ohio) proposed legislation that would provide amnesty to draft evaders.

"SLAIN GI's FATHER ATTACKS AMNESTY

(By Frank Van Riper)

"WASHINGTON, February 29.—The father of an American soldier killed in Vietnam shouted at a Senate hearing today that the same politicians who 'passed laws that sent men to their deaths' in Southeast Asia are now proposing amnesty for 'draft dodgers who crawled to Canada.'

"As Chairman Edward M. Kennedy (D-Mass.) listened in silence, Martin Kelley, 48, of the Dorchester section of Boston told the senator's judiciary subcommittee that, rather than talk about amnesty, Congress should talk about building a monument to the more than 50,000 servicemen who died in Vietnam. Kelley's 20-year-old son, Daniel, was killed in the Ashau Valley in 1968.

"Kelley's testimony, at times delivered in angry shouts, came shortly after historian Henry Steele Commager said that a total amnesty was vital now to heal the 'psychological and moral wounds' of the Vietnam war.

"Amherst professor

"Commager, a professor of history at Amherst College, said at the packed hearing that, as in previous wars, the country should welcome back its men who would not fight.

"May not the deserters and evaders claim that their error is to have been ahead of public opinion and of government policy and that it should be easy to forgive this error?' Commager asked.

"Afterward, David Harris, folksinger Joan Baez' estranged husband who served nearly two years in prison for resisting the draft, said that he and others like him want an apology from the nation, not forgiveness.

"Kelley angrily answered both men when he sat down to testify. He called Harris 'a very sick, very sad animal,' and maintained that the 'stinking, empty platitudes' of the type Commager allegedly delivered were more fit for 'an upholstered outhouse' than for a congressional hearing room.

"Attacks President Kennedy

"Kelley, a Massachusetts state employe, blistered several politicians, among them the late President Kennedy.

"He contended that the late President's inaugural pledge that the United States would 'bear any burden' in the fight for liberty prompted many men to enlist and helped hasten the Vietnam war buildup.

"Now, Kelley said, Kennedy's own brother, Edward, 'has turned around' on the war and is seeking to 'imply righteousness to draft dodgers who have crawled to Canada or Sweden or wherever they could pull their holes in over them.'

"Today's testimony came in the second day of hearings into proposals for Vietnam amnesty. Sen. Robert Taft Jr. (R-Ohio), among others, has introduced legislation that would provide amnesty to draft evaders who agreed to work for a specified period of national social service. Taft's measure excludes deserters."

2. We, too, have lost a son in Viet Nam and can readily appreciate and concur with the comments of Mr. Martin Kelley to the subcommittee.

"AWARD OF THE DISTINGUISHED SERVICE CROSS

"1. TC 320. The following AWARD is announced posthumously.

"Sanzone, Robert B. US51579676 Sergeant E5 United States Army Company B, 1st Battalion, 8th Infantry, 1st Brigade, 4th Infantry Division APO 96262.

"Awarded: Distinguished Service Cross.

"Date action: 18 May 1967.

"Theater: Republic of Vietnam.

"Reason: For extraordinary heroism in connection with military operations involving conflict with an armed hostile force in the Republic of Vietnam: Sergeant Sanzone distinguished himself by exceptionally valorous actions on 18 May 1967 while serving as squad leader with a weapons platoon during a search and destroy mission in Pleiku Province. Sergeant Sanzone's platoon was sent 200 meters forward of his company to provide security for the main force. Before the men had a chance to position themselves, they received intense rifle and machine gun fire. Sergeant Sanzone was hit five or six times immediately, but ignored the pain to direct his squad in placing a base of effective fire on the Viet Cong. Five insurgents tried to attack his position, but he killed them with his rifle. Later, another ten tried to overrun his perimeter sector, and he stopped them with both grenade and rifle fire. When fellow patrol members tried to reach cover in a river bed, Sergeant Sanzone disregarded his own safety and exposed himself to the enemy to draw their fire. He continuously crawled from one friendly casualty to another to treat their wounds and to help them reach covered positions. Although weakened by his wounds, he continued to repel the insurgents. Seeing a swarm of Viet Cong storm the friendly line again, Sergeant Sanzone charged them, firing his rifle on full automatic. He was mortally wounded in this valiant attempt to protect his comrades. Sergeant Sanzone's extraordinary heroism and devotion to duty, at the cost of his life, were in keeping with the highest traditions of the military service and reflect great credit upon himself, his unit, and the United States Army.

"Authority: By direction of the President under the provisions of the Act of Congress, approved 25 July 1963, and Department of the Army message 782774, dated 19 September 1966."

3. At the time we received the infamous telegram stating that the U.S. Government regrets to announce—etc. etc. we received condolences from a long list of prominent people from both Military and Political positions, who stated that they shared our grief and offered their personal assistance. We accepted the loss of a young man who lost his life for his God and Country and the principles for which they stand, in solitude, knowing that no one knew any words or could take any action to help.

4. Senator Taft's proposal, however, creates an atmosphere which can only be satisfied by taking a maximum effort to stand up and be counted, to turn down such an unthinkable, unforgiveable action.

5. As our representative, your personal attention is hereby requested to take whatever action is necessary to oppose this "amnesty" and by release of this letter, "Now is the time for all those prominent Military and Political figures who so kindly offered their help in our time of need to give us their support to oppose this legislation."

6. This matter is most disturbing and we sincerely hope that we will be rewarded with a favorable reply.

Very truly yours,
ROSLYN AND ROBERT SANZONE.

LEVITTOWN, N.Y.,
March 23, 1972.

Hon. JOHN W. WYDLER,
Congressman Fourth Congressional District, Mineola, N.Y.

SIR: We acknowledge receipt of your letter dated March 10, 1972, in reply to our pleas to oppose the suggested legislation by Senator Taft that would provide, "amnesty to draft evaders".

By copy of this letter, we hereby authorize you to reprint and publicize our letter dated 3 March 1972 and exhibits attached thereto in whatever way you choose to see fit.

At this point we feel it is fitting to quote the tribute the late President Theodore Roosevelt paid to his Son, i.e:

"Only those are fit to live who do not fear to die and none are fit to die who have shrunk from the joy of life".

Our Son, like so many others, enjoyed his life to the fullest however, when our Government called they answered the command to fall in without question, to preserve their unalienable rights of life, liberty and the pursuit of happiness.

In closing, we sincerely hope that our prayers will help to enable you to continue to uphold the intentions of our Preamble to the Constitution.

Very truly yours,
ROSLYN AND ROBERT SANZONE.

SOLIDARITY DAY

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. PEYSER. Mr. Speaker, on Sunday, April 30, I joined with many thousands of people in the New York metropolitan area to once again express my concern about the plight of Soviet Jews.

The turnout for this day, Solidarity Day, was overwhelming, and much credit should go to the Greater New York Conference on Soviet Jewry and Rabbi Gilbert Klaperman for organizing this expression of concern.

It is my sincere hope that this rally and ones like it will clearly demonstrate to the Soviets and the world that there is great concern for the plight of the more than 3 million Jews who live in the Soviet Union, and that the free peoples of the world will not stand for continued harrassment of these people.

MINORITY BUSINESS DEVELOPMENT

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. DIGGS. Mr. Speaker, the problem of minority business development is one that faces every area of our country, but it is especially critical in our large urban areas. In Detroit, the Inner City Business Improvement Forum, a nationally recognized organization which seeks to increase minority business opportunities in the cities, is working on this problem. I am proud to say that I founded ICBIF in 1967. Since its foundation following the riots in the summer of that year in Detroit, ICBIF has gained national attention for its work in the expansion of existing businesses and the creation of new business opportunities for minorities.

In hearings on minority business development held by the Minority Small Business Enterprise Subcommittee of the Permanent Select Committee on Small Business on April 25–27, 1972, Mr. Walter M. McMurtry, Jr., president of ICBIF, testified on problems that face that effort.

I would like to include the text of Mr. McMurtry's remarks at this time:

TESTIMONY OF WALTER M. MCMURTRY, JR.

As a Community Development Corporation born out of the 1967 riots in Detroit, operating right in the middle of the ghettos—only a few blocks from areas that are still leveled from those days and nights of fire and destruction—we at ICBIF believe that we are particularly qualified to speak to the question of minority business development.

We believe, furthermore, that ICBIF's being entirely black-controlled and black-operated gives us a special insight into the problems that face any attempts to stimulate black and other minority-owned business through expansion of existing businesses or creation of new businesses, thus helping black inner cities become stronger economic entities, gain some degree of economic independence, and achieve self-determination.

In the four and a half years that we have been in existence, we have started the first black-owned bank in Detroit, the first black-owned lumber yard, the first black-owned stamping plant, the first black-owned large-scale food processing plant, and the first black-owned fiber-glass manufacturing operation.

Altogether, we have been instrumental in raising $4.2 million for inner city businesses. We have started or assisted 64 minority-owned businesses—providing them with $1.3 million in loans and investment capital, and helping them leverage it 3.5:1. These businesses have added $20 million in assets to the economy and 740 new jobs.

We have assisted over 450 inner city businessmen in packaging loans.

And we have provided managerial and technical assistance as well as financial assistance: We have already counseled more than 800 inner city businessmen, and our computerized accounting service has helped over 40 black businesses get on a sounder footing.

Finally, we have been responsible—directly or indirectly—for the formation of a number of other organizations that are spurring black economic development in Detroit: EDC (The Economic Development Corporation of Greater Detroit), PRIME (Pooled Resources Investing in Minority Enterprises, a MESBIC), the First Independence National Bank (now the tenth largest minority-controlled bank in the country), MC3 (Metropolitan Contractors Credit Corporation, a non-profit service corporation that provides management and technical support and financial counseling to minority contractors), and IBDF (the Independence Development Fund, a Local Development Company created under the 502 Program of the Small Business Administration Act to provide direct seed money for new minority businesses in Special Impact areas).

We have a professional staff that works overtime—and often, weekends—as a matter of course. We have a 38 man-and-woman board that puts in untold volunteer hours—a forum where every economic and political segment of the black community is represented, as well as every ideology from moderate to ultra-militant, resulting in a total community involvement in ICBIF that couples with ICBIF's total involvement with the community to become a major source of strength.

And yet—despite our achievements. despite our work—we often wonder whether ours may not very well be a futile effort, destined to eventual failure.

The fact is, only 27 businesses of the 64 we started are still in existence. And of these 27, only five show potential to become highly profitable over the next five years, with maybe another nine reaching profitability over a longer term.

When we look at the scope of our task, we find it difficult to understand why the rate of failure has not been even higher:

We are trying to build new businesses in the ghettos, not in affluent suburbs, build businesses that usually sell to a market at the lowest economic levels, a market that is still feeling the effect of a severe recession that brought it 20% unemployment—as compared to about 10% for Detroit and 6% nationwide—at the same time that it faces continuing erosion of its purchasing power . . .

The people we are training have been handicapped by historically inferior education, little opportunity to gain management experience, and a heritage that has understandably looked on business as outside its range . . .

And the lack of adequate investment capital has meant that most of the enterprises we have started have been chronically under capitalized.

We have to face the fact that the entire minority business development program is based on premises and requirements that are often completely illogical.

Example number one: The illogical premise that businesses can become immediate successes even when they are run by often-inexperienced people. they are located in blighted areas, and they are restricted to a poverty market. Yet, that is exactly what banks and government agencies seem to expect.

Banks and these agencies should realize, first, that new minority-owned businesses are usually the highest kind of risk ventures.

It might be more appropriate, then, if their expectations followed, instead, those of sophisticated venture capital funds, whose experience seems to indicate that a ratio of one success in a portfolio of ten companies is normal.

It might be more appropriate, too, for them to use the same evaluation standards as those venture capital funds, which realize that a startup often requires three to four years to turn the corner. It is significant that when General Electric Company recently started its own venture capital fund, GE funded it for five years and gave it a free hand for that period. It realized that it would take at least that long before a proper evaluation could be made.

Example number two: The SBA's illogical requirement that there must be "reasonable" personal capital invested. Our experience has been that there is often little relationship between the chance of a business's success in the inner city and the personal capital invested by the applicant. Its success is much more likely to depend on the business's market potential, the demand for its products, the applicant's business contacts, his abilities, his ambition, and his desire to work. The sad fact is that most Black potential entrepreneurs who might meet these criteria usually do not have the capital necessary to go into business. If SBA is unwilling to allow HUD, Model Cities, and EDA funds to be used to furnish the required private share of the loans, the very people whom the program should be helping will continue to be kept out of the economic mainstream—and the only ones helped will be those who could qualify for other financing and therefore least need its help.

We should recognize the fact that minority business development is not necessarily good business investing nor sound lending. This is why banks and lending agencies have been dragging their feet. But we should *not* expect it to be, in view of the size of the task. What we are really talking about is not minority business development but community economic development, addressing ourselves to the critical problems of "dependency, chronic unemployment, and rising community tension." What we are really talking about is not safeguarding loans and investments, but saving the inner cities—and consequently our cities. And if it is our cities and the country that will be the real beneficiary, then it is really the government that should bear the risks involved, rather than the private sector.

What we need, therefore, is a realistic attitude toward what we are really trying to do and a corresponding change in approach.

Example number three: The SBA's illogical requirement that MESBICs cannot invest more than 20 percent of their capital in any single investment. In view of the limited capitalization of most MESBICs, this effectively eliminates from consideration those businesses most likely to benefit the special impact areas: large businesses that will employ significant numbers of employees. It reduces investments to smaller companies that are usually marginal.

Example number four: The SBA's illogical policy of spreading its funds over many programs. As a result, the average grant has been $1 million, a small amount in any urban area. Consequently, Special Impact programs usually have little impact on the poverty areas they are supposed to help. Furthermore, annual funding means that while a group may receive enough money to start operating, it cannot be sure of continuing to receive the funds necessary to keep on operating and eventually becoming successful.

Example number five: HUD's illogical requirement that the indigenous poor make up the bulk of the governing boards of Model Cities programs and involve themselves in its day-to-day activities. While the concept of citizen involvement and participation is admirable, it must be balanced by the fact that many of these people do not have the background or administrative experience to make major program decisions. If one of the fundamental purposes of these programs is to expand jobs and income opportunities, we should consider the proposition that success of these programs may be as important as citizen participation and involvement in them—and that the local administering agency should therefore be given greater leeway.

Example number six: OEO's illogical requirement that funds be invested only in the special impact area. Since this is a poverty area, and usually a high-crime area, it is often the worst possible area in which to locate a business. We should carefully examine the possibility that a business may serve the area more effectively by locating somewhat outside it, where it has a better chance of success, but be easily accessible to it and employ people from the area.

Altogether, we cannot help but feel that there is a lot of room for improvement in minority business development. We have touched on a few of the aspects that disturb us. We would like to mention also some of the difficulties faced by Community Development Corporations:

First, there is the availability of funds. Given the scope of the task *in each urban area*—practically equivalent to bringing an underdeveloped country to Western levels—the funds committed to minority business development are frighteningly inadequate. What we are doing is no more than trying to turn a desert into a garden with an ordinary garden hose.

Second, there is the problem of continuing funding. Being funded on an annual basis by a number of different agencies means that we have to devote an inordinate amount of time to preparing proposals for each of these agencies and justifying our performance. We recently estimated that we spend about six months of the year working on budgets and proposals, leaving only six months for activities directly connected with business development.

Third, still dealing with funding, is the fact that our uncertainties connected with renewal mean that we cannot recruit effectively. It is extremely difficult to attract the caliber of personnel required for the task when we cannot guarantee them employment past the life of our immediate funding. These same uncertainties mean that we cannot be sure that we can continue to nurture a business through its growth stages.

Fourth, there is the problem of performance and performance standards. We are breaking new ground—as are other Community Development Corporations throughout the country—yet there is no official channel through which expertise can be shared nor achievements compared. We are still being compared against unrealistic standards—conventional banking and lending experience—rather than venture capital experience. As a result we often find agencies critical, when they should be helpful and sympathetic.

Fifth, there is the multiplicity of programs. It sometimes seems to us that every government agency has its own minority business development program; its own, completely different requirements for qualifications; and its own, completely different guidelines for administering its programs—often in conflict with those of other agencies. These agencies start from differing biases—some sociological, others philosophical, still others professional. The result: Overall, an undecisive attack against a problem that becomes more critical every day.

What then is required?

The problem is too massive for us to provide a single, simple answer. We can only speak for Community Development Corporations—and, even then, only for ourselves.

But a good beginning might well be a realization that minority business development is not just the minorities' problem . . . that it is the nation's problem . . . that its importance to our future requires a commitment far, far greater than any current token approach . . . that it requires a concentrated, carefully thought-out attack, with responsibility and resources vested in just one agency . . . that change will come slowly, that successes may be rare . . . that we need cooperation and assistance, not a negative attitude—and boldness and a willingness to take risks commensurate with the stakes, not overcaution and hesistancy . . . and finally, a realization that—as in war—we cannot afford to lose, no matter the costs, and we must all work toward the same end.

THE JEWISH CHILD CARE ASSOCIATION CELEBRATES ITS 150TH ANNIVERSARY

HON. EMANUEL CELLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. CELLER. Mr. Speaker, it is hard to conceive of a time in our country when there was no support for the orphaned or destitute child except the public almshouse; when private charity alone coped with human need. For today we accept without reservation the principle that it is the function of government to care for the needy, the handicapped, the ill and the helpless.

Yet it was 1875 before my own State, New York, passed the so-called children's law ordering the removal of all children over the age of 2 from the public almshouses and requiring impoverished youngsters to be placed at public expense in homes or institutions run by people of their parents' faith. And it was not until 1915 that New York passed the Child Welware Act granting allowances to widows with children under the age of 16. Widespread benefits for families and children were unknown until the 1930's—the era of the New Deal and the great depression.

One hundred and fifty years ago, however, when New York's Jewish population numbered 500, only the city's one synagogue gave help to the needy of the Jewish faith. In April 1822, therefore, a handful of concerned citizens joined together to form the Hebrew Benevolent Society to provide relief for the poor, the ill, and the orphaned. By 1860, when the society opened its first home for orphans, later known as the Hebrew Orphan Asylum, the Jewish population had multiplied and Jewish children were among the homeless "street arabs" who roamed and slept in the streets.

This began more than a century of partnership between government and the voluntary child care organizations of New York City. Almost from the beginning New York State and New York City helped to finance the agencies that today form the Jewish Child Care Association of New York because they believed the agencies were performing a public task. However, the leaders of these groups were never content merely to spend what government gave them. The fundamental commitment of the Jewish community to charity and to the concept of excellence impelled them to attempt to provide for the orphaned and destitute what each would have desired for his own child.

As early as 1876 the noted philanthropist and commissioner of the New York State Board of Charities, William P. Letchworth noted with special approval "the thoroughness of the work being done and the zeal actuating the workers" of the Hebrew Orphan Asylum. Eldridge T. Gerry, president of the New York Society for the Prevention of Cruelty to Children, was equally enthusiastic about the quality of Jewish child care:

> With all my experience in the management of institutions for the benefit of children, I have yet to find any which compare with those in charge of your people.

He wrote to the president of the Hebrew Sheltering Guardian Society:

> I only wish that the example which your institution has set would be followed by others, because your system demonstrates how easily and how well children may be cared for where proper officers are selected, proper buildings procured, and a proper supervision given to the entire work by persons of intelligence and education.

Today questions are raised about the place of the voluntary agency, and especially about the sectarian agencies. To know the history of Jewish child care is to understand the vital importance of the volunteer citizen's role in protecting children, and the value of widespread volunteer participation in child welfare policymaking. Through massive waves of immigration, through wars and depressions, the civic-minded leaders who headed New York's Jewish orphanages successfully met the most difficult challenge of all—the challenge of change.

Their accomplishments were remarkable. They developed one of the first cottage plan children's institutions in the United States, the Pleasantville Cottage School in Westchester County, described in 1912 by the director of the Child Helping Department of the Russell Sage Foundation as "undoubtedly the best equipped institution for children in the world." Child care workers from Europe and America came to study it, and within 5 years three new institutions were built on identical patterns. Harvard University requested a special display of pictures and charts describing the institution and its program as a permanent exhibit in the university's Social Ethics Museum. Leading educators hailed the Pleasantville education program as "pioneering" and a "racial advance in progressive education."

Jewish child care agencies in New York City created the first child guidance clinic within a children's institution; developed foster family care; campaigned for and won widow's subsidies so that children could be maintained in their own homes; developed the small group residence as an alternative form of placement, particularly for adolescents; recognized the importance of the role of foster parents as early as 1919.

The Jewish Child Care Association has continued the pioneering traditions of its ancestor agencies. It can be fairly said that no other agency in the United States can claim a greater list of progressive experiments and innovations to serve children. The Jewish Child Care Association's administrators and board members have helped clarify to the public the need for increasingly complex and costly programs to serve today's very troubled children and families.

In 1952 the Family Day Care Service was created for care of very young children, too young for group care, whose mothers needed to work. Jointly sponsored by Eisman Day Nursery, it has become a valuable preventive service in safeguarding young children aged 6 months to 3 years from the hazards of unsupervised placement. Struggling parents have been unable to avoid recourse to welfare; families have been helped to remain together and placement has been avoided.

Within the last year two unusual residences have been opened by the association. One is Vernondale, a spacious apartment to house eight severely orthopedically handicapped children and resident houseparents. These are children who no longer need care in a hospital setting, but who have no family able to take them home. In Vernondale youngsters live in a family-like setting, attend special public school classes for the handicapped, and have the opportunity to know other children without handicaps. The residence prevents unnecessary hospitalization, which is costly in both human and in financial terms. It will, it is hoped, demonstrate that such handicapped youngsters can live useful and productive lives outside of hospitals or institutions.

A second unique residence has been opened in the East Village of New York City for young runaways. It offers counseling, medical and other services for eleven young people, aged 12 to 18, during a 2-week stay. It is designed as a preventive service to shelter youngsters from the threatening pattern of East Village street life while staff works with the runaways to facilitate a return home, or, when this is not possible, help in job finding and educational and vocational planning.

The Pleasantville Cottage School, now a residential treatment center for the emotionally disturbed, has recently initiated a day treatment program for children of the Westchester area to provide therapy for severely troubled youngsters who might otherwise require placement in a State hospital.

This year the Jewish Child Care Association of New York, led by Edward Elman, its current president, is marking the 150th anniversary of the founding of the Hebrew Benevolent Society, its oldest predecessor agency and the oldest independent Jewish philanthropic organization in the United States.

As a central feature of this sesquicentennial observance, the association is undertaking a major development campaign to expand and improve its services to the most deprived of our children—the mentally retarded and the emotionally disturbed. A $7 million building program is underway to build a completely new facility for its innovative Edenwald School for the retarded—a creatively planned new plant to rise on the association's property at Pleasantville, N.Y., which will double its capacity to serve retarded boys and girls and will also, for the first time, provide day care and treatment as well as residential treatment. The projected program also includes complete remodeling of the residential cottages of the Pleasantville Cottage School.

How the association's record of service is viewed by world leaders concerned with the welfare of children is indicated by the hundreds of messages received on the occasion of its sesquicentennial brunch on April 16 at the Hotel Pierre in New York City. I cite a few of these.

From Golda Meir, the Prime Minister of Israel:

> In the 150 years that have passed since the founding of your Association, the Jewish people has undergone agonized change. Millions were uprooted and millions died in the flames of the Holocaust, among them one million children. Some of our people were more fortunate and found new opportunities in conditions of freedom, the majority in the United States and Israel.
>
> Jewish communities rebuilt their traditional institutions, with their emphasis on human welfare. The needs of children have always been given highest priority and it was to be expected that the Jewish Child Care Association would aspire to the highest standards of quality and excellence. Their services and institutions have set patterns and influenced practice on the wider American scene, and, indeed, are in the forefront of professional interest.
>
> We join in your pride at the satisfaction you must derive from the knowledge that, in achieving your objectives, you have helped thousands of tragic and troubled children to find happiness and self-fulfillment.

From the Honorable John V. Lindsay, Mayor of the city of New York:

> I am honored to join in this celebration of the 150th anniversary of one of New York City's proudest institutions.
>
> The Jewish Child Care Association is the product of that wonderful humanitarian tradition of the Jewish community in which the community assumes the responsibility for caring for its needy. With the founding of the Hebrew Benevolent Society in 1822, New York's Jewish community set up a mechanism to channel its resources toward people without means. Since that time the Hebrew Benevolent Society has evolved into a network of sophisticated institutions with the most up-to-date and effective social welfare programs.
>
> The progress the Jewish Child Care Association has made in developing innovative programs for helping young people has been truly outstanding. The pressures of urban life have created a greater need than ever before for treatment of physical, emotional and psychological problems. Those working with the JCCA have made a very real contribution to making better lives for many New Yorkers by emphasizing and providing the facilities for individualized care. Many young people are now provided with the support and security necessary to return them to mental and physical health. The JCCA has thus provided an invaluable service for all of us.

From Guy de Rothschild, president, Fonds Social Juif Unifié, France:

> I want to take this opportunity to tell you how much the French Jewish Community, its leaders, its professional body of social workers have appreciated and been inspired and guided by the example of your Associa-

> tion, its programs, its achievements. We know what a unique task your Association has fulfilled, not only in daily practice, but in the research field as well; and by spreading thus, far out of the United States, new principles and methods in helping children and families with their problems.
>
> As your agencies have done, we also over the years, have tried to go from child placement as an answer to all children's difficulties to preventive work with families. We too have abandoned the idea of large anonymous child care institutions for cottage-plan systems, off-campus group living, small treatment apartments for adolescents, foster home placements.
>
> More than ever, examples of associations like your own who over 150 years have been able to adjust their programs to new needs, to new populations, in a changing society, will help us here to overcome present problems.

From W. Keith Daugherty of the Family Service Association of America:

> Your agency has been at the leading edge of child welfare services in this country for a long time. May the next 150 years be as honorable and rewarding.

As a public official I believe strongly in the need for voluntary citizen participation in services to children and families. The joint endeavor by public and private sectors to better the lives of the impoverished, the handicapped, and the helpless is a precious American tradition. It has endured because it has proved its worth beyond doubt. For the voluntary agencies, by their willingness to support experiment and innovation—to look for new and better ways to help people—have often led the way to reform and to progress.

Certainly we cannot claim that we have reached a point in social welfare where there is no further need for reform or progress. The enormous human problems of our society and of our cities today challenge us to redoubled effort. It is my sincere wish that the partnership between our Government and its citizens will continue in the joint effort to find humane solutions to the problems of troubled families and children and that the Jewish Child Care Association of New York will continue to be a moving force for the next 150 years.

THE REAL MEANING OF SOCIAL JUSTICE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. CRANE. Mr. Speaker, there is much discussion about what is loosely referred to as "social justice." It is said that when some men have more property than others, when some men achieve more in life than others, when anything which differentiates between men and women leaves some with a higher status than others, that "social justice" has been violated.

Discussing this concept, the Reverend Francis E. Mahaffy, long a missionary of the Orthodox Presbyterian Church in East Africa, noted that—

> When the matter is examined, it is obvious that this concept of social justice is destructive of real justice. By prefixing the adjective "social" to the concept of justice the result is a destruction of proper justice and a perversion of true social concern.

The Reverend Mahaffy points out that social concern is the responsibility of individuals and voluntary associations, but that—

> It loses its religious significance and changes its nature the instant it becomes a political matter. It is a human and religious duty to care for one's parents, to support the sick, and to alleviate suffering and famine. . . . The state cannot love our parents; it cannot clothe the naked and visit the fatherless and widows in their affliction. . . . All it is able to do is to use the arm of force to redistribute income.

What many have done today is to claim those in any kind of need have a "just" claim upon us and, accordingly, have a "right" to compel us to provide them with assistance. What they have suggested, in effect, is that Government perform through compulsion what charity has voluntarily performed. The Reverend Mahaffy points out that—

> Political implementation of religious duty removes material assistance from the realm of love to that of force and makes a mockery of Christian charity.

Justice, and not charity, is the true province of governmental bodies. The Reverend Mahaffy expresses the view that—

> Justice is blind. It guards the property and protects the life of all alike. It does not discriminate between people. . . . To use force to take from some to give to others is the very opposite of justice. Economic equality or economic redistribution cannot be effected by force apart from an unequal, and thus unjust, treatment of individual citizens.

As we hear more and more about "welfare rights" and a host of other alleged "rights" to which citizens are entitled, we would do well to consider the challenging essay, "Social Justice." by Francis E. Mahaffy, published in the Freeman of September 1963.

I share this article with my colleagues:

SOCIAL JUSTICE

(By Francis E. Mahaffy)

The advocates of what is called social justice conceive of it as relating primarily to the economic status of the individual. It is unjust, in their view, for some to have great wealth while others have only the bare essentials. It is unjust for the price, rent, or interest rate to be "too high." Profits are often accepted as necessary though it is unjust for them to be "excessive." Private property is not usually condemned in toto by these writers, though many of them class is as a necessary evil.

An excessive amount of private property, however, is generally condemned as unjust and a warrant for the increasing interventions of the welfare state.

Many people advocate social justice from religious motives. Some religious people have made the illogical jump from the need to manifest a loving concern for those in physical need to the advocacy of political means to accomplish this end. Professor Brown writes:

> If any man is hungry, this is both a religious and a political concern, and out of a religious concern for one created in God's image, political means must be devised for ensuring that everyone gets enough bread—which is a suitable enough definition of the art of politics.[1]

Such thinking is on a level with alchemy. Bread—meaning all the economic production by which men's creaturely needs are supplied—can be legislated into scarcity. But legislation cannot produce bread, any more than incantations can produce gold.

When the matter is examined, it is obvious that his concept of social justice is destructive of real justice. By prefixing the adjective "social" to the concept of justice the result is a destruction of proper justice and a perversion of true social concern. Social concern or fraternity is the responsibility of the individual and of voluntary associations of individuals. It often springs from religious or humanitarian motives. But it loses its religious significance and changes its nature the instant it becomes a political matter. It is a human and religious duty to care for one's parents, to support the sick, and to alleviate suffering and famine. This duty is always in the realm of private and personal relationships and can never be properly effected by impersonal political means. The state cannot love our parents; it cannot clothe the naked and visit the fatherless and widows in their affliction as commanded by Christ. All it is able to do is to use the arm of force to redistribute income.

This personal concern and sympathy that leads to material and spiritual help to the afflicted and needy is not a matter of justice; it is in the realm of the spirit, not of the law. The beggar on the streets of an Eastern city does not have a "just" claim upon our alms. The leper in an African hut does not have a "right" to the services of the medical missionary or to the medicines sent by charitable Christians. The help given lies in the realm of charity, and charity is no longer charity if it ceases to be voluntary. It is unfortunate that some Africans and Asians are unable to properly clothe and feed their children or to earn wages of more than five cents an hour, but it is not necessarily a matter of injustice.

Love and sympathy for those in need is an obligation laid upon the Christian, but to invoke coercive political action to accomplish this distorts Christianity. Political implementation of religious duty removes material assistance from the realm of love to that of force and makes a mockery of Christian charity. The term "social" as it is used by some people to describe the fraternity that should exist among men is a term that loses its meaning when it is conceived of as the demand of justice rather than as the fruit of love.

JUSTICE VERSUS CHARITY

The term "justice" should not be confused with "charity." Justice, unlike charity, is the province of the state. Justice is blind. It guards the property and protects the life of all alike. It does not discriminate between people. The economic status, religion, color, or personality of the individual is of no concern to justice. Justice is the execution of the law which treats all men equally. In its exercise the state has the monopoly of the use of force. The one who resorts to violence of one kind or another in his dealings with his fellow men: the murderer, the thief, or the contract breaker, is the recipient of the justice wielded by the power of the state. The state has the power of the sword to execute justice.

Some feel that this idea of justice is a cold, heartless concept. They want the state to produce social and economic justice as well. They want justice to include a more equal distribution of the goods of this world. They want charity and sympathy to be effected by the power of the law. In the process of broadening the meaning of justice to include these political activities, real justice is destroyed. The use of force to take from some to give to others is the very opposite of justice. Economic equality or economic redistribution cannot be effected by force apart from an unequal, and thus unjust, treatment of individual citizens. When this becomes the policy of the state, justice no longer prevails. The adjective "social" destroys the noun "justice."

---

[1] Robert McAfee Brown, *The Spirit of Protestantism* (Oxford, 1961), p. 202.

Nor may the concept of justice be broadened to include a just price or wage. Economic remuneration is not given on the basis of the intrinsic worth of a person but rather on the basis of a man's evaluation of the specific services rendered by another. This subjective evaluation may differ widely in individuals. One writer describes a contributor to THE FREEMAN as the world's outstanding economist, while another thinks the contributors to this journal expound the cause of a decadent liberalism. It is not a matter of injustice that consumers evaluate a vulgar Hollywood production more highly than a work of fine art, or the comic sheets than the works of Shakespeare. This lies within the realm of subjective value judgments and tastes which are not the province of the state or of justice to regulate. When the state determines the economic remuneration of its citizens through control of prices, wages, and other means, this remuneration usually favors those who support the regime. This is not justice but legal plunder.

THE RESTRICTED USE OF FORCE

Contrary to popular opinion, it is only by restricting the state to the administration of justice and the securing of individual liberty that proper scope can be given to social concerns. When the state takes over the sphere of charity and seeks to replace personal love and sympathy with impersonal, mechanical redistribution by force, the individual and voluntary associations of individuals are no longer able properly to fulfill their religious obligation in this sphere. When the financial and medical care of our aging parents becomes a matter of supporting them by taxes from everybody with a large fee removed for administration costs in the process, it becomes increasingly difficult for children to show filial love and care for their parents in obedience to the divine injunction. When excessive taxes are used to support the advance of socialism in Africa and South America through our government-to-government foreign aid, the individual is deprived of a considerable amount of his means for the voluntary support of charity. Private colleges and schools, hospitals, and other works of philanthropy and charity suffer as a result.

When the state assumes the task of promoting social justice, it leads to conflict on the part of various groups and individuals to get their hands on this "economic justice." Subsidies are disbursed in terms of political power; seldom is there concern with the character of the individual recipient. Voluntary charity, on the other hand, is highly discriminating. While charity may be given to those whose plight is the result of their own dissipation, folly, or sin, yet it is usually given with care and from a personal knowledge of the circumstances of the individual recipient. Private charity tends to encourage thrift and virtue while distribution by the power of the state, as is becoming ever more evident, encourages vice and indolence. Why should a man seek a job when he can receive sufficient relief from the government while unemployed? Why should mothers of illegitimate children change their habits when they are paid in proportion to the number of offspring they bear and all stigma is removed? The distribution by force leads to the idea on the part of the recipient that what he gets is his due. W. G. Sumner has well said:

> The yearning after equality is the offspring of envy and covetousness, and there is no possible plan for satisfying that yearning which can do aught else than rob A to give to B; consequently, all such plans nourish some of the meanest vices of human nature, waste capital, and overthrow civilization.[2]

HOPE FOR THE OPPRESSED

Only when the state is restricted to the administration of justice, and economic creativity thus freed from arbitrary restraints, will conditions exist for making possible a lasting improvement in the welfare of the more miserable peoples of the world. It is often this very lack of justice in the poorer countries that keeps the people in their low economic state. An English economic advisor to an African state was shocked at the prevalent low wages and succeeded in securing a minimum wage law for the land. The result was that thousands of workers who had earned forty to fifty cents a day were put out of work. Only the more efficient and essential workers remained and the whole economy suffered. It had been interventions in the market by the government, a lack of justice, that had kept the wages down in the first place by preventing capital accumulation and investment. Further intervention, in the form of the minimum wage law, only aggravated the situation, removing the one chance many had for some economic improvement. Were justice present in these lands, there would be no shortage of investment capital, for there would then be no fear of unjust confiscation or nationalization. Justice is the one condition that will lead to economic improvement. Where there is little justice, there is little charity. Only where there is justice and freedom will there be the opportunity for extensive charity.

When seen in its proper light, it is genuine social concern, sympathy for the less fortunate, and love for his fellow man that prompts the advocate of limited government to seek to restrict the state to the province of justice. It is because he realizes that the only true and adequate charity, fraternity, or social help springs from individual loving concern for another that he wants this sphere free from political control. He opposes the concept of social justice because he wants true justice and because he wishes to see economic and social improvement in the world. He is convinced that economic improvement cannot be effected by coercive redistribution but will follow justice and freedom. He recognizes that charity and fraternity cannot be legislated; to attempt to do so is to destroy them. It is because of his concern for justice as well as his concern for social improvement that he objects to the distortion involved in the concept of social justice. He agrees with the words of Frederic Bastiat:

"Governments never take any action which does not rest upon the sanction of force. Now, it is permissible to compel a person to be just, but not to force him to be charitable. The law, when it seeks to get action by force where morality brings it about by persuasion, far from elevating itself into the domain of Charity, falls into the field of Spoliation. . . .

The proper domain of law and of government is justice.[3]"

---

[2] William Graham Sumner. *What Social Classes Owe to Each Other* (Caldwell, Idaho: Caxton, 1952), p. 145.

[3] Frederic Bastiat, "Justice and Fraternity," first published in the *Journal des Economistes* Paris, June, 1848.

FREIGHT TRANSPORTATION WITH EMPHASIS ON MONTANA

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. SHOUP. Mr. Speaker, Robert Barrett, a 1972 graduating student at the University of Montana in Missoula, has prepared a report entitled, "Freight Transportation With Emphasis on Montana" for my use.

It appears to me that Mr. Barrett worked very hard on this study. I am impressed with the thorough job he did of researching his subject matter. He interviewed those whose cases appear in his report and then did complete follow-up studies.

His report is one of the few existing today on current freight transportation problems. It will be helpful to me and I hope to others in considering the transport needs of Montana.

His report follows:

FREIGHT TRANSPORTATION WITH EMPHASIS ON MONTANA

(By Robert Barrett)

PREFACE

This paper is concerned with transportation in Montana. It has primarily been oriented to rail transportation and does not encompass any passenger service questions. As a result when I refer to transportation questions and do not differentiate I'm referring to rail freight.

I have refrained from making many conclusions due to the immensity of the problems, lack of concise information in many areas, and the variety of personal opinions as to what role transportation should play. If any conclusion were to be made I suppose it would be that the railroads have badly abused their responsibilities in the past and this abuse has shaped much of the policy and opinion of today.

While reading this the reader should keep three questions in mind. First, is it impractical to place the railroads at a competitive disadvantage due to past performance or are the railroads still so strong as to warrant this strict regulation, or does this disadvantage really exist? Second what role should railroads play—a public utility, an unregulated industry subject only to economic forces, or something in between? Third, dependent upon the answer of the second question, what form should government regulation take?

FREIGHT CAR SHORTAGES

Of all the problems that I have discovered in my interviews with Montana shippers the severest seems to be the freight car shortages. In talking to Bob Helding, past Secretary of the Western Montana Woods Product Association, it was estimated by Mr. Helding that with sufficient cars Montana could double production in some natural resource industries. Mr. Lars Gallup of the Billings Office of Pacific Hide and Fur complained that many times rates quoted were useless since cars could not be obtained to handle the minimum loan requirements. The grain car shortage of 1965 was a tremendous hardship on Montana farmers.

Sadly this is a problem that the whole country faces but due to such Montana freight characteristics as our tremendous one-way freight hauling, the large distances to market areas, and cyclical pricing in many of Montana's products Montana feels the car pinch more severely than other states.

In *Transportation Problems and Policies in the Trans-Missouri West*[6] it was stated that "During the northern plains boxcar shortage in the fall and winter of 1965, it became obvious that the cause of the problem was a gross lack of construction of new capacity by the Eastern roads." Further reference to this is made in this paper under *Per diem charges on freight cars*. I believe it's an over simplification that the total problem hinges around lack of construction by Eastern railroads but this certainly seems to be a major factor. To be more quantitative in 1960 nationwide there were 1,638,292 freight cars compared to 1,403,343 in 1970.[1]

The woods product industry, along with several other Montana industries, face car

---

Footnotes at end of article.

shortages due to wide fluctuations in prices on their products. Many of these cycles are prevalent throughout the country and are matched with cycles in other industries (i.e. the construction industry). As a result the demand on cars, particularly general purpose cars becomes heavy at times Montana could use them the most.

There are figures that indicate that part of the car shortages are not due solely to lack of cars. In *Transportation and the Changing South*[8] the following national averages were given:

Travel per car—2 hrs/da.;

Freight speed—20 MPH.; and

Empty car haulage—38.7%.

What are some of the possible solutions of the freight car shortages? I have listed three general areas: (1) increased fleet capacity, (2) better utilization of the fleet, (3) reduced dependence on transportation at periodic intervals. While analyzing these suggestions it should be remembered that the carriers alone would not be able to solve these problems; it would require cooperation with shippers and federal and local government.

First, increased fleet capacity. According to ASTRO (America's Sound Transportation Review Oganization), a study group formed in relation to the rail industries concern over rail problems, the money required cannot be generated internally nor through new investment. ASTRO recommends government backed loans, a national fund at low interest rates to be made available to railroads in critical need, restoration of the investment credit, and a quasi-public organization to acquire a fleet of free running, general purpose freight cars. The needs and substantiation of the first two ASTRO recommendations could best be supplied by them but the third and fourth recommendations I'd like to add to. Montanans have been pretty clear in their feelings about the share corporations pay of taxes. I'd hesitate to say that Montanans would back a plan to aid the transportation industry that would include a 7% investment credit. A quasi-public corporation, the ownership distributed among the nation's railroads, could bring about real efficiencies in research, development, and production of freight cars and motive units, at no cost to the taxpayers.

Second, better utilization of the fleet. Better utilization means improving the averages on car travel, freight speed, empty haulage.

First, it has been estimated that improving loading time on each car by 10% would have the effect of increasing the national fleet by 150,000 cars. Most of my information concerning improved loading is in the section entitled *Demurrage and Loading Techniques*. In addition to that section I'd like to add some discussion about improved systems for keeping track of freight cars. I understand the Santa Fe is experimenting with computer systems for tracing their cars. The efficiencies of computer data processing of this type could perhaps be best effected by the nation-wide corporation mentioned previously that owns, traces, and controls the rolling stock of the nation.

Second, increasing freight speed. This would involve improved motive power and improved rail rights-of-way. I don't know anything about motive power but from what I've heard the Japanese have made tremendous gains in this area and perhaps the government should strive to establish lines of communication between the Japanese and American railroads. Concerning improved rights-of-way the Surface Transportation Act would require states use 5% of their Highway Trust Fund allocations for grade crossing protection and extend the program to non-Federal roads. I would say this would have two effects: a reduction of injuries and deaths at rail crossing and more efficient rail crossings. Once again, though the problem is one of responsibility and tax subsidization of the rail industry. Who is responsible for rail crossings: the states, the railroads or both and in what proportion?

The third discussion on empty car haulage is covered in the section entitled *One Way Traffic Problems*.

Last, reduced dependence on transportation at periodic times during the year. This could be done in two ways: use of terminal storage areas and reduction of the price cycles that exist for many of Montana's products. Many of the large lumber companies are establishing storage areas for their products at locations near their markets, thus avoiding the need for instantaneous transportation. The problem with this is that most companies are too small to afford establishing these storage yards. Perhaps affiliations of small producers could overcome this handicap. To fight the price cycles many industries have established futures markets, that is, prices established now for delivery later. The lumber industry is getting pretty far into this at this time.

PER DIEM CHARGES ON FREIGHT CARS

"Per Diem" charges are those charges a railroad pays to another railroad for use of its cars. Many Montanans argue that the freight cars owned by BN and needed by Montana shippers wind up on other rail lines, primarily Eastern lines. In the analysis that took place after the Penn Central bankruptcy it was noted that Penn Central did not maintain its own cars and relied heavily on those of the other companies. This would appear to be the tendency of many railroads.

The circumstances listed above have caused speculation that the raising of per diem charges may help alleviate Montana's transportation problems by inducing other railroads to return quickly BN freight cars and induce greater capital expenditures for boxcar maintenance and construction.

Per diem rates are of three types: (1) straight daily rates, (2) mileage rates, (3) incentive rates. (1) is a fixed sum charged a railroad each day for use of a foreign car and is calculated according to the cost and age of the car. (2) is a rate multiplied times the number of miles the foreign car travels on a rail line, the rate also dependent on the cost and age of the car. (3) is a rate similar to (1) except it is applied only from September 1 to February 28 and the revenue from this incentive charge is earmarked solely for use on maintenance and building of freight cars.

As an illustration of the above assume a $13,500 car, 3 years old, travels 620 miles on a foreign railroad. A $13,500, 3 year old car falls in the $13,000–$15,000 cost bracket, 0–5 years age bracket. Therefore, the charges for two days are:

Daily rate (2 days x $3.97)	$7.94
Mileage rate ($.0251 x 620 mi.)	15.56
Incentive (2 days x $4.54)	9.08
Total charges	32.58

Compare this to a daily depreciation rate of between $1.00 and $1.50 and you can see missuse of foreign cars could become very expensive.

Additional points should be added. All per diem rates apply whether the car is traveling empty or loaded. Rates do not apply to cars leased or owned by shippers. Incentive rates apply to plain XM boxcars only.

The ICC requires the use of the incentive per diem revenue to be in addition to average yearly expenditure on equipment calculated from 1964–1968. That is, the railroads must first invest an amount equal to the average yearly amount spent in the period 1964–1968 on maintenance and new construction and then spend an additional amount equal to the incentive revenue collected.

I refrain from making a conclusion as to whether higher per diem rates would cause cars to be returned quickly. It appears to me the rates would promote efficient use of foreign boxcars but as long as the freight revenue is on foreign lines the cars would stay on foreign lines. High per diem rates could be instrumental in causing more boxcar production and was one reason incentive rates were installed.

ONE WAY TRAFFIC PROBLEMS

By reference to Table 1 it is easily seen that Montana has a terrific one-way freight haulage problem. This results from (1) export of bulk commodities such as grain and lumber and import of processed goods, (2) a small market within Montana for Montana products, (3) heavy use of specialty cars.

Before I cover (1) and (2) I'll mention that BN estimates 95% of the in-bound grain cars are empty. This has a definite tendency to make our one-way traffic problem look worse then it is since use of specialty cars in many instances result in significant cost savings, enough to offset the one-way haulage costs. But this is not to say a problem does not exist.

If it is assumed that the problem indicates the solution then Montana must do more processing in the state and create more of an in-state market for goods. But the research done by the Bureau of Business and Economic Research[15] shows that Montana's population and manufacturing have decreased greatly in proportion to the rest of the country and there is no indication this trend will improve. If the trend does continue as in the past we can expect an even worsening one-way haulage problem.

Although I have no quantitative evidence for this I think common logic would indicate that the situation just described would result in the shifting of freight cars to areas that offer the best utilization through two-way traffic. The logic behind this, of course, would be better return on investment to the railroads.

INTERMODAL PURCHASES

For hire transportation firms have tended to remain single mode in form. The main reason for this appears to be Section 5 of the Interstate Commerce Act. ICC interpretation of this section has been that Congress has intended to protect different modes from suppression by other modes, primarly the railroads. This argument was advanced at a time of railroad monopoly in transportation and appears to have been valid at that time. In the case of Montana the great reliance on railroads is still a fact. Table 3 shows Montana's dependence on rail transportation in grain shipments.

The argument against intermodal purchases is still based on the fear of suppression and is offered by non-rail modes. The argument is in two forms: (1) the railroads would buy up other modes and then retire them, leaving a rail monopoly; (2) rails could cut rates on their non-rail modes, absorbing the short term loss far better than strictly motor carriers could, thus driving out competition. The first argument appears ridiculous since the railroads could make profitable use of the modes purchased and if they were retired this would only invite new entry of motor and water carriers. The second argument is also invalid since the ICC has a requirement of cost justification in lowering of rates already in force. If cross-modal transportation firms could show a favorable cost analysis in comparison to single mode firms why not allow them to adjust their rates downward? This would preserve the "inherent advantage" criteria the ICC adheres to.

The arguments for intermodal purchases are (1) better service, (2) entry by transtransportation. Examples of better service transportation. Examples of better service would be a single firm's reputation resting on the shipment of a commodity rather than several, better coordination in cross shipping, better evaluation of cost and revenue factors. The second argument offers some interesting thoughts. Could easier entry by established transportation firms into other forms of

---

Footnotes at end of article.

transportation result in lower rates and more transportation alternatives available to shippers?

But as long as intermodal purchases are restricted it will rest primarily with shippers to coordinate the different forms of transportation. Any form of intermodal coordination offered would be appreciated by shippers, I'm sure.

EXEMPT COMMODITIES

The relevance of the "Exempt Commodity" question to Montana becomes apparent when you look at the list (Table 2) and see that it is agriculture based and includes Montana's major export items. The exemptions apply to motor vehicle carriers and allows them to haul without regulation by ICC except for regulation in qualifications, maximum hours of service of employees, and safety of operation. The result of this is "backhauling" and as can be seen in Table 3 is pretty important to Montana farmers. Backhauling results from trucks hauling freight into the state and then picking up a load of an exempt commodity at a freight charge that does not necessarily cover total costs. This is attractive to the motor carriers as a way of covering overhead. On commodities other than those included on the exempt commodities list this would not be allowed since the ICC requires revenue to cover costs to avoid "destructive competition".

Naturally the biggest proponent of change to this exempt commodity list is the railroad industry. They feel this gives an unfair advantage to the truckers and would prefer to see either the list abolished or the railroads allowed to carry under the same exemptions.

Surprising to me some of the shippers would also prefer seeing the truckers subjected to ICC regulation on these exempt commodities. The reasons given were (1) induce more standardized freight charges on exempt commodities, (2) avoid competition that may, in the end, tend to drive out carriers.

MONTANA SHIPPERS ON OUT-OF-STATE RAIL LINES

A type of problem that has shown up in my interviews with Montana shippers has been in the shippers working with railroads other than the GN. There appears to be no trends involved but the problems seem worth mentioning. It should be remembered that I have not reviewed these problems with the carriers involved and so the carriers have not had a chance to present their side.

First, the incident documented in Appendix A involving the Pacific Hide and Fur and the Milwaukee Road. This was related to me by Lars Gallup, Manager of the Billings division of P H&F. In 1970 P H&F shipped a load of scrap battery lead, destination, Omaha, Neb. Due to arrival of the shipment 11 days after departure (average shipment time is 6 days) P H&F did not meet their contract and sustained a 1¢ per pound loss or 1100 dollars. The delay was traced to the Milwaukee Road but the Milwaukee Road classified the damages as "special" (not contemplated in the bill of lading) and disallowed the claim.

Second, the incident documented in Appendix B involving Mr. Ralph J. Stone and the Joint North South Freight Bureau. Mr. Stone, with headquarters in Billings, is a shipper of honey and has a one-way haulage problem with his product. To partially overcome this he worked out a plan to ship honey to Los Angeles and import in the same cars, molasses. The incremental costs to the railroad would be a 25 mile switching to the molasses loading site; all other costs (cleaning, loading, etc.) would be assumed by Mr. Stone. Mr. Stone offered the proposal to the Joint North South Freight Bureau with revenue being increased from $1.31/100 wt. to $1.75. The Bureau declined (Mr. Stone does not know which line was responsible) due to "complications involved in working out compensatory revenues based on tank cars used." Mr. Stone has subsequently had the proposal resubmitted, given a new docket number, and it will come before the Bureau on March 20th. Mr. Stone feels the rejection of this proposal smacks of the past apathy railroads showed in dealing with shippers. He further contends that the analysis of costs and revenues would be quite simple.

Third, involves performance by the Chiccago Northwestern. This also involves Mr. Stone. In Mr. Stone's experience the handling of cars has been so slow by the Chicago Northwestern as to warrant avoiding use of that line. As a result if there are markets in, say, New York and L.A. other things being equal the New York market would be ignored for the L.A. market. Mr. Stone suspects this may be caused by possible priority handling of railroad owned cars over shipper leased cars.

RATE DISCREPANCIES

A common complaint heard in Montana is the existences of certain geographic rate inequities that created a "rate hump" for Montana. This complaint can best be illustrated by the fact that a few years ago it was cheaper to ship some class items from Minneapolis to Seattle and back to Montana than it was to ship directly to Montana. It has been mentioned to me that this was caused by a desire of the railroads to compete with ocean shippage to the West Coast and resulted in unfair freight costs for Montana. When I inquired about this hump to the ICC they said it was caused by ". . . past decisions of the Commission in which certain amounts were to be added to other figures to construct class rates in Montana." But the ICC went on to add ". . . that the earlier decisions as to class rates were correspondingly modified." and ". . . that the great majority of rail shipments move on commodity or exception rates and not class rates . . ." Therefore the ICC feels the rate hump no longer exists.

In the middle of the 1960's wheat shipped to the West Coast was 25¢/100 wt. higher to ship from Havre than from Bozeman, even though the distance was approximately the same.[10] When I inquired about this to Mr. Gene Radermacher of the BN he gave the following explanation: prior to the merger that formed the BN Havre was served by the Great Northern while Bozeman was served by the Northern Pacific. Due to truck competition the Northern Pacific was more responsive and subsequently had lower rates. After the merger BN reacted to the pressure and adjusted the rates for High Line wheat downward on July 1, 1971.

The farmers of the High Line also complained in the 60's that the rate on wheat from Denver to the West Coast was 6¢/100 wt. cheaper than from Havre even though the distance from Havre was ⅔ that from Denver. Once again Mr. Radermacher was asked about this and I learned that the rates had now been reversed; now the rates are 75¢/100 wt. from Havre and 77½/100 wt. from Denver.

One problem that still exists for certain Montana shippers is the fact that some motor carrier rates have not grown as fast as rail rates. My only documented example of this is that stated by Ralph Stone.[3] When Mr. Stone requested rate quotations for the shipment of honey the rail rates quoted were 95¢/100 wt. compared to $1.25/100 wt. for motor carrier. Due to this Mr. Stone purchased rail loading equipment of a fixed and permanent nature that prohibited switching to other modes of shipping. Since the quotation of those initial rates the rail rate has increased to $1.31/100 wt. while motor carrier rates have decreased to $1.10/100 wt.

During an inflationary period this decrease seems highly improbable until one considers the effects of improved roads and motor carriers. What ever the reasons shippers like Mr. Stone are now tied to the railroad through investment in fixed assets while motor carriers now offer lower rates. Perhaps an answer to this would be an ending of the ICC requirement concerning sunk costs of the railroads. The Nation's railroads have an estimated $30 billion in sunk costs (rights-of-way, track, etc.) that must be figured into costs when establishing revenue rates. This results in a raising of the minimum rate limit the railroads must abide by.

Generally the response by Montana shippers has been favorable of the BN rates now in existence. The feeling I have gotten through my interviews has been that the problems Montana faces in transportation is no longer that of rate discrepancies, rates that are not cost justified. Montana shippers still face high transportation costs but that is due to Montana carriers facing high costs. Pretty consistently, though, past discrepancies like the rate hump have caused unacknowledged Montanans to believe they still face unfair transportation rates. My studies have failed to turn up any such unfair rates but with recorded rates totaling in the trillions how can any person be sure any geographic area faces fair rates? Perhaps this lends a strong argument to competition based rates rather than regulated rates.

DEMURRAGE AND LOADING TECHNIQUES

As has been mentioned earlier one of the severest transportation problems facing the nation is the short supply of rail cars. Due to this (and the common logic desire of the railroads to efficiently utilize their rolling stock) the railroads have constantly pushed for reduced holding time of rail cars by shippers. Often this push has brought the shippers and railroads nose to nose since shippers want more time to allow easier coordination of loading and the acquiring of "short supply" cars. The present status of the incentives for shippers to return cars quickly takes the form of demurrage charges and incentive rates.

Demurrage charges: demurrage charges are graduated rates charged shippers for "excessive" holding of box cars. When a car is placed the next 7:00 A.M. begins the free time, which runs for two days. After the free time shippers are charged $10/da. for the first four days, $20/da. for the next two days, and $30/da. thereafter. There are no charges on Saturday and Sunday unless preceded by two chargeable days. Cattle cars are not charged at all unless they are ordered and not loaded.

When holding a loaded car the railroads allow 24 hours free time and then charges the same demurrage rates as above until the shippers designate a destination point. All of the above applies for both private and railroad owned cars. There is one exception to the above in Montana: Eastern Montana grain (Fort Benton on the northern line, Custer on the western line). In 1971 the BN gave a sizable reduction in rail rates to the Eastern Montana grain shippers. In exchange the shippers were allowed only 10 day light hours free time.

Incentive rates: these rates are left solely up to the railroads to initiate, dependent on their own needs. Incentive rates are just special rates offered by railroads to shippers with the qualification of a reduced holding time.

Who is affected by demurrage charges? Large producers in all industries that use rail cars are more concerned with keeping a constant flow, inexpensive loading process in effect than they are coordinating the arrival and loading of each car. As a result large shippers aren't overly concerned with demurrage charges. But in Montana, except for a few grain, mineral and wood products

---

Footnotes at end of article.

shippers, the shippers are small and as a result can't produce sufficient quantities to have a continuous flow. Also small shippers can hardly afford to develop or purchase improved loading processes.

Montana is a state with a high proportion of small producers. As a result many of the economics of size are lost and this holds true for loading processes. The same problem exists in many of the areas I've touched on: small population, little industrialization, large distances, tremendous transportation problems.

BIBLIOGRAPHY

Interviews

[1] Robert Helding, Past Secretary of the Montana Wood Products Association. Savings Center Building, Missoula, Montana. December 12, 1971.

[2] Dr. Charles Rust, Coordinator of Montana Extension Program. Montana State University, Bozeman, Montana. December 22, 1971.

[3] Ralph J. Stone, 431 Daniels, Billings, Montana. December 27, 1971.

[4] Lars Gallup. Manager of the Billings Branch of Pacific Hide & Fur. 777 4th Ave. North, Billings, Montana. December 27, 1971.

[5] Gene Radermacher & Herbert Frank. Pricing Officers for the Burlington Northern. Security Bank Building, Billings, Montana. Interviews held throughout research period.

Publications

[6] Davidson, Jack R. (ed.). *Transportation Problems and Policies in the Trans-Missouri West*. Lincoln: University of Nebraska Press, 1967.

[7] Rust, Charles H., and others. *Extension Transportation Handbook*. University Park: Pennsylvania Cooperative Extension Service, March, 1971.

[8] Nichols, T. E. (ed.). *Transportation and the Changing South*. The Agricultural Policy Institute, June, 1967.

[9] George St. George & Charles Rust. *Grain Trucking Costs*. Bozeman: Montana Agricultural Experiment Station, March, 1970.

[10] George St. George & Charles Rust. *Coordinated Grain Transportation Research & Extension: the Montana Approach*.

[11] Storey, David A. *Long Run Effects of Current Changes in Transportation*. Urbana, Illinois: Agricultural Industries Forum, 1963.

[12] Gerald, John O. *Current Transportation Issues*. Washington State University Cooperative Extension Service, April, 1971.

[13] Gerald, John O. *What can Research Contribute?* Presented the Montana Transportation Conference. Montana State University, Bozeman, Montana, March 24–25, 1966.

[14] "DOT Unveils a Plan for Overhauling ICC." The Washinton Post, November 9, 1971.

[15] Bureau of Business & Economic Research. *The Montana Economy, Chapter 1, Vol. 1*. Missoula: University of Montana, October, 1971.

[16] *Bureau of Operations Notice #1*. Interstate Commerce Commission. October 1, 1968.

[17] *Grain Shipments in Montana, Bulletin #624*. Extension Service, Montana State University, Bozeman, Montana.

[18] *ASTRO*, America's Sound Transportation Review Organization. American Railroads Building, Washington, D.C. 20036.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. SCHERLE. Mr. Speaker, a child-asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1600 American prisoners of war and their families.

How long?

NATION FACES POWER CRISIS

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. EVINS of Tennessee. Mr. Speaker, many sections of the Nation are threatened with a power crisis this summer with blackouts, brownouts, and power shortages predicted in many areas as lawsuits, injunctions, and bureaucratic redtape have delayed the placing of a number of nuclear powerplants in operation.

Because of the interest of my colleagues and the American people in this most important subject, I insert my newsletter, Capitol Comments, in the Record:

Nation Faces Power Crisis—Increased Electric Power Use and Demands, Plus Environmental Slowdowns Pose Continuing Energy Problems With Rationing a Possibility

Testimony before Committees of Congress discloses that this Nation faces a severe power crisis this summer in many areas—including the Northeast, New York, Florida, Virginia, the Carolinas, Illinois and possibly other areas—threatened with electric power shortages, brownouts and blackouts. Warnings of this impending crisis have come from many sources—including Chairman John N. Nassikas of the Federal Power Commission; Chairman James R. Schlesinger of the Atomic Energy Commission; Secretary Rogers Morton of the Department of the Interior; General George Lincoln, Director of the Office of Emergency Preparedness; leaders in Congress, spokesmen for the electric power industry and the White House, among others.

A year ago on the floor of the House of Representatives, your Representative—who has seen the genesis of the crisis unfold in testimony before the Subcommittee on Public Works and Atomic Energy Commission Appropriations—warned of the coming crisis and pleaded for a reasoned power policy balanced between the need to preserve our environment and the absolute necessity of providing power services for the Nation's expanding population. As Chairman of this important Committee concerned with developing our resources for the people, I pointed out that power shortages are bound to occur unless power production keeps pace with demand. The demand for electricity is doubling every ten years as our population continues to explode in geometric progression—in other words, the average family uses more electricity—and demands for energy are ever expanding. In 40 years our population has grown 70 percent and energy consumption has literally exploded with an increase of 310 percent in power usage.

However, despite these facts and warnings, many new power-generating facilities have been delayed or blocked by lawsuits, injunctions and bureaucratic red tape initiated as environmental protection. As a result a long, hot summer can produce demands in some areas that cannot be met and brownouts or blackouts may occur.

Physicist Ralph Lapp said recently: "Power shortages may produce a severe backlash against the environmental movement."

Federal regulations to implement environmental protection laws, coupled with harsh court decisions—some Federal courts have demonstrated about as much common sense in interpreting environmental protection laws as they have on the issue of busing—have delayed action on the licensing of 97 urgently needed new nuclear power plants needed to provide power throughout the United States. Only 21 nuclear power plants are now operable in the United States, which is attributable in large measure to a longer "lead time" required to put such plants in operation.

In an effort to cut red tape and circumvent court delays, the House recently passed a bill which would permit operation of ten nuclear power plants in areas of expected shortages—the bill is now pending in the Senate.

Chairman Nassikas of the FPC testified before my Committee recently, as follows:

"For the first time in our history, our Nation is faced with the emergency of severe energy problems . . . The early symptoms are already upon us—power shortages, fuel shortages, higher fuel costs and limitations on natural gas in many areas of the United States."

He said demands have exceeded expectations and that efforts to meet the demand have been frustrated by environmentalist groups.

The Federal Power Commission, in an excellent report recently issued—The National Power Survey—declared:

"We foresee recurrent and spreading power shortages unless positive steps are taken, and taken soon, to remedy conditions which are slowing the orderly development of essential power supplies. Despite increasing efforts of public agencies and the industry itself to protect the environment, today more than ever before the construction of new power facilities is being challenged on environmental grounds."

Chairman A. J. Wagner of the Tennessee Valley Authority testified that TVA expects to meet its power demands this year—but warned that if nuclear plants are delayed, crippling power shortages could occur.

* * * * *

Viewing the entire energy problem in perspective, officials have warned that our supply of energy and fuels is not endless. Americans now use more than six times as much per capita energy as the world average and more than the combined consumption of Japan, Great Britain, Germany and the Soviet Union.

It was recently reported that the United States last year consumed 5.6 billion barrels of oil and 22.1 trillion cubic feet of natural gas. The country's 109 million cars used 90 billion gallons of gasoline, its 2,000 jetliners used more than one billion gallons of jet fuel and its 3,400 power plants used one billion barrels of oil, four billion cubic feet of gas and 300 million tons of coal.

Vice Admiral H. G. Rickover, the brilliant Director of the U.S. Navy's Division of Naval Reactors, recently testified that oil production has peaked in the United States and that natural gas production will peak within a few years and begin to decline. Already the Nation imports one-third of its fuel oil.

Chairman Schlesinger of the AEC has warned that rationing of fuels may come before the turn of the century—less than 30 years. The New York Times in a recent editorial said: "The possibility has to be faced that eventually fuel and power may have to be rationed."

In my view American technology, research and development will find alternate sources of energy that will forestall this eventuality—provided that the results of research can be brought to bear on the problem and not blocked, slowed down and delayed by red tape and ill-advised court actions. Some believe that extreme environmentalists may wreck their own movement and describe as hypocrisy the delays they have caused in providing power to meet public demands which require tremendous outlays in power for expensive anti-pollution technology.

Both Congress and the Executive Branch are well aware of these problems and we are working together to find solutions. For example, the new Liquid Metal Fast Breeder Reactor development—to be located in the TVA area and developed jointly by the AEC, Tennessee Valley Authority and private industry—will provide a clean and an economic source of power supply. Research and development must proceed on all possible energy sources—solar energy, nuclear energy, electrostatic energy and thermal energy, among others.

The American people should recognize the nature of the energy problem and voluntarily conserve energy whenever possible. Artificial lighting consumes about 24 percent of the Nation's electrical power output. Air conditioning accounts for about 16 percent of the increased demand. The ways in which individuals can conserve are obvious.

We must achieve a balance between environmental protection and necessary development of resources—or the Nation will be in deep trouble.

We must stop exporting resources that require tremendous energy outputs—for example, it requires 2,000 million kilowatt hours of electricity for each reactor core we export.

All agencies of the State and Federal governments concerned plus the Congress must continue to work together on this problem now that it has been outlined in its full dimensions. Our country has the scientific knowhow and knowledge to solve the energy problem—but every American has the responsibility to be responsible in recognizing the problem and doing his or her part to assist in its solution in the public interest.

RUMANIAN INDEPENDENCE DAY

HON. SAMUEL S. STRATTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. STRATTON. Mr. Speaker, yesterday, the 10th of May, marked an important anniversary for the people of Rumania as the date of that nation's independence. I am proud to join with my colleagues in marking this observance.

What is especially important for us to remember on this occasion is that the people of Rumania who live behind the ever-present Iron Curtain are forbidden by their Communist oppressors from openly celebrating this national holiday. Instead, they are forced to participate in a charade where flags are raised and "celebrations" held on the 9th of May, which happens to be the anniversary not of Rumanian independence but of Soviet victory.

The real Rumanian holiday contains, however, in the hearts of the Rumanian people, who continue secretly but proudly to observe their day of independence in their own private ways. So it is with these brave people that we join in celebrating this holiday and in expressing the hope and determination that all those now trapped behind the Iron Curtain will one day again be free to exercise their rights as human beings.

NEWS BULLETIN OF THE AMERICAN REVOLUTION BICENTENNIAL COMMISSION

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. WHITEHURST. Mr. Speaker, I am inserting in the RECORD the May 8 edition of the News Bulletin of the American Revolution Bicentennial Commission. I take this action in an effort to help keep my colleagues informed of the nationwide activities preparing for the bicentennial in 1976. The bulletin is compiled and written by the news staff of the ARBC Communications Committee. The bulletin follows:

BICENTENNIAL NEWS

At the May 1 ARBC Executive Committee meeting an informal consensus of the members agreed that the Executive Committee, after hearing reports of studies conducted by federal agencies, take the following position on the Philadelphia International Exposition proposal:

(A) That the Executive Committee does not have enough information to make a recommendation to the full Commission.

(B) Assuming that the information is accurate at this stage, the Executive Committee would find it difficult to recommend to the President of the United States the expenditure of this amount (one billion of federal dollars) for an International Exposition.

(C) If that is the case, it would be the responsibility of the Commission to continue with alternative programs for international participation in the national Bicentennial.

On Wednesday, May 3, Commission member, Ann Hawkes Hutton, was featured speaker in Memorial Hall, Fairmont Park, Philadelphia at the organizational meeting of the Women for the Bicentennial Committee. Mrs. Hutton underscored the decisive role women can play in the Bicentennial. The women who are active in Philadelphia's role for the commemoration come from throughout Pennsylvania, New Jersey and Delaware and are chaired by Mrs. Joseph Carson of Philadelphia. A series of meetings will follow the organizational session to develop tours and events to acquaint the public with local historic sites.

ARBC Director Jack I. LeVant will address the third meeting of the Southwest Regional Alliance in San Antonio, Texas on May 6th. The two-day meeting, May 5th and 6th, will discuss involving city bicentennial commissions in State planning. Representatives from the following states will be in attendance: California-Dick Pourade, John Davis, Charles Conrad; Arizona-John Eversole, Mildred May; Utah-Milt Weilenmann; New Mexico-Joseph Hullins; Colorado-Joe Albi, Floyd Sack; Oklahoma-Gladys Warren; Texas-Sam Kinch and Gene Riddle. According to Gene Riddle, Chairman of the Alliance, the group was formed to plan for the recognition of the contributions of the Indians, Spaniards and Mexicans to the development of the West.

An "Idea Fair" soliciting suggestions for improving the quality of life has been set up in Washington, D.C. Recommendations are requested "from school children and professionals, people on the street and community leaders" on making the nation's capitol a better city in which to live, work and visit in time for the Bicentennial.

The Honorable Harold Runnels of New Mexico presented a plan for Bicentennial participation by the citizens of Las Cruces to members of Congress recently. The Congressman outlined a plan for converting an area in Las Cruces into an American Frontier Center. The Center could include an all-tribal Indian Trading Post, operated and controlled by the Tribal Councils of New Mexico—the only such center in America.

Gesu elementary school in Northwest Detroit recently commemorated its 50th anniversary and the nation's 200th anniversary with a choral and dramatic show involving almost every one of the school's 1,250 pupils according to the director, Mrs. Gerre Wood Bowers. The show on which the children worked for 4 months was divided into time segments beginning with 1776 and closing with a finale of "Aquarius." Titled, "Through the Years," the show involved 1,000 children in the musical numbers, while the others took part in dramatic sketches or worked on lighting and stage effects.

The April issue of the *Quarterly Journal of the Library of Congress*, reflecting the increasing interest in manuscript sources for the study of the American Revolution, is devoted to the papers of the Marquis de Lafayette. Three illustrated articles deal with the papers at the Chateau de La Grange, Lafayette's home from 1799 to 1834; the Lafayette collections at Cornell University Library; and the Lafayette papers at the Library of Congress.

The ARBC of Connecticut has embarked on a publications program consisting of 30 to 40 booklets of some 60 pages each. The first four booklets, due to be published next year, will be entitled "Connecticut, The Provision State," "Connecticut in the Continental Congress," " Connecticut Military Leaders in the Revolution," and "Negroes in Connecticut During the Revolutionary Period." Commission Chairman Eric Hatch has expressed the hope that one of the purposes to be served by the program will be to stimulate public school teaching of the Revolutionary War history of Connecticut. The program is modeled to some extent on the highly successful series of pamphlets published by a special commission named to celebrate Connecticut's tercentenary in 1935. The editor of the publications program is Glenn Weaver, associate professor of history at Trinity College, Hartford.

Announcing plans recently for a comprehensive documentary presentation by the City of San Antonio (Texas) to the ARBC for designation as a Bicentennial City, Mr. Pat Legan, Chairman of the San Antonio Chamber stated that every effort will be made to have the Alamo city named the first Bicentennial City in the Southwest. "As a Bicentennial City, San Antonio will attract national attention, and hopefully obtain federal funding for the completion of major central city improvement projects before 1976—which in turn will contribute to the economic expansion and development of our city," he noted. The San Antonio Bicentennial Committee has been studying such central city improvement projects as the Mexican Market, the Del Alamo project, extension and beautification of the San Antonio River, and construction of a sports stadium.

The Georgia ARBC, in a meeting, recently discussed putting a Bicentennial Park near the famous Stone Mountain Memorial Park. The Park, Commission Chairman Ernest D. Key, Jr., noted would be part of the national proposal that is currently being studied by the ARBC for Bicentennial Parks throughout the country. Mr. Key said the Georgia Park would include the construction of permanent exhibit pavillions for each of the thirteen colonies and for France, Great Britain and the United States as a whole.

The Prince George's County (Md.) Bicentennial Commission in offering a $100 purchase award to the person submitting the winner design in their logo contest. The symbol will be used exclusively by the Commission in preparation for the county's celebration of the Bicentennial. Entries will be screened by the County Arts Forum and appropriate designs will be forwarded to the Bicentennial Commission for final selection. Deadline for entries is Saturday, May 13.

The production of a comprehensive "Atlas of Early American History" will be sponsored by the Institute of Early American History and Culture, Williamsburg, Virginia and the Newberry Library in Chicago. The two-volume atlas will be published in connection with the 1976 Bicentennial. Volume I will cover the Colonial period from the age of discovery and exploration to 1760, and Volume II will focus on the Revolutionary period, 1760–1790.

THE FOLLY OF FOREIGN MILITARY ASSISTANCE

HON. J. EDWARD ROUSH

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. ROUSH. Mr. Speaker, earlier this week I put into the RECORD the first two of a series by Lawrence Stern on U.S. military aid abroad. I would now like to add three more articles of that series. In these Mr. Stern is joined by an associate as he continues to detail the folly of foreign military assistance.

The articles follow:

U.S. MILITARY AID TO GREECE: WHO DOES IT HELP?

(By Laurence Stern and Dan Morgan)

Rep. Wayne L. Hayes: Congress made a pretty substantial demonstration last year that it didn't want any money to go to Greece . . . Does the opinion of Congress mean nothing at all to you folks downtown?

Assistant Secretary of State Joseph J. Sisco: On the contrary, Mr. Hays, we not only in our judgments take the views of Congress fully into account, but we have given them great weight.

American military aid to Greece, depending on whom you talk to in Athens, is either a political insurance policy for the five-year-old military regime or an important bulwark of American strategic interests.

Here is how some of the highest-ranking U.S. military officers in Greece describe its role:

"It is the cheapest way of making friends. It gets into the Greek papers. It's a heck of a good thing . . . It is one of the most important things that the United States does . . . It (the ruling junta) is the best damned government since Pericles."

The formal position of the administration toward the junta government, as Assistant Secretary of State Joseph J. Sisco testified last March 20, is that the U.S. aid program "is not intended as an approval of whatever the government of Greece is doing. This is an internal matter for them to determine . . . The principal justification for what we are doing is really on security grounds."

Finally, a prominent Greek opposition politician and former university professor puts it this way: "The survival of the regime has been made possible by the attitude of the United States and NATO's tolerance."

A quarter of a century ago, in asking Congress to inaugurate aid to Greece, President Harry S. Truman described its goals:

". . . To help preserve a way of life . . . based upon the will of the majority and . . . distinguished by free institutions, representative government, free elections, guarantees of individual liberty, freedom of speech and religion and freedom from political oppression."

MILITARY AID CONTINUES

Free institutions, by any commonly accepted definition, have not flourished in Greece since the 1967 military coup. But the flow of military aid has continued—even through three years and five months of a nominal U.S. arms embargo.

Since 1946, the United States has poured out $1.9 billion in military aid to Greece and $198 million in economic assistance. In return, the various governments of Greece from 1953 to the present have provided "rent-free" land for American military installations.

This year, President Nixon is asking Congress to provide Greece in "the overriding requirements of U.S. national security" a program of $20 million in military grants, $55 million in military credit sales and $38 million worth of excess weapons stock.

The request has already touched off a preliminary rumble in the authorizing committees of Congress. Last year Congress enacted a ban on military assistance and sales to Greece—but it left one loophole: the President could waive the prohibition in cases where he felt it was "an overriding requirement to the national security."

ONLY NATO DICTATORSHIP

Mr. Nixon promptly invoked it this year. "We gave you an escape clause which the President immediately used," complained Rep. Wayne L. Hays (D. Ohio) during a House Foreign Affairs Committee hearing last month.

The fact that the government of George Papadopoulos (or, in the coinage of critics, Papadocracy) is now the only military dictatorship in the NATO alliance has been a matter of some embarrassment to the United States and a handy cudgel with which to belabor military aid generally. It is also true that the United States is the only NATO ally to resume grant aid to Greece since the coup.

U.S. diplomats in Athens express to visitors the requisite amount of concern at the slow progress toward restoration of democracy by the junta. But they also take the position that there is little America can do about it and that the repressiveness of the regime has been over-advertised.

Aside from the direct grants, Greece receives large subsidies of economic and security assets stemming from its partnership with the United States in NATO.

Unpublished but official estimates in Athens show that the United States contributes $150 million out of $450 million worth of NATO projects in Greece. Included is Greece's share of such expensive electronic security networks as the $250 million NADGE (Nato Air Defense Ground Environment) system which stretches from Turkey to Norway. NADGE is an "electronic chessboard" that presumes the Soviet Union to be the opposing player.

A more elaborate electronic security blanket which will tie into satellites—the NATO Communication Program—will also provide participating benefits to Greece by 1977.

U.S. FIRMS REPRESENTED

American defense contractors are well integrated into Greece's share of the military-electronic-industrial security pie. Hughes Aircraft of Culver City, Calif. is the chief contractor in the NADGE industrial consortium. In the Greek Military Aid Mission there are 15 technical representatives of such firms as RCA, Lockheed, Pratt and Whitney and General Dynamics to service the complex computers and radars that have been given and sold to Greece.

Private investment is another major American economic input in Greece. U.S. investors have since 1953 provided about 40 per cent of the country's foreign capital. American dollars also comprise 60 per cent of Greece's foreign tourist earnings. The Esso-Pappas complex at Athens, directed by Nixon fund-raiser Tom Pappas, accounts for $166 million in investments alone.

When officials in Washington or Athens are asked to define the external threat to Greece, the answer more often than not is Bulgaria.

"There is no question that the Greek forces are outgunned by the Bulgarians," said a MAG officer in Athens. "The Soviets are giving them modern aircraft and artillery and they need modern howitzers on this side."

U.S. officials claim that a Soviet naval build-up in the Mediterranean could imperil the Sixth Fleet's ability to support Greece in the event the Bulgars try to smash through Thrace to the Aegean port of Salonika, or to the Bosporous Straits through which Soviet ships travel to the Mediterranean.

But as early as 1964, former Defense Secretary Robert S. McNamara turned a deaf ear to Greek entreaties for more aid to Athens on the basis of the Bulgarian menace. His suspicion was that Greece was more concerned about an attack through Thrace by its NATO ally, Turkey. In 1967 it took a major American diplomatic intervention to prevent the two U.S.-equipped NATO armies of Greece and Turkey from going to war over Cyprus. Today there is a far likelier prospect of a collision between Greece and Turkey over Cyprus than of either country going to war with socialist Bulgaria.

Greece's impending purchase of two squadrons of F–4 jet fighters with U.S. military aid financing has created severe alarm in Turkey as relations between the two countries are growing ragged again over the Cyprus question.

Adm. Horacio Rivers, NATO commander-in-chief for Southern Europe, maintains that neither Greece nor Turkey can afford to defend themselves. "Without our help their forces would just go down."

However Yugoslavia, which has no military allies and has received no aid since the mid-1950's, finances a defense budget nearly twice as big as that of Greece. Its gross national product is only marginally larger than Greece's.

Another argument by U.S. and NATO officials is that without American help Greece would have to divert money from economic and social development to defense.

But during the period of military rule in Greece since 1967, Greek defense expenditures have leapt from $240 million to $320 million. The defense share of the Greek GNP has gone from 3.7 to 5.1 per cent.

An important symbol of the security alliance between the United States and Greece is the JUSMAGG (Joint U.S. Military Advisory Group Greece) mission in Athens. It has 72 American military men and 38 civilian advisers.

MILITARY TRAINING PROGRAM

The JUSMAGG is an institutional hot line between the Pentagon and the military establishment that has ruled Greece since the coup. It supervises a military training program for the Greek army that has created an important "old boy" network of American-trained Greek officers.

Roughly half the division commanders and a quarter of the entire Greek officer corps have had some U.S. training at such schools as the Command and General Staff college in Fort Leavenworth, Kan., or the artillery, infantry and armored service schools at Fort Sill, Fort Benning and Fort Knox.

Some 12,000 Greeks have been given military training in the United States. Fort Sill conducts an artillery correspondence course in English that is being taken by more than 100 Greek military personnel.

As Congress now approaches its decisions on the new military aid program, the central issue concerning Greece is how far the United States should go toward continuing to under write a military dictatorship.

MORE AID AFTER CUTOFF

The United States formally suspended military aid to Greece after the 1967 coup to signal American displeasure with the junta government. Actually a staff study by the Symington Subcommittee on U.S. Security Commitments Abroad showed that Greece received—because of loopholes in the suspension order—$326.9 million during the three-and-a-half years of the embargo, more than it got during the previous three years.

But the aid program was resumed in 1970. Testifying to Congress on the resumption last year. Deputy Assistant Secretary of Defense James H. Noyes said the action rested "solely on NATO and U.S. security considerations . . . and should not be construed as a measure of U.S. approval for continuation of an authoritarian regime in Greece."

Yet a highly-placed member of the aid mission in Athens speaks of the program as an investment in an anti-Communist Greece, a guarantee that the present regime will not be replaced by a "fellow-traveling government that will sell America short."

U.S. ARMS PUT TURKEY ON SPOT

Turkey faces the harsh fact that it is a poor country in a club with some of the world's richest nations. The club is the North Atlantic Treaty Organization.

The fact was driven home by the impending U.S. installment sale to Greece of two F-4 Phantom jet squadrons (36 planes at $5 million each) to help meet NATO commitments. The deal is being financed under the 10-year repayment terms that the administration now wants Congress to extend to 20 years.

The Turks see in the fighter transaction the prospects of an Aegean arms race they are not in financial shape to sustain. Turkish officials in Ankara view it as a display of American favoritism toward Greece with the military aid credits.

Twice the two NATO allies narrowly averted going to war, in 1964 and 1967, in behalf of the Greek and Turkish residents on the island of Cyprus. The new Phantoms, say the Turks, would give Greek troops in Cyprus superior air cover if there should be a flare-up.

At this point tensions in Cyprus are growing. Any major crisis, such as the fall of President Makarios, could unleash forces that would bring the two Aegean mini-powers to the brink of war.

The specter of two American-equipped armies going to war with each other is a nightmare scenario for military aid planners.

India and Pakistan battled to a point of exhaustion in 1965 after a 22-day war with American-supplied weapons. That war resulted in an official U.S. policy of embargoing the sale and shipment of arms to the subcontinent—a policy that eventually sprang leaks and led by growing embitterment toward the United States.

DEPENDENCY GROWS

Today, Turkey is barely able to arm itself and to pay for the modern weapons that the NATO Defense Council deems necessary for the Turks. As more sophisticated equipment is introduced into the NATO armaments lifestyle, so grows the depency on the American logistical pipeline.

Unlike Yugoslavia, which has neither an aid program nor military allies, Turkey has not formulated an alternative defense policy that might enable it to withdraw from its high-priced NATO commitments.

In its new military aid bill the Nixon administration has proposed $100 million in direct military grants for Turkey, ranking it as the third heaviest beneficiary of the program, after South Korea and Cambodia. Last year Turkey's grant program was sliced from $100 million to $60 million as a result of congressional cuts in the foreign aid bill.

Since 1947 the United States has poured more than $3 billion worth of military assistance into Turkey. This has had the effect of keeping Turkey in the Western alliance. It has also strengthened local security for the secret electronic eavesdropping network in the East Mediterranean that has its ear cocked at the Soviet Union.

Turkey's agreement to play host for its portion of the electronics network for NATO's southern flank is a major justification for its share of the military aid program.

MOSTLY CLASSIFIED

The U.S. listening posts, known as "joint defense installations," are described by U.S. officials in Ankara as "highly elaborate, sensitive facilities which are vitally important to the security of the U.S. and Free World." The rest is classified, including the number of U.S. Russian-language officers in Turkey.

So sophisticated is the electronic spy game played between the United States and the Soviet Union that the NATO side was able to monitor the Russians as they monitored NATO during recent maneuvers in Greece and Turkey.

Since 1952 the American and Turkish officials entered into a series of understandings on the "common defense installations."

At first they were vague compacts entered into on the telephone or in cocktail conversation. By 1969 the two countries had entered into formal, written protocols regulating the American presence in detail, even down to the proper routes for U.S. military vehicles in Ankara.

Under these strict protocols, American dependents and servicemen live a semi-camouflaged existence in Turkey—not only for their own protection but also to keep the foreign guests in their place within the host country.

When Americans drive through the streets of the capital they are under instructions to keep their car doors locked. A U.S. Army colonel in Izmir confides that he uses a different route to work each day.

NO IDENTIFYING MARKS

The buses in which American children and dependents living in Ankara are driven to school resemble those used by the Turkish air force to make them less conspicuous. There are no identifying markings on most U.S.-owned cars, which enables them to blend in well with the jumble of vintage Chevrolets, Oldsmobiles and Fords driven by the Turks.

A policy of U.S. invisibility has been practiced since the wave of leftist demonstrations that culminated a year ago in the spectacular kidnaping, and later release, of four American Air Force men in Ankara.

Gone are the days," said an American with many years in Turkey, "when American soldiers climbed on the mosques and urinated down."

There is, at first glance, a touch of paradox in Turkey's seeking aid while insisting on a high degree of American invisibility. But it is a code of etiquette insisted upon by other governments, such as Thailand, as an affirmation of national sovereignty. National pride runs strong in both Turkey and Thailand, though both countries are among the United States top military aid clients.

As the Turks seek their contribution, they are not a dependent state in the trough of American largesse. One Turkish statesman described his country as a model of the Nixon Doctrine in action.

The American presence has been cut in half during Nixon administration. The U.S. manpower cuts were prompted by the desire to reduce American presence in the aftermath of bitter anti-American demonstrations. Another purpose was to save money.

The U.S. presence now numbers 7,300 men in uniform, 7,000 dependents and perhaps as many as 400 civilians. Five facilities, most of them radar units out-dated by satellites and other technological advances, have been turned over to the Turks.

This has left the host country with such nontransportable fringe benefits as bowling alleys and American-style toilets, as well as straight military assets.

Concomitant with the reduction of American manpower in Turkey, there has been an expensive upgrading in the military equipment and facilities that the Americans are leaving behind. This, too, would seem to be in harmony with the Nixon Doctrine formula.

At Incrik Air Force Base, for example, a NATO project is under way to harden the site of an American QRA (Quick Reaction Alert) Squadron of E4E Phantom II jets.

IMPROVEMENT NEEDED

American generals at NATO Southeast European headquarters in Izmir speak of a pressing need for more mobile radars, land-based air squadrons, better air defence communications and especially more modern tanks, aircraft and artillery for Greek and Turkish forces.

"Without the facilities in Turkey, we would definitely be hurting," says Lt. Gen. Richard H. Ellis, commander of the 6th Allied Tactical Air Force which has military responsibility for U.S. operations that might approach within 200 miles of Moscow.

Yet the Turks are beginning to realize that American aid has provided a security blanket that has tended to shield them from harsh economic realities.

The country is already spending $446 million a year on defense. That is 5.7 per cent of the Turkish gross National product, quite a lot for a poor country.

But the Nixon administration is asking the Turks to spend more on defense as their share of implementing the Nixon Doctrine. Turkey has reportedly agreed to raise its defense ante to 6 per cent of the GNP in exchange for more aid.

The poignancy of this is that Turkey is being pressed to raise its share of military spending at a time when the Congress is showing signs of rebelling against military aid, and when Soviet muscle flexing in the Mediterranean has become more visible than ever.

U.S. AID TO ETHIOPIA—FROM EMPEROR'S DENTIST TO JETS

When Ethiopian Emperor Haile Selassie pays his ceremonial visits to Kagnew Station, the U.S. intelligence listening post in Asmara, he often spends hours in an army dentist's chair with a nervous chihuahua growling in his lap.

The services to the emperor's remaining bad teeth are rendered as a courtesy, say officials at the facility, although he often bestows an expensive gift on the base as a token of the visit.

Aside from the dental care given its imperial ruler, Ethiopia's government has great reason to be grateful for the low-keyed American military presence embodied in Kagnew Station and its giant receivers that are turned toward the Soviet Union and the Middle East.

Kagnew is perhaps the most sensitive aspect of a 19-year-old commitment to Ethiopia which has enabled Haile Selassie to build his imperial armed forces into the predominant military power in black Africa.

The commitment has been carried out under a policy of calculated secrecy by Ethiopian and American officials alike.

"A little secrecy is a good thing in this part of the world," said one Ethiopian official who, like most Ethiopians interviewed during a two-week visit, asked not to be identified. "We have many enemies."

Secrecy is an important ritual in the emperor's style of governing the Christian-dominated Abyssinian highlands and the Moslem and animist-populated coastal and desert belts that comprise Ethiopia. In military matters this is especially true. Consider these cases:

Using American weapons and training, Israeli police and military advisers and some West German-supplied police equipment, Haile Selassie's government is effectively suppressing a rebellion that has simmered in Ethiopia's Red Sea province of Eritrea since 1962.

But neither the Ethiopian public nor even the highest American officials seem to be aware of the degree of American involvement in the Eritrean insurgency. Israeli and German diplomats request that their security assistance to Ethiopia not be mentioned in print.

The Ethiopian public has, in fact, never been officially told there is a rebellion in Eritrea. Government officials claim that the Eritrean Liberation Front's periodic ambushing of troops, derailing of trains or halting of buses on main roads is the work of money-seeking bandits or Syrian-supported agitators.

Local media recently reported that two American civilians injured in an airliner crash in Addis Ababa were flown to Asmara for treatment. But the newspapers said nothing about the large U.S. Army hospital where they would be treated. The existence of the American facility is not generally publicized within Ethiopia.

The first public statement spelling out the American military commitments to Ethiopia dating back to 1953 was made in the heavily censored transcript of the Symington Subcommittee on American Security Commitments Abroad in 1970. These commitments cost the United States at least $160 million in military spending, helped to keep a large American intelligence-gathering operation in northeast Africa and tended to fuel an arms race in the horn of Africa among Ethiopia, Somalia and the Sudan.

U.S. Ambassador E. Ross Adair, a former Republican Congressman from Indiana, says the $160 million spent on Ethiopia since 1953 is "a drop in the bucket, compared to our programs in Southeast Asia, Cambodia, Turkey or Korea." But he readily acknowledges that "when we discuss it with the Ethiopians, we point out to them that it is the lion's share share of our program for Africa. But in reality that kind of figuring is deceptive."

According to the picture drawn in official briefings and statements, the 97 American military advisers now in Ethiopia stress supply and communications training, and the role of Kagnew Station in relaying messages and conducting atmospheric research.

That picture is largely accurate, as far as it goes. Despite its officially described peripheral nature, however, the U.S. role in Ethiopia is more complex and controversial than officials wish to admit.

One of the key training programs MAAG (the military assistance advisory group) is conducting at the moment, for example, is to use the M-14 automatic rifles the United States began supplying Ethiopia last year. Most of the M-14s given to Ethiopia thus far have gone to equip three battalions in Eritrea. A U.S. Army major and two non-coms stationed in Asmara for MAAG supervise the training at the divisional level.

Even the small amount of U.S. economic aid allotted for use in Eritrea has become entangled in the counter-insurgency effort. About 2,000 tons of American wheat is used to recruit workers to build military airstrips around the Eritrean town of Kéren.

Ambassador Adair asserted that he had not known about the use of the wheat for the airstrip project. "I had been assured that the emphasis was on road-building and forestry projects," he said. "We do not want any kind of involvement of Americans in anti-guerrilla activities."

The initial agreements on the American military aid program to Ethiopia and the Ethiopian government's permission for the United States to use Kagnew were signed the same day, May 22, 1953.

Yet the MAAG commander for Ethiopia, Brig. Gen. John W. Collins III, and Kagnew's commander, Lt. Col. Chuck Light, denied in separate interviews that they knew of any interrelationship between the presence of Kagnew and the level of aid programs.

"Because the agreements on Kagnew and the military assistance program were signed at about the same time in 1953, a lot of people would say there is a quid pro quo," said Collins. "As far as I am concerned, that is not the case . . . There may be some element of quid pro quo that I don't know about, but it doesn't affect the job we are doing here."

Col. Light said: "We do not have anything to do with MAAG. We just go to work out here every day and don't worry about what other people are doing."

Although Light insisted that Kagnew's mission cannot be divulged publicly for security reasons, there are credible reports here that the station's receivers listen in on Southern Russian and Middle East Arab communications systems as well as relay official U.S. governmental messages. Light declined to comment on these reports.

Ethiopian officials also are anxious to discourage the notion that the $12 million level of American military aid spending is a trade-off for the right to operate Kagnew on Ethiopian soil.

"Even if Kagnew is not here any longer, we would hope that America would continue its aid as before at least," Lt. Gen. Debebe Haile Mariam, governor-general of Eritrea, said in an interview. "Our relations should not be based on Kagnew's presence."

The point is especially relevant now because of indications that Kagnew's importance as a communications and surveillance center is declining. Substantial cutbacks in the 1,800-man staff and their dependents are to take effect by June, along with heavy reductions in the operating costs of the base, which were $12.7 million in 1970.

Diplomats in Addis Ababa speculate that increasing reliance on satellites for intelligence and a reorganizataion of defense intelligence activities to reduce the marginal data fed into Washington are important factors in the decline of Kagnew's importance as a listening post.

An American familiar with Kagnew's work said, "At one time it probably would have been valuable to try to pick up chance Russian communications in the open from a station like Kagnew. But if that is their mission today, they are probably wasting their time. The Russians don't seem to be making those kind of mistakes any more."

A Kagnew technician recently told a colleague: "We are listening mostly to garbage."

Light predicts, however, that despite personnel cutbacks Kagnew would remain at the same level of operation until the 25-year base agreement with Ethiopia expires in 1978.

A former foreign service officer who had served in Ethiopia described the station's role this way: "Kagnew is convenient, but dispensable." That assessment might well apply to the entire U.S. military presence in Ethiopia.

Ambassador Adair describes Kagnew as "an important element" in the American decision to invest 80 per cent of its African military aid budget in Ethiopia. But he insists that "you can't assign a specific dollar figure to our interests in having Kagnew here."

Undoubtedly the United States would spend far less in Ethiopia if the Kagnew agreement had been drawn as a straight base-rights rental payment. The United States pays about $800,000 in military aid to a North African country (its identity is classified, but it is presumed to be Morocco) for rights to operate a similar facility.

American officials who helped design the military aid program and now work in Ethiopia describe its purpose as being as much a means of bolstering a regime friendly to the United States and unfriendly to the Russians and radical Arabs as it is a rent payment for Kagnew.

Adair variously described the purpose of U.S. arms aid as to insure domestic tranquility within Ethiopia, to keep peace in the horn of Africa, and/or to help the emperor defend himself against the Russian-backed Somalis and Sudanese.

Haile Selassie's fears of aggression by Somalia in 1960 stimulated a series of executive agreements which committed the United States to such measures as training and equipping a fourth division in Ethiopia's 40,000 man army; establishing a Haile Selassie I University; providing aid to the Ethiopian police and reaffirming America's "continuing interest in the security of Ethiopia and its opposition to any activities threatening the territorial integrity of Ethiopia."

These commitments were expanded in agreements signed at executive level in 1962, 1963 and 1964. The 1964 agreement, for example, gave the emperor a squadron of F-5 jet fighters for the Ethiopian air force.

Haile Selassie has managed to justify his requests for U.S. aid by invoking the specter of invasion by Somalia or Sudan. Adair concedes that the United States and the Soviet Union may have been sucked into what he calls a "miniature arms race" in the horn of Africa.

No member of the U.S. diplomatic establishment in Ethiopia was willing or able to assert just what all this has to do with furthering American strategic interests in Africa.

A private conversation with one of the more candid American diplomats produced this assessment, which probably serves as well as any:

"I don't think anybody can really say why we are so involved here. Like most of our involvements in the Third World, it just happened."

EL PASO NATIONAL DEMOCRATIC WOMEN'S CLUB SOFTBALL CHAMPS

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. WHITE. Mr. Speaker, a scarcely noticed event took place in El Paso, Tex., recently which I accept as an omen of good for my colleagues on this side of the aisle. After suffering narrow defeat at the hands of the El Paso Westside Republican Women's Club for 2 consecutive years, the softball team from the El Paso National Democratic Women's Club rose in magnificent wrath 2 weeks ago and took a rousing win over the Republican ladies. The final score was 27 to 5, hardly a contest at all, and it is because of the significant runaway nature of the outcome that I enter the results of this Democratic romp in the RECORD. I am proud to say that my fine El Paso office staff member, Mrs. Enriqueta Fierro, was a member of the Democratic ladies' team and that as president of the National Democratic Women's Club of El Paso she had the honor of accepting the game trophy. Thank you.

COMMUNIST INFLUENCE IN SOUTHERN AFRICA

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. SCHMITZ. Mr. Speaker, the "liberal" and Communist press of the World is continually berating the government of Portugal for successfully putting down Communist invasion and insurrection in Mozambique and Angola. Thanks to a good friend in the local Washington area, my attention was directed to two recent articles that give more documentation to the total Communist commitment, particularly from Red China, to the takeover of Southern Africa. The first article appeared in the New York Times of April 4, 1972. Under the byline of Dr. Jack Penn, the article is a clear indictment of the typical Western "liberal," who, shaping and fitting ideals to the contours of his own mind, has tried to create an issue of racism where none in fact exists. The second article is a review of an unsigned diatribe against Portugal, by the eminent John Eppstein, distinguished English man of letters, author of "British Survey," and former Secretary General of the Atlantic Treaty Association. Both of these articles are superb educational tools for those who sincerely wish to understand the integrity of Portugal's position.

The articles follow:

[From the New York Times, Apr. 4, 1972]

COMMUNIST INFLUENCE IN SOUTHERN AFRICA

(By Jack Penn)

JOHANNESBURG, SOUTH AFRICA.—Slogans and the persistent use of indoctrinating phrases are capable of blunting the perception of even the most objective mind. In this respect there is none so clouded in hypnotic power as the phrase "freedom fighters" as it applies to Africa. This grandiloquent title has stimulated the imagination of the Western liberal as consisting of brave black men attempting to eliminate the oppressive white man from the black man's land in Africa.

What are the true facts—for example, in Mozambique, where guerrilla warfare has been raging for over ten years?

The Portuguese have been in Mozambique for over a hundred years longer than the Americans have been in the New World. There are no segregation laws in Mozambique. There is no forced segregation as in South Africa, or forced integration as in the United States. Every man, white or black, is a Portuguese citizen and may integrate or segregate as he wishes.

There was peace in the land until the Communists took a hand in the situation. The Russians and Chinese have similar motives and similar methods, but in Southern Africa the inroads of the Chinese Communists are predominant as the Russians are concentrating on the Mediterranean and the Middle East.

The focal line of Chinese Communist infiltration is along the Tanzanian-Zambian railway presently being built by the Chinese. This is calculated to enable tens or hundreds of thousands of Chinese to come to Africa to strengthen their hold, in the first instance across the waist of Africa all the way from Dar-es-Salaam to Lusaka, and then to spread south in order to take control of the whole of "white" Southern Africa and the sea route to Europe and the U.S.

Along the borders of Tanzania are to be found the Maconde tribes, intelligent and artistic but primitive to a degree. Until recently they were cannibals. They still assume the habits of their past by filling their teeth and lacerating their faces, presumably to terrorize their neighbors. Many of the Maconde have been educated by mission schools and a small percentage have been granted scholarships in the U.S. and Europe where, fully educated, they have been snapped up by the Communists and trained in sabotage and guerrilla warfare in Moscow or Peking for two to three years.

They are then brought back to Tanzania as officers of the guerrillas. Headed by Chinese tutors they enter the Maconde villages to kill the headman in each village. This leaves the village without leadership and the men in the village are now "persuaded" under pain of extermination to become Frelimo and to learn to sabotage Portuguese transport. The Portuguese authorities, to counter this, have amalgamated the villages, enabling them to be protected. This has lowered the recruitment of unwilling Frelimo considerably.

The majority of the Maconde are against interference by the Chinese and form over 90 percent of the anti-guerrilla forces in this area. Thus, the black guerrillas are not fighting white Portuguese but black Portuguese, who are the real freedom fighters. The Portguguese military hospitals treat the Frelimo and loyal casualties in the same wards, without preference or favor. The result is that information given by the enemy casualties enhances the efficiency of the intelligence service of the army and those who are fit to fight again usually join the antiguerrilla forces, particularly as their families are now protected. The Portuguese are able to contain most of the terrorists effectively and will continue to do so until and unless there is an alteration of tactics.

The Chinese, however, are diligent, hardworking and intelligent. Their most important factor is patience, based on their religious belief in reincarnation.

It is obvious that the policy of the Chinese Communists is to eliminate the Europeans by using the black tribes for this purpose. If this were to succeed they would encourage intertribal warfare and probably total subjugation of the blacks. In this respect, paradoxically enough, they have been greatly assisted by Western democracies who have not only supported the terrorists by donating funds, but are actively preventing the rest of Southern Africa from obtaining arms needed for self-defense.

We are witnessing here the early skirmishes of the third world war. At the completion of the Tanzania-Zambian railway the Chinese hope to swamp Southern Africa from the north. The coastlines are already patrolled by the Russians.

The whole of Western civilization is next on the list and will remain vulnerable until we learn to judge our friends by their friends.

WAR ON THREE FRONTS

This unsigned diatribe follows the familiar line of the anti-Portuguese campaign. The introduction concludes, only too truly, that "the fight in Africa and the fight in Europe are one." The main thesis is quite simple. Portugal is a Fascist country in which "most of the people live under a reign of terror." It's Government clings to its African dependencies for prestige and for the money it makes out of them. Every measure taken in recent years to improve the condition of the African population is either ignored or represented as a fraud. The hoary myths of forced labour and downtrodden natives are repeated. The programmes of the Liberation movements, which are said to control most of Guinea and large slices of Mozambique and Angola, "reach beyond nationalism and reform, envisaging specifically the complete overthrow of the Portuguese regime by force if necessary."

COMMUNISM

Two ogres combine to thwart this beneficient design—NATO and South Africa. There is no mention, however, of the good fairies by whom the three Liberation Movements selected for praise (MPLA, PAIGC and FRELIMO) are in fact armed and trained for the fray, namely the Soviet bloc and China. It is not immediately apparent why it is sinful for the Portuguese to buy, wherever they can in the West, combat or transport aircraft to defend themselves, while it is perfectly virtuous for the amiable Mr. Amilcar Cabral to obtain, say, 101mm. Soviet rockets with which his braves, ensconced in foreign territory, are busily massacring African villagers in Guinea or for FRELIMO to have an ample supply of Kalashnokov and Simanov automatic weapons, mortars and plastic mines from China. Indeed what is particularly dishonest about the whole of this propaganda is that it is double-faced. While Messrs. Cabral, Neto, Santos or Samora Machel make no bones about their communist allegiance when they are consorting with their comrades in Russia, China, Cuba or Algeria, the very world communist is suppressed in all their publicity in Britain, Western Europe and the United States. The cat however jumps out of the basket in this tract. We are told that in MPLA, FRELIMO and PAIGC "participation in government is restricted to *party* members" (this is supposedly liberated areas); that "regional committees are responsible for the implementation of the *parties'* policies" and that meetings are called for all inhabitants of a village to discuss with *party* members the party's policies. The formula is all too familiar. As for the kind of subversion which the MPLA practices on tribesmen in eastern Angola, it is, we read, "the centre for Revolutionary Instruction (CIR) which is in charge of education . . . The CIR also runs similar courses outside the country and altogether they were able to train 1,300 militants in 1969." Just the thing for the World Council of Chuches to finance!

LIBERATION

Why, ideology apart, have the "liberation movements" failed, as they clearly have done after ten years, to win the support of the population as a whole in any of the three Portuguese African territories?" *"War on Three Fronts"* offers us no explanation. There are several reasons which are apparent to the observer who, unlike the author of this pamphlet, has recently travelled as I have done through the parts of Angola and Mozambique * which have felt the impact of the "Liberators."

In the first place these areas, with two exceptions (the wooded Dembos mountains and the Mueda plateau) are vast, sparsely inhabited tracts without towns or even important agricultural enterprises. Hard as it is for the tribesmen caught between two fires, and great as are the army's difficulties in coping with the rural guerrilla in such circumstances, these goings on in the wilderness have no effect upon nine-tenths of the population in either Province or upon its economic prosperity. They are further from Luanda or from Lourenço Marques than Ulster is from London.

WORLD EXPERTS

Secondly the Portuguese armed forces are now the world's experts in counter-insurgency. Ever since 1961 they have proved more than a match for any military thrust of the insurgents except for the pressure of FRELIMO in 1967. But the heavy defeats of FRELIMO last year in Cabo Delgado have loosened its hold on the Maconde, the only tribe of importance from which they have drawn their fighters, and established the army's acendancy in Mozambique. Its defensive perimeter around Cabora Bassa has proved effective. In Angola the MPLA are chiefly concerned to avoid tangling with the troops. In the first six months of 1971 (according to official figures) 31% of all terrorist actions were attacks on civilians, only 8.1% were attacks on the troops; the remainder were mainly minelaying or mortaring from a distance.

---

* I have no personal knowledge of Guinea.

Thirdly there is a fighting spirit among the people, who give every evidence of the conviction that they are defending their country against external aggression; this is, of course, reinforced but cannot be created by official propaganda ("All united we shall make a better Angola", say the ubiquitous posters in that province, showing Black and White comradeship). I have spent some time with various units of the provincial forces in both countries, including the Special Troops. Black volunteers vigorously trained as commandos after completing their national service.

ALL BLACK

Their morale and discipline are impressive. Two-fifths of the armed forces (roughly 40,000) are provincial troops, nine-tenths of them Black. To the regulars and Special Troops must be added the steadily increasing total of the militia—all Black—who undertake the defence of the *aldeamentos* and other villagers armed for self-defence. There must now be 25,000 of these now in each province. In other words Portuguese African troops alone greatly outnumber the combined forces of the "Liberation movements" (not that they are remotely likely to combine). This alone is evidence of the stupidity of the Pan-African propagandists who continue to assume, as this pamphlet does, that their beloved Black-versus-White complex exists in Portuguese Africa. If it did, it would be suicide for the Portuguese authorities to arm their Black citizens to this extent.

ALDEAMENTOS

The policy of "villagisation" is the main means adopted by the authorities to protect the population counteract subversion and at the same time promote social progress in the areas affected by hostile infiltration in Eastern Angola. Cabo Delgado, Niassa and Tete in Mozambique. It was therefore to this that I gave most attention when visiting these parts in October 1971. A typically malevolent travesty of this policy is given in this booklet in its reference to Tete. After saying that "the South Africans have already sent troops to reinforce the defenses of the area," which I am satisfied from all that I learnt from the military authorities there and my visit to Cabora Bassa, is a downright lie, it goes on "Their (Portuguese) tactics include clearing the area of its inhabitants by putting them behind barbed wire in protected villages."

SELF DEFENCE

I saw in all fourteen of these new villages or *aldeamentos* in Mozambique and Angola and I did not personally see a single strand of barbed wire, though I know that some villages, exposed to areas of violent subversion, have barbed wire and also shelters against mortar fire. The protection, except for the proximity of a military unit in some dangerous spots (e.g. the *aldeamentos* at Mueda on the Maconde Plateau and Santa Eulalia in the Dembos are next door to Brigade Headquarters) consists in organised self defence by the villagers themselves. Each *aldeamentos* has its own militia, varying from 30 to 60 men, according to size, armed with mauser rifles, the leaders having automatic rifles or submachine guns. They are well trained and, from what I saw of their exercises, quick off the mark. It is rare for the "terrorists" to attack an *aldeamento;* they go for the undefended kraals and scattered huts.

But what is the particular reason for the creation of *aldeamentos* in the Tete district, apart from the resettlement of the 25,000 people who will be displaced by the great lake above the new dam which is the responsibility of the national board, or *Gabinete,* for the Zambesi Development Project?

RECRUITMENT

FRELIMO, having been severely defeated during the last year in Cabo Delgado, have transferred their main attention here in an attempt, hitherto wholly unsuccessful, to interfere with the building of the Cabora Bassa with the building of the Cabora Bassa dam. The difficulty, which the able and ruthless FRELIMO commander, Samora Machel and his Chinese instructors face, is the shortage of troops; for the Maconde, worsted in their own highlands, refuse to fight in this part of the world. The method of collecting recruits is to send small parties of five men, organized by political commissars to as many as possible of the scattered settlements of their thinly populated area with its mosaic of tribes. They ask the *soba* (headman or chief) of a village or a group of villages to come aside and talk to them. If he shows any reluctance to meet their demands for recruits or food—and generally if he speaks Portuguese—they shoot him and carry off from the terrified village a few men and boys for training and indoctrination, many of whom escape and tell the tale (some bringing with them their little Red Books of Chairman Mao printed in Peking in Portuguese). Between January 1st and June 30th, 1971, FRELIMO murdered in this way thirty two unarmed chiefs and eight in the next two months. As it is impossible for the army to give protection to every hamlet, the only answer to this cruel "selective terrorism" is to form large, compact villages in which the people can defend themselves. There are already 114 of these *aldeamentos* in the Tete district: the target is 300. Over 300,000 of the Maconde and Macua tribes have been settled in 273 *aldeamentos* in Cabo Delgado. In the Niassa district there are 116 with 170,000 inhabitants.

MUTILATIONS

The same policy has been followed in the huge area of the Eastern Command at Luso in Angola: the Moxico and Cuando Cubango districts alone are larger than France but account for only 7% of the population of the Province. Here the same "selective terrorism" is operated by the MPLA, who have infiltrated the whole area from Zambia, for their press-ganging purposes; murders varying from half a dozen to twenty a month are reported and occasional mutilations, chiefly by slitting or cutting off ears, with 100 or more men and women kidnapped. The army, however, has had great success in recovering the population from terrorist control and many who have been subverted surrender under amnesty. (Over the last four years the numbers thus "recuperated" have averaged about 1,000 a month.) These and other countrymen are grouped in the largest clusters of *aldeamentos* which I have seen, around Luso and along the busy Benguela Railway as far as Lumege, while others are located more sparsely further south. The majority of the population of Moxico is now accommodated in these hundreds of new villages. Some are also well established in the now peaceful north of Angola where they were first formed. There must now be at least a million people living in the *aldeamentos* of the two Provinces.

OPPORTUNITIES

This is creating an entirely new social structure in these hitherto under-developed parts of Central Africa. While self-defence is the primary and evidently successful purpose of the *aldeamentos,* the opportunities which they give for educational and agricultural progress and the improved health of the people are very great. While it was impossible to provide a school for tiny scattered hamlets, one or more primary schools—the familiar white building with its four classes and earnest young African teachers—seem to spring up like mushrooms in every *aldeamento* even before the majority of wattle and thatched houses are replaced, as they all are gradually, with permanent buildings of concrete and clay blocks. I find no difficulty in believing that school enrollment rose in Angola from 119,000 in 1960 to 500,000 today or that there are 622,000 boys and girls at school in Mozambique. Nearly every village has its piped water supply a boon to the African woman. In the surrounding land provided for cultivation (still mainly cassava and maize) improved agricultural methods are taught as soon as possible; and while the dislocation of population by the guerrilla movements impedes the systematic vaccination against sleeping sickness, cholera and other tropical diseases or the immunization against malaria, on which the Portuguese health authorities are so keen, this concentration of population enables the prevention of illness to be carried out systematically.

MAKE-BELIEVE

If, as has often been said, the shock of the Bacongo explosion in 1961 stimulated the Portuguese into a programme of social, educational and economic reform which has achieved more in ten years than was accomplished in Angola and Mozambique in the previous century, it is equally true that the rural guerrilla to which the backward, peripheral areas of the Provinces have been subjected during that decade is producing, through the *aldeamento* policy, the social reconstruction which I have described. Such I believe to be the true picture of the human consequences of the petty terrorism to which, failing the possibility of military victory, the "liberation movements" have been reduced in the sparsely inhabited border lands in which they play hide and seek with the Portuguese forces. Such are the "liberated territories" to which so much solemn make-believe is devoted in this pamphlet. When one sees on the map Porta Amelia, with its regular air service, or Vila Cabral and Nova Freixo, where I have been, included in the "liberated area" of Mozambique—places where no FRELIMO militant has been seen for years—or even Mueda which is the centre of continuous Portuguese military operations to mop up the remaining FRELIMO pockets in the surrounding woods, one is pardonably sceptical about the pretended social development of these imaginary "liberated areas".

TERRY'S DECISION HIGHLIGHTS PLIGHT OF CONGRESSMEN

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. HUNGATE. Mr. Speaker, we are all sorry to lose our good colleague, JOHN TERRY, by retirement and following is the article which outlines the problems with which all Members of Congress are painfully familiar:

[From the New York Times, Apr. 30, 1972]

TERRY'S DECISION HIGHLIGHTS PLIGHT OF CONGRESSMEN

(By Richard L. Madden)

Well into his first term in the House, Representative John H. Terry, a Syracuse Republican, seemed to have established a secure base for a long and successful Congressional career.

Even Democratic politicians in Syracuse regarded him as a shoo-in for re-election.

He had established a somewhat conservative voting record in the House, which fit nicely with his constituency back home, and a good attendance record, even while commuting home most every weekend to make appearance in his nine-county district extending across the Finger Lakes.

At age 47, with 11 years on the Onondaga County Board of Supervisors and eight years in the State Assembly at Albany behind him, he had moved easily into the politics of the House as an active and enthusiastic member of the Interior and Public Works Committees.

Yet, a week ago, Mr. Terry stunned his colleagues here and the politicians back home by announcing that he would not be a candidate for re-election to a second term.

FAMILY TIES STRONGER

Mr. Terry's decision to give up Congress—"and I love this place," he insisted—and to return to his law practice in Syracuse at the expiration of only one term points up some of the seldom-talked-about problems that a number of members of Congress encounter when they try to combine a career in Congress, the political work to get re-elected every two years from their home districts, and their family life and financial security.

In Mr. Terry's case, according to his own account, he opted for the family.

As he sat in the Speaker's lobby off the House floor the other day and discussed his decision not to run again, it was apparent that the actual financial cost of being a Representative was brought home to him for the first time when he signed his Federal income tax return two weeks ago.

The Congressional salary of $42,500 "is a helluva lot of money," he said. But by the time other costs are added in, maintaining an apartment here and the family home in Syracuse, travel back and forth, trips and appearances through the nine-county district, picking up the tab for a lunch or a drink—"How can you make ends meet does present a problem," he said.

Mr. Terry explained, for example, that he made 47 round trips last year between Washington and Syracuse. The House reimburses its members for only 13 such trips a year and the round-trip air fare in his case can range from $64 to $80 a trip.

EXPENSES ARE HIGH

He opened an extra district office, partly at his own expense, in Shortsville in Ontario County, he said, "because I didn't think a guy living in the far edge of my district should have to travel 100 miles to see his Congressman." The telephone bill for his district offices last year, he said, amounted to $2,360. His House allowance for the phone service was $1,200.

"Sure I could cut down on some of these things and save a few bucks but I wouldn't be doing the job," he went on. He said he was not advocating higher salaries or allowances. In his years in public office, he said, he has received salary increases but had never voted for them, "so I don't want to be tabbed as advocating spend-money. But it does present a problem."

In announcing his decision not to run again, Mr. Terry also noted that one of his daughters had one more year of college left and two other daughters had their college education ahead of them. A fourth daughter, whose husband is missing in action in Vietnam, also lives at home.

Even when he is home weekends, he said, the political obligations to meet constituents, to make appearances and to attend functions severely limit his time with his family. A number of members of Congress have resolved this problem by moving to Washington, but Mr. Terry said he did not want to uproot his family at this point.

So at the last minute and with time to circulate petitions for renomination upon him, he said he decided to go back to Syracuse and to his law firm, where he started out as a law student making 50 cents an hour putting books back in the library shelves and where he was a senior partner before being elected to Congress in 1970.

Had he not made his decision now, he said, "the next two years would have been that much farther down the road" and it would be more difficult to return to his law practice.

The surprised Republican County leaders have designated former Mayor William Walsh of Syracuse as the Congressional candidate to replace Mr. Terry.

As he walked from his office to the House floor to vote one afternoon this week, Mr. Terry was stopped by two Democratic Representatives who wanted to shake his hand and to ask if they could talk him out of his decision. "No," Mr. Terry replied, "I've loved it, but with the family—it just didn't fit," he added, entwining his hands together.

"I can understand that," one of the other Representatives said. "My kids are grown and away from home. If they weren't, I don't think I could do it either."

PRESIDENT NIXON'S TOUGH ANTI-TRUST POLICY?

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. LEGGETT. Mr. Speaker, last week, the President, through his Cost of Living Council announced the lifting of controls on over 5 million small firms. The purpose of this move was to allow the enforcement arms of the program, in particular, the Internal Revenue Service, to concentrate on that small number of very powerful firms whose price and wage decisions affect the economy each day.

I personally feel that this action was taken correctly. That is the reason I must shake my head in bewilderment over the contradictions that characterize this administration.

The Congress and the American people are told time and time again that this administration does not favor big business, and in fact actions are taken which should result in antitrust actions being initiated to break up these huge monoliths only to have the rug taken out from under each initiative.

During the most recent ITT scandals, the administration pleaded that it was the Republicans that brought ITT to court to divest itself of its controls over so many other industries. And yet, we are now told that the President, through his Office of Management and Budget, has cut drastically into the staffing of the Federal Trade Commission thus further insuring that no cases against the concentration in the steel, energy, drug and electrical equipment industries will be brought.

Mr. Speaker, either this is the case of an administration without a head, or we are having revealed to us in the clearest of all terms, that the President has no intention to bust up big business concentrations.

In either event, it is plain that the American citizen is the doormat of big business and will continue to be so as long as this administration is in office.

I would like to take this opportunity to introduce an article tracing the most recent emasculation of the Federal Trade Commission into the Record. This article by Bailey Morris of the Washington Evening Star, Wednesday, May 3, 1972, while not pleasant reading, is indeed instructive of the real purpose and meaning of the President's "antitrust" policies:

[From the Washington Star, May 3, 1972]

FTC Chief Says OMB Cuts Slow Probes

(By Bailey Morris)

The chairman of the Federal Trade Commission has disclosed that some of the agency's large scale antitrust investigations have been slowed down as a result of manpower cuts dictated by the Office of Budget and Management.

Miles W. Kirkpatrick, under congressional questioning at budget hearings yesterday, said the FTC had "laid aside" an investigation of concentration in the auto industry because of "lack of manpower".

In addition, Kirkpatrick said the FTC will not be able to get to a study of concentration in the steel industry which it had been considering.

Steel was laid aside because of lack of manpower and other considerations which cropped up Kirkpatrick said.

He added that the agency had other concentrated industry studies in mind but they will not be turned out fast or as quickly as they would have been done if the manpower requested in its fiscal 1973 budget had been approved.

OTHERS CONTINUE

Kirkpatrick revealed that the controversial studies had been stalled in answer to questions raised by Rep. Frank Evans, D-Colo. Still ongoing are studies of concentration is the energy, drug and electrical equipment industries.

Evans also asked Kirkpatrick to explain why the FTC, in light of its reports on assets controlled by the 200 largest corporations and other merger data, had asked for nine less lawyers in its Bureau of Competition than it requested in the prior year.

"You're being allowed by OMB to request 9 less than you state you need for adequate anti-trust activities—is that correct," Evans queried. Kirkpatrick said, on the basis of manpower requested, the answer was yes.

In other action, Kirkpatrick disclosed that the FTC's Bureau of Competition is now devoting about 50 percent of its resources to studies of the food industry.

REPORT ON FOOD

This has resulted in an investigation study of the dairy industry and a new updated report to be released this Fall on the structure of the food industry itself, Kirkpatrick said.

He disclosed the studies in answering a question posed by Rep. Jamie L. Whitten, D-Miss., chairman of the House Appropriations Subcommittee.

Whitten, expressing concern over the effects of "bigness" in food marketing, said he had noticed that "the FTC plans to dig into food distributes problems."

Turning to other matters, Whitten, reading from a study of the FTC prepared by Congressional staff members, said it ap peared that the agency "lacks definitive policies as to where it is going."

PLANNING PROBLEM

Kirkpatrick, saying that planning has been a "perennial problem" at the FTC, told the committee that the agency has requested funds for computerized planning tools and more economists to help it keep track of its caseload and to set priorities.

"We've gone ahead in this area," the FTC Chairman said, explaining that the first phase of its computerized studies, which includes a "planning inventory system," is well underway.

In answer to remarks by Whitten that it appeared the FTC "does little to follow up" or police consent orders negotiated and proposed complaints, Kirkpatrick cited manpower problems.

ONE-MAN STAFF

The FTC's compliance efforts have been weak, Kirkpatrick said, because of lack of manpower to carry them out. Each FTC Bureau has a compliance staff, the chairman added, but in the Bureau of Consumer Protection, the FTC's largest, the staff is composed of just one person.

Altogether the FTC is asking Congress to approve an increase in its fiscal 1973 budget of $1.88 million and appropriate 20 new positions.

The funds are "the minimum needed" to allow the FTC to keep up its antitrust and consumer protection activities, Kirkpatrick said.

He told the committee that in the first nine months of fiscal 1972, the FTC has issued more final orders than for all of fiscal 1971 and fiscal 1970.

So far this year, 228 final orders have been issued as opposed to 208 in fiscal 1971 and 217 in fiscal 1970, he said. In addition, 10 formal complaints are pending in the Bureau of Competition and 39 are pending in the Bureau of Consumer Protection, he added.

The increased case load, which includes 54 "tough ones" on the docket now, are the result of a deliberate policy change by the five-member commission, according to Paul Rand Dixon, FTC commissioner also present at the hearings.

Commissioners decided that "we're going to be tough now," Dixon said and as a result, the agency has been involved in more litigated cases and fewer consent order agreements, he added.

LONG BEACH, N.Y., IS 50 YEARS YOUNG

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. WYDLER. Mr. Speaker, the city of Long Beach is where I grew up as a boy and where I went to school. The recent reapportionment has meant that the city has become part of my new congressional district, and I look forward to serving it in the Congress of the United States.

Long Beach is celebrating its 50th anniversary year. Its residents and organizations are producing over 70 separate events during the next 6 months to celebrate this milestone and to stimulate civic pride in what has become an all-year residential community.

During these 6 months there will be street festivals, field days, concerts, historical pageants, fireworks, square dancing, displays, parades, and contests. In addition, there will be a city-wide beautification campaign with a clean-up drive and planting of shrubs and trees, as well as a refurbishing of store fronts and public and private buildings.

Theodore Ornstein, distinguished citizen of Long Beach, is chairman of the 50th anniversary celebration. The goal is to revitalize Long Beach as a dynamic model city. What follows are some "Memoirs—Of a Lovely City," by Thomas E. Ireland, Sr. Many of the things he talks about are part of my boyhood memories:

MEMOIRS—OF A LOVELY CITY

(By Thomas E. Ireland, Sr.)

As a boy my family spent the summers of 1920 and 1921 as summer residents here in Long Beach. I was four years old and the youngest of my widowed Mother's five children. Then in 1922, my Mother had Edward Farrell the builder, build 87 Pennsylvania Avenue for our family. We spent the next several summers here after that.

Long Beach's main avenues were all made of pretty red brick roadbeds which were installed by Connor Bros., who were resident contractors. The red brick was most attractive and lasted for decades. Some of it is still in evidence today; more than 50 years later.

The West End streets from Ocean to Bay were paved in a light sandy colored concrete; which was joined perhaps every fifty feet or so; with a cross rib of thick black tar seams. The wider avenues; such as Pennsylvania, Delaware, Arizona, etc., had a narrow elevated concrete island in the middle. It was on this center strip that concrete light poles were installed.

The summer sun would melt the tar strips and the children's favorite pastime (including mine) was to scoop it out on sticks and fashion our initials on the broad cement light poles. At summer's end, all knew that his initials would remain there for posterity. They did, and greeted us upon our return each summer. Several years later I returned very proudly to show several of my own children Daddy's initials; still vivid on one or two light poles on Pennsylvania Avenue. The center islands created a traffic hazard as the City grew and were removed, light poles and all. I would guess sometime in the late forties or early fifties.

Whether "swimming" or "bathing" was desired, we had a choice then. Not only was the ocean available; but the Bay was open for public swimming at the end of each street, for those who preferred it. The water was clear (though the bottom was mucky); and an ample beach existed, where families could spread out for the day. Power boating was minimal, although row boats were available at "Al's Pier" on Pennsylvania Avenue and the Bay.

At summers end the swimming races were held in the Bay. Contests for various distances and strokes were provided for children of different age groups and medals and prizes were awarded to the winners. Eleanor Holm who later became a famous lady, learned to swim in the Bay and lived on Pennsylvania Ave. She had a boyish bob, freckled face, and a temporary brace on her teeth; and a great natural skill in the water. Even then, her special talent, her love of competition, and her great beauty to come, were evident. It seemed that all of us would return to the City each winter; bronzed and healthy and a few inches taller.

Geographically, New York Ave. officially divided the West End from Westholmes; and the East End started just East of January to December Walks. Traveling West, the West End ended a few blocks past the West End Theatre at Beech St. and Tennessee Ave. My mother would take us to the movies on rainy days, to keep us entertained and to keep us dry. The theatre roof leaked in so many places that it was difficult to keep completely dry. The theatre later became the Nautilus and recently burned down.

There wasn't any Atlantic Beach, nor of course any Atlantic Beach Bridge—just sand and sand; as far as the eye could see. That was it! One building was visible on the Beach and it was a stable owned by the Connor Bros.; it stabled their riding horses. My older brother Ed and sister Anne often got to ride one of these fine horses along the Beach; since they were friends of young red headed Pete Connor who was about their age.

The only way to get to Long Beach by car from Brooklyn was via the Merrick Road; since the Sunrise Highway had not yet been born. Merrick Rd. was not much wider than two lanes, one for coming, and one for going. If one car broke down, the traffic would back up for miles, and the trip would take hours. We broke down a few times, but Mom was an expert, and seemed able to get the 1921 Hudson going again in a few minutes, usually with the aid of a "hairpin," properly inserted somewhere under the hood. Acrid smoke, gasoline and oil fumes were the order of the day, in traffic, and I still vividly remember the offense to my young nostrils.

Where "Nathan's Famous" on Long Beach Rd. now stands, was the "Roadside Rest". This was a small stand in 1920, 1921, and 1922; which featured hot dogs, ice cold soft drinks, and home made fudge. We never failed to stop there on our way to Long Beach. I think, to Mom, it was a sort of seventh inning stretch, and for us, a rush to the rest rooms, and then some refreshment. Also, there were two stout trees in the rear where the management hung one makeshift swing. We always had a mad scramble to see whose turn was next on the swing; before being herded back into the Hudson for the final leg of the trip to Long Beach. Each year, the Roadside Rest added a few feet in all directions; and we watched it grow over the years, to the tremendous Restaurant which it finally became. Its latter years offered in-door and out-door dancing, under the stars and lanterns or under its massive roof, to two name bands of the day.

Nathan's of Coney Island, of course bought it out years later for a spectacular price; and while it is there today to be enjoyed by all; I still have a nostalgia for the old "Roadside Rest."

Our beautiful boardwalk was here then, as now, but only went as far as the Nassau Hotel which was the most elegant hotel of its day (now the Promenade). Many concessions including games of chance and skill existed and were for the most part staffed by Japanese people. Game winners were presented with coupons; and the idea was to collect enough coupons during the season to claim one of the better prizes by the labor day week-end.

Each summer, my brother spent much time and money on these games with one thought; to win live singing canaries which were awarded in small wood peg cages. He had a good deal of disappointment season after season, bringing his newly won bird home; only to learn during the winter that while some sang, many didn't.

On week-ends, an occasional "sand artist" would appear on the beach. He would carry several bags of various colored sands on his back, set them down, and proceed to smooth a section of sand somewhere between the wet sand at the waters edge, and the dry sand. This would draw a crowd and he would mark a "frame" in the sand with any old available stick. Now, he would select hand fulls of beautiful bright red, green, blue, yellow, etc., sand and toss them seemingly indiscriminately; until he had accomplished a beautiful mural in the sand. Viewers from "our" beach and a few neighboring beaches would crowd about to enjoy his artistry and give him coins in appreciation. He would set his sand bags on the wooden jetty; gather his coins; and move along a few beaches further to repeat his special performance.

Prominent contemporary names of the day during the twenties, in my recollection, included Gov. Alfred E. Smith, who had been elected Governor of New York, and seemingly was a topic of much adult conversation; Gertrude Ederle, first American woman to swim the English Channel; and a fellow named Charles E. Lindbergh, who had flown solo, non-stop from New York to Paris; and caused West Enders to run through the streets knocking on doors, screaming with joy, "He made it. He made it. Lindy made it!"

On the local scene, it was Judge Frank Hogan, Long Beach's first judge who seemed to poll the highest plurality in every election. Judge Hogan, whose portrait today hangs in our modern City Hall Courtroom presided in day and night court for many years. Night Court was put out of existence in 1930; but I remember that my mother and aunts attended many sessions as spectators and used to say it was one of the best shows in the State.

Other neighbors included John Cashmore, the then Boro President of Brooklyn, who spent his summers on Nebraska St., just behind us. Also the Kelly family on Pennsylvania Ave., whose son Paul Kelly went to Hollywood and became a famous actor. Paul won one of the early Academy Awards, while his brother Jesse Kelly later opened a bar on W. Beech St.

Harry Woods, who was Water Commissioner of the City of New York, and one of the early founders of the Knights of Columbus, was also a neighbor.

Paul Berlenbach the light-heavy weight champion of the world would greet admiring crowds at Mass on Sunday at St. Mary of the Isle R.C. church. The champ would arrive at church in his bright red Auburn touring car, with two magnificent pedigreed great dane dogs filling the rear seat. Always gracious, his huge hands would shake the hands of six to eight youngsters at once.

The West End Fire House was on Beech St. and Alabama St. and it's alarm was a shrill oppressive siren which drove many a child with sensitive ears under the bed in terror.

The adult Beau Brummel of the day wore white linen knickers, black stockings and either all white or black and white shoes; topped off by a Bright Blazer or sweater. By night he would wear the inevitable white flannel long trousers, and a blue dress jacket. Straw hats were a must for the men (Straw Katys) and the ukulele was the musical instrument with which a lothario would woo and pursue the lovelies on the beach.

The Olympia Pool on the board walk was also our joy and featured Stubby Kruger with his Comic Diving Exhibitions, and a very capable one-legged life guard whose name was Sam. Herbie Hobbs and his brother were the stalwart life guards on our beach; and a family named Manfredonia did a very brisk business with a soda and hot dog stand built under the boardwalk on the beach at the foot of New York Ave.

In researching for this article I was surprised to learn that a City Councilman's salary was $5,000 a year in the year 1927; and also to be reminded of the City's many volatile political situations throughout the years.

I was too young of course to evaluate politics, but know that Long Beach officially became a City on April 13, 1922 and the signature of Governor Whitman.

Rum running was rampant along our shore front and I actually recall witnessing with the aid of my uncle's binoculars, a U.S. Coast Guard boat chasing and gaining on a boat which was "running rum". I can still see the fleeing boat furiously dumping overboard what seemed to be cases made of rough new lumber, reflecting the Sun's bright light as they bobbed up and down, in and out of sight in a rough surf, towards shore. If overtaken, the lawbreakers could not be prosecuted, having dumped the evidence overboard. Our resourceful life guards dragged and strained in the sand and pulled their Katamarans (pontoon boats) into the ocean and rowed out to claim the treasure. Each would fish out and stow aboard as many cases as safety would permit (and sometimes more), return to shore and carry his prize to the life guard shack which was in the center of the beach. Some would venture into the sea for a second trip and a third. The life guards then pried open cases as the adult bathers formed a crushing, ever narrowing circle about them; and the guards then auctioned off their loot, bottle by bottle. It was scotch, and I believe it went for $10 a bottle while the bidding was spirited; and less as the crowd dwindled, and caution set in.

Mayor Reynolds, our first Mayor, inaugurated the West End Baby Parade which was held on September 3, 1922. The winners of the first prize were the two year old twin daughters of Mr. and Mrs. Frank Waldon, Virginia and Dorothy. The parade grew annually and became highly competitive, not consisting of baby carriages; but of huge floats, depicting various themes.

In the second parade of September 1923 (my mother had carpenters behind the house working half the summer). Our first float was entered. Each evening she would have the carpenters cover the float with a huge canvas and a couple of bed sheets to prevent anyone from using our theme; and I guess to preserve the element of surprise for the big day. All five of us children were entered, Ann, Ed, Claire, Adelaide, and Tom (the writer), as a "World War I Tableau." We were blooded and bandaged dough boys "going over the top" and the girls were pretty Red Cross nurses. We proudly won first prize. The Mayor Reynolds cup.

In September of 1924 just my Sister Adelaide and I were entered on a lovely float complete with theatrical scenery depicting Gertrude Ederley swimming the English Channel. Addie, complete with heavy grease, cap and goggles swam furiously among the theatrical waves, while I perched on a high stand, cheered her on as "Uncle Sam." Again we took first prize. It was the Mayor Reynolds Cup again, although Frank Frankel had been acting Mayor since July 5, 1924.

September 1925 we were entered on a float. This time the theme was "The Moth and the Flame," with yours truly enconsed inside of a huge candle, red crepe paper around my head and just my face showing. Addie was a beautifully costumed winged moth, flying about my head. This time it was first prize again; and we collected the Mayor Frankel Cup.

Our final appearance was in September 1926 on a large float depicting "The Cat and The Canary." I was the cat clawing at the large gold wooden cage, trying to get at my sister; the beautiful yellow canary. It was the Mayor Dalton Cup we received this time, and Mayor Dalton came to the house later in the evening to offer congratulations.

The "loving cups" were our prized possessions over the years; displayed on mantles; filled with seasonal flowers and polished and shined for many successive winters.

I am now and have been for some time a permanent resident of Long Beach, and point to this fact with great pride. It is our great City of Surf and Sand and Sun. It has given me much enjoyment these many years, as it has to so many others. I am most grateful for the many beautiful memoirs it has filled my life with, and happy to be here still enjoying all that it has to offer.

On this, the City's 50th Anniversary, may I offer my Congratulations, and my very best wishes for your continued success; and sincerely say: "Happy Birthday, Long Beach."

STATEMENT OF THE U.S. COMMISSION ON CIVIL RIGHTS CONCERNING PRESIDENT NIXON'S ANTI-BUSING LEGISLATION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. EDWARDS of California. Mr. Speaker, the Commission on Civil Rights has unanimously issued a statement on President Nixon's message to Congress on busing and equal educational opportunities.

I urge all of my colleagues to read carefully the statement of the U.S. Commission on Civil Rights concerning the President's message to Congress and proposed legislation on busing and equal educational opportunities. The text of the Commission's statement is printed below:

STATEMENT OF THE U.S. COMMISSION ON CIVIL RIGHTS CONCERNING THE PRESIDENT'S MESSAGE TO CONGRESS AND PROPOSED LEGISLATION ON BUSING AND EQUAL EDUCATIONAL OPPORTUNITIES

On March 17, 1972, the President sent to Congress a message and proposed legislation dealing with the most deeply felt and most divisive domestic issue troubling the American people today. The issue is commonly characterized as "busing" but it involves far more fundamental questions. It involves questions concerning the kind of education we want our children to have, the firmness of our resolve to redeem the Nation's pledge of equal rights for all, and, in the final analysis, the kind of society we want our children to inherit.

The Commission has serious disagreement with the proposed legislation. We believe that it can have no other effect than to roll back the desegregation advances made so slowly and so painfully over the 18 years since the Supreme Court of the United States declared that "separate educational facilities are inherently unequal." This proposed legislation is retrogressive on several counts:

It seeks to alter the substantive standards by which the illegality of school segregation could or should be judged and found wanting.

It seeks to hinder the capacity of the courts to provide relief to those whose constitutional right to a desegregated education has been violated.

It seeks to curb the Executive Branch as an active participant in the effort to desegregate the schools.

It seeks to enshrine the neighborhood school as a fundamental cornerstone of educational policy when, in light of pervasive patterns of neighborhood segregation, this can only have the effect of perpetuating segregated schools.

It would accept the inevitability of the continuation of school segregation and seek to create equal educational opportunity by equalizing racially separate schools, in other words, a reversion to the doctrine and practice of "separate but equal."

These and other provisions in the legislation would render lifeless many of the legal principles established in the Supreme Court's classic *Brown* decision.

Although the Commission has serious disagreement with the President's premises and recommendations for legislation, we believe that it is not only right and proper, but essential, for the President to address this issue. The Commission is mandated by law to advise both the President and the Congress on these matters, and we speak out with the hope that we may contribute to constructive debate and to successful resolution of the difficult problems involved.

What has divided the Nation on school busing is not so much sharp disagreement on the merits, but confusion as to what the issues really are. Public discussion has not served to illuminate these issues. The complex matter of overcoming in a few years the inequities of the long past through the medium of desegregated schools has been reduced to the question of whether one is for or against busing.

In his message, the President has recognized the need to address these important issues rationally and analytically. In addition, the President has sought to quiet the fear that his legislation placing curbs on busing will mark an end to the effort to achieve equal rights and even undo the advances made in the 18 years since the Supreme Court of the United States declared that "separate educational facilities are inherently unequal."

Despite the President's assurances, we fear that this legislation will nonetheless have that result. It focuses on the wrong issue—busing—and in so doing will make rational debate over the true issues of school desegregation and quality education much more difficult. Further, if enacted, it would mark a major governmental retreat in the area that has been at the heart of the struggle for equal rights. Retreats in other areas might well follow.

In its fifteen-year history, the Commission has been continuously studying the problems of achieving quality, desegregated education. We have issued numerous reports dealing with various aspects of the problem North and South, and exploring ways in which it can be successfully resolved. We issue this statement out of our present concern that progress in school desegregation not be halted and not be diluted.

LEGAL BACKGROUND

In 1954, the Supreme Court in *Brown* v. *Board of Education of Topeka* established that officially sanctioned segregation in public schools violates the 14th Amendment. Most clearly this holding applied to those States in which segregation was expressly required or authorized by law. In recent years, this principle of law has been applied as well to Northern school districts where the courts have concluded that official policies and actions have just as effectively resulted in racial isolation in the schools.

In the 18 years since *Brown*, not only have the courts continued to interpret what constitutes illegal segregation, but the courts and other agencies of government have been seeking to devise effectve remedies for achieving full school integration.

Throughout the late 1950's and 1960's, many school districts adopted a variety of plans which produced little integration—in fact, less than 3 percent in 10 years. In 1968, the Supreme Court made clear that *Brown* requires the actual abolition of dual school systems—so that there no longer are "white schools" or "black schools," but simply schools.

The loss of time, the loss of opportunity for a generation of our children has been discouraging. But remedies have been developed. A variety of techniques for achieving desegregation have been applied successfully, including the use of attendance zones, pairing of schools, construction of new facilities, such as education parks, and, as a last resort, busing.

The appropriateness of these remedies was fully dealt with last April by the Supreme Court in *Swann* v. *Charlotte-Mecklenburg*. In that case, the Court recognized the validity and necessity of each of these remedies—including busing—which courts, with the guidance of Federal, State and local officials, had concluded were the proper means for achieving desegregation and fulfilling the promise of the *Brown* decision.

It is against the background of this history that the legislation proposed by the President must be viewed.

CURB ON THE COURTS

As the President points out, all three branches of the Federal Government have participated in the effort to end the system of State-imposed segregation in the public schools. As he also points out, however, they have been unequal partners. The courts have carried the heaviest share of the burden. During the ten years following the 1954 *Brown* decision, the courts labored virtually alone with little if any backing from the executive and legislative branches. The pace of desegregation was painfully slow, in contrast to the court's injunction of "all deliberate speed."

It was not until a decade later that Congress, through enactment of the Civil Rights Act of 1964, and the Executive Branch, through enforcement of Title VI of that law, joined the battle. In recent years the courts again have had to carry the main burden, but the dramatic increase in the pace of desegregation since 1964 demonstrates the impact that all three branches, working together, can have.

The disproportionate burden placed upon the courts has been unfair. Further, the case-by-case approach, which is inherent in the judicial process, is not the most effective way to deal with a problem of national scope and concern. The limited range of remedies available to courts further limits their capacity to meet the problem. Congress, with its power to enact new programs and to appropriate funds, and the Executive Branch, with its power of flexible administration, are necessary partners. Thus we agree with the President when he urges that Congress accept additional responsibility and use its authority under the 14th Amendment for purposes of joining the effort to desegregate the schools.

The courts need support and assistance. However, the legislation proposed by the President would curb, not help, them. It would seek to limit the remedies available to the courts by restricting and, in some cases, removing, their power to order transportation of students. It would also blunt the force of the Executive Branch through similar restrictions. The proposed "Student Transportation Moratorium Act of 1972" would bar, until July 1, 1973 or until appropriate legislation is enacted by Congress, all new busing orders, despite the unmistakably clear and strong mandate of the Supreme Court that further delay in carrying out the requirements of *Brown* is not acceptable. As the Court has said:

"The burden on a school board today is to come forth with a plan that promises realistically to work, and promises realistically to work now."

The proposed "Equal Educational Opportunities Act of 1972" also would place severe curbs on the power of the courts and the Executive Branch to remedy constitutional violations. It would generally prohibit the ordering of desegregation plans that involve an increase in the amount of transportation. For elementary school students, this prohibition would be absolute. It should be stressed that this anti-busing proposal, unlike the one in the "Moratorium" bill, would be permanent. Thus the power of Federal Courts to provide relief to those whose constitutional rights have been violated would be impaired—indefinitely. Further, existing court orders or desegregation plans under Title VI of the Civil Rights of 1964 could be reopened and changed.

The legislation also would seek to alter the standard by which courts judge constitutional rights and remedies. Provisions of the bill, such as those emphasizing the appropriateness of neighborhood school assignment and the inviolability of school district lines, would not only impair the courts' power to provide remedies, but also, by seeking to lower the standard of constitutionality, would intrude on the traditional prerogative of the courts. Thus this proposed legislation raises serious constitutional questions concerning separation of powers.

The Commission urges that Congress fully examine these questions, especially those concerning constitutionality, before acting. The courts are the final judges on issues of constitutionality, but Congress has its own heavy responsibility to assure that legislation it enacts is authorized under the Constitution. The Commission believes that the anti-busing provisions in this legislation not only would impede desegregation efforts, but would also undermine the integrity of our Federal judiciary.

Ours is the longest enduring Constitution in the world today precisely because the founding fathers wisely balanced the powers to preserve constitutional and equal rights for all citizens. To tamper with this balance is a threat to the Nation and its future life and health which far transcends the issue of busing.

BUSING AND NEIGHBORHOOD SCHOOLS

What Americans must keep in mind, in the furor over the busing debate, is that to restrict busing in most communities is simply to restrict desegregation. This is so because of the segregated neighborhoods that exist from coast to coast. North and South. It is so because even with a concerted effort to eliminate well-entrenched patterns of housing segregation, it would take generations to undo or even significantly alter them and thus to alter the educational opportunity of the children who live in segregated neighborhoods near inferior, segregated neighborhood schools. What you really say to these children when you say "no busing" is "stay in your place and attend your inferior schools." This will, in reality, cost us another whole generation of badly educated minority children, denied their constitutional rights to equal educational opportunity. No amount of talk about new expenditures to create what, in fact, is a reversion to the unconstitutional and bankrupt policy of "separate but equal" will long delude minority parents or even minority students.

This is not to say, however, that busing is the only means of achieving desegregation. In many towns and cities, busing is not necessary and desegregation can be achieved within the confines of neighborhood school attendance. Great progress can be made through the use of such techniques as redrawing school attendance lines, pairing schools, and creating central schools.

But in many cases these techniques, no matter how skillfully and conscientiously applied, cannot bring about desegregation without busing. That is because very often school attendance areas must be enlarged in order to accomplish desegregation, and some pupils would be too far away from school to walk. In these instances, some pupils have to be transported to school. Sincere and dedicated school officials, school boards and courts across the Nation have sought ways to desegregate schools in a number of cities without busing and have had to conclude, finally, that in some cases there is no other way.

To be sure, busing for desegregation purposes can be inconvenient—but no more so than busing for a number of other educational purposes. The key question is the value we place—for the sake of our children and our society—upon having quality, integrated education. The Commission is convinced that the relatively small amount of busing that is conducted for desegregation purposes is not only justified, but is necessary. The Supreme Court recognized this fact in the *Swann* case.

The Supreme Court, in *Swann*, did not ignore the worries of parents about "excessive" busing. The Court said that children should not be bused if the time or distance would endanger either the child's health or education, and that seems a reasonable standard to this Commission. None is endorsing the busing of any child to an inferior school, although just this happened to many past generations of minority children. The fears and concerns about busing, and the extent and inconvenience of it, have been greatly overstated in the course of the debate now sweeping the Nation. Regretfully, too many leaders have been speaking to the base prejudices of the American people rather than to their inherent sense of justice and idealism.

What are the plain facts about busing? Every day nearly 20 million school children go to and from school by bus and their parents seldom complain about inconvenience. Some parents prefer to have their children go to school by bus rather than brave dangerous traffic on foot. Some school boards provide buses for handicapped and gifted children, so that they can attend special schools away from their neighborhoods. Rural areas have virtually abandoned the once-familiar one-room school in favor of modern consolidated schools reached by bus. School districts often take pride in providing transportation for these purposes, sometimes at great cost, knowing that the improved education that awaits the children at the end of the bus ride is what really matters and this is well worth the inconvenience. Only when busing occurs for the purpose of desegregation are objections raised. Some would have us believe that for this purpose, busing is not an inconvenience, but an absolute evil.

The neighborhood school represents, in a sense, the opposite side of the coin of busing. That is, just as the fifty-year old practice of busing represents an inconvenience, not an absolute evil, neighborhood schools represent a convenience, not an absolute good.

As noted, neighborhood schools have been abandoned by the thousands in rural areas in favor of larger consolidated schools commonly reached by bus. The trend of modern educational thought generally is away from the neighborhood school and toward the larger central units that can provide facilities, teachers, services and curriculum not financially feasible in smaller neighborhood schools.

Neighborhood schools realistically should be viewed as only one of several forms of school units, and not as the foundation upon which our entire system of public education should rest. In plain fact, it does not. Therefore it would be a serious mistake for the proposed "Equal Education Opportunities Act" to elevate the neighborhood school concept to the position of a new national policy and purpose. To do so would not only undermine desegregation; it would discourage the efforts of educators seeking to improve the organization of their school system toward providing quality education for every pupil.

INTEGRATION AND EQUAL EDUCATIONAL OPPORTUNITY

The cornerstone of the proposed "Equal Educational Opportunities Act" is the declaration of national policy that: "all children enrolled in public schools are entitled to equal education opportunity, without regard to race, color, and national origin."

The substantive provisions of the bill, however, seek to carry out this policy while at the same time curtailing efforts to desegregate the schools. Indeed the President's message, as well as the legislation, accept the inevitability of continued school segregation and seek other means—the channelling of money into ghetto schools—to achieve equality of educational opportunity.

The essence of the President's proposal is that infusion of money can make racially isolated schools equal and he would allocate up to $2.5 billion in previously requested funds to this purpose. The Commission doubts the value of this approach. In fact, it has not worked even with a larger per student allotment in the schools of Washington, D.C.

In seeking to achieve equal educational opportunity by equalizing segregated facilities, the legislation returns to the tradition of the discarded "separate but equal" rule of *Plessy* v. *Ferguson*, which the *Brown* decision expressly overturned as unconstitutional.

But even if true equality could be achieved under segregated conditions, there is little reason to believe that the expenditures contemplated would accomplish this result. A recent report prepared by Mosteller and Moynihan of Harvard University has reaffirmed that the least promising way to improve education in ghetto schools is through the expenditure of additional funds. Many studies, including the Commission's own, have concluded that amounts far in excess of those presently contemplated would be necesasry before compensatory programs in ghetto schools would in fact "compensate" in any significant degree.

Is pupil integration any more likely than increased expenditures to achieve our goals? A basic finding of the 1966 Office of Education study, "Equality of Educational Opportunity," (the Coleman Report) was that a child's own family background was by far the most important influence on his school achievement and later life experience. Some have concluded from this finding that the schools are virtually powerless as a positive influence on our children, and that the effort, instead, must be in the area of jobs and income.

We believe there are severe fallacies in this reasoning. First, the reasoning assumes incorrectly that there is only one road to the achievement of equality for minorities. In fact, efforts must be made across the board—in jobs, in housing, and in education—if that goal is to be realized. Experience has taught us that none can be ignored, that there is no quick or simple cure to the social and economic injustices which have been allowed to grow and fester for decades.

Second, this reasoning would lead us to write off at least one more generation of children, knowingly abandoning efforts to help them develop into productive participants in American society and condemning them to lives of inequality.

Third, the conclusion that the schools are powerless to increase and improve their impact on the young is wrong. As the Office of Education study found, as the Commission on Civil Rights' own study, "Racial Isolation in the Public Schools," later confirmed, and as the Harvard University report recently has reaffirmed, the social and economic backgrounds of a child's classmates bear very significantly on his or her achievement in school. It therefore does matter greatly that disadvantaged children not be educated in isolation.

But schools play a much more important function than merely providing children with the technical tools necessary to perform well on achievement tests. It is a function which one commentator has described as "to prepare people not just to earn a living but also to live a life—a creative, humane, and sensitive life." In short, the true measure of how well schools are performing cannot be gained solely by reference to test results. Two years ago, the President underscored the uniqueness of the school as an institution of society:

"It is a place not only of learning but also of living—where a child's friendships center, where he learns to measure himself against others, to share, to compete, to cooperate——"

It should also be a place where a child is not isolated in inferior surroundings as part of an unwanted class or race and thus told from the beginning of the process that he is inferior.

The school is the most important public institution bearing on a child's development as an informed, educated person and as a human being with hope for the future. It represents the single most important opportunity afforded to society to interrupt the endless cycle of poverty and, above all, to heal the great social divisions that trouble the Nation. For children of white, affluent society, as well as for minorities, integrated education is essential if they are to thrive in the multi-racial world they will enter and help redeem America's promise, which school children each day are asked to recite and believe in—"One Nation, under God, indivisible, with liberty and justice for all." The Commission believes it would be a serious mistake for Congress to enact legislation—especially legislation entitled "Equal Educational Opportunities Act"—that accepts the inevitability of school segregation, with its demonstrated denial of equal educational opportunity.

Two years ago, the President emphasized the close tie between quality education and desegregation: "Quality is what education is all about; desegregation is vital to that quality."

In that statement the President took a position with which we concurred then and concur now. It is a stand that is just as correct and essential today as it was two years ago. It is a stand from which the President, Congress, American education and the Nation should not retreat.

CONCLUSION

The Commission has discussed its reservations about the proposed legislation mainly in terms of its effect in slowing down progress in school desegregation. Our concerns, however, are much deeper.

Since the Supreme Court decision in the *Gaines* case in 1937, requiring the admission of a black man to the law school of the University of Missouri, there has been a slow but steady and progressive attack on segregation and discrimination in this Nation. Executive Orders of Presidents beginning in 1941, acts of Congress beginning in 1957, along with other decisions of the courts, have all been directed toward the creation of legally supported standards of behavior that would lead the Nation toward human cohesiveness and racial equality.

Now for the first time in 35 years we are faced with a series of legislative proposals including an amendment to the Constitution that leads us back along a road that this Nation should never see again. These proposals require the Nation to turn its face away from finding solutions to the difficult task of seeking effective ways of implementing the decisions of the courts and the civil rights laws enacted by the Congress. We must now defend the results of 30 years of effort that we thought were fast becoming an accepted part of American manners and morals.

Our fear is that what appears to be an assault on school desegregation, will in fact have the effect of providing solace, comfort, and support to those who opposed all civil rights advances in the past and who may now attempt to roll back the progress made in other areas.

We are also greatly troubled that millions of American citizens of minority group background may well conclude that the laws and court decisions that had begun to generate hope and faith in America's commitment to a desegregated society, with equality and justice for all, was never a true commitment, but only a device designed to muffle the voices of discontent and frustration.

Any legislation that deprives or makes more difficult the process by which American children of all races learn to understand each other—through the kind of creative contacts that can take place in the schools of the Nation—is, in our view, antithetical to the creation of a society with the capacity to provide equal justice to all, and lessens the hope, not only for American education but for American children and our Nation.

MEMBERS OF THE COMMISSION

Rev. Theodore M. Hesburgh, C.S.C., Chairman.
Stephen Horn, Vice Chairman.
Frankie M. Freeman.
Maurice B. Mitchell.
Robert S. Rankin.
Manuel Ruiz.
John A. Buggs, Staff Director-designate.

TO CORRECT THE OCCUPATIONAL SAFETY AND HEALTH ACT

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. WYMAN. Mr. Speaker, the Occupational Safety and Health Act of 1970 has proven to be one of the most ill-advised and unworkable laws enacted by the Congress. In its attempt to provide necessary safety and health standards for the protection of American workers, the law in its present form encourages a wholesale disregard for the practical considerations involved in devising adequate standards.

Small businessmen and farmers in particular are the hardest hit. Unlike in the administration of other Federal laws, the Department of Labor is not required to conform with the Administrative Procedures Act in promulgating occupational safety and health regulations. As a result employers—which includes a TV repairman with one helper—are expected to wade through reams of complex material searching for those provisions applying to their situation. It takes seven pages in the Federal Register, for example, to set forth the requirements for stepladders. And if an employer seeks assistance from the Federal Government in complying with the new regulations the Labor Department representative is required to cite the employer for the very violations he is trying to correct.

But it is not only in the administration of the Occupational Safety and Health Act that inequity exists. The law itself takes a shotgun approach toward establishing safety standards that require a contractor building a single family house to conform to the same standards as a contractor building a high rise office building. The obvious differences in the two projects are completely ignored by the law.

In its present form the Occupational Safety and Health Act is worse than wishful thinking. It makes almost no attempt to come to grips with the actual problems involved in setting adequate safety standards and only adds an intolerable extra layer of unneeded and unfair bureaucracy.

I am therefore today introducing legislation to correct these and other inequities in the present law. The proposed corrections are designed:

To provide for the exemption of employers with fewer than 25 employees, both agricultural and nonagricultural;

To delay for 1 year the effectiveness of the act with regard to employers with more than 25 but fewer than 160 employees;

To require the Secretary of Labor to evaluate all of the regulations, distinguish the various facets of a given general form of business, and determine if the regulations should apply to each facet;

To require that the Secretary of Labor know the cost and feasibility of compliance; that this information be made available to the employer; and, to insure the employer that a device or procedure is available which will permit him to comply;

To require the Secretary of Labor to provide technical assistance and consultation to employers with fewer than 100 employees;

To compensate employers for the additional expense of having to comply, initially, with one rule, and then having to comply with a different one as a result of changes in administrative procedures;

To provide that if the usual administrative procedures for adoption were not followed, the failure to comply with the rule cannot be used as evidence of negligence or wrongdoing on the part of the employer;

To relieve employers from the absolute liability provisions of the act. To protect employers from the negligence of employees who do not abide by the regulations or use equipment provided;

To provide that no employer shall be responsible for fines or other penalties if he can prove that the requirement he is alleged to have violated would not have effectively constituted an improvement of the health and safety of his employees;

To permit the Secretary of Labor to make provisions for initial medical examinations for employees and followup examinations thereafter at periodic intervals;

To aid the provisions of the act by permitting the formation of employees safety committees to identify areas of concern at a particular business in an effort to work out solutions between employer and employees; and

To assure the earliest possible compliance by making available to the Secretary of Labor the option of entering into an agreement with the employer in lieu of using the present provisions and imposing a penalty for having failed to comply.

Illustrative of the frequent absence of reasonable standards under the existing law the following examples are cited:

A half-inch mesh screen is required to shield all motors and power ventilating fans. Yet in the poultry industry, for example, down and feathers completely plug such screens within 2 or 3 days. No matter, it is still a requirement.

Coat hooks are required in all toilet compartments, a dubious "safety" standard at best. Failure to comply can result in an employer being found in violation of Federal law.

Protections for window openings in building construction, which may be appropriate in the construction of multistoried buildings, are required for all construction—even a one-story residence where the distance to the ground is no more than a few feet.

Employers are now required to color code switches red and green, even if they and their employees have been using another color code for years.

Tractors are required to have a roll bar costing $200 to $250, even if, as is true in many cases, no provision is made for attaching such devices on certain tractors.

I urge the House to give early consideration to correcting the Occupational Safety and Health Act to remove the genuine hardships presently being placed on those attempting to conform to its provisions.

VIETNAM

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. HELSTOSKI. Mr. Speaker, it is difficult to find the words to express my revulsion at and utter rejection of the President's May 8 address to the Nation and the military escalation of the war which he announced in that address. To mask the collapse of his Vietnamization policy, the President of the United States has recklessly and unconstitutionally committed the forces of the United States to an air war against North Vietnam and to a quasi-blockade of North Vietnamese ports. To preserve his own "respect" and this Nation's "prestige" he has gambled on a major confrontation with the Soviet Union, jeopardized the SALT talks, and made a new and more serious commitment of this country's blood, treasure and honor to the preservation, at least until election time, of the Thieu regime.

The President has undertaken these dangerous military moves without so much as a nod in the direction of the Congress and in defiance of the American people's express desire to end this bloody and immoral conflict immediately. President Nixon has violated the Constitution by assuming the power to declare war, a power reserved exclusively to the Congress. He has violated the Mansfield amendment which declared it to be the policy of the United States to terminate American involvement in Vietnam at the earliest practicable date. He has violated his own promise of 4 years ago to end the war.

President Nixon's continuance in office, unrestrained by respect for either the Constitution or the desires of the American people, is a threat to the survival of the Republic and of our democratic system. The American people have had enough. They shall have the opportunity in November to remove this power-mad President from office. I am confident that the majority will reject Nixon, his claque of militarist advisers and all their evil works.

Mr. Speaker, when a President flagrantly violates the Constitution, the mandate of the Congress and the will of the American people he is little short of a dictator. The Congress, however, still has the power of the purse. We can deny the President and the Pentagon the funds to continue this war another day. I am informed that the administration will soon seek a supplemental appropriation to finance its new air and sea war in Indochina. If this Congress approves such a request, we might as well close shop and go home. In a major test of democracy we shall have failed the American people and we shall have failed all that is decent in America.

We should not have to wait, however, for the administration to come seeking an appropriation for this war. It is essential that the Congress initiate action to prohibit the expenditure of war funds already in the "pipeline." Under direction from the House Democratic Caucus, the majority members of the Foreign Affairs Committee have drafted legislation to terminate American involvement in the Indochina war. I look forward to an early opportunity to vote on this bill in the House.

In the interim, I have joined with 22 other Members of Congress in a suit aimed at enjoining the President and his subordinates from prosecuting this latest escalation of the war any further. Under unanimous consent I include the full text of that complaint at this point in the RECORD:

[In the U.S. District Court for the District of Columbia]

CIVIL ACTION—SUIT FOR DECLARATORY AND INJUNCTIVE RELIEF

Hon. Mike Gravel, Hon. Fred R. Harris, United States Senate; Hon. Bella Abzug, Hon. Herman Badillo, Hon. Jonathan B. Bingham, Hon. Phillip Burton, Hon. William Clay, Hon. Shirley Chisholm, Hon. John Conyers, Jr., Hon. Ronald V. Dellums, Hon. Charles C. Diggs, Jr., Hon. Don Edwards, Hon. Walter Fauntroy, Hon. Michael J. Harrington, Hon. Augustus Hawkins, Hon. Henry Helstoski, Hon. Robert W. Kastenmeier, Hon. Parren Mitchell, Hon. Charles B. Rangel, Hon. Thomas Rees, Hon. Benjamin Rosenthal, Hon. William F. Ryan, Hon. Louis Stokes, United States House of Representatives *v.* Richard M. Nixon. Individually and as President of the United States, The White House, 1600 Pennsylvania Avenue, N.W., Washington, D.C.; Melvin R. Laird, Individually and as Secretary of Defense, Department of Defense, Washington, D.C.; William P. Rogers, Individually and as Secretary of State, Department of State, Washington, D.C.; Robert F. Froehlke, Individually and as Secretary of the Army, Department of Defense, Washington, D.C.; John H. Chaffee, Individually and as Secretary of the Navy, Department of Defense, Washington, D.C.; Robert C. Seamans, Jr., Individually and as Secretary of the Air Force, Department of Defense, Washington, D.C.; and the United States of America, Defendants.

COMPLAINT

1. Jurisdiction of this matter arises under the Constitution of the United States and Title 28 United States Code §§1331, 1346, and 1361, and such other provisions of law as shall be hereinafter set forth in this complaint. The amount in controversy exceeds ten thousand dollars ($10,000.00) exclusive of interest and costs.

2. Plaintiffs are each duly elected and qualified members of the Congress of the United States of America. They sue in their individual capacities as citizens of the United States and in their official capacities as members of Congress and representatives of their constituency. Each alleges that the activities of the defendants described herein has materially affected their abilities to represent the people of their districts and to practice their profession as elected representatives of the people. Each further alleges that they have a personal and direct stake in the outcome of the controversy and will be themselves adversely affected by it.

3. Defendants in this matter, other than the defendant United States of America, are officers and employees of the United States of America. This action is brought against them in their individual and in their official capacities. Defendants are respectively the President of the United States, Secretary of Defense, Secretary of State, Secretary of the Army, Secretary of the Navy and Secretary of the Air Force.

4. During the last several years, defendants and their predecessors in office, each acting individually and collectively, have engaged and caused the armed forces of the United States to engage in a war in Indo-China. This war constitutes one of the longest and most costly wars in the history of this country. Over one million human beings, including over fifty thousand Americans have been killed in this war and at least one hundred billion dollars has been spent in the prosecution of it. At present the defendants are not only continuing the war, but have recently escalated the war.

5. On November 17, 1971, Congress enacted Public Law 92–156, Title VI—Termination of Hostilities in Indo-China. At that time, Congress made clear its intent that "it is hereby declared to be the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indo-China . . ." Subsequently, the President of the United States, the Honorable Richard M. Nixon, substantially increased bombing raids against the Democratic Republic of Vietnam.

6. Recently, on May 8, 1972, the President announced to the American people that because the country faces a new situation, he has ordered the following measures which are being implemented as I am speaking to you.

"All entrances to North Vietnamese ports will be mined to prevent access to these ports and North Vietnamese naval operations from these ports. United States forces have been directed to take appropriate measures within the internal and claimed territorial waters of North Vietnam to interdict the delivery of any supplies. Rail and all other communications will be cut off to the maximum extent possible. . . . Countries with ships presently in North Vietnamese ports have already been notified that their ships will have three day light periods to leave in safety. After that time the mines will become active and any ships attempting to leave or enter these ports will do so at their own risk." (A copy of the President's address is attached hereto as Exhibit A.)

7. On May 10, 1972, defendant Melvin Laird announced publicly that the United States would move against and take all appropriate action against any ships from any country whatsoever, seeking to enter the ports of the Democratic Republic of Vietnam (North Vietnam).

8. Article I, Section 8, Clause 11 of the United States Constitution states that the Congress shall have the power to declare war. Congress has not exercised this power. It has passed no legislation or joint resolution declaring war in Indo-China, nor has it explicitly, intentionally, and discretely authorized the war.

9. No appropriation act or selective service renewal act can be construed as an exercise of the declaration of war power by the Congress of the United States. Even should the courts interpret any such actions of Congress as implicitly or tacitly approving the exercise by the President of the war power, said tacit approval, if so interpreted by the courts, was explicitly revoked by the "Mansfield Amendment", Public Law 92–156, November 17, 1971. Accordingly, at this time the President is in violation of the separation of the powers doctrine as set forth in the Constitution of the United States, operating an illegal war in excess of his Constitutional powers. The President and other defendants are also unlawfully and unconstitutionally misusing appropriations of Congress to conduct this war.

10. As pointed out above, since the passage of the Mansfield Amendment, the President has taken action in mining the harbors of the Democratic Republic of Vietnam, cutting off communications and rail lines and interferring with shipment to Vietnam by other sovereign countries. Nothing in any acts of Congress have ever authorized either implicitly or explicitly such actions by the Executive Branch of Government of the United States. Additionally, leaders of Congress have repudiated such actions. These actions of the President and other defendants herein constitute acts of war against other sovereign powers other than the Democratic Republic of Vietnam, never before considered by Congress and accordingly, also, violate the separation of powers doctrine.

11. Additionally, the actions of the Executive Branch and particularly defendants herein in mining the harbors of the Democratic Republic of Vietnam are in violation of Article II, Eighth Hague Convention of 1907—"Convention Relative to the Laying of Automatic Submarine Contact Mines", October 18, 1907, 36 Stat. 2332. The Hague Convention forbids the laying off coasts and ports of enemy mines which interfere with commercial shipping. The Convention defines the type of mines. The Executive Branch and defendants herein have made no effort to seek the approval of Congress or to inform Congress of the type of mines used, or full purpose or effect of the mines and accordingly violate the specific intent of the Hague Convention.

12. Plaintiffs have been and continue to be irreparably injured, both as citizens of the United States and as representatives of the people and in their ability to represent the people by the actions of the defendants. The right to declare war lies specifically and solely with the Congress of the United States. The issues of the President's and the other defendants' present actions in mining harbors, cutting off rail and other communications, and other actions as set forth above and included in Exhibit A attached hereto, have never been presented to any other court. Plaintiffs have no other adequate remedy at law other than the suit herein.

Wherefore, plaintiffs respectfully pray:

(1) That the Court issue a declaratory judgment, declaring that defendants are violating Article I, Section 8, Clause 11 of the United States Constitution in their actions against the Democratic Republic of Vietnam and other countries as described in the President's message of May 8, 1972;

(2) That the Court issue a preliminary and permanent injunction enjoining the President of the United States and other defendants herein and their successors in office and others acting in concert with them from carrying on war, further mining of harbors, further bombing and interruption of communication and rail transportation and other acts of violence against the Democratic Republic of Vietnam and other countries without specific authorization of Congress;

(3) That the Court enjoin the President and those acting in concert with him to seek Congressional authorization for the acts announced in his speech of May 8, 1972, and the further acts announced by the defendant Secretary of Defense in his press statement of May 10, 1972, before further implementing or carrying out any of those actions;

(4) And that the Court enjoin the defendants from further utilizing appropriations pursuant to acts of appropriation of Congress for military expenditures in Indo-China unless and until he receives proper authorization from Congress to utilize the funds in the manner set forth in his speech of May 8, 1972 and the public statement of defendant Secretary of Defense on May 10, 1972, and further enjoin him from using such funds in manners other than specifically set forth in the authorization acts of Congress as presently enacted.

(5) That the Court order such other and further relief as it may deem appropriate.

HON BELLA ABZUG, et al.,
(By Counsel).

Counsel for Plaintiffs:

PHILIP J. HIRSCHKOP.
WASHINGTON, D.C.

Finally, Mr. Speaker, I wish to include at this point in the RECORD a very perceptive and devastating critique of Nixon's new war policy which was written by Fred Branfman, director of Project Air War:

WAR IS PEACE

(A primer on the President's announcement of the Haiphong blockade.)

(By Fred Branfman)

(NOTE.—Mr. Branfman spent 4 years in Laos, from 1967 through 1971. He is currently director of Project Air War, a research group in Washington, D.C. He is editor of *Voices From The Plain of Jars*, to be published this month by Harper and Row.)

"All entrances to the North Vietnamese ports will be mined . . . United States forces have been directed to take appropriate measures within the internal and claimed territorial waters of North Vietnam to interdict the delivery of any supplies. Rail and all other communications will be cut off to the maximum extent possible. Air and naval strikes against military targets in North Vietnam will continue . . . You want peace. I want peace . . . and that is why, my fellow Americans, tonight I ask you for your support of this decision—a decision which has only one purpose—not to expand the war, not to escalate the war, but to end this war and to win the kind of peace that will last. With God's help, with your support, we will accomplish that great goal."—Richard Nixon, May 8, 1972

George Orwell predicted that the leaders of major powers would come to wage war by machine and call it peace; that they would annihilate distant and unseen societies from the air even as they constantly reiterated their earnest desires for peace at home.

On May 8, 1972, Richard Nixon announced the most serious and dramatic set of escalations in the Indochina war, removing the last remaining restraints on automated war observed by his predecessor; at the same time, he used the terms "peace" or "ending the war" on 19 separate occasions in a 17-minute talk.

He didn't quite claim that "war is peace." But then he did not have to.

His speech was one of the most striking attempts to rewrite history in recent memory. Virtually every sentence in it contradicted the written record, ranging from the writings of Lacouture and Fall, to the Pentagon and Kissinger papers, to today's newspapers.

Two tons of bombs were exploding every 60 seconds as he solemnly declared "I, too, want to end this war;" mines were being laid in and around Soviet vessels as he called upon the Soviet Union not to "slide back into the dark shadows of a previous age."

It is as much in wonderment as dismay that one turns to an analysis of some of the more striking distortions and outright falsehoods of this remarkable speech:

1. Invasion—"Five weeks ago, on Easter weekend, the Communist armies of North Vietnam launched a massive invasion of South Vietnam".

The very basis of the 1954 Geneva Settlement on Vietnam is that Viet Nam is *one country*. There is no reference to a "South Vietnam." The 17th parallel, far from being an "international border" as the President claimed in his April 26 speech, was merely a temporary military demarcation line. Point 6 of the Joint Declaration by the 9 powers guaranteeing the settlement specifically states that: "the military demarcation line is provisional and should not in any way be interpreted as constituting a political or territorial boundary." This line was only in force for 300 days following July 21, 1954, and was meant merely to mark time until a 1956 election which would unite Viet Nam. When the Diem regime did not allow this election, the 17th parallel lost any legal, political, or moral meaning. The cancellation of the elections threw the issue of who would rule in Viet Nam back to the Vietnamese themselves.

2. Origins—"We Americans did not choose to resort to war—it has been forced upon us".

In fact, the United States did indeed unilaterally choose this war two decades ago, when the Truman Administration decided to pay ¾ of the costs of the war for the French between 1950 and 1954. And the Geneva Accords were barely signed when in August 1954, while Mr. Nixon was vice-President, the United States dispatched a team under Colonel Edward Lansdale to take over the French position. As Lansdale has written in the Pentagon papers, team member "Major Conein was given responsibility for developing a paramilitary organization in the north" and "a second paramilitary team was formed to explore possibilities of organizing resistance against the Viet Minh in the south." These American teams, as Lansdale describes, then proceeded to assure the installation of a little-known exile, Ngo Dinh Diem, and then carry out a wide variety of espionage, sabotage, and psychological warfare missions throughout Vietnam.

3. Restraint—"Throughout the war in Vietnam, the United States has exercised a degree of restraint unprecedented in the annals of war."

The next 10 years saw a variety of American-supported initiatives ranging from herding people into "agrovilles" and "strategic hamlets" to execution of suspected Viet Minh to war supported by U.S. combat troops. By 1965 Bernard Fall reported that "already, in what may be loosely termed the 'American period,' the dead are near a quarter million, with perhaps another half-million people seriously maimed. And other Vietnamese people are dying because they are starving." This was nothing, however, to the American "restraint" which followed. Between 1965 and 1972, the United States has expended over 13 million tons of ordnance, created over 23,000,000 bomb craters, and dropped over 100,000,000 pounds of herbicides which have destroyed an estimated 5,000,000 acres of crop and forest land. According to the Senate Subcommittee on Refugees, the United States bears the major responsibility for the creation of over 6,000,000 refugees in South Vietnam (and 2.7 million more in Laos and Cambodia), the death of 325,000 civilians, the maiming of 700,000 more, and generating 700,000 orphans.

4. The Nixon record—"And I think you know, from all that I have said and done these past three and a half years, how much I too want to end this war".

Mr. Nixon has done nothing to end the war. On the contrary, he has steadily expanded it, transforming it from a ground war in South Vietnam to a massive and indiscriminate air war throughout Indochina.

He has initiated and waged a full-scale air war in once-peaceful *Cambodia* for two years now. Over 2 million Cambodian refugees have been created under Mr. Nixon, according to an official Government Accounting Office study reported in the *New York Times* on December 5, 1971. The bombing in *Laos* has been double that under Mr. Johnson, and Mr. Nixon has also introduced over 10,000 new Thai troops in northern Laos as well as invading southern Laos with 22,000 ARVN in February, 1971. He resumed the bombing of *North Vietnam*, struck on 328 admitted occasions *before* the recent offensive began; and hospital admissions in *South Vietnam* in 1971 were running as high as in 1967, when there were 450,000 U.S. ground troops there.

In all, Mr. Nixon had already dropped over 3.3 million tons of bombs in Indochina before the offensive began, more bombs than have been dropped by any leader in history; and, according to the U.S. Senate Subcommittee on Refugees, there had also been over 3,000,000 civilians killed, wounded or made homeless during his first 3 years in office.

At this writing he has tripled his aerial and naval forces in Indochina from what they were at the beginning of this year: B52's have risen from 40 to 130, attack planes from 350 to nearly 900, aircraft carriers from 2 to 6, and other naval vessels from 10 to 55.

Most strikingly, there are now some 100,000 men waging the air and naval war against Indochina: 40,000 airmen in Thailand, 40,000 naval personnel in the Gulf of Tonkin, over 20,000 airmen within South Vietnam. By contrast, there are only some 45,000 ground troops left. It is the first time in history a nation has deployed more men abroad to wage automated war than ground war. Mr. Nixon's transformation to an age of Orwellian mechanized war has arrived.

5. Negotiations—"The United States . . . has offered the maximum of what any President of the United States could offer . . . (but) we will not cross the line from generosity to treachery . . ."

Mr. Nixon's continued insistence on determining who will rule in Saigon has precluded any hope of a negotiated settlement. For the very basis of the Vietnamese struggle for the last 20 years has been their insistence that the United States has no right to intervene.

And, in fact, Mr. Nixon's "generous" peace offers have added up to little more than a demand that the NLF surrender. He is asking that they lay down their arms while over 100,000 American troops are still in and around their country. He is asking that at that point they cede the Thieu regime nominal control of the country. He is asking that they then surface to contest elections, in the face of a CIA-run Phoenix program which is officially admitted to having killed or imprisoned 35,727 "suspected" NLF under Mr. Nixon. And he is asking that they take comfort in Thieu's offer to resign one month before elections, when the United States has put over $3 billion in the past 3 years to creating a giant machinery of repression consisting of over 1,000,000 troops, 200,000 police, and a vast network of appointed officials, informers and assassins down to the village level. And he is asking them to do all this when he could at any time rescind his pledges of a free election, just as the Eisenhower Administration did in 1956.

6. The other side's terms—"Do we join with our enemy to install a Communist Government in South Vietnam?"

The idea that the PRG would be so foolish as to demand that the United States install a "communist" government in South Vietnam is patently absurd. They have made it more than clear that they understand the American desire to withdraw gracefully. In public, they have simply asked that Mr. Nixon set a date for total withdrawal, withdraw support from the Thieu regime, and allow a coalition government headed by a non-communist to take over. They have also taken the unprecedented step of offering to begin the return of American captured personnel before the cessation of hostilities. In private, I am assured by high-ranking officials in the State Department, they have offered to guarantee Mr. Nixon a substantial period of grace after full American withdrawl before contesting for full power. Under the circumstances, no American president could hope for more generous terms if he had any intention of withdrawing and allowing the Vietnamese to settle their own affairs.

7. Bloodbath—"Abandoning our commitment in Vietnam here and now would mean turning 17 million South Vietnamese over to Communist terror and tyranny . . . we would only worsen the bloodshed."

The use of the "bloodbath" argument was one of the most Orwellian aspects of this speech. It is not only that a "communist bloodbath" is a vague and distant possibility that the only Vietnamese certain to suffer retaliation have already made plans for luxurious retirement in Europe, e.g. President Thieu in his villa in Switzerland; that the PRG, faced with the awesome task of attempting to rebuild a fractured nation, would most likely opt for a policy of national reconciliation both to build national unity and attract foreign aid; that even a group of prominent Catholic intellectuals recently issued a statement calling for a "halt to American aggression in Viet Nam today."

It is that even as he was speaking Mr. Nixon was continuing one of the greatest bloodbaths in recent history; that while a communist bloodbath was but a possibility, the American bloodbath was a reality and that Mr. Nixon's speech would be followed by an orgy of bloodletting that even Viet Nam had not yet seen.

8. ARVN bravely—"The South Vietnamese have fought bravely . . . (they) shall continue to have our firm support in (their) resistance against aggression."

The very reason for Mr. Nixon's taking so drastic a step as attempting to mine and blockade Haiphong harbor was the lack of spirit of the "South Vietnamese." Devoid of the spirit to fight led by incompetent and corrupt officers, the ARVN has literally fallen apart. When the offensive first began, the *New York Times* reported on April 9, the entire Third Division ran away: "Let's face it third division was routed," one U.S. officer in Dong Ha said, "it was nothing but a mad rush to the rear once the North Vietnamese started shelling them." By April 15, the *Times* was reporting widespread lootings: "All day long, the army trucks moving south from Dongha were filled with soldiers and piles of loot—chairs, tables, refrigerators, television sets, food, chickens, pigs." Relief columns were not getting through, as the *Washington Post* reported on April 16, "What might sound surprising . . . is that with all the American-supplied vehicles—including tanks and cars—and an estimated 20,000 troops assigned to the job—the South Vietnamese so far have not been able to open the road nor even to supply water to their troops in the bush." And two days after the fall of Quang Tri on May 1, the rout was complete. The *Times* reported from Hue that "thousands of panicking South Vietnamese soldiers—most of whom did not appear to have made much contact with the advancing North Vietnamese—fled in confusion from Quangtri Province today, streaming south down route 1 like a rabble out of control." On the same day it was reported, "thousands of militiamen as well as regular soldiers of the 22nd Infantry Division gave up their posts and left their weapons behind in Binhdinh Province rather than contest the North Vietnamese for three districts inhabited by 200,000 people."

10. Protecting U.S. troops—"With 60,000 Americans threatened, any President who failed to act decisively would have betrayed the trust of his country."

Mr. Nixon's greatest betrayal of this country—and its soldiers—is his refusal to withdraw the 60,000 men in Vietnam and the 80,000 around it from the Indochina theater. It is clear that the only way to protect them is to take them out. As long as they remain there, they will be killed and maimed in ever-increasing numbers.

Since the offensive began, the American people have only been told of the 36 men listed as killed by hostile action and 57 missing in action (MIAs). They have not been told that most of the MIAs are presumed dead, and another 23 men are listed as killed by non-hostile causes, making well over 100 men killed in the month of April alone. Another 197 men were wounded during the same period. These rates are roughly double those of the monthly average for the first three months of this year. This loss of American lives can be expected to intensify as the bombing and ground fighting increase in the weeks to come.

11. POWs—"Abandoning our commitment in Vietnam . . . would mean leaving hundreds of American prisoners in Communist hands with no bargaining leverage to get them released."

The only "bargaining leverage" the United States has to secure the return of captured military men is withdrawal, not more war.

Continued war ensures the prolonged internment of those already captured. In addition, it ensures that new men will be shot down daily. Over 350 men who were alive and well when Richard Nixon took office are now listed as missing in action or captured. The 57 men listed as missing in action in April are mostly airmen.

And, most seriously, the kind of war Richard Nixon forecasts creates even greater risks for those captured. As a March, 1968, study prepared by a Clark Clifford study group notes in the Pentagon Papers, "Although the NVN do not mark the camps where American prisoners are kept . . . heavy and indiscriminate attacks in the Hanoi area would jeopardize the lives of these prisoners and alarm their wives and parents into vocal opposition.

12. Efficacy—"There's only one way to stop the killing. That is, to keep the weapons of war out of the hands of the international outlaws of North Vietnam."

The notion that mining and blockading Haiphong harbor will "stop the killing" in the south strains credulity. To begin with, according to Mr. Nixon, most of the North Vietnamese army is already in the south. A blockade's only conceivable effect on the situation in the south for the next few months will be to encourage anti-U.S. forces to fight harder than they ever have.

More importantly, there is no reason to believe that a blockade can stem the flow of supplies into the south. The Clifford Study stated categorically that 'if the Port of Haiphong were to be closed effectively, the supplies that now enter Haiphong could, albeit with considerable difficulty, arrive either over the land routes or by lighterage . . . the closing of Haiphong Port would not prevent the continued supply of sufficient materials to maintain North Vietnamese military operations in the South."

The Kissinger papers show that the CIA and Office of the Secretary of Defense agree with this analysis. And though the Joint Chiefs of Staff do not, the history of past predictions shows little reason to believe them this time.

Indeed, the real reason for the blockade of the harbor and intensified bombing does not seem to lie in attempting to stop arms shipments. Rather, it seems in part an attempt to break Vietnam's spirit. As the Clifford Group suggested, "the only purpose of intensification of the bombing campaign in the North . . . would be to endeavor to break the will of the North Vietnamese leaders."

This hope is clearly also chimerical. It is not only that the Vietnamese have long since learned to de-centralize, protect their civilian population, and move supplies under a steady hail of bombs. It is far more that from their point of view, the recent offensive is not a question of the past month, the last 5 years, or even the last 25 years. It is a part of what they see as a 1000 year struggle to see their land free, unified and independent from foreign intervention. This is no doubt the reason why the Clifford Group notes that: "CIA forecasts indicate little if any chance that this would result even from a protracted bombing campaign directed at population centers."

13. Soviet aid—"(The) invasion . . . was made possible by tanks, artillery and other advanced offensive weapons supplied to Hanoi by the Soviet Union and other Communist nations."

Mr. Nixon's peculiar insistence on the importance of Soviet military aid to the Vietnamese may suggest another motive behind the blockade.

It must be noted that Soviet military aid to North Vietnam is of secondary importance. A *Times* report on April 13, based on official figures, showed that Soviet military aid to North Vietnam in 1971 was only $100 million, down by 80% since 1967. The combined total of Soviet, East European and Chinese economic and military aid in that year was $775 million. This may be compared with the $15.1 billion budgeted by the U.S. for the war in 1971.

Moreover, the use of tanks in the current offensive seems more a matter of convenience than necessity. The NLF, after all, managed to launch a highly successful Tet offensive against 550,000 American ground troops. There is no reason to believe that if deprived of their tanks they—with or without the North Vietnamese—could not succeed against the ARVN.

If the offensive is not due to "advanced weapons" supplied by the Soviets then, why Mr. Nixon's shrill insistence on this point? The reason may stem from Administration and Pentagon fears of growing movement against prohibitive defense spending. For some time now a massive public relations campaign has been under way to replace the Chinese threat with the Soviet threat. Mr. Nixon may be blockading Haiphong in part to build up anti-Soviet feeling in this country to justify high defense expenditures.

14. The domino theory—"an American defeat in Vietnam would encourage . . . smaller nations, armed by their major allies . . . to attack neighboring nations at will, in the Mideast, in Europe and other areas."

Nothing damages American credibility in the world more than the ongoing spectacle of the mightiest nation on earth attempting to bloody a small, agrarian nation into submission. It is not only that much of the world is morally outraged. Any group of leaders—no matter how corrupt—would have to think twice before inviting the United States in to apply the same "help" it has given to South Vietnam. There is much evidence, for example, that nations as close as neighboring Thailand are giving second thoughts to heavy involvement with the United States.

Perhaps this is why despite the sharp disagreement noted in the Kissinger Papers over the eventual consequences of an American withdrawal in South Vietnam, all agencies rejected "the views that an unfavorable settlement in Vietnam will inevitably be followed by Communist takeovers outside Indochina."

15. Terror—"do we . . . leave the South Vietnamese to a long night of terror?"

The long night of terror came long ago to Indochina. Indeed it started one million Indochinese lives ago, and has continued for most of the lifetimes of those who have survived.

It came in the form of men of a strange and different race with whom they could not even communicate, men who respected neither their women, nor their culture nor their very existence; and it has continued in the form of their machines circling high in the skies, machines which have already dropped more than 6.5 million tons of bombs on them, more bombs than have been absorbed by the rest of the world put together in all history.

And Mr. Nixon's speech could only have meant one thing to ten million Indochinese now packed into refugee camps, to hundreds of thousands now huddling underground hiding from his bombs, to over 100,000 political prisoners packed into Saigon's inhuman jails, to a million ARVN forced on pain of death to fight for a cause they do not believe in, to the orphans and the widows and the mutilated and the prostitutes.

It could only have meant that their long night of terror would continue. And, that the worst would be yet to come.

EARTH DAY 1972

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. WOLFF. Mr. Speaker, it is all too true that actions speak louder than words. While the development of an ecological consciousness and the conservation of our natural resources have become popular speech topics, unfortunately, those who have acted are far fewer than those who have spoken.

One group of individuals who have responded to this challenge are the Residents for a More Beautiful Port Washington. As part of Earth Day 1972, this organization, along with the town of North Hempstead and the Long Island Railroad, joined in a cooperative "green-up" of the Port Washington railroad station. The efforts of these people, who devoted their time, money, and hard work to the sole purpose of making Port Washington a better place to live, should serve as an example for other communities throughout our country.

I would like to take this opportunity to offer my personal congratulations to those responsible for this noteworthy effort:

RESIDENTS FOR A MORE BEAUTIFUL PORT WASHINGTON

Chairman of the board, Mr. Myron Blumenfeld.
President, Mr. Eric Pick A.I.A.
Vice-president, Mrs. Zanvil Cohn.
Treasurer, Mrs. Elliott Greenspan.
Executive secretary, Mrs. Harold G. Basser.
Recording secretary, Mrs. Bertram Taffet.

DIRECTORS

Mr. Julian Kien.
Ms. Laurie Krotman.
Mrs. Sidney Margolius.
Mr. Per Moberg.
Mrs. Peter Pannell.
Stanley I. Rubenfeld Esq.
Mr. Burton Unger.

RAILROAD STATION PLAZA GREEN UP COMMITTEE

PLANNING & ORGANIZATION

Mrs. Harold G. Basser, chairman.
Eric Pick, A.I.A.

COCHAIRMEN

Mr. Harold G. Basser, P.E.
Mr. Myron Blumenfeld.
Mrs. Zanvil Cohn.
Mrs. Elliot Greenspan.
Mrs. Albert F. Keegan.
Mrs. Stephen Salorio.
Mrs. Stephen L. Zaslow.

COMMITTEE MEMBERS

Mrs. Richard W. Bandfield.
Mrs. Frederick Bruenner.
Mrs. Alvin Corwin.
Mrs. Robert Cushman.
Mrs. Benjamin De Young.
Mrs. Dahl M. Duff.
Mrs. Alan Helman.
Mrs. Sidney Morgolius.
Mrs. Howard Mont.
Mrs. Seth Morrison.
Mrs. Peter Pannell.
Mrs. W. Lee Slayton.
Mrs. Jerome Weinstein.
Mrs. Charles B. Wheat.

CHAIRMAN OF EARTH DAY 1972

Mr. Edward Porco.

Funds for the green-up were collected courtesy of the National Bank of North America.

TRIBUTE TO DUKE WALES

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BELL. Mr. Speaker, Friday evening, May 19, 1972, a party will be given in Los Angeles for our friend Clarke H. "Duke" Wales, the universally respected director of public relations for the Association of Motion Picture and Television Producers, who retired this month after 29 years with the association.

Born in Somerville, Mass., Duke Wales attended the University of Michigan and graduated with a bachelor of science degree in journalism from Northwestern University in 1929.

Following assignments in journalism with the Villa Park Argus, the Chicago Tribune, the Cleveland News, the Memphis Press-Scimitar, the Scripps Howard Newspapers, United Press, the Detroit Free Press, and the Screen and Radio Weekly, Wales moved from the Midwest to Hollywood and, in 1940, joined the advertising and publicity department by RKO-Radio Pictures.

Three years later he began his long-term career with the Association of Motion Picture Producers, the forerunner of today's Association of Motion Picture and Television Producers. In the beginning he handled the industry's wartime public relations activities, especially those of the Hollywood Victory Committee and the War Activities Committee.

After the war he served for a time as assistant to Byron Price, then chairman of the AMPP board, and in 1950 he became director of public relations for the association and quickly began to acquire his reputation as one of the world's foremost professional communicators.

The range of his activities has been extraordinary. As director of public relations for the production industry's trade association, Duke Wales has admirably represented his industry before kings and princes, as well as the laboring man in search of opportunity.

He has served long and actively on the board of trustees of the motion picture and television fund and its many operating committees. He has been a moving force on the Permanent Charities Committee of the entertainment industry for 30 years.

An influential member of the Public Relations Coordinating Committee of the Academy of Motion Picture Arts and Sciences, his name is almost synonymous with press arrangements for the annual Academy Awards. He also was a founder of the Hollywood Overseas Committee which for 5 years has been supplying star entertainment to our servicemen in Southeast Asia.

In addition he has served with distinction on the Public Relations Committee of the Los Angeles Community Chest, the Advisory Board of the YMCA's Hollywood Studio Club, and the Los Angeles Society of Public-Relations Counselors.

For his community service he has received citations and expressions of gratitude from organizations and institutions ranging from the Department of Defense to the California State Assembly to the Los Angeles Police Department.

For these reasons, Mr. Speaker, it is with special pleasure that I direct attention of the U.S. Congress to the career of Duke Wales and note that I will be joining his many friends, and a who's who of leaders of the motion picture and television industry at the home of Charles Boren on May 19, to show him something of our profound admiration, gratitude, and respect.

PROTECTION FOR TEMPORARY FEDERAL EMPLOYEES

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. WALDIE. Mr. Speaker, today I am introducing a bill to provide coverage for temporary Federal employees under the civil service retirement program, the civil service life insurance program, and the civil service health benefits program.

Mr. Speaker, I have been planning to introduce this bill for some time now because of the obvious inequities involved for "temporary employees" of the Federal Government who are not covered in the Government programs of retirement, insurance, and health benefits. As chairman of the Subcommittee on Retirement, Insurance, and Health Benefits of the Post Office and Civil Service Committee, I have become particularly aware of the plight of those Americans who do not have proper insurance protection against death, injury, and old age. The temporary Federal employee does not have such protection.

In the area of health benefits, in many instances, the temporary Federal employee is not covered by the expansive Federal employees health benefits program as are all other Federal employees. As you know, President Nixon recently sent a bill to the Ways and Means Committee of the House which provides that all private employers must provide for the health coverage of their employees, and to cover 75 percent of the cost of such health coverage. Following the President's lead, I introduced similar legislation to provide that the Federal Government, the largest single employer in the Nation, do for the Federal employee exactly what the President proposed for the private sector. That bill, H.R. 12202, was strongly supported and passed the House on April 27 of this year.

If both the President's legislation and H.R. 12202 are enacted into law, this will mean that all Federal and all private employees will be covered under some form of comprehensive health care insurance. All except the temporary Federal employees. This means that at last, nearly all Americans—except temporary employees—will be covered by a health plan of some sort through their place of business. But we are attempting to guarantee such peace of mind for all Americans because we strongly feel that health care is a right for all and not just a privilege for the few. It is in this light that I am introducing this bill today on behalf of the temporary employee.

Mr. Speaker, the Federal temporary employee is a very important and effective resource for the Federal Government. He is contracted to work a full weekly schedule for periods of up to 1 year. Yet persons accepting such Federal employment for a year are denied by civil service regulations from receiving the retirement and insurance coverage which all other Federal employees enjoy. This is hardly a fair distinction to make.

Is such denial justified because the temporary Federal employee is any less likely to need health care services than a regular Federal employee? Will a temporary employee have less need to provide adequate life insurance for his family than a regular Federal employee? No, we have denied such coverage merely because of the administrative problems which covering them might present. In my opinion, this is not a legitimate reason for keeping this class of employees from enjoying the same security while under the Federal employment as any other Federal employee enjoys.

Recently, I have learned of cases where full time Federal employees at military installations undergoing major reductions-in-force are being rehired at a later date by the Federal Government to do the same job as a temporary employee, yet without the benefit of the retirement, life insurance, and health benefits that they once enjoyed as regular employees. Such a situation provides only more hardship for a Federal employee who has had to suffer through a reduction in force.

These Federal employees are forced to take whatever coverage they can get and at whatever price that a private carrier wishes to charge in order to provide their families with adequate coverage until new "regular" full-time employment can be obtained.

Mr. Speaker, I am not suggesting that all temporary Federal employees would necessarily want to take advantage of such benefits and coverage. Some, because of the nature of their employment, would already have other coverage of their own. But I do strongly feel that those who have no such coverage should be allowed to avail themselves of the protections guaranteed other employees while they are in the Federal employment.

FOOD STAMP PROGRAM

HON. RICHARD G. SHOUP

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. SHOUP. Mr. Speaker, recently two people from the Montana State Welfare Organization and the Montana State Low Income Association came to my office to speak to me about the food stamp program. Unfortunately, I had other commitments at that time and was not able to talk to them directly.

A member of my staff spoke with them, however, and delivered to me statements made by them before the Subcommittee on Agriculture, Environmental and Consumer Protection. These statements note several faults in the food stamp program and suggest some actions which may mend these flaws.

Probably every governmental agency is in need of repair in one way or another. This may be true of the U.S. Department of Agriculture. I think it is important to listen to those who are served by our governmental agencies since they are perhaps the first to know if a particular program is in need of realinement. By hearing what they have to say, we may discover any serious discrepancies and correct them as soon as possible.

While I wish there was no need for such a program, this Montana delegation has made some findings that should be considered and are explained in the following statements:

STATEMENT BY IRENE HOULE

(Chairman of Montana State Welfare Organization, before the Subcommittee on Agriculture, Environmental and Consumer Protection)

The low-income people of the State of Montana sent Mr. Trotchie and myself to Washington, D.C. to testify before this committee after two days of public hearings in Billings, where we were not getting any response from the people USDA sent to represent them. We feel that the facts that were brought out in this testimony should be brought to the attention of Congress.

Today we are just going to highlight some of the Billings findings which will be sent to this committee in full.

In breaking down the food stamp allowance for one person under the new rulings, it averages out to 84 cents per person per day, or 28 cents per person per meal. No one can eat on 28 cents a meal, especially children. Under this new ruling, the USDA considers special allowances such as the WIN allowance (a work incentive training program for low-income people) as income. Also, a winter allowance which they receive from the first day of October to the first day of April is also considered as income. These special allowances are specifically meant to help people get themselves training in which to better themselves so they can get off the welfare rolls. The winter allowance is meant to be for the increase for utilities or fuel, and for winter clothing.

In one instance, a person getting a $30 allowance has to pay in $26 of this for food stamps, which leaves them $4 for their heat, their clothing, and whatever else they have to buy. The welfare department gives it to you on one hand, and the Department of Agriculture takes it with the other hand. Due to this new ruling, the price of your food stamps are raised, but you still receive the same bonus! They are paying more for the same amount of stamps, which is wrong. And people are still hungry. This needs attention *now*, not at a later date.

This is not just a state crisis, this is a national crisis. We hope this committee acts to appropriate more money, so that the food stamp allowances can reflect reality instead of outdated practices.

Thank you.

STATEMENT OF LARRY TROTCHIE

(Vice Chairman of the Montana State Low Income Association, before the Subcommittee on Agriculture, Environmental and Consumer Protection of the Senate Committee on Appropriations)

On April 11th and 12th, 200 low-income persons from all over the state of Montana attended a public hearing to testify concerning their views of the current Food Stamp Program.

The individual testimony and the signatures of over 1800 persons on petitions, and that multitude of people who did not sign for fear of losing what little aid they do receive, stated that their meager budgets did not contain sufficient funds to pay the high cost of the stamps. Many families are going without food because they do not have the money with which to purchase food stamps—sometimes because the cost of food stamps is based on future income.

On the other side the amount of food stamps provided is altogether inadequate. By the USDA's own figures, as well as testimony and surveys taken during these last two years, the assistance provided for a family of four should be raised to at least $137.50, the low cost budget, plus a 5.5% cost of food increase.

Mr. Wood, a representative of USDA's regional San Francisco office in attendance at this hearing, stated that if there was a need for increased allotment and if Congress would appropriate more money, then USDA could increase the allotments. Mr. Wood also stated that "he felt Congress was too slow in appropriating money for this program."

Yet USDA asked for only a 2 billion budget for 1972. Congress insisted that they take 2.2 billion. This year USDA is only asking for 2.34 billion, despite their latest study showing a need for an increase of $37.00 for a family of four. If USDA is not going to use these studies, they make, let them stop making them.

Montana State Low-Income Organization is now in the process of transcribing the findings of this hearing. When this process is complete we hope this committee will use these findings to help in determining this new budget.

The needs of low-income people of Montana and other states cannot wait. People are hungry *now*, and these adjustments must be made *now*.

In addition to this, in a report from the Community Nutrition Institution Weekly Report, Gerald Brown, Iowa Council of Churches representative stated before the Iowa Farmers Organization, that "Farm and Commodity organizations have a stake in the expansion and successful operation of the Food Stamp Program. . . . First as a significant market; second, as a means of addressing multiple and interrelated problems associated with low-income families, and third, as it relates to county operational costs and tax load. Expansion of the program to reach the eligible would obviously have significant impact on farm economy. . . .

"There is another significant benefit of the program. The Federal Reserve Bank of Chicago, in a review of nutrition programs (June 1971) reports of the food stamp program that 'some of the increased expenditure for food represents an upgrading in the diet level rather than increased purchases of food,' . . . . which has significance for related problems such as health care, education and employment, promising long term benefit.

"Revised food stamp regulations went into effect March 1, 1972, after many months of confrontation and comprise. Secretary of Agriculture Earl Butz spoke at the Farm Institute of releasing $200 million in funds for food stamps as one of the numerous actions taken for the benefit of agriculture. This was essentially a rescinding of cuts scheduled in the new regulations.

"A number of other side effects of the new regulations should be of concern to the farm community. First is an increased unreimbursed administrative cost to the counties which will be concealed by operational procedures . . . Second, pressure on local taxes will be increased in yet other ways. The new regulations will exclude some who have participated in the past. Their needs will continue and, if they are met, it will be from General Relief. Income guidelines do not sufficiently reflect the inflationary pressures of the day—perhaps most acutely felt by the low income. Although token adjustments in food stamps are made, many can no longer accumulate the necessary cash to purchase, which is required for participation. Many of these, too, will turn to General Relief."

QUESTIONING THE FAST BREEDER REACTOR

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BINGHAM. Mr. Speaker, in the April 28 issue of Science magazine, Allen L. Hammond discusses development of the liquid metal fast breeder reactor—LMFBR—and reviews a recent study made by Thomas B. Cochran of Resources for the Future, a Washington-based research organization. The issues raised by this article merit the careful attention of all concerned with energy plans and priorities. In particular, Mr. Cochran's study questions whether the economic benefits of the LMBR are real or illusory, whether it will be competitive with other sources of energy as soon as predicted, and whether the AEC has accurately estimated the potential supply of uranium, which fuels alternative sources of power. These issues, combined with continuing difficulties in assessing fully the potential environmental and safety hazards of the LMFBR, lead Mr. Hammond to conclude that we should pause to resolve these important questions before rushing to build the reactor.

The following is the text of Mr. Hammond's article:

THE FAST BREEDER REACTOR: SIGNS OF A CRITICAL REACTION

Since 1967 the Atomic Energy Commission (AEC) has accorded the breeder reactor, in particular the liquid-metal fast breeder reactor (LMFBR), the highest priority in its efforts to develop nuclear power. The breeder program is the largest single energy R & D effort in the federal government, and President Nixon has designated this technology as "our best hope today for meeting the nation's growing demand for economical clean energy." Indeed, the AEC claims that because of an impending uranium shortage, man's use of nuclear energy would come to an end within two or three decades unless breeder reactors—which can make their own fuel—are available. The AEC and its congressional backers on the Joint Committee on Atomic Energy are therefore promoting the rapid development of the LMFBR as a means of staving off what they see as an energy crisis. Among other benefits, the AEC estimates that the commercial introduction of the LMFBR in the mid-1980's will reduce the cost of electric power and save almost $20 billion in the nation's power bill over a 50-year period.

Despite such impressive claims, there is growing opposition to the breeder program, by those who challenge the AEC's assertions. Several groups have criticized the LMFBR on environmental grounds, citing the dangers of the plutonium that these reactors will use for fuel. And now some telling economic arguments have been advanced which suggest that the LMFBR will cost much more to build and operate than the AEC predicts. A recent study* concludes that LMFBR's are likely to encounter barriers to their commercial acceptance by the utility industry or to entail higher power bills for the consumer in the event of their use. The study found that LMFBR's came off a poor fourth in comparison with other types of nuclear reactors and asserts, AEC claims to the contrary, that there is no urgent need to rush ahead with this technology.

If the study's conclusions are substantially correct—the AEC, other government officials, nuclear industry officials, and university scientists are now reviewing the heavily documented and lengthy report—it would appear to be something of a setback to the AEC's plans for our nuclear future. The study, which is the work of a young physicist, Thomas B. Cochran, was conducted at Resources for the Future, a Washington, D.C., think tank that has a good reputation for unbiased analyses of environmental problems. Cochran disputes both the AEC's economic claims for the LMFBR and its contentions that uranium will be in such short supply as to require a switch from conventional, uranium-fueled reactors to breeders before the end of the century.

The U.S. investment in the LMFBR is substantial. The AEC expects to spend as much as $4 billion on developing these reactors before 1986, when the first commercial power plant with an LMFBR is supposed to be ready. Most of the agency's justification for these expenditures is contained in a series of cost-benefit studies, the latest of which claims that an early introduction of the LMFBR into the U.S. power economy will result in net savings to the consumer of $19 billion; any delays in the breeder program, according to the AEC, will reduce these benefits by $2 billion per year.

But Cochran claims that these benefits are largely illusory. His study of the LMFBR program focuses on the AEC cost-benefit analysis. He finds that the economic model with which the AEC forecast the effects of the LMFBR program is extremely sensitive to the assumptions used in constructing the model. Many of these assumptions he believes to be incorrect, and thus he characterizes the AEC's results as "deceptive and not very convincing." Cochran points out, for example, that the AEC used a discount rate (or cost of money) of 7 percent in its analysis, rather than the 10 percent rate which George Shultz, federal economic czar at the Office of Management and Budget, recently set as appropriate for all federal projects. The higher and presumably more realistic discount rate in the AEC cost-benefit study would reduce the projected net benefits of the LMFBR by more than 75 percent.

The results of the AEC cost-benefit study also depend heavily, Cochran finds, on assumptions of rapidly rising demand for electric power, rapidly rising prices for uranium, and the condition that of several possible reactor types, only the LMFBR, is built in large quantities. If any one of these assumptions is substantially modified, Cochran argues, the LMFBR is no longer an economically viable proposition. He cites estimates of the U.S. demand for electric power in the year 2000 ranging from a high of 10 trillion kilowatt hours (the AEC figure) to a low of 5 trillion kilowatt hours, and points out that at the lower rate of demand, the market for the LMFBR would be considerably diminished.

In addition to deflating the notion that the breeder program will produce benefits over and beyond its costs, Cochran claims that the LMFBR will in all probability not be competitive for several decades after 1986 with the types of nuclear power plants that are already available. The argument depends on estimates of the capital costs of building a nuclear power plant, which are generally high compared to fossil-fueled plants, and estimates of the operating and fuel costs that are often substantially lower with nuclear plants. Most conventional nuclear plants powered by light-water reactors (LWR) now cost between $300 and $400 per kilowatt hour of generating capacity to build. The AEC has assumed that LMFBR's, despite their greater complexity, will initially cost only about $20 per kilowatt more than the LWR's and will eventually cost less. In contrast, Cochran advances a number of reasons for believing that this cost differential will be at least $40 per kilowatt, and he cites similar estimates by a utility industry panel.

Unforeseen technical problems and safety considerations, Cochran believes, are likely to compel the AEC to use a less efficient and more costly design than was assumed in the cost-benefit study. A few years ago, for example, it was discovered that the stainless steel used in reactors expands because of radiation damage, an unanticipated effect whose consequences for the breeder are still unclear. An even more significant influence on capital costs of the LMFBR's may be the design changes contemplated by the AEC. According to the assumptions on which the cost-benefit analysis was based, the first commercial LMFBR's in 1986 will follow a relatively conservative design; 4 years later, in 1990, advanced LMFBR's of a much more ambitious design are to be introduced. This advanced LMFBR design is, Cochran believes, overly optimistic and quite possibly unrealizable for safety reasons, despite improvements in the technology to be expected by 1990. The high temperatures at which, in the postulated design, the advanced LMFBR's would be operated—close to the melting point of the fuel—leaves little margin for error in the event of temperature variations, and for this and other reasons the predicted performance may be hard to achieve. But despite the ambitious design, the cost-benefit study does not allow for any increase in capital costs or first-of-a-kind expenses with the advanced LMFBR. The net effect, Cochran asserts, may be capital costs for the breeder which will be far higher than those associated with LWR's.

Even accepting the AEC estimates of capital costs, Cochran predicts that costs associated with procuring and processing nuclear fuel for the LMFBR will not be low enough to show a net advantage. The AEC estimates for these costs are in the nature of a self-fulfilling prophecy; having assumed that the LMFBR will be economically attractive to the utilities, the AEC can then postulate savings in fuel processing based on economies of scale—a large plant processing fuel from many reactors is cheaper than a small one. The effect is to unrealistically reduce the projected cost of electricity from the LMFBR by more than 0.5 mil per kilowatt hour. Additional costs may be added by safeguards to protect the valuable plutonium fuel against theft, by regulations to control release of radio-active gases from the fuel-processing plant, and by other environmental constraints not now included in the AEC cost estimates.

By far the most important assumption in the AEC's case for the LMFBR is that uranium prices will rise drastically as supplies become short and lower-grade ores must be tapped. The ability of the breeder reactor to make its own fuel by converting otherwise unused isotopes of uranium into plutonium has long been the primary reason for interest in this technology. Both Cochran and the AEC agree that eventually the supply of uranium for the LWR's will run dry and that breeders will be necessary, if man is to continue to use nuclear fission as a source of energy. But Cochran believes that the AEC has been far too conservative in its estimates for uranium resources. Cochran points out that the AEC bases its estimates on extrapolations of mining activity and annual production, rather than on the more widely accepted method of extrapolating known abundances from explored to unexplored areas on the basis of the geological environment. The domestic uranium industry is currently depressed and, in the absence of long-term contracts with the utilities for more uranium, is doing very little drilling to prove out suspected deposits; the uranium market is so soft that the AEC has embargoed foreign uranium from Canada and elsewhere and has not included foreign sources in their estimates of the available supply, despite large known reserves. Hence the AEC predicts an impending shortage.

Others are more optimistic. George H. Cobb, executive vice president of Kerr McGee, one of the largest uranium mining companies in the United States, is quoted in the Cochran study as predicting an adequate supply of uranium throughout this century and as noting that "there are large areas prospective for uranium in the U.S. that have had little or no exploration." Cochran also cites preliminary (but unpublished) studies presented to the National Petroleum Council which estimate that domestic uranium resources are sufficient to yield enough low-cost uranium to fuel the nuclear industry through the year 2020 without recourse to the LMFBR. Foreign reserves might provide additional backup in case of temporary shortages. The net effect, Cochran believes, is that there is no necessity for making a commitment to the breeder in the immediate future. At the very least he thinks that the uranium supply question should be more thoroughly studied.

CRITICISM OF CRASH PROGRAMS

It is certain that questions about the economic feasibility of the LMFBR, about its optimum design, and about its environmental hazards could be more readily answered if there were not a crash program to build the breeder. In fact, Cochran provides several examples of the deleterious effects of the "nuclear moonshot" philosophy that seems to characterize AEC thinking about the breeder program. One of the main reasons, apparently, for choosing the LMFBR over potentially more efficient alternatives such as a gas-cooled breeder reactor (GCBR) was that the LMFBR technology was further advanced and could be developed to commercial status more quickly. Another example concerns the conflict between economic considerations and safety features in the LMFBR program. The spent fuel taken from a reactor contains large amounts of short-lived radioactive materials, many of which decay within the 150-day "cooling-off" period that elapses before the fuel is shipped, at least for LWR fuel. Spent breeder fuel is even more radioactive, but it is also worth a great deal for the plutonium that it contains. Hence, according to the assumptions in the cost-benefit study, the AEC plans to ship the fuel to reprocessing plants within 80 days, despite the much greater hazard should a shipping accident occur. If, as Cochran believes, the AEC is eventually forced to reconsider and use a longer cooling-off period, the costs of the LMFBR fuel cycle will increase slightly.

In comparing the LMFBR with other types of nuclear reactors. Cochran asserts that the most economically attractive choice for the remainder of this century may be the high temperature gas reactor (HTGR), now just beginning to be built in this country. Cochran estimates that instead of the large number of LMFBR's which the AEC has predicted, utilities may build many more HTGR's, which are expected to have lower fuel costs and fewer environmental problems than the present LWR's. In fact, Cochran ranks the LMFBR last after the HTGR, the GCBR, and the LWR.

To the extent that Cochran's conclusions are correct, one of the few remaining arguments for continuing with the LMFBR program appears to be that of U.S. preeminence in nuclear technology. Representative Chet Holifield (D-Calif.), one of the most influential members of the Joint Committee on Atomic Energy, is quoted as saying, "If we fail to support the breeder, we will have abdicated our responsibility for international leadership in the domestic energy program. I, for one, do not propose to watch other nations proceed with their breeder programs while the United States program is compromised or halted." President Nixon, comparing the breeder to the supersonic transport and to the space program, said "We must always explore the unknown. We must never be afraid of it. That is why we have to go to space. That is why we should have built the SST." But if the LMFBR is to be justified on narrow chauvinistic grounds, rather than for economic reasons or on the basis of an impending uranium shortage, it is clearly far from being the solution to our energy problems which the AEC claims.

It is hardly a novelty when federally financed R & D programs involving new technology turn out to cost more than initially expected. But when the technology at issue is a supposedly crucial future source of electric power, the stakes are somewhat higher. It would appear that the economic and environmental questions raised by Cochran and others are serious and that the rush to build the breeder could well be halted long enough to answer them and to consider whether some major rethinking of the nation's energy plans and priorities is needed.

COMMUNIST STRATEGY MEETING IN WASHINGTON, D.C., OVER VIETNAM WAR

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. RARICK. Mr. Speaker, top officials of several Communist parties—all enjoying diplomatic immunity—met last night at the Czechoslovakian Embassy in Washington, D.C., to discuss the Vietnam war situation while American men fight and die at the hands of Communist aggressors in Vienam.

The next day the President of the United States met with the top Soviet Communist party official in Washington—indicating that his planned visit to Moscow will go on as planned—probably because neither this Nation nor Soviet Russia seems to want to stand behind their principles.

Everything is to be sacrificed—for trade and the search for wealth and power. The actions of the "superpowers" belie their stated positions.

I sent the following related news clippings:

[From the Washington Evening Star, May 10, 1972]

TENSE DIPLOMATS

(By Joy Billington)

Soviet Ambassador Dobrynin, Polish Ambassador Trampczynski, Bulgarian Ambassador Guerassimov, Hungarian Ambassador Szabo and Czech Ambassador Spacil all had their heads together in a small high-powered group at the Czech Embassy's national day reception last night.

Periodically during the conversation, conducted in Russian, there were bursts of laughter. Dobrynin, who met with his fellow Communist Ambassadors even before he had time to get a drink in his hand, obviously was the focus of the "little summit," as one observer called it, and did most of the talking.

The five ambassadors talked for over a half hour, with the host, Ambassador Spacil, being drawn off from time to time to greet guests.

"The situation that has developed is not for laughter," Spacil said, referring to President Nixon's announcement of the mining of Haiphong Harbor. "But we were talking not only about serious things. When we were laughing, we were not talking about the situation."

While Ambassador Dobrynin refused absolutely to make any comment on whether or not the U.S.-Soviet summit meeting still may be held, or on any other matter, his minister counselor, Yuly Vorontsov, was a little more voluble.

Asked by a guest whether vibrations of concern evident among guests over the international situation amounted to an "electric" situation, Vorontsov agreed. "Yes. We shall see where it's going to go, where it's going to be charged, in what direction."

In one of the most "electric" embassy functions in many years, highranking guests at the Czech chancery on Linean Avenue huddled in groups discussing possible repercussions to President Nixon's action.

"I don't know what it means. Perhaps tomorrow, after the Warsaw Pact meetings in Moscow, we will know more," Polish Ambassador Trampczynski said.

A Polish newsman went further, expressing pessimism about the future of the summit.

"It's directly hitting Soviet interests and prestige, and impairing the freedom of navigation. One report says we have a Polish ship in Haiphong. Another says no."

An Isvestia man inquired if he was speaking to an American. "Today and yesterday, I am angry at Americans," said Alexander Artamonov, sipping his drink and moving off.

The press attaches of the Soviet Union, Bulgaria and Hungary were in another clique. "We display the unanimity of the socialist countries," Alexandr Yevstafyev, the Soviet press counselor, said.

In the periphery, the Nepalese, Belgian, Nicaraguan, Brazilian, Swiss and Argentine ambassadors, and British Minister Anthony Elliott, hovered among the pockets of military men talking avidly about the Haiphong development.

The State Department's ranking guests at the reception covered both areas—Asst. Secretary William Sullivan for Vietnam, Asst. Secretary Davies for European affairs.

"Yes, we talked a lot about politics," Sullivan said carefully, as he left after a short while.

"This is a very dangerous time. It's a question of when, how and who." Chilean military attache Mandujano told a Soviet lieutenant commander and a Czech army colonel, his English suddenly deserting him when queried by a reporter.

"I don't know the difference in English between a blockade and a mining," a Hungarian army attache offered. "It all depends what they will do."

The President avoided the word 'blockade.'" Soviet military attache Gen. Tovma, said. "It's a complicated matter. Everyone understands it in his own way. It's not how you call it, but what it amounts to that matters."

Chilean ambassador Letelier, who doesn't attend many embassy functions, was drawn into conversation wth the Soviet, Czech, Hungarian and Polish ambassadors.

"Oh, yes, we were talking about the political situation," he said carefully afterward. "But we really can't guess yet, what the reaction from the Soviet Union will be."

A lone congressman ——— came in toward the end of the reception. "I think it's important to be here, to demonstrate the continuation of friendship . . . " he said.

A member of the European Affairs subcommittee of the House Foreign Affairs Committee, he chatted with the urbane, pipe-smoking host, who recently arrived in Washington from the United Nations.

"There's certainly a lot of concern in this room," ——— told his host, gesturing.

"I'd have preferred for there not to have been this concern," Spacil answered.

On the semantics of the crisis ——— insisted that the word "blockade" not be used. "It's a terribly important distinction. A 'blockade' says. 'We will blow you out of the water, we will fire our guns at you.' The mines say, 'We are here.' "

To the Czech ambassador ——— said: "You can understand our position."

To the congressman, Ambassador Spacil replied: "You can understand ours."

[From the Washington Evening Star, May 11, 1972]

Two Russians, Nixon Talk

(By George Sherman)

President Nixon today held a surprise meeting with two top Soviet officials—confirming other indications that his Moscow summit meeting may go on as scheduled.

Foreign Trade Minister Nikolai Patolichev and the Soviet Ambassador to Washington, Anatoly F. Dobrynin, exchanged smiles and jokes with Nixon for photographers in the White House office before they began a discussion.

Press secretary Ronald L. Ziegler said that Patolichev, who has been in Washington since Sunday conducting trade talks, paid a "courtesy call" on Nixon. The minister is leaving today on a trip to different parts of the United States, before returning home Tuesday.

The President was joined in the meeting by presidential adviser Henry A. Kissinger, Commerce Secretary Peter Peterson and Peter Flanigan, presidential assistant for international trade.

The meeting lasted about an hour. There was no indication of what was discussed.

The meeting took place shortly after the Soviet government released its first official response to Nixon's announcement Monday night that the United States is mining North Vietnamese harbors.

The 890-word statement, considered surprisingly mild in expert circles here, made no mention of the President's visit to Moscow to begin May 22. It also did not make any specific threats against the United States, going no further than "resolutely insisting" that the new American actions against North Vietnam cease.

Experts here immediately concluded from both the statement and the Soviet officials' appearance at the White House that Moscow has decided for the time being to keep the disruption of Soviet-American relations to a minimum.

But nothing in the Soviet statement or the meeting this morning, experts added, precludes a new Moscow decision in the next 10 days to withdraw the invitation to Nixon.

The Russians have made no secret of their intense desire to expand trade with the United States—through obtaining financial credits here and ultimately receiving most-favored-nation treatment for their imports into the United States. The trade minister has been here with a top-flight delegation, negotiating terms for improved trade.

U.S. officials said they doubted that these talks will get far enough to yield any overall agreement by the time Nixon is to travel to Moscow. But, these informed sources indicated, the Dobrynin-Patolichev visit shows the continuing Soviet desire to keep the talks alive.

BRITISH WERE BRIEFED

The Soviet Union and Britain, co-chairmen of the 1954 Geneva accords on Indochina, were the only governments to receive special White House briefings Monday night on President Nixon's new Vietnam tactics.

White House sources said that the British ambassador, Lord Cromer, spent half an hour alone with Kissinger that evening before Nixon went on nationwide television to announce the mining of North Vietnamese ports.

The White House earlier had confirmed that Dobrynin spent an hour that same evening with Kissinger discussing the President's new move.

All other ambassadors—including Lord Cromer—were briefed after Nixon's White House talk by various officials of the State Department.

NEW CONFERENCE SOUGHT

On Tuesday, British Foreign Secretary Sir Alec Douglas-Home formally proposed to Soviet Ambassador Mikhail Smirnovsky in London that their governments join in calling a new conference to negotiate an end to the Indochina war. The two governments were chairmen of the 1954 conference which achieved a settlement of the war then raging in Indochina against French rule.

Smirnovsky told the foreign secretary that he would forward the British proposal to Moscow.

In Delhi today, Indian Foreign Minister Swaran Singh told parliament that India—which is chairman of the International Control Commission setup in the Geneva accords—is consulting with Britain and the Soviet Union about next steps.

He added that London and Moscow are also "talking with each other," but did not go into specifics.

Official sources have refused to confirm or deny that Kissinger and Lord Cromer discussed return to a wider international forum for settlement of the war. But officials acknowledged that a new conference—including the big powers and against the backdrop of threatening military confrontation between Moscow and Washington over Vietnam—is one possible way out of the crisis.

"GENEROSITY" NOTED

Administration sources continue to point to what they called the "generosity" of the limited military settlement which Nixon proposed in his Monday night speech. They said that an "internationally supervised cease-fire" is obviously a subject for negotiation, while noting that the President specifically refrained from talking about the political settlement which, he said, the Vietnamese themselves should negotiate.

All previous attempts to convoke a new international conference have broken down on the refusal of Hanoi to go along—and the willingness of Moscow and Peking to accept the North Vietnamese veto.

Officials here today said they were not certain that that veto still exists. Hints of differences have surfaced in the Chinese and North Vietnamese reaction to the American mining and Moscow is displaying indecision about how to handle the crisis.

The Chinese official newspaper, People's Daily, today ran its first commentary on the mine-laying and interdiction of North Vietnamese rail links, which it said "U.S. President Nixon brazenly declared."

NO CHINA ROLE

Observers immediately noted that the article, while assuring "full support" for the "peoples of the three Indochinese countries"—Vietnam, Laos and Cambodia—did not indicate any Chinese actions were upcoming.

The article repeated previous Peking assurances that the Chinese people share "weal and woe" with their Vietnamese "comrades," and that "the vast expanse of China's territory is their reliable rear area."

But Nixon's name was mentioned only in the opening sentence, and, according to analysts, the general level of vituperation against American actions in Indochina was well below that existing before Nixon's visit to Peking last February.

CASE FOR WILDERNESS

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. RONCALIO. Mr. Speaker, Wyoming lawmakers, at the present time, are rounding out the legislation carving certain high country in our State into wilderness legislation according to early acts of Congress and providing for other areas in the high country equally attractive and equally of great value to the people to continue as high country campsites with the improvements that can give visitors a contrast to the wilderness experience in visiting these comfortable camping accommodations.

The Bridger is complete, soon the Washakie will be, Senators Gale McGee and Clifford Hansen and I are working on the Gros Ventre; it is hopeful that the Cloud Peak Wilderness Area will be defined soon by statute, and this will leave a small, remaining area near the Laramie Peak for possible wilderness classification.

Few letters have so eloquently stated the case for wilderness in certain places and for care and discernment in picking the precise wilderness boundaries in Wyoming as does the letter of Ray D. Lowe of Worland, Wyo. Because of its general excellence, I feel that my colleagues may find it of interest in helping them with the oftentime difficult matters of boundary designations as between high country wilderness envisioned in the congressional wilderness legislation now being studied and perfected.

His letter follows:

Worland, Wyo., *April 21, 1972.*

Hon. Teno Roncalio,
House of Representatives,
Washington, D.C.

Dear Mr. Roncalio: From time to time I receive invitations from you to discuss freely the things of concern to me in relation to State and National questions. I have been reluctant to express my views because I know you and your staff are busy and I get the feeling that many other persons have already expressed views very similar to mine in a more competent manner. For the past couple of months, however, I have felt that I should write the senators and representative from this State and discuss my feelings in relation to the proposed boundary extension of the Cloud Peak Wilderness Area in the Big Horn National Forest.

So that my stand is clearly understood I would like to say that I am in favor of leaving the boundary of the Cloud Peak Wilderness Area as it now is, and I am definitely opposed to enlarging the Wilderness Area.

My first visit into the Wilderness was in 1942. I walked in, using a pack frame, carrying a bedroll and supplies. From my base camp at Lake Helen I hiked to Marion, Misty Moon, Fortress Lakes, Lake Solitude and to other un-named lakes. I was greatly impressed with the beauty and grandure of this area. At that time trails were not too well defined and such things as toilets, culverts, and camp site improvements were not in the Wilderness Area. I have returned frequently since my first visit.

My latest visit to the Cloud Peak Wilderness was last July. As I have always done, I again walked in. The lakes and mountains had retained their original beauty and freshness. For variation on this trip I left the trails and hiked some of the high ridges. I saw new lakes. I saw elk, deer, coney, bobcat, coyotes, martin and signs of bear just as I did in 1942. On my ridge hikes I saw little, if any, signs of man. Upon returning to the lower trails, changes were very apparent. I am sure with the visitor in mind, the Forest Service has improved the trails, installed culverts at stream crossings, provided toilets and furnished limited camp site facilities. The tourist pressure has greatly increased since my first visit in 1942 and it is very noticeable with the influx of people and horses along with the improvements, the Wilderness atmosphere is fast disappearing.

The point I would like to make is that there are thousands and thousands of acres of land in the Cloud Peak Wilderness as it now exists, and the average visitor is only using and seeing what can be used and seen from the improved trails. Why consider enlarging the existing Wilderness when we are using and exploring such a small fraction of what we already have?

I know the management of the Wilderness can best be left to the Forest personnel, but inasmuch as I have a thought on this subject, I would like to express it, not in the way of criticism, but in good faith and in light of visitors to the area enjoying true wilderness experiences. I am in favor of removing all unnatural man-made improvements which now exist in the Wilderness. This would include the culverts, any camp ground improvements, and toilets, even though removal of the toilets and resulting water pollution is not generally consistent with the anti-water pollution policies of the Forest Service. It seems to me that management of Wilderness would be better defined and better understood by everyone if a hands-off Wilderness policy were adopted and that money and labor now being used in the Wilderness would be directed toward building, improving and maintaining camp sites outside the Wilderness Area. This policy, if adopted, would afford the visitor two very constrasting camping experiences: one being the camping with comfortable accommodations and the other being a truly Wilderness experience.

I would have a feeling of ingratitude if I did not express my appreciation to Forest Service personnel with whom I have had dealings since 1942. I truly appreciate the cooperation and guidance I have received from them in my associations and use of the National Forest.

I wish to express my appreciation to Mr. R. N. Ridings, Sheridan, Wyoming, and Gary Oliverson of Worland for providing the people of this area an opportunity to participate in an open hearing on management decisions pertaining to the Big Horn National Forest. It rekindles my faith in our democratic process when we can meet and discuss our mutual problems in a neutral atmosphere attempting to arrive at the best solution to our problems considering the best interests of all concerned.

Very sincerely,

RAY D. LOWE.

NEWS CONFERENCE OF SECRETARY OF DEFENSE MELVIN LAIRD, WEDNESDAY, MAY 10, 1972

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. TEAGUE of Texas. Mr. Speaker, under leave to extend my remarks in the RECORD I would like to include the text of the news conference held Wednesday, May 10, 1972, at the Pentagon with Secretary of Defense Melvin Laird:

NEWS CONFERENCE BY SECRETARY OF DEFENSE MELVIN R. LAIRD AT PENTAGON, WEDNESDAY, MAY 10, 1972

Secretary LAIRD. Ladies and gentlemen, I want to make five points before taking your questions this morning.

1. As I meet with you today United States air and sea forces are fighting Communist aggression in Southeast Asia.

2. South Vietnamese forces are at the moment holding fast in a very difficult ground combat situation caused by the massive Communist invasion across the Demilitarized Zone. The South Vietnamese face additional attacks by the enemy that has been made possible by the heavily supplied equipment, of new and modern types, which are being used in South Vietnam, supplied by the Soviet Union for the first time this year.

3. General Abrams will continue our troop withdrawal program directed by the President of the United States. We have brought home 500,000 Americans and we will meet or beat the President's goal of 49,000 Americans in-country by July 1, 1972.

4. The President has presented the most forthright and generous peace offer at any time in history. If the enemy agrees to an internationally supervised ceasefire and the return of our prisoners of war, we will withdraw our forces from Vietnam within four months. This will bring an end to the war and a return of our prisoners. It will allow us to continue the movement toward a generation of peace, which is the goal of all Americans and is the goal of the Nixon Doctrine foreign policy, which is supported worldwide by our national security strategy of realistic deterrence.

5. The American people always have supported our President when Americans are endangered and the cause of freedom has been threatened. This is no time for quitters or for a lot of talk about instant surrender. I don't think the American people want to clamber aboard some sort of a bugout shuttle. I think they join the President and me in supporting General Abrams and our men and in opposing Communist aggression.

Ladies and gentlemen, I will be glad to respond to any questions.

Question. Mr. Secretary, when you speak of quitters, to whom are you referring, Democratic presidential candidates?

Secretary LAIRD. I am referring to those individuals that would give the world the impression that the United States is willing to abandon its allies that we have become associated in four multilateral and four major bilateral treaty commitments, which have been approved under our constitutional process by the United States Senate.

Question. Mr. Secretary, you say we're not going to abandon our allies. I would like to ask you if the President's ceasefire proposal is accepted and that means that the South Vietnamese and North Vietnamese are allowed to negotiate politically, is that not abandoning our allies?

Secretary LAIRD. That is not abandoning our allies. The peace proposal of the President, as far as the internationally supervised ceasefire, has no conditions attached to it. The matter is subject to negotiation and should be decided at the negotiating table. Certainly this proposal for a ceasefire which has been made before is not an abandonment in any way of our allies.

Question. Mr. Laird, you have continually said that U.S. intelligence has been quite accurate in assessing the Communist capabilities in the Vietnam theatre. Why, in view of that good intelligence which indicated there were heavy Russian armaments available to the North Vietnamese, do we today find the South Vietnamese in kind of ragged retreat in many parts of the country?

Secretary LAIRD. I do not believe the intelligence assessments which I gave to you on many occasions here in this room were in error. We notified you earlier of the road building that was taking place in the DMZ. We also notified you of the military buildup of the North Vietnamese in the military regions opposite Military Region III, opposite Military Region II, and also north of the DMZ.

The difference, of course, in this invasion is the fact that North Vietnamese are using the Demilitarized Zone in violation of the 1954 Accords, as well as the 1968 understandings. This has given them a very short logistics supply route, particularly in Military Region I. They have been conducting this invasion across the DMZ in Military Region I now for approximately five weeks.

During this five-week period, they have been able to push into Vietnam some 22 miles in the five-week period. The situation that exists today is different than any other military situation in view of the use of Demilitarized Zone in Military Region I. During this period of time I might point out that there has been only one provincial capital taken in South Vietnam, and in that area where the massive invasion started during this five-week period they have advanced some 22 miles.

Question. Mr. Secretary, would you clear up what kind, if any, Soviet response has been made and if there are any Soviet naval movements of any kind towards the area?

Secretary LAIRD. There has been no indication along that line. We have, of course, various discussions going on with the Soviets at the present time. Many of you who cover the Pentagon regularly know that the Incidents at Sea negotiations are presently in progress here in Washington. The negotiations continued yesterday and are continuing today. As far as Helsinki is concerned, those negotiations went forward yesterday and are continuing today.

As far as naval movement—to answer that specific part of your question—there is no such evidence; as of the time of this press conference, no such evidence exists.

Question. Mr. Secretary, the mining of Haiphong and other harbors indicates to some people that your Vietnamization program has been a failure since you had to go to these extreme measures to do so. Isn't it true that you did not expect to go to that extreme?

Secretary LAIRD. Lloyd, I appreciate your asking that question and I want the visitors here in the Pentagon to know this morning that I did not put you up to asking that question but I am delighted that it has been asked.

Question. I am a little more belligerent than that.

Secretary LAIRD. Normally, you are.

The Vietnamization program has to be assessed on the basis of where we were in 1969 when the Vietnamization program was first announced.

As you know, it was announced in Midway, the first decision of the President to start a withdrawal and turning over the responsibility on the ground and to start the turnover in the air logistics and artillery area also as a part of the Vietnamization program. This program of Vietnamization applies to the military, economic and political problems that confronted Vietnam in 1969. At that particular time there was no plan, no program to withdraw Americans from that area of the world and to turn over the responsibilities to the people of South Vietnam.

The time that that announcement was made we had a troop ceiling in Vietnam of 549,500. Today, we have a troop ceiling of 49,000 and we will meet or beat that figure on July 1, which has been established by the President. So, during this period of a short three years, we have withdrawn 500,000.

More important in my mind than the withdrawals was the fact that when this program was announced and during the period immediately preceding the change of Administrations, casualties in South Vietnam as far as fatal casualties were concerned for Americans fighting on the ground, and we had 11 divisions there at that time with the ground responsibility; today every one of those 11 divisions is back home or has been taken out of our force structure. Those casualties were averaging 300 a week—approximately 300 a week. As you know, our casualty figure has been reduced to where it is now averaging 10 or less a week.

The President of the United States will not be satisfied until those fatalities, those Americans killed in action, reaches zero. When one wants to point to progress in the Vietnamization field in turning over this responsibility and we move to get our casualty figures to zero, and that's what our goal, of course, is, and that's what part of the Vietnamization program was all about, one cannot help but point to the progress that has been made during that short three-year period—from 300 to less than 10 a week.

In addition to that, one should point, I believe, to the fact that at the time this program was announced, the total cost figures of the Vietnam conflict as far as the United States Government budget was concerned, the total cost figure was up as high as $30 billion. The incremental costs in the year 1968 were approximately $22 billion. Those figures and those costs in terms of resources devoted from our federal budget have been reduced during this particular period of time by a approximately two-thirds—a reduction of two-thirds as far as costs are concerned.

I could point up to many other areas where I believe progress can be cited. We have sort of an expansion ball club that's fighting in Vietnam at the present time. They've come into the fighting and have taken over the ground combat responsibility. I have told you on many occasions that the South Vietnamese will not win every battle or every encounter, but they will do a very credible job in the vast majority of encounters which they will have.

The fact that three divisions of the regular forces of the North Vietnamese have only been able to move 22 miles in five weeks in the area where the attack first started, I think, speaks well. I don't want to say that everything is perfect as far as the South Vietnamese forces are concerned because it is not. In some cases these Vietnamese have not fought as strongly as they should and have not had the strong leadership that is needed and necessary to have success on the ground battle that is going forward.

But in most cases this leadership and this ground combat capability has been performed by these individuals in a very credible fashion. I only would recall the fact that in 1968 when the attack reached a very high level there were equivalent of 11 American combat divisions on the ground and with the exception of perhaps the First ARVN Division, the responsibility of facing the VC and the North Vietnamese attackers was an American responsibility. Today, it is a South Vietnamese responsibility and we are giving air and sea assistance to the South Vietnamese in carrying on this responsibility.

I agree, as your question implied, that the decision will be made and the battle decided by the effectiveness of the ground combat but we will continue to give the air and sea support that is necessary.

Question. Mr. Secretary, is our air and sea buildup continuing? Do we expect to see more aircraft and ships being sent to Southeast Asia?

Secretary Laird. It is continuing. We have on the line today for the first time the Newport News with its nine eight-inch guns and our insurance reserve or our augmentation force is continuing to be expanded as far as the air and sea is concerned.

We also have the notification ships which are on station at the present time, notifying all vessels in the area of North Vietnam of the mining operation and the fact that the mines will become active Washington time 6:00 a.m. Thursday.

Question. Mr. Secretary, speaking of sea and air power and in the event Mr. Nixon's program goes through and the other people agree to it and we remove all of our forces from South Vietnam within four months after that, do we still plan to come to the aid of South Vietnam if the North renews the struggle on the battlefield, with sea and air power?

Secretary Laird. The question you ask is if the ceasefire is violated by the other side, would the United States continue to use air and sea power at that particular time. A decision would have to be made at that particular time. Your question is a rather iffy question. I don't like to conduct contingency plans, but I can certainly tell you that would be my recommendation should the internationally supervised ceasefire be violated.

Question. Your recommendation would be to come to their aid——

Secretary Laird. To use the air and sea power. That would be my recommendation. That's very iffy question you ask. First, we have to acquire the internationally supervised ceasefire that is in the President's peace proposal before that question even should be answered directly. We have some distance to go to acquire that internationally supervised ceasefire. As I said earlier, this is the most comprehensive peace proposal ever made in our history, I believe, and I would hope that the enemy would realize the wisdom in accepting the proposal of the President.

Question. Mr. Secretary, regarding the mines. What's the United States going to do if the Soviet Union attempts to remove any of the mines the United States has laid? Secondly, could you tell us how long those mines will remain inactivated? As I understand it, there is an automatic deactivation period, and what have they been set for?

Secretary Laird. First, we will take all steps that are necessary in order to maintain an adequate mining operation. As you know, mines are a passive weapon. No one has to get involved with a mine. That is a decision that is made not by us, but is made by those people that confront the mines.

As far as the mine technology is concerned, the second part of your question, I will not discuss or divulge U.S. mine technology at this press conference and I would hope that that technology not be made a part of the public record.

Question. Mr. Secretary, would you give us an explanation and definition of what the Administration means by blockade with with these factors in mind? Senator Scott, who is something of an admiralty lawyer, says blockade is a legal term and it has a lot of support in international law. Yesterday, Mr. Kissinger and the State Department's spokesman said we were not having a blockade. Could you talk to that?

Secretary Laird. Of course, this is not in the terms that you refer to it, in Senator Scott's terms, and you quote Senator Scott, a blockade in the international sense, that we are challenging ships beyond the territorial waters of North Vietnam. We are merely giving notification to all shipping that the harbors of North Vietnam have been mined and we have notified the entire world and we have notified the United Nations that we will not permit the landing of supplies in North Vietnam.

This is a much different type of action than the international blockade to which you refer, that applies on the high seas beyond the territorial waters of a given country, so there is a difference.

Question. Mr. Secretary, in response to this attack by North Vitetnam, does the United States plan to send more sophisticated weapons to South Vietnam to respond to the Soviet sophisticated weapons—defensive weapons?

Secretary Laird. As you know, the United States military assistance program has different restrictions and policy determinations that apply to it than the military assistance programs of the Soviet Union. Evidently, the Soviet Union has seen fit not to place restrictions on the military equipment that is sent to one of their allies and they have placed no restrictions on the use of the military equipment thus far that has been sent to the North Vietnamese.

In the United States, of course, because of provisions in the Military Assistance Act, as well as in the Defense Appropriation Act, and in our justification of these programs, we have always placed very strict constraints upon the use of military equipment which is supplied by the United States. We have made it evident to all countries accepting our military assistance that it must be used for defensive purposes and cannot be used to carry on aggression or to carry on an offensive act.

This is the real difference that exists between the military assistance programs being carried on presently as they apply to North Vietnam as far as the Soviet military assistance programs that we are carrying on in South Vietnam and as a matter of fact, throughout the world. These restrictions that we have apply, of course, to Israel. They apply to the aid that we are giving to the Greeks. They apply to the aid that has been given and military credits that have been made available to our Latin and Central American neighbors.

The Congress has always insisted that any military sales credit or military assistance program be applied in this way. As a matter of fact, there is a restriction in our programs for military assistance that prohibits even the transfer of those military equipments that are purchased or given on a grant basis to another nation, one of our allies. They cannot transfer any of these equipments to a third country.

This is the basic difference between the Soviet's program and the United State's program. The Soviet's program is now being used and has been used but presently is being used to help the violation of the 1954 Accords, the 1968 understandings, and they are carrying on aggressive acts in violation of these international understandings and accords.

Question. Mr. Secretary, have any ships gone in or out of the harbor during the two daylight hours or have any ships stopped or turned back outside the mine field and do you see any signs they are trying to sweep up the mines or they are sending minesweepers down from Russia to sweep them up?

Secretary Laird. There are four questions there. I will take the last part of your question first. No, there is no evidence of a sweeping activity going on.

The third part of your question has to do with the turning around of any ships. When the A–6's left the two carriers and went in and carried on their successful first drop of mines at 9:04, I believe the exact time was Washington time, on Monday evening, there were some ships that were in the process of transit in the particular area and there is some evidence that there was some change in course in some of these particular ships.

The second part of your question has to do with the ships in port, whether there is any evidence of a change in their particular movements during this time. As you know, there's one more daylight period for ships to move out of the port area before the mines become activated in the Haiphong channel. At the time the mines were being laid, there were some 36 ships that were in Haiphong—16 ships of the Soviet Union; five ships of the People's Republic of China; four ships which were carrying the flag of British Hong Kong, they were British flag operating out of Hong Kong; there were two Cuban ships; one East German; three Polish ships; and five from Somalia. Those made up the total of the 36 ships.

Thus far there has been no major movement out of port or into port as far as these ships or the ships that were at sea destined for Haiphong. During the last daylight period there has been some ship movement within the port itself but there has been no massive movement of ships out of port or into port during this period.

I think that answers all four sections.

Question. Mr. Secretary, in the event of the success of the mining operation, presumably as they turn then by the North Vietnamese to attempt to supply themselves by rail and by road, presumably U.S. bombing will have to increase at that time. With all of the statements by the North Vietnamese about civilian areas being bombed, what precautions are we taking and what about charges that civilian populations have been bombed?

Secretary Laird. Every effort is made, of course, on behalf of the United States to minimize civilian casualties and that is, of course, the instructions that our pilots will operate under as they interdict the rail lines and they take out the POL facilities in North Vietnam as part of this overall interdiction campaign. This campaign, which we refer to as Linebacker, is a campaign to stop the movement of supplies and the targeting is such that the civilian casualties will be very minimal. I do not want to say that there will be absolutely none. We will certainly carry them out in that fashion.

I would only point that the enemy continues its complete destruction and lack of respect for human life and civilian casualties. Let me give you a few examples.

Let's look at An Loc. It is a piece of territory two miles square. It is in Military Region III. Those of you covering this building know the situation there from the briefings that you've had. During this period of time this two-mile square area concentrated with civilian population, has had a bombing raid on it from artillery, which is very effective, 35,000 rounds have been placed against that civilian center by the enemy.

Let's move on up to Quang Tri, just a few miles across the DMZ. The enemy had to move its artillery about two or three miles down over the DMZ and be in a position to carry out a bombing attack through the use of artillery on Quang Tri. The four days before Quang Tri fell, the enemy was putting into that civilian population area a total of 3,000 rounds a day. Then on the last day they put 4,600 rounds of artillery in on that civilian population center. They showed a complete lack of regard for the civilian population. They sprayed artillery into those civilian centers just as if they were using a water hose. I think that this lack of regard for civilian population centers should be called to the attention of the entire world.

Question. Mr. Secretary, there is a report in the morning paper that Soviet missile-bearing submarines have been in Cuban waters, which would seem to violate an understanding we had with them. Is that report correct?

Secretary Laird. That is correct. We announced this port call of a Golf 2 class missile submarine here in this building sometime last week. We also announced, I believe, yesterday the departure of this submarine from Cuban ports. This, of course, is not a nuclear-powered submarine, but such a port call was made by the Soviet submarine. There was also a port call of a support-type ship, tender-type, which had a training group on it, possibly 300 cadets, that also made a port call in Cuba. We have no information of any missile-carrying submarine operating and using Cuban ports as an operating base. A port call has been made. The submarine has left that port.

I can give you the other ships that are in the port down there but, Peter, I think the question that you have asked we have handled that on a regular basis here in a routine fashion here in the Department of Defense at our regular briefings.

Question. Mr. Secretary, you said shortly after the invasion started we would continue our air and naval support until there was a withdrawal. Has there been any change in that position? Would the United States now be willing to accept a ceasefire that took existing battle lines in order to bring an end to the immediate fighting?

Secretary Laird. It is true at my press conference I said that we would not entertain negotiations until the enemy had crossed back across the DMZ. That position, of course, has been changed by the President of the United States and my position, as expressed at that time, is no longer the position of our country. My position is out of date.

Question. Mr. Secretary, once the mines are activated how soon do you expect it to affect the battlefield in South Vietnam? How deeply do you think the blockade, or whatever you want to call it, will affect the progress of the battle?

Secretary Laird. To answer your question, you have to take certain assumptions and it depends on what those assumptions might be to give you a clear and precise answer. The conditions could vary somewhat. I can only say in some areas the North Vietnamese have supplies on hand of two to three months. In other areas they may have supplies on certain items for a longer period of time and some a shorter period of time.

The effect upon the battle area will be whether or not the enemy makes the decision to continue an all-out effort and go to zero as far as their supplies are concerned or whether they feel that because of the interdiction or the stoppage of supplies that they can anticipate in the future, this will have an effect upon the level of battle in the particular area.

So, the proposition that you place before us this morning is one that is difficult to answer because the intentions of the enemy have to be read into the equation, and I am not prepared to read those intentions, whether they are willing to go for broke in four or five weeks or whether they are willing to use their supplies in a much more measured manner depending upon the success or failure as they see it of the supply movement and the logistics movement into North Vietnam.

Question. Mr. Secretary, in light of your statement that this war is going to be won on the ground, shouldn't we be having a massive airlift of tanks to the South Vietnamese now to help them increase their fire power and shouldn't we be bombing the tunnels on the three railroads coming in from China?

Secretary Laird. First, logistics supplies to the South Vietnamese, I can assure you that the logistics supplies that we are giving the South Vietnamese are adequate and every effort is being made to give the South Vietnamese the supplies and equipment and the logistics that are needed to carry on their defense of their homeland.

I've had a mission out there which has been reporting to the President of the United States and been reporting to me, headed by the three logistic generals in charge of all our three military services here in the United States, as well as the J-4 of the Joint Chiefs of Staff. This group has been chairmanned by the Assistant Secretary of Defense Barry Shillito. Every effort has been made to supply the needed logistics support for the South Vietnamese and we have given them those assurances.

As far as tanks are concerned, the South Vietnamese have not encountered great difficulty with the tanks thus far. The first two or three days, the South Vietnamese were somewhat caught by surprise at the massive movements of tanks into the battlefield area. They found out after a short period of time they were able to destroy these tanks very effectively and they have done a good job. This is particularly true of the airborne and it's true of the marines up in Military Region 1. They have done a tremendous job as far as tank destruction is concerned. They have been aided, of course, by our tactical air.

One of the main problems that they have faced has been the artillery fire. The knocking out of the North Vietnamese artillery has not been a question as to whether we had the weapons to knock out the artillery, the weapons are there, both as far as air is concerned and other means that are available to the South Vietnamese to knock out the artillery. The problem has been the location of the artillery and the South Vietnamese are moving in this area. I've had the opportunity to meet with several of our younger military advisors who've come back, captains and majors, and I have them in and I've talked to them about this. They feel that the South Vietnamese will have to move out to locate this artillery. We have the means of knocking the artillery out as soon as it is located and pinpointed.

It is not a question of the weapons at the present time. It's a question, of course, of the aggressive leadership of the forces of South Vietnam. President Thieu has taken actions recently, I believe, which are very important as far as this leadership question is concerned, and they will have to understand and they do now understand this very grave responsibility which is theirs, the ground combat responsibility, but they have been assured logistically that we will support them. They have also been assured that we will give them the air and sea support which is needed and necessary to influence this very important decision on the ground.

Question. Mr. Secretary, two points of clarification. You say there have been no massive movements into or out of Haiphong Harbor since the bombing. Has there been any movement of any ships out of its harbor or estuary since the mining?

Secretary Laird. Yes, there has been some movement but the problem is, and I am not trying to hedge on your question one bit, some of the ships were in the particular area of movement and before they actually got into the docks and alongside the docks. There is a difference and that's why I answered the question in the way I did earlier this morning.

Question. The second has to do with the interdiction in the territorial waters or claimed waters of North Vietnam. Should any flagship belonging to a country other than North Vietnam attempt to enter those waters to land cargo on the shore, is it our policy to attack those by land or sea?

Secretary Laird. Our policy is to stop the delivery to the North Vietnamese of these supplies and we will take those actions that are necessary to stop that delivery.

Question. How about an airlift of AN-22's coming into North Vietnamese airfields? What do we do about those?

Secretary Laird. We will take those actions that are necessary to interdict and stop the supplies of equipment to North Vietnam.

Question. So we have to interdict those aircraft?

Secretary Laird. I am not going to get into a discussion of the operational orders and the contingencies that may arise. I can tell you that we will take steps that are necessary to see that these supplies are cut off that are being used to carry on this aggression and this marauding throughout Southeast Asia.

Question. Mr. Secretary, the President obviously sought advice from many quarters before this decision was made. Was the mining of Haiphong Harbor your personal recommendation to the President and are there any contingency plans for the landing of ground troops in either North or South Vietnam?

Secretary Laird. I don't believe it serves any useful purpose to get into a discussion of possible contingency plans. We will take the action that is necessary to see that the program that has been ordered by the President of the United States, supported by the National Security Council, supported by his Cabinet, are carried out fully.

As far as the proposal as to when the decision was made, the decision was made by the President of the United States on Monday afternoon. Planning, of course, had gone on for a considerable period of time and it should be of no surprise to you that such planning was going on. I was asked the question before the Foreign Relations Committee several weeks ago as to whether such planning was in progress and whether it was a possibility. I gave a short answer and the answer was yes, and that was three weeks ago.

Question. Mr. Secretary, if the North Vietnamese go for broke in the next month or so, can the South Vietnamese withstand this all-out military offensive with the sophisticated Soviet weapons?

Secretary Laird. The South Vietnamese have the capability, they have the equipment, they have the manpower to be able to do this.

Question. But, can they do it, do you think, in your evaluation?

Secretary Laird. My evaluation is on the best information that's been made available to me by our military commanders, that they do have the will and the desire to carry out this defense of their home country.

Question. I think you should clarify one point that is at variance with Dr. Kissinger. At his briefing yesterday he said there was no intention to stop ships going in, the mining was the only thing. You are leaving the implication here that this is a possibility. Is that what you meant to leave?

Secretary Laird. That is what I meant to leave.

Question. That is a possibility?

Question. You said the mines will be activated at 7 o'clock tomorrow morning. On your information, when will the first Soviet freight thereon now run the risk of going into those minefields?

Secretary Laird. I'm not scheduling the Soviet freighters. There was one scheduled to go in, I believe, today or yesterday. It did not go in. I am not in charge of positioning the Soviet freighters and scheduling their movements into these particular ports. There was one scheduled that did not choose to go in. I believe that question is a question that might at some future date cause me a credibility problem and since I have been here I have tried to cause no credibility problems and that's the reason I am not giving you a specific answer.

Question. Mr. Secretary, what was that freighter carrying and do you have any description by name or number?

Secretary Laird. We do have the information, but I'm not going to make it available.

Question. What did that freighter do? Is it standing off outside?

Secretary Laird. That freighter is at sea beyond the territorial waters of North Vietnam.

Question. Mr. Secretary, of the ships that choose to remain in the harbor and continue to offload cargo after tomorrow morning, are they susceptible to attack?

Secretary Laird. I have answered that question. We will take those actions that are necessary to prevent the delivery in North Vietnam of these supplies. Actions will be taken that are necessary to see that those deliveries are not made in North Vietnam.

Question. What do you consider deliveries being made, at the dock?

Secretary Laird. In the land mass of North Vietnam. I'm not going to get into any specific dock. I consider the entire land mass of North Vietnam would be a delivery, if that is the question.

Question. Mr. Secretary, does your earlier statement that we have notified that we will not permit the landing of supplies in North Vietnam, does that include delivery by air?

Secretary Laird. We will take those steps that are necessary to prevent the delivery of supplies that can be used to assist the North Vietnamese in carrying out their military aggression in Southeast Asia. I don't know how I can be any more forthright or make it any clearer than I already have.

Question. In other words, Mr. Secretary, you are not playing games with the ideas that they can offload the material and then we hit it on the dock. You're saying we are not going to allow them even to put in on the dock?

Secretary Laird. I am saying that we will take those actions that are necessary to prevent delivery into North Vietnam.

Question. Mr. Secretary, if the North Vietnamese do break through around Hue, are any American troops close enough there to be threatened by that action?

Secretary Laird. Of course, we have a large number of Americans that are not far from there, at Da Nang, which are, of course, in the general area. These troops are in the general area of Military Region I. I would point out, however, this has been going on for five weeks in Military Region I. If you will go back to 1968, it was just a question of a few days before the North Vietnamese were able to, with the assistance of the VC, take over and almost control Hue. The situation in 1972 is somewhat different than the situation that existed in Hue and in Military Region I where you compare these two large actions of the North Vietnamese forces.

Question. Mr. Secretary, in the mining and in the interference with shipping deliveries, as I understand it and maybe I am incorrect, is this a warlike act? Are you really in effect carrying out a warlike act against other nations' shipping and, therefore, does that not require a declaration of war?

Secretary Laird. The situation is such, Lloyd, that mines have been used by the enemy in the South and in the tributaries and in the rivers in the South over a period of time. We have had damage done to ships from the mines that have been laid by the North Vietnamese. These have been in most cases Soviet mines that have been placed in those particular entrances to river facilities and in other areas in the South. I think it is important to point out that mines have been used by the enemy in South Vietnam.

Question. In other words, you are justifying your action on the basis of what the enemy has done in the South?

Secretary Laird. We are justifying our action on the fact that we perhaps need Congressional authorization to place Americans and to commit more and more Americans to South Vietnam. At a time during 1966 to 1968, the force structure of the American forces was on the up and up and up. At that particular time, as a Member of Congress, I felt that Congressional authority was needed and was necessary in order to increase the commitment of American forces in that area of the world. We are reducing the commitment of American forces in that area of the world, and we are on the decline.

This is true whether you go to to Thailand. Some people like to say we're increasing forces in Thailand. In 1968 or at the time of the Midway Conference when President Nixon announced this program, those of you in this room know there were 48,000 Americans, almost 50,000 as a matter of fact, in Thailand. At the present time we are down to around 35,000 or in that general area, but we are 10,000 below in Thailand where we were at the point of the Midway Conference.

I can take you to the Philippines, Japan, in all of that area of the world. The reduction is significant on the part of American military forces. This is something I think that has been overlooked during the last few weeks.

Question. Mr. Secretary——

Secretary Laird. We have to take care of the regulars around here. It is nice to have all of you visitors, but it is nice to have the regulars.

Question. Is there a brigade of the Third Marine Division afloat off Vietnam?

Secretary Laird. I am not going to give you the precise whereabouts of any of our forces. You've covered this building for a long period of time and you know that we have had Marines embarked upon certain ships in that area for a good, long time and I am not giving you any other answer than saying that from your own personal knowledge, you of course are aware that Marines do exist and are embarked upon certain ships in the Seventh Fleet.

Question. Mr. Secretary, should Hanoi announce tomorrow that it accepts the cease-fire, what could or would be done about the mines?

Secretary Laird. I am not going to get into the mine technology. I do not believe it serves a useful purpose for us to discuss mine technology, which is a very important—there have been very important improvements as far as mine technology is concerned over the years, and we are not going to discuss mine technology today or we are not going to divulge the technology that the United States has acquired in this particular military field. We feel that it is a very fine passive weapon, and we've made improvements in this program. I know I went on the Defense Appropriations Committee back in 1952 and I have been familiar with these programs over the years, but I am not going to discuss the technology or the evolvement of that technology over the last 10 or 15 years.

Press. Thank you very much.

OUT NOW

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. ROSENTHAL. Mr. Speaker, on May 4, 1972, the Nation observed a day of conscience and moratorium on the anniversary of the Kent and Jackson State killings. I would like to insert in the Record my comments at a vigil of conscience sponsored by the Peace Action Committee of Queens, N.Y.:

We gather here this evening at a time of national mourning. As so many times before when we have gathered in recent years, it has been a time of mourning. We have mourned for more than a decade over the bloodshed in Southeast Asia. We mourned two years ago today. And we mourn again tonight.

We say tonight, as we have had to say too many times before, that this war is not worth the agony of even a single American death. It is not worth the despair of one serviceman's family; it is not worth the destruction of one peasant's hut; it is not worth the disillusionment of an entire nation. It has never been worth one single day of fighting. It still isn't.

The words that defend this war are not worth the breath expended on them. The military strategy is not worth the ink used to plot human destruction. The egos that ride on military victory are *not* important to the nation. The lives of American men and the Vietnamese people are far more important. They are, indeed, the only importance.

So, tonight, we must examine what exactly *is* our government's commitment to peace in Southeast Asia and the world. All we have seen so far is the wasteland of pitiful promises and sorrowful neglect; a Congress which seeks absolution of its guilt by abdication of its responsibilities, and a president who bemoans the prestige of his office while betraying his promises of peace. Peace is a fragile commodity, Mr. President, it cannot be bought by falling bombs. The politics of this Administration has displaced peace from its paramount position in this country's priorities to one manipulated into limbo. Our commitment to peace has been conspicuous only by its lack of conviction and accomplishment.

The recent action of the House Democratic Caucus in ordering the Foreign Affairs Committee (on which I serve) to consider and approve legislation to set a date certain for U.S. withdrawal is the only hopeful sign we have here this evening. For this government suspended indefinitely the Paris Peace Talks, and it looks like there is more belligerence to come. We have backed away from negotiations again and appear headed back to the battlefield again.

I beg my colleagues tonight to act, for there has been too much time and too much life wasted already.

If ever there was a need for true patriotism, it is now. If ever there was a need to save the soul of our Republic, it is now.

America, her leaders and her Congress must at last be great and strong—great enough to love peace; strong enough to embrace it.

KAM-ISAIAH ISRAEL TEMPLE CELEBRATES THE 125TH ANNIVERSARY OF ILLINOIS JEWRY

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. MIKVA. Mr. Speaker, I take special pleasure in joining with the congregation of KAM-Isaiah Israel Temple who, on June 11, will formally celebrate the 125th anniversary of the founding of the first Jewish congregation in the city of Chicago and the State of Illinois.

In 1847, 20 American pioneers came together in Chicago to form Kehilath Anshe Maarav—Congregation of the Men of the West—and laid the foundation stone of organized Jewry in Illinois. Recently KAM merged with the second oldest congregation in Illinois, Temple Isaiah Israel, and together they have sworn a new commitment to remain in the urban community where they were founded and to work to ease the problems of the inner-city.

As a member of the KAM-Isaiah Israel Congregation, it is for me a special privilege to be able to participate in this remarkable anniversary—125 years of a tradition of service by these two oldest Chicago congregations. Age alone is not the reason for this pride. It is the accomplishments that make the anniversary significant. Throughout Illinois history, these two congregations have been in the forefront of every chapter of social struggle and progress. Most recently it has been the battle to live in the city.

Two distinguished emeritus leaders of the congregation, Rabbi Morton Berman and Rabbi Jacob Weinstein, had the vision and courage which were especially vital in strengthening the social fabric and cultural welfare of Chicago's inner heartlands. This inner-city commitment was particularly manifest during the crucial and difficult decade from 1948 to 1958 when Hyde Park-Kenwood made its successful transition into a fully integrated community.

The current work of Rabbi Maslin and Rabbi Perelmuter is encouraging evidence that this progressive example of social, spiritual urban presence will be continued and expanded. For they too exemplify the Jewish ethical mandate that while their obligation may not be to finish the task, "neither art thou free to desist therefrom."

Mr. Speaker, at this point I insert in the RECORD several articles relating the proud history of KAM-Isaiah Israel Temple:

A VITAL JEWISH PRESENCE IN HELPING TO SHAPE THE CITY OF TOMORROW

In the year that the Chicago Tribune made its first appearance on the muddy streets of that promising little town on Lake Michigan called Chicago, a handful of Jews established the first Jewish Community in Illinois with a synagogue on Jackson at Dearborn where stood the old Post Office Building and the new Federal Building is rising.

K.A.M. Isaiah Israel, grew as Chicago grew, moved as Chicago moved, shared its buoyant growth, suffered in its disasters, and after its first half century, located itself in Hyde Park Kenwood, where it looks ahead for the next 125 years with a vision of a new Chicago that will deal with the problems not of size, but of quality of life.

K.A.M. Isaiah Israel is the result of the union last year between the founding congregation (K.A.M.) and Isaiah Israel, which separated itself in 1852 and had 120 years of independent existence.

Both congregations, for the last half century were situated in close proximity to each other in Hyde Park Kenwood. It was these in the late forties and early fifties that gave leadership to the forces that brought into being the Hyde Park Kenwood Community Conference, which contributed to saving the area.

Out of it has emerged a concept of urban living, and adjustment to urban realities, which brings together wide diversities in a dialogue of constructive communication that spells the hope for the city of tomorrow. Each in its way led the fight to stay, with K.A.M. keeping its total facilities in the area, and Isaiah Israel experimenting with a branch school, and returning this facility to Hyde Park two years ago.

With an awareness of common purpose, the two congregations joined forces with an imaginative and creative team ministry, consisting of Simeon J. Maslin and H. Goren Perelmuter, and a decision to expand its facilities effectively to serve the immediate community and the community at large.

This is a congregation which through its ministry and its people has shaped every aspect of the Jewish and general community. from the Michael Reese Hospital, to the shape of the community institutions whether it be Jewish Federation or the causes of Zionism, or Hadassah, Council of Jewish Women and B'nai B'rith; that has given to the general community its financiers and labor leaders, patrons of culture, leaders in the political and social advance.

This is the congregation served by Liebman Adler, whose son Dankmar Adler was a distinguished co-worker of Louie Sullivan, by Rabbi Gerson Levi, one of whose sons Edward, is President of the University of Chicago and by Rabbi Joseph Stolz whose son Leon was a distinguished chief editorial writer for the Tribune. It is the congregation that has had one of its sons on the Supreme Court (Arthur Goldberg). A congregation whose Rabbis have played their significant roles in leadership.

It is a congregation that faces its 125th Year with buoyancy and optimism, committed to the conviction that a significant Jewish presence is vital to shaping the city of tomorrow, which will not be two cities in the image of apartheid, but one city, where all its people communicate with each other, like in close and creative proximity with each other, building a city that can be a model for a world capable and deserving of survival.

The spirit of the celebration of 125 years of Illinois Jewry as it will be marked by the founding congregation is this: Chicago, which has been a city of neighborhoods must become, all of it a city that is a neighborhood.

K.A.M.—THE CENTENNIAL CELEBRATION IN 1947

The 99th Annual Meeting held in June of 1946 was a vivid reminder to the congregation that preparations had to be made for the celebration of the 100th Anniversary in 1947. The International Harvester Co. and the Chicago Tribune were also to celebrate their centennial year in 1947. We were impressed by so many evidences that we were an old institution in a young community and that the observance of our century of existence had a significance far wider than the pride and joy of the congregational family. Therefore, vast energy was expended in making this an event worthy of its historic importance.

A series of nine special services were written by Rabbi Weinstein to correlate with nine discussions worked out by the Discussion Group and held in conjunction with the temple services. The subjects discussed and the participants are detailed in the facsimile of the 100th Anniversary Institute accompanying this text. A special musical service, Avodath Hakodesh, by Max Janowski was published and distributed to the Reform Congregations of America. This publication contained an entire Sabbath service of representative compositions by K.A.M.'s gifted composer and musical director, who was extremely successful in recapturing the full flavor of the traditional cantillations within the framework of modern musical settings. Mr. Janowski's compositions have become part of the standard repertoire of most of the temple choirs in our land.

The culmination of the many special events took place at the Stevens Hotel Grand Ballroom on the evening of November 2, 1947—100 years to the very day since that devoted band of loyal Jews organized the first congregation in the middle Northwest. The dinner program reproduced here details the nature of the program and the dignitaries who participated in it. The address of the lamented Dr. Joshua Liebman will long be remembered by the great audience privileged to hear him.

THE SCHISM

During the elaborate preparations for the Centenary, incidents multiplied revealing a serious difference between the senior rabbi and the president of the congregation. One of the primary differences revolved around the speed and the tempo with which the lay participation program was to be introduced into the congregation. The rabbi had seen considerable evidence that many of the activities had the earmarks of made work and as such were arousing the resistance of laymen who felt that their time should be given to worthier purposes. He had come to realize also that the indirect approach of bringing Jewish education to committee personnel while the committee was engaged on any one of a hundred practical problems had its serious limitations. It was an approach that, at best, had to be supplemented by more conventional classroom procedures. He recognized also a tendency to derogate professional training and the authority derived from such training—a tendency, so fatal to democracy. He was reminded of Goethe's warning of the dangers of active ignorance, and he resolved, therefore, to prevent, if possible, a distinguished congregation from being converted into a glorified service club.

The president and a group of devoted disciples whom he had enlisted, trained and encouraged to accept responsible positions in the synagogue, were convinced that their plan of total involvement, of education through activity, was the only way of saving the temple from stagnation and petrifaction. They interpreted the senior rabbi's cautions as an attempt to undermine the lay participation program. They believed that the rabbis stood in the same relation to the Congregational Board as did any paid executive to the legally constituted management of a corporation and that the rabbis should, therefore, take their orders from the executive lay leadership.

In perspective, these issues appear hardly serious enough to have caused such intensity of emotional reaction. So, too, it is hard to understand how the differences of opinion that sprang up between the moderate reformers, and the radical reformers in 1857 could have led to the split of 1861. The bitter election of 1857 found the moderate group embattled behind the banner "Peace, Harmony and Moderate Reform" and the "radical" group entrenched behind the motto "Equality, Reform and Education." The historian of our Golden Jubilee Volume explains the rancor of that election in these terms: "The fight was hard and bitter, for in those days, the Jews took a warm interest in their religion and in the affairs of their religious institutions."

The present historian aided by more subtle psychological tools for understanding the motives of men is compelled to add a few more considerations to this "warm interest in religion." There were, of course, the normal jealousies, frustrations and personal rancors that are part of our unregenerate human nature. And strangely enough, a religious institution or a religious dispute often adds to the stubbornness of the person the rigidity of a dogma, a development uncongenial to compromise. It must also be remembered that the Great World War was not so far in the past. The pent-up fears, the cumulative frustrations of the war years found an outlet in fervid partisanship in this dispute. The real issues at stake were unfortunately covered by a turgid blanket of hair-trigger emotions. A series of dramatic board meetings failed to bring the opposing groups together.

The group led by the president was confident that their position would be sustained by a majority of the congregation. When, however, ⅞ of the congregation signed petitions backing the position of Rabbi Weinstein and his advocates, the opposition decided to withdraw and organize a new congregation under the leadership of Mr. Schrayer. Rabbi Friendland joined this group and became its first rabbi. This solution was approved at the Annual Meeting held on June 16, 1948. Thus in its hundred and first year, K.A.M., in stormy parturition, gave birth to another congregation in Israel. Our tradition admonishes us that those divisions that are "leshem Shomayim", for the sake of Heaven, prosper, but those disputes that are not for the sake of Heaven do not. Only time will tell into which of these categories this schism falls.

THE SCAR HEALS

The 700 families that remained with K.A.M. more eagerly dedicated themselves to the work of the temple. Many who had taken the temple pretty much for granted realized more keenly what it meant in their lives. Some had been induced by the raging dispute to rethink their whole attitude toward religion and the institutions dedicated to religious life. Theodore Stone, who, as a former vice-president, had bravely stepped in as interim president when the officers of the congregation resigned at the Board meeting of April, 1948, was elected president at the Annual Meeting in June for a two-year term. He immediately set about the task of recruiting new leadership for the various agencies of the temple. He was reassured to discover that there was a large reserve of fine manpower available. Mrs. Herbert Hauptman undertook the presidency of the Sisterhood; Frank Chayes, of the Men's Club; Herbert M. Hymen, of the Senior Society and Betty Rosenthal, of the Youth Council.

THE K.A.M. COMMUNITY HOUSE

Strengthened by this new leadership and the many competent members who accepted positions on the various committees, the Board of Trustees faced the challenge of the uncompleted business of building the new Community House. The temple had long realized the inadequacy of its quarters for its religious school and youth activities program. In 1939, Irving Solomon and Mrs. M. L. Weinstein had organized a series of earning events—a night at the opera and a grand bazaar which had netted sufficient funds both to renovate the temple auditorium and to purchase the lot immediately east of the temple. In 1944, on the occasion of his Fifth Anniversary as rabbi, a group of friends and admirers had presented Rabbi Weinstein with pledges of $50,000 as the start of a Building Fund Campaign. Under the able leadership of Samuel S. Weil and Reuben L. Freeman this sum was raised to $140,000. The campaign had lain dormant during the celebration of the 100th Anniversary. Now Alfred Wittert undertook the task of completing the campaign. Aided by Mrs. Arthur Feldman, he organized a successful dinner at the Palmer House on December 11, 1949 at which an additional $60,000 was pledged. Aiding to achieve this grand total were the generous gifts of Mr. and Mrs. Walter Jacobs to dedicate the library in memory of their son, Walter Jacobs, Jr., a naval pilot who lost his life in the Pacific in February of 1945. Memorial rooms were established by Leonard Ashbach in memory of Barbara Dea Ashbach and by David Himmelblau in memory of Rhoda Himmelblau.

The Sisterhood under its new president, undertook to raise the necessary means for the furnishing of the classrooms and the complete equipment of a modern kitchen. A bazaar was decided upon as the proper money-raising medium. First under the chairmanship of Mrs. Sidney Moyer and then under Mrs. Jesse Cook with the constant aid of the sub-chairman, Mrs. Sol Fox, Mr. Erwin Levy, Mrs. Eli Baron and Mrs. Herbert Hauptman, the Sisterhood held a Grand Bazaar on November 15, 1950, which netted the K.A.M. Community House Furnishing Fund some $26,000. The Bazaar was not only a magnificent financial success but a wonderful revelation of the loyal devotion of the great bulk of the membership and of the splendid esteem in which K.A.M. is held by the wider outside community.

The Men's Club under the able chairmanship of David Rosenthal has undertaken by means of this New Century Book to raise the balance of the sum needed to pay completely for the building and perhaps to cover the cost of completing our much-needed chapel.

A THING OF BEAUTY AND A JOY FOREVER

Except for the chapel, our building is complete and in use. We are proud of it. These pictures can only partially tell you why. Thanks to the meticulous supervision and the painstaking care of Howard Landau and Herbert H. Heyman, our Community House combines the best of modern design and modern material with the functional purpose for which it is intended. It also fits beautifully into the architecture of our temple and the old community building. It has a dignity and simplicity of line which says eloquently that the building is to serve the needs of young and old. It has a warmth without being garish. It has a work-a-day familiarity which invites the fullest possible use. The colors and materials are in exquisite taste with not even a hint of pretentiousness. It is the kind of building that a congregation can live with; and know that it will, with the fewest possible demands in upkeep, become ever more comfortable with the years. With the new building there also came a new spirit in the character and ability of the man elected to be the President of K.A.M. in June of 1950. Mr. Sol S. Fox came to this office with a warm love of the synagogue and a keen appreciation of what it could do to bring to Jews a high standard of personal and social values.

It has already become the home of our advanced religious school students, our Youth Council and Senior Society. Our young people are celebrating their Bar Mitzvahs in it. They are being married in it. More and more of the congregation are celebrating the significant occasions of their lives in it. Thus it is truly becoming the Beth Ha-Kenesseth, the House of Assembly, which is, in our tradition, as vital an aspect of the synagogue as the House of Prayer and the House of Study. Thus the life patterns of the membership are being bound into the very structure of the synagogue and are depositing a radium stuff of sentiment which permeates the brick and mortar with spirit and imparts a living soul to an institution.

THE NEW CENTURY

We have hardly put our toes into the New Century and we have already found it burdened with the shadows of war and the fear of war. One need not stand on a very high hill to see that the coming years will call upon our every ounce of courage and dedication. The outcome of the ideological dispute that cuts athwart the entire globe will depend more on spiritual reserves than on material forces. Only those who know in their hearts, when the barrage of propaganda is lifted and the winds of specious doctrine blow themselves out, that they fight for the right—only those will have the physical stamina to survive. And that physical stamina can come only from spiritual integrity, from the wholeheartedness of inner honesty. The synagogue must bring more and more of its devotees into the ways of integrity. It must be ever at hand to console the sorrow stricken, and goad the smug. It must serve as the guardian of our democratic values. It must be fearless as the prophets of Israel were fearless to say "this is not the way" when leaders through malice or ignorance would lead us away from our ideals.

Here at K.A.M. we have a further challenging opportunity. We can imitate the God we worship by treating the Negro in our midst as we treat our home-born. We have the chance to engage in an experiment in inter-racial living that will not only test the validity of our faith and bring the boon of good neighborliness but which will add to the very necessary testimony upon which the vast colored populations of the earth will judge the sincerity of American leadership. It may very well be that the attitude of the Chinese, the Indians, and the Africans toward us and the placing of their weight in the world struggle will depend on the multiplication of such patterns of equality and good neighborliness as we can forge here.

Who better than the children of Israel can bring faith and hope to a weary and confused generation? Have we not survived such crises before? Have we not drawn from the nettled dangers of these crises in the life of nations, the roses of opportunity and extracted from the leaden pointed whips of adversity the strength to overcome the obstacles on our way? This record of one congregation in Israel is but one specific testimony to the fact that man made in the image of God and sustained by faith in his creator can summon the necessary powers to survive the forces of destruction. The establishment of the State of Israel in the wake of the worst tragedy that has ever befallen the people of Israel should renew in us the homely optimism of our fathers who often repeated the saying: "God prepares the remedy before he sends the affliction."

One hundred and four years ago, fourteen resolute men constituted themselves the Kehilath Anshe Mayriv, in the firm faith that the new and budding continent of 19th Century America was congenial to the thirty centuries old faith of Israel. Their faith has been justified. Judaism has flourished in this happy land—still the last best hope on earth. As they gave the strength of their faith to the very foundations of this republic, so they learned from America the lessons of its rugged frontier: that which is rutted is lost. Survival is only to them who change with the ineluctable changes of time. The descendants of these pioneers have been loyal to the spirit of the founders who affirmed enduring values in the midst of changing circumstances. Though the earth wax old like a garment the generations of K.A.M., faithful to Him who is the confidant of all the ends of the earth, will keep alive the sacred flame of our ancient faith and with that faith infuse their lives with beauty, truth and goodness.

The K.A.M. Congregation 1947 to 1967

The celebration of KAM's Centenary had reminded Chicagoans that Jews were among the pioneer founders of America's second largest city and that they were able to establish a congregation only ten years after the incorporation of the city and only ten years after the founding of the first Protestant congregation. The occasion stirred new efforts on the part of Jewish historians to continue the orderly gathering of archive material to fish out the general outlines of the three great migrations—the Sephardic, the German-Ashkenazim and the East-European.

It was also a time for soul searching, and re-evaluation on the part of many of the leaders of the congregation. The tremendous burst of activity begun by President Schrager with the full cooperation of Rabbi Weinstein had developed a pattern of activity for activity's sake, a proliferation of committees on committees in the midst of which the fundamental purposes of a synagogue were often lost. The split which developed during the preparations for the Centenary and came to a head the following year was largely caused by profound differences between the Rabbi and the President as to which of them should have the right to determine the ultimate objectives of the lay committees. While the line-up of partisans was often determined by personal loyalties, the acceptance or rejection of the Rabbi's social and political views were also involved serving sometimes as prime motivation and with others as a rationalization of motives which they could not understand or were unwilling to admit.

However painful the split became, it proved a blessing in that it left a congregation smaller by some 200 members but much more unified in its objectives and in its confidence and respect for its Rabbi. These were the objectives the renewed congregation elected to pursue.

(1) To complete the fund-raising and the plans for the new community house, not only to provide needed facilities for the religious school, the youth groups, the Adult Education operation, the auxiliaries but to give a dramatic testimony to the viability of the Neighborhood for Jewish residency. The pent-up Negro ghetto to the west was beginning to burst its boundaries on Cottage Avenue and rumors were already rife about the Black flood and the deterioration of property values. This fear rode side by side with another and quite different development in the post war prosperity years—the growing affluence of Jewish businessmen and professionals. The in-thing for the successful and the public declaration of their ascent was the move to the more elegant and restricted suburbs largely to the north and some extent to the south. It became apparent that the future of the Temple in the Hyde Park Kenwood Area would depend on our ability to hold a considerable portion of our membership in the area without adopting restrictive polices whch would be a violation both of our ethical commitment as Jews and our loyalty to American democratic ideas.

This objective became our major concern and was the focus around which all other activities revolved for the decade from 1948 to 1958. One of the first acts of the congregation was to rescind the restrictive covenant clause in the deed of sale of our Temple property and to enlist other congregations in the neighborhood to do the same. The next step was to galvanize the Hyde Park Council of Churches and Synagogues to put the racial question in general and the objectives of an integrated Hyde Park-Kenwood in particular high on its agenda. The third step was an approach to the Chancellor and Board of Regents of the University of Chicago to take active leadership in creating the conditions in which an orderly transition could be made from a 95% white and 5% Negro mix to one that was closer to a 50–50 mix. The fourth step was the approach to the Chicago School Superintendent and its Board of Supervisors to work toward quality education on an integrated basis in the Hyde Park Area. The fifth and most difficult step was the organization of the Hyde Park Community Council to organize street by street Associations of persons who would agree to rent or sell to qualified Negro tenants and to employ tested sociological criteria to determine the absorptive capacity and tolerance level or turning point for each block in the neighborhood. The sixth and most delicate step was the enlistment of Negroes in the neighborhood as well as the professional leadership of the Urban League, the NAACP to cooperate with us in a plan that involved some form of benign quota.

KAM members were active in every one of these steps and often found themselves engaged in law suits with slum landlords and block-busters or in delegations to City Councils and Illinois legislative committees that would help us to preserve existing housing ordinances and safety regulations and in providing new ones to meet the exigencies of the so-called "invasion" which was more often the suction to fill the vacuum made by the flight of the whites.

KAM as one of the front leaders in this task had to be the very model of a good neighbor in opening its facilities to Negroes and in seeking every opportunity to work with the Black organizations. The congregation encouraged and backed knowledgeable and liberal members to run for positions on the Aldermanic Council, on the State legislature and most especially on the Chicago School Board. For the 20 years from 1947–1967, there was hardly a single year when a KAM member was absent from these three bodies.

The impact of this struggle was apparent in every phase of the congregation program. The members recalled and relieved the experience of their own people as an unwanted and persecuted minority. The history of our own painful struggle against discriminatory barriers became poignantly real. The question asked by Amos in the name of God: "Are Ye not as the children of Ethiopia unto Me?" stung with a keen relevance for the first time in the life of many of our members. Many of our youths, especially those of college age, who had gone through the period of authority rejection and general scepticism of religious premises were persuaded that the prophetic role of the synagogue more than compensated for some of its theological hold-overs. Many congregations throughout the land inquired about our program of social action and invited KAM's Rabbi and its laymen to lead seminars of their own boards of social Action Committee. It was largely in recognition of this leadership in this cause, that the Central Conference of American Rabbis elected KAM's Rabbi as its President in 1965. Earlier in 1961, President Kennedy recognized the importance of this work when he appointed the Rabbi to his Commission on Equal Employment Opportunity. The reputation of the congregation as the leading Social Action Congregation in the land attracted many sensitive and influential leaders from the ranks of labor, from the faculty of the University of Chicago and from the liberal professions. By 1958, there were enough lay leaders in the congregation to assume much of the responsibility for this work so that the Rabbi could give himself to the equally urgent problems of the Jewish people.

THE IMPACT OF THE STATE OF ISRAEL

The State of Israel was established in 1948, hardly six months after our Centenary. Considering that KAM had been for 25 years under the Rabbinic tutelage of Rabbi Tobias Schanfaber a Classical Reformer with the vigorous and vocal anti-Zionism which was the badge of most of that tribe, the congregation responded most enthusiastically to this crucial event. Some saw it as the only effective answer to Auschwitz and Dachau, some looked at the State as a safer refuge for disadvantaged and persecuted Jews, one where the philanthropic dollar would go further in the work of relief and rehabilitation. Others thought of it as a grand opportunity to answer once and for all the mistaken notion in many a gentile breast that Jews could never be Nation builders and defenders—that they were by conditioning and nature parasitic. But there were in the congregation a fine nucleus of men and women who knew the work of Achad Haam, of A.D. Gordon, of Weizman and Brandeis and who remembered the powerful religious implications of Zionism in the Bible and the prayer book and who saw the event of 1948 as the fulfillment of a Messianic hope as well as an act of belated justice on the part of the Nations of the World. They were most responsive to my many appeals for increased aid to our struggling new State. Some who were on the Board of the Jewish Welfare Fund and the United Jewish Appeal became important factors in changing the priorities of Chicago's giving and in raising the sights of the Community Fund Raising Drives. No less than four members of KAM became Chairmen of the Annual UJA Drive in the crucial two decades following the establishment of the State. They brought to this demanding task not only a keen knowledge of the techniques of money raising but a real understanding of the profound implications of these campaigns for Jewish survival and Jewish self-fulfillment. The very example of these laymen helped the Rabbi in his plans to intensify the teaching of Hebrew to our adults and our children. Hebrew classes were offered to those adults who desired both a reading and speaking knowledge of modern Hebrew. Our religious school students were offered Hebrew classes two afternoons a week in addition to the period devoted to the language in our Saturday and Sunday classes. The busing of the 60 children who on the average enrolled for these classes proved quite expensive but our Board was easily persuaded that the language was in itself a powerful spiritual identifying force and deserved whatever sacrifice the teaching of it entailed. Prominent visitors from Israel were invited to our pulpit and to our forums. The labor leaders in the congregation became active in aiding the Histadrut to enlist the American trade union movement in the building of the State of Israel. The Rabbi assumed the Chairmanship of the National Committee for Labor Israel and the congregation gracefully accepted the shorter rations of time available to the Temple as a result of the many hours he devoted to this crucial work in the ten years of his leadership of this vital force in building the economic strength of Medinat Israel.

While the building of an integrated neighborhood and the building of the State of Israel at first attracted different groups in the congregation, the groups intermingled and some crossed over from one activity to the other. A gradual subtle conviction became more and more pervasive that there was a profound kinship between the Black Man's search for identity and dignity and the Jews long battle for equality without assimilation. When the Black Man accepted some parts of our integration program and rejected others out of the conviction that they unconsciously encouraged the sublimation of Black uniqueness, the congregation recalling our own ambivalences was able to sympathize and not take it amiss that Blacks wanted to maintain their own cohesive groups in some neighborhoods, worship in their own churches, eat their own favorite foods, elect their own as representatives to legislative bodies. Among the other by-products of the Hyde Park-Kenwood Integration experiment was this complex and profound revision of the melting-pot thesis of American acculturation. It was rewarding and fascinating to see the growth of the affirmation by both Blacks and Jews—that an ethnic group need not surrender its integrity, its unique self-hood to be entitled to equal opportunity and equal rights under a democratic government.

THE PASTORAL WORK—THE ONE TO ONE RELATIONSHIP

The pastoral work of the Rabbi has become in America one of his most important and exacting roles, although it was not a part of the Rabbi's image before the 20th century. At KAM the role was made central by Rabbi Schanfarber almost totally neglected by Dr. Solomon Freehof, and modified into a semi-psychiatric counselling by Joshua Leibman in the short period of his incumbency. Rabbi Weinstein soon realized that his ability to speak freely from the pulpit and to enlist men and women in his social action program would be greatly enhanced if he could build strong personal ties through pastoral visits and intimate conversations at the coffee table. He took advantage of the seasonal celebrations — the circumcision ceremony, the Bar Mitzvah, the Confirmation, weddings, anniversaries, funerals, hospital visits to discover the inner thoughts of the congregants, their family problems, business worries, religious doubts, yearnings and groping toward some hierarchy of values, some priorities in commitment. He discovered that Freud, the scepticism inherent in all sophistication, and the alienation of most Jews from the sources of their culture had built a wary resistance to much of the counsels and mandates in the Bible, the Talmud and the Codes. The curriculum of the Hebrew Union Colleges during his seminary years had not taken cognizance of this change. In 1954, he persuaded Dr. Roy Grinker to organize a joint seminar with ten chosen rabbis and the staff of the P&PI of Michael Reese Hospital in order to gain an understanding of the differences in the manner and goals of the Rabbi and Psychiatrist and to establish if possible, some lines of cooperation between these healing agencies. The seminars were helpful but not decisive and unfortunately were not followed up after the first year. They made clear to the Rabbi of KAM however that the Rabbi should never attempt to be an amateur psychiatrist—but that he can learn to detect the symptoms of serious psychological problems and be helpful as a referral resource in these instances.

But for the most part he can find in the wholesome ethical teachings of Judaism the armament for sound counsel to the normal and to the moderately neurotic. His best materia-medica however is his personal example. This speaks louder than his words. His pulpit utterances, his teachings in the class room, his community standing all develop credits for him and build an authority for his counsel, while his humanness, his sense of humor, his compassion can often be more persuasive than his logic. Forty-three years of experience in the Rabbinate has convinced the Rabbi that there is no real distinction between the work of the pulpit, the classroom and the pastoral visit. They are all of a piece, each a form of communication. The Mensch has to precede the Rabbi, the personality the precept, the heart the mind. The Rabbi is a jack of all trades, and often feels the terrible frustration of being a generalist in an age of specialization but he can have the compensatory consolation of knowing that what he is often gives an acceptable dimension to what he says. The personal warmth and affection he has gained in sharing the joys and sorrows and crises of his congregants can often bridge even deep differences on political issues. He often misses the more obvious rewards of other professions, the more tangible monuments left by the movers and shakers of the industrial world, but he constantly stumbles into unexpected dividends—people in every walk of life who remind him how crucial in their own growth was a word, a teaching, a friendly act of the Rabbi. Surely the search for roots, for continuity, for meaning is one of the distinguishing features of this mobile, nomadic age. The fact that more and more of our young Jews are searching in their own tradition for this unifying spiritual element is proof that our efforts have not been in vain.

It is a matter of the profoundest satisfaction to Rabbi Weinstein that he was instrumental in selecting his successor Rabbi Simeon Maslin in 1967. The five years of his Rabbinate have been a blessing to the Congregation and a boon to the community. He has bravely undertaken and forwarded the Social Action Program of his predecessor, intensified and improved the Jewish consciousness and pride of the congregation, and the adult education on which it is soundly based. He has become a devoted friend, teacher and inspiration to our youth and has cradled and inspired the merger with Isaiah which has so greatly strengthened the Jewish presence in the community and has already given the congregation the added financial strength and lay leadership to assure a more rounded religious life and cultural experience than the congregations have ever known before. This Rabbi Emeritus can joyously sing with the Psalmist that his successors with God's help have established the work of his hands!

Temple Isaiah Israel Celebrated 95th Anniversary in 1947

Temple Isaiah Israel celebrated its 95th anniversary on May 9–11, 1947. Members of K.A.M. Congregation were guests at the service on Friday evening, May 9, and its rabbi, Jacob J. Weinstein, conducted the service together with Rabbi Berman. Special tribute was paid to Ralph M. Gerber, who had completed forty years of service as choirmaster and organist. Participants in the three day program were Dr. Solomon Goldman, who preached on Friday evening; Mrs. Louis Rosett, National President of the Temple Sisterhoods, who was the speaker at the Sabbath morning service; and Dr. Stephen S. Wise; Dr. Maurice N. Eisendrath, president of the Union of American Hebrew Congregations; and Dr. Samuel Blumenfield, who spoke at the banquet. Rabbi Berman dedicated the Plaque honoring Temple Isaiah Israel's men and women who had served in World War II; five of them had died in the service of their country. At the annual meeting, which had been combined with the banquet, George G. Fisher (1947–1949) was elected president of the congregation.

On our 95th birthday plans were ready for the new Community House and School. In November the United Nations voted to partition Palestine, making possible an independent Jewish Homeland. The Truman Doctrine and the Marshall Plan were instituted to save Europe from Communism. At home eggs were $1 a dozen, butter $1 a pound, and income taxes at their peak. The world had its old look but the women adopted the New Look. In 1948 Czechoslovakia fell into Russia's lap. The U.S. began to rearm and renewed its draft. Truman was elected to everyone's surprise but his own. The Kinsey report told more than we would admit about the sexual behavior of the male.

While Isaiah Israel went on to build its Community House and School, Jews in Palestine moved forward to fulfill the fond dream of a Jewish State. It was not to be realized until much Jewish blood had been shed. Here at home Jews gave, as they never gave before, to make that State possible and to build it as a secure home for the thousands who were coming into Israel. On May 14, 1948, the State of Israel was proclaimed and Jews rejoiced everywhere. Rabbi Berman, as Chairman of the Chicago Zionist Council, had worked with the Chicago Zionists to help secure the ratification of the UN resolution of November 29, 1947 and President Truman's recognition of the Israel as a *de facto* State.

GROUND BROKEN FOR COMMUNITY HOUSE

And two days after the State was founded, Isaiah Israel broke ground for its new Community House and School. The ceremony was conducted by Rabbi Berman. The children of our school had their part in this historic occasion when each of them turned over a spade full of sod. Mr. George G. Fisher, president of the congregation, and Mr. Herbert J. Buchsbaum, chairman of the Building Committee, were the speakers. The cornerstone was laid on June 20, 1948.

During the summer of 1948 Rabbi Berman as president of the Chicago Division of the American Jewish Congress, attended the second sessions of the World Jewish Congress at Montreux, Switzerland, where he was one of the praesidium. The World Jewish Congress which was made up of the representatives of sixty-five national Jewish communities, dealt with the problems of postwar Jewry. It was unhappily marked by the beginnings of the split in world Jewry between those beyond the Iron Curtain and those outside of it. From the World Jewish Congress, Rabbi Berman flew to Israel for a survey of its needs for the United Jewish Appeal. The new nation was again under Arab attack, but before truce came, Rabbi Berman had been able to see a good part of Israel, including the new section of Jerusalem. From Israel, Rabbi Berman returned to Europe where, in addition to visiting principal Jewish communities in both the West and the East, he investigated conditions among the liberated Jews of the concentration camps.

On the High Holy Days of 1948, the congregation met for the first time in dual services i.e., an early and late service on Rosh Hashanah eve and morning, and on Yom Kippur eve. On Yom Kippur day, the congregation met in services held simultaneously, one at the Temple and one at the International House. The dual services made possible the attendance of many more members and their families, particularly young people who had been denied this opportunity under the old system of a single service.

Dr. Stephen S. Wise was the guest of the congregation on Friday evening, March 11, 1949, on the occasion of his seventy-fifth birthday. A great outpouring of members of the congregation and of the community heard him in his last message to Isaiah Israel, which had looked upon him as one of its cherished guides and friends, attested to its love and regard by naming the portal leading from the Temple into the almost completed Community House and School "The Stephen S. Wise Portal."

The Confirmation class of June 5, 1949 had the distinction of being televised by the National Broadcasting Company. This was the first time a full Jewish religious service had been given over television on a national broadcast. Rabbi Berman prepared the class. Ralph M. Gerber and Andrew Foldi had charge of the music. Rabbi Phineas Smoller of the Chicago Federation of the Union of American Hebrew Congregations was the narrator.

COMMUNITY HOUSE DEDICATED

The new Community House and School of Temple Isaiah Israel was dedicated on Friday evening, September 9, 1949. Participants in the program were Dr. Maurice N. Eisendrath, president of the Union of American Mebrew Congregations; Dr. George G. Fowler, president of the Church Federation of Greater Chicago; Dr. Louis L. Mann of Sinai Congregation; Rabbi Jacob J. Weinstein of K.A.M., and Rabbi Berman. Sylvan E. May, the president (1949–) introduced the speakers. A year later the Social Hall of the New Community House was to be decorated with twenty Biblical murals, a gift by the Kaufman family in honor of Charles D. Kaufmann.

The period after the war had seen a number of innovations in the program of the congregation. The Oneg Shabbat after Friday evening services was made an occasion for general discussion of important questions of the day. A nursery school was opened for pre-school children in cooperation with the Jewish Community Centers Association.

The Sunday Breakfast Discussion Club, more popularly known as the "Lox and Bagle Club" was organized, sponsored jointly by the Brotherhood and the Parents' Association. Leonard Becker has been chairman in charge of programs. The Parents' Association had played an important part in stimulating parents' interest in the work of the school. Its Gift Shop, supplying ceremonial objects, had been a significant factor in introducing Jewish practice into the home. Another innovation was the Social Action Committee of the congregation which cooperated with the Sisterhoods' excellent Community Relations Committee in many civic and social matters.

Year 1949 saw fear rising. Robert Hutchins defended his University against the charge of Communism, but Alger Hiss was not so successful. Then President Truman announced: "We have evidence that within recent weeks an atomic explosion occurred in the USSR." 26,000 Jews a month were finding a new life in Israel with the help of American Jewry. Israel now had its first President, Chaim Weitzmann, and its first Prime Minister, David Ben-Gurion. 1950 found 325,000 Jews in Chicago and the city had 3,600,000 inhabitants in an area of 211 square miles. In June we were at war with Korea, and the whole nation was again gearing itself for what many believed would be World War III—but the sense of sacrifice and the readiness to do without were not yet present.

REPORT ON REFORM PRACTICE

The General Assembly of the Union of American Hebrew Congregations in November, 1950 was well attended by the delegates from Isaiah Israel. These delegates supported vigorously both the Rabbinical Placement Plan proposed by the Central Conference of American Rabbis and the ten percent tax on all members of the Union, but both measures were defeated. One of the highlights of the sessions was Rabbi Berman's report of the Committee on Reform Practice, which revealed a widespread return to ceremonialism in Reform congregations. While no action was taken at the General Assembly on the issue of codification or preparation of a guide, the Council asked Rabbi Berman to continue his Committee's study of the subject and report back with a recommendation at the next Biennial.

Temple Isaiah Israel celebrated the twenty-fifth anniversary of the ordination of Rabbi Berman, at a special service on Friday evening, May 18, 1951. K.A.M. Temple, of which Rabbi Jacob J. Weinstein is the spiritual leader, joined Isaiah Israel for the service. Dr. Maurice N. Eisendrath of New York, president of the Union of American Hebrew Congregations, reviewed Rabbi Berman's contributions to the Reform movement as a member of the Executive Board of the Union and of the Board of Governors of the Hebrew Union College—Jewish Institute of Religion. Rabbi Jacob J. Weinstein of K.A.M. paid tribute to Rabbi Berman for his contributions to the Jewish community as president of the Chicago Rabbinical Association, as chairman of the Zionist Council, and as president of the Chicago Division of the American Jewish Congress, and as Associate General Chairman of the Combined Jewish Appeal. Dr. George G. Fowler, president of the Church Federation and Greater Chicago, appraised Rabbi Berman's civic and humanitarian efforts as a member of city and state Boards. Sylvan E. May presided.

PLANS MADE FOR CENTENNIAL

As the congregation was about to enter its hundredth year, plans were made for the celebration of its 100th anniversary. At the June 12, 1951 Board meeting, Harry S. Himmel was appointed General Chairman of the Anniversary Committee, Eugene I. Stein, Jr., as Co-chairman, and Howard Wolfson, Chairman of the Centennial Fund. A large and active committee was later named to assist Mr. Himmel in the shaping up of the plans for an appropriate celebration. One of the goals of the 100th anniversary program was to free the congregation of all its indebtedness for the first time in its long history. To this end a dinner of the membersip was convened at the Standard Club, September 6, 1951, at which $58,000 in gifts were contribtued toward a $100,000 Centennial Fund. On November 13, 1951, it was announced at the Board meeting that all indebtedness had been lifted from the congregation through the use of part of the gifts. The congregation of eleven members in 1852 had now 800 families.

Year 1952, and our 100th anniversary year witness more billions poured into defense and foreign aid. In addition to giving millions to the Combined Jewish Appeal, Jews are now buying Israel bonds. A peace treaty with Japan has been signed. Germany has been befriended in the hope that it will serve as a buffer against Russia. Only a few have protested Germany's re-Nazification, and even less have scorned to take Franco's hand. A truce is being sought with the Communists in Korea. There, more than 100,000 of our men have been casualties in what is called a "police action."

Fears fill the world, and man stands tremblingly seeking through the darkness that surrounds us to discern the signs of a brighter future. Of this we are convinced, that we need desperately the faith of our fathers in these times. We need the faith of the founders of this congregation who believed that by walking in God's ways and fulfilling His commandments we might help to build His kingdom on earth. As we pay tribute to them who built our house of God, we rededicate ourselves to Him.

The Temple Isaiah Israel, 1952–72

The centenary celebration of Isaiah Israel in 1952 was a high-water mark in the history of the Congregation. It had recovered from the setbacks of the years of the Great Depression, and placed the congregation in the forefront of leadership in the trend then beginning in the Reform movement to alter radically the historic opposition to the Zionist movement and Jewish peoplehood; and to a more sympathetic response to traditional values in Judaism.

A new zest and impetus came into the life of the congregation, and it grew rapidly into new strength and vigor. At the time of the hundredth anniversary (1952), the congregational membership stood at 1,000, an all time high in its history.

But once again the pendulum swung, and the unpreparedness of the Hyde Park Kenwood area to cope with blight and decay resulted in a massive exodus of middle class whites and many middle and upper class blacks from the area.

It was during these years of flux and confusion, that it appeared that the area would suffer the fate of other areas of change and its institutions could not survive.

At approximately this time the decisions were taken by Michael Reese Hospital and the Illinois Institute of Technology not to move and to redevelop their environments; while in the Hyde Park Kenwood area, the activities of K.A.M. and Isaiah Israel among the Temple and churches, and the Hyde Park Kenwood Community Conference, followed by the involvement of the University of Chicago and the Southeast Chicago Commission, set into motion the preliminary studies and massive planning designed to stabilize and ultimately save the area.

In those years the planning was beneath the surface, and the surface surge of events spelt out change and crisis. The membership dropped sharply; families with children left the area rapidly. A core of members remained in Hyde Park, and a supportive core of members who had moved to the Near North Side, continued their support.

The vast majority of the members with children who remained, had moved to South Shore, and were clamoring to be serviced for school purposes in their area.

By 1957, after twenty years of dedicated service to the Chicago community, and thirty years in the active Rabbinate, Dr. Berman was invited to Jerusalem to serve as head of the English Speaking Desk of the Keren Hayesod; and was granted Emeritus Status by the Congregation, to serve in Israel in the name of Isaiah Israel.

Invited to succeed him was a young colleague, also a student of Dr. Stephen Wise, Rabbi Hayim Goren Perelmuter, who had served for fifteen years as Rabbi in Waltham Massachusetts and Johnstown Pennsylvania.

There were doubts in the community whether the congregation would survive, but there were not doubts in the mind of the core leadership and the core membership who were confident not only in the future of the congregation, but the future of the area as well.

Rabbi Perelmuter shared this conviction. A Montrealer by birth and backgrounded with experience in ministry in metropolitan areas like Boston and New York, and with more than a decade in a small city where he helped develop a vital and alive Jewish community, he elected to come to Chicago, and precisely to Hyde Park, out of a conviction that here more than anywhere else in the United States the survival possibility of a big city was being worked out much ahead of its time and would be a pattern for the future.

The decision taken by the congregation for its pragmatic survival was direct and simple: The core of the congregation with its magnificent sanctuary would remain in Hyde Park. One third of their membership was there; and a significant number of its members with historic ties they would not rupture remained.

The families with school age children were south of Jackson Park, and it was decided to provide a branch school facility to service this group, with the knowledge that it was to be a temporary (ten to fifteen year period), with an ultimate return to Hyde Park.

Facilities were rented in the Horace Mann School and an effort to raise funds to provide for a Branch was launched, and with the stimulus of a $75,000 grant from the Late Albert Steindler and with generous response from the rest of the membership, some $300,000 was raised and the Steindler School at 87th and Bennett was acquired.

To link all families with the Hyde Park Center, the upper years of religious school (Grades 9 and 10) would meet for class in Hyde Park on Saturdays and worship in the sanctuary.

The very fine school facility in Hyde Park which had been completed in 1948 was not allowed to remain empty, but was put at the disposal of the Board of Education until the Shoesmith School in Kenwood was completed; and then occupied by the Retarded Children's Aid which remained there until the merger in 1971.

This neighborly Association of a multiracial school for retarded Children spoke volumes about the relationship of the Temple to its environment and of the meaningful and constructive sybiosis that it represented.

The concept that Isaiah Israel was now a neighborhood institution and a metropolitan congregation, with an understanding and concern for the real needs of the total city was carried forward and developed.

The ministry of Rabbi Perelmuter combined an approach designed to bind a diverse group, diverse in age and interest, into a homogeneous family, without losing the broader range urban vision and concern for the world needs of humanity in general and the Jewish people in particular.

Leaders of the congregation played their role in guiding The United Jewish Appeal, Jewish Federation, the Reform Movement, the Board of Jewish Education, B'nai B'rith, Hadassah, Council of Jewish Women and every vital Jewish movement, playing their role in the general areas of society.

As President of the Hyde Park Council of Churches and Synagogues, Rabbi Perelmuter played a significant role in bringing about a dialogue and rapprochement between the Woodlawn Organization and the Hyde Park Community, and was instrumental in the efforts to help in the development of Community Organization in North Kenwood.

In the education and youth programming, the necessity of dispersion was turned into the virtue of creative youth programming. A youth program that developed exchanges with other cities large and small took our young people each year for weekends to Detroit, Cleveland, St. Louis, Cincinnati, Springfield and Toledo; each year bring the youngsters from those cities to Chicago for a special look at Hyde Park and the diversity of Chicago that gave our own young people, and their guests, a sense of excitement about the kind of community in which they were living.

The young people were individually guided, and encouraged to participate in Jewish camp experience and Jewish travel experience, that gave them a world view of themselves and a capacity to relate to their Temple in Hyde Park as the one force for continuing stability in a torrent of change.

The manner in which this played a significant and stabilizing force upon countless young people in process of constant change was not insignificant.

The dedication and devotion of those who had been at the core, and those who joined them, beggars description, but it is the brick and mortar out of which the continuing survival was fashioned.

Many were the patterns, as the realities of the change in the community became apparent, as area after area in Hyde Park was rebuilt and redeveloped and as the flux of movement continued. By this time, the psychological boundaries of Hyde Park-Kenwood expanded enormously, and it became as much a state of mind as an area, and this state of mind, developed by institutions like Isaiah Israel (and K.A.M. and Sinai and Rodfei Zedek), became a reciprocal process.

It was during this period, in the mid-sixties, that the Isaiah Israel Foundation was established as a long range process designed to strength and secure the presence of the Congregation in Hyde Park.

It was during this time that the Morton B. Weiss Memorial Museum of Judaica was established; rapidly establishing itself as one of the significant museums of Judaica in the Chicago area with a gem-like setting within the monumental sanctuary attracting visitors from all over the world to see its collection, which includes one of the finest collections of Iranian Judaica in the Middle West.

Many things happened to strengthen this but the best single example is Artexpo, whose concept was to use the architectural beauty of the Saturday and the Morton Weiss Museum as the background of a quality art event.

In rapid succession the featuring of Jerusalem Artists House, Shalom of Safed, and the Goldman Galleries of Haifa, along with a galaxy of outstanding local artists, Artexpo became a unique annual experience, winning unprecedented attention from all the media.

The very night the furies of the Minutemen Riots swept Chicago's near north side, Hyde Park-Kenwood was one of the quietest places in Chicago, with thousands coming from all over the metropolitan area to visit and enjoy Artexpo; while a few blocks away St. Thomas the Apostle Church was happily observing its hundredth anniversary.

By 1967 the process of change began to catch up with South Shore, and massive population shifts began. This time, many began returning to Hyde Park while others scattered to the suburbs. There were those who thought that congregations should combine for strength, and shortly thereafter there were talks between South Shore Temple and Isaiah Israel looking to a possible merger of the two congregations in Hyde Park. Although these talks ultimately failed, a union of the religious and Hebrew Schools of the two Temples at the Steindler School resulted, to be joined in later years by Beth Am and B'nai Yehuda Temples.

It became clear, however, that the time to return to Hyde Park was at hand, and the decision for the return was timed to continue to serve those in the South Shore area, as long as there remained families to serve.

But the decision to move back was taken in the summer of 1970, and that fall the congregation was back as a unit in its Hyde Park structure, its membership less than one half of what it had been in 1952, but fiscally strong, psychologically secure, with a creative, dynamic and meaningful program animating its constituency.

It was a year of exciting creativity all the way from a school-without-walls program to the culmination of the creative union with its neighbor K.A.M. which has resulted in a uniquely strong and imaginative coalition of effort which gives new strength and vitality not only to one of the country's most creative and exciting cosmopolitan areas, but to the future of the Jewish community of Chicago as well.

CULVER ANNOUNCES RESULT OF SECOND DISTRICT QUESTIONNAIRE

HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. CULVER. Mr. Speaker, again this year, I have prepared and mailed to my constituents a detailed questionnaire in order to obtain their opinions on the critical issues which we are called upon to consider in this House.

There has never been a greater or more obvious need in this country for participation by the widest section of our population in this decisionmaking process.

The problems we face today, both foreign and domestic, are problems which affect every man and woman in this country, regardless of where they live or what type of job they hold.

I am pleased by the size of the response to my questionnaires, which has increased each year, and particularly by the extensive comments which so many of my constituents added in their replies. We have tabulated the initial returns of this questionnaire, which has already been returned by more than 13,000 men and women in the Second District.

These responses indicate the opinions of a representative sample of people in my district, from every one of the 11 counties, the three major cities, and the more than 115 communities, and from the farms. They include responses from workingmen, farmers, businessmen, housewives, professional persons, and students.

The Congress cannot be guided by public opinion polls alone, but because my district represents such a broad cross section of interests and opinions, I think that the results of this latest questionnaire should be of interest to every Member of this body.

This year's survey was organized into two parts. The first had questions about issues likely to come before the Congress during 1972. The second part asked constituents for their views concerning the shaping of public policy for the future. By looking ahead 10, 20, and 30 years, we can begin thinking about some of the crucial policy decisions that must be made during the balance of this century and avoid merely reacting to crisis conditions.

The decisions we make now, and the action we take now, will determine the course of the future, for ourselves and for our children and grandchildren.

The questionnaire follows:

QUESTIONNAIRE

The economy

Do you think the Administration's economic program has been successful in curbing inflation and reducing unemployment?

Yes—17.4%.

No—68.7%.

Undecided—14.0%.

Vietnam war

Which of the following do you consider the most preferable course of action in Vietnam at the present time?

Continued phase withdrawal of American combat forces, with the possibility of increased bombings of North Vietnam and other countries in Southeast Asia until the South Vietnamese government is sure of its ability to survive—23.8%.

Setting a specific date for complete withdrawal of all American troops in exchange for guaranteed release of all U.S. prisoners of war—62.4%.

Resumption of full scale attacks on North Vietnam with any necessary increase in American men or material—3.8%.

Undecided—10.1%.

Agriculture

Do you favor Congressional action to establish a strategic grain reserve to improve farm income and to provide a guaranteed source of supply in times of natural disaster or emergency?

Yes—60.0%.

No—21.4%.

Undecided—18.6%.

The draft

Which of the following alternatives do you prefer?

Continuation of the present draft lottery system—19.7%.

Creation of an all-volunteer army—34.4%.

A national service system which would allow a young man to choose between military service or alternative civilian public service—37.3%.

Undecided—8.6%.

Rural communities

Do you favor H.R. 7843 which would provide federal funds to small towns to assist in fixing up business districts and providing a center for community activities?

Yes—51.1%.

No—34.6%.

Undecided—14.3%.

National priorities

Present inflationary pressures and large budget deficits require both restraint and priority allocation in federal spending. Please indicate those areas of the federal budget which you feel should be decreased, increased, or held at present spending levels.

[In percent]

	Decreased	Increased	Held	Undecided
Control of drug addiction	5.4	65.8	23.4	5.4
Crime prevention	3.6	65.3	24.4	6.8
Public education	14.1	32.7	44.2	9.0
Medical care	12.5	42.2	37.8	7.5
Aid to the elderly	5.1	57.7	31.0	6.3
Improving conditions in small towns	17.0	35.2	37.9	9.9
Increasing farmers incomes	14.6	35.6	40.0	9.8
Pollution control	8.3	59.9	24.0	7.8
Job training	14.7	36.5	39.8	8.9
Housing	25.0	22.4	41.8	10.8
Welfare reform	36.5	28.5	25.1	9.8
Highways	23.9	21.6	44.3	10.2
Military spending	65.3	6.9	21.6	6.3
Foreign aid	80.4	2.0	11.3	6.2
War in Southeast Asia	83.0	2.3	7.7	7.0
Consumer protection	10.2	51.3	31.5	7.0

Life in the future

I have listed below some of the many predictions which have been made concerning life in the future. Please check each according to whether you would find it desirable or not.

[In percent]

	Yes	No	Undecided
Increased affluence and leisure	28.7	42.6	28.7
Elimination of poverty and hunger	81.8	5.3	12.8
Further replacement of small farms and businesses by large corporations	4.7	83.2	12.2
Decline in importance of religion	7.0	75.6	17.4
Disarmament	45.7	33.0	21.3
Change in role of the family and marriage in society	9.5	69.5	21.0
4-day workweek	33.4	43.3	23.2
Less emphasis on technological growth and achievements	30.7	42.6	26.8
Greater consumer voice in corporate decisions	64.2	15.6	20.2
Medical advances in genetics and transplants	53.7	18.9	27.4
Less emphasis on nationalism and increased sense of world community	49.9	25.6	24.4

Leisure time

Which of the following do you think would be helpful to assure that increased free time is enjoyable?

Greater spending at all levels of government for readily accessible recreational facilities.

Yes—32.8%.

No—54.6%.

Undecided—12.6%.

Development, with government help, of more retirement communities.

Yes—42.7%.

No—44.8%.

Undecided—12.5%.

Establishment of a minimum income so that everyone will not be economically prohibited from enjoying leisure time.

Yes—37.3%.

No—50.3%.

Undecided—12.4%.

Institute changes in educational programs to promote appreciation and fruitful use of leisure, and rely on the mass media to influence and fill our leisure time.

Yes—38.3%.

No—45.1%.

Undecided—16.6%.

Transform many of the state's natural resources into recreation areas.

Yes—44.8%.

No—42.6%.

Undecided—12.6%.

Emphasize participation activities—local softball leagues, drama workshops, painting clubs—instead of spectator activities—major league sports, professional theater, etc.

Yes—65.3%.

No—20.8%.

Undecided—13.9%.

Greater stress on opportunities for artistic and cultural experience.

Yes—59.6%.

No—24.4%.

Undecided—16.0%.

Education

What direction should be taken in the next 25 years?

Deemphasize college education and improve the opportunities for vocational and craft training.

Yes—74.8%.

No—16.0%.

Undecided—9.2%.

Provide that the federal government guarantees 2–4 years of post high school education—college or vocational—available in parts or as a whole at any time in one's life.

Yes—38.3%.

No—51.9%.

Undecided—9.8%.

Restructure teaching so that students are taught to think more about the possibilities and probabilities of the future.

Yes—78.1%.

No—12.6%.

Undecided—9.3%.

Finance secondary education through a combination of state and federal funds and not through the local property tax.

Yes—74.2%.

No—16.6%.

Undecided—9.2%.

Quality of life in Iowa

If you were to consider the kind of Iowa you would like to see in 25 years from now which of the following aspects of our present situation do you consider enduring assets which largely need protection, and which would require improvements and change through citizen and government action? Check no more than four in each column.

[In percent]

	Asset	Problem	Undecided
Environmental quality	36.7	17.4	45.8
Population increase	7.4	24.6	68.0
Drug use	3.7	50.2	46.1
Educational system	32.9	15.3	51.8
Public safety	18.8	13.6	67.6
Sense of community, general interest in welfare of neighbors	28.7	9.4	61.9
Opportunities for meaningful employment	22.7	20.4	56.9
Transportation and housing	8.6	12.2	79.2
Personal freedom and privacy	41.9	8.8	49.3
Health care	16.4	14.9	68.7
Equal opportunity—racial, sexual, ethnic	16.1	13.9	70.0
Care of elderly	15.0	24.3	60.6
Divergence of values between generations	4.8	9.6	35.6
Cost of living	11.8	37.3	50.9
The family farm	32.0	11.4	56.6
Prison system	5.1	19.5	75.4
Government	10.2	23.6	66.2

Public leadership

In general, which of the following should be more involved in public leadership for the future?

[In percent]

	More	Less	Same	Undecided
Artists	10.6	19.5	37.9	31.9
Bankers	17.2	20.1	36.6	26.1
Blue collar workers	49.1	4.7	23.0	23.2
Business leaders	32.7	14.0	28.7	24.6
Doctors	22.0	12.4	37.5	28.1
Economists	41.7	7.7	25.3	25.3
Farmers	43.5	6.8	26.8	22.8
Labor leaders	15.4	38.8	19.6	26.2
Lawyers	15.9	26.0	30.7	27.5
Movie and TV celebrities	5.7	44.6	19.8	29.9
Scientists	35.7	7.5	28.8	27.9
Sports figures	8.3	32.8	28.7	30.1
Teachers and educators	45.2	7.6	24.0	23.2
White-collar workers	29.4	9.1	33.0	28.5
Women	44.6	7.3	24.6	23.5
Young people	56.1	6.0	18.5	19.4

REFORMS NEEDED IN VETERANS' ADMINISTRATION DRUG TREATMENT PROGRAM

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. BINGHAM. Mr. Speaker, the drug treatment program administered by the Veterans' Administration is seriously in need of reform if it is effectively to serve our veterans who have become caught in the tragic web of drug abuse. I have been appalled to learn that the Veterans' Administration offers only one form of drug treatment to veterans; namely, methadone maintenance, a rather drastic form of treatment for the many young veterans who are relatively recently and "lightly" addicted to drugs. I have been disappointed to learn, also, that the drug treatment offered by the VA is only available in VA hospitals, and involves weeks of confinement to bed—hardly a way to entice addicts to seek and undergo treatment. The Veterans' Administration has resisted taking treatment to veterans by opening storefront and other community-based treatment centers, or contracting with outside agencies to provide needed drug treatment services to veterans. Finally, Mr. Speaker, VA facilities in the New York area are currently treating only about 400 of the more than 10,000 addicted veterans in that area, indicating a serious failure to focus VA drug treatment resources on areas where the need for these services is greatest.

Mr. Speaker, I have reviewed these serious shortcomings of the VA drug treatment program and urged several specific changes to greatly improve the program in the following letter to Veterans' Administrator Donald E. Johnson:

House of Representatives,
Washington, D.C., May 10, 1972.

Hon. Donald E. Johnson,
Administrator, Veterans' Administration,
Washington, D.C.

Dear Administrator Johnson: A review I have conducted of the operation of the Veterans Administration's drug treatment program has revealed a number of severe shortcomings which force me to conclude that the current effort of the VA to retrieve veterans from drug dependence is in many ways ill-conceived and unimaginative. The purpose of this letter is to urge you as Administrator of the Veterans Administration to take specific actions to improve drug treatment for our veterans in New York and across the nation, and to suggest some specific means for doing so.

I am particularly disturbed that methadone maintenance is the only form of treatment being offered veterans by the VA. While I wholeheartedly support methadone maintenance as treatment for some addicts, it is clearly not appropriate for all. Fortunately, many of our veterans have become addicted only relatively recently. For them, methadone maintenance is far too drastic a treatment, and to offer only methadone to veterans is most irresponsible and inadequate. The Veterans Administration simply must broaden the range of treatments available to meet the varying needs of addicted veterans.

It seems to me, also, that the VA is failing adequately to reach out to veterans in need of drug treatment, and I feel much more can and must be done in this regard. Specifically, exceptions and alternatives should be offered to the lengthy hospital bed confinement currently required by VA hospitals for veterans undergoing drug treatment. Requirement of such confinement is hardly the way to entice addicted veterans to seek treatment. The VA should end its rigid insistence that veterans be hospitalized for drug treatment, and should take treatment to veterans through storefront and other community-based treatment facilities both under VA management and under contract to outside drug treatment organizations.

Finally, I am troubled by the apparent failure of the Veterans Administration to focus its drug treatment resources according to local concentrations of addicted veterans. It is unforgiveable that VA facilities in the New York City area only have resources to treat a little over 400 veterans when there are an estimated 10,000 or more addicted veterans in the City. Immediate action should be taken to reallocate drug treatment resources from VA facilities where the need is less to areas like New York City where the need is extensive.

I recognize that additional funds will be needed to implement some of these recommendations. I urge you actively to seek such funds for those and other essential veteran drug treatment improvements from Congress and from the Special White House Drug Abuse Prevention Office, and I certainly press for positive action on such requests.

However, a number of these recommended improvements can be implemented by administrative decision without further funds or legislative authority, and I urge you to act promptly and positively on those matters. I look forward to your reactions to these proposals, and assure you of my continuing support for your efforts to provide maximum treatment and care for drug dependent veterans.

Sincerely,

JONATHAN B. BINGHAM.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

U.S. MONETARY CRISIS: ITS THREAT TO LIBERTY AND THE REMEDY

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mr. RARICK. Mr. Speaker, the current efforts by our Government to hold down price increases have served to focus the attention of thoughtful students on a little discussed facet of our money system. This system, because of a long process of miseducation and studied silence, is not now understood as it was prior to adoption of the Federal Reserve System more than half a century ago. It is based upon debt, has serious implications for the future of our country, and invites what may be the greatest war in history.

Every debt-dollar demands an interest tribute from our economy for every year that dollar remains in circulation. These interest costs force up the price of every commodity and service and contribute greatly to inflation.

One hundred and ten years ago, on President Lincoln's recommendation, the Congress authorized the issue of interest-free U.S. notes. Many of these notes are still in circulation and their interest-free status has saved the American economy billions of dollars.

Attempts to fight inflation in the United States by the highest interest rates here in over 100 years are bound to fail for high interest rates drive costs and prices up while holding production down. For this reason, the present administration has succeeded only in bringing about the anomalous situation of a depression in the midst of rising prices. The result has been to engorge financiers with profits at the expense of every other sector of the economy.

Moreover, so long as the manipulators of the money seek to maximize bank profits by high interest rates, prices must continue to skyrocket. Only by forcing these rates down can production be encouraged and costs reduced, which will minimize price increases.

Under the Constitution, the Congress has responsibility of issuing the Nation's money and regulating its value—article I, section 8, clause 5. In a recent brilliant analysis of our money system by T. David Horton, chairman of the executive council of the Defenders of the American Constitution, able lawyer and keen student of basic American history, he suggests a proven remedy for our current predicament that will enable the Congress to resume its constitutional responsibility to regulate our Nation's money by liberating our economy from the swindle of the debt-money manipulators by the issuance of national currency in debt-free form.

Early in the present Congress I introduced legislation (H.R. 351) the main aim of which was to accomplish such liberation by authorizing our National Government to purchase the Federal Reserve System and to place it under the control of experienced administrators who recognize the basic soundness of the traditionalist money system and who can be dependent on to act in the interests of the American people and American financial needs.

In order that the indicated analysis and proposal of Mr. Horton may be available to our colleagues, I quote it as part of my remarks and include several related news clippings on the money situation which follow:

MONETARY CRISIS—ITS THREAT TO LIBERTY AND THE REMEDY

(Address of T. David Horton)

In 1797 John Adams wrote to Thomas Jefferson:

"All the perplexities, confusion and distress in America arise, not from defects of the Constitution or Confederation; not from any want of honor or virtue, as much as downright ignorance of the nature of coin, credit and cirulation."

The power to issue money is the supreme prerogative of government.

The history of contemporary money policies may be traced back to what has been called "the crime of 1666" when Barbara Villiers, mistress to Charles II, helped the British East India Company gain a rake-off starting at 2 pence on the pound of the Royal coinage. These corrupt practices were multiplied, and by 1694, William Paterson founder of the privately owned Bank of England would declare:

"The Bank hath benefit of the interest on all monies that it creates out of nothing."

With the crime of 1864, the National Bank Act, we find private banks gaining the power to issue money directly and a struggle commenced that has continued to the present day. Our own national heritage, if we are allowed to know it, is full of emphatic statements upon the subject of money.

Abraham Lincoln was one of our Nation's foremost statesmen on the subject of money.

The great American Monetary Historian Alexander Del Mar declared:

"Money is perhaps the mightiest engine to which man can lend an intelligent guidance. Unheard, unfelt, unseen, it has the power to so distribute the burdens, gratifications, and opportunities of life that each individual shall enjoy that share of them to which his merits or good fortune may fairly entitle him, or, contrariwise, to dispense with them so partial a hand as to violate every principle of justice, and perpetuate a succession of . . . slaveries to the end of time."

What have we done with our money? Over a hundred years ago John C. Calhoun stated that we had given the banks the government credit for nothing, only to borrow it back again at interest.

In the 1930's Marriner Eccles, then Chaireral Reserve System, admitted to Congressman Wright Patman that: What that privately owned central Bank used to buy Three man of the Board of Governors of the Fed-Billion Dollars worth of government Bonds was the *right*, as he called it, to *create* credit money.

Yes, Banks *create* money—ex nehil—out of nothing.

Congressman Usher L. Burkick confirmed this in an interview published in 1959 in which he said:

"We want to sell 4 Billion Dollars worth of Bonds, and we sell it in New York to those who haven't got a dime, and they don't need any money because they simply enter credit to the government on their books! . . . And then before much money is paid out they get the currency because they bundle up those bonds and take them down here to Washington and get an equal amount of currency. Then they've got the money! But they didn't have the money before the government gave it to them."

In the meantime, of course, the government continues paying interest on those Bonds.

There is an incredulity regarding money matters that may be due in part to the fact that these gigantic legalized swindles simply boggle the imagination.

G. W. L. Day wrote in his book This Leads to War:

"The mystery which has shrouded the subject of banking is every whit as deep as that which obscures the hocus-pocus of witch-doctoring; and with just the same blind respect with which the simple natives of Sumeria once gaped and goggled while their priests muttered their incantations and examined the entrails of chickens. For centuries we have listened with awe to the dictums of Finance, believing that its high priesthood is posessed of knowledge superhuman and that its mysteries are sacrosanct and incomprehensible to the common run of man."

Henry Ford put it this way:

"If the American people knew the corruption in our money system there would be a revolution before morning."

What are the reasons for the disparity that we find in the manner in which we tend to accept some things, but refuse and fail to know some of the simplest of truths with regard to our money? One of the reasons may be explained this way:

We have a situation here where—if one of you deposits a Hundred Dollars in a bank account and if you write checks upon that deposit twice—if you do it in my county, I have to come around and put you in jail and lock you up! You have committed a felony. Yet the very same bank in which you deposited that $100, can write checks on that same $100 not once, not twice, but five or ten times, even twenty times, and can do so with impunity. This is called the fractional reserve system.

We penalize one man who writes checks on the same money twice and send him to jail.

We glorify the banker who writes checks on the same money ten times and send him to Congress.

The difference between the Banker's activity and the "paperhanger's" activity, as we'll call him, (who writes checks on the same money more than once) is that the banker charges interest for lending the same money ten times!

Dr. Carl F. M. Sandberg stated:

"From those not previously familiar with these things, have come expressions of interest and enthusiasm, but also reluctance to accept as truth the fact that our government, without getting anything whatsoever in return, gives the Federal Reserve Notes to private bankers for them to loan out at interest even back to the government itself. To them this seems so senseless as to be unbelievable."

This is one reason why we find a certain incredulity with regard to accepting some of the basic facts of life that relate to our money system. But it is not the enormity of the outrage that is most important. It is not the fact that the swindles of high finance amount to billons of dollars. It is the fact that our present debt money system does not work, that is doing us the greatest injury.

Let us consider two points about our present system.

First: That every dollar we carry around in our billfolds is a debt dollar.

Dr. Willis A. Overholser states:

"Our present Federal Reserve System is a flagrant case of the government conferring a special privilege upon bankers. The government hands to the banks its credit, at virtually no cost to the banks, for their private profit. Still worse however, is the fact that it gives the bankers practically complete control of the amount of money that shall be in circulation. *Our present money system is a debt money system. Before a dollar can circulate a debt must be created.*"

The foregoing statement with regard to the money we use for our trade today, applies alike to the dollars we carry in our pockets *and also* to the so-called checkbook dollars that banks create when making loans. These two sources of debt dollars make up our money.

Who profits from having all our money based on debt? To find the answer to this question, we can refer to the controllers of our commerce themselves.

Brooks Adams, the brother of Henry Adams, wrote in his book the "Law of Civilization and Decay":

"Perhaps no financier has ever lived abler than Samuel Loyd. Certainly he understood as few men, even of later generations, have understood, the mighty engine of (money). He comprehended that, with expanding trade, an inelastic currency must rise in value; he saw that, with sufficient resources at command, his class might be able to establish such a rise, almost at pleasure. . . . He perceived that, once established, a contraction of the currency might be forced to an extreme, and that when money rose beyond price, as in 1825, debtors would have to surrender their property on such terms as creditors might dictate."

Mr. Loyd was father of the Bank Act of 1844. He was no idle theoretician. He obviously knew what he was doing, and he knew that his clique could profit immensely by causing a boom-bust cycle to periodically ravage the economy.

The importance of controlling the volume of currency in circulation is pointed out by President James A. Garfield who remarked:

"Whoever controls the volume of money in any country is absolute master of all industry and commerce."

Added to the fact that all of our money is *debt money* we need to consider a *second* point, and that is our profit system: I remember as a small boy, puzzling myself over a problem that arose when I was reflecting upon the profits that I was making out of shoveling snow, mowing people's lawns, delivering newspapers, or whatever, saving up for the day when I would go to college. I figured: If I make a profit (and I'm supposed to be working to make a profit) and if everybody else is making a profit, where is the money to come from? I take my quarters and put them in a little bank—I was taking money out of circulation. My profit is what I took out of circulation. If everybody else did the same, a problem might develop.

I didn't come to any conclusions, but it was obvious to me, and it is probably obvious to any other ten-year-old, that there is a problem with regard to our money if we are to operate on a profit system.

If every busines is run at a profit, then every business is creating a partial vacuum in the money supply and this can lead, and always has led, over a period of time to a cataclysm.

This is the assistance that the free-enterprise system affords to the controllers of our money system, when it is decided by those controllers to cause a depression.

Unwittingly, so long as we tolerate a debt money system, we contribute to our own undoing.

Periodically, we get into a depression, and we're not able to distribute to our own people the very necessaries of life. Willing workers are left idle, producing nothing, while products rust and food rots—for want of the money which our debt-money system deprives us.

A physician told me recently that the second most common diagnosis made today by the General Practitioner is malnutrition. This is America in 1972.

At the same time, we are sending over $100 Million worth of wheat to Russia, to feed their workers, who make more guns to kill our boys (and more ICBMs to threaten our cities).

Our own people are hungry, and the manipulators of our debt money system decree that we send our food to our enemies!

This is insane!

But we are not without remedy.

First, we must understand that our debt money system creates a vacuum in the money supply. Second, we must understand in order to have a healthy economy with everybody making more and more goods and reflecting more and more profit we must have an expanding money supply. So, our debt money system is exactly the wrong kind of money system that we need for a healthy economy. Rather than continually expanding the supply of money to meet the demands of ever increasing goods and services that are being placed on the market, our debt money system decrees that that money supply shall contract because every dollar that is in circulation has a little tag on it, called interest, which commands that there must be withdrawn from circulation six cents or nine cents or twelve cents or whatever the interest tag dictates, in order for that dollar to remain in circulation for another year.

The solution to this problem is not new. We can find it in the works of Abraham Lincoln that are now over 100 years old. These quotations are from Lincoln's speeches on money reform:

"Money is the creature of law and the creation of the original issue of money should be maintained as an exclusive monopoly of the national government.

"The wages of men should be recognized in the structure of and in the social order as more important than the wages of money.

"No duty is more imperative on the Government than the duty it owes the people to furnish them with a sound and uniform currency, and of regulating the circulation of the medium of exchange so that labor will be protected from a vicious currency, and commerce will be facilitated by cheap and safe exchanges.

"The monetary needs of increasing numbers of people advancing toward higher standards of living can and should be met by the government.

"The circulation of a medium of exchange issued and backed by the government can be properly regulated . . .

"Government has the power to regulate the currency and the credit of a nation.

"Government possessing the power to create and issue currency and credit as money and enjoying the right to withdraw both currency and credit from circulation by taxation and otherwise need not and should not borrow capital at interest as the means of financing government work and public enterprise.

"The Government should create, issue and circulate all the currency and credit needed to satisfy the spending power of the Government and the buying power of consumer. The privilege of creating and issuing money is not only the supreme prerogative of government, but it is the government's greatest creative opportunity.

"By the adoption of these principles, the longfelt want for a uniform medium will be satisfied.

"The taxpayers will be saved immense sums in interest, discounts and exchanges.

"The financing of all government enterprise, the maintenance of stable government and ordered progress, and the conduct of the Treasury will become matters of practical administration.

"The people can and will be furnished with a currency as safe as their own government.

"Money will cease to be the master and become the servant of humanity. Democracy will rise superior to the money power."

What Lincoln was referring to was the issuance of a national currency. These sometimes are referred to as Lincoln Greenbacks. I don't know how many here have seen or remember seeing what today are the remaining issue of about 300 Million Dollars that was put into circulation over 100 years ago. They are the United States Notes which bear the Red Seal. Our ordinary Federal Reserve Notes, bear, appropriately enough, a dour Black Seal. These Black Seals are debt money. Before they may circulate, a debt must be created. A United States Note with a Red Seal is spent into circulation and is interest free. There is no interest incurred in the issuance of it. There is no interest incurred in maintaining it in circulation.

It may be interesting to note how much this original issue of Lincoln Greenbacks has saved the American taxpayer since its original issuance.

February 25 of this year is the 110th anniversary of the statute authorizing the issuance of Lincoln Greenbacks. 300 Million Dollars of them is supposed to be maintained in circulation under statute, but they have been withdrawn, or at least placed into some form that the common variety of people rarely gets to see them. They have been outstanding for 110 years.

If we compute the amount necessary to redeem the principal and interest of this 300 Million Dollars that was saved 100 years ago by the issuance of Lincoln Greenbacks, we find that, at merely 3 percent interest, the amount of indebtedness which would be represented, had Bonds been used instead, would be 7.75 Billion Dollars. We are dealing of course with an exponential, and we find that if we paid 6 percent, the amount that the Lincoln Greenbacks saved our taxpayers and our commerce is 182.5 Billion Dollars; and the amount at 7 percent is 511.6 Billion Dollars.

The importance of this device that Lincoln initiated during the Civil War (which we need to copy if we are to emancipate our commerce from the thraldom of debt money) is recognized by the bankers themselves. The London Times is quoted as being the mouthpiece of high finance in John Howland Snow's book Government by Treason. The Times is quoted as follows, referring to the Lincoln Greenbacks:

"If that mischievous financial policy, which had its origin in the North American Republic during the late war in that county, (Civil War) should become indurated down to a fixture, then that Government will furnish its own money without cost. It will pay off its debts and be without debt. It will have all the money necessary to carry on its commerce. It will become prosperous beyond precedent in the history of the civilized governments of the world. The brains and the wealth of all countries will go to North America. *That government must be destroyed . . .*"

This is what the bankers had to say about Lincoln Greenbacks.

If we want to try to remedy the situation where our money system, instead of expanding at a time when we need more money, contracts and thereby forces us into periodic depression, we need to adopt the measures that Lincoln initiated: Namely, the issuance of a National Currency. If, coupled with this, we require the banks to lend our money not ten or fifteen times, but limit them to three times, (this would be enough) and this can be done by setting the reserve requirements at 33⅓ percent: If these two things are done, it will not only provide an immense source of tax-free revenue and provide our commerce with a source of money that is interest free, but also, it will keep the banking institutions from taking away the control of the *amount* of money in circulation, which they now do by their fractional reserve system.

As it stands now, by multiplying the number of times that the same Dollar is loaned out, the banking fraternity in fact controls much more of the total purchasing power available to bid for goods than the control that is exercised by the original issuing authority. This can be stopped by doing these two things: Issuing United States Notes on the one hand, and increasing reserve requirements on the other.

It has been wondered why it is we are drifting slowly, but apparently uncontrollably, toward Socialism. The secret to that perplexing question can be found in our debt money system. If we have a situation where there are two things that are drawing money out of circulation, namely the debt issuance of the currency in the first place and the profit motive in the second place, we find that it is necesasry, in order to make the economy run at all, for this vacuum to be relieved.

The manner in which this is characteristically done in modern times is by means of a government deficit: Namely, the government spending out more money than it takes in. The theory apparently is, that if the government operates at enough of a loss (and we've lost over 400 Billion Dollars) then this will keep enough money in circulation to make up for the vacuum that the debt-money system on the one hand and the profit motive system on the other creates in the money supply. Yet, we all know, it is impossible to borrow our way out of debt. We know that sooner or later in this type of an operation there must be an accounting, and with that accounting we find depression.

When we come up to a period of recession or depression we find that the Socialists and the Communists are the *only* ones around with available remedies. The remedy that they suggest for the problem that is created by a restricted money supply, of having more productivity than you can distribute, is the same remedy that was advocated by the fellow who decided to kill the goose that laid the golden eggs. They can take care of the problem—too many golden eggs to distribute—by killing the goose. And there is no doubt that it is possible to eliminate these unmarketed surpluses by restricting production. But restricting production is not the answer. It's comparable to killing the goose that laid the golden eggs.

The answer is to have sufficient money—Sufficient blood supply in our economy, to have it stay viable and to have it stay prosperous. This can be done only if we get away from our debt-money system which forces us periodically into depression.

Another measure that we may consider in attempting to deal with the problems that we have in a money system that is basically diseased, is to try to establish some means of local control of local purchasing power.

The Roman Empire survived for many hundreds of years on the basis of a split control, a split authority over its money system.

The pounds, shillings, pence system in England (which is being phased out only last year) is the vestigial remainder of the original Roman Monetary System. The pounds, the gold coinage, were the exclusive prerogative of the Pontifex Maximus, or Caesar; the silver coinage was vested in certain favored municipalities and, *ex senatus consulto,* in certain favored princes. The bronze coinage however, which, as the coinage of every day commerce allowed the Roman Empire to survive, was *de*-centralized.

And in our own country the original theory behind the Federal Reserve System was that it would provide de-centralized control. With twelve de-centralized Federal Reserve Banks, we were told, we would have an ability to adjust local needs to local demands. We know now that this was merely a pretext. It was a gigantic fraud. It never did and never was intended to do any such thing. It was a European-style central bank subject to the control of money manipulators which would keep us from having any local control of our local purchasing power.

What can we do individually in our States to offset this? One suggestion is to have other States follow the example of North Dakota. North Dakota has a Bank. North Dakota is the only State in the Union that does have a Bank. The Bank of North Dakota is owned and operated by that State. It allows them to have a certain limited amount of local control of their own local purchasing power.

Local improvements are financed through that Bank. Student loans are supported through that Bank. You would not find it possible in North Dakota to get the people there to give up the Bank of North Dakota.

We have in other parts of the country, banks that are similarly named, but the "Bank of Nevada" or the "Bank of Oregon" or the "Bank of California" in every instance is a State chartered, privately owned, financial institution.

If we wish to copy the example of the Bank of North Dakota we will find that the Bank provided its people with a source of credit that survived even the great depression of the thirties.

Coupled to this we can institute in our local communities a certain amount of local purchasing power issued by the community itself. This can be in either one of two forms:

In one case, the merchants of a particular community can agree to honor each other's checks, payable to bearer and insured against being cleared through the bank, which would cancel them, but intended to circulate as a local currency. Those merchants in that particular community will find that they will have authority to control a certain amount of their own local purchasing power. They will find that their own people, on whom they depend for livelihood, are less likely to trade elsewhere than they will in their own local community, as long as the currency that is there is circulating locally.

The other way to obtain local control of local purchasing power is by means of local or county vouchers circulating as currency. These vouchers can be made substantially interest-free under most State statutes. If this is done, local improvements can be made without our local governments going to the lending institutions to borrow back the very tax money that the local communities have with the commercial financial institutions.

These two means can combine to give us a certain amount of local control of local purchasing power. But the most important thing for us to concentrate on is the emancipation of our entire national economy from the thralldom of control by the money manipulators. This we can do by concentrating upon the issuance of national currency, in debt-free form.

In case too many people become alarmed of the consequences of this, it is to be pointed out that we now have a certain amount of non-interest bearing money in circulation. All of our fractional currency: That is to say, the pennies, the nickels, the dimes, the quarters and the halves, all of these are noninterest bearing in their form. They are manufactured in our mints; they are paid into circulation; circulate freely; they do not draw interest, and they provide the Government with a very valuable source of revenue.

In the fiscal years 1966 through 1970, inclusive, the amount of seigniorage paid into the Treasury by the Mints amounted to over 4 Billion Dollars. The profit ratio on this type of currency is something on the order of six-to-one. (You end up with six times as much currency as you have cost going into making the fractional coinage).

The cost ratio in making the Federal Reserve Notes is more on the order of 600 to 1. And during these same four fiscal years, in spite of the fact that over 50 Billion Dollars in Federal Reserve Notes was manufactured by the Bureau of Printing and Engraving and turned over to the Banks—not One Cent in seigniorage was paid into the Treasury!

In arresting this swindle and in emanicipating our commerce from a debt-money system we will find that the threat that is now posed by the Socialists and the Communists largely disappears.

Their remedies for our ills are being accepted gradually for two reasons:

One—there are no competing remedies being offered.

Two—Our debt-money system compels the Government to spend more than it takes in, because this is the only way we can keep the economy going!

And this defect, this use of a debt-money system, is what is forcing us gradually, and sometimes more rapidly than many of us like to think, down the tube to Socialism.

By liberating our economy from its debt-money system, we will be safeguarding our own freedoms. Further than this, we will be protecting the world from a threat which seems ominous enough now, but if we usher in the era of prosperity that is available to us and that the bank controllers themselves admit will come to us, we will find that the threat of Socialism and Communism even on the international scale will largely dwindle and fade away.

Therefore, we must order our priorities. We must decide as individuals whether we are going to address ourselves to the problem of correcting a grave injustice that is perpetrated on our economy and on our Government, by getting rid of a debt-money system. We must decide that we are going to spend our money and give of our substance and ourselves to this fight, rather than be distracted by the current basketball game, football game or by any number of other diversions that are continually waved before us.

If we want bread and circuses, then what we're going to get is Socialism. If we want to make our principal past time, our principal activity, the running of our own affairs and the reinstallation of Constitutional control over our currency, then we will find that the support of such organizations as the Oregon Legislative and Research Committee will reward our individual efforts, which will be responsive to a real national and local need.

Therefore, those who have elected to forego the entertainments of the hour to come here to study the question of what to do about our money system are to be commended. It is the people right here in this Auditorium upon whom the well being of our Republic rests.

Those of us who have studied the American Revolution realize that it took a very small percentage of the American people to accomplish that feat. The burden rested upon relatively a few shoulders. The fact that we can see about us others who appear to be more interested in other things should not dissuade us. We should be prepared to give of our substance and our time to such organizations as this, that have a positive remedy that is something other than a Socialist remedy: A remedy that has been proven; a remedy that will work; and a remedy for which our posterity will thank us, if we are able to accomplish it.

[From the Evening Star, May 11, 1972]

THEORIES SHIFT, BUT GOLD STILL HAS THE GLITTER

(By J. A. Livingston)

If you say the same thing often enough, it ceases to register. That even applies to 24-carat gold. It has pushed above $50 an ounce. But the old flight-from-paper-money explanation is being rejected. It's too standard.

So, a new explanation has been "invented": Gold production is insufficient to satisfy climbing industrial use. In the modern world of electronics, space exploration, and computers, annual purchases by major industrial organizations have risen.

But are these increases large enough to warrant the conclusion that consumption promises to outrun production?

For perspective, consider this: The United States is the largest gold-using nation. Its use of gold in electronics, computers, etc., has increased from 1.5 million ounces in 1965 to about 2 million ounces in 1971.

JEWELRY USAGE

Such use is only half that of the jewelry industry, which absorbed 3.4 million ounces in 1965 and 4.3 million last year. The third major U.S. use is in dentistry—400,000 ounces in 1965, about 800,000 last year.

Combining jewelry, dental, and industrial consumption, annual absorption of gold in the U.S. amounts to about 7 million ounces.

No definite figures are avliable for the rest of the world. But a guesstimate is possible, using silver consumption as a guideline.

According to data of Handy & Harman, metal refiners, about 360 million ounces of silver are consumed each year in industry. (This excludes coinage.) Of this amount, 37.5 percent, or 135 million ounces represent U.S. consumption.

The U.S. probably consumes a higher proportion of the world's silver than of gold. But it's not unreasonable to think that the U.S. use of gold is about one quarter of world consumption as against more than a third for silver.

SPECULATORS' SHARE

On that basis, the world's use of gold would come to 28 million ounces. This would leave 12 million ounces—$600 millions at $50 an ounce—available for hoarders and speculators, inasmuch as annual output of newly-mined gold amounts to 40 million ounces.

But don't conclude that gold is plentiful. South African production has been dropping slightly. And the Soviet Union has been sparing in its recent sales to the western world. Demand does exceed supply—but not industrial demand alone. The gold avidity of hoarders and speculators must be included.

Both types of demand have been rising. In an era of inflation, people turn to gold as a refuge from the depreciating purchasing power of paper money. These doubts about paper money are evident in the upgrading of purchases of jewelry. This takes some explanation.

Up until March 1968, the United States and other nations sold monetary gold in the London market to keep the market price even with the $35 monetary price. However, purchases by hoarders and speculators pulled so much metal from monetary vaults that the "gold pool" disbanded. Thereafter, only priavtely-owned gold (newly-mined or specualtive) was available in London.

"CHEAP" GOLD

All the while, prices of other commodities were raising. So gold, at $35 an ounce looked inexpensive. Purchasers of jewelry recognized this. Adornment—rings, charms, bracelets, and necklaces—became a store of value. Solid gold jewelry often was bought instead of costume jewerly. This was considered "an inflation hedge"—and still is today.

Today's $50-an-ounce price could arrest the rise in sales of solid gold jewelry. Some manufacturers may use filled gold or low-carat gold to keep prices down and sales up. And substitutes may be sought by industrial users.

But that doesn't change the message of the gold market: "The flight from the management of money hasn't stopped." Though the U.S. Treasury officially says the role of gold in the monetary system should be diminished, people throughout the world are betting that gold will increase, not lessen, in value.

DOLLAR FACING TEST

(By Edwin Darby)

MONTREAL.—A new crisis for the American dollar? Many bankers attending the International Monetary Conference here think the next six months will be crucial in determining whether the currency crises that have erupted periodically in the last few years, undermining business confidence, are going to continue.

The international monetary conference is entirely an unofficial meeting. It is sponsored annually by the American Bankers Assn. and a board of directors made up of leading bankers from the United States, Europe and Japan. The current president of the board is Felix W. Schulthess, chairman of Zurich's Swiss Credit Bank.

UNIQUE FORUM

But even though the conference has no governmental status and doesn't even attempt to adopt resolutions or make policy statements, it does provide a unique forum for the discussion of vital world money and finance problems.

It brings together in one place the chief executive officers of 115 banks, 59 of them leading American banks and 56 foreign banks. Top government finance men and central bankers also sit on the sessions, many of them closed door meeting where the talk is straight from the shoulder.

It is evident from a number of conversations at the Montreal meeting that many Europeans are upset over what they think is the failure of the United States to move faster on the monetary front. That is, the Europeans want to get going on permanent reform of the international currency system.

PERMANENT SYSTEM

They want a permanent system of currency stabilization as a solid follow-up to the emergency measures initiated by President Nixon last fall—the devaluation of the dollar, the divorce of the dollar from gold, and the force revaluation of major world currencies.

Above all, they want gold kept in the world monetary picture.

On the other hand, the United States would seem to be more interested in how much trade the United States is doing with other countries—profits and jobs—than it is in the complicated mechanics of a world currency system.

DOMESTIC STRENGTH

Finally, assuming the next six months or so pass without a truly disruptive currency crisis, it is going to be the strength of the U.S. economy that rescues the dollar from the peril—not agreements on mechanics.

Here's one delegate to the Montreal conference talking about the future:

"It was easy to expect miracles after all the fanfare we had 1st December over the realignment of currencies. Mr. Nixon did call it the greatest monetary accord since coins replaced clam shells.

"Since then, instead of a remarkable improvement in our balances with other countries, the trend still continues in the other direction with horrifying figures on our deficit position in the world.

OVERALL IMPROVEMENT

"It is a matter of time. When you devalue the dollar, it means that the American who buys a Japanese car, for instance, pays more dollars for that car. So immediately the effect is to make our position worse. But it could be assumed that over the course of the year fewer Japanese cars will be bought so the total U.S. trade position will improve.

"On the other hand, even though U.S. manufacturers are now able to sell at more competitive prices overseas, it takes time to develop and exploit the markets that the changes in currency rates opens up for our companies.

"Meanwhile, assuming we can slip by the new Vietnam crisis, the U.S. economy is improving while inflation is a bigger threat in Europe and Japan than it is here—factors that add to the strength of the dollar and the U.S. world trade position."

ESCALATION OF THE WAR

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 11, 1972

Mrs. ABZUG. Mr. Speaker, Mr. Nixon's latest and most dangerous escalation of the war in Vietnam has served to broaden the war in Indochina, violate international law and totally disregard the constitutional powers of the Congress to declare war. Mr. Nixon's most recent action of mining the ports of North Vietnam and his continued massive bombings of North Vietnam constitutes the most flagrant violation of United States and international law in history.

Because of the President's violation of the Military Procurement Act, Public Law 92–156, section 601, which declares it the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina and to provide for the prompt and orderly withdrawal of all U.S. military forces at a date certain subject to the release of all American prisoners of war, his violation of article 1, section 8, clauses 11 and 14 of the Constitution which assigns the power to declare war solely to the U.S. Congress. I am a cosponsor of House Resolution 976, impeaching the President for these high crimes and misdemeanors.

The President in guiding this country on this reckless path has usurped the powers of the Congress and expanded the powers of the Presidency to dictatorial proportions. He has acted in defiance of the will of the American people to end this illegal war. I submit the following telegrams as a sample of the overwhelming positive response I have received to House Resolution 976.

New York, N.Y.,
May 10, 1972.

Mrs. Bella Abzug,
House of Representatives,
Washington, D.C.:

Full support for movement to impeach Nixon. Congress must stop him and war immediately.

Robert and Marsha Dennis.

Dorchester, Mass.,
May 11, 1972.

Congresswoman Bella Abzug,
Washington, D.C.:

Nixon latest action crime against all humanity. I urge you to impeach Nixon immediately.

Robert E. Reed.

New York, N.Y.,
May 11, 1972.

Representative Bella Abzug,
House of Representatives,
Washington, D.C.:

Because of latest actions against Vietnam we urge you to impeachment proceedings against President Nixon.

Mr. and Mrs. Paul Sperry.

Cochranville, Pa.,
May 10, 1972.

Congresswoman Bella Abzug,
House Office Building,
Washington, D.C.:

People for Peace, Kennett Square, Pennsylvania support impeachment of President—17 people at meeting.

Joe Levinson.

Pullman, Wash.,
May 10, 1972.

Congresswoman Bella Abzug,
Washington, D.C.:

We the Citizens Mobilization Committee to End the War of Washington State University fully support your congressional proposal towards impeachment proceedings against President Nixon.

Citizens Mobilization Committee To End the War of Washington State University.

Edwardsville, Iowa,
May 11, 1972.

Congresswoman Bella Abzug,
House Office Building,
Washington, D.C.:

I support your movement to impeach Richard Nixon. Inform me if I can help you in any way.

Michael Hill.

Park Forest, Ill.,
May 10, 1972.

Representative Bella Abzug,
Washington, D.C.:

Support your call for impeachment. President makes a mockery of constitutional government.

Mary Smerken,
Harriett Swanson.

New York, N.Y., *May 11, 1972.*

Representative Bella Abzug,
Washington, D.C.:

Congress must act now. Cut off funds for this criminal war.

Constance R. Klein.

Bryn Mawr, Pa.,
May 11, 1972.

Mrs. Bella Abzug,
Washington, D.C.:

Support completely your proposal to impeach Nixon the elected dictator. Get out of Vietnam now.

Mr. and Mrs. Mark Bitterman.

New York, N.Y.,
May 11, 1972.

Congresswoman Bella Abzug,
Washington, D.C.:

Strongly approve moves to impeach Nixon and urge continuing efforts to do so.

Margaret Gresh.

Old Greenwich, Conn.,
May 11, 1972.

Representative Bella Abzug,
House Office Building,
Washington, D.C.:

Bully for you. High time someone pinpointed the basic problem right on.

Mary Morris.

Salt Lake City, Utah,
May 10, 1972.

Mrs. Bella Abzug,
House Office Building,
Washington, D.C.:

Thanks for your courage in the impeachment efforts. I wish to express my support.

Lynn Merrell.

Baltimore, Md.,
May 11, 1972.

Congresswoman Bella Abzug,
House of Representatives,
Washington, D.C.:

Get that man out of White House. You got Chutzpah. We love you. RSVP.

Vincent Glorioso.
David Blackburn.
Catonsville, Md.,

St. Louis, Mo.,
May 11, 1972.

Representative Bella Abzug,
Washington, D.C.:

Are in support of your move for impeachment.

Dr. and Mrs. William E. Holt.

New York, N.Y.,
May 11, 1972

Congresswoman Bella Abzug,
House Office Building,
Washington, D.C.

Stop business as usual. Stop Nixon's mad scheme for super escalation.

Marion Shapiro.

Jacksonville, Fla.,
May 10, 1972.

Congresswoman Bella Abzug,
House of Representatives,
Washington, D.C.:

Impeach Nixon before he destroys the world for his own ego and corporate greed.

Mr. and Mrs. Herbert Furman.

Durango, Colo.,
May 11, 1972.

Representative Bella Abzug,
House Office Building,
Washington, D.C.:

Complete support impeachment resolution. Get us out Vietnam and Southeast Asia now.

Dr. Jay Gurian and Family.

Brooklyn, N.Y.,
May 11, 1972.

Congresswoman Bella Abzug:
House of Representatives,
Washington, D.C.:

We heartly support your impeachment legislation.

Dr. and Mrs. R. Groskin.

Pontiac, Mich.,
May 11, 1972.

Representative Bella Abzug,
Washington, D.C.:

Impeach Nixon before his madness destroys our world leadership.

Richard and Jean Morgan.

New York, N.Y.,
May 11, 1972.

Representative Bella Abzug,
House Office Building,
Washington, D.C.:

The American public is not willing to bear consequences of this criminal escalation.

Dr. Kevin R. Leonard.

Champaign, Ill.,
May 11, 1972.

Representative Bella Abzug,
Washington, D.C.:

We support your efforts to impeach President Nixon.

Herberg and Marianne Brun.

Champaign, Ill.,
May 11, 1972.

Representative Bella Abzug,
Washington, D.C.:

Fully support your effort to impeach President Nixon.

Charlotte Keyes.

Canton, Ohio,
May 11, 1972.

Representative Bella Abzug,
House of Representatives,
Washington, D.C.:

Demand immediate impeachment of Nixon and end to war. You have my fullest support.

Marc Ryser.

Paducah, Ky.
May 11, 1972.

Representative Bella Abzug,
U.S. House of Representatives,
Washington, D.C.:

Strongly support impeachment. President far outside constitutional power. Congress must assume responsibility to preserve Nation.

Rev. Tim Taylor,
Grace Episcopal Church.

Monrovia, Calif.,
May 11, 1972.

Congresswoman Bella Abzug,
Washington, D.C.:

We support the impeachment of Nixon.

Mr. and Mrs. David V. MacDonald.

Armonk, N.Y.,
May 10, 1972.

Representative Bella Abzug,
U.S. Congress,
Washington, D.C.:

"Only the Congress shall declare war." Either vote to declare war or stop the President from subverting our constitution or resign.

Jerome Wiener.

New York, N.Y.,
May 10, 1972.

Congresswoman Bella Abzug,
House Office Building,
Washington, D.C.:

Stop business as usual. Block Nixon's schemes for super escalation in Vietnam.

Ella Romanowitz.

Champaign, Ill.,
May 10, 1972.

Representative Bella Abzug,
Washington, D.C.:

I support your bill to impeach President Nixon. It is a definite means to reach the source of our problem.

Galen Robinson.

Urbana, Ill.

Champaign, Ill.,
May 10, 1972.

Representative Bella Abzug,
Washington, D.C.:

I support your bill to impeach Nixon. Let's put ethics into action.

Keith A. Dennis.

Urbana, Ill.

Santa Fe, N. Mex.,
May 10, 1972.

Representative Bella Abzug,
Washington, D.C.:

Dear Bella: In Santa Fe Square News your proposed Nixon impeachment 100% support.

B. Zimmet.

Santa Fe, N. Mex.,
May 10, 1972.

Representative Bella Abzug,
Washington, D.C.:

We support your motion. Go to it.

Sheila Sullivan.

San Francisco, Calif.,
May 10, 1972.

Congresswoman Bella Abzug,
Washington, D.C.:

Impeach Nixon Agnew war criminals and their Supreme Court soon and stop war funds.

Peter Winter.

Champaign, Ill.,
May 10, 1972.

Representative Bella Abzug,
Washington, D.C.:

We support your efforts to impeach Nixon now.

Richard and Angela Nielsen.

Urbana, Ill.

Champaign, Ill.,
May 10, 1972.

Representative Bella Abzug,
Washington, D.C.:

Strongly support your bill to impeach Nixon.

Arthur and Margaret Snyder.

Urbana, Ill.

Champaign, Ill.,
May 10, 1972.

Representative Bella Abzug,
Washington, D.C.:

I support your effort to impeach President Nixon.

Scott Harper.

Urbana, Ill.

Champaign, Ill.,
May 10, 1972.

Representative Bella Abzug,
Washington, D.C.:

I support your efforts to have President Nixon impeached.

Diane Frank.

Champaign, Ill.,
May 10, 1972.

Representative Bella Abzug,
Washington, D.C.:

I support your efforts to impeach Mr. Nixon.

Pat Riddle.

Urbana, Ill.

Champaign, Ill.,
May 10, 1972.

Representative Bella Abzug,
Washington, D.C.:

We support your attempt to impeach President Nixon.

Theodore and Dorothy May.

Champaign, Ill.,
May 10, 1972.

Representative Bella Abzug,
Washington, D.C.:

Support your effort to impeach Nixon as constructive means to Vietnam disengagement.

Helen Satterthwaite.

Champaign, Ill.,
May 10, 1972.

Representative Bella Abzug,
Washington, D.C.:

We support your effort to impeach President Nixon.

Lawrence and Roberta Jones.

Akron, Ohio,
May 9, 1972.

Congresswoman Bella Abzug,
Longworth Building, Washington, D.C.:

Congratulations for your courage in this difficult time. You have my support. Stop the war.

Mrs. Shirley Brown.

New York, N.Y.,
May 9, 1972.

Representative Bella Abzug,
Washington, D.C.:

Until now you have talked about ending the war. The time for talking is past. The threat of nuclear holocaust is dangerously imminent. You must try to stop Nixon in the legislature. We will try to stop him on the streets. We are prepared to do anything and everything necessary to return the power of the government to the people. Now is the time for you to demonstrate the depth of your commitment to peace. We demand you take immediate action on the floor to forestall the mining and or blockading of all Vietnam seaports. We demand you initiate immediate impeachment proceedings against Nixon. We demand you support all UN efforts to resolve the Indochina conflict. We the Vietnam Veterans against the War and our friends around the country will mobilize the people to take to the streets in condemnation of Nixon's insane action. For you to do anything less at this point is hypocrisy.

National Community of Vietnam
Veterans Against the War.

New York, N.Y., *May 9, 1972.*

Congresswoman Bella Abzug,
House Office Building,
Washington, D.C.:

Stop business as usual. Block Nixons schemes for super escalation in Vietnam.

Chelsea Women Strike for Peace.

New York, N.Y., *May 9, 1972.*

Bella Abzug,
House Office Building,
Washington, D.C.:

Fight against Nixon's action in Vietnam.

Barbara Duditsky.

New York, N.Y., *May 9, 1972.*

Congresswoman Bella Abzug,
House Office Building,
Washington, D.C.:

Stop business as usual. Block Nixon's schemes for super escalation in Vietnam.

Samuel Zelitan.

New York, N.Y., *May 9, 1972.*

Congresswoman Bella Abzug,
House Office Building,
Washington, D.C.:

Stop business as usual. Block Nixon's schemes for super escalation in Vietnam.

Nina Perrin.

Santa Rosa, Calif., *May 9, 1972.*

Representative Bella Abzug,
House of Representatives,
Washington, D.C.:

Right on Bella. Impeach him. You have our support.

C. Estrada,
D. Erwin.

Akron, Ohio, *May 9, 1972.*

Congresswoman Bella Abzug,
Capitol Building,
Washington, D.C.:

We of Akron University support your actions of impeachment of the thoughtless and immoral President.

Cathy Phillips,
Mick Verhoff.

Charleston, Ill., *May 9, 1972.*

Hon. Bella Abzug,
House of Congress Building,
Washington, D.C.:

Support your intention to introduce impeachment motion against Nixon. Every good wish.

Robert W. Weidner.

Cambridge, Mass., *May 10, 1972.*

Representative Bella Abzug,
Washington, D.C.:

Genocide. Always illegal war. Impeach Nixon, Agnew, Kissinger administration.

Jacqueline Schwartz.

Berkeley, Calif., *May 9, 1972.*

Congresswoman Bella Abzug,
Washington, D.C.:

Impeach that maniac.

Mr. and Mrs. Ron Goldstein.

Los Angeles, Calif., *May 9, 1972.*

Backing you all the way.

Five Voters Against the War.

Berkeley, Calif., *May 9, 1972.*

Representative Bella Abzug,
House Office,
Washington, D.C.:

The mandate is against Nixons war. Do your duty. Impeach him.

John Bookout Household.

New York University,
New York, N.Y., May 9, 1972.

Congresswoman Bella Abzug,
House of Representatives,
Washington, D.C.:

We have just sent 187 individual telegrams to the White House condemning Nixon's latest escalation and brinkmanship. We urge immediate withdrawal of U.S. forces and material support of the Thieu government. We support any actions you take opposing Nixon's war policy including impeachment proceedings. We must stop this disaster now.

Psychology of Women
Seminar and Staff,
Graduate School of Arts and Sciences.

New York, N.Y., *May 9, 1972.*
Congresswoman B. Abzug,
House Office Building,
Washington, D.C.:

Stop business as usual in Congress. Call for impeachment of Nixon.

Mr. and Mrs. Isidore Kahn.

Kent, Ohio., *May 9, 1972.*
Congresswoman Bella Abzug,
Washington, D.C.:

Bless you, hang in, fight on. Stop the mad man.

James W. Rion,
Veteran,
Elizabeth H. Flejing,
Frances M. Chitwood.

New York, N.Y., *May 9, 1972.*
Congresswoman Bella Abzug,
House Office Building,
Washington, D.C.:

Stop business as usual. Block Nixon's schemes for super escalation in Vietnam.

Miriam Gill.

Houston, Tex., *May 9, 1972.*
Congresswoman Bella Abzug,
Washington, D.C.:

We strongly support your move to impeach Nixon.

Daeflower Free School.

New York, N.Y., *May 8, 1972.*
Congresswoman Bella Abzug,
House of Representatives,
Washington, D.C.:

Urge you to fight for peace. Stop the President.

Dr. and Mrs. Gerald Shapiro.

Champaign, Ill., *May 9, 1972.*
Representative Bella Abzug,
Washington, D.C.:

I support your bill to impeach President Nixon.

Jerry Menehhoff.

New York, N.Y., *May 9, 1972.*
Congresswoman Bella Abzug,
U.S. Congress,
Washington, D.C.:

Nixon is greatest war criminal since Hitler. Impeach Nixon.

Dr. and Mrs. Albim.

Middletown, Conn.,
May 10, 1972.
Representative Bella S. Abzug,
Longworth House Office Building,
Washington, D.C.:

We the undersigned strongly support your statement of opposition to President Nixon's dangerous escalation of the war in Southeast Asia.

Mark Warren, Ted Perlmutter, Lisa Anderson, David Harrison, David Terry, Alice Wilson, Edward MacDonald, Steven Bland, Diane Revels, Martha Malave, Phil Gear, James Howard, Lizette Cantres, Peter Green, Jeffrey Schneider, Paschalis Kitromilides, Gary Gan, Rob Holmes, Wendy Frosh, Ellen Robinson, Don Moon, Arnold Hendrik, Gerry Tracy, Samuel Gilmore, Carolyn Kopp.

Larry Harding, Steve Himes, Ann Roberts, Mike Donnelly, Adrienne Bentman, Clifford Chanin, Vin Broderick, Steve Anderson, Doug Stuart, David Babcock, Bob Knox, Rich Lery, Jeff Clark, Don Lewis, Barbara Sarshik, Jeff Kutscher, Cathy La Conterie, Bill Holder, Dick Bernstein, Leo Le Fuchs, Steve Zemke, Josh Boger, Al Mydlinski, Alex Shuttenberg, Brad Klafehn, Steve Riegelhaupt, Bruce Reot, Athan Billias, Brad Miller, Bruce Davies, Dave Hagerty, Jeffery C. Van Nest, Nat Hanson, David Rynick, Peter Stansky, Rod Lawrence.

Steven Greenhouse, Mark Testa, Tesi Kohlenberg, Danny Des Roches, Geoffrey Rips, William Schultz, Miguel Morales, Nils Finne, Anne Geer, L. Cummin, L. Charles Shipee, Ann Johnson, Timothy Brown, Eric Leavitt, Cynthia Rhodes, Earl Rhodes, David Ross, Sally Ross, Arthur Abbott, Jr., Carol Dick, Bob Kurlantzick, David Leisner, Doug Pressman, Bill Kordas, Jeff Melien, Frances Harwood, Steve Blumenthal, Meckle Elston, Nancy Smith, Bill Meissen, John Grunert, David Nelson, Anne Nugent, Jeff Record, Bob Withey, Jay Geller, Jon Siegel, James Kaplan, Anne Jacobs.

Anne Murphy, Bruce Duncan, Janet Bradlow, Matt Brock, Nancy Luberoff, Hap Clark, Debbie Paul, Rick Worthley, Phil Marzullo, Robert Rosenbaum, Deborah Alexander, Eddie Ohlbaum, Lloyd Mueller, Maarta Rediniss, David Mayerson, Bob Leroy, Mike Busman, Gerry Morrissette, Ida Masselli, Jill Fuller, Kate Gilbert, Peter Oldziey, Richard Simpson, Steve Forman, Ben Busman, Jim Trump, Adriana Bock, James Bock, Linda Stevens, Karen Kawaguchi, Tracie Baker. Maryann McGeorge.

John Cavadini, Don Gavin, Stu Kerridge, Lee Atwood, Steve Grayson, Rachel Klein, David Drake, Lee Henderson, Norman Chapman, Barb Bradewick, Mr. Richard Slokin (Slotkin), Richard Greeman, Mrs. Richard Slotkin, Jamie Forrester, Norman Rudich, James C. Sheepherd, Steve Kallaugher, Mike Ray, Dave Eddy, Tony Caruso, Manuel Amaez, Robert Phelps, John L. Harter, Bob Savage, David Aufhauser, John Glendon, Garr Delehanty, Blaise Noto, John Scheibe.

Phil Casnoff, Wendy Erslev, David Sellin, Doug Abrams, Kenneth Levinson, William Chapman, Mrs. William Chapman, Harold H. Lund, Skip McClean, Wendy Liebow, Risa Korn, Ron Denett, Sam Saracino, David Mayerson, Barbara Bachtell, Timothy Klemmer, Rick Kronick, Rich Holmes, Jom Sarbaugh, Mark Reel, Ann Ostheimer, Debbie Anderson, Francisco Chaves, Stephen Brady, Charles Brady, Charles Steinhorn.

Alan Weinshel, Joseph F. Whall, Tex Haeuser, Roger S. Day, Jack Brundage, Ran Goldman, Pantelis Nicholaoulos, Frank Levine, Arthur Fierman, Bob Snowdale, Daniel Cantor, Chuck Blakinger, Barbara Coven, Gary Davis, Barbara Roessner, Richard Charney, Niel Rindlaub, Rebecca Ramsey, Tracy Killam, Ellen Driscoll, Garry Adams, Kathy Kleinbard, Stanley Benally, William B. How, Sandra How.

New York, N.Y., *May 9, 1972.*
Congresswoman Bella Abzug,
House of Representatives,
Washington, D.C.:

Vigorously protest President's extension and deep ending of war. Fight him.

Milton and Hilda Meltzer.

New York, N.Y., *May 9, 1972.*
Congresswoman Bella Abzug,
Washington, D.C.:

Impeach Nixon now.

Ken McFarlan.

New York, N.Y., *May 9, 1972.*
Congresswoman Bella Abzug,
Washington, D.C.:

Stop business as usual in Congress. Call for impeachment of President Nixon.

Sophia Rupland.

Peoples Coalition for
Peace and Justice,
New York, N.Y., May 8, 1972.
Representative Bella Abzug,
Washington, D.C.:

We demand pou immediately suspend all regular business until appropriations for the war are cut. We also demand you immediately introduce today a bill of impeachment against Richard Nixon for engaging in lawless criminal action against the peace of the world. Request arranging meeting with you to plan massive, peoples actions in Washington and your district in support of immediate appropriations cutoff and immediate impeachment.

Barbara Webster.

New York, N.Y., May 8, 1972.
Congresswoman Bella Abzug,
House of Representatives,
Washington, D.C.:

Urge you fight President to stop unilateral course toward world war.

Beatrice and Sam Siegel.

San Francisco, Calif., *May 9, 1972.*
Congresswoman Bella Abzug,
Washington, D.C.:

Please do what you can to stop President Nixon.

Tom Reeves.

New York, N.Y.,
May 9, 1972.
Hon. Bella Abzug,
House of Representatives,
Washington, D.C.:

Impeach Nixon, impeach Nixon, impeach Nixon now.

Committee for Full Employment.

New York, N.Y.,
May 10, 1972.
Hon. Bella Abzug,
House of Representatives,
Washington, D.C.:

Decisive Congressional action required to countermand Nixon's announced military actions within 3 days allowed.

John B. and Virginia C. Rusch.

Moscow, Idaho, *May 12, 1972.*
Congresswoman Bella Abzug,
Washington, D.C.:

We fully concur with your motion to impeach President Nixon. Not only would such action show the American public horror at the President's trifling with human civilization, resulting from his recent actions, but it would also reinvigorate the congressional roll in the decisionmaking process; that which has been stifled in the last 30 years. Your intention to impeach Mr. Nixon cuts through the mere talk and red tape that has permeated and, sorrowfully, burdened the oposition to the Vietnam War. Now is the time for decisive action. The United States' National interest demands an end to this brinksmanship. Let's "send a message" to the ruling elite in this country that we will no longer tolerate using people as pawns for the purposes of power politics.

David Nicandri.
Thomas Malueg.
Mr. and Mrs. Theodore S. Long.

Montreal, Quebec,
May 11, 1972.
Representative Bella Abzug,
House of Representatives,
Washington, D.C.:

Congratulations and all possible moral support for current impeachment proceedings from many Canadians and especially from me. American emigre, formerly of Albany, N.Y.

Lucia Kowaluk.

Philadlephia, Pa.,
May 10, 1972.
Representative Bella Abzug,
Washington, D.C.:

We support and encourage your efforts to impeach President Nixon.

John and Carol Fischer.

WHITEWATER, WIS.,
May 10, 1972.

Hon. BELLA ABZUG,
House of Representatives,
Washington, D.C.:

I cannot accept Nixon's blockade and I demand his removal and end to the war.

GAYLE PRUS.

WHITEWATER, WIS.,
May 10, 1972.

Hon. BELLA ABZUG,
House of Representatives,
Washington, D.C.:

Stop the war machine. I support impeachment of Nixon to end this immoral war.

MARK STRATTMAN.

CHADDSFORD, PA.,
May 10, 1972.

Hon. BELLA ABZUG,
House of Representatives,
Washington, D.C.:

Whole heartily support your move to impeach Nixon.

DEIRDRE and CRISTOBAL BONIFAZ.

NEW YORK, N.Y.,
May 10, 1972.

Hon. BELLA ABZUG,
House of Representatives,
Washington, D.C.:

I support any legal impeachment processes of President Nixon.

RENNY and ANITA TEMPLE.

NEW YORK, N.Y.,
May 11, 1972.

Representative BELLA ABZUG,
House of Representatives,
Washington, D.C.:

I urge you to support the impeachment of President Richard Nixon.

DAVID WALLACE.

NEW YORK, N.Y.,
May 11, 1972.

Congresswoman BELLA ABZUG,
House of Representatives,
Washington, D.C.:

This meglomaniac must be contained. Behind you all the way. Frustration, democracy hell.

DORIS REID.

SEATTLE, WASH.,
May 11, 1972.

Representative BELLA ABZUG,
Washington, D.C.:

Do stage talkathon on unconstitutionally heading into war with China, USSR. Inform, arouse bamboozled Americans.

ALICE FRANKLIN BRYANT.

CHAMPAIGN, ILL.,
May 11, 1972.

Representative BELLA ABZUG,
Washington, D.C.:

Right on, Bella. Vigorously support motion to impeach Nixon. Don't forget Agnew.

C. FIDLER and J. ARNOLD.

NEW YORK, N.Y.,
May 10, 1972.

Congresswoman BELLA ABZUG,
Washington, D.C.:

Demand immediate action to impeach Nixon.

DAVID MCREYNOLDS.

SARASOTA, FLA.,
May 11, 1972.

Representative BELLA ABZUG,
Washington, D.C.:

Right on.

ROBERT J. LEVY.

BOULDER, COLO.,
May 11, 1972.

Representative BELLA ABZUG,
House of Representatives,
Washington, D.C.:

Support impeachment move. Will petition help. Please, what can citizens do?

PAMALA BUDD.

NEW YORK, N.Y.,
May 11, 1972.

Representative BELLA ABZUG,
Washington, D.C.:

Congress must act now—cut off funds for this criminal war.

CONSTANCE R. KLEIN.

WESTCHESTER, PA.,
May 11, 1972.

Hon. BELLA ABZUG,
Washington, D.C.:

I support your stand to impeach Nixon.

DOROTHY C. LENK.

GREAT NECK, N.Y.,
May 11, 1972.

Congresswoman BELLA ABZUG,
House of Representatives,
Washington, D.C.:

There is no place in democracy for an emperor or dictator. Nixon should be impeached.

MURIEL and MILTON GOLDSON.

CORVALLIS, OREG.,
May 11, 1972.

Representative BELLA ABZUG,
Washington, D.C.:

We support your impeachment resolution.

ORR and ALISON WIEMAN.

EUGENE, OREG.,
May 9, 1972.

Representative BELLA ABZUG,
Washington, D.C.:

The President is continuing to ignore the people, the Congress, the world and reality. We urge you to initiate impeachment proceedings.

HASAN MALIK.

PACIFIC PALISADES, CALIF.,
May 9, 1972.

Representative BELLA ABZUG,
House of Representatives,
Washington, D.C.:

Impeachment of Mr. Nixon very good idea. Help Representative F. RYAN put it through.

DAVID C. SCOTT.

MINNEAPOLIS, MINN., *May 9, 1972.*

Congresswoman BELLA ABZUG,
House Office Building,
Washington, D.C.:

Keep up the fantastic work. God bless you. Impeach Nixon.

LEONARD F. FISH.

SYRACUSE, N.Y., *May 12, 1972.*

Congresswoman BELLA ABZUG,
Washington, D.C.:

Impeach Nixon. He has gone too far. Stop the bombing, end the blockade.

MICHAEL E. PILTMAN.

SANTA FE, N. MEX., *May 10, 1972.*

Congresswoman BELLA ABZUG,
Washington, D.C.:

Please proceed to impeach President Nixon. Thanks for your grand efforts concerning war escalation.

TOBY and BEN LUBECK.

HASBROUCK HEIGHTS, N.J.,
May 10, 1972.

Representative BELLA ABZUG,
House Office Building,
Washington, D.C.:

Strongly approve of your statement concerning Mr. Nixon.

EVELYN CULLIGAN,
DORIS RENTSCH.

SCHENECTADY, N.Y., *May 10, 1972.*

Congresswoman BELLA ABZUG,
Washington, D.C.:

I support you in impeachment proceedings regarding the President.

RICHARD N. MARCLEY.

BEVERLY HILLS, CALIF.,
May 10, 1972.

Representative BELLA ABZUG,
Washington, D.C.:

Support you wholeheartedly in impeachment of President Nixon.

LARRY GRUSIN.

CONCORD, CALIF.,
May 9, 1972.

Congresswoman BELLA ABZUG,
Washington, D.C.:

Please proceed with impeachment of President Nixon.

DOROTHY HEINEMANN.

SALT LAKE CITY, UTAH,
May 12, 1972.

Representative BELLA ABZUG,
House of Representatives,
Washington, D.C.:

More power to you in your effort to impeach Richard Nixon.

MILDRED L. HINCKLEY.

BERKELEY, CALIF.,
May 9, 1972.

Representative BELLA ABZUG,
Washington, D.C.:

Demand impeachment for Richard Nixon and trial for international aggression and crimes against humanity.

ARMIN WRIGHT.

CAMBRIDGE, MASS.,
May 12, 1792.

Representative BELLA ABZUG,
House of Representatives,
Washington, D.C.:

Nixon impeachment urgent to preserve constitution and prevent total military distatorship. Congress must act.

ALEXANDER P. HOFFMANN.